UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE *101st* CONGRESS
SECOND SESSION

VOLUME 136—PART 23

OCTOBER 23, 1990 TO OCTOBER 25, 1990
(PAGES 32617 TO 34484)

GENERAL SERVICES ADMINISTRATION
7-1-97
LAW
LIBRARY
CENTRAL OFFICE

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1990

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO



For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, October 23, 1990*

The House met at 11 a.m.

Rev. Patrick O'Brien, St. Michael the Archangel Catholic Church, Aurora, CO, offered the following prayer:

God of creation; we thank You for the gift of this day, and for all Your generous blessings. We ask Your presence with those in need, especially the poor and homeless. We ask You to watch over this House of Representatives, as they work toward being faithful stewards of Your creation. Give them strength and courage as they represent the needs of their districts, but at the same time, help them to keep the good of this entire Nation always as their No. 1 priority. Continue to add to their endurance and patience in this time of struggle. Dear Lord, we ask Your help so that the work of this day may be fruitful, and that Your will be done. We ask this of You our God.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from South Carolina [Mr. RAVENEL] please come forward and lead the House in the Pledge of Allegiance.

Mr. RAVENEL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

FATHER PATRICK O'BRIEN

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, I would like to thank Dr. Ford for permitting Father Patrick O'Brien to lead the House of Representatives in prayer this morning. Father Pat is visiting us from St. Michael the Archangel Parish in Aurora, CO. He is visiting the Washington, DC, area this week to celebrate his parents, Col. and Mrs. Patrick O'Brien's, 30th wedding anniversary. Father Pat is a graduate of Conception Seminary College in Conception, MO, and St. Thomas Theological Seminary in Denver, CO. He was ordained July 8, 1989, in Denver. He has been involved in the U.S. Air Force Reserve as a chaplain candidate, and will return to the reserves next year as a chaplain. When Father Pat has free time, he can be found running, biking, and snow skiing. Mr. Speaker, Father Pat is joined here today in the gallery by his parents, Pat and Gloria, his sister Eileen, and his brother Michael.

TREAT NORIEGA LIKE A PRISONER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there is an old saying that crime does not pay, but there is a true saying that taxpayers do.

General Noriega has a private suite in a Miami prison. He has his own conference room with a desk. He has two safes with an alarm system. He has color TV, he gets cookies, candies, typewriters. Ladies and gentlemen, this guy gets a paper shredder, an exercise bike, air-conditioning, and they take him for an evening stroll around the grounds.

Think about it. While taxpayers, mom and dad, are going to be paying more premiums for Medicare, General Noriega is not in jail, he is in paradise.

I say we should start the process out by placing General Noriega in a private prison cell with bars, just like everybody else.

SEPARATE REFUNDABLE CREDITS IN RECONCILIATION MAY RESULT IN UNFAIRNESS COMPLICATIONS

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, apparently there is grave danger that the tax conferees on reconciliation will adopt a package of three separate low-income refundable credits, consisting of a health insurance credit that is unworkable, a dependent care credit that is unfair, and an EITC that is inadequate. That would be a tragedy. Low-income people would have to wrestle with three separate refundable credits, each with different requirements, and each parceling out a dribble of money based on wholly different criteria. The result would be a nightmare—both for taxpayers and for the Treasury.

I urge the House conferees to stand firm for the House position, which is to put all the money available into a single credit that is the simplest, fairest, and most comprehensive—that is, the earned income credit.

If we do not do that, the EITC is likely to vary for only two children in a family and to include no young child supplement. It just will not be enough to do a lot of good. On the other hand, if we put all the available low-income tax credit money into the EITC, we can vary the credit for up to three children and include a young child supplement. Clearly it is the larger families that need the most help. The Center on Budget and Policy Priorities has found that 60 percent of all poor children live in families with three or more children. That is where we should target help. Let us do it right with the EITC and forget about creating a tax nightmare with two additional credits.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

GUESS WHO'S COMING TO DENVER

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am terribly sorry I cannot be in my district of Denver today because, guess who is coming to Denver? Ronald Reagan. And I wanted to be there to meet him.

He is having a little pricey event for Republicans running for office, and the reason I wanted to be out there was I wanted to see all of those people who came to that little pricey event. They are the Colorado bubble.

It is the Colorado bubble machine, all of the people who are living very, very well under the new Tax Code that Ronald Reagan brought them. And it would really graphically spell out to the people of my district why it is so important that the Democrats stand firm for fairness, for progressivity and to insist that those people who had such a good time at the Reagan party in the eighties, who will be celebrating with him today, pay for the party in the eighties, and not the people who did not get to the party in the eighties.

So oh, how I wish I could be there. But I encourage the people of Denver to go see that Colorado bubble machine and watch that Republican money machine, and they will see why they are so insistent on protecting the rich.

AN ALTERNATIVE BUDGET PLAN

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, there is a constructive, positive, alternative to the Democratic budget agreement now taking shape.

Private sector businesses routinely trim overhead during slow economic times. Why can't the Government just once focus on that mushy part of the Federal budget—overhead?

If we cut Government overhead by 10 percent for 1 year and allow it to rise by the inflation rate for the next 4, we will save $141 billion over 5 years.

Combined with already agreed-upon defense cuts, entitlement adjustments, and user fees, we can hit the deficit reduction target without raising taxes or eliminating benefits.

If Congress will not consider new approaches, like cutting overhead, then FDR's dream will once again be realized, "We are going to tax and tax, spend and spend . . ."

NEEDED: A WINDFALL PROFITS TAX ON BIG OIL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, remember back just a couple of months in August when Saddam Hussein invaded Kuwait? And remember back, Mr. Speaker, how that of course interrupted oil supplies and caused confusion in the oil markets? And remember back, Mr. Speaker, that our prices at the gasoline pump went up immediately, even though the gas they were pumping from below was refined from the earlier, cheaper oil?

Mr. Speaker, just yesterday there was a precipitous drop in the cost of a barrel of oil, something like $5 a barrel. I would say that logically the prices at our gas pumps ought to be dropping today to reflect the cheap oil: That is, if the same logic that big oil uses to set gasoline prices prevails. But Mr. Speaker, those of us who think that when we go out and gas up our cars today it will cost less than before would probably believe in the tooth fairy, because it is not going to happen.

The only way to make big oil pay attention to realities and to us is to pass some kind of a windfall profits tax.

PORKY APPROPRIATION BILLS

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Well, Mr. Speaker, we never learn, do we?

Last week an appropriations bill in the amount of $90 million slid through this House as if it had been thoroughly greased from stem to stern. It was noted on the floor at the time that it would require $400 each from 225,000 families to subsidize what was provided in that bill.

The bill was generously loaded and laced with pork barrel projects, many requiring no immediate attention at all.

Mr. Speaker, I am not fiercely partisan, but I am not oblivious to the fact that the House of Representatives have been controlled by the Democrats for the past 35 years, the House where spending bills originate. Perhaps the time has come to relieve those who control the wheelhouse of State and give the Republicans a turn at the helm. It could not be worse than it has been for the past 35 years.

BEWARE OF NUCLEAR INDUSTRY DEFAULT BAILOUT "TURKEY"

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, as we finalize our efforts to resolve the budget dilemma, I would like to bring your attention to the following matter. According to the General Accounting Office, the nuclear industry intends to default on $10 billion in nuclear fuel bills and another $10 billion for cleanup of nuclear fuel processing. The Senate intends to fold S. 83, the Comprehensive Uranium Act 1989, into the reconciliation bill. The effect of this legislation would be: to forgive the DOE's debt, to repeal both sec. 161v. the Atomic Energy Act which mandates that "all costs must be recovered" and the Uranium Mill Tailings Radiation Control Act, passed in 1978, which states that the uranium companies are responsible to clean up the mess around both their inactive and active sites.

S. 83 includes a provision to supply $300 million in taxpayer dollars to private conglomerates to clean up the uranium mill tailings. In an attempt to circumvent the UMTRC law, the uranium industry took their case to the courts. The Court of Claims ruled that there was no legal obligation that the Federal Government contribute anything to the cleanup of these sites. According to the Barney Smith report, costs to decommission and decontaminate the sites range from a low of $3 billion to a high of $20 billion. Not only would the D&D fund in S. 83 be an abrogation of the UMTRC Act of 1978, but it grossly underfunds the cleanup of the contaminated mining sites and processing plants.

Mr. Speaker, I bring this to the attention of the Members so that we can be forewarned of legislation that could easily be unnoticed in so voluminous a document as the reconciliation bill.

BUDGET RECONCILIATION AND COIN REDESIGN

(Mr. HILER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILER. Mr. Speaker, I rise today to call the attention of the House to the twisted priorities that are being set as part of the budget reconciliation process. I believe that the American public will be outraged at this body when they learn that we have sacrificed patriotic symbols in conjunction with phony accounting to accomplish budget reconciliation.

Yesterday, for example, in the Banking Committees' reconciliation conference, the Democratic conferees unanimously rejected an amendment offered by Senator HEINZ and adopted by the Senate to grant the FDIC and the taxpayer a priority over bondholders and shareholders at failed S&L's.

FDIC Chairman Seidman stated in a letter that the Heinz amendment could have saved the FDIC and RTC billions.

In lieu of the Heinz amendment, the Democratic conferees mandated that all of our Nation's coins be redesigned. The coin redesign proposal brings phony budget savings through accounting gimmicks. Rather than seeking real deficit reduction by directly assisting the taxpayer and the FDIC, the Democratic conferees decided to remove patriotic symbols such as the Lincoln Memorial and Monticello from the penny and the nickel and use specious budget accounting to justify it.

I am outraged at the cavalier way that this Congress treats our Nation's long held symbols. I believe that during these times of public hostility toward Congress, that this phony budget reconciliation gimmick will further enflame public sentiment against this institution and its Members. In this case I believe such sentiment is entirely justifiable.

□ 1115

VOTE NO ON UNFAIR TAX PROPOSAL

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, as we wind down on the budget reconciliation negotiations, we will arrive at the point where there will be a lot of pressure to pass anything in order to get out of here and get back home and campaign.

Well, Mr. Speaker, I think it is imperative that you advise those conferees and the President that there are those of us in the Congress who will not vote for a tax proposal that is unfair, will not vote for one that puts a burden on the low- and middle-income people as was proposed in the budget summit.

We will only vote for one that is fair, that imposes on the wealthy just as much a tax burden as on the middle income and the poor, and unless such a proposal comes before this House and it is fair in all respects to everyone, that proposal will go down. We will not have finished a budget reconciliation and it will be imperative for us to do it after the election, for those of us who will be back here.

CLEAN AIR

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, all of us here in Congress are rushing toward adjournment. The clock is running out on us, and we have a great deal of work yet to accomplish. Besides the budget, we have a number of appropriations bills to pass, and a number of important legislative initiatives to finish. One of those is the clean air bill. I want to congratulate the conferees who worked so hard to compromise and give us a clean air bill that is workable. The alternative, no clean air bill, is unacceptable. It would be a travesty if this Congress adjourned and did not pass this legislation.

Americans have become very much aware of the dangers that our environment faces due to pollution. It is important that we in Congress take steps to protect the environment while allowing for the growth of our economy. We must do whatever is necessary to protect our water, land, and air. The clean air bill that will come before us does an excellent job of cleaning the air that we breathe. It is not perfect. In fact, like the budget, I doubt that any of us fully support every provision of this bill. However, it is a good bill that deserves our support. I plan to vote for the bill, and I would urge all of my colleagues to do the same.

BUSH VETO OF CIVIL RIGHTS BILL HURTS WOMEN, MINORITIES, MIDDLE CLASS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, yesterday, President Bush became only the third President in American history to veto a civil rights bill. The President's veto is another blow to the march for justice and equality in this country for women and members of racial and ethnic minority groups.

The President claims that this bill would create quotas. Nothing could be further from the truth. In fact, Mr. Speaker, there are specific provisions that quotas are not intended or sanctioned by this bill.

This is not a quota bill, and the President knows it. This is an equality bill. From the passage of the Civil Rights Act of 1964 until the last year, the provisions which the Civil Rights Act of 1990 would enact were the law of the land. Recently, they were overruled by the Supreme Court, and this bill is simply a declaration that the rules should revert to what they were.

Mr. Speaker, this bill is reasonable; this bill is fair; this bill is just. This bill continues the American tradition of equality in the workplace, regardless of race, sex, or ethnic origin.

In this Nation, many couples have found that both man and woman must work to survive. The Civil Rights Act of 1990 would prevent discrimination against women in the work force, and against members of any minority. That is eminently fair, and completely American.

But once again, the President has said, read my lips: no fairness for working Americans and minorities.

Members of this Congress should overwhelmingly say no to the President's veto and yes to equal justice for all Americans.

MEMBERS URGED TO VOTE NO ON HOUSE CONCURRENT RESOLUTION 385 ON YUGOSLAVIA

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, on this floor last night an effort was made to pass under suspension House Concurrent Resolution 385—formerly numbered 352—a controversial resolution condemning some human rights violations in one of the Republics of Yugoslavia, ignoring the rest of the human rights violations in that and other Republics and in neighboring Balkan countries. A rollcall vote will be taken later today.

This is discriminatory, inappropriate, and extremely ill-timed. In December a free, multiparty election will be held in the Republic of Serbia—object of this condemnation. This statement, coming from the Congress of the United States at this time, will be seen as taking sides.

The State Department does not support this kind of involvement referring to "centrifugal pressures within Yugoslavia that could precipitate a violent disintegration of the Yugoslavian Federation."

Separatism is in the air not only in Slovenia and Croatia, but the Albanians in the province of Kosovo, heart of the Republic of Serbia, have threatened to separate and even try to have Albania annex the province. An Albanian minority in Montenegro has been calling for annexation there.

If House Concurrent Resolution 385 were to pass—targeting support for the Albanians—at this critical time—much irreparable mischief could be done in a section of the world which already has triggered two world wars. This is a critical vote. Please vote "no" on 385.

OVERRIDE PRESIDENT'S VETO OF CIVIL RIGHTS BILL

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, I had hoped that sanity would prevail and the President would not veto the civil rights bill, as he did yesterday.

I do not want to believe it is based on arrogance. I thought we had gotten away from the kind of politics that used to prevail in this country down

through the years, where you had two kinds of speeches when you run for office; one for the black community, in which I live, and one for the white community, in which Bush lives.

I think it is more than just a question of race when we talk about civil rights. It is the right to be in a position where you can escape from poverty without being discriminated against because of sex or race or color.

I think it is time for us to show our mettle here in this Congress, yes, and override that veto and let democracy work in America, not spread it just abroad and talk about how good we are, how fair we are. Prove it by overriding the veto.

MEMBERS URGED TO VOTE NO ON THE HONEY POT, VOTE "NO" ON FARM BILL

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, we will be taking up the farm bill conference today, and I want to alert the House to one very important provision.

You know what I am talking about—the killer beekeepers. The House's bill capped payments to beekeepers at $100,000 by 1994. And the other body, in an unusual show of fiscal sanity and enlightened policymaking, eliminated the honey subsidy altogether. Now, did the conferees split the difference? Did they reach a $50,000 cap? No. Did the Senate conferees give up and agree to the cap at a full $100,000? No. They combined to raise the cap to $125,000. A full 25 percent over the House's number.

This week USDA's Agriculture Research Service is out hunting killer bees along the border near Harlingen, TX. They are trying to trap them with sex pheromones and keep them out of Texas. Well, it is clear to me they are looking in the wrong place. They should be out hunting the conferees who are stinging the taxpayer. Vote "no" on the honey pot. Vote "no" on the farm bill.

VETO POWER CONTROLS HOUSE

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, who is in charge here? Who really does control Congress? The Republicans say the Democrats do. They say the Democrats control the committees, they control the legislation, they control the spending, and that the poor Republicans are only in the minority.

I get sick and tired of hearing that whining. We have sent 13 bills to the President of the United States and he has vetoed every one of them and we cannot override them and he just vetoed the civil rights bill. It is unfortunate, but we probably will not be able to override that.

We just cannot overcome that. It is the power of the veto and it is the power of the minority party who supports him. They have done this for over 10 years through the Bush and the Reagan administrations to control the Congress.

He says he will sign any piece of legislation that says what he wants it to say. He will sign it. If it does not, then he is going to veto it.

So who is in charge of this body? Who is really in charge of this body? Who is really in charge of Congress?

Mr. Speaker, I think all of America knows that.

TRIBUTE TO THE LATE HONORABLE WILLIAM HENRY HARRISON

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. THOMAS of Wyoming. Mr. Speaker, I rise today to honor a great man who served this country and Wyoming well. William Henry Harrison represented the State of Wyoming in the U.S. House during the 82d, 83d, 87th, 88th, and 90th Congresses. During that time he was a ranking member of the House Appropriations Committee.

William Henry Harrison died on Monday, October 15, 1990, at the age of 94. He left a legacy of public service. As a rancher and attorney, he served in the Wyoming State Legislature for 5 years before being elected to his first term to this body.

In addition, he served many Federal agencies as well as local organizations—and was even an honorary chief of the Shoshoni and Arapahoe tribes of Wyoming.

Bill came by this legacy honestly—he was the grandson of President Benjamin Harrison and great-great-grandson of President William Henry Harrison.

Whatever his heritage, Bill epitomized the intent of public service. Humble and grateful to serve, he was an inspiration to many. He served because he wanted to help his country and his State.

Although he's been out of public service and the public eye for several years, he will be missed by many.

Mr. Speaker, I ask that you join me in honoring the memory of William Henry Harrison, former Congressman—always a great American.

Mr. Speaker, I include the following editorial:

WILLIAM HARRISON BUILT FOUNDATION OF PUBLIC SERVICE

For Willian Henry Harrison, better known as Bill, Sheridan was home and his life was public service.

Harrison was a Sheridan County rancher and a Sheridan attorney, but public service was his real interest, his real career.

Harrison served almost 20 years as a legislator in Indiana and Wyoming, serving as a Sheridan County representative, and as the Wyoming's lone Congressman. Harrison also served in various federal agencies.

Harrison ran for Congress following five years service in the Wyoming House. There were those who doubted he would win, but it was not unusual to run into Harrison on the street corner of any town in Wyoming. As a result he won the primary and the general election. It didn't phase him and from that point on he proved himself a winner time and time again. He was a winner when he lost, taking defeat as part of the job.

On campaigns, he and his first wife, Mary, often worked as a team. She'd go to a rally or give a speech wherever he couldn't make it. Thus she was part of his public life.

Like all men in elective public service, you either get defeated or retire. Harrison was defeated. He took his defeat better than his supporters.

Harrison always appreciated being able to serve and he was an inspiration to many who wanted to get into public service. Sheridan County and Wyoming were lucky to have him, although he would say he was the lucky one.

He was not flamboyant, or dramatic in his service. He was serving to help either his county or his state and the country. He has been out of office and out of public service for many years. Nevertheless there are thousands in Wyoming and in Sheridan County who still remember and are thankful for the Bill Harrison days.

He wasn't the first Harrison to serve—a grandfather and a great-grandfather were Presidents of the United States. Thus serve was in his blood, and serve he did and with distinction.

Bill Harrison's death is saddening, but he leaves many satisfying memories. He also leaves a solid base of service for others to build upon.

□ 1125

SOCIAL SECURITY NOTCH

(Mr. YATRON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YATRON. Mr. Speaker, here we are in the last days of the 101st Congress. We are again talking about fairness, about sacrifices, and about tightening our belts for the good of the Nation.

As we consider what is fair during these last few days, we need to remember the notch babies. Notch babies know how to make sacrifices. They have been tightening their belts for many years now, and they have been crying out for Congress to restore some fairness to them.

Mr. Speaker, I say to my colleagues that 101st Congress still has a chance to help those affected by the notch. Notch babies are not asking for a

handout—they are asking for nothing more than what they are entitled to.

Right now, a retiree born in 1917 who did the exact work, for the exact pay, for the exact number of years gets much less in Social Security than a retiree born just 1 year before. If we allow this to continue, then we are not acting in the name of fairness.

The notch babies believe that Congress has turned its back on them. They believe that Congress is ignoring their plight. Mr. Speaker, the only thing they want is for Congress to be fair to them. In these last days, I call on my colleagues to show the notch babies that Congress is not ignoring them and that Congress knows what fairness is.

REMEMBER DAVID L. HRDLICKA, U.S. AIR FORCE, MISSING IN ACTION LAOS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, just about the time we get to feeling sorry for ourselves around here that we cannot resolve this budget impasse, a letter will come in the mail about a human tragedy in our own district or someone that is a friend or a friend that we have not seen for many years, and it brings you right up to the reality of some of the severe wounds in life.

Last night I opened a letter from a friend that I have not seen for a quarter of a century, and in it was a picture of my best friend in the Air Force who was taken prisoner in Laos 25 years ago last May. He was a known prisoner for 5 years.

His wife Carol says:

Dear Bob: I realize you are busy with all the budget problems and Iraq, but this falls under the heading of unfinished business, so it deserves priority. Please don't forget about David. Please try and get the President to continue looking for our men that are missing.

Mr. Speaker, he was held in a cave with Charlie Sheldon, who was shot down 18 days before him. Charlie went down on his 33d birthday, and David right after his 44th. Charlie Sheldon's wife took her own life on October 4 of this year.

Carol has remarried, but never gotten David out of her heart. He went down in Laos on May 18, 1965.

This is a real problem, Carol. I will renew my energies and try to find out what happened to this great American hero, Col. David L. Hrdlicka, whose son Dave, Jr., is flying F-18's with the U.S. Navy as we speak.

POLLUTERS, BEWARE: AIR IN PARKS WILL BE KEPT CLEAN

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, the clean air bill is a good one, legislation that will make our air cleaner and healthier in the years ahead. Many Members have inquired about the fate of our crown jewels, the greater Western parks and wilderness areas. Even though the Environmental Protection Agency has fresh evidence that the air at these national treasurers is getting dirtier, the Senate negotiators insisted that our parks be studied instead of protected. Probably the polluters are licking their chops now about the prospect of setting up next to a national park.

I just want to put them on notice, that they are in for a fight. This battle to protect the parks has just begun. When the public gets the truth about the park polluters, the next round is going to go to the public, and not to the polluters.

LEBANON: A NEW BEGINNING OR THE BEGINNING OF THE END?

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FEIGHAN. Mr. Speaker, last weekend, Syrian troops launched a final offensive in Lebanon aimed at eliminating the last pocket of resistance to Syrian rule in Lebanon. In the bloodiest day of this 15-year-old civil war, 750 people were killed. For the first time, the Syrian Air Force was called in to lead an attack on the Lebanese Presidential Palace and oust the leader of the Christian-Maronite enclave, Gen. Michel Aoun.

Evidence suggests that the United States State Department not only knew about the attack, but they did little to dissuade the Syrians. According to Lebanese officials of the Syrian-backed Hrawi government, the gist of the message they received from the State Department was:

We will not give you a green light * * * if you succeed, we will congratulate you * * * if you fail, we will not condemn the action but call on the Lebanese to resort to dialog to sort out their differences.

That message is all the assurance Damascus needed to know that its actions in Lebanon would draw no rebuke from Washington.

The State Department's acquiescence in the Syrian final offensive in Lebanon can only be viewed as the price the Bush administration was willing to pay for Syrian support of our anti-Iraq coalition. That policy ignores the blood feud between Assad and Hussein. Syria has long demonstrated its opposition to Iraq for its own reasons—well before the invasion of Kuwait. United States policy runs counter to the fact that Syria remains a sponsor of international terrorism and safe haven for the world's most notorious international murderers.

Most shameful however is that in the aftermath of the Syrian attack on Lebanon, there has been no official condemnation of the loss of life in Lebanon. It is disturbing to me that the State Department that speaks so forcefully in condemning the excessive force used to quell demonstrations in Jerusalem, finds that it has lost its voice when it comes to condemning the murder of hundreds of Lebanese by Syria.

The question we must ask the State Department is "Do we really believe that the enemy of our enemy is our friend?" Is President Assad someone we need to do business with? Do we want to work to moderate his behavior? Well, this was the exact same policy that we undertook with Saddam Hussein prior to the August invasion of Kuwait. We learned in that case that constructive engagement not only didn't work—it only emboldened our adversary.

Constructive engagement has not worked with Syria either. It remains a terrorist dungeon-state. Our new relationship with Syria doesn't strengthen our position—it strengthens their position and gives Assad the free hand he has always sought in Lebanon. For the people of Lebanon, they do not know if they have reached a new beginning or the beginning of the end.

SURTAX ON RICH FAIR AND EQUITABLE

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, as we deal with the question of a surtax on people that make $1 million a year, let us keep some basic facts in mind. If you have a taxable income today in the United States of $50,000, and if you earn another $1,000 in taxable income you will pay to the Government $330 in Federal income tax on that last $1,000 of taxable income.

If you have an income of $1 million a year and earn another $1,000, you will pay to the Federal Government $280 on that last $1,000 of taxable income.

What we are talking about with the 10-percent surtax is raising that 28-percent rate up to 30.8 percent. That would be the 10-percent surtax. That would still mean that those people making $1 million a year, would still have a marginal tax rate lower than those people making $50,000 a year in taxable income.

Mr. Speaker, for the life of me I do not understand why the President is so adamant in his opposition to making this minor change in the tax

law that would enable us to complete the budget negotiation that we are going through.

A SILK PURSE FROM A SOW'S EAR

(Mr. WASHINGTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WASHINGTON. Mr. Speaker, you can't make a silk purse from a sow's ear, but saying that the civil rights bill is a quota bill is as good an attempt as you are going to get to make one. It is an attempt to divide working people into two categories. It takes Joe Six-Pack on one side, but don't forget Joe Six-Pack remembers that it is Chauncey Magum on the other side.

Let us have a little test: Who benefits from minimum wage? Chauncey Magnum? No.

Who benefits from family and medical leave, which was vetoed? Chauncey Magnum? No.

Who has a working wife that needs to be protected from discrimination? Who serves on juries that they do not want the people to have? Who gets taxed and taxed and taxed?

Five to zero, Chauncey Magnum wins all of them.

The news is out, all over town,
That working people, get the run-around:
We know that we, can't win, but, then;
What can we say: vetoed again!

□ 1135

SYRIANS EXECUTED 700 LEBANESE LAST WEEK

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Great rhyme, Mr. WASHINGTON.

Mr. Speaker, I watched last night as one of the sleaziest persons I have ever seen in my life was interviewed on television, the Ambassador from Iraq, who said that the invasion of Kuwait is none of our business, none of our business, that it is an Arab-Arab dispute and, therefore, even though it is a violation of international law, even through they are killing thousands of people, even though they are raping Kuwaiti women, stealing incubators from hospitals and babies, it is none of our business.

The State Department must believe that, even though they have 200,000 troops there, because in Lebanon this last week the Syrians executed 700 Lebanese. Not a word, not a peep from our State Department.

Obviously it is an Arab-Arab problem. They were quick to condemn Israel, all right.

Tragically 21 Palestinians died after they started stoning Jewish worshipers, and that is a tragedy.

But no problem at all for the Syrians, no cameras, no pictures, and obviously nothing happened, but 700 Lebanese were executed by the Syrians.

Where is the condemnation by this State Department? Where is the condemnation by the United Nations?

Are the lives of Lebanese Arabs worth any less than anybody else in the world? It is disgusting, and the State Department of this country ought to hang their head in shame for their lack of guts to stand up and speak out just because we have problems in Kuwait and Iraq.

CIVIL RIGHTS VETO—A SAD DAY IN AMERICAN HISTORY

(Mr. PAYNE of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE of New Jersey. Mr. Speaker, yesterday was a sad day in American history. It was a day that marked a major setback in the long struggle to provide equal protection under the law to all of our citizens.

Over the past two decades, our Nation made considerable progress in giving women and minorities the opportunity to advance in the work force so that they, too, could share in the American dream. Unfortunately, that progress was reversed by a series of damaging Supreme Court decisions, necessitating action by Congress to restore basic fairness of the workplace.

On the House Education and Labor Committee, we worked hard to craft a bill that would be acceptable to President Bush. We added language specifying that the bill did not require or encourage quotas. We felt that President Bush was sensitive to our concerns, because he had given us hope in his inaugural address when he spoke of a "kinder, gentler nation" and "a new breeze" of freedom sweeping across our land.

Unfortunately, throughout history we have had well-intentioned leaders who were ill-advised by those around them. Bad advice has exacted a heavy price since the days of Napoleon's disastrous invasion of Russia, when he lost two-thirds of his army. I believe that President Bush has been the victim of bad advice.

When I heard that the President vetoed the bill on the grounds that it is a quota bill, I was reminded of the words of Rudyard Kipling who wrote eloquently about how trying it is "to hear the truth you've spoken twisted by knaves to make a trap for fools." Kipling went on to describe the devastation when one must "watch the things you gave your life to, broken." Mr. Speaker, many men and women have given their lives to the cause of justice and equality. They deserve better than a broken promise. I urge my colleagues to stand up for the principles on which our great Nation was founded by voting to override the President's veto of the Civil Rights Act of 1990.

ACTION NEEDED TO REPAIR BROKEN-DOWN BUDGET PROCESS

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Mr. Speaker, the budget process has broken down and currently is in a disarray that rivals any of the past budget crises. The American people are fed up and rightly so.

The pending budget conference report will include the largest tax increase in American history but has no enforcement mechanism to hold the line on Federal spending. The time has come to enact serious budget reforms, including giving the President a line-item veto.

Clearly, the Congress has been unable to make the tough decisions necessary to eliminate wasteful spending and reduce the Federal deficit. Raising taxes is not the answer. The President must be given the same ability 44 of our Governors currently have to eliminate pork-barrel spending. A Presidential line-item veto is an essential part of any serious, long-term deficit reduction package.

Mr. Speaker, we must act now to repair our broken-down budget process. Without reform real deficit reduction is impossible.

THE PEASE PLAN

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I would like to talk about the so-called Pease plan that has been getting a lot of attention in the press lately.

A number of my colleagues are concerned about how it operates. They are especially concerned that it might impact more heavily on high-tax States like New York and New Jersey and California than it would otherwise. I am here to say that that is not the case.

The Pease plan, although it is complicated and complex and difficult to understand, would affect uniformly people of the same income in all States whether the taxes there are high or low.

I will be sending out a Dear Colleague letter this afternoon that explains that in detail, and I would ask my colleagues before they get all ex-

cited about the inequities supposedly of the Pease plan to look at that Dear Colleague and make an effort to understand it.

OVERRIDE VETO OF THE CIVIL RIGHTS BILL

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, I was very sorry to see the President decide to veto the civil rights bill that was passed out of this House in the Senate and the conference report.

We had gone through this before. When the bill came out of the House of Representatives, we thought it was just fine. When it went to conference the first time, changes were made in it, and then, again, it went to conference for the second time because each time we said we wanted to get a package that the President would sign.

Knowing that he was not going to sign it, the President should not have led us to believe that, in all good truth and all good faithfulness, he was going to come up with a package that we all could live with.

Mr. Speaker, I believe that the President has done a great injustice to the women of the United States of America. We call ourselves a tremendous democracy. We talk about fairness.

This is not about quotas. It is about opportunity. It is about whether or not the President, in fact, has played politics with the potential of working people. That is what I believe has happened.

I hope the House will override this veto so that every working woman, every working person in the United States will have a fair, equal opportunity for advancement in the labor force.

DO NOT CLING TO THE COLD WAR

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, we cannot—and should not—cling to the cold war.

I was disappointed to read in this morning's paper that the President has threatened a veto of the military construction bill apparently because it eliminates U.S. participation in building a new NATO base at Crotone, Italy.

The base at Crotone might have served some purpose before the collapse of communism—before Russia's leaders admitted that their system had failed, leaving their nation near bankruptcy, but not now.

In today's world, we might as well take the money we are going to spend on this base and burn it in the street.

Are we trying to save money here—or not?

If we are, Mr. Speaker, the President should put away his veto pen when the military construction bill reaches his desk.

Why should the American taxpayer shell out millions of dollars for a base in Italy which is, at best, of dubious value while domestic bases are being closed, disrupting the economies of American communities?

The logic of this, frankly, escapes me.

Let us put the cold war behind us—to continue to fight it is like a boxer being in the ring alone. You would question his sanity for continuing to throw punches when there is no opponent.

Well, we can climb down out of that ring now and we can save the American taxpayers millions in the process.

In this time of budget austerity, we should be calling on our allies to do more in terms of shouldering the burden of their own defense. Uncle Sam cannot guard the world alone—nor can he be a global Sugar Daddy any longer.

Whatever action the President takes on the military construction bill—which cuts out the wasteful spending for the base in Italy—will certainly show if the White House is serious about savings.

None of the arguments for Crotone hold water. It won't help us in the Middle East. It's a NATO, not American base.

We are told it will help protect Europe from the Communist hordes. I have to ask: How many airplanes, bombs, and missiles does it take to kill a dead horse?

Mr. Speaker, the President should not veto the military construction bill—someone should whisper in his ear: The cold war is over.

LET US NOT FORGIVE EGYPT'S DEBTS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the Congress and the President are wringing their hands about taxing and spending policies, because this country and this town are choking on deficits and debt.

Out of the blue in the last couple of weeks the President says to us, "You know what we really need to do is forgive the $7.1 billion debt Egypt owes to the United States.

It is so wrong, but yet so symbolic of the way the administration thinks. "Let us be generous to foreign governments," they say. They talk about Government waste.

I will tell you about Government waste. Yes, there is wasteful spending. The United States taxpayer is forced to pay taxes for the defense of Japan and Western Europe. U.S. citizens are told, "You have got to tighten your belt so we can pay our allies' bills." We defend the sealanes so Japan can ship Toyotas and Nissans to Pittsburgh.

Is there not even an ounce of sense in this town? How about sending our allies a bill and tell them the American taxpayers are tired, that we cannot pay their share of the bills anymore?

Mr. Speaker, let us not forgive official foreign debts casually. Let us collect them responsibly.

Mr. President, if you insist that we forgive Egypt's debt, I have got some constituents that want to change their name to Egypt.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Members are reminded that they should not address the President directly. They should address the Chair.

OVERRIDE VETO OF THE CIVIL RIGHTS BILL

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, in his 1989 inaugural address, President Bush stated that freedom is like a beautiful kite that can go higher and higher with the breeze. Yesterday afternoon, the ill winds of his civil rights veto struck down that kite and with it, the chance to restore equal opportunity to women and minorities across the Nation.

The sponsors of this legislation made nearly 30 significant changes to the original bill in order to satisfy the administration's alleged concerns. Some of these changes include requiring plaintiffs in discrimination suits to prove precisely which practice disparately impacted them, adding language specifying that nothing in the measure shall be construed to require or encourage quotas, and eliminating compensatory and punitive damages for mixed motive claims. The administration, however, chose to ignore these extensive concessions.

When one recalls Mr. Bush's support for Ronald Reagan's veto of the 1988 Civil Rights Restoration Act and his use of a black convict to inspire fear and divisiveness in a Presidential campaign, the President's veto should come as no surprise.

Mr. Speaker, I urge Congress to stand up for justice, override this veto and confound the right wing cynics by restoring the Civil Rights Act of 1990.

□ 1145

AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT IN THE RECONCILIATION BILL

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, I rise today to draw attention to a serious breach of normal legislative procedures. When this body passed the reconciliation bill on Tuesday night, it included provisions that had been inserted at the last minute by the House Education and Labor Committee, amending the National Labor Relations Act. These amendments represent the most dramatic change in labor law in over 30 years. Depsite the magnitude of these changes, no hearings were held on the effects of this provision on employer-employee relations. In fact, these amendments had not even been printed in bill form prior to their insertion into the reconciliation bill.

These amendments violate the integrity and intent of the reconciliation bill the House passed Tuesday night. The committee estimate that $96 million will be raised is dubious; among other things, it does not take into account the increased caseload of lengthy and costly litigation that will result. Even if this estimate was accepted as correct, the budgetary impact is truly insignificant when compared to the magnitude of the changes in substantive law that are being proposed.

The purpose of these provisions is to rewrite labor law, not to reduce the deficit. Reconciliation should not be a place to pass controversial, essentially nonbudgetary, legislation that cannot pass on its own merits.

Further, I believe that passing legislation of this magnitude without proper study and review is a serious breach of normal legislative procedures. These amendments are as controversial today as were similar changes in the National Labor Relations Act proposed in 1978. Many questions were raised then, and the bill was defeated after a 19-day filibuster in the Senate.

I believe that Congress should openly and completely discuss the issues raised by these amendments through normal legislative procedures. For that reason, I urge the conferees on reconciliation to drop this provision from the bill.

THE PRESIDENT WOULD TAX OUR TAXES

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, this business of double taxation seems to be a cat that has nine lives. Taxing people once again, for payment that has already been made for State and local taxes by the Federal Government is immoral and outrageous. This idea of double taxation has come up repeatedly in recent years, and invariably we whack it on the head. But just as invariably, it survives to reappear on another day in another year—only to be whacked on the head again.

What kind of a value structure does our President have? He wants to tax the executives of our corporations, plus doctors, dentists, insurance brokers, and so forth who make $100,000 annually, a double taxation on their State and local tax, while at the same time he screams bloody murder at the idea of taxing his country club friends with assets of $10 to $25 million. These are the kind of assets needed to have a net taxable income of $1 million, in order to be liable to a 10-percent surcharge on an income of $1 million. He does not want to tax those big boys, the mega hitters, who are worth tens of millions of dollars, and he screams bloody murder at the idea of raising individual rates up to 33 percent, less than half of what they were, colleagues, during the era of the 1950's, 1960's, and 1970's when America was the most powerful economic system in the world, the wonder of the civilization. We leaped into the postindustrial world, we had economic strength and dynamism and power, and each of us paid our fair and equitable share of taxes.

We had 46 to 52 percent corporate taxes during those three decades, and income taxes into the 70th percentile, but the President now wants to tax an accountant or a doctor or a dentist or a corporate executive making $100,000 with a double tax whammy, while sparing his friends with $10 million to $20 million in assets a 10-percent surtax. This is leadership for all America? Mr. Speaker, I suggest that it is not.

REPORT CONDEMNS ADMINISTRATION OF LAST DECADE

(Mr. MOODY asked and was given permission to address the House for 1 minute).

Mr. MOODY. Mr. Speaker, the budget debate has focused on taxes with far too little focus on spending and spending cuts. At the start of the Reagan-Bush era, there was a great deal of high-profile pledges to implement the Grace Commission, which outlines all the waste that had preceded that period. Seventy percent of the Grace Commission's findings were implementable by the administration without any action by Congress.

Ten years later, we now know that none of them was, but what is really shocking is that we now have a report from the GAO that outlines incredible waste that has gone on in the last decade, due to poor financial controls at HUD, FHA, the Pentagon, S&L, et cetera. For the last decade, this administration has apparently been run by a legion of political appointees with no apparent regard for the taxpayer.

I recommend that my colleagues look at this report that will make your hair stand on end. It is a condemnation of the last decade of administration.

SHAME ON THE PRESIDENT

(Mr. MFUME asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MFUME. Mr. Speaker, yesterday the President decided to veto major civil rights legislation. The decision to veto the Civil Rights Act of 1990 represents a small step backward for man, but a giant step backward for mankind.

Shame on the White House, and shame on this President for putting partisan politics ahead of principles and for playing with the lives of millions of Americans who only want fairness, who want respect, and who want equal opportunity.

He now joins the ranks of Andrew Johnson and Ronald Reagan as the only Presidents to ever veto civil rights legislation. Therefore, we are witnessing, unfortunately, a time in this country where people are called back to the reality of arguing for basic principles. and to argue that this bill that means so much to so many people, that has now been overridden, but now be overridden to the point that we are able to do away with this veto.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3840. An act to establish the Newberry National Volcanic Monument in the State of Oregon, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5112. An act to amend the Public Health Service Act to extend certain programs for health care services in the home, and

H.R. 5269. An act to control crime.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5269) "An act to control crime," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. DECONCINI, Mr. LEAHY, Mr. THURMOND, Mr. HATCH, and Mr. SIMPSON;

For the purposes of title XXIII of the House bill: Mr. PELL and Mr. HELMS;

For the purposes of title XXI of the House bill: Mr. RIEGLE, Mr. WIRTH, Mr. GRAHAM, Mr. DODD, Mr. D'AMATO, Mr. HEINZ, and Mr. BOND;

For the purposes of title XXII, section 2224 of the House bill: Mr. RIEGLE, Mr. WIRTH, Mr. DODD, Mr. HEINZ, and Mr. ROTH; to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5268) "An act making appropriations for Rural Development, Agriculture, and related agencies programs for the fiscal year ending September 30, 1991, and for other purposes."

The message also announced that the Senate agree to the amendments of the House to the amendments of the Senate numbered 6, 13, 14, 16, 26, 27, 28, 32, 35, 47, 75, 76, 77, 79, and 83, to the above-entitled bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 605) "An act to authorize appropriations for the Consumer Product Safety Commission, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2494. An act to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes.

CONFERENCE REPORT ON H.R. 5021, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 519 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 519

Resolved, That upon adoption of this resolution all points of order against the motions printed in the joint statement of the managers on the conference report on the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year ending September 30, 1991, and for other purposes, to dispose of Senate amendments numbered 6, 20, 54, 82, 100, 107, 109, and 143 for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. All points of order against a motion offered by Representative Smith of Iowa printed in the report of the Committee on Rules accompaning this resolution to dispose of Senate amendment numbered 83 for failure to comply with the provisions of clause 7 of rule XVI are hereby waived.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, I yield the customary 30 minutes, for the purposes of debate only, to the gentleman from California [Mr. PASHAYAN]; and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 519 provides for the consideration of the conference report on H.R. 5021, the bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies of the fiscal year ending Sept. 30, 1991.

This resolution provides for waivers of points of order against motions to dispose of nine amendments reported in disagreement. The waivers are necessary so that the House can consider the complete package which the conferees have worked out over the past few days.

The rule waives points of order under clause 7 of rule XVI(16), which prohibits nongermane amendments, against consideration of the motions to dispose of amendments numbered 6, 20, 54, 82, 83, 100, 107, 109, and 143.

Amendment No. 6 appropriates funds for economic development assistance and trade adjustment assistance programs.

Amendment No. 20 appropriates funds into a new patent and trademark office fee surcharge fund.

Amendment No. 54 appropriates funds for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking.

Amendment No. 82 establishes a new immigration user fee account, an examinations fee account, and a pilot project regarding user fees to improve services at land border points of entry.

Amendment No. 83 permits parties involved in the sale of land for a wildlife refuge to use condemnation procedures to settle differences on price, and provides for the differences on price, and provides for the creation of a new National Commission to Support Law Enforcement.

Amendment No. 100 permits the State Department to transfer certain funds among accounts in the Department.

Amendment No. 107 provides for compensation of attorneys in criminal cases where representation is waived and for travel expenses for guardians in certain cases.

Amendment No. 109 concerns the method and rate of pay of land commissioners.

Amendment No. 143 adds new authorities, as well as continues existing authorities for funding Small Business Administration programs.

Mr. Speaker, the appropriations Committee asked for and the Rules Committee agreed to these waivers so that the House can consider and work its will on these provisions.

I want to emphasize that the waivers in no way affect the usual procedures of dealing with amendments in disagreement in appropriations conference reports. The amendments which the rule will protect from points of order are still open to debate and subject to votes in the usual manner.

Mr. Speaker, H.R. 5021 provides funding for important core programs of our Government, including the Department of Commerce, the Department of State, the Federal courts, the FBI, the Drug Enforcement Administration, the Immigration and Naturalization Service, and the Federal Prison System, among others.

In addition, the bill includes $3.2 billion to continue our fight in the war on drugs, a 25-percent increase over 1990 funding.

It further provides $106 million more than the administration has requested to investigate and prosecute financial institution fraud. These are crucial efforts which deserve our prompt attention.

Mr. Speaker, the rule will allow the House to consider this important conference report expeditiously while still protecting Members' rights to debate and vote on its provisions. I ask my colleagues to support the rule so that we may proceed to consider the merits of this legislation.

□ 1155

Mr. Speaker, I reserve the balance of my time.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 519 is a rule waiving the germaneness rule against nine motions that are pending to the appropriations conference report for the Departments of Commerce, Justice, State, and the Judiciary.

The managers on the part of the House filed the conference report on the $19 billion appropriations measure on Saturday, October 20.

The conference report and the accompanying statement of managers have been available for the 3 days required under the rules of the House.

Mr. Speaker, this rule is recommended by the Committee on Rules in order

to permit the chairman of the Appropriations Subcommittee on Commerce, State, Justice, and the Judiciary, the gentleman from Iowa [Mr. SMITH] to dispose of amendments in disagreement.

All nine of the amendments in disagreement have elements that are not germane to the Senate-passed amendments, and therefore would be subject to points of order on grounds that they violate clause 7 of rule 16.

Mr. Speaker, the parliamentary situation before the House is that the gentleman from Iowa has a series of motions to offer that represent House amendments to the Senate amendment.

Since various elements of these motions are not germane to the Senate amendment, the motions themselves would be subject to points of order.

Mr. Speaker, I want to stress that each motion protected from a germaneness point of order will still be subject to a potential demand for a direct, "Aye" or "Nay" vote.

When the Committee on Rules heard testimony on this bill on Sunday, concerns were expressed by the Chairman of two House Committees over legislative provisions that are contained in the Conference Report.

Mr. Speaker, due to the vigilant efforts of the Chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], and the Chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], this rule does not waive points of order that may lie against other motions to dispose of amendments in disagreement.

I urge all Members to refer to Saturday's CONGRESSIONAL RECORD, if they have concerns about the additional motions that are to be offered to dispose of amendments in disagreement.

Mr. Speaker, the amendments in disagreement include: Nos. 6, 20, 54, 82, 83, 100, 107, 109, and No. 143.

I shall not detail the provisions of each motion to dispose of amendments in disagreement, since the gentleman from Iowa will have ample time to do so and since they will be subject to a demand for a vote.

This rule also provides a waiver of germaneness against a motion to be offered by the gentleman from Iowa, regarding Senate Amendment No. 83.

The text of the motion provided for by the rule is available to the Members in the report filed by the Committee on Rules. The amendment adds to the conference report an authorization for a National Commission to Support Law Enforcement.

Mr. Speaker, the National Commission to Support Law Enforcement is to study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State and local levels.

Before I conclude my remarks on the rule, I would simply add that the bill itself appropriates $19.3 billion in new budget authority for fiscal year 1991. This amount is $681 million less than the administration's request, and is $529 million less than appropriated during 1990.

Mr. Speaker, the conference agreement contains $109.5 million for fraud investigations regarding savings and loan companies, and a prohibition of the export of supercomputer equipment technology to countries helping Iraq to improve its weapons capability.

I urge adoption of the rule, and I look forward to the explanations the gentleman from Iowa will make as he seeks to dispose of the amendments in disagreement.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SMITH of Iowa. Mr. Speaker, I call up the conference report on the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 20, 1990 at page H10896.)

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report is within our revised 1991 allocation limits under the budget resolution. However, in order to get within those revised limits, we had to come in at a level that is $529 million less than these same agencies received in 1990, and it is $681 million less than was requested by the administration.

This bill contains items that fall under the following budget categories: international, defense, and domestic. Under the budget agreement, each of those categories must be kept separate within a separate allocation, and we have done that in this bill.

Now, as was mentioned in the debate on the rule, we did increase substantially the amount of money for savings and loan investigations and prosecutions. In fact, we increased that by $107 million.

Funding for drug law enforcement and several of the agencies that are involved in that, including the U.S. attorneys, the FBI, and the DEA, are increased over the request for the parties of the respective budget for drugs. However, we would have increased them even more if we could have. But we were thrown a kind of curve ball while we were in conference because we were told that they changed the scoring on the Patent Office amounts the Senate had in the bill and it cost us $91 million in our cap.

□ 1205

So, Mr. Speaker, we had to reduce a number of items that we did not want to reduce in order to make up for that $91 million. But now this bill is under the allocation targets in all respects.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Iowa [Mr. SMITH], the chairman, has indicated, this conference agreement appropriates a total of $19.3 billion for Commerce, Justice and State, the Federal judiciary, and for several related agencies. The total appropriation in this conference agreement is $529 million less than last year, and it is $681 million less than the administration's request. Discretionary budget authority and outlays contained in the conference agreement are within the targets set forth by the revised budget resolution. There are significant increases over the fiscal 1990 level for Justice, including increases for anti-drug law enforcement programs and increases targeted at increasing investigations and prosecutions of savings and loan fraud. There are increases for the drug war and the S&L prosecutions contained in this conference report.

Mr. Speaker, I rise to join the distinguished chairman of our subcommittee, the gentleman from Iowa [Mr. SMITH] in support of this conference agreement, recommending it to the full House. Today concludes, we hope, months of diligence on the part of the gentleman from Iowa, and each and every member of the subcommittee.

When we passed this bill out of the House last spring, our subcommittee was operating under a spending ceiling we all knew would have to come down, and now, in the midst of a budget crisis and a summit agreement, it goes without saying that all of our agencies have taken some cuts, especially and deservedly so in many cases, given the huge deficit we are facing.

However, Mr. Speaker, in cutting our fair share in this conference agree-

ment, we have met our responsibility in two important ways. One, we have kept within budget. This agreement does that. Second, we have written a very good bill in my opinion, good in that it supports some of the most vital functions in the Government today, very good in that I think Members will agree with most of our decisions, from the very mundane items to those that grab headlines. Every budget, agency and issue was treated fairly.

Since the conference report provides the details of our action, let me highlight the most important achievements.

When this bill was considered by the House, the gentleman from Iowa [Mr. SMITH] and I offered a floor amendment adding $75 million for financial institution fraud enforcement. That was and still is the full amount authorized for the Justice Department to carry out the S&L prosecutions. This agreement bumps that effort up some $85 million for a total of $160 million spread amongst the FBI, the U.S. attorneys offices and three other legal divisions in the Justice Department. This means more than a doubling of what Justice is using now to nail the white collar crooks that have defrauded our banking industry. Twenty-seven thrift fraud task forces across the country are putting in overtime to wrestle the toughest financially significant cases to the ground. They cannot wait any longer for the Congress to act, so we put the money in this agreement.

The continued priority that the country places on drugs and violent crime as a national problem was not lost on this subcommittee. The agreement provides over $3 billion for the Justice Department and the Federal judiciary to maintain these tireless efforts. The drug enforcement agency alone, Mr. Speaker, gets a $145 million increase for next year to step up efforts both at home and internationally.

The pressure to relieve overcrowding in our prisons never seems to subside, so we fund the full increase for construction and expansion of prison and detention space. The funds to be approved today we hope will build 6,000 additional beds. This increase is critical in that it really is planning for the future. We have 55,000 inmates in our system today, but by 1995 that population will skyrocket to over 95,000 inmates, and that may be conservative. These beds will be filled the minute they are in place. For the Immigration and Naturalization Service we fund an extra 200 border patrol agents who are critical to controlling, not only illegals, but the drug flow, and, finally, we included the full request of $492 million for State and local drug and crime grants supporting the many and innovative local efforts under way around the country.

Mr. Speaker, we face an economic challenge, the likes of which we have never had to contend. Two areas, therefore, deserve special mention in the Department of Commerce. First, the agreement provides the added funds needed to expand the staff of the U.S. and Foreign Commercial Service Office, particularly in the key overseas markets. These are the people that the Commerce Department stations in our Embassies to help Americans sell products overseas. Second, we boosted funding for the National Institute of Standards and Technology, the old Bureau of National Standards. The programs, standards, and research of that agency will be crucial to helping U.S. businesses reap the benefits of developing and commercializing state-of-the-art technologies for sale overseas.

As many Members know, the National Weather Service is undergoing a massive modernization and restructuring, one that will revolutionize the quality and speed in which communities will be warned of fast-breaking storms. This is another long-term effort where the subcommittee has scraped to come up with every necessary dollar.

Our conferees have also shown wisdom, in my view, Mr. Speaker, in not only continuing, but building upon, the successes of our public diplomacy arm, the USIA, the U.S. Information Agency. Never has there been a more pivotal time in U.S. history, and perhaps never has it been more in our national interest to share the secrets of our success with emerging democracies the world over. The needs are local. How will the free press work? What must be regulated and how? Our lessons and helping hand must be given now. These countries cannot wait. They need the information provided by USIA, and I am gratified we could improve upon the USIA's request for next year.

The conferees have worked hard, Mr. Speaker, on these and the other very vital agencies funded in the conference agreement.

Let me close this portion by commending our chairman again, the gentleman from Iowa [Mr. SMITH], for another year's good work. We all appreciate his steadfast approach, and, above all, the fairness that he exhibits through the process.

Mr. Speaker, I urge support for the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. ALEXANDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one additional matter which will not take very long, and in response to the statement of the gentleman from Kentucky [Mr. ROGERS] about the addition of prison space: We are in the process of increasing the prison space for inmates in the Federal prisons by about 50 percent, and in light of that fact I would like to make mention of an item that is in the conference report language in the conference report under the heading of "Lower Mississippi Valley Delta Region," and I point out that the conferees are aware of the report of the Lower Mississippi Valley Delta Commission concerning the economic and other problems of the Delta region, and in light of the findings of that Lower Mississippi Delta Development Commission the conferees have directed the Bureau of Prisons to evaluate carefully in the report on the feasibility of helping alleviate the poverty in the Delta region by the construction of Federal prisons there.

□ 1215

There are a number of communities throughout the Delta region; namely, one in Forest City, AR, in my district that is recruiting the development of a prison for its community. This report should include a thorough consideration of the economic impact of the construction of Federal correctional facilities in such economically depressed rural areas, including factors such as relative cost of site acquisition, construction, operation, and so on.

Mr. ROGERS. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. REGULA], a very hard working member of the subcommittee.

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this is an appropriation bill on which the Members have worked hard to make it responsible. In this bill we address a lot of concerns of the American people. When we go home from here and hear from our constituents about the problem of drugs, the problem of crime, the problem of prisons and the court system, we understand the importance of this legislation. In this bill we have made every effort to beef up our law enforcement programs for the FBI, the Justice Department, and to address the problem of controlling the drug traffic and reducing it, and the problem of crime. These are important elements of this bill.

Second, I would point out that we have recognized through the increases to the U.S. Trade Representative and the Commerce Department that we have significant activities going on at this time in Geneva. Most people are not paying very much attention to the negotiations in Geneva on the question of the General Agreement on Tariffs and Trade, better known as GATT. The ability of our negotiators to bring back this year—and there is not a lot of time left—but to bring back this year an agreement that is good for the United States, and good for our trading partners is important,

because the framework of world trade, of this global economy we talk about is now being put together in Geneva, and if it is done carefully the 100 nations that are part of the negotiations can all benefit. But it has to produce an agreement that is fair to everyone.

We hear a lot about the level playing field, and that is really what the negotiations are all about. Hopefully out of these negotiations will come an enhancement in world trade.

Our U.S. Trade Representative, Ambassador Carla Hills, has said that if we have a successful program in the GATT negotiations it could increase U.S. exports by $200 billion, and that is jobs in America. We recognize the importance of all of this by beefing up the Commerce appropriations as well as the USTR.

Third, I would like to mention, and this is more parochial, that we have $3 million in this bill to address a problem in the Great Lakes called the zebra mussels. Most people are not aware of this, but it is a growing difficulty in our waterways in the United States. The zebra mussel came here from Europe. It attaches itself to the bottoms of ships, boats of all types, and clogs up intake pipes for the utilities industry on the Great Lakes, and creates enormous monetary cost to those involved. So it is very important that we do research to address this problem. This bill does provide funding that I think will be vital in attacking the problems created by the zebra mussel and reducing the economic impact of this organism.

Lastly, I want to mention Radio and TV Marti. Myself and the gentleman from Arkansas [Mr. ALEXANDER] have had some problems with this. We think much of it is wasted money. We would like to see the amount appropriated for Radio Marti and TV Marti reduced substantially. We hope we will have some success in getting down below the Senate number.

I would hope in the future that we can reduce it even more because I do not think it is cost-effective. I think it is used perhaps by some who find it a good way to communicate, but I do not think it serves the policy interests of the United States very well in term of the overall cost.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding. I will not take much time on this question of TV Marti because we have had debates on it in the past and there will be debates next year, in the future. But there is no question in my mind but that it is a waste of about $40 million of taxpayer money that we could be using on other projects.

Mr. REGULA. I thank the gentleman, and I yield back the balance of my time.

Mr. ROGERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, in closing, I just want to say that I really appreciate the great amount of work and the diligence and the attitude that all of the members of the subcommittee have shown, and the work that we have had from the staff this year. It has been a very difficult year. We got our bill passed—and were ready to pass it even before we got it passed—early last summer. It was held up in the Senate, but finally we are here today, and I hope we can get this conference agreement passed without too much controversy.

Mr. ALEXANDER. Mr. Speaker, television broadcasting to Cuba is wasteful spending. The Government should not be adding to the Federal debt by borrowing money to finance an activity that is neither needed nor effective while, at the same time, telling U.S. citizens that they must tighten their belts and pay more for needed services.

Developments around the world have demonstrated that democracy is winning the ideological battle and capitalism is winning the economic one. Communism has collapsed.

In this time of Federal budget austerity, the United States needs to redirect spending which has been committed to the cold war. Those funds are needed for deficit reduction and to address acute needs such as repair of highways and roads, education, economic development, health care, and housing here at home.

This Nation can not afford wasteful spending at any time. It certainly cannot afford it in a period when the sky high Federal deficits are forcing the Congress to cut vital programs benefiting our people here at home.

There are available to the people of Cuba a number of alternative sources of broadcast news, information, and entertainment programs.

Even if the cold war was still at its chilliest and the Federal budget was flush with resources, the wisdom of TV Marti would be highly debatable.

Its operation endangers the ability of the U.S. Government to protect rights, under international agreements, of U.S. broadcasters to be able to operate without foreign interference. As a direct consequence of the testing of TV Marti, local communities are already suffering disruptions of their ability to receive the broadcasts of their local radio stations due to Cuban Government actions.

TV Marti is wasteful spending on a number of counts.

Also, there are available to the Cuban people numerous free world sources of news, information, and entertainment. Among them are the U.S. Government-produced and broadcast Spanish language radio programs beamed by the Voice of America. VOA programs are specifically designed to provide listeners with a balanced view of U.S. policy, cultural, economic, and social issues.

The alternative sources also include the broadcasts of United States based, private sector radio stations, particularly those situated in south Florida, and of radio stations situated in Mexico and Central America.

So, even without TV Marti, the Cuban people have access to a menu of outside sources of information.

TV Marti is wasteful spending because the tests of this boondoggle do not demonstrate that Cubans in that nation's most populated areas can even receive the broadcasts. The Castro government has demonstrated both its ability and its willingness to jam the TV Marti signal and, for the first time, began regular jamming of the broadcasts of its predecessor, Radio Marti.

At the request of the chairman of the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce, the General Accounting Office [GAO] reviewed the U.S. Information Agency's [USIA] efforts to assess the effectiveness of TV Marti reception in Cuba during the March 27 to May 12, 1990, period. GAO's August 9, 1990, report is titled "Broadcasts to Cuba, TV Marti Surveys Are Flawed."

GAO concluded that:

USIA's survey results are flawed because they make projections on the reception of TV Marti based on incorrect application of generally recognized methodological techniques. Moreover, the survey results differ widely from information reported by the U.S. Interest Section in Havana.

The GAO report went on to say that contrary to USIA's projection of widespread ability of Cubans in Havana and three western Cuba provinces to view TV Marti during the test period—

The U.S. Interest Section in Havana reported that less than 1 percent of persons interviewed in Cuba had been able to view TV Marti and that its monitoring of the broadcasts show that TV Marti was effectively jammed by the Cuban Government.

Television broadcasting to Cuba is wasteful spending on yet another count. There is no assurance that, even if the Castro government allowed TV Marti's broadcasts untrammelled entry into that nation's broadcast space, it would be any more successful in bringing about the rise of a democratic government than has been the combined influence of years of radio broadcasts by VOA, Radio Marti, and U.S.-based radio stations.

Radio Marti's broadcasts were considered so innocuous by the Cuban Government that it did not bother to jam them until TV Marti's legally doubtful intrusion into broadcast spectrum assigned to that nation.

It is worth remembering that the reform movements that have turned the nations of Eastern and Central Europe toward democratic self-government grew to strength without benefit of U.S. Government-produced and broadcast television programs.

NATIONAL ASSOCIATION
OF BROADCASTERS,
Washington, DC, June 19, 1990.

Hon. BILL ALEXANDER,
U.S. House of Representatives,
Washington, DC.

DEAR MR. ALEXANDER: It is my understanding that when H.R. 5021, the Commerce, Justice, State Appropriations Bill comes to

the floor, you will offer an amendment which would reduce the funding for Radio and TV Marti by approximately one-half.

The National Association of Broadcasters (NAB), on behalf of thousands of local radio and television broadcasters, strongly support your amendment.

Although we take no position on the foreign policy questions relating to radio and television broadcasting to Cuba, we are deeply concerned about these programs which have placed U.S. broadcasters in jeopardy. With the advent of TV Marti, these concerns have increased because of the possibility of interference with domestic broadcasters by the TV Marti transmission as well as Cuban retaliatory interference.

As TV Marti has come closer to actual full-time operation, we have witnessed an increasing amount of Cuban interference. We know that the Cubans possess several transmitters which can produce signals which are ten or twenty times stronger than the 50,000 watt legal limit in the United States. Cuban interference has reached as far north as Minneapolis and as far west as Salt Lake City. Because the Cubans are currently jamming the Radio Marti frequency, AM stations in Mississippi and Texas are experiencing interference.

Further, there is still the possibility of interference from the TV Marti transmission itself. While no interference was detected during the test period, the tests were conducted at 3:15 a.m., and therefore transmissions during the broadcast day or bad weather may prompt interference. However, even if there is no interference from the TV Marti transmission, we know that the Cuban government can jam the TV Marti signal by spending less than $20,000. For a $20,000 expenditure the Cubans can render the $40 million our government will have spent by the end of FY '91 virtually worthless.

For these reasons, we support adoption of your amendment by the House of Representatives.

Kindest personal regards,

EDDIE FRITTS.

KARN,
Little Rock, AR, June 18, 1990.

To: Bill Alexander

From: Ted Snider, KARN, Little Rock AR

Re: Appropriations for Radio Marti and/or TV Marti

I urge you to remove any appropriations for Radio Marti and/or TV Marti. Any need there might have been in the past, no longer exists. We need to normalize relations with Cuba, as well as Eastern European nations. Trade with Cuba can be very advantageous to Arkansas farmers, especially rice farmers. It can help our balance of trade.

Radio Marti and TV Marti, serve only to antagonize. TV Marti can be effectively jammed for a low cost. Cubans retaliate by jamming U.S. radio station's frequencies. Radio Marti and TV Marti no longer serve any useful purpose. Those funds could better be used elsewhere.

Thank you for your consideration of this urgent request—from a Broadcaster and an Arkansan.

KFIN EDITORIAL

For three decades, the United States has been confronting the spread of communist influence that had gained a foot-hold only 90 miles off Key West, Florida. Cuba threatened to accelerate communist influence through Central America and Africa by sparking revolution in third world countries . . . then fanning the flames with military arms and advisers. The United States took action by attempting to sway Cubans with radio programming on Radio Marti into doubting the direction Fidel Castro was leading them. Overall, Radio Marti has not caused measurable results in influencing the attitudes of the Cuban people. However, an ever greater force has taken its toll and caused a stampeded of Eastern European countries to seek our help to save their economies. Free enterprise is the envy of the world wherever governments attempts to control the environment surrounding their citizens' lives. It is inevitable that Cuba will someday seek a free trade status with our Country, but the first step is mired with threatened military action and constant propaganda from the U.S. Information Services on Radio Marti. Congress has wisely decided to reduce military spending . . . now Radio and TV Marti should also be removed. The resulting goodwill could foster an atmosphere where Cuba and the United States can someday extend hands of friendship, encourage beneficial trade and forever lower the fists of conflict that have plagued our two nations for 30 years.

RADIO/TV MARTI FACT SHEET

I. DESCRIPTION OF SERVICE

A. Radio Marti—Voice of America Broadcast of 122.5 hours weekly of U.S. Information Agency programming from a 50,000 watt radio transmitter in Florida.

B. TV Marti—Operates from a antenna housed in a balloon tethered 10,000 feet above Cudjoe, Florida. Began operation 3:45 AM March 28, 1990, and was jammed by the transmitter of a TV station outside of Havana that broadcasts on Channel 13.

II. CUBAN RESPONSE

A. Radio Marti's original broadcast produced a display of Cuban jamming in about 1980 which reduced AM night-time coverage of some AM radio stations by 90% in the United States. Cuba has constructed one radio transmitter with a million watts power and two others with 500,000 watts. A one-million watt AM station can cover 1/4 of the western hemisphere. The United States restricts AM power to 50,000 watts. Only about 60 U.S. AM stations are maximum power. The majority of U.S. Stations are only 1,000 watts or less.

B. TV Marti's original broadcast resulted in Cuba broadcasting a three hour and 35 minute speech by President Fidel Castro beginning at 9 PM on March 23, 1990, on six AM clear channels . . . 620 KHZ, 670 KHZ, 1040 KHZ, 1100 KHZ, 1160 KHZ, and 1380 KHZ. The speech was heard on stations in Florida and distances as far as North Carolina and Tennessee. While NAB President, Eddie Fritts, predicted "an all out radio war," the FCC received only two formal complaints on interference.

III. CONCLUSIONS

A. Radio Marti is not considered a threat by the Cuban Government due to the numerous AM signals in Spanish already available to Cuban listeners from Florida, Mexico and Central America, which probably attract more audience than government-orginated programming on Radio Marti. Only AM signals which follow the curvature of the earth due to ground and sky waves are capable of reaching the island. FM signals are "line of sight" communications and only cover 75-125 miles depending on tower height and do not influence Cuban listeners. U.S. FM stations are not subject to Cuban interference.

B. TV Marti is regarded as a more serious invasion of Cuban space because regular TV services from the U.S. and Central America suffer from the same "line of sight" distance limitations as FM radio stations. This handicap necessitates the unusual 10,000 feet height on TV Marti's balloon suspended antenna system.

C. Recent alterations to Cuba's political position could ultimately result in Cuba seeking separation from their Soviet alliance due to the similarity of Cuba's economic failure to Eastern Europe and the Soviet Union itself. The progression of events in Eastern Europe could cause a thawing of U.S.-Cuba relations. Radio Marti and TV Marti could be considered by Cuba as an example of the U.S.'s unwilling attitude to begin any conciliatory action.

D. In ten years of operation, Radio Marti has produced no evidence of having changed the loyalty of the Cuban people towards the Cuban government.

E. The U.S. Government has expressed an intent to reduced defense and reap a "peace dividend." The elimination of funding for Radio and TV Marti could produce a "peace dividend" without any deterioration of the nation's position with our southern neighbors.

[General Accounting Office]

BROADCASTS TO CUBA: TV MARTI SURVEYS ARE FLAWED

(Report to the Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives, August 1990)

NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, August 9, 1990.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives.

DEAR MR. CHAIRMAN: In response to your request, we have reviewed the U.S. Information Agency's (USIA) efforts to assess the effectiveness of TV Marti reception in Cuba from March 27 to May 12, 1990. USIA conducted two surveys in making its assessment. The objectives of our review were to determine if the methodology used in these two surveys and the reporting of the results were consistent with sound data-gathering techniques and supported valid conclusions. The surveys were conducted to obtain information from Cuban visitors, emigres, refugees, and other visitors arriving in Miami, Florida, between March 28 and May 12, 1990. We also reviewed information from the U.S. Interest Section in Havana about the effectiveness of Cuban efforts to jam the TV Marti broadcasts.

BACKGROUND

In 1988, Public Law 100-459 authorized USIA to establish television broadcasting to Cuba. Congress appropriated $23.3 million to establish TV Marti and to test its capability to broadcast into Cuba. The legislation required a test be made to demonstrate that broadcasting to Cuba would be feasible and not interfere with U.S. domestic broadcasting. The administration conducted a 90-day test. On March 27, 1990, USIA began test broadcasts from TV Marti facilities in Florida. TV Marti programming originated from Washington, D.C., where the signal was beamed via satellite to Cudjoe Key, Florida,

about 110 miles from Havana. The signal was relayed to an airborne transmitter tethered about 10,000 feet above the key. The test broadcasts were primarily aimed at the Havana area between the hours of 3:45 a.m. and 6:45 a.m., Eastern Standard Time.

RESULTS IN BRIEF

USIA's survey results are flawed because they make projections on the reception of TV Marti based on incorrect application of generally recognized methodological techniques. Moreover, the survey results differ widely from information reported by the U.S. Interest Section in Havana. Based on one of its surveys, USIA reported that of 424 respondents who tried to tune in, 112 respondents, or 26 percent, were able to view TV Marti for 5 minutes or more. Projections from this survey indicated that 273,000 households in Havana and three western provinces, and between 1 million to 1.3 million Cubans could have viewed TV Marti during the test perod. An earlier USIA survey reported that as many as 7.3 million Cubans could have viewed TV Marti. These projections are invalid because they were not based on a random sample and did not demonstrate the similarity of respondents to Cuban households or to the Cuban population.

Contrary to the survey results, the U.S. Interest Section in Havana reported that less than one percent of persons interviewed in Cuba had been able to view TV Marti and that its monitoring of the broadcasts showed that TV Marti was effectively jammed by the Cuban government.

USIA SURVEYS ARE METHODOLOGICALLY FLAWED

To assess the Cubans' viewership of TV Marti USIA developed two sets of questionnaires to use in interviewing visitors arriving in Miami, Florida, from Cuba. Both questionnaires and the reported results had methodological flaws that made the results invalid.

For the first questionnaire, prepared by USIA's Radio Marti research and policy staff in Miami, Florida, interviewers took hearsay information and made no apparent attempt to verify it, and they did not provide complete descriptions of the demographic characteristics of interviewees. Most important, the survey was not a representative sample of TV Marti's primary target area. Instead, USIA took a nonrandom sample by interviewing 1,018 Cuban visitors, emigres, refugees, and other visitors arriving at Miami International Airport from March 28 to April 18, 1990.

Radio Marti's report on the results of this first survey stated that TV Marti was "received in practically all of the Cuban territory with acceptable quality" and that the potential population receiving the signal was about 7.3 million. USIA research staff also noted several problems with the survey methodology and concluded that "the study does not yield reliable and valid results."

The second questionnaire developed by Radio Marti's Audience Research Staff in Washington, D.C., also attempted to correlate the Miami Airport respondents with the entire Cuban population and households. The conclusions drawn from the results are invalid because USIA did not take a random sample of the Cuban population or households. Using data from this questionnaire, USIA and a USIA contractor prepared reports that contain inappropriate statistical generalizations about the viewership of TV Marti.

A preliminary report of the survey results, dated May 21, 1990, projected that between 1 million and 1.3 million Cubans were able to receive TV Marti during the first 6 weeks of broadcasts. Projections were based on the comments of 112 repondents, who indicated that they were able to view TV Marti for 5 minutes or more. The 112 respondents were 26 percent of 424 respondents who claimed that they had tried to view TV Marti.

Using the same survey data, a USIA contractor prepared a second report, dated June 4, 1990, which projected that 273,000, or 28 percent, of the households in the primary target area of Havana and three western provinces would have been able to receive TV Marti. In the Havana area alone, the report projected that 33 percent of households were able to receive TV Marti.

Based on the surveys of persons arriving at Miami International Airport, the USIA contractor projected potential viewership, even though its report stated that such projections are not statistically appropriate and are biased. To make valid projections, a random sample of the population or households in the target area would be required. However, the two USIA reports acknowledge that a random sample of Cuban populaton and households was not possible because Cuba is a closed society. Further, the validity of these projections can be questioned because the June report provides data showing that 24 of the 112 respondents, or 21 percent, said they watched TV Marti on 4 days when there was no broadcast due to bad weather conditions or technical problems.

In the absence of a random sample, the persuasiveness of survey results depends on how completely the sample represents the Cuban population and households in the target area. However, the May 1990 report does not compare the Miami Airport respondents to the Cuban population, and the June 1990 report does not adequately demonstrate that the respondents were representative of Havana area households. In fact, the June report shows that the respondents were not representative in several respects. For example, 61 percent of the survey respondents were 55 or older and about one-third were political refugees or emigres. However, the report analysis shows that only 19 percent of the Cuban population is 55 or older, and the report indicates that refugees or emigres would be more interested and aware of TV Marti than the general population. These two factors indicate that the respondents were not representative.

Further, the June report makes projections to households of Havana and three western provinces without providing evidence that respondents' households were typical of households in the target area. Therefore, the report projections do not provide persuasive evidence that the respondents are representative of the demographic and geographic characteristics of Havana and surrounding area households.

CONFLICTING INFORMATION ON TV MARTI RECEPTION

Throughout the test period, U.S. officials stationed at the U.S. Interest Section in Havana monitored and reported on TV Marti reception. Their information on the extent of viewership and reception differs significantly from the reported results of survey respondents in Miami. According to the U.S. Interest Section, extensive monitoring of TV Marti in the Havana area, trips to various parts of the country, interviews with various persons in Cuba, and results from questionnaires provided to visitors to the consulate show that the Cuban government was effectively jamming TV Marti. In addition, the Section reported that less than one percent of Cubans have actually viewed TV Marti without disruption, especially in the Havana area. Details on the extent of TV Marti reception in Cuba are classified.

This information conflicts significantly with USIA's May report, which projected 26 percent population viewership, and with the June report, which projected 28 percent of household viewership in Havana and three western provinces. USIA officials could not reconcile these differences. However, they believed that TV Marti was reaching some portion of the Cuban population.

SCOPE AND METHODOLOGY

We met with officials and obtained documents and records from USIA headquarters, the Voice of America, TV Marti, and the State Department in the United States and from the U.S. Interest Section in Havana. We obtained a reviewed pertinent reports and information related to TV Marti broadcasts to Cuba.

We analyzed the methodology and reports used by USIA to measure TV Marti reception in Cuba to determine whether they were conducted in accordance with sound methodological and sampling techniques. Such techniques are subject to a large body of literature. Our references include works by Leslie Kish, W. Edwards Deming, and William G. Cochran. The references discuss the limitations of nonrandom sampling in projecting or generalizing study results.[1]

As requested, we did not ask USIA to provide written comments on a draft of this report. However, we discussed the results of our work with USIA officials and considered their comments in preparing this report. Our work was conducted between April and June 1990 in accordance with generally accepted government auditing standards.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies to USIA's Director, the Secretary of State, and other interested congressional committees. Copies will also be made available to others on request.

Please contact me at (202) 275-4128 if you or your staff have any questions concerning this report. Major contributors to this report were Jess T. Ford, Assistant Director; Marilyn Mauch, Assistant Director; John Gallant, Evaluator-in-Charge; and Arthur James, Statistician.

JOSEPH E. KELLEY,
Director, Security and International Relations Issues.

Mr. CONTE. Mr. Speaker, I rise in support of the conference report accompanying H.R. 5021, fiscal year 1991 appropriations for the Departments of Commerce, Justice, and State, and the Judiciary.

The title of this bill belies its importance, Mr. Speaker.

Far from providing appropriations just to Secretary Mosbacher, Attorney General Thornburgh, and Secretary Baker.

H.R. 5021 funds a panoply of programs so vital to our national interests and well-being: EEOC; FTC; FCC; SEC; SBA; USTR; and USIA, to name a few.

[1] L. Kish, *Survey Sampling* (New York: Wiley, 1965), pp. 18-29; W. Deming, *Sample Design in Business Research* (New York: Wiley, 1960), p. 28; W. Cochran, *Sampling Techniques* (New York: Wiley, 1977).

And where would we be without the alphabet?

Again, Chairman SMITH and our capable Kentucky colleague, Mr. ROGERS, have brought us a bill we can write home about.

H.R. 5021 comes in below the ceiling. That task, normally not easy by any means, was made more difficult this year.

A score-keeping problem forced us to fund the Patent and Trademark Office, even though the reconciliation bill would fully fund it through user fees.

H.R. 5021 genuinely balances our legitimate programmatic needs against our needs for deficit restraint.

It allows the majority of programs to be continued at levels adusted for inflation.

At the same time, we were able to fund priority initiatives, such as Secretary Mosbacher's economic statistics initiative and his proposal to increase the presence of the U.S. Foreign and Commercial Service overseas.

Let me highlight just a few of the other important provisions of this bill.

H.R. 5021 provides increased funding—$2 million each at both the Department of Justice and the Claims Court—for processing of cases under the Childhood Vaccine Injury Compensation Program.

Struggling under a backlog of 3,000 cases, Justice and the courts urgently need funds to continue this vital program.

I was pleased to work with the gentleman from California, the chairman of the Health and Environment Subcommittee, on this issue.

On the floor in June, we wisely adopted the subcommittee Chair's amendment to provide $75 million for ongoing savings and loan efforts at DOJ. The conference agreement retains this necessary S&L funding.

The Small Business Administration continues to be one of my priorities in the Congress.

Too often, in this day of conglomerates and leveraged buy-outs, the little guys get lost in the shuffle.

Let's not forget that small businesses create over 60 percent of the new jobs in our economy and at least half of the major innovations.

Well, this bill stands up for the little guys.

The conference agreement demonstrates our commitment to this important segment of our economy. It is testimony to the importance of the SBA that we were able to fund the agency at almost $400 million, up significantly from last year.

Let me mention another issue brought to my attention by one of my constituents.

He's trying to start a fast food restaurant in Poland and needs a visa to get a Polish worker trained over here.

You would think we'd be doing all we can to help foster private enterprise in Poland. Right?

Wrong! Instead, my constituent has encountered roadblock after roadblock.

Mr. Speaker, I thought this was a "government for the people".

The statement of managers urges the Immigration and Naturalization Service to set up a process so problems like this won't happen again.

Each agency needs to make a contribution to our efforts to help out Eastern Europe. That's good government.

And, Mr. Speaker, this is a good conference report. I have mentioned a few of its highlights; it has many other strong points. I urge its adoption.

Mr. LEHMAN of California. Mr. Speaker, as we consider the conference report on Commerce-Justice-State Appropriations for fiscal year 1991, I would like to bring to the Members' attention an important issue relating to Legal Services Corporation [LSC]. I want to point out that I have been a consistent supporter of LSC and have supported the program in the past. However, I am very disturbed by the Supreme Court decision on Adams Fruit and the lack of cooperation in resolving the inconsistencies between this decision and the thrust of the Migrant and Seasonal Agricultural Worker Protection Act [MSAWPA].

This decision would affect farmers in my district as well as farmers all across the country. This decision has jeopardized our nation's worker's compensation system—a system which has benefited both employees and workers since the beginning of this century.

As a result of the Adams Fruit case, injured agricultural workers can now sue under MSAWPA, even if they have already received workers' compensation. But workers' compensation is supposed to be a trade off between employers and workers. The injured worker receives quick and certain relief in return for losing the ability to sue for compensatory and punitive damages.

This dangerous precedent not only threatens employers but workers also. In 14 States, workers' compensation coverage of agricultural workers is voluntary. In those States, Adams Fruit removes any incentive for providing coverage. In mandatory States, there will be pressure brought to make to voluntary.

As a result, injured workers will be left only with the crap shoot of the tort system. This is not consistent under a Federal statute that was designed to increase protections for farmworkers.

Furthermore, this decision gives migrant farmworkers greater protection than other employees, including other agricultural employees. Essentially Adams Fruit provides migrants with rights superior to all other workers.

If Adams Fruit is allowed to stand, it will not only pose a threat to the workers' compensation program coverage, it will also undermine the goal of MSAWPA in bringing migrant workers to the same levels of protection as other employees. We must resolve these inconsistencies within the Adams Fruit decision. If we can't do it in the remaining days of this Congress, it should be a priority item on our agenda next year.

Mr. DREIER of California. Mr. Speaker, I rise today in support of the McCollum-Stenholm amendment. It is designed to provide legal assistance to the poor, not funding for social activists. In particular, there is a key section which will help us in our struggle against crime and drugs in our cities.

Last year, when an Alexandria, VA, police officer was killed in a public housing complex by a drug dealer in a shoot-out, Secretary Kemp responded by expediting the eviction of drug dealers from public housing. That initiative came under immediate fire, and a lawsuit ensued from a grantee of the Legal Service Corporation.

One of my priorities has been to support Secretary Kemp's efforts to expedite the eviction of drug dealers from public housing. During consideration of the housing legislation which we will vote on this week, I joined a successful effort to prevent legislative obstacles to quick evictions of drug dealers. We also succeeded in obtaining necessary funding for upgraded security and other protections for public tenants victimized by drug dealers. Adoption of the McCollum amendment will complement these efforts to protect the innocent victims of the drug trade.

Unfortunately, the lawsuit initiated by the Legal Services Corporation against HUD is not an isolated incident. In fact, legal services lawyers have been so active in delaying or seeking to block drug-related evictions from public housing that Secretary Kemp has received literally dozens of letters from public housing authorities who are desperate for assistance.

Secretary Kemp wrote to the Chairman of the Legal Services Corporation on May 21, 1990, asking him and the rest of the LSC board to "assure that Legal Services Corporation grantees do not participate in drug-related cases in housing." In the same letter, Kemp pointed out that the Legal Services attorneys constantly cause "unreasonable delays" in evictions of drug dealers from public housing units. He continues to say that the interference of legal aid lawyers forces some public housing administrations to "spend between $5,000 and $7,000 on each eviction case."

The unfairness of this last point, having to pay scarce funds to get rid of elements that are a danger to law-abiding tenants, is to me a very sad irony. In one case, according to Secretary Kemp, "it took a jury only 4 minutes to reach a verdict to evict a tenant for whom the LSC grantee had delayed action for over a year."

The McCollum amendment does not deny the rights of the poor to receive adequate legal representation. It does, however, protect the rights of the vast majority of law-abiding people who live in public housing a safe place to raise their families. It is time for the Federal Government to get out of the business of being an impediment to housing authorities who try to make safe, drug-free neighborhoods for their tenants. This amendment will ensure that, and drug dealers who operate out of public housing will no longer be kept in business with public funds.

Mr. SMITH of Iowa. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. MCNULTY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROGERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 377, nays 40, not voting 16, as follows:

[Roll No. 506]

YEAS—377

Ackerman	Dwyer	Kasich
Alexander	Dymally	Kastenmeier
Anderson	Dyson	Kennedy
Andrews	Early	Kennelly
Annunzio	Eckart	Kildee
Anthony	Edwards (CA)	Kleczka
Aspin	Edwards (OK)	Kolbe
Atkins	Emerson	Kolter
AuCoin	Engel	Kostmayer
Baker	English	Kyl
Ballenger	Erdreich	LaFalce
Barnard	Espy	Lagomarsino
Bartlett	Evans	Lantos
Barton	Fascell	Leach (IA)
Bateman	Fazio	Leath (TX)
Bates	Feighan	Lehman (CA)
Beilenson	Fish	Lehman (FL)
Bennett	Flake	Lent
Bentley	Flippo	Levin (MI)
Berman	Foglietta	Levine (CA)
Bevill	Ford (MI)	Lewis (CA)
Bilbray	Ford (TN)	Lewis (FL)
Bilirakis	Frank	Lewis (GA)
Bliley	Frost	Lightfoot
Boehlert	Gallegly	Lipinski
Boggs	Gallo	Livingston
Bonior	Gaydos	Lloyd
Borski	Gejdenson	Long
Bosco	Gekas	Lowery (CA)
Boucher	Gephardt	Lowey (NY)
Boxer	Geren	Luken, Thomas
Broomfield	Gibbons	Machtley
Browder	Gillmor	Madigan
Brown (CA)	Gilman	Manton
Bruce	Gingrich	Markey
Bryant	Gonzalez	Marlenee
Buechner	Goodling	Martin (NY)
Bunning	Gordon	Matsui
Bustamante	Gradison	Mavroules
Byron	Grandy	Mazzoli
Callahan	Grant	McCandless
Campbell (CO)	Gray	McCloskey
Cardin	Green	McCrery
Carper	Guarini	McCurdy
Carr	Gunderson	McDade
Chandler	Hall (OH)	McDermott
Chapman	Hamilton	McGrath
Clarke	Hammerschmidt	McHugh
Clay	Hansen	McMillan (NC)
Clement	Harris	McMillen (MD)
Clinger	Hastert	McNulty
Coble	Hatcher	Meyers
Coleman (MO)	Hawkins	Mfume
Coleman (TX)	Hayes (IL)	Michel
Collins	Hayes (LA)	Miller (CA)
Combest	Hefley	Miller (OH)
Condit	Hefner	Miller (WA)
Conte	Hiler	Mineta
Conyers	Hoagland	Mink
Cooper	Hochbrueckner	Moakley
Costello	Holloway	Molinari
Coughlin	Hopkins	Mollohan
Courter	Horton	Montgomery
Coyne	Houghton	Moody
Craig	Hoyer	Moorhead
Crockett	Hubbard	Morella
Darden	Huckaby	Morrison (WA)
Davis	Hughes	Mrazek
de la Garza	Hunter	Murtha
DeFazio	Hutto	Myers
DeLay	Hyde	Nagle
Dellums	Inhofe	Natcher
Derrick	Ireland	Neal (MA)
DeWine	James	Neal (NC)
Dicks	Jenkins	Nelson
Dixon	Johnson (CT)	Nowak
Donnelly	Johnson (SD)	Oakar
Dorgan (ND)	Johnston	Oberstar
Dornan (CA)	Jones (GA)	Obey
Downey	Jones (NC)	Olin
Dreier	Jontz	Ortiz
Duncan	Kanjorski	Owens (NY)
Durbin	Kaptur	Owens (UT)
Oxley	Saxton	Tanner
Packard	Schaefer	Tauke
Panetta	Scheuer	Tauzin
Pashayan	Schiff	Taylor
Patterson	Schneider	Thomas (CA)
Paxon	Schuette	Thomas (GA)
Payne (NJ)	Schulze	Thomas (WY)
Payne (VA)	Schumer	Torres
Pease	Serrano	Torricelli
Pelosi	Sharp	Towns
Perkins	Shaw	Traficant
Pickle	Shays	Traxler
Porter	Sikorski	Udall
Poshard	Sisisky	Unsoeld
Price	Skaggs	Upton
Pursell	Skeen	Valentine
Quillen	Slaughter (NY)	Vander Jagt
Rahall	Slaughter (VA)	Vento
Rangel	Smith (FL)	Visclosky
Ravenel	Smith (IA)	Volkmer
Ray	Smith (NE)	Vucanovich
Regula	Smith (NJ)	Walgren
Rhodes	Smith (TX)	Walsh
Richardson	Smith, Denny (OR)	Watkins
Ridge	Smith, Robert (OR)	Waxman
Rinaldo	Snowe	Weber
Ritter	Solarz	Weiss
Robinson	Solomon	Weldon
Roe	Spence	Wheat
Rogers	Spratt	Whittaker
Rohrabacher	Staggers	Whitten
Ros-Lehtinen	Stallings	Williams
Rose	Stangeland	Wilson
Rostenkowski	Stark	Wise
Roth	Stearns	Wolf
Rowland (GA)	Stenholm	Wolpe
Roybal	Stokes	Wyden
Russo	Studds	Wylie
Sabo	Sundquist	Yates
Saiki	Swift	Yatron
Sangmeister	Synar	Young (AK)
Sarpalius	Tallon	Young (FL)
Savage		
Sawyer		

NAYS—40

Applegate	Glickman	Penny
Archer	Goss	Petri
Armey	Hall (TX)	Pickett
Bereuter	Hancock	Roberts
Brown (CO)	Henry	Schroeder
Burton	Herger	Sensenbrenner
Campbell (CA)	Hertel	Shumway
Cox	Jacobs	Shuster
Dannemeyer	Laughlin	Slattery
Dingell	McEwen	Smith, Robert (NH)
Douglas	Murphy	Stump
Fawell	Nielson	Walker
Fields	Pallone	
Frenzel	Parker	

NOT VOTING—16

Brennan	Martin (IL)	Rowland (CT)
Brooks	Martinez	Skelton
Crane	McCollum	Smith (VT)
Dickinson	Morrison (CT)	Washington
Lancaster	Parris	
Lukens, Donald	Roukema	

□ 1247

Messrs. GLICKMAN, FAWELL, ROBERTS, BROWN of Colorado, and APPLEGATE changed their vote from "yea" to "nay."

Messrs. ROHRABACHER, RUSSO, DUNCAN, MILLER of California, BARTON of Texas, and DELAY changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to House Resolution 517, the amendments in disagreement and the motions to dispose of the amendments are considered as having been read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 1: Page 2, line 6, strike out "$29,854,000" and insert "including not to exceed $2,000 for official entertainment, $29,337,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 1, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "including not to exceed $2,000 for official entertainment, $29,595,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 3: Page 2, line 16, strike out "$112,863,000" and insert "$113,654,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 3, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$110,250,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 2, line 20, strike out "$310,904,000" and insert "$269,774,000 to remain available until expended".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 4, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "$272,700,000 to remain available until expended".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 2, line 25, strike out "$38,456,000" and insert "$39,948,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 5, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$36,200,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 6: Page 3, line 4, strike out "$14,400,000" and insert "and for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $204,430,000: *Provided,* That during fiscal year 1991 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further,* That each university center that received funding from the Economic Development Administration during fiscal year 1990 shall receive not less than the same level of funding during fiscal year 1991 notwithstanding any regulation of the Economic Development Administration or the Department of Commerce".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 6, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

and for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $209,000,000: *Provided,* That during fiscal year 1991 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorney's or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further,* That the Economic Development Administration shall not implement the funding policy for the university center program as stated in the Federal Register notice of May 24, 1990 to reduce the grant of each university center from the Fiscal Year 1990 level and that any changes in individual grant amounts be made on the basis of failing to conform to the EDA grant agreements in place in fiscal year 1990, other than the funding policy for the university center program as stated in the Federal Register notice of May 24, 1990: *Provided further,* That any reduction in an individual grant amount to a university center from the Fiscal Year 1990 level shall be subject to the reprogramming procedures stated in section 606 of this Act.

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

Of the unobligated balances in the Economic Development Revolving Fund, $35,000,000 are rescinded.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 7: Page 3, line 8, strike out "$27,018,000" and insert "$27,605,000: *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1991, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with those employees who filled those positions on that date".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 7, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted, insert the following: "$27,018,000: *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1991, of which no more than two positions shall be designated as National Economic Development Representatives: *Provided further,* That such positions shall be maintained within an organizational structure that provides at least one full-time EDR in each State to which a full-time EDR was assigned as of December 31, 1987".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 1250

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that Senate amendments Nos. 8, 16, 17, 18, 19, 21, 24, 30, 31, 32, 33, 34, 39, 42, 46, 49, 49 A, 50, 51, 52, 60, 61, 62, 63, 70, 71, 73, 75, 76, 77, 78, 79, 80, 81, 85, 90, 93, 94, 95, 96, 99, 101, 103, 104, 112, 113, 114, 117, 119, 120, 125, 126, 128, 132, 142, 156, 159, 160, and 161 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Iowa?

There was no objection.

The texts of the various Senate amendments referred to in the foregoing unanimous-consent request are as follows:

Senate amendment No. 8: Page 3, line 11, strike out "import administration" and insert "international trade".

Senate amendment No. 16: Page 3, after line 23, insert:

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, as amended, $2,000,000, to remain available until expended, shall be made available as authorized by said Act.

Senate amendment No. 17: Page 4, line 4, after "(f)" insert ", to remain available until expended".

Senate amendment No. 18: Page 4, line 8, after "Act" insert ", to remain available until expended".

Senate amendment No. 19: Page 4, line 17, after "$1,997,000" insert ", to remain available until expended".

Senate amendment No. 21: Page 4, line 23, after "376" insert ", to remain available until expended".

Senate amendment No. 24: Page 4, after line 23, insert:

INFORMATION PRODUCTS AND SERVICES

Notwithstanding sections 212 (a)(1)(B) and (a)(3) of Public Law 100-519, there may be credited to this account not to exceed $500,000 for modernization, including operating expenses.

Senate amendment No. 30: Page 5, line 11, after "amended" insert ": *Provided, further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934 as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been

submitted and approved during any fiscal year".

Senate amendment No. 31: Page 5, line 11, after "amended" insert ": *Provided, further,* That notwithstanding sections 391 and 392 of the Communications Act, as amended, not to exceed $1,000,000 appropriated in this paragraph shall be available for the Pan-Pacific Educational and Cultural Experiments Satellite program (PEACESAT)".

Senate amendment No. 32: Page 5, line 17, after "Act" insert ", and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest".

Senate amendment No. 33: Page 5, after line 24, insert:

SEC. 103. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that were under the control of the United States Air Force or the United States Air Force Reserve as of June 1, 1990.

Senate amendment No. 34: Page 5, after line 24, insert

SEC. 104. None of the funds provided in this or any previous Act shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

Senate amendment No. 39: Page 6, after line 13, insert:

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $100,968,000, of which $970,000 shall remain available until expended: *Provided,* That not to exceed 11 permanent positions, 12 full-time equivalent workyears, and $1,400,000 shall be expended for the Office of Public Affairs and 18 permanent positions, 21 full-time equivalent workyears, and $2,100,000 shall be expended for the Office of Legislative Affairs: *Provided further,* That the two aforementioned Offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis, or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

Senate amendment No. 42: Page 6, after line 13, insert:

WORKING CAPITAL FUND

For expenses necessary to convert the Department of Justice payroll/personnel system to the Department of Agriculture's National Finance Center payroll/personnel system, not to exceed $3,000,000, to remain available until expended, to be derived from current operating income.

Senate amendment No. 46: Page 6, after line 21, insert:

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $53,730,000 of which an estimated $20,000,000 shall be derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) so as to result in a final fiscal year 1991 appropriation of $33,730,000: *Provided,* That $53,730,000 shall be apportioned and shall be construed as being available for obligation without regard to 31 U.S.C. 1341: *Provided further,* That fees made available to the Antitrust Division shall remain available until expended but that any fees received in excess of $20,000,000 shall not be available for obligation in fiscal year 1991.

Senate amendment No. 49: Page 6, after line 21, insert:

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $640,000.

Senate amendment No. 49A: Page 7, line 1, after "$288,529,000" insert ", including purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year".

Senate amendment No. 50: Page 7, line 2, after "4513)" insert "; of which not to exceed $12,653,000 for the renovation and construction of Marshals Service prisoner holding facilities shall be available until expended; and of which not to exceed $6,000 shall be available for official reception and representation expenses".

Senate amendment No. 51: Page 7, line 4, strike out all after "in" down to and including "4013" in line 5 and insert: "the custody of the United States Marshals Service and as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General, $193,034,000, to remain available until expended; of which not to exceed $15,000,000 shall be available under the Cooperative Agreement Program.".

Senate amendment No. 52: Page 7, after line 5, insert:

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $70,628,000, to remain available until expended, of which not to exceed $2,000,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

Senate amendment No. 60: Page 7, after line 10, insert:

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $10,007,000, to remain available until expended.

Senate amendment No. 61: Page 7, after line 10, insert:

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase, leasing the Oklahoma City Airport Trust Facility, and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $374,358,000, to remain available until expended: *Provided,* That labor of United States prisoners may be used for work performed under this appropriation: *Provided further,* That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this act or any other act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act.

Senate amendment No. 62: Page 7, after line 10, insert:

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

Senate amendment No. 63: Page 7, after line 10, insert:

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,167,000 of the funds of the corporation shall be available for its administrative expenses for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amount shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

Senate amendment No. 70: Page 8, strike out lines 13 to 17, and insert:

In addition, $4,963,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1990, through September 30, 1991, following their conviction of a felony committed after having been paroled into the United States by the Attorney General. *Provided,* That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1991, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided, further,* That the Attorney General, not later than April 1, 1991, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further,* That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

Senate amendment No. 71: Page 8, line 21, strike out "$26,075,000" and insert "such sums as are necessary".

Senate amendment No. 73: Page 8, after line 23, insert:

SEC. 201. A total of not to exceed $30,000 from funds appropriated to the Department of Justice in this title shall be available only for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

Senate amendment No. 75: Page 8, after line 23, insert:

SEC. 203. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided,* That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

Senate amendment No. 76: Page 8, after line 23, insert:

SEC. 204. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

Senate amendment No. 77: Page 8, after line 23, insert:

SEC. 205. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided,* That nothing in this section in any way diminishes the effect of section 204 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

Senate amendment No. 78: Page 8, after line 23, insert:

SEC. 206. Pursuant to the provisions of law set forth in 18 U.S.C. 3071-3077, not to exceed $100,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

Senate amendment No. 79: Page 8, after line 23, insert:

SEC. 207. Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, and as amended by section 211 of the Department of Justice Appropriations Act, 1990, is amended by striking "1990" and inserting in lieu thereof "1991".

Senate amendment No. 80: Page 8, after line 23, insert:

SEC. 208. Deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System in 1989 may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.

Senate amendment No. 81: Page 8, after line 23, insert:

SEC. 209. None of the funds transferred from the Assets Forefeiture Fund of the Department of Justice and deposited in the Special Forfeiture Fund of the Office of National Drug Control Policy, and none of the funds made available by this Act, shall be available for personnel expenses, construction, acquisition of equipment or real property, or any related expenses for a National Drug Intelligence Center.

Senate amendment No. 85: Page 9, line 6, after "treaties" insert "international agreements and binational contracts".

Senate amendment No. 90: Page 9, line 21, strike out "$500,000" and insert "$1,013,000 shall be derived from".

Senate amendment No. 93: Page 11, line 23, after "Senate," insert "conventions".

Senate amendment No. 94: Page 13, line 6, after "Section," insert "including not to exceed $6,000 for representation;".

Senate amendment No. 95: Page 13, line 15, after "for," insert "including not to exceed $9,000 for representation expenses incurred by the International Joint Commission,".

Senate amendment No. 96: Page 13, line 22, strike out "$11,440,000" and insert "$12,147,000, to be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, as amended: *Provided,* That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324".

Senate amendment No. 99: Page 14, after line 16, insert:

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $900,000 of which $450,000 shall be derived from the receipts collected pursuant to that Act, to remain available until expended.

Senate amendment No. 101: Page 15, after line 2, insert:

SEC. 303. None of the funds provided by this Act shall be available to the Department of State to produce the semiannual report as required under section 5 of Public Law 94-304.

Senate amendment No. 103: Page 15, line 14, strike out "$18,807,000" and insert "; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $19,029,000".

Senate amendment No. 104: Page 15, line 19, after "$3,453,000" insert ", of which $1,106,000 shall remain available until expended".

Senate amendment No. 112: Page 19, after line 4, insert:

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

Senate amendment No. 113: Page 19, after line 4, insert:

SEC. 403. Appropriations made in this title which are available for salaries and expenses shall be available, notwithstanding the limitations in 31 U.S.C. section 1345, for the Judicial Conference of the United States to sponsor and host the Fifth International Appellate Judges Conference in the United States: *Provided,* That an amount shall be available only if the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of any obligation or expenditure. The Judicial Conference may supplement such appropriations with other funds made available by any department or agency for the purposes of technical foreign aid, educational and cultural programs with the people of foreign countries, or commemorating the bicentennial anniversary of the United States Constitution and the Bill of Rights: *Provided,* That any supplementation shall be only for the expenses of the Fifth International Appellate Judges Conference. The Director of the Administrative Office may also accept and utilize gifts of funds, to be deposited as a special deposit account in the Treasury, for the expenses of the Fifth International Appellate Judges Conference for reimbursement of appropriations or direct expenditure, provided that any unexpended balance of the special deposit account shall be returned to the donor or donors. For the purpose of the conference, the Director is authorized to pay for local travel and incidental expenses of foreign participants and dependent members of their immediate household, to pay for per diem to such persons in lieu of subsistence at rates prescribed by the Director, and to conduct and pay for the activities set forth in subsections (1), (2), (9), (15), and (18) of section 804 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. section 1474). Appropriations for commemorating the bicentennial or for salaries and expenses of the Judiciary shall not be made available by this section for the travel and incidental expenses of dependents. Nothing in this section precludes payment for the travel and other expenses of foreign participants and their dependents by any other department or agency, or by the Director on their behalf, as authorized by law.

Senate amendment No. 114: Page 19, after line 4, insert:

SEC. 404. (a) The Judicial Conference shall prescribe reasonable fees, pursuant to sections 1913, 1914, 1926, and 1930 of title 28, United States Code, for collection by the courts under those sections for access to information available through automatic data processing equipment. These fees may distinguish between classes of persons, and shall provide for exempting persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information. The Director, under the direction of the Judicial Conference of the United States, shall prescribe a schedule of reasonable fees for electronic access to information which the Director is required to maintain and make available to the public.

(b) The Judicial Conference and the Director shall transmit each schedule of fees prescribed under paragraph (a) to the Congress at least 30 days before the schedule becomes effective. All fees hereafter collected by the Judiciary under paragraph (a) as a charge for services rendered shall be deposited as offsetting collections to the Judiciary Automation Fund pursuant to 28 U.S.C. 612(c)(1)(A) to reimburse expenses incurred in providing these services.

Senate amendment No. 117: Page 19, after line 7, insert:

OPERATING-DIFFERENTIAL SUBSIDIES
(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $261,200,000, to remain available until expended.

Senate amendment No. 119: Page 19, after line 7, insert:

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $225,000,000, to remain available until expended: *Provided,* That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

Senate amendment No. 120: Page 19, after line 7, insert:

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contact, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

Senate amendment No. 125: Page 20, line 18, after "$1,457,000" insert ", to remain available until expended".

Senate amendment No. 126: Page 20, lines 24 and 25, strike out "of which" and insert" to remain available until expended: *Provided,* That in carrying out the purposes of this Act, the Commission is authorized to enter into contracts, grants, or cooperative agreements as directed by the Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3; 31 U.S.C. 6301): *Provided further,* That of the amount appropriated,".

Senate amendment No. 128: Page 22, after line 13, insert:

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by Sec. 5209 of the Omnibus Trade and Competitiveness Act of 1988, $750,000, to remain available until expended.

Senate amendment No. 132: Page 23, line 9, after $15,894,000" insert ": *Provided,* That not to exceed $2,000 shall be available for officials reception and representation expenses".

Senate amendment No. 142: Page 24, line 14, after "for" insert "performance in fiscal year 1991 or fiscal year 1992 for".

Senate amendment No. 156: Page 30, line 3, after "1477b(a)" insert ": *Provided,* That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment".

Senate amendment No. 159: Page 31, after line 10, insert:

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Senate amendment No. 160: Page 31, after line 10, insert:

SEC. 605. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Senate amendment No. 161: Page 31, after line 10, insert:

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendments of the Senate numbered 8, 16, 17, 18, 19, 21, 24, 30, 31, 32, 33, 34, 39, 42, 46, 49, 49A, 50, 51, 52, 60, 61, 62, 63, 70, 71, 73, 75, 76, 77, 78, 79, 80, 81, 85, 90, 93, 94, 95, 96, 99, 101, 103, 104, 112, 113, 114, 117, 119, 120, 125, 126, 128, 132, 142, 156, 159, 160, and 161.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 9: Page 3, line 13, strike out "$24,421,000" and insert "and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $330,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $183,620,000, to remain available until expended, of which $7,175,000 is for the Office of Textiles and Apparels, including $3,315,000 for a grant to the Tailored Clothing Technology Corporation: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed twelve".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 9, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following "and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; travel and transportation of employees of the United States and Foreign Commerical Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $330,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $185,620,000 to remain available until expended, of which $3,000,000 shall be for support costs of a new materials center in Ames, Iowa, and of which $7,175,000 is for the Office of Textiles and Apparels, including $3,315,000 for a grant to the Tailored Clothing Technology Corporation: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purposes of this Act, contributions under the provisions of the Mutual Educa-

tional and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commerical Service officers accorded such diplomatic title at any time shall not exceed twelve. The Secretary of Commerce shall establish a foreign trade zone for Cedar Rapids, Iowa, not later than February 1, 1991, notwithstanding any other provision of law".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 10: Page 3, after line 13, insert:

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $25,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $43,599,000, to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 10, and concur therein with an amendment, as follows: In lieu of the sum "$43,599,000" named in said amendment, insert the following "$43,099,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 11: Page 3, after line 13, insert:

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce, in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $42,549,000, of which $26,873,000 shall remain available until expended: *Provided,* That not to exceed $15,676,000 shall be available for program management for fiscal year 1991.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbererd 11, and concur therein with an amendment, as follows: In lieu of the sum "$42,549,000" named in said amendment, insert "$40,549,000"; and in lieu of the sum "$26,873,000" named in said amendment, insert "$24,873,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 12: Page 3, after line 13, insert:

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to $44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $15,000 for representation expenses abroad; $19,596,000, to remain available until expended.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 12, and concur therein with an amendment, as follows: in lieu of the matter inserted by said amendment, insert the following:

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, an expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment for tort claims in the manner authorized in the first paragraph of 218 U.S.C. 2672, when such claims arise in foreign countries; not to exceed $15,000 for representation expenses abroad; and grants to States or other eligible entities pursuant to 22 U.S.C. 2123 for the purposes of providing financial assistance for States whose tourism promotion needs have increased due to disasters; $19,596,000, to remain available until expended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 14: Page 3, line 23, strike out "$1,037,465,000" and insert "$1,369,730,000 to remain available until expended, of which $2,200,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas, and to acquire equipment and furnishing necessary for such facility which are consistent with the original plan for the facility, and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and in addition, $34,521,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $60,900,000 shall be derived from transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $7,000,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided,* That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further,* That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities: *Provided further,* That not less than $8,400,000 shall be obligated not more than 30 days following the enactment of this Act, notwithstanding any other provision of law, for the operation, maintenance, and related activities of anadromous fish hatcheries in the Columbia River Basin in the States of Oregon, Washington, and Idaho as author-

ized under the Mitchell Act (16 U.S.C. 755-756): *Provided further,* That notwithstanding any other provision of law, $400,000 shall be available to the South Carolina Coastal Council without financial matching requirement for the Charleston Harbor Estuary Special Area Management Plan".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 14, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "$1,353,156,000 to remain available until expanded, of which $2,200,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas, and to acquire equipment and furnishings necessary for such facility which are consistent with the original plan for the facility, and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas, and of which $400,000 shall be available only for a semitropical research facility located at Key Largo, Florida; and in addition, $34,521,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $60,900,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $7,000,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided,* That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further,* That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities: *Provided further,* That notwithstanding any other provision of law, $400,000 shall be available to the South Carolina Coastal Council for the Charleston Harbor Estuary Special Area Management Plan".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 3, after line 23, insert:

DAMAGE ASSESSMENT AND RESTORATION REVOLVING FUND

For contingency planning, response and natural resource damage assessment and restoration activities, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Water Pollution Control Act, as amended, the Marine Protection, Research and Sanctuaries Act, as amended, and the Oil Pollution Act of 1990, $4,500,000 to remain available until expended: *Provided,* That notwithstanding any other provision of law, in fiscal year 1991 and thereafter, sums provided by any party or governmental entity for natural resource damage assessment, response or restoration activities conducted or to be conducted by the National Oceanic and Atmospheric Administration as a result of any injury to the marine environment and/or resources for which the National Oceanic and Atmospheric Administration acts as trustee of said marine environment and/or resources, shall be deposited in the Damage Assessment and Restoration Revolving Fund and said funds so deposited shall remain available until expended: *Provided further,* That for purposes of obligation and expenditure in fiscal year 1991 and thereafter, sums available in the Damage Assessment and Restoration Revolving Fund may be transferred, upon the approval of the Secretary of Commerce or his delegate, to the Operations, Research, and Facilities appropriation of the National Oceanic and Atmospheric Administration.".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 15, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$5,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 20: Page 4, line 21, strike out "$109,807,000 and, in addition," and insert ": including defense of suits instituted against the Commissioner of Patents and Trademarks;".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 20, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "including defense of suits instituted against the Commissioner of Patents and Trademarks; $91,000,000 of which $88,000,000 shall be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: *Provided,* That the amounts made available under the Fund shall not exceed amounts deposited; and"

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 23: Page 4, after line 23, insert:

SALARIES AND EXPENSES

For necessary expenses of the Technology Administration, $4,433,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 23, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following "$4,200,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 26: Page 4, after line 23, insert:

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $172,228,000, to remain available until expended, of which not to exceed $9,772,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $10,095,000 shall be available for construction of research facilities.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 26, and concur therein with an amendment, as follows: In lieu of the sum "$172,228,000" named in said amendment, insert: "$166,228,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 4, after line 23, insert:

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Regional Centers for the Transfer of Manufacturing Technology, and the advanced Technology and State Extension Services programs of the National Institute of Standards and Technology, $52,100,000, to remain available until expended.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 27, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$49,100,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 28: Page 5, after line 2, insert:

SALARIES AND EXPENSES

For necessary expenses, as provideed for by law, of the National Telecommunications and Information Administration, $14,882,000, to remain available until expended.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker I offer a motion.

The SPEAKER pro tempore. the Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 28, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$15,252,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 35: Page 5, after line 24, insert:

SEC. 105. (a) Funds appropriated by this Act to the National Institute of Standards and Technology of the Department of Commerce for the Advanced Technology Program shall be available for award to foreign companies or to joint ventures including foreign companies under the terms and conditions set forth in subsection (b) of this section, in addition to any terms and conditions established by the Secretary of Commerce.

(b)(1) No joint venture which contains a foreign company or a subsidiary thereof shall be eligible to receive financial assistance from the Secretary of Commerce, and no foreign company shall participate in any joint venture which has received financial assistance from the Secretary of Commerce, unless—

(A) the foreign company is prepared to make material contributions to the joint venture and the Secretary of Commerce, after such consultations with the North American companies belonging to the joint venture or proposed joint venture as the Secretary of Commerce considers appropriate, certifies that the foreign company's contributions and its participation in the joint venture would be in the iterests of the United States;

(B) the foreign company has already made and agrees to make a substantial commitment to the United States market, as evidenced by investments in the United States in long-term research, development, and manufacturing (including the domestic manufacture of major components and subassemblies); significant contributions to employment in the United States; and agreement with respect to any technology arising from the joint venture to manufacture within the United States products resulting from that technology, to procure parts and materials from competitive North American suppliers, and to support a North American supplier infrastructure;

(C) the foreign company's home market affords reciprocal treatment to United States companies comparable to that afforded the foreign company in the United States, as evidenced by affording comparable opportunities for United States companies to participate in any joint ventures similar to those provided through the Advanced Technology Program of the National Institute of Standards and Technology; encouraging local investment opportunities for United States companies that are comparable to investment opportunities for foreign companies in the United States; and affording adequate and effective protection for the intellectual property rights of United States companies; and

(D) the parent and affiliate organizations of the foreign company have not been identified on two or more occasions within the previous five years as a foreign manufacturer, producer, or exporter within the meaning of section 771(9)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(9)(A)) in proceedings that have resulted in or involved a final dumping or countervailing duty determination.

(2) In the event the Secretary of Commerce certifies a foreign company under subsection (b)(1)(A) of this section and certifies that the foreign company meets the requirements set forth under subsection (b)(1)(B) through (D) of this section, the Secretary of Commerce shall waive the prohibition on the foreign company's participation and allow the foreign company to participate in the joint venture, subject to such terms and conditions as the Secretary of Commerce may specify.

(3) The Secretary of Commerce shall monitor the participation of any foreign company allowed into a joint venture assisted by the Secretary, shall periodically report to Congress on the participation of such foreign company and any other foreign companies participating in federally assisted joint ventures, and shall suspend the foreign company and its employees from continued participation in the joint venture if the Secretary of Commerce determines that the foreign company or its home market has failed to satisfy any of the criteria set forth in subsection (b)(1) of this section or any of the terms and conditions the Secretary of Commerce may set under subsection (b)(2) of this section.

(c) The Secretary of Commerce shall prescribe such rules and collect such information as may be necessary to monitor and enforce any requirements set forth in subsection (b) of this section.

(d) As used in this section, the term—

(1) "foreign company" means a company or other business entity in which majority ownership or control is held by individuals who are not citizens of the United States or Canada; and

(2) "North American company" means a company or other business entity in which majority ownership or control is held by individuals who are citizens of the United States, or citizens of Canada, or a combination of United States and Canadian citizens, except that such term includes a company owned or controlled by Canadian citizens only if, in the judgment of the Secretary of Commerce, the company is not acting, with respect to the joint venture concerned, as an agent or intermediary for a third-country company or foreign government.

(e) The provisions of this section shall terminate upon enactment into law of an Act authorizing appropriations for the National Institute of Standards and Technology for fiscal year 1991, if such Act includes provisions limiting the participation of foreign companies in the Advanced Technology Program.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 35, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 105. (a) Funds appropriated by this Act to the National Institute of Standards and Technology of the Department of Commerce for the Advanced Technology Program shall be available for award to companies or to joint ventures under the terms and conditions set forth in subsection (b) of this section, in addition to any terms and conditions established by rules issued by the Secretary of Commerce.

(b)(1) A company shall be eligible to receive financial assistance from the Secretary of Commerce only if—

(A) the Secretary of Commerce finds that the company's participation in the Advanced Technology Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided by the Secretary of Commerce to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(B) either—

(i) the company is a United States-owned company; or

(ii) the Secretary of Commerce finds that the company has a parent company which is incorporated in a country which affords the United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those funded through the Advanced Technology Program; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords

adequate and effective protection for the intellectual property rights of United States-owned companies.

(2) The Secretary of Commerce may, 30 days after notice to Congress, suspend a company or joint venture from receiving continued assistance through the Advanced Technology Program if the Secretary of Commerce determines that the company, the country of incorporation of the parent company of a company, or the joint venture has failed to satisfy any of the criteria set forth in this subsection, and that it is in the national interest of the United States to do so.

(3) As used in this section, the term "United States-owned company" means a company that has a majority ownership or control by individuals who are citizens of the United States.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 41: Page 6, after line 13, insert:

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $22,140,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 41, and concur therein with an amendment, as follows: In lieu of the sum "$22,140,000" named in said amendment, insert "$25,140,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 43: Page 6, after line 13, insert:

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $9,869,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 43, and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$10,051,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH.]

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 44: Page 6, after line 15, insert:

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenss of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $352,103,000, of which not to exceed $5,639,000 shall be available for the operation of the United States National Central Bureau, INTERPOL; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1992: *Provided,* That of the funds available in this appropriation, not to exceed $17,000,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and expenses", General Administration.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 44, and concur therein with an amendment, as follows: In lieu of the sum "352,103,000" named in said amendment insert "$343,603,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 45: Page 6, line 18, strike out "$1,500,000" and insert "1,000,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 45, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 47: Page 6, after line 21, insert:

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, $674,095,000, of which not to exceed $5,000,000 shall be available until September 30, 1992, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, and (3) paying the costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs: *Provided,* That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 47, and concur therein with an amendment, as follows: In lieu of the sum "$674,095,000" named in said amendment insert "$673,095,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 48: Page 6, after line 21, insert:

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $64,703,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 48, and concur therein with an amendment, as fol-

lows: In lieu of the sum named in said amendment, insert "$64,300,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 53: Page 7, after line 5, insert:

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $28,172,000, of which not to exceed $20,214,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under second 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants; *Provided,* That not withstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuba and Haitian entrants as authorized under section 501(c) of such Act.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa. moves that the House recede from its disagreement to the amendment of the Senate numbered 53, and concur therein with an amendment, as follows: In lieu of the sum "$28,172,000" named in said amendment insert "$27,172,000"; and in lieu of the sum "$20,214,000" named in said amendment insert "$19,614,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 54: Page 7, after line 10, insert:

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $330,000,000; *Provided,* That any amounts obligated from appropriations under this heading may be used under authorities available to be organizations reimbursed from this appropriation.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 54, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $328,000,000, of which $50,000,000 shall remain available until expended: *Provided,* That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further,* That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in the succeeding fiscal year, subject to the reprogramming procedures described in section 606 of this Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 55: Page 7, after line 10, insert:

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 3,136 passenger motor vehicles of which 2,125 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,690,962,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1992; of which not to exceed $8,000,000 for research and development related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: *Provided,* That for fiscal year 1991 and hereafter the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification services and associated costs: *Provided further,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $7,500,000 for a language translation system shall remain available until expended: *Provided further,* That $10,000,000 previously provided for the relocation of the FBI's Washington Metropolitan Field Office be made available for activities funded by this appropriation.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 55, and concur therein with an amendment, as follows: In lieu of the sum "$1,690,962,000 named in said amendment insert the following "$1,687,962,000"; and in lieu of the phrase "activities funded by this appropriation" in the last sentence of said amendment, insert the following "construction of Pod C of the Engineering Research Facility at Quantico, Virginia".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 56: Page 7, after line 10, insert:

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; expenses for conducting drug education programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase not to exceed 1,293 passenger motor vehicles of which 775 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $696,900,000, of which not to exceed $1,800,000 for research shall remain available until expended; and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, not to exceed $2,000,000 for technical and laboratory equipment and not to exceed $20,550,000 for the purchase of aircraft and equipment, shall remain available until September 30, 1992; and, of which not to exceed $10,000,000 shall remain available until expended for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment in-

cident thereto for a new aviation facility: *Provided,* That not to exceed $45,000 shall be available for official reception and representation expenses.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 56, and concur therein with an amendment, as follows: In lieu of the sum "$696,900,000" named in said amendment insert "$694,340,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 57: Page 7, after line 10, insert:

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 504, for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $883,501,000, of which not to exceed $400,000 for research and $17,188,000 for construction shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 57, and concur therein with an amendment, as follows: In lieu of the sum "$883,501,000" named in said amendment insert "$884,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 59: Page 7, after line 10, insert:

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 330 of which 90 are for replacement only) and hire of law enforcement and passenger motor vehicles; $1,359,843,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $3,000 shall be available for official reception and representation expenses.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 59, and concur therein with an amendment, as follows: In lieu of the sum "$1,359,843,000" named in said amendment insert "$1,357,843,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 64: Page 7, after line 10, insert:

ADMINISTRATIVE PROVISION

(a) Federal Prison Industries, Incorporated, is directed to make contracts to carry out an independent market study at a cost not to exceed $250,000, that identifies new areas of business growth which will have a minimal impact on the private sector. The study shall be conducted by experts not affiliated with the Federal Prison Industries or the Bureau of Prisons.

(b) The market study shall identify products and services that will not have an adverse impact on highly import-sensitive industries, that permit employment of the greatest number of inmates who are eligible to work as is reasonably possible, and shall provide data which allows Federal Prison Industries to employ inmates and conduct operations in accordance with section 4122(b)(1) of title 18, United States Code. Implementation of the study will not occur prior to design approval by the Board of Directors.

(c) Federal Prison Industries is directed to report the results of this study of Congress not later than six (6) months from the enactment (or effective date) of this Act. Federal Prison Industries shall maintain a public record of all comments concerning the results of the study which have been submitted to the Chief Operating Officer, Federal Prison Industries within thirty (30) days after the results of the study have been presented to Congress.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 64, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

ADMINISTRATIVE PROVISION

Federal Prison Industries, Inc., is authorized and directed to enter into a contract to carry out an independent market study at a cost not to exceed $250,000. The study shall be conducted by a private sector market analysis firm, that is not affiliated in any way with the Federal Prison Industries or the Bureau of Prisons. Federal Prison Industries is directed to report the results of this study to Congress not later than nine (9) months from the enactment (or effective date) of this Act. The study shall include an analysis and appropriate recommendations to Congress concerning the following:

1. identify potential new product lines for prison-made products, which will have a minimal impact on the private sector;

2. analyze the impact that Federal Prison Industries has had on certain private sector industries (furniture, textiles, printing, electronics and apparel) in terms of production levels, employment 1 vels, and annual sales to Federal government departments and agencies;

3. provide, after consulting with the Department of Labor and the Department of Commerce, an estimate of the number of jobs displaced in the private sector (on an industry-by-industry basis) by the operation of Federal Prison Industries;

4. analyze whether Federal departments and agencies should consider placing limits on the market share that Federal Prison Industries can obtain in specific products or product lines; and

5. determine whether the current law governing Federal procurement from the Federal Prison Industries should be retained or revised.

The SPEAKER pro tempore. Without objection, the motion offered by the gentleman from Iowa [Mr. SMITH] is agreed to.

Mr. FISH. Mr. Speaker, reserving the right to object, and I shall not object, I have always supported the Federal Prison Industries [FPI] Program. It is important, as a part of the rehabilitation process, to provide Federal prison inmates with an opportunity to be productive while they are incarcerated and to learn new, marketable skills.

Having said that, however, I am increasingly concerned about the effect of UNICOR on a number of private sector industries. The products of the Federal Prison Industries are sold to Federal departments and agencies and they have been given a procurement

preference under Federal law. Approximately 39 percent of the inmate population is employed in Federal Prison Industries factories and shops. Currently, they are involved in the manufacture of such items as furniture, clothing, electronics, metal and canvas products, and they are also involved in service industries such as data processing and furniture refinishing. Private sector industries in these fields, and business groups in general, are increasingly concerned and alarmed about the percentages that Prison Industries products are gaining with respect to Federal Government purchases. For example, in fiscal 1989, the sale of FPI-made furniture to Federal departments and agencies increased by 14 percent. FPI sales now represent 23 percent of the Federal office furniture market. Federal Prison Industries also has 38 percent of the market in draperies and make 100 percent of the gloves purchased by the General Services Administration [GSA].

The time has come for a new and comprehensive look at this program. The amendment approved by Senate and House conferees on H.R. 5021 is actually quite modest. It does not, in any way, limit the current operations of Federal Prison Industries, nor does it prevent increased production levels in fiscal 1991. It does call for an independent review of the operations and policies of Federal Prison Industries as well as its impact on the private sector.

This report will be made directly to Congress within 9 months after the date of enactment. Among other things, this market analysis report will:

Identify potential new product lines for prison-made products, which will have a minimal impact on the private sector;

Analyze the impact that Federal Prison Industries has had on certain private sector industries (furniture, textiles, printing, electronics and apparel) in terms of production levels, employment levels, and annual sales to Federal Government departments and agencies;

Provide, after consulting with the Department of Labor and the Department of Commerce, an estimate of the number of jobs displaced in the private sector overall—on an industry-by-industry basis—because of the operations of Federal Prison Industries;

Analyze whether Federal departments and agencies should consider placing limits on the market share that Federal Prison Industries can obtain in specific products or product lines; and

Determine whether the current law governing Federal procurement from the Federal Prison Industries should be retained or revised.

Mr. Speaker, this report will provide Congress with the type of information we need to decide whether or not the Federal Prison Industries Program should continue as it has in the past. Importantly, it could result in recommendations for statutory or regulatory changes. I urge an "aye" vote on the amendment offered by the gentleman from Iowa.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Massachusetts.

□ 1225

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding to me.

I want to thank the gentleman for making this reservation.

Members will remember that a majority of the House voted when the crime bill that disappeared was on the floor to put some restraints on it from the standpoint of some vulnerable domestic industries. I just want to say that I appreciate the fact that that point of view is being reflected as part of this compromise, and want to stress its importance.

Mr. FISH. Continuing my reservation of objection, Mr. Speaker, I yield to the gentleman from Michigan [Mr. HENRY].

The SPEAKER pro tempore [Mr. MCNULTY]. The Chair will allocate the time. The gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

Mr. FISH. Under my reservation, Mr. Speaker, can I not yield to the gentleman from Michigan [Mr. HENRY]?

The SPEAKER pro tempore. The Chair would prefer to allocate time if there is going to be extended debate.

Mr. HENRY. Mr. Speaker, reserving the right to object—would that be easier? I will not object, but I would simply like to associate myself with the remarks of the gentleman from Massachusetts [Mr. FRANK] and the gentleman from New York [Mr. FISH] and simply make very clear that this amendment does not in any way infringe on prison industries. That is not the point of the amendment.

The amendment simply provides funds for a study relative to data as to where prison industries can expand, as it is expanded in ways which do not undermine the American labor market. For that reason, I am in very strong support of the amendment.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

Mr. HENRY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 65: Page 7, line 18, strike our "$92,321,000" and insert "$91,467,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 65, and concur therein with an amendment, as follows: In lieu of the sum "$91,467,000" named in said amendment insert "$87,916,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the enactment is as follows:

Senate amendment No. 66: Page 8, line 2, strike out "$400,000,000" and insert "$490,000,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 66, and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$475,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 67: Page 8, line 4, after "4339–4340)" insert ": *Provided*, That $17,000,000, to remain available until expended, from amounts appropriated for Part E, Subpart 2—Discretionary Grants, shall be available only for the National Crime Information Center 2000 project, to be expended under the direction of the Director of the Federal Bureau of Investigation: *Provided further*, That notwithstanding any other provisions of law, the grant limitation established in 42 U.S.C. 3754(f) is hereby waived for fiscal year 1991.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 67, and

concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ", and in addition, $17,000,000, to remain available until expended, shall be available to the Director of the Federal Bureau of Investigation for the National Crime Information Center 2000 project: *Provided*, That notwithstanding any other provision of law, the grant limitation established in Section 504(f) of Part D of Title I of the Omnibus Crime Control And Safety Streets Act of 1968, as amended by Public Law 100-690 (102 Stat. 4333), is hereby waived for fiscal year 1991 for grants awarded to state and local governments for the purpose of participating in multi-jurisdictional drug task forces".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 74: Page 8, after line 23, insert:

SEC. 202. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) During fiscal year 1991 and thereafter with respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crime against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading of "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration for fiscal year 1991, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1991 and each fiscal year thereafter—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever occurs later.

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 74, and concur therein with an amendment, as follows:

In lieu of the phrase "During fiscal year 1991 and thereafter with respect" in the first sentence of subsection (b)(1) of said amendment, insert the following:

During fiscal year 1991 with respect and in lieu of the phrase "closed in fiscal year 1991 and each fiscal year thereafter—" in the first sentence of subsection (b)(4)(A) of said amendment, insert the following "closed in fiscal year 1991—".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 82: Page 8, after line 23, insert:

SEC. 210. (a) Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356), as amended, is further amended—

(1) by inserting in subsection (e)(1), after the word "passenger" the phrase ", other than aircraft passengers,".

(2) by inserting ", except the fourth quarter payment for fees collected from airline passengers shall be made on the date that is ten days before the end of the fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment" after the words "in which fees are collected" in subsection (f)(3);

(3) by inserting, ", within forty-five minutes of their presentation for inspection," after the word "provided" and before the words "when needed" in subsection (g);

(4) by striking the first two sentences of subsection (h)(1)(A) and inserting "There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration User Fee Account.' Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration User Fee Account all fees collected under subsection (d) of this section, to remain available until expended" before the words "At the end of each 2-year period".

(5) by replacing the previously repealed subsection (1) with the following new subsection—

"(1)(A) REPORT TO CONGRESS.—In addition to the reporting requirements estabished pursuant to subsection (h) the Attorney General shall prepare and submit annually to Congress, not later than March 31st of each year, a statement of the financial condition of the 'Immigration User Fee Account' including beginning account balance, revenues, withdrawals and their purpose, ending balance, projections for the ensuring fiscal year, and a full and complete workload analysis showing on a port by port basis the current and projected need for inspectors. In addition to the provisions of paragraph (A) the statement shall indicate the success rate of the Immigration and Naturalization Service in meeting the forty-five minute inspection standard and shall provide detailed statistics regarding the number of passengers inspected within the standard, progress that is being made to expand the utilization of United States citizen by-pass, the number of passengers for whom the standard is not met and the length of their delay, locational breakdown of these statistics and the steps being taken to correct any non-conformity.".

(b) The amendment made by this Act shall take effect on the date of enactment.

(c) Pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, the amendments made by this section which transfer receipts from one fiscal year to the next are a necessary (but secondary) result of a significant policy change.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 82, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

SEC. 210. (a) Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356), as amended, is further amended—

(1) by inserting in subsection (e)(1), after the word "passenger" the phrase ", other than aircraft passengers,";

(2) by inserting ", except the fourth quarter payment for fees collected from airline passengers shall be made on the date that is ten days before the end of the fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment" after the words "in which fees are collected" in subsection (f)(3);

(3) by inserting ", within forty-five minutes of their presentation for inspection," after the word "provided" and before the words "when needed" in subsection (g);

(4) by striking the first two sentences of subsection (h)(1)(A) and inserting "There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration User Fee Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration User Fee Account all fees collected under subsection (d) of this section, to remain available until expended" before the words "At the end of each 2-year period."

(5) by replacing the previously repealed subsection (1) with the following new subsection—

"(1) Report to Congress

In addition to the reporting requirements established pursuant to subsection (h), the Attorney General shall prepare and submit annually to the Congress, not later than March 31st of each year, a statement of the financial condition of the 'Immigration User Fee Account' including beginning account balance, revenues, withdrawals and their purpose, ending balance, projections for the ensuing fiscal year and a full and complete workload analysis showing on a port by port basis the current and projected need for inspectors. The statement shall indicate the success rate of the Immigration and Naturalization Service in meeting the forty-five minute inspection standard and shall provide detailed statistics regarding the number of passengers inspected within the standard, progress that is being made to expand the utilization of United States citizen by-pass, the number of passengers for whom the standard is not met and the length of their delay, locational breakdown of these statistics and the steps being taken to correct any non-conformity.".

(b) The amendment made by subsection (a)(1) of this section shall apply to fees charged only with respect to immigration inspection or preinspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1990.

(c) Pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, the amendments made by this section which transfer receipts from one fiscal year to the next are a necessary (but secondary) result of a significant policy change.

(d) Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356), as amended, is further amended—

(1) by inserting in subsection (m), after the phrase "shall be deposited" the phrase "as offsetting receipts";

(2) by inserting in subsection (m), after the phrase "the treasury of Guam" the following: ": Provided fruther, That fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional costs associated with the administration of the fees collected";

(3) by inserting a new subsection after subsection (p) as follows:

"(q) Land Border Inspection Fee Account

(1) Notwithstanding any other provision of law, the Attorney General is authorized to establish, by regulation, a project under which a fee may be charged and collected for inspection services provided at one or more land border points of entry. Such project may include the establishment of communter lanes to be made available to qualified United States citizens and aliens, as determined by the Attorney General.

(2) All of the fees collected under this subsection shall be deposited as offsetting receipts in a separate account within the general fund of the Treasury of the United States, to remain available until expended. Such account shall be known as the Land Border Inspection Fee Account.

(3)(A) The Secretary of Treasury shall refund, at least on a quarterly basis amounts to any appropriations for expenses incurred in providing inspection services at land border points of entry. Such expenses shall include—

(i) the providing of overtime inspection services;

(ii) the expansion, operation and maintenance of information systems for nonimmigrant control;

(iii) the hire of additional permanent and temporary inspectors;

(iv) the minor construction costs associated with the addition of new traffic lanes (with the concurrence of the General Services Administration);

(v) the detection of fraudulent documents used by passengers travelling to the United States;

(vi) providing for the administration of said account.

(B) The amounts required to be refunded from the Land Border Inspection Fee Account for fiscal years 1992 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years: *Provided,* That any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with Section 606 of Public Law 101-162.

(4) The Attorney General will prepare and submit annually to the Congress statements of financial condition of the Land Border Immigration Fee Account, including beginning account balance, revenues, withdrawals, and ending account balance and projections for the ensuing fiscal year.

(5)(A) The program authorized in this subsection shall terminate on September 30, 1993, unless further authorized by an Act of Congress.

(B) The provisions set forth in this subsection shall take effect 30 days after submission of a written plan by the Attorney General detailing the proposed implementation of the project specified in subsection (q)(1).

(C) If implemented, the Attorney General shall prepare and submit on a quarterly basis, until September 30, 1993, a status report on the land border inspection project."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 83: Page 8, after line 23, insert:

SEC. 211. None of the funds appropriated in this Act shall be available for use by the Attorney General in connection with any litigation or other action involving the requiring of Aspen-Pitkin County Airport, Colorado, to adjust its curfew to a single time for all types of aircraft using such airport, during the 180 day period following the date of enactment of this Act.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 83, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 211. (A) Notwithstanding any other provision of law, in the specific case involving the Iowa Power Inc. and Redlands, Inc. ownership within the proposed Walnut Creek NWR, condemnation is authorized to determine the just compensation of the Iowa Power Inc. and Redlands, Inc. lands, provided there is agreement by both parties involved.

(B)(a) This subsection may be cited as the "National Commission to Support Law Enforcement Act".

(b) The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

(c) There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this section as the "Commission").

(d) The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) The sufficiency of funding, including a review of grant programs at the Federal level.

(2) The conditions of law enforcement employment.

(3) The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) The status of law enforcement research and education and training.

(5) The adequacy of equipment, physical resources, and human resources.

(6) The cooperation among Federal, State, and local law enforcement agencies.

(7) The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(e) The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

(f) The commission shall be composed of 19 members as follows:

(1) Five individuals from national law enforcement organizations representing law enforcement officers and management, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(2) Five individuals from national law enforcement organizations representing law enforcement officers and management, appointed jointly by the minority leader of the House of Representatives and the minority leader of the Senate.

(3) Two individuals with academic expertise regarding law enforcement issues, appointed by the President.

(4) Two Members of the House of Representatives, appointed jointly by the Speaker and the minority leader of the House of Representatives.

(5) Two Members of the Senate, appointed jointly by the majority leader and the minority leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(g)(1) Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) Upon request of the Commission, the head of any Federal agency is authorized to detail, on non-reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this section.

(j) The Administrator of General Services shall provide to the Commission administrative support services as the Commission may request.

(k) The Commission may, for purposes of this section, hold hearings, sit and act at all times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(l) Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(m) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this section. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(n) The Commission may accept, use, and dispose of gifts or donations of services or property.

(o) The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(p) Not later than the expiration of the eighteen-month period beginning on the date of the enactment of this Act, the Commission shall submit to the Congress a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate.

(q) The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under subsection (p).

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. Does the gentleman from Iowa [Mr. SMITH] seek time on the motion?

Mr. SMITH of Iowa. No, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 84: Page 8, after line 23, insert:

SEC. 212. None of the funds appropriated in this or any prior Act to the Department of Justice may be used to contract out or privatize any social science grant management or program management functions or activities presently performed by Federal

employees of the Office of Justice Programs.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 84, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 212. (a) Notwithstanding any other provision of law, for fiscal years 1991 and 1992, the provisions of the Office of Management and Budget Circular A-76 and any similar provisions in any other order or directive shall not apply to activities conducted by the Federal Bureau of Prisons, Federal Bureau of Investigation, Drug Enforcement Administration, Immigration and Naturalization Service, United States Attorneys, United States Marshals Service, the Office of Justice Programs, the Office of Inspector General, and any of the litigating activities of the Department of Justice, unless such provisions are specifically approved by an Act of Congress.

(b) For fiscal years 1991 and 1992, no reduction in resources for the Justice Department activities described in subsection (a) shall be effected pursuant to the provisions of the Office of Management and Budget Circular A-76 or any similar provision in any other order or directive unless specifically provided therefore by an Act of Congress.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 87: Page 9, line 16, strike out "and in addition" and insert "of which not to exceed $2,000,000 shall be available for rewards, and to publicize the availability of rewards, as authorized by section 36 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2708), and of which".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 87, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "of which not to exceed $2,000,000 may be available for rewards, and to publicize the availability of rewards, as authorized by section 36 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2708), and in addition".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 91: Page 9, line 25, after "101-246)" insert ", and of which not to exceed $15,000 shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (section 119 of Public Law 101-246), and of which $350,000 may be available for the purchase of preparations for the 1992 United Nations Conference on Environment and Development".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 91, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following ", and in addition, not to exceed $15,000 shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (section 119 of Public Law 101-246), and of the total amount appropriated in this paragraph, $350,000 may be available for the purpose of preparations for the 1992 United Nations Conference on Environment and Development".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 92: Page 9, line 25, after "101-246)" insert ": *Provided*, That no funds shall be available for obligation for procurement of the Department of State Telecommunications Network (DOSTN) prior to February 15, 1991: *Provided further*, That the obligation of funds for DOSTN shall be subject to the reprogramming provisions of section 606 of this Act. *Provided further*, That the Secretary of State shall submit a report to the appropriate committees of the Congress at least 15 days prior to February 15, 1991, which justifies the requirement for the Department of State Telecommunications Network (DOSTN)".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 92, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert ": *Provided*, That the obligation of funds for the Department of State Telecommunications Network (DOSTN) shall be subject to the reprogramming provisions of section 606 of this Act: *Provided further*, That the Secretary of State shall submit a report to the appropriate committees of the Congress not later than December 1, 1990, which justifies the requirement for the Department of State Telecommunications Network (DOSTN)".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the motion is as follows:

Senate amendment No. 100: Page 15, after line 2, insert:

SEC. 302. Not to exceed .5 per centum of the appropriation Administration of Foreign Affairs, "Salaries and expenses" may be transferred to Administration of Foreign Affairs, "Emergencies in the Diplomatic and Consular Service" or International Organizations and Conferences, "International Conferences and Contingencies" but no such appropriation shall be increased by more than 25 per centum by any such transfer: *Provided*, That the Department shall follow the normal reprogramming procedures of the Senate and House Appropriations Committees before obligating or expending any funds so transferred.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 100, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 302. (a) Not to exceed .5 per centum of the appropriation, Administration of Foreign Affairs, "Salaries and expenses" may be transferred to Administration of Foreign Affairs, "Emergencies in the Diplomatic and Consular Service" or International Organizations and Conferences, "International Conferences and Contingencies" but no such appropriation shall be increased by more than 35 per centum by any such transfer: *Provided*, That the Department shall follow the normal reprogramming procedures of the Senate and House Appropriations Committees before obligating or expending any funds so transferred.

(b) Funds appropriated in this Act under the heading "Contributions to International Organizations" for payment to the United Nations or any of its specialized agencies, which are not made available to the United Nations or any such specialized agency due to the operation of any provision of this or any other Act, may be transferred to any account under the heading "Administration of Foreign Affairs", notwithstanding any other provision of law: *Provided*, That the Department shall follow the normal reprogramming procedures of the Senate and House Appropriations Committees before obligating or expending any funds so transferred.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 102: Page 15, after line 2, insert:

SEC. 304. (a) Section 303 of the Department of State Appropriations Act, 1988 (as contained in section 101(a) of Public Law 100-202 (as amended by section 303(a) of Public Law 100-459)) is amended in the first sentence—

(1) by striking out "$340,000" and inserting in lieu thereof "$390,000"; and

(2) by striking out "section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985" and inserting in lieu thereof: "section 109 (b) and (c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985".

(b) Section 109(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985, is amended—

(1) by striking out "Of the amount" through "Spring 1984" and inserting in lieu thereof: "There are authorized to be appropriated each fiscal year $50,000, to be equally divided between delegations of the Senate and the House of Representatives, to assist in";

(2) by inserting after "meeting" the following: "the expenses of the United States Group";

(3) by striking out "which" through "United States"; and

(4) by inserting the following sentence at the end thereof: "Amounts appropriated under this section are authorized to remain available until expended.".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 102, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 304. (a) Section 303 of the Department of State Appropriations Act, 1988 (as contained in section 101(a) of Public Law 100-202 (as amended by section 303(a) of Public Law 100-459)) is amended in the first sentence—

(1) by striking out "$340,000" and inserting in lieu thereof "$440,000"; and

(2) by striking out "section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985" and inserting in lieu thereof: "section 109 (b) and (c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985".

(b) Section 109(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985, is amended—

(1) by striking out "Of the amount" through "Spring 1984" and inserting in lieu thereof: "There are authorized to be appropriated each fiscal year $50,000, to be equally divided between delegations of the Senate and the House of Representatives, to assist in";

(2) by inserting after "meeting" the following: "the expenses of the United States Group";

(3) by striking out "which" through "United States"; and

(4) by inserting the following sentence at the end thereof: "Amounts appropriated under this section are authorized to remain available until expended.".

(c) MEXICO.—Section 2 of Public Law 86-420 is amended—

(1) by striking out "$50,000" and inserting in lieu thereof "$100,000"; and

(2) by striking out "$25,000" both places it appears and inserting in lieu thereof "$50,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion and the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. Does the gentleman from Iowa seek time on the motion?

Mr. SMITH of Iowa. Mr. Speaker, I do not seek time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 105: Page 15, line 25, strike out "$9,590,000" and insert "$9,304,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 105, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following "$9,711,000."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 106: Page 16, line 16, strike out "$1,575,320,000" and insert "$1,598,623,000 (including the purchase of firearms and ammunition); of which not to exceed $61,045,000 shall remain available until expended for space alternation projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 106, and concur therein with an amendment, as follows: In lieu of the sum "$1,598,623,000" named in said amendment insert the following "$1,589,124,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 107: Page 17, line 5, after "3006A(e))," insert "The compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 107, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following "the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 108: Page 17, line 8, strike out "$137,569,000" and insert "$135,269,000 and the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences,".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 108, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following "$132,761,000,".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 109: Page 17, after line 16, after "$57,997,000" insert: "to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 109, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following: ", to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code: *Provided further*, That not to exceed $81,000 of the amounts appropriated herein shall be transfered to "Salaries and expenses", United States Court of International Trade, and not to exceed $4,919,000 of the amounts appropriated herein shall be transferred to "Salaries and expenses", Courts of Appeals, District Courts, and Other Judicial Services".

The PRESIDING OFFICER. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the motion is as follows:

Senate amendment No. 110: Page 17, line 25, strike out "$71,261,000" and insert "$72,261,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 110, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert the following "$71,261,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 111: Page 18, line 8, strike out "$37,712,000" and insert "advertising and rent in the District of Columbia and elsewhere, $37,178,000, of which not to exceed $5,000 is authorized for official reception and representation expenses".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 111, and concur therein with an amendment, as follows: In lieu of the sum "$37,178,000" named in said amendment insert "$37,400,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 118: Page 19, after line 7, insert:

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $69,685,000, to remain available until expended, and in addition $1,100,000 shall be derived from unobligated balances of "Ship Construction": *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated: *Provided further*, That the unexpended balances of the appropriation "Research and Development" shall be transferred to and merged with this appropriation.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 118, and concur therein with an amendment, as follows: In lieu of the first sum named in said amendment insert "$69,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 121: Page 19, line 13, strike out "$200,000" and insert "$500,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 121, and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following "$500,000, to remain available until expended".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 123: Page 19, line 20, strike out "$30,000,000" and insert "$36,040,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 123, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$37,040,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 131: Page 22, after line 25, insert:

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed fourteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $117,794,000, of which not to exceed $300,000 for the foregoing amount shall remain available until September 30, 1992, for research and policy studies: *Provided*, That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in the Statement of Policy on Minori-

ty Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 69 F.C.C. 2d 607 (Rev. Bd. 1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-848 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 131, and concur therein with an amendment, as follows: In lieu of the sum "$117,794,000" named in said amendment, insert "$115,794,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 133: Page 23, after line 9, insert:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5910-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $76,095,000 of which an estimated $20,000,000 shall be derived from fees collected for premerger notification Act of 1976 (15 U.S.C. 18(a)) so as to result in a final fiscal year 1991 appropriation of $56,095,000: *Provided,* That $76,095,000 shall be apportioned and shall be construed as being available for obligation without regard to 31 U.S.C. 1341: *Provided further,* That fees made available to the Federal Trade Commission shall remain available until expended but any fees received in excess of $20,000,000 shall not be available for obligation in fiscal year 1991: *Provided further,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding sections 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252, 94 Stat. 374).

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 133, and concur therein with an amendment, as follows: In lieu of the first sum "$76,095,000" named in said amendment insert "$74,095,000; and in lieu of the sum "$56,095,000" named in said amendment insert "$54,095,000"; and in lieu of the second sum "$76,095,000" named in said amendment, insert "$74,059,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 134: Page 23, after line 9, insert:

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $40,671,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 134, and concur therein with an amendment, as follows: In lieu of the first sum "$40,671,000" named in said amendment insert "$40,299,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the motion is as follows:

Senate amendment No. 135: Page 23, line 18, insert:

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $329,186,000 of which $282,080,000 is for basic field programs, $7,490,000 is for the Native American programs, $10,345,000 is for migrant programs, $1,173,000 is for the law school clinics, $1,067,000 is for supplemental field programs, $666,000 is for regional training centers, $7,710,000 is for national support, $8,366,000 is for the State support, $923,000 is for the Clearinghouse, $545,000 is for computer assisted legal research regional centers, and $8,821,000 is for Corporation management and administration.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 135, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $327,186,000 of which $280,314,000 is for basic field programs, $7,445,000 is for the Native American programs, $10,282,000 is for migrant programs, $1,166,000 is for the law school clinics, $1,060,000 is for supplemental field programs, $662,000 is for regional training centers, $7,663,000 is for national support, $8,315,000 is for State support, $917,000 is for the Clearinghouse, $541,000 is for computer assisted legal research regional centers, and $8,821,000 is for Corporation management and administration.

The SPEAKER pro tempore. The Clerk will designate the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 138: Page 24, after line 6, insert:

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $18,936,000, of which $2,500,000 shall remain available until expended: *Provided,* That not to exceed $89,000 shall be available for official reception and representation expenses.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the Amendment of the Senate numbered 138, and concur therein with an amendment, as follows: In lieu of the sum $18,936,000" named in said amendment, insert "$20,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 139: Page 24, after line 6, insert:

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $192,385,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and, for 1991 only, not to exceed $100,000 shall be available to host a conference of the International Organization of Securities Commissions, such sum to cover related translation, printing, facility and other necessary logistic and administrative expenses: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting receipt to the general fund of the Treasury.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 139, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $190,185,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and, for 1991 only, not to exceed $100,000 shall be available to host a conference of the International Organization of Securities Commissions, such sum to cover related translation, printing, facility and other necessary logistic and administrative expenses: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting receipt to the general fund of the Treasury: *Provided further,* That the preceding proviso is repealed upon enactment into law of other legislation which increases the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)).

□ 1310

POINT OF ORDER

Mr. GIBBONS. Mr. Speaker, at the direction of the Committee on Ways and Means, I make a point of order against the motion to recede and concur with an amendment.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman will state his point of order.

Mr. GIBBONS. Mr. Speaker, I make a point of order against the motion on the ground that the House amendment proposed therein carries a tax in violation of House rule XXI(5)(b).

Mr. Speaker, amendment No. 139 increases the rate of fees paid to the Securities and Exchange Commission at the time of filing a registration statement. The issue of SEC fees is one that is not new to this Congress. Earlier this year a proposal was made to increase four separate SEC fees. Only one of those fees is proposed to be increased by this amendment.

Mr. Speaker, with only a cursory analysis, one might conclude that the proposed increase in registration fees could be classified as a true "user fee" and, therefore, not a tax within the meaning of House rule XXI.

However, consideration of two facts forces another conclusion. First, the revenue generated by current SEC fees already exceeds the budget of the entire Securities and Exchange Commission. In fiscal year 1991 it is estimated that current fees would generate revenue of almost $60 million in excess of the SEC budget. Increasing registration fees cannot be justified as covering the costs of providing specific services to the payors; the entire costs of the Commission, including the benefit of regulating securities markets, are already covered by the level of current fees.

Second, the amendment provides that the increased level of fees would be deposited in the general fund of Treasury as offsetting receipts. This is tantamount to admitting that the fee involved is in reality a tax and the revenues are being used to defray general governmental costs.

Mr. Speaker, under the previous rulings of the Chair, only two types of fees are excluded from the definition of tax for purposes of rule XXI(5)(b), user fees and regulatory fees. The fee proposed here does not fall into either of these two categories.

Consequently, they are taxes, and their inclusion is in violation of rule XXI(5)(b).

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman withhold his motion while I make a statement on the matter?

Mr. GIBBONS. Certainly.

The SPEAKER pro tempore. Does the gentleman from Iowa [Mr. SMITH] desire to be heard on the point of order?

Mr. SMITH of Iowa. I do, Mr. Speaker.

Mr. Speaker, what we have here: We have a fee now and—what is a fee or what is a tax?—they have a fee of one-fiftieth of 1 percent. This would change it to one-fortieth. Now, this is not the first time we have done it. We have done it before when they needed more money.

Everybody knows the SEC needs more personnel, they are heavily involved in a lot of lawsuits up there in New York. Last year they collected something over $500 million from one company alone. That money does not go back into their coffers so that they can use it. The only way that they can get money is if we have an increase in fees and let them keep some of the fees.

That is what this is for. They need it. It will result in hundreds of millions of dollars in increased revenue for the Treasury. But they do not get it. So what we were trying to do—and I do not know if it is a fee or a tax. That is the thing that everybody is arguing about over here. Is it a duck or is it not a duck?

But whatever it is, the interests of the U.S. taxpayers is that it be called a fee rather than a tax, and that they be permitted to levy it and use this money so they can pursue these cases that they have up there.

It is also in the interest of the people who are paying the fee because they need the protection.

So we are just trying to accommodate what has already been done in the House in a couple of bills but they have not been able to get it through the Senate and all the way through. So it just seems to be that somehow or another we ought to accomplish the end objective instead of applying the rules of the House to the most technical degree.

I hope the Chair rules it a fee instead of a tax.

The SPEAKER pro tempore. Does the gentleman from Kentucky [Mr. ROGERS] desire to be heard on the point of order?

Mr. ROGERS. I do, Mr. Speaker.

Let me follow my chairman's comments and amplify, hopefully, some, and hope that the gentleman from Florida will not feel obligated to pursue the point of order.

Because I think he would be doing a great disservice to the small investors around this country who would be best served by the SEC being allowed to have some more personnel to police investigations and oversight.

Mr. Speaker, last year the SEC received $166 million along with the same authority to collect fees regarded as offsetting receipts.

This agreement today on the floor gives the SEC a $23 million increase over that amount; $13 million of that increase, Mr. Speaker, is basically keeping up with inflation and providing the pay adjustments necessary for the additional staff Congress has agreed to provide it in past years.

The remainder is in additional staff that are critically needed.

Dramatic changes have transformed this Nation's securities and industry and capital markets. Internationalization, the need to bird-dog broker dealers, deterioration in the high-yield bond market, just to name a few, and

more are placing incredible demands on the attorneys and other staff at the SEC.

It is an enforcement agency, Mr. Speaker. Investors, particularly the small, unsophisticated ones, rely on it to regulate and stop fraudulent activity.

This conference agreement gives the SEC the shot in the arm it desperately needs to prevent fraud, to insure full disclosures, and to supervise our markets, all in a climate which becomes incredibly more unpredictable every year.

If this provision is struck, Mr. Speaker, the SEC will suffer. But more importantly, thousands and perhaps millions of small, unsophisticated investors around this Nation will suffer, and will lose money, many of them their life savings. Worst of all, we will see a deterioration in confidence in the Government.

So I hope that the gentleman would refrain from exercising his priorities here. We do not have room in this bill to increase SEC funds. If you strike this provision, we cannot make it up.

So, Mr. Speaker, I yield back.

The SPEAKER pro tempore. The Chair is prepared to rule unless other Members wish to speak on the point of order.

Mr. GIBBONS. Mr. Speaker, all I can say is I am here at the direction of the committee. I know we want to cooperate with Mr. SMITH and with the entire Appropriations Committee. This matter of what is a fee, what is a tax, has serious consequences far beyond the matter with which we are concerned now.

We will actively support and do everything we can to help improve the policing of the Securities and Exchange Commission, but this is not fee, this is a tax, and I renew my point of order and urge the Chair to sustain my point of order.

The SPEAKER pro tempore (Mr. MCNULTY). For the second reason that the gentleman from Florida previously stated, the Chair rules that the motion constitutes a tax within the meaning of clause 5(b) rule XXI and the point of order is sustained.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 139, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $160,185,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and, for 1991 only, not to exceed $100,000 shall be available to host a conference of the International Organization of Securities Commissions, such sum to cover related translation, printing, facility and other necessary logistic and administrative expenses.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] is recognized for 1 hour.

Mr. SMITH of Iowa. Mr. Speaker, I offer this motion which simply reduces the money that the SEC will get because the fee will not be levied. We regret to do so, but we do not have any choice if we are to stay within our budget allocation. We would certainly hope that some way or another the SEC will find a way to submit a supplemental. Perhaps it cannot be done this fall, but maybe by spring. Under the circumstances, we have no choice but to ask that the substitute amendment be adopted.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 140: Page 24, line 13, strike out "$248,500,000" and insert "and not to exceed $3,500 for official reception and representation expenses, $250,619,000, of which $1,000,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, of which $100,000 shall be made available for a grant to the School of Forestry of the University of Montana for a planning study for locating a Value-Added Wood Products Development, Marketing and Small-Business Assistance Research Laboratory at the University of Montana, and of which $250,000 shall be made available for a grant to Central Arkansas University to establish a national communications and data center for the Small Business Institute program, and".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 140, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following "and not to exceed $3,500 for official reception and representation expenses, $274,753,000, of which $1,500,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, of which $100,000 shall be made available for a grant to the School of Forestry of the University of Montana for a planning study for locating a Value-Added Wood Products Development, Marketing and Small Business Assistance Research Laboratory at the University of Montana, of which $200,000 shall be made available for a grant to Central Arkansas University to establish a national communications and data center for the Small Business Institute program, of which $1,500,000 shall be made available for a grant to the University of Kentucky's Somerset Community College for a regional center for rural economic development with a special emphasis on small business, of which $1,500,000 shall be made available for a grant to the West Philadelphia Economic Development Corporation for a national demonstration project for community economic development and small business assistance, of which $500,000 shall be made available for a Center for Manufacturing Productivity at the University of Massachusetts at Amherst, of which $1,200,000 is for the Small Business Development Center Technical Assistance Program, of which $15,000,000 shall be made available to implement section 24 of the Small Business Act, as amended, of which $1,000,000 shall be made available to implement section 25 of the Small Business Act, as amended, and".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 1320

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 143: Page 25, line 14, strike out "$107,160,000" and insert "such sums as may be necessary".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 143, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

nothing herein shall preclude the Small Business Administration from preparing or formulating, but not publishing in the Federal Register, proposed rules, nor shall anything herein apply to uniform common rules applicable to multiple Federal departments and agencies, including the Small Business Administration; nor may any of the funds provided in this paragraph restrict in any way the right of association of participants in such program.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SECTION. 1. DEPUTY ADMINISTRATOR.

(a) Section 4 of the Small Business Act is amended by striking "The Administrator is

authorized to appoint a Deputy Administrator and" from the fourth sentence of paragraph (1) of subsection (b) and inserting in lieu thereof the following: "The President also may appoint a Deputy Administrator, by and with the advice and consent of the Senate. The Administrator is authorized to appoint".

(b) The provisions of subsection (a) of this section shall apply to any vacancy in the position of Deputy Administrator of the Small Business Administration after the effective date of this Act.

SEC. 2. JOINT VENTURES WITH TRIBALLY OWNED PARTICIPANTS IN THE 8(a) PROGRAM.

Section 602 of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended—

(1) in subsection (c), by striking "two" and inserting "5", and

(2) in subsection (e), by striking "September 30, 1991" and inserting "September 30, 1992".

SEC. 3. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

Section 112 of the Small Business Administration Reauthorization and Amendment Act of 1988 (Public Law 100-590) is amended by striking from the end of subsection (c) "October 1, 1990" and by inserting in lieu thereof "October 1, 1994".

SEC. 4. NATURAL RESOURCE DEVELOPMENT.

The Small Business Act is amended by adding the following new section:

"SEC. 24. (a) The Administrator is authorized to make grants to or to enter into contracts with any State for the purpose of contracting with small businesses to plant trees on land owned or controlled by such State or local government. The Administrator shall require as a condition of any grant (or amendment or modification thereof) under this section that the applicant also contribute to the project a sum equal to at least 25 per centum of a particular project cost from sources other than the Federal Government. Such non-Federal money may include inkind contributions, including the cost or value of providing care and maintenance for a period of three years after the planting of the trees, but shall not include any value attributable to the land on which the trees are to be planted, nor may any part of any grant be used to pay for land or land charges: *Provided,* That not less than one-half of the amounts appropriated under this section shall be allocated to each State, the District of Columbia, and the Commonwealth of Puerto Rico on the basis of the population in each area as compared to the total population in all areas as provided by the Census Bureau of the Department of Commerce in the annual population estimate or the decennial census, whichever is most current. The Administrator may give a priority in awarding the remaining one-half of appropriated amounts to applicants who agree to contribute more than the requisite 25 per centum.

"(b) In order to accomplish the objectives of this section, the Administrator, in consultation with appropriate Federal agencies, shall be responsible for formulating a national small business tree planting program. Based on this program, a State may submit a detailed proposal for tree planting by contract.

"(c) To encourage and develop the capacity of small business concerns, to utilize this important segment of our economy, and to permit rapid increases in employment opportunities in local communities, grantees are directed to utilize small business contractors or concerns in connection with the program established by this section, and shall, to the extent practicable, divide the project to allow more than one small business concern to perform the work under the project.

"(d) For purposes of this section, agencies of the Federal Government are hereby authorized to cooperate with all grantees and with State foresters or other appropriate officials by providing without charge, in furtherance of this program, technical services with respect to the planting and growing of such trees.

"(e) There are authorized to be appropriated to carry out the objectives of this section, $15,000,000 for fiscal year 1991 and $30,000,000 for each of the fiscal years 1992 through 1994, and all of such sums may remain available until expended.

"(f) Notwithstanding any other law, rule, or regulation, the administration shall publish in the Federal Register proposed rules and regulations implementing this section within sixty days after the date of enactment of this section and shall publish final rules and regulations within one hundred and twenty days of the date of enactment of this section.

"(g) As used in this section:

"(1) the term 'local government' includes political subdivisions of a State such as counties, parishes, cities, towns and municipalities;

"(2) the term 'planting' includes watering, application of fertilizer and herbicides, pruning and shaping, and other subsequent care and maintenance for a period of three years after the trees are planted; and

"(3) the term 'State' includes any agency thereof.

"(h) The Administrator shall submit annually to the President and the Congress a report on activities within the scope of this section.".

SEC. 5. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21 of the Small Business Act is amended by striking the second proviso in subsection (a)(4) and inserting in lieu thereof the following: "*Provided further,* That no recipient of funds under this section shall receive a grant which would exceed its pro rata share of a $70,000,000 program based upon the population to be served by the Small Business Development Center as compared to the total population of the United States, plus $100,000 for each state but no state shall receive less than $200,000.";

(b) Section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302), as amended, is hereby repealed; and

(c) the amendments to the second proviso in subsection (a)(4) made by subsection (a) of this section shall apply to contracts, grants or cooperative agreements for performance commencing on or after October 1, 1991; contracts, grants or cooperative agreements for performance commencing prior thereto shall receive funding for the entire term of performance without regard to this amendment and according to the state's pro rata share of a $65,000,000 program as computed on the effective date of this section under population estimates used for calendar year 1990 agreements, plus $50,000 for each state, but no state shall receive less than $200,000.

SEC. 6. SBDC GRANTEE ELIGIBILITY.

Section 21 of the Small Business Act is amended by striking the period at the end of the first sentence of paragraph (1) of subsection (a) and inserting the following: ": *Provided,* That after December 31, 1990, the Administration shall not make a grant to any applicant other than an institution of higher education as a Small Business Development Center unless the applicant was receiving a grant (including a contract or cooperative agreement) on such date. The Administration shall require any applicant for a small business development center grant with performance commencing on or after January 1, 1992 to have its own budget and to primarily utilize institutions of higher education to provide services to the small business community.".

SEC. 7. CENTRAL EUROPEAN ENTERPRISE DEVELOPMENT.

The Small Business Act is amended by adding the following new section:

"SEC. 25. (a) There is hereby established a Central European Small Business Enterprise Development Commission (hereinafter in this section referred to as the 'Commission'). The Commission shall be comprised of a representative of each of the following: the Small Business Administration, the Association of American Universities, and the Association of Small Business Development Centers.

"(b) The Commission shall develop in Czechoslovakia, Poland and Hungary (hereinafter referred to as 'designated Central European countries') a self-sustaining system to provide management and technical assistance to small business owners.

"(1) Not later than 90 days after the effective date of this section, the Commission, in consultation with the Agency for International Development, shall enter a contract with one or more entities to—

"(A) determine the needs of small businesses in the designated Central European countries for management and technical assistance;

"(B) evaluate appropriate Small Business Development Center—programs which might be replicated in order to meet the needs of each of such countries; and

"(C) identify and assess the capability of educational institutions in each such country to develop a Small Business Development Center type program.

"(2) Not later than 18 months after the effective date of this section, the Commission shall review the recommendations submitted to it and shall formulate and contract for the establishment of a three-year management and technical assistance demonstration program.

"(c) In order to be eligible to participate, the educational institution in each designated Central European country shall—

"(1) obtain the prior approval of the government to conduct the program;

"(2) agree to provide partial financial support for the program, either directly or indirectly, during the second and third years of the demonstration program; and

"(3) agree to obtain private sector involvement in the delivery of assistance under the program.

"(d) The Commission shall meet and organize not later than 30 days after the date of enactment of this section.

"(e) Members of the Commission shall serve without pay, except they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their functions in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

"(f) Two Commissioners shall constitute a quorum for the transaction of business. Meetings shall be at the call of the Chair-

person who shall be elected by the Members of the Commission.

"(g) The Commission shall not have any authority to appoint staff, but upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist in carrying out the Commission's functions under this section without regard to section 3341 of title 5 of the United States Code. The Administrator of the General Services Administration shall provide, on a reimbursable basis, such administrative support services as the Commission may request.

"(h) The Commission shall report to Congress not later than December 1, 1991, and annually thereafter, on the progress in carrying out the provisions of this section.

"(i) There are hereby authorized to be appropriated to the Small Business Administration the sum of $3,000,000 for fiscal year 1991, $5,000,000 for fiscal year 1992 and $8,000,000 for fiscal year 1993 to carry out the provisions of this section. Such sums shall be disbursed by the Small Business Administration as requested by the Commission and may remain available until expended. Any authority to enter contracts or other spending authority provided for in this section is subject to amounts provided for in advance in appropriations Acts.".

SEC. 8. LOAN SERVICING FEE.

In the Small Business Investment Act of 1958, insert the following new subsection:

"SEC. 503. (e)(3). Notwithstanding any other provision of law, qualified State or local development companies shall be authorized to prepare applications for deferred participation loans under Section 7(a) of the Small Business Act, to service such loans and to charge a reasonable fee for servicing such loans.".

SEC. 9. SMALL BUSINESS DEVELOPMENT CENTER TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 21, the following new section.

"21A. Small Business Development Center Technical Assistance Program.

"(a) The Administration is authorized to make grants to establish pilot programs at 5 Small Business Development Centers in order to increase access by small businesses in each center's service area to online data bases. The purpose of this program shall be to provide small businesses, in states selected to participate in this demonstration program, with improved online access to public and private technology, services and expertise, so as to accelerate the transfer of technology and expertise to small businesses and to improve the productivity and economic competitiveness of these small businesses.

"(b) Any Small Business Development Center which is funded by the Administration is eligible to receive an additional grant to provide access to online data bases as described in subsection (a) providing it contributes at least a fifty percent matching contribution.

"(c) The grants authorized by this section must be used to—

"(1) defray all or part of the cost of accessing data bases from private vendors for a limited period of time,

"(2) demonstrate to small businesses the benefits of accessing such data bases, and

"(3) train small businesses to use such data bases to access technical information and services."

(b) AUTHORIZATION.—There is authorized to be appropriated to the Small Business Administration for each of fiscal years 1991 and 1992, $1,200,000 to carry out the terms of section 21A of the Small Business Act.

SEC. 10. CONTINUATION OF AUTHORITY.

Notwithstanding any other provision of law, an amount shall be made available from the unobligated balances in the Business Loan and Investment Fund to make a grant designated in Public Law 100-459 in subsection (c) under the heading "Economic Development Assistance Programs", at a funding level not less than the level provided during fiscal year 1990, and notwithstanding any other provision of law, an amount shall be made available from the unobligated balances in the Business Loan and Investment fund to make a grant to the first entity designated in Public Law 100-459 in subsection (k) under the heading "Economic Development Assistance Programs" at a funding level not less than the level provided during fiscal year 1990 to such entity.

SEC. 11. COOPERATIVE AGREEMENTS.

Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) as amended, is further amended by striking "October 1, 1990" and inserting in lieu thereof "March 31, 1991".

SEC. 12. TRANSFER FROM DISASTER LOAN FUND.

In addition such sums as may be necessary.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 144: Page 27, line 6, strike out "$14,000,000" and insert "$12,360,000, to remain available until expended".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 144, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$13,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 148: Page 29, line 7, strike out "$167,000,000" and insert "$159,708,000, of which up to $200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation, and of which $500,000 shall be available only for a grant to the North Pacific Studies Center in Portland, Oregon".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 148, and concur therein with an amendment, as follows: In lieu of the sum "$159,708,000" named in said amendment, insert the following "$163,151,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 155: Page 30, line 2, strike out "$29,208,000" and insert "$33,169,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 155, and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by the said amendment, insert the following "$31,069,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] is recognized for 1 hour.

Mr. SMITH of Iowa. Mr. Speaker, this amendment involves funding for TV Marti. The Senate bill was above the House-passed level. There is a disagreement among the conferees as to what the level should be. What this amendment does is to reduce the broadcasting to Cuba account by $2.1 million below the Senate level. It is above the House level, and that difference represents the funding for Radio Marti. From what I can discover by talking to various Members is that this amendment may not satisfy anyone completely, but it seems to be the best resolution of this problem at this time.

Mr. ROGERS. Mr. Speaker, I concur in the amendment, and essentially, as the gentleman from Iowa [Mr. SMITH], the chairman, has said, all that the amendment he is offering does is to remove the Senate add-on for TV Marti and Radio Marti, the amount

that they increased for the TV broadcasting. We keep the amount of the Senate increase for the radio broadcasting service.

So, Mr. Speaker, I support the amendment of the gentleman from Iowa [Mr. SMITH] and urge the House to agree.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendmetn in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 162: Page 31, after line 10, insert:

SEC. 607. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1991 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1991 at not less than $9.28 per poor person within the geographical area of each grantee or contractor under the 1980 census or 6 cents per poor person more than the annual per-poor-person level at which funding was appropriated prior to the sequestration order issued pursuant to section 11002 of Public Law 101-239 for each grantee and contractor in fiscal year 1990, whichever is greater; and

(2) each such granteee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $1768 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal services Corportion shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or state or local legislative bodies or intended or designed to influence any decision by a Federla, State, or local agency;

(2) to pay for any personal service, advertisment, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence any decision by Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expenses and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: *Provided further,* That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: *Provided further,* That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: *Provided further,* That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: *Provided further,* That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1991, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: *Provided further,* That if a Presidential order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1991, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential order: *Provided further,* That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: *Provided further,* That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corporation or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicitly set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended, *Provided further,* That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members, (2) the size, quorum requirements and committee operations of such governing bodies, and (3) any requirements on appointment of board members of national support centers that would preclude the bar associations in the States in which the center's principal offices are located from making all appointments required to be made by bar associations: *Provided further,* That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1991 migrant funds as was used in fiscal year 1990: *Provided further,* That after October 1, 1991, (but not before) the Board of Directors of the Legal Services Corporation shall develop and implement a system for the competitive award of all grants and contracts, including support centers, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence: *Provided further,* That the Corporation shall insure that all grants and contracts made for calendar year 1991 to all grantees receiving funds under sections 1006(a) (1)(A) and (3) of the Legal Services Corporation Act as of September 30, 1990, with funds appropriated by this act or prior appropriations Acts, shall be made for a period of at least twelve months beginning on Janaury 1, 1991, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to this Act: *Provided further,* That such grants or contracts shall not be subject to any amendments to regulations relating to fee-generating cases (45 CFR part 1609) or the use of private funds (45 CFR parts 1610 and 1611) not in operational effect on October 1, 1988: *Provided further,* That any changes in procedures in operational effect as of September 1, 1989, that would have the effect of imposing timekeeping requirements on recipients must be adopted as rules or regulations in accordance with section 1008(e) of the Legal Services Corporation Act and all of the requirements of this Act: *Provided further,* That any new rules or regulations, or revisions to existing rules or regulations adopted by the Board of the Legal Services Corporation after October 1, 1990, shall not become effective until after October 1, 1991.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 162, and concur therein with an amendment, as follows: In lieu of the sum "$9.28" in subparagraph (1) of said amendment, insert "$9.22" and in lieu of the term "6 cents" in subparagraph (1) of said amendment, insert "5 cents".

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] is recognized for 30 minutes.

Mr. SMITH of Iowa. Mr. Speaker, I yield 11 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I know that frustration has reached epidemic proportions in this body over the past few weeks and months. I'm one who usually takes my one-a-day optimism pill in hopes of defending against that disease, and normally I manage to keep from catching it.

But I have to tell my colleagues that today I come to the floor extremely frustrated

As everyone is aware, my intention, along with the gentleman from Florida [Mr. MCCOLLUM], my colleague, was to offer an amendment to the Commerce-State-Justice appropriation bill to reform the Legal Services program. Do I like legislating on an appropriations bill? Absolutely not, and I've expressed my apologies both publicly and privately to my good friend and respected colleague from Iowa for being forced into this position year after year.

That's where my frustration begins: for the third year in a row I must confront the authorizing committee for failing to perform its duties and allowing the House to work its will on this program. Added to that is the frustration that lobbyists for my opponents, including some of the 600-plus registered federally funded Legal Service lobbyists, have circulated the rumor that actually my colleagues and I seeking reform prefer the appropriations route rather than going through the authorizing committee. That's just outright false and I trust that the people who count the most, such as

the gentleman from Iowa, know that's false.

But that false and mean-spirited rumor isn't nearly as frustrating as the even more malicious rumor which says that those of us on this side of the issue really have a hidden agenda to kill the Legal Services program. I don't know how BILL MCCOLLUM, HARLEY STAGGERS, and I, could guarantee by our word and deed, any more frequently or forcefully than we have, that we believe Legal Services for the poor are good, right, and imperative.

In fact, in our amendment we had hoped to set an appropriation level even higher than the conference committee did for this program. Coming from a fiscal conservationist like me, that's not an easy concession, and its certainly not something I would do for a program I'm trying to kill. We were advised by the Parliamentarian, however, that a budgetary point of order could be sustained against such an increase.

I think it's obvious that those people spreading the lie that we want to kill Legal Services know that if they engaged Members in a debate on the substance of our reform provisions, rather than on propaganda, they would have a much harder battle in winning the argument. And so they stick with a simple acrimonious and untrue claim that we oppose Legal Services.

I've talked with a lot of Members about this amendment. Naturally, some are for it and some are against it. But the thing I've noticed about many of those who are against it is that they can't tell me anything substantively that would make the amendment better. It boils down to the fact that they aren't opposed to the substance. Rather, they are scared by the accusations that this amendment is anti-Legal Services or antipoor or antifarmworker or some other such nonsense. To the contrary, I assert that this reform amendment is for the improvement to the Legal Services, for the increased availability of legal help to the poor.

Although time will not allow me here on the floor to go through the amendment provision-by-provision, rebutting much of the falsehoods that have been leveled at the amendment, I would like to insert into the RECORD at this point some of those arguments:

H.R. 5336, THE LEGAL SERVICES REFORM ACT OF 1990

SECTION-BY-SECTION SUMMARY

Protection against Theft and Fraud

Applies the same federal anti-fraud statutes that apply to other federal agencies to the funds disbursed by LSC.

Timekeeping

Requires LSC-recipients to keep records of the amount of time spent on each case or matter, without mandating a particular timekeeping plan or requiring functional accounting.

Agricultural Provision

Solicitation—Requires OSC-funded attorneys to adhere to the same solicitation rules as all other attorneys, based on DR-2-104 of the ABA Model Code of Professional Responsibility.

Procedural Safeguards for Agricultural Litigation—Requires that LSC-funded attorneys either exhaust administrative remedies or pursue alternative dispute resolution prior to filing suit against a farmer, grower, or agricultural entity. Prior to any precomplaint negotiation or litigation, all plaintiffs must be identified, unless granted anonymity through a court order, and plaintiff must sign an affadavit disclosing the facts of the controversy.

Authority of Local Governing Boards

Strengthens the authority of the local governing boards, which oversee LSC-funded programs, investing them with full authority to formulate policy and decide case selection. Includes ABA Model Rule 6.3 that prohibits an attorney board member from "knowingly" participating in a decision or action which would cause an attorney-client conflict of interest.

Evasion

Prohibits any attempt, such as the creation or use of "alternative corporations," to avoid or evade the prohibitions of the LSC act.

Prohibition of Drug Related Representations

Prohibits LSC-funded attorneys from participating in drug-related proceedings, if the recipient's executive director determines drug-related activity is likely to be an issue.

Implementation of Competition

Requires that all grants and contracts awarded by the Legal Services Corporation be awarded under a competitive bidding system. Further requires that funds to recipients be distributed on a per capita basis depending on the number of poor residents in that geographic area. And permits the local bar to approve more than one board for an area.

Lawyer Accountability

Enables LSC to sanction individual employees of LSC recipients who violate the LSC Act, its regulations, or state codes of professional responsibility as an alternative to defunding whole programs.

Attorneys Fees

Prohibits the recovery of attorneys fees from private parties. Requires the Legal Services Corporation to pay 90 percent of defendant's attorneys fees, if the defendant prevails in a lawsuit. Permits the court to award attorney's fees to the defendant, if the amount recovered is less than ten percent of the amount sought.

Regulation of Non-Public Resources

Clarifies that LSC-recipients can use non-LSC funds to match money from the Older Americans Act and other non-government funds, while stipulating that IOLTA funds, and other non-LSC funds, are covered by the same limitations and prohibitions as federal funds.

Prohibition on Redistricting Activities

Prohibits LSC-recipients from involvement in any redistricting activities, including influencing the timing or the manner of taking a census.

WHAT LEGAL SERVICES REFORM ISN'T

Opponents of the current effort to reform the Federal legal services program would have you believe it is an effort to "destroy," "cripple," "harm," and "weaken" the only Federal program that helps poor Americans meet their civil legal needs. This is simply NOT true. Reform will mean Congress makes the rules under which this much needed program will operate.

The allegations that have been circulated in opposition to the McCollum/Stenholm amendment have often been strident and, in many cases, inaccurate. As you evaluate the various charges being made, keep in mind that the McCollum/Stenholm amendment:

Will not "deprive the poor of basic statutory and constitutional rights. . . ." It will, in fact, give clients more control over their cases.

Will not "undercut responsible local governance. . . ." It will clarify and strengthen the authority of the local boards.

Will not "restrict migrant farmworkers' access to legal representation. . . ." It continues to allow more than $7 million to go specifically to migrant issues and, further, specifically authorizes outreach efforts by legal services attorneys.

Will not "weaken the existing program of locally-controlled locally-based programs in terms of providing grants, handling cases, and shielding attorneys from improper political influence." As previously mandated by Congress, it will place the local board firmly in control of each local program.

Will not "substitute Legal Services Corporation (LSC) in Washington, D.C. for local courts and bar associations in disciplining workers who work for local grantees." It will allow the Corporation to sanction lawyers in addition to local and state sanctions.

Will not "diminish resources available to provide [the poor] legal services. . . ." It will increase the resources spent on legal matters with which poor clients request help and are currently turned away. In addition, reform today increases the likelihood that legal services may win greater appropriations in the future.

The allegations against McCollum/Stenholm are far-fetched to the point of being preposterous.

In fact, legal services reform rests on the premise that the program must be made more credible, more efficient and more accountable to Congress if it is to avoid being further eroded by controversy. That's why we urge you to join us in support of the McCollum/Stenholm amendment to the State, Justice, Commerce appropriations bill.

GAO CAN'T CRACK LS STONEWALL

Those of us who have wanted "good government" reforms added to the Legal Services Act have been surprised by others arguing against such "onerous" burdens as timekeeping and waste, fraud & abuse provisions.

Our opponents say that such good government provisions are unnecessary and that we can have unquestioning confidence in grantees' performance in this program. Our opponents say that we already have enough information to know that LSC grantees are following Congressional intent.

What does the General Accounting Office say? Last year, several Members requested a GAO study of the activities of LSC grantees. Recently we received this report; here are some of GAO's findings:

"We were unable to gather sufficient evidence to conclude whether grantee attorneys used improper methods in representing migrant farmworkers."

"Several factors significantly constrained our ability to respond to the questions [you have] asked."

"Since we did not have access to grantee case files, we could not determine independently the most frequently cited violations of law."

"Due to access-to-records limitations, we were unable to determine the extent to which grantee attorneys identified the farmworkers they represented when notifying growers of legal actions initiated against them."

"Because we did not have access to account records, we were unable to verify that the grantees had properly implemented these procedures or that the procedures provided adequate controls over the [client trust] accounts."

We believe that the Legal Services program is valuable and necessary. We also believe that when $320 million of the taxpayers' dollars are used for a program, citizens have a right to know how that money is being used. When even GAO, THE accounting arm of the government, cannot come up with answers, then surely reform is not a radical idea.

If you agree that your constitutents have a right to know how their money is being spent, you'll support the Legal Services reforms that we have endorsed.

COMPETITION

Can you imagine the outcry if a group of defense contractors—contractors who felt they shouldn't be audited and refused to turn over their records to the government—visited us here on Capitol Hill and said, "we don't want to compete for government contracts. We've gotten federal money for several years and we think you should just keep giving it to us."

The federal government requires competitive bidding for virtually all federal grants and contracts. Experience has shown that competition is the best way to encourage innovation, and to acquire the best quality services for the best price. We have contracted with legal services lawyers to provide services to the poor. Is there any reason we should expect less from those serving the poor than we do from those building our defense weapons?

Under the current act, already existing legal services programs have an entitlement to federal grant funds, whether or not they are meeting the needs of their community, whether or not they are using their funds according to Congressional intent.

In recent years, the Legal Services Corporation spent three years and a half million dollars to defund one national support center that produced only minimal research. One expert witness testified during the proceedings that the work produced by the center during its existence could have been produced "by one graduate student with only minimal supervision employed full-time for one calendar year." What is unconscionable is that the more than a million dollars in federal grants that went to the program, on top of the half million dollars it required to stop the grant, is money that could have been used to provide legal services to the poor.

A recent study of the federal legal services program by the American Enterprise Institute has found that the productivity of the legal services program has declined by as much as 20 percent in the last decade. Maybe this is why legal services programs are afraid of competition, but this is precisely why we should insist on it.

The Legal Services Reform package provides the logical remedy. Legal services programs will have to demonstrate that they can or do provide quality legal services to the poor.

LOBBYING

Since 1978, there has been an appropriations rider, amending the Legal Services Act, restricting lobbying by legal services attorneys.

But this legislation has had little effect. We still receive complaints about legal services attorneys using tax dollars to lobby for pet political causes at the same time that they come to us and say they don't have enough money to represent the poor. The General Accounting Office (GAO) has just completed its investigation of lobbying done by legal services programs against the confirmation of a recent Supreme Court nominee. Whatever you think about any given Court nomination, we can still agree that it is inappropriate to turn away individuals who desperately need legal assistance, while attorneys devote their time to their own political agenda. This is not the first GAO report that has criticized impermissible lobbying by legal services attorneys; it will probably not be the last, unless we strengthen the language concerning lobbying and political activity.

Legal services programs currently employ approximately 650 lobbyists, paid for with taxpayer money. That is nearly 15 percent of all legal services attorneys. When we have so few federal dollars to spend for legal services, we have to make certain that this money is actually used to provide services.

Massive lobbying efforts of the kind legal services grantees have orchestrated are not the job of legal services attorneys. Such lobbying by the ACLU, by People for the American Way, by the National Organization of Women, by Americans for Democratic Action, by the National Abortion Rights Action League is entirely appropriate and should be protected. But this type of lobbying is not how our constituents expect us to spend their tax money.

WASTE, FRAUD, AND ABUSE

Some have argued that the waste, fraud and abuse provisions included in legal services reform are unnecessary because these federal waste, fraud and abuse statutes already apply to legal services funds. Unfortunately, that is not the case. The Legal Services Corporation's unique status as a fully federally funded entity that is, however, an independent, non-profit corporation, has made it questionable whether the federal waste, fraud and abuse provisions apply.

In recent years, this confusion over the applicability of the federal statutes has hamstrung anyone trying to enforce accountability in this arena. LSC officials referred one case to the Department of Justice in which the executive director of a legal services program and a few employees falsified travel vouchers to obtain approximately $20,000. The Department of Justice declined to prosecute because they believe it was unclear whether the particular federal statute violated actually applied to legal services funds.

In another case, the chairman of the board of a local legal service program and its director misappropriated over $200,000. Again, the Justice Department said they couldn't prosecute because legal services funds did not fall under the protections of federal fraud statutes. This is $200,000 of federal funds that Congress intended to go to the poor that went instead into other people's pockets, but federal prosecutors couldn't do anything about it. If we are going to be raising the taxes that Americans pay, we have an obligation to ensure that those funds are not being abused and, in effect, stolen from the pockets of the poor.

ATTORNEY ACCOUNTABILITY

It has been argued that the provision in the Legal Services Reform package which would hold accountable individual attorneys who violate the Legal Services Act or who misappropriate funds would constitute interference with the prerogatives of the local bar.

Regardless of a counter argument which states that local bar associations have not been doing the job they should in keeping their own houses clean, the fact is that these are federal funds which are being abused by legal services attorneys. When violations occur, the Corporation, which is responsible for ensuring the use of these funds, has as its only option to fine or otherwise financially penalize the program for which the attorney works. This means that the poor individuals in the area served get hit twice as hard. First, they lose services because funds are misused. Second, they lose again when the program is fined.

This provision does not preempt any of the prerogatives of the local bar to discipline its attorneys. If an attorney commits fraud or any other offense, the local bar can and should take action. But obviously, that is not enough.

Last year, the executive director of a Texas legal services program was convicted of misappropriating $70,000 from his program. He received a sentence of 6 months probation, 6 months in a halfway house, and was ordered to make restitution. What is he doing today? He is working for another Texas legal services program, and has received a contract to write a personnel manual for the program he was convicted of stealing from.

If we were talking about a Savings & Loan executive being convicted of misappropriation then returning to work in another savings & loan institution in the same state, I don't think there would be much argument over the need for accountability. I know I certainly would be outraged by such an arrangement and would not want to give that individual the opportunity to steal additional funds from a new institution.

Isn't it even more offensive when individuals steal from the poor? Shouldn't they be held at least as accountable as those who steal from the rich?

The Legal Services Reform package would restore accountability and confidence to a valuable program.

TIMEKEEPING

Critics of the timekeeping provision in the legal services reform package have alleged that this amendment would be unduly burdensome. For example, they contend that an "onerous" timekeeping system would be imposed on legal services attorneys. This amendment does not impose any one "system" of timekeeping; it merely says that attorneys should keep records of their time by case and source of funding used.

Now, many of the Members in this Chamber are lawyers; a lot have worked in law firms. Even for the rest of us who aren't lawyers, anyone who has ever paid for the services of an attorney knows that timekeeping is the way law firms do business. It's the way real lawyers get paid. It's the

way they keep track of the efficiency and productivity of their attorneys.

These legal service programs are law firms, law firms that are paid by the taxpayers to represent the poor. Shouldn't we expect them to act like all professional law firms?

But of course, when necessary they do act that way. Most legal services programs already have timekeeping systems. Most programs keep time records so they can file for attorneys fees, which they do regularly. They have to keep time because their other funding sources want to know what they are doing with their money. Why shouldn't the American taxpayer expect the same?

The issue here is not whether or not they should keep time records—since they already do—but whether they should be able to withhold those records from program administrators. One of the biggest problems we have is verifying that programs comply with Congressional prohibitions and restrictions. In one rather egregious case, a legal services program was involved in several very lengthy abortion-related cases that were in clear violation of the Law. When the Congress asked the Corporation to investigate, they were told the lawyers were doing this on their own time, even though the cases involved thousands of hours of legal work.

There is absolutely no way to hold these programs to Congressional intent unless they document their work the way every other real attorney doucments his or her legal work—through timekeeping.

SOLICITATION

Opponents of this amendment have been saying that it is unnecessary, that the alleged abuses it would restrict are non-existent, and so on. I am here today to tell you that there are abuses of the process being perpetrated by federally funded lawyers. Many legal services lawyers do a great job serving poor people, and conduct themselves professionally and within the guidelines of the LSC Act and the ethical standards which apply to the legal profession. Unfortunately, not all legal services lawyers behave in such a fashion.

In one such case, letters were sent by a legal services attorney on his legal services stationary to at least seventeen different people, in which an obtuse attempt is made to solicit them as plaintiffs in a lawsuit. In the letter, the targets of the solicitation are told, and I quote.

"I have reviewed your situation regarding your employment by ——— Orchards in 1988. . . . The U.S. Labor Department, since 1987 has had a regulation which says that growers do not have to provide travel money to farmworkers here in the United States unless the growers directly give such money to foreign workers. This regulation is a change from the old regulation. . . . I, along with other legal services lawyers, believe that this new labor department regulation is wrong. Because you could be affected by this regulation in the future, should you decide to try to find work in New York, you have the right to bring a court case against the U.S. Labor Department to have this regulation changed. I have enclosed a retainer form for you to sign if you are interested in bringing such a case. Please sign and date it next to the 'X' (some of you will sign it in two places, others of you only in one). Return the retainer to me in the self-addressed stamped envelope which I have enclosed."

It is absolutely mind-boggling to suggest that we ought to be spending taxpayer dollars, especially in times of crisis budget crunches, to fund attorneys who go around trying to gin up cases so they can take on a federal agency in court to get some rule changed. We have known for along time that client solicitation by legal aid attorneys was a persistent problem, but for them to be so bold as to spell it out in black and white in writing really brings the problem home.

This kind of gross solicitation violates the ethical standards of the legal profession, but, without the kinds of restrictions contained in this amendment, there is currently nothing to prevent our federally funded legal services attorneys from involving themselves in this kind of behavior. Some of my colleagues thought that the anti-solicitation language in last years' amendment was too restrictive. This year it has been rewritten to insure that legal aid attorneys have the right to perform legitimate "outreach" to migrant workers, but contains provisions which would expressly prohibit the kind of abuses typified by the letter I have just read. I urge you to join me and vote for this amendment, which has the potential to take the controversy out of legal services, and can help generate the broad based support worthy of a program which legitimately serves the legal needs of our nation's poor.

BOARD AUTHORITY

I think if anything is clear from today's debate it is that if legal services is going to function effectively and garner political support accountability has to be restored to its operations. This demand is hardly unreasonable; in fact, it is essential. How can we expect the American people to pay for programs like legal services that can so easily squander and misuse their funds.

The local programs funded by the Legal Services Corporation are unique in the extent to which they remain unaccountable to the agency that funds them. Their grant money is automatically renewed each year without any competitive bidding process; they do not have to keep any records as to how they are spending their federal funds; and the local boards that are required by law to oversee the field programs lack the authority to ensure that the local needs of the community are being met.

Local boards were originally established to prevent programs from receiving their annual grant and expending it on what ever glamorous ideological crusade caught their fancy instead of focusing on the actual legal need of the poor in that area. This sensible requirement has been largely subverted as programs have taken it upon themselves to set their own priorities and pursue their own agendas.

In fact, legal services programs brazenly flout their board's authority. At one training session a brochure was circulated entitled "How to Keep Your Mandated Citizen Board Out of Your Hair and Off Your Back," in which programs are urged to create "trivial and meaningless committees" to distract board members and to purposely schedule meetings for long or awkward times to frustrate board decision making.

The amendment before us changes that and will enable the local boards to function as the law establishing the Legal Services Corporation originally intended. It vests the local board with full authority over the selection of cases and matters to be handled by the program. The provision is practical—allowing the board to delegate its authority to the program's executive director, except for decisions pertaining to class action suits. And fair—including sensible conflict-of-interest protections.

Local communities know best what their own needs are and how the local legal services program can best contribute to helping the poor. Strong, committed local boards run by experienced community leaders are the best insurance policy we have that legal services lawyers will put the needs of the poor first, instead of their own political priorities.

SUPPORTERS OF LEGAL SERVICES REFORM

A. Duda and Sons, FL.
Adams County Fruit Growers Association, PA.
Agricultural Producers, Inc., CA.
American Conservation Union.
American Bakers Association.
American Farm Bureau Federation.
American Feed Industry Association.
American Meat Institute.
American Seed Trade Association.
American Sheep Industry Association.
American Sod Producers.
Anchor Group.
Apple Growers of Dutchess County, NY.
Associated Builders and Contractors.
The Associated General Contractors Of America.
The Business Roundtable.
Byrd Foods, VA.
California Beet Growers Association.
California Delta Asparagus Growers Association
Citizens Against Government Waste.
Citizens for a Sound Economy.
Colorado Sugarbeet Growers Association.
Concerned Women for America.
Conservative Campaign Fund.
The Conservative Caucus, Inc.
Cook County Truck Gardeners & Farmers, IL.
Council for National Policy.
Curtice-Burns Corp., NY.
Dade Co. Farm Bureau, FL.
DeBruyn Produce, MI.
Dixie View Orchards, SC.
Eagle Forum.
Eastern Wahington Growers League.
Family Research Council.
The Federalist Society.
Field Service Co., PA.
Florida Citrus Mutual.
Florida Citrus Packers.
Florida Citrus Processors Association.
Florida Fruit and Vegetable Association.
Florida Strawberry Growers.
Florida Sugar Cane Growers Co-op.
Flue-Cured Tobacco Cooperative Stabilization Corporation.
Food Producers of Idaho.
Frederick County Fruit Growers Association, VA.
Free Congress Foundation.
Fruit Growers League of Jackson County, WA.
Fund For A Conservative Majority.
Gramling Bros., Inc., SC.
Grower-Shipper Vegetable Association of Santa Barbara, CA.
The Heritage Foundation.
Hood River Grower-Shipper Association, OR.
Idaho Onion Growers' Association.
International Apple Institute.
John I. Haas, Inc.
Keene, Shirley and Associates.
Knouse Fruitlands, PA.
Landmark Legal Foundation.
The Leadership Institute.
The Lincoln Legal Foundation.
Massachusetts Fruit Growers Association.
National Agricultural Coalition.

National American Wholesale Grocers' Association.
National Association Grocers' Association.
National Association of Home Builders.
National Association of Wholesale Distributors.
National Cattlemen's Association.
National Corn Growers Association.
National Cotton Council of America.
National Council of Agricultural Employers.
National Federation of Independent Business.
National Fruit Products Co., VA.
The National Grange.
National Right to Work Committee.
Naumes, Inc., OR.
New England Apple Council.
New York Cherry Growers Association.
North American Strawberry Growers Association.
North Carolina Apple Growers Association.
North Carolina Sweetpotato Commission.
Northwest Horticultural Council, WA.
Nyssa-Nampa Beet Growers Association, OR.
Oregon Cranberry Commission.
Printing Industries of America, Inc.
Public Service Research Council.
Rinehart Orchards, Inc., MD.
Shade Tobacco Growers Agricultural Association, CT.
Snake River Farmers Association, ID.
South Central Farmers Committee, CA.
State Horticultural Association of Pennsylvania.
Symms Fruit Ranch, ID.
Texas Citrus Mutual.
Texas Citrus and Vegetable Association.
Texas Cotton Ginners Association.
Texas Ranchers Labor Association.
Texas and Southwestern Cattle Raisers Association.
Treasure Coast Harvesting Association, FL.
Tri-County Growers Inc., WV.
Tru-Blu Cooperative Association, NJ.
U.S. Sugar Corporation.
U.S. Chamber of Commerce.
U.S. Business and Industrial Council.
United Fresh Fruit & Vegetable Association.
The United Conservatives of America.
Universal Leaf Tobacco Co., Inc.
Valley Growers Co-op, NY.
Vegetable Growers Association of New Jersey.
Ventura County Agricultural Association, CA.
Virginia Agricultural Growers Association.
Wasco County Fruit & Produce League, OR.
Washington Asparagus Growers Association.
Washington Growers Clearing House.
Washington Legal Foundation.
Washington Policy Group.
Wenatchee Valley Traffic Association, WA.
Western Range Association.
Western Colorado Fruit Growers Association.
Western New York Apple Growers Association.
Yakima Valley Grower-Shipper Association, WA.
Yuma Citrus Shippers Association, AZ.

And most of all, I'm frustrated because it isn't just some academic battle of political prowess we're involved in with this issue. We're talking about poor people who desperately need legal services getting turned away because the funds are being gobbled up by cases which Congress never intended Legal Services attorneys to pursue. It's about poor public housing residents doing their darned best to clean up their projects from the blight of drug abuse, and finding themselves fighting the Federal Government in the process. It's about farmers going out of business and losing lifelong savings, in the process wiping out thousands of jobs for needy farmworkers.

In Texas, the director of Texas Rural Legal Assistance, which received $1,716,675 Federal tax dollars—including farmers' tax dollars—in 1988 wrote:

> Short of raising the tax rate to 500 percent of valuation on all gringo farmers, I find your settlement agreement to be generally fair. . . . Now let's bleed the bastards for some attorney's fees.

Those are his words, not mine. Being as generous as possible in interpreting such an attitude, one can only assume that to this influential Legal Services attorney, caring for the poor can be achieved only by abusing tax-paying farmers. I refuse to accept that such is the expectation of Congress in funding this program.

So I'm frustrated by both the process and the substance of this issue. I don't begrudge Chairman SMITH for trying to take care of his own business with a technical amendment in this way. But I do resent that this tenuous and elusive oppportunity to be heard on this issue has slipped through our fingers one more year.

Yet, deep in my soul I've got the optimism of any good west Texas farmer, and being handed lemons here today, I'm going to do my best to make lemonade. I want to believe the committee process will at last allow this issue the fair hearing it should have. I want to believe that we are not going to continue on with the 10-year status quo in which we fund a program which has no authorization. I want to believe that my colleagues, the gentlemen from Massachusetts and Texas, the subcommittee and full committee chairman, willingly will accept their responsibility in overseeing this program.

For that reason, I would like to engage the gentleman from Massachusetts in a colloquy.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we disagree on the substance of some of the amendments that ought to be adopted, but we do not disagree that there ought to be a reauthorization. If the gentleman from Texas [Mr. STENHOLM] would indulge me, and I know he knows this, Mr. Speaker, but I want to make sure other Members do. It had been my intention in my subcommittee that I chaired, we got jurisdiction over this last year, that we would act to reauthorize, because we all agree in here that reauthorization is better.

The gentleman from Texas [Mr. STENHOLM] has been a consistent advocate of a reauthorization process. Two things slowed us down. One, the President, and I do not say this critically, because this was not the only item on his early agenda, was slowed down in sending the nominees for the Legal Services Corporation to Congress. We and the Senate said no action on authorization until that happened. Once that happened, we started to move quickly.

While the gentleman from Texas [Mr. STEHNOLM], the gentleman from West Virginia [Mr. STAGGERS], and the gentleman from Florida [Mr. MCCOLLUM] have been pushing for reauthorization, the Farm Bureau said specifically they were against the reauthorization. They tried to slow it down a little bit.

I would say to the extent there has been conversation about an effort to derail an authorization, I think that is where some of the misinformation as it applies to the gentleman from Texas [Mr. STENHOLM], and it is misinformation as it applies to him, may have come. The Farm Bureau did take that position in letters and memos.

Mr. Speaker, as chairman of the subcommittee that had jurisdiction, I would say that we brought out a bill. We disagreed, as I said, as to the ultimate results, but with the prodding from the gentleman from West Virginia, the gentleman from Texas, and the gentleman from Florida, I agree with them that just about every issue that is touched on in the gentleman's amendment is an area that needs to be dealt with legislatively.

Mr. Speaker, we have some changes that have to be made. We were on this floor disagreeing, and my guess is that the final package will look in some cases more like they want and in other cases more like what we came out with in our bill. I agree they ought to be brought forward case by case.

I have spoken with the representative of the chairman, and the ranking member of the full committee has agreed with us on this, it is very clear that we have a commitment to bring a bill out, and in my case I hope to reintroduce the subcommittee draft, but that is going to be open for amendment, and I am sure that by the spring of next year we will have on the floor of this House a legal services authorization open to amendment so that all of these points can be fully discussed.

Mr. Speaker, I appreciate the gentleman from Texas [Mr. STENHOLM] giving us the opportunity to make this clear to Members.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to my friend, the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, as an original cosponsor, one who has had some problems in my State, I have to say that I do not agree with the whole package we did, but in any type of compromise you do not agree with the whole package.

I think the point of the gentleman from Massachusetts [Mr. FRANK] was and is that there is some room for improvement here. What we did, we did move out of the subcommittee. I am confident that the gentleman from Massachusetts and the gentleman from Texas [Mr. BROOKS] will move this next year.

I think another point has to be made, and the gentleman made this before our subcommittee: we do need more funding for legal services. Only 20 percent of the people who are eligible receive legal service help.

The one point that I join in with is that I, as a Representative from the Second Congressional District of West Virginia, have to protect my growers. That is something I hope we can do as we find our way through this process.

Mrs. BYRON. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentlewoman from Maryland.

Mrs. BYRON. Mr. Speaker, let me say, first of all, I am very sorry that the gentleman was unable to offer his substitute, because I think it is important that we get some kind of a better definition of where legal services funding is being spent.

Once again, the gentleman from West Virginia [Mr. STAGGERS] talked about the problem that he has had with his growers. I think the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Texas [Mr. STENHOLM] are well aware of the problems that we in western Maryland have had with the growers. I think the money for legal services should be well-spent, as in many cases it has been, but I think there have been several instances where we have seen the money spent for mischief-making. I think the gentleman's substitute would have taken care of that.

Mr. Speaker, I wanted to thank the gentleman from Texas [Mr. STENHOLM] for all the work and leadership he has put into this effort.

Mr. STENHOLM. Mr. Speaker, in light of the assurances of my friend, the gentleman from Massachusetts [Mr. FRANK], and some words that we have also had with the chairman of the full committee from Texas [Mr. BROOKS], I would encourage everyone now to support the amendment of the gentleman from Iowa [Mr. SMITH] today, foreclosing me from being able to offer my amendment today, with the sure expectation that we will settle this issue early next year on this House floor in the proper legislative manner.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very grateful that the amendment is not going to be allowed today. The gentleman from Florida [Mr. MCCOLLUM] could not be on the floor at this moment to voice his sentiment in that same respect, and to voice the sentiment of support for the Stenholm-Staggers-McCollum amendment.

I am one of the Members who supported that amendment last year and would have supported it this year, and will support reform whenever we get the chance, for a variety of reasons.

One, because of the substance of those changes that are sought, to reform the way this organization does its business and does our business, to keep them away from activities that we, most Members I think, would hold them away from, and, third, to get the legislation portion of this bill out of the appropriations bill.

We have had to legislate the legal services in this appropriations bill now ever since I have been in Congress, for more than 10 years, because the Committee on the Judiciary just simply has refused to act.

That is putting it rather bluntly, but let the chips fall where they may. The Committee on the Judiciary has shirked its responsibility on the legal services oversight. We have had to do it. We are not equipped to properly oversee the details of an organization such as this. That is what the authorizing committee is for. When we sometimes are forced to oversee and to do what authorizing committees are supposed to do, many times they object and say the Appropriations Committee should not be involved in legislation. But on this one, on legal services, they begged us, "You do our work for us." We have struggled to do it in this subcommittee for all these years, inappropriately, inadequately equipped to do so.

Mr. Speaker, I would urge the Committee on the Judiciary and the subcommittee in charge to get this bill through that subcommittee so Congress can properly oversee the Legal Services Corporation.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I thank the gentleman and appreciate the spirit. But I do want to just make two points that differ some from what has been said.

First, I do want to make it clear that I and many others do not agree with the degree of the criticism of the Legal Services Corporation that was voiced by my friend, the gentleman from Texas [Mr. STENHOLM].

I agree that there are areas that have to be amended. We disagree in our evaluation, but that is what we will be dealing with in detail next year.

I have to say to the gentleman from Kentucky [Mr. ROGERS], on behalf of the Committee on the Judiciary, that the history is a little different than I think he remembers it.

In 1981, the House Committee on the Judiciary, and the jurisdiction was then in the Subcommittee on Courts, headed by the gentleman from Wisconsin, brought out a bill, brought it to the floor, and it passed. It went to the other body and it died.

We were ready to take it up again, and at that point the dispute broke out between the Senate, and frankly a Republican Senator, Senator RUDMAN, and the administration, over the nature of the nominees to the Legal Services Corporation.

For several years there was no confirmation process. The Senate made it clear to us that until they received nominees that they could deal with and confirm or reject to the Legal Services Corporation, there would be no action.

In 1981 the Committee on the Judiciary brought a bill out. We were ready to move. The bill passed the whole House, in fact, in a form that was something of a compromise.

Since that time, it was held up because of a dispute between the U.S. Senate and the White House over nominees. President Bush broke that logjam, to his credit. It took him longer than all of us, including him, had hoped.

Once that logjam had been broken and nominees were sent forward, the subcommittee that I chaired, which then had the jurisdiction, moved immediately. We had hearings, we had a markup, and the clock ran out on us.

I want to make it clear that there has been no reluctance on the part of the House Committee on the Judiciary. We acted when we had a chance. It then became a dispute elsewhere, and we are ready to resume where we left off in 1981.

Mr. ROGERS. Mr. Speaker, if the gentleman from Massachusetts [Mr. FRANK] will wait a moment, I was very glad to hear the gentleman earlier in response to the gentleman from Texas [Mr. STENHOLM] make the commitment that his subcommittee, of which he is chairman, and the full committee, will in fact bring out a legal services authorization bill be spring of next year.

Mr. FRANK. If the gentleman will yield further, we were on the way to doing that. The subcommittee that I chair, it is not mine, it is one I chair,

brought out the bill. The clock ran out.

I also will point out, and I think if we are assessing where the blame lies here, the gentleman from Texas [Mr. STENHOLM] wanted an authorization, the gentleman from West Virginia [Mr. STAGGERS], did, and the gentleman from Florida [Mr. MCCOLLUM] did. The Farm Bureau has lobbied hard to slow it down. That was part of our problem.

□ 1340

We are now over that, and we will go forward. We have the documents from the farm bill in which they said they do not want an authorization, and we are over that, and we will be ready early next year, and it will be a high priority for us.

Mr. ROGERS. I thank the gentleman for that commitment, and we are going to on our subcommittee be keeping a close eye on that progress.

Mr. Speaker, in the past the Congress has placed some very severe restrictions on the ability of the Legal Services Board to manage the legal services programs through this very bill in the past, over many of our objections. But how many times in the last 2 years have we all heard on our subcommittee, just let us get a new board in there and then these restrictions will not be necessary.

We have a new board now, brand-new board on the scene, and from everything that I know or have heard they represent a good mix of backgrounds and interests. They support the Legal Services Corporation, and so do I and those on both side of this debate.

But when the Senate passed the bill this year in the Appropriations Committee there were the same old restrictions. "You cannot implement any regulations," they said. What is a board that cannot implement its own regulations? "You cannot develop timekeeping requirements for the lawyers that work for these agencies." Practically every lawyer in the Nation working in the private sector keeps time records, and yet the Senate will not let the Legal Services lawyers be required to do so. "You cannot introduce competition in the grant-making process," The Senate said.

Nothing has changed. We have a new board, and the Senate still says you cannot do these things.

What is wrong with every applicant for a Federal grant, I do not care who they are, or where they are or what they do, what is wrong with making them every year justify their grant? This is one of the few agencies, and maybe the only one that I am aware of that says grantees, you get your money and we do not care what kind of job you do, without oversight, year in and year out, without review, without competitions, and I think that should change.

Mr. Speaker, that is why these gentleman wanted to offer this amendment today, and for technical reasons are not being allowed to do so. I hope at some point in time we have a chance to focus on this program and make these changes that they wanted to make in their amendment which is not being offered today.

Should Legal Services attorneys be prevented from diverting dollars toward hundreds of hours of redistricting activities, Mr. Speaker? I think so. They should be prevented.

Should some safeguards exist to protect agricultural workers from frivolous lawsuits? I think so.

What about the most common practice in the legal profession, timekeeping, so there is some ability to account for the Federal dollars that are being spent? That seems elementary.

Should Legal Services programs be prevented from circumventing important guideline through the use of private funds? Since it is the Federal appropriated overhead that enables grantees to collect those fees, that is one obvious loophole we should close.

I hope that the Judiciary Subcommittee will address these and all of the other questions that have been raised about the Legal Services Corporation, bring it to the floor, and relieve this appropriating subcommittee of the responsibility of doing this job which they have done for so long, inadequately equipped, as I said, to do so.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I am pleased that the Farm Bureau and others, are apparently going to make it possible for the chairman of the subcommittee of the Judiciary Committee to bring forward the reauthorization bill next year.

I want to identify myself and associate myself, however, with the remarks of the gentleman from Massachusetts, who chairs that subcommittee, in saying that, though I am eager to have a policy debate on the question of Legal Services here on the floor of the House.

I do not share the opposition to Legal Services that has been expressed by Members who wanted to offer an amendment to today's appropriation bill.

The gentleman from Kentucky [Mr. ROGERS], asked questions that bore a criticism against the Legal Services Corportion. That points toward the debate that ultimately will occur. I am eager for that debate.

I believe that one thing that inspires all Americans about what has happened in Eastern Europe, is the introduction of the rule of law. I think the same principle ought to apply to the poor in America—and without the Legal Services Corporation, it will not.

When the policy debate is joined, I will be on the side of those who are working to have a strong Legal Services Corporation, and I will be against proposals that were embodied in the amendment that was going to be offered today.

The gentleman from Kentucky asked a series of questions. Well, I also have a series of questions that I think will be asked during the policy fight on the authorization bill.

Why should there be a usurption of the role of the local bar associations in setting standards for practice for Legal Services attorneys?

Why should we tell local governments how they can spend their Legal Services dollars?

Why should bureaucrats in Washington, DC be allowed to fire local employees who work for Legal Services Corporations?

Why should people who have violated the rights of the poor be protected from the claiming of attorneys' fees after those rights have been violated?

So Mr. Chairman, I think Members can see from the questions that have been raised so far on the floor today relating to the amendment that will not be offered, that when the reauthorization bill does come to the floor, there will be a significant policy fight. I am eager for that policy fight, because I think that liberties ought to be extended to one and all in this country.

The poor should not be disenfranchised from justice because they are poor, and it is the Legal Services Corporation that ensures that they are not.

Mr. ROGERS. Mr. Speaker, for further debate on the amendment which has not been offered, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I had intended to speak in favor of the McCollum-Stenholm legal services reform amendment today, however for procedural reasons, the House is not being allowed to address this very important issue.

I very strongly regret that we will delay, for yet another year, resolving the serious questions many members have about abuses at the Legal Services Corporation.

At a time when poor clients seeking Legal Services Corporation help on civil cases are turned away, we continue to see Legal Services Corporation attorneys involving themselves in questionable activities which take both time and money away from meeting the real legal needs of poor and needy clients.

For example, a Mississippi legal services program hired a redistricting consultant with Federal funds, and purchased nearly $5,000 of computer time and software to analyze proposed State and Federal redistricting plans.

Mr. Speaker, I strongly regret, that at a time when we are likely facing significant reapportionment activity, the House is not taking the opportunity to set standards for Legal Services Corporation attorneys that would ensure that their time is spent on cases brought by real clients, rather than involving themselves in political battles over reapportionment.

The McCollum-Stenholm reforms would have ensured that abuses such as the Mississippi case would not occur again. Sadly we are not being given the opportunity this year to enact these vitally needed reforms at the Legal Services Corporation.

□ 1350

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, more than 12 years ago I sponsored an amendment to restrict lobbying by Legal Services attorneys.

I explained during the floor debate that I had worked with Legal Aid for over 16 years and strongly supported providing legal assistance to the poor.

If we take the money that is being spent on lobbying, we will have much more money to spend on representing the poor in court, and in other matters, where they should have more representation than they have.

A majority of this House agreed with me on that occasion, and they have every year since. Since 1978, there has been an appropriations rider restricting lobbying by Legal Services attorneys.

Unfortunately, there are loopholes in the law. One of those loopholes is as follows: "except that nothing in this proviso shall prohibit communications mailed in response to a request from a Federal, State, or local official." Actually all it has done is that a Federal, State, or local official who is friendly to the point of view that they might have, opens the door for them, and the lobbying begins anew.

Our legislation has had, for these reasons and others, very little effect. We still receive complaints about Legal Services attorneys using tax dollars to lobby for pet political causes. At the same time, they come to us, and say they do not have enough money to represent the poor.

The GAO just completed its investigation of lobbying done by Legal Services programs against the confirmation of Judge Robert Bork to the Supreme Court. Whatever you think about Judge Bork's nomination, we can still agree that it is inappropriate to turn away individuals who desperately need legal assistance, while attorneys devote their time to their own political agenda. This is not the first GAO report that has criticized impermissible lobbying by Legal Services attorneys. It will probably not be the last unless we strengthen the language concerning lobbying and political activity.

Legal Service programs currently employ approximately 650 lobbyists with taxpayer money. That is nearly 15 percent of all of the Legal Service attorneys. When we have so few Federal dollars to spend for Legal Services, we have to make certain that the money is actually used to provide services.

Hundreds of legal-aid attorneys are registered lobbyists right here in Washington, DC, and in other places. I think the McCollum-Stenholm amendment means accountability and should be adopted even though it is not permitted by the rule.

Mr. ROGERS. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, often silence is considered to be consent.

I appreciate the gentleman from Texas not offering the amendment. We are going to be able to work this out. I do not want to prolong the debate. I just want to say on behalf of many of us who believe Legal Services does a very good job, in this case, silence to criticism is not assent.

Mr. ROGERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume. It will not be very long.

I just want to say that I support legal services for the poor. I think there is a need in this country for such legal services. We know that pro bono does not furnish enough services. We know that IOLTA does not furnish enough services.

We just know that this program is necessary. In this country, access to justice is very important. You cannot get it in many cases unless you have a lawyer to negotiate the obstacle course.

I do not know the number for last year, but a couple of years ago 38 percent of the cases handled by Legal Services were for people who were trying to get something they were entitled to. Of course, heavily involved in that was Social Security. You have to prove that you have a right to entitlements in this country. So we need the Legal Services Corporation.

Back 9 or 10 years ago, the appropriation for this program was $321 million. That is all it was. In the previous year, 1990 the final appropriation was $316 million. For next year it is only $327 million. This is one of the few accounts that has stayed at the same dollar level. Of course, that means a very substantial cut in real funding.

There have been excesses in this program. That is the reason we had to write all this language in here. There are provisions in here against lobbying, there are provisions against political activity, there are provisions against class actions unless they are cleared under a process. They have had a lot of restrictions, which we had to do because they have not had an authorization.

Of course, the administration outrightly opposed, up until the last couple of years, any money or any Legal Services Program. Now we have the administration's position which is they do not outrightly oppose the program. We thought that they were getting aboard and we could rely on them and that maybe we, the Appropriations Committee, could get out of this authorization business. We are expecting, we are not just hopeful, we are expecting that an authorization for Legal Services will be on the floor next February and that the Members will probably have a day or two, if it is necessary, to work out all of these details. We hope we will not have to continue to put these provisions into the appropriations bill.

We have had to act for 10 years as an authorizing committee and an Appropriations Committee, put on limitations and all of these things that we do not want to do in an appropriation bill. I hope that the authorization bill will come up next February or as soon as it can next spring and that these matters get resolved, and next year our business will be appropriating instead of trying to put limitations on this agency and to keep it alive.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 164: Page 31, after line 10, insert:

SEC. 609. Section 207(f) of title 18, United States Code, as amended by section 101 of the Ethics Reform Act of 1989 (103 Stat. 1722), is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE FOR TRADE REPRESENTATIVE.—With respect to a person who is the United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising

foreign entities within 5 years after the termination of that person's service as the United States Trade Representative.".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House insist on its disagreement to the amendment of the Senate numbered 164.

The SPEAKER pro tempore. Does the gentleman from Iowa [Mr. SMITH] seek time on this motion?

Mr. SMITH of Iowa. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I support the Committee on Appropriations. They brought this matter back in true disagreement.

Obviously this is legislation on an appropriation bill. It is more than that. It is a personality fight not involving any personality in this House, and it is an attempt to discipline a public servant.

I am not going to express any opinion on that, but there are committees of this House dealing with ethics, and this is a matter that, if it is needed to, should come before the Committee on the Judiciary and be taken up by the Committee on the Judiciary.

There should be a public hearing, and there should be debate on this floor about it. So the Committee on Appropriations, the subcommittee on this particular bill, did an excellent job bringing this back in true disagreement, meaning that they did not accept the Senate amendment, and they brought it back here for debate and discussion on this House floor.

So let us go the regular order of business. Let us take this up in the appropriate committee here.

I am not a member of that appropriate committee, but I do think it ought to be handled in the regular way and not by bringing it up here as legislation on an appropriation bill.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I am happy to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to repeat the gentleman's congratulations to the committee for not allowing the other body to put this one over on us.

This is a mean-spirited, churlish amendment directed at a single individual.

Our laws here should have equal application, and if something is in disorder, we should put it in order for not for one person, but for everybody.

I thank the gentleman, Mr. GIBBONS, for his comments, and I particularly thank the chairman of the subcommittee for standing up to the other body by moving to excise this offensive amendment.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we got into conference on this, and as we do in all questions, if it involves a legislative matter, we check back with the appropriate legislative committees. We have tried desperately to do what the legislative committees want to do if we think we are invading their jurisdiction.

□ 1400

In this case, we checked back and we found out that the legislative committee did not want Members to agree to the Senate amendment. That is the reason we are here today. I made this motion because legislative committees said they opposed this provision and it under the legislative jurisdiction.

I understand that some people think the other way. I do not care which way Members think. We thought the issue needed to be brought back to the House for resolution, whatever resolution that may be.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

This is a shot across the bow from the Senate side, actually from one Member on the Senate side. I think it has the intended effect, I think he got his message across, and probably some others as well. However, we cannot let this become law.

Whatever Members' views may be on this agency, the amendment does single out one trade official in our Government, and one only, for punishment undue. We have objections to the amendment from the leadership of three authorizing committees of this House, each of which of either jurisdiction or great interest in post-employment and ethic matters, they all object to this provision, along with our subcommittee.

Therefore, I join my chairman in recommending that we strongly agree with the Senate amendment, and stand by it.

Mr. KOLBE. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Speaker, I want to join with the comments that the gentleman from Kentucky has made, as well as the chairman of the subcommittee, as well as the gentleman from Minnesota [Mr. FRENZEL] a moment ago, in suggesting that this amendment which was attempted by the Senate, is one which has no place on this piece of legislation.

Mr. Speaker, there is no evidence that we have a significant problem with the U.S. Trade Representative. There is no evidence that that individual or that office has been acting in a fashion that is contrary to the ethics rules or the laws of the United States, or has been in any way operating in a fashion that suggests that there needs to be a change in the law to single out one official of the U.S. Government, as this opposed amendment by the Senate would do.

The United States to, as the gentleman from Minnesota [Mr. FRENZEL] suggests, we need to apply our laws in an equal fashion to all the top representatives of our Government. An amendment such as this which would single out one official, a top U.S. trade official, not only is incorrect and demeaning, but it would make it virtually impossible for Members to get good people to serve in what is certainly one of the most important positions in the U.S. Government. I think it is very important that this body take a strong stand on this and not commit legislation on this appropriation bill, not permit one individual who has a problem with the U.S. Trade Office to single out an official in the U.S. Government for this kind of treatment. I strongly urge that we support the chairman's motion.

Mr. ROGERS. Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR Mr. Speaker, I rise in opposition to the amendment and do so out of a very strong conviction that the U.S. Trade Representative position is the most important trade position in the Government of the United States.

Current law provides that when the individual leaves that office, there is merely a 1-year ban on that person going to work on behalf of a foreign interest. That could be a foreign political party, it could be a foreign government, it could be a foreign corporation, that could then lobby the Government of the United States. I truly do not believe that a 1-year ban is sufficient. I do not regard this particular language that has come from the Senate side as being directed at any one individual, but rather as the key trade position in the Government of the United States.

It is no secret that since the mid-1970's, half of our top trade ambassadors, the top people that have handled all the negotiations of this Government, have left and have become regis-

tered foreign agents. I think it is absolutely unconscionable that we ask that they only lay off of using their influence with this Government for 1 year. Who are we kidding? We know the revolving door that exists in this city where people come in and come out for a short period of time, and then cash in on the very experience that they gained at the expense of the American people.

I think this is a very important amendment. It is probably one of the most important ones in the bill, because it points up one of the most serious flaws in our system. That is an issue I have worked on with several of our colleagues, especially the gentleman from Michigan [Mr. WOLPE]. I think that we should not concur with the House position but rather with the Senate position to ensure that our trade negotiator, especially the one on top, is working on behalf of the United States, because too many of our trade officials, including the top U.S. trade ambassadors, have their eye on post-government employment rather than conducting the business of this Government.

Mr. SMITH of Iowa. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I want to rise in opposition to the amendment, and to associate myself with the remarks of the gentlewoman from Ohio [Ms. KAPTUR]. I think we have a serious problem. I do not think this is a subject that should be trivialized. The issue is not the incumbent Trade Representatives. It is not even exclusively that of the position of the Trade Representative. The issue really goes to the whole of the trade bureaucracy.

The problem the amendment of the other body seeks to address is the problem of the revolving door. Between 1973 and 1990, one-third of the U.S. Trade Representative officials who held principal trade positions, left to become registered foreign agents. In the same period of time, four of the eight individuals who served as the Special Trade Representative became lobbyists for foreign concerns. All but two of those who served in the Office of General Counsel of the Special Trade Representative, America's top trade lawyer, hired out as foreign agents when they left the employment of the American Government.

Mr. Speaker, I think there are two serious issues presented here. First of all, there is the question of the insider knowledge and the special access that people come to enjoy when they are privileged to serve in the highest positions of our Government, and the way in which that insider knowledge and special allies is used on behalf of foreign interests.

However, there is a second question, and that goes to the issue of the trade bureaucracy itself. American taxpayers have the right to expect that people who are in the American Government are advocating on behalf of America's national interest, and are not being influenced in their advocacy by the prospects of future employment as highly paid lobbyists representing foreign interests. It should also be underscored that Government service needs to be more than a finishing school for highly paid lobbyists. For too many people, that is what it has become.

Another point that needs to be stressed, I think, is that the revolving door is now turning two ways. It is not only a question of top level American Government officials working for foreign interests, but now also a question of people who were employed by foreign governments or foreign interests suddenly coming back into the employment of the American Government.

I think the issue here is the appearance of impropriety. I think it goes to the heart of the question of public confidence in our public institutions. This question is particularly serious now as it relates to the trade question, precisely because we are moving into a new era of trade negotiations worldwide. All of the trading rules of the game are up for grabs. It is important, I think, that Americans have confidence that those who are negotiating on behalf of American interests are not being influenced by the prospect of future employment, not even unconsciously because of the kinds of personal relationships that get established in the course of their activities with foreign governments and foreign interests.

□ 1410

We made a beginning in the ethics legislation that we passed earlier which prohibited top level officials from working on behalf of foreign interests for 1 year. I want to thank economist Pat Choate for his efforts in this battle. He characterized the revolving door problem in his recent book, "Agents of Influence" which I would commend to my colleagues.

Still, what we have accomplished is only a beginning. We need to return to this issue again in the next session of Congress. I believe legislation should apply to an entire bureaucracy and not be directed at one official. This will continue to be a serious problem until we put a clamp on the revolving door.

The SPEAKER pro tempore (Mr. MCNULTY). The time of the gentleman from Michigan has expired.

Mr. ROGERS. Mr. Speaker, I yield 1 additional minute to the gentleman for the purpose of a colloquy.

Mr. WOLPE. I would be happy to respond, and I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, let me ask the gentleman a question.

Assuming for the moment that we agreed with the provision, is this the place on an appropriations bill, without any hearings, without any record being made up of whether or not it is a good idea; is this the place for us to make this big change in the ethics law of the land?

Mr. WOLPE. Mr. Speaker, if the gentleman will yield for me to respond, I have no quarrel with the proposition that this is not the ideal place in which to insert this amendment. Nevertheless, the amendment is there and I think it is important; therefore, that the issue be addressed and that is what I have attempted to do.

Mr. ROGERS. We are hoping, Mr. Speaker, that the provision will be denied today. If the gentleman wants to hold hearings in the Judiciary Committee, or wherever it is supposed to be heard, that is wonderful. Have the hearings and bring us a proposal on the floor after there has been time to examine the pros and cons. Please do not legislate something like this on an appropriations bill.

Mr. WOLPE. The gentleman's point is well taken. But I did want to react to the suggestions that were made in the course of the earlier debate that somehow this problem of the revolving door is not a real issue. I think it is a very real issue.

Mr. SMITH of Iowa. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, the aforementioned subcommittee of the Judiciary Committee that I chair also has jurisdiction over this item. We are indeed a lucky subcommittee.

I agree that action ought to be taken. In fact, through the work of the subcommittee I chair, action was taken. In fact, the gentlewoman from Ohio and the gentleman from Michigan were among the major goads in getting a comprehensive bill that for the first time puts restrictions on both the executive and the legislative branches for postemployment restrictions. It did not do everything we wanted.

Unfortunately, it was vetoed by President Reagan in 1988. It was reenacted and then signed into law as part of a comprehensive piece of legislation late in 1989 that delayed the effective date some.

I think there ought to be some tough across-the-board standards, but there are several reasons not to do it here.

First of all, it singles out Carla Hills. That is unfair. That is not a sensible way to legislate. That is not reasonable.

The gentleman from Michigan correctly pointed to some problems in the

Office of the U.S. Trade Representative. This amendment does not get at them. It is only the U.S. Trade Representative herself.

In addition, it is too broadly drawn. It bars any foreign entity, the U.N., the World Bank, the Inter-American Development Bank. There are important entities in the world that are not American that do good work, that our Government might want to see people working on.

This amendment would prevent the U.S. Trade Representative, only the U.S. Trade Representative, from consulting with international financial institutions in a way that we might find beneficial.

Suppose an entity says, "Look, we would like to comply with some American rules. We would like to promote trade with the United States. We would like some advice on how to drop some of our trade barriers."

Why should the U.S. Trade Representative be statutorily barred from undertaking that kind of a mission? As I read the amendment, that is what it would do.

Finally, we have the problem—we tried to do this uniformly—we have the problem that there are different conflicts of interest or post-employment rules for different agencies of Government. When the Chief Executive is recruiting, he ought to have a set of recruitment rules that are equal. Someone should not say, "Well, let's see, if I go to work in this agency, I will have less of a problem after I quit than if I go to work in that agency."

People who think this ought to be strengthened should come forward. We have dealt with it before. It was, unfortunately, vetoed. A form of it was done. We should come and do it again.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. FRANK. Yes, I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I just wanted to let the record show that the gentleman from Massachusetts, as the very able Chair of that committee, has brought the bill forward that did permit us to enact into law in the Ethics in Government Act a 1-year ban.

Now, it is true that many of us wanted a much longer ban, a minimum of 4 years, which is really the current situation as far as the former trade official for the Government, probably longer, but I know we would not have made any progress without the gentleman, and I really think the whole Nation should give the gentleman credit that he has not gotten for the work that he has done in this area, but I know the gentleman could not get the rest of his committee, and he certainly could not get two Presidents of the United States, Mr. Reagan and Mr. Bush, to agree with the gentleman; but I think that the small baby step that the subcommittee has taken and the full committee in this House is a step in the right direction.

Mr. FRANK. Mr. Speaker, I hope the Nation will pay close attention to the gentlewoman from Ohio at this point.

One other point I would say to the gentlewoman, as I said before, we agree, more ought to be done, and the Judiciary Committee, I believe, would be willing, eager, in fact, to reopen this issue next year to begin to look at it and to go into it more broadly, but this is not a very good forum in which to do it.

Mr. ROGERS. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. KOLBE], a member of the subcommittee.

Mr. KOLBE. Mr. Speaker, I just want to reiterate one point that has been made by several people and make two other quick points.

This is an important policy change. There have been no hearings, no discussion on this. It is a major change to single out one individual in the U.S. Government and apply this additional restriction that does not exist to anybody else. It certainly should not be done in the context of an amendment which is brought to this body through a conference committee. It ought to be done through the appropriate authorizing committee.

The second point I would make that the gentleman from Michigan talked about, the fact that he listed a number of people in the Counsel's Office who have gone to work representing foreign governments, but this does not apply to them. This applies to one single individual, and I think it is particularly onerous to do that.

The last point I would make also that the gentleman from Michigan referred to, the insider information which the U.S. Trade Representative brings to these kinds of discussions after he or she leaves office, I just would suggest that I think the half-life for that kind of information is very short and that the value of that after 1 year of being out of office, which is now the current law, is not very significant.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR. Mr. Speaker, before we vote on this amendment, and I do rise in support of the Senate amendment, I want to ask the Members to ask themselves, how many of you are wearing an American wristwatch, or take photographs with an American-made camera, listen to an American-made stereo at home, watch American-made television, have an American-made VCR, you cannot buy one, have an American-made Fax? You cannot buy one.

In my lifetime, we have gone from the world's greatest shipmaker to a Nation that has not built a merchant ship in 3 years.

Bit by bit we are giving away the American dream. Last year this Nation had $350 billion worth of nonoil imports. We had a $100 billion trade deficit.

Someone is giving away the American dream.

Now, this is not the total cure for people who should be representing our interests going to work for foreign entities, but it is a start in that direction.

Mr. Speaker, I support the efforts of the gentlewoman from Ohio. I think we should reassess our position and start rewarding people for looking out for America.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, when I make speeches at home to Rotary Clubs or to labor unions and I talk about the fact that today America subsidizes its allies to the extent that we spend almost 20 percent of our tax money subsidizing the defense of Europe and Japan, talk about the fact that foreign ownership in this country has tripled in the last 7 years, talk about the fact that we do not require trade reciprocity from our allies, and we allow them to sell anything they want here, even though they block the sale of our products over there, and when I tell them that our most important public officials after they leave office are able to go right to work for our foreign competitors and take the prestige and the knowledge they gained while serving the public here and put it to work for profit for our foreign competitors, they shake their heads in disgust and wonder and ask, how can this be true? Why does not anything happen to stop it?

Well, today we have an opportunity to say that the U.S. Trade Representative shall not be allowed for 5 years after that person leaves office to go to work for a foreign government or a foreign political party. That is as reasonable as apple pie and has as much common sense as it can possibly have.

All our corporations in America are accustomed to entering into agreements with their key employees to provide they will not be allowed to go to work for the competition for a certain number of years after they leave. That is very common.

Is it not fair enough to do that for the American people as well, for the person who is creating and managing our trade negotiations with foreign countries, that they not be allowed to go to work for their foreign government or for some political government for the next 5 years?

That is all that the proposal by the gentleman from Michigan [Mr.

WOLPE] and the gentlewoman from Ohio [Ms. KAPTUR] provides. That is all that it does.

Mr. Speaker, I strongly urge the House to vote no on the motion to be made by the chairman of the subcommittee in a few moments, and to vote with the gentlewoman from Ohio [Ms. KAPTUR] and the gentleman from Michigan [Mr. WOLPE]. I congratulate them for bringing this once again to the attention of the House.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

□ 1420

With respect to the last speaker's mention that anyone working in the trade office can the next day go to work for a private concern, that is just not correct. I cite a letter from the chairman of the Committee on the Judiciary, JACK BROOKS, to the Honorable NEAL SMITH, the chairman of our subcommittee, dated October 15, in which he says, and he is restating the law:

> The law imposes a specific 1-year ban on those who were involved in trade negotiations, and a 1-year ban on aiding or advising a foreign entity before any department or agency of the Government.

Mr. Speaker, there are laws on the books that protect you from people in the trade department going immediately to work for a foreign government or anyone else, for that matter, for a period of time after they have served in the U.S. Government. The law is adequate, in my opinion, unless you want to have hearings on the subject before the Committee on the Judiciary and build a record. But to come in before the Congress in the context of a conference report with the Senate where there was no provision in either one of our bills, except on the Senate side, and without hearings, without any facts to support the argument, it seems to me very, very——

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman's suggestion is an excellent one, and I would be the first one to take up the Committee on the Judiciary's offer of additional hearings in this area to increase the number of years included in the ban.

But I honestly think the gentleman fully understands that a year ban is almost laughable, knowing it takes that long to get your phones connected, your furniture moved in, your rolodex all set up and take your little vacation before you get your job after leaving the Government.

So the 1-year ban in the current law really is a very weak provision. And I accept the gentleman's proposal that we hold hearings in the future in order to extend the number of years included in the ban.

I think it is an excellent one.

Mr. ROGERS. Reclaiming my time—and I thank the gentlewoman for that word—I would refer the gentlewoman to the chairman of the committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], who said in the letter, quoting from the letter of October 15 to the chairman of our subcommittee,

> These "revolving door" prohibitions are intended to protect the integrity of the Government's decision-making process while recognizing the legitimate rights of former Government officials. I believe the current post-employment law effectively balances these competing interests and does not impose unduly onerous restrictions on former officials.

Quoting further,

> Any attempt now to single out individual positions of the Government for further restrictions on their post-employment activity would undermine the basic policy decisions embodied in section 207, and would set a bad precedent that could lead to future lobbying bans aimed at specific Government individuals.

He would urge you to reject the Senate proposal as would we.

Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I know this amendment came from the other body. We know who the author is.

However there may be a phantom author. There has been much talk lately of a book by a chap by the name of Choate, who has cut a wide swath around Washington, who trades on xenophobia, protectionism and industrial tinkering. His book has caught the fancy of a number of our Members. It may have been the inspirations for this amendment.

But I do want to say that I do not believe the Senate author of this amendment means any special harm to our current USTR. I think his amendment is calculated to improve the chances for increased protectionism in the United States.

For instance, it is pretty silly, in my judgment, to suggest that the Trade Representative is one that should be singled out for special acclaim here rather than the director of the IRS or the Secretary of Defense. Both of them are, obviously involved with a lot bigger numbers than the U.S. Trade Representative. That this amendment ignores them gives it its own peculiar odor.

This will insure that the United States would be only able to hire more incompetent people than it has now. It would be able to strip from its employment roles nearly everybody of competence or experience.

If one looks at the history of the USTR's, one would find that the most recent one did not wait 1 day to go into the service of Japan or the EC or Outer Mongolia, as has been suggested today. Instead, he went into the service of the Agriculture Department—another nefarious institution.

The one before that, the Honorable Bill Brock, a former Member of this body, former Member of the Senate, is in private practice and has taken no foreign customers, save one. That customer is known to all of us, and that work is consistent with the aims of the U.S. Government.

So there has not been a problem in this area except to a couple of Senators, a couple of Representatives and one very imaginative writer of xenophobic prose.

This issue goes beyond simply legislating on an appropriations bill. That is the first thing we have to consider, and that is the reason why the amendment must be adopted.

It also goes beyond singling out one person for egregious treatment, because I really think the people who are supporting the amendment have nothing against the incumbent USTR. Still it is flawed because of its rifleshot characters.

But, worst of all it speaks to an America afraid to compete, afraid to be active in an open, competitive environment. It reeks of xenophobia, protectionism, and fear. It is an ugly omen of a reduced, diminished future for the United States unless we are willing to act like Americans have always acted, being willing to compete in free markets.

This is an amendment unworthy of this body. The motion to recede should be swiftly and unanimously adopted.

Mr. ROGERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

> Senate amendment No. 165: Page 31, after line 10, insert:
>
> SEC. 610. (a) None of the funds in this or any other act may be used to approve the licensing for export of any supercomputer or associated technology to any country that (1) is assisting, officially or unofficially, or (2) whose nationals are assisting Iraq to improve its rocket technology or chemical, biological, or nuclear weapons capability.
>
> (b) The Secretary of State is directed to begin immediately negotiations with those governments, including the United Kingdom, Brazil, and Japan, with whom the United States has bilateral supercomputer agreements, on conditions restricting the transfer of supercomputer or associated technology to countries falling within the definition of section (a).

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 165, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 609. (a) None of the funds in this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose government the President determines to be assisting Iraq to improve its ballistic missile technology or chemical, biological, or nuclear weapons capability and so reports to the Congress.

(b) None of the funds in this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose nationals are assisting Iraq to improve its rocket technology or chemical, biological, or nuclear weapons capability: Provided, That this provision shall apply only if the President determines that the government of the country has made inadequate efforts to restrict such involvement by its citizens or corporations and so reports to the Congress.

PARLIAMENTARY INQUIRY

Mr. SMITH of Florida. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SMITH of Florida. Mr. Speaker, is the gentleman in the minority, the gentleman from Kentucky [Mr. ROGERS] opposed to the motion offered by the gentleman from Iowa [Mr. SMITH]?

Mr. ROGERS. Mr. Speaker, I support the motion.

Mr. SMITH of Florida. In that case, Mr. Speaker, I demand one-third of the time on the motion offered by the gentleman from Iowa [Mr. SMITH]. I am opposed to the motion.

The SPEAKER pro tempore. The Chair rules that under rule XXVIII the time will be divided three ways.

The gentleman from Iowa [Mr. SMITH] will be recognized for 20 minutes, the gentleman from Kentucky [Mr. ROGERS] will be recognized for 20 minutes, and the gentleman from Florida [Mr. SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

PREFERENTIAL MOTION OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Preferential motion offered by Mr. SMITH of Florida: Mr. SMITH of Florida moves that the House recede from its disagreement to Senate amendment No. 165 and concur therein.

Mr. SMITH of Iowa. Mr. Speaker, I ask that the question be divided.

The SPEAKER pro tempore. The question will be divided.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Senate language involves the export of not just supercomputers, but also associated technologies, whatever that may be. The language is so broad that it was the feeling of most of the conferees—and also of the members of the legislative committees in the House that I consulted with—that the Senate language would virtually shut off all foreign sales by computer companies in the United States. It was so broad, for example, that if some individual in France were to sell a used computer, PC or anything, to someone from Iraq, then all sales to anybody in France would have been shut off.

So we tried to tighten up the language. We thought that the language that we had finally agreed to and put into the conference agreement as a substitute would, in fact, accomplish the legitimate objectives of the original language without doing all the damage that it did.

□ 1430

So, Mr. Speaker, I support the language which we have is included in my motion.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the motion of the gentleman from Iowa [Mr. SMITH], the chairman, and hope that we will not adopt the Senate language. The language that was passed and brought to us in the conference, as the gentleman from Iowa [Mr. SMITH] has said, was so loose and so ill-defined that no one could really determine what was the intention.

Let me read some of this language to my colleagues. Here is what we were trying to clean up, and if any of my colleagues disagree, that this is not loose, then I would like to know about it.

The Senate said none of the funds in this or any other act may be used to approve the licensing for export of any supercomputer or associated technology; does that mean toothbrushes or what, to any country that one is assisting officially or unofficially. Now what does that mean? What is unofficial support? What is official support? We took that language out. Or, two, whose nationals are assisting Iraq to improve its technology and so forth? Well, who is to determine all of these things? There was nothing in the Senate language that would determine whether or not a country is assisting Iraq or is not.

So, Mr. Speaker, we attempted to tighten up the language. We think we have got language that does what was intended of the Senate, and that was to prevent supercomputers from being sold to Iraq, which we all do not want to happen. But we do not want to shut down all U.S. industries period on account of some loose language.

So, Mr. Speaker, as the gentleman from Iowa [Mr. SMITH] the chairman, says in the conference, all but one of us, all but one of us, agreed on the language that we brought back to our colleagues here. We simply struck out that language that was ambiguous, in many cases meaningless. We struck out the term "associated technology" because no one could determine what that was. We struck out the words "officially" or "unofficially" because no one knows what that means, and we did put in language that allows someone to decide whether or not a nation or one of its nationals is assisting Iraq. And that is the President. Someone has to decide. It has to be the executive branch.

So, Mr. Speaker, that is the language that we cleaned up. We think it is language that needs to be straightened up. It would be in my judgment a sad, sad mistake to take this Senate language because no one knows what it means, and it could work mischief on many American manufacturers legitimately who need to sell products overseas or to a foreign country and has nothing to do with Iraq.

So, I would hope that the body would agree with the chairman of the subcommittee and its vice chairman in sticking with the language that we brought to our colleagues.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to reject the motion made to recede and concur in the State language as amended by a Senate amendment, and defeat this motion and then to ask them to vote yes on my preferential motion, which is to concur with the original Senate language.

The matter at hand is really quite simple, yet it is really one of grave national importance. Will this Congress continue to turn its back to the efforts of our own administration and the big business lobbyists in this country to assist Saddam Hussein, even indirectly, to improve his missile technology and possibly produce a nuclear weapon, or will this body act decisively and stop the Commerce and the State Departments, notorious in their clientitis, from undertaking these shortsighted actions? If we do stop them, if we do reject this motion and take up the original Senate language, we will be right. We will be supporting the same position as the Department of Energy in this country, the Arms Control and Disarmament Agency and hundreds of private, but very knowledgeable, institutions and foundations around this country which deal in for-

eign policy, and foreign military policy and trade policy.

Senate amendent 165 came about as the result of a deal specifically relating to the sale of a vector processor, a component which converts a regular computer into a supercomputer. It is not a supercomputer. It is a piece of equipment, a vector processor, which turns a regular computer into a supercomputer. That sale by a United States firm here in this country is being made to a quasi-governmental Brazilian aircraft manufacturing firmed named Embraer. For years now, many Members of Congress, administration officials, and academics have been critical of the military relationship which has existed between Brazil and Iraq. During the Iran-Iraq war, Brazil netted $3 billion in arms sales to Iraq and this degree of cooperation continued even after hostilities ceased, and is continuing now.

In one sense it would be unfair to cast blame on Brazilian companies for continuing their arms trade with Iraq subsequent to the termination of the Iran-Iraq war because so many other nations have also acted irresponsibly in this regard. On the other hand, Brazilian firms have helped Iraq acquire some of the most sophisticated and destructive weapons known to mankind and, even after Iraq's invasion of Kuwait and United States and multinational troops had been deployed to the Persian Gulf, a group of 23 Brazilian ex-government officials continued to help Saddam improve his arsenal.

The most disturbing aspect of this proposed sale of vector processors, and I hope my colleagues will listen closely at this point, is that there is irrefutable evidence of direct links between the Brazilian military team and Embraer, the quasi-governmental agency, the exact same organization our State and Commerce departments want to sell the computer to.

When the leader of the military delegation, Gen. Hugo Piva, arrived in Iraq to begin work on upgrading an air-to-air missile in May 1989, he was the chairman of Orbita Espacial—a partnership in which Embraer was a 40 percent shareholder. Hugo Piva, while in the military, was in charge of converting a Brazilian space rocket into a missile large enough to carry a nuclear warhead, and of secretly making nuclear weapons material. Second, any members of Piva's team are ex-Embraer employees, and as such still retain strong ties to the Brazilian Government, through this quasi-govenmental Embraer organization.

With the availability of this vector processor, that turned the computer into a supercomputer, and this is very important a missile designer can simulate the thrust of a rocket engine, calculate the heat and pressure on a warhead entering the atmosphere and simulate virtually every other force affecting a missile from launch to impact. In a third world missile program, a supercomputer can drastically cut development costs, time and the need for flight tests—a supercomputer can, in essence, be the decisive factor in missile development.

While there is no definitive picture of the full range of projects the Piva mission worked on in while in Iraq, press reports have given us glimpses of the mission's mandate.

□ 1440

According to the Brazilian press, which has been confirmed by United States officials, the team was training the Iraqis in rocket aerodynamics, flight testing and the control of rocket trajectories, and the team also assisted Iraq to launch a space rocket big enough to orbit satellites in December 1989. The Brazilian press has also reported that the Piva team was working on a sophisticated supersonic air-to-air missile based on the design of the United States Sparrow missile.

As provided for in the Senate bill, this provision existing in the original bill before the Senate, would deny funds for the licensing of supercomputer exports to any country that is assisting or whose nationals are assisting Iraq to improve its missile, chemical, biological, or nuclear capability; and that original language directed the Secretary of State to negotiate with countries with whom we have bilateral supercomputer agreements to restrict supercomputer exports to countries assisting Iraq.

Remember, this language in the original Senate bill, there was no language at all in the House bill, deals only with Iraq; no other country. We are not talking about any of the other countries in the world. Solely with reference to Iraq. Remember, we have 200,000 American young men and women there on the ground right now.

The provision as modified by the conference committee, denies funds for the licensing of supercomputer exports to any country that the President determines has been assisting Iraq to improve its rocket or CBN technology.

The President must determine and report to Congress that the government in question made inadequate efforts to restrict the involvement of its nationals in assisting Iraq in these efforts.

The problem with the conference report language, which was the amendment which was put on by the Senate to its own language, because the House had no language, is that, one, it requires a Presidential determination in advance that a country has been assisting Iraq. I am sure that many Members know the inability of this administration through its inability to come to any grips with sanctions on Iraq, or to put up any Presidential certification on any countries that have been producing drugs or transporting drugs, would be a preventative for this administration to tell this Congress what the Congress wanted to know. After all, they did not even tell us or anyone else that Kuwait was going to be invaded by Iraq while Iraq was sitting on the border for 10 days.

Second, the new language that I wish we would vote down, requires Presidential determination and report to Congress that a country's efforts to restrict its nationals' involvement has been inadequate.

The gentleman from Kentucky [Mr. ROGERS] said that the thrust of the original language was wide open. This is very interesting language. This certainly ties it down very tight.

The amendment said so we need to get the Presidential determination and report that a country's efforts to restrict its nationals involvement have been inadequate. That means that if efforts have been adequate, but the results inadequate, we would continue to sell to a country technology that its nationals could continue to transfer to Iraq, and the President would be well within the bounds of the law. Eventually, there is no doubt they could get satisfactory results, because even though they were trying hard, if they were not winning, we would keep shipping them more and more and more technology, until one day the President would say, "OK, we can't ship any more. They have achieved their rocket capability. You win, no more technology."

The only difference is, they would then have the rockets that we did not want them to have in the first place.

Third, amendment No. 165 in its original form stands a better chance of halting indirect assistance to Iraq via third countries by denying to those countries that have been assisting Iraq, namely Brazil, for years, the technology that could be used to develop weapons to kill American servicemen and women.

Remember, let us be realistic. We are not talking here about an abstract example of what our trade policy should be. I do not disagree with the gentleman from Iowa [Mr. SMITH] or the gentleman from Kentucky [Mr. ROGERS] or any of the others who are going to speak on this, my dear friend, the gentleman from Connecticut [Mr. GEJDENSON], a member of the Committee on Foreign Affairs, the chairman of the Subcommittee on Economic Policy and Trade. They want open and more free trade. I do, too.

I have never stood on this floor and tried to close trade down, except we are talking about Iraq. Except we are talking about a country that invaded Kuwait, broke every international law,

has Americans hostage, has raped and pillaged the country, has put 200,000 of our people at risk. Now somebody comes up here and says, "Oh, wait a minute. We shouldn't deny them any export licensing, even though it is going to Brazil, even though it may wind up there. After all, you don't want to offend anybody."

Well, I do. I don't mind offending Iraq, and I don't mind offending Brazil, if they are going to be shipping technology to Iraq that is going to put our young American men and women in grave jeopardy of their lives.

The whole balance in the region has changed. All the cards in this game are different. Our men and women are now there. That should change the rules of the export licensing theory that we had in this country.

Mr. Speaker, before concluding, I would like to make one more point. Many of the proponents of this sale have argued that the prohibition of this sale, and remember, this all came about as the result of one vector processor sale for $400,000. This is not a matter of jobs, this is not a matter of anything, but our desire to either ship anything that there is to ship from this country, or our desire to make sure that we do not ship anything that is going to make our enemies now facing us stronger and more capable of killing Americans.

Nothing could be further from the truth that this is an American competitiveness issue or a jobs issue. The value of this sale, $400,000, is a negligible amount in terms of the products made by the American corporation seeking the sale of this vector processor.

Mr. Speaker, in sum, the facts are these: First, a quasi-governmental agency of Brazil, Embraer, has been in Iraq for more than 1 year, and has worked on projects designed to improve Iraqi missile capability; Second, this same group, Embraer, will be the end user of the supercomputers described as I described it here; Third, the language which now stands in the conference report will allow nations, including Brazil, to continue to receive technology from the United States which they have in the past consistently used to help Iraq in weapons development; and finally, a "yes" vote on the committee motion will reward nations which have helped Iraq within even the last few months by giving them sophisticated technology, which they used against Kuwait, which they used to gas their own people, the Kurds, which they used to gas the Iranians, and which they may very well use against us if it came to a military conclusion of this major, major conflagration we have in that region.

Mr. Speaker, this does not seem to be the proper way to enact a worldwide embargo against Iraq, as the United States has sought to do with the United Nations, or deter the worldwide flow of weapons technology, as the United States has asked others to do, to a nation with hundreds of thousands of troops just a few miles from our own young men and women.

Try to explain to the mothers and the fathers, the sweethearts, the children of these service men and women, that we stood by and allowed Brazil, with or help, with our exports, to continue to help Iraq, while we dared them to attack us in that region.

I do not want to do that. I do not intended to do that. I believe we have an absolute obligation in this particular case to reject the Senate language, leave the language in the bill, and, if we need to, we can come back and tighten it up.

But the gentleman in the well, the chairman of this committee, for whom I have great respect, knows very well that this is directed at one particular sale, and that is extremely important in this time of crisis in the gulf region.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, the gentleman from Florida [Mr. SMITH] has his rifle targeted on Iraq, but what he is using is a shotgun that does not address Brazil, that does not address simply one sale of one piece of equipment to Iraq from Brazil. As a matter of fact, in the language the gentleman from Florida [Mr. SMITH] argures for this, there is no mention of Brazil, or this particular piece of equipment.

Let us look at what the language says, not what my friend, the gentleman from Florida [Mr. SMITH], wants it to say.

In reading the language that the gentleman is a proponent of, if one person from England was assisting the Iraqis, and the English Government had a dragnet out for him, had his family in custody, and had troops swarming the entire English countryside trying to apprehend this one individual, under the language that the gentleman from Florida [Mr. SMITH] wants, nothing to do with what is going on or has gone on in Brazil, where I agree with him completely, if the entire English Government was mobilized to capture this one individual, had his family in a secured detention center, had confiscated all his property, and we wanted to sell a product to England, we could not do it. Because, this language does not say anything about Brazil or the piece of equipment from Brazil. The language that the gentleman wants us to accept says, "if any individual," end of story.

□ 1450

The language the gentleman from Iowa [Mr. SMITH] has does have a provision in it to deal with an individual operating outside of the Government, because we all know the game that is played in the world. The Government sits back and says, "Gosh, you know, these are private companies. We can't help ourselves."

In the language that is the committee position as supported by the gentleman from Iowa [Mr. SMITH], it says if the President finds that that country is not trying to stop that individual, then the sales are cut off.

Additionally, hopefully in the next day we have reached a conference agreement dealing with missile tech. There are adequate provisions in the Export Administration Act that will be on the floor in several days. One of my colleagues pointed out that if we found there was an American helping the Iraqis, you might not be able to sell anything to America under this provision except that you do not need a license to sell in this country.

The gentleman from Florida [Mr. SMITH] is well-intentioned, but he has taken a shotgun that is turned around and aimed at us. If there is one individual from a country that is following the missile tech regime, that is cooperating with the United States in trying to limit international terrorist nations from having access to missile technology, if we have a MCTR country, a country that is working with the United States today trying to control missile technology, and they have done everything humanly possible, and beyond, to limit their nationals or their corporations from participating, helping the Iraqi missile program, we would still have to penalize that country, not that company, not that individual, but that country, and it may well destroy the missile tech agreements we have nationally established today.

So I would ask my friend, the gentleman from Florida [Mr. SMITH], I stood with him on the floor, I think a week or so before the invasion of Kuwait, arguing against the administration's opposition to removing the CCC credits from Iraq, and I was with my friend from Florida when he spoke out, as many of us did about the Iraqi murder of 5,000 Kurds as the world stood by. But let us not do something that is stupid in resposne to that.

The language in the origianl Senate provision may be well-intentioned, but it is language that will do no damage to Iraq, and do significant damage to the United States and its ability to limit missile technology by damaging the very international agreements we have entered into.

Read the language. It is short. It starts off at section 610. The gentleman from Florida would like us to sup-

port this language. "None of the funds in this or any other act may be used to approve the licensing for export of any supercomputer or associated technology to any country," it does not say Brazil, "that (1) is assisting, officially or unofficially," and we agree with that, but that is in the provision that the gentleman from Iowa [Mr. SMITH] wants. "Officially or unofficially." Unofficially gets a little tricky, but let us see where it goes from there. "Or (2) whose nationals are assisting Iraq to improve its rocked technology or chemical, biological, or nuclear weapons capability."

I agree with the gentleman's goals, but nowhere in the language that he is supporting, does it mention Brazil or that particular system. Instead it takes a shotgun that may damage the international agreements we have on missile technology.

The Committee on Foreign Affairs, on which the gentleman is a member, will be bringing to the floor in the next day or so, a positive provision on missile technology proliferation that came out of the Foreign Affairs Committee, and we worked with the gentleman from California [Mr. BERMAN] and Members of the House and Senate.

What the gentleman wants to do is not accomplished in this language. To the contrary, he may make it impossible for the administration to do anything.

Mr. ROGERS. Mr. Speaker, I yield 6 minutes to the gentleman from Arizona [Mr. KOLBE], a member of the committee.

Mr. KOLBE. Mr. Speaker, this argument and debate here this afternoon kind of reminds me a little bit of a domestic squabble, a husband and a wife fighting with each other, and the child is cowering over in the corner. So they stop fighting with each other, and they go over and they pick on the kid, and beat up on the kid. That is really what we are talking about doing. We are having a fight with Iraq, so we are going to pick on somebody else in this fight, and that is stupid. That just does not do anything for us.

There is no Member of this body, there is no Member of the House or the Senate that is going to side with Iraq in this dispute. Let us have no illusions about that. Nobody is taking the side of Iraq. That has nothing to do with what we are talking about today.

I am not suggesting the gentleman from Florida said that, though it was suggested in the conference committee by a Member of the other body that indeed anybody that would oppose that Senate language must be siding with Iraq in such a dispute. How foolish can we be to suggest that?

The question is: How can we enforce the sanctions that we have, the sanctions that the United Nations has against Iraq? How can we best enforce those sanctions to make them work, and at the same time permit the legitimate trade, the legitimate sale of goods and services to other countries, not to Iraq, to other countries and by other countries to yet third or fourth countries that are involved? That is the issue that is involved here.

We cannot be, on the one hand for reducing the trade deficit, and at the same time favor this kind of amendment which would terminate perfectly legitimate sales.

What is the issue here that is involved with Brazil since we keep hearing about Brazil, though Brazil, as Members know, is not mentioned in either, except for the second paragraph of the Senate language dealing with rocket technology. Brazil is not mentioned in the supercomputer part of the language. What is the real issue here?

Prior to the invasion of Kuwait there was a Brazilian company known as HOP Consultants that had 25 to 30 engineers and technicians working in Iraq, and a lot of Americans were over there, I might add, at that time. They were working on an air-to-air missile project. The activity had no support or endorsement from the Government of Brazil.

Since the invasion of Kuwait, the Government of Brazil has publicly called on those individuals and the company to bring its people home, and they have. They have come out of there. President Collor of Brazil has, at the same time, promised to seek legislation which will restrict the activities of people like General Piva which the gentleman from Florida referred to, to restrict those activities, so they cannot be involved in this type or kind of thing with the rocket technology kind of things in the future. But the President of Brazil has the same kind of problems that we have. He has to go through a process, and he has a legislature, a Congress that he has to deal with, and he has clearly recognized the problem and is dealing with it, but in the meantime, the people who were in question are out of Iraq, and they are not doing what was suggested earlier. They are out of Iraq. It is not going on.

The fact is the amendment that is proposed by the Senate, that we would adopt in lieu of the language that is before us at this moment, the language in the Senate amendment really does nothing. As was suggested earlier by my colleague from Kentucky, it does not give any definition. What in the world is meant by "associated technology"? It does not say who is to write such a definition. What is meant by official or unofficial? It does not say who is involved, who is going to write that definition, or define what is unofficial assistance.

There is no designation for enforcement. It does not make anybody responsible for enforcing this. It is meaningless. It does not do a darn thing.

The gentleman from Florida talked about efforts of a country versus results. The fact of the matter is, what he is suggesting is, that we are going to punish the country, no matter what steps they take to try to prevent the technology from getting to Iraq or to the countries involved in these sanctions. No matter what the country is doing, they are going to be punished. I would suggest that under that kind of definition, can the gentleman from Florida assure me that the United States could not sell supercomputer parts to itself? Or can he assure me that there is no American citizen, no holder of an American passport acting in any rogue fashion, selling arms to Iraq, doing anything to assist Iraq today? Of course not. There are people out there, unfortunately, not only who lack patriotism, but who are greedy enough to do that kind of thing, and we ought not to be punishing other countries simply because some citizen of their country is doing this in violation of their own laws, or in violation of their own policies that they have articulated.

Let me just conclude, Mr. Speaker, by saying again all the things that we have said, Mr. Speaker, about Iraq, that every single person in this body, and on this floor, and in this debate would subscribe to.

□ 1500

Many of us on this side of the aisle had disagreement with the administration in the past before the invasion of Kuwait, about the policy that was undertaken there, but that is not the issue here today. The issue is whether or not we are going to be like, in that domestic dispute, we are going to be the parent who, because we are mad at each other, we go over into the corner and we beat up on our kid who has no part in this dispute.

Let us not do that. Let us not shoot ourselves in the foot. Let us not beat up on others. Let us be sure that legitimate trade, legitimate traffic, legitimate sales can be undertaken.

Mr. SMITH of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am here to speak against this Smith amendment and to speak for the Smith amendment. One cannot go wrong in taking that position in support of or in opposition to the Smith amendment in this context.

One of the Smith amendments is more preferable than the other.

Mr. Speaker, I want to begin by making a comment and associating myself with the remarks of my friend from Arizona who made a very important comment. For those people who are watching this debate, particularly those people who may not understand our processes of government and how our Congress works and who may perhaps be abroad listening to this debate, and that is that there is no disagreement whatsoever on the floor of this House with regard to this Nation's determination to oppose naked Iraqi aggression, and the fact that we are having this debate about language in this conference report over the best way to accomplish that should not cause anybody to believe for a moment that there is a shred of disagreement among the people on different sides of this debate about the underlying principle at stake, and that is that we want to do everything we can as a country, whatever language we accept, and whatever political party we may be in, to assist the President and the international community to check the naked Iraqi aggression that is on the ground right now in Kuwait.

What we are debating is a different issue. We are debating which is the preferable language in this conference report in order to stop particular techological assistance to get to Iraq and, frankly, Mr. Speaker, I think that we are being faced with two choices that are less than perfect.

I believe that my friend from Connecticut pinpointed some deficiencies in the Senate language. I believe my friend from Florida who is seeking to improve the conference report would stipulate that the Senate language perhaps goes further than is ideal in terms of the issue of foreign nationals. But if we have to choose between the Senate language on the one hand, which perhaps goes somewhat too far, and I would hope could be modified, and the language that the conference came out with the other hand, I suggest that the original Senate language is preferable to the conference language. The conference language provides too much flexibility. The conference language goes back to a debate that we have been having, those of us in the Committee on Foreign Affairs, now throughout this Congress trying to suggest that there should be a tougher law on the books with regard to sanctions, first, against Iraq, which are not at stake in this bill, and second, against those who would assist Iraq, and in this instance to specifically "to improve its rocket technology or chemical, biological, or nuclear weapons capability."

We are only talking about technological assistance to one country, Iraq, which is currently on the ground blatantly aggressing upon Kuwait, and second, in a particular area, rocket technology, chemical, biological or nuclear weapons capability, and the basic issue on the table is will these be mandatory sanctions or will these be discretionary sanctions.

If we identify somebody cooperating with Iraq to improve its rocket technology or its chemcial, biological, or nuclear weapons capability and we have sent 200,000 brave Americans to the Persian Gulf to risk their lives, to put their lives on the line, to counter Saddam Hussein's blatant aggression, it would seem to me we are beyond the point of discretionary sanctions. We should be at the point of mandatory sanctions.

This is an issue that has been on the table now for this entire Congress, and if thee is any time to stand firm in terms of the nature of the sanctions and the process by which they will be implemented, this is the time.

Mr. Speaker, I would say that while the Senate language I would hope could be somewhat ameliorated, perhaps somewhat modified, giving the President the discretion that comes out of this conference report, goes back to a more mild form of sanctions, we should today, with 200,000 American troops in the gulf, be tougher than the Senate conferees suggested.

I would urge that the Smith of Florida motion be approved.

Mr. SOLARZ. Mr. Speaker, how much time is remaining for the debate on this amendment?

The SPEAKER pro tempore. The gentleman from Florida [Mr. SMITH] has 2 minutes remaining, the gentleman from Kentucky [Mr. ROGERS] has 11 minutes remaining, and the gentleman from Iowa [Mr. SMITH] has 13 minutes remaining.

Mr. SMITH of Iowa. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think some very important issues have been raised in this debate, and there seems to be at least a potential opportunity for working out some language that might conceivably be acceptable all around.

There have been some discussions over here. I assume our friends on the other side of the aisle will soon be included.

PARLIAMENTARY INQUIRIES

Mr. SOLARZ. Mr. Speaker, I have a parliminary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SOLARZ. Mr. Speaker, would it be possible through a unanimous-consent procedure to amend the amendment of the gentleman from Iowa?

The SPEAKER pro tempore. By unanimous consent, yes.

Mr. SOLARZ. That would be possible.

We have had some discussions over here, while this debate has been going on, with the two Mr. SMITH's through their respective seconds and intermediaries, and it would appear that if some language were added to the Senate amendment that the gentleman from Florida [Mr. SMITH] was planning to offer which would make it clear that these licenses could only be denied if a citizen of a foreign country was cooperating with Iraq in its efforts to acquire missile or nuclear or other forms of technology, if that language were amended to include the phrase "with the consent of their government," it would effectively deal with the kind of problem the gentleman from Connecticut [Mr. GEJDENSON] so effectively pointed out, which is that you could have a situation in which you had a citizen of a foreign country cooperating with Iraq even though their government was making every effort to prevent them from doing so, and that does appear to be a sort of an inequity. Hopefully the addition of that language would solve that problem.

I now gather that there is some problem with the phrase "associated technology," and the gentleman from Iowa seems to be concerned that if "associated technologies" are prohibited that that might, with a very broad brush, include even things like personal computers which may not be what my very good friend, the gentleman from Florida, is trying to get at.

I see that the experts are over there trying to work out some appropriate phraseology. I hope an agreement can be reached, because I think it would be unfortunate, unnecessary, and unwise to have to put this to a test.

Of course, the one advantage of it is that those of us who would await the incoming Members at the door, when the roll was called, could say without fear of misleading anyone, "Vote for the Smith amendment," or "Vote against the Smith amendment," and it would literally be true, but I think that there would be considerable confusion.

Mr. SMITH of Florida. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SMITH of Florida. Mr. Speaker, if we were to come to some agreement about a correction of the language that appears now as the original Senate language, is it possible under the rules that the gentleman from Iowa might be able to withdraw his motion to recede and concur, thereby leaving my preferential motion as the only motion to be voted on, or would we still have to, under the rules, vote down his motion to recede and concur so we could get to my preferential motion?

The SPEAKER pro tempore. The gentleman from Iowa may withdraw his motion, leaving the motion of the gentleman from Florida to be voted on.

Mr. SMITH of Iowa. Mr Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SMITH of Iowa. Mr. Speaker, I could withdraw my motion by unanimous consent and substitute another one? Is that right?

The SPEAKER pro tempore. The gentleman does not need unanimous consent to do that.

Mr. SMITH of Iowa. I can substitute another.

Mr. SOLARZ. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLARZ] has 1 minute remaining.

Mr. GEJDENSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman will state it.

Mr. GEJDENSON. Is the House presently in a posture where the gentleman from Iowa [Mr. SMITH] has already withdrawn his original?

The SPEAKER pro tempore. He has not.

Mr. GEJDENSON. He has not done that yet, but he has the ability to withdraw that motion?

The SPEAKER pro tempore. That is correct.

Mr. GEJDENSON. Would the House be in a position to accept an amended version of the gentleman from Florida [Mr. SMITH]?

The SPEAKER pro tempore. Mr. SMITH of Iowa may offer another motion.

Mr. GEJDENSON. Mr. SMITH could offer an original motion, the gentleman from Iowa [Mr. SMITH] having withdrawn his motion?

The SPEAKER pro tempore. The motion of the gentleman from Florida [Mr. SMITH] to recede and concur is pending.

Mr. GEJDENSON. If the gentleman from Florida [Mr. SMITH] then withdraws his motion, could he offer an amended version of that motion?

The SPEAKER pro tempore. The Chair would look first to the manager of the bill, the gentleman from Iowa [Mr. SMITH] to offer a motion.

Mr. GEJDENSON. Look first to the manager of the bill, and if the manager of the bill had no motion, well the manager could offer that motion. I thank the Chair.

The SPEAKER pro tempore. The gentleman from Florida [Mr. SMITH] has 2 minutes remaining, the gentleman from Kentucky [Mr. ROGERS] has 11 minutes remaining, and the gentleman from Iowa [Mr. SMITH] has 8 minutes remaining.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman from Kentucky [Mr. ROGERS] yield me some of his time to work this out?

Mr. ROGERS. If the gentleman consumes all of his time, I will be happy to consider a request.

Mr. SMITH of Florida. Mr. Speaker, I have the least amount of time of anyone.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I would like to ask the gentleman from Florida [Mr. SMITH] a question. In the associated technologies, in discussions, there have been some concern on the impact of those, if we are to add language prior to those, to that terminology, saying "predominantly used," in referring to the chemical and missile tech; would that meet with the gentleman's requirements?

Mr. SMITH of Florida. Mr. Speaker, I have no problem with that revised language because that relates to where I believe associated technology is.

Mr. GEJDENSON. So equipment that was predominantly used, rather than simply the broad language.

Mr. SMITH of Florida. Mr. Speaker, I have no problem with that at all.

Mr. GEJDENSON. Mr. Speaker, would that alleviate the problem of the gentleman from Iowa? I would explain to the gentleman from Iowa [Mr. SMITH] what I am proposing, that in the concern of the gentleman from Florida to reach associated technologies, that what I am suggesting is that we add associate technologies predominantly used for these categories.

Mr. SMITH of Iowa. Well, we are getting into a rewriting here in 2 minutes that I think is too difficult to do. I really think the language we are now talking about substituting for my original language essentially does what the original language does. I am not sure what else we are getting into, and I think that I would be willing to substitute what we just now agreed to, and the gentleman from Kentucky [Mr. ROGERS] agreed to by unanimous consent, but if we want to go beyond that, I think we had better go ahead and vote on the original conference language one way or the other.

Mr. SMITH of Florida. Will the gentleman yield,

Mr. GEJDENSON. I yield to the gentleman from Florida.

Mr. SMITH of Florida. The problem is the gentleman from Kentucky and the gentleman from Iowa have agreed to it; but No. 1, I was not consulted about the change. That is a problem for me. I would like to be able to see what, exactly, it is they are talking about.

Mr. SMITH of Iowa. If the gentleman from Florida does not agree, there is no need in doing it. We will go ahead and vote.

Mr. Speaker, I yield a minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, in arguing, I hope that the gentleman from Florida would be more accommodating. I agree with the gentleman there was some concern about how the Bush administration operated in this theater prior to August 2. However, we are now after August 2.

The President of the United States does not need to be reminded that we have in excess of 150,000 troops in the Saudia Arabian desert, and I agree with the gentleman from Florida that the administration miscalculated and did not understand the dangers in this regime adequately. However, they certainly recognize that today, and the chairman of the committee, the gentleman from Iowa [Mr. SMITH], certainly has gone, I think, a long way in trying to reach the gentleman from Florida's concerns.

I stood shoulder to shoulder with the gentleman from Florida [Mr. SMITH] on every instance when we fought to make sure that this country and the world recognized the outrages of the regime of Saddam Hussein. What we are hoping to do here today is to contain him, but not to do damage to ourselves or others. The classic shot of shooting yourself in the foot or worse.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

We are attempting to find some language that will accommodate all the parties here, but until that is done, I must insist that the language we agreed upon in conference, that every one of the conferees save one, agreed to, and we spent a lot of time refining that language to achieve the very purpose that the gentleman from Florida [Mr. SMITH] wants Members to achieve, we achieved, and we do it with language that does not, as the gentleman from Connecticut [Mr. GEJDENSON] said, broad scatter across other problems.

The language that came to the conference from the Senate, and the language of the gentleman from Florida [Mr. SMITH] wants to reinsert here on the floor of the House, is language that would probably cause great harm to other sellers and manufacturers of equipment in the United States unrelated in any fashion to the supercomputer, and unrelated to anything going on in Iraq. We are all agreed, we all want language that will achieve the purpose of preventing the sale of any United States supercomputer to any nation whose government is assisting Iraq, or any citizen in that country who is assisting Iraq, so long as the government has made diligent efforts to try to prevent that from happening.

As the gentleman from Connecticut [Mr. GEJDENSON] said earlier, it would

seem well beyond the intent of the Congress, Senate, or House to enact legislation here that would penalize the sale of any product to England, for example, where just one citizen of England was selling something to Iraq, and the Government of England was doing everything within its power to prevent the sale. No Member wants that. I do not think the gentleman from Florida [Mr. SMITH] wants that. Nevertheless, that is what the language that he is advocating would do.

Therefore, that is the reason we attempted to clean up the Senate language in conference. We think we have language now that achieves the purpose of preventing those sales and assistance to Iraq by cutting off supercomputer by nations dealing with Iraq. We think we achieved that purpose. We think we achieved the purpose of preventing individuals and other nations from doing the same thing, but saving punishment for a country unless that country's government has been negligent in attempting to prevent individuals from selling products to Iraq.

Therefore, I think the language that we have drafted is adequate. I think it achieves the intent of the Senate, and I think it achieves the intent of the House, including the gentleman from Florida [Mr. SMITH], and I think we should stay with it. If there is some language we can agree to that achieves those purposes that we are all after without harming interests outside of that intent, then I would be happy to consider it, but until that time comes and we are running short of time, I think we should stick with the language that we have agreed upon.

Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRIES

Mr. SMITH of Iowa. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SMITH of Iowa. Mr. Speaker, as I understand the position now, we have divided the question. We have first, a vote on the motion to recede?

The SPEAKER pro tempore. That is correct.

Mr. SMITH of Iowa. And if that carries, then we come to what?

□ 1520

The SPEAKER pro tempore (Mr. MCNULTY). The motion of the gentleman from Iowa [Mr. SMITH] to concur in Senate amendment No. 165 with an amendment.

Mr. SMITH of Iowa. With an amendment?

The SPEAKER pro tempore. Yes.

Mr. SMITH of Iowa. So, Mr. Speaker, first if we vote to recede, we will then come to whether or not to concur with my amendment, which is agreed to by the conferees.

The SPEAKER pro tempore. That is correct.

Mr. SMITH of Florida. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SMITH of Florida. Mr. Speaker, under the division of the question, the gentleman from Iowa [Mr. SMITH] has a motion which will be voted on first, which motion was to recede and concur with the Senate language, as amended by the Senate, is that correct?

The SPEAKER pro tempore. With an amendment.

Mr. SMITH of Florida. With an amendment, but that was the Senate amendment, I believe that was the Rudman amendment that we are attempting to put in the language, that will be the first vote, his motion to recede and concur to the Senate language with an amendment.

The SPEAKER pro tempore. The first question is, Shall the House recede from its disagreement to Senate amendment No. 165?

Mr. SMITH of Florida. And if that is defeated——

The SPEAKER pro tempore. If the House then recedes, if that motion carries, then the question is on the motion of the gentleman from Iowa, shall the House concur in Senate amendment No. 165 with an amendment.

Mr. SMITH of Iowa. If that is voted down, Mr. Speaker, there is nothing in the bill.

Mr. SMITH of Florida. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SMITH of Florida. Mr. Speaker, there are two votes on the motion of the gentleman from Iowa to recede and concur in the Senate language?

The SPEAKER pro tempore. The first vote is on receding. The second is on concurring with an amendment.

Mr. SMITH of Florida. If those are adopted, I no longer obtain a vote on my preferential motion?

The SPEAKER pro tempore. That is correct.

Mr. SMITH of Florida. If those are defeated, I get a vote, if the second one is defeated, I get a vote?

The SPEAKER pro tempore. If the second one is defeated.

Mr. SMITH of Florida. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I certainly want to say first of all of the chairman, the gentleman from Iowa and the gentleman from Kentucky [Mr. ROGERS], the ranking member, that I appreciate the concern they have shown. We agree on most of the substantial issues.

I hope most people who are listening to this debate understand that we are constrained by what the Senate did originally in their own bill. There was no language in this bill, so in my attempt to get to where I thought we ought to be, I can only use the Senate language that existed before the Rudman amendment in the Senate; so this has nothing to do with anything that we would have done.

Now, let me just say, because it appears that we cannot work out the language here, so there will be the votes as have just been outlined in the responses to the parliamentary inquiries, that we have had recent hearings on this issue regarding technology transfers by the United States and others to Iraq and other countries.

I just want to let the membership and the people of this country know that although we are talking in this bill about transfers to third countries, and the gentleman from Connecticut and the gentleman from Arizona talked about the fact that Brazil was not mentioned, that is not so.

In the original Senate language it says that there shall be negotiations with countries like Great Britain, Japan, and Brazil, because we know they have technology programs that have been shared with Iraq.

But let me just say that by adopting the Senate amendment, which is the second vote on the motion of the gentleman from Iowa [Mr. SMITH], which I hope will be defeated and we do not adopt that Senate amendment, but that Senate amendment said that the President must certify subsequent to the fact of the sale, not prior, but subsequent.

Let me just tell you, that means that the administration, the same administration, will be certifying a sale that in the period immediately preceding Iraq's invasion of Kuwait, the support of the officials of the Department of State and Commerce gave approval to a $10 million sale of high temperature industrial furnaces to Iraq, despite the DOD assessment that this equipment would be used in Baghdad in connection with its Nuclear Weapons program, and from 1985 until 1990 this same administration granted 486 licenses for shipments of sensitive technology to Iraq.

We cannot afford to do this now. I urge my colleagues to defeat the Senate amendment that is asked here to be agreed to, so we can get to my preferential motion and turn this down and go back to the original Senate language.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Speaker, would the gentleman from Iowa tell us what is in his motion? We have had lots of discussion about the original Senate language, which is incredibly vague and has all kinds of undefined terms.

The gentleman's substitute amendment is rather specific. We have not had that defined to the body. Would the gentleman define that, please?

Mr. SMITH of Iowa. Mr. Speaker, if the gentleman will yield, I will try to do that at this time.

We are in the desert over there in Saudi Arabia. Do you know who is with us? The United Kingdom. This is no time to be insulting them and trying to pick fights with them. Besides, there is now a new government in Brazil, different than the one that was dealing with Iraq.

What we are trying to do here is to write something tight that looks forward to the future.

The conference agreement says this:

None of the funds in this or any other Act may be used to approve the licensing for export of any super computer to any country * * *

That is the world, any country—

* * * whose government the President determines to be assisting Iraq to improve its ballistic missile technology or chemical, biological or nuclear weapons capability and so reports to the Congress.

Now, someone says that we do not want to trust the President to make the determination. If he can be trusted with 200,000 troops in the desert, we ought to be able to trust him with making a determination as to whether or not some country is selling some kind of technology we do not want them to sell.

Next it says:

None of the funds in this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose nationals * * *

So it deals with the nationals at that point—

"* * * are assisting Iraq to improve rocket technology * * *" and so forth.

This language is encompassing, and I think it is plenty good. It is plenty tight. It does everything that anybody has suggested is a legitimate objective at this time. I think we ought to vote for the motion to recede and then vote for this language as a substitute for the Senate amendment.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, here is where we are, so that everyone understands what the situation is.

We are going to be voting in a few minutes, I assume, on the motion of the gentleman from Iowa [Mr. SMITH], the chairman of the subcommittee, the motion to recede and concur.

I hope you vote "aye" on the motion to recede. Vote "aye" on that, if you support Chairman SMITH and my position on this matter.

Then after that, there will be a motion by the gentleman from Iowa [Mr. SMITH], the chairman of the subcommittee, to concur in the Senate amendment with a House amendment, which is the language that we worked out in conference with the Senate.

All but one of us, every single conferee on the House side, every single conferee on the Senate side, agreed to the language we are presenting to you except one person.

We are asking that you approve the language. It is language that tightens up, as the gentleman from Connecticut [Mr. GEJDENSON] said earlier, it shoots Iraq with a rifle, rather than taking a shotgun and scattering it around and hurting innocent people in the process.

So I urge that you support this motion to recede by the chairman, the gentleman from Iowa [Mr. SMITH], that I join in supporting, and I hope you will support, and after that takes place, also support the motion to approve the language that the conferees have worked out.

So I urge two "aye" votes, Mr. Speaker.

Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

I just have one more thing to say. I am informed by members of the Foreign Affairs Committee, of which the gentleman from Connecticut is one member, that they have already been through conference. They have worked this issue out. They have been working with the administration.

Most of this matter is going to be solved in that bill anyway—an authorizing bill—and that is where it ought to be handled. It is going to be completed, I understand, in the next day or so.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, the staff is presently drafting the final language of a conference report that will be coming to the House that deals with the entire area of missile technology and chemical weapons. It is the right way to do it. The conference language is acceptable. Even the gentleman from Florida recognizes that his language may create more problems than it solves.

□ 1530

Mr. SMITH of Iowa. I would ask the House that you vote first in favor of the motion to recede. I guess there is no difficulty about that,

Then, second, we will vote on whether or not to approve the language that I have presented as a substitute to the Senate amendment. I ask for an "aye" vote on that, too.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is: Will the House recede from its disagreement to the amendment of the Senate numbered 165.

The House receded from its disagreement to the amendment of the Senate numbered 165.

The SPEAKER pro tempore. The question is: Shall the House concur in the amendment of the Senate numbered 165 with an amendment?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SMITH of Florida. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 381, nays 39, not voting 13, as follows:

[Roll No. 507]

YEAS—381

Alexander	Cooper	Glickman
Anderson	Costello	Gonzalez
Andrews	Coughlin	Goodling
Annunzio	Courter	Gordon
Anthony	Cox	Goss
Applegate	Coyne	Gradison
Archer	Craig	Grandy
Armey	Crane	Grant
Aspin	Dannemeyer	Gray
AuCoin	Darden	Green
Baker	Davis	Guarini
Ballenger	de la Garza	Gunderson
Barnard	DeLay	Hall (OH)
Bartlett	Derrick	Hall (TX)
Barton	DeWine	Hamilton
Bateman	Dicks	Hammerschmidt
Bates	Dingell	Hancock
Beilenson	Dixon	Hansen
Bennett	Donnelly	Harris
Bentley	Dorgan (ND)	Hastert
Bereuter	Dornan (CA)	Hatcher
Berman	Douglas	Hawkins
Bevill	Downey	Hayes (IL)
Bilirakis	Dreier	Hayes (LA)
Bliley	Duncan	Hefley
Boehlert	Durbin	Hefner
Boggs	Dwyer	Henry
Bonior	Dymally	Herger
Borski	Dyson	Hertel
Bosco	Early	Hiler
Boucher	Eckart	Hoagland
Brooks	Edwards (CA)	Hochbrueckner
Broomfield	Edwards (OK)	Holloway
Browder	Emerson	Hopkins
Brown (CA)	English	Horton
Brown (CO)	Erdreich	Houghton
Bruce	Espy	Hoyer
Buechner	Evans	Hubbard
Bunning	Fascell	Huckaby
Burton	Fazio	Hughes
Bustamante	Feighan	Hunter
Byron	Fields	Hutto
Callahan	Fish	Hyde
Campbell (CA)	Flake	Inhofe
Campbell (CO)	Flippo	Ireland
Carper	Foglietta	Jacobs
Carr	Ford (MI)	James
Chandler	Ford (TN)	Jenkins
Chapman	Frenzel	Johnson (CT)
Clarke	Frost	Johnson (SD)
Clay	Gallegly	Johnston
Clement	Gallo	Jones (NC)
Clinger	Gaydos	Jontz
Coble	Gejdenson	Kanjorski
Coleman (MO)	Gekas	Kaptur
Coleman (TX)	Gephardt	Kasich
Collins	Geren	Kastenmeier
Combest	Gibbons	Kennedy
Condit	Gillmor	Kennelly
Conte	Gingrich	Kildee

Kleczka	Mineta	Ravenel
Kolbe	Mink	Ray
Kolter	Moakley	Regula
Kyl	Molinari	Rhodes
LaFalce	Mollohan	Richardson
Lagomarsino	Montgomery	Ridge
Lancaster	Moody	Rinaldo
Lantos	Moorhead	Ritter
Laughlin	Morella	Roberts
Leach (IA)	Morrison (WA)	Robinson
Leath (TX)	Mrazek	Roe
Lent	Murphy	Rogers
Levin (MI)	Murtha	Rohrabacher
Lewis (CA)	Myers	Rostenkowski
Lewis (FL)	Nagle	Roth
Lightfoot	Natcher	Roukema
Lipinski	Neal (MA)	Rowland (GA)
Livingston	Neal (NC)	Roybal
Lloyd	Nielson	Russo
Long	Nowak	Sabo
Lowery (CA)	Oakar	Saiki
Lowey (NY)	Oberstar	Sangmeister
Luken, Thomas	Obey	Sarpalius
Machtley	Olin	Sawyer
Madigan	Ortiz	Saxton
Manton	Oxley	Schaefer
Markey	Packard	Schiff
Marlenee	Pallone	Schneider
Martin (NY)	Panetta	Schuette
Matsui	Parker	Schulze
Mavroules	Parris	Schumer
Mazzoli	Pashayan	Sensenbrenner
McCandless	Patterson	Sharp
McCloskey	Paxon	Shaw
McCurdy	Payne (NJ)	Shays
McDade	Payne (VA)	Shumway
McDermott	Pease	Shuster
McEwen	Penny	Sikorski
McGrath	Perkins	Skaggs
McHugh	Petri	Skeen
McMillan (NC)	Pickett	Skelton
McMillen (MD)	Pickle	Slattery
McNulty	Porter	Slaughter (NY)
Meyers	Poshard	Slaughter (VA)
Michel	Price	Smith (IA)
Miller (CA)	Pursell	Smith (NE)
Miller (OH)	Quillen	Smith (NJ)
Miller (WA)	Rahall	Smith (TX)
Smith, Denny (OR)	Swift	Vucanovich
Smith, Robert (NH)	Synar	Walgren
Smith, Robert (OR)	Tallon	Walker
Snowe	Tanner	Walsh
Solarz	Tauke	Watkins
Solomon	Tauzin	Waxman
Spence	Taylor	Weber
Spratt	Thomas (CA)	Weldon
Stallings	Thomas (GA)	Whittaker
Stangeland	Thomas (WY)	Whitten
Stark	Traficant	Williams
Stearns	Traxler	Wilson
Stenholm	Udall	Wise
Stokes	Unsoeld	Wolf
Studds	Upton	Wolpe
Stump	Valentine	Wyden
Sundquist	Vander Jagt	Wylie
	Vento	Yatron
	Visclosky	Young (AK)
	Volkmer	Young (FL)

NAYS—39

Ackerman	Kostmayer	Savage
Atkins	Lehman (CA)	Schroeder
Bilbray	Lehman (FL)	Serrano
Boxer	Levine (CA)	Sisisky
Bryant	Lewis (GA)	Smith (FL)
Cardin	Mfume	Staggers
Conyers	Nelson	Torres
DeFazio	Owens (NY)	Torricelli
Dellums	Owens (UT)	Towns
Fawell	Pelosi	Washington
Frank	Rangel	Weiss
Gilman	Ros-Lehtinen	Wheat
Jones (GA)	Rose	Yates

NOT VOTING—13

Brennan	Martin (IL)	Rowland (CT)
Crockett	Martinez	Scheuer
Dickinson	McCollum	Smith (VT)
Engel	McCrery	
Lukens, Donald	Morrison (CT)	

□ 1551

Messrs. TORRICELLI, LEHMAN of California, ATKINS, and YATES, Ms. PELOSI, Messrs. LEHMAN of Florida, RANGEL, TOWNS, and SERRANO, and Ms. ROS-LEHTINEN changed their vote from "yea" to "nay."

Messrs. HARRIS, PENNY, SIKORSKI, FOGLIETTA, and BENNETT changed their vote from "nay" to "yea."

So the House concurred in the amendment of the Senate numbered 165 with an amendment.

The result of the vote was announced as above recorded.

A motion to reconsider the votes by which action was taken on the several motions laid on the table.

SUMMARY OF TABLES SHOWING CONFERENCE ACTION RELATING TO H.R. 5021, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that I may be permitted to insert at this point in the RECORD a summary of tables showing by department and agency the conference action compared to the amount provided for fiscal year 1991, the budget estimates for 1991, and the amounts contained in the House and Senate bills.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Iowa?

There was no objection.

The summary of tables referred to is as follows:

Departments of Commerce, Justice, and State, the Judiciary, and related agencies, 1991 (H.R. 5021)

	FY 1990 Enacted	FY 1991 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF COMMERCE						
General Administration						
Salaries and expenses	27,821,000	30,326,000	29,854,000	29,337,000	29,595,000	+1,774,000
Office of Inspector General	13,331,000	15,115,000	14,600,000	14,208,000	14,400,000	+1,069,000
Total, general administration	41,152,000	45,441,000	44,454,000	43,545,000	43,995,000	+2,843,000
Bureau of the Census						
Salaries and expenses	99,890,000	115,233,000	112,863,000	113,654,000	110,250,000	+10,360,000
Periodic censuses and programs	1,424,836,000	316,104,000	310,904,000	269,774,000	272,700,000	-1,152,136,000
Total, Bureau of the Census	1,524,726,000	431,337,000	423,767,000	383,428,000	382,950,000	-1,141,776,000
Economic and Statistical Analysis						
Salaries and expenses	30,908,000	39,948,000	38,456,000	39,948,000	36,200,000	+5,292,000
Economic Development Administration						
Economic development assistance programs	203,380,000	.....	14,400,000	204,430,000	209,000,000	+5,620,000
(Limitation on guaranteed loans)	(150,000,000)	.....	(Unauthorized)	(150,000,000)	(150,000,000)	.....
Salaries and expenses	25,356,000	20,000,000	27,018,000	27,605,000	27,018,000	+1,662,000
Rescission from EDA Revolving Fund	.....	.....	.....	.....	-35,000,000	-35,000,000
Total, Economic Development Administration	228,736,000	20,000,000	41,418,000	232,035,000	201,018,000	-27,718,000
International Trade Administration						
Operations and administration	165,904,000	189,020,000	24,421,000	183,620,000	185,620,000	+19,716,000
Export Administration						
Operations and administration	41,416,000	44,373,000	(Unauthorized)	43,599,000	43,099,000	+1,683,000
Minority Business Development Agency						
Minority business development	39,741,000	46,161,000	(Unauthorized)	42,549,000	40,549,000	+808,000
United States Travel and Tourism Administration						
Salaries and expenses	14,122,000	14,362,000	(Unauthorized)	19,596,000	19,596,000	+5,474,000
National Oceanic and Atmospheric Administration						
Operations, research, and facilities	1,223,369,000	1,316,064,000	1,037,465,000	1,369,730,000	1,353,156,000	+129,787,000
Aviation weather services program (Airport and Airways Trust Fund)	29,583,000	34,521,000	(Unauthorized)	34,521,000	34,521,000	+4,938,000
(By transfer from Promote and Develop Fund)	(55,000,000)	(61,900,000)	(Unauthorized)	(60,900,000)	(60,900,000)	(+5,900,000)
(By transfer from Coastal Energy Impact Fund)	(4,500,000)	(8,000,000)	(Unauthorized)	(7,000,000)	(7,000,000)	(+2,500,000)
Promote and develop fishery products	.....	.....	.....	500,000	500,000	+500,000
Damage assessment and restoration revolving fund	.....	.....	(Unauthorized)	4,500,000	5,000,000	+5,000,000
Fisheries promotional fund (availability of funds)	(2,000,000)	.....	(Unauthorized)	(2,000,000)	(2,000,000)	.....
Fishing vessel and gear damage fund	1,000,000	1,202,000	1,202,000	1,202,000	1,202,000	+202,000
Fishermen's contingency fund	734,000	1,000,000	1,000,000	1,000,000	1,000,000	+266,000
Foreign fishing observer fund	1,963,000	1,997,000	1,997,000	1,997,000	1,997,000	+34,000
Total, National Oceanic and Atmospheric Administration	1,256,649,000	1,354,784,000	1,041,664,000	1,413,450,000	1,397,376,000	+140,727,000
Patent and Trademark Office						
Salaries and expenses	85,900,000	112,027,000	109,807,000	.....	91,000,000	+5,100,000
Technology Administration						
Salaries and expenses	3,875,000	4,583,000	(Unauthorized)	4,433,000	4,200,000	+325,000
National Institute of Standards and Technology						
Scientific and technical research and services	161,845,000	198,408,000	(Unauthorized)	172,228,000	166,228,000	+4,383,000
Industrial technology services	.....	.....	(Unauthorized)	52,100,000	49,100,000	+49,100,000
Total, NIS&T	161,845,000	198,408,000	(Unauthorized)	224,328,000	215,328,000	+53,483,000
National Telecommunications and Information Administration						
Salaries and expenses	14,002,000	15,252,000	(Unauthorized)	14,882,000	15,252,000	+1,250,000
Public telecommunications facilities, planning and construction	20,000,000	.....	20,833,000	21,833,000	21,833,000	+1,833,000
Total, title I, Department of Commerce:						
New budget (obligational) authority	3,628,976,000	2,515,696,000	1,744,820,000	2,667,246,000	2,698,016,000	-930,960,000
(By transfer)	(59,500,000)	(69,900,000)	(Unauthorized)	(67,900,000)	(67,900,000)	(+8,400,000)
(Limitation on guaranteed loans)	(150,000,000)	.....	(Unauthorized)	(150,000,000)	(150,000,000)	.....
(Availability of funds)	(2,000,000)	.....	(Unauthorized)	(2,000,000)	(2,000,000)	.....

Departments of Commerce, Justice, and State, the Judiciary, and related agencies, 1991 (H.R. 5021)

	FY 1990 Enacted	FY 1991 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE II - DEPARTMENT OF JUSTICE						
General Administration						
Salaries and expenses	96,450,000	101,061,000	(Unauthorized)	100,968,000	100,968,000	+4,518,000
Office of Inspector General	20,541,000	28,382,000	(Unauthorized)	22,140,000	25,140,000	+4,599,000
Total, general administration	116,991,000	129,443,000	(Unauthorized)	123,108,000	126,108,000	+9,117,000
United States Parole Commission						
Salaries and expenses	10,500,000	9,869,000	(Unauthorized)	9,869,000	10,051,000	-449,000
Financial Institution Investigations, Prosecutions and Civil Proceedings						
Salaries and expenses	.....	.....	75,000,000	.....	.....	.....
Legal Activities						
Salaries and expenses, general legal activities	294,889,000	338,546,000	(Unauthorized)	352,103,000	343,603,000	+48,714,000
Vaccine injury compensation fund	1,000,000	1,500,000	1,500,000	1,000,000	2,000,000	+1,000,000
Independent counsel (permanent, indefinite)	6,000,000	4,000,000	4,000,000	4,000,000	4,000,000	-2,000,000
Civil liberties public education fund (permanent, definite)	.....	500,000,000	500,000,000	500,000,000	500,000,000	+500,000,000
Salaries and expenses, Antitrust Division	34,317,000	33,730,000	(Unauthorized)	33,730,000	33,730,000	-587,000
Salaries and expenses, United States Attorneys	518,864,000	628,095,000	(Unauthorized)	674,095,000	673,095,000	+154,231,000
United States Trustees System Fund	60,039,000	65,673,000	(Unauthorized)	64,703,000	64,300,000	+4,261,000
Salaries and expenses, Foreign Claims Settlement Commission	440,000	490,000	(Unauthorized)	640,000	640,000	+200,000
Salaries and expenses, United States Marshals Service	245,261,000	288,529,000	288,529,000	288,529,000	288,529,000	+43,268,000
Support of United States prisoners	158,437,000	193,034,000	193,034,000	193,034,000	193,034,000	+34,597,000
Fees and expenses of witnesses	58,627,000	70,628,000	(Unauthorized)	70,628,000	70,628,000	+12,001,000
Salaries and expenses, Community Relations Service	28,930,000	28,172,000	(Unauthorized)	28,172,000	27,172,000	-1,758,000
Assets forfeiture fund	98,945,000	100,000,000	100,000,000	100,000,000	100,000,000	+1,055,000
Total, legal activities	1,505,749,000	2,252,397,000	1,087,063,000	2,310,634,000	2,300,731,000	+794,982,000
Interagency Law Enforcement						
Organized crime drug enforcement	214,921,000	330,000,000	(Unauthorized)	330,000,000	328,000,000	+113,079,000
Federal Bureau of Investigation						
Salaries and expenses	1,684,444,000	1,640,237,000	(Unauthorized)	1,690,962,000	1,687,962,000	+3,518,000
Drug Enforcement Administration						
Salaries and expenses	548,709,000	700,000,000	(Unauthorized)	696,900,000	694,340,000	+145,631,000
Immigration and Naturalization Service						
Salaries and expenses	842,297,000	884,349,000	(Unauthorized)	883,501,000	884,000,000	+41,703,000
Immigration fee expansion	50,000,000	.....	.....	77,850,000	100,350,000	+50,350,000
Immigration offsetting receipt	.....	.....	.....	-64,800,000	-89,800,000	-89,800,000
Emergency Immigration fund	35,000,000	.....	(Unauthorized)	.....	.....	-35,000,000
Total, Immigration and Naturalization Service	927,297,000	884,349,000	(Unauthorized)	896,551,000	894,550,000	-32,747,000
Federal Prison System						
Salaries and expenses	1,128,805,000	1,371,882,000	(Unauthorized)	1,359,843,000	1,357,843,000	+229,038,000
National Institute of Corrections	9,973,000	10,007,000	(Unauthorized)	10,007,000	10,007,000	+34,000
Buildings and facilities	1,396,953,000	374,358,000	(Unauthorized)	374,358,000	374,358,000	-1,022,595,000
Federal Prison Industries, Incorporated (limitation on administrative expenses)	(2,857,000)	(3,167,000)	(Unauthorized)	(3,167,000)	(3,167,000)	(+310,000)
Total, Federal prison system	2,535,731,000	1,756,247,000	(Unauthorized)	1,744,208,000	1,742,208,000	-793,523,000
Office of Justice Programs						
Justice Assistance	614,290,000	587,515,000	575,321,000	659,031,000	660,179,000	+45,889,000
Public safety officers' benefits program	24,818,000	26,075,000	26,075,000	26,075,000	26,075,000	+1,257,000
Total, Office of Justice Programs	639,108,000	613,590,000	601,396,000	685,106,000	686,254,000	+47,146,000
Total, title II, Department of Justice:						
New budget (obligational) authority	8,183,450,000	8,316,132,000	1,763,459,000	8,487,338,000	8,470,204,000	+286,754,000
(Limitation on administrative expenses)	(2,857,000)	(3,167,000)	(Unauthorized)	(3,167,000)	(3,167,000)	(+310,000)
TITLE III - DEPARTMENT OF STATE						
Administration of Foreign Affairs						
Salaries and expenses	1,792,391,000	1,906,378,000	1,872,279,000	1,860,017,000	1,860,017,000	+67,626,000
Registration fees	.....	250,000	250,000	500,000	500,000	+500,000
Fees from International Center	.....	.....	500,000	1,013,000	1,013,000	+1,013,000
Blair House fees	.....	.....	.....	15,000	15,000	+15,000
Office of Inspector General	20,753,000	23,301,000	21,840,000	21,840,000	21,840,000	+1,087,000
Representation allowances	4,600,000	4,600,000	4,600,000	4,600,000	4,600,000	.....

Departments of Commerce, Justice, and State, the Judiciary, and related agencies, 1991 (H.R. 5021)

	FY 1990 Enacted	FY 1991 Estimate	House	Senate	Conference	Conference compared with enacted
Protection of foreign missions and officials	9,100,000	9,100,000	9,100,000	9,100,000	9,100,000	.....
Acquisition and maintenance of buildings abroad	293,465,000	587,775,000	227,656,000	227,656,000	227,656,000	-65,809,000
Emergencies in the diplomatic and consular service	4,635,000	6,600,000	4,888,000	4,888,000	4,888,000	+253,000
(Limitation on direct loans)	.....	(750,000)	(Unauthorized)	.....	.....	.....
Payment to the American Institute in Taiwan	11,142,000	12,000,000	11,752,000	11,752,000	11,752,000	+610,000
Payment to the Foreign Service Retirement and Disability Fund	106,034,000	108,576,000	108,576,000	108,576,000	108,576,000	+2,542,000
Total, Administration of Foreign Affairs	2,242,120,000	2,658,580,000	2,261,441,000	2,248,429,000	2,249,957,000	+7,837,000
International Organizations and Conferences						
Contributions to international organizations	614,952,000	1,158,481,000	787,605,000	787,605,000	787,605,000	+172,653,000
Contributions for international peacekeeping activities	81,079,000	247,423,000	115,000,000	115,000,000	115,000,000	+33,921,000
International conferences and contingencies	6,253,000	8,200,000	7,300,000	7,300,000	7,300,000	+1,047,000
Total, International Organizations and Conferences	702,284,000	1,414,104,000	909,905,000	909,905,000	909,905,000	+207,621,000
International Commissions						
International Boundary and Water Commission, United States and Mexico:						
Salaries and expenses	10,460,000	10,500,000	10,500,000	10,500,000	10,500,000	+40,000
Construction	11,454,000	10,000,000	10,000,000	10,000,000	10,000,000	-1,454,000
American sections, international commissions	4,437,000	4,400,000	4,400,000	4,400,000	4,400,000	-37,000
International fisheries commissions	12,147,000	10,700,000	11,440,000	12,147,000	12,147,000	.....
Total, International Commissions	38,498,000	35,600,000	36,340,000	37,047,000	37,047,000	-1,451,000
Other						
U.S. Bilateral Science and Technology Agreements	3,971,000	5,000,000	5,000,000	4,000,000	4,500,000	+529,000
Payment to the Asia Foundation	13,900,000	13,978,000	13,978,000	13,978,000	13,978,000	+78,000
Soviet-East European research and training	4,600,000	4,600,000	4,784,000	4,600,000	4,600,000	.....
Fishermen's guaranty fund	900,000	900,000	(Unauthorized)	900,000	900,000	.....
Fishermen's protective fund	1,000,000	500,000	500,000	500,000	500,000	-500,000
Total, Other	24,371,000	24,978,000	24,262,000	23,978,000	24,478,000	+107,000
General Provisions						
British American Parliamentary Group	.....	.....	.....	50,000	50,000	+50,000
Total, title III, Department of State:						
New budget (obligational) authority	3,007,273,000	4,133,262,000	3,231,948,000	3,219,409,000	3,221,437,000	+214,164,000
TITLE IV - THE JUDICIARY						
Supreme Court of the United States						
Salaries and expenses:						
Salaries of justices	1,217,000	1,376,000	1,376,000	1,376,000	1,376,000	+159,000
Other salaries and expenses	16,280,000	17,848,000	17,431,000	17,653,000	17,653,000	+1,373,000
Total, salaries and expenses	17,497,000	19,224,000	18,807,000	19,029,000	19,029,000	+1,532,000
Care of the building and grounds	4,369,000	3,453,000	3,453,000	3,453,000	3,453,000	-916,000
Total, Supreme Court of the United States	21,866,000	22,677,000	22,260,000	22,482,000	22,482,000	+616,000
United States Court of Appeals for the Federal Circuit						
Salaries and expenses:						
Salaries of judges	1,210,000	1,582,000	1,582,000	1,582,000	1,582,000	+372,000
Other salaries and expenses	7,620,000	8,184,000	8,008,000	7,722,000	8,129,000	+509,000
Total, salaries and expenses	8,830,000	9,766,000	9,590,000	9,304,000	9,711,000	+881,000
United States Court of International Trade						
Salaries and expenses:						
Salaries of judges	860,000	1,108,000	1,108,000	1,108,000	1,108,000	+248,000
Other salaries and expenses	7,412,000	7,730,000	7,613,000	7,613,000	7,613,000	+201,000
Transfer from Fees of Jurors	.....	.....	.....	.....	(81,000)	(+81,000)
Total, salaries and expenses	8,272,000	8,838,000	8,721,000	8,721,000	8,721,000	+449,000
Courts of Appeals, District Courts, and Other Judicial Services						
Salaries and expenses:						
Salaries of judges	107,860,000	126,754,000	126,754,000	126,754,000	126,754,000	+18,894,000
Other salaries and expenses	1,253,370,000	1,516,366,000	1,448,566,000	1,471,869,000	1,462,370,000	+209,000,000
Transfer from Fees of Jurors	.....	.....	.....	.....	(4,919,000)	(+4,919,000)
Subtotal	1,361,230,000	1,643,120,000	1,575,320,000	1,598,623,000	1,589,124,000	+227,894,000

Departments of Commerce, Justice, and State, the Judiciary, and related agencies, 1991 (H.R. 5021)

	FY 1990 Enacted	FY 1991 Estimate	House	Senate	Conference	Conference compared with enacted
Vaccine Injury Compensation Fund	.....	1,500,000	1,500,000	1,500,000	1,500,000	+1,500,000
Indefinite appropriation	40,000,000	.....	.....	.....	.....	-40,000,000
Offsetting receipts	-33,000,000	.....	.....	.....	.....	+33,000,000
Total, salaries and expenses	1,368,230,000	1,644,620,000	1,576,820,000	1,600,123,000	1,590,624,000	+222,394,000
Defender services	121,961,000	167,580,000	137,569,000	135,269,000	132,761,000	+10,800,000
Fees of jurors and commissioners	57,997,000	57,997,000	57,997,000	57,997,000	57,997,000	.....
Transfer out	.....	.....	.....	.....	(-5,000,000)	(-5,000,000)
Court security	57,889,000	72,862,000	71,261,000	72,261,000	71,261,000	+13,372,000
Total, Courts of Appeals, District Courts, and Other Judicial Services	1,606,077,000	1,943,059,000	1,843,647,000	1,865,650,000	1,852,643,000	+246,566,000
Administrative Office of the United States Courts						
Salaries and expenses	33,670,000	38,487,000	37,712,000	37,178,000	37,400,000	+3,730,000
Federal Judicial Center						
Salaries and expenses	12,485,000	15,866,000	13,918,000	13,918,000	13,918,000	+1,433,000
Judicial Retirement Funds						
Payment to judicial officers' retirement fund	6,428,000	5,000,000	5,000,000	5,000,000	5,000,000	-1,428,000
United States Sentencing Commission						
Salaries and expenses	7,145,000	9,300,000	8,422,000	8,422,000	8,422,000	+1,277,000
Total, title IV, The Judiciary: New budget (obligational) authority	1,704,773,000	2,052,993,000	1,949,270,000	1,970,675,000	1,958,297,000	+253,524,000
TITLE V - RELATED AGENCIES						
Department of Transportation						
Maritime Administration						
Operating-differential subsidies (liquidation of contract authority)	(225,870,000)	(261,200,000)	(Unauthorized)	(261,200,000)	(261,200,000)	(+35,330,000)
Operations and training	65,050,000	71,687,000	(Unauthorized)	69,685,000	69,000,000	+3,950,000
(By transfer)	(2,250,000)	.....	(Unauthorized)	(1,100,000)	(1,100,000)	(-1,150,000)
Ready reserve force	89,000,000	225,000,000	(Unauthorized)	225,000,000	225,000,000	+136,000,000
Federal ship financing fund	750,000	.....	.....	.....	.....	-750,000
Total, Maritime Administration	154,800,000	296,687,000	(Unauthorized)	294,685,000	294,000,000	+139,200,000
Advisory Commission on Conference in Ocean Shipping						
Salaries and expenses	300,000	.....	200,000	500,000	500,000	+200,000
Arms Control and Disarmament Agency						
Arms control and disarmament activities	33,425,000	30,000,000	30,000,000	36,040,000	37,040,000	+3,615,000
Board for International Broadcasting						
Grants and expenses	190,000,000	201,258,000	192,586,000	201,258,000	197,750,000	+7,750,000
Israel relay station	183,021,000	.....	.....	.....	.....	-183,021,000
Total, Board for International Broadcasting	373,021,000	201,258,000	192,586,000	201,258,000	197,750,000	-175,271,000
Christopher Columbus Quincentenary Jubilee Commission						
Salaries and expenses	217,000	214,000	214,000	214,000	214,000	-3,000
Commission on Agricultural Workers						
Salaries and expenses	300,000	657,000	1,457,000	1,457,000	1,457,000	+1,157,000
Commission on the Bicentennial of the United States Constitution						
Salaries and expenses	14,904,000	16,884,000	14,973,000	14,973,000	14,973,000	+69,000
Commission on Civil Rights						
Salaries and expenses	5,707,000	10,152,000	6,075,000	7,825,000	7,075,000	+1,368,000
Commission for the Preservation of America's Heritage Abroad						
Salaries and expenses	200,000	200,000	200,000	200,000	200,000	.....
Commission on Security and Cooperation in Europe						
Salaries and expenses	839,000	991,000	991,000	991,000	991,000	+152,000
Commission on the Ukraine Famine						
Commission on the Ukraine Famine	100,000	.....	(Unauthorized)	.....	.....	-100,000

Departments of Commerce, Justice, and State, the Judiciary, and related agencies, 1991 (H.R. 5021)

	FY 1990 Enacted	FY 1991 Estimate	House	Senate	Conference	Conference compared with enacted
Commission for the Study of International Migration and Cooperative Economic Development						
Salaries and expenses	1,290,000	.....	(Unauthorized)	.....	.....	-1,290,000
Competitiveness Policy Council						
Salaries and expenses	750,000	.....	(Unauthorized)	750,000	750,000	.....
Equal Employment Opportunity Commission						
Salaries and expenses	184,926,000	195,867,000	194,500,000	200,700,000	198,300,000	+13,374,000
Federal Communications Commission						
Salaries and expenses	107,550,000	117,998,000	(Unauthorized)	117,794,000	115,794,000	+8,244,000
Federal Maritime Commission						
Salaries and expenses	15,452,000	15,894,000	15,894,000	15,894,000	15,894,000	+442,000
Federal Trade Commission						
Salaries and expenses	56,376,000	56,990,000	(Unauthorized)	56,095,000	54,095,000	-2,281,000
International Trade Commission						
Salaries and expenses	38,477,000	42,430,000	(Unauthorized)	40,671,000	40,299,000	+1,822,000
Japan - United States Friendship Commission						
Japan - United States Friendship Trust Fund	1,350,000	1,250,000	1,250,000	1,250,000	1,250,000	-100,000
(Foreign currency appropriation)	(1,610,000)	(1,544,000)	(1,544,000)	(1,544,000)	(1,544,000)	(-66,000)
Legal Services Corporation						
Payment to the Legal Services Corporation	316,525,000	343,000,000	(Unauthorized)	329,186,000	327,186,000	+10,661,000
Marine Mammal Commission						
Salaries and expenses	960,000	1,003,000	1,003,000	1,153,000	1,153,000	+193,000
Martin Luther King, Jr. Federal Holiday Commission						
Salaries and expenses	300,000	300,000	300,000	338,000	300,000	.....
Office of the United States Trade Representative						
Salaries and expenses	17,778,000	18,936,000	(Unauthorized)	18,936,000	20,000,000	+2,222,000
Securities and Exchange Commission						
Salaries and expenses	166,633,000	192,385,000	(Unauthorized)	192,385,000	190,185,000	+23,552,000
Offsetting receipts	-26,000,000	.....	(Unauthorized)	-30,000,000	-30,000,000	-4,000,000
Total, Securities and Exchange Commission	140,633,000	192,385,000	(Unauthorized)	162,385,000	160,185,000	+19,552,000
Small Business Administration						
Salaries and expenses	237,379,000	326,437,000	248,500,000	250,619,000	274,753,000	+37,374,000
(By transfer, indefinite)	(96,160,000)	.....	(107,160,000)	(107,160,000)	(107,160,000)	(+11,000,000)
Office of Inspector General	7,400,000	9,864,000	9,000,000	9,000,000	9,000,000	+1,600,000
Business Loan and Investment Fund	159,500,000	91,000,000	157,000,000	157,000,000	162,625,000	+3,125,000
(Limitation on direct loans)	.....	(5,000,000)	(Unauthorized)	(71,000,000)	(71,000,000)	(+71,000,000)
(Limitation on guaranteed loans)	.....	(4,403,456,000)	.....	.....	.....	.....
Surety bond guarantees revolving fund	11,000,000	10,200,000	10,200,000	10,200,000	10,200,000	-800,000
Pollution control equipment contract guarantee revolving fund	13,000,000	9,000,000	13,000,000	13,000,000	13,000,000	.....
Disaster Loan Fund	500,000,000	.....	.....	.....	.....	-500,000,000
(Limitation on direct loans)	.....	(350,000,000)	(Unauthorized)	.....	.....	.....
Total, Small Business Administration	928,279,000	446,501,000	437,700,000	439,819,000	469,578,000	-458,701,000
State Justice Institute						
Salaries and expenses	11,861,000	15,000,000	14,000,000	12,360,000	13,000,000	+1,139,000
United States Information Agency						
Salaries and expenses	635,109,000	643,529,000	648,188,000	653,700,000	652,757,000	+17,648,000
Office of Inspector General	3,624,000	4,123,000	4,123,000	3,923,000	4,023,000	+399,000
Educational and cultural exchange programs	154,330,000	154,330,000	167,000,000	159,706,000	163,151,000	+8,821,000
Radio construction	84,057,000	124,657,000	96,557,000	107,237,000	107,237,000	+23,180,000
Broadcasting to Cuba	12,537,000	15,069,000	29,208,000	33,169,000	33,169,000	+20,632,000
East-West Center	20,430,000	20,000,000	20,000,000	23,000,000	23,000,000	+2,570,000
National Endowment for Democracy	16,771,000	25,000,000	25,000,000	25,000,000	25,000,000	+8,229,000
Total, United States Information Agency	926,858,000	986,708,000	990,076,000	1,005,737,000	1,008,337,000	+81,479,000
Total, title V, Related agencies:						
New budget (obligational) authority	3,333,178,000	2,991,305,000	1,901,419,000	2,961,211,000	2,980,321,000	-352,857,000
(By transfer)	(98,410,000)	.....	(107,160,000)	(108,260,000)	(108,260,000)	(+9,850,000)
(Liquidation of contract authority)	(225,870,000)	(261,200,000)	(Unauthorized)	(261,200,000)	(261,200,000)	(+35,330,000)
(Foreign currency appropriation)	(1,610,000)	(1,544,000)	(1,544,000)	(1,544,000)	(1,544,000)	(-66,000)

Departments of Commerce, Justice, and State, the Judiciary, and related agencies, 1991 (H.R. 5021)

	FY 1990 Enacted	FY 1991 Estimate	House	Senate	Conference	Conference compared with enacted
Grand total:						
New budget (obligational) authority	19,857,650,000	20,009,388,000	10,590,916,000	19,305,879,000	19,328,275,000	-529,375,000
(By transfer)	(157,910,000)	(69,900,000)	(107,160,000)	(176,160,000)	(176,160,000)	(+18,250,000)
(Limitation on administrative expenses)	(2,857,000)	(3,167,000)	(Unauthorized)	(3,167,000)	(3,167,000)	(+310,000)
(Limitation on direct loans)	.....	(355,750,000)	(Unauthorized)	(71,000,000)	(71,000,000)	(+71,000,000)
(Limitation on guaranteed loans)	(150,000,000)	(4,403,456,000)	(Unauthorized)	(150,000,000)	(150,000,000)	.....
(Liquidation of contract authority)	(225,870,000)	(261,200,000)	(Unauthorized)	(261,200,000)	(261,200,000)	(+35,330,000)
(Foreign currency appropriation)	(1,610,000)	(1,544,000)	(1,544,000)	(1,544,000)	(1,544,000)	(-66,000)
RECAP BY FUNCTION - SUMMIT DESIGNATIONS						
Mandatory	313,954,000	845,999,000	774,471,000	845,999,000	845,999,000	+532,045,000
Discretionary:						
Defense (Function 050) (new)	89,000,000	225,000,000	.....	225,000,000	225,000,000	+136,000,000
International Affairs (Function 150) (new)	4,236,002,000	5,250,022,000	4,300,644,000	4,358,182,000	4,359,930,000	+123,928,000
Other Domestic Functions (new)	15,218,694,000	13,688,367,000	5,515,801,000	13,876,698,000	13,897,346,000	-1,321,348,000
Subtotal, Discretionary (new)	19,543,696,000	19,163,389,000	9,816,445,000	18,459,880,000	18,482,276,000	-1,061,420,000

Mr. Speaker, it has come to our attention that an item agreed to by the conferees was inadvertently left out of the statement of managers. The following language applies to the salaries and expenses appropriation of the Courts of Appeals, District Courts and Other Judicial Services.

HYATTSVILLE MONITORING PROJECT

The conference agreement includes $117,000 for the Federal Courts to reimburse the U.S. Parole Commission for the three positions and related support costs associated with the Hyattsville Monitoring Project. The conferees expect these amounts to be reimbursed as expeditiously as possible.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and amendments in disagreement on H.R. 5021, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991, and that I may be permitted to insert a table and extraneous matter following my remarks on the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF CONFERENCE REPORT ON H.R. 4739, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-925) on the resolution (H. Res. 521) waiving certain points of order against consideration of the conference report on the bill (H.R. 4739) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF CONFERENCE REPORT ON S. 566, NATIONAL AFFORDABLE HOUSING ACT

Mr. MOAKLEY, from the committee on Rules, submitted a privileged report (Rept. No. 101-926) on the resolution (H. Res. 522) waiving certain points of order against consideration of the conference report on the bill (S. 566) to authorize a new Housing Opportunites Partnerships Program to support State and local strategies for achieving more affordable housing, and to increase home ownership, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON S. 2830, FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

Mr. DERRICK. Mr. Speaker, by direction of the Committee on rules, I call up House Resolution 520 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 520

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 2830) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. PASHAYAN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 520 waives all points of order against consideration of the conference report on S. 2830, the Food, Agriculture, Conservation, and Trade Act of 1990. Under the rules of the House, conference reports are privileged and are considered in the House under the hour rule with no amendments in order. The rule also waives all points of order against the conference report, including any point of order against consideration of the conference report. In addition, the rule provides that when the conference report is called up for consideration, it shall be considered as read.

Mr. Speaker, the Food, Agriculture, Conservation, and Trade Act of 1990 is an omnibus bill designed to reauthor-

ize and redefine the Nation's agricultural policy for the next 5 fiscal years. The conference agreement would reauthorize the food stamp and other nutrition programs, foreign food aid, and export promotion programs. In addition, the conference agreement contains major new environmental provisions contained in the House and Senate bills to protect wetlands and water quality, reduce soil erosion, promote tree planting, and increase the emphasis of agricultural research on long-term protection of soil and water resources. Finally, Mr. Speaker, in order to comply with the budget resolution passed by Congress last week, conferees changed farm program operations to reduce Federal spending by $13.6 billion over the next 5 years.

Mr. Speaker, House Resolution 520 will expedite consideration of the conference report on S. 2830. I urge my colleagues to support the rule.

□ 1600

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 520 is a rule under which the House shall take final action on a sweeping legislative measure that sets a new course for Federal agricultural programs through 1995.

The rule waives all points of order against the conference report on S. 2830, the 5-year farm bill, and against its consideration.

The House received the conference report and the accompanying statement of managers, which are both very lengthy and complex documents, yesterday afternoon.

The rule provides that the conference report shall be considered as having been read, when it is called up for consideration.

Mr. Speaker, the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA] and the ranking Republican member of the committee, the gentleman from Illinois [Mr. MADIGAN] are anxious to call up their legislation.

I know that the two gentlemen will give the House a full and complete explanation of the changes wrought by the conferees.

The Committee on Rules reported this rule shortly after 5 p.m. yesterday, within 2 hours of our receiving copies of the conference report and the statement of managers.

Mr. Speaker, I support this rule and the conference agreement it brings to the floor.

The legislation represents a major change in the direction of Federal farm policy, toward a more aggressive marketing policy for American products. Many of us hope it will be a change in the right direction.

Mr. Speaker, I would also say that this change toward more aggressive marketing and production of different crops on land that has traditionally been planted in just one crop, has been driven by the need to control Federal spending on entitlement programs.

The conference report was hardly a gleam in any budget cutter's eye when the Committee on Agriculture began a series of field hearings in 1989.

From my reading of the legislation and the statement of managers, I believe that California producers, and indeed producers all across the country, will benefit from the revisions in the Export Enhancement Program and the Targeted Export Assistance Program. Both are very popular in my State, and have been helpful in expanding American exports overseas.

In November of last year, the Committee on Agriculture was kind enough to conduct a field hearing on this legislation in my district.

I suggested to the committee at that time that more work was necessary on the Conservation and Agricultural Research, and Extension Programs. Although our previous efforts have been successful, I felt that this in an area where the Congress needed to place additional emphasis.

I am happy to note that both the House-passed bill and the conference report responded to my concerns.

Mr. Speaker, I represent an area of California known as the Central Valley. This is one of the singularly most productive agricultural regions of this Nation. Growers and farmers produce over $4 billion worth of commodities in my area.

Many of them do not participate in Federal farm programs, for there are no Federal farm programs available to them. I daresay that many of them would not choose to participate in Federal farm programs, even if they could.

The major policy change agreed to by the conferees is to reduce by 15 percent the amount of crop acreage on which the Federal Government should make subsidy payments, for the 5-year period of 1991 until 1995.

Farmers could plant any crop on this acreage except fruits and vegetables. For wheat farmers, cotton planters, rice planters, and those who grow feed grains, the bill encourages the planting of other, nonsubsidy crops.

Mr. Speaker, the legislation encourages diversity, and farmers will now have incentives to grow the crop best suited to their region, and that crop, obviously, will be the one that produces the most farm income.

For Members who are from urban areas, I want to stress that this is not a typical, 5-year reauthorization of farm subsidy programs.

As passed by the House, the Farm bill would authorize $10.6 billion in 1991, and a total of $53 billion over a 5-year period for the price support programs of the Commodity Credit Corporation.

The bill also would authorize outlays of $15.6 billion in 1991 and $85 billion over the 5-year period for food stamps.

The conference report meets the tough requirements for spending reductions contained in the budget conference report.

Mr. Speaker, to meet those budget-driven spending reductions, Federal farm program operations will be modified and new fees imposed on program participants in order to reduce anticipated spending by $13.6 billion.

This is a 25-percent reduction over 5 years.

The conference report brings the final spending level for crop programs down from $54.4 billion to approximately $40.8 billion over 5 years.

That is quite a substantial drop, I say to my colleagues who represent those areas that consume the food and fiber produced by the American farmers and growers.

I would be remiss at this point if I did not thank my colleagues PAT ROBERTS, GEORGE BROWN, Jr., and CHARLES STENHOLM who serve on the Committee on Agriculture for their direct assistance in helping me to increase the Department of Agriculture's role in developing additional integrated pest management programs that help both the farmer and the environment. I had asked the committee to consider the establishment of an Office of Integrated Pest Management and to expand our Federal research in that area. It had become apparent to me and it had become more apparent to the farmers in my congressional district that wherever possible the Congress must minimize hazards to human health and the environment, but to do it in a way that recognizes farmers' economic problems and realities as well. S. 2180 provides the tools necessary for the Department of Agriculture to proceed in that direction.

The Joint Council on Food and Agricultural Sciences and the National Agricultural Research and Extension Users Advisory Board that were established by the Food Security Act of 1985 have exceeded the goals we thought we would accomplish with the estabishment of those two entities. Both are continued.

Finally, Mr. Speaker, in looking at the testimony I presented to our Committee on Agriculture almost 2 years ago when it visited Fresno, CA, I stated, in part:

I should suggest that the farm bill for 1990 continue the market-oriented trends established by the Food Security Act. Additional flexibility for the producer and for the Secretary should be built into the law wherever possible. The farmer must not be discouraged as he addresses conservation and the environment. He must be encouraged.

We must resist the zealots who have no investment. Their scare tactics must be overcome by good scientific fact, not proposals that have a potential of raising the price for fruits and vegetables by 50 percent and eliminating 70,000 jobs in the farm sector alone.

Basically, the farm bill for 1990 should extend farmer's flexibility.

S. 2180 answers my concerns I again urge my colleagues to support this balanced yet complex legislative endeavor.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I rise today in opposition to the 1990 farm bill.

The House and Senate conferees on both sides of the aisle have failed to help wheat farmers in my State, failed to help feed grain producers in my State and failed to do anything to raise loan rates to help family farmers.

Mr. Speaker, the conference bill before us now is even worse than the bill I voted against in August. The conferees failed to help feed grain producers from their own districts when they agreed to drop out proven yields.

I opposed the House bill, H.R. 3950, when it came before this body last August, because I did not feel the bill did enough for family farm income. Amendments were approved to give the Secretary discretionary power to lower loan rates on wheat and feed grains and to set up an unspecified program for dairy producers that failed to assure either an adequate price for dairy farmers or an adequate means of supplying dairy products to low income consumers.

In the House bill members on the House Agriculture Committee went along with freezing target prices which according to CBO, in itself spelled a 21 percent loss in real net farm income over 5 years due to inflation. Indexing target prices to inflation would have helped tremendously—particularly since we voted on the farm bill within hours of Iraq invading Kuwait and oil prices started their upward spiral—but at the same time indexing was left discretionary with the Secretary of Agriculture.

Much of the impetus for these changes was, or course, the budget, and the fact that Agriculture was being asked to sacrifice a quarter of its funding over the next 5 years. But, Mr. Speaker, I am convinced that there were alternatives. The conferees failed to look at other ways to achieve savings that would not have required dollar for dollar cuts out of farm income.

The farm bill conferees could have raised loan rates above the levels called for in the House bill, or at least they could have taken out the Secretary's discretion to lower them. They failed. The conferees could have taken away the Secretary's discretion in whether to use bases founded on units of production instead of acres, and then targeted available funds to the first so many units of production. They failed. The farm bill conferees could have lowered the required level of dairy surpluses needed before a supply management program would kick in, and they could have specified the program more carefully. They failed. The conferees could have allowed producers to bid non-highly-erodible land back out of CRP, or even extended the Farmers Home Administration's "least cost alternative" loan servicing requirement beyond just farm program loans to cover rural housing and other lending activities. Once again they failed.

Having served on the Budget Committee for 6 years I understand there is a fine line here between the farm bill and the budget reconciliation bill. But what we have here today is a piece of legislation that will carve the fate of the family farm in stone. The problem is that it will be a tombstone. We already know that agriculture takes more than its fair share of those cuts under the budget resolution. Now we have a farm bill that takes a disproportionate share of those cuts directly out of the very people who the farm programs were designed to help.

Instead of adopting any of the measures I just mentioned. The conferees use the complicated series of program changes that will have no impact on the largest producers—those whose payments would be over $50,000 but for the payment limitation. Those farmers would get off scot free. Many would even come out better now that we are waiving cross compliance. What the conferees did was decide that all producers of wheat, feed grains, cotton, and rice should give up 15 percent of their payments. In exchange, they can grow almost anything they want on the unprotected acres. What a windfall to producers who are already leaving money behind from a payment limitation. What a liability to producers in areas like my State of Montana, where the climate is only suited to one or two crops. What a disaster to producers of crops outside the commodity programs, who for 50 plus years have balanced their own markets only to have Government program participants showing up to plant their crops.

But it does not stop there. Producers of program crops that don't involve direct payments get hit too. A new 1 percent sales tax imposed on the seller of an agricultural commodity would be collected when producers of honey, sugar, peanuts, wool, and milk sell their commodities. Several of these programs include statutary requirements that they operate at no net cost to the Government. Why are we taxing these producers? Isn't it enough that the budget reconciliation package has added taxes for everyone?

Lets all remember that farmers are taxpayers, too. They will pay additional income taxes, just as any other worker. They will pay additional gasoline and telephone excise taxes, only they will pay more than other people because rural area's more remote and there are fewer local calls. Now the conferees are asking these producers to pay an additional share of the value of their crops to "Uncle Sam" to offset the costs of programs which, in several cases, don't have any substantial cost.

And there's more, Mr. Speaker. The farm bill conferees included new assessment programs on producers of a wide variety of commodities from soybeans to limes, for use by a board appointed by the Secretary of Agriculture to run research and promotion programs. Where does it all end? This bill will usher in an era of Government pickpockets out to make sure that the biggest farmers are hurt the least. Let me remind my colleagues that when we debated the farm bill in August there was a sense of Congress resolution added on the floor by my colleague from North Dakota that said it was our hope that cuts made necessary by deficit reduction would not be done in a way that targeted benefits of farm programs toward family farmers. Painted targeted on the backs of mix-sized commercial farmers was not what this member had in mind.

Mr. Speaker, I urge my colleagues to defeat this conference report and send it back to the conferees to try again. I know we are all eager to get back to our home districts. But the congressional calendar and the convenience of members is no excuse for passing bad legislation. Those members of the farm bill conference who represent wheat and feed grain producing states failed to represent their constituents. If this bill passes there is likely to be another crisis in rural America, perhaps deeper than the one we faced in the 1980's. And, I also believe that this 5-year bill may not stand for 5 years. We may revisit farm programs—the only question is whether the farm bill conferees will use this conference report to put some of our best producers out of business first.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished gentleman from Ohio, [Mr. HALL].

Mr. HALL of Ohio. Mr. Speaker, I want to thank my colleague, the gentleman from South Carolina [Mr. DERRICK], my friend from the Rules Committee, for yielding time to me for a couple of minutes to speak about the conference report.

Mr. Speaker, I rise in support of the conference report on S. 2830, the Food, Agriculture, Conservation and Trade Act of 1990. I congratulate the chairman of the Agriculture Committee, the gentleman from Texas [Mr. DE LA GARZA] for helping to craft a piece of legislation that meets our agricultural and food needs for the rest of this century and into the next.

As chairman of the Select Committee on Hunger, Mr. Speaker, I am particularly interested in the provisions of the conference agreement that involve the use of American agricultural comodities to feed hungry people. I'm very pleased about the revisions in the Public Law 480 Food For Peace Program. We're finally making sense out of U.S. food aid, Mr. Speaker, and I say it is high time.

In the past, food distributed under Public Law 480 hasn't always gone to people who need it. Sometimes it has been used for political payoffs. Under this bill, the food distributed under Public Law 480 will go to hungry people in need. That's what it was designed for and, finally, that's what it's going to do. I was pleased to work with my colleagues on the Agriculture Committee and the Foreign Affairs Com-

mittee during the drafting of these provisions, I supported them in the Rules Committee, I voted for them on the floor, and I'm delighted to see them in the conference agreement.

While I am pleased and proud of the Public Law 480 revisions, Mr. Speaker, I am sorry that the expansions in the Food Stamp Program called for by the Mickey Leland Domestic Hunger Relief Act fell victim to the budget axe. The Leland Act was the most significant expansion in the Food Stamp Program in a decade.

I want to share with my colleagues two statistics that point out the need for food stamp reform. The Department of Agriculture reported recently that 21 million Americans relied on the Food Stamp Program to meet their monthly nutritional needs. At the same time, the Census Bureau reported recently that more than 31 million Americans live below the poverty line. There's something wrong when 10 million Americans who live below the poverty line aren't receiving Federal food assistance.

The Leland Act received a strong vote of support in the House, and I'm hopeful that in the future, the Congress will modify the Food Stamp Program so that it meets the needs of low-income Americans.

Finally, Mr. Speaker, the conference agreement establishes a National Gleaning clearinghouse, something that I've had a long-standing interest in. Almost 130 million tons of food is wasted each year. That is a tragedy, when we have people who go to bed hungry each month. The Gleaning Clearinghouse will help to put gleaners in touch with food banks and soup kitchens that need food.

Again, Mr. Speaker, I commend the conferees on both sides, and I urge my colleagues to support the agreement.

Mr. PASHAYAN. Mr. Speaker, I urge adoption of this rule.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, pursuant to House Resolution 520, I call up the conference report on the Senate bill (S. 2830) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to House Resolution 520, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of October 22, 1990.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the primary purpose of a farm bill is to keep American agriculture—the foundation of our Nation's economy—strong and healthy.

We are presenting today the conference report for the 1990 farm bill that attempts to do that. But this is a lot more than just a farm bill.

This conference report contains policies and programs that affect virtually every aspect of the Nation's well-being—food and fiber production, farm income protection, resource conservation and environmental protection, export promotion and overseas food aid, rural economic development, forestry, agricultural research, and domestic food assistance.

This legislation has been in the making for nearly 2 years. Hearings were held across the country and here in Washington. We have tried to build upon the successes of the 1985 act and to address its various shortcomings.

We have tried to respond in a responsible way to the concerns of farmers and others who had input into this process within the severe constraints imposed upon us by the budget. Most of all, we have tried to construct an agricultural policy framework that meets American agriculture's and our Nation's needs for the 1990's.

The final product of the labors of the House Agriculture Committee and our Senate counterparts is before this Chamber today.

Mr. Speaker, I would like to briefly summarize what I see as the seven major components of this conference report.

First, we continue to provide a price and income safety net for farmers within current Federal budget constraints.

The conference report reauthorizes and improves the operation of the farm commodity programs—for wheat, feed grains, upland cotton, and rice. Target prices for these commodities are maintained at current levels for the next 5 years. A slight increase in loan rates for wheat and feed grains is provided to compensate for continuing declines since 1986.

We also extend the operations of the wool, mohair, honey, and peanuts programs with minor changes. Reauthorized with more significant changes are the dairy and sugar programs.

This legislation provides crop farmers more planting flexibility by allowing them the option to forgo deficiency payments on 25 percent of their crop acreage base and plant whatever crop they wish—within certain guidelines—and receive whatever income the marketplace provides.

Members should be aware—since there is some confusion out there—that the mandatory 15 percent triple base plan and all the loan origination fees—which will reduce farm program spending by about $13.5 billion over the next 5 years—are not—I repeat, are not—a part of this farm bill.

Triple base and the fees to cut farm spending are all in reconciliation. They are not a part of this farm bill. The farm bill, as I said earlier, keeps spending basically at current levels.

Second, the conference report reauthorizes the food assistance programs which help provide an adequate diet for our Nation's needy.

The United States faces a growing urban and rural poverty problem. One of every six rural Americans and one of eight urban residents today live below the poverty line. Between 2 and 5 million children go to bed hungry each night.

The House Agriculture Committee had hoped that this reauthorization could also include long-overdue increases in benefits for the Food Stamp Program and the other food donation programs. In fact, we named the entire food stamp and nutrition title in memory of our late colleague, Congressman Mickey Leland of Texas who led the effort to combat hunger here in the United States and overseas.

Unfortunately, the Nation's budget deficit has forced us to drop these proposed increases.

But we do make changes that will hopefully streamline and simplify the Food Stamp Program. And we tighten up the administration of the program to prevent fraud and misuse.

Third, we strengthen our efforts to preserve wetlands, protect soil and water resources, and improve environmental quality.

This year marked the 20th anniversary of Earth Day and I am proud to say that this conference report reflects the heightened public and farmer concern about the environmently. This is probably the most environmentally progressive legislation to ever come out of the House and Senate Agriculture Committees.

It includes a strengthening of sodbuster and swampbuster provisions designed to protect highly erodible lands and wetlands. Yet it recognizes that the farmer sometimes makes an

honest mistake and provides some flexibility for farmers to comply with its requirements.

The conference agreement continues the Conservation Reserve Program and creates two new voluntary programs: a Wetlands Reserve Program to protect wetlands through long-term easements and a Water Quality Incentive Program to improve water quality in agricultural areas.

I am also proud that the conservation proposals contained in this conference report will greatly enhance wildlife and waterfowl habitat in rural areas.

The conference agreement also requires—for the first time—that certified applicators, including farmers, maintain records on the use of restricted pesticides.

The legislation also establishes an Office of Environmental Quality within USDA to better coordinate USDA activities.

Finally, the conference agreement includes the first ever forestry title as part of the farm bill. Its provisions expand USDA's authority in providing cost-share assistance and encourage rural and urban tree planting.

Fourth, the conference report strengthens our agricultural export promotion programs to help expand markets for U.S. farm commodities.

Major reforms are made in the administration of our export promotion programs to prevent abuse and help keep American farm products competitive in world markets.

These programs, the Export Enhancement Program, the Market Promotion Program, and the export credit guarantee programs are vital trade tools. These programs help American farmers regain world market share against the massive agricultural subsidies and unfair trade practices used by other nations, particularly the European Community.

Fifth, we streamline the delivery of Public Law 480 food aid to more effectively help needy nations.

Important changes are made in Public Law 480 to improve the delivery of food aid to recipient countries and to develop markets for U.S. agriculture products.

The conference report clearly defines agency roles in the administration of Public Law 480. It assigns USDA the primary authority over title I, the concessional sales program, and it gives the Agency for International Development responsibility for titles II and III, the food aid grant programs.

It also imposes new safeguards to prevent conflicts of interest among agents and brokers involved in purchasing and transporting shipments.

Sixth, the conference report significantly expands agricultural research authorizations—particularly in the area of sustainable agriculture research—to meet the challenges of the 1990's.

Agricultural research is the key to keeping U.S. agriculture competitive and to successfully address growing environmental and food safety concerns. The conference report reauthorizes existing agricultural research and extension programs used by USDA and the land-grant university system.

New and expanded research initiatives are established in the areas of sustainable agriculture practices, weather information, water quality, development and commercialization of new uses, food safety, and biotechnology.

Seventh, the bill streamlines USDA rural development activities.

The rural development title consolidates USDA's rural economic development activities in a new Rural Development Administration. It also authorizes two different kinds of pilot projects to help us determine the most appropriate mechanism to spur economic activity in rural areas.

I am particularly pleased the final bill includes a provision I sponsored to establish a program to improve water and waste services to economically distressed areas, such as the colonias along the United States-Mexico border.

Mr. Chairman, this is not a perfect bill. It is, quite frankly, a product of compromise and of timing.

It attempts to provide a set of policy objectives that can help U.S. agriculture remain profitable, competitive, and sustainable for the next 5 years and beyond. It does so within the constraints of the Federal budget.

For more than 50 years, the American people and their representatives in Congress have supported program to provide income and price stability to American agriculture.

We have done so because we understand the importance and benefits of a stable, affordable, and safe food supply for consumers and for our Nation's economy.

We also care about the welfare of American farmers, their families and the communities of rural America. This legislation continues that commitment while recognizing the limits to the financial assistance government can realistically provide.

I will be candid with you. The measures contained in the reconciliation bill that passed the House rewrites a major portion of this farm bill. It takes us into the uncharted waters of market-based economics more than ever.

I believe that this Congress and the administration are placing a disproportionate share of deficit reduction on agriculture spending. I have asked, begged and argued that farm spending is less than 1 percent of the entire Federal budget and should not pay this heavy price. But we have been out voted.

Thus, we must play with the cards we are dealt with and we have tried to fashion this farm bill conference report within these constraints and yet meet the needs of American agriculture.

I appreciate the cooperation of the other committees we have worked with to complete the conference report on S. 2830. That includes the conferees from the Committees on Ways and Means, Education and Labor, Foreign Affairs, Merchant Marine and Fisheries, Energy and Commerce, and Science, Space, and Technology.

Most of all, I want to acknowledge the work of the members of the House Agriculture Committee, particularly the eight subcommittee chairman and their ranking minority counterparts. This has been a long and painful process for committee members.

Despite the obstacles and the daunting task posed by the budget constraints, the committee has worked in bipartisan fashion to develop a consensus at every step of the way. I want to especially thank the committee's ranking minority member, Mr. MADIGAN of Illinois, for his cooperation, his input, and good humor throughout this process.

I urge the House to support the conference report.

Madam Speaker, I reserve the balance of my time.

Mr. MADIGAN. Madam Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Madam Speaker, I simply rise in support of this conference report and point out that it contains important segments of a rural development initiative I introduced 3 years ago, along with 50-plus of our colleagues here in the House. I am glad to see it become law.

I commend the chairman and the ranking member for their good work on the conference.

Madam Speaker, I support the conference report on the 1990 farm bill.

This farm bill is truly omnibus legislation. It contains not only agricultural commodity programs for the next 5 years but also authorizations on Federal nutrition programs, conservation and environmental provisions, foreign food aid programs, trade, forestry, rural development, farm credit, grain quality, crop insurance, marketing programs for fruits and vegetables, and of course, reauthorizations of those programs on which American agriculture was founded, USDA's traditional research and extension activities.

This legislation is sound public policy. It resounds fairly to this Nation's fiscal crisis by reducing farm

commodity programs and benefits, and certain other credit programs operated by USDA. But, at the same time, it allows farmers greater flexibility by freeing them from planting for the farm program and other restrictions that are frustrating and taxing on patience and balance sheets.

It is sound public policy because budget savings are being achieved in certain credit programs that have served America well while a new economic development program is being offered to rural America.

Madam Speaker, the House is well aware that farm programs must be reduced to meet budgetary demands. Although I regret the fiscal situation mandates these program reductions, I do believe the Agricultural Committee has gained a measure of respect in this House because prior to any Gramm-Rudman threats, members of the Agriculture Committee acted responsibly. They reported a sound package of amendments before the August recess that maintained farm income and achieved needed budgetary savings. That bill kept spending reasonable; this conference report represents an equally reasonable approach to Federal farm policy in the face of a far graver economic reality.

This farm bill maintains target prices at current levels. I believe the soundness of that policy decision will be seen in the coming months.

This farm bill encourages planting flexbility through the triple base plan. The triple base with the additional so-called flex option will give producers in many parts of the country the ability to respond to market signals and to produce alternative crops whose markets for industrial users are developing rapidly.

We also have heard and read press reports that this legislation is an environmental bill. I would agree with that, Madam Speaker, but I would respond that the 1985 Food Security Act also was environmentally sound. Unfortunately, it also was improperly interpreted and overzealously implemented in many ways. Producers around the country dread the word swampbuster, and rightly so, because this program, written in good faith to curb the drainage of our Nation's wetlands, has been used by a bunch of bureaucratic bullies to disturb the peace of farming communities.

I am hopeful, that this state of abuse has been turned around. I am hopeful that by clarifying the law in this act as it defines what constitutes a wetland, the Congress also has sent a message that reason and equity must be upheld. I regret that our farm statutes have been liberally applied by the same Federal Government agencies in the taking of private property for public use.

Finally, Madam Speaker, this farm bill also represents the culmination of 3½ years of attempting to make rural economic development a cornerstone of policy at the Department of Agriculture.

A Rural Development Administration will be established at USDA. It will bring together the economic development programs and activities that have been initiated throughout the years and left scattered throughout the Department. USDA has never emphasized rural development, and I expect the Rural Development Administration to change that. I believe this coordinated, managed approach will direct vital infrastructure and business development needs to our rural areas.

A new, grassroots initiative also has been adopted by the Congress so that communities and States may set their own priorities for rural development. Through statewide panels of development experts local government officials and civic leaders may direct results of Federal programs to the most appropriate users and needs of a State. In other words Federal funds may be used without Federal bureaucrats calling all the shots. This legislation gives rural people more of the tools to help themselves build a solid community.

Finally, Madam Speaker, my proposal to bring rural areas into the 21st century through rural technology transfer centers has been adopted by the conference. This part of my rural development initiative will authorize nonprofit and cooperative institutions, such as land-grant universities, to develop new products, processes and business opportunities and to bring them to rural areas where local jobs and economic activity are needed.

I believe all these programs affirm this Congress commitment to its farmers; to those who live in rural America and to all Americans who receive the benefits of a healthy agriculture.

Mr. WHITTEN. Madam Speaker, Our country's trade policies have cost almost $1 trillion since 1980. The only thing free about free trade is that we let all the foreign companies have our trade.

Our imports since 1980 are $938 billion above our exports. I think we face a real recession, if not a depression because we are busy giving everybody else our domestic markets, while our Secretary of Agriculture and others go around the world trying to convince them to buy from the United States.

Negotiations over the last several months to balance the budget and reduce the deficit were efforts to balance our paper money, not to address the real problem. We need to identify those causes and eliminate them.

A key problem is the loss of markets—at home and abroad—to foreign producers. We will not solve this problem until we return to practices of producing at home more than we consume, stop importing that which we produce ourselves, and recapture our normal share of foreign and domestic markets.

We must stop exporting our jobs and profits. We must take measures that require other countries to give us access to their markets that we give to their producers.

Madam Speaker, I oppose this agreement.

Mr. DE LA GARZA. Madam Speaker, I yield 5 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Madam Speaker, we did our best to make difficult situations better. We were dealt a very difficult hand by an administration that, in my judgment, wants and continues to want to decimate farm programs in this country.

Through the leadership of the gentleman from Texas [Mr. DE LA GARZA] and the gentleman from Illinois [Mr. MADIGAN], we were able to essentially protect the status quo in this farm bill, freezing target prices for farmers, in fact, doing some good by raising loan rates for wheat and corn which reverses a trend toward loan rates that was adopted in the 1985 farm bill.

We have some reforms. We have a new soybean oilseed program marketing loan. We try to do our best to clean up some of the export programs.

All in all, this bill is holding our own.

I would like to ask the chairman of the committee, the gentleman from Texas [Mr. DE LA GARZA], one quick question. Mr. Chairman, as I understand it, this conference report does not make any of the cuts in agriculture spending required by the budget resolution? Is that correct?

Mr. DE LA GARZA. Madam Speaker, will the gentleman yield?

Mr. GLICKMAN. I am happy to yield to the gentleman from Texas.

Mr. DE LA GARZA. Madam Speaker, the gentleman is correct. The budget implication is in the reconciliation, not in this conference report.

Mr. GLICKMAN. I want Members to know that those budget cuts which, of course, are referenced in this bill, but would not take effect unless that budget reconciliation act passes.

Madam Speaker, I would like to make just a couple of quick points. No. 1, to the farmers out there in this country, I think they should know that the administration of George Bush and Clayton Yeutter, in my judgment, have worked to lower farm prices in America.

We have done our best in Congress to stop that racheting down of farm prices in farm income. In my judgment, it has been a disgrace what has happened to rural America as a result of the farm policies of the 1980's, a deliberate lowering of prices and income. This bill tries to put a stop to it. It is a meager attempt, but it is the best we could do under the circumstances.

Second, I would point out that just recently the Chicago Board of Trade passed a proposal sent to the Commodity Futures Trading Commission which would allow the doubling of speculative limits on trading of corn, wheat, and soybeans that would allow the commodity funds to increase the amount of their speculative trading on those exchanges. That is a very dangerous proposal at a time when we may be making significant changes in farm policy, both in this bill and the reconciliation bill, if it should pass.

Therefore, I would personally, and I know the gentleman from Oklahoma [Mr. ENGLISH] joins me in a request to the chairman of the CFTC, Wendy Gramm, not to approve that request until we have a chance to see how this farm bill and budget reconciliation, if it passes, especially the triple base provisions of budget reconciliation, would have on the volatility of grain prices. We do not want to let commodity speculators increase grain price volatility at a time when farm program changes may be doing the same thing.

So on balance, reluctantly I support this bill. Without this bill we would end up with something worse. We have reversed the trends on loan rates. We have tried to bring prices up the best we possibly can in this particular piece in this particular legislation.

Mr. ENGLISH. Madam Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Madam Speaker, the gentleman did not intend to insinuate that the reconcilition provisions that are contained in the reconciliation that passed this House are not written into this 5-year farm program, is he?

Mr. GLICKMAN. No, they are written in the bill, but they do not trigger into effect unless that legislation passes.

Mr. ENGLISH. Madam Speaker, If the gentleman will continue to yield, could the gentleman tell me then, what happens if some other reconciliation bill other than the one passed by the House, is triggered?

Mr. GLICKMAN. I do not know the answer to that question. It is my understanding that the exact similar reconciliation provisions must pass in order for these to be triggered, that if different reconciliation provisions pass, these would not be triggered in. That is my understanding.

Mr. ENGLISH. Could the gentleman tell me then, given the fact that the provisions that were in the House and Senate bills were not conferenced but were instead, we wrote in the reconciliation provision, could the gentleman tell me then what happens if the reconciliation package passed by the House is, in fact, not enacted, if they are not triggered in the bill?

Mr. GLICKMAN. If they are not triggered in the bill, the farm bill would pass as is and we would have no triple base, we would have none of the basic cuts that are in the reconciliation provision. This bill would basically be a continuation of the 1985 farm policy.

Mr. ENGLISH. It is my understanding that there are no provisions that were conferenced beyond what was in the reconciliation package, so how could we pick the 1985 farm bill?

Mr. GLICKMAN. We basically picked up the provisions of this bill unimpeded or unreferenced to that reconciliation package.

Mr. MADIGAN. Madam Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Illinois.

Mr. MADIGAN. Madam Speaker, I want to say that I was shocked by the gentleman's opening remarks, and I want to ask the gentleman, does the gentleman want this bill to pass here? Does the gentleman want every Republican in this Chamber to vote against this bill? Or does the gentleman want to withdraw his opening remarks, where the gentleman said certain remarks.

Mr. DE LA GARZA. I yield 1 additional minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. MADIGAN. I understood the gentleman to say that President Bush and Secretary Yeutter were responsible for the cuts that are contained in the agriculture program for the next 5 years. I understood the gentleman to say that in his opening remarks.

Now, the budget resolution that passed this House, that the gentleman voted for, and only 10 Republicans voted for, called for those cuts. It was passed by the gentleman's party.

Now, I have 175 Republicans that will vote against this bill today if the gentleman does not want this bill to pass. The gentleman must decide.

Mr. GLICKMAN. The gentleman from Illinois knows as well as I do that Mr. Darman and other folks representing the administration argued for even bigger cuts at the budget summit.

Mr. MADIGAN. And your majority leader was in those conferences, as was the majority leader in the Senate, and I think the gentleman should withdraw the remarks he made, because they are not true. The cuts were called for in the budget resolution that the gentleman voted for, and that I voted against.

Mr. DE LA GARZA. Madam Speaker, I yield myself such time as I may consume.

I want to state to my friend from Illinois that the chairman and gentleman from Illinois have worked together throughout this endeavor. We have suffered together, and we have made cuts together, and the cuts came as the gentleman has correctly stated, at the instructions of this House and the Senate under the resolution as approved. I do not think that can be contested by anyone. I have no control over what a Member may or may not say.

The fact is that the cuts, as painful as they are, cannot be attributed to any individual, but collectively. All Members have had some impact as to where we are today.

I would hope that we can proceed from this point on to address the issue of the day, which is the approval of this conference report.

Also, let me state that the cuts are in the reconciliation bill rather than this conference report. If reconciliation is not passed it eventually could lead to a sequester, if there is no resolving of the dilemma of the budget. But the gentleman and I know that, and we have worked together, side by side.

Mr. MADIGAN. Madam Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Illinois.

Mr. MADIGAN. Madam Speaker, I just want to say to the gentleman from Texas [Mr. DE LA GARZA] that I appreciate the chairman's leadership, and I appreciate his friendship, and I value it very highly. However, as a member of the minority party here, I am getting awfully tired of these articles that I read about how the Republicans are trying to do things to Medicare, when the Medicare proposals were agreed to by the majority leader in the House and the majority leader in the Senate.

When the gentleman from Kansas takes the well and says that Clayton Yeutter and George Bush are responsible for the cuts that were contained in the resolution that was passed by your party, I do not know what is making any sense around here.

Mr. GLICKMAN. Madam Speaker, will the gentleman yield on that point? I may be able to explain.

Mr. DE LA GARZA. I have the time, and the gentleman knows what we have done together. As I said, I cannot control what any other Member says.

I have not, and I guess we as a committee have not addressed the issue of Medicare or the other body, or this body. As the gentleman knows, we are the committee that works together more closely than any other committee. I would hope that we can proceed in that spirit.

Mr. MADIGAN. If the gentleman will continue to yield, I hope we can do so, but I think the remarks of the gentleman from Kansas are entirely uncalled for, and I was offended by them. I stand on that.

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Madam Speaker, I have a great deal of respect for the gentleman from Illinois. I happen to think my remarks about the budget

were accurate, but they were not said in the same context. I think the gentleman misunderstood my comments. My comments were directed at pre-1990, between 1985 and 1990. It was my statement on the floor, at least it was my intention, that Mr. Yeutter and the administration did their best to lower farm commodity prices. That was what I was talking about. The gentleman may have interpreted that as a statement about the summit, but that is not what I meant to say.

Mr. MADIGAN. If the gentleman will yield, Clayton Yeutter was the U.S. Trade Representative, and George Bush was not the President.

Mr. GLICKMAN. Their predecessors.

Mr. DE LA GARZA. Madam Speaker, if we might continue in the comity we have always enjoyed in this committee, I yield 2 minutes to the gentleman from Louisiana [Mr. HUCKABY] for the purpose of positive debate only.

Mr. HUCKABY. Madam Speaker, let me say that the normal bipartisan Committee on Agriculture I think is showing the strains of the fact that there is real pain and real hurt and real cuts in this 1990 farm bill.

The centerpiece of this bill is this triple base, the fact that we are reducing farmers' income by 15 percent, we are not paying them on 15 percent of what they plant. It was the best that the committee could come up with under the circumstances to minimize reductions in farm income.

There are two cuts here in the magnitude of 20 to 25 percent in agriculture programs over the next 5 years.

□ 1630

Let me point out that they have already been reduced from $25 billion to $12 billion in the last 5 years, so we in agriculture have done our share of making real true cuts.

I would urge my colleagues to adopt this conference report. Under the circumstances, under the constraints of the budget which this House passed, I think it is absolutely the best piece of legislation that we could produce, and I urge all my colleagues to support it.

Mr. DE LA GARZA. Madam Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. ROE], the chairman of the Committee on Science, Space, and Technology, who is one of the conferees from one of our sister committees.

Mr. ROE. Madam Speaker, I rise in support of this important legislation, and I want to extend my high compliments to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture, together with the ranking member, the gentleman from Illinois [Mr. MADIGAN], for a job exceptionally well done.

Madam Speaker, the Committee on Science, Space, and Technology participated in the conference on the provisions establishing a Global Climate Change Research Program within the Department of Agriculture.

The establishment of a Global Climate Change Research Program within the Department of Agriculture presents a major step forward in our effort to understand the potential negative impact of global climate change.

I want to commend the gentlemen and the staff of the Agriculture Committee, as well as the staff of the Science, Space, and Technology Committee, for their exceptional work on these provisions.

Madam Chairman, agriculture and aerospace technology are the two fuels that drive our Nation's economy. They represent America's two largest positive contributors to our balance of trade. So it is appropriate that the Committee on Agriculture and the Committee on Science, Space, and Technology join together today to continue our fine tradition of exceptional cooperation.

I look forward to continuing to work with our colleagues on the Agriculture Committees as these important research programs go forward.

What could be more important to our Nation and to the world than this research which holds the promise of preventing future famines and regional catastrophes that may result from unmitigated global warming?

This legislation is critical for the development of proper forest management and agricultural production practices in response the potentially enormous negative impact of global climate change.

The research programs developed and administered by the Department of Agriculture under this legislation are to be coordinated through the Committee on Earth Sciences of the Office of Science and Technology Policy to eliminate any duplication of efforts and to assure that all of our resources are utilized efficiently.

Mr. MADIGAN. Madam Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Madam Speaker, first, let me say that this legislation is the result of a year's hard work.

I want to commend the chairman of the committee, the gentleman from Texas [Mr. DE LA GARZA], and the ranking member, the gentleman from Illinois [Mr. MADIGAN], for their leadership on this important legislation.

To say that we were working under difficult circumstances is to understate the case tremendously. The costs of the farm programs have been cut in half since the mid-1980's, yet we were asked to cut even additionally at the base line and under reconciliation, another 25 percent.

Ironically enough, as farm program base lines go down, we are asked to cut additionally each year.

Considering the circumstances, I think we have done a commendable job with this legislation. Certainly it does not include everything that I would like to have seen in it, as it does not include everything that many of the Members would like to have seen in it.

As you might expect, the budget situation continues to dominate the discussion as we developed this legislation. I think all of the members of the committee would have liked to have done more for farm income.

I was pleased, however, that we were able to make some policy changes even under these circumstances, by developing a program for soybeans and other oil seeds. We also made the barley program more fair and equitable for feed barley producers.

We also made some needed changes in the crop insurance program, yet noting that additional changes will need to be considered next year.

With our uncertain economic climates and increasing costs of imputs, particularly energy and related products, there will be tremendous pressure on the farm sector to continue to provide food and fiber at prices, quality, and volume that Americans have come to expect.

In summary, Madam Speaker, I support this legislation. I urge my colleagues to do likewise. The farm sector is an extremely important sector of our economy. While this legislation might not include everything that we individually would like to have included, I think it is important to let the farmers and ranchers know what the rules of the game will be next year.

Mr. CONTE. Madam Speaker, will the gentleman yield?

Mr. STANGELAND. I yield to the gentleman from Massachusetts.

Mr. CONTE. Madam Speaker, I ask everyone watching the tube to vote against this bad conference report. It is terrible.

I had a dream, Madam Speaker. I had a dream that the conference report on the farm bill was a much improved version of what we passed 2½ months ago. I dreamed that the conferees reformed and improved the structure of the farm program and retained some of the limited cost-control measures we added to the House bill here on the floor. I dreamed that farm payment limits were going to be held at $200,000 per individual, just like we did in the House. I dreamed that honey program payments were actually going to be phased out and that wool and mohair program payments would actually be capped at $50,000, just like the Senate provisions. In fact, I dreamed that the conferees were actually interested in making the fat cat farmers bear a larger share of the cost of deficit reduction, rather than the little guys. Then I woke up, Madam Speaker, and I knew I had been dreaming.

The conferees have backtracked on every one of those provisions. Every one. They

ought to be ashamed of what they did. They cut a sweeter deal on honey than either the House or Senate gave them. The Senate eliminated the honey program, and the House capped honey payments at $100,000 per person.

What did this conference do? Did they split the difference? No, they listened to the buzzing of the killer beekeepers, and continued the honey program and raised the payment cap to $125,000—sweetening the honey pot for the wealthiest beekeepers by $25,000 annually.

It gets worse, Madam Speaker. They pulled the wool over our eyes on that other ludicrous example of farm program waste, the wool and mohair program. The House cut individual wool and mohair payments to $100,000 annually, and the Senate cut them to $50,000 annually. But the sheep ranchers and goat herders butted in, and the conferees followed like little lambs. They created two different payment caps, where only one had existed before. They made separate $125,000 caps for wool and for mohair, and put the three entity rule back in so that those $125,000 caps actually let one person receive $250,000. If you raise both sheep and goats, then you can get $500,000—10 times the Senate limit and 5 times the House limit. That, Madam Speaker, is outrageous.

On the whole question of payment limitations on deficiency payments and marketing loans, the conferees slid backwards once again. The $200,000 per person payment limit we added on the House floor, watered down though it was, is now a $250,000 limit and just as wet.

Madam Speaker, with this conference report, payment limits and caps are all washed up. The conference regresses completely, and the House ought not to let them get away with it.

The conferees willfully exceeded the bounds of the conference and violated the directives of both the House and Senate. I will not support it, and I urge a "no" vote.

Mr. DE LA GARZA. Madam Speaker, I yield 1 minute to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Madam Speaker, I want to congratulate the chairman, the gentleman from Texas [Mr. DE LA GARZA], and the gentleman from Illinois [Mr. MADIGAN], the ranking Republican, for putting together a good bill. We got a good conference result. I want to also thank my subcommittee chairman, the gentleman from Minnesota [Mr. STANGELAND], and the gentleman from Wisconsin [Mr. GUNDERSON], the ranking Republican, for their help on the dairy subject. I think the Members ought to know we have a dairy program that dairymen can live with. We will be revisiting this dairy program probably late next year when the Secretary reports on a study we have asked him to make of dairy surpluses, but I certainly urge all my colleagues to vote for this farm bill.

Mr. MADIGAN. Madam Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I would like to inquire of the chairman of the full committee if he would enter into a colloquy with me with reference to the pesticide recordkeeping provisions of S. 2830, and we are talking, of course, about the farm bill. Would the gentleman enter into a colloquy with me?

Mr. DE LA GARZA. Madam Speaker, if the chairman will yield, I would be happy to comply with the gentleman's request.

Mr. ROBERTS. Madam Speaker, as the committee chairman will recall, I offered an amendment to the pesticide recordkeeping provisions of S. 2380, it was the last amendment that we discussed, at the last meeting of the conference committee. The conference committee agreed to the amendment, which was intended to clarify the role of the U.S. Department of Agriculture with regard to Federal agency access to use records for restricted use pesticides.

These pesticide use records will provide a wealth of useful information to those Federal agencies involved in such issues as pesticide regulation, endangered species, water quality and food safety. My amendment establishes the USDA as the Federal agency solely responsible for all Federal access to pesticide use records maintained by agricultural producers. Federal agencies that wish to access information from those records will have to submit their requests to the Department of Agriculture. In addition, the amendment accepted by the conference committee provides the Secretary of Agriculture with authority to delegate access to another Federal agency should that be necessary or desirable.

Madam Speaker, I would like to ask the gentleman from Texas if he is in agreement with that amendment?

Mr. DE LA GARZA. Madam Speaker, if the gentleman will yield, the gentleman has stated it correctly. That is my understanding.

Mr. ROBERTS. Madam Speaker, I thank the committee chairman for his explanation.

Mr. DE LA GARZA. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise today in strong support of the conference report on S. 2830, the Food, Agriculture, and Trade Act. I want to offer my congratulations to the chairman of the Agriculture Committee, Mr. DE LA GARZA, and his colleagues on the committee for their excellent work in producing this legislation.

This sweeping legislation extends major agriculture and food programs through 1995 and reauthorizes a range of programs that profoundly affect the lives of millions of people, including the Food Stamp Program, agricultural research, and aid to address hunger.

The conference agreement reflects the rapid changes that have taken place recently in agriculture. The agreement responds to important new developments in agricultural technology as well as rising concerns about the environmental and public health impacts of certain agriculture practices. The scope and significance of this legislation mirrors the enormous contribution that farms make to American life.

Mr. Speaker, I want to express my appreciation to Chairman DE LA GARZA and the other House conferees for retaining provisions in this conference which enhance incentives to participate in the Conservation Reserve Program [CRP] in critical watersheds and for including farmlands in the vicinity of Long Island Sound in that program.

This valuable program will encourage farms to remove highly erodible land from production and devote it to conservation purposes—in exchange for annual rental payments from the Federal Government. The conference agreement will increase the amount of land enrolled in the program from 34 million acres to approximately 44 million acreas.

I am pleased that the conferees saw the wisdom of retaining an amendment, which I offered on the House floor, to add farm lands near Long Island Sound to the list of areas eligible for priority participation in this program. Long Island Sound, one of our national treasures, is literally choking from the influx of nutrients that run off from agricultural lands in the sound's watershed. According to the Long Island Sound study, nutrient loading is the sound's No. 1 pollution problem, destroying valuable fisheries and shell beds and making large portions of the sound uninhabitable for fish.

By making areas near Long Island Sound eligible for the Conservation Reserve Program, we will encourage farmers to join the effort to save Long Island Sound by taking fragile lands out of production. This program is a strong indication of the Agriculture Committee's leadership in making farm policy that realizes its implications for America's future, including its environmental future.

As my colleagues know, this farm legislation has a very broad scope. Its provisions will impact the life of every American whether assisting farmers in growing crops or providing food stamps to needy families. In fact this bill holds the potential of protecting the health of many Americans because it includes an important provision which will help researchers find ways to reduce the spread of Lyme disease.

This conference report authorizes $250,000 for each of the fiscal years 1991 through 1995 for the Agricultural Research Service to assist research in the field of population ecology of deer ticks and other pests which are determined to transmit Lyme disease. While this authorization may seem small in comparison to the entire bill, it is of utmost importance to my constituents and Americans in most of our States who face the threat of Lyme disease. I wish to thank all the conferees, and the chairman of the Subcommittee on Departmental Operations, Research and Foreign Agriculture, Mr. BROWN of California, and the ranking member, Mr. ROBERTS of Kansas, especially, for recognizing the importance of this effort.

With 45 States reporting a total of 8,367 cases in 1989, a 1,600-percent increase since 1982, Lyme disease is a serious and growing public health threat. This increase does not take into account the fact that the Centers for Disease Control estimates that only 30 percent of the clinically diagnosed cases are actually reported. Currently, the only preventive measure against Lyme disease available is public education. Today, we are changing that. We are taking the offensive. We are fighting back.

Steps to curb the spread of the infected deer tick population offer an important opportunity to reverse the spread of the disease. The U.S. Department of Agriculture already funds research on ticks posing a threat to animal populations. Broadening USDA's work to include deer ticks provides scientists fighting Lyme disease with the benefit of USDA's knowledge about ticks. In this time of budget constraints, this provision is a resourceful response to a very serious health threat.

I am pleased that the farm bill conferees supported this provision, for we must let the American people know that the Federal Government is committed to curbing the dramatic growth of Lyme disease cases.

□ 1640

Mr. MADIGAN. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I thank the ranking member for yielding to me.

Mr. Speaker, I rise in support of the conference report before the House on Senate 2930, the Food, Agriculture, Conservation and Trade Act of 1990. I wish to congratulate the chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA], and the ranking Republican on the committee, the gentleman from Illinois [Mr. MADIGAN], for their hard work on this conference report and all colleagues who contributed so much to refining this legislation in very difficult circumstances.

Mr. Speaker, I was very disappointed to hear the gentleman from Kansas, the chairman of the Wheat, Soybeans and Feed Grains Subcommittee, trash the 1985 farm law. I think if Members will look back 5 years, they will recall the 1985 act was, in essence, the de la Garza-Foley act.

We had five different versions of prospective farm legislation before us in 1985, and with strong concurrence of all members of the Agriculture Committee, we wrote what I believe is a good act.

I think it is unfair and unfortunate for us to trash that act to the extent it may have had deficiencies, to say that it was the burden, necessarily, of the administration.

After all, we write the law; the Executive enforces the law. And if we did not like the law, we could have changed it. That is the way it works.

To look back on the 1985 act and say, "Well, they down at the other end of Pennsylvania Avenue did this and did that," is simply unfair.

I participated in a number of hearings on the 1990 farm bill. And if I heard one consistent message throughout, it was that the 1985 act was a good act, a good law. What farmers told us they wanted, Mr. Speaker, was continuation of the 1985 law, perhaps with minor tinkering, but continue the 1985 law because it was working.

Three things we look to as to whether or not farm legislation is working, insofar, as I am concerned: net farm income; agriculture export sales; and farmland values.

The trend line on all three of those indicators during the life of the 1985 act has been very, very positive. No one will deny that the net farm income is up; no one will deny that farmland values have stabilized and are rising, and no one will deny that last year, 1989, was the second best year since they have been keeping records for agricultural export sales.

This year, this year is running a very, very close parallel with 1989. I do not know if this year in terms of agriculture export sales, whether it will become the No. 1 year or replace last year as the second best year. But the fact of the matter is agricultural export sales are doing quite well.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

Mr. Speaker, may I ask the gentleman what happened to the price of wheat?

Mr. EMERSON. I think the main factor in the price of wheat was that last year there was an overproduction of wheat and that had an effect upon the price. I do not think it is the basic functioning of the law. I think it is the law of supply and demand that was working. There was two times as much wheat produced, grown and harvested last year as there had been in the year before, and that is inevitably going to have an effect upon price. If there had not been the supply there was, there would indeed have been higher prices for wheat. But I do not think we can blame the law of supply and demand.

We are not responsible for that. Nature has a lot more to do with it than we in the Congress.

I rise in support of the conference report before the House of Representatives on S. 2830, the Food, Agriculture, Conservation, and Trade Act of 1990. I wish to congratulate the chairman and the ranking Republican of the Committee on Agriculture for their hard work on this conference report, and all colleagues who contributed so much to refining this legislation in diffcult circumstances.

This has been a difficult process—the Agriculture Committee was required to achieve $13.6 billion in reductions in spending over the 1991 through 1995 period. The choices made were hard ones; however, it is my hope that this document will provide the American farmer with opportunities to tailor their decisions to the needs of the marketplace. I recognize that we are embarking on new paths and it is my hope that this legislation will continue to build on the 1985 farm bill and continue the market oriented approach that has served the farmers in the Eighth Congressional District of Missouri so well. I believe this conference agreement fits the needs of southeast and south central Missouri producers while ensuring that responsible budget guidelines are met. The triple-base concept adopted by the farm bill conference is a new direction in farm policy that can allow the greatest economic and profitability options for the producer. Southeastern Missouri has the distinction of being one of the most agriculturally diverse regions of our Nation. For some time now Missouri producers have asked for the flexibility to meet market and conservation oriented goals. The conference report can allow Missouri farmers the opportunity to meet both objectives.

The conference report on the 1990 farm bill is a comprehensive document, making significant changes in a myriad of programs ranging from farm programs, nutrition assistance program, trade policies, and export promotion programs. In order to achieve the savings required by the reconciliation bill, passed by the House of Representatives, the mechanism for reduction in spending for agriculture programs is provided. The reconciliation bill, if adopted, will reduce programs by 25 percent over 5 years or $13.6 billion. The major change to achieve the savings results from introduction of a program to reduce by 15 percent the amount of land eligible for farm program payments—thereby allowing farmers to plant any crop, other than fruits and vegetables. The goal of this change is to allow farmers to decide what to plant based on the market and the expected return to the farmer.

The American farmer is the envy of all—and we all benefit from the productivity and efficiency of the farmers in our country. We cannot afford to take this valuable resource for granted and must provide a basis and a climate in which the farmer can prosper and continue to supply both this country and the world with food and fiber. Almost all segments of the American society are affected by the conference report the committee brings forward today—food production, conservation of our resources, nutrition, research, export promotion, and humanitarian food assistance.

The state has been set and events are beginning to unfold on another decade of American agriculture. Over the years our agriculture livelihood has evolved in response to the world around us. The course of international events, particularly in Eastern Europe and the Soviet Union, is changing faster than we could imagine. With these dramatic changes, our own rural farms and communities cannot be immune from the far-reaching effects this new breeze of democracy holds in store for the world. The opportunties for new partnerships between American agricutural industries and the expanding economies of Eastern Europe, the Soviet Union and the Far East hold great promise. Supplying food and fiber to the world's emerging democracies, as well as for our domestic needs, will provide markets never available before.

The formulation of Federal farm policy has a profound impact of creating and sustaining jobs in rural America. The economic vitality of our rural communities continues to hinge on the success of our agriculture industry. A prosperous rural economy means greater opportunties for the men and women who sell farm implements, drive the grain and livestock tricks, deliver the feed, market the seed and fertilizer, and process the fruits of our harvest. We must maintain our position as the world's most efficient and reliable food supplier.

This is also legislation that commemorates our late colleague, Mickey Leland. I served with Mickey on the Select Committee on Hunger. I am pleased that the nutrition title of this legislation is named after him. Significant and substantive improvement to Federal food assistance programs had been included in the House-passed farm bill; however, because of the budget constraints facing us, most were not able to be included in the final document. Nevertheless, the programs upon which needy families depend are reauthorized and some improvements are included in the final product. I am disappointed that the important and significant changes could not be maintained. However, the original goals remain: to reduce hunger and malnutrition for children, to promote self-sufficiency and to improve the programs upon which needy families rely. It is my intention to continue to carefully watch the progress of these food assistance programs and work for changes in the future so that we may assure that our original goals are met.

I wish to thank the gentleman from California [Mr. PANETTA] and the gentleman from Georgia [Mr. HATCHER] for their work on this title. It does represent an attempt to provide food assistance—within the budget constraints presented—to needy families through the Food Stamp Program and through the Emergency Food Assistance Program. I know our chairman and other members of the committee are vitally interested in this subject and appreciate the assistance provided.

Agriculture is a way of life in the United States and touches each and every one of us on a daily basis. Many people contribute to the bountiful harvest we all enjoy. No one should be left out of this harvest; and yet we know there are people among us who are in dire need and lack the resources to obtain nutritious diets. I firmly believe that in our Nation of abundance, it is a tragedy for any child, elderly person, or anyone to go hungry. We are a generous country. That is why we have programs like the $19 billion Food Stamp Program and other supplementary programs to feed needy people. When these programs do not work or provide insufficient help we have a responsibility to know why and then do something about it.

The manner in whch we, as a country, provide assistance to needy families should be governed by a sense of compassion, a desire to help people get back on their own feet when their need is temporary, and a clear view that the system now in place must be reformed from one in which we have programs for food, programs for financial assistance, and programs for special needs. Remember, we are trying to help whole people, not just parts of them. A program that provides help for those unable to help themselves and makes taxpayers out of the able-bodied is my ultimate goal.

This legislation accomplishes several important goals. Most importantly, it reauthorizes the Food Stamp Program and the Emergency Food Assistance Program [TEFAP]. From the aspect of Federal food assistance programs the mainstay of feeding programs is the Food Stamp Program. It is a program that will provide $19 billion this year, as compared to the $9 billion cost in 1980.

FOOD STAMP PROGRAM

Several changes are made in the Food Stamp Program. While the increases in benefits and deductions are not included in the final legislation because of the budget constraints, some improvements are included. I regret that the significant benefit increases could not be included. I especially regret that one—the proposal to exclude the first $50 a month paid as child support from consideration as income in the Food Stamp Program, which is consisent with the AFDC regulations, could not be maintained. This provision highlighted the importance of securing child support payments from absent parents, who, I believe, have the obligation to support their children. It is extremely important that Federal assistance programs stress this responsibility.

The conference report provides that States will be required to implement automated data processing systems, with review by the Secretary. This provision will contribute to the efficient administration of the Food Stamp Program, provide necessary help to over-worked administrators, and help provide a means to deliver the correct amount of benefits in an effective manner.

An extremely important provision is maintained and concerns the complicated nature of the Food Stamp Program and the AFDC Program. Both programs are designed to serve needy families. However, the rules and regulations differ to a great degree providing confusion and inefficiency for participants and administrators alike. For those families receiving AFDC, we ought to be able to provide food stamp benefits without requiring them to go through a maze of applications, forms, verifications, and procedures that are different from those applicable to the AFDC Program. After all we are talking about needy families—families needing income and food assistance.

When a family is in need of help, that often crosses program lines. Need for income assistance often means need for housing assistance, food assistance, and for some, help in finding and keeping a job. The hurdles that families must scale in applying for help are immense. They often must go to different agencies, different eligibility workers, meet different eligibility standards, and abide by different rules and regulations. That they are able to receive help is often a reflection of their abilities, rather than the system presented to them.

Administrators of these programs—both on the State and local levels—have similar problems. The resolution of the differences in the Federal assistance programs is often not within their ability to achieve. Many efforts have been made by States; but they may have gone as far as they can go. This provision makes an initial step to resolving the differences between the two major assistance programs—AFDC and food stamps. We are proposing that certain sites be allowed to determine food stamp eligibility based on the AFDC regulations, for those AFDC families in which all members received AFDC. While we propose that AFDC rules be applied in almost all instances, food stamp rules will be used for income deductions and processing standards, including the provision of expedited services for families in immediate need.

This important, innovative procedure is a first step in the process of resolving the differences among the several Federal assistance programs. Needy families are not well served by the complicated, confusing process now in place. Administrators on the State and local level cannot get a handle on the myriad programs and deliver services to needy families in an effective and efficient manner. The current system does not deliver benefits to needy families in either a compassionate or efficient manner. I hope this provision will change that.

COMMODITY DISTRIBUTION PROGRAMS

One of the debates that arose during the consideration of the Hunger Prevention Act of 1988 concerned the differences between the Food Stamp Program and TEFAP. Both programs are valuable and necessary programs. However, for some the ability to receive commodities through TEFAP may mean the only assistance they receive. Some needy families, especially elderly families, were much more likely to desire and receive commodities through TEFAP. Again, the conference agreement does not allow the required spending originally included in the House passed bill because of budget constraints; nevertheless TEFAP is reauthorized through 1995 and the authorized levels are set at $175 million for 1991, $190 million for 1992, and $220 million for 1993, 1994, and 1995. I am an ardent supporter of the commodity distribution programs.

I believe this is an efficient and effective means by which we can provide food to needy people. The rural, elderly poor are able to benefit from commodity distribution programs much more readily than the Food Stamp Program. I truly believe that if we did not have this program we would have to invent it.

Other changes to the commodity distribution programs include establishment of a Commodity Supplemental Food Program for elderly persons and permanent food bank projects. I am pleased that the conferees, in the recently passed agriculture appropriations bill, noted that surplus stocks of nonfat dry milk will be available for donation to the Commodity Supplemental Food Assistance Program and that this can serve to expand CSFP participation. This will be especially helpful in the process of allowing participation by elderly persons and establishing new CSFP sites to serve needy elderly persons.

I hope my colleagues will join with me to work to provide food assistance to needy families and individuals in a compassionate and efficient manner. My ultimate goal is to see true reform of the welfare system—through which we provide benefits to needy people through coordinated and simplified programs and also provide employment and training to able-bodied participants.

We have a responsibility to maintain programs for those who are aged or disabled; but we also must simplify the programs we have now and provide a method to make taxpayers out of those able-bodied people now in need of help.

Thank you Mr. Speaker. I urge my colleagues to support the conference report on S. 2830—A bill that helps farmers, consumers, and needy families.

Mr. DE LA GARZA. Madam Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. I thank the gentleman for yielding me the time.

Madam Speaker, I wish to congratulate the chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA], and all the other members of the Committee on Agriculture for the farm bill. It is not as good as some I would like to have seen, but it does have a provision that many of us who are on the Forestry and Family Farm Energy Subcommittee are very proud.

This farm bill, for the first time, contains a forestry section that would help to improve our stands of private and nonpublic or State lands to take the place of the reduction that we are seeing today and will see in the future, reductions of timber off of our public lands, and hopefully improvements in our State and private forestry programs, we would see an increase in that as well.

Mr. HARRIS. Madam Speaker, will the gentleman yield to me?

Mr. VOLKMER. I yield to the gentleman from Alabama [Mr. HARRIS] who has been a leader, and a member of our subcommittee in addressing these concerns.

Mr. HARRIS. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, I just want to compliment the chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA], and the gentleman from Missouri [Mr. VOLKMER] for the fine job that they have done in bringing this bill to the floor.

For the first time, the farm bill recognizes the importance of State and private forestries. This is very important to us in Alabama. There are provisions in there that we worked so hard on, and I would certainly encourage all of our colleagues to support the conference report.

Mr. NAGLE. Madam Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman form Iowa [Mr. NAGLE].

Mr. NAGLE. I thank the gentleman for yielding.

Madam Speaker, let me just say very briefly, when the gentleman from North Dakota rose and inquired as to what had happened to the price of wheat, I wanted to ask also what happened to the price of corn? What is going to happen in this farm bill now that we have frozen the target price for 5 years?

Madam Speaker, I speak in opposition to the farm bill because you are asking farmers, in this bill, at the direction of the Secretary of Agriculture, to take the cuts right out of the back of agriculture and take them out of the farmer. At the same time, not to ask any of those great American agricultural companies like Cargill and Peruzzi to take any cuts whatsoever.

There should be no mistake about this bill, it is a bad bill. It is a bad bill for the American farmers. It was handcrafted by the administration and passed with acquiescence by the Agriculture Committee.

Mr. VOLKMER. In deference to the gentleman from Iowa, I would like to request the Members of the House to vote for the farm bill. I think it is not as great as I would like to have seen, as I said before, but I think under all the circumstances it is the best we can do.

I urge Members of the House to vote for it. We will continue to work in this Chamber with members of the Agriculture Committee to try to improve the programs in the future and, hopefully, provide income for our producers.

Mr. MADIGAN. Madam Speaker, I yield 1 minute to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I congratulate the chairman and ranking member, in fact, all the members of the Committee on Agriculture as we bring this issue to you and ask you for your support.

Let me mention three areas quickly that I am familiar with, that I am pleased with. We continue the export promotion, one now called the Marketing Promotion Program. In addition to the Export Enhancement Program. These are absolutely vital, as American agriculture overproduces and is able to feed much of the rest of the world.

As you have heard, there is a forestry title for the first time, recognition of the importance of wood products to this country. Also included in the rural development portion of the bill, assistance for timber-dependent communities, which is vitally important as we look at the devastating job loss from the spotted owl issue in the Northwest.

Again I thank the agriculture team. I think the action I have enjoyed during the last year is what democracy is all about as we worked together to bring you this measure.

Mr. DE LA GARZA. Madam Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Madam Speaker, I would like to engage in a colloquy with the chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA], about the tobacco export reporting requirements that are in the conference report that was just filed, if the chairman would allow me to.

The tobacco reporting requirements in this bill simply require reports to be filed on all export tobacco shipments under two different mechanisms.

□ 1650

First, tobacco shipments that are not either cigarettes or cigarette-ready must be reported to the Secretary of Agriculture within 60 days of export on an individual company basis. Report requirements for cigarettes and cigarette-ready tobacco shipments allow for individual aggregate quarterly reporting of tobacco shipments by individual tobacco companies. This processed product requirement is designed to protect specific or particular brand formulations.

The managers intend that this provision apply solely to cigarettes and cigarette-ready tobacco, and not to general blends of tobacco, whether foreign and U.S. tobaccos or United States with U.S. tobaccos. In other words, cigarette-ready means ready to be made into a cigarette. The managers stress that the tobacco must be missing merely the final step of being placed into paper tubing to qualify as cigarette ready. Semi-processed tobacco, fully processed tobacco which is not ready to be made into a cigarette, and tobacco which has merely been blended, do not qualify as cigarette-ready tobacco shipments, and thus must be handled on an individual reporting

basis as specified under the general tobacco reporting provisions.

I think my colleague has examined, and the lawyers have examined, the remainder of my statement, and I have been granted leave to revise and extend my remarks.

Madam Speaker, is this the understanding of the gentleman from Texas [Mr. DE LA GARZA] of the managers' intent with respect to this requirement?

Mr. DE LA GARZA. Madam Speaker, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Madam Speaker, I will state to the gentleman from North Carolina [Mr. ROSE] that it is.

Mr. ROSE. Madam Speaker, I thank the gentleman from Texas [Mr. DE LA GARZA].

Additionally, information regarding grade may be provided consistent with a particular company's grading system as long as the company provides the U.S. Department of Agriculture with the means to reconstruct or convert such grades to grades which are compatible with established USDA grades in order to standardize reporting information. Information contained in certifications with respect to grade must be consistent with grade information supplied to other Federal agencies, for example, as where the exporter reports USDA standard grades on Customs export declarations. In the case of imported tobaccos, since a USDA grade is established upon import inspection, USDA grades should be used upon reexport.

In order to encourage accuracy in the filing of tobacco export reports, tobacco which is purchased from producer associations, that is loan stock tobacco, should be treated according to the following guidelines. As a condition of processing or storage of loan stock tobacco, the Commodity Credit Corporation must require all persons who either process or store loan stock tobacco to agree to provide certifications regarding U.S. origin, grade, poundage, and crop year, on tobacco processed and/or stored. Since the producer associations enter into contracts with persons to process and/or store loan stock tobacco with the approval of the Commodity Credit Corporation, all contracts entered into with the producer associations and other persons for the processing and storage of loan stock tobacco must reflect this requirement. Certifications must be made available to the producer associations upon completion of processing, or movement of loan stock tobacco which is stored. Producer associations will retain such certifications and make such certifications available to purchasers of loan stocks tobaccos upon purchase of the particular tobacco in question. Thus, purchasers of loan stock tobacco will have certifications regarding U.S. origin, type, grade, poundage, and crop year available to them which they may incorporate to meet the certification requirement imposed upon them.

In those instances where the producer association has processed and stored the loan stock tobacco in question, the producer association should provide the sole certification. The managers stress, however, that, the producer association must provide such sole certifications only in those instances where they, the producer association, have both processed and stored such tobacco at all times.

To assist purchasers of loan stock tobaccos, with certifications regarding older loan stock tobacco purchases, the producer associations should use every effort possible to obtain whatever certifications they can to satisfy the most complete chain of custody as possible. This will assist purchasers of loan stock tobaccos more fully, and will also expedite the correct filing of certifications. Where a person who has processed and/or stored older crops of loan stock tobaccos no longer exists as a legal entity or can no longer be located, the Secretary should take this into account with respect to any possible problems which may arise with purchaser of loan stock tobacco certifications.

The Secretary must take immediate action where processors and/or persons who store loan stock tobacco fail to provide such certifications as required, or where such persons provide false certifications in order to protect the integrity of loan stock tobacco, and in order to fulfill the requirements imposed by this provision. Processors and/or persons who store loan stocks must not be allowed to withhold such certifications in order to limit the ability of the producer associations to sell loan stocks, and the Commodity Credit Corporation must take whatever action is appropriate to make sure that such does not occur. This is particularly important with respect to any direct sales which the producer associations might make, and in these instances, failure of the processor and/or person who stores loan stock tobacco to provide the certification upon purchase should be taken as a direct obstruction of Commodity Credit Corporation authority granted under Federal law.

The managers stress that in no way should the certifications regarding loan stock tobacco limit the ability of the producer associations to sell loan stock tobacco. To ensure that this does not occur, the Secretary should review such procedures in consultation with producer associations and Congress.

Mr. MADIGAN. Madam Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Madam Speaker, the House-Senate agriculture conference committee has made some difficult decisions in approving the 1990 farm bill to reauthorize our commodity programs for the next 5 years and establish agriculture policy for the start of a new decade. I am pleased with the dairy title of the farm bill because it continues the movement toward a modern and national dairy program.

The dairy title represents a change in policy for a number of reasons. The price support level of $10.10 is frozen for the next 5 years. Reform in the Minnesota-Wisconsin price series will be in place by June 1, 1991. Government purchases will be calculated on a total solids basis. Changes in the Federal milk marketing orders through current hearings will be in place by January 1, 1992. By August 1, 1991, the Secretary will recommend a target price/class IV program to deal with surpluses. And the California make allowance will be eliminated by January 1, 1992.

The major victory in this dairy title, likely to go unrecognized, is an increase of $2.3 billion in the budget baseline. The budget baseline is the accounting tool which projects how much money the dairy program has to spend over the next 5 years. In simple terms, this is $2.3 billion dairy farmers will not be asked to incur in farm bill price support cuts.

Just what does this program mean to dairy farmers? The USDA estimates the U.S. dairy industry will have $6.8 billion more in cash receipts over the next 5 years than if the current program were continued. For example, this is $1.16 billion more for Wisconsin farmers over 5 years, or about $32,000 more for the average Wisconsin dairy farmer by changing current policy.

The new dairy program shifts direction on how the Government will deal with surpluses. Rather than continuing to reduce the price support level, we will have a market-oriented inventory management program. The farm bill requires the Secretary of Agriculture to submit a proposal for a target price program or a class IV program by August 1, 1991. The target price approach is tailored to directly support dairy producers especially small family farmers in the Northeast and Midwest.

My prediction is that USDA will recommend that Congress implement some form of target price program for dairy. Target prices are good for Wisconsin family farmers because they maintain farmers' incomes and cap payments to large farmers who are increasing production in other areas of the country. A target price program would be the first time the Federal Government provides price supports directly to the dairy farmer. It is market-oriented because it allows the market price to respond to market supply-demand conditions—but it protects farmer income at the $10.10 price level.

Dramatic structural changes over the next few years will have a great impact on the U.S. dairy industry. Currently, hearings are being conducted on the Federal milk marketing orders to reform the system of pricing fluid milk and transporting it to deficit consumption regions. For too long, Wisconsin has suffered from this antiquated and outdated system. The farm bill mandates changes to be implemented by January 1, 1992.

An alternative to the current Minnesota-Wisconsin [M-W] price series must be in place by June 1, 1992. The M-W sets the Federal minimum price for milk based on the competition for milk by processors in those two States.

The current M-W is not adequate for the dairy industry of the future.

A combination of these changes in the dairy program to provide stability, elimination of the California make allowance, and a new commitment from the USDA, will mean a positive future for Wisconsin's dairy farmers. A modern and national dairy program was my goal. The 1990 farm bill was successful in assuring a modern and national dairy program for the decade of the 1990's.

1990 FARM BILL DAIRY PROGRAM SUMMARY

For calendar years 1991 through 1995, the price of milk shall be supported at a rate not less than $10.10 per hundredweight for milk containing a 3.67-percent milk fat.

The reconciliation assessment for fiscal year 1991 shall be $0.05 per hundredweight. For fiscal year 1992 through 1995, the reconciliation assessment shall be $0.11 per hundredweight. Those farmers who produce at or below the previous year level will be refunded the assessment. The total 5-year reconciliation for the Dairy Program is $700 million.

Commodity Credit Corporation purchases shall be calculated on a total solids basis.

By August 1, 1991, the Secretary shall propose a program to be adopted by Congress to be implemented when purchases exceed 7 billion pounds total solids in any of the calendar years 1992 through 1995.

The Secretary shall analyze and make recommendations on alternative programs, including class IV, target price, and any other program the Secretary decides to study. This study shall not include mandatory cattle slaughter or price support cuts.

In developing a report and recommendation, the Secretary shall follow a notice and comment process, solicit proposals from the dairy industry, consider comments from the dairy industry concerning proposals, and notify the industry and the public of the Secretary's evaluation of these programs.

Effective 12 months after enactment, no State or individual plant shall collect a make allowance for the processing of milk that is in excess of that permitted under a Federal program to establish a grade A price for manufacturing butter, nonfat dry milk, or cheese. This will phase out the California make allowance in 1 year.

Secretary shall conclude national hearings on the Federal milk marketing orders and implement changes by January 1, 1992.

The USDA shall have developed an alternative price system to the Minnesota-Wisconsin price series by June 1, 1992.

Provide authority to establish a processor funded fluid milk promotion program. Program needs to be approved in a referendum by a vote of at least 50 percent of the fluid processors, representing 60 percent of the fluid market. Assessment fund would be capped at 20 cents per hundredweight. Assessment will not be paid by farmers.

THE BUDGET BASELINE VICTORY

The major victory in this dairy title is an increase of $2.3 billion in the budget baseline. Inaccurate assumptions based on the continued reduction of price supports would have phased out the Dairy Program in 5 years.

USDA ESTIMATES OF DAIRY PROGRAM COST

[In millions of dollars]

	Old baseline cost	New baseline cost
1991	446	608
1992	409	801
1993	506	1,114
1994	387	1,016
1995	368	870
	2,116	4,410

Note.—Additional $2,300.

USDA ESTIMATES OF FARM BILL VERSUS CURRENT POLICY

	1991	1992	1993	1994	1995
Support price (per cwt.):					
1990 farm bill	$10.10	$10.10	$10.10	$10.10	$10.10
Current policy	9.60	9.10	8.60	8.60	9.10
All milk price (per cwt.):					
1990 farm bill	12.80	11.65	11.40	11.60	11.75
Current policy	12.50	11.00	10.45	10.55	10.85
Cash receipts (dollars in billions):					
1990 farm bill	19.020	17.820	17.770	18.160	18.530
Current policy	19.510	16.680	16.080	16.280	16.190
Program costs (dollars in millions):					
1990 farm bill	608	801	1,114	1,016	870
Current policy	446	409	506	387	368
CCC purchases (billion pounds):					
1990 farm bill	4.4	7.6	10.2	9.1	7.3
Current policy	6.3	5.9	5.9	4.4	3.4

POSITIVE PROGRAM RESULTS

The USDA estimates the U.S. dairy industry will have $6.8 billion more in cash receipts over the next 5 years than if the current policy was continued. This is $1.16 billion more for Wisconsin farmers over 5 years, or about $32,000 more for the average Wisconsin farmer.

DIFFERENCES IN INCOME, 1991-95

[USDA estimates]

	U.S. receipts (billions)	Wisconsin receipts (billions)	Average farmer income
Current program	$84.4	$14.3	$442,800
Net program	91.3	15.5	473,600
Difference	+6.8	+1.2	+32,000

Mr. DE LA GARZA. Madam Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Madam Speaker, I rise in support of S. 2830, the 1990 farm bill conference report, and I urge my colleagues to support it.

The farm bill conference agreement reflects the many hard choices that we had to make given the requirements of the budget deficit reduction plan. The budget reconciliation process has been difficult and especially painful for farmers. Reduction of the Federal budget deficit, however, is critical for this Nation's farm economy. The huge budget deficit results in high interest rates that raise the cost of production for farmers, and a strong dollar that decreases the competitiveness of their exports. I have worked hard to restrain Federal spending and bring the Federal budget into balance.

This legislation is certainly not everything I wanted in farm programs. We have made progress, however, since the 1985 farm bill that led to low commodity prices offset by large Federal outlays for farm programs.

My preference for farm policy has long been strong price protection targeted to family producers, allowing Government aid for a set number of bushels, with producers who grow more than that taking their chances on the market. I look forward to revisiting the targeting concept and reform of farm program payment limitations in the coming years. I am pleased, however, that this new farm bill holds loan rates closer to the average market price than did the 1985 Farm Act.

There are two important ways to help our farmers recover lost income due to decreasing Government support: increase demand, and therefore prices, for agricultural commodities, both domestically and in international markets, and increase flexibility in farm programs. This farm bill does both of those things.

To increase demand, it is important that we do all that we can to increase the value added to agricultural commodities before they are exported from rural areas. The value that is added to a basic commodity is money that stays on the farm and in the community. Included in this bill is a provision establishing the Applied Agricultural Research Commercialization Center to involve Federal, State, and local governments with the private sector to commercialize new industrial uses for agricultural commodities. Through the selective use of public capital, we will be able to leverage private funds to get new products on the market and strengthen both farmers' incomes and the rural economy. I would like to thank Mr. BROWN of California, Mr. ROBERTS, Mr. MADIGAN, and Mrs. SMITH, along with Senator CONRAD, for their support and hard work on this provision of the legislation.

Flexibility has been one of the buzzwords of the 1990 farm bill debate. I have proposed, and will continue to work for, lower acreage set-asides [ARP's] and increased acreage flexibility for farmers. If Federal Government support to farmers is decreased, then we must give farmers a chance, through planting flexibility, to recover

lost income in the marketplace. This bill moves us toward flexibility.

There is no doubt that our agricultural policy for the 1990's must increasingly include environmental and natural resource conservation goals that contribute to the sustainability of agricultural production. Such urgent matters as wetlands preservation, soil erosion, ground water protection, and wildlife management must be addressed, in part, in farm policy. This farm bill, thanks in large part to Chairman DE LA GARZA, Mr. ENGLISH, and Mr. COLEMAN of Missouri, continues to make the important environmental steps taken in the 1985 farm bill. I am hopeful that we will continue to implement reforms of farm programs, giving farmers more flexibility in the management practices that make the best use of soil and water resources.

Finally, as a member of the House Select Committee on Hunger, I applaud the reforms made to our Public Law 480 Foreign Food Aid Programs. Chairman TONY HALL has been a driving force behind these much needed changes. I am confident that our food aid will be more targeted to the most food insecure people in the world, while the development of commercial markets for our agricultural commodities will also be strengthened.

Mr. MADIGAN. Madam Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Madam Speaker, I thank the gentleman from Illinois [Mr. MADIGAN] for yielding.

I would hope, my colleagues, that we do not find it necessary to go back over past policy decisions and put a partisan banner on them, whether that be the 1985 act, or whether we are just simply very frustrated over the budget reconciliation dictates. I am not very happy with either. This is not the best possible farm bill, but it is, I think, the best bill possible under very, very difficult circumstances. We have some budget dictates, not of our making, and certainly the administration has a part to play in that, but certainly the leadership of this House and the Senate has a part to play in that as well. I hope we all understand that.

Madam Speaker, it seems to me that we have a child here, a farm bill child, and we all really would like to give birth to some other child, and we do not want to claim the parentage, but actually in terms of the work on the Committee on Agriculture, it was bipartisan, and we had to step up to very, very, difficult budget considerations. We had all sorts of environmental responsibilities, and we had a bunch of self-declared Secretaries of Agriculture on this floor trying to dictate a whole host of farm policy decisions that we did not want, and we finally got a bill.

Now the truth of it is that I do not care if my colleagues want to put the blame on 1600 Pennsylvania Avenue and past administrations, or wherever. We have to have the responsibility to move ahead because the alternative is far worse. It is Gramm-Rudman, and nobody wants that sequester in farm country. We are talking about a 30- to 40-percent cut.

In addition, the other alternative is to go back in and try to write yet another and better farm bill in the next session.

I would say to my colleagues who are complaining about this bill, "I share their frustrations. My lord, we worked just as hard as we possibly could, but the issue is really this: Do you want an issue, or do you want a bill? And again this bill is the best possible bill under difficult circumstancs." And I would say to my colleagues, "Above anybody else, I am aware of the low wheat price and the need to get the wheat price up."

Mr. DE LA GARZA. Madam Speaker, I yield 1 minute to our distinguished colleague, the gentleman from California [Mr. FAZIO] for purposes of engaging in a colloquy with the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. FAZIO. Madam Speaker, I was concerned about the actual effect of the language that relates to the make allowance, which at this point applies to California. It is my understanding that the language in the report of the statement of the managers is not the dominant language. The bill language is, and will the gentleman confirm, that in effect the California make allowance has 1 more year to run from the date of enactment of this legislation?

Mr. GUNDERSON. Madam Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Madam Speaker, that is correct.

Madam Speaker, in the statement of managers accompanying the conference report on S. 2830, an inappropriate inclusion of language appeared describing section 102, milk manufacturing marketing adjustment.

The fact is that California, and any other State, will have 1 year from the date of enactment of this bill in order to phase in the uniform make allowance nationwide.

Mr. FAZIO. Madam Speaker, I appreciate the comments of the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. DE LA GARZA. Madam Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. HATCHER].

Mr. HATCHER. Madam Speaker, I rise to point out that, among the many other meritorious provisions of this legislation is a nutrition title that contains many important improvements in the Federal nutrition programs that serve low-income people in need.

A number of those improvements are in the Food Stamp Program.

I am pleased that the final bill includes a provision allowing employment and training programs to include adult literacy efforts. Literacy is crucial to employability as well as to adults' ability to function in society. In a similar vein, I expect the Department to ensure that any electronic benefit transfer [EBT] projects make appropriate provision for ensuring that recipients who have difficulty reading or doing basic arithmetic are accommodated so that they can readily access their benefits without embarrassment.

Although the final legislation does not, as the House bill did, require EBT terminals to be operational in all lanes, the practical effect of the requirement that food stamp households receive service equal to that provided nonfood stamp customers may be similar. It may be more likely that equal service can be provided with fewer lanes equipped where a store has a large number of nonfood stamp customers purchasing food through the same kind of electronic devices. This is yet another benefit of piggybacking EBT onto existing commercial arrangements, which the conference report strongly advocated. We feel very strongly that EBT should be designed as a step foward toward improved service to recipients, not a step backward toward stigma and discriminatory service.

The legislation clarifies and expands upon the provision of the Hunger Prevention Act calling for simplified procedures for claiming the excess medical expense deduction. The intent is that food stamp offices will take the best available information about when and how such medical costs will cut into the ability of households to purchase food and provide a deduction accordingly. Households should not be be required to submit verification of expenses that can be anticipated based on recipients' medical condition, insurance coverage, known expenses, and other relevant factors. Whether a particular cost was incurred just before or just after the end of a month or how early in a certification period a household incurred an expense that could be prorated, should not affect the amount of households' deductions. Nor should households facing real out-of-pocket costs be denied deductions because of uncertainties about how much insurance coverage will be available unless the coverage can be anticipated under the normal rules for anticipating income. Since the same State agencies generally administer the Medicaid and Food Stamp Programs, they should have ready access to the expertise need to formulate effective estimates.

The provision on simplified resource determinations for inaccessible resources is intended to save paperwork for State agencies and households. Since it affects the exclusion of resources, rather than the valuation of nonexempt resources, it will not be necessary for the State agency to determine the exact fair market value of a resource to determine that the resources is exempt. The program's resource rules are intended to deny eligibility to persons with other, readily available means of obtaining food. It serves no purpose to deny a

household food stamps because of an asset whose disposition would be costly relative to its value and therefore would not yield the household any significant cash.

The legislation expands the list of employment and training programs whose enrollees may receive food stamps during periods when they are in classes at colleges or universities if they are otherwise eligible. The crucial issue is whether the training program's counselor or administrator has determined that enrollment in a college or university is necessary to improve the student's employability; that is, whether such a person has approved the course of study as an appropriate placement under the training program. The bill refers to placements, but it is not intended to preclude circumstances where employment and training programs include program approved self-placements. I want to emphasize, however, that these student would only be allowed to receive food stamps if they meet all income and resource rules. We have no interest in bringing middle income students back onto the Food Stamp Program.

The bill modifies the provisions for dealing with funding shortfalls in the program. In some recent years, the program has spent much less than was estimated. In others, it has spent somewhat more. Current laws calls for allotment reductions if projections show that funds will be insufficient to finish the year. Under this revised system, if the Secretary believes that funding is insufficient to last out the year, Congress would be notified of the need for a supplemental appropriation. I would expect the Secretary to reduce allotments only if such a supplemental appropriation was not enacted.

Although the bill restructures the overissuance collection procedure to eliminate the current provision for giving households 30 days in which to elect how to repay overissuances, it is not intended to limit any households' due process rights. Households should be given clear, specific advance notice of any adverse actions that the State agency proposes to take and an opportunity for a hearing on whether those actions are appropriate. The State agency would give a household found guilty of intentional program violations a notice that its allotment would be reduced, but if the household wished to have more than 20 percent of its allotment withheld, or if the household wished to pay the claim in cash, that request would be honored.

I was pleased to learn that the Department had amicably settled most of the issues it had been litigating in California concerning the application of retrospective budgeting to certan kinds of payments. The terms of the settlement seem just, equitable, and in keeping with the purposes of the program to assist the hungry, and reduced the urgency of adopting the House language on this issue. The conferees decided to take no positon on those issues that remain subject to ligitation.

The House bill contained very detailed requirements for protecting certan households from suffering severe hardships when their need increases, or their available income decreases, and retrospective budgeting would otherwise compel the household to wait 2 or 3 months for increased food stamps. Although we are all in great sympathy with households who lose their jobs, face sharply increased shelter costs, or suddenly have additional mouths to feed, the formulation in the House bill may in some respects have been too broad and in others too narrow. Since the Secretary has for some time had regulations on households suffering severe hardships, I would hope that he would review and modify rules affecting retrospectively budgeted households to ensure prompt adjustment of benefits when the circumstances in the household change considerably. The goal here, and for the Food Stamp Program generally, should be to ensure that households' allotments reasonably reflect their current needs.

The provision on excluding vendor payments for transitional housing is intended to supplement, rather than supplant, the existing exclusions in the act. It has long been Department policy that such vendor payments, in States such as Georgia, without separate shelter allowances should be completely excluded and that any amount by which the shelter vendor payment exceeded the maximum shelter allowance would also not count as income. By excluding half of the remaining vendor payments in States with separate shelter allowances, we do not mean to preclude further exclusions if, for exmaple, some of the payment is for medical care or is a special or emergency vendor payment.

It came to our attention that the Department was interpreting current law to forbid States from moving the mandatory notices of applicants' rights from the front of the application form to a tearoff form covering the front. In light of some States' efforts to develop extremely short and simple application forms, we felt it appropriate to allow States to place these notices in prominent places other than the cover of the application. The intent remains to make sure that the forms immediately make households aware of the importance of promptly filing the application, of the availability of expedited service, and of the right to submit forms containing limited information—which will then be supplemented when the household is interviewed.

The bill requires Food Stamp Programs operating on Indian reservations to move to staggered issuances. Although staggered issuances have been initiated most in urban areas, they may provide the greatest benefit for households in rural areas where there may be little competition among food stores and issuing food stamps at the same time every month may contribute to undersirable monthly fluctuations in prices. If handled correctly, staggered issuances may provide a solution. Obviously, househoulds cannot live for 40 days on allotments designed for 30. Therefore, this legislation, like current law, provides for more than one issuance during transition periods.

The legislation gives States the option not to combine first and second months' issuances for households not entitled to expedited service. We felt it important to retain the combined allotment procedure, however, for households in such dire need that they qualify for expedited service. A household under these circumstances may not able to wait until the completion of the verification process for help buying food for its family. A first month's benefit that has been reduced by more than half through prorating rarely will be enough for these households.

I am pleased that, under this legislation, at least two States will be giving priority to volunteers in their food stamp E&T programs. This should improve consistency with AFDC's JOBS Program, and I am interested in learning the impact of this provision on the effectiveness of the E&T programs in these States.

The bill expands categorical eligibility to cover general assistance households. The Secretary is to establish standards for determining whether GA programs are appropriate to categorical treatment. The intent is not to require the GA Program to have standards identical to those in the Food Stamp Program but rather to ensure that the GA Program is indeed a need-tested benefit and that recipients fulfill requirements comparable to food stamp requirements.

The final legislation permits households with adult children and their parents to designate the head of household and limits the number of times households may change their designation of whom is the head of the household. This is an equitable procedure for ensuring that the household designates its most responsible member as head. It is my hope that the Secretary will review and modify the current regulation on determining head of household so that adult household members might designate the household head. Such a change will yield a much simpler rule than the one in current regulations. Dispensing with earnings tests and instead limiting the frequency with which a household may change the designation of its head should largely remove the possibility for abuse while making sure that the person the Food Stamp Program treaties as the head of the household is in fact fulfiling that function.

The final legislation establishes a welfare simplification and coordination advisory committee and authorizes four demonstrations for AFDC and Food Stamp Program simplification. The dual purposes of improving coordination among these programs should be to improve their ability to assist people in need and to simplify administration. Consistency should not be an end in itself to be pursued where it can only be achieved at the expense of the purposes of the programs to respond to the needs of low-income people.

With respect to the Commodity Supplemental Food Program and the legislation's change in the formula for Federal administrative funding for CSFP sites, we do not intend for any such site to receive less administrative funding in fiscal year 1991 than it received in fiscal year 1990. The intention of this provision is to stabilize the funding mechanism at a level that is at least comparable to that of fiscal year 1990.

Mr. MADIGAN. Madam Speaker, I yield 1 minute to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Madam Speaker, the Agriculture conference report before us today is one that basically leads American agriculture into unchartered territories. Granted, it is still unclear as to how several sections of this legislation will affect the agri-

culture producers of America but it is clear that the 1990 farm bill looks to the future bringing American agriculture into the year 2000 with an emphasis on global trade. This legislation continue the market-oriented path that was established by the 1985 farm bill.

Farmers are given the opportunity to plant whatever they choose on 15 percent of their land on which subsidized crops are normally planted.

The farmers will be able to plant for the market in their region—hopefully bringing the highest market price for those commodities.

Mr. Speaker, the members of the Agriculture Committees were assigned the difficult task of reducing the budget impact of American farm programs by $13.6 billion over 5 years. We met this challenge and I hope that it is not to the detriment of the American farmer. Any Member who has ever gone through the farm bill process will remember the complex and all encompassing nature of this legislation.

I commend Chairman DE LA GARZA and Mr. MADIGAN for their diligence in putting together legislation that will benefit America's farmers and guarantee the consumer a safe, abundant food supply.

I would like to say to my colleagues today, this is good sound agriculture policy. Mr. Speaker, I urge all my colleagues to support this legislation.

□ 1700

Mr. DE LA GARZA. Madam Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Madam Speaker, in the minute that I have, let me first thank the chairman of the full committee [Mr. DE LA GARZA] for his leadership, and that of the ranking member, the gentleman from Illinois [Mr. MADIGAN], who worked many hours. Also I would like to thank the conferees for their tireless efforts in producing this bill.

Madam Speaker, in the time I have left, I would extend the message to our urban and suburban Members, and just tell them that we were given a very tough assignment, that we met it head-on, and we did not tinker around the edges of this farm bill. Through this conference report and the accompanying reconciliation report, I think we substantially met the farm policy. We were given what I believe to be direction to make disproportionate and unfair cuts in this farm bill, but we tightened our belt, we went back to the rule, and we returned a budget responsible bill. That is a message that ought to go out beyond the halls of this House to our urban and suburban colleagues.

Madam Speaker, I agree with everything that has been said before. I agree that this bill does the best job that we could do under some very difficult circumstances.

With that, let me urge passage of this conference report and thank the conferees and the chairman for their leadership.

Mr. MADIGAN. Madam Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Madam Speaker, I rise in support of this 1990 farm bill. First, I would like to extend my congratulations to the gentleman from Texas [Mr. DE LA GARZA], our chairman, and the ranking member, the gentleman from Illinois [Mr. MADIGAN], for the leadership they exhibited throughout the drafting of this new bill.

Madam Speaker, if we can remember, in the early 1980's agriculture was in a troubled time. Land values were down, farm income was down, exports were down, and the cost of farm programs was up.

The 1985 farm bill changed that. We were aggressive on international markets. We regained our market share. Exports went up, land values went up, farm income went up, and the cost of farm programs went down.

The 1990 farm bill continues the aggressive export initiative, particularly with the GATT round of talks, because we must have access to foreign markets for our agricultural products. We have fair but strong environmental provisions in the 1990 farm bill. After all, farmers are America's first conservationists.

From the standpoint of Michigan, we maintain the sugar program which is so important to the 2,200 sugar beet producers in my home State, and the rich diversity we have in terms of nonprogram crops on the flex acres. On the triple base acres we have protected dried beans and vegetables from severe market shocks. I would urge Members to support this 1990 farm bill. It is sensitive to world market forces, it is aggressive on the international side, and it is going to help America's farmers and ranchers in the future.

Mr. DE LA GARZA. Madam Speaker, I yield 30 seconds to the distinguished gentleman from Maryland [Mr. DYSON], a member of our committee who has contributed much to the endeavor in getting us to this point in the debate and in the legislation.

(Mr. DYSON asked and was given permission to revise and extend his remarks.)

Mr. DYSON. Madam Speaker, I rise before the House today in support of the 1990 farm bill conference report.

I commend the gentleman from Texas, the chairman of the Agriculture Committee, and the gentleman from Illinois, the ranking minority member, for doing an exceptional job in formulating a farm bill that helps the American farmer while still meeting budget reductions mandated by both sides of Congress.

As every House Agriculture Committee knows, these are not uncomplicated times.

And these are not uncomplicated issues.

But despite the difficulties in cutting more than $13 billion from farm programs, and despite the difficult battles each committee member had to endure from every direction, the 1990 farm bill will help our Nation's farmers.

One area I am especially pleased about is the new soybean marketing loan.

As many of you know, the U.S. soybean industry has been one of the fastest growing sectors in the Nation's agricultural economy.

But, this vital industry has grown stagnant because of excessive foreign government subsidization and other incentives pulling U.S. farmers to grow other crops.

Unlike the 1985 farm bill, the 1990 farm bill will help halt the declines in production and increase exports of American oilseeds.

Maryland's First District grows more than 85 billion dollars' worth of soybeans annually. Our district farmers have assured us that this new marketing loan will help them compete through the end of the century.

The second important part of this legislation to me is the inclusion of amendment that creates incentives to expand participation in the conservation reserve program in the Chesapeake Bay region.

The program allows farmers to take farmland out of production and receive Government benefits for doing so.

Taking the farmland out of production reduces fertilizer and pesticide runoff, which are major pollutants of the Chesapeake Bay. I believe this will ensure the long-term viability of the Chesapeake Bay for our children, and our children's children.

Madam Speaker, there are several areas that concern me.

I oppose increasing the Rural Electric Administration loan rates or forcing them to borrow from private lenders. Both of these options will increase costs for farmers at a time they cannot afford it.

The other thing I oppose in this bill is calculating deficiency payments on a 12-month period. This is a back-door cut that is painful for me to vote for.

I am hopeful we will be able to take another look at this issue next year.

Again, I am grateful to both the chairman and ranking minority of the committee for their fine work and urge my colleagues to vote for the conference report.

Mr. MADIGAN. Madam Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Madam Speaker, I rise in support of the farm bill conference report. We worked long and hard. I do appreciate the work of the gentleman from Texas [Mr. DE LA GARZA], his bipartisan work, and also that of our ranking member, the gentleman from Illinois [Mr. MADIGAN], to try to help a country made up of many different commodities, to try to work out many details in a bill that did not have the money necessary to do it.

I do rise to say that I have certain problems with this bill, but yet I rise in support, because I think overall this is a good bill.

I do want to address two issues. No. 1, is sugar. I appreciate the Senate conferees yielding to the House committee as they did. I think it is very important that we kept in the 1.25 million-ton quota. It is very important to the countries of Central America that we keep it in there. It is very important to our sugar growers that we see the need to support our neighbors to the south.

Also the 500,000 ton reexport program gives us some added leeway that we have to have in this bill to make it work for both domestic and foriegn sugar growers. I do want to say thanks to the conferees for that.

Madam Speaker, we do have a great problem in the South with the soybean marketing loan dropping from $5.25 to $5.02, but yet we realize we have to give and take. We know it is tough for us to survive with a $5.02, but hopefully we will be able in the future to answer some of our budget problems in this House and country and be able to do what is necessary for the soybean growers all over the country, but particularly in the South.

Madam Speaker, I do rise in support of this bill, and hope that all Members from my State as well as other States, will support this bill.

Mr. DE LA GARZA. Madam Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. STENHOLM], the chairman of one of our major subcommittees.

Mr. STENHOLM. Madam Speaker, the 1985 farm bill set in motion a market-oriented agriculture policy. In so doing, a substantial reduction in Federal farm price support outlays have been achieved. The 1990 farm bill continues this philosphy in this direction at an expedited rate.

It is no question the 1980 farm bill was a traumatic experience for many of our producers. The 1990 farm bill will also continue to be a traumatic experience for many. But I think in the legislation that we have, that the chairman and ranking member have provided tremendous leadership for all of us in, it recognizes the world is changing. As much as we would like to see it as it used to be, or as we think it might ought to be, the world is changing, agricultural policy is changing, and, in my opinion, this legislation, from the dairy provisions through the crops provisions, through all of the general provisions, we are recognizing that by providing additional tools. There is no doubt in my mind the agriculure committees will be coming back next year and the year after providing additional tools to help make this policy work to a greater advantage to our producers.

The conference committee has adopted legislation which provides farmers with options that allow for the opportunity to maintain farm income while providing the flexibility to make more market-oriented production decisions. As the United States attempts to reduce Federal spending, alternatives to maintain or enhance net farm income through the marketplace must be developed. This legislation provides producers the planting flexibility to make decisions based on market signals, not program benefits. In addition—by reducing program rigidity—environmental and conservation efforts can be enhanced. The provisions established in this legislation offer producers the opportunity to best utilize their basic entrepreneurial and marketing skills, allowing them to adapt to declining Federal farm program support.

Other options, which in my opinion would only serve to micromanage agricultural policy, were considered and deemed counterproductive for the future of agriculture.

Although it is unfortunate that Federal agriculture spending must endure such a large percentage of cuts compared to the relatively small amount of funding they take from the overall budget, this legislation clearly represents a continuation of the intent established in the 1985 farm bill by taking a larger step toward a more market-oriented agricultural policy.

While the agriculture committees have been deliberating domestic policy, our international trade negotiators have been encouraging proposals which are straightforward, significant, and contribute to a more market-oriented agriculture.

Just as the Swedish Parliament recently adopted dramatic long-term agriculture policy enabling them to adjust to the conditions of a deregulated market, we too should have the foresight to recognize that sound domestic policy incorporates creative approaches to the global problem of trade distortion in agriculture.

Also, as a farmer in Jones County, TX, I can appreciate the need to maintain some form of disaster insurance that will assist producers in providing an adequate safety net in the event of a disaster. Fortunately, the conference committee was able to temporarily adjust and maintain the current insurance program until a more effective and cost efficient program can be developed—perhaps different from what we have seen in the past, that will nevertheless allow adequate coverage at a reasonable cost to the producer and the Federal Government.

Overall, this producer-consumer food policy represents the overwhelming sentiment throughout the agricultural industry to continue the market-oriented intent of the 1985 farm bill, provide planting flexibility and reduce program rigidity, and recognize agriculture's role in improving environmental quality and protecting our valuable soil and water resources.

Mr. MADIGAN. Madam Speaker, I yield 2 minutes to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Madam Speaker, I rise today in strong support of the conference agreement on the 1990 farm bill. I would like to congratulate the distinguished chairman of the Agriculture Committee, Mr. DE LA GARZA and the ranking minority member Mr. MADIGAN for their leadership in developing a strong bill that protects farmers while also providing the deep savings required under the budget reconciliation bill. I would also like to thank my fellow farm bill conferees for their success in crafting a farm bill that treats the various commodities and farm interests in an even-handed and bipartisan manner.

This farm bill demonstrates the Agriculture Committee's commitment to budget reduction as the $13.6 billion in savings will reduce spending on farm programs by 25 percent. These savings will undoubtedly inflict hardships on the American farmer. Here is just a partial list of the sacrifices that farmers will have to make:

The bill will reduce by 15 percent the amount of program crop acreage on which the Government will make subsidy payments. This bill achieve savings of $8 billion over 5 years.

The bill will freeze the price-support levels for dairy producers and sugar growers and will subject dairy producers, sugar growers and peanut, honey and tobacco producers to an assessment on their products.

The bill will freeze the target prices for wheat, corn, rice and other commodities programs.

I am deeply concerned about this bill's impact on American farmers. This bill will require farmers to reassess their participation in Government crop programs because farmers will have new incentives to plant crops that will bring the highest market price. I am hopeful that the new triple base program will enable farmers to compensate for the reduction in Government subsidies by allowing farmers to receive more of their income from market sources.

The American farmers are making their fair share of the contribution toward a deficit reduction agreement. It is time for the other committees to exercise the same fiscal restraint. I hope that other committees will follow the initiative of the Agriculture Committee by making every effort to reduce spending so that we can revitalize our discredited institution by demonstrating our resolve to bring down our huge budget deficit.

□ 1710

Mr. DE LA GARZA. Madam Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Oklahoma [Mr. ENGLISH], chairman of our Subcommittee on Conservation, Credit, and Rural Development.

Mr. ENGLISH. Madam Speaker, I have to say that I came here today prepared to vote against this legislation for one reason and one reason alone, and that is because the provisions for reconciliation were included in this legislation.

I am happy to say though in discussing this legislation and going over it with the legislative experts that I have become convinced that the unfair reconciliation cuts that have been demanded of agriculture are not triggered in this legislation unless they are first passed by the Congress and signed into law by the President of the United States. Should a different reconciliation bill be passed, then it is that legislation that will in fact trigger any kind of cuts.

Madam Speaker, as our chairman has pointed out, agriculture has less than 1 percent of all of the spending in the Federal budget, but we are being asked to take some 10 percent of the nondefense cuts. That is totally unfair. It is a burden that has been placed on agriculture and rural America that we simply cannot accept.

I want to say that I will very strongly put forth every effort that I can to make certain that the changes are made in the reconciliation package or I shall be forced to vote against reconciliation. But on this legislation, Madam Speaker, I urge passage.

Mr. MADIGAN. Madam Speaker, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Madam Speaker, first I must praise the chair of the committee and the ranking member, Mr. MADIGAN, for doing a good job under very threatening coercive handicaps.

Yet most commodity groups are not happy with this legislation. I'm not happy with it and I intend to vote against it. Particularly after the devastation wrought upon the bill by the requirement that we cut $13 billion from a 5-year bill.

In 1986, we had a total expenditure for commodities of $26 billion. This year we were at $9 billion. Agriculture has taken its hit; $13 billion more is not the straw that broke the camel's back, it is the bale that broke the back of agriculture.

I must congratulate the Sierra Club, National Wildlife Association, and other environmental groups. It's the best bill you could have hoped for.

I must congratulate our Trade Ambassador Carla Hills and her deputy from OMB, Bob Grady, and Clayton Yeutter, Secretary of Agriculture. You have accomplished through the budget process a capitulation that farm groups would never, ever subscribe to.

It's a bad, black day for agriculture. All the committee members did the best that they could. However, for the sake of rural America, I intend to vote no.

Mr. MADIGAN. Madam Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Madam Speaker, I stand in support of the 1990 farm bill with its improvements in barley deficiency adjustments and the sugar program.

Mr. MADIGAN. Madam Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Madam Speaker, I rise in support of the conference report and the conferees since they have agreed to a farm bill that reduces Federal support, but it moves agriculture further toward a market-oriented industry.

Though I have long been an outspoken advocate of free enterprise and a free and unincumbered market system, I, at the same time have some serious reservations about the pace of the policy change this measure will create for America's farmers. We all would like to see the farmers of this country do well; we would all like to see the popular economic concept of supply and demand practiced to its fullest by those involved in the agricultural industry.

At the same time, however, we must keep in mind that unlike a manufacturer in light industry, the farmer cannot fully control the conditions of his trade. The farmer is subject to the elements; he is subject to unexpected events over which he has little, if any, defense.

So, before we hasten to unhitch his wagon from many of the programs that have been available to the American farmer, I would like to sound a note of caution, that we approach this policy area in a measured way. Before we rush to strike the safety net of Federal subsidy and incentive programs, we must make sure that the farmer has a fallback position; we must make sure that we are not hanging America's farmers out to dry.

Mr. MADIGAN. Madam Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Madam Speaker, I thank the gentleman for yielding the time, and I rise in reluctant opposition to this package.

It is with a great deal of reluctance that I oppose this farm bill.

The committee has worked long and hard to fashion a most difficult piece of legislation.

Farm people are willing to do their share in reducing the deficit. Most would accept this package, provided, we had a growing, expanding economy and everyone was taking just a little cut. That is not the case.

The nearly $14 billion cut from this package comes from only 17 percent of the total USDA budget. This is the only segment of the budget that actually puts money on main streets in rural America. The total USDA budget will grow by 2.8 percent.

Bottom line; the USDA bureacracy continues to grow and bloat while producers and rural communities pay the price.

When this Congress passes a budget bill filled with massive tax increases and more spending that will bring us to the brink of recession, this package is only another straw that will lead to breaking the camels back.

Mr. MADIGAN. Madam Speaker, I yield 1 minute to the gentleman from Florida [Mr. GRANT].

Mr. GRANT. Madam Speaker, I thank the gentleman, our minority leader, for yielding the time, and support this conference report.

This reminds me of a proverb that a friend of mine from the Far East used to tell me, that every monkey's mother thought her child was a gazelle. This is sort of a monkey that started out as a gazelle. A lot of people think these are farm subsidies we are talking about there. These are not farm subsidies, America, these are subsidies for the American consumers of agricultural products. We have to keep farmers in business, and we do it at the least cost possible of any developed country in the world, as our chairman so ably points out.

I think it is precious little that we devote in this Congress and in this Federal budget for this purpose.

I particularly would like to commend the chairman and the gentleman from Illinois [Mr. MADIGAN], the ranking member, for their help in the peanut title, for nonprogram crops that do not get as much attention, do not get the subsidies as some of the other crops, and they took special pains to make sure that these crops continue.

I want to thank them, and I especially want to thank Mr. ROSE, Mr. HATCHER, and Mr. LEWIS for their help as well.

Mr. MADIGAN. Madam Speaker, I yield 2 minutes to the gentlewoman from Nebraska [Mrs. SMITH], who will be speaking on her last farm bill.

Mrs. SMITH of Nebraska. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I am going to vote for the bill before us today, the 1990 farm bill. While I have reservations about certain provisions, and while my

agricultural constituents would have preferred a few decisions made differently, overall that is a good farm bill and necessary legislation.

Let me commend and congratulate the members of the Agriculture Committee and particularly the gentleman from Illinois [Mr. MADIGAN], the gentleman from Texas [Mr. DE LA GARZA], and some of my agricultural neighbors, Mr. ROBERTS, and Mr. EMERSON, for all of their hard work in conference and bringing us a bill that I hope will address the needs of rural America, while serving all of America. I have no doubts that it was the knowledge, patience, and the dedication of these gentlemen, and many others that fostered the compromises necessary to meet difficult deficit reduction targets.

In the next day or so we will, I hope, be considering a budget reconciliation bill. Unfortunately rural America will again be asked to contribute a lion's share toward deficit reduction with a likely increase in the gas tax. The Agriculture Committee has worked long and hard in making painful savings, more than $13 billion dollars over 5 years, in farm support entitlement programs. Agriculture is certainly as concerned about the federal deficit and national debt as any constituentcy. They will gladly do their fair, I repeat fair share, toward deficit reduction.

Madam Speaker, this is not a perfect bill. Many of my rural colleagues join me in saying that this bill isn't enough. It is certainly not as much as I would like. But under the fiscal realities that this Nation must face, this is the best deal that we could get.

I want to remind my urban colleagues that it is agriculture that is the backbone of this Nation and the largest single industry in the United States. Agriculture alone employs over 20 million people and accounts for nearly one-fifth of our Nation's gross national product. Agriculture is also the largest industry in my home State of Nebraska, and this is the most important piece of legislation to my congressional district, the second most agricultural in the Nation.

Let me briefly list provisions that I support and are of greatest importance to my congressional district:

The general commodity provisions will provide increased flexibility for our farmers that will enable them to better respond to market signals and promote increased efficiency in farm operations. But I am concerned that the "triple base" option will shrink the size of the safety net for America's farmers.

The sugar program is continued with a freeze of the loan rate at 18 cents per pound, while providing the American consumers with the lowest priced sugar in the world and a stable market for U.S. sugar producers at no cost to the U.S. Treasury. I do, however, want to voice my concern over the fee of 1 percent of the loan value of sugar.

The export title remains strong and shows the recognition of the Congress that agricultural exports are essential to the revitalization of rural America.

I support the conservation title of this bill, including the Sodbuster, Swampbuster, and conservation reserve provisions. These provisions are essential in preserving our most valuable soil and water resources, while providing more options to farmers to better adopt environmental practices.

Also, I am pleased that the conference committee has established the Alternative Agricultural Research and Commercialization Center. I have long been working to bring greater attention to research and development of industrial uses for agricultural commodities. The addition of this center will broaden marketing options for farmers and, most importantly, it will create job opportunities in rural area through the commercialization of new products from agricultural commodities.

The 1990 farm bill contains many commendable programs that will certainly benefit the American farmer, the American consumer, and the environment for the years to come.

I applaud the Agriculture Committee and urge my colleagues to support the conference report on the 1990 farm bill, because if you think for 1 second that there is public unrest now in response to our inability to do our job, in response to the economy, in response to a pending tax increase, then be thankful at least that the public is not also standing in line for food.

□ 1720

Mr. MADIGAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I do that for the purpose of reminding everyone in the Chamber of the wonderful work the gentlewoman from Nebraska [Mrs. SMITH] has done as the ranking member of the Agriculture Appropriations Subcommittee. I am sure you would all want to join me in bidding her a fond farewell as she returns to Nebraska, where she will probably run for Governor or the U.S. Senate or maybe start a campaign for President. She has been an excellent and valued Member of the Congress, and I think we all owe her a debt of gratitude.

Mr. DE LA GARZA. Madam Speaker, I yield 30 seconds to our colleague, the gentleman from North Dakota [Mr. DORGAN]

Mr. DORGAN of North Dakota. Madam Speaker, the only thing missing here today is reality.

This low grain price strategy of this legislation unfortunately is a disaster in this country, and it is leading family farmers into bankruptcy. Grain prices in this country have collapsed.

The worst of all worlds now exists for farmers, low market prices and low support prices. Farmers are going broke in record numbers. Now our Government says let us build B-2 bombers and star wars. The same Government says we cannot afford a decent farm program for family farmers. That is a shameful retreat, in my judgment, from good public policy that ought to offer a decent opportunity for a decent price for family farmers in America.

I will not support this legislation because it fails in the first purpose of a farm program, and that is to provide economic incentive and income protection for family farms.

I commend the agriculture committees of the House and Senate for long hours of diligent and conscientious work toward an agriculture program to serve farmers, agricultural industries, and food consumers.

Unfortunately, however, this Congress is unwilling to pay for the food policy it crafted 5 years ago. It is unwilling to keep its side of the food policy bargain it has imposed upon farmers in the Midwest and on the Great Plains.

We have a cheap food policy in this Nation. It's a policy that means the farmer gets 6 cents out of the retail price of a loaf of bread, or a few pennies out of a can of Coke, or a dime out of a $1.60 box of corn flakes.

It's a policy that puts our Department of Agriculture in the role of driving farm prices down in order to better compete in the export market.

Finally, it is a policy in which the Government is supposed to add a penny or two per pound of grain, for example, to the farmer's income when that cheap food policy drives market prices lower than what it actually costs the farmer to produce the food.

The bargain inherent in the cheap food policy was that Government would provide a safety net so that depressed prices would not force family farmers out of business. The safety net is like a minimum wage, allowing family farmers to at least pay off their costs of producing crops when the Government, in its wisdom, forces market prices into the basement.

Today we vote on a farm bill with many bells and whistles. It spends billions of dollars for conservation programs, and for protecting wetlands and wildlife. It spends billions of dollars to subsidize and promote sales for grain companies and other agricultural corporations. And, of course, it provides full funding for food stamps and other food assistance.

But, when farm State Members such as myself asked that we use 1 percent of our budget to cover all of our agricultural producton programs, we were told that the Government's side of the cheap food bargain is off.

Not only does this farm bill breach its side of the bargain with family farmers who raise wheat, corn, and other grain, it does so in a punitive way.

First, almost all of the cuts made in both the drafting of the farm bill and the agricultural budget reconciliation come directly out of the

pockets of those who produce our food. The USDA bureaucracy marches right along in the 1990 farm bill. No big changes are planned for programs that serve consumers, such as meat inspection or nutrition programs, and, funding will increase for conservation and environmental programs.

Second, the direct farm cuts are made in a way that hits small and mid-sized farmers harder than large farmers. Many large farms have already reached their effective limits of $50,000 or $100,000 on Government payments, and so the new restrictions reached in budget reconciliation will not affect those large farms. The small- and mid-sized farms will take the hit. And, the cuts are made in this fashion despite a provision this assembly passed less than 3 months ago, saying that budget reconciliation cuts should be made in ways to protect the income of family-sized farmers as much as possible.

So, today we vote on a farm bill that does many good things, but is built around a design for bankruptcy of family farms. It continues the authority for the secretary of agriculture to depress grain prices—an authority USDA has exercised with relish.

Most family farmers pay $3.50 to $4 to grow a bushel of wheat, and they now get $2 or $2.25 for that bushel at local markets in my region. They are going broke by the thousands, and this bill continues the same disasterous policy.

The Fargo Forum, a conservative daily newspaper in Fargo, ND, recently provided this perspective on our farm policy:

Historically, the farm program has had little to do with "saving the family farm," despite lip service to the contrary. Crop subsidies, in effect, have subsidized food prices for consumers. The program's priorities—lots of food at low prices—have been met year after year after year. Americans have access to an incredible variety of raw and processed foods at prices which are the envy of the world. In that regard, agricultural subsidy programs have been wildly successful. As an effort to shore up rural economies and rescue family farmers, however, farm legislation has failed.

We need something better than the same old policy we've been using to drive family farms off the land. We need a program that works for farmers as well as consumers. This one doesn't.

Mr. DE LA GARZA. Madam Speaker, I yield 30 seconds to our colleague, the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Madam Speaker, given our very difficult budget situation, I happen to believe that the Committee on Agriculture has done a good job in crafting the legislation before us this evening.

For our colleagues who do not believe that the budget summit and the reconciliation effort are producing any budget savings, they do not need to look any further than this legislation. There are real cut in here, and they are not goint to be without pain for a lot of American farmers.

I happen to believe that in those parts of the country that are primarily diversified farming operations, the 15-percent flexible acres provision is going to work surprisingly well.

Madam Speaker, I urge my colleagues to support this legislation. Again, I commend the Committee on Agriculture for doing a good job with a very difficult assignment.

The SPEAKER pro tempore (Mrs. LOWEY of New York). All time for the gentleman from Texas [Mr. DE LA GARZA] has expired.

Mr. MADIGAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of the conference report.

The gentleman from Texas [Mr. STENHOLM] said that we live in a changing world, and nowhere is it changing any more than it is right in this House. The year that I came to this Congress, 1973, the interest on the national debt was $26 billion. This year it is approaching $200 billion, which shows you the size of the increase in debt that has occurred during that period of time.

The solution to that has to be some very tough budget medicine. The conference report sets the groundwork for a 24-percent reduction in agriculture supports that will be contained in the budget reconciliation bill.

It is important for people to understand that our choice was between that 24-percent reduction and a 35-percent reduction under sequestration. That was the choice that the members of this committee had.

We should not lose sight of that, but this does not necessarily represent a cut in farmer income. Because this bill frees up acres that would otherwise be dedicated to Government programs and allows farmers to make choices about planting other crops on those acres that could be sold in the market and can increase their income as a result of that activity.

None of this would have possible without the leadership of the gentleman from Texas [Mr. DE LA GARZA], to whom all of us are indebted.

Madam Speaker, in concluding my remarks, I yield 4 minutes, the balance of my time, to the gentleman from Texas [Mr. DE LA GARZA].

Mr. SMITH of Iowa. Madam Speaker, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Madam Speaker, the organic legislation, which is included in the conference report, contains a provision which states that on or after September 1, 1992, no individual may affix a label to an agricultural product for sale within the United States that states or implies, directly or indirectly, that such product is produced, grown or processed using organic methods except in accordance with this subtitle.

This prohibition does not affect producers who claim that their product is produced without the use of pesticides as long as they make no claims that their product is in any way organic or organically produced. Is that correct?

Mr. DE LA GARZA. Madam Speaker, if the gentleman will yield, the gentleman is correct.

Mr. SMITH of Iowa. I thank the gentleman very much, and I do support the bill.

Mr. DE LA GARZA. Madam Speaker, I yield briefly to my distinguished colleague, the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Madam Speaker, farmers did not get us into this mess.

I am going to oppose the conference report. I think it is a sad day when they turn to Willy Nelson.

We did not cut one penny from foreign aid, not one penny from NATO accounts. We are going to nail farmers.

I do not want any part of that policy. This is a great chairman, a great vice chairman, but count me out, when we nail farmers and continue to ship money all over the world.

Mr. DE LA GARZA. Madam Speaker, I thank the gentleman.

Madam Speaker, where do I begin to thank all of those who have participated in this endeavor? My distinguished ranking minority member, members of the committee, the staff, the staff of all of the committees that we have been involved with, the Senate, the Senate Members, everyone, even those who opposed this legislation. We have heard them. We have tried to accommodate them. We have done everything that is within our power to do to arrive at this stage.

It is not perfect. Nothing that ever leaves this Chamber is perfect. But we have done our best. We have dedicated ourselves to the best interests of our country and to agriculture and the consumers and the producers.

This is the most progressively, environmentally sound piece of legislation. This addresses trade. This addresses containment or erosion. This addresses helping the needy throughout the world. This provides for food not only for us but for those who may hunger and suffer throughout the world.

It is a good piece of legislation, within the constraints that we have.

I think that we have done a good job. Let me say that I urge my colleagues to support, very respectfully, to support this legislation.

Madam Speaker, let me just conclude; up there above us there are words from Daniel Webster that say:

Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests and see whether we also in our day and generation may not perform something worthy to be remembered.

This legislation in the 101st Congress, Madam Speaker, in my humble

estimation, fulfills that dream of Daniel Webster, and I am glad to have been a part and a party to achieving that end.

I respectfully request all of my colleages to vote "aye" on the conference report.

Mr. JONES of North Carolina. Madam Speaker, title XV of the bill contains provisions intended to establish once again U.S.-flag shipping services to the Great Lakes.

The Great Lakes are a critical part of our Nation's maritime presence. The strength of the Great Lakes shipping industries and ports should be of concern to us all.

Last year, House Members from the Great Lakes region approached me for assistance in obtaining legislation which might provide incentives for American-flag shipping in their region.

The conference agreement contains various legislative changes which seek to induce ship operators to reflag foreign vessels as American Great Lakes vessels. These vessels would have certain specified privileges; these privileges are carefully detailed to encourage Great Lakes service while reducing as much as possible adverse competitive impacts on other U.S.-flag vessel operators.

I want to emphasize one key point. Existing requirements under Government-impelled cargo laws must be satisfied, notwithstanding this new legislation. Thus, for certain U.S. Government agricultural commodities, there remains a requirement that 75 percent of the cargoes be shipped in qualified U.S.-flag vessels each year. The provisions in the new legislation do not excuse noncompliance with the existing cargo preference statutes.

Ms. SNOWE. Madam Speaker, today the House of Representatives will consider the conference report to S. 2830, the Food and Agricultural Resources Act—better known as the farm bill. My interest in this legislation stems from the importance of agriculture to the State of Maine and the unique challenges that confront Maine's farmers.

While I believe that our Nation's farm programs still must progress further to ensure a level playing field for farmers from all regions of the country, S. 2830 takes important steps in the right direction. I hope that Congress will continue to move our agricultural policies toward equality in the marketplace for both consumers and farmers.

One of the major changes that the conferees made to the farm bill was to reduce by 15 percent the amount of farmland eligible for Federal crop subsides. This triple base plan would permit farmers to plant crops on their acreage provided the crops did not meet specific criteria. I am pleased that the conferees agreed to carefully craft this provision to ensure that farmers would not be able to plant potatoes and other fruits and vegetables on their triple base acreage.

Farmers in my State of Maine were very concerned that farms in other parts of the country that receive program subsidies would also be entitled to grow potatoes on subsidized land. This provision would be very harmful to the Maine potato industry and I am glad that the conferees were careful to specifically exempt certain crops.

The conference report also includes the first forestry title to be included in a farm bill. I am pleased that the conferees have included authorization language to estasblished the Northern Forest Land Council to study the issues currently impacting the northern forest land in Maine, New Hampshire, Vermont, and New York. This study was begun by the U.S. Forest Service and will continue through the joint cooperation of Federal and State governments.

Agricultural production in the State of Maine is responsible for over $450 million in sales a year from its 7,300 farms. Agriculture provides 14,000 jobs on the farm and 7,500 jobs in processing facilities. Food processing contributes another $870 million in sales. In addition, forestry, also covered under the farm bill, is Maine's leading employer.

The credit for the success of Maine's farmers is due primarily to their own hard work and determination to make a living from the land. Most of Maine's crops—potatoes, eggs, blueberries, and others receive no direct Government assistance. The farms are primarily small family operations that rely on the market to sell their products.

It is important to note the contribution of Maine's farmers to the Nation's cornucopia of plentiful food. According to the U.S. Department of Agriculture, Maine produces another $85 million in blueberries, apples, cattle, and other commodities. Most importantly, Maine's farmers have achieved much of this success through their own hard work and effort.

However, hard work is not always enough. Competition comes not only from other U.S. farmers but also from foreign imports. I am particularly concerned about the importation of below-grade potatoes from Canada. These imports are very damaging to U.S. producers. In 1985, I authorized an amendment to the farm bill which would require the Secretary of Agriculture to perform random spot checks of potatoes entering the United States through northeastern points of entry. This provision, unanimously accepted by the House, helped in keeping below-grade potatoes out of the United States.

Because of the success of these inspections, they must not be allowed to lapse. I wrote to the Department of Agriculture's general counsel to ensure that this provision would not need to be reauthorized. The response from the general counsel stated that, in their view, the inspection provision "is permanent legislation. Accordingly, reenactment is not necessary to continuation of this inspection requirement."

The success of the potato inspection program relies upon frequent and vigorous enforcement. The number of inspections must increase to meet the volume of shipments entering the United States. I urge the Department of Agriculture to make this inspection program a priority.

I am also pleased to note that the trade provisions within this bill will help to develop and foster new markets for American agricultural products in foreign countries. These new markets will allow our farmers to reap higher incomes from their crops and reduce their dependence upon Government support.

Madam Speaker, the United States has the most productive farmers in the world. U.S. citizens spend less for their food than any other nation in the world and we are the best fed nation in the world. S. 2830 will set the Nation's farm policies for the next 5 years, however, I hope that my colleagues will consider the challenges that we still face.

We must meet the challenges of fiscal restraint. We must meet the challenge of leveling the playing field for farmers from all regions. Finally, we must meet the challenge of the future: A future in which there will be more people to feed, less land to grow crops on, fewer resources, and greater competition.

I am confident that the American farmer will continue to meet these challenges. Our actions should assist them in this effort.

Mr. MICHEL. Madam Speaker, I want to commend the agriculture conferees for bringing back a farm bill that basically continues and expands upon the market-based approach we have been following for the last 5 years.

I also want to commend the conference for achieving the $13 billion in savings required by the budget resolution. I know that the savings were not easy to come by, just as they have not in other entitlement areas. But entitlement spending is the most rapidly growing areas of the Federal budget, and if we are ever going to get control of Federal spending, we must address the entitlement programs.

It is encouraging that the conference in achieving these savings, has chosen to do so by moving further in the direction of a free market system. The so-called triple-base concept which has been adopted would basically provide that 15 percent of a farmer's acreage be planted in unsubsidized crops—whatever crops the farmer chooses. Presumably he will select those crops which are bringing the highest price on the market, and which are, of course, feasible to plant.

If there has been one reoccurring theme in my visits with farmers in recent months, it has been that we need increased flexibility. This approach provides that increased flexibility, while at the same time providing a base of Federal support that protects a farmer's overall income against low market prices.

I am also hopeful that this legislation will continue the progress we have achieved in the international market over the past several years. Farm exports have been on the rise, and if we can achieve some headway in the GATT trade negotiations, along with the provisions in this bill that continue our export assistance programs, provide increased research, and encourage production flexibility, I believe we will continue to see increased sales in foreign markets.

I should also add that it is precisely because we want to encourage these exports that we must not pass protectionist legislation in this country, such as the textile bill, which will only encourage foreign nations to increase their barriers against our products.

Finally, let me mention one item of parochial interest to me, and that is the provision in this legislation which renames the Federal agricultural research laboratory in Peoria as the National Center for Agriculture Utilization Research. This new name indicates the important work the lab is doing in the development of alternative uses for agriculture products,

and reflects the fact that Peoria has become one of the important centers nationwide for innovative agriculture research.

Mr. PANETTA. Madam Speaker, I rise today in support of the conference report to accompany the 1990 farm bill. I would like to take a moment to discuss the nutrition title of the bill, which was based on my legislation, the Mickey Leland Domestic Hunger Relief Act.

I introduce the Mickey Leland Domestic Hunger Relief Act in memory of our late colleague who was killed while on a mission to Ethiopia. Mickey had an interest in finding real solutions to hunger, both domestic and international. It is ironic that he died while attempting to facilitate the passage of food to Ethiopia. The legislation that I introduced with my colleagues BILL EMERSON and CHARLIE HATCHER included important changes in the Food Stamp Program. These changes were designed to meet the changing needs of our Nation's needy including single parent households and homeless families. Unfortunately, because of a serious budget deficit problem, the Agriculture Committee was unable to provide funding for most of the important provisions of the Leland Act. These provisions include the increase in the shelter cap, the change in household definition, and the $50 disregard for child support payments.

I am deeply disappointed that these very important provisions could not be accommodated this year. However, I continue to believe that these changes are needed and remain committed to working next year on these provisions. This legislation was meant to be a living memorial to Mickey Leland. Unfortunately, we were not able to do Mickey justice this year. My commitment to the hungry and needy has not diminished.

Our Nation is facing a hunger emergency at the same time that we are facing a crucial economic emergency. Failure to act on either problem will only lead to worse conditions. Recent data indicate that 2 to 5 million children do not have adequate food and that millions more may be at risk of hunger.

I would like to take a moment to discuss some of the important provisions that we were able to include in the farm bill this year. First is a provision that simplifies the food stamp rules dealing with education benefits. The provision would apply the rules that govern the large Federal education benefits programs, such as Pell grants and work-study, to all other forms of education benefits.

The bill also allows single parents going to school full time whose children are between the ages of 6 and 12 to be exempt from the food stamp work requirement. This provision recognizes the very real difficulties facing single parents trying to improve their circumstances. I believe that this provision will help a very important segment of the population.

The bill also addresses the issue of clothing allowances provided by some States at the beginning of the school year to allow parents to buy clothes for their children without risking a decrease in food stamp benefits. While all States do not provide this allowance, it is my hope that this change in law will encourage States to provide this type of assistance.

The bill also indexes the $10 minimum benefit provided to one and two person households to reflect inflation. The current minimum benefit has been unchanged over the past 12 years. However, the cost of the thrifty food plan, on which food stamp benefits are calculated, has risen 89 percent.

The bill also provides for some administrative simplification measures, which should lead to a decrease in program errors and an increase in the ability of States to meet the needs of food stamp recipients.

Hunger remains an important issue in our country. This legislation takes a step toward improving Federal assistance to those who need it. However, this is certainly not the end. The nutrition title of the farm bill also addresses the long-term changes needed in the delivery of Federal assistance. This situation is addressed by demonstration projects provided for in the bill and a committee with the mandate to study program simplification. It is my hope that both of these measures lead to better assistance to the needy.

Madam Speaker, let me conclude by saying that while this legislation does not do nearly what I had intended it to when it was introduced, I do believe that it addresses some very serious problems and that the changes will certainly improve the lives of many Americans.

Mr. SYNAR. Madam Speaker, I am disappointed and concerned over an event that took place at the farm bill conference in the early hours of last Tuesday morning; and, as a result of those negotiations, I am voting against the conference report. I am referring to the pesticide export reform provisions of the 1990 farm bill. As Members know, both the House and Senate versions of the farm bill provided for pesticide export reform. But, incredibly, the conference couldn't agree on whose terms to accept and, as a result, the pesticide export reform provisions were dropped altogther.

The ramifications of this action are clear. American consumers will continue to be exposed to imported food products treated with harmful pesticides. American farmers will continue to have to compete against products treated with chemicals which U.S. farmers are prohibited from using. And American chemical manufacturers continue to be able to produce for export pesticides which are banned in the United States, possibly endangering the health of countless people in foreign countries.

This lost opportunity is one of the best examples of mixed signals that I have seen lately. First, Congress says it wants strong pesticide export reform provisions in the farm bill. "The 1990 farm bill will be a landmark piece of legislation, combining traditional agricultural practices with growing environmental concerns," we say. Well, obviously, that result was not achieved in this farm bill. Instead, we say "We cannot decide one way or another; so we'll just settle for nothing." Madam Speaker, nothing is just not good enough. We must ensure that the circle of poison will be broken permanently. The economic well-being of our farmers and the health and safety of U.S. consumers is at stake. I will continue to fight for stringent pesticide export reform in the next Congress.

Mr. ROBERT F. SMITH. Madam Speaker, I rise today in opposition to the conference report on S. 2830, the 1990 farm bill.

It would be easy to oppose this legislation on the basis of unfair spending cuts. This bill cuts price support programs by $13.6 billion, or 24 percent.

Since farm programs represent less than 1 percent of the Federal budget, we are clearly asking our agriculture community to bear a disproportionate share of spending reductions.

My colleagues know I am a fiscal conservative. I have been one of the most vocal proponents of a balanced budget amendment. And I've also argued for spending cuts rather than tax increases.

However, the 1985 farm bill cost $80 billion. The 1990 bill will cost about half that, or $41 billion. How many programs have been cut in half?

Unfair spending cuts are not the only issue here. My other concern is about public policy. This farm bill makes fundamental changes in the nature of price support programs.

I'm not opposed to change, I'd like to change a lot of things in our farm programs. But it's irresponsible and dishonest to alter the very foundation of our program in an attempt to camouflage a price support cut.

Triple base is a completely untested concept. There have been no hearings, no economic evaluations, and we have no experience with this scheme.

With triple base, we are doing two things: We are pulling the credit rug out from under our farmers and we are tearing down the firewall between subsidized and unsubsidized producers.

Under triple base, farmers receive less in total payments because less of their crop has price protection. As you know, bankers are wary about making unsecured loans. It would have been better to spread the cut over all of the crop.

The cuts would have been the same, but the farmers' creditworthiness would still be intact. I'm already beginning to hear reports from Oregon about tight credit and failing farms.

With triple base, producers will be allowed to hay and graze on the third base. This means that, for the first time, subsidized crop farmers will now be in direct competition with unsubsidized livestock producers.

When cattle prices are high, program producers will move into livestock production. When prices slide, they will retreat to their subsidized crops. In other words, subsidized growers will be taking the highs off the market of unsubsidized producers.

With passage of the Agriculture appropriation yesterday, we cut the Export Enhancement Program by 15 percent, from $500 million to $425 million. The Targeted Export Assistance Program was cut by 12.5 percent, from $200 to $175 million.

Since the Northwest exports 60 percent of what it grows, much of it to markets suffering from unfair foreign export subsidies, these reductions come as a severe blow for Oregon's farmers and ranchers.

The GATT negotiations are coming to a close in December. While I remain hopeful we can secure an agreement that will open markets and remove unfair export subsidies, we could just as easily find ourselves facing a worsening trade environment.

At the same time, our farmers and ranchers face tighter credit, more taxes, higher fuel costs, rising crop insurance premiums, and falling world prices. I believe the health of our Nation's agricultural sector is on the brink, and that this legislation may well push them right over the edge.

Mr. WYDEN. Madam Speaker, I rise in support of this legislation to reauthorize our farm commodity and hunger relief programs.

Madam Speaker, the Food Stamp Program is one of the most important tools the Federal Government has to fight hunger. Thousands of my constituents in Oregon depend on this program every month to help them feed their families.

We must continue to try to reach even more needy families with this food help, but we must also take new, aggressive steps to ensure that this valuable hunger-relief program is not abused by a minority of unscrupulous grocers who are trafficking food stamps.

According to the USDA inspector general's office, food stamps are being used to buy everything from stolen cars and cocaine to machine guns and surface-to-air missiles.

The USDA reports that an estimated $372 million in food stamps is lost every year because of fraud, theft, and system inefficiencies.

This is lost money that could be putting food on the table in poor households.

I urge my colleagues to support this legislation which includes a provision to crack down hard on criminals who engage in food stamp trafficking for drugs and other illegal purposes. This provision is based on legislation which I introduced with members of the Agriculture Committee, H.R. 4007, the Food Stamp Trafficking and Penalty Act. This provision will protect this essential hunger relief program in two important ways:

First, it would give food stamp traffickers heavy penalties—a $250,000 fine and a 20-year prison sentence. Currently, penalties are limited to a 5-year sentence or a $10,000 fine.

Second, this provision calls for the permanent disqualification of food retailers who exchange food stamps for drugs, firearms, ammunition, or explosives. Current law contains no such protection.

Let's put food stamp money back where it belongs—on the dinner tables of poor families—not in the drug trafficker's pockets.

I urge my colleagues to support this legislation because it will do just that.

Mr. BEREUTER. Mr. Speaker, this Member wishes to express his commendations and personal appreciation to the leadership and members of the House Agriculture Committee for the outstanding, innovative, and diligent work they accomplished on the 1990 farm bill, the conference report for which was approved by the House yesterday. America's farmers are given additional flexibility on planting decisions and in their ability to attempt to respond to domestic and international market conditions. Also, among many other improvements one finds: Reform of farm program features that worked at cross-purposes to good conservation practices, removal of farm program impediments to traditional crop rotational practices, encouragement for additional oats production to meet domestic supply shortages, incentives to reverse the transfer of ever larger oilseed production to South American countries, graduates and more reasonable penalties for inadvertent infractions of sodbuster and swapbuster provisions, enunciation of better criteria for the rationalization of wetland determination decisions, rationalization and equity in cross-compliance for farm program participation as it affects landlords and tenants, expansion of the eligibility criteria for the CRP for additional categories of environmentally sensitive lands, establishment of a water quality incentive program, increased authorization for USDA competitive research grants, expanded demonstration, and regular programs for rural community development, reform of FmHA loan restructuring and debt reduction procedures, reform of FmHA buyback provisions and related consideration of new farmers and ranchers, minor—but as yet inadequate—changes in the actuarial soundness of the Federal Crop Insurance Program, authorization for Fannie Mae to pool FmHA loans, and so forth.

This Member is particularly pleased to have had a part in what he believes to be excellent reforms in the Food for Peace Program—Public Law 480 program—and in the extensive improvement of several parts of the export title. Beyond that, this Member appreciate the House and Senate including reforms related to standards and procedures for grain quality and cleanliness which were championed by a number of Members of both bodies during this and previous Congresses, including this Member.

Despite all of these good features and fine efforts by all of the apropriate committees and their conferees, this Member felt compelled to vote against the conference report on the 1990 farm bill. The reasons, in short, relate primarily to the fact that the agricultural sector, and agriculturally dominant States like my own, have simply been asked to bear an inordinant share of the burden of the current deficit reduction program. When the budget summiteers proposed a 5-year agricultural program cost reduction level of $13 billion, it seemed to effectively cement in that reduction in later budget proposals and in the proposed budget reconciliation act. It was, thereby, a given target for the farm bill conferees.

Where one considers the sharp probable income reduction this cut will bring and the resultant narrowing of weakening of the safety net under American farmers and the agribusiness base they support, it is a very big hit. And, it is particularly risky and inequitable at a time when the country is titering on the brink of a full-fledged recession, when the Persian Gulf oil problems are dramatically escalating the production and transportation costs of agriculture—especially in sparsely settled States like Nebraska—and when nearly all Americans are about to be asked to pay higher taxes, fees, and health care costs. Having just recovered some of the lost farm income and asset values from the depths of America's farm problems in the mid-1980's, this $13 billion reduction in already declining farm program costs is both inequitably large and a short-sighted and bad economic of budgetary decision.

Mr. GUNDERSON. Mr. Speaker, during consideration of the conference report accompanying S. 2830, the Food, Agriculture, Conservation and Trade Act of 1990, I intended to engage in a colloquy with the chairman of the Committee on Agriculture concerning an inappropriate inclusion of language in the statement of managers describing section 102: milk manufacturing marketing adjustment, but a lack of time preventing me from doing so.

Section 102 provided that 1 year after enactment of the 1990 farm bill, no State shall provide for, and no person shall collect a manufacturing allowance for the processing of milk greater than is permitted under a Federal program to establish a grade A price for manufacturing butter, nonfat dry milk, or cheese. It also provides for penalties for violations of this section.

The bill language accurately reflects the intent of the conferees. Unfortunately, the statement of managers does not. The managers' language prohibits a greater manufacturing allowance "unless the net return to producers exceeds the level of price support which is provided for under the dairy price support program." It was the intent of Members of the House and Senate during consideration of this issue, as well as the conferees during our deliberations, to insure that dairy producers receive the maximum benefit of the dairy price support program or surplus removal operation. The statement of managers' language does not reflect that intent. I recognize that the difference between the actual bill language and the statement of managers language might lead to confusion as to the intent and effect of this section. The inclusion of the words "unless the net return to producers exceeds the level of price support which is provided for under the dairy price support program" was inadvertent and caused by a clerical error. I trust that any confusion caused by the inclusion of these words has been adequately clarified. I believe section 102 as it appears in bill language strengthens the intent, as it pertains to milk producers and processors, of section 401(e) of the Agricultural Act of 1949 which states: "Whenever any price support or surplus removal operation for any agricultural commodity is carried out through purchases from or loans or payments to processors, the Secretary shall, to the extent practicable, obtain from the processors such assurances as he deems adequate that the producers of the agricultural commodity involved have received or will receive maximum benefits from the price support or surplus removal operation." The managers' language also inaccurately refers to "liquidated damages," not the "penalties" the conferees intended to impose to address violations of this section.

Mr. SCHUETTE. Mr. Speaker, as a conferee on the 1990 farm bill conference committee, I know that molding a fair, equitable farm bill from two very different House and Senate versions wasn't an easy task. The administration also played a role in developing this acceptable agreement. The Food, Agriculture, Conservation, and Trade Act of 1990 is an excellent example of the Congress and the administration working closely to draft a market-sensitive, competitive farm bill.

In the early 1980's agriculture was disjointed and nearing extinction as an American vocation. U.S. agriculture saw international market shares fall, farm incomes diminish,

land prices plummet, and governmental farm program costs soared to new highs.

However, in 1985 the U.S. Congress, with the U.S. Department of Agriculture, adopted a farm bill that significantly altered the path agriculture was heading. Farm exports rebounded from a low of $16 billion up to $40 billion. Our competitors were again feeling the heat from strong U.S. agriculture presence in the world marketplace. Domestically, the farm bill helped to significantly lower enormous carryover stocks, reduce farmers' debt loads, and eventually pared Government farm support costs from $26 to $8 billion.

The 1990 farm bill reauthorizes several programs that are crucial to the producers in the State of Michigan. In particular, the sugar program maintains the 18-cent-per-pound loan rate for raw cane sugar and a comparable rate for the nearly 2,200 sugarbeet producers in Michigan. Most importantly, the sugar program will continue to operate at no cost to the Federal Government.

Producers all across this country requested added flexibility in existing commodity programs. The Agriculture Committees responded with a flexible acreage base plan, under which a producer is permitted to plant any program crops, oilseed crops, and other crops which USDA determine do not have a significant domestic market on the flexible acres. Originally nonprogram crops were considered eligible crops under the flex acres option. This would have caused complete chaos. I, and other colleagues who represent nonprogram crop producers, worked hard to provide an equitable flexibility program for all producers. In exempting fruits and vegetables, particularly dry beans and potatoes, from being planted on flexible acres, the markets for nonprogram crops will remain strong and viable.

The new bill, unlike past farm bills, will finally recognize nonprogram crops as a viable component of the agriculture community. I offered a successful amendment which acknowledged the need for additional data to be collected on the production and marketing of fruits and vegetables in this country. Compilation of this data will significantly help fruit and vegetable growers produce and market their crops more effectively and efficiently. The reports compiled by USDA will have information on supply, acreage, production, disposition, and prices for fresh market vegetables, processed vegetables, fruits, and nuts. Finally, the Department will be required to conduct surveys on fruit and nut tree inventories and to publish reports on this information.

Another area important to Michigan is the strong conservation programs that were set forth by the 1985 farm bill. In particular, the Conservation Reserve Program [CRP] has provided producers with the incentives to protect highly erodible cropland. In the 1990 farm bill, I was successful in expanding the incentives available to producers who farm near the delicate Great Lakes to enroll their highly erodible land into the CRP. Soil erosion and sedimentation are serious problems in the Great Lakes Basin and enrolling highly erodible cropland into the CRP will significantly diminish soil loss due to erosion and improve the quality of the Great Lakes.

The 1990 farm bill conference report before us today builds on the market-sensitive approach established by the 1985 farm bill. Farm policies should discourage higher price floors, maintain Acreage Reduction Program levels that facilitate market growth, encourage program crop flexibility, and establish target prices that meet conscientious budget requirements.

Mr. Speaker, the hard work of those involved, particularly Chairman DE LA GARZA and ranking member MADIGAN, should be commended. The Food, Agriculture, Conservation, and Trade Act of 1990 will enhance the strong competitive position our agricultural commodities have in the world marketplace, encourage producers to receive more income from the marketplace, and limit Government's micro-management farm policies of the early 1980's.

I strongly urge my colleagues to join me in supporting the Food, Agriculture, Conservation, and Trade Act final passage.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 318, nays 102, not voting 13, as follows:

[Roll No. 508]

YEAS—318

Ackerman	Campbell (CO)	Edwards (CA)
Alexander	Cardin	Edwards (OK)
Anderson	Carper	Emerson
Andrews	Carr	Engel
Annunzio	Chandler	English
Anthony	Chapman	Erdreich
Applegate	Clarke	Espy
AuCoin	Clay	Evans
Baker	Clement	Fascell
Ballenger	Clinger	Fazio
Barnard	Coble	Feighan
Barton	Coleman (MO)	Fish
Bateman	Coleman (TX)	Flake
Bentley	Collins	Flippo
Berman	Combest	Foglietta
Bevill	Condit	Ford (MI)
Bilbray	Conyers	Ford (TN)
Bilirakis	Cooper	Frank
Bliley	Costello	Frost
Boehlert	Courter	Gaydos
Boggs	Coyne	Gejdenson
Bonior	Craig	Gekas
Borski	Crockett	Geren
Bosco	Darden	Gibbons
Boucher	Davis	Gillmor
Brooks	de la Garza	Gilman
Broomfield	DeFazio	Gingrich
Browder	Derrick	Glickman
Brown (CA)	DeWine	Gonzalez
Bruce	Dicks	Goodling
Bryant	Dixon	Gordon
Bunning	Duncan	Grandy
Burton	Durbin	Grant
Bustamante	Dyson	Gray
Byron	Early	Guarini
Callahan	Eckart	Gunderson
Hall (OH)	McDermott	Schneider
Hall (TX)	McEwen	Schuette
Hamilton	McGrath	Schulze
Hammerschmidt	McHugh	Schumer
Hansen	McMillan (NC)	Serrano
Harris	McMillen (MD)	Sharp
Hastert	McNulty	Shaw
Hatcher	Meyers	Shuster
Hawkins	Michel	Sikorski
Hefner	Miller (OH)	Sisisky
Henry	Miller (WA)	Skeen
Herger	Mineta	Skelton
Hiler	Mink	Slattery
Hoagland	Moakley	Slaughter (NY)
Hochbrueckner	Molinari	Slaughter (VA)
Holloway	Mollohan	Smith (FL)
Hopkins	Montgomery	Smith (IA)
Horton	Morrison (WA)	Smith (NE)
Houghton	Murphy	Smith (NJ)
Hoyer	Myers	Smith (TX)
Hubbard	Natcher	Smith, Denny (OR)
Huckaby	Neal (NC)	Snowe
Hutto	Nelson	Solarz
Hyde	Nielson	Solomon
Inhofe	Oakar	Spence
Ireland	Olin	Spratt
James	Ortiz	Staggers
Jenkins	Owens (UT)	Stallings
Johnson (CT)	Oxley	Stangeland
Johnston	Panetta	Stearns
Jones (GA)	Parker	Stenholm
Jones (NC)	Parris	Stokes
Jontz	Pashayan	Sundquist
Kaptur	Patterson	Swift
Kasich	Paxon	Tallon
Kennedy	Payne (NJ)	Tanner
Kennelly	Payne (VA)	Tauzin
Kildee	Pease	Thomas (CA)
Kleczka	Penny	Thomas (GA)
Kolbe	Perkins	Thomas (WY)
Kostmayer	Pickett	Torres
LaFalce	Pickle	Towns
Lancaster	Poshard	Traxler
Lantos	Price	Udall
Laughlin	Pursell	Unsoeld
Leath (TX)	Quillen	Upton
Lehman (CA)	Rahall	Valentine
Lehman (FL)	Rangel	Vander Jagt
Lent	Ravenel	Vento
Levin (MI)	Ray	Visclosky
Levine (CA)	Regula	Volkmer
Lewis (CA)	Rhodes	Vucanovich
Lewis (FL)	Richardson	Walgren
Lipinski	Ridge	Walker
Livingston	Rinaldo	Walsh
Lloyd	Ritter	Watkins
Long	Roberts	Waxman
Lowey (NY)	Robinson	Wheat
Luken, Thomas	Roe	Whittaker
Machtley	Rogers	Wilson
Madigan	Ros-Lehtinen	Wise
Manton	Rose	Wolf
Markey	Roth	Wolpe
Martin (NY)	Rowland (GA)	Wyden
Matsui	Roybal	Wylie
Mavroules	Saiki	Yatron
Mazzoli	Sangmeister	Young (AK)
McCandless	Savage	Young (FL)
McCloskey	Sawyer	
McCrery	Schaefer	
McCurdy	Schiff	

NAYS—102

Archer	Dornan (CA)	Johnson (SD)
Armey	Douglas	Kanjorski
Aspin	Downey	Kastenmeier
Atkins	Dreier	Kolter
Bartlett	Dwyer	Kyl
Bates	Dymally	Lagomarsino
Beilenson	Fawell	Leach (IA)
Bennett	Fields	Lewis (GA)
Bereuter	Frenzel	Lightfoot
Boxer	Gallegly	Lowery (CA)
Brown (CO)	Gallo	Marlenee
Buechner	Goss	McDade
Campbell (CA)	Gradison	Mfume
Conte	Green	Miller (CA)
Coughlin	Hancock	Moody
Cox	Hayes (IL)	Moorhead
Crane	Hayes (LA)	Morella
Dannemeyer	Hefley	Mrazek
DeLay	Hertel	Nagle
Dellums	Hughes	Neal (MA)
Donnelly	Hunter	Nowak
Dorgan (ND)	Jacobs	Oberstar

Obey	Saxton	Stump
Owens (NY)	Scheuer	Synar
Packard	Schroeder	Tauke
Pallone	Sensenbrenner	Taylor
Pelosi	Shays	Traficant
Petri	Shumway	Washington
Porter	Skaggs	Weber
Rohrabacher	Smith, Robert (NH)	Weiss
Rostenkowski	Smith, Robert (OR)	Weldon
Roukema	Stark	Whitten
Russo	Studds	Williams
Sabo		Yates
Sarpalius		

NOT VOTING—13

Brennan	Martin (IL)	Rowland (CT)
Dickinson	Martinez	Smith (VT)
Dingell	McCollum	Torricelli
Gephardt	Morrison (CT)	
Lukens, Donald	Murtha	

□ 1748

The Clerk announced the following pairs:

On this vote:

Mr. Dingell for, with Mr. Smith of Vermont against.

Mrs. Martin of Illinois for, with Mr. McCollum against.

A motion to reconsider was laid on the table.

Messrs. ASPIN, DORNAN of California, ATKINS, DYMALLY, MFUME, and WEISS, Mrs. BOXER, and Ms. PELOSI changed their vote from "yea" to "nay."

Messrs. SCHUMER, LEWIS of California, and BERMAN changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the conference report on S. 2380, just agreed to.

The SPEAKER pro tempore (Mrs. LOWEY of New York). Is there objection to the request of the gentleman from Texas?

There was no objection.

VACATING SPECIAL ORDER AND GRANTING REQUEST FOR SPECIAL ORDER

Mr. CONTE. Madam Speaker, I ask unanimous consent to vacate my special order on the Honorable VIRGINIA SMITH tonight and place it on the agenda for Friday evening, October 26, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 1750

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 486, DEFENSE PRODUCTION ACT AMENDMENTS OF 1990

Mr. GONZALEZ. Madam Speaker, I ask unanimous consent that the managers may have until midnight tonight to file the conference report on the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

The SPEAKER pro tempore (Mrs. LOWEY of New York). Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, October 22, 1990, in the order in which that motion was entertained.

Votes will be taken in the following order:

House Concurrent Resolution 385, by the Yeas and Nays;

H.R. 4333, by the Yeas and Nays; and

House Concurrent Resolution 382 by the Yeas and Nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

REGARDING ALBANIAN MINORITIES IN YUGOSLAVIA

The SPEAKER pro tempore. The unfinished business, is the question of suspending the rules and agreeing to the concurrent resolution, House concurrent Resolution 385.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 385, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 55, nays 362, not voting 16, as follows:

[Roll No. 509]

YEAS—55

Ackerman	Gilman	Kildee
Berman	Goss	Lantos
Bonior	Green	Lehman (FL)
Broomfield	Hall (OH)	Levine (CA)
Brown (CO)	Hastert	Lewis (CA)
Cardin	Henry	Lightfoot
Donnelly	Hertel	Markey
Durbin	Houghton	McCurdy
Early	Hoyer	McNulty
Engel	Hyde	Miller (OH)
Fascell	Johnston	Miller (WA)
Frank	Kennedy	Moakley
Molinari	Saiki	Upton
Neal (MA)	Schumer	Waxman
Nelson	Serrano	Weiss
Owens (UT)	Snowe	Wolpe
Porter	Solarz	Yates
Pursell	Synar	
Rohrabacher	Tauke	

NAYS—362

Alexander	Dymally	Lagomarsino
Anderson	Dyson	Lancaster
Andrews	Eckart	Laughlin
Annunzio	Edwards (CA)	Leach (IA)
Anthony	Edwards (OK)	Leath (TX)
Applegate	Emerson	Lehman (CA)
Archer	English	Lent
Armey	Erdreich	Levin (MI)
Aspin	Espy	Lewis (FL)
Atkins	Evans	Lewis (GA)
AuCoin	Fawell	Lipinski
Baker	Fazio	Livingston
Ballenger	Feighan	Lloyd
Barnard	Fields	Long
Bartlett	Fish	Lowery (CA)
Barton	Flake	Lowey (NY)
Bateman	Flippo	Luken, Thomas
Bates	Foglietta	Machtley
Beilenson	Ford (MI)	Madigan
Bennett	Ford (TN)	Manton
Bentley	Frenzel	Marlenee
Bereuter	Frost	Martin (NY)
Bevill	Gallegly	Matsui
Bilbray	Gallo	Mavroules
Bilirakis	Gaydos	Mazzoli
Billey	Gejdenson	McCandless
Boehlert	Gekas	McCloskey
Boggs	Geren	McCrery
Borski	Gibbons	McDade
Bosco	Gillmor	McDermott
Boucher	Gingrich	McEwen
Boxer	Glickman	McGrath
Brooks	Gonzalez	McHugh
Browder	Goodling	McMillan (NC)
Brown (CA)	Gordon	McMillen (MD)
Bruce	Gradison	Meyers
Bryant	Grandy	Mfume
Buechner	Grant	Michel
Bunning	Gray	Miller (CA)
Burton	Guarini	Mineta
Bustamante	Gunderson	Mink
Byron	Hall (TX)	Mollohan
Callahan	Hamilton	Montgomery
Campbell (CA)	Hammerschmidt	Moody
Campbell (CO)	Hancock	Moorhead
Carper	Hansen	Morella
Chandler	Harris	Morrison (WA)
Chapman	Hatcher	Mrazek
Clarke	Hawkins	Murphy
Clay	Hayes (IL)	Myers
Clement	Hayes (LA)	Nagle
Clinger	Hefley	Natcher
Coble	Hefner	Neal (NC)
Coleman (MO)	Herger	Nielson
Coleman (TX)	Hiler	Nowak
Collins	Hoagland	Oakar
Combest	Hochbrueckner	Oberstar
Condit	Holloway	Obey
Conte	Hopkins	Olin
Conyers	Horton	Ortiz
Cooper	Hubbard	Owens (NY)
Costello	Huckaby	Oxley
Coughlin	Hughes	Packard
Courter	Hunter	Pallone
Cox	Hutto	Panetta
Coyne	Inhofe	Parker
Craig	Ireland	Parris
Crane	Jacobs	Pashayan
Dannemeyer	James	Patterson
Darden	Jenkins	Paxon
Davis	Johnson (CT)	Payne (NJ)
de la Garza	Johnson (SD)	Payne (VA)
DeFazio	Jones (GA)	Pease
DeLay	Jones (NC)	Pelosi
Dellums	Jontz	Penny
Derrick	Kanjorski	Perkins
DeWine	Kaptur	Petri
Dicks	Kasich	Pickett
Dixon	Kastenmeier	Pickle
Dorgan (ND)	Kennelly	Poshard
Dornan (CA)	Kleczka	Price
Douglas	Kolbe	Quillen
Downey	Kolter	Rahall
Dreier	Kostmayer	Rangel
Duncan	Kyl	Ravenel
Dwyer	LaFalce	Ray

Regula	Sikorski	Taylor
Rhodes	Sisisky	Thomas (CA)
Richardson	Skaggs	Thomas (GA)
Ridge	Skeen	Thomas (WY)
Rinaldo	Skelton	Torres
Ritter	Slattery	Towns
Roberts	Slaughter (NY)	Traficant
Robinson	Slaughter (VA)	Traxler
Roe	Smith (FL)	Udall
Rogers	Smith (IA)	Unsoeld
Ros-Lehtinen	Smith (NE)	Valentine
Rose	Smith (NJ)	Vander Jagt
Rostenkowski	Smith (TX)	Vento
Roth	Smith, Denny (OR)	Visclosky
Roukema	Smith, Robert (NH)	Volkmer
Rowland (GA)	Smith, Robert (OR)	Vucanovich
Roybal	Solomon	Walgren
Russo	Spence	Walker
Sabo	Spratt	Walsh
Sangmeister	Staggers	Washington
Sarpalius	Stallings	Watkins
Savage	Stangeland	Weber
Sawyer	Stark	Weldon
Saxton	Stearns	Wheat
Schaefer	Stenholm	Whittaker
Scheuer	Stokes	Whitten
Schiff	Studds	Williams
Schneider	Stump	Wilson
Schroeder	Sundquist	Wise
Schulze	Swift	Wolf
Sensenbrenner	Tallon	Wyden
Sharp	Tanner	Wylie
Shaw	Tauzin	Yatron
Shays		Young (AK)
Shumway		Young (FL)
Shuster		

NOT VOTING—16

Brennan	Lukens, Donald	Rowland (CT)
Carr	Martin (IL)	Schuette
Crockett	Martinez	Smith (VT)
Dickinson	McCollum	Torricelli
Dingell	Morrison (CT)	
Gephardt	Murtha	

□ 1807

Mrs. ROUKEMA and Mr. MATSUI changed their vote from "yea" to "nay."

Messrs. McCURDY, CARDIN, SYNAR, MOAKLEY, NEAL of Massachusetts, and Mr. MARKEY changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion to suspend was not agreed to.

The result of the vote was announced as above recorded.

RECEDING FROM AMENDMENT TO TITLE OF S. 2830, AGRICULTURAL PRICE SUPPORT AND RELATED PROGRAMS

The SPEAKER pro tempore (Mrs. LOWEY of New York). Without objection, the House recedes from its amendment to the title of S. 2830.

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5732. An act to promote and strengthen aviation security, and for other purposes.

The message also announced, that the Senate disagrees to the amendments of the House to the bill (S. 358) entitled "An Act to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes" and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. DECONCINI, Mr. SIMON, Mr. SIMPSON, and Mr. THURMOND, to be the conferees on the part of the Senate.

The message also announced, that the Senate recedes from its amendments numbered 2 and 4 to the amendment of the House to the bill (S. 1756) entitled "An Act to provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine."

□ 1812

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. LOWEY of New York). Pursuant to the provisions of clause 5 of rule I, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH ACT OF 1990

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4333, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 4333, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 326, nays 89, not voting 18, as follows:

[Roll No. 510]

YEAS—326

Ackerman	Boggs	Carper
Alexander	Bonior	Chandler
Anderson	Borski	Chapman
Andrews	Bosco	Clarke
Annunzio	Boucher	Clay
Anthony	Boxer	Clement
Applegate	Brooks	Clinger
Aspin	Broomfield	Coleman (MO)
Atkins	Browder	Coleman (TX)
AuCoin	Brown (CA)	Collins
Barnard	Brown (CO)	Condit
Bates	Bruce	Conte
Beilenson	Bryant	Conyers
Bennett	Buechner	Cooper
Bereuter	Bunning	Costello
Berman	Bustamante	Coughlin
Bevill	Callahan	Courter
Bilbray	Campbell (CA)	Cox
Boehlert	Campbell (CO)	Coyne
Darden	Kleczka	Ritter
de la Garza	Kolter	Roberts
DeFazio	Kostmayer	Roe
Dellums	LaFalce	Rogers
Derrick	Lagomarsino	Rohrabacher
DeWine	Lancaster	Rose
Dicks	Lantos	Rostenkowski
Dixon	Laughlin	Roukema
Donnelly	Leach (IA)	Rowland (GA)
Dorgan (ND)	Leath (TX)	Roybal
Douglas	Lehman (CA)	Russo
Downey	Lehman (FL)	Sabo
Dreier	Lent	Saiki
Durbin	Levin (MI)	Sangmeister
Dwyer	Levine (CA)	Savage
Dymally	Lewis (GA)	Sawyer
Dyson	Lipinski	Saxton
Early	Livingston	Schaefer
Eckart	Lloyd	Scheuer
Edwards (CA)	Long	Schneider
Emerson	Lowey (NY)	Schroeder
Engel	Luken, Thomas	Schulze
English	Machtley	Schumer
Erdreich	Manton	Serrano
Espy	Markey	Sharp
Evans	Martin (NY)	Shays
Fawell	Matsui	Shuster
Fazio	Mavroules	Sikorski
Feighan	Mazzoli	Skaggs
Fields	McCandless	Slattery
Fish	McCloskey	Slaughter (NY)
Flake	McCrery	Smith (IA)
Flippo	McCurdy	Smith (NE)
Foglietta	McDade	Smith (NJ)
Ford (MI)	McDermott	Smith, Denny (OR)
Ford (TN)	McGrath	
Frank	McHugh	Smith, Robert (NH)
Frenzel	McMillan (NC)	
Frost	McMillen (MD)	Smith, Robert (OR)
Gallegly	McNulty	
Gallo	Meyers	Snowe
Gaydos	Miller (CA)	Solarz
Gejdenson	Miller (OH)	Solomon
Gekas	Miller (WA)	Spence
Geren	Mineta	Spratt
Gibbons	Mink	Staggers
Gillmor	Moakley	Stallings
Gilman	Molinari	Stangeland
Gingrich	Mollohan	Stark
Glickman	Montgomery	Stokes
Gonzalez	Moody	Studds
Goodling	Morella	Swift
Gordon	Morrison (WA)	Synar
Gray	Mrazek	Tallon
Green	Murphy	Tauzin
Guarini	Nagle	Taylor
Hall (OH)	Natcher	Thomas (GA)
Hall (TX)	Neal (MA)	Thomas (WY)
Hamilton	Neal (NC)	Torres
Hammerschmidt	Nelson	Towns
Harris	Nowak	Traficant
Hatcher	Oakar	Traxler
Hayes (IL)	Oberstar	Udall
Hefley	Obey	Unsoeld
Hefner	Olin	Upton
Henry	Ortiz	Valentine
Hertel	Owens (NY)	Vander Jagt
Hiler	Owens (UT)	Vento
Hoagland	Pallone	Visclosky
Hochbrueckner	Panetta	Volkmer
Horton	Parker	Walgren
Hoyer	Patterson	Walker
Hubbard	Paxon	Walsh
Huckaby	Payne (NJ)	Watkins
Hughes	Payne (VA)	Waxman
Hunter	Pease	Weber
Hyde	Pelosi	Weiss
Jacobs	Penny	Weldon
Jenkins	Perkins	Wheat
Johnson (CT)	Pickle	Whittaker
Johnson (SD)	Poshard	Whitten
Jones (GA)	Price	Williams
Jones (NC)	Pursell	Wilson
Jontz	Quillen	Wise
Kanjorski	Rahall	Wolf
Kaptur	Rangel	Wolpe
Kasich	Ravenel	Wyden
Kastenmeier	Ray	Wylie
Kennedy	Regula	Yates
Kennelly	Richardson	Yatron
Kildee	Rinaldo	

NAYS—89

Archer	Baker	Bartlett
Armey	Ballenger	Barton

Bateman	Holloway	Porter
Bentley	Hopkins	Rhodes
Bilirakis	Houghton	Ridge
Bliley	Hutto	Robinson
Burton	Inhofe	Ros-Lehtinen
Byron	Ireland	Roth
Cardin	James	Sarpalius
Coble	Johnston	Schiff
Combest	Kolbe	Sensenbrenner
Craig	Kyl	Shaw
Crane	Lewis (CA)	Shumway
Dannemeyer	Lewis (FL)	Sisisky
Davis	Lightfoot	Skeen
DeLay	Lowery (CA)	Skelton
Dornan (CA)	Madigan	Slaughter (VA)
Duncan	Marlenee	Smith (FL)
Edwards (OK)	McEwen	Smith (TX)
Fascell	Mfume	Stearns
Goss	Michel	Stenholm
Gradison	Moorhead	Stump
Grandy	Myers	Sundquist
Grant	Nielson	Tanner
Gunderson	Oxley	Tauke
Hancock	Packard	Thomas (CA)
Hansen	Parris	Vucanovich
Hastert	Pashayan	Young (AK)
Hayes (LA)	Petri	Young (FL)
Herger	Pickett	

NOT VOTING—18

Brennan	Hawkins	Murtha
Carr	Lukens, Donald	Rowland (CT)
Crockett	Martin (IL)	Schuette
Dickinson	Martinez	Smith (VT)
Dingell	McCollum	Torricelli
Gephardt	Morrison (CT)	Washington

□ 1819

Mr. SKELTON changed his vote from "yea" to "nay."

Mr. CHANDLER changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend the Federal Water Pollution Control Act and the Coastal Zone Management Act of 1972 to improve the quality of coastal recreation waters, and for other purposes."

A motion to reconsider was laid on the table.

SENSE OF CONGRESS ON RESOLVING CRISIS CREATED BY IRAQ'S INVASION OF KUWAIT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Concurrent Resolution 382, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LEVINE] that the House suspend the rules and concur in the resolution, House Concurrent Resolution 382, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 5, answered "present" 1, not voting 21, as follows:

[Roll No. 511]

YEAS—406

Ackerman	Dyson	Kildee
Alexander	Early	Kleczka
Anderson	Eckart	Kolbe
Andrews	Edwards (CA)	Kolter
Annunzio	Edwards (OK)	Kostmayer
Anthony	Emerson	Kyl
Applegate	Engel	LaFalce
Archer	English	Lagomarsino
Armey	Erdreich	Lancaster
Aspin	Espy	Lantos
Atkins	Evans	Laughlin
AuCoin	Fascell	Leach (IA)
Baker	Fazio	Leath (TX)
Ballenger	Feighan	Lehman (FL)
Barnard	Fields	Levin (MI)
Bartlett	Fish	Levine (CA)
Barton	Flake	Lewis (CA)
Bateman	Flippo	Lewis (FL)
Bates	Foglietta	Lewis (GA)
Beilenson	Ford (MI)	Lightfoot
Bennett	Ford (TN)	Lipinski
Bentley	Frank	Livingston
Bereuter	Frenzel	Lloyd
Berman	Frost	Long
Bevill	Gallegly	Lowery (CA)
Bilbray	Gallo	Lowey (NY)
Bilirakis	Gaydos	Luken, Thomas
Bliley	Gejdenson	Machtley
Boehlert	Gekas	Madigan
Boggs	Geren	Manton
Bonior	Gibbons	Markey
Borski	Gillmor	Marlenee
Bosco	Gilman	Martin (NY)
Boucher	Gingrich	Matsui
Boxer	Glickman	Mavroules
Brooks	Gonzalez	Mazzoli
Broomfield	Goodling	McCandless
Browder	Gordon	McCloskey
Brown (CA)	Goss	McCrery
Brown (CO)	Gradison	McCurdy
Bruce	Grandy	McDade
Bryant	Grant	McDermott
Buechner	Gray	McEwen
Bunning	Green	McGrath
Burton	Guarini	McHugh
Bustamante	Gunderson	McMillan (NC)
Byron	Hall (OH)	McMillen (MD)
Callahan	Hall (TX)	McNulty
Campbell (CA)	Hamilton	Meyers
Campbell (CO)	Hammerschmidt	Mfume
Cardin	Hancock	Michel
Carper	Hansen	Miller (CA)
Chandler	Harris	Miller (OH)
Chapman	Hastert	Miller (WA)
Clarke	Hatcher	Mineta
Clement	Hayes (IL)	Mink
Clinger	Hayes (LA)	Moakley
Coble	Hefley	Molinari
Coleman (MO)	Hefner	Mollohan
Coleman (TX)	Henry	Montgomery
Collins	Herger	Moody
Combest	Hertel	Moorhead
Condit	Hiler	Morella
Conte	Hoagland	Morrison (WA)
Conyers	Hochbrueckner	Mrazek
Cooper	Holloway	Murphy
Costello	Hopkins	Myers
Coughlin	Horton	Nagle
Courter	Houghton	Natcher
Cox	Hoyer	Neal (MA)
Coyne	Hubbard	Neal (NC)
Craig	Huckaby	Nelson
Crane	Hughes	Nielson
Dannemeyer	Hunter	Nowak
Darden	Hutto	Oberstar
Davis	Hyde	Obey
de la Garza	Inhofe	Olin
DeFazio	Ireland	Ortiz
DeLay	Jacobs	Owens (NY)
Dellums	James	Owens (UT)
Derrick	Jenkins	Oxley
DeWine	Johnson (CT)	Packard
Dicks	Johnson (SD)	Pallone
Dixon	Johnston	Panetta
Donnelly	Jones (GA)	Parker
Dorgan (ND)	Jones (NC)	Parris
Dornan (CA)	Jontz	Patterson
Douglas	Kanjorski	Paxon
Downey	Kaptur	Payne (NJ)
Dreier	Kasich	Payne (VA)
Duncan	Kastenmeier	Pease
Durbin	Kennedy	Pelosi
Dwyer	Kennelly	Penny
Perkins	Sensenbrenner	Tanner
Petri	Serrano	Tauke
Pickett	Sharp	Tauzin
Pickle	Shaw	Taylor
Porter	Shays	Thomas (CA)
Poshard	Shumway	Thomas (GA)
Price	Shuster	Thomas (WY)
Pursell	Sikorski	Torres
Quillen	Sisisky	Towns
Rangel	Skaggs	Traficant
Ravenel	Skeen	Traxler
Ray	Skelton	Udall
Regula	Slattery	Unsoeld
Rhodes	Slaughter (NY)	Upton
Richardson	Slaughter (VA)	Valentine
Ridge	Smith (FL)	Vander Jagt
Rinaldo	Smith (IA)	Vento
Ritter	Smith (NE)	Visclosky
Roberts	Smith (NJ)	Volkmer
Robinson	Smith (TX)	Vucanovich
Roe	Smith, Denny (OR)	Walgren
Rogers	Smith, Robert (NH)	Walker
Rohrabacher	Smith, Robert (OR)	Walsh
Ros-Lehtinen	Snowe	Watkins
Rose	Solarz	Waxman
Rostenkowski	Solomon	Weber
Roth	Spence	Weiss
Roukema	Spratt	Weldon
Rowland (GA)	Staggers	Wheat
Roybal	Stallings	Whittaker
Russo	Stangeland	Whitten
Sabo	Stark	Williams
Saiki	Stearns	Wilson
Sangmeister	Stenholm	Wise
Sarpalius	Stokes	Wolf
Sawyer	Studds	Wolpe
Saxton	Stump	Wyden
Schaefer	Sundquist	Wylie
Scheuer	Swift	Yates
Schiff	Synar	Yatron
Schneider	Tallon	Young (AK)
Schroeder		Young (FL)
Schulze		
Schumer		

NAYS—5

Clay	Fawell	Savage
Dymally	Rahall	

ANSWERED "PRESENT"—1

Oakar

NOT VOTING—21

Brennan	Lehman (CA)	Murtha
Carr	Lent	Pashayan
Crockett	Lukens, Donald	Rowland (CT)
Dickinson	Martin (IL)	Schuette
Dingell	Martinez	Smith (VT)
Gephardt	McCollum	Torricelli
Hawkins	Morrison (CT)	Washington

□ 1830

So (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF CONFERENCE REPORT ON S. 2834, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-929) on the resolution (H. Res. 523) waiving certain points of order against consideration of the conference report on the bill (S. 2834) to authorize appropriations for fiscal year 1991 for intelligence and in-

telligence-related activities of the United States Government, for the intelligence community staff, Central Intelligence Agency Retirement and Disability System, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF CONFERENCE REPORT ON S. 1430, NATIONAL AND COMMUNITY SERVICE ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-930) on the resolution (H. Res. 524) waiving certain points of order against consideration of the conference report on the bill (S. 1430) to enhance national and community service, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. MILLER of Washington. Madam Speaker, regrettably I was detained in a meeting at the White House during the vote on the conference report for the fiscal year 1991 Labor, Health and Human Services and Education Appropriations bill. I checked with the whip's office prior to departing for the meeting and was assured that there would be no votes during the time I had to be away from the floor.

Had I been present, I would have voted yea on rollcall No. 504, to agree with the conference report.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. LOWEY of New York). Pursuant to the provisions of clause 5 of rule I, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas are nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken tomorrow.

APPOINTMENT OF IRA MICHAEL HEYMAN AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. FROST. Madam Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 318) providing for the appointment of Ira Michael Heyman of California as a citizen regent of the Board of Regents of the Smithsonian Institution, as amended.

The Clerk read as follows:

S.J. RES. 318

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of A. Leon Higginbotham, Junior, of Pennsylvania, is filled by appointment of Ira Michael Heyman of California. The appointment is for a term of six years and shall take effect on the date on which this joint resolution becomes law.

The SPEAKER pro tempore. Is a second demanded?

Mr. GILLMOR. Madam Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. GILLMOR] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, Senate Joint Resolution 318 provides for the appointment of Ira Michael Heyman to the Board of Regents of the Smithsonian Institution. The appointment of Mr. Heyman as a citizen regent of the Smithsonian fills the vacancy created by the expiration of the term of Judge A. Leon Higginbotham who is not seeking reappointment. Mr. Heyman has served as the chancellor of the University of California at Berkeley for the last 10 years. He has recently retired from that position. Prior to his appointment as chancellor, he enjoyed an eminent legal career. His distinguished efforts as both an attorney and an educator make him well qualified for this position. My amendment makes necessary technical corrections to Senate Joint Resolution 318 as passed by the Senate and makes Mr. Heyman's appointment effective on the date of enactment.

Madam Speaker, I reserve the balance of my time.

Mr. GILLMOR. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I join my colleague in supporting the appointment of Ira Michael Heyman. Mr. Heyman's extensive background in law, both in practice and in teaching, would contribute significantly to the Board of Regents. Moreover, Mr. Heyman would be able to strengthen the Board's geographic diversity by adding to it the cultural interests of the west coast States. I am confident that he would serve the Smithsonian Institution well and I support his appointment to a 6-year term on the Board of Regents.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Madam Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. MINETA].

Mr. MINETA. Madam Speaker, it is a great privilege for me to rise in support of Senate Joint Resolution 318 for the appointment of Ira Michael Heyman of California as a Smithsonian Regent.

By way of introduction, Mr. Heyman is the former chancellor of the University of California, Berkeley. He held that post for 10 years, and continues as a professor of law, and city and regional planning at U.C. Berkeley.

Before becoming vice chancellor of U.S. Berkeley in 1974, Mr. Heyman held a series of law school teaching posts at Berkeley, Stanford, and Yale Universities, as well as serving as a professor of city and regional planning at the University of California, Berkeley since 1966.

Mr. Heyman's career before academia included a U.S. Supreme Court clerkship for Chief Justice Earl Warren; clerking for the Chief Justice of the U.S. Court of Appeals for the Second Circuit, the Honorable Charles E. Clark; private legal practice; and serving as legislative assistant to a U.S. Senator, the Honorable Irving M. Ives. Suffice it to say, Mr. Heyman's honors, memberships, and publications are too numerous to list.

In sum, Ira Michael Heyman is well suited to become a member of the Smithsonian's Board of Regents. He will bring to the Board of Regents a wealth of hands-on experience in running a culturally, racially and ethnically diverse university with 6 museums, 10 exhibit areas, and numerous collections. In addition, his legal and political expertise will be a great asset to the Smithsonian, as will his personal experience with private development efforts and defining the evolving role for universities and museums in our rapidly changing world.

Because of his great qualifications and wealth of experience, I strongly urge my colleagues to support the joint resolution we are considering today to name Ira Michael Heyman to the Board of Regents as a citizen regent for a 6-year term beginning on October 18, 1990.

Mr. FROST. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. FROST] that the House suspend the rules and pass the Senate joint resolution Senate Joint Resolution 318, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution, as amended, was passed.

The title of the Senate joint resolution was amended so as to read: "Joint resolution providing for appointment of Ira Michael Heyman as a citizen regent of the Smithsonian Institution.".

A motion to reconsider was laid on the table.

REAPPOINTMENT OF ANNE L. ARMSTRONG AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. FROST. Madam Speaker, I move to suspend the rules and pass the Senate joint resolution (Senate Joint Resolution 302) providing for the reappointment of Anne L. Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution, as amended.

The Clerk read as follows:

S. J. RES. 302

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Anne Legendre Armstrong of Texas, is filled by reappointment of the incumbent for a term of six years, effective May 10, 1990.

The SPEAKER pro tempore. Is a second demanded?

Mr. GILLMOR. Madam Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. GILLMOR] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, Senate Joint Resolution 302 provides for the reappointment of Anne Legendre Armstrong to the board of regents of the Smithsonian Institution. Mrs. Armstrong has been a member of the board of regents of the smithsonian since May 1978. During her tenure she has served ably on the board's nominating committee and as chairperson of its ad hoc committee on planning and development. Her proven diligence and leadership merit her reappointment and will affort continuity to the board of regents as the Smithsonian moves into the 21st century. My amendment makes necessary technical corrections in the bill as passed by the Senate and provides for Mrs. Armstrong's reappointment effective to the expiration of her previous term.

Madam Speaker, I reserve the balance of my time.

Mr. GILLMOR. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I join my colleague from Texas in supporting the reappointment of Anne Armstrong to the Smithsonian Board of Regents. Mrs. Armstrong's years of Government service and her experiences have made her an effective member of the Board of Regents of the Smithsonian for the past 12 years. I am confident that she would continue to serve the Smithsonian Institution well and I wholeheartedly support her reappointment to another 6-year term.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Madam Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA].

Mr. MINETA. Madam Speaker, I am pleased to support Senate Joint Resolution 302 to reappoint Anne Armstrong of Texas as a Smithsonian Regent.

Given her years of distinguished Federal service as U.S. Ambassador to Great Britain and Counsellor to Presidents Nixon and Ford, Anne Armstrong needs little in the way of an introduction to the Congress. I have had the pleasure of serving with her on the Smithsonian Board of Regents, and can attest to her commitment to the Smithsonian and her willingness to work hard on its behalf.

Therefore, based on Anne Armstrong's qualifications and past performance, I urge her reappointment as a citizen regent of the Smithsonian Institution by our enactment of Senate Joint Resolution 302.

Mr. FROST. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. FROST] that the House suspend the rules and pass the Senate joint resolution, Senate Joint Resolution 302, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution, as amended, was passed.

The title of the Senate Joint Resolution was amended so as to read: "Joint resolution providing for reappointment of Ann Legendre Armstrong as a citizen regent of the Smithsonian Institution.".

A motion to reconsider was laid on the table.

SPARK M. MATSUNAGA HYDROGEN RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1990

Mr. ROE. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 639) to establish the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Program Act of 1990.

The Clerk read as follows:

S. 639

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. SHORT TITLE.

This Act may be referred to as the "Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990".

SEC. 102. FINDING, PURPOSES, AND DEFINITION.

(a) FINDING.—Congress finds that it is in the national interest to accelerate efforts to develop a domestic capability to economically produce hydrogen in quantities that will make a significant contribution toward reducing the Nation's dependence on conventional fuels.

(b) PURPOSES.—The purposes of this Act are—

(1) to direct the Secretary to prepare a comprehensive 5-year comprehensive program management plan that will identify and resolve critical technical issues necessary for the realization of a domestic capability to produce, distribute, and use hydrogen economically within the shortest time practicable;

(2) to direct the Secretary to develop a technology assessment and information transfer program among the Federal agencies and aerospace, transportation, energy, and other entities; and

(3) to develop renewable energy resources as a primary source of energy for the production of hydrogen.

(c) DEFINITION.—As used in this Act, the term:

(1) "critical technology" (or "critical technical issue") means a technology (or issue) that, in the opinion of the Secretary, requires understanding and development in order to take the next needed step in the development of hydrogen as an economic fuel or storage medium; and

(2) "Secretary" means the Secretary of Energy.

SEC. 103. COMPREHENSIVE MANAGEMENT PLAN.

(a) PLAN.—The Secretary shall prepare a comprehensive 5-year program management plan for research and development activities, which shall be conducted over a period of no less than 5 years and shall be consistent with the provisions of sections 104 and 105. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Hydrogen Technical Advisory Panel established under section 108, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. The plan shall be structured to identify and address areas of research critical to the realization of a domestic hydrogen production capability within the shortest time practicable.

(b) CONTENTS OF PLAN.—Within 180 days after the date of the enactment of this Act, the Secretary shall transmit the comprehensive program management plan to the Committee on Science, Space, and Technol-

ogy of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Subsequent plans shall be incorporated in the management plan under this section. The plan shall include—

(1) a prioritization of research areas critical to the economic use of hydrogen as a fuel and energy storage medium;

(2) the program elements, management structure, and activities, including program responsibilities of individual agencies and individual institutional elements;

(3) the program strategies including technical milestones to be achieved toward specific goals during each fiscal year for all major activities and projects;

(4) the estimated costs of individual program items, including current as well as proposed funding levels for each of the 5 years of the plan for each of the participating agencies;

(5) a description of the methodology of coordination and technology transfer; and

(6) the proposed participation by industry and academia in the planning and implementation of the program.

(c) DEMONSTRATION PLAN.—The Secretary shall, in consultation with the Secretary of Transportation, the Administrator of the National Aeronautics and Space Administration, and the Hydrogen Technical Advisory Panel established under section 108, also prepare a comprehensive large-scale hydrogen demonstration plan with respect to demonstrations carried out pursuant to section 105. Subsequent plans shall be incorporated in the management plan under this section. Such plan shall include—

(1) a description of the necessary research and development activities that must be completed before initiation of a large-scale hydrogen production and storage demonstration program;

(2) an assessment of the appropriateness of a large-scale demonstration immediately upon completion of the necessary research and development activities;

(3) an implementation schedule with associated budget and program management resource requirements; and

(4) a description of the role of the private sector in carrying out the demonstration program.

SEC. 104. RESEARCH AND DEVELOPMENT.

(a) PROGRAM.—The Secretary shall conduct a research and development program, consistent with the comprehensive 5-year program management plan under section 103, to ensure the development of a domestic hydrogen fuel production capability within the shortest time practicable consistent with market conditions.

(b) RESEARCH.—(1) Particular attention shall be given to developing an understanding and resolution of all critical technical issues preventing the introduction of hydrogen into the marketplace.

(2) The Secretary shall initiate research or accelerate existing research in critical technical issues that will contribute to the development of more economic hydrogen production and use, including, but not limited to, critical technical issues with respect to production, liquefaction, transmission, distribution, storage, and use (including use of hydrogen in surface transportation).

(c) RENEWABLE ENERGY PRIORITY.—The Secretary shall give priority to those production techniques that use renewable energy resources as their primary source of energy for hydrogen production.

(d) NEW TECHNOLOGIES.—The Secretary shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals for and evaluate any reasonable new or improved technology that could lead or contribute to the development of economic hydrogen production storage and utilization.

(e) INFORMATION.—The Secretary shall conduct evaluations, arrange for tests and demonstrations, and disseminate to developers information, data, and materials necessary to support efforts undertaken pursuant to this section, consistent with section 106.

SEC. 105. DEMONSTRATIONS.

(a) REQUIREMENT.—The Secretary shall conduct demonstrations of critical technologies, preferably in self-contained locations, so that technical and non-technical parameters can be evaluated to best determine commercial applicability of the technology.

(b) SMALL-SCALE DEMONSTRATIONS.—Concurrently with activities conducted pursuant to section 104, the Secretary shall conduct small-scale demonstrations of hydrogen technology at self-contained sites.

SEC. 106. TECHNOLOGY TRANSFER PROGRAM.

(a) PROGRAM.—The Secretary shall conduct a program designed to accelerate wider application of hydrogen production, storage, utilization, and other technologies available in near term as a result of aerospace experience as well as other research progress by transferring critical technologies to the private sector. The Secretary shall direct the program with the advice and assistance of the Hydrogen Technical Advisory Panel established under section 108. The objective in seeking this advice is to increase participation of private industry in the demonstration of near commercial applications through cooperative research and development arrangements, joint ventures or other appropriate arrangements involving the private sector.

(b) INFORMATION.—The Secretary, in carrying out the program authorized by subsection (a), shall—

(1) undertake an inventory and assessment of hydrogen technologies and their commercial capability to economically produce, store, or utilize hydrogen in aerospace, transportation, electric utilities, petrochemical, chemical, merchant hydrogen, and other industrial sectors; and

(2) develop a National Aeronautics Space Administration, Department of Energy, and industry information exchange program to improve technology transfer for—

(A) application of aerospace experience by industry;

(B) application of research progress by industry and aerospace;

(C) application of commercial capability of industry by aerospace; and

(D) expression of industrial needs to research organizations.

The information exchange program may consist of workshops, publications, conferences, and a data base for the use by the public and private sectors.

SEC. 107. COORDINATION AND CONSULTATION.

(a) SECRETARY'S RESPONSIBILITY.—The Secretary shall have overall management responsibility for carrying out programs under this Act. In carrying out such programs, the Secretary, consistent with such overall management responsibility—

(1) shall use the expertise of the National Aeronautics and Space Administration and the Department of Transportation; and

(2) may use the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under this title, to the extent that the Secretary determines that any such agency has capabilities which would allow such agency to contribute to the purpose of this Act.

(b) ASSISTANCE.—The Secretary may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the Executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Secretary deems necessary to carry out any duty under this Act.

(c) CONSULTATION.—The Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Hydrogen Technical Advisory Panel established under section 108 in carrying out his authorities pursuant to this Act.

SEC. 108. TECHNICAL PANEL.

(a) ESTABLISHMENT.—There is hereby established the Hydrogen Technical Advisory Panel (the "technical panel"), to advise the Secretary on the programs under this Act.

(b) MEMBERSHIP.—The technical panel shall be appointed by the Secretary and shall be comprised of such representatives from domestic industry, universities, professional societies, Government laboratories, financial, environmental, and other organizations as the Secretary deems appropriate based on his assessment of the technical and other qualifications of such representatives. Appointments to the technical panel shall be made within 90 days after the enactment of this Act. The technical panel shall have a chairman, who shall be elected by the members from among their number.

(c) COOPERATION.—The heads of the departments, agencies, and instrumentalities of the Executive branch of the Federal Government shall cooperate with the technical panel in carrying out the requirements of this section and shall furnish to the technical panel such information as the technical panel deems necessary to carry out this section.

(d) REVIEW.—The technical panel shall review and make any necessary recommendations to the Secretary on the following items—

(1) the implementation and conduct of programs under this Act;

(2) the economic, technological, and environmental consequences of the deployment of hydrogen production and use systems; and

(3) comments on and recommendations for improvements in the comprehensive 5-year program management plan required under section 103.

(e) SUPPORT.—The Secretary shall provide such staff, funds and other support as may be necessary to enable the technical panel to carry out the functions described in this section.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to carry out the purposes of this Act (in addition to any amounts made available for such purposes to other Acts)—

(1) $3,000,000 for the fiscal year 1992;

(2) $7,000,000 for the fiscal year 1993; and

(3) $10,000,000 for the fiscal year 1994.

The SPEAKER pro tempore (Mrs. LOWEY of New York). Is a second demanded?

Mr. WALKER. Madam Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

The gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am very pleased that we are considering S. 639 the Spark M. Matsunaga Hydrogen Research, Development and Demonstration Act of 1990.

Madam Speaker, I would like to interject at this point the high regard we all felt for the distinguished Senator and former Member of the House from Hawaii, who was one of our true leaders, and also one of the true leaders as far as the area of the subject matter that we are dealing with today. I also want to take the opportunity to pay regard to my ranking member, the gentleman from Pennsylvania [Mr. WALKER], who has been one of the true leaders in this alternative fuels program, as well as the gentleman from New Jersey [Mr. TORRICELLI], the gentleman from Florida [Mr. LEWIS], both the chairman and the ranking member from the Subcommittee on Transportation and Aviation Materials, the gentlewoman from Tennessee [Mrs. LLOYD], and the gentleman from Washington [Mr. MORRISON], both the majority and the minority leaders of the Subcommittee on Energy Research and Development.

This bill is part of the effort to develop a long overdue energy policy for the Nation. The legislation at hand establishes a coordinated national research and development program to find less expensive methods to produce hydrogen for alternate clean fuel supply. This initiative will increase our ability to use one of our most abundant elements more effectively.

The timing of today's consideration is extremely important. Recent events have highlighted the vulnerability of America's energy supplies, particularly with regard to liquid transportation fuels. By putting a framework in place at the Department of Energy for a coordinated program to reduce production costs of hydrogen and to increase its storage and transport capabilities, we are working to ensure enhanced security of our Nation's future energy supplies.

In addition, we are just completing the conference agreement on the Clean Air Act. These two initiatives complement each other. As the global concern about emissions of carbon dioxide and other greenhouse gases increases, the benign pollution aspects of hydrogen make it a particularly attractive resource substitute to help us diminish fossil fuel emissions in the atmosphere.

The legislation under consideration today is similar, but not identical, to H.R. 4521, passed by the House on May 8, 1990. The Science, Space, and Technology Committee has been the historic leader in calling for action on the development of hydrogen as a multipurpose fuel. A national program on hydrogen research and development is long overdue.

I am most regretful that title II of H.R. 4521, the provision calling for a coordinated hydrogen program at the National Aeronautics and Space Administration, has not been included in S. 639. In passing H.R. 4521, the House-approved version of the bill, we planned to begin a national hydrogen program encompassing both the Department of Energy [DOE] and NASA. I believe today's bill provides a reasonable start by directing the DOE to initiate a comprehensive hydrogen R&D program.

The policy direction of S. 639 and the 3-year timeframe will allow us to pursue a sensible hydrogen effort that will eventually assure hydrogen a significant role in our long-term energy future.

I want to recognize my friend and distinguished colleague, Congressman GEORGE BROWN, JR., for his leadership and unswerving commitment to hydrogen development. His vision and dedication have been strongly instrumental in our passage of the legislation. I congratulate him on his efforts.

I also want to thank Senator DANIEL AKAKA for his longstanding commitment to hydrogen development and his strong support throughout the legislative process.

Madam Speaker, I reserve the balance of my time.

Mr. WALKER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of S. 639, the Hydrogen Research, Development and Demonstration Act of 1990.

I want to join in the commendations offered by the gentleman from New Jersey [Mr. ROE], and add my commendations to him for the work he has done in this bill, and also to the gentlewoman from Tennessee [Mrs. LLOYD], as well as the gentleman from Washington [Mr. MORRISON] for the work their subcommittee on Energy, Research and Development did on this, and the same for the gentleman from New Jersey [Mr. TORRICELLI] and the gentleman from Florida [Mr. LEWIS] for the work that their subcommittee also provided. I also want to join the gentleman in commending the gentleman from California [Mr. BROWN] who truly has been a leader in the area of hydrogen research. I think it is recognized by communities across the country that the gentleman from California [Mr. BROWN] has provided leadership even during the years when people did not want to look at hydrogen as an alternative.

This bill is a product of many different contributions, but I think we have a very good bill before Members as a result.

This bill calls on the Secretary of Energy to prepare and implement a comprehensive 5-year plan to accelerate research and development activities leading to domestic production, distribution, and use of hydrogen in an economical manner.

With current world events focused on the Middle East and our Nation's dependence on foreign oil, the timing of this bill could not be more appropriate.

Furthermore, with headlines of global change, acid rain and ozone depletion, the world is searching for solutions to these problems. I believe that hydrogen is the perfect fuel for the future. Its potential uses are great—everything from cars to electrical generation to jet flight and space travel. It also has a virtually limitless supply provided from water. For those not aware, hydrogen is the cleanest alternative fuel, producing only water as a product of its burning.

S. 639 is quite similar to the version the House initially passed. While multiplying the hydrogen research effort by almost the same overall order of magnitude as the House-passed bill, this bill moves some of the funding up from the out-years to 1992 and 1993.

I urge my colleagues to support this important legislation.

Mr. ROE. Madam Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. BROWN].

Mr. BROWN of California. Madam Speaker, obviously I am very grateful to my colleagues for their kind words about my interest in this program. It is a very real interest.

I praised the kind words for a stronger bill, but that is not in the cards, so we will take the best we can get. I particularly want to emphasize that the bill that we are passing is a tribute to Senator Matsunaga. He was a very dear friend of mine. We came to Congress together, in the 88th Congress, 28 years ago. He had a continuing interest in this field, which was then taken over by his colleague, the gentleman from Hawaii [Mr. AKAKA] when he came to the House, and again when he went to the Senate.

It is a tribute because Hawaii has long been interested in the possibility of indigenous energy resources which would benefit the State, and hydrogen would be one of those fuels which would give great help to them.

Actually, we see here a convergence of many different forces. The Department of Energy has long had a limited hydrogen research program, as has

NASA, for their own particular purposes. This bill seeks, in this particular case, to bring about a better focus, more coherent, better planned program, and in the earlier bill referred to that we passed back in May, we tried to include NASA in that, but the Senators preferred the bill in the form we have before Members, and we ought to oblige them in my opinion.

However, the convergence that is taking place here is an awareness of the fact that the condition of the world today demands that we have a different system of fuels than the fossil-based fuels we have been using. Hydrogen is that ideal fuel. We have known that for many, many years. The only problems that we have are those that can be solved by the application of some very sustained, focused research which will help scientists reduce the cost of producing the hydrogen, and then find more effective ways to use it as a transportation fuel, as a fuel for generation of electricity and other things of that sort.

This bill will help to achieve that. I think that all the people who worked on it are to be commended. I think they have a vision of what is good for this country. I think that all the Members of the Congress who supported the previous bill so well are beginning to understand that this is one of the keys to a pollution free Earth, to one in which we do not have global warming. This is the key to many of the problems that face citizens on a global basis today.

Obviously, one of the things that I am concerned about, and I think all Members are concerned about, if we in this country make the breakthroughs that establishes this as an economical fuel, then we have the tremendous global market from this fruit of American knowhow and American technology.

□ 1850

I want us to be in that world leadership position on hydrogen as a fuel and on many of the other new technologies which this country has helped to develop and then lost the commercial advantage to other countries.

So Madam Speaker, I urge adoption of this bill. I think we can all be proud of having it before us.

Mr. WALKER. Madam Speaker. I yield 3 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Madam Speaker, I join my colleagues in rising in strong support of S. 639, the Matsunaga Hydrogen Research, Development, and Demonstration Act.

Hydrogen offers the promise to be a virtually unlimited, pollution-free, source of energy if we can make progress on clean production, safe storage, and new uses.

This bill is a coordinated, long-term commitment by the Federal Government, with specific objectives. It would allow research to take place on making hydrogen from more efficient sources, such as photovoltaic cells.

The research supported by this bill will spur private sector development of hydrogen technology. Already, there have been small scale efforts to convert cars and trucks to hydrogen use, demonstrating that it may be a good fuel for vehicles.

It is ironic that the energy and water development bill, which we considered this past Friday, zeroed out funding for hydrogen research in favor, in my view, of less worthy projects. For a limited Federal investment, hydrogen offers the possibility of an enormous payback in a wide spectrum of uses, and I urge my colleagues to support S. 639.

Mr. WALKER. Madam Speaker, I have no more requests for time, and I yield back the balance of my time.

Mr. ROE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. LOWEY of New York). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the Senate bill, S. 639.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Madam Speaker, I ask unanimous consent that all Members may have five legislative days within which to revise and extend their remarks and include therein extraneous material on S. 639, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FISHERY CONSERVATION AMENDMENTS OF 1990

Mr. STUDDS. Madam Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2061) to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1993, and for other purposes, with an amendment.

The Clerk read the House amendment to the Senate amendments, as follows:

Strike all after the enacting clause and insert in lieu thereof:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—The Act may be cited as the "Fishery Conservation Amendments of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

Sec. 101. Findings, purposes, and policy.
Sec. 102. Definitions.
Sec. 103. Authority with respect to highly migratory species.
Sec. 104. Foreign fishing.
Sec. 105. International fishery agreements.
Sec. 106. Permits for foreign fishing.
Sec. 107. Driftnet fishing.
Sec. 108. Regional Councils.
Sec. 109. Contents of fishery management plans.
Sec. 110. Action by Secretary of fishery management plans.
Sec. 111. Implementation of fishery management plans.
Sec. 112. State jurisdiction.
Sec. 113. Prohibition of certain acts.
Sec. 114. Civil penalties and permit sanctions.
Sec. 115. Criminal offenses and penalties.
Sec. 116. Civil forfeitures.
Sec. 117. Enforcement.
Sec. 118. North Pacific fisheries research plan.
Sec. 119. Authorization of appropriations.
Sec. 120. Miscellaneous technical amendments.

TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975

Sec. 201. Limitations on appointments of Commissioners.
Sec. 202. Termination of current terms and completion of pending appointments.
Sec. 203. Travel expenses of Commissioners.
Sec. 204. Travel expenses of advisory committee.
Sec. 205. Species working groups.
Sec. 206. Regulations to carry out Commission recommendations.
Sec. 207. Recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish.
Sec. 208. Authorization of appropriations.

TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967

Sec. 301. Vessel seizure reimbursement authority.

TITLE IV—ANADROMOUS FISH CONSERVATION ACT

Sec. 401. Authorization of appropriations.

TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986

Sec. 501. Clarification of appointment limitation.
Sec. 502. Federal share of activities carried out with additional appropriations.
Sec. 503. Authorization of appropriations.

TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT

Sec. 601. Authorization of appropriations.

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

Sec. 701. Reauthorization and extension of termination date.
Sec. 702. Authorization of appropriations.
Sec. 703. Transfer of Saltonstall-Kennedy funds.

Sec. 704. Continuity of National Council membership.
Sec. 705. Continuity of Council functions, contracts, and personnel.
TITLE VIII—MISCELLANEOUS
Sec. 801. Certificate of legal origin for anadromous fish products.
TITLE IX—DOLPHIN PROTECTION CONSUMER INFORMATION
Sec. 901. Dolphin protection.
TITLE X—FISHERIES COMMISSION
Sec. 1001. Redesignation of fisheries commission.
TITLE XI—REPORT ON MARINE MAMMALS
Sec. 1101. Report on marine mammal populations.

TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

FINDINGS, PURPOSES, AND POLICY

SEC. 101. (a) FINDINGS.—Section 2(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(a)) is amended by adding at the end the following new paragraph:

"(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.".

(b) PURPOSES.—(1) section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(1)) is amended by striking "except highly migratory species".

(2) Section 2(b)(5) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(5)) is amended by striking "prepare, monitor, and revise" and inserting in lieu thereof "exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of".

(c) POLICY.—Section 2(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(c)) is amended—

(1) in paragraph (3) by inserting "considers the effects of fishing on immature fish and encourages development of practical measures that avoid unnecessary waste of fish;" immediately after "and enforcement;"

(2) by striking "and" at the end of paragraph (4); and

(3) by striking the period at the end of paragraph (5) and inserting in lieu thereof ", and to secure agreement to regulate fishing practices by vessels or persons fishing beyond the exclusive economic zones of any nation; and".

DEFINITIONS

SEC. 102. (a) GENERAL.—Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (6) through (16) as paragraphs (7) through (17), respectively, by redesignating paragraph (17) as paragraph (19), by redesignating paragraphs (18) through (23) as paragraphs (21) through (26), respectively, and by redesignating paragraphs (24) through (27) as paragraphs (28) through (31), respectively;

(2) by inserting immediately after paragraph (5) the following new paragraph:

"(6) The term 'large-scale driftnet fishing' means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of one and one-half miles or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.";

(3) in paragraph (8), as so redesignated, by striking ", birds, and highly migratory species" and inserting in lieu thereof "and birds";

(4) by amending paragraph (15), as so redesignated, to read as follows:

"(15) The term 'highly migratory species' means tuna species, marlin (Tetrapturus spp. and Makaira spp.), oceanic sharks, sailfishes (Istiophorus spp.), and swordfish (Xiphias gladius).";

(5) by inserting immediately after paragraph (17), as so redesignated, the following new paragraph:

"(18) The term 'migratory range' means the maximum area at a given time of the year within which fish of an anadromous species or stock thereof can be expected to be found, as determined on the basis of scale pattern analysis, tagging studies, or other reliable scientific information, except that the term does not include any part of such area which is in the waters of a foreign nation.";

(6) by inserting immediately after paragraph (19), as so redesignated, the following new paragraph:

"(20) The term 'observer' means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits under this Act.";

(7) by inserting immediately after paragraph (26), as so redesignated, the following new paragraph:

"(27) The term 'tuna species' means the following:

"Albacore Tuna—Thunnus alalunga;

"Bigeye Tuna—Thunnus obesus;

"Bluefin Tuna—Thunnus thynnus;

"Skipjack Tuna—Katsuwonus pelamis; and

"Yellowfin Tuna—Thunnus albacares."; and

(8) by adding at the end the following new paragraph:

"(32) The term 'waters of a foreign nation' means any part of the territorial sea or exclusive economic zone (or the equivalent) of a foreign nation, to the extent such territorial sea or exclusive economic zone is recognized by the United States.".

(b) CONFORMING AMENDMENT.—Section 101(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)(1) is amended by striking "any foreign nation's" and all that follows and inserting in lieu thereof "any waters of a foreign nation.".

AUTHORITY WITH RESPECT TO HIGHLY MIGRATORY SPECIES

SEC. 103. (a) GENERAL.—Section 102 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1812) is amended to read as follows:

"SEC. 102. HIGHLY MIGRATORY SPECIES.

"The United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout their range, both within and beyond the exclusive economic zone.".

(b) CONFORMING AMENDMENT.—The entry for section 102 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 102. Highly migratory species.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992.

FOREIGN FISHING

SEC. 104. Subsection (d) of section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821) is amended to read as follows:

"(d) TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with this Act.".

INTERNATIONAL FISHERY AGREEMENTS

SEC. 105. (a) HIGHLY MIGRATORY SPECIES AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended by redesignating subsection (e) as subsection (f) and by inserting immediately after subsection (d) the following new subsection:

"(e) HIGHLY MIGRATORY SPECIES AGREEMENTS.—

"(1) EVALUATION.—The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

"(A) the collection and analysis of necessary information for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

"(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

"(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

"(D) effective enforcement of conservation and management measures and access arrangements throughout the area of jurisdiction; and

"(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

"(2) ACCESS NEGOTIATIONS.—The Secretary of State, in cooperation with the Secretary, shall initiate negotiations with respect to obtaining access for vessels of the United States fishing for tuna species within the exclusive economic zones of other nations on reasonable terms and conditions.

"(3) REPORTS.—The Secretary of State shall report to the Congress—

"(A) within 12 months after the date of enactment of this subsection, on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified; and

"(B) within six months after such date of enactment, on the results of the access negotiations required under paragraph (2).

"(4) NEGOTIATION.—The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).

"(5) SOUTH PACIFIC TUNA TREATY.—It is the sense of the Congress that the United States Government shall, at the earliest opportunity, begin negotiations for the purpose of extending the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed at Port Moresby, Papua New Guinea, April 2, 1987, and its Annexes, Schedules, and implementing agreements for an additional term of 10 years on terms and conditions at least as favorable to vessels of the United States and the United States Government.".

(b) DETERMINATIONS OF SECRETARY OF STATE.—(1) Section 205(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)) is amended—

(A) in paragraph (1) by striking "traditional" and by inserting "including fisheries for tuna species," immediately after "authority,"; and

(B) in paragraph (2) by striking "highly migratory" and inserting in lieu thereof "tuna".

(2) The amendments made by this subsection shall take effect on January 1, 1992.

PERMITS FOR FOREIGN FISHING

SEC. 106. (a) FEES.—Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) FEES.—

"(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The Secretary, in consultation with the Secretary of State, shall establish a schedule of reasonable fees that shall apply nondiscriminatorily to each foreign nation.

"(B) Amounts collected by the Secretary under this paragraph shall be deposited in the general fund of the Treasury.".

(b) SANCTIONS.—Section 204(b)(12) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(12)) is repealed.

DRIFTNET FISHING

SEC. 107. (a) GENERAL.—Section 206 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1826) is amended to read as follows:

"SEC. 206. LARGE-SCALE DRIFTNET FISHING.

"(a) SHORT TITLE.—This section incorporates and expands upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 and may be cited as the 'Driftnet Act Amendments of 1990'.

"(b) FINDINGS.—The Congress finds that—

"(1) the continued widespread use of large-scale driftnets beyond the exclusive economic zone of any nation is an indiscriminate and wasteful fishing method that poses a threat to living marine resources of the world's oceans, including but not limited to the North and South Pacific Ocean and the Bering Sea;

"(2) the use of large-scale driftnets is expanding into new regions of the world's oceans, including the Atlantic Ocean and Caribbean Sea;

"(3) there is a pressing need for detailed and reliable information on the number of seabirds, sea turtles, nontarget fish, and marine mammals that become entangled and die in actively fished large-scale driftnets and in large-scale driftnets that are lost, abandoned, or discarded;

"(4) increased efforts, including reliable observer data and enforcement mechanisms, are needed to monitor, assess, control, and reduce the adverse impact of large-scale driftnet fishing on living marine resources;

"(5) the nations of the world have agreed in the United Nations, through General Assembly Resolution Numbered 44-225, approved December 22, 1989, by the General Assembly, that a moratorium should be imposed by June 30, 1992, on the use of large-scale driftnets beyond the exclusive economic zone of any nation;

"(6) the nations of the South Pacific have agreed to a moratorium on the use of large-scale driftnets in the South Pacific through the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, which was agreed to in Wellington, New Zealand, on November 29, 1989; and

"(7) increasing population pressures and new knowledge of the importance of living marine resources to the health of the global ecosystem demand that greater responsibility be exercised by persons fishing or developing new fisheries beyond the exclusive economic zone of any nation.

"(c) POLICY.—It is declared to be the policy of the Congress in this section that the United States should—

"(1) implement the moratorium called for by the United Nations General Assembly in Resolution Numbered 44-225;

"(2) support the Wellington Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific and the Tarawa Declaration; and

"(3) secure a permanent ban on the use of large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

"(d) DEFINITION.—As used in this section, the term 'living marine resources' includes fish, marine mammals, sea turtles, and seabirds and other waterfowl.

"(e) MONITORING AND ENFORCEMENT AGREEMENTS.—The Secretary, through the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall seek to secure international agreements to implement the findings, policy, and provisions of this section, in particular an international ban on large-scale driftnet fishing. The Secretary, through the Secretary of State, shall include, in any agreement which addresses the taking of living marine resources of the United States, provisions to ensure that—

"(1) each large-scale driftnet fishing vessel of a foreign nation that is party to the agreement, including vessels that may operate independently to develop new fishing areas, which operate beyond the exclusive economic zone of any nation, is included in such agreement;

"(2) each large-scale driftnet fishing vessel of a foreign nation that is party to the agreement, which operates beyond the exclusive economic zone of any nation, is equipped with satellite transmitters which provide real-time position information accessible to the United States;

"(3) statistically reliable monitoring by the United States is carried out, through the use of on-board observers or through dedicated platforms provided by foreign nations that are parties to the agreement, of all target and nontarget fish species, marine mammals, sea turtles, and sea birds entangled or killed by large-scale driftnets used by fishing vessels of foreign nations that are parties to the agreement;

"(4) officials of the United States have the right to board and inspect for violations of the agreement any large-scale driftnet fishing vessels operating under the flag of a foreign nation that is party to the agreement at any time while such vessel is operating in designated areas beyond the exclusive economic zone of any nation;

"(5) all catch landed or transshipped at sea by large-scale driftnet fishing vessels of a foreign nation that is a party to the agreement, and which are operated beyond the exclusive economic zone of any nation, is reliably monitored and documented;

"(6) time and area restrictions are imposed on the use of large-scale driftnets in order to prevent interception of anadromous species;

"(7) all large-scale driftnets used are constructed, insofar as feasible, with biodegradable materials which break into segments that do not represent a threat to living marine resources;

"(8) all large-scale driftnets are marked at appropriate intervals in a manner that conclusively identifies the vessel and flag nation responsible for each such large-scale driftnet;

"(9) the taking of nontarget fish species, marine mammals, sea turtles, seabirds, and endangered species or other species protected by international agreements to which the United States is a party is minimized and does not pose a threat to existing fisheries or the long-term health of living marine resources; and

"(10) definitive steps are agreed upon to ensure that parties to the agreement comply with the spirit of other international agreements and resolutions concerning the use of large-scale driftnets beyond the exclusive economic zone of any nation.

"(f) REPORT.—Not later than January 1, 1991, and every year thereafter until the purposes of this section are met, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report—

"(1) describing the steps taken to carry out the purposes of this section, and in particular subsection (b) of this section;

"(2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and specifying plans for further action;

"(3) identifying and evaluating the effectiveness of unilateral measures and multilateral measures, including sanctions, that are available to encourage nations to agree to and comply with this section, and recommendations for legislation to authorize any additional measures that are needed if those are considered ineffective;

"(4) identifying, evaluating, and making any recommendations considered necessary to improve the effectiveness of the law, policy, and procedures governing enforcement of the exclusive management authority of the United States over anadromous species against fishing vessels engaged in fishing beyond the exclusive economic zone of any nation;

"(5) containing a list and description of any new fisheries developed by nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

"(6) containing a list of the nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing large-scale driftnet fishing to which the United States is a party or otherwise subscribes.

"(g) CERTIFICATION.—If at any time the Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, identifies any nation that warrants inclusion in the list described under subsection (f)(5), the Secretary shall certify that fact to the President. Such certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

"(h) EFFECT ON SOVEREIGN RIGHTS.—This section shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in this Act or other existing law.".

(b) CONFORMING AMENDMENT.—The entry for section 206 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 206. Large-scale driftnet fishing.".

REGIONAL COUNCILS

SEC. 108. (a) AUTHORITY OVER CERTAIN FISHERIES.—Section 302(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(a)) is amended by inserting "(except as provided in section 304(f)(3))" immediately before the period at the end of the first sentence in each of paragraphs (1) through (5).

(b) MEMBERS' QUALIFICATIONS.—Paragraph (2) of section 302(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)) is amended to read as follows:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

"(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

"(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

"(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

"(iii) state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

"(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).

"(D) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.".

(c) LIMITATION ON TERMS OF VOTING MEMBERS.—Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by adding at the end the following new sentence: "No member appointed after January 1, 1986, may serve more than three consecutive terms.".

(d) COMPENSATION.—Section 302(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(d)) is amended to read as follows:

"(d) COMPENSATION AND EXPENSES.—The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall, until January 1, 1992, receive compensation at the daily rate for GS-18 of the General Schedule, and after December 31, 1991, at the daily rate for GS-16 of the General Schedule, when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C), and the nonvoting member appointed pursuant to subsection (c)(2) shall be reimbursed for actual expenses incurred in the performance of such duties, and other nonvoting members and Council staff members may be reimbursed for actual expenses.".

(e) TRANSACTION OF BUSINESS.—(1) Section 302(e)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(3)) is amended by striking "in the geographical area concerned" and inserting in lieu thereof "at appropriate times and places in any of the constituent States of the Council".

(2) Section 302(e)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(4)) is amended by adding at the end the following new sentence: "The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.".

(f) DECISIONS AND RECOMMENDATIONS OF ADVISORY COMMITTEE AND PANEL.—Section 302(g) (16 U.S.C. 1852(g)) is amended by adding at the end the following:

"(3)(A) Each Council shall establish and maintain a United States fishing industry advisory committee which shall provide information and recommendations on, and assist in the development of, fishery management plans and amendments to such plans.

"(B) Appointments to a committee established under subparagraph (A) shall be made by each Council in such a manner as to provide fair representation to commercial fishing interests in the geographical area of authority of the Council.

"(4) Decisions and recommendations made by committees and panels established under this subsection shall be considered to be advisory in nature.".

(g) COUNCIL FUNCTIONS.—Paragraphs (1) and (5) of section 302(h) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(h)) are each amended by inserting "(except as provided in section 304(f)(3))" immediately before "within its geographical".

(h) FISHERY HABITAT CONCERNS.—Section 302(i) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(i)) is amended to read as follows:

"(i) FISHING HABITAT CONCERNS.—Each Council—

"(A) may comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction; and

"(B) shall comment on and make recommendations concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

"(2) Within 45 days after receiving a comment or recommendation under paragraph (1) from a Council, a Federal agency shall provide a detailed response, in writing, to the Council regarding the matter. In the case of a comment or recommendation under paragraph (1)(B), the response shall include a description of measures being considered by the agency for mitigating or offsetting the impact of the activity on such habitat.".

(i) CLOSED MEETINGS.—Section 302(j)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking the semicolon at the end of clause (ii) and all that follows through "time and place of the meeting." and inserting in lieu thereof a period; and

(B) by inserting "of paragraph (2)" immediately after "(D) and (F)"; and

(2) by adding at the end the following new subparagraph:

"(B) If any meeting or portion is closed, the Council concerned shall notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including in that notification the time and place of the meeting. This subpararaph does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.".

(j) CONSIDERATION OF NEW INFORMATION.—Section 302(j) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)) is amended by adding at the end the following new paragraph:

"(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.".

(k) INTERIM MANAGEMENT OF HIGHLY MIGRATORY SPECIES FISHERIES.—Notwithstanding the amendments made by subsections (a) and (g), any fishery management plan or amendment which—

(1) addresses a highly migratory species fishery to which section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (as amended by this Act) applies,

(2) was prepared by one or more Regional Fishery Management Councils, and

(3) was in force and effect on January 1, 1990,

shall remain in force and effect until superseded by a fishery management plan prepared by the Secretary, and regulations implementing that plan.

CONTENTS OF FISHERY MANAGEMENT PLANS

SEC. 109. (a) REQUIRED DATA COLLECTION AND GEAR.—Section 303(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting "to protect, restore, and promote the long-term health and stability of the fishery including by defining overfishing and by including conservation and management measures to prevent overfishing" immediately before the semicolon at the end;

(2) in paragraph (1)(C) by inserting "regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits)," immediately after "this Act,";

(3) by amending paragraph (6) to read as follows:

"(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;";

(4) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(5) by adding at the end the following new paragraphs:

"(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan; and

"(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on—

"(A) participants in the fisheries affected by the plan or amendment; and

"(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants.".

(b) DISCRETIONARY PROVISIONS.—(1) Paragraph (1) of section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended to read as follows:

"(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

"(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone or for anadromous species or Continental Shelf fishery resources beyond such zone;

"(B) the operator of any such vessel; or

"(C) any United States fish processor who first receives fish that are subject to the plan;".

(2) Section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended in paragraph (6) by inserting "or to prevent overfishing" after "achieve optimum yield".

(3) Section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively, and by inserting immediately after paragraph (6) the following new paragraphs:

"(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

"(8) require that observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;".

(c) CONFIDENTIALITY OF STATISTICS.—Section 303(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)) is amended—

(1) in the matter preceding paragraph (1) by striking "subsection (a)(5)" and inserting in lieu thereof "subsections (a) and (b)";

(2) by striking "or" at the end of paragraph (1);

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting immediately after paragraph (1) the following new paragraph;

"(2) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person; or"; and

(5) by adding at the end the following new sentence: "Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary or, with the approval of the Secretary, the Council, of any statistic submitted in compliance with a requirement under subsection (a) or (b).".

(d) USE OF CERTAIN DATA.—Section 303 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853) is further amended by adding a new subsection at the end as follows—

"(f) RESTRICTION ON USE OF CERTAIN DATA.—The Secretary shall promulgate regulations to prevent observer or sea sampler data from being used in civil or enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), or the Endangered Species Act (16 U.S.C. 1531 et seq.). Such regulations shall be limited to data collected by an observer or sea sampler invited on board a vessel of the United States by the owner or operator of such vessel.".

ACTION BY SECRETARY OF FISHERY MANAGEMENT PLANS

SEC. 110. (a) FISHERIES RESEARCH.—Subsection (e) of section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended to read as follows:

"(e) FISHERIES RESEARCH.—(1) Within one year after the date of enactment of the Fishery Conservation Amendments of 1990, and at least every three years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

"(A) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in paragraph (2);

"(B) indicate the goals and timetables for the program described in subparagraph (A); and

"(C) provide a role for affected commercial fishermen in such research, including involvement in field testing.

"(2) The areas of research referred to in paragraph (1) are as follows:

"(A) Research to support fishery conservation and management, including research on the economics of fisheries and biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

"(B) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize the harvest of nontarget species and promote efficient harvest of target species.

"(C) Information management research, including the development of a fishery information base and an information management system that will permit the full use of data in the support of effective fishery conservation and management.

"(3) In developing the plan required under paragraph (1), the Secretary shall consult with relevant Federal agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.".

(b) MANAGEMENT OF HIGHLY MIGRATORY SPECIES FISHERIES.—(1) Section 304(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(f)) is amended—

(A) by striking "MISCELLANEOUS DUTIES" and inserting in lieu thereof "FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL";

(B) in paragraph (1) by striking "If" and inserting in lieu thereof "Except as provided in paragraph (3), if"; and

(C) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

"(B) In accordance with the provisions of this Act and any other applicable law, the Secretary shall—

"(i) identify research and information priorities, including observer requirements and necessary data collection and analysis for the conservation and management of highly migratory species;

"(ii) prepare and amend fishery management plans with respect to highly migratory species fisheries to which this paragraph applies; and

"(iii) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), international fishery management measures with respect to fishing for highly migratory species.

"(C) In preparing or amending any fishery management plan under this paragraph, the Secretary shall—

"(i) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan;

"(ii) consult with and consider the comments and views of commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species;

"(iii) consult with and consider the comments and views of affected Councils;

"(iv) evaluate the likely effects, if any, of conservation and management measures on participants in the fisheries affected by the plan and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors; and

"(v) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan.

"(D) Conservation and management measures contained in any fishery management plan under this paragraph shall—

"(i) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose; and

"(iii) promote international conservation.

"(E) With respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota under a relevant international fishery agreement, the Secretary shall provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation or quota.

"(F) In implementing the provisions of this paragraph, the Secretary shall consult with—

"(i) the Secretary of State;

"(ii) commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(iii) appropriate Councils.".

(2) Section 305(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(a)(3)), as redesignated by section 111(a)(1) of this Act, is amended by inserting "or (f)(3)" immediately after "304(c)".

(c) INCIDENTAL HARVEST RESEARCH.—Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is further amended by adding at the end the following new subsection.

"(g) INCIDENTAL HARVEST RESEARCH.—(1) Within 9 months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, establish by regulation a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils.

"(2) The program established pursuant to paragraph (1) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(3) For stocks of fish identified pursuant to paragraph (2), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(A) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(B) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(C) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(4) The Secretary shall, in cooperation with affected interests, commence a program to design, and evaluate the efficacy of, technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity. Such program shall take into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

"(5) The Secretary shall, upon completion of the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(6)(A) Except as provided in this paragraph, the Secretary may not implement any measures under this Act to reduce incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing which would restrict the period during which shrimp are harvested or would require the use of any technological device or other change in fishing technology.

"(B) The prohibition contained in subparagraph (A) shall cease on January 1, 1993, with respect to Fisheries under the authority of the South Atlantic Fishery Management Council, and with respect to Fisheries under the authority of the Gulf of Mexico Fishery Management Council, shall cease on January 1, 1994.

"(C) This paragraph does not apply to any law or regulation in effect on the date of enactment of this paragraph, nor does it limit in any way the Secretary's authority to take action, including any limitation on entry permitted by this Act, for the conservation and management of the shrimp fishery resource.".

(d) ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN.—(1) The New England Fishery Management Council may submit to the Secretary of Commerce an amendment to the Atlantic Sea Scallop Fishery Management Plan. Any amendment submitted under this section shall—

(A) contain measures providing for the conservation and management of Atlantic sea scallops, that are not based primarily on the scallop meat count but which may include controls on scallop harvesting effort; and

(B) consider the views of fishermen and fish processors involved in the Atlantic sea scallop fishery.

(2) If no amendment is submitted under paragraph (1) before one year after the date of enactment of this Act, the Secretary of Commerce is encouraged to prepare the amendment described in paragraph (1) under section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854).

(e) SECRETARIAL ACTION TO PREVENT OVERFISHING.—Section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)) is amended—

(1) by striking "or" at the end of paragraph (1)(A);

(2) by striking the period at the end of paragraph (1)(B) and inserting "; or"; and

(3) by adding a new paragraph (C) as follows:

"(C) a fishery management plan, as amended, does not include conservation and management measures to prevent overfishing.".

IMPLEMENTATION OF FISHERY MANAGEMENT PLANS

SEC. 111. (a) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855) is amended—

(A) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively; and

(B) by redesignating subsections (g) and (h) as subsections (d) and (e), respectively.

(2) Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended—

(A) in subsection (b)(1) by striking "305(c)" in the first sentence and inserting in lieu thereof "305(a)";

(B) in subsection (b)(3)(D) by striking "305(c)" and inserting in lieu thereof "305(a)"; and

(C) in subsection (c)(2)(B) by striking "305(c)" and inserting in lieu thereof "305(a)".

(b) JUDICIAL REVIEW OF CERTAIN IMPLEMENTING ACTIONS.—Section 305(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(b)), as redesignated by subsection (a)(1)(A), is amended to read as follows:

"(b) JUDICIAL REVIEW.—(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

"(A) section 705 of such title is not applicable, and

"(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2) (A), (B), (C), or (D) of such title.

"(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that establish the date of closure of a fishery to commercial or recreational fishing.

"(3)(A) Notwithstanding any other provision of law, the Secretary shall file a response to any petition filed in accordance with paragraph (1), not later than 45 days after the date the Secretary is served with that petition, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

"(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

"(4) Upon a motion by the person who files a petition under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.".

(c) EMERGENCY ACTIONS.—Section 305(c)(2)(A) (16 16 U.S.C. 1855)(c)(2)(A)), as redesignated by subsection (a)(1)(A), is amended by inserting "(other than the voting member appointed under section 302(b)(1)(B))" after "who are voting members".

STATE JURISDICTION

SEC. 112. Section 306(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(c)) is amended—

(1) in paragraph (1)(B) by inserting "and the application specifies the species to be processed" before the period at the end; and

(2) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)—

"(A) for a fishery which occurs in the waters of more than one State or in the exclusive economic zone, except after—

"(i) consulting with the appropriate Council and Marine Fisheries Commission, and

"(ii) considering any comments received from the Governor of any other State where the fishery occurs; and

"(B) if the Governor determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.".

PROHIBITION OF CERTAIN ACTS

SEC. 113. (a) PROHIBITIONS WITH RESPECT TO THEFT, ASSAULT, AND LARGE-SCALE DRIFTNET FISHING.—Section 307(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(K) to knowingly and without authorization steal, remove, damage, or tamper with—

"(i) fishing gear owned by another person, and is located in the exclusive economic zone, or

"(ii) fish contained in such fishing gear,

or to attempt to do so;

"(L) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any observer on a vessel under this Act;

"(M) to engage in large-scale driftnet fishing or

"(N) to strip pollock of its roe and discard the flesh of the pollock;".

(b) VIOLATION OF INTERNATIONAL FISHERY AGREEMENT.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (3) by striking "; and" and inserting in lieu thereof a semicolon;

(2) in paragraph (4) by striking the period at the end and inserting in lieu thereof "; and;" and

(3) by adding at the end the following new paragraph:

"(5) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to engage in fishing in the waters of a foreign nation in a manner that violates an international fishery agreement between that nation and the United States that has been subject to Congressional oversight in the manner described in section 203, or any regulations issued to implement such an agreement; except that the binding provisions of such agreement and implementing regulations shall have been published in the Federal Register prior to such violation.".

CIVIL PENALTIES AND PERMIT SANCTIONS

SEC. 114. (a) INCREASED PENALTY; PERMIT SANCTIONS.—Section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) is amended—

(1) in the section heading by inserting "AND PERMIT SANCTIONS" immediately after "CIVIL PENALTIES";

(2) in subsection (a) by striking "$25,000" in the second sentence and inserting in lieu thereof "$100,000"; and

(3) by adding at the end the following:

"(g) PERMIT SANCTIONS.—(1) In any case in which (A) a vessel has been used in the commission of an act prohibited under section 307, (B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 307, or (C) any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any fishery resource law statute enforced by the Secretary has not been paid and is overdue, the Secretary may—

"(i) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

"(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

"(iii) deny such permit; or

"(iv) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to foreign fishing vessels, on the approved application of the foreign nation involved and on any permit issued under that application.

"(2) In imposing a sanction under this subsection, the Secretary shall take into account—

"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanctions is imposed; and

"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

"(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owners shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of the transfer.

"(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

"(5) No sanctions shall be imposed under this subsection unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.".

(b) CONFORMING AMENDMENT.—The entry for section 308 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 308. Civil penalties and permit sanctions.".

CRIMINAL OFFENSES AND PENALTIES

SEC. 115. (a) OFFENSES.—Paragraph (1) of section 309(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)) is amended to read as follows:

"(1) section 307(1)(D), (E), (F), (H), (I), or (L); or".

(b) PUNISHMENT.—Section 309(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(b)) is amended—

(1) by striking "$50,000" and inserting in lieu thereof "$100,000";

(2) by striking "$100,000" each place it appears and inserting in lieu thereof "$200,000";

(3) by inserting "any observer described in section 307(1)(L) or" immediately after "injury to"; and

(4) by inserting "observer or" immediately before "officer in fear".

CIVIL FORFEITURES

SEC. 116. Section 310(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860(e)) is amended—

(1) by inserting "(1)" immediately before "For purposes"; and

(2) by adding at the end the following:

"(2) For purposes of this Act, it shall be a rebuttable presumption that any fish of a species which spawns in fresh or estuarine waters and migrates to ocean waters that is found on board a vessel is of the United States origin if the vessel is within the migratory range of the species during that part

of the year to which the migratory range applies.".

ENFORCEMENT

SEC. 117. Section 311(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(e)) is amended to read as follows:

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—(1) Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this Act or of any other fishery resource law enforced by the Secretary, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)—

"(A) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act or any other fishery resource law enforced by the Secretary with respect to that fish or other property;

"(B) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act or any other fishery resource law enforced by the Secretary;

"(C) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;

"(D) any valid liens or mortgages against any property that has been forfeited;

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)) or under other provisions of the customs laws, as made applicable by section 310(c) of this Act to seizures made by the Secretary under this Act, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and

"(F) reimbursement to any Federal or State agency, including the Coast Guard, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a), or any similar agreement authorized by law.

"(2) Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation.".

NORTH PACIFIC FISHERIES RESEARCH PLAN

SEC. 118. (a) Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following new section:

"SEC. 313. NORTH PACIFIC FISHERIES RESEARCH PLAN.

"(a) IN GENERAL.—The North Pacific Fishery Management Council may prepare, in consultation with the Secretary, a fisheries research plan for all fisheries under the Council's jurisdiction except salmon fisheries which—

"(1) requires that observers be stationed on fishing vessels engaged in the catching, taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

"(2) establishes a system of fees to pay for the costs of implementing the plan.

"(b) STANDARDS.—(1) Any plan or plan amendment prepared under this section shall be reasonably calculated to—

"(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

"(B) be fair and equitable to all vessels and processors;

"(C) be consistent with applicable provisions of law; and

"(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

"(2) Any system of fees established under this section shall—

"(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool inplemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

"(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(C) provide that fees collected not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the plan;

"(D) not be used to offset amounts authorized under other provisions of law;

"(E) be expressed as a percentage, not to exceed one percentum, of the value of fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(F) be assessed against all fishing vessels and United States fish processors, including those not required to carry an observer under the plan, participating in fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

"(H) provide that fees collected will only be used for implementing the plan established under this section; and

"(I) meet the requirements of section 9701(b) of title 31, United States Code.

"(c) ACTION BY SECRETARY.—(1) Within 60 days after receiving a plan or plan amendment from the North Pacific Council under this section, the Secretary shall review such plan or plan amendment and either (A) remand such plan or plan amendment to the Council with comments if it does not meet the requirements of this section, or (B) publish in the Federal Register proposed regulations for implementing such plan or plan amendment.

"(2) During the 60 day public comment period, the Secretary shall conduct a public hearing in each State represented on the Council for the purpose of receiving public comments on the proposed regulations.

"(3) Within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing such plan.

"(4) If the Secretary remands a plan or plan amendment to the Council for failure to meet the requirements of this section, the Council may resubmit such plan or plan amendment at any time after taking action the Council believes will address the defects identified by the Secretary. Any plan or plan amendment resubmitted to the Secretary will be treated as an original plan submitted to the Secretary under paragraph (1) of this subsection.

"(d) FISHERY OBSERVER FUND.—There is established in the Treasury a North Pacific Fishery Observer Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section, subject to the restrictions in subsection (b)(2) of this section. The Fund shall consist of all monies deposited into it in accordance with this section. Sums in the Fund that are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(e) SPECIAL PROVISIONS REGARDING OBSERVERS.—(1) The Secretary shall review—

"(A) the feasibility of establishing a risk sharing pool through a reasonable fee, subject to the limitations of subsection (b)(2)(E) of this section, to provide coverage for vessels and owners against liability from civil suits by observers, and

"(B) the availability of comprehensive commercial insurance for vessel and owner liability against civil suits by observers.

"(2) If the Secretary determines that a risk sharing pool is feasible, the Secretary shall establish such a pool, subject to the provisions of subsection (b)(2) of this section, unless the Secretary determines that—

"(A) comprehensive commercial insurance is available for all fishing vessels and United States fish processors required to have observers under the provisions of this section, and

"(B) such comprehensive commercial insurance will provide a greater measure of coverage at a lower cost to each participant.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the entry for section 312 the following new entry:

"Sec. 313. North Pacific fisheries research plan.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 119. Section 406 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1882) is amended by adding at the end the following new paragraphs:

"(16) $77,200,000 for the fiscal year ending September 30, 1990.

"(17) $94,000,000 for the fiscal year ending September 30, 1991, of which $6,500,000 shall be used for enforcement and $5,000,000 shall be used to increase research and assessment efforts.

"(18) $98,000,000 for the fiscal year ending September 30, 1992.

"(19) $102,000,000 for the fiscal year ending September 30, 1993.".

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 120. (a) INTERNATIONAL FISHERY AGREEMENTS.—Section 202(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822(f)), as so redesignated by section 105 of this Act, is amended by striking

"a exclusive economic zone" and inserting in lieu thereof "an exclusive economic zone".

(b) FOREIGN FISHING PERMITS.—Section 204(b)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(4)(C)) is amended by striking "council" and inserting in lieu thereof "Council".

(c) COUNCIL PROCEDURAL MATTERS.—Section 302(j)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(4)) is amended by striking "council employee" and inserting in lieu thereof "Council employee".

(d) ACTION BY SECRETARY.—Section 304(c)(2)(B) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)(2)(B)) is amended by striking "appropriate council" and inserting in lieu thereof "appropriate Council".

TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975

LIMITATIONS ON APPOINTMENTS OF COMMISSIONERS

SEC. 201. (a) IN GENERAL.—Section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) Of the Commissioners appointed under paragraph (1) who are not governmental employees—

"(A) one shall be appointed from among individuals with knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

"(B) one shall be appointed from among individuals with knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

"(3)(A) The term of a Commissioner shall be three years.

"(B) An individual appointed in accordance with paragraph (2) shall not be eligible to serve more than two consecutive terms as a Commissioner.".

(b) APPLICATION TO CURRENT COMMISSIONERS.—(1) Paragraph (2) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, shall not apply to reappointment of an individual as a United States Commissioner of the International Commission for the Conservation of Atlantic Tunas (hereinafter in this title referred to as a "Commissioner") if that individual is serving in that position on the date of enactment of this Act.

(2) An individual serving a term as a Commissioner on the date of enactment of this Act shall not, by reason of that term of service, be ineligible under paragraph (3)(B) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, for reappointment as a Commissioner.

TERMINATION OF CURRENT TERMS AND COMPLETION OF PENDING APPOINTMENTS

SEC. 202. The term as Commissioner of each individual serving in that position on the date of enactment of this Act shall terminate March 30, 1991. Not later than that date, the President shall complete appointment (or reappointment) of individuals to serve as Commissioners on and after that date.

TRAVEL EXPENSES OF COMMISSIONERS

SEC. 203. Section 3 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

"(2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.".

TRAVEL EXPENSES OF ADVISORY COMMITTEE

SEC. 204. Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended by striking "On approval" and all that follows and inserting in lieu thereof the following: "The Secretary and the Secretary of State may pay the necessary travel expenses of members of the advisory committee in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.".

SPECIES WORKING GROUPS

SEC. 205. The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by inserting immediately after section 4 the following new section:

"SPECIES WORKING GROUPS

"SEC. 4A. The United States Commissioners may establish species working groups for the purpose of providing advice and recommendations to the Commissioners and the advisory committee on matters relating to the conservation and management of any highly migratory species covered by the Convention. Any species working group shall consist of no more than seven members of the advisory committee and no more than four scientific or technical personnel, as considered necessary by the Commissioner.".

REGULATIONS TO CARRY OUT COMMISSION RECOMMENDATIONS

SEC. 206. (a) Section 6(c)(1) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(1)) is amended by redesignating the existing text as subparagraph (A) and by adding at the end the following new subparagraphs:

"(B) Not later than June 30, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

"(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).".

(b) Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended—

(1) in subparagraph (H) by striking "; and" and inserting in lieu thereof a semicolon; and

(2) by striking subparagraph (I) and inserting in lieu thereof the following:

"(I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;

"(J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and

"(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish to the United States agreed to pursuant to a recommendation of the Commission.".

SEC. 207. RECOMMENDED COMMISSION ACTIONS REGARDING LARGE-SCALE DRIFTNET FISHING AND CONSERVATION OF ATLANTIC SWORDFISH.—Section 6(d) of the Act (16 U.S.C. 971d(d) is amended to read as follows:

"(d)(1) It is the sense of the Congress that the Secretary, in consultation with the Secretary of State, should seek support for a recommendation by the Commission to ban large-scale driftnet fishing (as that term is defined in section 3(6) of the Magnuson Fishery Conservation and Management Act) in the Convention area.

"(2) The Secretary, in consultation with the Secretary of State, shall request the Commission to adopt recommendations necessary for the conservation and management of Atlantic swordfish. In making the request, the Secretary shall seek the establishment of an international minimum harvest size and a reduction in harvest levels to the extent necessary to conserve the stock. Until the Commission adopts all the conservation and management measures requested by the Secretary, the Secretary, within 3 months after each annual meeting of the Commission, shall notify Congress as to the nature and results of his request. These notifications shall identify those nations not acting to conserve and manage Atlantic swordfish, and recommend measures which could be taken to achieve effective international conservation and management of the stock.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, not more than $1,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.".

TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967

VESSEL SEIZURE REIMBURSEMENT AUTHORITY

SEC. 301. Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1989" and inserting in lieu thereof "October 1, 1993".

TITLE IV—ANADROMOUS FISH CONSERVATION ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended—

(1) by striking paragraphs (1), (2), (3), (4), (5), and (6);

(2) by redesignating paragraph (7) as paragraph (1); and

(3) by adding at the end the following new paragraph:

"(2) $8,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, 1994, and 1995.".

TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986

CLARIFICATION OF APPORTIONMENT LIMITATION

SEC. 501. Section 304(c)(3)(B) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4103(c)(3)(B)) is amended by insert-

ing "which are managed under an interstate fishery management plan" immediately after "fishery resources".

FEDERAL SHARE OF ACTIVITIES CARRIED OUT WITH ADDITIONAL APPROPRIATIONS

SEC. 502. Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period at the end and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) the Federal share of the cost of any activity carried out with an amount appropriated under the authority of this subsection shall be 75 percent of the cost of that activity.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) in subsection (a) by striking "fiscal years 1987, 1988, and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995";

(2) in subsection (b) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995"; and

(3) in subsection (c) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Section 7 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended by striking "and 1988" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

REAUTHORIZATION AND EXTENSION OF TERMINATION DATE

SEC. 701. Section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) is amended by striking "October 1, 1990" and inserting in lieu thereof "December 31, 1991".

AUTHORIZATION OF APPROPRIATIONS

SEC. 702. Section 209(d) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4008(d)) is amended by striking "1990" and inserting in lieu thereof "1991".

TRANSFER OF SALTONSTALL-KENNEDY FUNDS

SEC. 703. Section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713c-3(b)(2)), is amended by striking "fiscal year 1990" and inserting in lieu thereof "each of fiscal years 1990 and 1991".

CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

SEC. 704. (a) UNINTERRUPTED SERVICE.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Promotion Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

(b) FILLING OF VACANCIES.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the National Fish and Seafood Promotion Act not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act.

(c) TECHNICAL AMENDMENT.—Section 207(a)(5) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4006(a)(5)) is amended by inserting "initial" immediately before "appointments."

CONTINUITY OF COUNCIL FUNCTIONS, CONTRACTS, AND PERSONNEL

SEC. 705. UNINTERRUPTED FUNCTIONS, CONTRACTS, AND PERSONNEL.—All current functions, contracts in force, and existing personnel of the National Fish and Seafood Promotional Council as of September 30, 1990, are reauthorized and extended, and shall continue as if uninterrupted, notwithstanding section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)).

TITLE VIII—MISCELLANEOUS

CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

SEC. 801. (a) NEGOTIATIONS.—Within 60 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with nations which import or export anadromous fish or anadromous fish products for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or anadromous fish products unless such fish or fish products are accompanied by a valid certificate of legal origin attesting that the fish or fish product was lawfully harvested—

(1) within the jurisdiction of a nation having naturally occurring or artificially established anadromous fish populations of the same species as the imported or exported product; or

(2) on the high seas according to an international agreement among nations with jurisdiction over more than 1 percent of the stocks of anadromous fish being so harvested.

(b) ISSUANCE OF CERTIFICATES.—For the purposes of subsection (a), a valid certificate of legal origin may be issued only by a nation which—

(1) is the nation having jurisdiction over the vessel or other means by which the fish or fish product was harvested; and

(2) maintains regular harvests of anadromous fish in a manner consistent with the criteria for lawful harvests set out in subsection (a).

(c) BILATERAL OR MULTILATERAL AGREEMENTS.—Efforts undertaken by the Secretary of State pursuant to subsection (a) may, at the discretion of the Secretary, be directed toward achieving either bilateral or multilateral agreements, including trade agreements, whichever the Secretary determines to be most likely to result in the earliest possible date or dates of agreement by those nations which individually have in excess of $1,000,000, or the equivalent, in import or export trade in anadromous fish and anadromous fish products.

(d) REGULATIONS.—The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, promulgate regulations providing for—

(1) the issuance of certificates of legal origin pursuant to agreements under subsection (a) for anadromous fish and anadromous fish products legally harvested by vessels of the United States;

(2) the delegation of the authority to issue certificates of legal origin to States, territories, or possessions of the United States which the Secretary of Commerce determines to have implemented a program which is sufficient to accomplish the purposes of subsection (a); and

(3) an orderly transition to such regulations, sufficient to ensure that United States commerce in anadromous fish and anadromous fish products is not unduly disrupted.

(e) REPORT REQUIRED.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall, within 180 days after the date of enactment of this Act, submit to the Congress a report—

(1) making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish and anadromous fish products consistent with subsection (a); and

(2) identifying, evaluating, and making recommendations regarding any specific statutory or regulatory changes that may be necessary for the adoption of such restrictions.

(f) CERTIFICATION.—If, at any time following the promulgation of the regulations required by subsection (d), the Secretary of Commerce finds that any nation is engaging in trade in lawfully taken anadromous fish or anadromous fish products, the Secretary shall certify that fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(1)).

TITLE IX—DOLPHIN PROTECTION CONSUMER INFORMATION

DOLPHIN PROTECTION

SEC. 901. (a) SHORT TITLE.—This section may be cited as the "Dolphin Protection Consumer Information Act".

(b) FINDINGS.—The Congress finds the following:

(1) dolphins and other marine mammals are frequently killed in the course of tuna fishing operations in the eastern tropical Pacific Ocean and high seas driftnet fishing in other parts of the world,

(2) it is the policy of the United States to support a worldwide ban on high seas driftnet fishing, in part because of the harmful effects that such driftnets have on marine mammals, including dolphins, and

(3) consumers would like to know if the tuna they purchase is falsely labeled as to the effect of the harvesting of the tuna or dolphins.

(c) DEFINITIONS.—For purposes of this Act—

(1) the terms "driftnet" and "driftnet fishing" have the meanings given those terms in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note),

(2) the term "eastern tropical Pacific Ocean" means the area of the Pacific Ocean bounded by 40 degrees north latitude, 40 degrees south latitude, 160 degrees west longitude, and the western coastlines of North, Central, and South America.

(3) The term "label" means a display of written, printed, or graphic matter on or affixed to the immediate container of any article,

(4) the term "Secretary" means the Secretary of Commerce, and

(5) the term "tuna product" means a food item which contains tuna and which has been processed for retail sale, except perishable sandwiches, salads, or other products with a shelf life of less than 3 days.

(d) LABELING STANDARD.—

(1) It is a violation of section 5 of the Federal Trade Commission Act for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term "Dolphin Safe" or any other term or symbol that falsely claims or suggests that the tuna contained in the product was harvested

using a method of fishing that is not harmful to dolphins if the product contains—

(A) tuna harvested on the high seas by a vessel engaged in driftnet fishing, or

(B) tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements for being considered dolphin safe under paragraph (2).

(2) For purposes of paragraph (1)(B), a product that contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

(A) the vessel is of a type and size that the Secretary has determined is not capable of deploying its purse seine nets on or to encircle dolphin, or

(B)(i) the product is accompanied by a written statement executed by the captain of the vessel which harvested the tuna in the product certifying that no tuna were caught on the trip in which such tuna were harvested using a purse seine net intentionally deployed on or to encircle dolphin,

(ii) the product is accompanied by a written statement executed by—

(I) the Secretary or the Secretary's designee, or

(II) a representative of the Inter-American Tropical Tuna Commission.

which states that there was an approved observer on board the vessel during the entire trip and that purse seine nets were not intentionally deployed during the trip on or to encircle dolphin, and

(iii) the statements referred to in clauses (i) and (ii) are endorsed in writing by each exporter, importer, and processor of the product.

(e) ENFORCEMENT.—Any person who knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B) that is false is liable for a civil penalty of not to exceed $100,000 assessed in an action brought in any appropriate district court of the United States on behalf of the Secretary.

(f) REGULATIONS.—The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than 6 months after the date of the enactment of this Act, including regulations establishing procedures and requirements for ensuring that tuna products are labeled in accordance with subsection (d).

(g) TREATMENT OF FISH CAUGHT WITH DRIFTNETS.—Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (C) by striking "and" after the semicolon at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E)(i) except as provided in clause (ii), in the case of fish or products containing fish harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a large-scale driftnet in the South Pacific Ocean after July 1, 1991, or in any other water of the high seas after July 1, 1992, and

"(ii) in the case of tuna or a product containing tuna harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the tuna or tuna product was not harvested with a large-scale driftnet anywhere on the high seas after July 1, 1991.

For purposes of subparagraph (E), the term "driftnet" has the meaning given such term in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note).".

(h) NEGOTIATIONS.—The Secretary of State shall immediately seek, through negotiations and discussions with appropriate foreign governments, to reduce and, as soon as possible, eliminate the practice of harvesting tuna through the use of purse seine nets intentionally deployed to encircle dolphins.

(i) EFFECTIVE DATE.—Subsections (d) and (e) shall take effect 6 months after the date of the enactment of this Act.

TITLE X—FISHERIES COMMISSION

REDESIGNATION OF FISHERIES COMMISSION.

SEC. 100 (a) IN GENERAL.—The Congress hereby consents to and approves of the amendments described in subsection (b) to the interstate compact which constituted the Pacific Marine Fisheries Commission, approved by the Act of July 24, 1947, (61 Stat. 419; hereinafter in this section referred to as the "compact").

(b) AMENDMENT DESCRIBED.—The amendments referred to in subsection (a) are the amendments approved and ratified before the effective date of this section by the contracting States to the compact, which—

(1) amend Article III of the compact to redesignate the Pacific Marine Fisheries Commission as the "Pacific States Marine Fisheries Commission"; and

(2) make such other amendments to the compact as are necessary solely to conform the text of the compact to the amendment described in paragraph (1).

(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Pacific Marine Fisheries Commission constituted by the compact is deemed to be a reference to the "Pacific States Marine Fisheries Commission".

TITLE XI—REPORT ON MARINE MAMMALS

REPORT ON MARINE MAMMAL POPULATIONS

SEC. 1101. The Secretary of Commerce, in consultation with the Secretary of the Interior, shall provide to the Committee on Merchant Marine and Fisheries in the House and the Committee on Merchant Marine and Fisheries in the House and the Committee on Commerce, Science, and Transportaiton in the Senate within 12 months of enactment of this Act a report identifying the following:

(1) population sizes and trends of harbor seals, sea otters, California sea lions, and northern sea lions off the coast of Washington, This assessment shall include the historic, present, and projected population sizes and the overall health of current populations;

(2) an assessment of the effectiveness of section 101(a)(3)(A) and 109(h) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 and 1379) with particular emphasis on the management of the lower Columbia River and Puget Sound marine mammal populations. This assessment shall describe how the agencies are interpreting and implementing these provisions, how often they have been invoked, and whether these provisions have been effective in the management of marine mammal populations and in responding to the problems to which they were intended to address; and

(3) long range management plans for the species of marine mammals listed above in paragraph (1).

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Madam Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this bill reauthorizes the Magnuson Fisheries Conservation and Management Act, better known as the 200-mile fishing limit law. It also reauthorizes the Atlantic Tunas Convention Act of 1975, the Fishermen's Protective Act of 1967, the Interjurisdictional Fisheries Act of 1986 and the South Pacific Fisheries Development Act.

I want to thank my ranking minority member, DON YOUNG, for his unique brand of support and wisdom in bringing this bill to the floor, as well as the chairman of the full committee, Mr. JONES of North Carolina. Special congratulations are due, as well, to the gentlewoman from Washington [Mrs. UNSOELD], for her determined leadership in the fight against drift nets and in behalf of the fishermen of her area; to Mrs. BOXER, for her tireless fight in support of meaningful tuna product labeling provisions; and to the chairman of the Committee on Energy and Commerce, Mr. DINGELL, for his cooperation in reconciling the provisions of the bill with certain concerns raised by his committee.

Madam Speaker, the 200-mile limit was one of the most important economic development measures enacted during the past quarter century. It has created tens of thousands of jobs and generated billions of dollars in income for American fishermen. Because of it, our fishing industry has become one of the most modern, efficient, and productive on Earth.

But although the law has been a success, the question remains whether the policies that brought us through the past decade will be enough to carry us through the next. After conducting hearings on this legislation from Boston to Anchorage, I have concluded that the obvious answer to that question is "no." We need stronger, more enforceable fishery management plans; and we need a willingness to stick with those plans until progress is made. Our fishing industry cannot survive on short-term solutions, short-range thinking or short-sighted compromise. The plain biological fact is

that you can't catch fish that aren't there. And the plain economic fact is that you can't make money from a fishery that has died.

That is why the central purpose of the bill we bring before the House today is to restore and rebuild the depleted fisheries upon which the future of our fishing industry depends.

In the Northeast, we have seen landings of cod and haddock and flounder decline by half from the 1970's, and by three-quarters from the decade before that. There is a risk that Georges Bank, America's richest and most productive fishing ground, will literally go to the dogfish. Fortunately, the scientists tell us that juvenile stocks of cod, haddock, and yellowtail flounder are on the rebound and have reached the highest level in 9 years. By tightening enforcement and increasing the emphasis on conservation, this bill will make it more likely that those juvenile fish will survive to spawn.

By way of summary, I can say that this bill encourages conservation in five ways.

First, it calls for a worldwide ban on the use of deadly large-scale drift nets. As Members know, these are nets 30 and 40 miles long—plastic walls of death entangling birds, strangling marine mammals and vacuuming up fish of every size and species. Today and every day fishing vessels from Taiwan, Korea, and Japan leave enough nets drifting in the sea to encircle the entire globe. This bill makes it clear that we will not ourselves engage in large-scale drift net fishing; that we will not sit by while others engage in the practice; and that we will ban products harvested by large-scale drift nets from our supermarket shelves and restaurant menus forever.

Second, this bill encourages conservation by quadrupling the maximum penalty that may be assessed for violating U.S. fisheries laws. Our goal is to protect honest fishermen by eliminating any economic incentive to cheat. For this reason, the bill not only increases the maximum penalty; it allows authorities to suspend the right to fish.

Third, the bill makes it explicit that fisheries management plans must be designed to prevent overfishing.

Fourth, the bill extends U.S. fisheries jurisdiction to include tuna.

Finally, the bill requires the Secretary of State to initiate strong international efforts to prevent the overfishing of highly migratory species, including swordfish and bluefin tuna. American fishermen are ready and willing to do their part to reduce the overfishing of these highly prized fish, but they should not have to bear the burden of conservation alone.

It is very important that the intent of the sponsors of this bill, as reflected in comments made recently on the floor of the other body by the junior Senator from Massachusetts, and in my own comments today, be made clear. Our goal is to encourage the United States to work through international organizations to establish mangement programs for highly migratory species that cover the entire stocks of these species throughout their range, and that these agreements should provide for an equitable sharing of responsibility for conservation among the nations involved.

Once an international plan with a quota or allocation for the United States has been established, American fishermen must be provided with a reasonable opportunity to harvest that quota or allocation. Under the bill, the Secretary of Commerce does have the authority to take additional management measures within the framework of an international program, but not to change the U.S. allocation or to interfere with the opportunity of U.S. fishermen to harvest the American share of any international quota.

In closing, I should mention that the bill includes language that I offered to help fulfill a recent agreement between the United States and Canada to prevent shooting incidents during the course of fisheries law enforcement operations on Georges Bank.

And the bill includes some very important provisions that will help consumers to determine whether the tuna products they purchase were harvested using methods of fishing that are known to harm dolphins. Earlier this year, our Subcommittee on Fisheries approved a stronger version of this measure, which I greatly preferred, but the version in this bill is a major step in the right direction, and I believe it will further the cause both of consumer rights and marine mammal protection.

Madam Speaker, I think this is a good bill; it has strong bipartisan support; it reflects an equitable balance among the concerns of Members from different parts of the country; and I urge its adoption by the House today.

Mr. YOUNG of Alaska. Madam Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. SAIKI].

□ 1900

Mrs. SAIKI. Madam Speaker, I rise today in strong support of the passage of H.R. 2061, which would reauthorize and amend the Magnuson Act.

This legislation contains a provision which will address the problems we have with fishing in Hawaii and the U.S. Pacific territories over the past 2 years.

There has been a dramatic increase in the number of vessels fishing in the mid-Pacific. At the beginning of 1988 there were less than 40 mainland vessels operating in Hawaii, today there are 140, the most ever to be based in Honolulu Harbor. These vessels are fishing primarily for swordfish and yellowfin tuna. The tuna resource could be victim to overfishing.

To deal with this possibility, I proposed that tuna fisheries within our exclusive economic zone be managed by U.S. authorities for the first time in the history of this law. I am pleased that provisions to include tuna under U.S. authority remain in this bill.

The improvement and reauthorization of the Magnuson Act is of paramount importance to the protection of all fishery resources in the mid-Pacific. The rapid influx of new fishing vessels in our area has resulted in the laying of thousands of miles of line and thousands of hooks at any given time. Fishermen are not only battling each other for these fisheries, but are also destroying marine wildlife for greater access to these resources.

We need to act now to prevent the very real threat of overfishing in the Pacific.

It is vital that we pass this legislation, which also includes clear language directing our Government to take greater steps toward putting an end to the "curtain of death" drift net fishing practice.

I urge my colleagues to vote for this reauthorization.

Mr. STUDDS. Madam Speaker, I yield 4 minutes to the distinguished gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. I thank the gentleman for yielding.

Madam Speaker, I want to start by commending the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina, [Mr. JONES] and most particularly to thank the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, the gentleman from Massachusetts [Mr. STUDDS], for the leadership that has been shown getting the Magnuson Act before us today.

I would also like to thank the staff sitting next to the chairman because I know many hours were tirelessly dedicated to this task. Their efforts have strengthened the conservation mandate of the Magnuson Act to take a major step in improving the management of our Nation's fishery resources. I would also like to thank my own staff for his expertise and dedication to this legislation.

For the first time, embedded in the Magnuson Act will be a new section dedicated to permanently ban drift nets—a new national policy to achieve international agreements on banning high seas drift nets. Under these provisions, the Secretary of State would begin negotiations with other nations to ban the use of these high seas drift nets. The Secretary would also periodically report to Congress on the progress of his negotiations and rec-

ommend ways to encourage drift netting nations to quit using those nets.

This is the approach I took in my bill, H.R. 2958. Today we hear many demanding that these drift nets be taken off the high seas. When I first introduced this legislation last year, we could not even get cosponsors.

There are those who say that it is premature to begin working toward an international ban on high seas drift nets. I know the administration prefers to study the issue, and study the issue, and study the issue some more. But it's time for action, not more studies.

We already know in the Northwest that our salmon and steelhead are being stolen. This past summer we learned that tens of thousands of marine mammals and hundreds of thousands of seabirds and other bycatch species are being systematically slaughtered.

All the studies in the world are not going to stop that. It is time for action.

This is why the U.N. recently adopted a resolution which calls for an international ban on drift nets by 1992. With this new U.N. resolution, it is clear that we are not the only ones who have an interest in banning drift nets.

Madam Speaker, in light of everything we already know about this problem, just doing more studies would be insulting to our fishermen and reckless with the world's marine resources. We are far beyond that point of studying this horribly destructive technology. It is time we get tough. This bill is the beginning.

I would also like to commend the chairman for including in this the report on the marine mammal populations so that we may have a study that will bring back to Congress necessary information on population sizes and trends of harbor seals, sea otters, California sea lions, and northern sea lions off the coast of Washington and an assessment of the effectiveness of the Marine Mammal Protection Act of 1972 in the management of marine mammal populations and in responding to the problems to which the act was intended to address.

I would also like to thank you for including in the substitute the provisions, Mr. Chairman, of H.R. 1647, a bill I introduced to make assault on a fishery observer a criminal offense. Currently, the Magnuson Act makes it unlawful to assault an officer of the United States authorized to enforce its provisions. Criminal penalties are provided for such offenses.

The current provisions exclusively cover Coast Guard and other Federal enforcement officials. The language of H.R. 1647 that is included explicitly cover Coast Guard and other law enforcement officials. The language of H.R. 1647 is included in the substitute and makes it clear that fishery observers are subject to the same protections.

Madam Speaker, again I want to offer my commendation to the chairman for his excellent work in bringing this legislation before this body before this session expires.

Mr. YOUNG of Alaska. Madam Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Madam Speaker, I would like to thank the gentleman for yielding, time to me, and I associate myself with the remarks of the previous speaker and say specifically to the chairman of the subcommittee, the gentleman from Massachusetts [Mr. STUDDS], and the ranking minority member, the gentleman from Alaska [Mr. YOUNG], what a wonderful job they have done in bringing this bill to the floor. And to say a particular thanks to our staff, Jeff Pike, Don Moore, for cooperating particularly, in my case, with my staffperson Robin Rice.

Madam Speaker, I rise in support of H.R. 2061, the Magnuson Fishery Conservation and Management Act. In particular the following provisions: Prohibition on large-scale driftnets, the tuna labeling requirement, and the change in the management of highly migratory species, represents significant differences from existing law and will improve our efforts to manage and conserve our living marine resources.

With regard to highly migratory species, like swordfish, the responsibility for developing and implementing domestic management plans is shifted to the Secretary of Commerce and away from the fishery management councils as previously established under the act. This approach is not an attempt to undermine the regional council system. Congress strongly supports the councils and the public process at the heart of that system. We do however need a different system to deal effectively with international fisheries.

The Secretary is required to consult with the Secretary of State, commissioners, and advisory and working groups appointed under acts implementing relevant international agreements pertaining to fishing for highly migratory species, and appropriate councils.

I would like to briefly express my concern over the lack of specific language which would require the Secretary to develop fishery management plans according to public process. It is the intent of the law, in general, to have the development of these plans be part of a public process. That is, to allow the public to have sufficient opportunity to express comments and concerns through public hearings and by addressing the drafters during scheduled meetings.

It is not the intent of these changes to encourage or allow the Secretary to disregard the public process—either by not holding public hearings or by developing a management plan in something other than a forum open to the public. The Secretary is under the same standards as the councils for developing and implementing any management program as stated in the law including consideration of socioeconomic and biological factors.

The bill also requires that any measures included within any management plan for highly migratory species must be consistent with any applicable treaty or international agreement to which the United States is a party, and that does not increase or decrease any allocation or quota of fish provided to the United States under such treaty or agreement.

This is an extremely important change. Heretofore, management plans could be developed regardless of any international agreement or consensus. This has put the United States in a very tenuous negotiation position when trying to obtain international cooperation for conservation and management measures.

Effective management for highly migratory species must involve and coordinate efforts over the entire range of the species and include all harvesting nations. Otherwise, conservation efforts of our domestic fishermen will only result in protection of the species while in U.S. waters and would eliminate any incentive for other nations to cooperate or adopt equal measures. Such a situation is unfair and unacceptable.

U.S. fishermen must be given a reasonable opportunity to harvest the U.S. internationally agreed to allocation. This should not preclude complementary time-area closures or minimum size regulations which attempt to protect spawning stock. Any such complementary regulations for target and by-catch species must be reasonable and be based on adequate scientific data and not on political interest.

I am especially pleased to have the tuna labeling provisions included. This is a consumer right-to-know issue and will allow consumers to be able to identify, choose, and thus show support for dolphin safe fishing methods when purchasing canned tuna.

The prohibition on large scale driftnets is another very important provision that will help protect our marine mammals. These walls of death, sometime extendig 30 to 40 miles long, are immoral and must be stopped.

I urge my colleagues to join me in supporting this legislation which represents a significant change in our approach and hopefully in our success to managing and conserving all our living marine resources.

Mr. STUDDS. Mr. Speaker, I yield 5 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. I thank the gentleman for yielding.

Mr. Speaker, I rise today to praise the incorporation of the Dolphin Protection Consumer Information Act into the reauthorization of the Magnuson Act.

When I first introduced the Dolphin Protection Consumer Information Act in July of 1989, I, along with members of the environmental community, envisioned a comprehensive program of tuna labeling that would inform consumers whether the tuna on their grocery shelves was harvested using methods known to kill dolphins or whether tuna was dolphin safe.

□ 1910

Mr. Speaker, few could have predicted at that time that the largest domestic tuna companies, led by Starkist, Bumble Bee, and Chicken of the Sea, would voluntarily adopt our legislation and agree to sell only dolphin-safe tuna.

Removed from my original bill in this compromise legislation is the requirement that dolphin-unsafe tuna be labeled as such. In response to concerns raised by the Committee on Energy and Commerce, I and the other parties involved in the legislation have arrived at a compromise that establishes criteria for the use of the dolphin-safe label, prohibits false and misleading labels regarding dolphins and establishes the framework for monitoring and enforcing these labeling requirements. The language will also ban the import of all driftnet-caught fish by July 1, 1992, thanks to the hard work of the gentleman from Massachusetts [Mr. STUDDS] and the gentlewoman from Washington [Mrs. UNSOELD] and others on the committee.

It is important to state for the record, however, that the dolphin protection title of the Magnuson Act will not and should not end Congress' efforts to protect dolphins from inhumane fishing practices. Almost 20 years ago, Congress passed the Marine Mammal Protection Act. Its stated intent was to bring the dolphin mortality associated with tuna fishing to numbers approaching zero. Although the MMPA has been the cornerstone of Federal marine conservation efforts for the past 18 years, it is estimated that more than a million dolphins have died in compliance with that act since its passage.

Mr. Speaker, our dolphin protection efforts today will support and supplement the tuna industry's effort to eliminate the practice of killing dolphin in pursuit of catching tuna. Someday soon, and I hope it is very soon, we will move to end the discredited practice of purse seining on dolphin.

It is also important to state for the record how we arrived at this point today. Without years of effort from a large number of dedicated, nonprofit organizations, including the Dolphin Coalition, Greenpeace, Humane Society of the United States, Defenders of Wildlife, Earth Island Institute, and the Center for Marine Conservation, tuna-associated dolphin mortality would still be the tuna industry's sad and ugly secret. Without the letters and phone calls of countless consumers and schoolchildren from across the United States, we would not have gained 183 cosponsors of the Dolphin Protection Consumer Information Act, and the tuna industry would no doubt have continued to ignore this senseless slaughter of one of the world's most beautiful and intelligent creatures. Without the efforts of many of my colleagues, first and foremost Senator JOE BIDEN, the author of the Senate dolphin bill, the gentleman from Massachusetts [Mr. STUDDS], the gentleman from Minnesota [Mr. SIKORSKI], the gentleman from New Jersey [Mr. SAXTON], the gentlewoman from Rhode Island [Ms. SCHNEIDER], the gentleman from Pennsylvania [Mr. WALGREN], as well as Senator JOHN KERRY of Massachusetts, this legislation would have faced a more difficult and probably an impossible road. Without the skill of the staffs of the Committee on Merchant Marine and Fisheries, the Committee on Energy and Commerce, the Senate Commerce Committee, we could not have gotten this compromise crafted in time. Without the dedicated and skillful staff work of the House Fisheries and Wildlife Conservation Subcommittee, Jim Guthrie of Senator Biden's staff, and particularly my own staffer, Josh Kardon, this legislation might never have seen the light of day. And, again, without the hard work and leadership of Senator BIDEN, who tirelessly championed the legislation in the Senate, and without the gentleman from Massachusetts [Mr. STUDDS], who gave this bill his unyielding support, dolphin-safe tuna we can depend on would still be just a hope.

Mr. Speaker, on behalf of the dolphins and consumers everywhere, as well as for myself, I thank all of these good people for their concern and courage.

Mr. Speaker, in closing I want to thank the committee for working with us in a bipartisan fashion, for not ignoring the millions of Americans who know that the way we treat all living creatures is a very telling measure of our society. And finally, a special thank you to Ashley Biden, whose concern and enthusiasm was an inspiration to the Senate author and to the House author. When she named me the dolphin lady, I knew I just had to succeed.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I rise in support of this amendment to H.R. 2061, the Magnuson Fishery Conservation and Management Act.

Mr. Speaker, the Magnuson Fisheries Conservation and Management Act is very important to me and to my constituents. The people I represent catch half the edible fish caught in our exclusive economic zone. It is fitting, Mr. Speaker, that this bill is named in honor of our late senior Senator.

The House Merchant Marine and Fisheries Committee hoped we would not have to wait to the closing days of this session to pass this bill. Our committee completed its work on H.R. 2061 on October 5, 1989. This House passed the Magnuson Act on February 6, 1990. The Senate did not complete their work until a week ago.

The amendment we are sending back is not exactly what I would have wanted. We do some good things here. First, we move forward to end the use of large scale driftnets. We need to end this strip mining of the seas which kills tens of thousands of sea birds and marine mammals. While this has been a team effort, in this particular area of special importance has been the work of my distinguished colleague from Washington State, Congresswoman UNSOELD.

We also provide for the labeling of tuna products to show that consumers will know if they are dolphin safe. This is a major step forward for protection of dolphins and for educating consumers.

I am disappointed that we did not do more to protect the rights of fishermen from Washington State which deal with a sometimes hostile North Pacific Fisheries Management Council.

We do much, though to protect fishermen by protecting stocks of fish. We have an observer program which helps keep track of the fish being caught.

Mr. Speaker, I urge the passage of this bill.

Mr. STUDDS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, with respect to the provisions of requiring labeling in order to protect dolphins, I want to particularly commend those serving on the Committee on Merchant Marine and Fisheries, and particularly the gentlewoman from California [Mrs. BOXER] and others who committed themselves so completely to the protection of dolphins. They have truly moved the Congress to stop destruction of dolphins caught in fishing nets, and I also at the same time

want to underscore my appreciation for the role played in this agreement by the gentleman from Michigan [Mr. DINGELL], chairman of the Committee of Energy and Commerce, who was one of the original authors of the Marine Mammal Protection Act some 20 years ago. The Subcommittee on Commerce and Consumer Protection, which I have the honor to chair, heard testimony on the legislation introduced to require labeling with respect to tuna products and dolphins. The circumstances under which dolphins are intentionally killed in the pursuit of tuna is a unique situation. Dolphins are the only mammal specifically targetted and killed in the pursuit of other fish.

Mr. Speaker, in April the three major tuna companies in the United States, Starkist, owned by H.J. Heinz from my own part of the country, Bumble Bee and Van Kamp's, announced that they will stop purchasing tuna that is caught in nets that also attract and kill dolphins and that they will voluntarily label their products as dolphin-safe. H.J. Heinz in my home area of Pittsburgh was the first to announce this dolphin-safe policy.

The compromise before us today is not all that everybody on every side of this issue wanted, but it is an important and critical step forward. In essence we set a standard for the term "dolphin-safe" so that, if a company uses a label that says "dolphin-safe," there will be a clear definition of that term, and consumers will know what it means. Labels that do not meet this standard will be in violation of the Federal Trade Commission's prohibition on deceptive practices, and under this language tuna could not be labelled dolphin-safe if it is caught by driftnet fishing or in the eastern tropical Pacific if it is caught by purse seine nets unless the specific catch is certified as not caught with nets intentionally set on dolphins.

□ 1920

Mr. Speaker, many Americans want to guide their lives in a way that is sensitive to the environment. They need information to do that. For those companies that voluntarily label, we need to protect their information against unscrupulous companies that might label in a misleading way.

Finally, if the public responds, we can discourage fishing practices which endanger dolphins through the free market, without mandates, without governmental bureaucracy.

The Marine Mammal Protection Act was a milestone in wildlife legislation in 1972 and has made a significant contribution to the preservation of tens of thousands of dolphins. Today's bill is an important complement to that law, by giving the consumer the tools they need to encourage conservation and protection of the species.

Mr. YOUNG. of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, as the ranking member of the Subcommittee on Commerce, Consumer Protection, and Competitiveness, I want to thank my fellow Members on the Subcommittee on Merchant Marine for their cooperative efforts in developing the Dolphin Protection Consumer Information Act. I want to thank the gentlewoman from California [Mrs. BOXER] and also the gentleman from California [Mr. LEVINE] for their yeoman service on behalf of this issue.

Mr. Speaker, I am pleased to speak in support of H.R. 2061, a portion of which recognizes the desire of many consumers to know that a product is indeed dolphin safe. This is a major first step in congressional action to protect dolphins.

Numerous consumers prefer to purchase tuna caught without killing dolphins, and tuna manufacturers have begun to respond to this market demand. By establishing standards for dolphin safe tuna, we are giving guidance to tuna manufacturers and protecting consumers from false advertising. These standards require that dolphin safe tuna is caught with ships not capable of employing its purse seine nets on dolphins, and requires written statements executed by the ship's captain certifying that tuna was caught without killing dolphins.

We require that an approved observer is on board the vessel during the entire trip to confirm these standards. Any person violating these standards is held liable under section 5 of the Federal Trade Commission Act, that section dealing with false advertising, which states, "any party falsely representing tuna as 'dolphin safe' can be held liable for a civil penalty of up to $100,000."

Mr. Speaker, this bill is a good example of how Congress can serve a protective and productive role, while allowing for continued competitive markets and avoiding new layers of bureaucracy and regulation. The added advantage of this legislation is that it creates no new Federal agencies and requires no additional Federal funds.

Mr. Speaker, I urge Members to join me in support of H.R. 2061.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I would like to congratulate the Committee on Merchant Marine and also the Committee on Energy and Commerce for this bill. The Committee on Energy and Commerce portion had to do with the dolphin safe tuna.

As has been mentioned by the gentleman from Pennsylvania [Mr. RITTER] and the gentlewoman from California [Mrs. BOXER], this bill is a good bill. It provides no purse seine nets can be used. It provides that the dolphins cannot be used for sighting a tuna catch. It also provides, as was mentioned, for having observers on board to make sure this is true.

Mr. Speaker, this adds to the Marine Mammal Protection Act, which needed updating. However, it is I think improved over the bill that came through the Committee on Energy and Commerce because there is no negative labeling required on this bill. There is no Federal agency required as well. It does permit the suppliers of tuna to indicate that it is dolphin safe if they meet the voluntary regulations mentioned there. It does permit the consumer choice, without undue Federal regulation. I support that portion of the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me suggest that the chairman of the subcommittee, the gentleman from Massachusetts [Mr. STUDDS], and myself, were only two Members that were sponsors and worked hard for the original Magnuson Act. That law has been a tremendous success for the production of a domestic fishing industry being decimated by foreign fishing fleets. This Congress responded. We now have a very large, very lucrative business, in our domestic waters 200 miles out, but the work on this bill really improves the original act. As the gentleman from Massachusetts [Mr. STUDDS] has said, it improves observer programs and all the other good facets of it.

Mr. Speaker, I would like to compliment the gentleman from Massachusetts [Mr. STUDDS] in his work, in his leadership on the majority side, and for the working relationship on the minority side. Much has been said here about the Committee on Energy and Commerce, and I thank the committee. But really they are a stepchild committee when it comes to this issue. They got in because of the tuna labeling provision.

I would like to say one thing about that, very frankly. Much was said about the tuna industry, but the tuna industry in the United States has done a tremendously good job. It has been the foreigners, and my amendment has actually brought that to the forefront now. We can address the foreigners that have done this terrible job of catching dolphins. It was not the American fleet, it was the foreign fleet.

Mr. Speaker, I can say this is good legislation. The staff has worked very well and worked together in a bipartisan effort, in a very good fashion. In fact, we hope that the Senate will take what minor changes have been done in this bill, and this bill will be sent to the President and signed into law. If that happens, we will have another

good 10 years or longer of a good domestic fishing industry.

Mr. Speaker, I want to compliment everybody involved in this act, and make sure that we go forth and finally have it signed into law before this session is over. God knows when that will be.

Mr. Speaker, I rise in support of H.R. 2061 and urge its adoption by the House.

This bill reauthorizes the Magnuson Fishery Conservation and Management Act, which is the keystone of our Nation's fisheries policy. Without this Act, we would continue to have foreign fishermen depleting the resources off our shores.

In addition to reauthorizing the Act, the bill makes a number of amendments:

It establishes U.S. jurisdiction over tuna and creates a new mechanism to manage other highly migratory species; it requires the Secretary of State to seek an international ban on large-scale drift net fishing; it strengthens Regional Fishery Management Council membership requirement, establishes terms of service, and limits compensation; it strengthens habitat and conservation objectives, including by requiring specific action to prevent overfishing; it strengthens fisheries enforcement and protects U.S. observers; and, finally it provides a mechanism for increasing research in the North Pacific Ocean.

The remaining titles of this bill also include provisions relating to fisheries. They extend the authorizations on fisheries programs that have previously been passed by the House through fiscal year 1995. The bill also contains provisions relating to labeling of tuna. These provisions have been carefully worked out by our committee and the Committee on Energy and Commerce, and I wish to thank my colleague, Mr. DINGELL, for his help in ensuring that we protect the environment without throwing U.S. fishermen out of work.

Mr. Speaker, most of the provisions in this bill are provisions that were passed by the House and modified by the Senate. We have tried to change as little as possible in order to reach agreement with the other body. However, I will point out that the bill, as passed by the Senate, contained provisions which had not been considered by the House and which many of our members found objectionable. These included a provision which would have allowed the Secretary of Commerce to determine who could fish and who could not in our Nation's waters. That provision is contrary to every action taken by this House in the past 14 years that the Magnuson Act has been in effect and therefore has been removed from the bill.

Mr. Speaker, we should not let the Congress end without working to help our fisheries. Fish is an important part of the American diet, and the fishing industry provides employment for many residents of coastal states. I urge you to join with me in preventing overfishing, in ending the deadly threat of large-scale drift nets, and in providing sound conservation and management for our marine resources. I urge adoption of the bill.

Mr. SIKORSKI. Mr. Speaker, I want to commend the chairman and all the members involved in this conference for including dolphin protection provisions in this agreement. I want to especially commend the gentlewoman from California, [Mrs. BOXER] for her excellent and hard work on the issue. This spring's announcement by the major American tuna canneries to voluntarily use only dolphin-safe tuna was a big plus for those of us who want to protect dolphins. This agreement protects those companies who want to protect dolphins.

Since the late 1950's over 6 million dolphins have been killed from drift net fishing in the eastern tropical Pacific, and today over 100,000 dolphins are still being killed each year.

The provision here gives consumers freedom of choice. It allows consumers to choose between dolphin-safe tuna and dolphin killing tuna. It provides certainty that the tuna is properly labeled. Consumers have the right to know whether the tuna they purchase is dolphin-safe, and the right to know whether it is accurately labeled.

The companies who are voluntarily complying with this bill deserve more than a flipper pat on the back. They deserve a regulatory framework that ensures that unscrupulous companies do not make false claims on their labels. In this era of environmental awareness, green labeling has become an advertising trigger. Green will be to the 1990's what lite was to the eighties. A nationwide survey conducted last year by the Michael Peters Group showed that environmental impact plays a large decision in consumers' purchasing decisions; 89 percent of those surveyed expressed concern over the environmental impact of the purchased product; they should have full confidence in product labeling.

And properly labeled food is a responsibility of the Federal Government. Whether it's health claims or environmental claims, consumers should be able to get what they pay for.

Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, much has been said about graceful and intelligent creatures, but not enough about one of them from Alaska. I think the record ought to reflect the work done by the ranking member, the gentleman from Alaska [Mr. YOUNG], particularly with respect to the fight to rid the oceans of the world of drift nets. The gentleman has been at the forefront of that fight from the very beginning. As he himself has conceded here this evening, he has been at the forefront of a great many fights for the marine environment and the fishing industry of this country for more years than he is usually prepared to concede, and certainly far more than I am prepared to concede at a time like this.

Mr. Speaker, the gentleman from Alaska [Mr. YOUNG] has been a star, and the record should reflect that.

Mr. Speaker, once again this committee has presented the House with an example of bipartisan tranquility on matters of consequence, which the rest of the committees and the other body would do well to emulate. I commend the minority and the staff. They richly deserve the commendations on both sides, as well as all Members, for working in what can only be called harmony, especially compared to what else goes on around this place.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and concur in the Senate amendments to H.R. 2061, with an amendment.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in with an amendment.

A motion to reconsider was laid on the table.

AUTHORIZING TRANSFER OF A CERTAIN SPECIFIED VESSEL TO BRAZIL

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3215) to authorize the transfer by lease of a specified naval landing ship dock to the Government of Brazil.

The Clerk read as follows:

S. 3215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO LEASE.

(a) IN GENERAL.—Subject to section 5, the Secretary of the Navy is authorized to lease the naval landing ship Alamo (LSD-33) to the Government of Brazil. A lease under this Act may be renewed.

(b) APPLICABLE LAW.—Such leasing shall be in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.), except that section 62(a) of that Act (22 U.S.C. 2796a(a)) shall apply only to renewals of the lease.

SEC. 2. COSTS OF LEASING.

Any expense of the United States in connection with the lease authorized by section 1 shall be charged to the Government of Brazil.

SEC. 3. CONSIDERATION FOR LEASE.

Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of the ship described in section 1(a) may provide as part or all of the consideration for the lease, for the maintenance, protection, repair, or restoration of the ship by the Government of Brazil.

SEC. 4. EXPIRATION OF AUTHORITY.

The authority granted by section 1(a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act unless the lease authorized by that section is entered into during that period.

SEC. 5. CONDITION ON AUTHORITY TO TRANSFER.

The Secretary may not exercise the authority granted under section 1(a) unless and until the Government of Brazil has provided written assurances to the Secretary of State that Brazil is in compliance with the United Nations sanctions against Iraq and has discontinued the export to Iraq of all

military equipment, materials, and technologies, including the export of all nuclear, chemical, and biological warfare equipment, materials, and technologies. The Secretary of State shall transmit to Congress a copy of any such assurances received by the Secretary.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 3215.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield myself such time as I may consume. I rise in support of S. 3215, a bill to lease the naval landing ship dock *Alamo* (LSD-33) to the Government of Brazil.

The U.S.S. *Alamo* was decommissioned in September. The *Alamo* has been in the Navy inventory for over 30 years and has been evaluated by the Naval Board of Inspection as fit for further service. However, the ship will be retained on the Naval Register in a reserve status. Furthermore, all costs associated with this lease, including maintenance, repairs and training, are to be borne by the Government of Brazil, pursuant to the provisions of the Arms Export Control Act.

The Government of Brazil has indicated that the *Alamo* will be used to enhance the level of training and effectiveness of the Brazilian Navy and will replace World War II vintage amphibious ships used for this purpose. This lease will strengthen ties between the United States and Brazilian navies and will further our mutual foreign policy objectives in the region.

Mr. Speaker, I urge the adoption of this legislation.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the distinguished committee chairman [Mr. FASCELL] has indicated, the purpose of this legislation is to authorize the transfer by lease of a specified naval landing ship dock—the U.S.S. *Alamo*—to the Government of Brazil.

The relevant citation in the United States Code states that "no naval vessel in excess of 3,000 tons or less than 20 years of age may be sold, leased * * * or otherwise disposed of to another nation unless the disposition thereof has been approved by law * * *" Although U.S.S. *Alamo* has been in the Navy inventory for over 30 years, the ship displaces in excess of 3,000 tons, thus necessitating congressional approval.

The administration has assured us that this vessel is no longer needed in the U.S. active inventory. Further, the U.S. Navy strongly supports the lease of the U.S.S. *Alamo* to advance the valuable, cooperative relationship that we have developed with the Brazilian Navy.

All costs associated with the initial 5-year lease, including maintenance, repairs and training, as well as any costs associated with the initial transfer of the ship, are to be borne by the Government of Brazil.

I support this technical legislation.

□ 1930

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the Senate bill, S. 3215.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

REGARDING PROTECTION OF ANTARCTICA

Mr. OWENS of Utah. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 206) calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons, as amended.

The Clerk read as follows:

S.J. RES. 206

Whereas Antarctica, like the great oceans and the atmosphere, is a part of the global commons;

Whereas the Antarctic region, including the continent and the Southern Ocean, is a fragile ecosystem that supports an amazing abundance of life, and is, in turn, crucial to other life on Earth;

Whereas Antarctica is a critical area in the study and documentation of global change;

Whereas negotiations of the Antarctic Treaty Consultative Parties have resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities;

Whereas the Convention on the Regulation of Antarctic Mineral Resource Activities, while requiring consideration of environmental impacts prior to allowing minerals development in Antarctica, does not guarantee preservation of the Antarctic environment; and

Whereas the challenge to humankind is to ensure that Antarctica is stewarded in a manner that conserves its unique environment and preserves its value for scientific research: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Antarctica is a global ecological commons and should, therefore, be subject to new agreements or protocols which supplement the Antarctic Treaty of 1959, providing for comprehensive environmental protection of Antarctica, and which should for an indefinite period establish Antarctica as a region closed to commercial minerals development and related activities;

(2) under such new agreements, information about mineral or other resources in Antarctica should be obtained under strictly controlled arrangements and should be openly shared in the international scientific community;

(3) the Convention on the Regulation of Antarctic Mineral Resource Activities, though a considerable step forward, does not guarantee protection of the fragile environment of Antarctica and could actually stimulate movement toward commercial exploitation;

(4) pending the negotiation and entry into force of the new agreements referred to in paragraph (1) the Convention on the Regulation of Antarctic Mineral Resource Activities should not be presented to the Senate for advice and consent to ratification;

(5) until such new agreements enter into force, the United States should support the interim restraint measures currently in effect among the Consultative Parties to the Antarctic Treaty; and

(6) the negotiation of the new agreements referred to in paragraph (1) should be fully supported by the United States at the November 1990 meeting of the Antarctic Treaty Consultative Parties in Santiago, Chile.

The SPEAKER pro tempore. Is a second demanded?

Mr. GILMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Utah [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this measure was passed in the House as House Joint Resolution 418 on October 1 by a vote of 398 to 11. Technical changes were made to reconcile House Joint Resolution 418 with its companion version, Senate Joint Resolution 206, introduced by Senator GORE, which comes before us today. It will have a significant impact on negotiations in San-

tiago, Chile, this November as the Antarctic Treaty Nations meet to design a comprehensive environmental protection treaty for the Antarctic. I won't take any more time, except to thank very sincerely Chairman DANTE FASCELL and my subcommittee Chairman GUS YATRON, and Mr. BEREUTER, for their support, interest, and hard work in seeing this resolution through the Congress.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution, which calls for the United States to promote further international negotiations to protect the Antarctic environment.

As the gentleman from Utah has indicated a similar resolution, House Joint Resolution 418, was previously passed by the House on October 1. Since that time, the minor differences between that resolution and the current resolution have been worked out. This resolution is being brought up at this time to expedite final passage of this measure, so that it can be sent to the President for his signature.

In recent years, the United States participated in the negotiation of a new convention that, it was hoped, would ensure that any mineral development in the Antarctic would be carefully controlled. Since the conclusion of that agreement, however, new concerns have emerged that signing such an agreement could in fact set the stage for such activities.

The current resolution calls for yet another new agreement to avert this possibility, at least for the indefinite future. The administration supports this resolution and intends to pursue this policy at upcoming discussions in Santiago, Chile, in December.

I wish to commend the original House sponsor of this resolution, the gentleman from Utah [Mr. OWENS], for his willingness to work with the administration to craft a resolution we can all support.

I also commend Chairman FASCELL of the Foreign Affairs Committee, the ranking minority member, Mr. BROOMFIELD and the subcommittee chairman and ranking member, Congressmen YATRON and BEREUTER, for their efforts on its behalf.

Finally, I wish to commend the administration—particularly the new Assistant Secretary of State for the environment, "Buff" Bohlen—for working closely with Congress to devleop a resolution that can play a constructive role in supporting U.S. policy in this area.

I urge all Members to give their support to this timely resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of Utah. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania [Mr. YATRON], chairman of the subcommittee.

Mr. YATRON. Mr. Speaker, I thank my distinguished colleague from Utah for yielding time to me.

Mr. Speaker, I strongly support Senate Joint Resolution 206. Let me commend the gentleman from Utah [Mr. OWENS] who introduced the House version of this important measure. He has been an outstanding leader in efforts to preserve Antarctica's environment. I also want to acknowledge the efforts of Chairman FASCELL, Congressman BEREUTER and Congressman GILMAN on protecting Antarctica.

The hearings on Antarctica conducted by the Subcommittee on Human Rights and International Organizations, which I chair, have highlighted the need for greater environmental protection for that area. Antarctica is of tremendous value to scientific research. It serves as the habitat for an abundance of rare and unique species. Unfortunately, its near pristine and fragile environment is being increasingly threatened by various kinds of human activity.

If any minerals operations are eventually allowed to proceed in Antarctica, they could result in severe and irreparable damage. I am concerned that the recently negotiated minerals convention will encourage such activity.

Senate Joint Resolution 206 constitutes a major advancement in protecting Antarctica's environment. It calls for an indefinite moratorium on minerals activities, and for a new international agreement to establish the area as a global ecological commons. It urges the President not to submit the minerals convention to the Senate for ratification, pointing to its deficient environmental protections.

Mr. Speaker, the Foreign Affairs Committee and the House approved a similar version earlier. The resolution has undergone some changes to address administration concerns, and to secure the support of both Chambers of the Congress.

I ask all my colleagues to support this critical measure.

Mr. OWENS of Utah. Mr. Speaker, let me express my appreciation to the distinguished chairman of the subcommittee for his kind remarks, and to my colleague from New York [Mr. GILMAN] as well.

It was a very interesting experience to work with the State Department on this key issue. We did come to a resolution of minds which is reflected in this resolution, and I think the United States now takes steps in the forefront in the international conference in Chile next month at making some decision of real importance about the Antarctica and its treatment by the world.

Mr. Speaker, I want to express my appreciation to members of the staff who worked so hard on this resolution, Mark Tavalrides, Nancy Carman, and Kerry Bolognese.

Mr. FASCELL. Mr. Speaker, I rise in support of Senate Joint Resolution 206, as amended. The resolution is the companion measure to House Joint Resolution 418, calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty consultative parties, for the full protection of Antarctica as a global ecological commons.

The amendment now before the House is a compromise version worked out since House and Senate passage. It has the full support of the administration. The resolution is an important expression of United States policy in support of negotiations for comprehensive environmental protection for Antarctica, and to indefinitely close Antarctica to minerals activities. The upcoming meeting of consultative parties to the Antarctica Treaty will be considering these issues at Santiago, Chile, in November.

I would like to especially commend the sponsor of the House resolution, the Honorable WAYNE OWNES of Utah for his outstanding leadership on this issue.

Mr. Speaker, I urge the adoption of Senate Joint Resolution 206, as amended.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of Senate Joint Resolution 206. It reflects the strong bipartisan agreement that Antarctica should not suffer from the environmental degradation that threatens so much of the globe.

Mr. Speaker, there is no disagreement that the pristine environment of Antarctica should be preserved. Antarctica is critical for ongoing research on such critical matters as ozone depletion and global climate change. Antarctica and its surrounding waters are home to a phenomenally large and diverse network of living creatures. Scientists are beginning to discover that the microscopic creatures that thrive in the waters off Antarctica may be essential to the conversion of CO_2 into oxygen, and hence essential to life itself. In short, Mr. Speaker, Antarctica is a living laboratory—a laboratory that can help to unlock some of the most pressing environmental issues of our time.

But Antarctica faces a host of problems. Just offshore, a tanker ran aground and released considerable oil onto the shores. In addition, international fishing fleets are rapidly depleting Antarctica's waters. Tourism, which has been on the upswing of late, has been conducted in an indiscriminate fashion and has caused considerable damage. And, surprisingly, the scientists who are stationed in Antarctica conducting research are the source of considerable pollution. Improper waste disposal continues to be a serious problem.

The most significant a concern, however, relates to the possibility of mineral resource activity. Because of the unique nature of Antarctica, any attempts at mining would be devastating. There is growing international agreement that mineral activity should be banned, and that the Antarctica Treaty parties should

work to enact such a ban at their upcoming meeting in Santiago, Chile.

Senate Joint Resolution 206 provides important policy guidance as the United States prepares for the Santiago meeting. It stipulates that Antarctica should be treated as a global commons, and that the United States should work to secure comprehensive environmental protections, including a ban on commercial mineral development. Senate Joint Resolution 206 also instructs that until such a comprehensive agreement can be reached, that the United States should pursue a policy of interim restraint.

As ranking member of the Human Rights Subcommittee, which has jurisdiction for environmental matters within the House Foreign Affairs Committee, this Member strongly supports Senate Joint Resolution 206. This Member was an original cosponsor of the resolution that was drafted by the gentleman from Utah [Mr. OWENS], who introduced this body's version of the resolution. The gentleman from Utah [Mr. OWENS] is to be commended for his initiative on this critical environmental matter. He and his staff have worked with the other body, with administration, and with environmental organizations to craft the best possible resolution.

Mr. Speaker, Senate Joint Resolution 206, together with the bill of the gentleman from Massachusetts [Mr. CONTE], provides a coherent package of policy guidance on Antarctica. In approving Senate Joint Resolution 206, this body will be setting forth a reasonable, environmentally sound strategy for preserving the precious resources in Antarctica. Accordingly, this Member urges the adoption of Senate Joint Resolution 206.

Mr. OWENS of Utah. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. OWENS] that the House suspend the rules and pass the Senate joint resolution (S.J. Res. 206) as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS of Utah. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

PAPERWORK REDUCTION AND FEDERAL INFORMATION RESOURCES MANAGEMENT ACT OF 1990

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3695) to amend chapter 35 of title 44, United States Code, to reauthorize the Office of Information and Regulatory Affairs in the Office of Management and Budget, to make changes in the requirements applying to agency collection of information, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paperwork Reduction and Federal Information Resources Management Act of 1990".

TITLE I—INFORMATION COLLECTION AND DISSEMINATION BY FEDERAL AGENCIES

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Section 3501 of title 44, United States Code, is amended to read as follows:

"§3501. Findings and purposes

"(a) The Congress makes the following findings:

"(1) The collection of information conducted or sponsored by the Federal Government imposes a substantial burden on the public.

"(2) Efforts to curb the growth of such burden are necessary to induce Federal agencies to consider whether proposed information collection requests are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

"(3) A central management authority is necessary to provide coordination and oversight of Federal policies and procedures and to facilitate agency accountability to the Congress and the public regarding information collection requests and other information management activities.

"(4) The unrestricted flow of public information from the Federal Government to citizens of the United States is essential to the proper operation of the United States as a democratic society. Public information is a valuable national resource that provides citizens with knowledge of their government, society, and economy—past, present, and future. It is a means to ensure the accountability of government and is an essential tool for managing the government's operations. It also is itself often a commodity with economic value in the marketplace.

"(5) The Federal Government has the responsibility to ensure the flow of public information between the government and its citizens.

"(b) The purposes of this chapter are—

"(1) to minimize the Federal paperwork burden for individuals, small businesses, taxpayers, Federal contractors, State and local governments, and other persons;

"(2) to facilitate the fulfillment of agency statutory missions and the flow of public information through effective and efficient management of information resources;

"(3) to maximize the usefulness of, and public access to, information collected, maintained, used, retained, and disseminated by the Federal Government;

"(4) to minimize the cost to the Federal Government of collecting, maintaining, using, retaining, and disseminating information;

"(5) to coordinate, integrate, and to the extent practicable and appropriate make uniform, Federal information policies and practices;

"(6) to ensure that government information activities are conducted in such a manner as to—

"(A) improve the quality of decisionmaking, service delivery and program management;

"(B) increase productivity;

"(C) reduce waste and fraud; and

"(D) reduce unnecessary burden;

"(7) to ensure that the collection, maintenance, use, retention, and dissemination of information by the Federal Government is consistent with applicable laws, including laws relating to—

"(A) confidentiality of information, including section 552a of title 5, United States Code;

"(B) security of information, including the Computer Security Act of 1987 (Public Law 100-235);

"(C) access to information, including section 552 of title 5, United States Code; and

"(D) collection and dissemination of information, including this title;

"(8) to ensure effective and efficient use of information technology;

"(9) to ensure the integrity, quality, and utility of the Federal statistical system;

"(10) to ensure that automatic data processing, telecommunications, and other information technologies are acquired and used by the Federal Government in a manner which improves service delivery and program management, increases productivity, improves the quality of decisionmaking, reduces waste and fraud, and wherever practicable and appropriate, reduces the information processing burden for the Federal Government and for persons who provide information to and for the Federal Government;

"(11) to encourage a diversity of public and private providers for public information products, consistent with the Government's obligation to disseminate public information;

"(12) to provide for the dissemination to the public of public information products and services on timely and equal terms; and

"(13) to disseminate public information equitably and in a manner that promotes the usefulness of the information to the public.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3501 and inserting in lieu thereof the following:

"3501. Findings and purposes.".

SEC. 102. DEFINITIONS.

Section 3502 of title 44, United States Code, is amended—

(1) in paragraph (3) (relating to the definition of burden) by inserting "or for" before "a Federal", and by inserting before the semicolon the following: ", including the resources expended for reviewing instructions, searching existing data sources, obtaining, compiling and maintaining the necessary data, completing and reviewing the collection of information, and transmitting or otherwise disclosing the information involved";

(2) in paragraph (11) (relating to the definition of information collection request) by

striking "collection of information requirement,";

(3) in paragraph (13) (relating to the definition of information resources management) by inserting "and retention" after "use";

(4) in paragraph (16) by striking "and" after the semicolon at the end;

(5) in paragraph (17) by striking the period at the end and inserting in lieu thereof a semicolon; and

(6) by adding after paragraph (17) the following:

"(18) 'information collection request contained in a rule' means an information collection request which is, or has been, subject to notice and comment procedures under section 553 of title 5, United States Code, or other laws or regulations requiring that rules be made on the record after notice and comment;

"(19) the term 'Administrator' means the Administrator of the Office of Information and Regulatory Affairs, appointed under section 3503(b);

"(20) the term 'day' means calendar day;

"(21) the term 'public information' means any information, regardless of format, that an agency discloses, disseminates, or makes available to the public pursuant to law, rule, regulation, policy, or practice, and any part of that information; and

"(22) the term 'benefit' means a quantitative or qualitative contribution to the achievement of the mission of an agency.".

SEC. 103. AUTHORITY AND FUNCTIONS OF DIRECTOR OF OMB.

(a) APPROVAL AND DISAPPROVAL AUTHORITY.—Section 3504(a) of title 44, United States Code, is amended by inserting "or disapproval" after "approval".

(b) PAPERWORK CONTROL FUNCTIONS.—Section 3504(c) of title 44, United States Code, is amended—

(1) by striking paragraph (5) and inserting in lieu thereof the following:

"(5) establishing procedures for agencies to estimate under section 3507(a) the burden and benefit that will result from a proposed information collection request;";

(2) by striking "and" at the end of paragraph (6);

(3) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following:

"(8) promoting the reduction of unnecessary burden imposed by Federal information collection requests, including such burden on small businesses, taxpayers, Federal contractors, educational institutions, and State and local governments, with particular emphasis on Federal taxation, procurement, and grant programs; and

"(9) initiating and conducting, with the cooperation and participation of agencies designated by the Director and interested persons, pilot projects and similar programs to test or demonstrate the feasibility and value of changes in Federal information collection policies and procedures and related activities, including, on a nondelegable basis and solely for the purposes of this provision, waiving the application of any agency regulation or administrative directive provided that the Congress is timely informed regarding the intent, progress and findings of activities involving such waiver.".

(c) AUTOMATIC DATA PROCESSING FUNCTIONS.—Section 3504(g) of title 44, United States Code, is amended—

(1) in paragraph (4) by striking "; and" and inserting a semicolon;

(2) in paragraph (5) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) developing and implementing policy guidance that describes the system by which Federal agencies shall initiate, approve, process, and evaluate plans for major acquisitions of automatic data processing equipment, including policy guidance for—

"(A) the establishment by each Federal agency having an annual information technology budget for automatic data processing equipment in excess of $50,000,000, a review committee on major acquisitions of automatic data processing equipment, chaired by the senior information resources management official designated for the agency pursuant to subsection (b) of section 3506;

"(B) the required evaluative techniques and criteria to be used by such committees—

"(i) to estimate life-cycle costs for that equipment; and

"(ii) to assess the economy and efficiency of proposed major acquisitions of that equipment in relation to mission needs and alternative acquisition strategies;

"(C) the required independent cost evaluations, as appropriate, of data developed pursuant to subparagraph (B);

"(D) requiring that information (other than classified information) which is developed pursuant to subparagraph (B) and which pertains to any major acquisition of automatic data processing equipment shall be included with the agency's annual budget request (in information technology exhibits) if any funds included in that request will be used for the acquisition, operation, or support of such equipment, except that such information shall be withheld from public disclosure if it would adversely affect the integrity of any related procurement through the release of proprietary or procurement sensitive information;

"(E) requiring that information included in an agency's annual budget request pursuant to subparagraph (D) shall be certified by the head of the agency as being complete and accurate; and

"(F) the establishment of criteria for periodic evaluation of automatic data processing equipment, after its acquisition, to assess its compatibility with assumptions and findings made pursuant to subparagraph (B) which relate to that equipment.

In paragraph (6), the term 'automatic data processing equipment' has the meaning that term has in paragraph (2) of section 111(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)). That paragraph does not apply to equipment or procurements described in paragraph (3) of that section.".

(d) DISSEMINATION GUIDANCE.—Section 3504 of title 44, United States Code, is amended by striking subsection (h) and inserting in lieu thereof the following:

"(h) The information dissemination functions of the Director shall include issuing guidance, after notice and receipt of public comment, that shall—

"(1) be applied by Federal agencies disseminating public information products and services;

"(2) be consistent with and promote the purposes of this chapter and the requirements for agencies under section 3506(j);

"(3) apply to all significant public information products and services, regardless of the form in which public information is disseminated;

"(4) supplement and not replace the provisions of section 552 of title 5 and other laws specifically requiring the disclosure of public information; and

"(5) supplement and not replace the provisions of chapters 1, 5, 11, 13, 15, 17, and 19 of this title.".

SEC. 104. DUTIES OF DIRECTOR OF OMB REGARDING INFORMATION COLLECTION REQUEST REVIEW AND INFORMATION RESOURCES MANAGEMENT.

(a) IN GENERAL.—Section 3505 of title 44, United States Code, is amended to read as follows:

"§3505. Duties of the Director

"(a) In carrying out information collection request review functions under this chapter, the Director shall—

"(1) oversee the maintenance and improvement of the Federal Information Locator System under section 3511 of this title;

"(2) identify areas of duplication and unnecessary burden in information collection requests and develop a schedule and methods for eliminating such duplication and unnecessary burden;

"(3) issue regulations establishing requirements for—

"(A) agency reviews under section 3506(f) of information collection requests contained in rules;

"(B) agency estimates under section 3506(g) of the net burden and benefit that will result from information collection requests; and

"(C) agency estimates under section 3507(a) of the burden and benefit that will result from an information collection request; and

"(4) carry out functions relating to paperwork control under this chapter.

"(b)(1) In carrying out reviews of information collection requests under this chapter, the Director shall—

"(A) maintain a public record for each information collection request review under this chapter, which includes—

"(i) copies of all written correspondence which is received or provided by an employee of the Office of Information and Regulatory Affairs from or to, respectively, any person who is not an employee of the Office; and

"(ii) information about any written submission received by the Office of Information and Regulatory Affairs from an agency, including—

"(I) the name of the agency;

"(II) the title or name of the submission,

"(III) the date of receipt by the Office;

"(IV) the name of the principal desk officer within the Office who reviews the submission;

"(V) copies of all agency submissions to the Office, and a detailed written explanation of the reasons for any disapprovals or approvals with substantive changes made by the Office with respect to a submission, as required by sections 3507(b) and 3507(c)(6); and

"(VI) any decision made by the Office with respect to the submission, including the date of any action taken by the Office;

"(B) notify the head of the appropriate agency of all meetings involving employees of the Office of Information and Regulatory Affairs and any person who is not an employee of the Federal Government, and provide the agency head, or his or her designee, a reasonable opportunity to attend such meetings; and

"(C) consider public comments and other relevant material.

"(2) This subsection shall not require the public disclosure of—

"(A) any information which is protected at all times by procedures established for in-

formation which has been specifically authorized under criteria established by an executive order or an Act of Congress to be kept secret in the interest of national security or foreign policy;

"(B) communications concerning violations of the provisions of this chapter, the disclosure of which could lead to adverse action against the communicator; or

"(C) any communication between a person in the employ of the Office of Management and Budget and any other person in the employ of the executive office of the President.

"(c) In carrying out this chapter, the Director shall also—

"(1) recommend to the President, for submission to the Congress, legislative proposals to remove inconsistencies in laws and practices involving privacy, confidentiality, and disclosure of information;

"(2) create and maintain comprehensive information resources management policies;

"(3) issue, in consultation with the Administrator of General Services and the Archivist of the United States, principles, standards, and guidelines to implement the policies described in paragraph (2); and

"(4) develop and annually revise, in consultation with the Administrator of General Services and the Archivist of the United States, a 5-year plan for information resources management that includes—

"(A) plans for managing information throughout its life cycle from collection through dissemination and disposition;

"(B) plans for meeting the automatic data processing equipment (including telecommunications) and other information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757, 759) and the purposes of this chapter;

"(C) plans for agency audits of all major information systems;

"(D) plans for government-wide and agency-specific information resources management systems;

"(E) plans for the use of common information processing standards by Federal agencies; and

"(F) plans for enhancing public access, including access by electronic media, to information relating to information collection requests required by this chapter to be made available to the public.".

(b) ISSUANCE OF REGULATIONS.—The Director shall propose regulations under section 3505(a)(3) of title 44, United States Code, as amended by this Act, not later than 3 months after the date of the enactment of this Act, and shall issue final regulations under that section not later than 9 months after that date of enactment.

(c) OTHER FUNCTIONS.—The Director of the Office of Management and Budget shall carry out the Director's functions under section 3505(c) of title 44, United States Code, as amended by this Act, not later than 1 year after the date of the enactment of this Act.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3505 and inserting in lieu thereof the following:

"3505. Duties of the Director.".

SEC. 105. FEDERAL AGENCY RESPONSIBILITIES.

(a) TECHNICAL AMENDMENT.—Section 3506(a) of title 44, United States Code, is amended by inserting "resources" after "its information".

(b) DESIGNATION OF RESPONSIBLE OFFICIALS.—Section 3506(b) of title 44, United States Code, is amended by—

(1) striking "(b)" and inserting in lieu thereof "(b)(1)"; and

(2) adding at the end the following:

"(2) Each official designated pursuant to paragraph (1) shall be in the senior executive service and shall be a career appointee. Any positions created pursuant to paragraph (1) shall be career reserve positions.

"(3) Officials designated pursuant to paragraph (1) shall be well qualified through experience or training to carry out the programs and activities authorized under this chapter.".

(c) SPECIFIC DUTIES.—Section 3506(c) of title 44, United States Code, is amended—

(1) in paragraph (6) by striking "and dissemination" and inserting in lieu thereof "retention, and dissemination";

(2) in paragraph (7) by striking "; and" and inserting in lieu thereof ", and the capabilities of each such system for assuring (A) public access to public information, and (B) privacy, confidentiality, and security;";

(3) by amending paragraph (8) to read as follows:

"(8) develop and annually revise a 5-year plan for information resources management, in accordance with appropriate guidance provided by the Director; and"; and

(4) by adding at the end the following:

"(9) review and report to the Director on the privacy, information disclosure, confidentiality, and security implications of each significant information system planned by the agency.".

(d) AGENCY REVIEWS OF INFORMATION COLLECTION REQUESTS AND OF PAPERWORK BURDEN.—Section 3506 of title 44, United States Code, is amended by adding at the end the following:

"(e)(1) An agency in proposing or reviewing an information collection request, shall ensure that—

"(A) the information collection request and its related instructions—

"(i) are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility for the agency;

"(ii) use plain and unambiguous language and are understandable to those who are to respond;

"(iii) explain the need and ultimate use of the information to be collected; and

"(iv) use effective and efficient statistical survey methodology appropriate to the need for which the information is to be collected; and

"(B) the agency has taken the actions required under section 3507(a)(1) with respect to the information collection request.

"(2) In proposing any major information collection request not contained in a rule, an agency shall also—

"(A) publish a notice in the Federal Register which includes a statement of why the information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility for the agency;

"(B) provide a 60-day period for the submission of comments by the public regarding the major information collection request, including comments regarding its burden and benefit;

"(C) provide the name of the official of the agency to whom comments may be submitted, including a telephone number and an address; and

"(D) state in the notice that, at the end of the 60-day period, the agency will consider the public comments in issuing the final information collection request, and thereafter submit the information collection request to the Director for review under this chapter.

"(f)(1) Not less than once every 3 years each agency shall review each information collection request contained in a rule issued by the agency.

"(2) An agency conducting a review under this subsection shall publish notice of the review in the Federal Register, including a description of the scope, need, burden, and benefit of the information collection request to be reviewed. Such notice shall give interested persons a 60-day period for the submission of comments regarding—

"(A) the continued necessity of the information collection request for the proper performance of the functions of the agency, including whether the information will have practical utility for the agency; and

"(B) the burden on respondents and the benefit for the agency.

"(3) Each agency review under this subsection of an information collection request shall include consideration of—

"(A) any public comments received by the agency concerning the information collection request being reviewed;

"(B) whether the information collection request continues to be necessary for the proper performance of the functions of the agency, including whether the information will have practical utility for the agency; and

"(C) whether the burden of the information collection request can be reduced consistent with the proper performance of the functions of the agency.

"(4) An information collection request that is reviewed by an agency under this subsection—

"(A) for which no changes are proposed by the agency as a result of that review—

"(i) shall be submitted by the agency to the Director pursuant to section 3507;

"(ii) upon receipt shall receive automatic approval from the Director for a period of not more than 3 years, as specified by the agency; and

"(iii) shall retain the control number in effect for that information collection request unless a new control number is issued; and

"(B) for which changes are proposed by the agency as a result of that review—

"(i) shall be submitted by the agency to the Director for review in accordance with section 3507; and

"(ii) shall not be effective except as provided in that section.

"(5) The head of an agency shall submit to the Director and publish in the Federal Register the results of each agency review under this subsection of an information collection request for which no changes are proposed by the agency, including—

"(A) the evaluation conducted by the agency under paragraph (4); and

"(B) the reasons why the information collection request continues to be necessary for the proper performance of the functions of the agency, including whether the information will have practical utility for the agency.

"(6) The Director shall—

"(A) annually conduct random audits of agency reviews under this subsection of information collection requests for which no changes are proposed, to determine whether the agency has properly applied the standards set forth in paragraph (2) in carrying out that review; and

"(B) transmit to the Congress an annual report summarizing the findings of those audits.

"(g)(1) The head of each agency shall keep the Congress fully informed of its activities under this chapter, and shall annually submit to the Congress a report on such activities.

"(2) The report required under this subsection shall include the following:

"(A) A separate estimate of each of the following, and an explanation of the reasons therefore:

"(i) The burden, in terms of time expended, that resulted from information collection requests that were implemented by the agency during the year preceding the year covered by the report.

"(ii) Any decrease in burden, in terms of time expended, that resulted from eliminating in the year covered by the report information collection requests that were implemented during the preceding year.

"(iii) Any increase in burden, in terms of time expended, that resulted from information collection requests implemented during the year covered by the report that were not implemented during the preceding year.

"(iv) The burden, in terms of time expended, that resulted as a consequence of the changes made by the agency in its information collection requests during the year covered by the report.

"(B) A separate estimate of any cumulative increases or decreases in benefit that resulted from the agency eliminating, adopting, or changing information collection requests, as referred to in subparagraph (A)(i), (ii), (iii), or (iv).

"(C) A description of the agency's efforts in implementing, and plans to implement in the future, the applicable policies, standards, and guidelines with respect to information collection, paperwork reduction, use of the Federal Information Locator System, statistical activities, records management activities, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resources management functions as set forth in this chapter.

"(h)(1) In carrying out the review of information collection requests under this chapter, the head of each agency shall establish and maintain a public record for each information collection request under review by the Office of Information and Regulatory Affairs, which includes—

"(A) copies of all written materials which the agency provides to or receives from the Office;

"(B) information about all written submissions made by the agency to the Office, including—

"(i) the date of the submission;

"(ii) the name or title of the submission; and

"(iii) the name of the person at the Office to whom the submission is made; and

"(C) copies of the detailed written explanations made by the Office as required under sections 3507(b) and 3507(c)(6).

"(2) This subsection shall not require the disclosure of—

"(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

"(B) communications concerning violations of the provisions of this chapter; the disclosure of which could lead to adverse action against the communicator.

"(i) In this section the term 'major information collection request' means an information collection request that an agency determines would, if implemented, result in burden on the public of at least 1,000,000 hours or on any one person of at least 500 hours.".

(e) INFORMATION DISSEMINATION RESPONSIBILITIES.—Section 3506 of title 44, United States Code, as amended by this section, is amended by adding at the end the following:

"(j) Each Federal agency which disseminates significant public information products or services—

"(1) to the greatest extent practicable, shall disseminate in usable electronic formats (in whole and in part, and along with available software, indexes, and documentation) public information maintained in electronic formats;

"(2) shall provide to the Superintendent of Documents, for distribution to the Federal Depository Library Program, all government publications required by chapter 19 of this title to be made available, including government publications in electronic formats;

"(3) shall utilize the Government Printing Office for the production and dissemination of information products and services, to the extent provided by chapters 5, 17, and 19 of this title;

"(4) before taking any action to initiate, terminate, or significantly modify a public information product or service, shall—

"(A) provide advance public notice, through the Federal Register and through other means likely to provide actual notice to interested persons;

"(B) provide notice to the Superintendent of Documents;

"(C) make available to the public a description of the proposed action and a detailed explanation of the reasons for the action; and

"(D) accept and consider public comments on the proposed action; and

"(E) comply with the requirements of section 1710 of this title;

"(5) may reduce or waive any user fees for disseminating public information if the agency determines that the dissemination may enhance an agency mission;

"(6) except where specifically authorized by statute, shall not—

"(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely, equal, and equitable availability of public information to the public;

"(B) restrict or regulate the use, resale, or redissemination of public information products or services by the public;

"(C) charge fees or royalties for resale or redissemination of public information;

"(D) establish user fees for public information products that exceed the marginal cost of dissemination; or

"(E) establish a new information sales and dissemination program without providing advance notice to the Public Printer; and

"(7) in determining how to fulfill its public information dissemination functions, shall consider—

"(A) whether dissemination is required by law;

"(B) whether dissemination is necessary for the proper performance of the functions of the agency;

"(C) whether disseminating public information would assist in public oversight of agency operations or would promote the general social or economic welfare of the United States;

"(D) if an information product or service available from other public or private sources is equivalent to an agency product or service and reasonably achieves the dissemination objectives of the agency product or service;

"(E) dissemination methods that will maximize the utility of the information to the public; and

"(F) the economy and efficiency of Government operations.".

SEC. 106. AGENCY PROPOSAL AND DIRECTOR'S REVIEW OF INFORMATION COLLECTION REQUESTS AND CHANGES.

(a) GENERAL REQUIREMENTS FOR INFORMATION COLLECTION REQUESTS.—Section 3507(a) of title 44, United States Code, is amended to read as follows:

"(a) An agency shall not conduct or sponsor an information collection request unless, in advance of the adoption or revision of such request—

"(1) the agency has taken actions, including consultation with the Director, to—

"(A) eliminate, through the use of the Federal Information Locator System and other means, information collection requests which seek information available from another source within the Federal Government;

"(B) reduce to the extent practicable and appropriate the burden on persons who will provide information to the agency;

"(C) formulate plans for tabulating the information in a manner which will enhance its usefulness to other agencies and to the public;

"(2) the agency has submitted to the Director—

"(A) the proposed information collection request;

"(B) copies of such pertinent regulations and other related materials as the Director may specify;

"(C) an explanation of actions taken to carry out paragraph (1); and

"(D) a summary of comments received from the public, if applicable;

"(3) the agency publishes in the Federal Register a notice—

"(A) which states that the agency has submitted the request to the Director; and

"(B) which includes—

"(i) a title for the information collection request;

"(ii) a brief description of the need for the information, its proposed use, and the benefit that will result from that proposed use;

"(iii) a summary of the information being sought by any new information collection request, or a description of the major changes being proposed in the case of a revision or extension of an existing information collection request;

"(iv) a description of the likely respondents and proposed frequency of response to the information collection request;

"(v) an estimate of the burden that will result from the information collection request; and

"(vi) an identification of an official at the Office of Information and Regulatory Affairs and at the agency to whom comments may be submitted, including a telephone number and an address; and

"(4) the Director has approved the information collection request, or the period for review by the Director provided under subsection (b) or (c), as applicable, has elapsed.".

(b) DIRECTOR'S REVIEW OF INFORMATION REQUEST NOT CONTAINED IN A RULE.—Section 3507(b) of title 44, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "not contained in a rule" after "receipt of a proposed information collection request";

(B) by striking "the request" and inserting in lieu thereof "the proposed information collection request"; and

(C) by striking ", including an explanation thereof,";

(2) by inserting after the first sentence the following: "The Director may not make the decision referred to in the first sentence until 30 days after publication of notice in the Federal Register under subsection (a)(3), unless the agency carries out the collection of information pursuant to section 3507(g). Any decision of the Director to disapprove or approve with substantive changes a proposed information collection request under this subsection shall include a detailed written explanation of the reasons for such decision.";

(3) in the penultimate sentence—

(A) by striking "a request" and inserting in lieu thereof "a proposed information collection request";

(B) by striking "sixty" and inserting in lieu thereof "60"; and

(C) by striking "thirty" and inserting in lieu thereof "30"; and

(4) in the last sentence—

(A) by striking "sixty" and inserting in lieu thereof "60"; and

(B) by striking "thirty" and inserting in lieu thereof "30".

(c) DIRECTOR'S REVIEW OF INFORMATION COLLECTION REQUESTS CONTAINED IN RULE.—Section 3507(c) of title 44, United States Code, is amended to read as follows:

"(c)(1) As soon as practicable, but no later than publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains an information collection request, along with other materials required under subsection (a)(2).

"(2) Not later than 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 concerning the information collection request contained in the proposed rule.

"(3) When a final rule is published in the Federal Register, the agency shall explain how any information collection request contained in the final rule responds to the comments, if any, filed by the Director or the public, or explain why it rejected those comments.

"(4) The Director may not disapprove any information collection request contained in a rule if the Director received notice and failed to comment on the rule within 60 days after publication of the notice of proposed rulemaking.

"(5) Nothing in this subsection prevents the Director, in his or her discretion—

"(A) from disapproving any information collection request not contained in a rule;

"(B) from disapproving any information collection request contained in a rule if the agency failed to comply with the requirements of paragraph (1);

"(C) from disapproving any information collection request contained in a rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to his or her comments filed pursuant to paragraph (2) of this subsection was to a significant extent unreasonable; or

"(D) from disapproving any information collection request contained in a rule if—

"(i) the Director determines that the agency has substantially modified in the final rule the information collection request contained in the proposed rule; and

"(ii) the agency has not given the Director the information required under paragraph (1) with respect to any such modification at least 60 days before the issuance of the final rule.

"(6) The Director shall make publicly available a detailed written explanation of any decision to disapprove or approve with substantive changes an information collection request contained in a rule, together with the reasons for such decision.

"(7) The authority of the Director under this subsection is subject to the provisions of subsection (i).

"(8) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

"(9) There shall be no judicial review of any kind of the Director's decision to approve or not to act upon any information collection request contained in a rule.".

(d) APPROVALS AND DISAPPROVALS.—Section 3507(d) of title 44, United States Code, is amended to read as follows:

"(d)(1) The Director may not approve any information collection request for a period in excess of 3 years.

"(2) If the Director disapproves or approves with substantive changes any information collection request proposed by an agency, the Director shall notify the agency in writing of the reasons for the decision.

"(3) The Comptroller General shall annually conduct random audits of disapprovals and approvals by the Director of proposed information collection requests, including a determination of whether the Director has properly applied the standards of this chapter, and transmit a report summarizing the findings of those audits to the Congress.".

(e) TECHNICAL AMENDMENT.—Section 3507(e) of title 44, United States Code, is amended in the first sentence by striking "proposed requests" and inserting in lieu thereof "proposed information collection requests".

(f) EXPEDITED COLLECTION OF INFORMATION.—Section 3507(g) of title 44, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "or (c), or the 60-day period for public comment provided for in section 3506(e)(2)" after "subsection (b)"; and

(B) by striking "sixty-day period" each place it appears and inserting in lieu thereof "60-day period"; and

(2) in the last sentence by striking "ninety" and inserting in lieu thereof "90".

(g) AGENCY OVERRIDE OF DISAPPROVALS.—Section 3507(h) of title 44, United States Code, is amended to read as follows:

"(h)(1) Any disapproval by the Director, in whole or in part, of a proposed information collection request of an independent regulatory agency, including one contained in a rule, or any exercise of authority of the Director under section 3509 concerning such an agency, shall be voided as provided in paragraph (3) by the majority vote of the governing body of the independent regulatory agency to override the disapproval or exercise of authority.

"(2) An independent regulatory agency that overrides a disapproval or exercise of authority of the Director shall—

"(A) publish in the Federal Register a notice of that override, including—

"(i) any explanation of the Director for the disapproval or exercise of authority, if provided to the agency;

"(ii) the response of the agency to that explanation; and

"(iii) the reasons for the agency override;

"(B) submit a copy of the notice to the Comptroller General; and

"(C) certify the override to the Director, explaining the reasons for the override.

"(3) Upon receipt of an override certification from an agency under paragraph (2)(C) regarding a proposed information collection request—

"(A) the Director shall without further delay assign a control number to such information collection request; and

"(B) such control number shall be valid for a period of not more than 3 years, as specified by the agency.

"(4) Not later than December 31 of each year, the Comptroller General shall submit to the Congress a report evaluating all agency overrides under this subsection including an evaluation of whether the agency has properly applied the standards set forth in this chapter.".

(h) EFFECT ON BURDEN REDUCTIONS.—Section 3507 of title 44, United States Code, is further amended by adding at the end the following:

"(i) Upon request by the head of an agency, the Director shall approve a proposed change to an existing information collection request not later than 30 days after the Director receives the proposed change, and the information collection request shall thereafter remain in effect for the remainder of the period for which it was previously approved by the Director, if—

"(1) the information collection request has a current control number; and

"(2) the Director determines that the revision—

"(A) reduces the burden resulting from the information collection request; and

"(B) does not substantially change the information collection request.".

SEC. 107. DETERMINATION OF NECESSITY FOR INFORMATION.

(a) IN GENERAL.—Section 3508 of title 44, United States Code, is amended—

(1) by striking "Before approving" and inserting in lieu thereof "(a) Subject to subsection (b), before approving";

(2) in the last sentence by inserting "under an information collection request not contained in a rule" after "an agency"; and

(3) by adding at the end the following:

"(b) The authority of the Director to determine the necessity of a collection of information under an existing information collection request contained in a rule is limited to the authority provided under sections 3506(f) and 3507(c).".

SEC. 108. RESPONSIVENESS TO CONGRESS.

Section 3514(a) of title 44, United States Code, is amended—

(1) in paragraph (3) by striking "the estimated reporting hours required of persons by information collection requests" and inserting in lieu thereof "the planned agency information collection activities for the year following the period covered by the report, the extent to which information collection activities carried out in the period covered by the report differed from those proposed for that period, and the estimated burden and benefit of the activities";

(2) by striking paragraph (8) and inserting in lieu thereof the following:

"(8) an evaluation of the feasibility and means of enhancing public access (including access by electronic media) to Government information, including information

relating to information collection activities;";

(3) in paragraph (9)(C)—

(A) by striking "paragraphs (5) and (6) of section 3505" and inserting in lieu thereof "section 3505(c) (2) and (3)"; and

(B) by striking "; and" at the end and inserting in lieu thereof a semicolon;

(4) in paragraph (10)(C) by striking the period at the end and inserting in lieu thereof a semicolon; and

(5) by adding at the end the following:

"(11) a summary of the results of selective reviews performed in accordance with section 3513 of this title by Federal agencies;

"(12) the Privacy Act report, when required by section 552a(s) of title 5, United States Code;

"(13) the report on matching programs, when required by section 552a(u)(6) of title 5, United States Code; and

"(14) an analysis of agency compliance with the information dissemination guidance issued under section 3504(h) and of the effectiveness of the guidance.".

SEC. 109. ACCESS TO INFORMATION.

Section 3519 of title 44, United States Code, is amended—

(1) by inserting "(a)" before the first sentence;

(2) in the first sentence, by inserting after "Affairs" the following: ", and the head of each agency or the official designated under section 3506(b),"; and

(3) by adding at the end the following new subsections:

"(b) The Comptroller General shall review and annually submit to the Congress a report regarding—

"(1) the performance by the Director of the functions under section 3504(c)(8);

"(2) the functions assigned by this chapter to the Comptroller General; and

"(3) the performance by the agencies of their information collection request review functions under this chapter.

"(c)(1) No later than 6 months before the expiration of the period for which funds are authorized under section 3520(a) of this title, the Comptroller General shall report to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate on the overall effectiveness of the Office of Information and Regulatory Affairs and the agencies in fulfilling all of the functions assigned by section 3504 of this chapter, including functions relating to—

"(A) paperwork reduction;

"(B) information policy;

"(C) information dissemination;

"(D) statistical policy;

"(E) records management;

"(F) privacy; and

"(G) information technology.

"(2) Such report shall include any recommendations for changes in law or administrative improvements necessary to better achieve the responsibilities assigned under law, including those related to both the Office of Information and Regulatory Affairs and the agencies.".

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SECTION 3509.—Section 3509 of title 44, United States Code, is amended by striking "3507(c)" and inserting in lieu thereof "3507(i)".

(b) SECTION 3513.—Section 3513(a) of such title is amended in the first sentence by inserting "resources" after "information".

SEC. 111. REPORT ON FEDERAL INFORMATION LOCATOR SYSTEM.

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act the Director of the Office of Management and Budget, in consultation with appropriate agencies, shall submit to the Committee on Government Operations of the House of Representatives and to the Committee on Governmental Affairs of the Senate a report on maintaining and improving the Federal Information Locator System established under section 3511 of title 44, United States Code.

(b) CONTENTS.—A report under this section shall include—

(1) assessment of the feasibility of maintaining in the System a comprehensive inventory and authoritative register of all information collection requests adopted by agencies;

(2) description of methods for use by agencies and the public in locating information in the System;

(3) a proposal for one or more agencies to operate the System;

(4) a description of the optimal composition of the System for accomplishing its purposes; and

(5) an estimate of the cost of any changes in the System proposed by the report.

SEC. 112. AUTHORIZATION OF APPROPRIATIONS.

Section 3520(a) of title 44, United States Code, is amended—

(1) by striking "$5,500,000" and inserting in lieu thereof "$6,000,000"; and

(2) by striking "fiscal years 1987, 1988, and 1989" and inserting in lieu thereof "fiscal years 1990, 1991, and 1992".

SEC. 113. ISSUANCE OF REGULATIONS.

Except as otherwise provided by this title, the Director of the Office of Management and Budget shall issue regulations implementing the amendments made by this title not later than 1 year after the date of the enactment of this Act.

TITLE II—FEDERAL GOVERNMENT INFORMATION TECHNOLOGY

SEC. 201. INVENTORY OF AUTOMATIC DATA PROCESSING EQUIPMENT ACQUIRED BY FEDERAL AGENCIES.

(a) IN GENERAL.—Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), relating to automatic data processing equipment, is amended by adding at the end the following:

"(h)(1) The Administrator shall establish and maintain in accordance with this subsection an inventory of all automatic data processing equipment acquired by Federal agencies, other than—

"(A) equipment described in subsection (a)(3)(C) (i) or (ii); and

"(B) equipment described in subsection (a)(3)(D).

"(2) The Administrator shall issue regulations establishing requirements for reporting by Federal agencies of acquisitions of the automatic data processing equipment required to be included in an inventory under paragraph (1). Such regulations shall include—

"(A) a requirement that the head of each Federal agency shall submit a report to the Administrator at least once every 3 months describing all acquisitions of automatic data processing equipment by that agency during the period covered by the report, including for each item of equipment acquired—

"(i) a citation of the authority for the acquisition, including specific contract numbers, lease instruments, and delegations of authority, as appropriate; and

"(ii) a description of the method of acquisition;

"(B) forms and procedures for such reporting; and

"(C) establishment and description of categories of automatic data processing equipment for which information shall be included in the report, which categories shall include at least—

"(i) mainframe computers (including operating systems and data base software for such computers);

"(ii) minicomputers;

"(iii) personal computers; and

"(iv) computer peripherals.

"(3)(A) The head of each Federal agency shall report to the Administrator in accordance with regulations issued by the Administrator under paragraph (2) all acquisitions by the agency of automatic data processing equipment described in paragraph (1).

"(B) The Administrator may suspend the delegation to an agency under subsection (b) of authority to lease and purchase automatic data processing systems and equipment upon any failure by the head of the agency to report to the Administrator in accordance with this subsection, and, if suspended, may not redelegate such authority to the Federal agency during the period of its noncompliance with this subsection or any rule of regulation issued under this subsection.

"(4) The Administrator shall—

"(A) carry out a systematic review and conduct periodic audits of information received in reports of Federal agencies under this subsection; and

"(B) use such information as appropriate to determine the compliance of Federal agencies with the requirements of this section.".

(b) REGULATIONS.—The Administrator of General Services shall issue regulations pursuant to section 111(h) of the Federal Property and Administrative and Administrative Services Act of 1949 (as added by this section) not later than 90 days after the effective date of this section. Such regulations—

(1) shall require the head of each Federal agency to submit the first report under that section to the Administrator not later than January 31, 1990;

(2) shall require that first report to include information regarding all automatic data processing equipment acquired by the agency before the first day of the second quarter of fiscal year 1990 which is currently operating, installed, or stored; and

(3) may authorize agencies to exclude from that first report information regarding the authority and method for acquiring automatic data processing equipment acquired before fiscal year 1988.

SEC. 202. MANDATORY USE OF FTS2000 BY FEDERAL AGENCIES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), as amended by this Act, is amended by adding at the end the following:

"(i)(1) Except as provided in paragraph (2), no head of a Federal agency shall procure or authorize the procurement of any service which is subject to the requirements of this section if that service is determined by the Administrator to be available under the FTS2000 contract.

"(2) Paragraph (1) shall not apply to any procurement of a service by a Federal agency—

"(A) under the FTS2000 contract; or

"(B) if the head of the agency establishes to the satisfaction of the Administrator that—

"(i) the agency's requirement for the service is outside the scope of the FTS2000 con-

tract or any modification or option exercised thereto; and

"(ii) the General Services Administration approved in advance the procurement strategy the agency intends to use for the acquisition pursuant to a delegation of authority that otherwise meets the requirements of subsection (b)(2).

"(3) In this subsection the term 'FTS2000 contract' means any of the contracts let by the Administrator for the acquisition of intercity telecommunication services which are commonly referred to collectively by that term.".

SEC. 203. ADVISORY COMMITTEE ON STATISTICAL POLICY.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 31, United States Code, is amended by adding at the end the following:

"§505. Advisory Committee on Statistical Policy

"(a) There is in the Office of Management and Budget the Advisory Committee on Statistical Policy (hereinafter in this section referred to as the 'Committee').

"(b)(1) The Committee shall consist of 20 members appointed by the Director of the Office of Management and Budget. In appointing members of the Committee, the Director shall ensure that the Committee is fairly balanced with respect to the points of view represented by members of the Committee, and includes members appointed from among individuals representing academia, business, research organizations, State and local governments, public interest groups, and other appropriate members of the statistics user community.

"(2)(A) Except as provided in subparagraph (B), the term of a member of the Committee shall be 2 years:

"(B) Of the members first appointed to the Committee—

"(i) 10 shall be appointed for an initial term of 2 years; and

"(ii) 10 shall be appointed for an initial term of 3 years.

"(C) A member of the Committee may be reappointed to not more than one additional term.

"(3) A member of the Committee shall receive no compensation for service on the Committee, but may be paid travel and transportation expenses by the Director of the Office of Management and Budget under section 5703 of title 5, United States Code, in the same manner as an employee serving intermittently in the Government service.

"(c)(1) The Director of the Office of Management and Budget, or his or her designee, is the chairman of the Committee.

"(2) The Committee shall meet at the call of the chairman of the Committee, but in no case less often than 6 times each year.

"(d) The Committee shall—

"(1) identify national long-term statistical data needs that can and should be filled by the Federal Government, and make recommendations to the Director of the Office of Management and Budget and to the Congress regarding Federal responses to those needs;

"(2) make recommendations to the Director and to the Congress for establishing priorities for Federal statistical policy initiatives and for implementing the statistical functions assigned to the Director under this title and other laws; and

"(3) make any other recommendations regarding Federal statistical operations that would contribute to the general economic or social welfare or to the competitive position of the United States in the world economy.".

(b) COMPLETION OF APPOINTMENTS.—The Director of the Office of Management and Budget shall complete appointment of members of the Advisory Committee on Statistical Policy established by section 505 of title 31, United States Code, as added by this section, not later than 6 months after the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 504 the following:

"505. Advisory Committee on Statistical Policy.".

SEC. 204. ROUTINE USES OF RECORDS SYSTEMS.

(a) REVIEW AND REPORT.—Not later than 1 year after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) conduct a review of routine uses, with respect to uniformity and consistency with law and published guidelines, for all systems of records established by Federal agencies in accordance with section 552a of title 5, United States Code; and

(2) submit a report to the Congress describing the findings of that review.

(b) MISCELLANEOUS AMENDMENTS.—

(1) AGENCY REPORTS.—Section 552(e) of title 5, United States Code, is amended by striking the last sentence.

(2) REPORTS ON ROUTINE USES.—Subsection (r) of section 552a of title 5, United States Code, is amended to read as follows:

"(r) REPORTS ON CHANGE IN RECORDS SYSTEM, MATCHING PROGRAM, OR ROUTINE USE.—Each agency that proposes to establish or make a significant change in a system of records, a matching program, or a routine use shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget.".

SEC. 205. RECORDS MANAGEMENT REQUIREMENTS.

(a) ARCHIVAL STANDARDS.—Section 3302 of title 44, United States Code, is amended by—

(1) redesignating paragraphs (1), (2), and (3) as paragraphs (3), (4), and (5), respectively; and

(2) inserting before paragraph (3) (as so redesignated) the following:

"(1) standards for interpreting the definition for the term 'records',

"(2) standards, to be incorporated into recordkeeping requirements issued by heads of agencies, for creation and maintenance of adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency,".

(b) AGENCY COMPLIANCE WITH RECORD MANAGEMENT REQUIREMENTS.—Section 3102(3) of title 44, United States Code, is amended by striking "and 3101-3107," and inserting in lieu thereof "3101-3107, and 3301-3314,".

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

□ 1940

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3695, the Paperwork Reduction and Federal Information Resources Management Act, is bipartisan legislation reauthorizing the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB). The bill also revises the Paperwork Reduction Act.

I would like to pay special tribute to the distinguished ranking minority member of the Government Operations Committee, FRANK HORTON, for helping us get here. He is rightly known as the father of the Paperwork Reduction Act. Together we produced a good bill in committee which is before this body today.

Because OIRA is a very important and influential division of OMB, this reauthorization has understandably been very controversial. Through OIRA, OMB exercises extraordinary control over two critical areas of Government: information policy and regulatory policy.

We all recognize that OIRA performs very important statutory functions which should continue. However, OIRA has become the focal point of considerable controversy during the 1980's and is in need of reform. Many charge that OIRA has helped but hasn't succeeded in its fundamental mission to reduce the burden of paperwork on the general public. Others argue that the office has taken narrow conservative views on the dissemination of public information maintained by the Government, and that it has seriously undermined the collection of vital statistics.

But more criticism has come from those who charge that OMB has used the Paperwork Reduction Act, and two Executive orders promulgated since the act became effective, to second-guess the scientific and technical expertise of Federal agencies mandated by Congress to protect the public's health. It has often done this in two ways: First, by denying agencies authority to collect critical information needed to develop or enforce a regulation; and second, by delaying and seriously restricting the ability of agencies to promulgate regulations to protect the public from environmental pollution, workplace hazards, and faulty products.

This reauthorization is intended to put an end to these problems, and make much-needed improvements in OIRA's operations. There are four major sections of this legislation:

First, the original goal of the Paperwork Reduction Act—to reduce the burden of unnecessary Federal paper-

work—will be enhanced. The measure before us establishes procedures to eliminate unnecessary paperwork while ensuring that the benefits to the public of collecting information are maintained.

Second, the public's health will be better protected and accountability of OMB's actions improved. OMB will carry out its review of proposed agency information collections publicly, in the sunshine. Where OIRA causes substantive changes in agency proposals, it will be done on the record with detailed written explanations. Complaints have surfaced that OMB has acted secretly to hamper information collections needed to protect the public.

Third, a major overhaul of Federal information dissemination policy is included in the bill. For the first time this will permit development of a coherent policy ensuring broad dissemination of public information products in a wide range of formats. Credit for this section of the bill belongs largely to the gentleman from West Virginia BOB WISE, chairman of our Government Information, Justice, and Agriculture Subcommittee. He has done a tremendous job developing an agreement which meets the needs of diverse parties.

Fourth, significant improvements will be made in the economy and efficiency of Federal automated data processing [ADP] and telecommunications procurements. All agencies will be required to meet their long distance telecommunications needs using FTS 2000. The bill also improves the management of Federal ADP resources, by requiring establishment of an accurate and complete inventory of all ADP equipment. These changes will save considerable sums of money at a time when we desperately need to find new resources.

Mr. Speaker, let me take a few minutes to speak about what is not in H.R. 3695 but which has been a critical part of this reauthorization effort. As I noted before, OIRA is the agency which reviews every single regulation proposed by all Federal agencies. This authority has been granted by Executive Orders 12291 and 12498, not by statute.

Many members of the Government Operations Committee and of the House believe that these Executive orders may represent a serious constitutional usurpation of congressional authority. Sometimes the requirements of these Executive orders, such as the imposition of cost-benefit criteria, directly conflict with statute. Further, the closed-door manner in which OMB has historically carried out regulatory reviews is in direct conflict with statutory requirements that regulations be promulgated openly with public participation.

The committee gave very serious consideration to including in H.R. 3695 provisions guiding OMB's review of proposed agency regulations. Such provisions would have imposed strict requirements on how OMB would conduct its regulatory reviews and would have resulted in a significantly greater amount of public disclosure of OMB's actions.

In the end the committee decided that the regulatory review provisions should be kept out of the bill. Instead, when the House and the other body pass a final version of this legislation, the President will issue a new Executive order which would create safeguards to ensure greater openness and disclosure of OIRA's decisional process, prevent undue delay, and facilitate improved public participation. That final legislation and the new Executive order together should accomplish the overriding goal of making OIRA's review of agency regulations more accountable to Congress and the public.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I commend the chairman, the gentleman from Michigan [Mr. CONYERS], for his willingness throughout this reauthorization to sit down with me, with the administration and with the Senate representatives to work out our differences. I especially commend him for his willingness to agree to the bipartisan compromise reauthorization bill that the House will hopefully vote on tomorrow.

This compromise bill was drafted through lengthy negotiations between myself, the gentleman from Michigan, the administration, and the other body. Every party involved in these negotiations supports the compromise bill for final passage.

I do not oppose H.R. 3695 in tonight's vote. I was cosponsor of this bill, just as I was coauthor of both the original 1980 Paperwork Reduction Act and the 1986 reauthorization bill.

When we passed this bill out of the Committee on Government Operations, which was on March 13, 1990, we had not conducted these negotiations. We have conducted very lengthy negotiations, and many of those negotiations involved meetings between Senator GLENN, myself, the chairman, the gentleman from Michigan [Mr. CONYERS], representatives from the administration, and we have a very fine bill that we have all agreed to which hopefully will be passed by the Senate and which we will accept tomorrow.

Mr. Speaker, therefore, I urge that we adopt this bill and that we pass it even though it will not have any effect, because we will adopt tomorrow hopefully the reauthorization bill for OIRA which has been worked out as a result of this bipartisan compromise reauthorization.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I would like to take a minute to discuss the information dissemination policy provisions included in H.R. 3695. The bill establishes a statutory policy supporting the effective, efficient, and equitable dissemination of public information by Federal agencies. I believe that this legislation will be the biggest advance in public access to government information since the 1974 Freedom of Information Act Amendments.

The dissemination language originated with H.R. 2381, a bill that I introduced last year. I want to thank both Mr. CONYERS and Mr. HORTON for working with me on the dissemination language and for enabling me to add it to the Paperwork Reduction Act reauthorization. Without their support and assistance, no progress would have been possible. I also want to acknowledge the cooperation of Representative JIM BATES and the House Administration Committee.

Over the last few years, the Office of Information and Regulatory Affairs at OMB has assumed a central role as an information policy maker for the Federal Government. OMB Circular A-130 sets out policies for the collection and dissemination of Federal agency information. The circular has been highly controversial, and it is time for Congress to take specific action to change the policy initiatives in that circular.

H.R. 3695 requires OMB to revise its guidance so that it properly recognizes that the flow of information from the Federal Government to its citizens is essential to the successful functioning of the democratic process.

OMB's role would be limited to making uniform policy consistent with statutory guidelines. The agencies will continue to make decisions about the dissemination of specific information products and services.

The legislation will modernize Federal dissemination policy. For example, the bill requires that electronic data bases maintained by agencies be available to the public in useful electronic formats with available software, indexes and other tools. The bill prevents agencies from maintaining monopoly controls over public information, especially information in electronic formats. H.R. 3695 also supports the Depository Library Program and the role of the Government Printing Office.

The general idea is to establish basic principles in statute. The application of these principles is left to the executive branch. While I don't want the

Congress to micromanage Federal information activities, I also don't want OMB to control all information in Government. The agencies themselves are the most important decisionmakers, but the agencies must operate under consistent rules and procedures.

The bill says clearly that Government must fulfill its obligations to make public information accessible. But it recognizes that we do not have unlimited funds. The Government cannot provide all information products and services to all potential users. We need to provide for a reasonable middle ground. I hope that my colleagues will support the legislation.

□ 1950

Mr. HORTON. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I came down to the floor tonight with the intention of strongly opposing this legislation because I, as a small businessman, I understand the problems that especially small business has with the paperwork burden put upon them by the Federal Government.

In 1988 alone small business owners spent 1 billion hours filling out government forms at an estimated cost of $100 billion. These numbers are conservative estimates, and do not include tallies of individual paperwork burden for 1988. I had some concerns about this bill because this bill in my opinion allows the Federal agencies to police their own paperwork requests in the case of rural-based ongoing collections that have not changed exempting up to about 90 percent of all paperwork from OIRA review. Without OIRA to play the heavy, much unnecessary and duplicative paperwork would go unchecked. This is certainly not what I think the original authors of the Paperwork Reduction Act intended.

The bill also removes the Paperwork Reduction Act's reduction goals. No goal, although probably more symbolic than substantive, gave agencies at least a target to shoot for, and the goals were among the original recommendations of the Paperwork Commission in the mid-1970's and were removed as being meaningless. However, unlike the House bill, the bill under consideration by the Senate was negotiated by all the parties including the business community and is a much better bill.

In light of that fact, and especially in light of the fact that the gentleman from New York who is the king of paperwork reduction in this country, starting with his chairmanship of the Commission on Federal Paperwork in 1977, I trust the gentleman from New York [Mr. HORTON] because he has followed this process all along and all the way through. Mr. HORTON informs me that, and has informed this House that we will be voting on the negotiated bill coming from the Senate tomorrow, and so with that I had every intention to call a vote. I had the intention to call a vote tonight, and because of the assurances of the gentleman from New York [Mr. HORTON], I will not call a vote on this bill because of the negotiations that have been going on with the good and able chairman.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Michigan.

Mr. CONYERS. I just want to assure the gentleman that we are very sensitive to the obligations and burdens that the business community has been put upon, and throughout the hearing process we heard from the association. I am glad the gentleman realizes that the procedure is to accept the Senate version which is the result of extensive negotiation.

We did want this work product of the committee, though, to come to at least this formal attention, and I thank my colleague for his contribution.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from New York.

Mr. HORTON. I would like to acknowledge the interest of the gentleman, especially on behalf of small business in this particular area. I have worked very closely, as the gentleman knows, over the years with the small business community.

As a matter of fact, one of the reasons why I got involved to begin with, and chaired the Paperwork Reduction Commission was the idea of reducing paperwork as far as small business was concerned. Therefore, I am very sensitive to their concerns.

I want to express my personal appreciation to the gentleman for the confidence that he has expressed here today on the floor. I can assure the gentleman that that agreement has been agreed upon not only by the gentleman from Michigan, the chairman of the committee and myself, but also with Senator GLENN, Senator ROTH, and the administration and other interested parties, so that we do expect that that will be passed today, in the Senate, and then come back here and be voted on tomorrow.

I hope the gentleman will be here so we can pass that legislation.

Mr. DELAY. I appreciate that. Let me thank the chairman who has been very gracious in working with a lot of groups, and working out something that can help all and benefit all. I appreciate both the chairman and the vice chairman for the work they have done.

Mr. PARKER. Mr. Speaker, I rise in opposition to H.R. 3695, the Paperwork Reduction and Federal Information Resources Management Act. This bill represents a serious step backward from the already precarious 1980 Paperwork Reduction Act.

Small business spends billions of dollars per year filling out government forms. Congress passes new laws, and Federal agencies write new regulations, every day increasing the paperwork burden on individuals and business. Now is not the time to retreat from the paperwork reduction law we have on the books.

According to a recent study conducted by the National Federation of Independent Business, Federal paperwork is the No. 9 problem listed by small firm owners, and the only 1 of the top 10 that is not a cost problem.

By short-circuiting the review process established by the Paperwork Reduction Act, H.R. 3695 will only dump more paperwork on the desks of small business owners. I urge my colleagues to vote "no" on H.R. 3695.

Mr. HORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 3695, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days within which to revise and extend their remarks on H.R. 3695, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

EXPIRED FUNDS CONTROL ACT OF 1990

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 5645 to amend title 31, United States Code, to reform procedures for closing appropriation accounts, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Expired Funds Control Act of 1990".

SEC. 2. AMENDMENTS TO TITLE 31.

(a) IN GENERAL.—Title 31, United States Code, is amended by striking sections 1552 through 1556 and inserting the following:

"§ 1552. Procedure for appropriation accounts available for definite periods

"(a) On September 30th of the 5th fiscal year after the end of the period of availability of an appropriation account available for a definite period, the account is closed and any remaining obligated or unobligated balance is rescinded and thereafter shall not be available for obligation or expenditure for any purpose.

"(b) Collections authorized to be credited to an appropriation account available for a definite period that are not received before closing of the account under subsection (a) shall be deposited in the Treasury as miscellaneous receipts.

"§ 1553. Availability of appropriation account to pay obligations

"(a) After the end of the period of availability of an appropriation account available for a definite period and before the closing of that account under subsection 1552(a) of this title, the account shall remain available for recording, adjusting, and liquidating obligations properly chargeable to that account.

"(b)(1) Subject to the provisions of paragraph (2), after the closing of an account under section 1552(a) or section 1555 of this title, obligations and adjustments to obligations that would have been properly chargeable, both as to purpose and in amount, to that account before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to any current appropriation account of the agency available for the same purpose.

"(2) The total of charges to any current appropriation account under paragraph (1) shall not exceed an amount equal to 1 percent of the total appropriations for that current account.

"(c)(1) Obligations under this section may be paid without prior action of the Comptroller General.

"(2) This subsection does not—

"(A) relieve the Comptroller General of any duty to make decisions requested under law; or

"(B) affect the authority of the Comptroller General to settle claims and accounts.

"§ 1554. Audit, control, and reporting

"(a) Unless otherwise specifically provided by law, any audit requirement, limitation on obligations, or reporting requirement that is applicable to an appropriation account shall remain applicable to that account after the end of the period of availability of that account.

"(b) No obligation of funds in an appropriation account the period of availability of which has ended shall be made under subsection 1553(a) of this title that—

"(1) exceeds $4,000,000; or

"(2) would cause the total amount so obligated during a fiscal year for a program, project, or activity to exceed $25,000,000;

until 15 days after the date the head of the agency making the obligation submits to the appropriate authorizing and oversight committees of the Congress and the Committees on Appropriations of the Senate and the House of Representatives a notice of the intent to obligate such funds, including the legal basis of and necessity for the obligation.

"§ 1555. Closing of appropriation accounts available for indefinite periods

"(a) An appropriation account available for an indefinite period is closed, and any remaining obligated or unobligated balance is rescinded and thereafter shall not be available for obligation or expenditure for any purpose, if—

"(1) the head of the agency concerned or the President decides that the purposes for which the appropriation was made have been carried out; and

"(2) no disbursement has been made against the appropriation for 2 consecutive fiscal years.

"(b) Collections authorized to be credited to an appropriation account available for an indefinite period that are not received before closing of the account under subsection (a) shall be deposited in the Treasury as miscellaneous receipts.

"§ 1556. Comptroller General reports on appropriation accounts

"(a) In carrying out audit responsibilities, the Comptroller General shall report on operations under this subchapter to—

"(1) the head of the agency concerned;

"(2) the Secretary of the Treasury; and

"(3) the President.

"(b) A report under this section shall include an appraisal of unpaid obligations under appropriation accounts the period of availability of which has ended.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 15 of title 31, United States Code, is amended by—

(1) striking the item relating to section 1554 and inserting the following:

"1554. Audit, control, and reporting."; and

and

(2) striking the item relating to section 1555 and inserting the following:

"1555. Closing of appropriation accounts available for indefinite periods.".

SEC. 3. TRANSITION.

(a) APPLICATION OF AMENDMENTS.—The amendments made by section 2 shall apply—

(1) to any appropriation account available for a definite period the obligated balance of which, on the date of the enactment of this Act, has not been transferred under section 1552(a)(1) of title 31, United States Code, as in effect immediately before the enactment of this Act; and

(2) to any appropriation account available for an indefinite period.

(b) RESTORATION OF SURPLUS BALANCES.—On the date of the enactment of this Act, the balance of any amount withdrawn under section 1552(a)(2) of title 31, United States Code, as in effect immediately before the enactment of this Act, from an appropriation account the obligated balance of which has not been transferred under section 1552(a)(1) of title 31, United States Code, as in effect immediately before the enactment of this Act, is restored to that account.

(c) RESCISSION OF MERGED SURPLUS BALANCES.—Thirty days after the date of the enactment of this Act, all balances of amounts withdrawn from any appropriation account under section 1552(a)(2) of title 31, United States Code, as in effect immediately before the enactment of this Act, are rescinded and thereafter shall not be available for obligation or expenditure for any purpose, except that this subsection does not apply to any amounts restored under subsection (b).

(d) RESCISSION OF "M" ACCOUNT BALANCES.—(1) On the third September 30th after the date of the enactment of this Act, all balances transferred under section 1552(a)(1) of title 31, United States Code, as in effect immediately before the enactment of this Act, are rescinded and thereafter shall not be available for obligaiton or expenditure for any purpose.

(2)(A) Any amount in a merged account under paragraph (1) of section 1552 of title 31, United States Code (known as an "M" account) that has been in that account as of the date of the enactment of this Act for a period in excess of five years shall be deobligated and shall be withdrawn in the manner provided in paragraph (2) of that section. Amounts so deobligated and withdrawn may not be restored.

(B) Subparagraph (A) shall not apply so as to require the deobligation of amounts for which there is documentary evidence that payment will be required within three months.

(e) LIQUIDATION OF OBLIGATIONS AND ADJUSTMENTS TO OBLIGATIONS.—

(1) IN GENERAL.—After rescission of balances under subsection (c) or (d), and subject to paragraph (2), obligations and adjustments to obligations that would have been chargeable to those balances, both as to purpose and in amount, before such rescissions and that are not otherwise chargeable to current appropriations of the agency may be charged to current appropriations of the agency available for the same purpose.

(2) TREATMENT OF CHARGES.—Any charge made to an account pursuant to paragraph (1)—

(A) shall be subject to the maximum amount chargeable under section 1553(b)(2) of title 31, United States Code, as amended by this Act; and

(B) shall be included in the calculation of the total amount charged to the account under that section.

SEC. 4. AUDIT OF M ACCOUNTS.

(a) AUDIT REQUIREMENT.—The Secretary of each executive department covered by this section shall provide for an audit of each merged account of the department established under paragraph (1) of section 1552(a) of title 31, United States Code (known as an "M" account). The audit shall, with respect to each such account, identify—

(1) the balance in the account;

(2) the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts required for valid obligations (as supported by documentary evidence as required by section 1501 of title 31; United States Code) and the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts for obligations that are considered to be invalid;

(3) the sources of amounts in the account, shown by fiscal year and by amount for each fiscal year; and

(4) such other matters as the Secretary considers appropriate.

(b) DEOBLIGATION OF INVALID OBLIGATIONS.—Any obligated amounts in M accounts that are determined pursuant to the audit under subsection (a) to represent amounts for obligations that are invalid shall be deobligated. Any amounts so deobligated may not be restored to availability for obligation.

(c) REPORT ON AUDIT.—(1) The Secretary of each executive department covered by this section shall submit to Congress a report containing the results of the audit conducted pursuant to subsection (a). The report shall set forth—

(A) the information required to be identified pursuant to subsection (A);

(B) for each budget accoaunt (i) the average length of time funds have been obligated, (ii) the average size of the obligation, and (iii) the object classification of the obligations, all shown for total obligations and separately for valid and invalid obligations; and

(C) an explanation of the causes of invalid obligations determined to exist in the M accounts.

(2) The report shall describe any procedures that the Secretary intends to implement to prevent future accumulation of invalid obligations in M accounts.

(3) The report shall be submitted not later than December 31, 1991.

(d) GAO REVIEW AND REPORT.—The Comptroller General shall review each audit conducted pursuant to subsection (a) and shall submit to Congress a report setting forth the Comptroller General's findings, conclusions, and recommendations concerning the audit. The report shall be submitted not later than April 1, 1992.

(e) COVERED DEPARTMENTS.—An executive department is covered by this section if as of the date of the enactment of this Act the total amount of balances in merged accounts of that agency established under section 1552(a) of title 31, United States Code, is in excess of $5,000,000,000.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself myself such time as I may consume.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5645, the Expired Funds Control Act of 1990, has been made necessary by the huge growth of expired fund accounts and the highly questionable uses of these accounts by the executive branch.

Most Members assume that appropriated funds must be spent within the time period set by Congress. That is wrong. Under the present system for closing annual appropriation accounts, when appropriated funds expire without being spent, they do not revert to the Treasury. Rather, 2 years after the accounts expire, they are transferred into special merged accounts where similar funds from all previous fiscal years are held.

Obligated balances are transferred to "M" accounts. Unobligated balances are withdrawn to the merged surplus. Once in those accounts, expired funds lose fiscal year identity, remaining available indefinitely to executive agencies to liquidate obligations.

This system was reasonable when Congress set it up in the 1950's, before the days of multi-billion-dollar weapons programs, trillion dollar budgets, and staggering deficits. Congress established the "M" account system so that agencies would not have to come back to Congress to get money for the payment of small routine costs that became due after the period of appropriations.

However, as the Government Operations Committee discovered during 2 days of hearings on this issue, Congress has unwittingly created a monster. Balances in both the "M" accounts and "merged surplus" accounts have multiplied 15 to 20 times during the past 20 years. As best we can determine, there is over $50 billion in the Pentagon's accounts, with an estimated $100 billion in the merged accounts for the entire Federal Government.

As you might expect, Mr. Speaker, the executive branch has found imaginative but predictable uses for those funds. For example, in 1989 when it became clear that the contractor was not going to be able to meet performance specifications on the Air Force's contract for the B-1 bomber electronic countermeasures system, the Air Force modified the contract at a cost of about $750 million. About $526 million of this cost came from the Air Force "M" account. Additionally, the Air Force had incurred about $309 million for over-target costs and about $185 million for contingent liabilities, resulting in a total charge to expired funds over $1 billion. GAO swallowed hard and concluded that all of this was legal, but in a masterful understatement, observed that "the Congress has less oversight when these funds are used than it would otherwise have if the modifications were funded through the full legislative process or a reprogramming action."

So, Mr. Speaker, like magic, the Air Force found more than a billion dollars lying around in expired accounts to keep its B-1 project going. This means a billion dollars more for an aircraft that even the Pentagon is not sure will work or is needed. This legislation would reform the system for handling expired funds to prevent abuses such as the B-1.

H.R. 5645 is the product of a bipartisan effort on the Government Operations Committee. The bill incorporates an important amendment offered by the ranking minority member on the committee, Mr. HORTON, to audit agency "M" account balances over $5 billion. Mr. HORTON's amendment is particularly important since of the 18 "M" account transactions recently reviewed by GAO 11 were either improper or questionable.

The bill also draws heavily on the excellent efforts in this area by Mr. DINGELL and Mr. IRELAND and adopts much of the fine work done by Senators GLENN, ROTH, and GRASSLEY in this area.

The bill would abolish "M" accounts and merged surplus accounts. This outdated system would be replaced by permitting individual appropriation balances to be carried forward 5 years after they expire to liquidate obligations. This approach provides the flexibility needed to pay valid obligations while at the same time it increases congressional control over these accounts by retaining fiscal year and appropriation identity. There would be no more merged accounts outside of congressional control and no more blank checks for executive branch big spenders.

H.R. 5645 also protects the integrity of the Antideficiency Act, which was enacted to prevent Federal agencies from spending more money than Congress appropriates for a given purpose in a fiscal year. Under the current merged surplus system, once an agency's obligated and unobligated balances merge into the "M" accounts and merged surplus, an Antideficiency Act violation is extremely difficult to prove, because an agency would have to obligate more money than the entire available merged surplus balance. This bill corrects this problem by eliminating merged accounts and extending appropriation fiscal year identity for 5 years.

Some have argued that this 5-year period may be too restrictive, since there may be times when Congress should either expand or limit that time frame. However, it is important for my colleagues to understand that under existing law, Congress can always vary the period or conditions of availability of an appropriation on a case-by-case basis in an appropriation act.

Mr. Speaker, it is imperative that we enact legislation to reform the merged account system in this session. There are literally billions of dollars in expired accounts available to be spent by executive agencies without congressional approval. It is time to restore common sense and congressional control to the Government's system for closing accounts and handling expired funds.

□ 2000

Mr. HORTON. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, first of all, I had hoped that we could move a lot quicker through these suspensions than we have been able to, for several reasons. Most of the Members, of course, are not here because there are no more votes scheduled for this evening, but members of the staff are here and they have been here late hours every night; but one of our Members is here, as a matter of fact, two, probably, the gentleman from Florida [Mr. BEN-

NETT], but the one I want to refer to at this particular time is a man who has a world record for attendance and not missing a rollcall. I am talking about the gentleman from Kentucky [Mr. NATCHER].

I am informed that through yesterday, the gentleman from Kentucky [Mr. NATCHER] had voted on 12,596 rollcalls, 4,190 quorums, or a total of 16,786 quorums and rollcalls, and in this Congress, in this session, he has answered 480 rollcalls and 25 quorums, for a total of 505. This is over a period of 37 years and 83 days.

So congratulations to the gentleman from Kentucky [Mr. NATCHER], and I hope we can get him out early tonight.

Mr. Speaker, I rise in full support of this bill, the Expired Funds Control Act of 1990.

I want to commend my friend and chairman of the Government Operations Committee, the gentleman from Michigan [Mr. CONYERS] for introducing this excellent piece of legislation.

If passed, it will go far in improving the present rather shameful M-Account System, which is a system of merged accounts that over time lose their line item identity and go unaudited and unsupervised. They can then be used to expand existing programs or pay for somebody's pet project, without the consent of the Congress.

Mr. Speaker, I am concerned about the issue of surplus accounts and merged-surplus accounts. In my opinion, these expired funds accounts amount to no more than unbridled spending authority. Some have called them "slush funds."

Incredible situations of abuse have been brought to light. An employee at the Agency for International Development embezzled over $1.3 million out of such an account, and the Air Force just last year used $500 million out of its M-account to pay for extra work not authorized by Congress on the B-1 bomber. This kind of spending authority must be kept in check, especially in this time of fiscal crisis.

My initial preference in dealing with this problem was to eliminate M-accounts and merged-surplus accounts altogether, and I cosponsored a bill to do just that; however, I realize that in certain situations there are legitimate outyear expenditures for muiltiyear programs, and it might be more efficient to extend spending authority rather than repeat the approval process again and again for the same program.

At the moment, however, the system is such that after time unspent appropriations lose their identity and accumulate forever in large unmanaged and unaudited accounts to be used or misused at the whim of individuals within these agencies.

Something must be done now to control these M-accounts, and we have the opportunity before us with H.R. 5645. This legislation provides a chance for us to make critical improvements to the existing system.

Again, Mr. Speaker, I want to thank the chairman of the Government Operations Committee, the gentleman from Michigan [Mr. CONYERS], for introducing this practical, good sense legislation. I join him now in urging full support for this bill to clean up the M-account System.

Mr. HORTON. Mr. Speaker, I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 5645, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5645, the bill just passed.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON H.R. 5645, CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 1990

Mr. WALGREN. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 605) to authorize appropriations for the Consumer Product Safety Commission, and for other purposes.

The Clerk read the title of the Senate bill.

(For conference report and statement, see proceedings of the House of October 21, 1990, at page H-10945).

Mr. SPEAKER pro tempore. Is a second demanded?

Mr. RITTER. Mr. Speaker, I demand a second.

Mr. SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALGREN] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House today the conference report on S. 605, the Consumer Product Safety Improvement Act of 1990, bipartisan legislation to reauthorize the Consumer Product Safety Commission. This will be the first reauthorization for the CPSC since 1981 and it is fully supported by major consumer groups and the CPSC. H.R. 4952, The House version of this legislation was introduced by my colleague from Pennsylvania, the ranking Republican member of the subcommittee, the gentleman from Pennsylvania [Mr. RITTER] and he along with a member of other members of the subcommittee. It was approved by the House, by voice vote, on July 16.

The Consumer Products Safety Commission has a fundamental, important responsibility to act to protect people from unreasonable risks of injury from consumer products. The CPSC has survived a difficult decade. Ideological conflict among those on the Commission coupled with the failure of the administration to fill vacancies severely undermined the effectiveness of the Commission.

For a number of months last year, the agency even lacked a quorum to conduct business. It is time we take meaningful steps to strengthen this agency. With a new Presidential appointment confirmed as Chairman, and a total of three sitting Commissioners, the CPSC has begun to function again.

This bipartisan legislation will reauthorize the Commission for fiscal years 1991 and 1992. It will prove the agency's regulatory process while retaining flexibility to manage its agenda. It will make important improvements in the information that is reported to the Commission and increases civil penalties to reflect inflation. This legislation adjusts the quorum requirement to prevent veto power over the agency being held by any one Commissioner and it allows for State legal action to enforce product safety rules. I am inserting into the RECORD following this statement a summary of the conference agreement.

Enactment of this legislation is essential to improve the CPSC's ability to carry out its mandate. The change in the quorum requirement will correct the problem that existed last year, when the agency was unable to take any official action for almost 11 months. As another example, the existing civil penalties under the Consumer Product Safety Act have not been adjusted to account for inflation since the act's passage in 1972. The legislation would restore the value and deterrent effect of these penalties. In addition, there are currently no civil

penalties provided under the Federal Hazardous Substances Act, under which the CPSC regulates many toys. The lack of civil penalties results in ineffective enforcement. This legislation would provide the necessary penalties.

The conference report includes several provisions addressing specific products. First, it requires the CPSC to pursue its very important current rulemaking to establish a child resistence safety standard for pocket lighters. Second, it requires the CPSC to report to Congress on its activities related to indoor air pollution, an initiative of Congressman SYNAR. The legislation also establishes safety standards for automatic garage door openers, a provision championed by Congressman SIKORSKI. And, finally, the conference agreement requires the Agency to study the potential effectiveness of bittering agents in deterring ingestion of potentially hazardous products, a provision authored by Congressman WYDEN.

As with most conference reports, compromises had to be made to reach an agreement. I was extremely disappointed that several other provisions addressing the safety of specific products had to be dropped, particularly provisions addressing amusement parks, all-terrain vehicles, and toy labeling.

The amusement park provision, an initiative of Congressman WAXMAN, would have partially restored the CPSC's jurisdiction over fixed site amusement rides. The CPSC already has jurisdiction over mobile amusement rides, so it clearly has relevant expertise. The provision represented a carefully balanced compromise with the amusement park industry. It should not have been controversial. Unfortunately, at least one of the conferees in the other body raised strong objection to the provision. Very reluctantly, we had to recede in order to secure a conference agreement.

Congressman JOE BARTON deserves great credit for his work on all-terrain vehicles had authored a provision in the House bill addressing future manufacture of all-terrain vehicles. For several years, Congressman BARTON has campaigned vigorously to prevent the future sale of three-wheel all-terrain vehicles. Because of strong objection from several Members of the Senate, we had to recede in order to achieve a conference report that could pass in the other body.

The House bill also included a provision requiring safety labeling on certain toys, a provision championed in the House by Congressman WYDEN and Congressman GEDJENSON. Here again, opposition forced us to recede. In view of the fact that the CPSC has a pending rulemaking proceeding examining this very issue, it may be addressed without legislation.

The retention of these provisions would have produced a better bill. The sponsors of these provisions deserve great credit for pursuing these important safety issues and I am hopeful the subcommittee can address these issues at the beginning of the next Congress. But even without these provisions, I believe the conference agreement is historic legislation that will help revitalize the CPSC.

The legislation before us is a bipartisan compromise. It is supported by major consumer groups such as Consumer Federation of America, Consumers Union, U.S. Public Interest Research Group, and Public Citizen, along with the CPSC.

The CPSC has not been reauthorized since 1981. Nine years without the support of congressional authorization is a long time. I urge my colleagues to join me in approving this conference report.

[The summary of the conference agreement is as follows:]

SUMMARY OF CONFERENCE AGREEMENT ON S. 605 (H.R. 4952) THE CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 1990

IMPROVEMENTS IN REGULATORY PROCESS

Reduces delay by requiring CPSC to issue a proposed consumer product safety rule within 12 months after issuing an advance notice of proposed rulemaking, but allows CPSC to extend deadline for good cause, provided it notifies the authorizing committees of the reasons for the extension and the estimated completion date. Retains Commission's ability to rely on an acceptable voluntary standard and terminate rulemaking proceeding.

Commission may only rely on voluntary standards which are in existence at time of reliance. CPSC must afford interested persons opportunity to comment on voluntary standard prior to CPSC reliance. Commission required to establish procedures to monitor compliance with voluntary standards.

Provides for Commission study of the feasibility of requiring user fees to defray the cost of services provided by CPSC to entities subject to its jurisdiction.

Requires CPSC to act on a petition for rulemaking within a reasonable time. The CPSC may only deny such a petition based on a voluntary standard if the standard is actually in existence, if the CPSC has determined the standard is likely to adequately address the risk of injury and if it is likely there will be substantial compliance with the standard.

IMPROVEMENTS IN STATE ROLE

Current law allows private right of action under the Consumer Product Safety Act (CPSA) to enforce a product safety rule, with 30 days advance notice to the CPSC required. The legislation would allow a state attorney general to also enforce regulatory requirements of the Federal Hazardous Substances Act (FHSA) and Flammable Fabrics Act (FFA), through seeking injunctive relief, under the same procedural requirements as under the CPSA, including 30 days advance notice.

IMPROVEMENTS IN REPORTING AND RECALL PROCESS

Improves industry reporting to CPSC by requiring reporting of (1) failures to comply with voluntary standards relied upon by the CPSC; (2) products which create an unreasonable risk of serious injury or death; and (3) settlements and judgments in product-related lawsuits brought for death or grievous bodily injury, if there are three of more settlements or judgments for the plaintiff for a particular model of a product in a two year period. This should ensure better notification of potential product safety problems.

Clarifies that cost benefit analysis is not required in recalls (and in imminent hazard actions).

IMPROVEMENTS IN ADMINISTRATIVE STRUCTURE AND PROCESS

Requires top Commission staff to be responsible to the entire Commission.

Requires President to consider individuals with background and expertise in areas related to consumer products and safety in making appointmens to the Commission.

Establishes quorum of (2) when there are only (3) Commissioners. Establishes temporary quorum of (2), for a six month period, when there are only (2) Commissioners to ensure Commission can continue to function when there are vacancies.

Requires Commission to annually establish priorities, based on a public hearing.

Raises and indexes civil penalties under the CPSA to account for inflation. Establishes and indexes civil penalties under the FHSA and FFA to improve enforcement and account for inflation.

Requires CPSC to maintain permanent product surveillance program to detect unsafe consumer products.

Reauthorizes CPSC at $42 million for FY 1991 and $45 million for FY 1992.

IMPROVEMENTS IN REGULATION OF SPECIFIC PRODUCTS

Requires CPSC to pursue its proceedings to establish a safety standard for lighters, taking into account the need to protect children.

Requires CPSC to report to Congress on its activities related to indoor air pollution.

Establishes safety standards for automatic garage door openers.

Requires CPSC to study potential effectiveness of aversive agents in deterring ingestion.

□ 2010

Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support for the conference report on S. 605: The Consumer Product Safety Improvement Act of 1990. This conference report reauthorizes the Consumer Product Safety Commission, something that has not been done since 1981. I wish to commend Chairman WALGREN of the Subcommittee on Commerce, Consumer Protection and Competitiveness for his leadership in achieving this reauthorization. I only hope that we do not make Consumer Product Safety Commission Reauthorization a once-a-decade event.

The Consumer Product Safety Commission is a small agency in the world of Washington. Yet it administers the Consumer Product Safety Act, the Federal Hazardous Substances Act,

the Flammable Fabrics Act, not to mention less well-known statutes such as the Refrigerator Safety Act and the Poison Prevention Packaging Act. For this reason, it is important that this "Biggest Little Agency in Washington" receive the statutory guidance and endorsement of reauthorization.

This conference report contains many helpful changes. For most of 1989 the CPSC could not act as a commission because it lacked a quorum. The conference report will enable the CPSC to act when it has only two members. At the same time, it retains the pressure on the President to nominate, and the Senate to confirm, a third Commissioner, by limiting the quorum of the two-Commissioner CPSC to 6 months.

The conference report also makes a helpful change by specifying the procedures that the CPSC will use when it terminates rulemaking proceedings in favor of voluntary standards. I want to emphasize that it is not the intent of the conference report to discourage CPSC reliance on voluntary standards. Voluntary standards can usually be developed much more rapidly than can consumer product safety rules, and be just as effective in addressing potential product safety hazards. I believe that by specifying the procedures that CPSC should use to defer to voluntary standards, we will actually encourage more such deferral.

The section of this conference report that caused the most controversy was the section dealing with reporting to the CPSC. This section was carefully negotiated and has resulted in a new requirement that manufacturers report court judgments and settlements after a lawsuit has been filed, in certain circumstances. There is a three judgment/settlement threshold for death or grievous bodily injury that must be reached in a 2-year period. The information that must be reported is very limited, and specifically does not include settlement amounts. There are very strict confidentiality protections and stringent prohibitions against the filing of such a report being deemed an admission of any kind. While I know that this reporting section has been the cause of considerable concern to manufacturers, I believe that this section has been carefully constructed to preserve maximum confidentiality while still providing the CPSC with information that it can use to identify product hazards.

Before closing, I want to express my thanks again to Chairman WALGREN for his leadership in enacting this reauthorization bill. I also want to express my gratitude to Chairman JOHN DINGELL and ranking Republican member NORMAN LENT of the full Energy and Commerce Committee for their consistent support throughout the process. Reauthorization of the CPSC is an important accomplishment, and this House can justly be proud of this conference report. I urge my colleagues to support it.

□ 2020

Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. NIELSON]. an active participant, as I said, in the process.

Mr. NIELSON of Utah. Mr. Speaker, I rise in opposition to this bill. I think there are dangerous defects in consumer products that have decreased rather than increased. There is no need for it at this time.

Mr. Speaker, CPSC has made good strides in recent years, including a substantial consent decree with the all-terrain vehicle that the gentleman from Texas [Mr. BARTON] worked so hard on and has taken new three-wheeled vehicles off the market and provided also a training program for them. It has also increased the import surveillance during that period of time. CPSC, despite the fact it has only had two commissioners for much of last year has accomplished a great deal.

Second, the Consumer Product Safety Commission has been successfully operated for the entire statute; I should say the existing statute. The bill outrageously mismanages, micromanages, this agency. It adds a requirement for cigarette lighters, garage door openers, and bittering agents to mention a few, and had several others, and the conference committee took some of them out.

Instead of changing the nature of the commission and the number of commissioners from three to two, they say the quorum needs to be changed to two, but, if there are only two commissioners, that is only a 6-month deal, and that makes the President of the Senate under a gun to get the new commissioner done within 6 months. So far our batting average has been much longer than that, so it seems like this must be a way to get the commission back up to five.

The conference report requires reporting of all judgments and settlements filed for deaths and subsequent injury, if there are three in the 2-year period, which means they have got to keep track of everything just in case they get to three in every 2-year period. There has never been a single product defect the commission has not been made aware of by their analysis of the product liability lawsuits and so forth, so there is no need for that particular commission. It has been very successful in developing solitary standards for many consumer products, however that is not good enough for many people. They say, "We want permanent standards. We don't want volunteer standards." And they make it almost impossible for the Consumer Product Safety Commission to encourage industry to come up with solutions themselves.

In fact, Mr. Speaker, they require a whole year before they can accept such a standard, which means that the product goes in a dangerous course until they can come up with that.

I also might mention that the commission has to act on rulemaking within a reasonable time. I do not know what that is doing in the statute, and they define a reasonable time as 1 year. So far it takes 3 to 4 years, and that putting it on a paper with a stroke of a pen is not going to cut the time down.

It also does not allow them; they may, but did not require, to take costs into account when they are looking at benefits. It seems to me like that is important if court procedures are going to be used. It seems to me like that would be something they should be allowed to do and encouraged to do it.

It talks about requiring a study of the feasibility of particular services. I do not know what they mean by particular services provided. CPSC should not be in the process of providing particular services because that seems to be a conflict of interest, it seems to me.

Finally, the conference report sets authorization levels too high, $42 million, about $2 million more than the agency itself required, and about $5 million more than the appropriation requested. It seems to me like that should be brought down to a reasonable increase.

Mr. RITTER. Mr. Speaker, I yield 5½ minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in reluctant opposition to the conference report to reauthorize CPSC. I do so, not because of what is in the conference report, but because of what is not in it, and let me say at the beginning that I want to commend the House conferees, the gentleman from Pennsylvania [Mr. WALGREN], the gentleman from Kansas [Mr. SLATTERY], the gentleman from Michigan [Mr. DINGELL], the gentleman from Pennsylvania [Mr. RITTER], and the gentleman from New York [Mr. LENT] for trying to uphold the House position in their debate with the Senate.

Unfortunately, because of the procedural rules in the Senate, a very small number of Senators were able to require that some things be stripped. What has been stripped is the provisions that I have labored for 5 years on dealing with, ATV's, all-terrain vehicles. These vehicles look like big, overgrown tricycles, but in actuality they are vehicles of death and destruction. Since statistics have begun to be kept in 1982 through June of this year, 1,578 people in this country have been killed on an ATV. Some 437,700 required emergency room treatment.

Forty percent of the deaths and injuries are to children under the age of 16. It is estimated that in the neighborhood of $5 million a year is being spent on medical care for these injuries and deaths and millions, if not hundreds of millions of dollars more, is being spent on lawsuits to settle pending claims.

I might point out that to my knowledge at least two Members of Congress have been injured on ATV's, at least one seriously enough that he still walks with a limp.

Because of the death and destruction of the ATV's in this country, in 1987 the Justice Department, the CPSC and the industry at that time agreed to a consent decree that removed three-wheel ATV's from the American market until 1997. I would point out that that agreement does expire in 1997. I would also point out that the only people bound by that are the signers of the agreement, which are the three Japanese manufacturers and one American manufacturer.

My language that was stripped from the conference report would have been very simple. It would have done three things. It would have permanently banned the sale of new three-wheel ATV's by any industry in this country, permanently banned. It would have required a stability standard, a lateral stability standard, for four-wheel ATV's, and it would have required a study to know whether some sort of a volunteer refund mechanism should be made in order. That is all it would have done.

Mr. Speaker, because of the threat of that language, the ATV industry has hired some of the best lobbyists in Washington, DC. They spent millions of dollars on letter-writing campaigns. They have engaged in, first, a stonewalling exercise and then a refusal to debate the merits of the issue. Finally, they have been able to convince, for whatever reason, a handful of U.S. Senators to threaten a filibuster on this provision, and they succeeded.

Our House conferees have decided that it is more important to get the CPSC reauthorized than it is to deal with this issue. I do not blame them. I think they should be the very best they could. But I am not a House conferee. I do not believe that we should let this issue die. I think that since it has not been reauthorized since 1983 or 1981, it can wait one more year. Let us bring this issue back earlier in the next Congress when a filibuster threat in the U.S. Senate is not nearly as effective and debate this issue on its merits. ATV's have had one vote at the subcommittee level in the House of Representatives, and the effort to ban them passed overwhelmingly.

□ 2030

We have never had a vote on the House floor on this issue. I think the American people demand it. I think the parents of the children that have been killed and injured demand it. I think common decency demands it.

Again, I do not condemn Members that had to accede to the Senate in this conference because of the time element, but I do think we should debate the bill, bring it back early in the next session, put the ATV issue back on the table, and debate it on its merits. If we do that, I feel very confident that it will win.

Mr. Speaker, I would like to submit for the RECORD statistics by the CPSE on the deaths and injuries through June of this year. I would also like to submit a list of those agencies and groups and a list of people that support banning ATV's, among whom are the American Academy of Pediatrics, the National Council on Aging, and the American Red Cross.

GROUPS THAT SUPPORT ATV REFUND LEGISLATION

American Academy of Pediatrics.
National Council of Aging.
American Trauma Society.
American Red Cross.
National Safety Council.
National Association of School Nurses.
National Association of Children's Hospitals and Related Institutions.
National Association of Attorneys' General.
Consumers Federation of America.
Consumers Union.
Public Citizen.
U.S. Public Interest Research Group.

DEATHS REPORTED TO THE COMMISSION

On June 21, 1990, the Commission had reports of 1,578 ATV related deaths which had occurred since 1982. The reported deaths increased by 67 since the March 21, 1990 tabulation (Memorandum dated May 23, 1990.)

Year	Number of deaths reported [1]		Difference
	June 22, 1990	Mar. 21, 1990	
Total	1,578	1,511	67
1990	43	15	28
1989	202	167	35
1988	250	247	3
1987	265	264	1
1986	298	298	0
1985	250	250	0
1984	156	156	0
1983	85	85	0
1982	29	29	0

[1] Attached is a list of ATV related deaths by state. The highest numbers of incidents were reported in California (118) New York (97), Michigan (83), Pennyslvania (81), and Texas (75).

ESTIMATED ATV RELATED DEATHS FROM 1985 TO 1988

The deaths reported to the Commission represent a minimum count of ATV related deaths. To account for deaths not reported to the Commission, estimates of the annual deaths were calculated for 1985, 1986, 1987, and 1988 using a statistical approximation.[1]

ANNUAL ESTIMATES OF ATV RELATED DEATHS

[As of June 21, 1990]

	Reported	Estimated	Risk of death (per 10,000 3 and 4-wheeled vehicles in use)
Year:			
1988	250	288	1.1
1987	265	283	1.1
1986	298	345	1.5
1985	250	295	1.5

The estimated deaths for 1985 through 1988 appear to be fluctuating around 300 deaths per year. Since 1985, the risk of death with four-wheeled ATVs has been about the same as the risk with three-wheeled ATVs.

CHARACTERISTICS OF ATVS AND FATALITIES

Four-wheeled ATVs were involved in 61 percent of the fatal accidents in 1989, 53 percent in 1988, 45 percent in 1987, 28 percent in 1986, 19 percent in 1985 and 5 percent in prior years.

A review of the fatalities indicated that 630 victims were under 16 years of age (40 percent) and 276 victims were under 12 years of age (17 percent).

ESTIMATED HOSPITAL EMERGENCY-ROOM TREATED INJURIES

The following table shows estimates of ATV related injuries treated in hospital emergency rooms nationwide between 1982 and 1990:

	Adjusted annual injury estimate [1]	
	All ages	Age less than 16 yr
Year:		
1990 [2] (to June 30, 1990)	32,800	12,400
1989 [2]	60,000	23,500
1988 [2]	62,200	24,000
1987 [2]	77,000	32,000
1986 [2]	55,400	38,700
1985 [2]	45,500	35,300
1984	63,900	[3]
1983	26,900	[3]
1982	9,600	[4]

[1] The adjusted annual estimates for 1985 February 1988 were based on the 93 percent adjustment factor from the Survey of All Terrain Vehicle Related Injuries (May 1 to July 15, 1985), on revisions to the NEISS Coding Manual in March 1985, and on view of NEISS comments to exclude Dune Buggies and identify ATVs classified as Minibikes or Trail Bikes.

[2] The annual estimate for 1989 reflects results from the 1989 ATV Injury Survey.

[3] These adjusted annual estimates are based on the 95 percent adjustment factor from the 1985 ATV Injury Survey.

[4] Adjusted estimates for children less than 16 years old were not comptued prior to 1985.

Staff analysis suggests that the primary factors related to the decline in estimated injuries were: (1) the agreement to stop the sale of three-wheeled ATV's (Consent Decree 1988) and (2) lower overall ATV sales since 1988.[2]

[1] The procedure for estimating ATV related deaths has two parts. For public road fatalities, the count was the number of reports received. For accidents occurring on terrain other than public roads, the Capture-Recapture Method was used to estimate deaths by matching and determining the overlap between the Death Certificate Data Base and the Injury or Potential Injury Incident Data Base [reports from newspapers, consumers, lawyers, etc.]. The two parts were combined for the annual estimate of deaths. These estimates may change as addtional reports are received.

[2] "Projected ATV Related Injuries [1988-1922]," Memo from Rae Newman, CPSC, Directorate for Epidemiology, to Carl Blachschmidt, EXPM, May 16, 1988; "Risk of ATV Realted Injuries 1985-1987," Memo from Rea Newman, CPSC, Directorate for Epidemiology, to Nick Marchica, January 12, 1988.

Children under 16 years accounted for about 40 percent of the total estimated injuries (1985 through June 30, 1990).

Mr. RITTER. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I'd like to respond to the criticism of the gentleman from Texas that the conference report does not contain a section dealing with all-terrain vehicles, as did the House-passed version of CPSC reathorization. I recognize the leadership of the gentleman on the ATV issue and I highly commend him for his perserverance of this issue. I can only point out to the gentleman that the House-passed bill contained 10 product-specific sections, and the conference report contains only 4. There was strenuous opposition in the Senate to any product-specific legislation, since the Senate bill contained not a single product-specific section. In these circumstances, the only product-specific sections that could survive in the conference were those that the affected industries had agreed to. As the gentleman knows, that was decidedly not the situation in the case of the ATV industry, which vigorously opposed the gentlemen's legislation for valid reasons of product liability concerns. I would point out that the present consent decree does prohibit the sale of three-wheel ATV's for 8 years.

I understand the gentleman's disappointment in the conference report, and the reason for his opposition to it. I commit now to the gentleman from Texas that I will work with him next year to an aggressive program of oversight for the consent decree and the ATV industry. I too am concerned that hazards presented by ATV's be addressed. If oversight hearings show defects in the consent decree, or new hazards not addressed by the consent decree, that I will be happy to join with the gentleman from Texas to encourage appropriate CPSC action, or possibly legislation. I know that that promise may not cause the gentleman to vote for the conference report, but I hope that it will assure him of my sympathy for his position, and of the high opinion and esteem in which I hold the gentleman from Texas.

This conference report would not have been possible without the diligent efforts of staff that worked to produce the report we consider here today. Some of those staff that deserve special recognition are Richard Huberman and Dave Keaney, of the majority staff of the Commerce, Consumer Protection and Competitiveness Subcommittee, Consuela Washington of the majority staff of the Energy and Commerce Committee, Margaret Durbin and Dennis Wilson of the minority staff, and David Meade, Chief Legislative Counsel. The efforts of all of these fine staff members have been in the best traditions of bipartisan cooperation in the House of Representatives.

Mr. SLATTERY. Mr. Speaker, I rise to urge my colleagues to join me in supporting the conference report before us today that would reauthorize the Consumer Product Safety Commission.

At the outset, let me take this opportunity to pay tribute to my House colleagues in the conference committee: Energy and Commerce Committee Chairman JOHN DINGELL; ranking committee Republican NORMAN LENT; Commerce Subcommittee Chairman DOUG WALGREN; and ranking subcommittee Republican DON RITTER. I commend all of my colleagues for the completely bipartisan manner in which all House conferees approached the matters before us. We were able, at all times, to work together effectively as a team in support of the House position on the issues in contention. The House conferees also received outstanding support from their staff; Consuela Washington, with the Energy and Commerce Committee; Richard Huberman and David Keaney with the Commerce Subcommittee; and Dennis Wilson with the Energy and Commerce minority staff.

The Consumer Product Safety Commission was established by Congress to protect the public against unreasonable risk of injury associated with consumer products. The agency, however, was last reauthorized in 1981.

The past 10 years have been unnecessarily difficult for the CPSC. During the Reagan era, the CPSC survived attempts to dismantle it, but the agency's budget and staff were severely cut, and Ronald Reagan's appointees, notably Chairman Terrence Scanlon, were unresponsive to the public interest. Ideological conflict between commission members along with the failure of the administration to fill vacancies on the commission brought the CPSC to a grinding halt. With a new chairman and a total of three sitting commissioners, the CPSC can not begin to function again, and enactment of this conference report will be an important step in that direction.

The conference report would improve the CPSC's ability to carry out its statutory mandate. For example, because the current quorum requirement is three, the absence of one commissioner would deprive the agency of the ability to act, as occurred for almost 11 months of 1989. The conference report would change the quorum requirement to two if three commissioners are serving, and to two, for a 6-month period, if only two commissioners are serving.

The conference report also would improve the CPSC's regulatory process by, among other things, clarifying the role of voluntary standards in CPSC rulemaking proceedings. A 12 month deadline would also be imposed for the issuance of rules following after issuance of advanced notice of proposed rulemakings.

The agreement will increase civil penalties to reflect inflation. These penalties have not been increased since the Consumer Product Safety Act was enacted in 1972.

The agreement establishes mandatory safety standards for garage door openers. Some 55 children have been killed since 1973 by automatic garage door openers that came down and didn't reverse. Had these standards been in place, these deaths would not have happened.

Most importantly, the conference report will substantially improve product hazard reporting. Manufacturers will be required to report to the CPSC instances where a particular model of a consumer product has been the subject of at least three civil actions for death or grievous injury over a 24-month period where the result was a settlement or a court judgment in favor of the injured party. This reporting shall not constitute an admission of liability and this information may not be publicly disclosed by the CPSC.

Information about product hazard litigation will help the CPSC to decide whether to pursue a product recall or other remedial action. A CPSC staff study, along with the vagueness of current statutory defect reporting requirements, has raised questions about the extent to which manufacturers report the most serious potential product hazards.

Also, the agreement will improve the role of the States in enforcing product safety requirements by permitting State attorneys general to bring civil actions under the Federal Hazardous Substances Act and the Flammable Fabrics Act.

Finally, the conference report will reauthorize the CPSC at substantially increased funding levels of $42 million for fiscal year 1991 and $45 million for fiscal year 1992. In its most recent budget request, the CPSC itself noted that it has lost nearly $10 million in purchasing power since 1985.

Mr. Speaker, this is a long overdue piece of legislation, worked out in close consultation with the Senate. The House of Representatives should approve it today. The Senate approved it last night. The President should sign this measure. It includes provisions that will improve the safety and well being of every American. I urge my colleagues to support the conference report.

Mr. SIKORSKI. Mr. Chairman I would like to commend the chairman of the Commerce, Consumer Protection and Competitiveness Subcommittee, and all members of the House-Senate conference on reauthorizing the Consumer Product Safety Commission for the first time since 1983.

I wish to speak briefy on a provision included in the act which I authored on automatic garage door openers. I included this provision as an amendment to this bill during subcommittee markup. My remarks—like the provision—will be short and sweet. This provision simply requires that the voluntary UL standards be made mandatory by 1991, that an additional safety device be established by 1993. That label informs consumers of dangers that manufacturers notify the public of the potential hazards of automatic garage door openers.

The need here is clear and strong as cold water on the face in the morning. According to the Consumer Product Safety Commission, at least 68 kids have died, 26,959 have been injured since 1973—from garage door openers that come down and don't reverse. In the past 2 years, three families in my State of Minnesota have lost young children to garage door openers. In one instance a boy was putting away his bicycle when the door descended and knocked him down. He was found by his

father—pinned face down under the door—dead. On that same day across town a 6-year-old girl was found crushed by another garage door—dead. She was at home alone and no one witnessed the accident.

Minnesota is not alone. The CPSC has compiled reports from 22 States over the last 8 years and found a host of children between the ages of 2 and 14 who were found pinned under garage doors—dead.

We can't just shrug our shoulders and say accidents happen when 68 kids have been killed and 27,000 horribly injured. These accidents could have been easily prevented—for a few cents—and it is clear that we must do more than volunteer standards that volunteer our kids for deaths and terrible injury.

Parents, businesses, and government each have a life and death responsibility here. But parents have not been informed, businesses have been out for the buck, and government has been in Reagan's deregulated la-la land.

Today—all this changes. See the major garage door manufacturers support this proposal; the CPCS is sending out warnings; and the administration is likely to sign the bill. On a personal note, I hope all of the Members of Congress can support this, take credit for doing some good, and let your constituents know about the dangers of garage doors. You could save a child's life.

Mrs. COLLINS. Mr. Speaker, there are few characteristics shared by all Americans; but one is that each and every one of us in a consumer.

In recent years, as new products are created, some products have been found to endanger the health—and even the lives—of their users. It has become the Government's responsibility to protect the public from these dangers.

The Consumer Product Safety Commission was formed to ensure that the American people will not be the victim of hazardous products. The CPSC must ensure that a manufacturer's desire to maximize profits does not leave their product untested before reaching the marketplace. We cannot accept situation whereby a poorly designed product is hurried into the sotres to satisfy a producer's deadline. The CPSC must also ensure that products have safety features which anticipate and address potential problems.

The reauthorization of the CPSC, as provided by S. 605, would continue one of the essential services of our Government that is near and dead to Americans. It also addresses specific prodcuts that have been found to be dangerous over the years, such as disposable lighters and automatic garage door openers.

But, the CPSC's regulatory process, powers and administration require improvement. S. 605 would accomplish that through provisions on accountability, administrative responsibility and streamlining, and establishment of standards. A CPSC without the tools to accomplish its goals would mean risks to consumers with hundreds of new products. It would be like having no CPSC at all. Americans would be leary of trying new products. To avoid unknown danger, we would buy less, and the big losers would be our country's manufacturing, marketing and retailing sectors.

The CPSC is designed to avoid tragedies. However, if they occur, then the issue is one for the court system. Product liability laws are the the foucs of our concern. Two of the best features of S. 605 are that civil penalties for offenses would be increased and that product liability lawsuits resolved in favor of the consumer must be reported to the CPSC.

Mr. Speaker, S. 605 deserves our applause and our support. It provides the regulatory and enforcement tools that are essential for an effective product safety system. Without these tools, the CPSC cannot fully do its job and the safety of consumers is jeopardized. Any Member of Congress who is concerned about consuemrs in his or her district should strongly support this bill.

Mr. RITTER. I have no further requests for time, and I yield back the balance of my time.

Mr. WALGREN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALGREN] that the House suspend the rules and agree to the conference report on the Senate bill S. 605.

The question was taken.

Mr BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report on S. 605 just considered.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

FOREIGN DIRECT INVESTMENT AND INTERNATIONAL FINANCIAL DATA IMPROVEMENTS ACT OF 1990

Mr. WALGREN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2516) to augment and improve the quality of international data compiled by the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act by allowing that agency to share statistical establishment list information compiled by the Bureau of the Census, and for other purposes, as amended.

The Clerk read as follows:

S. 2516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Direct Investment and International Financial Data Improvements Act of 1990".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The United States Government collects substantial amounts of information from foreign owned or controlled business enterprises of affiliates operating in the United States.

(2) Additional analysis and presentation of this information is desirable to assist the public debate on the issue of foreign direct investments in the United States.

(3) Information collected from foreign owned or controlled firms by the Bureau of Economic Analysis has serious analytical limitations because it is largely collected on an "enterprise" basis that does not permit an adequate analysis by industry groupings.

(4) Statistical and analytic comparisons of the performance of foreign owned or controlled businesses operating within the United States with other business enterprises operating within the same industry can be accomplished under sections 2(b) and 5(c) of the International Investment and Trade in Services Survey Act, and under Executive Order Numbered 11961, without the need to collect additional information, by sharing with other authorized Government agencies the employer identification numbers maintained by the Bureau of Economic Analysis.

(5) Public disclosures of confidential business information collected by the United States Government relating to international direct investment flows could cause serious damage to the accuracy of the statistical data base.

(6) The General Accounting Office may have limited access to Government data on foreign direct investment.

SEC. 3. REPORT BY SECRETARY OF COMMERCE.

(a) ANNUAL REPORT ON FOREIGN DIRECT INVESTMENT IN THE UNITED STATES.—Not later than 6 months after the date of the enactment of this Act, and not later than the end of each 1-year period occurring thereafter, the Secretary of Commerce shall submit to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, to the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress a report on the role and significance of foreign direct investment in the United States. Such report shall address the history, scope, trends, market concentrations, and effects on the United States economy of such investment. In addition, the Secretary of Commerce shall, if requested by any such committee, appear before that committee to provide testimony with respect to any report under this subsection.

(b) SOURCES OF DATA.—In preparing each report under subsection (a), the Secretary of Commerce, or the Secretary's designees, shall consider information collected by—

(1) the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 and following);

(2) the Bureau of the Census on industry, manufacturing, research and development, and trade, under title 13, United States Code;

(3) the Bureau of Labor Statistics pertaining to information collected under the International Investment and Trade in Services Survey Act, but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(4) the Secretary of Commerce or the Secretary's designee pursuant to section 2 of Executive Order 11858 of May 7, 1975;

(5) the United States Department of Agriculture under the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 and following);

(6) the Department of the Treasury under section 6039C of the Internal Revenue Code of 1986 (26 U.S.C. 6039C), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(7) the Department of Energy under section 657(8) of the Department of Energy Organization Act (42 U.S.C. 7267(8)), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(8) other Federal agencies not referred to in paragraphs (1) through (7), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(9) foreign governments and agencies thereof; and

(10) private sector sources.

(c) ANALYSES.—(1) The analysis in each report prepared under subsection (a) shall, to the extent of available data, compare business enterprises controlled by foreign persons with other business enterprises in the United States with respect to employment, market share, value added, productivity, research and development, exports, imports, profitability, taxes paid, and investment incentives and services provided by State and local governments (including quasi-governmental entities).

(2) Each such analysis shall be done by significant industry sectors and geographical regions, except that information shall not be presented in a way in which any person, including any business enterprise or establishment, can be identified. The restriction contained in the preceding sentence on presentation of information does not apply to information that is obtained from foreign governments or agencies thereof and that has been published pursuant to the lawful disclosure of the information. To the extent that data are available, each such analysis shall include an analysis, together with current levels and trends, of the number and market share of business enterprises at least 10 percent of the voting securities or other evidences of ownership of which are owned or controlled by a foreign person, and of the number and market share of the establishments of such business enterprises, that the engaged substantially in the production or coproduction of any critical technologies included in the most recent plan submitted to the Congress under section 2368 of title 10, United States Code, or included in the most recent report submitted to the President under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976.

SEC. 4. REPORTS BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comproller General, to the extent permitted by law, including section 8 of this Act, is authorized to review the information described in section 3(b) for purposes of preparing the report required under subsection (b) of this section. Nothing in this section authorizes disclosure of any individually identifiable data or information in any form that can be associated with or otherwise identify, directly or indirectly, any person, including any enterprise or establishment.

(b) REPORT.—Not later than 5 months after each report issued by the Secretary of Commerce under section 3, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, to the Committee on Commerce, Science, and Transportation of the Congress a report—

(1) analyzing the report of the Secretary of Commerce;

(2) making recommendations for changes in the analysis done in the report due the following year under section 3;

(3) making recommendations for improving the collection by respective Federal agencies of data on foreign direct investment in the United States, including use of private sector data, and improving survey questionnaires to obtain useful and consistent information that avoids unnecessary redundancy among Federal agencies.

(4) reviewing that status and processes for reconciliation of data exchanged as required by this Act and the amendments made by this Act, and making any recommendations for improving and augmenting international financial data;

(5) making recommendations for possible additional policy coordination within the executive branch affecting foreign direct investment in the United States; and

(6) making recommendations for improvement of the coverage, industry classification, and consistency among Federal agencies of their respective surveys.

Reports under this subsection shall be issued only with respect to the first 3 reports issued by the Secretary of Commerce under section 3.

(c) OTHER REVIEWS AND REPORTS.—The Comptroller General may, to the extent permitted by law, including section 5(c) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(c)) and section 8 of this Act, also review data and information at the Bureau of the Census, the Bureau of Labor Statistics, and the Bureau of Economic Analysis and from time to time report to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress.

(2) The Comptroller General shall, in carrying out paragraph (1), comply with procedures relating to access to and disclosure of data and information established within the Federal statistical agencies referred to in paragraph (1), and maintain any and all individually identifiable data and information at the statistical agency where the information is reviewed.

(d) CONFIDENTIALITY; REVIEW BY OTHER AGENCIES.—In preparing any report under this section, the Comptroller General shall not—

(1) disclose any confidential business information or present any information in a way in which any person, including a business enterprise or establishment, can be identified; or

(2) combine, match, or use in any other way individually identifiable data or information maintained by any of the Federal statistical agencies referred to in subsection (c) with any other individually identifiable confidential data or information that is not collected by such statistical agencies.

Before issuing any such report, the Comptroller General shall in each instance submit the report to the head or heads of the agency or agencies from which confidential or identifiable information described in the preceding sentence was obtained. The agency or agencies concerned shall promptly review the report for the purpose of assuring that the confidentiality of such information and identity is maintained, and for any other purpose, and shall provide the Comptroller General with appropriate comments or other suggestions within 10 working days after receiving the report.

(e) RIGHT OF ACCESS.—The access by the Comptroller General to information under this Act shall be in conformity with section 716 of title 31, United States Code.

SEC. 5. ACCESS TO CENSUS DATA BY BUREAU OF ECONOMIC ANALYSIS.

(a) ACCESS TO DATA.—Title 13, United States Code, is amended by adding at the end the following:

"CHAPTER 10—EXCHANGE OF CENSUS INFORMATION

"Sec.

"401. Exchange of census information with Bureau of Economic Analysis.

"§ 401. Exchange of census information with Bureau of Economic Analysis

"(a) EXCHANGE OF INFORMATION.—The Bureau of the Census shall exchange with the Bureau of Economic Analysis of the Department of Commerce information collected under this title, and under the International Investment and Trade in Services Survey Act, that pertains to any business enterprise that is operating in the United States, if the Secretary of Commerce determines such information is appropriate to augment and improve the quality of data collected under the International Investment and Trade in Services Survey Act. Information provided to the Bureau of Economic Analysis by the Bureau of the Census shall be only those data collected directly from respondents by the Bureau of the Census.

"(b) REQUESTS FOR INFORMATION. —The Director of the Bureau requesting information under this section shall make the request in writing and shall certify that the information will be used only for statistical activities performed to improve the quality of data collected under the authority of title 13, United States Code, and the International Investment and Trade in Services Survey Act.

"(c) DEFINITION.—As used in subsection (a), the terms 'business enterprise' and 'United States' have the meanings given those terms in section 3 of the International Investment and Trade in Services Survey Act.".

(b) CONFORMING AMENDMENTS.—(1) The table of chapters at the beginning of title

13, United States Code, is amended by adding at the end the following:

"10. Exchange of census information 401".

(2) Section 9(a) of title 13, United States Code, is amended by inserting after "section 8" the following: "or chapter 10".

SEC. 6. AMENDMENTS TO THE INTERNATIONAL INVESTMENT AND TRADE IN SERVICES SURVEY ACT.

(a) PURPOSE.—Section 2(b) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101(b)) is amended by inserting after "the impact of such investment and trade," in the first sentence the following: "to authorize the collection and use of information on direct investments owned or controlled directly or indirectly by foreign governments or persons,".

(b) REPORTING REQUIREMENTS.—Section 4(a)(5) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3103(a)(5)) is amended by inserting before the period the following: ", including, with respect to foreign direct investment in the United States, information on ownership by foreign governments of United States affiliates by country, and tables, on an aggregated basis, of business enterprises the ownership or control of which by foreign persons is more than 50 percent of the voting securities or other evidences of ownership of such enterprises, and business enterprises the ownership or control of which by foreign persons is 50 percent or less of the voting securities or other evidences of ownership of such enterprises".

(c) BUREAU OF ECONOMIC ANALYSIS REPORT.—Section 4 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(h)(1) The President, or the designee of the President responsible for monitoring the impact of foreign investment in the United States, coordinating implementation of United States policy on investment, and investigating foreign acquisitions under section 721 of the Defense Production Act of 1950 (50 App. U.S.C. 2170), may request a report from the Bureau of Economic Analysis of the Department of Commerce. When such request is made in connection with an investigation under such section 721, the report shall be provided within 14 days after the request is made. When such request is not made in connection with an investigation under such section 721, the report shall be provided within 60 days after the request.

"(2) A report requested under paragraph (1) shall contain the best available information on the extent of foreign direct investment in a given industry, including a breakdown of total investment in the industry, and any foreign government investment in the industry, by country of the foreign owner, and any other information that the Bureau of Economic Analysis or such designee of the President considers relevant. The industry information provided shall be at the most detailed level available of Standard Industrial Classification, subject to the requirements of section 5.".

(d) ACCESS TO INFORMATION.—Section 5 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) The Bureau of the Census of the Department of Commerce is authorized, for purposes of augmenting and improving the quality of data collected by the Bureau of the Census, to have, upon written request, access to data relating to business enterprises that is collected directly by the Bureau of Economic Analysis for purposes of this Act. The Bureau of Labor Statistics of the Department of Labor is authorized, for purposes of augmenting and improving the data collected by the Bureau of Labor Statistics, to have access, upon written request, to selected identification information on business enterprises and data on international services transactions, that is collected directly by the Bureau of Economic Analysis for purposes of this Act. Officers and employees of the Bureau of the Census and the Bureau of Labor Statistics shall, for purposes of subsection (c), be deemed to be officials or employees designated to perform functions under this Act.".

(e) CONFORMING AMENDMENTS.—Section 5 of the International Investment and Trade in Services Survey Act is amended—

(1) in subsection (c)(2) by striking "(d)" and inserting "(e)"; and

(2) in subsection (e), as redesignated by subsection (d)(1) of this section, by inserting "or (d)" after "(c)".

SEC. 7. ACCOUNTABILITY FOR TIMELY REPORTING.

(a) AFFIRMATION BY A RESPONSIBLE OFFICER.—Section 5(b) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(b)) is amended by adding at the end the following: "When a report under paragraph (2) is furnished under oath, such oath shall be by the officer of such person who is directly responsible for the maintenance and compilation of such information, and shall certify that the report was prepared in accordance with this Act, is complete, and is to such officer's best knowledge and belief, substantially accurate, except in a case in which, in accordance with rules and regulations issued under this Act, estimates have been provided because data are not available from customary accounting records or precise data could not be obtained without undue burden, and the data subject to such estimates has been noted in the report.".

(b) CIVIL PENALTIES.—Section 6(a) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3105(a)) is amended by striking "may be subject to a civil penalty not exceeding $10,000" and inserting "shall be subject to a civil penalty of not less than $2,500, and not more than $25,000,".

SEC. 8. ACCESS TO INFORMATION; CONFIDENTIALITY.

(a) CONFIDENTIALITY.—(1) Those officers and employees who have access to information under this Act to which the provisions of section 9 of title 13, United States Code, apply must have been sworn, as provided for in section 23(c) of such title, to observe the limitations imposed by section 9(a) of such title and to be subject to the provisions of section 214 of such title to the same extent as such section applies to officers or employees of the Bureau of the Census.

(2) Only those officers and employees who have sworn to observe the provisions of section 5(c) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(c)) may have access under this Act to information to which such provisions apply, and such officers and employees are subject to the penalties for improper disclosure of such information provided in section 5(e) of that Act to the same extent as such section applies to officers or employees designated to perform functions under that Act.

(3) Those officers and employees referred to in paragraphs (1) and (2) of this section shall be subject to any other restriction or penalty imposed by law with respect to disclosure of information to which such officers or employees have access under this Act.

(b) VIOLATIONS AND PENALTIES.—Whoever is in possession of information made available to any department or agency by virtue of this Act or the amendments made by this Act and discloses the information in any form which can be associated with, or otherwise identify, any person, including any business enterprise or establishment, shall be fined not less than $2,500 nor more than $25,000 or imprisoned not more than 5 years, or both.

(c) UNLAWFUL ACCESS.—Whoever procures, by fraud, misrepresentation, or other unlawful act, access to information made available to any department or agency by virtue of this Act or the amendments made by this Act shall be fined not less than $2,500 nor more than $25,000 or imprisoned not more than 5 years, or both.

(d) INFORMATION IMMUNE FROM PROCESS.—Information obtained under this Act shall be immune from legal process and shall not be used as evidence or for any purpose in any Federal, State, or local government action, suit, or other administrative or judicial proceeding except as necessary to enforce requirements imposed by law on the collection of information to enforce the provisions of subsections (b) and (c).

(e) IMPLEMENTATION.—(1) The Secretary of Commerce shall be responsible for the implementation of the exchange of information under this Act between the Bureau of the Census and the Bureau of Economic Analysis, and shall resolve any questions on access to information, data, or methodology that may arise between the Bureau of the Census and the Bureau of Economic Analysis, except that the Secretary shall not construe this section in a manner which would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act. The Bureau of Economic Analysis and the Bureau of the Census shall agree in writing to the data to be shared under this Act.

(2) The Director of the Office of Management and Budget shall be responsible for the implementation of the exchange of information under this Act between the Bureau of Economic Analysis and the Bureau of Labor Statistics, and shall resolve any questions on access to information, data, or methodology that may arise between the Bureau of Economic Analysis and the Bureau of Labor Statistics, except that the Director shall not construe this section in a manner which would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act.

SEC. 9. CONSTRUCTION OF THE ACT.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to require any business enterprise or any of its officers, directors, shareholders, or employees, or any other person, to provide information beyond that which is required before the enactment of this Act.

(b) IMPLEMENTATION.—All departments and agencies implementing this Act and the amendments made by this Act shall, with respect to surveys or questionnaires used in such implementation—

(1) eliminate questions that are no longer necessary,

(2) cooperate with one another in order to ensure that questions asked are consistent among the departments and agencies, and

(3) develop new questions in order to obtain more refined statistics and analyses, consistent with the purposes of the provisions of law amended by this Act and the Paperwork Reduction Act of 1980.

SEC. 10. DEFINITIONS.

For purposes of this Act—

(1) The terms "foreign", "direct investment", "international investment", "United States", "business enterprise", "foreign person", and "United States person" have the meanings given those terms in section 3 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3102); and

(2) the term "foreign direct investment in the United States" means direct investment by foreign persons in any business enterprise that is a United States person.

The SPEAKER pro tempore. Is a second demanded?

Mr. RITTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALGREN] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill, S. 2516, as amended. This bill contains provisions virtually identical to those of another bill, H.R. 4520, that was reported recently by the Committee on Energy and Commerce and the Committee on Foreign Affairs.

Mr. Speaker, the House version of this bill was introduced by our colleague, Mr. SHARP. Following hearings on that bill, Mr. SHARP and Mr. LENT, who had also introduced legislation pertaining to data collection on foreign direct investment, worked out an agreement which is reflected in the Senate bill before us today. I understand the administration is not opposed to the bill we are considering today.

Mr. Speaker, foreign direct investment in the United States has skyrocketed in recent years. According to the Commerce Department, foreign direct investment in the United States increased more than 60 percent between 1987 and 1988 alone. Almost half the foreign direct investment in 1988 was in the manufacturing sector.

Foreign investors now own 13 percent of the U.S. manufacturing base, and they own 50 percent of the vital consumer electronics industry. Between 1980 and 1988, foreign direct investment in the U.S. electronics industry alone, tripled to over $12 billion.

According to the Defense Science Board, which has recently looked at both the question of foreign control of U.S. industries and the problem of defense access to critical technologies, foreign dependence puts the Defense Department's access to leading edge technology at real risk.

The bill we are considering will help the Congress and policymakers in the executive branch have better information on foreign direct investment in the United States. Under the bill, the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics will be permitted for the first time to share the data each currently collects on foreign direct investment. The result of this data merger will be that our Government will be able to specifically identify the level of foreign investment on an individual facility level. Until now, information on foreign direct investment has only been available on a company-wide basis.

In addition, the bill would require the Secretary of Commerce to submit a report to Congress each year analyzing foreign direct investment in the United States with respect to its scope, its trends, and its effects on the U.S. economy. The General Accounting Office will be required to submit a timely report to Congress analyzing the information presented by the Secretary of Commerce, making recommendations for improvements in the next report, and reviewing the status of the data sharing between the Bureau of the Census and the Bureau of Economic Analysis.

The bill also contains provisions to safeguard the confidentiality of information submitted to Federal agencies by foreign investors. And, the bill increases penalties on foreign investors who fail to submit required information.

Mr. Speaker, I want to commend Mr. SHARP and Mr. LENT for their work on this bill. I think they have made a significant contribution to our efforts to improve the availability of accurate information on foreign direct investment. I urge my colleagues to support this bill.

□ 2040

Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2516, which was approved by the Energy and Commerce Committee and the Foreign Affairs Committee as H.R. 4520.

This legislation is designed to give us in Congress an accurate and much needed look at foreign direct investment in the United States. There is no question that we need improved information on this very important subject. The Department of Commerce reported that last year, foreign concerns invested over $70 billion in this country. What do those investment dollars mean for the United States? What kind of jobs are created? What is the impact of those dollars in areas of high technology? How is trade affected? The bill we will pass today will provide data that will answer these questions.

Mr. Speaker, I just want to make a comment about foreign direct investment. It helped fuel the longest period of peacetime recovery in the history of this country during the 1980's. It provided for millions of new American jobs. It brought new technology to our shores. It pressured us to be more competitive, and overall, it had a salutary effect on our standard of living and our communities.

Foreign direct investment today, as a matter of fact, is one of the few areas where foreign investment is still flowing into the United States, and we have to be concerned that we continue to be a good place to invest for individuals and companies from around the world.

This bill places no new reporting requirements on business, but provides for the interagency exchange of information now collected. By authorizing the data exchange originally mandated in H.R. 4608, of which I was a sponsor, information from the Bureau of Economic Analysis, the Bureau of Census, and the Bureau of Labor Statistics will be used by the Secretary of Commerce to prepare a report to Congress on the scope and trends in foreign investment. The GAO will have access to this information for purposes of verifying the accuracy of the report.

Mr. Speaker, we have debated the issue of foreign investment for many years in this body. This bill will shed new light on an issue too often debated in a factual vacuum.

I congratulate my colleague on the Energy and Commerce Committee, Representative NORM LENT, for his leadership in bringing this bill to the floor today. I also appreciate the efforts of Representatives PHIL SHARP, NANCY JOHNSON, and LEE HAMILTON who had a role in fashioning this legislation in a sound, bipartisan way.

This bill also was fashioned in a sound bipartisan way, and I believe the chairman of the subcommittee deserves a lot of credit for being able to forge a bipartisan coalition to bring this legislation to the floor.

I also want to congratulate the members of the staff as well, in particular Michael Ebert, Lee Price, and Jeffrey Bobeck, who did an excellent job, and on our side, the minority staff, Doug Bennett, as well.

I urge my colleagues to support S. 2516.

Mr. Speaker, I reserve the balance of my time.

Mr. WALGREN. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. SHARP], the author of the original bill introduced on this subject.

Mr. SHARP. Mr. Speaker, I certainly thank the gentleman for yielding and thank him and his staff for all of their great work, as well as the gentleman from Pennsylvania [Mr. RITTER] and his staff, and there are a number of other folks whose cooperation has made this possible. Congressman LEE HAMILTON, of Indiana, is a major cosponsor, and Mrs. NANCY JOHNSON, of Connecticut, who was instrumental in many ways in helping us to move this forward, and we appreciate the bipartisan and collective work.

I believe the two previous speakers have already outlined the critical need for us to understand better what is happening in our economy and in our country. Many of us are concerned about the nature of foreign investments.

On the one hand, we know they have many valuable points. It leads to jobs, investments, and a vigorous economy, which is the American way. At the same time we also know that there can be examples where we want to blow the whistle and say no, this investment is of critical national security interest, or critical economic security interest, and we have to make a tough call and a tough judgment.

But what we have learned is for all of the information that the Federal Government collects, and there is a ton of information that we collect on this question, it is simply not put together well. There are gaps in it. We do not have it in an organized way in which we in Congress and the American public can deal with the issues, and these are issues that come up in all of the legislative arenas around here. On the agriculture bill there were questions about foreign direct investment. In the Tax Code there were questions about foreign direct investment. We in the Energy and Commerce Committee are continually having this arise in our discussions as to whether some special benefit or some effort to penalize a foreign investment is appropriate in a policy decision. Yet, at rock bottom we have difficulty knowing what the circumstances are, what is the ownership of the various activities in this country.

I believe this legislation will provide us a new and firmer foundation on which to make judgments. The keys I think have already been outlined.

First of all, it upgrades the information that is collected. We think we will get it more timely, we think it will be more cooperatively given, and the penalties are increased on those who fail to do what we already require them to do.

Second, we see to it that we bring the data together so that we can understand it and get down to specifics. That means bringing the Bureau of Economic Analysis together with the Census Bureau, together with several other agencies in order to have the best data that we can on this subject.

Then we have the Secretary of Commerce provide us with an annual report which will be available to us and to the public, so we can begin making the judgments that we often debate in this Chamber.

Finally, in order to see to it that the process of collection, and the process of the analysis is a fair and a useful one, we are going to have the General Accounting Office do what we have had it do so many times for the Congress, and that is to examine the process and help us know that it really has been an independent data collection, and is not skewed for political reasons.

Again, Mr. Speaker, I want to thank the people who have been very cooperative. Mr. LENT and his people were key on the minority side in the Commerce Committee in working with us. I really believe that while the notion of data collection is not one that is likely to capture any headlines, the reality is that this is the information base on which we can make judgments about an issue that is of intense concern to people all around this country.

Mr. SHARP. Mr. Speaker, I rise in support of S. 2516. The Senate bill, sponsored by Mr. EXON, is substantively equal to my bill, H.R. 4520, as reported by the Energy and Commerce Committee, and S. 2516 is identical to my bill as reported by the House Foreign Affairs Committee.

I want to extend heartfelt thanks to my colleagues DOUG WALGREN, NORM LENT, SAM GEJDENSON, TOM SAWYER, and their staffs, and to Senators EXON, HOLLINGS, and MURKOWSKI, in the other body. The administration's principal negotiator on this bill, Department of Commerce Deputy Under Secretary Mark Plant, has my thanks for the good faith which he brought to the table as we labored over the technical details of this legislation. My very special thanks and recognition goes to Representatives NANCY JOHNSON and LEE HAMILTON and their staffs for all their hard work on this bill. Frankly, without the efforts of the gentlewoman from Connecticut and the gentleman from Indiana, we might not have this important legislation before us today.

In the 100th Congress, the House tried to enact a new public registry requirement for foreign investors. That proposal touched off an intense debate; ultimately, the 100th Congress failed to pass legislation to improve information on foreign direct investment. In drafting H.R. 4520, its supporters in the House sought to learn from past debates and avoid previous mistakes.

Three fundamentals often drive successful legislation: a recognized need, the adequacy of the proposed remedy, and holding to the principles of fundamental fairness. The proposed registry failed on two of the three critical parameters: Our continued efforts to enact FDI legislation is evidence that the need remains; but the registry foundered by failing the tests of adequacy and—above all—principles of fairness that unite Democrats and Republicans, labor and business, conservatives and liberals, into a successful legislative coalition.

The registry sought to require foreign owned or controlled companies to provide the U.S. Government with basic identity and financial data. The information sought at the registry's 5-percent threshold is substantially less than that required on an SEC filing for a public corporation, domestic or foreign owned. The registry proposal sought to extend disclosure to privately held companies which were foreign owned or controlled. In doing so, the proposal failed the most significant test of fairness: It sought to require only foreign privately held U.S. companies to publicly disclose information which domestic closely held firms would not be required to supply. The legislation also failed from a comparative view of fairness: while some—but not all—industrialized nations require a registration of foreign direct investors, those disaggregated contents of those registries are never made public, and the raw or disaggregated data are protected against use by parliaments or abuse by competitors.

Given the heightened awareness in the Congress concerning both junk bond financing schemes and the savings and loans bailout and its causes, the next Congress may want to consider requiring all closely held business enterprises above a certain threshold of economic activity, or those issuing debt in either traded securities or loans from federally insured financial institutions, to provide the kind of basic balance sheet financial data currently required by the SEC from publicly traded companies. If Congress decides to do this, it should act in a nondiscriminatory fashion.

Although coming from somewhat different perspectives on the issues associated with foreign direct investment, the supporters of S. 2516 and H.R. 4520 have been united by a common goal: To enact a bill to greatly improve information on foreign direct investment so that we could in turn benefit from our improved knowledge in our public policy debates. Regardless of our political affiliation or philosophical disposition toward foreign ownership in America, few of us would deny that Federal data are presently inadequate to answer important questions relating to FDI, or that we should remedy those inadequacies as soon as possible.

Further, few of us would disagree that, in this era of rising international investments and fierce global competition—yet the need to hold down both Government spending and the burdens Government imposes on U.S. business—the best solution to our foreign investment information gap is one which uses the resources we have instead of creating another costly Federal bureaucracy. Fortunately, existing Federal data resources are adequate to the task.

Much better information on FDI and minimal costs for generating it are the fundamental principles of both H.R. 4520 and S. 2516. This common ground has allowed us to get beyond past controversies on the issue and write a bill which has earned strong bipartisan support

and has won the endorsements of major labor and business groups.

At this time, Federal data on FDI collected and published by the Bureau of Economic Analysis [BEA] has a fundamental shortcoming. Because the BEA data are collected on an enterprise basis, the data are in many cases inaccurate and misleading. More importantly, the information does not allow us to make apples-to-apples comparisons of the relative performance of foreign-owned firms with their American-owned counterparts operating in the same basic industries or regions. The ability to make such comparisons and analyses are critical to separating facts from anecdotes in our public policy debates.

An example illustrates the basic problem of BEA foreign investment data. When a foreign-owned company operates in several industries in the United States, the BEA ascribes all of that enterprise's activity to the industry of greatest economic value. Because foreign automakers who have set up manufacturing operations in the United States still import more finished cars than their production here, all of their data are placed in the wholesale trade category. That misplacement wrongly inflates the wholesale trade numbers, and just as wrongly fails to accurately capture the numbers from their manufacturing, design and research facilities here. DuPont, Siemans, British Petroleum, Honda, Mitsubishi, and hundreds of other foreign-owned companies also operate in several industries, but have all their data placed in one category. The result of these summed misclassifications are that the BEA numbers are not useful for any kind of precise industry analysis. Nor do the BEA data presently identify each and every foreign-owned establishment—typically the four-walls-and-a-roof locations that dot the landscapes of our districts.

What makes this legislation different than past legislation, and better in terms of the accuracy, detail and the quality of the information it will produce, is a process we call data sharing. Data sharing is not a new idea, but one which has been around for nearly 15 years. Nearly a dozen years ago, a key House panel chaired by Representative Benjamin Rosenthal recommended such an approach. Bureaucratic turf battles, and apathetic neglect by past administrations, have resulted in inaction.

The bill requires the three principal Federal statistical agencies—the BEA, the Census Bureau, and the Bureau of Labor Statistics [BLS]—to share or exchange information. Presently, many Federal agencies collect information which, if properly synthesized, can be used to analyze foreign direct investment and greatly improve Federal data on it. Each agency holds one piece of a complex jigsaw puzzle. But at this time, our picture of FDI is inadequate and incomplete because the agencies do not—in fact, with regard to the Census Bureau, by law cannot—share information or coordinate data collection activities in any meaningful way. The picture of foreign investment we now get is like a jigsaw puzzle with widely scattered pieces; the big picture is missing.

Data exchanges put the pieces of that puzzle together into an accurate, coherent and complete picture. Every business establishment in the United States, foreign or U.S. owned, is required to submit detailed reports to the Census Bureau and the BLS. Unlike the BEA data, where the foreign enterprise submits one report that has totals for all its individual establishments, the census and BLS data are broken down to reveal the activity at every location. Because the BEA, the BLS, and the Census Bureau all use common identification codes, it is possible to separate the foreign-owned establishments or plants from the BLS and census data bases.

The data sharing process corrects the inaccuracies and inadequacies that now exist in the BEA data—without requiring a new Federal bureaucracy, and without making businesses here fill out new forms. The bill makes maximum use of the copious amounts of information the Government already has at its disposal by consolidating and organizing that information. In doing so, new information is generated which overcomes the serious problems now plaguing BEA data.

The bill, while requiring two-way exchanges of disaggregated information between the Census Bureau and the BEA, authorizes a one-way provision of such data from the BEA to the BLS and no exchange of disaggregated data between the Census Bureau and the BLS. I and the other principal supporters of the bill, Representatives JOHNSON, HAMILTON, and LENT, in consultation with Federal statistical agencies, have the following reasons for restricting the exchanges of information in this manner:

Section 9 of title 13, United States Code, currently prevents any exchange or sharing of confidential data collected and maintained by the Census Bureau with any other agency. S. 2516, as amended, seeks to amend title 13 to give the Bureau of Economic Analysis access to selected confidential Census Bureau establishment data for the purpose of improving foreign direct investment information.

Confidential data maintained by the Bureau of Labor Statistics are collected under a pledge of confidentiality which the BLS has signed with each individual State employment security agencies [SESA]; further, the States-furnished data are subject to individual State confidentiality laws and regulations in addition to these pledges. Therefore, as a legal matter these BLS confidential data cannot be shared with the Census Bureau or the Bureau of Economic Analysis without SESA permission, and strict conformity to individual State laws governing confidentality.

As a practical matter, the purposes of S. 2516 are fully attained by the sharing of data as are currently specified by the bill. No advantage to the purposes of the legislation would accrue from further exchanges of information.

There are, of course, other important features of the legislation which will help the complex data sharing exercise to move along promptly and to completion of all that we intend.

First, the bill requires an annual report from the Secretary of Commerce on foreign direct investment. The information which the Secretary must consider for this report includes not only the data which are to be exchanged by the BEA, the census and the BLS, but a range of other available Federal information, foreign government sources of information, and data produced by the private sector. The Commerce Secretary's report is intended to be an analytical, single point of reference on foreign direct investment and its impact on the U.S. economy by industries and regions. We intend this to be a dispassionate and factual presentation, free from political colorations.

Given the magnitude of the available data and the fact that the data exchanges are ongoing processes, the authors of this bill fully expect that each year's Commerce Department report will be an improvement over the past. We expect that the report will be similar in detail to the Commerce Department's "U.S. Industrial Outlook" in that it will put into proper perspective the year's major issues of foreign direct investment together with detailed and focused analyses by industry and region.

To make sure that this report has properly considered the new data, the bill also requires the Comptroller General of the General Accounting Office to review and analyze the Commerce Secretary's report and the confidential data which has been used to prepare it. Within 5 months, the Comptroller General must issue a report to congressional committees of the House and Senate. That GAO follow-on report is intended to make recommendations for improving the next year's Commerce Department publication. This GAO analysis and audit will also give the Congress confidence in the accuracy and coverage of the Government's foreign investment data. The bill sunsets the GAO follow-on report after the third issue in recognition that by that time the Department of Commerce report should have sufficiently matured into the publication we intend.

The bill further authorizes the Comptroller General to access the disaggregated data to produce other reviews and reports from time to time, to respond to significant issues on foreign direct investment which can be addressed by that data. The ability of the Comptroller General to conduct these ad hoc reviews and analyses will be important to informing the public debate on timely issues—as in response to a congressional request—which are beyond the mission of the statistical agencies.

An analogy between the resolution of an x-ray and a CAT scan illustrates what we intend for the GAO in producing other reviews and reports under section 4(c). The statistical agencies are responsible for generating surveys, collecting and processing the universe of data, and publishing data and tables that accurately reflect a large and general picture—similar to an x ray of a large section of the human body.

The bill does not set up the GAO as a new statistical agency: GAO will not be in the business of generating surveys, collecting and processing the information, or reproducing tables and analyses which are performed by existing Federal statistical bureaus. Instead, we expect the GAO mission to be similar to a CAT scan: Section 4(c) reports will have the depth, focus and resolution that is responsive to a significant facet of the overall issue. Section 4(c) of the bill could also allow for a return look at the Commerce Secretary's

annual publication after the GAO sunset if the Comptroller General notices a problem with that report.

Throughout our discussions and negotiations on this legislation, Representatives JOHNSON, HAMILTON, and I have sought the views of noted academic researchers who are experienced with foreign direct investment and the data, such as Drs. Edward M. Graham and Douglas Woodward. It would be in keeping with the philosophy of the bill if the statistical agencies would develop systematic procedures for granting qualified academic researchers access to the confidential data, under the same confidentiality safeguards now in existence as well as those being developed by this legislation.. Academic researchers having such access could contribute to our understanding of international financial flows, particularly for those aspects of the subject for which Federal agencies and the GAO do not assign the human or fiscal resources.

The authors of the bill fully appreciate that maintaining the confidentiality of the information which individual business enterprises and establishments furnish to the Federal statistical agencies is extremely important to preserving an accurate source of information. Businesses are under a legal obligation to respond to Federal statistical surveys and censuses; when they do so, the Federal Government has given survey respondents a legal assurance that their responses will be used only for statistical and analytical purposes, and that the information will never be disclosed in such a way that a reader of the published data could associate, directly, or by inference, the data with an individual respondent.

The GAO also has access to individually identifiable information on persons and businesses which it obtains through its oversight of certain regulatory agencies. This information can and has been used by those agencies for administrative and judicial purposes. In contrast, the confidential information collected by the Census Bureau, the BEA, and the BLS is used only for statistical and analytical purposes. Section 4(d)(2) of the bill states that the Comptroller General shall not "combine, match or use in any other way individually identifiable data or information maintained by [the BEA, the Census Bureau, or the BLS] with any other individually identifiable information that is not collected by such statistical agencies." That prohibition is placed into the bill to assure survey respondents that the information they furnish for statistical and analytical purposes will not be cross-tabulated with confidential regulatory information by duly authorized General Accounting Office personnel who may work with both statistical and regulatory kinds of confidential data. This requirement places a firewall between these two very different kinds of confidential data and information.

Both H.R. 4520 and S. 2516 as amended fully preserve existing laws and regulations governing confidentiality. In all cases where data at the originating agency are exchanged with or provided to another statistical agency or the General Accounting Office, the receiver of the confidential information is placed under the same confidentiality requirements that are in force at the originating agency. In fact, the bill should strengthen confidentiality protections: Those who unlawfully disclose or procure the individually identifiable data are subject to increased penalties. Fines are increased from the current $10,000 maximum to a new maximum of $25,000 and a minimum fine of $2,500. In addition, those convicted of unlawful disclosure or procurement face up to five years imprisonment.

A final criticism of the BEA data has been one of timeliness and coverage. Published BEA foreign direct investment data are often delayed, and there are significant upward revisions of the preliminary figures. In developing this legislation, we asked BEA personnel why this was so. Equally if not more significant as the budget cutbacks at the agency over the past decade which have reduced personnel and delayed equipment modernizations, BEA analysts have stated that delays and revisions can be attributed to the fact that a critical minority of respondents fail to file reports with the BEA in a timely or complete manner. Many times, according to the BEA, the person filing the report for the U.S. affiliate may lack adequate credentials to do so. The often protracted back-and-forth between the BEA and the respondent detracts from the time, human and fiscal resources of the agency.

The bill addresses this problem by requiring that the highest officer at the firm responsible for the maintenance of the information attest to the accuracy and completeness of the information supplied. The respondent may use estimates where allowed, but must clearly denote their use. The bill also raises penalties for delinquent or deceptive respondents to at least $2,500 and no more than $25,000. The report to accompany H.R. 4520 as filed by the Energy and Commerce Committee (H. Rept. 101-885, part II) directs the Secretary of Commerce to provide in the annual report a statement of the measures the Department is taking to ensure timely compliance with BEA surveys and benchmarks.

S. 2516 is the most comprehensive legislative proposal for closing the information gaps on foreign investment that this Congress has considered for years. I urge my colleagues in the House to vote for S. 2516 so it can be sent to the President without further delay. We have all waited and debated too long on this critical issue to miss the opportunity to put a strong and effective law on the books before this Congress adjourns.

□ 2050

Mr. RITTER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], who was a major player in forging the compromise that we have here on the floor of the House this evening.

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is with pleasure that I rise today in support of S. 2516, which I joined my colleagues PHIL SHARP, NORM LENT, and LEE HAMILTON in developing as H.R. 4520 over the past year. In addition, I want to thank the distinguished gentleman from the other body, Mr. EXON, for his leadership and insight on this issue, and the Republican leader Mr. DOLE for his role in moving this initiative.

Mr. Speaker, this is a tough bill that will give us exactly what Members of Congress and their constituents have been seeking for years: Accurate, timely, and useful information on foreign direct investment in the United States. Just as important, we will gain that information without compromising confidentiality or interfering with flows of capital in our economy.

That this bill is the right answer to a very tough question is borne out by the diversity of its supporters, who include the U.S. Chamber of Commerce, the Auto Parts and Accessories Association, and the United Auto Workers.

I would like to highlight conclusions of the Government Operations Committee on the Government's efforts to track foreign investment. The report concluded that:

Federal efforts to monitor foreign direct investment in the United States and its impact on America's national interests are so inadequate, disjointed and poorly implemented that Federal estimates of the total amount of foreign direct investment constitute little more than guesswork.

The report continued that:

Notwithstanding repeated assurances by administration officials, the U.S. Government does not have a sound, sensible or rational policy on foreign direct investment.

These conclusions are all the more significant for their vintage: For the administration described is not that of George Bush or Ronald Reagan, but Jimmy Carter, and the date of the report is August 1980.

Things have changed little since then. There are now 16 Government agencies that monitor foreign investment. Indeed, as most financial officers will attest, the Federal Government collects a wealth of information from businesses: On a regular basis, the Government already asks businesses for detailed data on their output, on ownership, and the types and numbers of jobs they provide.

However, put simply, the agencies that collect much of this information do not talk to each other because they are legally prohibited from doing so. The Bureau of the Census may know, for instance, the total number of workers a particular business establishment employs, but only the Bureau of Labor Statistics, which keeps 800 spearate occupational categories, would have detailed information on the skills of those workers. Meanwhile, the Bureau of Economic Analysis would have information on the ownership of a business establishment, but it does not have the detailed shop-level output data that the Bureau of the Census collects.

In January of this year, the Committee on Ways and Means heard testimony from Dr. C. Fred Bergsten of the Institute for International Economics and Dr. Edward M. Graham, of Duke University, suggesting that the government could glean much information

regarding foreign direct investment by breaking down these Chinese walls between the statistical agencies. The challenge is to do so without violating the confidentiality of the persons, both U.S. and foreign, who are required to provide data to the Government on their business activity. Indeed, the accuracy of that data is dependent upon its absolute confidentiality and the longstanding principle that it is to be used only for statistical, rather than policy purposes.

With that in mind, Mr. SHARP, Mr. HAMILTON, Mr. LENT, and I, set out to create legislation that met four primary tests. We sought to: First, remove existing prohibitions on sharing data for statistical purposes between the primary statistical agencies—the Bueaus of the Census, Economic Analysis, and Labor Statistics—second, ensure national treatment for foreign investors and strict confidentiality for all investors; third, create an annual single-point reference report on foreign investment similar to other that have proven so useful in other areas of economic activity; and fourth, last but not least, provide Congress with the confidence that the Government's aggregated data on foreign investment was complete, useful, and reliable.

To accomplish the last goal, we provide narrowly defined access to the data for GAO to ensure a responsible legislative branch review of the annual Department of Commerce report. Importantly, however, the GAO access created by this bill does not, either in letter or intent, endanger the integrity of the traditionally statistical agencies. We do not seek, nor do we endorse, direct congressional or public access to the raw data.

Under the bill, the Comptroller General and those officers and employees authorized to have access to the confidential data are under the same oaths, rules, and penalties that are currently in force at the agency maintaining the data. In the case of GAO personnel accessing data at the Census Bureau, they are sworn in under Title 13, Section 23(c) of the U.S. Code as "temporary employees."

Further, the bill requires that the Comptroller General, before publishing any report for which confidential data may have been accessed by GAO personnel, first submit the report to the agenices maintaining the data for prior review. That review is limited to assuring that any data or tables in GAO reports do not reveal individually identifiable information or data. The prior review process is created to serve only to protect confidentiality; in no case may an agency use prior review to effectively censor GAO's analysis or conclusions.

Let me point out, however, that our bill strictly ensures that information collected by the Bureaus of Census, Economic Affairs, and Labor Statistics will continue to be used only for statistical, rather than regulatory, purposes. The bill explicitly provides that GAO shall not "combine, match or use . . . individually identifiable data . . . with any other individually identifiable information that is not collected by such statistical agencies."

That prohibition is critical to assuring survey respondents that the information they furnish for statistical and analytical purposes will not be cross-tabulated by duly authorized GAO personnel who may work with both statistical and regulatory types of confidential data.

Administration officials have contributed greatly to the evolution of this section from its first drafts and I thank them for their diligence and commitment.

Some may ask why we need a better foreign investment policy at all. But, whether one takes the view that foreign direct investment is beneficial or harmful, we have a right—in fact the responsibility—to better understand the capital flows in our economy and how they are shaping our future.

For a society that collects mountains of data from businesses, we learn disturbingly little from it. I recall a meeting 2 years ago between the House Auto Parts Task Force, including my good friends, SANDY LEVIN and MARCY KAPTUR, and Department of Commerce officials. Commerce gave us a report, in glowing terms, of how foreign auto parts makers were establishing facilities in the United States and how part exports were on the rise. But, we asked them, are the new plants creating net new jobs or simply displacing jobs in other regions of the United States? The answer was, we don't know. We asked them what portion of parts exports were coming from the new foreign-owned parts transplants. Again, the answer was, we do not know.

We in the Auto Parts Force were stunned. How could our Government make rational trade policy decisions when we could not even accurately describe how any sector was being transformed by changing global economic relationships?

As I learned more about how U.S. statistical agencies operate, I realized the problem lay as much with statutory restraints as with bureaucratic ambivalence. The major statistical bureaus were each created for specific, narrowly defined purposes which today constrain their ability to help use gain information on related, contemporary concerns. For example, the Bureau of Economic Analysis may do an adequate job preparing national income account analyses, one of its primary statutory functions. However, because BEA rigidly classifies a business establishment by its "primary economic activity," it is unable to provide truly accurate studies of narrow industry sectors.

Thus, all the U.S. economic activity of a multinational foreign-owned conglomerate—which might include banking, real estate management, auto assembly, and importation of consumer electronics, autos, and machine tools—would be classified under a single heading of wholesale trade. If that foreign-owned establishment then acquired a U.S. chemical manufacturer, the new chemical subsidiary's output would still be lumped under wholesale trade. Meanwhile, while the Bureau of the Census could accurately differentiate between the conglomerate's different activities, it could not classify the nationality of its ownership as BEA could.

In short, the data is there if we are willing to allow it to be emerged and analyzed in a meaningful way. Our bill provides that and, moreover, requires an annual report to present an overview of what role foreign investment plays in specific industries. And it does so without requiring additional information from either foreign or U.S. businesses and without endangering the confidentiality of that information in any way.

Mr. Speaker, the heated past battles over this issue have only served to obscure a legitimate issue that knows no party lines. We have brought forth a responsible bill that I believe will give us the knowledge we need to prosper in an increasingly complex global marketplace and I urge its passage.

Mr. WALGREN. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, today we are considering a bill that will, in part, direct statistical agencies of the Federal Government—including the Census Bureau—to share certain information for the purpose of improving published reports on foreign direct investment in the United States.

After consulting with the bill's sponsors and after reviewing the many changes that were made in the bill since its introduction, I am satisfied that S. 2516, as amended, will both improve published reports and protect the confidentiality of individual responses collected through surveys for statistical purposes.

We have heard from the bill's sponsors about what the legislation will accomplish. I would like to take a few minutes to talk about what this bill is not designed to do.

First, S. 2516, as amended, does not invite or allow the General Accounting Office to become a competing statistical agency.

It allows GAO limited access to Federal statistical data on foreign direct investment, so that the GAO might examine and analyze the information, evaluate its adequacy, and assess the

data collection methodologies used by our statistical agencies with respect to foreign direct investment.

In exercising that limited access, GAO employees must follow the existing procedures set forth by the collecting agency, with respect to individually identifiable information.

For example, in the case of information collected by the Census Bureau, GAO employees must be sworn to uphold the confidentiality provisions of title 13, United States Code. They would be subject to the penalties for violating those provisions under title 13.

Second, under this bill, GAO cannot disclose any information that can be associated with, or otherwise identify—directly or indirectly—any individual or business establishment or enterprise.

Before GAO can publish any report required by this bill, the statistical agencies must verify that no individual or business can be identified through the report.

Third, GAO may not remove any confidential data from the agency where it is maintained. In the case of the Census Bureau, this provision mirrors the long-standing practice followed by sworn employees of the agency.

I am grateful for the sensitivity of the sponsors of this bill to the importance of ensuring the strict confidentiality of, and carefully defined access to, information collected for statistical purposes.

While compliance with Federal statistical surveys is mandatory in many cases—including the decennial census—the thoroughness of the surveys depends, in large measure, on voluntary compliance by the individual or business respondents.

My extensive review of census operations indicates that many people simply do not believe that their individual responses to surveys will remain confidential.

Therefore, it is imperative that we protect the confidentiality of data by controlling access to, and use of, that data to the greatest extent possible, as necessary to assure that it can be used only for statistical purposes.

Mr. Speaker, in the time I have remaining, I would like to engage the sponsor of the Foreign Direct Investment and International Financial Data Improvements Act, Mr. SHARP, in a brief colloquy, regarding his intent with respect to maintaining the confidentiality of survey responses.

Is my understanding correct that it is our intent to protect fully the confidentiality of information furnished by business establishments and enterprises operating in the United States.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I am happy to yield to the gentleman from Indiana.

Mr. SHARP. Yes. In every section of the bill in which data are being exchanged between Federal agencies, the rules governing confidentiality at the originating agency are placed into force as for those duly authorized personnel at the receiving agency.

No data furnished by a respondent may be published from which one could infer the identity of the respondent supplying that data.

□ 2100

Mr. SAWYER. With regard to the exchange of information collected by the Census Bureau and the Bureau of Economic Analysis, how does your bill ensure that confidentiality of the disaggregated data will be maintained?

Mr. SHARP. All duly authorized Federal officers or employees accessing proprietary business data at the Census Bureau are required to be sworn in under the provisions of section 23(c) of title 13, United States Code. The bill also raises the civil and criminal penalties on those who violate confidentiality requirements, or those who unlawfully obtain such information.

Mr. SAWYER. Mr. Speaker, there are several additional questions concerning provisions of this bill that I believe are important to clarify for purposes of legislative history.

Mr. RITTER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. GILMAN], ranking member of the Committee on Post Office and Civil Service.

Mr. GILMAN. Mr. Speaker, I rise in strong support of S. 2516, the Foreign Investment Policy Improvement Act of 1990.

Mr. Speaker, S. 2516 represents a bipartisan effort that would improve the quality of Federal data on foreign direct investment in the United States. As member of the Foreign Affairs Committee and as the ranking minority member on the Post Office and Civil Service Committee, which has jurisdiction over the Census Bureau, I am pleased to inform my colleagues that this bill maintains and strengthens the confidentiality provision fundamental to the Census Bureau's ability to collect accurate data.

The bill will allow us to make better use of data already collected by our Federal statistical Agencies without compromising the confidentiality of that information. S. 2516 has been developed with the assistance of the administration and the business community and is supported by the National Association of Manufacturers, the U.S. Chamber of Commerce, the Association for International Investment, and the United Auto Workers Union.

I commend the key players in bringing about this bill, the gentleman from Indiana [Mr. SHARP], the gentleman from Indiana [Mr. HAMILTON], the gentlelady from Connecticut [Mrs. JOHNSON], and the gentleman from New York [Mr. LENT].

Accordingly, Mr. Speaker, I urge my colleagues to join in supporting this important legislation.

Mr. RITTER. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I neglected to thank our colleague, the chairman of the Subcommittee on Census and Population, the gentleman from Ohio [Mr. SAWYER] whose cooperation has made it possible for Members to expeditiously consider this. He and his staff were very careful to make sure that we were maintaining the tradition of the American law and the confidentiality. We appreciate the gentleman's help and cooperation.

Mr. HAMILTON. Mr. Speaker, as foreign ownership of U.S. businesses has grown from $50 to $400 billion over the last 10 years, it has become more controversial. Unfortunately, we have lacked appropriate information on the effects of foreign investment. Such information would be helpful as the administration and Congress consider policies affecting foreign investment and such issues as national security or research and development.

The bill before us would redress this lack of information. For the first time, we will have detailed information on the precise industries in which foreign investment is occurring. For individual industries, we will learn the level of employment, wages, types of jobs, sales share, investment, and value added for foreign-owned firms. This information will be drawn from general surveys of all of American businesses so that direct comparisons with American-owned firms can be made.

This bill represents the successful efforts of many people. Chairman WALGREN provided a prompt hearing and encouragement that set the stage for today's bill. Congressman LENT played a key role in reaching a consensus on this bill. Many elements in this bill derive from H.R. 4520 which Congressman SHARP, Congresswoman JOHNSON, and I, worked to develop. Other elements derive from the administration's bill introduced by Congressman LENT and Senator EXON. Still other elements come from bills by Senator MURKOWSKI. Finally, negotiations among the sponsors of these bills and the administration have brought many refinements to the bill.

We all agreed at the outset that the Bureau of Economic Analysis and the Bureau of the Census should combine the strengths of their two data bases regarding foreign investment. This would allow accurate and detailed analysis of foreign investment by industry that cannot be done. However, that is a project that will not bear fruit until 1992. We need better information on foreign investment sooner than that.

To generate useful information as early as next year, the bill before us includes three additional sources of information: the industry experts at the Commerce Department, the statisticians at the Bureau of Labor Statistics, and the analysts at the General Accounting Office.

First, starting next spring, the Commerce Department will publish an annual report on the performance of foreign investment in individual industries. Among the contributors to the report would be the many industry experts in the Department's International Trade Administration. The report's authors would draw on all available information within the U.S. Government, in the private sector, and in foreign government statistics.

The annual Commerce Department industry report on foreign investment should improve over time. By the second report, the new statistical information from the census and the BLS should become available. In addition, the GAO critiques of the Commerce report for the first 3 years should lead to better reports. Finally, Congress will have an opportunity to shape future reports as committees request that the Secretary testify on the report.

Second, the Bureau of Labor Statistics would produce two statistical reports annually. The first would provide employment and average wages for foreign-owned firms by narrow industry category and by region of the country. The second would provide detailed breakdowns of the occupational structure of foreign-owned firms. Together, these reports would provide answers to some of the most controversial questions about foreign investment: What kinds of industries and what kinds of jobs are most affected by foreign investment?

Third, the General Accounting Office would, in addition to the annual report on the Commerce report, be authorized to produce ad hoc anaytical reports using data created by this legislation. Great care went into crafting the legislation to prevent any compromise of the confidentiality of data at the statistical agencies. GAO access to these data should enhance its understanding as it prepares studies on particular industries or specific topics concerning foreign investment.

This legislation will not put an end to the controversy about foreign investment, nor even answer all the economic questions raised about foreign investment. However, it will provide comprehensive statistics for many questions on which debate now consists of competing anecdotes and assumptions.

For that reason, I urge the adoption of this legislation.

Mr. LENT. Mr. Speaker, I rise today in support of S. 2516, a bill identical to the amendment in the nature of a substitute to H.R. 4520, the Foreign Direct Investment and International Financial Data Improvement Act, of which I am an original sponsor.

This bill was unanimously approved by the Energy and Commerce Committee and the Committee on Foreign Affairs, and is the result of a strong bipartisan effort in both the House and Senate. The Senate bill passed last Friday morning, and with action in the House today, we can send this important legislation to the President.

This bill will greatly strengthen the data base on foreign direct investment in this country. By authorizing an exchange of data collected by the Bureau of Economic Analysis, the Bureau of the Census, and the Bureau of Labor Statistics, the legislation will provide quality information to those with responsibility for policy on foreign direct investment, without imposing any new reporting burden on business.

The confidentiality of proprietary business information is strictly maintained under this legislation, which is supported by the National Association of Manufacturers, the U.S. Chamber of Commerce, and the United Auto Workers.

By passing this legislation, Congress takes a step beyond the lengthy and often contentious debate that has surrounded the issue of foreign direct investment data collection. My position in that debate has always been clear: I welcome foreign investment, the jobs it brings, and the opportunities it creates.

I would like to congratulate my colleagues, Representatives PHIL SHARP, LEE HAMILTON, NANCY JOHNSON, and Senator JIM EXON. They and their staffs have worked closely with me in developing this legislation. The administration, likewise, has participated throughout the process and has given freely of their expertise.

Mr. Speaker, in view of the extraordinary demands on our time, I will not take more time, but will submit extended remarks for the RECORD. I urge my colleagues to support this important legislation today.

Mr. MCMILLEN of Maryland. Mr. Speaker, today I rise in support of S. 2516, the Foreign Investment Policy Improvement Act.

This is not the bill that many of the original supporters of direct foreign investment disclosure would have preferred to see. Yet, it is the best that we can do at the present time.

For example, S. 2516 does not assign one single agency to collect data on foreign investment in the United States. Yet this legislation does permit for the first time the Census Bureau, the Bureau of Labor Statistics, and the Bureau of Economic Analysis to exchange data and information with each other. This will provide for a better system of information on foreign investment in the United States than what we have at present. For example, at this time, much of the information that the Federal Government collects on foreign investment is innacurate and incomplete. Furthermore, much of the data that are maintained are kept secret from Congress. Under S. 2516, the Commerce Department will be required to issue annual reports to the Congress based on the gathering and comingling of information by the previously mentioned agencies.

In the past foreign investment disclosure legislation has been called protectionist, and its opponents have claimed it would deter needed investment from overseas. Mr. Speaker, I am not questioning the need for nor the contribution that foreign investment has made to our economic growth. Some reports indicate that direct foreign investment has accounted for the creation of 2.5 million new jobs in the U.S. economy since the beginning of the 1980's. However, the bill before you is not protectionist. It proposes no new tariffs or quotas. It does not call for limits on foreign investments. This legislation requires only what is standard practice among the majority of our trading partners. The reporting of purchases of sizable assets.

I believe the time has come for adequate information to be made available on the levels of foreign investment in our economy. Not for the purpose of promoting protectionism or antiforeign sentiment, but to eliminate misconceptions about the role that foreign ownership plays in our economy and to ensure that Congress has the means to make sound policy about our Nation's economic future. I urge my colleagues to vote for the passage of this legislation.

Mr. RITTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAWYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PARKER). The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and pass the Senate bill, S. 2516, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2516, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

VEHICULAR NATURAL GAS JURISDICTION ACT OF 1990

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5707) to limit the jurisdiction of the Federal Energy Regulatory Commission over local distribution company wholesalers of natural gas for ultimate consumption as a fuel in motor vehicles.

The Clerk read as follows:

H.R. 5707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Vehicular Natural Gas Jurisdiction Act of 1990".

SEC. 2. FINDINGS.

The Congress recognizes that—

(1) natural gas is a viable motor vehicle fuel;

(2) markets for natural gas a vehicular fuel should be open and robust;

(3) institutional barriers to an equal opportunity for full market development of natural gas as a vehicular fuel should be minimized; and

(4) regulation under certain provisions of the Natural Gas Act is a potential restraint on fuel market development of natural gas as a vehicular fuel.

Therefore, it is in the national interest to ensure an equal opportunity for natural gas to develop as a vehicular fuel and to remove aspects of Natural Gas Act regulation that

may inhibit the development of natural gas in vehicle fuel markets.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "VNG" means natural gas for ultimate use as a fuel in a motor vehicle, and includes compressed natural gas;

(2) the term "Motor Vehicle" includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat; and

(3) all terms defined in section 2 of the Natural Gas Act shall have the same meaning as stated therein.

SEC. 4. PERSONS WITH HINSHAW EXEMPTIONS.

For purposes of section 1(c) of the Natural Gas Act, in the case of any sale of VNG, such VNG shall be deemed to be "ultimately consumed" within the State in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another State.

SEC. 5. PERSONS WITH SERVICE AREA DETERMINATIONS.

For purposes of the Natural Gas Act—

(1) WHOLESALES.—In the case of a wholesale of VNG by the holder of a service area determination under section 7(f) of the Natural Gas Act, such holder shall be subject to the exclusive jurisdiction of the State commission in the State in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another State.

(2) TRANSPORTATION.—In the case of transportation of VNG by the holder of a service area determination under section 7(f) of the Natural Gas Act, such VNG shall for purposes of section 7(f)(2) of the Natural Gas Act be deemed to be "consumed" within the State in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another State.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5707 was introduced by our colleague, the gentleman from Louisiana [Mr. TAUZIN], and it solves a technical problem that could impede greater use of natural gas-powered vehicles in this country.

As a market in cars and trucks powered by compressed natural gas [CNG], grows, refueling stations will spread, especially in large urban areas. Because some of those cars will cross State lines, the Federal Energy Regulatory Commission may have to begin to regulate local gas utilities that will sell CNG at the stations.

This bill simply solves a technical problem. No one certainly intended that we would end up, because of these compressed natural gas vehicles, having the local utility that sells the gas for the car come under Federal regulation. We certainly do not want a technical problem with the Federal law, which could never have been envisioned, interfering with the development of these cars.

Mr. Speaker, what is really at stake here is the need in this country to move from petroleum fuels into fuels that help substitute for our dependence on foreign oil, and also help clean up our environment.

The House and Senate will soon be considering the newly agreed Clean Air Act amendments, which are going to accelerate the use of alternative fuels in place of gasoline, including cleaner natural gas. It is imperative that we make sure that we have cleared away the underbrush of regulations of this sort which could possibly impede that. We thank our colleague from Louisiana [Mr. TAUZIN] for bringing this to our attention. He has been a staunch advocate of the effort to bring these natural gas cars into the marketplace, and he has widely recognized the hurdles we have to get over. This is what we intend to solve tonight.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5707 is a noncontroversial bill to clarify that the Federal Energy Regulatory Commission does not have jurisdiction over certain sales by a local distribution company of compressed natural gas to be used as a vehicle fuel. This unintended result could occur if the vehicle fueled with CNG crosses State lines.

H.R. 5707 is the House companion measure to S. 3085, which has already cleared the Senate Committee on Energy and Natural Resources. Clarifying this jurisdictional matter will eliminate a potential obstacle to greater use of natural gas as a clean burning alternative fuel.

One of the central features of the Clean Air Act Amendments of 1990, as contained in the conference report to be considered later this week, is a requirement that fleets of 10 or more vehicles in certain ozone and carbon monoxide nonattainment areas begin to purchase a portion of their new vehicles as ones which run on clean fuels. Natural gas is one of the cleanest burning fuels and is well placed to play a major role in the Clean Fleet Program. Natural gas could also play a larger role in fueling nonfleet vehicles as well. Thus, this technical bill on regulatory jurisdiction over sales of natural gas for use as a vehicle fuel will help us implement the forthcoming clean air bill in an orderly manner.

Mr. SHARP. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, H.R. 5707, the Vehicular Natural Gas Jurisdiction Act of 1990, is legislation to limit the Federal Energy Regulatory Commission's jurisdiction over local distribution companies who wish to sell natural gas for vehicular consumption. I introduced this legislation, along with my colleagues, MIKE ANDREWS, MIKE SYNAR, and BOB WISE, in order to dispel concerns that LDC's may, under certain conditions, be hamstrung in their marketing of natural gas as an automotive fuel.

As the number of alternative-fueled vehicles grows with the enactment of clean air legislation, natural gas is likely to be one of the fuels of choice for vehicle fleets or passenger automobiles.

The mayor of my hometown in Thibodaux, Warren Harang, Jr., drives a natural gas vehicle and can attest to not only its cleanliness but its economy. It is a cheaper, cheaper fuel; in fact, a better performing fuel for the engine.

Local distribution companies are in a position to market that fuel directly to the public; however, regulatory ambiguity may serve as a deterrent to those companies wishing to sell in this new marketplace. This legislation will end that confusion and allow Americans to utilize the existing infrastructure of distribution companies for the sale of natural gas as an automotive fuel.

Under the Natural Gas Act, local distribution companies may not have the authority to provide compressed natural gas [CNG] to the alternative-fueled vehicles. Today, State and local regulators control local distribution and retail sale of natural gas. FERC jurisdiction extends to the interstate transportation and wholesale sale of natural gas. However, it is unclear under section 1(c) of the Natural Gas Act as to whether compressed natural gas in a vehicle which is driven out of that State and "ultimately consumed" in another is regulated by the State or the FERC. Other potential problems, such as those raised by section 7(f) of the Natural Gas Act regarding the sale of natural gas to a CNG vendor for retail resale and the question of whether the LDC engaged in a wholesale function, will be solved by the passage of H.R. 5707.

This legislation resolves section 1(c) ambiguity by exempting LDC's which market to vehicles, wherever those automobiles "ultimately consume" that CNG, from FERC jurisdiction. Further, H.R. 5707 answers the sale-for-resale question by preserving the existing exemption for LDC's which sell to CNG retail outlets.

It is important to recognize that this legislation does not confer any advantage to natural gas, nor does it make any new exemptions for the regulation of natural gas companies. H.R. 5707

clarifies that these entities need not forfeit the exemptions, already provided for by law, simply because they may sell to vehicles, a situation the law had not anticipated.

Let me thank the chairman of the subcommittee, Mr. SHARP, and the ranking member of the subcommittee, Mr. MOORHEAD, for their attention and consideration of this simple but important piece of legislation, as well as the chairman and ranking member of the full committee, for their assistance in moving this bill expeditiously.

□ 2110

H.R. 5707 simply clarifies that these entities may not forfeit the exemption already provided by law simply because they may sell two vehicles, a situation the law simply had not anticipated.

Mr. Speaker, I want to thank the chairman of our subcommittee, the gentleman from Indiana [Mr. SHARP], and the ranking member of the subcommittee, the gentleman from California [Mr. MOORHEAD] for their attention and consideration to this simple, but awfully important piece of legislation, and I want to commend the chairman of our full committee, the gentleman from Michigan [Mr. DINGELL] and the ranking member, the gentleman from New York [Mr. LENT] for their assistance in moving this bill so expeditiously.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PARKER). The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 5707.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SOLAR, WIND, WASTE, AND GEOTHERMAL POWER PRODUCITON INCENTIVES ACT OF 1990

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4808) to encourage solar, wind, and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978, as amended.

The Clerk read as follows:

H.R. 4808

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

"SECTION 1. SHORT TITLE.

This Act may be cited as the "Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990".

"SEC. 2. PURPA AMENDMENT.

Section 210(e)(2) of the Public Utility Regulatory Policies Act of 1978 is amended by inserting "(other than a qualifying small power production facility which is an eligible solar, wind, waste, or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)" after "facility" where it first appears.

"SEC. 3. FEDERAL POWER ACT AMENDMENTS.

"(a) Section 3(17)(A) of the Federal Power Act is amended by inserting "a facility which is an eligible solar, wind, waste, or geothermal facility, or" after " 'small power production facility' means".

"(b) Section 3(17) of such Act is further amended by inserting at the end thereof the following new subparagraph:

"(E) 'eligible solar, wind, waste or geothermal facility' means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources, and which would otherwise not qualify as a small power production facility because of the power production capacity limitation contained in subparagraph (A)(ii); but only if—

"(i) either of the following is submitted to the Commission not later than December 31, 1994:

"(I) an application for certification of the facility as a qualifying small power production facility; or

"(II) notice that the facility meets the requirements for qualification; and

"(ii) construction of such facility commences not later than December 31, 1999, or, if not, reasonable diligence is exercised toward the completion of such facility taking into account all factors relevant to construction of the facility.

"SEC. 4. FERC REGULATIONS.

"Unless the Federal Energy Regulatory Commission otherwise specifies, by rule after enactment of this Act, any eligible solar, wind, waste, or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act as amended by this Act), which is a qualifying small power production facility (as defined in subparagraph (C) of section 3(17) of the Federal Power Act as amended by this Act)—

"(1) shall be considered a qualifying small power production facility for purposes of part 292 of title 18, Code of Federal Regulations, notwithstanding any size limitations contained in such part, and

"(2) shall not be subject to the size limitation contained in section 292.601(b) of such part.".

SEC. 3. LICENSING OF URANIUM ENRICHMENT FACILITIES.

(a) DEFINITION OF PRODUCTION FACILITY.—Section 11 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended by adding at the end the following new sentence: "Except with respect to the export of a uranium enrichment production facility, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.".

(b) REGULATION.—Section 161 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(b)) is amended by striking the period at the end of the section and adding the following: "; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership, or possession of any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;".

(c) OWNERSHIP OF PRODUCTION FACILITIES.—Section 41 a.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2061(a)(2)) is amended by striking "section 103 or 104" and inserting "under this Act".

(d) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by inserting "or" after the semicolon at the end of paragraph (3); and

(3) by adding after paragraph (3) the following new paragraph:

"(4) any uranium enrichment facility licensed by the Nuclear Regulatory Commission.".

(e) Uranium Enrichment Facilities.—Chapter 16 of the Atomic Energy Act of 1954 (42 U.S.C. 2231 et seq.) is amended by adding at the end the following new section:

"SEC. 193. LICENSING OF URANIUM ENRICHMENT FACILITIES.

"(a) ENVIRONMENTAL IMPACT STATEMENT.—

"(1) MAJOR FEDERAL ACTION.—The issuance of a license under sections 53 and 63 for the construction and operation of any uranium enrichment facility shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) TIMING.—An environmental impact statement prepared under paragraph (1) shall be prepared before the hearing on the issuance of a license for the construction and operation of a uranium enrichment facility is completed.

"(b) ADJUDICATORY HEARING.—

"(1) IN GENERAL.—The Commission shall conduct a single adjudicatory hearing on the record with regard to the licensing of the construction and operation of a uranium enrichment facility under sections 53 and 63.

"(2) TIMING.—Such hearing shall be completed and a decision issued before the issuance of a license for such construction and operation.

"(3) SINGLE PROCEEDING.—No further Commission licensing action shall be required to authorize operation.

"(c) INSPECTION AND OPERATION.—Prior to commencement of operation of a uranium enrichment facility licensed hereunder, the Commission shall verify through inspection that the facility has been constructed in accordance with the requirements of the license for construction and operation. The Commission shall publish notice of the inspection results in the Federal Register.

"(d) INSURANCE AND DECOMMISSIONING.—

"(1) The Commission shall require, as a condition of the issuance of a license under sections 53 and 63 for a uranium enrichment facility, that the licensee have and maintain liability insurance of such type and in such amounts as the Commission judges appropriate to cover liability claims arising out of any occurrence within the United States, causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of chemical compounds containing source or special nuclear material.

"(2) The Commission shall require, as a condition for the issuance of a license under sections 53 and 63 for a uranium enrichment facility, that the licensee provide adequate assurance of the availability of funds for the decommissioning (including decontamination) of such facility using funding mechanisms that may include, but are not necessarily limited to, the following:

"(A) Prepayment (in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities).

"(B) Surety (in the form of a surety or performance bond, letter of credit, or line of credit), insurance, or other guarantee (including parent company guarantee) method.

"(C) External sinking fund in which deposits are made at least annually.

"(e) NO PRICE-ANDERSON COVERAGE.—Section 170 of this Act shall not apply to any license under section 53 or 63 for a uranium enrichment facility constructed after the date of enactment of this section.".

SEC. 4. RIGHT-OF-WAY-USE.

The Harold T. (Bizz) Johnson California-Pacific Northwest Intertie line authorized by Public Laws 98-360 and 99-88 shall, within Contra Costa County, California, utilize the existing right-of-way and facilities presently owned and operated by the Western Area Power Administration as proposed in the plan submitted to Congress on December 24, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentelman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4808 will encourage the greater use of renewable energy by lifting the size limitations on selected renewable and alternative energy technologies under the Public Utility Regulatory Policies Act [PURPA].

When PURPA was enacted in 1978, it placed limits on the size of renewable energy facilities, such as wind, solar, and geothermal energy, that could qualify for exemption from regulation as a utility. This exemption was appropriate because under PURPA these technologies could only sell their power to utilities, not to retail customers.

Since that time, the technologies have greatly improved and costs have come down. Today even larger sized plants are technologically feasible and significantly cheaper.

One solar developer, for example estimates that allowing larger plants can help them drop their costs by 2 cents per kilowatt hour. Similar savings are possible in the wind and geothermal industries as well. Lifting this size limitation therefore will allow renewable energy to make a larger contribution to our national energy supply at a lower cost.

Passage of this bill is extremely timely. Oil prices have risen in recent months to the levels experienced when we first passed PURPA in 1978. It is as clear now as it was then that this country needs to wean itself from imported sources of energy.

Second, Congress this week will enact the first sweeping reform of the Clean Air Act since the 1970's. It is appropriate that at some time we unshackle the technologies that can lead to the ultimate solution to clean air.

In addition, at a time when we are wrestling with a very difficult budget deficit, this amendment has no negative Federal, State, or local budget impact, according to the Congressional Budget Office. This will lower the costs of these technologies without costing the taxpayers a dime.

We are making two changes in the bill today from the version that was reported from committee. These changes will bring it into close conformance with the Senate verison, S. 2415, which was sponsored by Senator DOMENICI of New Mexico.

First, we added waste technologies to the list of technologies that would have their size limitations lifted. We specifically wanted to include energy from waste coal and scrap tires. Generating power from these domestic waste materials has a number of environmental benefits. It reduces large unsightly tire piles and waste coal piles that blight the landscape. It also reduces air pollution from uncontrolled fires at these piles and water pollution from rainwater running off the waste coal piles.

The second change we made was to limit to 4 years the period during which these changes will be in effect. This brought us into closer conformance to the Senate bill and gives us an opportunity in the future to review this decision.

In addition to the renewable energy section, this bill contains a variation of a provision that has been passed on numerous occasions by the Senate relating to the licensing of uranium enrichment facilities.

Under current law, such facilities would be treated as nuclear power reactors, but the NRC has suggested that such treatment is inappropriate, since there are a totally different set of circumstances involved at these plants. At the time the Atomic Energy Act was written the only enrichment facilities were operated by the Government and were unlicensed, and the licensing of private facilities was probably not contemplated.

The provision contained in this bill is a modification of the Senate bill that will, in my view, better protect the public health and safety than the original provision. Importantly, there will be an adjudicatory hearing prior to any construction of a facility. Construction cannot commence prior to the issuance of a license. An environmental impact statement will also be prepared prior to the completion of the hearing.

The provision establishes a procedure for licensing of an enrichment facility that is different from both the licensing of a nuclear powerplant and other materials licensees. The purpose of the provision is to recognize the fact that an enrichment facility is very different from a nuclear reactor. As such, the provision is not intended to establish any precedent relative to the licensing of nuclear powerplants.

I commend the hard work of my colleagues to fashion this compromise. It provides significant protections of the public not found in earlier versions of the bill.

The bill also includes an additional matter in the jurisdiction of the Interior Committee.

Let me indicate, Mr. Speaker, that what we did in 1978 was to take a major step forward, because one of the major hurdles to the generation of electricity by solar wind, geothermal, and biomass, was the fact that most of the electric utilities in this country, at that time were simply not interested in opening themselves up to these other forms of power production, and frankly, we had to break their monopoly power. That is what we did in 1978, along with seeing to it that industries that could generate electricity from their surplus heat could sell that power back into the grid of the local utility.

We broke that monopoly power and today most new electricity generated in this country is by virtue of cogeneration, a far more efficient technique, and by solar, wind, and geothermal production.

This legislation will help us advance as the technology has advanced. It is very significant, and indeed we expect to see within the year increased solar production. It is a midterm policy change that I think is extremely important, even though it is noncontroversial.

Mr. Speaker, I would urge my colleagues to support this legislation. We know there is broad based support for going ahead with renewable energy and we want to make sure that the marketplace out there is moving as vigorously as possible, especially given the dramatic new attention given to our energy needs at this time.

I might say, we started on this legislation long before Saddam Hussein decided to become so reckless, but fortunately we are able to act o it tonight, thanks to the great cooperation of my

colleague, the gentleman from California [Mr. MOORHEAD], who has been a staunch proponent of solar power and whose State takes the lead in many of these technologies, and I certainly appreciate the gentleman's help.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 4808 which will lift the size limits on geothermal, wind, and solar energy projects. In 1978, when the Public Utility Regulatory Policies Act was enacted, geothermal, wind, and solar energy technologies were experimental. Size limits made sense. Now they are outdated.

In my own State of Louisiana, for example, geothermal energy met 8.1 percent of California's electricity needs at the end of 1987. One company alone—California Energy—is currently providing enough electricity to meet the needs of over a quarter of a million Los Angeles homes.

Similarly, solar energy is no longer experimental. I represent a district in California which benefits from over 90 percent of the solar electricity generated worldwide. Nearly 300 megawatts of solar electric energy are made available to customers of the Southern California Edison system. This solar power is available during daylight periods, a time of day when the demand for electricity is at its peak and air pollution problems are most severe because of smog formation. Every megawatt of solar energy enables us to burn that much less fossil fuel, meeting the electricity needs of Los Angeles without adding to our already severe air pollution problems.

Given the proven success of these environmentally safe sources of electricity, the 80-megawatt restriction no longer makes sense. Thus, I urge my colleagues to support passage of this legislation.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, on behalf of the Interior Committee I rise in support of H.R. 4808. The floor substitute of this legislation contains a provision concerning the licensing of private uranium enrichment facilities which falls under the jurisdiction of the Interior Committee.

The Subcommittee on Energy and Environment conducted a hearing on the uranium enrichment licensing issue on March 6, 1990. This hearing was conducted in response to the Senate passage of a uranium licensing amendment sponsored by Senator JOHNSTON in November 1989, which was attached to H.R. 2783, a public lands measure.

Under current law, a private uranium enrichment facility must be licensed under 10 CFR 50, the same process used to license a nuclear power plant. To date, no private enrichment facilities have been constructed in the United States. Under the original Johnston amendment, a private uranium enrichment facility would have been licensed under 10 CFR 40, the process used to license nuclear materials licensees such as facilities that convert uranium into uranium hexafluoride.

The uranium licensing provisions in H.R. 4808, are the product of lengthy negotiations between the Interior Committee and the Senate Energy Committee. It is a compromise between the original Senate language and the more rigorous procedures of current law. The committee believes this approach is justified because a uranium enrichment facility is far less hazardous than a nuclear reactor.

The compromise language provides for the following procedural safeguards that were not contained in the Senate-passed licensing amendment:

Provision for a mandatory full adjudicatory public hearing prior to the issuance of a combined construction/operation license.

Requirement that an environmental impact statement be completed prior to the issuance of a combined construction/operation license.

Requirement that the licensee maintain liability insurance to cover all liability claims related to the operation of the enrichment facility.

Requirement that the licensee provide assurance that funds are available for decommissioning and decontamination of the facility through either prepayment, surety or performance bond, or external sinking fund.

Requirement that the Commission verify through inspection that the facility has been constructed in accordance with its license before permitting operation of the facility.

The compromise bill also prohibits the Federal Government from providing any insurance subsidy to a private enrichment facility through the Price-Anderson Act. Under current law, the NRC has the discretion to provide Price-Anderson coverage to a private enrichment facility, but is not required to do so.

The committee believes that if private entrepreneurs desire to occupy the field of uranium enrichment, which is currently solely the province of the Federal Government, they, not Federal taxpayers, should bear the financial liability for their actions. In addition, the increased financial accountability created by private insurance is an economic incentive for the safe operation of private enrichment facilities.

The committee has accepted changes in the licensing requirements for enrichment facilities with the understanding that these changes have absolutely no affect, and establish no precedent, relating to the current requirements for nuclear plant licensing under part 50 or the new part 52 procedure. Because nuclear reactors are far more hazardous than enrichment facilities, a far more rigorous licensing process is necessary.

Mr. MOORHEAD. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 4808, the Solar, Wind, and Geothermal Power Incentives Act of 1990. And I would like to take this opportunity to commend the gentleman from Indiana [Mr. SHARP] and the gentleman from California [Mr. MOORHEAD] for their efforts toward a better energy policy for our Nation.

In order to address the serious energy problems of the day, our Nation must explore alternative forms of energy, a resource that we have underutilized. This legislation would amend the Public Utility Regulatory Policies Act of 1978 to remove the capacity limit on solar, wind, and geothermal energy facilities so that those larger producers may sell their power to utility companies.

Even today, we continue to rely on the use of petroleum byproducts as our major source of energy. These products were the first major source of energy in our modern age, however, it is becoming increasing apparent that the seemingly endless supply is finite, and production is no longer simple and inexpensive.

Therefore, for both economic and environmental reasons we must begin to seriously consider the use of alternative forms of energy. This legislation represents a major step toward making these three forms of alternative energy more economical for both the producer and the purchaser.

Accordingly, Mr. Speaker, I urge my colleagues to join in support of this legislation and in exploring the many benefits of alternative energy.

□ 2120

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from the State of Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I ask unanimous consent to revise and extend my remarks. I rise to speak in support of the legislation, introduced by the distinguished gentleman from Indiana, which will promote a cleaner environment while enhancing our energy independence. Passage of the Solar, Wind, and Geothermal Power Production Incentives Act will be a positive step toward reestablishing this country's position as a global leader in the development and use of renewable energy technology.

There has been a steady erosion of Federal commitment to the long-term

energy independence of America. The level of renewable research and development funding for this year was only about 15 percent of that spent in 1980. We have wasted energy. Worse still, we have wasted a decade that should have been spent developing clean renewable alternatives for our rapidly diminishing domestic oil reserves. Without a comprehensive and visionary energy policy—one that puts us on the path to energy independence—we lose the power to control our economic destiny. We have been lulled by cheap fossil fuels—to the detriment of the entire planet's environmental well-being.

There are numerous obstacles to overcome on the road to safe, clean, and dependable energy. Federal leadership is a must. Research dollars will be required in amounts significantly greater than presently allocated. American ingenuity will be called on to develop competitive new technologies. The time is now. Until the Persian Gulf conflict, we had nearly forgotten how volatile the world energy market could be. This devastating blow to our economy and trade balance is but a spike in an otherwise long-term slide into foreign energy dependence. It is nothing short of submission to terrorism for America to remain reliant on foreign oil. We must free ourselves of this reliance on foreigners and develop renewable energy technologies.

The neglect of a national energy policy in light of our presence in the Persian Gulf is disheartening. While our young men and women risk their lives, we at home should consider how we can alter our energy habits to help defeat economic terrorism. A decade of spending cuts has undermined the development of alternate energy technology, and we are in a vulnerable position to exploit renewables as a short-term solution to the energy crisis we now face.

I urge this body to accept this piece of legislation and to reaffirm Federal commitment to renewable energy R&D. I also call upon the administration to develop an energy policy that will safeguard the availability of energy for generations to come.

Mr. MOORHEAD. Mr. Speaker, I want to especially thank the gentleman from Indiana [Mr. SHARP], the chairman of our subcommittee, for his efforts on this legislation, which is so important to our area in southern California, and to my district.

Mr. SHARP. I thank the gentleman.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. I thank the gentleman for yielding.

Mr. Speaker, I want to thank Chairman SHARP and Mr. MOORHEAD for their foresight in introducing this legislation and bringing it before the House this week.

A number of years ago I served on the special ad hoc energy committee under President Carter, and we in the House and Senate at that time, charted a course in which we would use alternative sources of energy so that we would reduce our reliance upon the fossil fuels which are so finite and which today are so expensive.

Unfortunately, we lost our way, and we sort of deviated from the course. Now I am pleased to see that Congress is again, back on that course, to adopt the sources of energy that have been used for centuries by mankind; solar, in the Yucatan and Peru; wind energy in ancient Asia Minor, and the Nile. These types of sources of energy and geothermal, which has newly come on the scene, are so important that we want to finally reduce our total reliance upon fossil fuels, and particularly, imported oil. We have got to get back to incentives in the United States of America in producing our own energy.

Solar, wind, and geothermal are the path to follow.

Mr. MARKEY. Mr. Speaker, I rise in strong support of the legislation before us today. This legislation pulls together several pending energy measures, the most important one of which is the Solar, Wind, and Geothermal Power Production Incentives Act of 1990, which I coauthored with chairman PHIL SHARP.

H.R. 4808 will remove the size limitations on renewable energy projects instituted by PURPA—the Public Utility Regulatory Policies Act of 1978—and allow these powerplants to reach their most efficient and cost-effective scale.

PURPA has been extremely successful in increasing the utilization of renewable resources—such as solar, wind, and geothermal energy—and lowering the price of power generated from these sources. Solar thermal power has dropped from a production cost of 24 cents per kilowatthour [kWh] in 1984, to a cost of about 8 cents per kWh today. Wind and geothermal power production costs have also decreased thanks to PURPA, down to about 7 cents per kWh for wind and 5 cents per kWh for geothermal.

Just as impressively, the reliability factors for renewable technologies has steadily improved. Geothermal powerplants, for example, have had an average availability factor of 76.9 percent. This compares quite favorably to nuclear power plants—which have had an average availability factor or 64.3 percent, and 10 of which have had lifetime capacity factors of less than 40 percent.

But renewable facilities that seek qualifying status under PURPA have been limited in size to 30 or 80 megawatts per project. No one seems to be sure why the size limit of 30 megawatts was first instituted in 1978. Perhaps its because such a size seemed gargantuan with respect to 1978 technologies.

But now PURPA's size limits are preventing significant economies of scale. In fact, Luz International, an Israeli-based developer of solar power in California, has estimated that its next generation of solar power technology can reduce their production costs from 8 to 6 cents per kWh if the size limit in PURPA is removed. Similar economies of scale can be realized for geothermal and wind power, once Federal law allows their projects to grow in size.

The slogan of the alternative energy investment has been "small is beautiful." But with the birth of a new generation of renewable energy technologies, it is apparent that big can be beautiful too.

The importance of this incentive for clean renewable energy is underscored this year, by the impending passage of the Clean Air Act reauthorization. Renewable energy can play a major role in meeting our clean air goals while providing reliable and affordable electricity if barriers to growth are removed. Last year in California, the wind industry generated over 2 billion kilowatthours of electricity. Had this power been generated by coal-fired plants—even with the clean coal-burning technology—it would have been accompanied by more than 6,000 tons of sulfur dioxide emissions and 2 million tons of carbon dioxide.

Just this weekend the clean air conferees adopted an amendment that I authored with Representative CARLOS MOORHEAD that provides an incentive for utilities to pursue renewable energy in order to mitigate acid rain. That provision of the Clean Air Act, combined with today's bill, H.R. 4808, will provide a very important boost for our Nation's environment and energy independence.

I commend the chairman of the Energy and Power Subcommittee, Mr. SHARP, and the subcommittee's ranking member, Mr. MOORHEAD, for their leadership in this and other energy issues. I urge the passage of this bill.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PARKER). The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 4808, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to encourage solar, wind, waste, and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978.".

A motion to reconsider was laid on the table.

OCTANE DISPLAY AND DISCLOSURE ACT OF 1990

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5520) to amend the Petroleum Marketing Practices Act to require certification and posting for all liquid

automotive fuels, to provide the States more authority to enforce automotive fuel posting requirements, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Octane Display and Disclosure Act of 1990.".

SEC. 2. CERTIFICATION AND POSTING OF AUTOMOTIVE FUEL RATINGS.

(a) COVERAGE OF ALL LIQUID AUTOMOTIVE FUELS.—Section 201(6) of the Petroleum Marketing Practices Act (15 U.S.C. 2821(6)) is amended to read as follows:

"(6) The term 'automotive fuel' means liquid fuel of a type distributed for use as a fuel in any motor vehicle.".

(b) AUTOMOTIVE FUEL RATING.—Section 201 of such Act (15 U.S.C. 2821) is amended by adding at the end the following new paragraphs:

"(17) The term 'automotive fuel rating' means—

"(A) the octane rating of an automotive spark-ignition engine fuel; and

"(B) if provided for by the Federal Trade Commission by rule, the cetane rating of diesel fuel oils; or

"(C) another form of rating determined by the Federal Trade Commission, after consultation with the American Society for Testing and Materials (ASTM), to be more appropriate to carry out the purposes of this title with respect to the automotive fuel concerned.

"(18)(A) The term 'cetane rating' means a measure, as indicated by a cetane index or cetane number, of the ignition quality of diesel fuel oil and of the influence of the diesel fuel oil on combustion roughness.

"(B) The term 'cetane index' and the term 'cetane number' have the meanings determined in accordance with the test methods set forth in the American Society for Testing and Materials standard test methods—

(i) designated D976 or D4737 in the case of cetane index; and

(ii) designated D613 in the case of cetane number,

(as in effect on the date of the enactment of this Act) and shall apply to any grade or type of diesel fuel oils defined in the specification of the American Society for Testing and Materials entitled 'Standard Specification for Diesel Fuel Oils' designated D975 (as in effect on such date).".

(c) CONFORMING AMENDMENTS.—(1) Section 201 of such Act (15 U.S.C. 2821) is amended—

(A) in paragraph (1), by striking out "gasoline" and inserting in lieu thereof "fuel";

(B) in paragraph (2)—

(i) by striking out "Standard Specification for Automotive Gasoline" and inserting in lieu thereof "Standard Specification for Automotive Spark-Ignition Engine Fuel"; and

(ii) by striking out "D439" and inserting in lieu thereof "D4814";

(C) in paragraph (4)—

(i) by striking out "gasoline" the first place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'refiner' means any person engaged in the production or importation of automotive fuel.";

(E) in paragraph (11)—

(i) by striking out "octane" each place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(F) in paragraph (16, by striking out "gasoline" each place it appears and inserting in lieu thereof "automotive fuel".

(2) Section 202 of such Act (15 U.S.C. 2822) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (a) and (b), by striking out "gasoline' each place it appears and substituting in lieu thereof "fuel";

(C) in subsection (c)—

(i) by striking out "gasoline" each place it appears (other than the second place it appears) and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) in subsection (d), by striking out "octane" and inserting in lieu thereof "automotive fuel";

(E) in subsection (e)—

(i) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(ii) by striking out "gasoline's" and inserting in lieu thereof "fuel's";

(F) in subsections (f), (g), and (h), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel";

(G) in subsection (h), by striking out "octane requirement" each place it appears and inserting in lieu thereof "automotive fuel requirement"; and

(H) in the section heading, by striking out "OCTANE" and inserting in lieu thereof "AUTOMOTIVE FUEL RATING".

(3) Section 203 of such Act (15 U.S.C. 2823) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (b), and (c), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(C) in subsection (c)(3), by striking out "201(1)" and inserting in lieu thereof "201".

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall become effective at the end of the one-year period beginning on the date of the enactment of this Act.

(2) The Federal Trade Commission shall, within 270 days after the date of the enactment of this Act, prescribe rules for the purpose of implementing the amendments made in this section.

SEC. 3. INCREASED AUTHORITY FOR ENFORCEMENT.

(a) STATE LAW.—Section 204 of the Petroleum Marketing Practices Act (15 U.S.C. 2824) is amended to read as follows:

"RELATIONSHIP OF THIS TITLE TO STATE LAW

"SEC. 204. (a) To the extent that any provision of this title applies to any act or omission, no State or any political subdivision thereof may adopt or continue in effect, except as provided in subsection (b), any provision of law or regulation with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

"(b) A state or political subdivision thereof may provide for any investigative or enforcement action, remedy, or penalty (including procedural actions necessary to carry out such investigative or enforcement actions, remedies, or penalties) with respect to any provision of law or regulation permitted by subsection (a).".

(b) FTC ENFORCEMENT.—Section 203(e) of such Act is amended by striking out "; except that" in the second sentence and all that follows through the period and inserting in lieu thereof a period.

(c) EPA ENFORCEMENT.—Section 203(b)(1) of such Act is amended—

(1) in the matter preceding subparagraph (A), by striking out "shall";

(2) in subparagraph (A), by striking out "conduct" and inserting in lieu thereof "may conduct";

(3) in subparagraph (B), by striking out "certify" and inserting in lieu thereof "shall certify";

(4) in subparagraph (C), by striking out "notify" and inserting in lieu thereof "shall notify"; and

(5) in subparagraph (C), by striking out "discovered" and all that follows through "testing".

SEC. 4. STUDIES.

(a) IN GENERAL.—For the purpose of making the findings, conclusions, and recommendations referred to in subsection (c)—

(1) the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall carry out a study to determine whether, and if so, how, the anti-knock characteristics of nonliquid fuels usable as a fuel for a motor vehicle (as defined in section 201(7) of the Petroleum Marketing Practices Act) can be determined;

(2) the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a study to determine the feasibility and the desirability of using dye—

(A) to differentiate automotive fuels with different automotive fuel ratings so that the automotive fuel rating can be determined by its color; and

(B) to identify transportation fuels required, or to be required, by law for clean air or other environmental benefits;

(3) the Secretary of Energy shall carry out a study to determine—

(A) the extent, if any, to which consumers use automotive fuel with an octane rating that is either in excess of or less than the rating necessary for the operation of their automobiles;

(B) the reasons for any such use of excess or insufficient octane;

(C) the increase, if any, in energy consumption and in harmful emissions resulting from the production and consumption of any excess octane used by consumers in the operation of their automobiles;

(D) the harmful environmental effects, if any, resulting from the use by consumers of automotive fuel with an insufficient octane rating; and

(E) the effect on automotive performance and emissions, if any, of the use of automotive fuel with either excess or insufficient octane rating; and

(4) the Federal Trade Commission, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a study to determine the need for, and

the desirability of, having a uniform national label on devices used to dispense automotive fuel to consumers that would consolidate information required by law to be posted on such devices.

(b) IMPLEMENTATION.—In (1) In carrying out studies under this section, each agency shall—

(1) (A) publish general notice of each of the studies in the Federal Register in a manner similar to that provided for in paragraphs (1), (2), and (3) of section 553(b) of title 5, United States Code, for proposed rulemaking; and

(2) (B) give interested parties an opportunity to participate in its study through submission of written data, views, or arguments with opportunity for oral presentation.

(2) In carrying out the study to determine the feasibility and desirability of using dye for the purposes described in subparagraphs (A) and (B) of subsection (a)(2), the Secretary of Energy shall include consideration of the impact of such use on—

(A) the use of octane enhancers;

(B) the competitive benefits of marketer blending practices; and

(C) the consumer and environmental benefits resulting from the use of retail automotive fuel pumps that blend multiple grades of automotive fuel.

(c) REPORTS.—The Administrator of the Environmental Protection Agency, the Secretary of Energy, and the Chairman of the Federal Trade Commission shall transmit to the Congress, within one year after the date of the enactment of this Act, the findings, conclusions, and recommendations made as a result of the studies carried out by such officers under this section, together with a description of the administrative and legislative actions needed to implement such recommendations.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, H.R. 5520 addresses the problem of gasoline octane mislabeling, and this is a serious problem costing consumers hundreds of millions of dollars a year. Indeed, we asked the General Accounting Office to study this question. Its study estimates that about 9 percent of the gasoline sold nationwide in 1988 was mislabeled by at least half an octane point. And that amount is considered a significant violation.

Since 1981, according to the General Accounting Office, the EPA and the FTC have not tested or enforced gasoline octane rating compliance. Twenty-two States, however, do test gasoline octane ratings. And the information from our report is that where States test, there is dramatically less likelihood that the consumer will be ripped off.

So what we want to do in this legislation is to make sure that States have the knowledge that this is the case, that they also have the authority and the power to carry out their testing and their enforcement under their laws.

That is why we are removing a Federal provision of the Petroleum Marketing Practices Act that is intended to inhibit some States in their effort to enforce octane labeling.

In addition, Mr. Speaker, this legislation broadens the definition of an automotive fuel so there is no confusion as to what will be labeled on the pump.

There have been some fuels, such as ethanol, that have not had the octane rating appropriately posted. At least the FTC has indicated it did not have to be done, until very recently. We are trying to make it clear that the consumer will know when they pull up to any pump in this country that there should be, according to the law, an indication of what the octane is of any fuel sold from that pump.

Third, we are trying to make sure that there is a consistent level of enforcement throughout the entire refining, distribution, and retailing chain. Previously, enforcement action at the refineries and in the distribution system required less stringent proof than at the retail level. We think this will help improve the confidence of our consumers as to what they purchase at any pump.

The problem with us consumers is when we pull up to the pump. we have no way of knowing what is the octane, and many of us have felt from time to time that perhaps our car was not getting what it needed.

I would like to point out, as the American Automobile Association has tried to make clear across the country, that many citizens in our country are purchasing higher octane, more expensive fuel than what is required for the operation of their car.

One of the smartest things that any American consumer can do to protect himself or herself on this issue and to protect themselves especially now from higher gasoline prices is to make sure they are not buying a higher octane than they need. They should consult their manuals for their automobile and see to it in fact, whether they do really need an 89 or 91 or 93 octane.

In fact, most cars do not. Most cars need the 87 unleaded octane that is lower priced in the market today, though unfortunately because of the Middle East situation, is at a much higher price than it was just a few months before.

Mr. Speaker, this is not a new Federal initiative. It simply makes the language of the Petroleum Marketing Practices Act consistent with the marketing of automotive fuels in the 1990's.

I want to particularly express our appreciation to the leadership of the gentleman from New York [Mr. SCHUMER] who brought this to the attention of my committee because of practices in New York City. We expanded the investigation to be nationwide so that we could find out whether that was simply a local problem or one that was somewhat more widespread. We unfortunately discovered it was much more widespread than we anticipated.

The one thing we know is that where a State has a testing program, it is far more likely that the consumer will be protected.

I also want to thank the chairman of our full committee, the gentleman from Michigan [Mr. DINGELL] and the ranking minority members of the committee and subcommittee, the gentleman from New York [Mr. LENT] and the gentleman from California [Mr. MOORHEAD], for making this legislation possible.

Mr. Speaker, H.R. 5520 addresses the problem of gasoline octane mislabeling. This is a serious problem costing consumers hundreds of millions of dollars a year. Although the majority of gasoline distributors and dealers are honest businessmen and women, a 2-year investigative report by the General Accounting Office [GAO] estimates that 9 percent of the gasoline sold nationwide in 1988 was mislabeled by at least half an octane point, the amount considered a significant violation.

Octane mislabeling is believed to occur mainly during distribution rather than during refining. Much of the mislabeling is accidental. However, there are known instances of octane cheating or fraud. Once practice identified by the GAO is the sale of gasoline from pumps posted with different octane ratings, but which are supplied by the same storage tank.

Since 1981, according to the GAO report, the EPA and FTC have not tested or enforced gasoline octane rating compliance. There are currently no Federal controls to ensure that gasoline octane postings are accurate.

The 22 States that test gasoline octane ratings on their own appear to experience very little octane mislabeling or octane cheating. The GAO report demonstrates that, where a testing program exists, it deters cheating. Officials from States that test and enforce octane ratings believe that prosecuting octane labeling violators could become excessively difficult because their laws may be preempted by the existing Federal law which has not been enforced.

This bill will make it easier for States to test and enforce octane ratings. First, it empowers States to employ a range of remedies broader than those available under the Petroleum Marketing Practices Act [PMPA] to enforce octane posting requirements. This authority would allow the use of stop-sale orders to immediately halt the sale of mislabeled gasoline.

Second, it broadens the definition of automotive fuel so that all automotive fuels, not just gasoline, would be required to have their octane ratings posted.

Third, it sets a consistent level of enforcement throughout the entire refining, distribution, and retailing chain. Previously, enforce-

ment action at the refineries and in the distribution system required less stringent proof than at the retail level. The bill also requires four studies:

The Environmental Protection Agency [EPA] is required to determine how the antiknock or octane rating equivalent of nonliquid fuels, such as compressed natural gas, can be determined;

The Department of Energy [DOE] is required to determine if different color dyes could be used to distinguish automotive fuels of varying octane ratings or to identify new fuels which may be required for air quality reasons;

DOE is required to determine the extent to which consumers use automotive fuel with an octane rating in excess or less than the rating appropriate for the best operation of their automobiles;

The Federal Trade Commission is required to determine the need for uniform national labeling of all automotive fuels at the pump.

This legislation is an evolutionary improvement to title II of the Petroleum Marketing Practices Act. It is not a new Federal initiative; it simply makes the language of PMPA consistent with the realities of marketing automotive fuels in 1990.

I would like to express my appreciation for the support and leadership of the gentleman from New York, Mr. SCHUMER, the chairman of the committee, Mr. DINGELL, and the ranking minority members of the committee and subcommittee, Mr. LENT and Mr. MOORHEAD.

I urge my colleagues to support this improvement to the Petroleum Marketing Practices Act.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5520, the Octane Display and Disclosure Act of 1990, of which I am an original cosponsor. As I said in committee, octane cheating is consumer fraud. A General Accounting Office report found that this remains a serious problem, particularly in the 28 States which do not have their own octane testing programs. I am pleased to report that my home State of California is one of the 22 States with an active octane enforcement effort.

Congress addressed this issue in title II of the Petroleum Marketing Practices Act of 1978. We thought we had set up a nationwide, uniform system of octane ratings, testing, and enforcement. However, the GAO tells us that EPA has not done octane testing since 1981 and that the Federal Trade Commission has never prosecuted a violation of its octane rule.

The central feature of H.R. 5520—which is to keep a uniform nationwide octane label for display at service station pumps, but provide States more flexibility to enforce State octane laws—grows out of an experience in my State of California.

The witness at a June 20, 1990, hearing from the California Division of Measurement Standards told the Subcommittee on Energy and Power that on the advice of the State's attorney general, a case against an alleged octane cheater with multiple violations was dropped. The reason for this unfortunate outcome was that the penalties and remedies in California's octane law are broader than the civil money penalty in Federal law. The existing Federal language preempts State penalties and remedies as well as substantive octane rules. We correct that conflict in H.R. 5520.

H.R. 5520 also requires studies which will guide our future deliberations on three octane-related issues: First, how best to devise an octane-like rating for nonliquid fuels; second, the feasibility and desirability of using colored dyes to distinguish fuels with different octane levels; and third, whether, and if so, to what extent, consumers are using excessive levels of high octane gasoline, together with the causes and effects of any such excess use.

Mr. Speaker, this has been a textbook way to craft a bipartisan legislative package. We had a hearing on June 20, 1990, with testimony from the FTC, EPA, State agencies, and private parties. This is a good proposal, it helps consumers across the country, and I urge an "aye" vote on the legislation.

□ 2130

Mr. SHARP. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, I just want to ask the gentleman from Indiana [Mr. SHARP], At the present time does this increase the penalties under the Federal Act, or does this retain the same civil penalties and merely allow State law to predominate?

Mr. Speaker, can the gentleman please explain that to the Members?

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, this does not change the Federal penalties. This is a matter of shackling States who, under the PMPA national legislation found themselves restricted in some of the techniques of enforcement they might use, particularly the State of California. What we have done is remove that Federal impediment, leaving responsibility where it appropriately belongs, to the State, to determine what the penalties will be and how they will enforce it. That was traditionally their authority anyway, and it got curbed by the PMPA legislation.

Mr. MURPHY. Mr. Speaker, it is my understanding though that we do have some Federal penalties, either civil or criminal for violation of the Octane Display Disclosure Act.

Mr. SHARP. Yes, we do, and every filling station is expected to have that posted, but what we have discovered is that the Federal Trade Commission and the EPA who share responsibility in this have never been equipped to provide the kind of enforcement that States can provide. So, we want to do everything we can to encourage all States to take on this responsibility.

Mr. MURPHY. So, in other words, we will do nothing to interfere with Federal enforcement, but we will encourage stricter State enforcement, and the Federal Government will not interfere with their enforcement procedures.

Mr. SHARP. The gentleman from Pennsylvania [Mr. MURPHY] is correct.

Mr. MURPHY. OK. I commend the gentleman from Indiana [Mr. SHARP] and the gentleman from California [Mr. MOORHEAD].

Mr. SHARP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PARKER). The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 5520, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MENTAL HEALTH AMENDMENTS OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2628) to amend the Public Health Service Act to reauthorize certain National Institute of Mental Health grants and to improve provisions concerning the State comprehensive mental health services plan, and for other purposes, as amended.

The Clerk read as follows:

S. 2628

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mental Health Amendments of 1990".

SEC. 2. REAUTHORIZATION OF DEMONSTRATION GRANTS FOR HEALTH SERVICES.

(a) IN GENERAL.—Section 520(a) of the Public Health Service Act (42 U.S.C. 290cc-13(a)) is amended to read as follows:

"(a) SERIOUSLY MENTALLY ILL INDIVIDUALS, AND CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL AND MENTAL DISTURBANCES.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the National Institute of Mental Health, may make grants to States, political subdivisions of States, and nonprofit private agencies for—

"(A) mental health services demonstration projects for the planning, coordination and improvement of community services (including outreach and consumer-run self-help services) for seriously mentally ill individuals and their families, seriously emotionally and mentally disturbed children and youth and their families, and seriously mentally ill homeless and elderly individuals;

"(B) demonstration projects for the prevention of youth suicide;

"(C) demonstration projects for the improvement of the recognition, assessment, treatment and clinical management of depressive disorders;

"(D) demonstration projects for programs to prevent the occurrence of sex offenses, and for the provision of treatment and psychological assistance to the victims of sex offenses; and

"(E) demonstration projects for programs to provide mental health services to victims of family violence.

"(2) MENTAL HEALTH SERVICES.—Mental health services provided under paragraph (1)(A) should encompass a range of delivery systems designed to permit individuals to receive treatment in the most therapeutically appropriate, least restrictive setting. Grants shall be awarded under such paragraph for—

"(A) research demonstration programs concerning such services; and

"(B) systems improvements to assist States and local entities to develop appropriate comprehensive mental health systems for adults with serious long-term mental illness and children and adolescents with serious emotional and mental disturbance.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 520(e)(1) of the Public Health Service Act (42 U.S.C. 290cc-13(e)(1)) is amended to read as follows:

"(1) For the purposes of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 3. STATE COMPREHENSIVE MENTAL HEALTH SERIVCES PLAN.

(a) FUNDING FOR PLANS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 19424(c) of the Public Health Service Act (42 U.S.C. 300x-10(c)) is amended by inserting before the period the following: ", and $5,000,000 for each of the fiscal years 1991 through 1993".

(2) ESTABLISHMENT OF AUTHORITY FOR USE OF FUNDS UNDER SUBPART 1.—Section 1915 of the Public Health Service Act (42 U.S.C. 300x-3) is amended by adding at the end the following new subsection:

"(e) Amounts paid to a State under section 1914 may be used by the State for the purpose of developing and implementing State comprehensive mental health plans in accordance with section 1925. With respect to compliance with the limitation established in subsection (d), none of the expenditures by the State for the purpose described in the preceding sentence from amounts received under section 1914 may be considered to have been expended for administering the amounts.".

(b) REQUIREMENTS FOR PLANS.—Section 1925 of the Public Health Service Act (42 U.S.C. 300x-11) is amended—

(1) by striking "chronically mentally ill individual" each place such term appears and inserting "individual with a serious mental illness";

(2) by striking "chronically mentally ill individuals" each place such term appears and inserting "individuals with serious mental illnesses";

(3) in subsection (b)—

(A) in paragraph (1), by inserting before the period the following: "and children with serious emotional and mental disorders";

(B) in paragraph (3), by striking "describe services to be provided" and inserting the following: "describe services, available treatment options, and available resources (including Federal, State and local public services and resources, and to the extent practicable, private services and resources) to be provided";

(C) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively;

(D) by striking paragraph (4) and inserting the following new paragraphs:

"(4) The State plan shall describe health and mental health services, rehabilitation services, employment services, housing services, educational services, medical and dental care, and other support services to be provided to individuals and children with serious emotional and mental disorders with Federal, State and local public and private resources to enable such indivdiduals to function outside of inpatient or residential institutions to the maximum extent of their capabilities, including services to be provided by local school systems under the Education of the Handicapped Act.

"(5) The State plan shall describe the financial resources and staffing necessary to implement the requirements of such plan."; and

(E) by adding at the end the following new paragraph:

"(10) The State plan shall describe a system of integrated social services, educational services, juvenile services, substance abuse services which together with health and mental health services, should be provided in order for children and adolescents with serious emotional and mental disorders to receive care apropriate for their multiple needs, including services to be provided by local school systems under the Education of the Handicapped Act."; and

(4) by adding at the end the following new subsections:

"(e) The State shall utilize the State mental health planing council described in section 1916(e), or establish a new council with comparable membership requirements, to advise, review, monitor and evaluate all aspects of the development and implementation of the State plan. The comments of such council shall be formally transmitted to the Governor of the State prior to the submission of such plan to the Secretary and such comments should be transmitted to the Secretary together with such plan.

"(f) Not later than March 30 of each year, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report concerning the development and implementation of the State plans. Such reports shall include—

"(1) the status of the implementation of such plans by the States;

"(2) a description of the extent of the participation of the councils described in subsection (e) in such development and implementation;

"(3) a description of the coordinated services for children and adults conducted under such plans;

"(4) the extent to which State and local public, and private resources are utilized in the enhancement and delivery of designated services; and

"(5) a quantitative measurement of the improvement in services projected and achieved under the plan.".

(c) ENFORCEMENT.—Section 1926 of the Public Health Service Act (42 U.S.C. 300x–12) is amended—

(1) in subsection (b)—

"(A) by striking "1991" and inserting "1992"; and

"(B) by striking "1990" and inserting "1991"; (2) in subsection (c), in the first sentence—

"(A) by striking "1992" and inserting "1993"; and

"(B) by striking "1991" and inserting "1992";

(3) in subsection (d), in the second sentence, by striking "the State is permitted to expend for administrative expenses" and inserting "that the State received unders subpart 1, as such subpart existed on October 1, 1985"; and

(4) in subsection (e)—

"(A) by striking "for any fiscal year" and inserting "during the period covered by the plan";

"(B) by striking "for such fiscal year" and inserting "during such period"; and

"(C) by inserting before the period the following: ", taking into consideration savings on inpatient hospitalization that can reasonably be anticipated to result from a well designed and implemented plan".

"(d) MISCELLANEOUS TECHNICAL AMENDMENT.—Section 902(c) of the Public Health Service Act (42 U.S.C. 299a(c)) is amended by striking "subsection (b)" and inserting "subsection (a)".

The SPEAKER pro tempore. Is a second demanded?

Mr. BLILEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the principle purpose of S. 2628 is to extend for 3 fiscal years the authority of the National Institute of Mental Health to develop and support innovative mental health demonstration projects. These activities include projects to improve the delivery of community-based services to seriously mentally ill individuals and seriously emotionally and mentally disturbed children. Demonstration

projects are also authorized for the prevention of youth suicide; $40 million is authorized for this purpose in fiscal year 1991 and such funds as may be necessary in fiscal years 1992 and 1993.

In addition, the bill extends the State Comprehensive Mental Health Services Planning Program for 3 fiscal years. Under this activity States are encouraged to reform the delivery of community-based systems of care to encourage and assist the mentally ill to function outside inpatient institutions; $5 million is authorized for this purpose in each of fiscal years 1991-93.

The legislation is similar to that reported unanimously from the other body.

The major difference reflected in the House amendment is a lower overall authorization level and a delay of one year in the requirement that States substantially implement the requirements of the State Comprehensive Mental Health Services Plan Act 1986. The delay is consistent with a recent General Accounting Office report which noted that while the act had achieved positive results, many States were not expected to meet the statutory deadlines. The statute imposes penalties of up to 10 percent of Federal block grant funds on States which fail to meet compliance deadlines. A 1-year delay in the deadlines is reasonable. It will encourage greater compliance with the act while not disrupting the delivery of needed mental health services.

Mr. Speaker, I urge support for the legislation and reserve the balance of my time.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, an estimated 2 million Americans suffer from persistent, severe forms of mental illness requiring long-term supportive care. The National Institute of Mental Health provides grants to States to conduct demonstration programs to create more comprehensive and effective community-based systems of care for the seriously mentally ill.

This legislation reauthorizes these grants for mental health services demonstration projects. It specifies that projects may be targeted to prevent youth suicide, to provide assistance to victims of sex offenses, and victims of family violence.

The bill also clarifies the requirements of the comprehensive State mental health service plans.

I urge my colleagues to join me in supporting this bill.

Mr. MILLER of California. Mr. Speaker, I rise in support of S. 2628, the Mental Health Amendments Act. I want to thank my esteemed colleagues in the Senate for their leadership and hard work on this legislation. I want to express my particular appreciation to the chairman, Mr. WAXMAN, Subcommittee on Health and the Environment and our colleagues on the full committee for their swift action in bringing this measure before us for consideration today.

S. 2628 reauthorizes a core group of critically important mental health demonstration programs serving the elderly, the homeless, and other vulnerable groups. I am particularly pleased this bill authorizes new demonstration projects to provide essential mental health services for victims of family violence. The Select Committee on Children, Youth, and Families has found that countless numbers of families fall victim to the terror and anxiety of domestic violence and child abuse, with no place to turn for solace, support or guidance.

In addition, S. 2628 provides for continuation of the Child and Adolescent Service System Program, to CASSP, a demonstration project administered through the National Institute of Mental Health. CASSP was created for the purpose of developing interagency efforts within each State to better serve children and youth with serious emotional disturbances. The need for the program is well documented and its success in establishing collaboration between the systems of care that serve these troubled youngsters is indisputable.

The select committee's hearings on children's mental health, child abuse, substance abuse, violence, and homelessness have documented the significantly increasing risk of emotional problems faced by the Nation's young people and their families. Approximately 7.5 million, 12 percent of America's child population, have a diagnosable disorder. Of these, nearly half are deemed severely disordered or handicapped by their mental illness, and this population is growing. Yet, they often remain among the most neglected and inappropriately served of all vulnerable children.

The systems that struggle to serve these children face new challenges, compounded by new and complex social issues, such as drug abuse. Nationwide, 10 percent of all births may involve drug exposed infants; in California, the figure may be as high as 20 percent. As these children enter school, they will exhibit serious emotional and behavioral problems and about half will require special education services. Tragically, without a concerted coordinated effort to meet their special needs, they will remain invisible and unserved.

But Mr. Speaker, we know what to do. The CASSP Program has demonstrated significant success in selected communities to address the multiple needs of these young people. CASSP funds have served as the catalyst for education, juvenile justice, social services, and agencies responsible for providing mental health care for these children in need, to come together at the State level to collaborate on planning for a responsive system of care.

CASSP has enabled us to test out, on a small scale, the impact of coordinated service system planning for these children's needs. In Alaska, the Alaska Youth Initiative, an interdepartmental collaboration among the Department of Education, the Division of Mental Health and Developmental Disabilities, and the Division of Family and Youth Services, allows children with serious emotional disturbance to be served in their homes or communities, rather than in more costly and inappropriate institutional settings. Youth sent out of State for treatment had cost Alaska an average of $71,000 per person annually. The Alaska Youth Initiative redirected these funds to community-based services and expenditures were reduced by almost half.

The Alaska Youth Initiative is only one of the many CASSP success stories. However, we know that much more remains to be done. We have learned that there is a great need for interagency cooperation between mental health agencies at the State level to ensure that children and adolescents with severe emotional disturbances receive adequate care. We need also to move beyond demonstration efforts to develop services for children in all communities.

To help accomplish these goals, Mr. Chairman, I have introduced H.R. 5306, the Children's and Communities' Mental Health Systems Improvement Act, which builds on the principles and practice of the CASSP Program. H.R. 5306 will ensure that States are able to launch major new initiatives for community services based upon the framework of collaboration between agencies as exemplified by CASSP. It will provide funding for States to establish local systems of care for children and adolescents with serious emotional, mental, or behavioral disorders. To date, nearly 70 of our colleagues have agreed to cosponsor this important legislation and I would urge those who feel as strongly as I do about taking action on behalf fo these vulnerable children an youth with mental health problems to join us. I can assure you that this legislation will be a priority for me in the next Congress.

In the meantime, it is essential that we continue to build on the remarkable success and effectiveness of the CASSP Program. Given that this legislation reauthorizes demonstration projects for a range of treatment, prevention, and service programs, I would hope that this bill strengthens the resolve of NIMH to support and expand CASSP efforts. I strongly support S. 2628 and urge all my colleagues to join me in supporting the reauthorization of this important program.

Mr. WAXMAN. Mr. Speaker, we have no further requests for time, and I yield back the balance of our time.

Mr. BLILEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the Senate bill, S. 2628, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

ORPHAN DRUG AMENDMENTS OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and concur in the

Senate amendment to the bill (H.R. 4638) to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, and for other purposes.

The Clerk read as follows:

Senate amendment:

Page 4, line 9, strike out [July 16, 1990] and insert "the date of the enactment of the Orphan Drug Amendments of 1990".

The SPEAKER pro tempore. Is a second demanded?

Mr. BLILEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House passed the Orphan Drug Amendments of 1990 on July 30, 1990.

The Orphan Drug Act creates incentives for research on drugs for rare diseases and conditions, which affect such a small population that traditional marketplace incentives are insufficient.

The act has been a tremendous success since it was enacted in 1983. Since that time, the Food and Drug Administration has granted more than 375 designations and approved more than 40 orphan drugs.

However, in a few cases, extremely profitable drugs have received a 7-year monopoly under the statute.

The purpose of the amendments is to tighten the definition of "orphan drug" so that in the future two or more profitable drugs may compete in the marketplace if they are developed in roughly the same period of time.

In addition, the amendment requires that any drug will lose its orphan drug status when the population of people with the disease that it is designed to treat rises above 200,000.

Mr. Speaker, these amendments will allow competition for profitable orphan drugs while retaining the incentives for the development of true orphans—drugs that would not be developed without the incentives of the act.

The Senate Amendment expands the grandfather clause so that a slightly larger universe of drugs will be exempt from one of its provisions. The bill as amended is an important piece of legislation, and I urge all Member to support it today.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in this country, as many as 10 to 20 million people suffer from approximately 5,000 different rare diseases. In 1983, Congress enacted the Orphan Drug Act to create incentives for companies to invest in developing new drugs for rare diseases. The primary incentive in the act is the grant of 7 years of market exclusivity to the first company that develops a new drug for a rare disease. In the 20 years prior to enactment of this legislation, only 10 orphan drugs were approved. In the 7 years since enactment, however, 45 orphan drugs have been approved and 133 are either undergoing human trials or are pending FDA review.

The legislation allows all drugs currently on the market and those which have reached certain milestones in the drug approval process to be granfathered under the original market exclusivity provisions of the Orphan Drug Act. This ensures that those pharmaceutical and biotechnology companies that have made financial commitments to research and development of an orphan drug will continue to operate under the original rules.

For future drugs, however, the provision will be changed to accommodate for those companies which truly develop a drug simultaneously. The bill provides for a 3-part test which a company must meet in order to be granted shared exclusivity with the first company on the market. This test will allow for shared exclusivity for drugs that truly have been developed simultaneously.

The only change to the bill as it originally passed the House is the effective date of the legislation.

I urge my colleagues to support the legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. NIELSON].

□ 2140

Mr. NIELSON of Utah. Mr. Speaker, I rise in support of this bill. I would like to commend the chairman of the subcommittee, the gentleman from California [Mr. WAXMAN] and the gentleman from Virginia [Mr. BLILEY] for coming up with a good compromise. The stakes were very high on this particular bill. We have an orphan drug program which works very well, and we would like to keep the program alive. Many times programs we start don't work, and this one has worked. It has been corrected to take care of any problems that exist.

I commend the gentleman from California [Mr. WAXMAN] and the gentleman from Virginia [Mr. BLILEY], as well as the Senate, for their actions. I rise in support of the bill.

Mr. SCHEUER. Mr. Speaker, I rise in support of H.R. 4638, the Orphan Drug Amendments of 1990. This important bill strikes a fine balance between the economic incentives that are necessary to encourage the development of drugs for rare conditions and the public interest in competition in the marketplace when drug companies develop the same product at nearly the same time.

Since its enactment, the Orphan Drug Act has provided a 7-year period of marketing exclusivity to the first manufacturer to gain approval of a drug for a rare condition. This provision has literally transformed the landscape for rare disease research. In 7 years, it has brought about the approval of 44 orphan drugs, while in the 10 years prior to the act, only 10 were approved. No one disputes that the act has been an enormous success. However, a few critics have claimed that the act is unfair to consumers and competitors in the few situations where the expected market for a drug is large enough so that two or more companies race to develop an orphan drug.

H.R. 4638, introduced by Congressman WAXMAN, was intended to cure this problem by creating a system of shared exclusivity in cases where the two manufacturers developed the same orphan drug within a band of time defined by certain milestones in the development of the pioneer product. This shared exclusivity provision was both prospective and retrospective in effect. However, many Members of the House rightly objected to the feature of the bill that retroactively took away the market exclusivity property right held by companies who had reasonable, investment-backed expectations that the law would not be altered. Another major objection to the bill was that, as originally written, the bill would have permitted follow-on companies to obtain approval after copying and benefiting from the work of the pioneers.

These objectionable features were removed in compromises worked out before the bill reached the House floor. These compromises owe much to the good graces and hard work of Chairman DINGELL, Chairman WAXMAN, and Congressmen BLILEY and RICHARDSON. These compromises have two major aspects.

First, the shared exclusivity provision was made only prospective in effect. Thus, excluded from the reforms in the substantive law are all drugs currently on the market, awaiting approval, or in clinical trials. The exclusion of drugs in clinical trials was necessary because, at the time a clinical trial has begun, it is likely that up to one half of the expenses associated with drug development would have been made. The House rightly concluded that it would be unfair to change the rules in the middle of the game. For many Members, including some who favored substantive changes in the law, retroactive changes in the law were undesirable from a policy perspective. These Members were concerned that few companies would believe the future promises of the Government, if after creating a patent-like incentive, Congress reneged on its promises.

Second, the House was well advised to change the bill by reducing the op-

portunity for a second company to obtain approval for an orphan drug by simply copying the work of the pioneer. Here the bill as introduced was overly broad, because it permitted the follow-on company to be up to 3 or 4 years behind the innovator. Under the compromise reached in the House, the follow-on manufacturer can be no more than 1 year behind the pioneer.

In my view, both aspects of the compromise—making share exclusivity prospective only and tightening up its time limits—represent the wise public policy.

In addition, we rightly rejected suggestions that market exclusivity under the act should end as soon as a certain dollar figure is reached in sales. This approach would undermine the effectiveness of the act, and would be contrary to the free market philosophy that has proven successful and introduce an element of uncertainty into the development process that should be avoided.

The Orphan Drug Act has been a brilliant success in helping the millions of Americans who suffer from rare diseases. By passing H.R. 4638, we can ensure that the act's brilliance will be undimmed.

Mr. MANTON. Mr. Speaker, let me begin by commending our colleagues who worked to pass the Orphan Drug Act. They should take great pride in their efforts. In the 10 years prior to the passage of the Orphan Drug Act in 1983 only 10 drugs that we now would consider orphans were approved. Since the act became law, 45 orphan drugs have been approved and more than 100 more are in the pipeline. The act has spurred the development of drugs for populations as small as one dozen. Nearly all of the approved instances, safe biotechnology derived orphan products have been developed to replace products from human sources that were tainted with deadly viruses. The more successful orphan products all have free goods programs, so that no patient is untreated because of an inability to pay. In sum, Mr. Speaker, this is one of the most successful incentive programs ever devised by the Government.

I also would like to say something about the retroactive aspect of section 3 of the original bill. I found that by far the most disquieting feature of the bill. The Federal Government has made a contract with companies who have developed orphan drugs. The agreement has been that if a drug company makes the investment, takes the risk and is the first to get approval by the Food and Drug Administration, the drug company will have the market for itself for that purpose for 7 years. That is the bargain we made, and I think its a good one. This bargain is good because it encourages the further development of approved drugs if a second company wants to market an orphan drug, it only needs to find a new use for it. A bargain is a bargain.

The companies who make orphan drugs have done their part. The Federal Government should never breach its contracts, because it will tell others that our Government will break its word if it wants to. This is hardly the message we want to send to an industry that is facing the uncertainty and great expense of drug development. Thus, I was pleased that the committee and, subsequently, the House and Senate rejected proposals for retroactive changes in orphan drug law. The bill before us is now prospective only. Therefore, I believe this measure should be approved.

Mr. RICHARDSON. Mr. Speaker, I rise today in support of the Orphan Drug Amendments of 1990, H.R. 4638. I am pleased to see the conclusion of a long and sometimes controversial legislative process. I wish to congratulate my colleagues, Congressmen WAXMAN, BLILEY, and SCHEUER for their contributions to this final product.

Let me just say a word about why finally resolving this issue is beneficial to the millions of people afflicted with one of the thousands of rare diseases.

The underlying premise of the Orphan Drug Act is that marketplace incentives will stimulate investment in new therapies for persons with rare diseases. For the past 3 years there has been a legislative controversy about the Orphan Drug Act that has served to undermine the economic certainty necessary to reasonably assure maintenance of those incentives.

At various times over the past three Congresses proposals have been made that would have altered the rights of parties with existing government contracts of market exclusivity. The mere pendency of these proposals was seen by some as a reason to avoid making the necessary commitment to undertake research in this area. Now that this issue has been laid finally to rest we can be assured that the full promise of the act can be fulfilled.

I am pleased that my amendment, submitted to eliminate the retroactive nature of the original bill, was included in the final package. Without this correction, the legislation might be unconstitutionally perpetrating a taking of private property.

I urge my colleagues to support this measure and the President to sign it.

Mrs. COLLINS. Mr. Speaker, the Orphan Drug Act, as currently written, provides an incentive for companies to do research and development on new drug therapies for rare diseases by giving them an exclusive patent on the new drug for 7 years. Thus, no other company can produce or sell that product during that time period. While that can be beneficial by stimulating R&D on treatments to ease the pain of diseases, it can have undesirable effects as well.

At a hearing by the Health and Environment Subcommittee, of which I am a member, testimony did indicated that the act had been very successful in stimulating research on drugs for rare diseases. However, witnesses identified three examples of drugs that qualify for orphan status and have received the exclusive patent, even though the drugs have now become very profitable: Aerosol pentamidine, which is used to help prevent the deadly pneumonia that HIV-positive persons often contract; EPO, which is used in treating patients on kidney dialysis; and, human growth hormone, which is used to treat short children with a hormone deficiency.

While it is important that R&D be encouraged, too much product protection—especially through exclusivity—hurts competition and results in patients paying exorbitant costs for drugs without an alternative.

The question of how to realign the Orphan Drug Act to accomplish its original goals is not an easy one to answer. I believe that changing some of the parameters for receiving benefits under the act are warranted. However, I also had serious concerns about unfairly changing the rules of the game for players already on base. I believe the compromise embodied in H.R. 4638 is a fair and equitable one for companies with products already on the market.

It only makes sense to remove the exclusivity for drugs that serve a patient population of over 200,000 persons, and to have the FDA project patient population sizes. Second, providing shared exclusivity for identical drugs which are developed simultaneously by different companies will further promote competition.

Mr. Speaker, H.R. 4638 has very important ramifications for hundreds of thousands of Americans who are suffering from a variety of diseases. For their sakes, I encourage my colleagues to support this reform bill.

Mr. BLILEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PARKER). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and concur in the Senate amendment to H.R. 4638.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

HOME HEALTH CARE AND ALZHEIMER'S DISEASE AMENDMENTS OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 5112) to amend the Public Health Service Act to extend certain programs for health care services in the home.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Home Health Care and Alzheimer's Disease Amendments of 1990".

TITLE I—DEMONSTRATION PROJECTS FOR HEALTH CARE SERVICES IN THE HOME

SEC. 101. REVISION AND EXTENSION OF GENERAL PROGRAM.

(a) NUMBER OF GRANTS.—Section 395(a) of the Public Health Service Act (42 U.S.C. 280c(a)) is amended in the matter preceding

paragraph (1) by striking "shall make" and all that follows through "grants" and inserting the following: "shall make not less than 5, and not more than 20, grants".

(b) SERVICES PROVIDED.—Section 395(a)(1) of the Public Health Service Act (42 U.S.C. 280c(a)(1)) is amended by striking "skilled" and all that follows and inserting the following: "skilled nursing care services, homemaker or home health aide services, or personal care services are provided in the homes of the individuals;".

(c) AGE OF RECIPIENTS OF SERVICES.—Section 395(b) of the Public Health Service Act (42 U.S.C. 280c(b)) is amended by striking "to ensure" and all that follows and inserting the following: "to ensure that—

"(1) not less than 25 percent of the grant is expended to provide services under such subsection to individuals who are not less than 65 years of age; and

"(2) of the portion of the grant reserved by the State for purposes of complying with paragraph (1), not less than 10 percent is expended to provide such services to individuals who are not less than 85 years of age.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 397(e) of the Public Health Service Act (42 U.S.C. 280c-2(e)) is amended—

(1) by striking "there is" and inserting "there are"; and

(2) by inserting before the period the following: ", $7,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

SEC. 102. REVISION AND EXTENSION OF PROGRAM REGARDING ALZHEIMER'S DISEASE.

(a) NUMBER OF GRANTS.—Section 398(a) of the Public Health Service Act (42 U.S.C. 280c-3(a)) is amended in the matter preceding paragraph (1) by striking "shall make" and all that follows through "grants" and inserting the following: "shall make not less than 5, and not more than 15, grants".

(b) COORDINATION OF SERVICES.—Section 398(a)(1) of the Public Health Service Act (42 U.S.C. 280c-3(a)(1)) is amended by striking "by public and private organizations" and inserting "with public and private organizations".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 399A(e) of the Public Health Service Act (42 U.S.C. 280c-5(e)) is amended—

(1) by striking "there is" and inserting "there are"; and

(2) by inserting before the period the following: ", $7,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

TITLE II—REVISION OF PROGRAMS FOR RESEARCH ON ALZHEIMER'S DISEASE

SEC. 201. ALZHEIMER'S DISEASE CENTERS.

Section 445 of the Public Health Service Act (42 U.S.C. 285e-2) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(including university medical centers)" after "nonprofit entities";

(B) by inserting "(including staffing)" after "operating support";

(C) by inserting "(including multidisciplinary research)" after "clinical research"; and

(D) by striking "Alzheimer's Disease" and inserting "Alzheimer's disease"; and

(2) in subsection (b), by amending such subsection to read as follows:

"(b)(1) Federal payments made under a cooperative agreement or grant under subsection (a) may, with respect to Alzheimer's disease, be used for—

"(A) diagnostic examinations, patient assessments, patient care costs, and other costs necessary for conducting research;

"(B) training, including training for allied health professionals;

"(C) diagnostic and treatment clinics designed to meet the special needs of minority and rural populations and other underserved populations;

"(D) activities to educate the public; and

"(E) the dissemination of information.

"(2) For purposes of paragraph (1), the term "training" does not include research training for which National Research Service Awards may be provided under section 487.".

SEC. 202. CENTERS OF GERIATRIC RESEARCH AND TRAINING.

(a) REDESIGNATION AS CLAUDE D. PEPPER OLDER AMERICANS INDEPENDENCE CENTERS.—Section 445A of the Public Health Service Act (42 U.S.C. 285e-3) is amended—

(1) in the heading for such section, by amending the heading to read as follows: "Claude D. Pepper Older Americans Independence Centers"; and

(2) in subsection (a), by adding at the end the following new sentence: "Each such center shall be known as a Claude D. Pepper Older Americans Independence Center.".

(b) Revisions in Program.—

(1) IN GENERAL.—Section 445A of the Public Health Service Act (42 U.S.C. 285e-3) is amended—

(A) in subsection (a), by inserting "not less than 10" before "centers of excellence"; and

(B) in subsection (b)(2)(A), by inserting before the semicolon at the end the following: ", including menopause, which research includes research on such treatments, and on medical devices and other medical interventions regarding such diseases, disorders, and complications, that can assist individuals in avoiding institutionalization and prolonged hospitalization and in otherwise increasing the independence of the individuals".

(2) CONFORMING AMENDMENT.—Section 445A(b)(2)(B) of the Public Health Service Act (42 U.S.C. 285e-3(b)(2)(B)) is amended by striking "research concerning" and all that follows and inserting "research described in subparagraph (A).".

(c) DEFINITION.—Section 445A of the Public Health Service Act (42 U.S.C. 285e-3) is amended by adding at the end the following new subsection:

"(d) For purposes of this section, the term 'independence', with respect to diseases, disorders, and complications of aging, means the functional ability of individuals to perform activities of daily living or instrumental activities of daily living without assistance or supervision.".

TITLE III—TASK FORCE ON AGING RESEARCH

SEC. 301. ESTABLISHMENT AND DUTIES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a Task Force on Aging Research.

(b) DUTIES.—With respect to aging research (as defined in section 305), the Task Force each fiscal year shall—

(1) make recommendations to the Secretary specifying the particular projects of research, or the particular categories of research, that should be conducted or supported by the Secretary;

(2) of the projects specified under paragraph (1), make recommendations to the Secretary of the projects that should be given priority in the provision of funds; and

(3) make recommendations to the Secretary of the amount of funds that should be appropriated for such research.

(c) PROVISION OF INFORMATION TO THE PUBLIC.—The Task Force may make available to health professionals, and to other members of the public, information regarding the research described in subsection (b).

SEC. 302. MEMBERSHIP.

(a) COMPOSITION.—The Task Force shall be composed of—

(1) the Assistant Secretary for Health;

(2) the Surgeon General of the Public Health Service;

(3) the Assistant Secretary for Planning and Evaluation;

(4) the Director of the National Institute on Aging, and the Directors of such other agencies of the National Institutes of Health as the Secretary determines to be appropriate;

(5) the Commissioner of the Administration on Aging;

(6) the Commissioner of Food and Drugs;

(7) the Chief Medical Director of the Department of Veterans Affairs;

(8) the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration;

(9) the Administrator of the Health Care Financing Administration;

(10) the Commissioner of Social Security;

(11) the Administrator for Health Care Policy and Research;

(12) two Members of the House of Representatives appointed by the Speaker of the House in consultation with the Minority Leader, and two members of the Senate appointed by the Majority Leader in consultation with the Minority Leader, not more than one of whom from each body shall be members of the same political party; and

(13) three members of the general public, to be appointed by the Secretary, that shall include one representative each from—

(A) a nonprofit group representing older Americans;

(B) a private voluntary health organization concerned with the health problems affecting older Americans; and

(C) a nonprofit organization concerned with research related to the health and independence of older Americans.

(b) CHAIR.—The Secretary, acting through either the Assistant Secretary for Health or the Director of the National Institute on Aging, shall serve as the Chair of the Task Force.

(c) QUORUM.—A majority of the members of the Task Force shall constitute a quorum, and a lesser number may hold hearings.

(d) MEETINGS.—The Task Force shall meet periodically at the call of the Chair, but in no event less than twice each year.

(e) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Members of the Task Force who are not regular full-time employees of the United States government shall, while attending meetings and conferences of the Task Force or otherwise engaged in the business of the Task Force (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedules established under section 5332 of title 5, United States Code.

(2) EXPENSES.—While away from their homes or regular places of business on the business of the Task Force, members of such Task Force may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

SEC. 303. ADMINISTRATIVE STAFF AND SUPPORT.

The Secretary, acting through either the Assistant Secretary for Health or the Director of the National Institute on Aging, shall appoint an Executive Secretary for the Task Force and shall provide the Task Force with such administrative staff and support as may be necessary to enable the Task Force to carry out subsections (b) and (c) of section 301.

SEC. 304. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Task Force shall prepare and submit to the Secretary, and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report providing the recommendations required in section 301(b).

(b) AVAILABILITY TO PUBLIC.—The Task Force may make available to the public copies of the reports required in subsection (a).

SEC. 305. DEFINITIONS.

For purposes of this title:

(1) AGING RESEARCH.—

(A) The term "aging research" means research on the aging process and on the diagnosis and treatment of diseases, disorders, and complications related to aging, including menopause. Such research includes research on such treatments, and on medical devices and other medical interventions regarding such diseases, disorders, and complications, that can assist individuals in avoiding institutionalization and prolonged hospitalization and in otherwise increasing the dependence of the individuals.

(B) For purposes of subparagraph (A), the term "independence", with respect to diseases, disorders, and complications of aging, means the functional ability of individuals to perform activities of daily living or instrumental activities of daily living without assistance or supervision.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(3) TASK FORCE.—The term "Task Force" means the Task Force on Aging Research established under section 301(a).

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. MISCELLANEOUS AMENDMENTS.

(a) MINORITY HEALTH.—

(1) IN GENERAL.—Section 1707(b) of the Public Health Service Act, as added by section 2 of the Disadvantaged Minority Health Improvement Act of 1990, is amended—

(A) in paragraph (6), by striking "and" after the semicolon at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(8) support expansion and enhancement of tertiary perinatal facilities in rural States with infant mortality rates among individuals from disadvantaged backgrounds, including minorities, that are significantly above the national average for such rates.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of the Disadvantaged Minority Health Improvement Act of 1990.

(b) SERVICES REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.—Title XXVI of the Public Health Service Act, as added by Public Law 101-381, is amended—

(1) in section 2607(1), by striking "2601(a)(1)" and inserting "2601(a)";

(2) in section 2651, by striking "section 2652(a)(1)" and inserting "section 2652(a)"; and

(3) in section 2652(a)—

(A) by striking "referred to in subsection (b)" and inserting "referred to in subsection 2651(a)";

(B) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively; and

(C) in paragraph (6) (as so redesignated), by striking "a nonprofit private entity that provides" and inserting "nonprofit private entities that provide".

TITLE V—FELLOWSHIPS

SEC. 501. JAMES MADISON MEMORIAL FELLOWSHIPS.

Section 813(a)(4) of the James Madison Memorial Fellowship Act (20 U.S.C. 4512(a)(4)) is amended by striking the second sentence.

The SPEAKER pro tempore. Is a second demanded?

Mr. BLILEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the Senate amendment to H.R. 5112.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5112 would reauthorize two Public Health Service Act home health care demonstration programs whose authorities expire at the end of fiscal year 1990.

The first program—the General Program—is designed to provide home health services to low-income individuals who, with the availability of such assistance, may avoid institutionalization or prolonged hospitalization. The second program is intended to provide similar types of services to individuals with Alzheimer's disease. Both demonstrations provide grant funds directly to the States.

H.R. 5112 would reestablish these two programs for the next three fiscal years at authorization levels—for each program—of $7.5 million in fiscal year 1991, and at such sums as may be necessary in both fiscal years 1992 and 1993. In addition, H.R. 5112 would expand the number of States that would be eligible to receive grant awards under both demonstration authorities.

The bill would also clarify that unskilled services, such as homemaker and personal care services, as well as skilled nursing services, can be made available to individuals participating in the General Program. In addition, the legislation would specifically target a portion of the services provided under the General Program to those elderly Americans age 85 and older.

As amended, H.R. 5112 would also make improvements in current NIH authorities regarding research on Alzheimer's disease and on the aging process.

H.R. 5112 represents the work and commitment of many members of Congress. In particular, I want to recognize the primary sponsor of the legislation, our colleague Congressman BRUCE, and the chairman of the Aging Committee, Congressman ROYBAL. Both are real champions of the elderly and I am delighted to join them in today's effort.

In addition to the provisions on home health services and Alzheimer's disease, H.R. 5112 would make minor and technical corrections to other Public Health Service authorities. In particular, the legislation includes a technical amendment to the Disadvantaged Minority Health Improvement Act of 1990, to support expansion and enhancement of tertiary perinatal facilities to reduce infant mortality rates in rural States. As author of this Act, I want to make explicitly clear, that while programmatic activities to reduce infant mortality could be an eligible use of funds, none of the funds under this section are to be used for the purposes of construction or capital improvements.

I urge all Members to support H.R. 5112 with an amendment.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

I support the continuing efforts authorized by H.R. 5112 to provide funds for demonstrations projects for home health care services to frail and disabled individuals, as well as those suffering from Alzheimer's disease. These services have been effective in limiting, postponing and even preventing institutionalization of such individuals.

I think it is important that we continue to try to find the most cost-effective and humane way to provide medical care. I am particularly pleased that the bill requires the development of demonstration projects to meet the

needs of a fast growing segment of our elderly population, the elderly over 85 years of age.

Also attached to this legislation are several technical amendments added by the Senate. I know of no opposition to any of these amendments.

I hope my colleagues will join me in supporting this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I rise in strong support of the House-Senate conference agreement on H.R. 5112, the House Health Demonstration projects reauthorization bill.

Simply stated, at a time when the senior citizens of this country are feeling threatened by budgetary proposals to cut Medicare, or to increase the costs of Medicare coverage for the elderly, and at a time when they feel threatened as well by advancing age and the infirmities that go along with the aging process, it is good to have a bill, modest as it is, to help provide State and local programs to care for the elderly, in their communities, near their families and friends—by providing general home health care.

The fear of institutionalization in the minds and hearts of the elderly is very real, and often expressed to me by constituents who write. Also, a majority of them live on such low, fixed incomes for the most part, that expensive and prolonged hospital stays takes a toll not only on their physical well-being, but their mental and emotional ability to cope as well. Modest funding of $7.5 million is authorized for general home health care, and I am pleased to support it.

The elderly, who are most often victimized by Alzheimer's disease, and their families who are also traumatized by the disease that strikes a beloved parent, spouse, or other family member, will be pleased to note that this bill addresses many problems—such as appropriate and timely diagnosis, individual patient assessment, estimates of patient care costs—all associated with Alzheimer's disease.

The Alzheimer's disease demonstration projects will take steps to inform and educate the public concerning the disease, and will disseminate such information to the general public for their use and guidance in dealing with onset of the disease within their own families and communities. The bill especially designs the demonstration projects on Alzheimer's disease so that diagnostic and treatment clinics meet the special needs of minority and rural populations, among all underserved populations. This demonstration project for Alzheimer's disease is also authorized to be funded at $7.3 million in fiscal year 1991—a modest sum—and I hope that funds will be appropriated for this and other purposes of the bill.

Mr. Speaker, in the hurly-burly of activities by the Congress in recent days and weeks, attempting to push through important legislative initiatives as well as to get a budget agreement, it is important that we stop, take note, and vote in the affirmative for very modest, but very important programs such as home health and Alzheimer's disease demonstration projects, and to make our constituencies aware that we still are doing our best to do something besides severely cut health and other important programs in our zeal to reduce the Federal deficit.

I highly commend Mr. WAXMAN, the chairman of the Subcommittee on Health and the Environment, for his commitment to all health initiatives before him, and especially for his commitment to getting this bill before the House before adjournment.

I support passage of the conference agreement on H.R. 5112, and hope that two-thirds of my colleagues will join me in passing the bill.

Mr. BILIRAKIS. Mr. Speaker, I am pleased that the House and the Senate have reached agreement on this important legislation and I wanted to take this opportunity to express my strong support of the conference committee report. This legislation allows a portion of the home health care demonstration project funding to be used for home health services for the frail elderly—persons age 85 years of age and older.

While frail persons are not limited to those 85 and older, more than half of those 85 and older require some assistance. That is why I offered an amendment in the Energy and Commerce Health Subcommittee that mandates that a part of this money be set aside for this age group.

I have a deep concern for the frail elderly. Occasionally, you may have heard me discuss the demographics of my district—I have one of the highest percentages of persons 85 years of age and older living in the counties of Pinellas and Pasco. That is why I am pleased that my provision is included in this conference report—so that our Nation's oldest old will be remembered when these demonstration projects are being conducted.

As you know our population is becoming older and in fact, by 2030, 9 to 12 million people in our country will be over the age of 85. In contrast, there were 2.5 million persons 85 and over in 1984. It is beneficial to study how much money could be saved by keeping the frail elderly in the home with family and friends as long as possible in order to prevent institutionalization. In Florida, 50,000 persons were in nursing homes last year and of that 50,000, 44 percent were 85 years of age or older. These statistics do not even include those persons in other health care facilities.

It is my understanding that nutrition services and home health services for the elderly will also be coordinated under these demonstration projects.

Mr. Speaker, I want to extend my thanks to Congressman TERRY BRUCE, the sponsor of this bill, and Health Subcommittee chairman, HENRY WAXMAN for working with me on this provision.

Mr. BRUCE. Mr. Speaker, first of all, I want to commend Mr. WAXMAN and Mr. ROYBAL for their role in moving this legislation through so quickly.

Today, millions of Americans suffer from serious illnesses and conditions which can be difficult to treat. There are relatively few resources available to cover the costs. My bill, H.R. 5112, would allow up to 20 States to apply for grants to develop programs to provide certain skilled and unskilled services in the home, with a requirement that at least 25 percent of the recipients being over age 65.

States currently receiving funding have noticed dramatic changes in the health of some of their recipients. For example, one elderly woman was on the verge of entering a hospital because of her diabetes. After 1 year in the program, she now plans to go back to work. Many understand that children have benefited greatly from the program.

The other provisions of the bill center on Alzheimer's disease research and treatment. There are an estimated 4 million Alzheimer's victims in this country. With the aging of the population, the United States can expect to see 14 million Alzheimer's victims by the year 2040. No cure exists for the disease, and little is known about its cause. Unfortunately, services to help these victims do not exist. Most of their care is provided by family members, or through some State agencies. This care, however, has been fragmented and no coordination of services is available. In most cases, the victims and the families have no place to go. Over 50 percent of nursing home residents are victims, yet the homes do not provide the type of care these people need.

H.R. 5112 makes available a number of grants for States to apply to develop programs to care for Alzheimer's victims, and provide assistance to their families. The bill also increases training and research for the disease, through the National Institute on Aging. Finally, it establishes a Task Force on Aging Research.

I am pleased that this legislation has moved so quickly. H.R. 5112 is a positive component of providing health care to older Americans, and lays groundwork on which Congress can build in years to come.

Finally, I wanted to express my gratitude to Ruth Katz of Mr. WAXMAN's Subcommittee on Health and Environment and to Gary Christopherson of Mr. ROYBAL's Select Committee on Aging for their assistance in pushing this legislation.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and concur in the Senate amendment to H.R. 5112.

The question was taken.

Mr. NIELSEN of Utah. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONFERENCE REPORT ON H.R. 4739, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. LEATH of Texas submitted the following conference report and statement on the bill (H.R. 4739) to authorize appropriations for fiscal year 1991

for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-923)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4739) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1991".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS

(a) DIVISIONS.—This Act is organized into four divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Economic Adjustment, Diversification, Conversion, and Stabilization.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense Agencies.
Sec. 105. Defense Inspector General.
Sec. 106. Reserve components.
Sec. 107. Chemical demilitarization program.
Sec. 108. Multiyear authorizations.
Sec. 109. Repeal of prior milestone authorizations.

PART B—B-2 AIRCRAFT PROGRAM

Sec. 121. Limitation on obligations.

PART C—OTHER STRATEGIC PROGRAMS

Sec. 131. SRAM II missile program.
Sec. 132. Ground-wave emergency network.
Sec. 133. B-1B Aircraft program.
Sec. 134. Prohibition on obligation or expenditure of fiscal year 1990 funds for MX Rail Garrison procurement.
Sec. 135. Report on alternative MX missile test plans.
Sec. 136. Limitation on advance procurement of advanced cruise missile.
Sec. 137. Limitation on obligation of funds for KC-135R aircraft program.

PART D—ARMY PROGRAMS

Sec. 141. ADATS missile system.
Sec. 142. M-1 Abrams tank program.
Sec. 143. Procurement of AHIP Scout helicopters.
Sec. 144. Provision of CH-47 aircraft for the Army National Guard.

PART E—NAVY AND MARINE CORPS PROGRAMS

Sec. 151. A-12 aircraft program.
Sec. 152. V-22 aircraft program.
Sec. 153. Procurement of M1A1 main battle tanks for the Marine Corps.
Sec. 154. Policy for SSN-21 submarine procurement.
Sec. 155. MH-53 minesweeper helicopter.
Sec. 156. AH-1W helicopters.
Sec. 157. Laboratory equipment for Navy industrial-fund activities.

PART F—NONSTRATEGIC AIR FORCE PROGRAMS

Sec. 161. C-17 Aircraft program funding and limitations for fiscal year 1991.
Sec. 162. Tacit Rainbow program.
Sec. 163. Chemical-biological collective protection systems.
Sec. 164. Re-engining for certain reconnaissance aircraft.

PART G—CHEMICAL MUNITIONS

Sec. 171. Annual report on safety of chemical weapons stockpile.
Sec. 172. Funding clarification for chemical weapons stockpile disposal program.
Sec. 173. Chemical weapons stockpile safety contingency plan.

PART H—OTHER PROGRAMS

Sec. 181. Program terminations.
Sec. 182. Limitations on electronic warfare procurement.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS

Sec. 201. Authorization of appropriations.
Sec. 202. Amounts for basic research and exploratory development.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

Sec. 211. V-22 Osprey aircraft program.
Sec. 212. Army scout attack helicopter program.
Sec. 213. Advanced Tactical Fighter program.
Sec. 214. Armored gun system.
Sec. 215. Fleet electronic warfare support group.
Sec. 216. Vandenberg Air Force Base Titan IV launch facility.
Sec. 217. Advanced communiations satellite relay system.
Sec. 218. Prohibition on testing Mid-Infrared Advanced Chemical Laser Against an object in space.

PART C—STRATEGIC DEFENSE INITIATIVE

Sec. 221. Strategic Defense Initiative Program structure and limitations on spending.
Sec. 222. Limitation on development and testing of anti-ballistic missile systems or components.
Sec. 223. Prohibition on operational test and evaluation of strategic defense systems.
Sec. 224. Boost surveillance and tracking system.
Sec. 225. Theater missile defense programs.

PART D—STRATEGIC PROGRAMS

Sec. 231. Funding and sense of Congress for ICBM Modernization program.
Sec. 232. Depressed trajectory ballistic missiles and other short-time-of-flight ballistic missiles.

PART E—OTHER MATTERS

Sec. 241. Biological Defense Research Program.
Sec. 242. Funding for facility for collaborative research and training for military medical personnel.
Sec. 243. Grant for an institute for advanced science and technology.
Sec. 244. Support for Advanced Research Projects.
Sec. 245. Competition in contracting for computers and software.
Sec. 246. Advisory commission on consolidation and conversion of defense research and development laboratories.
Sec. 247. National defense science and engineering education.
Sec. 248. Establishment of Department of Defense technology office in Japan.
Sec. 249. Grant for study and analysis of the Soviet Union and certain other countries.

TITLE III—OPERATION AND MAINTENANCE

Part A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Humanitarian assistance.
Sec. 304. Assistance to the 1990 Winter World Series Torch Run and the 1991 Freestyle World Championships.
Sec. 305. Extended cold weather clothing systems.

PART B—LIMITATIONS

Sec. 311. Limitation on obligations against stock funds.
Sec. 312. Prohibition on management of civilian personnel by end strengths during fiscal year 1991.

PART C—CHANGES TO EXISTING LAW

Sec. 321. Commissary and other privileges for certain members of a reserve component and certain other persons.
Sec. 322. Guidelines for future reductions of civilian employees of industrial-type or commercial-type activities.
Sec. 323. Inventory management policies.
Sec. 324. Expansion of authority to donate food to charitable nonprofit food banks.
Sec. 325. Authority to exchange property for services in connection with historical collections.
Sec. 326. Authority to furnish transportation in certain areas outside the United States.
Sec. 327. Authorization for certain bands of the armed forces to produce recordings for commercial sale.
Sec. 328. Army program to promote civilian marksmanship.
Sec. 329. Ships' stores.
Sec. 330. Operation of the Inter-American Air Forces Academy.
Sec. 331. Assistance program for employees of a nonappropriated fund instrumentality adversely affected by base closures.

PART D—ENVIRONMENTAL PROVISIONS

Sec. 341. Additional requirements for environmental report.
Sec. 342. Reporting requirements on environment compliance at overseas military installations.
Sec. 343. Extension of date for completion of study on waste recycling.
Sec. 344. Environmental education program for Department of Defense personnel.
Sec. 345. Use of ozone depleting substances within the Department of Defense.
Sec. 346. Prohibition on purchases of performance bonds and similar guaranties.

PART E—MISCELLANEOUS

Sec. 351. Continuation of Air Force hurricane reconnaissance mission.
Sec. 352. Army Reliability Centered-Inspect and Repair Only As Necessary Program at Anniston Army Depot.
Sec. 353. Validation of payments under certain contracts for the provision of municipal services.
Sec. 354. Maintenance of firefighting and other emergency services at military installations in the United States.
Sec. 355. Staff of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.
Sec. 356. Discussions concerning Department of Defense support for 1996 Summer Olympics.
Sec. 357. Sense of Congress the transfer to Europe of military equipment that would be destroyed and removed as a result of an arms control agreement.

PART F—STUDIES AND REPORTS

Sec. 361. Authorization for short-term lease of aircraft for initial entry rotary wing pilot training and study regarding long-term lease.
Sec. 362. Flexible readiness.
Sec. 363. Report on establishing new Naval Reserve Training Center at Newport, Rhode Island.
Sec. 364. Report on the transportation of chemical weapons from the Federal Republic of Germany to Johnston Island.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

Sec. 401. End strengths for active forces.
Sec. 402. Uniform process for implementing reductions in strength.
Sec. 403. Authorized strength for general and flag officers on active duty.
Sec. 404. Reduction for fiscal year 1992 in number of active duty Air Force colonels.
Sec. 405. Exemption from grade accountability for certain three-star general and flag officer positions.
Sec. 406. Reduction in the authorized end strength for the number of military personnel in Europe.

PART B—RESERVE FORCES

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserves.

PART C—MILITARY TRAINING STUDENT LOADS

Sec. 421. Authorization of training student loads.

PART D—OTHER PERSONNEL STRENGTH MATTERS

Sec. 431. Report on cadre concept.

TITLE V—MILITARY PERSONNEL

PART A—PERSONNEL READJUSTMENT BENEFITS

Sec. 501. Separation pay.
Sec. 502. Other transition benefits and services.
Sec. 503. Travel and transportation allowances relating to members involuntarily separated.
Sec. 504. Continuation of enrollment in schools of the defense dependents' education system for dependents of members involuntarily separated.

PART B—DEFENSE OFFICER PERSONNEL MANAGEMENT POLICIES

Sec. 521. Officer retention flexibility.
Sec. 522. Reduction in time-in-grade requirement for retention of grade upon voluntary retirement.
Sec. 523. Required length of commissioned service for voluntary retirement as an officer.
Sec. 524. Report on initial appointment of all officers as Reserve officers and on the appropriate active duty obligation of graduates of the service academies.

PART C—OFFICER EDUCATION AND TRAINING

Sec. 531. Reduction in the number of appointments for the class of a service academy entering in 1991 and in 1995.
Sec. 532. Repeal of authority of Administrator of Panama Canal Commission to nominate cadets and midshipmen.
Sec. 533. Modification of the ten-year service obligation for graduates of the Uniformed Services University of the Health Sciences.
Sec. 534. Advanced educational assistance.

PART D—MILITARY JUSTICE AMENDMENTS

Sec. 541. Clarification of certain provisions in Uniform Code of Military Justice.

PART E—MISCELLANEOUS

Sec. 551. Services by notaries public.
Sec. 552. Meaning of the term "office" under section 2071(b) of title 18, United States Code.
Sec. 553. Extension to Coast Guard of law providing for identification, treatment, and rehabilitation of members of the Armed Forces who are dependent on drugs or alcohol.
Sec. 554. Advisory committee on mental health evaluation protections.
Sec. 555. Amendments to the Uniformed Services Former Spouses' Protection Act.
Sec. 556. Authority for commissioned officers to serve on independent school boards.
Sec. 557. Navy rations.
Sec. 558. Report regarding requirement for duty in support of National Guard and Reserves.
Sec. 559. Prohibition on certain reserve service.

PART F—MONTGOMERY GI BILL

Sec. 561. Opportunity for certain personnel to enroll in Montgomery GI bill before being involuntarily separated from service.
Sec. 562. Clarifying amendments to Montgomery GI bill active duty program.
Sec. 563. Participation of certain National Guard personnel in Montgomery GI bill.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

Sec. 601. Military pay raise for fiscal year 1991.
Sec. 602. Modification of limitation on adjustments in variable housing allowance.

PART B—BONUSES AND SPECIAL AND INCENTIVE PAY

Sec. 611. Multiyear medical officer retention bonus.
Sec. 612. Increase in physician special pay for officers in a pay grade above O-6.
Sec. 613. Extension of nurse incentive programs.
Sec. 614. Extension of special pay for nurse anesthetists to other nursing specialties.
Sec. 615. Authority to terminate selective reenlistment bonus payments.
Sec. 616. Extension of special pay for critically short wartime health specialists in the Selected Reserve.
Sec. 617. Retention bonus for optometrists.
Sec. 618. Provision of board certification special pay for nonphysician health care providers.

PART C—TRAVEL AND TRANSPORTATION ALLOWANCES

Sec. 621. Permanent authority to pay members for labor furnished in connection with the transportation of baggage and household goods.
Sec. 622. Baggage and household weight allowance for cadets and midshipmen.

PART D—MISCELLANEOUS

Sec. 631. Delay in effective date of optional high-tier Survivor Benefit Plan coverage and open enrollment period.

TITLE VII—HEALTH CARE PROVISIONS

PART A—HEALTH CARE SERVICES

Sec. 701. Provision of pap smears and mammograms under CHAMPUS.
Sec. 702. Repeal of the limitation on the payment of services of marriage and family therapists as a medical expense.
Sec. 703. Mental health services.

PART B—HEALTH CARE MANAGEMENT

Sec. 711. Limitation on reductions in medical personnel.
Sec. 712. Increase in annual deductibles under CHAMPUS for certain covered beneficiaries.
Sec. 713. Collection from third-party payers of reasonable costs of health care services incurred on behalf of retired persons and dependents.
Sec. 714. Increase in the pay limit for personal services contracts for direct health care providers.
Sec. 715. Conditions on expansion of CHAMPUS reform initiative.

Sec. 716. Requirements prior to termination of medical services at military medical treatment facilities.
Sec. 717. Limitation on awarding contract for full production of medical information systems.
Sec. 718. Uniformed Services Treatment Facilities.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

PART A—ACQUISITION MANAGEMENT IMPROVEMENT

Sec. 800. Advisory panel on streamlining and codifying acquisition laws.
Sec. 801. Authority governing operation of working-capital funded activities.
Sec. 802. Procedures for contract solicitation and evaluation.
Sec. 803. Certified cost or pricing data threshold.
Sec. 804. Repeal of requirements relating to commercial pricing for spare or repair parts.
Sec. 805. Competitive alternative source requirement.
Sec. 806. Uniform small purchase threshold for various requirements applicable to Federal Government contractors.
Sec. 807. Membership on Federal Acquisition Regulatory Council.
Sec. 808. Procedures applicable to multiyear procurement contracts.
Sec. 809. Major defense acquisition pilot program.
Sec. 810. Acquisition of commercial products.

PART B—MODIFICATIONS TO EXISTING LAW

Sec. 811. Clarification of small business concerns covered by section 1207.
Sec. 812. Additional prohibition on convicted individuals.
Sec. 813. Disclosure requirement relating to subcontractors.
Sec. 814. Authority to use funds for administrative costs of procurement technical assistance program.
Sec. 815. Post-employment rules.

PART C—DEFENSE INDUSTRIAL AND TECHNOLOGY BASE

Sec. 821. Annual defense critical technologies plan.
Sec. 822. Critical Technologies Institute.
Sec. 823. Manufacturing technology.
Sec. 824. Independent research and development enhancement.
Sec. 825. Annual report on activities relating to defense industrial base.
Sec. 826. Defense industrial base for textile and apparel products.
Sec. 827. Use of partnership intermediaries.
Sec. 828. Technology transfer contract provisions.

PART D—MISCELLANEOUS

Sec. 831. Mentor-protege pilot program.
Sec. 832. Enhancing participation of historically Black colleges and universities and minority institutions in defense research.
Sec. 833. Equal employment opportunities relating to an Army contract.
Sec. 834. Evaluation of contracts for professional and technical services.
Sec. 835. Requirement to use domestically manufactured carbonyl iron powders.
Sec. 836. Reduction or suspension of contract payments upon finding of fraud.
Sec. 837. Defense contractor requirements with respect to employees who communicate with government officials.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

PART A—GENERAL MANAGEMENT MATTERS

Sec. 901. National military strategy reports.
Sec. 902. Joint staff.
Sec. 903. Army Reserve Command.
Sec. 904. Security investigations.
Sec. 905. Twenty percent reduction in defense acquisition workforce.
Sec. 906. Reduction in personnel assigned to management headquarters activities and headquarters support activities.
Sec. 907. Intelligence priorities and reorganization.
Sec. 908. Additional funding for unified and specified combatant commands for fiscal year 1991.
Sec. 909. Study and plan regarding mobility requirements.
Sec. 910. Elimination of statutory position of Chief of Naval Research.

PART B—PROFESSIONAL MILITARY EDUCATION

Sec. 911. Preparation of budget requests for operation of professional military education schools.
Sec. 912. Authority of Naval War College to confer degree of master of arts in national security and strategic studies.

PART C—CONTRACTING OUT

Sec. 921. Continuation of authority of base commanders over contracting for commercial activities.
Sec. 922. Authorization of pilot program for depot maintenance workload competition.

TITLE X—DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

Sec. 1001. Drug interdiction and counter-drug activities funding.
Sec. 1002. Over-the-horizon radar.
Sec. 1003. Civil air patrol.
Sec. 1004. Additional support for counter-drug activities.
Sec. 1005. Transfer of excess defense articles.
Sec. 1006. Sense of Congress regarding the effective use of counter-drug funds.
Sec. 1007. Report on defense spending for counter-drug activities.
Sec. 1008. Study of utility of OH-58D helicopter in detection of cross-border intrusions by drug smugglers.
Sec. 1009. Andean anti-drug efforts.
Sec. 1010. Creation of a multilateral counter-drug strike force.
Sec. 1011. Counter-Drug Technology Assessment Center.

TITLE XI—OPERATION DESERT SHIELD

PART A—FUNDING MATTERS

Sec. 1101. Supplemental funds for fiscal year 1990.
Sec. 1102. Accounting for costs of Operation Desert Shield.

PART B—MILITARY PERSONNEL MATTERS

Sec. 1111. Military pay and allowances.
Sec. 1112. Sense of Congress concerning activation of National Guard Combat Brigade.
Sec. 1113. Technical amendment concerning mailing privileges for members of the Armed Forces participating in operation desert shield.
Sec. 1114. Savings program for overseas personnel.
Sec. 1115. Treatment of accumulated leave.
Sec. 1116. Report on options for reforming the basic allowance for subsistence entitlement.
Sec. 1117. End strength flexibility.

PART C—PROCUREMENT MATTERS

Sec. 1121. Procurement flexibility for small purchases.

TITLE XII—DEFENSE ACQUISITION WORKFORCE

Sec. 1201. Short title.
Sec. 1202. Defense acquisition workforce.
Sec. 1203. Special pay for certain officers holding critical acquisition positions.
Sec. 1204. Definition of service acquisition executive.
Sec. 1205. Defense acquisition university structure.
Sec. 1206. Acquisition workforce enhancements.
Sec. 1207. Repeal of certain provisions.
Sec. 1208. Evaluation by Comptroller General.
Sec. 1209. Transition provisions.
Sec. 1210. Regulations.
Sec. 1211. Effective date.

TITLE XIII—REDUCTION IN REPORTING REQUIREMENTS

PART A—REPEAL OF EXISTING REPORT REQUIREMENTS

Sec. 1301. Reports required by title, United States Code.
Sec. 1302. Reports and notifications required by annual authorization Acts.
Sec. 1303. Reports required by other laws.

PART B—MODIFICATIONS TO EXISTING REPORT REQUIREMENTS

Sec. 1311. Reports required by title 10, United States Code.
Sec. 1312. Reports required by annual authorization Acts.

PART C—REPORT PROVISIONS PREVIOUSLY TERMINATED BY GOLDWATER-NICHOLS ACT

Sec. 1321. Purpose.
Sec. 1322. Repeal of statutory provisions terminated by Goldwater-Nichols Act.
Sec. 1323. Restoration of certain reporting requirements of title 10, United States Code, terminated by Goldwater-Nichols Act.
Sec. 1324. Repeal of Goldwater-Nichols reports termination section.

PART D—CLERICAL AMENDMENTS

Sec. 1331. Clerical amendments.

TITLE XIV—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

Sec. 1401. Transfer authority.
Sec. 1402. Annual multiyear defense plan.
Sec. 1403. Multiyear National Foreign Intelligence Program.
Sec. 1404. Mission oriented presentation of Department of Defense matters in the budget.
Sec. 1405. Controls on the availability of appropriation accounts.
Sec. 1406. Audit of obligated balances of Department of Defense.
Sec. 1407. Full life-cycle cost information for all major defense acquisition programs.

Sec. 1408. Funds in Defense Cooperation Account.
Sec. 1409. Classified annex.
PART B—NAVAL VESSELS AND SHIPYARDS
Sec. 1421. Procurement limitations with respect to certain equipment for naval vessels.
Sec. 1422. Policy for area in which solicitations must be issued for contracts for overhaul, etc., of naval reserve force ships homeported on the west coast.
Sec. 1423. Report on use of Mayport Naval Station as homeport for nuclear aircraft carriers.
Sec. 1424. Fast sealift program.
Sec. 1425. Authorization for naval shipyards and aviation depots to engage in defense-related production and services during fiscal year 1991.
Sec. 1426. Naming of guided missile destroyer the U.S.S. Samuel S. Stratton.
Sec. 1427. Clarification of procedures for review of certain vessel transfers.
PART C—GUARD AND RESERVE INITIATIVE
Sec. 1431. Sense of the Congress on greater use of the reserve components of the Armed Forces.
Sec. 1432. Findings and sense of Congress regarding the importance of Ready Reserve.
Sec. 1433. Commendation of the work of the National Guard and Reserves.
Sec. 1434. Sense of Congress concerning United States armored forces.
Sec. 1435. Preservation of force structure in the reserve components.
Sec. 1436. Air National Guard and Air Force Reserve aircraft.
Sec. 1437. P-3 Aircraft.
Sec. 1438. Tactical airlift mission.
Sec. 1439. Replacement of OV-1 and OV-10 aircraft with A-10 aircraft.
PART D—ARMS CONTROL MATTERS
Sec. 1441. Sense of Congress on additional nuclear risk reduction measures.
Sec. 1442. START and strategic modernization.
Sec. 1443. Strategic Arms Reduction Talks agreement.
PART E—MATTERS RELATING TO ALLIES AND OTHER NATIONS
Sec. 1451. Reciprocal logistical support.
Sec. 1452. Department of Defense ombudsman for foreign signatories of inter-governmental memorandums of agreement concerning acquisition matters.
Sec. 1453. Expansion of scope of requirements relating to defense memoranda of understanding and related agreements.
Sec. 1454. Cooperation with Japan on technological research and development.
Sec. 1455. Permanent ceiling on United States Armed Forces in Japan and contributions by Japan to the support of United States forces in Japan.
Sec. 1456. Limitation on the costs to the United States for payments to foreign nationals employed at bases outside the United States.
Sec. 1457. Annual report on United States security arrangements and commitments with other nations.
Sec. 1458. Economic sanctions against the Republic of Iraq.
Sec. 1459. Humanitarian assistance for Lithuania.
PART F—MISCELLANEOUS MATTERS
Sec. 1461. Congressional oversight of special access programs.
Sec. 1462. Development and production of weapons and weapon systems having standoff attack capabilities and employing sensor-fused devices.
Sec. 1463. Authority to reimburse North American Van Lines and the Church of God for certain damages caused during Operation Just Cause.
Sec. 1464. Extension of deadline for national test center instrumentation.
Sec. 1465. Overseas Workload Program.
Sec. 1466. Designation of the Colonel Thomas Hawkins Johnson Visiting Scholar Program and Lecture Series.
Sec. 1467. Study of commercial aviation access to certain restricted special use airspace.
Sec. 1468. Consultation and report requirements relating to Ranch Hand Study of Department of the Air Force.
Sec. 1469. Annual presentation for congressional defense leadership on United States national military strategy.
PART G—CONGRESSIONAL FINDINGS, POLICIES, AND COMMENDATIONS
Sec. 1471. Commemoration of the efforts of the Battle of the Bulge historical foundation.
Sec. 1472. Commendation of United States military personnel for Philippine earthquake relief effort.
PART H—CODIFICATION OF CERTAIN PROVISIONS OF LAW AND TECHNICAL AMENDMENTS
Sec. 1481. Restatement in title 10, United States Code, of selected permanent law provisions.
Sec. 1482. Codification of certain recurring provisions of annual defense appropriations Acts.
Sec. 1483. Restatement of law relating to annual personnel strength authorizations, annual manpower requirements reports, and annual national guard and reserve component procurement report.
Sec. 1484. Technical and clerical amendments.
PART I—CONGRESSIONAL MEDALS
Sec. 1491. Congressional gold medal for Matthew B. Ridgway.
Sec. 1492. Congressional medal for veterans of the attack on Pearl Harbor.
Sec. 1493. Yosemite National Park centennial medal.
Sec. 1494. National medals.
TITLE XV—ARMED FORCES RETIREMENT HOME
Sec. 1501. Short title.
Sec. 1502. Definitions.
PART A—ESTABLISHMENT AND OPERATION OF RETIREMENT HOME
Sec. 1511. Establishment of the Armed Forces Retirement Home.
Sec. 1512. Residents of Retirement Home.
Sec. 1513. Services provided residents.
Sec. 1514. Fees paid by residents.
Sec. 1515. Composition and operation of Retirement Home Board.
Sec. 1516. Duties of Retirement Home Board.
Sec. 1517. Directors and staff.
Sec. 1518. Inspection by Inspector General of the Department of Defense.
Sec. 1519. Retirement Home Trust Fund.
Sec. 1520. Disposition of effects of deceased persons; unclaimed property.
PART B—TRANSITIONAL PROVISIONS
Sec. 1531. Transfer of trust funds relating to the Naval Home and the Soldiers' and Airmen's Home.
Sec. 1532. Repeal of provisions relating to the Naval Home and the United States Soldiers' and Airmen's Home.
Sec. 1533. Conforming amendments.
PART C—EFFECTIVE DATE AND AUTHORIZATION OF APPROPRIATIONS
Sec. 1541. Effective date.
Sec. 1542. Authorization of appropriations for the United States Soldiers' and Airmen's Home.
TITLE XVI—CHARTER FOR 82ND AIRBORNE DIVISION ASSOCIATION, INCORPORATED
Sec. 1601. Charter.
Sec. 1602. Powers.
Sec. 1603. Objects and purposes of corporation.
Sec. 1604. Service of process.
Sec. 1605. Membership.
Sec. 1606. Board of directors; composition; responsibilities.
Sec. 1607. Officers of corporation.
Sec. 1608. Restrictions.
Sec. 1609. Liability.
Sec. 1610. Books and records; inspection.
Sec. 1611. Audit of financial transactions.
Sec. 1612. Annual report.
Sec. 1613. Reservation of right to amend, alter, or repeal charter.
Sec. 1614. Definition of state.
Sec. 1615. Tax-exempt status.
Sec. 1616. Termination.
TITLE XVII—MISSILE TECHNOLOGY CONTROLS
Sec. 1701. Policy.
Sec. 1702. Amendment to the Export Administration Act of 1979.
Sec. 1703. Amendment to the Arms Export Control Act.
Sec. 1704. Report on missile proliferation.
TITLE XVIII—STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM
Sec. 1801. Strategic Environmental Research and Development Program.
Sec. 1802. Availability of funds.
Sec. 1803. Deadline for completion and execution of agreements with the Environmental Protection Agency.
DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS
Sec. 2001. Short title.
TITLE XXI—ARMY
Sec. 2101. Authorized Army construction and land acquisition projects inside the United States.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Ammunition demilitarization facility, Tooele Army Depot, Utah.

Sec. 2106. Extension of certain prior year authorizations.

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Defense access roads.
Sec. 2205. Authorization of appropriations, Navy.
Sec. 2206. Extension of certain prior year authorizations.

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.
Sec. 2305. Authorization of a facility.
Sec. 2306. Termination of authority to carry out certain military construction projects.
Sec. 2307. Designation of installation.
Sec. 2308. Restriction on relocation or realignment at Tonopah Research Site, Nevada.
Sec. 2309. Extension of certain prior authorizations.

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Family housing.
Sec. 2403. Conforming storage facilities.
Sec. 2404. Authorization of appropriations, Defense Agencies.
Sec. 2405. Medical facility, Nellis Air Force Base, Nevada.
Sec. 2406. Extension of certain prior year authorizations.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.
Sec. 2503. Study and report by the Secretary of Defense

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations.

TITLE XXVIII—GENERAL PROVISIONS

PART A—CONSTRUCTION, LEASING, IMPROVEMENTS, DISPOSAL, AND UTILIZATION OF MILITARY INSTALLATIONS AND FACILITIES

Sec. 2801. Dual basing.
Sec. 2802. Limitation on construction at Crotone, Italy.
Sec. 2803. Restrictions on leasing in the national capital region.
Sec. 2804. Operation and control of the Pentagon Reservation.
Sec. 2805. Revenue from transfer or disposal of Department of Defense real property.
Sec. 2806. Revenue from leasing out Department of Defense assets.
Sec. 2807. Sense of Congress concerning a military construction moratorium.

PART B—MILITARY CONSTRUCTION PROGRAM CHANGES

Sec. 2811. One-year extension of military housing rental guarantee program.
Sec. 2812. Family housing improvement threshold.

PART C—LAND TRANSACTIONS

Sec. 2821. Land conveyance, Redstone Arsenal, Alabama.
Sec. 2822. Release and conveyance, Reserve Center at Little Rock, Arkansas.
Sec. 2823. Land conveyance, Naval Weapons Station, Concord, California.
Sec. 2824. Lease at Hunters Point Naval Shipyard, San Francisco, California.
Sec. 2825. Transfer of lands, Pinon Canyon, Colorado.
Sec. 2826. Land conveyance, Cape Henlopen, Delaware.
Sec. 2827. Land conveyance, Eglin Air Force Base, Florida.
Sec. 2828. Land conveyance, Naval Air Station, Cecil Field, Jacksonville, Florida.
Sec. 2829. Land exchange, Fort Benning, Georgia.
Sec. 2830. Land conveyance, Robins Air Force Base, Georgia.
Sec. 2831. Land conveyance, Dillingham Military Reservation, Hawaii.
Sec. 2832. Land conveyance, South Bend, Indiana.
Sec. 2833. Land exchange, Lexington Park, Maryland.
Sec. 2834. Land exchange at Marine Corps Finance Center, Kansas City, Missouri.
Sec. 2835. Exchange of interests, Camp Withycombe, Oregon.
Sec. 2836. Conveyance at Fort Douglas, Utah.
Sec. 2837. Land conveyance, Naval Reserve Center, Burlington, Vermont.
Sec. 2838. Land transfer, Arlington, Virginia.
Sec. 2839. Land conveyance, Fort A.P. Hill Military Reservation, Virginia.
Sec. 2840. Easement conveyance, Fort Lawton, Seattle, Washington.

PART D—DEPARTMENT OF DEFENSE ENERGY SAVINGS

Sec. 2851. Department of Defense energy savings program.
Sec. 2852. Technical amendments.

PART E—MISCELLANEOUS PROVISIONS

Sec. 2861. Relocation of the Florida Solar Energy Center.
Sec. 2862. Modification of height restriction in avigation easement.
Sec. 2863. Henderson Hall, Arlington, Virginia.
Sec. 2864. Additional authority for lease-purchase.
Sec. 2865. Sale of aggregate, Naval Air Station, Miramar, California.
Sec. 2866. Study to evaluate joint military-civilian use of military airfields.
Sec. 2867. Negotiations for joint civilian and military use of the airfield at Wheeler Air Force Base, Hawaii.
Sec. 2868. Extension of termination date for land conveyance at Eglin Air Force Base, Florida.

TITLE XXIX—DEFENSE BASE CLOSURES AND REALIGNMENTS

PART A—DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Sec. 2901. Short title.
Sec. 2902. The Commission.
Sec. 2903. Procedure for making recommendations for base closures and realignments.
Sec. 2904. Closure and realignment of military installations.
Sec. 2905. Implementation.
Sec. 2906. Account.
Sec. 2907. Reports.
Sec. 2908. Congressional consideration of Commission report.
Sec. 2909. Restriction on other base closure authority.
Sec. 2910. Definitions.
Sec. 2911. Clarifying amendment.

PART B—OTHER PROVISIONS RELATING TO DEFENSE BASE CLOSURES AND REALIGNMENTS

Sec. 2921. Closure of foreign military installations.
Sec. 2922. Modification of the content of biannual report of the Commission on alternative utilization of military facilities.
Sec. 2923. Funding for environmental restoration at military installations scheduled for closure inside the United States.
Sec. 2924. Community preference consideration in closure and realignment of military installations.
Sec. 2925. Recommendations of the Base Closure Commission.
Sec. 2926. Contracts for certain environmental restoration activities.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

Sec. 3101. Operating expenses.
Sec. 3102. Plant and capital equipment.
Sec. 3103. Environmental restoration and waste management.
Sec. 3104. Funding limitations.

PART B—RECURRING GENERAL PROVISIONS

Sec. 3121. Reprogramming.
Sec. 3122. Limits on general plant projects.
Sec. 3123. Limits on construction projects.
Sec. 3124. Fund transfer authority.
Sec. 3125. Authority for construction design.
Sec. 3126. Authority for emergency construction design.
Sec. 3127. Funds available for all national security programs of the Department of Energy.
Sec. 3128. Availability of funds.

PART C—MISCELLANEOUS

Sec. 3131. Remanufacture of nuclear stockpile weapons.
Sec. 3132. Laboratory-directed research and development programs.
Sec. 3133. National Environmental Policy Act compliance report requirement.
Sec. 3134. Report on environmental restoration expenditures.
Sec. 3135. Department of Energy management plan for environmental restoration and waste management activities.

Sec. 3136. Extension of authority to loan personnel and facilities to community development organizations near Hanford Nuclear Reservation.
Sec. 3137. Safety measures for waste tanks at Hanford Nuclear Reservation.
Sec. 3138. Programs for persons who may have been exposed to radiation released from Hanford Nuclear Reservation.
Sec. 3139. Payments for injuries believed to arise out of atomic weapons testing program.
Sec. 3140. Repeal.
Sec. 3141. Contractor liability for injury or loss of property arising out of atomic weapons testing programs.
Sec. 3142. Sense of Congress on negotiating agreements to achieve a comprehensive test ban.

PART D—INTERNATIONAL FISSILE MATERIAL AND WARHEAD CONTROL

Sec. 3151. Production of plutonium and highly enriched uranium for nuclear weapons and disposal of nuclear stockpiles.
Sec. 3152. Development and demonstration of means for warhead dismantlement verification.

PART E—DEPARTMENT OF ENERGY SCIENCE EDUCATION PROGRAMS

Sec. 3161. Short title.
Sec. 3162. Findings and purposes.
Sec. 3163. Mission.
Sec. 3164. Science education programs.
Sec. 3165. Laboratory cooperative science centers and other authorized education activities.
Sec. 3166. Education partnerships.
Sec. 3167. Definitions.
Sec. 3168. Authorization of appropriations.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

Sec. 3201. Authorization.
Sec. 3202. Appointment and compensation of scientific and technical personnel of the Defense Nuclear Facilities Safety Board.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authority to barter material in the national defense stockpile to finance the upgrading, refining, or processing of stockpile material.
Sec. 3302. Transfer of funds.

TITLE XXXIV—CIVIL DEFENSE

Sec. 3401. Authorization of appropriations.

TITLE XXXV—PANAMA CANAL COMMISSION

Sec. 3501. Short title.
Sec. 3502. Authorization of expenditures.
Sec. 3503. General provisions.
Sec. 3504. Compensation for Board members.
Sec. 3505. Compensation for Deputy Administrator and Chief Engineer.
Sec. 3506. Retirement.
Sec. 3507. Amendments to Panama Canal Compensation Fund Act of 1988.

DIVISION D—ECONOMIC ADJUSTMENT, DIVERSIFICATION, CONVERSION, AND STABILIZATION

Sec. 4001. Short title.
Sec. 4002. Findings and policy.
Sec. 4003. Definitions.
Sec. 4004. Continuation of Economic Adjustment Committee.

TITLE XLI—ECONOMIC ADJUSTMENT PLANNING

Sec. 4101. Notification.
Sec. 4102. Economic adjustment planning assistance through the Department of Defense.
Sec. 4103. Community economic adjustment assistance through the Economic Development Administration.

TITLE XLII—ADJUSTMENT ASSISTANCE FOR EMPLOYEES

Sec. 4201. Secretary of Defense notice requirement.
Sec. 4202. Defense conversion adjustment program.
Sec. 4203. Authorization of appropriations.

TITLE XLIII—EXPANSION OF BUSINESS CAPITAL ASSISTANCE PROGRAMS

Sec. 4301. Expansion of small business loan program.
Sec. 4302. Economic planning assistance for exceptional projects.
Sec. 4303. Expansion of export financing for goods and services produced by firms and employees formerly engaged in defense production.
Sec. 4304. Benefit information for businesses.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of aircraft for the Army in the amount of $1,274,383,000, of which $566,489,200 is for modification of aircraft.

(b) MISSILES.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of missiles for the Army in the amount of $2,081,123,000, of which $135,374,000 is for modification of missiles.

(c) WEAPONS AND TRACKED COMBAT VEHICLES.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of weapons and tracked combat vehicles for the Army in the amount of $2,063,672,000.

(d) AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of ammunition for the Army in the amount of $1,346,832,000.

(e) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for fiscal year 1991 for other procurement for the Army in the amount of $2,526,884,000, of which—

(1) $609,575,000 is for tactical and support vehicles;

(2) $1,103,747,000 is for communications and electronics equipment; and

(3) $813,562,000 is for other support equipment.

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of aircraft for the Navy in the amount of $8,107,698,000, of which $1,243,642,000 is for modification of aircraft.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of weapons (including missiles and torpedoes) for the Navy in the amount of $5,981,191,000. Amounts authorized under the preceding sentence are available as follows:

(1) For missile programs other than ballistic missile programs, $3,095,276,000.

(2) For torpedo programs, $841,318,000 as follows:

For the MK-48 torpedo program, $350,291,000.

For the MK-50 torpedo program, $328,266,000.

For the ASW target program, $26,409,000.

For the ASROC program, $20,156,000.

For the torpedo support equipment program, $55,278,000.

For the antisubmarine warfare range support program, $24,382,000.

For first destination transportation $8,700,000.

(3) For other weapons, $202,146,000, of which—

(A) $61,958,000 is for the MK-15 close-in weapon system; and

(B) $81,292,000 is for the close-in weapon system modification program.

(4) For other ordnance, $233,241,000.

(5) For spares and repair parts, $69,209,000.

(c) SHIPBUILDING AND CONVERSION.—Funds are hereby authorized to be appropriated for fiscal year 1991 for shipbuilding and conversion for the Navy in the amount of $9,414,800,000. Amounts authorized under the preceding sentence are available as follows:

For the Trident submarine program, $1,145,629,000.

For the SSN-21 nuclear attack submarine program, $2,106,000,000.

For the aircraft carrier service life extension program (SLEP), $113,068,000.

For the DDG-51 guided missile destroyer program, $3,222,003,000.

For the LHD-1 amphibious assault ship program, $959,800,000.

For the LSD-41 cargo variant program, $240,000,000.

For the oceanographic research ship program, $43,100,000.

For service craft and landing craft, $27,300,000.

For the landing craft, air cushion (LCAC) program, $267,900,000.

For outfitting and post delivery, $335,600,000.

For first destination transportation $5,800,000.

(d) OTHER PROCUREMENT, NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1991 for other procurement for the Navy in the amount of $5,488,599,000. Amounts authorized under the preceding sentence are available for certain programs as follows:

(1) For the ship support equipment program, $1,214,555,000.

(2) For the communications and electronics equipment program, $1,796,957,000.

(3) For aviation support equipment, $370,787,000.

(4) For the ordnance support equipment program, $544,836,000.

(5) For civil engineering support equipment, $81,658,000.

(6) For supply support equipment, $270,760,000.

(7) For personnel and command support equipment, $743,728,000.

(8) For spares and repair parts, $465,278,000.

(e) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement for the Marine Corps in the amount of $752,479,000.

SEC. 103. AIR FORCE

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of aircraft for the Air Force in the amount of $9,805,933,000, of which $1,471,231,000 is available for modification of aircraft.

(b) MISSILES.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of missiles for the Air Force in the amount of $6,109,469,000, of which $111,273,000 is available for modification of missiles.

(c) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for fiscal year 1991 for other procurement for the Air Force in the amount of $7,826,452,000, of which—

(1) $416,480,000 is for munitions and associated support equipment;

(2) $137,963,000 is for vehicular equipment;

(3) $1,376,092,000 is for electronics and telecommunications equipment; and

(4) $5,895,917,000 is for other base maintenance and support equipment.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement for the Defense Agencies in the amount of $2,149,954,000, of which—

(1) $161,500,000 is for electronic warfare procurement; and

(2) $637,096,000 is for the Special Operations Command.

SEC. 105. DEFENSE INSPECTOR GENERAL

Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement for the Inspector General of the Department of Defense the amount of $981,000.

SEC. 106. RESERVE COMPONENTS

Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $690,900,000.

(2) For the Air National Guard, $389,700,000.

(3) For the Army Reserve, $46,100,000.

(4) For the Navy Reserve, $478,300,000.

(5) For the Air Force Reserve, $137,700,000.

(6) For the Marine Corps Reserve, $129,000,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1991 for the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747) in the amount of $382,600,000.

SEC. 108. MULTIYEAR AUTHORIZATIONS

The Secretary of the military department concerned may use funds appropriated for fiscal year 1991 to enter into multiyear procurement contracts in accordance with section 2306(h) of title 10, United States Code, for the following programs:

(1) For the Department of the Army:

(A) UH-60L Helicopter Program.

(B) Pedestal-Mounted Stinger (Avenger) Program.

(C) Family of Medium Trucks.

(2) For the Department of the Air Force:

(A) The GPS Navstar Satellite Program.

(B) The Defense Support Program.

SEC. 109. REPEAL OF PRIOR MILESTONE AUTHORIZATIONS

(a) PROCUREMENT PROGRAMS.—Section 106 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1034) is repealed.

(b) RDT&E PROGRAMS.—Section 216 of such Act (101 Stat. 1051) is repealed.

PART B—B-2 AIRCRAFT PROGRAM

SEC. 121. LIMITATION ON OBLIGATIONS

Of the amount appropriated pursuant to section 103 for procurement of aircraft for the Air Force, not more than $2,349,308,000 may be obligated for procurement of B-2 aircraft.

PART C—OTHER STRATEGIC PROGRAMS

SEC. 131. SRAM II MISSILE PROGRAM

None of the funds appropriated for fiscal year 1991 for procurement for the Air Force may be obligated for the SRAM II missile program (other than funds for peculiar support equipment and the industrial modernization improvement program) until the Secretary of Defense certifies to the congressional defense committees that development flight tests for that missile demonstrate that the missile (including the rocket motor propellant) meets the established performance criteria.

SEC. 132. GROUND-WAVE EMERGENCY NETWORK

None of the funds appropriated pursuant to this or any other Act may be obligated or expended for site preparation or construction of any tower or related support facility for the Ground-Wave Emergency Network (GWEN) System until—

(1) the Secretary of Defense provides for the conduct of an independent study of such system on the health effects and environmental impact of the system on surrounding local jurisdictions; and

(2) a report containing the results of such study, together with the Secretary's comments and recommendations concerning the report, has been submitted to the congressional defense committees and a period of 15 days has elapsed after the report is received.

SEC. 133. B-1B AIRCRAFT PROGRAM

Section 121(e)(3)(C) of Public Law 101-189 (103 Stat. 1380) is amended by striking out "in the late 1990s" and inserting in lieu thereof "in 2010".

SEC. 134. PROHIBITION ON OBLIGATION OR EXPENDITURE OF FISCAL YEAR 1990 FUNDS FOR MX RAIL GARRISON PROCUREMENT

Funds appropriated for fiscal year 1990 for procurement of missiles for the Air Force may not be obligated or expended for the MX Rail Garrison program.

SEC. 135. REPORT ON ALTERNATIVE MX MISSILE TEST PLANS

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on alternative MX missile test plans. The report shall be submitted, in both classified and unclassified forms, by August 1, 1991.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following matters:

(1) A description of the guidelines established by the Chairman of the Joint Chiefs of Staff for assessing the reliability of the MX missile during Phase II Operational Testing.

(2) A description of the currently planned Phase II Operational Test program for the MX missile.

(3) A complete assessment of the extent to which the guidelines described in paragraph (1) will be met under the MX missile Phase II Operational Test program described in paragraph (2).

(4) A complete assessment of the extent to which the guidelines described in paragraph (1) could be met under the MX missile Phase II Operational Test program if the total number of MX missiles procured were reduced from the planned 173 missiles to (A) 126 missiles, and (B) 150 missiles.

(5) A description and net assessment of any other significant effects of reducing the number of MX test missiles as described in paragraph (4), including (A) an estimate of the associated cost savings, and (B) a description of the effect on existing contractual obligations and how the associated costs could be minimized.

(6) A full description of how information from sources other than missile flight testing, including inspection of missile silos, aging and surveillance programs, production quality control, experience with previously deployed missile systems, and simulation, is factored into the assessment of missile reliability.

SEC. 136. LIMITATION ON ADVANCE PROCUREMENT OF ADVANCED CRUISE MISSILE

Of the amount appropriated pursuant to section 103 for Missile Procurement, Air Force, that is available for advance procurement of the Advanced Cruise Missile, not more than $64,400,000 may be obligated until—

(1) a Defense Acquisition Board determines—

(A) the total number of Advanced Cruise Missiles that will be acquired;

(B) the acquisition strategy that will be used to acquire the missiles; and

(C) the suitability of the program to enter into a full production rate of 250 missiles annually;

(2) the scheduled follow-on operational flight tests are completed in fiscal year 1991;

(3) the Secretary of Defense certifies to the congressional defense committees that the results of those flight tests demonstrate that the performance of the Advanced Cruise Missile meets the established requirements to proceed to a full-rate production decision; and

(4) the Secretary of Defense submits to the congressional defense committees a report on the determinations of the Defense Acquisition Board made under paragraph (1).

SEC. 137. LIMITATION ON OBLIGATION OF FUNDS FOR KC-135R AIRCRAFT RE-ENGINING MODIFICATION PROGRAM

(A) LIMITATION.—Funds appropriated pursuant to this Act may not be obligated for the KC-135R tanker aircraft re-engining modification program until the Secretary of Defense—

(1) conducts a defense-wide reassessment of requirements for tanker aircraft and the cost effectiveness of additional conversions of the E and Q models of the KC-135 aircraft to the R configuration as compared with maintaining the A models of that aircraft; and

(2) submits a report on the results of the reassessment to the congressional defense committees.

(b) REASSESSMENT.—In carrying out the reassessment, the Secretary shall take into consideration—

(1) current and planned force structure reductions;

(2) changes in the Single Integrated Operating Plan (SIOP); and

(3) changes in United States contingency planning.

PART D—ARMY PROGRAMS

SEC. 141. ADATS MISSILE SYSTEM

(a) LIMITATION.—The Secretary of the Army may not obligate any funds after the date of the enactment of this Act for a payment

under the ADATS air defense program for contractor corrections of system reliability deficiencies to meet original program specifications for the system.

(b) EXCEPTION.—This section does not preclude the obligation of funds to pay for product improvements approved by the Government before Initial Operational Test and Evaluation.

SEC. 142. M-1 ABRAMS TANK PROGRAM

(a) LIMITATION.—Of the funds appropriated or otherwise made available for procurement of weapons and tracked combat vehicles for the Army for fiscal year 1991, the Secretary of the Army, subject to subsection (b), may use any or all of the $150,000,000 provided for advance procurement (1) to buy M1 tanks in the M1A2 configuration, or (2) to initiate an M1-to-M1A2 conversion program.

(b) CERTIFICATION.—The advance procurement funds described in subsection (a) may not be used for a purpose described in that subsection until the Secretary of the Army certifies to the congressional defense committees that the M1A2 tank has successfully completed development and operational tests.

SEC. 143. PROCUREMENT OF AHIP SCOUT HELICOPTERS

Section 133(b)(1) of Public Law 101-189 (103 Stat. 1383) is amended—

(1) by striking out "Subject to subsection (c), the" and inserting in lieu thereof "The";

(2) by striking out "and" at the end of subparagraph (B);

(3) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following:

"(D) the obligation of not more than $200,000,000 from funds appropriated pursuant to an authorization of appropriations for the OH-58D AHIP Scout aircraft program during fiscal year 1991 for procurement of not more than 36 OH-58D Armed AHIP Scout aircraft and for payment of costs necessary to terminate the AHIP Scout aircraft program.".

SEC. 144. PROVISION OF CH-47 AIRCRAFT FOR THE ARMY NATIONAL GUARD

(a) TRANSFER OF AIRCRAFT TO AIR NATIONAL GUARD.—Of the modified CH-47 aircraft procured with funds appropriated or otherwise made available in fiscal year 1991, the Secretary of the Army shall distribute not less than 24 such aircraft to the Army National Guard of the United States, as provided in subsection (b).

(b) PLAN REQUIRED.—(1) The Secretary of the Army shall develop a plan to retire—

(A) not less than 24 CH-54 aircraft assigned to the Army National Guard of the United States not later than September 30, 1992; and

(B) all remaining CH-54 aircraft assigned to the Army National Guard of the United States not later than September 30, 1993.

(2) For each CH-54 aircraft assigned to the Army National Guard of the United States that is retired by the Secretary of the Army on or after the date of enactment of this Act, the Secretary shall transfer one of the CH-47 aircraft referred to in subsection (a) to the Army National Guard of the United States.

PART E—NAVY AND MARINE CORPS PROGRAMS

SEC. 151. A-12 AIRCRAFT PROGRAM

(a) FUNDING.—Of the funds appropriated or otherwise made available for aircraft procurement for the Navy for fiscal year 1991, $610,000,000 shall be available for the A-12 aircraft program. Such funds—

(1) may be used only for an A-12 program—

(A) that conforms to the pricing provisions of existing contracts, adjusted for quantity and inflation, as appropriate; or

(B) that is restructured to reduce technical and schedule risks arising from concurrency and for which the new program price is based on actual contract cost data from the pre-restructured program; and

(2) may not be obligated or expended until 45 days after the date on which the Secretary of Defense submits to the congressional defense committees the report described in subsection (d).

(b) DEFENSE SCIENCE BOARD PANEL.—The Secretary of Defense shall establish a special panel of the Defense Science Board to examine the requirements of the Navy established for the A-12 aircraft and to assess the inherent suitability of the current A-12 design and its projected execution for meeting the requirements of the Navy for medium-attack aircraft (including low observability) through the projected life of the system.

(c) NAVY REVIEW COMMITTEE.—The Secretary of the Navy shall establish an A-12 review committee to be independent of the A-12 program office. The review committee shall be chaired by the Inspector General of the Navy. The committee shall submit quarterly reports to the Secretary of the Navy and the Secretary of Defense on the cost, schedule, and performance status of the program (including technical performance and projected operating weight) until the A-12 aircraft completes its first deployment.

(d) REPORT.—The report required by subsection (a) shall include the following:

(1) A program cost estimate for the A-12 program as determined by the Department of Defense Cost Analysis Improvement Group (CAIG).

(2) An assessment of when flight testing of the A-12 aircraft will begin.

(3) A summary of the report of the panel established under subsection (b), together with such comments as the Secretary considers appropriate.

(4) Certification that the review committee required by subsection (c) has been established.

(5) The views of the Secretary on the appropriateness of fixed-price type contracts for full-scale development of the A-12 aircraft, including any views concerning possible renegotiation of any A-12 contracts with the prime contractors.

(6) Any other views or recommendations of the Secretary of Defense that the Secretary considers appropriate.

SEC. 152. V-22 AIRCRAFT PROGRAM

(a) FUNDING.—Of the funds appropriated or otherwise made available for aircraft procurement for the Navy for fiscal year 1991, $165,000,000 shall be available for the V-22 aircraft program.

(b) LIMITATION.—Funds described in subsection (a) and the amount of $200,000,000 appropriated for the Navy for fiscal year 1989 for procurement of aircraft that remains available for obligation for the V-22 program may be used only for advance procurement of production representative V-22 aircraft, support equipment, and related activities, as required to conduct the operational tests approved by the Director of Operational Test and Evaluation (DOT&E) pursuant to section 138 of title 10, United States Code.

(c) STATUS AS MAJOR DEFENSE ACQUISITION PROGRAM.—The V-22 aircraft program shall be considered to be a major defense acquisition program within the meaning of section 2430 of title 10, United States Code, and shall be managed and reported accordingly.

SEC. 153. PROCUREMENT OF M1A1 MAIN BATTLE TANKS FOR THE MARINE CORPS

Of the funds appropriated for advanced procurement for the Marine Corps for fiscal year 1990, not more than $62,400,000 of any such funds that remain available for obligation shall be available for procurement of M1A1 main battle tanks.

SEC. 154. POLICY FOR SSN-21 SUBMARINE PROCUREMENT

The funds authorized to be appropriated by this Act for fiscal year 1991 for the SSN-21 nuclear attack submarine program are to be obligated in accordance with applicable law, policies, and regulations. This section may not be construed as expressing a preference for any particular method of contracting for the SSN-21 submarine authorized by this Act.

SEC. 155. MH-53 MINESWEEPER HELICOPTER

Of the amounts authorized to be appropriated pursuant to section 106 for reserve component equipment, $336,000,000 shall be available for procurement of MH-53 minesweeper helicopters for the Navy Reserve.

SEC. 156. AH-1W HELICOPTERS

(a) FISCAL YEAR 1990 FUNDS.—Of the amounts appropriated for National Guard and Reserve equipment for fiscal year 1990, $58,600,000 is authorized to be available for procurement of six AH-1W helicopters for the Marine Corps Reserve.

(b) FISCAL YEAR 1991 FUNDS.—Of the amounts authorized to be appropriated pursuant to section 106 for reserve component equipment, $79,000,000 shall be available for procurement of eight AH-1W helicopters for the Marine Corps Reserve.

SEC. 157. LABORATORY EQUIPMENT FOR NAVY INDUSTRIAL-FUNDED ACTIVITIES

Of the amount authorized to be appropriated pursuant to section 102 for other procurement for the Navy, $98,000,000 shall be available (as provided in the President's budget) for acquisition of laboratory equipment for Navy industrial-funded activities.

PART F—NONSTRATEGIC AIR FORCE PROGRAMS

SEC. 161. C-17 AIRCRAFT PROGRAM FUNDING AND LIMITATIONS FOR FISCAL YEAR 1991

(a)(1) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 103(1)—

(A) not more than $400,000,000 may be obligated for procurement of C-17 aircraft;

(B) not more than $60,000,000 may be obligated for advance procurement of C-17 aircraft;

(C) not more than $80,000,000 may be obligated for procurement of initial spare parts C-17 aircraft.

(2) Nothing in this provision shall preclude the obligation of additional funds for the C-17 aircraft program out of funds transferred under section 1401.

(b) LIMITATION.—The Secretary of the Air Force may not obligate any funds appropriated pursuant to section 103 for procurement of the C-17 aircraft (other than funds for advance procurement for fiscal year 1992) until the Secretary of Defense certifies to the congressional defense committees that a production C-17 aircraft has successfully completed it first flight.

SEC. 162. TACIT RAINBOW PROGRAM

The Secretary of the Air Force may not obligate any funds to establish a second source for procurement of the TACIT Rainbow system until the Secretary submits to the congressional defense committees a report describing total program quantities to be

procured and the cost effectiveness of proceeding with two sources of production.

SEC. 163. CHEMICAL-BIOLOGICAL COLLECTIVE PROTECTION SYSTEMS

(a) TERMINATION OF PROCUREMENT OF SURVIVABLE COLLECTIVE PROTECTION SYSTEM.—After the date of the enactment of this Act, no funds may be obligated for procurement of the Survivable Collective Protection System.

(b) LIMITATION ON PROCUREMENT OF TRANSPORTABLE COLLECTIVE PROTECTION SYSTEM.—None of the funds appropriated pursuant to this Act may be obligated for procurement of the Transportable Collective Protection System until the Secretary of Defense submits to the congressional defense committees a report setting forth—

(1) the overall requirements for the program;

(2) the rationale for the program in light of the chemical weapons arms control agreement between the United States and the Soviet Union and the efforts to achieve a multilateral ban on all chemical weapons;

(3) the anticipated distribution of assets to be procured under the program, shown by geographic region and by military forces; and

(4) total program costs.

(c) EXCEPTION FOR OPERATION DESERT SHIELD.—The limitation in subsection (b) shall not apply with respect to any procurement in connection with Operation Desert Shield.

SEC. 164. RE-ENGINING FOR CERTAIN RECONNAISSANCE AIRCRAFT

Of the funds appropriated pursuant to section 103, $54,600,000 shall be available for re-engining the TR-1 and U-2 reconnaissance aircraft.

PART G—CHEMICAL MUNITIONS

SEC. 171. ANNUAL REPORT ON SAFETY OF CHEMICAL WEAPONS STOCKPILE

(a) ADDITIONAL ITEMS FOR ANNUAL REPORT ON CHEMICAL WEAPONS DEMILITARIZATION PROGRAM.—Subsection (g)(3) of section 1412 of Public Law 99-145 (50 U.S.C. 1521) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(C) an assessment of the safety status and the integrity of the stockpile of lethal chemical agents and munitions subject to this section, including—

"(i) an estimate on how much longer that stockpile can continue to be stored safely;

"(ii) a site-by-site assessment of the safety of those agents and munitions; and

"(iii) a description of the steps taken (to the date of the report) to monitor the safety status of the stockpile and to mitigate any further deterioration of that status.".

(b) TECHNICAL AMENDMENTS.—Subsections (a)(1) and (h)(1) of such section are amended by striking out "the date of the enactment of this Act" and inserting in lieu thereof "November 8, 1985".

SEC. 172. FUNDING CLARIFICATION FOR CHEMICAL WEAPONS STOCKPILE DISPOSAL PROGRAM

Subsection (c) of section 1412 of Public Law 99-145 (50 U.S.C. 1521) is amended by adding at the end the following paragraph:

"(3) In order to carry out subparagraph (A) of paragraph (1), the Secretary may make grants to State and local governments (either directly or through the Federal Emergency Management Agency) to assist those governments in carrying out functions relating to emergency preparedness and response in connection with the disposal of the lethal chemical agents and munitions referred to in subsection (a). Funds available to the Department of Defense for the purpose of carrying out this section may be used for such grants.".

SEC. 173. CHEMICAL WEAPONS STOCKPILE SAFETY CONTINGENCY PLAN

(a) DEVELOPMENT OF PLAN.—The Secretary of Defense shall develop a plan setting forth the steps the Department of Defense would take if the chemical weapons stockpile of the United States began an accelerated rate of deterioration (or experienced any other event which called into question its continued safe storage) before a comprehensive full-scale chemical weapons disposal capability is developed. The plan shall address—

(1) the schedule that would have to be followed to put the plan into effect;

(2) the level of funding that would be required to put the plan into effect;

(3) the equipment and other resources that would be required to put the plan into effect; and

(4) an assessment of how quickly the plan could be placed into effect in the event of an emergency.

(b) UPDATES.—The Secretary shall periodically update the plan developed pursuant to subsection (a) as needed.

(c) SUBMISSION TO CONGRESS.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a copy of the plan developed pursuant to subsection (a). The submission shall be made not later than 180 days after the date of the enactment of this Act.

PART H—OTHER PROGRAMS

SEC. 181. PROGRAM TERMINATIONS

(a) 155-MILLIMETER NUCLEAR PROJECTILE PROGRAM.—Funds appropriated for the Department of Defense for fiscal year 1991 or for any fiscal year thereafter may not be obligated for the W-82 155-millimeter nuclear projectile program.

(b) FOLLOW-ON TO LANCE PROGRAM.—Funds appropriated for the Department of Defense for fiscal year 1991 or any fiscal year thereafter may not be obligated for the Follow-on to Lance Program.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of enactment of this Act may not be construed as modifying or superseding any provision of this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 182. ELECTRONIC WARFARE PROCUREMENT

(a) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to this Act may be obligated or expended for procurement for a program described in subsection (d) only at levels sufficient to sustain existing production capabilities at minimum essential levels. The limitation in the preceding sentence shall cease to apply with respect to any such program when a certification under subsection (b) with respect to that program is made.

(b) PRODUCTION DECISION.—A decision to proceed with production of a program described in subsection (d) at a rate beyond that permitted under subsection (a) may not be made within the Department of Defense until the Director of Operational Test and Evaluation of the Department of Defense certifies to the congressional defense committees—

(1) that the program has undergone thorough and effective operational testing; and

(2) that, on the basis of that testing, the Director has determined that the program meets or exceeds all operational criteria established for the program.

(c) MODERNIZATION PROGRAM.—The Under Secretary of Defense for Acquisition shall establish an affordable, cost-effective joint electronic warfare modernization program for the Navy and Air Force that eliminates redundancy among the programs described in subsection (d), maximizes commonality among those programs, and meets essential operational requirements. Such program shall be established not later than March 1, 1991.

(d) COVERED PROGRAMS.—This section applies to the Airborne Self Protection Jammer (ASPJ), the ALQ-135 device, the ALQ-184 device, and a classified Air Force program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army, $5,732,749,000.

(2) For the Navy, $9,417,934,000.

(3) For the Air Force, $12,664,662,000.

(4) For the Defense Agencies, $8,280,558,000 of which—

(A) $251,619,000 is authorized for the activities of the Deputy Director, Defense Research and Engineering (Test and Evaluation); and

(B) $15,000,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNTS FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT

(a) FISCAL YEAR 1991.—Of the amounts appropriated pursuant to section 201, $3,770,233,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 211. V-22 OSPREY AIRCRAFT PROGRAM

(a) FUNDING.—Of the amount appropriated pursuant to section 201, $238,000,000 shall be available for research, development, test, and evaluation in connection with the V-22 aircraft program.

(b) PROHIBITION OF ALTERNATIVES.—None of the funds appropriated pursuant to section 201 may be used for research, development, test, and evaluation for a replacement aircraft to perform the medium-lift mission other than the V-22 aircraft.

SEC. 212. ARMY SCOUT ATTACK HELICOPTER PROGRAM

The Secretary of the Army shall establish a technical demonstration program for a combat helicopter by restructuring the light helicopter program to produce prototypes of such a helicopter for evaluation before a decision is made to proceed with full-scale development.

SEC. 213. ADVANCED TACTICAL FIGHTER PROGRAM

(a) IN GENERAL.—The Secretary of the Air Force shall complete the demonstration and validation phase and the design selection process for the Advanced Tactical Fighter for the Air Force.

(b) PROHIBITION ON FULL-SCALE DEVELOPMENT.—Funds appropriated or otherwise made available pursuant to this or any other Act for the Air Force for fiscal year 1991, or a prior fiscal year, may not be obligated for full-scale development activities in connection with the Advanced Tactical Fighter of the Air Force.

SEC. 214. ARMORED GUN SYSTEM

The Secretary of the Army shall prescribe an acquisition plan for the procurement of an armored gun system. The plan shall provide—

(1) for acquisition of an armored gun system which is a nondevelopmental item; and

(2) for fielding of such system to the first unit during fiscal year 1995 if there is an approved program start for such system by the Office of the Secretary of Defense during fiscal year 1991.

SEC. 215. FLEET ELECTRONIC WARFARE SUPPORT GROUP

(a) RETIREMENT OF CURRENT AIRCRAFT.—The Secretary of the Navy shall retire the ERA-3B aircraft currently assigned to the Fleet Electronic Warfare Support Group not later than September 30, 1993.

(b) ACQUISITION OF REPLACEMENT AIRCRAFT.—The Secretary of the Navy shall initiate a competition to acquire a replacement aircraft for the Fleet Electronic Warfare Support Group within 60 days after the date of the enactment of this Act. The Secretary shall acquire such aircraft by direct procurement or by lease entered into under section 328 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1957).

SEC. 216. VANDENBERG AIR FORCE BASE TITAN IV LAUNCH FACILITY

Funds appropriated for the Air Force for fiscal year 1991 may be obligated for an additional Titan IV launch facility only if the funds are used to convert the existing Space Launch Complex Six facility at Vandenberg Air Force Base, California, for use as a Titan IV launch facility.

SEC. 217. ADVANCED COMMUNICATIONS SATELLITE RELAY SYSTEM

(a) SYSTEM REQUIREMENTS.—The Secretary of Defense shall develop and carry out a plan for a system other than, and in the place of, the currently planned MILSTAR communications satellite system to meet requirements for an advanced communications satellite relay system. The system to be developed and carried out shall either be a restructured MILSTAR program or an alternative advanced communications satellite relay system and shall be developed with the objectives of—

(1) substantially reducing the cost of the program compared to the present cost of the MILSTAR program as currently planned;

(2) increasing the utility of the program for tactical forces; and

(3) eliminating unnecessary capabilities for protracted nuclear warfighting missions and operations.

(b) REPORT.—Not later than April 1, 1991, the Secretary of Defense shall submit to the congressional defense committees a report on the system planned under subsection (a), as provided in the classified and unclassified joint statement of managers accompanying the conference report on H.R. 4739 of the One Hundred First Congress.

(c) FUNDING LIMITATION.—Except as provided in subsection (d), of the funds appropriated to the Department of Defense for fiscal year 1991, not more than a total of $600,000,000 may be obligated or expended for the following:

(1) The MILSTAR program.

(2) The restructured MILSTAR program or the proposed alternative system required under subsection (a), whichever is developed.

(d) TRANSFER AUTHORITY.—(1) The Secretary of Defense may transfer to the MILSTAR program (including the restructured MILSTAR program or the alternative system) amounts of authorizations provided for the Department of Defense in this Act, subject to applicable reprogramming procedures.

(2) The authority to transfer funds under this section is not in addition to the transfer authority provided in section 1401.

(3) The Secretary shall promptly notify the congressional defense committees of any transfer proposed to be made under this subsection.

(e) TRANSFERS WITHIN THE MILSTAR PROGRAM.—(1) Subject to the limitation in subsection (c), the Secretary of Defense may transfer amounts of authorizations made available for the restructured MILSTAR program or the alternative system between title I and II for use for the restructured MILSTAR program or the alternative system.

(2) The authority transfer funds under this section is not in addition to the transfer authority provided in section 1401.

(3) The Secretary shall promptly notify the congressional defense committees of any transfer made under this subsection.

(f) INAPPLICABILITY OF SECTION.—This section does not apply—

(1) to the extremely high frequency communications package for the ultra high frequency follow-on satellite program; or

(2) to the extremely high frequency terminal programs of the Navy.

SEC. 218. PROHIBITION ON TESTING MID-INFRARED ADVANCED CHEMICAL LASER AGAINST AN OBJECT IN SPACE

The Secretary of Defense may not carry out a test of the Mid-Infrared Advanced Chemical Laser (MIRACL) transmitter and associated optics against an object in space during 1991 unless such testing is specifically authorized by law.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. STRATEGIC DEFENSE INITIATIVE PROGRAM STRUCTURE AND LIMITATIONS ON SPENDING

(a) PROGRAM ELEMENTS.—(1) The following program elements shall be the exclusive program elements for the Strategic Defense Initiative:

(A) Phase I Defenses.

(B) Limited Protection Systems.

(C) Theater and ATBM Defenses.

(D) Follow-On Systems.

(E) Research and Support Activities.

(2) The program elements in paragraph (1) shall be the only program elements used in the program and budget information concerning the Strategic Defense Initiative submitted to Congress by the Secretary of Defense in support of the budget submitted to Congress by the President under section 1105 of title 31, United States Code, for any fiscal year after fiscal year 1991.

(b) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION OBJECTIVES.—

(1) PHASE I DEFENSES.—The Phase I Defenses program element shall include programs, projects, and activities which have as a primary objective the development of systems, components, and architectures for a strategic defense system capable of providing low to moderate defensive capabilities against a large-scale ballistic missile attack against the United States. Such activities may include those necessary to develop systems, components, and architectures capable of providing an early deployment option against limited attacks, including accidental, unauthorized, or deliberate launch of a small number of ballistic missiles.

(2) LIMITED PROTECTION SYSTEMS.—The Limited Protection Systems program element shall include programs, projects, and activities which have as a primary objective the development of systems and components which, if deployed as a limited defense, would not be in violation of the 1972 ABM Treaty. For purposes of planning, evaluation, design, and effectiveness studies, such programs, projects, and activities may take into consideration both the current numerical limitations of the 1972 ABM Treaty and modest changes to those numerical limitations.

(3) THEATER AND ATBM DEFENSES.—The Theater and ATBM Defenses program element shall include programs, projects, and activities which have as a primary objective—

(A) the development of deployable and rapidly relocatable anti-tactical ballistic missile (ATBM) defenses for forward deployed and expeditionary United States armed forces, and

(B) cooperation with friendly and allied nations in the development of theater defenses against tactical ballistic missiles.

(4) FOLLOW-ON SYSTEMS.—The Follow-On Systems program element shall include programs, projects, and activities which have as a primary objective the development of technologies capable of supporting systems, components, and architectures that could produce highly effective defenses for deployment after the beginning of the twenty-first century.

(5) RESEARCH AND SUPPORT ACTIVITIES.—The Research and Support Activities program element shall include programs, projects, and activities which have as a primary objective—

(A) the provision of basic research and technical, engineering, and managerial support to the programs, projects, and activities within the program elements in paragraphs (1) through (4);

(B) innovative science and technology projects;

(C) the provision of test and evaluation services; and

(D) program management.

(c) FUNDING LIMITATIONS.—(1) Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1991, not more than $2,890,000,000 may be obligated for the Strategic Defense Initiative.

(2) Of the amount described in paragraph (1)—

(A) not more than $817,300,000 shall be available for programs, projects, and activities within the Phase I Defenses program element;

(B) not more than $389,000,000 shall be available for programs, projects, and activities within the Limited Protection Systems program element;

(C) not more than $180,000,000 shall be available for programs, projects, and activities within the Theater and ATBM Defenses program element;

(D) not more than $754,300,000 shall be available for programs, projects, and activities within the Follow-On Systems program element; and

(E) not more than $749,400,000 shall be available for programs, projects, and activi-

ties within the Research and Support Activities program element.

(3) Funds may be obligated for programs, projects, and activities which have as their primary purpose the support of the Brilliant Pebbles space-based interceptor system only through programs, projects, and activities within the Phase I Defenses program element.

(4) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1991. The report shall specify the amount of such funds allocated for each program, project, and activity of the Strategic Defense Initiative and shall list each program, project, and activity under the appropriate program element.

(5)(A) Before the submission of the report required under paragraph (4) and notwithstanding the limitations in paragraph (2), the Secretary of Defense may transfer funds among the program elements described in paragraph (2).

(B) The total amount that may be transferred to or from any program element described in paragraph (2)—

(i) may not exceed 10 percent of the amount provided in such paragraph for the program element from which the transfer is made; and

(ii) may not result in an increase of more than 10 percent of the amount provided in such paragraph for the program element to which the transfer is made.

(C) Amounts transferred pursuant to subparagraph (A) shall be merged with and be available for the same purposes as the amounts to which transferred.

(d) DEFINITION.—In this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

SEC. 222. LIMITATION ON DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1991, or for any fiscal year before 1991, shall be subject to the limitations prescribed in paragraph (2).

(2) Funds described in paragraph (1) may not be obligated or expended—

(A) for the development or testing of any antiballistic missile system or component, except for development and testing consistent with the development and testing described in the May 1990 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of antiballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the May 1990 SDIO Report.

(3) The limitations in paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1991 if the transfer is made in accordance with section 1501 of this Act.

(b) DEFINITION.—As used in this section, the term "May 1990 SDIO Report" means the report entitled "1990 Report to Congress on the Strategic Defense Initiative", dated May 1990, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense on June 7, 1990, pursuant to section 224 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1398; 10 U.S.C. 2431 note).

SEC. 223. PROHIBITION ON OPERATIONAL TEST AND EVALUATION OF STRATEGIC DEFENSE SYSTEMS

(a) PROHIBITION.—Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1991, or for any fiscal year before fiscal year 1991, may not be obligated for any operational test and evaluation activity in support of—

(1) a strategic defense system; or

(2) a program, project, or activity of the Strategic Defense Initiative.

(b) RULE OF CONSTRUCTION.—Notwithstanding subsection (a), the Strategic Defense Initiative Organization may engage in planning activities (including studies, design activities, and computer simulations) related to testing of Strategic Defense Initiative systems or elements.

SEC. 224. BOOST SURVEILLANCE AND TRACKING SYSTEM

(a) PROHIBITION ON FULL-SCALE DEVELOPMENT.—None of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for fiscal year 1991 for research, development, test, and evaluation may be obligated for full-scale development of the Boost Surveillance and Tracking System (BSTS).

(b) TRANSFER OF BSTS SYSTEM TO AIR FORCE.—The Secretary of Defense shall transfer immediately responsibility for the direction, management, and funding for the development and procurement of the Boost Surveillance and Tracking System from the Strategic Defense Initiative Organization to the Secretary of the Air Force.

SEC. 225. THEATER MISSILE DEFENSE PROGRAMS

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) The proliferation of ballistic missiles and chemical and nuclear weapons technology applicable to missile warhead development is potentially destabilizing, is a threat to United States forces, and poses a significant threat to the national security of friends and allies of the United States around the world.

(2) Of the funds authorized for the Strategic Defense Initiative (SDI) for fiscal year 1991, $198,000,000 should be made available for the development of anti-tactical ballistic missiles (ATBM) systems to counter such threats. In this regard, development of systems such as the Extended Range Interceptor and the Theater High Altitude Air Defense should be accelerated.

(3) The SDI organization should ensure that the Navy and Marine Corps are involved in developmental programs for future ATBM systems suitable for deployment with their projection and expeditionary forces.

(4) The Secretary of the Army should establish a vigorous program to develop and test a rapidly deployable ATBM capability for United States military forces with the near-term focus of that development and test effort on the Patriot II system.

(5) Congress endorses a continuing program of cooperative research and development, jointly funded by the United States and the government of Israel, on the Arrow Tactical Anti-Missile program with a view to proving out (through such cooperative research and development) the feasibility and practicality of the system.

(b) DIRECTION ON ATBM TECHNOLOGY PROGRAMS.—

(1) ARROW TACTICAL ANTI-MISSILE PROGRAM.—(A) Subject to subparagraph (B), the Secretary of Defense may obligate, from funds made available for fiscal year 1991 for the Strategic Defense Initiative, up to $42,000,000 for the purpose of initiating the Tactical Demonstration Program (constituting Phase II of research and development work on the Arrow program).

(B) Funds may not be obligated for the purpose described in subparagraph (A) until the United States and the government of Israel enter into a memorandum of agreement governing the conduct and funding of the Technical Demonstration Program.

(2) PATRIOT II ATBM DEVELOPMENT PROGRAM.—(A) The Secretary of the Army may obligate from funds made available for fiscal year 1991 for Research, Development, Test, and Evaluation for the Army up to $50,000,000 to conduct additional tests of the Patriot II system against existing types of ballistic missile threats. The authority under the preceding sentence is in addition to any other authority provided in this Act regarding the Patriot II system.

(B) From within the funds referred to in subparagraph (A), the Army may obligate part of such funds for the development of support systems (such as tracking and attack assessment radars) for existing and future ATBM systems.

PART D—STRATEGIC PROGRAMS

SEC. 231. FUNDING AND SENSE OF CONGRESS FOR ICBM MODERNIZATION PROGRAM

(a) PROGRAM FUNDING.—Of the amount appropriated for the Department of Defense for fiscal year 1991, not more than $687,671,000 shall be available for the intercontinental ballistic missile (ICBM) modernization program, of which not more than $680,208,000 shall be available for the rail garrison MX (RGMX) program and the small ICBM (SICBM) program.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) research and development of the RGMX and SICBM is a prudent and necessary hedge (A) against the robust Soviet strategic nuclear modernization program and, in particular, Soviet rail- and road-mobile ICBM programs, (B) against possible future threats to the invulnerability of the sea-based leg of the strategic Triad, and (C) to help ensure the continued stability of the strategic balance as the United States negotiates reductions in its strategic forces under the prospective Strategic Arms Reduction Talks (START) agreement and the planned follow-on negotiations for further reductions;

(2) the two-missile mobile ICBM modernization program has failed to achieve the political consensus necessary for deployment of both systems;

(3) as long as peaceful trends continue in the Soviet Union, the defense budget of the United States is likely to continue to decline in the future, making the deployment of both the RGMX system and the SICBM system unaffordable;

(4) at a minimum the United States should continue to develop the SICBM system for deployment in silos to meet future United States ICBM modernization requirements and arms control objectives, while preserving a realistic option for subsequent mobile basing should future strategic or arms control developments so require; and

(5) any funds obligated or expended for the RGMX system should be used only to conduct critical activities needed to complete

research, development, test, and evaluation and maintain the key technologies for that system on a stand-by or "moth ball" status.

SEC. 232. DEPRESSED TRAJECTORY BALLISTIC MISSILES AND OTHER SHORT-TIME-OF-FLIGHT BALLISTIC MISSILES

Congress commends the President for proposing to the Soviet Union that the United States and the Soviet Union observe an interim mutual restraint on the flight testing of depressed trajectory and other short-time-of-flight ballistic missiles and expresses disappointment that the Soviet Union has not agreed to this proposal. Congress urges the President to continue to pursue such interim restraint and to further explore the possibility of a permanent agreement banning flight tests of such missiles.

PART E—OTHER MATTERS

SEC. 241. BIOLOGICAL DEFENSE RESEARCH PROGRAM

(a) IN GENERAL.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2369 the following new section:

"§2370. Biological Defense Research Program

"(a) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress an annual report on research, development, test, and evaluation conducted by the Department of Defense during the preceding fiscal year for the purposes of biological defense. The report shall be submitted in both classified and unclassified form and shall be submitted each year in conjunction with the submission of the budget to Congress for the next fiscal year.

"(b) CONTENTS OF REPORT.—Each report under this section shall provide the following information:

"(1) A description of each biological or infectious agent or toxin that was used in, or that was the subject of, research, development, test, and evaluation conducted for the purposes of biological defense during the fiscal year covered by the report and not previously listed in publications of the Centers for Disease Control (CDC).

"(2) A description of the biological properties of each such agent.

"(3) A statement of the location of each biological defense research facility and the amount spent by the Department of Defense during the fiscal year covered by the report at each such facility for research, development, test, and evaluation for biological defense research.

"(4) A statement of the biosafety level used at each such facility in conducting that research, development, test, and evaluation.

"(5) A statement that documentation of annual coordination with local health, fire, and police officials for the provision of emergency support services has been included in the facility safety plan for each biological defense research facility.

"(c) TYPES OF RESEARCH COVERED.—This section applies to all research, development, test, and evaluation activities conducted by the Department of Defense for the purpose of biological defense.

"(d) DEFINITIONS.—In this section:

"(1) The term 'biosafety level' means the applicable biosafety level described in the publication entitled 'Biosafety in Microbiological and Biomedical Laboratories' (CDC-NIH, 1984).

"(2) The term 'biological defense research facility' means a location at which research, development, test, and evaluation for purposes of biological defense involving any biological or infectious agent or toxin (whether or not listed in a CDC publication) is conducted.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2369 the following new item:

"2370. Biological Defense Research Program.".

SEC. 242. FUNDING FOR FACILITY FOR COLLABORATIVE RESEARCH AND TRAINING FOR MILITARY MEDICAL PERSONNEL

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201 for fiscal year 1991, $18,000,000 shall be available, subject to subsection (b)(3), by the Secretary of Defense as a contribution toward the construction of a facility as part of a complex to enable collaborative research and training for Department of Defense military medical personnel in the following fields:

(1) Trauma care.

(2) Head, neck, and spinal injury.

(3) Paralysis.

(4) Neurosciences and neurodegenerative diseases.

(b) REQUIREMENTS.—(1) Such a contribution may be made only for a facility that will—

(A) support education, training, treatment, and rehabilitative services related to the fields described in subsection (a); and

(B) support neuroscience research with relevance for the medical mission of the Department of Defense.

(2) Such a contribution may be made only for a facility to be located at an institutional setting that—

(A) has received national recognition for its work in the fields listed in subsection (a); and

(B) can best facilitate interagency collaborative research, education, and training activities.

(3) The amount of a contribution under subsection (a) may not exceed 33 percent of the total cost of such complex.

SEC. 243. GRANT FOR AN INSTITUTE FOR ADVANCED SCIENCE AND TECHNOLOGY

(a) AUTHORITY TO MAKE GRANT.—Of the amount authorized to be appropriated pursuant to section 201 for the Defense Agencies, $10,000,000 shall be available for a grant to be awarded through the use of competitive procedures to an institution of higher education to establish an institute for advanced science and technology.

(b) QUALIFICATIONS.—The Secretary of Defense shall select an institution for award of a grant under subsection (a) based upon demonstrated competence of the institution's faculty. The institution selected for the grant must—

(1) be a nationally recognized center conducting artificial intelligence research and education in the areas of natural language and speech processing and task oriented computer animation;

(2) be carrying out research on electronically and ionically conducted organic polymers; and

(3) have demonstrated competence in research and education in nonlinear optics and visual analysis.

(c) COST-SHARING REQUIREMENT.—The grant shall be available for initial construction of a facility, the Federal share of which may not exceed 50 percent of the total cost.

(d) PURPOSE OF GRANTS.— The grant shall be designed to support development of critical technologies as identified by the Department of Defense in its Critical Technologies Plan as required by Public Law 100-456.

SEC. 244. SUPPORT FOR ADVANCED RESEARCH PROJECTS

Of the amounts authorized to be appropriated pursuant to section 201, $50,000,000 shall be available for the support (through the Defense Advanced Research Projects Agency) of advanced precompetitive research provided for in cooperative agreements and other transactions authorized by section 2371 of title 10, United States Code.

SEC. 245. COMPETITION IN CONTRACTING FOR COMPUTERS AND SOFTWARE

(a) CONGRESSIONAL CONCERNS REGARDING DEFENSE COMPUTER PROCUREMENT.—The Congress notes the concern regarding the manner in which solicitations are performed for computer procurement for components of the Department of Defense.

(b) GAO REVIEW.—The Comptroller General of the United States shall conduct a review of a selected number of planned and recently completed computer procurements for components of the Department of Defense to determine if those solicitations provide any barriers to full and open competition for United States computer suppliers. The procurements reviewed shall include the Air Force procurement for Tactical Air Force Workstations under solicitation F19630-90-R-0014 and the Army procurement for Light Weight Computer Unit under solicitation DAAB07-90-R-L100.

(c) MATTERS TO BE INCLUDED IN REVIEW.—The review shall determine in the case of each solicitation reviewed—

(1) whether unnecessary or non-germane specifications, evaluation factors, unwarranted performance requirements, packaging requirements, or other limiting bias factors are present;

(2) whether the solicitation contains restrictive requirements in excess of minimum Government needs;

(3) whether Government developed applications software is favored over commercial "off the shelf" software solutions and the sufficiency of the rationale to support Government development;

(4) the need for components of the Department of Defense to agree upon a standard prescribed architecture and operating system; and

(5) the cost effectiveness of computer procurements based on the realism of specifications as compared to intended use.

Statements regarding the degree of assessment supporting the specification development and rigidity as they limit or tend to limit offerers or contract awards are to be included.

(d) REPORT TO CONGRESS.—The Comptroller General shall complete the study and submit a report on the results of the study to the Committees on Armed Services of the Senate and House of Representatives not later than three months after the date of the enactment of this Act.

SEC. 246. ADVISORY COMMISSION ON CONSOLIDATION AND CONVERSION OF DEFENSE RESEARCH AND DEVELOPMENT LABORATORIES

(a) ESTABLISHMENT.—There is established a commission to be known as the "Commission on the Consolidation and Conversion of Defense Research and Development Laboratories" (hereinafter in this section referred to as the "Commission").

(b) DUTIES.—(1) The Commission shall conduct a study to determine the feasibility and desirability of various means to improve the operation of laboratories of the Department of Defense.

(2) In conducting the study described in this subsection, the Commission shall—

(A) consider such means as—

(i) conversion of some or all such laboratories to Government-owned, contractor-operated laboratories;

(ii) modification of the missions and functions of some or all such laboratories; and

(iii) consolidation or closure of some or all such laboratories; and

(B) determine—

(i) the short-term costs and long-term cost savings that are likely to result from such consolidation, closure, or conversion; and

(ii) a proposed schedule for each consolidation, closure, or conversion of a laboratory considered appropriate by the Commission.

(c) COMPOSITION.—(1) The Commission shall be composed of 13 members, as follows:

(A) The Director of Defense Research and Engineering who shall be the chairman of the Commission.

(B) Six members appointed by the Secretary of Defense from among officers and employees of the Federal Government, including at least one director of a research and development laboratory of each military department.

(C) Six members appointed by the Secretary from among persons in the private sector.

(2) The Secretary of Defense shall make all appointments under subparagraphs (B) and (C) of paragraph (1) within 60 days after the date of the enactment of this Act.

(3) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) MEETINGS; QUORUM.—(1) The Commission shall convene its first meeting within 15 days after the first date on which all members of the Commission have been appointed. Thereafter, the Commission shall meet at the discretion of its Chairman or at the call of a majority of its members.

(2) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) COMPENSATION OF MEMBERS; TRAVEL EXPENSES.—(1) Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) REPORT TO SECRETARY.—Not later than September 30, 1991, the Commission shall submit to the Secretary a report containing the Commission's recommendations regarding the matters considered and determined by the Commission pursuant to subsection (b).

(g) REPORT BY SECRETARY.—Not later than 30 days after the date of the submission of the report pursuant to subsection (f), the Secretary shall transmit such report to each House of the Congress, together with any comments that the Secretary considers appropriate.

(h) TERMINATION.—The Commission shall terminate 90 days after the date on which the Commission submits its report to the Secretary pursuant to subsection (g).

SEC. 247. NATIONAL DEFENSE SCIENCE AND ENGINEERING EDUCATION

(a) IN GENERAL.—(1) Chapter 111 of title 10, United States Code, is amended by adding at the end the following:

"§ 2192. Science, mathematics, and engineering education

"(a) The Secretary of Defense, in consultation with the Secretary of Education, shall, on a continuing basis—

"(1) identify actions which the Department of Defense may take to improve education in the scientific, mathematics, and engineering skills necessary to meet the long-term national defense needs of the United States for personnel proficient in such skills; and

"(2) establish and conduct programs to carry out such actions.

"(b) The Secretary shall designate an individual within the Office of the Secretary of Defense to advise and assist the Secretary regarding matters relating to science, mathematics, and engineering education and training.

"§ 2193. Science and mathematics education improvement program

"(a)(1) The Secretary of Defense may, in accordance with the provisions of this subsection, carry out a program for awarding grants to students who have been accepted for enrollment in, or who are enrolled in, an institution of higher education as undergraduate or graduate students in scientific and engineering disciplines critical to the national security functions of the Department of Defense.

"(2) Grant proceeds shall be disbursed on behalf of students awarded grants under this subsection to the institutions of higher education at which the students are enrolled. No grant proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher education.

"(3) The amount of a grant awarded a student under this subsection may not exceed the student's cost of attendance.

"(4) The amount of a grant awarded a student under this subsection shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

"(5) The Secretary shall give priority to awarding grants under this subsection in a manner likely to stimulate the interest of women and members of minority groups in pursuing scientific and engineering careers. The Secretary may consider the financial need of applicants in making awards in accordance with such priority.

"(b) The Secretary of Defense, in coordination with the Secretary of Education, may establish programs for the purpose of improving the mathematics and scientific knowledge and skills of elementary and secondary school students and faculty members.

"(c) In this section:

"(1) The term 'institution of higher education' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(2) The term 'cost of attendance' has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll).

"§ 2194. Education partnerships

"(a) The Secretary of Defense shall authorize the director of each defense laboratory to enter into one or more education partnership agreements with educational institutions in the United States for the purpose of encouraging and enhancing study in scientific disciplines at all levels of education. The educational institutions referred to in the preceding sentence are local education agencies, colleges, universities, and any other nonprofit institutions that are dedicated to improving science, mathematics, and engineering education.

"(b) Under a partnership agreement entered into with an educational institution under this section, the director of a defense laboratory may provide assistance to the educational institution by—

"(1) loaning defense laboratory equipment to the institution;

"(2) transferring to the institution defense laboratory equipment determined by the director to be surplus;

"(3) making laboratory personnel available to teach science courses or to assist in the development of science courses and materials for the institution;

"(4) involving faculty and students of the institution in defense laboratory research projects;

"(5) cooperating with the institution in developing a program under which students may be given academic credit for work on defense laboratory research projects; and

"(6) providing academic and career advice and assistance to students of the institution.

"(c) The Secretary of Defense shall ensure that the director of each defense laboratory shall give a priority under this section to entering into an education partnership agreement with one or more historically Black colleges and universities and other minority institutions referred to in paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058(b)).

"(d) The Secretary of Defense shall ensure that, in entering into education partnership agreements under this section, the director of a defense laboratory gives a priority to providing assistance to educational institutions serving women, members of minority groups, and other groups of individuals who traditionally are involved in the engineering and science professions in disproportionately low numbers.

"(e) In this section, the term 'local education agency' has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

"§ 2195. Department of Defense cooperative education programs

"(a) The Secretary of Defense shall ensure that the director of each defense laboratory establishes, in association with one or more public or private colleges or universities in the United States or one or more consortia of colleges or universities in the United States, cooperative work-education programs for undergraduate and graduate students.

"(b) Under a cooperative work-education program established under subsection (a), a

director referred to in that subsection may, without regard to any applicable non-statutory limitation on the number of authorized personnel or on the aggregate amount of any personnel cost—

"(1) make an offer for participation in the cooperative work-education program directly to a student and appoint such student to an entry-level position of employment in the laboratory of such director;

"(2) pay such person a rate of basic pay, not to exceed the maximum rate of pay provided for grade GS-9 under the General Schedule under section 5332 of title 5, that is competitive with compensation levels provided for entry-level positions in similar industry-sponsored cooperative work-education programs;

"(3) pay all travel expenses between the college or university in which the student is enrolled and the laboratory concerned for not more than six round trips per year; and

"(4) pay all or part of such fees, charges, and costs related to the participation of such student in the cooperative work-education program as tuition, matriculation fees, charges for library and laboratory services, materials, and supplies, and the purchase or rental price of books.

"(c) A director of a defense laboratory may—

"(1) require a student, as a condition for receiving payments referred to in subsection (b)(4), to enter into a written agreement to continue employment in such defense laboratory for a period of service specified in the agreement; or

"(2) make such payments without requiring such an agreement.

"§ 2196. Definition

"In this chapter, 'defense laboratory' means a laboratory operated by the Department of Defense or owned by the Department of Defense and operated by a contractor or a facility of a Defense Agency at which research and development activities are conducted.".

(2)(A) The heading of chapter 111 of such title is amended to read as follows:

"CHAPTER 111—SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION".

(B) The tables of chapters at the beginning of subtitle A of such title and at the beginning of part III of such subtitle are each amended by striking out the item relating to chapter 111 and inserting in lieu thereof the following:

"111. Support of Science, Mathematics, and Engineering Education..... 2191".

(C) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2192. Science, mathematics, and engineering education.
"2193. Science and mathematics education improvement program.
"2194. Education partnerships.
"2195. Department of Defense cooperative education programs.
"2196. Definition.".

(b) RECOMMENDATIONS OF THE SECRETARY OF DEFENSE TO THE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall transmit to the Director of the Office of Science and Technology Policy the Secretary's determinations regarding measures initially identified pursuant to section 2192(a)(1) of title 10, United States Code (as added by subsection (a)), as actions which the Department of Defense may take to improve education in the scientific, mathematics, and engineering skills necessary to meet the long-term national defense needs of the United States for personnel proficient in those skills.

SEC. 248. ESTABLISHMENT OF DEPARTMENT OF DEFENSE TECHNOLOGY OFFICE IN JAPAN

(a) IN GENERAL.—The Secretary of Defense shall establish an office of the Department of Defense in Japan to investigate, evaluate, and facilitate opportunities for cooperation between the United States and Japan for the development of technologies of interest to the Department of Defense.

(b) DEADLINE.—The Secretary of Defense shall establish such office no later than September 30, 1991.

SEC. 249. GRANT FOR STUDY AND ANALYSIS OF THE SOVIET UNION AND CERTAIN OTHER COUNTRIES

Of the amounts authorized to be appropriated pursuant to section 201, $600,000 shall be available for making a grant to one or more qualified nonprofit organizations for the support of research and analyses by emigrants from the Soviet Union, the countries of Eastern Europe (including Albania), and Cuba regarding political, economic, social, and other developments in those countries.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $21,899,881,000.
(2) For the Navy, $23,165,935,000.
(3) For the Marine Corps, $1,892,200,000.
(4) For the Air Force, $20,624,110,000.
(5) For the Defense Agencies, $8,317,421,000.
(6) For the Army Reserve, $909,100,000.
(7) For the Naval Reserve, $998,000,000.
(8) For the Marine Corps Reserve, $84,800,000.
(9) For the Air Force Reserve, $1,065,900,000.
(10) For the Army National Guard, $1,980,400,000.
(11) For the Air National Guard, $2,247,200,000.
(12) For the National Board for the Promotion of Rifle Practice, $4,000,000.
(13) For the Defense Inspector General, $98,519,000.
(14) For Drug Interdiction and Counter-drug Activities, Defense, $1,084,100,000.
(15) For the Court of Military Appeals, $5,400,000.
(16) For Environmental Restoration, Defense, $1,062,527,000.
(17) For Humanitarian Assistance, $13,000,000.

(b) SPECIAL AUTHORIZATION FOR CONTINGENCIES.—There are authorized to be appropriated for fiscal year 1991, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as a result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

(1) For the Army Stock Fund, $302,500,000.
(2) For the Air Force Stock Fund, $887,900,000.
(3) For the Army Industrial Fund, $151,100,000.
(4) For the Navy Industrial Fund, $238,700,000.
(5) For the Defense Industrial Fund, $4,000,000.

SEC. 303. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—(1) Funds appropriated pursuant to the authorization in section 301(a)(17) for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union.

(2) Of the funds authorized to be appropriated for fiscal year 1991 pursuant to such section for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants, including those affiliated with the Cambodian nonCommunist resistance, at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to such section for fiscal year 1991 for humanitarian assistance, other than the funds described in subsection (a)(2), to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to such section for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f) REPORTS TO CONGRESS.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report on the provision of humanitarian assistance under the humanitarian relief laws specified in paragraph (4).

(2) A report required by paragraph (1) shall be submitted—

(A) not later than 60 days after the date of the enactment of this Act;

(B) not later than June 1, 1991; and

(C) not later than June 1 of each year thereafter until all funds available for humanitarian assistance under the humanitarian relief laws specified in paragraph (4) have been obligated.

(3) A report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

(A) The total amount of funds obligated for humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

(4) The humanitarian relief laws referred to in paragraphs (1), (2), and (3) are the following:

(A) This section.

(B) Section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617).

(C) Section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1078).

(D) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948).

(E) Section 304 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1409).

(5) Section 304(f)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1409) is amended by striking out subsection (f).

SEC. 304. ASSISTANCE TO THE 1990 WINTER WORLD SERIES TORCH RUN AND THE 1991 FREESTYLE WORLD CHAMPIONSHIPS

Of the amounts authorized to be available to the Department of Defense for the provision of logistical support and personnel services for the 1990 Goodwill Games, $100,000 may be used by the Secretary of Defense to provide medical and ambulance support for—

(1) the Winter World Series Torch Run to be held in the State of New York between November 1, 1990, and December 7, 1990;

(2) the Freestyle World Championships to be held at the Olympic Center in Lake Placid, New York, between February 10, 1991, and March 3, 1991.

SEC. 305. EXTENDED COLD WEATHER CLOTHING SYSTEMS

Of the amount authorized to be appropriated under section 301(a)(1) for operation and maintenance for the Army for fiscal year 1991, $39,951,000 may be used for the acquisition of clothing under the Extended Cold Weather Clothing System.

PART B—LIMITATIONS

SEC. 311. LIMITATION ON OBLIGATIONS AGAINST STOCK FUNDS

(a) LIMITATION.—(1) The Secretary of Defense may not incur obligations against the stock funds of the Department of Defense during fiscal year 1991 in excess of 80 percent of the sales from such stock funds during that fiscal year.

(2) For purposes of determining the amount of obligations against, and sales from, the stock funds during fiscal year 1991, the Secretary shall exclude obligations and sales for fuel and subsistence items.

(b) EXCEPTION.—The Secretary of Defense may waive the limitation contained in subsection (a) if the Secretary determines that such waiver is critical to the national security of the United States. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

SEC. 312. PROHIBITION ON MANAGEMENT OF CIVILIAN PERSONNEL BY END STRENGTHS DURING FISCAL YEAR 1991.

(a) MANAGEMENT BY END STRENGTH.—Notwithstanding section 129(a)(3) of title 10, United States Code, the civilian personnel of the Department of Defense may not be managed during fiscal year 1991 on the basis of any constraint or limitation (known as an "end-strength") on the number of such personnel who may be employed on the last day of such fiscal year or any constraint or limitation carried out through the measurement of full-time equivalent employees or other related methodology.

(b) WAIVER OF CIVILIAN PERSONNEL AUTHORIZATIONS.—Subsections (a)(4) and (b)(4) of section 115 of title 10, United States Code (as amended by section 1483(a)), shall not apply with respect to fiscal year 1991 or with respect to the appropriation of funds for that fiscal year.

PART C—CHANGES TO EXISTING LAW

SEC. 321. COMMISSARY AND OTHER PRIVILEGES FOR CERTAIN MEMBERS OF A RESERVE COMPONENT AND CERTAIN OTHER PERSONS

(a) USE OF COMMISSARY STORES BY MEMBERS OF THE READY RESERVE.—(1) Subsection (a) of section 1063 of title 10, United States Code, is amended to read as follows:

"(a) ELIGIBILITY OF MEMBERS OF READY RESERVE.—A member of the Ready Reserve who performs active duty for training (or annual training without compensation equivalent to active duty for training) shall accrue eligibility to use commissary stores of the Department of Defense for each day of that training. The Secretary concerned shall authorize the member to have one day of eligibility for using commissary stores, up to 12 days each calendar year, for the performance of that duty.".

(2) Section 1063(a) of title 10, United States Code (as amended by subsection (a)), shall apply with respect to active duty for training or annual training performed by a member of the Ready Reserve after the date of the enactment of this Act.

(b) USE OF COMMISSARY STORES BY CERTAIN OTHER PERSONS.—Chapter 54 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1064. Use of commissary stores by certain members and former members

"Under regulations prescribed by the Secretary of Defense, a person who would be eligible for retired pay under chapter 67 of this title but for the fact that the person is under 60 years of age shall be authorized to use commissary stores of the Department of Defense for 12 days each calendar year.".

(c) USE OF MORALE, WELFARE, AND RECREATION FACILITIES.—Chapter 54 of title 10, United States Code, is further amended by adding after section 1064, as added by subsection (b), the following new section:

"§ 1065. Use of certain morale, welfare, and recreation facilities by members of reserve components and dependents

"(a) UNRESTRICTED USE REQUIRED.—Members of the Selected Reserve in good standing (as determined by the Secretary concerned) and members who would be eligible for retired pay under chapter 67 of this title but for the fact that the member is under 60 years of age, and the dependents of such members, shall be permitted to use the exchange stores and other revenue generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the Armed Forces. Such use shall be permitted on the same basis as members on active duty.

"(b) ELIGIBILITY TO USE AUTHORIZED.—Subject to such regulations as the Secretary of Defense may prescribe, members of the Ready Reserve (other than members of the Selected Reserve) may be permitted to use the facilities referred to in subsection (a) on the same basis as members serving on active duty.".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"1064. Use of commissary stores by certain members and former members.

"1065. Use of certain morale, welfare, and recreation facilities by members of reserve components and dependents.".

(e) EFFECTIVE DATE AND DEADLINE FOR REGULATIONS.—(1) The amendments made by subsections (b) and (c) shall take effect 120 days after the date of the enactment of this Act.

(2) The Secretary of Defense shall prescribe such regulations as may be necessary for the proper administration of sections 1064 and 1065 of title 10, United States Code, as added by this section, not later than 90 days after the date of the enactment of this Act.

SEC. 322. GUIDELINES FOR FUTURE REDUCTIONS OF CIVILIAN EMPLOYEES OF INDUSTRIAL-TYPE OR COMMERCIAL-TYPE ACTIVITIES

(a) GUIDELINES REQUIRED.—(1) Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1597. Employees of industrial-type or commercial-type activities: guidelines for future reductions

"(a) ESTABLISHMENT OF GUIDELINES.—The Secretary of Defense shall establish guidelines for reductions in the number of civilian employees of the Department of Defense who are employed by industrial-type activities or commercial-type activities described in section 2208 of this title. These guidelines shall include procedures for reviewing civilian positions for reductions in those activities according to the following order:

"(1) Positions filled by foreign national employees overseas.

"(2) All other positions filled by civilian employees overseas.

"(3) Overhead, indirect, and administrative positions in headquarters or field operating agencies in the United States.

"(4) Direct operating or production positions in the United States.

"(b) MASTER PLAN.—(1) Each agency or component of the Department of Defense that employs persons referred to in subsection (a) shall include in the materials submitted by the Secretary of Defense to Congress in support of the budget request for the Department of Defense for fiscal year 1992 a five-year civilian personnel master plan that includes the following:

"(A) Demographic information on each activity, including number and type (overhead, administrative, or direct labor) of personnel in the activity.

"(B) Current and projected workload and manpower requirements for each activity.

"(2) Each agency or component of the Department of Defense that employs persons referred to in subsection (a) and whose budget request for a fiscal year would require a furlough for, or an involuntary reduction in, such employees shall include in the materials submitted by the Secretary of Defense to Congress in support of the budget request for the Department of Defense for that fiscal year a five-year civilian personnel master plan that contains the following:

"(A) The information required under paragraph (1).

"(B) A listing of all activities within the component or agency planning the furlough or involuntary reduction.

"(C) An examination of the effect of such furlough or involuntary reduction on workload requirements.

"(D) A summary of the factors used by management to determine the size and location of the proposed furlough or involuntary reduction.

"(c) EXCEPTION.—The Secretary of Defense may permit deviations from the guidelines established under subsection (a) or a master plan prepared under subsection (b) if the Secretary determines that such deviation is critical to the national security of the United States. The Secretary shall immediately notify the Congress of any such deviation and the reasons for such deviation.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1597. Employees of industrial-type or commercial-type activities: guidelines for future reductions.".

(b) INVOLUNTARY REDUCTIONS OF CIVILIAN PERSONNEL IN FISCAL YEAR 1991.—After the date of the enactment of this Act, an agency or component of the Department of Defense may not implement any involuntary reductions or furloughs of civilian personnel in industrial-type or commercial-type activities in fiscal year 1991 until 45 days after the date on which the agency or component submits a report to Congress outlining the reasons why such reductions or furloughs are required and including a description of any changes in workload and manpower requirements that will result from those reductions or furloughs.

SEC. 323. INVENTORY MANAGEMENT POLICIES

(a) IN GENERAL.—(1) Chapter 145 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2458. Inventory management policies

"(a) POLICY REQUIRED.—The Secretary of Defense shall issue a single, uniform policy on the management of inventory items of the Department of Defense. Such policy shall—

"(1) establish maximum levels for inventory items sufficient to achieve and maintain only those levels for inventory items necessary for the national defense; and

"(2) provide guidance to item managers and other appropriate officials on how effectively to eliminate wasteful practices in the acquisition and management of inventory items.

"(b) PERSONNEL EVALUATIONS.—The Secretary of Defense shall establish procedures to ensure that, with regard to item managers and other personnel responsible for the acquisition and management of inventory items of the Department of Defense, personnel appraisal systems for such personnel give appropriate consideration to efforts made by such personnel to eliminate wasteful practices and achieve cost savings in the acquisition and management of inventory items.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2458. Inventory management policies.".

(b) DATE OF ISSUANCE OF POLICY.—The policy required by section 2458(a) of title 10, United States Code (as added by subsection (a)), shall be issued not later than 180 days after the date of the enactment of this Act.

SEC. 324. EXPANSION OF AUTHORITY TO DONATE FOOD TO CHARITABLE NONPROFIT FOOD BANKS

(a) INCLUSION OF MESS FOOD, MEALS READY-TO-EAT, AND OTHER FOOD.—Section 2485 of title 10, United States Code, is amended—

(1) by striking out "commissary store" in subsection (a);

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Food that may be donated under this section is commissary store food, mess food, meals ready-to-eat (MREs), and other food available to the Secretary of a military department that—

"(1) is certified as edible by appropriate food inspection technicians;

"(2) would otherwise be destroyed as unusable; and

"(3) in the case of commissary store food, is unmarketable and unsaleable."; and

(3) by striking out "A donation" in subsection (c) and inserting in lieu thereof "In the case of commissary store food, a donation".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2485. Donation of unusable food: commissary stores and other activities".

(2) The item relating to such section in the table of sections at the beginning of chapter 147 of such title is amended to read as follows:

"2485. Donation of unusable food: commissary stores and other activities.".

SEC. 325. AUTHORITY TO EXCHANGE PROPERTY FOR SERVICES IN CONNECTION WITH HISTORICAL COLLECTIONS

Section 2572(b) of title 10, United States Code, is amended—

(1) by striking out the period at the end of paragraph (1) and inserting in lieu thereof "or for search, salvage, and restoration services which directly benefit the historical collection of the armed forces."; and

(2) in paragraph (2)—

(A) by inserting ", or services provided," in the first sentence after "property transferred" the first place it appears; and

(B) by inserting "in the case of an exchange of property for property" in the second sentence after "preceding sentence".

SEC. 326. AUTHORITY TO FURNISH TRANSPORTATION IN CERTAIN AREAS OUTSIDE THE UNITED STATES

(a) AUTHORITY TO FURNISH TRANSPORTATION.—(1) Chapter 157 of title 10, United States Code, is amended by inserting after section 2636 the following new section:

"§ 2637. Transportation in certain areas outside the United States

"The Secretary of Defense may authorize the commander of a unified combatant command to use Government owned or leased vehicles to provide transportation in an area outside the United States for members of the uniformed services and Federal civilian employees under the jurisdiction of that commander, and for the dependents of such members and employees, if the commander determines that public or private transportation in such area is unsafe or not available. Such transportation shall be provided in accordance with regulations prescribed by the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2636 the following new item:

"2637. Transportation in certain areas outside the United States.".

(b) CONFORMING AMENDMENT.—Section 1344(c) of title 31, United States Code, is amended by inserting ", section 2637 of title 10," after "Act of 1956".

SEC. 327. AUTHORIZATION FOR CERTAIN BANDS OF THE ARMED FORCES TO PRODUCE RECORDINGS FOR COMMERCIAL SALE

(a) ARMY.—Section 3634 of title 10, United States Code, is amended—

(1) by striking out "No" and inserting in lieu thereof "(a) PROHIBITION.—Except as provided in subsection (b), no", and

(2) by adding at the end the following new subsection:

"(b) RECORDINGS.—(1) Any Army band designated as a special band may produce recordings for commercial sale.

"(2) Amounts received as proceeds from the sale of any such recordings may be credited to applicable appropriations of the Department of the Army for expenses of Army bands.

"(3) The Secretary of the Army shall prescribe regulations governing the accounting of such proceeds.".

(b) NAVY AND MARINE CORPS.—(1) Section 6223 of such title is amended by adding at the end the following new subsection:

"(c) EXCEPTION FOR COMMERCIAL RECORDINGS.—(1) Notwithstanding any limitation contained in subsection (a) or (b), any Navy band or Marine Corps band designated as a special band may produce recordings for commercial sale.

"(2) Amounts received as proceeds from the sale of any such recordings may be credited to applicable appropriations of the Department of the Navy for expenses of Navy and Marine Corps bands.

"(3) The Secretary of the Navy shall prescribe regulations governing the accounting of such proceeds.".

(2) Such section is further amended—

(A) by inserting "NAVY BANDS AND MEMBERS.—" after "(a)"; and

(B) by inserting "MEMBERS OF MARINE CORPS BANDS.—" after "(b)".

(c) AIR FORCE.—Section 8634 of such title is amended—

(1) by striking out "No" and inserting in lieu thereof "(a) PROHIBITION.—Except as provided in subsection (b), no", and

(2) by adding after subsection (a) the following new subsection:

"(b) RECORDINGS.—(1) Any Air Force band designated as a special band may produce recordings for commercial sale.

"(2) Amounts received as proceeds from the sale of any such recordings may be credited to applicable appropriations of the Department of the Air Force for expenses of Air Force bands.

"(3) The Secretary of the Air Force shall prescribe regulations governing the accounting of such proceeds.".

(d) COAST GUARD.—(1) Chapter 17 of title 14, United States Code, is amended by inserting after section 639 the following new section:

"§ 640. Coast Guard band recordings for commercial sale

"(a) The Coast Guard band may produce recordings for commercial sale.

"(b) Amounts received as proceeds from the sale of any such recordings may be credited to applicable appropriations of the Coast Guard for expenses of the Coast Guard band.

"(c) The Secretary shall prescribe regulations governing the accounting of such proceeds.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 639 the following new item:

"640. Coast Guard band recordings for commercial sale.".

(e) CONFORMING AMENDMENT.—Section 974 of title 10, United States Code, is amended by striking out "section 6223 of this title" and inserting in lieu thereof "sections 3634, 6223, and 8634 of this title and section 640 of title 14,".

SEC. 328. ARMY PROGRAM TO PROMOTE CIVILIAN MARKSMANSHIP

(a) PROGRAM TO BE SELF-SUPPORTING.—Section 4313 of title 10, United States Code, is amended to read as follows:

"§ 4313. Promotion of civilian marksmanship: expenses

"(a) PROHIBITION ON APPROPRIATION OF FUNDS FOR CERTAIN EXPENSES AND SERVICES.—Funds may not be appropriated for the necessary or incidental expenses of, or personnel services connected with, any program conducted by the Department of the Army for the purpose of promoting marksmanship among civilians.

"(b) REIMBURSEMENT REQUIRED.—Funds available to the Department of Defense may be used to pay the costs of a program referred to in subsection (a) if the appropriation accounts used to pay those costs are reimbursed for the payment of those costs through fees paid by the persons or gun clubs participating in the program.

"(c) FEES.—The Secretary of the Army shall establish reasonable fees for persons and gun clubs participating in a program referred to in subsection (a). Such fees shall be established at a rate sufficient to cover the cost of operating the program, including the cost of pay and allowances earned by members of the armed forces while detailed under section 4307 or 4310 of this title, and members of the Army National Guard while detailed under section 316 of title 32, to assist in the promotion of civilian marksmanship.

"(d) RETENTION OF FUNDS.—Amounts collected by the Secretary of the Army under a program referred to in subsection (a) (including amounts collected from the sale of arms, ammunition, targets, and other supplies under section 4308 of this title) shall be retained by the Secretary to cover the cost of operating the program.".

(b) ABOLISHMENT OF ARMY'S ROLE IN THE CONSTRUCTION OF RIFLE RANGES FOR CIVILIAN RIFLE PRACTICE.—Section 4308(a)(1) of that title is amended by striking out "construction, equipment, maintenance, and operation" and inserting in lieu thereof "operation and maintenance".

(c) REQUIREMENT THAT SALES OF ARMY RIFLES AND AMMUNITION TO CIVILIANS BE MADE AT FAIR MARKET VALUE.—Section 4308(a)(5) of that title is amended by striking out "the sale" and all that follows through "rifled arms," and inserting in lieu thereof the following: "the sale (at fair market value) to citizens of the United States who are over the age of 18 and current members of a gun club,".

(d) ELIMINATION OF ANNUAL AUTHORIZATION OF APPROPRIATIONS FOR THE INCIDENTAL EXPENSES OF THE NATIONAL BOARD.—Section 4308 of that title is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(e) USE OF RIFLE RANGES BY CIVILIANS.—Section 4309 of that title is amended to read as follows:

"§ 4309. Rifle ranges: available for use by members and civilians

"(a) RANGES AVAILABLE.—(1) All rifle ranges constructed in whole or in part with funds provided by the United States may be used by members of the armed forces and by able-bodied persons capable of bearing arms.

"(b) MILITARY RANGES.—(1) In the case of a rifle range referred to in subsection (a) located on a military installation, the Secretary of the Army shall establish reasonable fees for the use by civilians of that rifle range to cover any costs incurred by the Army to make that rifle range available to civilians.

"(2) Use of a rifle range referred to in paragraph (1) by civilians may not interfere with the use of those ranges by members of the armed forces.

"(c) REGULATIONS.—Regulations to carry out this section shall be prescribed by the authorities controlling the rifle range, subject to the approval of the Secretary of the Army.".

(f) SALE OF AMMUNITION FOR CIVILIAN RIFLE PRACTICE.—Section 4311 of that title is amended by inserting "the sale of" before "such quantities".

(g) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading of section 4308 of that title is amended to read as follows:

"§ 4308. Promotion of civilian marksmanship: authority of the Secretary of the Army".

(2) The table of sections at the beginning of chapter 401 of that title is amended—

(A) by striking out the items relating to sections 4308 and 4309 and inserting in lieu thereof the following:

"4308. Promotion of civilian marksmanship: authority of the Secretary of the Army.
"4309. Rifle ranges: available for use by members and civilians."; and

(B) by striking out the item relating to section 4313 and inserting in lieu thereof the following:

"4313. Promotion of civilian marksmanship: expenses.".

(h) APPLICATION OF AMENDMENTS.—The amendments made by this section shall take effect on October 1, 1992.

SEC. 329. SHIPS' STORES

(a) SALES OF GOODS AND SERVICES.—(1) Chapter 651 of title 10, United States Code, is amended by striking out section 7604 and inserting in lieu thereof the following:

"§ 7604. Ships' stores: sale of goods and services

"Under such regulations and at such prices as the Secretary of the Navy may prescribe, the Secretary may provide for the sale of goods and services from ships' stores to members of the naval service and to such other persons as provided by law.".

(2) The item relating to section 7604 in the table of sections at the beginning of that chapter is amended to read as follows:

"7604. Ships' stores: sale of goods and services.".

(3) The regulations required to be prescribed under section 7604 of title 10, United States Code (as amended by paragraph (1)), shall be first prescribed not later than 90 days after the date of the enactment of this Act.

(b) REPORT ON OPERATION OF SHIPS' STORES.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report reviewing the operations of all ships' stores and including such recommendations for improving such operations as the Secretary considers appropriate.

(2) In conducting the review under paragraph (1), the Secretary shall consider the procurement and pricing policies of the ships' stores, the manner of organizing and managing the ships' stores, and alternative methods by which the operations of the ships' stores may be funded.

SEC. 330. OPERATION OF THE INTER-AMERICAN AIR FORCES ACADEMY

(a) IN GENERAL.—Chapter 907 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9415. Inter-American Air Forces Academy

"(a) OPERATION.—The Secretary of the Air Force may operate the Air Force education and training facility known as the Inter-American Air Forces Academy for the purpose of providing military education and training to military personnel of Central and South American countries, Caribbean countries, and other countries eligible for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

"(b) COSTS.—The fixed costs of operating and maintaining the Inter-American Air Forces Academy may be paid from funds available for operation and maintenance of the Air Force.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9415. Inter-American Air Forces Academy.".

SEC. 331. ASSISTANCE PROGRAM FOR EMPLOYEES OF A NONAPPROPRIATED FUND INSTRUMENTALITY ADVERSELY AFFECTED BY BASE CLOSURES

Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended—

(1) in subsection (a)(1), by inserting after "time limitation)" the following: ", a nonappropriated fund instrumentality employee employed at a nonappropriated fund instrumentality operated in connection with such base or installation,";

(2) in subsection (b)(1), by adding at the end the following: "or employed by a nonappropriated fund instrumentality operated in connection with such base or installation,";

(3) in subsection (k), by striking "and (n) of this section" and inserting "(n), and (o)"; and

(4) by adding at the end the following new subsection:

"(o)(1) Assistance under this section shall be provided by the Secretary of Defense with respect to nonappropriated fund instrumentality employees adversely affected by the closure of a base or installation ordered to be closed, in whole or in part, after December 31, 1988.

"(2) Notwithstanding subsection (b), a civilian employee who is serving overseas and is entitled to reemployment by the Federal Government (including a nonappropriated

fund instrumentality of the United States) at or in connection with a base or installation ordered to be closed, in whole or in part, shall be entitled to the benefits of this section to the same extent as an employee employed at or in connection with that base or installation.

"(3) All payments to a nonappropriated fund instrumentality employee under this section shall be made from the funds available to the Secretary of Defense under subsection (d).

"(4) For purposes of this section:

"(A) The term 'nonappropriated fund instrumentality employee' means a civilian employee who—

"(i) is a citizen of the United States; and

"(ii) is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Resale and Services Support Office, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

"(B) The term 'civilian employee' has the meaning given the term 'employee' in section 2105(a) of title 5, United States Code.".

PART D—ENVIRONMENTAL PROVISIONS

SEC. 341. ADDITIONAL REQUIREMENTS FOR ENVIRONMENTAL REPORT

Subsection (b) of section 2706 of title 10, United States Code, is amended to read as follows:

"(b) REPORT ON ENVIRONMENTAL COMPLIANCE.—(1) Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the Secretary of Defense shall submit to Congress a report containing the following:

"(A) A statement of the funding levels and full-time personnel required for the Department of Defense to comply with applicable environmental laws during the fiscal year for which the budget is submitted. The statement shall set forth separately the funding levels and personnel required for the Department of Defense as a whole and for each military installation.

"(B) A statement of the funding levels and full-time personnel requested for such purposes in the budget as submitted by the President, together with an explanation of any differences between the funding level and personnel requirements and the funding level and personnel requests in the budget. The statement shall set forth separately the funding levels and full-time personnel requested for the Department of Defense as a whole and for each military installation.

"(C) A projection of the funding levels and full-time personnel that will be required over the next five fiscal years for the Department of Defense to comply with applicable environmental laws, set forth separately for the Department of Defense as a whole and for each military installation.

"(D) An analysis of the effect that compliance with such environmental laws may have on the operations and mission capabilities of the Department of Defense as a whole and of each military installation.

"(E) A statement of the funding levels requested in the budget for carrying out research, development, testing, and evaluation for environmental purposes or environmental activities of the Department of Defense. The statement shall set forth separately the funding levels requested for the Department of Defense as a whole and for each military department and Defense Agency.

"(F) A description of the number and duties of current full-time personnel, both civilian and military, who carry out environmental activities (including research) for the Department of Defense, including a description of the organizational structure of such personnel from the Secretary of Defense down to the military installation level.

"(2) In this subsection, the term 'military installation' means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.".

SEC. 342. REPORTING REQUIREMENTS ON ENVIRONMENTAL COMPLIANCE AT OVERSEAS MILITARY INSTALLATIONS

(a) ADDITIONAL INFORMATION IN ENVIRONMENTAL BUDGET REPORT.—Paragraph (1) of section 2706(b) of title 10, United States Code, as amended by section 341, is amended by adding at the end the following new subparagraph:

"(G) A statement of the funding levels and personnel required for the Department of Defense to comply with applicable environmental requirements for military installations located outside the United States during the fiscal year for which the budget is submitted.".

(b) POLICIES AND REPORT ON OVERSEAS ENVIRONMENTAL COMPLIANCE.—(1) The Secretary of Defense shall develop a policy for determining applicable environmental requirements for military installations located outside the United States. In developing the policy, the Secretary shall ensure that the policy gives consideration to adequately protecting the health and safety of military and civilian personnel assigned to such installations.

(2) The Secretary of Defense shall develop a policy for determining the responsibilities of the Department of Defense with respect to cleaning up environmental contamination that may be present at military installations located outside the United States. In developing the policy, the Secretary shall take into account applicable international agreements (such as Status of Forces agreements), multinational or joint use and operation of such installations, relative share of the collective defense burden, and negotiated accommodations.

(3) The Secretary of Defense shall develop a policy and strategy to ensure adequate oversight of compliance with applicable environmental requirements and responsibilities of the Department of Defense determined under the policies developed under paragraphs (1) and (2). In developing the policy, the Secretary shall consider using the Inspector General of the Department of Defense to ensure active and forceful oversight.

(4) At the same time the President submits to Congress his budget for fiscal year 1993 pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report describing the policies developed under paragraphs (1), (2), and (3). The report also shall include a discussion of the role of the Inspector General of the Department of Defense in overseeing environmental compliance at military installations outside the United States.

(5) For purposes of this subsection, the term "military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located outside the United States and outside any territory, commonwealth, or possession of the United States.

SEC. 343. EXTENSION OF DATE FOR COMPLETION OF STUDY ON WASTE RECYCLING

Section 361(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1429) is amended by striking out "one year after the date of the enactment of this Act" and inserting in lieu thereof "March 1, 1991".

SEC. 344. ENVIRONMENTAL EDUCATION PROGRAM FOR DEPARTMENT OF DEFENSE PERSONNEL

(a) REQUIREMENT TO ESTABLISH PROGRAM.—The Secretary of Defense shall establish a program for the purpose of educating Department of Defense personnel in environmental management.

(b) PROGRAM REQUIREMENTS.—Under the program, the Secretary shall—

(1) in consultation with environmental education personnel of colleges and universities in the United States that offer undergraduate and graduate level courses in a wide range of environmental disciplines, develop a curriculum of environmental management courses offered by such colleges and universities;

(2) provide opportunities for Department of Defense personnel to attend such courses at such colleges and universities; and

(3) develop the criteria for the selection of Department of Defense personnel to attend such courses.

(c) FISCAL YEAR 1991 FUNDING MATTERS.—Of the funds authorized to be appropriated pursuant to section 301, not more than $100,000 shall be available for the program established pursuant to subsection (a).

(d) RECOMMENDATIONS REGARDING CONTINUATION OF PROGRAM AFTER FISCAL YEAR 1991.—Not later than the date on which the President submits the budget for fiscal year 1992 to Congress pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives in writing his recommendations regarding whether the program established under subsection (a) should be continued after September 30, 1991.

SEC. 345. USE OF OZONE DEPLETING SUBSTANCES WITHIN THE DEPARTMENT OF DEFENSE

(a) DOD REQUIREMENTS FOR OZONE DEPLETING CHEMICALS OTHER THAN CFCs.—(1) In addition to the functions of the advisory committee established pursuant to section 356(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2701 note), it shall be the function of the Committee to study (A) the use of methyl chloroform, hydrochlorofluorcarbons (HCFCs), and carbon tetrachloride by the Department of Defense and by contractors in the performance of contracts for the Department of Defense, and (B) the costs and feasibility of using alternative compounds or technologies for methyl chloroform, HCFCs, and carbon tetrachloride.

(2) Within 120 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that specify the use of methyl chloroform, HCFCs, or carbon tetrachloride.

(3) Within 150 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that do not specify use of methyl chloroform, HCFCs, or carbon tetra-

chloride but cannot be met without the use of one or more of such substances.

(b) REQUIREMENT.—In preparing the report required by section 356(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 and the report required by subsection (d) of this section, the Committee shall work closely with the Strategic Environmental Research and Development Program Council and shall provide to such Council such reports.

(c) EXTENSION OF REPORTING DEADLINE FOR CFCs.—The deadline for submitting to Congress the report required by section 356(d) of the National Defense Authorization Act for Fiscal Year 1990 and 1991 concerning the uses of CFCs is hereby extended to June 30, 1991.

(d) REPORTING DEADLINE FOR METHYL CHLOROFORM, HCFCs, AND CARBON TETRACHLORIDE.—Not later than September 30, 1991, the Secretary shall submit to Congress a report containing the results of the study by the Committee required by subsection (a)(1) of this section.

SEC. 346. PROHIBITION ON PURCHASES OF PERFORMANCE BONDS AND SIMILAR GUARANTIES

Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1991 may not be obligated or expended for the purchase of surety bonds or other guaranties of financial responsibility to guarantee the performance of any direct function by the Department of Defense.

PART E—MISCELLANEOUS

SEC. 351. CONTINUATION OF AIR FORCE HURRICANE RECONNAISSANCE MISSION

The Secretary of the Air Force shall continue the operation of the hurricane reconnaissance mission of the Air Force during fiscal year 1991 at the same level as undertaken during fiscal year 1990 unless another Federal agency assumes responsibility for, and has funds to perform, such mission.

SEC. 352. ARMY RELIABILITY CENTERED-INSPECT AND REPAIR ONLY AS NECESSARY PROGRAM AT ANNISTON ARMY DEPOT

The Secretary of the Army may operate and maintain an Army Reliability Centered-Inspect and Repair Only as Necessary Program at Anniston Army Depot in Anniston, Alabama.

SEC. 353. VALIDATION OF PAYMENTS UNDER CERTAIN CONTRACTS FOR THE PROVISION OF MUNICIPAL SERVICES

Notwithstanding section 2465 of title 10, United States Code, or any other provision of law, any payment made before the date of the enactment of this Act under a contract entered into before that date by the Secretary of a military department with a unit of local government for the provision by such local government of police, fire, or other municipal service to the military department shall be held and considered to be a valid payment.

SEC. 354. MAINTENANCE OF FIREFIGHTING AND OTHER EMERGENCY SERVICES AT MILITARY INSTALLATIONS IN THE UNITED STATES

(a) MAINTENANCE OF SERVICES.—(1) Consistent with the requirements of section 2465 of title 10, United States Code, the Secretary of a military department shall ensure that each military installation described in paragraph (2) under the jurisdiction of that Secretary is provided during fiscal year 1991 with firefighting and other emergency services through personnel and facilities of the installation.

(2) A military installation referred to in paragraph (1) is a military installation in the United States that—

(A) is established during fiscal year 1991; or

(B) on October 1, 1990, had firefighting and other emergency services provided through personnel and facilities of that installation.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report that—

(1) identifies each military installation in the United States that has more than 300 employees and is not provided with firefighting and related emergency services through personnel and facilities of the installation; and

(2) contains a proposed plan that outlines the actions to be taken, related to cost and options, in providing such services.

SEC. 355. STAFF OF THE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT

(a) REQUIREMENT FOR INCREASED STAFF.—The Secretary of Defense shall increase the size of the permanent staff of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in accordance with this section. To achieve such increase, the Secretary may not reduce the size of the permanent staff authorized for the Under Secretary of Defense for Policy.

(b) SIZE OF STAFF.—On and after May 1, 1991, the number of employees of the Department of Defense assigned or detailed to duty to assist the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in the performance of the functions of the Assistant Secretary may not be less than the equivalent of 92 full-time employees.

(c) NUMBER OF SENIOR LEVEL EMPLOYEES.—Nine of the employee positions designated for the staff of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict shall be senior level employees who are recognized by rank for their managerial and supervisory duties.

(d) INCREASE IN TOTAL NUMBER OF DEPARTMENT OF DEFENSE EMPLOYEES NOT AUTHORIZED.—This section does not authorize an increase in the number of civilian employees that may be employed by the Department of Defense.

(e) ASSESSMENT OF STAFF NEEDS.—The Secretary of Defense shall provide for an assessment, by an organization outside the Department of Defense, of the staff requirements of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. The Secretary shall submit the results of that assessment to the Congress not later than 180 days after the date of the enactment of this Act, together with such comments and recommendations as the Secretary considers appropriate.

SEC. 356. DISCUSSIONS CONCERNING DEPARTMENT OF DEFENSE SUPPORT FOR 1996 SUMMER OLYMPICS

(a) REQUIREMENT FOR DISCUSSIONS.—The Secretary of Defense shall initiate discussions between military and civilian personnel of the Department of Defense and appropriate Federal, State, and local officials and the Atlanta Organizing Committee for the Olympic Games for the purpose of planning for security and logistical support that the Department of Defense may provide for the 1996 games of the XXVI Olympiad to be held in Atlanta, Georgia.

(b) REPORT.—Not later than April 15, 1991, the Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives describing the results of the discussions held pursuant to subsection (a).

SEC. 357. SENSE OF CONGRESS REGARDING THE TRANSFER TO EUROPE OF MILITARY EQUIPMENT THAT WOULD THEN BE DESTROYED OR REMOVED AS A RESULT OF AN ARMS CONTROL AGREEMENT

(a) FINDINGS.—Congress finds the following:

(1) The Secretary of Defense has announced commencement of substantial withdrawals of United States military personnel from Europe in anticipation of concluding an agreement that will reduce conventional forces in Europe and in recognition of the reduced threat in Europe.

(2) The anticipated arms control agreement on conventional forces in Europe will require destruction or demilitarization of certain military equipment in excess of limits specified in the agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) funds appropriated for the Department of Defense should not be used to transfer to Europe any military equipment that would have to be destroyed as a result of the anticipated arms control agreement on conventional forces in Europe; and

(2) the Department of Defense should make every effort to avoid transferring to Europe any military equipment that would, after only a short period of time in Europe, have to be returned to the United States as a result of further withdrawals of United States military personnel from Europe.

PART F—STUDIES AND REPORTS

SEC. 361. AUTHORIZATION FOR SHORT-TERM LEASE OF AIRCRAFT FOR INITIAL ENTRY ROTORY WING PILOT TRAINING AND STUDY REGARDING LONG-TERM LEASE

(a) AUTHORIZATION.—(1) The Secretary of the Army may enter into a contract described in paragraph (2) for the lease of aircraft for initial entry helicopter pilot training to determine if the cost of leasing, operating, and maintaining such aircraft is less than the projected cost of operating and maintaining existing aircraft of the Army for the same purpose.

(2) A contract referred to in paragraph (1) is a contract other than a contract—

(A) described in subsection (a)(1)(A) of section 2401 of title 10, United States Code; or

(B) containing terms described in subsection (a)(1)(B) of that section.

(b) STUDY.—In addition to the short-term lease authorized under subsection (a), the Secretary of Defense shall prepare the analysis required under section 2401(e)(1) of title 10, United States Code, preparatory to requesting under that section an authorization of a long-term lease or charter of aircraft for initial entry helicopter pilot training or for an authorization of a lease or charter of aircraft for such purpose which provides for a substantial termination liability on the part of the United States.

SEC. 362. STUDY ON FLEXIBLE READINESS

(a) FLEXIBLE READINESS DEFINED.—For purposes of this section, the term "flexible readiness" means the allocation of resources and the adjustment of the readiness of military units based on—

(1) the military threats to the United States;

(2) the amount of warning time of potential hostilities;

(3) the likelihood that particular military units will be used in a military action; and

(4) the ability of the military departments to transport these units to the scene of a military action.

(b) SENSE OF CONGRESS.—(1) Under the concept of flexible readiness, the Secretary of

Defense would keep certain high priority military forces, such as strategic forces, expeditionary forces, forward deployed forces, special operations forces, and selected intelligence units, at a high state of readiness.

(2) It is the sense of Congress that flexible readiness has significant potential for being an effective and efficient method by which resources are allocated to military units and a larger military force structure may be preserved in the future than would be possible without flexible readiness.

(c) REPORT.—Not later than March 15, 1991, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a detailed description of the extent to which the concept of flexible readiness could be implemented by the Secretary in the Department of Defense. The report shall—

(1) describe the extent to which resources have been and are currently allocated to active and reserve military units based on the projected threat, the likely warning time, and the projected deployment dates of units in a contingency;

(2) identify the types and numbers of military units which should be maintained at the highest levels of readiness in the future;

(3) analyze the effect of the use of flexible readiness on the future size of the active and reserve component force structure of the Armed Forces; and

(4) analyze the costs, benefits, and difficulties of applying the concept of flexible readiness to all active forces and reserve component forces of the Armed Forces.

SEC. 363. REPORT ON ESTABLISHING NEW NAVAL RESERVE TRAINING CENTER AT NEWPORT, RHODE ISLAND

Not later than six months after the date of the enactment of this Act, the Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the desirability of establishing a new Naval Reserve Training Center within the Naval Education and Training Center at Newport, Rhode Island, to serve as the principal Naval Reserve training center on the East Coast for surface warfare. The report shall consider the desirability of including within the training facilities of such a Reserve Training Center the FF-1052 frigates stationed as of the date of the enactment of this Act at the Naval Education and Training Center at Newport, Rhode Island, and of planning for the use of those frigates in the event of a mobilization.

SEC. 364. REPORT ON THE TRANSPORTATION OF CHEMICAL WEAPONS FROM THE FEDERAL REPUBLIC OF GERMANY TO JOHNSTON ISLAND

(a) REPORT REQUIRED.—The Secretary of the Army shall prepare a report analyzing the safety aspects of the project to remove and transport chemical weapons stored in the Federal Republic of Germany to Johnston Island, with special emphasis on measures undertaken to ensure safety during the actual transportation of the weapons.

(b) USE OF REPORT.—The report required by subsection (a) shall be used as part of each Phase I site specific environmental impact statement study of chemical weapons storage sites in the United States (including the Aberdeen Proving Ground, Maryland, and the Lexington-Blue Grass Army Depot, Kentucky) that is initiated on or after the date of the enactment of this Act. These Phase I studies are being used to assist in determining the validity of the programmatic on-site disposal decisions that have been made for those sites. Information from the report shall be incorporated in any Phase I assessment of transportation alternatives for those sites.

(c) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to Congress not later than 60 days after the date the transportation project referred to in that subsection is completed.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

(a) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1991, as follows:

(1) The Army, 702,170, of which not more than 99,291 may be officers.

(2) The Navy, 570,500, of which not more than 69,992 may be officers.

(3) The Marine Corps, 193,735, of which not more than 19,757 may be officers.

(4) The Air Force, 510,000, of which not more than 95,027 may be officers.

(b) FISCAL YEAR 1995.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1995, as follows:

(1) The Army, 520,000.

(2) The Navy, 501,000.

(3) The Marine Corps, 177,000.

(4) The Air Force, 415,000.

(c) Waiver Authority for Officer End Strengths.—The Secretary of Defense may waive the officer end strength prescribed in subsection (a) for any of the Armed Forces to the extent that the waiver is necessary to prevent the involuntary separation of officers other than (1) the separation of officers under chapter 36 of title 10, United States Code, for reasons other than meeting such end strength limitation, (2) the separation of officers for physical disability, age, or cause, and (3) the separation of officers made without regard to that limitation (as determined by the Secretary of Defense).

(d) CONFORMING AMENDMENT.—Section 401 of Public Law 101-189 (103 Stat. 1431) is amended by striking out subsection (b).

SEC. 402. UNIFORM PROCESS FOR IMPLEMENTING REDUCTIONS IN STRENGTH

(a) LIMITATION.—After the end of the 90-day period beginning on the date of the enactment of this Act, the Secretary of a military department may not carry out the involuntary separation of a member of the Armed Forces under the Secretary's jurisdiction who is described in subsection (b) unless the Secretary of Defense has certified to the Committees on Armed Services of the Senate and the House of Representatives that the Secretary of that military department has implemented procedures to do the following:

(1) Limit the number of persons without previous military service that may be accessed for active duty service as officers in the Armed Force concerned during each fiscal year of the five-year period beginning on October 1, 1990, to a number not greater than the number necessary to meet the requirements of that Armed Force for officers within the end strength specified in section 401(b) for that Armed Force.

(2) Limit the number of persons without previous military service that may be accessed for active duty service as enlisted members in that Armed Force concerned during each fiscal year of the five-year period beginning on October 1, 1990, to a number not greater than the number necessary to meet the requirements of that Armed Force enlisted personnel within the end strength specified in section 401(b) for that Armed Force.

(3) Reduce as of September 30 of each year during the five-year period beginning on October 1, 1990, the number of members of that Armed Force serving on active duty who, upon separation, would be immediately eligible for retired or retainer pay to a number not greater than the number necessary to meet the requirements of that Armed Force within the end strength specified in section 401(b) for that Armed Force.

(4) Limit the number of members of that Armed Force serving on active duty who have completed two but less than six years of active service to a number not greater than the number necessary to meet the requirements of that Armed Force for members with two but less than six years of active service within the end strength specified in section 401(b) for that Armed Force.

(b) APPLICABILITY.—The limitation on involuntary separation in subsection (a) applies to a member of the Army, Navy, Air Force, or Marine Corps who—

(1) is serving on active duty or full-time National Guard duty;

(2) has six or more years of active service in the Armed Forces;

(3) if involuntarily separated, would not be immediately eligible for retired or retainer pay; and

(4) if involuntarily separated, would be eligible for separation pay under section 1174 of title 10, United States Code (as amended by section 501 of this Act).

(c) DEFINITION.—For purposes of this section, the term "involuntarily separated" has the meaning given that term in section 1141 of title 10, United States Code, as added by section 502 of this Act.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall apply uniformly for the military departments.

SEC. 403. AUTHORIZED STRENGTH FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY

(a) FIVE-YEAR REDUCTION.—Effective on September 30, 1991, the text of section 526 of title 10, United States Code, is amended to read as follows:

"(a) LIMITATIONS.—The number of general officers on active duty in the Army, Air Force, and Marine Corps, and the number of flag officers on active duty in the Navy, may not exceed the number specified for the armed force concerned as follows:

"(1) For the Army, 386 before October 1, 1995, and 302 on and after that date.

"(2) For the Navy, 250 before October 1, 1995, and 216 on and after that date.

"(3) For the Air Force, 326 before October 1, 1995, and 279 on and after that date.

"(4) For the Marine Corps, 68 before October 1, 1995, and 61 on and after that date.

"(b) During the period before October 1, 1995, the Secretary of Defense may increase the number of general officers on active duty in the Army, Air Force, or Marine Corps, or the number of flag officers on active duty in the Navy, above the applicable number specified in subsection (a) by a total of not more than five. Whenever any such increase is made, the Secretary shall make a corresponding reduction in the number of such officers that may serve on active duty in general or flag officer grades in one of the other armed forces.".

(b) CONFORMING AMENDMENTS.—(1) Chapter 331 of title 10, United States Code, is amended—

(A) by striking out section 3202; and

(B) in the table of sections at the beginning of such chapter, by striking out the item relating to section 3202.

(2) Chapter 533 of such title is amended—

(A) by striking out sections 5442, 5443, 5444, and 5446; and

(B) in the table of sections at the beginning of such chapter, by striking out the items relating to sections 5442, 5443, 5444, and 5446.

(3) Chapter 831 of such title is amended—

(A) by striking out section 8202; and

(B) in the table of sections at the beginning of the chapter, by striking out the item relating to section 8202.

SEC. 404. REDUCTION FOR FISCAL YEAR 1992 IN NUMBER OF ACTIVE DUTY AIR FORCE COLONELS

Section 402 of Public Law 101-189 (10 U.S.C. 523 note) is amended by striking out "fiscal year 1991" and inserting in lieu thereof "fiscal year 1992".

SEC. 405. AUTHORITY FOR EXEMPTION FROM GRADE LIMITATIONS FOR CERTAIN THREE-STAR GENERAL AND FLAG OFFICER POSITIONS ON JOINT STAFF

(a) IN GENERAL.—Section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) An officer while serving in a position designated under subparagraph (B), if serving in the grade of lieutenant general or vice admiral, is in addition to the number that would otherwise be permitted for that officer's armed force for that grade under paragraph (1) or (2).

"(B) The President, with the advice and assistance of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, may designate not more than six positions within the Joint Staff (provided for under section 155 of this title) as positions referred to in subparagraph (A). The authority of the President under the preceding sentence may not be delegated.".

(b) TECHNICAL AMENDMENT.—Paragraph (3) of such section is amended by striking out "authorized" and inserting in lieu thereof "that would otherwise be permitted for".

SEC. 406. REDUCTION IN THE AUTHORIZED END STRENGTH FOR THE NUMBER OF MILITARY PERSONNEL IN EUROPE

(a) REDUCTION.—Subsection (c)(1) of section 1002 of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended in the first sentence—

(1) by striking out "After September 30, 1985, none of the funds appropriated pursuant to an authorization contained in this Act or any other Act enacted after the date of the enactment of this Act" and inserting in lieu thereof "No appropriated funds"; and

(2) by striking out "326,414" and inserting in lieu thereof "261,855".

(b) WAIVER AUTHORITY.—Such section is further amended by adding at the end the following: "In any fiscal year for which the permanent ceiling specified in the first sentence of this subsection is 261,855, the President may authorize an end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization at a level not to exceed 311,855 if the President determines that the national security interests of the United States require such authorization. Whenever the President exercises the authority provided under the preceding sentence, the President shall notify Congress of that determination and of the necessity for exceeding such permanent ceiling.".

(c) CONFORMING AMENDMENT.—Section 911 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1523) is repealed.

PART B—RESERVE FORCES

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1991, as follows:

(1) The Army National Guard of the United States, 457,300.

(2) The Army Reserve, 318,700.

(3) The Naval Reserve, 153,400.

(4) The Marine Corps Reserve, 43,900.

(5) The Air National Guard of the United States, 117,035.

(6) The Air Force Reserve, 85,591.

(7) The Coast Guard Reserve, 12,700.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary the end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

(d) CONFORMING AMENDMENT.—Section 411 of Public Law 101-189 (101 Stat. 1432) is amended by striking out subsection (b).

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) FISCAL YEAR 1991.—Within the end strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1991, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(A) The Army National Guard of the United States, 26,199.

(B) The Army Reserve, 13,344.

(C) The Naval Reserve, 22,997.

(D) The Marine Corps Reserve, 2,401.

(E) The Air National Guard of the United States, 8,468.

(F) The Air Force Reserve, 655.

(b) ARMY RESERVE COMPONENT STRENGTHS FOR FISCAL YEARS 1992-1997.—(1) Within the end strengths authorized by law after the date of the enactment of this Act for each of the fiscal years listed in the table in paragraph (2), the reserve components of the Army are authorized the total number of members specified in such table for such fiscal year to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the Army reserve components.

(2) The table referred to in paragraph (1) is as follows:

Fiscal Year	Army Reserve	Army National Guard
1992	12,673	24,889
1993	12,006	23,579
1994	11,339	22,269
1995	10,672	20,959
1996	10,005	19,649
1997	9,341	18,340

(c) IMPLEMENTATION OF REDUCTIONS.—(1) In implementing the reductions in the end strengths for reserves on active duty in support of the Army reserve components required in subsection (b), no member of the Reserves serving on full-time active duty on the date of the enactment of this Act, or in the case of members of the National Guard, full-time National Guard duty, for the purpose of organizing, administering, recruiting, instructing or training the Army reserve components may be involuntarily separated.

(2) As used in this section, the term "involuntarily separated" has the meaning given that term in section 1141 of title 10, United States Code, as added by section 502 of this Act.

(3) The end strengths prescribed in subsection (b) may be exceeded to the extent necessary to comply with this subsection, as determined under regulations prescribed by the Secretary of Defense.

(4) Accessions of members of the Reserves to be serving on full-time active duty or, in the case of members of the National Guard on full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the Army reserve components for a fiscal year shall be two percent of the total authorized end strength provided in subsection (b) for that fiscal year.

(d) USE OF ACTIVE COMPONENT MEMBERS.—(1) The Secretary of Defense shall examine the validity of the information submitted in support of the budget submitted to Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1992 with respect to the number of reserve members on active duty or full-time National Guard duty to support the Army reserve components and shall, to the extent that the information remains valid, assign active component members to reserve units to meet the requirement of the reserve components.

(2) The Secretary shall include in the detailed justification of estimates for military personnel for the Army, Navy, Air Force, and Marine Corps that accompanies the budget submitted to Congress for fiscal years 1992 and 1993 pursuant to section 1105 of title 31, United States Code, the number of such personnel that are programmed to be assigned in support of the reserve components to meet requirements for full-time support of the reserve components.

(e) ARMY RESERVE COMPONENTS.—For purposes of this section, the Army reserve components are the Army National Guard of the United States and the Army Reserve.

PART C—MILITARY TRAINING STUDENT LOADS

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) IN GENERAL.—For fiscal year 1991, the components of the Armed Forces are authorized average military training loads as follows:

(1) The Army, 66,525.

(2) The Navy, 59,675.

(3) The Marine Corps, 20,880.

(4) The Air Force, 26,880.

(5) The Army National Guard of the United States, 16,611.

(6) The Army Reserve, 15,337.
(7) The Naval Reserve, 3,112.
(8) The Marine Corps Reserve, 3,520.
(9) The Air National Guard of the United States, 2,765.
(10) The Air Force Reserve, 1,628.

(b) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

PART D—OTHER PERSONNEL STRENGTH MATTERS

SEC. 431. REPORT ON CADRE CONCEPT

The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a report evaluating the cadre concept for both active duty divisions and reserve component divisions. The report shall describe any change in laws that would be required in order to implement the cadre concept on a test program basis. The report shall be submitted not later than February 1, 1991.

TITLE V—MILITARY PERSONNEL

PART A—PERSONNEL READJUSTMENT BENEFITS

SEC. 501. SEPARATION PAY

(a) AUTHORITY FOR SEPARATION PAY FOR REGULAR ENLISTED MEMBERS.—Section 1174 of title 10, United States Code, is amended—

(1) by inserting "REGULAR OFFICERS.—(1)" in subsection (a) after "(a)";

(2) by redesignating subsection (b) as paragraph (2) of subsection (a); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) REGULAR ENLISTED MEMBERS.—(1) A regular enlisted member of an armed force who is discharged involuntarily or as the result of the denial of the reenlistment of the member and who has completed six or more, but less than 20, years of active service immediately before that discharge is entitled to separation pay computed under subsection (d) unless the Secretary concerned determines that the conditions under which the member is discharged do not warrant payment of such pay.

"(2) Separation pay of an enlisted member shall be computed under paragraph (1) of subsection (d), except that such pay shall be computed under paragraph (2) of such subsection in the case of a member who is discharged under criteria prescribed by the Secretary of Defense.".

(b) PERIOD OF SERVICE REQUIRED FOR ELIGIBILITY.—Such section is further amended—

(1) by striking out "five or more" in subsection (a)(2) (as redesignated by subsection (a)(2) of this section) and in subsection (c)(1) and inserting in lieu thereof "six or more"; and

(2) by striking out "at least five years" in subsection (c)(3) and inserting in lieu thereof "at least six years".

(c) REPEAL OF LIMITATION ON AMOUNT OF SEPARATION PAY.—(1) Subsection (d) of such section is amended—

(A) by striking out "or $30,000, whichever is less" in paragraph (1); and

(B) by striking out ", but in no event more than $15,000".

(2) Subsection (g) of such section is amended—

(A) by striking out "(1)" after "(g)"; and

(B) by striking out paragraph (2).

(d) REQUIREMENT FOR SERVICE IN READY RESERVE; EXCLUSION FOR MEMBERS DISCHARGED DURING INITIAL PERIOD OF SERVICE.—Subsection (e) of such section is amended to read as follows:

"(e) REQUIREMENT FOR SERVICE IN READY RESERVE; EXCEPTIONS TO ELIGIBILITY.—(1)(A) As a condition of receiving separation pay under this section, a person otherwise eligible for that pay shall be required to enter into a written agreement with the Secretary concerned to serve in the Ready Reserve of a reserve component for a period of not less than three years following the person's discharge or release from active duty. If the person has a service obligation under section 651 of this title or under any other provision of law that is not completed at the time the person is discharged or released from active duty, the three-year obligation under this subsection shall begin on the day after the date on which the person completes the person's obligation under such section or other provision of law.

"(B) Each person who enters into an agreement referred to in subparagraph (A) who is not already a Reserve of an armed force and who is qualified shall, upon such person's discharge or release from active duty, be enlisted or appointed, as appropriate, as a Reserve and be transferred to a reserve component.

"(2) A member who is discharged or released from active duty is not eligible for separation pay under this section if the member—

"(A) is discharged or released from active duty at his request;

"(B) is discharged or released from active duty during an initial term of enlistment or an initial period of obligated service;

"(C) is released from active duty for training; or

"(D) upon discharge or release from active duty, is immediately eligible for retired or retainer pay based on his military service.".

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), subsection (b) of section 1174 of title 10, United States Code, as added by subsection (a), and the amendments made by subsections (b), (c), and (d) shall apply with respect to a member of the Armed Forces who is discharged, or released from active duty, after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall not apply in the case of a member (other than a regular enlisted member) of the Armed Forces who (A) is serving on active duty on the date of the enactment of this Act, (B) is discharged, or released from active duty, after that date; and (C) on that date has five or more, but less than six, years of active service in the Armed Forces.

(f) CONFORMING CROSS-REFERENCE AMENDMENTS.—(1) Section 1186(c) of title 10, United States Code, is amended by striking out "section 1174(b)" and inserting in lieu thereof "section 1174(a)(2)".

(2) Section 6383(h) of such title is amended by striking out "section 1174(a)" and inserting in lieu thereof "section 1174(a)(1)".

(g) TECHNICAL AMENDMENTS.—(1) Subsection (a) of section 1174 of such title (as amended by subsection (a) of this section) is further amended—

(A) by striking out "or release"; and

(B) by striking out ", under section 564" and all that follows through "Management Act" and inserting in lieu thereof "or under section 564 or 6383 of this title".

(2) Subsection (c)(1) of such section is amended by striking out "after September 14, 1981,".

(h) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by inserting "OTHER MEMBERS.—" in subsection (c) after "(c)";

(2) by inserting "AMOUNT OF SEPARATION PAY.—" in subsection (d) after "(d)";

(3) by inserting "COUNTING FRACTIONAL YEARS OF SERVICE.—" in subsection (f) after "(f)";

(4) by inserting "COORDINATION WITH OTHER SEPARATION OR SEVERANCE PAY BENEFITS.—" in subsection (g) after "(g)";

(5) by inserting "COORDINATION WITH RETIRED OR RETAINER PAY AND DISABILITY COMPENSATION.—" in subsection (h) after "(h)"; and

(6) by inserting "REGULATIONS; CREDITING OF OTHER COMMISSIONED SERVICE.—" in subsection (i) after "(i)".

SEC. 502. OTHER TRANSITION BENEFITS AND SERVICES.

(a) BENEFITS AND SERVICES.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 57 the following new chapter:

"CHAPTER 58—BENEFITS AND SERVICES FOR MEMBERS BEING SEPARATED OR RECENTLY SEPARATED

"Sec.
"1141. Involuntary separation defined.
"1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs.
"1143. Employment assistance: Department of Defense.
"1144. Employment assistance, job training assistance, and other transitional services: Department of Labor.
"1145. Health benefits.
"1146. Commissary and exchange benefits.
"1147. Use of military family housing.
"1148. Relocation assistance for personnel overseas.
"1149. Excess leave and permissive temporary duty.
"1150. Affiliation with Guard and Reserve units: waiver of certain limitations.

"§ 1141. Involuntary separation defined

"A member of the Army, Navy, Air Force, or Marine Corps shall be considered to be involuntarily separated for purposes of this chapter if the member was on active duty or full-time National Guard duty on September 30, 1990, and—

"(1) in the case of a regular officer (other than a retired officer), the officer is involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned;

"(2) in the case of a reserve officer who is on the active-duty list or, if not on the active-duty list, is on full-time active duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components, the officer is involuntarily discharged or released from active duty or full-time National Guard (other than a release from active duty or full-time National Guard duty incident to a transfer to retired status) under other than adverse conditions, as characterized by the Secretary concerned;

"(3) in the case of a regular enlisted member serving on active duty, the member is (A) denied reenlistment, or (B) involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned; and

"(4) in the case of a reserve enlisted member who is on full-time active duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the re-

serve components, the member (A) is denied reenlistment, or (B) is involuntarily discharged or released from active duty (or full-time National Guard) under other than adverse conditions, as characterized by the Secretary concerned.

"§ 1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs

"(a) REQUIREMENT.—(1) Upon the discharge or release from active duty of a member of the armed forces, the Secretary concerned shall provide for individual preseparation counseling of the member. A notation of the provision of such counseling with respect to each matter specified in subsection (b), signed by the member, shall be placed in the service record of each member receiving such counseling.

"(2) In carrying out this section, the Secretary concerned may use the services available under section 1144 of this title.

"(b) MATTERS TO BE COVERED BY COUNSELING.—Counseling under this section shall include the following:

"(1) A discussion of the educational assistance benefits to which the member is entitled under the Montgomery GI Bill and other educational assistance programs because of the member's service in the armed forces.

"(2) A description (to be developed with the assistance of the Secretary of Veterans Affairs) of the compensation and vocational rehabilitation benefits to which the member may be entitled under laws administered by the Secretary of Veterans Affairs, if the member is being medically separated or is being retired under chapter 61 of this title.

"(3) An explanation of the procedures for and advantages of affiliating with the Selected Reserve.

"(4) Information concerning Government and private-sector programs for job search and job placement assistance.

"(5) If the member has a spouse, job placement counseling for the spouse;

"(6) Information concerning the availability of relocation assistance services and other benefits and services available to persons leaving military service, as provided under section 1144 of this title.

"(7) Information concerning the availability of medical and dental coverage following separation from active duty, including the opportunity to elect into the conversion health policy provided under section 1145 of this title.

"(8) Counseling (for the member and dependents) on the effect of career change on individuals and their families.

"(9) Financial planning assistance.

"(c) TRANSMITTAL OF MEDICAL INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.—In the case of a member being medically separated or being retired under chapter 61 of this title, the Secretary concerned shall ensure (subject to the consent of the member) that a copy of the member's service medical record (including any results of a Physical Evaluation Board) is transmitted to the Secretary of Veterans Affairs within 60 days of the separation or retirement.

"§ 1143. Employment assistance: Department of Defense

"(a) EMPLOYMENT SKILLS VERIFICATION.—The Secretary of Defense shall provide to members of the armed forces under the jurisdiction of the Secretary who are discharged or released from active duty a certification or verification of any job skills and experience acquired while on active duty that may have application to employment in the civilian sector. The preceding sentence shall be carried out in conjunction with the Secretary of Labor.

"(b) EMPLOYMENT ASSISTANCE CENTERS.—The Secretary of Defense shall establish permanent employment assistance centers at appropriate military installations.

"(c) INFORMATION TO CIVILIAN ENTITIES.—For the purpose of assisting members covered by subsection (a) and their spouses in locating civilian employment and training opportunities, the Secretary of Defense shall establish and implement procedures to release to civilian employers, organizations, State employment agencies, and other appropriate entities the names (and other pertinent information) of such members and their spouses. Such names may be released for such purpose only with the consent of such members and spouses.

"(d) EMPLOYMENT PREFERENCE BY NONAPPROPRIATED FUND INSTRUMENTALITIES.—The Secretary of Defense shall take such steps as necessary to provide that members of Army, Navy, Air Force, or Marine Corps who are involuntarily separated, and the dependents of such members, shall be provided a preference in hiring by nonappropriated fund instrumentalities of the Department. Such preference shall be administered in the same manner as the preference for military spouses provided under section 806(a)(2) of the Military Family Act of 1985, except that a preference under that section shall have priority over a preference under this subsection. A person may receive a preference in hiring under this subsection only once.

"§ 1144. Employment assistance, job training assistance, and other transitional services: Department of Labor

"(a) IN GENERAL.—(1) The Secretary of Labor, in conjunction with the Secretary of Defense and the Secretary of Veterans Affairs, shall establish and maintain a program to furnish counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, and other related information and services to members of the armed forces under the jurisdiction of the Secretary of a military department who are being separated from active duty and the spouses of such members. Such services shall be provided to a member during the 180-day period before the member is separated from active duty.

"(2) The Secretary of Defense and the Secretary of Veterans Affairs shall cooperate with the Secretary of Labor in establishing and maintaining the program under this section.

"(3) The Secretaries referred to in paragraph (1) shall enter into a detailed agreement to carry out this section. The agreement shall be entered into no later than 60 days after the date of the enactment of this section.

"(b) ELEMENTS OF PROGRAM.—In establishing and carrying out a program under this section, the Secretary of Labor shall do the following:

"(1) Provide information concerning employment and training assistance, including (A) labor market information, (B) civilian work place requirements and employment opportunities, (C) instruction in resume preparation, and (D) job analysis techniques, job search techniques, and job interview techniques.

"(2) In providing information under paragraph (1), use experience obtained from implementation of the pilot program established under section 408 of Public Law 101-237.

"(3) Provide information concerning Federal, State, and local programs, and programs of military and veterans service organizations, that may be of assistance to such members after separation from the Armed Forces, including, as appropriate, the information and services to be provided under section 1142 of this title.

"(4) Inform such members that the Department of Defense is required under section 1143(a) of this title to provide proper certification or verification of job skills and experience acquired while on active duty that may have application to employment in the civilian sector for use in seeking civilian employment and in obtaining job search skills.

"(5) Provide information and other assistance to such members in their efforts to obtain loans and grants from the Small Business Administration and other Federal, State, and local agencies.

"(6) Provide information about the geographic areas in which such members will relocate after separation from the armed forces, including, to the degree possible, information about employment opportunities, the labor market, and the cost of living in such area (including, to the extent practicable, the cost and availability of housing, child care, education, and medical and dental care).

"(7) Work with military and veterans' service organizations and other appropriate organizations in promoting and publicizing job fairs for such members.

"(c) PARTICIPATION.—The Secretary of Defense shall encourage and otherwise promote maximum participation by members of the armed forces eligible for assistance under the program carried out under this section.

"(d) USE OF PERSONNEL AND ORGANIZATIONS.—In carrying out the program established under this section, the Secretaries may—

"(1) provide, as the case may be, for the use of disabled veterans outreach program specialists, local veterans' employment representatives, and other employment service personnel funded by the Department of Labor to the extent that the Secretary of Labor determines that such use will not significantly interfere with the provision of services or other benefits to eligible veterans and other eligible recipients of such services or benefits;

"(2) use military and civilian personnel of the Department of Defense;

"(3) use personnel of the Veterans Benefits Administration of the Department of Veterans Affairs and other appropriate personnel of that Department;

"(4) use representatives of military and veterans' service organizations;

"(5) enter into contracts with public or private entities; and

"(6) take other necessary action to develop and furnish the information and services to be provided under this section.

"(e) FUNDING.—(1) There is authorized to be appropriated to the Department of Labor to carry out this section $4,000,000 for fiscal year 1991 and $9,000,000 for each of fiscal years 1992 and 1993.

"(2) There is authorized to be appropriated to the Department of Veterans Affairs to carry out this section $1,000,000 for fiscal year 1991 and $4,000,000 for each of fiscal years 1992 and 1993.

"§ 1145. Health benefits

"(a) TRANSITIONAL HEALTH CARE.—(1) For the applicable time period described in paragraph (2), a member of the armed forces who is involuntarily separated from active duty during the five-year period beginning

on October 1, 1990 (and the dependents of the member), shall be entitled to receive—

"(A) medical and dental care under section 1076 of this title in the same manner as a dependent described in subsection (a)(2) of such section; and

"(B) health benefits contracted under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

"(2) Transitional health care shall be available under subsection (a) for a specified time period beginning on the date on which the member is involuntarily separated as follows:

"(A) For members involuntarily separated with less than six years of active service, 60 days.

"(B) For members involuntarily separated with six or more years of active service, 120 days.

"(b) CONVERSION HEALTH POLICIES.—(1) The Secretary of Defense shall inform each member referred to in subsection (a) before the date of the member's discharge or release from active duty of the availability for purchase by the member of a conversion health policy for the member and the dependents of that member.

"(2) If a member referred to in subsection (a) purchases a conversion health policy during the period applicable to the member (or within a reasonable time after that period as prescribed by the Secretary of Defense), the Secretary shall provide health care, or pay the costs of health care provided, to the member and the dependents of the member—

"(A) during the one-year period beginning on the date on which coverage under the conversion health policy begins; and

"(B) for a condition (including pregnancy) that exists on such date and for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

"(3) The Secretary of Defense may arrange for the provision of health care described in paragraph (2) through a contract with the insurer offering the conversion health policy.

"(c) HEALTH CARE FOR CERTAIN SEPARATED MEMBERS NOT OTHERWISE ELIGIBLE.—(1) Consistent with the authority of the Secretary concerned to designate certain classes of persons as eligible to receive health care at a military medical facility, the Secretary concerned should consider authorizing, on an individual basis in cases of hardship, the provision of that care for a member who is separated from the armed forces during the five-year period beginning on October 1, 1990, and is ineligible for transitional health care under subsection (a) or does not obtain a conversion health policy (or a dependent of the member).

"(2) The Secretary concerned shall give special consideration to requests for such care in cases in which the condition for which treatment is required was incurred or aggravated by the member or the dependent before the date of the separation of the member, particularly if the condition is a result of the particular circumstances of the service of the member.

"(d) DEFINITION.—In this section, the term 'conversion health policy' means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and a private insurer, that is available for purchase by or for the use of a person who is no longer a member of the armed forces or a covered beneficiary.

"§ 1146. Commissary and exchange benefits

"The Secretary of Defense shall prescribe regulations to allow a member of the armed forces who is involuntarily separated from active duty during the five-year period beginning on October 1, 1990, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty.

"§ 1147. Use of military family housing

"(a) TRANSITION FOR INVOLUNTARILY SEPARATED MEMBERS.—(1) The Secretary of a military department may, pursuant to regulations prescribed by the Secretary of Defense, permit individuals who are involuntarily separated during the five-year period beginning on October 1, 1990, to continue for not more than 180 days after the date of such separation to reside (along with other members of the individual's household) in military family housing provided or leased by the Department of Defense to such individual as a member of the armed forces.

"(b) RENTAL CHARGES.—The Secretary concerned, pursuant to such regulations, shall require a reasonable rental charge for the continued use of military family housing under subsection (a), except that such Secretary may waive all or any portion of such charge in any case of hardship.

"§ 1148. Relocation assistance for personnel overseas

"The Secretary of Defense shall develop a program specifically to assist members of the armed forces stationed overseas who are preparing for discharge or release from active duty, and the dependents of such members, in readjusting to civilian life. The program shall focus on the special needs and requirements of such members and dependents due to their overseas locations and shall include, to the maximum extent possible, computerized job relocation assistance and job search information.

"§ 1149. Excess leave and permissive temporary duty

"Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned shall grant a member of the armed forces who is to be involuntarily separated such excess leave (for a period not in excess of 30 days), or such permissive temporary duty (for a period not in excess of 10 days), as the member requires in order to facilitate the member's carrying out necessary relocation activities (such as job search and residence search activities), unless to do so would interfere with military missions.

"§ 1150. Affiliation with Guard and Reserve units: waiver of certain limitations

"(a) PREFERENCE FOR CERTAIN PERSONS.—A person who is involuntarily separated from the armed forces during the five-year period beginning on October 1, 1990, and who applies to become a member of a National Guard or Reserve unit within one year after the date of such separation shall be given preference over other equally qualified applicants for existing or projected vacancies within the unit to which the member applies.

"(b) LIMITED WAIVER OF STRENGTH LIMITATIONS.—Under regulations prescribed by the Secretary of Defense, a person covered by subsection (a) who enters a National Guard or Reserve unit pursuant to an application described in such subsection may be retained in that unit for up to three years without regard to reserve-component strength limitations so long as the individual maintains good standing in that unit.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of such title are amended by inserting after the item relating to chapter 57 the following new item:

"58. Benefits and Services for Members Being Separated or Recently Separated 1141"

(b) CONFORMING AMENDMENTS.—(1) Section 1046 of such title is repealed.

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 1046.

(c) IMPLEMENTATION REPORTS.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress a report setting forth the agreement entered into to carry out section 1144 of title 10, United States Code, as added by subsection (a). The report shall include a detailed description of the responsibilities of the Secretary of Labor, the Secretary of Defense, and the Secretary of Veterans Affairs in carrying out that section and of the steps that have been taken to carry out those responsibilities.

(2) Not later than one year after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress a report containing a detailed evaluation of the program carried out under that section to the date of the submission of the report.

(3) The reports under paragraphs (1) and (2) shall be prepared in consultation with the Secretary of Defense and the Secretary of Labor.

(d) PILOT PROGRAM.—During fiscal year 1991, the Secretary shall carry out the program required by section 1148 of title 10, United States Code, as added by subsection (a), at not less than 10 military installations located outside the United States.

SEC. 503. TRAVEL AND TRANSPORTATION ALLOWANCES RELATING TO MEMBERS INVOLUNTARILY SEPARATED

(a) MEMBERS.—(1) Subsection (c)(1) of section 404 of title 37, United States Code, is amended—

(A) by striking out "or" at the end of subparagraph (A);

(B) by inserting "or" at the end of subparagraph (B);

(C) by inserting after subparagraph (B) the following:

"(C) is involuntarily separated from active duty during the five-year period beginning on October 1, 1990," and

(D) by inserting "involuntarily separated," after "placed on that list," in the material following the subparagraphs.

(2) Subsection (f)(2)(B) of such section is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by striking out the period at the end of clause (iv) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(v) who is involuntarily separated from active duty during the five-year period beginning on October 1, 1990.".

(3) Such section is further amended by adding at the end the following new subsection:

"(j) In this section, the term 'involuntarily separated' has the meaning given that term in section 1141 of title 10.".

(b) DEPENDENTS, BAGGAGE, AND HOUSEHOLD EFFECTS.—(1) Subsection (a)(2)(B) of section 406 of such title is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by striking out the period at the end of clause (iv) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(v) who is involuntarily separated from active duty during the five-year period beginning on October 1, 1990.".

(2) Subsection (g)(1) of such section is amended—

(A) by striking out "; or" at the end of subparagraph (A);

(B) by inserting "or" at the end of subparagraph (B);

(C) by inserting after subparagraph (B) the following:

"(C) is involuntarily separated from active duty during the five-year period beginning on October 1, 1990," and

(D) by inserting "involuntarily separated," after "placed on that list," in the material following the subparagraphs.

(3) Subsection (a) of such section is amended by adding at the end the following new paragraph:

"(4) In this section, the term 'involuntarily separated' has the meaning given that term in section 1141 of title 10.".

(c) STORAGE OF HOUSEHOLD EFFECTS.—(1) The Secretary of a military department shall exercise the authority provided by section 406 of title 37, United States Code, to provide nontemporary storage of baggage and household effects for a period not longer than one year in the case of individuals who are involuntarily separated during the five-year period beginning on October 1, 1990.

(2) For purposes of this subsection, the term "involuntarily separated" has the meaning given that term in section 1141 of title 10, United States Code.

SEC. 504. CONTINUATION OF ENROLLMENT IN SCHOOLS OF THE DEFENSE DEPENDENTS' EDUCATION SYSTEM FOR DEPENDENTS OF MEMBERS INVOLUNTARILY SEPARATED

(a) CONTINUATION OF ENROLLMENT.—Section 1407 of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) CONTINUATION OF ENROLLMENT FOR CERTAIN DEPENDENTS OF MEMBERS OF THE ARMED FORCES INVOLUNTARILY SEPARATED.—(1) A member of the Armed Forces serving on active duty on September 30, 1990, who is involuntarily separated during the five-year period beginning on October 1, 1990, and who has a dependent described in paragraph (2) who is enrolled in a school of the defense dependents' education system (or a school for which tuition is provided under subsection (b)) on the date of that separation shall be eligible to enroll or continue the enrollment of that dependent at that school (or another school serving the same community) for the final year of secondary education of that dependent in the same manner as if the member were still on active duty.

"(2) A dependent referred to in paragraph (1) is a dependent who on the date of the separation of the member has completed the eleventh grade and is likely to complete secondary education within the one-year period beginning on that date.".

(b) INVOLUNTARILY SEPARATED DEFINED.—Section 1414 of that Act (20 U.S.C. 932) is amended by adding at the end the following new paragraph:

"(5) The term 'involuntarily separated' has the meaning given that term in section 1141 of title 10, United States Code.".

PART B—DEFENSE OFFICER PERSONNEL MANAGEMENT POLICIES

SEC. 521. OFFICER RETENTION FLEXIBILITY

(a) IN GENERAL.—(1) Chapter 36 of title 10, United States Code, is amended by inserting after section 638 the following new section:

"§ 638a. Modification to rules for continuation on active duty; enhanced authority for selective early retirement and early discharges

"(a) The Secretary of Defense may authorize the Secretary of a military department, during the five-year period beginning on October 1, 1990, to take any of the actions set forth in subsection (b) with respect to officers of an armed force under the jurisdiction of that Secretary.

"(b) Actions which the Secretary of a military department may take with respect to officers of an armed force when authorized to do so under subsection (a) are the following:

"(1) Shortening the period of the continuation on active duty established under section 637 of this title for a regular officer who is serving on active duty pursuant to a selection under that section for continuation on active duty.

"(2) Providing that regular officers on the active-duty list may be considered for early retirement by a selection board convened under section 611(b) of this title in the case of officers described in any of subparagraphs (A) through (C) as follows:

"(A) Officers in the regular grade of lieutenant colonel or commander who would be subject to consideration for selection for early retirement under section 638(a)(1)(A) of this title except that they have failed of selection for promotion only one time (rather than two or more times).

"(B) Officers in the regular grade of colonel or, in the case of the Navy, captain who would be subject to consideration for selection for early retirement under section 638(a)(1)(B) of this title except that they have served on active duty in that grade less than four years (but not less than two years).

"(C) Officers holding a regular grade below the grade of colonel or, in the case of the Navy, captain who are not eligible for retirement under section 3911, 6323, or 8911 of this title but who after two additional years of active service as a commissioned officer would be eligible for retirement under one of those sections and whose names are not on a list of officers recommended for promotion.

"(3) Suspending section 638(c) of this title.

"(4) Convening selection boards under section 611(b) of this title to consider for discharge regular officers on the active-duty list in a grade below lieutenant colonel or commander—

"(A) who have served at least one year of active duty in the grade currently held;

"(B) whose names are not on a list of officers recommended for promotion; and

"(C) who are not eligible to be retired under any provision of law and are not within two years of becoming so eligible.

"(c) In the case of an action under subsection (b)(2), the Secretary of the military department concerned shall specify the number of officers described in that subsection which a selection board convened under section 611(b) of this title pursuant to the authority of that subsection may recommend for early retirement. Such number may not be more than 30 percent of the number of officers considered in each grade in each competitive category.

"(d)(1) In the case of an action under subsection (b)(4), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

"(A) the names of all officers described in that subsection in a particular grade and competitive category; or

"(B) the names of all officers described in that subsection in a particular grade and competitive category who also are in particular year groups or specialties, or both, within that competitive category.

"(2) The Secretary concerned shall specify the total number of officers to be recommended for discharge by a selection board convened pursuant to subsection (b)(4). That number may not be more than 30 percent of the number of officers considered—

"(A) in each grade in each competitive category; or

"(B) in each grade, year group, or specialty (or combination thereof) in each competitive category.

"(3) The total number of officers described in subsection (b)(4) from any of the armed forces (or from any of the armed forces in a particular grade) who may be recommended during a fiscal year for discharge by a selection board convened pursuant to the authority of that subsection may not exceed 70 percent of the decrease, as compared to the preceding fiscal year, in the number of officers of that armed force (or the number of officers of that armed force in that grade) authorized to be serving on active duty as of the end of that fiscal year.

"(4) An officer who is recommended for discharge by a selection board convened pursuant to the authority of subsection (b)(4) and whose discharge is approved by the Secretary concerned shall be discharged on a date specified by the Secretary concerned.

"(5) Selection of officers for discharge under this subsection shall be based on the needs of the service.

"(e) The discharge or retirement of an officer pursuant to this section shall be considered to be involuntary for purposes of any other provision of law.".

(2) The table of sections at the beginning of subchapter IV of such chapter is amended by inserting after the item relating to section 638 the following new item:

"638a. Modification to rules for continuation on active duty; enhanced authority for selective early retirement and early discharges.".

(b) CONFORMING AMENDMENTS.—(1) Section 637 of title 10, United States Code, is amended—

(A) by adding at the end of subsection (c) the following new sentence: "The period of the continuation on active duty of an officer under this section may be reduced by the Secretary concerned in the case of any officer as provided in section 638a of this title.";

(B) by redesignating subsection (d) as subsection (e); and

(C) by inserting after subsection (c) the following new subsection:

"(d) For purposes of this section, a period of continuation on active duty under this section expires or is completed on the earlier of (1) the date originally established for the termination of such period, or (2) the date established for the termination of such period by any shortening of such period under section 638a of this title.".

(2)(A) Subsection (a) of section 638 of title 10, United States Code, is amended by

adding at the end the following new paragraph:

"(3) A regular officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps may also be considered for early retirement under the circumstances prescribed in section 638a of this title.".

(B) Subsection (b)(1) of such section is amended by inserting "or section 638a of this title" after "under this section".

SEC. 522. REDUCTION IN TIME-IN-GRADE REQUIREMENT FOR RETENTION OF GRADE UPON VOLUNTARY RETIREMENT

Section 1370(a)(2) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(2)";

(2) by inserting after "not less than three years" at the end of the first sentence the following: ", except that the Secretary of Defense may authorize the Secretary of a military department to reduce such period to a period not less than two years in the case of retirements effective during the five-year period beginning on October 1, 1990";

(3) by designating the second, and third sentences as subparagraph (B) and by striking out "the preceding sentence" in the first sentence of such subparagraph (as so designated) and inserting in lieu thereof "subparagraph (A)"; and

(4) by adding at the end the following:

"(C) The number of officers in an armed force in a grade for whom a reduction is made during any fiscal year in the period of service-in-grade otherwise required under this paragraph may not exceed the number equal to two percent of the authorized active-duty strength for that fiscal year for officers of that armed force in that grade.".

SEC. 523. REQUIRED LENGTH OF COMMISSIONED SERVICE FOR VOLUNTARY RETIREMENT AS AN OFFICER

(a) ARMY.—Section 3911 of title 10, United States Code, is amended—

(1) by inserting "(a)" at the beginning of the text of the section; and

(2) by adding at the end the following:

"(b) The Secretary of Defense may authorize the Secretary of the Army, during the five-year period beginning on October 1, 1990, to reduce the requirement under subsection (a) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary of the Army) of not less than eight years.".

(b) NAVY AND MARINE CORPS.—Section 6323(a) of such title is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) The Secretary of Defense may authorize the Secretary of the Navy, during the five-year period beginning on October 1, 1990, to reduce the requirement under paragraph (1) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary) of not less than eight years.".

(c) AIR FORCE.—Section 8911 of such title is amended—

(1) by inserting "(a)" at the beginning of the text of the section; and

(2) by adding at the end the following:

"(b) The Secretary of Defense may authorize the Secretary of the Air Force, during the five-year period beginning on October 1, 1990, to reduce the requirement under subsection (a) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary of the Air Force) of not less than eight years.".

SEC. 524. REPORT ON INITIAL APPOINTMENT OF ALL OFFICERS AS RESERVE OFFICERS AND ON THE APPROPRIATE ACTIVE DUTY OBLIGATION OF GRADUATES OF THE SERVICE ACADEMIES

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on—

(1) the advantages, disadvantages, and desirability of initially appointing all persons commissioned as officers in the Army, Navy, Air Force, or Marine Corps as Reserve officers, and

(2) what the appropriate active duty service obligation should be for graduates of the service academies.

(b) DEADLINE FOR REPORT.—(1) The Secretary shall submit the report required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate, not later than 60 days after the date of the enactment of this Act.

(2) If the report is not submitted within 60 days after the date of the enactment of this Act, then—

(A) all persons initially appointed as commissioned officers in the Army, Navy, Air Force, and Marine Corps after the 60th day following the date of the enactment of this Act shall be appointed as commissioned officers in a Reserve component of the Armed Forces; and

(B) all persons entering the service academies after the 60th day following the date of the enactment of this Act shall incur an obligation to serve on active duty for a period of five years.

(c) SERVICE ACADEMY DEFINED.—For purposes of this section, the term "service academies" means the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

PART C—OFFICER EDUCATION AND TRAINING

SEC. 531. REDUCTION IN THE NUMBER OF APPOINTMENTS FOR THE CLASS OF A SERVICE ACADEMY ENTERING IN 1991 AND IN 1995

(a) REDUCTION REQUIRED.—The number of appointments made for the class entering a service academy in 1991 may not exceed the number that is 100 less than the number of appointments for the class that entered that service academy in 1990. The number of appointments made for the class entering a service academy in 1995 may not exceed 1,000. The reductions required by this section may not be achieved by reducing the number of appointments under section 4342(a), 6954(a), or 9342(a) of title 10, United States Code.

(b) SERVICE ACADEMY DEFINED.—For purposes of this section, the term "service academy" means the United States Military Academy, the United States Naval Academy, or the Air Force Academy.

SEC. 532. REPEAL OF AUTHORITY OF ADMINISTRATOR OF PANAMA CANAL COMMISSION TO NOMINATE CADETS AND MIDSHIPMEN

(a) MILITARY ACADEMY.—(1) Section 4342 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out clause (8); and

(ii) by redesignating clauses (9) and (10) as clauses (8) and (9), respectively; and

(B) in subsection (d), by striking out "(2)–(7), (9), or (10)" and inserting in lieu thereof "(2) through (9)"; and

(C) in subsection (f), by striking out "(3)–(7), (9) and (10)" and inserting in lieu thereof "(3) through (9)".

(2) Section 4343 of such title is amended by striking out "(2)–(9)" and inserting in lieu thereof "(2) through (8)".

(b) NAVAL ACADEMY.—(1) Section 6954 of such title is amended—

(A) in subsection (a)—

(i) by striking out clause (8); and

(ii) by redesignating clauses (9) and (10) as clauses (8) and (9), respectively; and

(B) in subsection (d), by striking out "(2)–(7), (9), or (10)" and inserting in lieu thereof "(2) through (9)".

(2) Section 6956(c) of such title is amended by striking out "(2)–(9)" and inserting in lieu thereof "(2) through (8)".

(3) Section 6958(b) of such title is amended by striking out "(3)–(7), (9) and (10)" and inserting in lieu thereof "(3) through (9)".

(c) AIR FORCE ACADEMY.—(1) Section 9342 of such title is amended—

(A) in subsection (a)—

(i) by striking out clause (8); and

(ii) by redesignating clauses (9) and (10) as clauses (8) and (9), respectively;

(B) in subsection (d), by striking out "(2)–(7), (9), or (10)" and inserting in lieu thereof "(2) through (9)"; and

(C) in subsection (f), by striking out "(3)–(7), (9) and (10)" and inserting in lieu thereof "(3) through (9)".

(2) Section 9343 of such title is amended by striking out "(2)–(9)" and inserting in lieu thereof "(2) through (8)".

SEC. 533. MODIFICATION OF THE TEN-YEAR SERVICE OBLIGATION FOR GRADUATES OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

(a) REDUCTION IN REQUIRED ACTIVE-DUTY SERVICE.—Subsection (b) of section 2114 of title 10, United States Code, is amended by striking out "10 years" in the fourth sentence and inserting in lieu thereof "seven years".

(b) RESERVE SERVICE REQUIRED.—Such section is further amended—

(1) in subsection (b), by inserting after the fourth sentence the following new sentence: "Upon completion of, or release from, the active-duty service obligation, a member of the program who served on active-duty for less than 10 years shall serve in the Ready Reserve for the period specified in the following table:

"Period of Service on Active Duty	Ready Reserve Obligation
Less than 8 years	6 years
8 years or more, but less than 9	4 years
9 years or more, but less than 10	2 years".

(2) in subsection (c), by striking out "an active duty obligation" and inserting in lieu thereof "a commissioned service obligation"; and

(3) by adding at the end the following new subsection:

"(f) In this section, the term 'commissioned service obligation' means, with respect to an officer who is a graduate of the University, the period beginning on the date of the appointment of the officer in a regular component after graduation and ending on the tenth anniversary of that appointment.".

(c) CONFORMING AMENDMENT.—Section 511(e) of the National Defense Authorization Act for Fiscal years 1990 and 1991 (Public Law 101-189: 103 Stat. 1439) is amended by striking out "the Uniformed Services University of the Health Sciences or".

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on December 31, 1991, and shall apply to persons who are first admitted to the Uniformed Services University of the Health Sciences after that date.

SEC. 534. ADVANCED EDUCATIONAL ASSISTANCE

Section 2005 of title 10, United States Code, is amended—

(1) in subsection (a)(3), by inserting "or fails to fulfill any term or condition prescribed pursuant to clause (4)," after "agreement,"; and

(2) in subsection (f)(1), by inserting "or fails to fulfill any term or condition prescribed pursuant to clause (4) of such subsection," after "agreement,".

PART E—MILITARY JUSTICE AMENDMENTS

SEC. 541. CLARIFICATION OF CERTAIN PROVISIONS IN UNIFORM CODE OF MILITARY JUSTICE

(a) PRETRIAL SESSIONS INVOLVING MILITARY JUDGE ACTING ALONE.—Section 839(a) of title 10, United States Code (article 39(a) of the Uniform Code of Military Justice), is amended by adding at the end the following new sentence: "These proceedings may be conducted notwithstanding the number of members of the court and without regard to section 829 of this title (article 29).".

(b) CHALLENGES TO MEMBERS OF COURTS-MARTIAL FOR CAUSE WHEN MEMBERSHIP BELOW MINIMUM NUMBER.—Subsection (a) of section 841 of title 10, United States Code (article 41 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) If exercise of a challenge for cause reduces the court below the minimum number of members required by section 816 of this title (article 16), all parties shall (notwithstanding section 829 of this title (article 29)) either exercise or waive any challenge for cause then apparent against the remaining members of the court before additional members are detailed to the court. However, peremptory challenges shall not be exercised at that time.".

(c) PEREMPTORY CHALLENGES WHEN MEMBERSHIP BELOW MINIMUM NUMBER.—Subsection (b) of such section (article) is amended to read as follows:

"(b)(1) Each accused and the trial counsel are entitled initially to one peremptory challenge of members of the court. The military judge may not be challenged except for cause.

"(2) If exercise of a peremptory challenge reduces the court below the minimum number of members required by section 816 of this title (article 16), the parties shall (notwithstanding section 829 of this title (article 29)) either exercise or waive any remaining peremptory challenge (not previously waived) against the remaining members of the court before additional members are detailed to the court.".

(d) ADDITIONAL PEREMPTORY CHALLENGES WHEN NEW MEMBERS DETAILED.—Such section (article) is further amended by adding at the end the following new subsection:

"(c) Whenever additional members are detailed to the court, and after any challenges for cause against such additional members are presented and decided, each accused and the trail counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a) through (d) shall apply only to a court-martial convened on or after the date of the enactment of this Act.

(f) COURT OF MILITARY APPEALS.—Section 942(b) of title 10, United States Code (article 142(b) of the Uniform Code of Military Justice), is amended—

(1) by striking out "civil life" in paragraph (1) and inserting in lieu thereof "civilian life"; and

(2) by adding at the end the following new paragraph:

"(4) For purposes of appointment of judges to the court, a person retired from the armed forces after 20 or more years of active service (whether or not such person is on the retired list) shall not be considered to be in civilian life.".

PART F—MISCELLANEOUS

SEC. 551. SERVICES BY NOTARIES PUBLIC

(a) IN GENERAL.—(1) Chapter 53 of title 10, United States Code, is amended by inserting after section 1044 the following new section:

"§1044a. Authority to act as notary

"(a) The persons named in subsection (b) have the general powers of a notary public and of a consul of the United States in the performance of all notarial acts to be executed by any of the following:

"(1) Members of any of the armed forces.

"(2) Other persons eligible for legal assistance under the provisions of section 1044 of this title or regulations of the Department of Defense.

"(3) Persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

"(4) Other persons subject to the Uniform Code of Military Justice (chapter 47 of this title) outside the United States.

"(b) Persons with the powers described in subsection (a) are the following:

"(1) All judge advocates on active duty or performing inactive-duty training.

"(2) All civilian attorneys serving as legal assistance officers.

"(3) All adjutants, assistant adjutants, and personnel adjutants on active duty or performing inactive-duty training.

"(4) All other persons on active duty or performing inactive-duty training who are designated by regulations of the armed forces or by statute to have those powers.

"(c) No fee may be paid to or received by any person for the performance of a notarial act authorized in this section.

"(d) The signature of any such person acting as notary, together with the title of that person's offices, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1044 the following new item:

"1044a. Authority to act as notary.".

(b) CONFORMING AMENDMENTS.—Section 936 of title 10, United States Code (article 136 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a), by striking out ", and have the general powers" and all that follows through "United States" the third place it appears; and

(2) by striking out subsections (c) and (d).

SEC. 552. MEANING OF THE TERM "OFFICE" UNDER SECTION 2071(b) OF TITLE 18, UNITED STATES CODE

(a) NONAPPLICABILITY TO RETIRED OFFICERS.—Section 2071(b) of title 18, United States Code, is amended by adding at the end the following: "As used in this subsection, the term 'office' does not include the office held by any person as a retired officer of the Armed Forces of the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as of January 1, 1989.

SEC. 553. EXTENSION TO COAST GUARD OF LAW PROVIDING FOR IDENTIFICATION, TREATMENT, AND REHABILITATION OF MEMBERS OF THE ARMED FORCES WHO ARE DEPENDENT ON DRUGS OR ALCOHOL

Section 1090 of title 10, United States Code, is amended by inserting ", and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy," after "Secretary of Defense".

SEC. 554. ADVISORY COMMITTEE ON MENTAL HEALTH EVALUATION PROTECTIONS

(a) REQUIREMENT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall establish an advisory committee to carry out the functions described in subsection (d).

(b) MEMBERSHIP.—The advisory committee shall include not fewer than 12 members, including the following:

(1) Three board-certified psychiatrists who are officers of the Armed Forces, one of whom shall be an officer in the Medical Corps of the Army, one of whom shall be an officer in the Medical Corps of the Navy, and one of whom shall be an officer in the Air Force designated as a medical officer.

(2) One board-certified psychiatrist who is a civilian not employed by the Department of Defense, with expertise in procedures for the psychiatric commitment of civilian adults.

(3) Three clinical psychologists who are officers of the Armed Forces and who have been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology, one of whom shall be an officer in the Medical Service Corps of the Army, one of whom shall be an officer in the Medical Service Corps of the Navy, and one of whom shall be an officer in the Air Force who is designated as a biomedical sciences officer.

(4) One clinical psychologist who is a civilian not employed by the Department of Defense and who has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology.

(5) Three judge advocates, one each from the Army, the Navy, and the Air Force, with expertise in pretrial restraint and other procedures associated with the mental health evaluation of individuals subject to the Uniform Code of Military Justice.

(6) An attorney who is a civilian not employed by the Department of Defense, with expertise in legal procedures associated with the psychiatric commitment of civilian adults.

(7) Such other civilian officials (employed by the Department of Defense or otherwise employed) and members of the Armed Forces as the Secretary considers appropriate.

(c) CHAIRMAN.—The Secretary of Defense shall appoint a chairman of the advisory committee from among the members of the committee.

(d) FUNCTIONS.—(1) The advisory committee shall develop and recommend to the Secretary regulatons on procedural protections that should be afforded to any member of the Armed Forces who is referred by a commanding officer for a mental health evaluation by a mental health professional. The recommended regulations shall apply uniformly throughout the Department of Defense and shall include appropriate procedural protections according to whether the evaluations are to be carried out on an outpatient or inpatient basis and whether, based on the results of the evaluation, the member is to be involuntarily hospitalized

in a mental health treatment facility. In developing the regulations with respect to procedural protections for evaluations conducted on an inpatient basis, the committee shall take into account any guidelines regarding psychiatric hospitalization of adults prepared by professional civilian mental health organizations.

(2)(A) The regulations developed under paragraph (1) shall include both of the following:

(i) A prohibition on the inappropriate referral for a mental health evaluation of a member of the Armed Forces as a reprisal against the member for making or preparing to make a communication described in subparagraph (B).

(ii) Procedural protections to be afforded to a member who is referred for a mental health evaluation following a communication described in subparagraph (B). Such protections shall provide the member with an appropriate opportunity to allow for a timely, prompt challenge to the referral.

(B) A communication referred to in subparagraph (A) is a lawful communication by a member of the Armed Forces of the type described in section 1034(c)(2) of title 10, United States Code, except that, for purposes of this section, such a communication shall include a communication to any appropriate authority in the chain of command of the member (as defined by the Secretary of Defense in regulations under subsection (g)).

(e) DEFINITIONS.—In this section:

(1) The term 'mental health evaluation' means a psychiatric examination or evaluation, a psychological examination or evaluation, an examination for psychiatric or psychological fitness for duty, or any other means of assessing a member's state of mental health.

(2) The term 'mental health professional' means a psychiatrist, a psychologist, a person with a master's degree in social work, or any other individual who conducts mental health evaluations for the Department of Defense.

(f) REPORT.—(1) Not later than six months after the date of the enactment of this Act, the advisory committee shall submit to the Secretary of Defense a report containing the recommended regulations and such other information as the committee considers appropriate.

(2) Not later than 30 days after receipt of the report under paragraph (1), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives the report of the advisory committee, along with such additional comments and recommendations by the Secretary as the Secretary considers appropriate.

(g) REGULATIONS.—Not later than 180 days after receipt by the committees described in subsection (f)(2) of the report, comments, and recommendations described in that subsection, the Secretary of Defense shall prescribe regulations based on such report, comments, and recommendations. The regulations shall provide that an inappropriate referral for a mental health evaluation or an involuntary hospitalization, when undertaken as a reprisal for a communication described in subsection (d)(2)(B), may be the basis for a proceeding under section 892 of title 10, United States Code (article 92 of the Uniform Code of Military Justice).

(h) TERMINATION OF COMMITTEE.—The advisory committee shall terminate on the date on which the Secretary prescribes regulations under subsection (g).

SEC. 555. AMENDMENTS TO THE UNIFORMED SERVICES FORMER SPOUSES' PROTECTION ACT

(a) PROHIBITION OF CERTAIN RETROACTIVE COURT ORDERS.—Subsection (c)(1) of section 1408 of title 10, United States Code, is amended by adding at the end the following new sentence: "A court may not treat retired pay as property in any proceeding to divide or partition any amount of retired pay of a member as the property of the member and the member's spouse or former spouse if a final decree of divorce, dissolution, annulment, or legal separation (including a court ordered, ratified, or approved property settlement incident to such decree) affecting the member and the member's spouse or former spouse (A) was issued before June 25, 1981, and (B) did not treat (or reserve jurisdiction to treat) any amount of retired pay of the member as property of the member and the member's spouse or former spouse.".

(b) REDUCTIONS ALLOWED FOR DETERMINATION OF DISPOSABLE RETIRED PAY.—Subsection (a)(4) of such section is amended—

(1) by striking out the semicolon at the end of subparagraph (A) and inserting in lieu thereof "for previous overpayments of retired pay and for recoupments required by law resulting from entitlement to retired pay;"

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) are deducted from the retired pay of such member as a result of forfeitures of retired pay ordered by a court-martial or as a result of a waiver of retired pay required by law in order to receive compensation under title 5 or title 38;";

(3) by striking out subparagraphs (C) and (D); and

(4) by redesignating subparagraphs (E) and (F) as subparagraphs (C) and (D), respectively.

(c) CLARIFICATION OF STATUS OF PAYMENTS TO SPOUSES AND FORMER SPOUSES.—Subsection (c)(2) of such section is amended by adding at the end the following new sentence: "Payments by the Secretary concerned under subsection (d) to a spouse or former spouse with respect to a division of retired pay as the property of a member and the member's spouse under this subsection may not be treated as amounts received as retired pay for service in the uniformed services.".

(d) CLARIFICATION OF LIMITS ON PAYMENTS OF RETIRED PAY.—(1) Paragraph (1) of subsection (e) of such section is amended by striking out "payable under subsection (d)" and inserting in lieu thereof "payable under all court orders pursuant to subsection (c)".

(2) Paragraph (4)(B) of such subsection is amended by striking out "the disposable retired or retainer pay payable to such member" and inserting in lieu thereof "the amount of the retired pay payable to such member that is considered under section 462 of the Social Security Act (42 U.S.C. 662) to be remuneration for employment that is payable by the United States".

(e) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply with respect to judgments issued before, on, or after the date of the enactment of this Act. In the case of a judgment issued before the date of the enactment of this Act, such amendment shall not relieve any obligation, otherwise valid, to make a payment that is due to be made before the end of the two-year period beginning on the date of the enactment of this Act.

(2) The amendments made by subsections (b), (c), and (d) apply with only respect to divorces, dissolutions of marriage, annulments, and legal separations that become effective after the end of the 90-day period beginning on the date of the enactment of this Act.

(f) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(7) The term 'retired pay' includes retainer pay."; and

(2) by striking out "or retainer" each place it appears.

(g) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by inserting "DEFINITIONS.—" in subsection (a) after "(a)";

(2) by inserting "EFFECTIVE SERVICE OF PROCESS.—" in subsection (b) after "(b)";

(3) by inserting "AUTHORITY FOR COURT TO TREAT RETIRED PAY AS PROPERTY OF THE MEMBER AND SPOUSE.—" in subsection (c) after "(c)";

(4) by inserting "PAYMENTS BY SECRETARY CONCERNED TO SPOUSE OR FORMER SPOUSE.—" in subsection (d) after "(d)";

(5) by inserting "LIMITATIONS.—" in subsection (e) after "(e)";

(6) by inserting "IMMUNITY OF OFFICERS AND EMPLOYEES OF UNITED STATES.—" in subsection (f) after "(f)";

(7) by inserting "NOTICE TO MEMBER OF SERVICE OF COURT ORDER ON SECRETARY CONCERNED.—" in subsection (g) after "(g)"; and

(8) by inserting "REGULATIONS.—" in subsection (h) after "(h)".

SEC. 556. AUTHORITY FOR COMMISSIONED OFFICERS TO SERVE ON INDEPENDENT SCHOOL BOARDS

Section 973 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) An officer to whom subsection (b) applies may seek and hold nonpartisan civil office on an independent school board that is located exclusively on a military reservation.".

SEC. 557. NAVY RATIONS

(a) IN GENERAL.—Section 6082 of title 10, United States Code, is amended to read as follows:

"§ 6082. Rations

"(a) The President may prescribe the components and quantities of the Navy ration. The President may direct the issuance of equivalent articles in place of the prescribed components of the ration if the President determines that economy and the health and comfort of the members of the naval service require such action.

"(b) An enlisted member of the naval service on active duty is entitled to one ration daily. If an emergency ration is issued, it is in addition to the regular ration.

"(c) Fresh or preserved fruits, milk, butter, and eggs necessary for the proper diet of the sick and injured in hospitals shall be provided under regulations prescribed by the Secretary of the Navy.

"(d) The Secretary of the Navy may increase the quantity of daily rations for members of the naval service on a vessel or at a station that has an authorized complement of less than 150 members if the President determines that the vessel or station is operating under conditions that warrant an increase in rations.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to

section 6082 and inserting in lieu thereof the following:

"6082 Rations.".

SEC. 558. REPORT REGARDING REQUIREMENT FOR DUTY IN SUPPORT OF NATIONAL GUARD AND RESERVES

Not later than April 15, 1991, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the desirability of requiring active-duty list officers to serve a minimum of two years in support of a National Guard or Reserve unit as a condition of eligibility for consideration for promotion to the grade of colonel or, in the case of the Navy, captain.

SEC. 559. PROHIBITION ON CERTAIN RESERVE SERVICE

(a) LIMITATION ON DUTY WITH ROTC UNITS.—(1) Chapter 39 of title 10, United States Code, is amended by inserting after section 686 the following new section:

"§687. Limitation on duty with Reserve Officer Training Corp units

"A member of a reserve component serving on active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components may not be assigned to duty with a unit of the Reserve Officer Training Corps program.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 686 the following new item:

"687. Limitation on duty with Reserve Officer Training Corp units.".

(b) EFFECTIVE DATE.—Section 687 of title 10, United States Code, as added by subsection (a), shall take effect on September 30, 1991.

PART F—MONTGOMERY GI BILL

SEC. 561. OPPORTUNITY FOR CERTAIN PERSONNEL TO ENROLL IN MONTGOMERY GI BILL BEFORE BEING INVOLUNTARILY SEPARATED FROM SERVICE

(a) IN GENERAL.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by inserting after section 1418 the following:

"§1418A. Opportunity for certain active-duty personnel to enroll before being involuntarily separated from service

"(a) Notwithstanding any other provision of law, an individual who—

"(1) after December 31, 1990, or the end of the 90-day period beginning on the date of the enactment of this section, whichever is later, is involuntarily separated (as such term is defined in section 1142 of title 10) with an honorable discharge;

"(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree;

"(3) in the case of any individual who has made an election under section 1411(c)(1) or 1412(d)(1) of this title, withdraws such election before such separation pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Transportation shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy;

"(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in paragraph (3) of this subsection, before such separation to receive benefits under this section in lieu of benefits under such chapter 32; and

"(5) before such separation elects to receive assistance under this section pursuant to procedures referred to in paragraph (3) of this subsection,

is entitled to basic educational assistance under this chapter.

"(b) The basic pay of an individual described in subsection (a) of this section shall be reduced by $1,200.

"(c) A withdrawal referred to in subsection (a)(3) of this section is irrevocable.

"(d)(1) Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(4) of this subsection shall be disenrolled from such chapter 32 program as of the date of such election.

"(2) For each individual who is disenrolled from such program, the Secretary shall refund—

"(A) as provided in section 1623(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 1622(a) of this title; and

"(B) to the Secretary of Defense the unused contributions (other than contributions made under section 1622(c) of this title) made by such Secretary to the Account on behalf of such individual.

"(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to subsection (c) of section 1622 of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such Account to make payments of benefits to such individual under section 1415(e) of this chapter.".

(2) The table of sections at the beginning of chapter 30 of such title is amended by inserting after the item relating to section 1418 the following new item:

"1418A. Opportunity for certain active-duty personnel to enroll before being involuntarily separated from service.".

(b) CONFORMING AMENDMENTS.—(1) Section 1413 of such title is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection (d):

"(d) Subject to section 1795 of this title, each individual entitled to educational benefits under section 1418A of this title is entitled to the lesser of—

"(1) 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance); or

"(2) the number of months of such educational assistance (or such equivalent thereof) that is equal to the number of months served by such individual on active duty.".

(2) Section 1415 of such title is amended by adding at the end the following new subsection:

"(e) In the case of an individual for whom the Secretary of Defense made contributions under section 1622(c) of this title and who is entitled to educational assistance under section 1418A of this chapter, the Secretary shall increase the rate of the basic educational assistance allowance applicable to such individual in excess of the rate provided under subsection (a) of this section in a manner consistent with, as determined by the Secretary of Defense, the agreement entered into with such individual pursuant to the rules and regulations issued by the Secretary of Defense under section 1622(c) of this title.".

(3) Section 1435(b) of such title is amended—

(A) in paragraph (1), by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)"; and

(B) by adding at the end the following:

"(3) Payment for entitlements established under section 1418A of this title shall be made—

"(A) except as provided in subparagraphs (B) and (C) of this paragraph, from the Department of Defense Education Benefits Fund established under section 2006 of title 10;

"(B) in the case of any individual described in section 1418A(a)(3) of this title, from funds appropriated, or otherwise available, to the Department of Veterans Affairs for the payment of readjustment benefits; and

"(C) in the case of the increase in payments made under section 1415(e) of this title, from the Post-Vietnam Era Veterans Education Account established pursuant to section 1622(a) of this title.".

SEC. 562. CLARIFYING AMENDMENTS TO MONTGOMERY GI BILL ACTIVE DUTY PROGRAM

(a) REASON FOR DISCHARGE.—(1) Subparagraph (A)(ii)(I) of section 1411(a)(1) of title 38, United States Code, is amended—

(A) by striking out "or for" and inserting in lieu thereof "for"; and

(B) by inserting after "hardship" the following: ", or for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy".

(2) Subparagraph (B)(ii)(I) of section 1411(a)(1) of such title is amended—

(A) by striking out "or for" and inserting in lieu thereof "for"; and

(B) by inserting after "hardship" the following: ", or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph".

(3) Section 1412(b)(1) of such title is amended—

(A) in subparagraph (A)—

(i) by striking out "or (v)" and inserting in lieu thereof "(v)"; and

(ii) by inserting immediately before the period the following: ", or (vi) for a physical or mental condition that was not characterized as a disability, as described in section 1411(a)(1)(A)(ii)(I) of this title";

(B) in subparagraph (B)(i)—

(i) by striking out "or for" and inserting in lieu thereof ", for"; and

(ii) by inserting immediately before ", if the individual" the following: ", or for a physical or mental condition not characterized as a disability, as described in section 1411(a)(1)(A)(ii)(I) of this title"; and

(C) in subparagraph (B)(ii)—

(i) by striking out "or (V)" and inserting in lieu thereof "(V)"; and

(ii) by inserting immediately before the period the following: ", or (VI) for a physical or mental condition not characterized as a disability, as described in section 1411(a)(1)(A)(ii)(I) of this title".

(4) Section 3103A(b)(3)(F) is amended—

(A) by striking out "or" at the end of clause (ii);

(B) by striking out the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(iv) a discharge or release from active duty for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as described in section 1411(a)(1)(A)(ii)(I) of this title.".

(b) INITIAL PERIOD OF DUTY.—Section 1411(d) of such title is amended—

(1) in paragraph (1), by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3) The period of service referred to in paragraph (1) is also any period of service on active duty which an individual in the Selected Reserve was ordered to perform under section 672, 673, 673b, 674, or 675 of title 10 for a period of less than 2 years.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 19, 1984.

SEC. 563. PARTICIPATION OF CERTAIN NATIONAL GUARD PERSONNEL IN MONTGOMERY GI BILL

(a) IN GENERAL.—Section 1402 of title 38, United States Code, is amended by adding at end the following:

"(7) The term 'active duty' includes full-time National Guard duty first performed after November 29, 1989, by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply only to individuals who before the date of entry on active duty, as defined in section 1402(7) of title 38, United States Code (as added by subsection (a)), have never served on active duty as defined in section 101(21) of that title.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1991

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1991 shall not be made.

(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1991, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 4.1 percent.

SEC. 602. MODIFICATION OF LIMITATION ON ADJUSTMENTS IN VARIABLE HOUSING ALLOWANCE

Section 403a of title 37, United States Code, is amended—

(1) in subsection (c)(2), by striking out ", except that the monthly amount" and all that follows through the period at the end and inserting in lieu thereof a period; and

(2) by adding at the end the following new subsection:

"(f) The monthly rate of a variable housing allowance for members of the uniformed services in the same pay grade and dependency status in an area may not be reduced pursuant to subsection (c)(2), a redetermination of median monthly costs of housing under that subsection, or any other law to the extent that the total amount of monthly basic pay, basic allowance for quarters, basic allowance for subsistence, and variable housing allowance for that grade and status is reduced, as a result of such a reduction in variable housing allowance, below the monthly total of those items of pay and allowances for the month preceding the effective date of the most recent increase in the rate of basic pay for that grade.".

PART B—BONUSES AND SPECIAL AND INCENTIVE PAY

SEC. 611. MULTIYEAR MEDICAL OFFICER RETENTION BONUS

(a) BONUS AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301c the following new section:

"§301d. Multiyear retention bonus: medical officers of the armed forces

"(a) BONUS AUTHORIZED.—(1) A medical officer described in subsection (b) who executes a written agreement to remain on active duty for two, three, or four years after completion of any other active-duty service commitment may, upon acceptance of the written agreement by the Secretary of the military department concerned, be paid a retention bonus as provided in this section.

"(2) The amount of a retention bonus under paragraph (1) may not exceed $14,000 for each year covered by a four-year agreement. The maximum yearly retention bonus for two-year and three-year agreements shall be reduced to reflect the shorter service commitment.

"(b) ELIGIBLE OFFICERS.—This section applies to an officer of the armed forces who—

"(1) is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer;

"(2) is in a pay grade below pay grade 0-7;

"(3) has at least eight years of creditable service (computed as described in section 302(g) of this title) or has completed any active-duty service commitment incurred for medical education and training; and

"(4) has completed initial residency training (or will complete such training before September 30 of the fiscal year in which the officer enters into an agreement under subsection (a)).

"(c) REFUNDS.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owned to the United States.

"(3) A discharge in bankruptcy under title 11, United States Code, that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 301c the following new item:

"301d. Retention bonus: medical officers of the armed forces.".

(b) TERMINATION OF EXISTING RETENTION BONUS AGREEMENT.—(1) Subject to the approval of the Secretary of the military department concerned, a medical officer who is eligible to enter into a retention bonus agreement under section 301d of title 37, United States Code (as added by subsection (a)) may terminate any existing retention bonus agreement entered into by that officer under 612 of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note), in order to enter into an agreement under section 301d of such title containing an active-duty service obligation that is not less than the active-duty service obligation remaining under the existing agreement on the date of its termination.

(2) Subsection (e) of section 612 of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note), shall not apply to the termination, pursuant to paragraph (1), of a retention bonus agreement under that section.

(c) REPORT ON IMPLEMENTATION.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing implementation of section 301d of title 37, United States Code (as added by subsection (a)). The report shall include a description of the process that will be used to reassess the assignment of medical specialties to the various categories of multiyear bonuses under that section and the means for ensuring that substantial changes to the total compensation of medical officers of the Armed Forces will be minimized. The report shall be submitted not later than 90 days after the date of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 303a of title 37, United States Code, is amended by inserting "301d," after "sections" each place it appears.

SEC. 612. INCREASE IN PHYSICIAN SPECIAL PAY FOR OFFICERS IN A PAY GRADE ABOVE O-6

Section 302(a)(3) of title 37, United States Code, is amended by striking out "$1,000" and inserting in lieu thereof "$7,000".

SEC. 613. EXTENSION OF NURSE INCENTIVE PROGRAMS

(a) NURSE ACCESSION BONUS.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1991," and inserting in lieu thereof "September 30, 1992,".

(b) SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1991," and inserting in lieu thereof "September 30, 1992,".

(c) NURSE CANDIDATES.—Section 2130a of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "September 30, 1991," and inserting in lieu thereof "September 30, 1992,"; and

(2) in subsections (a)(2) and (b)(1), by inserting "by the Secretary selecting the person" after "this title".

SEC. 614. EXTENSION OF SPECIAL PAY FOR NURSE ANESTHETISTS TO OTHER NURSING SPECIALTIES

(a) SPECIAL PAY AUTHORIZED.—Subsection (b) of section 302e of title 37, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" before "An officer"; and

(3) by adding at the end the following new paragraph:

"(2) The Secretary of Defense may extend the special pay authorized under subsection (a) to officers of the armed forces who serve in a nursing specialty (other than as nurse anesthetists) that—

"(A) is designated by the Secretary as critical to meet requirements (whether such specialty is designated as critical to meet wartime or peacetime requirements); and

"(B) requires postbaccalaureate education and training.".

(b) CONFORMING AMENDMENT.—Subsection (a)(1) of such section is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(1)".

(c) IMPLEMENTATION OF AMENDMENT.—The Secretary of Defense may not implement subsection (b)(2) of section 302e of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report—

(1) justifying the need of the departments for the authority provided in such subsection; and

(2) describing the manner in which that authority will be implemented.

SEC. 615. AUTHORITY TO TERMINATE SELECTIVE REENLISTMENT BONUS PAYMENTS

(a) TERMINATION AUTHORIZED.—Subsection (d) of section 308 of title 37, United States Code, is amended—

(1) by inserting (1) after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) If a refund is not required under paragraph (1) in the case of a member who fails to complete a term of enlistment, the Secretary of Defense with respect to the armed forces under the Secretary's jurisdiction, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, may decline to make any payment of a bonus installment under this section that is due to be paid to the member after the date on which the member fails to complete the term of enlistment for which the bonus is being paid. The Secretary of Defense and the Secretary of Transportation may prescribe the circumstances under which bonus installments may be terminated under this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any bonus paid under section 308 of title 37, United States Code, to a person in connection with the reenlistment or extension of the term of enlistment of the person in the Armed Forces on or after the date of the enactment of this Act.

SEC. 616. EXTENSION OF SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVE

Section 613(d) of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note), is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1993".

SEC. 617. RETENTION BONUS FOR OPTOMETRISTS

(a) RETENTION BONUS AUTHORIZED.—Section 302a of title 37, United States Code, is amended—

(1) by inserting "(a) REGULAR SPECIAL PAY.—" before "Each"; and

(2) by adding at the end the following new subsection:

"(b) RETENTION SPECIAL PAY.—(1) Under regulations prescribed under section 303a(a) of this title, an officer described in paragraph (2) may be paid retention special pay of not more than $6,000 for any twelve-month period during which the officer is not undergoing an internship or initial residency training.

"(2) An officer referred to in paragraph (1) is an officer of an armed force who—

"(A) is entitled to special pay under subsection (a);

"(B) has completed any initial active-duty service commitment incurred for education and training; and

"(C) is determined by the Secretary of the military department concerned to be qualified as an optometrist.

"(3) An officer may not be paid retention special pay under paragraph (1) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(4) The Secretary of the military department concerned may terminate at any time the eligibility of an officer to receive retention special pay under paragraph (1). If such eligibility is terminated, the officer concerned shall receive such special pay only for the part of the period of active duty that the officer served and may be required to refund any amount in excess of that amount.".

(b) IMPLEMENTATION OF AMENDMENT.—The Secretary of Defense may not implement subsection (b) of section 302a of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report—

(1) justifying the need of the military departments for the authority provided in such subsection; and

(2) describing the manner in which that authority will be implemented.

SEC. 618. PROVISION OF BOARD CERTIFICATION SPECIAL PAY FOR NONPHYSICIAN HEALTH CARE PROVIDERS

(a) SPECIAL PAY AUTHORIZED.—Section 302c of title 37, United States Code, is amended by adding at the end the following new subsection:

"(d) NONPHYSICIAN HEALTH CARE PROVIDERS.—The Secretary of Defense may authorize the payment of special pay at the rates specified in subsection (b) to an officer who—

"(1) is an officer in the Medical Services Corps of the Army or Navy or a biomedical sciences officer in the Air Force;

"(2) is a health care provider (other than a psychologist);

"(3) has a postbaccalaureate degree; and

"(4) is certified by a professional board in the officer's specialty.".

(b) IMPLEMENTATION OF AMENDMENT.—The Secretary of Defense may not implement subsection (d) of section 302c of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report—

(1) justifying the need of the military departments for the authority provided in such subsection; and

(2) describing the manner in which that authority will be implemented.

(c) CLERICAL AMENDMENTS.—(1) The heading of section 302e of title 37, United States Code, is amended to read as follows:

"§ 302c. Special pay: psychologists and nonphysician health care providers

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking out the item relating to section 302c and inserting in lieu thereof the following:

"302c. Special pay: psychologists and nonphysician health care providers.".

PART C—TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 621. PERMANENT AUTHORITY TO PAY MEMBERS FOR LABOR FURNISHED IN CONNECTION WITH THE TRANSPORTATION OF BAGGAGE AND HOUSEHOLD GOODS

Subsection (b) of section 614 of the Department of Defense Authorization Act, 1986 (37 U.S.C. note) is repealed. The amendments made by subsection (a) of that section are hereby revived effective as of October 1, 1989.

SEC. 622. BAGGAGE AND HOUSEHOLD WEIGHT ALLOWANCE FOR CADETS AND MIDSHIPMEN

(a) IN GENERAL.—Section 406(b)(1) of title 37, United States Code, is amended by adding at the end the following new subparagraph:

"(E) Under regulations prescribed by the Secretary of Defense, cadets at the United States Military Academy and the United States Air Force Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with a change of temporary or permanent station, to transportation of baggage and household effects as provided in subparagraph (A) of this paragraph. The weight allowance for such cadets and midshipmen shall be 350 pounds.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall be applicable to baggage and household effects transported on or after the date of the enactment of this Act.

PART D—MISCELLANEOUS

SEC. 631. DELAY IN EFFECTIVE DATE OF OPTIONAL HIGH-TIER SURVIVOR BENEFIT PLAN COVERAGE AND OPEN ENROLLMENT PERIOD

The Military Survivor Benefits Improvement Act of 1989 (title XIV of Public Law 101-189) is amended—

(1) in section 1404 (103 Stat. 1579), by striking out "October 1 1991" in subsections (a)(1), (a)(2), and (b)(3) and inserting in lieu thereof "April 1, 1992"; and

(2) in section 1405(f) (103 Stat. 1587), by striking out "October 1 1991" and inserting in lieu thereof "April 1, 1992".

TITLE VII—HEALTH CARE PROVISIONS

PART A—HEALTH CARE SERVICES

SEC. 701. PROVISION OF PAP SMEARS AND MAMMOGRAMS UNDER CHAMPUS

(a) CARE AUTHORIZED.—Section 1079(a)(2) of title 10, United States Code, is amended by inserting before the semicolon the following: ", except that pap smears and mammograms may be provided on a diagnostic or preventive basis".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to the provision of pap smears and mammograms under section 1079 or 1086 of title 10, United States Code, on or after the date of the enactment of this Act.

SEC. 702. REPEAL OF THE LIMITATION ON THE PAYMENT OF SERVICES OF MARRIAGE AND FAMILY THERAPISTS AS A MEDICAL EXPENSE

(a) REPEAL OF LIMITATION.—Section 1079(a) of title 10, United States Code, is amended—

(1) in paragraph (8)—

(A) by inserting "(other than certified marriage and family therapists) after "marital counselors"; and

(B) by adding before the semicolon the following: "and services of certified marriage

and family therapists may be provided consistent with such rules as may be prescribed by the Secretary of Defense, including credentialing criteria and a requirement that the therapists accept payment under this section as full payment for all services provided"; and

(2) in paragraph (13), by inserting "certified marriage and family therapist," after "psychologist,".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply with respect to the services of certified marriage and family therapists provided under section 1079 or 1086 of title 10, United States Code, on or after the date of the enactment of this Act.

SEC. 703. MENTAL HEALTH SERVICES

(a) REDUCTION IN AUTHORIZED INPATIENT CARE.—Subsection (a)(6) of section 1079 of title 10, United States Code, is amended by striking out "in excess of 60 days in any year;" and inserting in lieu thereof the following: "in excess of—

"(A) 30 days in any year, in the case of a patient 19 years of age or older;

"(B) 45 days in any year, in the case of a patient under 19 years of age; or

"(C) 150 days in any year, in the case of inpatient mental health services provided as residential treatment care;".

(b) MANAGEMENT OF MENTAL HEALTH SERVICES.—Subsection (i) of such section is amended to read as follows:

"(i)(1) The limitation in subsection (a)(6) does not apply in the case of inpatient mental health services—

"(A) provided under the program for the handicapped under subsection (d);

"(B) provided as partial hospital care; or

"(C) provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

"(2) Notwithstanding subsection (b) or section 1086(b) of this title, the Secretary of Defense (after consulting with the other administering Secretaries) may prescribe separate payment requirements (including deductibles, copayments, and catastrophic limits) for the provision of mental health services to persons covered by this section or section 1086 of this title. The payment requirements may vary for different categories of covered beneficiaries, by type of mental health service provided, and based on the location of the covered beneficiaries.

"(3) Except in the case of an emergency, the Secretary of Defense shall require preadmission authorization before inpatient mental health services may be provided to persons covered by this section or section 1086 of this title. In the case of the provision of emergency inpatient mental health services, approval for the continuation of such services shall be required within 72 hours after admission.".

(c) PLAN FOR REDUCING MENTAL HEALTH SERVICES COSTS.—Not later than February 1, 1991, the Secretary of Defense shall submit to the Congress a plan to reduce the costs incurred by the Department of Defense to provide mental health services under the Civilian Health and Medical Program of the Uniformed Services. The plan shall include a legislative proposal to implement the recommendation of the Secretary.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on February 15, 1991, and shall apply with respect to mental health services provided under section 1079 or 1086 of title 10, United States Code, on or after that date.

PART B—HEALTH CARE MANAGEMENT

SEC. 711. LIMITATION ON REDUCTIONS IN MEDICAL PERSONNEL

(a) LIMITATION ON REDUCTION.—The Secretary of Defense may not reduce the number of medical personnel below the number of such medical personnel serving on September 30, 1989, unless the Secretary of Defense—

(1) certifies to the Congress that—

(A) the number of such personnel being reduced is excess to the current and projected needs of the military departments; and

(B) such reduction will not result in an increase in the cost of health care services provided under the Civilian Health and Medical Program of the Uniformed Services; and

(2) in the case of military personnel, includes in the certification the information specified in subsection (b).

(b) INFORMATION REQUIRED.—A certification made by the Secretary of Defense in compliance with subsection (a)(2) shall include the following:

(1) The strength levels for the individual category of medical personnel involved in the reduction as of September 30, 1989.

(2) The projected requirements of the Department of Defense over the five-fiscal year period following the fiscal year in which the certification is submitted for medical personnel in the category of medical personnel involved in the reduction.

(3) The strength level recommended for each component of the Armed Forces for the most recent fiscal year for which the Secretary submitted recommendations pursuant to section 115a(g)(1) of title 10, United States Code (as added by section 1483), for personnel in the category of medical personnel involved in the reduction.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "medical personnel" has the meaning given that term in section 115a(g)(2) of title 10, United States Code (as added by section 1483), except that such term includes civilian personnel of the Department of Defense assigned to military medical facilities.

(2) The term "category of medical personnel" means—

(A) each corps referred to in subparagraphs (A) and (C) of section 115a(g)(2) of such title (as added by section 1483);

(B) each designation referred to in subparagraph (B) of such section;

(C) the enlisted personnel referred to in subparagraph (D) of such section; and

(D) other medical personnel designated as medical personnel by the Secretary pursuant to subparagraph (E) of such section, if any.

SEC. 712. INCREASE IN ANNUAL DEDUCTIBLES UNDER CHAMPUS FOR CERTAIN COVERED BENEFICIARIES

(a) DEPENDENTS COVERED BY SECTION 1079.—(1) Subsection (b)(2) of section 1079 of title 10, United States Code, is amended—

(A) by striking out "$50" and inserting in lieu thereof "$150"; and

(B) by adding at the end the following new sentence: "Notwithstanding the preceding sentence, in the case of a dependent of an enlisted member in a pay grade below E-5, the initial deductible each fiscal year under this paragraph shall be limited to $50.".

(2) Subsection (b)(3) of such section is amended by striking out "$100" and inserting in lieu thereof "$300 (or in the case of the family group of an enlisted member in a pay grade below E-5, the first $100)".

(b) OTHER COVERED BENEFICIARIES.—(1) Subsection (b)(1) of section 1086 of such title is amended by striking out "$50" and inserting in lieu thereof "$150".

(2) Subsection (b)(2) of such section is amended by striking out "$100" and inserting in lieu thereof "$300".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to health care provided under sections 1079 and 1086 of title 10, United States Code, on or after April 1, 1991.

SEC. 713. COLLECTION FROM THIRD-PARTY PAYERS OF REASONABLE COSTS OF HEALTH CARE SERVICES INCURRED ON BEHALF OF RETIRED PERSONS AND DEPENDENTS

(a) COLLECTION FOR OUTPATIENT CARE.—(1) Subsections (a)(1), (a)(2), (c), (f), and (g) of section 1095 of title 10, United States Code, are each amended by striking out "inpatient hospital care" and inserting in lieu thereof "health care services".

(b) COMPUTATION OF REASONABLE COSTS.—Subsection (f) of such section is further amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) all-inclusive per visit rates;

"(3) diagnosis-related groups; or".

(c) ADDITIONAL THIRD-PARTY PAYERS.—Such section is further amended by striking out subsection (h) and inserting in lieu thereof the following new subsections:

"(h) In this section:

"(1) The term 'third-party payer' means an entity that provides an insurance, medical service, or health plan by contract or agreement, including an automobile liability insurance or no fault insurance carrier.

"(2) The term 'insurance, medical service, or health plan' includes an insurance plan described as Medicare supplemental insurance.

"(i)(1) In the case of a third-party payer that is an automobile liability insurance or no fault insurance carrier, the right of the United States to collect under this section shall extend to health care services provided to a person entitled to health care under section 1074(a) of this title.

"(2) In cases in which a tort liability is created upon some third person, collection from a third-party payer that is an automobile liability insurance or no fault insurance carrier shall be governed by the provisions of Public Law 87-693 (42 U.S.C. 2651 et seq.).".

(d) TECHNICAL AND CLERICAL AMENDMENTS.—(1) Such section is further amended—

(A) in subsection (a)(1) (as amended by subsection (a)), by striking out "covered by section 1074(b), 1076(a), or 1076(b) of this title" and inserting in lieu thereof "covered beneficiary"; and

(B) in subsection (a)(2) (as amended by subsection (a)), by striking out "person covered by section 1074(b), 1076(a), or 1076(b) of this title" and inserting in lieu thereof "covered beneficiary".

(2) The heading of such section is amended to read as follows:

"§ 1095. Health care services incurred on behalf of covered beneficiaries: collection from third-party payers".

(2) The item relating to such section in the table of sections at the beginning of chapter

55 of such title is amended to read as follows:

"1095. Health care services incurred on behalf of covered beneficiaries: collection from third-party payers.".

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to health care services provided in a medical facility of the uniformed services after the date of the enactment of this Act, but not with respect to collection under any insurance, medical service, or health plan agreement entered into before the date of the enactment of this Act that the Secretary of Defense determines clearly excludes payment for such services. Such an exception shall apply until the amendment or renewal of such agreement after that date.

SEC. 714. INCREASE IN THE PAY LIMIT FOR PERSONAL SERVICES CONTRACTS FOR DIRECT HEALTH CARE PROVIDERS

Section 1091(b) of title 10, United States Code, is amended by striking out "basic pay and allowances authorized by chapters 3 and 7 of title 37 for a commissioned officer" and inserting in lieu thereof "basic pay, special and incentive pays and bonuses, and allowances authorized by chapters 3, 5, and 7 of title 37 for a commissioned officer with comparable professional qualifications".

SEC. 715. CONDITIONS ON EXPANSION OF CHAMPUS REFORM INITIATIVE

(a) CERTIFICATION OF COST-EFFECTIVENESS.—The Secretary of Defense may not proceed with the proposed expansion of the CHAMPUS reform initiative underway in the States of California and Hawaii until not less than 90 days after the date on which the Secretary certifies to the Congress that—

(1) such CHAMPUS reform initiative has been demonstrated to be more cost-effective than the Civilian Health and Medical Program of the Uniformed Services or any other health care demonstration program being conducted by the Secretary;

(2) the contractor selected to underwrite the delivery of health care under the CHAMPUS reform initiative will accomplish the expansion without the disruption of services to beneficiaries under the Civilian Health and Medical Program of the Uniformed Services or delays in the processing of claims; and

(3) such contractor is currently, and projected to remain, financially able to underwrite the CHAMPUS reform initiative.

(b) REPORT ON CERTIFICATION.—Not later than 30 days after the date on which the Secretary of Defense submits the certification required by subsection (a), the Comptroller General of the United States and the Director of the Congressional Budget Office shall jointly submit to Congress a report evaluating such certification.

(c) CHAMPUS REFORM INITIATIVE DEFINED.—For purposes of this section, the term "CHAMPUS reform initiative" has the meaning given that term in section 702(d)(1) of the Department of Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 1073 note).

SEC. 716. REQUIREMENTS PRIOR TO TERMINATION OF MEDICAL SERVICES AT MILITARY MEDICAL TREATMENT FACILITIES

(a) PROHIBITION.—During the period beginning on the date of the enactment of this Act and ending on September 30, 1995, the Secretary of a military department may not take any action to close a military medical facility under the jurisdiction of that Secretary or reduce the level of care provided at such a medical facility until 90 days after the date on which the Secretary submits to Congress a report described in subsection (b).

(b) ELEMENTS OF REPORT.—A report referred to in subsection (a) shall include the following:

(1) The reason for the action.

(2) The projected savings to the Government from the action.

(3) The impact on CHAMPUS and MEDICARE costs in the catchment area of the facility.

(4) The impact on beneficiary cost-sharing.

(5) An examination of alternative ways to provide care to the persons served by the facility that the Secretary determines would not result in adverse consequences to such persons.

(6) An explanation of how care will be provided for and the cost, if any, to those persons to receive such care.

(c) EXCEPTION.—Subsection (a) shall not apply with respect to the closing of a military medical facility (or the reduction of the level of care provided at a military medical facility) as a result of a base closure or an operational deployment.

SEC. 717. LIMITATION ON AWARDING CONTRACT FOR FULL PRODUCTION OF MEDICAL INFORMATION SYSTEMS

(a) LIMITATION.—Subsection (g) of section 704 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3900), as added by section 733(d) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1122), is amended by striking out "until—" and all that follows through the period and inserting in lieu thereof the following: "until the later of—

"(1) January 1, 1992; and

"(2) 30 days after the date of the submission of the report required under subsection (f).".

(b) REPORT OF COMPTROLLER GENERAL.—Subsection (f) of such section is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) whether the operational test and evaluation phase was conducted at a sufficient number of sites and with sufficient software in operation to warrant a full production decision.".

(c) CERTIFICATION TO EXPAND USE OF SYSTEM.—Such section is further amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) LIMITATION ON EXPANSION OF USE OF SYSTEM.—(1) The Secretary may not authorize the use of the Composite Health Care System to replace an Independent Operating Capability system in any military medical treatment facility that is not involved in the operational test and evaluation phase referred to in subsection (b) on the date of the enactment of this amendment until the Secretary certifies to the Committees on Armed Services of the Senate and House of Representatives that use of the Composite Health Care System in that facility is the most cost-effective method for maintaining automated operations at the facility.

"(2) A certification required under paragraph (1) shall include the following assurances:

"(A) The Secretary has successfully tested the software version of the Composite Health Care System at several military medical treatment facilities that are representative of the facility at which the software will be used.

"(B) The Secretary has stabilized the software to be used at that facility in order to eliminate all critical system incidents.

"(C) The Secretary has properly sized the hardware to be installed at that facility to ensure adequate capacity when the full configuration of the system is installed at that military medical treatment facility.

"(D) The installation of the system at that facility will not adversely affect contractor capabilities for continuing the operational test and evaluation phase of the system at the military medical treatment facilities involved in that phase.

"(3) The limitation contained in paragraph (1) shall apply until the awarding of a contract for full production of a medical information system for use in all military medical treatment facilities.".

SEC. 718. UNIFORMED SERVICES TREATMENT FACILITIES

(a) DELAY OF TERMINATION EFFECTIVE DATE.—Subsection (e) of section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d), is amended by striking out "1990" and inserting in lieu thereof "1993".

(b) LIMITATION ON EXPENDITURES.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) LIMITATION ON EXPENDITURES.—The total amount of expenditures to carry out this section and section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c), may not exceed $154,000,000 for fiscal year 1991.".

(c) MANAGED-CARE DELIVERY AND REIMBURSEMENT MODEL.—Not later than September 30, 1991, the Secretary of Defense shall complete negotiations with the Uniformed Services Treatment Facilities and begin implementation of a managed-care delivery and reimbursement model that will continue to utilize the Uniformed Services Treatment Facilities in the military health care delivery system.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

PART A—ACQUISITION MANAGEMENT IMPROVEMENT

SEC. 800. ADVISORY PANEL ON STEAMLINING AND CODIFYING ACQUISITION LAWS

(a) ESTABLISHMENT.—Not later than January 15, 1991, the Under Secretary of Defense for Acquisition shall establish under the sponsorship of the Defense Systems Management College an advisory panel on streamlining and codifying acquisition laws.

(b) MEMBERSHIP.—The panel shall be composed of at least nine individuals who are recognized experts in acquisition laws and procurement policy. In making appointments to the advisory panel, the Under Secretary shall ensure that the members of the panel reflect diverse experiences in the public and private sectors.

(c) DUTIES.—The panel shall—

(1) review the acquisition laws applicable to the Department of Defense with a view toward streamlining the defense acquisition process;

(2) make any recommendations for the repeal or amendment of such laws that the panel considers necessary, as a result of such review, to—

(A) eliminate any such laws that are unnecessary for the establishment and administration of buyer and seller relationships in procurement;

(B) ensure the continuing financial and ethical integrity of defense procurement programs; and

(C) protect the best interests of the Department of Defense; and

(3) prepare a proposed code of relevant acquisition laws.

(d) REPORT.—(1) Not later than December 15, 1992, the advisory panel shall transmit a final report on the actions of the panel to the Under Secretary of Defense for Acquisition.

(2) The final report shall contain a detailed statement of the findings and conclusions of the panel, the proposed codification of acquisition laws prepared pursuant to subsection (c), and such additional recommendations for such legislation as the Panel considers appropriate.

(3) The Secretary of Defense shall transmit the final report of the Under Secretary of Defense for Acquisition, together with such comments as he deems appropriate, to the congressional defense committees not later than January 15, 1993.

SEC. 801. AUTHORITY GOVERNING OPERATION OF WORKING-CAPITAL FUNDED ACTIVITIES

Section 2208(i) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (2); and

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraph:

"(1) Regulations under subsection (h) shall authorize a working-capital funded Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof to sell manufactured articles or services to a person outside the Department of Defense if—

"(A) in the case of an article, the article is sold to a United States manufacturer, assembler, developer, or other concern—

"(i) for use in developing new products;

"(ii) for incorporation into items to be sold to, or to be used in a contract with, an agency of the United States;

"(iii) for incorporation into items to be sold to, or to be used in a contract with, or to be used for purposes of soliciting a contract with, a friendly foreign government; or

"(iv) for use in commercial products;

"(B) in the case of an article, the purchaser is determined by the Department of Defense to be qualified to carry out the proposed work involving the article to be purchased;

"(C) the article or service is not readily available to the purchaser from a commercial source in the United States in a timely manner that meets the requirements of the purchaser;

"(D) the sale is to be made on a basis that does not interfere with performance of work by the facility for the Department of Defense or for a contractor of the Department of Defense; and

"(E) in the case of services, the services are related to an article authorized to be sold under this subsection and are to be performed in the United States for the purchaser.".

SEC. 802. PROCEDURES FOR CONTRACT SOLICITATION AND EVALUATION

(a) STATEMENT OF SIGNIFICANT FACTORS.—(1) Clause (i) of section 2305(a)(2)(A) of title 10, United States Code, is amended—

(A) by inserting "(and significant subfactors)" after "significant factors"; and

(B) by striking out "(including cost or price)" and inserting in lieu thereof the following: "(including cost or price, cost- or price-related factors, and noncost- or nonprice-related factors)".

(2) Clause (ii) of such section is amended by inserting "(and subfactors)" after "those factors".

(b) STATEMENT RELATING TO DISCUSSIONS.—Subclause (I) of section 2305(a)(2)(B)(ii) of title 10, United States Code, is amended to read as follows:

"(I) a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), unless discussions are determined to be necessary; and".

(c) RELATIVE IMPORTANCE OF EVALUATION FACTORS.—Paragraph (3) of section 2305(a) of title 10, United States Code, is amended by striking out "the quality of the services" and inserting in lieu thereof "the evaluation factors and subfactors, including the quality of the product or services".

(d) EVALUATION OF SEALED BIDS AND COMPETITIVE PROPOSALS.—(1) Paragraph (1) of section 2305(b) of title 10, United States Code, is amended by inserting "and make an award" after "competitive proposals".

(2) Paragraph (3) of such section is amended in the second sentence by inserting "in accordance with paragraph (1)" after "shall evaluate the bids".

(3) Paragraph (4) of such section is amended—

(A) in subparagraph (A), by striking out "competitive proposals" and all that follows and inserting in lieu thereof "competitive proposals in accordance with paragraph (1) and may award a contract—

"(i) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(ii) based on the proposals received, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) provided that the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary.";

(B) by striking out subparagraphs (B) and (C);

(C) by redesignating subparagraph (D) as subparagraph (B); and

(D) by redesignating subparagraph (E) as subparagraph (C) and in that subparagraph striking out "Subparagraph (D)" and inserting in lieu thereof "Subparagraph (B)".

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect to solicitations for sealed bids or competitive proposals issued after the end of the 120-day period beginning on the date of the enactment of this Act.

(2) The Secretary of Defense may require the amendments made by this section to apply with respect to solicitations issued before the end of the period referred to in paragraph (1). The Secretary of Defense shall publish in the Federal Register notice of any such earlier effective date.

SEC. 803. CERTIFIED COST OR PRICING DATA THRESHOLD

(a) INCREASE IN THRESHOLD FOR CERTIFIED COST OR PRICING DATA.—(1) Section 2306a(a)(1) of title 10, United States Code, is amended as follows:

(A) Subparagraph (A) of such section is amended by striking out "$100,000" and inserting in lieu thereof the following: "$500,000 or, in the case of a contract to be awarded after December 31, 1995, $100,000".

(B) Subparagraph (B) of such section is amended by striking out "$100,000" and inserting in lieu thereof the following: "$500,000 (or such lesser amount as may be prescribed by the head of the agency) or, in the case of a change or modification to a contract to be made after December 31, 1995, $100,000".

(C) Subparagraph (C) of such section is amended by striking out "$100,000" in clause (i) and inserting in lieu thereof the following: "$500,000 or, in the case of a subcontract to be awarded after December 31, 1995, $100,000".

(D) Subparagraph (D) of such section is amended by striking out "$100,000" and inserting in lieu thereof the following: "$500,000 (or such lesser amount as may be prescribed by the head of the agency) or, in the case of a change or modification to be made after December 31, 1995, $100,000".

(2) The amendments made by this subsection shall apply to—

(A) contracts and subcontracts entered into after the date on which the Secretary of Defense issues guidance under subsection (c); and

(B) modifications or changes to such contracts and subcontracts.

(b) REVIEW BY INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.—(1) After the increase in the threshold for submission of cost or pricing data under section 2306a(a) of title 10, United States Code (as amended by subsection (a)) has been in effect for three years, the Inspector General of the Department of Defense shall conduct a review of the effects of the increase in the threshold.

(2) The review shall address whether increasing the threshold has improved the acquisition process in terms of reduced paperwork, financial or other savings to the government, an increase in the number of contractors participating in the defense contracting process, and the adequacy of information available to contracting officers in cases in which certified cost or pricing data are not required under section 2306a.

(3) The Inspector General of the Department of Defense shall submit to the Secretary of Defense a report on the review conducted under paragraph (1). The Secretary of Defense shall submit such report to Congress, along with such comments as the Secretary considers appropriate, upon completion of the report (and comments) but not later than the date on which the President submits the budget to Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1996.

(c) REGULATIONS FOR BELOW-THRESHOLD PROCUREMENTS.—(1) The Secretary of Defense shall prescribe regulations identifying the type of procurements for which contracting officers should consider requiring the submission of certified cost or pricing data under section 2306a(c) of title 10, United States Code.

(2) The Secretary also shall prescribe regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under section 2306a of such title because the price of the procurement to the

United States is not expected to exceed $500,000. Such information, at a minimum, shall include appropriate information on the prices at which such offeror has previously sold the same or similar products.

(3) The regulations required under this subsection shall be prescribed not later than six months after the date of the enactment of this Act.

(d) DOCUMENTATION OF SUBMISSIONS UNDER SECTION 2306a(c).—Section 2306a(c) of title 10, United States Code, is amended by adding at the end the following: "In any case in which the head of the agency requires such data to be submitted under this subsection, the head of the agency shall document in writing the reasons for such requirement.".

SEC. 804. REPEAL OF REQUIREMENTS RELATING TO COMMERCIAL PRICING FOR SPARE OR REPAIR PARTS

(a) REPEAL.—Section 2323 of title 10, United States Code, is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 137 of such title is amended by striking out the item relating to section 2323.

SEC. 805. COMPETITIVE ALTERNATIVE SOURCE REQUIREMENT

Section 2438 of title 10, United States Code, is amended to read as follows:

"§ 2438. Major programs: competitive alternative sources

"(a)(1) Before full-scale development under a major program begins, the Secretary of Defense shall prepare an acquisition strategy for the program.

"(2) The Secretary shall ensure that contracts for each major program and each major subsystem under such major program are awarded in accordance with the acquisition strategy for such program.

"(b)(1) The acquisition strategy prepared under subsection (a)(1) shall ensure that the Secretary will have the option to use competitive alternative sources for major programs and for major subsystems under the major programs throughout the period from the beginning of full-scale development through the end of procurement in any case in which the establishment and maintenance of two or more sources—

"(A) would—

"(i) likely reduce technological risks associated with the program;

"(ii) likely result in reduced costs for such program; or

"(iii) likely result in an improvement in design commensurate with the additional cost;

"(B) would not result in unacceptable delays in fulfilling the needs of the Department of Defense; and

"(C) is otherwise in the national security interests of the United States.

"(2) In carrying out this subsection, the Secretary may provide that the requirement for competitive alternative sources of a major program or subsystem is satisfied even though the sources for that major program or subsystem do not develop or produce identical systems if the systems developed serve similar functions and compete effectively with each other.

"(c) In this section:

"(1) The term 'major program' means a major defense acquisition program, as such term is defined in section 2430 of this title.

"(2) The term 'major subsystem', with respect to a major program, means a subsystem of the system developed under the program, that is purchased directly by the United States and for which—

"(A) the amount for research, development, test, and evaluation is 10 percent or more of the amount specified in section 2430(2) of this title as the research, development, test, and evaluation funding criterion for identification of a major defense acquisition program; or

"(B) the amount for procurement is 10 percent or more of the amount specified in section 2430(2) of this title as the procurement funding criterion for identification of a major defense acquisition program.".

SEC. 806. UNIFORM SMALL PURCHASE THRESHOLD FOR VARIOUS REQUIREMENTS APPLICABLE TO FEDERAL GOVERNMENT CONTRACTORS

(a) SMALL PURCHASE THRESHOLD DEFINED.—(1) Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended—

(A) by striking out "and" at the end of paragraph (9);

(B) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(11) the term 'small purchase threshold' means $25,000, adjusted on October 1 of each year divisible by 5 to the amount equal to $25,000 in constant fiscal year 1990 dollars (rounded to the nearest $1,000).".

(2) The first adjustment under section 4(11) of such Act, as amended by paragraph (1), shall be made on October 1, 1995.

(b) AMENDMENTS TO TITLE 10.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking out "$25,000" and inserting in lieu thereof "the small purchase threshold";

(2) in paragraph (3), by striking out "$25,000" and inserting in lieu thereof "the small purchase threshold"; and

(3) by adding at the end the following new paragraph:

"(5) In this subsection, the term 'small purchase threshold' has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).".

(c) AMENDMENTS TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in paragraph (2), by striking out "$25,000" and inserting in lieu thereof "the small purchase threshold";

(2) in paragraph (3), by striking out "$25,000" and inserting in lieu thereof "the small purchase threshold"; and

(3) by adding at the end the following new paragraph:

"(5) In this subsection, the term 'small purchase threshold' has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).".

(d) ADDITIONAL AMENDMENTS TO THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 18(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)) is amended—

(1) by striking out "$25,000" each place it appears and inserting in lieu thereof "the small purchase threshold"; and

(2) in clause (A)—

(A) by inserting "or" at the end of subclause (i);

(B) by striking out "; or" at the end of subclause (ii) and inserting in lieu thereof a comma; and

(C) by striking out subclause (iii).

(e) AMENDMENTS TO SMALL BUSINESS ACT.—The Small Business Act (15 U.S.C. 631 et seq.) is amended as follows:

(1) Section 3 of such Act is amended by adding at the end the following new subsection:

"(m) For purposes of this Act, the term 'small purchase threshold' has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).".

(2) Section 8 of such Act is amended—

(A) in subsection (d)(2)(A), by striking out "$10,000" and inserting in lieu thereof "the small purchase threshold"; and

(B) in subsection (e)(1)—

(i) by striking out "$25,000" each place it appears and inserting in lieu thereof "the small purchase threshold";

(ii) by inserting "or" at the end of subclause (i) of clause (A);

(iii) by striking out "; or" at the end of subclause (ii) of clause (A) and inserting in lieu thereof a comma; and

(iv) by striking out subclause (iii) of clause (A).

(3) Section 15(j) of such Act is amended by striking out "of less than $25,000" and inserting in lieu thereof "not in excess of the small purchase threshold".

SEC. 807. MEMBERSHIP ON FEDERAL ACQUISITION REGULATORY COUNCIL

Paragraph (2) of section 25(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(b)(2)) is amended by inserting before the semicolon at the end of clause (A) the following: "or, in the case of the Secretary of Defense, an official at an organizational level not lower than an Assistant Secretary of Defense within the Office of the Under Secretary of Defense for Acquisition".

SEC. 808. PROCEDURES APPLICABLE TO MULTIYEAR PROCUREMENT CONTRACTS

(a) COST DETERMINATIONS.—Paragraph (1) of section 2306(h) of title 10, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by striking out "(other than contracts described in paragraph (6))"; and

(2) in subparagraph (A), by striking out "reduced total costs under the contract" and inserting in lieu thereof "substantial savings of the total anticipated costs of carrying out the program through annual contracts".

(b) EXEMPTIONS.—Paragraph (6) of such section is amended by striking out "contracts for the construction, alteration, or major repair of improvements to real property or".

(c) REQUIREMENTS WITH RESPECT TO SPECIFICALLY AUTHORIZED PROGRAMS.—Paragraph (9) of such section is amended—

(1) by inserting "for a defense acquisition program that has been specifically authorized by law to be carried out using multiyear contract authority" in the matter preceding subparagraph (A) after "under this subsection"; and

(2) by striking out subparagraph (C).

SEC. 809. MAJOR DEFENSE ACQUISITION PILOT PROGRAM

(a) AUTHORITY TO CONDUCT PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program for the purpose of determining the potential for increasing the efficiency and effectiveness of the acquisition process in major defense acquisition programs.

(b) DESIGNATION OF PARTICIPATING PROGRAMS.—(1) Subject to paragraph (2), the Secretary may designate not more than six major defense acquisition programs for participation in the pilot program.

(2) The Secretary may designate for participation in the pilot program only those

major defense acquisition programs specifically authorized to be so designated in a law authorizing appropriations for such program enacted after the date of the enactment of this Act.

(c) CONDUCT OF PILOT PROGRAM.—(1) In the case of each major defense acquisition program designated for participation in the pilot program, the Secretary—

(A) shall conduct the program in accordance with standard commercial, industrial practices; and

(B) may waive or limit the applicability of any provision of law that is specifically authorized to be waived in the law authorizing appropriations referred to in subsection (b)(2) and that prescribes—

(i) procedures for the procurement of supplies or services;

(ii) a preference or requirement for acquisition from any source or class of sources;

(iii) any requirement related to contractor performance;

(iv) any cost allowability, cost accounting, or auditing requirements; or

(v) any requirement for the management of, testing to be performed under, evaluation of, or reporting on a major defense acquisition program.

(2) The waiver authority provided in paragraph (1)(B) does not apply to a provision of law if, as determined by the Secretary—

(A) a purpose of the provision is to ensure the financial integrity of the conduct of a Federal Government program; or

(B) the provision relates to the authority of the Inspector General of the Department of Defense.

(d) DESIGNATION AS DEFENSE ENTERPRISE PROGRAM.—The Secretary shall designate each participating major defense acquisition program as a defense enterprise program under section 2436 of title 10, United States Code. The Secretary may waive the applicability of the requirement of this subsection or any provision of such section 2436 to any such acquisition program if he determines that such a waiver is necessary for the purpose of the pilot program.

(e) REGULATIONS.—(1) Not later than 270 days after the date of the enactment of this Act, the Secretary shall publish proposed regulations to implement this section and an invitation for public comment on the proposed regulations. Not later than one year after such date, the Secretary shall promulgate final regulations to implement this section.

(2)(A) The Secretary may not waive or limit the applicability of a law to a major defense acquisition program under subsection (c)(1)(B) unless the Secretary first prescribes regulations specifying the waiver or limitation.

(B) In the case of a waiver or limitation of the applicability of a requirement imposed by a statute, including a regulation prescribed to implement such statutory requirement, the following procedures shall apply:

(i) The Secretary shall publish the proposed waiver or limiting regulations and provide an opportunity for public comment on the proposed regulations for a period of not less than 60 days.

(ii) If a Federal Government official outside the Department of Defense has the responsibility for implementation of the statute, the Secretary shall consult with such official regarding the proposed waiver or limitation before publishing the proposed waiver or limiting regulations under clause (i).

(3) The Secretary may prescribe separate regulations for one or more major defense acquisition programs designated by the Secretary for participation in the pilot program.

(f) NOTIFICATION AND IMPLEMENTATION.—(1) The Secretary shall transmit to the congressional defense committees a written notification of each major defense acquisition program proposed to be designated by the Secretary for participation in the pilot program.

(2) If the Secretary proposes to waive or limit the applicability of any provision of law to a major defense acquisition program under the pilot program in accordance with this section, the Secretary shall include in the notification regarding that acquisition program—

(A) the provision of law proposed to be waived or limited;

(B) the effects of such provision of law on the acquisition, including specific examples;

(C) the actions taken to ensure that the waiver or limitation will not reduce the efficiency, integrity, and effectiveness of the acquisition process used for the major defense acquisition program; and

(D) specific budgetary and personnel savings, if any, that will result from the waiver or limitation.

(g) LIMITATION ON WAIVER AUTHORITY.—The applicability of the following requirements of law may not be waived or limited under subsection (c)(1)(B) with respect to a major defense acquisition program:

(1) The requirements of this section.

(2) The requirements contained in any law enacted on or after the date of the enactment of this Act if that law designates such major defense acquisition program as a participant in the pilot program, except to the extent that a waiver of such requirement is specifically authorized for such major defense acquisition program in a law enacted on or after such date.

(h) TERMINATION OF AUTHORITY.—The authority to waive or limit the applicability of any law under this section may not be exercised after September 30, 1992.

(i) DEFINITION.—In this section the term "major defense acquisition program" shall have the meaning given such term in section 2430 of title 10, United States Code.

SEC. 810. ACQUISITION OF COMMERCIAL PRODUCTS

Section 2325(a) of title 10, United States Code, is amended—

(1) in paragraph (2) by striking out "and";

(2) in paragraph (3) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) prior to developing new specifications, the Department conducts market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.".

PART B—MODIFICATIONS TO EXISTING LAW

SEC. 811. CLARIFICATION OF SMALL BUSINESS CONCERNS COVERED BY SECTION 1207

Section 1207(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 10 U.S.C. 2301 note), is amended by amending paragraph (1) to read as follows:

"(1) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals;".

SEC. 812. ADDITIONAL PROHIBITION ON CONVICTED INDIVIDUALS

(a) ADDITIONAL PROHIBITIONS ON INDIVIDUALS CONVICTED OF FELONIES RELATED TO DEFENSE CONTRACTS.—Paragraph (1) of section 2408(a) of title 10, United States Code, is amended—

(1) by inserting "or any first tier subcontract of a defense contract" before the period at the end of subparagraph (A);

(2) by inserting "or any subcontractor awarded a contract directly by a defense contractor" before the period at the end of subparagraph (B);

(3) by inserting "or any subcontractor awarded a contract directly by a defense contractor" before the period at the end of subparagraph (C); and

(4) by inserting "or first tier subcontract of a defense contract" before the period at the end of subparagraph (D).

(b) RELATED CRIMINAL PENALTY.—Section 2408(b) of such title is amended by inserting "or subcontractor" after "contractor" each place it appears.

SEC. 813. DISCLOSURE REQUIREMENT RELATING TO SUBCONTRACTORS

Section 2393 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) The Secretary of Defense shall prescribe in regulations a requirement that each contractor under contract with the Department of Defense shall require each contractor to whom it awards a contract (in this section referred to as a subcontractor) to disclose to the contractor whether the subcontractor is or is not, as of the time of the award of the subcontract, debarred or suspended by the Federal government from Government contracting or subcontracting. The requirement shall apply to any subcontractor whose subcontract is in an amount above the small purchase amount established in section 2304(g) of this title.".

SEC. 814. AUTHORITY TO USE FUNDS FOR ADMINISTRATIVE COSTS OF PROCUREMENT TECHNICAL ASSISTANCE PROGRAM

(a) AUTHORITY.—(1) Chapter 142 of title 10, United States Code, is amended—

(A) by redesignating section 2417 as section 2418; and

(B) by inserting after section 2416 the following new section:

"§ 2417. Administrative costs

"The Director of the Defense Logistics Agency may use, out of the amount appropriated for a fiscal year for operation and maintenance for the procurement technical assistance program authorized by this chapter, an amount not exceeding three percent of such amount to defray the expenses of administering the provisions of this chapter during such fiscal year.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2417 and inserting in lieu thereof the following:

"2417. Administrative costs.
"2418. Regulations.".

(b) EFFECTIVE DATE.—Section 2417 of title 10, United States Code, as added by subsection (a), shall apply with respect to fiscal year 1991 and each fiscal year thereafter.

SEC. 815. POST-EMPLOYMENT RULES.

(a) SUSPENSION OF EFFECT OF CERTAIN PROVISIONS OF LAW.—The following provisions of law shall have no force or effect during the period beginning on December 1, 1990 and ending on May 31, 1991:

(1) Subsection (f) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)).

(2) Sections 2397a and 2397b of title 10, United States Code.

(3) Section 281 of title 18, United States Code.

(4) Sections 603 through 606, subsections (a) and (b) of section 607, and subsections (a) and (c) of section 608 of the Department of Energy Organization Act (42 U.S.C. 4101 et seq.).

(b) CLARIFICATION OF FREQUENCY OF CERTIFICATION BY EMPLOYEES OF CONTRACTORS.—Not later than 30 days after the date of the enactment of this Act, the regulations implementing section 27(e)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(1)(B)) shall be revised to ensure that a contractor is required to obtain from each officer, employee, agent, representative, and consultant of the contractor only one certification (as described in clauses (i) and (ii) of that section) during the person's employment or association with the contractor and that such certification shall be made at the earliest possible date after the person begins his or her employment or association with the contractor.

PART C—DEFENSE INDUSTRIAL AND TECHNOLOGY BASE

SEC. 821. ANNUAL DEFENSE CRITICAL TECHNOLOGIES PLAN

(a) INCREASED INFORMATION RELATING TO FUNDING.—Section 2508(b) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by inserting at the end the following new paragraphs:

"(3) identify each program element (contained in the budget information submitted to Congress by the Department of Defense in support of the budget submitted by the President pursuant to section 1105(a) of title 31 for the first fiscal year covered by the plan) for which funds are budgeted for the support of the development of any critical technology identified in the plan; and

"(4) for each such program element—

"(A) specify the amount included for each critical technology covered by the program element; and

"(B) include a comparison of that amount with the amount, if any, available to the Department of Defense for development of such critical technology for the fiscal year preceding the first fiscal year covered by the plan.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to annual defense critical technologies plans submitted after March 1, 1991.

SEC. 822. CRITICAL TECHNOLOGIES INSTITUTE

(a) ESTABLISHMENT.—There shall be established a federally funded research and development center to be known as the "Critical Technologies Institute" (hereinafter referred to in this section as the "Institute").

(b) INCORPORATION.—The Institute shall be incorporated as a nonprofit membership corporation.

(c) BOARD OF TRUSTEES.—(1) The Institute shall have a Board of Trustees (hereafter referred to in this section as the "Board") composed of 21 members as follows:

(A) The Director of the Office of Science and Technology Policy, who shall be Chairman of the Board.

(B) The Secretary of Defense, or the Secretary's designee.

(C) The Secretary of Energy, or the Secretary's designee.

(D) The Secretary of Health and Human Services, or the Secretary's designee.

(E) The Secretary of Commerce, or the Secretary's designee.

(F) The Administrator of the National Aeronautics and Space Administration, or the Administrator's designee.

(G) The Director of the National Science Foundation, or the Director's designee.

(H) Four members appointed by the Director of the Office of Science and Technology Policy from among the members of the Federal Coordinating Council on Science, Engineering, and Technology (other than members of such council named in subparagraphs (B) through (G)).

(I) Ten members appointed by the members of the Board referred to in subparagraphs (A) through (H) from among representatives of industry and colleges and universities in the United States.

(2)(A) The term of service of members of the Board appointed under paragraph (1)(H) shall be four years, except that of the four members first appointed, one shall be appointed for a term of one year, one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years, as specified by the Director of the Office of Science and Technology Policy at the time of the appointments.

(B) The term of office for each of the members of the Board appointed under paragraph (1)(I) shall be specified by the appointing members of the Board at the time of appointment.

(C) Members of the Board may be reappointed.

(D) A vacancy in a membership of the Board appointed pursuant to subparagraph (H) or (I) of paragraph (1) shall be filled in the same manner as the original appointment. A member appointed under this subparagraph shall serve for the remainder of the unexpired term of his predecessor.

(3) The Board shall meet at least twice each year.

(4)(A) The Board shall have an executive committee composed of the members referred to in subparagraphs (A) through (G) of paragraph (1) and six of the members appointed pursuant to subparagraph (I) of such paragraph.

(B) The executive committee shall meet at least six times each year.

(5) A member of the Board who is an officer or employee of the United States may not receive pay for service as a member, other than the pay provided for the member's position as an officer or employee of the United States.

(d) DUTIES OF THE INSTITUTE.—The Institute shall—

(1) survey the views of United States industry, colleges, and universities, and Federal and State agencies, involved in research, development, or utilization of critical technologies on—

(A) each critical technology identified in the most recent biennial report of the National Critical Technologies Panel established pursuant to section 601 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6681); and

(B) each technology that the Institute considers critical on the basis of its analysis of national and worldwide trends in basic and applied research and development;

(2) on the basis of such views and analysis by Institute personnel—

(A) identify suitable near-term, mid-term, and long-term national objectives for the research, development, and production capability of the United States with respect to such technologies; and

(B) prepare possible strategies for achieving the identified objectives, including a discussion of the appropriate roles of industry, colleges and universities, and Federal and State agencies;

(3) publish reports, as appropriate, discussing—

(A) such national objectives and strategies; and

(B) progress in implementing such strategies and achieving such objectives; and

(4) at the direction of the Director of the Office of Science and Technology Policy, provide technical support and assistance regarding policy formulation to the committees and panels of the Federal Coordinating Council for Science, Engineering, and Technology that are responsible for planning and coordinating Federal Government activities that advance the development of critical technologies and sustain and strengthen the science and technology base of the United States.

(e) SPONSORSHIP.—(1) The Director of the Office of Science and Technology shall be the sponsor of the Institute.

(2) The Director and the Board shall enter into a sponsor agreement consistent with the requirements prescribed by the Administrator for Federal Procurement Policy that are generally applicable to sponsor agreements.

(3) The sponsor agreement shall—

(A) require the Institute to perform such functions for the Office of Science and Technology Policy as the Director of that office may specify consistent with the requirements of subsection (d); and

(B) permit the Institute, subject to the concurrence of the Director, to perform functions for the member agencies of the Federal Coordinating Council on Science, Engineering, and Technology Policy.

(f) DEADLINE FOR CERTAIN ACTIONS.—The Director of the Office of Science and Technology Policy shall take such actions as may be necessary to ensure that, not later than 90 days after the date of the enactment of this Act—

(1) the articles of incorporation for the Institute have been appropriately filed;

(2) the corporate bylaws have been adopted;

(3) the Board members have been identified or appointed, as appropriate;

(4) the initial officers of the Institute have been elected;

(5) the first regular business meeting of the Board has been conducted; and

(6) the sponsor agreement referred to in subsection (e) has been entered into.

(g) FUNDING.—(1) Subject to such limitations as may be provided in appropriation Acts, the Secretary of Defense shall make available to the Director of the Office of Science and Technology Policy, out of funds available for the Department of Defense, $5,000,000 for funding the activities of the Institute in the first fiscal year in which the Institute begins operations.

(2) There is authorized to be appropriated for the Institute for each fiscal year after the fiscal year referred to in paragraph (1) such sums as may be necessary for operation of the Institute.

SEC. 823. MANUFACTURING TECHNOLOGY

(a) IN GENERAL.—Title 10, United States Code, is amended—

(1) by redesignating chapter 149 as chapter 150;

(2) by redesignating section 2511 as section 2521; and

(3) by inserting after chapter 148 the following new chapter:

"CHAPTER 149—MANUFACTURING TECHNOLOGY

"Sec.
"2511. Definitions.
"2512. Management and planning.
"2513. National Defense Manufacturing Technology Plan.
"2514. Research and implementation.
"2515. Computer-integrated manufacturing technology.
"2516. Concurrent engineering.
"2517. Manufacturing extension programs.

"§ 2511. Definitions

"In this chapter:

"(1) The term 'manufacturing technology' means development of techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management and worker training, as well as manufacturing equipment and software.

"(2) The term 'manufacturing extension programs' means publicly-chartered organizations and services to transfer technology and help modernize small manufacturers through research, education and training, and outreach activities.

"§ 2512. Management and planning

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall—

"(1) provide centralized Department of Defense policy guidance and direction to the military departments and the Defense Agencies on all matters relating to manufacturing technology; and

"(2) direct the development and implementation of Department of Defense plans, programs, projects, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment.

"§ 2513. National Defense Manufacturing Technology Plan

"(a) The Secretary of Defense, in coordination with the Secretary of Commerce and the Secretary of Energy, shall develop and implement a National Defense Manufacturing Technology Plan (hereafter in this section referred to as the 'Plan'). Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duty of the Secretary under this subsection.

"(b) The Plan shall—

"(1) provide guidance (formulated in coordination with the Department of Commerce and other relevant public and private organizations) to the military departments and Defense Agencies and to the Department of Energy on the goals, priorities, and approaches to be taken in the defense manufacturing technology program;

"(2) provide a link between the manufacturing technology program and the industrial preparedness programs conducted by the Department of Defense and similar and related activities undertaken by government or the private sector, including programs, projects and activities carried out by the Secretary of Commerce pursuant to section 25 of the Act of March 3, 1901 (15 U.S.C. 278k) and section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 278l note);

"(3) contain an analysis of the role of manufacturing extension services in—

"(A) improving the manufacturing quality, productivity, technology, and practices of defense industry subtier suppliers; and

"(B) disseminating to such suppliers such Department of Defense manufacturing concepts as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts; and

"(4) contain a description of how the Secretary of Defense will coordinate with each Federal agency and department in implementing the Plan.

"(c) In developing the Plan, the Secretaries referred to in subsection (a) shall consider and use, as appropriate, reports and studies conducted by Federal agencies and departments, the Office of Technology Assessment, the National Research Council, the Defense Science Board, industrial associations and organizations, and other entities.

"(d) The manufacturing technology program conducted by the Department of Defense may include only the projects and activities that are covered by the Plan and any projects or activities that, as determined by the Secretary of Defense, have a higher priority than the projects and activities covered by the Plan.

"§ 2514. Research and implementation

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, and in coordination with the Secretary of Commerce, the Secretary of Energy, and other relevant Federal departments and agencies, shall enhance basic research in scientific disciplines relating to manufacturing technology—

"(1) by promoting research on those technologies applicable to improving manufacturing processes in colleges and universities in the United States, and in associated centers of excellence; and

"(2) by creating technology transfer and education and training mechanisms to ensure that the results of this research are readily available to United States industry.

"§ 2515. Computer-integrated manufacturing technology

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, and in coordination with the Secretary of Commerce and the Secretary of Energy, shall promote the use of computer-integrated manufacturing in order to improve manufacturing quality, reduce manufacturing costs, and reduce production lead times.

"§ 2516. Concurrent engineering

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall enhance Department of Defense use of concurrent engineering practices in the design and development of weapon systems.

"§ 2517. Manufacturing extension programs

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, and in coordination with the Secretary of Commerce and the Secretary of Energy, shall promote the improvement of the subtier defense industry through use of manufacturing extension programs and other existing organizations chartered to help small manufacturers for the purpose of disseminating such Department of Defense manufacturing concepts as best manufacturing practices, product data exchange specification, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts. Manufacturing extension programs so used shall include programs carried out by the Secretary of Commerce pursuant to section 25 of the Act of March 3, 1901 (15 U.S.C. 278k) and section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 278l note).".

(b) TECHNICAL AMENDMENTS.—(1) The table of chapters at the beginning of subtitle A of title 10, United States Code, and the beginning of part IV of such subtitle are each amended by striking out the item relating to chapter 149 and inserting in lieu thereof the following new items:

"149. Manufacturing Technology..... 2511
"150. Issue to Armed Forces..... 2521".

(2) The table of sections at the beginning of chapter 150 of such title, as redesignated by subsection (a) of this section, is amended by striking out the item relating to section 2511 and inserting in lieu thereof the following:

"2521. Reserve components: supplies, services, and facilities.".

SEC. 824. INDEPENDENT RESEARCH AND DEVELOPMENT ENHANCEMENT

(a) REVISION AND CODIFICATION OF PROVISION RELATING TO ALLOWABILITY OF INDEPENDENT RESEARCH AND DEVELOPMENT COSTS.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2372. Independent research and development

"(a) The Secretary of Defense shall prescribe regulations governing the payment, by the Department of Defense, of independent research and development costs or bid and proposal costs.

"(b) Payment may be made for independent research and development costs or bid and proposal costs when work for which payment is made is of potential interest to the Department of Defense.

"(c) The regulations shall encourage contractors to engage in research and development activities that—

"(1) strengthen the defense industrial and technology base of the United States;

"(2) enhance the industrial competitiveness of the United States;

"(3) promote the development of technologies identified as critical under section 2508 of this title;

"(4) increase the development of technologies useful for both the private commercial sector and the public sector; and

"(5) develop efficient and effective technologies for achieving such environmental benefits as improved environmental data gathering, environmental cleanup and restoration, pollution-reduction in manufacturing, environmental conservation, and environmentally safe management of facilities.

"(d)(1) Subject to paragraph (3), for each fiscal year following a fiscal year in which independent research and development costs or bid and proposal costs incurred by a person were paid by the Department of Defense in a total amount exceeding $7,000,000, the Secretary of Defense shall enter into an advance agreement with such person regarding the manner and extent to which the Department of Defense may pay independent research and development costs or bid and proposal costs incurred by such person. If such person is a business entity that has a product division that received payments for such costs from the Department of Defense in a total amount exceeding

$700,000 during such preceding fiscal year, the Secretary may enter into an advance agreement, regarding payment of the independent research and development costs and bid and proposal costs incurred by such product division.

"(2) The agreement shall include the following provisions:

"(A) The maximum amount of the costs incurred by such person in that fiscal year that the Department may pay.

"(B) The costs that are payable under the agreement, which may be only those costs that are incurred in connection with work referred to in subsection (b) or the attainment of benefits described in subsection (c).

"(3) If a person referred to in paragraph (1) does not enter into an advance agreement with the Secretary under paragraph (1) for a fiscal year, the payment of the independent research and development costs and bid and proposal costs incurred by such person during such fiscal year shall be subject to such limitations as the Secretary of Defense may prescribe in the regulations under subsection (a).

"(4) On October 1, 1994, and October 1 of each third year thereafter, the Secretary may adjust the amounts in paragraph (1) to reflect changes in one or more economic indices that the Secretary considers appropriate for use in making adjustments under this paragraph.

"(5) The provisions of this section shall apply only to contracts for which the submission and certification of cost or pricing data are required in accordance with section 2306a of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2372. Independent research and development.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 203 of Public Law 91-441 (10 U.S.C. 2358 note) is repealed.

SEC. 825. ANNUAL REPORT ON ACTIVITIES RELATING TO DEFENSE INDUSTRIAL BASE

(a) DEFENSE INDUSTRIAL BASE ANNUAL REPORT.—Chapter 148 of title 10, United States Code, is amended by inserting after section 2508 the following new section:

"§ 2509. Defense industrial base annual report

"(a) ANNUAL REPORT REQUIREMENT.—The Secretary of Defense (acting through the Under Secretary of Defense for Acquisition), in consultation with the Secretary of Commerce (acting through the Under Secretary of Commerce for Export Administration), shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on—

"(1) the actions taken pursuant to this chapter for the improvement of the defense industrial base of the United States; and

"(2) the effects of defense budgets and plans on the ability of the United States defense industrial base to meet the national security needs of the United States.

"(b) FINANCIAL ABILITY ANALYSIS.—The report required by this section shall include an analysis of the condition of the defense industrial base of the United States, particularly with respect to the financial ability of United States businesses—

"(1) to conduct research and development activities relating to critical defense technologies, including the critical technologies identified in the annual defense critical technologies plan submitted pursuant to section 2508 of this title in the year in which the annual report is submitted;

"(2) to apply those technologies to the production of goods and the furnishing of services;

"(3) to maintain a viable production base in critical areas of defense production and technology at the procurement levels for which funds are available to the Department of Defense and at planned Department of Defense procurement levels;

"(4) to expand the defense production base to respond to rapid increases in the demand for defense production and critical defense technologies;

"(5) to maintain a viable defense production base in each critical area of defense production and technology in which terminations of major Department of Defense procurement programs or reductions in planned Department of Defense procurement—

"(A) have taken place in the year before the year in which the report is submitted; or

"(B) are provided for—

"(i) in the budget submitted pursuant to section 1105(a) of title 31 in the year in which the annual report is submitted; and

"(ii) in the five-year defense program submitted with such budget pursuant to section 114a of this title; and

"(6) to engage in any other activities determined by the Secretary to be critical to the national security.

"(c) ANALYSIS CONSIDERATIONS.—In the preparation of the analysis required in subsection (b), the following factors shall be considered:

"(1) Trends in the profitability, levels of capital investment, spending on research and development, and debt burden of businesses involved in research on, development of, and application of critical defense technologies.

"(2) The consequences of mergers, acquisitions, and takeovers of such businesses.

"(3) The consequences of terminations of major programs and reductions in levels of military procurement in the fiscal year in which the report is submitted and planned military procurement.

"(4) The effects of levels of concurrency in acquisition program strategies, levels of facilitization required by the Secretary of defense contractors, competition requirements, and efforts of the Department of Defense to expand the use of commercial technology and equipment.

"(5) The effects of dependence on foreign or foreign-owned suppliers.

"(6) The results of Department of Defense spending for critical defense technologies for the fiscal year in which the report is submitted.

"(7) The likely future level of Department of Defense spending for such technologies during the four fiscal years following the fiscal year in which the report is submitted and the likely results of that level of spending.

"(d) ANNUAL REPORT DATE.—The report under this section shall be submitted not later than March 15 of each year.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2509. Defense industrial base annual report.".

SEC. 826. DEFENSE INDUSTRIAL BASE FOR TEXTILE AND APPAREL PRODUCTS

(a) MONITORING AND FIVE-YEAR ANNUAL REPORT REQUIREMENT.—(1) Chapter 148 of title 10, United States Code (as amended by section 825(a)), is further amended by adding at the end the following new section:

"§ 2510. Defense industrial base for textile and apparel products

"(a) CAPABILITY OF DOMESTIC TEXTILE AND APPAREL INDUSTRIAL BASE.—The Secretary of Defense shall monitor the capability of the domestic textile and apparel industrial base to support defense mobilization requirements.

"(b) ANNUAL REPORT.—The Secretary shall submit to Congress not later than April 1 of each of the five years beginning with 1991 a report on the status of such industrial base. Each such report shall include the following:

"(1) An identification of textile and apparel mobilization requirements of the Department of Defense that cannot be satisfied on a timely basis by the domestic industries.

"(2) An assessment of the effect any inadequacy in the textile and apparel industrial base would have on a defense mobilization.

"(3) Recommendations for ways to alleviate any inadequacy in such industrial base that the Secretary considers critical to defense mobilization requirements.".

(2) The table of sections at the beginning of such chapter (as amended by section 825(b)) is further amended by adding at the end the following new item:

"2510. Defense industrial base for textile and apparel products.".

(b) CONFORMING AMENDMENT.—Section 1456 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 762), is repealed.

SEC. 827. USE OF PARTNERSHIP INTERMEDIARIES

(a) PARTNERSHIP INTERMEDIARIES.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new section:

"SEC. 21. USE OF PARTNERSHIP INTERMEDIARIES.

"(a) AUTHORITY.—Subject to the approval of the Secretary or head of the affected department or agency, the Director of a Federal laboratory, or in the case of a federally funded research and development center, the Federal employee who is the contract officer, may—

"(1) enter into a contract or memorandum of understanding with a partnership intermediary that provides for the partnership intermediary to perform services for the Federal laboratory that increase the likelihood of success in the conduct of cooperative or joint activities of such Federal laboratory with small business firms; and

"(2) pay the Federal costs of such contract or memorandum of understanding out of funds available for the support of the technology transfer function pursuant to section 11(b) of this Act.

"(b) PARTNERSHIP PROGRESS REPORTS.—The Secretary shall include in each triennial report required under section 6(d) of this Act a discussion and evaluation of the activities carried out pursuant to this section during the period covered by the report.

"(c) DEFINITION.—For purposes of this section, the term 'partnership intermediary' means an agency of a State or local government, or a nonprofit entity owned in whole or in part by, chartered by, funded in whole or in part by, or operated in whole or in part by or on behalf of a State or local government, that assists, counsels, advises, evaluates, or otherwise cooperates with small business firms that need or can make demonstrably productive use of technology-related assistance from a Federal laboratory, including State programs receiving funds under cooperative agreements entered into under section 5121(b) of the Omnibus

Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note).".

(b) MODEL PROGRAM.—(1) In the administration of applicable provisions of the Stevenson-Wydler Technology Innovation Act of 1980 or section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988, the Secretary of Commerce shall develop, in consultation with the Secretary of Defense and the Secretary of Energy, model programs for national defense laboratories.

(2) Model programs under this subsection shall involve Federal laboratories, small businesses, and partnership intermediaries. The purpose of the model programs is to demonstrate successful relationships between the Federal Government, State and local governments, and small businesses which encourage economic growth through the commercial application of technology resulting from federally funded research.

(3) In this subsection, the term "national defense laboratory" means any laboratory, federally funded research and development center (FFRDC), or other center established under section 6 or 8 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3705, 3707) that is owned by the Federal Government, whether operated by the Federal Government or by a contractor, and—

(A) is under the jurisdiction of the Secretary of Defense; or

(B) is under the jurisdiction of the Secretary of Energy, but only if the primary function of the laboratory, FFRDC, or other center under the Secretary's jurisdiction is to support the national defense activities of the Department of Defense or the Department of Energy.

SEC. 828. TECHNOLOGY TRANSFER CONTRACT PROVISIONS

(a) PROVISIONS TO BE INCLUDED.—Section 3133(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1675) is amended—

(1) in paragraph (1), by inserting after "to the extent not already included" the following: "and subject to paragraph (6)"; and

(2) by adding at the end the following new paragraph:

"(6) Contract provisions referred to in paragraph (1) shall include only such provisions as are necessary to carry out paragraphs (1) and (2) of this subsection.".

(b) EFFECTIVE DATE.—Paragraph (6) of 3133(d) of such Act, as added by subsection (a), shall apply only to contracts entered into after the date of enactment of this Act.

PART D—MISCELLANEOUS

SEC. 831. MENTOR-PROTEGE PILOT PROGRAM

(a) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary of Defense shall establish a pilot program to be known as the "Mentor-Protege Program".

(b) PURPOSE.—The purpose of the program is to provide incentives for major Department of Defense contractors to furnish disadvantaged small business concerns with assistance designed to enhance the capabilities of disadvantaged small business concerns to perform as subcontractors and suppliers under Department of Defense contracts and other contracts and subcontracts in order to increase the participation of such business concerns as subcontractors and suppliers under Department of Defense contracts, other Federal Government contracts, and commercial contracts.

(c) PROGRAM PARTICIPANTS.—(1) A business concern meeting the eligibility requirements set out in subsection (d) may enter into agreements under subsection (e) and furnish assistance to disadvantaged small business concerns upon making application to the Secretary of Defense and being approved for participation in the pilot program by the Secretary. A business concern participating in the pilot program pursuant to such an approval shall be known, for the purposes of the program, as a "mentor firm".

(2) Disadvantaged small business concerns eligible for the award of Federal contracts may obtain assistance from one or more mentor firms upon entering into an agreement with the mentor firm or firms as provided in subsection (e). A disadvantaged small business concern receiving such assistance shall be known, for the purposes of the program, as a "protege firm".

(3) In entering into an agreement pursuant to subsection (e), a mentor firm may rely in good faith on a written representation of a business concern that such business concern is a disadvantaged small business concern. The Small Business Administration shall determine the status of such business concern as a disadvantaged small business concern in the event of a protest regarding the status of such business concern. If at any time the business concern is determined by the Small Business Administration not to be a disadvantaged small business concern, assistance furnished such business concern by the mentor firm after the date of the determination may not be considered assistance furnished under the program.

(d) MENTOR FIRM ELIGIBILITY.—Subject to subsection (c)(1), a mentor firm eligible for award of Federal contracts may enter into an agreement with one or more protege firms under subsection (e) and provide assistance under the program pursuant to that agreement if—

(1) during the fiscal year preceding the fiscal year in which the mentor firm enters into the agreement, the total amount of the Department of Defense contracts awarded such mentor firm and the subcontracts awarded such mentor firm under Department of Defense contracts was equal to or greater than $100,000,000; or

(2) the mentor firm demonstrates the capability to assist in the development of protege firms, and is approved by the Secretary of Defense pursuant to criteria specified in the regulations prescribed pursuant to subsection (k).

(e) MENTOR-PROTEGE AGREEMENT.—Before providing assistance to a protege firm under the program, a mentor firm shall enter into a mentor-protege agreement with the protege firm regarding the assistance to be provided by the mentor firm. The agreement shall include the following:

(1) A developmental program for the protege firm, in such detail as may be reasonable, including (A) factors to assess the protege firm's developmental progress under the program, and (B) the anticipated number and type of subcontracts to be awarded the protege firm.

(2) A program participation term, which shall not exceed five years and may be renewed upon its expiration for an additional term of not to exceed four years.

(3) Procedures for the mentor firm or protege firm to terminate the agreement voluntarily and for the mentor firm to terminate the agreement for cause.

(f) FORMS OF ASSISTANCE.—A mentor firm may provide a protege firm the following:

(1) Assistance, by using mentor firm personnel, in—

(A) general business management, including organizational management, financial management, and personnel management, marketing, business development, and overall business planning;

(B) engineering and technical matters such as production, inventory control, and quality assurance; and

(C) any other assistance designed to develop the capabilities of the protege firm under the developmental program referred to in subsection (e).

(2) Award of subcontracts on a noncompetitive basis to the protege firm under the Department of Defense or other contracts.

(3) Payment of progress payments for performance of the protege firm under such a subcontract in amounts as provided for in the subcontract, but in no event may any such progress payment exceed 100 percent of the costs incurred by the protege firm for the performance.

(4) Advance payments under such subcontracts.

(5) Loans.

(6) Cash in exchange for an ownership interest in the protege firm, not to exceed 10 percent of the total ownership interest.

(7) Assistance obtained by the mentor firm for the protege firm from one or more of the following—

(A) small business development centers established pursuant to section 21 of the Small Business Act (15 U.S.C. 648);

(B) entities providing procurement technical assistance pursuant to chapter 142 of title 10, United States Code; or

(C) a historically Black college or university or a minority institution of higher education.

(g) INCENTIVES FOR MENTOR FIRMS.—(1) The Secretary of Defense shall provide to a mentor firm reimbursement for the total amount of any progress payment or advance payment made under the program by the mentor firm to a protege firm in connection with a Department of Defense contract awarded the mentor firm.

(2) The Secretary of Defense shall provide to a mentor firm reimbursement for the costs of the assistance furnished to a protege firm pursuant to paragraphs (1) and (7) of subsection (f). The Secretary shall ensure that provision for payment of reimbursements under this paragraph is made in a Department of Defense contract awarded to the mentor firm to provide products or services or in another contract entered into between the Secretary and the mentor firm providing for the reimbursement of costs incurred under the program. Any such contract shall specify the maximum amount of any reimbursement to be made under that contract. The Secretary and the mentor firm may provide in such contract for the allocation of the costs to any Department of Defense cost-reimbursement contracts awarded the mentor firm.

(3)(A) Costs incurred by a mentor firm in providing assistance to a protege firm that are not reimbursed pursuant to paragraph (2) may be recognized as credit in lieu of subcontract awards for purposes of determining whether the mentor firm attains a subcontracting participation goal applicable to such mentor firm under a Department of Defense contract or under a divisional or company-wide subcontracting plan negotiated with the Department of Defense or another Executive agency.

(B) The amount of the credit given a mentor firm for any such unreimbursed costs shall be equal to—

(i) four times the total amount of such costs attributable to assistance provided by entities described in subsection (f)(7);

(ii) three times the total amount of such costs attributable to assistance furnished by the mentor firm's employees; and

(iii) two times the total amount of any other such costs.

(C) Under regulations prescribed pursuant to subsection (k), the Secretary of Defense shall adjust the amount of credit given a mentor firm pursuant to subparagraphs (A) and (B) if the Secretary determines that the firm's performance regarding the award of subcontracts to disadvantaged small business concerns has declined without justifiable cause.

(4) A mentor firm shall receive credit toward the attainment of a subcontracting participation goal applicable to such mentor firm for each subcontract for a product or service awarded under such contract by a mentor firm to a business concern that, except for its size, would be a small business concern owned and controlled by socially and economically disadvantaged individuals, but only if—

(A) the size of such business concern is not more than two times the maximum size specified by the Administrator of the Small Business Administration for purposes of determining whether a business concern furnishing such product or service is a small business concern; and

(B) the business concern formerly had a mentor-protege agreement with such mentor firm that was not terminated for cause.

(h) NONAFFILIATION TREATMENT.—For purposes of the Small Business Act, a protege firm may not be considered an affiliate of a mentor firm solely on the basis that the protege firm is receiving assistance referred to in subsection (f) from such mentor firm under the program.

(i) PARTICIPATION IN MENTOR-PROTEGE PROGRAM NOT TO BE A CONDITION FOR AWARD OF A CONTRACT OR SUBCONTRACT.—A mentor firm may not require a business concern to enter into an agreement with the mentor firm pursuant to subsection (e) as a condition for being awarded a contract by the mentor firm, including a subcontract under a contract awarded to the mentor firm.

(j) DURATION OF PILOT PROGRAM.—(1) Business concerns eligible to participate in the program may enter into mentor-protege agreements pursuant to subsection (e) during the period commencing on October 1, 1991, and ending on September 30, 1994.

(2) A mentor firm may not incur costs furnishing developmental assistance to a protege firm that are eligible for reimbursement pursuant to subsection (g) prior to October 1, 1991, or after September 30, 1996.

(3) A mentor firm may receive credit toward the attainment of such firm's goals for subcontract awards to disadvantaged small business concerns for unreimbursed costs incurred in providing developmental assistance to the firm's protege firms, pursuant to subsection (g)(3), for the period beginning October 1, 1991, and ending September 30, 1999.

(k) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out the pilot Mentor-Protege Program. Such regulations shall include the requirements set forth in section 8(d) of the Small Business Act (15 U.S.C. 673(d)). The Secretary shall publish the proposed regulations not later than the date 180 days after the date of the enactment of this Act. The Secretary shall promulgate the final regulations not later than the date 270 days after the date of the enactment of this Act.

(l) GENERAL ACCOUNTING OFFICE ASSESSMENT.—(1) The General Accounting Office shall evaluate the implementation of the Mentor-Protege Program established pursuant to subsection (a) to determine whether the purposes of the program, as stated in subsection (b), have been attained.

(2) A report of the evaluation conducted by the General Accounting Office pursuant to subsection (a) shall be furnished to the Committees on Armed Services and Small Business of the Senate and House of Representatives by February 1, 1994. Such report shall cover the period October 1, 1991, through September 30, 1993. Recommendations shall be included regarding reauthorization of the program, and extending its application on a Government-wide basis.

(3) An interim report shall be furnished to the Committees on Armed Services of the Senate and House of Representatives by March 30, 1992. The interim report shall—

(A) evaluate the regulatory implementation of the program by the Department of Defense;

(B) assess initial participation by firms eligible to be mentor firms or protege firms;

(C) identify deficiencies, if any, in the statutory or regulatory framework of the program likely to impair the success of the program; and

(D) make recommendations to correct any implementational impediments identified.

(m) DEFINITIONS.—In this section:

(1) The term "small business concern" means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant thereto.

(2) The term "disadvantaged small business concern" means a small business concern owned and controlled by socially and economically disadvantaged individuals.

(3) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" has the meaning given such term in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(D)(3)(C)).

(4) The term "historically Black college and university" means any of the historically Black colleges and universities referred to in section 1207(a)(2) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note).

(5) The term "minority institution of higher education" means an institution of higher education with a student body that reflects the composition specified in section 312(b)(3), (4), and (5) of the Higher Education Act of 1965 (20 U.S.C. 1058(b) (3), (4), and (5)).

(6) The term "subcontracting participation goal", with respect to a Department of Defense contract, means a goal for the extent of the participation by disadvantaged small business concerns in the subcontracts awarded under such contract, as established pursuant to section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) and section 8(d) of the Small Business Act (15 U.S.C. 637(d)).

SEC. 832. ENHANCING PARTICIPATION OF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND MINORITY INSTITUTIONS IN DEFENSE RESEARCH

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" before "Except"; and

(B) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(2) by adding at the end the following new paragraph:

"(2) The Secretary of Defense shall establish a specific goal within the overall 5 percent goal for the award of prime contracts and subcontracts to historically Black colleges and universities and minority institutions in order to increase the participation of such colleges and universities in the program provided for by this section."; and

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

"(c) TYPES OF ASSISTANCE.—(1) To attain the goal specified in subsection (a)(1), the Secretary of Defense shall provide technical assistance to the entities referred to in that subsection and, in the case of historically Black colleges and universities and minority institutions, shall also provide infrastructure assistance.

"(2) Technical assistance provided under this section shall include information about the program, advice about Department of Defense procurement procedures, instruction in preparation of proposals, and other such assistance as the Secretary considers appropriate. If the resources of the Department of Defense are inadequate to provide such assistance, the Secretary may enter into contracts with minority private sector entities with experience and expertise in the design, development, and delivery of technical assistance services to eligible individuals, business firms and institutions, defense acquisition agencies, and defense prime contractors. Department of Defense contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically Black colleges and universities, and minority institutions that each such entity brings into the program.

"(3) Infrastructure assistance provided under this section to historically Black colleges and universities and to minority institutions may include programs to:

"(A) establish and enhance undergraduate, graduate, and doctoral programs in scientific disciplines critical to the national security functions of the Department of Defense;

"(B) make Department of Defense personnel available to advise and assist faculty at such colleges and universities in the performance of defense research and in scientific disciplines critical to the national security functions of the Department of Defense;

"(C) establish partnerships between defense laboratories and historically Black colleges and universities and minority institutions for the purpose of training students in scientific disciplines critical to the national security functions of the Department of Defense;

"(D) award scholarships, fellowships, and the establishment of cooperative work-education programs in scientific disciplines critical to the national security functions of the Department of Defense;

"(E) attract and retain faculty involved in scientific disciplines critical to the national security functions of the Department of Defense;

"(F) equip and renovate laboratories for the performance of defense research;

"(G) expand and equip Reserve Officer Training Corps activities devoted to scientific disciplines critical to the national security functions of the Department of Defense; and

"(H) provide other assistance as the Secretary determines appropriate to strengthen scientific disciplines critical to the national security functions of the Department of Defense or the college infrastructure to support the performance of defense research.

"(4) The Secretary shall, to the maximum extent practical, carry out programs under this section at colleges, universities, and institutions that agree to bear a substantial portion of the cost associated with the programs.".

SEC. 833. EQUAL EMPLOYMENT OPPORTUNITIES RELATING TO AN ARMY CONTRACT

(a) LIMITATION.—Funds appropriated for procurement of aircraft for the Army for fiscal year 1991 may not be obligated for the procurement of C-23 Sherpa aircraft unless the Secretary of the Army secures a commitment from the contractor that it will support equal employment opportunities in its employment practices for all individuals irrespective of race, color, religion, sex, or national origin.

(b) REPORT.—The Secretary of the Army shall require any contractor under contract with the Army for procurement of C-23 Sherpa aircraft to submit to the Secretary, not later than April 1, 1991, a report on the contractor's compliance with the commitment regarding recruitment and subcontracting agreements secured by the Secretary under subsection (a).

SEC. 834. EVALUATION OF CONTRACTS FOR PROFESSIONAL AND TECHNICAL SERVICES

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§2331. Contracts for professional and technical services

"(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations to ensure, to the maximum extent practicable, that professional and technical services are acquired on the basis of the task to be performed rather than on the basis of the number of hours of services provided.

"(b) CONTENT OF REGULATIONS—With respect to contracts to acquire services on the basis of the number of hours of services provided, the regulations described in subsection (a) shall—

"(1) include standards and approval procedures to minimize the use of such contracts;

"(2) establish criteria to ensure that proposals for contracts for technical and professional services are evaluated on a basis which does not encourage contractors to propose uncompensated overtime;

"(3) ensure appropriate emphasis on technical and quality factors in the source selection process;

"(4) require identification of any hours in excess of 40-hour weeks included in a proposal;

"(5) ensure that offerors are notified that proposals which include unrealistically low labor rates or which do not otherwise demonstrate cost realism will be considered in a risk assessment and evaluated appropriately; and

"(6) provide guidance to contracting officers to ensure that any use of uncompensated overtime will not degrade the level of technical expertise required to perform the contract.

"(c) WAIVER OF TASK ORDER LIMITATION.—(1) The Secretary of Defense may waive the limitation in section 2304(j)(4) of this title on the total value of task orders on a case-by-case basis for specific contracting activities to the extent the Secretary considers necessary the use of master agreements in order to further the policy set forth in subsection (a) of this section.

"(2) During any fiscal year, such a waiver may not increase the total value of task orders under master agreements of a contracting activity by more than 20 percent of the value of all contracts for advisory and assistance services awarded by that contracting activity during fiscal year 1989.

"(3) Such a waiver shall not become effective until 60 days after the Secretary of Defense has published notice thereof in the Federal Register.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2330 the following new item:

"2331. Contracts for professional and technical services.".

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall publish for public comment new regulations to carry out the requirements in this section. The Secretary shall promulgate final regulations to carry out such requirements not later than 270 days after the date of the enactment of this Act.

SEC. 835. REQUIREMENT TO USE DOMESTICALLY MANUFACTURED CARBONYL IRON POWDERS

(a) LIMITATION.—Section 2507 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) CARBONYL IRON POWDERS.—(1) The Secretary of Defense shall require that only domestically manufactured carbonyl iron powders may be used in a system or item procured by or provided to the Department of Defense.

"(2) The Secretary of Defense may waive the restriction required by paragraph (1) if the Secretary certifies that such a restriction is not in the national interest.

"(3) After September 30, 1994, the Secretary may terminate the restriction required under paragraph (1) if the Secretary determines that continuing the restriction is not in the national interest.

"(4) In this subsection:

"(A) The term 'domestically manufactured' means manufactured in a facility located in the United States or Canada by an entity more than 50 percent of which is owned or controlled by citizens of the United States or Canada.

"(B) The term 'carbonyl iron powders' means powders or particles produced from the thermal decomposition of iron penta carbonyl.".

(b) EFFECTIVE DATE.—Section 2507(e) of title 10, United States Code, as added by subsection (a), shall apply with respect to systems or items procured by or provided to the Department of Defense after the date of the enactment of this Act.

SEC. 836. REDUCTION OR SUSPENSION OF CONTRACT PAYMENTS UPON FINDING OF FRAUD

(a) IN GENERAL.—Section 2307 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) In any case in which the remedy coordination official of an agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that agency is based on fraud, the remedy coordination official shall recommend that the head of the agency reduce or suspend further payments to such contractor.

"(2) The head of an agency receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by the head of an agency under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the head of an agency whether to reduce or suspend payments under paragraph (2) and for each recommendation received by such agency head in connection with such decision shall be prepared and be retained in the files of such agency.

"(5) The head of an agency shall prescribe procedures to ensure that, before such agency head decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which the head of an agency reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of such agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the head of such agency whether the suspension or reduction should continue.

"(7) The head of an agency shall prepare for each year a report containing the recommendations made by the remedy coordination official of that agency to reduce or suspend payments under paragraph (2), the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. The Secretary of each military department shall transmit the annual report of such department to the Secretary of Defense. Each such report shall be available to any member of Congress upon request.

"(8) This subsection applies to the agencies named in paragraphs (1), (2), (3), and (4) of section 2303(a) of this title.

"(9) The head of an agency may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(10) In this subsection, the term 'remedy coordination official', with respect to an agency, means the person or entity in that agency who coordinates within that agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(b) INFORMATION FROM CONTRACTOR.—Subsection (e)(1) of such section is amended by adding at the end the following new sentence: "The contractor shall provide such information and evidence as the Secretary of Defense determines necessary to permit the Secretary to carry out the preceding sentence.".

(c) EFFECTIVE DATE.—Section 2307(f) of title 10, United States Code, and the second sentence of section 2307(e)(1) of such title, as added by subsections (a) and (b), shall apply with respect to contracts entered into after the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 837. DEFENSE CONTRACTOR REQUIREMENTS WITH RESPECT TO EMPLOYEES WHO COMMUNICATE WITH GOVERNMENT OFFICIALS

(a) DEFENSE CONTRACTOR REQUIREMENT.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2409 the following new section:

"§ 2409a. Communicating with Government officials: defense contractor requirement to prohibit retaliatory personnel actions

"(a) REGULATIONS.—(1) The Secretary shall promulgate regulations containing the requirements described in subsections (b), (c), and (d) and such other provisions as the Secretary considers necessary to administer such requirements. Such regulations shall require that each contract described in paragraph (2) contain a clause requiring the contractor to comply with such regulations.

"(2) The regulations shall apply to each contract entered into by a contractor and the Department of Defense for an amount greater than $500,000, except that the regulations shall not apply to any contract in which the price is based solely on established catalog or market prices of commercial items sold in substantial quantities to the general public.

"(b) PROHIBITION.—The regulations promulgated under this section shall prohibit a defense contractor from discharging or otherwise discriminating against any employee with respect to such employee's compensation or terms and conditions of employment because the employee (or any person acting pursuant to a request of the employee) discloses to an appropriate Government official information concerning a contract between the defense contractor and the Department of Defense which the employee reasonably believes evidences a violation of any Federal law or regulation relating to Department of Defense procurement or the subject matter of the contract.

"(c) COMPLAINT AND INVESTIGATION.—The regulations promulgated under this section shall include the following provisions:

"(1) Any employee of a defense contractor who believes that he or she has been discharged or otherwise discriminated against by the defense contractor in violation of regulations promulgated under subsection (b) may file with the Secretary a complaint alleging such discharge or discrimination. Any such complaint may not be filed more than 180 days after the later of the date on which the violation is alleged to have occurred or was discovered.

"(2) A complaint filed under paragraph (1) must contain a certification, signed by the complainant, which states specifically the nature of the alleged discriminatory act and of the disclosure giving rise to such act. The certification must also contain one of the following statements:

"(A) All attempts at resolution through an internal company grievance procedure have been exhausted.

"(B) The company grievance procedure was not used because the complainant reasonably believed it to be ineffectual or to expose the complainant to employer reprisals.

"(C) The company has no company grievance procedure.

"(3) Upon receipt of a complaint filed under paragraph (1), the Secretary shall serve notice of the complaint on the defense contractor named in the complaint and the head of the agency which entered into the contract.

"(4)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an initial investigation to determine whether the complaint is frivolous or merits further investigation. As part of such initial investigation, the Secretary shall find out whether the employee and the defense contractor have attempted to resolve the dispute. If the Secretary determines that the complaint merits further investigation, the Secretary shall, except as provided in subparagraph (B), complete an investigation of the complaint within 90 days after receipt of the complaint.

"(B) If the Secretary determines that it is not possible to complete an investigation of a complaint within the 90-day period prescribed in subparagraph (A), the Secretary shall notify the employee of the reasons why the investigation cannot be completed within such time period and of the date when the investigation will be completed. The Secretary also may defer action on a complaint at any time with the consent of the complainant and the defense contractor.

"(C) Not later than 30 days after an investigation is completed, the Secretary of Defense shall provide a written report of the results of the investigation to the complainant, any person acting on behalf of the complainant, and the defense contractor alleged to have committed the violation.

"(D) Within 90 days after providing a report of the results of an investigation of a complaint, the Secretary shall issue an order providing the relief prescribed in paragraph (5) or denying the complaint, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement agreement entered into by the Secretary and the defense contractor alleged to have committed such violation.

"(E) An order of the Secretary under this section shall be made on the record after notice and opportunity for an agency hearing. In issuing an order, the Secretary shall follow procedures that are as informal as practicable, consistent with principles of fundamental fairness. At a minimum, the Secretary shall afford the complainant and the defense contractor an opportunity to submit in writing information and arguments in opposition to the conclusion of the report of the results of the investigation.

"(F) The Secretary may not enter into a settlement agreement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(5) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of regulations promulgated under subsection (b) has occurred, the Secretary may issue, separately or in combination, any of the following:

"(A) An order that the defense contractor who committed such violation take affirmative action to abate the violation.

"(B) An order that such contractor reinstate the complainant to the position held by such individual when discharged, together with the compensation (including back pay), employment benefits, and other terms and conditions of his or her employment.

"(C) An assessment against such contractor (at the request of the complainant) of a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) reasonably incurred by the complainant for, or in connection with, bringing the complaint on which the order was issued, as determined by the Secretary.

"(6) In determining whether a violation of regulations promulgated under subsection (b) has occurred, the Secretary shall use the standard of proof that is used by the Merit Systems Protection Board in proceedings under section 1221 of title 5, as described paragraphs (1) and (2) of section 1221(e) of that title.

"(d) REVIEW AND ENFORCEMENT.—(1) Any person adversely affected or aggrieved by an order issued under subsection (c)(5)(B) may obtain review of the order's conformance with this section and the regulations promulgated under this section in the United States court of appeals for the circuit in which the violation alleged in the order occurred. No petition seeking such review may be filed more than 60 days after issuance of the Secretary's order. Review shall conform to chapter 7 of title 5.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

"(3) Whenever a person has failed to comply with an order issued under subsection (c)(5)(B), the Secretary shall file an action for enforcement of such order in the United States district court for the district in which the violation was found to have occurred. In any action brought under this subsection, the court may grant appropriate relief, including injunctive relief, and compensatory and exemplary damages.

"(4) Any nondiscretionary duty imposed by the regulations under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

"(e) DEFINITIONS.—In this section:

"(1) The term 'appropriate Government official' includes—

"(A) an officer or employee of the Department of Defense responsible for command, direct staff assistance to a commander, contract administrator, program management, audit, inspection, investigation, or enforcement of any law or regulation relating to Government procurement or the subject matter of the contract;

"(B) a Member of Congress or an officer or employee of Congress, the General Accounting Office, the Congressional Budget Office, or the Office of Technology Assessment; and

"(C) any other officer or employee of the United States whose duties include the investigation or enforcement of any law, rule, or regulation relating to Government procurement or the subject matter of the contract.

"(2) The term 'defense contractor' means any employer providing goods or services, under contract, to the Department of Defense.

"(3) The term 'Secretary' means the Secretary of Defense.

"(4) The term 'information concerning a contract' means, with respect to a contract with the Department of Defense, information about cost, price, compliance with specifications, meeting the user's requirements, user safety, use or disposition of services, real property or personal property acquired under the contract, the procurement process (including competition, negotiation, award, and administration), and relationships with Government personnel, competitors, or subcontractors.".

(2) The table of sections at the beginning of chapter 141 of such title is amended by inserting after the item relating to section 2409 the following new item:

"2409a. Communicating with Government officials: defense contractor requirement to prohibit retaliatory personnel actions.".

(b) EFFECTIVE DATE.—Section 2409a of title 10, United States Code, as added by subsection (a), shall apply to contracts entered into during the period beginning on the date which is 180 days after the date of the enactment of this Act. Such section shall cease to be in effect on the date which is 4 years after such date of enactment.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

PART A—GENERAL MANAGEMENT MATTERS

SEC. 901. NATIONAL MILITARY STRATEGY REPORTS

(a) REPORTS BY THE SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall submit to Congress a national military strategy report during each of fiscal years 1992, 1993, and 1994. Each such report shall be submitted with the Secretary's annual report to Congress for that year under section 113(j) of title 10, United States Code.

(b) MATTERS TO BE COVERED IN REPORTS.—Each such report shall cover a period of at least ten years and shall address the following:

(1) The threats facing the United States and its allies.

(2) The degree to which military forces can contribute to the achievement of national objectives.

(3) The strategic military plan for applying those forces to the achievement of national objectives.

(4) The risk to the national security of the United States and its allies that ensues.

(5) The organization and structure of military forces to implement the strategy.

(6) The broad mission areas for various components of the forces and the broad support requirements to implement the strategy.

(7) The functions for which each military department should organize, train, and equip forces for the combatant commands responsible for implementing the strategy.

(8) The priorities assigned to major weapons and equipment acquisitions and to research and development programs in order to fill the needs and eliminate deficiencies of the combatant commands.

(c) RELATIONSHIP OF PLANS TO BUDGET.—The strategic military plans and other matters covered by each report shall be fiscally constrained and shall relate to the current Department of Defense Multiyear Defense Plan and resource levels projected by the Secretary of Defense to be available over the period covered by the report.

(d) EFFECTS OF ALTERNATIVE BUDGET LEVELS.—Each such report shall also include an assessment of the effect on the risk and the other components of subsection (b) in the event that (1) an additional $50,000,000,000 is available in budget authority in the fiscal year which is addressed by the budget request that the report accompanies, and (2) budget authority for that fiscal year is reduced by $50,000,000,000. For these assessments the Secretary of Defense shall make appropriate assumptions about the funds available for the remainder of the period covered by the report.

(e) ROLE OF CHAIRMAN OF JOINT CHIEFS OF STAFF.—In accordance with his role as principal military adviser to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall participate fully in the development of each such report. The Secretary of Defense shall provide the Chairman such additional guidance as is necessary to enable the Chairman to develop and recommend fiscally constrained strategic plans for the Secretary's consideration in accordance with section 153(a)(2) of title 10, United States Code. In accordance with additional responsibilities of the Chairman set out in section 153, the Chairman shall provide recommendations to the Secretary on the other components of paragraph (2).

(f) CLASSIFICATION OF REPORTS.—The reports submitted to Congress under subsection (a) shall be submitted in both classified and (to the extent practicable) unclassified versions.

SEC. 902. JOINT STAFF

Section 155 of title 10, United States Code, is amended by striking out subsection (g) and redesignating subsection (h) as subsection (g).

SEC. 903. ARMY RESERVE COMMAND

(a) ESTABLISHMENT OF COMMAND.—The Secretary of the Army, with the advice and assistance of the Chief of Staff of the Army, shall establish a United States Army Reserve Command under the command of the Chief of Army Reserve. The Army Reserve Command shall be a major subordinate command of Forces Command.

(b) ASSIGNMENT OF FORCES.—The Secretary of the Army—

(1) shall assign all forces of the Army Reserve in the continental United States to the Army Reserve Command; and

(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Army specified in section 3013 of title 10, United States Code, shall assign all such forces of the Army Reserve to the Commander-in-Chief, Forces Command.

(c) TEST PERIOD.—The establishment of the Army Reserve Command shall be for a test period ending two years after the date of the enactment of this Act.

(d) REPORTS BY SECRETARY OF THE ARMY.—The Secretary of the Army, during the test period under subsection (c), shall submit to the Committees on Armed Services of the Senate and House of Representatives a semiannual report on the United States Army Reserve Command. Each such report shall explain—

(1) command arrangements;

(2) responsibility for base operations support;

(3) personnel, logistics, and resource management; and

(4) engineering and information management support.

(e) REVIEW BY AN INDEPENDENT COMMISSION.—The Secretary of the Army shall establish an independent commission to assist the Secretary in assessing the progress and effectiveness of the United States Army Reserve Command after it has been in existence for a period of one year.

SEC. 904. SECURITY INVESTIGATIONS

(a) SECURITY INVESTIGATIONS.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2244. Security investigations

"(a) Funds appropriated to the Department of Defense may not be used for the conduct of an investigation by the Department of Defense, or by any other Federal department or agency, for purposes of determining whether to grant a security clearance to an individual or a facility unless the Secretary of Defense determines both of the following:

"(1) That a current, complete investigation file is not available from any other department or agency of the Federal government with respect to that individual or facility.

"(2) That no other department or agency of the Federal government is conducting an investigation with respect to that individual or facility that could be used as the basis for determining whether to grant the security clearance.

"(b) For purposes of subsection (a)(1), a current investigation file is a file on an investigation that has been conducted within the past five years.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2244. Security investigations.".

SEC. 905. TWENTY PERCENT REDUCTION IN DEFENSE ACQUISITION WORKFORCE

(a) REDUCTION REQUIRED.—The Secretary of Defense shall take such action as is necessary to reduce the number of employees in the Department of Defense acquisition workforce on the last day of each of fiscal years 1991 through 1995 below the number of employees in such workforce on the last day of the preceding fiscal year by not less than the number equal to 4 percent of the number of the employees in such workforce on September 30, 1990.

(b) DEFINITION.—In this section, the term "Department of Defense acquisition workforce" means all positions included in the description of the acquisition workforce in Appendix A of "Defense Management", a report of the Secretary of Defense to the President, dated July 1989.

SEC. 906. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND HEADQUARTERS SUPPORT ACTIVITIES

(a) REDUCTION REQUIRED.—The Secretary of Defense shall take such action as is necessary to reduce the number of members of the Armed Forces and civilian employees who are assigned or detailed to duty in the management headquarters activities and headquarters support activities of the Department of Defense on the last day of each of the fiscal years 1991 through 1995 below the number of such personnel assigned or detailed to such duty on the last day of the preceding fiscal year by not less than the number equal to 4 percent of the number of such personnel assigned or detailed to such duty on September 30, 1990.

(b) DEFINITION.—For purposes of this section, the terms "management headquarters activities" and "headquarters support activities" have the meaning given those terms in Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities" dated November 25, 1988.

SEC. 907. INTELLIGENCE PRIORITIES AND REORGANIZATION

(a) REVISION OF PRIORITIES AND CONSOLIDATION OF FUNCTIONS.—The Secretary of Defense, together with the Director of Central Intelligence, shall conduct a joint review of all intelligence and intelligence-related activities in the Tactical Intelligence and Related Activities (TIARA) programs and the National Foreign Intelligence Program (NFIP). The Secretary, together with the Director, shall take the following actions with respect to those activities:

(1) In cases in which redundancy or fragmentation exist, consolidate functions, programs, organizations, and operations to improve the efficiency and effectiveness of the conduct of those intelligence activities or programs.

(2) Revise intelligence collection and analysis priorities and resource allocations to reflect changes in the international security environment.

(3) Strengthen joint intelligence functions, operations, and organizations.

(4) Improve the quality and independence of intelligence support to the weapons acquisition process.

(5) Improve the responsiveness and utility of national intelligence systems and organizations to the needs of the combatant commanders.

(b) PERSONNEL REDUCTIONS.—(1) The number of personnel assigned or detailed to the National Foreign Intelligence Program and related Tactical Intelligence and Related Activities programs shall be reduced by not less than 5 percent of the number of such personnel described in paragraph (2) during each of fiscal years 1992 through 1996.

(2) The number of personnel referred to in paragraph (1) is the number of personnel assigned or detailed to such programs on September 30, 1990.

SEC. 908. ADDITIONAL FUNDING FOR UNIFIED AND SPECIFIED COMBATANT COMMANDS FOR FISCAL YEAR 1991

(a) CINC INITIATIVE FUND.—There is established for fiscal year 1991 a separate budget account to be managed by the Chairman of the Joint Chiefs of Staff. The Chairman may use the account to provide funds, upon request, to the commanders of the unified and specified combatant commands and the Commander, United States Element, North American Aerospace Defense Command. Such funds shall be provided, as specified by the Chairman, for any of the activities named in subsection (b).

(b) Permissible Activities.—(1) Activities for which funds may be made provided under subsection (a) are the following:

(A) Force training.

(B) Contingencies.

(C) Selected operations.

(D) Command and control.

(E) Joint exercises.

(F) Humanitarian and civic assistance.

(G) Military education and training to military and related civilian personnel of foreign countries.

(H) Personnel expenses of defense personnel for bilateral or regional cooperation programs.

(2) The Chairman of the Joint Chiefs of Staff, in considering requests for funds under this section, should give priority consideration to requests for funds to be used for activities which would enhance the warfighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds.

(c) AMOUNT AND SOURCE OF FUNDS.—(1) Of the amount authorized to be appropriated pursuant to section 301(a) for the Defense Agencies, $35,000,000 shall be made available by the Secretary of Defense for the account established in subsection (a).

(2) Any amount provided by the Chairman out of the account established under subsection (a) for an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for fiscal year 1991.

(d) LIMITATIONS.—(1) Not more than $7,000,000 of the funds provided from that account may be used to purchase items with a unit cost in excess of $15,000.

(2) Funds may not be provided under this section for any activity that has been denied authorization by Congress.

SEC. 909. STUDY AND PLAN REGARDING MOBILITY REQUIREMENTS

(a) STUDY AND PLAN REQUIRED.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall conduct a study to determine mobility requirements for the Armed Forces and shall develop an integrated plan to meet those requirements.

(b) REPORTS REQUIRED.—(1) The Secretary shall submit to the congressional defense committees two reports regarding the study required by subsection (a).

(2) The first report shall cover intertheater requirements, shall contain a copy of the integrated plan regarding such requirements, and shall be submitted not later than March 29, 1991.

(3) The second report shall cover intratheater requirements, surface requirements, and requirements for mobility within the continental United States, shall contain a copy of the integrated plan regarding such requirements, and shall be submitted not later than June 28, 1991.

(c) FORMAT AND CONTENT OF REPORTS.—(1) Each report shall be in the same format as the report submitted to Congress under section 203(b) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1080), and shall cover (in addition to the matters specified in paragraphs (2) and (3)) the same matters required under such section and the Joint Explanatory Statement of the Committee of Conference relating to such Act, as set out in Senate Report 96-895, 96th Congress, second session.

(2) The two reports together shall include an analysis of the total mix of airlift, sealift, amphibious lift, surface transportation, and prepositioned war material (both at sea and on land) necessary for the United States to respond to contingent threats against the national security interests of the United States during the remainder of the current decade and beyond. The analysis of prepositioned war material should identify where such material should be located. The analysis may not be limited to consideration of a single requirement for lift and material based upon the most demanding case, but shall include an assessment of a range of requirements for lift and material based upon various military contingencies and scenarios. The Operation Just Cause and Operation Desert Shield deployments shall be included among the scenarios examined. The analysis shall also include—

(A) an assessment of both intratheater and intertheater lift requirements; and

(B) an assessment of the total requirements for mobility, including support equipment and the equipment necessary for strategic mobility at unimproved ports, airfields, and other facilities.

(3) The two reports together shall also include the following:

(A) An assessment of how the total mix of mobility and prepositioning requirements has been affected by changing circumstances in Europe and elsewhere, including—

(i) an increase in the opportunities to detect any planned attack by the Soviet Union;

(ii) an increase in the time likely to be available to prepare for such an attack after detection;

(iii) a reduced level of Soviet threat to the national security interests of the United States;

(iv) the decreasing level of Armed Forces personnel deployed overseas;

(v) the changing threat in Northeast Asia; and

(vi) the changing threat in Southwest Asia.

(B) An assessment of how such requirements are being affected by the changing need for power projection capability in low-intensity and medium-intensity conflicts.

(C) An assessment of how such requirements would be affected by the loss of United States military bases, and the loss of access to other military bases, in such overseas locations as the Philippines.

(D) An assessment of how the reduced reliance expected to be placed by the Armed Forces on NATO and other allied shipping and military bases for employment of the Armed Forces unilaterally in contingent actions affects the requirements for airlift, sealift, amphibious lift, and prepositioned war material.

(E) An assessment of whether increased dependence should be placed upon sealift capabilities in view of the factors assessed pursuant to subparagraphs (A) through (D) and the potential benefits of sealift vessels which might be developed that would be faster than the sealift vessels currently available from commercial sources.

(F) A discussion of initiatives that can be undertaken to reduce the time required to move forces and material from home bases to combat areas, including measures that can be undertaken to reduce (i) the time necessary for loading and unloading personnel and equipment at airports and seaports, (ii) the time necessary for moving ground forces to airports and seaports, and (iii) the delivery times from points of debarkation to final destinations.

SEC. 910. ELIMINATION OF STATUTORY POSITION OF CHIEF OF NAVAL RESEARCH

(a) REPEAL.—Section 5021 of title 10, United States Code, is repealed.

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) Section 5022 of such title is amended—

(A) by redesignating subsections (a), (b) and (c) as subsections (b), (c) and (d), respectively; and

(B) by inserting after the section heading the following new subsection (a):

"(a) There is in the Office of the Secretary of the Navy an Office of Naval Research.".

(2) The table of sections at the beginning of chapter 503 of such title is amended by striking out the item relating to section 5021.

PART B—PROFESSIONAL MILITARY EDUCATION

SEC. 911. PREPARATION OF BUDGET REQUESTS FOR OPERATION OF PROFESSIONAL MILITARY EDUCATION SCHOOLS

(a) UNIFORM BUDGET REQUESTS.—Chapter 108 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2162. Preparation of budget requests for operation of professional military education schools

"(a) UNIFORM COST ACCOUNTING.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall promulgate a uniform cost accounting system for use by the Secretaries of the military departments in preparing budget requests for the operation of professional military education schools.

"(b) PREPARATION OF BUDGET REQUESTS.—(1) Amounts requested for a fiscal year for the operation of each professional military education school shall be set forth as a separate budget request in the materials submitted by the Secretary of Defense to Congress in support of the budget request for the Department of Defense.

"(2) The Secretary of a military department preparing a budget request for a professional military education school shall carefully consider the views of the Chairman of the Joint Chiefs of Staff, particularly with respect to the amount of the request for the operation of the schools of the National Defense University and the joint professional military education curricula of the other professional military education schools.

"(c) COMPARISON OF BUDGET REQUESTS.—Materials prepared in support of the budget request for a professional military education school shall describe whether the amount requested for that school is comparable to the amounts requested for other pro-

fessional military education schools, taking into consideration the size and activities of the schools.

"(d) DEFINITIONS.—In this section:

"(1) The term 'professional military education school' means—

"(A) the National Defense University;

"(B) the Army War College;

"(C) the College of Naval Warfare;

"(D) the Air War College;

"(E) the United States Army Command and General Staff College;

"(F) the College of Naval Command and Staff;

"(G) the Air Command and Staff College; or

"(H) the Marine Corps Command and Staff College.

"(2) The term 'National Defense University' means the National War College, the Armed Forces Staff College, and the Industrial College of the Armed Forces.".

(b) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2162. Preparation of budget requests for operation of professional military education schools.".

(2) The heading of such chapter is amended to read as follows:

"CHAPTER 108—DEPARTMENT OF DEFENSE SCHOOLS".

(3) The items relating to such chapter in the table of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, of title 10, United States Code, are amended to read as follows:

"108. Department of Defense Schools".

(b) APPLICATION OF AMENDMENT.—Section 2162 of title 10, United States Code, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1991.

SEC. 912. AUTHORITY OF NAVAL WAR COLLEGE TO CONFER DEGREE OF MASTER OF ARTS IN NATIONAL SECURITY AND STRATEGIC STUDIES

(a) AUTHORITY.—Part III of subtitle C of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 609—PROFESSIONAL MILITARY EDUCATION SCHOOLS

"Sec.

"7101. Naval War College: master of arts in national security and strategic studies.

"§ 7101. Naval War College: master of arts in national security and strategic studies

"(a) AUTHORITY.—Upon the recommendation of the faculty of the Naval War College, the President of the college may confer the degree of master of arts in national security and strategic studies upon graduates of the college who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.

"(c) NAVAL WAR COLLEGE DEFINED.—In this section, the term 'Naval War College' means the College of Naval Warfare and the College of Naval Command and Staff.".

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle C of title 10, United States Code, and at the beginning of part III of such subtitle, are amended by inserting after the item relating to chapter 607 the following new item:

"609. Professional Military Educational Schools..... 7101".

PART C—CONTRACTING OUT

SEC. 921. CONTINUATION OF AUTHORITY OF BASE COMMANDERS OVER CONTRACTING FOR COMMERCIAL ACTIVITIES

Section 2468(f) of title 10, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1991".

SEC. 922. AUTHORIZATION OF PILOT PROGRAM FOR DEPOT MAINTENANCE WORKLOAD COMPETITION

(a) PILOT PROGRAM AUTHORIZED.—(1) Notwithstanding section 2466 of title 10, United States Code, the Secretary of Defense may conduct a depot maintenance workload competition pilot program during fiscal year 1991.

(b) ELEMENTS OF PROGRAM.—(1) The pilot program authorized by subsection (a) shall involve competition for a portion of the depot maintenance workload at one Army depot maintenance activity and one Air Force depot maintenance activity.

(2) Any competition under such pilot program shall be open to such maintenance activities of the Department of Defense as the Secretary of Defense may designate. The Secretary may also include private contractors in such competition.

(c) REPORT.—Not later than March 31, 1992, the Secretary of Defense shall submit to the congressional defense committees a report—

(1) explaining the basis for selecting the installations and workload selected to participate in the pilot program authorized by subsection (a);

(2) containing a detailed explanation of the results of such pilot program; and

(3) comparing such results to the experience of one Navy depot maintenance activity that competed its workload during fiscal year 1991.

TITLE X—DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

SEC. 1001. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES FUNDING

Funds authorized to be appropriated pursuant to section 301(a)(14) for drug interdiction and counter-drug activities of the Department of Defense shall be available for the purposes and in the amounts specified as follows:

(1) For operation and maintenance, $585,600,000.

(2) For procurement, $345,300,000.

(3) For National Guard pay and allowances, $105,500,000.

(4) For research, development, test, and evaluation, $47,700,000.

SEC. 1002. OVER-THE-HORIZON RADAR

(a) STUDY.—(1) The Secretary of Defense, acting through the Joint Electronics Warfare Center, shall conduct a study to examine the need for an over-the-horizon radar in the central part of the United States directed toward Mexico.

(2) In carrying out such study, the Secretary shall assess—

(A) the capability of the over-the-horizon radar against small targets, including single engine aircraft of the type used in drug trafficking;

(B) the ability of the over-the-horizon radar to correlate such targets with existing civilian air traffic; and

(C) the relative cost and operational effectiveness of an over-the-horizon radar compared with continued investment in other types of radars, such as the Small Aerostat System, land based aerostats, and the Caribbean based radar system.

(3) The Secretary shall submit the results of the study required by paragraph (1) to the congressional defense committees not later than 180 days after the date of the enactment of this Act.

(4) Of the amount made available for procurement under section 1001(2), $3,000,000 shall be available to carry out the study required by paragraph (1).

(b) TESTBED FACILITY.—Of the amount made available for procurement under section 1001(2) for the over-the-horizon radar, $6,000,000 shall be used for the procurement of a commercial testbed facility for the over-the-horizon radar to serve as an interim facility until the study required by subsection (a) is completed and the need for an over-the-horizon radar for drug interdiction is determined.

(c) LIMITATION ON OTHER SPENDING.—The balance of other funds made available for procurement under section 1001(2) for the over-the-horizon radar may not be obligated until 30 days after—

(1) the Secretary of Defense certifies to Congress, after conclusion of the study required by subsection (a), that such a system is needed, meets the requirements of the drug interdiction program, and would be the most cost effective system when compared with the cost of additional investment in other radar systems or other intelligence programs; and

(2) in the event the Over-The-Horizon Backscatter radar (OTH-B) is determined to be the most suitable over-the-horizon radar system, the Office of Test and Evaluation certifies to Congress that the East Coast System of the OTH-B meets all contract requirements and performance specifications contained in the Test and Evaluation Master Plan and the Operation Test Plan for that system.

SEC. 1003. CIVIL AIR PATROL

Of the amount made available for operation and maintenance under section 1001(1), $1,000,000 shall be available to the Secretary of Defense for the purpose of paying expenses incurred by the Civil Air Patrol in conducting drug surveillance flights.

SEC. 1004. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

(a) SUPPORT TO OTHER AGENCIES.—During fiscal year 1991, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested—

(1) by the official who has responsibility for the counter-drug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;

(2) by the appropriate official of a State or local government, in the case of support for State or local law enforcement agencies; or

(3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

(b) TYPES OF SUPPORT.—The purposes for which the Secretary may provide support under subsection (a) are the following:

(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State or local government by the Department of Defense for the purposes of—

(A) preserving the potential future utility of such equipment for the Department of Defense; and

(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in subparagraph (A) for the purpose of—

(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

(4) The establishment (including unspecified minor construction) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities within or outside the United States.

(5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

(6) Aerial and ground reconnaissance outside, at, or near the borders of the United States.

(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

(c) CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

(d) LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

(e) CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

(f) RELATIONSHIP TO OTHER LAWS.—(1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (d), section 376 of title 10, United States Code.

(g) AVAILABILITY OF FUNDS.—Of the amount made available for operation and maintenance under section 1001(1), $50,000,000 shall be available to the Secretary of Defense for the purpose of carrying out this section.

SEC. 1005. TRANSFER OF EXCESS DEFENSE ARTICLES

Pursuant to section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 372 note) and section 372 of title 10, United States Code, the Secretary of Defense shall review the availability of equipment resulting from the withdrawal of United States forces from Europe and Asia for the purpose of identifying excess equipment that may be suitable for drug enforcement activities for transfer to appropriate Federal, State, or local civilian law enforcement authorities.

SEC. 1006. SENSE OF CONGRESS REGARDING THE EFFECTIVE USE OF COUNTER-DRUG FUNDS

It is the sense of Congress that the Secretary of Defense and the Chairman of the Joint Chiefs of Staff should continue to emphasize the commitment of the Department of Defense to its extremely important mission of combating illegal drugs so that the entire chain of command of the Department of Defense fully and effectively uses funds of the Department to ensure the maximum contribution of the Armed Forces to the national counter-drug effort.

SEC. 1007. REPORT ON DEFENSE SPENDING FOR COUNTER-DRUG ACTIVITIES

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees, the Senate Caucus on International Narcotics Control, and the Select Committee on Narcotics Abuse and Control of the House of Representatives a report examining the counter-drug budget and expenditures of the Department of Defense.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of the funds authorized and appropriated in fiscal years 1989 and 1990 for the counter-drug activities of the Department of Defense, including—

(A) an examination of how those funds were obligated and expended, including a month-by-month breakdown of obligations and expenditures;

(B) a determination of whether there were delays in obligating and expending those funds and the reasons for any such delays; and

(C) an accounting of the amount of funds available for counter-drug activities that lapsed at the end of each of the fiscal years.

(2) A determination of whether there has been a systemic failure in the timely obligation and expenditure of funds appropriated for the counter-drug activities of the Department of Defense for fiscal years 1989 and 1990.

(3) An analysis of the effectiveness of the role of the Department of Defense Coordinator for Drug Enforcement Policy and Support, including

(A) a determination whether the responsibility of serving as both the Assistant Secretary of Defense for Reserve Affairs and Coordinator for Drug Enforcement Policy and Support complicates the ability of the Assistant Secretary to coordinate all entities within the Department of Defense in the counter-drug mission; and

(B) a determination regarding the adequacy of personnel levels in the Office of the Assistant Secretary to meet his responsibility for coordinating counter-drug activities within the Department of Defense and ensuring that funds appropriated for such activities are obligated and expended in a timely manner.

(4) Recommendations for correcting any problems found in the course of the review.

SEC. 1008. STUDY OF UTILITY OF OH-58D HELICOPTER IN DETECTION OF CROSS-BORDER INTRUSIONS BY DRUG SMUGGLERS

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the feasibility and effectiveness of using the OH-58D Scout helicopters for detecting, monitoring, and conducting surveillance of the ground movements of drug smugglers along the southwest border of the United States. In carrying out such study, the Secretary shall consider in particular the following matters:

(1) The suitability of the OH-58D helicopter for performing the missions described in the first sentence.

(2) The feasibility of having personnel of the Army National Guard operate and maintain OH-58D helicopters when such personnel are not in Federal service.

(b) INTERAGENCY COORDINATION.—The Secretary shall carry out the study required by subsection (a) in consultation with the Commissioner of the United States Customs Service.

(c) SUBMISSION OF REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the study required by subsection (a) not more than 180 days after the date of the enactment of this Act. The Secretary shall include in the report the conclusions of the Secretary based on the study together with such comments and recommendation as the Secretary considers appropriate.

SEC. 1009. ANDEAN ANTI-DRUG EFFORTS

(a) FINDINGS.—Congress makes the following findings:

(1) The support for democratic process and civilian governance in the Andean countries of Peru, Bolivia, and Colombia, the first two of which have only recently emerged from periods of military rule, is a necessary precondition for long-term stability in those countries and for the successful fight against the production and traffic of illegal drugs in those countries.

(2) The separation of military and civilian law enforcement functions has historically been a critical element in democracies around the world, including the United States.

(3) There is a need to determine whether the current policies of the United States unduly emphasize assistance to military entities of those countries rather than civilian law enforcement entities in carrying out anti-drug efforts in those countries and whether such policies might tend to undermine the dual long-term policy goals of the United States of stopping the traffic of drugs at their sources and the preservation of civilian control over the newly established democracies of the Andean countries.

(4) There is a need to assess the impact that United States assistance in the Andean anti-drug effort will have on reducing drug activity and supporting democratic processes in the Andean countries.

(b) REPORT REQUIRED.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of State and the Secretary of Defense shall, in consultation with the Director of the Office of National Drug Control Policy, jointly submit to Congress a report detailing current United States policies with respect to the Andean countries in general and with respect to the counter-drug enforcement activities and associated training programs of the United States in such countries in particular.

(2) Such report shall include an analysis of the impact that the involvement of the military forces of the Andean countries in counter-drug enforcement activities has on the democratic institutions of those countries and how the civilian institutions of those countries might be strengthened in order to assure the successful pursuit of a counter-drug strategy.

(3) Such report shall contain specific legislative recommendations for improving the assistance activities of the United States in the Andean countries in order to avoid unnecessary duplications and contradictions in meeting United States policy goals in those countries.

SEC. 1010. CREATION OF A MULTILATERAL COUNTER-DRUG STRIKE FORCE

(a) FINDINGS.—Congress makes the following findings:

(1) Congress has in the past sought approval for a multilateral strike force dedicated to the war on drugs.

(2) The proposal by the Prime Minister of Jamaica for the creation of a multilateral, international counter-drug strike force is the first operative proposal for the use of a multilateral force against the drug cartels in Latin America by a government leader in the Western Hemisphere and should be given serious consideration.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that—

(1) the Prime Minister of Jamaica is to be commended for his proposal;

(2) the President should call for international negotiations for the purpose of discussing the establishment of an international strike force to counter international drug traffickers; and

(3) the United States should work through the United Nations and other multilateral organizations to determine the feasibility of establishing and using a force and should assist in the establishment of such a force if the President determines the proposal to be feasible.

SEC. 1011. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER

Title I of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501 et seq.) is amended by inserting after section 1003 the following new section:

"SEC. 1003A. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER

"(a) ESTABLISHMENT.—There is established within the Office of National Drug Control Policy, the Counter-Drug Technology Assessment Center (hereinafter in this section referred to as the 'Center'). The Center shall operate under the authority of the Director of National Drug Control Policy and shall serve as the central counter-drug enforcement research and development organization of the United States Government.

"(b) DIRECTOR.—There shall be at the head of the Center the Chief Scientist of Counter-Drug Technology (hereinafter in this section referred to as the 'Chief Scientist'). The Chief Scientist shall be appointed by the Director of National Drug Control Policy from among individuals qualified and distinguished in the area of science, engineering, or technology.

"(c) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR.—(1) The Director, acting through the Chief Scientist, shall—

"(A) identify and define the short, medium, and long-term scientific and technological needs of Federal, State, and local drug enforcement agencies, including—

"(i) advanced surveillance, tracking, and radar imaging;

"(ii) electronic support measures;

"(iii) communications;

"(iv) data fusion, advanced computer systems and artificial intelligence; and

"(v) chemical, biological, radiological (including neutron, electron, and graviton) and other means of detection;

"(B) make a priority ranking of such needs according to fiscal and technological feasibility, as part of a National Counter-Drug Enforcement Research and Development Strategy;

"(C) oversee and coordinate counter-drug technology initiatives with related activities of other Federal civilian and military departments; and

"(D) under the general authority of the Director of National Drug Control Policy, submit requests to Congress for the reprogramming or transfer of funds appropriated for counter-drug enforcement research and development.

"(2) The authority granted to the Director under this section shall not extend to the award of contracts, management of individual projects, or other operational activities.

"(d) COUNTER-DRUG BUDGET SUBMISSION.—Beginning with the budget submitted to Congress for fiscal year 1992 pursuant to section 1105 of title 31, United States Code, the President shall submit a separate and detailed request relating to those Federal departments and agencies having responsibility for counter-drug enforcement research and development programs.

"(e) PERSONNEL.—Subject to subsections (d) and (e) of section 1003 the Chief Scientist shall select and appoint a staff of not more than 10 employees with specialized experience in scientific, engineering, and technical affairs.".

TITLE XI—OPERATION DESERT SHIELD

PART A—FUNDING MATTERS

SEC. 1101. SUPPLEMENTAL FUNDS FOR FISCAL YEAR 1990

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—The appropriations and transfers made by title II of Public Law 101-403 are hereby authorized. The authorizations in the preceding sentence are in addition to the amounts authorized to be appropriated for fiscal year 1990 by the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189).

(b) PURPOSES FOR WHICH SUPPLEMENTAL FUNDS MAY BE USED.—Funds appropriated or otherwise made available by title II of Public Law 101-403 (other than for "Other Procurement, Army" and for "Research, Development, Test, and Evaluation, Navy") may be used only—

(1) for the purposes stated in section 201 of that Public Law; or

(2) to liquidate obligations incurred by the Department of Defense during fiscal year 1990 pursuant to authority under section 2201 of title 10, United States Code.

SEC. 1102. ACCOUNTING FOR COSTS OF OPERATION DESERT SHIELD

The Secretary of Defense shall maintain separate financial and cost records for Operation Desert Shield. Those records shall include records showing the amount and use of any contributions made by other nations.

PART B—MILITARY PERSONNEL MATTERS

SEC. 1111. MILITARY PAY AND ALLOWANCES

(a) IMMINENT DANGER PAY.—The Secretary of Defense may provide for the payment of imminent danger pay under section 310 of title 37, United States Code, to members of the Armed Forces assigned to duty in the Persian Gulf area in connection with Operation Desert Shield with respect to periods of duty served after August 1, 1990, and before the date of the enactment of this Act.

(b) VARIABLE HOUSING ALLOWANCE.—(1) In the case of Reserve members called or ordered to active duty (other than for training) and retired members called to active duty under section 688 of title 10, United States Code, in connection with Operation Desert Shield, the variable housing allowance under section 403a of title 37, United States Code, shall be paid to such members for fiscal year 1990 and during fiscal year 1991 without regard to the limitation in subsection (b)(3) of that section.

(2) The limitation in subsection (d) of that section on the total amount of variable housing allowance that may be paid for a fiscal year shall not apply for fiscal year 1991.

(c) SPECIAL PAY FOR RESERVE MEDICAL AND DENTAL OFFICERS.—(1) A reserve medical or dental officer described in paragraph (2) shall be eligible during fiscal years 1990 and 1991 for special pay under section 302 or 302b of title 37, United States Code (whichever applies), in the same manner as a regular medical or dental officer, notwithstanding the requirements in those sections that the call or order to active duty be for a period of not less than one year or that the officer execute a written agreement to remain on active duty for a period of not less than one year.

(2) A reserve medical or dental officer referred to in paragraph (1) is a reserve officer in an active status who—

(A) is an officer of the Medical or Dental Corps of the Army or the Navy or an officer of the Air Force designated as a medical or dental officer; and

(B) is on active duty (other than for training) under a call or order to active duty for a period of less than one year in connection with Operation Desert Shield.

(3) Payment of special pay under section 302 or 302b of title 37, United States Code, pursuant to this subsection may be made on a monthly basis. If the service on active duty of a reserve medical or dental officer referred to in paragraph (1) is terminated before the end of the period for which a payment is made under those sections to the officer, the officer is entitled to special pay under those sections only for the portion of that period that the officer actually served on active duty. The officer shall refund any amount received in excess of the amount that corresponds to the period of active duty of the officer.

(4) While a reserve medical officer referred to in paragraph (1) receives special pay under section 302 of title 37, United States Code, by operation of that paragraph, the officer shall not be entitled to special pay under subsection (h) of that section.

SEC. 1112. SENSE OF CONGRESS CONCERNING ACTIVATION OF NATIONAL GUARD COMBAT BRIGADE

It is the sense of Congress that the President should order to active Federal service at least one Army National Guard combat brigade for deployment in the Persian Gulf

region in connection with Operation Desert Shield.

SEC. 1113. TECHNICAL AMENDMENT CONCERNING MAILING PRIVILEGES FOR MEMBERS OF THE ARMED FORCES PARTICIPATING IN OPERATION DESERT SHIELD

Section 3401 of title 39, United States Code, is amended by striking out "sound-recorded" each place it appears and inserting in lieu thereof "sound- or video-recorded".

SEC. 1114. SAVINGS PROGRAM FOR OVERSEAS PERSONNEL

(a) ELIGIBILITY TO PARTICIPATE.—The Secretary of Defense may authorize a member of the Armed Forces who is serving outside the United States or its possessions under arduous conditions (as determined by the Secretary of Defense) during fiscal year 1990 or 1991 pursuant to an assignment or duty detail as part of Operation Desert Shield to make deposits of unallotted current pay and allowances, and to earn interest, under section 1035 of title 10, United States Code.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations establishing standards and procedures for the administration of this section.

SEC. 1115. TREATMENT OF ACCUMULATED LEAVE

(a) INAPPLICABILITY OF ELIGIBILITY LIMITATION.—The limitation in the second sentence of section 501(b)(3) of title 37, United States Code, does not apply with respect to the following leave during fiscal year 1990 or 1991:

(1) Leave accrued by a member of a reserve component of the Armed Forces while serving on active duty (other than for training) in connection with Operation Desert Shield pursuant to an order to active duty authorized under section 672, 673, 673b, or 674 of title 10, United States Code.

(2) Leave accrued by a member of the Armed Forces in the Retired Reserve while serving on active duty in connection with Operation Desert Shield pursuant to an order to active duty authorized by section 675 of title 10, United States Code.

(3) Leave accrued by a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, a member of the Retired Reserve, or a member of the Fleet Reserve or Fleet Marine Corps Reserve while such retired member or member, as the case may be, is serving on active duty in connection with Operation Desert Shield pursuant to an order to active duty authorized by section 688 of title 10, United States Code.

(4) Leave accrued by a member referred to in paragraph (1), (2), or (3) while serving on active duty (other than for training) in connection with Operation Desert Shield pursuant to an order to such active duty issued with the consent of the member during a period in which members of the Armed Forces are being ordered to active duty in connection with such operation pursuant to a provision of title 10, United States Code, referred to in such paragraph.

(b) SAVING PROVISION FOR CERTAIN ACCRUED LEAVE.—(1) Subject to paragraph (2), a member of the Armed Forces who, under section 701(f) of title 10, United States Code—

(A) would lose any accumulated leave in excess of 60 days at the end of fiscal year 1991 shall be permitted to retain such leave until the end of fiscal year 1992; or

(B) would lose any accumulated leave in excess of 60 days at the end of fiscal year 1992 (other than by reason of clause (A)) shall be permitted to retain such leave until the end of fiscal year 1993.

(2) In no case may a member be permitted to accumulate leave under this section in excess of 90 days.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations establishing standards and procedures for the administration of this section.

SEC. 1116. REPORT ON OPTIONS FOR REFORMING THE BASIC ALLOWANCE FOR SUBSISTENCE ENTITLEMENT

The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on various options for reforming the basic allowance for subsistence entitlement provided for under section 402 of title 37, United States Code. The report shall address the problems resulting from termination of the allowance upon deployment for field or sea duty. The report shall be submitted not later than February 15, 1991.

SEC. 1117. END STRENGTH FLEXIBILITY

(a) AUTHORITY.—If the Secretary of Defense determines that the operational requirements of Operation Desert Shield require an increase in the end strengths of active duty personnel for fiscal year 1991 prescribed by section 401 in excess of the increases authorized under section 115(c)(1) of title 10, United States Code (as amended by section 1483 of this Act), the Secretary may (subject to subsection (b)) increase the total end strength authorized for the Army, Navy, Air Force, and Marine Corps by section 401 for fiscal year 1991 by an amount not greater than 0.5 percent of the total end strengths authorized by that section. The authority under the preceding sentence is in addition to the authority under section 115(c)(1) of title 10, United States Code (as amended by section 1483 of this Act).

(b) CERTIFICATION.—The Secretary of Defense may not exercise the authority provided in subsection (a) until after the Secretary certifies in writing to the Committees on Armed Services of the Senate and House of Representatives that the exercise of that authority is necessary because of the operational requirements of Operation Desert Shield.

PART C—PROCUREMENT MATTERS

SEC. 1121. PROCUREMENT FLEXIBILITY FOR SMALL PURCHASES

(a) INCREASED FLEXIBILITY FOR OPERATION DESERT SHIELD.—During fiscal year 1991, the small purchase procurement threshold in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of Operation Desert Shield shall be $100,000 (rather than the amount specified in section 2304(g)(2) of title 10, United States Code).

(b) SMALL PURCHASE PROCUREMENT THRESHOLD DEFINED.—For purposes of this section, the term "small purchase procurement threshold" means the maximum amount of a purchase or contract for which the special simplified procurement procedures established pursuant to section 2304(g)(1) of title 10, United States Code, may be used.

TITLE XII—DEFENSE ACQUISITION WORKFORCE

SEC. 1201. SHORT TITLE

This title may be cited as the "Defense Acquisition Workforce Improvement Act".

SEC. 1202. DEFENSE ACQUISITION WORKFORCE

(a) DEFENSE ACQUISITION WORKFORCE.—Subtitle A of title 10, United States Code, is amended by inserting after chapter 85 the following new section:

"CHAPTER 87—DEFENSE ACQUISITION WORKFORCE

Sec.
"Subchapter
"I. General Authorities and Responsibilities 1701
"II. Defense Acquisition Positions 1721
"III. Acquisition Corps 1731
"IV. Education and Training 1741
"V. General Management Provisions. 1761

"SUBCHAPTER I—GENERAL AUTHORITIES AND RESPONSIBILITIES

"Sec.
"1701. Management policies.
"1702. Under Secretary of Defense for Acquisition: authorities and responsibilities.
"1703. Director of Acquisition Education, Training, and Career Development.
"1704. Service acquisition executives: authorities and responsibilities.
"1705. Directors of Acquisition Career Management in the military departments.
"1706. Acquisition career program boards.
"1707. Personnel in the Office of the Secretary of Defense and in the Defense Agencies.

"§ 1701. Management policies

"(a) POLICIES AND PROCEDURES.—The Secretary of Defense shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in acquisition positions in the Department of Defense.

"(b) UNIFORM IMPLEMENTATION.—The Secretary shall ensure that, to the maximum extent practicable, acquisition workforce policies and procedures established in accordance with this chapter are uniform in their implementation throughout the Department of Defense.

"§ 1702. Under Secretary of Defense for Acquisition: authorities and responsibilities

"Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall carry out all powers, functions, and duties of the Secretary of Defense with respect to the acquisition workforce in the Department of Defense. The Under Secretary shall ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented throughout the Department of Defense.

"§ 1703. Director of Acquisition Education, Training, and Career Development

"The Under Secretary of Defense for Acquisition shall appoint a Director of Acquisition Education, Training, and Career Development within the office of the Under Secretary to assist the Under Secretary in the performance of his duties under this chapter.

"§ 1704. Service acquisition executives: authorities and responsibilities

"Subject to the authority, direction, and control of the Secretary of the military department concerned, the service acquisition executive for each military department shall carry out all powers, functions, and duties of the Secretary concerned with respect to the acquisition workforce within the military department concerned and shall ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented in that department.

"§ 1705. Directors of Acquisition Career Management in the military departments

"There shall be a Director of Acquisition Career Management for each military department within the office of the service acquisition executive to assist the executive in the performance of his duties under this chapter. The Secretary of the Navy, acting through the service acquisition executive, may appoint separate directors for the Navy and the Marine Corps.

"§ 1706. Acquisition career program boards

"(a) ESTABLISHMENT.—The Secretary of each military department, acting through the service acquisition executive, shall establish an acquisition career program board to advise the service acquisition executive in managing the accession, training, education, and career development of military and civilian personnel in the acquisition workforce and in selecting individuals for an Acquisition Corps under section 1731 of this title.

"(b) COMPOSITION OF BOARD.—Each acquisition career program board shall include the Director of Acquisition Career Management (or his representative), the Assistant Secretary with responsibility for manpower (or his representative), and the military and civilian senior officials with responsibility for personnel development in the various acquisition career fields. The service acquisition executive (or his representative) shall be the head of the board.

"(c) SUBORDINATE BOARDS.—The Secretary of a military department may establish a subordinate board structure in the department to which functions of the acquisition career program board may be delegated.

"§ 1707. Personnel in the Office of the Secretary of Defense and in the Defense Agencies

"(a) POLICIES.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish and implement, in such manner as the Secretary considers appropriate, policies and procedures for the effective management, including accession, education, training, and career development, of persons serving in acquisition positions in the Office of the Secretary of Defense and the Defense Agencies. Such policies and procedures shall include (1) the establishment of one or more Acquisition Corps with respect to such persons, and (2) the establishment of an acquisition career program board (and any appropriate subordinate board structure) with respect to such persons. The Secretary shall ensure that, to the maximum extent practicable, such policies and procedures are as uniform as practicable with the policies established under this chapter for the military departments.

"(b) MANAGEMENT.—The Director of Acquisition Education, Training, and Career Development appointed under section 1703 of this title shall serve as the Director of Acquisition Career Management for the Office of the Secretary of Defense and for the Defense Agencies.

"SUBCHAPTER II—DEFENSE ACQUISITION POSITIONS

"Sec.

"1721. Designation of acquisition positions.
"1722. Career development.
"1723. General education, training, and experience requirements.
"1724. Contracting positions: qualification requirements.
"1725. Office of Personnel Management approval.

"§ 1721. Designation of acquisition positions

"(a) DESIGNATION.—The Secretary of Defense shall designate in regulations those positions in the Department of Defense that are acquisition positions for purposes of this chapter.

"(b) REQUIRED POSITIONS.—In designating the positions under subsection (a), the Secretary shall include, at a minimum, all acquisition-related positions in the following areas:

"(1) Program management.
"(2) Systems planning, research, development, engineering, and testing.
"(3) Procurement, including contracting.
"(4) Industrial property management.
"(5) Logistics.
"(6) Quality control and assurance.
"(7) Manufacturing and production.
"(8) Business, cost estimating, financial management, and auditing.
"(9) Education, training, and career development.
"(10) Construction.
"(11) Joint development and production with other government agencies and foreign countries.

"(c) MANAGEMENT HEADQUARTERS ACTIVITIES.—The Secretary also shall designate as acquisition positions under subsection (a) those acquisition-related positions which are in management headquarters activities and in management headquarters support activities. For purposes of this subsection, the terms 'management headquarters activities' and 'management headquarters support activities' have the meanings given those terms in Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities," dated November 25, 1988.

"§ 1722. Career development

"(a) CAREER PATHS.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall ensure that appropriate career paths for civilian and military personnel who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of civilians and members of the armed forces to the most senior acquisition positions. The Secretary shall make available published information on such career paths.

"(b) LIMITATION ON PREFERENCE FOR MILITARY PERSONNEL.—(1) The Secretary of Defense shall ensure that no requirement or preference for a member of the armed forces is used in the consideration of persons for acquisition positions, except as provided in the policy established under paragraph (2).

"(2)(A) The Secretary shall establish a policy permitting a particular acquisition position to be specified as available only to members of the armed forces if a determination is made, under criteria specified in the policy, that a member of the armed forces is required for that position by law, is essential for performance of the duties of the position, or is necessary for another compelling reason.

"(B) Not later than December 15 of each year, the Under Secretary of Defense for Acquisition shall submit to the Secretary a report that lists each acquisition position that is restricted to members of the armed forces under such policy and the recommendation of the Under Secretary as to whether such position should remain so restricted.

"(c) OPPORTUNITIES FOR CIVILIANS TO QUALIFY.—The Secretary of Defense shall ensure that civilian personnel are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior acquisition positions.

"(d) BEST QUALIFIED.—The Secretary of Defense shall ensure that the policies established under this chapter are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

"(e) MANAGEMENT OF WORKFORCE.—The Secretary of Defense shall ensure that the acquisition workforce is managed such that, for each fiscal year from October 1, 1991, through September 30, 1996, there is a substantial increase in the proportion of civilians (as compared to armed forces personnel) serving in critical acquisition positions in general, in program manager positions, and in division head positions over the proportion of civilians (as compared to armed forces personnel) in such positions on October 1, 1990.

"(f) ASSIGNMENTS POLICY.—(1) The Secretary of Defense shall establish a policy on assigning military personnel to acquisition positions that provides for a balance between (A) the need for personnel to serve in career broadening positions, and (B) the need for requiring service in each such position for sufficient time to provide the stability necessary to effectively carry out the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

"(2) In implementing the policy established under paragraph (1), the Secretaries of the military departments shall provide, as appropriate, for longer lengths of assignments to acquisition positions than assignments to other positions.

"(g) PERFORMANCE APPRAISALS.—The Secretary of each military department, acting through the service acquisition executive for that department, shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in an acquisition position by a person serving in an acquisition position in the same acquisition career field.

"(h) BALANCED WORKFORCE POLICY.—In the development of defense acquisition workforce policies under this chapter with respect to any civilian employees or applicants for employment, the Secretary of Defense or the Secretary of a military department (as applicable) shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

"§ 1723. General education, training, and experience requirements

"(a) QUALIFICATION REQUIREMENTS.—The Secretary of Defense shall establish education, training, and experience requirements for each acquisition position, based on the level of complexity of duties carried out in the position. Unless otherwise provided in this chapter, such requirements shall take effect not later than October 1, 1993. In establishing such requirements for positions other than critical acquisition positions designated pursuant to section 1733 of this title, the Secretary may state the requirements by categories of positions.

"(b) LIMITATION ON CREDIT FOR TRAINING OR EDUCATION.—Not more than one year of a period of time spent pursuing a program of academic training or education in acquisition may be counted toward fulfilling any

requirement established under this chapter for a certain period of experience.

"§ 1724. Contracting positions: qualification requirements

"(a) CONTRACTING OFFICERS.—The Secretary of Defense shall require that, beginning on October 1, 1993, in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the small purchase threshold referred to in section 2304(g) of this title, a person must (except as provided in subsections (c) and (d))—

"(1) have completed all mandatory contracting courses required for a contracting officer at the grade level, or in the position within the grade of the General Schedule (in the case of an employee), that the person is serving in;

"(2) have at least two years of experience in a contracting position;

"(3)(A) have received a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees, (B) have completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management, or (C) have passed an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the disciplines listed in subparagraph (B); and

"(4) meet such additional requirements, based on the dollar value and complexity of the contracts awarded or administered in the position, as may be established by the Secretary of Defense for the position.

"(b) GS-1102 SERIES.—The Secretary of Defense shall require that, beginning on October 1, 1993, a person may not be employed by the Department of Defense in the GS-1102 occupational series unless the person (except as provided in subsections (c) and (d)) meets the requirements set forth in subsection (a)(3).

"(c) EXCEPTIONS.—(1) The requirements set forth in subsections (a)(3) and (b) shall not apply to any employee who, on October 1, 1991, has at least 10 years of experience in acquisition positions, in comparable positions in other government agencies or the private sector, or in similar positions in which an individual obtains experience directly relevant to the field of contracting.

"(2) The requirements of subsections (a) and (b) shall not apply to any employee for purposes of qualifying to serve in the position in which the employee is serving on October 1, 1993, or any other position in the same grade and involving the same level of responsibilities as the position in which the employee is serving on such date.

"(d) WAIVER.—The acquisition career program board of a military department may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of that military department if the board certifies that the employee possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. With respect to each waiver granted under this subsection, the board shall set forth in a written document the rationale for its decision to waive such requirements. The document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.

"§ 1725. Office of Personnel Management approval

"(a) QUALIFICATION REQUIREMENTS.—The Secretary of Defense shall submit any requirement with respect to civilian employees that is established under section 1723 or under section 1724(a)(4) of this title to the Director of the Office of Personnel Management for approval. If the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director.

"(b) EXAMINATIONS.—The Secretary of Defense shall submit examinations to be given to civilian employees under subsection (a)(3) or (b) of section 1724 of this title to the Director of the Office of Personnel Management for approval. If the Director does not disapprove an examination within 30 days after the date on which the Director receives the examination, the examination is deemed to be approved by the Director.

"SUBCHAPTER III—ACQUISITION CORPS

"Sec.
"1731. Acquisition Corps: in general.
"1732. Selection criteria and procedures.
"1733. Critical acquisition positions.
"1734. Career development.
"1735. Education, training, and experience requirements for critical acquisition positions.
"1736. Applicability.
"1737. Definitions and general provisions.

"§ 1731. Acquisition Corps: in general

"(a) ACQUISITION CORPS.—The Secretary of Defense shall ensure that an Acquisition Corps is established for each of the military departments and one or more Corps, as he considers appropriate, for the other components of the Department of Defense. A separate Acquisition Corps may be established for each of the Navy and the Marine Corps.

"(b) PROMOTION RATE FOR OFFICERS IN ACQUISITION CORPS.—The Secretary of Defense shall ensure that the qualifications of commissioned officers selected for an Acquisition Corps are such that those officers are expected, as a group, to be promoted at a rate not less than the rate for all line (or the equivalent) officers of the same armed force (both in the zone and below the zone) in the same grade.

"(c) OPM APPROVAL.—The Secretary of Defense shall submit any requirement with respect to civilian employees established under section 1732 of this title to the Director of the Office of Personnel Management for approval. If the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director.

"§ 1732. Selection criteria and procedures

"(a) SELECTION CRITERIA AND PROCEDURES.—Selection for membership in an Acquisition Corps shall be made in accordance with criteria and procedures established by the Secretary of Defense. Such criteria and procedures shall be in effect on and after October 1, 1993.

"(b) ELIGIBILITY CRITERIA.—Except as provided in subsections (c) and (d), only persons who meet all of the following requirements may be considered for service in the Corps:

"(1)(A) In the case of an employee, the person must be currently serving in a position within grade GS-13 or above of the General Schedule (including any employee covered by chapter 54 of title 5).

"(B) In the case of a member of the armed forces, the person must be currently serving in the grade of major or, in the case of the Navy, lieutenant commander, or a higher grade.

"(C) In the case of an applicant for employment, the person must have experience in government or industry equivalent to the experience of a person in a position described in subparagraph (A) or (B), as validated by the appropriate career program management board.

"(2) The person must meet the educational requirements prescribed by the Secretary of Defense. Such requirements, at a minimum, shall include both of the following:

"(A) A requirement that the person—

"(i) has received a baccalaureate degree at an accredited educational institution authorized to grant baccalaureate degrees, or

"(ii) has been certified by the acquisition career program board of the employing military department as possessing significant potential for advancement to levels of greater responsibility and authority, based on demonstrated analytical and decisionmaking capabilities, job performance, and qualifying experience.

"(B) A requirement that the person has completed—

"(i) at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education from among the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management; or

"(ii) at least 24 semester credit hours (or the equivalent) from an accredited institution of higher education in the person's career field and 12 semester credit hours (or the equivalent) from such an institution from among the disciplines listed in clause (i).

"(3) The person must meet experience requirements prescribed by the Secretary of Defense. Such requirements shall, at a minimum, include a requirement for at least four years of experience in an acquisition position in the Department of Defense or in a comparable position in industry or government.

"(4) The person must meet such other requirements as the Secretary of Defense or the Secretary of the military department concerned prescribes by regulation.

"(c) EXCEPTIONS.—(1) The requirements of subsections (b)(2)(A) and (b)(2)(B) shall not apply to any employee who, on October 1, 1991, has at least 10 years of experience in acquisition positions or in comparable positions in other government agencies or the private sector.

"(2) The requirements of subsections (b)(2)(A) and (b)(2)(B) shall not apply to any employee who is serving in an acquisition position on October 1, 1991, and who does not have 10 years of experience as described in paragraph (1) if the employee passes an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education from among the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and man-

agement. The Secretary of Defense shall submit examinations to be given to civilian employees under this paragraph to the Director of the Office of Personnel Management for approval. If the Director does not disapprove an examination within 30 days after the date on which the Director receives the examination, the examination is deemed to be approved by the Director.

"(d) WAIVER.—(1) Except as provided in paragraph (2), the acquisition career program board of a military department may waive any or all of the requirements of subsection (b) with respect to an employee of that military department if the board certifies that the employee possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated analytical and decisionmaking capabilities, job performance, and qualifying experience. With respect to each waiver granted under this subsection, the board shall set forth in a written document the rationale for its decision to waive such requirements. The document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.

"(2) The acquisition career program board of a military department may not waive the requirements of subsection (b)(2)(A)(ii).

"(e) MOBILITY STATEMENTS.—(1) The Secretary of Defense is authorized to require civilians in an Acquisition Corps to sign mobility statements.

"(2) The Secretary of Defense shall identify which categories of civilians in an Acquisition Corps, as a condition of serving in the Corps, shall be required to sign mobility statements. The Secretary shall make available published information on such identification of categories.

"§ 1733. Critical acquisition positions

"(a) REQUIREMENT FOR CORPS MEMBER.—On and after October 1, 1993, a critical acquisition position may be filled only by a member of an Acquisition Corps.

"(b) DESIGNATION OF CRITICAL ACQUISITION POSITIONS.—(1) The Secretary of Defense shall designate the acquisition positions in the Department of Defense that are critical acquisition positions. Such positions shall include the following:

"(A) Any acquisition position which—

"(i) in the case of employees, is required to be filled by an employee in a position within grade GS-14 or above of the General Schedule (including an employee covered by chapter 54 of title 5), or in the Senior Executive Service; or

"(ii) in the case of members of the armed forces, is required to be filled by a commissioned officer of the Army, Navy, Air Force, or Marine Corps who is serving in the grade of lieutenant colonel, or, in the case of the Navy, commander, or a higher grade.

"(B) Other selected acquisition positions not covered by subparagraph (A), including the following:

"(i) Program executive officer.

"(ii) Program manager of a major defense acquisition program (as defined in section 2430 of this title) or of a significant nonmajor defense acquisition program (as defined in section 1736(a)(3) of this title).

"(iii) Deputy program manager of a major defense acquisition program.

"(C) Any other acquisition position of significant responsibility in which the primary duties are supervisory or management duties.

"(2) The Secretary shall periodically publish a list of the positions designated under this subsection.

"§ 1734. Career development

"(a) THREE-YEAR ASSIGNMENT PERIOD.—(1) Except as provided under subsection (b), the Secretary of each military department, acting through the service acquisition executive for that department, shall provide that, on and after October 1, 1993, any person who is assigned to a critical acquisition position shall be assigned to the position for not fewer than three years. Except as provided in subsection (d), the Secretary concerned may not reassign a person from such an assignment before the end of the three-year period.

"(2) A person may not be assigned to a critical acquisition position unless the person executes a written agreement to remain on active duty (in the case of a member of the armed forces) or to remain in Federal service (in the case of an employee) in that position for at least three years. The service obligation contained in such a written agreement shall remain in effect unless and until waived by the Secretary concerned under subsection (b).

"(b) ASSIGNMENT PERIOD FOR PROGRAM MANAGERS.—(1) The Secretary of Defense shall prescribe in regulations—

"(A) a requirement that, on and after October 1, 1991, a program manager and a deputy program manager of a major defense acquisition program be assigned to the position at least until completion of the major milestone that occurs closest in time to the date on which the person has served in the position for four years; and

"(B) a requirement that, on and after October 1, 1991, to the maximum extent practicable, a program manager who is the replacement for a reassigned program manager arrive at the assignment location before the reassigned program manager leaves.

Except as provided in subsection (d), the Secretary concerned may not reassign a program manager or deputy program manager from such an assignment until after such major milestone has occurred.

"(2) A person may not be assigned to a critical acquisition position as a program manager or deputy program manager of a major defense acquisition program unless the person executes a written agreement to remain on active duty (in the case of a member of the armed forces) or to remain in Federal service (in the case of an employee) in that position at least until completion of the first major milestone that occurs closest in time to the date on which the person has served in the position for four years. The service obligation contained in such a written agreement shall remain in effect unless and until waived by the Secretary concerned under subsection (d).

"(c) MAJOR MILESTONE REGULATIONS.—(1) The Secretary of Defense shall issue regulations defining what constitutes major milestones for purposes of this section. The service acquisition executive of each military department shall establish major milestones at the beginning of a major defense acquisition program consistent with such regulations and shall use such milestones to determine the assignment period for program managers and deputy program managers under subsection (b).

"(2) The regulations shall require that major milestones be clearly definable and measurable events that mark the completion of a significant phase in a major defense acquisition program and that such milestones be the same as the milestones contained in the baseline description established for the program pursuant to section 2435(a) of this title. The Secretary shall require that the major milestones as defined in the regulations be included in the Selected Acquisition Report required for such program under section 2432 of this title.

"(d) WAIVER OF ASSIGNMENT PERIOD.—(1) With respect to a person assigned to a critical acquisition position, the Secretary concerned may waive the prohibition on reassignment of that person (in subsection (a)(1) or (b)(1)) and the service obligation in an agreement executed by that person (under subsection (a)(2) or (b)(2)), but only in exceptional circumstances in which a waiver is necessary for reasons permitted in regulations prescribed by the Secretary of Defense.

"(2) The authority to grant such waivers may be delegated by the service acquisition executive of a military department only to the Director of Acquisition Career Management for the military department.

"(3) With respect to each waiver granted under this subsection, the service acquisition executive (or his delegate) shall set forth in a written document the rationale for the decision to grant the waiver. The document shall be submitted to the Director of Acquisition Education, Training, and Career Development.

"(e) ROTATION POLICY.—(1) The Secretary of Defense shall establish a policy encouraging the rotation of members of an Acquisition Corps serving in critical acquisition positions to new assignments after completion of five years of service in such positions, or, in the case of a program manager, after completion of a major program milestone, whichever is longer. Such rotation policy shall be designed to ensure opportunities for career broadening assignments and an infusion of new ideas into critical acquisition positions.

"(2) The Secretary of Defense shall establish a procedure under which the assignment of each person assigned to a critical acquisition position shall be reviewed on a case-by-case basis, by the acquisition career program board of the department concerned, for the purpose of determining whether the Government and such person would be better served by a reassignment to a different position. Such a review shall be carried out with respect to each such person not later than five years after that person is assigned to a critical position.

"(f) CENTRALIZED JOB REFERRAL SYSTEM.—The Secretary of Defense shall prescribe regulations providing for the use of centralized lists to ensure that persons are selected for critical positions without regard to geographic location of applicants for such positions.

"(g) EXCHANGE PROGRAM.—(1) The Secretary of Defense shall establish, for purposes of broadening the experience of members of each Acquisition Corps, a test program in which members of a Corps serving in a military department or Defense Agency are assigned or detailed to an acquisition position in another department or agency. Under the test program, the Secretary of Defense shall ensure that, to the maximum extent practicable, at least 5 percent of the members of the Acquisition Corps shall serve in such exchange assignments each year. The test program shall operate for not less than a period of three years.

"(2) The Secretary of Defense shall submit the portion of the test program applicable to civilian employees to the Director of the Office of Personnel Management for approval. If the Director does not disapprove that portion of the test program within 30 days after the date on which the Director receives

it, that portion of the test program is deemed to be approved by the Director.

"(h) RESPONSIBILITY FOR ASSIGNMENTS.—The Secretary of each military department, acting through the service acquisition executive for that department, is responsible for making assignments of civilian and military members of the Acquisition Corps of that military department to critical acquisition positions.

"§ 1735. Education, training, and experience requirements for critical acquisition positions

"(a) QUALIFICATION REQUIREMENTS.—In establishing the education, training, and experience requirements under section 1723 of this title for critical acquisition positions, the Secretary of Defense shall, at a minimum, include the requirements set forth in subsections (b) through (e).

"(b) PROGRAM MANAGERS AND DEPUTY PROGRAM MANAGERS.—Before being assigned to a position as a program manager or deputy program manager of a major defense acquisition program or a significant nonmajor defense acquisition program, a person—

"(1) must have completed the program management course at the Defense Systems Management College or a management program at an accredited educational institution determined to be comparable by the Secretary of Defense;

"(2) must have executed a written agreement as required in section 1734(b)(2); and

"(3) in the case of—

"(A) a program manager or deputy program manager of a major defense acquisition program, must have at least eight years of experience in acquisition, at least two years of which were performed in a systems program office or similar organization; and

"(B) a program manager or deputy program manager of a significant nonmajor defense acquisition program, must have at least six years of experience in acquisition.

"(c) PROGRAM EXECUTIVE OFFICERS.—Before being assigned to a position as a program executive officer, a person—

"(1) must have completed the program management course at the Defense Systems Management College or a management program at an accredited educational institution in the private sector determined to be comparable by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition;

"(2) must have at least 10 years experience in an acquisition position, at least four years of which were performed while assigned to a critical acquisition position; and

"(3) must have held a position as a program manager or a deputy program manager.

"(d) GENERAL AND FLAG OFFICERS AND CIVILIANS IN EQUIVALENT POSITIONS.—Before a general or flag officer, or a civilian serving in a position equivalent in grade to the grade of such an officer, may be assigned to a critical acquisition position, the person must have at least 10 years experience in an acquisition position, at least four years of which were performed while assigned to a critical acquisition position.

"(e) SENIOR CONTRACTING OFFICIALS.—Before a person may be assigned to a critical acquisition position as a senior contracting official, the person must have at least four years experience in contracting.

"§ 1736. Applicability

"(a) IN GENERAL.— Except as provided in subsections (b) and (c), the qualification requirements prescribed pursuant to section 1735 shall apply to all critical acquisition positions not later than October 1, 1992.

"(b) PROGRAM MANAGERS.—The qualification requirements prescribed pursuant to section 1735 shall apply with respect to program manager positions not later than October 1, 1991.

"(c) EXCEPTIONS.—The qualification requirements prescribed pursuant to sections 1733(a) and 1735(a) shall not apply—

"(1) to an employee who is serving in a critical acquisition position on October 1, 1992, for purposes of qualifying to continue to serve in such position; or

"(2) to a person who is serving in a program manager position on October 1, 1991, for purposes of qualifying to continue to serve in such position.

"§ 1737. Definitions and general provisions

"(a) DEFINITIONS.—In this subchapter:

"(1) The term 'program manager' means, with respect to a defense acquisition program, the member of an Acquisition Corps responsible for managing the program, regardless of the title given the member.

"(2) The term 'deputy program manager' means the person who has authority to act on behalf of the program manager in the absence of the program manager.

"(3) The term 'significant nonmajor defense acquisition program' means a Department of Defense acquisition program that is not a major defense acquisition program (as defined in section 2430 of this title) and that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $50,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $250,000,000 (based on fiscal year 1980 constant dollars).

"(4) The term 'program executive officer' has the meaning given such term in regulations prescribed by the Secretary of Defense.

"(5) The term 'senior contracting official' means a director of contracting, or a principal deputy to a director of contracting, serving in the office of the Secretary of a military department, the headquarters of a military department, the head of a Defense Agency, a subordinate command headquarters, or in a major systems or logistics contracting activity in the Department of Defense.

"(b) LIMITATION.—Any civilian or military member of the Corps who does not meet the education, training, and experience requirements for a critical acquisition position established under this subchapter may not carry out the duties or exercise the authorities of that position, except for a period not to exceed six months, unless a waiver of the requirements is granted under subsection (c).

"(c) WAIVER.—(1) The Secretary of each military department (acting through the service acquisition executive for that department) or the Secretary of Defense (acting through the Under Secretary of Defense for Acquisition) for Defense Agencies and other components of the Department of Defense may waive, on a case-by-case basis, the requirements established under this subchapter with respect to the assignment of an individual to a particular critical acquisition position. Such a waiver may be granted only if unusual circumstances justify the waiver or if the Secretary concerned (or official to whom the waiver authority is delegated) determines that the individual's qualifications obviate the need for meeting the education, training, and experience requirements established under this subchapter.

"(2) The authority to grant such waivers may be delegated—

"(A) in the case of the service acquisition executives of the military departments, only to the Director of Acquisition Career Management for the military department concerned; and

"(B) in the case of the Under Secretary of Defense for Acquisition, only to the Director of Acquisition, Education, Training, and Career Development.

"(d) OPM APPROVAL.—The Secretary of Defense shall submit any requirement with respect to civilian employees established under this subchapter to the Director of the Office of Personnel Management for approval. If the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director.

"SUBCHAPTER IV—EDUCATION AND TRAINING

"Sec.
"1741. Policies and programs: establishment and implementation.
"1742. Intern program.
"1743. Cooperative education program.
"1744. Scholarship program.
"1745. Additional education and training programs available to acquisition personnel.
"1746. Defense acquisition university structure.

"§ 1741. Policies and programs: establishment and implementation

"(a) POLICIES AND PROCEDURES.—The Secretary of Defense shall establish policies and procedures for the establishment and implementation of the education and training programs authorized by this subchapter.

"(b) FUNDING LEVELS.—The Under Secretary of Defense for Acquisition each year shall recommend to the Secretary of Defense the funding levels to be requested in the defense budget to implement the education and training programs under this subchapter. The Secretary of Defense shall set forth separately the funding levels requested for such programs in the Department of Defense budget justification documents submitted in support of the President's budget submitted to Congress under section 1105 of title 31.

"(c) PROGRAMS.—The Secretary of each military department, acting through the service acquisition executive for that department, shall establish and implement the education and training programs authorized by this subchapter. In carrying out such requirement, the Secretary concerned shall ensure that such programs are established and implemented throughout the military department concerned and, to the maximum extent practicable, uniformly with the programs of the other military departments.

"§ 1742. Intern program

"The Secretary of Defense shall require that each military department conduct an intern program for purposes of providing highly qualified and talented individuals an opportunity for accelerated promotions, career broadening assignments, and specified training to prepare them for entry into the Acquisition Corps.

"§ 1743. Cooperative education program

"The Secretary of Defense shall require that the Secretary of each military department conduct a department-wide cooperative education credit program under which students are employed by the Department of Defense in acquisition positions. Under the program, the Secretary shall enter into coop-

erative arrangements with one or more accredited institutions of higher education which provide for such institutions to grant undergraduate credit for work performed in such a position.

"§ 1744. Scholarship program

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a scholarship program for the purpose of qualifying personnel for acquisition positions in the Department of Defense.

"(b) ELIGIBILITY.—To be eligible to participate in the scholarship program, an individual must—

"(1) be accepted for enrollment or be currently enrolled as a full-time student at an accredited educational institution authorized to grant baccalaureate or graduate degrees (as appropriate);

"(2) be pursuing a course of education that leads toward completion of a bachelor's, master's, or doctor's degree (as appropriate) in a qualifying field of study, as determined by the Secretary of Defense;

"(3) sign an agreement described in subsection (c) under which the participant agrees to serve a period of obligated service in the Department of Defense in an acquisition position in return for payment of educational assistance as provided in the agreement; and

"(4) meet such other requirements as the Secretary prescribes.

"(c) AGREEMENT.—An agreement between the Secretary of Defense and a participant in the scholarship program established under this section shall be in writing, shall be signed by the participant, and shall include the following provisions:

"(1) The Secretary's agreement to provide the participant with educational assistance for a specified number (from one to four) of school years during which the participant is pursuing a course of education in a qualifying field of study. The assistance may include payment of tuition, fees, books, laboratory expenses, and a stipend.

"(2) The participant's agreement (A) to accept such educational assistance, (B) to maintain enrollment and attendance in the course of education until completed, (C) while enrolled in such course, to maintain an acceptable level of academic standing (as prescribed by the Secretary), and (D) after completion of the course of education, to serve as a full-time employee in an acquisition position in the Department of Defense for a period of time of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the scholarship program.

"(d) REPAYMENT.—(1) Any person participating in a program established under this section shall agree to pay to the United States the total amount of educational assistance provided to the person under the program if the person is voluntarily separated from service or involuntarily separated for cause from the Department of Defense before the end of the period for which the person has agreed to continue in the service of the Department of Defense in an acquisition position.

"(2) If an employee fails to fulfill his agreement to pay to the Government the total amount of educational assistance provided to the person under the program, a sum equal to the amount of the educational assistance is recoverable by the Government from the employee or his estate by—

"(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

"(B) such other method as is provided by law for the recovery of amounts owing to the Government.

"(3) The Secretary may waive in whole or in part a required repayment under this subsection if the Secretary determines the recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"§ 1745. Additional education and training programs available to acquisition personnel

"(a) TUITION REIMBURSEMENT AND TRAINING.—The Secretary of Defense shall provide for tuition reimbursement and training (including a full-time course of study leading to a degree) under section 4107(d) of title 5 for acquisition personnel in the Department of Defense for the purposes described in that section. For purposes of such section 4107(d), there is deemed to be, until September 30, 2001, a shortage of qualified personnel to serve in acquisition positions in the Department of Defense.

"(b) REPAYMENT OF STUDENT LOANS.—The Secretary of Defense may repay all or part of a student loan under section 5379 of title 5 for an employee of the Department of Defense appointed to an acquisition position.

"§ 1746. Defense acquisition university structure

"(a) DEFENSE ACQUISITION UNIVERSITY STRUCTURE.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish and maintain a defense acquisition university structure to provide for—

"(A) the professional educational development and training of the acquisition workforce; and

"(B) research and analysis of defense acquisition policy issues from an academic perspective.

"(b) CIVILIAN FACULTY MEMBERS.—(1) The Secretary of Defense may employ as many civilians as professors, instructors, and lecturers in the defense acquisition university structure as the Secretary considers necessary.

"(2) The compensation of persons employed under this subsection shall be as prescribed by the Secretary.

"(3) In this subsection, the term 'defense acquisition university' includes the Defense Systems Management College.

"SUBCHAPTER V—GENERAL MANAGEMENT PROVISIONS

"Sec.
"1761. Management information system.
"1762. Report to Secretary of Defense.
"1763. Reassignment of authority.
"1764. Authority to establish different minimum experience requirements.

"§ 1761. Management information system

"(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations to ensure that the military departments and Defense Agencies establish a management information system capable of providing standardized information to the Secretary on persons serving in acquisition positions.

"(b) MINIMUM INFORMATION.—The management information system shall, at a minimum, provide for—

"(1) the collection and retention of information concerning the qualifications, assignments, and tenure of persons in the acquisition workforce;

"(2) any exceptions and waivers granted with respect to the application of qualification, assignment, and tenure policies, procedures, and practices to such persons;

"(3) relative promotion rates for military personnel in the acquisition workforce; and

"(4) collection of the information necessary for the Under Secretary of Defense for Acquisition and the Secretary of Defense to comply with the requirements of section 1762 for the years in which that section is in effect.

"§ 1762. Report to Secretary of Defense

"(a) REPORT OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION.—Each year the Under Secretary of Defense for Acquisition shall transmit to the Secretary of Defense a report on the status of the defense acquisition workforce. Each annual report shall include, for each military department and Defense Agency and the Office of the Secretary of Defense, information on each category of information referred to in subsection (c).

"(b) INCLUSION OF INFORMATION IN ANNUAL REPORT.—The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of this title the information in the report transmitted to the Secretary under subsection (a).

"(c) INFORMATION.—The following information shall be included in the report transmitted to the Secretary under subsection (a) for the period covered by the report (which shall be shown for the Department of Defense as a whole and, with respect to paragraphs (1) through (12), separately for the Army, Navy, Air Force, Marine Corps, Defense Agencies, and Office of the Secretary of Defense):

"(1) The number of acquisition positions specified under the policy established under section 1722(b)(2) of this title as being available, as of December 1 of the period covered by the report, only to members of the armed forces, set forth separately under each criterion established in the policy, together with a discussion of the types of positions that are so specified.

"(2) The total number of persons serving in the Acquisition Corps as of December 1 of the period covered by the report, set forth separately for members of the armed forces and civilian employees, by grade level and by functional specialty.

"(3) The total number of critical acquisition positions held as of December 1 of the period covered by the report, set forth separately for members of the armed forces and civilian employees, by grade level and by other appropriate categories (including by program manager, deputy program manager, and division head positions). For each such category, the report shall specify the number of civilians holding such positions compared to the total number of positions filled.

"(4)(A) The promotion rate for officers in an acquisition corps considered for promotion from within the promotion zone, compared with the promotion rate for other officers considered for promotion from within the promotion zone in the same pay grade, shown for all officers of the same armed force and for all line (or the equivalent) officers of the same armed force.

"(B) The promotion rate for officers in an acquisition corps considered for promotion from below the promotion zone, compared in the same manner as specified in subparagraph (A).

"(C) If the promotion rates fail to meet the objective of section 1731(b) of this title, the Secretary of Defense shall notify Congress of such failures and of what actions the Secretary has taken or plans to take in reaction to such failures.

"(5) The number of employees who met the requirement of section 1724(a)(3) or section 1724(b) of this title by passing an exam as

described in section 1724(a)(3)(C), set forth separately for contracting officers and persons in the GS–1102 occupational series.

"(6) The number of employees to whom the requirements of subsections (b)(2)(A) and (b)(2)(B) of section 1732 of this title did not apply because of the exceptions provided in paragraphs (1) and (2) of section 1732(c) of this title, set forth separately by type of exception.

"(7) The number of employees certified by an acquisition career program board under section 1732(b)(2)(A)(ii) of this title.

"(8) The number of program managers and deputy program managers who were reassigned after completion of a major milestone occurring closest in time to the date on which the person has served in the position for four years (as required under section 1734(b) of this title), and the proportion of those reassignments to the total number of reassignments of program managers and deputy program managers, set forth separately for program managers and deputy program managers. The Secretary also shall include the average length of assignment served by program managers and deputy program managers so reassigned.

"(9) The number of persons, excluding those reported under paragraph (8), in critical acquisition positions who were reassigned after a period of three years or longer (as required under section 1734(a) of this title), and the proportion of those reassignments to the total number of reassignments of persons, excluding those reported under paragraph (8), in critical acquisition positions.

"(10) The number of times a waiver authority was exercised under section 1724(d), 1732(d), 1734(d), or 1736(c) of this title or any other provision of this chapter (or other provision of law) which permits the waiver of any requirement relating to the acquisition workforce, and in the case of each such authority, the reasons for exercising the authority. The Secretary may present the information provided under this paragraph by category or grouping of types of waivers and reasons.

"(11) The number of persons reviewed for reassignment pursuant to section 1734(e)(2) of this title and the number of persons reassigned as a result of such reviews, together with a discussion of the criteria used to determine reassignments.

"(12) The number of persons participating in each of the programs described in sections 1742 through 1745 of this title, as of December 1 of the period covered by the report.

"(13) The number of persons paid a bonus under section 317 of title 37 and the number of years of service agreed to, for each such bonus, by category.

"(14) Such other information and comparative data as the Secretary of Defense considers appropriate to demonstrate the performance of the Department of Defense and the performance of each military department in carrying out this chapter.

"(d) EFFECTIVE DATE.—The requirements of this section shall apply to the years 1991 through 1998.

"§ 1763. Reassignment of authority

"On and after October 1, 1993, the Secretary of Defense may assign the responsibilities under this chapter of the Under Secretary of Defense for Acquisition to any other civilian official in the Office of the Secretary of Defense who is appointed by the President by and with the advice and consent of the Senate. If the Secretary takes action under the preceding sentence, he may authorize the secretaries of the military departments to assign the responsibilities of a senior acquisition executive under this chapter to any other civilian official in the military department who is appointed by the President by and with the advice and consent of the Senate.

"§ 1764. Authority to establish different minimum experience requirements

"(a) AUTHORITY.—During the six-year period beginning on October 1, 1992, and ending on September 30, 1998, the Secretary of Defense may prescribe a different minimum number of years of experience to be required for eligibility for appointment to an acquisition position referred to in subsection (b) than is required for such position under or pursuant to any provision of this chapter. Any requirement prescribed under this section for a position referred to in any paragraph of subsection (b) shall be applied uniformly to all positions referred to in such paragraph.

"(b) APPLICABILITY.—This section applies to the following acquisition positions in the Department of Defense:

"(1) Contracting officer.

"(2) Program executive officer.

"(3) Senior contracting official.

"(c) OPM APPROVAL.—The Secretary of Defense shall submit any requirement with respect to civilian employees that is prescribed under this section to the Director of the Office of Personnel Management for approval if the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director.

"(d) REPORT.—The Secretary of Defense shall notify Congress of each requirement prescribed under subsection (a) together with his reasons for prescribing such requirement.".

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part II of such subtitle are each amended by striking out the item relating to chapter 85 and inserting in lieu thereof the following:

"87. Defense Acquisition Workforce . . . 1701".

SEC. 1203. SPECIAL PAY FOR CERTAIN OFFICERS HOLDING CRITICAL ACQUISITION POSITIONS

(a) AUTHORITY FOR SPECIAL PAY.—(1) Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 317. Special pay: officers in critical acquisition positions extending period of active duty

"(a) BONUS AUTHORIZED.—An officer described in subsection (b) who executes a written agreement to remain on active duty in a critical acquisition position for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

"(b) COVERED OFFICERS.—An officer referred to in subsection (a) is an officer of the Army, Navy, Air Force, or Marine Corps who—

"(1) is a member of an Acquisition Corps selected to serve in, or serving in, a critical acquisition position designated under section 1733 of title 10; and

"(2) is eligible to retire, or is assigned to such position for a period that will extend beyond the date on which the officer will be eligible to retire, under any provision of law.

"(c) AMOUNT OF BONUS.—The amount of a bonus paid under this section for each year a member agrees to remain on active duty may not be more than 15 percent of the annual rate of basic pay paid to the member at the time the member executes a written agreement under this section.

"(d) PAYMENT OF BONUS.—Upon the acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed and may be paid by the Secretary in either a lump sum or installments.

"(e) ADDITIONAL PAY.—A bonus paid under this section is in addition to other pay and allowances to which an officer is entitled.

"(f) REPAYMENT OF BONUS.—(1) If an officer who has entered into a written agreement under subsection (a) and who has received all or part of a bonus under this section fails to complete the total period of active duty specified in the agreement, the Secretary concerned may require the officer to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid under this section.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (a) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after January 1, 1991.

"(g) PERIOD OF COMMITMENT.—The period of active duty agreed upon by an officer in a written agreement under this section is in addition to any other service commitment of the officer, except that any period of active duty agreed upon in a written agreement under subsection (a)(2) or (b)(2) of section 1734 of title 10 by the officer may be counted concurrently with the commitment under this section.

"(h) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"317. Special pay: officers in critical acquisition positions extending period of active duty.".

(b) EFFECTIVE DATE.—Section 317 of title 37, United States Code, as added by subsection (a), shall take effect as of October 1, 1991.

SEC. 1204. DEFINITION OF SERVICE ACQUISITION EXECUTIVE

Section 101 of title 10, United States Code, is amended by adding at the end the following:

"(46) The term 'service acquisition executive' means the civilian official within a military department who is designated as the service acquisition executive for purposes of regulations and procedures providing for a service acquisition executive for that military department.".

SEC. 1205. DEFENSE ACQUISITION UNIVERSITY STRUCTURE

(a) ESTABLISHMENT OF STRUCTURE.—Not later than October 1, 1991, the Secretary of

Defense, acting through the Under Secretary of Defense for Acquisition, shall prescribe regulations for the initial structure for a defense acquisition university under section 1746 of title 10, United States Code (as added by section 1202). The regulations shall include the following:

(1) Operation under a charter developed by the Secretary of Defense.

(2) Establishment of a university mission to achieve objectives formulated by the Secretary of Defense. Such objectives shall include—

(A) the achievement of more efficient and effective use of available acquisition resources by coordinating Department of Defense acquisition education and training programs and tailoring them to support the careers of personnel in acquisition positions; and

(B) the development of education, training, research, and publication capabilities in the area of acquisition.

(3) Establishment of appropriate lines of authority (including relationships between the university and each of the existing acquisition education and training institutions and activities) and accountability for the accomplishment of the university mission (as established by the Secretary).

(4) A coherent framework for the educational development of personnel in acquisition positions. Such framework shall cover courses of instruction from the basic level through intermediate and senior levels. At the senior level, the framework shall provide for a senior course as a substitute for, and equivalent to, existing senior professional military educational school courses, specifically designed for personnel serving in critical acquisition positions.

(5) Appropriate organizations, such as a policy guidance council, composed of senior Department of Defense officials, to recommend or establish policy, and a board of visitors, composed of persons selected for their preeminence in the fields of academia, business, and the defense industry, to advise on organization management, curricula, methods of instruction, facilities, and other matters of interest to the university.

(6) An appropriate centralized mechanism, under the Under Secretary of Defense for Acquisition, to control the allocation of resources for purposes of conducting mandatory acquisition courses and other training, education, and research activities to achieve the objectives of the university, such as funding for students to attend courses of instruction, funding to conduct the courses, and funding to pay instructor salaries.

(b) IMPLEMENTATION.—Not later than October 1, 1991, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall prescribe and submit to the Committees on Armed Services of the Senate and House of Representatives an implementation plan, including a charter, for the defense acquisition university structure. Not later than August 1, 1992, the Secretary of Defense shall carry out the implementation plan.

SEC. 1206. ACQUISITION WORKFORCE ENHANCEMENTS

(a) DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended—

(1) in subsection (c), by striking "This" and inserting "Except as provided in subsection (d) of this section, this"; and

(2) by inserting after subsection (c) the following:

"(d)(1) The regulations prescribed under section 4118 of this title shall include provisions under which the head of an agency may provide training, or payment or reimbursement for the costs of any training, not otherwise allowable under subsection (c) of this section, if necessary to assist in the recruitment or retention of employees in occupations in which the Government has or anticipates a shortage of qualified personnel, especially in occupations involving critical skills (as defined under such regulations).

"(2) In exercising any authority under this subsection, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

"(3) No authority under this subsection may be exercised on behalf of any employee occupying or seeking to qualify for appointment to any position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.".

(b) REPAYMENT OF STUDENT LOANS.—(1) Subchapter VII of chapter 53 of title 5, United States Code, is amended by adding at the end the following:

"§ 5379. Student loan repayments

"(a)(1) For the purpose of this section—

"(A) the term 'agency' means an agency under subparagraph (A), (B), (C), (D), or (E) of section 4101(1) of this title; and

"(B) the term 'student loan' means—

"(i) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965;

"(ii) a loan made under part E of title IV of the Higher Education Act of 1965; and

"(iii) a health education assistance loan made or insured under part C of title VII of Public Health Service Act or under part B of title VIII of such Act.

"(2) An employee shall be ineligible for benefits under this section if such employee occupies a position which—

"(A) is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(B) is not subject to subchapter III of this chapter.

"(b)(1) The head of an agency may, in order to recruit or retain highly qualified professional, technical, or administrative personnel, establish a program under which the agency may agree to repay (by direct payments on behalf of the employee) any student loan previously taken out by such employee.

"(2) Payments under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed to by the agency and employee concerned, except that the amount paid by an agency under this section may not exceed—

"(A) $6,000 for any employee in any calendar year; or

"(B) a total of $40,000 in the case of any employee.

"(3) Nothing in this section shall be considered to authorize an agency to pay any amount to reimburse an employee for any repayments made by such employee prior to the agency's entering into an agreement under this section with such employee.

"(c)(1) An employee selected to receive benefits under this section must agree in writing, before receiving any such benefit, that the employee will—

"(A) remain in the service of the agency for a period specified in the agreement (not less than 3 years), unless involuntarily separated; and

"(B) if separated involuntarily on account of misconduct, or voluntarily, before the end of the period specified in the agreement, repay to the Government the amount of any benefits received by such employee from that agency under this section.

"(2) The payment agreed to under paragraph (1)(B) of this subsection may not be required of an employee who leaves the service of such employee's agency voluntarily to enter into the service of any other agency unless the head of the agency that authorized the benefits notifies the employee before the effective date of such employee's entrance into the service of the other agency that payment will be required under this subsection.

"(3) If an employee who is involuntarily separated on account of misconduct or who (excluding any employee relieved of liability under paragraph (2) of this subsection) is voluntarily separated before completing the required period of service fails to repay the amount agreed to under paragraph (1)(B) of this subsection, a sum equal to the amount outstanding is recoverable by the Government from the employee (or such employee's estate, if applicable) by—

"(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

"(B) such other method as is provided by law for the recovery of amounts owing to the Government.

The head of the agency concerned may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest.

"(4) Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the appropriation account from which the amount involved was originally paid. Any amount so credited shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

"(d) An employee receiving benefits under this section from an agency shall be ineligible for continued benefits under this section from such agency if the employee—

"(1) separates from such agency; or

"(2) does not maintain an acceptable level of performance, as determined under standards and procedures which the agency head shall by regulation prescribe.

"(e) In selecting employees to receive benefits under this section, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

"(f) Any benefit under this section shall be in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

"(g) The Director of the Office of Personnel Management, after consultation with heads of a representative number and variety of agencies and any other consultation which the Director considers appropriate, shall prescribe regulations containing such standards and requirements as the Director considers necessary to provide for reasonable uniformity among programs under this section.".

(2) The table of sections for chapter 53 of title 5, United States Code, is amended by adding after the item relating to section 5375 the following:

"5379. Student loan repayment."

(c) RELOCATION EXPENSES.—Section 5724a(a)(2) of title 5, United States Code, is amended by striking out "continental" in the second sentence.

(d) EXPENSES RELATED TO DEATH OF EMPLOYEES IN SPECIFIED CIRCUMSTANCES.—Section 5742 of title 5, United States Code, is amended—

(1) in subsection (b), by inserting "continental" after "outside the" each place it appears in paragraphs (1) and (2); and

(2) by adding at the end the following new subsection:

"(e) Employees covered by this section include an employee who has been reassigned away from the employee's home of record pursuant to a mandatory mobility agreement executed as a condition of employment.".

(e) OPTIONAL EXCLUSION OF PERFORMANCE RATINGS FOR CERTAIN TEMPORARY EMPLOYEES.—Section 4301(2) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (F);

(2) by striking out "and" at the end of subparagraph (G) and inserting in lieu thereof "or"; and

(3) by inserting after subparagraph (G) the following new subparagraph:

"(H) an individual who (i) is serving in a position under a temporary appointment for less than one year, (ii) agrees to serve without a performance evaluation, and (iii) will not be considered for a reappointment or for an increase in pay based in whole or in part on performance; and".

(f) SUSPENSION OF RESTRICTIONS ON APPOINTMENT OF RETIRED MEMBERS OF THE ARMED FORCES TO POSITIONS IN THE DEPARTMENT OF DEFENSE.—Section 3326 of title 5, United States Code, shall not be in effect for the period beginning on the date of the enactment of this Act and ending two years after such date.

(g) ADJUSTMENT OF AMOUNT PAYABLE ON THE BASIS OF DUTY AT REMOTE WORKSITE.—Section 5942 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "Notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) Under procedures prescribed by the President, the maximum allowance specified in subsection (a) may be adjusted from time to time in the interest of recruiting and retaining employees for performance of duty at remote worksites.".

(h) SEPARATE MAINTENANCE ALLOWANCE FOR EMPLOYEES IN PANAMA.—Section 5924(3) of title 5, United States Code, is amended by adding at the end the following: "Notwithstanding section 1217(d) of the Panama Canal Act of 1979 (22 U.S.C. 3657(d)), for the purposes of this paragraph, the term 'foreign area' includes the Republic of Panama.".

(i) CRITICAL-POSITION PAY AUTHORITY.—

(1) IN GENERAL.—Subchapter VII of chapter 53 of title 5, United States Code, as amended by subsection (b), is further amended by adding at the end the following new section:

"§ 5380. Pay authority for critical positions

"(a) For the purpose of this section—

"(1) the term 'agency' has the meaning given it by section 5102; and

"(2) the term 'position' means—

"(A) a position to which chapter 51 applies, including a position in the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

"(B) a position under the Executive Schedule under sections 5312-5317 of this title;

"(C) a position to which section 5372 of this title applies (or would apply, but for this section); and

"(D) a position to which section 5372a of this title applies (or would apply, but for this section).

"(b) Authority under this section—

"(1) may be granted or exercised only with respect to a position—

"(A) which requires expertise of an extremely high level in a scientific, technical, professional, or administrative field; and

"(B) which is critical to the agency's successful accomplishment of an important mission; and

"(2) may be granted or exercised only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

"(c) The Office of Personnel Management may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.

"(d)(1) The rate of basic pay fixed under this section by an agency head may not be less than the rate of basic pay (including any comparability payments) which would then otherwise be payable for the position involved if this section had never been enacted.

"(2) Basic pay may not be fixed under this section at a rate greater than the rate payable for level I of the Executive Schedule, except upon written approval of the President.

"(e) The authority to fix the rate of basic pay under this section for a position shall terminate—

"(1) whenever the Office determines (in accordance with such procedures and subject to such terms or conditions as the Office by regulation prescribes) that 1 or more of the requirements of subsection (b) are no longer met; or

"(2) as of such date as the Office may otherwise specify, except that termination under this paragraph may not take effect before the authority has been available for such position for at least 1 calendar year.

"(f) The Office may not authorize the exercise of authority under this section with respect to more than 800 positions at any time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

"(g) The Office shall consult with the Office of Management and Budget before prescribing regulations under this section or making any decision to grant or terminate any authority under this section.

"(h) The Office of Personnel Management shall report to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate each year, in writing, on the operation of this section. Each report under this subsection shall include—

"(1) the number of positions, in the aggregate and by agency, for which higher rates of pay were authorized or paid under this section during any part of the period covered by such report; and

"(2) the name of each employee to whom a higher rate of pay was paid under this section during any portion of the period covered by such report, the rate or rates paid under this section during such period, the dates between which each such higher rate was paid, and the rate or rates that would have been paid but for this section.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 5, United States Code, is amended by adding at the end the following new item:

"5380. Pay authority for critical positions.".

(3) TERMINATION.—(A) Unless section 5380 of title 5, United States Code, as added by paragraph (1), does not take effect as provided in subparagraph (B), such section shall cease to be in effect on the earlier of October 1, 1992, or the date of the enactment of the Federal Employees Pay Comparability Act of 1990.

(B) Section 5380 of title 5, United States Code, as added by paragraph (1), shall not take effect if the Federal Employees Pay Comparability Act of 1990 is enacted before the date of the enactment of this Act.

(j) REEMPLOYMENT OF RETIREES.—

(1) AMENDMENT TO 5 U.S.C. 5532.—Section 5532 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency—

"(A) waive the application of the preceding provisions of this section on a case-by-case basis for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(B) grant authority to the head of such agency to waive the application of the preceding provisions of this section, on a case-by-case basis, for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

"(2) The Office shall prescribe regulations for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for terminating a delegation of authority under paragraph (1)(B).".

(2) AMENDMENT TO 5 U.S.C. 8344.—Section 8344 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency—

"(A) waive the application of the preceding provisions of this section on a case-by-case basis for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(B) grant authority to the head of such agency to waive the application of the preceding provisions of this section, on a case-by-case basis, for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

"(2) The Office shall prescribe regulations for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for terminating a delegation of authority under paragraph (1)(B).

"(3) An employee to whom a waiver under subparagraph (A) or (B) of paragraph (1) applies shall not be deemed an employee for the purposes of this chapter or chapter 84 while such waiver is in effect.".

(3) AMENDMENT TO 5 U.S.C. 8468.—Section 8468 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency—

"(A) waive the application of the preceding provisions of this section on a case-by-case basis for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(B) grant authority to the head of such agency to waive the application of the preceding provisions of this section, on a case-by-case basis, for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

"(2) The Office shall prescribe regulations for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for terminating a delegation of authority under paragraph (1)(B).

"(3) An employee to whom a waiver under subparagraph (A) or (B) of paragraph (1) applies shall not be deemed an employee for the purposes of chapter 83 or this chapter while such waiver is in effect.".

(4) TERMINATION.—(A) Unless sections 5532(g), 8344(i), and 8468(f) of title 5, United States Code, as added by this subsection, do not take effect as provided in subparagraph (B), such sections shall cease to be in effect on the earlier of October 1, 1992, or the date of the enactment of the Federal Employees Pay Comparability Act of 1990.

(B) Sections 5532(g), 8344(i), and 8468(f) of title 5, United States Code, as added by this subsection, shall not take effect if the Federal Employees Pay Comparability Act of 1990 is enacted before the date of the enactment of this Act.

SEC. 1207. REPEAL OF CERTAIN PROVISIONS

(a) ASSIGNMENT OF CONTRACTING OFFICERS.—Section 925 of the Department of Defense Authorization Act, 1986 (10 U.S.C. 2304 note) is hereby repealed.

(b) TOUR OF DUTY OF PROGRAM MANAGERS.—Subsection (c) of section 2435 of title 10, United States Code, is repealed, effective on October 1, 1991.

(c) CONFORMING CHAPTER 85 REPEALS.—(1) Section 1622 of of title 10, United States Code, (relating to program managers) is repealed effective October 1, 1991.

(2) For purposes of section 1623(b) of such title, beginning on October 1, 1991, and ending on September 30, 1992, general and flag officers must meet the education and experience requirements for program managers prescribed under section 1622(b) of such title as such requirements were in effect on October 1, 1990.

(3) Section 1623 of such title is repealed effective October 1, 1992.

(4) Sections 1621 and 1624 of such title are repealed effective October 1, 1993.

SEC. 1208. EVALUATION BY COMPTROLLER GENERAL

(a) EVALUATION.—The Comptroller General shall conduct an independent evaluation of the actions taken by the Secretary of Defense to carry out the requirements of this title and the amendments made by this title. Not later than two years after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation required by this subsection. Such report shall include—

(1) an analysis of the effectiveness of the actions taken by the Secretary to carry out the requirements of this Act and the amendments made by this title; and

(2) such legislative and administrative recommendations as the Comptroller General considers appropriate to meet the objectives of this title and the amendments made by this title.

(b) ANNUAL REPORTS.—(1) For each of the years 1991 through 1998, the Comptroller General shall review the waiver documents submitted to the Director of Acquisition Education, Training, and Career Development under sections 1724(d), 1732(d), and 1734(d) of this title. In conducting the review, the Comptroller General shall determine whether waivers were granted in compliance with this chapter.

(2) The Comptroller General shall submit to Congress a report on the results of each review conducted pursuant to paragraph (1). The report shall include a general discussion of the use of the waiver authority provided under this chapter and an identification of any instances in which a waiver was not properly granted under this chapter.

(3) Each report required by paragraph (2) shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1 of the year following a year for which a review is conducted pursuant to paragraph (1).

SEC. 1209. TRANSITION PROVISIONS.

(a) LEVEL OF DIRECTOR OF ACQUISITION CAREER MANAGEMENT.—Effective during the three-year period beginning on the date of the enactment of this Act, the position of Director of Acquisition Career Management (as established by section 1705 of title 10, United States Code, as added by section 1202), may be held only by—

(1) a civilian employee in a position in the Civil Service the rate of pay for which is equal to or greater than the rate of basic pay payable for positions in level V of the Executive Schedule under section 5316 of title 5, United States Code; or

(2) a commissioned officer serving in the grade of major general or rear admiral or a higher grade.

(b) DEADLINE FOR DESIGNATION OF ACQUISITION POSITIONS.—The designation of acquisition positions required by section 1721 of title 10, United States Code (as added by section 1202) shall be made by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, not later than October 1, 1991.

(c) MILITARY POSITIONS POLICY DEADLINES.—(1) The policy required by paragraph (2) of section 1722(b) of title 10, United States Code (as added by section 1202), shall be established by the Secretary of Defense not later than October 1, 1991.

(2) The first report required by section 1722(b)(2)(B) of title 10, United States Code (as added by section 1202), shall be submitted to the Secretary of Defense not later than September 30, 1993.

(d) ASSIGNMENTS POLICY DEADLINE.—Not later than October 1, 1991, the Secretary of Defense shall establish, and require commencement of implementation of, an assignments policy pursuant to section 1722(f) of title 10, United States Code (as added by section 1202).

(e) JOB REFERRAL SYSTEM DEADLINE.—Not later than October 1, 1991, the Secretary of Defense shall prescribe regulations required under section 1734(f) of title 10, United States Code (as added by section 1202).

(f) EFFECTIVE DATE FOR REQUIREMENT FOR CORPS MEMBERS TO FILL CRITICAL ACQUISITION POSITIONS.—Notwithstanding section 1733(a) of title 10, United States Code (as added by section 1202), the Secretaries of the military departments shall make every effort to fill critical acquisition positions by Acquisition Corps members as soon as possible after the date of the enactment of this Act. For each of the first three years after the date of the enactment of this Act, the report of the Under Secretary of Defense for Acquisition to the Secretary of Defense under section 1762 of such title shall include, the number of critical acquisition positions filled by Acquisition Corps members.

(g) PUBLICATION OF LIST OF CRITICAL ACQUISITION POSITIONS.—The Secretary of Defense shall publish the first list of positions designated as critical acquisition positions under section 1733(b)(2) of title 10, United States Code (as added by section 1202), not later than October 1, 1992.

(h) EFFECTIVE DATE AND CONFORMING AMENDMENT FOR CIVILIAN FACULTY AUTHORITY FOR DSMC.—(1) Subsection (b) of section 1746 of title 10, United States Code (as added by section 1202), shall take effect with respect to the Defense Systems Management College on the date of the enactment of this Act.

(2) Section 5102(c)(10) of title 5, United States Code, is amended—

(A) by striking out "and" before "the Academic Dean"; and

(B) by adding after the last semicolon the following: "civilian professors, instructors, and lecturers in the defense acquisition university structure (including the Defense Systems Management College) whose pay is fixed under section 1746(b) of title 10;".

(i) CREDIT FOR EXPERIENCE IN CERTAIN POSITIONS.—For purposes of meeting any requirement under chapter 87 of title 10, United States Code (as added by section 1202), for a period of experience (such as requirements for experience in acquisition positions or in critical acquisition positions) and for purposes of coverage under the exceptions established by sections 1724(c)(1) and section 1732(c)(1) of such title any period of time spent serving in a position later designated as an acquisition position or a critical acquisition position under such chapter may be counted as experience in such a position for such purposes.

(j) TRANSITION PROVISION FOR REPORT REQUIREMENT.—Each of the first three annual reports under section 1762(a) of title 10, United States Code (as added by section 1202), shall include as much information as is available with respect to requirements imposed under, or prescribed pursuant to, chapter 87 of title 10, United States Code (as added by such section), that have not taken effect as of the date of the report.

(k) ESTABLISHMENT OF MANAGEMENT INFORMATION SYSTEM.—(1) Not later than October 1, 1991, the Secretary of Defense shall prescribe in regulations the requirements under section 1761 of title 10, United States Code (as added by section 1202), including data elements, for the uniform management information system.

(2) The Secretary of Defense shall ensure that the requirements prescribed pursuant to paragraph (1) are implemented not later than October 1, 1992.

SEC. 1210. REGULATIONS

(a) IN GENERAL.—Unless otherwise provided in this title and in subsection (b), the Secretary of Defense shall promulgate regulations to implement this title and the amendments made by this title not later than one

year after the date of the enactment of this Act.

(b) DEADLINES FOR QUALIFICATION REQUIREMENTS.—Not later than October 1, 1992, the Secretary of Defense shall prescribe regulations to implement sections 1723, 1724, and 1732 of title 10, United States Code (as added by section 1202).

SEC. 1211. EFFECTIVE DATE

Except as otherwise provided in this title, this title and the amendments made by this title, including chapter 87 of title 10, United States Code (as added by section 1202), shall take effect on the date of the enactment of this Act.

TITLE XIII—REDUCTION IN REPORTING REQUIREMENTS

PART A—REPEAL OF EXISTING REPORT REQUIREMENTS

SEC. 1301. REPORTS REQUIRED BY TITLE 10, UNITED STATES CODE

Title 10, United States Code, is amended as follows:

(1) Section 117 is repealed.

(2) Section 118 is repealed.

(3) Section 125 is amended by striking out the second sentence of subsection (c).

(4) Section 836(b) is amended by striking out "and shall be reported to Congress".

(5) Section 1051 is amended—

(A) by striking out subsections (e) and (f); and

(B) by redesignating subsection (g) as subsection (e).

(6) Section 2208 is amended by striking out subsection (k).

(7) Section 2215 is repealed.

(8) Section 2216 is repealed.

(9) Section 2313 is amended by striking out the last sentence of subsection (c).

(10) Section 2324(e)(2) is amended—

(A) in subparagraph (A), by striking out "(A)"; and

(B) by striking out subparagraphs (B) and (C).

(11) Sections 2349 and 2357 are repealed.

(12) Section 2394(b) is amended by striking out "only—" and all that follows through the period and inserting in lieu thereof "only after the approval of the proposed contract by the Secretary of Defense.".

(13) Section 2431 is amended—

(A) by striking out subsection (b);

(B) by striking out "or (b)" in subsection (c); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(14) Section 2463 is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(15) Section 2779(b) is amended by striking out paragraph (4).

(16) Section 2805(b) is amended by striking out paragraph (3).

(17) Paragraph (4) of section 2822(b) is amended to read as follows:

"(4) Housing units acquired without consideration.".

(18) Section 2834 is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(19) Section 2856 is amended—

(A) in subsection (a), by striking out the subsection designation "(a)"; and

(B) by striking out subsection (b).

SEC. 1302. REPORTS AND NOTIFICATIONS REQUIRED BY ANNUAL AUTHORIZATION ACTS

(a) PUBLIC LAW 101-189.—Section 852 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1517) is amended by striking out subsection (b).

(b) PUBLIC LAW 100-456.—Section 317 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1951), is amended by striking out subsection (c).

(c) PUBLIC LAW 100-180.—Section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (as amended by section 1202 of Public Law 100-456) is amended by striking out subsection (e).

(d) PUBLIC LAW 99-661.—Section 1207(g)(4) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) is amended—

(1) by striking out subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(e) PUBLIC LAW 99-145.—Section 106(a)(2) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 596) is amended by striking out "may be obligated—" and all that follows down through "(B) for acquisitions" and inserting in lieu thereof "may be obligated for acquisitions".

(f) PUBLIC LAW 98-115.—Section 803(b) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) by striking out "in any year" and all that follows through "the Secretary determines" and inserting in lieu thereof "in any year if the Secretary determines";

(2) by striking out "; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (2).

SEC. 1303. REPORTS REQUIRED BY OTHER LAWS

(a) DEFENSE INDUSTRIAL RESERVE ACT.—Section 5 of the Defense Industrial Reserve Act (50 U.S.C. 454) is repealed.

(b) FOREIGN ASSISTANCE ACT OF 1961.—Section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h) is amended by striking out subsection (e).

(c) MILITARY SELECTIVE SERVICE ACT.—Section 18 of the Military Selective Service Act (50 U.S.C. App. 468) is amended in subsection (h)—

(1) by striking out "(1)" after "(h)"; and

(2) by striking out paragraph (2).

PART B—MODIFICATIONS TO EXISTING REPORT REQUIREMENTS

SEC. 1311. REPORTS REQUIRED BY TITLE 10, UNITED STATES CODE

Title 10, United States Code, is amended as follows:

(1) Section 128(d) is amended by striking out "on a quarterly basis" and inserting in lieu thereof "on an annual basis".

(2) Section 402(d) is amended—

(A) by striking out "At the end of each six-month period" and inserting in lieu thereof "Not later than July 31 each year"; and

(B) by striking out "such six-month period" and inserting in lieu thereof "the 12-month period ending on the preceding June 30".

(3) Section 662(b) is amended by striking out "the Secretary shall immediately notify Congress of such failure and of" in the second sentence and inserting in lieu thereof "the Secretary shall include in the periodic report required by this subsection information on such failure and on".

(4) Section 2361(c) is amended—

(A) by striking out "a semiannual report" in paragraph (1) and inserting in lieu thereof "an annual report"; and

(B) by striking out "the six-month periods" in paragraph (2) and all that follows in that paragraph and inserting in lieu thereof "the preceding calendar year and shall be submitted not later than February 1 of the year after the year covered by the report.".

(5) Section 2457(d) is amended by striking out "Before February 1 of each year," and inserting in lieu thereof "Before February 1, 1989, and biennially thereafter,".

(6) Section 2662(b) is amended by striking out "$5,000" and inserting in lieu thereof "the small purchase threshold under section 2304(g) of this title".

(7) Section 7434 is amended to read as follows:

"§ 7434. Annual report to Armed Services Committees

"The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on the production from the naval petroleum reserves during the preceding calendar year. Each such report shall be submitted within 30 days after the end of a fiscal year.".

SEC. 1312. REPORTS REQUIRED BY ANNUAL AUTHORIZATION ACTS

(a) PUBLIC LAW 101-189.—Section 121(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1379) is amended—

(1) by striking out "BIMONTHLY" in the subsection heading and inserting in lieu thereof "QUARTERLY";

(2) by striking out "a report every two months" in paragraph (1) and inserting in lieu thereof "at the end of each fiscal-year quarter a report"; and

(3) by striking out the first sentence of paragraph (3).

(b) PUBLIC LAW 99-661.—Section 1207(g) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 10 U.S.C. 2301 note) is amended by transferring subparagraph (C) of paragraph (3) to the end of paragraph (4) (as amended by section 1302(d)).

(c) PUBLIC LAW 98-525.—The Department of Defense Authorization Act, 1985 (Public Law 98-525), is amended—

(1) in section 1002(d)(1), by striking out "April 1, 1985, and each year thereafter," and inserting in lieu thereof "April 1, 1990, and biennially thereafter,";

(2) by adding at the end of section 1002(d)(2)(B) the following new clause:

"(xi) Other selected indicators of NATO capability."; and

(3) in section 1003(c), by striking out "March 1" and inserting in lieu thereof "April 1".

SEC. 1313. REPORTS REQUIRED BY OTHER LAWS

The first section of Public Law 85-804 (50 U.S.C. 1431) is amended by striking out "and 60 days of continuous session" and all that follows in the third sentence and inserting in lieu thereof a period.

PART C—REPORT PROVISIONS PREVIOUSLY TERMINATED BY GOLDWATER-NICHOLS ACT

SEC. 1321. PURPOSE

(a) PURPOSE OF PART.—This part, with respect to Goldwater-Nichols terminations described in subsection (b)—

(1) in section 1322, repeals certain provisions of law containing terminated report requirements; and

(2) in section 1323, restores the effectiveness of selected other provisions of law containing such requirements.

(b) DESCRIPTION OF GOLDWATER-NICHOLS TERMINATIONS.—For purposes of subsection (a), Goldwater-Nichols terminations are those provisions of law that—

(1) set forth requirements for reports to Congress; and

(2) by reason of section 602(c) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 10 U.S.C. 111 note), are no longer effective.

SEC. 1322. REPEAL OF STATUTORY PROVISIONS TERMINATED BY GOLDWATER-NICHOLS ACT

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113 is amended—

(A) by striking out subsection (i); and

(B) by redesignating subsections (j) through (l) as (i) through (k), respectively.

(2) Section 2006(e)(3) is amended by striking out "and report periodically" through "of the Fund and shall recommend" and inserting in lieu thereof "and shall recommend to the President and Congress".

(3) Section 2113(j) is amended—

(A) by striking out "subject to paragraph (2)," in subparagraphs (B), (C), and (E) of paragraph (1);

(B) by striking out paragraph (2); and

(C) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(4) Section 2307 is amended—

(A) by striking out subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(5) Section 2359 is repealed.

(6) Section 2388 is amended by striking out subsection (d).

(7) Section 2394a(b) is amended—

(A) by striking out "(1)" after "(b)"; and

(B) by striking out paragraph (2).

(8) Section 2404 is amended—

(A) by striking out subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(9) Section 2455 is repealed.

(10) Section 2547 is amended—

(A) by striking out subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(11) Section 2675 is amended—

(A) by striking out "(a)" at the beginning of the text of such section; and

(B) by striking out subsection (b).

(12) Section 2721 is amended—

(A) by striking out "(a)"; and

(B) by striking out subsection (b).

(13) Section 4314 is amended by striking out the last sentence.

(14) Section 6956 is amended—

(A) by striking out subsection (a); and

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

(15) Section 7217 is repealed.

(b) TITLE 32, UNITED STATES CODE.—Section 314 of title 32, United States Code, is amended by striking out the last sentence of subsection (d).

(c) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Sections 301a and 301c are amended by striking out subsection (e).

(2) Section 303a(c) is amended by striking out the last sentence.

(3) Section 306 is amended by striking out subsection (f).

(4) Section 308b is amended—

(A) by striking out subsection (e); and

(B) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(5) Section 308c is amended—

(A) by striking out subsection (e); and

(B) by redesignating subsection (f) as subsection (e).

(6) Section 310 is amended by striking out subsection (d).

(7) Section 312b is amended—

(A) by striking out subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(8) Section 312c is amended—

(A) by striking out subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(d) PUBLIC LAW 99-145.—The Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 583 et seq.), is amended as follows:

(1) Section 913 (10 U.S.C. 2301 note) is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(2) Section 915 (10 U.S.C. 2431 note) is repealed.

(e) PUBLIC LAW 98-94.—Section 1260 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 703), is amended by striking out the second sentence of subsection (b).

(f) PUBLIC LAW 96-418.—Section 802 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 10 U.S.C. 2431 note), is amended by striking out subsection (e).

(g) PUBLIC LAW 94-106.—Section 808 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 10 U.S.C. 7291 note), is repealed.

SEC. 1323. RESTORATION OF CERTAIN REPORTING REQUIREMENTS OF TITLE 10, UNITED STATES CODE, TERMINATED BY GOLDWATER-NICHOLS ACT

(a) RESTORAL.—The effectiveness of the report and notification provisions named in subsection (b), previously terminated by section 602(c) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 10 U.S.C. 111 note), is hereby restored.

(b) COVERED PROVISIONS.—Subsection (a) applies to the following report and notification provisions set forth in title 10, United States Code:

(1) The quarterly report required by section 127(c) of that title, relating to emergency and extraordinary expenses.

(2) The notifications required by section 2672a(b) of that title, relating to urgent acquisitions of interests in land.

(3) The notifications required by section 7308(c) of that title, relating to the transfer or gift of obsolete, condemned, or captured vessels.

(4) The notifications required by section 7309(b) of that title, relating to construction or repair of vessels in foreign shipyards.

SEC. 1324. REPEAL OF GOLDWATER-NICHOLS REPORTS TERMINATION SECTION

Section 602(c) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 10 U.S.C. 111 note) is repealed.

PART D—CLERICAL AMENDMENTS

SEC. 1331. CLERICAL AMENDMENTS

Title 10, United States Code, is amended as follows:

(1) The table of sections at the beginning of chapter 2 is amended by striking out the items relating to sections 117 and 118.

(2) The table of sections at the beginning of chapter 131 is amended by striking out the items relating to sections 2215 and 2216.

(3) The table of sections at the beginning of subchapter I of chapter 138 is amended by striking out the item relating to section 2349.

(4) Section 2350a(g) is amended by striking out that portion of paragraph (4) preceding clause (A) and inserting in lieu thereof the following:

"(4) The Secretary of Defense shall submit to Congress each year, not later than March 1, a report containing information on—".

(5) The table of sections at the beginning of chapter 139 is amended by striking out the items relating to sections 2357 and 2359.

(6) The table of sections at the beginning of chapter 145 is amended by striking out the item relating to section 2455.

(7) The table of sections at the beginning of chapter 161 is amended by striking out the item relating to section 2721 and inserting in lieu thereof the following:

"2721. Basis.".

(8) The table of sections at the beginning of chapter 631 is amended by striking out the item relating to section 7217.

(9) The item relating to section 7434 in the table of sections at the beginning of chapter 641 is amended to read as follows:

"7434. Annual report to Armed Services Committees.".

TITLE XIV—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

SEC. 1401. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1402. ANNUAL MULTIYEAR DEFENSE PLAN

(a) CLARIFICATION.—(1) Subsection (a) of section 114a of title 10, United States Code, is amended by striking out "the current" and inserting in lieu thereof "a".

(2) Such section is further amended—

(A) by striking out "five-year" each place it appears and inserting in lieu thereof "multiyear"; and

(B) by adding at the end of subsection (a) (as amended by subsection (a) of this section) the following new sentence: "Any such multiyear defense program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.".

(3)(A) The heading of such section is amended by striking out "Five-year" and inserting in lieu thereof "Multiyear".

(B) The item relating to such section in the table of sections at the beginning of chapter 2 of such title is amended by striking out "Five-year" and inserting in lieu thereof "Multiyear".

(b) SUBMISSION TO CONGRESS OF MULTIYEAR DEFENSE PROGRAM AS REQUIRED BY LAW.—(1) If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1992 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1992 multiyear defense program, then during the 30-day period beginning on the last day of such 90-day period the Secretary may not obligate more than 10 percent of the fiscal year 1991 advance procurement funds that are available for obligation as of the end of that 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1992 multiyear defense program, then the Secretary may not make any further obligation of fiscal year 1991 advance procurement funds until such program is submitted. If the Secretary submits the fiscal year 1992 multiyear defense program during the 30-day period described in the first sentence, the limitation on obligation of advance procurement funds prescribed in that sentence shall cease to apply effective as of the date of the submission of such program.

(2) For purposes of this subsection:

(A) The term "fiscal year 1992 multiyear defense program" means the multiyear defense program (including associated annexes) covering fiscal years beginning with fiscal year 1992 required (by section 114a of title 10, United States Code) to be submitted to Congress in conjunction with the President's budget for fiscal year 1992.

(B) The term "fiscal year 1991 advance procurement funds" means funds appropriated for the Department of Defense for fiscal year 1991 that are available for advance procurement.

SEC. 1403. MULTIYEAR NATIONAL FOREIGN INTELLIGENCE PROGRAM

(a) ANNUAL SUBMISSION OF MULTIYEAR NATIONAL FOREIGN INTELLIGENCE PROGRAM.—The Director of Central Intelligence shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives and the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives each year a multiyear national foreign intelligence program plan reflecting the estimated expenditures and proposed appropriations required to support that program. Any such multiyear national foreign intelligence program plan shall cover the fiscal year with respect to which the budget is submitted and at least four succeeding fiscal years.

(b) TIME OF SUBMISSION.—The Director shall submit the report required by subsection (a) each year at or about the same time that the budget is submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

(c) CONSISTENCY WITH BUDGET ESTIMATES.—The Director of Central Intelligence and the Secretary of Defense shall ensure that the estimates referred to in subsection (a) are consistent with the budget estimates submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year concerned and with the estimated expenditures and proposed appropriations for the multiyear defense program submitted pursuant to section 114a of title 10, United States Code.

SEC. 1404. MISSION ORIENTED PRESENTATION OF DEPARTMENT OF DEFENSE MATTERS IN THE BUDGET

(a) IN GENERAL.—In addition to requirements in any other provision of law regarding the format for the presentation in the budget submitted to Congress each year by the President of programs of the Department of Defense within major functional category 050 (National Defense), the President shall submit with each such budget a budget that organizes programs within such functional category on the basis of major roles and missions of the Department of Defense.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect with respect to the budget submitted for fiscal year 1993.

SEC. 1405. CONTROLS ON THE AVAILABILITY OF APPROPRIATION ACCOUNTS

(a) PROCEDURES FOR CLOSING APPROPRIATION ACCOUNTS.—Subchapter IV of chapter 15 of title 31, United States Code, is amended to read as follows:

"SUBCHAPTER IV—CLOSING ACCOUNTS

"§ 1551. Definitions and applications

"(a) In this subchapter—

"(1) An obligated balance of an appropriation account as of the end of a fiscal year is the amount of unliquidated obligations applicable to the appropriation less amounts collectible as repayments to the appropriation.

"(2) An unobligated balance is the difference between the obligated balance and the total unexpended balance.

"(3) A fixed appropriation account is an appropriation account available for obligation for a definite period.

"(b) The limitations on the availablity for expenditure prescribed in this subchapter apply to all appropriations unless specifically otherwise authorized by a law that specifically—

"(1) identifies the appropriate account for which the availablity for expenditure is to be extended;

"(2) provides that such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to that account; and

"(3) extends the availability for expenditure of the obligated balances.

"(c) This subchapter does not apply to—

"(1) appropriations for the District of Columbia government; or

"(2) appropriations to be disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

"§ 1552. Procedure for appropriation accounts available for definite periods

"(a) On September 30th of the 5th fiscal year after the period of availability for obligation of a fixed appropriation account ends, the account shall be closed and any remaining balance (whether obligated or unobligated) in the account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose.

"(b) Collections authorized or required to be credited to an appropriation account, but not received before closing of the account under subsection (a) or under section 1555 of this title shall be deposited in the Treasury as miscellaneous receipts.

"§ 1553. Availability of appropriation accounts to pay obligations

"(a) After the end of the period of availability for obligation of a fixed appropriation account and before the closing of that account under section 1552(a) of this title, the account shall retain its fiscal-year identity and remain available for recording, adjusting, and liquidating obligations properly chargeable to that account.

"(b)(1) Subject to the provisions of paragraph (2), after the closing of an account under section 1552(a) or 1555 of this title, obligations and adjustments to obligations that would have been properly chargeable to that account, both as to purpose and in amount, before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to any current appropriation account of the agency available for the same purpose.

"(2) The total amount of charges to an account under paragraph (1) may not exceed an amount equal to 1 percent of the total appropriations for that account.

"(c)(1) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount of obligations from that appropriation during a fiscal year for contract changes for that program, project, or activity to exceed $4,000,000, the obligation may only be made if the obligation is approved by the head of the agency (or an officer of the agency within the Office of the head of the agency to whom the head of the agency has delegated the authority to approve such an obligation).

"(2) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount obligated from that appropriation during a fiscal year for that program, project, or activity to exceed $25,000,000, the obligation may not be made until—

"(A) the head of the agency submits to the appropriate authorizing committees of Congress and the Committees on Appropriations of the Senate and the House of Representatives a notice in writing of the intent to obligate such funds, together with a description of the legal basis for the proposed obligation and the policy reasons for the proposed obligation; and

"(B) a period of 30 days has elapsed after the notice is submitted.

"(3) In this subsection, the term 'contract change' means a change to a contract under which the contractor is required to perform additional work. Such term does not include adjustments to pay claims or increases under an escalation clause.

"(d)(1) Obligations under this section may be paid without prior action of the Comptroller General.

"(2) This subchapter does not—

"(A) relieve the Comptroller General of the duty to make decisions requested under law; or

"(B) affect the authority of the Comptroller General to settle claims and accounts.

"§ 1554. Audit, control, and reporting

"(a) Any audit requirement, limitation on obligations, or reporting requirement that is applicable to an appropriation account shall remain applicable to that account after the end of the period of availability for obligation of that account.

"(b)(1) After the close of each fiscal year, the head of each agency shall submit to the President and the Secretary of the Treasury a report regarding the unliquidated obligations, unobligated balances, cancelled balances, and adjustments made to appropriation accounts of that agency during the completed fiscal year. The report shall be submitted no later than 15 days after the date on which the President's budget for the next fiscal year is submitted to Congress under section 1105 of this title.

"(2) Each report required by this subsection shall—

"(A) provide a description, with reference to the fiscal year of appropriations, of the amount in each account, its source, and an itemization of the appropriations accounts;

"(B) describe all current and expired appropriations accounts;

"(C) describe any payments made under section 1553 of this title;

"(D) describe any adjustment of obligations during that fiscal year pursuant to section 1553 of this title;

"(E) contain a certification by the head of the agency that the obligated balances in each appropriation account of the agency reflect proper existing obligations and that expenditures from the account since the preceding review were supported by a proper obligation of funds and otherwise were proper;

"(F) describe all balances canceled under sections 1552 and 1555 of this title.

"(3) The head of each Federal agency shall provide a copy of each such report to the Speaker of the House of Representatives and the Committee on Appropriations, the Committee on Governmental Affairs, and other appropriate oversight and authorizing committees of the Senate.

"(c)(1) The Director of the Congressional Budget Office shall estimate each year the effect on the Federal deficit of payments and adjustments made with respect to sections 1552 and 1553 of this title. Such estimate shall be made separately for accounts of each agency.

"(2) The Director shall include in the annual report of the Director to the Committees on the Budget of the Senate and House of Representatives under paragraph (1) of section 202(f) of the Congressional Budget Act of 1974 a statement of the estimates made pursuant to paragraph (1) of this subsection during the preceding year (including any revisions to estimates contained in earlier reports under such paragraph). The Director shall include in any report under paragraph (2) of that section any revisions to such estimates made since the most recent report under paragraph (1) of such section.

"(d) The head of each agency shall establish internal controls to assure that an adequate review of obligated balances is performed to support the certification required by section 1108(c) of this title.

"§ 1555. Closing of appropriation accounts available for indefinite periods

"An appropriation account available for obligation for an indefinite period shall be closed, and any remaining balance (whether obligated or unobligated) in that account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose, if—

"(1) the head of the agency concerned or the President determines that the purposes for which the appropriation was made have been carried out; and

"(2) no disbursement has been made against the appropriation for two consecutive fiscal years.

"§ 1556. Comptroller General: reports on appropriation accounts

"(a) In carrying out audit responsibilities, the Comptroller General shall report on operations under this subchapter to—

"(1) the head of the agency concerned;

"(2) the Secretary of the Treasury; and

"(3) the President.

"(b) A report under this section shall include an appraisal of unpaid obligations under fixed appropriation accounts for which the period of availability for obligation has ended.

"§ 1557. Authority for exemptions in appropriation laws

A provision of an appropriation law may exempt an appropriation from the provisions of this subchapter and fix the period for which the appropriation remains available for expenditure.".

(2) The table of sections at the beginning of chapter 15 of such title is amended by striking out the items relating to subchapter IV and the sections of that subchapter and inserting in lieu thereof the following:

"SUBCHAPTER IV-CLOSING ACCOUNTS

"1551. Definitions and application.
"1552. Audit, control, and reporting.
"1553. Availability of appropriation accounts to pay obligations.
"1554. Audit, control, and reporting.
"1555. Closing of appropriation accounts available for indefinite periods.
"1556. Comptroller General: reports on appropriation accounts.
"1557. Authority for exemptions in appropriation laws.".

(b) TRANSITION.—

(1) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply to any appropriation account the obligated balance of which, on the date of the enactment of this Act, has not been transferred under section 1552(a)(1) of title 31, United States Code, as in effect on the day before the date of the enactment of this section.

(2) RESTORATION OF CERTAIN UNOBLIGATED AMOUNTS.—The balance of any unobligated amount withdrawn under section 1552(a)(2) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act, from an account the obligated balance of which has not been transferred under section 1552(a)(1) of title 31, United States Code, as in effect on the day before the date of the enactment of this section, is hereby restored to that account.

(3) CANCELLATION OF UNOBLIGATED BALANCES.—All balances of unobligated funds withdrawn from an account under subsection 1552(a)(2) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act (other than funds restored under paragraph (2)) are canceled, effective at the end of the 30-day period beginning on the date of the enactment of this Act.

(4) CANCELLATION OF OBLIGATED BALANCES.—On the third September 30th after the date of the enactment of this Act, all obligated balances transferred under subsection 1552(a)(1) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act, shall be canceled.

(5) OBLIGATION OF EXISTING BALANCES.—After the date of the enactment of this Act, an obligation of any part of a balance transferred before the date of the enactment of this Act under section 1552(a)(1) of title 31, United States Code, shall be subject to section 1553(c) of such title, as amended by subsection (a).

(6) CANCELLATION OF OLDEST OBLIGATED BALANCES.—(A) At the end of the 30-day period beginning on the date on which the President submits to Congress the budget for fiscal year 1992, any amount in an account established under paragraph (1) of section 1552 of title 31, United States Code, as in effect before the date of the enactment of this Act, that has been in that account as of that date for a period in excess of five years shall be deobligated and shall be withdrawn in the manner provided in paragraph (2) of that section. Amounts so deobligated and withdrawn may not be restored.

(B) Subparagraph (A) shall not apply so as to require the deobligation of amounts—

(i) for which there is documentary evidence that payment will be required within 180 days of the date of the enactment of this Act; or

(ii) that are determined to be necessary for severance payments for foreign national employees.

(7) OBLIGATIONS AND ADJUSTMENT OF OBLIGATIONS.—(A) After cancellation of unobligated balances under paragraph (3) or cancellation of obligated balances under paragraph (4) and subject to the provisions of subparagraph (B), obligations and adjustments to obligations that would have been chargeable to those balances before such cancellations and that are not otherwise chargeable to current appropriations of the agency concerned may be charged to current appropriations of that agency available for the same purpose. Any charge made pursuant to this subsection shall be limited to the unobligated expired balances of the original appropriation available for the same purpose.

(B) Any charge made pursuant to subparagraph (A) shall be subject to the maximum amount chargeable under subsection (b) of section 1553 of title 31, United States Code, as amended by this section, and shall be included in the calculation of the total amount charged to any account under that section.

(c) CONFORMING REPEAL.—(1) Section 2782 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 165 of such title is amended by striking out the item relating to section 2782.

SEC. 1406. AUDIT OF OBLIGATED BALANCES OF DEPARTMENT OF DEFENSE

(a) AUDIT REQUIREMENT.—The Secretary of Defense shall provide for an audit of each account of the Department of Defense established under paragraph (1) of section 1552(a) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act. The audit shall, with respect to each such account, identify—

(1) the balance in the account;

(2) the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts required for valid obligations (as supported by documentary evidence as required by section 1501 of title 31) and the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts for obligations that are considered no longer valid;

(3) the sources of amounts in the account, shown by fiscal year and by amount for each fiscal year; and

(4) such other matters as the Secretary considers appropriate.

(b) DEOBLIGATION OF OBLIGATIONS NO LONGER VALID.—Any obligated amounts in accounts of the Department of Defense established under paragraph (1) of section 1552(a) of title 31, United States Code, that are determined pursuant to the audit under subsection (a) to represent amounts for obligations that are no longer valid shall be deobligated and cancelled.

(c) REPORT ON AUDIT.—Not later than December 31, 1991, the Secretary of Defense shall submit to Congress a report containing

the results of the audit conducted pursuant to subsection (a). The report shall set forth—

(1) the information required to be identified pursuant to subsection (a); and

(2) for each appropriation account (A) the average length of time funds have been obligated, (B) the average size of the obligation, and (iii) the object classification of the obligations, all shown for total obligations and separately for valid obligations and obligations that are no longer valid .

SEC. 1407. FULL LIFE-CYCLE COST INFORMATION FOR ALL MAJOR DEFENSE ACQUISITION PROGRAMS

(a) COVERAGE FOR SYSTEMS BEFORE FISCAL YEAR 1985—Subparagraph (A) of section 2432(c)(3) of title 10, United States Code, is amended to read as follows:

"(A) A full life-cycle cost analysis for each major defense acquisition program included in the report that is in the full-scale engineering development stage or has completed that stage.".

(b) DEFINITION.—Section 2432(a) of such title is amended by adding at the end the following new paragraph:

"(4) The term 'full life-cycle cost', with respect to a major defense acquisition program, has the meaning given the term 'cost of the program' in section 2434(c)(2) of this title.".

(c) COORDINATION OF LIFE-CYCLE COST CRITERIA.—Section 2432(c) of such title is amended by adding at the end the following new paragraph:

"(5) The Secretary of Defense shall ensure that paragraph (4) of section 2432(a) of title 10, United States Code, as added by subsection (a)(2), is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to Selected Acquisition Reports submitted under section 2342 of title 10, United States Code, after December 31, 1991.

SEC. 1408. FUNDS IN DEFENSE COOPERATION ACCOUNT

There is hereby authorized to be appropriated for fiscal year 1991 from the Defense Cooperation Account established under section 2608 of title 10, United States Code, as added by section 202 of Public Law 101-403, the sum of $300,000 for programs, projects, and activities of the Department of Defense.

SEC. 1409. CLASSIFIED ANNEX

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the Committee of Conference to accompany the conference report on the bill H.R. 4739 of the One Hundred First Congress and transmitted to the President shall have the force and effect of law as if enacted into law.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

PART B—NAVAL VESSELS AND SHIPYARDS

SEC. 1421. PROCUREMENT LIMITATIONS WITH RESPECT TO CERTAIN EQUIPMENT FOR NAVAL VESSELS

Section 2507 of title 10, United States Code, as amended by section 835, is further amended by adding at the end the following new subsection:

"(f) AIR CIRCUIT BREAKERS.—(1) The Secretary of Defense may not procure air circuit breakers for naval vessels unless—

"(A) the air circuit breakers are produced or manufactured in the United States; and

"(B) substantially all of the components of the air circuit breakers are produced or manufactured in the United States.

"(2) For purposes of paragraph (1)(B), substantially all of the components of air circuit breakers shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States.

"(3) Paragraph (1) does not prevent the procurement of spares and repair parts needed to support air circuit breakers produced or manufactured outside the United States.

"(4) The Secretary of Defense may waive the limitation in paragraph (1) on a case-by-case basis with respect to any procurement if the Secretary determines that carrying out a proposed procurement in accordance with the limitation in that case—

"(A) is not in the national security interests of the United States;

"(B) will have an adverse effect on a United States company; or

"(C) will result in procurement from a United States company that, with respect to the sale of air circuit breakers, fails to comply with applicable Government procurement regulations or the antitrust laws of the United States.

"(5) Whenever the Secretary proposes to grant a waiver under paragraph (4), the Secretary shall submit a notice of the proposed waiver, together with a statement of the reasons for the proposed waiver, to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives. The waiver may then be granted only after the end of the 30-day period beginning on the date on which the notice is received by those committees.".

SEC. 1422. POLICY FOR AREA IN WHICH SOLICITATIONS MUST BE ISSUED FOR CONTRACTS FOR OVERHAUL, ETC., OF NAVAL RESERVE FORCE SHIPS HOMEPORTED ON THE WEST COAST

Section 7299a(d)(3) of title 10, United States Code, is amended by striking out "apply—" and all that follows through the period and inserting in lieu thereof "apply in the case of voyage repairs.".

SEC. 1423. REPORT ON USE OF MAYPORT NAVAL STATION AS HOMEPORT FOR NUCLEAR AIRCRAFT CARRIERS

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a plan for upgrading Mayport Naval Station, Jacksonville, Florida, to provide that naval station with the capability to be able to service nuclear-powered aircraft carriers and otherwise to serve as a homeport for nuclear-powered aircraft carriers.

SEC. 1424. FAST SEALIFT PROGRAM

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Navy shall establish a program for the construction and operation of cargo vessels that incorporate features essential for military use of the vessels.

(b) PROGRAM REQUIREMENTS.—The program under this section shall be carried out as follows:

(1) The Secretary of the Navy shall establish the design requirements for vessels to be constructed under the program.

(2) In establishing the design requirements for vessels to be constructed under the program, the Secretary shall use commercial design standards and shall consult with the Administrator of the Maritime Administration.

(3) Construction of the vessels shall be accomplished in private United States shipyards.

(c) CHARTER OF VESSELS CONSTRUCTED.—(1) Except when the Secretary determines that having a vessel immediately available with a full or partial crew is in the national interest, the Secretary, in consultation with the Administrator of the Maritime Administration, shall charter each vessel constructed before October 1, 1995, under the program for commercial operation. Any such charter—

(A) shall not permit the operation of the vessel other than in the foreign commerce of the United States;

(B) may be made only with an individual or entity that is a citizen of the United States (which, in the case of a corporation, partnership, or association, shall be determined in the manner specified in section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)); and

(C) shall require that the vessel be documented (and remain documented) under the laws of the United States.

(2) The Secretary may enter into a charter under paragraph (1) only through the use of competitive bidding procedures that ensure that the highest charter rates are obtained by the United States consistent with good business practice, except that the Secretary may operate the vessel (or contract to have the vessel operated) in direct support of United States military forces during a time of war or national emergency and at other times when the Administrator of the Maritime Administration determines that that operation would not unfairly compete with another United States-flag vessel.

(3) If the Secretary determines that a vessel previously chartered under the program no longer has commercial utility, the Secretary may transfer the vessel to the National Defense Reserve Fleet.

(4) A contract for the charter of a vessel under paragraph (1) shall include a provision that the charter may be terminated for national security reasons without cost to the United States.

(d) REPORTS TO CONGRESS.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report describing the Secretary's plan for implementing the fast sealift program authorized by this section.

(2) Not later than three years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the implementation of the plan described in the report submitted under paragraph (1). The report shall include a description of vessels built or under contract to be built pursuant to this section, the use of such vessels, and the operating experience and manning of such vessels.

(3) The reports under paragraphs (1) and (2) shall be prepared in consultation with the Administrator of the Maritime Administration.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated to the Department of Defense for any fiscal year for acquisition of fast sealift vessels may be used for the program under this section.

SEC. 1425. AUTHORIZATION FOR NAVAL SHIPYARDS AND AVIATION DEPOTS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES DURING FISCAL YEAR 1991

(a) AUTHORITY TO BID.—During fiscal year 1991, naval shipyards and Army, Navy, and

Air Force aviation depots may, subject to the discretion of the Secretary of Defense, compete for contracts for the production of defense-related articles and contracts for the provision of services related to defense programs.

(b) REQUIRED ESTIMATES OF COST FACTORS.—The Secretary of the military department concerned shall ensure that any bid by a naval shipyard or an aviation depot on a contract referred to in subsection (a) includes estimates for all direct and indirect cost factors, including all direct and indirect cost factors included in bids submitted by private firms. Office of Management and Budget Circular A-76 shall not apply to competitions conducted under the authority of this section.

(c) LIMITATION.—This section shall not apply if the Secretary of the military department concerned determines that there are not adequate facilities or personnel available at naval shipyards or aviation depots, as the case may be, to provide the required articles.

(d) DEFENSE-RELATED ARTICLES COVERED.—For purposes of this section, the term "defense-related articles" does not include—

(1) ship construction, overhaul, repair, and maintenance,

(2) ship refueling,

(3) aircraft maintenance and repair, and

(4) aircraft engine manufacture, overhaul, and repair.

SEC. 1426. NAMING OF GUIDED MISSILE DESTROYER THE U.S.S. SAMUEL S. STRATTON

(a) FINDINGS.—The Congress finds that—

(1) the late Honorable Samuel S. Stratton served the people of the United States and the 23d District of New York as a Member of the House of Representatives for 30 consecutive years with loyalty, dedication, and warm personal friendship until his retirement at the conclusion of the 100th Congress;

(2) Samuel S. Stratton served as a member of the Committee on Armed Services of the House of Representatives for 30 years and did so with total dedication to the goal of maintaining a strong national defense;

(3) as a member of the Committee on Armed Services, Samuel S. Stratton served as chairman of three permanent subcommittees (the Military Personnel and Compensation Subcommittee, the Investigations Subcommittee, and the Procurement and Military Nuclear Systems Subcommittee) and as chairman of no fewer than five special subcommittees and panels having a major effect on every aspect of our country's defense establishment;

(4) Samuel S. Stratton played a major legislative and intellectual role in such diverse areas as strengthening the NATO alliance, modernization of Guard and Reserve forces, pursuit of verifiable arms control agreements, protection of the defense industrial base, development of missile and aviation programs, and improvement in the military medical care and military justice systems;

(5) through his singular and distinctive efforts, Samuel S. Stratton was successful in seeing enacted into law the requirement that women be admitted to the Nation's service academies; and

(6) Samuel S. Stratton's service to the Nation (including his wartime and reserve service as a naval officer and service as a Member of Congress) left an indelible mark on the history of the Nation and his unswerving goal of maintenance of a strong national defense knows no peer.

(b) SENSE OF CONGRESS.—In light of the findings expressed in subsection (a), it is the sense of Congress that the Secretary of the Navy should name the next guided missile destroyer (DDG–51) to be named after enactment of this Act the U.S.S. Samuel S. Stratton.

SEC. 1427. CLARIFICATION OF PROCEDURES FOR REVIEW OF CERTAIN VESSEL TRANSFERS

Section 7308(c) of title 10, United States Code, is amended—

(1) by inserting "and" at the end of paragraph (1);

(2) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period; and

(3) by striking out paragraph (3).

PART C—GUARD AND RESERVE INITIATIVE

SEC. 1431. SENSE OF THE CONGRESS ON GREATER USE OF THE RESERVE COMPONENTS OF THE ARMED FORCES

(a) FINDINGS.—Congress makes the following findings:

(1) The reserve components of the Armed Forces are an essential element of the national security establishment of the United States.

(2) The overall reduction in the threat and the likelihood of continued fiscal constraints require the United States to increase use of the reserve components of the Armed Forces.

(3) The Department of Defense has not adequately implemented the Total Force Policy since its inception in 1973.

(4) The Department of Defense should shift a greater share of force structure and budgetary resources to the reserve components of the Armed Forces.

(5) Expanding the reserve components is the most effective way to retain quality personnel as the force structure of the active components is reduced over the next five years.

(6) The United States should recommit itself to the concept of the citizen soldier as a cornerstone of national defense policy for the future.

(7) The President and the Secretary of Defense should take note of and be willing to exercise existing reserve call-up authority for the purpose of using reserve component forces to perform operational missions without the necessity for declaring a national emergency.

(b) CONGRESSIONAL DECLARATION.—In view of the findings expressed in subsection (a), Congress declares that—

(1) the structure and strength of the current reserve components should be preserved;

(2) the equipment levels in existing reserve component units should be increased to match their active duty counterparts;

(3) selected missions of the active components of the Armed Forces should be increasingly transferred to the reserve components;

(4) the equipment available to the units of the reserve components should be modernized; and

(5) the integration of active component and reserve component units should be promoted as a means of achieving the Total Force Policy of the Department of Defense.

SEC. 1432. FINDINGS AND SENSE OF CONGRESS REGARDING THE IMPORTANCE OF THE READY RESERVE

(a) FINDINGS.—The Congress finds that—

(1) as a result of the recent dramatic changes in Eastern Europe and the Soviet Union, the active military forces of the United States will be significantly reduced; and

(2) as a consequence of that reduction it will be necessary to rely increasingly, in the event of a threat to the national security, on the immediate availability of trained personnel of the Ready Reserve of the reserve components of the Armed Forces.

(b) SENSE OF CONGRESS.—In light of the finding in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense should take appropriate action to ensure that members of the Ready Reserve are made fully aware of their continuing obligation for immediate service in the active military forces in the event of a war or national emergency;

(2) the Secretary should use the annual muster provided for under section 687 of title 10, United States Code, as a means of alerting such personnel to that obligation; and

(3) the Secretary should ensure that adequate funds are made available, out of funds appropriated for the reserve components, to carry out the annual muster of such personnel.

SEC. 1433. COMMENDATION OF THE NATIONAL GUARD AND RESERVE

(a) FINDINGS.—Congress makes the following findings:

(1) Since the earliest days of this Nation, citizen-soldiers of the United States have protected their fellow citizens, defended the country, and provided heroic assistance during and following natural disasters.

(2) The citizen-soldier has played a key role in the protection of freedom since the days of the American Revolution.

(3) The National Guard and the Reserve have been accorded significantly increased status in the overall defense posture of the United States since the end of World War II.

(4) During a period in history when the Nation may face new and varied threats to peace, it is imperative that the combat capability of the National Guard and the Reserve be adequately maintained and supported.

(5) The excellence of the National Guard and Reserve is directly attributable to hard work and dedication of the outstanding men and women who regularly perform duty in the Guard and Reserve.

(b) CONGRESSIONAL DECLARATION.—In light of the findings in subsection (a), Congress—

(1) acknowledges the valuable contribution that the men and women of the National Guard and the Reserve have made to the Nation's security; and

(2) continues to support the essential role that the National Guard and the Reserve perform in the total defense establishment of the United States.

SEC. 1434. SENSE OF CONGRESS CONCERNING UNITED STATES ARMORED FORCES

(a) FINDINGS.—Congress makes the following findings:

(1) Dramatic political and military changes have occurred recently in Eastern Europe.

(2) The Warsaw Pact is no longer a credible military threat to the North Atlantic Treaty Organization (NATO).

(3) It appears that the heavy armored armies of both NATO and the Warsaw Pact will be substantially reduced as the result of arms control agreements or unilateral actions.

(4) There is a continued need for armor forces and many countries possess large inventories of modern tanks.

(5) The Soviet Union will still produce 1,400 new tanks in 1990.

(6) With significantly increased warning times of enemy attack, greater reliance will be placed on United States reserve compo-

nent forces for armored heavy force reinforcement missions.

(7) There is a need to enhance the capabilities of armored forces of the reserve components to assume increased responsibilities for armored heavy force reinforcement missions.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of the Congress that—

(1) the Army should take timely and necessary steps to enhance the capabilities of armored forces of the reserve components;

(2) the United States Army Armor Center should continue as the center for training, education, doctrine, and combat development for the armored forces of the United States, both active and reserve; and

(3) the United States Army Armor Center should ensure that the armored forces of the reserve components are adequately prepared to accept the increased role in armored heavy force reinforcement missions that will be assigned to them.

SEC. 1435. PRESERVATION OF FORCE STRUCTURE IN THE RESERVE COMPONENTS

(a) IN GENERAL.—The Secretary of Defense shall ensure that the force structure of the Selected Reserve of the reserve components of the Armed Forces during fiscal year 1991 is equivalent to the force structure of those components on January 1, 1990.

(b) AUTHORITY TO CHANGE FORCE STRUCTURE.—The Secretary may make changes in the force structure of the Selected Reserve of the reserve components only to the extent that the Secretary determines that such changes enhance the capability of reserve units in the interests of national security.

SEC. 1436. AIR NATIONAL GUARD AND AIR FORCE RESERVE AIRCRAFT

(a) TRANSFER OF AIRCRAFT TO RESERVE COMPONENT.—The Secretary of the Air Force, by the transfer of aircraft from regular component squadrons to reserve component squadrons, shall ensure that on September 30, 1994—

(1) the average number of aircraft assigned to a tanker aircraft squadron in the Air National Guard of the United States or the Air Force Reserve is equal to the average number of aircraft assigned to a tanker aircraft squadron in the regular component of the Air Force;

(2) the average number of aircraft assigned to a fighter aircraft squadron in the Air National Guard of the United States or the Air Force Reserve is equal to the average number of aircraft assigned to a fighter aircraft squadron in the regular component of the Air Force; and

(3) the average number of aircraft assigned to an airlift aircraft squadron in the Air National Guard of the United States or the Air Force Reserve is equal to the average number of aircraft assigned to an airlift aircraft squadron in the regular component of the Air Force.

(b) WAIVER AUTHORITY.—(1) The Secretary of Defense may temporarily waive the requirement in subsection (a) with respect to a specific reserve component squadron if the Secretary determines that the squadron cannot operate the aircraft required to be transferred and that the transfer would be prejudicial to the national security of the United States.

(2) Temporary waivers under paragraph (1) shall be made on a case-by-case basis. Such a waiver shall be for a period not to exceed one year, but may be renewed for an additional period of one year under the conditions specified in paragraph (1).

SEC. 1437. P-3 AIRCRAFT

(a) TRANSFER OF AIRCRAFT TO RESERVE COMPONENTS.—(1) The Secretary of the Navy, by the transfer of aircraft from regular component squadrons to reserve component squadrons, shall ensure that on September 30, 1996, the average number of aircraft assigned to a P-3 aircraft squadron in the Naval Reserve is equal to the average number of aircraft assigned to a P-3 aircraft squadron in the regular Navy.

(2) The Secretary shall transfer no fewer than 32 P-3C aircraft pursuant to subsection (a).

(b) WAIVER AUTHORITY.—(1) The Secretary of Defense may temporarily waive the requirements in subsection (a) with respect to a specific reserve component squadron if the Secretary determines that—

(A) the submarine threat presented by the Soviet Union has increased; and

(B) the P-3B aircraft would be able to track and attack effectively the submarines that comprise the increase in the threat.

(2) Temporary waivers under paragraph (1) shall be made on a case-by-case basis. Such a waiver shall be for a period not to exceed one year, but may be renewed for an additional period of one year under the conditions specified in paragraph (1).

(c) PROHIBITION ON USE OF FUNDS.—Funds appropriated or otherwise made available for operation and maintenance for the Navy for any fiscal year beginning on or after September 30, 1996, may not be used to operate or maintain P-3B aircraft.

SEC. 1438. TACTICAL AIRLIFT MISSION

(a) IN GENERAL.—Not later than September 30, 1992, the Secretary of Defense shall assign the tactical airlift mission of the Department of Defense to the Air Force Reserve and the Air National Guard of the United States.

(b) REQUIREMENT FOR TRANSFER PLAN.—The Secretary of the Air Force shall develop a plan for the transfer of all tactical airlift transport aircraft to the Air Force Reserve and the Air National Guard of the United States at the earliest practical date and shall complete the transfer in accordance with such plan not later than September 30, 1992.

(c) DEADLINE FOR SUBMISSION OF PLAN.—The Secretary of the Air Force shall submit to the congressional defense committees a copy of the plan referred to in subsection (b) not later than June 1, 1991.

SEC. 1439. REPLACEMENT OF OV-1 AND OV-10 AIRCRAFT WITH A-10 AIRCRAFT

(a) PROHIBITION ON USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Army for any fiscal year beginning after September 30, 1996, may not be used to operate or maintain OV-1 aircraft.

(2) Funds appropriated or otherwise made available to the Marine Corps after September 30, 1996, may not be used to operate or maintain OV-10 aircraft.

(b) RETIREMENT OF OV-1 AND OV-10 AIRCRAFT.—(1) Not later than September 30, 1991, the Secretary of the Army shall retire not less than 20 percent of the OV-1 aircraft in the inventory of the Army on October 1, 1990.

(2) The Secretary of the Army and the Secretary of the Navy shall take such action as necessary to retire, by not later than September 30, 1996, all OV-1 and OV-10 aircraft in the inventory of the Army and Marine Corps, respectively. The Secretary of the military department concerned shall notify the Secretary of the Air Force at the time each such aircraft is retired, and the Secretary of the Air Force shall, upon such notification, transfer one A-10 aircraft and all required support equipment to such military department.

(c) TRAINING AND SUPPORT.—Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9316. Training and support for A-10 aircraft

"The Secretary of the Air Force shall provide each military department with flight training, fleet support, and depot maintenance with respect to all A-10 aircraft assigned to each such department.".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9316. Training and support for A-10 aircraft.".

Part D—Arms Control Matters

SEC. 1441. SENSE OF CONGRESS ON ADDITIONAL NUCLEAR RISK REDUCTION MEASURES

(a) FINDINGS.—Congress makes the following findings:

(1) On June 1, 1990, the President of the United States and the President of the Soviet Union signed a document entitled "Joint Statement on Future Negotiations on Nuclear and Space Arms and Further Enhancing Strategic Stability".

(2) In that document, the two nations pledged to pursue additional confidence-building and predictability measures "that would reduce the possibility of an outbreak of nuclear war as a result of accident, miscalculation, terrorism, or unexpected technological breakthrough, and would prevent possible incidents between them".

(3) As a result of the recent increase in ethnic, national, economic, and political tensions within the Soviet Union, concern has heightened regarding the possible unauthorized or accidental use of Soviet nuclear weapons.

(4) It has been four years since the Department of Defense conducted a comprehensive review of its nuclear control procedures and failsafe mechanisms.

(5) The Joint Chiefs of Staff, in its 1990 Joint Military Net Assessment, concluded that with the recent changes in the global security environment "the risk of nuclear deterrence failing is assessed to be low and at this moment to be decreasing".

(6) While Congress is concerned about continued strategic offensive and defensive modernization by the Soviet Union and the unpredictable status of the domestic situation in the Soviet Union, at this stage the lessened prospects that nuclear weapons of the United States might have to be employed may afford an opportunity to reconsider past reluctance to use certain positive control measures, such as the installation of permissive action links (PALs) on nuclear weapons deployed at sea by the United States and the installation of post-launch destruct mechanisms on intercontinental ballistic missiles (ICBMs) and submarine launched ballistic missiles (SLBMs) deployed by the United States, as long as appropriate security measures can be developed to protect the integrity of such destruct mechanisms.

(7) On September 15, 1987, the United States and the Soviet Union agreed to establish Nuclear Risk Reduction Centers (NRRCs) in Washington and Moscow.

(8) The NRRCs have made a useful contribution to lowering the risks of accidental or inadvertent nuclear war and are capable of taking on expanded roles.

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the President of the United States and the President of the Union of Soviet Socialist Republics are to be commended for their June 1, 1990, joint statement to pursue additional nuclear confidence-building measures; and

(2) that, in keeping with that joint statement, the President—

(A) should invite the Soviet Union to join with the United States in conducting separate but parallel, comprehensive reviews of each nation's own nuclear control procedures and failsafe mechanisms; and

(B) should propose to the Soviet Union that representatives of the two nations engage in discussions with the objective of agreeing on additional roles and functions that could be assigned to the Nuclear Risk Reduction Centers to further lessen the risks of the outbreak of nuclear war as the result of misinterpretation, miscalculation, or accident.

(c) REPORT ON ADDITIONAL MEASURES.—Not later than March 1, 1991, the President shall submit to Congress a report (in both classified and unclassified form) assessing additional nuclear risk reduction measures which could be implemented pursuant to the joint statement of June 1, 1990, referred to in subsection (b), including the following:

(1) Assigning to the Nuclear Risk Reduction Centers (NRRCs) such expanded roles as the following:

(A) Serving as a forum for discussions between the two nations on responding to possible nuclear terrorism.

(B) Transmitting notifications that may be required under future arms control treaties.

(C) Transmitting non-urgent notifications and information requests required under Article 5 of the 1971 Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War Between the United States and the Union of Soviet Socialist Republics.

(D) Providing a forum for discussions between the United States and the Soviet Union on restricting nuclear, chemical, and missile proliferation.

(E) Serving as a meeting place for high-level military discussions on nuclear doctrines, forces and activities, and regional security concerns.

(2) Installation of post-launch destruct mechanisms on all intercontinental ballistic missiles (ICBMs) and submarine launched ballistic missiles (SLBMs) deployed by the United States.

(3) Installation by the United States of permissive action links (PALs) on all nuclear weapons at sea.

SEC. 1442. START AND STRATEGIC MODERNIZATION

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States and the Soviet Union are engaged in the Strategic Arms Reduction Talks (START) in Geneva.

(2) In the Joint Statement on the Treaty on Strategic Offensive Arms signed in June 1990, the two sides reaffirmed their determination to have a START agreement completed and ready for signature by the end of 1990.

(3) Under the provisions of a START agreement, both sides will carry out significant reductions in strategic offensive arms.

(4) In the Joint Statement on Future Negotiations on Nuclear and Space Arms and Further Enhancing Strategic Stability, the United States and the Soviet Union agreed to pursue new talks on strategic offensive arms, and on the relationship between strategic offensive and defensive arms.

(5) The objectives of these negotiations will be to reduce further the risk of outbreak of war, particularly nuclear war, and to ensure strategic stability, transparency and predictability through further stabilizing reductions in the strategic arsenals of both countries.

(6) The President's effort to negotiate such agreements is dependent upon the maintenance of a vigorous research and development and modernization program as required for a prudent defense posture.

(7) The Soviet Union has maintained a robust strategic modernization program throughout the course of the START negotiations which continues today.

(b) It is the sense of the Congress that—

(1) the Congress fully supports United States efforts to enhance strategic stability; and

(2) the United States should pursue stabilizing strategic arms reduction agreements while maintaining a vigorous research and development and modernization program for United States strategic forces as required for a prudent defense posture.

SEC. 1443. STRATEGIC ARMS REDUCTION TALKS AGREEMENT

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President, before concluding an agreement in the Strategic Arms Reduction Talks, should provide to Congress—

(1) a report on whether the SS-23 INF missiles of Soviet manufacture, which the Soviet Union has confirmed have been stationed in the territory of the former German Democratic Republic and in the territories of Czechoslovakia and Bulgaria, constitute a violation of the INF Treaty or constitute deception in the INF negotiations, and whether the United States has reliable assurances that those missiles will be destroyed; and

(2) a report on whether the Krasnoyarsk radar, which the Foreign Minister of the Soviet Union admitted is a clear violation of the 1972 ABM Treaty, has been verifiably dismantled in accordance with United States criteria.

FORM OF REPORTS.—The reports under paragraphs (1) and (2) of subsection (a) should be submitted in both classified and unclassified form.

PART E—MATTERS RELATING TO ALLIES AND OTHER NATIONS

SEC. 1451. RECIPROCAL LOGISTICAL SUPPORT

(a) CROSS-SERVICING AGREEMENTS.—Subsection (a) of section 2342 of title 10, United States Code, is amended to read as follows:

"(a)(1) Subject to section 2343 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into an agreement described in paragraph (2) with—

"(A) the government of a North Atlantic Treaty Organization country;

"(B) a subsidiary body of the North Atlantic Treaty Organization; or

"(C) the government of a country not a member of the North Atlantic Treaty Organization but which is designated by the Secretary of Defense, subject to the limitations prescribed in subsection (b), as a government with which the Secretary may enter into agreements under this section.

"(2) An agreement referred to in paragraph (1) is an agreement under which the United States agrees to provide logistic support, supplies, and services to military forces of a country or subsidiary body referred to in paragraph (1) in return for the reciprocal provisions of logistic support, supplies, and services by such government or subsidiary body to elements of the armed forces.".

(b) ADDITIONAL AUTHORITY IN CONNECTION WITH MUTUAL DEFENSE AGREEMENTS AND OCCUPATIONAL ARRANGEMENTS.—(1) Chapter 138 of title 10, United States Code, is amended by adding at the end of subchapter II the following new section:

"§ 2350g. Authority to accept use of real property, services, and supplies from foreign countries in connection with mutual defense agreements and occupational arrangements

"(a) AUTHORITY TO ACCEPT.—The Secretary of Defense may accept from a foreign country, for the support of any element of the armed forces in an area of that country—

"(1) real property or the use of real property and services and supplies for the United States or for the use of the United States in accordance with a mutual defense agreement or occupational arrangement; and

"(2) services furnished as reciprocal international courtesies or as services customarily made available without charge.

"(b) QUARTERLY REPORTS.—(1) Not later than 30 days after the end of each quarter of each fiscal year, the Secretary of Defense shall submit to Congress a report on property, services, and supplies accepted by the Secretary under this section during the preceding quarter. The Secretary shall include in each such report a description of all property, services, and supplies having a value of more than $1,000,000.

"(2) In computing the value of any property, services, and supplies referred to in paragraph (1), the Secretary shall aggregate the value of—

"(A) similar items of property, services, and supplies accepted by the Secretary during the quarter concerned; and

"(B) components which, if assembled, would comprise all or a substantial part of an item of equipment or a facility.

"(c) AUTHORITY TO USE PROPERTY, SERVICES, AND SUPPLIES.—Property, services, or supplies referred to in subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property, services, and supplies may not be used in connection with any program, project, or activity if the use of such property, services, or supplies would result in the violation of any prohibition or limitation otherwise applicable to that program, project, or activity.

"(d) ANNUAL AUDIT BY GAO.—The Comptroller General of the United States shall conduct an annual audit of property, services, and supplies accepted by the Secretary of Defense under this section and shall submit a copy of the results of each such audit to Congress.".

(2) The table of sections at the beginning of chapter 138 of such title is amended by adding at the end the following new item:

"2350g. Authority to accept use of real property, services, and supplies from foreign countries in connection with mutual defense agreements and occupational arrangements.".

(c) CONFORMING REPEAL.—Section 9008 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165; 103 Stat. 1130), is repealed.

SEC. 1452. DEPARTMENT OF DEFENSE OMBUDSMAN FOR FOREIGN SIGNATORIES OF INTERGOVERNMENTAL MEMORANDUMS OF AGREEMENT CONCERNING ACQUISITION MATTERS

(a) DESIGNATION OF OMBUDSMAN.—(1) Chapter 138 of title 10, United States Code, as amended by section 1451(b), is amended by adding at the end of subchapter II the following new section:

"§ 2350h. Memorandums of agreement: Department of Defense ombudsman for foreign signatories

"The Secretary of Defense shall designate an official to act as ombudsman within the Department of Defense on behalf of foreign governments who are parties to memorandums of agreement with the United States concerning acquisition matters under the jurisdiction of the Secretary of Defense. The official so designated shall assist officials of those foreign governments in understanding and complying with procedures and requirements of the Department of Defense (and, as appropriate, other departments and agencies of the United States) insofar as they relate to any such memorandum of agreement.".

(2) The table of sections at the beginning of such subchapter, as amended by section 1451(b), is amended by adding at the end the following new item:

"2350h. Memorandums of agreement: Department of Defense ombudsman for foreign signatories.".

(b) DEADLINE.—The official required to be designated under section 2350h of title 10, United States Code, as added by subsection (a), shall be designated by the Secretary of Defense not later than 90 days after the date of the enactment of this Act.

SEC. 1453. EXPANSION OF SCOPE OF REQUIREMENTS RELATING TO DEFENSE MEMORANDA OF UNDERSTANDING AND RELATED AGREEMENTS

Section 2504(a) of title 10, United States Code, is amended by inserting "or to the reciprocal procurement of defense items," after "defense equipment," in the matter above clause (1).

SEC. 1454. COOPERATION WITH JAPAN ON TECHNOLOGICAL RESEARCH AND DEVELOPMENT

(a) FINDINGS.—Congress makes the following findings:

(1) Japan has developed highly sophisticated research and manufacturing capabilities.

(2) Those capabilities have produced technologies that can be usefully applied to the development and manufacture of both commercial products and defense equipment.

(3) The availability of those technologies to the United States would greatly enhance the development and manufacture of defense equipment for the Armed Forces of the United States.

(4) Since the exchange of notes between the United States and Japan on the transfer of Japanese military technologies in 1983, the level and quality of technological cooperation between the two countries have been unsatisfactory.

(5) Effective cooperation in technology research and development between the United States and Japan would enhance the security of both countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States and Japan should strengthen their cooperation with regard to technology that would contribute to the security of both countries;

(2) technological cooperation between the two countries should be based upon an equitable and mutual sharing of the costs and benefits of that cooperation; and

(3) the Secretary of Defense should improve the staffing, funding, and organization of those activities within the Department of Defense responsible for implementing and overseeing technological cooperation with Japan.

(c) COOPERATION ON RESEARCH AND DEVELOPMENT.—In light of the expressions in subsections (a) and (b), Congress urges and requests the President and directs the Secretary of Defense to pursue vigorously opportunities for the United States and Japan to cooperate in the development of technologies that benefit the security of both countries, particularly those technologies that have both commercial and military applications, commonly referred to as "dual-use" technologies.

(d) COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS.—(1) Subject to paragraphs (2) and (3), of the funds authorized to be appropriated pursuant to section 201 for basic research, exploratory development, and advanced technology, $10,000,000 shall be available for research and development projects conducted jointly by the United States and Japan, pursuant to a memorandum of understanding or other formal agreement, for the purpose of—

(A) developing new conventional defense equipment; or

(B) modifying existing defense equipment to meet United States defense requirements.

(2)(A) Funds made available for research and development projects under paragraph (1) may be obligated and expended for a particular research project only if the Secretary of Defense determines that—

(i) the particular project will improve, through the application of emerging technology, the conventional defense capabilities of the United States and Japan; and

(ii) the applicable memorandum of understanding or other formal agreement provides for the sharing of costs on an equitable basis.

(B) The Secretary may delegate the performance of the responsibility to make determinations under subparagraph (A) only to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

(3) None of the funds made available for research and development projects under paragraph (1) may be used for research and development under the Strategic Defense Initiative.

(e) STAFFING.—The Secretary of Defense is urged to increase the number of personnel assigned to the Office of the Deputy Under Secretary of Defense (International Programs) for the specific purpose of providing oversight of the joint research and development projects of the United States and Japan for which funds are made available under subsection (d).

SEC. 1455. PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN AND CONTRIBUTIONS BY JAPAN TO THE SUPPORT OF UNITED STATES FORCES IN JAPAN

(a) PURPOSE.—It is the purpose of this section to require Japan to offset the direct costs (other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of United States military personnel in Japan.

(b) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—Funds appropriated pursuant to an authorization contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

(c) SENSE OF CONGRESS ON ALLIED BURDEN SHARING.—(1) Congress recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq.

(2) It is the sense of Congress that—

(A) all countries that share the benefits of international security and stability should, commensurate with their national capabilities, share in the responsibility for maintaining that security and stability; and

(B) given the economic capability of Japan to contribute to international security and stability, Japan should make contributions commensurate with that capability.

(d) NEGOTIATIONS.—At the earliest possible date after the date of the enactment of this Act, the President shall enter into negotiations with Japan for the purpose of achieving an agreement before September 30, 1991, under which Japan offsets all direct costs (other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of all United States military personnel stationed in Japan.

(e) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

(2) This section may be waived by the President if the President—

(A) declares an emergency or determines that such a waiver is required by the national security interests of the United States; and

(B) immediately informs the Congress of the waiver and the reasons for the waiver.

SEC. 1456. LIMITATION ON THE COSTS TO THE UNITED STATES FOR PAYMENTS TO FOREIGN NATIONALS EMPLOYED AT BASES OUTSIDE THE UNITED STATES

(a) LIMITATION.—The costs incurred by the United States during fiscal year 1991 for the payment of salaries and other remuneration to foreign nationals who are employed at United States military installations located outside the United States shall be reduced by the Secretary of Defense at a rate necessary to achieve a 25 percent reduction in such costs by the end of fiscal year 1991 below the amount that was requested for such costs in the budget for fiscal year 1991 submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) WAIVER AUTHORITY AND REQUIREMENT OF NOTIFICATION.—The Secretary of Defense may waive the requirement of subsection (a) if the Secretary determines that the national security interests of the United States require such action. If the requirement of subsection (a) is waived, the Secretary shall notify Congress of that action and include in that notification the reasons for such waiver.

SEC. 1457. ANNUAL REPORT ON UNITED STATES SECURITY ARRANGEMENTS AND COMMITMENTS WITH OTHER NATIONS

(a) REPORT REQUIREMENTS.—The President shall submit to the Committees on Armed Services and on Foreign Affairs of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate each year a report (in both classified and unclassified form) on United States security arrangements with, and commitments to, other nations.

(b) MATTERS TO BE INCLUDED.—The President shall include in each such report the following:

(1) A description of—

(A) each security arrangement with, or commitment to, other nations, whether based upon (i) a formal document (including a mutual defense treaty, a pre-positioning arrangement or agreement, or an access agreement), or (ii) an expressed policy; and

(B) the historical origins of each such arrangement or commitment.

(2) An evaluation of the ability of the United States to meet its commitments based on the projected reductions in the defense structure of the United States.

(3) A plan for meeting each of those commitments with the force structure projected for the future.

(4) An assessment of the need to continue, modify, or discontinue each of those arrangements and commitments in view of the changing international security situation.

(c) DEADLINE FOR REPORT.—(1) Except as provided in paragraph (2), the President shall submit the report required by subsection (a) not later than February 1 of each year.

(2) In the case of the report required to be submitted in 1991, the evaluation, plan, and assessment referred to in paragraphs (2), (3), and (4) of subsection (b) may be submitted not later than May 1, 1991.

SEC. 1458. ECONOMIC SANCTIONS AGAINST THE REPUBLIC OF IRAQ

If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not—

(1) prohibited—

(A) the importation of products of Iraq into its customs territory, and

(B) the export of its products to Iraq; or

(2) given assurances satisfactory to the President that such import and export sanctions will be promptly implemented.

SEC. 1459. HUMANITARIAN ASSISTANCE FOR LITHUANIA

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should provide appropriate forms of humanitarian assistance for Lithuania. Such assistance is necessary as a result of the courageous efforts of the Lithuanian people to rebuild an independent society and state.

(b) AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Administrator of the Agency for International Development should—

(1) furnish such humanitarian assistance through the International Committee of the Red Cross, the Lithuanian Red Cross, CARITAS, and other voluntary relief agencies;

(2) solicit private sector donations of humanitarian assistance for Lithuania;

(3) cooperate with private relief agencies attempting to provide humanitarian assistance to Lithuania; and

(4) make all necessary arrangements to ensure that Lithuanians begin to receive critical humanitarian assistance as soon as possible.

(c) HUMANITARIAN ASSISTANCE FOR LATVIA, ESTONIA, ETC.—Where possible, appropriate humanitarian assistance should also be extended to Latvia and Estonia as well as needy republics of the Soviet Union.

(d) Definition.—As used in this section, the term "humanitarian assistance" includes—

(1) medical supplies;

(2) oil, gas, and fuel for emergency vehicles and medical facilities;

(3) water purification supplies, materials for immunization, and other materials needed to prevent the outbreak of contagious diseases and to safeguard public health;

(4) food and clothing; and

(5) transportation of private donations of humanitarian assistance.

PART F—MISCELLANEOUS MATTERS

SEC. 1461. CONGRESSIONAL OVERSIGHT OF SPECIAL ACCESS PROGRAMS

(a) IN GENERAL.—Subsection (c) of section 119 of title 10, United States Code, is amended to read as follows:

"(c)(1) Whenever a change in the classification of a special access program of the Department of Defense is planned to be made or whenever classified information concerning a special access program of the Department of Defense is to be declassified and made public, the Secretary of Defense shall submit to the defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

"(2) Except as provided in paragraph (3), any report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change or public announcement is to occur.

"(3) If the Secretary determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change or public announcement concerning a special access program of the Department of Defense, the Secretary may submit the report required by paragraph (1) regarding the proposed change or public announcement at any time before the proposed change or public announcement is made and shall include in the report an explanation of the exceptional circumstances.".

(b) AMENDMENT TO DEFINITION.—Subsection (f) of such section is amended by inserting "and Appropriations" after "Armed Services" in paragraph (1).

SEC. 1462. DEVELOPMENT AND PRODUCTION OF WEAPONS AND WEAPON SYSTEMS HAVING STANDOFF ATTACK CAPABILITIES AND EMPLOYING SENSOR-FUSED DEVICES

The Secretary of the Air Force—

(1) should complete development of weapons and weapon systems having standoff attack capabilities and employing sensor-fused devices;

(2) upon completion of such development, should proceed with the production of such weapons and weapon systems; and

(3) should provide that such production should take place at facilities so selected during the development phase of these weapons.

SEC. 1463. AUTHORITY TO REIMBURSE NORTH AMERICAN VAN LINES AND THE CHURCH OF GOD FOR CERTAIN DAMAGES CAUSED DURING OPERATION JUST CAUSE

(a) AUTHORITY TO REIMBURSE.—Notwithstanding any other provision of law, the Secretary of the Defense, subject to the approval of the Attorney General, may, to the extent that funds are available for obligation—

(1) reimburse North American Van Lines, a corporation operating under the laws of the State of Delaware, in an amount not to exceed $357,000, for damage to, or loss of, property owned by that corporation that—

(A) was located pursuant to the requirements of a contract with the Department of Defense at Albrook Air Force Base, Panama, on December 22, 1989; and

(B) was damaged or destroyed by United States Armed Forces during Operation Just Cause begun on December 22, 1989; and

(2) reimburse the Church of God in an amount not to exceed $325,000, for damage to, or loss of, property owned by that church that—

(A) was in the vicinity of Albrook Air Force Base, Panama, on December 22, 1989; and

(B) was damaged or destroyed by United States Armed Forces during Operation Just Cause begun on December 22, 1989.

(b) ADMINISTRATIVE REQUIREMENTS.—Reimbursement may be allowed under subsection (a) only if—

(1) a request for such reimbursement is presented in writing to the Secretary of Defense not later than December 22, 1991;

(2) the damage to, or loss of, property was not caused in whole or in part by a negligent or wrongful act of—

(A) North American Van Lines (or an agent or employee of North American Van Lines), in the case of property described in subsection (a)(1); and

(B) the Church of God (or an agent or employee of the Church of God), in the case of property described in subsection (a)(2); and

(3) the amount of damages is substantiated by the Secretary of Defense.

(c) LIMITATIONS.—(1) No funds may be paid pursuant to this section to North American Van Lines until North American Van Lines has made every reasonable effort (as determined by the Secretary of Defense) to secure compensation for the losses covered by this section through private means. No funds may be paid pursuant to this section to the Church of God until the Church of God has made every reasonable effort (as determined by the Secretary of Defense) to secure compensation for the losses covered by this section through private means.

(2) No more than 20 percent of the sum paid under this section to North American Van Lines may be paid to any attorneys for legal services rendered in connection with the damage to, or loss of, property with respect to which that amount is paid. No more than 20 percent of the sum paid under this section to the Church of God may be paid to any attorneys for legal services rendered in connection with the damage to, or loss of, property with respect to which that amount is paid.

(3) Acceptance of a payment by North American Van Lines under this section constitutes full and final settlement of any claim by North American Van Lines against the United States resulting from the damage to, or loss of, property described in subsection (a). Acceptance of a payment by the Church of God under this section constitutes full and final settlement of any claim by the Church of God against the United States resulting from the damage to, or loss of, property described in subsection (a).

SEC. 1464. EXTENSION OF DEADLINE FOR NATIONAL TEST CENTER INSTRUMENTATION

Section 166(b)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1391) is amended by striking out "July 1, 1990" and inserting in lieu thereof "January 1, 1993".

SEC. 1465. OVERSEAS WORKLOAD PROGRAM

(a) IN GENERAL.—A firm of any member nation of the North Atlantic Treaty Organization (NATO) or of any major non-NATO ally shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as

part of the program of the Department of Defense known as the Overseas Workload Program.

(b) SITE FOR PERFORMANCE OF WORK.—A contract awarded during fiscal year 1991 to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) EXCEPTIONS.—The Secretary of a military department may restrict the geographic region in which a contract referred to in subsection (a) may be performed if the Secretary determines that performance of the contract outside the specific region—

(1) could adversely affect the military preparedness of the Armed Forces of the United States; or

(2) would violate the terms of an international agreement to which the United States is a party.

SEC. 1466. DESIGNATION OF THE COLONEL THOMAS HAWKINS JOHNSON VISITING SCHOLAR PROGRAM AND LECTURE SERIES

(a) VISITING SCHOLAR PROGRAM.—(1) The Secretary of the Army shall establish a visiting scholar program at the United States Military Academy to be known as the "Thomas Hawkins Johnson Visiting Scholar Program". The Secretary shall select not more than two scholars to participate in the program for an academic year. A person selected to participate in the program shall serve as an instructor at the Academy for two weeks during the academic year and perform such duties as the Secretary may assign.

(2) There is authorized to be appropriated to the Secretary of the Army $25,000 for each fiscal year to carry out this subsection.

(b) LECTURE SERIES.—(1) The Secretary of Defense shall establish a lecture series at the National Defense University to be known as the "Thomas Hawkins Johnson Lecture Series". The Secretary shall use the lecture series to bring prominent persons to the National Defense University to deliver lectures on topics relating to public policy, national security, and science.

(2) There is authorized to be appropriated to the Secretary of Defense $25,000 for each fiscal year to carry out this subsection.

SEC. 1467. STUDY OF COMMERCIAL AVIATION ACCESS TO CERTAIN RESTRICTED SPECIAL USE AIRSPACE

(a) STUDY REQUIRED.—The Secretary of Defense and the Secretary of Transportation shall conduct a joint study to determine the feasibility of permitting civilian commercial aircraft to have access to restricted special use airspace over the coastal waters of the mid-Atlantic region of the Eastern United States for the purpose of enhancing commercial aviation safety, improving air traffic control efficiency, and reducing the impact of aviation noise on populated areas.

(b) REPORT.—(1) The Secretaries shall submit to the Committees on Armed Services of the Senate and the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a joint report containing the results of the study required by subsection (a), together with such comments and recommendations as the Secretaries consider appropriate. The report may be submitted in both classified and unclassified form.

(2) The Secretaries shall include in the report the following:

(A) A discussion of the current policy of the Department of Defense regarding civilian commercial access to restricted special use airspace.

(B) An accounting of civilian commercial aircraft access to such special use airspace during each of the years 1988 and 1989.

(C) A summary of requests received by the Department of Defense from the Federal Aviation Administration for increased access to the special use airspace referred to in subsection (a) and the disposition of those requests by the Department of Defense.

(D) Proposals for permitting increased access to such special use airspace, particularly during daylight hours, by civilian commercial aircraft.

(E) An analysis of the feasibility of providing such access.

(3) The report shall be submitted not later than 90 days after the date of the enactment of this Act.

(c) DEVELOPMENT OF PROCEDURES.—If the Secretaries determine, on the basis of the study under subsection (a), that additional access to the special use airspace described in that subsection can be permitted, consistent with the national security interests of the United States, the Secretary of Defense shall develop, in coordination with the Secretary of Transportation, procedures for providing such additional access for civilian commercial aircraft to such airspace.

SEC. 1468. CONSULTATION AND REPORT REQUIREMENTS RELATING TO RANCH HAND STUDY OF DEPARTMENT OF THE AIR FORCE

(a) CONSULTATION WITH ADVISORY COMMITTEE.—The Ranch Hand Advisory Committee may consult directly with and provide information and recommendations directly to the Department of the Air Force scientists conducting the Ranch Hand Study, and such scientists may consult directly with and provide information and recommendations directly to the Ranch Hand Advisory Committee. No officer or employee of the Federal Government may intervene in or impair direct communication between the Advisory Committee and such scientists for purposes related to such study except as may be necessary to prevent inappropriate disclosure of classified information.

(b) ANNUAL REPORTS.—The Secretary of Defense shall revise the schedule of reports prepared by the Secretary pursuant to section 1205(c) of Public Law 100-687 (102 Stat. 4126) so as to provide for the preparation and submission of annual reports under that section, to be submitted not later than February 1 of each year, and to provide for the preparation and submission of a final report under that section.

(c) DEFINITIONS.—In this section:

(1) The term "Ranch Hand Advisory Committee" means the committee known as the "Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants" established by the Secretary of Health and Human Services to monitor the conduct of the Ranch Hand Study.

(2) The term "Ranch Hand Study" means the special study conducted by the Secretary of the Air Force relating to the possible long-term effects of phenoxy herbicides and contaminants on Air Force personnel who participated in Operation Ranch Hand in the Republic of Vietnam during the Vietnam era.

SEC. 1469. ANNUAL PRESENTATION FOR CONGRESSIONAL DEFENSE LEADERSHIP ON UNITED STATES NATIONAL MILITARY STRATEGY

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should provide for an annual presentation to be given to the congressional defense leaders named in subsection (b) on the national military strategy of the United States. That presentation should particularly cover the theater and strategic nuclear components of the national military strategy and should include a discussion of (1) nuclear targeting policy and requirements, and (2) the implications of such nuclear targeting policy and requirements for (A) theater and strategic nuclear force structure and operations, and (B) defense resources and their allocation.

(b) DEFINITION.—The congressional defense leaders referred to in subsection (a) are—

(1) the chairmen and ranking minority members of the Committees on Armed Services of the Senate and House of Representatives; and

(2) the chairmen and ranking minority members of the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives.

PART G—CONGRESSIONAL FINDINGS, POLICIES, AND COMMENDATIONS

SEC. 1471. COMMEMORATION OF THE EFFORTS OF THE BATTLE OF THE BULGE HISTORICAL FOUNDATION

(a) FINDINGS.—Congress makes the following findings:

(1) The Battle of the Ardennes-Alsace Campaign of World War II, commonly known as the Battle of the Bulge, was fought in the Ardennes region of eastern Belgium and northern Luxembourg, from December 16, 1944, to January 25, 1945, in the deepest snow and during the coldest temperatures in the memory of the inhabitants of the region.

(2) 600,000 members of the Armed Forces of the United States fought in the Battle of the Bulge, making the battle the largest land battle ever fought by United States military forces.

(3) The battle claimed 81,000 United States casualties, including 19,000 killed.

(4) In 1988, many of the veterans of the battle, including the 7,000 member organization known as the Veterans of the Battle of the Bulge, organized the Battle of the Bulge Historical Foundation to commemorate the heroic sacrifices made by the United States servicemembers who saw action during the Battle of the Bulge, to pay homage to the servicemen killed in that battle, and to inform the present and future youth of this Nation regarding the costs of war and the price of liberty.

(5) The efforts of the foundation are directed toward expanding the existing United States Army Museum, located at Fort George G. Meade, Maryland, to include a gallery dedicated to the Battle of the Bulge, the participants in that battle, and World War II generally.

(6) The Museum and the foundation have agreed to act jointly to achieve goals relating to the commemoration of the Battle of the Bulge.

(7) Installation of a gallery at the museum devoted to the Battle of the Bulge will result in the museum having the only gallery in the United States devoted exclusively to commemorating that battle.

(8) The Battle of the Bulge Historical Foundation has set a goal of raising $1,500,000 by December 16, 1994, the 50th anniversary of the battle, to accomplish the objective of appropriately preserving the memory of the battle.

(b) RECOGNITION AND COMMENDATION.—In light of the findings in subsection (a), Congress recognizes and commends the efforts of the Battle of the Bulge Historical Foundation to provide for the installation of a special gallery at the United States Army Museum at Fort George G. Meade, Maryland, devoted to the collection, preservation, and exhibition of military artifacts relating to the Battle of the Bulge and to commemorate that historic battle.

SEC. 1472. COMMENDATION OF UNITED STATES MILITARY PERSONNEL FOR PHILIPPINE EARTHQUAKE RELIEF EFFORT

(a) FINDINGS.—Congress makes the following findings:

(1) The members of the United States Air Force, Marine Corps, and Navy serving in the Pacific region have given substantial and significant assistance to the Government and people of the Republic of the Philippines following a severe earthquake on July 16, 1990, in the Philippines which resulted in the deaths of over 1,600 people and severe dislocation and devastation.

(2) United States military personnel stationed in the Philippines have traditionally exhibited a strong respect and admiration for the people of the Philippines.

(3) A Marine Corps pilot was killed in a helicopter crash during an earthquake relief mission on July 20, 1990.

(4) The United States Air Force has flown over 220 sorties, including medical evacuations, to assist in earthquake relief.

(5) The Marine Corps has flown over 250 aircraft missions and has transported via helicopter over 1,000 Philippine nationals and more than 500,000 pounds of cargo.

(6) Navy medical personnel from the Subic Bay naval facility have provided critical medical assistance to those injured in the earthquake.

(7) More than 1,140 tons of supplies and equipment have been airlifted to the Philippines or transported over land to Baguio City and Cabanatuan City, areas devastated by the earthquake.

(8) Military civil engineering teams have restored more than half the damaged water systems and all of the electrical systems and have provided heavy equipment to aid in rescue operations.

(9) 650 units of blood were donated by personnel of Clark Air Force Base and other Pacific Air Force bases and 120 units of blood were donated by personnel of the Subic Bay Naval Facility.

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the earthquake relief assistance provided by United States military forces has played an essential role in the Philippine recovery from the July 16, 1990, earthquake; and

(2) that those members of the United States Armed Forces and their dependents who have assisted in Philippine earthquake relief should be commended by Congress for their considerable efforts on behalf of the Philippine people in their recovery efforts.

PART H—CODIFICATION OF CERTAIN PROVISIONS OF LAW AND TECHNICAL AMENDMENTS

SEC. 1481. RESTATEMENT IN TITLE 10, UNITED STATES CODE, OF SELECTED PERMANENT LAW PROVISIONS

(a) CREDITING OF CERTAIN RECEIPTS FROM FOREIGN MILITARY SALES.—(1) Section 114(c) of title 10, United States Code, is amended—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following:

"(2) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), amounts received by the United States pursuant to subparagraph (A) of section 21(a)(1) of that Act (22 U.S.C. 2761(a)(1))—

"(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of that Act (22 U.S.C. 2795 et seq.), as authorized by section 51(b)(1) of that Act (22 U.S.C. 2795(b)(1)), but subject to the limitation in paragraph (1) and other applicable law; and

"(B) to the extent not so credited, shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31.".

(2) Section 9017 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(b) AUTHORITY TO PROCURE SERVICES OF EXPERTS AND CONSULTANTS.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 129a (as added by section 1483(b)) the following new section:

"§ 129b. Experts and consultants: authority to procure services

"(a) AUTHORITY.—Subject to subsection (b), the Secretary of Defense and the Secretaries of the military departments may—

"(1) procure the services of experts or consultants (or of organizations of experts or consultants) in accordance with section 3109 of title 5; and

"(2) pay in connection with such services travel expenses of individuals, including transportation and per diem in lieu of subsistence while such individuals are traveling from their homes or places of business to official duty stations and return as may be authorized by law.

"(b) CONDITIONS.—The services of experts or consultants (or organizations thereof) may be procured under subsection (a) only if the Secretary of Defense or the Secretary of the military department concerned, as the case may be, determines that—

"(1) the procurement of such services is advantageous to the United States; and

"(2) such services cannot adequately be provided by the Department of Defense.

"(c) REGULATIONS.—Procurement of the services of experts and consultants (or organizations thereof) under subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 129a (as added by section 1483(b)) the following new item:

"129b. Experts and consultants: authority to procure services of.".

(3) Section 9002 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(c) MILITARY RELOCATION ASSISTANCE PROGRAMS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end a new section 1056 consisting of—

(A) a heading as follows:

"§ 1056. Relocation assistance programs";

and

(B) a text consisting of the text of subsections (a) through (g) of section 661 of the National Defense Authorization Act of Fiscal Years 1990 and 1991 (Public Law 101-189), revised—

(i) by replacing "Not later than October 1, 1990, the Secretary of Defense shall establish" at the beginning of subsection (a) with "The Secretary of Defense shall carry out"; and

(ii) by replacing "Armed Forces" each place it appears with "armed forces".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1056. Relocation assistance programs.".

(3) Section 661 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1463) is repealed.

(4) The program required to be carried out by section 1056 of title 10, United States Code, as added by paragraph (1), shall be established by the Secretary of Defense not later than October 1, 1990. The Secretary shall prescribe regulations to implement that section not later than July 1, 1990.

(d) CIVILIAN PERSONNEL ADMINISTRATION.—(1) Section 1584 of title 10, United States Code, is amended—

(A) by inserting "(a) WAIVER OF EMPLOYMENT RESTRICTIONS FOR CERTAIN PERSONNEL.—" before "Laws prohibiting"; and

(B) by adding at the end the following:

"(b) NOTICE TO CONGRESS OF CERTAIN SALARY INCREASES.—The Secretary of Defense shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives when any salary increase granted to direct

and indirect hire foreign national employees of the Department of Defense overseas, stated as a percentage, is greater than the higher of the following percentages:

"(1) The percentage pay increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5.

"(2) The percentage increase provided to national government employees of the host nation.".

(2) The heading of such section is amended to read as follows:

"§ 1584. Employment of non-citizens".

(3) Section 1593 of such title is amended by adding at the end the following new subsection:

"(d) USE OF APPROPRIATED FUNDS FOR ALLOWANCE.—Amounts appropriated annually to the Department of Defense for the pay of civilian employees may be used for uniforms, or for allowance for uniforms, as authorized by this section and section 5901 of title 5.".

(4)(A) Section 8114 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 10 U.S.C. 1584 note), is repealed.

(B) Section 9010 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(e) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding after section 2244 (as added by section 904) the following new section:

"§ 2245. Use of aircraft for proficiency flying: limitation

"(a) An aircraft under the jurisdiction of a military department may not be used by a member of the armed forces for the purpose of proficiency flying except in accordance with regulations prescribed by the Secretary of Defense.

"(b) Such regulations—

"(1) may not require proficiency flying by a member except to the extent required for the member to maintain flying proficiency in anticipation of the member's assignment to combat operations; and

"(2) may not permit proficiency flying in the case of a member who is assigned to a course of instruction of 90 days or more.

"(c) In this section, the term 'proficiency flying' has the meaning given that term in Department of Defense Directive 1340.4.".

(2) The table of sections at the beginning of such subchapter is amended by adding after the item relating to section 2244, as added by section 1036, the following new item:

"2245. Use of aircraft for proficiency flying: limitation.".

(3) Section 9006 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(f) REIMBURSEMENT REQUIRED FOR PROVISION OF MEDICAL CARE TO FOREIGN MILITARY AND DIPLOMATIC PERSONNEL.—(1) Chapter 151 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2549. Provision of medical care to foreign military and diplomatic personnel: reimbursement required; waiver for provision of reciprocal services

"(a) REIMBURSEMENT REQUIRED.—Except as provided in subsection (b), whenever the Secretary of Defense provides medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents, the Secretary shall require that the United States be reimbursed for the costs of providing such care. Payments received as reimbursement for the provision of such care shall be credited to the appropriations against which charges were made for the provision of such care.

"(b) WAIVER WHEN RECIPROCAL SERVICES PROVIDED UNITED STATES MILITARY PERSONNEL.—Notwithstanding subsection (a), the Secretary of Defense may provide inpatient medical care in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel and their dependents in that foreign country.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2549. Provision of medical care to foreign military and diplomatic personnel: reimbursement required; waiver for provision of reciprocal services.".

(3) Section 9020 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(g) LIMITATION ON LEASING OF AIRCRAFT AND VEHICLES TO NON-FEDERAL AGENCIES.—(1) Chapter 151 of title 10, United States Code, as amended by subsection (f), is further amended by adding at the end the following new section:

"§ 2550. Aircraft and vehicles: limitation on leasing to non-Federal agencies

"The Secretary of Defense (or Secretary of a military department) may not lease to a non-Federal agency in the United States any aircraft or vehicle owned or operated by the Department of Defense if suitable aircraft or vehicles are commercially available in the private sector. However, nothing in the preceding sentence shall affect authorized and established procedures for the sale of surplus aircraft or vehicles.".

(2) The table of sections at the beginning of such chapter, as amended by subsection (f), is further amended by adding at the end the following new item:

"2550. Aircraft and vehicles: limitation on leasing to non-Federal agencies.".

(3) Section 2550 of title 10, United States Code, as added by paragraph (1), does not prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 765).

(4) Section 9025 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(h) ADMINISTRATION OF REAL PROPERTY.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2677 the following new section:

"§ 2678. Feral horses and burros: removal from military installations

"When feral horses or burros are found on an installation under the jurisdiction of the Secretary of a military department, the Secretary may use helicopters and motorized equipment for their removal.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2677 the following new item:

"2678. Feral horses and burros: removal from military installations.".

(3) Section 9030 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(i) ENVIRONMENTAL RESTORATION.—(1) Section 2701 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(f) USE OF APPROPRIATED FUNDS AT FORMER DOD SITES.—Appropriations available to the Department of Defense may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense.

"(g) REMOVAL OF UNSAFE BUILDINGS AND DEBRIS BEFORE RELEASE FROM FEDERAL CONTROL.—In the case of property formerly used by the Department of Defense which is to be released from Federal Government control and at which there are unsafe buildings or debris of the Department of Defense, all actions necessary to comply with regulations of the General Services Administration on the transfer of property in a safe condition shall be completed before the property is released from Federal Government control, except in the case of property to be conveyed to an entity of State or local government or to a native corporation.".

(2) Section 9038 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(j) FUNDS AVAILABLE FOR PAYMENT OF CLAIMS.—(1) Chapter 163 of title 10, United States Code, is amended by inserting after section 2731 the following new section:

"§ 2732. Payment of claims: availability of appropriations

"Appropriations available to the Department of Defense for operation and maintenance may be used for payment of claims authorized by law to be paid by the Department of Defense (except for civil functions), including—

"(1) claims for damages arising under training contracts with carriers; and

"(2) repayment of amounts determined by the Secretary concerned to have been erroneously collected—

"(A) from military and civilian personnel of the Department of Defense; or

"(B) from States or territories or the District of Columbia (or members of the National Guard units thereof).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2731 the following new item:

"2732. Payment of claims: availability of appropriations.".

(3) Section 8098 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 10 U.S.C 2241 note), is repealed.

(4)(A) Section 2734(h) of title 10, United States Code, is amended by striking out "available to the" and all that follows and inserting in lieu thereof the following: "as provided in section 2732 of this title.".

(B) Section 2734a of such title is amended—

(i) in subsection (c), by striking out "for that purpose" and inserting in lieu thereof "as provided in section 2732 of this title"; and

(ii) in subsection (d), by striking out "the appropriation for claims of the Department of Defense" and inserting in lieu thereof "appropriations as provided in section 2732 of this title".

(C) Section 2734b(d) of such title is amended by striking out "for that purpose" and inserting in lieu thereof the following: "as provided in section 2732 of this title".

(k) LEGISLATIVE CONSTRUCTION.—(1) A reference to a law replaced by the provisions of title 10, United States Code, enacted by this

section (including a reference in a regulation, order, or other law) shall be treated as referring to the corresponding provision enacted by this section.

(2) A regulation, rule, or order in effect under a law replaced by the provisions of title 10, United States Code, enacted by this section shall continue in effect under the corresponding provision enacted by this title until repealed, amended, or superseded.

(3) An action taken or an offense committed under a law replaced by the provisions of title 10, United States Code, enacted by this section shall be treated as having been taken or committed under the corresponding provision enacted by this title.

SEC. 1482. CODIFICATION OF CERTAIN RECURRING PROVISIONS OF ANNUAL DEFENSE APPROPRIATIONS ACTS

(a) NOTICE OF INITIATION OF SPECIAL ACCESS PROGRAMS.—Section 119 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) A special access program may not be initiated until—

"(1) the defense committees are notified of the program; and

"(2) a period of 30 days elapses after such notification is received.".

(b) EMPLOYMENT OF ALIENS.—Section 1584 of title 10, United States Code, is amended by striking out "any expert" and all that follows through "that department" and inserting in lieu thereof "personnel of the Department of Defense".

(c) PROCEDURE FOR TRANSFER OF APPROPRIATIONS.—(1) Chapter 131 of such title is amended by inserting after section 2212 the following new section:

"§2214. Transfer of funds: procedure and limitations

"(a) PROCEDURE FOR TRANSFER OF FUNDS.—Whenever authority is provided in an appropriation Act to transfer amounts in working capital funds or to transfer amounts provided in appropriation Acts for military functions of the Department of Defense (other than military construction) between such funds or appropriations (or any subdivision thereof), amounts transferred under such authority shall be merged with and be available for the same purposes and for the same time period as the fund or appropriations to which transferred.

"(b) LIMITATIONS ON PROGRAMS FOR WHICH AUTHORITY MAY BE USED.—Such authority to transfer amounts—

"(1) may not be used except to provide funds for a higher priority item, based on unforeseen military requirements, than the items for which the funds were originally appropriated; and

"(2) may not be used if the item to which the funds would be transferred is an item for which Congress has denied funds.

"(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify the Congress of each transfer made under such authority to transfer amounts.

"(d) LIMITATIONS ON REQUESTS TO CONGRESS FOR REPROGRAMMINGS.—Neither the Secretary of Defense nor the Secretary of a military department may prepare or present to the Congress, or to any committee of either House of the Congress, a request with respect to a reprogramming of funds—

"(1) unless the funds to be transferred are to be used for a higher priority item, based on unforeseen military requirements, than the item for which the funds were originally appropriated; or

"(2) if the request would be for authority to reprogram amounts to an item for which the Congress has denied funds.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2212 the following new item:

"2214. Transfer of funds: procedure and limitations.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1991.

SEC. 1483. RESTATEMENT OF LAW RELATING TO ANNUAL PERSONNEL STRENGTH AUTHORIZATIONS, ANNUAL MANPOWER REQUIREMENTS REPORTS, AND ANNUAL NATIONAL GUARD AND RESERVE COMPONENT PROCUREMENT REPORT

(a) RESTATEMENT OF CURRENT LAW.—Chapter 2 of title 10, United States Code, is amended by striking out section 115 and inserting in lieu thereof the following:

"§115. Personnel strengths: requirement for annual authorization

"(a) Congress shall authorize personnel strength levels for each fiscal year for each of the following:

"(1) The end strength for each of the armed forces (other than the Coast Guard) for (A) active-duty personnel who are to be paid from funds appropriated for active-duty personnel, and (B) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel.

"(2) The end strength for the Selected Reserve of each reserve component of the armed forces.

"(3) The average military training student loads for each of the armed forces (other than the Coast Guard).

"(4) The end strength for civilian personnel for each component of the Department of Defense.

"(b) No funds may be appropriated for any fiscal year to or for—

"(1) the use of active-duty personnel or full-time National Guard duty personnel of any of the armed forces (other than the Coast Guard) unless the end strength for such personnel of that armed force for that fiscal year has been authorized by law;

"(2) the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law;

"(3) training military personnel in the training categories described in subsection (f) of any of the armed forces (other than the Coast Guard) unless the average student load of that armed force for that fiscal year has been authorized by law; or

"(4) the use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that component for that fiscal year has been authorized by law.

"(c) Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may—

"(1) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to not more than 0.5 percent of that end strength; and

"(2) increase the end strength authorized pursuant to subsection (a)(1)(B) for a fiscal year for any of the armed forces by a number equal to not more than 2 percent of that end strength.

"(d) In counting active-duty personnel for the purpose of the end-strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

"(1) Members of the Ready Reserve ordered to active duty under section 673 of this title.

"(2) Members of the Selected Reserve of the Ready Reserve ordered to active duty under section 673b of this title.

"(3) Members of the National Guard called into Federal service under section 3500 or 8500 of this title.

"(4) Members of the militia called into Federal service under chapter 15 of this title.

"(5) Members of reserve components on active duty for training.

"(6) Members of reserve components on active duty for 180 days or less to perform special work.

"(7) Members on full-time National Guard duty for 180 days or less.

"(e) The authorized strength of the Navy under subsection (a)(1) is increased by the authorized strength of the Coast Guard during any period when the Coast Guard is operating as a service in the Navy.

"(f) Authorization under subsection (a)(3) is not required for unit or crew training student loads, but is required for student loads for the following individual training categories:

"(1) Recruit and specialized training.

"(2) Flight training.

"(3) Professional training in military and civilian institutions.

"(4) Officer acquisition training.

"§115a. Annual manpower requirements report

"(a) The Secretary of Defense shall submit to Congress, not later than February 15 of each fiscal year, an annual manpower requirements report. The report shall be in writing and shall contain the Secretary's recommendations for—

"(1) the annual active-duty end-strength level for each component of the armed forces for the next fiscal year; and

"(2) the annual civilian personnel end-strength level for each component of the Department of Defense for the next fiscal year.

"(b)(1) The Secretary shall include in each report under subsection (a) justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year and the national security policies of the United States in effect at the time.

"(2) The justification and explanation shall specify in detail for all major military force units (including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit) the following:

"(A) Unit mission and capability.

"(B) Strategy which the unit supports.

"(C) Area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.

"(3) The justification and explanation shall also specify in detail the manpower required to perform the medical missions of each of the armed forces and of the Department of Defense.

"(c) The Secretary shall include in each report under subsection (a) a detailed discussion of the following:

"(1) The manpower required for support and overhead functions within the armed forces and the Department of Defense.

"(2) The relationship of the manpower required for support and overhead functions to the primary combat missions and support policies.

"(3) The manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions.

"(d) In each such report, the Secretary shall also—

"(1) identify, define, and group by mission and by region the types of military bases, installations, and facilities;

"(2) provide an explanation and justification of the relationship between this base structure and the proposed military force structure; and

"(3) a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce those costs.

"(e) The Secretary shall also include in each such report, with respect to each armed force under the jurisdiction of the Secretary of a military department, the following:

"(1) The number of positions that require warrant officers or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years.

"(2) The estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of officers that will be needed on active duty on the last day of each of the next five fiscal years.

"(3) An estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from the number of members on active duty in each officer grade, including a tabulation of—

"(A) retirements displayed by year of active commissioned service;

"(B) discharges;

"(C) other separations;

"(D) deaths;

"(E) promotions; and

"(F) reserve and regular officers ordered to active duty.

"(4) An analysis of the distribution of each of the following categories of officers serving on active duty on the last day of the preceding fiscal year by grade in which serving and years of active commissioned service:

"(A) Regular officers.

"(B) Reserve officers on the active-duty list.

"(C) Reserve officers described in clauses (B) and (C) of section 523(b)(1) of this title.

"(D) Officers other than those specified in subparagraphs (A), (B), and (C) serving in a temporary grade.

"(5) An analysis of the number of officers and enlisted members serving on active duty for training as of the last day of the preceding fiscal year under orders specifying an aggregate period in excess of 180 days and an estimate for the current fiscal year of the number that will be ordered to such duty, tabulated by—

"(A) recruit and specialized training;

"(B) flight training;

"(C) professional training in military and civilian institutions; and

"(D) officer acquisition training.

"(f) In each such report, the Secretary shall also include recommendations for the average student load for each category of training for each component of the armed forces for the next three fiscal years. The Secretary shall include in the report justification for, and explanation of, the average student loads recommended.

"(g)(1) In each such report, the Secretary shall also include recommendations for the end-strength levels for medical personnel for each component of the armed forces as of the end of the next fiscal year.

"(2) For purposes of this subsection, the term 'medical personnel' includes—

"(A) in the case of the Army, members of the Medical Corps, Dental Corps, Nurse Corps, Medical Service Corps, Veterinary Corps, and Army Medical Specialist Corps;

"(B) in the case of the Navy, members of the Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps;

"(C) in the case of the Air Force, members designated as medical officers, dental officers, Air Force nurses, medical service officers, and biomedical science officers;

"(D) enlisted members engaged in or supporting medically related activities; and

"(E) such other personnel as the Secretary considers appropriate.

"§ 115b. Annual report on National Guard and reserve component equipment

"(a) The Secretary of Defense shall submit to the Congress each year, not later than February 15, a written report concerning the equipment of the National Guard and the reserve components of the armed forces for each of the three succeeding fiscal years.

"(b) Each report under this section shall include the following:

"(1) Recommendations as to the type and quantity of each major item of equipment which should be in the inventory of the Selected Reserve of the Ready Reserve of each reserve component of the armed forces.

"(2) A statement of the quantity and average age of each type of major item of equipment which is expected to be physically available in the inventory of the Selected Reserve of the Ready Reserve of each reserve component as of the beginning of each fiscal year covered by the report.

"(3) A statement of the quantity and cost of each type of major item of equipment which is expected to be procured for the Selective Reserve of the Ready Reserve of each reserve component from commercial sources or to be transferred to each such Selected Reserve from the active-duty components of the armed forces.

"(4) A statement of the quantity of each type of major item of equipment which is expected to be retired, decommissioned, transferred, or otherwise removed from the physical inventory of the Selected Reserve of the Ready Reserve of each reserve component and the plans for replacement of that equipment.

"(5) A listing of each major item of equipment required by the Selected Reserve of the Ready Reserve of each reserve component indicating—

"(A) the full war-time requirement of that component for that item, shown in accordance with deployment schedules and requirements over successive 30-day periods following mobilization;

"(B) the number of each such item in the inventory of the component;

"(C) a separate listing of each such item in the inventory that is a deployable item and is not the most desired item;

"(D) the number of each such item projected to be in the inventory at the end of the third succeeding fiscal year; and

"(E) the number of nondeployable items in the inventory as a substitute for a required major item of equipment.

"(6) A narrative explanation of the plan of the Secretary concerned to provide equipment needed to fill the war-time requirement for each major item of equipment to all units of the Selected Reserve, including an explanation of the plan to equip units of the Selected Reserve that are short of major items of equipment at the outset of war.

"(7) For each item of major equipment reported under paragraph (3) in a report for one of the three previous years under this section as an item expected to be procured for the Selected Reserve or to be transferred to the Selected Reserve, the quantity of such equipment actually procured for or transferred to the Selected Reserve.

"(c) Each report under this section shall be expressed in the same format and with the same level of detail as the information presented in the annual Five Year Defense Program Procurement Annex prepared by the Department of Defense.".

(b) FURTHER RESTATEMENTS OF EXISTING LAW.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 123 the following new section:

"§123a. Suspension of end-strength limitations in time of war or national emergency

"If at the end of any fiscal year there is in effect a war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the armed forces or of the Department of Defense. Any such deferral may not extend beyond November 30 of the following fiscal year.".

(2) Such chapter is further amended by inserting after section 129 the following new section:

"§129a. General personnel policy

"The Secretary of Defense shall use the least costly form of personnel consistent with military requirements and other needs of the Department. In developing the annual personnel authorization requests to Congress and in carrying out personnel policies, the Secretary shall—

"(1) consider particularly the advantages of converting from one form of personnel (military, civilian, or private contract) to another for the performance of a specified job; and

"(2) include in each manpower requirements report submitted under section 115a of this title a complete justification for converting from one form of personnel to another.".

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 2 of title 10, United States Code, is amended by striking out the item relating to section 115 and inserting in lieu thereof the following new items:

"115. Personnel strengths: requirement for annual authorization.
"115a. Annual manpower requirements report.
"115b. Annual report on National Guard and reserve component equipment.".

(2) The table of sections at the beginning of chapter 3 of such title is amended—

(A) by inserting after the item relating to section 123 the following new item:

"123a. Suspension of end-strength limitations in time of war or national emergency."; and

(B) by inserting after the item relating to section 129 the following new item:

"129a. General personnel policy.".

SEC. 1484. TECHNICAL AND CLERICAL AMENDMENTS

(a) DUPLICATE SECTION NUMBERS.—The second section 1592 of title 10, United States Code (added by section 501(a) of Public Law 101-193), is redesignated as section 1596, and the item relating to that section in the

table of sections at the beginning of chapter 81 of such title is revised to reflect such redesignation.

(b) OBSOLETE PROVISIONS.—

(1) Section 130 of title 10, United States Code, is amended—

(A) by striking out "(1) Within" in subsection (b) and all that follows through "Such regulations" the first place it appears and inserting in lieu thereof "Regulations under this section"; and

(B) by striking out "(2) In this" and inserting in lieu thereof "(c) In this".

(2)(A) Section 2117 of title 10, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 104 of such title is amended by striking out the item relating to section 2117.

(3) Section 2382(d) of such title is amended by striking out "United States Court of Claims" and inserting in lieu thereof "United States Claims Court".

(4) Section 7307(b) of such title is amended—

(A) in paragraph (1)—

(i) by striking out "After August 5, 1974, no" and inserting in lieu thereof "A";

(ii) by inserting "not" after "may"; and

(iii) by striking out "disposition thereof has been approved by law enacted after such date" and inserting in lieu thereof "disposition of that vessel is approved by law enacted after August 5, 1974"; and

(B) in paragraph (2), by striking out "After August 5, 1974, any" and inserting in lieu thereof "A".

(c) CONFORMING AMENDMENTS TO PRIOR REPEALS.—

(1) Section 303a of title 37, United States Code, is amended by striking out "303, and 311" in subsections (a) and (c) and inserting in lieu thereof "and 303".

(2) Section 801 of such title is amended by striking out "(b)" before "Payment may not be made".

(d) DATE OF ENACTMENT REFERENCES.—

(1) Section 2130a of title 10, United States Code, is amended—

(A) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991" in subsection (a)(1) and inserting in lieu thereof "November 29, 1989,"; and

(B) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991" in subsection (d)(3) and inserting in lieu thereof "November 29, 1989".

(2) Section 302d of title 37, United States Code, is amended—

(A) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991" in subsection (a)(1) and inserting in lieu thereof "November 29, 1989,"; and

(B) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991" in subsection (d)(4) and inserting in lieu thereof "November 29, 1989".

(3) Section 302e of title 37, United States Code, is amended—

(A) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991" in subsection (a) and inserting in lieu thereof "November 29, 1989,"; and

(B) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991" in subsection (e)(3) and inserting in lieu thereof "November 29, 1989".

(4) Section 559(a)(1) of title 37, United States Code, is amended by striking out "the date of the enactment of the Victims of Terrorism Compensation Act" and inserting in lieu thereof "August 27, 1986".

(e) U.S.C. CITATIONS.—

(1) Section 430(b) of title 37, United States Code, is amended by inserting "(20 U.S.C. 921 et seq.)" after "Defense Dependents' Education Act of 1978".

(2) Section 559(c)(2) of such title is amended by inserting "(5 U.S.C. 5569 note)" after "Victims of Terrorism Compensation Act".

(f) AMENDMENTS FOR STYLISTIC CONSISTENCY.—

(1) The heading of each chapter of title 37, United States Code, is revised so as to appear in all capital letters.

(2) Section 2382(e) of title 10, United States Code, is amended by striking out "issued" and inserting in lieu thereof "prescribed".

(3) Section 2431(b) of such title, as redesignated by section 1301(13), is amended by striking out "covered, and specifically include, but not be limited to—" in the matter preceding paragraph (1) and inserting in lieu thereof "covered and shall specifically include—".

(4) Section 2432(c)(3) of such title, as amended by section 1407(a), is amended—

(A) by striking out "include—" in the matter preceding subparagraph (A) and inserting in lieu thereof "include the following:";

(B) by capitalizing the first letter of the first word of each of subparagraphs (B) and (C);

(C) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(D) in subparagraph (C)—

(i) by striking out "program)—" in the matter preceding clause (i) and inserting in lieu thereof "program) the following:";

(ii) by capitalizing the first letter of the first word of each of clauses (i) through (vii);

(iii) by striking out the semicolon at the end of each of clauses (i) through (v) and inserting in lieu thereof a period; and

(iv) by striking out "; and" at the end of clause (vi) and inserting in lieu thereof a period.

(g) DEFINITIONS.—

(1) Section 1079(j)(2)(B) of title 10, United States Code, is amended by inserting "the term" after "In subparagraph (A),".

(2) Section 2382(a)(3) of such title is amended by inserting "the term" after "In this subsection,".

(h) CROSS REFERENCE CORRECTIONS.—

(1) Section 1098(a) of title 10, United States Code, is amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsection (b)".

(2) Section 2330(b)(1) of such title is amended by striking out "section 114(g)" and inserting in lieu thereof "section 114a".

(3) Section 2382(a)(3) of such title is amended by striking out "subsection (a)" and inserting in lieu thereof "paragraph (1)".

(4) Section 2436(d)(3) of such title is amended by striking out "section 2320(a)(4)" and inserting in lieu thereof "section 2302(6)".

(5) Effective as of November 29, 1989, section 433(a) of title 37, United States Code, is amended by striking out "section 691 of title 10" and inserting in lieu thereof "section 687 of title 10".

(6) Section 1013 of title 37, United States Code, is amended by striking out "or 1095" and inserting in lieu thereof "or 1095a".

(7) Section 804(a) of Public Law 101-189 is amended by striking out "(as amended by section 842)" and inserting in lieu thereof "(as amended by section 802(c))".

(8) Section 1213(b)(3) of Public Law 101-189 is amended by inserting "of title 10" after "chapter 18".

(i) HEADINGS, TABLES OF SECTIONS, ETC..—

(1) The table of sections at the beginning of subchapter IX of chapter 47 of title 10, United States Code, is amended by inserting after the item relating to section 867 (article 67) the following new item:

"867a. Art. 67a. Review by the Supreme Court.".

(2) The second subchapter XI of chapter 47 of such title (as added by section 1301(c) of Public Law 101-189) is redesignated as subchapter XII.

(3)(A) The heading of section 2004 of title 10, United States Code, is amended by striking out "of the military departments".

(B) The item relating to such section in the table of sections at the beginning of chapter 101 of such title is revised to conform to the amendment made by subparagraph (A).

(4)(A) The heading of section 2007 of title 10, United States Code, is amended by striking out the first two words and capitalizing the first letter of the third word.

(B) The item relating to that section in the table of sections at the beginning of chapter 101 of such title is revised to conform to the amendments made by subparagraph (A).

(5) The item relating to section 2185 in the table of sections at the beginning of chapter 110 of title 10, United States Code, is amended by inserting "administered by" after "programs".

(6) The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2213.

(7) The table of subchapters at the beginning of chapter 138 of such title is amended by inserting "Sec." above "2341".

(8) The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2407.

(9) The table in section 406(b)(1)(C) of title 37, United States Code, is amended by inserting a period at the end of footnote 2.

(j) DEPARTMENT OF VETERANS AFFAIRS REFERENCES.—

(1) Section 1074(b) of title 10, United States Code, is amended by striking out "Administrator" and inserting in lieu thereof "Secretary of Veterans Affairs".

(2) Section 2006(d) of such title is amended by striking out "Administrator" in the first sentence and inserting in lieu thereof "Secretary of Veterans Affairs".

(3) Section 2136(a) of such title is amended by striking out "Veterans' Administration" both places it appears and inserting in lieu thereof "Department of Veterans Affairs".

(4) Section 6160(c) of such title is amended by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary of Veterans Affairs".

(k) MISCELLANEOUS TITLE 10 AMENDMENTS.—Title 10, United States Code, is further amended as follows:

(1) Section 138(a)(2) is amended—

(A) by striking out "(A)" and all that follows through "and evaluation" and inserting in lieu thereof "(A) The term 'operational test and evaluation'; and

(B) by striking out "(B)" and all that follows through "program" the first place it ap-

pears and inserting in lieu thereof "(B) The term 'major defense acquisition program'".

(2) Section 513 is amended by striking out "paragraph (1)" in subsections (b) and (c) and inserting in lieu thereof "subsection (a)".

(3) Section 653 is amended—

(A) in subsection (a), by striking out "and" and inserting in lieu thereof "or"; and

(B) in subsection (c)—

(i) by inserting a comma after "training" the first place it appears in paragraphs (1) and (2); and

(ii) by inserting a comma after "naval flight officer" the first place it appears in paragraph (3).

(4) Section 978(c)(3) is amended by striking out "a" after "paragraph (1), or".

(5) Section 1460a(a) (as added effective on October 1, 1991) is amended by striking out "section" and inserting in lieu thereof "sections".

(6) Section 1594(d) is amended by striking out "in this section" and inserting in lieu thereof "In this section".

(7) Section 2121(c) is amended by striking out "sections" in the third sentence and inserting in lieu thereof "section".

(8) Section 2350f(d)(1)(A) is amended by striking out ", or" at the end and inserting in lieu thereof a semicolon.

(9) Section 2371(f) is amended by striking out "Committees of" and inserting in lieu thereof "Committees on".

(10) Section 2433(c) is amended by striking out "the" each place it appears before "such service acquisition executive".

(11) Section 2435(b)(1) is amended by striking out the closing parenthesis after "service acquisition executive designated by such Secretary".

(l) OTHER LAWS.—

(1) Section 638(a) of Public Law 100-180 (10 U.S.C. 113 note) is amended by striking out "under 18 years of age".

(2) Section 523 of Public Law 100-456 (32 U.S.C. 709 note) is amended in subsection (a) by striking out the second comma after "at the technician's option".

(3) Section 503(b)(3) of Public Law 101-189 (103 Stat. 1437) is amended by inserting "section" after "appointment under".

(4) Title XIV of Public Law 101-189 (103 Stat. 1577 et seq.) is amended as follows:

(A) Section 1404(a)(2) is amended by striking out "Spouse Coverage for Survivor Benefit Plan Participants" in the matter to be inserted (effective on October 1, 1991) by the amendment made by that section and inserting in lieu thereof "Survivor Benefit Plan".

(B) Section 1405(a)(2) is amended by striking out "COVERGE" and inserting in lieu thereof "COVERAGE".

(C) Effective as of November 29, 1989, section 1407(a) is amended—

(i) by striking out "both places" in paragraph (1)(A) and inserting in lieu thereof "each place"; and

(ii) by inserting "the second place it appears" in paragraph (9)(B) before "and inserting".

(5) Section 506(c)(3) of Public Law 101-194 is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) by striking out the period at the end of paragraph (7) and inserting in lieu thereof '; and'; and".

(6) The last subparagraph of section 27(f)(3) of the Office of Federal Procurement Policy Act is amended by striking out "(D)" and inserting in lieu thereof "(F)".

PART I—CONGRESSIONAL MEDALS

SEC. 1491. CONGRESSIONAL GOLD MEDAL FOR MATTHEW B. RIDGWAY

(a) FINDINGS.—The Congress finds that—

(1) General Matthew B. Ridgway, United States Army (Retired), served his country with great honor and distinction for more than 40 years;

(2) during World War II, General Ridgway commanded the 82nd Airborne Division and later the XVIII Airborne Corps, leading his soldiers in some of the most difficult fighting of the European theater to achieve Allied victories in North Africa, Sicily, Italy, the Normandy invasion, the Battle of the Bulge, the Ruhr Pocket, and the crossing of the Rhine and Elbe Rivers.

(3) in Korea, during the depths of the bitter winter of 1950, General Ridgway took command of the seriously demoralized Eighth Army, motivated and inspired it to "Stand and Fight", and led it on the offensive again;

(4) under his leadership, the military forces of the United Nations Command in Korea recaptured territory that had been lost earlier to overwhelming enemy forces and forced the onset of armistice negotiations; and

(5) after his commands in the Korean war, General Ridgway continued his outstanding service to his country by serving in the positions of Supreme Commander of Allied Powers in Europe and Chief of Staff of the United States Army.

(b) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to General Matthew B. Ridgway, United States Army (Retired) a gold medal of appropriate design, in recognition of his distinguished service to the Nation.

(c) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (b), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(d) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated an amount not to exceed $25,000 to carry out this section.

(e) DUPLICATE MEDALS.—(1) The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to subsection (c) under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(2) The appropriation used to carry out subsection (c) shall be reimbursed out of the proceeds of sales under paragraph (1).

SEC. 1492. CONGRESSIONAL MEDAL FOR VETERANS OF THE ATTACK ON PEARL HARBOR

(a) PURPOSE.—It is the purpose of this section—

(1) to commemorate the sacrifices made and service rendered to the United States by those veterans of the Armed Forces of the United States who defended Pearl Harbor and other military installations in Hawaii against attack by the Japanese on December 7, 1941; and

(2) to honor those veterans on the fiftieth anniversary of that attack.

(b) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized jointly to present, on behalf of the Congress, to persons certified by the Secretary of Defense pursuant to subsection (e) a bronze medal 1½ inches in diameter commemorating the service of those persons to the United States. The presentation shall be made as close as feasible to the fiftieth anniversary of the attack on Pearl Harbor. The medal may be accepted by the next of kin of any such person who was killed in action during that attack or who has since died.

(c) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike the medal authorized by paragraph (1) in bronze with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury.

'(d) ELIGIBILITY REQUIREMENTS.—(1) To be eligible to be presented the medal referred to in subsection (b), a person must have been a member of the Armed Forces of the United States who was present in Hawaii on December 7, 1941, and who participated in combat operations that day against Japanese military forces attacking Hawaii. A person who was killed or wounded in that attack shall be deemed to have participated in the combat operations.

(2) To establish the eligibility required by paragraph (1), a person must present to the Secretary of Defense an application with such supporting documentation as the person may have to support such person's eligibility or the eligibility of a next of kin. The Secretary of Defense shall determine, through the documentation provided and, if necessary, independent investigation whether the person meets the criteria prescribed in paragraph (1).

(e) CERTIFICATION.—The Secretary of Defense shall, within 12 months after the date of enactment of this Act, certify to the Speaker of the House of Representatives and the President pro tempore of the Senate the names of persons eligible to receive the medal.

(f) NEXT OF KIN.—If applications for a medal are filed by more than one next of kin of a person eligible to receive a medal under this section, the Secretary of Defense shall determine which next of kin will receive the medal.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriate such sum as may be necessary to carry out this section.

SEC. 1493. YOSEMITE NATIONAL PARK CENTENNIAL MEDAL

(a) STRIKING AND DESIGN OF MEDALS.—In commemoration of the centennial of Yosemite National Park in 1990, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall strike medals with suitable emblems, devices, and inscriptions capturing the scenic and historic significance of the park. The design of the medals shall be determined by the Secretary in consultation with the Secretary of the Interior and the Commission on Fine Arts.

(b) SALE OF MEDALS.—(1) Notwithstanding any other provision of law, the medals issued under this section shall be sold by the Secretary at a price equal to the cost of designing and issuing such medals (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in paragraph (3).

(2) The Secretary shall make bulk sales at a reasonable discount.

(3) The sale of each medal shall include a surcharge of $2.

(c) DISTRIBUTION OF SURCHARGES.—Proceeds realized from surcharges on medals sold under this section shall be promptly paid by the Secretary to a permanent endowment fund for the benefit of Yosemite National Park. Such endowment shall be administered by the National Park Foundation. The

net income from the fund shall be paid to the Secretary of the Interior for funding special supplemental projects relating to (1) back country trail development and rehabilitation, and (2) the preservation of Sequoia groves within the boundaries of Yosemite National Park.

(d) SALE OF MEDALS IN NATIONAL PARK FACILITIES.—The Secretary and the Secretary of the Interior shall enter into a memorandum of agreement to permit—

(1) the Secretary to deliver medals to the Secretary of the Interior; and

(2) the Secretary of the Interior to provide for the sale of the medals in National Park facilities.

(e) METAL CONTENT AND SIZE OF MEDALS.—The medals authorized to be struck and delivered under this section shall be struck in bronze and in the size determined by the Secretary in consultation with the Secretary of the Interior.

(f) EXAMINATION OF RECORDS.—The Comptroller General of the United States shall have the right to examine all books, documents, and other records of the National Park Foundation related to the medals authorized by this section.

SEC. 1494. NATIONAL MEDALS

The medals authorized by sections 1491, 1492, and 1493 are national medals for purposes of chapter 51 of title 31, United States Code.

TITLE XV—ARMED FORCES RETIREMENT HOME

SEC. 1501. SHORT TITLE

This title may be cited as the "Armed Forces Retirement Home Act of 1991".

SEC. 1502. DEFINITIONS

For purposes of this title:

(1) The term "Retirement Home" means the Armed Forces Retirement Home established under section 1511(a).

(2) The term "Retirement Home Board" means the Armed Forces Retirement Home Board.

(3) The term "Local Board" means a Board of Trustees established for each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes.

(4) The term "Director" means a Director of the Armed Forces Retirement Home appointed under section 1517(a).

(5) The term "Fund" means the Armed Forces Retirement Home Trust Fund established under section 1519(a).

(6) The term "Armed Forces" does not include the Coast Guard when it is not operating as a service in the Navy.

(7) The term "chief personnel officers" means—

(A) the Deputy Chief of Staff for Personnel of the Army;

(B) the Chief of Naval Personnel;

(C) the Deputy Chief of Staff, Manpower and Personnel of the Air Force; and

(D) the Deputy Chief of Staff for Manpower of the Marine Corps.

(8) The term "senior noncommissioned officers" means the following:

(A) The Sergeant Major of the Army.

(B) The Master Chief Petty Officer of the Navy.

(C) The Chief Master Sergeant of the Air Force.

(D) The Sergeant Major of the Marine Corps.

PART A—ESTABLISHMENT AND OPERATION OF RETIREMENT HOME

SEC. 1511. ESTABLISHMENT OF THE ARMED FORCES RETIREMENT HOME

(a) INCLUSION OF EXISTING HOMES.—The United States Soldiers' and Airmen's Home and the Naval Home are hereby incorporated into an independent establishment in the Executive branch of the Federal Government to be known as the Armed Forces Retirement Home.

(b) PURPOSE.—The purpose of the Retirement Home is to provide, through the United States Soldiers' and Airmen's Home and the Naval Home, a residence and related services for certain retired and former members of the Armed Forces.

(c) OPERATION.—Each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes shall be operated by a Director under the overall supervision of the Armed Forces Retirement Home Board.

(d) PROPERTY AND FACILITIES.—(1) The Retirement Home shall consist of such property and facilities as may be transferred to the Retirement Home or acquired by the Retirement Home Board for inclusion in the Retirement Home.

(2) On the effective date specified in section 1541(a), the property and facilities known and operated as the Naval Home and the United States Soldiers' and Airmen's Home shall be transferred to, and made a part of, the Retirement Home.

(e) ACCREDITATION.—The Retirement Home Board shall endeavor to secure for each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes the accreditation of that facility by a nationally recognized civilian accrediting organization, such as the Continuing Care Accreditation Commission and the Joint Commission for Accreditation of Health Organizations.

SEC. 1512. RESIDENTS OF RETIREMENT HOME

(a) PERSONS ELIGIBLE TO BE RESIDENTS.—Except as provided in subsection (b), the following persons who served as members of the Armed Forces, at least one-half of whose service was not active commissioned service (other than as a warrant officer or limited-duty officer), are eligible to become residents of the Retirement Home:

(1) Persons who—

(A) are 60 years of age or over; and

(B) were discharged or released from service in the Armed Forces under honorable conditions after 20 or more years of active service.

(2) Persons who are determined under rules prescribed by the Retirement Home Board to be incapable of earning a livelihood because of a service-connected disability incurred in the line of duty in the Armed Forces.

(3) Persons who—

(A) served in a war theater during a time of war declared by Congress or were eligible for hostile fire special pay under section 310 of title 37, United States Code;

(B) were discharged or released from service in the Armed Forces under honorable conditions; and

(C) are determined under rules prescribed by the Retirement Home Board to be incapable of earning a livelihood because of injuries, disease, or disability.

(4) Persons who—

(A) served in a women's component of the Armed Forces before the enactment of the Women's Armed Services Integration Act of 1948; and

(B) are determined under rules prescribed by the Retirement Home Board to be eligible for admission because of compelling personal circumstances.

(b) PERSONS INELIGIBLE TO BE RESIDENTS.—A person described in subsection (a) who has been convicted of a felony or is not free of drug, alcohol, or psychiatric problems shall be ineligible to become a resident of the Retirement Home.

(c) ACCEPTANCE.—To apply for acceptance as a resident of a facility of the Retirement Home, a person eligible to be a resident shall submit to the Director of that facility an application in such form and containing such information as the Retirement Home Board may require.

(d) PRIORITIES FOR ACCEPTANCE.—The Retirement Home Board shall establish a system of priorities for the acceptance of residents so that the most deserving applicants will be accepted whenever the number of eligible applicants is greater than the Retirement Home can accommodate.

(e) EFFECT OF DEPARTURE.—A resident of the Retirement Home who leaves the Retirement Home for more than 45 consecutive days (other than for inpatient medical care) shall be required to reapply for acceptance as a resident.

(f) APPLICATION OF ELIGIBILITY REQUIREMENTS TO CURRENT RESIDENTS OF THE NAVAL HOME AND THE SOLDIERS' AND AIRMEN'S HOME.—Residents of the Naval Home and the United States Soldiers' and Airmen's Home as of the effective date specified in section 1541(a)—

(1) shall not be required to apply for acceptance as residents of the Retirement Home; and

(2) shall become residents of the Retirement Home on that date.

SEC. 1513. SERVICES PROVIDED RESIDENTS

(a) SERVICES PROVIDED.—Except as provided in subsection (b), a resident of the Retirement Home shall receive the services authorized by the Retirement Home Board.

(b) MEDICAL AND DENTAL CARE.—The Retirement Home shall provide for the overall health care needs of residents in a high quality and cost-effective manner, including on site primary care, medical care, and a continuum of long-term care services. Secondary and tertiary hospital care for residents that is not available at the Retirement Home shall be obtained through agreements with facilities administered by the Secretary of Veterans Affairs or the Secretary of Defense or at private facilities. The Retirement Home may not construct an acute care facility.

SEC. 1514. FEES PAID BY RESIDENTS

(a) MONTHLY FEES.—The Directors shall collect from each resident of the Retirement Home a monthly fee.

(b) DEPOSIT OF FEES.—The Directors shall deposit fees collected under subsection (a) in the Armed Forces Retirement Home Trust Fund.

(c) FIXING FEES.—(1) The Retirement Home Board shall from time to time fix the fee required by subsection (a) on the basis of the financial needs of the Retirement Home and the ability of the residents to pay.

(2) The fee shall be fixed as a percentage of Federal payments made to a resident, including monthly retired or retainer pay, monthly civil service annuity, monthly compensation or pension paid to the resident by the Secretary of Veterans Affairs, and Social Security payments. Residents who do not receive such Federal payments shall be required to pay a monthly fee that is equivalent to the average monthly fee paid by residents who receive Federal payments, subject to such adjustments in the fee as the Retirement Home Board may make. The percentage shall be the same for each establishment of the Retirement Home.

(d) APPLICATION OF FEES TO CURRENT RESIDENTS OF THE NAVAL HOME AND THE SOLDIERS' AND AIRMEN'S HOME.—(1) Each resident of the Naval Home who becomes a resident of the Retirement Home on the effective date specified in section 1541(a) shall begin paying a monthly fee that is equal to 12.5 percent of the Federal payments made to the resident. Each year thereafter, the fee for such resident under this subsection shall be increased 2.5 percent until the percentage fixed under subsection (c) has been reached. Such percentage increase may be adjusted so that the conversion to the fee fixed under subsection (c) is accomplished under this subsection within six years after such effective date.

(2) A resident of the United States Soldiers' and Airmen's Home who becomes a resident of the Retirement Home on such date and who received Federal payments referred to in subsection (c) that were not considered for purposes of determining the resident's monthly fee for the United States Soldiers' and Airmen's Home shall have that fee increased by an amount that is equal to 12.5 percent of the monthly equivalent of those payments for the first year and 2.5 percent of the monthly equivalent of those payments each year thereafter until the percentage fixed pursuant to subsection (c) has been reached.

(e) APPLICATION OF FEES FOR NEW RESIDENTS.—A person who becomes a resident of the Retirement Home after the effective date specified in section 1541(a) shall be required to pay a monthly fee that is equal to 25 percent of Federal payments made to the resident, subject to such adjustments in the fee as may be made under subsection (c).

SEC. 1515. COMPOSITION AND OPERATION OF RETIREMENT HOME BOARD

(a) ESTABLISHMENT.—There is hereby established the Armed Forces Retirement Home Board. The Retirement Home Board shall exercise policy oversight over the Retirement Home and oversee the activities of any local boards of trustees.

(b) MEMBERS.—The Retirement Home Board shall consist of not less than 16 members who shall be appointed by the Secretary of Defense, unless otherwise indicated, as follows:

(1) One representative from the office of the Assistant Secretary of Defense (Force Management and Personnel).

(2) One representative from the Department of Defense Comptroller's office.

(3) One representative from the office of the Assistant Secretary of Defense (Health Affairs).

(4) One representative from the office of the General Counsel of the Department of Defense.

(5) Two persons who are experts in the operations of retirement homes and who are not officers or employees of the United States.

(6) Two persons who are gerontologists and who are not officers or employees of the United States.

(7) Two persons who are personnel chiefs of the Armed Forces.

(8) Two persons who are senior noncommissioned officers of the Armed Forces.

(9) One representative from the Office of Management and Budget who shall be designated by the Director of the Office of Management and Budget.

(10) One representative from a national noncommissioned officer association or a military retiree council who shall be a nonvoting member of the Board.

(11) One representative of the Secretary of Veterans Affairs who shall be designated by that Secretary.

(12) One officer or employee of the Department of Health and Human Services who shall be designated by the Secretary of Health and Human Services.

(c) LOCAL BOARDS.—Each establishment of the Retirement Home shall have a Board of trustees which shall exercise operational oversight over the respective facility and provide reports to the Retirement Home Board at least twice annually. Each Local Board shall consist of at least 11 members appointed by the Secretaries of the military departments. The local boards shall consist of the following:

(1) One person who is a civilian expert in nursing home or retirement home administration and financing from the geographical area of each facility.

(2) One person who is a civilian expert in gerontology from the geographical area of each facility.

(3) One person who is a service expert in financial management.

(4) One representative from the Department of Veterans Affairs regional office nearest in proximity to each facility who shall be designated by the Secretary of Veterans Affairs.

(5) One representative from the resident advisory committee or council of the respective facility who shall be a nonvoting member.

(6) One enlisted representative of the Services' Retiree Advisory Council.

(7) The senior noncommissioned officer of an Armed Force.

(8) One senior representative from the military hospital nearest in proximity to each facility.

(9) One senior representative from the Judge Advocate General's Corps from one of the Armed Services.

(10) The director of the respective facility who shall be a nonvoting member.

(11) One senior representative of one of the chief personnel officers of the Armed Services.

(d) CHAIRMEN.—(1) The Secretary of Defense shall select one of the members of the Retirement Home Board to serve as chairman. The term of office of the chairman of the Retirement Home Board shall be five years.

(2) The Secretaries of the military departments shall select the chairman for each Local Board from the members of that board. The term of office of the chairman of a Local Board shall be three years.

(e) TERMS.—(1) Except as provided in subsection (f), the term of office of each member of the Retirement Home Board and each Local Board shall be five years.

(2) A member whose term of office has expired may continue to serve until the successor for the member is appointed or designated.

(f) FIRST APPOINTMENT AND DESIGNATION.—Not later than the effective date specified in section 1541(a), members of the Retirement Home Board and the members of each Local Board shall be first appointed to staggered terms.

(g) VACANCIES.—(1) A vacancy in the Retirement Home Board or a Local Board shall be filled in the manner in which the original appointment or designation was made.

(2) A member appointed or designated to fill a vacancy occurring before the end of the term of the predecessor of the member shall be appointed or designated, as the case may be, for the remainder of the term for which the predecessor was appointed.

(3) A vacancy in the Retirement Home Board or a Local Board shall not affect its authority to perform its duties.

(h) COMPENSATION.—(1) Except as provided in paragraph (2), members of the Retirement Home Board and members of the Local Boards shall—

(A) be provided a stipend consistent with the daily government consultant fee for each day in which the member is engaged in the performance of services for the Retirement Home Board or a Local Board; and

(B) while away from home or regular place of business in the performance of services for the Retirement Home Board or a Local Board, be allowed travel expenses (including per diem in lieu of subsistence) in the same manner as a person employed intermittently in Government under sections 5701 through 5707 of title 5, United States Code.

(2) A member of the Retirement Home Board or a Local Board who is a member of the Armed Forces on active duty or a full-time officer or employee of the United States shall receive no additional pay by reason of service on the Retirement Home Board or a Local Board.

(i) MEETINGS.—(1) The Retirement Home Board shall meet twice a year, or at more frequent intervals, at the call of the chairman or a majority of the members.

(2) The first meeting of the Retirement Home Board shall be held during the 30-day period beginning on the later of—

(A) the effective date specified in section 1541(a); and

(B) the date on which the last of the five members required by subsection (b) to be appointed is first appointed.

SEC. 1516. DUTIES OF RETIREMENT HOME BOARD

(a) OVERALL OPERATION OF THE RETIREMENT HOME.—The Retirement Home Board shall be responsible for the overall operation of the Retirement Home. As part of such responsibilities, the Retirement Home Board shall perform the following duties:

(1) Issue and ensure compliance with appropriate rules for the operation of the Retirement Home.

(2) Periodically visit, and inspect the operation of, the facilities of the Retirement Home.

(3) Periodically examine and audit the accounts of the Retirement Home.

(4) Establish such advisory bodies as the Retirement Home Board considers to be necessary.

(b) SPECIAL DUTIES OF SPECIFIC MEMBERS.—The Retirement Home Board shall assign specific members of the Retirement Home Board appointed under section 1515(b) to oversee the operations of each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes.

(c) ACQUISITION OF REAL PROPERTY.—The Retirement Home Board may acquire, for the benefit of the Retirement Home, property and facilities for inclusion in the Retirement Home.

(d) LIMITATION ON THE DISPOSAL OF REAL PROPERTY.—(1) Real property of the Retirement Home may not be disposed of by the Retirement Home Board by sale or otherwise unless the disposal of the property is specifically authorized by law.

(2) In any case in which any real property is sold by the Retirement Home Board, the Board shall deposit moneys received from the sale of the property in the Armed Forces Retirement Home Trust Fund.

(e) GIFTS.—(1) The Retirement Home Board may accept gifts of money, property,

and facilities on behalf of the Retirement Home.

(2) Monies received as gifts, or realized from the disposition of property and facilities received as gifts, shall be deposited in the Fund.

(f) ANNUAL REPORT.—Not later than 90 days after the end of each fiscal year, the Retirement Home Board shall submit to the Secretary of Defense, for transmission to Congress, a report describing the financial and other affairs of the Retirement Home for that fiscal year.

SEC. 1517. DIRECTORS AND STAFF

(a) APPOINTMENT AND QUALIFICATIONS.—(1) The Secretary of Defense shall appoint a Director for each separate establishment of the Retirement Home.

(2) Each Director shall be appointed from among persons recommended by the Retirement Home Board who—

(A) are not officers of the Armed Forces on active duty; and

(B) have appropriate leadership and management skills, an appreciation and understanding of the culture and norms associated with military service, and a significant military background.

(3) Each Director shall be required to pursue a course of study to receive certification as a retirement facilities director by an appropriate civilian certifying organization if the Director is not so certified at the time of appointment.

(b) APPLICATION OF CIVIL SERVICE LAWS TO APPOINTMENT AND FIXING PAY.—The Secretary of Defense may appoint the Director referred to in subsection (a) and Deputy Directors for the Retirement Home without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(c) TERM OF DIRECTOR.—The term of office of a Director shall be five years. A Director may be reappointed for one additional term upon the completion of the first term of office unless the Director has failed to successfully complete a course of study to receive certification as a retirement facilities director.

(d) DUTIES OF DIRECTORS.—(1) A Director shall be responsible for the day-to-day operation of the facility of the Retirement Home for which the Director is appointed, including the acceptance of applicants to be residents of that facility.

(2) The Director shall keep accurate and complete records of the operations of that facility of the Retirement Home.

(e) STAFF.—(1) A Director, subject to the approval of the Retirement Home Board, may appoint and fix the pay of such principal staff as the Director considers appropriate to assist the Director in operating the facility of the Retirement Home for which the Director is appointed.

(2) The staff shall include persons with experience and expertise in the operation and management of retirement homes and in the provision of long-term medical care for older persons.

(3) The Director may exempt four physicians employed at the Retirement Home from the provisions of subsections (a), (b), and (c) of section 5532 of title 5, United States Code, if the Director determines that the exemption is necessary to recruit or retain well-qualified physicians for the Retirement Home. An exemption granted under this section shall apply to the retired pay of the physician payable for the first month after the month in which the exemption is granted and shall terminate upon any break in employment with the Retirement Home of three days or more.

(f) INITIAL OPERATION.—(1) Until the date on which the Secretary of Defense first appoints the Director for the establishment of the Retirement Home known as the Naval Home, the Governor of the Naval Home shall operate that facility consistent with this Act and other laws applicable to the Retirement Home.

(2) Until the date on which the Secretary of Defense first appoints the Director for the facility of the Retirement Home known as the United States Soldiers' and Airmen's Home, the Governor of the United States Soldiers' and Airmen's Home shall operate that establishment consistent with this Act and other laws applicable to the Retirement Home.

SEC. 1518. INSPECTION BY INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

The Inspector General of the Department of Defense shall—

(1) conduct, not later than three years after the effective date specified in section 1541(a) (and at six-year intervals thereafter), an inspection of the Retirement Home and the records of the Retirement Home;

(2) cause the Inspector Generals of the military departments to conduct an inspection of the Retirement Home and its records at six-year intervals alternating with the inspections by the Inspector General of the Department of Defense so that each home is inspected every three years; and

(3) submit to the Retirement Home Board, the Secretary of Defense, and Congress a report describing the results of the inspection and containing such recommendations as the Inspector General considers appropriate.

SEC. 1519. RETIREMENT HOME TRUST FUND

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a trust fund to be known as the Armed Forces Retirement Home Trust Fund. The Fund shall consist of the following:

(1) Such amounts as may be transferred to the Fund.

(2) Moneys deposited in the Fund by the Retirement Home Board realized from gifts or from the disposition of property and facilities.

(3) Amounts deposited in the Fund as monthly fees paid by residents of the Retirement Home under section 1514.

(4) Amounts of fines and forfeitures deposited in the Fund under section 2772 of title 10, United States Code.

(5) Amounts deposited in the Fund as deductions from the pay of enlisted members, warrant officers, and limited duty officers under section 1007(i) of title 37, United States Code.

(6) Interest from investments made under subsection (c).

(b) AVAILABILITY AND USE OF FUND.—Amounts in the Fund shall be available solely for the operation of the Retirement Home.

(c) INVESTMENTS.—The Secretary of the Treasury may invest in obligations issued or guaranteed by the United States any monies in the Fund that the Director determines are not currently needed to pay for the operation of the Retirement Home.

(d) TRANSITIONAL ACCOUNTS.—(1) During the period beginning on the date of the enactment of this Act and ending on September 30, 1994, the Fund shall contain a separate account for each establishment of the Retirement Home. During that period, contributions shall be collected under subsection (a) for the account of the Naval Home for the purpose of achieving a trust fund five times the estimated annual operating budget of the Naval Home.

(2) Beginning on the date of the enactment of this Act, funds required for the operation of the Naval Home and the United States Soldiers' and Airmen's Home shall be drawn from the appropriate account.

(3) During the period beginning on the date of the enactment of this Act and ending on September 30, 1994—

(A) amounts collected as monthly fees paid by residents of the Naval Home and amounts referred to in subsections (a)(4) and (a)(5) derived from enlisted members, warrant officers, and limited duty officers of the Navy, Marine Corps, and Coast Guard shall be credited to the account relating to that establishment; and

(B) amounts collected as monthly fees paid by residents of the United States Soldiers' and Airmen's Home and amounts referred to in subsections (a)(4) and (a)(5) derived from members and warrant officers of the Army and Air Force shall be credited to the account relating to that establishment.

SEC. 1520. DISPOSITION OF EFFECTS OF DECEASED PERSONS; UNCLAIMED PROPERTY

(a) EFFECTS OF DECEASED PERSONS.—The Directors of the establishments of the Retirement Home shall safeguard and dispose of the effects of a deceased person delivered to the Retirement Home under section 4712(f) or 9712(f) of title 10, United States Code, and the estate and effects of a deceased resident of the Armed Forces Retirement Home as follows:

(1) A will or other paper involving property rights shall be promptly delivered to the proper court of record.

(2) If the heirs or legal representative of the deceased cannot sooner be ascertained, the Directors shall retain the remaining effects until three years after the death of the deceased, and then, if a right to the effects is established to the satisfaction of the Directors, shall deliver the effects to the living person highest on the following list who can be found:

(A) The surviving spouse or legal representative.

(B) A child of the deceased.

(C) A parent of the deceased.

(D) A brother or sister of the deceased.

(E) The next-of-kin of the deceased.

(F) A beneficiary named in the will of the deceased.

(b) SALE OF EFFECTS.—(1) After three years from the date of death of the deceased, the Directors may sell the effects to which a right has not been established under subsection (a) (except decorations, medals, and citations) by public or private sale, as the Directors consider most advantageous.

(2) After five years from the date of death of the deceased, the Directors shall dispose of effects that were not sold under paragraph (1) (including decorations, medals, and citations) and to which a right has not been established under subsection (a). The sale shall be made in the manner that the Directors consider most appropriate in the public interest. Disposal may include—

(A) retaining the effects for the use of the Retirement Home;

(B) delivering the effects to the Secretary of Veterans Affairs, to a State or other military home, to a museum, or to any other appropriate institution; or

(C) destroying the effects if the Retirement Home Board determines that they are valueless.

(c) TRANSFER OF PROCEEDS TO THE FUND.—The net proceeds received by the Directors from the sale of effects under subsection (b) shall be deposited in the Fund.

(d) SUBSEQUENT CLAIM.—(1) A claim for the net proceeds of the sale under subsection (b) of the effects of a deceased may be filed with the Comptroller General of the United States at any time within six years after the death of the deceased, for action under section 2771 of title 10, United States Code.

(2) A claim referred to in paragraph (1) may not be considered by a court or the Comptroller General unless the claim is filed within the time period prescribed in such paragraph.

(3) A claim allowed by the Comptroller General under paragraph (1) shall be certified to the Secretary of the Treasury for payment from the Fund in the amount found due, including any interest relating to the amount. No claim may be allowed or paid in excess of the net proceeds of the estate deposited in the Fund under subsection (c) plus interest.

(e) UNCLAIMED PROPERTY.—In the case of property delivered to the Retirement Home under section 2575 of title 10, United States Code, the Directors shall deliver the property to the owner, the heirs or next of kin of the owner, or the legal representative of the owner, if a right to the property is established to the satisfaction of the Directors within two years after the delivery.

PART B—TRANSITIONAL PROVISIONS

SEC. 1531. TRANSFER OF TRUST FUNDS RELATING TO THE NAVAL HOME AND THE SOLDIERS' AND AIRMEN'S HOME

(a) INITIAL TRANSFER.—(1) On the date of the enactment of this Act, all monies in the funds named in paragraph (2) shall be transferred to the appropriate account in the Armed Forces Retirement Home Trust Fund, and those funds shall terminate.

(2) The funds referred to in paragraph (1) are the following:

(A) Soldiers' Home, permanent fund, referred to in paragraph (59) of section 1321(a) of title 31, United States Code.

(B) Soldiers' Home, interest fund, referred to in paragraph (81) of such section.

(C) Personal funds of deceased inmates, Naval Home, referred to in paragraph (5) of such section.

(D) Any new category of funds created for the Naval Home or the United States Soldiers' and Airmen's Home before that date.

(b) SUBSEQUENT TRANSFERS.—After the termination of the funds referred to in subsection (a), any monies that would be deposited into one of those funds but for the termination of that fund under subsection (a) shall be deposited into the Armed Forces Retirement Home Trust Fund.

SEC. 1532. REPEAL OF PROVISIONS RELATING TO THE NAVAL HOME AND THE UNITED STATES SOLDIERS' AND AIRMEN'S HOME

(a) LAWS RELATING TO THE NAVAL HOME.—The following provisions of law are repealed:

(1) Section 11 of the Act of August 2, 1946 (60 Stat. 854; 24 U.S.C. 21a).

(2) Section 9 of the Act of June 26, 1934 (48 Stat. 1229; 24 U.S.C. 21b).

(3) The second, third, fourth, and fifth provisos relating to the maintenance of the Naval Home under the heading "BUREAU OF NAVIGATION" in the Act of June 30, 1914 (38 Stat. 398; 24 U.S.C. 22, 23).

(4) The proviso relating to the maintenance of the Naval Home under the heading "BUREAU OF NAVIGATION" in the Act of March 4, 1917 (39 Stat. 1175; 24 U.S.C. 24).

(5) The first proviso relating to miscellaneous expenses of the Naval Home under the heading "BUREAU OF NAVIGATION" of the Act of August 22, 1912 (37 Stat. 334; 24 U.S.C. 25).

(b) LAWS RELATING TO THE SOLDIERS' AND AIRMEN'S HOME.—The following provisions of law are repealed:

(1) Chapter 2 of title LIX of the Revised Statutes of the United States (24 U.S.C. 41, 43, 45, 49, 50).

(2) The Act entitled "An Act prescribing regulations for the Soldiers' Home located at Washington in the District of Columbia, and for other purposes", approved March 3, 1883 (22 Stat. 564; 24 U.S.C. 41, 43, 46, 48, 59).

(3) The proviso relating to the military prison at Fort Leavenworth, Kansas, under the heading "MISCELLANEOUS OBJECTS, WAR DEPARTMENT" in the Act of March 4, 1909 (35 Stat. 1004; 24 U.S.C. 42).

(4) Section 1 of Public Law 94-454 (90 Stat. 1518; 24 U.S.C. 44b).

(5) The proviso under the heading "UNITED STATES SOLDIERS' HOME" in title II of the Act of April 9, 1935 (49 Stat. 147; 24 U.S.C. 46a).

(6) The proviso under the heading "UNITED STATES SOLDIERS' HOME" in the Act of July 19, 1937 (50 Stat. 519; 24 U.S.C. 46b).

SEC. 1533. CONFORMING AMENDMENTS

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) Section 1089 is amended—

(A) in subsection (a) by striking out "United States Soldiers' and Airmen's Home" and inserting in lieu thereof "Armed Forces Retirement Home"; and

(B) in subsection (g), by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the Armed Forces Retirement Home Board, in the case of an employee of the Armed Forces Retirement Home; and".

(2) Section 2575 is amended—

(A) in subsection (a), by striking out "section 4712, 4713, 6522, 9712, or 9713" and inserting in lieu thereof "section 4712, 6522, or 9712"; and

(B) in subsection (c)—

(i) by striking out "United States Soldiers' and Airmen's Home" and inserting in lieu thereof "Armed Forces Retirement Home";

(ii) by striking out "the Secretary of the Army or the Secretary of the Air Force," and inserting in lieu thereof "the Secretary of a military department,"; and

(iii) by striking out the last sentence of such subsection.

(3) Effective on the date of the enactment of this Act, section 2772 is amended—

(A) by inserting "and forfeitures" after "fines" both places it appears; and

(B) by striking out "or warrant officer" each place it appears and inserting in lieu thereof ", warrant officer, or limited duty officer".

(4)(A) Section 2772 is amended to read as follows:

"§ 2772. Share of fines and forfeitures to benefit Armed Forces Retirement Home

"(a) DEPOSIT REQUIRED.—The Secretary of the military department concerned shall deposit in the Armed Forces Retirement Home Trust Fund a percentage (determined under subsection (b)) of the following amounts:

"(1) The amount of forfeitures and fines adjudged against an enlisted member, warrant officer, or limited duty officer of the armed forces by sentence of a court martial or under authority of section 815 of this title (article 15) over and above any amount that may be due from the member, warrant officer, or limited duty officer for the reimbursement of the United States or any individual.

"(2) The amount of forfeitures on account of the desertion of an enlisted member, warrant officer, or limited duty officer of the armed forces.

"(b) DETERMINATION OF PERCENTAGE.—The Armed Forces Retirement Home Board shall determine, on the basis of the financial needs of the Armed Forces Retirement Home, the percentage of the amounts referred to in subsection (a) to be deposited in the trust fund referred to in such subsection.

"(c) APPLICATION TO COAST GUARD.—In this section, the term 'armed forces' does not include the Coast Guard when it is not operating as a service in the Navy.".

(B) The item relating to such section in the table of sections at the beginning of chapter 165 is amended by striking out "retirement homes" and inserting in lieu thereof "Retirement Home".

(5)(A) Section 4624(c) is amended by striking out "United States Soldiers' and Airmen's Home" and inserting in lieu thereof "Armed Forces Retirement Home".

(B) The heading of such section is amended to read as follows:

"§ 4624. Medical supplies: civilian employees of the Army; American National Red Cross; Armed Forces Retirement Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 439 is amended to read as follows:

"4624. Medical supplies: civilian employees of the Army; American National Red Cross; Armed Forces Retirement Home.".

(6) Section 4712 is amended—

(A) in subsection (a)(2), by striking out "an inmate of the United States Soldiers' and Airmen's Home" and inserting in lieu thereof "a resident of the Armed Forces Retirement Home"; and

(B) in subsection (f)—

(i) by striking out "for transmission to the United States Soldiers' and Airmen's Home"; and

(ii) by adding at the end the following: "The Secretary of the Army shall deliver to the Armed Forces Retirement Home all items received by the executive part of the Department of the Army under this subsection.".

(7)(A) Section 4713 is repealed.

(B) The table of sections at the beginning of chapter 445 is amended by striking out the item relating to such section.

(8)(A) Section 9624(c) is amended by striking out "United States Soldiers' and Airmen's Home" and inserting in lieu thereof "Armed Forces Retirement Home".

(B) The heading of such section is amended to read as follows:

"§ 9624. Medical supplies: civilian employees of the Air Force; American National Red Cross; Armed Forces Retirement Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 939 is amended to read as follows:

"9624. Medical supplies: civilian employees of the Air Force; American National Red Cross; Armed Forces Retirement Home.".

(9) Section 9712 is amended—

(A) in subsection (a)(2), by striking out "an inmate of the United States Soldiers' and Airmen's Home" and inserting in lieu thereof "a resident of the Armed Forces Retirement Home"; and

(B) in subsection (f)—

(i) by striking out "for transmission to the United States Soldiers' and Airmen's Home"; and

(ii) by adding at the end the following: "The Secretary of the Air Force shall deliver to the Armed Forces Retirement Home all

items received by the executive part of the Department of the Air Force under this subsection."

(10)(A) Section 9713 is repealed.

(B) The table of sections at the beginning of chapter 945 is amended by striking out the item relating to section 9713.

(b) TITLE 37.—Section 1007(i) of title 37, United States Code, is amended—

(1) in paragraphs (1), (2)(B), and (3), by striking out "and warrant officer" and inserting in lieu thereof ", warrant officer, and limited duty officer";

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Amounts deducted under paragraph (1) shall be deposited in the Armed Forces Retirement Home Trust Fund.";

(3) in paragraph (3)—

(A) by striking out "the Governor" and all that follows through "Airmen's Home," and inserting in lieu thereof "the Armed Forces Retirement Home Board,"; and

(B) by striking out "the homes" and inserting in lieu thereof "the Armed Forces Retirement Home"; and

(4) in paragraph (5), by striking out "or warrant officer" and inserting in lieu thereof ", warrant officer, or limited duty officer".

(c) OTHER LAWS.—(1) Section 1321 of title 31, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) Armed Forces Retirement Home Trust Fund."; and

(ii) by striking out paragraphs (59) and (81); and

(B) in subsection (b), by striking out "Soldiers' Home, Permanent Fund" both places it appears and inserting in lieu thereof "Armed Forces Retirement Home Trust Fund".

(2) Section 3 of the Act of June 15, 1943 (chapter 125; 57 Stat. 153; 24 U.S.C. 6a) is amended by striking out "naval home or".

(3) Section 906 of title 44, United States Code, is amended in the undesignated subparagraph relating to the provision of the Congressional Record to the United States Soldiers' Home by striking out "the United States Soldiers' Home and" and inserting in lieu thereof "each separate establishment of the Armed Forces Retirement Home,".

PART C—EFFECTIVE DATE AND AUTHORIZATION OF APPROPRIATIONS

SEC. 1541. EFFECTIVE DATE

(a) IN GENERAL.—Except where otherwise specified, this title and the amendments made by this title shall take effect one year after the date of the enactment of this Act.

(b) ESTABLISHMENT OF FUND.—Sections 1519, 1531, and 1533(c)(1) shall take effect on the date of the enactment of this Act.

(c) APPOINTMENT OF BOARD.—The provisions of section 1515 relating to the appointment and designation of members of the Retirement Home Board and Local Boards shall take effect on October 1, 1991.

SEC. 1542. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES SOLDIERS' AND AIRMEN'S HOME

There is authorized to be appropriated for fiscal year 1991 from the Soldiers' Home, Permanent Fund, the sum of $53,999,000 for the operation of the United States Soldiers' and Airmen's Home. This section shall take effect on the date of the enactment of this Act.

TITLE XVI—CHARTER FOR 82ND AIRBORNE DIVISION ASSOCIATION, INCORPORATED

SEC. 1601. CHARTER

The 82nd Airborne Division Association, Incorporated, a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

SEC. 1602. POWERS

The 82nd Airborne Division Association, Incorporated (hereinafter in this title referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

SEC. 1603. OBJECTS AND PURPOSES OF CORPORATION

The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82nd Airborne Division who fought and died for this Nation;

(2) furthering the common bond between retired and active members of the 82nd Airborne Division;

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members of the 82nd Airborne Division;

(4) promoting civic and patriotic activities; and

(5) promoting the indispensable role of airborne defense to the national security of the United States.

SEC. 1604. SERVICE OF PROCESS

With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 1605. MEMBERSHIP

(a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

SEC. 1606. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

SEC. 1607. OFFICERS OF CORPORATION

The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

SEC. 1608. RESTRICTIONS

(a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 1609. LIABILITY

The corporation shall be liable for the acts of its officers and agents whenever such officer and agents have acted within the scope of their authority.

SEC. 1610. BOOKS AND RECORDS; INSPECTION

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 1611. AUDIT OF FINANCIAL TRANSACTIONS

The first session of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(74) 82nd Airborne Division Association, Incorporated.".

SEC. 1612. ANNUAL REPORT

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the time as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document.

SEC. 1613. RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER

The right to amend, alter, or repeal this title is expressly reserved to the Congress.

SEC. 1614. DEFINITION OF STATE

For purposes of this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 1615. TAX-EXEMPT STATUS

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

SEC. 1616. TERMINATION

If the corporation fails to comply with any of the restrictions or provisions of this title, the charter granted by this title shall expire.

TITLE XVII—MISSILE TECHNOLOGY CONTROLS

Sec. 1701 Policy.
Sec. 1702 Amendment to the Export Administration Act of 1979.
Sec. 1703 Amendment to the Arms Export Control Act.
Sec. 1704 Report on missile proliferation.

TITLE XVII—MISSILE TECHNOLOGY CONTROLS

SEC. 1701. POLICY

It should be the policy of the United States to take all appropriate measures—

(1) to discourage the proliferation, development, and production of the weapons, material, and technology necessary to produce or acquire missiles that can deliver weapons of mass destruction;

(2) to discourage countries and private persons in other countries from aiding and abetting any states from acquiring such weapons, material, and technology;

(3) to strengthen United States and existing multilateral export controls to prohibit the flow of materials, equipment, and technology that would assist countries in acquiring the ability to produce or acquire missiles that can deliver weapons of mass destruction, including missiles, warheads and weaponization technology, targeting technology, test and evaluation technology, and range and weapons effect measurement technology; and

(4) with respect to the Missile Technology Control Regime ("MTCR") and its participating governments—

(A) to improve enforcement and seek a common and stricter interpretation among MTCR members of MTCR principles;

(B) to increase the number of countries that adhere to the MTCR; and

(C) to increase information sharing among United States agencies and among governments on missile technology transfer, including export licensing, and enforcement activities.

SEC. 1702. AMENDMENT TO THE EXPORT ADMINISTRATION ACT OF 1979

(a) MISSILE TECHNOLOGY CONTROLS.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended—

(1) by redesignating subsections (k) through (p) as subsections (m) through (r), respectively; and

(2) by inserting after subsection (j) the following:

"(k) NEGOTIATIONS WITH OTHER COUNTRIES.—

"(1) COUNTRIES PARTICIPATING IN CERTAIN AGREEMENTS.—The Secretary of State, in consultation with the Secretary, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with those countries participating in the groups known as the Coordinating Committee, the Missile Technology Control Regime, the Australia Group, and the Nuclear Suppliers' Group, regarding their cooperation in restricting the export of goods and technology in order to carry out—

"(A) the policy set forth in section 3(2)(B) of this Act, and

"(B) United States policy opposing the proliferation of chemical, biological, nuclear, and other weapons and their delivery systems, and effectively restricting the export of dual use components of such weapons and their delivery systems, in accordance with this subsection and subsections (a) and (l).

Such negotiations shall cover, among other issues, which goods and technology should be subject to multilaterally agreed export restrictions, and the implementation of the restrictions consistent with the principles identified in section 5(a)(4)(D) of this Act.

"(2) OTHER COUNTRIES.—The Secretary of State, in consultation with the Secretary, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with countries and groups of countries not referred to in paragraph (1) regarding their cooperation in restricting the export of goods and technology consistent with purposes set forth in paragraph (1). In cases where such negotiations produce agreements on export restrictions that the Secretary, in consultation with the Secretary of State and the Secretary of Defense, determines to be consistent with the principles identified in section 5(a)(4)(D) of this Act, the Secretary may treat exports, whether by individual or multiple licenses, to countries party to such agreements in the same manner as exports are treated to countries that are MTCR adherents.

"(3) REVIEW OF DETERMINATIONS.—The Secretary shall annually review any determination under paragraph (2) with respect to a country. For each such country which the Secretary determines is not meeting the requirements of an effective export control system in accordance with section 5(a)(4)(D), the Secretary shall restrict or eliminate any preferential licensing treatment for exports to that country provided under this subsection.

"(l) MISSILE TECHNOLOGY.—

"(1) DETERMINATION OF CONTROLLED ITEMS.—The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies—

(A) shall establish and maintain, as part of the control list established under this section, a list of all dual use goods and technology on the MTCR Annex; and

(B) may include, as part of the control list established under this section, goods and technology that would provide a direct and immediate impact on the development of missile delivery systems and are not included in the MTCR Annex but which the United States is proposing to the other MTCR adherents to have included in the MTCR Annex.

"(2) REQUIREMENT OF INDIVIDUAL VALIDATED LICENSES.—The Secretary shall require an individual validated license for—

"(A) any export of goods or technology on the list established under paragraph (1) to any country; and

"(B) any export of goods or technology that the exporter knows is destined for a project or facility for the design, development, or manufacture of a missile in a country that is not an MTCR adherent.

"(3) POLICY OF DENIAL OF LICENSES.—(A) Licenses under paragraph (2) should in general be denied if the ultimate consignee of the goods or technology is a facility in a country that is not an adherent to the Missile Technology Control Regime and the facility is designed to develop or build missiles.

"(B) Licenses under paragraph (2) shall be denied if the ultimate consignee of the goods or technology is a facility in a country which the Secretary of State has determined under subsection (j) has repeatedly provided support for acts of international terrorism.

"(4) CONSULTATION WITH OTHER DEPARTMENTS.—(A) A determination of the Secretary to approve an export license under paragraph (2) for the export of goods or technology to a country of concern regarding missile proliferation may be made only after consultation with the Secretary of Defense and the Secretary of State for a period of 20 days. The countries of concern referred to in the preceding sentence shall be maintained on a classified list by the Secretary of State, in consultation with the Secretary and the Secretary of Defense.

"(B) Should the Secretary of Defense disagree with the determination of the Secretary to approve an export license to which subparagraph (A) applies, the Secretary of Defense shall so notify the Secretary within the 20 days provided for consultation on the determination. The Secretary of Defense shall at the same time submit the matter to the President for resolution of the dispute. The Secretary shall also submit the Secretary's recommendation to the President on the license application.

"(C) The President shall approve or disapprove the export license application within 20 days after receiving the submission of the Secretary of Defense under subparagraph (B).

"(D) Should the Secretary of Defense fail to notify the Secretary within the time period prescribed in subparagraph (B), the Secretary may approve the license application without awaiting the notification by the Secretary of Defense. Should the President fail to notify the Secretary of his decision on the export license application within the time period prescribed in subparagraph (C), the Secretary may approve the license application without awaiting the President's decision on the license application.

"(E) Within 10 days after an export license is issued under this subsection, the Secretary shall provide to the Secretary of Defense and the Secretary of State the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary indicates the need to receive such application and documents.

"(5) INFORMATION SHARING.—The Secretary shall establish a procedure for information sharing with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence, and other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.".

(b) SANCTIONS FOR MISSILE TECHNOLOGY PROLIFERATION.—The Export Administration Act of 1979 is amended by inserting after section 11A (50 U.S.C. App. 2410a) the following:

"MISSILE PROLIFERATION CONTROL VIOLATIONS

"SEC. 11B. (a) VIOLATIONS BY UNITED STATES PERSONS.—

"(1) SANCTIONS.—(A) If the President determines that a United States person knowingly—

"(i) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act, section 5 or 6 of this Act, or any regulations or orders issued under any such provisions,

"(ii) conspires to or attempts to engage in such export, transfer, or trade, or

"(iii) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in subparagraph (B).

"(B) The sanctions which apply to a United States person under subparagraph (A) are the following:

"(i) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under this Act.

"(ii) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR Annex, then the President shall deny to such United States person, for a period of not less than 2 years, all licenses for items the export of which is controlled under this Act.

"(2) DISCRETIONARY SANCTIONS.—In the case of any determination referred to in paragraph (1), the Secretary may pursue any other appropriate penalties under section 11 of this Act.

"(3) WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

"(A) the product or service is essential to the national security of the United States; and

"(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

"(b) TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS.—

"(1) SANCTIONS.—(A) Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of the enactment of this section, knowingly—

"(i) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

"(ii) conspires to or attempts to engage in such export, transfer, or trade, or

"(iii) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 73(a) of the Arms Export Control Act, then the President shall impose on that foreign person the applicable sanctions under subparagraph (B).

"(B) The sanctions which apply to a foreign person under subparagraph (A) are the following:

"(i) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the export of which is controlled under this Act.

"(ii) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for the transfer to such foreign person of items the export of which is controlled under this Act.

"(iii) If, in addition to actions taken under clauses (i) and (ii), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

"(2) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Paragraph (1) does not apply with respect to—

"(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

"(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

"(3) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in paragraph (1) may not be imposed under this subsection on a person with respect to acts described in such paragraph or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

"(4) ADVISORY OPINIONS.—The Secretary, in consultation with the Secretary of State and the Secretary of Defense, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this subsection. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

"(5) WAIVER AND REPORT TO CONGRESS.—(A) In any case other than one in which an advisory opinion has been issued under paragraph (4) stating that a proposed activity would not subject a person to sanctions under this subsection, the President may waive the application of paragraph (1) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

"(B) In the event that the President decides to apply the waiver described in subparagraph (A), the President shall so notify the Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

"(6) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

"(A) the product or service is essential to the national security of the United States; and

"(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

"(7) EXCEPTIONS.—The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

"(ii) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production,

"(iii) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

"(iv) information and technology essential to United States products or production.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'missile' means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

"(2) the term 'Missile Technology Control Regime' or 'MTCR' means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

"(3) the term 'MTCR adherent' means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

"(4) the term 'MTCR Annex' means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto;

"(5) the terms 'missile equipment or technology' and 'MTCR equipment or technology' mean those items listed in category I or category II of the MTCR Annex;

"(6) the term 'foreign person' means any person other than a United States person;

"(7)(A) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

"(B) in the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term 'person' means—

"(i) all activities of that government relating to the development or production of any missile equipment or technology; and "(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment; and

"(8) the term 'otherwise engaged in the trade of' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consign-

ee or end user of the item to be exported or transferred.".

SEC. 1703. AMENDMENT TO THE ARMS EXPORT CONTROL ACT

The Arms Export Control Act is amended by inserting after chapter 6 (22 U.S.C. 2795b. et seq.) the following new chapter:

"CHAPTER 7—CONTROL OF MISSILES AND MISSILE EQUIPMENT OR TECHNOLOGY

"SEC. 71. LICENSING.

"(a) ESTABLISHMENT OF LIST OF CONTROLLED ITEMS.—The Secretary of State, in consultation with the Secretary of Defense and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the United States Munitions List, a list of all items on the MTCR Annex the export of which is not controlled under section 6(l) of the Export Administration Act of 1979.

"(b) REFERRAL OF LICENSE APPLICATIONS.—(1) A determination of the Secretary of State to approve a license for the export of an item on the list established under subsection (a) may be made only after the license application is referred to the Secretary of Defense.

"(2) Within 10 days after a license is issued for the export of an item on the list established under subsection (a), the Secretary of State shall provide to the Secretary of Defense and the Secretary of Commerce the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary indicates the need to receive such application and documents.

"(c) INFORMATION SHARING.—The Secretary of State shall establish a procedure for sharing information with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence, and with other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.

"SEC. 72. DENIAL OF THE TRANSFER OF MISSILE EQUIPMENT OR TECHNOLOGY BY UNITED STATES PERSONS.

"(a) SANCTIONS.—(1) If the President determines that a United States person knowingly—

"(A) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 of this Act, section 5 or 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404, 2405), or any regulations or orders issued under any such provisions,

"(B) conspires to or attempts to engage in such export, transfer, or trade, or

"(C) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in paragraph (2).

"(2) The sanctions which apply to a United States person under paragraph (1) are the following:

"(A) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person for a period of 2 years—

"(i) United States Government contracts relating to missile equipment or technology; and

"(ii) licenses for the transfer of missile equipment or technology controlled under this Act.

"(B) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR, then the President shall deny to such United States person for a period of not less than 2 years—

"(i) all United States Government contracts, and

"(ii) all export licenses and agreements for items on the United States Munitions List.

"(b) DISCRETIONARY SANCTIONS.—In the case of any determination made pursuant to subsection (a), the President may pursue any penalty provided in section 38(c) of this Act.

"(c) WAIVER.—The President may waive the imposition of sanctions under subsection (a) with respect to a product or service if the President certifies to the Congress that—

"(1) the product or service is essential to the national security of the United States; and

"(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

"SEC. 73. TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS.

"(a) SANCTIONS.—(1) Subject to subsections (c) through (g), if the President determines that a foreign person, after the date of the enactment of this chapter, knowingly—

"(A) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

"(B) conspires to or attempts to engage in such export, transfer, or trade, or

"(C) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 11B(b)(1) of the Export Administration Act of 1979, then the President shall impose on that foreign person the applicable sanctions under paragraph (2).

"(2) The sanctions which apply to a foreign person under paragraph (1) are the following:

"(A) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years—

"(i) United States Government contracts relating to missile equipment or technology; and

"(ii) licenses for the transfer to such foreign person of missile equipment or technology controlled under this Act.

"(B) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years—

"(i) all United States Government contracts with such foreign person; and

"(ii) licenses for the transfer to such foreign person of all items on the United States Munitions List.

"(C) If, in addition to actions taken under subparagraphs (A) and (B), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles, in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

"(b) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Subsection (a) does not apply with respect to—

"(1) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

"(2) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

"(c) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in subsection (a) may not be imposed under this section on a person with respect to acts described in such subsection or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

"(d) ADVISORY OPINIONS.—The Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

"(e) WAIVER AND REPORT TO CONGRESS.—(1) In any case other than one in which an advisory opinion has been issued under subsection (d) stating that a proposed activity would not subject a person to sanctions under this section, the President may waive the application of subsection (a) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

"(2) In the event that the President decides to apply the waiver described in paragraph (1), the President shall so notify the Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

"(f) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

"(1) the product or service is essential to the national security of the United States; and

"(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

"(g) EXCEPTIONS.—The President shall not apply the sanction under this section prohibiting the importation of the products of a foreign person—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

"(B) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national

security of the United States, and that alternative sources are not readily or reasonably available; or

"(C) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

"(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

"(3) to—

"(A) spare parts,

"(B) component parts, but not finished products, essential to United States products or production,

"(C) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

"(D) information and technology essential to United States products or production.

"SEC. 74. DEFINITIONS.

For purposes of this chapter—

"(1) the term 'missile' means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

"(2) the term 'Missile Technology Control Regime' or 'MTCR' means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

"(3) the term 'MTCR adherent' means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

"(4) the term 'MTCR Annex' means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto;

"(5) the terms 'missile equipment or technology' and 'MTCR equipment or technology' mean those items listed in category I or category II of the MTCR Annex;

"(6) the term 'United States person' has the meaning given that term in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(2));

"(7) the term 'foreign person' means any person other than a United States person;

"(8)(A) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

"(B) in the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term 'person' means—

"(i) all activities of that government relating to the development or production of any missile equipment or technology; and "(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment; and

"(9) the term 'otherwise engaged in the trade of' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.".

SEC. 1704. REPORT ON MISSILE PROLIFERATION

(a) CONTENTS OF REPORT.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to the Congress a report on international transfers of aircraft which the Secretary has reason to believe may be intended to be used for the delivery of nuclear, biological, or chemical weapons (hereinafter in this section referred to as "NBC capable aircraft") and international transfers of MTCR equipment or technology to any country that is not an MTCR adherent and is seeking to acquire such equipment or technology, other than those countries excluded in subsection (b). Each such report shall include—

(1) the status of missile and aircraft development programs in any such country, including efforts by such country to acquire MTCR equipment or technology and NBC capable aircraft and an assessment of the present and future capability of such country to produce and utilize such weapons;

(2) a description of assistance provided, after the date of the enactment of this Act, to any such country, in the development of missile systems, as defined in the MTCR, and NBC capable aircraft by persons and other countries, specifying those persons and other countries which continue to provide MTCR equipment or technology to such country as of the date of the report;

(3) a description of diplomatic measures that the United States has taken or that other MTCR adherents have made to the United States with respect to activities of private persons and countries suspected of violating the MTCR;

(4) an analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other MTCR adherents to control the export of MTCR equipment or technology;

(5) a determination of whether transfers of MTCR equipment or technology by any country pose a significant threat to the national security of the United States;

(6) a summary of advisory opinions issued under section 11B(b)(4) of the Export Administration Act of 1979 and under section 73(d) of the Arms Export Control Act; and

(7) an explanation of United States policy regarding the tranfer of MTCR equipment or technology to foreign missile programs, including space launch vehicle programs.

(b) EXCLUSIONS.—The countries excluded under subsection (a) are Australia, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Israel, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Spain, Turkey, and the United Kingdom.

(c) CLASSIFICATION.—The President shall make every effort to submit all of the information required by subsection (a) in unclassified form. Whenever the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.

(d) DEFINITIONS.—For purposes of this section, the terms "missile", "MTCR", "MTCR equipment or technology", and "MTCR adherent" have the meanings given those terms in section 74 of the Arms Export Control Act.

TITLE XVIII—STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM

SEC. 1801. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM

(a) PROGRAM REQUIRED.—(1) Title 10, United States Code, is amended by inserting after chapter 171 the following new chapter:

"CHAPTER 172—STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM

"Sec.
"2901. Strategic Environmental Research and Development Program.
"2902. Strategic Environmental Research and Development Program Council.
"2903. Executive Director.
"2904. Strategic Environmental Research and Development Program Scientific Advisory Board.

"§ 2901. Strategic Environmental Research and Development Program

"(a) The Secretary of Defense shall establish a program to be known as the 'Strategic Environmental Research and Development Program'.

"(b) The purposes of the program are as follows:

"(1) To address environmental matters of concern to the Department of Defense and the Department of Energy through support for basic and applied research and development of technologies that can enhance the capabilities of the departments to meet their environmental obligations.

"(2) To identify research, technologies, and other information developed by the Department of Defense and the Department of Energy for national defense purposes that would be useful to governmental and private organizations involved in the development of energy technologies and of technologies to address environmental restoration, waste minimization, hazardous waste substitution, and other environmental concerns, and to share such research, technologies, and other information with such governmental and private organizations.

"(3) To furnish other governmental organizations and private organizations with data, enhanced data collection capabilities, and enhanced analytical capabilities for use by such organizations in the conduct of environmental research, including research concerning global environmental change.

"(4) To identify technologies developed by the private sector that are useful for Department of Defense and Department of Energy defense activities concerning environmental restoration, hazardous and solid waste minimization and prevention, hazardous material substitution, and provide for the use of such technologies in the conduct of such activities.

"§ 2902. Strategic Environmental Research and Development Program Council

"(a) There is a Strategic Environmental Research and Development Program Council (hereinafter in this chapter referred to as the 'Council').

"(b) The Council is composed of nine members as follows:

"(1) The Assistant Secretary of Defense responsible for matters relating to production and logistics.

"(2) The Director of Defense Research and Engineering.

"(3) The Vice Chairman of the Joint Chiefs of Staff.

"(4) The Assistant Secretary of the Air Force responsible for matters relating to space.

"(5) The Assistant Secretary of Energy for Defense programs.

"(6) The Director of the Department of Energy Office of Environmental Restoration and Waste Management.

"(7) The Director of the Department of Energy Office of Energy Research.

"(8) The Administrator of the Environmental Protection Agency.

"(9) The Executive Director of the Council (appointed pursuant to section 2903 of this title), who shall be a nonvoting member.

"(c) The Secretary of Defense shall designate a member of the Council as chairman for each odd numbered fiscal year. The Secretary of Energy shall designate a member of the Council as chairman for each even-numbered fiscal year.

"(d) The Council shall have the following responsibilities:

"(1) To prescribe policies and procedures to implement the Strategic Environmental Research and Development Program.

"(2) To enter into contracts, grants, and other financial arrangements, in accordance with other applicable law, to carry out the purposes of the Strategic Environmental Research and Development Program.

"(3) To prepare an annual five-year strategic environmental research and development plan that shall cover the fiscal year in which the plan is prepared and the four fiscal years following such fiscal year.

"(4) To promote the maximum exchange of information, and to minimize duplication, regarding environmentally related research, development, and demonstration activities through close coordination with the military departments and Defense Agencies, the Department of Energy, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, other departments and agencies of the Federal Government or any State and local governments, including the Federal Coordinating Council on Science, Engineering, and Technology, and other organizations engaged in such activities.

"(5) To ensure that research and development activities under the Strategic Environmental Research and Development Program do not duplicate other ongoing activities sponsored by the Department of Defense, the Department of Energy, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, or any other department or agency of the Federal Government.

"(6) To ensure that the research and development programs identified for support pursuant to policies and procedures prescribed by the council utilize, to the maximum extent possible, the talents, skills, and abilities residing at the Federal laboratories, including the Department of Energy multiprogram and defense laboratories, the Department of Defense laboratories, and Federal contract research centers. To utilize the research capabilities of institutions of higher education and private industry to the extent practicable.

"(e) In carrying out subsection (d)(1), the Council shall prescribe policies and procedures that—

"(1) provide for appropriate access by Federal Government personnel, State and local government personnel, college and university personnel, industry personnel, and the general public to data under the control of, or otherwise available to, the Department of Defense that is relevant to environmental matters by—

"(A) identifying the sources of such data;

"(B) publicizing the availability and sources of such data by appropriately-targeted dissemination of information to such personnel and the general public, and by other means; and

"(C) providing for review of classified data relevant to environmental matters with a view to declassifying or preparing unclassified summaries of such data;

"(2) provide governmental and nongovernmental entities with analytic assistance, consistent with national defense missions, including access to military platforms for sensor deployment and access to computer capabilities, in order to facilitate environmental research;

"(3) provide for the identification of energy technologies developed for national defense purposes (including electricity generation systems, energy storage systems, alternative fuels, biomass energy technology, and applied materials technology) that might have environmentally sound, energy efficient applications for other programs of the Department of Defense and the Department of Energy national security programs, particularly technologies that have the potential for industrial, commercial, and other governmental applications, and to support programs of research in and development of such applications;

"(4) provide for the identification and support of programs of basic and applied research, development, and demonstration in technologies useful—

"(A) to facilitate environmental compliance, remediation, and restoration activities of the Department of Defense and at Department of Energy defense facilities;

"(B) to minimize waste generation, including reduction at the source, by such departments; or

"(C) to substitute use of nonhazardous, nontoxic, nonpolluting, and other environmentally sound materials and substances for use of hazardous, toxic, and polluting materials and substances by such departments;

"(5) provide for the identification and support of research, development, and application of other technologies developed for national defense purposes which not only are directly useful for programs, projects, and activities of such departments, but also have useful applications for solutions to such national and international environmental problems as climate change and ozone depletion;

"(6) provide for the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, in cooperation with other Federal and State agencies, as appropriate, to conduct joint research, development, and demonstration projects relating to innovative technologies, management practices, and other approaches for purposes of—

"(A) preventing pollution from all sources;

"(B) minimizing hazardous and solid waste, including recycling; and

"(C) treating hazardous and solid waste, including the use of thermal, chemical, and biological treatment technologies;

"(7) encourage transfer of technologies referred to in clauses (2) through (6) to the private sector under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) and other applicable laws;

"(8) provide for the identification of, and planning for the demonstration and use of, existing environmentally sound, energy-efficient technologies developed by the private sector that could be used directly by the Department of Defense;

"(9) provide for the identification of military specifications that prevent or limit the use of environmentally beneficial technologies, materials, and substances in the performance of Department of Defense contracts and recommend changes to such specifications; and

"(10) to ensure that the research and development programs identified for support pursuant to the policies and procedures prescribed by the Council are closely coordinated with, and do not duplicate, ongoing activities sponsored by the Department of Defense, the Department of Energy, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, or other Federal agencies.

"(f)(1) To assist the Council in preparing the five-year strategic environmental research and development plan under subsection (d)(3), the Secretary of Defense and the Secretary of Energy may each submit to the Council a proposal for conducting environmental research under this chapter. The Secretary of each department shall ensure that the environmental research proposal of the department includes—

"(A) short- and long-term, cooperative, basic, and applied research systems engineering and development programs in environmental research;

"(B) short- and long-term, basic research in environmental restoration at the respective laboratories of each department; and

"(C) participation by industry and institutions of higher education.

"(2) The Secretary of each department shall ensure that, in the development of its environmental research proposal, consideration is given to—

"(A) the need for increased research in basic science, including basic materials, physics, molecular structures, chemistry, and biology related to environmental research at that Department's defense operations, production, research, and maintenance facilities; and

"(B) ways to identify and conduct research and development on technologies for environmental restoration, remediation and waste cleanup activities, waste minimization, and hazardous and toxic materials substitution potential in defense production and maintenance activities.

"(3) The Secretary of each department shall transmit the proposal to the Council not later than July 1 of each year.

"(g) The Council shall be subject to the authority, direction, and control of the Secretary of Defense in prescribing policies and procedures under subsection (d)(1).

"(h)(1) Not later than February 1 of each year, the Council shall submit to the Secretary of Defense an annual report on the annual five-year strategic environmental research and development plan prepared pursuant to subsection (d)(3).

"(2) The report shall contain the following:

"(A) A description of the actions to be taken during the five-year period covered by the plan in order to prevent duplication of research and development activities referred to in the policies and procedures prescribed pursuant to subsection (d)(1).

"(B) A description of the involvement with Federal interagency coordinating entities such as the Federal Coordinating Council on Science, Engineering, and Technology.

"(C) A description of each project selected or recommended by the Council for support and funding, including the duration of, and the total estimated or (if known) actual cost of—

"(i) each such project supported during the fiscal year in which the plan is submitted and the preceding fiscal year; and

"(ii) each such project proposed for funding during the fiscal year in which the

annual report is submitted and the following four fiscal years.

"(D) The amounts requested, in the budget submitted to Congress pursuant to section 1105(a) of title 31 for the fiscal year following the fiscal year in which the annual report is submitted, for the programs, projects, and activities of the Strategic Environmental Research and Development Program and the estimated expenditures under such programs, projects, and activities during such following fiscal year.

"(E) The amount requested in such budget for each Federal laboratory, including each Department of Defense and Department of Energy laboratory.

"(F) The amount made available, for the fiscal year in which the annual report is submitted, to each Federal laboratory, including each Department of Defense and Department of Energy laboratory.

"(G) A description of any changes in military specifications recommended by the Council, actions to be taken to effectuate any such recommended changes on an expedited basis, and the projected date for each such change.

"(H) A description of all contracts, agreements, or other documents for cooperative research and development activities entered into pursuant to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) during the fiscal year preceding the fiscal year in which the annual report is submitted.

"(I) Plans for transferring technology and information to other governmental agencies and to nongovernmental organizations involved in environmental research and related matters.

"(J) A description of plans to increase access to data described in subsection (e)(1).

"(K) Such additional recommendations or proposals, including proposals for legislation, relating to the Strategic Environmental Research and Development Program as the Council considers appropriate.

"(3) The Council shall make a draft of the five-year strategic environmental research and development plan covered by each report available for public comment for a period of at least 30 days.

"(4) Not later than March 15 of each year the Secretary of Defense and the Secretary of Energy shall transmit the annual report to the Congress. The Secretary of Defense and the Secretary of Energy may submit such comments on the annual report as each Secretary considers appropriate.

"§ 2903. Executive Director

"(a) There shall be an Executive Director of the Council appointed by the Secretary of Defense after consultation with the Secretary of Energy.

"(b) Subject to the authority, direction, and control of the Secretary of Defense, the Executive Director is responsible for the management of the Strategic Environmental Research and Development Program in accordance with the policies established by the Council.

"(c) The Executive Director may enter into contracts or other agreements in accordance with applicable law, except that the Executive Director shall first obtain the approval of the Council for any contract or agreement in an amount equal to or in excess of $500,000 or such lesser amount as the Council may prescribe.

"(d)(1) The Executive Director, with the concurrence of the Council, may appoint such professional and clerical staff as may be necessary to carry out the responsibilities and policies of the Council.

"(2) The Executive Director, with the concurrence of the Council and without regard to the provisions of chapter 51 of title 5 and subchapter III of chapter 53 of such title, may establish the rates of basic pay for professional, scientific, and technical employees appointed pursuant to paragraph (1). The authority provided in the preceding sentence shall expire two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991.

"§ 2904. Strategic Environmental Research and Development Program Scientific Advisory Board

"(a) The Secretary of Defense and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall jointly appoint a Strategic Environmental Research and Development Program Scientific Advisory Board (hereafter in this section referred to as the 'Advisory Board') consisting of not less than six and not more than 13 members.

"(b)(1) The Science Advisor to the President, or his designee, shall be a permanent member of the Advisory Board.

"(2) Other members of the Advisory Board shall be appointed from among persons eminent in the fields of basic sciences, engineering, ocean and environmental sciences, education, research management, international and security affairs, health physics, health sciences, or social sciences, with due regard given to the equitable representation of scientists and engineers who are women or who represent minority groups. At least one member of the Advisory Board shall be a representative of environmental public interest groups and one member shall be a representative of the interests of State governments.

"(3) The Secretary of Defense and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall request—

"(A) that the head of the National Academy of Sciences, in consultation with the head of the National Academy of Engineering and the head of the Institutes of Medicine of the National Academy of Sciences, nominate persons for appointment to the Advisory Board;

"(B) that the Council on Environmental Quality nominate for appointment to the Advisory Board at least one person who is a representative of environmental public interest groups; and

"(C) that the National Association of Governors nominate for appointment to the Advisory Board at least one person who is representative of the interests of State governments.

"(4) Members of the Advisory Board shall be appointed for terms of three years.

"(c) A member of the Advisory Board who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee, except for the purposes of chapter 81 of title 5 (relating to compensation for work-related injuries) and chapter 171 of title 28 (relating to tort claims).

"(d) The Advisory Board shall prescribe procedures for carrying out its responsibilities. Such procedures shall define a quorum as a majority of the members, provide for annual election of the Chairman by the members of the Advisory Board, and require at least four meetings of the Advisory Board each year.

"(e) The Council shall refer to the Advisory Board, and the Advisory Board shall review, each proposed research project including its estimated cost, for research in and development of technologies related to environmental activities in excess of $1,000,000. The Advisory Board shall make any recommendations to the Council that the Advisory Board considers appropriate regarding such project or proposal.

"(f) The Advisory Board may make recommendations to the Council regarding technologies, research, projects, programs, activities, and, if appropriate, funding within the scope of the Strategic Environmental Research and Development Program.

"(g) The Advisory Board shall assist and advise the Council in identifying the environmental data and analytical assistance activities that should be covered by the policies and procedures prescribed pursuant to section 2902(d)(1) of this title.

"(h) Not later than March 15 of each year, the Advisory Board shall submit to the Congress an annual report setting forth its actions during the year preceding the year in which the report is submitted and any recommendations, including recommendations on projects, programs, and information exchange and recommendations for legislation, that the Advisory Board considers appropriate regarding the Strategic Environmental Research and Development Program.

"(i) Each member of the Advisory Board shall be required to file a financial disclosure report under title I of the Ethics in Government Act of 1978 (5 U.S.C. App.).".

(2) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part IV of such subtitle, are each amended by inserting after the item relating to chapter 171 the following:

"172. Strategic Environmental Research and Development Program 2901".

(b) INITIAL APPOINTMENTS OF ADVISORY BOARD MEMBERS.—(1) The Secretary of Defense and the Secretary of Energy shall make the appointments required by section 2904(a) of title 10, United States Code (as added by subsection (a)(1)), not later than 60 days after the date of the enactment of this Act.

(2) Up to one-half of the members originally appointed to the Strategic Environmental Research and Development Program Scientific Advisory Board established under section 2904 of title 10, United States Code, as added by subsection (a)(1), may be appointed for terms of not more than six and not less than two years in order to provide for staggered expiration of the terms of members. The Secretary of Defense and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall designate the members appointed for terms authorized under this paragraph and shall specify the terms for which such members are appointed.

(c) FIRST ANNUAL REPORT OF THE STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM COUNCIL.—(1) The first annual report required by section 2902(h) of title 10, United States Code, as added by subsection (a)(1), shall be submitted to the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency not later than February 1, 1992.

(2) The Strategic Environmental Research and Development Program Council shall conduct and include as part of the first annual report required pursuant to section 2902(h) of title 10, United States Code, as added by subsection (a)(1), an assessment of the advisability of, and various alternatives to, charging fees for information released, as required pursuant to sections 2901(b)(3), 2902(e) (1) and (2), and 2902(g)(2)(I) of such

title (as so added), to private sector entities operating for a profit.

(3) The Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency shall submit to the Congress, with the annual report referred to in paragraph (1), any recommendations for changes in the structure or personnel of the Council that the Secretaries and the Administrator consider necessary to carry out the environmental activities of the strategic environmental research and development program.

(d) FIRST ANNUAL REPORT OF THE STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM SCIENTIFIC ADVISORY BOARD.—The first annual report of the Strategic Environmental Research and Development Program Scientific Advisory Board required by section 2904(h) of title 10, United States Code, as added by subsection (a)(1), shall be submitted not later than March 15, 1992.

SEC. 1802. AVAILABILITY OF FUNDS

Of the amounts authorized to be appropriated pursuant to section 201, $200,000,000 shall be available for the Strategic Environmental Research and Development Program established under chapter 172 of title 10, United States Code, as added by section 1001. To the extent provided in appropriation Acts, the amount made available by this section shall remain available until expended.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1991".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS INSIDE THE UNITED STATES

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $93,100,000.
Redstone Arsenal, $14,400,000.
Fort Rucker, $3,400,000.

ALASKA

Fort Wainwright, $13,900,000.

ARIZONA

Fort Huachuca, $1,050,000.

ARKANSAS

Pine Bluff Arsenal, $1,600,000.

CALIFORNIA

Fort Irwin, $4,200,000.
Fort Ord, $7,400,000.

COLORADO

Fort Carson, $23,500,000.
Falcon Air Force Base, $1,450,000.

GEORGIA

Fort Benning, $10,880,000.
Fort Gordon, $10,600,000.
Fort Stewart, $1,650,000.

HAWAII

Schofield Barracks, $9,700,000.

INDIANA

Fort Benjamin Harrison, $5,600,000.

KANSAS

For Leavenworth, $34,000,000.
Fort Riley, $14,900,000.

KENTUCKY

Fort Campbell, $2,300,000.
Fort Knox, $25,400,000.

LOUISIANA

Fort Polk, $22,000,000.

MARYLAND

Aberdeen Proving Ground, $45,100,000.
Fort Detrick, $530,000.

MISSOURI

Fort Leonard Wood, $12,750,000.

NEW YORK

Fort Drum, $9,408,000.

NORTH CAROLINA

Fort Bragg, $60,070,000.

OKLAHOMA

Fort Sill, $25,150,000.

PENNSYLVANIA

Carlisle Barracks, $26,200,000.
Fort Indiantown Gap, $6,350,000.
Tobyhanna Army Depot, $6,800,000.

SOUTH CAROLINA

Fort Jackson, $1,600,000.

TEXAS

Camp Swift, $100,000.
Fort Bliss, $20,000,000.
Fort Hood, $43,269,000.
Fort Sam Houston, $33,700,000.

UTAH

Dugway Proving Ground, $450,000.
Tooele Army Depot, $11,800,000.

VIRGINIA

Fort A. P. Hill, $3,200,000.
Fort Belvoir, $2,500,000.
Fort Eustis, $530,000.
Fort Lee, $520,000.
Fort Myer, $2,150,000.
Fort Story, $1,600,000.

WASHINGTON

Fort Lewis, $18,000,000.

WISCONSIN

Fort McCoy, $24,400,000.

CONUS CLASSIFIED

Classified Location, $3,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States.

GERMANY

Kaiserslautern, $5,000,000.
Various, $2,500,000.

KOREA

K-16 Airfield, $1,500,000.

SEC. 2102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land), using amounts appropriated pursuant to section 2104(a)(7)(A), at the following location, in the number of units shown, and in the amount shown:

Hawaii, Oahu, Various Locations, one hundred and thirty-eight units, $15,000,000.

Kansas, Fort Riley, two hundred and four units, $12,500,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(7)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $2,700,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(7)(A), improve existing military family housing in an amount not to exceed $44,100,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,285,237,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $582,207,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $9,000,000.

(3) For the construction of the Ammunition Demilitarization Facility, Phase II, Tooele Army Depot, Utah, as authorized by section 2101(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2088), $49,400,000.

(4) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $7,603,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $89,577,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $10,400,000.

(7) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $74,300,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,457,650,000, of which not more than $434,316,000 may be obligated or expended for the leasing of military family housing worldwide.

(8) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,100,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this division may not exceed the total amount—

(1) authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $78,000,000 (the balance of the amount authorized under section 2101(a) for the construction of the Ammunition Demilitarization Facility, Anniston Army Depot, Alabama).

SEC. 2105. AMMUNITION DEMILITARIZATION FACILITY, TOOELE ARMY DEPOT, UTAH

(a) PROJECT AMOUNT.—Section 2101(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2088) is amended by striking out "Tooele Army Depot, $92,300,000." and inserting in lieu thereof "Tooele Army Depot, $141,700,000.".

(b) TITLE TOTAL.—Section 2105(b) of such Act (102 Stat. 2091) is amended—

(1) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(2) by adding after paragraph (2) the following:

"(3) $49,400,000 (the balance of the amount authorized under section 2101(a) for the construction of the Ammunition Demilitarization Facility, Tooele Army Depot, Utah).".

SEC. 2106. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECT.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167, 99 Stat. 982), authorizations for the following project authorized in section 102 of that Act, as extended by section 2105(b) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1185), section 2106(b) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 101 Stat. 2092), and section 2105(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189; 103 Stat. 1619), shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

Family housing, new construction, six units, in the amount of $596,000 at Fort Myer, Virginia.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECT.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180, 101 Stat. 1206), authorizations for the following project authorized in section 2102 of that Act, as extended by section 2105(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189; 103 Stat. 1619) shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

Family housing, new construction, twenty-five units, in the amount of $2,200,000 at Fort A.P. Hill, Virginia.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1989 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1989 (Public Law 100-456, 102 Stat. 2115), authorizations for the following projects authorized in sections 2101 and 2102 of that Act shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Land acquisition in the amount of $410,000 at Fort Rucker, Alabama.

(2) Battalion Headquarters in the amount of $2,300,000 at Fort Wainwright, Alaska.

(3) Test and Evaluation Center in the amount of $5,400,000 at Fort Huachuca, Arizona.

(4) Chemical area security upgrade in the amount of $3,050,000 at Pine Bluff Arsenal, Arkansas.

(5) Chemical area security upgrade in the amount of $3,200,000 at Pueblo Depot Activity, Colorado.

(6) Chemical area security upgrade in the amount of $770,000 at Lexington-Blue Grass Depot Activity, Kentucky.

(7) Regional sewage system connection in the amount of $2,500,000 at United States Military Academy, New York.

(8) Chemical area security upgrade in the amount of $3,600,000 at Umatilla Depot Activity, Oregon.

(9) Industrial waste treatment plant in the amount of $1,900,000 at Letterkenny Army Depot, Pennsylvania.

(10) Chemical area security upgrade in the amount of $5,700,000 at Tooele Army Depot, Utah.

(11) Central wash facility in the amount of $4,000,000 at Fort Pickett, Virginia.

(12) Petroleum Field Training Center in the amount of $4,800,000 at Fort Lee, Virginia.

(13) Operations facility in the amount of $5,300,000 at Location 276 (Turkey).

(14) Intermediate staging facility in the amount of $11,300,000 at unspecified foreign location.

(15) Pre-positioned war material facilities in the amount of $4,450,000 at unspecified foreign locations.

(16) Family housing, new construction, one hundred and eight units, in the amount of $9,100,000 at Fort Bliss, Texas.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALASKA

Adak, Naval Air Station, $4,250,000.

Adak, Naval Security Group Activity, $3,000,000.

Amchitka, Fleet Surveillance Support Command, $31,000,000.

ARIZONA

Yuma, Marine Corps Air Station, $3,720,000.

CALIFORNIA

Bridgeport, Mountain Warfare Training Center, $11,300,000.

Camp Pendleton, Amphibious Task Force, $8,470,000.

Camp Pendleton, Marine Corps Air Station, $4,110,000.

Camp Pendleton, Marine Corps Base, $19,910,000.

China Lake, Naval Weapons Center, $17,585,000.

Corona, Naval Weapons Station, Seal Beach Annex, $8,870,000.

El Toro, Marine Corps Air Station, $6,980,000.

Lemoore, Naval Air Station, $900,000.

Long Beach, Naval Station, $3,520,000.

Miramar, Naval Air Station, $9,010,000.

Monterey, Naval Postgraduate School, $8,810,000.

North Island, Naval Air Station, $1,510,000.

Point Mugu, Pacific Missile Test Center, $2,070,000.

Port Hueneme, Naval Construction Battalion Center, $2,010,000.

Port Hueneme, Naval Ship Weapon Systems Engineering Station, $10,150,000.

San Diego, Fleet Anti-Submarine Warfare Training Center, Pacific, $8,950,000.

San Diego, Naval Ocean Systems Center, $11,760,000.

San Diego, Naval Submarine Base, $4,670,000.

San Diego, Naval Supply Center, $8,800,000.

San Diego, Naval Training Center, $15,229,000.

San Diego, Navy Public Works Center, $3,320,000.

Twentynine Palms, Marine Corps Air-Ground Combat Center, $10,820,000.

CONNECTICUT

New London, Naval Submarine Base, $22,500,000.

New London, Naval Submarine School, $18,990,000.

DISTRICT OF COLUMBIA

Washington, Naval Research Laboratory, $9,850,000.

FLORIDA

Jacksonville, Naval Air Station, $9,140,000.

Jacksonville, Naval Aviation Depot, $14,670,000.

Key West, Naval Air Station, $7,030,000.

Mayport, Fleet Training Center, $4,300,000.

Mayport, Naval Station, $4,950,000.

Orlando, Naval Training Center, $10,960,000.

Panama City, Naval Coastal Systems Center, $4,330,000.

Pensacola, Navy Public Works Center, $3,460,000.

GEORGIA

Albany, Marine Corps Logistics Base, $1,360,000.

Kings Bay, Naval Submarine Base, $77,475,000.

HAWAII

Kaneohe Bay, Marine Corps Air Station, $1,650,000.

Lualualei, Naval Magazine, $1,660,000.

Pearl Harbor, Commander Oceanographic System Pacific, $12,780,000.

Pearl Harbor, Naval Submarine Base, $2,010,000.

Pearl Harbor, Navy Public Works Center, $6,940,000.

ILLINOIS

Great Lakes, Naval Training Center, $2,170,000.

Great Lakes, Navy Public Works Center, $2,460,000.

INDIANA

Crane, Naval Weapons Support Center, $13,520,000.

KENTUCKY

Louisville, Naval Ordnance Station, $5,660,000.

MAINE

Kittery, Portsmouth Naval Shipyard, $38,182,000.

MARYLAND

Bethesda, National Naval Medical Center, $9,040,000.

Indian Head, Naval Ordnance Station, $12,430,000.

Patuxent River, Naval Air Test Center, $11,040,000.

Patuxent River, Naval Hospital, $2,510,000.

St. Inigoes, Naval Electronic Systems Engineering Activity, $4,020,000.

MISSISSIPPI

Gulfport, Naval Construction Training Center, $8,710,000.

NEW JERSEY

Earle, Naval Weapons Station, $85,400,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $29,170,000.

Cherry Point, Marine Corps Air Station, $13,950,000.

PENNSYLVANIA

Warminster, Naval Air Development Center, $10,770,000.

RHODE ISLAND

Newport, Naval Education and Training Center, $7,430,000.

Newport, Naval Underwater Support Center, $13,700,000.

SOUTH CAROLINA

Beaufort, Marine Corps Air Station, $6,700,000.

Charleston, Naval Station, $720,000.
Charleston, Naval Weapons Station, $27,030,000.
Parris Island, Marine Corps Recruit Depot, $3,410,000.

TEXAS

Lackland Air Force Base, Naval Technical Training Center Detachment, $11,850,000.

VIRGINIA

Arlington, Headquarters Marine Corps, $2,810,000.
Dahlgren, Naval Space Surveillance System, $9,850,000.
Dam Neck, Fleet Combat Direction Systems Support Activity, $6,500,000.
Little Creek, Naval Amphibious Base, $22,870,000.
Little Creek, Naval Amphibious School, $2,600,000.
Norfolk, Fleet Training Center, $16,080,000.
Norfolk, Naval Station, $10,950,000.
Norfolk, Navy Public Works Center, $4,020,000.
Norfolk, Naval Shipyard, $14,600,000.
Oceana, Naval Air Station, $3,670,000.
Quantico, Marine Corps Combat Development Command, $34,114,000.
Quantico, Naval Research Laboratory Annex, $2,600,000.
Wallops Island, AEGIS Combat Systems Center, $5,490,000.

WASHINGTON

Bangor, Trident Refit Facility, $3,020,000.
Bangor, Trident Training Facility, $3,610,000.
Bremerton, Puget Sound Naval Shipyard, $22,000,000.
Everett, Naval Station, $22,267,000.
Keyport, Naval Undersea Warfare Engineering Station, $18,590,000.
Oak Harbor, Naval Hospital, $2,180,000.
Silverdale, Strategic Weapons Facility Pacific, $56,480,000.
Whidbey Island, Naval Facility, $1,750,000.

VARIOUS LOCATIONS

Land Acquisition, $4,400,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GUAM

Naval Magazine, $9,319,000.
Navy Public Works Center, $7,500,000.

ICELAND

Keflavik, Naval Air Station, $2,440,000.

ITALY

Sicily, Naval Communication Station, $1,513,000.
Sigonella, Naval Air Station, $8,390,000.

SPAIN

Rota, Naval Communication Station, $1,105,000.

VARIOUS LOCATIONS

Host Nation Infrastructure Support, $1,000,000.

SEC. 2202. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(7)(A), construct or acquire family housing units (including land), at the following installations in the number of units shown, and in the amount shown, for each installation:

Camp Pendleton, Marine Corps Base, California, one hundred and sixteen units, $11,805,000.
Long Beach, Naval Station, California, three hundred units, $24,928,000.
San Diego, Navy Public Works Center, California, three hundred units, $31,880,000.
Fallon Naval Air Station, Nevada, eighty units, $10,500,000.
Little Creek, Naval Amphibious Base, Virginia, Family Housing Office, $372,000.
Norfolk, Navy Public Works Center, Virginia, two Community Centers, $834,000.
Guantanamo Bay, Naval Station, Cuba, one hundred and thirty-four units, $18,409,000.
Keflavik, Naval Air Station, Iceland, one hundred and twelve units, $27,479,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(7)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $6,200,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(7)(A), improve existing military family housing units in the amount of $42,420,000.

SEC. 2204. DEFENSE ACCESS ROADS

The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(6), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at the following locations and in the following amounts:

Naval Station, Charleston, South Carolina, $2,000,000.
Various locations, $4,017,000.

SEC. 2205 AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,014,223,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $959,802,000.
(2) For military construction projects outside the United States authorized by section 2201(b), $31,267,000.
(3) For the construction of the Headquarters Building, Naval Intelligence Command Headquarters, Suitland, Maryland, as authorized by section 2201(a) of the Military Construction Authorization Act, 1989, $55,048,000.
(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $13,311,000.
(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $76,951,000.
(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $6,017,000.
(7) For military family housing functions:
(A) For construction and acquisition of military family housing and facilities, $174,827,000.
(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $697,000,000, of which not more than $53,775,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this division may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and
(2) $65,300,000 (the balance of the amount authorized under section 2201(a) for the construction of trestles replacement at Naval Weapons Station, Earle, New Jersey).

SEC. 2206. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECTS.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1206), authorizations for the following projects authorized in section 2121 of that Act, as extended by section 2205 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189; 103 Stat. 1628), shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Physical security improvements in the amount of $2,460,000 at the Naval Air Station, Sigonella, Italy.
(2) Cold-iron utilities support in the amount of $7,480,000 at Naval Support Office, La Maddelena, Italy.

(b) EXTENSION OF CERTAIN PREVIOUS AUTHORIZATION OF CERTAIN FISCAL YEAR 1989 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Act, 1989 (division B of Public Law 100-456; 102 Stat. 2115), authorizations for the following projects authorized in sections 2201 and 2202 of that Act shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Community Center in the amount of $1,046,000 at Marine Corps Air Station, Tustin, California.
(2) Child Care Center in the amount of $1,930,000 at Marine Corps Air-Ground Combat Center, Twentynine Palms, California.
(3) Fire Station in the amount of $2,500,000 at Mare Island Naval Shipyard, Vallejo, California.
(4) Controlled Industrial Facility in the amount of $11,250,000 at Naval Submarine Base, Pearl Harbor, Hawaii.
(5) Forward Training Area in the amount of $8,280,000 at Marine Corps Air Station, Cherry Point, North Carolina.
(6) Aircraft maintenance facility in the amount of $8,370,000 at Naval Air Station, Whidbey Island, Washington.
(7) Support facility upgrade in the amount of $6,470,000 at Naval Support Facility, Antigua.
(8) Fire safety system in the amount of $1,950,000 at Naval Supply Depot, Guam.
(9) Electronic installation in the amount of $20,972,000 at Fleet Surveillance Support Group, Guam.
(10) Power plant in the amount of $27,770,000 at Navy Public Works Center, Subic Bay, Philippines.
(11) Family housing, new construction, three hundred units, in the amount of $26,110,000 at Naval Station, Long Beach, California.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $20,100,000.
Maxwell Air Force Base, $22,500,000.

ALASKA

Clear Air Force Station, $5,000,000.
Eielson Air Force Base, $12,400,000.
Elmendorf Air Force Base, $8,900,000.
Galena Airport, $8,700,000.
King Salmon Airport, $2,500,000.
Shemya Air Force Base, $47,400,000.
Various Locations, $11,000,000.

ARIZONA

Williams Air Force Base, $3,650,000.

ARKANSAS

Little Rock Air Force Base, $5,300,000.

CALIFORNIA

Beale Air Force Base, $6,300,000.
Castle Air Force Base, $8,200,000.
Edwards Air Force Base, $23,600,000.
March Air Force Base, $1,050,000.
McClellan Air Force Base, $11,200,000.
Sierra Army Depot, $3,650,000.
Travis Air Force Base, $10,800,000.
Vandenberg Air Force Base, $29,200,000.

COLORADO

Air Force Academy, $3,000,000.
Falcon Air Force Station, $710,000.
Lowry Air Force Base, $4,550,000.
Peterson Air Force Base, $4,050,000.

FLORIDA

Avon Park Range, $700,000.
Cape Canaveral Air Force Station, $5,353,000.
Eglin Air Force Base, $4,700,000.
Homestead Air Force Base, $7,900,000.
MacDill Air Force Base, $12,250,000.

GEORGIA

Moody Air Force Base, $4,400,000.
Robins Air Force Base, $21,200,000.

HAWAII

Hickam Air Force Base, $11,420,000.
Wheeler Air Force Base, $3,500,000.

IDAHO

Mountain Home Air Force Base, $1,350,000.

ILLINOIS

Scott Air Force Base, $10,060,000.

INDIANA

Grissom Air Force Base, $4,500,000.

KANSAS

McConnell Air Force Base, $9,100,000.

LOUISIANA

Barksdale Air Force Base, $8,530,000.

MAINE

Bangor Air National Guard Base, $970,000.

MARYLAND

Andrews Air Force Base, $6,900,000.
Fort George G. Meade, $1,800,000.

MASSACHUSETTS

Hanscom Air Force Base, $3,800,000.

MICHIGAN

K.I. Sawyer Air Force Base, $2,700,000.
Wurtsmith Air Force Base, $960,000.

MISSISSIPPI

Columbus Air Force Base, $3,100,000.

MISSOURI

Whiteman Air Force Base, $62,400,000.

NEBRASKA

Offutt Air Force Base, $2,600,000.

NEVADA

Indian Springs Auxiliary Field, $2,550,000.
Nellis Air Force Base, $12,520,000.

NEW JERSEY

McGuire Air Force Base, $7,850,000.

NEW MEXICO

Holloman Air Force Base, $78,010,000.
Kirtland Air Force Base, $4,200,000.

NEW YORK

Griffiss Air Force Base, $4,500,000.
Plattsburgh Air Force Base, $1,200,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $2,502,000.

NORTH DAKOTA

Grand Forks Air Force Base, $8,850,000.
Minot Air Force Base, $3,600,000.

OHIO

Newark Air Force Base, $5,100,000.
Wright-Patterson Air Force Base, $10,150,000.

OKLAHOMA

Altus Air Force Base, $21,700,000.
Tinker Air Force Base, $56,950,000.
Vance Air Force Base, $400,000.

SOUTH CAROLINA

Charleston Air Force Base, $14,090,000.
Shaw Air Force Base, $3,000,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $13,150,000.

TEXAS

Brooks Air Force Base, $4,100,000.
Carswell Air Force Base, $12,616,000.
Dyess Air Force Base, $7,550,000.
Goodfellow Air Force Base, $980,000.
Kelly Air Force Base, $10,300,000.
Lackland Air Force Base, $22,500,000.
Laughlin Air Force Base, $1,820,000.
Randolph Air Force Base, $1,750,000.
Reese Air Force Base, $5,090,000.
Sheppard Air Force Base, $8,400,000.

UTAH

Hill Air Force Base, $25,300,000.

VIRGINIA

Langley Air Force Base, $600,000.

WASHINGTON

Fairchild Air Force Base, $11,200,000.
McChord Air Force Base, $5,200,000.

WYOMING

F.E. Warren Air Force Base, $4,400,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ANTIGUA

Antigua Air Station, $8,200,000.

CANADA

Various locations, $6,300,000.

GREENLAND

Thule Air Base, $6,300,000.

JAPAN

Kadena Air Base, $2,950,000.

KOREA

Osan Air Base, $3,500,000.

SEYCHELLES ISLANDS

Mahe Missile Tracking Site, $4,600,000.

TURKEY

Incirlik Air Base, $1,100,000.
Pirinclik Air Station, $1,250,000.

SEC. 2302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may construct or acquire family housing units (including land) using amounts appropriated pursuant to section 2304(a)(7)(A), at the following installations in the amounts shown for each installation:

Nellis Air Force Base, Nevada, thirteen units, $1,600,000.
Nellis Air Force Base, Nevada, housing office, $235,000.
Holloman Air Force Base, New Mexico, housing maintenance facility, $219,000.
Seymour-Johnson Air Force Base, North Carolina, housing office, $365,000.
Charleston Air Force Base, South Carolina, housing office and maintenance facility, $592,000.
Myrtle Beach Air Force Base, South Carolina, housing office, $258,000.
Ellsworth Air Force Base, South Dakota, housing office, $313,000.
Andersen Air Force Base, Guam, housing and storage facility, $1,371,000.

(b) Planning and Design.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $6,000,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), improve existing military family housing units in an amount not to exceed $172,012,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,954,059,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $777,081,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $34,200,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), and as amended by section 2307 of the Military Construction Authorization Act, 1990, Public Law 101-189, $66,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $10,272,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $107,741,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $9,000,000.

(7) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $182,965,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $766,800,000, of which not more than $110,911,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total

cost of all projects carried out under section 2301 of this division may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $39,000,000 (the balance of the amount authorized for the construction of support facilities for the 37th Tactical Fighter Wing at Holloman Air Force Base, New Mexico).

(c) LIMITATION.—None of the funds appropriated pursuant to the authorization in subsection (a)(1) may be expended for the construction of support facilities for the 37th Tactical Fighter Wing at Holloman Air Force Base, New Mexico, until after the 21-day period referred to in section 2308.

(d) AUTHORIZED EXPENDITURE.—Of the funds appropriated pursuant to subsection (a)(4), the Secretary of the Air Force may expend not more than $332,000 to purchase a facility at the operation and test evaluation center at Edwards Air Force Base, California.

SEC. 2305. AUTHORIZATION OF A FACILITY

The Secretary of the Air Force may acquire at no cost an existing building constructed on Eglin Air Force Base, Florida, in 1986 as part of a three-year incrementally funded research, development, test and evaluation contract.

SEC. 2306. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN MILITARY CONSTRUCTION PROJECT

(a) IN GENERAL.—Section 2301(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189) is amended by striking out the following:

"WYOMING

"F.E. Warren Air Force Base, $104,850,000.".

(b) CONFORMING AMENDMENTS.—Section 2304(a) of such Act is amended—

(1) by striking out "$2,193,638,000" and inserting in lieu thereof "$2,103,788,000"; and

(2) in paragraph (1), by striking out "$945,836,000" and inserting in lieu thereof "$855,986,000".

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of acquiring real property and carrying out military construction projects for which authority is provided under section 2301 of this Act, the Secretary of the Air Force may, to the extent provided in appropriation Acts, use funds that have been appropriated for the project to which subsection (a) is applicable.

SEC. 2307. DESIGNATION OF INSTALLATION

The Secretary of the Air Force shall provide that the installation which receives the last operational upgrade for the Minuteman II missile system shall be the installation from which the last Minuteman II missile is retired.

SEC. 2308. RESTRICTION ON RELOCATION OR REALIGNMENT AT TONOPAH RESEARCH SITE, NEVADA

None of the funds available to the Department of Defense during fiscal year 1991 may be used, directly or indirectly, to transfer, realign, relocate, or otherwise diminish any part of the 37th Tactical Fighter Wing at the Tonopah Research Site, Nevada, until after the 21-day period beginning on the date on which the Secretary of the Air Force transmits to the congressional defense committees a certification that any such action to be taken with respect to such Tactical Fighter Wing will be effective in meeting the Wing's mission and in reducing overall cost to the Air Force, taking into consideration the basing of units of the Air Force proposed in the multi-year defense plan in effect at the time of the certification. The Secretary shall include in any such certification an explanation and justification of the reasons for such conclusion.

SEC. 2309. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF A CERTAIN FISCAL YEAR 1987 PROJECT.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4040), authorization for the following project authorized in section 2301 of that Act, as extended by section 2305 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2115), shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

KC-135 CPT Simulator Facility in the amount of $890,000 at Beale Air Force Base, California.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1989 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2108), authorizations for the following projects authorized in sections 2301 and 2303 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) F-111 Avionics Facility in the amount of $1,300,000 at Cannon Air Force Base, New Mexico.

(2) Aircraft Operational Apron-Phase I in the amount of $4,950,000; Intelligence Facility-Phase II in the amount of $2,250,000; Special Operations Forces Helicopter Maintenance Facility in the amount of $4,100,000; Special Operations Forces Hangar/Nose Dock in the amount of $2,100,000; and Special Operations Forces Hydrant Fueling System in the amount of $800,000 at Clark Air Base, Philippines.

(3) Defense Language Institute Language Training Laboratory in the amount of $12,000,000 at Lackland Air Force Base, Texas.

(4) Land Acquisition in the amount of $2,300,000 at Altus Air Force Base, Oklahoma.

(5) Alter Technical Training Management Facility in the amount of $1,750,000 at Randolph Air Force Base, Texas.

(6) Alter and Expand Headquarters Data Center, in the amount of $576,000 at Patrick Air Force Base, Florida.

(7) Security Police Complex, in the amount of $2,300,000 at McGuire Air Force Base, New Jersey.

(8) Over the Horizon-Backscatter (OTH-B) Operations Building in the amount of $17,500,000 at Elmendorf Air Force Base, Alaska.

(9) Fire Training Area in the amount of $2,200,000 at Peterson Air Force Base, Colorado.

(10) Alter Combat Intelligence Operations Center in the amount of $1,000,000 at Ramstein Air Base, Germany (authorized as part of Classified Locations in the amount of $16,473,000).

(11) Solid State Uninterrupted Power Supply in the amount of $1,300,000 at Ramstein Air Base, Germany.

(12) Add to and Alter Aircraft Support Equipment Shop in the amount of $2,850,000 at Shemya Air Force Base, Alaska.

(13) Post Office in the amount of $550,000 at Incirlik, Turkey.

(14) F-16 Aircraft Maintenance Unit Facility in the amount of $2,800,000 at Osan Air Base, Korea.

(15) Improve Military Family Housing, Phase II, in the amount of $4,018,000 at Bolling Air Force Base, District of Columbia.

(16) Improve On-Base Housing in the amount of $3,207,000 at McClellan Air Force Base, California.

(17) Off-Street Parking, Site Improvements in the amount of $1,919,000 at Scott Air Force Base, Illinois.

(18) Improve Family Housing, Phase I, in the amount of $7,869,000 at Carswell Air Force Base, Texas.

(19) Improve 16 Family Housing Units in the amount of $600,000 at Carswell Air Force Base, Texas.

(20) Modernize Capehart Housing, Phase IV, in the amount of $4,373,000 at K.I. Sawyer Air Force Base, Michigan.

(21) Improve Capehart Housing, Phase I, in the amount of $10,600,000 at Plattsburgh Air Force Base, New York.

(22) Improve General Officers Quarters in the amount of $74,000 at Peterson Air Force Base, Colorado.

(23) Upgrade Capehart Military Family Housing, Phase II, in the amount of $6,006,000 at Holloman Air Force Base, New Mexico.

(24) Improve Family Housing in the amount of $2,278,000 at Keesler Air Force Base, Mississippi.

(25) Addition to Physical Fitness Center in the amount of $3,800,000 at Peterson Air Force Base, Colorado.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amount shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Wheeler Air Force Base, Hawaii, $1,491,000.

Arlington Service Center, Virginia, $2,664,000.

DEFENSE LOGISTICS AGENCY

Defense Reutilization and Marketing Office, Anniston Army Depot, Alabama, $2,370,000.

Defense Depot, Tracy, California, $1,700,000.

Defense Reutilization and Marketing Office, Eglin Air Force Base, Florida, $2,850,000.

Defense Reutilization and Marketing Office, Fort Meade, Maryland, $9,500,000.

Defense Depot, Mechanicsburg, Pennsylvania, $18,100,000.

Defense Personnel Support Center, Philadelphia, Pennsylvania, $3,940,000.

Defense Reutilization and Marketing Office, Fort Jackson, South Carolina, $500,000.

Defense Depot, Memphis, Tennessee, $14,900,000.

Defense General Supply Center, Richmond, Virginia, $7,000,000.

Defense Reutilization and Marketing Office, F.E. Warren Air Force Base, Wyoming, $1,700,000.

DEFENSE MEDICAL FACILITIES OFFICE

Marine Corps Base, Camp Pendleton, California, $1,750,000.

Walter Reed Army Medical Center, District of Columbia, $4,000,000.
MacDill Air Force Base, Florida, $2,900,000.
Fort Benning, Georgia, $2,000,000.
Tripler Army Medical Center, Hawaii $2,200,000.
Fort Riley, Kansas, $1,050,000.
Marine Corps Base, Camp Lejeune, North Carolina, $3,200,000.
Altus Air Force Base, Oklahoma, $500,000.
Philadelphia Naval Shipyard, Pennsylvania, $11,600,000.
Lackland Air Force Base, Texas, $2,250,000.
Cheatham Annex, Virginia, $6,500,000.
Dam Neck Flight Center, Virginia, $4,050,000.
Fort Lee, Virginia, $4,850,000.
Marine Corps Base, Quantico, Virginia, $2,450,000.

DEFENSE NUCLEAR AGENCY

White Sands Missile Range, New Mexico, $45,000,000.

NATIONAL SECURITY AGENCY

Fort George C. Meade, Maryland, $16,046,000.

OFFICE OF THE SECRETARY OF DEFENSE

Defense Language Institute, Monterey, California, $4,182,000.
Uniformed Services University of the Health Sciences, Bethesda, Maryland, $800,000.
Classified Locations, $26,600,000.

SECTION VI SCHOOLS

Fort Benning, Georgia, $9,400,000.
Dahlgren, Naval Surface Warfare Center, Virginia, $1,360,000.

SPECIAL OPERATIONS COMMAND

Coronado Naval Amphibious Base, California, $21,020,000.
Eglin Air Force Base, Florida, $11,750,000.
Fort Stewart/Hunter Army Air Field, Georgia, $4,900,000.
Norristown Army Reserve Center, Pennsylvania, $2,598,000.
Dam Neck Marine Environmental Facility, Virginia, $9,160,000.
Classified Location, $2,747,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Barking Sands Pacific Missile Range, Hawaii, $3,870,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE MEDICAL FACILITIES OFFICE

Rhein-Main Air Base, Germany, $870,000.
Camp Casey, Korea, $1,000,000.
Sinop, Turkey, $1,750,000.

DEFENSE NUCLEAR AGENCY

Johnston Island, $8,595,000.

NATIONAL SECURITY AGENCY

Classified Location, $2,375,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Location, $7,800,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may construct or acquire three family housing units (including land), using amounts appropriated pursuant to section 2405(a)(13)(A), at classified locations in the total amount not to exceed $400,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 2405(a)(13)(A), improve existing military family housing units in an amount not to exceed $100,000.

SEC. 2404. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661) is amended to read as follows:

"(a) AUTHORITY.—The Secretary of Defense may carry out military construction projects not otherwise authorized by law for conforming storage facilities using funds appropriated for such purpose.".

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $1,656,078,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $275,448,000.

(2) For military construction projects outside the United States authorized in section 2401(b), $22,390,000.

(3) For military construction projects at Nellis Air Force Base, Nevada, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991, $56,000,000.

(4) For military construction projects at Fort Sill, Oklahoma, authorized by section 2401(a) of the Military Construction Authorization Act, 1989, $10,400,000.

(5) For an energy conservation program, $30,000,000.

(6) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987, $50,000,000.

(7) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991, $40,000,000.

(8) For unspecified minor construction projects under section 2805 of title 10, United States Code, $14,955,000.

(9) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(10) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $104,285,000.

(11) For base closure and realignment activities as authorized by the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), $1,016,500,000.

(12) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, $5,000,000.

(13) For military family housing functions:

(A) For construction and acquisition of military family housing facilities, $500,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $20,600,000, of which not more than $17,897,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2406. MEDICAL FACILITY, NELLIS AIR FORCE BASE, NEVADA

(a) PROJECT AMOUNT.—The item listed under the heading "Defense Medical Facilities Office" in section 2401 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189) is amended by striking out "Nellis Air Force Base, Nevada, $62,000,000." and inserting in lieu thereof "Nellis Air Force Base, Nevada, $66,000,000.".

(b) TITLE TOTAL.—Section 2405(b)(3) of such Act is amended by striking out "$52,000,000" and inserting in lieu thereof "$56,000,000".

SEC. 2407. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4040), the authorizations for the following projects in section 2401(a) of that Act, shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Road Improvements, in the amount of $4,370,000 at National Security Headquarters, Fort Meade, Maryland.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1989 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2115), authorizations for the following project authorized in section 2401 of that Act shall remain in effect until October 1, 1991, or until the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

Laboratory/Pharmacy Addition, Fort Leonard Wood, Missouri, $1,450,000.

(2) Hospital Life Safety Upgrade, Corpus Christi Naval Air Station, Texas, $6,100,000.

(3) Hospital Life Safety Upgrade, Dyess Air Force Base, Texas, $950,000.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) IN GENERAL.—The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) funds made available for the North Atlantic Treaty Organization Infrastructure program should be used primarily for—

(A) verifying or implementing the terms of conventional arms control agreements;

(B) recoupment owed by the United States for projects completed before the date of the enactment of this Act; and

(C) the completion of any construction project the construction of which began before October 1, 1990; and

(2) the United States should work in consultation with the other countries of the North Atlantic Treaty Organization to restructure such program in such a manner that the funds provided to the program by the Secretary of Defense will be expended

primarily for the purposes referred to in paragraph (1).

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure program as authorized by section 2501, in the amount of $192,700,000.

SEC. 2503. STUDY AND REPORT BY THE SECRETARY OF DEFENSE

(a) IN GENERAL.—(1) The Secretary of Defense shall conduct a study to determine the feasibility and desirability of permitting the North Atlantic Treaty Organization to utilize, for training and exercise purposes, military installations in the United States being closed by the Department of Defense under other provisions of law.

(2) In carrying out such a study, the Secretary shall consider—

(A) the exact purposes for which such installations could be appropriately and effectively used by NATO; and

(B) the manner in which NATO would pay for the use of such installations.

(b) REPORT.—The Secretary shall transmit, by not later than March 15, 1991, to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1990, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $297,544,000; and

(B) for the Army Reserve, $76,126,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $80,307,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $172,340,000; and

(B) for the Air Force Reserve, $37,700,000.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure program (and authorizations of appropriations therefor) shall expire on October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

TITLE XXVIII—GENERAL PROVISIONS

PART A—CONSTRUCTION, LEASING, IMPROVEMENTS, DISPOSAL, AND UTILIZATION OF MILITARY INSTALLATIONS AND FACILITIES

SEC. 2801. DUAL BASING

(a) DEFINITION.—In this section—

(1) the term "dual basing" means the stationing of units of the Armed Forces on a permanent basis at military installations inside the United States with rotating short-term assignments to military installations outside the United States for purposes of training, carrying out exercises, meeting obligations to other nations, or carrying out other international security responsibilities of the United States; and

(2) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that dual basing has significant potential for being an effective and efficient method by which this Nation can reduce its defense spending and also meet its world-wide security responsibilities and assist in reducing tension and increasing stability internationally.

(c) REPORT.—The Secretary of Defense shall carry out a study of the manner in which dual basing could be implemented and shall transmit, by no later than March 15, 1991, to the Committees on Armed Services of the Senate and the House of Representatives a report containing a detailed description of how dual basing could be implemented, together with an assessment of the scheduling, costs, benefits, and difficulties involved in such an implementation as compared to the methods of basing military personnel used by the military departments on the date of the enactment of this Act.

SEC. 2802. LIMITATION ON CONSTRUCTION AT CROTONE, ITALY

(a) IN GENERAL.—None of the funds available to the Department of Defense, including contributions for the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, may be obligated or expended (whether obligated before the date of enactment of this Act or not) in connection with relocating functions of the Department of Defense located at Torrejon Air Force Base, Madrid, Spain, on June 15, 1989, to Crotone, Italy, or any other location outside the United States until the Secretary of Defense makes the certification and files the information required in subsection (b)(2).

(b) CONSIDERATION AND CERTIFICATION.—(1) Promptly after the date of enactment of this Act, the President shall notify the other member nations of the North Atlantic Treaty Organization that the United States seeks to have placed on the agenda of the next meeting of the North Atlantic Council of NATO the following questions:

(A) In light of the changed threat to NATO, is the retention of the 401st Tactical Fighter Wing in the Southern Region of NATO necessary?

(B) In light of the changes in Europe, is continuation of construction of a new airbase at Crotone, Italy, desirable?

(C) Are there existing airbases in NATO, and particularly in the Southern Region of NATO, which could serve as an adequate base for the 401st Tactical Fighter Wing, rendering construction of a new base unnecessary?

(D) Will the United States be authorized to use American aircraft based at Crotone, Italy, for military missions outside of the European theatre?

(2) After the North Atlantic Council of NATO meets, considers the questions listed in paragraph (1), and passes a resolution endorsing continuation of construction of a new airbase at Crotone, Italy, the Secretary of Defense shall certify to the congressional defense committees that such has occurred and shall transmit, along with such certification, a copy of the resolution adopted by the North Atlantic Council and a summary of the debate concerning each of the questions contained in paragraph (1).

SEC. 2803 RESTRICTIONS ON LEASING IN THE NATIONAL CAPITAL REGION

(a) LIMITATION.—(1)(A) Subject to paragraph (2), during the fiscal years specified in subparagraph (B), the Department of Defense (including all departments, agencies, and other instrumentalities thereof) may not enter into or amend any lease or other agreement (including leases entered into with any other Federal agency) for administrative space in the National Capital Region that would result in the Department leasing administrative space in excess of the maximum area specified for that fiscal year in subparagraph (B), unless the Secretary of Defense, in consultation with the Administrator of General Services, submits to the Congress, no later than April 15, 1991, a comprehensive plan addressing the long-term leased space needs of the Department of Defense in the National Capital Region. Such a plan shall be consistent with the force structure plan submitted under section 2903.

(B) The maximum area referred to in subparagraph (A) is as follows:

(i) During fiscal year 1991, the number of square feet being utilized in such Region for administrative space by such Department on the date of enactment of this Act, other than such administrative space as is contained in the Pentagon Reservation.

(ii) During fiscal year 1992, 90 percent of the number of square feet specified in clause (i).

(iii) During fiscal year 1993, 80 percent of the number of square feet specified in clause (i).

(2) Any administrative space temporarily leased for exclusive use by personnel of the Department displaced from administrative space in the Pentagon Reservation as a result of the renovation of facilities within such reservation shall not be included in computing the maximum limitations provided for in paragraph (1)(B).

(3) The reduction of leased administrative space resulting from the implementation of this section shall be carried out in consultation with the Administrator of General Services.

(b) PROHIBITION.—After September 30, 1991, the Department of Defense may not use any space under any lease or other agreement in the area known as Buzzard's Point in Wash-

ington, D.C., including the facility located at 1900 Half Street, Southwest.

(c) DEFINITIONS.—As used in this section:

(1) The term "administrative space" means property used for the operation of an office, for storage of office equipment or materials, or to support activities carried out in an office, including property with special architectural features, fixed equipment, or utilities (such as laboratories, dark rooms, automatic data processing areas, food service areas, and security vaults).

(2) The term "National Capital Region" means the geographic area located within the boundaries of (A) the District of Columbia, (B) Montgomery and Prince Georges Counties in the State of Maryland, (C) Arlington, Fairfax, Loudoun, and Prince William Counties and the City of Alexandria in the Commonwealth of Virginia, and (D) all cities and other units of government within the geographic areas of such District, Counties, and City.

(3) The term "Pentagon Reservation" has the same meaning given such term by section 2674(f)(1) of title 10, United States.

SEC. 2804. OPERATION AND CONTROL OF THE PENTAGON RESERVATION

(a) IN GENERAL.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2673 the following new section:

"2674. Operation and control of the Pentagon Reservation

"(a)(1) Jurisdiction, custody, and control over, and responsibility for, the operation, maintenance, and management of the Pentagon Reservation is transferred to the Secretary of Defense.

"(2) Before March 1 of each year, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives a report on the state of the renovation of the Pentagon Reservation and a plan for the renovation work to be conducted in the fiscal year beginning in the year in which the report is transmitted.

"(b) The Secretary may appoint military or civilian personnel or contract personnel to perform law enforcement and security functions for property occupied by, or under the jurisdiction, custody, and control of the Department of Defense, and located at the Pentagon Reservation. Such individuals—

"(1) may be armed with appropriate firearms required for personal safety and for the proper execution of their duties, whether on Department of Defense property or in travel status; and

"(2) shall have the same powers as sheriffs and constables to enforce the laws, rules, or regulations enacted for the protection of persons and property.

"(c)(1) The Secretary may prescribe such rules and regulations as the Secretary considers appropriate to ensure the safe, efficient, and secure operation of the Pentagon Reservation, including rules and regulations necessary to govern the operation and parking of motor vehicles on the Pentagon Reservation.

"(2) Any person who violates a rule or regulation prescribed under this subsection is liable to the United States for a civil penalty of not more than $1,000.

"(3) Any person who willfully violates any rule or regulation prescribed pursuant to this subsection commits a Class B misdemeanor.

"(d) The Secretary of Defense may establish rates and collect charges for space, services, protection, maintenance, construction, repairs, alterations, or facilities provided at the Pentagon Reservation.

"(e)(1) There is established in the Treasury of the United States a revolving fund to be known as the Pentagon Reservation Maintenance Revolving Fund (hereafter in this section referred to as the 'Fund'). There shall be deposited into the Fund funds collected by the Secretary for space and services and other items provided an organization or entity using any facility or land on the Pentagon Reservation pursuant to subsection (d).

"(2) Monies deposited into the Fund shall be available, without fiscal year limitation, for expenditure for real property management, operation, protection, construction, repair, alteration and related activities for the Pentagon Reservation.

"(f) In this section:

"(1) The term 'Pentagon Reservation' means that area of land (consisting of approximately 280 acres) and improvements thereon, located in Arlington, Virginia, on which the Pentagon Office Building, Federal Building Number 2, the Pentagon heating and sewage treatment plants, and other related facilities are located, including various areas designated for the parking of vehicles.

"(2) The term "National Capital Region" means the geographic area located within the boundaries of (A) the District of Columbia, (B) Montgomery and Prince Georges Counties in the State of Maryland, (C) Arlington, Fairfax, Loudoun, and Prince William Counties and the City of Alexandria in the Commonwealth of Virginia, and (D) all cities and other units of government within the geographic areas of such District, Counties, and City.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2673 the following new item:

"2674. Operation and control of the Pentagon Reservation.".

(b) TRANSFER OF FUNDS FOR FISCAL YEAR 1991.—For fiscal year 1991, the Secretary of Defense may transfer into the Pentagon Reservation Maintenance Revolving Fund (established by section 2674(e) of title 10, United States Code), from funds appropriated to the military departments and the Defense Agencies, amounts equal to the amounts that would otherwise be paid by the military departments and the Defense Agencies to the General Services Administration for the use of the Pentagon Reservation.

SEC. 2805. REVENUE FROM TRANSFER OR DISPOSAL OF DEPARTMENT OF DEFENSE REAL PROPERTY

Section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) is amended—

(1) in subsection (a), by striking out "subsections (b), (c), (d), and (e)" and inserting in lieu thereof "subsections (b), (c), (d), (e), and (h)";

(2) in subsection (b), by striking out "All the proceeds" in the first sentence and inserting in lieu thereof "Except as provided in subsection (h), all the proceeds"; and

(3) by adding at the end thereof the following new subsection:

,"(h)(1) If the Secretary of a military department determines that real property, and improvements thereon, under the control of that department (other than property at a military installation designated for closure or realignment) is excess to the needs of that department, the Secretary of Defense shall provide that the property be made available for transfer without reimbursement to the other military departments within the Department of Defense. If the property is not transferred to another military department, the Secretary of the military department concerned shall request the Administrator to transfer or dispose of such property in accordance with the provisions of this Act, section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)), or other applicable law.

"(2) The Administrator shall deposit any proceeds (less expenses of transferring or disposing of the property as provided in subsection (b)) in a special account in the Treasury of the United States. The amount deposited in such account with respect to the transfer or disposal of any such property shall be available, to the extent provided in appropriation Acts, as follows:

"(A) 50 percent of such amount shall be available for facility maintenance and repair or environmental restoration at the military installation where the property is located.

"(B) 50 percent of such amount shall be available for facility maintenance and repair and for environmental restoration by the military department that had jurisdiction over the property before it was disposed of or transferred.

"(3) As part of the annual request for authorizations of appropriations to the Committees on Armed Services of the Senate and of the House of Representatives, the Secretary of Defense shall include an accounting of each transfer and disposal made in accordance with this subsection during the fiscal year preceding the fiscal year in which the request is made, including a detailed explanation of each such transfer and disposal and of the use of the proceeds received from it by the Department of Defense.

"(4) For purposes of this subsection, the term 'military installation' shall have the meaning given that term in section 2687(e)(1) of title 10, United States Code.".

SEC. 2806. REVENUE FROM LEASING OUT DEPARTMENT OF DEFENSE ASSETS

Section 2667(d) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1)(A) All money rentals received pursuant to leases entered into by the Secretary of a military department under this section shall be deposited in a special account in the Treasury established for such military department, except—

"(i) amounts paid for utilities and services furnished lessees by the Secretary; and

"(ii) money rentals referred to in paragraph (4).

"(B) Sums deposited in a military department's special account pursuant to subparagraph (A) shall be available to such military department, as provided in appropriation Acts, as follows:

"(i) 50 percent of such amount shall be available for facility maintenance and repair or environmental restoration at the military installation where the leased property is located.

"(ii) 50 percent of such amount shall be available for facility maintenance and repair and for environmental restoration by the military department concerned.

"(2) Payments for utilities and services furnished lessees pursuant to leases entered into under this section shall be credited to

the appropriation account from which the cost of furnishing the utilities and services was paid.

"(3)(A) As part of the request for authorizations of appropriations for fiscal year 1992 to the Committees on Armed Services of the Senate and of the House of Representatives, the Secretary of Defense shall include an explanation of each lease from which money rentals will be received and deposited under this subsection during fiscal year 1991, together with an estimate of the amount to be received from each such lease and an explanation of the anticipated expenditures of such receipts.

"(B) As part of the request for authorizations of appropriations to such Committees for each fiscal year after fiscal year 1992, the Secretary of Defense shall include—

"(i) an accounting of the receipt and use of all money rentals that were deposited and expended under this subsection during the fiscal year preceding the fiscal year in which the request is made; and

"(ii) a detailed explanation of each lease entered into, and of each amendment made to existing leases, during such preceding fiscal year.".

SEC. 2807. SENSE OF CONGRESS CONCERNING A MILITARY CONSTRUCTION MORATORIUM

It is the sense of the Congress that the Secretary of Defense should not issue an order during calendar year 1991 that prohibits, totally or generally, the military departments from entering into contracts for authorized military construction projects inside the United States or from exercising options under existing contracts for such projects.

PART B—MILITARY CONSTRUCTION PROGRAM CHANGES

SEC. 2811. ONE-YEAR EXTENSION OF MILITARY HOUSING RENTAL GUARANTEE PROGRAM

(a) In General.—Section 802(h) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended by striking out "1990" and inserting in lieu thereof "1991".

(b) Limitation.—Section 802 of such Act is amended by adding at the end the following new subsection:

"(i) Not more than six agreements may be entered into under this section during fiscal year 1991.".

SEC. 2812. FAMILY HOUSING IMPROVEMENT THRESHOLD

Section 2825(b)(1) of title 10, United States Code, is amended—

(1) in clause (A), by striking out "$40,000" and inserting in lieu thereof "$50,000"; and

(2) by adding at the end the following sentence: "The Secretary concerned may waive the limitations contained in the preceding sentence if (i) such Secretary determines that, considering the useful life of the structure to be improved and the useful life of a newly constructed unit and the cost of construction and of operation and maintenance of each kind of unit over its useful life, the improvement will be cost-effective, and (ii) a period of 21 days elapses after the date on which the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives receive a notice from such Secretary of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective.".

PART C—LAND TRANSACTIONS

SEC. 2821. LAND CONVEYANCE, REDSTONE ARSENAL, ALABAMA

(a) In General.—Subject to subsections (b) through (e), the Secretary of the Army may convey to the Solid Waste Disposal Authority of the City of Huntsville, Alabama, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 20 acres, including improvements thereon, at the Redstone Arsenal, Alabama, that, on the date of the enactment of this Act, is leased to such Authority pursuant to Department of the Army lease DACA 01-1-87-225, dated December 14, 1987.

(b) Consideration.—In consideration for the conveyance specified in subsection (a), the Authority shall be required to provide to the Secretary, in accordance with requirements determined by the Secretary to be in the best interests of the United States—

(1) evidence that it has constructed on such real property, and is commercially operating, a refuse fired steam plant for the disposal of municipal solid waste;

(2) an executed agreement obligating the Authority to accept from the United States up to 50 tons per day of acceptable waste for processing, without reimbursement, at such site;

(3) an agreement indemnifying the United States from any liability with respect to the construction and operation of any waste disposal facility on the property; and

(4) an agreement obligating the Authority with respect to furnishing steam and electricity to the Department of the Army at such site.

(c) Reservations.—The deed of conveyance shall—

(1) reserve to the United States all mineral rights in the real property conveyed;

(2) reserve to the United States an easement for the maintenance and operation of ground water monitoring equipment located in the southeast corner of the parcel of real property and an easement for ingress and egress to the equipment;

(3) incorporate the easement granted by the Secretary of the Army to the city of Huntsville, Alabama, contained in the Road or Street Easement Numbered DACA 01-2-68-4, dated November 7, 1967, and recorded in Deed Book 458, pages 356-358, Probate Records, Madison County, Alabama; and

(4) be subject to any leases to which the real property conveyed under subsection (a) is subject at the time of the conveyance.

(d) Description of Property.—The exact acreage and legal description of the property to be conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Authority.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2822. RELEASE AND CONVEYANCE, RESERVE CENTER AT LITTLE ROCK, ARKANSAS

(a) In General.—Subject to subsections (b) and (c), the Secretary of the Army shall—

(1) release to the University of Arkansas, without consideration, all right, title, and interest of the United States in and to approximately 2.66 acres of land in Palaski County, Arkansas, leased by the United States from the University of Arkansas pursuant to Department of Army lease No. DA-34-066, dated March 31, 1950; and

(2) convey to the University of Arkansas, without consideration, all right, title, and interest of the United States in and to all improvements constructed on the land referred to in paragraph (1).

(b) Conditions of Release and Conveyance.—The release and conveyance referred to in subsection (a) shall be subject to the condition that—

(1) the University of Arkansas accept responsibility for all costs related to removing or abating the hazard posed by asbestos contained in any of the improvements conveyed pursuant to subsection (a)(2); and

(2) the University of Arkansas agree to indemnify the United States against any liability for the presence of any asbestos or asbestos-containing material in any of the improvements referred to in subsection (a)(2).

(c) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the release and conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2823. LAND CONVEYANCE, NAVAL WEAPONS STATION, CONCORD, CALIFORNIA

(a) In General.—Subject to subsections (b) through (e), the Secretary of the Navy may sell and convey to the San Francisco Bay Area Rapid Transit District (hereafter in this section referred to as "BART") all right, title and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 40 acres comprising a portion of the Naval Weapons Station, Concord, California.

(b) Consideration.—(1) In consideration for the conveyance authorized in subsection (a), BART shall be required to—

(A) pay to the United States an amount equal to not less than the fair market value of the property to be conveyed under subsection (a), as determined by the Secretary;

(B) pay for the cost of relocating certain railroad tracks located on such property;

(C) pay for the cost of relocating the existing security fence to conform with the new boundaries of the Naval Weapons Station after such conveyance; and

(D) pay for the costs of appraisals and other costs related to the sale and conveyance of property under this section.

(2) Costs incurred by BART in connection with the relocations referred to in subparagraphs (B) and (C) of paragraph (1) and for the costs referred to in subparagraph (D) of such paragraph may not be considered as any part of the fair market value of the property referred to in subsection (a).

(c) Use of Proceeds.—The Secretary shall deposit proceeds received from the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) Description of Property.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by BART.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2824. LEASE AT HUNTERS POINT NAVAL SHIPYARD, SAN FRANCISCO, CALIFORNIA

(a) In General.—(1) The Secretary of the Navy shall, within one year after the date of the enactment of this Act, lease to the City of San Francisco, California, at fair market value and for at least 30 years, not less than 260 acres, including any improvements thereon, of the area known as the Hunters

Point Naval Shipyard, San Francisco, California.

(2) In carrying out paragraph (1), the Secretary shall—

(A) determine the location of the property to be leased;

(B) provide that the property leased shall be used by the City subject to such terms and conditions as the Secretary determines appropriate to protect the interests of the United States; and

(C) take steps to minimize the disruption and displacement of tenants on Hunters Point to the maximum extent practicable.

(b) REPORT.—The Secretary shall transmit, by no later than February 1, 1991, to the Committees on Armed Services of the Senate and of the House of Representatives a report of the status of the negotiations carried out for the purpose of entering into a lease under subsection (a).

SEC. 2825. TRANSFER OF LANDS, PINON CANYON, COLORADO

(a) TRANSFER.—Notwithstanding any other provision of law and subject to subsections (b) through (d), the Secretary of the Army shall transfer administrative jurisdiction of approximately 16,707 acres of land at the Pinon Canyon Maneuver Site, Colorado, consisting of all parcels of land identified by the Secretary of the Army as uneconomic remnant lands, to the Secretary of Agriculture for inclusion in the Comanche National Grassland. The Secretary of Agriculture shall administer the transferred lands in accordance with laws applicable to the National Forest system.

(b) DESCRIPTION OF THE PROPERTY.—(1) The exact acreage and legal description of the property to be transferred under this section shall be determined by surveys satisfactory to the Secretary of the Army and the Secretary of Agriculture.

(2) The Secretary of Agriculture, with the concurrence of the Secretary of the Army, shall prepare a map of the lands to be conveyed. Such lands shall be known as the Picket Wire Canyonlands (hereafter in this section referred to as the "PWC").

(3) The legal description and map referred to in paragraphs (1) and (2) shall be kept on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) ADMINISTRATION OF LANDS.—(1) The Secretary of Agriculture shall administer the transferred lands so as to conserve and protect the paleontological, archeological, wildlife, vegetative, aquatic, and other natural resources of the area.

(2) The management provisions of this section shall apply only to those parcels of the transferred lands comprising approximately 11,507 acres in the Purgatoire River Canyon.

(3) The Secretary of Agriculture may permit access to the PWC for the purpose of permitting scholarly research, interpretation to the public, and recreational activities to the extent that such access does not—

(A) impair (as determined by the Secretary of the Army) the use of the Pinon Canyon Maneuver Site for the purposes for which the area is intended to be used by the Army; or

(B) impair the conservation and protection of paleontological, archeological, or natural resources of the area.

(4) The Secretary of Agriculture may permit livestock grazing in the PWC only to the extent that the Secretary determines necessary to benefit the natural resources of the area.

(5) Lands of the PWC are withdrawn from operation of the mining, mineral leasing, and other mineral entry laws of the United States.

(6) No activity shall be permitted in the PWC that would impair (as determined by the Secretary of the Army) the use of the Pinon Canyon Maneuver Site for the purposes for which the site is intended to be used by the Army or the conservation and protection of the paleontological, archeological, and natural resources of the area, including production of or exploration for oil, gas, or minerals of any kind.

(7) Lands to be transferred may not be used for the storage or processing of nuclear waste, other hazardous waste, or any other waste.

(8) The Secretary of Agriculture, in consultation with the Director of the National Park Service, the Director of United States Fish and Wildlife Service, the Secretary of the Army, the head of the Colorado Department of Natural Resources, and the head of the Colorado State Historic Preservation Office, shall, after notice and opportunity for public comment, develop a management plan for the PWC that includes—

(A) a complete survey and an inventory of the paleontological and archeological resources of the area; and

(B) a strategy for protecting and conserving the dinosaur track way in the Purgatoire River Canyon and other paleontological and archeological resources in the PWC.

(d) INTERAGENCY AGREEMENT.—(1) When the lands referred to in subsection (a) are transferred, the Secretary of the Army and the Secretary of Agriculture shall enter into an interagency agreement providing for—

(A) access to the PWC through the Pinon Canyon Maneuver Site for the Secretary of Agriculture (for the purpose of taking action to conserve and protect the area's resources) and the public (for educational purposes) in such manner, at such times, and to such an extent as will not interfere (as determined by the Secretary of the Army) with the Army's use of the site; and

(B) cooperation between the Army and the Forest Service in the protection and conservation of the paleontological, archeological, and natural resources in the PWC.

(2) In determining whether the manner, time, and extent of access through the Pinon Canyon Maneuver Site for a particular purpose will constitute interference with the Army's use of the site for the purpose of paragraph (1)(B), the Secretary of the Army shall—

(A) with respect to access by the Secretary of Agriculture for management purposes, take into consideration that the high importance of protecting and conserving the resources of the PWC may justify the imposition of some inconvenience to the Army, so long as the inconvenience does not prevent the Army from accomplishing its purposes on the Pinon Canyon Maneuver Site; and

(B) with respect to access by the public, take into consideration comments solicited from the public by the Secretary of Agriculture concerning the need for and the kind of access that should be provided.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Agriculture such sums as are necessary to carry out this section, including such sums as are necessary to pay for—

(1) a study of the paleontological resources of the PWC and action to prevent erosion of the dinosaur track way;

(2) a complete cadastral survey of the PWC; and

(3) an archaeological, paleontological, and historical survey of the PWC.

SEC. 2826. LAND CONVEYANCE, CAPE HENLOPEN, DELAWARE

(a) IN GENERAL.—(1) Subject to subsections (b) through (e), the Secretary of the Army shall convey, not later than one year after the date of the enactment of this Act, to the State of Delaware all right, title, and interest of the United States in and to a parcel of real property located at Cape Henlopen, in Sussex County, Delaware, consisting of approximately 96 acres and known as the Fort Meade Recreation Area.

(2) The conveyance made pursuant to this section shall be without consideration except that required by subsection (b).

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized by this section shall be subject to the following conditions:

(1) The State of Delaware shall indemnify the United States against all liability in connection with any hazardous materials, substances, or conditions which may be found on the property to be conveyed pursuant to this section.

(2) The State of Delaware shall permit members of the Armed Forces of the United States serving on active duty, their spouses, and their dependents to purchase each year, for a price not greater than the price charged residents of the State of Delaware, an annual pass to all Delaware State parks.

(3) The State of Delaware shall pay to the Secretary for credit to the Army Morale, Welfare, and Recreation Fund, the sum of $14,369, to reimburse the fund for sums expended to improve the property.

(c) USE OF PROPERTY; REVERSION.—(1) The real property conveyed pursuant to this section may be used by the State of Delaware only for public park or recreational purposes.

(2) If the Secretary of the Interior determines at any time that the real property conveyed pursuant to this section is not being used for a purpose specified in paragraph (1), all right, title, and interest in and to such real property shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the State of Delaware.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance pursuant to this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2827. LAND CONVEYANCE, EGLIN AIR FORCE BASE, FLORIDA

(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Air Force may convey to the City of Valparaiso, Florida, all right, title, and interest of the United States in and to approximately 3.5 acres of real property, including improvements thereon, located on Eglin Air Force Base, Florida.

(b) CONSIDERATION AND USE OF PROCEEDS.—(1) In consideration for the conveyance authorized by subsection (a), the City of Valparaiso, Florida, shall pay to the United States an amount equal to the fair market value of the property to be conveyed, as determined by the Secretary.

(2) The Secretary shall deposit proceeds received from the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Fed-

eral Property and Administrative Services Act of 1949 (40 U.S.C 485(h)).

(c) CONDITION OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the condition that the real property so conveyed shall be used by the City of Valparaiso, Florida, as a public cemetery.

(d) REVERSION.—If the Secretary determines at any time that the property conveyed pursuant to this section is not being used for the purpose specified in subsection (c), all right, title, and interest in and to the property, including improvements thereon, shall revert to the United States and the United States shall have the right of immediate reentry thereon.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City of Valparaiso, Florida.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2828. LAND CONVEYANCE, NAVAL AIR STATION, CECIL FIELD, JACKSONVILLE, FLORIDA.

(a) IN GENERAL.—(1) Subject to paragraphs (2) and (3) and subsection (c), the Secretary of the Navy may sell the real property and improvements owned by the United States in Duval County, Florida, comprising the Outlying Landing Field, Whitehouse.

(2) Such a sale may be carried out only after a fully operational replacement field has been completed, using not more than $500,000 of the funds appropriated pursuant to section 2205(a)(5) of this Act and other funds authorized and appropriated for that purpose.

(3) The sale of such property shall be by competitive procedures and at not less than the fair market value of the property (as determined by the Secretary).

(b) USE OF PROCEEDS.—The Secretary may use the proceeds from the sale authorized in subsection (a) to—

(1) acquire sufficient interests in additional land around the replacement facility to provide a safety and noise buffer zone necessary for the continued operation of the facility; and

(2) pay expenses related to the sale of property authorized by subsection (a).

(c) RESTRICTIONS ON SALE.—The Secretary shall not proceed with the sale authorized by subsection (a) unless the conditions of the sale are restricted to non-aviation use.

SEC. 2829. LAND EXCHANGE, FORT BENNING, GEORGIA

(a) AUTHORITY TO CONVEY.—Subject to subsections (b), (c), and (d), the Secretary of the Army may convey to the City of Columbus, Georgia, all right, title, and interest of the United States in and to a tract of real property, including improvements thereon, consisting of approximately 3,000 acres and comprising a portion of Fort Benning, Georgia.

(b) CONSIDERATION AND USE OF PROCEEDS.—(1) In consideration for the conveyance by the Secretary under subsection (a), the City of Columbus shall be required to convey to the United States approximately 3,300 acres of real property located adjacent to the southern boundary of Fort Benning.

(2) If the fair market value of the land conveyed by the Secretary under subsection (a) exceeds the fair market value of the land conveyed to the United States, as determined by the Secretary, the City of Columbus shall pay an amount equal to the difference to the United States. The Secretary shall deposit any such amount into the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(c) LEGAL DESCRIPTION OF LANDS.—The exact acreages and legal descriptions of the lands to be conveyed under this section shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transactions authorized by this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2830. LAND CONVEYANCE, ROBINS AIR FORCE BASE, GEORGIA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Air Force may sell and convey all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of a total of approximately 70 acres, and comprising a portion of Robins Air Force Base, Georgia.

(b) COMPETITIVE BID REQUIREMENT, MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of property referred to in subsection (a).

(2) In no event may any of the property referred to in subsection (a) be sold for an amount less than the fair market value, as determined by the Secretary.

(c) USE OF PROCEEDS.—The Secretary shall deposit proceeds received from the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 485(h)).

(d) LEGAL DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of such survey shall be borne by the purchaser.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2831. LAND CONVEYANCE, DILLINGHAM MILITARY RESERVATION, HAWAII

(a) IN GENERAL.—Subject to subsections (b), (c), and (d), the Secretary of the Army shall convey to the State of Hawaii, without consideration, all right, title, and interest of the United States in and to a parcel of land, together with improvements thereon, consisting of approximately 87 acres, that comprises a portion of Dillingham Military Reservation at Mokuleia, Hawaii, and which was previously ceded, without consideration, to the United States by the State of Hawaii for use by the Armed Forces of the United States.

(b) CONDITION.—The conveyance authorized by subsection (a) shall be made on condition that the State of Hawaii enter into an agreement with the Secretary of the Army that is acceptable to the Secretary and provides for joint civilian and military use of the property as an airfield by the State of Hawaii and the Army.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property referred to in subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the State of Hawaii.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2832. LAND CONVEYANCE, SOUTH BEND, INDIANA

(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Army shall convey to the Civic Foundation, Incorporated, a not-for-profit corporation organized and operating pursuant to the laws of the State of Indiana, or the City of South Bend, Indiana, or to both, all right, title, and interest of the United States in and to real property aggregating approximately 4.15 acres, including improvements thereon, located at 1733 East Northside Boulevard, South Bend, Indiana, and known as the Northside Army Reserve Training Center.

(b) CONSIDERATION.—(1) In consideration for the conveyance made under subsection (a), the Civic Foundation or the City, as the case may be, shall, in accordance with the agreement required by subsection (c), be required to—

(A) convey to the United States all right, title, and interest in and to a parcel of real property of approximately eight acres, together with improvements thereon, located at 2402 Rose Street, South Bend, Indiana, and known as the Maple Lane School;

(B) repair and rehabilitate the Maple Lane School in accordance with plans and specifications approved by the Secretary;

(C) construct an access driveway to the Maple Lane School property from Ironwood Drive; and

(D) design to Department of the Army standards and construct additional improvements on the Maple Lane School property in accordance with the requirements, and subject to the approval, of the Secretary.

(2) The cost of the repair, rehabilitation, construction work, and other improvements carried out under subparagraphs (B), (C), and (D) of paragraph (1) (including but not limited to the cost of any and all architectural, engineering design, environmental assessment and remediation, construction financing, and all legal and inspection fees for the additional improvements) shall be paid as follows:

(A) The Civic Foundation or the City, or both, shall pay a total of $500,000. Any funds expended by the Civic Foundation or the City pursuant to obligations under paragraph (1) before the execution of the agreement required by subsection (c) shall be considered as part of this payment.

(B) After payment by the Civic Foundation or the City, or both, as provided in subparagraph (A), the Secretary of the Army shall pay any remaining amount necessary to complete the work described in subparagraphs (B), (C), and (D) of paragraph (1), out of funds available for such purpose.

(3) The amount of $397,000 is hereby authorized to be appropriated to pay for the design and construction of improvements authorized by paragraph (1)(D).

(c) AGREEMENT.—In order to implement this section, the Secretary shall enter into an agreement with the Civic Foundation or the City, or both.

(d) OCCUPANCY.—The Department of the Army shall vacate the Northside Army Reserve Training Center upon beneficial occupancy of Maple Lane School.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the properties to be conveyed under this section shall be determined by surveys acceptable to the Secretary. The cost of such survey shall be borne by Civic Foundation, Incorporated, or by the City of South Bend, or both.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to carry out the provisions of this section and to protect the interests of the United States.

SEC. 2833. LAND EXCHANGE, LEXINGTON PARK, MARYLAND

(a) IN GENERAL.—Subject to subsections (b) through (d), the Secretary of the Navy may convey to the County of St. Mary's, Maryland, all right, title, and interest of the United States in and to approximately 32 acres of unimproved real property consisting of two severable parcels at the Naval Air Test Center, Patuxent River, Maryland.

(b) CONSIDERATION.—In consideration for the conveyance authorized by subsection (a), the County shall be required to convey to the United States approximately 7.2 acres of real property, including improvements thereon, known as the former Frank Knox Elementary School, Lexington Park, Maryland.

(c) PAYMENT OF EXCESS INTO SPECIAL ACCOUNT.—If the fair market value of the land and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the land conveyed to the United States by the County, the County shall pay an amount equal to the difference to the United States, and the Secretary shall deposit such amount into the the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 485(h)).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any property to be conveyed or received under this section shall be determined by surveys satisfactory to the Secretary. The cost of such survey shall be borne by the County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2834. LAND EXCHANGE AT MARINE CORPS FINANCE CENTER, KANSAS CITY, MISSOURI

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (e), the Secretary of the Navy may convey to the City of Kansas City, Missouri, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 12 acres located near the family housing area of the Marine Corps Finance Center, Kansas City, Missouri, together with the improvements on such land.

(b) CONSIDERATION.—In consideration for the conveyance by the Secretary under subsection (a), the City of Kansas City shall convey to the United States approximately 10 acres of land adjacent to the family housing area of the Marine Corps Finance Center, Kansas City, Missouri.

(c) PAYMENT OF EXCESS INTO SPECIAL ACCOUNT.—If the fair market value of the land and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the land conveyed to the United States by the City of Kansas City, the City shall pay an amount equal to the difference to the United States, and the Secretary shall deposit such amount into the the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 485(h)).

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreages and legal descriptions of the lands to be conveyed under this section shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the City of Kansas City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transactions authorized by this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2835. EXCHANGE OF INTERESTS, CAMP WITHYCOMBE, OREGON

(a) RELEASE OF REVERSIONARY INTEREST.—Subject to subsections (b) through (d), the Secretary of the Army may release to the State of Oregon the reversionary interest of the United States in and to two parcels of real property totaling approximately 160 acres, including improvements thereon, at Camp Withycombe, Clackamas County, Oregon, that were conveyed by the United States to the State of Oregon by a quitclaim deed dated November 9, 1956.

(b) CONSIDERATION.—(1) In consideration for the release under subsection (a), the State of Oregon shall be required to convey to the United States a contingent interest, described in paragraph (2), in approximately 166 acres of real property, including improvements thereon, comprising Camp Rilea, Clatsop County, Oregon.

(2) The contingent interest referred to in paragraph (1) is an interest that provides that—

(A) in the event that Camp Rilea ceases to be used by the State of Oregon for military purposes, title to such property, including improvements thereon, shall immediately vest in the United States without payment of consideration and the United States shall have the immediate right to enter thereon; and

(B) in the event of a war declared by Congress or a national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that any of such property is needed for military purposes, the United States shall have the right, without payment of consideration, to enter the property and use the property or any part thereof, including any improvements thereon, for such period as the Secretary determines necessary, but in no event for any period that extends beyond 180 days after the end of such war or national emergency.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcels of real property from which the reversionary interest referred to in subsection (a) is to be released, and the exact acreage and legal description of the property in which the contingent interest is to be conveyed to the United States under subsection (b), shall be determined by surveys satisfactory to the Secretary of the Army. The cost of such surveys shall be borne by the State.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the release of the reversionary interest under subsection (a) and the conveyance of the contingent interest under subsection (b) as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2836. CONVEYANCE OF FORT DOUGLAS, UTAH

(a) CONVEYANCE.—(1) Except as provided in paragraphs (2), (3), and (4), and subject to subsections (b) through (g), the Secretary of the Army shall convey to the University of Utah all right, title, and interest of the United States in and to the land comprising Fort Douglas, Utah, together with improvements thereon.

(2) The Secretary shall except from the land conveyed under paragraph (1) such land, not in excess of 64 acres, and improvements thereon as may be necessary for the Army to continue conducting Army Reserve activities at the Fort Douglas location.

(3) The Secretary shall also except from the land conveyed under paragraph (1) the land at Fort Douglas constituting the Fort Douglas Post Cemetery, consisting of approximately four acres.

(4) In connection with the land retained for Army Reserve activities and the land constituting the Army Post Cemetery, the Secretary shall reserve to the United States in the land conveyed such rights-of-way and other easements as may be necessary for ingress to and egress from the land retained.

(b) CONSIDERATION.—(1) The conveyance under subsection (a) shall be made only on the condition that the State of Utah and the University of Utah waive any entitlements that have not been exercised on behalf of the University of Utah before the date of the enactment of this section and that may be due to the State of Utah or the University of Utah on behalf of the University of Utah under—

(A) section 3 of the Act entitled "An Act to establish the office of Surveyor-General of Utah, and to grant Land for School and University Purposes", approved February 21, 1855 (10 Stat. 611); and

(B) sections 8 and 12 of the Act entitled "An Act to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on equal footing with the original States", approved July 16, 1894 (28 Stat. 110).

(2) The waiver referred to in paragraph (1) shall be executed in such manner as the Secretary of the Army, after consultation with the Attorney General of the United States, determines necessary to effectively waive any unexercised entitlements under those laws.

(c) CONDITION.—(1) The conveyance provided for in subsection (a) may be made only on condition that—

(A) the State of Utah agree to maintain and operate, as provided in paragraph (2), the Army museum located on the land conveyed to the University of Utah pursuant to this section; and

(B) the University of Utah agree—

(i) to maintain and operate, as provided in paragraph (2), the Army chapel and other historical buildings located on the land referred to in subparagraph (A); and

(ii) to preserve and maintain, as provided in paragraph (2), the parade grounds that are a part of the land referred to in subparagraph (A).

(2) The Army museum, Army chapel, and other historical buildings referred to in paragraph (1) shall be maintained and operated, and the parade grounds referred to in that paragraph shall be preserved and maintained, in a manner consistent with Federal laws and regulations pertaining to the preservation of historical sites, buildings, and monuments, as specified by the Secretary of the Interior.

(d) REVERSIONARY RIGHT.—If the University of Utah uses the land conveyed pursuant to subsection (a) for a purpose other than educational or research purposes, all right, title, and interest in and to such land shall

automatically revert to the United States and the United States shall have the right of immediate entry thereon.

(e) DEADLINE FOR CONVEYANCE.—The conveyance under subsection (a) shall be made not later than one year after the date of the enactment of this section.

(f) JOINT USE OF UTILITY SYSTEMS.—The Secretary may enter into an agreement with the University of Utah under which the Army and the University would—

(1) jointly use the existing utility systems located at Fort Douglas at the time of the conveyance provided for under subsection (a);

(2) equitably share the cost of maintaining, operating, and replacing (as necessary) the systems; and

(3) pay on a pro rata basis for the utilities consumed by each of the parties.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance provided for under subsection (a) as the Secretary considers necessary to protect the interests of the United States.

(h) ADDITIONAL EXCESS LAND.—In the event that any lands constituting Fort Douglas, Utah, that are not conveyed pursuant to subsection (a) are declared excess to the needs of the Army after the date of the conveyance provided for in that subsection, the Secretary shall convey such lands to the University of Utah. Any lands conveyed pursuant to this subsection shall be conveyed subject to a reversionary clause in favor of the United States as provided in subsection (d).

SEC. 2837. LAND CONVEYANCE, NAVAL RESERVE CENTER, BURLINGTON, VERMONT

(a) IN GENERAL.—Subject to subsection (b) through (e), the Secretary of the Navy may convey to the City of Burlington, Vermont, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 1.49 acres, including improvements thereon, comprising the Naval Reserve Center, Burlington, Vermont.

(b) USE OF PROCEEDS.—The Secretary may use the proceeds of the transaction authorized by this section to pay all or part of the cost of acquiring a new site in the Burlington, Vermont, area for a naval reserve center and for the construction on such site of a replacement naval reserve center facility.

(c) CONDITIONS OF SALE.—(1) The conveyance authorized by subsection (a) shall be subject to the condition that the City of Burlington—

(A) pay to the United States the sum of $1,500,000; and

(B) permit the Navy to continue to occupy, without consideration, the property referred to in such subsection until a replacement facility has been acquired by the Secretary.

(2) In the event that the conveyance authorized by subsection (a) is not made before January 1, 1992, because the City is unable to pay the consideration required by paragraph (1)(A), the authority to convey is terminated.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2838. LAND TRANSFER, ARLINGTON, VIRGINIA

The property consisting of approximately 14.05 acres of real property, and improvements thereon, known as Barracks "K", located in Arlington, Virginia, shall be deemed excess property, and the Administrator of General Services may transfer the property to the Secretary of the Navy without consideration.

SEC. 2839. LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA

(a) CONVEYANCE AUTHORIZED.—Subject to subsections (b) through (e), the Secretary of the Army shall convey, without consideration, to the Commonwealth of Virginia all right, title, and interest of the United States in and to a parcel of land located at Fort A.P. Hill, Virginia, consisting of approximately 150 acres.

(b) USE OF PROPERTY; REVERSION.—(1) The land conveyed pursuant to this section shall be conveyed subject to the conditions that—

(A) the construction of a regional correctional facility on the land be completed not later than five years after the date of the enactment of this section;

(B) the land be used only for the purpose of operating a regional correctional facility which shall be subject to the conditions and limitations on its use as provided in title 53.1 of the Code of Virginia; and

(C) the Commonwealth of Virginia offer to Arlington County, Fairfax County, the City of Alexandria, Loudoun County, Fauquier County, Prince William County, Stafford County, and Caroline County, Virginia, and any other Virginia county that the Commonwealth of Virginia may choose, the opportunity to participate in the governmental entity created under the law of the Commonwealth of Virginia to construct and operate the regional correctional facility.

(2) If—

(A) a regional correctional facility is not constructed on the land conveyed pursuant to this section in accordance with paragraph (1)(A);

(B) such land is used for any purpose other than the purpose specified in paragraph (1)(B); or

(C) the counties referred to in paragraph (1)(C) are not offered the opportunity to participate in the entity referred to in such paragraph (as determined by the Secretary), all right, title, and interest in and to such land (together with the improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(c) DESCRIPTION OF PROPERTY.—(1) The tract of land conveyed pursuant to this section shall be a tract of land that—

(A) has soil and topographical conditions suitable for the construction of a low- to mid-rise institutional correctional facility, including recreation, parking, and other necessary support facilities; and

(B) is situated within reasonably close proximity to an existing sewer system.

(2) The cost of any new or expanded sewer system or utility shall not be the responsibility of the Department of Defense or Caroline County, Virginia.

(3) The exact acreage and legal description of the land to be conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary.

(d) PROHIBITION ON HOUSING CERTAIN PRISONERS.—The regional correctional facility constructed pursuant to this section may not be used to house Federal prisoners or prisoners convicted and sentenced in the courts of any jurisdiction other than the Commonwealth of Virginia (including all jurisdictions therein) without the written consent of the government of the county in which such facility is located.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance pursuant to this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2840. EASEMENT CONVEYANCE, FORT LAWTON, SEATTLE, WASHINGTON

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Navy may convey to the City of Seattle, Washington, certain easement interests of the United States in approximately 1.42 acres of real property comprising a portion of the Department of the Navy Fort Lawton family housing area, Seattle, Washington.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized in subsection (a), the City shall provide new waterline hookups at such Navy family housing area.

(2) If the fair market value of the easement interests to be conveyed under subsection (a) exceeds the fair market value of the consideration received under paragraph (1), as determined by the Secretary, the City shall pay the amount of the difference to the United States. Any such payment shall be deposited into the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 485(h)).

(c) HOUSING UNITS.—(1) The City may be permitted to occupy, without consideration other than payment for utilities and services, the ten units of military family housing that will be impacted by the waterline hookups referred to in subsection (b)(1) until such time as is mutually agreed upon by the City and the Secretary.

(2) The City shall provide to the Secretary, without payment of consideration, ten replacement housing units comparable to the ten housing units referred to in paragraph (1) at a site within the Puget Sound area to be determined by the Secretary.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

PART D—DEPARTMENT OF DEFENSE ENERGY SAVINGS

SEC. 2851. DEPARTMENT OF DEFENSE ENERGY SAVINGS PROGRAM

(a) IN GENERAL.—Subchapter III of chapter 169 of title 10, United States Code, is amended by adding at the end the following:

"§ 2865. Energy savings at military installations

"(a)(1) The Secretary of Defense shall designate an energy performance goal for the Department of Defense for the years 1991 through 2000.

"(2) To achieve the goal designated under paragraph (1), the Secretary shall develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy savings.

"(3) For the purpose of implementing any energy performance plan, the Secretary shall provide that the selection of energy conservation measures under such plan shall be

limited to those with a positive net present value over a period of 10 years or less.

"(b)(1) The Secretary shall provide that two-thirds of the portion of the funds appropriated to the Department of Defense for a fiscal year that is equal to the amount of energy cost savings realized by the Department, including financial benefits resulting from shared energy savings contracts and financial incentives described in paragraph (3)(B), for any fiscal year beginning after fiscal year 1990 shall remain available for obligation under paragraph (2) through the end of the fiscal year following the fiscal year for which the funds were appropriated, without additional authorization or appropriation.

"(2) The amount that remains available for obligation under paragraph (1) shall be utilized as follows:

"(A) One-half of the amount shall be used for the implementation of additional energy conservation measures at such buildings, facilities, or installations of the Department of Defense as the the head of the department, agency, or instrumentality that realized the savings may designate in accordance with regulations prescribed by the Secretary of Defense.

"(B) One-half of the amount shall be used at the installation at which the savings were realized, as determined by the commanding officer of such installation consistent with applicable law and regulations, for—

"(i) improvements to existing military family housing units;

"(ii) any unspecified minor construction project that will enhance the quality of life of personnel; or

"(iii) any morale, welfare, or recreation facility or service.

"(3) The Secretary—

"(A) shall permit and encourage each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by any gas or electric utility for the management of electricity demand or for energy conservation; and

"(B) may authorize any military installation to accept any financial incentive, generally available from any such utility, to adopt technologies and practices that the Secretary determines are cost-effective for the Federal Government.

"(c)(1) The Secretary of Defense shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts with respect to military installations and will reduce the administrative effort and cost on the part of the Department as well as the private sector.

"(2)(A) In carrying out paragraph (1), the Secretary of Defense may—

"(i) request statements of qualifications (as prescribed by the Secretary of Defense), including financial and performance information, from firms engaged in providing shared energy savings contracting;

"(ii) designate from the statements received, with an update at least annually, those firms that are presumptively qualified to provide shared energy savings services;

"(iii) select at least three firms from the qualifying list to conduct discussions concerning a particular proposed project, including requesting a technical and price proposal from such selected firms for such project; and

"(iv) select from such firms the most qualified firm to provide shared energy savings services pursuant to a contractual arrangement that the Secretary determines is fair and reasonable, taking into account the estimated value of the services to be rendered and the scope and nature of the project.

"(B) In carrying out paragraph (1), the Secretary may also provide for the direci negotiation, by departments, agencies, and instrumentalities of the Deypartment of Defense, of contracts with shared energy savings contractors that have been selected competitively and approved by any gas or electric utility serving the department, agency, or instrumentality concerned.

"(d) Beginning with fiscal year 1991 and by no later than December 31, 1991, and of each year thereafter, the Secretary of Defense shall transmit an annual report to the Congress containing a description of the actions taken to carry out this section, and the savings realized from such actions, during the fiscal year ending in the year in which the report is made.".

(b) CLERICAL AMENDMENT.—The table of contents for such subchapter is amended by adding at the end the following:

"2865. Energy savings at military installations.".

SEC. 2852. TECHNICAL AMENDMENTS

(a) Section 2394a(c) of title 10, United States Code, is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a system shall be made using the life-cycle cost methods and procedures established pursuant to section 544(a) of the National Energy Conservation Policy Act.".

(b) Section 2857(c) of title 10, United States Code, is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a facility shall be made using the life-cycle cost methods and procedures established pursuant to section 544(a) of the National Energy Conservation Policy Act.".

PART E—MISCELLANEOUS PROVISIONS

SEC. 2861. RELOCATION OF THE FLORIDA SOLAR ENERGY CENTER

(a) IN GENERAL.—The Secretary of the Air Force may pay $2,953,000 to the State of Florida for the sole purpose of assisting that State to relocate the Florida Solar Energy Center from Cape Canaveral Air Force Station, Florida, to a new site provided by the State of Florida on other than federally owned land. The payment of such sum shall include all Federal Government contributions to the relocation project, including relocation costs.

(b) CONSIDERATION.—In consideration for payment of the amount provided for in (a), the State of Florida shall—

(1) release to the United States all leases, easements, and other land interests connected with the Florida Solar Energy Center on Cape Canaveral Air Force Station;

(2) convey to the United States title to all buildings, fixtures, and other improvements located on such lands;

(3) waive any claims against the United States arising out of the operation of the Florida Solar Energy Center from its inception until the final departure of all personnel and personal property connected with the Center from Cape Canaveral Air Force Station;

(4) accept sole responsibility for the disposal, removal, or remediation of all solid or hazardous wastes on the property and release the United States from any obligation with respect to such wastes without regard to who may have been responsible for placing the solid or hazardous waste on the property; and

(5) indemnify the United States against all claims, losses, damages, and costs arising out of or connected with any solid or hazardous wastes on the premises, to the extent permitted by the laws of the State of Florida.

(c) AGREEMENT.—No payment may be made to the State of Florida under this section until the Secretary and the State of Florida have entered into an agreement embodying the terms of this section, including a waiver by the State of all claims for the payment of any amount for relocation costs in addition to the amount specified in subsection (a).

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions with respect to the payment by the Secretary pursuant to subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2862. MODIFICATION OF HEIGHT RESTRICTION IN AVIGATION EASEMENT

(a) IN GENERAL.—The Act of July 2, 1948 (62 Stat. 1229), is amended by adding at the end the following new section:

"SEC. 6. The height restriction in subsection d. of the first section of this Act shall not apply with respect to any public utility structure that does not exceed 160 feet above mean low-water level.".

(b) FILING.—The Secretary of the Air Force shall execute and file in the appropriate office any instrument necessary to effect the modification of the avigation easement referred to in the amendment made in subsection (a).

SEC. 2863. HENDERSON HALL, ARLINGTON, VIRGINIA

Section 2843(a)(1) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189) is amended by striking out "62,000 square feet" and inserting in lieu thereof "77,000 square feet".

SEC. 2864. ADDITIONAL AUTHORITY FOR LEASE-PURCHASE

Section 2812(a)(2) of title 10, United States Code, is amended by adding at the end the following:

"(I) Classroom and laboratories."

SEC. 2865. SALE OF AGGREGATE, NAVAL AIR STATION, MIRAMAR, CALIFORNIA

(a) AUTHORITY.—(1) Subject to subsections (b) through (d), the Secretary of the Navy may extract, sell, and remove aggregate from the real property comprising the Naval Air Station, Miramar, California.

(2) Such extraction, sale, and removal shall be by competitive procedures except for that portion of the station where the City of San Diego operates a sanitary landfill. Within such area, the City may extract, sell, or remove the aggregate.

(b) CONSIDERATION.—In consideration for the rights authorized to the City of San Diego by subsection (a), the City shall pay to the United States fair market value, as determined by the Secretary, for any aggregate it extracts, sells, or removes.

(c) USE OF FUNDS.—The Secretary shall deposit proceeds received from the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 485(h)).

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional

terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2866. STUDY TO EVALUATE JOINT MILITARY-CIVILIAN USE OF MILITARY AIRFIELDS

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Transportation shall conduct a joint study to evaluate the desirability and feasibility of converting airfields under the jurisdiction of each military department—

(1) to civilian use; or

(2) in the case of any such airfield which will continue to be used by the military department, to joint civilian and military use.

(b) SPECIFIC MATTERS TO BE CONSIDERED.—In conducting the study referred to in subsection (a), the Secretary of Defense and the Secretary of Transportation shall—

(1) prepare an inventory of airfields under the control of each military department;

(2) evaluate the present and future need of airfields for civilian use and for military use;

(3) evaluate the extent to which civilian or joint civilian-military use of such airfields would meet national aviation policy objectives;

(4) identify obstacles to and incentives for encouraging civilian or joint civilian-military use of such airfields;

(5) identify and assess means of reducing the cost to the Department of Defense of civilian or joint civilian-military use of such airfields, including—

(A) cost sharing agreements with civilian users of such airfields;

(B) use of funds from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986;

(C) the imposition of civilian aviation user fees;

(D) civil aviation user lease agreements; and

(6) assess the advisability of a joint-use agreement between the military department that controls the airfield and a commercial fixed-base operator.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Transportation shall submit to the Committees on Armed Services of the Senate and the House of Representatives and the Committee on Public Works and Transportation of the House and the Committee on Commerce, Science, and Transportation of the Senate a joint report on the results of the study referred to in subsection (a) together with such comments and recommendations for legislation as the Secretaries consider appropriate.

(d) FUNDING FOR STUDY.—The study referred to in this section shall be funded jointly by the Department of Defense and the Department of Transportation.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this section.

SEC. 2867. NEGOTIATIONS FOR JOINT CIVILIAN AND MILITARY USE OF THE AIRFIELD AT WHEELER AIR FORCE BASE, HAWAII

(a) IN GENERAL.—The Secretary of Defense shall enter into negotiations with the State of Hawaii with a view to entering into an agreement with the State of Hawaii under which the airfield facilities at Wheeler Air Force Base, Hawaii, would be jointly used for general civilian aviation purposes and military purposes.

(b) AGREEMENT AUTHORITY.—In the event that the negotiations referred to in subsection (a) are successful, the Secretary may enter into an agreement with the State of Hawaii providing for the joint civilian and military use of the airfield. Any such agreement shall provide for an equitable allocation between the State and the Department of Defense of the costs of maintaining and operating the airfield.

SEC. 2868. EXTENSION OF TERMINATION DATE FOR LAND CONVEYANCE AT EGLIN AIR FORCE BASE, FLORIDA

Section 808(d) of the Military Construction Act, 1983 (Public Law 97-321; 98 Stat. 1575) is amended by striking out "1990" and inserting in lieu thereof "1993".

TITLE XXIX—DEFENSE BASE CLOSURES AND REALIGNMENTS

PART A—DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

SEC. 2901. SHORT TITLE AND PURPOSE

(a) SHORT TITLE.—This part may be cited as the "Defense Base Closure and Realignment Act of 1990".

(b) PURPOSE.—The purpose of this part is to provide a fair process that will result in the timely closure and realignment of military installations inside the United States.

SEC. 2902. THE COMMISSION

(a) ESTABLISHMENT.—There is established an independent commission to be known as the "Defense Base Closure and Realignment Commission".

(b) DUTIES.—The Commission shall carry out the duties specified for it in this part.

(c) APPOINTMENT.—(1)(A) The Commission shall be composed of eight members appointed by the President, by and with the advise and consent of the Senate.

(B) The President shall transmit to the Senate the nominations for appointment to the Commission—

(i) by no later than January 3, 1991, in the case of members of the Commission whose terms will expire at the end of the first session of the 102nd Congress;

(ii) by no later than January 25, 1993, in the case of members of the Commission whose terms will expire at the end of the first session of the 103rd Congress; and

(iii) by no later than January 3, 1995, in the case of members of the Commission whose terms will expire at the end of the first session of the 104th Congress.

(2) In selecting individuals for nominations for appointments to the Commission, the President should consult with—

(A) the Speaker of the House of Representatives concerning the appointment of two members;

(B) the majority leader of the Senate concerning the appointment of two members;

(C) the minority leader of the House of Representatives concerning the appointment of one member; and

(D) the minority leader of the Senate concerning the appointment of one member.

(3) At the time the President nominates individuals for appointment to the Commission for each session of Congress referred to in paragraph (1)(B), the President shall designate one such individual who shall serve as Chairman of the Commission.

(d) TERMS.—(1) Except as provided in paragraph (2), each member of the Commission shall serve until the adjournment of Congress sine die for the session during which the member was appointed to the Commission.

(2) The Chairman of the Commission shall serve until the confirmation of a successor.

(e) MEETINGS.—(1) The Commission shall meet only during calendar years 1991, 1993, and 1995.

(2)(A) Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

(B) All the proceedings, information, and deliberations of the Commission shall be open, upon request, to the following:

(i) The Chairman and the ranking minority party member of the Subcommittee on Readiness, Sustainability, and Support of the Committee on Armed Services of the Senate, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

(ii) The Chairman and the ranking minority party member of the Subcommittee on Military Installations and Facilities of the Committee on Armed Services of the House of Representatives, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

(iii) The Chairmen and ranking minority party members of the Subcommittees on Military Construction of the Committees on Appropriations of the Senate and of the House of Representatives, or such other members of the Subcommittees designated by such Chairmen or ranking minority party members.

(f) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(g) PAY AND TRAVEL EXPENSES.—(1)(A) Each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) DIRECTOR OF STAFF.—(1) The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who has not served on active duty in the Armed Forces or as a civilian employee of the Department of Defense during the one-year period preceding the date of such appointment.

(2) The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) STAFF.—(1) Subject to paragraphs (2) and (3), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(2) The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Defense.

(4) Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this part.

(5) The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(j) Other Authority.—(1) The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) The Commission may lease space and acquire personal property to the extent funds are available.

(k) FUNDING.—(1) There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this part. Such funds shall remain available until expended.

(2) If no funds are appropriated to the Commission by the end of the second session of the 101st Congress, the Secretary of Defense may transfer, for fiscal year 1991, to the Commission funds from the Department of Defense Base Closure Account established by section 207 of Public Law 100-526. Such funds shall remain available until expended.

(l) TERMINATION.—The Commission shall terminate on December 31, 1995.

SEC. 2903. PROCEDURE FOR MAKING RECOMMENDATIONS FOR BASE CLOSURES AND REALIGNMENTS

(a) FORCE-STRUCTURE PLAN.—(1) As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for each of the fiscal years 1992, 1994, and 1996, the Secretary shall include a force-structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the six-year period beginning with the fiscal year for which the budget request is made and of the anticipated levels of funding that will be available for national defense purposes during such period.

(2) Such plan shall include, without any reference (directly or indirectly) to military installations inside the United States that may be closed or realigned under such plan—

(A) a description of the assessment referred to in paragraph (1);

(B) a description (i) of the anticipated force structure during and at the end of each such period for each military department (with specifications of the number and type of units in the active and reserve forces of each such department), and (ii) of the units that will need to be forward based (with a justification thereof) during and at the end of each such period; and

(C) a description of the anticipated implementation of such force-structure plan.

(3) The Secretary shall also transmit a copy of each such force-structure plan to the Commission.

(b) SELECTION CRITERIA.—(1) The Secretary shall, by no later than December 31, 1990, publish in the Federal Register and transmit to the congressional defense committees the criteria proposed to be used by the Department of Defense in making recommendations for the closure or realignment of military installations inside the United States under this part. The Secretary shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the publication required under the preceding sentence.

(2)(A) The Secretary shall, by no later than February 15, 1991, publish in the Federal Register and transmit to the congressional defense committees the final criteria to be used in making recommendations for the closure or realignment of military installations inside the United States under this part. Except as provided in subparagraph (B), such criteria shall be the final criteria to be used, along with the force-structure plan referred to in subsection (a), in making such recommendations unless disapproved by a joint resolution of Congress enacted on or before March 15, 1991.

(B) The Secretary may amend such criteria, but such amendments may not become effective until they have been published in the Federal Register, opened to public comment for at least 30 days, and then transmitted to the congressional defense committees in final form by no later than February 15 of the year concerned. Such amended criteria shall be the final criteria to be used, along with the force-structure plan referred to in subsection (a), in making such recommendations unless disapproved by a joint resolution of Congress enacted on or before March 15 of the year concerned.

(c) DOD RECOMMENDATIONS.—(1) The Secretary may, by no later than April 15, 1991, April 15, 1993, and April 15, 1995, publish in the Federal Register and transmit to the congressional defense committees and to the Commission a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and the final criteria referred to in subsection (b)(2) that are applicable to the year concerned.

(2) The Secretary shall include, with the list of recommendations published and transmitted pursuant to paragraph (1), a summary of the selection process that resulted in the recommendation for each installation, including a justification for each recommendation.

(3) In considering military installations for closure or realignment, the Secretary shall consider all military installations inside the United States equally without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department.

(4) The Secretary shall make available to the Commission and the Comptroller General of the United States all information used by the Department in making its recommendations to the Commission for closures and realignments.

(d) REVIEW AND RECOMMENDATIONS BY THE COMMISSION.—(1) After receiving the recommendations from the Secretary pursuant to subsection (c) for any year, the Commission shall conduct public hearings on the recommendations.

(2)(A) The Commission shall, by no later than July 1 of each year in which the Secretary transmits recommendations to it pursuant to subsection (c), transmit to the President a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Secretary, together with the Commission's recommendations for closures and realignments of military installations inside the United States.

(B) In making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary if the Commission determines that the Secretary deviated substantially from the force-structure plan and final criteria referred to in subsection (c)(1) in making recommendations.

(3) The Commission shall explain and justify in its report submitted to the President pursuant to paragraph (2) any recommendation made by the Commission that is different from the recommendations made by the Secretary pursuant to subsection (c). The Commission shall transmit a copy of such report to the congressional defense committees on the same date on which it transmits its recommendations to the President under paragraph (2).

(4) After July 1 of each year in which the Commission transmits recommendations to the President under this subsection, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

(5) The Comptroller General of the United States shall—

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the recommendations made by the Secretary pursuant to subsection (c); and

(B) by no later than May 15 of each year in which the Secretary makes such recommendations, transmit to the Congress and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process.

(e) REVIEW BY THE PRESIDENT.—(1) The President shall, by no later than July 15 of each year in which the Commission makes recommendations under subsection (d), transmit to the Commission and to the Congress a report containing the President's approval or disapproval of the Commission's recommendations.

(2) If the President approves all the recommendations of the Commission, the President shall transmit a copy of such recommendations to the Congress, together with a certification of such approval.

(3) If the President disapproves the recommendations of the Commission, in whole or in part, the President shall transmit to the Commission and the Congress the reasons for that disapproval. The Commission shall then transmit to the President, by no later than August 15 of the year concerned, a revised list of recommendations for the closure and realignment of military installations.

(4) If the President approves all of the revised recommendations of the Commission transmitted to the President under paragraph (3), the President shall transmit a copy of such revised recommendations to the Congress, together with a certification of such approval.

(5) If the President does not transmit to the Congress an approval and certification described in paragraph (2) or (4) by September 1 of any year in which the Commission has transmitted recommendations to the President under this part, the process by which military installations may be selected for closure or realignment under this part with respect to that year shall be terminated.

SEC. 2904. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall—

(1) close all military installations recommended for closure by the Commission in

each report transmitted to the Congress by the President pursuant to section 2903(e);

(2) realign all military installations recommended for realignment by such Commission in each such report;

(3) initiate all such closures and realignments no later than two years after the date on which the President transmits a report to the Congress pursuant to section 2903(e) containing the recommendations for such closures or realignments; and

(4) complete all such closures and realignments no later than the end of the six-year period beginning on the date on which the President transmits the report pursuant to section 2903(e) containing the recommendations for such closures or realignments.

(b) CONGRESSIONAL DISAPPROVAL.—(1) The Secretary may not carry out any closure or realignment recommended by the Commission in a report transmitted from the President pursuant to section 2903(e) if a joint resolution is enacted, in accordance with the provisions of section 2908, disapproving such recommendations of the Commission before the earlier of—

(A) the end of the 45-day period beginning on the date on which the President transmits such report; or

(B) the adjournment of Congress sine die for the session during which such report is transmitted.

(2) For purposes of paragraph (1) of this subsection and subsections (a) and (c) of section 2908, the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

SEC. 2905. IMPLEMENTATION

(a) IN GENERAL.—(1) In closing or realigning any military installation under this part, the Secretary may—

(A) take such actions as may be necessary to close or realign any military installation, including the acquisition of such land, the construction of such replacement facilities, the performance of such activities, and the conduct of such advance planning and design as may be required to transfer functions from a military installation being closed or realigned to another military installation, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense for use in planning and design, minor construction, or operation and maintenance;

(B) provide—

(i) economic adjustment assistance to any community located near a military installation being closed or realigned, and

(ii) community planning assistance to any community located near a military installation to which functions will be transferred as a result of the closure or realignment of a military installation,

if the Secretary of Defense determines that the financial resources available to the community (by grant or otherwise) for such purposes are inadequate, and may use for such purposes funds in the Account or funds appropriated to the Department of Defense for economic adjustment assistance or community planning assistance;

(C) carry out activities for the purposes of environmental restoration and mitigation at any such installation, and may use for such purposes funds in the Account or funds appropriated to the Department of Defense for environmental restoration and mitigation;

(D) provide outplacement assistance to civilian employees employed by the Department of Defense at military installations being closed or realigned, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense for outplacement assistance to employees; and

(E) reimburse other Federal agencies for actions performed at the request of the Secretary with respect to any such closure or realignment, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense and available for such purpose.

(2) In carrying out any closure or realignment under this part, the Secretary shall ensure that environmental restoration of any property made excess to the needs of the Department of Defense as a result of such closure or realignment be carried out as soon as possible with funds available for such purpose.

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) The Administrator of General Services shall delegate to the Secretary of Defense, with respect to excess and surplus real property and facilities located at a military installation closed or realigned under this part—

(A) the authority of the Administrator to utilize excess property under section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483);

(B) the authority of the Administrator to dispose of surplus property under section 203 of that Act (40 U.S.C. 484);

(C) the authority of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)); and

(D) the authority of the Administrator to determine the availability of excess or surplus real property for wildlife conservation purposes in accordance with the Act of May 19, 1948 (16 U.S.C. 667b).

(2)(A) Subject to subparagraph (C), the Secretary of Defense shall exercise the authority delegated to the Secretary pursuant to paragraph (1) in accordance with—

(i) all regulations in effect on the date of the enactment of this Act governing the utilization of excess property and the disposal of surplus property under the Federal Property and Administrative Services Act of 1949; and

(ii) all regulations in effect on the date of the enactment of this Act governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(B) The Secretary, after consulting with the Administrator of General Services, may issue regulations that are necessary to carry out the delegation of authority required by paragraph (1).

(C) The authority required to be delegated by paragraph (1) to the Secretary by the Administrator of General Services shall not include the authority to prescribe general policies and methods for utilizing excess property and disposing of surplus property.

(D) The Secretary of Defense may transfer real property or facilities located at a military installation to be closed or realigned under this part, with or without reimbursement, to a military department or other entity (including a nonappropriated fund instrumentality) within the Department of Defense or the Coast Guard.

(E) Before any action may be taken with respect to the disposal of any surplus real property or facility located at any military installation to be closed or realigned under this part, the Secretary of Defense shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering any plan for the use of such property by the local community concerned.

(c) APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—(1) The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to the actions of the President, the Commission, and, except as provided in paragraph (2), the Department of Defense in carrying out this part.

(2)(A) The provisions of the National Environmental Policy Act of 1969 shall apply to actions of the Department of Defense under this part (i) during the process of property disposal, and (ii) during the process of relocating functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated.

(B) In applying the provisions of the National Environmental Policy Act of 1969 to the processes referred to in subparagraph (A), the Secretary of Defense and the Secretary of the military departments concerned shall not have to consider—

(i) the need for closing or realigning the military installation which has been recommended for closure or realignment by the Commission;

(ii) the need for transferring functions to any military installation which has been selected as the receiving installation; or

(iii) military installations alternative to those recommended or selected.

(3) A civil action for judicial review, with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under paragraph (2), of any act or failure to act by the Department of Defense during the closing, realigning, or relocating of functions referred to in clauses (i) and (ii) of paragraph (2)(A), may not be brought more than 60 days after the date of such act or failure to act.

(d) WAIVER.—The Secretary of Defense may close or realign military installations under this part without regard to—

(1) any provision of law restricting the use of funds for closing or realigning military installations included in any appropriations or authorization Act; and

(2) sections 2662 and 2687 of title 10, United States Code.

SEC. 2906. ACCOUNT

(a) IN GENERAL.—(1) There is hereby established on the books of the Treasury an account to be known as the "Department of Defense Base Closure Account 1990" which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account—

(A) funds authorized for and appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional defense committees; and

(C) proceeds received from the transfer or disposal of any property at a military installation closed or realigned under this part.

(b) USE OF FUNDS.—(1) The Secretary may use the funds in the Account only for the purposes described in section 2905(a).

(2) When a decision is made to use funds in the Account to carry out a construction project under section 2905(a) and the cost of the project will exceed the maximum amount authorized by law for a minor military construction project, the Secretary shall notify in writing the congressional defense committees of the nature of, and justification for, the project and the amount of expenditures for such project. Any such construction project may be carried out without regard to section 2802(a) of title 10, United States Code.

(c) REPORTS.—(1) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this part, the Secretary shall transmit a report to the congressional defense committees of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to section 2905(a) during such fiscal year.

(2) Unobligated funds which remain in the Account after the termination of the Commission shall be held in the Account until transferred by law after the congressional defense committees receive the report transmitted under paragraph (3).

(3) No later than 60 days after the termination of the Commission, the Secretary shall transmit to the congressional defense committees a report containing an accounting of—

(A) all the funds deposited into and expended from the Account or otherwise expended under this part; and

(B) any amount remaining in the Account.

SEC. 2907. REPORTS

As part of the budget request for fiscal year 1993 and for each fiscal year thereafter for the Department of Defense, the Secretary shall transmit to the congressional defense committees of Congress—

(1) a schedule of the closure and realignment actions to be carried out under this part in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and realignment and of the time period in which these savings are to be achieved in each case, together with the Secretary's assessment of the environmental effects of such actions; and

(2) a description of the military installations, including those under construction and those planned for construction, to which functions are to be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental effects of such transfers.

SEC. 2908. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT

(a) TERMS OF THE RESOLUTION.—For purposes of section 2904(b), the term "joint resolution" means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President transmits the report to the Congress under section 2903(e), and—

(1) which does not have a preamble;

(2) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Defense Base Closure and Realignment Commission as submitted by the President on _____", the blank space being filled in with the appropriate date; and

(3) the title of which is as follows: "Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission.".

(b) REFERRAL.—A resolution described in subsection (a) that is introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate.

(c) DISCHARGE.—If the committee to which a resolution described in subsection (a) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under section 2903(e), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) CONSIDERATION.—(1) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution (but only on the day after the calendar day on which such Member announces to the House concerned the Member's intention to do so). All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) CONSIDERATION BY OTHER HOUSE.—(1) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to a resolution described in subsection (a) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(2) Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 2909. RESTRICTION ON OTHER BASE CLOSURE AUTHORITY

(a) IN GENERAL.—Except as provided in subsection (c), during the period beginning on the date of the enactment of this Act and ending on December 31, 1995, this part shall be the exclusive authority for selecting for closure or realignment, or for carrying out any closure or realignment of, a military installation inside the United States.

(b) RESTRICTION.—Except as provided in subsection (c), none of the funds available to the Department of Defense may be used, other than under this part, during the period specified in subsection (a)—

(1) to identify, through any transmittal to the Congress or through any other public announcement or notification, any military installation inside the United States as an installation to be closed or realigned or as an installation under consideration for closure or realignment; or

(2) to carry out any closure or realignment of a military installation inside the United States.

(c) Exception.—Nothing in this part affects the authority of the Secretary to carry out—

(1) closures and realignments under title II of Public Law 100-526; and

(2) closures and realignments to which section 2687 of title 10, United States Code, is not applicable, including closures and realignments carried out for reasons of national security or a military emergency referred to in subsection (c) of such section.

SEC. 2910. DEFINITIONS

As used in this part:

(1) The term "Account" means the Department of Defense Base Closure Account 1990 established by section 2906(a)(1).

(2) The term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives.

(3) The term "Commission" means the Commission established by section 2902.

(4) The term "military installation" means a base, camp, post, station, yard,

center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility.

(5) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, or skill imbalances.

(6) The term "Secretary" means the Secretary of Defense.

(7) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

SEC. 2911. CLARIFYING AMENDMENT

Section 2687(e)(1) of title 10, United States Code, is amended—

(1) by inserting "homeport facility for any ship," after "center,"; and

(2) by striking out "under the jurisdiction of the Secretary of a military department" and inserting in lieu thereof "under the jurisdiction of the Department of Defense, including any leased facility,".

PART B—OTHER PROVISIONS RELATING TO DEFENSE BASE CLOSURES AND REALIGNMENTS

SEC. 2921. CLOSURE OF FOREIGN MILITARY INSTALLATIONS

(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the termination of military operations by the United States at military installations outside the United States should be accomplished at the discretion of the Secretary of Defense at the earliest opportunity;

(2) in providing for such termination, the Secretary of Defense should take steps to ensure that the United States receives, through direct payment or otherwise, consideration equal to the fair market value of the improvements made by the United States at facilities that will be released to host countries;

(3) the Secretary of Defense, acting through the military component commands or the sub-unified commands to the combatant commands, should be the lead official in negotiations relating to determining and receiving such consideration; and

(4) the determination of the fair market value of such improvements released to host countries in whole or in part by the United States should be handled on a facility-by-facility basis.

(b) RESIDUAL VALUE.—(1) For each installation outside the United States at which military operations were being carried out by the United States on October 1, 1990, the Secretary of Defense shall transmit, by no later than June 1, 1991, an estimate of the fair market value, as of January 1, 1991, of the improvements made by the United States at facilities at each such installation.

(2) For purposes of this section:

(A) The term "fair market value of the improvements" means the value of improvements determined by the Secretary on the basis of their highest use.

(B) The term "improvements" includes new construction of facilities and all additions, improvements, modifications, or renovations made to existing facilities or to real property, without regard to whether they were carried out with appropriated or nonappropriated funds.

(c) ESTABLISHMENT OF SPECIAL ACCOUNT.—(1) There is established on the books of the Treasury a special account to be known as the "Department of Defense Overseas Military Facility Investment Recovery Account". Any amounts paid to the United States, pursuant to any treaty, status of forces agreement, or other international agreement to which the United States is a party, for the residual value of real property or improvements to real property used by civilian or military personnel of the Department of Defense shall be deposited into such account.

(2) Money deposited in the Department of Defense Overseas Military Facility Investment Recovery Account shall be available to the Secretary of Defense for payment, as provided in appropriation Acts, of costs incurred by the Department of Defense in connection with facility maintenance and repair and environmental restoration at military installations in the United States. Funds in the Account shall remain available until expended.

SEC. 2922. MODIFICATION OF THE CONTENT OF BIANNUAL REPORT OF THE COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

(a) USES OF FACILITIES.—Section 2819(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2119; 10 U.S.C. 2391 note) is amended—

(1) in paragraph (2), by striking out "minimum security facilities for nonviolent prisoners" and inserting in lieu thereof "Federal confinement or correctional facilities including shock incarceration facilities";

(2) by striking out "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph (4):

"(4) identify those facilities, or parts of facilities, that could be effectively utilized or renovated to meet the needs of States and local jurisdictions for confinement or correctional facilities; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to the first report required to be submitted under section 2819 of the National Defense Authorization Act, Fiscal Year 1989, after September 30, 1990.

SEC. 2923. FUNDING FOR ENVIRONMENTAL RESTORATION AT MILITARY INSTALLATIONS SCHEDULED FOR CLOSURE INSIDE THE UNITED STATES

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Department of Defense Base Closure Account for fiscal year 1991, in addition to any other funds authorized to be appropriated to that account for that fiscal year, the sum of $100,000,000. Amounts appropriated to that account pursuant to the preceding sentence shall be available only for activities for the purpose of environmental restoration at military installations closed or realigned under title II of Public Law 100-526, as authorized under section 204(a)(3) of that title.

(b) EXCLUSIVE SOURCE OF FUNDING.—(1) Section 207 of Public Law 100-526 is amended by adding at the end the following:

"(b) BASE CLOSURE ACCOUNT TO BE EXCLUSIVE SOURCE OF FUNDS FOR ENVIRONMENTAL RESTORATION PROJECTS.—No funds appropriated to the Department of Defense may be used for purposes described in section 204(a)(3) except funds that have been authorized for and appropriated to the Account. The prohibition in the preceding sentence expires upon the termination of the authority of the Secretary to carry out a closure or realignment under this title.".

(2) The amendment made by paragraph (1) does not apply with respect to the availability of funds appropriated before the date of the enactment of this Act.

(c) TASK FORCE REPORT.—(1) Not later than 12 months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the findings and recommendations of the task force established under paragraph (2) concerning—

(A) ways to improve interagency coordination, within existing laws, regulations, and administrative policies, of environmental response actions at military installations (or portions of installations) that are being closed, or are scheduled to be closed, pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526); and

(B) ways to consolidate and streamline, within existing laws and regulations, the practices, policies, and administrative procedures of relevant Federal and State agencies with respect to such environmental response actions so as to enable those actions to be carried out more expeditiously.

(2) There is hereby established an environmental response task force to make the findings and recommendations, and to prepare the report, required by paragraph (1). The task force shall consist of the following (or their designees):

(A) The Secretary of Defense, who shall be chairman of the task force.

(B) The Attorney General.

(C) The Administrator of the General Services Administration.

(D) The Administrator of the Environmental Protection Agency.

(E) The Chief of Engineers, Department of the Army.

(F) A representative of a State environmental protection agency, appointed by the head of the National Governors Association.

(G) A representative of a State attorney general's office, appointed by the head of the National Association of Attorney Generals.

(H) A representative of a public-interest environmental organization, appointed by the Speaker of the House of Representatives.

SEC. 2924. COMMUNITY PREFERENCE CONSIDERATION IN CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

In any process of selecting any military installation inside the United States for closure or realignment, the Secretary of Defense shall take such steps as are necessary to assure that special consideration and emphasis is given to any official statement from a unit of general local government adjacent to or within a military installation requesting the closure or realignment of such installation.

SEC. 2925. RECOMMENDATIONS OF THE BASE CLOSURE COMMISSION

(a) Norton Air Force Base.—(1) Consistent with the recommendations of the Commission on Base Realignment and Closure, the Secretary of the Air Force may not relocate, until after September 30, 1995, any of the functions that were being carried out at the ballistics missile office at Norton Air Force Base, California, on the date on which the Secretary of Defense transmitted a report to the Committees on Armed Services of the Senate and House of Representatives as described in section 202(a)(1) of Public Law 100-526.

(2) This subsection shall take effect as of the date on which the report referred to in subsection (a) was transmitted to such Committees.

(b) General Directive.—Consistent with the requirements of section 201 of Public

Law 100-526, the Secretary of Defense shall direct each of the Secretaries of the military departments to take all actions necessary to carry out the recommendations of the Commission on Base Realignment and Closure and to take no action that is inconsistent with such recommendations.

SEC. 2926. CONTRACTS FOR CERTAIN ENVIRONMENTAL RESTORATION ACTIVITIES

(a) ESTABLISHMENT OF MODEL PROGRAM.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall establish a model program to improve the efficiency and effectiveness of the base closure environmental restoration program.

(b) ADMINISTRATOR OF PROGRAM.—The Secretary shall designate the Deputy Assistant Secretary of Defense for Environment as the Administrator of the model program referred to in subsection (a). The Deputy Assistant Secretary shall report to the Secretary of Defense through the Under Secretary of Defense for Acquisition.

(c) APPLICABILITY.—This section shall apply to environmental restoration activities at installations selected by the Secretary pursuant to the provisions of subsection (d)(1).

(d) PROGRAM REQUIREMENTS.—In carrying out the model program, the Secretary of Defense shall:

(1) Designate for the model program two installations under his jurisdiction that have been designated for closure pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) and for which preliminary assessments, site inspections, and Environmental Impact Statements required by law or regulation have been completed. The Secretary shall designate only those installations which have satisfied the requirements of section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526).

(2) Compile a prequalification list of prospective contractors for solicitation and negotiation in accordance with the procedures set forth in title IX of the Federal Property and Administrative Services Act (Public Law 92-582; 40 U.S.C. 541 et seq., as amended). Such contractors shall satisfy all applicable statutory and regulatory requirements. In addition, the contractor selected for one of the two installations under this program shall indemnify the Federal Government against all liabilities, claims, penalties, costs, and damages caused by (A) the contractor's breach of any term or provision of the contract; and (B) any negligent or willful act or omission of the contractor, its employees, or its subcontractors in the performance of the contract.

(3) Within 180 days after the date of enactment of this Act, solicit proposals from qualified contractors for response action (as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)) at the installations designated under paragraph (1). Such solicitations and proposals shall include the following:

(A) Proposals to perform response action. Such proposals shall include provisions for receiving the necessary authorizations or approvals of the response action by appropriate Federal, State, or local agencies.

(B) To the maximum extent possible, provisions offered by single prime contractors to perform all phases of the response action, using performance specifications supplied by the Secretary of Defense and including any safeguards the Secretary deems essential to avoid conflict of interest.

(4) Evaluate bids on the basis of price and other evaluation criteria.

(5) Subject to the availability of authorized and appropriated funds to the Department of Defense, make contract awards for response action within 120 days after the solicitation of proposals pursuant to paragraph (3) for the response action, or within 120 days after receipt of the necessary authorizations or approvals of the response action by appropriate Federal, State, or local agencies, whichever is later.

(e) APPLICATION OF SECTION 120 OF CERCLA.—Activities of the model program shall be carried out subject to, and in a manner consistent with, section 120 (relating to Federal facilities) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620).

(f) EXPEDITED AGREEMENTS.—The Secretary shall, with the concurrence of the Administrator of the Environmental Protection Agency, assure compliance with all applicable Federal statutes and regulations and, in addition, take all reasonable and appropriate measures to expedite all necessary administrative decisions, agreements, and concurrences.

(g) REPORT.—The Secretary of Defense shall include a description of the progress made during the preceding fiscal year in implementing and accomplishing the goals of this section within the annual report to Congress required by section 2706 of title 10, United States Code.

(h) APPLICABILITY OF EXISTING LAW.—Nothing in this section affects or modifies, in any way, the obligations or liability of any person under other Federal or State law, including common law, with respect to the disposal or release of hazardous substances or pollutants or contaminants as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3101. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1991 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,795,381,000, to be allocated as follows:

(A) For research and development, $1,092,218,000.

(B) For weapons testing, $437,268,000.

(C) For weapons safety, $160,000,000, to be derived from funds available under subparagraph (A) or (B) or both.

(D) For production and surveillance, $2,161,180,000.

(E) For program direction, $104,715,000.

(2) For defense nuclear materials production, $1,892,770,000, to be allocated as follows:

(A) For production reactor operations, $811,457,000.

(B) For processing of defense nuclear materials, including naval reactors fuel, $628,969,000.

(C) For supporting services, $292,043,000.

(D) For uranium enrichment for naval reactors, $117,801,000.

(E) For program direction, $42,500,000.

(3) For verification and control technology, $181,484,000.

(4) For nuclear materials safeguards and security technology development program, $83,934,000.

(5) For security investigations, $65,000,000.

(6) For new production reactors, $134,900,000.

(7) For naval reactors development, $569,200,000.

SEC. 3102. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1991 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project GPD-101, general plant projects, various locations, $27,100,000.

Project GPD-121, general plant projects, various locations, $36,350,000.

Project 91-D-122, short range attack missile tactical (SRAM-T) production facilities, various locations, $15,000,000.

Project 91-D-123, production assurance transformer replacement, Kansas City Plant, Kansas City, Missouri, $2,600,000.

Project 91-D-124, safeguards and security upgrades, Phase III, Mound Plant, Miamisburg, Ohio, $1,100,000.

Project 91-D-126, health physics calibration facility, Mound Plant, Miamisburg, Ohio, $1,000,000.

Project 91-D-127, criticality alarm and production annunciation utility replacement, Rocky Flats Plant, Golden, Colorado, $6,600,000.

Project 90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $9,600,000.

Project 90-D-126, environmental, safety, and health enhancements, various locations, $8,500,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $488,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $72,547,000.

Project 88-D-122, facilities capability assurance program, various locations, $106,806,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $18,244,000.

Project 88-D-124, fire protection upgrade, various locations, $1,481,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $8,840,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $1,600,000.

Project 87-D-104, safeguards and security enhancement II, Lawrence Livermore National Laboratory, Livermore, California, $1,150,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $8,634,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $2,360,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $4,242,000.

(2) For materials production:

Project GPD-146, general plant projects, various locations, $36,994,000.

Project 91-D-143, increase 751-A electrical substation capacity, Phase I, Savannah River, South Carolina, $6,000,000.

Project 91-D-145, new whole body counter facility, Savannah River, South Carolina, $4,350,000.

Project 90-D-141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho, $6,000,000.

Project 90-D-143, plutonium finishing plant fire safety and loss limitation, Richland, Washington, $2,500,000.

Project 90-D-149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $49,100,000.

Project 90-D-150, reactor safety assurance, Phases I and II, Savannah River, South Carolina, $32,600,000.

Project 90-D-151, engineering center, Savannah River, South Carolina, $4,000,000.

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $16,300,000.

Project 89-D-148, improved reactor confinement system, Savannah River, South Carolina, $12,800,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $1,000,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, III, IV, and V, Feed Materials Production Center, Fernald, Ohio, $14,133,000.

Project 86-D-149, productivity retention program, Phases I, II, III, IV, V, and VI, various locations, $61,750,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $87,500,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $8,481,000.

(3) For verification and control technology:

Project 90-D-186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico, $5,000,000.

(4) For nuclear materials safeguards and security:

Project GPD-186, general plant projects, Central Training Academy, Albuquerque, New Mexico, $2,000,000.

(5) For new production reactors:

Project 88-D-154, new production reactor capacity, various locations, $231,300,000.

(6) For naval reactors development:

Project GPN-101, general plant projects, various locations, $8,600,000.

Project 90-N-102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $4,000,000.

Project 90-N-103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho, $1,800,000.

Project 90-N-104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York, $7,900,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $3,600,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $1,500,000.

(7) For capital equipment not related to construction:

(A) For weapons activities, $272,231,000.

(B) For materials production, $105,622,000.

(C) For verification and control technology, $9,924,000.

(D) For nuclear safeguards and security, $5,066,000.

(E) For new production reactors, $8,800,000.

(F) For naval reactors development, $55,400,000.

SEC. 3103. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1991 for carrying out the environmental restoration and waste management programs necessary for national security programs as follows:

(1) For operating expenses, $2,391,428,000 to be allocated as follows:

(A) For environmental restoration, $833,215,000.

(B) For waste operations and projects, $1,252,927,000.

(C) For waste research and development, $183,480,000.

(D) For corrective action, $61,654,000.

(E) For transportation management, $14,660,000.

(F) For program direction, $24,106,000.

(G) For program direction/landlord, $21,386,000.

(2) For capital equipment, $119,917,000.

(3) For plant projects:

Project GPD-171, general plant projects, various locations, $63,689,000.

Project 91-D-171, waste receiving and processing facility module 1, Richland, Washington, $2,700,000.

Project 91-D-172, high-level waste tank farm replacement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $13,000,000.

Project 91-D-173, hazardous low-level waste processing tanks, Savannah River, South Carolina, $5,800,000.

Project 91-D-175, 300 area electrical distribution conversion and safety improvements, Phase I, Richland, Washington, $900,000.

Project 90-D-103, environment, safety, and health improvements, various locations, $4,200,000.

Project 90-D-125, steam plant ash disposal facility, Y-12 Plant, Oak Ridge, Tennessee, $6,000,000.

Project 90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington, $4,100,000.

Project 90-D-172, aging waste transfer lines, Richland, Washington, $4,000,000.

Project 90-D-173, B plant canyon crane replacement, Richland, Washington, $4,300,000.

Project 90-D-174, decontamination laundry facility, Richland, Washington, $9,900,000.

Project 90-D-175, landlord program safety compliance-I, Richland, Washington, $10,870,000.

Project 90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina, $15,300,000.

Project 90-D-177, RWMC transuranic (TRU) waste treatment and storage facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $26,000,000.

Project 90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $11,100,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $5,500,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $1,723,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $7,500,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $28,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $7,300,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $42,460,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $3,400,000.

Project 89-D-174, replacement high-level waste evaporator, Savannah River, South Carolina, $11,330,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $7,600,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,500,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $75,500,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, III, and IV, Feed Materials Production Center, Fernald, Ohio, $27,586,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $5,000,000.

(4) The total amount authorized to be appropriated by paragraph (3) is reduced by a total of $129,751,000 for anticipated savings and schedule slippages.

SEC. 3104. FUNDING LIMITATIONS

(a) FERNALD LITIGATION SETTLEMENT.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1991 for operating expenses, not more than $20,500,000 may be used to pay the second installment of the settlement entered into by the Department of Energy in the case of In re: Fernald Litigation No. C-1-85-149, United States District Court for the Southern District of Ohio.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1991 for operating expenses and plant and capital equipment, $175,000,000 shall be available for the defense inertial confinement fusion program.

(c) SPECIAL ISOTOPE SEPARATION.—No funds authorized to be appropriated to the Department of Energy for fiscal year 1991 shall be available for design or construction of a Special Isotope Separation facility.

(d) SECURITY INVESTIGATIONS.—(1) No funds appropriated to the Department of Energy may be obligated or expended for the conduct of an investigation by the Department of Energy or any other Federal department or agency for purposes of determining whether to grant a security clearance to an individual or a facility unless the Secretary of Energy determines both of the following:

(A) That a current, complete investigation file is not available from any other department or agency of the Federal government with respect to that individual or facility.

(B) That no other department or agency of the Federal government is conducting an investigation with respect to that individual or facility that could be used as the basis for determining whether to grant the security clearance.

(2) For purposes of paragraph (1)(A), a current investigation file is a file on an investigation that has been conducted within the past five years.

PART B—RECURRING GENERAL PROVISIONS

SEC. 3121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and on the Committees on Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost whenever the current estimated cost of the construction project, which is authorized by section 3102 or 3103 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) NUCLEAR DIRECTED ENERGY WEAPONS CONCEPTS.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1991 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research and testing for nuclear directed energy weapons concepts, including plant and capital equipment related thereto; and

(2) shall be merged with funds appropriated to the Department of Energy.

(c) INERTIAL CONFINEMENT FUSION PROGRAMS.—The Secretary of Defense may transfer to the Secretary of Energy not more than $12,000,000 of the funds appropriated to the Department of Defense for the inertial confinement fusion program. Funds so transferred shall be merged with funds appropriated to the Department of Energy national security programs for research and development.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary of Energy may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such planning and design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by sections 3102 and 3103, the Secretary of Energy may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS

SEC. 3131. REMANUFACTURE OF NUCLEAR STOCKPILE WEAPONS

(a) REPORT ON REMANUFACTURE OF NUCLEAR STOCKPILE WEAPONS.—The Secretary of Energy, in consultation with the Secretary of Defense, shall prepare a report on remanufacture of nuclear stockpile weapons that will require replacement at the end of their stockpile life. The report shall include the following information:

(1) A specification of the nuclear warheads and bombs now in the stockpile which will not be replaced at the end of their stockpile life.

(2) A case-by-case analysis of the technical requirements and estimated costs to prepare for the remanufacture of each certified nuclear weapon design scheduled for retention in the stockpile.

(3) A specification of certified weapons designs designated for retention in paragraph (2) that could be remanufactured and recertified for the stockpile without conducting a nuclear explosive test.

(4) Identification of those certified weapons designs included in paragraph (2) requiring changes to permit remanufacture which could be recertified with a single nuclear explosive proof test to demonstrate proper performance, and the minimum essential yield for each such test.

(5) Identification of those certified weapon designs planned for retention in paragraph (2) requiring modification for remanufacture to the degree that more than one test is indicated to assure proper performance, and the minimum essential number and yield of tests required for each design so modified.

(6) A description of other options that may be employed in the event of reduced reliance on nuclear test explosions, ranging from increasingly extensive modifications of existing designs to the introduction of entirely new designs, and the costs in time, funds, numbers, and yields of tests, and the postulated national security benefits of each of these options clearly set forth in a manner which allows the relative costs and benefits of all the options presented to be directly compared.

(b) SUBMISSION OF REPORT.—The Secretary of Energy shall submit an unclassified report with a classified appendix not later than February 1, 1991.

SEC. 3132. LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT PROGRAMS

(a) AUTHORITY.—Government-owned, contractor-operated laboratories that are funded out of funds available to the Department of Energy for national security programs are authorized to carry out laboratory-directed research and development.

(b) REGULATIONS.—The Secretary of Energy shall prescribe regulations for the conduct of laboratory-directed research and development at such laboratories.

(c) FUNDING.—Of the funds provided by the Department of Energy to such laboratories for national security activities, the Secretary shall provide a specific amount, not to exceed 6 percent of such funds, to be used by

such laboratories for laboratory-directed research and development.

(d) DEFINITION.—For purposes of this section, the term "laboratory-directed research and development" means research and development work of a creative and innovative nature which, under the regulations prescribed pursuant to subsection (c), is selected by the director of a laboratory for the purpose of maintaining the vitality of the laboratory in defense-related scientific disciplines.

SEC. 3133. NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE REPORT REQUIREMENT

(a) ENVIRONMENTAL REPORT.—Not later than 30 days after the end of each quarter of fiscal years 1991 and 1992, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a brief report on the Department of Energy's compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The report shall contain a brief description of each proposed action to be taken by the Department of Energy, the environmental impact of which is not clearly insignificant, and a description of the steps taken or proposed to be taken by the Department of Energy to assess the environmental impact of the proposed action. If the Secretary finds that the proposed action of the Department of Energy will have no significant impact, the Secretary shall include the rationale for that determination.

(b) SUBMISSION OF INITIAL REPORT.—The Secretary shall submit the first report not later than February 1, 1991, for the quarter ending December 31, 1990.

SEC. 3134. REPORT ON ENVIRONMENTAL RESTORATION EXPENDITURES

Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31, United States Code), the Secretary of Energy shall submit to Congress a report on how the environmental restoration and waste management funds for defense activities of the Department of Energy were expended during the fiscal year preceding the fiscal year during which the budget is submitted. The report shall include details on expenditures by operations office, installation, budget category, and activity. The report also shall include any schedule changes or modifications to planned activities for the fiscal year in which the budget is submitted.

SEC. 3135. DEPARTMENT OF ENERGY MANAGEMENT PLAN FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT ACTIVITIES

(a) PLAN.—The Secretary of Energy shall develop a comprehensive five-year plan for the management of environmental restoration and waste management activities at facilities under the jurisdiction of the Department of Energy.

(b) REPORT.—Not later than June 1, 1991, the Secretary of Energy shall submit to Congress a report on the management plan developed under subsection (a). The report shall include the following:

(1) A description of management capabilities necessary to carry out environmental programs covered by the management plan for the next five years.

(2) A description of current Department of Energy management capabilities and inadequacies.

(3) A description of the technical resources, including staff and management information systems, needed to carry out the management plan.

(4) A description of assistance from other Federal agencies and private contractors included in the management plan.

(5) A description of the cost verification and quality control elements included in the management plan.

SEC. 3136. EXTENSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES TO COMMUNITY DEVELOPMENT ORGANIZATIONS NEAR HANFORD RESERVATION

(a) EXTENSION.—Subsection (c) of section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2074) is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

(b) CONFORMING AMENDMENT.—Subsection (a)(3) of such section is amended by striking out "fiscal years 1989 and 1990" and inserting in lieu thereof "fiscal years 1989, 1990, 1991, and 1992".

SEC. 3137. SAFETY MEASURES FOR WASTE TANKS AT HANFORD NUCLEAR RESERVATION

(a) IDENTIFICATION AND MONITORING OF TANKS.—Within 90 days after the date of the enactment of this Act, the Secretary of Energy shall identify which single-shelled or double-shelled high-level nuclear waste tanks at the Hanford Nuclear Reservation, Richland, Washington, may have a serious potential for release of high-level waste due to uncontrolled increases in temperature or pressure. After completing such identification, the Secretary shall determine whether continuous monitoring is being carried out to detect a release or excessive temperature or pressure at each tank so identified. If such monitoring is not being carried out, as soon as practicable the Secretary shall install such monitoring, but only if a type of monitoring that does not itself increase the danger of a release can be installed.

(b) ACTION PLANS.—Within 120 days after the date of the enactment of this Act, the Secretary of Energy shall develop action plans to respond to excessive temperature or pressure or a release from any tank identified under subsection (a).

(c) PROHIBITION.—Beginning 120 days after the date of the enactment of this Act, no additional high-level nuclear waste (except for small amounts removed and returned to a tank for analysis) may be added to a tank identified under subsection (a) unless the Secretary determines that no safer alternative than adding such waste to the tank currently exists or that the tank does not pose a serious potential for release of high-level nuclear waste.

(d) REPORT.—Within six months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on actions taken to promote tank safety, including actions taken pursuant to this section, and the Secretary's timetable for resolving outstanding issues on how to handle the waste in such tanks.

SEC. 3138. PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD NUCLEAR RESERVATION

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy under this title, the Secretary of Energy shall make available $3,000,000 to the State of Washington, $1,000,000 to the State of Oregon, and $1,000,000 to the State of Idaho. Such funds shall be used to develop and implement programs for the benefit of persons who may have been exposed to radiation released from the Department of Energy Hanford Nuclear Reservation (Richland, Washington) between the years 1944 and 1972.

(b) PROGRAMS.—The programs to be developed by the States may include only the following activities:

(1) Preparing and distributing information on the health effects of radiation to health care professionals, and to persons who may have been exposed to radiation.

(2) Developing and implementing mechanisms for referring persons who may have been exposed to radiation to health care professionals with expertise in the health effects of radiation.

(3) Evaluating and, if feasible, implementing, registration and monitoring of persons who may have been exposed to radiation released from the Hanford Nuclear Reservation.

(c) PLAN AND REPORTS.—(1) The States of Washington, Oregon, and Idaho shall jointly develop a single plan for implementing this section.

(2) Not later than six months after the date of the enactment of this Act, such States shall submit to the Secretary of Energy and the Congress a copy of the plan developed under paragraph (1).

(3) Not later than 18 months after the date of the enactment of this Act, such States shall submit to the Secretary of Energy and the Congress a single report on the implementation of the plan developed under paragraph (1).

(4) In developing and implementing the plan, such States shall consult with persons carrying out current radiation dose and epidemiological research programs (including the Hanford Thyroid Disease Study of the Centers for Disease Control and the Hanford Environmental Dose Reconstruction Project of the Department of Energy), and may not cause substantial damage to such research programs.

SEC. 3139. PAYMENTS FOR INJURIES BELIEVED TO ARISE OUT OF ATOMIC WEAPONS TESTING PROGRAM

(a) FINDINGS.—Section 2(a) of the Radiation Exposure Compensation Act (Public Law 101-426) is amended—

(1) in paragraph (1), by striking "aboveground" and all that follows through "Arizona" and inserting "atmospheric nuclear tests exposed individuals";

(2) in paragraph (2), by striking "unwitting participants" and inserting "exposed to radiation"; and

(3) in paragraph (5), by striking "innocent" and all that follows through "involuntarily" and inserting "individuals who were exposed to radiation were".

(b) TRUST FUND.—Section 3 of that Act is amended—

(1) in the first sentence of subsection (d), by striking "not later than" and all that follows through "amount, or"; and

(2) in subsection (e), by striking "$100,000,000" and inserting "such sums as may be necessary to carry out its purposes".

(c) CLAIMS RELATING TO ATMOSPHERIC NUCLEAR TESTING.—(1) The section caption for section 4 of that Act is amended by striking "OPEN AIR" and inserting "ATMOSPHERIC".

(2) Section 4(a) of that Act is amended to read as follows:

"(a) CLAIMS.—

"(1) CLAIMS RELATING TO CHILDHOOD LEUKEMIA.—Any individual who was physically present in the affected area for a period of at least 1 year during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of phys-

ical presence and between 2 and 30 years after first exposure to the fallout, contracted leukemia (other than chronic lymphocytic leukemia), shall receive $50,000 if—

"(A) initial exposure occurred prior to age 21,

"(B) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

"(C) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

"(2) CLAIMS RELATING TO SPECIFIED DISEASES.—Any individual who—

"(A) was physically present in the affected area for a period of at least 2 years during the period beginning on January 21, 1951, and ending on October 31, 1958,

"(B) was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, or

"(C) participated onsite in a test involving the atmospheric detonation of a nuclear device,

and who submits written medical documentation that he or she, after such period of physical presence or such participation (as the case may be), contracted a specified disease, shall receive $50,000 (in the case of an individual described in subparagraph (A) or (B)) or $75,000 (in the case of an individual described in subparagraph (C)), if—

"(i) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

"(ii) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

"(3) CONFORMITY WITH SECTION 6.—Payments under this section may be made only in accordance with section 6.

"(4) EXCLUSION.—No payment may be made under this section on any claim of the Government of the Marshall Islands, or of any citizen or national of the Marshall Islands, that is referred to in Article X, Section 1 of the Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of section 177 of the Compact of Free Association (as approved by the Compact of Free Association Act of 1985 (Public Law 99-239)).".

(3) Section 4(b)(2) of that Act is amended by striking "primary cancer of: the" and inserting "primary cancer of the:".

(d) CLAIMS RELATING TO URANIUM MINING.—Section 5 of that Act is amended—

(1) in subsection (a) in the matter following "$100,000 if—", by striking "(1)" and inserting "(i)" and by striking "(2)" and inserting "(ii)"; and

(2) in subsection (b)(3) by striking "an uranium" and inserting "a uranium".

(e) DETERMINATION AND PAYMENT OF CLAIMS.—(1) Section 6(b)(2) of that Act is amended—

(A) in subparagraph (A)—

(i) by striking "a specified disease under section 4" and inserting "leukemia under section 4(a)(1), a specified disease under section 4(a)(2),"; and

(ii) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and";

(C) by inserting after subparagraph (B) the following:

"(C) in consultation with the Secretary of Defense and the Secretary of Energy, establish guidelines for determining what constitutes documentation that an individual participated onsite in a test involving the atmospheric detonation of a nuclear device under section 4(a)(2)(C).''; and in the matter following subparagraph (C) (as added by subparagraph (C) of this paragraph)—

(i) by striking "and" after "(A),"; and

(ii) by inserting before the period the following:", and with the Secretary of Defense and the Secretary of Energy with respect to making determinations pursuant to the guidelines issued under subparagraph (C).".

(2) Section 6(c)(2) of that Act is amended to read as follows:

"(2) OFFSET FOR CERTAIN PAYMENTS.—(A) A payment to an individual, or to a survivor of that individual, under this section on a claim under subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4 or a claim under section 5 shall be offset by the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of—

"(i) exposure to radiation, from atmospheric nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during the period described in subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4, or

"(ii) exposure to radiation in a uranium mine at any time during the period described in section 5(a).

"(B) A payment to an individual, or to a survivor of that individual, under this section on a claim under section 4(a)(2)(C) shall be offset by the amount of—

"(i) any payment made pursuant to a final award or settlement on a claim, against any person, or

"(ii) any payment made by the Federal Government,

that is based on injuries incurred by that individual on account of exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device. The amount of the offset under this subparagraph with respect to payments described in clauses (i) and (ii) shall be the actuarial present value of such payments.".

(3) Section 6(c)(4)(C)(i) of that Act is amended by striking "means" and inserting "is".

(4) Section 6(e) of that Act is amended—

(A) by striking "open air" and inserting "atmospheric";

(B) by striking " any period described in section 4(a), or" and inserting "the period described in subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4,"; and

(C) by inserting before the period at the end the following: ", or exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device".

(f) CHOICE OF REMEDIES.—Section 7(b) of that Act is amended by inserting before the period at the end the following: ", and no individual may receive more than one payment under section 4 of this Act".

(g) REPORT.—Section 12 of that Act is amended—

(1) by inserting "REPORT.—" after "(a)"; and

(2) by inserting "COMPLETION.—" after "(b)".

SEC. 3140. REPEAL

The Radiation Exposure Compensation Act (Public Law 101-426) is amended by adding at the end the following:

"SEC. 14. REPEAL.

"Section 1631 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1985 (42 U.S.C. 2212) is repealed.".

SEC. 3141. CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY ARISING OUT OF ATOMIC WEAPONS TESTING PROGRAMS

(a) SHORT TITLE.—This section may be cited as the "Atomic Testing Liability Act".

(b) FEDERAL REMEDIES APPLICABLE; EXCLUSIVENESS OF REMEDIES.—

(1) REMEDY.—The remedy against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, by the Act of March 9, 1920 (46 U.S.C. App. 741-752), or by the Act of March 3, 1925 (46 U.S.C. App. 781-790), as appropriate, for injury, loss of property, personal injury, or death shall apply to any civil action for injury, loss of property, personal injury, or death due to exposure to radiation based on acts or omissions by a contractor in carrying out an atomic weapons testing program under a contract with the United States.

(2) EXCLUSIVITY.—The remedies referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining civil liability arising from any act or omission of the contractor without regard to when the act or omission occurred. The employees of a contractor referred to in paragraph (1) shall be considered to be employees of the Federal Government, as provided in section 2671 of title 28, United States Code, for the purposes of any such civil action or proceeding; and the civil action or proceeding shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of such title and shall be subject to the limitations and exceptions applicable to those actions.

(c) PROCEDURE.—A contractor against whom a civil action or proceeding described in subsection (b) is brought shall promptly deliver all processes served upon that contractor to the Attorney General of the United States. Upon certification by the Attorney General that the suit against the contractor is within the provisions of subsection (b), a civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings shall be deemed a tort action brought against the United States under the provisions of section 1346(b), 2401(b), or 2402, or sections 2671 through 2680 of title 28, United States Code. For purposes of removal, the certification by the Attorney General under this subsection establishes contractor status conclusively.

(d) ACTIONS COVERED.—The provisions of this section shall apply to any action, within the provisions of subsection (b), which is pending on the date of the enactment of this Act or commenced on or after such date. Notwithstanding section 2401(b) of title 28, United States Code, if a civil action or proceeding to which this section applies is pending on the date of the enactment of this Act and is dismissed because the plaintiff in such action or proceeding did not file an administrative claim as required by section 2672 of that title, the plaintiff in that action or proceeding shall have 30 days from the date of the dismissal or two years from the date upon which the claim accrued, whichever is later, to file an administrative claim, and any claim or subsequent civil action or proceeding shall thereafter be subject to the provisions of section 2401(b) of title 28, United States Code.

(e) "CONTRACTOR" DEFINED.—For purposes of this section, the term "contractor" includes a contractor or cost reimbursement

subcontractor of any tier participating in the conduct of the United States atomic weapons testing program for the Department of Energy (or its predecessor agencies, including the Manhattan Engineer District, the Atomic Energy Commission, and the Energy Research and Development Administration). Such term also includes facilities which conduct or have conducted research concerning health effects of ionizing radiation in connection with the testing under contract with the Department of Energy (or any of its predecessor agencies).

SEC. 3142. SENSE OF CONGRESS ON NEGOTIATING AGREEMENTS TO ACHIEVE A COMPREHENSIVE TEST BAN

The Congress, mindful of the commitment of the United States, the Soviet Union, and Great Britain in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek the discontinuance of all test explosions of nuclear weapons for all time and of the commitment which shall be legally binding on the parties upon ratification of the Treaty on the Limitation of Underground Nuclear Weapons Tests to "continue their negotiations with a view toward achieving a solution to the problem of the cessation of all underground nuclear weapons tests", states that it is the sense of Congress that the United States shares a special responsibility with the Soviet Union to continue the bilateral Nuclear Testing Talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban.

PART D—INTERNATIONAL FISSILE MATERIAL AND WARHEAD CONTROL

SEC. 3151. PRODUCTION OF PLUTONIUM AND HIGHLY ENRICHED URANIUM FOR NUCLEAR WEAPONS AND DISPOSAL OF NUCLEAR STOCKPILES

(a) PRODUCTION BY THE SOVIET UNION.—Congress urges the President of the Soviet Union and the Supreme Soviet of the Soviet Union—

(1) to cease production by the Soviet Union of plutonium;

(2) to maintain the cessation in production by the Soviet Union of highly-enriched uranium for weapons that was announced on April 7, 1989.

(b) TECHNICAL ASPECTS OF FISSILE MATERIAL MONITORING AND NUCLEAR WARHEAD DISMANTLEMENT.—Should the President determine that future international agreements should provide for dismantlement of nuclear warheads and a ban on further production of fissile materials for weapons, then the Congress urges the President to seek to establish with the Soviet Union a joint technical working group to examine and demonstrate cooperative technical monitoring and inspection arrangements that could be applied to the design and verification of these potential provisions.

(c) REPORT ON VERIFICATION TECHNIQUES.—(1) The President shall prepare a comprehensive technical report on the verification matters described in paragraph (2).

(2) The report shall describe the on-site monitoring techniques, inspection arrangements, and national technical means that could be used by the United States to verify the actions of other nations with respect to the following:

(A) Dismantlement of nuclear warheads in the event that a future agreement between the United States and the Soviet Union should provide for such dismantlement to be carried out in a mutually verifiable manner.

(B) A mutual United States-Soviet ban, leading to a multilateral, global ban, on the production of additional quantities of plutonium and highly-enriched uranium for nuclear weapons.

(C) The end use or ultimate disposal of any plutonium and highly enriched uranium recovered from the dismantlement of nuclear warheads.

(3) In order to prepare the report required by paragraph (1), the President shall establish a Technical Advisory Committee on Verification of Fissile Material and Nuclear Warhead Controls, to be composed of preeminent government and nongovernment experts in the fields of radiation detection, nondestructive examination, nuclear safeguards, nuclear materials production, and nuclear warhead dismantlement. Such committee, which shall be established not later than December 31, 1990, shall advise the President on the availability, use, and further development of techniques which could be applied to the verification of the prospective actions described in paragraph (2).

(4) The report required by paragraph (1) shall be submitted to Congress not later than April 30, 1991. The report shall be submitted in unclassified form with such classified appendices as may be necessary.

SEC. 3152. DEVELOPMENT AND DEMONSTRATION OF MEANS FOR WARHEAD DISMANTLEMENT VERIFICATION

The Secretary of Energy may use funds available to the Secretary for national security programs of the Department of Energy for fiscal year 1991 to carry out a program to develop and demonstrate a means for verifiable dismantlement of nuclear warheads.

PART E—DEPARTMENT OF ENERGY SCIENCE EDUCATION PROGRAMS

SEC. 3161. SHORT TITLE

This part may be cited as the "Department of Energy Science Education Enhancement Act".

SEC. 3162. FINDINGS AND PURPOSES

(a) FINDINGS.—The Congress finds the following:

(1) Scientific, technical, and engineering competence is essential to the Nation's future well-being.

(2) The scientific, technical, and engineering capability at the Federal laboratories is unmatched throughout the world.

(3) Superb research, development, testing, and evaluation occur in Department of Energy research and development facilities.

(4) Department of Energy research and development facilities will play an increasing role in assuring that the United States remains competitive in world markets.

(5) Improvements in mathematics, science, and engineering education are needed desperately to provide the trained and educated citizenry essential to the future competitiveness of the United States.

(6) The future health and vitality of the economy of the United States is predicated on the availability of an adequate supply of scientists, mathematicians, and engineers to provide for growing needs and to replenish the workforce.

(7) United States college and university enrollment in science, mathematics, and engineering programs is sharply declining at undergraduate, graduate, and post-graduate levels.

(8) The Federal Government is the largest United States employer of research scientists, mathematicians, and engineers, and the Department of Energy has a growing need for scientists, mathematicians, and engineers at a time when these enrollments are declining.

(9) Women and minorities are grossly underrepresented in science and mathematics fields, and this group represents more than 80 percent of the projected increase in the national workforce through the year 2000.

(b) PURPOSES.—The purposes of this part are—

(1) to encourage the development and implementation of science, mathematics, and engineering education programs at the Department of Energy and at its research and development facilities as part of a national effort to improve science, mathematics, and engineering education; and

(2) to provide more efficient coordination among science, mathematics, and engineering education programs.

SEC. 3163. MISSION

Section 102 of the Department of Energy Organization Act (42 U.S.C. 7112) is amended—

(1) in the second sentence, by striking out "Act—" and inserting in lieu thereof "Act:";

(2) in paragraph (17), by striking out "and" after the semicolon;

(3) in paragraphs (1) through (18)—

(A) by capitalizing the first letter of the first word of each such paragraph; and

(B) by striking out the semicolon at the end of each such paragraph and inserting in lieu thereof a period; and

(4) by adding at the end the following new paragraph:

"(19) To ensure that the Department can continue current support of mathematics, science, and engineering education programs by using the personnel, facilities, equipment, and resources of its laboratories and by working with State and local education agencies, institutions of higher education, and business and industry. The Department's involvement in mathematics, science, and engineering education should be consistent with its main mission and should be coordinated with all Federal efforts in mathematics, science, and engineering education, especially with the Department of Education and the National Science Foundation (which have the primary federal responsibility for mathematics, science, and engineering education).".

SEC. 3164. SCIENCE EDUCATION PROGRAMS

(a) PROGRAMS.—The Secretary is authorized to establish programs to enhance the quality of mathematics, science, and engineering education. Any such programs shall be operated at or through the support of Department research and development facilities, shall use the scientific resources of the Department, and shall be consistent with the overall Federal plan for education and human resources in science and technology developed by the Federal Coordinating Council for Science, Engineering, and Technology.

(b) RELATIONSHIP TO OTHER DEPARTMENT ACTIVITIES.—The programs described in subsection (a) shall supplement and be coordinated with current activities of the Department, but shall not supplant them.

SEC. 3165. LABORATORY COOPERATIVE SCIENCE CENTERS AND OTHER AUTHORIZED EDUCATION ACTIVITIES

(a) ACTIVITIES.—The Secretary is authorized to:

(1) Support research appointments for college and university science and engineering students, and for faculty-student teams, at Department research and development facilities.

(2) Support research appointments for high school science teachers at Department research and development facilities.

(3) Support research apprenticeship appointments at Department research and de-

velopment facilities for students underrepresented in science and technology careers.

(4) Support research experience programs at Department research and development facilities for nationally selected high school honor students.

(5) Operate mathematics and science education programs for elementary and secondary students at Department research and development facilities.

(6) Establish a museum-based science education program.

(7) Establish collaborative inner-city and rural partnership programs designed to meet the special mathematics and science education needs of students in inner-city and rural areas.

(8) Provide paid administrative leave for employees of the Department or Department research and development facilities who volunteer to interact with schools, colleges, universities, teachers, or students for the purpose of science, mathematics, and engineering education.

(9) Establish a talent pool of volunteer scientists, mathematicians, and engineers who have retired from the Department or Department research and development facilities to serve at schools and school districts for the purpose of (A) assisting teachers, with activities such as experiments, lectures, or the preparation of materials; (B) serving as counselors to students on science, mathematics, and engineering; and (C) otherwise assisting science, mathematics, and engineering classes. The Secretary, acting through Department research and development facilities, shall, wherever possible, identify and match schools and school districts with retired scientists, mathematicians, and engineers.

(J) Establish a Young Americans' Summer Science Camp Program to provide secondary school students with a hands-on science experience as well as exposure to working scientists and career counseling.

(K) Establish a program for mathematics and science teachers to provide teachers serving large numbers of disadvantaged students with new strategies for mathematics and science instruction.

(L) Support graduate students and, through university-based cooperative programs, undergraduate students for the purpose of encouraging more students to pursue scientific and technical careers, with a particular focus on the recruitment of women and minority students.

(M) Establish a prefreshman enrichment program in which middle-school students attend summer workshops on mathematics, science, and engineering conducted by universities on their campuses.

(b) Use of Facilities.—Any of the activities authorized by subsection (a) may be conducted through Department research and development facilities. The Secretary may designate facilities conducting education activities as "Laboratory Cooperative Science Centers".

(c) FUNDING.—The Secretary is authorized to accept non-Federal funds to finance education activities described in subsection (a).

SEC. 3166. EDUCATION PARTNERSHIPS

(a) EDUCATION PARTNERSHIPS.—The Secretary may authorize each Department research and development facility, to the extent practicable and consistent with the provisions of the laboratory's management and operating contract, to enter into education partnership agreements with educational institutions in the United States (including local educational agencies, colleges, and universities) for the purpose of encouraging and enhancing study in scientific disciplines at all levels of education.

(b) TYPES OF ASSISTANCE.—Under a partnership agreement entered into with an educational institution under subsection (a) and as authorized by the Secretary, a Department research and development facility may provide assistance to the educational institution by—

(1) loaning equipment to the institution;

(2) transferring to the institution equipment determined by the director of the Department research and development facility to be surplus;

(3) making personnel of Department research and development facilities available to teach science courses or to assist in the development of science courses and materials for the institution;

(4) involving faculty and students of the institution in research programs of Department research and development facilities;

(5) cooperating with the institution in developing a program under which students may be given academic credit for work on research projects of Department research and development facilities; and

(6) providing academic and career advice and assistance to students of the institution.

SEC. 3167. DEFINITIONS

In this part:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Department" means the Department of Energy.

(3) The term "Department research and development facilities" means all Department of Energy single-purpose and multipurpose National Laboratories and research and development facilities and programs, and any other facility or program operated by a contractor funded from the Office of Energy Research of the Department of Energy.

(4) The term "local educational agency" has the meaning given that term by section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 3168. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to the Secretary for carrying out university research support and other science, mathematics, and engineering education programs authorized by this part and administered by the Office of Energy Research of the Department of Energy, $40,000,000 for fiscal year 1991.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

SEC. 3201. AUTHORIZATION

There are authorized to be appropriated for fiscal year 1991 $12,500,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

SEC. 3202. APPOINTMENT AND COMPENSATION OF SCIENTIFIC AND TECHNICAL PERSONNEL OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Section 313(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2286b) is amended—

(1) in paragraph (1), by inserting after "Board," the following: "including such scientific and technical personnel as the Board may determine necessary,";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by inserting "(1)" after "STAFF.—"; and

(4) by adding at the end the following new paragraph:

"(2) The authority and requirements provided in section 161 d. with respect to officers and employees of the Commission shall apply with respect to scientific and technical personnel hired under paragraph (1)(A).".

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORITY TO BARTER MATERIAL IN THE NATIONAL DEFENSE STOCKPILE TO FINANCE THE UPGRADING, REFINING, OR PROCESSING OF STOCKPILE MATERIAL.

(a) BARTER AUTHORIZED.—Subsection (c) of section 6 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Notwithstanding section 3(c) or any other provision of law, whenever the President provides under subsection (a)(3) for the upgrading, refining, or processing of a material in the stockpile to convert that material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency, the President may barter a portion of the same material (or any other material in the stockpile that is authorized for disposal) to finance that upgrading, refining, or processing.".

(b) CONFORMING AMENDMENTS.—Section 6 of such Act is further amended—

(1) in subsection (a)(3)—

(A) by striking out "refining" and inserting in lieu thereof "upgrading, refining,";

(B) by inserting "(notwithstanding any intermediate stockpile quantity established for such material)" after "stockpile"; and

(C) by striking out "storage and subsequent disposition;" and inserting in lieu thereof "storage, subsequent disposition, and immediate use in a national emergency;";

(2) in subsection (c)(1)—

(A) by inserting "under subsection (a)(1)" after "the acquisition"; and

(B) by inserting "under subsection (a)(5) or (a)(6)" after "the disposal"; and

(3) in subsection (c)(2)—

(A) by striking out ", the disposition of which is authorized by law," and inserting in lieu thereof the following: "(the disposition of which is authorized by paragraph (3) to finance the upgrading, refining, or processing of a material in the stockpile, or is otherwise authorized by law)"; and

(B) by striking out "of refining" and inserting in lieu thereof "of upgrading, refining".

(c) EFFECT OF BARTERING.—Section 9 of such Act (50 U.S.C. 98h) is amended by adding at the end the following new subsection:

"(d) If, during a fiscal year, the National Defense Stockpile Manager barters materials in the stockpile for the purpose of acquiring, upgrading, refining, or processing other materials (or for services directly related to that purpose), the contract value of the materials so bartered shall—

"(1) be applied toward the total value of materials that are authorized to be disposed of from the stockpile during that fiscal year;

"(2) be treated as an acquisition for purposes of satisfying any requirement imposed on the National Defense Stockpile Manager to enter into obligations during that fiscal year under subsection (b)(2); and

"(3) not increase or decrease the balance in the fund.".

SEC. 3302. TRANSFER OF FUNDS.

(a) TRANSFER.—The Secretary of Defense shall, subject to such limitations as may be

provided in appropriations Acts, transfer $100,000,000 from the unobligated balance of the National Defense Stockpile Transaction Fund to the account established under section 2371(e) of title 10, United States Code.

(b) LIMITATION ON USE.—Funds transferred pursuant to subsection (a) may be used only for the purpose of—

(1) improving the quality and availability of materials stockpiled from time to time under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a et seq.); or

(2) developing new materials for the National Defense Stockpile.

TITLE XXXIV—CIVIL DEFENSE

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated $149,117,000 for fiscal year 1991 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.)

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE

This title may be referred to as the "Panama Canal Commission Authorization Act for Fiscal Year 1991".

SEC. 3502. AUTHORIZATION OF EXPENDITURES

(a) IN GENERAL.—The Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.), for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1991, except that not more than $52,000 for such fiscal year may be made available for official reception and representation expenses, of which—

(1) not more than $12,000 may be made available for such expenses of the supervisory board of the Commission;

(2) not more than $6,000 may be made available for such expenses of the Secretary of the Commission; and

(3) not more than $34,000 may be made available for such expenses of the Administrator of the Commission.

(b) PURCHASE OF PASSENGER MOTOR VEHICLES.—Funds available to the Panama Canal Commission for fiscal year 1991 shall be available for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport personnel of the Commission across the Isthmus of Panama. Such vehicles may be purchased without regard to price limitations prescribed by law or regulation.

SEC. 3503. GENERAL PROVISIONS

(a) PAY INCREASES.—Funds for the Panama Canal Commission may be obligated for fiscal year 1991, notwithstanding section 1341 of title 31, United States Code, to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the United States in comparable positions.

(b) EXPENSES IN ACCORDANCE WITH LAW.—Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 3504. COMPENSATION FOR BOARD MEMBERS

Section 1102(b) of the Panama Canal Act of 1979 (22 U.S.C. 3612(b)) is amended by striking "grade GS-18 of the General Schedule under section 5332" in the last sentence and inserting "level V of the Executive Schedule under section 5316".

SEC. 3505. COMPENSATION FOR DEPUTY ADMINISTRATOR AND CHIEF ENGINEER

Section 1104(b) of the Panama Canal Act of 1979 (22 U.S.C. 3614(b)) is amended by inserting before the period ", and, if eligible, shall each be paid the overseas recruitment or retention differential provided for in section 1217 of this Act".

SEC. 3506. RETIREMENT

(a) ELIGIBILITY.—Section 8336(i) of title 5, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) An employee of the Panama Canal Commission employed by that body after September 30, 1979, who is separated from the Panama Canal Commission before January 1, 2000, and who at the time of separation has a minimum of 11 years of continuous employment with the Commission (disregarding any break in service of 3 days or less) is entitled to an annuity if the employee is separated—

"(A) involuntarily, after completing 20 years of service or after becoming 48 years of age and completing 18 years of service, if the separation is a result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; or

"(B) voluntarily, after completing 23 years of service or after becoming 48 years of age and completing 18 years of service.".

(b) COMPUTATION.—Section 8339(d) of title 5, United States Code, is amended by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following:

"(3) The annuity of an employee retiring under this subchapter who is employed by the Panama Canal Commission at any time during the period beginning October 1, 1990, and ending December 31, 1999, is computed, with respect to any period of service with the Panama Canal Commission, by adding—

"(A) 2½ percent of the employee's average pay multiplied by so much of that service as does not exceed 20 years; plus

"(B) 2 percent of the employee's average pay multiplied by so much of that service as exceeds 20 years.".

(c) UNFUNDED LIABILITY.—Section 8348(i)(1) of title 5, United States Code, is amended by striking "1979." and inserting "1979, and the amendments made by section 3506 of the Panama Canal Commission Authorization Act for Fiscal Year 1991.".

SEC. 3507. AMENDMENTS TO PANAMA CANAL COMPENSATION FUND ACT OF 1988

Section 5 of the Panama Canal Commission Compensation Fund Act of 1988 (22 U.S.C. 3715c) is amended—

(1) by striking "Upon the termination of the Panama Canal Commission:";

(2) in subsection (a)—

(A) by striking "The Secretary of Labor" and inserting "Upon the termination of the Panama Canal Commission, the Secretary of Labor"; and

(B) by striking the last sentence;

(3) in subsection (b)—

(A) by inserting "under subsection (a)" after "Secretary of Labor"; and

(B) by striking "Employees Compensation"; and

(4) by adding at the end the following new subsection:

"(c) CONTINUITY OF THE FUND.—(1) Amounts in the Fund (including amounts transferred as a result of the final determination made under subsection (a)) shall be maintained by the Secretary of the Treasury, shall be made available for transfer to the Employees' Compensation Fund in such amounts as are requested by the Secretary of Labor pursuant to section 4, and may be discontinued only in accordance with paragraph (2).

"(2) At such time as the Secretary of Labor certifies that no further liability exists for workers compensation benefits or other payments described in section 3(a), the Secretary of the Treasury may discontinue the Fund in the manner provided by law.".

DIVISION D—ECONOMIC ADJUSTMENT, DIVERSIFICATION, CONVERSION, AND STABILIZATION

SEC. 4001. SHORT TITLE

This division may be cited as the "Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990".

SEC. 4002. FINDINGS AND POLICY

(a) FINDINGS.—Congress makes the following findings:

(1) There are likely to be significant reductions in the programs, projects, and activities of the Department of Defense during the first several fiscal years following fiscal year 1990.

(2) Such reductions will adversely affect the economies of many communities in the United States and small businesses and civilian workers throughout the United States.

(b) POLICY.—In view of the findings expressed in subsection (a), it is the policy of the United States that—

(1) assistance be provided under existing planning assistance programs and economic adjustment assistance programs of the Federal Government to substantially and seriously affected communities, businesses, and workers to the extent necessary to facilitate an orderly transition for such communities, small businesses, and workers from economic reliance on Department of Defense spending to economic reliance on other sources of business, employment, and revenue; and

(2) funding for such programs be increased by amounts necessary to meet the needs of such communities, small businesses, and workers without reducing the funding that would otherwise be available under those programs by reason of causes unrelated to the reductions referred to in subsection (a)(1).

SEC. 4003. DEFINITIONS

For purposes of this division:

(1) The term "major defense contract or subcontract" means—

(A) any defense contract in an amount not less than $5,000,000 (without regard to the date on which the contract was awarded); and

(B) any subcontract which—

(i) is entered into in connection with a contract (without regard to the effective date of the subcontract); and

(ii) involves not less than $500,000.

(2) The term "Economic Adjustment Committee" or "Committee" means the Economic Adjustment Committee established in Executive Order 12049 (10 U.S.C. 111 note).

(3) The term "defense facility" means any private or government facility producing goods or services pursuant to a defense contract.

(4) The term "military installation" means a base, camp, post, station, yard, center, or homeport facility for any ship in the United States, or any other facility under the jurisdiction of a military department located in the United States.

(5) The term "substantially and seriously affected" means—

(A) when such term is used in conjunction with the term "community", a community—

(i) which has within its administrative and political jurisdiction one or more military installations or defense facilities or which is economically affected by proximity to a military installation or defense facility;

(ii) in which the actual or threatened curtailment, completion, elimination, or realignment of a defense contract results in a workforce reduction of—

(I) 2,500 or more employee positions, in the case of a Metropolitan Statistical Area or similar area (as defined by the Director of the Office of Management and Budget);

(II) 1,000 or more employee positions, in the case of a labor market area outside of a Metropolitan Statistical Area; or

(III) one percent of the total number of civilian jobs in that area; and

(iii) which establishes, by evidence, that any workforce reduction referred to in clause (ii) occurred as a direct result of changes in Department of Defense requirements or programs;

(B) when such term is used in conjunction with the term "businesses" any business which—

(i) holds a major defense contract or subcontract (or held such contract or subcontract before a reduction in the defense budget);

(ii) experiences a reduction, or the threat of a reduction, of—

(I) 25 percent or more in sales or production; or

(II) 80 percent or more of the workforce of such business in any division of such business or at any plant or other facility of such business; and

(iii) establishes, by evidence, that the reductions referred to in clause (ii) occurred as a direct result of a reduction in the defense budget; and

(C) when such term is used in conjunction with the term "group of workers", any group of 100 or more workers at a defense facility who are (or who are threatened to be), eligible to participate in the defense conversion adjustment program under section 325 of the Job Training Partnership Act (as added by section 4202 of this division).

SEC. 4004. CONTINUATION OF ECONOMIC ADJUSTMENT COMMITTEE

(a) TERMINATION OR ALTERATION PROHIBITED.—The Economic Adjustment Committee established in Executive Order 12049 (10 U.S.C. 111 note) may not be terminated and the duties of the Committee may not be significantly altered unless specifically authorized by a law.

(b) CHAIRMAN.—The chairmanship of the Economic Adjustment Committee shall rotate between the Secretary of Defense, the Secretary of Commerce, and the Secretary of Labor on a yearly basis.

(c) DUTIES OF COMMITTEE.—The Economic Adjustment Committee shall—

(1) coordinate and facilitate cooperative efforts among Federal agencies represented on the Committee to implement defense economic adjustment programs;

(2) serve as an information clearinghouse for and between Federal, State, and local entities regarding their defense economic adjustment efforts; and

(3) submit to the President and Congress, not later than December 1, 1991, and each December 1 thereafter, a report that—

(A) describes Federal economic adjustment programs available to communities, businesses, and groups of workers;

(B) describes the implementation of defense economic adjustment assistance during the preceding fiscal year; and

(C) specifies the number of communities, businesses, and workers affected by defense budget reductions during the preceding fiscal year and such number assisted by Federal economic adjustment programs during that fiscal year.

TITLE XLI—ECONOMIC ADJUSTMENT PLANNING

SEC. 4101. NOTIFICATION

(a) IN GENERAL.—The Chairman of Economic Adjustment Committee shall establish procedures to ensure that the head of the appropriate Federal agencies promptly notify the appropriate official or other person or party described in subsection (b) with respect to any community, business, or group of workers that may be substantially and seriously affected as a result of—

(1) the annual budget of the President submitted to Congress pursuant to section 1105 of title 31, United States Code, and any longer-term guidance document of the Secretary of Defense;

(2) the public announcement of the realignment or closure of a military installation or defense facility; or

(3) the cancellation or curtailment of a major defense contract.

(b) PERSONS TO RECEIVE NOTICE.—The officials, persons, and other parties referred to in subsection (a) are—

(1) the chief elected executive official of an affected State;

(2) the mayor of an affected city;

(3) the executive or other appropriate representative of any other affected political subdivision of a State; and

(4) the head of a national or international labor organization, the headquarters of which is located in the United States, which represents a substantially and seriously affected group of workers.

(c) BENEFIT INFORMATION REQUIRED TO ACCOMPANY NOTICE.—Each notice under subsection (a) shall contain information describing Federal economic adjustment programs available to communities, businesses, and groups of workers.

(d) NOTIFICATION OF COMMUNITIES AFFECTED BY DEFENSE REALIGNMENT BEFORE DATE OF ENACTMENT.—The information provided under subsection (a) shall include information regarding actions referred to in such subsection which were—

(1) proposed in the budget of the President which was submitted to Congress during the period beginning on January 1, 1990, and ending on the date of the enactment of this Act; or

(2) otherwise announced during such period.

SEC. 4102. ECONOMIC ADJUSTMENT PLANNING ASSISTANCE THROUGH THE DEPARTMENT OF DEFENSE

(a) IN GENERAL.—Any substantially and seriously affected community shall be eligible for economic adjustment planning assistance through the Office of Economic Adjustment in the Department of Defense under subsection (b) of section 2391 of title 10, United States Code, subject to subsection (e) of such section. Such assistance shall be provided in accordance with the standards, procedures, and priorities established by the Committee under this division.

(b) CONFORMING AMENDMENT TO TITLE 10.—Section 2391(b) of title 10, United States Code, is amended—

(1) by striking out paragraphs (3), (4), and (6);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of a publicly-announced planned reduction in Department of Defense spending, the cancellation or termination of a Department of Defense contract, or the failure to proceed with a previously approved major defense acquisition program, assistance may be made under paragraph (1) only if the reduction cancellation, termination, or failure will have a direct and significant adverse impact on a community and will result in the loss of—

"(A) 2,500 or more employee positions, in the case of a Metropolitan Statistical Area or similar area (as defined by the Director of the Office of Management and Budget);

"(B) 1,000 or more employee positions, in the case of a labor market area outside of a Metropolitan Statistical Area; or

"(C) one percent of the total number of civilian jobs in that area.".

SEC. 4103. COMMUNITY ECONOMIC ADJUSTMENT ASSISTANCE THROUGH THE ECONOMIC DEVELOPMENT ADMINISTRATION

(a) IN GENERAL.—A community that has been determined by the Economic Development Administration of the Department of Commerce or the Office of Economic Adjustment of the Department of Defense, in accordance with the standards and procedures established by the Economic Adjustment Committee, to be a substantially and seriously affected community shall be eligible for economic adjustment assistance authorized under title IX of the Public Works and Economic Development Act of 1965, subject to the availability of appropriations for such purpose and subject to meeting the eligibility requirements of such title.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Defense for fiscal year 1991 $50,000,000 for purposes of carrying out subsection (a). Any amount appropriated pursuant to this subsection shall remain available until expended.

TITLE XLII—ADJUSTMENT ASSISTANCE FOR EMPLOYEES

SEC. 4201. SECRETARY OF DEFENSE NOTICE REQUIREMENT

(a) INFORMATION TO BE PROVIDED.—The Secretary of Defense shall—

(1) provide timely information to the Secretary of Labor on—

(A) any proposed closure of, or substantial reduction in, military installations; and

(B) any proposed cancellation of, or reduction in, any contract for products or services for the Department of Defense,

if the proposed closure, cancellation, or reduction will have a substantial impact on employment;

(2) when feasible, identify the location at which employment which will be affected by such closure, cancellation, or reduction; and

(3) provide to the Secretary of Labor information with respect to such proposed closure, cancellation, or reduction.

(b) NOTIFICATION TO GOVERNOR OF STATE CONCERNED.—If the Secretary of Labor receives information under subsection (a), the Secretary shall notify the Governor of each State in which such proposed closure, cancellation, or reduction will occur pursuant to guidelines established by the Economic Adjustment Committee to avoid duplicative notification.

SEC. 4202. DEFENSE CONVERSION ADJUSTMENT PROGRAM

Part B of title III of the Job Training Partnership Act (29 U.S.C. 1662-1662c) is

amended by adding at the end the following new section:

"DEFENSE CONVERSION ADJUSTMENT PROGRAM

"SEC. 325. (a) IN GENERAL.—From the amount appropriated pursuant to section 4203 of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, the Secretary may make grants to States, substate grantees, employers, employer associations, and representatives of employees to provide training, adjustment assistance, and employment services to eligible employees adversely affected by reductions in expenditures by the United States for defense or by closures of United States military facilities. For purposes of this section, an eligible employee is an eligible dislocated worker as defined in section 301(a) who has been terminated or laid off, or has received a notice of termination or lay off, as a consequence of reductions in expenditures by the United States for defense or by closures of United States military facilities as determined in accordance with regulations of the Secretary.

"(b) APPLICATION.—In reviewing applications for grants under subsection (a), the Secretary shall give priority to applications from areas which have the greatest number of eligible employees.

"(c) USE OF FUNDS.—Grants under subsection (a) may be used for any purpose for which funds may be used under section 314 of this part.

"(d) DEMONSTRATION PROJECTS.—In carrying out the grant program established under subsection (a), the Secretary may make grants to entities referred to in that subsection for the purpose of developing demonstration projects to encourage and promote innovative responses to the dislocation resulting from reductions in expenditures by the United States for defense or by the closure of United States military installations. Such demonstration projects may include—

"(1) projects to facilitate the placement of eligible employees in occupations experiencing skill shortages that will make use of the skills acquired by the eligible employees during their employment;

"(2) projects to assist in retraining and reorganization efforts designed to avert layoffs that would otherwise occur as a result of such reductions or closures; and

"(3) projects to assist communities in addressing and reducing the impact of such economic dislocation.".

SEC. 4203. AUTHORIZATION OF APPROPRIATIONS

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Defense $150,000,000 for fiscal year 1991 to carry out section 4201 and the amendment made by section 4202. Amounts appropriated pursuant to this subsection shall remain available until expended.

(b) ADMINISTRATIVE EXPENSES.—Of amounts appropriated pursuant to this section, not more than five percent may be retained by the Secretary of Labor for the administration of the activities authorized by the amendment made by section 4202.

TITLE XLIII—EXPANSION OF BUSINESS CAPITAL ASSISTANCE PROGRAMS

SEC. 4301. EXPANSION OF SMALL BUSINESS LOAN PROGRAM

Not later than 180 days after the date of the enactment of this Act, the President, acting with the assistance of the Committee and after consulting experts in government and the private sector, shall transmit to the Congress recommendations regarding ways that assistance provided pursuant to the business loan program under section 7(a) of the Small Business Act of 1958 may be used to respond to the consequences of defense budget reductions.

SEC. 4302. ECONOMIC PLANNING ASSISTANCE FOR EXCEPTIONAL PROJECTS

(a) ASSISTANCE AUTHORIZED.—The Economic Development Administration, in the case of assistance under title IX of the Public Works and Economic Development Act of 1965, and the Office of Economic Adjustment, in the case of planning assistance under section 2391(b) of title 10, United States Code, may award planning assistance under those programs to any substantially and seriously affected community, on behalf of a business, group of businesses, or group of workers, if such planning funds are determined by the agency concerned to be necessary and appropriate as a catalyst for projects which the agency determines, on a case-by-case basis, have exceptional promise for achieving the objectives of this division.

(b) CONDITIONS ON ASSISTANCE.—Awards under this section shall be subject to the availability of appropriations for such purpose and shall be made in accordance with any other applicable provisions of law.

SEC. 4303. EXPANSION OF EXPORT FINANCING FOR GOODS AND SERVICES PRODUCED BY FIRMS AND EMPLOYEES FORMERLY ENGAGED IN DEFENSE PRODUCTION

(a) EXPORT-IMPORT BANK.—

(1) SENSE OF CONGRESS ON PLAN FOR EXPANSION.—It is the sense of Congress that the United States businesses undergoing transition from defense production to nondefense production will need assistance in seizing export markets overseas. Therefore, in order to provide financial support for such businesses, as well as meeting other normal demands on its resources, the annual direct lending authority of the Export-Import Bank of the United States should be increased by at least 150 percent from the fiscal year 1990 level over the five-year period beginning October 1, 1990.

(2) REPORT OF FEASIBILITY.—Before September 30, 1990, the President, acting with the assistance of the Committee and after consulting the Board of Directors of the Export-Import Bank of the United States and other experts in government and the private sector, shall transmit to the Congress a report assessing the feasibility and desirability of a program for increasing the amount of direct loan authority in the manner described in paragraph (1) and the factors considered in making such assessment.

(3) TRANSITION TO NONDEFENSE PRODUCTION REQUIRED TO BE CONSIDERED.—In determining whether to provide financial support for an export transaction, the Export-Import Bank of the United States shall take into account, to the extent feasible and in accordance with applicable standards and procedures established by the bank in consultation with the Committee, the fact that the product or service is produced or provided by any business or group of workers which—

(A) was substantially and seriously affected by defense budget reductions; and

(B) is in transition from defense to nondefense production.

(b) SBA USE OF AUTHORITY FOR EXPORT FINANCING ASSISTANCE.—In determining whether to provide financial or other assistance under the Small Business Act, title VIII of the Omnibus Trade and Competitiveness Act of 1988, or any program referred to in section 4301 to any small business involved in, or attempting to become involved in, the export of any product or service, the Administrator of the Small Business Administration shall take into account the fact that such product or service is produced or provided by any business or group of workers which—

(1) has been substantially and seriously affected by defense budget reductions; and

(2) is in transition from defense to nondefense production.

(c) COORDINATION AND INTEGRATION OF ACTIVITIES AND ASSISTANCE WITH OTHER AGENCIES.—In providing additional financial assistance pursuant to any increase in loan authority under this division—

(1) Federal agencies concerned with international trade shall participate in the process of coordination conducted by the Committee pursuant to section 4003(b); and

(2) such Federal agencies shall attempt, to the maximum extent practicable, to coordinate and integrate the activities and assistance of the agencies in support of exports, including financial assistance in the form of direct loans, loan guarantees, and insurance, general trade promotion, marketing assistance, and marketing and commercial information, in a manner consistent with the purposes of this division (and the amendments made by this division to other provisions of law).

(d) REPORTING.—The annual reports made by the Export-Import Bank of the United States and the Administrator of the Small Business Administration and the annual economic stabilization and adjustment report under section 4003 of this division shall include a description of the extent to which the bank and the Administrator are—

(1) providing financing described in subsections (a)(2) and (b), respectively, to businesses or groups of workers which were substantially and seriously affected by defense budget reductions; and

(2) coordinating and integrating export support and financing activities with other Federal agencies.

SEC. 4304. BENEFIT INFORMATION FOR BUSINESSES

(a) INFORMATION REQUIRED TO BE PROVIDED.—The Secretary of Commerce and the Administrator of the Small Business Administration shall provide any business affected by defense budget reductions with a complete description of available programs which provide any business, whether on an industrywide or an individual basis, with any planning assistance, financial, technical, or managerial assistance, worker retraining assistance, or other assistance authorized under this division.

(b) EFFECTIVE NOTIFICATION SYSTEM.—The Secretary of Commerce and the Administrator of the Small Business Administration shall take such action as may be appropriate to ensure, to the maximum extent practicable, that each business affected by defense budget reductions receives the information required to be provided under subsection (a) on a timely basis.

And the Senate agree to same.

From the Committee on Armed Services, for consideration of the entire House bill, and the entire Senate amendment (except division D), and modifications committed to conference:

LES ASPIN,
CHARLES E. BENNETT,
G.V. MONTGOMERY,

For sections 227, 802, 803, 804, 807, 835, 1302-3, and 2822 of the House bill and sections 811, 812(f), 813, 816, 819, 833, 1205, 1207, 2805, and 2809:

RONALD V. DELLUMS,
PAT SCHROEDER,
BEVERLY BYRON,

NICHOLAS MAVROULES,
EARL HUTTON,
IKE SKELTON,
MARVIN LEATH,
DAVE MCCURDY,
TOM FOGLIETTA,
I oppose title 29 of division B which deals with base closures,
D.M. HERTEL,
NORMAN SISISKY,
RICHARD RAY,
JOHN M. SPRATT, Jr.,
FRANK MCCLOSKEY,
SOLOMON P. ORTIZ,
GEORGE (BUDDY) DARDEN,
LANE EVANS,
JAMES H. BILBRAY,
MICHAEL R. MCNULTY,
GLEN BROWDER,

From the Committee on Armed Services, for consideration of division D of the Senate amendment, and modifications committed to conference:

LES ASPIN,
CHARLES E. BENNETT,
PAT SCHROEDER,
NICHOLAS MAVROULES,
IKE SKELTON,
DAVE MCCURDY,
D.M. HERTEL,
JOHN M. SPRATT, Jr.,
LANE EVANS,
G.V. MONTGOMERY,
BEVERLY BYRON,
EARL HUTTO,
MARVIN LEATH,
TOM FOGLIETTA,
NORMAN SISISKY,
RICHARD RAY,
FRANK MCCLOSKEY,
SOLOMON P. ORTIZ,

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of Rule XLVIII:

ANTHONY C. BEILENSON,
(except for section 907—Intelligence priorities and reorganization),
BOB KASTENMEIER,
(except for section 907—Intelligence priorities and reorganization),

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 324, 335, and 336 and division D of the House bill, and secs. 1216, 1249, and 2806 through 2808 of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
MARY ROSE OAKAR,
BRUCE F. VENTO,
ESTEBAN E. TORRES,
RICHARD E. NEAL,

As additional conferees from the Committee on Education and Labor, for consideration of sec. 504 and division D of the House bill, and secs. 854, 1216, and 3130B of the Senate amendment, and modifications committed to conference:

GUS HAWKINS,
WILLIAM D. FORD,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
TOM SAWYER,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 341, 345, 2834(c), 2851, 2852, 3134, 3135, and 3201 of the House bill, and secs. 319, 813(f), 1003, 1222, 2821, 2824, 3130B, 3133, 3134, 3201, and 3202 and division D of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
THOMAS A. LUKEN,
PHILIP R. SHARP,
AL SWIFT,
DENNIS E. ECKART,
(other than for consideration of sections 2851 and 2852 of the House bill),
EDWARD J. MARKEY,
(solely for consideration of sections 2851 and 2852 of the House bill),

As additional conferees from the Committee on Foreign Affairs, for consideration of secs. 226, 232, 303, 332, 352, 1037, 1331(a), 1346, 1347, 1401 through 1408, 3133, and 3141 through 3144 of the House bill, and secs. 304, 852, 1106, 1107, 1211, 1213 through 1215, 1224, 1225, 1242 through 1244, 1246, 1271 through 1275, 1304(d), 2811, 2812, and 3141 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
LEE H. HAMILTON,
GUS YATRON,
STEPHEN J. SOLARZ,

As additional conferees from the Committee on Government Operations, for consideration of sections 227, 802, 803, 804, 807, 835, 1302, 1303, and 2822 of the House Bill, and sections 811, 812(f), 813(a), 813(c), 813(d), 816, 817, 818, 819, 833(a), 1205, 1207, 2804, 2805, and 2809 of the Senate amendment, and modifications committed to conference:

GERALD D. KLECZKA,

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of division D of the Senate amendment, and modifications committed to conference:

MO UDALL,
GEORGE MILLER,
BRUCE F. VENTO,
EDWARD J. MARKEY,
MEL LEVINE,

As additional conferees from the Committee on the Judiciary, for consideration of secs. 352, 552, 822, and 1343 of the House bill, and secs. 804A, 833(a), 1102, 1218, 1226, 1251 through 1266, and 1503 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
BOB KASTENMEIER,
BARNEY FRANK,
HARLEY O. STAGGERS, Jr.,
JOHN BRYANT,
HAMILTON FISH, Jr.,
CARLOS J. MOORHEAD,
CRAIG T. JAMES,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of secs. 329(d), 553, 1324, and 2831 of the House bill, and secs. 522, 631(b), 2805, 3132, and 3401 through 3407 and division D of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
GERRY E. STUDDS,
CARROLL HUBBARD,
BILLY TAUZIN,
ROY DYSON,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of secs. 361(c), 902, 905, 906, and 1217(b) of the House bill, and secs. 831, 832, 834, 1001(a), 1502, 3202, and 3404 through 3406 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
BILL CLAY,
GERRY SIKORSKI,
MARY ROSE OAKAR,
GARY L. ACKERMAN,
BENJAMIN A. GILMAN,
FRANK HORTON,
CONSTANCE MORELLA,

As additional conferees from the Committee on Public Works and Transportation, for consideration of secs. 2803 and division D of the House bill, and secs. 1216, 1232, 2804, and 2814 of the Senate amendment, and modifications committed to conference:

GLENN M. ANDERSON,
ROBERT A. ROE,
JAMES L. OBERSTAR,
DOUGLAS H. BOSCO,
GUS SAVAGE,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of secs. 802, 804, 804A, 1001, 1002, 1501, 1502, and 3130B of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
JAMES H. SCHEUER,
MARILYN LLOYD,
TIM VALENTINE,
NORMAN Y. MINETA,

As additional conferees from the Committee on Small Business, for consideration of secs. 813(e) of the Senate amendment, and modifications committed to conference:

JOHN J. LAFALCE,

As additional conferees from the Committee on Ways and Means, for consideration of secs. 1223 and division D of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,

As additional conferees from the Committee on Ways and Means, for consideration of sec. 645 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
HAROLD FORD,
THOMAS J. DOWNEY,
DONALD J. PEASE,
ROBERT T. MATSUI,

As additional conferees from the Committee on Agriculture, for consideration of section 2823 of the Senate amendment, and modifications committed to conference:

HAROLD L. VOLKMER,
TIM JOHNSON,
CLAUDE HARRIS,
JIM OLIN,
BEN NIGHTHORSE CAMPBELL,
LARRY COMBEST,

Managers on the Part of the House.

SAM NUNN,
J.J. EXON,
CARL LEVIN,
EDWARD KENNEDY,
JEFF BINGAMAN,
ALAN J. DIXON,
JOHN GLENN,
ALBERT GORE, Jr.,
TIMOTHY E. WIRTH,
RICHARD SHELBY,
ROBERT C. BYRD,
JOHN WARNER,
STROM THURMOND,
PETE WILSON,
JOHN MCCAIN,

SLADE GORTON,
TRENT LOTT,
DAN COATS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4739) of authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY STATEMENT OF CONFERENCE ACTION

The conferees recommend authorization for the Department of Defense for procurement, research and development, test and evaluation, operation and maintenance, working capital funds, military construction and family housing, weapons programs of the Department of Energy, and civil defense totaling $210.3 billion. This figure is $19.0 billion below the amount requested by the President, $5.8 billion above the House bill, and $0.7 billion below the Senate amendment.

The authorizations included in this bill are substantially less than the functional total of $288.3 billion for national defense provided in the Budget Resolution. The primary reason for this difference is that, although military end strengths and pay raises require authorization, the actual funding for military pay and benefits (approximately $78 billion) is not reflected in this bill.

SUMMARY TABLE OF AUTHORIZATIONS

The defense authorization act provides authorizations for appropriations but does not generally provide budget authority. Budget authority is generally provided in appropriation acts.

In order to relate the conference recommendations to the Budget Resolution, matters in addition to the dollar authorizations contained in this bill must be taken into account. A number of programs in the defense function are authorized permanently or, in certain instances, authorized in other annual legislation. In addition, this authorization bill would establish personnel levels and include a number of legislative provisions affecting military compensation.

The following table summarizes authorizations included in the bill for fiscal year 1991 and, in addition, summarizes the implication of the conference action for the budget totals for national defense (budget function 050).

SUMMARY OF FUNDS RECOMMENDED FOR AUTHORIZATION IN FUNCTION 050

	FY1991 Authorization Request	House Authorization	Senate Authorization	House +/- Senate	FY1991 Conference Authorization	Amended FY1991 BA Request	Conference Budget Authority Implication
Aircraft Procurement, Army	1,583.2	1,493.7	857.6	636.1	1,274.4	1,567.2	1,274.4
Missile Procurement, Army	2,436.3	1,966.3	1,918.0	48.4	2,081.1	2,623.5	2,081.1
Weapons & Tracked Combat Vehicles	2,172.6	1,928.4	2,331.2	(402.8)	2,063.7	2,172.6	2,063.7
Procurement of Ammunition, Army	1,424.4	1,324.2	1,051.3	272.8	1,346.8	1,334.4	1,346.8
Other Procurement, Army	2,798.2	2,781.8	2,163.3	618.5	2,526.9	2,816.5	2,526.9
Aircraft Procurement, Navy	9,532.7	9,024.2	7,031.6	1,992.6	8,107.7	9,838.6	8,107.7
Weapons Procurement, Navy	4,626.2	5,376.1	4,424.4	951.7	5,981.2	6,147.5	5,981.2
Shipbuilding & Conversion, Navy	11,195.2	9,016.6	9,314.2	(297.6)	9,414.8	10,602.8	9,414.8
Other Procurement, Navy	6,081.5	5,488.6	6,055.2	(566.6)	5,488.6	6,081.5	5,488.6
Procurement, Marine Corps	782.1	778.3	715.1	63.1	752.5	782.1	752.5
Aircraft Procurement, Air Force	14,217.4	7,295.6	10,293.3	(2,997.7)	9,805.9	14,035.7	9,805.9
Missile Procurement, Air Force	9,005.7	5,569.8	6,729.0	(1,159.1)	6,109.5	8,874.7	6,109.5
Other Procurement, Air Force	8,307.4	7,993.9	7,526.5	467.4	7,826.5	8,237.4	7,826.5
Procurement, Defense Agencies	1,969.4	1,853.5	1,913.9	(60.4)	2,150.0	1,969.4	2,150.0
National Guard And Reserve Equipment	455.4	1,585.6	2,647.4	(1,061.8)	1,871.7	414.5	1,871.7
Defense Production Act Purchases						1.8	1.8
Chemical Agents & Munitions Destruction	354.4	377.3	365.7	11.6	382.6	354.4	382.6
Defense Inspector General	1.0	1.0	1.0		1.0		
Milestone Authorizations	2,057.6		2,080.5	(2,080.5)			
Total Procurement	79,000.7	63,854.9	67,419.1	(3,564.2)	67,184.7	77,854.6	67,185.5
R,D,T& E Army	6,025.9	5,675.8	5,696.3	(20.5)	5,732.7	6,025.9	5,732.7
R,D,T& E Navy	9,017.1	9,360.0	9,194.8	165.2	9,417.9	9,102.4	9,417.9
R,D,T& E Air Force	13,276.3	12,940.1	12,275.6	664.5	12,664.7	13,176.3	12,664.7
R,D,T& E Defense Agencies	9,249.3	7,391.2	8,972.7	(1,581.5)	8,013.9	9,228.3	8,013.9
Developmental Test & Evaluation	348.1	289.1	277.6	11.5	251.6	348.1	251.6
Operational Test & Evaluation	90.8	17.0	17.0		15.0	90.8	15.0
Milestone Authorizations	85.3		106.7	(106.7)			
Total Research & Development	38,092.8	35,673.2	36,540.7	(867.5)	36,095.9	37,971.8	36,095.9

SUMMARY OF FUNDS RECOMMENDED FOR AUTHORIZATION IN FUNCTION 050

	FY1991 Authorization Request	House Authorization	Senate Authorization	House +/- Senate	FY1991 Conference Authorization	Amended FY1991 BA Request	Conference Budget Authority Implication
Operation & Maint., Army	23,562.9	20,943.5	22,008.3	(1,064.9)	21,899.9	23,562.9	21,899.9
Operation & Maint., Navy	24,531.6	23,259.0	23,283.8	(24.8)	23,165.9	24,531.6	23,165.9
Operation & Maint., Marine Corps	1,948.1	1,831.3	1,892.7	(61.4)	1,892.2	1,948.1	1,892.2
Operation & Maint., Air Force	22,048.9	20,389.8	20,785.7	(395.9)	20,624.1	22,048.9	20,624.1
Operation & Maint., Defense Agencies	8,663.1	8,059.3	8,372.3	(313.0)	8,317.4	8,663.1	8,317.4
Office of the Inspector General	98.5	98.5	98.5		98.5	99.5	99.5
Operation & Maint., Army Reserve	890.4	913.4	886.1	27.3	909.1	890.4	909.1
Operation & Maint., Navy Reserve	984.6	1,004.8	977.8	27.0	998.0	984.6	998.0
Operation & Maint., Marine Corps Reserve	86.1	86.1	84.8	1.3	84.8	86.1	84.8
Operation & Maint., Air Force Reserve	1,042.5	1,050.8	1,057.6	(6.8)	1,065.9	1,042.5	1,065.9
Operation & Maint., Army National Guard	1,988.5	1,998.5	1,970.4	28.1	1,980.4	1,988.5	1,980.4
Operation & Maint., Air National Guard	2,175.4	2,203.0	2,219.6	(16.6)	2,247.2	2,175.4	2,247.2
Rifle Practice, Army	5.6	4.0	5.6	(1.6)	4.0	5.6	4.0
Court of Military Appeals	5.6	5.4	5.5	(0.1)	5.4	5.6	5.4
Environmental Restoration, Defense	817.0	1,000.0	1,062.5	(62.5)	1,062.5	817.0	1,062.5
Humanitarian Assistance	13.0	13.0	13.0		13.0	13.0	13.0
Drug Interdiction, Defense	1,207.9	939.3	1,207.9	(268.6)	1,084.1	1,207.9	1,084.1
Rest. of Rocky Mountain Arsenal						21.3	21.3
Mailing Privileges		11.0		11.0	[11.0]		[11.0]
Total Operation & Maintenance	90,069.7	83,810.7	85,932.2	(2,121.5)	85,452.5	90,092.0	85,474.8
Army Stock Fund	407.0	302.5	302.5		302.5	407.0	302.5
Navy Stock Fund	37.2					37.2	
Air Force Stock Fund	1,340.2	887.9	887.9	0.0	887.9	1,340.2	887.9
Defense Stock Fund	50.0					50.0	
Army Industrial Fund	151.1	151.1	151.0	0.1	151.1	151.1	151.1
Navy Industrial Fund	238.7	238.7	238.7		238.7	238.7	238.7
Defense Industrial Fund	4.0	4.0	4.0		4.0	4.0	4.0
Total Revolving/Management Funds	2,228.2	1,584.2	1,584.1	0.1	1,584.2	2,228.2	1,584.2

SUMMARY OF FUNDS RECOMMENDED FOR AUTHORIZATION IN FUNCTION 050

	FY1991 Authorization Request	House Authorization	Senate Authorization	House +/- Senate	FY1991 Conference Authorization	Amended FY1991 BA Request	Conference Budget Authority Implication
Total Military Personnel						79,053.7	78,210.7
Consolidation Savings	(300.0)		(300.0)	300.0		(300.0)	
Division D-Economic Conversion		[200.0]			200.0		200.0
Military Construction, Army	774.9	652.4	718.2	(65.8)	748.2	771.7	748.2
Military Construction, Navy	1,113.3	1,090.1	1,089.1	1.0	1,142.4	1,097.2	1,142.4
Military Construction, Air Force	1,364.2	911.0	1,015.1	(104.1)	914.4	1,376.2	926.4
Milt. Construction, Defense Agencies	787.5	565.3	659.3	(94.0)	618.5	787.5	618.5
NATO Infrastructure	420.4	175.0	210.4	(35.4)	192.7	420.4	192.7
Milt. Construction, Army National Guard	66.4	208.9	196.4	12.5	297.5	48.4	297.8
Milt. Construction, Air National Guard	66.5	119.6	134.3	(14.7)	172.3	29.7	172.3
Military Construction, Army Reserve	59.3	67.0	68.8	(1.8)	76.1	42.6	76.1
Military Construction, Naval Reserve	50.2	63.3	67.2	(3.9)	80.3	50.2	80.3
Milt. Construction, Air Force Reserve	37.7	37.7	37.7		37.7	37.7	37.7
Base Realignment And Closure Account	916.5	1,016.5	966.5	50.0	1,016.5	916.5	1,016.5
Total Military Construction	5,656.9	4,906.9	5,163.1	(256.2)	5,296.7	5,578.0	5,309.0
Family Housing, Army	1,554.5	1,579.5	1,557.0	22.5	1,532.0	1,554.2	1,531.7
Family Housing, Navy	904.5	928.5	883.1	45.4	871.8	904.5	871.8
Family Housing, Air Force	971.9	995.9	961.9	34.0	949.8	971.9	949.8
Family Housing, Defense Agencies	21.1	20.7	21.1	(0.4)	21.1	21.1	21.1
Homeowners Assistance Fund	5.1	56.7	5.1	51.6	5.1	6.5	6.5
Total Family Housing	3,457.1	3,581.3	3,428.2	153.1	3,379.7	3,458.2	3,380.9
Trust Funds/Offsetting Receipts						(805.4)	(805.4)
Total DoD Military	218,205.3	193,411.1	199,767.3	(6,356.2)	199,193.8	295,131.2	276,635.6

SUMMARY OF FUNDS RECOMMENDED FOR AUTHORIZATION IN FUNCTION 050

	FY1991 Authorization Request	House Authorization	Senate Authorization	House +/- Senate	FY1991 Conference Authorization	Amended FY1991 BA Request	Conference Budget Authority Implication
DOE Atomic Energy Defense Activities	10,954.0	10,954.0	11,094.2	(140.2)	10,914.0	10,954.0	10,914.0
Defense Nuclear Facilities Safety Board	12.5	12.5	12.5		12.5	12.5	12.5
Total Atomic Energy Defense Activities	10,966.5	10,966.5	11,106.7	(140.2)	10,926.5	10,966.5	10,926.5
Intelligence Community Staff						28.9	28.9
Selective Service Salaries & Expenses						26.6	26.6
Ready Reserve Force						225.0	225.0
CIA Retirement						164.6	164.6
FEMA Civil Defense	154.1	154.1	144.1	10.0	149.1	314.4	309.4
Total Other Defense	154.1	154.1	144.1	10.0	149.1	759.5	754.5
Total National Defense Function (Excluding Desert Shield)	229,326.0	204,531.8	211,018.2	(6,486.4)	210,269.4	306,857.2	288,316.7
Title XI-Desert Shield							174.0
Total National Defense Function (Including Desert Shield)							288,490.7

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $79,00.7 million for procurement in the Department of Defense. The House bill would authorize $63,854.0 million. The Senate amendment would authorize $67,419.1 million. The conferees recommend authorization of $67,184.7 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

AIRCRAFT PROCUREMENT, ARMY

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $1,583.2 million for Aircraft Procurement, Army. The House bill would authorize $1,493.7 million. The Senate amendment would authorize $857.6 million. The conferees recommend authorization of $1,274.4 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	AIRCRAFT PROCUREMENT, ARMY												
1	GRISLY HUNTER (TIARA)	1	10,430	1				1		(1)	(10,430)		
2	RC-12H/K RECON AIRPLANE (TIARA)	5	87,407	5	87,407	5	62,407		25,000			5	87,407
3	TOTAL PACKAGE FIELDING		16,200				16,200		(16,200)		(16,200)		
4	AH-64 ATTACK HELICOPTER (APACHE) (MYP)		104,226		104,226		104,226						104,226
5	AH-64 ADVANCE PROCUREMENT (CY)												
6	UH-60 BLACKHAWK (MYP)	72	272,118	72	272,118	48	116,118	24	156,000	(24)	(156,000)	48	116,118
7	UH-60 ADVANCE PROCUREMENT (CY)		197,191		197,191		197,191				(70,000)		127,191
	MODIFICATION OF AIRCRAFT												
8	INSTALLATION OF MODERNIZATION EQUIPMENT												
9	OV-1 MODS SURVEILLANCE AIRPLANE (TIARA)		200		200		200						200
10	RC-12D MODS (TIARA)		31,604		31,604		31,604						31,604
11	RU-21 MODS (TIARA)		9,737		9,737		9,737						9,737
12	AH1S MODS		7,977		7,977		7,977						7,977
13	AH-64 MODS		85,687		20,000		85,687		(65,687)		(8,587)		77,100
14	CH-47 CARGO HELICOPTER (MODS) (MYP)		237,761		237,761		96,700		141,061				237,761
15	CH-47 ADVANCE PROCUREMENT (CY)		56,443		56,443		56,443						56,443
16	OH-58 MODS		24,695		24,695		20,495		4,200		(4,200)		20,495
17	UH-1 MODS		26,838		26,838		26,838						26,838
18	UH-60 MODS		83,527		78,527		83,527		(5,000)		(10,800)		72,727
19	AHIP		47,993		47,993		13,193		34,800				47,993
20	AHIP ADVANCE PROCUREMENT (CY)												
21	AIRBORNE AVIONICS												
22	ASE MODS		11,453		11,453		11,453						11,453
23	ACFT 9WW MODS												
24	SOF AIRCRAFT MODS												
25	SOF ADVANCE PROCUREMENT (CY)												
26	TRACTOR HEAVY MODS		767		767		767						767
	RETIREMENT OF OBSOLETE AIRCRAFT						(40,400)		40,400		(40,400)		(40,400)
	SPARES AND REPAIR PARTS												
27	SPARES AND REPAIR PARTS												

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	SUPPORT EQUIPMENT AND FACILITIES												
28	AIRCRAFT SURVIVABILITY EQUIPMENT		107,890		107,890		107,890						107,890
29	AIRBORNE COMMAND & CONTROL CONSOLES				7,800		7,800				7,800		7,800
30	AVIONICS SUPPORT EQUIPMENT		43,634		43,634		43,634						43,634
31	COMMON GROUND EQUIPMENT		67,894		67,894		67,894						67,894
32	AIR TRAFFIC CONTROL		8,690		8,690		8,690						8,690
33	SYNTHETIC FLIGHT TRAINING SYSTEMS		10,426		10,426		10,426						10,426
34	INDUSTRIAL FACILITIES		27,838		27,838		27,838						27,838
35	WAR CONSUMABLES		4,574		4,574		4,574						4,574
	GUARD AND RESERVE EQUIPMENT CONSOLIDATION						(321,500)		321,500				
	TOTAL AIRCRAFT PROCUREMENT ARMY		1,583,200		1,493,683		857,609		636,074		(308,817)		1,274,383

AH-64 helicopter

The amended budget request included $85.687 million for modifications to existing AH-64 attack helicopters. The budget request also included $159.057 million to continue development of the Longbow upgrade system which the Army intends to retrofit on the AH-64 helicopter.

The House bill would deny the authorization for modifications to the AH-64 and instead would authorize $20 million to initiate corrective actions for the logistics and maintenance shortcomings of the AH-64 helicopter. The House bill would authorize the Longbow program at the requested level.

The Senate amendment would authorize the modifications at the requested level, and would authorize $159.057 million for the Longbow research and development program. The Senate amendment earmarked $30 million of the Longbow funds for a corrective action plan comparable to that envisioned in the House bill, and an additional $18 million to examine alternatives to the LH helicopter.

The conferees believe that the Army needs to bring overall configuration management to the AH-64 fleet that addresses three key areas: corrective action on current reliability problems, block capability improvements as envisioned in the Longbow program, and service life extension. The conferees do not believe the Army has a coherent overall resource management program for the AH-64 and has concluded that the Army needs to develop a program to combine block modernization and service life extension, paced by Longbow development, as soon as possible.

Consequently, the conferees recommend an authorization of $159.057 million for the Longbow program and $77.1 million for AH-64 modifications, of which at least $20 million shall be used to correct immediate reliability problems in the AH-64 fleet. The remaining $57.1 million shall be used for planned modificaiton kits for installation in the block modification/service life extension program delineated above. The conferees direct that not more than half of the funds authorized for the Longbow program may be obligated until the Secretary of the Army has developed a comprehensive modernization program for the AH-64 fleet that addresses reliability upgrades and block capability improvements in conjunction with a service life extension. The Senate recedes on the earmarking of funds within the Longbow program for reliability improvements and LH alternatives.

Armed helicopter improvement program (armed AHIP)

The amended budget request contained $39.0 million to initiate modifications of AHIP helicopters to convert them to the so-called "armed AHIP" configuration. This configuration would equip AHIP helicopters to launch Hellfire anti-armor missiles and Stinger air defense missiles. The amended budget request also contained $25.8 million in research and development for the armed AHIP modification progam.

The House bill would authorize the armed AHIP program as requested.

The Senate amendment would defer the armed AHIP program. The report accompanying the Senate amendment (S. Rept. 101-384) noted that the purpose of the armed AHIP program was to increase the number of Army helicopters that could launch Hellfire and Stinger missiles, yet the Army presently plans to terminate those programs after fiscal year 1991. The Senate report concluded it makes little sense to expand the number of helicopters that can launch missiles that will no longer be in production when there is currently a shortfall of missiles for the current fleet of helicopters.

The conferees recommend an authorization of $25.8 million in research and development and $39.0 million for modification of AHIP helicopters to incorporate the armed AHIP features. However, the conferees direct that none of these funds be obligated until the Secretary of Defense has certified that the Army has sufficient funds to produce Hellfire and Stinger missiles in the Six Year Defense Program and that the armed AHIP helicopters will not divert any missiles from the weapon systems that currently launch those missiles.

Retiring obsolete force structure

The conferees agree that the Department of Defense should accelerate the deactivation or retirement of obsolete weapon systems. The conferees note, however, that the Army's RC-12 aircraft is an integral part of the guardrail common sensor modernization initiative and should therefore be excluded from this retirement effort.

MISSILE PROCUREMENT, ARMY

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $2,436.3 million for Missile Procurement, Army. The House bill would authorize $1,966.3 million. The Senate amendment would authorize $1,918.0 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	MISSILE PROCUREMENT, ARMY												
	SURFACE-TO-AIR MISSILE SYSTEM												
1	CHAPARRAL												
2	ADS HVY MSL SYSTEM	220	235,584							(220)	(235,584)		
2a	ADATS PRIOR YEAR SAVINGS				(181,876)		(167,176)		(14,700)		(181,876)		(181,876)
3	ADATS ADVANCE PROCUREMENT (CY)		36,200								(36,200)		
4	HAWK MSL SYSTEM												
5	OTHER MISSILE SUPPORT		4,850		4,850		4,850						4,850
6	PATRIOT(MYP)	817	883,152	817	790,752	817	790,752				(92,400)	817	790,752
7	PATRIOT ADVANCE PROCUREMENT (CY)												
8	STINGER	6,922	252,428	6,922	252,428	6,922	252,428					6,922	252,428
9	AVENGER (PED MT STINGER) (MYP)	88	97,391	88	97,391	88	97,391					88	97,391
10	PMS ADVANCE PROCUREMENT (CY)		25,700		25,700		25,700						25,700
	AIR-TO-SURFACE MISSILE SYSTEM												
11	LASER HELLFIRE SYSTEM	3,002	123,279	3,002	106,279	3,002	106,279				(17,000)	3,002	106,279
	ANTI-TANK/ASSAULT MISSILE SYSTEM												
12	ADVANCED ANTITANK WPNS SYS MED (AAWS-M)		15,550		15,550		15,550						15,550
13	TOW 2	13,284	219,465	13,284	179,465	13,284	179,465				(40,000)	13,284	179,465
14	MULTIPLE LAUNCH ROCKET SYSTEM (MYP)	24,000	313,915	48,000	463,915	36,000	383,915	12,000	80,000	12,000	70,000	36,000	383,915
15	MLRS ADVANCE PROCUREMENT (CY)		59,600		59,600		59,600						59,600
16	ARMY TACTICAL MISSILE SYS (ATACMS)	318	168,678			318	168,678	(318)	(168,678)			318	168,678
17	ATACMS ADVANCE PROCUREMENT (CY)		18,500				18,500		(18,500)				18,500
	ATACMS PRIOR YEAR SAVINGS				(7,600)				(7,600)				
18	TOTAL PACKAGE FIELDING (MSL)		9,317				9,317		(9,317)		(9,317)		

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	House +/- Senate Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
	MODIFICATION OF MISSILES												
19	PATRIOT MODS		20,856		20,856		20,856						20,856
20	CHAPARRAL MODS												
21	HAWK MODS		43,615		43,615		43,615						43,615
22	TOW MODS		45,385		45,385		45,385						45,385
23	DRAGON MODS												
24	LANCE MODS												
25	PERSHING MODS												
26	MLRS MODS		17,468		17,468		17,468						17,468
27	TRACTOR RIG		8,050		8,050		8,050						8,050
28	DEPOT MODIFICATION APPLICATION												
	SPARES AND REPAIR PARTS												
29	SPARES AND REPAIR PARTS												
	SUPPORT EQUIPMENT AND FACILITIES												
30	AIR DEFENSE TARGETS		12,503		12,503		12,503						12,503
31	ITEMS LESS THAN $2.0M (MISSILES)		3,627		3,627		3,627						3,627
32	PRODUCTION BASE SUPPORT		8,387		8,387		8,387						8,387
	TOTAL MISSILE PROCUREMENT ARMY		2,623,500		1,966,345		2,105,140		(138,795)		(542,377)		2,081,123
	PRIOR YEAR MILESTONE AUTH.- ATACMS		(187,178)				(187,178)						
	NEW AUTHORIZATION		2,436,322		1,966,345		1,917,962						2,081,123

Multiple launch rocket system

The amended budget request included $313.915 million for procurement of 73 Multiple Launch Rocket Systems (MLRS) launchers and 24,000 rockets in fiscal year 1991 and $59.6 million for advance procurement for fiscal year 1992.

The House bill would authorize $463.915 million, which would include an additional 24,000 rockets.

The Senate amendment would authorize $383.915 million, which would include an additional 12,000 rockets to provide for a more efficient production rate.

The conferees recommend an authorization of $383.915 million for a total of 73 launchers and 36,000 rockets.

The conferees encourage the Army to continue its successful formula for production of the rockets, to include the rocket motor case and warhead skin metal parts. The conferees believe the current contractor and subcontractor base should be sustained if it is cost-effective.

The report accompanying the Senate bill (S. Rept. 101-384) directed the Army to change the financial reporting of the MLRS in congressional budget documents to report the launchers in the Weapons, Tracked Combat Vehicle appropriation and the missiles in Missile Procurement, Army. The conferees understand that this will cause unnecessary disruptions. Consequently, the conferees direct the Army to keep all MLRS costs in the Missile Procurement, Army account, but to show in the P-1 documentation separate lines for launchers and rockets.

Army tactical missile system (ATACMS)

The amended budget request contained $168.678 million for procurement of Army Tactical Missile System missiles and $18.500 million for advance procurement for fiscal year 1992.

The House bill would terminate the ATACMS program.

The Senate amendment would authorize the program as requested.

The conferees recommend authorization at the requested level. The conferees understand that changes in the threat have led the Army to re-evaluate inventory requirements for ATACMS. The conferees expect the Secretary of the Army to update the congressional defense committees on that requirements review next year when the fiscal year 1992/1993 budget request is submitted.

WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $2,172.6 million for Weapons and Tracked Combat Vehicles, Army. The House bill would authorize $1,928.4 million. The Senate amendment would authorize $2,331.2 million. The conferees recommend authorization of $2,063.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
PROCUREMENT OF W&TCV, ARMY													
TRACKED COMBAT VEHICLES													
1	BRADLEY FIGHTING VEHICLE FAMILY (MYP)	600	657,360	300	430,425	600	657,360	(300)	(226,935)	(300)	(226,935)	300	430,425
2	BRADLEY ADVANCE PROCUREMENT (CY)		30,500		18,700		30,500		(11,800)		(11,800)		18,700
3	BRADLEY FVS TRAINING DEVICES												
4	BRADLEY FVS TRAINING DEVICES (MOD)												
5	FIELD ARTILLERY AMMUNITION SUPPORT VEH												
6	RECOVERY VEHICLE SERIES (MYP)												
7	M1 ABRAMS TANK TRAINING DEVICES		15,039		15,039		15,039						15,039
8	M1 ABRAMS TANK SERIES (MYP)	225	747,324	225	698,324	225	807,324		(109,000)			225	747,324
9	M-1 ADVANCE PROCUREMENT (CY)										150,000		150,000
10	CARRIER, MOD												
11	BFVS SERIES (MOD)		146,135		146,135		146,135						146,135
12	HOWITZER, MED SP FT 155MM M109 SER(MOD)		206,827		206,827		206,827				(25,927)		180,900
13	M1 ABRAMS TANK (MOD)		80,137		230,137		229,137		1,000		64,000		144,137
14	9WW												
15	MODIFICATIONS LESS THAN $2M (TCV-WTCV)		1,000		1,000		1,000						1,000
16	TOTAL PACKAGE FIELDING		63,600				63,600		(63,600)		(63,600)		
17	HOST NATION SUPPORT												
18	SPARES AND REPAIR PARTS												
19	ITEMS LESS THAN $2.0M (TCV-WTCV)		955		955		955						955
20	PRODUCTION BASE SUPPORT (TCV-WTCV)		83,166		28,024		20,566		7,458		(6,966)		76,200
21	REGIONAL MAINT TRAINING SITES-EQUIP		10,322		10,322		10,322						10,322

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	WEAPONS AND OTHER COMBAT VEHICLES												
22	HOWITZER, LIGHT, TOWED, 105MM, M119	42	26,235	42	26,235	42	26,235					42	26,235
23	SOF WEAPONS												
24	MACHINE GUN, 5.56MM (SAW)	7,241	12,450	7,241	12,450	7,241	12,450					7,241	12,450
25	GRENADE LAUNCHER, AUTO, 40MM, MK19-3				12,300	820	12,300	(820)		820	12,300	820	12,300
26	LAUNCHER, SMOKE GRENADE	2,763	1,732	2,763	1,732	2,763	1,732					2,763	1,732
27	MORTAR, 120MM	196	12,326	196	12,326	196	12,326					196	12,326
28	M16 RIFLE	33,160	14,786	33,160	14,786	33,160	14,786					33,160	14,786
29	SNIPER WEAPON SYSTEM												
30	PERSONAL DEFENSE WEAPON, 9MM	35,101	8,021	35,101	8,021	35,101	8,021					35,101	8,021
31	VEH RAPID FIRE WPN SYS-BUSHMASTER (MYP)	611	25,466	611	25,466	611	25,466					611	25,466
32	BUSHMASTER ADVANCE PROCUREMENT (CY)		2,000		2,000		2,000						2,000
33	M16A1 RIFLE MODS		5,623		5,623		5,623						5,623
34	MODIFICATIONS LESS THAN $2.0M (WOCV-WTCV)		608		608		608						608
35	MODERNIZATION OF EQUIP-O&M TRANSFER												
36	SPARES AND REPAIR PARTS												
37	ITEMS LESS THAN $2.0M (WOCV-WTCV)		1,999		1,999		1,999						1,999
38	PRODUCTION BASE SUPPORT (WOCV-WTCV)		17,436		17,436		17,436						17,436
39	INDUSTRIAL PREPAREDNESS		1,553		1,553		1,553						1,553
	GUARD AND RESERVE EQUIPMENT CONSOLIDATION						(100)		100				
	TOTAL WEAPONS & TRACKED COMBAT VEHICLES		2,172,600		1,928,423		2,331,200		(402,777)		(108,928)		2,063,672

M2 Bradley fighting vehicle

The amended budget request contained $657.360 million to procure 600 M2 Bradley Fighting Vehicles. The Army proposed that these 600 vehicles, when combined with 600 authorized in fiscal year 1990, would be combined into a four-year multiyear contract with deliveries through the fiscal year 1992 funded delivery period. After that point, the M2 production line would be closed.

The House bill would authorize $430.425 million for 300 vehicles, and direct the Army to restructure its plans to procure 1,200 vehicles in order to sustain the production base through fiscal year 1993.

The Senate amendment would authorize the funds as requested. The report accompanying the Senate amendment (S. Rept. 101-384) pointed out that the Army may not be procuring sufficient numbers of M2/M3 vehicles, and questioned the Army's plans to substitute High Mobility Multipurpose Wheeled Vehicles (HMMWVs) for M3s in scout platoons in heavy battalions. The Senate report directed the Army to develop a multiyear procurement plan for 1,600 vehicles over a four-year period.

The conferees recommend an authorization of $430.425 million for 300 vehicles and direct the Army to restructure the multiyear procurement authorized in the National Defense Authorization Act for fiscal year 1989 (Public Law 100-456) and submit appropriate revised exhibits to reflect a total procurement of 1,200 vehicles to the Armed Services Committees of the Senate and House of Representatives with the fiscal year 1992/1993 budget documents.

The conferees remain concerned over the loss of armor protection and direct fire suppression in scout platoons in heavy battalions resulting from the substitution of HMMWVs for M3 Cavalry Fighting Vehicles and urge the Army to thoroughly review this decision.

M1 tank and tank modification program

The amended budget request included $747.324 million to procure 225 M1 tanks. The Administration proposed termination of the M1 tank program after these last 225 tanks were fabricated. Of the 225 tanks, 62 tanks were to be built in the so-called block 2 configuration.

The House bill would authorize $698.324 million to procure 225 tanks. The House bill would eliminate those funds earmarked in the budget request to terminate activities in the Detroit Army Tank Plant and would move those activities to the Lima Army Tank Plant. The House bill also would authorize $150 million to initiate a modification program to convert early model M1 tanks into the block 2 tank configuration. The House bill contained a provision (sec. 142) that would restrict the start of that modification program until certain tests were accomplished and certifications made.

The Senate amendment would authorize $807.324 million to procure 225 tanks. The Senate amendment would increase funding so that a maximum of 120 of the 225 tanks might be manufactured in the block 2 configuration. The Senate amendment would also eliminate funds earmarked to inactivate the Detroit Army Tank Plant, and would authorize $149 million to initiate a modification program to convert early model M1 tanks into the block 2 tank configuration.

The conferees note that the Appropriations Committees of the Senate and House of Representatives have expressed reservations about the Army's plan to proceed with the block 2 program because of insufficient operational testing. The conferees are more confident that the block 2 program can be successfully implemented, but share the concern that the Army needs to operationally test the block 2 tank before launching either new production or a block 2 remanufacture program.

Consequently, the conferees recommend an authorization of $747.324 million to procure 225 tanks. The conferees understand that if the block 2 tank is not initiated in fiscal year 1991, that it is possible to build more than 225 M1 tanks. The Army need not submit a reprogramming to increase the quantity of tanks that can be procured with funds available in fiscal year 1991.

If the remanufacture/modification program does not proceed immediately to the block 2 configuration, the conferees understand that only $64 million would be required in fiscal year 1991, and recommend that level in addition to the budget request for modifications for fiscal year 1991. The conferees also recommend an authorization of $150 million in advance procurement. The conferees recommend a provision (sec. 142) that would authorize the Secretary of the Army to use those funds to accelerate the block 2 program if operational testing proves successful.

Finally, the conferees understand that certain streamlining will necessarily take place in the Warren and Lima Army tank plants as a result of lower production rates. Based on all of the foregoing actions, the conferees agree to eliminate those funds that would be used to inactivate the Warren Army Tank Plant.

AMMUNITION, ARMY

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $1,424.4 million for Ammunition, Army. The House bill would authorize $1,324.2 million. The Senate amendment would authorize $1,051.3 million. The conferees recommend authorization of $1,346.8 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
PROCUREMENT OF AMMUNITION, ARMY													
1	NUCLEAR WEAPONS SUPPORT MATERIEL		6,350		6,350		6,350						6,350
2	PROJ, 155MM, NUCLEAR, M785												
3	PROJ, 155MM, BINARY CHEMICAL, M687		74,303								(74,303)		
3a	PROJ, 155MM, BINARY CHEMICAL, M687 PY				(47,019)				(47,019)		(47,019)		(47,019)
SMALL/MEDIUM CAL AMMUNITION													
4	CTG, 5.56MM, ALL TYPES		52,047		52,047		52,047						52,047
5	CTG, 7.62MM, ALL TYPES		4,244		4,244		4,244						4,244
6	CTG, .45 CAL, ALL TYPES		495		495		495						495
7	CTG, .50 CAL, ALL TYPES		3,052		3,052		3,052						3,052
8	CTG, 20MM, ALL TYPES		9,863		9,863		9,863						9,863
9	CTG, 25MM, ALL TYPES		89,581		89,581		89,581						89,581
10	CTG, 30MM, ALL TYPES		9,455		9,455		9,455						9,455
11	CTG, 40MM, ALL TYPES		2,353		2,353		2,353						2,353
MORTAR AMMUNITION													
12	CTG, MORTAR, 60MM, SMOKE, M722	25	4,013	25	4,013	25	4,013					25	4,013
13	CTG, MORTAR, 60MM, HE, M720												
14	CTG, MORTAR, 81MM, 1/10 PRAC, M880												
15	CTG, MORTAR, 4.2 IN, HE, M329												
16	CTG, MORTAR, 4.2 IN, ILLUM, M335												
17	CTG, MORTAR, 120MM, HE, XM934												
18	CTG, MORTAR, 120MM, HE, XM933												
19	CTG, MORTAR, 120MM, SMOKE, XM929												
TANK AMMUNITION													
20	CTG, TANK, 35MM, SUBCAL PRAC, M968												
21	CTG, TANK, 105MM, TP-T, M490A1	45	8,738	45	8,738	45	23,038		(14,300)		14,300	45	23,038
22	CTG, TANK, 105MM, DS-TP, M724A1	34	6,511	34	6,511	34	23,111		(16,600)		16,600	34	23,111
23	CTG, TANK, 105MM, APFSDS-T, M900E1	44	66,991	44	66,991	44	66,991					44	66,991
24	CLASSIFIED PROJECT		[ ]		[ ]		[ ]						[ ]
25	CLASSIFIED PROJECT		[ ]		[ ]		[ ]				[10,000]		[ ]
26	CTG, TANK, 120MM, APFSDS-T, M829												
27	CTG, TANK, 120MM, HEAT-MP-T, M830												
28	CTG, TANK, 120MM, TP-T, M831	43	41,158	43	41,158	43	41,158					43	41,158
29	CTG, TANK, 120MM, TPCSDS-T, M865	177	130,458	177	130,458	177	130,458					177	130,458

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	ARTILLERY AMMUNITION												
30	CTG, ARTY, 75MM, BLANK, M337A1												
31	CTG, ARTILLERY, 105MM, BLANK, M395	181	5,740	181	5,740	181	5,740					181	5,740
32	CTG, ARTILLERY, 105MM, HERA, M913	34	15,646			34	15,646	(34)	(15,646)		(7,846)	34	7,800
33	PROJ, ARTY, 155MM, DPICM, M483A1												
34	PROJ, ARTY, 155MM, SMOKE WP, M825												
35	PROJ, ARTY, 155MM, ADAM-S M731	8	36,928	8	36,928	8	36,928					8	36,928
36	PROJ, ARTY, 155MM, RAAMS-L M718												
37	PROJ, ARTY, 155MM, RAAMS-S M741												
38	PROJ, ARTY, 155MM, BASEBURNER M864	138	118,514	138	118,514	35	30,000	103	88,514			138	118,514
39	PROJ, ARTILLERY, 155MM, TRNG, M804	203	32,557							(203)	(32,557)		
39a	PROJ, ARTILLERY, 155MM, TRNG, M107				32,557				32,557		32,557		32,557
40	PROJ, ARTY, 8 IN, HE RAP, M650												
41	PROP CHG, 155MM, GREEN BAG, M3												
42	PROP CHG, 155MM, RED BAG, M203												
43	PROP CHG, 155MM, RED BAG, M119												
	ARTILLERY FUZES												
44	FUZE, ARTILLERY, ELEC TIME, M767	35	3,098	35	3,098	35	3,098					35	3,098
45	FUZE, ARTILLERY, PROXIMITY, M732	197	33,020	197	33,020	197	33,020					197	33,020
46	FUZE, ARTILLERY, PD, M739												
47	FUZE, ARTILLERY, MECH TIME, M577												
48	FUZE, ARTILLERY, MECH TIME, M582												
49	FUZE, ARTILLERY, ELEC TIME, M762	100	7,246	100	7,246	100	7,246					100	7,246
49a	MOUT FUZE				18,000		2,000		16,000		2,000		2,000
	MINES												
50	MINE, TRAINING, ALL TYPES												
51	MINE, GEMSS, AT, M75												
52	MINE, VOLCANO, PRACTICE, M88	3	1,621	3	1,621	3	1,621					3	1,621
53	MINE, VOLCANO, AT/AP, M87	48	78,506	48	78,506	48	78,506					48	78,506
54	MINE, CLEARING CHARGE, ALL TYPES		1,589		1,589		1,589						1,589
55	MINE, MOPMS, AT/AP, M131												

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
ROCKETS													
56	RANGER, ANTI-ARMOR WPN SYS (SOF)												
57	AT-4 MULTI-PURPOSE WEAPON	11	16,642	11	16,642	11	16,642					11	16,642
58	AT-4 MULTI PURPOSE WEAPON TRAINER												
59	ROCKET, HYDRA 70, ALL TYPES		43,487		43,487		43,487						43,487
OTHER AMMUNITION													
60	CTG, 165MM, COMB ENG VEH, TP, M623												
61	PRIMER, PERCUSSION, M82												
62	DEMOLITION MUNITIONS, ALL TYPES		5,621		4,621		4,621				(1,000)		4,621
63	LINEAR SHAPED CHARGE (SOF)												
64	GRENADES, ALL TYPES		7,961				1,361		(1,361)		(6,600)		1,361
65	SIGNALS, ALL TYPES		2,718		1,318		1,318				(1,400)		1,318
66	SIMULATORS, ALL TYPES		10,197		9,197		9,197				(1,000)		9,197
MISCELLANEOUS													
67	AMMO COMPONENTS, ALL TYPES		27,814		27,814		27,814						27,814
68	CAD/PAD, ALL TYPES		8,103		8,103		8,103						8,103
69	ITEMS LESS THAN $2 MILLION		4,181		4,181		2,781		1,400		(1,400)		2,781
70	EOD EXPLOSIVE ITEMS		1,104		1,104		1,104						1,104
71	SPARES AND REPAIR PARTS												
72	AMMUNITION PECULIAR EQUIPMENT		6,000		6,000		6,000						6,000
73	NITROGUANIDINE		28,789		29,889		28,789		1,100		1,100		29,889
74	AMMO 9WW/ELT												
75	HOST NATION SUPPORT (AMMO)		18,621		18,621		18,621						18,621
AMMUNITION PRODUCTION BASE SUPPORT													
76	PROVISION OF INDUSTRIAL FACILITIES		134,647		134,647		84,647		50,000				134,647
77	COMPONENTS FOR PROVE-OUT		12,100		12,100		12,100						12,100
78	LAYAWAY OF INDUSTRIAL FACILITIES		40,534		59,534		40,534		19,000		19,000		59,534
79	RDX FACILITY												
80	PROVING GROUND MODERNIZATION		4,000		4,000		4,000						4,000
81	MAINTENANCE OF INACTIVE FACILITIES		67,800		67,800		67,800						67,800
999	CLASSIFIED PROGRAMS		140,004		150,004		150,004				10,000		150,004
	GUARD AND RESERVE EQUIPMENT CONSOLIDATION						(159,200)		159,200				
	TOTAL AMMUNITION, ARMY		1,424,400		1,324,171		1,051,326		272,845		(77,568)		1,346,832

155 millimeter nuclear projectile program termination

The Senate amendment contained a provision (sec. 131.1(a)) that would prohibit the obligation of funds appropriated for the Department of Defense (DOD) or the Department of Energy (DOE) for fiscal year 1991 or for any fiscal year thereafter for the W-82 155 millimeter nuclear projectile program.

The House bill contained no similar provision.

The House recedes with an amendment that would maintain the prohibition on the obligation of DOD funds for this program but would not preclude DOE from incurring necessary program termination costs.

Plastic ammunition and plastic ammunition packaging containers

The conferees believe that small-caliber plastic training ammunition offers a cost-effective potential method to expand the number of training ranges that can be used for realistic training, particularly as the Defense Department places greater emphasis on National Guard and reserve units and the Bradley Fighting Vehicle with the 25 mm cannon is distributed in greater numbers to the reserve components. The Army is directed to carefully evaluate opportunities to expand the use of plastic training ammunition, particularly in those cases where items can be procured with little or no development cost.

The conferees also support the evaluation of non-developmental item (NDI) NATO standard plastic ammunition containers. The conferees believe these plastic packaging containers have the potential for considerable savings in weight, decreased damage, ease of handling and reissue as well as cost.

The conferees invite the Department to submit reprogramming proposals for plastic training ammunition and plastic ammunition containers if evaluation of these products demonstrates their utility.

Ammunition inventory modernization study

The conferees endore the study required from the Secretary of Defense by January 31, 1991, on the current stockpile of munitions and munitions-related items with the objective of modernizing that inventory called for in the House report on the National Defense Authorization Act for Fiscal Year 1991 (H. Rept. 101-665).

OTHER PROCUREMENT, ARMY

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $2,798.2 million for Other Procurement, Army. The House bill would authorize $2,781.8 million. The Senate amendment would authorize $2,163.3 million. The conferees recommend authorization of $2,526.9 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	OTHER PROCUREMENT, ARMY												
	TACTICAL AND SUPPORT VEHICLES												
1	TACTICAL TRAILERS/DOLLY SETS		8,619		8,619		8,619						8,619
2	SEMITRAILER FB BB/CONT TRANS 22 1/2 T	956	16,146	956	16,146	956	16,146					956	16,146
3	SEMITRAILER LB 40T M870A1 (CCE)												
4	SEMITRAILER, TANK, 5000G			480	34,000			480	34,000	480	34,000	480	34,000
5	SEMITRAILER, TANK, 7500G, BULKHAUL												
6	SEMITRAILER VAN ELECT 3-6T 2W M373A2												
7	HI MOB MULTI-PURP WHLD VEH (HMMWV)(MYP)	8,262	252,374	8,262	252,374	8,262	252,374					8,262	252,374
8	SMALL UNIT SUPPORT VEHICLE (SUSV)	157	27,031							(157)	(27,031)		
9	TRUCK, 5T, 6X6, ABT (MYP)												
10	FAMILY OF MEDIUM TACTICAL VEH (MYP)	392	56,330	392	56,330	392	56,330					392	56,330
11	HEAVY EQUIPMENT TRANSPORTER SYS		100,727		100,727		100,727						100,727
12	TRUCK, 10T, 8X8, ABT												
13	FAMILY OF HEAVY TACTICAL VEH (MYP)	494	150,576	494	150,576	494	107,279		43,297		(43,297)	494	107,279
14	TRUCK, TRACTOR, LINE HAUL, M915A1												
15	MODIFICATION OF IN SVC EQUIP		4,730		4,730		4,730						4,730
16	ITEMS LESS THAN $2.0M (TAC VEH)		1,563		1,563		1,563						1,563
17	PASSENGER CARRYING VEHICLES	307	5,570			307	5,570	(307)	(5,570)	(307)	(5,570)		
18	GENERAL PURPOSE VEHICLES		7,890				7,890		(7,890)		(7,890)		
19	TRUCK, CARGO, PICKUP, 4X2												
20	TRUCK, CARRYALL												
21	SPECIAL PURPOSE VEHICLES		7,522		7,522		7,522						7,522
22	TOTAL PACKAGE FIELDING (OPA-1)		9,250				9,250		(9,250)		(9,250)		
23	FIRST DESTINATION TRANS (OPA-1)		9,250		9,250		9,250						9,250
24	SPARES AND REPAIR PARTS												
24a	SLEP FOR MEDIUM TRUCKS				50,000				50,000		10,000		10,000
25	PRODUCTION BASE SUPPORT (TAC VEH)		1,035		1,035		1,035						1,035

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	COMMUNICATIONS AND ELECTRONICS EQUIPMENT												
26	CLASSIFIED PROJECT 9WW												
27	JCSE EQUIPMENT (USREDCOM)		4,500		4,500		4,500						4,500
28	TRACTOR SEAT												
29	DEFENSE SATELLITE COMMUNICATIONS SYSTEM		40,335		40,335		40,335						40,335
30	GMF CONTROL	2	1,051	2	1,051	2	1,051					2	1,051
31	NAVSTAR USER EQUIPMENT		29,383		29,383		29,383				(11,300)		18,083
32	SINGLE CHANNEL OBJECT TACT TERM (SCOTT)												
33	MOD OF IN-SVC EQUIP (TAC SAT)		9,942		9,942		9,942						9,942
34	SAT TERM, MPK UHF, AN/PSC-3												
35	SAT TERM, VEH UHF, AN/VSC-7												
36	EUCOM COMMAND CENTERS		7,395				7,395		(7,395)				7,395
37	EUSA-C3I INITIATIVES		4,403		4,403		4,403						4,403
38	SECURE CONFERENCING PROJECT		1,151		1,151		1,151						1,151
39	SOUTHCOM C3 UPGRADE		1,056		1,056		1,056						1,056
40	USAREUR TACTICAL COMD & CONTROL SYS		5,966				5,966		(5,966)		(5,966)		
41	WWMCCS INFORMATION SYSTEM (WIS)		20,882		20,882		20,882						20,882
42	ARMY DATA DISTRIBUTION SYSTEM (ADDS)		22,184		22,184		22,184						22,184
43	MOBILE SUBSCRIBER EQUIP (MSE)		29,257		29,257		29,257				(15,000)		14,257
44	SINCGARS FAMILY		311,325		311,325		286,325		25,000		(15,000)		296,325
45	SMALL UNIT TRANSCEIVER												
46	SOF COMMUNICATIONS												
47	SW ASIA COMM INFRASTRUCTURE												
48	EAC COMMUNICATIONS		24,825		24,825		24,825						24,825
49	MOD OF IN-SVC EQUIP (EAC COMM)		37,679		37,679		37,679						37,679
50	VEHICULAR INTERCOM SYSTEM (VIS)												
51	MOD OF IN-SVC EQUIP (CMBT COMM)												
52	ITEMS LESS THAN $2.0M (CMBT COMM)												
53	TSEC - IFF COMSEC												
54	TSEC - TRUNK ENCRYPTION DEVICES (TED)		5,300		5,300		5,300						5,300
55	TSEC/KG-84, DED LOOP ENCRYP DEV		11,268		11,268		11,268						11,268
56	TSEC/KGV-11, SECURE MODULE												
57	TSEC/KGV-13, COMSEC MODULE												
58	TSEC/KGV-10, FREQUENCY MODULE												

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
59	TSEC/KGX-93, AUTO KEY DC												
60	TSEC/KY-99, MINTERM		5,018		5,018		5,018						5,018
61	ITEMS LESS THAN $2.0M (COMSEC)		6,388		6,388		6,388						6,388
62	SOF ITEMS LESS THAN 2.0M (COMSEC)												
63	TSEC - SEC VOICE IMPRV PROG (COMSEC)		1,779		1,779		1,779						1,779
64	TERRESTRIAL TRANSMISSION		5,946		5,946		5,946						5,946
65	C-E FACILITIES/PROJECTS		2,412		2,412		2,412						2,412
66	DEFENSE DATA NETWORK (DDN)		2,718		2,718		2,718						2,718
67	ELECTROMAG COMP PROG (ECMP)		418		418		418						418
68	WW TECH CON IMP PROG (WWTCIP)		4,186		4,186		4,186						4,186
69	INFORMATION SYSTEMS		39,658		39,658		39,658						39,658
70	AR TELECOM AUTO PROG (ATCAP)		2,606		2,606		2,606						2,606
71	LOCAL AREA NETWORK (LAN)		3,951		3,951		3,951						3,951
72	PENTAGON TELECOM CTR (PTC)		3,453		3,453		3,453						3,453
73	FOREIGN COUNTERINTELLIGENCE PROG (FCI)		203		203		203						203
74	GENERAL DEFENSE INTELL PROGRAM (GDIP)		29,728		26,387		28,635		(2,248)		(2,537)		27,191
75	ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)		59,338		33,338		11,838		21,500		(26,000)		33,338
76	COMMANDERS TACT TERMINAL (CTT) (TIARA)	10	5,577	10	5,577	10	5,577					10	5,577
77	HF COMINT COLLECTOR (TIARA)												
78	IMAGERY PROCESSING SYSTEM (IPS) (TIARA)		8,625		1,025		8,625		(7,600)				8,625
79	LMRDFS, AN/PRD-12 (TIARA)												
80	SMALL AEROSTAT SURV SYS (SASS) (TIARA)												
81	SOUTHCOM INTELL MGMT SYS (TIARA)												
82	TAC ELEC SURV SYS (TESS) (TIARA)		3,949		3,949		3,949						3,949
83	TROJAN (TIARA)		4,581		4,581		4,581						4,581
84	SINGLE SOURCE PROCESSOR-SIGINT (TIARA)												
85	FT DEVENS TRAINING SUPPORT (TIARA)												
86	MOD OF IN-SVC EQUIP (INTEL SPT) (TIARA)		14,426		14,426		14,426						14,426
87	ITEMS LESS THAN $2.0M (INTEL SPT)		6,066		6,066		6,066						6,066
88	TACTICAL DECEPTION DEVICE (TAC-D)		526		526		526						526
89	MOD OF IN-SVC EQUIP (EW)												
90	ITEMS LESS THAN $2.0M (EW)												
91	NON-IMAGING ID SYSTEMS												
92	TRACTOR CRASH		2,136		2,136		2,136						2,136

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
93	NIGHT VISION DEVICES		62,185		62,185		62,185						62,185
94	PHYSICAL SECURITY SYSTEMS		11,777		11,777		11,777						11,777
95	RADIATION MONITORING SYSTEMS		18,838		18,838		18,838						18,838
96	LT WT ARTILLERY METEROLOGICAL SYS												
97	POSITION AZIMUTH DETERMINING SYS (PADS)												
98	POWER SUPPLY, PP-6224												
99	ELECTRONIC MAINTENANCE SHOPS												
100	MOD OF IN-SVC EQUIP (TAC SURV)		16,582		16,582		16,582						16,582
101	ITEMS LESS THAN $2.0M (TAC SURV)												
	ELECT EQUIP - TACTICAL C2 SYSTEMS												
102	CMBT SVC SUPT CONTROL SYS (CSSCS)												
103	CORPS/THEATER ADP SVC CTR (CTASC)		13,177		13,177		13,177						13,177
104	FORWARD ENTRY DEVICE (FED)		19,749		19,749		19,749						19,749
105	LIGHT TACTICAL FIRE												
106	LIFE CYCLE SOFTWARE SUPPORT (LCSS)		523		523		523						523
107	LOGTECH		8,336		8,336		8,336						8,336
108	MANUEVER CONTROL SYS (MCS)												
109	TACTICAL ARMY CSS COMPUTER SYS (TACCS)		15,733		15,733		15,733						15,733
110	AUTOMATED DATA PROCESSING EQUIP		64,763		64,763		64,763				(19,268)		45,495
111	RESERVE COMPONENT AUTOMATION SYS (RCAS)												
112	AFRTS		6,593		6,593		6,593						6,593
113	TACTICAL ELEC NEWS GATHERING EQUIP												
114	ITEMS LESS THAN $2.0M (A/V)		2,093		2,093		2,093						2,093
115	CALIBRATION SETS EQUIPMENT		13,564		13,564		13,564						13,564
116	CORE ELECTRONIC AUTO TEST (STE-X)												
117	INTEGRATED FAMILY OF TEST EQUIP (IFTE)		33,587		33,587		23,587		10,000		(29,587)		4,000
118	TMDE FOR STE/ICE												
119	TMDE MODERNIZATION (TMOD)		18,562		18,562		18,562						18,562
120	SPARES AND REPAIR PARTS												
121	ARMY PRINTING AND BINDING EQUIPMENT		3,575		3,575		3,575						3,575
122	PECIP AND QRIP		15,612		15,612		15,612						15,612
123	PRODUCTION BASE SUPPORT (C-E)		12,682		12,682		12,682						12,682
124	FIRST DESTINATION TRANSPORTATION (C-E)		41,484		41,484		41,484						41,484
124a	ECHELON ABOVE CORPS MILSTAR REDUCTION						(600)		600		(600)		(600)
125	SPECIAL PROGRAMS		139,662		164,662				164,662		(71,662)		68,000

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	OTHER SUPPORT EQUIPMENT												
126	DECONTAMINATE APP PWR DR LT WT M17	472	7,110	472	7,110	472	7,110					472	7,110
127	MASK, PROTECTIVE, NBC		5,000		5,000		5,000						5,000
128	MASK, ACFT	10,600	23,332	10,600	23,332	10,600	23,332					10,600	23,332
129	CHEMICAL AGENT MONITOR	3,178	20,187	3,178	20,187	3,178	20,187					3,178	20,187
130	SIMP COLL PROT EQUIP M20	257	2,461	257	2,461	257	2,461					257	2,461
131	COLL PROT EQUIP, NBC TEMPER, XM28		4,354		4,354		4,354						4,354
132	RECON SYSTEM, NBC	15	36,914	15	36,914	15	36,914					15	36,914
133	ITEMS LESS THAN $2.0M(BRIDGING)		590		590		590						590
134	DISPENSER, MINE XM139	20	5,626	20	5,626	20	5,626					20	5,626
135	MARKING SYS, CLEAR LANE												
136	DETECTING SET, MINE, AN/PSS-12												
137	MINE PLOW(BLADE)												
138	MINE CLEARING ROLLER												
139	VEHICLE MAGNETIC SIGNATURE DUP	53	4,620	53	4,620	53	4,620					53	4,620
140	M-9 ARMORED COMBAT EARTHMOVER (ACE)	132	59,852	132	15,952	35	15,952	97		(97)	(43,900)	35	15,952
141	MOD IN-SVC EQ (ENGR-NC)		1,915		1,915		1,915						1,915
142	ITEMS LESS THAN $2.0M(ENG NON-CONST)												
143	AIR CONDITIONERS VARIOUS SIZE/CAPACITY		2,969		2,969		2,969						2,969
144	FIELD KITCHEN,MOBILE, TRL MTD.	413	6,600	413	6,600	413	6,600					413	6,600
145	RIGID WALL SHELTER CMD POST ANNEX		11,381		11,381		11,381						11,381
146	DIVING EQUIPMENT												
147	FIRETRUCKS												
148	SPACE HEATER												
149	LAUNDRY UNIT/TRL MTD	40	4,900	40	4,900	40	4,900					40	4,900
150	ARMY PRINTING AND BINDING EQUIPMENT												
151	ITEMS LESS THAN $2.0M (CSS-EQ)		3,366		3,366		3,366						3,366
152	MOD IN-SVC EQUIP (CSE)												
153	SOF ITEMS LESS THAN 2.0M (CSS-EQ)												
154	TANK ASSEMBLY FAB COLL POL 50000 G	78	1,000	78	1,000	78	1,000					78	1,000
155	TANK ASSEMBLY FAB COLLAPS POL 10000G	119	1,054	119	1,054	119	1,054					119	1,054
156	TANK ASSY, FAB COLLAPS, 20,000 GAL POL	537	3,265	537	3,265	537	3,265					537	3,265
157	TANK/PUMP UNIT LIQ DISP F/TRK MOUNTING												

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
158	LABORATORY, PETROLEUM, SEMI-TRLR MTD	6	3,775	6	3,775	6	3,775					6	3,775
159	PUMP ASSY LIQ GAS WHL 4 IN OUT 350 GPM	454	4,541	454	4,541	454	4,541					454	4,541
160	SWA PETROLEUM DISTRIBUTION SYSTEM		56,156		56,156		30,156		26,000				56,156
161	ITEMS LESS THAN $2.0M (POL)		1,969		1,969		1,969						1,969
162	WATER PURIF UNIT REV OS 3000 GPH	36	14,300	36	14,300	36	14,300					36	14,300
163	TANK FABRIC COLL WTR 3000 GAL (ONION)	606	1,000	606	1,000	606	1,000					606	1,000
164	WATER QUALITY ANALYSIS SET PURIF	100	989	100	989	100	989					100	989
165	ITEMS LESS THAN $2.0M (WATER EQ)		2,606		2,606		2,606						2,606
166	COMBAT SUPPORT MEDICAL		60,320		60,320		60,320						60,320
167	MEDICAL SUPPORT EQUIPMENT		72,428		72,428		72,428						72,428
168	WELDING SHOP, TRAILER MTD												
169	SHOP EQ ELECTRICAL RPR SEMI-TRL MTD												
170	ITEMS LESS THAN $2.0M (MAINT EQ)		7,684		7,684		7,684						7,684
171	SMALL EMPLACEMENT EXCAVATOR (SEE)	5	1,511	5	1,511	5	1,511					5	1,511
172	MOD IN-SVC EQ (CONST EQUIP)												
173	ITEMS LESS THAN $2.0M (CONST EQUIP)		3,365		3,365		3,365						3,365
174	LANDING, CRAFT, UTILITY												
175	TUG INLAND AND COASTAL WATERWAYS												
176	CAUSEWAY SYSTEMS												
177	MOD IN-SVC EQ (FLOAT/RAIL)		3,620		3,620		3,620						3,620
178	ITEMS LESS THAN $2.0M (FLOAT/RAIL)		2,345		2,345		2,345						2,345
179	GENERATORS AND ASSOCIATED EQUIP		45,821		45,821		45,821						45,821
180	TRUCK, FORK LIFT, DE, PT, RT, 6000 LB	255	20,034	255	20,034	255	20,034					255	20,034
181	TRUCK, FORK LIFT, DE, PT, RT, 4000 LB	376	18,152	376	18,152	376	18,152					376	18,152
182	65 TON CRANE												
183	ITEMS LESS THAN $2.0M (MHE)		4,573		4,573		4,573						4,573
184	TOTAL PACKAGE FIELDING (OPA-3)		10,758				10,758		(10,758)		(10,758)		
185	FIRST DESTINATION TRANS (OPA-3)		10,758		10,758		10,758						10,758
186	SPARES AND REPAIR PARTS												
187	BASE LEVEL COM'L EQUIPMENT		16,254		16,254		16,254						16,254
188	PROD ENHANCING CAPITAL INVEST PROG		4,948		4,948		4,948						4,948
189	QUICK RETURN ON INVESTMENT PROGRAM		2,573		2,573		2,573						2,573
190	NON-CENTRALLY MANAGED ITEMS												

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
191	PRODUCTION BASE SUPPORT (OTH)		10,578		10,578		10,578						10,578
192	OSD PRODUCTIVITY INVESTMENT FUNDING		34,375		34,375		34,375						34,375
193	INDUSTRIAL MODERNIZATION INCENTIVE PROG		3,506		3,506		3,506						3,506
194	SPECIAL EQUIPMENT FOR USER TESTING		12,690		12,690		12,690						12,690
195	HOST NATION SUPPORT - EUROPE												
196	COMBAT TRAINING CENTERS SUPPORT		15,791		15,791		15,791						15,791
197	PREPOSITIONED NTC EQUIP												
198	TRAINING DEVICES, NONSYSTEM		101,423		101,423		101,423						101,423
199	INSTALLATION OF MODERNIZATION EQUIPMENT												
200	SIMNET/CLOSE COMBAT TACTICAL TRAINER												
201	AREA ORIENTED DEPOT UPGRADE		30,481		30,481		30,481						30,481
202	IND/DEPOT MAINT EQUIP		82,400		82,400		82,400						82,400
	GUARD AND RESERVE EQUIPMENT CONSOLIDATION						(270,900)		270,900				
	TOTAL OTHER PROCUREMENT ARMY		2,827,500		2,781,799		2,192,517		589,282		(300,616)		2,526,884
	PRIOR YEAR MILESTONE AUTH-MOB. SUB. EQUIP		(29,257)				(29,257)						
	NEW AUTHORIZATION		2,798,243		2,781,799		2,163,260						2,526,884

Family of heavy tactical vehicles

The amended budget request included $150.576 million to procure heavy tactical vehicles.

The House bill would authorize the requested amount.

The Senate amendment would authorize $107.279 million. The Senate amendment reduced the request because of delays in determining the winning design in the competition, and the need to re-test the winning design after correcting certain shortcomings identified during testing.

The conferees recommend an authorization of $107.279 million. The conferees emphasize that this reduction is made without prejudice and merely adjusts the authorization to reflect the revised schedule for procurement of the new trucks.

All source analysis system

The amended budget request contained $59.338 million to purchase an All Source Analysis System (ASAS) unit set, and to field it in Europe.

The House bill would authorize $33.338 million.

The Senate amendment would authorize $11.838 million.

This level of funding reflected the concern that the program has not undergone adequate testing to justify procurement at this time.

The conferees recommend an authorization of $33.338 million. The conferees share the concern of the Senate that the ASAS program has not been effectively managed and lacks adequate technical experitise within the program office and with the ASAS prime contractor. The current prime contractor is now under contract to deliver software for testing beginning in fiscal year 1991, and a complete software package (Version 2.1) in fiscal year 1992 which incorporates any needed corrections identified during testing.

The conferees believe the Army should discontinue all further ASAS software development efforts with the Jet Propulsion Laboratory upon conclusion of operational testing and delivery of Version 2.1 software. The conferees also direct the Army to initiate a competition immediately and to select a prime contractor for ASAS system intergration and configuration management. The new prime contractor shall be selected by the date the Army accepts delivery of the Version 2.1 software. The Army shall insure a smooth transition between the current prime contractor and the competitively selected prime contractor to preclude any lost development time. The services of the Jet Propulsion Laboratory may be retained during the transition for technical assistance only.

Southwest Asia petroleum distribution system

The amended budget request proposed to buy two petroleum distribution systems.

The Senate amendment would purchase only one petroleum distribution system because of changed assumptions about the employment of the systems.

The House bill would approve the full request.

The Senate recedes. The conferees have been advised that the demands of Operation Desert Shield have placed unexpected stress on capabilities to support U.S. military personnel with fuel and water, and that approving the amended request would help alleviate this stress.

Medium truck service life extension program (SLEP)

The House bill would authorize $50 million and direct the Army to use $10 million of fiscal year 1990 funds to establish in fiscal year 1991 an office to implement and manage a "total force" SLEP. Further, the report accompanying the House bill (H. Rept. 101-665) would direct the Army to initiate the SLEP program in fiscal year 1993, and to report on its effort to implement this program in the fiscal year 1992 budget submission.

The Senate amendment contained no similar authorization.

The conferees note that despite the initiation of the Family of Medium Tactical Vehicle (FMTV) procurement and the reduction in the size of the Army (freeing the trucks in deactivated units), the Army will continue to have a substantial shortage of trucks and an excessive number of trucks that exceed useful service life, especially in the reserve components.

The conferees strongly support the FMTV program and emphasize that any program to remanufacture or extend the life of trucks in the current fleet should have no adverse impact on the FMTV program.

The conferees support a truck SLEP program if it is cost-effective. The conferees recommend an authorization of $10.0 million to initiate a competitive prototype and testing program.

The conferees believe the Army should proceed with a SLEP program if it can meet 80 percent of the service life of an FMTV vehicle and does not exceed 50 percent of the cost of a new FMTV vehicle.

The conferees also believe that any SLEP for the medium truck fleet should emphasize the 2½ ton truck series, and that the overall program should emphasize modernization of reserve component truck fleets.

AIRCRAFT PROCUREMENT, NAVY

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $9,532.7 million for Aircraft Procurement, Navy. The House Bill would authorize $9,024.2 million. The Senate amendment would authorize $7,031.6 million. The conferees recommend authorization of $8,107.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	AIRCRAFT PROCUREMENT, NAVY												
1	A-12 ADVANCED TACTICAL AIRCRAFT		[ ]		[ ]		[ ]				[-1,174,359]		[ ]
2	A-12 ADVANCE PROCUREMENT (CY)		[ ]		[ ]		[ ]				[264,500]		[ ]
3	EA-6B/REMFG (ELEC WARFARE) PROWLER	3	303,324	3	303,324	3	303,324					3	303,324
4	ADVANCE PROCUREMENT (CY)		46,649		46,649		46,649						46,649
5	CLASSIFIED PROGRAM		[ ]		[ ]		[ ]						[ ]
6	AV-8B (V/STOL)HARRIER (MYP)	24	457,286	24	457,286	24	440,286		17,000		(17,000)	24	440,286
7	AV-8B ADVANCE PROCUREMENT (CY)												
8	F-14A/D/REMFG (FIGHTER) TOMCAT	12	779,946	12	789,946	12	780,946		9,000		1,000	12	780,946
9	F-14 ADVANCE PROCUREMENT (CY)		126,290		126,290		126,290						126,290
10	F/A-18 (FIGHTER) HORNET	66	1,894,123	84	2,290,123	42	1,309,523	42	980,600	(18)	(368,923)	48	1,525,200
11	F-18 ADVANCE PROCUREMENT (CY)		150,832		191,732		96,032		95,700		(40,832)		110,000
12	CH/MH-53E (HELCOPTER) SUPER STALLION	23	376,915		25,000				25,000	(23)	(376,915)		
13	CH/MH-53 ADVANCE PROCUREMENT (CY)		57,845				35,000		(35,000)		(22,845)		35,000
14	V-22 (TILT/ROTOR ACFT) OSPREY												
15	V-22 ADVANCE PROCUREMENT (CY)				165,000				165,000		165,000		165,000
16	AH-1W (HELICOPTER) SEA COBRA												
17	SH-60B (ASW HELICOPTER) SEAHAWK (MYP)	6	104,077	6	104,077	6	104,077					6	104,077
18	SH-60B ADVANCE PROCUREMENT (CY)		40,326		40,326		40,326						40,326
19	SH-60F CV (ASW HELICOPTER) (MYP)	18	232,523	18	232,523	18	232,523					18	232,523
20	SH-60F ADVANCE PROCUREMENT (CY)		39,625		39,625		39,625						39,625
21	P-7A (PATROL) LRAACA		20,537				20,537		(20,537)		(20,537)		
22	E-2C (EARLY WARNING) HAWKEYE	6	350,914	6	350,914	6	397,414		(46,500)		46,500	6	397,414
23	E-2C ADVANCE PROCUREMENT (CY)		38,113		38,113		38,113						38,113
24	T-44A												
25	T-45TS (TRAINER) GOSHAWK	12	261,000		158,149	12	282,800	(12)	(124,651)	(12)	(147,800)		113,200
26	T-45 ADVANCE PROCUREMENT (CY)		44,939		44,939		44,939						44,939
27	E-6A												
28	HH-60H												

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
MODIFICATION OF AIRCRAFT													
29	A-3 SERIES		102		102				102		(102)		
30	A-4 SERIES		7,407		7,407		7,407						7,407
31	A-6 SERIES		84,093		176,093		169,093		7,000		92,000		176,093
32	EA-6 SERIES		50,634		50,634		50,634						50,634
33	A-7 SERIES		102		102		102						102
34	AV-8 SERIES		401		401		401						401
35	F-4 SERIES		102		102		102						102
36	RF-4 SERIES		102		102		102						102
37	F-14 SERIES		72,388		72,388		72,388						72,388
38	F-5 SERIES		102		102		102						102
39	ES-3 SERIES		5,163		5,163		5,163						5,163
40	OV-10 SERIES		1,340		1,340		1,340						1,340
41	F-18 SERIES		19,568		19,568		19,568						19,568
42	H-46 SERIES		39,492		39,492		39,492						39,492
43	H-53 SERIES		35,694		35,694		35,694						35,694
44	SH-60 SERIES		45,079		45,079		45,079						45,079
45	VH-60 SERIES												
46	H-1 SERIES		78,902				78,902		(78,902)				78,902
47	H-2 SERIES		8,932		25,632		8,932		16,700		16,700		25,632
48	H-3 SERIES		1,343		1,343		1,343						1,343
49	EP-3 SERIES		22,423		22,423				22,423				22,423
50	P-3 SERIES		248,191		248,191		242,043		6,148				248,191
51	S-3 SERIES		112,939		112,939		112,939						112,939
52	E-2 SERIES		119,467		161,367		119,467		41,900				119,467
53	TRAINER A/C SERIES		23,404		23,404		23,404						23,404
54	EC-130 SERIES												
55	C-130 SERIES		7,952		7,952		7,952						7,952
56	FEWSG		5,464		5,464		5,464						5,464
57	CARGO/TRANSPORT A/C SERIES		6,373		6,373		6,373						6,373
58	E-6 SERIES		8,185		8,185		8,185						8,185
59	VARIOUS												
60	POWER PLANT CHANGES		11,606		11,606		11,606						11,606

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
61	MISC FLIGHT SAFETY CHANGES		27		27		27						27
62	COMMON ECM EQUIPMENT		102,798		102,798		102,798						102,798
63	COMMON AVIONICS CHANGES		15,269		15,269		15,269						15,269
64	INSTALLATION OF MODERNIZATION EQUIPMENT												
65	SPARES AND REPAIR PARTS		1,288,542		1,443,042		1,330,542		112,500		(107,989)		1,180,553
	AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES												
66	COMMON GROUND EQUIPMENT		434,304		464,904		464,904						434,304
67	AIRCRAFT INDUSTRIAL FACILITIES		36,034		36,034		30,034		6,000				36,034
68	WAR CONSUMABLES		30,718		30,718		30,718						30,718
69	OTHER PRODUCTION CHARGES		33,592		33,592		33,592						33,592
70	SPECIAL SUPPORT EQUIPMENT		47,243		47,243		47,243						47,243
71	FIRST DESTINATION TRANSPORTATION		6,000		6,000		6,000						6,000
	RETIREMENT OF OBSOLETE AIRCRAFT						(39,300)		39,300		(39,300)		(39,300)
999	CLASSIFIED PROGRAMS		1,501,859		351,859				351,859		(909,859)		592,000
	GUARD AND RESERVE EQUIPMENT CONSOLIDATION						(74,200)		74,200				
	TOTAL AIRCRAFT PROCUREMENT NAVY		9,838,600		9,024,150		7,359,308		1,664,842		(1,730,902)		8,107,698
	PRIOR YR MILESTONE AUTH T-45		(305,939)				(327,739)						
	NEW AUTHORIZATION		9,532,661		9,024,150		7,031,569						8,107,698

A-12 aircraft

The amended budget request included $1,211.9 million to procure eight A-12 aircraft and $104.0 million for spare parts in fiscal year 1991, and $290 million for advance procurement for fiscal year 1992. The budget request represented the second year of procurement for the A-12 program.

Subsequent to the submission of the budget, the Congress learned of serious difficulties in the A-12 program that have a substantial impact on the program schedule. The aircraft is seriously overweight, far behind schedule, increasingly complex in design and more difficult to manufacture, and suffering from management deficiencies.

The House bill would authorize no aircraft in fiscal year 1991, and included $351.9 million in termination liability to protect the ongoing work of the industrial base and minimize the disruption of a suspension of production. The House bill would authorize $104.0 million for spare parts, but no funds for advance procurement for fiscal year 1992.

The Senate amendment would authorize no funds in fiscal year 1991 for the A-12 program or for advance procurement for fiscal year 1992. The Senate amendment would authorize $104.0 million for spare parts as part of the general request of spare parts for the Navy.

The conferees recommend an authorization of $37.5 million for fiscal year 1991, $554.5 million for advance procurement for fiscal year 1992, and $18.0 million for spare parts in fiscal year 1991. The conferees recommend no aircraft be authorized in fiscal year 1991, but understand that these funds are sufficient to ensure execution of the second production option in fiscal year 1992 if the program has progressed sufficiently to justify proceeding at that time.

The conferees also recommend a provision (sec. 151) that would set certain criteria that must be met prior to obligation of the funds authorized for fiscal year 1991.

The conferees express their disappointment that the Navy and the contractors have become preoccupied with their respective legal positions. The conferees believe the primary focus at this time should be on: (1) the quality of the A-12 design; (2) the suitability of the aircraft to meet Navy requirements in light of the problems that have developed; (3) opportunities for reversing the compromises in the design that have been made in light of the problems that have occurred; and (4) assuring a fair and equitable basis for a renegotiation of the contract between the Navy and the prime contractors.

F/A-18 fighter

The amended budget request contained $1,894.1 million to procure 66 F/A-18 aircraft in fiscal year 1991, and $150.8 million for advance procurement for fiscal year 1992.

The House bill would authorize $2,290.123 million to procure 84 aircraft in fiscal year 1991, and $191.732 million for advance procurement for fiscal year 1992.

The Senate amendment would authorize $1,309.523 million to procure 42 aircraft in fiscal year 1991 and $96.032 for advance procurement for fiscal year 1992.

The conferees recommend an authorization of $1,525.2 million for 48 aircraft in fiscal year 1991, and $110 million for advance procurement for fiscal year 1992.

The conferees share the view of the Senate that the Department of Defense should examine potential redundancy of F/A-18 aircraft between Navy and Marine Corps fleets. The conferees believe that elimination of this redundancy could free sufficient resources to pursue other critical Navy aviation modernization priorities.

V-22 advance procurement

The amended budget request included no authorization request for V-22 advance procurement.

The House bill would authorize $165 million.

The Senate amendment would not authorize any new funds for advance procurement, but would have used available prior-year advance procurement funds to offset research and develop requirements. The Senate amendment also included a provision (sec. 212) that would prevent using any funds for procurement.

The Senate recedes. The conferees agree to authorize $165 million for long-lead items to support procurement of production representative aircraft for operational testing.

P-7A anti-submarine aircraft

The amended budget request includes $20.5 million in advance procurement funds to begin production of the P-7A shore-based, long-range anti-submarine warfare aircraft.

The Senate amendment would approve the amended request.

The House bill would delete the funds because of subsequent Navy termination of the program, due to poor contractor performance.

The Senate recedes.

T-45 training system

The amended budget request contained $261 million to procure 12 T-45 trainer aircraft and related trainer simulators and equipment, and $44.939 million for advance procurement for fiscal year 1992.

The House bill would deny authorization of aircraft in fiscal year 1991, and would limit the authorization to $158.149 million, which is sufficient to procure simulators and other equipment. The House would also authorize $21.8 million to initiate the "digital cockpit" modification to the T-45. The digital cockpit modification costs were included in the total authorization of $158.149 million. The House bill would authorize the advance procurement for fiscal year 1992 at the requested level.

The Senate amendment would authorize the funds as requested. Paralleling the House bill, the Senate amendment would also increase the request by $21.8 million to initiate the digital cockpit modification.

The conferees doubt whether the Navy will be able to execute the funds as requested because the prime contractor has decided to relocate the entire production facility this year. Consequently, the conferees recommend an authorization of $113.2 million in fiscal year 1991, which includes $21.8 million to accelerate the introduction of the "digital cockpit" in the T-45.

H-1 series mods

The amended budget request proposed to continue various improvements in AH-1 and UH-1 helicopters, including an upgrade to provide a night targeting system for the AH-1.

The Senate amendment would authorize the program as requested.

The House bill would deny all funding.

The House recedes.

The conferees are concerned that the Marine Corps may be unnecessarily stretching out the AH-1T to AH-1W conversion progam in the hope that Congress will provide new production AH-1W aircraft instead. The conferees believe that the capability provided by the AH-1W helicopter is essential and that the conversion program is an efficient way of achieving it. The conferees direct the Marine Corps to plan and program for the expeditious completion of AH-1T to AH-1W conversions, beginning with the fiscal year 1992/1993 budget request.

H-2 series mods

The amended budget request proposed to continue various improvements in SH-2 helicopters.

The House bill would provide an increase of $16.7 million to accelerate some SH-2 trainers and provide support equipment for the new SH-2G configuration.

The Senate amendment would approve the amended budget request.

The Senate recedes.

While the conferees encourage adjustments which align trainers and support equipment configuration with current aircraft status, they are concerned that the Navy continues to shift assets back and forth between the active and reserve forces without providing adequate support. The conferees challenge the Department of the Navy to create and adhere to a stabilized plan for asset management.

P-3 series mods

The House bill would authorize the full request for P-3 series modifications, while the Senate amendment would reduce this program by $6.1 million.

The Senate recedes.

WEAPONS PROCUREMENT, NAVY

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $4,626.2 million for Weapons Procurement, Navy. The House bill would authorize $5,376.1 million. The Senate amendment would authorize $4,424.4 million. The conferees recommend authorization of $5,981.2 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	WEAPONS PROCUREMENT, NAVY												
	BALLISTIC MISSILES												
1	POSEIDON												
2	TRIDENT I		1,252		1,252		1,252						1,252
3	TRIDENT II	52	1,343,780	42	1,143,780	52	1,343,780	(10)	(200,000)			52	1,343,780
4	TRIDENT II ADVANCE PROCUREMENT (CY)		192,565		192,565		192,565						192,565
	SUPPORT EQUIPMENT AND FACILITIES												
5	MISSILE INDUSTRIAL FACILITIES		2,404		2,404		2,404						2,404
	OTHER MISSILES												
6	TOMAHAWK	600	808,733	400	658,733	400	662,570		(3,837)	(200)	(150,000)	400	658,733
7	TOMAHAWK ADVANCE PROCUREMENT (CY)												
8	SPARROW												
9	AMRAAM	550	421,916			450	351,916	(450)	(351,916)	(100)	(70,000)	450	351,916
10	PHOENIX												
11	HARPOON	215	241,086	215	241,086	215	241,086					215	241,086
12	HARM	1,320	339,382	1,320	339,382	1,320	339,382					1,320	339,382
13	STANDARD MISSILES	900	607,762	900	607,762	900	607,762					900	607,762
14	RAM	405	70,383	405	70,383	405	70,383					405	70,383
15	HELLFIRE	1,198	42,076	1,198	42,076	1,198	42,076					1,198	42,076
16	PENGUIN	65	44,150	65	44,150	65	44,150					65	44,150
17	PENGUIN ADVANCE PROCUREMENT (CY)												
18	MAVERICK MISSILES		5,794		5,794		5,794						5,794
19	TACIT RAINBOW												
20	AERIAL TARGETS		142,421		167,421		142,421		25,000				142,421
21	DRONES AND DECOYS										25,000		25,000
22	OTHER MISSILE SUPPORT		29,110		29,110		29,110						29,110
	MODIFICATION OF MISSILES												
23	TOMAHAWK MODS		26,726		26,726		26,726						26,726
24	SPARROW MODS		30,009		30,009		30,009						30,009
25	SIDEWINDER MODS		7,076								(7,076)		
26	PHOENIX MODS		3,809		3,809		63,809		(60,000)		60,000		63,809
27	HARPOON MODS		18,263		18,263		18,263						18,263
28	STANDARD MISSILES MODS		15,447		15,447		15,447						15,447

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
29	INSTALLATION OF MODERNIZATION EQUIPMENT												
30	WEAPONS INDUSTRIAL FACILITIES		24,986		11,886		38,086		(26,200)		13,100		38,086
31	FLEET SATELLITE COMMUNICATIONS (MYP)	3	249,599	3	249,599	3	249,599					3	249,599
32	FLTSAT ADVANCE PROCUREMENT (CY)												
33	DEFENSE METEOROLOGICAL SATELLITE												
34	ORDNANCE SUPPORT EQUIPMENT		95,524		95,524		95,524						95,524
	TORPEDOES AND RELATED EQUIPMENT												
35	MK-48 ADCAP TORPEDO	240	350,291	240	350,291	240	350,291					240	350,291
36	MK-50 ALWT	265	328,266	265	328,266	265	328,266					265	328,266
37	MK-50 ADVANCE PROCUREMENT (CY)												
38	ASW TARGETS		26,409		26,409		26,409						26,409
39	ASROC		20,156		20,156		20,156						20,156
40	VERTICAL LAUNCHED ASROC (VLA)												
41	MK-67 MOBILE MINE												
42	MK-46 TORPEDO MODS		11,740		11,740		11,740						11,740
43	QUICKSTRIKE MINE		16,096		16,096		16,096						16,096
44	SWIMMER WEAPONS SYSTEM-(SOF)												
45	TORPEDO SUPPORT EQUIPMENT		55,278		55,278		55,278						55,278
46	ASW RANGE SUPPORT		24,382		24,382		24,382						24,382
47	FIRST DESTINATION TRANSPORTATION		8,700		8,700		8,700						8,700
	OTHER WEAPONS												
48	MK-15 PHALANX CIWS	17	61,958	17	61,958	17	61,958					17	61,958
49	MK-75 76MM GUN MOUNT GUARD AND RESERVE EQUIPMENT CONSOLIDATION						(8,600)		8,600				
50	MK-19 40MM MACHINE GUN	25	538	25	538	25	538					25	538
51	MK-38 25MM GUN MOUNT	55	9,609	55	9,609	55	9,609					55	9,609
52	SMALL ARMS AND WEAPONS		12,604		12,604		12,604						12,604
53	SMALL ARMS AND WEAPONS-(SOF)												
54	CIWS MODS		81,292		81,292		81,292						81,292
55	5/54 GUN MOUNT MODS		17,611		17,611		17,611						17,611
56	3/50 GUN MOUNT MODS		885		885		885						885
57	MK-75 76MM GUN MOUNT MODS		9,985		9,985		9,985						9,985
58	MODS UNDER $2 MILLION		2,401		2,401		2,401						2,401
59	GUN SUPPORT EQUIPMENT		5,263		5,263		5,263						5,263

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	OTHER ORDNANCE												
60	GENERAL PURPOSE BOMBS		48,018		48,018		48,018						48,018
61	2.75 INCH ROCKETS		14,644		14,644		14,644						14,644
62	MACHINE GUN AMMUNITION		12,450		12,450		12,450						12,450
63	PRACTICE BOMBS		38,039		38,039		38,039						38,039
64	BIGEYE CHEMICAL WEAPON		8,911								(8,911)		
65	3 INCH/50 GUN AMMUNITION		469		469		469						469
66	5 INCH/38 GUN AMMUNITION		4,386		4,386		4,386						4,386
67	5 INCH/54 GUN AMMUNITION		11,925		11,925		11,925						11,925
67a	5 INCH GUN AMMUNITION				33,022				33,022				
68	16 INCH GUN AMMUNITION		33,022								(33,022)		
69	CIWS AMMUNITION		32,815		32,815		32,815						32,815
70	76MM GUN AMMUNITION		1,060		1,060		1,060						1,060
71	OTHER SHIP GUN AMMUNITION		32,935		32,935		32,935						32,935
72	SMALL ARMS & LANDING PARTY AMMUNITION		33,935		33,935		33,935						33,935
73	PYROTECHNIC AND DEMOLITION		2,565		2,565		2,565						2,565
	SPARES AND REPAIR PARTS												
74	SPARES AND REPAIR PARTS		78,509		69,209		78,509		(9,300)		(9,300)		69,209
	TOTAL WEAPONS PROCUREMENT NAVY		6,161,400		5,376,097		5,960,728		(584,631)		(180,209)		5,981,191
	PRIOR YR MILESTONE AUTH- TRIDENT II		(1,535,225)				(1,536,345)						
	NEW AUTHORIZATION		4,626,175		5,376,097		4,424,383						5,981,191

Trident II missile

The amended budget request contained $1,343.78 million for procurement of 52 Trident II missiles.

The House bill provide $1,143.78 million to procure 42 missiles.

The Senate amendment would fully fund the request.

The conferees note that all of these actions were predicated on the decision, previously announced by the United Kingdom, to order an additional 14 Trident missiles during fiscal year 1991 for British submarines. However, in early October 1990, the Ministry of Defense of the United Kingdom announced that the planned buy of 14 Trident II missiles would be postponed until fiscal year 1992. The effect of this loss of foreign orders is to increase significantly the per-unit cost of Trident II missiles for the Navy at the production level requested by the Administration. Recognizing the altered circumstances, the conferees agree to provide $1,343.78 million for procurement of up to 52 Trident II missiles.

Advance medium range air-to-air missile (AMRAAM)

The amended budget request contained $421.916 million for the Navy to buy 550 AMRAAM missiles, and $893.382 million for the Air Force to buy 1,250 AMRAAM missiles.

The House bill would deny authorization for any missiles in fiscal year 1991. The report accompanying the House bill (H. Rept. 101-665) noted that the AMRAAM missile has suffered serious reliability problems. The House report also noted that production of missiles is delinquent compared to contract specifications, and noted that it would be possible to defer purchase of all missiles in fiscal year 1991 as a result of the production backlog.

The Senate amendment would authorize $351.916 million for 450 missiles for the Navy and $463.382 million for 450 missiles for the Air Force.

The conferees express their frustration with the continuing reliability and production problems with the AMRAAM missile. Despite the authorization of more than $3 billion and 2,300 missiles, the Air Force has accepted delivery of slightly more than 200 missiles.

The conferees understand that reliability improvements are underway and operational testing will be completed next year. The Air Force also claims that the current production backlog can be eliminated by next year. If the backlog can be eliminated and operational testing proves successful, additional authorization in fiscal year 1991 is required to avoid a break in production.

The conferees recommend an authorization of $351.916 million for 450 missiles for the Navy and $463.382 million for 450 missiles for the Air Force. Further, the conferees expect that the fiscal year 1992/1993 budget request will be consistent with deliveries of missiles.

Drones and decoys

The House bill would authorize $25 million for the tactical air launched decoy (TALD) program under the aerial target budget line.

The Senate amendment contained no similar authorization.

The conferees recommend an authorization of $25 million for the TALD and/or the improved TALD program under the drones and decoys budget line.

AIM-54 Phoenix modification

The amended budget request included $3.809 million for AIM-54 missile modifications.

The House bill would authorize the requested amount.

The Senate amendment would authorize an additional $60.0 million to produce the final 150 missiles in an improved-performance configuration.

The conferees recommend an authorization of $63.809 million and share the concerns of the Senate over the inventory level of this missile, since it appears that it will require at least 10 years to introduce the follow-on Advanced Air-to-Air Missile (AAAM). The conferees direct the Secretary of the Navy to re-assess AIM-54 inventory levels in light of the delay in fielding the AAAM missile, and the need for preserving an industrial foundation for the program.

5-inch gun ammunition

The House bill contained a provision (sec. 153) that would increase the amended budget request for 5-inch gun ammunition by $33.022 million.

The Senate amendment contained no similar provision.

The House recedes.

SHIPBUILDING AND CONVERSION, NAVY

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $11,195.2 million for Shipbuilding and Conversion, Navy. The House bill would authorize $9,016.6 million. The Senate amendment would authorize $9,314.2 million. The conferees recommend authorization of $9,414.8 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	SHIPBUILDING AND CONVERSION, NAVY												
1	TRIDENT (NUCLEAR)	1	1,244,629	1	1,145,629	1	1,244,629		(99,000)		(99,000)	1	1,145,629
2	TRIDENT ADVANCE PROCUREMENT (CY)		143,000								(143,000)		
	TRIDENT PRIOR YEAR SAVINGS						(181,000)		181,000				
3	SSN-688 CLASS SUBMARINE (NUCLEAR)					2	1,805,000	(2)	(1,805,000)				
4	SSN-688 ADVANCE PROCUREMENT (CY)												
5	SSN-21	2	2,342,900	1	1,457,000		150,000	1	1,307,000	(1)	(885,900)	1	1,457,000
6	SSN-21 ADVANCE PROCUREMENT (CY)		1,139,100		649,000				649,000		(490,100)		649,000
7	CV SLEP												
8	CV-SLEP ADVANCE PROCUREMENT (CY)		113,068		113,068		113,068						113,068
9	ENTERPRISE REFUELING/MODERNIZATION												
10	DDG-51 (MYP)	5	3,566,403	4	3,218,403	5	3,536,403	(1)	(318,000)	(1)	(348,000)	4	3,218,403
11	DDG-51 ADVANCE PROCUREMENT (CY)		3,600		3,600		3,600						3,600
12	LHD-1 AMPHIBIOUS ASSAULT SHIP (MYP)	1	959,800	1	959,800	1	959,800					1	959,800
13	LHD-1 ADVANCE PROCUREMENT (CY)												
14	LSD-41 (CARGO VARIANT)	1	240,000	1	240,000	1	240,000					1	240,000
15	MCM MINE COUNTERMEASURES SHIP												
16	MHC MINE HUNTER COASTAL	3	268,100	3	290,000	3	268,100		21,900		21,900	3	290,000
17	TAO FLEET OILER												
18	AO (JUMBO)												
19	TAGOS SURTASS SHIPS												
20	AOE	1	398,200			1	398,200	(1)	(398,200)			1	398,200

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
21	OCEANOGRAPHIC SHIPS	1	43,100	1	43,100	1	43,100					1	43,100
22	MOORED TRAINING SHIP DEMONSTRATION												
23	SERVICE CRAFT		27,300		27,300		27,300						27,300
24	LANDING CRAFT		10,400		10,400		10,400						10,400
25	LCAC LANDING CRAFT (MYP)	12	244,700	12	244,700	12	244,700					12	244,700
26	LCAC ADVANCE PROCUREMENT (CY)		23,200		23,200		23,200						23,200
27	PATROL BOATS (SOF)												
28	OUTFITTING		231,100		200,100		231,100		(31,000)		(31,000)		200,100
29	POST DELIVERY		154,500		135,500		154,500		(19,000)		(19,000)		135,500
30	USCG ICEBREAKERS												
31	USCG PATROL BOATS												
32	FIRST DESTINATION TRANSPORTATION		5,800		5,800		5,800						5,800
33	SHIP SPECIAL SUPPORT EQUIPMENT		36,300				36,300		(36,300)		(36,300)		
33a	STRATEGIC SEALIFT				250,000				250,000		250,000		250,000
	TOTAL SHIPBUILDING AND CONVERSION		11,195,200		9,016,600		9,314,200		(297,600)		(1,780,400)		9,414,800

Trident ballistic missile submarine program

The amended budget request for the Trident ballistic missile submarine program contained $1,244.629 million for the 18th Trident submarine, and $143 million for long-lead items for a 19th and 20th Trident submarine.

The House bill would provide $1,145,629 million for the Trident submarine, a reduction of $99 million, which reflected the application of available prior-year funds within the Trident program. The House bill would provide no further funds for advance procurement of Trident submarines, and the House report (H. Rept. 101-665) would recommend termination of the Trident ballistic missile submarine program after the construction of the 18th Trident.

The Senate amendment would authorize $1,244.629 million for the Trident submarine, identify $181 million of unobligated prior-year funds within the Trident submarine program, and deny advance procurement funding for further Trident submarines. The Senate amendment contained a provision (sec. 110) that would further prohibit obligation of any funds for the advance procurement of any Trident submarines beyond the 18 authorized.

The Senate recedes.

SEAWOLF (SSN-21) class submarine

The amended budget request included $3,482 million for construction of two SSN-21 class submarines in fiscal year 1991 and advance procurement for six submarines in fiscal year 1993.

The House bill would provide $2,106 million for one SSN-21 in fiscal year 1991 and advance procurement for two SSN-21 submarines in each of fiscal years 1992 and 1993.

The Senate amendment would authorize $150 million for continuing the SSN-21 design effort, but would authorize two improved *Los Angeles* (SSN-688) class submarines and $1,805 million instead.

The Senate recedes.

The conferees remain concerned about concurrency in major weapon system programs, and in particular, the BSY-2 submarine combat system to be deployed on the SSN-21. The BSY-2 system is designed to provide a major improvement in capability, but will also be much more complex than any previous submarine combat system. The conferees believe that the revised SSN-21 building rate offered by the Secretary of Defense for fiscal years 1991 and 1992 represents a more reasonable approach to concurrency in this program.

The conferees also agree to a provision (sec. 154) that would require that the contract for the next SSN-21 be let in accordance with applicable laws, policies, and regulations, including policies and regulations of the Department of Defense and the Department of the Navy. The conference agreement specifically does not express any preference for any particular method of awarding such a contract.

ARLEIGH BURKE (DDG-51) guided missile destroyer

The House bill would authorize construction of four ARLEIGH BURKE (DDG-51) class guided missile destroyers, while the Senate amendment would authorize five.

The conferees agree to authorize $3,218.403 million for construction of four destroyers, as contained in the House bill.

OSPREY (MHC-51) coastal mine hunter

The amended budget request contained $268.1 million for three coastal mine hunters.

The House bill would authorize $290 million for three ships, reflecting new cost estimates from the Navy.

The Senate amendment would approve the budget request.

The Senate recedes.

SUPPLY (AOE-6) fast combat support ship

The amended budget request included $398.2 million for construction of one SUPPLY (AOE-6) class fast combat support ship.

The House bill would provide no funding, while the Senate amendment would authorize the full request.

The House recedes.

Outfitting and post delivery

The House bill would reduce the amended budget request for outfitting by $31 million and for post delivery by $19 million, while the Senate amendment would authorize the full amount.

The Senate recedes.

Fast sealift

The House bill would authorize $250 million for the construction of strategic sealift ships. The amended budget request and the Senate amendment included no funds for this program.

The Senate recedes.

The House bill also included a provision (sec. 1324) that would establish a fast sealift program. That provision is discussed elsewhere in this statement of managers.

OTHER PROCUREMENT, NAVY

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $6,081.5 million for Other Procurement, Navy. The House bill would authorize $5,488.6 million. The Senate amendment would authorize $6,055.2 million. The conferees recommend authorization of $5,488.6 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	OTHER PROCUREMENT, NAVY												
	SHIPS SUPPORT EQUIPMENT												
1	LM-2500 GAS TURBINE		6,425		6,425		6,425						6,425
2	ALLISON 501K GAS TURBINE	1	6,357	1	6,357	1	6,357					1	6,357
3	LM-2500 SPECIAL SUPPORT EQUIPMENT												
4	STEAM PROPULSION IMPROVEMENT		5,285		5,285		5,285						5,285
5	OTHER PROPULSION EQUIPMENT		7,840		7,840		7,840						7,840
6	OTHER GENERATORS		11,197		11,197		11,197						11,197
7	OTHER PUMPS		4,736		4,736		4,736						4,736
8	HIGH PRESSURE AIR COMPRESSORS	2	2,040	2	2,040	2	2,040					2	2,040
9	SUBMARINE PROPELLERS	16	5,759	16	5,759	16	5,759					16	5,759
10	OTHER PROPELLERS AND SHAFTS		4,005		4,005		4,005						4,005
11	ELEC SUSPENDED GYRO NAVIGATOR		3,651		3,651		3,651						3,651
12	CARRIER NAVIGATION SYSTEM												
13	OTHER NAVIGATION EQUIPMENT		8,341		8,341		8,341						8,341
14	UNDERWAY REPLENISHMENT EQUIPMENT		11,214		11,214		11,214						11,214
15	TYPE 18 PERISCOPES		8,890		8,890		8,890						8,890
16	TYPE 8 PERISCOPES												
17	PERISCOPES AND ACCESSORIES		4,171		4,171		4,171						4,171
18	FIREFIGHTING EQUIPMENT		59,268		59,268		59,268						59,268
19	COMMAND AND CONTROL SWITCHBOARD	5	8,345	5	8,345	5	8,345					5	8,345
20	POLLUTION CONTROL EQUIPMENT		28,611		28,611		28,611						28,611
21	SUBMARINE SILENCING EQUIPMENT		14,122		14,122		14,122						14,122
22	SURFACE SHIP SILENCING EQUIPMENT		6,660		6,660		6,660						6,660
23	SUBMARINE BATTERIES	9	2,991	9	2,991	9	2,991					9	2,991
24	STRATEGIC PLATFORM SUPPORT EQUIPMENT		58,395		58,395		58,395						58,395
25	SWS SHIPBOARD SUPPORT EQUIPMENT												
26	DSSP EQUIPMENT		12,022		12,022		12,022						12,022
27	SEALIFT SUPPORT EQUIPMENT		21,944		21,944		21,944						21,944
28	AIR CONDITIONERS		794		794		794						794
29	MINESWEEPING EQUIPMENT		6,168		6,168		6,168						6,168
30	HM&E ITEMS UNDER $2 MILLION		33,751		33,751		33,751						33,751
31	SURFACE IMA		9,380		9,380		9,380						9,380
32	DEGAUSSING EQUIPMENT		715		715		715						715

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
33	RADIOLOGICAL CONTROLS		529		529		529						529
34	MINI/MICROMINI ELECTRONIC REPAIR		654		654		654						654
35	CHEMICAL WARFARE DETECTORS	1,153	13,854	1,153	13,854	1,153	13,854					1,153	13,854
36	SUBMARINE LIFE SUPPORT SYSTEM	3	2,182	3	2,182	3	2,182					3	2,182
37	SHIPBOARD ENERGY CONSERVATION												
38	MOLDED CASE CIRCUIT BREAKERS												
39	REACTOR POWER UNITS	1	46,767	1	46,767	1	46,767					1	46,767
40	REACTOR COMPONENTS		303,417		303,417		303,417						303,417
41	DIVING AND SALVAGE EQUIPMENT		4,163		4,163		4,163						4,163
42	NAVAL SPECIAL WARFARE EQUIPMENT		2,141		2,141		2,141						2,141
43	NAVAL SPECIAL WARFARE EQUIPMENT-(SOF)												
44	SOF EQUIPMENT												
45	SMALL BOATS	101	10,419	101	10,419	101	10,419					101	10,419
46	OTHER SHIPS TRAINING EQUIPMENT		7,390		7,390		7,390						7,390
47	CALIBRATION EQUIPMENT												
48	PRODUCTION SUPPORT FACILITIES		9,900		9,900		9,900						9,900
49	OPERATING FORCES IPE		10,347		10,347		10,347						10,347
50	INSTALLATION OF MODERNIZATION EQUIPMENT												
51	INSTALLATION OF PRIOR YEAR EQUIPMENT												
52	NUCLEAR ALTERATIONS		129,336		129,336		129,336						129,336
52a	REDUCTION, REDUCED FORCES				(76,600)				(76,600)		(76,600)		(76,600)
52b	REDUCTION, EXCESS REPROGRAMMING				(47,800)				(47,800)		(47,800)		(47,800)
53	MODERNIZATION SUPPORT		444,779		444,779		444,779						444,779
	COMMUNICATIONS AND ELECTRONICS EQUIPMENT												
54	AN/SPS-67												
55	AN/SPS-40		32,666		32,666		32,666						32,666
56	AN/SPS-48		1,007	2	49,907		1,007	2	48,900	2	48,900	2	49,907
57	AN/SPS-49		8,523		8,523		8,523						8,523
58	AN/SYS-()		4,849		4,849		4,849						4,849
59	MK-23 TARGET ACQUISITION SYSTEM	4	37,531	4	37,531	4	37,531					4	37,531
60	RADAR SUPPORT		12,707		12,707		12,707						12,707
61	SURFACE SONAR SUPPORT EQUIPMENT		18,443		18,443		18,443						18,443
62	AN/SQQ-89 SURF ASW COMBAT SYSTEM		280,192		280,192		280,192						280,192
	GUARD AND RESERVE EQUIPMENT CONSOLIDATION						(36,200)		36,200				
63	AN/BQQ-5		127,259		127,259		127,259						127,259
64	TB-16 TOWED ARRAY												
65	SURFACE SONAR WINDOWS AND DOME		10,988		10,988		10,988						10,988

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
66	SONAR SUPPORT EQUIPMENT		6,574		6,574		6,574						6,574
67	SONAR SWITCHES AND TRANSDUCERS		25,920		25,920		25,920						25,920
68	FBM SYSTEM SONARS		3,004		3,004		3,004						3,004
69	SUBMARINE ACOUSTIC WARFARE SYSTEM		27,384		27,384		27,384						27,384
70	SSTD		17,500		17,500		17,500						17,500
71	ACOUSTIC COMMUNICATIONS		182		182		182						182
72	SUBMARINE ADVANCED COMBAT SYSTEM		228,966		228,966		228,966						228,966
73	SOSUS		31,318		31,318		31,318						31,318
74	LAMPS MK I ASW SUPPORT		8,896		8,896		8,896						8,896
75	AN/SQR-18 TOWED ARRAY SONAR		13,716		13,716		13,716						13,716
76	AN/SQR-15 TOWED ARRAY SONAR		2,659		2,659		2,659						2,659
77	SURTASS		2,367		2,367		2,367						2,367
78	ASW OPERATIONS CENTER		3,268		3,268		3,268						3,268
79	CARRIER ASW MODULE		13,343		13,343		13,343						13,343
80	AN/SLQ-32		92,522		92,522		92,522						92,522
81	AN/WLR-1												
82	AN/WLR-8		2,431		2,431		2,431						2,431
83	ICAD SYSTEMS		3,559		3,559		3,559						3,559
84	EW SUPPORT EQUIPMENT		679		679		679						679
85	C-3 COUNTERMEASURES		6,343		6,343		6,343						6,343
86	COMBAT CRYPTOLOGIC SUPPORT CONSOLE												
87	COMBAT DF		13,100		13,100		13,100						13,100
88	OUTBOARD												
89	NAVAL INTELL PROCESSING SYSTEM		11,705		5,705		11,705		(6,000)		(2,705)		9,000
90	AN/WLQ-4 DEPOT												
91	AN/WLQ-4 IMPROVEMENTS		29,761		29,761		29,761						29,761
92	SUBMARINE SUPPORT EQUIPMENT PROGRAM		1,196		1,196		1,196						1,196
93	NAVY TACTICAL DATA SYSTEM		106,836		106,836		106,836						106,836
94	TACTICAL FLAG COMMAND CENTER		20,877		20,877		20,877						20,877
95	LINK 16 HARDWARE		35,560		35,560		35,560						35,560
96	MINESWEEPING SYSTEM REPLACEMENT		11,309		11,309		11,309						11,309
97	OMEGA SHIPBOARD EQUIPMENT												
98	NAVSTAR GPS RECEIVERS	94	14,254	94	14,254	94	14,254				(8,500)	94	5,754
99	HF LINK-11 DATA TERMINALS		954		954		954						954

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
100	ARMED FORCES RADIO AND TV		2,160		2,160		2,160						2,160
101	STRATEGIC PLATFORM SUPPORT EQUIPMENT		147,851		147,851		147,851						147,851
102	SWS COMM/ELEC SUPPORT EQUIPMENT												
103	OTHER SPAWAR TRAINING EQUIPMENT												
104	OTHER NAVSEA TRAINING EQUIPMENT												
105	OTHER TRAINING EQUIPMENT		17,066		17,066		17,066						17,066
105a	AN/SQQ-T1 ASW TRAINER				10,000				10,000				
106	MATCALS		12,052		12,052		12,052		-				12,052
107	SHIPBOARD AIR TRAFFIC CONTROL		5,428		5,428		5,428						5,428
108	AUTOMATIC CARRIER LANDING SYSTEM		910		910		910						910
109	TACAN		1,365		1,365		1,365						1,365
110	AIR STATION SUPPORT EQUIPMENT		3,540		3,540		3,540						3,540
111	MICROWAVE LANDING SYSTEM		500		500		500						500
112	FACSFAC		3,097		3,097		3,097						3,097
113	RADAR AIR TRAFFIC CONTROL		1,415		1,415		1,415						1,415
114	ID SYSTEMS		8,744		8,744		8,744						8,744
115	TADIX-B		20,689		20,689		20,689						20,689
116	NAVAL SPACE SURVEILLANCE SYSTEM		2,158		2,158		2,158						2,158
117	SPACE SYSTEM PROCESSING												
118	MULTOTS		160		160		160						160
119	NCCS ASHORE		11,916		11,916		11,916						11,916
120	RADIAC		1,902		1,902		1,902						1,902
121	OVER THE HORIZON RADAR	1	80,558							(1)	(74,007)		6,551
122	GPETE		18,702		18,702		18,702						18,702
123	INTEG COMBAT SYSTEM TEST FACILITY		3,021		3,021		3,021						3,021
124	CALIBRATION STANDARDS		8,176		8,176		8,176						8,176
125	EMI CONTROL INSTRUMENTATION		10,461		10,461		10,461						10,461
126	SHORE ELEC ITEMS UNDER $2 MILLION		11,849		11,849		11,849						11,849
127	SHIPBOARD TACTICAL COMMUNICATIONS		22,988		22,988		22,988						22,988
128	SHIPBOARD HF COMMUNICATIONS												
129	SHIPBOARD UHF COMMUNICATIONS												
130	FLIGHT DECK COMMUNICATIONS		1,805		1,805		1,805						1,805
131	PORTABLE RADIOS		5,681		5,681		5,681						5,681
132	SHIP COMMUNICATIONS AUTOMATION		10,878		10,878		10,878						10,878

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
133	SHIP COMM ITEMS UNDER $2 MILLION		3,748		3,748		3,748						3,748
134	SEALIFT SHIP COMMUNICATION												
135	SHORE LF/VLF COMMUNICATIONS		1,286		1,286		1,286						1,286
136	VERDIN		1,670		1,670		1,670						1,670
137	SUBMARINE COMMUNICATION EQUIPMENT		9,741		9,741		9,741						9,741
138	COMPACT VLF RECEIVER		11,544		11,544		11,544						11,544
139	SATCOM SHIP TERMINALS		120,082		120,082		120,082						120,082
140	SATCOM SHORE TERMINALS		9,409		9,409		9,409						9,409
141	JCS COMMUNICATIONS EQUIPMENT		567		567		567						567
142	ELECTRICAL POWER SYSTEMS		134		134		134						134
143	SHORE HF COMMUNICATIONS		9,156		9,156		9,156						9,156
144	DCS TECH CONTROL IMPROVEMENTS												
145	VOICE FREQ CARRIER TELEGRAPH		680		680		680						680
146	WORLDWIDE WIDEBAND COMMUNICATION												
147	WWMCCS COMMUNICATIONS EQUIPMENT		96		96		96						96
148	SHORE COMMUNICATIONS AUTOMATION		2,980		2,980		2,980						2,980
149	SHORE COMM ITEMS UNDER $2 MILLION		218		218		218						218
150	SINGLE AUDIO SYSTEM												
151	STU-III		21,275		21,275		21,275						21,275
152	TSEC/KG-84		35,790		35,790		35,790						35,790
153	TSEC/KY-57/58 (VINSON)		14,705		14,705		14,705						14,705
154	TSEC/KYV-5 (ANDVT)		48,873		48,873		48,873						48,873
155	TSEC/KG-81 (WALBURN)		9,654		9,654		9,654						9,654
156	TSEC/KGR-96 (ITSS)		4,397		4,397		4,397						4,397
157	BLACKER CRYPTO		4,259		4,259		4,259						4,259
158	TSEC/KG-58/KGV-6 (PLRS)												
159	TRITAC CRYPTO		4,576		4,576		4,576						4,576
160	TSEC/KGV-11		6,487		6,487		6,487						6,487
161	COMMON FILL DEVICES		1,087		1,087		1,087						1,087
162	SIGNAL SECURITY		406		406		406						406
163	CRYPTOGRAPHIC ITEMS UNDER $2 MILLION		5,464		5,464		5,464						5,464
164	TSEC/KGV-8		2,168		2,168		2,168						2,168
165	CRYPTOLOGIC COMMUNICATIONS EQUIPMENT		597		597		597						597

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
199	AIRCRAFT REARMING EQUIPMENT		10,575		10,575		10,575						10,575
200	CATAPULTS AND ARRESTING GEAR		7,261		7,261		7,261						7,261
201	METEOROLOGICAL EQUIPMENT		37,556		37,556		37,556						37,556
202	OTHER PHOTOGRAPHIC EQUIPMENT												
203	MISC SURVIVAL EQUIPMENT		4,566		4,566		4,566						4,566
204	AIRBORNE MINE COUNTERMEASURES		7,988		7,988		7,988						7,988
205	LAMPS MK III SHIPBOARD EQUIPMENT		5,514		5,514		5,514						5,514
206	REWSON PHOTOGRAPHIC EQUIPMENT		1,999		1,999		1,999						1,999
207	STOCK SURVEILLANCE EQUIPMENT		1,236		1,236		1,236						1,236
208	OTHER AVIATION SUPPORT EQUIPMENT		5,906		5,906		5,906						5,906
	ORDNANCE SUPPORT EQUIPMENT												
209	3 INCH/50 GUN AMMUNITION												
210	5 INCH/38 GUN AMMUNITION												
211	5 INCH/54 GUN AMMUNITION												
212	16 INCH GUN AMMUNITION												
213	CIWS AMMUNITION												
214	76MM GUN AMMUNITION												
215	OTHER SHIP GUN AMMUNITION												
	SHIP GUN SYSTEM EQUIPMENT												
216	GUN FIRE CONTROL EQUIPMENT		15,461		15,461		15,461						15,461
	SHIP MISSILE SYSTEMS EQUIPMENT												
217	MK-92 FIRE CONTROL SYSTEM		23,340		23,340		23,340						23,340
218	HARPOON SUPPORT EQUIPMENT		14,025		14,025		14,025						14,025
219	TERRIER SUPPORT EQUIPMENT		15,113		15,113		15,113						15,113
220	TARTAR SUPPORT EQUIPMENT		19,508		19,508		19,508						19,508
221	POINT DEFENSE SUPPORT EQUIPMENT		30,031		30,031		30,031						30,031
222	AIRBORNE ECM/ECCM		1,060		1,060		1,060						1,060
223	AEGIS SUPPORT EQUIPMENT		86,233		86,233		86,233						86,233
224	SURFACE TOMAHAWK SUPPORT EQUIPMENT		29,361		29,361		29,361						29,361
225	SUBMARINE TOMAHAWK SUPPORT EQUIPMENT		7,075		7,075		7,075						7,075
226	VERTICAL LAUNCH SYSTEMS	2	63,791	2	63,791	2	63,791					2	63,791
227	STRATEGIC PLATFORM SUPPORT EQUIPMENT		20,380		20,380		20,380						20,380
228	STRATEGIC MISSILE SYSTEMS EQUIPMENT		86,195		86,195		86,195						86,195

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
166	SHIPS SIGNAL EXPLOITATION SPACE												
167	CRYPTOLOGIC ITEMS UNDER $2 MILLION		107		107		107						107
168	CRYPTOLOGIC RESERVES EQUIPMENT		402		402		402						402
169	CRYPTOLOGIC FIELD TRAINING EQUIPMENT		134		134		134						134
170	SHORE CRYPTOLOGIC SUPPORT SYSTEM												
171	WAR RESERVE		432		432		432						432
172	ELEC ENGINEERED MAINT (NAVSEA)												
173	ELEC ENGINEERED MAINT (SPAWAR)												
174	ELECT. ENGINEERED MAINTENANCE		3,425		3,425		3,425						3,425
174a	REDUCTION, REDUCED FORCES				(115,600)				(115,600)		(115,600)		(115,600)
174b	REDUCTION, EXCESS REPROGRAMMING				(72,100)				(72,100)		(72,100)		(72,100)
175	AEROSTAT RADARS												
176	OTHER DRUG INTERDICTION SUPPORT												
	AVIATION SUPPORT EQUIPMENT												
177	AN/SSQ-36 (BT)	12,200	2,096	12,200	2,096	12,200	2,096					12,200	2,096
178	AN/SSQ-53 (DIFAR)	237,300	45,584	237,300	45,584	237,300	45,584					237,300	45,584
179	AN/SSQ-57 (SPECIAL PURPOSE)												
180	AN/SSQ-62 (DICASS)	28,300	23,799	28,300	23,799	28,300	23,799					28,300	23,799
181	AN/SSQ-77 (VLAD)												
182	SIGNAL, UNDERWATER SOUND (SUS)	7,100	1,808	7,100	1,808	7,100	1,808					7,100	1,808
182a	SONOBUOYS						87,000		(87,000)		87,000		87,000
183	GENERAL PURPOSE BOMBS												
184	WALLEYE												
185	ROCKEYE												
186	2.75 INCH ROCKETS												
187	MACHINE GUN AMMUNITION												
188	PRACTICE BOMBS												
189	CARTRIDGES & CART ACTUATED DEVLOPMENT		16,438		16,438		16,438						16,438
190	AIRCRAFT ESCAPE ROCKETS		3,215		3,215		3,215						3,215
191	AIR EXPENDABLE COUNTERMEASURES		41,276		41,276		41,276						41,276
192	MARINE LOCATION MARKERS		6,253		6,253		6,253						6,253
193	BIGEYE CHEMICAL WEAPON												
194	JATOS		3,261		3,261		3,261						3,261
195	GATOR												
196	MISC AIR LAUNCHED ORDNANCE												
197	WEAPONS RANGE SUPPORT EQUIPMENT		52,537		52,537		52,537						52,537
198	EXPEDITIONARY AIRFIELDS		4,919		4,919		4,919						4,919

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
229	MK-92 CORT												
230	MK-117 FIRE CONTROL SYSTEM		62,459		62,459		62,459						62,459
231	SUBMARINE ASW SUPPORT EQUIPMENT		7,888		7,888		7,888						7,888
232	SURFACE ASW SUPPORT EQUIPMENT		7,399		7,399		7,399						7,399
233	ASW RANGE SUPPORT EQUIPMENT		7,738		7,738		7,738						7,738
234	EXPLOSIVE ORDNANCE DISPOSAL EQUIPMENT		9,867		9,867		9,867						9,867
235	SWIMMER WEAPONS SYSTEMS-(SOF)												
236	UNMANNED SEABORNE TARGET		4,909		4,909		4,909						4,909
237	ANTI-SHIP MISSILE DECOY SYSTEM		10,087		10,087		10,087						10,087
238	CALIBRATION EQUIPMENT		1,297		1,297		1,297						1,297
239	STOCK SURVEILLANCE EQUIPMENT		1,201		1,201		1,201						1,201
240	OTHER ORDNANCE TRAINING EQUIPMENT		2,006		2,006		2,006						2,006
241	SMALL ARMS & LANDING PARTY AMMUNITION												
242	SMALL ARMS & LANDING PARTY AMMO-(SOF)												
243	PYROTECHNIC AND DEMOLITION												
244	PYROTECHNIC AND DEMOLITION-(SOF)												
245	QUICKSTRIKE												
246	FLEET MINE SUPPORT EQUIPMENT		19,785		19,785		19,785						19,785
247	MINE NEUTRALIZATION DEVICES		3,127		3,127		3,127						3,127
248	DEFENSE NUCLEAR AGENCY MATERIAL												
248a	REDUCTION, REDUCED FORCES				(34,400)				(34,400)		(34,400)		(34,400)
248b	REDUCTION, EXCESS REPROGRAMMING				(21,400)				(21,400)		(21,400)		(21,400)
249	SHIP EXPENDABLE COUNTERMEASURE		51,300		51,300		51,300						51,300
	CIVIL ENGINEERING SUPPORT EQUIPMENT												
250	ARMORED SEDANS		209		209		209						209
251	PASSENGER CARRYING VEHICLES	452	6,810			452	6,810	(452)	(6,810)	(452)	(6,810)		
252	SPECIAL PURPOSE VEHICLES		10,285		10,285		10,285						10,285
253	TRUCKS												
254	GENERAL PURPOSE TRUCKS		11,962		11,962		11,962						11,962
255	TRAILERS												
256	TRAILERS/TRUCK TRACTORS		4,713		4,713		4,713						4,713
257	CRUSH, MIX, BATCH, PAVE EQUIPMENT												
258	DRILLING AND BLASTING EQUIPMENT												
259	EARTH MOVING EQUIPMENT	124	9,126	124	9,126	124	9,126					124	9,126
260	LIGHTING AND POWER GENERATING												

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	House +/- Senate Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
261	CONSTRUCTION & MAINTENANCE EQUIPMENT		7,505		7,505		7,505						7,505
262	FIRE FIGHTING EQUIPMENT	45	4,435	45	4,435	45	4,435					45	4,435
263	WEIGHT HANDLING EQUIPMENT	21	3,848	21	3,848	21	3,848					21	3,848
264	AMPHIBIOUS EQUIPMENT		2,207		2,207		2,207						2,207
265	COMBAT CONSTRUCTION SUPPORT EQUIPMENT		5,477		5,477		5,477						5,477
266	MOBILE UTILITIES SUPPORT EQUIPMENT		2,415		2,415		2,415						2,415
267	COLLATERAL EQUIPMENT		10,396		10,396		10,396						10,396
268	OCEAN CONSTRUCTION EQUIPMENT		1,262		1,262		1,262						1,262
269	FLEET MOORINGS		3,926		3,926		3,926						3,926
270	POLLUTION CONTROL EQUIPMENT		3,202		3,202		3,202						3,202
271	OTHER CIVIL ENG SUPPORT EQUIPMENT		690		690		690						690
	SUPPLY SUPPORT EQUIPMENT												
272	FORKLIFT TRUCKS		14,120		14,120		14,120						14,120
273	OTHER MATERIALS HANDLING EQUIPMENT		3,832		3,832		3,832						3,832
274	AUTOMATED MATERIALS HANDLING SYSTEM		6,711		6,711		6,711						6,711
275	OTHER SUPPLY SUPPORT EQUIPMENT		2,046		2,046		2,046						2,046
276	POLLUTION CONTROL EQUIPMENT		1,172		1,172		1,172						1,172
277	FIRST DESTINATION TRANSPORTATION		58,000		58,000		58,000						58,000
278	SPECIAL PURPOSE SUPPLY SYSTEMS		392,549		208,879		392,549		(183,670)		(207,670)		184,879
	PERSONNEL AND COMMAND SUPPORT EQUIPMENT												
279	SURFACE SONAR TRAINERS		3,685		3,685		3,685						3,685
280	SUBMARINE SONAR TRAINERS												
281	SURFACE COMBAT SYSTEM TRAINERS		18,634		18,634		18,634						18,634
282	SUBMARINE COMBAT SYSTEM TRAINERS												
283	SHIP SYSTEM TRAINERS		40,755		40,755		40,755						40,755
284	TRAINING SUPPORT EQUIPMENT		2,940		2,940		2,940						2,940
285	TRAINING DEVICE MODIFICATIONS		38,659		50,659		50,659				12,000		50,659
286	COMMAND SUPPORT EQUIPMENT		16,400		16,400		16,400						16,400
287	EDUCATION SUPPORT EQUIPMENT		7,888		7,888		7,888						7,888
288	MEDICAL SUPPORT EQUIPMENT		32,188		32,188		32,188						32,188
289	INTELLIGENCE SUPPORT EQUIPMENT		45,349		39,913		44,849		(4,936)		(3,449)		41,900
290	ITEMS UNDER $2 MILLION		856		856		856						856
291	OPERATING FORCES SUPPORT EQUIPMENT		18,258		18,258		18,258						18,258

39-059 O—92-11 (Pt. 23)

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
292	NAVAL RESERVE SUPPORT EQUIPMENT		782		782		782						782
292a	OCEANOGRAPHIC SUPPORT EQUIPMENT				35,000				35,000		35,000		35,000
293	ENVIRONMENTAL SUPPORT EQUIPMENT		15,550		15,550		15,550						15,550
294	PHYSICAL SECURITY EQUIPMENT		22,941		22,941		22,941						22,941
295	INDUSTRIAL DEPOT MAINTENANCE EQUIPMENT		348,231		348,231		348,231						348,231
296	COMPUTER ACQUISITION PROGRAM		106,339		106,339		106,339				(48,400)		57,939
297	PRODUCTIVITY INVESTMENT (PIF)		28,126		28,126		28,126						28,126
298	PROD ENH INCENT FUND (PEIF)		996		996		996						996
	SPARES AND REPAIR PARTS												
299	SPARES AND REPAIR PARTS		521,678		473,278		513,678		(40,400)		(56,400)		465,278
	(REDUCTION, REDUCED FORCES)				[-29,800]						[-29,800]		
	(REDUCTION, EXCESS REPROGRAMMING)				[-18,600]						[-18,600]		
	TOTAL OTHER PROCUREMENT NAVY		6,081,500		5,488,626		6,055,242		(566,616)		(592,941)		5,488,559

AN/SPS-48E radar

The amended budget request included $1 million to continue the AN/SPS-48E radar program.

The House bill would authorize a total of $49.9 million for this program, in order to procure and install AN/SPS-48E radars on two aircraft carriers.

The Senate amendment would authorize the requested amount.

The Senate recedes.

Relocatable over-the-horizon radar

The amended budget request included $80.6 million for procurement of a fourth relocatable over-the-horizon radar (ROTHR) system and $8 million for ROTHR spars.

The House bill would not authorize funds for the ROTHR system in fiscal year 1991, but would authorize $8 million for spares.

The Senate amendment would not provide funds for either purpose.

The conferees agree to authorize $6.6 million in the ROTHR program line (for testing and for preparation of a government-owned data package) and to deny funding for spares. The conferees also agree the Navy should have flexibility in deciding where to deploy the ROTHR systems already under contract.

Sonobuoys

The amended budget request included funding for sonobuoy procurement in several line items which totaled $71.5 million.

The House bill would authorize the request, while the Senate amendment would authorize a general increase of $87 million for sonobuoys.

The House recedes.

AN/SQQ-T1 ASW trainer

The House bill contained a provision (sec. 102(d)(2)) that would provide that $10 million of funds appropriated for Other Procurement, Navy be available for the AN/SQQ-T1 Onboard ASW Trainer.

The Senate amendment contained no similar provision.

The conferees agree to authorize $10 million for the AN/SQQ-T1 Onboard ASW Trainer as part of the Guard and Reserve Equipment authorization.

Oceanographic support equipment

The House bill would authorize $35 million for procurement of a large scale computer (LSC) for the Fleet Numerical Oceanographic Center (FNOC).

The Senate amendment would not authorize any funds for this purpose.

The Senate recedes.

PROCUREMENT, MARINE CORPS

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $782.1 million for Procurement, Marine Corps. The House bill would authorize $778.3 million. The Senate amendment would authorize $715.1 million. The conferees recommend authorization of $752.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	House +/- Senate Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
PROCUREMENT, MARINE CORPS													
AMMUNITION													
1	5.56 MM, ALL TYPES		30,859		30,859		30,859						30,859
2	7.62 MM, ALL TYPES		8,287		8,287		8,287						8,287
3	LINEAR CHARGES, ALL TYPES		982		982		982						982
4	.50 CALIBER		19,543		19,543		19,543						19,543
5	40 MM, ALL TYPES		25,558		25,558		25,558						25,558
6	60 MM ILLUM M721		10,681		10,681		10,681						10,681
7	60 MM SMOKE WP		3,027		3,027		3,027						3,027
8	60 MM HE M888		5,651		5,651		5,651						5,651
9	81 MM HE		3,609		3,609		3,609						3,609
10	81 MM SMOKE RP M819												
11	81 MM TP M879		9,211		9,211		9,211						9,211
12	120MM HEAT MP-T M830		16,037		16,037		16,037						16,037
13	120MM APFSDS-T M829E1		13,125		13,125		13,125						13,125
14	120MM TPCSDS-T M865		18,649		18,649		18,649						18,649
15	120 MM TP-T M831		12,926		12,926		12,926						12,926
16	155MM HE ADAM												
17	155MM HE RAAMS												
18	155MM HE M107												
19	155MM HE DP ICM M483												
20	155MM CHG. PROP. RED BAG												
21	155MM M864 PROJ BASEBURNER		6,161		6,161				6,161				6,161
22	155MM CHARGE WHITE BAG		7,547		7,547		7,547						7,547
23	155MM CHARGE GREEN BAG		4,513		4,513		4,513						4,513
24	FUZE, PD, M739A1		4,276		4,276		4,276						4,276
25	FUZE PROXIMITY M732A2		18,096		18,096		18,096						18,096
26	FUZE, ET, XM762		7,034		7,034		7,034						7,034
27	FUZE, ET, XM767		3,035		3,035		3,035						3,035
28	83 MM ROCKET HEAA (SMAW)		29,339		29,339		29,339						29,339
29	LIGHT ANTI-ARMOR WEAPON												
30	9 MM ALL TYPES		3,759		3,759		3,759						3,759
31	GRENADES, ALL TYPES		7,884		7,884		7,884						7,884
32	AMMO MODERNIZATION		11,663		11,663		11,663						11,663

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
33	ITEMS LESS THAN $2 MIL		3,229		3,229		3,229						3,229
	WEAPONS AND COMBAT VEHICLES												
34	AAV7A1 PIP		18,991		18,991		18,991						18,991
35	MODIFICATION KITS (TRKD VEH)		3,050		3,050		3,050						3,050
36	M-1 A1 MAIN BATTLE TANK (MYP) FY1990									[22]	[62,400]		
37	M-1 ADVANCE PROCUREMENT (CY) FY1990										[-62,400]		
38	ITEMS UNDER $2M (TRKD VEH)		322		322		322						322
39	ITEMS UNDER $2M (ALL OTHER)		1,700		1,700		1,700						1,700
40	MACHINE GUN, 50 CAL M2	462	4,164	462	4,164	462	4,164					462	4,164
41	9MM HANDGUN												
42	5.56MM SQUAD AUTOMATIC WEAPON												
43	M16A2 5.56MM RIFLE												
44	MK-19 40MM MACHINE GUN	1,181	17,227	1,181	17,227	1,181	17,227					1,181	17,227
	GUIDED MISSILES AND EQUIPMENT												
45	HAWK (MYP)												
46	HAWK ADVANCE PROCUREMENT (CY)												
47	HAWK MOD		5,889		5,889		5,889						5,889
48	STINGER (MYP)												
49	DRAGON PIP												
50	TOW (MYP)	662	10,116	662	10,116	662	10,116					662	10,116
51	MODIFICATION KITS		250		250		250						250
	COMMUNICATIONS AND ELECTRONICS EQUIPMENT												
52	MANPACK RADIOS AND EQUIP		2,348		2,348		2,348						2,348
53	VEHICLE MTD RADIOS & EQUIPMENT (MYP)		56,010		56,010		56,010						56,010
54	UNIT LEVEL CIRCUIT SWITCH (ULCS)		32,924		32,924		32,924						32,924
55	TACT COMM CENTER EQUIP		7,415		7,415		7,415						7,415
56	AN/PSG( ) DIGITAL COMM TERMINAL	519	9,574	519	9,574	519	9,574					519	9,574
57	SWEEP GENERATOR		3,346		3,346		3,346						3,346
58	AUTO TEST EQUIP SYS												
59	ELECTRONIC TEST EQUIP (TEL)		8,024		8,024		8,024						8,024
60	AN/GRM-114A RADIO TEST SET												

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
61	ANDVT/TACTERM												
62	TEST CALIB + MAINT SPT												
63	MODIFICATION KITS (TEL)		7,804		7,804		7,804						7,804
64	ITEMS LESS THAN $2M (TEL)		1,579		1,579		1,579						1,579
65	POS LOCATING RPTG SYSTEM (PLRS)												
66	TACTICAL AIR OPER MODULE (TAOM)	6	47,422	6	47,422	4	31,622	2	15,800	(2)	(15,800)	4	31,622
67	TACTICAL RECEIVER EQUIPMENT SET												
68	LEWDD	26	6,643	26	6,643	26	6,643					26	6,643
69	INTELLIGENCE SUPPORT EQUIPMENT		4,244		4,244		4,244						4,244
70	MOD KITS (INTEL)		5,051		5,051		5,051						5,051
71	ITEMS LESS THAN $2M (INTELL)												
72	ELECTRONIC TDME REPAIR FACILITY	5	3,493	5	3,493	5	3,493					5	3,493
73	AN/USM-489 SPECTRUM ANALYZER, PORTABLE												
74	STE/ICE SIMPLE TEST EQ												
75	MECH TEST TMDE		1,237		1,237		1,237						1,237
76	AN/UPM-137 RADAR TEST SET												
77	ELECTRONIC TEST EQUIP (NONTEL)		1,662		1,662		1,662						1,662
78	THERMAL IMAGING EQUIPMENT		3,502		3,502		3,502						3,502
79	NIGHT VISION EQUIPMENT												
80	ADP EQUIPMENT		11,524		11,524		11,524						11,524
81	TEST CALIB & MAINT SPT		1,424		1,424		1,424						1,424
82	MODIFICATION KITS (NONTEL)		2,543		2,543		2,543						2,543
83	ITEMS LESS THAN $2M (NONTEL)		898		898		898						898
84	COMMERCIAL PASSENGER VEHICLES	194	3,821			194	3,821	(194)	(3,821)	(194)	(3,821)		
85	COMMERCIAL CARGO VEHICLES		13,113		13,113		13,113						13,113
86	M876 TRUCK,MAINT,TELEPHONE/UTILITY	26	4,904	26	4,904	26	4,904					26	4,904
87	5-TON TRUCKS (MYP)												
88	LOGISTICS VEHICLE SYSTEM (MYP)												
89	TRAILERS		2,121		2,121		2,121						2,121
90	MODIFICATION KITS		8,953		8,953		8,953						8,953
91	ITEMS LESS THAN $2 MIL		1,215		1,215		1,215						1,215
92	ENVIRONMENTAL CONTROL EQUIP ASSORT		3,082		3,082		3,082						3,082

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
93	HEAVY ROUGH TERRAIN CRANE												
94	LIGHT ROUGH TERRAIN CRANE												
95	TRACTORS, ALL TYPES												
96	FORKLIFTS, ALL TYPES												
97	FIELD BATH SHOWER UNIT												
98	FUEL & WATER PUMP & STORAGE MODULE												
99	AMPHIBIOUS ASSAULT FUEL SYSTEM		2,370		2,370		2,370						2,370
100	TOPOGRAPHIC/SURVEY EQUIPMENT		3,766		3,766		3,766						3,766
101	POWER EQUIPMENT ASSORTED		11,127		11,127		11,127						11,127
102	COMMAND SUPPORT EQUIPMENT		4,046		4,046		4,046						4,046
103	AMPHIBIOUS RAID EQUIPMENT		201		201		201						201
104	PRODUCTIVITY INVESTMENT		16,335		16,335		16,335						16,335
105	PHYSICAL SECURITY EQUIPMENT		301		301		301						301
106	GARRISON MOBILE ENGR EQUIP		5,549		5,549		5,549						5,549
107	TELEPHONE SYSTEM												
108	WAREHOUSE MODERNIZATION		3,027		3,027		3,027						3,027
109	MATERIAL HANDLING EQUIP		2,219		2,219		2,219						2,219
110	FIRST DESTINATION TRANSPORTATION		10,900		10,900		10,900						10,900
111	LIGHTWEIGHT DECONTAMINATION SYSTEM	202	3,633	202	3,633	202	3,633					202	3,633
112	DRY CHEMICAL FIRE EXTINGUISTER	196	2,123	196	2,123	196	2,123					196	2,123
113	TRAINING DEVICES (AUDIO VISUAL)												
114	TRAINING DEVICES (SIMULATORS)												
115	TRAINING DEVICES		3,681		3,681		3,681						3,681
116	SHELTER FAMILY		15,254		15,254		15,254						15,254
117	CONTAINER FAMILY		15,466		15,466		15,466						15,466
118	MODIFICATION KITS		1,526		1,526		1,526						1,526
119	ITEMS LESS THAN $2 MIL		2,694		2,694		2,694						2,694
120	INSTALLATION OF MODERNIZATION EQUIPMENT												
121	INSTALLATION OF PRIOR YEAR EQUIPMENT												
122	INDUSTRIAL/DEPOT MAINTENANCE EQUIPMENT		5,214		5,214		5,214						5,214
122a	REDUCTION TO ENGINEERING AND OTHER SUPPOR						(10,000)		10,000		(10,000)		(10,000)
123	SPARES AND REPAIR PARTS		70,402		70,402		70,402						70,402
	GUARD AND RESERVE EQUIPMENT CONSOLIDATION						(35,000)		35,000				
	TOTAL PROCUREMENT MARINE CORPS		782,100		778,279		715,139		63,140		(29,621)		752,479

AIRCRAFT PROCUREMENT, AIR FORCE

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $14,217.4 million for Aircraft Procurement, Air Force. The House bill would authorize $7,295.6 million. The Senate amendment would authorize $10,293.3 million. The conferees recommend authorization of $9,805.9 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
AIRCRAFT PROCUREMENT, AIR FORCE													
1	B-1B (MYP)		20,819		20,819		20,819						20,819
2	B-2A		3,205,999				2,756,100		(2,756,100)		(856,691)		2,349,308
4	F-15 D/E	36	1,699,771	36	1,473,971	36	1,699,771		(225,800)		(155,800)	36	1,543,971
5	F-15 ADVANCE PROCUREMENT (CY)				100,000		100,000				100,000		100,000
6	F-16 C/D (MYP)	150	2,357,108	108	1,987,108	108	1,925,108		62,000	(42)	(500,000)	108	1,857,108
6a	F-16 PRIOR YEAR						(202,900)		202,900				
7	F-16 ADVANCE PROCUREMENT (CY)		437,400		225,300		389,100		(163,800)		(212,100)		225,300
8	MC-130H - SOF												
9	AC-130U GUNSHIP - SOF												
10	AC-130 ADVANCE PROCUREMENT (CY)												
11	C-17 (MYP)	6	1,704,486	2	350,000		300,000	2	50,000	(4)	(1,304,486)	2	400,000
12	C-17 ADVANCE PROCUREMENT (CY)		204,300		204,300				204,300		(144,300)		60,000
13	C-130H												
14	HC-130												
15	C-20B												
16	C-27A	5	79,529	5	79,529	5	79,529					5	79,529
17	TANKER, TRANSPORT, TRAINER SYSTEM	28	185,155	28	185,155	28	185,155				(22,600)	28	162,555
18	MH-60G	4	36,915	4	36,915	4	36,915					4	36,915
19	CIVIL AIR PATROL A/C	38	1,881	38	1,881	38	1,881					38	1,881
20	C-137E												
21	TR-1/U-2												
MODIFICATION OF INSERVICE AIRCRAFT													
22	B-1B		134,101		134,101		134,101				(51,600)		82,501
23	B-52		109,560		109,560		109,560				(24,300)		85,260
24	A-7		1,687				1,687		(1,687)		(1,687)		
25	A-10		41,620				41,620		(41,620)		(41,620)		
26	F/RF-4		31,553				31,553		(31,553)		(31,553)		
27	F-5												
28	F-15		130,414		91,614		130,414		(38,800)		(38,800)		91,614
29	F-16		144,026		144,026		144,026						144,026
30	F-111		104,586		104,586		104,586						104,586
31	TR-1A		36,000		68,400		18,000		50,400		(18,000)		18,000
32	T/AT-37		46,300		46,300		46,300						46,300

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
33	C-5		64,741		64,741		64,741						64,741
34	C-9		1,700		1,700		1,700						1,700
35	C-21		100		100		100						100
36	C-23 AIRCRAFT		100		100		100						100
37	C-STOL		100		100		100						100
38	C-137		3,080		3,080		3,080						3,080
39	C-141		35,980		36,000		35,980		20				35,980
40	SOF C141												
41	T-38		21,100		21,100		21,100						21,100
42	T-41 AIRCRAFT		200		200		200						200
43	T-43		400		400		400						400
44	KC-10A (ATCA)		4,000		4,000		4,000						4,000
45	C-12		1,200		1,200		1,200						1,200
46	C-18		300		300		300						300
47	C-20 MODS		200		200		200						200
48	VC-25A MOD		200		200		200						200
49	C-130		39,706		39,706		39,706						39,706
50	SOF C130												
51	C-135	24	631,900		139,400	24	572,552	(24)	(433,152)		(51,300)	24	580,600
52	E-3		19,800		19,800		19,800						19,800
53	E-4		37,300		37,300		145		37,155		(33,500)		3,800
54	E-8												
55	H-1												
56	H-3 AIRCRAFT SYSTEM		100		100		100						100
57	SOF HH-53												
58	H-60		5,499		5,499		5,499						5,499
59	MOD INSTALLATIONS												
60	OTHER AIRCRAFT		38,824		38,824		38,824						38,824
61	SOF OTHER AIRCRAFT												
62	OV-10		200		200		200						200

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
63	CLASSIFIED PROJECTS		74,914		62,814		74,914		(12,100)				74,914
64	SOF CLASSIFIED PROJECTS												
65	CIVIL RESERVE AIRLIFT FLEET (CRAF)		2,100		2,100		2,100						2,100
66	SPARES AND REPAIR PARTS		1,391,057		582,457		532,113		50,344		(820,816)		570,241
67	COMMON AGE		386,627		386,627		386,627						386,627
68	INDUSTRIAL RESPONSIVENESS		45,276		45,276		45,276						45,276
69	WAR CONSUMABLES		41,292		41,292		41,292						41,292
70	OTHER PRODUCTION CHARGES		491,474		358,374		529,562		(171,188)		(5,321)		486,153
71	COMMON ECM EQUIPMENT		164,720		38,820		164,720		(125,900)		(125,900)		38,820
72	COMMON GROUND EQUIP												
73	OTHER PRODUCTION CHARGES-SOF												
	RETIREMENT OF OBSOLETE AIRCRAFT						(114,400)		114,400		(71,093)		(71,093)
	MILSTAR TERMINALS						(500)		500				
	GUARD AND RESERVE EQUIPMENT CONSOLIDATION						(232,000)		232,000				
	TOTAL AIRCRAFT PROCUREMENT AIR FORCE		14,217,400		7,295,575		10,293,256		(2,997,681)		(4,411,467)		9,805,933

F-16 fighter

The amended budget request contained $2,357.108 million to procure 150 F-16 aircraft, and $437.4 million for advance procurement for fiscal year 1992.

The House bill would authorize $1,987.108 million for 108 aircraft in fiscal year 1991. The House bill also would eliminate $212.1 million of funds authorized in prior years for the F-16 program. The House bill would also authorize $437.4 million for advance procurement for fiscal year 1992.

The Senate amendment would authorize $1,925.108 for 108 aircraft in fiscal year 1991. The Senate amendment would also eliminate $202.9 million of funds authorized in prior years and would authorize $389.1 million for advance procurement for fiscal year 1992.

The conferees recommend an authorization of $1,925.108 million to procure 108 aircraft in fiscal year 1991, and $225.3 million for advance procurement for fiscal year 1992.

The conferees understand that it will not be possible to preserve the previously negotiated multiyear contract with the reductions that will be required in this program in coming years. Nonetheless, the conferees direct the Air Force to continue to obligate funds to honor the work in progress for items initiated in support of the multiyear contract to maximize the savings that are possible in the contracted actions to date.

C-17 aircraft procurement

The House bill would authorize two C-17 aircraft and provide $350.0 million for procurement, $204.3 million for advance procurement, and $80.2 million for initial spares. The House bill also contained a provision (sec. 163) that would direct the Secretary of the Air Force to seek a reprogramming to pay for the authorized aircraft in fiscal year 1991 after successful completion of the first flight of a production C-17 aircraft, as certified by the Secretary of Defense. It would also preclude obligating any funds other than funds for advance procurement until the Secretary of Defense makes his certification.

The Senate amendment would not authorize any new aircraft, but would provide $300.0 million to cover any additional costs for stretching out procurement to avoid a break in the production line and for supporting the subcontractor base.

The conferees agree to authorize two aircraft and provide $400 million for procurement, $60 million for advance procurement, and $80 million for initial spares. The conferees intend that such funds as are necessary of the funds appropriated be used to protect the government's interests in maintaining warranty provisions of the contract.

The conferees strongly believe that the Air Force and the contractor should adhere to the event-based contract and not obligate fiscal year 1991 production funds until after first flight of the first production aircraft. The conferees have included a provision (sec. 161) that would require such a restriction.

The conferees also are convinced by the arguments of the Defense Department that requiring the next milestone be achieved before initiating a reprogramming request would induce too long an administrative delay. The House recedes from its position on this issue.

SRAM II missile integration on B-1B bomber

The amended budget request contained $58.1 million for modifications to B-1B bomber aircraft to accept the new SRAM-II missile.

Both the House bill and the Senate amendment would fully fund this activity.

However, the conferees have learned that, due to developmental problems within the SRAM-II program, $51.6 million of this request is no longer needed during fiscal year 1991. Accordingly, the conferees agree to authorize $6.5 million for the integration of the SRAM-II missile on the B-1B bomber.

KC-135 reengineering

The amended budget request included $631.9 million for C-135 aircraft procurement.

The House bill would deny authorization of $492.5 million for reengineering 24 KC-135 aircraft in fiscal year 1991 and would terminate the reengineering effort. The House position is based on tactical air wing and strategic bomber force reductions and the Air Force decision to retire 75 KC-135 tankers.

The Senate amendment would authorize the request for KC-135 reengineering.

The conferees agree that the Department of Defense must formally and systematically reassess tanker requirements. The conferees are persuaded, however, that any reduction in requirements for KC-135R tankers resulting from this reassessment will not be drastic enough to affect the Department's planned fiscal year 1991 reengineering effort. The conferees, therefore, agree to authorize $492.5 million to reengine 24 aircraft.

The conferees direct the Secretary of Defense to reassess tanker requirements on a defense-wide basis and the cost-effectiveness of further conversions of KE-135E and Q models to R configurations in light of force structure reductions and changes in U.S. contingency planning. The conferees agree (sec. 137) that no funds may be obligated for KC-135 reengineering until this reassessment is complete and a report is provided to the Committees on Armed Services and Appropriations of the Senate and House of Representatives.

MISSILE PROCUREMENT, AIR FORCE

OVERVIEW

The amendment budget request for fiscal year 1991 contained an authorization of $9,005.7 million for Missile Procurement, Air Force. The House bill would authorize $5.569.8 million. The Senate amendment would authorize $6,729.0 million. The conferees recommend authorization of $6,109.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
MISSILE PROCUREMENT, AIR FORCE													
1	PEACEKEEPER (M-X)	12	673,662	12	673,662	12	673,662					12	673,662
1a	RAIL GARRISON LAUNCHERS		1,053,457								(1,053,457)		
1b	MX PY ADJUSTMENT-IMU CONTRACT				(93,700)				(93,700)		(46,850)		(46,850)
2	MX ADVANCE PROCUREMENT (CY)		133,900								(133,900)		
2a	RAIL MX LAUNCHER PY FY1990				[-48,650]						(48,650)		(48,650)
3	MISSILE REPLACEMENT EQ-BALLISTIC		23,988		17,588		23,988		(6,400)		(6,400)		17,588
3a	MM II PRIOR YEAR ADJUSTMENT				(16,700)				(16,700)		(10,600)		(10,600)
4	ADVANCED CRUISE MISSILE	100	365,869	100	365,869	100	365,869					100	365,869
5	ACM ADVANCE PROCUREMENT (CY)		107,400		64,400		107,400		(43,000)				107,400
5a	ACM PRIOR YEAR SAVINGS				(31,200)				(31,200)		(5,500)		(5,500)
6	HAVE FLAG		[ ]		[ ]		[ ]						[ ]
7	TACIT RAINBOW	[ ]	227,400	[ ]	59,500	[ ]	227,400		(167,900)		(167,900)	[ ]	59,500
8	HAVE NAP	26	25,799	26	25,799	26	25,799					26	25,799
9	AGM-131A SRAM II		14,820		14,820		14,820				(4,700)		10,120
10	SRAM II ADVANCE PROCUREMENT (CY)		6,390		6,390		6,390				(6,390)		
11	CLASSIFIED PROGRAM		[ ]		[ ]		[ ]						[ ]
12	AIM-7F/M SPARROW												
13	AIM-9L/M SIDEWINDER		420		420		420						420
14	AGM-130 POWERED GBU-15	63	38,434	63		63	38,434		(38,434)			63	38,434
15	AGM-65D MAVERICK		7,325	600	60,325		7,325	600	53,000	600	53,000	600	60,325
16	AGM-88A HARM	120	30,315	120	30,315	120	30,315					120	30,315
17	AMRAAM	1,250	893,382			450	463,382	(450)	(463,382)	(800)	(430,000)	450	463,382
18	GRD LAUNCH CRUISE MISSILE												
19	TARGET DRONES	115	46,404	115	46,404	115	46,404					115	46,404
20	INDUSTRIAL PREPAREDNESS		16,211		16,211		16,211						16,211
21	MISSILE REPLACEMENT EQ-OTHER		2,620		2,620		2,620						2,620
MODIFICATION OF INSERVICE MISSILES													
22	ADVANCED CRUISE MISSILE		5,029		5,029		5,029						5,029
23	HAVE NAP												
24	AIM-9L/M SIDEWINDER												
25	MM II/III MODIFICATIONS		94,978		94,978		94,978						94,978
26	AGM-45A SHRIKE												
27	AGM-65D MAVERICK		3,238		3,238		3,238						3,238
28	AGM-88A HARM		2,074		2,074		2,074						2,074
29	AIR LAUNCH CRUISE MISSILE		3,733		3,733		3,733						3,733
30	MOD INSTALLATIONS												

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
31	PEACEKEEPER (M-X)		1,937		1,937		1,937						1,937
32	MODIFICATIONS UNDER $2.0M		284		284		284						284
33	SPARES AND REPAIR PARTS		271,355		61,555		112,669		(51,114)		(184,205)		87,150
OTHER SUPPORT													
34	SPACEBORNE EQUIP (COMSEC)		7,621		7,621		7,621						7,621
35	GLOBAL POSITIONING (MYP)		120,978		120,978		120,978						120,978
36	GPS ADVANCE PROCUREMENT (CY)		80,767		80,767		80,767						80,767
37	SPACE SHUTTLE OPERATIONS		15,128		15,128		15,128						15,128
38	DEF METEOROLOGICAL SAT PROG (MYP)	1	84,068	1	84,068	1	84,068					1	84,068
39	DMSP ADVANCE PROCUREMENT (CY)		63,651		37,651		36,651		1,000		(10,000)		53,651
40	DEFENSE SUPPORT PROGRAM (MYP)	1	326,246	1	326,246	1	326,246					1	326,246
41	DSP ADVANCE PROCUREMENT (CY)												
42	DEFENSE SATELLITE COMM SYSTEM (MYP)		63,917		63,917		63,917						63,917
43	SPACE BOOSTERS (MYP)	2	208,580	2	208,580	2	208,580					2	208,580
44	SPACE BOOSTERS ADVANCE PROC (CY)												
45	MEDIUM LAUNCH VEHICLE	5	234,475	5	234,475	5	234,475					5	234,475
46	MLV ADVANCE PROCUREMENT (CY)		35,256		35,256		35,256						35,256
47	FOREST GREEN		625		625		625						625
48	IONDS (MYP)		12,899		12,899		12,899						12,899
49	IONDS ADVANCE PROCUREMENT (CY)		19,245		19,245		19,245						19,245
50	SPECIAL PROGRAMS		3,101,796		2,865,896		2,721,796		144,100		(301,600)		2,800,196
51	SPECIAL UPDATE PROGRAMS		237,345		40,945		137,345		(96,400)		(196,400)		40,945
999	CLASSIFIED PROGRAMS		342,679				342,679		(342,679)		(342,679)		
	UNDISTRIBUTED						6,300		(6,300)				
	TOTAL MISSILE PROCUREMENT AIR FORCE		9,005,700		5,569,848		6,728,957		(1,159,109)		(2,896,231)		6,109,469

MX in silos

The House bill would reduce the authorization for prior-year funds for procurement of MX test missiles by $93.7 million because of contract savings association with the Internal Measurement Unit (IMU) program.

The Senate amendment contained no similar reduction.

The Senate recedes with an amendment that would reduce the authorization for prior-year funds for procurement of MX test missiles by $46.85 million. The conferees intend that the $46.85 million in fiscal year 1988 and 1989 funds that remain available for obligation due to contract savings in the IMU program be used to increase IMU repair capability, qualify new sources of rayon fiber and ammonium perchlorate, and support other program costs that could not be anticipated when initial fiscal year 1988 and 1989 appropriations were made.

AGM-65 Maverick Missile

The amended budget request included $7.325 million for the concluding procurement of AGM-65 Maverick missiles.

The House bill would increase the authorization by $53.0 million for a total of $60.325 million. The report accompanying the House bill (H. Rept. 101-655) stipulated that the funds may not be obligated until the Secretary of Defense certifies that the follow-on sensor fuzed weapons deliveries will not occur prior to the second quarter of fiscal year 1994. If the deliveries of the follow-on system can occur prior to that point, there is no need to continue to procure Maverick missiles.

The Senate amendment would authorize the program at the requested levels.

The conferees recommend an authorization of $60.325 and concur in the stipulations outlined in the House report.

Inertial upper stages

The conferees agree to authorize an additional $8 million to the amended budget request for procurement of inertial upper stages for future space launches. These funds will enable the Air Force to join with the National Aeronautics and Space Administration in a combied procurement that should save the Department of Defense about $35 million over a separate procurement.

Defense support program

The amended budget request included $326.2 million to complete the multi-year procurement of Defense Support Program (DSP) satellities number 18 to 22. The Air Force originally intended to procure three more DSP satellites (number 23 through 25) with a multi-year contract. Due to changes in satellite requirements, the Air Force no longer intends to procure DSP satellite number 25, and now plans annual buys of satellites 23 and 24.

The conferees appreciate the uncertainties facing the Air Force in terms of satellite requirements, procurement schedules, and resource availability. The conferees are concerned, however, that the Air Force has underestimated the potential cost of annual procurements to DSP satellities and has few incentives to offer, or points of leverage, to control those costs.

Accordingly, the conferees agree to a provision that would provide the Air Force the authority to conclude a multi-year contract for procurement of satellities 23 and 24. This authority would extend to negotiating options for satellities beyond number 24. The conferees expect the Air Force to justify to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a decision to proceed with a multi-year contract prior to contract award.

OTHER PROCUREMENT, AIR FORCE

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $8,307.4 million for Other Procurement, Air Force. The House bill would authorize $7,993.9 million. The Senate amendment would authorize $7,526.5 million. The conferees recommend authorization of $7,826.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	OTHER PROCUREMENT, AIR FORCE												
	MUNITIONS AND ASSOCIATED EQUIPMENT												
1	2.75 INCH ROCKET MOTOR	62,760	15,755	62,760	15,755	62,760	15,755					62,760	15,755
2	2.75 INCH ROCKET HEAD - WP	53,088	4,486	53,088	4,486	53,088	4,486					53,088	4,486
3	LIGHT ANTI-TANK TACTICAL AT-4												
4	ITEMS LESS THAN $2,000,000		6,307		6,307		5,007		1,300		(1,300)		5,007
5	9MM PARABELLUM												
6	5.56 MM	27,004	6,648	27,004	6,648	27,004	6,648					27,004	6,648
7	20 MM COMBAT	1,193	6,893	1,193	6,893	1,193	6,893					1,193	6,893
8	20MM TRAINING	14,214	38,507	14,214	38,507	14,214	38,507					14,214	38,507
9	30 MM TRAINING	6,610	46,563	6,610	46,563	6,610	46,563					6,610	46,563
10	40MM TP GRENADES												
11	40MM HE GRENADES												
12	SIGNAL MK-4 MOD 3	458	613	458	613	458	613					458	613
13	MXU-4A/A ENGINE STARTER												
14	CART IMP 3000 FT/LBS	1,786	6,174	1,786	6,174	1,786	6,174					1,786	6,174
15	ITEM LESS THAN 2.0M CARTRIDGES-SOF												
16	ITEMS LESS THAN $2,000,000		17,043		17,043		17,043						17,043
17	MK-82 INERT/BDU-50	67,704	23,906	67,704	23,746	67,704	23,906		(160)		(80)	67,704	23,826
18	BSU-49 INFLATABLE RETARDER	46,691	19,318	46,691	19,214	46,691	19,318		(104)		(52)	46,691	19,266
19	BSU-50 INFLATABLE RETARDER												
20	BOMB HARD TARGET 2000LB				12,300				12,300		12,300		12,300
21	LASER BOMB GUIDANCE KIT	33	2,076	33	2,076	33	2,076			700	40,900	733	42,976
22	GBU-15		28,386		28,386		28,386						28,386
23	BOMB PRACTICE 25 POUND	1617290	23,910	1617290	23,806	1617290	23,910		(104)		(52)	1617290	23,858
24	BOMB PRACTICE BDU-38	24	104			24	104	(24)	(104)	(12)	(52)	12	52
25	MK-84 BOMB-EMPTY	14,306	27,755	14,306	27,755	14,306	27,755					14,306	27,755
26	CBU-87(COMB EFFECTS MUNITION)												
27	BIGEYE		57,822								(57,822)		
27a	BIGEYE PRIOR YEAR				(3,000)				(3,000)		(3,000)		(3,000)
28	ITEMS LESS THAN $2,000,000		4,046		4,046		4,046						4,046
29	FLARE, IR MJU-7B	236,700	4,419	236,700	4,419	236,700	4,419					236,700	4,419
30	PARACHUTE FLARE LUU-2 B/B	4,254	1,397	4,254	1,397	4,254	1,397					4,254	1,397

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	House +/- Senate Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
31	MJU-23 FLARE	5,052	7,310	5,052	7,310	7,452	7,310	(2,400)			(2,400)	5,052	4,910
32	MJU-10B	157,740	7,570	157,740	7,570	157,740	7,570					157,740	7,570
33	SPARES AND REPAIR PARTS		437		437		437						437
34	SPECIAL PROGRAMS		7,663		7,663		7,663						7,663
35	MODIFICATIONS		1,400		1,400		1,400						1,400
36	ITEMS LESS THAN $2,000,000		17,733		17,733		17,733						17,733
37	FMU-139	41,112	33,404	41,112	33,404	41,112	33,404					41,112	33,404
38	ITEMS LESS THAN $2,000,000												
39	M-203 GRENADE LAUNCHER												
40	81MM MORTAR	45	1,228	45	1,228	45	1,228					45	1,228
41	9MM HANDGUN												
42	HOST NATION SUPPORT WEAPONS												
43	SQUAD AUTOMATIC WEAPON	1,200	2,045	1,200	2,045	1,200	2,045					1,200	2,045
44	M-16 A2 RIFLE WEAPON	15,000	7,120	15,000	7,120	15,000	7,120					15,000	7,120
VEHICULAR EQUIPMENT													
45	SEDAN, 4 DR 4X2	149	1,254			149	1,254	(149)	(1,254)	(149)	(1,254)		
46	STATION WAGON, 4X2	95	851			95	851	(95)	(851)	(95)	(851)		
47	BUS, 28 PASSENGER	44	1,985			44	1,985	(44)	(1,985)	(44)	(1,985)		
48	BUS INTERCITY	12	2,251			12	2,251	(12)	(2,251)	(12)	(2,251)		
49	BUS, 44 PASSENGER	44	3,785			44	2,985	(44)	(2,985)	(44)	(3,785)		
50	AMBULANCE, BUS	1	97	1	97	1	97					1	97
51	MODULAR AMBULANCE	14	728	14	728	14	728					14	728
52	14-23 PASSENGER BUS	4	146			4	146	(4)	(146)	(4)	(146)		
53	LAW ENFORCEMENT VEHICLE	277	3,779	277	3,779	277	3,079		700		(700)	277	3,079
54	ARMORED SEDAN	4	700	4	700	4	700					4	700
55	TRUCK, STAKE/PLATFORM	306	4,608	296	4,482	306	4,608	(10)	(126)	(10)	(126)	296	4,482
56	TRUCK, CARGO-UTILITY, 3/4T, 4X4	214	3,785	211	3,732	214	3,785	(3)	(53)	(3)	(53)	211	3,732
57	TRUCK, CARGO-UTILITY, 1/2T, 4X2	201	3,142	162	2,554	201	3,142	(39)	(588)	(39)	(588)	162	2,554
58	TRUCK, PICKUP, 1/2T, 4X2	461	6,352			461	6,352	(461)	(6,352)	(461)	(6,352)		
59	TRUCK, PICKUP, COMPACT	315	2,451			315	2,451	(315)	(2,451)	(315)	(2,451)		
60	TRUCK MULTI-STOP 1 TON 4X2	305	8,240	305	8,240	305	8,240					305	8,240
61	TRUCK, PANEL, 4X2												
62	TRUCK CARRYALL	330	5,719			330	5,719	(330)	(5,719)	(330)	(5,719)		

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
63	COMMERCIAL UTILITY CARGO VEHICLE												
64	TRUCK, CARGO, 2 1/2T, 6X6, M-35												
65	TRUCK CARGO 5T M-923.M-925(MYP)												
66	MEDIUM TACTICAL VEHICLE	47	3,433	47	3,433	47	3,433					47	3,433
67	HIGH MOBILITY VEHICLE (MYP)												
68	TRUCK TRACTOR, OVER 5T	35	2,405	35	2,405	35	2,405					35	2,405
69	TRUCK, DUMP 5 TON	52	1,789	52	1,789	52	1,789					52	1,789
70	CAP VEHICLES				800		800		-		800		800
71	ITEMS LESS THAN $2,000,000		11,190		10,298		11,190		(892)		(892)		10,298
72	TRUCK, TANK, 1200 GAL	25	1,425	25	1,425	25	925		500		(500)	25	925
73	TRUCK TANK FUEL R-11(R-9)												
74	TRUCK, TANK, FUEL, M-49	28	2,610	28	2,610	28	2,010		600		(600)	28	2,010
75	TRACTOR, A/C TOW, MB-4												
76	TRACTOR, TOW, FLIGHTLINE	316	5,680	316	5,680	316	5,680					316	5,680
77	MOBILE MAINT UNIT	13	4,542	13	4,542	13	4,542					13	4,542
78	MOBILE ARM RECON VEHICLE												
79	ITEMS LESS THAN $2,000,000		13,517		12,574		13,517		(943)		(943)		12,574
80	TRUCK CRASH P-19												
81	TRUCK CRASH P-23(P-2)	48	22,637	48	22,637	48	22,637					48	22,637
82	TRUCK WATER P-18												
83	TRUCK PUMPER P-24(P-8)	25	3,508	25	3,508	25	3,508					25	3,508
84	TRUCK PUMPER P-22(P-12)	24	2,910	24	2,910	24	2,910					24	2,910
85	ITEMS LESS THAN $2,000,000		2,100		1,998		2,100		(102)		(102)		1,998
86	TRUCK F/L 4000 LB GED/DED 144 INCH	96	4,163	88	4,014	96	4,163	(8)	(149)	(8)	(149)	88	4,014
87	TRUCK, F/L 6000 LB	133	3,346	121	3,088	133	3,346	(12)	(258)	(12)	(258)	121	3,088
88	TRUCK, F/L 10,000 LB	263	13,458	260	13,331	263	13,458	(3)	(127)	(3)	(127)	260	13,331
89	25K FORKLIFT	2	498	2	498	2	498					2	498
90	25K A/C LOADER	41	6,022	41	6,022	41	6,022					41	6,022
91	ITEMS LESS THAN $2,000,000		4,188		4,177		4,188		(11)		(11)		4,177
92	LOADER, SCOOP												
93	CLEANER, RUNWAY/STREET	49	3,759	47	3,624	49	3,759	(2)	(135)	(2)	(135)	47	3,624
94	CRANE, 7-50 TON												
95	EXCAVATOR, DED, PT												
96	SPARES AND REPAIR PARTS		2,636		2,636		2,636						2,636

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	House +/- Senate Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
97	MODIFICATIONS		837		837		837						837
98	ITEMS LESS THAN $2,000,000		10,176		10,176		10,176						10,176
98a	FOREIGN VEHICLE PROCUREMENT				(15,761)				(15,761)		(9,561)		(9,561)
98b	UNDISTRIBUTED REDUCTION-TACTICAL VEHICLES						(10,000)		10,000				
	ELECTRONICS AND TELECOMMUNICATIONS EQUIP												
99	COMSEC EQUIPMENT		77,007		77,007		77,007						77,007
100	TEMPEST EQUIPMENT												
101	TAC SECURE VOICE												
102	DCS SECURE VOICE (COMSEC)												
103	SECURE DATA												
104	TRI-TAC (COMSEC)												
105	SPARES AND REPAIR PARTS		4,310		4,310		4,310						4,310
106	MODIFICATIONS (COMSEC)		1,855		1,855		1,855						1,855
107	INTELLIGENCE DATA HANDLING SYS		8,653		8,653		8,653						8,653
108	INTELLIGENCE TRAINING EQUIPMENT		7,374		7,374		7,374						7,374
109	INTELLIGENCE COMM EQUIP		1,445		1,445		1,445						1,445
110	ITEMS LESS THAN $2,000,000		11,140		11,140		11,140						11,140
111	AIR TRAFFIC CTRL/LAND SYS (ATCALS)		11,196		11,196		11,196						11,196
112	TACTICAL AIR CONTROL SYS IMPROVE		232,027		232,027		157,027		75,000		(75,000)		157,027
113	WEATHER OBSERV/FORCAST		49,696		49,696		45,196		4,500		(4,500)		45,196
114	DEFENSE SUPPORT PROGRAM		66,756		66,756		66,756						66,756
115	OTH-B RADAR												
116	SAC COMMAND AND CONTROL		68,374		58,174		68,374		(10,200)		(5,100)		63,274
117	CHEYENNE MOUNTAIN COMPLEX		9,099		9,099		9,099						9,099
118	BMEWS MODERNIZATION												
119	SPACETRACK												
120	NAVSTAR GPS		3,863		3,863		3,863						3,863
121	USAFE COMMAND/CONTROL SYSTEM												
122	PACAF COMMAND/CONTROL		1,117		1,117		1,117						1,117
123	DEFENSE METEOROLOGICAL SAT PROG		17,457		17,457		17,457						17,457
124	CARIBBEAN BASIN RADAR NETWORK												
125	MARS/USAF-FAA RADAR UPGRADE		54,807		54,807		54,807						54,807
126	TAC SIGINT SUPPORT		12,003		12,003		12,003						12,003
127	AREOSTAT RADARS												
128	DIST ERLY WARNING RDR/NORTH WARNING												

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
129	TACTICAL GROUND INTERCEPT FACILITY		9,576		6,076		9,576		(3,500)		(1,200)		8,376
130	TR-1 GROUND STATIONS												
131	DRUG INTERDICTION PROGRAM												
132	AIR BASE OPERABILITY		3,777				3,777		(3,777)		(3,777)		
133	IMAGERY TRANS		1,498		1,498		1,498						1,498
134	NUDET DETECTION SYSTEM (NDS)		17,625		4,725				4,725		(17,625)		
135	TACTICAL WARNING SYSTEMS SUPPORT		552		552		552						552
136	AUTOMATIC DATA PROCESSING EQUIP		54,746		26,146		54,746		(28,600)		(28,600)		26,146
137	WWMCCS/WIS ADPE		18,357		18,357		18,357				(8,357)		10,000
138	MAC COMMAND AND CONTROL SUPPORT		22,139		22,139		22,139						22,139
139	MAC COMMAND AND CONTROL-SOF												
140	AIR FORCE PHYSICAL SECURITY SYSTEM		24,042		24,042		24,042						24,042
141	WEAPONS STORAGE/SECURITY		21,732		21,732		21,732						21,732
142	RANGE IMPROVEMENTS		66,264		66,264		66,264						66,264
143	C3 COUNTERMEASURES		6,160		6,160		6,160						6,160
144	JOINT SURVEILLANCE SYSTEM		832		832		832						832
145	BASE LEVEL DATA AUTO PROGRAM		22,109		22,109		22,109						22,109
146	SATELLITE CONTROL FACILITY		87,940		87,940		87,940						87,940
147	CONSTANT WATCH		3,907		3,907		3,907						3,907
148	CONSOLIDATED SPACE OPS CENTER		4,376		4,376		4,376						4,376
149	CMD CENTER PROCESSING/DISPLAY SYS												
150	HAMMER ACE												
151	SAMTO TEST RANGES I&M		47,107		47,107		47,107						47,107
152	PROGRAM 698AJ		1,781		1,781		1,781						1,781
153	INFORMATION TRANSMISSION SYSTEMS		658		658		658						658
154	TELEPHONE EXCHANGE		70,882		70,882		50,882		20,000		(20,000)		50,882
155	JOINT TACTICAL COMM PROGRAM		72,465		72,465		72,465						72,465
156	USTRANSCOM		15,619		15,619		15,619						15,619
157	USSOCCOM												
158	USCENTCOM		5,095		5,095		5,095						5,095
159	AUTOMATED TELECOMMUNICATIONS PRG		3,833		3,833		3,833						3,833
160	MILSTAR		178,014		178,014				178,014		(178,014)		
	ADV COMMUNIC SATELLITE RELAY TERMINALS										98,000		98,000

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
161	SATELLITE TERMINALS		18,483		18,483		18,483						18,483
162	WIDEBAND SYSTEMS UPGRADE		13,842		13,842		13,842						13,842
163	MINIMUM ESSENTIAL EMER COMM NET		3,294				3,294		(3,294)		(3,294)		
164	DCS SECURE VOICE EQUIPMENT												
165	TACTICAL C-E EQUIPMENT		22,612		22,612		22,612						22,612
166	RADIO EQUIPMENT		4,010		3,117		4,010		(893)		(447)		3,563
167	RADIO EQUIPMENT-SOF												
168	FIBER OPTICS												
169	TV EQUIPMENT (AFRTV)		4,932		4,932		4,932						4,932
170	CCTV/AUDIOVISUAL EQUIPMENT		4,080		4,080		4,080						4,080
171	E + I REQUIREMENTS		1,911		1,911		1,911						1,911
172	SPARES AND REPAIR PARTS		139,839		137,739		112,639		25,100		(28,000)		111,839
173	CAP COM & ELECT				500		500				500		500
174	ITEMS LESS THAN $2,000,000		15,565		15,565		15,565						15,565
175	COMM-ELECTRONICS CLASS IV		18,871		18,871		18,871						18,871
176	TACTICAL EQUIPMENT												
177	ANTIJAM VOICE		4,802		4,802		4,802						4,802
	OTHER BASE MAINTENANCE AND SUPPORT EQUIP												
178	BASE/ALC CALIBRATION PACKAGE		26,123		26,123		26,123						26,123
179	NEWARK AFS CALIBRATION PACKAGE		3,088		3,088		3,088						3,088
180	TEST EQUIPMENT-GEN PURP												
181	ITEMS LESS THAN $2,000,000		39,222		34,820		39,222		(4,402)		(4,402)		34,820
182	AUTOMATIC LIFE PRESERVER												
183	NIGHT VISION GOGGLES		6,554		6,554		6,554						6,554
184	NIGHT VISION GOGGLES-SOF												
185	CHEMICAL/BIOLOGICAL DEF PROG		43,301		32,201		43,301		(11,100)		(11,100)		32,201
186	ITEMS LESS THAN $2,000,000		6,370		6,370		6,370						6,370
187	BASE MECHANIZATION EQUIPMENT		24,324		24,324		20,424		3,900		(3,900)		20,424
188	AIR TERMINAL MECHANIZATION EQUIP		7,184		7,184		7,184						7,184
189	ASSET CAPITALIZATION PROGRAM (ACP)		77,728		77,728		77,728				(3,000)		74,728
190	ITEMS LESS THAN $2,000,000		15,883		15,883		15,883						15,883
191	GENERATORS-MOBILE ELECTRIC		4,296		4,296		4,296						4,296
192	ITEMS LESS THAN $2,000,000		6,101		6,101		6,101						6,101

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
193	BASE PROCURED EQUIPMENT		38,485		38,485		28,485		10,000		(10,000)		28,485
194	MEDICAL/DENTAL EQUIPMENT		84,246		84,246		84,246						84,246
195	AIR BASE OPERABILITY		11,084		11,084		11,084						11,084
196	PALLET, AIR CARGO, 108	4,000	3,828	4,000	3,828	4,000	3,828					4,000	3,828
197	PHOTOGRAPHIC EQUIPMENT		9,953		9,953		9,953						9,953
198	TACTICAL SHELTER		3,840		3,840		3,840						3,840
199	PRODUCTIVITY ENHANCEMENT		8,286		8,286		8,286						8,286
200	PRODUCTIVITY INVESTMENTS		14,069		14,069		14,069						14,069
201	MOBILITY EQUIPMENT		7,899		7,899		7,899						7,899
202	WARTIME HOST NATION SUPPORT		9,186		9,186		9,186						9,186
203	SPARES AND REPAIR PARTS		2,192		2,192		2,192						2,192
204	ITEMS LESS THAN $2,000,000		24,581		24,581		24,581						24,581
205	INTELLIGENCE PRODUCTION ACTIVITY		81,566		37,062		79,737		(42,675)		(8,085)		73,481
206	TECH SURV COUNTERMEASURES EQ		1,935		1,935		1,935						1,935
207	PHOTO PROC/INTERPRET SYS												
208	SELECTED ACTIVITIES		5,354,135		5,257,535		5,172,938		84,597		(114,750)		5,239,385
209	SPECIAL UPDATE PROGRAM		105,337		105,337		105,337						105,337
210	SPECIAL APPLICATION PROGRAM												
211	INDUSTRIAL PREPAREDNESS		4,649		4,649		4,649						4,649
212	MISC EQUIPMENT		516		516		516						516
213	MISC EQUIPMENT-SOF												
214	MODIFICATIONS		100		100		100						100
215	FIRST DESTINATION TRANSPORTATION		25,093		25,093		25,093						25,093
	GUARD AND RESERVE EQUIPMENT CONSOLIDATION						(191,200)		191,200				
	TOTAL OTHER PROCUREMENT AIR FORCE		8,307,400		7,993,897		7,526,513		467,384		(480,948)		7,826,452

TR-1 sensor upgrades and ground processing modifications

The amended budget request contained $7.801 million for the Remote Tactical Airborne SIGINT System (RTASS) and $9.576 million for the Tactical Ground Intercept Facility (TGIF). Both of these programs primarily fund airborne sensor upgrades and ground processing modifications related to the Air Force TR-1 airborne reconnaissance system.

The House bill would cut $2.1 million from RTASS and $3.5 million from TGIF. The House position reflected concern about the utility of these programs in light of changes in Eastern Europe. The House bill intended to deny that part of the requests related to the continued development of a fixed, hardened TR-1 Ground Station (TRIGS) in Germany.

The Senate amendment would authorize the requested amount for both programs.

The Air Force has identified $0.8 million from the RTASS line and $1.15 million from the TGIF line that indeed is related specifically to TRIGS development. However, larger cuts would prevent replacement of 1970s-vintage vanishing vendor equipment and create an operational problem by canceling the ground station software modifications required to interface with sensor upgrades already made onboard several TR-1 aircraft.

Accordingly, the conferees agree to fund the RTASS upgrades at $7.001 million and to fund the TGIF modifications at $8.426 million.

PROCUREMENT, DEFENSE AGENCIES

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $1,969.4 million for Procurement, Defense Agencies. The House bill would authorize $1,853.5 million. The Senate amendment would authorize $1,913.9 million. The conferees recommend authorization of $2,150.0 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	PROCUREMENT, DEFENSE AGENCIES												
	MAJOR EQUIPMENT, OSD												
1	MOTOR VEHICLES	2	308	2	308	2	308					2	308
2	MAJOR EQUIPMENT, OSD/WHS		78,350		78,350		78,350						78,350
3	REMOTELY PILOTED VEHICLES		24,322		24,322		24,322						24,322
4	CORPORATE INFORMATION MANAGEMENT		145,000		145,000		145,000						145,000
	EW EQUIPMENT										161,500		161,500
5	MAJOR EQUIPMENT, NSA		[ ]		[ ]		[ ]				[-2,500]		[ ]
6	DNA VEHICLES	28	433	28	433	28	433					28	433
7	OTHER CAPITAL EQUIPMENT DNA	21	4,253	21	4,253	21	4,253					21	4,253
	MAJOR EQUIPMENT, DCA												
8	WWMCCS ADP SYSTEMS		7,602		7,602		7,602						7,602
9	ITEMS LESS THAN $2 MILLION		19,809		19,809		19,809						19,809
10	PRODUCTIVITY INVESTMENT FUNDING		3,700		3,700		3,700						3,700
11	DRUG INTERDICTION SUPPORT												
12	INDUSTRIAL/DEPOT MAINTENANCE EQUIP		33,888		33,888		33,888						33,888
13	MAJOR EQUIPMENT, DIA		[ ]		[ ]		[ ]				[-46]		[ ]
	MAJOR EQUIPMENT, DLA												
14	MATERIALS HANDLING EQUIPMENT		4,466		4,466		4,466						4,466
15	VEHICLES		1,534		1,534		1,534						1,534
16	MECHANIZED MATERIALS HANDLING SYS		33,285		33,285		33,285						33,285
17	ADP EQUIPMENT		62,657		62,657		62,657						62,657
18	TELECOMMUNICATIONS EQUIPMENT		18,454		18,454		18,454						18,454
19	OTHER MAJOR EQUIPMENT		7,729		7,729		7,729						7,729
20	ITEMS LESS THAN $2 MILLION		1,243		1,243		1,243						1,243
21	INDUSTRIAL/DEPOT MAINTENANCE		800		800		800						800
	MAJOR EQUIPMENT, DMA												
22	ADP EQUIPMENT		18,628		18,628		18,628						18,628
23	VEHICLES		253		253		253						253
24	OTHER CAPITAL EQUIPMENT DMA		123,059		123,059		123,059						123,059
25	DIS VEHICLES		4,236				4,236		(4,236)				4,236
26	OTHER CAPITAL EQUIPMENT DIS		184		184		184						184
27	ITEMS LESS THAN $2 MILLION ,USUHS		890		890		890						890
28	ITEMS LESS THAN $2 MILLION,DCAA		2,081		2,081		2,081						2,081
29	MAJOR EQUIPMENT DSPO		213,900		153,600		145,700		7,900		(60,300)		153,600

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	House +/- Senate Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
30	AIRBORNE RECONNAISSANCE SUPPORT PROGRAM												
31	ITEMS LESS THAN $2 MILLION DIG												
32	MAJOR EQUIPMENT, OJCS		25,451		25,451		25,451						25,451
33	OSIA VEHICLES		50		50		50						50
34	OTHER CAPITAL EQUIPMENT OSIA		950		950		950						950
	SPECIAL OPERATIONS COMMAND												
35	MC-130H COMBAT TALON II		85,800		85,800		85,800						85,800
36	C-130 MODIFICATIONS		96,300		96,300		111,000		(14,700)		14,700		111,000
37	MH-47 MODIFICATIONS		25,500		25,500		25,500						25,500
38	MH-60 MODIFICATIONS		73,900		73,900		73,900						73,900
39	HH-53 MODIFICATIONS		7,800		7,800		7,800						7,800
40	OTHER AIRCRAFT MODIFICATIONS		13,500		13,500		13,500						13,500
41	AIRCRAFT SUPPORT		55,300		55,300		55,300						55,300
42	25MM AMMUNITION	1,093	15,696	1,093	15,696		35,996	1,093	(20,300)		20,300	1,093	35,996
43	ROCKET, HYDRA		1,400		1,400		1,400						1,400
44	RANGER ANTI-ARMOR WPN SYS AMMUNITION	10,891	6,500	10,891	6,500	10,891	6,500					10,891	6,500
45	SMALL ARMS AND LANDING PARTY AMMUNITION		5,500		5,500		5,500						5,500
46	PYROTECHNIC AND DEMOLITION		17,900		17,900		17,900						17,900
47	NAVAL SPECIAL WARFARE EQUIPMENT		20,500		20,500		20,500						20,500
48	COMMUNICATION EQUIPMENT MODIFICATIONS		44,900		44,900		46,100		(1,200)		1,200		46,100
49	MISCELLANEOUS EQUIPMENT		3,100		3,100		3,100						3,100
50	CLASSIFIED PROGRAMS		67,600		67,600		(1,594)		69,194				67,600
51	4TH PSY OPERATIONS		10,700		10,700		10,700						10,700
52	SWIMMER WEAPONS SYSTEM		2,000		2,000		2,000						2,000
53	SMALL ARMS AND WEAPONS		1,300		1,300		6,500		(5,200)		5,200		6,500
53a	RANGER VEHICLE						2,500		(2,500)		2,500		2,500
53b	COASTAL PATROL BOAT						28,000		(28,000)		28,000		28,000
53c	SUBMARINE CONVERSION						10,000		(10,000)		10,000		10,000
999	CLASSIFIED PROGRAMS		576,689		525,339		576,689		(51,350)		(2,546)		574,143
	TOTAL PROCUREMENT DEFENSE AGENCIES		1,969,400		1,853,514		1,913,906		(60,392)		180,554		2,149,954

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	CHEM AGENTS AND MUNITIONS DESTRUCTION, DEF												
1	CHEM DEMILITARIZATION - RDTE						11,300		(11,300)		5,300		5,300
2	CHEM DEMILITARIZATION - PROC		211,600		202,900		211,600		(8,700)		(8,700)		202,900
3	CHEM DEMILITARIZATION - O&M		142,800		162,200		142,800		19,400		19,400		162,200
4	RETROGRADE				12,200				12,200		12,200		12,200
	TOTAL CHEMICAL DEMILITARIZATION		354,400		377,300		365,700		11,600		28,200		382,600

Electronic warfare consolidation

The amended budget request contained funds to procure different electronic jamming systems for the Navy and the Air Force. The Navy requested $161.9 million to procure Airborne Self Protection Jammers (ASPJ). The Air Force discontinued its participation in the program and requested $137.0 million for ALQ-135 jammers for the F-15 fleet, and $164.4 million for ALQ-184 jammers for the F-16 fleet. The amended budget request also included funds for a classified activity.

The House bill would authorize the ASPJ program at the requested level. The House bill would deny authorization for the ALQ-135, including $59.0 million of fiscal year 1990 unobligated funding, and remove $126.0 million of the ALQ-184 request, both because of limited operational testing and reported shortcomings in the performance and reliability of the systems. The House bill would also recommend an additional $15.0 million in research and development for the Air Force to continue its participation in the ASPJ program through fiscal year 1991.

The Senate amendment would authorize the ALQ-135 and ALQ-184 programs at the requested level. The Senate amendment would deny authorization for ASPJ production units, and authorize $48 million in procurement to sustain the industrial base required to produce ASPJ units once the system had proven its effectiveness in operational testing. The Senate amendment also would increase research and development for the Navy by $6.5 million to accelerate operational testing of ASPJ.

Both the House bill and the Senate amendment would authorize the classified activity at the requested level.

The conferees note their frustration with electronic warfare systems in general and these three programs specifically. The conferees note that the Air Force is now buying two separate jammer systems after it decided to terminate its participation in the ASPJ program. The conferees further note that the ASPJ system has grown substantially in cost and could become prohibitive if limited to only Navy participation.

The conferees believe the Under Secretary of Defense for Acquisition has failed to impose adequate management supervision and control over the disparate electronic warfare programs of the Navy and Air Force. The conferees are persuaded that we cannot afford redundant and duplicative development and procurement programs in a period of shrinking budgets.

Consequently, the conferees recommend an authorization of $48 million for the Airborne Self Protection Jammer program to sustain the program while operational testing is undertaken. The conferees recommend an increase of $6.5 million in research and development funds to accelerate testing, and also recommend an increase of $15 million in research and development for the Air Force to continue its participation in the ASPJ testing. The conferees also direct the Secretary of the Navy to insure that competition is maintained in the ASPJ program in order to minimize long-term costs for the program.

In view of the availability of a total of $187 million in unobligated funding, the conferees recommend no additional authorization for the ALQ-135 program during fiscal year 1991. The conferees recommend $38.8 million for the ALQ-184. In addition, the conferees establish a consolidated electronic warfare program under the Under Secretary of Defense for Acquisition and recommend an authorization of $161.5 million in fiscal year 1991. The Under Secretary of Defense for Acquisition shall determine the most cost-effective modernization plan for electronic warfare that eliminates redundancy, maximizes commonality, and meets essential operational requirements all at the resource levels likely to be available with projected future budgets. Once he has established that plan, he shall terminate those programs that are not needed, and distribute the funds contained in the consolidated electronic warfare program element to the Services to restructure their programs according to his direction. The conferees expect that this plan will be established and implemented not later than March 1, 1991. From that point on, the Under Secretary shall ensure that the Service budgets are consistent with his directives.

The conferees intend to preserve the production base of each separate program, pending implementation of the March 1, 1991 modernization plan. To this end, the Secretary of Defense should monitor indivdual program progress and request reprogramming of funds to support that production base if necessary.

The conferees authorize the classified activity at the requested level and express additional observations and directions in the classified annex to this statement of the managers.

Special operations forces

The amended budget request included $555.2 million for procurement for the U.S. Special Operations Command.

The House bill would authorize the requested amount.

The Senate amendment would authorize $637.1 million, an increase of $81.9 million above the requested amount. This additional amount would fund several procurement activities that are intended to strengthen the capabilities of U.S. special operations forces.

The House recedes. The conferees would like to clarify that $1.2 million of the $81.9 million in additional funds would procure, under competitive procedures, lightweight UHF TACSATCOM capable (UHF tactical satellite communications) radios for the Ranger Regiment. In addition, the conferees note that the explanation in the report accompanying the Senate amendment (S. Rept. 101-384) of the $2.5 million for new vehicles for the Ranger Regiment inadvertently omitted the acronym "HMMWV" from one sentence. The correct sentence is as follows: "For the selection of a replacement vehicle, the committee directs the Ranger Regiment to thoroughly consider modifying the HMMWV vehicle to meet its operational requirements."

PROCUREMENT, NATIONAL GUARD AND RESERVE EQUIPMENT

OVERVIEW

The amended budget request for fiscal uear 1991 contained an authorization of $455.4 million for Procurement,. National Guard and Reserve Equipment. The House bill would authorize $1,585.6 million. The Senate amendment would authorize $2,647.4 million. The conferees recommend authorization of $1,871.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	NATIONAL GUARD AND RESERVE EQUIPMENT												
	ARMY RESERVE												
1	MISCELLANEOUS EQUIPMENT				5,000				5,000		25,000		25,000
2	SHOP EQUIPMENT	18	600	18	600	18	600					18	600
3	TEST SET COMMON CORE	14	500	14	500	14	500					14	500
4	TRUCK, 5-TON	915	60,000	915	75,000			915	75,000	(915)	(60,000)		
	COMMUNICATIONS-ELECTRONICS				30,000				30,000		20,000		20,000
5	TRUCK MODERNIZATION												
6	FAMILY OF HEAVY TACTICAL VEHICLES												
6a	ARMY RESERVE EQUIPMENT CONSOLIDATION						213,800		(213,800)				
	NAVY RESERVE												
7	MISCELLANEOUS EQUIPMENT												
8	C-130H AIRCRAFT	2	48,000	2	48,000	2	48,000					2	48,000
9	C-20 AIRCRAFT			1	24,900			1	24,900	1	24,900	1	24,900
	MH-53 MINESWEEPERS			12	336,000	12	281,900		54,100	12	336,000	12	336,000
	ELECTRONIC WARFARE EQUIPMENT				7,000				7,000				
	AIRBORNE MINE COUNTERMEASURE EQUIPMENT				6,300				6,300				
10	HH-60H UPGRADE KITS		8,400		16,800		8,400		8,400				8,400
11	SEABEE EQUIPMENT												
12	LAMPS MK-1 ASW UPGRADE			6	47,000			6	47,000	6	47,000	6	47,000
13	SH-2 BLOCK UPGRADE												
14	P-3 MODIFICATIONS												
15	P-3C AIRCRAFT SUPPORT EQUIPMENT		4,000		4,000		4,000						4,000
15a	SQQ-T1 TRAINER										10,000		10,000
15b	SQQ-58 SONOBUOY												
15c	INSTALLATION OF MODIFICATIONS												
16	SH-3H MODIFICATIONS												
16a	NAVY RESERVE EQUIPMENT CONSOLIDATION						119,000		(119,000)				
	MARINE CORPS RESERVE												
17	MISCELLANEOUS EQUIPMENT												
18	KC-130T AIRCRAFT	1	25,000	2	50,000	1	25,000	1	25,000	1	25,000	2	50,000
	OH-58D HELICOPTER (AHIP)			36	200,000			36	200,000				
	SIMULATORS AND TRAINERS				500				500				
19	AH-1W COBRA AIRCRAFT					8	79,000	(8)	(79,000)	8	79,000	8	79,000
	AH-1W COBRA PRIOR YEAR					[6]	[58,600]			[6]	[58,600]	[6]	[58,600]
20	TACTICAL AIR OPERATIONS MODULE (TAUM)												
20a	MARINE CORPS RESERVE EQUIP CONSOLIDATION						35,000		(35,000)				

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	House +/- Senate Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
AIR FORCE RESERVE													
21	MISCELLANEOUS EQUIPMENT		5,000		30,000		5,000		25,000		15,000		20,000
22	C-130 AIRCRAFT	1	24,000	4	96,000	1	24,000	3	72,000	3	72,000	4	96,000
23	F-16 MODIFICATIONS		10,000		25,000		10,000		15,000				10,000
24	MH-60G HELO												
25	C-130 MODIFICATIONS		6,600		50,000		6,600		43,400				6,600
	AIR FORCE RESERVE SPARES				5,100				5,100		5,100		5,100
26	KC-135 MODIFICATIONS												
27	INSTALLATION OF MODIFICATIONS												
27a	AIR FORCE RESERVE EQUIPMENT CONSOLIDATION						105,600		(105,600)				
NATIONAL GUARD EQUIPMENT													
ARMY NATIONAL GUARD													
28	MISCELLANEOUS EQUIPMENT		15,000		30,000		15,000		15,000		(5,000)		10,000
	OH-58D HELICOPTER (AHIP)									36	200,000	36	200,000
29	UNDISTRIBUTED REDUCTION-FY1990 UNOB. BAL.						(60,000)		60,000				
	NIGHT VISION DEVICES						35,000		(35,000)		35,000		35,000
	MLRS BATTALION SET					27	60,000	(27)	(60,000)	27	60,000	27	60,000
	MLRS-BN SUPPORT PACKAGE				34,000				34,000		34,000		34,000
	CH-47 HELICOPTERS					24	141,061	(24)	(141,061)				
30	UH-60 HELICOPTERS					24	156,000	(24)	(156,000)	24	156,000	24	156,000
31	MEDIUM TACTICAL TRUCKS	313	25,000	313	35,000	313	25,000		10,000			313	25,000
32	TRUCK, TRACTOR, H915A1												
33	TRUCK, TRACTOR, M916	100	13,000	100	13,000	100	13,000					100	13,000
34	REENGINE PROGRAM FOR 5-TON TRUCKS	98	8,800	98	8,800	98	8,800					98	8,800
35	SMALL UNIT SUPPORT VEHICLE (SUSV)												
36	M577 COMMAND POST CARRIERS	90	24,900	270	50,000	90	24,900	180	25,100	180	25,100	270	50,000
37	M113 A-2/A-3 UPGRADE				10,000		10,000				10,000		10,000
38	BATTERY COMPUTER SYSTEM	48	30,000	48	30,000	48	30,000					48	30,000
39	C-23 AIRCRAFT			6	30,000			6	30,000	6	30,000	6	30,000
40	FIRE SUPPORT TEAM VEHICLES												
41	M-1A1 ABRAMS TANK (MYP)												
42	FAMILY OF HEAVY VEHICLES	100	16,300	100	16,300	100	16,300					100	16,300
	C-26 AIRCRAFT				12,800				12,800	3	12,800	3	12,800
42a	ARMY NATIONAL GUARD EQUIP CONSOLIDATION						537,900		(537,900)				

P-1 LINE	ITEM	Amended FY 1991 Request Quantity	Amended FY 1991 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	AIR NATIONAL GUARD												
43	MISCELLANEOUS EQUIPMENT				15,000				15,000		15,000		15,000
44	C-130 AIRCRAFT	2	48,000	2	48,000	12	268,100	(10)	(220,100)	10	220,100	12	268,100
45	INSTALLATION OF MODIFICATIONS												
46	C-130 MODIFICATIONS		34,500		34,500		34,500						34,500
47	C-26 AIRCRAFT			3	12,800			3	12,800	3	12,800	3	12,800
48	F-16A/B MSIP												
49	F-16 MODIFICATIONS		6,000		32,000		6,000		26,000		10,000		16,000
50	F-16 SUPPORT EQUIPMENT		2,800				2,800		(2,800)				2,800
51	F-15/F-16 IMPROVEMENT PROGRAM												
52	F-15 MSIP	26	39,000	26	54,200	26	39,000		15,200			26	39,000
	COMMUNICATIONS-ELECTRONICS				60,000				60,000				
	AIR GUARD SPARES				1,500				1,500		1,500		1,500
53	ACMI NORTH TIER FLIGHT PH II												
54	KC-135 AIRCRAFT MODS												
54a	AIR NATIONAL GUARD EQUIP CONSOLIDATION						317,600		(317,600)				
	TOTAL NATIONAL GUARD AND RESERVE		455,400		1,585,600		2,647,361		(1,061,761)		1,416,300		1,871,700

Navy Reserve minesweepers

The amended budget request included no authorization request for MH-53 minesweeping helicopters for the Navy Reserve.

The House bill would authorize $336 million for 12 helicopters.

The Senate amendment would authorize $281.9 for 12 helicopters.

The conferees believe that the Navy should use fiscal year 1990 CH/MH-53 advance procurement funds from the Aircraft Procurement, Navy account toward this procurement.

The conferees also believe that the Navy should have the discretion to use the fiscal year 1991 funds to solve a potential fiscal year 1990 H-53 procurement shortfall and to purchase hardware and/or wiring provisions for outfitting some of these 12 MH-53s with the capability to carry the system being developed in the Magic Lantern research and development program.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Authorization of appropriations for procurement for the reserve components (sec. 106)

The Senate amendment contained a provision (sec. 1431) that would specify certain authorizations for appropriations in fiscal year 1991 for the reserve components. Such authorizations would be in addition to funds authorized elsewhere in the bill.

The House contained a similar provision (sec. 105).

The Senate recedes. The conferees recommend a provision that would authorize certain appropriations for the reserve components in fiscal year 1991 in addition to funds authorized for appropriations elsewhere in this bill.

Chemical demilitarization program (sec. 107)

The House bill contained a provision (sec. 106) that would authorize $377.3 million for chemical demilitarization activities in fiscal year 1991, including $202.9 million for procurement, $162.2 million for operations and maintenance (O&M), and $12.2 million for the German retrograde program. Of these funds, the House bill would direct the Secretary of the Army to use $6.0 million to complete the development of cryofracture.

The Senate amendment contained a provision (sec. 107) that would authorize $365.7 million for these activities, including $211.6 million for procurement, $142.8 million for O&M, and $11.3 million for the cryofracture program.

The Senate recedes with an amendment. The conferees agree to authorize $382.6 million for the chemical demilitarization program in fiscal year 1991, including $202.9 million for procurement, $162.2 million for O&M, $12.2 million for retrograde, and $5.3 million for cryofracture.

Multiyear authorizations (sec.108)

The House bill contained a provision (sec. 107) that would authorize the Secretary of the Army and the Secretary of the Air Force to proceed with certain multiyear procurement contracts.

The Senate amendment contained no similar provision.

The Senate recedes.

Milestone authorizations (sec. 109)

The House bill contained a provision (sec. 108) that would repeal sections 106 and 216 of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) that authorized certain programs over a multiple number of years.

The Senate amendment contained a provision (sec. 108) that would amend the same sections to reflect the current budget request for those programs.

The Senate recedes. The conferees note their disappointment in the Defense Department's failure to utilize this opportunity to streamline the acquisition process.

B-2 bomber procurement (sec. 121)

The amended budget request contained $2,495.899 million for procurement of five new B-2 bombers, plus $710.1 million for long-lead funding for 10 additional B-2 bombers. Secretary of Defense Cheney completed a Major Aircraft Review after the amended budget request was submitted. That review led to a restructuring of the B-2 program and a modification to the amended budget request, to procure only two new production aircraft in fiscal year 1991 and long-lead items for only five aircraft in fiscal year 1992.

The House bill would authorize no additional new production B-2 aircraft; provide no procurement or advance procurement funds for the B-2 program; direct the Air Force to terminate the program at the 15 B-2 bombers previously authorized and appropriated; and direct the Secretary of Defense to preserve the production facilities and tooling, so as to maintain a production option in the future.

The Senate amendment would authorize two new production B-2s in fiscal year 1991; provide $1,989.0 million for procurement; provide $767.1 million for long-lead items for production of five B-2 bombers in fiscal year 1992 and for maintenance of certain fixed-price contracts; and establish a series of limitations and conditions keyed to additional successful testing of the B-2 that must be met before the procurement funds for the two new aircraft could be obligated.

The conferees agree to authorize $2,349.308 million for B-2 procurement.

The House conferees believe the B-2 program should be stopped at the previously authorized 15 deployable aircraft, and that fiscal year 1991 procurement funds are required and should be used to cover funding shortfalls associated with these previously authorized aircraft. Given cost overruns to date and uncertainties associated with the future of the B-2 program, the House conferees believe that the B-2 program must be put on a "pay as you go" basis. In this regard, the House conferees expect that the Secretary of Defense will report to the congressional defense committees as soon as practicable on the planned use of fiscal year 1991 and prior-year unobligated funds for the B-2 program; and that such report should also include a full description of any capital indemnification clauses or other contractual provisions that would obligate the United States government beyond the funds authorized through fiscal year 1991 for the B-2 program.

The Senate conferees believe the B-2 program should go forward. They note that the Air Force has developed several options for addressing a potential unfunded liability on production aircraft under construction, stemming from continued congressional direction to remain in low-rate production during critical flight-testing. Once procurement funds for fiscal year 1991 have been authorized and appropriated, other restructuring options may become available. Some options would require the Air Force to deobligate funds for aircraft authorized in prior years and to obligate fiscal year 1991 funds for additional B-2 aircraft. Should the Air Force elect to implement an option requiring the obligation of a portion of the fiscal year 1991 procurement funds authorized in this bill for additional B-2 aircraft, the Senate conferees believe the obligation of such funds should be subject to the limitations in section 121(b) through 121(f) of the Senate bill (S. 2884), which would require the successful completion of numerous flight testing milestones, such as the initial series of low-observables flight-testing, before funds for new production B-2s were obligated.

SRAM-II missile procurement (sec. 131)

The amended budget request contained $14.82 million in procurement funds for the SRAM-II missile, and $6.39 million in advance procurement funds.

Both the House bill and the Senate amendment would fully authorize both requests.

The conferees have learned that, due to technical problems in the development of the SRAM-II missile, a portion of the requested funds will not be required during fiscal year 1991. Accordingly, the conferees agree to authorize $10.12 million for procurement and to deny funds for the advance procurement of the SRAM-II missile.

The House bill also contained a provision (sec. 122) that would prohibit the obligation of fiscal year 1991 procurement funds for the SRAM-II missile program until the Secretary of Defense certifies that the SRAM-II development flight tests demonstrate that the missile meets the established performance criteria.

The Senate recedes with an amendment that would delete the reference to B-1B integration efforts. This action is based on the fact that the Air Force has indicated that $51.6 million requested in fiscal year 1991 is not required.

Moratorium on the construction of the Ground Wave Emergency Network (sec. 132)

The House bill contained a provision (sec. 123) that would prohibit the Secretary of Defense from obligating or expending any funds for the Ground Wave Emergency Network (GWEN) system until an independent study of the system is undertaken and completed, and the study's findings are reported to the congressional defense committees. The House bill would also deny $3.294 million for the Minimum Essential Emergency Communication Network (MEECN).

The Senate amendment would prohibit the Air Force from actual construction of the next phase of GWEN until the National Academy of Sciences has studied the health effects of electromagnetic radiation from the GWEN system. The Senate amendment would also prohibit the construction of the proposed Montana relay node and tower in the Bitterroot Valley Site Search Area (SSA) pending a report by the Secretary of the Air Force on alternative sites.

The Senate recedes with an amendment. The conferees agree to a provision that would prohibit the use of any funds for the purpose of site preparation and construction of GWEN towers or related support facilities until the National Academy of Sciences has completed its report on the health effects of the low frequency communications system. The conferees agree to allow, *inter alia*, site search and survey, soil analysis for the final facility design package, and securing the land lease options until the final environmental impact studies are completed at candidate GWEN sites.

The conferees also agree to prohibit the construction of the proposed Montana relay

node and tower in the Bitterroot Valley SSA pending a report by the Secretary of the Air Force on alternative sites within and adjacent to the Venn diagram for the western Montana node. The report must certify that no such alternative site exists before construction proceeds on any site within the Bitterroot Valley SSA.

B-1B aircraft program (sec. 133)

The House bill contained a provision (sec. 124) that would amend section 121 (e)(3)(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189) by striking out "in the late 1990s" and inserting in lieu thereof "in 2010."

The Senate amendment contained no similar provision.

The Senate recedes.

Prohibition on obligation or expenditure of fiscal year 1990 funds for MX Rail Garrison procurement (sec. 134)

The House bill contained a provision (sec. 125) that would transfer unobligated fiscal year 1990 procurement funds for the Rail Garrison MX program to Department of Defense Environmental Restoration Activities (DERA).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would deny the obligation of the available fiscal year 1990 funds.

Report on alternative MX missile test plans (sec. 135)

The House bill contained a provision (sec. 126) that would require the Secretary of Defense to submit a report on the effect on the MX missile Phase II operational test program of reducing the total number of MX missiles procured from the planned 173 missiles to either 126 missiles or 150 missiles.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify the intent of the conferees that the report should include net assessment of any significant effects of reducing the number of MX test missiles.

Advanced cruise missile program (sec. 136)

The amended budget request contained $365.869 million for the procurement of 100 Advanced Cruise Missiles (ACM) and $107.4 million for the advance procurement of 250 ACMs in fiscal year 1992.

The House bill would fully authorize the procurement of 100 ACMs but reduced the advance procurement authorization by 150 missiles and $43 million, to 100 missiles and $64.4 million. The House report (H. Rept. 101-665) stated that the reduction to advance procurement was made because operational testing has not been completed, and it would be inappropriate for the Defense Department to proceed to high-rate production before testing has been completed. The House bill would also reduce procurement funds for the ACM by $31.2 million, and direct that $31.2 million of unobligated prior-year funds be used for this purpose.

The Senate amendment would authorize both procurement and advance procurement at the requested amounts.

The conferees agree to authorize the procurement of 100 missiles at the requested level, and to authorize $64.4 million for the advance procurement of 100 missiles. In recognition of the high percentage of successful developmental test flights since April 1989, the conferees further agree to authorize an additional $43 million for advance procurement. Release of these funds is contingent upon the Secretary of Defense certifying that the operational testing has been successfully completed and that he has determined that the ACM program should enter into high-rate production. The conferees further agree to deny obligation of $5.5 million in prior-year funds.

Air defense heavy missile system (sec. 141)

The amended budget request contained $235.584 million for procurement of air defense heavy missile system fire units and missiles, and $36.2 million in advance procurement. Subsequent to submission of the budget request, the Army informed the Congress that problems uncovered in operational testing preclude obligation of procurement funds in fiscal year 1991. At the same time, the Army requested that $92 million be provided for research and development to sustain the program and conduct additional tests in fiscal year 1991.

The House bill would authorize no procurement funds in fiscal year 1991, eliminate $181.876 million of procurement funds authorized in fiscal year 1991, and increase research and development funds by $92 million as requested by the Army. The House bill also contained a provision (sec. 142) that would restrict the government from paying for any corrections of deficiencies in the air defense heavy missile system. The contractor would be expected to pay for those corrections.

The Senate amendment would terminate the program, and in its place initiate a program to install the Army's pedestal mounted Stinger on an armored chassis. The Senate amendment recommended an authorization of $30 million for that purpose.

The conferees agree with the Secretary of the Army's proposal to restructure the air defense heavy missile program by delaying a production decision until satisfactory completion of a plan designed to demonstrate the correction of reliability problems that surfaced during the operational tests. The conferees understand that, to control the government's financial exposure, the Army's plan includes three exit points at which the government could exercise an option to fund based on system performance and other criteria.

The conferees intend to vigorously monitor the restructured program to ensure that the reliability problems have been corrected before any comitment to production is made. The conferees direct the Secretary of the Army to enforce the restructured program and to proceed at each of the three milestones only if satisfactory progress has been made. The conferees expect the Secretary of the Army to report to the congressional defense committees on the results at the completion of each milestone.

The conferees agree to authorize $92 million in research and development funds consistent with the restructured program. The conferees also agreed to provide an additional authorization of $30 million to competitively evaluate other systems, including but not limited to, the pedestal mounted Stinger fire unit components and the candidate Marine Corps light armored vehicle-air defense turrets installed on appropriate armored vehicles along with emerging interceptor missiles that might supplement our air defense capabilities.

Finally, the conferees agree to a provision that would restrict the government from paying for any correction of deficiencies in the program as identified in operational testing, consistent with the current contract. The conferees do not intend that this provision would negate any prior settlements negotiated between the Army and the contractor prior to the date of enactment of this bill which amount to a prior obligation.

Procurement of OH-58D armed AHIP scout helicopters (sec. 143)

The House bill contained a provision (sec. 151) that would waive section 133 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189) that prohibits further procurement of AHIP scout helicopters. The House would further authorize $200 million for the Secretary of the Navy to procure AHIP helicopters for the Marine Corps Reserve.

The Senate amendment contained no similar provision.

The conferees recommend an authorization of $200 million for procurement of OH-5D armed AHIP helicopters for the Army National Guard. The conferees share the concern of the House that the Marine Corps should examine the unique capabilities of the AHIP helicopter. The Marine Corps lacks sufficient night-fighting capabilities, and the AHIP represents a substantial step ahead. In order for the Marine Corps to understand and appreciate the capabilities of the AHIP, the conferees direct the Secretary of the Army to make available four OH-5D armed AHIP helicopters to the operational Fleet Marine Forces for a period of one year. The Marine Corps is directed to examine the AHIP, and the Secretary of the Navy shall report to Congress on the Marine Corps evaluation of AHIP.

The conferees recommend a provision that would amend section 113 of Public Law 101-189 prohibiting the procurement of AHIP scout aircraft after fiscal year 1991.

Provision of CH-47 aircraft for the Army National Guard (sec. 144)

The Senate amendment contained a provision (sec. 1432) that would direct the Secretary of the Army to retire CH-54 aircraft and replace them with CH-47 aircraft.

The House bill contained no similar provision.

The House recedes.

V-22 Osprey aircraft program (sec. 152)

The House bill contained a provision (sec. 211) that would authorize $238 million for research and development for the V-22 and prohibit the funds from being expended on any other helicopter alternative. The House bill also would authorize $165 million for advance procurement and direct the Secretary to obligate the $200 million authorized and appropriated for procurement in fiscal year 1989. The House bill also would authorize $15.2 million for special operations forces (SOF) research and development to develop a special operations variant of the V-22.

The Senate amendment contained a provision (sec. 212) that would transfer the $200 million of procurement funds appropriated in fiscal year 1989 to Research and Development, Navy, to be combined with an additional $38 million in fiscal year 1991 to continue research and development of the V-22. The Senate amendment would also provide $8 million for a special operations variant of the V-22. Finally, the Senate provision would prohibit the obligation of funds for procurement in conjunction with the V-22 program.

The Senate recedes with an amendment.

The conferees recommend an authorization of $238 million in research and development, and $365 million in procurement, of which $200 million was authorized and appropriated in fiscal year 1989. The conferees agree that $8 million should be set aside in

the SOF research and development account for the special operations variant of the V-22. The conferees recommend a provision that would restrict the obligation of procurement funds to production representative aircraft exclusively for purposes of completing an operational test and evaluation master plan that has been approved by the Director of Operational Test and Evaluation.

The conferees continue to believe the V-22 offers substantial promise, both as a military vehicle and as a commercial aircraft. The conferees express their disappointment that the Secretary has resisted implementing the clear directions of the Congress last year.

Although the conferees continue to support the V-22, their support is not unqualified. The V-22 will have to prove successful in operational testing before the conferees, make any fiscal decisions on procurement. The conferees note that all key analyses of the V-22 show substantial benefit for the V-22 because of its ability to fly at speeds that exceed helicopter alternatives. The ability to transport externally configured cargo payloads at those speeds is a major uncertainty, however. The conferees believe that the V-22 must demonstrate its ability to carry external cargo payloads at advertised speeds before any commitment can be made to proceed with the V-22 program.

Procurement of a production representative prototype will also permit final resolution of technical questions on the V-22, to include the weight reduction plan, vibration reduction designs, and full validation of operational flight software.

The conferees emphasize that, despite their support for the V-22, the decision this year to authorize procurement funds does not constitute a commitment to build the V-22. Rather, it represents a commitment to build production representative aircraft that can be used solely for operational testing to prove conclusively the promise inherent in the V-22 design.

Procurement of M1A1 main battle tanks for the Marine Corps (sec. 153)

The Senate amendment contained a provision (sec. 109) that would authorize the use of up to $62.4 million of unused fiscal year 1990 M1A1 advance procurement funds to buy 22 M1A1 main battle tanks to complete the Marine Corps' tank modernization program.

The House bill contained no similar provision.

The House recedes.

SSN-21 submarine (sec. 154)

The conferees agree to a provision that would require that the contract for the next SSN-21 be let in accordance with applicable laws, policies, and regulations, including policies and regulations of the Department of Defense and the Department of the Navy. The conference agreement specifically does not express any preference for any particular method of awarding such a contract.

MH-53 minesweeper helicopter (sec. 155)

The Senate amendment contained a provision (sec. 1433) that would authorize funds for procurement of MH-53 minesweeper helicopters for the Navy Reserve.

The House bill contained no similar provision.

The House recedes.

AH-1W helicopters (sec. 156)

The Senate amendment contained a provision (sec. 1434) that would authorize funds appropriated in fiscal years 1990 and 1991 for procurement of AH-1W helicopters.

The House bill contained no similar provision.

The House recedes.

Laboratory equipment for Navy industrial-funded activities (sec. 157)

The House bill contained a provision (sec. 215) that would authorize $98 million for acquisition of laboratory equipment for Navy industrial-funded activities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees agree on the importance of maintaining suitable, modern test equipment for the conduct of RDT&E activity in the federal laboratories. Therefore, the conferees expect that the $98 million requested by the Administration for acquisition of laboratory equipment for Naval laboratories in fiscal year 1991 in the Other Procurement, Navy account will be used for those purposes.

Tacit Rainbow program (sec. 162)

The amended budget request contained $9.759 million to continue development of the Tacit Rainbow anti-radiation cruise missile. The budget request also contained $227.4 million for procurement. Subsequently, the Air Force formally informed the Congress that an additional $27.0 million would be required in research and development funding because of delays in the program.

The House bill would authorize $26.759 million for research and development, endorsing the increase in funding requested by the Air Force. The House bill would provide $59.5 million for procurement, which was earmarked in the budget request for facilitating the factory of the follow-on competitor for the Tacit Rainbow program. The House bill contained a provision (sec. 161) that would restrict the obligation of the $59.5 million until the Secretary of the Air Force submits a report evaluating the cost effectiveness of proceeding with two production contractors for the Tacit Rainbow program.

The Senate amendment would authorize $36.759 million for research and development, and would authorize the procurement funds as requested.

The conferees recommend an authorization of $36.759 million for research and development and $59.5 million for advance procurement. The Senate recedes on the legislative provision.

Chemical-biological collective protection systems (sec. 163)

The House bill contained a provision (sec. 162) that would prohibit any further obligation of funds for procurement of Survivable Collective Protection System (SCPS) shelters and reduce the authorization for the chemical-biological defense program by $11.1 million in recognition of prior-year funds that remain available for obligation for the SCPS program. The House bill would also restrict obligation of funds for the procurement of the transportable collective protection system (TCPS) until the Secretary of Defense submits a report on this program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would exempt TCPS for Operation Desert Shield from the statutory restriction and would clarify that prior-year funds for the SCPS program that have been obligated, but are not yet under contract, may be contracted for the procurement of SCPS shelters. The conferees agree to deny any authorization of fiscal year 1991 funds for the procurement of SCPS and to authorize $32.1 million for Air Force chemical/biological defense programs procurement in fiscal year 1991.

The conferees intend that the Air Force complete the SCPS program using the prior-year funds already obligated as of October 1, 1990. The conferees do not intend to preclude the use of prior-year funds to install SCPS shelters in Turkey, which in light of the chemical warfare threats now posed in the Middle East is a higher priority than building chemical protective shelters in the United Kingdom. If additional SCPS are needed at U.S. bases in Europe, the conferees recommend that the Air Force relocate the nine SCPS shelters located at Zweibruecken, Germany when the Air Force withdraws from that base. If a reprogramming action is necessary, the conferees would welcome a reprogramming request for operation and maintenance funds.

Annual report on safety of chemical weapons stockpile (sec. 171)

The House bill contained a provision (sec. 171) that would add items to the annual report on the chemical demilitarization program in order to better track the status and safety of the chemical weapons stockpile.

The Senate amendment contained no similar provision.

The Senate recedes.

Funding clarification for chemical weapons stockpile disposal program (sec. 172)

The House bill contained a provision (sec. 172) that would clarify current law by authorizing the Department of Defense to issue grants to the affected states and localities in order to upgrade and develop emergency response capabilities during the execution of the chemical demilitarization program.

The Senate amendment contained no similar provision.

The Senate recedes.

Chemical weapons stockpile safety contingency plan (sec. 173)

The House bill contained a provision (sec. 173) that would direct the Secretary of Defense to develop a chemical weapons stockpile safety contingency plan to address the steps the Department of Defense would take in the event the chemical weapons stockpile begins a rapid or accelerated rate of deterioration.

The Senate amendment contained no similar provision.

The Senate recedes.

Program terminations (sec. 181)

The Senate amendment contained a provision (sec. 131) that would prohibit the obligation of funds for further research and development or procurement of 155mm nuclear projectiles for the Army's air defense heavy missile system, for the Follow-on-to-Lance program, and for the Milstar satellite program.

The House bill contained no similar provision.

The House recedes on those portions of the Senate amendment regarding the 155mm nuclear projectiles and the Follow-on-to-Lance. The Senate recedes on the air defense heavy missile system and the Milstar provisions.

Additional observations by the conferees are contained in other sections of this statement of the managers that concern the individual weapon systems.

LEGISLATIVE PROVISIONS NOT ADOPTED

Limitation on obligation of funds for Trident II missiles

The House bill contained a provision (sec. 121) that would limit the obligation of Trident II missile procurement funds to $600 million until two conditions were met:

(1) An advisory panel on nuclear weapons safety established by the Committee on Armed Services of the House of Representatives has submitted its report to the Committee and 30 days have elapsed, and

(2) The Secretary of Defense has reported to the congressional defense committees that a determination has been made to reopen the Department of Energy's Rocky Flats Plant.

The Senate amendment contained no similar provision.

The House recedes.

Army high melt explosives propellant plant

The House bill contained a provision (sec. 143) that would designate $13 million of funds authorized to be appropriated for fiscal year 1991 for Army ammunition to complete design of the High Melt Explosives (HMX) plant at Longhorn Ammunition Plant, Texas.

The Senate amendment contained no similar provision.

The House recedes.

Suspension of equipment transfer

The House bill contained a provision (sec. 152) that would prohibit the Secretary of the Navy from transferring certain items of equipment from Pueblo, Colorado to San Leandro, California.

The Senate amendment contained no similar provision.

The House recedes.

Report on submarine industrial base

The Senate amendment included a provision (sec. 111) that would require the Secretary of Defense to submit a report on the need to maintain competition in submarine construction.

The House bill contained no similar provision.

The Senate recedes.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (RDT&E)

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $38,092.8 million for research, development, test, and evaluation in the Department of Defense. The House bill would authorize $35,673.2 million. The Senate amendment would authorize $36,540.7 million. The conferees recommend authorization of $36,095.9 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

RESEARCH AND DEVELOPMENT, ARMY

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $6,025.9 million for Army research, development, test, and evaluation. The House bill would authorize $5,675.8 million. The Senate amendment would authorize $5,696.3 million. The conferees recommend authorization of $5,732.7 million as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL ARMY								
1	61101A	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	9,429		9,429		9,429			9,429
2	61102A	DEFENSE RESEARCH SCIENCES	179,490		179,490		179,490			179,490
3	62105A	MATERIALS TECHNOLOGY	13,276	5,000	18,276		13,276	5,000	2,000	15,276
4	62120A	ELECTRONIC SURVIVABILITY & FUZING TECH	24,897		24,897	2,000	26,897	(2,000)		24,897
5	62122A	SURVIVABILITY ENHANCEMENT	6,285		6,285	5,000	11,285	(5,000)	5,000	11,285
6	62123A	TRACTOR FIELD	[ ]		[ ]		[ ]			[ ]
7	62211A	AVIATION TECHNOLOGY	41,897		41,897		41,897			41,897
8	62270A	EW TECHNOLOGY	[ ]		[ ]		[ ]			[ ]
9	62303A	MISSILE TECHNOLOGY	27,153		27,153	10,000	37,153	(10,000)	10,000	37,153
10	62307A	LASER WEAPONS TECHNOLOGY	559		559		559			559
11	62601A	COMBAT VEHICLE AND AUTOMOTIVE TECH	36,084		36,084		36,084			36,084
12	62618A	BALLISTICS TECHNOLOGY	27,700		27,700		27,700			27,700
13	62622A	CHEM, SMOKE AND EQUIP DEFEATING TECH	50,841		50,841		50,841			50,841
14	62623A	JOINT SERVICE SMALL ARMS PROGRAM	5,381		5,381		5,381			5,381
15	62624A	WEAPONS AND MUNITIONS TECHNOLOGY	36,866		36,866	20,000	56,866	(20,000)	20,000	56,866
16	62705A	ELECTRONICS AND ELECTRONIC DEVICES	17,608	2,000	19,608	(3,000)	14,608	5,000	2,000	19,608
17	62709A	NIGHT VISION TECHNOLOGY	19,285		19,285	1,000	20,285	(1,000)		19,285
18	62716A	HUMAN FACTORS ENGINEERING TECHNOLOGY	8,019		8,019		8,019			8,019
19	62720A	ENVIRONMENTAL QUALITY TECHNOLOGY	9,815	5,000	14,815	2,000	11,815	3,000	3,000	12,815
20	62727A	NON-SYSTEM TRAINING DEVICE TECHNOLOGY	3,607	5,000	8,607		3,607	5,000	5,000	8,607
21	62782A	COMMAND, CONTROL, COMMUNICATIONS TECH	20,458		20,458	2,000	22,458	(2,000)	2,000	22,458
22	62783A	COMPUTER AND SOFTWARE TECHNOLOGY	5,073		5,073	2,000	7,073	(2,000)	2,000	7,073
23	62784A	MILITARY ENGINEERING TECHNOLOGY	46,053		46,053		46,053			46,053
24	62785A	MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	17,331		17,331		17,331			17,331
25	62786A	LOGISTICS TECHNOLOGY	35,811		35,811		35,811			35,811
26	62787A	MEDICAL TECHNOLOGY	96,902		96,902		96,902			96,902
27	62788A	TRACTOR FLOP	1,863		1,863		1,863			1,863
991		TECHNOLOGY BASE CLASSIFIED	27,201		27,201		27,201			27,201

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
28	63001A	LOGISTICS ADVANCED TECHNOLOGY	9,063		9,063		9,063			9,063
29	63002A	MEDICAL ADVANCED TECHNOLOGY	34,809		34,809		34,809			34,809
30	63003A	AVIATION ADVANCED TECHNOLOGY	34,713		34,713		34,713			34,713
31	63004A	WEAPONS AND MUNITIONS ADVANCED TECH	33,471		33,471		33,471		31,000	64,471
32	63005A	COMBAT VEHICLE AND AUTOMOTIVE ADV TECH	176,761	(25,000)	151,761		176,761	(25,000)	(11,761)	165,000
33	63006A	COMMAND, CONTROL, COMMUNIC ADV TECH	9,334		9,334		9,334			9,334
34	63007A	HUMAN FACTORS/PERSONNEL/TRAIN ADV TECH	19,008		19,008		19,008			19,008
35	63009A	CLASSIFIED PROGRAM	6,382		6,382		6,382			6,382
36	63012A	TRACTOR HOLE	4,656		4,656		4,656			4,656
37	63013A	TRACTOR DIRT	1,210		1,210		1,210			1,210
38	63102A	MATERIALS AND STRUCTURES ADVANCED TECH	4,973		4,973		4,973			4,973
39	63105A	AIDS RESEARCH	22,558		22,558		22,558			22,558
40	63270A	EW TECHNOLOGY	[ ]		[ ]		[ ]			[ ]
41	63271A	TRACTOR NAIL	[ ]		[ ]		[ ]			[ ]
42	63313A	MISSILE AND ROCKET ADVANCED TECHNOLOGY	8,821		8,821		8,821			8,821
43	63314A	DIRECTED ENERGY	41,014		41,014		41,014		(16,014)	25,000
44	63322A	TRACTOR CAGE	16,241		16,241		16,241			16,241
44a		CLASSIFIED PROGRAMS								
45	63324A	ARMY DEVELOPMENT AND EMPLOYMENT AGENCY								
46	63606A	LANDMINE WARFARE AND BARRIER ADV TECH	11,773		11,773		11,773			11,773
47	63607A	JOINT SERVICE SMALL ARMS PROGRAM	5,406		5,406		5,406			5,406
48	63710A	NIGHT VISION ADVANCED TECHNOLOGY	20,296		20,296		20,296			20,296
49	63733A	ENVIRONMENTAL QUALITY CONTROL EQUIPMENT								
50	63734A	MILITARY ENGINEERING ADVANCED TECH	2,380		2,380		2,380			2,380
51	63742A	ADVANCED ELECTRONIC DEVICES DEVELOPMENT	5,640		5,640	2,000	7,640	(2,000)	2,000	7,640
52	63758A	ARMY BATTLEFIELD TECHNOLOGY INTEGRATION								
53	63759A	CHEM BIOLOGICAL DEFENSE & SMOKE ADV TECH	4,071		4,071		4,071			4,071
54	63772A	ADV TACT COMPUTER SCIENCE & TECHNOLOGY	4,834		4,834		4,834			4,834
55	1140011A	ADV SPECIAL OPS RESRCH, DEVEL & ACQUIS							5,000	5,000
992		ADV TECH DEVELOPMENT CLASSIFIED	7,629		7,629		7,629			7,629

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
56	63325A	CHEMICAL WEAPONS TREATY MONITORING								
57	63392A	ANTI-SATELLITE WEAPON (ASAT)	207,782	(107,782)	100,000	(55,400)	152,382	(52,382)	(81,591)	126,191
58	12814A	SPECIAL PROGRAMS	[ ]	[-26,000]	[ ]	[-65,709]	[ ]		[-26,000]	[ ]
59	33152A	WORLD-WIDE MILT COMM & CONTROL INFO SYS	[ ]		[ ]		[ ]			[ ]
993		STRATEGIC CLASSIFIED	88,268	(26,000)	62,268	(65,709)	22,559	39,709	(26,000)	62,268
60	63302A	JOINT TACTICAL MISSILE DEFENSE PROGRAM	62,249		62,249		62,249			62,249
61	63303A	SURFACE-TO-SURFACE MISSILE ROCKET SYSTEM	47,175		47,175		47,175		(22,267)	24,908
62	63604A	NUCLEAR MUNITIONS - ADV DEV	3,586		3,586		3,586			3,586
63	63612A	ADVANCED ANTI-TANK WEAPON SYSTEMS	22,009		22,009		22,009			22,009
64	63619A	LANDMINE WARFARE AND BARRIER - ADV DEV	2,988		2,988		2,988			2,988
65	63627A	SMOKE, OBSCURANT & EQUIP DEFEAT SYS-ADV	12,351		12,351		12,351			12,351
66	63639A	ARMAMENT ENHANCEMENT INITIATIVE	[ ]		[ ]	[10,000]	[ ]		[10,000]	[ ]
67	63642A	MEDIUM SURFACE-TO-AIR MISSILE	6,898		6,898		6,898		(6,898)	
68	63706A	IDENTIFICATION-FRIEND-OR-FOE - ADV DEV	1,013		1,013		1,013			1,013
69	63713A	ARMY DATA DISTRIBUTION SYSTEM	21,701		21,701		21,701		(7,000)	14,701
70	63730A	TACTICAL SURVEILLANCE SYSTEM -ADV DEV	[ ]	[-3,800]	[ ]		[ ]			[ ]
71	63745A	TACT ELECTRONIC SUPPORT SYS- ADV DEV	[ ]		[ ]		[ ]			[ ]
72	63747A	SOLDIER SUPPORT AND SURVIVABILITY	7,532		7,532		7,532			7,532
73	63754A	CLASSIFIED PROGRAM- ADV DEV	[ ]		[ ]		[ ]			[ ]
74	63757A	FORWARD AREA AIR DEFENSE (FAAD) SYSTEM							92,000	92,000
75	63766A	TACTICAL ELEC SURVEILLANCE SYS -ADV DEV	[ ]		[ ]		[ ]			[ ]
76	63774A	NIGHT VISION SYSTEMS ADVANCED DEVELOP	3,272		3,272		3,272			3,272
77	63776A	LONGBOW								
78	63777A	FOLLOW-ON LANCE - ADV DEV								
79	63801A	AVIATION - ADV DEV	5,134		5,134		5,134			5,134
80	63802A	WEAPONS AND MUNITIONS - ADV DEV	18,566		18,566		18,566			18,566
81	63803A	CHEMICAL SYSTEMS - ADV DEV	4,522	(4,522)			4,522	(4,522)	(4,522)	
82	63804A	LOGISTICS & ENGINEER EQUIP- ADV DEV	13,449		13,449		13,449			13,449
83	63805A	COMBAT SERV SUPPORT COMPUTER SYS EVAL &	11,193		11,193		11,193			11,193
84	63806A	CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT -	24,511	20,000	44;511		24,511	20,000	20,000	44,511
85	63807A	MEDICAL SYSTEMS - ADV DEV	28,755		28,755		28,755			28,755

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
86	63808A	CLASSIFIED PROGRAM	17,209		17,209		17,209			17,209
87	63810A	ADVANCED MISSILE SYSTEM-HEAVY	1,013	92,000	93,013		1,013	92,000		1,013
88	64202A	AIRCRAFT WEAPONS	7,607		7,607		7,607			7,607
89	64216A	AIRCRAFT PROPULSION SYSTEM	53,702		53,702		53,702			53,702
90	64220A	ARMY HELICOPTER IMPROVEMENT PROGRAM	25,817		25,817	(25,800)	17	25,800		25,817
91	64223A	LIGHT ARMED SCOUT HELICOPTER	411,357	(111,357)	300,000	(150,000)	261,357	38,643	(120,357)	291,000
92	64270A	EW DEVELOPMENT	[ ]	[20,000]	[ ]	[20,000]	[ ]		[20,000]	[ ]
93	64310A	HELIBORNE MISSILE - HELLFIRE								
94	64313A	GRASS BLADE								
95	64321A	JOINT TACTICAL FUSION PROGRAM	[ ]		[ ]		[ ]			[ ]
96	64324A	ARMY TACTICAL MISSILE SYS (ATACMS)								
97	64603A	NUCLEAR MUNITIONS- ENG DEV	[ ]		[ ]		[ ]			[ ]
98	64604A	MEDIUM TACTICAL VEHICLES	7,030		7,030		7,030			7,030
99	64609A	SMOKE, OBSCURANT AND EQUIP SYS-ENG DEV	10,275		10,275		10,275			10,275
100	64611A	ADVANCED ANTI-TANK WEAPON SYS- ENG DEV	76,812		76,812		76,812			76,812
101	64619A	LANDMINE WARFARE	34,684		34,684		34,684			34,684
102	64622A	HEAVY TACTICAL VEHICLES								
103	64630A	M1A1 DEVELOPMENT PROGRAM	46,337		46,337	(36,300)	10,037	36,300	(36,300)	10,037
104	64709A	IDENTIFICATION-FRIEND-OR-FOE - ENG DEV	13,859		13,859		13,859			13,859
105	64710A	NIGHT VISION SYSTEMS - ENG DEV	17,726		17,726		17,726			17,726
106	64713A	COMBAT FEEDING, CLOTHING, AND EQUIPMENT	4,428		4,428		4,428			4,428
107	64715A	NON-SYSTEM TRAINING DEVICES - ENG DEV	32,390		32,390		32,390			32,390
107a		CCTT/SIMNET- RESERVE COMPONENTS				100,000	100,000	(100,000)	9,000	9,000
108	64722A	EDUCATION & TRAINING SYS DEVELOPMENT								
109	64723A	SPECIAL PURPOSE DETECTORS	507		507		507			507
110	64740A	TACTICAL SURVEILLANCE SYSTEM -ENG DEV	[ ]	[-5,000]	[ ]		[ ]			[ ]
111	64741A	AIR DEFENSE COMMAND, CONTROL AND INTELL	86,687	(20,000)	66,687		86,687	(20,000)	(20,000)	66,687
112	64746A	AUTOMATIC TEST EQUIPMENT DEVELOPMENT	8,318		8,318		8,318			8,318
113	64754A	CLASSIFIED PROGRAM- ENG DEV	[ ]		[ ]		[ ]			[ ]
114	64766A	TACTICAL ELEC SURVEILLANCE SYS -ENG DEV	[ ]		[ ]		[ ]			[ ]
115	64770A	JOINT SURV/TARGET ATTACK RADAR SYSTEM	45,833	(45,833)		(7,600)	38,233	(38,233)	(7,600)	38,233
116	64779A	JOINT INTEROP OF TACT C2 SYS (JINTACCS)								
117	64801A	AVIATION - ENG DEV	19,376		19,376		19,376			19,376
118	64802A	WEAPONS AND MUNITIONS - ENG DEV	11,106	15,000	26,106	13,000	24,106	2,000	13,000	24,106

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
119	64803A	CHEMICAL SYSTEMS - ENG DEV	27,806	(27,806)		(27,806)			(27,806)	
120	64804A	LOGISTICS AND ENGINEER EQUIP- ENG DEV	27,486		27,486		27,486			27,486
121	64805A	COMMAND, CONTROL, COMMUNICATIONS SYSTEMS	1,404		1,404		1,404			1,404
122	64806A	CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT -	57,291		57,291		57,291			57,291
123	64807A	MEDICAL MATERIEL/MED BIO DEFENSE EQUIP -	19,558		19,558		19,558			19,558
124	64808A	LANDMINE WARFARE/BARRIER - ENG DEV	17,372		17,372		17,372			17,372
125	64810A	FIBER OPTIC GUIDED MISSILE - ENG DEV	99,062		99,062		99,062			99,062
126	64812A	CLASSIFIED PROGRAM	13,423		13,423		13,423			13,423
127	64813A	TRACTOR PULL	35,149	(15,000)	20,149	20,000	55,149	(35,000)	20,000	55,149
128	64814A	SENSE & DESTROY ARMAMENT MISSILE-ENG DEV	105,507		105,507	20,000	125,507	(20,000)		105,507
129	64815A	TRACTOR TRAILER				5,200	5,200	(5,200)	5,200	5,200
130	64816A	LONGBOW - ENG DEV	159,057		159,057	(48,000)	111,057	48,000		159,057
130a		APACHE RELIABILITY ENHANCEMENT PROGRAM				30,000	30,000	(30,000)		
130b		LH ALTERNATIVES				18,000	18,000	(18,000)		
131	64817A	TRACTOR CRASH/BALL	2,495		2,495		2,495			2,495
132	64818A	ARMY TACTICAL COMMAND & CONTROL SYSTEMS	22,829		22,829		22,829			22,829
133	64819A	LOSAT	72,872		72,872		72,872			72,872
134	64820A	RADAR DEVELOPMENT								
135	64821A	FOLLOW-ON LANCE ENGINEERING DEVELOPMENT	112,228	(112,228)		(112,228)			(112,228)	
136	65710A	JOINT CB POINT OF CONTACT, TEST & ASSESS	6,328		6,328		6,328			6,328
137	23726A	ADV FIELD ARTILLERY TACTICAL DATA SYS	45,764		45,764		45,764		(4,000)	41,764
138	23735A	COMBAT VEHICLE IMPROVEMENT PROGRAMS	97,751		97,751		97,751			97,751
139	23739A	AIR DEFENSE C3I MODIFICATIONS								
140	23740A	MANEUVER CONTROL SYSTEM	25,541		25,541		25,541			25,541
141	23743A	155MM SELF-PROPELLED HOWITZER IMPROVE	8,809		8,809		8,809			8,809
142	23744A	AIRCRAFT MODS/PRODUCT IMPROVE PROGRAMS	60,457		60,457		60,457		(10,000)	50,457
143	23745A	WEAPONS AND MUNITIONS EQUIPMENT UPGRADE								
144	23752A	AIRCRAFT ENGINE COMPONENT IMPROVE PROG	7,055		7,055		7,055			7,055
145	23801A	MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT	40,817		40,817	30,000	70,817	(30,000)		40,817
146	23802A	OTHER MISSILE PRODUCT IMPROVE PROGRAMS	73,320		73,320		73,320		(5,000)	68,320

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
147	23806A	TRACTOR RIG	22,981	(10,000)	12,981		22,981	(10,000)		22,981
148	23808A	TRACTOR CARD	7,378		7,378		7,378			7,378
149	23809A	DRAGON III								
150	27316A	TACIT RAINBOW	105,258		105,258		105,258		(2,558)	102,700
151	28010A	JOINT TACT COMMUNICATION PROG (TRI-TAC)	6,074		6,074		6,074			6,074
152	33145A	EUCOM C3 SYSTEMS								
153	1110011A	FORCE ENHANCEMENTS-ACTIVE								
		SOLDIER/MARINE ENHANCEMENT PROGRAM				18,000	18,000	(18,000)	18,000	18,000
		ARMORED GUN SYSTEM							10,000	10,000
994		TACTICAL CLASSIFIED	549,623	11,200	560,823	30,000	579,623	(18,800)	30,000	579,623
154	64716A	TERRAIN INFORMATION - ENG DEV	10,757		10,757		10,757			10,757
155	64778A	NAVSTAR GLOBAL POS SYSTEM (USER EQUIP)	6,385		6,385		6,385			6,385
156	31359A	SPECIAL ARMY PROGRAM	[ ]	[-7,570]	[ ]		[ ]		[-3,000]	[ ]
157	33142A	SATCOM GROUND ENVIRONMENT	47,744		47,744		47,744		(5,000)	42,744
		ARMY MILSTAR TERMINALS				(16,000)	(16,000)	16,000	(16,000)	(16,000)
158	33401A	COMMUNICATIONS SECURITY (COMSEC)	[ ]		[ ]		[ ]			[ ]
995		INTEL & COMMUNICATION CLASSIFIED	30,513	(7,570)	22,943		30,513	(7,570)	(3,000)	27,513

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
159	65301A	ARMY KWAJALEIN ATOLL	180,033	2,825	182,858	(17,177)	162,856	20,002		180,033
160	65502A	SMALL BUSINESS INNOVATIVE RESEARCH								
161	65601A	ARMY TEST RANGES AND FACILITIES	229,891		229,891	(9,891)	220,000	9,891	(9,891)	220,000
162	65602A	ARMY TECH TEST INSTRUMENT AND TARGETS	88,484		88,484	(13,484)	75,000	13,484	(13,484)	75,000
163	65603A	ARMY USER TEST INST & THREAT SIMULATORS	41,224		41,224		41,224			41,224
164	65604A	TECHNOLOGY AND VULNERABILITY ASSESSMENT	35,976		35,976		35,976			35,976
165	65702A	METEOROLOGICAL SUPPORT TO RDT&E ACTIV	24,395		24,395	(1,257)	23,138	1,257	(1,257)	23,138
166	65706A	MATERIEL SYSTEMS ANALYSIS	23,435		23,435		23,435			23,435
167	65709A	EXPLOITATION OF FOREIGN ITEMS	22,674	(5,000)	17,674		22,674	(5,000)	(5,000)	17,674
168	65712A	SUPPORT OF OPERATIONAL TESTING	63,278		63,278		63,278			63,278
169	65801A	PROGRAMWIDE ACTIVITIES	93,249		93,249	(4,360)	88,889	4,360	(4,360)	88,889
170	65802A	INTERNATIONAL COOPERATIVE RES & DEVELOP	1,905		1,905		1,905			1,905
171	65803A	TECHNICAL INFORMATION ACTIVITIES	7,658		7,658	(1,800)	5,858	1,800	11,800	19,458
172	65805A	MUNITION STANDARDIZATION, EFFECTIVENESS	12,786		12,786		12,786			12,786
173	65810A	RDT&E SUPPORT FOR NONDEVELOPMENTAL ITEMS	7,576		7,576		7,576			7,576
174	65872A	PRODUCTIVITY INVESTMENTS	19,159		19,159		19,159			19,159
175	65894A	REAL PROPERTY MAINT ACTIVITIES - RDT&E	222,764		222,764	(23,558)	199,206	23,558	(23,558)	199,206
176	65896A	BASE OPERATIONS - RDT&E	204,360		204,360	(12,860)	191,500	12,860	(12,860)	191,500
177	65898A	MANAGEMENT HQ (RESEARCH & DEVELOPMENT)	15,297		15,297	(839)	14,458	839	(839)	14,458
		SECURITY IMPROVEMENT PROGRAM							6,000	6,000
178	78011A	INDUSTRIAL PREPAREDNESS	26,708	10,000	36,708	(26,708)		36,708		26,708
		TOTAL RDT&E ARMY	6,025,900	(350,073)	5,675,827	(329,577)	5,696,323	(20,496)	(293,151)	5,732,749

Kinetic energy anti-satellite program

The House bill would authorize $100 million in fiscal year 1991 to continue development of the Army's kinetic-energy anti-satellite (ASAT) program.

The Senate amendment would authorize $152.4 million for this program.

The conferees agree to authorize $126.2 million of the kinetic-energy ASAT program in fiscal year 1991.

Armament enhancement initiative

The report accompanying the House bill (H. Rept. 101-665) expressed concerns that the Army may not have fully exploited the technology potential of the rocket assisted kinetic energy (RAKE) projectile, and recommended that $33.8 million of the funds authorized for the armament enhancement initiative be used to continue the RAKE program in fiscal year 1991. The report further directed the Army to report the results of its technical evaluation of RAKE and competing technologies to the Committees on Armed Services of the Senate and House of Representatives by March 1, 1991.

The conferees agree that the RAKE program should continue and recommend an authorization of $33.8 million in the armament enhancement initiative. The conferees direct the Army to conduct an evaluation of RAKE and competing technologies. Should the Army conclude that RAKE does not provide a sufficient increase in operational effectiveness and that the RAKE program should be terminated, unobligated funds remaining in the RAKE program are available for other programs in the armament enhancement initiative.

TACJAM

The House bill would increase the authorization for the tactical jammer advanced command, control, and communications countermeasures (TACJAM) system by $20 million.

The Senate amendment contained no similar increase in authorization.

The conferees recommend an increase of $10.0 million, which is included in program element 604270A.

Stingray

The Senate amendment recommended an authorization of $20 million to initiate full-scale development of the Stingray system.

The House bill contained no similar recommendation.

The conferees recommend that $10 million be authorized to initiate full-scale development of Stingray starting in fiscal year 1991. The funds for Stingray are included in program element 604270A.

Distributed training system for active and reserve components

The Senate amendment would authorize $100 million to procure distributed simulation devices for National Guard and reserve component units.

The House bill contained no similar authorization further, the House bill would direct the Secretary of the Army not to obligate any funds for the Army's Combined Arms Tactical Trainer (CATT) and Close Combat Tactical Trainer (CCTT) programs until certain analyses and procedures were undertaken.

The Conferees believe that simulation technology is required to augment future training. Restrictive budgets and public objections to training activity will increasingly limit field training exercises. Electronic simulation will provide an invaluable complement to ongoing training programs.

The technology advances demonstrated by the SIMNET program have given impetus to cost-effective combined arms simulation training systems. The Army has initiated a program to adapt SIMNET type technology to its training needs. The conferees endorse the Army's efforts. The conferees recognize that there are a number of critical questions that must be answered in order to integrate SIMNET-type technology into the Army's overall training program, but are firm in their conviction that the Army should accelerate its development program, consistent with sound acquisition practices.

To accelerate the introduction of simulation training to the reserve component, the conferees recommend an authorization of $9 million in fiscal year 1991 to accelerate the development and fielding of the CCTT. The Army should build on the SIMNET concept and correct any shortcomings in the current system for platoon and company training.

These funds are also intended to accelerate the introduction of the family of simulators (FAMSIM) for battalion, brigade, and division command and staff training in the reserve components. The conferees note that the 35th Infantry Division at Ft. Leavenworth, Kansas has done an excellent job of introducing FAMSIM capabilities. The conferees believe this project should be completed and recommend this approach as a model for the reserve components' command and staff training simulations.

The conferees believe that the Army's Advanced Distributed Simulation Technology (ADST) program is a key element for continued progress in distrubuted network simulation technology as discussed in the report accompanying the House bill (H. Rept. 101-665) and direct the Army to budget sufficient resources to continue the program in future budget submissions.

The conferees welcome the Army's efforts to promote the use of distributed simulation and encourage the Army to develop and field mobile CCTT modules that are well suited for reserve component training requirements. The conferees appreciate the Army's concern to field a fully tested system to both its active and reserve components and understand that the Army intends to field to reserve components a system just as capable as the one fielded to active components.

The conferees caution the Army not to postpone development and fielding of CCTT systems until the ultimate software is available. Instead, the conferees commend to the Army the example of the SIMNET program, where prototype units were progressively improved through subsequent generations of software. The conferees believe the Army should establish a flexible architecture and protocols that permit an orderly evolution toward greater complexity and fidelity in simulation over time.

Multipurpose individual munitions

The amended budget request included no funds to continue development of the Multipurpose Individual Munitions (MPIM).

The report accompanying the House bill (H. Rept. 101-665) expressed disappointment that the Army failed to carry forward previous congressional guidance and did not include funds in the fiscal year 1991 budget request. The House bill would authorize $15 million to initiate full-scale development in fiscal year 1991.

The Senate amendment would authorize $13.0 million to initiate full-scale development of MPIM. The report accompanying the Senate amendment (S. Rept. 101-384) stipulated that none of those funds were to be obligated until the Secretary of Defense authorized the Army to initiate full-scale development of the winning design in the MPIM competition, and that the Six Year Defense Program earmarked sufficient funds to compete full-scale development.

The conferees recommend an authorization of $13.0 million and concur in the direction contained in the Senate report. The conferees believe the MPIM full-scale development proof-of-principle phase of the program.

Follow-on-to-Lance program termination

The Senate amendment contained a provision (sec. 131.1(c)) that would prohibit the obligation of funds appropriated for the Department of Defense (DOD) or the Department of Energy (DOE) for fiscal year 1991 or for any fisical year thereafter for the Follow-on-to-Lance program.

The House bill contained no similar provision.

The House recedes with an amendment that would maintain the prohibition on the obligation of DOD funds for this program but would not preclude DOE from incurring necessary program termination costs.

Soldier/Marine enhancement program

The Senate amendment would authorize $18.0 million in research and development for the Army and $12.0 million for the Marine Corps to continue the Soldier/Marine Enhancement Program.

The House bill contained no similar funding.

Last year, Congress initiated the Soldier/Marine Enhancement Program (SMEP) to improve equipment available to Army and Marine Corps infantrymen. The Congress concluded that the effectiveness of foot solders could be significantly increased through aggressive efforts to identify and procure more lethal infantry weapons and improved "soldier items," including lighter, more comfortable load-bearing equipment, field gear, survivability items, communications equipment, and navigation aids. It was the specific intent of Congress that the funds provided to the Army and the Marine Corps under the SMEP were not to be earmarked by Congress or the Office of the Secretary of Defense (OSD) for specific programs. Rather, the funds were to be used by the Services for programs they identified which had the most potential for improving the effectiveness of foot soldiers in the near term. Both Congress and OSD have consistently observed these intentions to date.

The conferees note that some of the "lessons learned" from Operation Just Cause in Panama clearly apply to the objectives of the SMEP. In addition, the conferees are aware of the need for attention to special items of equipment for soldiers and Marines now deployed on Operation Desert Shield in the harsh desert environment.

The conferees are gratified by the positive attitude of the Army and the Marine Corps in utilizing the funds provided by this initiative to accelerate certain programs for infantrymen. More importantly, many proposals from industry were brought to the attention of the conferees as potential examples of items well suited to evaluation under the Soldier/Marine Enhancement Program. In certain cases, the Army has initiated multi-year development programs for new equipment without assurance that the funds necessary to complete the development will be available in the out-years. The conferees direct that the Army incorporate funding requirements for such developments in its portion of the fiscal year 1992/1993 defense

budget request and the Six Year Defense Program, if it desires to continue the development of these items.

The conferees are convinced that significant progress can be made in improving the effectiveness of foot soldiers under the SMEP. Consequently, the conferees recommend an authorization of $18 million for the Army and $12 million for the Marine Corps to continue the test and evaluation of promising items of equipment for infantry forces. The committee again emphasizes that these funds should be used primarily to test and evaluate existing items of equipment rather than launch lengthy development efforts.

Environmental technology

The House bill would provide $25 million to accelerate work in the military Services' technology programs to improve existing methods to both minimize the impact of defense activities on the environment and to promote cleanup of existing non-nuclear wastes.

The Senate bill would provide $200 million for a Strategic Environmental Research and Development Council (SERDC) that would address the broad issue of environmental cleanup by marshalling the technical resources of the Defense Department and the Department of Energy defense national laboratories.

The conferees agree that of the amount recommended for authorization by the House, a reduced authorization of $1.5 million for the Navy and the Air Force and $3 million for the Army is recommended to begin work and to form offices to facilitate integration with the Strategic Environmental Research and Development Council. Of the $3 million authorized for the Army, $1.5 million shall be used to investigate reconstitution of potable water from waste water.

RESEARCH AND DEVELOPMENT, NAVY

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $9,017.1 million for Navy research, development, test, and evaluation. The House bill would authorize $9,360.0 million. The Senate amendment would authorize $9,194.8 million. The conferees recommend authorization of $9,417.9 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL NAVY								
1	61152N	IN-HOUSE INDEPENDENT LABORATORY RESRCH	26,801		26,801		26,801			26,801
2	61153N	DEFENSE RESEARCH SCIENCES	374,357		374,357	(9,000)	365,357	9,000		374,357
3	62111N	ANTI-AIR /ANTI-SURFACE WARFARE TECH	63,105		63,105		63,105		5,000	68,105
4	62121N	SURFACE SHIP TECHNOLOGY	15,982	10,000	25,982		15,982	10,000	10,000	25,982
5	62122N	AIRCRAFT TECHNOLOGY	24,403		24,403		24,403			24,403
6	62131M	MARINE CORPS LANDING FORCE TECHNOLOGY	18,132		18,132		18,132			18,132
7	62232N	COMMAND, CONTROL, & COMMUNICATIONS TECH	18,393		18,393		18,393			18,393
8	62233N	MISSION SUPPORT TECHNOLOGY	34,493		34,493		34,493			34,493
8a		MATERIALS		5,000	5,000			5,000	3,000	3,000
9	62234N	SYSTEMS SUPPORT TECHNOLOGY	69,152		69,152		69,152			69,152
10	62270N	EW TECHNOLOGY	12,872		12,872		12,872			12,872
11	62314N	ASW TECHNOLOGY	114,677	15,000	129,677		114,677	15,000	5,000	119,677
11a	62XXXN	TACTICAL OCEANOGRAPHY TECHNOLOGY		5,000	5,000	5,000	5,000		5,000	5,000
12	62315N	MINE AND SPECIAL WARFARE TECHNOLOGY	17,926	8,000	25,926		17,926	8,000		17,926
13	62323N	SUBMARINE TECHNOLOGY	16,701	5,000	21,701		16,701	5,000	5,000	21,701
14	62324N	NUCLEAR PROPULSION	14,575		14,575		14,575			14,575
15	62435N	OCEAN AND ATMOSPHERIC SUPPORT TECH	32,099		32,099	2,000	34,099	(2,000)	2,000	34,099
16	62936N	INDEPENDENT EXPLORATORY DEVELOPMENT	13,825		13,825		13,825			13,825
17	63210N	AIRCRAFT PROPULSION	10,134		10,134		10,134			10,134
18	63217N	ADVANCED AIRCRAFT SUBSYSTEMS	5,966		5,966		5,966			5,966
19	63270N	EW TECHNOLOGY								
20	63303N	ELECTROMAGNETIC RADIATION SOURCE ELIMIN	5,734		5,734		5,734			5,734
21	63508N	SHIP PROPULSION SYSTEM								
22	63573N	ELECTRIC DRIVE	43,799		43,799	50,000	93,799	(50,000)	10,000	53,799
22a		UNMANNED UNDERSEA VEHICLE TECHNOLOGY				4,000	4,000	(4,000)	4,000	4,000
23	63640M	MARINE CORPS ADV TECH DEMONSTRATION	15,254		15,254		15,254			15,254
24	63701N	HUMAN FACTORS ENGINEERING	2,883		2,883		2,883			2,883
25	63706N	MEDICAL DEVELOPMENT	16,966	2,000	18,966		16,966	2,000	2,000	18,966
26	63707N	MANPOWER AND PERSONNEL SYSTEMS	3,200		3,200		3,200			3,200
27	63712N	GENERIC LOGISTICS R&D TECH DEMONSTRATION	14,040		14,040	5,000	19,040	(5,000)	5,000	19,040
28	63720N	EDUCATION AND TRAINING	5,983		5,983		5,983			5,983

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
29	63732M	MARINE CORPS ADVANCED MANPOWER/TRAINING	3,110		3,110		3,110			3,110
30	63733N	SIMULATION AND TRAINING DEVICES	5,042		5,042		5,042			5,042
31	63739N	NAVY LOGISTIC PRODUCTIVITY								
32	63747N	ADVANCED ANTI-SUBMARINE WARFARE TECH	16,351	10,000	26,351		16,351	10,000	15,000	31,351
33	63792N	ADVANCED TECHNOLOGY TRANSITION	51,143		51,143		51,143			51,143
34	1140011N	ADV SPECIAL OPS RESEARCH, DEVELOP & ACQ								
35	63451N	TACTICAL SPACE OPERATIONS	3,591		3,591		3,591			3,591
36	63588N	SSBN SURVIVABILITY	15,649		15,649		15,649			15,649
37	63735N	WWMCCS ARCHITECTURE SUPPORT								
38	63741N	SATELLITE LASER COMMUNICATIONS								
39	64363N	TRIDENT II	91,822		91,822		91,822			91,822
40	65856N	STRATEGIC TECHNICAL SUPPORT	6,287		6,287		6,287			6,287
41	11221N	FLEET BALLISTIC MISSILE SYSTEM	32,929		32,929		32,929			32,929
42	11224N	SSBN SECURITY TECHNOLOGY PROGRAM	43,131		43,131	16,869	60,000	(16,869)	8,435	51,566
		SUBMARINE LASER COMMUNICATIONS							2,000	2,000
43	11226N	SUB ACOUSTIC WARFARE DEVELOPMENT	31,271		31,271		31,271			31,271
44	11228N	TRIDENT	37,400		37,400		37,400			37,400
45	11401N	EXTREMELY LOW FREQUENCY (ELF) COMMUNIC	103		103		103			103
46	11402N	NAVY STRATEGIC COMMUNICATIONS	17,116		17,116		17,116			17,116
		SEALAR								
		SUBMARINE LASER COMMUNICATIONS		10,000	10,000	10,000	10,000			
47	12427N	NAVAL SPACE SURVEILLANCE	866		866		866			866
48	33131N	MIN ESSENTIAL EMERG COMMUN NET (MEECN)	1,559		1,559		1,559			1,559
49	33152N	WORLD-WIDE MILITARY COMMAND AND CONTROL	3,996		3,996		3,996			3,996

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
50	63109N	INTEGRATED AIRCRAFT AVIONICS	4,992		4,992		4,992			4,992
51	63207N	AIR/OCEAN TACTICAL APPLICATIONS	7,296		7,296		7,296			7,296
52	63208N	T-45 TRAINING SYSTEM	14,916		14,916		14,916			14,916
53	63216N	AIR CREW SYSTEMS TECHNOLOGY	9,816		9,816		9,816			9,816
54	63220N	ADVANCED TACTICAL SUPPORT (ATS)	1,510		1,510		1,510		(1,510)	
55	63222N	SKIPPER ENHANCEMENTS								
56	63228N	CV ASW MODULE	3,625		3,625		3,625			3,625
57	63231N	NAVY ADVANCED TACTICAL FIGHTER	65,685		65,685		65,685			65,685
58	63254N	AIR ASW	11,319		11,319		11,319			11,319
59	63260N	AIRBORNE MINE COUNTERMEASURES	16,930		16,930		16,930		10,000	26,930
60	63261N	TACTICAL AIRBORNE RECONNAISSANCE	30,950		30,950		30,950		(2,000)	28,950
61	63262N	AIRCRAFT SURVIVABILITY & VULNERABILITY	9,385		9,385		9,385			9,385
62	63306N	ADVANCED A/L AIR-TO-SURFACE MISSILE SYS								
63	63318N	ADVANCED SURFACE-TO-AIR MISSILE	43,755		43,755		43,755			43,755
64	63319N	NATO AAW SYSTEMS	24,744		24,744		24,744		(6,534)	18,210
65	63320N	LOW COST ANTI-RADIATION SEEKER	10,357		10,357		10,357			10,357
66	63321N	ADVANCED AIR-TO-AIR MISSILE (AAAM)	84,225		84,225		84,225			84,225
67	63382N	BATTLE GROUP AAW COORDINATION	3,949		3,949		3,949			3,949
68	63502N	SURFACE MINE COUNTERMEASURES	21,003		21,003		21,003			21,003
69	63504N	ADVANCED SUBMARINE ASW DEVELOPMENT	29,140		29,140		29,140			29,140
70	63506N	SURFACE SHIP TORPEDO DEFENSE	53,919		53,919		53,919			53,919
71	63512N	SHIPBOARD AVIATION SYSTEMS	8,118		8,118		8,118			8,118
72	63513N	SHIPBOARD SYSTEM COMPONENT DEVELOPMENT		15,000	15,000			15,000	15,000	15,000
73	63514N	SHIP COMBAT SURVIVABILITY	32,087		32,087		32,087			32,087
74	63522N	SUBMARINE ARCTIC WARFARE SUPPORT EQUIP	2,892	2,000	4,892		2,892	2,000	2,000	4,892
75	63525N	PILOT FISH	55,853		55,853		55,853			55,853
76	63528N	NON-ACOUSTIC ANTI-SUBMARINE WARFARE	22,884		22,884		22,884		15,000	37,884
77	63529N	ADVANCED ASW TARGET	5,020		5,020		5,020			5,020
78	63536N	RETRACT JUNIPER	41,384		41,384		41,384			41,384
79	63542N	RADIOLOGICAL CONTROL	4,062		4,062		4,062			4,062
80	63551N	LINK SAKI	14,251	(14,251)			14,251	(14,251)	(14,251)	

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
81	63553N	SURFACE ASW	45,801		45,801		45,801			45,801
82	63561N	ADVANCED SUBMARINE SYSTEM DEVELOPMENT	52,137		52,137		52,137			52,137
83	63562N	SUBMARINE TACTICAL WARFARE SYSTEMS	7,417		7,417		7,417			7,417
84	63564N	SHIP DEVELOPMENT	18,864		18,864	30,000	48,864	(30,000)	20,000	38,864
85	63569N	ATTACK SUBMARINE DEVELOPMENT								
86	63570N	ADVANCED NUCLEAR POWER SYSTEMS	110,093		110,093		110,093			110,093
87	63576N	CHALK EAGLE	112,322		112,322		112,322			112,322
88	63582N	COMBAT SYSTEM INTEGRATION	10,173		10,173		10,173			10,173
89	63591N	JOINT ADVANCED SYSTEMS	201,228		201,228		201,228			201,228
90	63601N	MINE DEVELOPMENT	5,042		5,042		5,042			5,042
91	63609N	CONVENTIONAL MUNITIONS	53,321		53,321		53,321			53,321
92	63610N	ADVANCED WARHEAD DEVELOPMENT	5,163		5,163		5,163			5,163
93	63611M	MARINE CORPS ASSAULT VEHICLES	42,591		42,591		42,591			42,591
94	63612M	MARINE CORPS MINE/COUNTERMEASURES SYS -	5,788		5,788		5,788			5,788
95	63634N	TACTICAL NUCLEAR DEVELOPMENT	14,485	(14,485)			14,485	(14,485)	(4,100)	10,385
96	63635M	MARINE CORPS GROUND COMBAT/SUPPORT SYS	11,153		11,153		11,153			11,153
97	63654N	JOINT SERVICE EXPLOSIVE ORDNANCE DEVEL	9,145		9,145		9,145			9,145
98	63691N	MK 48 ADCAP - ADV DEV	60,264		60,264		60,264			60,264
99	63702N	OCEAN ENGINEERING SYSTEMS DEVELOPMENT	2,278		2,278		2,278			2,278
100	63704N	ASW OCEANOGRAPHY	9,794		9,794		9,794			9,794
101	63708N	ASW SIGNAL PROCESSING	28,642		28,642		28,642			28,642
102	63709N	ADVANCED MARINE BIOLOGICAL SYSTEM	5,737		5,737		5,737			5,737
103	63711N	FLEET TACT DEVELOP & EVALUATION PROGRAM	6,621		6,621		6,621			6,621
104	63713N	OCEAN ENGINEERING TECHNOLOGY DEVELOP	15,438		15,438		15,438			15,438
105	63717N	COMMAND AND CONTROL SYSTEMS	26,865		26,865		26,865		(1,000)	25,865
106	63719N	CONTAINER OFF-LOADING & TRANSFER SYSTEM								
107	63724N	NAVY ENERGY PROGRAM	7,541		7,541		7,541			7,541
108	63725N	FACILITIES IMPROVEMENT	1,022		1,022		1,022			1,022
109	63729M	MARINE CORPS COMBAT SERVICES SUPPORT	1,332		1,332		1,332			1,332
110	63734N	CHALK CORAL	31,129		31,129		31,129		15,800	46,929
111	63737N	LINK HAZEL	1,127		1,127		1,127			1,127
112	63740N	LINK LAUREL	105,713		105,713		105,713			105,713
113	63746N	RETRACT MAPLE	165,505		165,505		165,505			165,505
114	63748N	LINK PLUMERIA	12,924		12,924		12,924			12,924

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
115	63750N	CHALK WEED	36,493		36,493		36,493		(32,623)	3,870
116	63751N	RETRACT ELM	105,085		105,085		105,085			105,085
117	63752N	CHALK POINSETTIA	[ ]	[-10,000]	[ ]	[-13,800]	[ ]		[-10,000]	[ ]
118	63763N	WARFARE SYSTEMS ARCHITECTURE & ENGINEER	6,891		6,891		6,891			6,891
119	63784N	FIXED DISTRIBUTED SYSTEM - ADV								
120	63785N	ASW ENVIRONMENTAL ACOUSTIC SUPPORT	17,428		17,428		17,428			17,428
121	63787N	SPECIAL PROCESSES	31,819		31,819		31,819		8,200	40,019
122	64203N	STANDARD AVIONICS DEVELOPMENT	7,589		7,589		7,589			7,589
123	64211N	IFF SYSTEM DEVELOPMENT	11,772		11,772		11,772		(3,000)	8,772
124	64212N	LAMPS	21,627		21,627		21,627			21,627
125	64213N	HELICOPTER DEVELOPMENT	65,645	(51,000)	14,645		65,645	(51,000)	(51,000)	14,645
126	64214N	AV-8B AIRCRAFT - ENG DEV	30,704		30,704		30,704			30,704
127	64215N	SUPPORT EQUIPMENT	22,843		22,843		22,843			22,843
128	64218N	AIR/OCEAN EQUIPMENT ENGINEERING	2,852		2,852		2,852			2,852
129	64219N	AIRBORNE ASW DEVELOPMENTS	12,708		12,708		12,708			12,708
130	64221N	P-3 MODERNIZATION PROGRAM	280,724		280,724		280,724		(45,000)	235,724
131	64233N	ADVANCED TACTICAL AIRCRAFT	[ ]		[ ]		[ ]			[ ]
132	64260N	C/MH-53E	19,928		19,928		19,928			19,928
133	64261N	ACOUSTIC SEARCH SENSORS	35,689		35,689		35,689			35,689
134	64262N	V-22A		238,000	238,000	38,000	38,000	200,000	238,000	238,000
134a	64262N	V-22 PRIOR YEAR TRANSFER				[200,000]	[200,000]			
135	64264N	AIR CREW SYSTEMS DEVELOPMENT	20,891		20,891		20,891			20,891
136	64268N	AIRCRAFT ENGINE COMPONENT IMPROVE PROG	41,884		41,884		41,884			41,884
137	64270N	EW DEVELOPMENT	146,689		146,689	6,500	153,189	(6,500)	(175)	146,514
138	64301N	MK 92 FIRE CONTROL SYSTEM UPGRADE	3,365		3,365		3,365			3,365
139	64303N	AEGIS AREA AIR DEFENSE	7,659		7,659		7,659			7,659
140	64307N	AEGIS COMBAT SYSTEM ENGINEERING	91,819		91,819		91,819			91,819
141	64309N	SEA LANCE		50,000	50,000	71,000	71,000	(21,000)	55,000	55,000
142	64314N	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE	3,685		3,685		3,685			3,685
143	64354N	AIR-TO-AIR MISSILE SYSTEMS ENGINEERING	26,487		26,487	(26,487)		26,487	8,513	35,000
144	64355N	VERTICAL LAUNCH ASROC	30,000	(30,000)			30,000	(30,000)	(25,000)	5,000
145	64358N	CLOSE-IN WEAPON SYSTEM (PHALANX)	6,443		6,443		6,443			6,443
146	64361N	NATO SEA SPARROW	6,007		6,007		6,007			6,007

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
147	64366N	STANDARD MISSILE IMPROVEMENTS	44,734		44,734		44,734			44,734
148	64367N	TOMAHAWK	15,353		15,353		15,353		(3,000)	12,353
149	64369N	5" ROLLING AIRFRAME MISSILE	2,950		2,950		2,950			2,950
150	64370N	SSN-688 CLASS VERTICAL LAUNCH SYSTEM	12,639		12,639		12,639			12,639
151	64372N	NEW THREAT UPGRADE	12,443		12,443		12,443			12,443
152	64373N	AIRBORNE MINE COUNTERMEASURES - ENG DEV				10,000	10,000	(10,000)		
153	64502N	SUBMARINE COMMUNICATIONS	11,417		11,417		11,417			11,417
154	64503N	SUBMARINE SONAR DEVELOPMENT	42,356		42,356		42,356		(3,100)	39,256
155	64504N	AIR CONTROL	15,898		15,898		15,898			15,898
156	64506N	CHEMICAL WARFARE COUNTERMEASURES	8,596		8,596		8,596			8,596
157	64507N	NAVY STANDARD SIGNAL PROCESSORS	20,463		20,463		20,463			20,463
158	64508N	RADAR SURVEILLANCE EQUIPMENT	4,655		4,655		4,655			4,655
159	64515N	SUBMARINE SUPPORT EQUIPMENT PROGRAM	5,648		5,648		5,648			5,648
160	64516N	SHIP SURVIVABILITY	6,269		6,269		6,269			6,269
161	64518N	COMBAT INFORMATION CENTER CONVERSION	29,961		29,961		29,961		(4,798)	25,163
162	64524N	SUBMARINE COMBAT SYSTEM	346,729		346,729		346,729			346,729
163	64561N	SSN-21 DEVELOPMENTS	186,893		186,893		186,893			186,893
164	64562N	SUBMARINE TACTICAL WARFARE SYSTEM	75,017		75,017		75,017			75,017
165	64567N	SHIP SUBSYS DEVELOP/LAND BASED TEST SITE	37,538		37,538		37,538			37,538
166	64574N	NAVY TACTICAL COMPUTER RESOURCES	31,794		31,794		31,794			31,794
167	64575N	AN/SQS-53C								
168	64578N	LINK BIRCH								
169	64601N	MINE DEVELOPMENT	12,444		12,444		12,444			12,444
170	64602N	NAVAL GUNNERY IMPROVEMENTS	16,765		16,765		16,765			16,765
170a		ASSAULT BALLISTIC ROCKET SYSTEM				31,000	31,000	(31,000)	31,000	31,000
171	64603N	UNGUIDED CONVENTIONAL AIR-LAUNCHED WPNS	7,735		7,735		7,735		(4,057)	3,678
172	64604N	CHEMICAL WARFARE WEAPONS								
173	64608N	SURFACE ELECTRO-OPTIC SYSTEM	10,678		10,678		10,678			10,678
174	64609N	BOMB FUZE IMPROVEMENT	15,347		15,347		15,347			15,347
175	64610N	MK 50 TORPEDO	39,038		39,038		39,038			39,038
176	64612M	MARINE CORPS MINE COUNTERMEASURES SYSTEM	31,025		31,025		31,025		(1,000)	30,025
177	64654N	JOINT SERVICE EXPLOSIVE ORDNANCE DEVEL	6,076		6,076		6,076			6,076
178	64656M	MARINE CORPS ASSAULT VEHICLES - ENG DEV	22,934		22,934		22,934		(4,000)	18,934
179	64657M	MC GROUND COMBAT/SUPPORTING ARMS SYSTEM	204		204		204			204
180	64704N	ANTI-SUB WARFARE OCEANOGRAPHIC EQUIP	967		967		967			967

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
181	64707N	OVER-THE-HORIZON TARGETING	4,142		4,142		4,142			4,142
182	64708N	INITIAL TRAINER ACQUISITION								
183	64710N	NAVY ENERGY PROGRAM	3,455		3,455		3,455			3,455
184	64713N	SURFACE ASW SYSTEM IMPROVEMENT	122,609	30,000	152,609		122,609	30,000	30,000	152,609
185	64715N	SURFACE WARFARE TRAINING DEVICES	12,357		12,357		12,357			12,357
186	64717M	MARINE CORPS COMBAT SERVICES SUPPORT	3,545		3,545		3,545			3,545
187	64718M	MARINE CORPS INTELL/ELECTRONICS WARFARE	1,182		1,182		1,182			1,182
188	64719M	MARINE CORPS COMMAND/CONTROL/COMMUN SYS	13,822		13,822		13,822			13,822
189	64727N	JOINT STANDOFF WEAPON SYSTEMS	24,961	(10,000)	14,961		24,961	(10,000)	(8,500)	16,461
190	64761N	INTELLIGENCE	2,538		2,538	(1,000)	1,538	1,000		2,538
191	64771N	MEDICAL DEVELOPMENTS	3,999		3,999		3,999			3,999
192	64780M	JINTACCS MARINE CORPS	1,104		1,104		1,104			1,104
193	64784N	FIXED DISTRIBUTED SYSTEM - ENG	210,176	(69,000)	141,176		210,176	(69,000)	(12,000)	198,176
194	65155N	FLEET TACTICAL DEVELOPMENT AND EVAL	14,936		14,936		14,936			14,936
195	65803N	ELECTROMAGNETIC SPECTRUM MANAGEMENT	3,642		3,642		3,642			3,642
196	65853N	MANAGEMENT AND TECHNICAL SUPPORT	9,404		9,404	(1,355)	8,049	1,355	(1,355)	8,049
197	65867N	C2 SURVEILLANCE/RECONNAISSANCE SUPPORT	9,983		9,983	(533)	9,450	533	(533)	9,450
198	24134N	A-6 SQUADRONS	21,457		21,457		21,457			21,457
199	24136N	F/A-18 SQUADRONS	79,215		79,215		79,215		(2,500)	76,715
200	24152N	EARLY WARNING AIRCRAFT SQUADRONS	37,450		37,450		37,450			37,450
201	24154N	SEA-BASED ELECTRONIC WARFARE SQUADRONS	1,703		1,703		1,703			1,703
202	24163N	FLEET TELECOMMUNICATIONS (TACTICAL)	8,985		8,985		8,985		(1,000)	7,985
203	24229N	SURFACE COMBATANT ORDNANCE AND MISSILES	33,700		33,700		33,700			33,700
204	24311N	UNDERSEA SURVEILLANCE SYSTEMS	46,849	(7,100)	39,749		46,849	(7,100)		46,849
205	24313N	SHIP-TOWED ARRAY SURVEILLANCE SYSTEMS	5,798		5,798		5,798			5,798
206	24413N	AMPHIBIOUS TACTICAL SUPPORT UNITS	4,097		4,097		4,097			4,097
207	24571N	SPECIAL PROJECTS	5,064		5,064		5,064			5,064
208	25601N	HARM IMPROVEMENT								
209	25604N	TACTICAL INFORMATION SYSTEM	75,999		75,999		75,999			75,999
210	25620N	ASW COMBAT SYSTEMS INTEGRATION	19,253		19,253		19,253			19,253
211	25633N	AIRCRAFT EQUIP RELIABILITY/MAINTAIN PROG	1,445		1,445		1,445			1,445
212	25658N	LABORATORY FLEET SUPPORT	6,796		6,796		6,796			6,796
213	25667N	F-14 UPGRADE	121,428		121,428		121,428			121,428
214	25670N	TACTICAL INTELLIGENCE PROCESSING	4,895		4,895		4,895			4,895

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
215	25675N	OPERATIONAL REACTOR DEVELOPMENT	56,614		56,614		56,614			56,614
216	26313M	MARINE CORPS TELECOMMUNICATIONS	5,485		5,485		5,485			5,485
217	26623M	MAR CORPS GROUND COMBAT/SUPPORTING ARMS	43,725		43,725	12,000	55,725	(12,000)	12,000	55,725
218	26624M	MARINE CORPS COMBAT SERVICES SUPPORT	1,839		1,839		1,839			1,839
219	26625M	MAR CORPS INTELL/ELECT WARFARE SYSTEMS	34,053		34,053		34,053			34,053
220	26626M	MARINE CORPS COMMAND/CONTROL/COMMUN SYS	27,018		27,018		27,018			27,018
221	27316N	TACIT RAINBOW								
222	28010M	JOINT TACT COMMUN PROGRAM (TRI-TAC)	2,010		2,010		2,010			2,010
223	1110011N	FORCE ENHANCEMENTS-ACTIVE								
		CLASSIFIED PROGRAM				5,000	5,000	(5,000)		
		FEWSG AIRCRAFT COMPETITION				15,000	15,000	(15,000)	15,000	15,000
		DISTRIBUTED SIMULATION- NAVY RESERVE				10,000	10,000	(10,000)		
998		TACTICAL CLASSIFIED	1,069,500	(10,000)	1,059,500	(13,800)	1,055,700	3,800	(10,000)	1,059,500
224	63783N	INTEGRATED PLATFORM COMMUNICATIONS DEVEL								
225	64230N	WARFARE SUPPORT SYSTEM	13,605	(5,000)	8,605		13,605	(5,000)		13,605
226	64231N	TACTICAL COMMAND SYSTEM	49,614		49,614		49,614			49,614
227	64514N	NAVIGATION SYSTEMS	5,339		5,339		5,339			5,339
228	64577N	EHF SATCOM	17,579		17,579		17,579			17,579
229	64777N	NAVSTAR GPS	52,396		52,396		52,396			52,396
230	65866N	NAVY COMMAND & CONTROL PLANNING & DEVEL	3,139		3,139		3,139			3,139
231	31327N	TECHNICAL RECONNAISSANCE AND SURVEILL	[ ]	[-1,587]	[ ]	[-387]	[ ]		[-387]	[ ]
232	33109N	SATELLITE COMMUNICATIONS	13,723		13,723		13,723			13,723
233	33401N	COMMUNICATIONS SECURITY (COMSEC)	[ ]		[ ]		[ ]			[ ]
234	33603N	MILSTAR SATELLITE COMMUNICATIONS SYSTEM	4,591		4,591		4,591			4,591
235	34111N	SPECIAL ACTIVITIES	[ ]		[ ]		[ ]			[ ]
999		INTEL & COMMUNICATION CLASSIFIED	713,654	(1,587)	712,067	(387)	713,267	(1,200)	(387)	713,267

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
236	63721N	ENVIRONMENTAL PROTECTION	11,560	5,000	16,560		11,560	5,000	1,500	13,060
237	64208N	RANGE INSTRUMENTATION SYS DEVEL (RISD)	9,789		9,789		9,789			9,789
238	64255N	ELECTRONIC WARFARE SIMULATOR DEVELOP	39,577		39,577	(10,163)	29,414	10,163	(10,163)	29,414
239	64258N	TARGET SYSTEMS DEVELOPMENT	53,939		53,939		53,939			53,939
240	64703N	PERSONNEL, TRAINING, SIM, & HUMAN FACTOR	1,069		1,069		1,069			1,069
241	65151M	STUDIES AND ANALYSIS SUPPORT - MC	2,243		2,243		2,243			2,243
242	65152N	STUDIES AND ANALYSIS SUPPORT - NAVY	3,782		3,782		3,782			3,782
243	65153M	MC OPERATIONS ANALYSIS GROUP, CNA	4,549		4,549		4,549			4,549
244	65154N	CENTER FOR NAVAL ANALYSES	26,196		26,196		26,196			26,196
245	65156M	MARINE CORPS OPERATIONAL TEST AND EVAL	958		958		958			958
246	65502N	SMALL BUSINESS INNOVATIVE RESEARCH								
247	65804N	TECHNICAL INFORMATION SERVICES	2,977		2,977		2,977			2,977
248	65854M	MARINE CORPS DEVELOPMENT CENTER SUPPORT								
249	65857N	INTERNATIONAL RDT&E	4,042		4,042		4,042		(1,005)	3,037
250	65861N	RDT&E LAB & FACILITIES MANGT SUPPORT	59,655		59,655	(7,808)	51,847	7,808	(1,308)	58,347
251	65862N	RDT&E INSTRUMENTATION AND MATERIEL SUPT	22,011		22,011		22,011			22,011
252	65863N	RDT&E SHIP AND AIRCRAFT SUPPORT	85,257		85,257	(11,952)	73,305	11,952	(11,952)	73,305
253	65864N	TEST AND EVALUATION SUPPORT	345,929		345,929	(20,929)	325,000	20,929	(28,063)	317,866
254	65865N	OPERATIONAL TEST & EVAL CAPABILITY	6,472		6,472		6,472			6,472
255	65871M	MC TACTICAL EXPLOIT OF NATL CAPABILITIES	1,863		1,863		1,863			1,863
256	65872N	PRODUCTIVITY INVESTMENTS	715		715		715			715
257	35111N	WEATHER SERVICE	1,083		1,083		1,083			1,083
258	35160N	DEFENSE METEOROLOGICAL SAT PROG (DMSP)	4,202		4,202		4,202			4,202
		SECURITY IMPROVEMENT PROGRAM							6,000	6,000
259	78011N	INDUSTRIAL PREPAREDNESS	41,827	60,000	101,827	(38,827)	3,000	98,827	46,000	87,827
		TOTAL RDT&E NAVY	9,102,400	257,577	9,359,977	179,128	9,281,528	78,449	315,534	9,417,934
		PRIOR YEAR MILESTONE AUTHORIZATIONS								
		T-45	(14,603)				(14,916)			
		TRIDENT II	(70,670)				(91,822)			
		NEW AUTHORIZATION	9,017,127		9,359,977		9,174,790			9,417,934

Sea-launched and recovery booster

The amended budget request contained $2.5 million for the Navy's sea-launched and recovery (SEALAR) space booster concept.

The House bill would authorize the requested amount.

The Senate amendment would add $20 million to the authorization request to accelerate the program, increase its scope, and establish it as a potential competitor to existing, but deficient, space booster systems and development programs.

The conferees endorses the Senate's goals and are encouraged by the Navy's response to this initiative. The conferees, however, believe the program should move forward at a more moderate pace in fiscal year 1991 while the Navy, and the Department of Defense overall, establish program plans, goals, and funding, including industry participation. Accordingly, the conferees agree to authorize $7.5 million for the SEALAR program.

Integrated electric drive program

The amended budget request included $43.8 million for the integrated electric drive (IED) program. The Congress has previously directed that IED must be at sea in a DDG-51 class ship by the year 2000.

The Senate amendment would provide an additional $50 million to help deliver IED to sea in fiscal year 2001 on the second ship of a new class of AOE fast combat support ships.

The House bill would approve the requested amount. Both of the reports accompanying the House bill (H. Rept. 101-665) and the Senate amendment (S. Rept. 101-384) expressed concern that the Secretary of the Navy had not submitted the report on IED required by the statement of managers that accompanied the National Defense Authorization Act for Fiscal Years 1990 and 1991 (H. Rept. 101-331).

The conferees are profoundly disappointed that the Secretary of the Navy has not provided the report requested by the Congress. The conferees believe that the Congress cannot propertly consider either the alternatives for use of IED, or the future funding requirements for this program and its applications, until the information requested has been provided.

The conferees again express their firm support for the development of IED technology for future surface combatants and other naval platforms, and their desire that the Navy accelerate its development and evaluation of IED technology. The conferees recommend that an additional $10 million be authorized for development of IED. The conferees further direct that no more than $10 million of the funds authorized for fiscal year 1991 may be obligated for the IED program until the report previously requested is provided to the Committees on Armed Services of the Senate and the House of Representatives.

Unmanned undersea vehicle (UUV) technology development

The Conferees recommend authorization of $4 million for development of fuel cell technology in support of unmanned undersea vehicles. The conferees believe the value of such vehicles is likely to grow significantly in the future, as the necessary enabling technologies mature.

SSBN security technology program

The House bill would fund the SSBN security technology program at the amended budget request of $43.131 million.

The Senate amendment would fund the program at $60.0 million.

The conferees agree to authorize $51.566 million for this program, in consonance with the rationale expressed in the Senate report (S. Rept. 101-384).

Submarine laser communications

The House bill would authorize $10 million for the Navy and $5 million for the Defense Advanced Research Projects Agency (DARPA) for submarine laser communications research and development.

The Senate amendment would authorize $10 million for such research and development by the Navy.

The conferees share the concerns expressed in the Senate report (S. Rept. 101-384), but believe: (1) that the Navy will require another year to establish the nature and extent of command and control problems associated with an integrated antisubmarine warfare system, including active sonar systems; and (2) that further laser communications technology development, and cost and operational effectiveness studies, are required to determine whether an acquisition program would be feasible and affordable.

Accordingly, the conferees agree to authorize $2 million to the Navy to conduct analyses of laser communications cost, effectiveness, utility, and concepts of operation. The conferees further agree to authorize $8 million to DARPA to continue technology development, particularly in the areas of submarine uplinks, and advanced, solid-state transmitters. The conferees applaud and further encourage the cooperation between DARPA and the Navy, and between the laser communications program office and DARPA's light satellite program office.

Vertical Launch ASROC

The conferees agree to authorize $5 million to study the cost, performance, and schedule of a program to develop a variant of the Vertical Launch ASROC carrying a MK-50 torpedo. The conferees could not approve the amended budget request for this program because the Navy did not provide adequate information on how it intended to develop this system.

Airborne mine countermeasures

The House bill and the Senate amendment would both authorize funds for the Magic Lantern program. The House bill would authorize $8.0 million in a Navy 6.2 program, while the Senate amendment would authorize $10.0 million in a Navy 6.4 program.

The conferees agree to authorize $10.0 million for the Magic Lantern program for the Navy's airborne mine countermeasures program (program element 0603260N), for the purposes described in the report accompanying the Senate amendment (S. Rept. 101-384).

Shipboard auxiliary systems component development

The House bill would provide $15 million to resume development work on non-propulsion hull, mechanical, and electrical (HM&E) auxiliary equipment.

The Senate amendment would not authorize funds for this purpose.

The Senate recedes. Of the amount authorized, $1.9 million may be used to adapt or develop common electrical connections between shipboard components and systems such as fire control, radar, ESM, and IFF of the radar environmental simulation system (RESS) on FFG-7 class surface combatants. This action could lead to greater use on naval ships of on-board equipment for proficiency training.

Arctic submarine warfare equipment

The amended budget request included $2.892 million for the submarine arctic warfare support equipment program.

The House bill would authorize a total of $4.892 million, and the increased funding would be used to improve safety, survivability, and operability of submarines under the Arctic Ocean ice.

The Senate amendment would authorize the request.

The Senate recedes.

Non-acoustic anti-submarine warfare

The Senate amendment recommended authorization of $30 million for a Defense Agencies program to develop non-acoustic anti-submarine warfare (NAASW) technology.

The House bill would authorize the $22.884 million requested by the Navy, but would not authorize any additional funds for a Defense Agencies NAASW program.

The conferees agree that additional resources should be provided for examining potential non-acoustic ASW technology; however, it is not necessary that these resources be allocated only to the Office of the Secretary of Defense (OSD).

The conferees agree that primary responsibility for managing the development of non-acoustic ASW technology should belong to the Navy. OSD still remains fully capable of exercising oversight of a Navy program without exercising direct management of the program. In fact, OSD serves a valuable function by exercising independent oversight.

On the other hand, the conferees agree that the Navy should not control all of the resources for investigating non-acoustic ASW technology. The conferees believe that allocating resources to OSD for studying NAASW technology independently of the Navy can be beneficial to the nation and could even make possible a higher degree of confidence in Navy findings.

Further discussion of non-acoustic ASW research is included in the classified annex to this statement of the managers.

The conferees agree that $30 million more than the amended budget request should be authorized for development of non-acoustic ASW technology, and these funds should be allocated as follows: $10 million for OSD; $15 million for Navy non-acoustic ASW technology; and $5 million for Navy advanced ASW technology, which will also be used for NAASW.

As a point of clarification, the conferees note that the tables in the statement of the managers show that $15 million in total has been added to the request for advanced ASW technology; separately, the House bill would authorize another $10 million for this program, and the conferees agree to the total increase of $15 million.

Tactical nuclear development

The House bill would deny all of the $14.485 million requested in fiscal year 1991 for the Navy's tactical nuclear development program, including $4.1 million requested for Navy research and development activities related to the B-90 nuclear depth/strike bomb program.

The Senate amendment would authorize $14.485 million for the Navy tactical nuclear development program.

The House recedes with an amendment. The conferees agree to authorize $10.385 for the program and to deny the $4.1 million related to the B-90 bomb.

Fixed distributed system

The amended budget request included $210.176 million for continued development of the Navy's fixed distributed system (FDS) program.

The House bill would authorize only $141.176 million, while the Senate amendment would authorize the full request.

The House reduction was intended to provide offsets for increases in other classified anti-submarine warfare (ASW) programs and to prompt the Navy to review its own priorities for ASW programs. The Senate insisted the FDS program be funded at a level which would permit essential work to continue.

The conferees agree to authorize $198.176 million for development of the fixed distributed system. Funding for other Navy RDT&E programs, including non-acoustic ASW, is discussed separately in this statement of the managers.

Helicopter development

The amended budget request includes $51 million in the Navy's helicopter development program to develop a new helicopter to meet the Marine Corps' needs for a medium lift replacement aircraft.

The House bill would deny this request and provide funds to continue the V-22 development program. The House bill also included a provision (sec. 211) that would prohibit using any research and development funds for a replacement to perform the medium lift mission other than the V-22 aircraft.

The Senate amendment would approve the requested funds.

The Senate recedes.

P-3 modernization program

The bulk of funds in the amended budget request for the P-3 modernization program were for the P-7A (LRAACA) aircraft program. Both the House bill and the Senate amendment fully funded the request. The development program has been troubled, with the Navy deciding to terminate the contract for default.

The conferees have received recent information from the Navy, however, that continuation of the P-7A contract is one option that will be presented to the Defense Acquisition Board (DAB) in November 1990. In order to avoid prejudicing the DAB decision process, the conferees have decided to authorize an amount that would fully fund the fiscal year 1991 effort of any of the alternatives to be considered by the DAB. If, as a result of the DAB decision, these funds are excess to program requirements, the conferees invite a reprogramming from the Navy to support higher priority programs.

V-22 tilt rotor aircraft

The amended budget request proposed cancellation of the V-22 development program.

The House bill would authorize $238 million for continued development of the V-22.

The Senate amendment would provide $238 million, with $200 million to be derived from available prior-year V-22 procurement funds.

The Senate recedes.

Sea Lance

The conferees agree to authorize $55 million for continued development of the Sea Lance anti-submarine warfare stand-off weapon.

The conferees are concerned over the mixed signals in the Navy's response to criticism of its proposed termination of this program. Navy officials originally testified that the requirement to provide a long-range submarine stand-off weapon was still valid, despite the proposed Sea Lance termination. This position was the basis for the actions taken in the House bill and the Senate amendment. Subsequently, however, the Joint Requirements Oversight Council (JROC) and the Vice Chief of Naval Operations have chosen not to validate an operational requirement for such a system.

There have also been roughly as many different cost estimates of alternatives as there have been estimators. Because of these uncertainties, the conferees direct that $5 million be made available for the Secretary of the Navy to study ASW stand-off weapons requirements, alternatives, and costs of the alternatives, including the Sea Lance weapon.

AIM-9 missile improvements

The amended budget request included funds for two separate programs to upgrade the AIM-9 missile. The budget request included $25 million in Air Force research and development, $26.487 million in Navy research and development, and $7.076 million in procurement.

The House bill would authorize the separate research and development requests, but would deny authorization for procurement in the Navy.

The Senate amendment would deny the separate requests for short-range air-to-air missile improvements and consolidate development under a single defense agency program, funded for a total of $35 million.

The conferees note the considerable progress achieved by the Joint Tactical Air-to-Air Missile Office (JTAAMO) in synchronizing Air Force and Navy requirements into a joint air-to-air missile master plan. The conferees applaud the recent initiatives to establish a joint program office responsible for all short-range missile (SRM) programs.

The conferees further note that these Departments, using the management of the Joint SRM Program Office, are jointly committed to correcting current inventory deficiencies and to developing an advanced-design AIM-9. Therefore, the conferees recommend an authorization of $35 million. In accordance with the memorandum of agreement establishing the Joint SRM Program Office, the conferees have consolidated all funding in the Navy, which will serve as the executive agent for the Joint SRM Program Office.

Assault ballistic rocket system

The Senate amendment would authorize $31 million to initiate development of improved ship-to-shore fire support capability, to consist of a shipboard, modular system utilizing the Army's MLRS or ATACMS systems.

The House bill would not authorize funds for this purpose.

The conferees agree to authorize $31 million for conducting a proof-of-principle demonstration of a ship-to-shore fire support system, as outlined in the report accompanying the Senate amendment (S. Rept. 101-384), to be initiated in fiscal year 1991.

The conferees express their concern about the reduced capability for ship-to-shore fire support that results from the retirement of certain battleships, the reduced number of combatant ships capable of providing ship-to-shore fire support, and the potential for conflicts around the world in which U.S. naval and amphibious forces might be employed. Adaptation of a system such as the Army MLRS for ship-to-shore fire support use could significantly enhance the Navy's capability in this area.

The conferees request that the Navy reassess its requirements for ship-to-shore fire support. The conferees recommend that the reassessment include an evaluation of the use of gun and multiple rocket systems, including a system based on the assault ballistic rocket system (ABRS) concept. Cost, operational effectiveness, and the need to make improvements in the ship-to-shore fire support capability in the near term should be considered in the assessment. The report shall be submitted to the Committee on Armed Services of the Senate and House of Representatives by February 28, 1991.

Anti-submarine warfare combat system

The amended budget request did not include funds for integration of the UYS-2 enhanced modular signal processor (EMSP) into the AN/SQQ-89 (basic) surface ASW system.

The House bill would authorize $30 million for this purpose, but the Senate amendment would not authorize any funds for this integration work.

The Senate recedes.

Undersea surveillance system

The amended budget request included $46.849 million for the undersea surveillance system. The House bill would authorize only $39.749 million for this program, while the Senate amendment would authorize the fulll request.

The House recedes.

Marine Corps ground combat

The Marine Corps portion of the Soldier-Marine Enhancement program is discussed in the RDT&E, Army section of this statement of the managers.

Warfare support system

The amended budget request included $13.605 million for the Navy's warfare support system.

The House bill would authorize only $8.605 million for this program, while the Senate amendment would authorize the full request. The House reduction would affect the ROTHR program.

The House recedes.

Non-nuclear propulsion for submarines

The report accompanying the Senate amendment (S. Rept. 101-384) discusses the potential application of air-independent propulsion systems for use in swimmer delivery systems, special purpose submarines, and other craft. The Secretary of the Navy was directed to report to the Armed Services Committees of the Senate and the House of Representatives not later than February 15, 1991 on the status of development (and cost) of non-nuclear propulsion systems for submarines and submersible vehicles and on the potential application of such technology in U.S. naval vessels.

The conferees understand that the German government has developed a small submersible for use by its naval special operations forces and that this vehicle will undergo sea trials in the near future. The conferees suggest that the Navy, in conjunction with preparation of the report, send observers to these trials and evaluate the German vehicle for potential use by the U.S. Navy.

RESEARCH AND DEVELOPMENT, AIR FORCE

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $13,276.3 million for Air Force research, development, test, and evaluation. The House

bill would authorize $12,940.1 million. The Senate amendment would authorize $12,275.6 million. The conferees recommend authorization of $12,664.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL AF								
1	61101F	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	8,318		8,318		8,318			8,318
2	61102F	DEFENSE RESEARCH SCIENCES	193,158	10,300	203,458		193,158	10,300	600	193,758
3	62101F	GEOPHYSICS	36,457		36,457		36,457			36,457
4	62102F	MATERIALS	60,847	5,000	65,847	3,000	63,847	2,000	5,000	65,847
5	62201F	AEROSPACE FLIGHT DYNAMICS	67,378		67,378		67,378			67,378
6	62202F	HUMAN SYSTEMS TECHNOLOGY	51,142	5,000	56,142		51,142	5,000	3,000	54,142
7	62203F	AEROSPACE PROPULSION	62,583	3,000	65,583	4,000	66,583	(1,000)	3,000	65,583
8	62204F	AEROSPACE AVIONICS	68,614		68,614		68,614			68,614
9	62205F	PERSONNEL, TRAINING AND SIMULATION	30,488	5,000	35,488		30,488	5,000		30,488
10	62206F	CIVIL ENGINEERING & ENVIRONMENT QUALITY	5,615	5,000	10,615		5,615	5,000	1,500	7,115
11	62302F	ROCKET PROPULSION	37,873		37,873		37,873			37,873
12	62601F	ADVANCED WEAPONS	36,193		36,193		36,193			36,193
13	62602F	CONVENTIONAL MUNITIONS	43,512		43,512		43,512			43,512
14	62702F	COMMAND CONTROL AND COMMUNICATIONS	79,409		79,409	1,000	80,409	(1,000)	1,000	80,409

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
15	63106F	LOGISTICS SYSTEMS TECHNOLOGY	11,758		11,758		11,758			11,758
16	63109F	INEWS/ICNIA	29,572		29,572		29,572			29,572
17	63112F	ADVANCED MATERIALS FOR WEAPON SYSTEMS	15,042		15,042	3,000	18,042	(3,000)	3,000	18,042
18	63202F	AEROSPACE PROPULSION SUBSYS INTEGRATION	28,404		28,404		28,404			28,404
19	63203F	ADVANCED AVIONICS FOR AEROSPACE VEHICLES	32,308		32,308		32,308			32,308
20	63205F	AEROSPACE VEHICLE TECHNOLOGY	21,338		21,338		21,338			21,338
21	63211F	AEROSPACE STRUCTURES	19,135		19,135		19,135			19,135
22	63216F	AEROSPACE PROPULSION AND POWER TECH	40,154		40,154		40,154			40,154
23	63227F	PERSONNEL, TRAINING AND SIMULATION TECH	8,198		8,198		8,198			8,198
24	63231F	CREW SYSTEMS & PERSONNEL PROTECTION TECH	18,319		18,319		18,319			18,319
25	63245F	ADVANCED FIGHTER TECHNOLOGY INTEGRATION	23,803		23,803		23,803			23,803
26	63250F	LINCOLN LABORATORY	27,609		27,609		27,609			27,609
27	63253F	ADVANCED AVIONICS INTEGRATION	15,079		15,079		15,079			15,079
28	63269F	NATIONAL AERO SPACE PLANE TECH PROG	158,000		158,000	(158,000)		158,000	(39,000)	119,000
29	63270F	EW TECHNOLOGY	36,939		36,939		36,939		(2,253)	34,686
30	63302F	SPACE AND MISSILE ROCKET PROPULSION	12,568		12,568		12,568			12,568
31	63363F	ARMAMENT TECHNOLOGY INTEGRATION	1,219		1,219		1,219			1,219
32	63401F	ADVANCED SPACECRAFT TECHNOLOGY	13,023		13,023		13,023			13,023
33	63410F	SPACE SYSTEMS ENVIRONMENTAL INTERACTIONS	4,252		4,252		4,252			4,252
34	63452F	VERY HIGH SPEED INTEGRATED CIRCUITS								
35	63601F	CONVENTIONAL WEAPONS	29,497		29,497		29,497			29,497
36	63605F	ADVANCED WEAPONS TECHNOLOGY	55,904		55,904		55,904			55,904
37	63707F	WEATHER SYSTEMS - ADV DEV	5,622		5,622		5,622			5,622
38	63723F	CIVIL AND ENVIRONMENTAL ENGINEERING TECH	10,170		10,170		10,170			10,170
39	63726F	C3I SUBSYSTEM INTEGRATION	9,446		9,446		9,446			9,446
40	63728F	ADVANCED COMPUTER TECHNOLOGY	9,073		9,073		9,073			9,073
41	63751F	TRAINING SYSTEMS TECHNOLOGY								
42	63789F	C3 ADVANCED DEVELOPMENT	9,628		9,628		9,628			9,628
43	1140011F	ADV SPECIAL OPS RESEARCH, DEVELOP & ACQ								

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
44	63105F	OLYMPIC	[ ]		[ ]		[ ]			[ ]
45	63110F	SPECIAL EVALUATION PROGRAM	[ ]		[ ]		[ ]			[ ]
46	63111F	MERIDIAN	[ ]		[ ]		[ ]			[ ]
47	63311F	ADVANCED STRATEGIC MISSILE SYSTEMS	100,344		100,344	49,656	150,000	(49,656)	(34,644)	65,700
48	63321F	BELL WEATHER	[ ]		[ ]		[ ]			[ ]
49	63364F	SHORT RANGE ATTACK MISSILE II (SRAM II)								
50	63367F	RELOCATABLE TARGET CAPABILITY PROGRAM	7,049		7,049		7,049		(7,049)	
51	63428F	SPACE SURVEILLANCE TECHNOLOGY	34,138	(34,138)		(24,138)	10,000	(10,000)	(34,138)	
		DSP FOLLOW-ON				152,000	152,000	(152,000)		
52	63717F	TECHNICAL ON-SITE INSPECTION PROGRAM								
53	64226F	B-1B								
54	64240F	B-2 ADVANCED TECHNOLOGY BOMBER	1,566,692		1,566,692	184,000	1,750,692	(184,000)	184,000	1,750,692
55	64244F	SHORT RANGE ATTACK MISSILE II (SRAM II)	156,882		156,882		156,882			156,882
56	64312F	ICBM MODERNIZATION	757,671	(140,000)	617,671		757,671	(140,000)	(70,000)	687,671
56	64312F	(MX IN SILOS)	[7,463]				[7,463]			[7,463]
56	64312F	(RAIL GARRISON)	[548,049]				[548,049]		--	--
56	64312F	(SMALL ICBM)	[202,159]				[202,159]		--	--
57	64326F	STRAT CONVENTIONAL STANDOFF CAPABILITY								
58	64361F	AIR LAUNCHED CRUISE MISSILE (ALCM)								
59	64711F	SYSTEMS SURVIVABILITY (NUCLEAR EFFECTS)	8,839		8,839		8,839			8,839
60	11120F	ADVANCED CRUISE MISSILE	52,307		52,307		52,307			52,307
61	11142F	KC-135 SQUADRONS	3,573		3,573		3,573			3,573
62	11213F	MINUTEMAN SQUADRONS	87,442		87,442		87,442			87,442
63	11312F	PACCS AND WWABNCP SYSTEM EC-135 CLASS V	1,278		1,278		1,278			1,278
64	11313F	WAR PLANNING AUTOMATED DATA PROCESSING -	4,764		4,764		4,764			4,764
65	11815F	ADVANCED STRATEGIC PROGRAMS	[ ]		[ ]		[ ]			[ ]
66	12310F	NCMC - TW/AA SYSTEMS	104,899		104,899		104,899			104,899
67	12311F	NCMC - SPACE DEFENSE SYSTEMS								
68	12313F	BALLISTIC MISS TACT WARN/ATTACK ASSESS								
69	12325F	JOINT SURVEILLANCE SYSTEM	1,678		1,678		1,678			1,678

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
70	12411F	SURVEILLANCE RADAR STATIONS/SITES	8,204		8,204		8,204			8,204
71	12412F	DISTANT EARLY WARNING (DEW) RADAR	1,047		1,047		1,047			1,047
72	12417F	OVER-THE-HORIZON BACKSCATTER RADAR	12,851		12,851		12,851			12,851
73	12423F	BALLISTIC MISSILE EARLY WARN SYS (BMEWS)	22,329		22,329		22,329		(4,100)	18,229
74	12424F	SPACETRACK	15,527		15,527	15,000	30,527	(15,000)	15,000	30,527
75	12431F	DEFENSE SUPPORT PROGRAM	69,990	(69,990)			69,990	(69,990)		69,990
76	12432F	SUB-LAUNCHED BALLISTIC MISS RADAR WARN	2,294		2,294		2,294			2,294
77	12433F	NUDET DETECTION SYSTEM	5,125		5,125	18,500	23,625	(18,500)	18,500	23,625
78	12436F	COMMAND CENTER PROCESSING & DISPLAY SYS								
79	33131F	MIN ESSENTIAL EMERG COMM NETWORK (MEECN)	9,677		9,677		9,677			9,677
80	33152F	WORLD-WIDE MILT COMM & CONTROL INFO SYS	1,540		1,540		1,540			1,540
81	33154F	WWMCCS ADP MODERNIZATION								
82	33601F	MILSTAR SATELLITE COMM SYS (AF TERM)	24,425		24,425	(24,425)		24,425	(24,425)	
83	33603F	MILSTAR SATELLITE COMMUNICATIONS SYSTEM	744,164		744,164	(744,164)		744,164	(744,164)	
		ADVANCED COMMUNICATIONS SATELLITE RELAY							500,000	500,000
		MILSTAR ALERNATIVE				20,000	20,000	(20,000)		
84	35124F	SPECIAL APPLICATIONS PROGRAM	[ ]		[ ]		[ ]			[ ]
85	35172F	BERNIE	[ ]		[ ]		[ ]			[ ]
86	35892F	SPECIAL ANALYSIS ACTIVITIES	[ ]		[ ]		[ ]			[ ]
87	41123F	MILITARY AIRLIFT GROUP (IF)								
		ADVANCED WARNING SYSTEM		230,000	230,000			230,000	210,000	210,000
997		STRATEGIC CLASSIFIED	457,468		457,468		457,468			457,468

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
88	63107F	TECHNICAL EVALUATION SYSTEM	[ ]		[ ]		[ ]			[ ]
89	63230F	ADVANCED TACTICAL FIGHTER	763,923	200,000	963,923	106,441	870,364	93,559	200,000	963,923
90	63260F	INTELLIGENCE ADVANCED DEVELOPMENT	4,382		4,382		4,382			4,382
91	63307F	AIR BASE OPERABILITY ADVANCED DEVELOP	3,430		3,430		3,430			3,430
92	63320F	LOW COST ANTI-RADIATION SEEKER								
93	63617F	COMMAND, CONTROL, AND COMMUN APPLICATION	8,221		8,221		8,221			8,221
94	63742F	COMBAT IDENTIFICATION TECHNOLOGY	2,026		2,026		2,026			2,026
95	63801F	SPECIAL PROGRAMS	[ ]	[-5,000]	[ ]		[ ]		[-5,000]	[ ]
96	64201F	AIRCRAFT AVIONICS EQUIPMENT DEVELOPMENT	13,295		13,295		13,295		(1,000)	12,295
97	64212F	AIRCRAFT EQUIPMENT DEVELOPMENT	2,942		2,942		2,942			2,942
98	64218F	ENGINE MODEL DERIVATIVE PROGRAM (EMDP)	1,019		1,019		1,019			1,019
99	64222F	NUCLEAR WEAPONS SUPPORT	2,838		2,838		2,838			2,838
100	64223F	ALTERNATE FIGHTER ENGINE	5,104		5,104		5,104			5,104
101	64231F	C-17 PROGRAM	541,081		541,081		541,081			541,081
102	64233F	TANKER, TRANSPORT, BOMBER TRAINING SYS	2,401		2,401		2,401			2,401
103	64236F	INFRARED SEARCH AND TRACK SYSTEM								
104	64237F	VARIABLE STABILITY IN-FLIGHT SIM TEST AC	7,316		7,316		7,316			7,316
105	64239F	ADVANCED TACTICAL FIGHTER FSD	283,441	(283,441)		(283,441)			(283,441)	
106	64242F	ADVANCED TACTICAL AIRCRAFT	[ ]		[ ]	[-30,000]	[ ]		[-30,000]	[ ]
107	64245F	SHORT RANGE ATTACK MISSILE-TACT (SRAM-T)	118,581	(118,581)			118,581	(118,581)	(83,581)	35,000
108	64247F	MODULAR AUTOMATIC TEST EQUIPMENT	13,047		13,047		13,047			13,047
109	64249F	NIGHT/PRECISION ATTACK	7,692		7,692		7,692			7,692
110	64250F	INTEGRATED EW/CNI DEVELOPMENT	16,608		16,608		16,608			16,608
111	64268F	AIRCRAFT ENGINE COMPONENT IMPROVE PROG	93,561		93,561		93,561			93,561
112	64270F	EW DEVELOPMENT	159,351	(12,700)	146,651		159,351	(12,700)	(50,200)	109,151
113	64315F	ADVANCED SHORT RANGE AIR-TO-AIR MISSILE								
114	64321F	JOINT TACTICAL FUSION PROGRAM	[ ]		[ ]	[-5,134]	[ ]		[-5,134]	[ ]
		LINKED OPERATIONAL CAPABILITY							15,434	15,434
115	64327F	HARDENED TARGET MUNITIONS								
116	64601F	CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT	8,350		8,350		8,350			8,350
117	64602F	ARMAMENT/ORDNANCE DEVELOPMENT	10,837		10,837		10,837			10,837
118	64604F	SUBMUNITIONS	7,596		7,596		7,596			7,596
119	64607F	WIDE-AREA, ANTI-ARMOR MUNITIONS	23,879		23,879		23,879			23,879
120	64617F	AIR BASE OPERABILITY	6,512		6,512		6,512			6,512

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
121	64703F	AEROMEDICAL SYSTEMS DEVELOPMENT	7,499		7,499		7,499			7,499
122	64704F	COMMON SUPPORT EQUIPMENT DEVELOPMENT	15,119		15,119		15,119		(6,500)	8,619
123	64706F	LIFE SUPPORT SYSTEMS	12,586		12,586		12,586			12,586
124	64708F	CIVIL, FIRE, ENVIRON, SHELTER ENGINEER	2,191		2,191		2,191			2,191
125	64725F	COMBAT IDENTIFICATION SYSTEMS								
126	64733F	SURFACE DEFENSE SUPPRESSION	11,158		11,158		11,158			11,158
127	64740F	COMPUTER RESOURCES MANAGEMENT TECHNOLOGY	12,610		12,610		12,610			12,610
128	64750F	INTELLIGENCE EQUIPMENT	3,911		3,911		3,911			3,911
129	64754F	JOINT TACTICAL INFORMATION DISTRIBUTION	38,312		38,312		38,312			38,312
130	64756F	SIDE LOOKING AIRBORNE RADAR	4,135		4,135		4,135			4,135
131	64770F	JOINT SURV/TARGET ATTACK RADAR (JSTARS)	232,483	(232,483)			232,483	(232,483)		232,483
132	64779F	JOINT INTEROP OF TACT C2 SYS (JINTACCS)	6,632		6,632		6,632			6,632
133	27129F	F-111 SQUADRONS	11,317		11,317		11,317			11,317
134	27130F	F-15A/B/C/D SQUADRONS								
135	27131F	A-10 SQUADRONS	1,983	(1,983)			1,983	(1,983)	(1,983)	
136	27133F	F-16 SQUADRONS	70,056		70,056		70,056			70,056
137	27134F	F-15E SQUADRONS	89,110		89,110		89,110		(21,600)	67,510
138	27136F	F-4G WILD WEASEL SQUADRONS								
139	27137F	CONSTANT HELP	[ ]		[ ]		[ ]		[13,000]	[ ]
140	27141F	F-117A SQUADRONS	[ ]		[ ]		[ ]			[ ]
141	27162F	TACTICAL AGM MISSILES	509		509		509			509
142	27163F	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE	25,516		25,516		25,516		(7,400)	18,116
143	27168F	F-111 SELF PROTECTION SYSTEMS								
144	27169F	SEEK CLOCK	[ ]	[-5,000]	[ ]		[ ]		[-5,000]	[ ]
145	27215F	TR-1 SQUADRON	54,764	(53,201)	1,563	(10,700)	44,064	(42,501)	(26,264)	28,500
146	27217F	FOLLOW-ON TACTICAL RECONNAISSANCE SYS	47,248		47,248		47,248			47,248
147	27247F	AF TENCAP	346		346		346			346
148	27316F	TACIT RAINBOW	9,759	27,000	36,759	27,000	36,759		27,000	36,759
149	27411F	OVERSEAS AIR WEAPON CONTROL SYSTEM	2,311		2,311		2,311			2,311
150	27412F	TACTICAL AIR CONTROL SYSTEMS	17,075		17,075		17,075		(2,000)	15,075
151	27417F	AIRBORNE WARNING & CONTROL SYS (AWACS)	133,810		133,810		133,810		(8,800)	125,010
152	27423F	ADVANCED COMMUNICATIONS SYSTEMS	6,385		6,385		6,385			6,385
153	27424F	COPPER COAST	[ ]		[ ]		[ ]			[ ]
154	27431F	TACTICAL AIR INTELLIGENCE SYSTEM ACTIV	484		484		484			484

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
155	27433F	TACTICAL IMPROVEMENT PROGRAM	[ ]		[ ]		[ ]			[ ]
156	27435F	TACT RECONNAISSANCE IMAGERY & EXPLOIT								
157	27579F	ADVANCED SYSTEMS IMPROVEMENTS	[ ]		[ ]		[ ]			[ ]
158	27585F	SEEK SPINNER								
159	27590F	SEEK EAGLE	14,549		14,549		14,549			14,549
160	27591F	OMEGA	[ ]	[147,900]	[ ]	[-25,000]	[ ]	[172,900]	[100,191]	[ ]
161	28006F	MISSION PLANNING SYSTEMS	18,146		18,146		18,146		(10,000)	8,146
162	28010F	JOINT TACT COMMUNIC PROGRAM (TRI-TAC)	4,833		4,833		4,833			4,833
163	28021F	ELECTRONIC COMBAT SUPPORT	2,770		2,770		2,770			2,770
164	28042F	HAVE FLAG	[ ]		[ ]		[ ]			[ ]
165	33605F	SATELLITE COMMUNICATIONS TERMINALS	6,071		6,071		6,071			6,071
166	35137F	NATIONAL AIRSPACE SYSTEM (NAS) PLAN	35,000		35,000		35,000		(19,000)	16,000
167	35142F	CENTENNIAL	[ ]		[ ]		[ ]			[ ]
168	35158F	CONSTANT SOURCE	6,714		6,714		6,714			6,714
169	35887F	ELECTRONIC COMBAT INTELLIGENCE SUPPORT	1,841		1,841		1,841			1,841
170	41316F	SENIOR CITIZEN	[ ]		[ ]		[ ]			[ ]
171	41840F	MAC COMMAND AND CONTROL SYSTEM	11,626		11,626		11,626			11,626
172	52610F	A-7 SQUADRONS (ANG)				15,000	15,000	(15,000)		
173	1110011F	FORCE ENHANCEMENTS-ACTIVE C-130J		10,000	10,000	10,000	10,000		10,000	10,000
998		TACTICAL CLASSIFIED	750,901	137,900	888,801	(60,134)	690,767	198,034	68,057	818,958

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
174	31305F	INTELLIGENCE PRODUCTION ACTIVITIES	[ ]		[ ]		[ ]			[ ]
175	31310F	FOREIGN TECHNOLOGY DIVISION	[ ]	[-775]	[ ]	[-775]	[ ]		[-1,550]	[ ]
176	31314F	INFRARED/E-O/DEW PROCESS & EXPLOITATION	[ ]		[ ]		[ ]			[ ]
177	31315F	MISSILE AND SPACE TECHNICAL COLLECTION	[ ]	[-12,136]	[ ]	[14,000]	[ ]		[14,000]	[ ]
178	31317F	SENIOR YEAR OPERATIONS	[ ]	[-1,563]	[ ]	[-1,500]	[ ]		[-1,500]	[ ]
179	31324F	FOREST GREEN	[ ]	[-9,527]	[ ]	[1,379]	[ ]		[1,379]	[ ]
180	31357F	NUDET DETECTION SYSTEM	[ ]		[ ]		[ ]			[ ]
181	33110F	DEFENSE SATELLITE COMMUNICATIONS SYSTEM	16,484		16,484		16,484			16,484
182	33126F	LONG-HAUL COMMUNICATIONS (DCS)	3,570		3,570		3,570			3,570
183	33144F	ELECTROMAGNETIC COMPATIBILITY ANALYSIS C	9,637		9,637		9,637			9,637
184	33401F	COMMUNICATIONS SECURITY (COMSEC)	[ ]		[ ]		[ ]			[ ]
185	34111F	SPECIAL ACTIVITIES	[ ]	[-62,900]	[ ]	[95,300]	[ ]		[-60,200]	[ ]
186	35114F	TRAFFIC CONTROL, APPROACH, AND LANDING S	16,557		16,557		16,557			16,557
187	35159F	DEFENSE RECONNAISSANCE SUPPORT ACTIV				[-263,198]			[-263,198]	
188	35164F	NAVSTAR GLOBAL POS SYSTEM (USER EQUIP)	12,923		12,923		12,923			12,923
189	35165F	NAVSTAR GLOBAL POS SYS (SPACE & CONTROL)	48,871		48,871		48,871			48,871
190	35185F	CAVALRY	[ ]		[ ]		[ ]			[ ]
999		INTEL & COMMUNICATIONS CLASSIFIED	2,157,058	(86,901)	2,070,157	(154,794)	2,002,264	67,893	(311,069)	1,845,989
191	63402F	SPACE TEST PROGRAM	51,524		51,524		51,524			51,524
192	63438F	SATELLITE SYSTEMS SURVIVABILITY	10,558		10,558		10,558			10,558
193	64211F	ADVANCED AERIAL TARGET DEVELOPMENT	16,209		16,209		16,209		(5,000)	11,209
194	64227F	TRAINING SYSTEMS DEVELOPMENT	41,220		41,220		41,220		(2,000)	39,220
195	64243F	MANPOWER, PERSONNEL & TRAINING DEVELOP	3,494		3,494		3,494		(1,000)	2,494
196	64408F	ADVANCED LAUNCH SYSTEM	60,314		60,314		60,314		(34,600)	25,714
197	64609F	R&M MATURATION/TECHNOLOGY INSERTION	19,532		19,532		19,532		(2,000)	17,532
198	64707F	WEATHER SYSTEMS - ENG DEV	5,361		5,361	(586)	4,775	586		5,361
199	64735F	RANGE IMPROVEMENT	100,928	(27,000)	73,928	(19,965)	80,963	(7,035)	(49,100)	51,828
200	64747F	ELECTROMAGNETIC RADIATION TEST FACIL	4,788		4,788		4,788			4,788

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
201	64755F	IMPROVED CAPABILITY FOR DEVELOPMENT TEST	45,720	(8,000)	37,720		45,720	(8,000)	(16,000)	29,720
202	65101F	PROJECT AIR FORCE	24,611		24,611		24,611		(1,930)	22,681
203	65306F	RANCH HAND II EPIDEMIOLOGY STUDY	1,524		1,524		1,524			1,524
204	65502F	SMALL BUSINESS INNOVATIVE RESEARCH								
205	65708F	NAVIGATION/RADAR/SLED TRACK TEST SUPPORT	27,223		27,223	(4,191)	23,032	4,191	(4,191)	23,032
206	65712F	INITIAL OPERATIONAL TEST AND EVALUATION	20,884		20,884	(10,884)	10,000	10,884		20,884
207	65807F	TEST AND EVALUATION SUPPORT	318,639	(52,900)	265,739	(24,287)	294,352	(28,613)	(77,187)	241,452
207a		AIR FORCE DEVELOPMENT TEST CENTER		106,900	106,900			106,900	94,100	94,100
208	65808F	DEVELOPMENT PLANNING	9,138		9,138	(1,638)	7,500	1,638	(1,638)	7,500
209	65809F	DYCOMS	3,369		3,369		3,369		(1,000)	2,369
210	65863F	RDT&E AIRCRAFT SUPPORT	61,793		61,793	(5,000)	56,793	5,000	(5,000)	56,793
211	65894F	REAL PROPERTY MAINTENANCE - RDT&E	92,383		92,383	(10,839)	81,544	10,839	(10,839)	81,544
212	65896F	BASE OPERATIONS - RDT&E	61,722		61,722		61,722			61,722
213	35110F	SATELLITE CONTROL NETWORK	127,454		127,454		127,454			127,454
214	35119F	MEDIUM LAUNCH VEHICLES	234,297		234,297		234,297			234,297
215	35130F	CONSOLIDATED SPACE OPERATIONS CENTER	24,323		24,323		24,323		(2,000)	22,323
216	35160F	DEFENSE METEOROLOGICAL SATELLITE PROGRAM	49,666		49,666		49,666			49,666
217	35171F	SPACE SHUTTLE OPERATIONS	19,059		19,059		19,059			19,059
218	71112F	INVENTORY CONTROL POINT OPERATIONS	4,881		4,881		4,881			4,881
219	72207F	DEPOT MAINTENANCE (NON-IF)	2,740		2,740		2,740			2,740
220	78011F	INDUSTRIAL PREPAREDNESS	72,133	40,000	112,133	(72,133)		112,133	30,000	102,133
221	78026F	PROD, RELIAB, AVAIL, MAINTAIN. PROG OFC	20,187		20,187		20,187			20,187
222	91218F	CIVILIAN COMPENSATION PROGRAM	4,478		4,478		4,478			4,478
		SECURITY IMPROVEMENT PROGRAM							6,000	6,000
223	1001004F	INTERNATIONAL ACTIVITIES	4,011		4,011		4,011		(733)	3,278
		TOTAL RDT&E AIR FORCE	13,276,300	(336,218)	12,940,082	(1,000,722)	12,275,578	664,504	(611,638)	12,664,662

National Aero-Space Plane technology program

The House bill would authorize $158 million for the National Aero-Space Plane (NASP) program, which is the amount contained in the amended budget request.

The Senate amendment would terminate further participation by the Defense Department in the joint DoD/NASA program.

The conferees agree to authorize $119 million for NASP and to require the Secretary of Defense to provide a report to the Congressional defense committees by March 15, 1991, identifying the military requirements and missions for NASP and the rationale for continued DoD funding for this program. The report should include the most recent cost, schedule, and milestone data; planned funding shares between DoD and NASA; a technical risk assessment; and a priority ranking of NASP in relation to DoD's other advanced technology and space access programs.

Within the authorization of $119 million for the NASP program, up to $2 million would be authorized for the Defense Advanced Research Projects Agency to conduct an independent configuration study. The purpose of this independent study is to revise the design, and the analysis that supported the design, of the original government baseline configuration (including its air-breathing propulsion system) based on the latest NASP technical findings and to compare the results to the current NASP baseline configuration. The results of this independent study shall be provided to the NASP Steering Group chaired by the Under Secretary of Defense for Acquisition. The Steering Group shall evaluate the results of the independent study and provide its findings to the Congressional defense committees by May 1, 1991.

Advanced strategic missile systems

The amended budget request for the Advanced Strategic Missile Systems (ASMS) program was $100.344 million.

The House bill would authorize the requested amount.

The Senate amendment, noting the precipitous decline in funding levels for this program over the past few years, would authorize an increase of $49.656 million to bring funding to $150 million. The report accompanying the Senate amendment (S. Rept. 101-384) directed that the increase be allocated to two new R&D efforts: (1) a demonstration of silo hardness attainable at a cost of $40 million per silo (in lots of several hundred silos); and (2) the development of a low-cost externally-aided guidance unit for dormant operations without the loss of accuracy of a mobile missile. The Senate amendment also contained a provision (sec. 202) that would authorize the Air Force to reinstate two projects within the ASMS program which were denied in the Defense Appropriations Act for Fiscal Year 1990. The report accompanying the House bill (H. Rept. 101-665) also directed that these two programs be reinstated.

The conferees agree to authorize $65.7 million for the ASMS program, and the Senate recedes from its provision.

B-2 bomber RDT&E

The amended budget request included $1,566.692 million for RDT&E on the B-2 bomber. However, the results of a Major Aircraft Review, conducted in the spring of 1990 by Secretary of Defense Cheney, led to a restructuring of the B-2 bomber program. Thus, the amended budget request as modified by the Major Aircraft Review was increased to $1,750.692 million for B-2 RDT&E.

The House bill would authorize $1,566.692 million for B-2 RDT&E; the Senate amendment would authorize $1,750.692 million.

The conferees agree to fund B-2 RDT&E at $1,750.692 million.

Defense support program

The amended budget request contained $69.99 million for on-going improvements to the Defense Support Program (DSP).

The House bill would shift the requested funds to a consolidated advanced warning system line item.

The Senate amendment would authorize the requested amount.

The House recedes. The conferees agree that funding for on-going DSP improvements should be kept separate from funding for a DSP follow-on advanced warning system. The conferees, therefore, agree to authorize the requested amount.

Nuclear detection system

The amended budget request included $5.1 million in research and development, $17.6 million in other procurement, and $22.8 million in aircraft procurement (under the E-4 airborne command post program) for the Ground/Airborne Integrated Terminal (G/AIT) program designed to receive and process nuclear detonation data.

As explained in the Senate report (S. Rept. 101-384), the Air Force has restructured the G/AIT program. The Senate amendment reflects this restructuring. The Senate amendment would shift $17.6 million from other procurement and $.9 million from aircraft procurement to research and development, and deny procurement funding.

The House bill would reduce the request for G/AIT procurement by $12.9 million.

The House recedes. The conferees agree to authorize the restructured G/AIT program as specified in the Senate amendment.

Air Force advanced tactical aircraft

The Senate amendment would reduce the authorization for research and development for the advanced tactical aircraft for the Air Force by $30 million.

The House bill contained no similar reduction.

The conferees recommend a reduction in the authorization of $30 million. The conferees emphasize that this reduction is made strictly because of fact-of-life delays in the Navy's A-12 program. The conferees continue to insist that the Air Force remain a full participant in the A-12 program.

Short range attack missile—tactical

The House bill would authorize no funding in fiscal year 1991 for the nuclear short range attack missile—tactical (SRAM-T).

The Senate amendment would authorize the $118.6 million in the amended budget request for this program.

The House recedes with an amendment. The conferees agree to authorize $35 million for the SRAM-T in fiscal year 1991.

Linked operational capability

The amended budget request included $11.8 million for the Battlefield Information Collection and Exploitation System (BICES) and $5.1 million for the Air Force portion of the Joint Tactical Fusion Program (JTEP). Both of these programs primarily fund the improvement of the Air Force linked operational capability (LOC) (an intelligence collection management, fusion, and dissemination system) and the integration of this system with Air Force, other Service, and allied command and control systems.

The House bill would deny funding for BICES on the grounds of changes in the threat to NATO.

The Senate amendment would deny funding for the Air Force portion of the JTFP on the grounds that the Air Force decided to terminate its involvement.

The conferees agree that the LOC efforts funded under the BICES and JTEP programs should continue at the requested levels. The conferees agree to consolidate funding in a new line item in Air Force R&D, Air Force LOC. Oversight by the Office of the Secretary of Defense is encouraged for the purpose of ensuring that the LOC system will be interoperable with the Army's fusion system and that interoperability with allied forces is vigorously pursued.

The conferees agree to authorize $15.4 million, a reduction of $1.5 million from the request. Up to $1 million of this amount may be used to support the existing LOC system in Europe.

Joint surveillance and target attack radar (JSTARS)

The amended budget request contained $232.483 million for the Air Force and $45.833 million for the Army to continue development of the joint surveillance and target attack radar (JSTARS) system.

The House bill would terminate the JSTARS program, arguing that it was designed exclusively to support conventional forces in Europe against a Warsaw Pact invasion. Contending that the Warsaw Pact threat had disappeared, the House would argue that there is no further requirement for the JSTARS capability.

The Senate amendment would fund the JSTARS program at the requested levels.

The conferees recommend approval of the program at the requested levels. The conferees believe that JSTARS has utility in contingencies other than NATO.

The conferees understand that the Air Force has proposed to the Under Secretary of Defense for Acquisition a plan for economical purchase of used aircraft when they become available on the commercial market. The conferees direct the Under Secretary to apprise the congressional defense committees of his decision on this proposal, but to make no commitment to purchase these planes at this time.

The conferees also understand that the Air Force is re-evaluating inventory requirements in light of global changes in the threat. The conferees expect the Secretary to notify the congressional defense committees of the results of that analysis when the Defense Department submits the fiscal year 1992-1993 budget request.

Constant Help

The conferees have established that the amended budget request for the Constant Help program is $13 million short of program requirements. Moreover, this shortfall, if not rectified, would significantly delay important capabilities. The conferees agree to authorize an additional $13 million for this program.

A-7 squadrons

The Senate amendment would authorize $15 million for the Air Force to complete the qualitative evaluation of the YA-7F as a replacement for the current A-7E within the Air Force Reserve structure.

The House bill contained no similar authorization.

The Senate recedes, but the conferees direct the Chief of the National Guard Bureau to submit a report to the Armed Services Committees of the Senate and House of Representatives, delineating the final decision on the utility of the YA-7F for the Air Force Reserve, together with the rationale for this finding.

C-130J aircraft

Both the House bill and the Senate amendment would authorize $10 million to initiate development of an improved model of the C-130, the so-called "J" model. The conferees note that the Air Force has no effective modernization program for the tactical airlift fleet, despite the overwhelming role it played in Operation Just Cause in Panama and is playing now in the Persian Gulf region. The conferees fail to see how the Air Force is able to budget tens of billions of dollars for new bombers, missiles, fighters, and strategic transports, but has no plans to modernize tactical airlift units until after the year 2010.

The Commander in Chief of the Military Airlift Command noted that the J model was designed to meet requirements for an interim modernization program. The conferees support that effort and direct the Air Force to proceed promptly with a modernization program.

Potential termination of Air Force programs

The conferees have recently become aware of the potential that four Air Force R&D programs will necessarily be terminated by section 2352 of title 10, United States Code, which imposes a ten-year limitation on research and development contracts. The conferees invite the Secretary of the Air Force to notify Congress as soon as possible in the upcoming session on what legislative relief, if any, is appropriate and necessary.

The conferees urge the Department of Defense to submit on a timely basis any legislative action that is required to prevent automatic termination of these contracts.

RESEARCH AND DEVELOPMENT, DEFENSE AGENCIES

OVERVIEW

The amended budget request for fiscal year 1991 contained an authorization of $9,249.3 million for Defense Agencies research, development, test, and evaluation. The House bill would authorize $7,391.2 million. The Senate amendment would authorize $8,972.7 million. The conferees recommend authorization of $8,013.9 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL DEF AG								
1	61101E	DEFENSE RESEARCH SCIENCES	85,238	36,300	121,538		85,238	36,300	13,000	98,238
2	61101W	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	2,342		2,342		2,342			2,342
3	61103D	UNIVERSITY RESEARCH INITIATIVES	98,681	28,000	126,681		98,681	28,000	10,000	108,681
3a	61XXXD	DOD GRADUATE FELLOWSHIP PROGRAM		20,000	20,000	20,000	20,000		20,000	20,000
3b	61XXXD	US-JAPAN MANAGEMENT TRAINING				10,000	10,000	(10,000)	10,000	10,000
4	61107D	HF ACTIVE AURORAL RESEARCH PROGRAM								
5	62101E	TECHNICAL STUDIES								
6	62108D	CENTER FOR ADVANCE OF SCIEN, ENGINEERS,								
7	62109H	SUPER CONDUCTIVE MAGNETIC ENERGY STORAGE	15,000		15,000		15,000			15,000
8	62301E	STRATEGIC TECHNOLOGY	207,749		207,749	(83,000)	124,749	83,000	(92,500)	115,249
9	62702E	TACTICAL TECHNOLGY	121,535	20,000	141,535	5,000	126,535	15,000	5,000	126,535
9a		HIGH PERFORMANCE COMPUTING		50,000	50,000	138,000	138,000	(88,000)	138,000	138,000
10	62707E	PARTICLE BEAM TECHNOLOGY	14,500		14,500		14,500			14,500
11	62708E	INTEGRATED COMMAND AND CONTROL TECH	37,553	100,000	137,553		37,553	100,000	29,500	67,053
12	62712E	MATERIALS AND ELECTRONICS TECHNOLOGY	43,096	80,000	123,096	26,000	69,096	54,000	80,000	123,096
13	62714E	NUCLEAR MONITORING	36,626	(12,000)	24,626		36,626	(12,000)		36,626
14	62715H	DEFENSE NUCLEAR AGENCY	355,066		355,066	30,000	385,066	(30,000)	(28,217)	326,849
15	65134D	THREAT SIMULATOR DEVELOPMENT								
15a	63XXXE	PRE-COMPETITIVE TECHNOLOGY DEVELOPMENT				100,000	100,000	(100,000)	50,000	50,000
		[TRANSFER OF STOCKPILE UNOBLIGATED BAL.]							[100,000]	[100,000]

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
16		SDI-TOTAL	4,460,000	(2,160,000)	2,300,000		[3,573,000]	2,300,000		[2,890,000]
16	63220C	SDI-SURV, ACQUIS, TRACKING & KILL ASSESS	1,306,669	[-245,000]		(1,306,669)			(1,306,669)	
17	63221C	SDI-DIRECTED ENERGY WEAPONS	802,954			(802,954)			(802,954)	
18	63222C	SDI-KINETIC ENERGY WEAPONS	1,017,681			(1,017,681)			(1,017,681)	
19	63223C	SDI-SYSTEMS AND BATTLE MANAGEMENT	674,056			(674,056)			(674,056)	
20	63224C	SDI-SURVIV, LETHALITY, & KEY SUPT TECH	393,640			(393,640)			(393,640)	
43	64220C	PHASE I STRATEGIC DEFENSE SYSTEM	265,000	[-265,000]		(265,000)			(265,000)	
98	65898C	MANAGEMENT HEADQUARTERS (SDI)								
		SDI- PHASE I DEFENSES							817,300	817,300
		SDI- LIMITED PROTECTION SYSTEMS							389,000	389,000
		SDI- THEATER AND ATBM DEFENSES							180,000	180,000
		SDI- FOLLOW-ON SYSTEMS							754,300	754,300
		SDI- RESEARCH AND SUPPORT ACTIVITIES							749,400	749,400
		SDI-PHASE I SENSORS (SSTS/GSTS/GBR)				345,000	345,000	(345,000)		
		SDI-PHASE I GROUND BASED INTERCEPTOR				142,000	142,000	(142,000)		
		SDI-PHASE I BRILLIANT PEBBLES				129,000	129,000	(129,000)		
		SDI-OTHER PHASE I				894,300	894,300	(894,300)		
		SDI-FOLLOW ON TECHNOLOGIES				944,400	944,400	(944,400)		
		SDI-KEY TECHNOLOGIES				320,000	320,000	(320,000)		
		SDI-OPERATIONAL SUPPORT & MANAGEMENT				227,800	227,800	(227,800)		
		SDI-TEST AND EVALUATION				180,000	180,000	(180,000)		
		SDI-THEATER DEFENSE				180,000	180,000	(180,000)		
		SDI-IS&T/SBIR				116,800	116,800	(116,800)		
		SDI-ENGINEERING ANALYSIS				93,700	93,700	(93,700)		

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
21	63225D	JOINT DOD-DOE MUNITIONS TECH DEVELOP	8,522		8,522	21,478	30,000	(21,478)	11,478	20,000
22	63226E	EXPER EVAL OF MAJOR INNOVATIVE TECHNOL	179,397		179,397	11,000	190,397	(11,000)	(44,442)	134,955
22a		LIGHTSAT		20,000	20,000			20,000	49,442	49,442
23	63227E	RELOCATABLE TARGET DETECTION TECHNOLOGY	22,702		22,702		22,702			22,702
24	63569E	ADVANCED SUBMARINE TECHNOLOGY		75,000	75,000	95,000	95,000	(20,000)	95,000	95,000
24a		COMBAT VEHICLE TECHNOLOGY		25,000	25,000			25,000		
25	63704D	SPECIAL TECHNICAL SUPPORT	11,191		11,191		11,191			11,191
26	63706E	MICROWAVE/MILLIMETER WAVE MONOLITHIC INT	86,657	20,000	106,657		86,657	20,000	20,000	106,657
27	63707E	PROTOTYPING OF ADV TECH & INNOVATIVE CON	64,242	20,000	84,242		64,242	20,000		64,242
28	63736D	COMPUTER AIDED LOGISTICS SUPPORT	13,779		13,779	2,000	15,779	(2,000)	2,000	15,779
29	63737D	BALANCED TECHNOLOGY INITIATIVE	209,187		209,187		209,187		(46,500)	162,687
29a	78011D	MANUFACTURING TECHNOLOGY				175,000	175,000	(175,000)	25,000	25,000
30	63738D	COOPERATIVE DOD/VA MEDICAL RESEARCH		20,000	20,000			20,000	20,000	20,000
31	63739E	SEMICONDUCTOR MANUFACTURING TECHNOLOGY	100,000		100,000		100,000			100,000
32	63756D	CONSOLIDATED DOD SOFTWARE INITIATIVE	12,661		12,661		12,661			12,661
33	63756E	CONSOLIDATED DOD SOFTWARE INITIATIVE	34,572		34,572		34,572			34,572
34	35108K	COMMAND AND CONTROL RESEARCH	2,486		2,486		2,486			2,486
35	72807E	INFRARED FOCAL PLANE ARRAY	20,676		20,676		20,676		(2,000)	18,676
36	1110011D	FORCE ENHANCEMENTS-ACTIVE								
37	1140011B	BADV SPECIAL OPS RESRCH, DEVELOP & ACQUIS	24,784		24,784		24,784			24,784
38	1140011D	ADV SPECIAL OPS RESRCH, DEVELOP & ACQUIS								

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
39	63711H	VERIFICATION TECHNOLOGY DEMONSTRATION	76,000		76,000		76,000			76,000
40	63734J	ISLAND SUN SUPPORT	84,624		84,624		84,624			84,624
41	63734K	ISLAND SUN								
42	63741D	AIR DEFENSE INITIATIVE	246,920	(50,000)	196,920	(91,900)	155,020	41,900	(98,920)	148,000
44	32016K	NATL MILITARY COMMAND SYS-WIDE SUPPORT	12,088		12,088		12,088			12,088
45	32019K	WWMCCS SYSTEMS ENGINEER	16,952		16,952		16,952			16,952
46	33131K	MIN ESSENTIAL EMERG COMM NETWORK (MEECN)	8,240		8,240		8,240			8,240
47	33154K	WWMCCS ADP MODERNIZATION	55,115		55,115		55,115			55,115
48	63228D	PHYSICAL SECURITY EQUIPMENT	34,022		34,022		34,022			34,022
49	63709D	JOINT ROBOTICS PROGRAM	22,000		22,000		22,000			22,000
50	63710D	CLASSIFIED PROGRAM - C3I								
51	63714D	NON-ACOUSTIC ASW				30,000	30,000	(30,000)	10,000	10,000
52	64702D	JOINT STANDOFF WEAPONS PROGRAM	55,448	(20,000)	35,448	(30,400)	25,048	10,400	(30,400)	25,048
53	64771D	JOINT TACTICAL INFORMATION DISTRIBUTION	66,232		66,232		66,232			66,232
54	21135K	CINC C2 INITIATIVES	1,974		1,974		1,974			1,974
55	28045K	C3 INTEROP (JOINT TACTICAL C3 AGENCY)	46,682		46,682		46,682			46,682
56	28298K	MANGT HQ (JOINT TACTICAL C3 AGENCY)	6,589		6,589		6,589			6,589
57	35141D	JOINT REMOTELY PILOTED VEHICLES PROGRAM	82,099	51,000	133,099		82,099	51,000		82,099
		LOGISTICS/WEIGHT REDUCTION STUDY				5,000	5,000	(5,000)		
		GENERAL SUPPORT FOR SO/LIC				2,000	2,000	(2,000)	2,000	2,000
		TECHNICAL SUPPORT WORKING GROUP				3,000	3,000	(3,000)	3,000	3,000
58	1110011B	BFORCE ENHANCEMENTS-ACTIVE	182,368	(10,000)	172,368	20,300	202,668	(30,300)	20,300	202,668
59	63701B	MAPPING, CHARTING, GEODESY INVESTIGATION								
60	64701B	MAPPING, CHARTING, AND GEODESY ENGINEER								
61	31011G	CRYPTOLOGIC ACTIVITIES	[ ]	[-102,700]	[ ]	[-40,500]	[ ]		[-49,600]	[ ]
62	31301L	GENERAL DEFENSE INTELLIGENCE PROGRAM	[ ]	[-14,557]	[ ]	[11,213]	[ ]		[4,602]	[ ]
63	33126K	LONG-HAUL COMMUNICATIONS (DCS)	20,516		20,516		20,516			20,516
64	33127K	SUPPORT OF THE NATL COMMUN SYSTEM	3,426		3,426		3,426			3,426
65	33401G	COMMUNICATIONS SECURITY (COMSEC)	[ ]		[ ]		[ ]			[ ]

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
66	35139B	DMA MAPPING, CHARTING, & GEODESY (MC&G)	224,725		224,725		224,725			224,725
67	35154I	AIRBORNE RECONNAISSANCE SUPPORT PROGRAM	179,900	(50,500)	129,400	(116,300)	63,600	65,800	(116,900)	63,000
68	35159B	DEFENSE RECONNAISSANCE SUPPT ACTIVITIES	7,375		7,375		7,375			7,375
69	35159G	DEFENSE RECONNAISSANCE SUPPT ACTIVITIES	[ ]		[ ]		[ ]			[ ]
70	35159I	DEFENSE RECONNAISSANCE SUPPORT ACTIV	45,821	(15,000)	30,821		45,821	(15,000)	(12,000)	33,821
71	35167G	COMPUTER SECURITY	[ ]		[ ]		[ ]			[ ]
72	35884L	INTELLIGENCE PLANNING AND REVIEW	[ ]	[-9,100]	[ ]		[ ]		[-9,100]	[ ]
73	35885G	TACTICAL CRYPTOLOGIC ACTIVITIES	[ ]	[-14,500]	[ ]	[-4,200]	[ ]		[-2,892]	[ ]
74	61106D	RESEARCH PROJECTS								
999		INTELL & COMMUNICATIONS CLASSIFIED	1,241,499	(140,865)	1,100,634	(33,487)	1,208,012	(107,378)	(56,990)	1,184,509
75	63708D	INTEGRATED DIAGNOSTICS	7,520		7,520		7,520		(7,520)	
76	63737D	BALANCED TECHNOLOGY INITIATIVE								
77	63790D	NATO RESEARCH AND DEVELOPMENT	95,781	(13,000)	82,781		95,781	(13,000)	(10,000)	85,781
78	64722D	JOINT SERVICE EDUCATION AND TRAINING SYS	9,689		9,689	(4,689)	5,000	4,689	(4,689)	5,000
79	64722S	JOINT SERVICE EDUCATION AND TRAINING SYS								
80	65104D	TECHNICAL SUPPORT TO USD(A)	17,138		17,138		17,138			17,138
81	65106D	GENERAL SUPPORT FOR PA&E	2,524		2,524		2,524			2,524
82	65107D	GENERAL SUPPORT FOR POLICY	5,713		5,713	(2,065)	3,648	2,065	(2,065)	3,648
83	65108D	GENERAL SUPPORT FOR NET ASSESSMENT	3,814		3,814		3,814			3,814
84	65109D	GENERAL SUPPORT FOR FM&P	1,635		1,635		1,635			1,635
85	65110D	TECH SUPPT TO USD(A)--CRITICAL TECH	3,744		3,744		3,744			3,744
85a	65XXXD	CRITICAL TECHNOLOGY INSTITUTE				5,000	5,000	(5,000)	5,000	5,000
86	65112D	RAND NATIONAL DEFENSE RESEARCH INSTITUTE	20,918		20,918		20,918		(2,918)	18,000
87	65114E	BLACK LIGHT	6,000		6,000		6,000			6,000
88	65116D	GENERAL SUPPORT TO C3I	2,269		2,269		2,269			2,269
89	65117D	FOREIGN MATERIAL ACQUISITION & EXPLOIT	11,095		11,095		11,095			11,095
90	65119D	GENERAL SUPPORT FOR P&L	3,281		3,281	(583)	2,698	583	(583)	2,698

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
91	65502E	SMALL BUSINESS INNOVATIVE RESEARCH								
92	65711D	CRITICAL TECHNOLOGY ANALYSIS	4,611		4,611	(1,111)	3,500	1,111	(1,592)	3,019
93	65711S	CRITICAL TECHNOLOGY ANALYSIS								
94	65801S	DEFENSE TECHNICAL INFORMATION CENTER	26,241		26,241	(1,741)	24,500	1,741	(2,933)	23,308
95	65802S	INFORMATION ANALYSIS CENTERS	5,539		5,539		5,539			5,539
96	65803D	R&D IN SUPT OF DOD ENLIST, TEST & EVAL	1,800		1,800		1,800			1,800
97	65803S	R&D IN SUPT OF DOD ENLIST, TEST & EVAL								
99	65898E	MANAGEMENT HEADQUARTERS (R & D)	17,778		17,778	(1,272)	16,506	1,272		17,778
100	78011S	INDUSTRIAL PREPAREDNESS	10,912	10,000	20,912	(10,912)		20,912	(5,912)	5,000
100a		RESEARCH PROJECTS								
		JOINT WARGAMING SIMULATION MGT OFFICE				25,000	25,000	(25,000)	15,000	15,000
		AIM-9 CONSOLIDATED PROGRAM				35,000	35,000	(35,000)		
		SECURITY IMPROVEMENT PROGRAM		18,000	18,000			18,000		
		SPACE-BASED WIDE AREA SURVEILLANCE							20,000	20,000
		SINGLE-PULSE EXCIMER LASER				30,000	30,000	(30,000)	20,000	20,000
		SUPERCOMPUTER ACQUISITION							20,000	20,000
		DARPA LASER COMMUNICATIONS							8,000	8,000
		STRATEGIC ENVIRONMENTAL R&D COUNCIL				200,000	200,000	(200,000)	200,000	200,000
		CLIMATIC CONDITIONS TESTING		20,000	20,000			20,000		
101	1001015D	TECHNOLOGY SECURITY FUNCTIONS	2,441		2,441	(916)	1,525	916		2,441
		TOTAL RDT&E DEFENSE AGENCIES	9,249,300	(1,858,065)	7,391,235	(276,598)	8,972,702	(1,581,467)	(1,235,361)	8,013,939

R-1 Line	PE	Program	Amended FY 1991 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
		DIRECTOR OF TEST & EVAL DEFENSE								
1	64940D	TEST INSTRUMENTATION DEVELOPMENT	185,899	(59,000)	126,899	(30,899)	155,000	(28,101)	(75,000)	110,899
2	64941D	SPACE SYSTEM TEST CAPABILITIES								
3	65111D	FOREIGN WEAPONS EVALUATION								
4	65130D	FOREIGN COMPARATIVE TESTING	42,591		42,591		42,591		(12,713)	29,878
5	65131D	LIVE FIRE TESTING		17,974	17,974			17,974	15,000	15,000
6	65132D	JOINT TECH COORD GROUP FOR AIRCRAFT SURV								
7	65804D	DEVELOPMENT TEST AND EVALUATION	119,610	(17,974)	101,636	(39,610)	80,000	21,636	(23,768)	95,842
		TOTAL DIRECTOR OF TEST & EVALUATION	348,100	(59,000)	289,100	(70,509)	277,591	11,509	(96,481)	251,619
		DIR OF OPERATIONAL TEST & EVALUATION								
1	64340D	OT&E CAPABILITY IMPROVEMENT	73,800	(73,800)		(73,800)			(73,800)	
2	65118D	OPERATIONAL TEST AND EVALUATION	17,000		17,000		17,000		(2,000)	15,000
		TOTAL OPERATIONAL TEST	90,800	(73,800)	17,000	(73,800)	17,000		(75,800)	15,000

Seismic research program

The House bill would authorize $24.626 million in fiscal year 1991 for the Defense Advanced Research Projects Agency (DARPA) nuclear monitoring program, a reduction of $12 million from the amended request, and would delete the $2.7 million requested for the DARPA university research program in seismic studies (Defense Research Sciences DRG-01). The bill would also increase the authorization for the Air Force Office of Scientific Research (AFOSR) by $10.3 million above the amended request for seismic research programs. The additional authorization for AFOSR would include $7 million for the U.S.-Eurasian Seismic Studies Program (ESSP) of the Incorporated Research Institutions for Seismology (IRIS), thereby transferring program management of this project from DARPA to the Air Force. The authorization for AFOSR would also include an additional $600,000 for Air Force seismic data interpretation and $2.7 million to support Air Force-sponsored university-based seismic research.

The Senate amendment would authorize $36.626 million for the DARPA nuclear monitoring program and $2.7 million for the DARPA DRG-01 program in fiscal year 1991. The Senate amendment would not transfer program management for the IRIS ESSP project from DARPA to the Air Force and would authorize AFOSR seismic research programs at the amended request level.

The conferees agree to authorize an additional $600,000 for the AFOSR seismic data interpretation project and to authorize the DARPA nuclear monitoring and DRG-01 programs at the amended request level.

The conferees reiterate their strong support for the IRIS ESSP project. This project has produced a number of important innovations in seismology which have significantly advanced U.S. capabilities for monitoring compliance with treaty limitations on underground nuclear testing.

The conferees are concerned by apparent misunderstandings in previous years as to Congressional intent with regard to the level of DARPA funding for the IRIS ESSP. One result has been that IRIS claims that only about one half of the total funds authorized for the IRIS-ESSP has been made available to this program, which has hampered many of the projects for which Congress authorized the increase and was the basis of the action by the House to remove the program from DARPA. The conferees welcomed, therefore, the July 10, 1990 letter from Dr. Victor H. Reis, Acting Director of DARPA, stating that "DARPA is fully committed to supporting all aspects of the ESSP until the completion of the program; and specifically, DARPA is committed to supporting directly the Incorporated Research Institutions for Seismology (IRIS) at the level of $7,000,000 or more in FY 1991."

The conferees expect DARPA to fulfill this commitment by making available to IRIS funding in the amount of $7 million to support critical IRIS activities, including the archiving, management, and distribution of the record data by the responsible university researchers and the analysis of the IRIS Joint Seismic Program data and associated research by project scientists.

In addition, the conferees direct the Comptroller General of the United States to prepare a report assessing whether the level of funding obligated by DARPA to IRIS through National Science Foundation contracts over the past three years is consistent with the level of funding intended by Congress. This report shall be submitted to the Committee on Armed Services of the Senate and House of Representatives not later than March 1, 1991.

The conferees are also concerned by indications that an unusual level of friction and mistrust has developed between IRIS and DARPA that is hampering the effectiveness of the ESSP project. The conferees urge the Director of DARPA and the management of IRIS to meet at the earliest date to review grievances and reconcile any differences. The conferees put all parties on notice that should a sound working relationship not be reestablished, the Committee on Armed Services of the Senate and House of Representatives will consider appropriate remedies next year, including the option of transferring funding and program management for the project from DARPA to another agency of the Defense Department.

Superconducting magnetic energy storage system

The amended budget request included $15 million to fund the initial portion of the Phase II construction of the engineering test model for the superconducting magnetic energy storage system (SMES).

The conferees are concerned that possible reprogramming of funds authorized for the SMES Phase II is under consideration by the Department of Defense. The conferees therefore designate SMES as a congressional interest item requiring congressional approval prior to any reprogramming action.

High definition displays

The House bill recommended an authorization of $100 million above the amended budget request to develop the technologies required to produce high definition displays or television receivers.

The Senate amendment contained no separately identified funding to support development of this technology.

The conferees concur in the assessment made in the House bill that development in this technology will be beneficial both to the national defense and the nation's ability to be economically competitive in the international marketplace. An active display technologies development program will also support maintaining technological superiority in other critical technologies such as computer and communication systems development. The conferees concur in the House assessment of the need to support this development activity but, given the Administration's demonstrated reluctance to become too heavily involved, do not believe that the full amount recommended by the House is justified. Accordingly, the conferees recommend an increased authorization of $29.5 million.

Of this amount, the conferees direct that $1.5 million be made available to investigate the use of high definition display devices as educational aids when coupled with transmission of education and training programs using high bandwidth digital compressed data techniques. The conferees recommend that this investigation be performed using an existing nationwide educational data distribution network linking DoD facilities with universities and colleges. The conferees believe that, by joining these two technologies, the Department will reap significantly improved capabilities in simulation, training, and education.

Defense Nuclear Agency

The amended budget request for the Defense Nuclear Agency (DNA) was $355.066 million.

The House bill would authorize the requested amount.

The Senate amendment would increase the authorization by $30 million and establish a new program at DNA to exploit the scientific and technical knowledge of DNA personnel in advanced conventional weapons pursuits. For reasons explained in detail in the report accompanying the Senate amendment (S. Rept. 101-384), the initial effort at DNA would be focused on the application of pulsed power techniques to electrothermal technology.

The conferees agree to authorize $326.849 million for the Defense Nuclear Agency, and direct the Agency to undertake the project described in the Senate report. The Director, DNA is further directed to coordinate with the Defense Advanced Research Projects Agency (DARPA) and the Department of the Army to ensure that the DNA program is integrated with and complements the on-going DARPA-Army electric gun technology program.

Joint DoD-DoE munitions technology development program

The amended budget request contained $8.522 million for the joint DoD-DoE munitions technology development program.

The House bill would provide $8.522 million for the program.

The Senate amendment, noting that the request represents a decrease of nearly 50 percent from its historic funding level, would increase the request by $21.478 million, to $30 million.

The conferees agree to provide $20.0 million for the program, and urge the Department of Defense to reflect the success of this program in its fiscal year 1992/1993 budget request.

Distributed warfighting simulation system

The Senate amendment would recommend an increased authorization of $5 million for an expanded distributed warfighting simulation system in conjunction with the Warrior Preparation Center (Project EE21 in program element 603226E).

The House bill contained no similar recommendation.

The conferees recommend an increased authorization of $5 million for Project EE21 in program element 603226E.

Lightsat

The amended budget request contained $29.442 million within the Experimental Evaluation of Major Innovative Technology (EEMIT) program of the Defense Advanced Research Projects Agency (DARPA) for research and development on so-called "lightsat" technology.

The House bill would authorize $49.442 million for this program.

The Senate amendment would authorize $35.442 million.

The Senate recedes. The conferees agree to authorize $49.442 million and to establish a separate line item for the program.

Advanced submarine technology

The House bill would provide $75 million to the Defense Advanced Research Projects Agency (DARPA) to continue the Advanced Submarine Technology Program established in the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180).

The Senate amendment would provide $95 million for this program.

The House recedes. The views of the conferees on this program are set forth in the reports accompanying the House bill (H.

Rept. 101-665) and the Senate amendment (S. Rept. 101-384).

Microwave tube and microwave monolithic integrated circuits (MIMIC) technology

The House bill would provide an additional $20 million authorization for microwave monolithic integrated circuits and high power microwave tube technology programs.

The Senate amendment would authorize this program element at the level contained in the amended budget request.

The conferees agree that the Defense Advanced Research Projects Agency (DARPA) and the Naval Research Laboratory (NRL) have made significant progress on MIMIC and microwave tube technologies and concur with the additional authorization of $20 million. Of this amount, $5 million shall be allocated to the MIMIC program, $5 million to the DARPA microwave tube technology program, and $10 million to the NRL microwave tube technology program.

Air defense initiative

The amended budget request contained $246.92 million for the Air Defense Initiative (ADI) program.

The House bill contained $196.92 million for the ADI; the Senate amendment contained $155.02 million.

The conferees agree to provide $148.0 million for the ADI program, and affirm the guidance contained in the reports accompanying the House bill (H. Rept. 101-665) and the Senate amendment (S. Rept. 101-384).

Non-acoustic anti-submarine warfare

Discussion of funding for the Office of the Secretary of Defense program in non-acoustic anti-submarine warfare (ASW) has been combined with discussion of the Navy non-acoustic ASW in the RDT&E, Navy section and in the classified annex to this statement of the managers.

Special operations forces

The amended budget request contained $182.4 million in the "Force Enhancements—Active" program element for research and development activities for special operations forces.

The House bill would reduce the amended budget request by $10 million.

The Senate amendment would increase the amended budget request by $20.3 million.

The House recedes to the authorization of $202.7 million for the "Force Enhancements—Active" program element.

The conferees understand that the U.S. Special Operations Command is evaluating twin-engine rigid hull inflatable boats for use by Navy special operations forces. The conferees believe that the Command should evaluate single-engine versions of these boats if they would satisfy the performance requirements that have been set for this piece of equipment. Factors such as cost, ease of maintenance, and reliability should be evaluated.

In addition, the statement of managers (H. Rept. 101-345) accompanying the Department of Defense Appropriations Act for Fiscal Year 1990 (Public Law 101-165) directed the Defense Department to evaluate the Italian 3GST9 submersible vehicle as a possible Advanced SEAL Delivery System (ASDS). The office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict is performing this evaluation.

The conferees are aware that the Federal Republic of Germany has developed a submersible vehicle for use by its Navy special operations forces. The conferees urge the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict to consider this vehicle in the course of developing a new Advanced SEAL Delivery System. If additional funds are required to evaluate the German system, the Secretary of Defense may submit a reprogramming request to the Congress.

The conferees remind the U.S. Special Operations Command and the office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict that they should challenge requirements and evaluate all possible alternatives in acquiring special operations equipment. The conferees agree that these organizations must maintain close and effective working relationships with the individual military Services for the conduct of research, development, test, evaluation, and procurement activities.

Intelligence communications architecture project

The Intelligence Communications Architecture (INCA) project office conducts worldwide intelligence communication architecture studies for DoD. The amended budget request included $4.4 million for an imagery communications architecture study.

The House would authorize an additional $2.7 million.

The Senate amendment would authorize the requested amount.

The Senate recedes.

The conferees understand that the initial results and recommendations of the imagery communications architecture study will be completed and available for development and implementation beginning in fiscal year 1991. No funding was requested, however, to develop or implement those recommendations or to cover already known shortfalls. The conferees agree to authorize an additional $2.7 million for the INCA office to initiate action and monitor the development of communications networks and equipment to support a robust imagery intelligence communications capability. As an adjunct to that effort, the conferees direct the INCA PROJECT to review imagery-related operations and initiatives in such operations as Just Cause and Desert Shield. The principal focus of these INCA studies and reviews should be to determine what worked or not worked and why. The review should be completed and forwarded to the Committees on Armed Services and Appropriations of the Senate and House of Representatives for review not later than July 1, 1991.

Battle group passive horizon extension system

While both the House bill and the Senate amendment would authorize $5.2 million for the integration of Battle Group Passive Horizon Extension System (BGPHES) capability into ES-3A aircraft, neither would fund the requested $4.413 million for research and development of the surface terminals, as the Department of the Navy had not established a suitable acquisition plan for the terminals. Subsequently, the conferees have been made aware of the Department's clear intent to not only fund the terminals, but to restructure various cryptologic programs efficiently as well. The conferees applaud the efforts of the Department of the Navy in this area, and agree to authorize the $4.413 million for the BGPHES program.

Furthermore, the conferees believe that significant cost savings are possible if the Department makes greater use of computer work stations already developed for commercial markets or based on proven commercial designs. The conferees urge the Department to eliminate, wherever possible, programs to develop or procure work stations which are not based on commercial designs.

Trailblazer

The amended budget request contained $6.2 million to continue development of the Army's Trailblazer ground-based signals intelligence program and $3.9 million to continue the Army Coherent High Accuracy Airborne Location System (CHAALS) effort.

The House bill would deny funding for both efforts on the grounds that they are principally designed to support U.S. forces in a large-scale conventional conflict against Soviet and Warsaw Pact forces in Europe, raising questions about the relative value of further investment in these areas.

The Senate amendment would authorize the requested amounts.

The conferees agree to authorize $3.3 million for Trailblazer and $3.9 million for CHAALS. The House recedes.

NATO research and development

The amended budget request included $95.8 million for NATO research and development.

The House bill would deny authorization of that part ($10 million) of this request for the U.S. share of a cooperative intelligence program with the Federal Republic of Germany. The House position reflected concern about the utility of the program in light of changes in Eastern Europe. The House bill also would deny authorization of that part ($3 million) of the request for an imagery reformatter program intended to ensure interoperability among NATO allies. The House position was based on the understanding that the United States had no NATO partners for this program.

The Senate amendment would authorize the requested amount for both programs.

The conferees agree to defer the request for the cooperative intelligence program with the Federal Republic of Germany because of the German government's decision to delay an acquisition decision. The conferees agree to authorize the requested $3.0 million for the imagery reformatter program on the understanding that agreement on NATO participation has been achieved.

Industrial preparedness

The House bill recommended an increased authorization of $10 million for the Army, $60 million for the Navy, $40 million for the Air Force (including $25 million for the National Center for Manufacturing Sciences), and $10 million for Defense Agencies to accelerate programs in manufacturing. The report accompanying the House bill (H. Rept. 101-665) directed that the additional funds should be used to continue on-going initiatives such as the National Center for Excellence in Metalworking Technology, the Powdered Metallurgy Initiative, HY-steel development, ductile cast iron projectile technology and robotics technology. New initatives focused on the integration of new shipbuilding materials, designs, and advanced manufacturing technologies for building next-generation naval vessels were recommended to be vigorously pursued. The report directed that the Navy should fully fund the Center for Excellence for Composite Technologies at the recommended $5 million level. It also directed that $5 million of the funds allocated to the Defense Agen-

cies industrial preparedness program be used for the development of metal spray forming.

The Senate amendment would consolidate all industrial preparedness funding into a new single manufacturing technology program (with the exception of $3 million for Navy industrial preparedness) to support development and implementation of training courses and materiels to professionalize the acquisition workforce.

The conferees believe that the activities conducted under the military Services and Defense Agencies industrial preparedness programs serve a vital purpose in addressing current defense manufacturing problems. The industrial preparedness effort should be continued using the current approach. The conferees further believe that all of the programs identified in the reports accompanying the House bill (H. Rept. 101-665) and the Senate amendment (S. Rept. 101-384) are important activities that should be pursued. These programs, and others conducted under the industrial preparedness umbrella, provide the military Services with a method to directly address critical affordability, reliability and supportability problems. Accordingly, the conferees recommend that $26.708 million be authorized for Army industrial preparedness programs; $87.827 million for Navy industrial preparedness programs including $3 million for acquisition training; and $102.133 million for Air Force industrial preparedness programs including $25 million to support the National Center for Manufacturing Sciences, and $10.912 million for the Defense Logistics Agency.

The conferees recognize the need to ensure cooperation between all industrial base activities so that information exchange and cross fertilization occurs. For example, the conferees recognize the distinction between the charters of the Center of Excellence for Composite Technology and programs undertaken to advance shipbuilding fabrication and assembly processes. The Department of Defense should ensure that cooperation exists and that redundancy is avoided in exercising its oversight responsibilities. To that end the conferees direct the Secretary of the Navy to ensure that none of the activities undertaken in advancing shipbuilding fabrication and assembly processes shall duplicate on-going or planned activities at the Navy's Center of Excellence for Composites.

These amounts shall be in addition to the $25 million recommended to be authorized for the Defense Manufacturing Technology program funded under program element 078011D. The manufacturing technology program is intended to close the gap in manufacturing technology development that has been identified to both the Senate and House of Representatives from studies and testimony. The conferees believe that the creation of a separate and distinct manufacturing technology program will provide an effective means to bridge the gap between the technology base activities and the defense industrial base's ability to manufacture advanced capability defense products.

RDT&E security improvement program

The House bill contained $18 million to fund a comprehensive survey of Department of Defense test facilities, laboratories, and other research and development facilities, and directed the preparation of a report identifying and ranking security improvements to these facilities. This survey would be managed by the Office of the Secretary of Defense and funded through a consolidated program element.

The Senate amendment contained no similar authorization.

The Senate recedes with an amendment that would allocate the $18 million equally among the three military Services.

Excimer lasers

The House bill would urge the Secretary of the Army to provide $20 million for repetitively-pulsed excimer laser applications, particularly high resolution imaging of high altitude space objects, and inertial confinement fusion development.

The Senate amendment would authorize $30 million for single-pulse excimer laser development, including higher power levels, space object imaging, and atmospheric conversion and compensation.

The conferees agree to authorize $20 million for excimer laser technologies and applications under the management of the Defense Advanced Research Projects Agency (DARPA). The conferees do not intend to continue support for these programs beyond fiscal year 1991 unless advocacy and funding are forthcoming within departments and agencies of the executive branch. If excimer technologies are shown to make cost-effective and affordable contributions to solving fusion, space object imaging, and ASAT requirements, funding should be requested in the fiscal year 1992 budget. Otherwise, they should be terminated.

Wide-area surveillance

The amended budget request included $60.4 million for wide-area surveillance technology development and investigation of the potential of existing national systems to support wide-area surveillance requirements.

The House bill would deny authorization for these efforts. The Senate amendment would continue the Navy program as requested, direct the Air Force to focus on advanced technology at a reduced funding level, and approve the request for investigating the potential contribution of national systems.

The House recedes.

The conferees agree to consolidate funds for these through efforts in a single line under the Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence). The conferees agree to authorize a total of $20 million for wide-area surveillance. The conferees expect a full evaluation of the contribution of national systems and agree that $1 million of the $20 million authorized should be used to continue the Have Gaze program.

The conferees are concerned about the affordability, utility, and priority of this proposed program. The conferees expect the DAB and DPRB to examine these issues carefully prior to the allocation of this $20 million.

Joint office for interoperable warfighting simulations and training

The Senate amendment would direct the Department of Defense to establish a joint office within the Department to promote among the military departments interoperability of warfighting simulations and training devices. The Senate amendment would authorize $25 million to initiate the joint office and support the required studies and technical efforts to develop interoperability standards and protocols for existing and future war games, models, simulators, and training devices.

The House bill contained no similar authorization. The report accompanying the House bill (H. Rept. 101-665) did direct the Department to appoint a responsible agent for policy development and management oversight for all DoD applications of simulations, models, and war games.

The conferees understand that the Department has initiated efforts to establish a coordinated DoD-wide approach to simulators and training devices for both acquisition and training purposes. The conferees recommend authorization of $15.0 million and direct the Secretary of Defense to take such steps as required to establish a joint office that would establish interoperability standards and protocols, and to develop a long-term plan to guide the development of simulators and training devices in the Department.

Solid rocket demilitarization research and development

The report accompanying the Senate amendment (S. Rept. 101-384) directed the Director, Defense Research and Engineering (DRR&E) to establish a consolidated research and development program to find environmentally acceptable ways to demilitarize solid rocket motors.

The conferees confirm the language of the Senate report and direct the Department of Defense to establish a program to investigate alternative technologies for the environmentally clean disposal of rocket motors and explosives. The conferees further direct that, of the funds provided to the Defense Department for basic research, exploratory development, and advanced technology on rocket motor propellants and explosives, $3 million be made available to support this program.

Vectored thrust aircraft

The House bill would authorize $15 million for continued development of the vectored thrust aircraft to meet an expressed need for an aircraft with the characteristics of a vectored thrust combat transport craft.

The Senate amendment contained no similar authorization.

The conferees agree that the Department of Defense should consider all alternatives to meet special operations forces' airlift requirements, including vectored thrust. Therefore, the conferees recommend that of the funds authorized for the Defense Advanced Research Projects Agency (DARPA), up to $15 million may be made available for the development, test, and evaluation of a vectored thrust aircraft to support special operations/low intensity conflict operations.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Amounts for basic research and exploratory development (sec. 202)

The House bill contained a provision (sec. 202) that would make available $3.856 billion of the total amounts appropriated for defense research and development for technology base (basic research and exploratory development) projects.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would reduce the amount made available for this purpose in fiscal year 1991 to $3.77 billion, the amount specified in section 202 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189).

The conferees authorize additional funding in fiscal year 1991 for the defense technology base over the amended budget request that is intended to ensure a viable and enriched stockpile of proven concepts on which to build technologically superior military systems. The conferees continue to

maintain, as a target, a two percent real growth rate for funding defense technology base activities and anticipate the Administration's budget request will meet this goal in fiscal year 1992 and following years.

Army scout attack helicopter program (sec. 212)

The amended budget request included $411.357 million to complete the demonstration and validation phase of the light helicopter program, and to initiate full-scale development of the winning design that emerges from the ongoing competition during the demonstration and validation phase.

The House bill included a provision (sec. 212) that would require the Secretary of the Army to restructure the light helicopter program to introduce a flying prototype phase prior to full-scale development. The House provision would also authorize $300 million for that purpose.

The Senate amendment included a provision (sec. 214) that would direct the Army to complete the competition in the demonstration and validation phase, but prohibit the Army from initiating full-scale development. The Senate amendment would introduce a similar flying prototype phase in the program.

Since the House bill and the Senate amendment were passed, the Secretary of Defense has restructured the program to introduce a flying prototype phase as the House bill and the Senate amendment would recommend. The conferees commend the Secretary for his actions.

The Senate recedes with an amendment that would eliminate the statutory provision specifying spending levels for the program. The conferees recommend an authorization of $291.0 million for fiscal year 1991.

Advanced tactical fighter (sec. 213)

The amended budget request contained $763.923 million to conclude the demonstration and validation phase for the Air Force's advanced tactical fighter, and $283.441 million to initiate full-scale development of the winning design that emerges from the ongoing competition during the demonstration and validation phase.

The House bill included a provision (sec. 216) that would prohibit the Air Force from proceeding with full-scale development. The House bill would authorize $963.923 million to extend the flying prototype phase for the winning ATF prototype aircraft through fiscal year 1991.

The Senate amendment also included an identical provision (sec. 213) and would authorize $870.364 million for the extended flying prototype phase.

The conferees recommend an authorization of $963.923 million and recommend a provision that would prohibit the Air Force from initiating full-scale development in fiscal year 1991.

The conferees agree with the concern of the Senate that the Air Force must complete a mission effectiveness analysis for alternative modernization plans that include air superiority, battlefield air interdiction, and close air support before Congress will consider a decision to proceed with full-scale development. The conferees also expect the Air Force to complete all planned demonstrations of key technology risk areas to include low observability aerodynamics performance, engines, and avionics prior to entering full-scale development.

Armored gun system (sec. 214)

The Senate amendment contained a provision (sec. 211) that would require the Secretary of the Army to prescribe an acquisition plan for an armored gun system and would prohibit the Army from obligating certain funds on the armored systems modernization program until certain phases of the acquisition plan for the armored gun system had been implemented.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees believe the Army must proceed expeditiously to acquire an armored gun system for its light forces. The conferees note continuing disagreement within the Army on its requirements and acquisition plans for such a system. The conferees are concerned that the Army has failed to resolve disagreements within the Army over requirements and features for any new armored gun system.

The conferees understand that any armored gun system will necessarily represent a compromise involving firepower, survivability (armor protection levels), weight, maneuverability, and operational utility, to include the ability to "air drop" the vehicle from transport aircraft. The conferees are concerned that the Army appears to be elevating the importance of "air drop" above all other features, potentially sacrificing survivability. The conferees believe that the air drop feature is a narrow and limited capability that should not dominate any acquisition plan unless the Army can justify its preeminence as a requirement through convincing campaign analysis.

The provision would direct the Army to prescribe an acquisition plan that would field an armored gun system in fiscal year 1995. The conferees believe that a non-developmental item acquisition strategy should be pursued, since the conferees understand there are at least five existing systems or alternatives that are available for test and evaluation. The conferees are open to working with the Army next year if a non-developmental item approach proves unworkable and needs to be modified. However, a strong burden of proof rests with the Army for developing a new weapon when multiple alternatives are currently available for test and evaluation.

In order to support an expeditious development, the conferees recommend an authorization of $10 million in fiscal year 1991.

Fleet electronic warfare support group (sec. 215)

The Senate amendment contained a provision (sec. 216) that would direct the Secretary of the Navy to acquire aircraft for the Fleet Electronic Warfare Support Group to replace the ERA-3B aircraft.

The House bill contained no similar provision.

The House recedes with an amendment.

Vandenberg launch facility (sec. 216)

The Senate amendment contained a provision (sec. 217) that would mandate conversion of the Space Launch Complex Six (SLC-6) facility at Vandenberg Air Force Base for launching Titan IV unmanned boosters.

The House bill contained no similar provision.

The House recedes.

Advanced communications satellite relay (sec. 217)

The amended budget request included $1,082.2 million for research and development, procurement, and operation and maintenance for the military strategic and tactical relay (Milstar) communications satellite and related terminals.

The House bill would authorize the requested amount.

The Senate amendment would terminate the program.

The conferees agree to deny authorization for the Milstar program requested in the amended budget submission and direct the Secretary of Defense to restructure the program, or propose an alternative system, with the objectives of reducing costs substantially, increasing utilization by tactical forces, and eliminating unnecessary capabilities for protracted nuclear warfighting missions and operations.

The conferees agree to authorize $500 million for research and development, $98 million for procurement of satellite terminals, and $2 million for military construction. This allocation of funds between satellite and terminal R&D and procurement is roughly proportional to the amended budget request. This section would limit the obligation of funds appropriated for fiscal year 1991 for the restructured Milstar program or Milstar alternative to $600 million. The conferees expect the Secretary of Defense to adhere to this elimination unless additional amounts are approved through the normal reprogramming process. The limitation in this section would not apply to the Navy's EHF satellite package and terminal program. This section would also provide authority to the Secretary to transfer the authorized amount for this program across R&D and procurement accounts as he deems appropriate. Within the overall amount of $600 million, the conferees have no objection to the transfer of $9.629 million from procurement or R&D to O&M for the restructured or alternative Milstar program.

The provision would also require the Secretary to provide a report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives on the results of this restructuring by April 1, 1991. If the Committees on Armed Services of the Senate and House of Representatives are satisfied with the Secretary's proposed restructured Milstar program or Milstar alternative, and if it is clear that the authorized $600 million is insufficient to implement this program, the committees will consider a reprogramming request.

As part of the process to restructure the Milstar program or develop an alternative, the conferees direct the Secretary of Defense to include in the report to Congress the results of a review of all DoD satellite communications relay requirements, architecture, design, and programs from the perspectives of policy, threat, and fiscal constraints. The goals of this review would be to reduce costs substantially; to eliminate any marginal, excessive, or unaffordable requirements; and to consolidate programs where possible and sensible. The conferees urge the Secretary, in conducting this review, to consult senior persons outside the U.S. government who have extensive expertise in satellite communications relay activities.

If the Secretary decides to restructure the Milstar program rather than pursue an alternative, the conferees direct the Secretary: (1) to eliminate aspects of the current Milstar program described in the classified annex to the statement of the managers; (2) to examine ways to utilize all of Milstar's available weight, space, and power; and (3) to develop concrete plans and budgets for greater utilization of this program by tactical units, including appropriate terminal types and quantities.

With respect to the specific goal of reducing Milstar costs, the conferees direct the Secretary to examine: (1) reduced constellation sizes, alternative constellation configurations, and accepting less assurance of satellite availability; (2) requirements (and cost-benefit tradeoffs to meet those requirements) in the areas of survivability, endurance, autonomy, capacity, jam-resistance, low probability of intercept capabilities, crosslinking schemes, and ground support infrastructure; and (3) fewer numbers of terminals and less capable and survivable terminals for various forces and missions.

The conferees also direct the Secretary to assess: (1) the need for advanced communications satellite relay service to the limited number of strategic users in high latitudes, and (2) alternatives to Milstar satellites and Milstar terminals for such service, including relay packages on host satellites in polar or highly inclined orbits, and continuing with UHF downlink service via the UHF terminal upgrade. The conferees further direct the Secretary to assess alternatives to augment or replace Milstar for lower-echelon tactical forces, including proliferation of EHF packages and smaller, less expensive, and less capable satellites.

The conferees provide further direction in the classified annex.

Prohibition on testing mid-infrared advanced chemical laser against an object in space (sec. 218)

The House bill contained a provision (sec. 203) that would prohibit the Secretary of Defense from carrying out a test of the mid-infrared advanced chemical laser (MIRACL) transmitter and associated optics against an object in space during 1991 unless such testing is specifically authorized by law.

The Senate amendment contained no similar provision.

The Senate recedes.

Restructuring of the SDI program and limitations on spending (sec. 221)

The amended budget request for the Strategic Defense Initiative (SDI) was $4,460 million.

The House bill (in sec. 221) would authorize $2,300 million for SDI; the Senate amendment (in sec. 221) would authorize $3,573 million.

The conferees agree to provide $2,890 million for the SDI.

The Senate amendment contained a provision (sec. 222) that would separate SDI funding into 11 separate line-items and impose restrictions on how such funds would be expended.

The House bill contained a provision (sec. 227) that would require the Secretary of Defense to submit an alternative SDI budget and long-term defense plan at the time of submission of the fiscal year 1992/1993 defense budget request.

The House recedes with an amendment.

The conferees agree that the five program elements traditionally identified in the SDI budget—SATKA, DEW, KEW, Systems/Battle Management and Survivability, Lethality/Key Support Technologies—reflect an assortment of technology programs at various stages of concept definition and development. Because many of these technologies have matured and the work on them is increasingly focused on achieving a cost-effective operation and mission capability, the conferees believe the Secretary should present SID's program elements to reflect functional mission areas, such as Theater Missile Defense, protection of the U.S. from accidental, unauthorized, or limited strikes, and the current Phase One mission. The fiscal year 1990 SDIO Report to Congress began this process of presenting and discussing SDI programs by functional mission area.

The conferees agree that future SDI budget submissions must include projections of the near-term budget implications, and total program costs associated with pursuit of any or all of the prospective SDI mission areas identified by the Secretary. The conferees believe that the Secretary of Defense needs to provide more information to Congress to help it determine whether or not the SDI program is structured and funded to address in a cost-effective manner the Administration's broad national objectives related to strategic defenses as well as the more specific military requirements. Therefore, the Secretary of Defense's annual report on the Strategic Defense Initiative program, required under section 224 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189), shall provide, in addition to the material currently required, the following:

(1) a detailed break-out by functional mission area of all SDI research and development activities and their proposed level of funding in the multi-year plan. These breakouts should be presented in such a way as to allow Congress to trace specific programs back to their current SDIO program element.

(2) an evaluation of the cost and effectiveness of a limited strategic defense system, both with and without regard to ABM Treaty limitations, that could provide protection against accidental, unauthorized, or deliberate terrorist/Third World threat ballistic missile attacks of limited scope.

The conferees agree to abolish the current five-element SDI program, and substitute a set of five new program elements. These program elements, and the funding level authorized for each, are as follows:

[Dollar amounts in millions]

Program element:	*Fiscal year 1991 funding authorized*
Phase I Defenses	$817.3
Limited Protection Systems	389.0
Theater and ATBM Defenses	180.0
Follow-On Systems	754.3
Research and Support Activities	749.4

The basis on which the Senate provision (sec. 222) was constructed, and, therefore, the basis on which the funding is allocated among the above five line-items, is the testimony provided by Lt. Gen. George Monahan, Director of the SDIO, on June 20, 1990, and the October 1, 1990 DoD letter responding to questions posed by Senators Nunn and Exon about the SDIO program.

The conferees further agree that ground-based interceptors, such as GBI-X and E^2I, and ground-based sensors, such as GSTS, may be funded within the limited protection systems program element.

The Secretary of Defense shall provide to the congressional defense committees within 90 days of the enactment of a fiscal year 1991 defense appropriations bill a breakout of the programs, projects, and activities and their baseline funding levels for fiscal year 1991, using the new program elements above. Prior to submitting this report, the Secretary may make a one-time adjustment of up to plus or minus 10 percent of the funding levels appropriated pursuant to this authorization to any of the program elements, provided that the total of the five accounts so adjusted does not exceed $2,890 million. This will provide the Secretary with a degree of flexibility in the allocation of ongoing programs, projects, and activities within the new reporting structure. The Secretary's report to the defense committees on his allocation of funding will then serve as a funding baseline for each of the five program elements; thereafter, adjustments to the funding level of any of the five program elements will be subject to customary reprogramming procedures.

Limitation on development and testing of antiballistic missile systems or components (sec. 222)

The Senate amendment contained a provision (sec. 223) that would specify that funds provided to the Defense Department for fiscal year 1991 and previous years for the development or testing of anti-ballistic missile (ABM) systems or components may not be obligated or expended unless such development or testing is consistent with the development and testing described in the 1990 Strategic Defense Initiative Organization (SDIO) report.

Appendix C of the 1990 SDIO report, which was submitted to Congress by Secretary Cheney on June 7, 1990, contains the following statement: "Currently, no experiment has been approved which would not fall within the categories used in Appendix D to the 1987 Report to Congress on the SDI."

At a hearing of the Strategic and Nuclear Forces Subcommittee of the Senate Armed Services Committee on June 20, 1990, Dr. Charles M. Hezfeld, the Director of Defense Research and Engineering, confirmed that this statement means that there are no SDI development or testing activities planned in fiscal year 1991, including long-lead acquisition in fiscal year 1990 of material or equipment uniquely required for such development or testing in later years, which would conflict with the agreement on the ABM compliance issue which the Congress worked out with then-National Security Advisor Frank Carlucci in 1987, as reflected in section 225 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180).

Dr. Herzfeld also confirmed that with one exception, none of the SDI experiments which require additional compliance review will entail development or testing in fiscal year 1991, or the purchase in fiscal year 1991 of material or equipment uniquely required for development or testing in later years, that would conflict with the 1987 agreement, as reflected in section 225 of Public Law 100-180. The one exception concerns flight test number nine of Brilliant Pebbles, which is still awaiting compliance review. Should that review determine that the flight test could only be conducted under the "broad" interpretation of the ABM Treaty, Dr. Herzfeld pledged that the Administration would consult with Congress and seek its approval through normal budgetary procedures. Dr. Herzfeld also stated that should the Defense Department's plans change, the Department would consult with the Congress and request its approval through normal budgetary channels. Finally, Dr. Herzfeld confirmed that the 1985 Presidential directive requiring that the SDI program be conducted according to the "restrictive" interpretation of the ABM Treaty was still in effect.

The House bill contained an identical provision (sec. 223).

The House recedes.

Prohibition on operational test and evaluation of strategic defense systems (sec. 223)

The Senate amendment contained a provision (sec. 224) that would prohibit the obligation of fiscal year 1991 or prior-year funding for any operational test and evaluation activity in support of a strategic defense system or a program, project, or activity of the Strategic Defense Initiative.

The House bill contained a similar provision (sec. 224) that contained a rule of construction intended to allow planning activities (including studies, design activities, and computer simulations) related to testing of SDI systems or elements to continue. The Senate amendment contained no similar rule of construction.

The Senate recedes with an amendment that would permit the SDI Organization to engage in such planning activities.

Advanced warning system (sec. 224)

The amended budget request included $137 million for advanced development and $265 million to begin full-scale development (FSD) within the Strategic Defense Initiative Organization (SDIO) of the boost surveillance and tracking system (BSTS). The request also included $70 million to continue improvements to the existing Defense Support Program (DSP).

The House bill contained a provision (sec. 225) that would prohibit the obligation of funds for FSD of BSTS.

The Senate amendment contained no similar provision, although the report accompanying the Senate amendment (S. Rept. 101-384) also denied authority to proceed into FSD in fiscal year 1991.

The report accompanying the House bill (H. Rept. 101-665) also would combine DSP research and development funds with those authorized for an advanced warning system into a single item with a total authorization of $230 million.

The Senate report would transfer the BSTS program and $137 million from the SDIO to the Air Force; mandate a requirements review; and direct the Air Force to conduct a competition among existing BSTS concepts, an improved DSP, and derivations of SDIO's Brilliant Pebbles technology. The Senate report would also add $15 million to the transferred amounts from SDIO and would require a report on plans, requirements, resources, and competition for a DSP follow-on.

The conferees agree to a provision that would prohibit FSD in fiscal year 1991. The conferees endorse the report requirement contained in the Senate report and the Senate position on competition. The conferees agree to authorize continuing DSP research and development and DSP follow-on activities in separate line items.

The conferees agree to authorize $210 million for the advanced warning system in fiscal year 1991. Should the Department of Defense determine that this funding level is insufficient to support adequately more than two competing contractors through demonstration/validation in fiscal year 1991, and if the Air Force believes that supporting more than two contractors is in the best interests of the government, the conferees invite a reprogramming request to rectify any shortfall.

Theater missile defense and anti-tactical ballistic missile defense programs (sec. 225)

The House bill contained a provision that would endorse the continuation of the joint United States-Israel ARROW anti-tactical ballistic missile (ATBM) program and authorize the Secretary of Defense to obligate up to $42 million for phase II of the program.

The Senate amendment contained a provision (sec. 1244) that would express alarm over the proliferation of ballistic missile programs and the technology for the development of weapons of mass destruction, and express the sense of Congress that:

(1) of the funds available for SDI, up to $300 million should be made available for theater defenses and ATBM systems, including the Extended Range Interceptor (ERINT) and the Theater High Altitude Air Defense program (THAAD);

(2) the ARROW program should go forward, and should be funded at not more than $50 million of the $300 million recommended in (1); and

(3) of the funds available to the Army for RDT&E, not more than $50 million should be made available for further testing of the Patriot II system, and for support systems for ATBMs.

The Senate recedes with an amendment that would add to the House provision an expression of the sense of the Congress noting concern over the proliferation of ballistic missiles and weapons of mass destruction, and providing direction for continued work on various ATBMs. The amendment would further authorize up to $50 million from fiscal year 1991 funds appropriated for Research, Development, Test, and Evaluation for the Army to conduct additional tests of the Patriot II system against existing types of ballistic missile threats and for the development of support systems for existing and future ATBM systems.

Consistent with section 202 of this bill, the conferees agree that any funds for Army Research, Development, Test, and Evaluation transferred under the authority of this provision should not be derived from basic research and exploratory development (program elements for defense research and development under Department of Defense categories 6.1 or 6.2), or from any of the following Army programs: forward area air defense systems, chemical/biological defense equipment, and the security improvement program.

ICBM modernization (sec. 231)

The House bill contained a provision (sec. 232) that would authorize $610.2 million for research and development (R&D) of the Rail Garrison MX (RGMX) and Small ICBM (SICBM), require the President to submit a report to Congress of his allocation of these funds between the RGMX and SICBM programs, and prohibit the obligation of any of these funds for either program until 90 days after the President submits the required report. The provision would also express the sense of the Congress that (1) continued investment in research and development for mobile ICBMs is prudent; (2) the two-missile ICBM modernization program has failed to achieve the political consensus necessary for deployment of both systems; and (3) the U.S. defense budget is likely to continue its decline, making the deployment of both the RGMX and SICBM unaffordable.

The Senate amendment contained no similar provision but would authorize a total of $750.2 million for R&D of the RGMX and SICBM ($548.0 for RGMX and $202.2 million for SICBM).

The Senate recedes with an amendment. The conferees agree to authorize $680.2 million for R&D of the RGMX and the SICBM, and delete the House bill's 90-day restriction on obligation of any of these funds. The Secretary of Defense is given the authority to allocate these funds between the RGMX and SICBM programs, and is directed to notify within 10 days of the date of enactment of this bill the Committees on Armed Services and Appropriations of the Senate and House of Representatives of his proposed allocation of the reduction required by this section.

The conferees also agree to modify the House bill's sense of the Congress language to reflect their agreement that:

(1) Research and development of the RGMX and SICBM is a prudent and necessary hedge (A) against the robust Soviet strategic nuclear modernization program, in particular, its rail- and road-mobile ICBM programs, (B) against possible future threats to the invulnerability of the sea-based leg of the strategic triad, and (C) to help ensure the continued stability of the strategic balance as the United States negotiates reductions in its strategic forces under the prospective Strategic Arms Reduction Talks (START) Treaty and the planned follow-on negotiations for further reductions;

(2) The two-missile mobile ICBM modernization program has failed to achieve the political consensus necessary for deployment of both systems;

(3) As long as peaceful trends continue in the Soviet Union, the defense budget of the United States is likely to continue to decline in the future, making the deployment of both RGMX and SICBM unaffordable;

(4) At a minimum, the United States should continue to develop the SICBM for deployment in silos to meet future U.S. ICBM modernization requirements and arms control objectives, while preserving a realistic option for subsequent mobile basing should future strategic or arms control developments so require; and

(5) Any funds obligated or expended for RGMX should be used only to complete critical activities needed to complete research, development, test, and evaluation and maintain the key technologies for RGMX on a stand-by or "mothball" status.

Depressed trajectory ballistic missiles and other short-time-of-flight ballistic missiles (sec. 232)

The House bill contained a provision (sec. 232) that would commend the President for proposing to the Soviet Union mutual interim restraint on the flight testing of depressed trajectory and other short-time-of-flight ballistic missiles, express disappointment that the Soviet Union has not agreed to the proposal, and urge the President to continue to pursue this initiative.

The Senate amendment contained no similar provision.

The Senate recedes.

Biological defense research program (sec. 241)

The House bill contained a provision (sec. 241) that would require the Secretary of Defense to disclose all etiological or infectious agents used in, or that are the subject of research, development, and evaluation conducted by the Department of Defense for the purposes of biological defense. Further, the Secretary of Defense would be required to certify to Congress that local health, police, and fire departments at each location had been provided with a list of agents in their area so that they would be able to develop procedures to deal with any release of these agents.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would delete the requirement to notify all local health, police, and fire departments. The conferees understand that the Army is in the process of drafting Army Regulation 385-69, Biological Defense Safety Program, that will cover many of the requirements requiring notification that are provided in the House bill. However, the conferees are concerned that coordination with these local officials be formalized as expeditiously as possible to allow them to react should there by any accidental release of an agent and direct the Secretary of the Army to include appropriate requirements to accomplish this in Army Regulation 385-69. The conferees further direct the Secretary to provide a copy of the final regulation to the Congressional defense committees.

Funding for facility for collaborative research and training for military medical personnel (sec. 242)

The House bill contained a provision (sec. 242) that would authorize up to $18 million for a facility as part of a larger project for collaborative research and training for military personnel in trauma, head, neck and spinal injury, paralysis, and neuro-degenerative diseases. The provision contained a requirement that the Federal government's cost should not exceed one-third of the total cost of the project.

The Senate amendment contained no similar provision.

The Senate recedes.

Grant for an institute for advanced science and technology (sec. 243)

The House bill contained a provision (sec. 243) that would authorize $10 million to be available for competitive award to a college or university to establish an institution for advanced science and technology.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The conferees believe it is very appropriate that the Department of Defense continue to be a strong participant in the nation's research and technology program, and to work with academia and the private sector in establishing science and technology institutions. The conferees understand, however, that the Department must be given latitude to competitively select the institution best suited to meet its requirements to perform research and engineering in any particular area. To facilitate this intent, the House provision would be amended to ensure that a broad-based competition can occur.

Support for advanced research projects (sec. 244)

The House bill included a provision (sec. 244) that would provide $100 million for the support of advanced precompetitive research using the authority granted to the Defense Advanced Research Projects Agency (DARPA) to enter into cooperative agreements and other transactions under section 2371 of title 10, United States Code. This support was contingent on a failure of the Secretary of the Navy and the contractor of the P-7 antisubmarine aircraft to reach an agreement on the future of that program within 30 days after enactment of the House bill.

The Senate amendment contained no similar provision. The Senate amendment did, however, include $100 million for the same purpose with the funding to be obtained as a transfer from the National Defense Stockpile Transaction Fund.

The Senate recedes with an amendment.

The conferees strongly endorse the continued participation of DARPA in cooperative research arrangements and consortia intended to promote development of critical dual-use technologies and advanced manufacturing processes. The conferees affirm the language contained in the report accompanying the Senate amendment (S. Rept. 101-384), including the direction that the Defense Department submit a report to the Congress within 120 days after the enactment of this legislation indicating the cooperative arrangements and consortia that the Department foresees, at that time, that will be entered into during fiscal years 1991 and 1992. The conferees also direct that the Armed Services Committees and the Appropriations Committees of the Senate and the House of Representatives be notified 30 days in advance of the signing of any cooperative arrangement, or any agreement to enter into a partnership or consortium using this authority.

The conferees believe that this initiative has sufficient importance that it should not be tied to any future arrangements that may evolve between the Navy and the P-7 aircraft contractor. The conferees recommend an authorization of $50 million for this activity and remove all statutory provisions related to support for advanced research projects.

Competition in contracting for computers and software (sec. 245)

The House bill contained a provision (sec. 245) that would require the agency to suspend action on two specified procurements and prohibit receipt of contractor proposals for all other automatic data processing equipment (ADPE) requirements for more than three months.

The Senate amemdment contained no similar provision.

The Senate recedes with an amendment.

The conferees are concerned that alleged Department of Defense acquisition practices may have the effect of unnecessarily limiting competition among commercial computer hardware and sofeware vendors. Bias and unnecessary standardization, beyong that which is necessary for compatibilty and interoperability, have been suggested sufficiently to cause the Congress to be concerned. For several years, the Department of Defense has been the subject of a number of allegations and investigative findings that indicate a general lack of full compliance with the Competition in Contracting Act (CICA). The following reports cite potential problems in Department of Defense procurement of ADP equipment:

(a) Department of Defense, Office of the Inspector General, "Quick Reaction Report: Naval Military Personnel Command Planned Procurement of ADP Report," 89-073, 9 May 1989;

(b) "Navy Improperly Restricts Competition for Civilian Pay System", GAO IMTEC/89-61, 21 June 1989; and,

(c) "Defense ADP Procurement contracting and Market Share Information," GAO IMTEC/90-60FS, June 1990.

In addition, the Committee on Government Operations of the House of Representatives received testimony by Milton J. Socolar, Special Assistant to the Comptroller General (GAO/T-IMTEC-90-12), on September 13, 1990 which states that agencies have severe problems in conducting ADP acquisition.

In addition, representatives from the House Committee on Government Operations have cited a Defense Logistics Agency (DLA) procurement of a CD-ROM Logistic Information System called FED-LOG. Committee members and industry have stated concerns that the DLA has "over speced" the system beyond the government's stated needs, thus limiting the opportunity for industry to respond.

CICA requires that the Department of Defense insure that its needs are expressed so as to maximize open competition, while seeking the lowest overall cost that satisfies the agency's needs. This requirement for full and open competition is in the best interest of the Department of Defense and the taxpayer.

Of concern to the conferees are the alleged specification writing practices of the Department of Defense that indicate that computer architectures may be pre-selected in advance of vendor competition or issuance of a Request for Proposal (RFP), which inherently limits offerings from vendors who produce products that may provide equal or better solutions using alternate architectures.

The conferees direct the General Accounting Office (GAO) to determine whether the Department of Defense has established standards that "standardize" or a single proprietary computer operating system or proprietary computer chip architecture that has not been officially adopted as a government standard, and, if so, the implications of such an action under applicable law. The conferees contend that it is patently unfair and likely may not be in compliance with the policy expressed in CICA.

The GAO shall examine the Army's Light Computer Unit acquisition and the Air Forces' TAF-WS computer acquisitions to determine if they exemplify unduly restrictive specification and procurement practices that have unnecessarily precluded a significant number of firms from competing to meet DOD computer needs.

Advisory commission on consolidation and conversion of defense research and development laboratories. (sec. 246)

The Senate amendment contained a provision (sec. 853) that would direct the Secretary of Defense to establish a Commission on Laboratory Consolidation and Conversion. This Commission would review the current health and effectiveness of the defense laboratories using the recent Defense Department studies and reviews conducted under the Defense Management Review as a starting point. The Commission would make recommendations to the Secretary and the Congress on the future organization and structure of these laboratories.

The House bill contained no similar provision.

The House recedes.

The conferees understand that the Department of Defense is currently evaluating a reorganization of the entire defense laboratory structure with potential laboratory closures and consolidations. This Commission will provide the Committees on Armed Services of the Senate and the House of Representatives with a critical assessment of the Department's findings and may suggest alternative actions for congressional consideration.

National defense science and engineering education (sec. 247)

The Senate amendment contained a provision (sec. 854) that would specifically authorize the Secretary of Defense to sponsor

and assist in science, mathematics, and technical education at all levels of education. The provision would direct that an individual within the Office of the Secretary of Defense be designated to advise and assist the Secretary in carrying out his responsibilities in this area. Specific duties assigned to this individual would include administration of the DoD science and engineering grant program, and collection and dissemination of information on Department programs that encourage the study of science, mathematics, and engineering and enhance these skills in the technical workforce. The individual would also be responsible for coordinating and overseeing all DoD activities associated with science and engineering education and training and for establishing programs for the encouragement of this type of education and training at all levels of education.

The provision would also direct the Secretary of Defense to authorize defense laboratory directors to enter into educational partnership agreements with elementary and secondary schools, and colleges and universities for the purpose of improving science, mathematics, and engineering education in the United States. Finally, the provision would direct the Secretary of Defense to ensure that the defense laboratory directors establish cooperative work-education programs for undergraduate and graduate study and to provide the directors with greater flexibility to recruit and employ these students.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees fully affirm the intention of the Senate provision to ensure that the Secretary of Defense has all necessary authority to properly use the resources of the Defense Department to improve science and engineering training in the United States. The conferees believe, however, that its applicability should be broadened to include both defense laboratories and defense agencies that are engaged in research and development activities.

The conferees emphasize that it is not their intent, by including this provision, to circumvent the activities of the Secretary of Education and the Director of the White House Office of Science and Technology Policy (OSTP) in establishing a coherent, coordinated national program to improve U.S. education in all areas. In executing the authority granted, the Secretary of Defense is directed to cooperate fully with the Secretary of Education and the Director, OSTP to coordinate all DoD programs in this area. The conferees especially do not intend the authority granted to be interpreted as authority to undertake major new educational improvement initiatives in isolation of the overall national policy which the conferees understand is now being developed by the Administration. The existing robust educational improvement program already underway within the Department should be the basis for the Department's activities until this new policy becomes available. In the interim, the Department should carefully coordinate its plans and programs with the Department of Education and the OSTP.

The conferees also note that in granting authority for the Department of Defense to make its employees available to teach courses on a selected basis there is no intention to circumvent state teaching requirements. The conferees believe that the qualifications of Defense Department individuals who might be selected to participate in such teaching programs must be fully judged by the local education agencies and the administrators of the colleges and universities involved. In a like manner, any program that permits granting of academic credit for work performed in a defense laboratory must be based on the approval of the college or university involved.

Establishment of DOD technology office in Japan (sec. 248)

The Senate amendment contained a provision (sec. 856) that would direct the Secretary of Defense to establish a branch office of the Defense Advanced Research Projects Agency (DARPA) in Japan.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the Secretary of Defense to designate the element of the Defense Department that is to operate the technology office in Japan. The amendment would also direct the Secretary of Defense to establish the office no later than September 30, 1991. By setting this deadline, the conferees intend to allow the Defense Department enough time in which to determine how best to implement this provision. One option that is available to the Secretary of Defense is to establish the office in Japan by consolidating the personnel and resources of the individual Services' research offices that are now located in Japan.

Emigre research (sec. 249)

The Senate amendment contained a provision (sec. 1215) that would authorize $600,000 for research on developments in the Soviet Union and the countries of Eastern Europe by recent emigres from those countries.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees recommend that the Office of Net Assessment of the Department of Defense make this grant through competitive procedures to a nonprofit organization or organizations experienced in overseeing advanced research on the Soviet Union and Eastern Europe and open to the full spectrum of scholarly points of view.

LEGISLATIVE PROVISIONS NOT ADOPTED

Armored systems modernization program

The House bill contained a provision (sec. 213) that would authorize the Secretary of the Army to proceed with the armored system modernization program, to include prototyping a common chassis.

The Senate amendment contained no similar provision.

The House recedes.

While recommending full funding of the requested program, the conferees have substantial reservations over the program. The conferees doubt the urgency of fielding a new tank under the ASM program. The schedule of the entire ASM program initially was determined by projected fielding dates of Soviet advanced-design tanks and the need to match those activities with a new generation tank. This appears to be an increasingly less pressing requirement.

The conferees endorse the concerns of the Senate on the importance of accelerating work on the field artillery element of the armored systems modernization program. The conferees are convinced that the Army has neglected modernization of the field artillery and that it should enjoy substantially higher priority in the armored systems modernization program. If the concept of a common chassis is valid, there is no reason why the Army cannot proceed with the field artillery vehicle first and turn to a tank and fighting vehicles at a later point.

Advanced combat vehicle technology program

The House bill contained a provision (sec. 214) that would direct the Secretary of Defense to establish within the Defense Advanced Research Projects Agency (DARPA) an advanced combat vehicle technology program to address revolutionary technologies that might be incorporated in future armored vehicles.

The Senate amendment contained no similar provision.

The conferees share the concern of the House that the innovation and creativity demonstrated within DARPA needs to be introduced into the Army's efforts to develop a family of future armored combat vehicles. The Army and DARPA have established a solid partnership from the joint armor-antiarmor efforts. The conferees believe this partnership should turn as well to the design of future combat vehicles.

The conferees direct the Secretary of the Army and the Director of DARPA to establish a direct liaison to support the Army's armored systems modernization (ASM) program. Within six months, the Director of DARPA shall conduct a comprehensive review of the Army's armored systems modernization and report to the Secretary on opportunities to insert advanced technologies into the ASM program. The conferees intend to consult with the Secretary and the Director next year prior to determining the future course and direction of the armored systems modernization program.

The conferees are confident of the willingness of the Secretary and the Director to enter into this partnership. Consequently, the conferees believe no statutory requirements are necessary. The House recedes.

Advanced tank cannon system

The amended budget request included $36.3 million to initiate full-scale development of a new cannon for the next generation tank.

The House bill would authorize the program at the requested level.

The Senate amendment contained a provision (sec. 215) that would prohibit the Army from initiating full-scale development on the advanced tank cannon program in fiscal year 1991. The Senate amendment would authorize no funding for the program.

The Army has informed the conferees that because of a restructuring of the armored systems modernization program, it is not necessary to initiate full-scale development in fiscal year 1991. The conferees understand that the Army must hold together the design team, as well as continue to honor its obligations in conjunction with the memorandum of agreement with three NATO allies.

In light of these developments, the Senate conferees do not believe it is necessary to retain legislative prohibitions on full-scale development. The conferees recommend an authorization of $31 million to continue work on the advance development of the advanced tank cannon system.

TITLE III—OPERATION AND MAINTENANCE AND WORKING CAPITAL FUNDS

OVERVIEW

The House bill would authorize $83,810,658,000 for operation and maintenance in the Department of Defense and

$1,584,200,000 for Working Capital Fund accounts in fiscal year 1991, a reduction from the amendment budget request of $6,259,061,000 and $644,000,000 respectively.

The Senate amendment would authorize $85,932,152,000 for operation and maintenance in the Department of Defense and $1,584,100,000 for Working Capital Fund accounts in fiscal year 1991, a reduction from the amended budget request of $4,607,226,000 and $644,000,000 respectively.

The conference recommend authorization of $85,452,493,000 for operation and maintenance in the Department of Defense and $1,584,200,000 for Working Capital Fund accounts in fiscal year 1991, as reflected in the following tables. This level of authorization represents a reduction from the amended budget request of $$4,617,226,000 and $644,100,000 respectively.

OPERATION AND MAINTENANCE
SUMMARY OF FUNDS RECOMMENDED
FOR AUTHORIZATION
(DOLLARS IN THOUSANDS)

ACCOUNT	FY 1991 REQUEST	HOUSE CHANGE	FY 1991 HOUSE AUTHORIZED	SENATE CHANGE	FY 1991 SENATE AUTHORIZED	CONFERENCE CHANGE	FY 1991 CONFERENCE AUTHORIZED
O&M, ARMY	23,562,900	(2,619,444)	20,943,456	(1,554,555)	22,008,345	(1,663,019)	21,899,881
O&M, NAVY	24,531,600	(1,272,604)	23,258,996	(1,247,816)	23,283,784	(1,365,665)	23,165,935
O&M, MARINE CORPS	1,948,100	(116,800)	1,831,300	(55,400)	1,892,700	(55,900)	1,892,200
O&M, AIR FORCE	22,048,900	(1,659,121)	20,389,779	(1,263,186)	20,785,714	(1,424,790)	20,624,110
O&M, DEFENSE AGENCIES	8,663,100	(603,792)	8,059,308	(290,837)	8,372,263	(345,679)	8,317,421
O&M, INSPECTOR GENERAL	98,519	0	98,519	0	98,519	0	98,519
O&M, ARMY RESERVE	890,400	23,000	913,400	(4,300)	886,100	18,700	909,100
O&M, NAVY RESERVE	984,600	20,200	1,004,800	(6,800)	977,800	13,400	998,000
O&M, MARINE CORPS RESERVE	86,100	0	86,100	(1,300)	84,800	(1,300)	84,800
O&M, AIR FORCE RESERVE	1,042,500	8,300	1,050,800	15,100	1,057,600	23,400	1,065,900
O&M, ARMY NATIONAL GUARD	1,988,500	10,000	1,998,500	(18,100)	1,970,400	(8,100)	1,980,400
O&M, AIR NATIONAL GUARD	2,175,400	27,600	2,203,000	44,200	2,219,600	71,800	2,247,200
RIFLE PRACTICE, ARMY	5,600	(1,600)	4,000	0	5,600	(1,600)	4,000
COURT OF MILITARY APPEALS	5,600	(200)	5,400	(100)	5,500	(200)	5,400
ENVIRONMENTAL RESTORATION	817,000	183,000	1,000,000	245,527	1,062,527	245,527	1,062,527
HUMANITARIAN ASSISTANCE	13,000	0	13,000	0	15,000	0	13,000
DRUG INTERDICTION/COUNTER DRUG ACTV	1,207,900	(268,600)	939,300	0	1,207,900	(123,800)	1,084,100
TOTAL OPERATION & MAINTENANCE	90,069,719	(6,270,061)	83,799,658	(4,137,567)	85,932,152	(4,617,226)	85,452,493

WORKING CAPITAL FUNDS
(DOLLARS IN THOUSANDS)

ACCOUNT	FY 1991 REQUEST	HOUSE CHANGE	FY 1991 HOUSE AUTHORIZED	SENATE CHANGE	FY 1991 SENATE AUTHORIZED	CONFERENCE CHANGE	FY 1991 CONFERENCE AUTHORIZED
WORKING CAPITAL FUNDS							
Army Stock Fund	407,000	(104,500)	302,500	(104,500)	302,500	(104,500)	302,500
Navy Stock Fund	37,200	(37,200)	0	(37,200)	0	(37,200)	0
Air Force Stock Fund	1,340,200	(452,300)	887,900	(452,300)	887,900	(452,300)	887,900
Defense Stock Fund	50,000	(50,000)	0	(50,000)	0	(50,000)	0
Army Industrial Fund	151,100	0	151,100	(100)	151,000	0	151,100
Navy Industrial Fund	238,700	0	238,700	0	238,700	0	238,700
Defense Industrial Fund	4,000	0	4,000	0	4,000	0	4,000
TOTAL WORKING CAPITAL FUNDS	2,228,200	(644,000)	1,584,200	(644,100)	1,584,100	(644,000)	1,584,200

O&M, ARMY
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, ARMY	23,562,900		20,943,456		22,008,345		21,899,881
Real growth		(389,000)				0	
Force structure support cost		(491,000)				(212,000)	
Civilian personnel		(342,000)		(334,600)		(342,000)	
Foreign national civilians		(211,000)		(125,100)		(211,000)	
Classified programs		(23,344)		(11,455)		(25,119)	
Real property maintenance		(520,100)		(350,000)		(350,000)	
Acquisition		(20,000)				0	
Spare parts/Inventory management		(250,000)		(146,100)		(146,100)	
School training		(76,000)		(100,000)		(100,000)	
Unnecessary overhear expenses		(20,000)				0	
Admin. automated data processing		(135,000)				(60,000)	
Morale, welfare and recreation		(71,000)				(8,000)	
Commissaries		(30,000)		(21,000)		(3,000)	
Recruiting and advertising		(38,000)		(25,000)		(38,000)	
Household goods shipment		(18,000)				(9,000)	
Audits and investigations		(3,000)				(2,000)	
Unified and specified commands		(20,000)				0	
Transient lodging		(30,000)				(30,000)	
Unliquidated obligations		(25,000)				0	
Flying hours		(10,000)				0	
Ration control		(4,000)				(4,000)	
POMCUS		(13,000)				0	
Chemical/biological		120,000				120,000	
Postal costs		[11,000]				11,000	
Special operations forces				1,300		1,300	
Retire older weapons systems				(15,000)		(15,000)	
Command, control, and communications				(40,000)		(40,000)	
Base operations support				(105,000)		0	
Property disposal				(65,000)		(65,000)	
Operating tempo				(162,000)		(81,000)	
Depot maintenance				(23,000)		(23,000)	
Management headquarters				(12,600)		(12,600)	
Reimbursement for outpatient care				(20,000)		(20,000)	
Russian Institute						1,500	
TOTAL		(2,619,444)		(1,554,555)		(1,663,019)	

O&M, NAVY
($ IN THOUSANDS)

		HOUSE BILL		SENATE BILL		CONFERENCE	
	FY 91 REQUEST	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION
O&M, NAVY	24,531,600		23,258,996		23,283,784		23,165,935
Force structure support costs		(170,000)				(183,000)	
Civilian personnel		(355,000)		(287,800)		(305,000)	
Foreign national civilians		(54,000)		(45,900)		(54,000)	
Classified programs		(11,604)		(5,916)		(9,365)	
Real property maintenance		(67,400)		(100,000)		(100,000)	
Acquisition		(18,000)				0	
Spare parts/Inventory management		(230,000)		(202,000)		(202,000)	
Non-tactical vehicles		(10,000)				0	
School training		(63,000)		(100,000)		(100,000)	
Unnecessary overhead expenses		(20,000)				0	
Admin. automated data processing		(135,000)				(60,000)	
Morale, welfare and recreation		(44,000)				0	
Commissaries		(13,000)		(7,500)		(3,000)	
Recruiting and advertising		(16,000)		(10,000)		(10,000)	
Household goods shipments		(18,000)				(9,000)	
Unified and specified commands		(10,000)				0	
Excessive labor		(9,600)				0	
Materiel		(4,000)				0	
Early ship retirement		(25,000)				0	
Demonstration project		1,000				1,000	
Increased use of Reserve forces				(49,000)		(49,000)	
Retire older weapons systems				(40,000)		(40,000)	
Command, control and communications				(30,000)		(30,000)	
Base operations support				(22,400)		0	
Property disposal				(120,000)		(120,000)	
Operating tempo				(125,000)		(40,000)	
Depot maintenance				(80,000)		(30,000)	
Management headquarters				(2,300)		(2,300)	
Reimbursement for outpatient care				(20,000)		(20,000)	
TOTAL		(1,272,604)		(1,247,816)		(1,365,665)	

O&M, MARINE CORPS
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, MARINE CORPS	1,948,100		1,831,300		1,892,700		1,892,200
Real growth		(24,000)				0	
Force structure support costs		(2,000)				(11,000)	
Civilian personnel		(20,000)		(20,200)		(20,200)	
Real property maintenance		(30,800)				0	
Acquisition		(2,000)				0	
Spare parts/Inventory management		(20,000)		(15,200)		(15,200)	
Non-tactical vehicles		(3,000)				0	
School training		(4,000)		(3,500)		(3,500)	
Morale, welfare and recreation		(3,000)				0	
Commissaries		(2,000)		(1,500)		0	
Recruiting and advertising		(3,000)		(5,000)		(5,000)	
Household goods shipments		(2,000)				(1,000)	
Audits and investigations		(1,000)				0	
Base operations support				(10,000)		0	
TOTAL		(116,800)		(55,400)		(55,900)	

O&M, AIR FORCE
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, AIR FORCE	22,048,900		20,389,779		20,785,714		20,624,110
Real growth		(297,000)				0	
Force structure support costs		(113,000)				(185,000)	
Civilian personnel		(259,000)		(259,200)		(279,200)	
Foreign national civilians		(52,000)		(33,300)		(52,000)	
Classified programs		(67,521)		(18,386)		(54,290)	
Real property maintenance		(276,600)		(150,000)		(180,000)	
Acquisition		(20,000)				0	
Spare parts/Inventory management		(250,000)		(148,700)		(148,700)	
Non-tactical vehicles		(13,000)				0	
School training		(41,000)		(90,000)		(90,000)	
Unnecessary oversead expenses		(20,000)				0	
Admin. automated data processing		(135,000)				(60,000)	
Morale, welfare and recreation		(49,000)				(16,000)	
Commissaries		(30,000)		(20,000)		(3,000)	
Recruiting and advertising		(8,000)		(15,000)		(15,000)	
Household goods shipments		(18,000)				(9,000)	
Audits and investigations		(6,000)				(4,000)	
Unified and specified commands		(7,000)				0	
Retirement of Minuteman II weapon sys		(17,000)				0	
Computer-aided logistics initiatives		20,000				20,000	
Increased use of reserve forces				(67,000)		(67,000)	
Retire older weapons systems				(45,000)		(45,000)	
Command, control and communications				(20,000)		(20,000)	
Base operations support				(125,000)		0	
Property disposal				(65,000)		(65,000)	
Operating tempo				(105,000)		(50,000)	
Depot maintenance				(55,000)		(55,000)	
Management headquarters				(9,000)		(9,000)	
MILSTAR termination				(17,600)		(17,600)	
Reimbursement for outpatient care				(20,000)		(20,000)	
TOTAL		(1,659,121)		(1,263,186)		(1,424,790)	

O&M, DEFENSE AGENCIES
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, DEFENSE AGENCIES	8,663,100		8,059,308		8,372,263		8,317,421
Real growth		(216,000)				0	
Force structure support cost		(24,000)				(125,000)	
Civilian personnel		(116,000)		(60,700)		(116,000)	
Foreign national civilians		(7,000)		(4,200)		(7,000)	
Classified programs		(63,892)		(54,084)		(52,479)	
Real property maintenance		(19,900)				0	
Acquisition		(20,000)				0	
Spare parts/Inventory management		(150,000)		(1,400)		(1,400)	
School training		(2,000)		(6,500)		(6,500)	
Admin. automated data processing		(45,000)				(20,000)	
Recruiting and advertising		(7,000)		(5,000)		(7,000)	
Household goods shipments		(4,000)				(2,000)	
Dependent schools		(92,000)				(10,000)	
On-site inspection agency		(8,000)				0	
National defense stockpile operations		(15,000)				(7,500)	
Office of Economic Adjustment		3,000		3,400		3,400	
Transition assistance		183,000				0	
Special operations forces				5,800		5,800	
Command, control and communications				(10,000)		(10,000)	
National Defense Stockpile				(33,153)		0	
Defense agencies workload				(125,000)		0	
Defense Mapping Agency						10,000	
TOTAL		(603,792)		(290,837)		(345,679)	

O&M, INSPECTOR GENERAL
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL		SENATE BILL		CONFERENCE	
		CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION
O&M, INSPECTOR GENERAL	98,519		98,519		98,519		98,519
TOTAL		0		0		0	

O&M, ARMY RESERVE
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, ARMY RESERVE	890,400		913,400		886,100		909,100
Force structure		23,000				23,000	
Inventory management				(4,300)		(4,300)	
TOTAL		23,000		(4,300)		18,700	

O&M, NAVY RESERVE
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, NAVY RESERVE	984,600		1,004,800		977,800		998,000
Special operations		14,200				14,200	
Naval reserve bases		6,000				6,000	
Increased use of Reserve forces				4,400		4,400	
Inventory management				(11,200)		(11,200)	
TOTAL		20,200		(6,800)		13,400	

O&M, MARINE CORPS RESERVE
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, MARINE CORPS RESERVE	86,100		86,100		84,800		84,800
Inventory management				(1,300)		(1,300)	
TOTAL		0		(1,300)		(1,300)	

O&M, AIR FORCE RESERVE
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, AIR FORCE RESERVE	1,042,500		1,050,800		1,057,600		1,065,900
TAC fighter		2,300				2,300	
TAC airlift		3,000				3,000	
Rescue and recovery		1,400				1,400	
Special operations		1,600				1,600	
Increased use of Reserve forces				18,000		18,000	
Inventory management				(2,900)		(2,900)	
TOTAL		8,300		15,100		23,400	

O&M, ARMY NATIONAL GUARD
($ IN THOUSANDS)

		HOUSE BILL		SENATE BILL		CONFERENCE	
	FY 91 REQUEST	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION
O&M, ARMY NATIONAL GUARD	1,988,500		1,998,500		1,970,400		1,980,400
Force structure		10,000				10,000	
Inventory management				(18,100)		(18,100)	
TOTAL		10,000		(18,100)		(8,100)	

O&M, AIR NATIONAL GUARD
($ IN THOUSANDS)

		HOUSE BILL		SENATE BILL		CONFERENCE	
	FY 91 REQUEST	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION
O&M, AIR NATIONAL GUARD	2,175,400		2,203,000		2,219,600		2,247,200
TAC fighter		17,800				17,800	
TAC airlift		7,400				7,400	
Rescue and recovery		1,400				1,400	
Special operations		1,000				1,000	
Increased use of Reserve forces				53,000		53,000	
Inventory management				(8,800)		(8,800)	
TOTAL		27,600		44,200		71,800	

O&M, RIFLE PRACTICE, ARMY
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, RIFLE PRACTICE, ARMY	5,600		4,000		5,600		4,000
Reduction		(1,600)				(1,600)	
TOTAL		(1,600)		0		(1,600)	

O&M, U.S. COURT OF MILITARY APPEALS
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, U.S. COURT OF MILITARY APPEALS	5,600		5,400		5,500		5,400
Reduction		(200)		(100)		(200)	
TOTAL		(200)		(100)		(200)	

O&M, ENVIRONMENTAL RESTORATION, DEFENSE
($ IN THOUSANDS)

		HOUSE BILL		SENATE BILL		CONFERENCE	
	FY 91 REQUEST	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION
O&M, ENVIRONMENTAL RESTORATION, DEFENSE	817,000		1,000,000		1,062,527		1,062,527
Increase		183,000		245,527		245,527	
TOTAL		183,000		245,527		245,527	

O&M, HUMANITARIAN ASSISTANCE
($ IN THOUSANDS)

		HOUSE BILL		SENATE BILL		CONFERENCE	
	FY 91 REQUEST	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION
O&M, HUMANITARIAN ASSISTANCE	13,000		13,000		13,000		13,000
TOTAL		0		0		0	

O&M, DRUG INTERDICTION
($ IN THOUSANDS)

	FY 91 REQUEST	HOUSE BILL		SENATE BILL		CONFERENCE	
		CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION
O&M, DRUG INTERDICTION	1,207,900		939,300		1,207,900		1,084,100
OTH-B (Procurement)		(189,000)		(214,000)		(189,000)	
OTH-B (MILCON)		(28,800)		(28,800)		(28,800)	
Other classified programs		(129,800)				(63,200)	
Support to LEAs		40,000		60,000		50,000	
Civil Air Patrol		1,000		1,000		1,000	
National guard (procurement)		38,000		10,000		38,000	
ROTH-R				128,600		0	
NG Pay & Allowances				40,000		40,000	
NG Training Program				3,200		3,200	
R&D						25,000	
TOTAL		(268,600)		0		(123,800)	

O&M, WORKING CAPITAL FUNDS
($ IN THOUSANDS)

		HOUSE BILL		SENATE BILL		CONFERENCE	
	FY 91 REQUEST	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION
O&M, WORKING CAPITAL FUNDS							
Army Stock Fund	407,000	104,500	302,500	104,500	302,500	104,500	302,500
Navy Stock Fund	37,200	37,200	0	37,200	0	37,200	0
Air Force Stock Fund	1,340,200	452,300	887,900	452,300	887,900	452,300	887,900
Defense Stock Fund	50,000	50,000	0	50,000	0	50,000	0
Army Industrial Fund	151,100	0	151,100	100	151,000	0	151,100
Navy Industrial Fund	238,700	0	238,700	0	238,700	0	238,700
Defense Industrial Fund	4,000	0	4,000	0	4,000	0	4,000
TOTAL	2,228,200	644,000	1,584,200	644,100	1,584,100	644,000	1,584,200

ITEMS OF SPECIAL INTEREST

National Guard teletraining

The conferees endorse the concept of distributed training as an effective and cost-efficient alternative to in-residence instruction, and believe that this type of training can be used to enhance the readiness to the geographically dispersed National Guard. The conferees expect the National Guard Bureau to take full advantage of teletraining methods in the future to optimize the benefits of the very limited training periods available to the Army National Guard and to minimize non-productive travel time and expense.

Civil Air Patrol

The conferees agree that of the operations and maintenance funds authorized to be available to the Civil Air Patrol, $180,000 is authorized to be used to pay user fees for FBI fingerprint services performed for the Civil Air Patrol.

Court of Military Appeals

The House bill would reduce the amended budget request for the Court of Military Appeals by $200,000.

The Senate amendment would reduce the amount by $100,000.

The Senate recedes.

The fair, timely, and efficient administration of military justice is one of the most important factors in the maintenance of good order and discipline in the armed forces, and in providing the American people with confidence that uniformed personnel will receive due process in courts-martial. One of the most important elements in the military justice system is the Court of Military Appeals.

Congress last year increased the size of the Court from three to five members in order to strengthen the Court and promote stability. The effective date of the increase was set at October 1, 1990 to coincide with the beginning of the Court's term and to provide ample opportunity for nomination and confirmation of new judges. Unfortunately, the Administration has not submitted nominations either for the two new positions or for the vacancy that occurred on September 30, 1990. Accordingly, the budgetary requirements of the Court will be considerably less than the amended budget request. In addition, the conferees are very concerned about cost growth in the Court's budget, particularly in the area of travel. It is essential that the court reduce travel in order to foster the collegial relationships essential to an appellate court, and to reduce the potential for serious delays in case processing that the Court encountered in recent years.

The conferees note that improvements have been made in the operation of the Court of Military Appeals as a result of the recommendations made by the United States Court of Military Appeals Committee, a body of distinguished scholars and practitioners convened by the Court in 1989 and 1990. The conferees believe that such independent, expert advice is important to the Court, and urges the Court to continue to convene such a committee.

AFDM-3 floating drydock

The conferees are advised that the Navy is currently leasing a floating drydock (AFDM-3) to a private shipyard in Mobile, Alabama. The lease expires in July 1991. The conferees believe that it would be in the best interest of the Navy for the drydock to remain in the Gulf Coast region, since two new naval stations at Mobile, Alabama and Pascagoula, Mississippi are expected to become operational in the summer of 1991. Therefore, the conferees direct the Navy to take the necessary steps to release the drydock to a ship repair firm in this geographic region. The continued modernization and use of AFDM-3, as stipulated in the current lease, would provide the Navy with a Gulf Coast repair facility with a fully maintained and operable drydock certified to dock Navy vessels.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Humanitarian assistance (sec. 303)

The House bill contained a provision (sec. 303) that would extend the authority contained in prior defense authorization acts for the provision of humanitarian assistance. The House provision would limit the program of Afghan refugees and the Cambodian non-communist resistance.

The Senate amendment contained a similar provision (sec. 304) but would not limit the program to Afghanistan and Cambodia. With regard to Cambodia, the Senate provision would authorize distribution of humanitarian supplies to noncombatant Cambodian displaced persons and refugees.

The House recedes with an amendment that would include noncombatant displaced persons and refugees affiliated with the non-communist resistance as eligible to receive Cambodian assistance.

Assistance to the 1990 Winter World Series Torch Run and the 1991 Freestyle World Championships (sec. 304)

The House bill contained a provision (sec. 304) that would authorize the Department of Defense to use $100,000 in excess funds from the 1990 Goodwill Games for the 1990 Winter World Series Torch Run and the 1991 Freestyle World Championships to be held in New York State in 1990 and 1991.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Extend cold weather clothing systems (sec. 305)

The House bill contained a provision (sec. 305) that would authorize $39.951 million from operation and maintenance, Army for the acquisition of clothing under the extended cold weather clothing system.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Limitation on obligations against stock funds (sec. 311)

The House bill contained a provision (sec. 323) that would place a ceiling on the amount of obligations that the Defense stock funds could incur.

The Senate amendment contained a provision (sec. 324) that would prohibit the Secretary of Defense from incurring obligations against Department of Defense stock funds during fiscal year 1991, except for obligations for fuel and subsistence items, in excess of 80 percent of the sales from such stock funds during that fiscal year, except for sales for fuel and subsistence items.

The House recedes with an amendment that would allow the Secretary of Defense to waive this 80 percent obligation gap if he determines that such action is essential to the national security of the United States. The Secretary shall immediately notify the Congress of any such waiver and the reasons for such waiver.

Prohibition on management of civilian personnel by end strengths during fiscal year 1991 (sec. 312)

The House bill contained a provision (sec. 321) that would: (1) repeal the requirement that the Department of Defense manage civilian personnel by end strength; and (2) eliminate the requirement for the authorization of civilian personnel by end strength.

The Senate amendment contained a provision (sec. 441) that would authorize civilian personnel end strengths for the Department of Defense.

The Senate recedes with an amendment.

The amendment would suspend the requirement for the Department of Defense to manage civilian personnel by end strength for another year.

Commissary privileges for certain reservists (sec. 321)

The House bill contained a provision (sec. 322) that would authorize commissary privileges for ready reservists who perform annual training in either a pay or non-pay status.

The Senate amendment contained a provision (sec. 1427) that would authorize commissary privileges for reservists who have completed all requirements for receipt of retired pay at age 60, but who are no longer in the selected reserve.

The House recedes with an amendment.

The amendment would add the House provision to the Senate provision.

Guidelines for future reductions of civilian employees of industrial- or commercial-type activities (sec. 322)

The House bill contained a provision (sec. 362) that would require the Secretary of Defense to establish priorities for future reductions in the number of civilian employees of the Department of Defense who are employed by industrial-type activities or commercial-type activities described in section 2208 of title 10, United States Code. The House provision would also require each Department of Defense organization that employs civilian personnel in industrial-type or commercial-type activities, and proposes a furlough for, or a reduction in, such employees, to submit to Congress a five-year civilian personnel master plan.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The conferees agree to require the Secretary of Defense to establish priorities for future reductions in the number of DoD civilian employees employed in industrial-type and commercial-type activities; to require each DoD agency or component that employs civilian personnel in these activities to submit to Congress as part of the budget request for fiscal year 1992 a five-year civilian personnel master plan; to require each DoD agency or component that employs civilian personnel in these activities and whose budget request for a fiscal year would require a furlough for, or an involuntary reduction in, such employees to submit to Congress as part of that budget request a five-year civilian personnel master plan; to allow the Secretary of Defense to permit deviations from the priorities established for reductions in civilian personnel in these functions if the Secretary determines such deviation is critical to national security; and to require that 45 days before implementing any further involuntary reductions or furloughs of civilian personnel in industrial-type or commercial-type activities in fiscal year 1991 after enactment of this bill, the

agency or component shall submit a report to the Congress outlining the reasons for such reductions, including changes in workload and manpower requirements.

Inventory management policies (sec. 323)

The Senate amendment contained a provision (sec. 315) that would require the Secretary of Defense to issue a single, uniform policy on the management of inventory items by the Department. It would also establish procedures to ensure that personnel appraisal systems for item managers and other personnel responsible for the acquisition and management of inventory items give appropriate consideration to efforts to eliminate wasteful practices and achieve cost savings.

The House bill contained no similar provision.

The House recedes.

Expansion of authority to donate food to charitable nonprofit food banks (sec. 324)

The House bill contained a provision (sec. 327) that would expand the types of food that may be donated by the Department of Defense to charitable organizations to include dining hall food, ready-to-eat meals, and other food that would otherwise be destroyed as unusable.

The Senate amendment contained no similar provision.

The Senate recedes.

Authority to exchange property for services in connection with historical collections (sec. 325)

The House bill contained a provision (sec. 328) that would expand the current authority of a Service Secretary under section 2572(b) of title 10, United States Code, to exchange items not needed by the armed forces for similar items held by any organization, institution, agency, or nation. The House provision would expand the program to include exchange of government resources for services such as the restoration of historic aircraft and recovery of submerged aircraft.

The Senate amendment contained no similar provision.

The Senate recedes.

Government transportation for certain members assigned outside the United States (sec. 326)

The Senate amendment contained a provision (sec. 623) that would authorize the Secretary of Defense to prescribe regulations allowing unified combatant commanders to provide government transportation for military and civilian personnel and their dependents in areas outside of the United States when public or private transportation is unsafe or unavailable.

The House bill contained no similar provision.

The House recedes.

Authorization for certain bands of the armed forces to produce recordings for commercial sale (sec. 327)

The House bill contained a provision (sec. 328) that would authorize the commercial sale of recordings of armed forces bands and the crediting of proceeds to appropriations used for expenses of these bands.

The Senate amendment contained no similar provision.

The Senate recedes.

Army program to promote civilian marksmanship (sec. 328)

The House bill contained a provision (sec. 330) that would limit annual expenditures in the Army's Civilian Marksmanship Program to $4 million. The provision would restructure the Civilian Marksmanship Program to make it financially self-supporting within two years. The provision would also require that all host organizations would be charged fair market value for all services and equipment, including ammunition, received through the Civilian Marksmanship Program, beginning October 1, 1992.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees agree that the Army's Civilian Marksmanship Program should become financially self-supporting within two years. The conferees also agree that all host organizations would be charged fair market value for all services and equipment, including ammunition, received through the Civilian Marksmanship Program, beginning October 1, 1992.

Navy ship stores (sec. 329)

The House bill contained a provision (sec. 331) that would convert the operation of Navy ship stores from appropriated fund instrumentalities to nonappropriated fund instrumentalities. The provision would also allow the Secretary of the Navy to provide certain incidental services for the operation of ship stores on a non-reimbursable basis, and require certain administrative actions including the transfer of funds to facilitate the conversion.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The amendment would retain the current status of ship stores as appropriated fund instrumentalities. The amendment would also repeal the limit on ship store profits and direction on the use of such profits. Instead, the amendment would require the Secretary of the Navy to prescribe regulations governing the sale of goods and services by ship stores and to report to the Congress on the operation of all ship stores. The report is to be submitted within 180 days of enactment of this bill and is to include such recommendations for improving ship store operations as the Secretary deems appropriate.

The conferees believe the operation of ship stores would be more responsive to patron needs and that efficiencies could be achieved through more cooperation with the military exchange services. The conferees urge the Secretary of the Navy to take this into account in carrying out the requirements of this section.

Operation of the Inter-American Air Forces Academy (sec. 330)

The House bill contained a provision (sec. 332) that would authorize the Air Force to fund the Inter-American Air Forces Academy.

The Senate amendment contained no similar provision.

The Senate recedes.

Assistance program for employees of non-appropriated fund instrumentality adversely affected by base closures (sec. 331)

The House bill contained a provision (sec. 336) that would amend section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 USC 3374) to expand the homeowners assistance program to U.S. employees of a nonappropriated fund instrumentality of the Department of Defense. Expenses under this fund in support of nonappropriated fund employees would be financed with appropriated funds.

The Senate amendment contained a provision (sec. 2807) that would expand eligibility for the homeowners assistance program to U.S. employees of nonappropriated fund instrumentalities. In addition, the program would provide eligibility for homeowners assistance to federal employees serving overseas who have reemployment rights to an organization in the United States which is undergoing a base closure or realignment.

The Senate recedes to the authorization contained in the House bill with an amendment that would provide eligibility to the homeowners assistance program to federal employees serving overseas who have reemployment rights to an organization in the United States which is undergoing a base closure or realignment.

Additional requirements for environmental reports (sec. 341)

The House bill contained a provision (sec. 342) that would amend section 2706 of title 10, United States Code, to expand the reporting requirements for Department of Defense environmental compliance to include a listing of funding and personnel requirements, the budget request, and a five-year projection of funding and personnel requirement for each military installation.

The Senate amendment contained no similar provision

The Senate recedes with an amendment that would limit the report to full-time personnel but expand the scope of the report to include environmental organization structure and personnel management activities, along with an identification of funding associated with environmentally-related research and development program and activities.

Report on environmental compliance at overseas military installations (sec. 342)

The House bill contained a provision (sec. 343) that would amend section 2706(b) of title 10, United States Code, to expand the annual environmental budget report to include funding levels and personnel required by the Department of Defense to comply with applicable environmental requirements at overseas military installations. This provision would also require the Secretary of Defense to develop a policy for determining applicable environmental compliance at overseas military installations, and submit a report to Congress with the fiscal year 1992/1993 budget request on the development and implementation of such policy.

The Senate amendment contained no similar provision.

The Senate recedes.

Extension of date for completion of study of waste recycling (sec. 343)

The Senate amendment contained a provision (sec. 317) that would extend the date for the completion of a report on waste recycling to March 1991.

The House bill contained no similar provision.

The House recedes.

Environmental education program (sec. 344)

The Senate amendment contained a provision (sec. 322) that would establish an environmental education program for the purposes of educating Department of Defense personnel in environmental management.

The House bill contained no similar provision.

The House recedes.

Ozone depleting substances (sec. 345)

The Senate amendment contained a provision (sec. 323) that would expand the ozone depleting chemicals to be reviewed by the Chloroflurocarbon Advisory Committee established by section 356(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189), and extend the deadline for filing the report required pursuant to that provision. In addition, the provision would require a report on military specifications that specify the use of ozone depleting chemicals.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Prohibition on purchases of performance bonds (sec. 346)

The Senate amendment contained a provision (sec. 320) that would prohibit the purchase of performance bonds by the Department of Defense to guarantee its own financial responsibility.

The House bill contained no similar provision.

The House recedes.

Continuation of Air Force hurricane reconnaissance mission (sec. 351)

The House bill contained a provision (sec. 313) that would provide that the Department of the Air Force shall continue to carry out its existing hurricane reconnaissance mission during fiscal year 1991 unless another agency of the United States assumes responsibility for and is funded to perform such mission.

The House bill contained no similar provision (sec. 318).

The House recedes.

Army Reliability Centered-Inspector and Repair Only as Necessary program at Anniston Army Depot (sec. 352)

The House bill contained a provision (sec. 363) that would authorize the Army to operate a reliability centered-inspect and repair program at Anniston Army Depot.

The Senate amendment contained no similar provision.

The Senate recedes.

Validation of payments under certain contracts for the provisions of municipal services (sec. 353)

The House bill contained a provision (sec. 315) that would provide that in the case of any agreement entered into before the date of the enactment of this subsection by the Department of the Navy with a unit of local government for police, to have had the authority to enter into such agreement and to make payments in accordance with its terms.

The Senate amendment contained a similar provision (sec. 321) that would apply to the entire Department of Defense.

The House recedes.

Maintenance of firefighting and other emergency services at military installations in the United States (sec. 354)

The House bill contained a provision (sec. 326) that would require firefighting and emergency services to be available on each military installation either through contracting or an in-house capability.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The conferees agreee that during fiscal year 1991, consistent with the requirements of section 2465 of title 10, United States Code, the Secretary of a Military Department shall ensure that each military installation established during fiscal year 1991 and each military installation under the jurisdiction of the Secretary which on October 1, 1990 had firefighting and other emergency services provided through personnel and facilities of that installation, is provided with firefighting and other emergency services through personnel and facilities of the installation. The conferees also agree that no later than 180 days after the date of the enactment of this bill, the Secretary of Defense shall submit to Congress a report that identifies military installations in the U.S. which have more than 300 employees that are not covered by firefighting and related emergency services, along with a proposed plan that outlines the actions, related to cost and options, in providing such services.

Staff of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (sec. 355)

The House bill contained a provision (sec. 361) that would enhance the staff of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (ASD SO/LIC).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would make several changes to the House provision. First, the amendment would set the size of the staff at the equivalent of 92 full-time employees, Second, it would change the deadline by which the staff is to reach this size to May 1, 1991.

Third, the House conferees object to the strict designation of nine Senior Executive Service (SES) positions on the staff of the ASD SO/LIC. The conferees agree that nine positions on the staff constitute important and highly visible positions that should qualify for placement in the SES. Therefore, the amendment would specify that the nine positions shall be senior level employees who are recognized by rank for their managerial and supervisory duties. The conferees urge the Secretary of Defense and the Director of the Office of Personnel Management to seriously consider establishing these nine positions on the staff of the ASD SO/LIC as SES positions as promptly as possible.

The office of the ASD SO/LIC is one element of the office of the Under Secretary of Defense for Policy. Given the important responsibilities of the Policy directorate within the Defense Department, the amendment would require that none of the additional staff to be assigned to the office of the ASD SO/LIC under this provision shall be deducted from the total number of staff personnel authorized for the Policy directorate.

The conferees expect that the additional staff personnel to be assigned to the office of the ASD SO/LIC will be located in close proximity to the current ASD SO/LIC staff. The office of the ASD SO/LIC can operate most efficiently if the entire staff is working in the same location.

Discussions concerning Department of Defense support for 1996 Summer Olympics (sec. 356)

The conferees agree to a provision that would direct the Secretary of Defense to begin planning for security and logistical support for the Summer Olympics to be held in Atlanta, Georgia, in 1996. The Department of Defense should initiate discussions with appropriate federal, state, and local officials and with the Atlanta Organizing Committee for the Olympic Games for this purpose, and report to the Committees on Armed Services of the Senate and the House of Representatives on the progress of these discussions by April 15, 1991.

Sense of Congress regarding the transfer to Europe of military equipment that would then be destroyed or removed as a result of an arms control agreement (sec. 357)

The House bill contained a provision (sec. 311) that would prohibit funds appropriated for the Department of Defense after fiscal year 1990 from being used to transfer heavy military equipment from the United States to Europe.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees agree to a provision that would express the sense of Congress that funds appropriated for the Department of Defense should not be used to transfer to Europe military equipment that would then have to be destroyed as a result of the anticipated arms control agreement on conventional forces in Europe, and that the Department of Defense should make every effort to avoid shipping to Europe military equipment that would, after only a short period of time, have to be shipped back to the United States as a result of further withdrawals.

Authorization for short-term lease of aircraft for initial entry rotory wing pilot training and study regarding long-term lease (sec. 361)

The House bill contained a provision (sec. 371) that would authorize the Army to enter into a contract for the lease of aircraft for initial entry helicopter pilot training to determine if the cost of leasing, operating, and maintaining such aircraft is less than the projected cost of operating and maintaining existing aircraft of the Army for the same purpose.

The Senate amendment contained no similar provision.

The Senate recedes. In allowing the Army to enter into a short-term lease of helicopters for initial entry pilot training, it is the conferees' intention that the Army examine all short-term leasing options, including lease with option to buy.

Flexible readiness (sec. 362)

The Senate amendment contained a provision (sec. 303) that would direct the Secretary of Defense to allocate funds authorized in title III of the amendment to insure that high priority military forces are maintained at appropriate readiness levels. The designation of "high priority" would be based on the anticipated threat; the amount of projected warning time of a major contingency; the likelihood that those forces would go into battle; and the ability of the military Services to transport these forces to battle. Such high priority forces would include strategic forces, expeditionary forces, forward deployed forces, special operations forces, and certain intelligence forces.

The House bill contained no similar provision.

The House recedes with an amendment that would state the sense of the Congress that the concept of flexible readiness has a significant potential for the effective and efficient allocation of resources to military units and for the preservation of a comparatively larger military force structure in the future. The Secrtary of Defense is directed to provide the Committees on Armed Services of the Senate and House of Representatives a report no later than March 15, 1991

on the extent to which the concept of flexible readiness could be implemented in the Department of Defense.

Report on establishing new Naval Reserve training center at Newport, Rhode Island (sec. 363)

The House bill contained a provision (sec. 373) that would direct the Secretary of the Navy to submit a report to the Committees on Armed Services of the Senate and House of Representatives regarding the desirability of establishing a new Naval Reserve training center within the Naval Education and Training Center at Newport, Rhode Island.

The Senate amendment contained no similar provision.

The Senate recedes.

Report on transportation of chemical weapons from Germany (sec. 364)

The House bill contained a provison (sec. 372) that would require the Secretary of the Army to prepare a study of the feasibility of safely removing and transporting obsolete chemical weapons stored at Aberdeen Proving Ground, Maryland, and Lexington-Blue Grass Army Depot, Kentucky.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary of the Army to prepare an "after action" report assessing the safety aspects of the transport of U.S. chemical weapons from Germany to Johnston Island. The report would be submitted to Congress not later than 60 days after the completion of the German retrograde project and would be used by the Army as part of its Phase I environmental impact statement studies for all remaining chemical storage sites, including Aberdeen and Lexington-Blue Grass.

LEGISALTIVE PROVISIONS NOT ADOPTED

Limitation on deactivation of the Second Armored Division

The House bill contained a provision (sec. 312) that would direct that the deactivation of the Army's Second Armored Division be deferred until a comprehensive arms reduction agreement enters into force as a result of the negotiations being conducted on reductions in conventional forces in Europe.

The Senate amendment contained no similar provision.

The House recedes.

Setting aside proceeds from the transfer or disposal of commissary store facilities and property purchased with nonappropriated funds

The House bill contained a provision (sec. 333) that would amend the Defense Authorization and Base Closure and Realignment Act (10 U.S.C. 2687 note) to provide that nonappropriated fund instrumentalities of the Department of Defense would be reimbursed for capital improvements which they had made in facilities which were disposed of as part of a base realignment or closure.

The Senate amendment contained no similar provision.

The House recedes. Replacement or expansion facilities which are normally funded by nonappropriated fund instrumentalities are being funded from the base closure account in such cases where the requirements have been generated by installation closures or realignments.

Expansion to National Guard facilities authority to provide shelter for homeless

The House bill contained a provision (sec. 335) that would amend 10 U.S.C. 2546 to specifically authorize the Governor of a state to make National Guard facilities under the state's jurisdiction available to shelter homeless persons.

The Senate amendment contained no similar provision.

The House recedes. Current law provides adequate authority to use National Guard facilities to provide shelter for the homeless.

Indemnification requirements for contractors handling hazardous wastes from federal facilities

The House bill contained a provision (sec. 341) that would require all contractors who received properly characterized hazardous waste from Department of Defense facilities to indemnify the federal government from the consequences of the contractor's negligence or breach of contract in waste transportation, storage, treatment, and disposal.

The Senate amendment contained no similar provision.

Section 341 of the House bill stemmed from the April 4, 1990 hearing conducted by the House Armed Services Committee on Defense Logistics Agency (DLA) management of hazardous materials and waters. At this hearing, the Committee was surprised to learn that DLA does not require indemnification by treatment, storage, and disposal facility owners in all of its contracts, but only where the same contractor provides both transportation and disposal. The House Armed Services Committee conferees believe that this inequity in contract requirements must end and that the federal government has the right to procure the same measure of contractor accountability that commercial waste treatment and disposal facilities routinely provide their customers.

Subsequent to the passage of the House bill, the House conferees have become aware of concerns that have been raised about the potential impact of the broad indemnification requirement contained in section 341 upon remedial action contactors who work with poorly characterized waste materials and on contractors (like Navy ship repair) whose hazardous waste handling responsibilities are only incidental to the central tasks for which they are responsible. These concerns, and others involving unintended restrictions on healthy competition for federal contractors, have led the conferees from the Senate and House Armed Services Committees to defer legislation at this time.

The House recedes.

The conferees from the Senate and House Armed Services Committees recognize the importance and complexity of contractors-related issues and direct the Department to conduct three studies. The report accompanying the House bill (H. Rept. 101-665) required two studies, one on contractor liability and one on surety bonds; the report accompanying the Senate amendment (S. Rept. 101-384) required one study on both bonding and contractor liability. The conferees from the Senate and House Armed Services Committees direct the Secretary of Defense to combine the requested studies into one study and to submit a single report on these important issues by March 30, 1991.

The conferees from the Senate and House Armed Services Committee direct that in preparing this report, the Secretary evaluate the desirability, practicability, and effect of the type of indeminification outlined by the provision in the House bill.

Provisions relating to environmental activities of the Department of Defense

The House bill contained a provision (sec. 344) that would establish a major force program category for environmental activities carried out at the Department of Defense and that would require a report on environmental personnel management.

The Senate amendment contained no similar provision.

The House recedes.

Support for Defense Conversion Center

The House bill contained a provision (sec. 364) that would direct the Secretary of Defense to make a grant to the Defense Conversion Center, Aquidneck 2000, in the state of Rhode Island, for the purpose of supporting the center's program of information dissemination to defense industries regarding the conversion to civilian production or activities.

The Senate amendment contained no similar provision.

The House recedes. The conferees believe that the Center provides an important service to contractors who face the termination of their defense contracts. The conferees urge the Center to apply to the Defense Department for potential funding through the Office of Economic Adjustment.

Provision of emergency medical services to civilian sector

The House bill contained a provision (sec. 365) that would provide that when an emergency medical unit of the armed forces that has provided emergency medical assistance to the civilian community is deployed for reasons of military necessity, the Secretary of the Military Department concerned shall ensure that any emergency medical units remaining at the installation or facility following the deployment retained sufficient capability to perform auxiliary medical emergency assistance for local civilian communities in the same manner as was performed by the unit deployed. In the event that the emergency medical units remaining are nonexistent or are incapable of performing auxiliary medical emergency assistance for local civilian communities, the provision would direct the Secretary concerned to make every reasonable effort to replace the service concurrent in time with the loss of the unit deployed, including use of the reserves for those purposes.

The Senate amendment contained no similar provision.

The House recedes.

The conferees are aware that there are a number of areas of the country where the military Services are providing medical emergency helicopter transportation services to the civilian community under section 2635 of title 10, United States Code. In many cases, the service provided by these military units is an essential element of the emergency medical care system of the civilian communities. In those communities where military units providing this service are withdrawn, either because of overseas deployments or force structure reorganizations, the conferees expect the military Services to work with the civilian communities to develop and assist in the transition to alternative ways of meeting the communities' emergency medical transportation needs, including, where possible, coverage by other military units capable of providing these service.

Assistance for foreign environmental projects and restoration

The House bill contained a provision (sec. 1037) that would amend chapter 151 of title 10, United States Code, to authorize the Secretary of Defense, in conjunction with the Secretary of State, to provide equipment, supplies, and services in connection with foreign environmental projects, including environmental restoration.

The Senate amendment contained no similar provision

The House recedes.

Reduction in operation and maintenance funding

The House bill contained a provision (sec. 4601) that would reduce funds authorized for operation and maintenance by $200 million for general purpose automated data processing systems.

The Senate amendment contained no similar provision.

The House recedes.

Repeal of EPA reimbursement for oversight expenses

The Senate amendment contained a provision (sec. 319) that would permit the Department of Defense, to the extent provided in interagency agreements entered into pursuant to section 120 of the Comprehensive Environmental Response Compensation and Liability Act, to reimburse the Environmental Protection Agency (EPA) for oversight expenses incurred by EPA for oversight at DOD facilities. In addition, the section would direct that EPA be provided reimbursable authority and a full-time equivalent ceiling to meet the personnel requirements to carry out oversight in accordance with interagency agreements.

The House bill contained no similar provision.

The Senate recedes.

Both of the Committees on Armed Services of the Senate and House of Representatives will continue to explore this issue and ways that it may be addressed.

Deadline for compliance and execution of agreements with the Environmental Protection Agency

The Senate amendment contained a provision (sec. 1003) that would require the Secretary of Defense to enter into an interagency agreement with the Environmental Protection Agency for each Department of Defense facility that is proposed for listing or listed on the National Priorities List within one year from the date of proposal.

The House bill contained no similar provision.

The Senate recedes.

United States facilities in Germany

The Senate amendment contained a provision (sec. 1246) that would state the sense of the Senate that the United States should consult closely with the Federal Republic of Germany and, when possible, favor for closure those military facilities which offer the highest potential for civilian reuse.

The House bill contained no similar provision.

The Senate recedes.

TITLE IV—PERSONNEL AUTHORIZATIONS FOR FISCAL YEAR 1991

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

End strengths for active forces (sec. 401)

The House bill contained a provision (sec. 401) that would authorize active duty end strengths for each of the military Services for fiscal year 1991.

The Senate amendment contained a similar provision (sec. 401) that would additionally authorize active duty end strengths for each of the military Services for fiscal year 1995. The Senate provisions would also prescribe officer end strengths as a subset of the active duty end strengths prescribed for each of the military Services for fiscal year 1991.

The House recedes with an amendment.

The amendment would authorize the active duty end strengths shown in the tables below:

ACTIVE FORCE END STRENGTHS

	Fiscal year—	
	1991	1995
Army	702,170	520,000
Navy	570,500	501,000
Marine Corps	193,735	177,000
Air Force	510,000	415,000
Total	1,976,405	1,613,000

OFFICER END STRENGTHS

	Fiscal year 1991
Army	99,291
Navy	69,992
Marine Corps	19,757
Air Force	95,027
Total	284,067

With regard to officer end strengths, the amendment would authorize the Secretary of Defense to exceed the prescribed levels in fiscal year 1991 to the extent required by each military Service to avoid the involuntary separation of certain officers. The conferees are sensitive to the need for the military Services to adjust their officer strength management policies to reduce officer strength and specifically provide this waiver authority so that the officer strength levels specified need not result in strength-related officer involuntary separations in fiscal year 1991.

The conferees direct the Secretary of Defense to provide to the Committees on Armed Services of the Senate and House of Representatives, by April 1, 1991, the officer end strength plans for each of the military Services for fiscal years 1991 through 1995.

The conferees expect the military Services to maintain the same relationship between officer and enlisted strengths existing at the end of fiscal year 1990 in making active duty end strength reductions in the future.

With regard to the active duty end strengths authorized for fiscal year 1995, the conferees agree that these end strengths are prescribed for planning purposes and may be revised in the future as the Department of Defense makes force structure and force mix decisions based on threat and military strategy assessments.

Uniform strength reduction process (sec. 402)

The Senate amendment contained a provision (sec. 402) that would require the military Services to follow a uniform procedure for reducing active duty strength under regulations prescribed by the Secretary of Defense.

The report accompanying the House bill (H. Rept. 101-665) contained similar guidance.

The House recedes with an amendment that would strike the specified accession ceilings prescribed for each military Service. The conferees expect the Secretary of Defense to exercise prudent judgment in approving accession levels and force profiles by grade and years of service to guide the personnel strength reduction process in the military Services as forces draw down over the next five years.

Authorized strength for general and flag officers on active duty (sec. 403)

The House bill contained a provision (sec. 441) that would establish a fiscal year 1995 strength ceiling of 845 on general and flag officers serving on active duty.

The Senate amendment contained a similar provision (sec. 403) that would establish a fiscal year 1995 strength ceiling of 858. The provision would additionally specify general and flag officer strength ceilings by military Service for fiscal years 1991 and 1995.

The House recedes with an amendment.

The amendment would authorize the active duty general and flag officer ceilings shown below:

	Fiscal year—	
	1991	1995
Army	386	302
Navy	250	216
Marine Corps	68	61
Air Force	326	279
Totals	1,030	858

The amendment would further authorize the Secretary of Defense to reallocate up to five general and flag officer positions among the ceilings established for each military Service in fiscal year 1991. The conferees note that the specific fiscal year 1995 ceilings are for planning purposes and urge the Secretary of Defense to review the fiscal year 1995 ceilings and to recommend to the Committees on Armed Services of the Senate and House of Representatives appropriate reallocations.

The conferees note that section 906 would require a four percent per year reduction in the end strengths of management headquarters over five years. Past congressional attempts to reduce these headquarters have been circumvented by the military Services and the Department of Defense. The conferees expect to see progress in reducing management headquarters in connection with any adjustments requested by the Department of Defense to general and flag officer grade ceilings.

Reduction in number of active duty Air Force colonels (sec. 404)

The Senate amendment contained a provision (sec. 404) that would reduce the permanent grade authorization for colonels in the Air Force by 250.

The House bill contained no similar provision.

The House recedes with an amendment.

The amendment would extend the current temporary reduction an additional year in order to allow the Secretary of Defense to justify why such a permanent reduction should not be made.

Exemption from grade accountability for certain three-star general and flag officer positions (sec. 405)

The Senate amendment contained a provision (sec. 405) that would authorize the President to designate up to six positions within the Joint Staff to be exempt from the prescribed ceiling on the number of lieu-

tenant generals and vice admirals that a military Service may have on active duty.

The House bill contained no similar provision.

The House recedes. The conferees underscore the language in the report accompanying the Senate amendment (S. Rept. 101-384) on this provision, especially with regard to encouraging competition among the military Services to nominate their best officers to fill key positions on the Joint Staff and to provide the Chairman of the Joint Chiefs of Staff greater flexibility in selecting officers recommended by the military Services to fill key positions on his staff.

Reduction in end strength for military personnel assigned to duty in Europe (sec. 406)

The House bill contained a provision (sec. 402) that would reduce the permanent ceiling on members of the armed forces of the United States assigned to permanent duty ashore in European member nations of NATO from 311,855 to 261,855, effective September 30, 1991. The provision would permit the President to exceed this ceiling by 50,000 in any year if he determines that the national security interests of the United States require such action and so notifies the Congress.

The Senate amendment contained a provision (sec. 901) that would reduce the authorized end strength level of members of the armed forces of the United States assigned to permanent duty ashore in European member nations of NATO from 311,855 to 261,855, effective September 30, 1991. The provision would permit the President to waive this reduction if he determines that the national security interests of the United States require such action and so notifies the Congress.

The House recedes.

End strengths for selected reserve (sec. 411)

The House bill contained a provision (sec. 411) that would authorize Selected Reserve personnel end strengths for the reserve components for fiscal year 1991.

The Senate amendment contained a similar provision (sec. 411).

The Senate recedes.

End strengths for reserves on active duty in support of the reserves (sec. 412)

The Senate amendment contained a provision (sec. 412) that would authorize reserve full-time support end strengths as follows:

	Fiscal year 1991—	
	Request	Authority
Army National Guard	26,199	24,820
Army Reserve	13,344	12,673
Naval Reserve	22,997	21,848
Marine Corps Reserve	2,401	2,781
Air National Guard	8,468	8,045
Air Force Reserve	655	623
Total	74,064	70,790

The provision would also authorize the following end strengths beyond fiscal year 1991 in the aggregate:

Fiscal year:	
1992	66,664
1993	62,959
1994	59,255
1995	55,550
1996	51,845

The provision would further specify:

(1) that the Secretary of Defense may reallocate up to 10 percent of the fiscal year 1991 authorizations among the National Guard and reserve components;

(2) that no serving full-time reservist may be involuntarily separated as a result of the prescribed strength levels;

(3) that the annual accession levels into the National Guard and reserve components shall be 2 percent of each of their authorized end strengths;

(4) that the Secretary of Defense may exceed authorized end strengths in order to comply with items 2 and 3 above;

(5) that active component personnel shall be assigned on a one-for-one substitution basis as reserve full-time manning draws down; and

(6) that the Secretary of Defense shall report on the implementation of this section.

The House bill contained a provision (sec. 412) that would authorize reserve full-time support end strengths for fiscal year 1991 at the levels requested by the Department of Defense.

The conferees agree that there is a requirement for greater interaction bewteen the active and reserve components, especially as greater reliance is placed on the operation of the Total Force Policy as forces are reduced over the next five years. The conferees are concerned about the reduction in active component advisers in the Army reserve components in recent years. Currently, there are only 547 active component personnel assigned to the Army National Guard (that has a strength of 450,000), and only 1,119 active component personnel assigned to the Army Reserve (that has a strength of 318,000).

The Senate therefore recedes with an amendment that would adopt the fiscal year 1991 reserve full-time support end strengths in the House provision and apply the Senate's provision to the Army National Guard and the Army Reserve begining in fiscal year 1992.

The reserve full-time manning end strengths under this amendment are shown below:

	Fiscal year 1991—	
	Request	Authority
Army National Guard	26,199	26,199
Army Reserve	13,344	13,344
Naval Reserve	22,997	22,997
Marine Corps Reserve	2,401	2,401
Air National Guard	8,468	8,468
Air Force Reserve	655	655
Total	74,064	74,064

	Army Reserve	Army National Guard
Fiscal year		
1992	12,673	24,889
1993	12,006	23,579
1994	11,339	22,269
1995	10,672	20,959
1996	10,005	19,649
1997	9,341	18,340

Authorization of training student loads (sec. 421)

The House bill contained a provision (sec. 421) that would authorize average military training student loads for the military Service and the National Guard and reserve components for fiscal year 1991.

The Senate amendment contained a similar provision (sec. 421).

The House recedes.

Test of cadre concept (sec. 431)

The House bill contained a provision (sec. 442) that would require the Secretary of the Army to place at least one active Army division in a so-called "cadre" status by the end of fiscal year 1992. The cadre division would function as a reserve training division. The Secretary would be required to submit a report to the Committees on Armed Services of the Senate and House of Representatives not later than February 1, 1991 on the Secretary's plans for implementing the test program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of the Army to study alternative ways to cadre both active duty and reserve component divisions and submit a report not later than February 1, 1991.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authorization of military personnel appropriations

The House bill contained a provision (sec. 431) that would place a limit on the amount of funding authorized for military personnel in fiscal year 1991.

The Senate amendment contained a similar provision (sec. 431).

The conferees agree to delete both provisions.

Repeal of increase in number of members in certain grades authorized to be on active duty in support of the reserves

The Senate amendment contained a provision (sec. 413) that would repeal the previously authorized grade ceiling on active duty reserve support personnel in each military Service for fiscal year 1991, and authorize ceilings for fiscal year 1991 at the fiscal year 1990 levels.

The House bill contained no similar provision.

The Senate recedes.

ITEM OF SPECIAL INTEREST

Study of Total Force policy, force mix, and military force structure

Section 1101 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189) requires the Secretary of Defense to conduct a comprehensive review of the operation, effectiveness and soundness of the following policies and practices: 1) the Total Force policy; 2) assignments of missions within and between the active and reserve components of the armed forces; and 3) force structure of the active and reserve components of the armed forces. Section 1101 also requires the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives on the results of the review.

In establishing this requirement, the Congress prescribed a comprehensive, detailed menu of matters to be considered in the review. The conferees expected that such a review would be aggressively pursued by the Department of Defense and that the results would provide an analytically supported baseline that the Committees on Armed Services could use to assess the force structure and manpower needs of the military Services in the future.

The conferees note that the interim report submitted on September 17, 1990, in compliance with this requirement, is deficient. There is no indication in the interim report that the requirements set out in section 1101 are being addressed. Specifically,

the first four pages of the interim report do nothing more than explain what is contained in the interim report and synopsize the chronology of the Total Force Policy. The next three pages contain very superficial thoughts about the effect of the strategic environment on force structure decisions. The next six pages deal very generally with elementary force mix considerations. The next three pages describe in general detail the operation of the Defense planning, programming, and budgeting system as the process for allocating resources within the Total Force. The next ten pages merely describe the organization and structure of the Total Force Policy Study Group. The final 13 pages merely outline active and reserve component deployments under Operation Desert Shield (interestingly, there is no discussion in these pages on the reasons for the Department of Defense's decision to exclude Army National Guard and Army Reserve combat units from the call-up).

The conferees are deeply disappointed that the Department has spent so much of the time allotted for submission of the final report and has produced an interim report of paltry quality. Viewed objectively, the interim report is little more than a justification for the status quo of Total Force policy and reflects the creeping incrementalism that has characterized past departmental efforts to think and act progressively when reviewing Total Force policy, force mix, and force structure. With the exception of the section dealing with Operation Desert Shield, most of the report could have been written last year and without resort to the guidance provided by the conferees.

The conferees emphasize that the future size, shape, and intelligent utilization of our military forces depend upon having a cogent, forward looking strategy and force policy that take into account the various factors that the final report should address. Deficiencies in the interim report cause the conferees to believe that the sanction provision in section 1101 restricting the Secretary of Defense's authority to obligate certain funds may not be sufficient to induce the Department's adherence to the spirit and letter of the study requirement. The conferees urge the Secretary of Defense to review critically the status of this study in relationship to the specific requirements of section 1101 and caution that unless the final report reflects a more wholehearted effort to address analytically and critically the matters to be considered under section 1101, the conferees will demand a complete, public explanation for any shortcomings therein.

TITLE V—MILITARY PERSONNEL

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Separation pay (sec. 501)

The House bill contained a provision (sec. 501) that would authorize the payment of separation pay for involuntarily separated officer and enlisted personnel with six or more years of service who are not in their initial term of enlistment or period of obligated service. The provision would also repeal the current $30,000 limit on the amount of separation pay that an individual may receive and exempt officers who currently have five or more years of service from the new six year criterion for involuntary separation pay.

The Senate amendment contained a similar provision (sec. 641) that would establish five or more years of service criterion for involuntary separation pay. The Senate amendment also contained a provision (sec. 1422) that would require members who receive transition assistance (including separation pay, extended medical care, educational benefits, and employment assistance) to become or remain a member of the ready reserve for three years from the date of their separation or from the end of any existing service obligation.

The Senate recedes with an amendment that would require individuals receiving separation pay to become or remain a member of the ready reserve for three years from the date of their separation or from the end of any existing service obligation.

Other transition benefits and services (sec. 502)

The House bill contained a provision (sec. 502) that would create a new chapter 58 of title 10, United States Code, to provide a comprehensive package of transition assistance benefits to military personnel separating from the armed forces as a result of force reductions. Section 502 would authorize transition medical benefits, pre-separation counseling, employment assistance by the Department of Defense, job and training assistance by the Department of Labor, commissary and exchange benefits, use of military family housing, relocation assistance for personnel overseas, excess leave and permissive temporary duty, and preference in affiliating with selected reserve units.

The Senate amendment contained similar provisions (secs. 642 and 644) that would also provide a comprehensive package of transition benefits.

The Senate recedes with an amendment that would retain the basic structure of the House provision.

With regard to employment assistance, job training assistance, and other transitional services, the conferees note the value of providing employment and training services and information to members of the armed forces who are soon to be discharged or released from active duty. Public Law 101-237, enacted on December 18, 1989, mandated the Department of Labor to conduct a pilot program to provide such transition assistance. With the coming reductions in military force levels, the conferees recognize that an expanded program of employment assistance, job training assistance, and other transitional services is necessary to help these service members make suitable educational and career choices as they readjust to civilian life.

In response to this need, section 1144 of the new chapter 58 would require the Secretary of Labor, in conjunction with the Secretary of Defense and the Secretary of Veterans Affairs, to establish and maintain a program to furnish counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, and other related information and services to members of the armed forces who are within 180 days of discharge from active duty and to their spouses.

The conferees expect the Departments of Labor, Defense and Veterans Affairs to *jointly* develop and execute within 60 days of enactment an agreement that clearly details the responsibilities and activities of the three departments in establishing the program, to include provisions for the selection of appropriate sites, the development of a suitable curriculum, the dissemination of information, and the evaluation of the quality of the program. Cooperation among the three departments is essential for the creation of an effective program which will successfully meet the diverse needs of the servicemembers and their spouses. The conferees also expect the Department of Defense and the Department of Veterans' Affairs to provide the maximum support possible to the Department of Labor, including appropriate facilities accessible to the disabled, sufficient staff, and adequate resources.

In carrying out the program, the Secretaries may use personnel of the Department of Labor to the extent that such use would not significantly interfere with the provision of services and benefits to eligible veterans and other eligible persons. Additionally, military and civilian personnel of the Department of Defense and personnel of the Department of Veterans' Affairs may be utilized. The Secretaries may also use representatives of military and veterans organizations and may enter into contracts with public and private entities to conduct the program.

Section 1144 would authorize appropriations for the Department of Labor of $4 million in fiscal year 1991 and $9 million in each of fiscal years 1992 and 1993; and for the Department of Veterans' Affairs of $1 million in fiscal year 1991 and $4 million in each of fiscal years 1992 and 1993.

The conferees are aware that the Department of Defense has initiated programs, such as the one operated by the Department of the Army, that complement and expanded transition assistance program offered by the Department of Labor. The conferees expect and encourage the Department of Labor and the Department of Defense to coordinate to the maximum extent possible their efforts to provide employment and transitional services. The conferees further expect the Department of Labor, the Department of Veterans' Affairs, and the Department of Defense to use the experience gained in conducting the existing Department of Labor pilot program when developing and implementing effective programs of expanded employment and transitional assistance.

With regard to the use of military family housing by personnel who are involuntarily separated, the conferees expect the Secretaries concerned to ensure that this benefit is provided prudently and that active duty personnel are not displaced or otherwise negatively affected by the exercise of this authority.

Travel and transportation allowances for persons discharged or released from active duty (sec. 503)

The House bill contained a provision (sec. 503) that would entitle all service members involuntarily separated during the five-year period beginning on October 1, 1990 to unrestricted selection of a new home and one year of non-temporary storage of baggage and household effects for the purpose of separation travel and transportation allowances.

The Senate amendment contained a similar provision (sec. 621).

The Senate recedes.

Continuation of enrollment in schools of the Defense Department's education system for dependents of members involuntarily separated (sec. 504)

The House bill contained a provision (sec. 504) that would authorize the dependents of an involuntarily separated service member to continue to attend a Department of Defense dependent school until the end of the enrollment period during which a member is separated, or until high school graduation if

the member is separated during or after the dependent's eleventh grade year.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The amendment would restrict this authority to dependents who have completed the eleventh grade at the time of the service member's separation or who are in the twelfth grade at the time. The conferees expect commanders to ensure that proper custodial arrangements are made to provide for the care and well being of dependents who remain in Department of Defense dependent schools under this authority.

Officer retention flexibility (sec. 521)

The House bill contained a provision (sec. 521) that would provide, among other officer management authorities, the authority for the Secretaries of the Military Departments to involuntarily separate regular officers.

The Senate amendment contained a similar provision (sec. 501) that would not include this particular authority.

The Senate recedes.

The conferees expect the Secretary of Defense to control the exercise of this particular provision judiciously. Regular officers are provided certain tenure guarantees upon their appointment. The conferees believe that these tenure guarantees should be honored as much as possible.

The conferees note that the Army made the strongest case for this authority. The Army acknowledged that it needed this authority to correct past mismanagement of regular officer augmentation resulting in an excess of regular officers in the mid-career grades. The conferees expect the Secretary of Defense to review the regular officer augmentation practices of the military Services to ensure they are regulated based on the regular officer needs of each Service.

Reduction in time in grade requirement for retention of grade upon voluntary retirement (sec. 522)

The House bill contained a provision (sec. 522) that would provide authority for the Secretaries of the Military Departments to waive from three to not less than two years the time in grade required for active duty officers in permanent grades above the O-4 grade to retire voluntarily in grade.

The Senate amendment contained a similar provision (sec. 502); however, the Senate provision would require a reduction in grade authorization for each waiver granted.

The Senate recedes with an amendment.

The amendment would limit the number of waivers that may be approved to not more than two percent of the authorized strength of the grade in which the officer requesting the waiver is serving.

Report on initial appointment of all officers as reserve officers and on the appropriate active duty service obligation of graduates of the military service academies (sec. 524)

The Senate amendment contained a provision (sec. 504) that would require the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives on the consequences of requring all officers of the armed forces to be appointed initially as reserve officers and on the appropriate active duty service obligation for graduates of the military service academies. The provision would also require that all officers be initially appointed as reserve officers and that the active duty service obligation for graduates of the military service academies be reduced to five years if the report is not submitted within 60 days of enactment of this bill.

The House bill contained no similar provision.

The House recedes.

Reduction in the number of appointments for the class of a Service academy entering in 1991 (sec. 531)

The House bill contained a provision (sec. 531) that would require that the entering classes of the military service academies in 1991 be at least 100 less than the classes that entered in 1990, with a target of reducing the size of entering classes to 1,000 by fiscal year 1995.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Repeal of authority of Administrator of Panama Canal Commission to nominate cadets and midshipmen (sec. 532)

The Senate amendment contained a provision (sec. 522) that would repeal the authority of the Administrator of the Panama Canal Commission to make nominations for appointments to the three military service academies.

The House bill contained no similar provision.

The House recedes.

Modification of the ten-year service obligation for graduates of the Uniformed Services Universities of the Health Sciences (sec. 533)

The House bill contained a provision (sec. 532) that would amend the ten-year active duty service obligation for graduates of the Uniformed Services University of the Health Sciences (USUHS) established in the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189) to require a seven-year active duty obligation and a three-year reserve obligation for a total service obligation of ten years.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The amendment would establish the following service obligations for USUHS graduates:

Active Duty—years	Reserve—years	Total—years
7	6	13
8	4	12
9	2	11
10	none	10

Recoupment of advanced education assistance (sec. 534)

The Senate amendment contained a provision (sec. 534) that would clarify the authority of the Secretaries of the Military Departments to recoup advanced education assistance funds when an individual fails to comply with the terms and conditions of an advanced educational assistance agreement.

The House bill contained no similar provision.

The House recedes.

Clarification of certain provisions of the Uniform Code of Military Justice (sec. 541)

The House bill contained provisions (secs. 541 and 542) that would clarify certain provisions of the Uniform Code of Military Justice.

The Senate amendment contained no similar provisions.

The Senate recedes with an amendment that would clarify the law concerning the qualifications for appointment to the Court of Military Appeals.

Services by notaries public (sec. 551)

The House bill contained a provision (sec. 551) that would include civilian attorneys acting as legal assistance officers in the list of officials authorized to perform the duties of notaries public.

The Senate amendment contained no comparable provision.

The Senate recedes.

Meaning of the term "office" under section 2071(b) of title 18, United States Code (sec. 552)

The House bill contained a provision (sec. 552) that would revise section 2071(b) of title 18, United States Code, to provide that the forfeiture of office penalty under section 2071 does not include the office held by any person as a retired officer of the armed forces of the United States.

The Senate amendment contained no similar provision, although the House provision is similar to legislation previously approved by the Senate.

The Senate recedes with a clarifying amendment.

Identification, treatment and rehabilitation of Coast Guardsmen for alcohol and drug dependency (sec. 553)

The House bill contained a provision (sec. 553) that would extend the requirement of current law that the Secretary of Defense provide facilities for and prescribe regulations governing the identification, treatment, and rehabilitation of military members who are dependent on alcohol or drugs to the Secretary of Transportation with respect to the Coast Guard.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would make this provision effective 30 days after enactment of this bill.

Advisory committee on mental health evaluation procedures (sec. 554)

The House bill contained three provisions (secs. 821, 823, and 824) concerning the procedural rights of members of the armed forces referred for a mental evaluation or involuntary psychiatric hospitalization.

The Senate amendment contained no similar provisions.

The House recedes with respect to sections 821 and 823 of the House bill. The Senate recedes with respect to section 824 of the House bill with an amendment that would require the Secretary of Defense to establish an advisory committee to recommend procedural protections for members of the armed forces referred for mental health evaluation or involuntary psychiatric hospitalization. The Secretary of Defense, after receiving a report from the advisory committee, would be required to prescribe regulations to provide appropriate procedural protections. The regulations would prohibit unjustified referrals undertaken for the purpose of retaliating against a whistleblower, and would ensure that any such prohibited action would be subject to prosecution under Article 92 of the Uniform Code of Military Justice.

Amendments to the Uniformed Services Former Spouses' Protection Act (sec. 555)

The House bill contained a provision (sec. 555) that would make two amendments to the Uniformed Services Former Spouses' Protection Act (USFSPA) (10 U.S.C. 1408).

The Supreme Court, in *McCarty v. McCarty*, 453 U.S. 210 (1981) ruled that military retired pay could not be subject to division between the military member and the member's spouse as part of a divorce proceeding absent a federal statute permitting such division. Congress subsequently passed USFSPA to permit the division of military retired pay under specified circumstances, and to provide certain other benefits to former spouses of retired members of the armed forces. The intent of Congress, as expressed in the legislative history, was for the new law to have prospective effect only. A number of courts, however, have interpreted the law differently, and have reopened pre-*McCarty* decisions in order to award a share of retired pay to former spouses.

The House bill would provide that if a final decree of divorce, dissolution, annulment, or legal separation was issued before the *McCarty* decision and did not treat military retired pay as the property of both the retired member and the former spouse, then the court, subsequent to *McCarty*, may not divide retired pay between the retired member and the former spouse. If a court, subsequent to *McCarty*, had entered such an order, the House bill would require the retired member to make any payments that were due before the date of enactment of this bill, but the member would be relieved of the obligation to make any further payments.

The House bill would also revise the computation of the amount of disposable retired pay that is subject to division under USFSPA. The current law excludes tax withholdings and certain federal debts of the servicemember. The House bill would eliminate these exclusions with respect to decrees of divorce, dissolution, annulment, or legal separation that become effective after the 90-day period beginning on the date of enactment of this bill.

The Senate amendment contained no comparable provision.

The Senate recedes with an amendment. The conferees agree that the original intent of Congress was to give prospective effect only to USFSPA without retroactive opening of pre-*McCarty* cases. The conferees believe, however, that a reasonable period of time is needed for individuals to make adjustments required by the termination of payments ordered under decrees issued prior to the date of enactment of this bill. Accordingly, the conference agreement would require individuals to continue to make payments ordered prior to the date of enactment of this bill during the two-year period after such enactment.

Authority for commissioned officers to sit on independent school boards (sec. 556)

The House bill contained a provision (sec. 556) that would amend section 973 of title 10, United States Code, to permit military officers to seek and hold nonpartisan civil office on an independent school board that is located exclusively on a military reservation.

The Senate amendment contained no comparable provision.

The Senate recedes.

Navy rations (sec. 557)

The Senate amendment contained a provision (sec. 521) that would conform the Navy's ration law to the ration laws for the Army and the Air Force.

The House bill contained no similar provision.

The House recedes.

Report regarding requirement for duty in support of National Guard and reserves (sec. 558)

The Senate amendment contained a provision (sec. 1423) that would require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives by April 15, 1991 on the desirability of requiring the assignment of two years of active duty in support of the reserves as a prerequisite for promotion above the grades of lieutenant colonel or Navy commander in the active components.

The House bill contained no similar provision.

The House recedes.

Prohibition on certain reserve service (sec. 559)

The Senate amendment contained a provision (sec. 1424) that would prohibit the assignment of members paid from National Guard or reserve personnel appropriations to ROTC units effective on October 1, 1992.

The House bill contained no similar provision.

The House recedes.

G.I. Bill eligibility for members involuntarily separated (sec. 561)

The House bill contained a provision (sec. 512) that would provide that involuntarily separated active duty individuals, to include those who previously made an election not to participate in the G.I. Bill, would be authorized to participate after agreeing to a $1,200 pay reduction.

The Senate amendment contained a similar provision (sec. 643).

The Senate recedes with a technical amendment.

Active duty G.I. Bill technical amendments (sec. 562)

The House bill contained a provision (sec. 513) that would make technical changes to the G.I. Bill program for active duty personnel.

The Senate amendment contained no similar provision.

The Senate recedes.

Participation of certain National Guard personnel in the G.I. Bill (sec. 563)

The House bill contained a provision (sec. 533) that would amend section 643 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189) in order to restore selected reserve G.I. Bill benefits to members of the National Guard serving on a full-time status under state control.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The amendment would provide the opportunity to participate in the G.I. Bill for active duty personnel to such members who are serving on active duty other than for training.

Veterans recruitment appointments

The House bill contained a provision (sec. 511) that would provide eligibility for direct, non-competitive appointments for federal employment for all Vietnam era and post-Vietnam era veterans.

The Senate amendment contained no similar provision.

The House recedes.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Military pay raise for fiscal year 1991 (sec. 601)

The House bill contained a provision (sec. 601) that would authorize a 4.1 percent pay raise for military personnel effective January 1, 1991.

The Senate amendment contained a similar provision (sec. 601) that would authorize a 3.5 percent pay raise for military personnel effective January 1, 1991.

The Senate recedes.

Modification of limitation on adjustment in variable housing allowance (sec. 602)

The House bill contained a provision (sec. 602) that would amend section 403a of title 37, United States Code, to clarify a provision in the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189). This provision of Public Law 101-189 specifies that the variable housing allowance (VHA) for a member may not be reduced to the extent that the total of basic pay, basic allowance for quarters, basic allowance for subsistence, and VHA received by a member would result in a lower total of these items than the month preceding the effective date of the most recent increase in the basic pay for the member.

The Senate amendment contained no similar provision.

The Senate recedes.

Physician special pays (secs. 611 and 612)

The House bill contained a provision (sec. 611) that would preclude payment of incentive special pay for multi-year contracts for physicians during fiscal year 1991. The provision would also authorize incentive special pay for medical officers in pay grade O-7 and above.

The Senate amendment contained no similiar provision.

The Senate recedes with an amendment.

The amendment would strike the House provision and instead: (1) authorize the Secretary of Defense to implement a new multi-year special pay to be used in conjunction with incentive special pay to retain medical officers based on specialty requirements; and (2) increase the variable special pay for medical officers in the pay grades of O-7 and above to the rate for officers in the pay grade of O-6 to dampen the effect of the reduction in income that results from promotion in certain specialties because of the termination of certain special pays.

Based on two years' experience with the medical officer retention bonus, the conferees are satisfied that a multi-year bonus is a cost effective approach to provide stability in managing the physician force. In conjunction with incentive special pay, a multi-year special pay can achieve desired retention goals and bring medical officer end strength by specialty more in line with requirements.

With regard to the multi-year special pay, the conferees provide the following guidance.

The new multi-year special pay should provide contracts for 2, 3 or 4 years with a maximum amount of $14,000 for each year of a 4-year contract. The multi-year special pay should only be payable to those who are specialty qualified and should not be paid to flag and general officers.

The primary purpose of multi-year special pay is to align actual retention with desired retention. Because retention needs may

vary by specialty, different levels of multi-year payment would be appropriate for different specialties. However, this desire for accuracy must be weighted against the need for simplicity. Consequently, the conferees believe that the multi-year special pay should consist of no more than three different levels. Specific specialists should not be identified directly with a level of multi-year special pay; rather, a specialty should be eligible to receive a particular level of multi-year special pay based on the need to meet and maintain end strength requirements for that specialty. Three categories (each with its own set of payments for 2-, 3-, and 4-year contracts) could be established; for example, one category could be for specialties exhibiting adequate or normal retention; a second category for specialties with a retention or end strength shortfall; and third category (offering the highest level of multi-year special pay) for specialists with priority retention or significant end strength shortfall.

The Assistant Secretary of Defense for Health Affairs, in consultation with the Military Departments, should associate each specialty with one of the three categories. To the greatest extent possible, association of specialties with categories should not vary across services. The primary, though not necessarily the only, reason for associating a specialty with a particular category should be the expected effect that level of multi-year special pay will have on meeting retention and end strength goals. For example, associating a specialty with the category "exhibiting acceptable, adequate or normal retention" would suggest that the specialty's recent historical and projected retention and end stength compared to projected requirements is near balance. Associating a specialty with the category "retention shortfall" would suggest that the specialty's recent historical and projected retention or endstrength compared to projected requirements is significantly less than desired. Associating a specialty with the category "priority retention" would suggest that the specialty's recent historical and projected retention or endstrength compared to projected requirements necessitates special compensation emphasis or that the size or composition of the specialty is such that changes in a single year could have dramatic effects on the end strength or distribution of that specialty.

The conferees intend that medical officers with existing contracts under the medical officer retention bonus be allowed to terminate that contract in order to enter into a contract under the multi-year special pay with an equal or longer obligation. The multi-year special pay will apply to an officer who—

"(1) is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer;

"(2) is in a pay grade below pay grade O-7;

"(3) has at least eight years of creditable service (computed as described in section 302(g) of title 37, United States Code) or has completed an active-duty service commitment incurred for medical education and training:

"(4) has completed specialty qualification (or is scheduled to complete residency training before October 1 of the fiscal year following eligibility for receipt of multi-year special pay)."

The conferees direct the Assistant Secretary of Defense for Health Affairs to submit to the Committees on Armed Services of the Senate and House of Representatives a report describing implementation of this authority within 90 days of enactment of this act. The report should include a discussion of the process that will be used to reassess the assignment of specialties to the various categories of multi-year special pays over time and of mechanisms for ensuring that substantial changes to an individual's total compensation will be minimized as the retention or end strength of the individual's specialty improves.

The conferees are concerned that the Department of Defense implement the new multi-year retention bonus in conjunction with incentive special pay (ISP) in a way that protects the original intent of ISP as a payment for specialty training. In addition, the conferees note that the Department of Defense should proceed cautiously in implementing any increase above the $22,000 in incentive special pay authorized for fiscal year 1991 in view of the additional $14,000 annual multi-year retention bonus payment authority provided by this section.

Extension of nurse incentive programs (sec. 613)

The House bill contained a provision (sec. 612) that would extend for one year, from September 30, 1991 until September 30, 1992, the expiration date of three new nursing incentive programs authorized last year: the nurse accession bonus, incentive special pay for nurse anesthetists, and the nurse candidate program. The provision would also clarify the restriction on the establishment of nurse candidate programs on campuses with Reserve Officer Training Candidate (ROTC) programs to apply only when such ROTC programs are operated by the same military Service.

The Senate amendment contained no similar provision.

The Senate recedes.

Extension of special pay for nurse anesthetists to other nursing specialties (sec. 614)

The Senate amendment contained a provision (sec. 613) that would authorize incentive pay for certified nurse-midwives and intensive care nurses.

The House bill contained no similar provision.

The House recedes with an amendment.

The amendment would broaden the authority granted last year for an incentive special pay for nurse anesthetists to allow the Secretary of Defense to prescribe this incentive special pay for any other nursing specialty that requires post-baccalaureate education and training for which there is a critrical shortage based on wartime or peacetime requirements. The amendment would also require the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives, each time the Secretary decides to implement such special pay, justification for the need for such incentive special pay and a description of how such incentive special pay will be implemented.

Authority to terminate selective re-enlistment bonus payments (sec. 615)

The Senate amendment contained a provision (sec. 611) that would authorize the Secretary of Defense to terminate the payment of selective re-enlistment bonuses to certain members who do not complete the term of enlistment for which the bonus was paid or who cease to perform in a specialty for which a bonus was paid.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the termination of bonus payments to those cases where members fail to complete the terms of enlistment.

Extension of authority for reserve medical bonus (sec. 616)

The Senate amendment contained a provision (sec. 1425) that would extend the test of a reserve medical bonus authorized in the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456) through September 30, 1992.

The House bill contained no similar provision.

The House recedes.

The conferees are concerned that reserve participants in this test program should not receive substantially higher payments than their active duty counterparts in the same health profession. The conferees expect the Secretary of Defense to make necessary modifications to the structure of the test program to ensure that such pay anomalies do not occur.

Retention bonus for optometrists (sec. 617)

The Senate amendment contained a provision (sec. 612) that would increase the special pay for optometrists.

The House bill contained no similar provision.

The House recedes with an amendment.

The amendment would strike the Senate provision and instead authorize the Secretary of Defense to prescribe regulations for paying a retention bonus of up to $6,000 per year to optometrists who have completed their initial active duty service obligation. The amendment would also require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives, when the Secretary decides to implement such bonus, justifying the need to pay such a bonus and describing the structure and operation of the bonus plan.

Provision of board certification special pay for nonphysician health care providers (sec. 618)

The Senate amendment contained a provision (sec. 614) that would authorize a special pay for podiatrists.

The House bill contained no similar provision.

The House recedes with an amendment.

The amendment would broaden the authority granted last year for board certification pay for psychologists to allow the Secretary of Defense to implement board certification special pays for non-physician health care providers with a post-baccalaureate professional degree. The amendment would also require the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives, each time the Secretary decides to implement such pay, justification for the need for such pay and a description of how such pay will be implemented.

Revival of authority to pay members for labor furnished in connection with the transportation of baggage and household goods (sec. 621)

The Senate amendment contained a provision (sec. 622) that would make permanent the authority provided in the National Defense Authorization Act for Fiscal Year 1986 (Public Law 99-145), for the payment of certain labor provided by a member of the uniformed services in connection with the transportation of baggage and household effects of the member.

The House bill contained no similar provision.

The House recedes.

Baggage and house weight allowance for cadets and midshipmen (sec. 622)

The Senate amendment contained a provision (sec. 624) that would authorize a 350 pound weight allowance for the shipment of the personal effects of cadets and midshipmen of the military Service academies.

The House bill contained no similar provision.

The House recedes.

Delay in effective date of optional high-tier survivor benefit plan coverage and open enrollment (sec. 631)

The House bill contained a provision (sec. 621) that would delay for one year (to October 1, 1992) the effective date of the optional high-tier coverage and open enrollment period provided for in changes to the Survivor Benefit Plan (SBP) made last year in the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would delay the effective date to April 1, 1992.

TITLE VIII—HEALTH CARE PROVISIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Repeal of prohibition on payment for services of pastoral counselors, family and child counselors, and marital counselors as a medical expense (sec. 702)

The House bill contained a provision (sec. 703) that would repeal the requirement for physician referral and oversight for psychotherapy services delivered by marriage and family therapists and pastoral and child counselors under CHAMPUS. The provision would also require such counselors to accept CHAMPUS reimbursement as full payment.

The Senate amendment contained a similar provision (sec. 703).

The Senate recedes with a technical amendment.

Limitations on inpatient mental health services (sec. 703)

The House bill contained a provision (sec. 702) that would: (1) reduce the limit on CHAMPUS inpatient psychiatric care from 60 to 30 days; (2) place a limit on CHAMPUS residential treatment center care of 90 days; (3) provide waiver authority for extension of both types of care; (4) require preadmission certification for non-emergency inpatient mental health care; (5) allow the Secretary of Defense to prescribe separate CHAMPUS cost-sharing for mental health services; and (6) require a plan from the Secretary of Defense by February 1, 1991 to reduce mental health care costs.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The amendment would: (1) prescribe a limit on CHAMPUS inpatient psychiatric care of 30 days for adults and 45 days for adolescents; (2) prescribe a limit on CHAMPUS residential treatment center care of 150 days; and (3) prescribe the following waiver authority:

". . . a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care of the patient, the intensity of services required by the patient, and the availability of that care."

The amendment would also prescribe an effective date for this provision of February 15, 1991.

The conferees agree that CHAMPUS mental health care costs must be contained. At the same time, the conferees are concerned that cost control measures do not adversely affect the provision of needed care. The conference agreement reflects this concern. The conferees expect the respective Manpower Subcommittees of the Committees on Armed Services of the Senate and House of Representatives to hold hearings on the issue of CHAMPUS mental health care and to recommend appropriate adjustments on the basis of the results of these hearings.

The conferees expect the respective Subcommittees to hear from a variety of groups, such as the General Accounting Office, the Congressional Budget Office, The National Institute of Mental Health, mental health care providers, mental health care beneficiaries, the Department of Defense, private sector health care managers, and other interested parties on the management as well as structure of the CHAMPUS mental health care benefit.

With regard to the waiver authority provided, the conferees expect the Secretary of Defense to prescribe procedures for the prompt, efficient disposition of waiver requests and to ensure that persons determined to be in need of inpatient or residential treatment center mental health care beyond the time limits prescribed are furnished appropriate care without interruption.

Limitation on reductions in medical personnel (sec. 711)

The House bill contained a provision (sec. 711) that would prohibit the reduction in the number of both military and civilian medical personnel below the number of such medical personnel serving on September 30, 1989, unless the Secretary of Defense certified to the Congress that the number of such personnel being reduced is excess to current and projected needs of the military Services and that such reduction will not increase CHAMPUS costs.

The Senate amendment contained a similar provision (sec. 701) except that it would not cover civilian medical personnel or the CHAMPUS cost certification requirement.

The Senate recedes.

Increase in annual deductibles under CHAMPUS for certain covered beneficiaries (sec. 712)

The House bill contained a provision (sec. 712) that would increase the outpatient CHAMPUS deductible for CHAMPUS beneficiaries from $50 per individual per year to $150 per individual per year, and from $100 per family per year to $300 per family per year, exclusive of beneficiaries of active duty personnel in pay grade E-4 and below.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would establish an effective date of April 1, 1991.

The conferees agree that CHAMPUS deductibles, which have not changed since CHAMPUS was enacted in 1966, should be adjusted to take into account increases in health care costs. The conferees view the adjustments made by this section as a baseline for further review of CHAMPUS deductibles by the Secretary of Defense.

In this regard, the conferees expect the Secretary of Defense to consider and make recommendations on alternative CHAMPUS deductible formulas, such as one based on pay grade, for the Committees to consider in review of the defense authorization request next year.

Collection from third-party payers of reasonable costs of health care services incurred on behalf of retired persons and dependents (sec. 713)

The House bill contained a provision (sec. 713) that would expand the current authority for the Department of Defense to collect health care costs for inpatient medical care provided in military hospitals from private insurance companies to include outpatient care. The provision would also authorize collection from Medicare supplemental insurance policies and from no-fault automobile insurance policies for inpatient and outpatient care provided to beneficiaries of these policies in military treatment facilities.

The Senate amendment contained a similar but more limited provision (sec. 702).

The Senate recedes.

The conferees are disappointed to note that a recent audit of the third party collection program by the Department of Defense Inspector General revealed major flaws. The audit showed that the Surgeons General for the Military Departments and military hosptials did not have sufficient guidance and support from the Assistant Secretary of Defense for Health Affairs to effectively implement and manage the third party collection program. The audit concluded that, unless the program is effectively implemented and executed, the military hospitals will fail to collect approximately $318 million from primary health insurance plans for fiscal years 1990 through 1994.

The conferees expect that the Department of Defense will correct these deficiencies, and will aggressively implement the expanded authority provided in this section.

Increase in the pay limit for personal services for direct health care providers (sec. 714)

The house bill contained a provision (sec. 714) that would increase the pay cap on personal services contracts for direct health care providers to provide the Military Departments with discretionary leverage to fill their direct health care manpower needs.

The Senate amendment contained no similar provision.

The Senate recedes.

Conditions on expansion of CHAMPUS reform initiative (sec. 715)

The House bill contained a provision (sec. 715) that would provide that CHAMPUS reform initiative (CRI) expansion may not proceed until 90 days after the Secretary of Defense certifies: (1) that CRI has been shown to be more cost effective than CHAMPUS or any other health care demonstration project being conducted by the Secretary; (2) that the contractor selected to underwrite the delivery of health care under CRI will accomplish expansion without disruption of services to CHAMPUS beneficiaries or delays in the processing of claims; and (3) the contractor is currently and is projected to remain financially able to underwrite CRI.

The report accompanying the Senate amendment (S. Rept. 101-384) contained similar language.

The Senate recedes.

Requirements prior to termination of medical services at military medical treatment facilities (sec. 716)

The House bill contained a provision (sec. 718) that would prohibit the closure of a military medical treatment facility or a reduction in the level of care provided in that medical facility, other than as a result of a base closure, until 90 days after the Secretary concerned notifies the Congress of the forthcoming action and submits a report that addresses the following issues: (1) the reason for the action; (2) the projected savings to the government by the action; (3) the effect on CHAMPUS and Medicare costs in the particular catchment area; (4) the effect on beneficiary cost-sharing; (5) alternative ways to provide care to the beneficiary population without degrading services; and (6) an explanation of how care will be provided to affected beneficiaries and the cost (if any) to those beneficiaries.

The Senate amendment contained no similar provisions.

The Senate recedes with an amendment.

The amendment would relieve the Secretary concerned from his requirement if the closure or reduction in services is a result of an operational deployment. The amendment would also establish a September 30, 1995 expiration date for this provision.

Criteria for full deployment of composite health care system (sec. 717)

The House bill contained a provision (sec. 716) that would direct that the Secretary of Defense may not proceed to full deployment of the composite health care system (CHCS) until the later of January 1, 1992 or 30 days after the Comptroller General certifies that the operational test and evaluation of the system has been conducted at a sufficient number of sites and with sufficient functioning software so that a full deployment decision may be made.

The report accompanying the Senate amendment (S. Rept. 101-384) amendment contained similar language.

The Senate recedes with an amendment that would permit limited partial deployment of elements of the CHCS that the Secretary of Defense certifies as operationally functional, cost effective, and needed to replace outdated existing systems.

Uniformed Services Treatment Facilities (sec. 718)

The House bill contained a provision (sec. 717) that would: (1) extend until December 31, 1991 the Uniformed Services Treatment Facility (USTF) status of ten former Public Health Services hospitals and clinics; (2) cap funding for the USTF program in fiscal year 1991 at $152.9 million; (3) vest the Comptroller General with the authority to examine all records of USTFs, including financial records; and (4) require a report from the Comptroller General on the amount and sources of funds expended by USTFs for lobbying during fiscal years 1989 and 1990.

The Senate amendment contained a similar povision (sec. 704) that would extend the current USTF status to December 31, 1994.

The Senate recedes with an amendment that would: (1) extend the USTF status until December 31, 1993; (2) cap funding for the USTF program in fiscal year 1991 at $154 million; and (3) require the Secretary of Defense and the USTFs to complete agreement on and begin implementation of a managed care delivery and reimbursement model by September 30, 1991. The conferees are anxious to see the managed care model in operation as expeditiously as possible and expect the department of Defense and the facilities to work jointly and cooperatively to achieve this goal. The conferees note that they are prepared to require mandatory arbitration if the third requirement is not completed on time.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authorization of appropriations for permanent change of station moves

The Senate amendment contained a provision (sec. 602) that would reduce the funds requested by the Department of Defense for permanent change of station travel for fiscal year 1991 by $200 million.

The House bill contained no similar provision.

The Senate recedes.

Reimbursement of adoption expenses

The Senate amendment contained a provision (sec. 631) that would make permanent the authority to reimburse military personnel for adoption expenses.

The House bill contained no similar provision.

The Senate recedes.

Repeal of limitation on payment of unemployment compensation for federal service

The Senate amendment contained a provision (sec. 645) that would repeal section 8521(c) of title 5, United States Code, so that separated military personnel would be entitled to the same unemployment compensation provided to unemployed civilians.

The House bill contained no similar provision.

The Senate recedes. The conferees urge the Senate Committee on Finance and the House Committee on Ways and Means to take expeditious action to equalize the unemployment compensation received by military and civilian workers.

Special pay for reserve medical officers

The Senate amendment contained a provision (sec. 1426) that would authorize reserve medical officers performing inactive-duty training to receive medical special pay for each period of such duty performed.

The House bill contained no similar provision.

The Senate recedes.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Advisory panel on streamlining and codifying acquisition laws (sec. 800)

The Senate amendment contained a provision (sec. 819) that would establish an advisory panel on streamlining and codifying acquisition laws.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Defense Systems Management College to establish a panel of recognized experts in acquisition law and procurement policy to review the acquisition laws applicable to the Department of Defense with a view toward simplifying the laws applicable to the defense acquisition process.

Authority governing operation of working capital funded activities (sec. 801)

The House bill contained a provision (sec. 801) that would expand the current authority in 2208(h) of title 10, United States Code, to authorize arsenals and other Army industrial activities to sell supplies, services, or work outside the Department of Defense if the articles to be sold may be incorporated into items to be sold to or used in contract with, or for the purposes of soliciting a contract with, a friendly foreign government, or will be used in commercial expendable launch vehicles.

The Senate amendment contained a similar provision (sec. 311).

The Senate recedes with an amendment. The conferees agree that the regulations described in this section should authorize payment to be made by a purchaser of articles or services using advanced incremental funding. These regulations should also provide that the authority to sell articles or services under this section may be exercised (subject to the authority, direction, and control of the Secretary of the Army) at the level of the commander of the major subordinate command of the Army with responsibility over the facility concerned.

Procedures for contract solicitation and evaluation (sec. 802)

The House bill contained a provision (sec. 802) that would establish procedures for the award of contracts without discussions when technical evaluation factors are more important than cost for purposes of selecting a contractor, provided that the relative order of importance of such factors and significant subfactors are listed in the solicitation.

The Senate amendment contained a provision (sec. 816) that would make it clear that contracts may be awarded without discussions if based upon life-cycle costs.

The Senate recedes.

Certified cost or pricing data threshold (sec. 803)

The House bill contained a provision (sec. 803) that would permit waiver of the requirement for submission of certified cost and pricing data for contracts between $100,000 and $500,000.

The Senate amendment contained a provision (sec. 817) that would increase the threshold for the submission of cost and pricing data from $100,000 to $500,000. The Secretary of Defense would be required to issue regulations to ensure that contracting officers, in procurements below the $500,000 threshold, have the information necessary to ensure that proposed prices are fair and reasonable.

The House recedes with an amendment that would increase the threshold to $500,000, require an Inspector General report on the effect of this change, and require the Secretary to issue regulations for procurements below the $500,000 threshold. The conference agreement includes a five-year sunset provision.

The Inspector General's report should include information on the following: (1) the total number of procurement actions below the threshold; (2) the number of actions below the threshold in which certified cost or pricing data was requested; (3) the reasons for requesting such data; and (4) the number of instances of defective pricing in those cases where the data were requested.

The Secretary shall ensure that the regulations implementing paragraph (c)(1) require the contracting officer to consider requiring submission of certified cost or pricing data in any case in which the offeror, contractor, or subcontractor: (1) has previously used fraudulent cost estimating or cost accounting practices in the performance of government contracts; (2) has had significant deficiencies in such estimating systems; or (3) has been the subject of sig-

nificant findings of defective pricing in such systems.

Repeal of requirement relating to commercial pricing for spare and repair parts (sec. 804)

The House bill contained a provision (sec. 804) that would repeal section 2323 of the title 10, United States Code, that requires contractors to submit a certification concerning the pricing of spare and repair parts.

The Senate amendment contained a similar provision (sec. 817(a)(2)).

The Senate recedes.

Competitive alternative source requirement (sec. 805)

The House bill contained a provision (sec. 805) that would repeal section 2438 of the title 10, United States Code, to provide increased flexibility in determining whether dual sourcing is appropriate for a major system or subsystem.

The Senate amendment contained a similar provision (sec. 815).

The Senate recedes with a technical amendment.

Uniform small purchase threshold for various requirements applicable to government contractors (sec. 806)

The Senate amendment contained a provision (sec. 813) that would establish a uniform $25,000 threshold for the applciation of certain socioeconomic statutory requirements to government contractors. This threshold would remain at that level until 1995, when it would be subject to adjustment for inflation every five years thereafter.

The House bill contained no similar provision.

The House recedes with an amendment that would delete the Solid Waste Disposal Act from the list of laws being modified.

The conferees believe that this is an extremely important initiative which should be reviewed in the 102nd Congress to expand the number of statutes covered by the uniform threshold.

Membership on Federal Acquisition Regulatory Council (sec. 807)

The House bill contained a provision (sec. 807) that would authorize the Under Secretary of Defense for Acquisition to designate an official at a grade level no lower than an Assistant Secretary to represent the Department of Defense on the Federal Acquisition Regulatory Council.

The Senate amendment contained a similar provision (sec. 814).

The Senate recedes.

Multiyear contracting enhancement (sec. 808)

Under current law, multiyear candidates must demonstrate a 10 percent savings over the cost of annual contracts.

The House bill contained a provision (sec. 835) that would remove this rigid percentage requirement and replace it with a requirement that multiyear candidates demonstrate "substantial savings."

The Senate amendment contained a similar provision (sec. 811).

The House recedes with a clarifying amendment.

Pilot program for major defense acquisition programs (sec. 809)

The Senate amendment contained a provision (sec. 818) that would authorize the Defense Department to select six major acquisition programs to test innovative procedures to enhance the performance of the acquisition process. If approved by the Congress, the Secretary of Defense could exempt a pilot program from specified statutory requirements, including those governing cost, schedule, performance, and congressional oversight. In addition, regulations otherwise applicable to the pilot program could be waived.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Congress to approve laws that would be waived when a major system is approved for participation in the pilot program.

Commercial products (sec. 810)

The Senate amendment contained a provision (sec. 812) that would codify certain requirements established in section 824 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189). In addition, it would require DoD to prescribe streamlined procedures for the acquisition of commercial products, and to establish test programs for the use of commercial bidders lists and the award of contracts for commercial products without discussions.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Department of Defense to conduct market surveys to determine if there are commercial products available to meet DoD requirements. The conferees emphasize the importance of extending the use of commercial products throughout the Department. The Department has not yet fully implemented the commercial products reforms enacted last year. The conferees agree that the initial implementation of these reforms should be completed before further new, major legislative initiatives are undertaken.

Clarification of small business concerns covered by section 1207 of Public Law 99-661 (sec. 811)

The House bill contained a provision (sec. 811) that would make it clear that advertising firms are included in the minority business contracting program under section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661).

The Senate amendment contained no similar provision.

The Senate recedes.

Additional prohibitions on convicted individuals (sec. 812)

The House bill contained a provision (sec. 812) that would include first-tier subcontractors under section 2408 of title 10, United States Code, which prohibits defense prime contractors from hiring individuals convicted of fraud or other felonies.

The Senate amendment contained no similar provision.

The Senate recedes.

Disclosure requirement relating to subcontractors (sec. 813)

The House bill contained a provision (sec. 813) that would require subcontractors to disclose to prime contractors whether they have been debarred, suspended, or proposed to be debarred or suspended from government contracting.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment that would provide that the disclosure requirement only applies to subcontractors that have been debarred or suspended by the federal government. The conferees emphasize that this requirement is intended to apply only to first tier subcontractors.

Expansion of procurement technical assistance program (sec. 814)

The House bill contained a provision (sec. 814) that would expand technical assistance provided by Procurement Technical Assistance Centers to contractors interested in doing business with federal agencies other than the Department of Defense. It would also authorize the use of funds to defray the expense of administering the program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would delete the statutory reference to assistance to other federal agencies, and clarify the administrative cost provision. A statutory reference for assistance to other federal agencies is unnecessary because nothing in current law prohibits the provision of such assistance as it relates to other federal agencies, and such assistance currently is being provided.

Post-employment rules (sec. 815)

The Senate amendment contained a provision (sec. 833) that would extend until May 31, 1991 the current suspension of section 27 of the Office of Federal Procurement Policy Act and a number of other laws containing post-employment rules for government employees (10 U.S.C. 2397a and 2397b, 18 U.S.C. 281, and 37 U.S.C. 801.)

The House bill contained no similar provision.

The House recedes with an amendment that would permit the suspended portions of the Office of Federal Procurement Policy Act dealing with source selection information and certain other matters to come back into effect on December 1, 1990, and would continue the suspension of the post-employment restrictions until May 31, 1991. The amendment also contains a technical amendment that would clarify a certification requirement under section 27 of the Office of Federal Procurement Policy Act. If a company decides to rely on certification executed prior to the suspension of section 27, it should take appropriate action to ensure that its employees are advised that section 27 has been reinstated.

Congress suspended section 27 and the other laws in the context of the comprehensive revision of the conflict of interest laws, including government-wide post-employment laws, contained in the Ethics Reform Act of 1989. The Ethics Reform Act suspended these laws until December 1, 1990, in order to provide an opportunity to determine whether they should be retained, modified, or repealed in light of the government-wide restrictions in the Ethics Reform Act. Unfortunately, the Administration did not submit a timely legislative proposal for consideration by the Congress. This is an extremely important area in view of the effect of post-employment restrictions on government employees. The conferees have extended the suspension of the post-employment restrictions with a view toward prompt action by the 102nd Congress to review and clarify these laws.

Critical technologies plan (sec. 821)

The Senate amendment contained a provision (sec. 801) that would direct the Department of Defense to include in each annual Defense Critical Technologies Plan an identification of all program elements which support development of one or more critical

technologies included within that program element, the allocation of funds to individual technologies within those program elements, and a comparison of these allocations to prior-year funding.

The House bill contained no similar provision

The House recedes.

The conferees affirm the language contained in the report accompanying the Senate amendment (S. Rept. 101-384) expressing disappointment over the Defense Department's inability to provide an adequate, comprehensive plan addressing the development of the technologies critical to the national defense. The conferees agree that the Defense Department's senior level management is hindered in effectively managing the Department's technology base projects because no means currently exists to rapidly and accurately identify funding levels allocated to, or planned for, each critical technology included in the Plan. The conferees believe that until the Director, Defense Research and Engineering implements a method to identify the principal basic research (6.1), exploratory development (6.2), and advanced development (6.3a) line items used to fund development of each critical technology, the Department's ability to exercise effective management oversight and control over its technology base program will remain significantly hampered.

Critical technologies institute (sec. 822)

The Senate amendment contained a provision (sec. 802) that would establish a federally funded research and development center (FFRDC) that would provide research and analysis support to the White House Office of Science and Technology (OSTP). This FFRDC, to be known as the Critical Technologies Institute, would be a nonprofit organization intended to support the OSTP, the President's Council of Advisors on Science and Technology (PCAST), and the Federal Coordinating Council on Science, Engineering and Technology (FCCSET) panels dealing with critical technology and industry issues.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Manufacturing technology (sec. 823)

The Senate amendment contained a provision (sec. 803) that would direct the Secretary of Defense to provide centralized guidance and direction to the Military Departments and Defense Agencies on all matters related to manufacturing technology (MANTECH). It would further direct the Secretary to prepare a National Defense Manufacturing Technology Plan and to establish a Joint Manufacturing Technology Office to be responsible for execution of all Defense Department MANTECH activities other than those specifically delegated to the military Services, the Defense Agencies, or the Strategic Defense Initiative Organization (SDIO). The Senate amendment would also direct the Defense Department, in conjunction with other Federal agencies and departments, to promote research in manufacturing technologies at the nation's universities and colleges, and to create transfer mechanisms to make the results of this research readily available to U.S. industry. The Senate amendment would provide specific direction to the Defense Department to promote the use of computer-integrated manufacturing, concurrent engineering, and manufacturing extension programs.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees believe that identifying a separate defense manufacturing technology program as an adjunct to the several military Service and Defense Agency industrial preparedness programs will provide the Department of Defense with an ideal mechanism to address longer term process technology problems. The conferees believe that the rapid pace of technological change now requires the development of advanced methods and processes in manufacturing technology for moving from research and technological development to delivery of high technology defense systems. This is an essential element in achieving significant savings in production that make high technology weapons affordable. In establishing this program, the conferees are acknowledging the recommendations of numerous national experts, Defense Science Board studies, nationally chartered commissions, and congressional studies, and concerns expressed by the Department of Defense.

The conferees anticipate that the savings achieved through the manufacturing technology and industrial preparedness programs will be well above the investment made in these activities and will start to be realized in a relatively short time.

The conferees also believe that the Defense Department's MANTECH activities, as carried out by the military Services and Defense Agencies, must be in accordance with the National Defense Manufacturing Technology Plan required by this provision if the defense MANTECH program is to achieve its greatest potential. The conferees intend that the National Defense Manufacturing Technology Plan will be the guiding document for all MANTECH activity and should be implemented by the Secretary of Defense accordingly. The Senate provision has been amended to require the Secretary of Defense to include in the MANTECH program only those activities that are specified as a part of the National Defense Manufacturing Technology Plan, unless the Secretary determines that one or more other programs are of a higher priority. The Secretary should update the Plan as technology is rationalized, or as the MANTECH program is adjusted by Congressional action in consideration of the Administration's future budget proposals.

The conferees recommend a MANTECH program authorization of $25 million in recognition of the complementary nature of this program and the several industrial preparedness programs which are separately authorized.

Independent research and development enhancement (sec. 824)

The Senate amendment contained a provision (sec. 805) that would amend chapter 139 of title 10, United States Code, to direct the Secretary of Defense to prescribe new regulations for payment of independent research and development (IRAD) or bid and proposal costs. Payment for such costs would be authorized for any work that is of potential interest to the Defense Department, including those IRAD projects that would strengthen the national defense industrial and technology base, that would enhance the Nation's industrial competitiveness, that would promote development of defense critical technologies, and that would support environmental research and development projects.

The House bill contained no similar provision.

The House recedes with a technical amendment.

The conferees share the concern expressed in the report accompanying the House bill (H. Rept. 101-665) that the anticipated reduction in defense procurement spending in the coming years may well have an adverse impact on the defense industry's IRAD program. The conferees endorse the direction contained in the House report that the Department of Defense review the structure and focus of its IRAD program to ensure its continued vitality and to report any recommendations concerning potential restructuring of the program to improve its effectiveness to the Committees on Armed Services of the Senate and House of Representatives no later than March 1, 1991.

Annual report on activities related to the defense industrial base (sec. 825)

The Senate amendment contained a provision (sec. 806) that would amend section 842 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189) to require the Department of Defense to expand the contents of its annual report on the defense industrial base. The report is to include an assessment of U.S. businesses' financial ability to maintain a viable production base in areas where major program terminations have occured, or are planned, and an assessment of the Nation's ability to expand the base in those areas in times of crisis. The provision would also require the Department to consider the impact of having existing U.S. defense contractors use commercial technology and equipment and of the defense industrial base's dependency on foreign or foreign-owned suppliers.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Defense industrial base for textile and apparel products (sec. 826)

The House bill contained a provision (sec. 834) that would direct the Secretary of Defense to submit to Congress an annual report for the next five years on the status of the domestic textile and apparel industrial base.

The Senate amendment contained no similar provision.

The Senate recedes. The conferees realize that reporting requirements impose administrative costs on the Defense Department; therefore, they expect to review the justification for this requirement after the reports for fiscal years 1991 and 1992 are submitted to Congress.

National defense laboratory and small business technology partnerships (sec. 827)

The Senate amendment contained a provision (sec. 804) that would require the Secretary of Defense and the Secretary of Energy to assist and reimburse the Secretary of Commerce if he develops model programs of cooperation among small businesses, state and local government-sponsored partnership intermediaries, and national defense laboratories. In addition, the directors of national defense laboratories would be permitted to enter into contracts or memoranda of understanding with partnership intermediaries to perform services for their laboratories. The provision also directed the Department of Defense and Department of Energy to issue necessary implementing regulations that would provide small businesses with contacts in the national defense laboratories, assist in arranging meetings, provide access to non-classified activities, and coordinate on the use of laboratory facilities

and equipment. The secretary of Commerce would be required to report on activities undertaken under the provision every three years.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees agree to a provision that would accomplish the objectives of the Senate provision by permitting the head of an agency which owns a laboratory to permit a laboratory director or the federal employee who is the contract officer for a federally-funded research and development center (FFRDC) to enter into a contract or memorandum of understanding with a partnership intermediary and to pay the federal costs of such an agreement. The contracts or memoranda of understanding would be for the purpose of performing services for the federal laboratory that increase the likelyhood of success in the conduct of cooperative activities between the laboratory and small business firms. The definition of a partership intermediary is clarified by explicitly including state programs receiving funds under cooperative agreements entered into under section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988. The triennial reporting requirements in the Senate provision is retained. The provision would also require the Secretary of Commerce, in consultation with the Secretary of Defense and the Secretary of Energy, to develop model programs to demonstrate successful relationships between the federal government and state and local governments which encourage economic growth through the commercial application of technology resulting from federally funded research.

Other technology transfer matters (sec. 828)

The Senate amendment contained a provision (sec. 804A) that would limit the scope of contract language implementing the National Competitiveness Technology Transfer Act of 1989 (NCTTA) to only such provisions specifically required by that Act and which cannot be effected by regulation. The provision would also prohibit the conditioning of the authorities granted under the NCTTA upon the issuance of agency waivers to inventions and intellectual property when not required by section 12 of the Stevenson-Wydler Innovation Act of 1980 and prohibit an agency from discouraging contractors from exercising rights granted pursuant to other statutes intended to foster technology transfer.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees are aware of concerns that the Department of Energy has included unnecessary and extraneous provisions in the contract modifications that the Department has proposed to implement the NCTTA, with the result that implementation has been delayed. In particular, concerns have been expressed about the inclusion of provisions relating to agency waivers to rights to inventions and intellectual property where such waivers are not required by section 12 of the Stevenson-Wydler Act of 1980.

The conferees agree to a provision that would amend the NCTTA to provide that contract provisions of the Act be limited to those necessary to carry out paragraphs (1) and (2) of subsection 3133(d) of that Act. The provision would apply to contract modifications entered into after enactment of the National Defense Authorization Act for Fiscal Year 1991.

The conferees direct the Secretary of Energy to review the contract provisions that have been proposed under the NCTTA to ensure that no unnecessary or extraneous provisions are included and to report the results of that review to the Congress within 30 days of enactment of this bill.

Pilot mentor-protege program (sec. 831)

The Senate amendment contained a provision (sec. 858) that would establish a mentor-protege program on a pilot basis. This program would encourage large defense contractors to enter voluntarily into agreements to enhance the capabilities of small disadvantaged businesses (SDBs) to perform in the defense subcontract vendor base. The mentor would impart to the protege firm the technical knowledge and skills to compete successfully in the defense marketplace. In addition, the program should increase the number of subcontracts awarded to SDBs.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees believe that the mentor-protege program provides a flexible framework for a mentor firm to develop SDBs capable of meeting available defense opportunities and should foster the establishment of stable, long-term business relationships. The conferees encourage mentor firms to negotiate agreements with emerging SBD's as well as more established firms.

Subsection (c) would establish qualifications required for protege firms. A protege firm must be a SDB as defined in the Small Business Act. In addition, the SDB may not be suspended, debarred, or otherwise ineligible for the award of a government contract. A mentor firm acting in good faith may rely on a written representation by a prospective protege as to its status as a SDB. Such self-certification may be protested using the same procedures as are currently in place for the administrtion of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661). During the protest, the mentor may provide developmental assistance, but if a protege firm is determined to be ineligible to participate in the program such assistance is not reimbursable.

Under subsection (d), two groups of firms would be eligible to participate as mentor firms: (1) contractors that conducted at least $100 million in business with the Department of Defense in the previous year; and (2) other firms as provided by the Secretary of Defense in the program implementing regulations. The conferees intend such regulations should encourage graduates of the Small Business Administration's section 8(a) program and other successful minority enterprises to participate as mentor firms. Mentor firms shall be approved by the Secretary for participation in the program.

Subsection (e) and (f) would provide for the negotiation of a mentor protege agreement that sets forth the business relationship between the parties and the types of developmental assistance that the mentor firm shall provide. The conferees intend that the developmental agreement should include agreed-upon factors to assess the protege firm's progress under the program and parameters concerning the number and type of subcontracts the protege firm may anticipate being awarded.

In providing the developmental assistance authorized by subsection (e), mentor firms should, to the maximum extent practicable, utilize the capabilities of small business development centers, historically Black colleges and universities, and procurement technical assistance centers.

Because participating in the program is voluntary, the conferees consider it essential that the agreement authorized by subsection (e) specify the procedures the parties will follow should termination of the agreement become necessary (e.g., a notice period prior to termination). Concerning terminations for cause, the conferees anticipate the agreement shall provide that, in addition to notice, copies of all communications regarding such termination will be sent to the Department of Defense's Office of Small and Disadvantaged Business Utilization. In addition, the agreement should require the mentor firm to furnish written notice of the proposed termination and the reasons therefor 90 days before the effective date of the proposed termination. The agreement should also specify the manner in which developmental assistance will be terminated.

The conferees emphasize that nothing in this subsection shall be construed as requiring a mentor and protege to terminate or otherwise impair a subcontract awarded under this program should either of the parties elect to terminate the mentor-protege agreement.

Subsections (f)(5) and (f)(6) would authorize the mentor to make loans to, and obtain an equity interest in, the protege firm. The conferees intend that the program regulations shall provide that the mentor firm shall not be eligible for reimbursement of the costs associated with making a loan to, or and equity investment in, a protege made under these subsections.

Under subsection (g)(2), a mentor firm would be eligible for the reimbursement of the costs (direct and indirect) incurred in providing developmental assistance to its protege firms provided that a ceiling is negotiated regarding the maximum amount of such costs.

Subsection (g)(3) would authorize a mentor firm to receive credit toward the attainment of its goals for subcontract awards to SDBs for unreimbursed costs that were not incurred in the award of a subcontract to the protege firm. Credit for these costs would be allowed on the theory that some protege firms may require more developmental assistance than can be reimbursed in the current budgetary environment. The conferees intend that such credit may be applied against the SDB's subcontract participation goal specified in the mentor firm's individual contracts or the goal negotiated on a company-wide or division-wide basis with the Department of Defense or other Executive agency.

The conferees intend that credit for these costs must not detract from the mentor firm's attaiment of its various goals for the award of actual subcontracts to SDBs. To prevent this from occurring, section (g)(3)(C) would authorize the Secretary of Defense to adjust the amount of credit that a mentor firm may receive for these costs. To provide a measure of the mentor firm's performance regarding actual subcontract awards during its participation in the program, the implementing regulations shall provide for the establishment of a subcontract participation baseline at the time the mentor firm enters the program. A mentor firm's performance can then be measured against such baseline. In the event that a mentor firm's actual subcontract awards are found to be declining, the Secretary may adjust the allowance for the credit of these

costs after the mentor is provided an opportunity to present an explanation for the decline.

The conferees intend that the Defense Department should exercise vigorous oversight to prevent the use of this credit for unreimbursed costs in a manner that will result in the decrease in the number of subcontracts awarded by the mentor to SDBs. The Department should include in the biannual report to the Congress required by section 1207 of Public Law 99-661 an assessment of the effect of the allowance of credit for these costs on the number of subcontracts actually awarded SDBs by mentor firms, and the extent to which this credit encourages mentor firms to participate in the program.

The conferees emphasize that the success of this program will be measured largely by whether the number of subcontracts awarded to SDBs increases. To provide a focal point within the Department, the conferees direct that the Department's Office of the Small and Disadvantaged Business Utilization be designated to administer the program.

Enhancing participation of historically Black colleges and minority institutions in defense research (sec. 832)

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661) established a five-percent goal for the award of defense contracts to small disadvantaged businesses, historically Black colleges and universities, and other minority institutions.

The Senate amendment contained a provision (sec. 1221) that would direct the Secretary of Defense to establish a separate goal, as a subset of the five-percent goal, for the participation of historically Black colleges and other minority institutions in the performance of defense research. In addition, it would authorize the Defense Department to establish programs to provide "infrastructure" assistance (e.g., scholarship, faculty development, teaming agreements with defense laboratories, and laboratory renovation) necessary to compete for defense research contracts.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Equal employment opportunities relating to an Army contract (sec. 833)

The House bill contained a provision (sec. 831) that would prohibit the procurement of C-23 Sherpa aircraft unless the Secretary of the Army secures a commitment from the contractor on equal employment opportunities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit the effect of the provision to fiscal year 1991.

Evaluation of contracts for professional and technical services (sec. 834)

The Senate amendment contained a provision (sec. 821) that would authorize the Secretary of Defense to prescribe regulations to ensure that, to the maximum extent practicable, professional and technical services are acquired on the basis of the task to be performed rather than on the basis of the number of hours of services provided. The provision would also increase the threshold limitations concerning the use of master agreements provided in section 804 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189).

The House bill contained no similar provision.

The House recedes. The conferees direct the Secretary to establish a mechanism for assessing the effectiveness of the regulations required by this provision and the Department's May 1990 policy memorandum of uncompensated overtime. Such a mechanism should measure the extent of the use of uncompensated overtime. The conferees emphasize that nothing in this provision should be construed as taking a position on the type of accounting system or procedures that contractors should use in the performance of professional services contracts.

Requirement to use domestically manufactured carbonyl iron powders (sec. 835)

The House bill contained a provision (sec. 815) that would direct the Secretary of Defense to require that only domestically manufactured carbonyl iron powders are used in systems procured by the Defense Department.

The Senate amendment contained no similar provision.

The Senate recedes.

Suspension of payments (sec. 836)

The House bill contained a provision (sec. 816) that would require the head of the agency to suspend certain payments under a contract if the agency's "remedy coordination officials" determines that there is substantial evidence that a payment request is based on fraud.

The Senate amendment contained a provision (sec. 855) that would provide the head of the agency the discretion to suspend such payments if he determines there is substantial evidence that the request is based on fraud.

The Senate recedes with an amendment that would require the agency's remedy coordination officials to make a recommendation to the head of the agency to suspend or reduce a progress payment where there is substantial evidence that the payment is based on fraud. The conferees note that there may be various compelling reasons for the head of the agency not making such suspension. Such reasons may include, but not be limited to, undue interference with a law enforcement investigation and national security.

The head of the agency would be required to make a determination whether there is substantial evidence that the request is based on fraud, and is authorized to suspend or reduce such payments. Prior to making the determination to reduce or suspend the payment, the head of the agency must provide the contractor notice of the possible determination to reduce or suspend a payment and the opportunity to be heard on the matter.

Not more than 180 days after the head of an agency suspends or reduces a payment, the remedy coordination official shall review the determination of the head of the agency and make a recommendation to such agency head whether the suspension or reduction should continue. The head of the agency shall submit an annual report to the Secretary of Defense that sets forth the recommendations made by the remedy coordination official to reduce or suspend payments and action taken on the recommendation. Such reports shall be available to members of Congress upon request. The Department is urged to issue implementing regulations expeditiously.

Defense contractor requirements with respect to employees who communicate with government officials (sec. 837)

The House bill contained a provision (sec. 822) that would require the Department of Defense to establish specific procedures to protect employees of defense contractors from retaliation for communication with government officials on illegal activities.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifing amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Transportation of components and ingredients of supplies in United States vessels

The House bill contained a provision (sec. 334) that would expand the cargo preference for transportation of supplies on United States vessels to include "components and ingredients."

The Senate amendment contained no similar provision.

The House recedes.

Overseas severance pay

Under current law, the costs of severance pay to foreign nationals employed DOD service contractors outside the U.S. are unallowable to the extent that such costs exceed customary costs for similar U.S. firms. The Senate amendment contained a provision (sec. 820) that would provide a limited exception to this general prohibition in circumstances in which a similarly situated business in the host nation would be required to make the same payment.

The House bill contained no similar provision.

The Senate recedes. The conferres agree that the issues raised by the Senate proposal warrant reconsideration in the next Congress.

Alternative personnel management demonstration programs for certain federal government laboratories

The Senate amendment contained a provision (sec. 834) that would direct the Director of the Office of Personnel and Management, acting through the appropriate executive agencies, to designate federal laboratories for participation in alternative personnel management demonstration programs.

The House bill contained no similar provision.

The Senate reluctantly recedes.

Payment of mass transit costs of employees under defense contracts

The Senate amendment contained a provision (sec. 857) that would require the Secretary of Defense to issue regulations requiring that the mass transit costs of contractor employees performing under a defense contract be allowable in the same manner as employee parking costs.

The House bill contained no similar provision.

The Senate recedes. At the present time, there is no specific cost principle governing the allowability of employee parking costs. The conferees direct the Secretary to conduct a study to assess the desirability and feasibility of establishing such a cost principle.

Contingency fees in lobbying

The Senate amendment contained a provision (sec. 1226) that would make it unlawful for a person to receive a fee for certain lobbying activities that was made contingent upon specified governmental decisions.

The House bill contained no similar provision.

The Senate recedes. The conferees agree that this is an important issue which should be addressed through appropriate regulations or legislation, but believe that the details should be examined in hearings before further legislative action is undertaken.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

National military strategy reports (sec. 901)

The House bill contained a provision (sec. 1032) that would require the Secretary of Defense to submit a national military strategy report to Congress for each of the next three fiscal years, including a copy of a report by the Chairman of the Joint Chiefs of Staff, setting forth the strategic plans for that year. The JCS Chairman's strategic plans would cover a 10-year period and would correspond to three alternative sets of assumptions about world conditions and defense funding levels. The Secretary's report would include comments on the Chairman's plans, the Secretary's recommendations for a national military strategy, its relationship to the Defense Department's multiyear defense program, and the relationship of the strategy to the budget request.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would refocus the report on output and require two excursions based upon either the addition or decrease of $50 billion in budget authority.

The conferees note that the ability of the Secretary of Defense, the JCS Chairman, and the Joint Staff to produce a comprehensive and fiscally-constrained national military strategy has improved markedly each year since the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433). The conferees believe that the process has now matured to the point that this report can be of immeasurable assistance to the President and the Congress in reaching agreement on a strategy-based and resource-constrained budget for our national security.

The conferees realize the enormity of this task but understand and are encouraged that a new national military strategy development process, the Joint Strategic Planning System (JSPS), was implemented in January 1990. It reflects the greatly increased role and influence of the Chairman and the Joint Staff in this process.

The conferees encourage the Secretary to involve himself personally in the process and note that without reasonable fiscal projections, the final product will be far less valuable than it could otherwise be. The conferees serve notice that they expect this report to be a major focus of hearings as they address future DOD budgets.

The conferees would evaluate the report and the capability of the underlying process by assessing it in the light of the following questions:

(1) Does it include an appropriate discussion of the current and projected threat?

(2) Does it assess military force contributions to the achievement of national objectives?

(3) Does it describe the military strategy for achieving those objectives?

(4) Does it describe the organization and structure, including the size and composition of each of the armed Services, as well as the manpower and organizational elements of the unified and specified combatant commanders, required to implement the strategy?

(5) Does it describe the broad mission areas (such as land warfare, air warfare, maritime warfare, littoral warfare, homeland defense, strategic nuclear warfare, space warfare, strategic transportation, and special operations) and broad support requirements (such as readiness, sustainability, logistics and other support, reserve and ready force assignments, sealift and airlift and surface transportation, and forward basing) to implement the strategy?

(6) Does it address the priorities assigned to major weapons and equipment acquisitions to support the strategy?

(7) Does it address requirements for research and development to support the strategy?

Joint Staff (sec. 902)

The House bill contained a provision (sec. 1033) that would amend title 10, United States Code, to establish a national military planning staff within the Joint Staff; to repeal the cap on the size of the Joint Staff; and to require that any increases in the size of the Joint Staff be offset by corresponding decreases in the size of the Service headquarters staffs.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit the initiative to a repeal of the statutory cap on the size of the Joint Staff.

The conferees note that the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) gave the Chairman, JCS, a pivotal role, particularly with respect to the preparation of fiscally constrained strategic plans and advising the Secretary of Defense on the extent to which the Services' budget proposals conform with priorities established in strategic plans and with the requirements of the unified and specified combatant commanders. As a result, the Chairman needs an independent and skilled staff whose numbers are adequate to perform the myriad of assignments necessary to support him. The conferees urge that the size of the Joint Staff be determined and reductions, if any, be taken only as a result of a comprehensive and careful analysis of the assignments it must perform and not as a result of a mathematical distribution of quotas.

Authority of chiefs of reserve components (sec. 903)

The House bill contained a provision (sec. 1034) that would amend sections 3038(a), 5251(a), and 8038(a) of title 10, United States Code, to specify that the chiefs of the reserve components have command and control of their respective components. The provision would also require the Secretary of the Army to submit a report on the implementation plan to the Committees on Armed Services and Appropriations of the Senate and House of Representatives not later than 60 days after enactment of this bill, and would specify that implementation begin not later than 90 days after enactment and be completed not more than one year later.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would establish an Army Reserve Command as a major subordinate command of U.S. Forces Command (FORSCOM) for a test period of two years after enactment of this bill; would require the Secretary of the Army to make semiannual reports to the Committees on Armed Services of the Senate and House of Representatives detailing the evolution and status of command relationships and responsibilities; and would require the Secretary of the Army to establish an independent commission to examine and report on the Army Reserve Command after the command has been in existence for a year.

The conferees agree that the provision in the House bill would principally affect the Army Reserve; the Chiefs of the Air Force and Naval Reserves already have command and control of their respective components.

The conferees are pleased that the Army has initiated actions to establish an Army Reserve Command. The conferees are concerned, however, that command and control relationships between active and reserve forces, which are perceived by many as contributing factors to the relatively low readiness status of the Army Reserve, are not sufficiently changed in the current Army plan to provide actual command and control to the Chief of the Army Reserve. Specifically, the conferees note that the Chief of the Army Reserve should command all non-mobilized reserve units, with the exceptions included in the amendment. This would essentially give the Chief of the Army Reserve the same command relationship to Army Reserve units as that of the Chief of the Air Force Reserve and Director of the Naval Reserve to their units. In this respect, the relationship between the Continental U.S. Armies (CONUSAs) and Army Reserve units interposes an active command between the Chief of the Army Reserve and Army Reserve units. The conferees understand that the roles and requirements for the CONUSAs are currently under review. The conferees believe that if they are retained in the command structure the CONUSAs' relationship with Army Reserve units should be similar to their relationship with Army National Guard units when they are in a non-mobilized status. For this reason, the command relationship should evolve during the test period to one that vests administrative and operational control of non-mobilized Army Reserve units in the Chief of the Army Reserve.

The conferees suggest that the Secretary of the Army make every effort to ensure that the Army Reserve Command is a distinct and separate, subordinate entity of FORSCOM as is normally the case for a major subordinate command. The amendment would also require the Secretary of the Army to establish an independent commission to assist him in assessing the progress and effectiveness of the Army Reserve Command and to make recommendations regarding the command structure and progress in establishing the command. The conferees intend that the commission assist the Secretary in examining these command-related issues.

Security investigations (sec. 904)

The House bill contained a provision (sec. 1036) that would amend title 10, United States Code, to preclude the expenditure of funds for the conduct of an investigation for a security clearance if a current, complete investigation has been or is being conducted by another department or agency.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify what would be considered a "current" investigation file.

Twenty percent reduction in the acquisition workforce (sec. 905)

The Senate amendment contained a provision (sec. 902) that would mandate a 20 percent reduction in the defense acquisition workforce by fiscal year 1995.

The House bill contained no comparable position.

The House recedes.

Personnel reduction in headquarter activities (sec. 906)

The Senate amendment contained a provision (sec. 903) that would reduce the number of personnel in management headquarters activities and headquarters support activities by four percent per year for five years.

The House bill contained no similar provision.

The House recedes.

Intelligence priorities and reorganization (sec. 907)

The Senate amendment contained a provision (sec. 940) that would require the Secretary of Defense, together with the Director of Central Intelligence, to conduct a joint review of all intelligence and intelligence-related activities, programs, and components in the Department of Defense. The following types of actions, among others, would be taken with respect to those endeavors and entities: consolidate functions and operations to improve efficiency and effectiveness; revise priorities and resource allocations to reflect the 1990s; and improve the utility of national intelligence systems to the combatant commanders.

In addition, the overall number of personnel in all intelligence and intelligence-related activities, programs, and components of the Department of Defense—as of September 30, 1990—would be reduced by not less than five percent during each of fiscal years 1992 through 1996.

The House bill contained no similar provision.

The House recedes.

The conferees are aware, as noted among other items in the report accompanying the Senate amendment (S. Rept. 101-384), that the Secretary and the Director have had a comprehensive, major review underway for some time of the Defense Department's various intelligence and intelligence-related activities, programs, and components. The results of this review, and the Secretary's subsequent decisions with the Director, may be available in the first few months of fiscal year 1991. These materials no doubt will help the Congress be aware of the Administration's view of both its efforts so far to implement the changes and reductions mandated by this provision in the near and far terms, as well as the assessed effects of this provision. Nothing in this provision would preclude the President from submitting whatever budget proposal in this area he deems appropriate.

The conferees anticipate that the contents of the Administration's report will form one of the bases for hearings which the Congress will be conducting in the coming months and years on the complex set of issues addressed in this provision, as outlined also in the Senate report. The Congress intends to thereby gauge the progress made in the implementation of this provision by both the Secretary of Defense and the Director of Central Intelligence.

Fund for unified and specified combatant commands (sec. 908)

The Senate amendment contained a provision (sec. 905) that would establish a fund for fiscal year 1991 under the management of the Chairman of the Joint Chiefs of Staff for activities of the commanders of the unified and specified combatant commands.

The House bill contained no similar provision. However, the report accompanying the House bill (H. Rept. 101-665) contained a recommendation to authorize $100 million for a fund similar to that in the Senate amendment.

The House recedes with an amendment that would add joint exercises as an activity that may be funded; establish the funding for the fund at $35 million; and clarify limitations on the use of the fund.

The conferees note that the inclusion of the Commander United States Element, North American Aerospace Defense Command, is a result of the command's unique status, as the only command to which "combatant" forces may be assigned, other than a unified or specified combatant command. The conferees will not consider extending the authority to participate in this fund to any other non-combatant command.

The conferees support the establishment of a permanent fund available for the purposes outlined by this provision and direct the Secretary of Defense to include funding for such a fund as a separate line item in future budget requests.

Study and plan regarding mobility requirements (sec. 909)

The Senate amendment contained a provision (sec. 911) that would require the Secretary of Defense to provide an updated Congressionally mandated mobility study.

The House bill contained no similar provision.

The House recedes with an amendment that would include consideration of surface transportation needs and alternatives and provide that the study be developed in two parts. The first part on inter-theater mobility objectives and alternatives would be due by March 29, 1991. The second part, dealing with intra-theater concerns, would be provided by June 28, 1991.

Elimination of statutory position of Chief of Naval Research (sec. 910)

The Senate amendment contained a provision (sec. 912) that would eliminate the statutory requirement under section 5021 of title 10, United States Code, that the Chief of Naval Research must be an active duty naval officer.

The House bill contained no similar provision.

The House recedes.

Preparation of budgets for professional military education (sec. 911)

The House bill contained a provision (sec. 1021) that would amend title 10, United States Code, by adding a new section that would require the Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, to establish a uniform cost accounting system for professional military education schools; require budget requests for such schools to be set forth separately; ensure that the views of the Chairman are carefully considered; and require that budget justification materials compare the budgets of the various schools.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify the important role of the JCS Chairman.

Authority of the Naval War College to confer degree of Master of Arts in National Security and Strategic Studies (sec. 912)

The House bill contained a provision (sec. 1022) that would authorize the president of the Naval War College to award a Master of Arts degree to graduates of the college who meet required prerequisites.

The Senate amendment contained no similar provision.

The Senate recedes.

Continuation of authority of base commanders over contracting for commercial activities (sec. 921)

The House bill contained a provision (sec. 1011) that would codify in permanent law section 1111 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180), better known as the "Nichols Amendment." The Nichols amendment requires the Secretary of Defense to delegate to base commanders authority over the commercial activities/contracting out program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees agree to extend the current authority of base commanders over the commercial activities/contracting out program through September 30, 1991.

Repeal of prohibition on certain depot maintenance competitions (sec. 922)

The Senate amendment contained a provision (sec. 313) that would repeal section 2466 of title 10, United States Code, which currently prohibits the Army and the Air Force from competing depot maintenance tasks between the Army and the Air Force or between the Army or the Air Force and a private contractor.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees agree to suspend section 2466 of title 10, United States Code, in order to allow an evaluation of a pilot program for competition of depot maintenance workload in the Army and Air Force. This one-year pilot program will be limited to one Air Force logistics center and one Army depot, and should also include one Navy aviation depot for comparative purposes. The Secretary of Defense, or his designee, will select the depots and the workload to be included in this competition.

In carrying out this pilot program, the Secretary shall insure that all DoD activities competing for depot maintenance workload are required to submit bids based on comparable estimates for direct and indirect cost factors. In addition, the Secretary shall insure that any successful bid includes estimates for all direct and indirect cost factors, including all direct and indirect cost factors included in bids submitted by private firms.

In addition, the conferees direct the Secretary not to open for competition depot maintenance workload that will cause an Army depot or Air Force logistics center to operate below its optimum level of efficiency.

The Secretary of Defense should submit a report to the Committees on Armed Services of the Senate and the House of Representatives by March 31, 1992 explaining the basis for the installations and workload selected to participate in this pilot program and a detailed explanation of the pilot program's results.

LEGISLATIVE PROVISIONS NOT ADOPTED

Joint Requirements Oversight Council

The House bill contained a provision (sec. 1031) that would establish in law a charter for the Joint Requirements Oversight Council (JROC) to bring the Council's processes into consonance with the provisions of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

The Senate amendment contained no similar provision.

The House recedes. The conferees note that the JROC charger has recently been updated, and in its revised form, makes great progress toward addressing the various deficiencies identified in the report accompanying the House bill (H. Rept. 101-665). The conferees commend the Defense Department for its responsiveness and willingness to address this matter in such a positive manner.

While the majority of the policy objectives detailed in the House report have been met by the revised charter, the conferees find three areas where the new charter would benefit from further elabortion or explicit discussion. The conferees direct the Defense Department to consider further changes to address these concerns.

First, the conferees believe it is important that the charter clearly and explicitly specify the function of the JROC in determining whether military requirements are affordable given constrained defense resources. This role is implied by the revised charter language; however, the conferees consider this function indispensable to the development of an effective and discriminating military requirements process and believe it should be explicitly stated and defined.

Second, the conferees are concerned over the support status afforded in the JROC charter to officers assigned to Serivce staffs. The conferees believe that the JROC charter should make it clear that the Joint Staff has the exclusive role of serving as the JROC staff in support of the JROC Chairman. However, the conferees also believe that the Chairman should have the flexibility to assign the necessary personnel to provide specialized support for the JROC in unique circumstances.

Finally, the conferees believe that the charter should specify a more explicit linkage between the functions of the JROC, the requirements validation process, and the national military strategy process.

Military investigations

The House bill contained a provision (sec. 1035) that would amend title 10, United States Code, by adding a new section that would regulate investigations convened by the Secretary of Defense into incidents that involve a major question of performance of missions assigned to the armed forces or is otherwise of significant public concern

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that both the Committees on Armed Services of the Senate and House of Representatives have significant concerns about the conduct of administrative fact-finding investigations by the military Services. These concerns grew out of the two committees' reviews of several important investigations in the various Services during the past year. These reviews included a number of public hearings on the conduct of the Navy's investigation into the explosion on the USS IOWA.

Partly as a result of the IOWA investigation, the conferees became concerned about both the appearance and propriety of an individual military Service being solely responsible for the conduct of an investigation into circumstances that raise substantial public concern about the performance of the Service itself. The IOWA case was by no means the first instance of this problem. There is invariably public skepticism whenever a Service investigates and clears itself. Such an investigation, even if factually credible, often appears to be biased.

The problem is more complicated, however. If an institution investigates and clears itself, that investigation may lack credibility with the public. An outside, independent investigator would help to solve that problem. On the other hand, if an institution investigates itself and finds fault, the institution is more likely to take corrective action. Whereas, if an outside investigator finds fault, the institution is more apt to turn defensive and seek to avoid corrective action.

The conferees are convinced that the involvement of an entity outside of the Military Departments is required to address these concerns. Accordingly, the conferees direct the Secretary of Defense, using such resources as he deems best suited to such an effort, to review the rules and procedures utilized by the Military Departments in conducting, reviewing, and acting on administrative fact-finding investigations of the type described by the House bill.

The conferees urge that particular attention be paid to the following issues: civilian oversight of the process; the procedures for reviewing and acting on investigations; protection of rights of individuals, living and deceased, including whether there should be a right not to be identified as responsible for wrongdoing or shortcomings without due process, even though criminal or administrative action is not taken against them; a clear, unambiguous, and uniform standard of proof for the administrative finding of facts and conclusions, and the making of recommendations; accountability of commanders and commanding officers, including rules governing submission of adverse information to officer selection boards; the desirability of uniformity among the Military Departments with respect to these rules and procedures; and the need for an investigative or advisory organization within the Department of Defense, but outside the Military Departments, to conduct or oversee the investigation of certain types of incidents.

With respect to the last issue, the conferees note that the investigation into the USS VINCENNES shoot-down of an Iranian Airbus was convened, conducted, and reviewed by the operational chain of command; that is, convened by the Commander-in-Chief of the U.S. Central Command (CENTCOM), the combatant commander; conducted by the Director of Operations on the CENTCOM staff; and reviewed by the Chairman, Joint Chiefs of Staff, and the Secretary of Defense.

As part of this review, the conferees expect that recommendations will be presented to the Secretary as to changes in the rules and procedures of the Military Departments that would improve and, where feasible, make uniform the administrative investigative process, and proposals for investigations to be conducted by entities outside the Military Departments.

Report on prepositioning locations of fast sealift ships

The House bill contained a provision (sec. 1509) that would require the Secretary of Defense to examine criteria for choosing locations for prepositioning fast sealift ships and to consider basing such decisions on the likely port of embarkation of such ships in a deployment.

The Senate amendment contained no similar provision.

The House recedes with the understanding that such concerns will be addressed in the Defense Department's study of mobility objectives and alternatives required by this bill.

Repeal of restriction on contracting out core logistics functions

The Senate amendment contained a provision (sec. 312) that would repeal section 2464 of title 10, United States Code, which restricts the acquisition of "core logistics functions" by commercial contracts. Repeal of this provision would allow these functions to be reviewed for contracting out under OMB Circular A-76.

The House bill contained no similar provision.

The Senate recedes.

TITLE X—MILITARY DRUG INTERDICTION AND COUNTER DRUG ACTIVITIES

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Authorization for fiscal year 1991 (sec. 1001)

The House bill contained provisions (secs. 301, 351 and 352) that would reduce the amended budget request for counter drug activities to $939.9 million by severely reducing the requests for the OTH-B radar and tactical intelligence activities. It would, however, provide additional authorization for the Civil Air Patrol (CAP) and for support for law enforcement agencies and increase the National Guard procurement budget. Section 352 would also clarify authority for the Department of Defense to provide support to law enforcement agencies.

The Senate amendment contained provisions (secs. 301, 1101 and 1102) that would fund the Defense Department's request and would provide detailed breakout by category and specific components of each category of the amounts authorized to be appropriated for drug interdiction and counter drug activities. It also would authorize funds for the CAP, law enforcement support, and National Guard activities not in the budget request. The Senate amendment also would authorize the Relocatable Over-the Horizon Radar (ROTH-R) as an alternative to the OTH-B, provide $6 million for an interim commercial OTH system, and provide no funding for the OTH-B. Like the House bill, it also would provide certain clarifications of authority for the Department of Defense to provide support to law enforcement counter drug activities.

The Senate recedes with an amendment. The conferees are pleased with the Defense Department's diligent efforts to adhere to Congress' mandate to provide detailed budget justification for the drug interdiction program. Because the budget process is evolving and because the Department submitted several drug interdiction Congressional Justification Books (CJB), the conferees found it difficult to review the overall program in a cohesive manner. The conferees chose to use the February 1990 CJB as the baseline budget request. The significant actions taken with regard to funding are as follows:

National Guard activities

The conferees are very pleased at the enthusiastic response that the state National Guard units have provided to the drug interdiction program. All states submitted their plans, and funding was allocated by the Department in accordance with priorities established within each state. The conferees believe the National Guard makes a significant contribution to the war on drugs and wishes to encourage participation. The conferees direct that $143.5 million be authorized for National Guard activities (procurement: $38 million and pay and allowances: $105.5 million). The conferees also direct that $3.2 million from the Operation and Maintenance account be used for a law enforcement and National Guard pilot training program developed by the California National Guard to conduct a course to train guardsmen in "street" law enforcement activities. The conferees express their support for an initiative to provide external auxiliary fuel tanks for Army National Guard UH-1 helicopters for drug enforcement missions in support of the Drug Enforcement Agency and authorize $5 million of the $38 million for this project. The conferees direct that no funds be expended for procurement of National Guard equipment until the DoD Coordinator for Drug Enforcement Policy and Support has reviewed and approved the procurement.

Tactical intelligence and related activities

The conferees note that 58 percent ($703.6 million) of the counter drug budget request ($1,207.9 million) is in the Tactical Intelligence and Related Activities (TIARA) account. This includes the OTH-B radar. The conferees are concerned that significant overlap and duplication may exist in programs not only within this account but with programs outside TIARA as well. For example, there is a proliferation of flying airborne reconnaissance and detection and monitoring platforms. When the aerostats, ground radars, and AWACs platforms are added to these, the Defense Department has arrayed a host of electronic collection systems focused on the drug problem. This array of systems, if not closely coordinated, may be excessively redundant or worse, may create gaps in coverage. The conferees wish to stress the importance of coordinating and integrating these efforts into a cohesive detection and monitoring network.

The amended budget request included $34.7 million for the Army Small Aerostat Surveillance System (SASS). Each system consists of a tethered aerostat platform equipped with a modified F-16 radar that is operated from contractor-leased ships. In its new counter drug role, SASS is to fill gaps in fixed radar coverage of drug trafficking routes. The fiscal year 1991 amended budget request would provide funds to continue operation of two SASS boats, finish modification of a third, and begin contracting for modification of a fourth leased SASS boat. The conferees agree that the SASS boats have the potential of providing greater effectiveness and flexibility in the employment of radar coverage in support of the counter narcotics effort, but believe that additional operational experience with these systems in a counter drug role is needed to provide adequate justification for a fourth and perhaps additional systems. The conferees, therefore, agree to provide $23.5 million to continue funding for the two currently operational boats, finish modification of a third boat (that is about half-way through the conversion process), and fund its operation for the balance of fiscal year 1991. The conferees emphasize that the reduction of the Administration's request is made without prejudice for the system or its operational effectiveness to date.

The budget request contained $10.4 million for Grisly Hunter and $37.7 million for the Airborne Reconnaissance Low (ARL) programs.

The House bill would authorize the Grisly Hunter request but would denty the request for ARL. The Senate amendment would do the reverse. The committees, however, expressed similar concerns about the justification and integration of these programs.

As a result of these concerns, the Department of the Army has moved rapidly to clarify requirements and to combine these two programs. The conferees agree to authorize $47.7 million for the consolidated program in fiscal year 1991 and agree further to approve the fiscal year 1990 reprogramming request (FY 90-32PA) providing an additional $6 million for this program.

The conferees also agree to approve the fiscal year 1990 reprogramming request (FY 90-19PA) to provide an additional $10 million to the fiscal year 1990 Grisley Hunter program.

The conferees further direct that budget requests for ARL pertaining to fiscal years 1992 and beyond be consolidated under a single ARL account.

The budget request also contained $53.8 million for SENSOR MIX III, an Air Force program to develop and field land-based aerostat balloons that provide radar coverage of the U.S. southern border from Florida to California. The conferees agree that the Air Force has failed to articulate an adequate justification for acquisition of a new site in San Clemente, California and therefore reduce by $20 million that part of the request that relates to this aerostat.

The amended budget request contained $22 million to complete concept definition and to procure the first of four long-range radars for Colombia's west coast with future sites planned for Colombia, Ecuador, and northern Peru. The request also included $5.1 million in operation and maintenance to continue operation of four mobile radars already operating in Colombia. The conferees agree that authorizing $22 million in procurement funds for this program is premature, although they would fully support the fielding of land-based radars as a result of a coordinated and unified program execution. They also agree to continue the $5.1 million to operate the four mobile radar systems already deployed in Colombia.

Research and development

The conference authorize $47.7 million for research, development, test and evaluation. This amount represents an increase of $27.4 million. The conferees direct that the Defense Department dedicate a substantial proportion of these funds to the effort to develop technological means to detect drugs hidden within containerized cargo. The conferees are aware that significant technological advances have been made in this area and believe that success in developing such a means could have a greater impact on the national counter-drug effort than all of the other activities of the Department combined.

Over-the-horizon radar (sec. 1002)

The conferees agree that an over-the-horizon capability may prove to be a significant detection tool in the drug interdiction mission. However, the Defense Department has not demonstrated adequately the OTH-B capability against small, low-flying, slow-moving targets similar to those seen transporting drugs. A panoply of detection platforms (aerostats, radars, and aircraft) are currently employed in the war on drugs. Any additional expenditure of the magnitude envisioned for this type of radar should be fully analyzed and justified. Therefore, of the funds authorized in section 1001 for Procurement, the conferees authorize $25 million for an over-the-horizon capability. Prior to expenditure of any of these funds, the conferees direct a study be conducted to examine the requirement and capability of such a radar and that certain certifications be provided in the event such a system is deemed necessary. The conferees are aware of a commercial OTH technology currently available for this purpose and direct that $6 million be used to fund this system as an interim measure while the requirement for such a capability is studied.

Civil Air Patrol (sec. 1003)

Again this year the Air Force did not provide any funding for the Civil Air Patrol (CAP) for drug interdiction activities. The conferees agree that this mission is helpful and direct that of the funds authorized in section 1001 for Operations and Maintenance, $1 million be expended to perform this function. The CAP expenses for actual or training drug reconnaissance missions, including per diem and necessary administrative expenses incurred in supporting such missions for federal, state, and local agencies, shall be funded from this amount without reimbursement by those agencies.

Additional support for counter drug activities (sec. 1004)

Section 1212 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189) authorized military assistance to law enforcement agencies with counter drug responsibilities and provided $40 million for such assistance. The Defense Department encountered a number of perceived legal obstacles in carrying out the provisions of that section and did not obligate most of the funds earmarked for this support. The conferees are disappointed that assistance to law enforcement was not provided to the degree it should have been during fiscal year 1990 and for that reason wish to clarify the intent of this language in this section. The conferees in this section provide eight types of support that may be provided by the Department in support of federal, state, local, and, in some cases, foreign law enforcement agencies. The conferees would expect prior notification to the Congress of activities conducted pursuant to subsections (b) (3), (4) and (5) of this section as it relates to support to foreign law enforcement agencies. The conferees direct that of the funds authorized in section 1001 for Operations and Maintenance, $50 million be authorized for support.

Transfer of excess defense articles (sec. 1005)

The Senate amendment contained a provision (sec. 1103) that would call on the Secretary of Defense to identify excess equipment resulting from the withdrawal from Europe and Asia for transfer to state or local law enforcement authorities pursuant to existing law.

The House bill contained no similar provision.

The House recedes with an amendment that would include federal law enforcement authorites as eligible to receive excess DOD property.

Effective utilization of counter narcotics funds (sec. 1006)

The Senate amendment contained a provision (sec. 1104) that would express the sense of the Congress that the Secretary of Defense and the Chairman of the Joint Chiefs of Staff must continue to emphasize the Defense Department's commitment to the counter-drug mission to ensure that funds are fully and effectively utilized.

The House bill contained no similar provision.

The House recedes.

Report on Defense Department counter drug spending (sec. 1007)

The Senate amendment contained a provision (sec. 1004) that would require the Comptroller General to submit a report concerning the utilization of Defense Department counter drug funds in fiscal years 1989 and 1990 and analyzing the effectiveness of the Office of the DoD Coordinator for Drug Enforcement Policy and Support.

The House bill contained no similar provision.

The House recedes with an amendment that would set a deadline for submission of the General Accounting Office report and add additional committees of the House of Representatives as recipients of the report.

Study of utility of OH-58D helicopters (sec. 1008)

The Senate amendment contained a provision (sec. 1105) that would require the Secretary of Defense to conduct a study on the feasibility and effectiveness of utilizing OH-58D helicopters for aerial surveillance missions related to drug smugglers along the southwest border. The Secretary would consider the suitability of the OH-58 for this mission and the feasibility of having the Army National Guard operate and maintain them when such personnel are not in federal service. The provision would also call for consideration of funding and coordination mechanisms.

The House bill contained no similar provision.

The House recedes with an amendment that would narrow the scope of the study by deleting consideration of funding and coordination mechanisms.

Andean anti-drug efforts (sec. 1009)

The Senate amendment contained a provision (sec. 1106) that would require submission of a joint report to the Congress by the Secretary of State and the Secretary of Defense, in consultation with the Director of the Office of National Drug Control Policy, concerning U.S. policies, activities, and training programs for countering narcotics in the Andean region.

The House bill contained no similar provision.

The House recedes.

Multilateral counter narcotics strike force (sec. 1110)

The Senate amendment contained a provision (sec. 1107) that would express the sense of the Congress that the President should call for international negotiations for the establishment of a multilateral strike force to counter international drug trafficking.

The House bill contained no similar provision.

The House recedes with an amendment that would reorganize and clarify the provision.

Counter narcotics technology assessment center (sec. 1011)

The Senate amendment contained provisions (secs. 1501-1502) that would establish a counter-narcotics technology assessment center under the Chief Scientist within the Office of National Drug Control Policy to serve as the central counter-narcotics enforcement research and development organization of the United States Government.

The House bill contained no similar provision.

The House recedes with an amendment that would delete language relating to the level and pay of the Chief Scientist and his staff. The conferees note that technological advances have the potential to make a dramatic contribution to the national counter drug effort, particularly with respect to the detection of illegal substances hidden in sealed containers. The conferees expect that the center will ensure that gaps do not develop in the development of technology and believe the focus must be on the development of technologies that have the potential for realistic application.

LEGISLATIVE PROVISIONS NOT ADOPTED

Efforts by private industry

The Senate amendment contained a provision (sec. 1503) that would express the sense of the Congress that private industry should cooperate with law enforcement agencies in connection with drug related communications.

The House bill contained no similar provision.

The Senate recedes.

Test program for purchase of law enforcement equipment for states

The House bill contained a provision (sec. 832) that would establish a test program for States to purchase law enforcement equipment through the Department of Defense.

The Senate amendment contained no similar provision.

The House recedes.

The conferees believe that this concept is worthy of careful study to determine its feasibility and, if feasible, to determine the best means for its implementation. The conferees believe that the concept should be focused on equipment which would be suitable for counter-drug activities so as to bound the problem and to address the most significant law enforcement challenge facing our nation. Finally, the conferees believe that this concept, if feasible, has the potential to make a significant contribution to the national counter-drug effort.

Accordingly, the conferees direct the Secretary of Defense, in consultation with the Director of National Drug Control Policy, to conduct a study of, determine the feasibility of, and develop an implementation plan for a program under which states would be authorized to purchase law enforcement equipment suitable for counter-drug activities through the Department of Defense at no additional cost or liability to the Department, except for minimal administrative costs. The Secretary of Defense shall submit a report on the study, including conclusions as to the feasibility of the concept, with supporting rationale and a plan for implementation, no later than May 31, 1991 to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives.

TITLE XI—OPERATION DESERT SHIELD

OVERVIEW

On August 2, 1990, Iraq invaded and occupied Kuwait and treatened the other nations of the Persian Gulf region. The ensuing crisis has resulted in the largest deployment of U.S. military forces since the Vietnam War. There are currently over 150,000 U.S. military personnel deployed in the Persian Gulf region as part of Operation Desert Shield. President Bush has also exercised his authority under section 673b of title 10, United States Code, to order up to 48,800 members of the National Guard and Reserve to active duty to support this deployment.

The House bill, which was debated in September 1990, contained a number of provisions directly related to Operation Desert Shield.

The Senate amendment, which was debated before the deployment of U.S. forces, contained no similar provisions. The Senate Armed Services Committee subsequently reported a bill (S. 3144; S. Rept. 101-480) concerning Operation Desert Shield.

The conferees agree to a number of provisions that would address the needs of U.S. forces deployed overseas as part of this operation.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Supplemental funds for fiscal year 1990 (sec. 1101)

The House bill contained a provision (sec. 1502) that would provide additional authorizations for fiscal year 1991.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide supplemental authorizations for costs incurred in fiscal year 1990 in connection with Operation Desert Shield.

The conferees expect the Secretary of Defense to submit a request for supplemental appropriations to the extent necessary to fund the implementation of authorities provided in this title for fiscal year 1991.

Accounting for costs of Operation Desert Shield (sec. 1102)

The House bill contained a provision (sec. 1507) that would require the Secretary of Defense to maintain separate financial and cost records for Operation Desert Shield.

The Senate amendment contained no similar provision.

The Senate recedes.

The House bill contained a separate provision (sec. 1508) that would limit use of funds received from foreign nations to assist in defraying the costs of Operation Desert Shield unless authorized in a law other than an appropriations act.

The Senate amendment contained no similar provision.

The House recedes. Section 2608 of title 10, United States Code, which was enacted as part of Public Law 101-403, requires that all such contributions for the Defense Department be placed in the Defense Cooperation Account, and that such funds be separately authorized and appropriated. This new law achieves the same result as would have been achieved by the House provision.

Personnel benefits (secs. 1111, 1114, 1115, 1116, and 1117)

The House bill contained a provision (sec. 1503) that would authorize: (1) imminent danger pay for service personnel serving in the Persian Gulf in connection with Operation Desert Shield; and (2) variable housing allowances and special pay for reserve medical and dental officers called to active duty (other than for training) in conjunction with Operation Desert Shield.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize the variable housing allowance and medical special pay benefits for fiscal years 1990 and 1991, authorize personnel deployed in Operation Desert Shield to participate in a special savings program and receive payments for certain unused leave, and require a study of options for reforming the basic allowance for subsistence. The amendment would also authorize the Secretary of Defense to pay imminent danger pay for periods of active duty served in the Persian Gulf after August 1, 1990 in connection with Operation Desert Shield.

The amendment would further authorize the Secretary of Defense to exceed the active duty end strengths prescribed in section 401 by an additional .5 percent (beyond the .5 percent currently provided in section 115 of title 10, United States Code) if the Secretary of Defense certifies to the Committees on Armed Services of the Senate and House of Representatives that the additional end strength is necessary to accommodate operational requirements for Operation Desert Shield.

Sense of Congress concerning activation of a National Guard combat brigade (sec. 1112)

The House bill contained a provision (sec. 1504) that would express the sense of Congress that the President should order at least one Army National Guard combat brigade to active federal service for deployment in the Persian Gulf region in connection with Operation Desert Shield.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Technical amendment concerning mailing privileges for members of the armed forces participating in Operation Desert Shield (sec. 1113)

The House bill contained a provision (sec. 1505) that would provide authorization to reimburse the Postal Service for the free mailing privilege accorded members of the Armed Forces assigned as part of Operation Desert Shield.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The funds would be provided through authorization of appropriations for operation and maintenance. The amendment would also revise the underlying free mail statute to cover the mailing of video as well as audio tapes.

Procurement flexibility for small purchases (sec. 1121)

The House bill contained a provision (sec. 1506) that would permit use of simplified procurement procedures for contracts to be awarded and performed (or purchases to be made) outside the United States in support of Operation Desert Shield if the value of the contract or purchases is $100,000 or less.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

TITLE XII—DEFENSE ACQUISITION WORKFORCE

OVERVIEW

In 1986, the Packard Commission described the Department of Defense (DoD) acquisition workforce as "undertrained, underpaid, and inexperienced." The Commission emphasized the direct relationship between personnel reform and acquisition reform by noting: "Whatever other changes may be made, it is vitally important to enhance the quality of the defense acquisition workforce—both by attracting qualified new personnel and by improving the training and motivation of current personnel."

The House bill contained provisions (title IX) that would establish a new statutory and regulatory structure for management of the defense acquisition workforce, and establish a professional acquisition corps. The House provisions were based on a review of the defense acquisition workforce by the House Armed Services Committee, reflected in two reports: "The Quality and Professionalism of the Acquisition Workforce," (HASC Committee Print No. 10) and "Life Is Too Short: A Review of the Brief Periods Managers of Major Defense Acquisition Programs Stay on the Job," (HASC Committee Print No. 12). The House provisions are described at 136 Congressional Record H-7377 (daily ed. Sept. 11, 1990). The House based its provisions, in part, upon efforts to professionalize the acquisition workforce by groups such as the National Contract Management Association, which has established a certification process for professional contract managers.

The Senate amendment contained a provision (sec. 831) that would require the Secretary of Defense to prescribe regulations for management of the defense acquisition workforce, and another provision (sec. 832) that would provide incentives for acquisition personnel.

Title XII of the proposed bill, "The Defense Acquisition Workforce Improvement Act," would set forth the conference agreement on these provisions.

Defense Acquisition Workforce (secs. 1201-1202)

The conference agreement would establish a new chapter 87 of title 10, United States Code, entitled "Defense Acquisition Workforce," that would include the following provisions:

Section 1701 of title 10, United States Code, would require the Secretary of Defense to establish policies and procedures for the effective management of the acquisition workforce, and to ensure uniformity in their implementation.

Section 1702 would assign responsibility for management of the acquisition workforce to the Under Secretary of Defense for Acquisition, subject to the authority, direction, and control of the Secretary of Defense. It is the intent of the conferees that the Under Secretary coordinate closely with the Assistant Secretary of Defense for Force Management and Personnel in the development and implementation of acquisition personnel policies.

Section 1703 would establish the position of Director of Acquisition Education, Training, and Career development in the office of the Under Secretary. It is the intent of the conferees that, in addition to any other duties assigned by the Under Secretary, the Director would: (1) formulate training, education, and career development policies for persons serving in acquisition positions; (2) oversee the implementation of this chapter and report to the Under Secretary on the effectiveness of such implementation within each military department, within the Office of the Secretary of Defense, and within the Defense Agencies; and (3) coordinate the overall management of the acquisition training, education, and career development programs within the Department of Defense.

Section 1704 would assign responsibility for management of the acquisition workforce within a military department to the Service Acquisition Executive for that department. It is the intent of the conferees that the Service Acquisition Executive coordinate closely with the Department's Assistant Secretary for Manpower and Reserve Affairs and the senior military personnel officer within the Department in the development and implementation of acquisition personnel policies.

Section 1705 would establish the position of Director of Acquisition Career Management in each of the Military Departments. In addition to duties assigned him by the Service Acquisition Executive, the Director would: (1) monitor compliance with the provisions of this chapter within that military department; (2) coordinate the management of the acquisition workforce in that military department; (3) serve in that military department as the principal liaison between (A) military and civilian senior officials with responsibility for personnel development in the various acquisition fields, and (B) military and civilian personnel managers; and (4) serve as executive secretary to, and provide support for, the acquisition career program board of that military department.

Section 1706 would establish acquisition career program boards in each of the Military Departments, and in the Office of the Secretary of Defense, composed of senior acquisition and personnel officials. The boards would: (1) develop and recommend to the Service Acquisition Executive concerned appropriate policies and actions for managing the acquisition workforce; (2) provide technical advice in the various career fields within the acquisition workforce; (3) assist in monitoring and evaluating the effectiveness of career programs; (4) assist in reviewing and examining candidates for appointment to the Acquisition Corps established under section 1731; and (5) perform such other duties as may be assigned.

The legislation would provide the Secretary of Defense and the Secretaries of the Military Departments discretion in defining the structure of the respective acquisition career program boards. The conferees believe that the authority to establish a hierarchical board structure, to which functions of the acquisition career program board may be delegated, is necessary, given the complexity of the responsibilities assigned to the board. Subordinate boards at command headquarters and other major acquisition organizations might be needed to facilitate the screening of personnel for the acquisition corps, advising on the designation of critical acquisition positions, and advising on the execution of waivers authorized by this title.

Section 1707 would require the Secretary of Defense to ensure that the acquisition workforce policies and procedures required by this chapter are implemented for the Office of the Secretary of Defense (OSD) and the Defense Agencies. This provision is intended to ensure that the acquisition workforce in OSD and the Defense Agencies is managed by policies, procedures, and practices similar to the management of the acquisition workforce in the Military Departments. It is the conferees' intent that wherever in chapter 87 a power or duty is assigned to the Secretary of a Military Department, the Secretary of Defense shall ensure that an official in the Office of the Secretary of Defense exercises the same powers and duties with respect to personnel assigned to OSD and the Defense Agencies.

Section 1721 would require the Secretary of Defense to designate in regulations those

positions in the Department of Defense that are acquisition positions under chapter 87. A separate provision of the bill (sec. 1209(b)) would require the Secretary to make these designations not later than October 1, 1991. The conferees have provided the Secretary with considerable flexibility in making these designations, but intend that the Secretary take a broad view in determining which positions should be included in the acquisition workforce.

Section 1722 would require the Secretary of Defense to establish career paths to assist acquisition personnel in preparing for advancement. Positions in the acquisition workforce could not be reserved exclusively for military personnel unless specified as military positions under published criteria. To ensure adequate input from acquisition personnel in performance reviews, this provision would provide an opportunity for the performance appraisal of a person serving in an acquisition position to either be made or commented on by a person serving in an acquisition position in the same career field. This provision would also note the importance of developing policies that take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in government service.

Section 1723 would require the Secretary to establish education, training, and experience requirements for all acquisition positions, which go into effect October 1, 1993. Under a separate provision of the bill (sec. 1210(b)), the requirements must be published not later than October 1, 1992.

Section 1724 would require the Secretary of Defense to establish qualification requirements for contracting positions, which go into effect October 1, 1993. Under section 1210(b) of the bill, the requirements must be published not later than October 1, 1992. This provision contains waiver provisions and additional protections for persons holding these positions before the new requirements become effective. This provision would also "grandfather" personnel who, on October 1, 1991, have at least ten years of appropriate acquisition experience.

Section 1725 would direct the Secretary of Defense to submit proposed new rules governing civil servants to the Office of Personnel Management (OPM) which has 30 days in which to disapprove the draft. In the absence of any OPM action, proposed new rules would be deemed to be approved by the OPM director. The purpose of this section is to ensure that OPM is given the opportunity to approve civilian personnel policies.

Sections 1731-1732 would require the Secretary of Defense to ensure that each Military Department establishes an Acquisition Corps for each Military Department. In addition, the Secretary must establish at least one Acquisition Corps for OSD and the Defense Agencies. The Acquisition Corps for the Military Departments would include civilian and military personnel selected for the Corps. The legislation would provide the Secretary of Defense with discretion to determine whether military personnel assigned to OSD and the Defense Agencies should be assigned to an Acquisition Corps in OSD and the Defense Agencies or in their parent military organization.

These provisions would also require the Secretary of Defense to establish qualification requirements for the Acquisition Corps, effective October 1, 1993. Under section 1210(b) of the bill, these requirements must be issued not later than October 1, 1992. This provision contains waiver provisions and exceptions for persons with specified acquisition experience.

The provisions would also require the Secretary to ensure that military personnel who are selected for the Acquisition Corps are competitive in terms of promotions with their peers outside the acquisition workforce. The Secretary of Defense would be authorized to require persons in the Acquisition Corps to sign mobility agreements. This provision would require the Secretary to determine which categories of persons in the Acquisition Corps should be required to sign such agreements.

Section 1733 would designate all acquisition positions in civilian grades GS-14 and above, and military grades 0-5 and above (as well as certain other positions) as critical acquisition positions. Selected positions at the GS-13 and 0-4 level would also be designated as critical positions. Effective October 1, 1993, critical positions must be filled by members of the Acquisition Corps. Section 1736 contains protections for persons holding a critical position on October 1, 1992.

Section 1734 would establish a general three-year minimum tour length for service in a critical acquisition position, and a program milestone tour length requirement for program managers and deputy program managers of major defense acquisition programs. There would be a limited waiver authority, which could be exercised only in exceptional circumstances. It is the conferees intent that this waiver authority be exercised only in limited circumstances involving matters such as relief for cause or poor performance, extreme personal hardship, or a higher critical requirement in the Department. The conferees intend that the justification for use of such waiver authority be carefully documented and not simply declared. Routine personnel practices, such as promotions or routine service assignment policies, should not be used as the basis for a waiver. The tenure requirements apply to a person who is first assigned to a position after the tenure requirement becomes effective under section 1734.

Section 1735 would establish minimum qualification requirements for program managers, deputy program managers, program executive officers, general and flag officers, Senior Executive Service personnel, and senior contracting officials. Under section 1736, these provisions would be effective October 1, 1991, for program managers, and October 1, 1992, for the other positions. Section 1736 also contains protections for persons holding these positions before the new requirements become effective.

Sections 1741-1745 would require the Secretary of Defense to provide education and training programs for acquisition personnel. Programs and incentives authorized under these provisions would include an intern program, a cooperative education program, a scholarship program, reimbursement for training leading to a degree, and a student loan repayment program. Section 1745 would also provide the Department of Defense with authority to utilize certain additional educational benefits under section 4107(d) of title 5, United States Code.

Section 1746 would require the Secretary of Defense to establish a defense acquisition university structure. The purpose of the acquisition university structure would be to provide for the professional educational development and training of the acquisition workforce, as well as research and analysis on defense acquisition policy issues. The conferees intend for the Under Secretary to establish a charter and an organizational structure for the university program. Under the conference agreement, the Department may choose to provide for one or more institutions under the university program, but the conferees intend for the program to be centrally directed and managed through a unified university structure.

Section 1761 would require the Secretary of Defense to ensure that the Military Departments and the Defense Agencies establish a management information system capable of providing standard information to the Secretary on the defense acquisition workforce.

Section 1762 would provide the data collection requirements associated with this title. This section lists the minimum data elements required for management and oversight of the start-up of the Acquisition Corps.

Section 1763 would authorize the Secretary of Defense, on and after October 1, 1993, to transfer the responsibilities assigned to the Under Secretary of Defense for Acquisition under this chapter to a different senior official. This provision is intended to provide future Secretaries of Defense with discretion to reorganize the Office of the Secretary based on changing circumstances or needs. The conferees emphasize, however, that any such transfer must be to a single official, and that this authority may not be used to divide the responsibilities among more than one official.

Section 1764 would authorize the Secretary of Defense to establish alternative minimum experience requirements until 1998. The conferees intend for this authority to be used only if the Secretary determines that he cannot fill available positions under the statutory experience requirements. Any such alternative requirement may be authorized only for a year at a time, and the reasons for the use of an alternative requirement must be promptly reported to Congress.

Pay for certain officers holding critical acquisition positions (sec. 1203).

The conference agreement would authorize special retention pay for officers in critical positions who extend beyond their time of eligibility for retirement in order to complete minimum tour lengths.

General management, transition and other miscellaneous provisions (secs. 1204-1211)

The conference agreement contains a number of transitional provisions and requirements. In an effort to ease the personnel turbulence created in transitioning from the present acquisition workforce structure to the new requirements established by this title, the conference agreement would phase in the new requirements wherever possible. As a general rule, the overall transition period would last three years, with all specified requirements coming into full effect on October 1, 1992. There would be two intermediate transitional phases: October 1, 1991, when the Department must develop and publish the boundaries and definition of the defense acquisition workforce; and October 1, 1992, when the Department must issue detailed regulations and policies necessary to implement the requirements of this bill in managing the acquisition workforce.

The conferees consider it essential that the transition period allow flexible transition waivers and exceptions to individuals serving in or seeking contracting or acquisition positions. However, the conferees

intend for any waivers or exceptions authorized in this title to be utilized by the Department in a prudent and limited manner, particularly those which exempt acquisition experience requirements.

Acquisition workforce enhancements (sec. 1206)

The conference agreement reflects provisions from both the House bill (sec. 9060 and the Senate amendment (sec. 832) that authorized benefits to attract and retain quality personnel to government service, including reimbursement for education leading to a career-enhancing degree, and student loan repayment as a recruitment incentive.

The conferees have been informed by the House Committee on Post Office and Civil Service and the Senate Committee on Governmental Affairs that legislation will be presented to both Houses of Congress providing for greater flexibility in the procedures by which rates of pay for Federal employees are adjusted in order to contribute to the effectiveness of the Government's recruitment and retention efforts and for other purposes. Section 1206 would provide authority for special pay for critical employees and waivers for dual compensation restrictions. This provision also calls for expiration of these authorities on October 1, 1992, or on the date of enactment of government-wide pay reform legislation, should such legislation be enacted prior to October 1, 1992, as anticipated.

TITLE XIII—REDUCTION IN REPORTING REQUIREMENTS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Repealed and modified defense reports (secs. 1301-1331)

The House bill contained several provisions (title XI) that would repeal and modify many requirements for reports from the Department of Defense.

The Senate amendment contained several provisions (title XIII) that would repeal and modify reporting requirements that are similar but not identical to those repealed and modified by the House bill.

The House recedes with an amendment that would constitute a single list of reports that the conferees believe should be repealed and modified. This consolidated list would result in the repeal of 62 reporting requirements and the modification of an additional 12.

SUMMARY OF REPEALED OR MODIFIED REPORTS

Citation	Topic	Conference agreement
1. 10 U.S.C. 113(i)	Technology transfer funds	Repeal.
2. 10 U.S.C. 115(b)(4)[1]	Deferral of end strength limitation.	Repeal.
3. 10 U.S.C. 117	NATO readiness	Repeal.
4. 10 U.S.C. 118	Sale or transfer of defense articles over $50 million.	Repeal.
5. 10 U.S.C. 125(c)	Reduction or elimination of major weapons systems.	Repeal.
6. 10 U.S.C. 128(d)	Physical protection of nuclear material.	Modify frequency.
7. 10 U.S.C. 402(d)	Transportation of humanitarian supplies.	Modify frequency.
8. 10 U.S.C. 662(b)	Joint duty promotion compliance.	Modify frequency.
9. 10 U.S.C. 836(b)	Courts-martial rules and regulations.	Repeal.
10. 10 U.S.C. 1051(e), (f).	DoD personnel expenses for developing countries.	Repeal.
11. 10 U.S.C. 2006(e)(3)	DoD Education Benefits Fund.	Repeal.
12. 10 U.S.C. 2113(j)(2)	Health Sciences University arrangements with Jackson Foundation.	Repeal.
13. 10 U.S.C. 2208(k)	Working-capital funds	Repeal.
14. 10 U.S.C. 2215	Unobligated funds	Repeal.

SUMMARY OF REPEALED OR MODIFIED REPORTS—Continued

Citation	Topic	Conference agreement
15. 10 U.S.C. 2216	Variances to offset inflation	Repeal.
16. 10 U.S.C. 2307(d)	Advance payments over $25 million.	Repeal.
17. 10 U.S.C. 2313(c)	GAO review of foreign contracts.	Repeal.
18. 10 U.S.C. 2324(e)(2)(B), (C).	Allowable costs	Repeal.
19. 10 U.S.C. 2349	NATO cross-servicing agreements.	Repeal.
20. 10 U.S.C. 2357	R&D contracts over $50,000.	Repeal.
21. 10 U.S.C. 2359	Contract research center compensation.	Repeal.
22. 10 U.S.C. 2361(c)(1)	Competitive procedures for R&D contracts.	Modify frequency.
23. 10 U.S.C. 2388(d)	Liquid fuels contracts	Repeal.
24. 10 U.S.C. 2394(b)(2)	Energy or fuel contracts	Repeal.
25. 10 U.S.C. 2394a(b)(2).	Solar energy studies	Repeal.
26. 10 U.S.C. 2404(d)	Waiver of laws for petroleum procurement.	Repeal.
27. 10 U.S.C. 2431(b)	Supplemental report on weapon procurement.	Repeal.
28. 10 U.S.C. 2438[1]	Alternative competitive sources.	Repeal.
29. 10 U.S.C. 2455	Cataloging and standardizing supplies.	Repeal.
30. 10 U.S.C. 2457(d)	NATO standardization of equipment.	Modify frequency.
31. 10 U.S.C. 2463(b)	Savings from increased use of civilians.	Repeal.
32. 10 U.S.C. 2547(d)	Excess non-lethal supplies to State.	Repeal.
33. 10 U.S.C. 2662(b)	Real property transactions under $200,000.	Raise threshold.
34. 10 U.S.C. 2675(b)	Real property lease overseas	Repeal.
35. 10 U.S.C. 2721(b)	Records of fixed property and stored supplies.	Repeal.
36. 10 U.S.C. 2779(b)(4)	Foreign exchange fluctuations—military construction.	Repeal.
37. 10 U.S.C. 2805(b)(3)	Minor relocation construction.	Repeal.
38. 10 U.S.C. 2822(b)(4)	No-cost acquisition of family housing.	Repeal.
39. 10 U.S.C. 2834(b)	State Department leases for overseas housing.	Repeal.
40. 10 U.S.C. 2856(b)	Regulations on barrack space.	Repeal.
41. 10 U.S.C. 4314	Army Master's degrees	Repeal.
42. 10 U.S.C. 6956(a)	Vacancies at Naval Academy.	Repeal.
43. 10 U.S.C. 7217	Navy prior-year apropriations.	Repeal.
44. 10 U.S.C. 7434	Naval Petroleum Reserves production.	Modify frequency.
45. 22 U.S.C. 2321h(e)	Overseas war reserves	Repeal.
46. 32 U.S.C. 314(d)	National Guard abstracts	Repeal.
47. 37 U.S.C. 301a(e)	Avaiation career incentive pay.	Repeal.
48. 37 U.S.C. 301c(e)	Submarine duty incentive pay.	Repeal.
49. 37 U.S.C. 303a(c)	Special pay for health professionals.	Repeal.
50. 37 U.S.C. 306(f)	Unusual duty pay	Repeal.
51. 37 U.S.C. 308b(e)	Selected Reserve reenlistment bonuses.	Repeal.
52. 37 U.S.C. 308c(e)	Selected Reserve enlistment bonuses.	Repeal.
53. 37 U.S.C. 310(d)	Hostile fire/imminent danger pay.	Repeal.
54. 37 U.S.C. 312b(c)	Bonuses for naval nuclear propulsion training.	Repeal.
55. 37 U.S.C. 312c(d)	Bonuses for naval nuclear propulsion service.	Repeal.
56. 50 U.S.C. 454	Defense industrial reserves	Repeal.
57. 50 U.S.C. 1431	Emergency procurement authority.	Remove legislative veto and waiting period.
58. 50 U.S.C. App. 468(h)(2).	Steel requirements for defense.	Repeal.
59. P.L. 91-441, sec. 203[1].	Independent R&D	Repeal.
60. P.L. 94-106, sec. 808	Changes in 5-year ship construction.	Repeal.
61. P.L. 96-418, sec. 802(e).	MX and Trident community assistance.	Repeal.
62. P.L. 98-94, sec. 1260	Offshore drilling effects on naval operations.	Repeal.
63. P.L. 98-115, sec. 803(b)(2).	Waiver of foreign pre-fab construction requirement.	Repeal.
64. P.L. 98-525, sec. 1002(d)(1).	NATO munitions and aircraft shelters.	Modify frequency.
65. P.L. 98-525, sec. 1003(c).	Allied burdensharing	Extend preparation time.
66. P.L. 99-145, sec. 106(a)(2).	NATO cooperative program agreements.	Repeal.
67. P.L. 99-145, sec. 913(b).	Procurement competition goals.	Repeal.
68. P.L. 99-145, sec. 915	Should cost analysis for major programs.	Repeal.
69. P.L. 99-661, sec. 1207(g)(3)(C).	Minority contract goals	Modify frequency.

SUMMARY OF REPEALED OR MODIFIED REPORTS—Continued

Citation	Topic	Conference agreement
70. P.L. 99-661, sec. 1207(g)(4)(B).	Failure of minority contractors to meet requirements.	Repeal.
71. P.L. 100-180, sec. 1201(e).	Change in notice of transfer authorization.	Repeal.
72. P.L. 100-456, sec. 317(c).	Obligation of funds for civilian personnel.	Repeal.
73. P.L. 101-189, sec. 121(d).	B-1B avionics test program	Modify frequency.
74. P.L. 101-189, sec. 852(b).	Foreign contracts and intellectual property.	Repeal.

[1] These reporting requirements would be repealed by sections 1483, 805, and 824 of the conference agreement.

TITLE XIV—GENERAL PROVISIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Transfer authority (sec. 1401)

The House bill (sec. 1301) and the Senate amendment (sec. 1201) contained similar transfer authority provisions. The conferees agree to provide transfer authority to the Department of Defense in accordance with customary procedures.

Multiyear defense program (sec. 1402)

The House bill contained a provision (sec. 1304) that would clarify the requirement in section 114a of title 10, United States Code, which requires the Secretary of Defense to submit the current five year defense program at or about the time the President's budget is submitted each year. The House bill would require the submission of a multiyear defense program which would cover at least five fiscal years, in recognition of the fact that the Department of Defense plans to move to a six-year defense program for fiscal year 1992. The House bill would also require the submission of the multiyear defense program with the President's budget.

The Senate amendment contained a similar provision (sec. 1203) that would amend current law to allow the submission of a six-year defense program.

The Senate recedes with an amendment that would retain the current schedule for submission of the multiyear defense program. The conferees agree that the Department of Defense is required to submit a multiyear defense program every year.

The House bill also contained a provision (sec. 109) that would prohibit the Department of Defense from obligating any funds authorized and appropriated for purposes of advance procurement until the Secretary of Defense has submitted to the Congress the multiyear defense program and its associated annexes, as required by section 114a of title 10, United States Code.

The Senate amendment had no similar provision.

The Senate recedes with an amendment that would prohibit the Department of Defense from obligating 90 percent of the funds authorized and appropriated for purposes of advance procurement in this bill if the Department has not submitted the fiscal year 1992 multiyear defense program and its associated annexes within 90 days after the delivery of the budget request. In addition, if the fiscal year 1992 multiyear defense program is not submitted within 120 days after the submission of the budget request, no remaining unobligated advance procurement funds may be obligated. When the Secretary of Defense submits the fiscal year 1992 multiyear defense plan, these re-

strictions on obligation of advance procurement funds would be removed.

Multiyear National Foreign Intelligence Program (sec. 1403)

The Senate amendment contained a provision (sec. 1204) that would require the Director of Central Intelligence to submit to the Appropriations, Armed Services, and Intelligence Committees of the Senate and House of Representatives annually the current five-year National Foreign Intelligence Program. The estimates in this five-year program would be consistent with those budget estimates submitted by the Department of Defense in the five-year or six-year defense program. A six-year National Foreign Intelligence Program may be submitted whenever one is created.

The House bill contained no similar provision.

The House recedes.

The conferees agree that a more general treatment is preferred to specific five- or six-year periods; thus, this provision would require submission of the multiyear national foreign intelligence program plan. Any such multiyear plan shall cover the current fiscal year and at least the four succeeding fiscal years.

Mission budgeting (sec. 1404)

The Senate amendment included a provision (sec. 1205) that would require the Department of Defense to submit a budget request based on mission outputs starting in fiscal year 1992, in addition to the budget request submitted in the traditional categories.

The House bill contained no similar provision.

The House bill recedes with an amendment that would delay the submission of the first mission budget until the submission of the fiscal year 1993 budget request.

The conferees anticipate that an "output" oriented allocation of the defense resources requested by the Administration will be useful to the Congress as it considers the underlying strategies and policy issues that should provide the rationale for budget decisions.

The conferees direct the Secretary of Defense to submit a report that outlines the missions that the Department of Defense proposes to use in its mission-categories budget. This report should be submitted by July 1, 1991, in order to allow the Congress time to comment and suggest changes to the Department's proposal.

The conferees anticipate that the Secretary of Defense would use the major force program structure of the current Five Year Defense Program as a starting point. The report provided by the Secretary should explain changes proposed to the current mission structure which would demonstrate more clearly the forces and resources devoted to major missions of the Defense Department.

Among the categories the conferees expect the Department of Defense to consider in this new budget are offensive and defensive strategic forces, heavy land forces, ground-based tactical air forces, mobility forces including airlift and sealift, and forces capable of rapid response and power projection such as carrier battle groups and airborne divisions. The conferees expect that some definitions of major force programs, such as intelligence and communications or special operations forces, would require relatively little change. Other major force programs currently in use by the Department may need to be restructured, in particular, general purpose forces and research and development.

The current general purpose forces category includes forces dedicated to NATO and the Pacific, submarines assigned to sea control, Marine expeditionary forces capable of deployment in various theaters, and tactical air forces based in the United States and abroad. While the conferees understand that some of these forces can perform multiple missions, the conferees believe the Department of Defense needs to identify more clearly the forces and funding allocated to these disparate missions. The conferees recommend that the Department consider allocating these forces according to their primary mission or theater. The Department should also consider the utility of displaying the allocation of resources to each of the geographically oriented unified commands.

The current research and development force program is almost identical to the research and development title in the President's budget, and thus fails to provide any additional information. The conferees believe a mission budget should allocate research and development funding for programs that have clearly identifiable missions, such as the Strategic Defense Initiative, ICBM modernization, or anti-submarine warfare, to the relevant category. This would leave a smaller research category in the mission budget that would highlight funding devoted to basic research and technology programs.

The conferees believe the mission budget should identify the active and reserve personnel strengths and force structure curently devoted to the relevant missions, not merely the funds devoted to modernization of forces in each category.

The conferees invite the Secretary of Defense to address in his report whether the current Five Year Defense Program required by section 114a of title 10, United States Code, could be modified in such a way as to permit the Five Year Defense Program to satisfy the requirements of this section for a mission budget.

Controls on the availability of appropriation accounts (sec. 1405)

The Senate amendment a provision (sec. 1207) that would repeal sections 1552 through 1556 of title 31, United States Code, and substitute a new statutory regime to govern appropriation accounts.

The House bill contained a provision (sec. 1302) that would pertain only to the Department of Defense and would mirror several of the provisions of the Senate amendment.

The House recedes with an amendment that would amend existing law but retain and clarify several aspects of the new statutory regime.

The conferees note that this provision is an extremely important legislative initiative. It would first and foremost provide clear and concise rules that will govern appropriation accounts. It would close all accounts available for a definite period and cancel any remaining obligated or unobligated balances five years after the period of availability of those accounts. In the case of appropriation accounts available for an indefinite period, such accounts would be closed and thereafter not be available for obligation or expenditure when it is determined that the purposes for which the account was made have been carried out, and when no disbursement is made against the accounts for two consecutive fiscal years.

The initiative also contains transitional rules for appropration accounts in existence at the time of the enactment of this bill. It would provide that 30 days after enactment, all balances of unobligated funds would be canceled. It further provides that on the third September 30th after enactment, all obligated balances would be canceled. Finally, it provides that any amount that has been in such an account for a period in excess of 5 years prior to enactment of this bill shall be de-obligated and withdrawn, except for amounts that will be requried for payment within 3 months and amounts necessary for severance payments for foreign national employees.

Audit of obligated balances of Department of Defense (sec. 1406)

The House bill contained a provision (sec. 1303) that would require an audit of the obligated balances in the merged accounts of the Department of Defense. The audit would identify the balance in each such account; determine the amount of such balance that represents amounts for obligations that are no longer valid; and cancel such amounts. Finally, the provision would require the report of the audit to be submitted to Congress.

The Senate amendment contained a provision (sec. 1207) that would mirror many of the provisions of the House bill.

The Senate recedes with an amendment that would clarify several of the provisions of the House bill.

Full life-cycle cost information for major defense acquisition programs (sec. 1407)

The House bill contained a provision (sec. 1305) that would extend the requirement that the Department of Defense provide life-cycle cost information as part of the Selected Acquisition Report for major defense acquisition programs that have reached full-scale engineering development to programs which reached that stage before fiscal year 1985.

The Senate amendment contained no similar provision.

The Senate recedes.

Authorization of appropriations from the Defense Cooperation Account (sec. 1408)

Section 2608 of title 10, United States Code, which was enacted in Public Law 101-403, establishes procedures for accepting, processing, and using contributions of money and property by the Department of Defense. The legislative background of this provision is set forth in S. Rept. 101-480.

The conferees recommend a provision that would authorize the appropriation of $300,000 from the Defense Cooperation Account for fiscal year 1991. The conferees note that the Administration anticipates receiving substantial contributions for the account to cover costs associated with Operation Desert Shield. The conferees encourage the Administration to submit an appropriate request for authorization of appropriations from any funds received for Operation Desert Shield.

Classified annex (sec. 1409)

A classified annex to this conference report is incorporated as a part of this bill under section 1409. The classified annex will be made available to the President at the time of presentment of this legislation.

Procurement limitations with respect to certain equipment for naval vessels (sec. 1421)

The House bill contained a provision (sec. 1321) that would prohibit the Secretary of Defense from procuring anchor and mooring chain and air circuit breakers for naval

vessels unless they were produced in the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would delete the restriction on the procurement of anchor and mooring chain. The amendment would also modify the restriction on the procurement of air circuit breakers by authorizing exceptions to the restriction under certain circumstances.

Voyage repairs on Naval Reserve Force vessels homeported on the West Coast (sec. 1422)

The House bill contained a provision (sec. 806) that would restore the Secretary of the Navy's ability to permit short-term repairs for West Coast Reserve ships to be solicited only in the homeport area if adequate competition exists.

The Senate amendment contained no similar provision (sec. 316).

The Senate recedes.

Report on use of Mayport Naval Station as homeport for nuclear aircraft carriers (sec. 1423)

The House bill contained a provision (sec. 1323) that would require a report on providing the capability for Mayport Naval Station to serve as a possible homeport for nuclear aircraft carriers.

The Senate amendment contained no similar provision.

The Senate recedes.

Fast sealift program (sec. 1424)

The House bill included a provision (sec. 1324) that would establish a program for the construction and commercial operation of commercially viable cargo vessels that incorporate features essential for military utility of the vessels in the time of war or national emergency. The report accompanying the House bill (H. Rept. 101-665) suggested a specific design for the ships constructed under the program.

The Senate amendment contained no similar provision.

The conferees agree to establish a fast sealift program for the construction and operation of cargo vessels that incorporate features essential for military use of the vessels. The Secretary of the Navy would be responsible for the design and construction of the vessels after consultation with the Administrator of the Maritime Administration. Ships constructed under the program could be dedicated to military use if the Secretary of the Navy determines that it is in the national interest for the ships to be immediately available. Ships dedicated to military use would be required to have a full or partial crew. The conferees are aware that there may be a number of options for dedicated military use with a full or partial crew and intend that it include operation of ships as is presently done with the prepositioned ship programs and with the SL-7 ship program, in which ships are maintained in a reduced operational status with a nucleus crew and planned to be able to deploy in four days. Ships not dedicated to military use would be leased for commercial operations.

Two reports would be required. The first would be on the plan for the fast sealift program and would be required within six months of enactment of this bill. The second would be a report of activities under the program and would be required three years after enactment. The conferees expect that fundamental decision on the nature of this program will be made within six months, which should be sufficient for the selection of design options and for completion of an updated mobility study, required under section 909 of this bill.

The conferees agree not to recommend a particular design for ships built under the program.

Authorization for Naval shipyards and aviation depots to engage in defense-related production and services during fiscal year 1991 (sec. 1425)

The House bill contained a provision (sec. 1325) that would provide that, during fiscal year 1991, the Secretary of Defense may direct the manufacture of defense articles by a Naval shipyard or an Army or Naval aviation depot rather than by a private concern unless he determines that a private concern can provide the article at a lower cost or that adequate facilities or manpower are not available at a Naval shipyard or an Army or Naval aviation depot to provide the required article.

The Senate amendment contained a similar provision (sec. 314) that would authorize Naval aviation depots and Naval shipyards to bid on defense-related production and services during fiscal year 1991.

The House recedes with an amendment. The conferees agree to a provision that would authorize Naval shipyards and Army, Naval and Air Force aviation depots to bid on defense-related production and services during fiscal year 1991 subject to the discretion of the Secretary of Defense. The conferees agree that this provision does not affect the existing authority of the Department of Defense to assign workload to Defense Department industrial facilities or to subject workload to competition.

Naming of guided missile destroyer the U.S.S. Samuel S. Stratton (sec. 1426)

The House bill contained a provision (sec. 1326) that would express the sense of the Congress that the next guided missile destroyer to be named after enactment of this bill be the U.S.S. *Samuel S. Stratton.*

The Senate amendment contained no similar provision.

The Senate recedes.

Clarification of procedures for review of certain vessel transfers (sec. 1427)

The House bill contained a provision (sec. 1342) that would amend section 7308(c) of title 10, United States Code, to delete a provision that has been ruled unconstitutional.

The Senate amendment contained no similar provision.

The Senate recedes.

Sense of Congress on greater utilization of the reserve components of the armed forces (sec. 1431)

The Senate amendment contained a provision (sec. 1401) that would express the sense of Congress that the utilization of the reserve components of the armed forces should increase in the future.

The House bill contained no similar provision.

The House recedes.

Findings and sense of Congress regarding the importance of the Ready Reserve (sec. 1432)

The Senate amendment contained a provision (sec. 1421) that would express the sense of Congress regarding the importance of the Ready Reserve.

The House bill contained no similar provision.

The House recedes.

Commendation of the work of the National Guard and reserves (sec. 1433)

The Senate amendment contained a provision (sec. 1442) that would express the sense of the Senate on the importance of the National Guard and the Reserve Components.

The House bill contained no similar provision.

The House recedes with an amendment that would change the Senate provision into an expression of the sense of Congress.

Sense of Congress concerning United States armored forces (sec. 1434)

The Senate amendment contained a provision (sec. 1441) that would express the sense of the Senate on the importance of U.S. armored forces in the active and reserve components and the need to maintain the U.S. Army Armor Center as the center for training, education, doctrine, and combat development for U.S. armored forces.

The House bill contained no similar provision.

The House recedes with an amendment that would change the Senate provision into an expression of the sense of Congress.

Preservation of force structure in the reserve components (sec. 1435)

The Senate amendment contained a provision (sec. 1411) that would preserve the National Guard and reserve force structure through fiscal year 1991 at the equivalent level that existed on January 1, 1990. The provision would not prohibit normal and orderly modernization of equipment assigned to National Guard or reserve units.

The House bill contained no similar provision.

The House recedes.

Air National Guard and Air Force Reserve aircraft (sec. 1436)

The Senate amendment contained a provision (sec. 1412) that would require the Secretary of the Air Force to insure that active component and reserve component squadrons operate equivalent numbers of aircraft. The effect of the provision is to "robust" the squadrons in the reserve component.

The House bill contained no comparable provision.

The House recedes.

P-3 aircraft squadrons (sec. 1437)

The Senate amendment contained a provision (sec. 1413) that would require the Secretary of the Navy to transfer P-3 aircraft from the active Navy to the Navy Reserve to equalize the number of aircraft in active and reserve component squadrons. The provision would also require transfer of no fewer than 80 aircraft.

The House bill contained no similar provision.

The House recedes with an amendment that would require transfer of no fewer than 32 aircraft.

Tactical airlift mission (sec. 1438)

The Senate amendment contained a provision (sec. 1414) that would require the Secretary of Defense to transfer the tactical airlift mission from the active Air Force to the Air National Guard and the Air Force Reserve.

The House bill contained no similar provision.

The House recedes.

Replacement of OV-1 and OV-10 aircraft with A-10 aircraft (sec. 1439)

The Senate amendment contained a provision (sec. 1415) that would require the Army to retire from service OV-1 observation air-

craft and require the Marine Corps to retire from service OV-10 observation aircraft. The provision would stipulate that the Air Force would transfer to the Army and Marine Corps an A-10 aircraft on a one-for-one basis to replace the retiring aircraft.

The House bill contained no similar provision.

The House recedes.

Sense of Congress on additional nuclear risk reduction measures (sec. 1441)

The Senate bill contained a provision (sec. 1213) that would express the sense of Congress that pursuant to the June 1, 1990 U.S./Soviet joint statement on further enhancing strategic stability signed at the Washington Summit, the President should propose to the Soviet Union two additional measures for preventing possible nuclear incidents or accidents: parallel U.S. and Soviet reviews of their fail-safe procedures and expanded use of the Nuclear Risk Reduction Centers (NRRCs). The provision would also direct the President to submit not later than March 1, 1991 a report on additional nuclear confidence-building measures.

The House bill contained no similar provision.

The House recedes with an amendment that would clarify the intent of the conferees that the NRRCs need not be the only forum for dialogue and discussions between the United States and the Soviet Union on nuclear confidence-building issues.

START and strategic modernization (sec. 1442)

The Senate bill contained a provision (sec. 1242) that would express the sense of the Senate that the Senate fully supports U.S. efforts to enhance strategic stability and that the United States should pursue stabilizing strategic arms reduction agreements while maintaining a vigorous research and development and modernization program for U.S. strategic forces.

The House bill contained no similar provision.

The House recedes with an amendment that would change the provision to a sense of the Congress provision. The amendment would also conform the language of the sense of the Congress section to that of the findings section.

Strategic arms reduction talks (sec. 1443)

The Senate bill contained a provision (sec. 1243) that would express the sense of the Senate that before concluding a treaty in the strategic arms reductions talks (START), the President should provide the Senate with a report on the Soviet SS-23 missile transfer issue and the Krasnoyarsk radar dismantlement issue.

The House bill contained no similar provision.

The House recedes with an amendment that would express the sense of the Congress on these issues.

International support agreements (sec. 1451)

The House bill contained a provision (sec. 1331(e)(2)) that would codify the authority of the Department of Defense to accept real property, services, and commodities from foreign countries in accordance with mutual defense agreements or occupational arrangements.

The Senate amendment contained a provision (sec. 1214) that would delete the geographic limitations that restrict the authority of the Secretary of Defense to conclude reciprocal logistic support agreements with other countries.

The Senate recedes with respect to mutual defense agreements with an amendment reflecting section 304 of S. 3144 (S. Rept. 101-480).

The House recedes with respect to reciprocal logistic support. Section 2349 of title 10, United States Code, requires the Secretary of Defense to submit to Congress an annual report on agreements and actions that were undertaken during the previous fiscal year under chapter 138 of title 10. The conferees expect that copies of this report will be sent to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, as well as the Committees on Armed Services of the Senate and House of Representatives.

Department of Defense ombudsman for foreign signatories of inter-governmental memorandums of agreement (sec. 1452)

The House bill contained a provision (sec. 833) that would require the Secretary of Defense to designate an official within the Office of the Under Secretary of Defense for Policy to act as an ombudsman on behalf of foreign governments who are parties to defense agreements with the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would allow the Secretary of Defense to designate the ombudsman from any element of the Defense Department and would clarify that the ombudsman is to be concerned with acquisition agreements.

Expansion of scope of requirements relating to defense memoranda of understanding and related agreements (sec. 1453)

The Senate amendment contained a provision (sec. 851) that would include reciprocal defense procurement agreements among the international defense agreements to be reviewed by the Secretary of Commerce.

The House bill contained no similar provision.

The House recedes.

Cooperation with Japan on technological research and development (sec. 1454)

The Senate amendment contained a provision (sec. 852) that would set aside $10 million for technological cooperation with Japan.

The House bill contained no similar provision.

The House recedes. The conferees note that the cooperative agreements reached under this provision would be subject to section 2504 of title 10, United States Code. This law requires the Secretary of Defense to consider the effects of international defense acquisition agreements on the U.S. defense industrial base and to consider comments from the Secretary of Commerce on the agreements' commercial implications.

Permanent ceiling on United States armed forces in Japan and contributions by Japan to the support of United States forces in Japan (sec. 1455)

The House bill contained a provision (sec. 1346) that would require the United States to withdraw 5,000 military personnel from Japan each year that Japan has not agreed to offset the direct costs of stationing U.S. forces in Japan. It would also set a ceiling of 50,000 on the number of U.S. military personnel who may be stationed in Japan.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would make several changes to the provision. First, it would specify that the direct costs to be offset by Japan would not include the pay and allowances of U.S. military and civilian personnel in Japan. Second, it would delete the requirement that 5,000 U.S. military personnel be withdrawn from Japan each year that Japan did not agree to offset the direct costs of stationing U.S. forces in Japan. Third, it would express the sense of Congress that Japan should make contributions to the multinational response to Iraq's aggression against Kuwait that are commensurate with its capability. Fourth, the amendment would direct the President to enter into negotiations with Japan for the purpose of achieving an agreement before September 30, 1991, under which Japan offsets all direct costs (other than pay and allowances) incurred by the United States in stationing military forces in Japan. Finally, it would authorize the President to waive the provision if he certifies to the Congress that U.S. national security interests require a waiver.

Termination of United States payments for certain foreign nationals employed at bases outside the United States (sec. 1456)

The House bill contained a provision (sec. 1347) that would reduce by 25 percent each year for the next three fiscal years the total amount of funds expended by the United States during a fiscal year for the purpose of paying salaries and other remuneration for foreign nationals who are employed pursuant to an indirect-hire civilian personnel agreement at a U.S. military installation located outside the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The conferees agree to require a reduction in the costs of foreign national employees at the rate necessary to achieve a 25 percent reduction in the amount that was requested in fiscal year 1991 for foreign national employees. Savings to be achieved from these reductions are attributable to a combination of factors, including changes in the threat and a reduction in the level of U.S. forces stationed overseas. The Secretary of Defense may authorize expenditures in excess of this limitation if he determines that the national interests of the United States require such action and if he notifies Congress of the reasons for that determination. In light of the reduction in U.S. forces overseas, the conferees urge the Defense Department to achieve further reductions in the costs of foreign national civilian employees at U.S. military installations outside the United States, especially in those countries capable of assuming these costs.

Report on U.S. security arrangements and commitments worldwide (sec. 1457)

The Senate amendment contained a provision (sec. 1211) that would require the President to submit a report by February 1, 1991, to the Committees on Armed Services of the Senate and House of Representatives, on U.S. security arrangements and commitments worldwide. Included in this report would be an evaluation of the ability of the United States to meet its commitments, given projected reductions in the U.S. defense structure.

The House bill contained no similar provision.

The House recedes with an amendment that would change the date on which the President is required to submit portions of the report; require this report to be an annual report; and make technical changes. With respect to subsection (2), the conferees expect that the Chairman of the Joint Chiefs of Staff, in his capacity as the princi-

pal military advisor to the President, the National Security Council, and the Secretary of Defense, will assist in preparing the evaluation required by this subsection.

Economic sanctions against Iraq (sec. 1458)

The Senate amendment contained a provision (sec. 1224) that would authorize restrictions on imports to the United States from any nation in violation of economic sanctions against Iraq.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Lithuanian Emergency assistance (sec. 1459)

The Senate amendment contained a provision (sec. 1225) that would authorize provision of medical supplies and other humanitarian assistance to the Lithuanian people.

The House bill contained no similar provision.

The House recedes with an amendment that would express the sense of Congress that the President should provide appropriate forms of humanitarian assistance for Lithuania, and that the Administrator of the Agency for International Development should facilitate the gathering and dispatch of such assistance.

Congressional oversight of special access programs (sec. 1461)

The Senate amendment included a provision (sec. 1212) that would direct the Secretary of Defense to officially report to the Committee on Armed Services of the Senate and House of Representatives whenever a change is planned in the classification of a Defense Department special access program, or when classified information is to be made public concerning a special access program. The Senate amendment would also expand the definition of defense committees to include the Appropriations Committees of the Senate and House of Representatives.

The House bill included no similar provision.

The House recedes.

The conferees share the concern expressed in the report accompanying the Senate amendment (S. Rept. 101-384) over the manner in which the Department of Defense has chosen to release previously classified information without providing adequate notification before the event, or official notification afterwards. The conferees insist that all special access information be released in a consistent manner and all appropriate participants be given an adequate opportunity to review and comment on the planned disclosure.

The conferees note that section 119 of title 10, United States Code, establishes an affirmative requirement to provide the information to certain Members, but it does not in any way restrict access to those Members only.

Development and production of weapons and weapon systems having standoff attack capabilities and employing sensor-fused devices (sec. 1462)

The Senate amendment contained a provision (sec. 1217) that would state that the Air Force should complete deveopment of standoff weapons using sensor-fused devices and should retain the original production plans identified during the development phase of the program.

The House bill contained no similar provision.

The House recedes with an amendment that would change the Senate provision into an expression of the sense of Congress.

The conferees beleive that the worldwide proliferation of sophisticated and highly lethal, advanced technology weapon systems continues at a rapid pace. These increasingly lethal weapons place U.S. and allied forces at greater risk.

The Development of standoff weapons to attack highly defended targets while minmizing risk to U.S. forces is a high priority. The results of research and testing conducted by or for the Department of Defense on weapons and weapon systems having standoff capabilities and employing sensor-fused devices demonstrate that such weapons satisfy those needs.

Authority to reimburse North American Van Lines and the Church of God for certain damages caused during Operation Just Cause (sec. 1463)

The House bill contained a provision (sec. 1343) that would authorize the Secretary of the Army to reimburse North American Van Lines for property damage suffered during Operation Just Cause in Panama in December 1989.

The Senate amendment contained a provision (sec. 1220) that would authorize the Secretary of the Army to replace or restore the property of contractors located on U.S. facilities in Panama damaged during Operation Just Cause.

The Senate recedes with an amendment that would extend limited reimbursement authority to the Secretary of Defense for two specific entities, North American Van Lines for not more than $357,000 and the Church of God for not more than $325,000, in view of the following unique circumstances. On the morning of December 22, 1989, a group of civilians were gathering in front of Panama's equivalent of the department of motor vehicles to apply for positions on the new Panama Security Force. The applicants were waiting to be sworn in when a burst of gunfire was heard coming from a warehouse leased by North American Van Lines—Panama (NAVPAN), from which pro-Noriega Panama Defense Force (PDF) were firing. After unsuccessful efforts to neutralize the enemy with smaller weapons, American forces employed missiles against the PDF forces, destroying the warehouse and the NAVPAN property contained therein. PDF forces also were hiding in the Church of God building nearby, which was also fired upon by American forces.

NAVPAN is an authorized U.S. government contractor. About 95 percent of its business relates to moving services for the Department of Defense, the U.S Embassy in Panama, and the Panama Canal Commission. NAVPAN has leased an old hangar on Albrook Air Force Base, where its warehouse is located, from the Department of Defense since 1963.

The Church of God, a non-profit entity chartered in the United States, was located adjacent to Albrook Air Force Base, about 40 years south of the NAVPAN warehouse. It provided morale and welfare services to members of the armed forces stationed there.

In providing this limited reimbursement authority, the conferees determine that the facts and equities concerning the two entities involved warrant the special consideration available through private legislation. In particular, the fact that both NAVPAN and the Church of God have such a close relationship with United States citizens in Panama, was significant. The conferees note, however, that this provision would not be considered by either the Senate or the House of Representatives as precendential in nature because it was considered strictly on the exact facts presented.

The reimbursement authority, as it applies to these two entities, would cover damage to, or loss of, property damaged or destroyed by United States armed forces during Operation Just Cause on or about December 22, 1989. Reimbursement would be allowed only if a written request is submitted by December 22, 1991, the damage was not caused in whole or in part by a negligent or wrongful act of the claimants, and the dollar amount of damages is substantiated by the Secretary. The claimants may not be paid until they have made every reasonable effort to secure compensation for the losses covered by this section through private means. Attorney's fees would be limited to 20 percent of the amount paid to the claimant. Acceptance of such payment shall be full and final settlement of all claims against the United States relating to this incident.

Extension of deadline for National Training Center instrumentation (sec. 1464)

The House bill contained a provision (sec. 1341) that would amend the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189) to extend the deadline by which fixed wing close air support must be integrated into the instrumentation system at the National Training Center.

The Senate amendment contained an identical provision.

The House recedes.

Overseas workload program (sec. 1465)

The House bill contained a provision (sec. 1344) that would allow, subject to exceptions determined by the Service Secretaries, contracts awarded under the Overseas Workload Program to be performed in the theater in which the equipment is normally located or in the country in which the contractor is located.

The Senate amendment contained an identical provision.

The Senate recedes. The conferees note that subsections (f) and (g) of sections 3013, 5013, and 8013 of title 10, United States Code, authorize the Secretaries of the Military Departments to delegate functions, such as the determination of exceptions in this provision.

Designate Col. Thomas Hawkins Johnson visiting scholar program, lecture series and science laboratory (sec. 1466)

The House bill contained a provision (sec. 1345) that would establish a visiting scholar program at the United States Military Academy and a lecture series at the National Defense University, both named in honor of the late Army Colonel Thomas H. Johnson. In addition, this provision would designate a building at the United States Military Academy, now known as the Science Research Laboratory, as the Thomas Hawkins Johnson Science Research Laboratory. $25,000 would be authorized to fund the visiting scholar program, and an additional $25,000 would be authorized to fund the lecture series.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The conferees have been made aware that the facilities that comprise the Science Research Laboratory are currently housed, along with other activities, in Bartlett Hall on the U.S. Military Academy grounds. The conferees understand that the Academy

plans to relocate these laboratory facilities to other sites in the near future. The conferess therefore believe it would be inappropriate to redesignate the name of the Science Research Laboratory facilities.

Access to certain restricted special use airspace (sec. 1467)

The Senate amendment contained a provision (sec. 1232) that would require the Secretary of Defense to submit a study to the Committees on Armed Services of the Senate and House of Representatives concerning the feasibility of permitting commercial aircraft to have access to restricted special use airspace over the coastal waters of the mid-Atlantic region of the United States.

The House bill contained no similar provision.

The House recedes with an amendment that would require the study to be jointly submitted by the Secretary of Defense and the Secretary of Transportation, and that would add other jurisdictional committees of the Congress as recipients of the study.

Agent Orange (sec. 1468)

The Senate amendment contained a provision (sec. 1233) that would allow direct exchange of information between Air Force scientists conducting the Ranch Hand Study and the Ranch Hand Advisory Committee. In addition, the provision would require that the Air Force submit an annual report to the Committees on Armed Services of the Senate and House of Representatives on the progress of the Ranch Hand study.

The House bill contained no similar provision.

The House recedes with an amendment that would incorporate provisions of the Veterans' Compensation Amendments of 1990, H.R. 5326, as adopted by the House of Representatives. In addition, the amendment would establish a February 1 due date for an annual report on the progress of the Ranch Hand study.

Annual presentation for Congressional defense leadership on United States national military strategy (sec. 1469)

The Senate amendment contained a provision (sec. 1241) that would express the sense of the Congress that the President should provide annually to the leadership of the Congress an overview presentation on the United States' top-level military strategy.

The House bill contained no similar provision.

The House recedes with an amendment that would refine the nature of the presentation primarily by adding theater nuclear forces, targeting policy, operations, and the allocation of defense resources. The conferees agree that this presentation also should include as specific topics: the international security environment, the military threat, U.S. national military objectives, the strategic concepts selected to achieve those objectives, and the military resources needed to implement that strategy. Of particular interest will be those objectives and concepts formulated to counter the threat.

Commemoration of the efforts of the Battle of the Bulge Historical Foundation (sec. 1471)

The Senate amendment contained a provision (sec. 1248) that would commend the efforts of the Battle of the Bulge Historical Foundation.

The House bill contained no similar provision.

The House recedes.

Philippine earthquake relief effort (sec. 1472)

The Senate amendment contained a provision (sec. 1247) that would commend United States military personnel for their efforts in assisting the government and people of the Philippines following the July 16, 1990 earthquake.

The House bill contained no similar provision.

The House recedes.

Codification of certain provisions of law and technical amendments (sec. 1482)

The House bill contained four provisions (sec. 554, 1331, 1332, and 1333) that would codify and clarify certain provisions of law and provide certain technical amendments.

The Senate bill contained no similar provisions.

The Senate recedes with a clarifying amendment.

The following table shows the sources of certain appropriations provisions that would be codified by the conference agreement. All citations under the heading "Source Section" are from the Department of Defense Appropriation Act, 1990 (Public Law 101-165) unless otherwise noted. Items marked with an asterisk (*) are not permanent law but are recurring provisions that would be codified by the conference agreement.

DISPOSITION TABLE

Source section	New title 10 provision
9002	129b
9003*	1584
9006	2244
9008	2254
9010	1593(d)
9011*	2214
9012*	2208(k)
9014*	119(f)
9015*	2214(d)
9017	114(c)(2)
9020	2549
9025	2550
9030	2678
9038	2701(f), (g)
8098 of P.L. 100-463	2732
8114 of P.L. 100-463	1584(b)
661 of P.L. 101-189	1056

Restatement of law relating to annual personnel strength authorizations, annual manpower requirements reports, and annual National Guard and reserve component procurement report (sec. 1483)

The House bill contained a provision (sec. 554) that would rewrite section 115 of title 10, United States Code, to restate existing provisions more lucidly.

The Senate amendment contained no similar provision.

The Senate recedes.

Honoring General Matthew B. Ridgway (sec. 1491)

The Senate amendment contained a provision (sec. 1249) that would express the sense of Congress that a Congressional Gold Medal should be struck in honor of General Matthew B. Ridgway, U.S. Army (Retired).

The House bill contained no similar provision.

The House recedes with an amendment that would direct the Secretary of the Treasury to strike a Congressional Gold Medal for presentation to General Ridgway. The amendment would also include the text of H.R. 2575, as passed by the House of Representatives on July 30, 1990. This legislation would direct the Secretary of the Treasury to strike commemorative medals: (1) for military personnel who were present during the attack on Pearl Harbor on December 7, 1941, and who participated in combat that day against Japanese forces, and (2) in honor of the centennial of Yosemite National Park.

LEGISLATIVE PROVISIONS NOT ADOPTED

Financial management

The House bill contained provisions (secs. 1001-1006) that would seek to improve the management of the Department of Defense, the Defense Logistics Agency, and the Department of the Army, Navy, and Air Force, by increasing financial discipline and accountability and by requiring annual financial statements and audits of those financial statements. The House provisions would require that financial statements be prepared no later than December 31, 1992, and an audit report submitted to the Department of Defense 180 days after the end of the fiscal year. An annual financial report would be submitted to the Congress no later than April 30, 1993. Section 1006 of the House bill would establish a Defense Audit Committee for the Defense Logistics Agency and separate audit committees for the Department of Army, Navy and Air Force.

The Senate amendment contained no similar provisions.

The House recedes.

The conferees understand that the Comptroller of the Department of Defense has the authority to require the Defense Logistics Agency and the Military Departments to implement uniform financial management systems, and prepare annual financial statements that are consistent with applicable accounting principles and standards.

The conferees support the intent of the House provisions to improve the financial management practices and the quality and completeness of financial statements of the Department of Defense. The conferees are advised that the DoD Comptroller fully supports the establishment of a financial management system and intends to comply voluntarily with the intent of the House provisions. The conferees urge the Services to cooperate fully with the DoD Comptroller in establishing and implementing this system.

The conferees believe that financial statements should be independently audited to ensure that accounting systems, internal controls, and financial systems have been established and maintained in conformance with applicable principles. The conferees believe the Comptroller of the Department of Defense should be responsible for arranging for these audits. Should the Department of Defense decide to establish advisory audit committees, the conferees recommend that there be a single audit organization for the Department of Defense and its components.

The conferees believe the schedule in the House provisions may not have provided the Comptroller of the Department of Defense sufficient time to formulate and implement a financial management plan and financial management systems capable of producing auditable financial statements, considering the limited resources available and the other duties of the Comptroller, such as the need to produce a multiyear defense program that conforms to much lower defense budget levels than previous projections.

The conferees expect the Comptroller of the Department of Defense to keep the Congress advised of progress in establishing a DoD-wide financial management system as outlined in the House provisions. The conferees may consider legislation on this matter next year is such legislation is re-

quested by the Department or if the conferees find that the development of a financial management system has not proceeded at a satisfactory pace or in a satisfactory manner.

Prohibition of certain limitations on contracting with private ship repair firms

The House bill contained a provision (sec. 1322) that would prohibit the Secretary of the Navy from excluding a private ship repair firm from bidding on, or being awarded, a contract for major ship repair on the basis that the ship repair firm does not have a drydock or pier if facilities of a public shipyard are available to the private firm on a reimbursable basis. The provision would not require the Secretary of the Navy to furnish facilities to any contractor.

The Senate amendment contained no similar provision.

The House recedes. The conferees understand that current Navy policy permits the use of Navy-owned piers and drydocks by private ship repair firms under appropriate circumstances and in compliance with the Competition in Contracting Act and implementing regulations. The conferees believe that existing competitive regulations governing ship repair contracting and the leasing to Master Ship Repair Contract holders of public facilities as necessary under the regulations are appropriate and adequate.

Consolidation savings

The Senate amendment contained a provision (sec. 1202) that would reduce the authorizations for military personnel and operation and maintenance by $300 million to reflect the savings anticipated in fiscal year 1991 in the amended budget request from consolidation studies being carried out as part of the Defense Management Review.

The House bill contained no similar provision.

The Senate recedes.

Advisory committee on policy toward Cuba

The Senate amendment contained a provision (sec. 1225) that would establish a Cuban-American Advisory Committee to provide recommendations on U.S. policy toward Cuba.

The House bill contained no similar provision.

The Senate recedes.

National energy production and security action plan

The Senate amendment contained provisions (secs. 4101-4104) that would direct the President to monitor the level of foreign crude and oil product imports as a share of United States oil consumption and to prepare an energy production and security action plan if the amount of imported products exceeded domestically-produced products for six months in any six-month period. Following congressional approval, the President would implement the plan.

The House bill contained no similar provision.

The Senate recedes.

TITLE XV—ARMED FORCES RETIREMENT HOME

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Armed forces retirement home (secs. 1501-1542)

The House bill contained a series of provisions (secs. 1201-1241) that would authorize $53.999 million for the operations and capital outlay needs of the United States Soldiers' and Airmen's Home in fiscal year 1991. The provisions would establish an Armed Forces Retirement Home Board to oversee the operations at both the Soldiers' and Airmen's Home and the Naval Home. The provisions would also establish standardized eligibility criteria for both homes and allow members of any Service to become residents at either home. The eligibility of the current residents of each home would be "grandfathered" under the provisions.

The Senate amendment contained a provision (sec. 305) that would authorize $47.999 million for the operations and capital outlay needs of the United States Soldiers' and Airmen's Home in fiscal year 1991.

The Senate recedes with amendments. The conferees agree to authorize $53.999 million for operations and capital needs of the United States Soldiers' and Airmen's Home in fiscal year 1991 as provided in the House bill; provide for expanded membership of the Armed Forces Retirement Home Board and for appointment of a local Board of Trustees for each home; expand eligibility for the two homes to include all enlisted members, warrant officers, and limited duty officers; provide for the overall health care needs of the residents of the homes; and set October 1, 1991 as the effective date of the legislation.

TITLE XVI—CHARTER FOR 82D AIRBORNE DIVISION ASSOCIATION, INCORPORATED

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

82d Airborne Division Association (secs. 1601-1616)

The Senate amendment contained a provision (part E of title XII) that would grant a federal charter to the 82d Airborne Division Association, Incorporated.

The House bill contained no similar provision.

The House recedes.

TITLE XVII—MISSILE TECHNOLOGY CONTROLS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Missile technology control (secs. 1701-1704)

The House bill contained several provisions (title XIV) that would state the policy of the United States with regard to discouraging the proliferation of missile technology, establish sanctions to be imposed by the President on U.S. and foreign persons who export, transfer, knowingly facilitate, or otherwise engage in the trade of certain internationally controlled missile technology. These sanctions would be subject to specified waiver criteria. The bill would also require semiannual reports by the Secretary of State on international transfers of missiles, missile equipment and technology, and aircraft which the Secretary has reason to believe may be intended to be used for delivery of nuclear, biological, or chemical weapons (i.e., NBC-capable aircraft) to certain nations.

The Senate amendment contained several provisions (secs. 1271-1275) that would state congressional findings concerning the proliferation of missile technology, amend the Arms Export Control Act (AECA) to express the policy of the United States on this issue, and establish sanctions, subject to specified waiver criteria, to be imposed by the President on U.S. or foreign persons who transfer, conspire to transfer, or facilitate the transfer of specified missile equipment or technology.

The Senate amendment would also amend the AECA to prohibit, subject to specified waiver criteria, the issuance of licenses under the AECA to assist directly or indirectly any missile program of the People's Republic of China (PRC), ban the export or shipment of U.S. satellites for launch on PRC space launch vehicles, and revoke previously issued licenses granted for the export of such satellites.

In addition, the Senate amendment would amend the AECA to require a semiannual report by the Secretary of State on international transfers of missiles, missile equipment and technology, and NBC-capable aircraft to certain nations.

Lastly, the Senate amendment would amend the AECA to require the President to impose, subject to specified waiver criteria, certain sanctions on any nation not adhering to the Missile Technology Control Regime (MTCR) that authorizes the transfer of, receives or attempts to acquire missiles or missile equipment and technology that contributes materially to the development of missile systems of a specified capability and range.

The conferees agree to several provisions that would state the policy of the United States on this issue and amend the Export Administration Act (EAA) to establish responsibilities for negotiating with other countries regarding restrictions on technology transfer and to revise requirements regarding the list of controlled goods and technology. The conferees agree to amend the EAA and the Arms Export Control Act (AECA) to establish, subject to specified waiver criteria and exceptions, sanctions on U.S. and foreign persons who knowingly export, trnasfer, or otherwise engage in the trade of certain MTCR-related items, conspire to or attempt to engage in such activities, or facilitate such activities. The conferees also agree to amend the EEA and AECA to establish new licensing controls on MTCR items. In addition, the conferees agree to include a provision that would require the President to submit to the Congress semiannually a report on international transfers of certain MTCR equipment and technology and NBC-capable aircraft.

The conferees understand that identical provisions are to be included in the conference report to accompany H.R. 4653, the Export Administration Act Amendments of 1990, and that H.R. 4653 is to include a provision that would require that in the event that H.R. 4653 is enacted, the sections in this bill on missile technology control will be superseded.

TITLE XVIII—STRATEGIC ENVIRONMENT RESEARCH AND DEVELOPMENT PROGRAM

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISION ADOPTED

Strategic Environmental Research and Development Program (secs. 1801-1803)

The Senate amendment contained a provision (sec. 1001) that would create a new environmental research and development program at the Department of Defense with participation by the Department of Energy.

The House bill contained no similar provision.

The House recedes with an amendment.

This new environmental research and development program is an important addition to the research and development activities at the Department of Defense and the Department of Energy. The conferees agree to a number of changes that would enhance the efficiency of the program. The Administrator of the Environmental Protection Ad-

ministration would be a full member of the governing council, the Strategic Environmental Research and Development Council, and the role of federal laboratories would be clarified. In addition, the advisory board would be subject to the Federal Advisory Committee Act and the need for close coordination with other federal agencies would be given stronger emphasis.

Personnel provisions

The Senate amendment contained provisions that would create the new position of environmental research program director in the Senior Executive Service (SES). The House conferees object to the inclusion of an SES position that is created by statute. In addition, the Senate amendment contained a provision that would allow the executive director to appoint professional staff, without regard to the provisions of title 5, United States Code. The House conferees object to this provision to the extent that the executive director woud have been permitted to make appointments in the excepted service.

The conferees agree that the technical and scientific professional staff may be paid without regard to the provisions of chapter 51 of title 5 and subchapter III of chapter 53 of such title. This authority would, however, expire at the end of two years.

The conferees agree that the executive director of the environmental research program would be an important and highly visible position that should qualify for placement in the SES. Because the conferees agree as to the importance of the position of executive director, they believe that a statutory designation is not necessary. The conferees urge the Secretary of Defense and the Director of the Office of Personnel Management (OPM) to seriously consider establishing the executive director position as an SES position, as promptly as possible.

Similarly, the conferees agree that the scientific and technical positions should be excepted from the competitive service. OPM has established procedures whereby an agency may apply for and receive authority to hire in the excepted service. This procedure is commonly used for positions that are scientific and technical in nature. Thus, the conferees are confident that DoD will be able to obtain an exemption from OPM so that these positions may be filled in the excepted service, obviating the need for a statutory exception. The conferees urge OPM and DoD to work together to achieve this goal in an expeditious fashion.

If the executive director position is not placed in the SES and if the technical and scientific positions are not filled, or are not excepted from the competitive service, the Secretary of Defense is directed to prepare a brief report indicating the reasons that these positions were not filled or were not excepted from the competitive service, as the case may be, and the future plans for filling any vacant position. This report is due 75 days from the date of enactment of this bill.

Research Areas

As explained in detail in the report accompanying the Senate amendment (S. Rept. 101-384), the environmental research program has three main focus areas: (1) environmental data gathering and analysis; (2) environmental compliance and advanced energy technologies; and (3) technologies for environmental cleanup.

Environmental Data Gathering and Analysis

The Defense Department has the ability to provide assistance to and to enhance the efforts of the environmental research community. In carrying out this phase of the program, which is more fully described in the Senate report (S. Rept. 101-384), the Strategic Environmental Research and Development Council should carefully coordinate its efforts with the Federal Coordinating Council on Science, Engineering and Technology and other federal agencies and federally funded entities that are actively involved in environmental research.

The conferees recognize that civilian agencies already conduct a substantial amount of environmental research and that entities to coordinate such research already exist. The conferees encourage the Chairman of the Council to work closely with such agencies and entities to prevent duplication of its research, development, demonstration, data gathering, and dissemination activities and to maximize the usefulness of DoD funds. Such agencies and entities include the Environmental Protection Agency (EPA), the Department of Commerce, including the National Oceanic and Atmospheric Administration, the National Science Foundation, the Department of Agriculture, the Office of Science and Technology Policy, including the Committee on Earth and Environmental Sciences, the Office of Naval Research, and the Agency for International Development.

Environmental Compliance and Advanced Energy Technologies

Work in this area should focus on research and further development of advanced energy technologies that have already been developed in conjunction with a defense program or that are currently being supported as part of a defense program. Emphasis should be placed on those technologies that could potentially be used directly by DoD. Research and development work in this area could be useful to assist DoD with compliance with future, more stringent environmental laws, such as the anticipated revisions of the Clean Air Act.

Technologies for Environmental Cleanup

Research and development of new technologies, such as bioremediation, as well as methodologies for use in environmental restoration and cleanup activities, are of particular importance to both DoD and DoE. Before instituting research proposals in this area, the Council should be aware of the ongoing research activities of the two departments and should not duplicate those activities. For instance, the Defense Nuclear Agency is currently involved in research dealing with new technologies to clean up various contaminants. To avoid duplication, the conferees recommend that the Council undertake a survey of existing environmental research currently underway at DoD and DoE.

The Council should give particular emphasis to contamination problems that are of concern to both DoD and DoE, and for which technologies either do not exist, are not adequate, or are not practical. The Council should also focus on areas that are unique to the military, such as demilitarization of chemical weapons and disposal of unexploded ordnance.

Expenditure of funds

The conferees agree that the Council should utilize, to the fullest extent possible, the research talents of the federal laboratories, including DoD laboratories; DoE multipurpose, multi-program, and defense laboratories; federal contract research centers (FCRCs); and other federal laboratories.

The Council should also consider the use of cooperative research programs with universities and industry that would allow the costs of research to be shared among the various participants. In addition, the conferees recognize that other federal agencies, state governments, and non-profit research organizations are the source of substantial environmental and technical expertise. In carrying out the program, the Council should strongly consider using such resources, particularly through the use of cooperative projects between DoD, DoE, and other federal agencies and departments. Particularly in data gathering and identification areas, cooperative projects with agencies such as the Environmental Protection Agency and the National Oceanic and Atmospheric Administration; private, nonprofit research organizations such as the National Center for Atmospheric Research; and state governments should be considered. Such projects would avoid duplication of effort, maximize cost-effectiveness, and provide additional opportunities for shared knowledge and experience. Such cooperative efforts would be mutually beneficial to all participating agencies.

The conferees in particular recognize the substantial expertise of the Environmental Protection Agency's Office of Research and Development, especially in the area of hazardous and solid waste prevention, minimization, and treatment.

First annual report

The conferees have added a new reporting category to the annual report required by the Senate amendment that would direct the Council to explore the possibility of recovering a portion of the cost of data gathering identification and dissemination.

Sections 2901(b)(3), 2902(e)(1 and 2), and 2902(g)(2)(H), which require DoD and DoE to disseminate data and information to the public for research purposes, would have potentially significant commercial implications. For example, some of the data collected by DoD and DoE can have significant commercial value for companies involved in oil and gas exploration. Although the intent of these provisions would be to distribute widely information and data that will enhance and strengthen environmental research conducted for the public good, such as research to better understand global climate change, it may be appropriate for DoD to treat distribution of commercially valuable data to private entities operating for a profit in a different manner. Accordingly, section 2904(c) would require the Council, in its first annual report to Congress, to assess various alternative mechanisms for compensating the federal government for commercially valuable data distributed pursuant to the requirements in this title to private, for-profit organizations. In conducting this assessment, the Council should consider existing fee programs, such as that operated but the National Oceanic and Atmospheric Administration. The assessment should include a consideration of fees that reflect both the incremental cost to the government of distribution and the fair market value.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

OVERVIEW

The amended budget request for fiscal year 1991 contained $9,113,950,000 for military construction and family housing.

The House bill would authorize $8,488,167,000 for military construction and family housing.

The Senate amendment would provide $8,591,284,000 for this purpose.

The conferees recommend authorization of $8,676,464,000 for military construction and family housing in fiscal year 1991.

39-059 O—92-15 (Pt. 23)

FY 1991 MILITARY CONSTRUCTION
AUTHORIZATION OF APPROPRIATIONS
RECAPITULATION
[In thousands of dollars]

	BUDGET REQUEST	HOUSE PASSED	PASSED SENATE	HOUSE +/- SENATE	CONFERENCE AGREEMENT
ARMY	774,900	652,387	718,220	(65,833)	748,187
NAVY	1,113,300	1,090,126	1,089,126	1,000	1,142,396
AIR FORCE	1,364,200	911,043	1,015,134	(104,091)	914,444
DEFENSE AGENCIES	787,500	565,328	659,313	(93,985)	618,478
NATO INFRASTRUCTURE	420,400	175,000	210,400	(35,400)	192,700
BASE REALIGN & CLOSURE	916,500	1,016,500	966,500	50,000	1,016,500
ARMY NATIONAL GUARD	66,400	208,898	196,373	12,525	297,544
AIR NATIONAL GUARD	66,500	119,620	134,310	(14,690)	172,340
ARMY RESERVE	59,300	66,992	68,826	(1,834)	76,126
NAVY RESERVE	50,200	63,300	67,207	(3,907)	80,307
AIR FORCE RESERVE	37,700	37,700	37,700	0	37,700
TOTAL MILITARY CONSTRUCTION	5,656,900	4,906,894	5,163,109	(256,215)	5,296,722
FAMILY HOUSING, ARMY	1,554,200	1,579,200	1,556,700	22,500	1,531,700
PORTION APPLIED TO DEBT REDUCTION	250	250	250	0	250
FAMILY HOUSING, NAVY	904,500	928,519	883,125	45,394	871,827
FAMILY HOUSING, AIR FORCE	971,900	995,894	961,900	33,994	949,765
FAMILY HOUSING, DEFENSE AGENCIES	21,100	20,700	21,100	(400)	21,100
HOMEOWNERS ASSISTANCE FUND	5,100	56,710	5,100	51,610	5,100
TOTAL FAMILY HOUSING	3,457,050	3,581,273	3,428,175	153,098	3,379,742
TOTAL MILITARY CONSTRUCTION & FAMILY HOUSING	9,113,950	8,488,167	8,591,284	(103,117)	8,676,464

Restrictions of authority to carry out certain military construction projects outside the United States

The House bill contained provisions that would terminate the authorization of overseas projects authorized for fiscal year 1990 on which funds have not yet been obligated (sections 2105, 2206, 2306, and 2406) and preclude the expenditure of family housing improvement monies overseas (sections 2103, 2203, 2303, and 2402).

The Senate amendment contained no similar provisions, although the report accompanying the Senate amendment (S. Rept. 101-384) precluded the expenditure of family housing improvement monies at specified overseas locations.

The conferees recommend deletion of the statutory restrictions on overseas construction and overseas family housing improvements. The conferees are concerned, however, about the expenditure of any construction funds overseas until the Defense Department determines the locations outside the United States at which American military forces will continue to be based into the future. The Defense Department has not submitted on multiyear force structure plan and seems to have reached no internal conclusions about the number and locations of forward deployed U.S. forces in the future. Undoubtedly, there will be far fewer American troops in Europe and, probably, substantially fewer elsewhere. The Armed Services Committees of the Senate and House of Representatives will, therefore, monitor closely all overseas construction to ensure that no money is spent as locations from which U.S. forces may withdraw in the near future. The Conferees expect the Department of Defense to establish internal controls to prevent the expenditure of military construction funds at overseas locations which are not likely to continue to be used by American forces.

TITLE XXI—ARMY

FISCAL YEAR 1991

The House bill would authorize $652,387,000 for Army military construction and family housing programs for fiscal year 1991.

The Senate amendment would authorize $718,220,000 for this purpose.

The conferees recommend authorization of $748,187,000 for military construction and family housing for the Army for fiscal year 1991.

Ammunition demilitarization facility, Tooele Army Depot, Utah (sec. 2105)

The House bill contained a provision (sec. 2106) that would increase the total authorization for construction of an ammunition demilitarization facility at Tooele Army Depot, Utah, from $92.3 million to $141.7 million.

The Senate amendment contained a similar provision (sec. 2105) that would increase the total authorization for this project to $132.7 million.

The Senate recedes.

Fort Benjamin Harrison entomology facility

The conferees direct that an entomology facility at Fort Benjamin Harrison, Indiana be constructed with minor construction funds. However, prior to awarding the project, the conferees direct the Army to study the feasibility of contracting out the entomology services, with the contractor using facilities either on-post or off-post. The conferees expect this study to be completed by July 1, 1991 so the project can be awarded by September 1991 if the Army determines that it is more cost-effective to build this facility and perform the work with government employees.

Special operations headquarters addition, Fort Bragg, North Carolina

The conferees agree to authorize an expansion of the special operations forces headquarters at Fort Bragg, North Carolina. The conferees are, however, concerned that the design of the facility appears to include features not generally incorporated in such facilities. While the conferees agree to authorize the full sum of the project, they prohibit the inclusion of a roof top heliport in this facility unless, by December 1, 1990, the Secretary of Defense provides to the Committee on Armed Services of the Senate and House of Representatives a report fully justifying this expense.

TITLE XXII—NAVY

FISCAL YEAR 1991

The House bill would authorize $1,090.126,000 for Navy military construction and family housing programs for fiscal year 1991.

The Senate amendment would authorize $1,089,126,000 for this purpose.

The conferees recommend authorization of $1,142,396,000 for military construction and family housing for the Navy for fiscal year 1991.

Communications center, Naval Air Station, Keflavik, Iceland

The House bill and the Senate amendment both would defer $10.248 million for a communications center at the Naval Air Station, Keflavik, Iceland without prejudice. The conferees have become aware that $6.4 million of this project is for the final increment of work for a 1,000 foot communications antenna that was authorized in fiscal year 1990. This work, including the erection of the tower, guys, radials and helix house, will provide dependable low-frequency and other transmissions in the Northern Hemisphere essential for reimbursement forces transiting the North Atlantic. Loss of the broadcast is now threatened due to the deteriorated condition of the existing tower. The conferees therefore recommend that the Navy pursue funding under the fiscal year 1990 authority to complete the construction of the antenna.

TITLE XXIII—AIR FORCE

FISCAL YEAR 1991

The House bill would authorize $911,043,000 for Air Force military construction and family housing programs for fiscal year 1991.

The Senate amendment would authorize $1,015,134,000 for this purpose.

The conferees recommend authorization of $914,444,000 for military construction and family housing for the Air Force for fiscal year 1991.

Designation of installation (sec. 2307)

The House bill contained a provision (sec. 2308) that would direct that the last Minuteman II missile unit to be upgraded should be the last to be retired.

The Senate amendment contained no similar provision.

The Senate recedes.

Restriction on relocation or realignment at Tonopah Research Site, Nevada (sec. 2308)

The House bill contained a provision (sec. 2309) that would preclude the relocation of any part of the 37th Tactical Fighter Wing from Tonopah Research Site, Nevada, until an environmental impact statement is complete, a cost-benefit analysis is transmitted to Congress by the Secretary of the Air Force, and 21 days have elapsed.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would revise the scope of the report of the Secretary of the Air Force to a discussion of the cost efficiency and mission effectiveness of the proposed relocation of the 37th Tactical Fighter Wing, and its consistency with the long term force structure and basing plans for Air Force flying units.

Construction in support of new weapon systems

The conferees reiterate the view expressed in the report accompanying the Senate amendment (S. Rept. 101-384) regarding the requirement for the military Services to advise the Congress at the beginning of the deployment of a new weapon system of the complete basing plan for that system, together with the facility needs at each planned beddown site.

With regard to the B-2 aircraft, the conferees share the concerns expressed in the Senate report that shelters should be provided for no more than half the operational force, above and beyond specialized maintenance structures. During the first several years of operation, the Air Force is to analyze its maintenance experience to determine whether there is a material difference in the cost of maintaining sheltered and unsheltered aircraft.

Titan IV Launch Complex, Vandenberg AFB, CA

A much needed launch facility for the Titan IV at Vandenberg Air Force base has been delayed a number of years until the Air Force made a determination on whether to convert an existing space launch complex, SLC-6, or construct a new facility, denoted as SLC-7. A final decision has now been made to convert SLC-6. The conferees support this decision as it provides significantly reduced environmental risks and is considerably less expensive than the construction of a totally new facility. The conferees authorize $19.2 million, representing the total amount of military construction funds required for the conversion. The balance of the cost of the project is to be funded from other accounts.

Air Force Academy facility expansion

The conferees agree with the report accompanying the Senate amendment (S. Rept. 101-384) concerning the deferral of the expansion and modernization of the academic facilities at the Air Force Academy.

The conferees are aware that the Office of the Secretary of Defense is currently assessing the projected accession rates for each source of officers, and that the long term enrollment levels of the Service academies are being reviewed within this overall study. In light of this review, and direction provided elsewhere in this bill to reduce the accessions at each Service academy to no more than 1,000 per year by 1995, the conferees believe that capitol investment in addressing facility shortfalls at these schools should be deferred.

Once the long term enrollment levels have been recommended by the Department of Defense and reviwed by the Committees on Armed Services of the Senate and House of Representatives, the conferees intend to readdress the facility needs of each of the Service academies.

Tyndall Air Force Base

The conferees are aware of an immediate requirement for a facility at Tyndall Air Force Base, Florida to support the relocation of the CONUS Regional Operations Control Facility. This project is estimated to cost $900,000. The conferees direct the Air Force to submit a request pursuant to 10 USC 2805 to use unspecified minor construction funds for this project.

TITLE XXIV—DEFENSE AGENCIES

FISCAL YEAR 1991

The House bill would authorize $1,581,828,000 for Defense Agencies military construction and family housing programs for fiscal year 1991.

The Senate amendment would authorize $1,625,813,000 for this purpose.

The conferees recommend authorization of $1,634,978,000 for military construction and family housing for Defense Agencies for fiscal year 1991.

Conforming storage facilities (sec. 2403)

The House bill contained a provision (sec. 2403) that would authorize $5 million for the construction of conforming storage facilties in fiscal year 1991.

The Senate amendment contained a provision (sec. 2404) that would amend section 2404(a) of the Military Construction Authorization Act of Fiscal Year 1987 (Public Law 99-661) and add an authorization of $13.5 million for construction of these storage facilities.

The Senate recedes.

TITLE XXV—NATO

FISCAL YEAR 1991

The House bill would authorize $175,000,000 for the U.S. contribution to the NATO Infrastructure program for fiscal year 1990.

The Senate amendment would authorize $210,400,000 for this purpose.

The conferees recommend authorization of $192,700,000 for this purpose.

Authorized NATO construction and land acquisition projects (sec. 2501)

The House bill contained a provision (sec. 2501) that would express the sense of the Congress that the U.S. contribution to the NATO Infrastructure program should be used only for:

1. Verifying or implementing the terms of conventional arms control agreements;
2. Environmental restoration of military installations;
3. Recoupment owed by the United States; and
4. Completion of construction projects begun prior to October 1, 1990.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would state that the NATO Infrastructure account should be used primarily for verifying and implementing conventional arms control agreements, recoupment, and completion of previously obligated construction. The conferees believe that the United States should work in consultation with the other NATO members to refocus the Infrastrucutre program toward these goals.

Dedicated NATO training facility (sec. 2503)

The Senate amendment contained two provisions (sec. 1219 and 1231) that would direct the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives regarding the feasiblity and desirability of permitting the North Atlantic Treaty Organization to use a closing facility in the United States for a NATO training center.

The House bill contained no similar provision.

The House recedes to section 1231 with an amendment changing the date of the report to no later than March 15, 1991. The Senate recedes from section 1219.

TITLE XXVI—GUARD AND RESERVE

FISCAL YEAR 1991

The House bill would authorize $496,510,000 for military construction for fiscal year 1991 for the Guard and Reserve components.

The Senate amendment would authorize $504,416,000 for this purpose.

The conferees recommend authorization of $664,017,000 for military construction for fiscal year 1991. This authorization would be distributed as follows:

Army National Guard	$297,544,000
Army Reserve	172,340,000
Naval/Marine Corps Reserve	76,126,000
Air National Guard	80,307,000
Air Force Reserve	37,700,000

Reserve component construction

The conferees agree to authorize a number of construction projects for the reserve components that were not in the amended budget request. Some of these projects support modern weapons that are being assigned to reserve and National Guard combat units.

The conferees are disappointed that the budget request developed by the National Guard did not consider facilities such as those needed to support the fielding of the Apache helicopter to be of sufficient importance to include in the budget submission. While deployment decisions occured late in the budget development process, it would appear that these facility requirements ought to have enjoyed enough priority to be included in the request.

The conferees strongly urge the Assistant Secretary of Defense for Reserve Affairs to reevaluate the military construction program development process to insure that it has sufficient flexibility and mission orientation to respond to the facility needs of the reserve components' combat and combat support units.

The conferees are aware of a number of high priority projects that were identified too late to be included in either the House bill or the Senate amendment. These projects support the fielding of new weapon systems or address time-sensitive environmental problems. The conferees would carefully consider authorizing the following projects through reprogramming should the reserve components have sufficient authorization authority:

Marana Training Site, Arizona, Apache simulator facility, $4.554 million;

Barnes Airport, Massachusetts, petroleum storage facility, $3.2 million; and

Hector Field, North Dakota, relocate fuel storage, $3.5 million.

The conferees increased the Army Reserve planning and design account and direct that a portion of that increase be used to initiate design of a joint Army and Marine Corps Reserve aviation facility at Johnstown, Pennsylvania.

TITLE XXVIII—GENERAL PROVISIONS

PART A—CONSTRUCTION, LEASING, IMPROVEMENTS, DISPOSAL, AND UTILIZATION OF MILITARY INSTALLATIONS AND FACILITIES

LEGISLATIVE PROVISIONS ADOPTED

Dual basing (sec. 2801)

The House bill contained a provision (sec. 2801) that would direct the Secretary of Defense to provide for the dual basing of Army, Air Force, and Marine Corps units which must be forward deployed overseas to meet the worldwide security responsibilities of the United States. The provision would mandate a report on the suitability of dual basing specific units no later than March 1, 1991, and implementation of the dual basing plan no later than March 1, 1994.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would express the sense of the Congress that the practice of dual basing has significant potential as an effective and efficient basing option for the projection of military force to overseas areas. The Secretary of Defense is directed to provide the Committees on Armed Services of the Senate and House of Representatives a report, no later than March 15, 1991, outlining the manner in which this concept could be implemented, along with associated scheduling, costs, benefits, and obstacles.

Prohibition on construction at Crotone, Italy (sec. 2802)

The House bill contained a provision (sec. 2802) that would prohibit the expenditure of any funds available to the Department of Defense to relocate functions at Torrejon Air Base, Spain, existing on June 15, 1989, to Crotone, Italy, or any other location outside the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would preclude the expenditure of United States funds to relocate United States military activities from Torrejon Air Base, Spain to Crotone Air Base, Italy or other overseas locations until the Secretary of Defense provides a certification to the Committees on Armed Services of the Senate and the House of Representatives that the North Atlantic Council, made up of the foreign ministers of the NATO nations, has concluded, by means of a resolution, that the continued construction of Crotone Air Base is justified. The amendment would also require that the United States place four questions on the agenda of the next North Atlantic Council meeting. The questions concern the continued need for the 401st Tactical Fighter Wing in the southern region of NATO, the desirability of continuing construction at Crotone, the availability of alternate existing basing, and the authority of the United States to use planes based at Crotone for operations outside Europe.

Restrictions on leasing in the National Capital Region (sec. 2803)

The House bill contained a provision (sec. 2803) that would mandate that the Department of Defense reduce the amount of leased administrative space in the National Capital Region to no more than eight million square feet by the end of fiscal year 1994. Reduction targets would be provided for each intervening year. In addition, the provision would prohibit the Department from leasing from the General Services Administration any space at Buzzard's Point, District of Columbia, after March 1, 1991.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. During the next five years, the endstrength of the Department of Defense will be reduced by about 25 percent. Elsewhere in the bill is a requirement to reduce management headquarters activities by at least 20 percent during the same period. Additionally, section 2821 of the National Defense Au-

thorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189) authorizes the Secretary of the Army to exchange 820 acres of land at the Engineer Proving Grounds, Fort Belvoir, Virginia, for up to three million square feet of administrative office space. Also, space on military installations may become vacant as the force structure is reduced.

The combination of these factors leads the conferees to believe that the Department of Defense's leased space requirements in the National Capital Region may be reduced and stabilized during the next five years. Accordingly, the conferees direct the Secretary of Defense, in consultation with the Administrator of General Services, to conduct a comprehensive review of Department of Defense long-term leased space requirements in the National Capital Region and report to the Committees on Armed Services of the Senate and the House of Representatives no later than April 15, 1991, a detailed plan to meet those needs. Included in the report shall be an analysis of all undeveloped or under-utilized capacity on military installations in the National Capital Region.

Operation and control of the Pentagon reservation (sec. 2804)

The Senate amendment contained a provision (sec. 2804) that would transfer control of the Pentagon Reservation from the General Services Administration to the Department of Defense.

The House bill contained no similar provision.

The House recedes with an amendment that would:

Modify the authorities associated with law enforcement or the Pentagon Reservation;

Delete the transfer of unobligated balances from the Federal Building Fund to the Department of Defense which are associated with the Pentagon Reservation;

Delete the references to Congressional access to the Pentagon; and

Direct a report from the Department of Defense on the multi-year costs of the renovation of the Pentagon.

Revenue from disposal of excess Department of Defense land on (sec. 2805)

The Senate amendment contained a provision (sec. 2809) that would amend the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) to authorize the Department of Defense to retain the proceeds of any excess property which is sold. Subject to appropriation, the proceeds of such sales could be used only for environmental restoration or real property maintenance.

The House bill contained no similar provision.

The House recedes with an amendment that would require from the Secretary of Defense an annual report as a part of the Defense Department's budget request which provides an accounting of the disposition of each opportunity disposed under this section, which took place during the fiscal year preceding the fiscal year in which the request is made. The report shall also include a description of how the proceeds from such disposals were used.

The conferees are aware that the Administration has recently proposed legislation which would provide for a formula for the disposition of the proceeds of government property sales which is at variance with this provision. Should the Administration proposal be enacted during the 102nd Congress, the conferees would consider amending this provision to conform.

Revenue from the leasing out of Department of Defense assets (sec. 2806)

The Senate amendment contained a provision (sec. 2810) that would amend section 2667 of title 10, United States Code, to direct that the proceeds from certain leases of Department of Defense assets be returned to the Department of Defense. Subject to appropriation, these sums could be used only for the administration of such leases, real property maintenance, or environmental restoration.

The House bill contained no similar provision.

The House recedes with an amendment that would require that the Secretary of Defense submit an annual report as a part of the Defense Department's budget request which provides an accounting of each lease whose proceeds are distributed under this section during the fiscal year prior to the year in which the request is made, as well as for other leases whose proceeds are received during the preceeding fiscal year. The report shall also include a detailed explanation of each new lease and of the proceeds received from each existing lease.

Sense of Congress concerning a military construction moratorium (sec. 2807)

The House bill contained a provision (sec. 2805) that would state the sense of the Congress that the Secretary of Defense should not issue a moratorium on military construction during fiscal year 1991.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would express the sense of the Congress that the Secretary of Defense should impose no moratorium on military construction during calendar year 1991.

LEGISLATIVE PROVISIONS NOT ADOPTED

Options on real property

The Senate amendment contained a provision (sec. 2802) that would expand the Department of Defense's authority (10 U.S.C. 2677) to purchase options on real property prior to receiving authority to proceed with acquisition of that property. The provision would extend this authority to options for property which is to be leased.

The House bill contained no similar provision.

The Senate recedes.

Homeowners assistance program

The Senate amendment contained a provision (sec. 2806) that would provide the Secretary of Defense increased flexibility to reprogram funds into the homeowners assistance program from other appropriated fund sources.

The House bill contained no similar provision.

The Senate recedes.

Restriction on funding for environmental restoration by the Department of Defense at certain military installation outside the United States

The House bill contained a provision (sec. 2833) that would limit Department of Defense funding for environmental restoration of overseas military installations within NATO host nations which are being vacated by United States armed forces. The provision would direct that this expenditure could only be funded by the United States through the NATO Infrastructure program.

The Senate amendment contained no similar provision.

The House recedes because the conferees believe that environmental restoration is a host nation responsibility.

PART B—MILITARY CONSTRUCTION PROGRAM CHANGES

LEGISLATIVE PROVISIONS ADOPTED

One-year extension of military housing rental guarantee program (sec. 2811)

The Senate amendment contained a provision (sec. 2801) that would extend the expiration date of the test authority for the military housing rental guarantee program (section 802 of the Military Construction Authorization Act for Fiscal Year 1984) (10 U.S.C. 2821 note) from September 30, 1990, until September 30, 1991.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the Department of Defense to six family housing projects under this authority during fiscal year 1991.

Family housing improvement threshold (sec. 2812)

The House bill contained a provision (sec. 2804) that would temporarily raise the per unit statutory limit on family housing improvements (10 U.S.C. 2835) from $40,000 to $50,000 per unit.

The Senate amendment contained a provision (sec. 2803) that would amend 10 U.S.C. 2835 by permitting an administrative, rather than statutory, waiver to the limitation of $40,000 for the improvement of a military family housing unit.

The Senate recedes with an amendment that would incorporate the Senate's modification of 10 USC 2835, and the House's $50,000 cost cap. Waivers to the cost limitation would need to be accompanied by a report to the Committees on Armed Services of the Senate and House of Representatives which discusses the cost effectiveness over the remaining useful life of the facility of renovations exceeding the cost cap.

LEGISLATIVE PROVISIONS NOT ADOPTED

Impact assistance for Whiteman Air Force Base, Missouri

The House bill contained a provision (sec. 2841) that would authorize impact assistance to communities surrounding Whiteman Air Force Base, Missouri, to fund the burden on these communities caused by the increased military population associated with the location of the B-2 mission at Whiteman Air Force Base.

The Senate amendment contained no similar provision.

The House recedes. The conferees agree to defer impact assistance authorization without prejudice until the future size of the B-2 bomber force to be assigned to Whiteman Air Force Base is determined.

Restriction on closure of Stapleton Naval Station, Staten Island, New York

The House bill contained a provision (sec. 2836) that would impose certain restrictions on the use of funds to close Stapleton Naval Station, Staten Island, New York.

The Senate amendment contained no similar provision.

The House recedes. The conferees believe that the future of the Staten Island homeport, like all other domestic military bases, will be determined within the content of the base closure and realignment process contained in section 2901 of this bill.

In deferring funding for military family housing at the Staten Island homeport, the conferees believe that additional use of third party financed housing development, particularly the section 802 guaranteed rental program, may be more cost-effective.

PART C—LAND TRANSACTIONS

LEGISLATIVE PROVISIONS ADOPTED

Land conveyance at Redstone Arsenal, Alabama (sec. 2821)

The House bill contained a provision (sec. 2811) that would authorize the Secretary of the Army to convey a certain parcel of land at Redstone Arsenal, Alabama, to the Solid Waste Disposal Authority of the City of Huntsville, Alabama.

The Senate amendment contained a similar provision (sec. 2822).

The Senate recedes.

Release and Conveyance, Research Center, Little Rock, Arkansas (sec. 2822)

The Senate amendment contained a provision (sec. 2821) that would direct the Secretary of the Army to convey back to the University of Arkansas at Little Rock the Army's leasehold interest in a surplus Army Reserve Center.

The House bill contained no similar provision.

The House recedes.

Land conveyance, Naval Weapons Station, Concord, California (sec. 2823)

The House bill contained a provision (sec. 2812) that would authorize the Secretary of the Navy to sell to the San Francisco Bay Area Rapid Transit District approximately 40 acres comprising a portion of the Naval Weapons Station, Concord, California. Net proceeds of the sale which accrue to the Department of the Navy could be used to design and construct designated projects at that location.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit construction with the proceeds of the sale to any facilities displaced by the land conveyance. All other proceeds accruing to the Department of the Navy would be used in accordance with the overall policy outlined in section 2805 of this bill.

Lease at Hunters Point Naval Shipyard, San Francisco, California (sec. 2824)

The House bill contained a provision (sec. 2813) that would direct the Secretary of the Navy to enter into a long-term lease at fair market value with the City of San Francisco for no less than 260 acres at Hunters Point Naval Shipyard.

The Senate amendment contained no similar provision.

The Senate recedes.

Transfer of lands to the Secretary of Agriculture (sec. 2825)

The Senate amendment contained a provision (sec. 2823) that would direct the Secretary of the Army to transfer to the Secretary of Agriculture approximately 16,700 acres of land at the Pinon Canyon Maneuver Site, Colorado, known as the Picket Wire Canyonlands.

The House bill contained no similar provision.

The House recedes. The conferees agree that the issue of public access to the Picket Wire Canyonlands must be addressed early in the negotiations leading to the interagency agreement that is mandated in the provision. To provide ongoing oversight of this critical issue, the conferees direct the parties to the interagency negotiations to submit a report to the Committees on Armed Services and Agriculture of the Senate and House of Representatives no later than June 30, 1991. The report shall detail progress made toward resolving the issue of public access. The conferees strongly urge the parties to consider utilization of the Minnie Canyon Road for such public access, consistent with preservation of unique cultural resources.

Land conveyance, Cape Henlopen, Delaware (sec. 2826)

The Senate amendment contained a provision (sec. 2824) that would direct the Secretary of the Army to convey to the State of Delaware a parcel of real property at Cape Henlopen, Delaware, which was transferred from the state during World War II. The provision would protect the access of military members to the property which will be redeveloped as part of the surrounding Cape Henlopen State Park.

The House bill contained no similar provision.

The House recedes.

Land conveyance, Eglin Air Force Base, Florida (sec. 2827)

The House bill contained a provision (sec. 2814) that would authorize the Secretary of the Air Force to sell at fair market value approximately 3.5 acres on Eglin Air Force Base, Florida, to the City of Valparaiso, Florida, for the purpose of establishing a public cemetery.

The Senate amendment contained no similar provision.

The Senate recedes.

Land conveyance and replacement of Outlying Landing Field, Whitehouse, Florida (sec. 2828)

The House bill contained a provision (section 2815) that would authorize the Secretary of the Navy to sell land and improvements comprising Outlying Landing Field, Whitehouse, Florida. This provision would also authorize the use of the proceeds from this sale and the sale of other excess Navy properties to reimburse the cost of acquiring land and building a replacement outlying field in the Jacksonville area for use by the Naval Air Station, Cecil Field.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize the Secretary of the Navy to sell Outlying Landing Field, Whitehouse, and use the proceeds to cover the costs of the sale and purchase of easements and other interests for safety and noise buffer purposes around a replacement landing field.

Land exchange, Fort Benning, Georgia (sec. 2829)

The House bill contained a provision (sec. 2816) that would authorize the Secretary of the Army to enter into a value for value land exchange with the City of Columbus, Georgia. absent agreement by all parties, the agreement could not be executed prior to December 1, 1990.

The Senate amendment contained a similar provision (sec. 2826).

The House recedes. The conferees note that this exchange would adversely impact Chattanhoochee County, Georgia, by removing over 3,000 acres from its tax rolls. The conferees are aware of ongoing negotiations to achieve an equitable settlement with the county, and expect these discussions to be favorably concluded in the near future. The conferees intend that in pursuing this land exchange, the sponsors will comply with the provisions of the Endangered Species Act.

Land conveyance, Robins Air Force Base, Georgia (sec. 2830)

The House bill contained a provision (sec. 2817) that would authorize the Secretary of the Air Force to sell approximately 70 acres comprising a portion of Robins Air Force Base, Georgia, and use the proceeds to rehabilitate military family housing on the base.

The Senate amendment contained no similiar provision.

The Senate recedes with an amendment that would direct the proceeds from this sale be used by the Air Force in accordance with the policy outlined in section 2805 of this bill.

Land conveyance, Dillingham Military Reservation, Hawaii (sec. 2831)

The Senate amendment contained a provision (sec. 2828) that would direct the Secretary of the Army to convey to the state of Hawaii certain lands at Dillingham Army Airfield, Hawaii, which were ceded by the state to the Department of Defense for military purposes. In consideration, the state would enter into a joint use agreement to insure continued access by the Army for its limited aviation operations.

The House bill contained no similar provision.

The House recedes.

Land conveyance, South Bend, Indiana (sec. 2832)

The House bill contained a provision (sec. 2818) that would direct the Secretary of the Army to convey approximately 4.15 acres comprising an Army Reserve Center in South Bend, Indiana, to the Civic Foundation, a not-for-profit corporation, or the City of South Bend, Indiana. In consideration, the Army would receive approximately eight acres plus rehabilitated improvements to existing structures on the new site. This agreement would permit the relocation of the Center into a more modern facility to meet its current and projected needs.

The Senate amendment contained a similar provision (sec. 2829).

The Senate recedes with technical changes to the House provision.

Land exchange, Lexington Park, Maryland (sec. 2833)

The House bill contained a provision (sec. 2819) that would authorize the Secretary of the Navy to enter into a land exchange with the County of St. Marys, Maryland involving approximately 32 acres consisting of two parcels at the Naval Air Test Center, Patuxent River, Maryland, and property in Lexington, Maryland known as the Frank Knox Elementary School.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would ensure that the Department of the Navy receive as consideration a value at least equal to the value of the property conveyed to the County of St. Marys.

Land exchange at Marine Corps Finance Center, Kansas City, Missouri (sec. 2834)

The Senate amendment contained a provision (sec. 2830) that would authorize the Secretary of the Navy to enter into a value for value exchange of land with the city of Kansas City, Missouri.

The House bill contained no similar provision.

The House recedes.

Conveyance of Fort Douglas, Utah, to the University of Utah (sec. 2836)

The Senate amendment contained a provision (sec. 2832) that would direct the Secretary of the Army to convey approximately 64 acres comprising the former Fort Douglas, Utah, to the University of Utah. In consideration, the university would maintain

certain historical buildings and the state of Utah would waive certain entitlements which may be due the state under two other laws.

The House bill contained no similar provision.

The House recedes.

Naval Reserve Center, Burlington, Vermont (sec. 2837)

The Senate amendment contained a provision (sec. 2833) that would authorize the Secretary of the Navy to convey to the city of Burlington, Vermont, the Department's interest in a reserve center at that location. The consideration provided by the city, coupled with an additional authorization for appropriation of $2.5 million contained elsewhere in this bill, would provide for construction of a modern center to meet the long-term needs of the Naval Reserve in the Burlington area.

The House bill contained no similar provision.

The House recedes.

Land transfer, Arlington, Virginia (sec. 2838)

The House bill contained a provision (sec. 2822) that would authorize the Administrator of General Services to transfer without consideration approximately 14 acres of real property known as Barracks K, Arlington, Virginia, to the Secretary of the Navy.

The Senate amendment contained no similar provision.

The Senate recedes.

Land transfer, Fort A. P. Hill, Virginia (sec. 2839)

The Senate amendment contained a provision (sec. 2834) that would direct that 150 acres of land at Fort A. P. Hill, Virginia, be transferred to the Commonwealth of Virginia to be used as the site for a regional correctional facility.

The House bill contained no similar provision.

The House recedes with an amendment that would expand the number of counties in Virginia that may utilize any correctional facility constructed on the site.

Easement conveyance, Fort Lawton, Seattle, Washington, (sec. 2840)

The House bill contained a provision (sec. 2823) that would authorize the Secretary of the Navy to convey to the city of Seattle, Washington, certain easement interests of the United States in approximately 1.42 acres comprising a portion of the Fort Lawton family housing area, Seattle, Washington. In consideration, the Navy will receive, among other things, new water line hookups to family housing in the Fort Lawton complex, as well as 10 new family housing units in the Puget Sound area to replace those displaced by the city's utility development.

The Senate amendment contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Release of reversionary interest, Berrien County, Michigan

The House bill contained a provision (sec. 2820) that would authorize the Secretary of the Navy to release the reversionary interest of the United States in and to approximately 1.7 acres located in Berrien County, Michigan. This relinquishment would permit the County to exchange the encumbered property for another tract which would be developed as a National Guard armory that was previously authorized. The Navy has no need to retain the existing reversionary interest.

The Senate amendment contained no similar provision.

The House recedes.

PART D—DEPARTMENT OF DEFENSE ENERGY SAVINGS

LEGISLATIVE PROVISIONS ADOPTED

Department of Defense energy savings program (sec. 2851)

The House bill contained a provision (sec. 2851) that would direct the Secretary of Defense to establish and implement a plan to achieve an energy performance goal and to establish energy conservation measures at Department of Defense facilities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would reduce the funding for the program to $30 million.

The conferees direct the Secretary of Defense to submit the comprehensive energy plan required under this section no later than six months after the date of enactment of this bill.

Technical amendments (sec. 2852)

The House bill contained a provision (sec. 2852) that would substitute the life-cycle cost methods contained in the National Energy Conservation Policy Act for existing life-cycle cost methods used to determine whether solar or renewable energy systems are cost effective in certain military construction projects.

The Senate amendment contained no similar provision.

The Senate recedes.

PART E—MISCELLANEOUS PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Relocation of the Florida Solar Energy Center (sec. 2861)

The Senate amendment contained a provision (sec. 2825) that would authorize the Secretary of the Air Force to purchase from the state of Florida a leasehold interest in property on Cape Canaveral Air Force Station which has been leased to the state as the site of the Florida Solar Energy Center. This activity is no longer compatible with the site's military mission.

The House bill contained no similar provision.

The House recedes.

Modification height restriction in navigation easement (sec. 2862)

The House bill contained a provision (sec. 2842) that would modify a statutory avigation easement at Okaloosa Island, Florida, to permit the construction of a water tower.

The Senate amendment contained no similar provision.

The Senate recedes.

Henderson Hall, Arlington, Virginia (sec. 2863)

The House bill contained a provision (sec. 2843) that would amend the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189) to alter the authorized size of a facility being constructed at Henderson Hall, Virginia.

The Senate amendment contained no similar provision.

The Senate recedes.

Lease purchase of facility for Uniformed Services University of the Health Sciences (sec. 2864)

The House bill contained a provision (sec. 2844) that would amend current law (10 U.S.C. 2112) to permit the Secretary of Defense to enter into a lease purchase arrangement for the construction of a teaching, research, and administrative facility at the Uniformed Services University of the Health Sciences at Bethesda, Maryland.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would amend section 2842 of title 10, United States Code, to include the authority for the Department of Defense to enter into lease purchase agreements for facilities serving as classrooms and laboratories. The conferees intend that the Uniformed Services University of the Health Sciences use the authority under 10 USC 2842 to acquire a new training and research facility.

The conferees continue to believe that this authority represents a useful option for facility development and, under some circumstances, can be more cost effective than military construction or long term leases. They are concerned that the Department of Defense has failed to move forward with any initiative under this authority since its enactment last year. The conferees reiterate their view that development of the Sparkman Center at Redstone Arsenal, Alabama, and the modernization of the Aeronautical Systems Division at Wright Patterson Air Force Base, Ohio, are excellent candidates for this approach to meeting facility shortfalls.

Sale of aggregate, Naval Air Station, Miramar, California (sec. 2865)

The House bill contained a provision (sec. 2845) that would authorize the Secretary of the Navy to sell embedded rock and gravel aggregate from Naval Air Station Miramar, California, and use the proceeds to acquire land or construct military family housing in the San Diego area.

The Senaet amendment contained no similar provision.

The Senate recedes with an amendment that would direct the disposition and use of the proceeds of aggregate sales to the purposes outlined in section 2805 of this bill.

Study to evaluate joint military-civilian use of military airfields (sec. 2866)

The Senate amendment contained a provision (sec. 2814) that would direct the Secretaries of Defense and Transportation to conduct an evaluation of military airfields to identify those which hold potential for civilian reuse, or, assuming continued military activity, joint military-civilian use.

The House bill contained no similar provision.

The House recedes with an amendment that would ensure that all interested authorizing committees of Congress receive copies of the aircraft evaluation.

Negotiations for joint civilian and military use of the airfield at Wheeler Air Force Base, Hawaii (sec. 2867)

The Senate amendment contained a provision (sec. 2827) that would direct the Secretary of the Navy to enter into negotiations with the state of Hawaii to develop an agreement for joint military and civilian use of the aviation facilities at Barbers Point Naval Air Station, Hawaii.

The House bill contained no similar provision.

The House recedes with an amendment that would direct the Secretary of Defense to enter into negotiations with the state of Hawaii to develop an agreement for joint military and civilian use of Wheeler Air Force Base, Hawaii, instead of Barbers Point Naval Air Station, Hawaii.

Extension of termination date for land conveyance at Eglin Air Force Base, Florida (sec. 2868)

The conferees agree to a provision that would extend for three years the authority of the Secretary of the Air Force Base, Florida, which will clarify the installation's boundaries and settle associated claims.

TITLE XXIX—BASE CLOSURES AND REALIGNMENTS

PART A—DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

LEGISLATIVE PROVISIONS ADOPTED

Defense Base Closure and Realignments (secs. 2901-2911)

The House bill contained a provision (sec. 2831) that would direct the following:

1. The Secretary of Defense would formulate a five-year force structure plan for the armed forces based upon the prospective threat and funding levels, and a plan to implement the associated reductions and closures of overseas military installations.

2. As a part of the defense budget request for fiscal years 1992 and 1993, the Secretary would provide the Congress the force structure plan, a list of overseas installations to be reduced or closed, and legislative proposals to establish a fair process of selecting military installations within the United States for closure or realignment, as well as proposals for the mitigation to communities and individuals adversely affected economically by such closures.

3. The Defense Department would be precluded from studying or implementing base closures or realignments of installations within the United States (excluding those being carried out under Public Law 100-526 or those which do not meet the thresholds contained in section 2687 of title 10, United States Code) until January 1, 1992, or until specifically authorized by Congress during the 102nd Congress, whichever occurs first.

4. The Defense Department would be directed to maintain the level of funding for facility repair and maintenance of military installations within the United States at no less than 75 percent of the average funding level for these installations between fiscal years 1985 and 1989.

5. The Secretary of Defense would be directed not to use the list of closure and realignment proposals which was transmitted to Congress on January 29, 1990, as the basis for any decisions concerning mission, personnel, or resource allocations. To the extent that the missions at installations on this list have been reduced or facility development and maintenance have been curtailed, the Secretary would be directed to remedy this damage.

6. Alter the current statute concerning base closures and realignments (10 U.S.C. 2687) to establish a two-year period in which to determine personnel reduction thresholds, and to clarify the applicability of this statute to defense agency activities being conducted in leased facilities.

The Senate amendment contained a provision (sec. 2805) that would amend section 2687 of title 10, United States Code, regarding the process of closing and realigning military installations. In codifying several of the streamlining provisions of the Base Closure and Realignment Act of 1988 (Public Law 100-526), the provision would establish a base closure account, direct the delegation of property disposal authority from the Administrator of General Services to the Secretary of Defense, and make the National Environmental Policy Act inapplicable to the decision to close installations.

The House recedes with an amendment that would establish a new process to deal with the closure and realignment of military installations within the United States. This process would be used biennially and remain in effect for six years. It would include public and Congressional review of the criteria used by the Secretary of Defense to select bases to propose for closure or realignment, and an independent commission which will publicly evaluate these closure and realignment proposals and report its findings to the President. The conferees except the Secretary to justify any closure or realignment proposal made to the Commission with detailed analysis such as is currently required under section 2687 of title 10, United States Code, as well as a close linkage between the closure or realignment proposal and both the force structure plan and the criteria. Under the new process, both the President and the Congress would have opportunities to accept or reject the Commission's recommendations in their entirety under expedited procedures.

Any congressional disapproval of either the proposed criteria or the Commission's recommendation must be accomplished through a joint resolution, which requires the signature of the President or a two-thirds majority of both Houses of Congress in the case of a Presidential veto.

The conferees agree to clarify current base closure law to specifically apply to Department of Defense activities which occupy leased facilities. They also adopt the Senate provisions regarding the establishment of a base closure account, delegation of property disposal authority from the Administrator of General Services to the Secretary of Defense, and the streamlining of the environmental impact analysis process associated with closure and realignment actions.

The conferees prescribe a new base closure process because closures and realignments under existing law have two failings. First, closures and realignments take a considerable period of time and involve numerous opportunities for challenges in court. Second, the list of bases for study transmitted by Secretary Cheney on January 29, 1990, raised suspicions about the integrity of the base closure selection process. A new process involving an independent, outside commission will permit base closures to go forward in a prompt and rational manner.

The conferees expect the Department to begin anew in its base selection process, grounded in the programmed force structure and the criteria approved under this process. While bases which appeared on the January 29, 1990 list may reappear on a new proposed list, the conferees expect that the Department will consider all bases in the United States on an equal footing. The conferees further expect that bases on the January 29th list will be properly operated and maintained while this base closure process is implemented.

The test for the Commission to apply to bases recommended by the Secretary for closure and realignment is whether the Secretary deviated substantially from the force structure plan and the final criteria in making the recommendations.

The process established in this bill only covers military installations in the United States. The conferees expect the Secretary of Defense to move aggressively to cease or reduce U.S. operations at bases overseas where U.S. national security interests no longer require the current level of permanently stationed U.S. forces. The credibility of the domestic base closure and realignment process depends in no small measure on the closure of bases overseas.

The conference agreement provides that the Secretary of Defense shall make available to the Commission and to the Comptroller General of the United States all information used by the Department in making its recommendations to the Commission. As it relates to the General Accounting Office (GAO), this provision is intended to permit the staff of GAO to monitor the activities, while they occur, of the Services and the Department of Defense in selecting bases for closure and realignment. Through this monitoring, GAO will be able to report to the Commission and to Congress on how the process was conducted and whether it met the statutory requirements. The conferees do not intend that GAO staff be permitted to attend meetings or interfere, in any way, in the deliberative process. GAO is expected to fulfill its statutory responsibilities under this process through its normal methodology of interviewing officials and analyzing documents.

The base closure process contained in this bill clearly avoids the constitutional pitfall of excessive delegation of legislative authority. First, Congress is not really delegating its authority. Both the content of the criteria by which bases will be selected for closure and realignment and the final list of closures and realignments are subject to Congressional review. Second, while Congress obviously has a major role in the opening and closing of military installations, the decision to close a base is not so clearly a legislative power as to make Congress' determination to seek the help and advice of the Department of Defense and an independent commission a delegation of legislative authority. Third, by providing considerable Congressional involvement in the development of the governing criteria, and ensuring a clear power to disapprove, the conferees intend that Congress establish an intelligible principle for the Department and the Commission to use in making their decisions.

The current law providing procedures for base closures and realignments (10 U.S.C. 2687) contains a provision which makes those procedures explicitly inapplicable to closures or realignments made by the President for reasons of national security or military emergency. In that the base closure procedures provided in this bill only apply to closures and realignments which would otherwise be subject to section 2687 of title 10, United States Code, by definition, closures or realignments which could be carried out by the President without regard to section 2687 can be carried out by the President without regard to the procedures in this act. The conferees note, with approval, that the President has not abused this discretion. Accordingly, this provision would not affect the President's authority to undertake base closures or realignments on the basis of national security or military emergency.

The Federal Advisory Committee Act (Public Law 92-463) provides a sunset for boards which exist to provide advice to executive agencies. The Commission established by this legislation is not an advisory committee because it does not fall within the definition of that Act. Also, this legislation provides the sort of explicit sunset for the Commission to which the advisory committee was addressed. Hence, none of the provisions of the Federal Advisory Committee Act should be applied to this Commission.

The rulemaking (5 U.S.C. 553) and adjudication (5 U.S.C. 554) provisions of the Adminstrative Procedures Act (5 U.S.C. 551 et seq.) contain explicit exemptions for "the conduct of military or foreign affairs functions." An action falling within this exception, as the decision to close and realign bases surely does, is immune from the provisions of the Administrative Procedures Act dealing with hearings (5 U.S.C. 556) and final agency decisions (5 U.S.C. 557). Due to the military affairs exception to the Administrative Procedures Act, no final agency action occurs in the case of various actions required under the base closure process contained in this bill. These actions therefore, would not be subject to the rulemaking and adjudication requirements and would not be subject to judicial review. Specific actions which would not be subject to judicial review include the issuance of a force structure plan under section 2903(a), the issuance of selection criteria under section 2803(b), the Secretary of Defense's recommendation of closures and realignments of military installations under section 2803(d), the decision of the President under section 2803(e), and the Secretary's actions to carry out the recommendations of the Commission under sections 2904 and 2905.

The conferees note that the new procedures would considerably enhance the ability of the Department of Defense to promptly implement proposals for base closures and realignment. While the conferees are confident that these innovative procedures would create significant advantages for the Executive Branch over current law, the conferees recognize that there might be a need for further changes once the procedure has been implemented. The conferees encourage the Department to promptly advise the Congress of any implementation issues that need to be addressed in subsequent legislation.

In making proceedings, information, and deliberations of the Commission open to designated members of Congress, the conferees understand that should the Members of Congress be unable to attend any part of any closed Commission meeting, the Chairman of the Commission shall insure that full access to meeting proceedings is provided to appropriate staff of such member.

PART B—OTHER PROVISIONS RELATING TO BASE CLOSURES AND REALIGNMENTS

LEGISLATIVE PROVISIONS ADOPTED

Residual value of closing overseas bases (sec. 2921)

The House bill contained a provision (sec. 2832) that would express the sense of Congress that the United States ought to receive consideration equal to the fair market value of improvements made by the United States to military bases overseas which are being vacated. The provision would also require a report from the Secretary of Defense that would advise the Congress of the estimated fair market value of each overseas installation which will be vacated.

The Senate amendment contained a provision (sec. 1245) that would express the sense of Congress regarding the closure of U.S. military installations outside the United States.

The Senate amendment contained a provision (sec. 2811) that would express the sense of the Senate that the Department of Defense should be the lead agency in negotiations with host governments regarding the residual value of vacated overseas military installations; that the residual value be as high as possible; and that under no circumstances should the cost to the United States of environmental cleanup exceed the residual value of a closing overseas installation.

The Senate amendment contained another provision (sec. 2812) that would direct that the residual value from closing overseas military bases accruing to the United States be returned to the Department of Defense. Subject to appropriation, these sums could be used only for real property maintenance or environmental restoration of military facilities within the United States.

The House recedes with an amendment that would consolidate these four provisions into a single section. The costs because the conferees believe that the environmental restoration of bases used by the United States in foreign countries is a host nation responsibility.

Modification of the content of the biennial report of the Commission on Alternative Utilization of Military Facilities (sec. 2922)

The Senate amendment contained a provision (sec. 2813) that would clarify section 2819 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456) and broaden the scope of the mandate of the Commission on Alternative Utilization of Military Facilities. By including consideration of requirements for all kinds of incarceration facilities at the federal and other levels of government, the provision would improve the potential effectiveness of the Commission as a clearinghouse for the consideration of priority governmental needs for facilities no longer needed by the Department of Defense.

The House bill contained no similar provision.

The House recedes.

Source of funds for environmental restoration at closing installations (sec. 2923)

The House bill contained a provision (sec. 2834) that would provide an additional $100 million to the base closure account and make this additional authorization the exclusive source of funds for environmental restoration activities at military installations closed under title II of Public Law 100-526. In addition, subsection (c) would create a task force to identify ways to improve, consolidate, and streamline the coordination of laws, regulations, policies, and procedures relevent to environmental restoration at closing bases.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees agree that environmental restoration at bases to be closed is a priority for the Department of Defense, the affected communities, and Congress. Current law requires that bases must be cleaned up before they are sold or otherwise transferred. The addition of $100 million to the base closure account, to be the exclusive source of funding for these closing bases, should expedite the cleanup so that the bases may be promptly sold or otherwise transferred. This should ensure the return of the surplus property to beneficial use of the communities affected by the base closure at the earliest possible time. The conferees support the concept of setting priorities that would expedite cleanup at the most seriously contaminated bases.

Community preference consideration in closure and realignment of military installations (sec. 2924)

The House bill contained a provision (sec. 2835) that would provide that the Secretary of Defense should assure that in selecting military installations for closure or realignment, special consideration be given to any official statement from a unit of general local government adjacent to or within the installation requesting such action.

The Senate amendment contained no similar provision.

The Senate recedes.

Mandate to carry out recommendation of the Base Closure Commission (sec. 2925)

The House bill contained a provision (sec. 2307) that would preclude the Air Force, until September 30, 1995, from relocating from Norton Air Force Base, California, any functions of the Ballistic Missile Office that existed at that site on the date that the Secretary of Defense transmitted to Congress his endorsement of the recommendations of the 1988 Commission on Base Realignment and Closure.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary of Defense, absent any statutory relief, to proceed with the closures and realignments recommended by the 1988 Commission on Base Realignment and Closure that were approved by the Secretary of Defense.

The conferees note with concern recent actions by the Department of the Army with respect to Fort Devens, Massachusetts. The Army has postponed the awarding of contracts for construction of facilities needed to accommodate a realignment of functions to Fort Devens, which the Commission had directed.

The conferees view the relocations and realignments recommended by the Commission as binding until September 30, 1995. Should changes in force structure or other considerations cause the Secretary of Defense to reconsider these realignments, the conferees would expect the Secretary to request a statutory waiver of these actions. Accordingly, in the absence of any such request and subsequent action by the Congress, the conferees direct the Secretary of the Army to cease all delays in implementing the realignment of Fort Devens called for in the Commission report.

Model base closure environmental restoration program (sec. 2926)

The House bill contained a provision (sec. 345) that would create a model base closure program at two closing installations to improve the efficiency and effectiveness of the base closure environmental restoration program. Under this provision, contracts entered into by Department of Defense contractors, pursuant to the model program, would require the contractor to indemnify the federal government against all liabilities, claims, penalties, costs, and damages caused by the contractors' breach of any contract provisions, or as a result of any negligent or willful act or omission of the contractors' employees or subcontractors.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the contractor at one of the closing installations to indemnify the federal government. The contractor at the second installation would conform to the current prevailing contractor practices. The conferees believe that this model program will allow DoD to review a wider variety of options to streamline environmental restoration.

The requirement for contractors to indemnify the federal government for response

action under the Comprehensive Environmental Restoration Compensation and Liability Act (CERCLA) is a departure from prevailing practice. A review of this indemnification requirement should be included in the report required by section (g) of this provision and undertaken in conjunction with the contractor liability study required elsewhere in this statement of managers.

In the model program, the conferees hope to achieve a "real-life" analysis of the impact that indemnification has on the contract procurement process for environmental restoration activities. By requiring contractor indemnification in one project under the model program while not requiring it in the other, the managers expect DoD to draw a direct analysis of the impact of indemnification on the contract costs, competition, and contractor liability.

The conferees also direct DoD to award all contracts entered into under the model base closure program in compliance with competitive contracting practices. To the maximum extent possible, no contract may be awarded unless there are at least two qualified bidders for that contract. The conferees want to ensure that bidders or proposers that bid on the contract requiring indemnification are qualified and prepared to provide meaningful indemnification.

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
0	ALABAMA	ARMY	ANNISTON ARMY DEPOT	AMMUNITION DEMIL MAINTENANCE FACILITY.....	10,200	10,200	10,200	0	10,200
1	ALABAMA	ARMY	ANNISTON ARMY DEPOT	AMMUNITION DEMILITARIZATION FACILITY.....	54,300	4,900	13,900	(9,000)	4,900
2	ALABAMA	ARMY	REDSTONE ARSENAL	PHYSICAL SCIENCES RESEARCH CENTER.....	14,400	14,400	14,400	0	14,400
3	ALABAMA	ARMY	FORT RUCKER	FLIGHT SIMULATOR BUILDING.....	3,400	3,400	3,400	0	3,400
4	ALABAMA	AIR FORCE	GUNTER AFB	ADD TO/ALT SENIOR NCO ACADEMY.....	8,200	8,200	8,200	0	8,200
5	ALABAMA	AIR FORCE	GUNTER AFB	STUDENT DORMITORY.....	3,100	3,100	3,100	0	3,100
6	ALABAMA	AIR FORCE	GUNTER AFB	STUDENT DORMITORY.....	8,800	8,800	8,800	0	8,800
7	ALABAMA	AIR FORCE	MAXWELL AFB	ALTER STUDENT DORMITORIES.....	2,750	2,750	2,750	0	2,750
8	ALABAMA	AIR FORCE	MAXWELL AFB	COMMUNICATIONS GROUP COMPLEX.....	5,300	5,300	5,300	0	5,300
9	ALABAMA	AIR FORCE	MAXWELL AFB	JUDGE ADVOCATE GENERAL ACADEMIC FACILITY.....	7,700	7,700	7,700	0	7,700
10	ALABAMA	AIR FORCE	MAXWELL AFB	SECURITY POLICE OPERATIONS FACILITY.....	1,750	1,750	1,750	0	1,750
11	ALABAMA	AIR FORCE	MAXWELL AFB	STUDENT DORMITORY.....	5,000	5,000	5,000	0	5,000
12	ALABAMA	DEFENSE AGENCIES	DEF RETUIL AND MKTG OFC ANNISTON	OPERATIONS FACILITY/OPEN STORAGE.....	2,370	2,370	2,370	0	2,370
13	ALABAMA	ARMY NAT GRD	BREWTON	ARMORY.....	0	0	903	(903)	903
14	ALABAMA	ARMY NAT GRD	MARION	ARMORY.....	0	0	764	(764)	764
15	ALABAMA	ARMY NAT GRD	SELMA	ARMORY.....	1,447	1,447	1,447	0	1,447
16	ALABAMA	ARMY NAT GRD	SELMA	ORGANIZATIONAL MAINTENANCE SHOP20.....	587	587	587	0	587
17	ALABAMA	AIR NAT GRD	BIRMINGHAM MAP	UPGRADE TAXIWAY.....	520	520	520	0	520
18	ALABAMA	ARMY RESERVE	MOBILE	ARMY RESERVE CENTER W/MAINTENANCE FACILITY...	3,188	3,188	3,188	0	3,188
19	ALABAMA	AIR FORCE RESERVE	MAXWELL AFB	SURVIVAL EQUIPMENT/LIFE SUPPORT SHOP.....	1,025	1,025	1,025	0	1,025
20	ALASKA	ARMY	FT J M WAINWRIGHT	CONSOLIDATED FUEL FACILITY.....	2,300	2,300	2,300	0	2,300
21	ALASKA	ARMY	FT J M WAINWRIGHT	SCHOOL.....	0	0	8,300	(8,300)	8,300
22	ALASKA	ARMY	FT J M WAINWRIGHT	UTILITIES EXPANSION.....	3,300	3,300	3,300	0	3,300
23	ALASKA	NAVY	ADAK NAVAL AIR STATION	BARRACKS.....	0	9,500	0	9,500	0
24	ALASKA	NAVY	ADAK NAVAL AIR STATION	SOLID WASTE DISPOSAL FACILITY.....	4,250	4,250	4,250	0	4,250
25	ALASKA	NAVY	ADAK NAVAL SECURITY GROUP ACTIVITY	OPERATIONS BUILDING ADDITION.....	3,000	3,000	3,000	0	3,000
26	ALASKA	NAVY	AMCHITKA ISLAND FLEET SURVEILLANCE	ELECTRONIC INSTALLATION.....	31,000	0	31,000	(31,000)	31,000
27	ALASKA	AIR FORCE	CLEAR AFS	ALTER DORMITORY-PHASE II.....	5,000	5,000	5,000	0	5,000
28	ALASKA	AIR FORCE	EIELSON AFB	UPGRADE SEWAGE TREATMENT PLANT.....	12,400	12,400	12,400	0	12,400
29	ALASKA	AIR FORCE	ELMENDORF AFB	DORMITORY.....	0	0	8,900	(8,900)	8,900
30	ALASKA	AIR FORCE	GALENA AIRPORT	VEHICLE MAINTENANCE FACILITY.....	8,700	8,700	8,700	0	8,700
31	ALASKA	AIR FORCE	KING SALMON AFB	VEHICLE REFUELING SHOP.....	2,500	2,500	2,500	0	2,500
32	ALASKA	AIR FORCE	SHEMYA AFB	ADD/UPGRADE BASE ENGINEER COMPLEX.....	6,300	6,300	6,300	0	6,300
33	ALASKA	AIR FORCE	SHEMYA AFB	ALTER DORMITORY.....	7,800	7,800	7,800	0	7,800
34	ALASKA	AIR FORCE	SHEMYA AFB	BASE ENGINEER MAINTENANCE SHOP.....	3,700	3,700	3,700	0	3,700

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
35	ALASKA	AIR FORCE	SHEMYA AFB	FLIGHTLINE ACCESS ROAD	2,400	2,400	2,400	0	2,400
36	ALASKA	AIR FORCE	SHEMYA AFB	RENOVATE SUPPORT FACILITY	15,400	15,400	15,400	0	15,400
37	ALASKA	AIR FORCE	SHEMYA AFB	SEWAGE TREATMENT PLANT	2,700	2,700	2,700	0	2,700
38	ALASKA	AIR FORCE	SHEMYA AFB	UPGRADE BASE ROADS	1,400	1,400	1,400	0	1,400
39	ALASKA	AIR FORCE	SHEMYA AFB	VEHICLE MAINTENANCE FACILITY	7,700	7,700	7,700	0	7,700
40	ALASKA	AIR FORCE	VARIOUS LOCATIONS-ALASKA	OTH-B-NONTECHNICAL SUPPORT FACILITIES	11,000	11,000	11,000	0	11,000
41	ALASKA	ARMY NAT GRD	AKIACHAK	ARMORY SCOUT	275	275	275	0	275
42	ALASKA	ARMY NAT GRD	ANCHORAGE	TRNG SITE LATRINE (6)	866	866	866	0	866
43	ALASKA	ARMY NAT GRD	GOLOVIN	ARMORY, SCOUT, NEW	275	275	275	0	275
44	ALASKA	ARMY NAT GRD	KASIGLUK	ARMORY SCOUT	275	275	275	0	275
45	ALASKA	AIR NAT GRD	KULIS ANGB	BASE SUPPLY WAREHOUSE	0	0	4,300	(4,300)	4,300
46	ALASKA	AIR NAT GRD	KULIS ANGB	FIRE SUPPRESSION SYSTEM	4,000	4,000	4,000	0	4,000
47	ARIZONA	ARMY	FORT HUACHUCA	FIRE STATION	1,050	1,050	1,050	0	1,050
48	ARIZONA	NAVY	YUMA MARINE CORPS AIR STATION	AVIATION SUPPLY WAREHOUSE	3,720	3,720	3,720	0	3,720
49	ARIZONA	AIR FORCE	LUKE AFB	LAND ACQUISITION	1,800	0	0	0	0
50	ARIZONA	AIR FORCE	WILLIAMS AFB	ADD TO AND ALTER FLIGHT SIMULATOR	400	400	400	0	400
51	ARIZONA	AIR FORCE	WILLIAMS AFB	AUXILIARY FIELD/LAND ACQUISITION	5,500	0	0	0	0
52	ARIZONA	AIR FORCE	WILLIAMS AFB	BASE ENGINEER COMPLEX	2,350	2,350	2,350	0	2,350
53	ARIZONA	AIR FORCE	WILLIAMS AFB	SPECIALIZED UPT MAINT AND OPS SUPPORT	900	900	900	0	900
54	ARIZONA	ARMY NAT GRD	PHOENIX	UNITED STATES PROPERTY&FISCAL OFFICE	1,994	1,994	1,994	0	1,994
55	ARIZONA	ARMY NAT GRD	PHOENIX	UNITED STATES PROPERTY&FISCAL WAREHOUSE	1,605	1,605	1,605	0	1,605
56	ARIZONA	AIR NAT GRD	TUCSON IAP	ADD TO AIRCRAFT PARKING APRON	2,300	2,300	2,300	0	2,300
57	ARIZONA	AIR NAT GRD	TUCSON IAP	FIRE STATION	1,200	1,200	1,200	0	1,200
58	ARIZONA	AIR FORCE RESERVE	DAVIS-MONTHAN AFB	CIVIL ENGINEERING TRAINING FACILITY	900	900	900	0	900
59	ARKANSAS	ARMY	PINE BLUFF ARSENAL	DETECTION PAPER FACILITY	1,600	1,600	1,600	0	1,600
60	ARKANSAS	ARMY NAT GRD	CAMP ROBINSON	BATTALION SUPPORT COMPLEX	0	0	4,025	(4,025)	4,025
61	ARKANSAS	AIR FORCE	LITTLE ROCK AFB	PERSONNEL PROCESSING CENTER	0	0	5,300	(5,300)	5,300
62	ARKANSAS	ARMY NAT GRD	CAMP ROBINSON	DORMITORY	0	0	6,950	(6,950)	6,950
63	ARKANSAS	AIR NAT GRD	LITTLE ROCK AFB	COMPOSITE TRAINING FACILITY	950	950	950	0	950
64	ARKANSAS	AIR NAT GRD	FT SMITH MAP	ADD TO AND ALTER FIRE STATION	530	530	530	0	530
65	ARKANSAS	AIR NAT GRD	FT SMITH MAP	TAXIWAY	400	400	400	0	400
66	ARKANSAS	ARMY RESERVE	FORT CHAFFEE	REGIONAL TRAINING SITE-MAINTENANCE	2,651	2,651	2,651	0	2,651
67	CALIFORNIA	ARMY	FT IRWIN	HARDSTAND/TACTICAL EQUIPMENT SHOP	4,200	4,200	4,200	0	4,200
68	CALIFORNIA	ARMY	FORT ORD	WATER DISTRIBUTION SYSTEM (PHASE I)	7,400	7,400	0	7,400	7,400
69	CALIFORNIA	NAVY	BRIDGEPORT	SAFETY/MODERNIZATION	0	0	11,300	(11,300)	11,300

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
70	CALIFORNIA	NAVY	CAMP PENDLETON AMPHIBIOUS TASK FOR	LANDING CRAFT AIR CUSHION SUPPORT COMPLEX....	8,470	8,470	8,470	0	8,470
71	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS AIR STA	CONSTRUCTION & WEIGHT HANDLING EQUIP SHOP....	4,110	4,110	4,110	0	4,110
72	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	BARRACKS.....	0	5,300	0	5,300	0
73	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	ELECTRONICS COMMUNICATIONS MAINT SHOP.....	5,330	5,330	5,330	0	5,330
74	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	MESS HALL.....	3,720	3,720	3,720	0	3,720
75	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	MILITARY OPERATIONS IN URBANIZED TERRAIN.....	10,860	10,860	10,860	0	10,860
76	CALIFORNIA	NAVY	CHINA LAKE NAVAL WEAPONS CENTER	ADVANCED WEAPONS LABORATORY.....	17,585	0	17,585	(17,585)	17,585
77	CALIFORNIA	NAVY	CONCORD NAVAL WEAPONS STATION	RAILROAD/VEHICULAR BRIDGE.....	9,850	0	9,850	(9,850)	0
78	CALIFORNIA	NAVY	CORONA NAVAL WEAPONS STA SEAL BEACH	WEAPONS TEST AND EVALUATION FACILITY.....	8,870	8,870	8,870	0	8,870
79	CALIFORNIA	NAVY	EL TORO MARINE CORPS AIR STATION	DATA PROCESSING CENTER.....	3,970	3,970	3,970	0	3,970
80	CALIFORNIA	NAVY	EL TORO MARINE CORPS AIR STATION	HAZARDOUS AND FLAMMABLE STOREHOUSES.....	3,010	3,010	3,010	0	3,010
81	CALIFORNIA	NAVY	LEMOORE NAVAL AIR STATION	WEAPONS SCHOOL ADDITION.....	900	900	900	0	900
82	CALIFORNIA	NAVY	LONG BEACH NAVAL SHIPYARD	ASBESTOS REMOVAL SHOP.....	500	500	0	500	0
83	CALIFORNIA	NAVY	LONG BEACH NAVAL STATION	WHARF UTILITIES UPGRADE.....	3,520	3,520	3,520	0	3,520
84	CALIFORNIA	NAVY	MIRAMAR NAVAL AIR STATION	CHILD DEVELOPMENT CENTER.....	0	2,300	0	2,300	2,300
85	CALIFORNIA	NAVY	MIRAMAR NAVAL AIR STATION	TAC AIR COMBAT TRNG FAC.....	0	1,250	0	1,250	1,250
86	CALIFORNIA	NAVY	MIRAMAR NAVAL AIR STATION	TOPGUN ACADEMIC FACILITY.....	4,040	4,040	4,040	0	4,040
87	CALIFORNIA	NAVY	MIRAMAR NAVAL AIR STATION	WEAPONS SCHOOL ADDITION.....	1,420	1,420	1,420	0	1,420
88	CALIFORNIA	NAVY	MONTEREY NAVAL POSTGRADUATE SCHOOL	LECTURE HALL ADDITION & SEISMIC UPGRADE.....	2,190	2,190	2,190	0	2,190
89	CALIFORNIA	NAVY	MONTEREY NAVAL POSTGRADUATE SCHOOL	PUBLIC WORKS COMPLEX.....	6,620	6,620	6,620	0	6,620
90	CALIFORNIA	NAVY	NORTH ISLAND NAVAL AIR STATION	HIGH EXPLOSIVE MAGAZINES.....	1,510	1,510	1,510	0	1,510
91	CALIFORNIA	NAVY	POINT MUGU PACIFIC MISSILE TEST CEN	SECURITY IMPROVEMENTS.....	2,070	2,070	2,070	0	2,070
92	CALIFORNIA	NAVY	PORT HUEMEME NAVAL SHIP WPN SYS ENG	WEAPON SYSTEMS INTEGRATION LABORATORY.....	10,150	10,150	10,150	0	10,150
93	CALIFORNIA	NAVY	PORT HUENEME NAVAL CONSTRUC BATTALI	ELECTRICAL DISTRIBUTION SYSTEM IMPROVEMNTS...	2,010	2,010	2,010	0	2,010
94	CALIFORNIA	NAVY	SAN DIEGO FLEET ANTI-SUB WAR TRNG C	BACHELOR ENLISTED QUARTERS.....	8,950	8,950	8,950	0	8,950
95	CALIFORNIA	NAVY	SAN DIEGO NAVAL OCEAN SYSTEMS CENTE	COMBINED RESEARCH LABORATORY.....	11,760	11,760	11,760	0	11,760
96	CALIFORNIA	NAVY	SAN DIEGO NAVAL SUBMARINE BASE	CHILD DEVELOPMENT CENTER.....	0	4,130	0	4,130	4,130
97	CALIFORNIA	NAVY	SAN DIEGO NAVAL SUBMARINE BASE	OILY WASTE SYSTEM.....	540	540	540	0	540
98	CALIFORNIA	NAVY	SAN DIEGO NAVAL SUPPLY CENTER	COLD STORAGE WAREHOUSE.....	8,800	8,800	8,800	0	8,800
99	CALIFORNIA	NAVY	SAN DIEGO NAVAL TRAINING CENTER	BARRACKS.....	5,630	5,630	5,630	0	5,630
100	CALIFORNIA	NAVY	SAN DIEGO NAVAL TRAINING CENTER	RECRUIT SUPPORT CENTER AND CHAPEL.....	5,779	5,779	5,779	0	5,779
101	CALIFORNIA	NAVY	SAN DIEGO NAVAL TRAINING CENTER	SMALL ARMS RANGE.....	3,820	3,820	3,820	0	3,820
102	CALIFORNIA	NAVY	SAN DIEGO NAVY PUBLIC WORKS CENTER	STEAM DISTRIBUTION SYSTEM IMPROVEMENTS.....	3,320	3,320	3,320	0	3,320
103	CALIFORNIA	NAVY	SKAGGS ISLAND NAVAL SECURITY GROUP	POTABLE WATER SYSTEM.....	1,472	0	1,472	(1,472)	0
104	CALIFORNIA	NAVY	TWENTYNINE PALMS MARCORP AIR-GRND C	FIELD MAINTENANCE SHOP.....	3,620	3,620	3,620	0	3,620

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
105	CALIFORNIA	NAVY	TWENTYNINE PALMS MARCORP AIR-GRND C	INDUSTRIAL WASTEWATER TREATMENT FACILITIES...	2,600	2,600	2,600	0	2,600
106	CALIFORNIA	NAVY	TWENTYNINE PALMS MARCORP AIR-GRND C	POTABLE WATER STORAGE TANK.....	4,600	4,600	4,600	0	4,600
107	CALIFORNIA	AIR FORCE	BEALE AFB	DORMITORY.....	6,300	6,300	6,300	0	6,300
108	CALIFORNIA	AIR FORCE	BEALE AFB	HAZARDOUS MAT/WASTE FAC.....	0	790	0	790	0
109	CALIFORNIA	AIR FORCE	CASTLE AFB	COMBAT CREW TRAINING SCHOOL.....	0	3,000	0	3,000	3,000
110	CALIFORNIA	AIR FORCE	CASTLE AFB	SECURITY POLICE OPERATIONS FACILITY.....	3,000	3,000	3,000	0	3,000
111	CALIFORNIA	AIR FORCE	CASTLE AFB	STANDARDIZATION EVALUATION CENTER.....	0	2,200	0	2,200	2,200
112	CALIFORNIA	AIR FORCE	CASTLE AFB	STRATEGIC COMMAND CENTER.....	0	5,000	0	5,000	0
113	CALIFORNIA	AIR FORCE	EDWARDS AFB	CORROSION PREVENTION FACILITY.....	0	6,500	0	6,500	6,500
114	CALIFORNIA	AIR FORCE	EDWARDS AFB	JET ENGINE MAINTENANCE FACILITY.....	11,600	11,600	11,600	0	11,600
115	CALIFORNIA	AIR FORCE	EDWARDS AFB	RENOVATE FLIGHT TEST AUDIOVISUAL SPT FAC.....	5,500	5,500	5,500	0	5,500
116	CALIFORNIA	AIR FORCE	MARCH AFB	TROOP SUBSISTENCE WAREHOUSE.....	1,050	1,050	1,050	0	1,050
117	CALIFORNIA	AIR FORCE	MCCLELLAN AFB	ADD TO AND ALT DEPOT CORROSION CTRL COMP.....	11,200	11,200	11,200	0	11,200
118	CALIFORNIA	AIR FORCE	SIERRA DEPOT	STUDENT DORMITORY.....	3,650	3,650	3,650	0	3,650
119	CALIFORNIA	AIR FORCE	TRAVIS AFB	ALTER CONSOLIDATED SUPPORT CTR-PHASE II.....	5,800	5,800	5,800	0	5,800
120	CALIFORNIA	AIR FORCE	TRAVIS AFB	DINING HALL.....	5,000	5,000	5,000	0	5,000
121	CALIFORNIA	AIR FORCE	VANDENBERG AFB	LAND ACQUISITION PHASE I.....	10,000	10,000	10,000	0	10,000
122	CALIFORNIA	AIR FORCE	VANDENBERG AFB	TITAN IV LAUNCH COMPLEX-PHASE I.....	19,200	19,200	19,200	0	19,200
123	CALIFORNIA	DEFENSE AGENCIES	CAMP PENDLETON MARINE CORPS BASE	HOSPITAL FIRE PROTECTION.....	1,750	1,750	1,750	0	1,750
124	CALIFORNIA	DEFENSE AGENCIES	CORONADO NAVAL AMPHIBIOUS BASE	DESERT OPERATIONS FACILITY.....	7,680	7,680	7,680	0	7,680
125	CALIFORNIA	DEFENSE AGENCIES	CORONADO NAVAL AMPHIBIOUS BASE	MARITIME TRAINING FACILITY.....	4,900	4,900	4,900	0	4,900
126	CALIFORNIA	DEFENSE AGENCIES	CORONADO NAVAL AMPHIBIOUS BASE	WATERFRONT MAINTENANCE & OPERATIONS FAC.....	8,440	8,440	8,440	0	8,440
127	CALIFORNIA	DEFENSE AGENCIES	DEFENSE LANGUAGE INSTITUTE - MONTER	AUDIO/VISUAL INSTRUCTIONAL MEDIA CENTER.....	2,322	2,322	2,322	0	2,322
128	CALIFORNIA	DEFENSE AGENCIES	DEFENSE LANGUAGE INSTITUTE - MONTER	OUTDOOR ATHLETIC FACILITIES.....	2,168	0	0	0	0
129	CALIFORNIA	DEFENSE AGENCIES	DEFENSE LANGUAGE INSTITUTE - MONTER	PRINT PLANT.....	1,860	1,860	1,860	0	1,860
130	CALIFORNIA	DEFENSE AGENCIES	DEFENSE DEPOT TRACY	CONSOLIDATED MAINTENANCE FACILITY.....	1,700	1,700	1,700	0	1,700
131	CALIFORNIA	ARMY NAT GRD	CAMP SAN LUIS OBISPO	BARRACKS.....	0	9,140	0	9,140	9,140
132	CALIFORNIA	AIR NAT GRD	FRESNO ANGB	FIRE STATION.....	1,300	1,300	1,300	0	1,300
133	CALIFORNIA	AIR NAT GRD	FRESNO ANGB	MUNITIONS IGLOOS.....	2,600	2,600	2,600	0	2,600
134	CALIFORNIA	NAVY RESERVE	MCRC CAMP PENDLETON	AIRCRAFT MAINTENANCE HANGAR.....	8,100	8,100	8,100	0	8,100
135	CALIFORNIA	NAVY RESERVE	NAR MIRAMAR, CA.	AIRCRAFT START SYSTEM.....	1,440	1,440	1,440	0	1,440
136	CALIFORNIA	NAVY RESERVE	NMCRC SAN DIEGO	AIRCRAFT PARKING APRON.....	3,950	3,950	3,950	0	3,950
137	COLORADO	ARMY	FORT CARSON	AVIATION UNIT MAINTENANCE HANGAR.....	11,400	11,400	11,400	0	11,400
138	COLORADO	ARMY	FORT CARSON	TACTICAL EQUIPMENT SHOP.....	6,500	6,500	6,500	0	6,500
139	COLORADO	ARMY	FORT CARSON	TANK GUNNERY RANGE UPGRADE.....	5,600	5,600	5,600	0	5,600

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
140	COLORADO	ARMY	FALCON AIR FORCE BASE	SATELLITE CONTROL CERTIFICATION FACILITY.....	1,450	1,450	1,450	0	1,450
141	COLORADO	AIR FORCE	AIR FORCE ACADEMY	BARRACKS UPGRADE.....	0	3,000	0	3,000	3,000
142	COLORADO	AIR FORCE	AIR FORCE ACADEMY	INSTRUCTION BLDG EXPANSION.....	0	15,000	0	15,000	0
143	COLORADO	AIR FORCE	FALCON AFS	MILSTAR COMMUNICATIONS GROUND TERMINAL.....	710	710	0	710	710
144	COLORADO	AIR FORCE	LOWERY AFB	CHILD DEVELOPMENT CENTER.....	0	4,550	0	4,550	4,550
145	COLORADO	AIR FORCE	PETERSON AFB	ADD TO AND ALTER DORMITORY-PHASE I.....	2,700	2,700	2,700	0	2,700
146	COLORADO	AIR FORCE	PETERSON AFB	MILSTAR COMMUNICATIONS GROUND TERMINAL.....	1,350	1,350	0	1,350	1,350
147	COLORADO	ARMY NAT GRD	WATKINS	ARMORY.....	0	2,441	0	2,441	2,441
148	COLORADO	AIR NAT GRD	BUCKLEY ANG BASE	FIRE STATION.....	0	1,800	0	1,800	1,800
149	COLORADO	AIR NAT GRD	BUCKLEY ANG BASE	RES FOR OPS & TRNG FAC.....	0	4,150	0	4,150	4,150
150	COLORADO	AIR FORCE RESERVE	LOWRY AFB	CIVIL ENGINEERING TRAINING FACILITY.....	900	900	900	0	900
151	CONNECTICUT	NAVY	NEW LONDON NAVAL SUBMARINE BASE	BACHELOR OFFICER QUARTERS MODERNIZATION.....	5,000	5,000	5,000	0	5,000
152	CONNECTICUT	NAVY	NEW LONDON NAVAL SUBMARINE BASE	QUAYWALL REPLACEMENT.....	9,150	9,150	9,150	0	9,150
153	CONNECTICUT	NAVY	NEW LONDON NAVAL SUBMARINE BASE	THAMES RIVER DREDGING.....	8,350	8,350	8,350	0	8,350
154	CONNECTICUT	NAVY	NEW LONDON NAVAL SUBMARINE SCHOOL	OPERATIONAL TRAINER FACILITY.....	18,990	18,990	18,990	0	18,990
155	CONNECTICUT	ARMY NAT GRD	CAMP O'NEILL	DORM/DINING FACILITY.....	0	2,900	2,900	0	2,900
156	CONNECTICUT	AIR NAT GRD	BRADLEY ANG BASE	ACQ OF LAND TRNG FAC.....	0	1,900	1,900	0	1,900
157	DISTRICT OF COLUMBIA	NAVY	COMMANDANT NAVAL DISTRICT	CHILD DEVELOPMENT CENTER.....	0	3,600	0	3,600	0
158	DISTRICT OF COLUMBIA	NAVY	WASHINGTON NAVAL RESEARCH LABORATOR	ELECTRO-OPTICS RESEARCH LABORATORY.....	9,850	9,850	9,850	0	9,850
159	DISTRICT OF COLUMBIA	DEFENSE AGENCIES	WALTER REED ARMY MEDICAL CENTER	MAGNETIC RESONANCE IMAGING FACILITY.....	4,000	4,000	4,000	0	4,000
160	FLORIDA	NAVY	JACKSONVILLE NAVAL AIR STATION	ANTI-SUBMARINE WARFARE TRAINING FACILITY.....	2,810	2,810	2,810	0	2,810
161	FLORIDA	NAVY	JACKSONVILLE NAVAL AIR STATION	WASTEWATER SYSTEM IMPROVEMENTS.....	6,330	6,330	6,330	0	6,330
162	FLORIDA	NAVY	JACKSONVILLE NAVAL AVIATION DEPOT	INDUSTRIAL WASTEWATER TREATMENT FACILITIES...	14,670	14,670	14,670	0	14,670
163	FLORIDA	NAVY	KEY WEST NAVAL AIR STATION	CARIBBEAN REGIONAL OPERATIONS CENTER.....	4,020	4,020	4,020	0	4,020
164	FLORIDA	NAVY	KEY WEST NAVAL AIR STATION	EXPLOSIVE ORD DISPOSAL MOBILE UNIT FAC.....	3,010	3,010	3,010	0	3,010
165	FLORIDA	NAVY	MAYPORT FLEET TRAINING CENTER	FIRE FIGHTING TRAINING FACILITY.....	4,300	4,300	4,300	0	4,300
166	FLORIDA	NAVY	MAYPORT NAVAL STATION	CHILD DEVELOPMENT CENTER.....	0	2,150	0	2,150	0
167	FLORIDA	NAVY	MAYPORT NAVAL STATION	POTABLE WATER SYSTEM IMPROVEMENTS.....	4,950	4,950	4,950	0	4,950
168	FLORIDA	NAVY	ORLANDO NAVAL TRAINING CENTER	BARRACKS.....	10,960	10,960	10,960	0	10,960
169	FLORIDA	NAVY	ORLANDO NAVAL TRAINING CENTER	MESS HALL.....	7,070	7,070	0	7,070	0
170	FLORIDA	NAVY	PANAMA CITY NAVAL COASTAL SYSTEMS C	COMPUTATION AND ANALYSIS LABORATORY ADDN.....	4,330	4,330	4,330	0	4,330
171	FLORIDA	NAVY	PENSACOLA NAVY PUBLC WORKS CENTER	WATER AND SEWER PIPELINE SEPARATION.....	3,460	3,460	3,460	0	3,460
172	FLORIDA	AIR FORCE	AVON PARK RANGE	DORMITORY.....	700	700	700	0	700
173	FLORIDA	AIR FORCE	CAPE CANAVERAL AFS	CHEMICAL TESTING LABORATORY.....	2,400	2,400	2,400	0	2,400
174	FLORIDA	AIR FORCE	CAPE CANAVERAL AFS	LEASE ACQUISITION.....	0	0	2,953	(2,953)	2,953

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
175	FLORIDA	AIR FORCE	EGLIN AFB	AIRCRAFT PARTS WAREHOUSE	2,800	2,800	2,800	0	2,800
176	FLORIDA	AIR FORCE	EGLIN AFB	MISSILE MAINTENANCE FACILITY	1,900	1,900	1,900	0	1,900
177	FLORIDA	AIR FORCE	HOMESTEAD AFB	ALTER DORMITORIES	5,500	5,500	5,500	0	5,500
178	FLORIDA	AIR FORCE	HOMESTEAD AFB	BARRACKS ALTERATION	0	4,900	0	4,900	0
179	FLORIDA	AIR FORCE	HOMESTEAD AFB	JET FUEL STORAGE	2,400	2,400	2,400	0	2,400
180	FLORIDA	AIR FORCE	MACDILL AFB	ADD TO USCENTCOM HEADQUARTERS	3,350	0	3,350	(3,350)	3,350
181	FLORIDA	AIR FORCE	MACDILL AFB	UPGRADE RUNWAY	8,900	8,900	8,900	0	8,900
182	FLORIDA	DEFENSE AGENCIES	MACDILL AIR FORCE BASE	HOSPITAL LIFE SAFETY UPGRADE	2,900	2,900	2,900	0	2,900
183	FLORIDA	DEFENSE AGENCIES	EGLIN AFB	AERIAL DELIVERY FACILITY	3,500	3,500	3,500	0	3,500
184	FLORIDA	DEFENSE AGENCIES	EGLIN AFB	COVERED STORAGE	2,850	2,850	2,850	0	2,850
185	FLORIDA	DEFENSE AGENCIES	EGLIN AFB	IMPROVE BASE ROADS	1,500	1,500	1,500	0	1,500
186	FLORIDA	DEFENSE AGENCIES	EGLIN AFB	MOBILITY CENTER	3,550	3,550	3,550	0	3,550
187	FLORIDA	DEFENSE AGENCIES	EGLIN AFB	PHYSICAL FITNESS CENTER	3,200	3,200	3,200	0	3,200
188	FLORIDA	ARMY NAT GRD	BROOKVILLE	ARMORY	858	858	858	0	858
189	FLORIDA	ARMY NAT GRD	TALLAHASSEE	ARMORY ADDITION	721	721	1,200	(479)	1,200
190	FLORIDA	AIR NAT GRD	CAMP BLANDING	BASE SUPPLIES AND EQUIPMENT WAREHOUSE	1,100	1,100	1,100	0	1,100
191	FLORIDA	AIR NAT GRD	CAMP BLANDING	CIVIL ENGINEERING MAINTENANCE FACILITY	0	0	2,500	(2,500)	2,500
192	FLORIDA	AIR NAT GRD	CAMP BLANDING	COMPOSITE GNRL SUPPORT AND TRNG FACILITY	1,800	1,800	1,800	0	1,800
193	FLORIDA	AIR NAT GRD	CAMP BLANDING	VEHICLE MAINTENANCE	0	0	1,000	(1,000)	1,000
194	FLORIDA	AIR FORCE RESERVE	EGLIN AUX FIELD 3	MEDICAL TRAINING FACILITY	1,600	1,600	1,600	0	1,600
195	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AFB	ADD FIRE PROTECTION-AIRCRAFT HANGAR	2,400	2,400	2,400	0	2,400
196	GEORGIA	ARMY	FORT BENNING	INDOOR FIRING RANGE	2,930	2,930	2,930	0	2,930
197	GEORGIA	ARMY	FORT BENNING	RECREATION CENTER	3,000	3,000	3,000	0	3,000
198	GEORGIA	ARMY	FORT BENNING	TACTICAL EQUIPMENT SHOP	4,950	4,950	4,950	0	4,950
199	GEORGIA	ARMY	FORT GORDON	SOLDIER SERVICE CENTER	0	0	10,600	(10,600)	10,600
200	GEORGIA	ARMY	FT STEWART/HUNTER AAF	CHILD DEVELOPMENT CENTER	1,650	1,650	1,650	0	1,650
201	GEORGIA	NAVY	ALBANY MARINE CORPS LOGISTICS BASE	INDUSTRIAL WASTE TREATMENT PLANT IMPROVES	1,360	1,360	1,360	0	1,360
202	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	BACHELOR ENLISTED QUARTERS	7,230	7,230	7,230	0	7,230
203	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	COMMUNITY IMPACT ASSISTANCE	0	10,800	10,278	522	10,800
204	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	EXPLOSIVES HANDLING WHARF	56,615	56,615	56,615	0	56,615
205	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	SMALL ORDNANCE MAGAZINE	620	620	620	0	620
206	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	TRIDENT TRAINING FACILITY ADDITION	2,210	2,210	2,210	0	2,210
207	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	GENERAL REDUCTION	0	(10,800)	0	(10,800)	0
208	GEORGIA	AIR FORCE	MOODY AFB	ALTER DORMITORIES	4,400	4,400	4,400	0	4,400
209	GEORGIA	AIR FORCE	ROBINS AFB	ADD TO/ALTER INTEGRATION SUPPORT FACILITY	8,300	8,300	8,300	0	8,300

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
210	GEORGIA	AIR FORCE	ROBINS AFB	ADVANCED MICROELECTRONICS FACILITY	9,400	9,400	9,400	0	9,400
211	GEORGIA	AIR FORCE	ROBINS AFB	COMBAT COMM EQUIPMENT MAINT FACILITY	3,500	3,500	3,500	0	3,500
212	GEORGIA	DEFENSE AGENCIES	FORT BENNING	ADDITION TO EDWARD WHITE SCHOOL	0	1,500	1,500	0	1,500
213	GEORGIA	DEFENSE AGENCIES	FORT BENNING	REPLACE WILBUR ELEMENTARY SCHOOL	0	7,900	7,900	0	7,900
214	GEORGIA	DEFENSE AGENCIES	FORT BENNING	TROOP MEDICAL CLINIC REPLACEMENT	2,000	2,000	2,000	0	2,000
215	GEORGIA	DEFENSE AGENCIES	FORT STEWART/HUNTER AAF	SPECIAL OPERATIONS FORCES HEADQUARTERS	1,900	1,900	1,900	0	1,900
216	GEORGIA	DEFENSE AGENCIES	FORT STEWART/HUNTER AAF	TACTICAL EQUIPMENT SHOP	3,000	3,000	3,000	0	3,000
217	GEORGIA	AIR NAT GRD	HUNTER ANG SITE	MOBILITY STORAGE WAREHOUSE	325	325	325	0	325
218	GEORGIA	ARMY RESERVE	FORT GORDON	ARMY RESERVE CENTER	9,534	9,534	9,534	0	9,534
219	GEORGIA	NAVY RESERVE	NAS ATLANTA	AVIONICS SHOP	2,800	2,800	2,800	0	2,800
220	GEORGIA	AIR FORCE RESERVE	DOBBINS AFB	READINESS ADDITION-14TH AF HEADQUARTERS	2,900	2,900	2,900	0	2,900
221	HAWAII	ARMY	SCHOFIELD BARRACKS	ARMY CONTINUING EDUCATION CENTER	9,700	9,700	9,700	0	9,700
222	HAWAII	ARMY	FORT SHAFTER	ACCESS ROADS - FORT SHAFTER	7,400	7,400	7,400	0	7,400
223	HAWAII	NAVY	BARBERS POINT NAVAL AIR STATION	BARRACKS MODERNIZATION	0	3,300	0	3,300	0
224	HAWAII	NAVY	KANEOHE BAY MARINE CORPS AIR STATIO	AIRCRAFT RINSE FACILITY	1,650	1,650	1,650	0	1,650
225	HAWAII	NAVY	LUALUALEI NAVAL MAGAZINE	ELECTRICAL DISTRIBUTION LINES RELOCATION	1,660	1,660	1,660	0	1,660
226	HAWAII	NAVY	PEARL HARBOR COM OCEANOGRAPHIC SYS	SURTASS SUPPORT CENTER	12,780	12,780	12,780	0	12,780
227	HAWAII	NAVY	PEARL HARBOR NAVAL SUBMARINE BASE	ELECTRICAL DISTRIBUTION SYSTEM IMPROVES	2,010	2,010	2,010	0	2,010
228	HAWAII	NAVY	PEARL HARBOR NAVY PUBLIC WORKS CENT	AUTOMOTIVE VEHICLE MAINTENANCE SHOP	6,940	6,940	6,940	0	6,940
229	HAWAII	AIR FORCE	HICKAM AFB	ADD TO CHILD DEVELOPMENT CENTER	770	770	770	0	770
230	HAWAII	AIR FORCE	HICKAM AFB	DORMITORY	6,100	6,100	6,100	0	6,100
231	HAWAII	AIR FORCE	HICKAM AFB	FIRE PROTECTION-MAINTENANCE FACILITY	2,250	2,250	2,250	0	2,250
232	HAWAII	AIR FORCE	HICKAM AFB	POL OPERATIONS FACILITY	1,000	1,000	1,000	0	1,000
233	HAWAII	AIR FORCE	HICKAM AFB	VEHICLE OPERATIONS/MAINTENANCE FACILITY	1,300	1,300	1,300	0	1,300
234	HAWAII	AIR FORCE	WHEELER AFB	ADD TO AND ALTER GROUP OPERATIONS FAC	2,100	2,100	2,100	0	2,100
235	HAWAII	AIR FORCE	WHEELER AFB	COMBAT ARMS TRAINING AND MAINTENANCE FAC	1,400	1,400	1,400	0	1,400
236	HAWAII	DEFENSE AGENCIES	BARKING SANDS	EXOATM DISCRIM EXPERIMENT	3,870	3,870	3,870	0	3,870
237	HAWAII	DEFENSE AGENCIES	TRIPLER ARMY MEDICAL CENTER	ALTER FAMILY PRACTICE CLINIC	0	0	2,200	(2,200)	2,200
238	HAWAII	DEFENSE AGENCIES	WHEELER AFB	DCA-PAC COMMUNICATIONS CENTER EXPANSION	1,491	1,491	1,491	0	1,491
239	HAWAII	ARMY NAT GRD	WAHIAWA	ARMORY ADDITION	4,347	4,347	4,347	0	4,347
240	HAWAII	ARMY RESERVE	FORT SHAFTER	ADDITION TO WAREHOUSE	1,300	1,300	1,300	0	1,300
241	HAWAII	AIR FORCE RESERVE	HICKAM AFB	AERIAL PORT TRAINING FACILITY	1,200	1,200	1,200	0	1,200
242	IDAHO	AIR FORCE	MOUNTAIN HOME AFB	ADD TO AND ALTER SQUADRON OPS FACILITY	1,350	1,350	1,350	0	1,350
243	IDAHO	ARMY RESERVE	BOISE	ARMY RESERVE CENTER W/MAINTENANCE FACILITY	7,227	7,227	7,227	0	7,227
244	ILLINOIS	ARMY NAT GRD	WOODSTOCK	ARMORY	0	0	1,597	(1,597)	1,597

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
245	ILLINOIS	NAVY	GREAT LAKES NAVAL TRAINING CENTER	FIREMAN APPRENTICE TRAINING SCHOOL	2,170	2,170	2,170	0	2,170
246	ILLINOIS	NAVY	GREAT LAKES PUBLIC WORKS CENTER	ELECTRICAL DISTRIBUTION SYS IMPROVEMENTS	1,760	1,760	1,760	0	1,760
247	ILLINOIS	NAVY	GREAT LAKES PUBLIC WORKS CENTER	STORM SEWER SYSTEM IMPROVEMENTS	700	700	700	0	700
248	ILLINOIS	AIR FORCE	SCOTT AFB	CHILD DEVELOPMENT CENTER	2,160	2,160	2,160	0	2,160
249	ILLINOIS	AIR FORCE	SCOTT AFB	DORMITORY	0	0	7,900	(7,900)	7,900
250	ILLINOIS	AIR NAT GRD	CAPITAL MAP	SPECIAL FUEL FACILITY	300	300	300	0	300
251	ILLINOIS	AIR NAT GRD	GREATER PEORIA AIRPORT	FIRE STATION	1,100	1,100	1,100	0	1,100
252	ILLINOIS	AIR NAT GRD	GREATER PEORIA AIRPORT	FUEL SYSTEMS MAINT/CORROSION CNTRL FAC	2,000	2,000	2,000	0	2,000
253	ILLINOIS	NAVY RESERVE	GLENVIEW NAVAL AIR STATION	AIRCRAFT INTERMEDIATE MAINTENANCE FACILITY	0	0	10,400	(10,400)	10,400
254	ILLINOIS	NAVY RESERVE	GLENVIEW NAVAL AIR STATION	TRANSMITTER/RECEIVER BUILDING	0	0	640	(640)	640
255	ILLINOIS	NAVY RESERVE	NMCRC PEORIA, IL.	RESERVE CENTER ADDITION	800	800	800	0	800
256	ILLINOIS	NAVY RESERVE	NMCRC ROCK ISLAND	RESERVE CENTER ADDITION	3,200	3,200	3,200	0	3,200
257	ILLINOIS	AIR FORCE RESERVE	CHICAGO-OHARE IAP	SECURITY POLICE OPERATIONS FACILITY	1,080	1,080	1,080	0	1,080
258	INDIANA	ARMY	FORT BENJAMIN HARRISON	CHILD DEVELOPMENT CENTER	0	2,900	0	2,900	0
259	INDIANA	ARMY	FORT BENJAMIN HARRISON	ENTOMOLOGY FACILITY	0	0	570	(570)	0
260	INDIANA	ARMY	FORT BENJAMIN HARRISON	FIRE STATION	1,300	1,300	1,300	0	1,300
261	INDIANA	ARMY	FORT BENJAMIN HARRISON	LEARNING RESEARCH CENTER	4,300	4,300	4,300	0	4,300
262	INDIANA	NAVY	CRANE NAVAL WEAPONS SUPPORT CENTER	ELECTRONICS COMMUNICATIONS MAINT SHOP	7,700	7,700	7,700	0	7,700
263	INDIANA	NAVY	CRANE NAVAL WEAPONS SUPPORT CENTER	MECHANIZED MATERIALS MANAGEMENT FACILITY	4,170	4,170	4,170	0	4,170
264	INDIANA	NAVY	CRANE NAVAL WEAPONS SUPPORT CENTER	TEST AND EVALUATION FACILITY	1,650	1,650	1,650	0	1,650
265	INDIANA	AIR FORCE	GRISSOM AFB	CHILD DEVELOPMENT CENTER	0	0	2,000	(2,000)	2,000
266	INDIANA	AIR FORCE	GRISSOM AFB	UPGRADE DORM 331	0	2,500	0	2,500	2,500
267	INDIANA	ARMY NAT GRD	CAMP ATTERBURY	RANGE, MODIFIED RECORD FIRE(RETS	1,100	1,100	1,100	0	1,100
268	INDIANA	ARMY NAT GRD	KNOX	ARMORY	0	1,376	0	1,376	1,376
269	INDIANA	ARMY NAT GRD	KNOX	AVIATION SUPPORT FACILITY	0	3,050	4,426	(1,376)	3,050
270	INDIANA	AIR NAT GRD	HULMAN FIELD	POL OPS AND LABORATORY	350	350	350	0	350
271	INDIANA	AIR NAT GRD	FT WAYNE MAP	SMALL ARMS RANGE	400	400	400	0	400
272	INDIANA	ARMY RESERVE	SOUTH BEND	RESERVE CENTER ADD	0	392	397	(5)	397
273	INDIANA	NAVY RESERVE	NRC TERRA HAUTE, IN.	RESERVE CENTER ADDITION	620	620	620	0	620
274	IOWA	ARMY NAT GRD	CAMP DODGE	ACCESS ROAD PHASE I	0	0	3,200	(3,200)	3,200
275	IOWA	ARMY NAT GRD	CAMP DODGE	STARC	0	0	9,398	(9,398)	9,398
276	IOWA	ARMY NAT GRD	CORNING	ARMORY	0	1,010	1,008	2	1,010
277	IOWA	ARMY NAT GRD	COUNCIL BLUFFS	ARMORY	0	1,499	2,115	(616)	1,499
278	IOWA	ARMY NAT GRD	COUNCIL BLUFFS	ORGANIZATIONAL MAINTENANCE SHOP	0	532	528	4	532
279	IOWA	ARMY NAT GRD	DENISON	ARMORY	989	989	989	0	989

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
280	IOWA	ARMY NAT GRD	DES MOINES	STARC ARMORY VEHICLE STORAGE FACILITY.....	0	0	575	(575)	575
281	IOWA	ARMY NAT GRD	OSKALOOSA	ARMORY.....	0	0	1,306	(1,306)	1,306
282	IOWA	AIR NAT GRD	DES MOINES INTNTL AIRPORT	UPGRADE AIRCRAFT HANGAR.....	0	0	1,800	(1,800)	1,800
283	IOWA	AIR NAT GRD	SIOUX CITY AIRPORT	ALTER COMPOSITE SUPPORT FACILITY.....	0	0	680	(680)	680
284	KANSAS	ARMY	FORT LEAVENWORTH	GENERAL INSTRUCTION BUILDING.....	34,000	0	34,000	(34,000)	34,000
285	KANSAS	ARMY	FORT RILEY	MULTI-PURPOSE MACHINE GUN RANGE.....	2,700	2,700	2,700	0	2,700
286	KANSAS	ARMY	FORT RILEY	TACTICAL EQUIPMENT SHOP.....	12,200	12,200	12,200	0	12,200
287	KANSAS	AIR FORCE	MCCONNELL	ENLISTED DORM.....	0	0	9,100	(9,100)	9,100
288	KANSAS	DEFENSE AGENCIES	FORT RILEY	TROOP MEDICAL CLINIC REPLACEMENT.....	1,050	1,050	1,050	0	1,050
289	KANSAS	ARMY NAT GRD	IOLA	ORGANIZATIONAL MAINTENANCE SHOP 2 ADD.....	399	399	399	0	399
290	KANSAS	ARMY NAT GRD	NICKELL BARRACKS	TRNG SITE, REGIONAL MAINTENANCE.....	1,667	1,667	1,667	0	1,667
291	KANSAS	AIR NAT GRD	FORBES AIRPORT	UTILITIES UPGRADE.....	0	0	1,140	(1,140)	1,140
292	KANSAS	AIR FORCE RESERVE	MCCONNELL AFB	CIVIL ENGINEERING TRAINING FACILITY.....	1,000	1,000	1,000	0	1,000
293	KENTUCKY	ARMY	FORT CAMPBELL	MACHINE GUN TRANSITION RANGE.....	1,050	1,050	1,050	0	1,050
294	KENTUCKY	ARMY	FORT CAMPBELL	MODIFIED RECORD FIRE RANGE.....	1,250	1,250	1,250	0	1,250
295	KENTUCKY	ARMY	FORT KNOX	AUTOMATED RECORD FIRE RANGE.....	2,800	2,800	2,800	0	2,800
296	KENTUCKY	ARMY	FORT KNOX	MULTI-PURPOSE RANGE COMPLEX - HEAVY.....	22,600	22,600	22,600	0	22,600
297	KENTUCKY	NAVY	LOUISVILLE NAVAL ORDNANCE STATION	PHALANX SHOP MODERNIZATION.....	5,660	5,660	0	5,660	5,660
298	KENTUCKY	AIR NAT GRD	STANDIFORD FIELD	AIRCRAFT APRON & TAXIWAY.....	0	0	3,900	(3,900)	3,900
299	LOUISIANA	ARMY	FORT POLK	MAINTENANCE COMPLEX.....	0	0	22,000	(22,000)	22,000
300	LOUISIANA	AIR FORCE	BARKSDALE AFB	ALTER EXPLOSIVE CARGO PAD ACCESS TAXIWAY.....	1,600	1,600	1,600	0	1,600
301	LOUISIANA	AIR FORCE	BARKSDALE AFB	MUNITIONS SUPPORT EQUIPMENT STORAGE FAC.....	630	0	630	(630)	630
302	LOUISIANA	AIR FORCE	BARKSDALE AFB	PEACEKEEPER-ADD TO COMMUNICATIONS FAC.....	730	0	0	0	0
303	LOUISIANA	AIR FORCE	BARKSDALE AFB	PEACEKEEPER-ADD/ALTER INTEG MAINT FAC.....	2,150	0	0	0	0
304	LOUISIANA	AIR FORCE	BARKSDALE AFB	PEACEKEEPER-GARRISON FACILITIES.....	56,150	0	0	0	0
305	LOUISIANA	AIR FORCE	BARKSDALE AFB	PEACEKEEPER-MISSILE OPS MAINT FACILITY.....	3,050	0	0	0	0
306	LOUISIANA	AIR FORCE	BARKSDALE AFB	PEACEKEEPER-ROAD RAILROAD AND UTILITIES.....	7,600	0	0	0	0
307	LOUISIANA	AIR FORCE	BARKSDALE AFB	PEACEKEEPER-TRAINING TRAIN SHELTER.....	2,800	0	0	0	0
308	LOUISIANA	AIR FORCE	BARKSDALE AFB	VEHICLE MAINTENANCE COMPLEX.....	0	0	6,300	(6,300)	6,300
309	LOUISIANA	ARMY NAT GRD	BOGALUSA	OMS.....	783	783	783	0	783
310	LOUISIANA	ARMY NAT GRD	CAMP BEAUREGARD	OMS4.....	680	680	680	0	680
311	LOUISIANA	ARMY NAT GRD	NEW ORLEANS	ARMORY.....	0	0	3,628	(3,628)	3,628
312	LOUISIANA	ARMY RESERVE	LAKE CHARLES	ADD/ALT ARMY RESERVE CTR W/MAINTENANCE FAC...	1,883	1,883	1,883	0	1,883
313	LOUISIANA	NAVY RESERVE	NAVAL AIR STATION NEW ORLEANS	AIRCRAFT HANGAR (C-130).....	0	13,100	0	13,100	13,100
314	LOUISIANA	NAVY RESERVE	NAVAL AIR STATION NEW ORLEANS	AVIONICS SHOP.....	3,200	3,200	3,200	0	3,200

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
315	MAINE	NAVY	KITTERY PORTSMOUTH NAVAL SHIPYARD	DRY DOCK MODERNIZATION AND COVER	38,182	38,182	38,182	0	38,182
316	MAINE	AIR FORCE	BANGOR	SQUADRON SUPPORT FACILITY	970	970	970	0	970
317	MAINE	AIR FORCE	LORING AFB	MUNITIONS SUPPORT EQUIPMENT STORAGE FAC	830	830	0	830	0
318	MAINE	ARMY NAT GRD	BANGOR	ARMORY AFRC	3,058	3,058	3,058	0	3,058
319	MAINE	AIR NAT GRD	BANGOR IAP	FIRE SUPPRESSION SYSTEM	1,350	1,350	1,350	0	1,350
320	MAINE	ARMY RESERVE	BANGOR	ARMED FORCES RESERVE CENTER	1,138	1,138	1,138	0	1,138
321	MAINE	NAVY RESERVE	AFRC BANGOR	RESERVE TRAINING BUILDING	1,815	1,815	1,815	0	1,815
322	MARYLAND	ARMY	ABERDEEN PROVING GROUND	RELOCATE/MODERNIZE FIRE BARRICADES	10,400	10,400	10,400	0	10,400
323	MARYLAND	ARMY	ABERDEEN PROVING GROUND	SECURITY UPGRADE	1,700	1,700	1,700	0	1,700
324	MARYLAND	ARMY	ABERDEEN PROVING GROUND	TOXICOLOGY RESEARCH FACILITY	33,000	33,000	33,000	0	33,000
325	MARYLAND	ARMY	FORT DETRICK	STORAGE FACILITY ADDITION	530	530	530	0	530
326	MARYLAND	NAVY	BETHESDA NATIONAL NAVAL MEDICAL CEN	BACHELOR ENLISTED QUARTERS	9,040	9,040	9,040	0	9,040
327	MARYLAND	NAVY	INDIAN HEAD NAVAL ORDNANCE STATION	CHEMISTRY LAB RPL	0	6,000	0	6,000	6,000
328	MARYLAND	NAVY	INDIAN HEAD NAVAL ORDNANCE STATION	INDUSTRIAL WASTEWATER TREATMENT FACILITIES	6,430	6,430	6,430	0	6,430
329	MARYLAND	NAVY	PATUXENT RIVER NAS	ENTRY GATE/ROAD	0	2,000	0	2,000	2,000
330	MARYLAND	NAVY	PATUXENT RIVER NAVAL AIR TEST CENTE	SECURITY IMPROVEMENTS	3,010	3,010	3,010	0	3,010
331	MARYLAND	NAVY	PATUXENT RIVER NAVAL AIR TEST CENTE	TEST PILOT SCHOOL	6,030	6,030	6,030	0	6,030
332	MARYLAND	NAVY	PATUXENT RIVER NAVAL HOSPITAL	AVIATION PHYSIOLOGY TRAINING FACILITY	2,510	2,510	2,510	0	2,510
333	MARYLAND	NAVY	ST INIGOES NAVAL ELECTRONIC SYS ENGFAC	SFAC ELECTRONIC SYSTEMS INTEGRATION	4,020	4,020	4,020	0	4,020
334	MARYLAND	NAVY	SUITLAND NAVAL INTELLIGENCE COMMAND	HEADQUARTERS BUILDING (INCREMENT II)	55,048	55,048	55,048	0	55,048
335	MARYLAND	AIR FORCE	ANDREWS AFB	ADD TO AND ALTER COMBAT ARMS TRNG FAC	1,300	1,300	1,300	0	1,300
336	MARYLAND	AIR FORCE	ANDREWS AFB	CHILD DEVELOPMENT CENTER ANNEX	0	3,850	0	3,850	3,850
337	MARYLAND	AIR FORCE	ANDREWS AFB	FIRE/CRASH RESCUE STATION	1,750	1,750	1,750	0	1,750
338	MARYLAND	AIR FORCE	FORT GEORGE MEADE	DEFENSE COURIER STATION	1,800	1,800	1,800	0	1,800
339	MARYLAND	DEFENSE AGENCIES	FORT MEADE	BLDG 9805 ADDITION	3,425	0	3,425	(3,425)	0
340	MARYLAND	DEFENSE AGENCIES	FORT MEADE	LOW VOLT POWER UPGRADE	8,221	8,221	8,221	0	8,221
341	MARYLAND	DEFENSE AGENCIES	FORT MEADE	OPS 2A COOLING TOWER	1,800	1,800	1,800	0	1,800
342	MARYLAND	DEFENSE AGENCIES	FORT MEADE	SUBSTATION 1 UPGRADE	6,025	6,025	6,025	0	6,025
343	MARYLAND	DEFENSE AGENCIES	DEF REUTILIZATION & MKTG OFC FT MEA	COVERED STORAGE	9,500	9,500	9,500	0	9,500
344	MARYLAND	DEFENSE AGENCIES	USUHS	COMPLETE CONTRUCTION OF ANIMAL ROOMS	800	800	800	0	800
345	MARYLAND	ARMY NAT GRD	FORT RITCHIE	ARMORY	0	1,800	0	1,800	1,800
346	MARYLAND	ARMY NAT GRD	LAUREL	ARMORY	0	5,000	0	5,000	5,000
347	MARYLAND	AIR NAT GRD	ANDREWS AFB	SPECIAL FUEL FACILITY	300	300	300	0	300
348	MARYLAND	AIR NAT GRD	GLENN L MARTIN AIRPORT	ALTER COMPOSITE SUPPORT FACILITY	600	600	600	0	600
349	MARYLAND	AIR NAT GRD	MARTIN STATE AIR FIELD	REMOVE UTILITY WIRES	0	0	7,300	(7,300)	7,300

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
350	MASSACHUSETTS	AIR FORCE	HANSCOM AFB	ELECTROMAGNETIC TECHNOLOGY RSCH LAB.....	3,800	3,800	3,800	0	3,800
351	MASSACHUSETTS	NAVY RESERVE	NAVAL AIR STATION SOUTH WEYMOUTH	FIRE STATION.....	780	780	780	0	780
352	MICHIGAN	AIR FORCE	KI SAWYER AFB	CONTROL TOWER.....	2,700	2,700	2,700	0	2,700
353	MICHIGAN	AIR FORCE	WURTSMITH AFB	ADD TO AND ALT CHILD DEVELOPMENT CENTER.....	960	960	960	0	960
354	MICHIGAN	ARMY NAT GRD	WAYNE COUNTY	ARMORY.....	2,634	2,634	2,634	0	2,634
355	MICHIGAN	ARMY NAT GRD	WAYNE COUNTY	ORGANIZATIONAL MAINTENANCE SHOP6.....	470	470	470	0	470
356	MICHIGAN	AIR NAT GRD	SELFRIDGE ANGB	ADD TO AND ALTER AVIONICS SHOP.....	650	650	650	0	650
357	MICHIGAN	AIR NAT GRD	SELFRIDGE ANGB	ADD TO AND ALTER PRECISION MEAS EQUIP LAB....	600	600	600	0	600
358	MICHIGAN	AIR NAT GRD	SELFRIDGE ANGB	ADD TO MUNITIONS MAINT AND STORAGE FAC.....	640	640	640	0	640
359	MICHIGAN	AIR FORCE RESERVE	SELFRIDGE ANGB	ADD/ALTER FUEL SYSTEMS MAINT DOCK.....	650	650	650	0	650
360	MICHIGAN	AIR FORCE RESERVE	SELFRIDGE ANGB	AERIAL PORT TRAINING FACILITY.....	1,850	1,850	1,850	0	1,850
361	MINNESOTA	ARMY NAT GRD	BROOKLYN PARK	ARMORY.....	1,864	1,864	1,864	0	1,864
362	MINNESOTA	AIR NAT GRD	MINNEAPOLIS IAP	MEDICAL/DINING FACILITY.....	0	0	3,700	(3,700)	3,700
363	MINNESOTA	AIR NAT GRD	MINNEAPOLIS IAP	REGIONAL SIMULATOR.....	0	0	3,000	(3,000)	3,000
364	MINNESOTA	ARMY RESERVE	WALKER	ARMY RESERVE CENTER W/MAINTENANCE FACILITY...	2,159	2,159	2,159	0	2,159
365	MISSISSIPPI	NAVY	GULFPORT NAVAL CONSTRUCTION TRAININ	APPLIED INSTRUCTION BUILDING.....	1,170	1,170	1,170	0	1,170
366	MISSISSIPPI	NAVY	GULFPORT NAVAL CONSTRUCTION TRAININ	CHILD DEVELOPMENT CENTER.....	0	600	0	600	0
367	MISSISSIPPI	NAVY	GULFPORT NAVAL CONSTRUCTION TRAININ	BARRACKS.....	7,540	7,540	7,540	0	7,540
368	MISSISSIPPI	AIR FORCE	COLUMBUS AFB	ADD TO AND ALTER FLIGHT SIMULATOR.....	400	400	400	0	400
369	MISSISSIPPI	AIR FORCE	COLUMBUS AFB	ALTER BOQ.....	0	2,700	2,700	0	2,700
370	MISSISSIPPI	ARMY NAT GRD	CAMP MCCAIN	AMMO SUPPLY PT.....	0	500	0	500	500
371	MISSISSIPPI	ARMY NAT GRD	CAMP MCCAIN	TANK TABLES 9 & 11.....	0	600	0	600	600
372	MISSISSIPPI	ARMY NAT GRD	CAMP MCCAIN	TROOP ISSUE SUBSISTENCE ACT.....	0	780	0	780	780
373	MISSISSIPPI	ARMY NAT GRD	CAMP SHELBY	AMMO SUPPLY PT.....	0	280	0	280	280
374	MISSISSIPPI	ARMY NAT GRD	CAMP SHELBY	BOQ.....	0	450	0	450	450
375	MISSISSIPPI	ARMY NAT GRD	CAMP SHELBY	COMBINED SPT. MAINT. SHOP.....	0	3,900	0	3,900	3,900
376	MISSISSIPPI	ARMY NAT GRD	FULTON	ADD/ALT ARMORY.....	0	535	0	535	535
377	MISSISSIPPI	ARMY NAT GRD	STARKVILLE	ARMORY.....	0	975	0	975	975
378	MISSISSIPPI	AIR NAT GRD	ALLEN C. THOMPSON FIELD, JACKSON	BASE CIVIL ENGINEERING FACILITY.....	0	1,600	1,500	100	1,600
379	MISSISSIPPI	AIR NAT GRD	ALLEN C. THOMPSON FIELD, JACKSON	MEDICAL TRAINING AND SECURITY POLICE FACILITY	0	1,500	1,300	200	1,500
380	MISSISSIPPI	AIR NAT GRD	GULFPORT	ADD/ALTER BASE ENGINEER MAINTENANCE FACILITY.	0	520	490	30	520
381	MISSISSIPPI	AIR NAT GRD	GULFPORT	ADD TO AND ALT AGE VEHICLE MAINT FAC.....	1,150	1,150	1,150	0	1,150
382	MISSISSIPPI	AIR NAT GRD	GULFPORT	ALTER BASE SUPPLY WAREHOUSE.....	250	250	250	0	250
383	MISSISSIPPI	AIR NAT GRD	GULFPORT	COMMUNICATIONS ELECTRONICS TRAINING FACILITY.	0	2,300	2,300	0	2,300
384	MISSISSIPPI	ARMY RESERVE	VICKSBURG	ARMY RESERVE CENTER W/MAINTENANCE FACILITY...	6,978	6,978	6,978	0	6,978

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
385	MISSISSIPPI	AIR FORCE RESERVE	KEESLER AFB	MEDICAL TRAINING FACILITY	600	600	600	0	600
386	MISSOURI	ARMY	FORT LEONARD WOOD	APPLIED INSTRUCTION FACILITY	900	900	900	0	900
387	MISSOURI	ARMY	FORT LEONARD WOOD	CHILD DEVELOPMENT CENTER	0	3,050	0	3,050	3,050
388	MISSOURI	ARMY	FORT LEONARD WOOD	PHYSICAL FITNESS TRAINING CENTER	8,800	8,800	8,800	0	8,800
389	MISSOURI	AIR FORCE	WHITEMAN AFB	ADD TO AND ALT PHYSICAL FITNESS CENTER	3,600	3,600	0	3,600	3,600
390	MISSOURI	AIR FORCE	WHITEMAN AFB	B2 AVIONICS SHOP	5,000	5,000	5,000	0	5,000
391	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-ACFT ACCESS APRON AND TAXIWAY UPGRADE	7,900	7,900	7,900	0	7,900
392	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-ADD TO AND ALTER CHILD DEV CTR	750	750	0	750	750
393	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-ADD TO AND ALTER UTILITIES	9,400	9,400	9,400	0	9,400
394	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-ADD TO/ALT BASE LIBRARY/ED CTR	3,500	3,500	0	3,500	3,500
395	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-ADD/ALT CHAPEL COMMUNITY ACTIVITY CTR	1,700	1,700	0	1,700	1,700
396	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-AIRCRAFT MAINTENANCE DOCKS	8,700	8,700	0	8,700	8,700
397	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-DEFENSE ACCESS ROADS	9,000	9,000	9,000	0	9,000
398	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-DORMITORY	6,500	6,500	0	6,500	6,500
399	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-HAZARDOUS MATERIAL STORAGE	1,600	1,600	1,600	0	1,600
400	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-HYDRANT FUEL/ACFT SUPPORT SYSTEMS	12,000	12,000	12,000	0	12,000
401	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-IMPACT AID FUNDING	1,000	1,000	1,000	0	1,000
402	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-MUNITIONS CONVOY ROADS	6,000	6,000	6,000	0	6,000
403	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-SURVIVAL EQUIPMENT SHOP	1,000	1,000	1,000	0	1,000
404	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-UPGRADE BASE ROADS	4,000	4,000	4,000	0	4,000
405	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-WEAPONS RECEIVING AND PROCESSING CENTER	1,700	1,700	1,700	0	1,700
406	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-WEAPONS STORAGE AREA SECURITY FENCING	5,900	5,900	5,900	0	5,900
407	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-WEAPONS STORAGE AREA SUPPLY WAREHOUSE	800	800	800	0	800
408	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-WEAPONS STORAGE IGLOOS	5,600	5,600	5,600	0	5,600
409	MISSOURI	AIR FORCE	WHITEMAN AFB	B2-GENERAL REDUCTION	0	(25,000)	0	(25,000)	(25,000)
410	MISSOURI	AIR FORCE	WHITEMAN AFB	FIRE PROTECTION SYSTEM	750	750	750	0	750
411	MISSOURI	ARMY NAT GRD	JEFFERSON CITY	STATE HEADQUARTERS BUILDING	0	19,000	0	19,000	19,000
412	MISSOURI	AIR NAT GRD	ROSECRANS MEMORIAL AIRPORT	ADD TO WELDING SHOP	250	250	250	0	250
413	MISSOURI	AIR NAT GRD	ST LOUIS-LAMBERT FIELD	ALTER ENGINE SHOP	400	400	400	0	400
414	NEBRASKA	AIR FORCE	OFFUTT AFB	ALT PHYSICAL FITNESS CTR AND FIELD HOUSE	2,600	0	2,600	(2,600)	2,600
415	NEBRASKA	AIR FORCE RESERVE	OFFUTT AFB	ADD/ALTER CIVIL ENGINEERING FACILITY	800	800	800	0	800
416	NEVADA	AIR FORCE	INDIAN SPRINGS	MUNITIONS LOADING/REVETMENTS-PH II	2,550	2,550	2,550	0	2,550
417	NEVADA	AIR FORCE	NELLIS AFB	ADD TO AND ALT ELECTRICAL DIST SYSTEM	5,200	5,200	5,200	0	5,200
418	NEVADA	AIR FORCE	NELLIS AFB	BASE SECURITY FENCING	270	270	270	0	270
419	NEVADA	AIR FORCE	NELLIS AFB	CHILD DEVELOPMENT CENTER	0	3,100	0	3,100	0

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
420	NEVADA	AIR FORCE	NELLIS AFB	MAINTENANCE HANGAR	5,000	5,000	5,000	0	5,000
421	NEVADA	AIR FORCE	NELLIS AFB	PARARESCUE FACILITY	1,050	1,050	1,050	0	1,050
422	NEVADA	AIR FORCE	NELLIS AFB	SQUADRON OPERATIONS FACILITY	1,000	1,000	1,000	0	1,000
423	NEVADA	DEFENSE AGENCIES	NELLIS AIR FORCE BASE	CONSOLIDATED MEDICAL FACILITY REPLACEMENT	56,000	56,000	56,000	0	56,000
424	NEVADA	ARMY NAT GRD	CARSON CITY	CSMS	3,048	3,048	3,048	0	3,048
425	NEVADA	ARMY NAT GRD	CARSON CITY	OMS	676	676	676	0	676
426	NEVADA	AIR NAT GRD	RENO IAP	MEDICAL/DINING FACILITY	0	0	2,400	(2,400)	2,400
427	NEW JERSEY	NAVY	EARLE NAVAL WEAPONS STATION	CHILD DEVELOPMENT CENTER	0	1,250	0	1,250	0
428	NEW JERSEY	NAVY	EARLE NAVAL WEAPONS STATION	TRESTLES REPLACEMENT (PHASE I)	20,100	20,100	20,100	0	20,100
429	NEW JERSEY	AIR FORCE	MCGUIRE AFB	ADD TO FLIGHT SIMULATOR FACILITY	3,000	3,000	3,000	0	3,000
430	NEW JERSEY	AIR FORCE	MCGUIRE AFB	ALTER DORMITORIES	4,850	4,850	4,850	0	4,850
431	NEW JERSEY	AIR NAT GRD	ATLANTIC CITY	BASE ENTRY COMPLEX	400	400	400	0	400
432	NEW JERSEY	AIR NAT GRD	MCGUIRE AFB	ALTER AIRCRAFT MAINTENANCE SHOP	520	520	520	0	520
433	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	ALTER DORMITORY	2,700	2,700	2,700	0	2,700
434	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	SECURITY IMPROVEMENTS	310	310	310	0	310
435	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	ADD/ALTER FUEL SYSTEM MAINTENANCE DOCK	2,200	0	2,200	(2,200)	0
436	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	ALTER AVIONICS SHOP	850	0	850	(850)	0
437	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	ALTER SQUADRON OPERATIONS	2,000	0	2,000	(2,000)	0
438	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	CONVENTIONAL MUNITIONS SHOP	950	0	950	(950)	0
439	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	FLIGHT SIMULATION TRAINING	3,400	0	3,400	(3,400)	0
440	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	MUNITIONS STORAGE FACILITY	1,600	0	1,600	(1,600)	0
441	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	SUPPORT FACILITIES	0	0	0	0	36,000
442	NEW MEXICO	AIR FORCE	KIRTLAND AFB	ADD TO AND ALTER HELICOPTER TRAINING AREA	2,650	2,650	2,650	0	2,650
443	NEW MEXICO	AIR FORCE	KIRTLAND AFB	ALTER DORMITORIES	1,550	1,550	1,550	0	1,550
444	NEW MEXICO	DEFENSE AGENCIES	WHITE SANDS MISSILE RANGE	LARGE BLAST/THERMAL SIMULATOR	64,800	0	64,800	(64,800)	45,000
445	NEW MEXICO	ARMY NAT GRD	ESPANOLA	ARMORY	0	1,600	1,600	0	1,600
446	NEW MEXICO	ARMY NAT GRD	PORTALES	ARMORY	0	1,600	1,600	0	1,600
447	NEW MEXICO	ARMY NAT GRD	RIO PUERCO	ARMORY	0	0	3,400	(3,400)	3,400
448	NEW MEXICO	ARMY NAT GRD	RIO PUERCO	ORGANIZATIONAL MAINTENANCE SHOP	0	0	1,950	(1,950)	1,950
449	NEW MEXICO	ARMY NAT GRD	RIO PUERCO	UTILITIES/INFRASTRUCTURE	0	0	2,127	(2,127)	2,127
450	NEW MEXICO	ARMY NAT GRD	SANTA FE	ORGANIZATIONAL MAINTENANCE SHOP	0	0	850	(850)	850
451	NEW YORK	ARMY	FORT DRUM	CENTRAL WASH FACILITY	8,800	8,800	8,800	0	8,800
452	NEW YORK	ARMY	FORT DRUM	GENERAL INSTRUCTION BUILDING	608	608	608	0	608
453	NEW YORK	AIR FORCE	GRIFFIS AFB	ADD/ALT INTEGRATED MAINT FAC	0	2,300	0	2,300	2,300
454	NEW YORK	AIR FORCE	GRIFFIS AFB	MUNITIONS STORAGE IGLOOS	0	2,200	0	2,200	2,200

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
455	NEW YORK	AIR FORCE	PLATTSBURGH AFB	COLD STORAGE FACILITY	0	1,200	0	1,200	1,200
456	NEW YORK	ARMY NAT GRD	GUILDERLAND	RANGE, MAC	800	800	800	0	800
457	NEW YORK	AIR NAT GRD	NIAGARA FALLS IAP	MUNITION MAINTENANCE AND STORAGE CMPLX	4,300	4,300	4,300	0	4,300
458	NEW YORK	AIR NAT GRD	STRATTON ANG, SCOTIA	AERO MEDICAL FAC	0	1,350	0	1,350	1,350
459	NEW YORK	AIR NAT GRD	SUFFOLK COUNTY AIRPORT	FIRE DETECTION/SUPPRESSION SYSTEM	1,450	1,450	1,450	0	1,450
460	NEW YORK	ARMY RESERVE	BRONX	ADD/ALT ARMY RESERVE CTR/MAINTENANCE FAC	8,099	8,099	8,099	0	8,099
461	NEW YORK	AIR FORCE RESERVE	NIAGARA FALLS IAP	MUNITIONS STORAGE (W/ANG)	200	200	200	0	200
462	NORTH CAROLINA	ARMY	FORT BRAGG	BATTALION HEADQUARTERS	1,850	1,850	1,850	0	1,850
463	NORTH CAROLINA	ARMY	FORT BRAGG	COMMAND/CONTROL FAC EXPANSION (SOF)	0	4,950	0	4,950	4,950
464	NORTH CAROLINA	ARMY	FORT BRAGG	INSTALLATION MAP DEPOT	1,750	1,750	1,750	0	1,750
465	NORTH CAROLINA	ARMY	FORT BRAGG	MAINTENANCE FACILITY (PHASE I)	31,800	31,800	31,800	0	31,800
466	NORTH CAROLINA	ARMY	FORT BRAGG	TACTICAL EQUIPMENT SHOP	11,600	11,600	11,600	0	11,600
467	NORTH CAROLINA	ARMY	FORT BRAGG	TACTICAL EQUIPMENT SHOP	7,400	7,400	7,400	0	7,400
468	NORTH CAROLINA	ARMY	FORT BRAGG/CAMP MACKALL	LAND ACQUISITION	0	720	0	720	720
469	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	ELECTRONICS COMMUNICATIONS MAINT SHOPS	4,120	4,120	4,120	0	4,120
470	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	FIELD MAINTENANCE COMPLEX	21,000	21,000	21,000	0	21,000
471	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	MECHANICS TRAINING BUILDING-INCREMENT III	4,050	4,050	4,050	0	4,050
472	NORTH CAROLINA	NAVY	CHERRY POINT MARINE CORPS AIR STATI	REGIMENTAL GROUP HEADQUARTERS	1,950	1,950	1,950	0	1,950
473	NORTH CAROLINA	NAVY	CHERRY POINT MARINE CORPS AIR STATI	WATER TREATMENT FACILITY	12,000	12,000	12,000	0	12,000
474	NORTH CAROLINA	AIR FORCE	POPE AFB	CHILD DEVELOPMENT CENTER	0	2,150	0	2,150	0
475	NORTH CAROLINA	AIR FORCE	SEYMOUR JOHNSON AFB	BASE FORMS AND PUBLICATIONS WAREHOUSE	600	600	600	0	600
476	NORTH CAROLINA	AIR FORCE	SEYMOUR JOHNSON AFB	FIRE PROTECTION SYSTEMS	850	850	850	0	850
477	NORTH CAROLINA	AIR FORCE	SEYMOUR JOHNSON AFB	REPAIR TAXIWAY	1,052	1,052	1,052	0	1,052
478	NORTH CAROLINA	DEFENSE AGENCIES	CAMP LEJEUNE MARINE CORPS BASE	COURTHOUSE BAY MEDICAL/DENTAL CLINIC	3,200	3,200	3,200	0	3,200
479	NORTH CAROLINA	ARMY NAT GRD	CLINTON	ARMORY	1,603	1,603	1,603	0	1,603
480	NORTH CAROLINA	ARMY NAT GRD	GOLDSBORO	ARMORY & DMS	0	2,057	0	2,057	2,057
481	NORTH CAROLINA	AIR NAT GRD	CHARLOTTE	AIRCRAFT MAINT HANGER	0	12,000	0	12,000	12,000
482	NORTH CAROLINA	AIR NAT GRD	DOUGLAS MAP	ADD TO AND ALTER SQUADRON OPERATIONS	400	400	400	0	400
483	NORTH CAROLINA	AIR NAT GRD	STANLY CO. AIRPORT, ALBEMARLE	UPGRADE RUNWAY	0	1,850	0	1,850	1,850
484	NORTH CAROLINA	AIR FORCE RESERVE	POPE AFB	CIVIL ENGINEERING TRAINING FACILITY	790	790	790	0	790
485	NORTH DAKOTA	AIR FORCE	GRAND FORKS AFB	ADD TO AND ALT MISSILE MAINT AND SPT FAC	4,700	4,700	4,700	0	4,700
486	NORTH DAKOTA	AIR FORCE	GRAND FORKS AFB	ADD TO AND ALT TRANSPORTATION COMPLEX	4,150	4,150	4,150	0	4,150
487	NORTH DAKOTA	AIR FORCE	GRAND FORKS AFB	PEACEKEEPER-ADD TO AND ALT COMM MAINT FAC	50,000	0	0	0	0
488	NORTH DAKOTA	AIR FORCE	GRAND FORKS AFB	PEACEKEEPER-ADD TO COMMUNICATIONS FAC	800	0	0	0	0
489	NORTH DAKOTA	AIR FORCE	GRAND FORKS AFB	PEACEKEEPER-LAND ACQUISITION	1,000	0	0	0	0

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
490	NORTH DAKOTA	AIR FORCE	GRAND FORKS AFB	PEACEKEEPER-MISSILE OPS/INTEG MAINT FAC.....	5,500	0	0	0	0
491	NORTH DAKOTA	AIR FORCE	GRAND FORKS AFB	PEACEKEEPER-ROAD RAILROAD AND UTILITIES.....	7,900	0	0	0	0
492	NORTH DAKOTA	AIR FORCE	GRAND FORKS AFB	PEACEKEEPER-TRAINING TRAIN SHELTER.....	3,000	0	0	0	0
493	NORTH DAKOTA	AIR FORCE	MINOT AFB	ADD TO AND ALTER CHILD DEVELOPMENT CTR.....	3,600	3,600	3,600	0	3,600
494	NORTH DAKOTA	ARMY NAT GRD	CAMP GRAFTON (DEVILS LAKE)	COMBINED SUPPORT MAINTENANCE SHOP ADD.....	1,595	1,595	1,595	0	1,595
495	NORTH DAKOTA	ARMY NAT GRD	FARGO	RESERVE CENTER.....	0	0	7,700	(7,700)	7,700
496	NORTH DAKOTA	AIR NAT GRD	HECTOR FIELD	ALTER MAINTENANCE HANGAR.....	1,400	1,400	1,400	0	1,400
497	NORTH DAKOTA	AIR NAT GRD	HECTOR FIELD	MUNITION MAINT AND STORAGE COMPLEX.....	2,600	2,600	2,600	0	2,600
498	OHIO	AIR FORCE	NEWARK AFB	PEACEKEEPER-GUIDANCE AND CONTROL FAC.....	5,100	5,100	5,100	0	5,100
499	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	AFIT PROFESSIONAL AND TECH EDUC FAC.....	5,500	5,500	5,500	0	5,500
500	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	FOREIGN MATERIAL EXPLOITATION FACILITY.....	4,650	0	4,650	(4,650)	4,650
501	OHIO	DEFENSE AGENCIES	COLUMBUS	BULK STORAGE WAREHOUSE.....	13,530	0	13,530	(13,530)	0
502	OHIO	ARMY NAT GRD	MUSKINGUN	LAND ACQUISITION.....	0	5,700	5,670	30	5,670
503	OHIO	AIR NAT GRD	RICKENBACKER ANGB	ALTER FUEL SYSTEM MAINTENANCE DOCK.....	400	400	400	0	400
504	OHIO	AIR NAT GRD	RICKENBACKER ANGB	POWER CHECK PAD WORK STATION SUPPRESSOR.....	700	700	700	0	700
505	OHIO	AIR NAT GRD	TOLEDO EXPRESS AIRPORT	DINING HALL/MEDICAL TRAINING FACILITY.....	0	3,100	0	3,100	3,100
506	OHIO	AIR NAT GRD	TOLEDO EXPRESS AIRPORT	JET FUEL STORAGE COMPLEX.....	0	3,550	0	3,550	3,550
507	OHIO	AIR NAT GRD	TOLEDO EXPRESS AIRPORT	UNDERGROUND FUEL STORAGE.....	0	1,500	0	1,500	1,500
508	OHIO	ARMY RESERVE	KENTON	ADD/ALT ARMY RESERVE CTR/MAINTENANCE FAC.....	2,804	2,804	2,804	0	2,804
509	OHIO	ARMY RESERVE	TOLEDO	ARMY RESERVE CENTER/MAINTENANCE FACILITY.....	0	7,300	0	7,300	7,300
510	OHIO	NAVY RESERVE	NMCRC CINCINNATI	RESERVE CENTER ADDITION.....	1,200	1,200	1,200	0	1,200
511	OHIO	AIR FORCE RESERVE	RICKENBACKER ANGB	ALTER FUEL MAINTENANCE DOCK.....	500	500	500	0	500
512	OHIO	AIR FORCE RESERVE	WRIGHT-PATTERSON AFB	UPGRADE HANGARS/SHOPS.....	3,781	3,781	3,781	0	3,781
513	OKLAHOMA	ARMY	FORT SILL	COMMUNICATIONS-ELECTRONICS LAB ADDN.....	3,550	3,550	3,550	0	3,550
514	OKLAHOMA	ARMY	FORT SILL	MODERNIZE SEWAGE TREATMENT PLANT.....	21,600	21,600	21,600	0	21,600
515	OKLAHOMA	ARMY	MCALISTER AAP	CHILD DEVELOPMENT CENTER.....	0	700	0	700	0
516	OKLAHOMA	NAVY	TINKER AFB	BARRACKS.....	0	4,800	0	4,800	0
517	OKLAHOMA	AIR FORCE	ALTUS AFB	ALTER FLIGHT SIMULATOR FACILITY.....	800	800	800	0	800
518	OKLAHOMA	AIR FORCE	ALTUS AFB	C17 SHORT FIELD ASSAULT STRIP.....	9,000	9,000	9,000	0	9,000
519	OKLAHOMA	AIR FORCE	ALTUS AFB	C17-ADD TO FLIGHT SIMULATOR FACILITY.....	7,100	7,100	7,100	0	7,100
520	OKLAHOMA	AIR FORCE	ALTUS AFB	C17-FIELD TRAINING FACILITY.....	4,800	4,800	4,800	0	4,800
521	OKLAHOMA	AIR FORCE	TINKER AFB	AWACS AIRCRAFT FIRE PROTECTION.....	2,750	2,750	2,750	0	2,750
522	OKLAHOMA	AIR FORCE	TINKER AFB	B2-ADD TO AND ALT COMPOSITE REPAIR FAC.....	5,700	5,700	5,700	0	5,700
523	OKLAHOMA	AIR FORCE	TINKER AFB	B2-ADD TO AND ALTER DEPOT MAINT HANGAR.....	12,100	12,100	12,100	0	12,100
524	OKLAHOMA	AIR FORCE	TINKER AFB	B2-ADD TO HANGAR FIRE PROTECTION SYS.....	3,600	3,600	3,600	0	3,600

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
525	OKLAHOMA	AIR FORCE	TINKER AFB	CONSOLIDATED FUEL CONTROL TEST FAC/LAND AQ...	13,600	13,600	13,600	0	13,600
526	OKLAHOMA	AIR FORCE	TINKER AFB	LAND ACQUISITION.....	0	1,850	0	1,850	1,850
527	OKLAHOMA	AIR FORCE	TINKER AFB	LOGISTICAL SYSTEMS OPS CNTR/LAND ACQ.....	13,200	13,200	13,200	0	13,200
528	OKLAHOMA	AIR FORCE	TINKER AFB	SYSTEMS ENGINEERING FACILITY.....	650	650	650	0	650
529	OKLAHOMA	AIR FORCE	TINKER AFB	UPGRADE ELECTRICAL DISTRIBUTION SYSTEM.....	3,500	3,500	3,500	0	3,500
530	OKLAHOMA	AIR FORCE	VANCE AFB	ADD TO AND ALTER FLIGHT SIMULATOR.....	400	400	400	0	400
531	OKLAHOMA	DEFENSE AGENCIES	ALTUS AIR FORCE BASE	MEDICAL LOGISTICS FACILITY.....	500	500	500	0	500
532	OKLAHOMA	DEFENSE AGENCIES	FORT SILL	HOSPITAL RPMT PHASE III.....	10,400	10,400	10,400	0	10,400
533	OKLAHOMA	ARMY NAT GRD	CAMP GRUBER	PHASE III TRAINING BARRACKS.....	0	3,332	3,332	0	3,332
534	OKLAHOMA	ARMY NAT GRD	CAMP GRUBER	WATER TREATMENT PLANT.....	0	1,204	0	1,204	1,204
535	OKLAHOMA	AIR NAT GRD	WILL ROGERS WORLD AIRPORT	BCE MOBILITY STORAGE WAREHOUSE.....	400	400	400	0	400
536	OREGON	ARMY NAT GRD	CAMP RILEA	RANGE, ARF (RETS).....	913	913	913	0	913
537	OREGON	ARMY NAT GRD	CAMP RILEA	TRNG SITE,MEDICAL TROOP TRAINING.....	312	312	312	0	312
538	OREGON	ARMY NAT GRD	CAMP WITHYCOMBE	OREGON MILITARY EDUCATION FAC.....	0	4,060	0	4,060	4,060
539	OREGON	ARMY NAT GRD	MONMOUTH	MILITARY EDUCATION FACILITY.....	0	0	4,060	(4,060)	0
540	OREGON	ARMY NAT GRD	PENDLETON	ARMORY.....	0	1,542	1,542	0	1,542
541	OREGON	ARMY NAT GRD	REDMOND	RANGE, 25 METER BAFFLED.....	971	971	971	0	971
542	PENNSYLVANIA	ARMY	CARLISLE BARRACKS	CENTER FOR STRATEGIC WARGAMING.....	25,000	0	25,000	(25,000)	25,000
543	PENNSYLVANIA	ARMY	CARLISLE BARRACKS	CHILD DEVELOPMENT CENTER.....	1,200	1,200	1,200	0	1,200
544	PENNSYLVANIA	ARMY	FORT INDIANTOWN GAP	AMMUNITION SUPPLY POINT.....	1,350	1,350	1,350	0	1,350
545	PENNSYLVANIA	ARMY	FORT INDIANTOWN GAP	COLD STORAGE WAREHOUSE.....	5,000	5,000	5,000	0	5,000
546	PENNSYLVANIA	ARMY	TOBYHANNA ARMY DEPOT	SATELLITE SYSTEMS MAINTENANCE FACILITY.....	6,800	6,800	6,800	0	6,800
547	PENNSYLVANIA	NAVY	WARMINSTER NAVAL AIR DEVELOPMENT CE	AIRCRAFT TECHNOLOGIES LABORATORY.....	10,770	10,770	10,770	0	10,770
548	PENNSYLVANIA	DEFENSE AGENCIES	PHILADELPHIA NAVAL SHIPYARD	MEDICAL/DENTAL/OCCUPATIONAL HEALTH CLINIC....	11,600	11,600	11,600	0	11,600
549	PENNSYLVANIA	DEFENSE AGENCIES	PHILADELPHIA	DEMOLISH BUILDING M5/PARKING AREA.....	3,940	3,940	3,940	0	3,940
550	PENNSYLVANIA	DEFENSE AGENCIES	NORRISTOWN	ADD/ALT ARMY RES CTR/MAINTENANCE FACILITY....	2,598	2,598	2,598	0	2,598
551	PENNSYLVANIA	DEFENSE AGENCIES	DEFENSE DEPOT MECHANICSBURG	TWO GENERAL PURPOSE WAREHOUSES.....	15,100	15,100	15,100	0	15,100
552	PENNSYLVANIA	DEFENSE AGENCIES	DEFENSE DEPOT MECHANICSBURG	UPGRADE IPE BUILDING.....	3,000	3,000	3,000	0	3,000
553	PENNSYLVANIA	ARMY NAT GRD	BUTLER	ARMORY.....	0	2,223	0	2,223	2,223
554	PENNSYLVANIA	ARMY NAT GRD	NORRISTOWN	CONSTRUCT ARMORY.....	0	3,028	0	3,028	3,028
555	PENNSYLVANIA	AIR NAT GRD	GREATER PITTSBURG IAP, ALLEGHENY CO	ACCESS ROAD.....	0	5,000	0	5,000	5,000
556	PENNSYLVANIA	AIR NAT GRD	GREATER PITTSBURGH IAP	VEHICLE STORAGE FACILITY.....	300	300	300	0	300
557	PENNSYLVANIA	AIR NAT GRD	WILLOW GROVE NAS	MEDICAL TRAINING FACILITY.....	1,247	1,247	1,247	0	1,247
558	PENNSYLVANIA	ARMY RESERVE	JOHNSTOWN	ARMY RES/MARINE CORPS RES AVIATION FAC.....	0	0	1,300	(1,300)	0
559	PENNSYLVANIA	ARMY RESERVE	NEW CASTLE	ADD/ALT ARMY RESERVE CTR/MAINTENANCE FAC.....	1,418	1,418	1,418	0	1,418

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
560	PENNSYLVANIA	NAVY RESERVE	AFRC HARRISBURG PA.	RESERVE CENTER ADDITION	2,400	2,400	2,400	0	2,400
561	PENNSYLVANIA	NAVY RESERVE	NAS WILLOW GROVE	GROUND SUPPORT EQUIPMENT SHED	1,220	1,220	1,220	0	1,220
562	PENNSYLVANIA	AIR FORCE RESERVE	GREATER PITTSBURGH IAP	MEDICAL TRAINING FACILITY	1,900	1,900	1,900	0	1,900
563	PENNSYLVANIA	AIR FORCE RESERVE	WILLOW GROVE ARF	MEDICAL TRAINING FACILITY (W/ANG)	1,250	1,250	1,250	0	1,250
564	RHODE ISLAND	NAVY	NETC, NEWPORT	CHILD DEVELOPMENT CENTER	0	1,200	0	1,200	1,200
565	RHODE ISLAND	NAVY	NEWPORT NAVAL EDUCATION & TRAINING	STEAM DISTRIBUTION SYSTEM UPGRADE	6,230	6,230	6,230	0	6,230
566	RHODE ISLAND	NAVY	NUSC, NEWPORT	ADVANCED UNDERWATER WEAPONS RES LAB	0	13,700	13,700	0	13,700
567	SOUTH CAROLINA	ARMY	FORT JACKSON	AUTOMATED RECORD FIRE RANGE	1,600	1,600	1,600	0	1,600
568	SOUTH CAROLINA	NAVY	BEAUFORT MARINE CORPS AIR STATION	BACHELOR ENLISTED QUARTERS	6,700	6,700	6,700	0	6,700
569	SOUTH CAROLINA	NAVY	CHARLESTON NAVAL STATION	PAY & PERSONNEL SUPPORT OFFICE ADDITION	720	720	720	0	720
570	SOUTH CAROLINA	NAVY	CHARLESTON NAVAL WEAPONS STATION	MISSILE MAGAZINE	1,910	1,910	1,910	0	1,910
571	SOUTH CAROLINA	NAVY	CHARLESTON NAVAL WEAPONS STATION	PROPULSION TRAINING FACILITY	25,120	25,120	25,120	0	25,120
572	SOUTH CAROLINA	NAVY	PARRIS ISLAND MARINE CORPS RECRUIT	CLOTHING ISSUE BUILDING	3,410	3,410	3,410	0	3,410
573	SOUTH CAROLINA	NAVY	NORTH RHETT AVENUE	ACCESS ROAD	0	3,000	0	3,000	2,000
574	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	C17-ALTER AIRCRAFT MAINTENANCE FACS	7,900	7,900	7,900	0	7,900
575	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	C17-ALTER ENGINE INSP AND REPAIR FAC	840	840	840	0	840
576	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	COMMAND POST/BASE OPERATIONS FACILITY	2,250	2,250	2,250	0	2,250
577	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	PARACHUTE DRYING TOWER	500	500	500	0	500
578	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	SECURITY POLICE OPERATIONS FACILITY	1,550	1,550	1,550	0	1,550
579	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	VEHICLE OPERATIONS FACILITY	1,050	1,050	1,050	0	1,050
580	SOUTH CAROLINA	AIR FORCE	SHAW AFB	WASTE WATER TREATMENT FACILITY	0	3,000	3,000	0	3,000
581	SOUTH CAROLINA	DEFENSE AGENCIES	DEF REUTIL AND MKGT OFC FT JACKSON	OPEN STORAGE IMPROVEMENTS	500	500	500	0	500
582	SOUTH CAROLINA	ARMY NAT GRD	FOUNTAIN INN	ARMORY	0	2,000	2,000	0	2,000
583	SOUTH CAROLINA	ARMY NAT GRD	GREENVILLE	ARMORY	0	0	2,500	(2,500)	2,500
584	SOUTH CAROLINA	ARMY NAT GRD	GREENVILLE	ORGANIZATION MAINTENANCE SHOP	0	0	1,800	(1,800)	1,800
585	SOUTH CAROLINA	ARMY NAT GRD	GREENWOOD	ARMORY	0	2,000	2,000	0	2,000
586	SOUTH CAROLINA	ARMY NAT GRD	PICKENS	ARMORY	0	2,000	2,000	0	2,000
587	SOUTH CAROLINA	AIR NAT GRD	MCENTIRE	ECM MAINTENANCE AND STORAGE	550	550	550	0	550
588	SOUTH DAKOTA	AIR FORCE	ELLSWORTH AFB	UPGRADE ELEC DISTRIBUTION SYSTEM	13,150	13,150	13,150	0	13,150
589	SOUTH DAKOTA	ARMY NAT GRD	MITCHELL	ARMORY ADD/ALT	954	954	954	0	954
590	TENNESSEE	AIR FORCE	ARNOLD ENGINEERING DEV CENTER	LARGE ROCKET TEST FACILITY (J-6)-PH III	109,300	109,300	109,300	0	66,000
591	TENNESSEE	DEFENSE AGENCIES	DEFENSE DEPOT MEMPHIS	BULK RECEIVING FACILITY	1,500	1,500	1,500	0	1,500
592	TENNESSEE	DEFENSE AGENCIES	DEFENSE DEPOT MEMPHIS	FLAMMABLE STORAGE FACILITY	1,500	1,500	1,500	0	1,500
593	TENNESSEE	DEFENSE AGENCIES	DEFENSE DEPOT MEMPHIS	GENERAL PURPOSE WAREHOUSE	11,900	11,900	11,900	0	11,900
594	TENNESSEE	ARMY NAT GRD	HUNTINGDON	ARMORY	0	1,319	0	1,319	1,319

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
595	TENNESSEE	ARMY NAT GRD	JACKSON	ARMORY ADDITION	0	898	0	898	898
596	TENNESSEE	ARMY NAT GRD	LENOIR CITY	ARMORY	0	1,230	0	1,230	1,230
597	TENNESSEE	ARMY NAT GRD	WINCHESTER	ARMORY	1,023	1,023	1,023	0	1,023
598	TEXAS	ARMY	CAMP SWIFT	SEALING UTILITY HOLES	0	100	0	100	100
599	TEXAS	ARMY	FORT BLISS	RENOVATE ENLISTED BARRACKS	0	9,800	0	9,800	9,800
600	TEXAS	ARMY	FORT BLISS	RENOVATE ENLISTED BARRACKS/DINING FACILITY	0	10,200	0	10,200	10,200
601	TEXAS	ARMY	FORT HOOD	BARRACKS MODERNIZATION	11,000	11,000	11,000	0	11,000
602	TEXAS	ARMY	FORT HOOD	BARRACKS MODERNIZATION	0	14,200	0	14,200	0
603	TEXAS	ARMY	FORT HOOD	CONSOLIDATED MAINTENANCE FACILITY	22,700	22,700	22,700	0	22,700
604	TEXAS	ARMY	FORT HOOD	MODIFIED RECORD FIRE RANGE	1,650	1,650	1,650	0	1,650
605	TEXAS	ARMY	FORT HOOD	RANGE CONTROL FACILITY	4,400	4,400	4,400	0	4,400
606	TEXAS	ARMY	FORT HOOD	RANGE MODERNIZATION	3,050	3,050	3,050	0	3,050
607	TEXAS	ARMY	FORT HOOD	REPLACE VEHICULAR BRIDGES	469	469	469	0	469
608	TEXAS	ARMY	FORT SAM HOUSTON	CONSOLIDATED MAINTENANCE FACILITY	13,200	13,200	13,200	0	13,200
609	TEXAS	ARMY	FORT SAM HOUSTON	MEDICAL RESEARCH LABORATORY	13,400	13,400	13,400	0	13,400
610	TEXAS	ARMY	FORT SAM HOUSTON	PHYSICAL FITNESS TRAINING CENTER	7,100	7,100	7,100	0	7,100
611	TEXAS	NAVY	LACKLAND AFB NAVAL TECHNICAL TRNG C	BACHELOR ENLISTED QUARTERS	11,850	11,850	11,850	0	11,850
612	TEXAS	AIR FORCE	BROOKS AFB	BASE ENGINEER COMPLEX	4,100	4,100	4,100	0	4,100
613	TEXAS	AIR FORCE	CARSWELL AFB	AIRCRAFT PARKING APRON LIGHTING	1,350	1,350	1,350	0	1,350
614	TEXAS	AIR FORCE	CARSWELL AFB	ELECTRICAL SUBSTATION ACQUISITION	566	566	566	0	566
615	TEXAS	AIR FORCE	CARSWELL AFB	HYDRANT FUELING SYSTEM	10,700	10,700	10,700	0	10,700
616	TEXAS	AIR FORCE	DYESS AFB	ADD TO AND ALT VEHICLE MAINT SHOP	2,400	2,400	2,400	0	2,400
617	TEXAS	AIR FORCE	DYESS AFB	AIRCRAFT CORROSION CONTROL FACILITY	4,100	4,100	4,100	0	4,100
618	TEXAS	AIR FORCE	DYESS AFB	RUNWAY APPROACH LIGHTING	1,050	1,050	1,050	0	1,050
619	TEXAS	AIR FORCE	GOODFELLOW AFB	SECURITY POLICE OPERATIONS FACILITY	980	980	980	0	980
620	TEXAS	AIR FORCE	KELLY AFB	ADD TO AND ALT DEPOT CORROSION CTRL FAC	6,300	6,300	6,300	0	6,300
621	TEXAS	AIR FORCE	KELLY AFB	AIR FORCE SERVICE INFO AND NEWS CTR FAC	4,000	4,000	4,000	0	4,000
622	TEXAS	AIR FORCE	LACKLAND AFB	BASE ENGINEER COMPLEX	8,000	8,000	8,000	0	8,000
623	TEXAS	AIR FORCE	LACKLAND AFB	BASE ROADS	4,150	4,150	4,150	0	4,150
624	TEXAS	AIR FORCE	LACKLAND AFB	DINING FACILITY	4,000	4,000	4,000	0	4,000
625	TEXAS	AIR FORCE	LACKLAND AFB	FIRE STATION	1,350	1,350	1,350	0	1,350
626	TEXAS	AIR FORCE	LACKLAND AFB	UPGRADE SEWER SYSTEM	5,000	5,000	5,000	0	5,000
627	TEXAS	AIR FORCE	LAUGHLIN AFB	ADD TO AND ALTER FLIGHT SIMULATOR	400	400	400	0	400
628	TEXAS	AIR FORCE	LAUGHLIN AFB	SPECIALIZED UPT MAINTENANCE SUPPORT	970	970	970	0	970
629	TEXAS	AIR FORCE	LAUGHLIN AFB	TROOP SUBSISTENCE WAREHOUSE	450	450	450	0	450

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
630	TEXAS	AIR FORCE	RANDOLPH AFB	SPECIALIZED UPT MAINTENANCE SUPPORT.....	1,750	1,750	1,750	0	1,750
631	TEXAS	AIR FORCE	REESE AFB	SPECIALIZED UPT MAINTENANCE HANGAR.....	4,100	4,100	4,100	0	4,100
632	TEXAS	AIR FORCE	REESE AFB	TRAFFIC MANAGEMENT FACILITY.....	990	990	990	0	990
633	TEXAS	AIR FORCE	SHEPPARD AFB	AIRCRAFT CORROSION CONTROL FACILITY.....	550	550	550	0	550
634	TEXAS	AIR FORCE	SHEPPARD AFB	BASE ENGINEER COMPLEX.....	6,800	6,800	6,800	0	6,800
635	TEXAS	AIR FORCE	SHEPPARD AFB	WING OPERATIONS FACILITY.....	1,050	1,050	1,050	0	1,050
636	TEXAS	DEFENSE AGENCIES	FORT SAM HOUSTON	HOSPITAL REPLACEMENT PHASE IV.....	77,000	50,000	77,000	(27,000)	50,000
637	TEXAS	DEFENSE AGENCIES	LACKLAND AIR FORCE BASE	MAGNETIC RESONANCE IMAGING FACILITY.....	2,250	2,250	2,250	0	2,250
638	TEXAS	ARMY NAT GRD	CAMP BOWIE, BROWNWOOD	ARMORY.....	0	2,142	0	2,142	2,142
639	TEXAS	ARMY NAT GRD	CAMP BOWIE, BROWNWOOD	LAND ACQUISITION.....	0	1,901	0	1,901	1,901
640	TEXAS	ARMY NAT GRD	CAMP MABRY	ARMORY.....	0	6,284	0	6,284	6,284
641	TEXAS	ARMY NAT GRD	CAMP MAXEY	RANGE, MRF (RETS).....	1,000	1,000	1,000	0	1,000
642	TEXAS	ARMY NAT GRD	DALLAS, REDBIRD	ARMORY EXPANSION.....	0	2,000	0	2,000	2,000
643	TEXAS	ARMY NAT GRD	EL PASO	ARMORY, ADD/ALT.....	2,027	2,027	2,027	0	2,027
644	TEXAS	ARMY NAT GRD	FORT HOOD	MATES EXPANSION.....	0	14,369	0	14,369	14,369
645	TEXAS	ARMY NAT GRD	FORT WORTH	COMBINED SUPPORT MAINTENANCE SHOP.....	3,439	3,439	3,439	0	3,439
646	TEXAS	ARMY NAT GRD	HOUSTON	ADDICKS ARMORY/OMS.....	0	0	5,400	(5,400)	5,400
647	TEXAS	ARMY NAT GRD	WACO	ARMORY ADD/OMS EXPANSION.....	0	2,888	0	2,888	2,888
648	TEXAS	ARMY NAT GRD	WYLIE	ARMORY.....	0	2,227	0	2,227	2,227
649	TEXAS	AIR NAT GRD	DALLAS NAS	ADD/ALTER AERIAL PORT TRAINING FAC.....	325	325	325	0	325
650	TEXAS	AIR NAT GRD	ELLINGTON ANGB	ALERT FACILITIES.....	2,200	2,200	2,200	0	2,200
651	TEXAS	NAVY RESERVE	NAVAL AIR STATION DALLAS	GROUND SUPPORT EQUIPMENT SHOP.....	1,640	1,640	1,640	0	1,640
652	TEXAS	NAVY RESERVE	NAVAL AIR STATION DALLAS	LOX/NIT FACILITY.....	650	650	650	0	650
653	TEXAS	NAVY RESERVE	NMCRC HOUSTON	READINESS CENTER ADDITION.....	3,600	3,600	3,600	0	3,600
654	TEXAS	AIR FORCE RESERVE	BERGSTROM AFB	ADD/ALTER MAINTENANCE SHOPS.....	2,450	2,450	2,450	0	2,450
655	TEXAS	AIR FORCE RESERVE	KELLY AFB	COMPOSITE TRAINING FACILITY.....	1,400	1,400	1,400	0	1,400
656	TEXAS	AIR FORCE RESERVE	KELLY AFB	RED HORSE VEHICLE MAINTENANCE SHOP.....	2,300	2,300	2,300	0	2,300
657	UTAH	ARMY	DUGWAY PROVING GROUNDS	BARRACKS MODERNIZATION.....	0	4,100	0	4,100	0
658	UTAH	ARMY	DUGWAY PROVING GROUND	SIMULANT MIXING FACILITY.....	450	450	450	0	450
659	UTAH	ARMY	TOOELE ARMY DEPOT	AMMUNITION DEMILITARIZATION SUPPORT FAC.....	11,800	11,800	11,800	0	11,800
660	UTAH	ARMY	TOOELE ARMY DEPOT	AMMUNITION DEMILITARIZATION FAC PHASE II.....	0	49,400	40,400	9,000	49,400
661	UTAH	AIR FORCE	HILL AFB	AUTOMATED TIRE STORAGE FAC.....	0	5,000	0	5,000	0
662	UTAH	AIR FORCE	HILL AFB	DEPOT WAREHOUSE.....	16,000	16,000	16,000	0	16,000
663	UTAH	AIR FORCE	HILL AFB	ELECTRICAL UPGRADE.....	0	407	0	407	0
664	UTAH	AIR FORCE	HILL AFB	ICBM NON-DESTRUCTIVE INSP BUNKER.....	0	2,800	0	2,800	2,800

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
665	UTAH	AIR FORCE	HILL AFB	MISSILE MAINTENANCE SHOP	0	2,350	0	2,350	0
666	UTAH	AIR FORCE	HILL AFB	PEACEKEEPER-ORDNANCE STORAGE FACILITY	3,250	3,250	3,250	0	3,250
667	UTAH	AIR FORCE	HILL AFB	PEACEKEEPER-STAGE STORAGE FACILITY	3,250	3,250	3,250	0	3,250
668	UTAH	ARMY NAT GRD	CAMP WILLIAMS	RANGE, MRF (RETS)	1,070	1,070	1,070	0	1,070
669	UTAH	ARMY NAT GRD	LOGAN	ARMORY, ADD/ALT	788	788	788	0	788
670	UTAH	ARMY NAT GRD	WEST JORDAN	ARMORY	0	0	4,145	(4,145)	4,145
671	UTAH	ARMY NAT GRD	WEST JORDAN	AVIATION SUPPORT FACILITY	0	0	6,955	(6,955)	6,955
672	UTAH	ARMY NAT GRD	WEST JORDAN	ORGANIZATIONAL MAINTENANCE SHOP	0	0	800	(800)	800
673	UTAH	AIR NAT GRD	WEST JORDAN	DINING/MEDICAL TRNG FAC	0	3,400	0	3,400	3,400
674	VERMONT	AIR NAT GRD	BURLINGTON IAP	ADD TO AND ALTER MAINTENAHCE HANGAR	500	500	500	0	500
675	VERMONT	AIR NAT GRD	BURLINGTON IAP	AVIONICS SHOP	1,700	1,700	1,700	0	1,700
676	VERMONT	NAVY RESERVE	BURLINGTON	RESERVE CENTER	0	0	2,500	(2,500)	2,500
677	VIRGINIA	ARMY	FORT A P HILL	FUEL STORAGE FACILITY	3,200	3,200	3,200	0	3,200
678	VIRGINIA	ARMY	FORT BELVOIR	ACCESS ROADS - FORT BELVOIR	3,000	3,000	3,000	0	3,000
679	VIRGINIA	ARMY	FORT BELVOIR	FIRE STATION	1,100	1,100	1,100	0	1,100
680	VIRGINIA	ARMY	FORT BELVOIR	FIXED WING RUNWAY	1,400	1,400	1,400	0	1,400
681	VIRGINIA	ARMY	FORT EUSTIS	HARBOR CONTROL FACILITY	530	530	530	0	530
682	VIRGINIA	ARMY	FORT LEE	FOOD SERVICE TRAINING FACILITY ADDITION	520	520	520	0	520
683	VIRGINIA	ARMY	FORT MYER	CHILD DEVELOPMENT CENTER	2,150	2,150	2,150	0	2,150
684	VIRGINIA	ARMY	FORT STORY	EMERGENCY SERVICES BUILDING	1,600	1,600	1,600	0	1,600
685	VIRGINIA	NAVY	ARLINGTON HEADQUARTERS MARINE CORPS	LOGISTICS SUPPORT FACILITY	2,810	2,810	2,810	0	2,810
686	VIRGINIA	NAVY	DAHLGREN NAVAL SPACE SURVEILLANCE S	SPACE SURVEILLANCE CENTER	9,850	9,850	9,850	0	9,850
687	VIRGINIA	NAVY	DAM NECK FLT COMBAT DIR SYSTEMS SPT	COMPUTER PROGRAMMING OPERATIONS CTR ADDN	6,500	6,500	6,500	0	6,500
688	VIRGINIA	NAVY	LITTLE CREEK	SMALL ARMS RANGE	0	2,400	0	2,400	2,400
689	VIRGINIA	NAVY	LITTLE CREEK NAVAL AMPHIBIOUS BASE	LAND CRAFT AIR CUSHION COMPLEX (INCR II)	12,460	12,460	12,460	0	12,460
690	VIRGINIA	NAVY	LITTLE CREEK NAVAL AMPHIBIOUS BASE	SURTASS SUPPORT CENTER ADDITION	8,010	8,010	8,010	0	8,010
691	VIRGINIA	NAVY	LITTLE CREEK NAVAL AMPHIBIOUS SCHOO	LANDING CRAFT AIR CUSHION TRAINING FAC	1,800	1,800	1,800	0	1,800
692	VIRGINIA	NAVY	LITTLE CREEK NAVAL AMPHIBIOUS SCHOO	TRAINING MATERIALS STORAGE	800	800	800	0	800
693	VIRGINIA	NAVY	NORFOLK FLEET TRAINING CENTER	FIRE FIGHTING TRAINING FACILITY	16,080	16,080	16,080	0	16,080
694	VIRGINIA	NAVY	NORFOLK NAVAL SHIPYARD	SHIP SERVICES SUPPORT FACILITY	0	14,600	0	14,600	14,600
695	VIRGINIA	NAVY	NORFOLK NAVAL STATION	ELECTRIC POWER UPGRADE	10,950	10,950	10,950	0	10,950
696	VIRGINIA	NAVY	NORFOLK NAVY PUBLIC WORKS CENTER	FUEL LINE	4,020	4,020	4,020	0	4,020
697	VIRGINIA	NAVY	OCEANA NAVAL AIR STATION	WEAPONS SYSTEM TRAINER BUILDING ADDITION	3,670	3,670	3,670	0	3,670
698	VIRGINIA	NAVY	QUANTICO MARINE CORPS COMBAT DEV CO	COMBAT DEVELOPMENT CENTER	16,094	16,094	16,094	0	16,094
699	VIRGINIA	NAVY	QUANTICO MARINE CORPS COMBAT DEV CO	MARINE CORPS ACADEMIC RESEARCH LIBRARY	14,150	0	14,150	(14,150)	14,150

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
700	VIRGINIA	NAVY	QUANTICO MARINE CORPS COMBAT DEV COM	MILITARY OPERATIONS IN URBANIZED TERRAIN	3,870	3,870	3,870	0	3,870
701	VIRGINIA	NAVY	QUANTICO NAVAL RESEARCH LABORATORY	MIDWAY RESEARCH CENTER UPGRADE	2,600	2,600	2,600	0	2,600
702	VIRGINIA	NAVY	WALLOPS ISLAND AEGIS COMBAT SYSTEMS	AEGIS COMMAND AND LIFE SUPPORT FACILITY	5,490	5,490	5,490	0	5,490
703	VIRGINIA	AIR FORCE	LANGLEY AFB	SOUND SUPPRESSOR SUPPORT	600	600	600	0	600
704	VIRGINIA	AIR FORCE	LANGLEY AFB	SUBSTATION	0	3,250	0	3,250	0
705	VIRGINIA	DEFENSE AGENCIES	CHEATHAM ANNEX	FLEET HOSPITAL FACILITY NO. 8	6,500	6,500	6,500	0	6,500
706	VIRGINIA	DEFENSE AGENCIES	DAHLGREN NAVAL SPACE SURVEILLANCE	ADD/ALTER SCHOOL	0	0	1,360	(1,360)	1,360
707	VIRGINIA	DEFENSE AGENCIES	DAM NECK NAVAL FLIGHT CENTER	MEDICAL/DENTAL CLINIC REPLACEMENT	4,050	4,050	4,050	0	4,050
708	VIRGINIA	DEFENSE AGENCIES	FORT LEE	HOSPITAL LIFE SAFETY UPGRADE	2,650	2,650	2,650	0	2,650
709	VIRGINIA	DEFENSE AGENCIES	FORT LEE ARMY HOSPITAL	LIFE SAFETY UPGRADE	0	2,200	0	2,200	2,200
710	VIRGINIA	DEFENSE AGENCIES	PORTSMOUTH NAVAL HOSPITAL	HOSPITAL REPLACEMENT PHASE II	40,000	40,000	40,000	0	40,000
711	VIRGINIA	DEFENSE AGENCIES	QUANTICO MARINE CORPS BASE	OCS TROOP MEDICAL CLINIC REPLACEMENT	2,450	2,450	2,450	0	2,450
712	VIRGINIA	DEFENSE AGENCIES	ARLINGTON SERVICE CENTER	DCA-HQS WAREHOUSE REPLACEMENT	2,664	2,664	2,664	0	2,664
713	VIRGINIA	DEFENSE AGENCIES	DAM NECK MARINE ENVIRONMENTAL SYSTE	OPERATIONS & MAINTENANCE FACILITY	9,160	9,160	9,160	0	9,160
714	VIRGINIA	DEFENSE AGENCIES	DEFENSE GENERAL SUPPLY CENTER	CONSOLIDATED MAINTENANCE FACILITY	7,000	7,000	7,000	0	7,000
715	VIRGINIA	ARMY NAT GRD	EMPORIA	ARMORY	0	1,697	0	1,697	1,697
716	VIRGINIA	ARMY NAT GRD	NEWPORT NEWS	ARMORY, 200-PERSON	2,481	2,481	2,481	0	2,481
717	VIRGINIA	ARMY NAT GRD	SANDSTON	AVN AASF ADDALT PH II PARKING	2,515	2,515	2,515	0	2,515
718	VIRGINIA	ARMY NAT GRD	WOODSTOCK	ARMORY	0	1,857	1,493	364	1,493
719	VIRGINIA	AIR NAT GRD	CAMP PENDLETON ANGB	BASE SUPPLIES AND EQUIPMENT WAREHOUSE	1,100	1,100	1,100	0	1,100
720	VIRGINIA	AIR NAT GRD	CAMP PENDLETON ANGB	COMPOSITE OPERATIONS AND TRAINING FAC	2,650	2,650	2,650	0	2,650
721	VIRGINIA	AIR NAT GRD	RICHARD E BYRD IAP	ADD TO AND ALTER AVIONICS AND ECM SHOP	1,200	1,200	1,200	0	1,200
722	VIRGINIA	AIR NAT GRD	RICHARD E BYRD IAP	POWER CHECK POD WITH SOUND SUPPRESSOR	700	700	700	0	700
723	VIRGINIA	ARMY RESERVE	COVINGTON	ADD/ALT ARMY RESERVE CENTER	1,654	1,654	1,654	0	1,654
724	VIRGINIA	NAVY RESERVE	NARU NORFOLK	AIRCRAFT MAINTENANCE HANGAR	7,300	7,300	7,300	0	7,300
725	WASHINGTON	ARMY	FORT LEWIS	AUTOMATED RECORD FIRE RANGE	1,250	1,250	1,250	0	1,250
726	WASHINGTON	ARMY	FORT LEWIS	BRIGADE HEADQUARTERS	8,800	0	8,800	(8,800)	8,800
727	WASHINGTON	ARMY	FORT LEWIS	CHAPEL CENTER	2,850	2,850	2,850	0	2,850
728	WASHINGTON	ARMY	FORT LEWIS	TACTICAL SUPPORT CENTER	5,100	5,100	5,100	0	5,100
729	WASHINGTON	NAVY	BANGOR TRIDENT REFIT FACILITY	CRANE TRACKAGE EXTENSION	910	910	910	0	910
730	WASHINGTON	NAVY	BANGOR TRIDENT REFIT FACILITY	HAZARDOUS AND FLAMMABLE STOREHOUSE	2,110	2,110	2,110	0	2,110
731	WASHINGTON	NAVY	BANGOR TRIDENT TRAINING FACILITY	FIRE FIGHTING TRAINING FACILITY	3,610	3,610	3,610	0	3,610
732	WASHINGTON	NAVY	BREMERTON PUGET SOUND NAVAL SHIPYAR	DRY DOCK UTILITIES UPGRADE	2,000	2,000	2,000	0	2,000
733	WASHINGTON	NAVY	BREMERTON PUGET SOUND NAVAL SHIPYAR	LAND ACQUISITION	0	20,000	20,000	0	20,000
734	WASHINGTON	NAVY	EVERETT NAVAL STATION	CARRIER PIER SUPPORT	15,777	15,777	15,777	0	15,777

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
735	WASHINGTON	NAVY	EVERETT NAVAL STATION	COMMUNICATION FACILITY	1,660	1,660	1,660	0	1,660
736	WASHINGTON	NAVY	EVERETT NAVAL STATION	SECURITY AND FIRE STATION	1,760	1,760	1,760	0	1,760
737	WASHINGTON	NAVY	EVERETT NAVAL STATION	UTILITIES AND SITE IMPROVEMENTS	3,070	3,070	3,070	0	3,070
738	WASHINGTON	NAVY	KEYPORT NAVAL UNDERSEA WARFARE ENGR	AUTOMATED MATERIALS HANDLING FACILITY	7,340	7,340	7,340	0	7,340
739	WASHINGTON	NAVY	KEYPORT NAVAL UNDERSEA WARFARE ENGR	FIRE STATION	1,100	1,100	-1,100	0	1,100
740	WASHINGTON	NAVY	KEYPORT NAVAL UNDERSEA WARFARE ENGR	SUBMARINE WEAPONS SYSTEMS SHOP	10,150	10,150	10,150	0	10,150
741	WASHINGTON	NAVY	OAK HARBOR NAVAL HOSPITAL	AVIATION PHYSIOLOGY TRAINING FACILITY	2,180	2,180	2,180	0	2,180
742	WASHINGTON	NAVY	SILVERDALE STRATEGIC WEAPONS FACILI	ENGINEERING SERVICES BUILDING	3,520	3,520	3,520	0	3,520
743	WASHINGTON	NAVY	SILVERDALE STRATEGIC WEAPONS FACILI	MAGAZINE MODIFICATIONS	800	800	800	0	800
744	WASHINGTON	NAVY	SILVERDALE STRATEGIC WEAPONS FACILI	MISSILE ASSEMBLY BUILDING	7,340	7,340	7,340	0	7,340
745	WASHINGTON	NAVY	SILVERDALE STRATEGIC WEAPONS FACILI	MOTOR INSPECTION BUILDING	6,630	6,630	6,630	0	6,630
746	WASHINGTON	NAVY	SILVERDALE STRATEGIC WEAPONS FACILI	RADIOGRAPHIC INSPECTION BUILDING	13,870	13,870	13,870	0	13,870
747	WASHINGTON	NAVY	SILVERDALE STRATEGIC WEAPONS FACILI	TRAINING FACILITY ADDITION	9,740	9,740	9,740	0	9,740
748	WASHINGTON	NAVY	SILVERDALE STRATEGIC WEAPONS FACILI	TRANSFER FACILITY ADDITION	3,520	3,520	3,520	0	3,520
749	WASHINGTON	NAVY	SILVERDALE STRATEGIC WEAPONS FACILI	UTILITIES AND SITE IMPROVEMENTS	11,060	11,060	11,060	0	11,060
750	WASHINGTON	NAVY	WHIDBEY ISLAND NAVAL AIR STATION	OPERATIONS & MAINTENANCE TRNR FAC (INCR I)	19,100	0	0	0	0
751	WASHINGTON	NAVY	WHIDBEY ISLAND NAVAL FACILITY	ELECTRIC POWER IMPROVEMENTS	1,750	1,750	1,750	0	1,750
752	WASHINGTON	AIR FORCE	FAIRCHILD AFB	ADD TO/ALTER ACFT PARKING APRON LIGHTING	1,600	1,600	1,600	0	1,600
753	WASHINGTON	AIR FORCE	FAIRCHILD AFB	ALTER AIRCRAFT MAINTENANCE COMPLEX	9,600	9,600	9,600	0	9,600
754	WASHINGTON	AIR FORCE	FAIRCHILD AFB	PEACEKEEPER-ADD/ALTER COMM MAINT FAC	990	0	0	0	0
755	WASHINGTON	AIR FORCE	FAIRCHILD AFB	PEACEKEEPER-GARRISON FACILITIES	73,000	0	0	0	0
756	WASHINGTON	AIR FORCE	FAIRCHILD AFB	PEACEKEEPER-LAND ACQUISITION	1,000	0	0	0	0
757	WASHINGTON	AIR FORCE	FAIRCHILD AFB	PEACEKEEPER-MISSILE OPS MAINT FACILITY	6,900	0	0	0	0
758	WASHINGTON	AIR FORCE	FAIRCHILD AFB	PEACEKEEPER-ROAD RAILROAD AND UTILITIES	11,200	0	0	0	0
759	WASHINGTON	AIR FORCE	FAIRCHILD AFB	PEACEKEEPER-TRAINING TRAIN SHELTER	3,750	0	0	0	0
760	WASHINGTON	AIR FORCE	MCCHORD AFB	SQUADRON OPERATIONS FACILITY	5,200	5,200	5,200	0	5,200
761	WASHINGTON	ARMY NAT GRD	EVERETT / SNOHOMISH	ORGANIZATIONAL MAINTENANCE SHOP3	345	345	345	0	345
762	WASHINGTON	ARMY NAT GRD	TACOMA	PIER ACQUISITION	0	0	2,900	(2,900)	2,900
763	WASHINGTON	AIR FORCE RESERVE	MCCHORD AFB	SQUADRON OPERATIONS FACILITY	1,500	1,500	1,500	0	1,500
764	WEST VIRGINIA	ARMY NAT GRD	CAMP DAWSON	PHASE IV	0	0	2,500	(2,500)	2,500
765	WEST VIRGINIA	ARMY RESERVE	CHARLESTON	USARC/OMS	0	0	5,000	(5,000)	5,000
766	WEST VIRGINIA	ARMY RESERVE	VARIOUS LOCATIONS	LAND ACQUISITION	0	0	1,829	(1,829)	1,829
767	WEST VIRGINIA	ARMY NAT GRD	CHARLESTON	ARMORY	0	0	2,900	(2,900)	2,900
768	WEST VIRGINIA	ARMY NAT GRD	KINGWOOD	ORGANIZATIONAL MAINTENANCE SHOP	0	0	1,100	(1,100)	1,100
769	WEST VIRGINIA	ARMY NAT GRD	PARKERSBURG	ORGANIZATIONAL MAINTENANCE SHOP	0	0	900	(900)	900

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
770	WEST VIRGINIA	AIR NAT GRD	E WV REGIONAL APT (MARTINSBURG)	ADD TO AND ALTER AVIONICS SHOP	400	400	400	0	400
771	WEST VIRGINIA	AIR NAT GRD	YEAGER	OPERATIONS & TRAINING FACILITY	0	0	12,100	(12,100)	12,100
772	WISCONSIN	ARMY	FORT MCCOY	CENTRAL FUEL STORAGE FACILITY	5,500	5,500	5,500	0	5,500
773	WISCONSIN	ARMY	FORT MCCOY	CENTRAL WASH FACILITY	5,000	5,000	5,000	0	5,000
774	WISCONSIN	ARMY	FORT MCCOY	COLD STORAGE WAREHOUSE	5,000	5,000	5,000	0	5,000
775	WISCONSIN	ARMY	FORT MCCOY	MULTI-PURPOSE TRAINING RANGE	8,900	8,900	8,900	0	8,900
776	WISCONSIN	ARMY NAT GRD	BELOIT	ARMORY	0	2,200	0	2,200	2,200
777	WISCONSIN	ARMY NAT GRD	MADISON	STATE HDQS ARMORY	0	7,372	0	7,372	7,372
778	WISCONSIN	ARMY NAT GRD	RICHLAND CENTER	ARMORY	0	1,159	1,000	159	1,000
779	WISCONSIN	ARMY NAT GRD	WAUKESHA	ARMORY EXPANSION	0	1,341	0	1,341	1,341
780	WISCONSIN	AIR NAT GRD	MITCHELL FIELD, MILWAUKEE	AIRCRAFT MAINTENANCE HANGAR	0	4,700	4,700	0	4,700
781	WISCONSIN	AIR NAT GRD	VOLK FIELD	RECONSTRUCT APRON & TAXIWAY	0	0	4,100	(4,100)	4,100
782	WISCONSIN	ARMY RESERVE	FORT MCCOY	REGIONAL TRAINING SITE-MEDICAL	2,258	2,258	2,258	0	2,258
783	WYOMING	AIR FORCE	FE WARREN AFB	ADD TO AND ALT TRANSPORTATION COMPLEX	4,400	4,400	4,400	0	4,400
784	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER-DORMITORY	5,200	0	0	0	0
785	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER (FY90-SEE FOOTNOTE)	0	(89,850)	0	(89,850)	(89,850)
786	WYOMING	DEFENSE AGENCIES	DRMO, F.E. WARREN AFB	COVERED STORAGE FACILITY	1,700	1,700	1,700	0	1,700
787	WYOMING	ARMY NAT GRD	CAMP GUERNSEY	AIRFIELD IMPROVEMENTS	0	0	2,947	(2,947)	2,947
788	WYOMING	ARMY NAT GRD	CAMP GUERNSEY	TRNG SITE, 200-PERSON BKS	983	983	983	0	983
789	WYOMING	ARMY NAT GRD	LANDER	OMS, SUB SHOP	277	277	277	0	277
790	CONUS	NAVY	VARIOUS LOCATIONS	GENERAL REDUCTION	0	0	(13,700)	13,700	0
791	CONUS CLASSIFIED	ARMY	CLASSIFIED LOCATIONS	CLASSIFIED PROJECT	3,000	3,000	3,000	0	3,000
792	CONUS CLASSIFIED	DEFENSE AGENCIES	CLASSIFIED LOCATION	ADD/ALT MAINTENANCE SHOPS	547	547	547	0	547
793	CONUS CLASSIFIED	DEFENSE AGENCIES	CLASSIFIED LOCATION	AVIONICS SHOP	2,200	2,200	2,200	0	2,200
794	CONUS CLASSIFIED	DEFENSE AGENCIES	CLASSIFIED LOCATION	BUILDING ADD W SUPPORT FACILITIES	27,425	26,600	26,600	0	26,600
795	CONUS CLASSIFIED	DEFENSE AGENCIES	CLASSIFIED LOCATION	CLASSIFIED PROJECT	5,375	0	0	0	0
796	ANTIGUA	AIR FORCE	ANTIGUA MISSILE TRACKING ANNEX	INSTRUMENTATION FACILITY	8,200	8,200	8,200	0	8,200
797	CANADA	AIR FORCE	VARIOUS LOCATIONS-CANADA	FORWARD OPERATING LOCATIONS	6,300	6,300	6,300	0	6,300
798	GERMANY	ARMY	GERMANY VARIOUS	RECORD FIRE RANGES	4,053	0	4,053	(4,053)	0
799	GERMANY	ARMY	GERMANY VARIOUS	WARTIME HOST NATION SUPPORT	2,500	0	2,500	(2,500)	2,500
800	GERMANY	ARMY	GIESSEN	TANK CREW COMBAT COURSE	2,250	0	0	0	0
801	GERMANY	ARMY	GRAFENWOEHR	APPLIED INSTRUCTION FACILITY	5,700	0	0	0	0
802	GERMANY	ARMY	GRAFENWOEHR	PAVE TANK TRAIL	1,630	0	1,630	(1,630)	0
803	GERMANY	ARMY	GRAFENWOEHR	READY BUILDING	3,500	0	0	0	0
804	GERMANY	ARMY	HEILBRONN	HARDSTAND & WASH FACILITY	5,500	0	0	0	0

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
805	GERMANY	ARMY	HOHENFELS TNG AREA	EDUCATION CENTER ADDITION	610	0	0	0	0
806	GERMANY	ARMY	HOHENFELS TNG AREA	HARDSTAND & MAINTENANCE SHEDS	4,350	0	0	0	0
807	GERMANY	ARMY	HOHENFELS TNG AREA	LIBRARY ADDITION	550	0	0	0	0
808	GERMANY	ARMY	HOHENFELS TNG AREA	MILITARY POLICE STATION ADDITION	1,300	0	0	0	0
809	GERMANY	ARMY	HOHENFELS TNG AREA	PHYSICAL FITNESS TRAINING CENTER	3,350	0	0	0	0
810	GERMANY	ARMY	KAISERSLAUTERN	MISSILE MAINTENANCE SHOP	5,000	0	5,000	(5,000)	5,000
811	GERMANY	ARMY	MANNHEIM	VEHICLE MAINTENANCE SHEDS	7,600	0	0	0	0
812	GERMANY	ARMY	VILSECK	CHAPEL CENTER/RELIGIOUS EDUCATION FAC	3,300	0	0	0	0
813	GERMANY	ARMY	VILSECK	FIRE STATION	1,250	0	0	0	0
814	GERMANY	ARMY	VILSECK	HARDSTAND/TACTICAL EQUIP SHOP & SHEDS	8,500	0	0	0	0
815	GERMANY	ARMY	VILSECK	MULTI-PURPOSE AUDITORIUM FACILITY	2,550	0	0	0	0
816	GERMANY	AIR FORCE	BITBURG AB	ADD TO PHYSICAL FITNESS CENTER	2,000	0	0	0	0
817	GERMANY	AIR FORCE	HAHN AB	UPGRADE WATER STOR AND DISTR SYS	4,300	0	0	0	0
818	GERMANY	AIR FORCE	MARIENFELDE	UPGRADE OPERATIONS FACILITY	1,621	0	0	0	0
819	GERMANY	AIR FORCE	RHEIN-MAIN AB	COMMUNICATIONS CONTROL CENTER	3,250	0	0	0	0
820	GERMANY	AIR FORCE	SPANGDAHLEM AB	ADD/ALTER WATER STORAGE AND DISTRIB SYST	4,900	0	0	0	0
821	GERMANY	AIR FORCE	SPANGDAHLEM AB	UPGRADE SEWAGE TREATMENT PLANT/SEWER SYS	4,350	0	0	0	0
822	GERMANY	DEFENSE AGENCIES	DARMSTADT	ELEM/JR HIGH ADDITIONS	7,276	0	0	0	0
823	GERMANY	DEFENSE AGENCIES	FRANKFURT	ATTERBURY ELEM SCHOOL ADDITION	7,449	0	0	0	0
824	GERMANY	DEFENSE AGENCIES	IDAR OBERSTEIN	ELEMENTARY SCHOOL ADDITION	2,189	0	0	0	0
825	GERMANY	DEFENSE AGENCIES	KAISERSLAUTERN	ELEM, JR, & HS ADDITIONS	13,341	0	0	0	0
826	GERMANY	DEFENSE AGENCIES	LANDSTUHL	ELEM/MIDDLE SCHOOL ADDITION	3,724	0	0	0	0
827	GERMANY	DEFENSE AGENCIES	MANNHEIM	HIGH SCHOOL ADDITION	8,708	0	0	0	0
828	GERMANY	DEFENSE AGENCIES	NELLINGEN	ELEMENTARY SCHOOL ADDITION	3,187	0	0	0	0
829	GERMANY	DEFENSE AGENCIES	RAMSTEIN	ELEMENTARY & JR. HIGH ADDITIONS	12,217	0	0	0	0
830	GERMANY	DEFENSE AGENCIES	GIESSEN	DISPENSARY/DENTAL CLINIC REPLACEMENT	5,000	0	0	0	0
831	GERMANY	DEFENSE AGENCIES	NUERNBERG	DISPENSARY/DENTAL CLINIC REPLACEMENT	5,800	0	0	0	0
832	GERMANY	DEFENSE AGENCIES	RHEIN-MAIN AIR BASE	AEROMEDICAL EVACUATION LOGISTICS FACILITY	870	0	870	(870)	870
833	GREENLAND	AIR FORCE	THULE AB	UPGRADE AIRFIELD PAVEMENTS-PHASE I	6,300	6,300	6,300	0	6,300
834	GUAM	NAVY	NAVAL MAGAZINE	TOMAHAWAK SUPPORT COMPLEX	9,319	9,319	9,319	0	9,319
835	GUAM	NAVY	NAVY PUBLIC WORKS CENTER	SANITARY WASTEWATER SYSTEM UPGRADE	7,500	7,500	7,500	0	7,500
836	HONDURAS	AIR FORCE	LA MESA AB	AIRFIELD IMPROVEMENTS	12,600	0	0	0	0
837	HONDURAS	AIR FORCE	PALMEROLA AB	C130-AIRCRAFT APRON	4,600	0	0	0	0
838	ICELAND	NAVY	KEFLAVIK NAVAL AIR STATION	FUEL FACILITIES	2,440	2,440	0	2,440	2,440
839	ICELAND	NAVY	KEFLAVIK NAVAL COMMUNICATION STATIO	COMMUNICATION CENTER	10,248	0	0	0	0

39-059 O—92-16 (Pt. 23)

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
840	ITALY	NAVY	SICILY NAVAL COMMUNICATION STATION	RECEIVER FACILITY	1,513	1,513	1,513	0	1,513
841	ITALY	NAVY	SIGONELLA NAVAL AIR STATION	CORROSION CONTROL HANGAR	8,390	8,390	0	8,390	8,390
842	ITALY	NAVY	SIGONELLA NAVAL AIR STATION	ENGINE MAINTENANCE SHOP ADDITION	1,850	0	0	0	0
843	ITALY	AIR FORCE	GHEDI AIRFIELD	ALTER MUNITIONS STORAGE FACILITY	550	0	0	0	0
844	ITALY	AIR FORCE	RIMINI AIRFIELD	ALTER MUNITIONS STORAGE FACILITY	510	0	0	0	0
845	ITALY	AIR FORCE	SAN VITO AS	ALTER DORMITORY	2,750	0	0	0	0
846	ITALY	DEFENSE AGENCIES	AVIANO AIR BASE	SECOND ECHELON MEDICAL LOGISTICS STORAGE	1,100	0	0	0	0
847	ITALY	DEFENSE AGENCIES	VICENZA	HOSPITAL REPLACEMENT	28,000	0	0	0	0
848	JAPAN	ARMY	JAPAN VARIOUS	AMMUNITION STORAGE	8,400	0	0	0	0
849	JAPAN	ARMY	JAPAN VARIOUS	AMMUNITION SURVEILLANCE FACILITY	2,050	0	0	0	0
850	JAPAN	NAVY	HANZA OKINAWA NAVAL SECURITY GROUP	FIRE PROTECTION SYSTEM	1,035	0	0	0	0
851	JAPAN	NAVY	IWAKUNI MARINE CORPS AIR STATION	HANGAR CONVERSION	3,017	0	0	0	0
852	JAPAN	AIR FORCE	KADENA AB	CONTROL TOWER CAB	770	0	0	0	0
853	JAPAN	AIR FORCE	KADENA AB	FIRE PROTECTION KC135 MAINT	2,950	0	2,950	(2,950)	2,950
854	JOHNSTON ISLAND	DEFENSE AGENCIES	DNA HDQTRS FIELD COMMAND	COMMUNITY SUPPORT COMPLEX	4,145	0	4,145	(4,145)	4,145
855	JOHNSTON ISLAND	DEFENSE AGENCIES	DNA HDQTRS FIELD COMMAND	MAINTENANCE FACILITY PHASE 1	4,450	0	4,450	(4,450)	4,450
856	KOREA	ARMY	CAMP CASEY	BARRACKS	8,690	0	0	0	0
857	KOREA	ARMY	CAMP GARY OWEN	TACTICAL EQUIPMENT SHOP	1,800	0	0	0	0
858	KOREA	ARMY	CAMP HOVEY	TACTICAL EQUIPMENT SHOP	8,500	0	0	0	0
859	KOREA	ARMY	K-16 ARMY AIRFIELD	FLIGHT SIMULATOR BUILDING	1,500	0	1,500	(1,500)	1,500
860	KOREA	ARMY	KOREA VARIOUS	AMMUNITION STORAGE	11,000	0	0	0	0
861	KOREA	AIR FORCE	KUNSAN AB	ACFT FUELS SYS REPR DOCK	3,300	0	0	0	0
862	KOREA	AIR FORCE	KUNSAN AB	PHYSICAL FITNESS COMPLEX	5,300	0	0	0	0
863	KOREA	AIR FORCE	KUNSAN AB	SQUADRON OPERATIONS FACILITY	6,000	0	0	0	0
864	KOREA	AIR FORCE	KUNSAN AB	UPGRADE ELECTRICAL DIST SYSTEM-PHASE III	5,700	0	0	0	0
865	KOREA	AIR FORCE	OSAN AB	AIRCRAFT SUPPORT EQUIP SHOP/STORAGE FAC	1,800	1,800	1,800	0	1,800
866	KOREA	AIR FORCE	OSAN AB	BASE OPERATIONS FACILITY	1,950	0	0	0	0
867	KOREA	AIR FORCE	OSAN AB	FIRE STATION	4,650	0	0	0	0
868	KOREA	AIR FORCE	OSAN AB	REPLACE TAXIWAY PAVEMENT-PHASE I	5,500	0	0	0	0
869	KOREA	AIR FORCE	OSAN AB	SQUADRON OPERATIONS/SENSOR MAINT FAC	1,700	1,700	1,700	0	1,700
870	KOREA	DEFENSE AGENCIES	CAMP CASEY	TROOP MEDICAL CLINIC REPLACEMENT	1,000	0	1,000	(1,000)	1,000
871	KOREA	DEFENSE AGENCIES	KUNSAN AIR BASE	HOSPITAL/DENTAL CLINIC REPLACEMENT	14,400	0	0	0	0
872	PHILIPPINES	AIR FORCE	CLARK AB	CONTROL TOWER CAB	710	0	0	0	0
873	PUERTO RICO	ARMY NAT GRD	CAMP SANTIAGO (SALINAS)	RANGE, MRF (RETS)	1,000	0	1,000	(1,000)	1,000
874	PUERTO RICO	AIR NAT GRD	PUERTO RICO IAP	FIRE SUPPRESSION SYSTEM	1,100	0	1,100	(1,100)	1,100

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
875	SEYCHELLE ISLANDS	AIR FORCE	MAHE MISSILE TRACKING SITE	SATELLITE CONTROL FACILITY	4,600	4,600	4,600	0	4,600
876	SPAIN	NAVY	ROTA NAVAL COMMUNICATION STATION	OPERATIONS BUILDING UPGRADE	1,105	0	1,105	(1,105)	1,105
877	TURKEY	AIR FORCE	INCIRLIK AB	ALTER MUNITIONS STORAGE FACILITY	3,700	0	0	0	0
878	TURKEY	AIR FORCE	INCIRLIK AB	WATER DISTRIBUTION MAINS	1,100	1,100	0	1,100	1,100
879	TURKEY	AIR FORCE	PIRINCLIK	DORMITORY	1,250	1,250	1,250	0	1,250
880	TURKEY	DEFENSE AGENCIES	SINOP	MEDICAL/DENTAL CLINIC REPLACEMENT	1,750	0	1,750	(1,750)	1,750
881	UNITED KINGDOM	NAVY	BRAWDY WALES FLEET SURVEILLANCE SPT	ELECTRONIC INSTALLATION	1,740	0	1,740	(1,740)	0
882	UNITED KINGDOM	NAVY	LONDON PERSONNEL SUPPORT ACTIVITY	PAY AND PERSONNEL SUPPORT OFFICE	442	0	0	0	0
883	UNITED KINGDOM	AIR FORCE	HIGH WYCOMBE	DORMITORY	4,200	0	0	0	0
884	UNITED KINGDOM	AIR FORCE	RAF ALCONBURY	ADD TO AND ALTER PHYSICAL FITNESS CENTER	3,200	0	0	0	0
885	UNITED KINGDOM	AIR FORCE	RAF ALCONBURY	ALTER DORMITORIES	4,100	0	0	0	0
886	UNITED KINGDOM	AIR FORCE	RAF BENTWATERS	CENTRAL POST OFFICE	1,500	0	0	0	0
887	UNITED KINGDOM	AIR FORCE	RAF CHICKSANDS	SATELLITE COMMUNICATIONS TERMINAL	12,200	0	12,200	(12,200)	0
888	UNITED KINGDOM	AIR FORCE	RAF LAKENHEATH	ALTER DORMITORY	3,155	3,155	0	3,155	0
889	UNITED KINGDOM	AIR FORCE	RAF LAKENHEATH	ALTER MUNITIONS STORAGE FACILITY	4,950	0	0	0	0
890	UNITED KINGDOM	AIR FORCE	RAF MILDENHALL	ADD TO AND ALT PHYSICAL FITNESS CENTER	1,100	0	0	0	0
891	UNITED KINGDOM	DEFENSE AGENCIES	HARROGATE	MENWITH HILL MS ADDITION	2,100	0	0	0	0
892	UNITED KINGDOM	DEFENSE AGENCIES	RAF EDZELL	MEDICAL DENTAL CLINIC RPMT	5,400	0	0	0	0
893	UNITED KINGDOM	DEFENSE AGENCIES	ROYAL AIR FORCE LANARK	FLEET HOSPITAL FACILITY 14	3,900	0	0	0	0
894	OVERSEAS CLASSIFIED	AIR FORCE	OVERSEAS CLASSIFIED	F15E-CONVENTIONAL MUNITIONS MAINT FAC	2,400	0	2,400	(2,400)	0
895	OVERSEAS CLASSIFIED	AIR FORCE	OVERSEAS CLASSIFIED	F15E-FIELD TRAINING FACILITY	2,400	0	2,400	(2,400)	0
896	OVERSEAS CLASSIFIED	AIR FORCE	OVERSEAS CLASSIFIED	OPERATIONS FACILITY	14,243	0	0	0	0
897	OVERSEAS CLASSIFIED	AIR FORCE	OVERSEAS CLASSIFIED	TACTICAL INTELLIGENCE CENTER	3,000	0	0	0	0
898	OVERSEAS CLASSIFIED	DEFENSE AGENCIES	OVERSEAS CLASSIFIED	CLASSIFIED PROJECT	1,600	7,800	7,800	0	7,800
899	OVERSEAS CLASSIFIED	DEFENSE AGENCIES	CLASSIFIED OVERSEAS LOCATIONS	CLASSIFIED PROJECT	2,375	0	2,375	(2,375)	2,375
900	OVERSEAS VARIOUS	DEFENSE AGENCIES	VARIOUS LOCATIONS	HOT LUNCH FACILITIES	15,188	0	0	0	0
901	WORLDWIDE CLASSIFIED	AIR FORCE	CLASSIFIED LOCATION	VARIOUS FACILITIES	4,000	0	4,000	(4,000)	0
902	WORLDWIDE CLASSIFIED	AIR FORCE	CLASSIFIED LOCATION	VARIOUS FACILITIES	2,600	0	2,600	(2,600)	0
903	WORLDWIDE CLASSIFIED	AIR FORCE	CLASSIFIED LOCATION	VARIOUS FACILITIES	3,800	0	3,800	(3,800)	0
904	WORLDWIDE CLASSIFIED	AIR FORCE	CLASSIFIED LOCATION	VARIOUS FACILITIES	4,000	0	4,000	(4,000)	0
905	WORLDWIDE UNSPECIFIED	NATO	OSD MILCON	NATO INFRASTRUCTURE	420,400	175,000	210,400	(35,400)	192,700
906	WORLDWIDE UNSPECIFIED	BASE CLOSURE	BASE REALIGNMENT AND CLOSURE ACCOUN	BASE REALIGNMENT AND CLOSURE	916,500	1,016,500	966,500	50,000	1,016,500
907	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	89,577	89,577	89,577	0	89,577
908	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	7,603	7,603	7,603	0	7,603
909	WORLDWIDE UNSPECIFIED	NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	ACCESS ROADS	4,017	4,017	4,017	0	4,017

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
910	WORLDWIDE UNSPECIFIED	NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	76,951	76,951	76,951	0	76,951
911	WORLDWIDE UNSPECIFIED	NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	13,311	13,311	13,311	0	13,311
912	WORLDWIDE UNSPECIFIED	AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	107,741	107,741	107,741	0	107,741
913	WORLDWIDE UNSPECIFIED	AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	10,272	10,272	10,272	0	10,272
914	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	OSD MILCON	PLANNING AND DESIGN	2,689	2,689	2,689	0	2,689
915	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	OSD MILCON	UNSPECIFIED MINOR CONSTRUCTION	100	100	100	0	100
916	WORLDWIDE USPECIFIED	DEFENSE AGENCIES	UNSPECIFIED CONUS LOCATIONS	ENERGY CONSERVATION PROGRAM	0	50,000	0	50,000	30,000
917	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	2,655	2,655	2,655	0	2,655
918	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	10,000	0	10,000	(10,000)	10,000
919	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	44,300	44,300	44,300	0	44,300
920	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	CONTINGENCY CONSTRUCTION	12,700	10,000	12,700	(2,700)	10,000
921	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	6,000	6,000	6,000	0	6,000
922	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	41,296	41,296	41,296	0	41,296
923	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	1,500	1,500	1,500	0	1,500
924	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	7,200	7,200	7,200	0	7,200
925	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	1,500	1,500	1,500	0	1,500
926	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR - DODDS	0	2,000	0	2,000	2,000
927	WORLDWIDE UNSPECIFIED	ARMY NAT GRD	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	4,100	8,600	13,100	(4,500)	13,100
928	WORLDWIDE UNSPECIFIED	ARMY NAT GRD	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	3,786	3,786	3,786	0	3,786
929	WORLDWIDE UNSPECIFIED	AIR NAT GRD	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	8,800	12,800	16,500	(3,700)	16,500
930	WORLDWIDE UNSPECIFIED	AIR NAT GRD	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	3,793	3,793	3,793	0	3,793
931	WORLDWIDE UNSPECIFIED	ARMY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	4,756	4,756	5,756	(1,000)	7,056
932	WORLDWIDE UNSPECIFIED	ARMY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	2,253	2,253	2,253	0	2,253
933	WORLDWIDE UNSPECIFIED	NAVY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	3,885	3,885	7,352	(3,467)	7,352
934	WORLDWIDE UNSPECIFIED	NAVY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	1,600	1,600	1,600	0	1,600
935	WORLDWIDE UNSPECIFIED	AIR FORCE RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	3,309	3,309	3,309	0	3,309
936	WORLDWIDE UNSPECIFIED	AIR FORCE RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	1,415	1,415	1,415	0	1,415
937	WORLDWIDE VARIOUS	NAVY	LAND ACQUISITION	LAND ACQUISITION	10,660	0	4,660	(4,660)	4,400
938	WORLDWIDE VARIOUS	NAVY	VARIOUS LOCATIONS	HOST NATION INFRASTRUCTURE SUPPORT	1,000	0	1,000	(1,000)	1,000
939	WORLDWIDE VARIOUS	DEFENSE AGENCIES	VARIOUS LOCATIONS	CONFORMING STORAGE FACILITIES	10,000	5,000	10,000	(5,000)	5,000
940	WORLDWIDE VARIOUS	DEFENSE AGENCIES	VARIOUS LOCATIONS	CONFORMING STORAGE FACILITIES	3,580	0	3,580	(3,580)	0
941	WORLDWIDE VARIOUS	ARMY NAT GRD	VARIOUS LOCATIONS	ARMORY UNIT STORAGE BUILDING	1,600	1,600	1,600	0	1,600
942	WORLDWIDE VARIOUS	ARMY NAT GRD	VARIOUS LOCATIONS	RANGE, INDOOR MODERNIZATION	2,200	2,200	2,200	0	2,200
943	HAWAII	FH-ARMY	VARIOUS OAHU	NEW CONSTRUCTION (138)	15,000	15,000	15,000	0	15,000
944	KANSAS	FH-ARMY	FORT RILEY	NEW CONSTRUCTION (250)	0	0	12,500	(12,500)	12,500

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
945	WORLDWIDE UNSPECIFIED	FH-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS	44,100	69,100	44,100	25,000	44,100
946	WORLDWIDE UNSPECIFIED	FH-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING	2,700	2,700	2,700	0	2,700
947	WORLDWIDE UNSPECIFIED	FH-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	73,469	73,469	60,969	12,500	60,969
948	WORLDWIDE UNSPECIFIED	FH-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT	80,883	80,883	80,883	0	80,883
949	WORLDWIDE UNSPECIFIED	FH-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT	1,629	1,629	1,629	0	1,629
950	WORLDWIDE UNSPECIFIED	FH-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT	58,203	58,203	58,203	0	58,203
951	WORLDWIDE UNSPECIFIED	FH-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT	303,641	303,641	303,641	0	303,641
952	WORLDWIDE UNSPECIFIED	FH-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING	434,316	434,316	434,316	0	434,316
953	WORLDWIDE UNSPECIFIED	FH-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY	540,210	540,210	542,710	(2,500)	517,710
954	WORLDWIDE UNSPECIFIED	FH-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	INTEREST PAYMENTS	31	31	31	0	31
955	WORLDWIDE UNSPECIFIED	FH-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MORTGAGE INSURANCE PREMIUMS	18	18	18	0	18
956	WORLDWIDE VARIOUS	DEBT	VARIOUS LOCATIONS - ARMY	PLUS APPROPRIATION FOR DEBT REDUCTION	250	250	250	0	250
957	CALIFORNIA	FH-NAVY	MARINE CORPS BASE CAMP PENDLETON	NEW CONSTRUCTION (112)	11,805	11,805	0	11,805	11,805
958	CALIFORNIA	FH-NAVY	NAVAL STATION LONG BEACH	NEW CONSTRUCTION (300)	24,928	24,928	24,928	0	24,928
959	CALIFORNIA	FH-NAVY	PACIFIC MISSILE TEST CENTER POINT M	NEW CONSTRUCTION (FAMILY HOUSING OFFICE)	603	0	603	(603)	0
960	CALIFORNIA	FH-NAVY	PUBLIC WORKS CENTER SAN DIEGO	NEW CONSTRUCTION (300)	31,880	31,880	31,880	0	31,880
961	NEVADA	FH-NAVY	FALLON NAS	NEW CONSTRUCTION (80)	0	0	10,500	(10,500)	10,500
962	NEW YORK	FH-NAVY	NAVAL STATION NEW YORK	NEW CONSTRUCTION (150)	19,692	19,692	0	19,692	0
963	VIRGINIA	FH-NAVY	LITTLE CREEK NAVAL AMPHIBIOUS BASE	NEW CONSTRUCTION (COMMUNITY CENTER)	372	372	372	0	372
964	VIRGINIA	FH-NAVY	PWC NORFOLK	NEW CONSTRUCTION (COMMUNITY CENTER)	417	417	417	0	417
965	VIRGINIA	FH-NAVY	PWC NORFOLK	NEW CONSTRUCTION (COMMUNITY CENTER)	417	417	417	0	417
966	BERMUDA	FH-NAVY	NAVAL AIR STATION	NEW CONSTRUCTION (FAMILY HOUSING OFFICE)	378	0	0	0	0
967	GUANTANAMO BAY, CUBA	FH-NAVY	NAVAL STATION GUANTANAMO BAY	NEW CONSTRUCTION (134)	18,409	18,409	18,409	0	18,409
968	ICELAND	FH-NAVY	NAVAL AIR STATION KEFLAVIK	NEW CONSTRUCTION (112)	27,479	27,479	27,479	0	27,479
969	WORLDWIDE UNSPECIFIED	FH-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS	42,420	67,420	42,420	25,000	42,420
970	WORLDWIDE UNSPECIFIED	FH-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING	6,200	6,200	6,200	0	6,200
971	WORLDWIDE UNSPECIFIED	FH-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	22,609	22,609	22,609	0	22,609
972	WORLDWIDE UNSPECIFIED	FH-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT	53,306	53,306	53,306	0	53,306
973	WORLDWIDE UNSPECIFIED	FH-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT	825	825	825	0	825
974	WORLDWIDE UNSPECIFIED	FH-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT	37,140	37,140	37,140	0	37,140
975	WORLDWIDE UNSPECIFIED	FH-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT	180,610	180,610	180,610	0	180,610
976	WORLDWIDE UNSPECIFIED	FH-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING	53,775	53,775	53,775	0	53,775
977	WORLDWIDE UNSPECIFIED	FH-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY	371,037	371,037	371,037	0	348,537
978	WORLDWIDE UNSPECIFIED	FH-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MORTGAGE INSURANCE PREMIUMS	198	198	198	0	198
979	NEVADA	FH-AIR FORCE	NELLIS AFB	HOUSING OFFICE	235	235	235	0	235

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H. PASSED	S. PASSED	H+/-S	CONFERENCE AGREEMENT
980	NEVADA	FH-AIR FORCE	NELLIS AFB	SR OFFICER HOUSING (13 UNITS).....	0	0	0	0	1,600
981	NEW MEXICO	FH-AIR FORCE	HOLLOMAN AFB	HOUSING MAINTENANCE FACILITY.....	219	219	219	0	219
982	NORTH CAROLINA	FH-AIR FORCE	SEYMOUR JOHNSON AFB	FAMILY HOUSING MANAGEMENT OFFICE.....	0	365	0	365	365
983	SOUTH CAROLINA	FH-AIR FORCE	CHARLESTON AFB	HOUSING OFFICE AND MAINTENANCE FACILITY.....	592	592	592	0	592
984	SOUTH CAROLINA	FH-AIR FORCE	MYRTLE BEACH AFB	HOUSING OFFICE.....	258	258	258	0	258
985	SOUTH DAKOTA	FH-AIR FORCE	ELLSWORTH AFB	HOUSING OFFICE.....	313	313	313	0	313
986	GUAM	FH-AIR FORCE	ANDERSEN AFB	HOUSING SUPPLY AND STORAGE FACILITY.....	1,371	0	1,371	(1,371)	1,371
987	WORLDWIDE UNSPECIFIED	FH-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS.....	173,612	198,612	173,612	25,000	172,012
988	WORLDWIDE UNSPECIFIED	FH-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING.....	6,000	6,000	6,000	0	6,000
989	WORLDWIDE UNSPECIFIED	FH-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT.....	55,164	55,164	55,164	0	55,164
990	WORLDWIDE UNSPECIFIED	FH-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT.....	41,034	41,034	41,034	0	41,034
991	WORLDWIDE UNSPECIFIED	FH-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT.....	7,559	7,559	7,559	0	7,559
992	WORLDWIDE UNSPECIFIED	FH-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT.....	24,532	24,532	24,532	0	24,532
993	WORLDWIDE UNSPECIFIED	FH-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT.....	223,097	223,097	223,097	0	223,097
994	WORLDWIDE UNSPECIFIED	FH-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING.....	110,911	110,911	110,911	0	110,911
995	WORLDWIDE UNSPECIFIED	FH-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY.....	326,922	326,922	316,922	10,000	304,422
996	WORLDWIDE UNSPECIFIED	FH-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	MORTGAGE INSURANCE PREMIUMS.....	81	81	81	0	81
997	OVERSEAS CLASSIFIED	FH-DEFENSE AGENCIES	OVERSEAS CLASSIFIED	CLASSIFIED PROJECT (3).....	400	0	400	(400)	400
998	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS.....	57	57	57	0	57
999	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS.....	43	43	43	0	43
1000	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT.....	100	100	100	0	100
1001	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT.....	1,060	1,060	1,060	0	1,060
1002	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT.....	14	14	14	0	14
1003	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT.....	105	105	105	0	105
1004	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT.....	1	1	1	0	1
1005	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT.....	281	281	281	0	281
1006	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT.....	15	15	15	0	15
1007	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT.....	355	355	355	0	355
1008	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT.....	116	116	116	0	116
1009	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING.....	7,195	7,195	7,195	0	7,195
1010	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING.....	10,702	10,702	10,702	0	10,702
1011	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY.....	200	200	200	0	200
1012	WORLDWIDE UNSPECIFIED	FH-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY.....	456	456	456	0	456
1013	WORLDWIDE UNSPECIFIED	FH-HOMEOWNERS	UNSPECIFIED WORLDWIDE LOCATIONS	HOMEOWNERS ASSISTANCE FUND.....	5,100	56,710	5,100	51,610	5,100

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Part A of Title XXXI of Division C of the House Bill would authorize appropriations for the Department of Energy national security programs in the total amount of $10,954 million.

Part A of Title XXXI of Division C of the Senate amendment would authorize $11,093 million for these purposes.

The conferees agree to an authorization of $10,914 million.

The budget request, the authorizations contained in the House bill and the Senate amendment, and the conference agreement are presented in the following tables.

18-Oct-90 FY 1991 DOE ATOMIC ENERGY DEFENSE ACTIVITIES (053) [$ IN MILLIONS] Page 1

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
Weapons Activities	4,584.707	4,748.000	4,390.485	4,443.446	-345.146	4,402.854
Operating Expenses	3,774.573	3,994.081	3,760.512	3,828.627	-198.700	3,795.381
Construction	525.764	478.638	354.692	342.588	-143.396	335.242
Capital Equipment	284.370	275.281	275.281	272.231	-3.050	272.231
Nuclear Materials Production	2,158.574	2,413.000	2,336.900	2,341.900	-71.100	2,341.900
Operating Expenses	1,654.691	1,961.870	1,887.770	1,892.770	-69.100	1,892.770
Construction	399.458	345.508	343.508	343.508	-2.000	343.508
Capital Equipment	104.425	105.622	105.622	105.622		105.622
Waste Transportation and Site Management	1,658.967	86.000		86.000	-86.000	
Operating Expenses	1,441.875	36.046		36.916	-36.046	
Construction	166.966	30.856		29.986	-30.856	
Capital Equipment	50.126	19.098		19.098	-19.098	
Verification and Control Technology	169.878	174.000	217.200	199.408	22.408	196.408
Operating Expenses	159.146	151.484	194.684	186.484	30.000	181.484
Construction	1.000	12.592	12.592	3.000	-7.592	5.000
Capital Equipment	9.732	9.924	9.924	9.924		9.924
Nuclear Safeguards and Security	87.208	91.000	90.500	91.000		91.000
Operating Expenses	82.241	83.934	83.434	83.934		83.934
Construction		2.000	2.000	2.000		2.000
Capital Equipment	4.967	5.066	5.066	5.066		5.066
Security Investigations	41.200	65.000	65.000	65.000		65.000
Operating Expenses	41.200	65.000	65.000	65.000		65.000
New Production Reactors	303.500	363.000	375.000	363.000	12.000	375.000
Operating Expenses	203.500	132.900	134.900	132.900	2.000	134.900
Construction	100.000	221.300	231.300	221.300	10.000	231.300
Capital Equipment		8.800	8.800	8.800		8.800
Naval Reactors Development	652.000	652.000	652.000	652.000		652.000
Operating Expenses	562.800	569.200	569.200	569.200		569.200
Construction	35.200	27.400	27.400	27.400		27.400
Capital Equipment	54.000	55.400	55.400	55.400		55.400
Subtotal, Defense Programs	9,656.034	8,592.000	8,127.085	8,241.754	-467.838	8,124.162
Subtotal, Defense Programs Operating Expenses	7,920.026	6,994.515	6,695.500	6,795.831	-271.846	6,722.669
Subtotal, Defense Programs Plant Const. Expenses	1,228.388	1,118.294	971.492	969.782	-173.844	944.450
Subtotal, Defense Programs Capital Equipment	507.620	479.191	460.093	476.141	-22.148	457.043

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
Environmental Restoration and Waste Management		2,362.000	2,966.240	2,712.246	427.852	2,789.852
Operating Expenses		1,995.776	2,421.181	2,362.622	395.652	2,391.428
Construction		395.156	425.142	378.556	13.102	408.258
Captial Equipment		100.819	119.917	100.819	19.098	119.917
Program Slippage		-129.751		-129.751		-129.751
TOTAL, DOE DEFENSE ACTIVITIES	9,656.034	10,954.000	11,093.325	10,954.000	-39.986	10,914.014

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
Operating Expenses						
WEAPONS ACTIVITIES						
Research and Development	1064.970	1,062.775	1,042.775	944.564	29.443	1,092.218
Science Education Programs					(50.000)	(50.000)
Nuclear Directed Energy Weapons	(97.000)	(91.211)	(51.211)	(0.000)	(-91.211)	(0.000)
Inertial Confinement Fusion	(165.200)	(157.900)	(167.900)	(157.900)	(0.000)	(157.900)
Testing	511.700	526.711	481.711	429.268	-89.443	437.268
Nuclear Directed Energy Weapons	(90.000)	(84.443)	(44.443)	(0.000)	(-84.443)	(0.000)
(Weapons Safety)				160.000	(160.000)	(160.000)
Production and Surveillance	2100.000	2,299.880	2,131.311	2,190.080	-138.700	2,161.180
Program Direction	97.903	104.715	104.715	104.715		104.715
Weapons Program	(88.853)	(95.514)	(95.514)	(95.514)		(95.514)
Community Assistance	(9.050)	(9.201)	(9.201)	(9.201)		(9.201)
Total, Weapons Activities	3,774.573	3,994.081	3,760.512	3,828.627	-198.700	3,795.381
NUCLEAR MATERIALS PRODUCTION						
Reactor Operations	578.049	811.457	811.457	811.457		811.457
Processing of Nuclear Materials	589.609	628.969	628.969	628.969		628.969
Supporting Services	282.868	302.043	292.043	292.043	-10.000	292.043
Enriched Material	168.900	176.901	112.801	117.801	-59.100	117.801
Program Direction	35.265	42.500	42.500	42.500		42.500
Total, Nuclear Materials Production	1,654.691	1,961.870	1,887.770	1,892.770	-69.100	1,892.770
WASTE TRANSPORTATION & SITE MANAGEMENT						
Environmental Restoration	572.000					
Waste Operations and Projects	699.696					
Waste Research and Development	115.225					
Corrective Action						
Hazardous Waste and Compliance Technology	40.163					
Transportation Management	11.841	14.660		14.660	-14.660	
Program Direction	2.950					
Program Direction/Landlord		21.386		22.256	-21.386	
Total, Waste Transportation & Site Management	1,441.875	36.046		36.916	-36.046	
VERIFICATION AND CONTROL TECHNOLOGY						
Verification and Control Technology	159.146	151.484	194.684	186.484	30.000	181.484
Total, Verification & Control Tech	159.146	151.484	194.684	186.484	30.000	181.484
NUCLEAR SAFEGUARDS AND SECURITY						
Nuclear Safeguards and Security	82.241	83.934	83.434	83.934		83.934

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
Total, Nuclear Safeguards and Security	82.241	83.934	83.434	83.934		83.934
SECURITY INVESTIGATIONS	41.200	65.000	65.000	65.000		65.000
NEW PRODUCTION REACTORS						
New Production Reactors	203.500	132.900	134.900	132.900	2.000	134.900
Total, New Production Reactors	203.500	132.900	134.900	132.900	2.000	134.900
NAVAL REACTORS DEVELOPMENT						
Plant Development	87.000	89.300	89.300	89.300		89.300
Reactor Development	245.300	258.900	258.900	258.900		258.900
Reactor Operation and Evaluation	217.000	207.000	207.000	207.000		207.000
Program Direction	13.500	14.000	14.000	14.000		14.000
Total, Naval Reactors Development	562.800	569.200	569.200	569.200		569.200
SUBTOTAL, DOE DEFENSE ACTIVITIES OPERATING EXPENSES	7,920.026	6,994.515	6,695.500	6,795.831	-271.846	6,722.669
Plant and Capital Equipment						
WEAPONS ACTIVITIES						
GPD-101, general plant projects, various locations	28.130	27.100	27.100	27.100		27.100
GPD-121, general plant projects, various locations	30.850	36.350	36.350	36.350		36.350
91-D-122, short range attack missile tactical (SRAM T) production facilities, various locations		15.000	15.000			15.000
91-D-123, production assurance transformer replacement, Kansas City Plant, Kansas City, Missouri		2.600	2.600	2.600		2.600
91-D-124, safeguards and security upgrades, Phase III, Mound Facility, Miamisburg, Ohio		1.100	1.100	1.100		1.100
91-D-125, environmental, safety and health upgrades, Phase III, Mound Facility,						

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
Miamisburg, Ohio		1.746		1.746	-1.746	
91-D-126, health physics calibration facility, Mound Plant, Miamisburg, Ohio		1.000	1.000	1.000		1.000
91-D-127, critically alarm and production annunciation utility replacement, Rocky Flats Plant, Golden, Colorado		6.600	6.600	6.600		6.600
90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations	1.000	19.600	9.600	9.600	-10.000	9.600
90-D-103, environment, safety, and health improvements, various locations	10.700					
90-D-122, production capabilities for the nuclear depth/strike bomb (ND/SB), various locations	8.000	13.700			-13.700	
90-D-123, follow on to lance warhead production facilities, various locations		3.500			-3.500	
90-D-124, high explosives (HE) synthesis facility, Pantex Plant, Amarillo, Texas	1.800					
90-D-125, steam plant ash disposal facility, Y-12 Plant, Oak Ridge, Tennessee	1.500					
90-D-126, environment, safety, and health enhancements, various locations	26.700	8.500	8.500	8.500		8.500
89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee	9.200					
89-D-125, plutonium recovery modification project, Rocky Flats Plant, Golden, Colorado	45.000	65.000			-65.000	
89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio	3.500	0.488	0.488	0.488		0.488

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico	3.100					
88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico	1.000	1.000	1.000	1.000		1.000
88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico	44.000	20.600	20.600	20.600	-20.600	
88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations	94.400	77.547	72.547	72.547	-5.000	72.547
88-D-122, facilities capability assurance program, various locations	83.099	131.806	106.806	106.806	-25.000	106.806
88-D-123, security enhancements, Pantex Plant, Amarillo, Texas	5.500	18.244	18.244	18.244		18.244
88-D-124, fire protection upgrade, various locations	5.400	1.481	1.481	1.481		1.481
88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas	36.000	8.840	8.840	8.840		8.840
88-D-126, personnel radiological monitoring laboratories, various locations		1.600	1.600	1.600		1.600
87-D-104, safeguards and security enhancement II, Lawrence Livermore National Laboratory, Livermore, California	7.000			1.150	1.150	1.150
87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations	41.200	8.634	8.634	8.634		8.634
86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California	5.200					
86-D-130, tritium loading facility						

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
replacement, Savannah River Plant, Aiken, South Carolina	24.025	2.360	2.360	2.360		2.360
85-D-105, combined device assembly facility, Nevada Test Site, Nevada	9.460	4.242	4.242	4.242		4.242
Total, Weapons Activities Construction	525.764	478.638	354.692	342.588	-143.396	335.242
NUCLEAR MATERIALS PRODUCTION						
GPD-146, general plant projects, various locations	36.802	36.994	36.994	36.994		36.994
91-D-143, increase 751-A electrical substation capacity, Phase I, Savannah River, South Carolina		6.000	6.000	6.000		6.000
91-D-145, new whole body counter facility, Savannah River, South Carolina		4.350	4.350	4.350		4.350
91-D-148, reactor charge/discharge training simulator, Savannah River, South Carolina		2.000			-2.000	
90-D-141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho	3.500	6.000	6.000	6.000		6.000
90-D-142, coal storage facility environmental upgrade, Feed Materials Production Center, Fernald, Ohio	0.920					
90-D-143, plutonium finishing plant fire safety and loss limitation, Richland, Washington	0.800	2.500	2.500	2.500		2.500
90-D-149, plantwide fire protection, Phases I and II, Savannah River, South Carolina	4.900	49.100	49.100	49.100		49.100
90-D-150, reactor safety assurance, Phases I and II, Savannah River, South Carolina	12.700	32.600	32.600	32.600		32.600
90-D-151, engineering center, Savannah River, South Carolina	7.000	4.000	4.000	4.000		4.000

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
89-D-140, additional separations safeguards, Savannah River, South Carolina	10.300	16.300	16.300	16.300		16.300
89-D-141, M area waste disposal, Savannah River, South Carolina	7.800					
89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina	40.000					
89-D-148, improved reactor confinement system, Savannah River, South Carolina	7.100	12.800	12.800	12.800		12.800
88-D-153, additional reactor safeguards, Savannah River, South Carolina	6.400	1.000	1.000	1.000		1.000
87-D-159, environmental, health, and safety improvements, Phases I, II, III, IV, and V, Feed Materials Production Center, Fernald, Ohio	55.111	14.133	14.133	14.133		14.133
86-D-148, special isotope separation project, Idaho Falls, Idaho	40.000					
86-D-149, productivity retention program, Phases I, II, III, IV, V, and VI, various locations	81.780	61.750	61.750	61.750		61.750
86-D-152, reactor electrical distribution system, Savannah River, South Carolina	3.164					
86-D-156, plantwide safeguards systems, Savannah River, South Carolina	6.181					
85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho	75.000	87.500	87.500	87.500		87.500
85-D-145, fuel production facility, Savannah River, South Carolina		8.481	8.481	8.481		8.481
Total, Nuclear Materials Production Construction	399.458	345.508	343.508	343.508	-2.000	343.508
WASTE TRANPORTATION & SITE MANAGEMENT						

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
90-D-170, general plant projects, various locations	29.036					
GPD-171, general plant projects, various locations		13.556		13.556	-13.556	
91-D-170, Idaho National Engineering Laboratory transportation complex, Idaho		0.870			-0.870	
91-D-175, 300 area electrical distribution conversion and safety improvements, Phase I, Richland, Washington		0.900		0.900	-0.900	
90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington	1.100					
90-D-172, aging waste transfer lines, Richland, Washington	1.300					
90-D-173, B plant canyon crane replacement, Richland, Washington	1.500					
90-D-174, decontamination laundry facility, Richland, Washington	2.800					
90-D-175, landlord program safety compliance-I, Richland, Washington	4.200	8.230		8.230	-8.230	
90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina	3.100					
90-D-177, RWMC transuranic (TRU) waste treatment and storage facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho	5.000					
90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho	6.000					
89-D-171, Idaho National Engineering Laboratory road renovation, Idaho	7.400	7.300		7.300	-7.300	

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
89-D-172, Hanford environmental compliance, Richland, Washington	27.600					
89-D-173, tank farm ventilation upgrade, Richland, Washington	15.400					
89-D-174, replacement high-level waste evaporator, Savannah River, South Carolina	9.360					
89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina	6.440					
88-D-173, Hanford waste vitrification plant, Richland, Washington	29.100					
87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington	0.700					
87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina	2.790					
83-D-148, non-radioactive hazardous waste management, Savannah River, South Carolina	14.140					
Total, Waste Transportation & Site Management Construction	166.966	30.856		29.986	-30.856	
VERIFICATION AND CONTROL TECHNOLOGY						
91-D-192, foreign technology assessment center, Lawrence Livermore National Laboratory, Livermore, California		2.592	2.592		-2.592	
90-D-186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico	1.000	10.000	10.000	3.000	-5.000	5.000
Total, Verification & Control Technology Construction	1.000	12.592	12.592	3.000	-7.592	5.000
NUCLEAR SAFEGUARDS AND SECURITY						

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
GPD-186, general plant projects, Central Training Academy, Albuquerque, New Mexico		2.000	2.000	2.000		2.000
NEW PRODUCTION REACTOR						
88-D-154, new production reactor capacity, various locations	100.000	221.300	231.300	221.300	10.000	231.300
NAVAL REACTORS DEVELOPMENT						
GPN-101, general plant projects, various locations	8.500	8.600	8.600	8.600		8.600
90-N-102, expended core facility dry cell project, Naval Reactors Facility, Idaho	3.600	4.000	4.000	4.000		4.000
90-N-103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho	0.200	1.800	1.800	1.800		1.800
90-N-104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York	3.900	7.900	7.900	7.900		7.900
89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York	6.500	3.600	3.600	3.600		3.600
89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho	3.100					
89-N-104, power system upgrade, Naval Reactors Facility, Idaho	6.400					
88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho	3.000	1.500	1.500	1.500		1.500
Total, Naval Reactors Development Construction	35.200	27.400	27.400	27.400		27.400
SUBTOTAL, DOE DEFENSE ACTIVITIES PLANT CONSTRUCTION	1,228.388	1,118.294	971.492	969.782	-173.844	944.450

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
CAPITAL EQUIPMENT						
Weapons Activities	284.370	275.281	275.281	272.231	-3.050	272.231
Nuclear Directed Energy Weapons	(16.000)	(11.250)	(11.250)	(0.000)	(-11.25)	(0.000)
Inertial Confinement Fusion	(8.740)	(8.900)	(8.900)	(17.100)	(8.200)	(17.100)
Nuclear Materials Production	104.425	105.622	105.622	105.622		105.622
Waste Transportation and Site Management	50.126	19.098		19.098	-19.098	
Verification and Control Technology	9.732	9.924	9.924	9.924		9.924
Nuclear Safeguards and Security	4.967	5.066	5.066	5.066		5.066
New Production Reactors		8.800	8.800	8.800		8.800
Naval Reactors Development	54.000	55.400	55.400	55.400		55.400
SUBTOTAL, DOE DEFENSE ACTIVITIES						
CAPITAL EQUIPMENT	507.620	479.191	460.093	476.141	-22.148	457.043
SUMMARY						
Subtotal, Operating Expenses	7,920.026	6,994.515	6,695.500	6,795.831	-271.846	6,722.669
Subtotal, Plant Construction	1228.388	1118.294	971.492	969.782	-173.844	944.450
Subtotal, Capital Equipment	507.620	479.191	460.093	476.141	-22.148	457.043
SUBTOTAL, DOE DEFENSE ACTIVITIES	9,656.034	8,592.000	8,127.085	8,241.754	-467.838	8,124.162
ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT						
Operating Expenses		1,995.776	2,421.181	2,362.622	395.652	2,391.428
Environmental Restoration			811.215		833.215	833.215
Waste Operations and Projects			1,301.599		1,252.927	1,252.927
Waste Research and Development			238.140		183.480	183.480
Corrective Action			23.346		61.654	61.654
Hazardous Waste and Compliance Technology						
Transportation Management					14.660	14.660
Program Direction			25.495		24.106	24.106
Program Direction/Landlord			21.386		21.386	21.386

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
Construction						
GP-D-171 General Plant Projects		50.133	63.689	50.133	13.556	63.689
91-D-125, environmental, safety, and health upgrades, Phase III, Mound Plant, Miamisburg, Ohio		0.284	0.284	0.284	-0.284	
91-D-171, waste receiving and processing facility module 1, Richland, Washington		2.700	2.700	2.700		2.700
91-D-172, high-level waste tank farm replacement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho		13.000	13.000	13.000		13.000
91-D-173, hazardous low-level waste processing tanks, Savannah River, South Carolina		5.800	5.800	5.800		5.800
91-D-175, 300 area electrical distribution conversion and safety improvements, Phase I, Richland, Washington			0.900		0.900	0.900
90-D-103, environment, safety, and health improvements, various locations		4.200	4.200	4.200		4.200
90-D-125, steam plant ash disposal facility, Y-12 Plant, Oak Ridge, Tennessee		6.000	6.000	6.000		6.000
90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington		4.100	4.100	4.100		4.100
90-D-172, aging waste transfer lines, Richland, Washington		4.000	4.000	4.000		4.000
90-D-173, B plant canyon crane replacement, Richland, Washington		4.300	4.300	4.300		4.300
90-D-174, decontamination laundry facility, Richland, Washington		9.900	9.900	9.900		9.900
90-D-175, landlord program safety compliance-I, Richland, Washington		2.640	10.870	2.640	8.230	10.870

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina		15.300	15.300	15.300		15.300
90-D-177, RWMC transuranic (TRU) waste treatment and storage facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho		26.000	26.000	26.000		26.000
90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho		11.100	11.100	11.100		11.100
89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee		5.500	5.500	5.500		5.500
89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio		1.723	1.723	1.723		1.723
89-D-141, M-area waste disposal, Savannah River, South Carolina		7.500	7.500	7.500		7.500
89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina		44.600	44.600	28.000	-16.600	28.000
89-D-171, Idaho National Engineering Laboratory road renovation, Idaho			7.300		7.300	7.300
89-D-172, Hanford environmental compliance, Richland, Washington		42.460	42.460	42.460		42.460
89-D-173, tank farm ventilation upgrade, Richland, Washington		3.400	3.400	3.400		3.400
89-D-174, replacement high-level waste evaporator, Savannah River, South Carolina		11.330	11.330	11.330		11.330
89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina		7.600	7.600	7.600		7.600
88-D-102, sanitary wastewater systems						

Program	FY 1990 Authorization Conference	FY 1991 Authorization Request	FY 1991 Senate Authorization	FY 1991 House Authorization	Difference Conference/ Request	Conference Agreement
consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico		3.500	3.500	3.500		3.500
88-D-173, Hanford waste vitrification plant, Richland, Washington		75.500	75.500	75.500		75.500
87-D-159, environmental, health, and safety improvements, Phases I, II, III, & IV, Feed Materials Production Center, Fernald, Ohio		27.586	27.586	27.586		27.586
83-D-148, non-radioactive hazardous waste management, Savannah River, South Carolina		5.000	5.000	5.000		5.000
Subtotal, Construction ER & WM Construction		395.156	425.142	378.556	13.102	408.258
Capital Equipment		100.819	119.917	100.819	19.098	119.917
Program Slippage		-129.751		-129.751		-129.751
Total, Environmental Restor & Waste Manag't		2,362.000	2,966.240	2,712.246	427.852	2,789.852
TOTAL, DOE DEFENSE ACTIVITIES	9,656.034	10,954.000	11,093.325	10,954.000	-39.986	10,914.014
DEFENSE NUCLEAR FACILITIES SAFETY BOARD		12.500	12.500	12.500		12.500
TOTAL, ATOMIC ENERGY DEFENSE ACTIVITIES	9,656.034	10,966.500	11,105.825	10,966.500	-39.986	10,926.514

Nuclear directed energy weapons

The budget request for nuclear directed energy weapons (NDEW) was $191,904 million for all NDEW activities.

The House bill contained no specific authorization for NDEW and the report accompanying the House bill (H. Rept. 101-665) contained recommendations that NDEW research and testing activities be carried out under the core research and testing program.

The Senate amendment would authorize $106.904 million for NDEW activities.

The conferees agree that it is necessary and prudent to continue research to develop an understanding of the physics and capabilities of possible NDEW. This research should be maintained at a level sufficient to understand what threat would be posed by a foreign NDEW. Therefore, the Department of Energy is directed to continue research, as a technical hedge, within the core program for nuclear weapons research, development, and testing.

The Senate recedes.

Production and surveillance

The budget request included $2,299.88 million for operating expenses, production and surveillance.

The House bill would authorize $2,190.080 million.

The Senate amendment would authorize $2,131.311 million.

The conferees agree to authorize $2,161.180 million for operating expenses, production and surveillance.

B-83 and B-61 reductions

The conferees agree to reduce production funds for the B-83 and B-61 nuclear bombs. The B-61 reductions reflect the reduction in air wings by the Air Force. In addition, reductions in these systems take into account production problems at the Department of Energy Rocky Flats Plant.

B-90 nuclear depth/strike bomb

The report accompanying the Senate amendment (S. Rept. 101-384) would terminate all funds for the B-90 nuclear depth/strike bomb for fiscal year 1991 and delay the program for one year.

The report accompanying the House bill (H. Rept. 101-665) would authorize $16 million for the B-90 bomb and delay the program for one year.

Both the Senate and the House reports would require the Navy to provide a detailed report on the mission and need for the B-90 bomb should the Navy determine to proceed with the program.

The Senate recedes. The conferees continue to have serious doubts about the need to maintain a nuclear anti-submarine warfare (ASW) capability for naval aircraft. If the Navy concludes that there is no longer a nuclear ASW mission for naval aircraft, the conferees recommend the immediate retirement of the the B-57 bomb.

Follow-on-to-Lance and artillery fired atomic projectile (W82)

The budget request included $19 million for the Follow-on-to-Lance (FOTL) and $54 million for the W82 155mm artillery fired atomic projectile (AFAP).

The reports accompanying the House bill (H. Rept. 101-665) and the Senate amendment (S. Rept. 101-384) would terminate these programs. The Senate report reallocated all research and development funds for these programs to core research and development. The House report provided termination and close-out funds—$3 million for the FOTL and $13 million for the AFAP. The conferees agree that the programs be canceled and that authorization of funding be denied except for costs associated with orderly close-out and program termination.

Plutonium recovery modification project

The budget request included $65 million for project 89-D-125, the plutonium recovery modification project (PRMP).

The Senate amendment would deny all funding for this project.

The House bill would deny all funding for this project, but recommended that the Department of Energy be authorized $15 million to continue non site-specific design efforts on a new plutonium processing facility.

The conferees agree that the Secretary of Energy is authorized, from funds available, to obligate up to $15 million for design efforts for a new plutonium processing facility, provided that such design efforts are not specific to a certain site.

Nuclear weapons safety

The House bill included $160 million for research, development, and testing to expand efforts to evaluate and enhance the safety of U.S. nuclear weapons, and, in particular, to minimize the risk of nuclear yield or plutonium scatter in the case of an accident.

The Senate amendment did not authorize any funds for this purpose.

The Senate recedes with an amendment that would provide that funds for these purposes can be drawn from either the research and development or weapons testing accounts, at the discretion of the Secretary of Energy. The conferees believe that nulcear weapons safety should not be subordinated to any other goal.

Limitation on funds for construction of facilities for the SRAM-T warhead

The budget request included $15 million for construction and $4 million for operating expenses for production of the short range attack missile-tactical (SRAM-T) warhead, as well as $118.581 million for development of the missile in the request for Air Force rsearch and development.

The House bill would deny authorization for the missile, and would deny authorization of $15 million for construction of warhead production facilities, but would authorize $2 million for operating funds with the intention of deferring production of the SRAM-T by one year.

The Senate bill would authorize the requested amount for the missile, and for the warhead production facilities and operating expenses.

The conferees, having agreed in title II to authorize $35 million for the SRAM-T missile, note that the original schedule for the SRAM-T missile will be delayed. In order that work on the SRAM-T warhead may continue at the proper pace, the conferees agree that the Secretary of Energy should allocate such operating and construction funds as the Secretary determines necessary to meet the revised Air Force program schedule for the missile, but should obligate no construction funds until the Secretary has reviewed the SRAM-T warhead production schedule and notified the Armed Services Committee of the Senate and House of Representatives that expending construction funds is necessary to meet the revised warhead production schedule.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Operating expenses (sec. 3101)

The House bill contained a provision (sec. 3101) that would authorize $6,796 million for operating expenses for defense programs.

The Senate amendment contained a provision (sec. 3101) that would authorize $9,117 million for operating expenses for all national security programs, including environmental restoration and waste management programs.

The conferees agree to an authorization of $6,723 million for operating expenses for defense programs.

Plant and capital equipment (sec. 3102)

The House bill contained a provision (sec. 3102) that would authorize $970 million for plant and capital equipment, and $476 million for capital equipment not related to construction for defense programs.

The Senate amendment contained a provision (sec. 3102) that would authorize $1,396 million for plant and capital equipment, and $580 million for capital equipment not related to construction for national defense programs, including environmental restoration and waste management programs.

The conferees agree to an authorization of $944 million for plant and capital equipment and $457 million for capital equipment not related to construction for defense programs.

Environmental restoration and waste management (sec. 3103)

The House bill contained a provision (sec. 3103) that would authorize $2,717 million for operating, and plant and capital equipment for environmental restoration and waste management programs necessary for national security programs.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would consolidate the environmental restoration and waste management, and the waste transportation and site management accounts. The conferees agree to combine these two accounts in keeping with the Department of Energy's desire to bring together the funding for the defense waste and environmental restoration activities under the jurisdiction of a single program manager.

The conferees further agree to an authorization of $2,790 million for this new account, an increase of $342 million over the administration's request after adjusting for the transfer of $86 million for waste transportation and site management into the environmental restoration and waste management account.

Funding limitations: Fernald litigation settlement payments (sec. 3104(a))

The Senate amendment contained a provision (sec. 3103(a)) that would authorize $20.5 million of the funds appropriated to the Department of Energy for fiscal year 1991 for operating expenses to be used to pay the second installment of the settlement entered into by the Department of Energy in the case of *In Re: Fernald Litigation No. C-1-85-149*, United States District Court, for the Southern District of Ohio.

The House bill contained no similar provision.

The House recedes.

Funding limitations: Inertial confinement fusion (sec. 3103(b))

The House bill contained a provision (sec. 3104(a)) that would require that not less than $175 million be obligated or expended for the defense inertial confinement fusion (ICF) program.

The Senate amendment contained a provision (sec. 3130A) that would provide $167.9 million of operating funds for ICF and a

provision (sec. 3103(b)) that would direct the Department of Energy not to reprogram funds, if reprogramming would reduce the amount made available to the ICF program.

The conferees agree that $175 million ($157.9 million for operating costs and $17.1 million for capital equipment) of the funds appropriated for fiscal year 1991 shall be available for the defense ICF program and expect that $175 million will be obligated for the defense ICF program.

The conferees note that the National Academy of Sciences (NAS) and the Fusion Policy Advisory Committee (FPAC) completed their reviews of the ICF program this year. The conferees anticipate that the Department of Energy will implement the conclusions and recommendations made by the NAS and the FPAC, to the fullest extent possible, in executing the defense ICF program in fiscal year 1991 and in preparing its budget request for fiscal years 1992 and 1993.

Funding limitations: Special isotope separation (sec. 3104(c))

The Senate amendment contained a provision (sec. 3103(c)) that would allow funds authorized for fiscal year 1991 for Special Isotope Separation (SIS) to be used for program phase-out only.

The House bill contained no similar provision.

The House recedes with an amendment that would provide that no fiscal year 1991 funds shall be available for design or construction of a Special Isotope Separation facility. The conferees agree that the Department of Energy may carry out program phase-out to include such activities as completion and documentation of the development activities related to the SIS program.

Funding limitations: security investigations (sec. 3104(d))

The House bill contained a provision (sec. 3104(b)) that would prohibit the Department of Energy from obligating or expending appropriated funds for the conduct of a security investigation, unless the Secretary of Energy determined that a current investigation file was not available from any other federal department or agency, and that no other federal department or agency was conducting an investigation that could be used as a basis for determining whether to grant a security clearance.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would define a current investigation file as a file on an investigation that has been conducted within the past five years.

Reprogramming (sec. 3121)

The House bill contained a provision (sec. 3121) that would establish reprogramming procedures at the Department of Energy.

The Senate amendment contained a similar provision (sec. 3121).

The Senate recedes.

Fund transfer authority (sec. 3124)

The Senate amendment contained a provision (sec. 3124) that would allow funds appropriated to the Department of Energy to be transferred to other agencies of the government for performance of the work for which the funds were appropriated. The provision would also allow the Secretary of Defense to transfer to the Secretary of Energy $12 million for the inertial confinement fusion program.

The House bill contained a provision (sec. 3124) that would allow the identical general funds transfer authority and that would allow the Secretary of Defense to transfer $100 million to the Secretary of Energy for performance of work on the Strategic Defense Initiative.

The Senate recedes with an amendment that would include the funds transfer authority for inertial confinement fusion.

Emergency construction design (sec. 3126)

The House bill contained a provision (sec. 3126) that would allow the Department of Energy to utilize funds authorized under this section for emergency construction activities.

The Senate amendment contained a similar provision (sec. 3126).

The Senate recedes.

Remanufacture of nuclear stockpile weapons (sec. 3131)

The Senate amendment contained a provision (sec. 3129) that would direct the Secretary of Energy, in consultation with the Secretary of Defense, to prepare a report on remanufacture of nuclear stockpile weapons as specifically directed by Senate Report 101-81 of the 101st Congress on pages 263 and 264.

The House bill contained no similar provision.

The House recedes with an amendment that would incorporate the language in the Senate report (S. Rept. 101-81) into the bill.

Laboratory-directed research and development programs (sec. 3132)

The Senate amendment contained a provision (sec. 3130) that would authorize use of up to six percent of funds provided to Department of Energy contractor-operated laboratories for laboratory directed research and development.

The House bill contained no similar provision.

The House recedes with an amendment that would add a definition of "laboratory directed research and development," and direct the Secretary of Energy to establish regulations governing this research.

National Environmental Policy Act compliance report requirement (sec. 3133)

The Senate amendment contained a provision (sec. 3132) that would direct the Secretary of Energy to submit a brief quarterly report on the Department of Energy's compliance with the National Environmental Policy Act (NEPA) of 1969.

The House bill contained so similar provision.

The House recedes with a technical amendment.

Report on environmental restoration expenditures (sec. 3134)

The House bill contained a provision (sec. 3132) that would direct the Secretary of Energy to prepare and to submit to Congress, at the same time the President submits the budget, a report on how the environmental restoration and waste management funds for the defense activities of the Department of Energy were expended during the fiscal year preceding the fiscal year in which the budget is submitted.

The Senate amendment contained so similar provision.

The Senate recedes.

Department of Energy management plan for environmental restoration and waste management activities (sec. 3135)

The House bill contained a provision (sec. 3135) that would direct the Secretary of Energy to prepare a comprehensive five-year plan for the management of environmental restoration and waste management activities at facilities under the jurisdiction of the Department of Energy.

The Senate amendment contained so similar provision.

The Senate recedes with an amendment that would extend the deadline for the report to June 1, 1991.

Extension of authority to loan personnel and facilities to community development organizations near Hanford reservation (sec. 3136)

The House bill contained a provision (sec. 3131) that would extend the Hanford loaned executive program for two years, through September 30, 1992. This program allows the Tri-City Development Council to obtain, through "loaned" executives, assistance for economic diversification and development programs.

The Senate amendment contained a similar provision (sec. 3131).

The Senate recedes.

The conferees are aware of an interest in the Richland community to utilize certain facilities associated with the N-Reactor. Therefore, the conferees recommend that the Secretary of Energy undertake a study to determine the feasibility and advisability of making available, consistent with use by the government, the N-Reactor metal working facility, press, and other ancillary equipment to the City of Richland, or other not-for-profit economic development organizations.

Safety measures for waste tanks at Hanford reservation (sec. 3137)

The House bill contained a provision (sec. 3134) that would direct the Secretary of Energy to identify single shell waste tanks at the Hanford Reservation, Richland, Washington, that may have a serious potential for release of high-level waste due to uncontrolled increases in temperature or pressure, to monitor the tanks, and to prepare a report on the safety actions taken.

The Senate amendment contained no similar provision.

The Senate recedes.

Programs for persons who may have been exposed to radiation released from Hanford nuclear reservation (sec. 3138)

The Senate amendment contained a provision (sec. 3135) that would make funds available to the states of Washington, Oregon, and Idaho to implement a registry program for those who may have been exposed to radiation, and to develop procedures for notifying those individuals of the potential adverse health effects of the exposure.

The House bill contained no similiar provision.

The House recedes with an amendment that would provide funds to the states of Washington, Oregon, and Idaho to develop and implement programs for the benefit of persons who may have been exposed to radiation released from the Department of Energy Hanford Reservaton between the years of 1944 and 1972. The states would also be directed to evaluate and, if feasible, implement a registry and monitoring program for the exposed individuals.

Payments for injuries believed to arise out of atomic weapons testing (secs. 3139-3141)

The Senate amendment contained a provision (sec. 1218) that would repeal section 1631 of the National Defense Authorization Act for Fiscal Year 1985 (Public Law 98-525). Section 1631 substituted the United States as a defendant in suits filed against

government contractors for injuries alleged to have arisen from exposure to radiation from atmospheric testing.

The House bill contained no similar provision.

The House recedes with an amendment that would amend the Radiation Exposure Compensation Act (Public Law 101-426), to expand its coverage to compensate government employees and others who participated on-site in a test involving the atmospheric detonation of a nuclear device.

As enacted on October 15, 1990, the Radiation Exposure Compensation Act authorized payments for claims relating to radiation exposure to: (1) individuals who, because they were in designated affected areas downwind from the Nevada test site, were exposed to radiation and contracted specified cancers or other diseases; and (2) employees in uranium mines in specified states who were exposed to designated amounts of radiation and developed lung cancer or nonmalignant respiratory disease. This Act was patterned in part on the Radiation-Exposed Veterans Compensation Act of 1988 (Public Law 100-321).

The conferees agree with the Department of Justice and the Secretary of Energy that the administrative claims procedure in the Radiation Exposure Compensation Act is a straightforward and efficient means of providing compensation to individuals who contracted certain specified diseases following their exposure to radiation. As a result, section 3139 of this bill would expand the Act's coverage to include a class of radiation victims not previously covered: on-site participants in an atmospheric nuclear test.

Those in the new category who contracted one of the 13 diseases known as "specified diseases' in the Act (as that term was defined for compensating downwind residents) would receive a payment of $75,000.

In consultation with the Secretary of Defense and the Secretary of Energy, the Justice Department would establish guidelines for determining who was an on-site participant in the nuclear test.

In order to ensure that radiation victims are treated equitably, the conferees agree to take into account any prior settlement, award, or benefits paid to radiation victims. A payment to a nuclear test participant would be offset by the present value of the amount of (a) any payment made pursuant to an award or settlement on a claim against any person, or (b) any payment made by the federal government (including, but not limited to, disability payments under the Radiation-Exposed Veterans Compensation Act and other federal disability payments, but not including the value of medical services provided by the government), that is based on injuries incurred by that individual on account of exposure to radiation as a result of the on-site participation in an atmospheric nuclear test that leads to compensation under this section.

In addition, an individual would be limited to a single payment. For example, a downwind resident who also participated on-site in a nuclear test would only be entitled to one payment under the Act, as amended by this section.

Citizens of the Marshall Islands would not be eligible for compensation under this section because their compensation is governed exclusively by an agreement between the Government of the United States and the Government of the Marshall Islands under the Compact of Free Association.

Section 1631 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1985 (42 U.S.C. 2212) is repealed in section 3140 of this bill. However, the law is re-enacted in section 3141 of this bill, in order to recodify this section together with the revised Radiation Exposure Compensation Act. the conferees do not intend for this action to have any effect whatsoever on pending or past cases involving this provision of law.

Sense of Congress on negotiating ageements to achieve a comprehensive test ban (sec. 3142)

The House bill contained a provision (sec. 3133) that would enumerate several congressional findings with regard to the early achievement of a verifiable comprehensive test ban and express the sense of the Congress in support of this objective.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would delete the House bill's findings and substitute for its sense of the Congress language the text of the declaration on future nuclear testing negotiations incorporated by the Senate in its resolution of ratification on the Threshold Test Ban Treaty. This declaration states that it is the sense of Congress that the United States shares a special responsibility with the Soviet Union to continue the bilateral nuclear testing talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban. This text was adopted in the Senate by a vote of 98-0 on September 25, 1990.

International fissile material and warhead control (secs. 3151-3152)

The House bill contained several provisions regarding international fissile material and warhead control. Section 3141 would provide a short title, the "International Fissile Material and Warhead Control Act." Section 3142 would include a number of findings and declarations. Section 3143 would: (a) urge the President to enter into additional negotiations with the Soviet Union on nuclear warhead dismantlement and terminating the production of fissile materials; (b) urge the President to seek to achieve an agreement with the Soviet Union to exchange information on production facilities and stockpiles of fissile materials; (c) urge the President to seek to establish a mutual U.S.-Soviet technical working group to examine and demonstrate cooperative verification techniques; and (d) urge the President of the Soviet Union to institute and to maintain a moratorium on the production of fissile materials for nuclear weapons for so long as the United States maintains its *de facto* moratorium on the production of such materials. Section 3144 of the House bill would require the President to: (a) submit to Congress a report on verification techniques related to fissile material and warhead dismantlement; and (b) establish a technical working group to advise the President on issues relating to nuclear material monitoring and nuclear warhead dismantlement. Section 3145 would require the Secretary of Energy to use funds available to the Department of Energy for national security programs for fiscal year 1991 to carry out a program to develop and demonstrate a means for warhead dismantlement verification. Finally, Section 3146 of the House bill would state that nothing in this part may be construed as intending to affect the production of tritium.

The Senate amendment contained two provisions regarding international fissile material and warhead control. Section 3141 would: (a) urge the President and the Supreme Soviet of the Soviet Union to cease production by the Soviet Union of plutonium and maintain the cessation of highly-enriched uranium for weapons that was announced on April 7, 1989; (b) urge the President to seek to establish with the Soviet Union a mutual technical working group to examine and demonstrate cooperative verification techniques should the President determine that future international agreements should provide for dismantlement of nuclear warheads and a ban on further production of fissile materials for weapons; and (c) require the Secretary of Energy, in consultation with the Secretary of Defense, to submit to Congress a report on verification techniques related to fissile material and warhead dismantlement. Section 3142 of the Senate amendment would state that the Secretary of Energy may use funds available to the Department of Energy for national security programs for fiscal year 1991 to carry out a program to develop and demonstrate a means for verifiable dismantlement of nuclear warheads.

The House recedes with an amendment that would adopt sections 3141 and 3142 of the Senate amendment, but would require that the President, rather than the Secretary of Energy, report to Congress on verification techniques related to fissile material and warhead dismantlement. The conferees intend that suitable experts from the Departments of Energy and Defense (nuclear weapons and intelligence experts), the Central Intelligence Agency, and the Arms Control and Disarmament Agency should serve on the technical advisory committee created to advise the President on the preparation of this report.

The conferees note that the Department of Defense has failed to meet the July 15, 1990 deadline established for a similar report in the Statement of the managers that accompanied the National Defense Authorization Act for Fiscal Year 1990 and 1991 (H. Rept. 101-331, page 641). The conferees look forward to receiving this new statutory report which they expect will result in a comprehensive government-wide review involving experts from all agencies and laboratories with significant expertise in this area.

Department of Energy science education programs (secs. 3161-3168)

The Senate amendment contained a provision (sec. 3130B) that would authorize science education programs in the Department of Energy.

The House bill contained no similar provision.

The House recedes with an amendment that would clarify the existing authority of the Secretary of Energy to support research and enrichment programs in colleges and high schools.

LEGISLATIVE PROVISIONS NOT ADOPTED

Marshall Islands medical and environmental programs

The Senate amendment contained a provision (sec. 1222) that would direct the Secretary of Energy to transfer management of ongoing medical and environmental programs in the Marshall Islands to the Office of Environment, Safety, and Health of the Department of Energy.

The House bill contained no similar provision.

The Senate recedes.

The conferees understand that this provision is no longer necessary because the Department of Energy has already started to implement the transfer. The conferees urge the Secretary of Energy to implement fully the transfer pursuant to the recommendations of the Secretarial Panel for the Evaluation of Epidemiological Research Activities (SPEERA), and with a minimum amount of disruption to the program.

Site management

The Senate amendment contained a provision (sec. 3133) that would prohibit the Secretary of Energy from transferring to any other department or agency of the federal government the authority to manage, control, or oversee environmental remediation and restoration activities at any Department of Energy facility.

The House bill contained no similar provision.

The Senate recedes.

Environmental Protection Agency reimbursement for oversight expenses

The Senate amendment contained a provision (sec. 3134) that would permit the Department of Energy, to the extent provided in inter-agency agreements entered into pursuant to section 120 of the Comprehensive Environmental Response Compensation and Liability Act, to reimburse the Environmental Protection Agency for oversight expenses incurred by the Environmental Protection Agency for oversight at Department of Energy facilities. In addition, the section would direct that additional personnel be provided for the Environmental Protection Agency to conduct its oversight at Department of Energy facilities.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree that this issue is controversial.

The conferees recommend that the Department of Energy and the Environmental Protection Agency enter into a memorandum of understanding (MOU) for the development and implementation of criteria and guidance for the clean-up of transuranic waste and other radionuclides at federal facilities. The conferees understand that the MOU will cover three fiscal years and will include provisions under which both the Department of Energy and the Environmental Protection Agency will provide necessary resources and work-years to cover agency participation and completion of this project.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

Title XXXII of the House bill (Sec. 3201) would authorize $12.5 million for the establishment and operation of the Defense Nuclear Facilities Safety Board.

Title XXXII of the Senate amendment (sec. 3201) would authorize $12.5 million for the operation of the Defense Nuclear Facilities Safety Board.

The conferees agree to an authorization of $12.5 million for the operation of the Defense Nuclear Facilities Safety Board.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISION ADOPTED

Defense Nuclear Facilities Safety Board authority to hire (secs. 3201-3202)

The Senate amendment contained a provision (sec. 3202) that would extend the hiring authority contained in section 161(d) of the Atomic Energy Act of 1954 (42 U.S.C. 2190) to the Defense Nuclear Facilities Safety Board (DNFSB). Section 161(d) would allow the DNFSB to exempt employees from classification procedures and salary limitations (subject to the overall statutory cap) of the Classification Act of 1949 to the extent the DNFSB deems such action necessary to the discharge of its responsibilities.

The House bill contained no similar provision.

The House recedes with an amendment that would extend the authority contained in section 161(d) to the DNFSB to appoint and fix the rates of pay of scientific and technical personnel only.

The conferees believe this hiring authority is necessary for the DNFSB to attract and retain the technical and scientific experts in nuclear safety necessary to carry out its oversight function. The inherent risks to public health and safety involved in activities conducted at nuclear facilities demand that the DNFSB's limited staff be of the highest scientific and technical caliber.

The DNFSB is responsible for reviewing and evaluating the content and implementation of standards relating to the design, construction, operation, and decommissioning of certain defense nuclear facilities of the Department of Energy. The DNFSB is required to investigate any event or practice at these facilities that it determines has or may adversely affect public health and safety, and to recommend to the Secretary of Energy specific measures that should be adopted to ensure that public health and safety are adequately protected. By statute, the DNFSB is limited to no more than 100 full-time employees.

In its first year of operation, the DNFSB has been hampered in its ability to carry out its oversight mission by an inability to hire qualified individuals who are well-grounded in one or more technical fields.

The conferees believe that the DNFSB is s unique federal agency, in that its mission is to oversee the activities of another federal department whose work is highly technical and potentially dangerous, and that to properly carry out its mission, not only the DNFSB members but also its limited staff must be technically competent in all major phases of nuclear safety. Congress recognized the need for such expertise when it established the DNFSB in 1988 by requiring that the DNFSB members themselves be "respected experts in the field of nuclear safety."

Section 161(d) of the Atomic Energy Act of 1954 as amended was created to address the challenges of building a nucleus of the best scientists, engineers, and technical experts available to plan, construct, and operate the nation's first defense nuclear facilities. The conferees believe the health and safety questions associated with the design, construction, operation, and decommissioning of the Department of Energy's defense nuclear facilities today present the nation with extremely complex technical and scientific problems of a similar nature.

The conferees direct that two years after enactment, the General Accounting Office prepare a report that assesses: (1) the utilization of the authority by the DNFSB; (2) whether the DNFSB has been able to attract and retain necessary scientific and technical personnel utilizing this authority; and (3) whether, based on 2 years of experience, the authority is necessary for the DNFSB to carry out its oversight mission in the future. This report shall be completed no later than two years and six months after enactment of this bill.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Authority to barter material in the National Defense Stockpile to finance the upgrading, refining, or processing of stockpile material (sec. 3301)

The House bill contained a provision (sec. 3301) that would authorize the President to barter materials in the National Defense Stockpile as an optional way to finance the upgrading, refining, and processing of stockpile materials.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees agree to a provision that would authorize the President to barter materials in the National Defense Stockpile as an optional way to finance the upgrading, refining, and processing of stockpile materials. The conferees also agree to allow the contract value of bartered materials to be applied toward the total value of materials that are authorized to be disposed of from the stockpile during that fiscal year, and to be treated as an acquisition for the purposes of satisfying any requirement imposed on the National Defense Stockpile Manager to enter into obligations during that fiscal year. Barter transactions shall not increase or decrease the balance in the Stockpile Transaction Fund.

National defense stockpile acquisition and disposal authority for fiscal year 1991 and transfer of funds (sec. 3302)

The Senate amendment contained a provision (sec. 841) that would reduce the acquisition authority for fiscal year 1991 for the National Defense Stockpile from $180 million to $120 million. This provision would also authorize the transfer of $100 million from the unobligated balance of the National Defense Stockpile Transaction Fund to Defense Department advanced research and development projects under section 2371 of title 10, United States Code.

The House bill contained no similar provision.

The House recedes with an amendment. The conferees agree to retain the acquisition authority for fiscal year 1991 for the stockpile at $180 million. The conferees also agree to authorize the transfer of $100 million from the unobligated balance of the National Defense Stockpile Transaction Fund to Defense Department advanced research and development projects under section 2371 of title 10, United States Code, but only for purposes of improving the quality and availability of materials from time to time in the stockpile, or for the development of new material for the stockpile.

LEGISLATIVE PROVISIONS NOT ADOPTED

Conversion of intermediate ores or compounds of aluminum in the National Defense Stockpile

The House bill contained a provision (sec. 3302) that would require the upgrading of 15,000 short tons of bauxite in the National Defense Stockpile to aluminum each year for fiscal years 1991 through 1997, with a seven-year minimum requirement to upgrade 105,000 short tons of bauxite.

The Senate amendment contained no similar provision.

The House recedes. The conferees agree that the Stockpile Manager should continue to refine, process, and upgrade the bauxite in the stockpile as provided in the Annual

Materials Plan for fiscal years 1990 and 1991.

National Defense Stockpile Transaction Fund

The Senate amendment contained a provision (sec. 842) that would amend section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) to allow the costs of administering and operating the stockpile to be paid from balances of the National Defense Stockpile Transaction Fund.

The House bill contained no similar provision.

The Senate recedes.

TITLE XXXIV—CIVIL DEFENSE

LEGISLATIVE PROVISION

LEGISLATIVE PROVISION ADOPTED

Civil defense (sec. 3401)

The amended budget request included $154.117 million for civil defense activities of the Federal Emergency Management Agency.

The House bill contained a provision (sec. 3401) that would authorize the requested amount to carry out the Federal Civil Defense Act of 1950.

The Senate amendment contained a similar provision (sec. 3301) that would authorize $144.117 million, a reduction of $10 million from the request.

The conferees agree to authorize $149.117 million for the purpose of carrying out the Federal Civil Defense Act of 1950.

TITLE XXXV—PANAMA CANAL COMMISSION

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Panama Canal Commission authorization (secs. 3501-3507)

The Senate amendment contained provisions (secs. 3401-3407) that would authorize expenditures for fiscal year 1991 for the Panama Canal Commission. The amendment would also increase the level of compensation for the nine members of the Panama Canal Board of Directors; allow the Deputy Administrator and Chief Engineer of the Panama Canal Commission to receive the recruitment and retention remuneration pay; attempt to retain skilled employees in the workforce until at least the end of the century by allowing those employed after September 30, 1979 to participate in the Commission's early retirement system; and make a technical change in the Panama Canal Compensation Fund Act of 1988.

The House bill contained no similar provisions.

The House recedes with an amendment that would conform the computation for early retirement for the affected employees to the formula that presently applies to those categories of employees who were previously authorized early retirement.

The conferees note that they have carefully considered the issue of extension of early retirement to a new class of employees and the impact of such action on the efficient and safe operation of the Panama Canal to the end of the decade and beyond. The conferees are convinced that this action is necessary to keep skilled employees, particularly pilots, in the workforce. The conferees have decided, moreover, that it is only fair that the early retirement benefit should be extended to all employees who meet the time requirements, be they nationals of the United States or Panama.

DIVISION D—ECONOMIC ADJUSTMENT, DIVERSIFICATION, CONVERSION, AND STABILIZATION

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Defense economic adjustment and conversion assistance (title XL-XLII)

The House bill contained a number of provisions (Division D) that would substantially expand the scope of existing programs to assist communities and individuals adversely affected by reductions in defense activity caused by the closure, realignment, or reduction of military installations and industrial plants. These programs are currently operated within the Department of Defense, Commerce, and Labor and the Small Business Administration. In addition to expanding the scope of these programs and authorizing an additional $200 million for these purposes from DoD, the provisions would establish a President's Economic Stabilization and Adjustment Council to coordinate governmental activities under these programs.

The Senate amendment contained a provision (sec. 2808) that would expand the authority of the Department of Defense (10 U.S.C. 3831) to provide planning and economic redevelopment assistance to communities adversely affected by substantial increases or decreases in defense installation or industrial activity.

Supplementing section 2808 in the Senate amendment is section 1216, which outlines specific planning, reporting, and coordinating procedures that would be carried out by the Economic Adjustment Committee, the Office of Economic Adjustment within the Department of Defense, as well as domestic agencies such as the Department of Labor, Department of Commerce, and the Small Business Administration, which manage various programs of assistance to adversely affected communities.

The Senate provision would direct that the Department of Defense analyze its budget submissions to determine communities that would experience substantial economic dislocation. These aggregate impacts would be reported to the relevant domestic agencies so that their budget requests could be adjusted to accommodate any anticipated increase in requests for assistance associated with community economic dislocations from defense changes. After these budget requests were reported to the Congress, those communities that was identified as potentially affected would be notified by the Department of Defense of the anticipated impacts. The provision would authorize to be appropriated such sums as would be necessary to meet these needs.

The conferees agree to provisions that would provide for a program of assistance to communities and individuals adversely affected by the closure or substantial reduction of military installations and defense contractor facilities.

The plan would use the existing bureaucratic structures and establish and mandate by statute the activities of the Economic Adjustment Committee in carrying out the program of defense economic adjustment and conversion assistance to communities and workers adversely affected by defense budget reductions. The conferees believe that the defense economic conversion program should include Department of Energy contractor employees engaged in defense-related activities. The conferees would further authorize for appropriations from funds available to the Department of Defense $200 million to provide transition funding for the adjustment programs of the Economic Development Administration and the Department of Labor specified in the bill.

The conferees prefer that any future funding required for the defense economic adjustment program be provided through the budget process of the agencies to which funds have been authorized from Department of Defense resources for fiscal year 1991. The coordination mechanism mandated in this bill under the Economic Adjustment Committee would provide a means to alert domestic agencies to revise their budget requests to anticipate the increased demand for their adjustment programs stemming from anticipated reductions in defense activities in designated areas.

With respect to the provisions to be administered by the Secretary of Labor, it is the sense of the conferees that some adjustment assistance may be necessary for certain individuals in affected communities where there are limited employment opportunities. Therefore, the Secretary of Labor is encouraged to issue through regulations, policy guidance under this authority to eligible parties that will clarify the use of funds for job search and relocation allowances for eligible individuals. The need for these allowances must be approved pursuant to criteria established by the Secretary.

From the Committee on Armed Services, for consideration of the entire House bill, and the entire Senate amendment (except division D) and modifications committed to conference:

LES ASPIN,
CHARLES E. BENNETT,
G.V. MONTGOMERY,

For section 227, 802, 803, 804, 807, 835, 1302.3, and 2822, of the House bill and sections 811, 812(f), 813, 816, 819, 833, 1205, 1207, 2805 and 2809:

RONALD V. DELLUMS,
PAT SCHROEDER,
BEVERLY BYRON,
NICHOLAS MAVROULES,
EARL HUTTON,
IKE SKELTON,
MARVIN LEATH,
DAVE MCCURDY,
TOM FOGLIETTA,

I oppose title 29 of division B which deals with base closures,

D.M. HERTEL,
NORMAN SISISKY,
RICHARD RAY,
JOHN M. SPRATT, Jr.,
FRANK MCCLOSKEY,
SOLOMON P. ORTIZ,
GEORGE (BUDDY) DARDEN,
LANE EVANS,
JAMES H. BILBRAY,
MICHAEL R. MCNULTY,
GLEN BROWDER,

From the Committee on Armed Services, for consideration of division D of the Senate amendment, and modifications committed to conference:

LES ASPIN,
CHARLES E. BENNETT,
PAT SCHROEDER,
NICHOLAS MAVROULES,
IKE SKELTON,
DAVE MCCURDY,
D.M. HERTEL,
JOHN M. SPRATT, Jr.,
LANE EVANS,
G.V. MONTGOMERY,
BEVERLY BYRON,
EARL HUTTO,

MARVIN LEATH,
TOM FOGLIETTA,
NORMAN SISISKY,
RICHARD RAY,
FRANK MCCLOSKEY,
SOLOMON P. ORTIZ,

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of Rule XLVIII:

ANTHONY C. BEILENSON,
(except for section 907—Intelligence priorities and reorganization),
BOB KASTENMEIER,
(except for section 907—Intelligence priorities and reorganization),

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 324, 335, and 336 and division D of the House bill, and secs. 1216, 1249, and 2806 through 2808 of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
MARY ROSE OAKAR,
BRUCE F. VENTO,
ESTEBAN E. TORRES,
RICHARD E. NEAL,

As additional conferees from the Committee on Education and Labor, for consideration of sec. 504 and division D of the House bill, and secs. 854, 1216, and 3130B of the Senate amendment, and modifications committed to conference:

GUS HAWKINS,
WILLIAM D. FORD,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
TOM SAWYER,

An additional conferees from the Committee on Energy and Commerce, for consideration of secs. 341, 345, 2834(c), 2851, 2852, 3134, 3135, and 3201 of the House bill, and secs. 319, 813(f), 1003, 1222, 2821, 2824, 3130B, 3133, 3134, 3201, and 3202 and division D of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
THOMAS A. LUKEN,
PHILIP R. SHARP,
AL SWIFT,
DENNIS E. ECKART,
(other than for consideration of sections 2851 and 2852 of the House bill),
EDWARD J. MARKEY,
(solely for consideration of sections 2851 and 2852 of the House bill),

As additional conferees from the Committee on Foreign Affairs, for consideration of secs. 226, 232, 303, 332, 352, 1037, 1331(a), 1346, 1347, 1401 through 1408, 3133, and 3141 through 3144 of the House bill, and secs 304, 852, 1106, 1107, 1211, 1213 through 1215, 1224, 1225, 1242 through 1244, 1246, 1271 through 1275, 1304(d), 2811, 2812, and 3141 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
LEE H. HAMILTON,
GUS YATRON,
STEPHEN J. SOLARZ,

As additonal conferees from the Committee on Government Operations, for consideration of sections 227, 802, 803, 804, 807, 835, 1302, 1303, and 2822 of the House Bill, and sections 811, 812(f), 813(a), 813(c), 813(d), 816, 817, 818, 819, 833(a), 1205, 1207, 2804, 2805, and 2809 of the Senate amendment, and modifications committed to conference:

GERALD D. KLECZKA,

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of division D of the Senate amendment, and modifications committed to conference:

MO UDALL,
GEORGE MILLER,
BRUCE F. VENTO,
EDWARD J. MARKEY,
MEL LEVINE,

As additional conferees from the Committee on the Judiciary, for consideration of secs. 352, 552, 822, and 1343 of the House bill, and secs. 804A, 833(a), 1102, 1218, 1226, 1251 through 1266, and 1503 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
BOB KASTENMEIER,
BARNEY FRANK,
HARLEY O. STAGGERS, Jr.,
JOHN BRYANT,
HAMILTON FISH, Jr.,
CARLOS J. MOORHEAD,
CRAIG T. JAMES,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of secs. 329(d), 553, 1324, and 2831 of the House bill, and secs. 522, 631(b), 2805, 3132, and 3401 through 3407 and division D of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
GERRY E. STUDDS,
CARROLL HUBBARD,
BILLY TAUZIN,
ROY DYSON,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of secs. 361(c), 902, 905, 906, and 1217(b) of the House bill, and secs 831, 832, 834, 1001(a), 1502, 3202, and 3404 through 3406 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
BILL CLAY,
GERRY SIKORSKI,
MARY ROSE OAKAR,
GARY L. ACKERMAN,
BENJAMIN A. GILMAN,
FRANK HORTON,
CONSTANCE MORELLA,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sec. 2803 and division D of the House bill, and secs. 1216, 1232, 2804, and 2814 of the Senate amendment, and modifications committed to conference:

GLENN M. ANDERSON,
ROBERT A. ROE,
JAMES L. OBERSTAR,
DOUGLAS H. BOSCO,
GUS SAVAGE,

As addtional conferees from the Committee on Science, Space, and Technology, for consideration of secs. 802, 804, 804A, 1001, 1002, 1501, 1502, and 3130B of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
JAMES H. SCHEUER,
MARILYN LLOYD,
TIM VALENTINE,
NORMAN Y. MINETA,

As additional conferees from the Committee on Small Business, for consideration of sec. 813(e) of the Senate amendment, and modifications committed to conference:

JOHN J. LAFALCE,

As additional conferees from the Committee on Ways and Means, for consideration of sec. 1223 and division D of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,

As additional conferees from the Committee on Ways and Means, for consideration of sec. 645 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
HAROLD FORD,
THOMAS J. DOWNEY,
DONALD J. PEASE,
ROBERT T. MATSUI,

As additonal conferees from the Committee on Agriculture, for consideration of section 2823 of the Senate amendment, and modifications committed to conference:

HAROLD L. VOLKMER,
TIM JOHNSON,
CLAUDE HARRIS,
JIM OLIN,
BEN NIGHTHORSE CAMPBELL,
LARRY COMBEST,

Managers on the Part of the House.

SAM NUNN,
J.J. EXON,
CARL LEVIN,
EDWARD KENNEDY,
JEFF BINGAMAN,
ALAN J. DIXON,
JOHN GLENN,
ALBERT GORE, Jr.,
TIMOTHY E. WIRTH,
RICHARD SHELBY,
ROBERT C. BYRD,
JOHN WARNER,
STROM THURMOND,
PETE WILSON,
JOHN MCCAIN,
SLADE GORTON,
TRENT LOTT,
DAN COATS,

Managers on the Part of the Senate.

Mr. PENNY. Mr. Speaker, a few days ago, in this House, we passed a farm bill that asked out Nation's farmers to absorb $13 billion in cuts over the next 5 years. This means a 15-percent cut in deficiency payments in fiscal year 1991. Our farmers may not be completely happy about the cutbacks but I think they are as willing as most Americans to shoulder their fair share of the deficit reduction burden.

It is hard to talk about fair, though, when today we are presented with a defense conference report that calls for over $288 billion in spending that includes over $5 billion in add-backs for weapon programs. The House has previously cut or determined to be unneeded and unwanted.

Mr. Speaker, our farmers have already taken their hit and later today or tomorrow we will be asking others to take their hit when we pass the budget reconciliation bill.

I acknowledge that this defense bill may be under the limits established by the budget agreement. But at a time when we are asking everyone else to sacrifice in order to cut the deficit how can we justify adding back billions of dollars for the B-2, SDI, the Ammraam missile and other weapon systems we don't need?

Defense spending has to be a major part of the deficit reduction effort. Of course we need a strong defense, but it should be a defense that reflects today's world, not yesterdays. The cold war is over, but our deficit war is not. I urge a "no" vote. Let's send this report back to conference.

CONFERENCE REPORT ON H.R. 1396, SECURITIES ACTS AMENDMENTS OF 1990

Mr. MARKEY submitted the following conference report and statement on the bill (H.R. 1396) to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement:

CONFERENCE REPORT (H. REPT. 101-924)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1396) to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Acts Amendments of 1990".

TITLE I—AUTHORIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Securities and Exchange Commission Authorization Act of 1990".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 35. There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission—

"(1) $178,023,000 for the fiscal year ending September 30, 1990; and

"(2) $212,609,000 for the fiscal year ending September 30, 1991.".

SEC. 103. LEASING AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION.

Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended—

(1) by striking "(b)" and inserting the following:

"(b) APPOINTMENT AND COMPENSATION OF STAFF AND LEASING AUTHORITY.—

"(1) APPOINTMENT AND COMPENSATION.—"; and

(2) by adding at the end the following new paragraph:

"(2) LEASING AUTHORITY.—Notwithstanding any other provision of law, the Commission is authorized to enter directly into leases for real property for office, meeting, storage, and such other space as is necessary to carry out its functions, and shall be exempt from any General Services Administration space management regulations or directives.".

SEC. 104. CONFORMING AMENDMENTS.

(a) THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—Section 31 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5) is amended to read as follows:

"HIRING AND LEASING AUTHORITY OF THE COMMISSION

"SEC. 31. The provisions of section 4(b) of the Securities Exchange Act of 1934 shall be applicable with respect to the power of the Commission—

"(1) to appoint and fix the compensation of such employees as may be necessary for carrying out its functions under this title, and

"(2) to lease and allocate such real property as may be necessary for carrying out its functions under this title.".

(b) THE TRUST INDENTURE ACT OF 1939.—Section 321(d) of the Trust Indenture Act of 1939 (15 U.S.C. 77uuu(d)) is amended to read as follows:

"(d) The provisions of section 4(b) of the Securities Exchange Act of 1934 shall be applicable with respect to the power of the Commission—

"(1) to appoint and fix the compensation of such employees as may be necessary for carrying out its functions under this title, and

"(2) to lease and allocate such real property as may be necessary for carrying out its functions under this title.".

(c) THE INVESTMENT COMPANY ACT OF 1940.—Section 46(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-45(b)) is amended to read as follows:

"(b) The provisions of section 4(b) of the Securities Exchange Act of 1934 shall be applicable with respect to the power of the Commission—

"(1) to appoint and fix the compensation of such employees as may be necessary for carrying out its functions under this title, and

"(2) to lease and allocate such real property as may be necessary for carrying out its functions under this title.".

(d) THE INVESTMENT ADVISERS ACT OF 1940.—Section 218 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18) is amended to read as follows:

"HIRING AND LEASING AUTHORITY OF THE COMMISSION

"SEC. 218. The provisions of section 4(b) of the Securities Exchange Act of 1934 shall be applicable with respect to the power of the Commission—

"(1) to appoint and fix the compensation of such other employees as may be necessary for carrying out its functions under this title, and

"(2) to lease and allocate such real property as may be necessary for carrying out its functions under this title.".

TITLE II—INTERNATIONAL SECURITIES LAW ENFORCEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "International Securities Enforcement Cooperation Act of 1990".

SEC. 202. RELEASE OF RECORDS BY THE COMMISSION.

(a) IN GENERAL.—Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x) is amended—

(1) in subsection (b), by striking "Nothing in this subsection shall authorize the Commission to withhold information from the Congress."; and

(2) by adding at the end thereof the following new subsections:

"(c) CONFIDENTIAL DISCLOSURES.—The Commission may, in its discretion and upon a showing that such information is needed, provide all 'records' (as defined in subsection (a)) and other information in its possession to such persons, both domestic and foreign, as the Commission by rule deems appropriate if the person receiving such records or information provides such assurances of confidentiality as the Commission deems appropriate.

"(d) RECORDS OBTAINED FROM FOREIGN SECURITIES AUTHORITIES.—Except as provided in subsection (e), the Commission shall not be compelled to disclose records obtained from a foreign securities authority if (1) the foreign securities authority has in good faith determined and represented to the Commission that public disclosure of such records would violate the laws applicable to that foreign securities authority, and (2) the Commission obtains such records pursuant to (A) such procedure as the Commission may authorize for use in connection with the administration or enforcement of the securities laws, or (B) a memorandum of understanding. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(e) SAVINGS PROVISIONS.—Nothing in this section shall—

"(1) alter the Commission's responsibilities under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), as limited by section 21(h) of this Act, with respect to transfers of records covered by such statutes, or

"(2) authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.".

(b) CONFORMING AMENDMENTS.—

(1) INVESTMENT COMPANY ACT OF 1940.—Section 45(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-44) is amended by striking "It shall be unlawful" and inserting "Except as provided in section 24(c) of the Securities Exchange Act of 1934, it shall be unlawful".

(2) INVESTMENT ADVISERS ACT OF 1940.—Section 210(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-10(b)) is amended by striking "subsections (c) and (e) of section 209" and inserting "subsections (c) and (d) of section 209 of this title and section 24(c) of the Securities Exchange Act of 1934".

SEC. 203. SANCTIONS AGAINST BROKER OR DEALER, ASSOCIATED PERSONS, OR PERSONS SEEKING ASSOCIATION.

(a) AUTHORITY OF THE COMMISSION TO SANCTION BROKERS AND DEALERS FOR FOREIGN VIOLATIONS.—Section 15(b) (15 U.S.C. 78o(b)) of the Securities Exchange Act of 1934 is amended—

(1) in paragraph (4)(B), by inserting after "misdemeanor" the following: "or of a substantially equivalent crime by a foreign court of competent jurisdiction";

(2) in paragraph (4)(B)(i), by inserting after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government,";

(3) in paragraph (4)(B)(ii)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,";

(B) by inserting after "(7 U.S.C. 1 et seq.)" the following: "or any substantially equivalent foreign statute or regulation";

(4) in paragraph (4)(B)(iii), by inserting after "securities" the following: ", or substantially equivalent activity however denominated by the laws of the relevant foreign government";

(5) in paragraph (4)(B)(iv), by inserting after "United States Code" the following: ", or a violation of a substantially equivalent foreign statute";

(6) in paragraph (4)(C)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,";

(B) by inserting after "Commodity Exchange Act" each time it appears the following: "or any substantially equivalent foreign statute or regulation"; and

(C) by inserting after "insurance company," the following: "foreign entity substantially equivalent to any of the above,"; and

(7) by inserting after subparagraph (F) of paragraph (4) the following:

"(G) has been found by a foreign financial regulatory authority to have—

"(i) made or caused to be made in any application for registration or report required to be filed with a foreign financial regulatory authority, or in any proceeding before a foreign financial regulatory authority with respect to registration, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign financial regulatory authority any material fact that is required to be stated therein;

"(ii) violated any foreign statute or regulation regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade;

"(iii) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign financial regulatory authority regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.".

(b) EXTENSION OF DEFINITION OF STATUTORY DISQUALIFICATION TO INCLUDE FOREIGN VIOLATIONS.—Section 3(a)(39) of such Act (15 U.S.C. 78c(a)(39)) is amended—

(1) in subparagraph (A)—

(A) by inserting after "self-regulatory organization," the following: "foreign equivalent of a self-regulatory organization, foreign or international securities exchange,";

(B) by inserting after both "(7 U.S.C. 7)," and "(7 U.S.C. 21),", the following: "or any substantially equivalent foreign statute or regulation,"; and

(C) by inserting after "contract market", the following: "or foreign equivalent";

(2) by striking subparagraph (B) and inserting the following:

"(B) is subject to—

"(i) an order of the Commission, other appropriate regulatory agency, or foreign financial regulatory authority—

"(I) denying, suspending for a period not exceeding 12 months, or revoking his registration as a broker, dealer, municipal securities dealer, government securities broker, or government securities dealer or limiting his activities as a foreign person performing a function substantially equivalent to any of the above; or

"(II) barring or suspending for a period not exceeding 12 months his being associated with a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or foreign person performing a function substantially equivalent to any of the above;

"(ii) an order of the Commodity Futures Trading Commission denying, suspending, or revoking his registration under the Commodity Exchange Act (7 U.S.C. 1 et seq.); or

"(iii) an order by a foreign financial regulatory authority denying, suspending, or revoking the person's authority to engage in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof;";

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(4) by inserting after subparagraph (C) the following:

"(D) by his conduct while associated with any broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or any other entity engaged in transactions in securities, or while associated with an entity engaged in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof, has been found to be a cause of any effective suspension, expulsion, or order by a foreign or international securities exchange or foreign financial regulatory authority empowered by a foreign government to administer or enforce its laws relating to financial transactions as described in subparagraph (A) or (B) of this paragraph;";

(5) in subparagraph (E) (as redesignated by paragraph (3) of this subsection) by striking "(A), (B), or (C)" and inserting "(A), (B), (C), or (D)"; and

(6) in subparagraph (F) (as redesignated) by striking "(D) or (E)" and inserting "(D), (E), or (G)" and by inserting after "such paragraph (4)" the first place it appears the following: "or any other felony".

(c) CONFORMING AMENDMENTS.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in sections 15(b)(6), 15B(c)(2), 15B(c)(4), 15C(c)(1)(A), 15C(c)(1)(C), 17A(c)(3)(A), and 17A(c)(4)(C), by striking "(A), (D), or (E)" and inserting "(A), (D), (E), or (G)"; and

(2) in section 15C(f)(2), by striking "or the rules or regulations under any such other provision" and inserting "the rules or regulations under any such other provision, or investigations pursuant to section 21(a)(2) of this title to assist a foreign securities authority".

SEC. 204. DEFINITION OF FOREIGN FINANCIAL REGULATORY AUTHORITY.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraph:

"(51) The term 'foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate participation of its members in activities listed above.".

SEC. 205. SANCTIONS AGAINST INVESTMENT ADVISERS OR PERSONS ASSOCIATED OR SEEKING ASSOCIATION WITH A REGISTERED INVESTMENT ADVISER OR INVESTMENT COMPANY.

(a) INVESTMENT COMPANY ACT OF 1940.—Section 9(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(b)) is amended—

(1) by striking "or" at the end of paragraphs (1) and (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by inserting after paragraph (3) the following:

"(4) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(5) within 10 years has been convicted by a foreign court of competent jurisdiction of a crime, however denominated by the laws of the relevant foreign government, that is substantially equivalent to an offense set forth in paragraph (1) of subsection (a); or

"(6) by reason of any misconduct, is temporarily or permanently enjoined by any foreign court of competent jurisdiction from acting in any of the capacities, set forth in paragraph (2) of subsection (a), or a substantially equivalent foreign capacity, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security.".

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(e)) is amended—

(1) in paragraph (2) by inserting after "misdemeanor" the following: "or of a substantially equivalent crime by a foreign court of competent jurisdiction";

(2) in paragraph (2)(A), by inserting after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government,";

(3) in paragraphs (2)(B) and (3)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,"; and

(B) after "Commodity Exchange Act" each place it appears, the following: "or any substantially equivalent statute or regulation";

(4) in paragraph (2)(C), by inserting after "securities" the following: "or substantially equivalent activity however denominated by the laws of the relevant foreign government";

(5) in paragraph (2)(D) by inserting after "United States Code" the following: ", or a violation of a substantially equivalent foreign statute";

(6) in paragraph (3)—

(A) by inserting after "court of competent jurisdiction" the following: ", including any foreign court of competent jurisdiction,"; and

(B) by inserting after "insurance company," the following: "foreign entity substantially equivalent to any of the above,";

(7) in paragraph (5), by inserting after "this title," the following: "the Commodity Exchange Act,"; and

(8) by inserting after paragraph (6) the following new paragraph:

"(7) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade, or has been found, by the foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of statutory provisions, and rules and regulations promulgated thereunder, another person who commits such a violation, if such other person is subject to his supervision.".

(c) CONFORMING AMENDMENT.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended by striking "paragraph (1), (4), or (5)" and inserting "paragraph (1), (4), (5), or (7)".

SEC. 206. DEFINITION OF FOREIGN SECURITIES AUTHORITY AND FOREIGN FINANCIAL REGULATORY AUTHORITY.

(a) INVESTMENT COMPANY ACT OF 1940.—Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended by inserting after paragraph (48) the following:

"(49) 'Foreign securities authority' means any foreign government or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(50) 'Foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate the participation of its members in activities listed above.".

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) is amended by inserting after paragraph (22) the following:

"(23) 'Foreign securities authority' means any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(24) 'Foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate participation of its members in activities listed above.".

SEC. 207. REIMBURSEMENT OF EXPENSES INCURRED IN PROVIDING ASSISTANCE TO A FOREIGN SECURITIES AUTHORITY.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end thereof the following new subsection:

"(f) REIMBURSEMENT OF EXPENSES FOR ASSISTING FOREIGN SECURITIES AUTHORITIES.—Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign securities authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to section 21(a)(2) of this title or in providing any other assistance to a foreign securities authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.".

TITLE III—SHAREHOLDER COMMUNICATIONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Shareholder Communications Improvement Act of 1990".

SEC. 302. AMENDMENTS TO 1934 ACT.

(a) SECTION 14(b).—Section 14(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(b)(1)) is amended by—

(1) striking "section 12 of this title" and inserting "section 12 of this title, or any security issued by an investment company registered under the Investment Company Act of 1940,"; and

(2) striking "or authorization" and inserting "authorization, or information statement".

(b) SECTION 14(c).—Section 14(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(c)) is amended by striking "title" and inserting "title, or a security issued by an investment company registered under the Investment Company Act of 1940,".

SEC. 303. EFFECTIVE DATE.

The amendments made by section 302 of this title shall take effect upon the expiration of 180 days after the date of enactment of this Act.

TITLE IV—TRUST INDENTURE ACT OF 1939

SEC. 401. SHORT TITLE.

This title may be cited as the "Trust Indenture Reform Act of 1990".

SEC. 402. DEFINITION.

Section 303(8) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(8)) is amended by inserting "section 305 or" after "provided for in".

SEC. 403. EXEMPTION FROM QUALIFICATION.

Section 304 of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3) and inserting "(3)."; and

(B) in paragraph (4)(A), by striking ", as heretofore amended,"; and

(2) by striking subsection (d) and inserting the following:

"(d) The Commission may, by rules or regulations upon its own motion, or by order on application by an interested person, exempt conditionally or unconditionally any person, registration statement, indenture, security or transaction, or any class or classes of persons, registration statements, indentures, securities, or transactions, from any one or more of the provisions of this title, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by this title. The Commission shall by rules and regulations determine the procedures under which an exemption under this subsection shall be granted, and may, in its sole discretion, decline to entertain any application for an order of exemption under this subsection.".

SEC. 404. SECURITIES REQUIRED TO BE REGISTERED UNDER THE SECURITIES ACT.

Section 305 of the Trust Indenture Act of 1939 (15 U.S.C. 77eee) is amended—

(1) in subsection (a)(1), by striking "or has a conflicting interest as defined in subsection (b) of section 310";

(2) in subsection (b)—

(A) by striking "The Commission shall issue" and inserting "(1) Except as may be permitted by paragraph (2) of this subsection, the Commission shall issue";

(B) by redesignating paragraph (1) as subparagraph (A);

(C) by inserting "or" at the end thereof;

(D) by striking paragraph (2);

(E) by redesignating paragraph (3) as subparagraph (B);

(F) in such subparagraph (B), by striking "or has any conflicting interest as defined in subsection (b) of section 310"; and

(G) by adding at the end of subsection (b) the following new paragraph:

"(2) In the case of securities registered under the Securities Act of 1933, which securities are eligible to be issued, offered, or sold on a delayed basis by or on behalf of the registrant, the Commission shall not be required to issue an order pursuant to paragraph (1) of subsection (b) of section 305 for failure to designate a trustee eligible to act under subsection (a) of section 310 if, in accordance with such rules and regulations as may be prescribed by the Commission, the issuer of such securities files an application for the purpose of determining such trustee's eligibility under subsection (a) of section 310. The Commission shall issue an order prior to the effective date of such application refusing to permit the application to become effective, if it finds that any person designated as trustee under such indenture is not eligible to act as such under subsection (a) of section 310, but no order shall be

issued except after notice and opportunity for hearing within the periods and in the manner required with respect to refusal orders pursuant to section 8(b) of the Securities Act of 1933. If after notice and opportunity for hearing the Commission issues an order under this provision, the obligor shall within 5 calendar days appoint a trustee meeting the requirements of subsection (a) of section 310. No such appointment shall be effective and such refusal order shall not be rescinded by the Commission until a person eligible to act as trustee under subsection (a) of section 310 has been appointed. If no order is issued, an application filed pursuant to this paragraph shall be effective the tenth day after filing thereof or such earlier date as the Commission may determine, having due regard to the adequacy of information provided therein, the public interest, and the protection of investors.".

SEC. 405. WHEN QUALIFICATION BECOMES EFFECTIVE.

Section 309(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77iii(b)) is amended by inserting after "such Act" the following: ", or the failure of the issuer to file an application as provided for by section 305(b)(2)".

SEC. 406. PERSONS ELIGIBLE FOR APPOINTMENT AS TRUSTEE.

Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended—

(1) by inserting at the end of paragraph (1) the following: "The Commission may, pursuant to such rules and regulations as it may prescribe, or by order on application, permit a corporation or other person organized and doing business under the laws of a foreign government to act as sole trustee under an indenture qualified or to be qualified pursuant to this title, if such corporation or other person (i) is authorized under such laws to exercise corporate trust powers, and (ii) is subject to supervision or examination by authority of such foreign government or a political subdivision thereof substantially equivalent to supervision or examination applicable to United States institutional trustees. In prescribing such rules and regulations or making such order, the Commission shall consider whether under such laws, a United States institutional trustee is eligible to act as sole trustee under an indenture relating to securities sold within the jurisdiction of such foreign government.";

(2) by striking "The indenture to be qualified shall require that there shall" in paragraph (1) and inserting "There shall";

(3) by striking "thereunder" in paragraph (1) and inserting "under every indenture qualified or to be qualified pursuant to this title";

(4) by inserting "or a corporation or other person permitted to act as trustee by the Commission" before "(referred to" in paragraph (1);

(5) by striking "The indenture to be qualified shall require that such institution" in paragraph (2) and inserting "Such institution";

(6) by striking "such indenture shall provide that" in paragraph (3);

(7) by striking "the indenture to be qualified shall require that" in paragraph (4); and

(8) by inserting "shall" after "the indenture trustee or trustees" in paragraph (4).

SEC. 407. PERSONS INELIGIBLE FOR APPOINTMENT AS TRUSTEE.

Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended by adding at the end thereof the following new paragraph:

"(5) No obligor upon the indenture securities or person directly or indirectly controlling, controlled by, or under common control with such obligor shall serve as trustee upon such indenture securities.".

SEC. 408. DISQUALIFICATION OF TRUSTEE.

Section 310(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(b)) is amended to read as follows:

"(b) If any indenture trustee has or shall acquire any conflicting interest as hereinafter defined—

"(i) then, within 90 days after ascertaining that it has such conflicting interest, and if the default (as defined in the next sentence) to which such conflicting interest relates has not been cured or duly waived or otherwise eliminated before the end of such 90-day period, such trustee shall either eliminate such conflicting interest or, except as otherwise provided below in this subsection, resign, and the obligor upon the indenture securities shall take prompt steps to have a successor appointed in the manner provided in the indenture;

"(ii) in the event that such trustee shall fail to comply with the provisions of clause (i) of this subsection, such trustee shall, within 10 days after the expiration of such 90-day period, transmit notice of such failure to the indenture security holders in the manner and to the extent provided in subsection (c) of section 313; and

"(iii) subject to the provisions of subsection (e) of section 315, unless such trustee's duty to resign is stayed as provided below in this subsection, any security holder who has been a bona fide holder of indenture securities for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such trustee, and the appointment of a successor, if such trustee fails, after written request thereof by such holder to comply with the provisions of clause (i) of this subsection.

"For the purposes of this subsection, an indenture trustee shall be deemed to have a conflicting interest if the indenture securities are in default (as such term is defined in such indenture, but exclusive of any period of grace or requirement of notice) and—

"(1) such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of an obligor upon the indenture securities are outstanding or is trustee for more than one outstanding series of securities, as hereafter defined, under a single indenture of an obligor, unless—

"(A) the indenture securities are collateral trust notes under which the only collateral consists of securities issued under such other indenture,

"(B) such other indenture is a collateral trust indenture under which the only collateral consists of indenture securities, or

"(C) such obligor has no substantial unmortgaged assets and is engaged primarily in the business of owning, or of owning and developing and/or operating, real estate, and the indenture to be qualified and such other indenture are secured by wholly separate and distinct parcels of real estate:

Provided, That the indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to contain a provision excluding from the operation of this paragraph other series under such indenture, and any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of such an obligor are outstanding, if—

"(i) the indenture to be qualified and any such other indenture or indentures (and all series of securities issuable thereunder) are wholly unsecured and rank equally, and such other indenture or indentures (and such series) are specifically described in the indenture to be qualified or are thereafter qualified under this title, unless the Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 that differences exist between the provisions of the indenture (or such series) to be qualified and the provisions of such other indenture or indentures (or such series) which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures, or

"(ii) the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under the indenture to be qualified and such other indenture or under more than one outstanding series under a single indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures or with respect to such series;

"(2) such trustee or any of its directors or executive officers is an underwriter for an obligor upon the indenture securities;

"(3) such trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with an underwriter for an obligor upon the indenture securities;

"(4) such trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee, or representative of an obligor upon the indenture securities, or of an underwriter (other than the trustee itself) for such an obligor who is currently engaged in the business of underwriting, except that—

"(A) one individual may be a director and/or an executive officer of the trustee and a director and/or an executive officer of such obligor, but may not be at the same time an executive officer of both the trustee and of such obligor,

"(B) if and so long as the number of directors of the trustee in office is more than nine, one additional individual may be a director and/or an executive officer of the trustee and a director of such obligor, and

"(C) such trustee may be designated by any such obligor or by any underwriter for any such obligor, to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depositary, or in any other similar capacity, or, subject to the provisions of paragraph (1) of this subsection, to act as trustee, whether under an indenture or otherwise;

"(5) 10 per centum or more of the voting securities of such trustee is beneficially owned either by an obligor upon the indenture securities or by any director, partner or executive officer thereof, or 20 per centum or more of such voting securities is beneficially owned, collectively by any two or more of such persons; or 10 per centum or more of the voting securities of such trustee is beneficially owned either by an underwriter for any such obligor or by any director, partner, or executive officer thereof, or is beneficially owned, collectively, by any two or more such persons;

"(6) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined—

"(A) 5 per centum or more of the voting securities, or 10 per centum or more of any other class of security, of an obligor upon the indenture securities, not including indenture securities and securities issued under any other indenture under which such trustee is also trustee, or

"(B) 10 per centum or more of any class of security of an underwriter for any such obligor;

"(7) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 5 per centum or more of the voting securities of any person who, to the knowledge of the trustee, owns 10 per centum or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, an obligor upon the indenture securities;

"(8) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 10 per centum or more of any class of security of any person who, to the knowledge of the trustee, owns 50 per centum or more of the voting securities of an obligor upon the indenture securities;

"(9) such trustee owns, on the date of default upon the indenture securities (as such term is defined in such indenture but exclusive of any period of grace or requirement of notice) or any anniversary of such default while such default upon the indenture securities remains outstanding, in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of 25 per centum or more of the voting securities, or of any class of security, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under paragraph (6), (7), or (8) of this subsection. As to any such securities of which the indenture trustee acquired ownership through becoming executor, administrator or testamentary trustee of an estate which include them, the provisions of the preceding sentence shall not apply for a period of not more than 2 years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25 per centum of such voting securities or 25 per centum of any such class of security. Promptly after the dates of any such default upon the indenture securities and annually in each succeeding year that the indenture securities remain in default the trustee shall make a check of its holding of such securities in any of the above-mentioned capacities as of such dates. If the obligor upon the indenture securities fails to make payment in full of principal or interest under such indenture when and as the same becomes due and payable, and such failure continues for 30 days thereafter, the trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such 30-day period, and after such date, notwithstanding the foregoing provisions of this paragraph, all such securities so held by the trustee, with sole or joint control over such securities vested in it, shall be considered as though beneficially owned by such trustee, for the purposes of paragraphs (6), (7), and (8) of this subsection; or

"(10) except under the circumstances described in paragraphs (1), (3), (4), (5) or (6) of section 311(b) of this title, the trustee shall be or shall become a creditor of the obligor.

"For purposes of paragraph (1) of this subsection, and of section 316(a) of this title, the term 'series of securities' or 'series' means a series, class or group of securities issuable under an indenture pursuant to whose terms holders of one such series may vote to direct the indenture trustee, or otherwise take action pursuant to a vote of such holders, separately from holders of another such series: Provided, That 'series of securities' or 'series' shall not include any series of securities issuable under an indenture if all such series rank equally and are wholly unsecured.

"The specification of percentages in paragraphs (5) to (9), inclusive, of this subsection shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of paragraph (3) or (7) of this subsection.

"For the purposes of paragraphs (6), (7), (8), and (9) of this subsection—

"(A) the terms 'security' and 'securities' shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies, or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness;

"(B) an obligation shall be deemed to be in default when a default in payment of principal shall have continued for thirty days or more, and shall not have been cured; and

"(C) the indenture trustee shall not be deemed the owner or holder of (i) any security which it holds as collateral security (as trustee or otherwise) for any obligation which is not in default as above defined, or (ii) any security which it holds as collateral security under the indenture to be qualified, irrespective of any default thereunder, or (iii) any security which it holds as agent for collection, or as custodian, escrow agent or depositary, or in any similar representative capacity.

"For the purposes of this subsection, the term 'underwriter' when used with reference to an obligor upon the indenture securities means every person who, within one year prior to the time as of which the determination is made, was an underwriter of any security of such obligor outstanding at the time of the determination.

"Except in the case of a default in the payment of the principal of or interest on any indenture security, or in the payment of any sinking or purchase fund installment, the indenture trustee shall not be required to resign as provided by this subsection if such trustee shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that—

"(i) the default under the indenture may be cured or waived during a reasonable period and under the procedures described in such application, and

"(ii) a stay of the trustee's duty to resign will not be inconsistent with the interests of holders of the indenture securities. The filing of such an application shall automatically stay the performance of the duty to resign until the Commission orders otherwise.

"Any resignation of an indenture trustee shall become effective only upon the appointment of a successor trustee and such successor's acceptance of such an appointment.".

SEC. 409. PREFERENTIAL COLLECTION OF CLAIMS AGAINST OBLIGOR.

Section 311 of the Trust Indenture Act of 1939 (15 U.S.C. 77kkk) is amended—

(1) by striking "the indenture to be qualified shall provide that" in the first paragraph of subsection (a);

(2) by striking "The indenture to be qualified shall provide that, if" at the beginning of the third paragraph of subsection (a) and inserting "If";

(3) by striking "four months" and "four months' " each place they appear in subsection (a) and inserting "three months" and "three months' ", respectively;

(4) by inserting at the end of subsection (a) the following: "In any case commenced under the Bankruptcy Act of July 1, 1898, or any amendment thereto enacted prior to November 6, 1978, all references to periods of three months shall be deemed to be references to periods of four months."; and

(5) by striking "may" in the first line of subsection (b) and inserting "shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to".

SEC. 410. BONDHOLDER LISTS.

Section 312 of the Trust Indenture Act of 1939 (15 U.S.C. 77lll) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring each obligor" in subsection (a) and inserting "Each obligor";

(2) in subsection (a), by striking "indenture securities to" and inserting "indenture securities shall"; and

(3) by striking "The indenture to be qualified shall also contain provisions requiring that, within" in subsection (b) and inserting "Within".

SEC. 411. REPORTS BY INDENTURE TRUSTEE.

Section 313(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm(a)) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" and inserting "The indenture trustee shall";

(2) by inserting after "a brief report with respect to" the following: "any of the following events which may have occurred within the previous 12 months (but if no such event has occurred within such period no report need be transmitted):";

(3) by inserting after the paragraph designation at the beginning of paragraphs (1), (4), and (5) the following: "any change to";

(4) in paragraph (1) by striking ", or in lieu thereof, if to the best of its knowledge it has continued to be eligible and qualified under such section, a written statement to such effect"; and

(5)(A) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively; and

(B) by inserting after paragraph (1) the following:

"(2) the creation of or any material change to a relationship specified in paragraph (1) through (10) of section 310(b);".

SEC. 412. BONDHOLDER COMMUNICATIONS.

Section 313 of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm) is amended—

(1) by striking "The indenture to be qualified shall also contain provisions requiring the indenture trustee to" in subsection (b) and inserting "The indenture trustee shall";

(2) by striking "The indenture to be qualified shall also provide that reports" in subsection (c) and inserting "Reports"; and

(3) by striking "The indenture to be qualified shall also provide that a copy" in subsection (d) and inserting "A copy".

SEC. 413. REPORTS BY OBLIGOR; EVIDENCE OF COMPLIANCE WITH INDENTURE PROVISIONS.

Section 314 of the Trust Indenture Act of 1939 (15 U.S.C. 77nnn) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring each" in subsection (a) and inserting "Each";

(2) by inserting "shall" after "thereby" in such subsection;

(3) by striking "to" after the paragraph designation at the beginning of paragraphs (1), (2), and (3) of subsection (a);

(4) by striking "and" at the end of paragraph (2) of subsection (a);

(5) by striking the period at the end of paragraph (3) of subsection (a) and inserting "; and";

(6) by adding at the end of subsection (a) the following new paragraph:

"(4) furnish to the indenture trustee, not less often than annually, a brief certificate from the principal executive officer, principal financial officer or principal accounting officer as to his or her knowledge of such obligor's compliance with all conditions and covenants under the indenture. For purposes of this paragraph, such compliance shall be determined without regard to any period of grace or requirement of notice provided under the indenture.";

(7) by striking "such indenture shall contain provisions requiring" in subsection (b);

(8) by striking "securities to furnish" in subsection (b) and inserting "securities shall furnish";

(9) by striking "The indenture to be qualified shall contain provisions requiring the obligor" in subsection (c) and inserting "The obligor";

(10) by striking "securities to furnish" in subsection (c) and inserting "securities shall furnish";

(11) by striking "such indenture shall contain provisions" in subsection (d) and inserting "the obligor upon the indenture securities shall furnish to the indenture trustee a certificate or opinion of an engineer, appraiser, or other expert as to the fair value";

(12) by striking "requiring the obligor upon the indenture securities to furnish to the indenture trustee a certificate or opinion of an engineer, appraiser or other expert as to the fair value" in paragraphs (1), (2) and (3) of subsection (d);

(13) by striking "If the indenture to be qualified so provides," at the beginning of the penultimate sentence of subsection (d) and inserting "The indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to provide that";

(14) by striking "specified in the indenture" in the penultimate sentence of subsection (d) and inserting "duly authorized to make such certificate or opinion by the obligor from time to time"; and

(15) by inserting in subsection (e) "(other than certificates provided pursuant to subsection (a)(4) of this section)" after "indenture".

SEC. 414. DUTIES AND RESPONSIBILITIES OF THE TRUSTEE.

Section 315 of the Trust Indenture Act of 1939 (15 U.S.C. 77ooo) is amended—

(1) by striking "The indenture to be qualified may" in subsections (a) and (e) and inserting "The indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to";

(2) by striking "such indenture shall contain provisions requiring the indenture trustee to examine" in subsection (a) and inserting "the indenture trustee shall examine";

(3) by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" in subsections (b) and (c) and inserting "The indenture trustee shall";

(4) by striking "That such indenture may" in the proviso in subsection (b) and inserting "That such indenture shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to"; and

(5) by striking "such indenture may" in paragraphs (1), (2), and (3) of subsection (d) and inserting "such indenture shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to".

SEC. 415. DIRECTIONS AND WAIVERS BY BONDHOLDERS; PROHIBITION OF IMPAIRMENT OF RIGHT TO PAYMENT; RECORD DATES.

Section 316 of the Trust Indenture Act of 1939 (15 U.S.C. 77ppp) is amended—

(1) by striking "may contain provisions" after "qualified" in subsection (a) and inserting "may contain provisions" before "authorizing the holders" in paragraph (2) of subsection (a);

(2) by inserting "shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to contain provisions" before "authorizing the holders" in paragraph (1) of subsection (a);

(3) by inserting "or if expressly specified in such indenture, of any series of securities" after "principal amount of the indenture securities" in paragraphs (1) and (2) of subsection (a);

(4) by striking "The indenture to be qualified shall provide that, notwithstanding" in subsection (b) and inserting "Notwithstanding";

(5) by striking "thereof" in subsection (b) and inserting "of the indenture to be qualified"; and

(6) by adding at the end thereof the following new subsection:

"(c) The obligor upon any indenture qualified under this title may set a record date for purposes of determining the identity of indenture security holders entitled to vote or consent to any action by vote or consent authorized or permitted by subsection (a) of this section. Unless the indenture provides otherwise, such record date shall be the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of holders furnished to the trustee pursuant to section 312 of this title prior to such solicitation.".

SEC. 416. SPECIAL POWERS OF TRUSTEE; DUTIES OF PAYING AGENTS.

Section 317 of the Trust Indenture Act of 1939 (15 U.S.C. 77qqq) is amended—

(1) by striking "to be qualified shall contain provisions" in subsection (a) and inserting "trustee shall be authorized";

(2) by striking "authorizing the indenture trustee" in paragraph (1);

(3) by striking "authorizing such trustee" from paragraph (2); and

(4) by striking "The indenture to be qualified shall provide that each" in subsection (b) and inserting "Each".

SEC. 417. EFFECT OF MANDATORY TERMS.

Section 318 of the Trust Indenture Act of 1939 (15 U.S.C. 77rrr) is amended—

(1) by striking subsection (a) and inserting the following:

"SEC. 318. (a) If any provision of the indenture to be qualified limits, qualifies, or conflicts with the duties imposed by operation of subsection (c) of this section, the imposed duties shall control.";

(2) by adding at the end thereof the following new subsection:

"(c) The provisions of sections 310 to and including 317 that impose duties on any person (including provisions automatically deemed included in an indenture unless the indenture provides that such provisions are excluded) are a part of and govern every qualified indenture, whether or not physically contained therein, shall be deemed retroactively to govern each indenture heretofore qualified, and prospectively to govern each indenture hereafter qualified under this title and shall be deemed retroactively to amend and supersede inconsistent provisions in each such indenture heretofore qualified. The foregoing provisions of this subsection shall not be deemed to effect the inclusion (by retroactive amendment or otherwise) in the text of any indenture heretofore qualified of any of the optional provisions contemplated by section 310(b)(1), 311(b), 314(d), 315(a), 315(b), 315(d), 315(e), or 316(a)(1).".

SEC. 418. JURISDICTION OF OFFENSES AND SUITS.

Section 322(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77vvv(b)) is amended by inserting "or duty" after "any liability".

And the House agree to the same.

From the Committee on Energy and Commerce, for consideration of the House bill, the Senate amendment (except secs. 103, 104, and 502), and the House amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
TOM MCMILLEN,
NORMAN F. LENT,
MATT RINALDO,

From the Committee on Post Office and Civil Service, for consideration of secs. 103, 104, and 502 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
BILL CLAY,
GARY L. ACKERMAN
BENJAMIN A. GILMAN,
JOHN T. MYERS

Managers on the Part of the House.

DON RIEGLE,
CHRISTOPHER J. DODD,
JOHN HEINZ,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1396) to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the

House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

PURPOSE

The Securities Act Amendments of 1990 has four major purposes. First, the legislation seeks to address the Securities and Exchange Commission's funding needs by authorizing appropriations for fiscal years 1990 and 1991 in the amounts of $178,023,000 and $212,609,000, respectively. Second, the legislation seeks to address the problem of international securities fraud by giving the Commission additional authority to improve coordination of international enforcement efforts. Third, the legislation closes gaps in current law with respect to providing information to shareholders. Fourth, the legislation streamlines and modernizes the law applicable to the public issuance of debt securities.

The House amendment contains four major titles consistent with the Senate amendment. The Senate amendment contained provisions relating to hiring and leasing authorities of the Securities and Exchange Commission, critical position pay authority, and amendments to the Public Utility Holding Company Act of 1935. The House amendment contained none of these additional provisions. The conference report agreement has the Senate receding to the House on the hiring authorities of the Securities and Exchange Commission, critical person pay authority, and amendments to the Public Utility Holding Company Act of 1935. The House has receded to the Senate on the provisions relating to leasing authorities of the Securities and Exchange Commission.

With regard to the provision on Securities and Exchange Commission leasing authority, the conferees intend that the authority granted the Commission to lease its own office space directly will be exercised vigorously by the Commission to achieve actual cost savings and to increase the Commission's productivity and efficiency. The conferees are cognizant of the representations of the Commission Chairman Richard C. Breeden in letters of October 16 and 18, 1990 to the Chairman of the House Subcommittee on Telecommunications and Finance. In those letters, the Commission Chairman stated, among other points, that the grant of this leasing authority at this time is essential, because the Commission's present lease expires in July 1992 and the process of negotiating a new lease must begin by the end of 1990. The conferees expect the Commission to keep the appropriate committees and subcommittees of Congress fully and currently informed of the effectiveness of the Commission's exercise of its new leasing authority.

From the Committee on Energy and Commerce, for consideration of the House bill, the Senate amendment (except secs. 103, 104, and 502), and the House amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
TOM MCMILLEN,
NORMAN F. LENT,
MATT RINALDO,

From the Committee on Post Office and Civil Service, for consideration of secs. 103, 104, and 502 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
BILL CLAY,
GARY ACKERMAN,
BENJAMIN A. GILMAN,
JOHN T. MYERS,
Managers on the Part of the House.

DON RIEGLE,
CHRISTOPHER J. DODD,
JOHN HEINZ,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2834

Mr. BEILENSON submitted the following conference report and statement on the bill (S. 2834) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-928)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2834) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1991."

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1991 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) The amounts authorized to be appropriated by section 101, and the Authorized personnel ceilings as of September 30, 1991, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations to accompany S. 2834 of the One Hundred First Congress.

(b) Such Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch of the Government.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1991 under sections 102 and 202 or this Act when he determines that such action is necessary for the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed two percent of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate wherever he exercises the authority granted by this section.

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriate for the Intelligence Community Staff for fiscal year 1991 $27,900,000, of which amount $6,580,000 shall be available for the Security Evaluation Office.

SEC. 202. AUTHORIZATION OF PERSONNEL END-STRENGTH.

(a) AUTHORIZED PERSONNEL LEVEL.—The Intelligence Community Staff is authorized 240 full-time personnel as of September 30, 1991, including 50 full-time personnel who are authorized to serve in the Security Evaluation Office. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) REPRESENTATION OF INTELLIGENCE ELEMENTS.—During fiscal year 1991, personnel of the Intelligence Community Staff shall be selected so as to provide representation from elements of the United States Government engaged in intelligence activities.

(c) REIMBURSEMENT.—During fiscal year 1991, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

SEC. 203. INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY.

During fiscal year 1991, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the Central Intelligence Agency Retire-

ment and Disability Fund for fiscal year 1991 $164,600,000.

SEC. 302. CIA FORMER SPOUSE QUALIFYING TIME.

Section 204(b) of the Central Intelligence Agency retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting before the period at the end of paragraph (4) "during the participant's service as an employee of the Central Intelligence Agency".

SEC. 303. ELIMINATION OF 15-YEAR CAREER REVIEW FOR CERTAIN CIA EMPLOYEES.

Section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by striking out the second sentence and inserting in lieu thereof the following: "Any officer or employee who elects to accept designation as a participant entitled to the benefits of the system shall remain a participant of the system for the duration of his or her employment with the Agency. Such election shall be irrevocable except as and to the extent provided in section 301(d) of this Act and shall not be subject to review or approval by the Director.".

SEC. 304. SURVIVOR ANNUITIES UNDER CIARDS FOR SPOUSES OF REMARRIED, RETIRED PARTICIPANTS.

(a) CALCULATION OF REDUCTION IN ANNUITIES.—Section 221(n) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "or elected under section 226(e)" after "(unless such reduction is adjusted under section 222(b)(5))".

(b) ELECTION OF REDUCTION IN ANNUITY.—Section 226 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end the following new subsection:

"(e) Upon remarriage occurring on or after the date of the enactment of this subsection to a spouse other than the spouse at the time of retirement, a retired participant whose annuity was not reduced (or was not fully reduced) to provide a survivor annuity for the participant's spouse or former spouse as of the time of retirement may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, a reduction in the retired participant's annuity for the purpose of providing an annuity for such retired participant's spouse in the event such spouse survives the retired participant. The reduction shall be effective the first day of the month which begins nine months after the date of remarriage. For any remarriage that occurred before the date of the enactment of this subsection, the retired participant may make such an election within two years after such date. To the greatest extent practicable, the retired participant shall pay a deposit under the same terms and conditions as those prescribed for retired employees under the Civil Service Retirement and Disability System under section 8339(j)(5)(C)(ii) of title 5, United States Code. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under section 221(b).".

(c) CONFORMING AMENDMENT.—Section 226(d) of such Act is amended by striking out "This" and inserting in lieu thereof "Subsections (a) through (c) of this".

SEC. 305. REDUCTION OF REMARRIAGE AGE.

(a) REDUCTION OF REMARRIAGE AGE FOR SURVIVOR AND RETIREMENT BENEFITS.—The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), is amended—

(1) in section 221—

(A) in subsections (b)(1)(A) and (b)(3)(C), by striking out "age 60" each place it appears and inserting in lieu thereof "age 55"; and

(B) in subsection (g)(1), by striking out "age sixty" each place it appears and inserting in lieu thereof "age 55";

(2) in section 222—

(A) by striking out "60 years of age" each place it appears in subsections (a)(2), (a)(3)(A), and (b)(2) and inserting in lieu thereof "55 years of age"; and

(B) by striking out "age 60" each place it appears in subsections (b)(3), (b)(5)(A), (c)(3)(C), (c)(3)(D), and (c)(4) and inserting in lieu thereof "age 55"; and

(3) in section 232(b)(1), by striking out "attaining age sixty" in the last sentence and inserting in lieu thereof "attaining age 55".

(b) EFFECTIVE DATE OF AMENDMENTS.—(1) The amendments made by subsection (a) relating to widows or widowers shall apply in the case of a surviving spouse's remarriage occurring on or after July 27, 1989, and with respect to periods beginning after such date.

(2) The amendments made by subsection (a) relating to former spouses shall apply with respect to any former spouse whose remarriage occurs after the date of enactment of this Act.

SEC. 306. ELECTION BETWEEN CIARDS ANNUITY AND OTHER SURVIVOR ANNUITIES.

Section 221(g) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end the following paragraph:

"(3) A surviving spouse who married a participant after his or her retirement shall be entitled to a survivor annuity payable from the fund under this title only upon electing this annuity instead of any other survivor benefit to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.".

SEC. 307. RESTORATION OF FORMER SPOUSE BENEFITS AFTER DISSOLUTION OF REMARRIAGE.

(a) SURVIVOR ANNUITY.—Section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), is amended—

(1) in subsection (b)(1) after "fifty-five" by inserting ", except that the entitlement of the former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce";

(2) in subsection (c)(1)(B) after "fifty-five" by inserting ", except that the entitlement of the former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce"; and

(3) by adding at the end thereof the following new subsection:

"(e) Notwithstanding subsection (c)(2)(A) of this section, the thirty-month application requirement for a survivor annuity under this section to be payable shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored under subsection (b)(1) or (c)(1)(B) of this section.".

(b) RETIREMENT BENEFITS.—Section 225 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), is amended—

(1) in subsection (c)(1)(B)(i) by inserting ", except that the entitlement of the former spouse to benefits under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce" after "fifty-five years of age";

(2) in subsection (b)(1) after "fifty-five" by inserting ", except that the entitlement of the former spouse to benefits under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce";

(3) by redesignating subsection (e) as subsection (f); and

(4) by adding after subsection (d) the following new subsection (e):

"(e) Notwithstanding subsection (c)(4)(A) of this section, the thirty-month application requirement for benefits under this section to be payable shall not apply in cases in which a former spouse's entitlement to such benefits is restored under subsection (b)(1) or (c)(1)(B) of this section.".

(c) HEALTH BENEFITS.—Section 16(c) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding after paragraph (2) the following new paragraph:

"(3)(A) A former spouse who is not eligible to enroll or to continue enrollment in a health benefits plan under this section solely because of remarriage before age fifty-five shall be restored to such eligibility on the date such remarriage is dissolved by death, annulment, or divorce.

"(B) A former spouse whose eligibility is restored under subparagraph (A) may, under regulations which the Director of the Office of Personnel Management shall prescribe, enroll in a health benefits plan if such former spouse—

"(i) was an individual referred to in paragraph (1) and was an individual covered under a benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to the Agency employee or annuitant; or

"(ii) was an individual referred to in paragraph (2) and was an individual covered under a benefits plan immediately before the remarriage ended the enrollment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1990. No benefits provided pursuant to the amendments made by this section shall be payable with respect to any period before such effective date.

(e) COMPLIANCE WITH BUDGET ACT.—Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 402. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

SEC. 403. TREATMENT OF CERTAIN ALIEN EMPLOYEES IN HONG KONG.

(a) AUTHORITY.—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in subsection (b), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(b) ELIGIBLE ALIENS.—An alien eligible under subsection (a) is an alien who—

(1) is an employee of the Foreign Broadcast Information Service in Hong Kong; or

(2) is the spouse or child of an alien described in paragraph (1) if accompanying or following to join the alien in coming to the United States.

SEC. 404. EXCEPTED POSITIONS FROM THE COMPETITIVE SERVICE.

Section 621 of the Department of Energy Organization Act (42 U.S.C. 7231) is amended by adding at the end thereof the following new subsection:

"(f) All positions in the Department which the Secretary determines are devoted to intelligence and intelligence-related activities of the United States Government are excepted from the competitive service, and the individuals who occupy such positions as of the date of enactment of this Act shall, while employed in such positions, be exempt from the competitive service."

SEC. 405. INTELLIGENCE COMMUNITY CONTRACTING

The Director of Central Intelligence shall direct that elements of the Intelligence Community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should award contracts in a manner that would maximize the procurement of products produced in the United States. For purposes of this provision, the term "Intelligence Community" has the same meaning as set forth in paragraph 3.4(f) of Executive Order 12333, dated December 4, 1981, or successor orders.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SEC. 501. REIMBURSEMENT RATE FOR CERTAIN AIRLIFT SERVICES.

(a) AUTHORITY.—The Secretary of Defense is authorized to grant the use of the Department of Defense reimbursement rate for military airlift services provided by the Department of Defense to the Central Intelligence Agency, if the Secretary of Defense determines that those military airlift services are provided for activities related to national security objectives.

(b) As used in subsection (a), the term "Department of Defense reimbursement rate" means the amount charged a component of the Department of Defense by another component or the Department of Defense.

SEC. 502. PUBLIC AVAILABILITY OF MAPS, ETC., PRODUCED BY DEFENSE MAPPING AGENCY.

(a) IN GENERAL.—(1) Chapter 167 of title 10, United States Code, is amended by adding at the end of the following new section:

"§ 2796. Maps, charts, and geodetic data: public availability; exceptions

"(a) The Defense Mapping Agency shall offer for sale maps and charts at scales of 1:500,000 and smaller, except those withheld in accordance with subsection (b) or those specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such Executive order.

"(b)(1) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any geodetic product in the possession of, or under the control of, the Department of Defense—

"(A) that was obtained or produced, or that contains information that was provided, pursuant to an international agreement that restricts disclosure of such product or information to government officials of the agreeing parties or that restricts use of such product or information to government purposes only;

"(B) that contains information that the Secretary of Defense has determined in writing would, if disclosed, reveal sources and methods used to obtain source material for production of the geodetic product; or

"(C) that contains information that the Director of the Defense Mapping Agency has determined in writing would, if disclosed, reveal military operational or contingency plans.

"(2) In this subsection, the term 'geodetic product' means any map, chart, geodetic data, or related product.

"(c)(1) Regulations to implement this section (including any amendments to such regulations) shall be published in the Federal Register for public comment for a period of not less than 30 days before they take effect.

"(2) Regulations under this section shall address the conditions under which release of geodetic products authorized under subsection (b) to be withheld from public disclosure would be appropriate—

"(A) in the case of allies of the United States; and

"(B) in the case of qualified United States contractors (including contractors that are small business concerns) who need such products for use in the performance of contracts with the United States.".

"(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2796. Maps, charts, and geodetic data: public availability; exceptions.".

"(b) DEADLINE FOR INITIAL REGULATIONS.—Regulations to implement section 2796 of title 10, United States Code, as added by subsection (a), shall be published in the Federal Register for public comment in accordance with subsection (c) of that section not later than 90 days after the date of the enactment of this Act.

SEC. 503. POST-EMPLOYMENT ASSISTANCE FOR CERTAIN NSA EMPLOYEES.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end thereof the following new section:

"SEC. 17. (a) Notwithstanding any other law, the Director of the National Security Agency may use appropriated funds to assist employees who have been in sensitive positions who are found to be ineligible for continued access to Sensitive Compartment Information and employment with the Agency, or whose employment has been terminated—

"(1) in finding and qualifying for subsequent employment,

"(2) in receiving treatment of medical or psychological disabilities, and

"(3) in providing necessary financial support during periods of unemployment.

"if the Director determines that such assistance is essential to maintain the judgment and emotional stability of such employee and avoid circumstances that might lead to the unlawful disclosure of classified information to which such employee had access. Assistance provided under this section for an employee shall not be provided any longer than five years after the termination of the employment of the employee.

"(b) The Director of the National Security Agency shall report annually to the Appropriations Committees of the Senate and House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives with respect to any expenditure made pursuant to this section.".

SEC. 504. USE OF COMMERCIAL ACTIVITIES AS COVER SUPPORT TO INTELLIGENCE COLLECTION ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Chapter 21 of title 10, United States Code, is amended—

(1) by inserting after the chapter heading the following:

"Subchapter Sec.
"I. General Matters 421
"II. General Commercial Activities 431

"SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES

"431. Authority to conduct certain commercial activities as security for intelligence collection activities.
"432. Used, disposition, and auditing of funds.
"433. Relationship with other Federal laws.
"434. Reservation of defense and immunities.
"435. Limitations.
"436. Regulations, internal oversight, and legal review.
"437. Congressional oversight.
"438. Authority to conduct certain commercial activities as security for intelligence collection activities.

"SEC. 431. AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES.

"(a) AUTHORITY.—The Secretary of Defense, subject to the provisions of this subchapter, may authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense. No commercial activity may be initiated pursuant to this subchapter after December 31, 1995.

"(b) INTERAGENCY COORDINATION AND SUPPORT.—Any such activity shall—

"(1) be coordinated with and (where appropriate) be supported by, the Director of Central Intelligence; and

"(2) to the extent the activity takes place within the United States, be coordinated with, and (where appropirate) be supported by, the Director of the Federal Bureau of Investigation.

"(c) DEFINITIONS.—As used in this subchapter:

"(1) the term 'commercial activities' means activities that are conducted in a manner consistent with prevailing commercial practice and includes—

"(A) the acquisition, use, sale, storage and disposal of goods and services;

"(B) entering into employment contracts and leases and other agreements for real and personal property;

"(C) depositing funds into and withdrawing funds from domestic and foreign commercial business or financial institutions;

"(D) acquiring licenses, registrations, permits, and insurance; and

"(E) establishing corporations, partnerships, and other legal entities.

"(2) the term 'intelligence collection activities' means the collection of foreign intelligence and counterintelligence information.

"SEC. 432. USE, DISPOSITION, AND AUDITING OF FUNDS.

"(a) USE OF FUNDS.—Funds generated by a commercial activity authorized pursuant to this subchapter may be used to offset necessary and reasonable expenses arising from that activity. Use of such funds for that purpose shall be kept to the minimum necessary to conduct the activity concerned in a secure manner. Any funds generated by the activity in excess of those required for that purpose shall be deposited, as often as may be practicable, into the Treasury as miscellaneous receipts.

"(b) AUDITS.—The Secretary of Defense shall assign an organization within the Department of Defense to have auditing responsibility with respect to activities authorized under this subchapter.

"(2) That organization shall audit the use and disposition of funds generated by any commercial activity authorized under this subchapter not less often than annually. The results of all such audits shall be promptly reported to the intelligence committees (as defined in section 437(d) of this subchapter).

"SEC. 433. RELATIONSHIP WITH OTHER FEDERAL LAWS.

"(a) IN GENERAL.—Except as provided by subsection (b), a commercial activity conducted pursuant to this subchapter shall be carried out in accordance with applicable Federal law.

"(b) AUTHORIZATION OF WAIVERS WHEN NECESSARY TO MAINTAIN SECURITY.—If the Secretary of Defense determines, in connection with a commercial activity authorized pursuant to section 431, that compliance with certain Federal laws or regulations pertaining to the management and administration of Federal agencies would create an unacceptable risk of compromise of an authorized intelligence activity, the Secretary may, to the extent necessary to prevent such compromise, waive compliance with such laws or regulations.

"(2) Any determination and waiver by the Secretary under paragraph (1) shall be made in writing and shall include a specification of the laws and regulations for which compliance by the commercial activity concerned is not required consistent with this section.

"(3) The authority of the Secretary under paragraph (1) may be delegated only to the Deputy Secretary of Defense, an Under Secretary of Defense, an Assistant Secretary of Defense, or a Secretary of a military department.

"(c) FEDERAL LAWS AND REGULATIONS.—For purposes of this section, Federal Laws and regulations pertaining to the management and administration of Federal agencies are only those Federal laws and regulations pertaining to the following:

"(1) The receipt and use of appropriated and nonappropriated funds.

"(2) The acquisition or management of property or services.

"(3) Information disclosure, retention, and management.

"(4) The employment of personnel.

"(5) Payments for travel and housing.

"(6) The establishment of legal entities or government instrumentalities.

"(7) Foreign trade or financial transaction restrictions that would reveal the commercial activity as an activity of the United States Government.

"SEC. 434. RESERVATION OF DEFENSES AND IMMUNITIES.

"The submission to judicial proceedings in a State or other legal jurisdiction, in connection with a commercial activity undertaken pursuant to this subchapter, shall not constitute a waiver of the defenses and immunities of the United States.

"SEC. 435. LIMITATIONS.

"(a) LAWFUL ACTIVITIES.—Nothing in this subchapter authorizes the conduct of any intelligence activity that is not otherwise authorized by law or Executive order.

"(b) DOMESTIC ACTIVITIES.—Personnel conducting commercial activity authorized by this subchapter may only engage in those activities in the United States to the extent necessary to support intelligence activities abroad.

"(c) PROVIDING GOODS AND SERVICES TO THE DEPARTMENT OF DEFENSE.—Commercial activity may not be undertaken within the United States for the purpose of providing goods and services to the Department of Defense, other than as may be necessary to provide security for the activities subject to this subchapter.

"(d) NOTICE TO UNITED STATES PERSONS.—(1) In carrying out a commercial activity authorized under this subchapter, the Secretary of Defense may not permit an entity engaged in such activity to employ a United States person in an operational, managerial, or supervisory position, and may not assign or detail a United States person to perform operational, managerial, or supervisory duties for such an entity, unless that person is informed in advance of the intelligence security purpose of that activity.

"(2) In this subsection, the term 'United States person' means an individual who is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

"SEC. 436. REGULATIONS.

"The Secretary of Defense shall prescribe regulations to implement the authority provided in this subchapter. Such regulations shall be consistent with this subchapter and shall at a minimum—

"(1) specify all elements of the Department of Defense who are authorized to engage in commercial activities pursuant to this subchapter;

"(2) require the personal approval of the Secretary or Deputy Secretary of Defense for all sensitive activities to be authorized pursuant to this subchapter;

"(3) specify all officials who are authorized to grant waivers of laws or regulations pursuant to subsection 433(b), or to approve the establishment or conduct of commercial activities pursuant to this subchapter;

"(4) designate a single office within the Defense Intelligence Agency to be responsible for the management and supervision of all activities authorized under this subchapter;

"(5) require that each commercial activity proposed to be authorized under this subchapter be subject to appropriate legal review before the activity is authorized; and

"(6) provide for appropriate internal audit controls and oversight for such activities.

"SEC. 437. CONGRESSIONAL OVERSIGHT.

"(a) PROPOSED REGULATIONS.—Copies of regulations proposed to be prescribed under section 436 of this subchapter (including any proposed revision to such regulations) shall be submitted to the intelligence committees not less than 30 days before they take effect.

"(b) CURRENT INFORMATION.—Consistent with Title V of the National Security Act of 1947, the Secretary of Defense shall ensure that the intelligence committees are kept fully and currently informed of actions taken pursuant to this subchapter, including any significant anticipated activity to be authorized pursuant to this subchapter. The Secretary shall promptly notify the appropriate committees of Congress whenever a corporation, partnership, or other legal entity is established pursuant to this subchapter.

"(c) ANNUAL REPORT.—Not later than January 15 of each year, the Secretary shall submit to the appropriate committees of Congress a report on all commercial activities authorized under this subchapter that were undertaken during the previous fiscal year. Such report shall include (with respect to the fiscal year covered by the report)—

"(1) a description of any exercise of the authority provided by subsection 433(b) of this subchapter;

"(2) a description of any expenditure of funds made pursuant to this subchapter (whether from appropriated or non-appropriated funds); and

"(3) a description of any actions taken with respect to audits conducted pursuant to section 432 of this subchapter to implement recommendations or correct deficiencies identified in such audits.

"(d) INTELLIGENCE COMMITTEES DEFINED.—As used in this section, the term 'intelligence committees' means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(b) EFFECTIVE DATE.—The Secretary of Defense may not authorize any activity under section 431 of title 10, United States Code, as added by subsection (a), until the later of—

(1) the end of the 90-day period beginning on the date of the enactment of this Act; or

(2) the effective date of regulations first prescribed under section 436 of such title, as added by subsection (a).

SEC. 505. DISCLOSURE TO MEMBERS OF CONGRESS OF CLASSIFIED DEFENSE INTELLIGENCE AGENCY REPORT RELATING TO MILITARY PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR.

The Secretary of Defense shall provide to any Member of Congress, upon request, full and complete access to the classified report of the Defense Intelligence Agency commonly known as the Tighe Report, relating to efforts by the Special Office for Prisoners of War/Missing in Action of the Defense Intelligence Agency to fully account for United States military personnel listed as prisoner, missing, or unaccounted for in military actions. The Secretary may withhold from disclosure under the preceding sentence any material that in the judgment of the Secretary would compromise sources and methods of intelligence.

TITLE VI—OVERSIGHT OF INTELLIGENCE ACTIVITIES

REPEAL OF HUGHES-RYAN AMENDMENT

SEC. 601. Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is repealed.

OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 602. Title V of the National Security Act of 1947 is amended by striking out sec-

tion 501 (50 U.S.C. 413) and inserting in lieu thereof the following new sections:

"GENERAL PROVISIONS

SEC. 501. (a)(1) The President shall ensure that the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this title referred to as the 'intelligence committees') are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activities, as required by this title.

"(2) Nothing contained in this title shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of such activities.

"(b) The President shall ensure that any illegal intelligence activity is reported promptly to the intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.

"(c) The President and the intelligence committees shall establish such procedures as may be necessary to carry out the provisions of this title.

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress under this title. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

"(f) As used in this section, the term 'intelligence activities' includes, but is not limited to, covert actions as defined in section 503(e).

"REPORTING INTELLIGENCE ACTIVITIES OTHER THAN COVERT ACTION

"SEC. 502. To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—

"(1) keep the intelligence committees fully and currently informed of all intelligence activities, other than a covert action as defined in section 503(e), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and

"(2) furnish the intelligence committees any information or material concerning intelligence activities, other than covert actions, which is within their custody or control, and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"PRESIDENTIAL APPROVAL AND REPORTING OF COVERT ACTIONS

"SEC. 503(a). The President may not authorize the conduct of a covert action by departments, agencies, or entities of the United States Government unless the President determines such an action is necessary to support identifiable foreign policy objectives of the United States and is important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

"(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than forty-eight hours after the decision is made.

"(2) Except as permitted by paragraph (1), a finding may not authorize or sanction covert actions, or any aspect of such actions, which have already occurred.

"(3) Each finding shall specify each and every department, agency, or entity of the United States Government authorized to fund or otherwise participate in any significant way in such actions. Any employee, contractor, or contract agent of a department, agency, or entity of the United States Government other than the Central Intelligence Agency directed to participate in any way in a covert action shall be subject either to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency, or entity, to govern such participation.

"(4) each finding shall specify whether it is contemplated that any third party which is not an element of, or a contractor or contract agent of, the United States Government, or is not otherwise subject to United States Government policies and regulations, will be used to fund or otherwise participate in any significant way in the covert action concerned, or be used to undertake the covert action concerned on behalf of the United States.

"(5) A finding may not authorize any action that would violate the Constitution or any statute of the United States.

"(b) To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and entities of the United States Government involved in a covert action—

"(1) shall keep the intelligence committees fully and currently informed of all covert actions which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including significant failures; and

"(2) shall furnish to the intelligence committees any information or material concerning covert actions which is in the possession, custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"(c)(1) The President shall ensure that any finding approved pursuant to subsection (a) shall be reported to the intelligence committees as soon as possible after such approval and prior to the initiation of the covert actions authorized by the finding, except as otherwise provided in paragraph (2) and paragraph (3).

"(2) If the President determines it is essential to limit access to the finding to meet extraordinary circumstances affecting vital interests of the United States, such finding may be reported to the Chairmen and Ranking Minority Members of the Intelligence committees, the Speaker and Minority Leader of the House of Representatives, the Majority and Minority Leaders of the Senate, and such other Member or Members of the joint congressional leadership as may be included by the President.

"(3) On rare occasions, the President may direct that covert actions be initiated before reporting such actions to the intelligence committees. On such occasions, the President shall fully inform the intelligence committees in a timely fashion and shall provide a statement of the reasons for not giving prior notice.

"(4) In a case under paragraph (1), (2) or (3), a copy of the finding, signed by the President, shall be provided to the chairman of each intelligence committee. Where access to a finding is limited to the Members of Congress specified in paragraph (2), a statement of the reasons for limiting such access shall also be provided.

"(d) The President shall ensure that the intelligence committees, or, if applicable, the Members of Congress specified in subsection (c)(2), are notified of any significant change in a previously approved covert action, or any significant undertaking pursuant to a previously approved finding, in the same manner as findings are reported pursuant to subsection (c).

"(e) As used in this title, the term 'covert action' means an activity or activities conducted by an element of the United States Government to influence political, economic, or military conditions abroad so that the role of the United States Government is not intended to be apparent or acknowledged publicly, but does not include—

"(1) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;

"(2) traditional diplomatic or military activities or routine support to such activities;

"(3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

"(4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.

"A request by any department, agency, or entity of the United States to a foreign government or a private citizen to conduct a covert action on behalf of the United States shall be deemed to be a covert action.

"(f) No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.".

LIMITATIONS ON USE OF FUNDS

SEC. 603. Section 502 of the National Security Act of 1947 (50 U.S.C. 414)—

(1) is redesignated as section 504;

(2) is amended in subsection (a)(2) by striking out "501" and inserting in lieu thereof "503"; and

(3) is amended by adding at the end the following:

"(d) No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government, may be expended, or may be directed to be expended, for any covert action, as defined in section 503(e), unless and until a Presidential finding required by subsection (a) of section 503 has been signed or otherwise issued in accordance with that subsection.

"(e) Except as provided in section 204(b) (appearing under the heading 'GENERAL PROVISIONS—DEPARTMENT OF JUSTICE') of the Department of Justice Appropriations Act, 1988 (contained in Public Law 100-202) and in section 423 of title 10, United States Code, funds available to an intelligence agency which are not appropriated funds may be obligated or expended for an intelligence or intelligence related activity only if they are used for activities reported to the appropriate congressional committees pursuant to procedures, jointly agreed upon by such committees and, as appropriate, the Director of Central Intelligence or the Secretary of Defense, which identify types of activities for which nonappropriated funds may be expended and under what circumstances an activity must be reported as a significant anticipated intelligence activity before such funds can be expended.".

TRANSFERS OF DEFENSE ARTICLES OR SERVICES

SEC. 604. Section 503 of the National Security Act of 1947 (50 U.S.C. 415)—

(1) is redesignated as section 505; and

(2) is amended in subsection (a)(1) by inserting "or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services," after "service."

And the House agree to the same.

ANTHONY C. BEILENSON,
DAVE MCCURDY,
ROBERT W. KASTENMEIER,
ROBERT A. ROE,
MATTHEW F. MCHUGH,
BERNARD J. DWYER,
CHARLES WILSON,
BARBARA B. KENNELLY,
DAN GLICKMAN,
NICHOLAS MAVROULES,
BILL RICHARDSON,
STEPHEN J. SOLARZ,

From the Committee on Armed Services, for the consideration of Department of Defense Tactical Intelligence and related activities and Section 504 of the House Bill:

LES ASPIN,
IKE SKELTON,

Managers on the Part of the House.

DAVID L. BOREN,
BILL COHEN,
SAM NUNN,
ERNEST F. HOLLINGS,
BILL BRADLEY,
ALAN CRANSTON,
DENNIS DECONCINI,
HOWARD M. METZENBAUM,
JOHN GLENN,
ORRIN G. HATCH,
FRANK H. MURKOWSKI,
ARLEN SPECTER,
JOHN WARNER,
ALFONSE M. D'AMATO,
JOHN C. DANFORTH,

From the Committee on Armed Services:

J. JAMES EXON,
STROM THURMOND,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2834) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding DoD Intelligence Related Activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions of the intelligence committees of the House and the Senate. This special conference group consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the National Defense Authorization Act, 1991. In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA programs which fall into the appropriation category of Military Pay.

SECTIONS 101 AND 102

Sections 101 and 102 of the conference report authorize appropriations for the intelligence and intelligence-related activities of the United States Government for fiscal year 1991 and establish personnel ceilings applicable to such activities.

The Senate bill had included a provision stating that any limitation, restriction, or condition that pertained to an amount specified in the classified Schedule of Authorizations was incorporated into the Act. The House amendment did not contain a similar provision. While the conferees agreed that any limitation, restriction, or condition set forth in any footnote to the amounts specified in the classified Schedule of Authorizations was itself part of such Schedule, they believed it was unnecessary to specify this in the statute.

SECTION 103

Section 103 of the conference report authorizes the Director of Central Intelligence to make adjustments in personnel ceilings in certain circumstances. Section 103 of the conference report is identical to section 103 of the Senate bill and section 103 of the House amendment.

The conferees emphasize that the authority conveyed by section 103 is not intended to permit the wholesale raising of personnel strength in each or any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for coverages caused by an imbalance between hiring of new employees and attrition of current employees from retirement, resignation, and so forth. The conferees do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed personnel levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this Act.

TITLE II—INTELLIGENCE COMMUNITY STAFF

Title II of the conference report authorizes appropriations and personnel end-strengths for fiscal year 1991 for the Intelligence Community Staff and provides for administration of the staff during fiscal year 1991 in the same manner as the Central Intelligence Agency. The conference report authorizes $27,900,000 and 240 personnel. The Senate bill authorized $28,900,000 and 240 positions; the House amendment authorized $27,900,000 and 240 positions.

Included in the funds authorized for the Intelligence Community Staff are $6,580,000 for the Security Evaluation Office (SEO). In last year's conference report on the FY 1990 Intelligence Authorization Act (see pages 21-22, H. Rept. 101-367, 101st Congress, 1st Session), the conferees expressed concern that for various reasons the SEO had failed to make the contribution expected of it by the committees as the focal point for bringing to bear the unique capabilities of the Intelligence Community on the problems of embassy security. The conference report set forth in detail what the conferees believed the organizational relationships and functions of the SEO should be to achieve the role envisioned for it.

The conferees on this year's bill continue to support the language in last year's conference report on SEO.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS

SECTION 301

Section 301 of the conference report authorizes appropriations for fiscal year 1991 of $164,600,000 for the CIA Retirement and Disability Fund. Both the Senate bill (section 301) and the House amendment (section 301) authorized $164,600,000.

SECTION 302

Section 302 of the conference report amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to make clear that the 5 years of marriage

spent outside the United States required to qualify for former spouse status must have occurred during periods of the participant's service with the CIA. Section 302 is identical to section 402 of the Senate bill and section 302 of the House amendment.

SECTION 303

Section 303 amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to eliminate the statutory provisions requiring a 15-year career review and a re-election option for CIARDS and FERS Special Category participants to remain under CIARDS or in FERS Special Category status for the duration of their CIA service. Section 303 is identical to section 401 of the Senate bill and section 303 of the House amendment.

SECTION 304

Section 304 of the conference report amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to permit a retiree under CIARDS who failed to elect a survivor benefit for a prior spouse to elect to provide a survivor benefit upon remarriage after retirement. Section 304 is identifical to section 404 of the Senate bill and, except for a conforming amendment regarding the effective date, identical to section 304 of the House amendment.

SECTION 305

Section 305 of the conference report amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to lower, from 60 to 55, the age before which an entitlement to retirement benefits, in the case of former spouses, and survivor benefits, in the case of surviving spouses and former spouses, shall terminate because of the remarriage of the former spouse or surviving spouse. Section 305 is identical to section 305 of the House amendment. Section 406 of the Senate bill, while written in terms of removing impediments to the effectiveness of a previous executive order, achieved the same result but applied only to surviving spouses.

SECTION 306

Section 306 amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to require a surviving spouse, who marries a retiree and becomes entitled to a CIARDS survivor annuity, to choose between such annuity and any other federal government survivor annuity to which he or she may be entitled. Section 306 is identifical to section 306 of the House amendment and, except for technical drafting differences, to section 403 of the Senate bill.

SECTION 307

Section 307 of the conference report amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to restore certain survivor, retirement, and health benefits to former spouses whose benefits were terminated because of remarriage before age 55 and whose remarriage was later dissolved by death, divorce, or annulment. Section 307 is identical to section 307 of the House amendment and, except for technical drafting differences, substantially similar to section 405 of the Senate bill.

TITLE IV—GENERAL PROVISIONS

SECTION 401

Section 401 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law. Section 401 is identical to section 401 of the House amendment and, except for technical drafting differences, to section 801 of the Senate bill.

SECTION 402

Section 402 of the conference report provides that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States. Section 402 is identifical to section 402 of the House amendment. The Senate bill did not contain a similar provision.

SECTION 403

Section 403 of the conference report authorizes the Director of Central Intelligence to apply any unused portion of the annual allocation provided by section 7 of the CIA Act of 1949, for fiscal years 1991 through 1996, to permit the entry into the United States of employees of the Foreign Broadcast Information Service in Hong Kong, and their dependents, prior to the end of fiscal year 1997. Section 403 is identical to section 407 of the Senate bill. The House amendment did not contain a similar provision.

SECTION 404

Section 404 of the conference report amends the Department of Energy Reorganization Act to provide that all positions within the Department which are determined by the Secretary to be devoted to intelligence and intelligence-related activities are expected from the competitive service. Section 404 is identical to section 601 of the Senate bill. The House amendment did not contain a similar provision.

SECTION 405

The House amendment contained a provision authorizing the Director of Central Intelligence, under certain circumstances, and with the concurrence of the Secretary of Commerce, to award contracts to domestic firms that, if competitive bidding procedures were followed, would be awarded to a foreign firm. The Senate bill did not contain a similar provision. The conferees adopted a provision requiring the DCI to direct that, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, elements of the Intelligence Community should award contracts in a manner that would maximize the procurement of products produced in the United States. The conferees note that the use of a differential in evaluating the bids of domestic and foreign firms is not inconsistent with the meaning of the term "fiscally sound."

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SECTION 501

Section 501 of the conference report authorizes the Secretary of Defense to permit a component of the Department to charge the CIA the same rate for military airlift services as would be charged another component of the Department if the Secretary determines that such services are provided for activities related to national security objectives. Section 501 is identical to section 503 of the Senate bill and, except for technical drafting differences, to section 503 of the House amendment.

SECTION 502

Section 502 of the conference report amends chapter 167 of title 10 of the United States Code to (a) authorize withholding from public disclosure unclassified maps, charts and related geodetic data produced by the Defense Mapping Agency, and (2) provide for the public sale by the Defense Mapping Agency of unclassified maps and charts of scales 1:500,000 and smaller. Section 502 is identical to section 502 of the House amendment. The Senate bill did not contain a similar provision.

SECTION 503

Section 503 of the conference report amends the National Security Agency Act of 1959 to provide discretionary authority to the Director of the National Security Agency to utilize appropriated funds to provide assistance to former National Security Agency employees for up to five years after leaving such employment if the Director determines such assistance is essential to avoid circumstances that might lead to the unlawful disclosure of classified information to which the employee to be assisted had access. Section 503 is identical to section 502 of the Senate bill. The House amendment did not contain a similar provision.

SECTION 504

Section 504 of the conference report adds a new subchapter II to chapter 21 of title 10 of the United States Code empowering the Secretary of Defense to authorize the conduct of commercial activities necessary to provide sufficient security for authorized intelligence collection activities undertaken abroad by the Department of Defense. Section 504 incorporates portions of similar provisions found in section 501 of the Senate bill and section 503 of the House amendment, with the following significant modifications.

The House amendment contains a sunset clause providing that no commercial activities could be conducted after September 30, 1995. The Senate bill contained no similar provision. The conferees adopted the House provision, with modifications to permit the continuation of commercial activities initiated prior to December 31, 1995.

The House amendment provided that all activities undertaken pursuant to this subchapter be coordinated with the Director of Central Intelligence. The Senate bill provided that all such activities be approved by the Director of Central Intelligence. The conferees adopted the House position, but intend that the Director of Central Intelligence nonetheless be in a position to disapprove such activities should they conflict with other U.S. intelligence or foreign policy objectives, or if he should not consider them operationally sound. The conferees also emphasize that the Director of Central Intelligence and the Director of the Federal Bureau of Investigation are required to provide appropriate support to the Department of Defense in carrying out activities pursuant to this subchapter. Finally, in approving this subchapter, the conferees do not intend to terminate, supplant, or alter any support that DOD may now be receiving from the CIA, FBI, or other department or agency of the Executive Branch in support of its intelligence collection activities.

The Senate bill required prior notice to the intelligence committees and the armed services committees of the establishment of any corporation, partnership, or other legal entity. The House amendment required the provision of prompt notice of such estab-

lishment to the intelligence committees. The conferees adopted the House provision, modified to require that such notice be provided to the appropriate committees of Congress.

The Senate bill also directed the Secretary of Defense to keep the intelligence and armed services committees fully and currently informed of actions taken under the new authorize and to provide such committees with an annual report. The House amendment limited these reporting requirements to the intelligence committees. The Conference Report refers instead to "appropriate committees of the Congress." Pursuant to Senate Resolution 400 of the 94th Congress, Rule XXV of the Rules of the Senate, and Rule XLVIII of the Rules of the House of Representatives, the appropriate committees are the Select Committee on Intelligence and the Committee on Armed Services of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

The Senate bill permitted the delegation of the Secretary of Defense's authority to waive certain laws and regulations to an official of rank no lower than Assistant Secretary of Defense or to the secretary of a military department. The House amendment did not permit this authority to be delegated to the service secretaries. The conferees adopted the Senate provision.

The Senate bill required the personal approval of the Secretary of Defense or the Deputy Secretary of Defense for the establishment of a corporation, partnership, or other legal entity. The House bill did not contain a similar provision. The conferees adopted the Senate provision, modified to require the personal approval of the Secretary of Defense or Deputy Secretary of Defense for all sensitive activities to be authorized pursuant to the new subchapter. The conferees agree that "sensitive" activities authorized pursuant to this subchapter which the Secretary or Deputy Secretary must personally approve include, but are not limited to, those activities specified in current Defense Department directives requiring referral of intelligence collection plans to the Office of the Secretary of Defense in certain circumstances. The conferees also agree that an example of a "sensitive" activity is the first time an operational activity utilizing the authority of this subchapter is to be conducted in a country that is itself a target of such collection. Another dimension of sensitivity is size. The Defense Department regulations required by this subchapter should specify a level of anticipated commercial activity and a number of employees to be involved in such activity above which the Secretary or Deputy Secretary's personal approval would be required.

SECTION 505

The House amendment contained a provision requiring the Secretary of Defense to provide to Members of Congress a classified report prepared for the Director of the Defense Intelligence Agency concerning military personnel listed as prisoner, missing, or unaccounted for. The Senate bill did not contain a similar provision. The conferees adopted the House provision.

TITLE VI—OVERSIGHT OF INTELLIGENCE ACTIVITIES

Sections 601-605 of the conference report contain significant provisions regarding congressional oversight of intelligence activities, including requirements relating to the authorization of covert actions by the President and the reporting of covert actions to the Congress. These provisions would for the first time in statute impose the following requirements:

A finding must be in writing.

A finding may not retroactively authorize covert activities which have already occurred.

The President must determine that the covert action is necessary to support identifiable foreign policy objectives of the United States.

A finding must specify all government agencies involved and whether any third party will be involved.

A finding may not authorize any action intended to influence United States political processes, public opinion, policies, or media.

A finding may not authority any action which violates the Constitution of the United States or any statutes of the United States.

Notification to the congressional leaders specified in the bill must be followed by submission of the written finding to the chairmen of the intelligence committees.

The intelligence committees must be informed of significant changes in covert actions.

No funds may be spent by any department, agency or entity of the Executive Branch on a covert action until there has been a signed, written finding.

Sections 601-605 are substantially similar to title VII of the Senate bill, with technical and drafting changes and the substantive changes noted below. The House bill did not contain similar provisions.

The conferees note that sections 601-605 are based on legislation (S. 1721 and H.R. 3822) which was reported by the intelligence committees in the 100th Congress (S.Rept. 100-276; H.Rept. 100-703, parts 1 and 2) but, although passed by the Senate, did not reach the House floor.

Current law, which has been in effect since 1980, requires prior notice of covert actions in most cases, but recognizes that in certain undefined cases the President may withhold prior notice, but must then provide notice "in a timely fashion." The legislative history of this language makes clear that its drafters intended that prior notice could be withheld only in exigent circumstances when a quick reaction to events was necessary and that notice would be forthcoming in a few days.[1] In November, 1986, the Department of Justice, ignoring the intent of Congress, issued a legal opinion constructing the "in a timely fashion" language "to leave the President with virtually unfettered discretion to choose the right moment" for notifying Congress.

The conferees categorically reject this opinion and state unequivocally that the "timely fashion" provision of the conference report means that in exigent circumstances where the President needs to implement a covert action immediately to protect United States interests the President may do so without first notifying the intelligence committees, but then must notify the committees within a few days.

The conferees note that S. 1721 and H.R. 3822, referred to above, would have required that when prior notice was not afforded because of exigent circumstances, notice was to follow within 48 hours. The conferees also note that the President views that kind of notice requirement as a limitation on his authority under the Constitution. In the interest of avoiding a confrontation with the executive branch on this issue and to ensure the enactment of the requirements and limitations contained herein, the conferees essentially restated the current provisions of law requiring notice in a timely fashion in those "rare cases" when prior is not given. The following letter to Chairman Beilenson states the President's intention in this area:

"AUGUST 20, 1990

"DEAR MR. CHAIRMAN: I am aware of your concerns regarding the provision of notice to Congress of covert action and the December 17, 1986, opinion of the Office of Legal Counsel of the Department of Justice, with which you strongly disagree primarily because of the statement that; 'a number of factors combine to support the conclusion that the "timely fashion" language should be read to leave the President with virtually unfettered discretion to choose the right moment for making the required notification.

"I can assure you that I intend to provide notice to Congress of covert action in a fashion sensitive to these concerns. The statute requires prior notice or, when no prior notice is given, timely notice. I anticipate that in almost all instances, prior notice will be possible. In those rare instances where prior notice is not provided, I anticipate that notice will be provided within a few days. Any withholding beyond this period will be based upon my assertion of authorities granted this office by the Constitution.

"I am sending a similar letter to Congressman Hyde.

"Sincerely,

"GEORGE BUSH".

The conferees note that the current law, restated in the conference report, already permits the President, in extraordinary circumstances, to afford the requisite notice to the leadership of Congress and the chairman and ranking minority members of the intelligence committees rather than to the two committees. The conferees intend that this provision be utilized when the President is faced with a covert action of such extraordinary sensitivity or risk to life that knowledge of the covert action should be restricted to as few individuals as possible. In such cases it is expected that knowledge of the action will be similarly limited within the executive branch.

The conferees further note that in defining for the first time in statute the term "covert action" they do not intend that the new definition exclude any activity which heretofore has been understood to be a covert action, nor to include any activity not heretofore understood to be a covert action. The new definition is meant to clarify the understanding of intelligence activities that require presidential approval and reporting to Congress; not to relax or go beyond previous understandings.

Some concern has been expressed that the language contained in the report accompanying the Senate bill (S. Rept. 101-358) on the definition of "covert action" may inadvertently include certain activities that do not merit treatment as covert action. The conferees agree that the intent of Congress should be clarified to avoid misunderstanding.

The definition of "covert action" applies only to activities in which the role of the United States Government is not intended to be apparent or acknowledged publicly. Therefore, the definition of "covert action" does not apply to acknowledged United States government activities which are intended to mislead a potential adversary as

[1] See H.Rept. 100-175, part 1, pages 9-11.

to the true nature of United States military capabilities, intentions, or operations. Likewise, the definition of "covert action" does not apply to acknowledged United States government activities which are intended to influence public opinion or governmental attitudes in foreign countries. In both cases, the activity is not a "covert action" because the United States government acknowledges the activity as being an activity of the United States government. Concealment or misrepresentation of the true nature of an acknowledged United States activity does not make it a "covert action," even if the concealment or misrepresentation is intended to influence political, economic, or military conditions abroad. Similary, acknowledged United States activities intended to influence public opinion or governmental attitudes in foreign countries are not "covert action," even if specific objectives of the activities are concealed. The conferees agree that the definition of "covert action" does not apply unless the fact of United States government involvement in the activity is itself not intended to be acknowledged.

In addition, certain counterintelligence activities which are intended to influence military conditions abroad do not fall within the definition of "covert action." The definition of "covert action" expressly exempts "traditional counterintelligence activities," which include double agent operations and operations to frustrate intelligence collection activities by hostile foreign powers. The ordinary objectives of such traditional counterintelligence activities might include influencing the intelligence gathered by foreign powers regarding specific United States military capabilities, intentions, or operations. The conferees agree that the fact that such activities may have a substantial influence on the military plans and programs of certain foreign powers does not make them "covert action." However, there is a line beyond which such activities could, at least in theory, be undertaken to effect major changes in the national defense policies of such foreign powers or to provoke significant military responses by such foreign powers. If such activities were to be undertaken for such purposes, they would exceed the ordinary objectives of traditional counterintelligence activities and would constitute "cover action." The conferees agree that none of the counterintelligence activities which the Department of Defense has reported to the intelligence committees constitute covert action within the meaning of this definition.

Furthermore, there is concern about which activities conducted in connection with an imminent or ongoing United States military operation abroad may be treated as "covert action." The language of the Committee report does not specifically address such activities.

It is the intent of the conferees that military activities conducted by military personnel under the direction and control of a United States military commander (whether or not the U.S. sponsorship of such activities is apparent or later to be acknowledged) which immediately precede or take place during the execution of a military operation, where the U.S. role in the overall operation is apparent or is intended to be acknowledged publicly, should be treated as part of the military operation itself, i.e. as a "traditional military activity," and not considered a "covert action."

For the period immediately preceding or during the execution of a military operation, the conferees intend to draw a line between activities that are and are not under the direction and control of the military commander. Activities that are not under the direction and control of a military commander should not be considered as "traditional military activities." In such circumstances, if the U.S. role in such activties is not apparent or to be acknowledged, and such activities do not otherwise constitute "routine support to a traditional military activity," as explanied in the report accompanying the Senate bill, the Conferees intend that they should be treated as "covert actions." such interpretation is consistent with the existing practice of the Intelligence Committees.

Whether or not activities undertaken well in advance of a possible or eventual U.S. military operation constitute "covert action" will depend in most cases upon whether they constitute "routine support" to such an operation, as explained in the report accompanying the Senate bill.

MODIFICATIONS TO TITLE VII OF SENATE BILL

Unauthorized Disclosure

As rewritten by the conference report, section 501 of the National Security Act of 1947 contains a provision (section 501(e)) found in current law which states that: "Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods." The Senate bill did not contain a similar provision.

The conferees believe it is important to point out, as this provision does, that for the purpose of the preambular clause contained in sections 502 and 503(b) of the National Security Act of 1947, disclosure of information by an intelligence agency to the intelligence committees cannot be an "unauthorized disclosure." This provision is not intended, however, to negate the effect of the preambular clause in sections 502 and 503(b).

Initiation of Covert Actions

The Senate bill contained a provision stating that "nothing in this title shall be construed as a limitation on the power of the President to initiate (covert actions) in a manner consistent with his powers confirmed by the Constitution." The conference report does not include this provision.

Authorization of Covert Actions

The Senate bill's provision regarding presidential findings was stated in terms of permitting the President to authorize covert actions when certain conditions were met. The conferees agreed to recast the formulation as a restriction on the conduct of covert actions in order to conform to the formulation of the Hughes-Ryan amendment.

Presidential Determination

As rewritten by the conference report, section 503(a) of the National Security Act of 1947 requires the President, among other things, to determine that a covert action is necessary to support identifiable foreign policy objectives of the United States. The term "identifiable" was not contained in the Senate bill.

The conferees note that the "identifiable" requirement, which is intended to prevent an overly general or speculative statement of objectives, will help ensure that the foreign policy interests to be served by a covert action are well-thought out prior to approval and not contrived after the fact. Covert actions should be an instrument of foreign policy, not a substitute for foreign policy.

Third-Party Requests

As rewritten by the conference report, section 503(e) of the National Security Act of 1947, which defines "covert action," states that "(a) request by any department, agency, or entity of the United States to a foreign government or a private citizen to conduct a covert action on behalf of the United States shall be deemed to be a covert action." This provision, not contained in the Senate bill, is intended to prevent the conduct of a covert action at the specific request of the United States that bypasses the requirements for Administration review, presidential approval, and consultation with the intelligence committees. It encompasses within the definition of covert action the indirect conduct of covert action through another country and ensures that the same review, accountability, and oversight that applies to a covert action conducted exclusively by the United States, or jointly with another country, will apply to a covert action conducted indirectly by the United States.

Timing of Prior Notice

The conference report requires that the President shall provide the intelligence committees with notice of a covert action finding as soon as possible after the finding is approved and prior to the initiation of the covert action. The Senate bill required only that such notice be given prior to the initiation of the covert action.

The conferees note that the primary purpose of prior notice is to permit the intelligence committees, on behalf of the Congress, to offer advice to the President. This purpose would be thwarted if the President waits until immediately prior to the initiation of the covert action to provide notice. It is important to remember that discussion with and advice from the intelligence committees must, in the case of covert actions, substitute for the public and congressional debate which normally precedes major foreign policy actions of the U.S. government.

Notification of Congressional Leadership

The Senate bill, and current law, as discussed above, permit the President in certain circumstances to provide notice of a covert action to the chairmen and ranking minority members of the intelligence committees, the Speaker and Minority Leader of the House of Representatives, and the Majority and Minority Leader of the Senate. The conference report adds new language permitting the President to provide notice to additional members of the joint congressional leadership.

Non-Appropriated Funds

Section 603 of the conference report contains a provision not found in the Senate bill which adds a new section 504(e) to the National Security Act of 1947 requiring that, except for funds generated in FBI undercover operations and in Department of Defense counterintelligence operations, non-appropriated funds spent for intelligence or intelligence-related activities may be used by an intelligence agency only if the use is pursuant to procedures jointly agreed upon by the intelligence committees and appropriations committees, and the Director of Central Intelligence and the Secretary of Defense, as appropriate. The purpose of section 504(e) is to insure control over non-appropriated funds similar to those that have applied under existing section 502 to the use of appropriated funds for intelligence or in-

telligence-related activities, including covert actions. The procedures referred to, which have been in effect since 1988, deal with the categories of uses of non-appropriated funds identified to the committees by the relevant intelligence agencies and require reporting to the committees concerning such funds.

Additional Report of Covert Arms Transfer

Section 604 of the conference report redesignates section 503 of the National Security Act of 1947 as section 505 and amends section 505 so as to require that the intelligence committees be notified of the proposed covert transfer of items on the munitions list worth more than $1 million, as is required by current law, and also of the anticipated transfer of such items aggregating more than $1 million in any fiscal year. Thus, if the executive branch has agreed to covertly transfer 12 items, all of which are worth $100,000, during any fiscal year to a foreign recipient, it should report prior to the first transfer of a single such item that it anticipates transferring an aggregate of items which in total will be worth more than $1 million. The obligation to report an anticipated transfer would occur when the executive branch determines that it will make such a transfer or series of transfers, whether or not it draws this conclusion during the fiscal year in which the transfers in excess of $1 million are made, and even if the decision occurs in a prior fiscal year. If no expectation exists that items worth more than $1 million will be transferred, no obligation to report is imposed by the section.

REORGANIZING DEPARTMENT OF DEFENSE INTELLIGENCE

The report of the Senate Intelligence Committee accompanying S. 2834 (S. Rept. 101-358) indicated that a major review of Department of Defense intelligence priorities, resources, organizations, roles, and functions should be undertaken. The report further directed the Secretary of Defense and, where appropriate, the Director of Central Intelligence (DCI) to review all Department of Defense intelligence and intelligence-related activities and, to the maximum degree possible, consolidate or begin consolidating all disparate or redundant functions, programs, and entities and, concurrently, to strengthen joint intelligence organizations and operations. The Senate report called on the Secretary of Defense and the DCI to report on their efforts to examine these issues by no later than March 1, 1991, and indicated that the Committee intended to initiate studies and hold hearings to monitor the progress of these efforts.

Subsequent to the issuance of the Senate Intelligence Committee report, the Senate Armed Services Committee included a section in its version of the defense authorization bill for fiscal year 1991 entitled "Intelligence Priorities and Reorganization" (Section 904) which directs the Secretary of Defense, together with the Director of Central Intelligence, to conduct a joint review of all intelligence and intelligence-related activities in the Tactical Intelligence and Related Activities (TIARA) program and the National Foreign Intelligence Program (NFIP). The Senate bill also requires that the number of personnel assigned or detailed in aggregate to NFIP programs and related TIARA programs shall be reduced by not less than five percent during each of fiscal years 1992 through 1996.

In the defense authorization conference, the House receded to the Senate with regard to the Section 907 (formerly Section 904) provisions. However, the conferees from the Permanent Select Committee on Intelligence strongly disagreed with the action taken by the House conferees on this matter. For that reason, two conferees from the Intelligence Committee signed the conference report noting an exception to Section 907. The third Intelligence Committee conferee withheld his signature from the conference report, at least in part because of his concern with Section 907.

The Permanent Select Committee on Intelligence acknowledged that intelligence was in a state of transition and that budgets in the coming years would not be able to support the level of growth that the intelligence community has enjoyed in the recent past. However, the Committee believed that it was imperative that sufficient resources be made available to ensure that the intelligence community can fulfill critical requirements so that policymakers will have the kind of information vital to protecting our national security. At the same time, the Committee urged the Director of Central Intelligence and the Secretary of Defense to ensure a coordinated, comprehensive, baseline review of functional and organizational priorities and a strong management infrastructure committed to prioritizing resources and requirements.

The conferees agreed that redundancy within the intelligence community exists and that joint intelligence organizations within the Department of Defense should be strengthened. Indeed, the Administration has reached the same conclusions. Accordingly, the Secretary of Defense has mandated that a study be conducted by the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (C^3I) to review the very concerns stated in the report of the Senate Intelligence Committee. The conferees look forward to receiving the results of this study and anticipate that some organizational restructuring and personnel reductions based on a fresh assessment of requirements, priorities, structure and available resources, will follow from the study effort. The conferees intend to use this information as a basis for their own respective inquiries into this matter during the fiscal year 1992 budget review. However, they plan for their reviews to range more broadly, not only encompassing the entities and resources of Department of Defense intelligence, but also including elements of the NFIP which do not lie within the ambit of defense intelligence.

The conferees further agree that the intelligence budget, much like the defense budget, will be constrained in coming years. However, the conferees reserve judgment on how large a reduction may be required. Similarly, with respect to a 25 percent reduction in defense intelligence personnel as mandated by the defense authorization bill, the conferees believe that initiation of such action, in advance of a thorough review of resources, priorities, and requirements, would be premature. Without that review, the conferees lack the information needed to determine proper personnel levels and do not feel that ongoing Administration planning for fiscal year 1991 and beyond should necessarily, at this time, be based on an assumption of a 25 percent reduction in personnel. The conferees note that they intend to conduct studies and hearings on these matters during the fiscal year 1992 and subsequent budget reviews. The conferees further note that the fiscal year 1992 and subsequent authorization bills will include personnel levels that are appropriate with such reviews. The conferees believe that the purpose of the mandated personnel reduction was to set goals to be met only after the conclusion of the Congressional budget process, and that it does not require the Administration to meet these reductions in the fiscal year 1992 budget submission nor in the accompanying multiyear defense plan. In fact, the conference report on the DoD authorization bill states that "nothing in this provision [section 907] would preclude the President from submitting whatever budget proposal in this area he deems appropriate."

Finally, the conferees applaud the professional efforts of the defense intelligence community which, over the last ten years, has been rebuilt from the drastically reduced state to which it had declined in the late 1970s. The conferees intend to be supportive of measures to reallocate resources resulting from any reorganization of defense intelligence to cover new and emerging requirements, such as economic competitiveness, counternarcotics, counterterrorism, and the proliferation of biological, chemical and nuclear weapons throughout the world, but expect that some of the resources for these needs will come from departments and elements previously focused on the Soviet Union and Eastern Europe.

CAMBODIA

The House amendment contained a provision that placed restrictions on the obligation and expenditure of any funds authorized for assistance to the Cambodian non-communist resistance. The primary restrictions in the House amendment were that only non-lethal assistance could be provided and any assistance had to be consistent with those provisions of current law which prohibit assistance to the Khmer Rouge. In addition, the House amendment established a procedure whereby the unexpended balance of any assistance funds would be transferred to a non-intelligence agency selected by the President within 30 days after the conclusion of a comprehensive political settlement to the Cambodian conflict. Under the House amendment, any funds made available by the intelligence authorization act were to be in addition to any funds made available by the foreign assistance appropriations bill for fiscal year 1991.

The Senate bill did not contain a comparable provision or authorize funds for assistance to the Cambodian non-communist resistance.

The conferees concluded that, because the provision in the Conference Report on this issue is so inextricably connected with classified information, it is not prudent or possible to retain in public law the modified version of section 601 of the House amendment. Therefore, the full text is contained in the Classified Annex to this Joint Explanatory Statement. The Classified Annex may be read by Members of Congress in the offices of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

The conferees agree that any program of non-lethal assistance to the Cambodian non-communist resistance should be structured in such a way as to promote a Cambodian peace settlement. The conferees also agree that any non-lethal assistance being provided the non-communist resistance should transition to an overt, acknowledged program of U.S. assistance. Funds have been authorized for this purpose. The conferees further agree that any additional non-lethal

assistance should also promote the Cambodian peace settlement, and that the House and Senate should have the opportunity to openly and expeditiously consider an overt program of assistance to facilitate this objective. The conferees have taken action to encourage such a debate in the future.

It is the intent of the conferees that any funds which may be authorized by the conference report shall be in addition to any funds provided by the fiscal year 1991 Foreign Operations, Export Financing, and Related Programs Appropriations Act.

Finally, the conferees agree that no assistance shall be provided under this provision to any Cambodian resistance organization that the President determines is engaged in tactical or strategic cooperative activities with the Khmer Rouge in their military operations.

ANGOLA

The House amendment provided that any lethal assistance to UNITA which may have been authorized could be provided until the President certified that the Government of Angola expresses its willingness to accept a ceasefire and a political settlement to the conflict in Angola, proposes a reasonable timetable for free and fair multiparty national elections in which UNITA was free to participate, and was not receiving military assistance from the Soviet Union. If the President so certified, or a joint resolution having the same effect were enacted, no funds which might have been authorized could be used to provide lethal assistance to UNITA, and the delivery of any lethal assistance which might have been acquired previously would be suspended.

The House amendment further provided that the prohibitions against furnishing lethal aid to UNITA could be removed at any time if the President certified that the Government of Angola had launched, or was about to launch, a military offensive which would threaten the survival of UNITA. The prohibitions could also be lifted within their three month term if the President certified that the Government of Angola was no longer willing to accept a ceasefire and political settlement, and a reasonable timetable for national elections. Finally, the prohibitions could be removed after the expiration of their three month term if the President certified that:

(1) the Government of Angola was not willing to participate in good faith negotiations for the kind of political settlement that the original certification had envisioned;

(2) the Soviet Union was continuing to make available to Angola significant amounts of military equipment or the Government of Angola was continuing to receive such equipment from other outside sources, or the agreed upon scheduled for the withdrawal of Cuban troops was not being met; and

(3) UNITA was willing to negotiate in good faith for a political settlement, and that UNITA was not receiving significant amounts of military equipment.

The Senate bill did not contain a comparable provision, but restricted the use of funds being authorized pending a clarification of the political framework for which such assistance would be provided.

The conferees concluded that, because the provision in the Conference Report on this issue is so inextricably connected with classified information, it is not prudent or possible to retain in public law the modified version of section 701 of the House amendment. Therefore, the full text of the provision is contained in the Classified Annex to this Joint Explanatory Statement. The Classified Annex may be read by Members of Congress in the offices of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

The conferees further agree that half of any lethal assistance to UNITA which may be authorized shall be placed in a restricted account and its release subject to the approval of the intelligence committees.

The conferees further agree that any lethal assistance to UNITA shall be suspended if the President certifies: that the Government of Angola has expressed a willingness to accept a reasonable ceasefire and political settlement and proposes a reasonable and specific timetable for internationally supervised free and fair multiparty elections in which UNITA would be free to participate; that the Soviet Union has indicated it has ceased providing lethal assistance and has withdrawn those advisors, trainers, and technical assistants involved in assisting the Angolan government in the planning or execution of military actions in Angola, and that intelligence has indicated that such cessation and withdrawal has occurred; that intelligence has indicated that other outside sources are not supplying such material or advice to the Government of Angola; and that the Government of Angola has not begun a significant offensive against UNITA. If any of the conditions which produced the original certification cease to be true, or there is credible evidence that a significant offensive against UNITA is imminent, the President may issue a second certification, in which case any lethal assistance which may have been authorized by the Act and which may have been suspended, could be resumed.

If the President has not certified by March 31, 1991 that the conditions required for suspension of lethal aid to UNITA have been met, he shall submit to the intelligence committees a report setting forth the reason or reasons why he has been unable to make such certification and shall specify the additional measures that would be required for him to make such certification.

ANTHONY C. BEILENSON,
DAVE MCCURDY,
ROBERT W. KASTENMEIER,
ROBERT A. ROE,
MATTHEW F. MCHUGH,
BERNARD J. DWYER,
CHARLES WILSON,
BARBARA B. KENNELLY,
DAN GLICKMAN,
NICHOLAS MAVROULES,
BILL RICHARDSON,
STEPHEN J. SOLARZ,

From the Committee on Armed Services, for the consideration of Department of Defense Tactical Intelligence and related activities and Section 504 of the House Bill:

LES ASPIN,
IKE SKELTON,
Managers on the Part of the House.

DAVID L. BOREN,
BILL COHEN,
SAM NUNN,
ERNEST F. HOLLINGS,
BILL BRADLEY,
ALAN CRANSTON,
DENNIS DECONCINI,
HOWARD M. METZENBAUM,
JOHN GLENN,
ORRIN G. HATCH,
FRANK H. MURKOWSKI,
ARLEN SPECTER,
JOHN WARNER,
ALFONSE M. D'AMATO,
JOHN C. DANFORTH,

From the Committee on Armed Services:

J. JAMES EXON,
STROM THURMOND,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 987, TONGASS TIMBER REFORM ACT

Mr. MILLER of California submitted the following conference report and statement on the bill (H.R. 987) to amend the Alaska National Interest Lands Conservation Act, to designate certain lands in the Tongass National Forest as wilderness, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-931)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 987) to amend the Alaska National Interest Lands Conservation Act, to designate certain lands in the Tongass National Forest as wilderness, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Tongass Timber Reform Act".

TITLE I—FOREST MANAGEMENT PROVISIONS

SEC. 101. TO REQUIRE ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT ON THE TONGASS NATIONAL FOREST.

The Alaska National Interest Lands Conservation Act (Public Law 96-487, hereinafter referred to as "ANILCA") is hereby amended by deleting section 705(a) (16 U.S.C. 539d(a)) in its entirety and inserting in lieu thereof the following:

SEC. 705. (a) Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall, to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle.".

SEC. 102. IDENTIFICATION OF LANDS UNSUITABLE FOR TIMBER PRODUCTION.

ANILCA is further amended by deleting section 705(d) (16 U.S.C. 539(d)) in its entirety and inserting in lieu thereof:

"(d) All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604(k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.".

SEC. 103. FISHERIES PROTECTION.

(a) Section 705 (16 U.S.C. 539d) of ANILCA is amended by adding at the end thereof the following new subsection:

"(e) In order to assure protection of riparian habitat, the Secretary shall maintain a buffer zone of no less than one hundred feet in width on each side of all Class I streams in the Tongass National Forest, and on those Class II streams which flow directly into a Class I stream, within which commercial timber harvesting shall be prohibited, except where independent national forest timber sales have already been sold prior to March 1, 1990, or where volume has been released prior to March 1, 1990, to either the Alaska Pulp Corporation or the Ketchikan Pulp Company pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 respectively. If such an independent timber sale or released volume is within the buffer zone, the Secretary shall make every effort to relocate such independent sale or released volume to an area outside of the buffer zone. The Secretary shall use best management practices, as defined in the Region 10 Soil and Water Conservation Handbook (FSH 2509.22), January 1990, to assure the protection of riparian habitat on streams or portions of streams not protected by such buffer zones. For the purposes of this subsection, the terms 'Class I streams' and 'Class II streams' mean the same as they do in the Region 10 Aquatic Habitat Management Handbook (FSH 2609.24), June 1986.".

(b) No later than one year after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the State of Alaska, the National Marine Fisheries Service, and affected private land owners, shall prepare and transmit to the Congress a study containing recommendations on the need, if any, to standardize riparian management practices for Federal, State, and private lands within the Tongass National Forest.

SEC. 104. FURTHER REPORTS ON THE TONGASS NATIONAL FOREST AND CONSULTATION.

(a) REPORTS.—Section 706(a) of ANILCA (16 U.S.C. 539e(a)) is amended by striking the second sentence. Section 706(b) of ANILCA (16 U.S.C. 539e(b)) is amended as follows:

(1) Strike "and (4)" and insert in lieu thereof "(4)".

(2) Strike the period at the end of the subsection and insert ", and (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats.".

(b) CONSULTATION.—Section 706(c) of ANILCA (16 U.S.C. 539e(c)) is amended by striking "and the Alaska Land Use Council" and inserting in lieu thereof "the southeast Alaska commercial fishing industry, and the Alaska Land Use Council.".

SEC. 105. SMALL BUSINESS SET-ASIDE PROGRAMS.

(a) Section 14 (i)(1) of the National Forest Management Act of 1976 (16 U.S.C. 472a(i)(1)), is amended by striking the following: "road: Provided, That the provisions of this subsection shall not apply to sales of timber on National Forest System lands in the State of Alaska." and inserting in lieu thereof "road.".

(b) Section 705 (16 U.S.C. 539d) of ANILCA is amended by adding at the end thereof the following new subsection:

"(f) Subject to appropriations, the provisions of this Act and other applicable law (including but not limited to the requirements of the National Forest Managment Act of 1976 (Public Law 94-588)) and in order to assure the continuation of the Small Business Administration timber sale program, the Secretary shall, in consultation with the Administrator of the Small Business Administration and to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest to those purchasers qualifying as 'small business concerns' under the Small Business Act as amended (15 U.S.C. 631 et seq.).".

(c) The provisions of subsections (a) and (b) of this section shall not apply to the purchase of timber within the Tongass National Forest pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and the Alaska Pulp Corporation, and between the United States and the Ketchikan Pulp Company, respectively.

SEC. 106. TENAKEE SPRINGS ROAD.

The Secretary of Agriculture shall not construct a vehicluar access road connecting the Indian River and Game Creek roads, and shall not engage in any further efforts to connect the city of Tenakee Springs with the logging road system on Chichagof Island, unless the city councils of Tenakee Springs and Hoonah both determine that the road should be constructed and so inform the Secretary.

TITLE II—TONGASS NATIONAL FOREST LANDS PROTECTION

SEC. 201. LUD II MANAGEMENT AREAS.

Title V of ANILCA is amended by adding at the end thereof the following new section:

"Sec. 508. LUD II MANAGEMENT AREAS.

"The following lands are hereby allocated to Land Use Designation II ('LUD II') as described in the Tongass National Forest Land Management Plan, completed March, 1979, and amended Winter 1985-1986, and shall be managed by the Secretary of Agriculture in perpetuity in accordance with such designation:

"(1) YAKUTAT FORELANDS.—Certain lands which comprise approximately 137,947 acres, as generally depicted on a map entitled 'Yakutat Forelands LUD II Management Area—Proposed' and dated March, 1990.

"(2) BERNERS BAY.—Certain lands which comprise approximately 46,000 acres, as generally depicted on a map entitled 'Berners Bay LUD II Management area—Proposed' and dated May, 1989.

"(3) ANAN CREEK.—Certain lands which comprise approximately 38,415 acres, as generally depicted on a map entitled 'Anan Creek LUD II Management Area—Proposed' and dated October, 1990.

"(4) KADASHAN.—Certain lands which comprise approximately 33,641 acres, as generally depicted on a map entitled 'Kadashan LUD II Management Area—Proposed' and dated May, 1989.

"(5) LISIANSKI RIVER/UPPER HOONAH SOUND.—Certain lands which comprise approximately 137,538 acres, as generally depicted on a map entitled 'Lisianski River/Upper Hoonah Sound LUD II Management Area—Proposed' and dated October, 1990.

"(6) MT. CALDER/MT. HOLBROOK.—Certain lands which comprise approximately 64,000 acres, as generally depicted on a map entitled 'Mt. Calder/Mt. Holbrook LUD II Management Area—Proposed' and dated May, 1989 and 'Mt. Calder/Mt. Holbrook LUD II Addition', dated October, 1990.

"(7) NUTKWA.—Certain lands which comprise approximately 28,118 acres, as generally depicted on a map entitled 'Nutkwa LUD II Management Area—Proposed' and dated May 1989.

"(8) OUTSIDE ISLANDS.—Certain lands which comprise approximately 75,017 acres, as generally depicted on a map entitled 'Outside Islands LUD II Management Area—Proposed' and dated May, 1989.

"(9) TRAP BAY.—Certain lands which comprise approximately 6,646 acres, as generally depicted on a map entitled 'Trap Bay LUD II Management Area—Proposed' and dated May, 1989

"(10) POINT ADOLPHUS/MUD BAY.—Certain lands which comprise approximately 113,326 acres, as generally depicted on a map entitled 'Point Adolphus/Mud Bay LUD II Management Area—Proposed' and dated October, 1990.

"(11) NAHA.—Certain lands which comprise approximately 31,794 acres, as generally depicted on a map entitled 'Naha LUD II Management Area—Proposed' and dated October, 1990.

"(12) SALMON BAY.—Certain lands which comprise approximately 10,000 acres, as generally depicted on a map entitled 'Salmon Bay LUD II Management Area—Proposed' and dated October, 1990.".

SEC. 202. WILDERNESS DESIGNATION.

Section 703 of ANILCA is amended by adding at the end thereof the following:

"(c) DESIGNATION OF ADDITIONAL WILDERNESS ON THE TONGASS NATIONAL FOREST.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands within the Tongass National Forest in the State of Alaska are hereby designated as wilderness, subject to valid existing rights, and therefore as components of the National Wilderness Preservation System:

"(1) PLEASANT/LEMUSURIER/INIAN ISLANDS.—Certain lands which comprise approximately 23,140 acres, as generally depicted on a map entitled 'Tongass Timber Moratorium Area Pleasant/Lemusurier/Inian Islands' and dated February, 1989, which shall be known as the Pleasant/Lemusurier/Inian Islands Wilderness.

"(2) YOUNG LAKE ADDITION.—Certain lands which comprise approximately 18,173 acres, as generally depicted on a map entitled 'Tongass Timber Moratorium Area Young Lake' and dated February, 1989, which shall be incorporated into and managed as a part of the Admiralty Island National Monument and as a part of the Kootznoowoo Wilderness. The Secretary of Agriculture shall make adjustments to the boundaries of the Admiralty Island National Monument and to the Kootznoowoo Wilderness as necessary to incorporate such lands.

"(3) SOUTH ETOLIN ISLAND.—Certain lands which comprise approximately 83,642 acres as generally depicted on a map entitled 'Tongass Timber Moratorium Area South Etolin Island' dated February, 1989, which shall be known as the South Etolin Wilderness.

"(4) CHUCK RIVER.—Certain lands which comprise approximately 72,503 acres, as generally depicted on a map entitled 'Chuck River Wilderness—Proposed' and dated October, 1990, which shall be known as the Chuck River Wilderness.

"(5) KARTA RIVER.—Certain lands which comprise approximately 38,046 acres, as generally depicted on a map entitled 'Tongass Timber Moratorium Area Karta River' and dated February, 1989, which shall be known as the Karta River Wilderness.

"(6) KUIU.—Certain lands which comprise approximately 60,576 acres, as generally depicted on a map entitled 'Kuiu Wilderness—Proposed' and dated October, 1990, which shall be known as the Kuiu Wilderness.".

SEC. 203. KADASHAN STUDY.

The Secretary shall complete, as part of the Tongass Land Management Plan revision process, in consultation with the State of Alaska, the City of Tenakee Springs, and other interested parties, a comprehensive study of the Kadashan LUD II Management Area as described in section 201(4). The Secretary shall submit a separate report of such study to the Committee on Energy and Natural Resources in the Senate and the Committee on Interior and Insular Affairs in the House of Representatives, which shall include, but not be limited to:

(a) an assesssment of the natural, cultural, environmental, fish and wildlife (including habitat) resources and values of such area; and

(b) an assessment of the need for, potential uses, alternatives to and environmental impacts of providing a transportation corridor route through the Kadashan river valley.

TITLE III—MODIFICATION OF LONG-TERM TIMBER SALE CONTRACTS IN SOUTHEAST ALASKA

SEC. 301. CONTRACT MODIFICATIONS.

(a) DEFINITIONS.—As used in this section, the term "Secretary" means the Secretary of Agriculture. The term "TLMP" means the Tongass National Forest Land Management Plan, completed March, 1979, and amended Winter 1985-1986. The term "contracts" means the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and the Alaska Pulp Corporation, and between the United States and the Ketchikan Pulp Company, respectively.

(b) FINDING.—The Congress hereby finds and declares that it is in the national interest to modify the contracts in order to assure that valuable public resources in the Tongass National Forest are protected and wisely managed. Modification of the long-term timber sale contracts will enhance the balanced use of resources on the forest and promote fair competition within the southeast Alaska timber industry.

(c) UNILATERAL CHANGES.—The contracts are hereby modified to:

(1) assure that all timber sale planning, management requirements and environmental assessment procedures regarding the contracts are consistent with procedures for independent national forest timber sales, pursuant to the National Forest Management Act of 1976 (Public Law 94-588), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws;

(2) eliminate the practice of harvesting a disproportionate amount of old-growth timber by limiting the volume harvested over the rotation in volume classes 6 and 7, as defined in TLMP and supporting documents, so that the proportion of volume harvested in these classes within a contiguous management area does not exceed the proportion of volume currently represented by these classes within the management area;

(3) assure that all timber offered under each contract be substantially harvested within three years or the Secretary shall withhold further offerings pursuant to such contract, unless harvesting has been delayed by third-party litigation;

(4) assure that the Secretary determines the location and size of sale units and the timing of timber harvests;

(5) allow rejection of timber offered under the contracts. Upon rejection of any timber offered, the Secretary may re-offer such timber to any qualified bidder under independent national forest timber sales. If the rejected timber is subsequently sold within 12 months, that amount of timber shall be subtracted from the volume remaining under the appropriate contract;

(6) assure that utility logs offered under the contracts shall be counted against contract volume requirements. As used in this paragraph, the term "utility log" means the same as it does in the official Log Scaling and Grading Rules, Northwest Log Rules Advisory Group, January 1, 1982;

(7) assure that purchaser road credits are provided under the contracts in a manner consistent with independent national forest timber sale procedures;

(8) assure that the price of timber offered under the contracts shall be adjusted to be comparable with that of independent national forest timber sales, with stumpage rates and profitability criteria comparable to those of independent purchasers in competitive sales; and

(9) assure that timber offered under the contracts meets economic criteria consistent with that of independent national forest timber sales.

(d) CERTIFICATION TO CONGRESS.—Notwithstanding any other provision of law, the Secretary is directed to make the necessary revisions to the text of the contracts to reflect the modifications to such contracts made by subsection (c) of this section. The Secretary shall promptly, and in no event later than ninety days after the date of enactment of this Act, transmit the text of the modified contracts to the Congress together with a certification that these revisions are in compliance with the modifications made by subsection (c). Until such time as the Secretary transmits the text of the modified contracts to the Congress, but no later than ninety days after the date of enactment of this Act, the Secretary is authorized to conduct timber sale operations on the Tongass National Forest in accordance with the provisions of the contracts as they existed on the day before the date of enactment of this Act. At such time as the Secretary transmits the modified contracts to Congress, or ninety days after the date of enactment of this Act, whichever is sooner, the Secretary shall conduct timber sale oeprations on the Tongass National Forest only in accordance with the provisions of the modified contracts.

(2) STUDY.—Within one year after the date of enactment of this Act, the Secretary shall transmit a study to the Committee on Energy and Natural Resources in the Senate and to the Committee on Interior and Insular Affairs in the House of Representatives which included the following:

(1) an assessment of whether the Secretary can meet the provisions of the National Forest Management Act of 1976 (Public Law 94-588), the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.) and other laws applicable to the management of the national forests while providing the volume of timber required by the modified contracts. In conjunction with such assessment, the Secretary shall also provide such recommendations as the Secretary deems appropriate regarding reductions in the volume of timber required by the modified contracts.

(2) an analysis of the potential impacts of eliminating the two contract areas provided for in the modified contracts, including, but not limited to, an assessment of the following factors:

(A) the effect on supply and demand, and price of timber within Southeast Alaska;

(B) effects on the availability of timber to purchasers of independent timber sales;

(C) effects on the availability of timber to the owners of the modified contracts; and

(D) effects on fish and wildlife and other noncommodity resources within the Tongass National Forest.

(f) The Secretary shall take such other actions in management of the Tongass National Forest as may be necessary to meet the provisions of subsection (c).

(g) GAO AUDIT.—The Comptroller General of the United States shall, on a continuing basis, audit the actions taken by the Secretary to revise the text of the contracts pursuant to the modifications made pursuant to subsection (c). Within thirty days after the Secretary's transmittal of the contracts and certification to the Energy and Natural Resources in the Senate and to the Committee on Interior and Insular Affairs in the House of Representatives, and in no event later than one hundred and twenty days after the date of enactment of this Act, the Comptroller General shall submit a report to such Committees describing the revisions made by the Secretary to the contracts and stating whether, in the opinion of the Comptroller General, the revised contracts are in compliance with the requirements of this section.

TITLE IV—HAIDA LAND SELECTIONS

SEC. 401. HAIDA LAND EXCHANGE ACT AMENDMENT.

The Haida Land Exchange Act of 1986 (Public Law 99-664) is hereby amended by adding the following new section at the end thereof:

"SEC. 12. SULZER FRONTAGE LANDS SELECTION.

"(a) WITHDRAWAL.—The following lands are withdrawn, subject to valid existing rights, from all forms of appropriations under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act (Public Law 85-508) as amended:

"COPPER RIVER MERIDIAN

"Township 76 South, Range 85 East

"Section 16: South half south half, northwest quarter southwest quarter.

"Sec. 17: West half, southeast quarter, South half northeast quarter.

"Sec. 18: Fractional.

"Sec. 19: North half northeast quarter, southeast quarter northeast quarter, northeast quarter northwest quarter.

"Sec. 20: North half, north half southeast quarter, southeast quarter southeast quarter.

"Sec. 21: all.

"Sec. 22: South half, south half north half, fractional.

"Sec. 23: South half, fractional.

"Sec. 24: South half, fractional.

"Sec. 25: All, excluding islets.

"Sec. 26: North half, north half southeast quarter, fractional.

"Sec. 27: East half, east half west half, northwest quarter northwest quarter, southwest quarter southwest quarter.

"Sec. 28: Northeast quarter northeast quarter, southeast quarter southeast quarter.

"Sec. 31: Southwest quarter, west half southeast quarter.

"Township 76 South, Range 86 East

"Sec. 30: Southwest quarter, including all fractional lands on west shore of Big Creek Bay.

"Sec. 31: East half west half, southwest quarter southeast quarter, northwest quarter southeast quarter.

"Township 77 South, Range 86 East

"Sec. 2: North half, southeast quarter, north half southwest quarter.

"(b) SELECTION.—(1) For a period of one year after the date of enactment of this sec-

tion, Haida Corporation shall be entitled to select lands from among those lands withdrawn pursuant to subsection (a). Haida Corporation shall notify the Secretary of the Interior which lands so withdrawn Haida Corporation wishes to select and shall designate which Haida Exchange Lands and/or outstanding selection rights under section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615) Haida Corporation intends to exchange or relinquish in return for its selections hereunder.

"(2) The exchange of lands selected by Haida Corporation pursuant to this subsection Haida Exchange Lands or selection rights under section 16 of the Alaska Native Claims Settlement Act shall be on an acre-for-acre basis. The conveyance of lands to Haida Corporation and Sealaska pursuant to this subsection shall be deemed a conveyance of lands pursuant to the Alaska Native Claims Settlement Act.

"(3) After the selection is made pursuant to paragraph (1), the surface estate in lands selected by Haida Corporation shall be conveyed to Haida Corporation subject to valid existing rights and the subsurface estate in such lands shall be conveyed to Sealaska Corporation subject to valid existing rights in partial fulfillment of such corporations' entitlement under the Alaska Native Claims Settlement Act and pursuant to the provisions of this Act: Provided, That the United States shall reserve the recorded existing easement, three hundred feet in total width on the Sulzer Portage trail between Cholmondley Sound and Hetta Inlet: Provided however, That timber occurring within those portions of the easement boundaries that traverse lands owned by Haida Corporation shall remain the property of Haida Corporation. The Secretary of Agriculture shall allow the State of Alaska use of such easement for a transportation corridor.

"(c) DURATION.—The withdrawal made pursuant to subsection (a) shall terminate ninety days after the United States has conveyed the surface and subsurface estates of all lands selected by Haida Corporation pursuant to subsection (b) to Haida Corporation and Sealaska Corporation respectively, or one year after the date of enactment of this section, whichever is later.

"(d) PROHIBITION.—Haida Corporation shall not be entitled to select lands pursuant to this Act of section 16 of the Alaska Native Claims Settlement Act in the area referred to in section 508(7) of the Alaska National Interest Lands Conservation Act.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. POTENTIAL ACQUISITION OF PREVIOUSLY HARVESTED LANDS.

(a) No later than one year after the date of enactment of this Act, the Secretary shall complete a study regarding the feasibility of acquiring private lands located within the boundary of the Tongass National Forest, which have been significantly harvested. Such study shall include, but not be limited to:

(1) a description of such lands;

(2) a status report regarding the ownership of such lands;

(3) an assessment of the suitability of such lands for future timber management, including potential timber production;

(4) an assessment of other present and future resource values associated with such lands; and

(5) an estimate of the cost of acquiring such lands.

(b) Upon completion of the study, the Secretary shall transmit it to the Committee on Energy and Natural Resources of the Senate and Committee on Interior and Insular Affairs of the House of Representatives.

SEC. 502. LAKE FLORENCE NEGOTIATIONS.

During the sixty-day period beginning on the date of enactment of this Act, the Secretary is directed to engage in expedited negotiations with Shee Atika, Inc., Atikon, Inc., and Sealaska for independent voluntary exchange agreements through which the United States would acquire all of the surface estate or all of the surface and subsurface estates held by these private parties in the Lake Florence, Lake Kathleen, and Wards Creek drainages of Admiralty Island. The first priority of such negotiations shall be acquisition of the Lake Florence drainage.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

And the Senate agree to the same.

Conferees from the Committee on Interior and Insular Affairs for consideration of the House bill, and the Senate amendment, and modifications committed to conference.

MORRIS K. UDALL,
GEORGE MILLER,
PHIL SHARP,
ED MARKEY,
NICK RAHALL,
BRUCE F. VENTO,
SAM GEJDENSON,
PETER H. KOSTMAYER,

Additional conferee, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

ROBERT J. MRAZEK.

Conferees from the Committee on Agriculture for consideration of titles I, II, and IV of the House bill, and titles I and III and sec. 402 of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
HAROLD L. VOLKMER,
SID MORRISON,

Managers on the Part of the House.

J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL FORD,
BILL BRADLEY,
TIMOTHY E. WIRTH,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers of the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 987) to amend the Alaska National Interest Lands Conservation Act, to designate certain lands in the Tongass National Forest as wilderness, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and Senate amendment. The differences between the House bill and the Senate amendment, and the substitute agreed to in conference are noted below.

SECTION 1. SHORT TITLE AND DEFINITIONS

This Act may be cited as the "Tongass Timber Reform Act".

TITLE I—FOREST MANAGEMENT PROVISIONS

Section 101. To Require Annual Appropriations for timber management on the Tongass National Forest

Section 101 of the Senate amendment deletes section 705(a) of the Alaska National Interest Lands Conservation Act ("ANILCA") which directs that at least $40 million annually be made available to support a timber supply from the Tongass National Forest at a rate of 4.5 billion board feet of timber per decade. The Senate amendment replaces the deleted section with a new section 705(a) which directs the Secretary of Agriculture ("Secretary") to seek to provide a supply of timber from the Tongass National Forest which meets the market demand for timber, subject to the appropriations process, the requirements of the National Forest Management Act of 1976 ("NFMA"), and all other applicable laws.

Section 101 of the House bill repeals section 705(a) of ANILCA, eliminating both the requirement that the Forest Service make available 4.5 billion board feet of timber from the Tongass per decade and the permanent appropriation of at least $40 million to supply timber.

The conference substitute generally adopts the format of the Senate amendment, but adds the qualification that the Secretary shall "seek to meet" market demand for timber "to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources." The phrase "renewable forest resource" includes fish and wildlife and is intended to encompass commercial, recreational and subsistence use of such resources.

Section 102. Identification of lands unsuitable for timber production

Section 102 of the Senate amendment amends section 705(d) of ANILCA. ANILCA section 705(d) provides the Tongass an exemption from the provisions of section 6(k) of NFMA. Section 6(k) requires the Secretary to identify lands not suitable for timber production for each national forest considering physical, economic, and other factors, and to prohibit timber harvesting on such lands for the duration of the planting period. The Senate amendment directs that all provisions of section 6(k) of NFMA shall apply to the Tongass except that economic factors need not be considered in suitability analysis.

Section 102 of the House bill repeals section 705(d) of ANILCA, thus eliminating the exemption from section 6(k) suitability requirements for the Tongass.

The Conference substitute adopts the Senate language on section 705(d). The Conferees intend for this exemption to apply only to section 6(k) and fully expect that the Forest Service will meet all other requirements of NFMA and other applicable law relating to the consideration of economic factors in land management planning for the Tongass.

Section 103. Fisheries protection

Section 103 of the Senate amendment requires that a minimum 100 foot "no commercial timber harvest" buffer zone be maintained on each side of anadromous streams and tributaries with resident fish populations, consistent with the definitions of Class I and Class II streams in the Region 10, Aquatic Habitat Management Handbook, (FSH 2609.24), June 1986. Best

management practices will be required for other tributaries.

Section 104(a) of the House bill would require the Forest Service to maintain a nonlogging buffer zone of a minimum of 100 feet on each side of all anadromous (Class I) streams, tributaries with resident fish (Class II) and other significant, tributaries which directly influence downstream fish habitat (Class III).

The Conference substitute adopts the Senate language. The clear intent of the buffer zones established by this section is to protect riparian habitat.

The Senate amendment also includes a provision (section 402) which directs the Secretary, within one year and in consultation with other interested parties, to prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House, a study on the need, if there is one, to standardize riparian management practices with regard to Federal, State and private lands on the Tongass National Forest.

The House bill contains no such provision.

The Conference substitute adopts the Senate provision (section 103(b)) with the addition of the National Marine Fisheries Service as one of the parties to be consulted with during the preparation of the study.

Section 104. Future reports on the Tongass National Forest and Consultation

Section 104 of the Senate amendment deletes the reference to the 4.5 billion board feet mandated timber supply level from the reporting requirements of section 706(a) of ANILCA.

Section 103(a) of the House bill amends section 706(a) of ANILCA to require that gains or losses sustained by the United States Government from Tongass timber sales be reported annually using information from the Timber Sale Information Reporting System. Section 103(b) of the House bill amends section 706(b) of ANILCA to require that the Forest Service's biannual review and report to Congress on the status of the Tongass be expanded to include specific attention to the impacts of timber harvest on subsistence, wildlife and fisheries habitats. Section 706(c) also amends section 706(c) of ANILCA to require that the Forest Service consult with Southeast Alaska commercial fishing organizations in preparing status reports to Congress.

The Conference substitute deletes the reference to the 4.5 billion board feet in section 706(a) of ANILCA and amends section 706(b) to incorporate House language on section 706(b) reporting requirements.

Section 105. Small business set-aside programs

Section 105 of the Senate amendment makes two changes which affect the small business timber sale program on the Tongass. Subsection (a) amends section 14(i) of NFMA to allow small business timber purchasers in Alaska to elect to have the Forest Service construct logging roads on awarded timber sales. Presently, small business purchasers in all States other than Alaska may refuse purchaser credits and elect to have the Forest Service construct necessary roads.

Subsection (b) of the Senate amendment adds a new subsection (f) to section 705 of ANILCA to direct the Secretary to "seek to meet" the demand for timber from the Tongass by small businesses. This provision is made subject to the appropriations process and the constraints of the NFMA and all other applicable laws.

The House bill has no similar provisions.

The Conference substitute adopts the Senate language with three modifications. First, the Secretary is directed to consult with the Administrator of the Small Business Administration. Second, the qualification is added to section 105(b) that the Secretary shall seek to supply Tongass timber to small businesses "to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources." Third, section 105(c) is added to clarify that the provisions relating to small businesses shall not apply to the long-term contracts in the Tongass.

Section 106. Tenakee Springs Road

The Senate amendment has no similar provision.

Section 104(b) of the House bill prohibits the Secretary of Agriculture from connecting the city of Tenakee Springs with the logging road system on Chichagof Island.

The Conference substitute adopts the House language with the additional proviso that, at some future time, if both the city councils of Tenakee Springs and Hoonah decide that such a road connection is desired, the Secretary may resume efforts to connect the Indian River and Game Creek roads.

TITLE II—TONGASS NATIONAL FOREST LANDS PROTECTION

Section 201. LUD II Management Areas

Title II of the Senate amendment adds a new section 508 to ANILCA to provide that 12 areas of the Tongass, comprising approximately 673,000 acres, are to be managed in perpetuity in accordance with Land Use Designation II ("LUD II"). The 12 areas were chosen for special management because of their critical importance for fish and wildlife habitat and their high value to tourism and recreation. The specific management criteria for LUD II areas, as defined in the Tongass Land Management Plan, completed March, 1979, and amended Winter 1985-1986 (pp. 8-9) are as follows:

"(1) Purpose: Areas allocated to LUD II are to be managed in a roadless state to retain wildland character, but this would permit wildlife and fish habitat improvement and primitive recreational facility development.

"(2) Management Implications: Commercial timber harvesting is not permitted. Timber can be salvaged only to prevent significant damage to other resources. Examples are removal of windfall in an important fish stream or control of an epidemic insect infestation.

"Personal use of wood is allowed for cabin logs, firewood, float logs, trolling poles, and other similar uses.

"Water and power developments are permitted if they can be designed to retain the overall primitive characteristics of the allocated area.

"Roads will not be built except to serve authorized activities such as mining, power and water developments, aquaculture developments, transportation needs determined by the State of Alaska, and vital Forest transportation system linkages.[1]

"Mineral Development is subject to existing laws and regulations.

"Use of snowmachines, motorboats and airplanes on freshwater is permitted; however, restrictions may be imposed on a case by case basis if such use becomes excessive.

"Permanent improvements such as fishways, fish hatcheries, or aquaculture sites may be built. Appropriate landscape management techniques will be applied in the design and construction of such improvements to minimize impacts on recreational resources.

"Major concentrated recreational facilities will generally be excluded."

Title III of the House bill amends section 703 of ANILCA to designate 23 acres of the Tongass, comprising approximately 1.8 million acres, as additional components of the National Wilderness Preservation System.

The conference substitute adds a new section 508 to ANILCA which provides that 12 areas of the Tongass, comprising approximately 722,482 acres, shall be permanently protected as LUD II Management Areas. Six areas, comprising approximately 299,152 acres, are designated wilderness. In total, the conference substitute permanently protects 18 areas of the Tongass, comprising approximately 1,108,562 acres, from commercial timber harvest.

The following areas are protected by the Conference substitute pursuant to the LUD II management designation: The designation "VCU" refers to the 867 specific "Value Comparision Units" identified in the Tongass Land Management Plan.

1. Yakutat Forelands (137,947 acres) (VCUs 378 (partial), 379, 382-384, 386-389);
2. Berners Bay (46,000 acres) (partial VCUs 12, 13, 16, and all of 17);
3. Anan Creek (38,415 acres) (VCU 522);
4. Kadashan (33,641 acres) (VCU 235);
5. Lisianski River/Upper Hoonah Sound (137,538 acres) (VCUs 247-249, 250-252, 262, 282, 283, 285, 286);
6. Mt. Calder/Mt. Holbrook (64,040 acres) (partial VCUs 416, 417, 528, 531, 536, 541, 542, 547, 549, and all of 548);
7. Nutkwa (28,118 acres) (VCU 685 (⅓) and 686);
8. Outside Islands (75,017 acres) (VCUs 567-569);
9. Trap Bay (6,646 acres) (VCU 237);
10. Point Adolphus/Mud Bay (113,326 acres) (VCUs 189-192, 193 (½) 194 (½, and 195 (¾);
11. Naha (31,794 acres) (VCU 742);
12. Salmon Bay (10,000 acres) (partial VCU 534).

Section 202. Wilderness designation

The following areas are designated as wilderness by the Conference substitute and added to the National Wilderness Preservation System:

1. Pleasent-Lemusurier-Inian Islands (23,140 acres) (VCUs 185, 186, and 187 (1/2));
2. Young Lake Addition to Admiralty Island National Monument (18,173 acres) (VCUs 133);
3. South Etolin (83,642 acres) (VCUs 471-474);
4. Chuck River (72,503 acres) (VCUs 66, 71, and 76);
5. Karta River (38,046 acres) (VCUs 605-608);

[1] "Vital Forest transportation system linkages refer to necessary additions to the permanent road network. Such linkages may be built through LUD II areas when either no other feasible land or water routes to access adjacent LUD III or LUD IV areas or when it can be demonstrated that routing through the LUD II area is clearly environmentally preferable and site-specific mitigation measures can be designed to minimize the impact of the road on the surrounding LUD II area. A clear need to build such linkage must be demonstrated through a comparative analysis of transportation alternatives through the NEPA process and must be approved by the Forest Supervisor, in consultation with other Tongass Forest Supervisors."

6. Kuiu (60,576 acres) (408, 409, and 415).

Section 203. Kadashan study

The Senate amendment protected the Kadashan as a LUD II Management Area.

The House bill designates Kadashan as wilderness.

The Conference substitute provides for LUD II designation for Kadashan and requires the Secretary, as part of the TLMP revision process, to prepare a report for Congress on the fish and wildlife resources and the need for and alternatives to a road through the Kadashan river valley.

TITLE III—MODIFICATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA.

Section 301. Contract modifications

Section 301(b) of the Senate amendment sets forth a Congressional finding that it is in the national interest to modify the long-term timber contracts with the Alaska Pulp Corporation and the Ketchikan Pulp Company in order to assure that valuable public resources in the Tongass National Forest are protected and wisely managed and in order to promote fair competition. Section 301(c) legislatively modifies the two long-term contracts for Tongass timber, consistent with eight specific reform directives. Section 301(d) directs the Secretary to change the literal text of the contracts to conform with the legislative modifications and to submit the revised contracts to Congress no later than 90 days after the date of enactment. After the 90-day time period, the Secretary may conduct timber operations only under the modified contracts, and has no authority to operate under the contracts as they existed prior to the date of enactment.

Title II of the House bill provides for the termination of the two long-term timber contracts and the substitution of short-term timber sales.

Title III of the Conference substitute adopts the Senate language with several amendments intended to modify the contracts to resemble, to the greatest possible degree, short-term, independent national forest timber sales.

Section 301(c)(1) ensures that all timber sale planning, management requirements and environmental assessment procedures regarding the contracts are consistent with such procedures for independent national forests timber sales.

Paragraph (2) prohibits harvesting a disproportionate amount of high-volume old-growth timber. This provision assures that the higher volume classes can be harvested only in proportion to the extent that they currently exist within the timber base of a management area.

Paragraph (3) prohibits the Secretary from offering additional timber to the long term contract holders unless they have substantially harvested all the timber previously released within a 3-year period. This is intended to prevent the long-term contract holders from harvesting only the better quality timber while continuing to accrue large backlogs of uncut, lower quality stands.

Paragraph (4) requires the Secretary to determine the location, size, and timing of timber harvests pursuant to the contracts.

Paragraph (5) allows the contract holders to reject timber offered under the contracts, but subtracts the volume remaining under the appropriate contract if the rejected timber is sold within 12 months to any qualified bidder.

Paragraph (6) provides that utility logs offered under the long term contracts be counted against the contract volume requirements.

Paragraph (7) directs that purchaser road credits will be provided to the long-term contract holders in a manner consistent with independent national forest timber sales.

Paragraph (8) assures that the price of timber offered under the contracts shall be adjusted to be comparable to the price of timber received from competitively bid, independent national forest sales.

Paragraph (9) assures that timber offered under the contracts meets any economic criteria which is consistent with the timber offered to short-term purchasers.

Section 301 (e) of the Conference substitute requires that the Secretary, within 1 year, complete an assessment for Congress of (1) whether providing the volume of timber required under the contracts is inconsistent with other multiple uses of the Tongass and (2) the potential impacts of eliminating the two contract areas.

Section 301 (f) of the Conference substitute requires the Secretary to take other actions necessary, beyond modifying the contracts, to bring management of the Tongass into conformance with this section.

Section 301 (g) of the Conference substitute directs the Comptroller General to audit, on a continuing basis, the actions taken by the Secretary to revise the text of the contracts and to submit a report and recommendations concerning the revised contracts to the Committee on Energy and Natural Resources in the Senate and the Committee on Interior and Insular Affairs in the House.

TITLE IV—HAIDA LAND SELECTIONS

Section 401. Haida land exchange amendment

Title IV of the Senate amendment amends the Haida Exchange Act of 1986 by adding a new section 12, which provides for the withdrawal of approximately 5,800 acres of national forest land in the Sultzer Portage area. This entitles Haida Corporation to select from among those lands described in the section for a period of 1 year after the date of enactment of this Act. It also directs Haida to notify the Secretary of the Interior as to which lands it selects, and which selection rights it intends to relinquish in return for such selections.

The House bill has no similar provision.

The Conference substitute adopts the Senate language with technical amendments to reserve to the U.S. a 300-foot easement and to preclude additional Haida selections in the Nutkwa LUD II Management Area.

TITLE V—MISCELLANEOUS PROVISIONS

Section 501. Potential acquisition of previously harvested lands

Section 501 of the Senate amendment includes a provision directing the Secretary to make an offer to the Goldbelt Corporation to enter into a land exchange agreement whereby the United States would acquire approximately 1,151 acres of lands and interests in land from Goldbelt in exchange for approximately 2,600 acres of federally owned lands and interests therein which would be conveyed to Goldbelt.

The House bill contains no such provision.

The Conference substitute adopts the House position and deletes the Goldbelt provision. The Conferees did adopt language (section 501) directing the Secretary to prepare and transmit a study regarding the potential acquisition by the Federal Government of previously harvested private lands in the Tongass National Forest. While this study does not provide the Secretary of any other party with any additional authority to acquire these lands, the report will give the Congress additional information regarding the availability of such lands, their cost, and their potential for future timber production as well as other values.

Section 502. Lake Florence Negotiations

The Senate amendment contains a Title VI regarding land exchange negotiations. Section 601(a) includes language directing the Secretary to engage in negotiations aimed at completion of a voluntary exchange agreement whereby the United States would acquire certain lands held by Sealaska Corporation in the Tongass in exchange for federally owned subsurface rights in the Greens Creek area of Admiralty Island National Monument. Within sixty days after the date of enactment of this Act, the Secretary is to make a recommendation to Congress as to whether such an exchange should or should not be made and under what terms and conditions.

Subsection (b) of the Senate amendment directs the Secretary, during the same 60-day period, to enter into expedited negotiations with Shee Atika, Inc., Atikon, Inc., and Sealaska, Inc., for voluntary exchange agreements through which the United States would acquire land or interests in lands, as appropriate, held by these parties in the Lake Florence, Lake Kathleen, and Wards Creek drainages of Admiralty Island. The first priority for such negotiations is to be the acquisition of the Lake Florence drainage.

The House bill contained no such provisions.

The Conference substitute adopts the House position with respect to the Greens Creek exchange and deletes the provision. The substitute retains the Senate provision (section 502) regarding the acquisition of Lake Florence or other Admiralty Island lands or interests in lands.

Conferees from the Committee on Interior and Insular Affairs for consideration of the House bill, and the Senate amendment, and modifications committed to conference.

MORRIS K. UDALL,
GEORGE MILLER,
PHIL SHARP,
ED MARKEY,
NICK RAHALL,
BRUCE F. VENTO,
SAM GEJDENSON,
PETER H. KOSTMAYER,

Additional conferee, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

ROBERT J. MRAZEK.

Conferees from the Committee on Agriculture for consideration of titles I, II, and IV of the House bill, and titles I and III and sec. 402 of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
HAROLD L. VOLKMER,
SID MORRISON,
MANAGERS ON THE PART OF THE HOUSE.

J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL FORD,
BILL BRADLEY,
TIMOTHY E. WIRTH,

Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 486

Mr. GONZALEZ submitted the following conference report and statement on the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-933)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Defense Production Act Amendments of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

Sec. 101. Declaration of policy.

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

Sec. 111. Strengthening of domestic capability.
Sec. 112. Limitation on actions without congressional authorization.

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

Sec. 121. Expanding the reach of existing authorities under title III.
Sec. 122. Defense Production Act Fund.
Sec. 123. Offset policy.
Sec. 124. Annual report on impact of offsets.

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

Sec. 131. Small business.
Sec. 132. Definitions.
Sec. 133. Delegation of authority; appointment of personnel.
Sec. 134. Regulations and orders.
Sec. 135. Technical amendments restoring antitrust immunity for emergency actions initiated by the President.
Sec. 136. Information on the defense industrial base.
Sec. 137. Public participation in rulemaking.
Sec. 138. Waivers of certain employment restrictions.

PART E—TECHNICAL AMENDMENTS

Sec. 141. Priorities in contracts and orders.
Sec. 142. Technical correction.
Sec. 143. Investigations; records; reports; subpoenas.
Sec. 144. Employment of personnel.
Sec. 145. Technical correction.

PART F—REPEALERS AND CONFORMING AMENDMENTS

Sec. 151. Synthetic fuel action.
Sec. 152. Voluntary agreements.
Sec. 153. Repeal of interest payment provisions.
Sec. 154. Joint Committee on Defense Production.
Sec. 155. Persons disqualified for employment.
Sec. 156. Feasibility study on uniform cost accounting standards; report submitted.
Sec. 157. National Commission on Supplies and Shortages.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

Sec. 161. Authorization of appropriations.
Sec. 162. Extension of program.

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

PART A—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

Sec. 201. Procurement of critical components and critical technology items.
Sec. 202. Recognition of modernized production systems and equipment in contract award and administration.
Sec. 203. Sustaining investment.

PART B—MISCELLANEOUS

Sec. 211. Discouraging unfair trade practices.

TITLE III—AMENDMENT TO RELATED LAWS

Sec. 301. Energy security.

TITLE IV—FAIR TRADE IN FINANCIAL SERVICES

Sec. 401. Short title.
Sec. 402. Effectuating the principle of national treatment for banks and bank holding companies.
Sec. 403. Effectuating the principle of national treatment for securities brokers and dealers.
Sec. 404. Effectuating the principle of national treatment for investment advisers.
Sec. 405. Financial interdependence study.
Sec. 406. Conforming amendments specifying that national treatment includes effective market access.

TITLE V—EFFECTIVE DATES

Sec. 501. Effective dates.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

SEC. 101. DECLARATION OF POLICY.

Section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended to read as follows:

"SEC. 2. DECLARATION OF POLICY.

"(a)(1) The vitality of the industrial and technology base of the United States is a foundation of national security. It provides the industrial and technological capabilities employed to meet national defense requirements, in peacetime and in time of national emergency. In peacetime, the health of the industrial and technological base contributes to the technological superiority of our defense equipment, which is a cornerstone of our national security strategy, and the efficiency with which defense equipment is developed and produced. In times of crisis, a healthy industrial base will be able to effectively provide the graduated response needed to effectively meet the demands of the emergency.

"(2) To meet these requirements, this Act affords to the President an array of authorities to shape defense preparedness programs and to take appropriate steps to maintain and enhance the defense industrial and technological base.

"(b)(1) In view of continuing international problems, the Nation's demonstrated reliance on imports of materials and components, and the need for measures to reduce defense production lead times and bottlenecks, and in order to provide for the national defense and national security, our defense mobilization preparedness effort continues to require the development of preparedness programs, domestic defense industrial base improvement measures, as well as provision for a graduated response to any threatening international or military situation, and the expansion of domestic productive capacity beyond the levels needed to meet the civilian demand. Also required is some diversion of certain materials and facilities from civilian use to military and related purposes.

"(2) These activities are needed in order to improve domestic defense industrial base efficiency and responsiveness, to reduce the time required for industrial mobilization in the event of an attack on the United States or to respond to actions occurring outside the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which could adversely affect national defense preparedness of the United States. In order to ensure national defense preparedness, which is essential to national security, it is also necessary and appropriate to assure the availability of domestic energy supplies for national defense needs.

"(c)(1) In order to ensure productive capacity in the event of an attack on the United States, it is the policy of the Congress to encourage the geographical dispersal of industrial facilities in the United States to discourage the concentration of such productive facilities within limited geographical areas which are vulnerable to attack by an enemy of the United States. To ensure that essential mobilization requirements are met, consideration should also be given to stockpiling strategic materials to the extent that such stockpiling is economical and feasible.

"(2) In the construction of any Government-owned industrial facility, in the rendition of any Government financial assistance for the construction, expansion, or improvement of any industrial facility, and in the production of goods and services, under this or any other Act, each department and agency of the executive branch shall apply, under the coordination of the Federal Emergency Management Agency, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographical dispersal of such facilities in the interest of national defense. However, nothing in this paragraph shall preclude the use of existing industrial facilities.

"(3) To ensure the adequacy of productive capacity and supply, executive agencies and departments responsible for defense acquisition shall continuously assess the capability of the domestic defense industrial base to satisfy peacetime requirements as well as increased mobilization production requirements. Such assessments shall specifically evaluate the availability of adequate production sources, including subcontractors and suppliers, materials, and skilled labor, and professional and technical personnel.

"(4) It is the policy of the Congress that plans and programs to carry out this declaration of policy shall be undertaken with

due consideration for promoting efficiency and competition.

"(5) It is also necessary to recognize that—

"(A) the domestic defense industrial base is a component part of the core industrial capacity of the Nation; and

"(B) much of the industrial capacity which is relied upon by the Federal Government for military production and other defense-related purposes is deeply and directly influenced by—

"(i) the overall competitiveness of the United States industrial economy; and

"(ii) the ability of United States industry, in general, to produce internationally competitive products and operate profitably while maintaining adequate research and development to preserve that competitive edge in the future, with respect to military and civilian production.

"(6)(A) The domestic defense industrial base is developing a growing dependency on foreign sources for critical components and materials used in manufacturing and assembling major weapons systems for our national defense.

"(B) This dependence is threatening the capability of many critical industries to respond rapidly to defense production needs in the event of war or other hostilities or diplomatic confrontation.

"(C) The inability of United States industry, especially smaller subcontractors and suppliers, to provide vital parts and components and other materials would impair our ability to sustain our Armed Forces in combat for more than a few months.

"(D) In the event our Armed Forces must face an adversary with a numerical advantage, in the context of a conventional war, it is imperative to preserve and strengthen the industrial and technological capabilities of the United States.".

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

SEC. 111. STRENGTHENING OF DOMESTIC CAPABILITY.

Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2071, et seq.) is amended by adding at end the following new section:

"SEC. 107. STRENGTHENING OF DOMESTIC CAPABILITY.

"(a) IN GENERAL.—To assure availability of critical components and critical technology items essential for the execution of the national security strategy of the United States in peacetime and during graduated mobilization, the President shall take action to implement the requirements of subsection (b)(3) within a 5-year period.

"(b) DOMESTIC PRODUCTION OF CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—

"(1) ESSENTIAL WEAPON SYSTEMS.—

"(A) DESIGNATION.—The President, acting through the Secretary of Defense, shall review the inventory of weapon systems and defense equipment and designate as an essential weapon system those items deemed appropriate.

"(B) MAINTENANCE OF LIST.—The President shall maintain a list of such weapon systems and other items of military equipment.

"(2) CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—

"(A) DESIGNATION.—The President, acting through the Secretary of Defense, shall identify critical components, and critical technology items, including those relating to essential weapon systems, utilizing information from the Defense Industrial Base Information System established pursuant to section 722(a) of this Act and other appropriate sources.

"(B) MAINTENANCE OF LIST.—The President shall cause an unclassified list of critical or emerging technologies to be maintained and published at least annually in the Federal Register.

"(3) RELIANCE ON DOMESTIC SOURCES.—

"(A) IN GENERAL.—To assure adequate domestic sources for critical components and critical technology items to meet national security requirements, including those relating to essential weapon systems, the President is authorized to limit procurement of such items to domestic sources.

"(B) AUTHORITY.—The authority under subparagraph (A) may be exercised pursuant to—

"(i) section 2304(c)(3) of title 10, United States Code;

"(ii) section 303(c)(3) of the Federal Property and Administrative Services Act of 1949; or

"(iii) any other provision of law (including section 201 of the Defense Production Act Amendments of 1990).

"(4) CRITICAL INDUSTRIES FOR NATIONAL SECURITY.—The President shall cause—

"(A) a list to be maintained containing any industry (or industry sector) identified or designated as a critical industry for national security; and

"(B) an unclassified version of such list to be published at least annually in the Federal Register.

"(c) USE OF TITLE III AUTHORITIES TO DEVELOP DOMESTIC CAPACITY.—Pursuant to authorities provided by title III of this Act or any other provision of law, the President may provide appropriate incentives to develop, maintain, modernize, or expand the productive capacities of domestic sources for critical components, critical technology items, or industrial resources within an industry essential for national security.

"(d) ASSISTANCE FOR MODERNIZATION.—

"(1) MODERNIZATION OF EQUIPMENT.—Funds authorized under title III may be used to guarantee the purchase or lease of advanced manufacturing equipment, and any related service with respect to such equipment, for purposes of this Act.

"(2) SMALL BUSINESSES.—In providing any assistance pursuant to title III of this Act, the President shall accord a strong preference for projects to be undertaken by business concerns which are small business concerns, in accordance with section 3 of the Small Business Act, who perform as contractors or subcontractors in a critical industry for national security.

"(e) STOCKPILING OF CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—The President, acting through the Secretary of Defense, is authorized to stockpile appropriate supplies of critical components and critical technology items to meet the needs of the Department of Defense and the production needs of firms furnishing essential weapon systems to the Department during peacetime and various stages of graduated mobilization, whenever it is determined that necessary quantities of such items cannot be obtained from domestic sources.

"(f) REPORT.—

"(1) IN GENERAL.—The President shall transmit to the Congress by January 31 of each odd-numbered year a report on actions taken to preserve and revitalize the domestic defense industrial base, as described in paragraph (2).

"(2) CONTENT.—The report required by paragraph (1) shall contain, in addition to such matters as the President deems appropriate—

"(A) a detailed description of the specific actions taken, or to be taken, to implement the requirements of—

"(i) paragraphs (1), (2), and (3) of subsection (b);

"(ii) subsection (c); and

"(iii) subsection (e); and

"(B) an assessment of the capability of the domestic defense industrial base to meet the requirements of various stages of a graduated mobilization for a period of 6 months.

"(g) COORDINATION WITH MEMORANDA OF UNDERSTANDING.—

"(1) QUALIFICATION FOR PERMITTED EXCLUSION.—Actions taken pursuant to the authority of subsection (b)(3) shall qualify for any exclusion permitted by an existing memorandum of understanding (including memoranda relating to a specific project or the general conduct of procurement activities between the signatories) for the purposes of maintaining defense mobilization capabilities.

"(2) PRESIDENTIAL AUTHORITY.—The President is authorized, at his discretion, to seek to modify any existing or future memorandum of understanding to give effect to any action taken pursuant to the authority of subsection (b)(3).".

SEC. 112. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

Section 104 of the Defense Production Act of 1950 (50 U.S.C. App. 2074) is amended to read as follows:

"SEC. 104. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

"(a) WAGE OR PRICE CONTROLS.—No provision of this Act shall be interpreted as providing for the imposition of wage or price controls without the prior authorization of such action by a joint resolution of Congress.

"(b) CHEMICAL OR BIOLOGICAL WEAPONS.—No provision of this Act shall be exercised or interpreted to require action or compliance by any private person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities except—

"(1) in time of war, or

"(2) in time of national emergency (A) as declared by joint resolution of Congress, or (B) upon the written authorization of the President, which power to authorize may not be delegated.".

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

SEC. 121. EXPANDING THE REACH OF EXISTING AUTHORITIES UNDER TITLE III.

(a) GUARANTEE AUTHORITY.—Section 301 of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended—

(1) in subsection (a)(1), by striking "to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense" and inserting "to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or critical technology items essential for the national defense";

(2) by amending subsection (a)(3)(A) to read:

"(A) the guaranteed contract or operation is for industrial resources or a critical technology item which is essential to the national defense;";

(3) in subsection (a)(3)(B), by striking "the capability for the needed material or service" and inserting "the needed industrial resources or critical technology item";

(4) in subsection (e)(1)(A), by striking "Except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in subparagraph (D)";

(5) in subsection (e)(1)(C), by striking "$25,000,000" and inserting "$50,000,000"; and

(6) by adding at the end of subsection (e)(1) the following new subparagraph:

"(D) The requirements of subparagraphs (A), (B), and (C) may be waived during periods of national emergency declared by Congress or the President.".

(b) LOANS TO PRIVATE BUSINESS ENTERPRISES.—Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended—

(1) in subsection (a), by striking "for the procurement of materials or the performance of services for the national defense" and inserting "for the procurement of industrial resources or a critical technology item for the national defense";

(2) in subsection (c)(1), by striking "No such loans may be made under this section, except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in paragraph (4), no loans may be made under this section";

(3) in subsection (c)(3), by striking "$25,000,000" and inserting "$50,000,000"; and

(4) in subsection (c), by adding at the end the following new paragraph:

"(4) The requirements of paragraphs (1), (2), and (3) of this subsection may be waived during periods of national emergency declared by Congress or the President.".

(c) PURCHASES AND PURCHASE COMMITMENTS.—

(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended to read as follows:

"(a)(1) To assist in carrying out the objectives of this Act, the President may make provision—

"(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale; and

"(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials.

"(2) Purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial use or stockpiling.

"(3) No commodity purchased under this subsection shall be sold at less than—

"(A) the established ceiling price for such commodity, except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower, or

"(B) if no ceiling price has been established, the higher of—

"(i) the current domestic market price for such commodity; or

"(ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of the Agricultural Act of 1949.

"(4) No purchase or commitment to purchase any imported agricultural commodity shall specify a delivery date which is more than one year after the expiration of this section.

"(5) Except as provided in paragraph (7), the President may not execute a contract under this subsection unless the President determines that—

"(A) the industrial resource or critical technology item is essential to the national defense;

"(B) without Presidential action under authority of this section, United States industry cannot reasonably be expected to provide the capability for the needed industrial resource or critical technology item in a timely manner;

"(C) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and

"(D) the United States national defense demand for the industrial resource or critical technology item is equal to, or greater than the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the purchase, purchase commitment, or other action.

"(6) Except as provided in paragraph (7), the President shall take no action under this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States or amendments thereto, submitted to the Congress and accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of the preceding sentence. Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to the preceding sentence. If the taking of any action or actions under this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed $50,000,000, any such action or actions may be taken only if specifically authorized by law.

"(7) The requirements of paragraphs (1) through (6) may be waived during periods of national emergency declared by Congress or the President.".

(2) Section 303(b) of such Act is amended by striking "September 30, 1995" and inserting "a date that is not more than 10 years from the date such purchase, purchase commitment, or sale was initially made".

SEC. 122. DEFENSE PRODUCTION ACT FUND.

Section 304 of the Defense Production Act of 1950 (50 U.S.C. App. 2094) is amended to read as follows:

"SEC. 304. DEFENSE PRODUCTION ACT FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Production Act Fund (hereafter in this section referred to as 'the Fund').

"(b) MONEYS IN FUND.—The following moneys shall be credited to the Fund:

"(1) All moneys appropriated after October 19, 1990, for the Fund, as authorized by section 711(c).

"(2) All moneys received after October 19, 1990, on transactions entered into pursuant to section 303.

"(c) USE OF FUND.—The Fund shall be available to carry out the provisions and purposes of this title, subject to the limitations set forth in this Act and in appropriations Acts.

"(d) DURATION OF FUND.—Moneys in the Fund shall remain available until expended.

"(e) FUND BALANCE.—The Fund balance at the close of each fiscal year shall not exceed $250,000,000, excluding any moneys appropriated to the Fund during that fiscal year or obligated funds. If at the close of any fiscal year the Fund balance exceeds such amount, the amount in excess of $250,000,000 shall be paid into the general fund of the Treasury.

"(f) FUND MANAGER.—The Secretary of the Treasury shall designate a Fund manager. The duties of the Fund manager shall include—

"(1) determining the liability of the Fund in accordance with subsection (g);

"(2) ensuring the visibility and accountability of transactions engaged in through the Fund to the Secretaries of Defense, Treasury, and Commerce, and to the Congress; and

"(3) reporting to Congress each year regarding fund activities during the previous fiscal year.

"(g) LIABILITIES AGAINST FUND.—

"(1) IN GENERAL.—When any agreement entered into pursuant to this title after December 31, 1990, imposes contingent liabilities upon the United States, such liability shall be considered an obligation against the Fund. The total amount of such obligations shall be determined for each fiscal year in accordance with paragraph (2).

"(2) DETERMINATION OF LIABILITY.—For purposes of paragraph (1), the total amount of obligations against the Fund is the amount which is equal to—

"(A) the aggregate outlays required by purchase or purchase commitment contracts or financing agreements; minus

"(B) the sum of—

"(i) the anticipated aggregate receipts from resale of materials purchased with moneys from the Fund; and

"(ii) the anticipated receipts from the direct sale of materials by the producer to customers.

"(3) Treatment of anticipated receipts and reductions.—Anticipated receipts and anticipated reductions in purchase commitments shall be included under paragraph (2) only if a written plan for sale of materials has been developed, specifying probable customers, amount, time of the sales, and sales price.".

SEC. 123. OFFSET POLICY.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by adding a new subsection (a) as follows:

"(a) OFFSET POLICY.—

"(1) IN GENERAL.—Recognizing that certain offsets for military exports are economically inefficient and market distorting, and mindful of the need to minimize the adverse effects of offsets in military exports while ensuring that the ability of United States firms to compete for military export sales is not undermined, it shall be the policy of the United States Government that—

"(A) no agency of the United States Government shall encourage, enter directly into, or commit United States firms to any offset arrangement in connection with the sale of defense goods or services to foreign governments;

"(B) United States Government funds shall not be used to finance offsets in security assistance transactions except in accordance with policies and procedures that were in existence as of October 20, 1990;

"(C) nothing in this section shall prevent agencies of the United States Government

from fulfilling obligations incurred through international agreements entered into before October 20, 1990; and

"(D) the decision whether to engage in offsets, and the responsibility for negotiating and implementing offset arrangements, resides with the companies involved.

"(2) PRESIDENTIAL APPROVAL OF EXCEPTIONS.—The President may approve an exception to the policy stated by paragraph (1) after receiving the recommendation of the National Security Council.

"(3) CONSULTATION.—The President shall designate the Secretary of Defense, in coordination with the Secretary of State, to lead an interagency team to consult with foreign nations on limiting the adverse effects of offsets in defense procurement. The President shall transmit an annual report on the results of these consultations to the Congress as part of the report required under subsection (b).".

SEC. 124. ANNUAL REPORT ON IMPACT OF OFFSETS.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) (as amended by section 123 of this Act) is amended—

(1) in subsection (b) (as so redesignated by section 123(1) of this part)—

(A) by striking "(b) REPORT REQUIRED.—Not later" and inserting:

"(b) ANNUAL REPORT ON IMPACT OF OFFSETS.—

"(1) REPORT REQUIRED.—Not later";

(B) by striking the second sentence; and

(C) by adding at the end the following new paragraph:

"(2) DUTIES OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall—

"(A) prepare the report required by paragraph (1);

"(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in connection with the preparation of such report; and

"(C) function as the President's Executive Agent for carrying out the requirements of this section.";

(2) by amending subsection (c) (as so redesignated by section 123(1) of this part) to read as follows:

"(c) INTERAGENCY STUDIES AND RELATED DATA.—

"(1) PURPOSE OF REPORT.—Each report required under subsection (b) shall identify the cumulative effects (indirect as well as direct) of offset agreements on—

"(A) the full range of domestic defense productive capability (with special attention to the firms serving as lower-tier subcontractors or suppliers); and

"(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

"(2) USE OF DATA.—Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary of Commerce to facilitate the Secretary in executing the Secretary's responsibilities with respect to trade offset and countertrade policy development."; and

(3) by adding at the end the following new subsections:

"(d) NOTICE OF OFFSET AGREEMENTS.—

"(1) IN GENERAL.—If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding $5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

"(2) REGULATIONS.—The information to be furnished shall be prescribed in regulations promulgated by the Secretary of Commerce. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information. Nothing in this paragraph authorizes the withholding of such information from the Congress.

"(e) CONTENTS OF REPORT.—

"(1) IN GENERAL.—Each report under subsection (b) shall include—

"(A) a net assessment of the elements of the industrial base and technology base covered by the report;

"(B) recommendations for appropriate remedial action under the authorities provided by this Act, or other law or regulations;

"(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (c);

"(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (d); and

"(E) a summary and analysis of any bilateral and multilateral negotiations relating to use of offsets completed during the reporting period.

"(2) ALTERNATIVE FINDINGS OR RECOMMENDATIONS.—Each report shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary of Commerce.

"(f) UTILIZATION OF ANNUAL REPORT IN NEGOTIATIONS.—The findings and recommendations of the reports required by subsection (b), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.".

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

SEC. 131. SMALL BUSINESS.

Section 701 of the Defense Production Act of 1950 (50 U.S.C. App. 2151) is amended to read as follows:

"SEC. 701. SMALL BUSINESS.

"(a) PARTICIPATION.—Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation's industrial base and technology base undertaken pursuant to this Act.

"(b) ADMINISTRATION OF ACT.—In administering the programs, implementing regulations, policies, and procedures under this Act, requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

"(c) ADVISORY COMMITTEE PARTICIPATION.—Representatives of small business concerns shall be afforded the maximum opportunity to participate in such advisory committees as may be established pursuant to the provisions of this Act.

"(d) INFORMATION.—Information about the Act and activities under the Act shall be made available to small business concerns.

"(e) ALLOCATIONS UNDER SECTION 101.—Whenever the President makes a determination to exercise any authority to allocate any material pursuant to section 101 of this Act, small business concerns shall be accorded, so far as practicable, a fair share of such material, in proportion to the share received by such business concerns under normal conditions, giving such special consideration as may be possible to new small business concerns or individual firms facing undue hardship.".

SEC. 132. DEFINITIONS.

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended to read as follows:

"SEC. 702. DEFINITIONS.

As used in this Act—

"(1) CRITICAL COMPONENT.—The term 'critical component' includes such components, subsystems, systems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of military equipment as are identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

"(2) CRITICAL INDUSTRY FOR NATIONAL SECURITY.—The term 'critical industry for national security' means any industry (or industry sector) identified pursuant to section 2503(6) of title 10, United States Code, and such other industries or industry sectors as may be designated by the President as essential to provide industrial resources required for the execution of the national security strategy of the United States.

"(3) CRITICAL TECHNOLOGY.—The term 'critical technology' includes any technology that is included in 1 or more of the plans submitted pursuant to section 2508 of title 10, United States Code (unless subsequently deleted), or such other emerging or dual use technology as may be designated by the President.

"(4) CRITICAL TECHNOLOGY ITEM.—The term 'critical technology item' shall mean materials directly employing, derived from, or utilizing a critical technology.

"(5) DEFENSE CONTRACTOR.—The term 'defense contractor' means any person who enters into a contract with the United States to furnish materials, industrial resources, or a critical technology, or to perform services for the national defense.

"(6) DOMESTIC DEFENSE INDUSTRIAL BASE.—The term 'domestic defense industrial base' means domestic sources which are providing, or which would be reasonably expected to provide, materials or services to meet national defense requirements during war or national emergency.

"(7) DOMESTIC SOURCE.—The term 'domestic source' means a business entity—

"(A) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such firm under a contract with the United States relating to a critical component or a critical technology item, and

"(B) that procures from entities described in subparagraph (A) substantially all of the components and assemblies required under a contract with the United States relating to a critical component or critical technology item.

"(8) ESSENTIAL WEAPON SYSTEM.—The term 'essential weapon system' shall mean a major weapon system and other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

"(9) FACILITIES.—The term 'facilities' includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use of any such building, structure, or other improvement.

"(10) FOREIGN SOURCE.—The term 'foreign source' means a business entity other than a 'domestic source'.

"(11) INDUSTRIAL RESOURCES.—The term 'industrial resources' means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) needed to establish or maintain an efficient and modern national defense industrial capacity.

"(12) MATERIALS.—The term 'materials' includes—

"(A) any raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, and items of supply; and

"(B) any technical information or services ancillary to the use of any such materials, commodities, articles, components, products, or items.

"(13) NATIONAL DEFENSE.—The term 'national defense' means programs for military and energy production or construction, military assistance to any foreign nation, stockpiling, space, and any directly related activity.

"(14) PERSON.—The term 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

"(15) SERVICES.—The term 'services' includes any effort that is needed or incidental to—

"(A) the development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item, or

"(B) the construction of facilities.".

SEC. 133. DELEGATION OF AUTHORITY; APPOINTMENT OF PERSONNEL.

Section 703 of the Defense Production Act of 1950 (50 U.S.C. App. 2153) is amended to read as follows:

"SEC. 703. DELEGATION AND CIVILIAN PERSONNEL.

"(a) DELEGATION OF AUTHORITY.—Except as otherwise specifically provided, the President may—

"(1) delegate any power or authority of the President under this Act to any civilian officer of the Government appointed by and with the advice and consent of the Senate;

"(2) except with regard to title I, authorize redelegation by that officer to an officer or employee of that officer who—

"(A) if a member of the armed forces, is a general or flag officer; or

"(B) if a civilian, is serving in a position in the grade GS-16 or above (or in a comparable or higher position under any other schedule for civilian officers or employees);

"(3) with regard to the authority to carry out or otherwise implement any priority and allocation determination under title I made by the President or by an individual described in paragraph (1), may authorize redelegation to any person described in paragraph (2); and

"(4) establish such new agencies as may be necessary to manage Federal emergency preparedness programs.

"(b) CIVILIAN PERSONNEL.—Any officer or agency head may appoint civilian personnel without regard to section 5331(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may fix the rate of basic pay for such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule, as the President deems appropriate to carry out the provisions of this Act.".

SEC. 134. REGULATIONS AND ORDERS.

Section 704 of the Defense Production Act of 1950 (50 U.S.C. App. 2154) is amended to read as follows:

"SEC. 704. REGULATIONS AND ORDERS.

"Subject to section 709, the President may prescribe such regulations and issue such orders as the President may determine to be appropriate to carry out the provisions of this Act.".

SEC. 135. TECHNICAL AMENDMENTS RESTORING ANTITRUST IMMUNITY FOR EMERGENCY ACTIONS INITIATED BY THE PRESIDENT.

Section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158) is amended—

(1) in subsection (a), by striking "and subsection (j) of section 708A";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) DEFINITIONS.—For purposes of this Act—

"(1) ANTITRUST LAWS.—The term 'antitrust laws' has the meaning given to such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

"(2) PLAN OF ACTION.—The term 'plan of action' means any of 1 or more documented methods adopted by participants in an existing voluntary agreement to implement that agreement.";

(3) in subsection (c)(1)—

(A) by striking "Except as otherwise provided in section 708A(o), upon" and inserting "Upon"; and

(B) by inserting "and plans of action" after "voluntary agreements";

(4) in subsection (c)(2), by striking the last sentence;

(5) in the 2d sentence of subsection (d)(1)—

(A) by inserting "and except as provided in subsection (n)" after "specified in this section"; and

(B) by striking ", and the meetings of such committees shall be open to the public";

(6) in subsection (d)(2), by striking out "section 552(b)(1) and (b)(3)" and inserting "paragraphs (1), (3), and (4) of section 552(b)";

(7) in subsection (e)(1), by inserting "and plans of action" after "voluntary agreements";

(8) in subsection (e)(3)(D), by striking "subsection (b)(1) or (b)(3) of section 552" and inserting "section 552b(c)";

(9) in subsection (e)(3)(F)—

(A) by striking "General and to" and inserting "General, the"; and

(B) by inserting ", and the Congress" before the semicolon;

(10) in subsection (e)(3)(G), by striking "subsections (b)(1) and (b)(3) of section 552" and inserting "paragraphs (1), (3), and (4) of section 552(b)";

(11) in subsections (f) and (g)—

(A) by inserting "or plan of action" after "voluntary agreement" each place such term appears; and

(B) by inserting "or plan" after "the agreement" each place such term appears;

(12) in subsection (f)(1)(A) (as amended by paragraph (11) of this subsection) by inserting "and submits a copy of such agreement or plan to the Congress" before the semicolon;

(13) in subsection (f)(1)(B) (as amended by paragraph (11) of this subsection) by inserting "and publishes such finding in the Federal Register" before the period.

(14) in subsection (f)(2) (as amended by paragraph (11) of this subsection) by inserting "and publish such certification or finding in the Federal Register" before ", in which case";

(15) in subsection (h)—

(A) by inserting "and plans of action" after "voluntary agreements";

(B) by inserting "or plan of action" after "voluntary agreement" each place such term appears;

(C) by striking "and at the end of paragraph (9);

(D) by striking the period at the end of paragraph (10) and inserting "; and"; and

(E) by adding at the end the following new paragraph:

"(11) that the individual designated by the President in subsection (c)(2) to administer the voluntary agreement or plan of action shall provide prior written notification of the time, place, and nature of any meeting to carry out a voluntary agreement or plan of action to the Attorney General, the Chairman of the Federal Trade Commission, and the Congress.";

(12) in subsection (h)(3), by striking "subsections (b)(1) and (b)(3) of section 552" and inserting "paragraph (1), (3), or (4) of section 552(b)"; and

(13) in paragraphs (7) and (8) of subsection (h), by striking "subsection (b)(1) or (b)(3) of section 552" and inserting "section 552b(c)";

(14) by striking subsection (j) and inserting the following new subsection:

"(j) DEFENSES.—

"(1) IN GENERAL.—Subject to paragraph (4), there shall be available as a defense for any person to any civil or criminal action brought under the antitrust laws (or any similar law of any State) with respect to any action taken to develop or carry out any voluntary agreement or plan of action under this section that—

"(A) such action was taken—

"(i) in the course of developing a voluntary agreement initiated by the President or a plan of action adopted under any such agreement; or

"(ii) to carry out a voluntary agreement initiated by the President and approved in accordance with this section or a plan of action adopted under any such agreement, and

"(B) such person—

"(i) complied with the requirements of this section and any regulation prescribed under this section; and

"(ii) acted in accordance with the terms of the voluntary agreement or plan of action.

"(2) SCOPE OF DEFENSE.—Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense established in paragraph (1) shall be available only if and to the extent that the person asserting the defense demonstrates that the action was specified in, or was within the scope of, an approved voluntary agreement initiated by the President and approved in accordance with this section or a plan of action adopted under any such agreement and approved in accordance with this section. The defense established in paragraph (1) shall not be available unless the President or the President's designee has authorized and actively supervised the voluntary agreement or plan of action.

"(3) BURDEN OF PERSUASION.—Any person raising the defense established in paragraph

(1) shall have the burden of proof to establish the elements of the defense.

"(4) EXCEPTION FOR ACTIONS TAKEN TO VIOLATE THE ANTITRUST LAWS.—The defense established in paragraph (1) shall not be available if the person against whom the defense is asserted shows that the action was taken for the purpose of violating the antitrust laws.";

(15) in subsection (k), by inserting "and plans of action" after "voluntary agreements" each place such term appears;

(16) in subsection (l), by inserting "or plan of action" after "voluntary agreement";

(17) by adding at the end the following new subsections:

"(n) EXEMPTION FROM ADVISORY COMMITTEE ACT PROVISIONS.—Notwithstanding any other provision of law, any activity conducted under a voluntary agreement or plan of action approved pursuant to this section, when conducted in compliance with the requirements of this section, any regulation prescribed under this subsection, and the provisions of the voluntary agreement or plan of action, shall be exempt from the Federal Advisory Committee Act and any other Federal law and any Federal regulation relating to advisory committees.

"(o) PREEMPTION OF CONTRACT LAW IN EMERGENCIES.—In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section. Such defense shall not release the party asserting it from any obligation under applicable law to mitigate damages to the greatest extent possible.".

SEC. 136. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

The Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) is amended by adding at the end the following new section:

"SEC. 722. DEFENSE INDUSTRIAL BASE INFORMATION SYSTEM.

"(a) ESTABLISHMENT REQUIRED.—

"(1) IN GENERAL.—The President, acting through the Secretary of Defense and the heads of such other Federal agencies as the President may determine to be appropriate, shall provide for the establishment of an information system on the domestic defense industrial base which—

"(A) meets the requirements of this section; and

"(B) includes a systematic continuous procedure to collect and analyze information necessary to evaluate—

"(i) the adequacy of domestic industrial capacity and capability in critical components, technologies, and technology items essential to the national security of the United States; and

"(ii) dependence on foreign sources for industrial parts, components, and technologies essential to defense production.

"(2) INCORPORATION OF DINET.—The defense information network as established and maintained by the Secretary of Defense on the date of the enactment of the Defense Production Act Amendments of 1990 shall be incorporated into the system established pursuant to paragraph (1).

"(3) USE OF INFORMATION.—Information collected and analyzed under the procedure established pursuant to paragraph (1) shall constitute a basis for making any determination to exercise any authority under this Act and a procedure for using such information shall be integrated into the decision-making process with regard to the exercise of any such authority.

"(b) SOURCES OF INFORMATION.—

"(1) FOREIGN DEPENDENCE.—

"(A) SCOPE OF INFORMATION REVIEW.—The procedure established to meet the requirement of subsection (a)(1)(B)(ii) shall address defense production with respect to the operations of prime contractors and at least the first 2 tiers of subcontractors.

"(B) USE OF EXISTING DATA COLLECTION AND REVIEW CAPABILITIES.—To the extent feasible and appropriate, the President shall build upon existing methods of data collection and analysis and shall integrate information available from intelligence agencies with respect to industrial and technological conditions in foreign countries.

"(C) INITIAL EMPHASIS ON PRIORITY LISTS.—In establishing the procedure referred to in subparagraph (A), the Secretary may place initial emphasis on the production of parts and components relating to priority lists such as the Commanders' in Chief Critical Items List and the technologies identified as critical in the annual defense critical technologies plan submitted pursuant to section 2508 of title 10, United States Code.

"(2) PRODUCTION BASE ANALYSIS.—

"(A) TOP-TO-BOTTOM REVIEW.—The analysis of the production base for any major procurement project which is included in the information system maintained pursuant to subsection (a) shall, in addition to any information and analyses the President may require—

"(i) include a review of all levels of acquisition and production, beginning with any raw material, special alloy, or composite material involved in the production and ending with the completed product;

"(ii) identify each contractor and subcontractor at each level of acquisition and production with respect to such project which represents a potential for delaying or preventing the production and acquisition, including the identity of each contractor or subcontractor whose contract qualifies as a foreign source or sole source contract and any supplier which is a foreign or sole source for any item required in the production; and

"(iii) information to permit appropriate management of accelerated or surge production.

"(B) INITIAL REQUIREMENT FOR STUDY OF PRODUCTION BASES FOR 6 MAJOR WEAPON SYSTEMS.—In establishing the information system under subsection (a), the President, acting through the Secretary of Defense, shall require the Secretary of each military department to incorporate in such system a complete analysis of the production base of 2 weapons of such department which are major systems (as defined in section 2305(5) of title 10, United States Code).

"(3) CONSULTATION REGARDING THE CENSUS OF MANUFACTURERS.—

"(A) IN GENERAL.—The Secretary of Commerce, acting through the Bureau of the Census, shall consult with the Secretary of Defense and the Director of the Federal Emergency Management Agency with a view to improving the application of information derived from the Census of Manufacturers to the purposes of this section.

"(B) ISSUES TO BE ADDRESSED.—Such consultations shall address improvements in the level of detail, timeliness, and availability of input and output analyses derived from the Census of Manufacturers necessary to facilitate the purposes of this section.

"(c) STRATEGIC PLAN FOR DEVELOPING COMPREHENSIVE SYSTEM.—

"(1) PLAN REQUIRED.—Not later than December 31, 1992, the President shall provide for the establishment of and report to Congress on a strategic plan for developing a cost-effective, comprehensive information system capable of identifying on a timely, ongoing basis vulnerability in critical components, technologies, and technology items.

"(2) ASSESSMENT OF CERTAIN PROCEDURES.—In establishing plan under paragraph (1), the President shall assess the performance and cost-effectiveness of procedures implemented under subsection (b) and shall seek to build upon such procedures as appropriate.

"(d) CAPABILITIES OF SYSTEM.—

"(1) IN GENERAL.—In connection with the establishment of the information system under subsection (a), the President shall direct the Secretary of Defense, the Secretary of Commerce, and the heads of such other Federal agencies as the President may determine to be appropriate to—

"(A) consult with each other and provide such information, assistance, and cooperation as may be necessary to establish and maintain the information system in a manner which allows the coordinated and efficient entry of information on the domestic defense industrial base into, and the withdrawal, subject to the protection of proprietary data, of information on the domestic defense industrial base from the system on an on-line interactive basis by the Department of Defense;

"(B) assure access to the information on the system, as appropriate, by all participating Federal agencies, including each military department;

"(C) coordinate standards, definitions, and specifications for information on defense production which is collected by the Department of Defense and the military departments so that such information can be used by any Federal agency or department which the President determines to be appropriate; and

"(D) assure that the information in the system is updated, as appropriate, with the active assistance of the private sector.

"(2) TASK FORCE ON MILITARY-CIVILIAN PARTICIPATION.—Upon the establishment of the information system under subsection (a), the President shall convene a task force consisting of the Secretary of Defense, the Secretary of Commerce, the Secretary of each military department, and the heads of such other Federal agencies and departments as the President may determine to be appropriate to establish guidelines and procedures to ensure that all Federal agencies and departments which acquire information with respect to the domestic defense industrial base are fully participating in the system, unless the President determines that all appropriate Federal agencies and departments, including each military department, are voluntarily providing information which is necessary for the system to carry out the purposes of this Act and chapter 148 of title 10, United States Code.

"(e) REPORT ON SUBCONTRACTOR AND SUPPLIER BASE.—

"(1) REPORT REQUIRED.—At the times required under paragraph (4), the President shall issue a report which includes—

"(A) a list of critical components, technologies, and technology items for which there is found to be inadequate domestic industrial capacity or capability; and

"(B) an assessment of those subsectors of the economy of the United States which—

"(i) support production of any component, technology, or technology item listed pursuant to paragraph (1); or

"(ii) have been identified as being critical to the development and production of components required for the production of weapons, weapon systems, and other military equipment essential to the national defense.

"(2) MATTERS TO BE CONSIDERED.—The assessment made under paragraph (1)(B) shall consider—

"(A) the capacity of domestic sources, especially commercial firms, to fulfill peacetime requirements and graduated mobilization requirements for various items of supply and services;

"(B) any trend relating to the capabilities of domestic sources to meet such peacetime and mobilization requirements;

"(C) the extent to which the production or acquisition of various items of military materiel is dependent on foreign sources; and

"(D) any reason for the decline of the capabilities of selected sectors of the United States economy necessary to meet peacetime and mobilization requirements, including stability of defense requirements, acquisition policies, vertical integration of various segments of the industrial base, superiority of foreign technology and production efficiencies, foreign government support of nondomestic sources, and offset arrangements.

"(3) POLICY RECOMMENDATIONS.—The report may provide specific policy recommendations to correct deficiencies identified in the assessment, which would help to strengthen domestic sources.

"(4) TIME FOR ISSUANCE.—The report required by paragraph (1) shall be issued not later than July 1 of each odd-numbered year which begins after 1991, based upon data from the prior fiscal year and such prior fiscal years as may be appropriate.

"(5) RELEASE OF UNCLASSIFIED REPORT.—The report required by this subsection may be classified. An unclassified version of the report shall be available to the public.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for purposes of this section not more than $10,000,000, to remain available until expended.".

SEC. 137. PUBLIC PARTICIPATION IN RULEMAKING.

(a) IN GENERAL.—Section 709 of the Defense Production Act of 1950 (50 U.S.C. 2159) is amended to read as follows:

"SEC. 709. PUBLIC PARTICIPATION IN RULEMAKING.

"(a) EXEMPTION FROM THE ADMINISTRATIVE PROCEDURE ACT.—Any regulation prescribed or order issued under this Act shall not be subject to sections 551 through 559 of title 5, United States Code.

"(b) OPPORTUNITY FOR NOTICE AND COMMENT.—

"(1) IN GENERAL.—Except as provided in subsection (c), any regulation prescribed or order issued under this Act shall be published in the Federal Register and opportunity for public comment shall be provided for not less than 30 days, consistent with the requirements of section 553(b) of title 5, United States Code.

"(2) WAIVER FOR TEMPORARY PROVISIONS.—The requirements of paragraph (1) may be waived, if—

'(A) the officer authorized to prescribe the regulation or issue the order finds that urgent and compelling circumstances make compliance with such requirements impracticable;

"(B) the regulation is prescribed or order is issued on a temporary basis; and

"(C) the publication of such temporary regulation or order is accompanied by the finding made under clause (A) (and a brief statement of the reasons for such finding) and an opportunity for public comment is provided for not less than 30 days of public comment before any regulation or order becomes final.

"(3) All comments received during the public comment period specified pursuant to paragraph (1) or (2) shall be considered and the publication of the final regulation or order shall contain written responses to such comments.

"(c) PUBLIC COMMENT ON PROCUREMENT REGULATIONS.—Any procurement policy, regulation, procedure, or form (including any amendment or modification of any such policy, regulation, procedure, or form) issued under this Act shall be subject to section 22 of the Office of Federal Procurement Policy Act.".

(b) SCOPE OF APPLICATION.—Section 709 of the Defense Production Act of 1950 (50 U.S.C. App. 2159), as amended by subsection (a) of this section, shall not apply to any regulation prescribed or order issued in proposed or final form on or before the date of enactment of this Act.

SEC. 138. WAIVERS OF CERTAIN EMPLOYMENT RESTRICTIONS.

(a) IN GENERAL.—Section 208 of title 18, United States Code, is amended by adding at the end the following:

"(e) (1) The President may grant a waiver of a restriction imposed by this section to a special Government employee if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the special Government employee are critically needed for the benefit of the Federal Government. Not more than 50 special Government employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph, of which 25 may be granted only for special Government employees of the Department of Energy for use in discharging the responsibilities of the Department with respect to ensuring adequate energy supplies during the current crisis in the Middle East. A waiver under this paragraph shall not extend to the negotiation or execution of a Government contract with a private employer of an appointee or with any person—

"(A) in which the appointee has a financial interest within the meaning of this section; or

"(B) with which the appointee has an official relationship.

"(2) Waivers under paragraph (1) may be granted only to special Government employees of the executive branch, other than such employees in the Executive Office of the President.

"(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify—

"(A) the special Government employee covered by the waiver by name and by position, and

"(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

"(4) The President may not delegate the authority provided by this subsection.

"(5)(A) The designated agency ethics official (as defined in section 109 of the Ethics in Government Act of 1978) of the agency which employs a person granted a waiver under this subsection shall prepare, at the termination of that person's service as a special Government employee (with respect to which the waiver was granted), a report stating whether the person has engaged in activities otherwise prohibited by this section, and if so, what those activities were. Before the report is filed under subparagraph (B), the person with respect to whom the report was prepared shall certify that the contents of the report are complete and accurate, to the person's best knowledge and belief.

"(B) A report under subparagraph (A) shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the date of the termination of that person's service as a special Government employee, but in no event later than November 30, 1991.

"(C) If the report required to be filed under subparagraph (B) is not filed, the person who is the subject of the report shall be ineligible for any Federal Government employment until such report is filed.

"(D) If an agency fails to prepare and file a report under this subsection by the date required by subparagraph (B), no employee of that agency may, after such date, be granted a waiver under this subsection until such report is prepared and filed.

"(6) Any waiver granted under this subsection shall terminate on September 30, 1991.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 710 of the Defense Production Act of 1950 (50 U.S.C. App. 2160) is amended—

(1) by striking paragraph (4) of subsection (b);

(2) by striking the last sentence of subsection (c);

(3) in subsection (d), by striking out "needed; and he is" and inserting "needed."; and

(4) by striking the last sentence of subsection (e).

PART E—TECHNICAL AMENDMENTS

SEC. 141. PRIORITIES IN CONTRACTS AND ORDERS.

Section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071) is amended—

(1) in subsection (a)(2) by striking "materials and facilities" and inserting "materials, services, and facilities";

(2) in subsection (c)(1) by striking "supplies of materials and equipment" and inserting "materials, equipment, and services";

(3) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, service, and facilities in the marketplace, unless the President finds that—

"(A) such materials, services, and facilities are scarce, critical, and essential—

"(i) to maintain or expand exploration, production, refining, transportation,

"(ii) to conserve energy supplies; or

"(iii) to construct or maintain energy facilities; and

"(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection."; and

(d) by redesignating paragraph (4) as paragraph (3).

SEC. 142. TECHNICAL CORRECTION.

Section 301(e)(2)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(2)(B)) is amended by striking "and to the Committees on Banking and Curren-

cy of the respective Houses" and inserting "and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives".

SEC. 143. INVESTIGATIONS; RECORDS; REPORTS; SUBPOENAS.

Section 705 of the Defense Production Act of 1950 (50 U.S.C. App. 2155) is amended—

(1) in subsection (a), by striking "subpena" and inserting "subpoena";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) (as redesignated by paragraph (2)), by striking "$1,000" and inserting "$10,000"; and

(4) in subsection (d) (as redesignated by paragraph (2)), by striking all after the first sentence.

SEC. 144. EMPLOYMENT OF PERSONNEL.

(a) NOTICE OF APPOINTMENT AND FINANCIAL DISCLOSURE FOR EMPLOYEES SERVING WITHOUT COMPENSATION.—Section 710(b)(6) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)(6)) is amended to read as follows:

"(6) NOTICE AND FINANCIAL DISCLOSURE REQUIREMENTS.—

"(A) PUBLIC NOTICE OF APPOINTMENT.—The head of any department or agency who appoints any individual under this subsection shall publish a notice of such appointment in the Federal Register, including the name of the appointee, the employing department or agency, the title of the appointee's position, and the name of the appointee's private employer.

"(B) FINANCIAL DISCLOSURE.—Any individual appointed under this subsection who is not required to file a financial disclosure report pursuant to section 101 of the Ethics in Government Act of 1978, shall file a confidential financial disclosure report pursuant to section 107 of such Act with the appointing department or agency.".

(b) TECHNICAL AMENDMENTS.—Section 710(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)) is amended—

(1) in paragraph (7)—

(A) by striking "Chairman of the United States Civil Service Commission" and inserting "Director of the Office of Personnel Management"; and

(B) by striking "and the Joint Committee on Defense Production"; and

(2) in paragraph (8), by striking "transportation and not to exceed $15 per diem in lieu of subsistence while away from their homes and regular places of business pursuant to such appointment" and inserting "reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions for which they were appointed in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code".

SEC. 145. TECHNICAL CORRECTION.

Section 711(a)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended by striking "Bureau of the Budget" and inserting "Office of Management and Budget".

PART F—REPEALERS AND CONFORMING AMENDMENTS

SEC. 151. SYNTHETIC FUEL ACTION.

Section 307 of the Defense Production Act of 1950 (50 U.S.C. App. 2097) is amended—

(1) in subsection (b), by striking the 2d sentence; and

(2) by striking subsection (c) and all that follows through the end of the section.

SEC. 152. VOLUNTARY AGREEMENTS.

Section 708A of the Defense Production Act of 1950 (50 U.S.C. App. 2158a) is repealed.

SEC. 153. REPEAL OF INTEREST PAYMENT PROVISIONS.

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) by striking subsection (b),

(2) by striking "(a)(1) Except as provided in paragraph (2) and paragraph (4)" and inserting "(a) Except as provided in subsection (c)",

(3) by striking in subsection (a) in the parenthetical "and for the payment of interest under subsection (b) of this section", and

(4) by striking paragraph (2) and redesignating paragraph (3) as subsection (b), and

(5) by striking subparagraph (B) of paragraph (4) and redesignating paragraph (4)(A) as subsection (c).

SEC. 154. JOINT COMMITTEE ON DEFENSE PRODUCTION.

Section 712 of the Defense Production Act of 1950 (50 U.S.C. App. 2162) is repealed.

SEC. 155. PERSONS DISQUALIFIED FOR EMPLOYMENT.

Section 716 of the Defense Production Act of 1950 (50 U.S.C. App. 2165) is repealed.

SEC. 156. FEASIBILITY STUDY ON UNIFORM COST ACCOUNTING STANDARDS; REPORT SUBMITTED.

Section 718 of the Defense Production Act of 1950 (50 U.S.C. App. 2167) is repealed.

SEC. 157. NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES.

Section 720 of the Defense Production Act of 1950 (50 U.S.C. App. 2169) is repealed.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

SEC. 161. AUTHORIZATION OF APPROPRIATIONS.

Section 711(c) of the Defense Production Act of 1950 (as amended by section 143 of this Act) is amended to read as follows:

"(c) There are authorized to be appropriated for each of fiscal years 1991, 1992, and 1993 not to exceed $130,000,000 to carry out the provisions of title III of this Act.".

SEC. 162. EXTENSION OF PROGRAM.

The 1st sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "October 20, 1990" and inserting "September 30, 1993".

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

PART A—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

SEC. 201. PROCUREMENT OF CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.

(a) POLICY REQUIRED.—The President, acting through the Administrator for Federal Procurement Policy, shall issue a procurement policy providing for the solicitation and award of contracts for the procurement of critical components or critical technology items in accordance with the requirements of subsection (b).

(b) PERFORMANCE BY DOMESTIC SOURCES.—Except as provided in subsection (c), any solicitation for the procurement of a critical component or a critical technology item shall—

(1) contain a specification that only domestic sources are eligible for award; or

(2) contain provisions that—

(A) specify the minimum percentage of the total estimated value of the contract that is to be performed by 1 or more domestic sources;

(B) provide for the attainment of such requirement by the firm selected as prime contractor or through subcontractors pursuant to a subcontracting plan submitted with the prime contractor's offer;

(C) specify that offers shall be evaluated for award on a basis reflecting the extent that each offer meets or exceeds the specified percentage, such evaluation factor being accorded significant weight (not less than 10 percent of the total value of all evaluation factors to be considered in making the award decision).

(c) WAIVER.—

(1) IN GENERAL.—The requirements of paragraphs (1) and (2) of subsection (b) may be waived in accordance with regulation specifying circumstances under which the contracting officer may make a determination that such restrictions are likely to result in a significant adverse impact on the national interests of the United States.

(2) PROCEDURE.—The determination of the contracting officer shall be—

(A) supported by a specific written finding which justifies such determination; and

(B) approved by the senior procurement executive of the department or agency (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act) or a designee of such officer.

(3) Public availability.—Copies of waiver determination approved pursuant to paragraph (1) (including the supporting written justifications and approvals) shall be made available upon request to—

(A) the public, consistent with the provisions of section 552 of title 5, United States Code, or

(B) any member, or duly constituted committee, of the Congress.

(d) ACQUISITION REGULATIONS REQUIRED.—Before the end of the 270-day period beginning on the date of the enactment of this Act, the single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act, shall be modified to provide for the solicitation, award, and administration of contracts for the procurement of critical components or critical technology items in accordance with provisions of the policy required by subparagraph (A).

(e) DEFINITIONS.—For the purpose of this section, the terms "critical component", "critical technology item", and "domestic source" have the meanings given to such terms in section 702 of the Defense Production Act of 1950.

SEC. 202. RECOGNITION OF MODERNIZED PRODUCTION SYSTEMS AND EQUIPMENT IN CONTRACT AWARD AND ADMINISTRATION.

(a) IN GENERAL.—The single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be amended to specify the circumstances under which an acquisition plan for any major system acquisition, or any other acquisition program designated by the Secretary or agency head responsible for such acquisition, shall provide for contract solicitation provisions which encourage competing offerors to acquire for utilization in the performance of the contract modern industrial facilities and production systems (including hardware and software), and other modern production equipment, that increase the productivity of the offerors and reduce the costs of production.

(b) AUTHORIZED SOLICITATION PROVISIONS.—Contract solicitation provisions referred to in subsection (a) may include any of the following provisions:

(1) An evaluation advantage in making the contract award determination.

(2) A provision for a domestic contractor to share in any demonstrated cost savings that are attributable to increased productivity resulting from the following contractor actions not required by the contract—

(A) the acquisition and utilization of modern industrial facilities and production systems (including hardware and software), and other modern production equipment, for the performance of the contract; or

(B) the utilization of other manufacturing technology improvements in the performance of the contract.

(c) Domestic Contractor Defined.—For purposes of this section and section 203, the term "domestic contractor" has the meaning given to the "domestic source" in section 702(7) of the Defense Production Act of 1950.

SEC. 203. SUSTAINING INVESTMENT.

It is the sense of the Congress that, in order to encourage investment to maintain our Nation's technological leadership, to preserve the strength of our industrial base, and to encourage contractors to invest in advanced manufacturing technology, advanced production equipment, and advanced manufacturing processes, the Secretary of Defense as part of his implementation of changes to defense acquisition policies pursuant to the Defense Management Review shall consider—

(1) full allowability of independent research and development bid and proposal costs;

(2) appropriate regulatory changes to increase the progress payment rates payable under contracts; and

(3) an increase of not more than 10 percent in the amount which would otherwise be reimbursable to a domestic contractor as the Government's share of costs incurred for the acquisition of production special tooling, production special test equipment, and production special systems (including hardware and software) for use in the performance of the contract.

PART B—MISCELLANEOUS

SEC. 211. DISCOURAGING UNFAIR TRADE PRACTICES.

(a) SUSPENSION OR DEBARMENT AUTHORIZED.—Subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify the circumstances under which a contractor, who has engaged in an unfair trade practice, as defined in subsection (b), may be found to presently lack such business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

(b) DEFINITIONS.—For purposes of this section, the term "unfair trade practice" means the commission of any of the following acts by a contractor:

(1) An unfair trade practice, as determined by the International Trade Commission, for a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) A violation, as determined by the Secretary of Commerce, of any agreement of the group known as the "Coordinating Committee" for purposes of the Export Administration Act of 1979 or any similar bilateral or multilateral export control agreement.

(3) A knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the department or the head of the agency to which such certificate was furnished.

TITLE III—AMENDMENT TO RELATED LAWS

SEC. 301. ENERGY SECURITY.

(a) CONGRESSIONAL INTEREST MANIFEST IN OTHER LAWS.—The Congress hereby finds that congressional interest in energy security and the availability of energy for defense mobilization, industrial preparedness, and other purposes of the Defense Production Act of 1950 has also been expressed in various statutes enacted since the date of the enactment of such Act, including the provisions of Geothermal Energy Research, Development, and Demonstration Act of 1974, the Biomass Energy and Alcohol Fuels Act of 1980, and the Synthetic Fuels Corporation Act of 1985 which relate to geothermal energy, alcohol, and synthetic fuel projects.

(b) REPORTS REQUIRED.—To assist the Congress in discharging congressional responsibility for energy security and the availability of energy for defense mobilization, industrial preparedness, and other purposes of the Defense Production Act of 1950, the President shall prepare and transmit to the Congress, no less frequently than the end of each odd-numbered year, the projected capacity and potential prospects for the use of alternative and renewable sources of energy for such purposes.

(c) GEOTHERMAL ENERGY PROGRAM.—Section 203 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1143) (relating to period of guaranties and interest assistance) is amended by striking "1990" and inserting "1993".

TITLE IV—FAIR TRADE IN FINANCIAL SERVICES

SEC. 401. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1990".

SEC. 402. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"NATIONAL TREATMENT

"SEC. 15. (a) PURPOSE.—This section is intended to encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries, and thereby end discrimination against United States banks and bank holding companies.

"(b) REPORTS REQUIRED.—

"(1) CONTENTS OF REPORT.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States banks and bank holding companies—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) SUBMISSION OF REPORT.—

"(A) IN GENERAL.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) MOST RECENT REPORT DEFINED.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect,

to ensure that such country accords national treatment to United States banks and holding companies.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) SECRETARY'S DETERMINATION.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States banks or bank holding companies.

"(2) ACTION BY AGENCY.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, any Federal banking agency—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and other reports under subsection (b)(1) among the factors the agency considers in evaluating any application or notice filed by a person of that foreign country; and

"(B) may, based upon that determination and in consultation with the Secretary, deny the application or disapprove the notice.

"(3) REVIEW.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) PREVENTING EXISTING ENTITIES FROM BEING USED TO EVADE THIS SECTION.—

"(1) IN GENERAL.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) STATE-SUPERVISED ENTITIES.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency, after consultation with the State bank supervisor—

"(i) may include the determination under subsection (d)(1) and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and other reports under subsection (b)(1) of this section among the factors the agency considers in evaluating the application; and

"(ii) may issue an order disapproving the activity in question based upon that determination and in consultation with the Secretary of the Treasury.

The period for disapproval under clause (ii) may, in the agency's discretion, be extended for not more than 45 days.

"(4) FEDERAL APPROVAL.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) INFORMING STATE SUPERVISORS.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) EFFECT ON OTHER LAW.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(h) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; and

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 403. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"NATIONAL TREATMENT

"SEC. 36. (a) PURPOSE.—This section is intended to encourage foreign countries to accord national treatment to United States brokers and dealers that operate or seek to operate in those countries, and thereby end discrimination against United States brokers and dealers.

"(b) REPORTS REQUIRED.—

"(1) CONTENTS OF REPORT.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States brokers and dealers—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) SUBMISSION OF REPORT.—

"(A) IN GENERAL.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) MOST RECENT REPORT DEFINED.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States brokers or dealers; and

"(B) with respect to which no determination under subsection (d)(1) is in effect,

to ensure that such country accords national treatment to United States brokers and dealers.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) SECRETARY'S DETERMINATION.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States brokers or dealers.

"(2) ACTIONS BY COMMISSION.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, the Commission—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and paragraph (1) of this subsection among the factors the Commission considers (i) in evaluating any application filed by a person of that foreign country, or (ii) in determining whether to prohibit an acquisition for which a notice is required under paragraph (3) by a person of that foreign country; and

"(B) may, based upon that determination and in consultation with the Secretary, deny the application or prohibit the acquisition.

"(3) NOTICE REQUIRED TO ACQUIRE BROKER OR DEALER.—

"(A) IN GENERAL.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, no person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(i) the Commission has been given notice 60 days in advance of the acquisition, in such form as the Commission shall prescribe by rule and containing such information as the Commission requires by rule or order; and

"(ii) the Commission has not prohibited the acquisition.

"(B) COMMISSION MAY EXTEND 60-DAY PERIOD.—The Commission may, by order, extend the notice period during which an acquisition may be prohibited under subparagraph (A) for an additional 180 days.

"(C) EFFECTIVE DATE.—The requirements of subparagraph (A) shall apply to any acquisition of control that is completed on or after the date on which the determination under paragraph (1) is published, irrespective of when the acquisition was initiated.

"(4) REVIEW.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic brokers and dealers.

"(f) PERSONS OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country; or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(g) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Commission, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(ii) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 404. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

The Investment Advisers Act of 1940 (12 U.S.C. 80b-1 et seq.) is amended by adding at the end the following new section:

"NATIONAL TREATMENT

"SEC. 223. (a) PURPOSE.—This section is intended to encourage foreign countries to accord national treatment to United States investment advisers that operate or seek to operate in those countries, and thereby end discrimination against United States investment advisers.

"(b) REPORTS REQUIRED.—

"(1) CONTENTS OF REPORT.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States investment advisers—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) SUBMISSION OF REPORT.—

"(A) IN GENERAL.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) MOST RECENT REPORT DEFINED.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States investment advisers; and

"(B) with respect to which no determination under subsection (d)(1) is in effect, to ensure that such country accords national treatment to United States investment advisers.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) SECRETARY'S DETERMINATION.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States investment advisers.

"(2) ACTIONS BY COMMISSION.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, the Commission—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and paragraph (1) of this subsection among the factors the Commission considers (i) in evaluating any application filed by a person of that foreign country, or (ii) in determining whether to prohibit an acquisition for which a notice is required under paragraph (3) by a person of that foreign country; and

"(B) may, based upon that determination and in consultation with the Secretary, deny the application or prohibit the acquisition.

"(3) NOTICE REQUIRED TO ACQUIRE INVESTMENT ADVISER.—

"(A) IN GENERAL.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, no person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 60 days in advance of the acquisition, in such form as the Commission shall prescribe by rule and containing such information as the Commission requires by rule or order; and

"(ii) the Commission has not prohibited the acquisition.

"(B) COMMISSION MAY EXTEND 60-DAY PERIOD.—The Commission may, by order, extend the notice period during which an acquisition may be prohibited under subparagraph (A) for an additional 180 days.

"(C) EFFECTIVE DATE.—The requirements of subparagraph (A) shall apply to any acquisition of control that is completed on or after the date on which the determination under paragraph (1) is published, irrespective of when the acquisition was initiated.

"(4) REVIEW.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(f) PERSONS OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country; or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(g) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Commission, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(ii) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 405. FINANCIAL INTERDEPENDENCE STUDY.

Subtitle G of title III of the Omnibus Trade and Competitiveness Act of 1988 (22

U.S.C. 5341 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 3605. FINANCIAL INTERDEPENDENCE STUDY.

"(a) INVESTIGATION REQUIRED.—The Secretary of the Treasury, in consultation and coordination with the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), and any other appropriate Federal agency or department to be designated by the Secretary of the Treasury, shall conduct an investigation to determine the extent of the interdependence of the financial services sectors of the United States and foreign countries whose financial services institutions provide financial services in the United States, or whose persons have substantial ownership interests in United States financial services institutions, and the economic, strategic, and other consequences of that interdependence for the United States.

"(b) REPORT.—The Secretary of the Treasury shall transmit a report on the results of the investigation under subsection (a) within 2 years after the date of enactment of this section to the President, the Congress, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and any other appropriate Federal agency or department as designated by the Secretary of the Treasury. The report shall—

"(1) describe the activities and estimate the scope of financial services activities conducted by United States financial services institutions in foreign markets (differentiated according to major foreign markets);

"(2) describe the activities and estimate the scope of financial services activities conducted by foreign financial services institutions in the United States (differentiated according to the most significant home countries or groups of home countries);

"(3) estimate the number of jobs created in the United States by financial services activities conducted by foreign financial services institutions and the number of jobs created in foreign countries by financial services activities conducted by United States financial services institutions;

"(4) estimate the additional jobs and revenues (both foreign and domestic) that would be created by the activities of United States financial services institutions in foreign countries if those countries offered such institutions the same competitive opportunities (including effective market access) as are available to those countries' domestic financial services institutions;

"(5) describe the extent to which foreign financial services institutions discriminate against United States persons in procurement, employment, providing credit or other financial services, or otherwise;

"(6) describe the extent to which foreign financial services institutions and other persons from foreign countries purchase or otherwise facilitate the marketing from the United States of government and private debt instruments and private equity instruments;

"(7) describe how the interdependence of the financial services sectors of the United States and foreign countries affects the autonomy and effectiveness of United States monetary policy;

"(8) describe the extent to which United States companies rely on financing by or through foreign financial services institutions, and the consequences of such reliance (including disclosure of proprietary information) for the industrial competitiveness and national security of the United States;

"(9) describe the extent to which foreign financial services institutions, in purchasing high technology products such as computers and telecommunications equipment, favor manufacturers from their home countries over United States manufacturers; and

"(10) contain other appropriate information relating to the results of the investigation under subsection (a).

"(c) DEFINITIONS.—As used in this section, the term 'financial services institution' means—

"(1) a broker, dealer, underwriter, clearing agency, transfer agent, or information processor with respect to securities, including government and municipal securities;

"(2) an investment company, investment manager, investment adviser, indenture trustee, or any depository institution, insurance company, or other organization operating as a fiduciary, trustee, underwriter, or other financial services provider;

"(3) any depository institution or depository institution holding company (as such terms are defined in section 3 of the Federal Deposit Insurance Act); and

"(4) any other entity providing financial services.".

SEC. 406. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking "and securities companies" and inserting ", securities companies, and investment advisers"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.".

(b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FINANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" after "banking organizations and securities companies have".

(c) PRIMARY DEALERS IN GOVERNMENT DEBT INSTRUMENTS.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking "does not accord to" and inserting "does not offer";

(2) by inserting "(including effective market access)" after "the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country"; and

(3) by striking "as such country accords to" and inserting "as are available to".

TITLE V—EFFECTIVE DATES

SEC. 501. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on October 20, 1990.

(b) SPECIAL RULES.—(1) Title IV of this Act takes effect on the date of enactment of this Act.

(2) The acquisition policies required by this Act shall be incorporated as part of the Federal Acquisition Regulation within 270 days after enactment. Such policies shall apply to solicitations issued 60 days after such regulations are issued.

(3) No report under section 107(f) of the Defense Production Act of 1950 (as added by section 111 of this Act) shall be required before January 31, 1993.

And the Senate agree to the same.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and sec. 1, titles I, II, and III, and secs. 501(a) and 501(b)(2) of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
JOHN J. LAFALCE,
MARY ROSE OAKAR,
BRUCE F. VENTO,
ESTEBAN E. TORRES,
PAUL E. KANJORSKI,
LIZ PATTERSON,
RICHARD E. NEAL,
CHALMERS P. WYLIE,
TOBY ROTH,
MARGE ROUKEMA,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title IV and sec. 501(b)(1) of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
FRANK ANNUNZIO,
CARROLL HUBBARD,
JOHN J. LAFALCE,
MARY ROSE OAKAR,
BRUCE F. VENTO,
CHARLES SCHUMER,
CHALMERS P. WYLIE,
JIM LEACH,

From the Committee on Energy and Commerce, for consideration of sec. 8 of the House bill and secs. 137, 403, 404, and 405 of the Senate amendment, and modifications committed to conference; except that Mr. Sharp is appointed in lieu of Mr. Walgren for purposes of consideration of section 8 of the House bill and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
DOUG WALGREN,
PHILIP R. SHARP,
NORMAN F. LENT,
MATTHEW J. RINALDO,

From the Committee on the Judiciary, for consideration of secs. 7 and 8 of the House bill, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
BARNEY FRANK,
HAMILTON FISH, Jr.,
CRAIG T. JAMES,

From the Committee on Government Operations, for consideration of secs. 211 and 212 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
CARDISS COLLINS,
GLENN ENGLISH.

Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER J. DODD,
ALAN J. DIXON,
JIM SASSER,
JAKE GARN,
JOHN HEINZ,
ALFONSE D'AMATO,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the dis-

agreeing votes of the two Houses on the amendment of the Senate of the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

SECTION 101: DECLARATION OF POLICY

Section 2 of the House Bill

Section 2 of the House bill restates existing policy regarding the importance of maintaining adequate defense mobilization capability by assuring the continuing availability of materials that are strategic and critical for national security. The policy declaration thus continues existing policies including the encouragement of geographic dispersal of defense industrial facilities, and maintaining linkage between energy and defense industrial preparedness, and adds the doctrine of "graduated response." Section 2 of the House bill recognizes that the Defense Industrial Base is part of the core industrial capacity of the nation. Section 3 of the House bill makes four Congressional findings. It finds a growing dependency upon foreign sources for U.S. weapons, components, and parts which threatens mobilization capabilities. It also recognizes that it is desirable for the U.S. to strengthen industrial capability to conduct conventional warfare.

Section 101 of Senate Amendment

Section 101 amends section 2 of the Act to emphasize that the overall health of the industrial and technology base affects the Nation's capacity to meet not only the demands for war or national emergency but also peacetime defense requirements. Section 101 recognizes that the overall "vitality of the Nation's industrial and technology base is a foundation of U.S. national security."

Section 101 of Conference Agreement

The Senate recedes to the House with an amendment that combines section 2 of the House bill and section 101 of the Senate amendment and incorporates materials from section 3 of the House bill relating to Congressional findings.

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

SECTION 111: STRENGTHENING OF DOMESTIC CAPABILITY

Section 4 of the House Bill

Section 4 of the House bill would add a new section 107 to the Defense Production Act to provide authority to restrict an item to domestic procurement if the President finds it critical to national security purposes.

Subsection (b) of the House bill provides authority to restrict an item to domestic procurement in the event the President finds it critical to national security mobilization purposes. The operative language is identical to that of the Competition in Contracting Act and the Public Contracts Act, which currently permit agency heads to exempt certain procurements from competitive procedures. A possible approach to what is critical would be to examine the systems chosen by the Joint Logistics Commanders of the Department of Defense for their 1986 study.

Subsection (b) of the House bill also calls for consideration in all defense procurement matters of sustainability, the state of the U.S. defense industrial base, and relative costs of procuring defense materials and services domestically and abroad. It requires a report to Congress biennially on the impact of these factors on the United States defense industrial base.

Subsection (c) of the House bill authorizes the President to use Title III of this Act, as well as any other statutory authority to achieve the objectives of this section.

Subsection (d) provides that items designated to be critical under this procedure will be given priority for modernization assistance.

Subsection (e) of the House bill permits $5 million of the authorization established under Title III of the Defense Production Act to be used to guarantee the purchase or lease of advanced manufacturing equipment by smaller and medium sized defense contractors and subcontractors for the purpose of modernizing the defense industrial base.

Subsection (f) of the House bill defines the U.S. industrial base as industries, within the United States, that are currently producing, or during an emergency, could be expected to produce, for national defense purposes.

Subsection (g) of the House bill provides that the requirements of this section would constitute an exception to Memoranda of Understanding (MOUs).

Subsection (h) assures that authorizations contained in this section are subject to the appropriations process.

Senate Amendment

No comparable provision.

Section 111 of Conference Agreement

The Senate recedes to the House with an amendment which establishes a policy for ensuring availability of critical components and critical technology items necessary to satisfy mobilization requirements. The conference agreement also provides the President with authority to limit production of critical components or technology items to domestic sources and to use programs available under Title III of the Defense Production Act (including loan guarantees, loans, or purchase guarantees) to assist in the maintenance or establishment of domestic production of the critical component or technology item. In addition, the conference agreement requires the President, acting through the Administrator of Procurement Policy, to establish a procurement policy for critical components and critical technology items to ensure that at least a minimum percentage of such components and items are domestically sourced and available. Requirements of procurement policy may be waived if application of the requirements would be likely to have a serious adverse impact on the national interests on the United States, in which case authority is provided to stockpile critical components and technology items.

In addition, the conference agreement requires the President, acting through the Secretary of Defense and utilizing the Defense Industrial Base Information System established under section 722 of the Act, to identify critical components and critical technology items and publish a list thereof in the Federal Acquisition Regulation. The managers expect that the list will be codified in the Code of Federal Regulations. The conference agreement requires the President, in providing assistance under Title III of the Act, to key defense contractors and subcontractors in obtaining advanced manufacturing equipment with a strong preference accorded to small businesses. Finally, the conference agreement provides for a study of the impact of defense production practices on capabilities of the domestic industrial base and the sustainability of United States armed forces in conventional warfare.

Memoranda of Understanding

Section 4 of the House Bill

Provides that requirements of this provision constitute an exception to MOUs.

Senate Amendment

No comparable provision.

Section 111 of Conference Agreement

The Senate recedes to the House with an amendment which clarifies that actions taken to limit production to domestic sources pursuant to this Act qualify for any exclusion which may be authorized by existing MOUs. The amendment also substitutes permissive authority for the requirement in the House bill that the President seek to modify MOUs which do not authorize such actions.

The Managers wish to acknowledge that authority to restrict production of defense materiel to domestic sources for purposes of maintaining adequate defense mobilization capabilities already exists in certain MOUs. In such cases, or in any other case, they wish to clarify that nothing in the conference report should be interpreted to require the United States unilaterally to amend an existing MOU. Nothing in the conference agreement is intended to result in requiring a change in an existing MOU without prior consultation with all affected signatories. However, in providing authority to negotiate changes in MOUs, the managers intend for such consultations to be undertaken if necessary to assure availability of critical components and critical technology items essential for the execution of the national security strategy of the United States in peacetime and during graduated mobilization.

SECTION 112: LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION

Wage and Price Controls

The House Bill

No provision.

Section 111 of Senate Amendment

Section 111 declares that no provision of the Defense Production Act authorizes the imposition of wage and price controls without prior Congressional authorization.

Section 112 of Conference Agreement

The House recedes to the Senate.

Chemical Weapons

Section 6 of the House Bill

Section 6 of the House bill requires written authorization by the President prior to the exercise of Title I authorities relating to

the production of chemical or biological weapons.

Section 112 of Senate Amendment

Section 112 provides that the Act may not be used to assist in producing chemical or biological weapons except in times of war or national emergency as declared by Congress or upon non-delegable action by the President.

Section 112 of Conference Agreement

The House recedes to the Senate. The provisions of subsection (b) would not apply to gas masks, protective clothing, or other such items to protect against the effects of such weapons.

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

SECTION 121: EXPANDING THE REACH OF EXISTING AUTHORITIES UNDER TITLE III

Loan Guarantees

The House Bill

No provision.

Section 121 of Senate Amendment

Subsection (a) of this section would extend the Act's current loan guarantee authority (provided under Section 301) to a broader class of industrial resources, and to critical technologies, to maintain a strong defense industrial and technology base. To increase the Act's utility to more promptly address industrial base problems as they are identified, the proposed amendments increase from $25 million to $50 million the threshold at which an otherwise eligible project must obtain specific Congressional authorization prior to being eligible for funding under the Act. This provision is not intended to alter current practice regarding the review and approval of individual proposed Title III project, including the review undertaken by the Office of Management and Budget. The subsection also provides to the President the authority to fund an otherwise eligible project in excess of the Act's authorization threshold, if a determination is made that such action is promptly required to avert an industrial resource shortfall that would severely impair national defense capability. To circumscribe this waiver authority, the provision requires that the president exercise this authority personally.

Subsection (b) makes corresponding changes to the loan authority currently provided by Section 302 of the Act.

Subsection (c) makes corresponding changes to the purchase and purchase commitment authorities currently provided by Section 303 of the Act. In addition, the amendment reenacts the current text of section 303(a) to permit the correction of numbering problems and to modernize the subsection's language. Without the amendment, two different provisions are designated as Section 303(a)(1). This subsection also extends the completion date for projects entered into under the current authority of Section 303 of the Act from a fixed date to a date that does not exceed ten years from the date such Title III authority was initially exercised.

Section 121(a) of Conference Agreement

The House recedes to the Senate with an amendment that deletes the provision of the Senate amendment that would have authorized the President to make a unilateral determination to approve a project that exceeds the statutorily established threshold.

Loans

The House Bill

No provision.

Section 121 of Senate Amendment

Section 121(b) extends the Act's loan authority to a broader class of industrial resources and critical technologies essential to national defense. Also raise per project ceiling to $50 million. Section 121 provides that during a national emergency or upon determination by the President, on a non-delegable basis, the President is given authority to determine that a specific guarantee must be made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability and is thus given authority to exceed the $50 million per project ceiling.

Section 121(b) of Conference Agreement

The House recedes to the Senate with an amendment that deletes the provisions of the Senate amendment that would have authorized the President to make a unilateral determination to approve a project that exceeds the statutorily established threshold.

Purchase Guarantees

Section 6(c) of the House Bill

Section 6(c) of the House bill requires that for each project that exceeds $25 million in the aggregate, under section 303(a) of the Act, the President shall annually submit a report while in process, in lieu of specific approval for exceeding the $25 million ceiling.

Section 121 of Senate Amendment

Section 121(c) extends the Act's purchase guarantee authority to a broader class of industrial resources and critical technologies essential to national defense. The section also raises the per project ceiling to $50 million and places a ten year limit on purchase authority, rather than an unfixed date of Sept. 30, 1995. Section 121 also provides that during a national emergency or upon determination by the President, on a non-delegable basis, the President is given authority to fund Title III projects in excess of Congressional authorization if he determines that a specific guarantee must be made to avert an industrial resource or critical technology shortfall would severely impair national defense capability.

Section 121(c) of Conference Agreement

The House recedes to the Senate with an amendment that deletes the provisions of the Senate amendment that would have authorized the President to make a unilateral determination to approve a project that exceeds the statutorily established threshold.

SECTION 122: DEFENSE PRODUCTION ACT FUND

The House Bill

No provision.

Section 123 of Senate amendment

Section 123 establishes the Defense Production Act Fund as a separate fund within the Treasury. The provision would cap the Fund balance at $250 million excluding any monies appropriated to the Fund during that fiscal year.

Section 122 of Conference Agreement

The House recedes to the Senate.

SECTION 123: OFFSET POLICY

The House Bill

No comparable provision.

Section 124 of Senate Amendment

Section 124 enacts the President's offsets policy into law.

Section 123 of Conference agreement

The House recedes to the Senate with an amendment making technical modifications to the Senate provision.

SECTION 124: ANNUAL REPORT ON IMPACT OF OFFSETS

The House Bill

No comparable provision.

Section 125 of Senate Amendment

Section 125 assigns to the Department of Commerce the responsibility for preparing the reports on the impact of offsets required by section 309 which will be based on appropriate interagency studies which identify the cumulative effect of the offsets on domestic productive capacity and on the defense technology base as a result of technology transfers under offset agreements. U.S. firms are required to give notice of contract for the sale of a defense related item to a foreign firm if the contract is subject to an offset agreement exceeding $5 million. The report will be used in negotiations to minimize adverse effects of offsets.

Section 124 of Conference Agreement

The House recedes to the Senate.

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

SECTION 131: SMALL BUSINESS

The House Bill

No provision.

Section 131 of Senate Amendment

Section 131 assures small business concerns maximum practicable opportunity to participate as contractors and subcontractors in all programs undertaken pursuant to this Act and that their applications, requests, or appeals be expeditiously handled. Certain existing provisions of section 701 of the Act would be deleted.

Section 131 of Conference Agreement

The Senate recedes to the House with an amendment to assure participation on the advisory committee, established pursuant to the Act, by representatives of small business concerns. The amendment states the policy that small business concerns shall be given access to information to the maximum extent practicable.

SECTION 132: DEFINITIONS

Section 10(a) of the House Bill

Section 10(a) of the House bill supplements the definitions of "materials" (to include "articles, components, processes, technical information, and services.") and "facilities" (to include "services" and "national defense". The Section also adds the item "domestic source" to clarify the extent of the defense industrial base.

Section 132 of Senate Amendment

Current law changed by Section 132 to add or alter definitions for: "critical component", "critical technology", "domestic source", "industrial resources", "materials", "non-domestic source", "person", and "services."

Section 132 of Conference Agreement

The House recedes to the Senate with an amendment. The amendment added three new definitions and changed the Senate definition of "non domestic source" to "foreign source". The three new definitions include definitions for the terms "domestic defense industrial base", "essential weapon system", and "critical industry for national security". Further, in implementing the definition of "domestic source", the conferees urge that careful consideration be given to the standards and practices being used to implement the Buy American Act, as amended by Public Law 100-418, the "Buy American Act of 1988".

SECTION 133: DELEGATION OF AUTHORITY: APPOINTMENT OF PERSONNEL

The House Bill

Section 10 of the House bill repeals paragraph 2 of Section 703(b) of the Defense Production Act.

Section 133 of Senate Amendment

Section 133 of the Senate amendment repeals paragraph 2 of section 703(b) of the Defense Production Act. In addition, it provides that, except for Title I authorities, the President may delegate authority to any civilian officer appointed by and with the advice and consent of the Senate. The President may authorize redelegation of that authority to a flag officer or a cilivian serving in a position of GS 16 or above. The President may establish such new agencies as may be necessary to manage Federal Emergency preparedness programs.

Section 133 of Conference Agreement

The House recedes to the Senate with an amendment to clarify that the limitation on the delegation of Title I priority and allocation authority applies to the making of the determination to excercise such authority and not for carrying out such a determination.

SECTION 134: REGULATIONS AND ORDERS

The House Bill

No provision.

Section 134 of Senate Amendment

Section 134 offers a simplified version of the Act's current Section 704, relating to regulatory implementation of the Act's authorities.

Section 134 of Conference Agreement

The House recedes to the Senate.

SECTION 135: TECHNICAL AMENDMENTS RESTORING ANTITRUST IMMUNITY FOR EMERGENCY ACTIONS INITIATED BY THE PRESIDENT

ANTITRUST DEFENSES

Section 7 of the House Bill

Section 7 of the House bill permits executives being trained and serving in National Defense Executive Reserve pursuant to section 710 of the Defense Production Act and participating in voluntary agreements or plans of action pursuant to treaty obligations pursuant to section 708(c) of the Defense Production Act to invoke this section as a defense in antitrust or breach of contract actions arising out of these activities.

Section 135 of Senate Amendment

Section 135 makes a number of changes to the Act's current limited antitrust protections for "voluntary agreements" initiated by the President with the private sector. Voluntary agreement participants are authorized to develop "plans of action" subject to the approval of the Attorney General. To protect classified information, trade secrets, or confidential business information, the provisions extend limits on public disclosure of the participants activities. The provision affords a defense against breach of contract action. This provision does not include the blanket waiver from the requirements of the Federal Advisory Committee Act.

Section 135 of Conference Agreement

The Senate recedes to the House. With respect to the antitrust provisions governing voluntary agreements and plans of action, the conferees expect that the Attorney General and the Chairman of the Federal Trade Commission shall carefully monitor both the development and carrying out of any voluntary agreement or plan of action approved pursuant to section 708 of the Act.

EXEMPTION FROM ADVISORY COMMITTEE PROVISIONS

Section 7 of the House Bill

Section 7 of the House bill exempts action taken pursuant to voluntary agreement under section 708 of the Defense Production Act from requirements of the Federal Advisory Committee Act.

Senate Amendment

No comparable provision.

Section 135 of the Conference Agreement

The Senate recedes to the House with an amendment. The Senate amendment provides alternative methods for providing "sunshine" on the activities of the participants to voluntary agreements established pursuant to section 708 of this Act, while accepting the exemption from the Federal Advisory Committee Act contained in the House bill.

SECTION 136: INFORMATION ON THE DEFENSE INDUSTRIAL BASE

Section 5 of the House Bill

Section 5 of the House bill would add a new section 722 which establishes the existing Defense Information Network (DINET) as the basis for an information system for defense industrial preparedness and mobilization purposes. Directs each military service to do four special studies of subcontractor and supplier chains that could identify foreign sources, sole sources, and other potential production-stopping problems. This information would be entered into DOD computers to be available on an interactive basis. Authorizes $7 million for these special studies and provides for coordination of standards, specification, and definitions so that agencies can share data from these studies.

Section 126 of Senate Amendment

Section 126 adds a new section to the Defense Production Act which requires the President to issue a biennial report assessing those subsectors of the U.S. economy which have been identified as critical to the development and production of components essential for national defense material. This section also provides for the issuance of policy recommendations in response to such an assessment.

Section 136 of Senate Amendment

Section 136 adds a new section 705A to the Act. It requires the President to collect and analyze information to evaluate the U.S. industrial capability in technologies needed to execute the National Defense Strategy of the U.S. It also calls for analysis of U.S. foreign dependency in critical defense components and technologies. The section also authorizes the funds necessary to improve information collection and analysis related to such components and technologies.

Section 136 of Conference Agreement

The Senate recedes to the House with an amendment which requires the President to establish a modern information system at the Department of Defense level for purposes of making possible effective management of defense production during peacetime and wartime situations. It requires the President to establish a systematic and a continuously updating information system on the defense industrial base and to draw upon such information in exercising Title I and III authorities to maintain domestic capabilities in critical components and critical technology items. Specifically it establishes three data collection procedures which: a) identify foreign dependencies and other potential production stopping problems; b) provide defense production base analyses of the entire production chain of six weapons systems (two per uniformed service); and c) improve the level of detail, timeliness and availability of input/output analyses to the Department of Defense derived from the Census of Manufacturers.

The conference agreement requires the President to draw upon experience gained in establishing these three data collection procedures to establish by December 31, 1992 a strategic plan to determine how to develop a comprehensive information system in the most cost-effective manner possible, and requires such plan to be submitted to Congress.

The conference agreement requires a biennial report to Congress on the subcontractor and supplier base including: a) a list of critical components, technologies and technology items in which there is inadequate industrial capacity or capability for purposes of defense preparedness; and b) an assessment of the subcontractor and supplier base supporting production of any critical component, technology or technology item for which there is inadequate industrial capacity.

An authorization of $10 million is provided over three years for implementation of this section, to remain available until expended. The Managers intend that the funds authorized by this section shall be in addition to any other funds authorized for information on the defense industrial base, including DINET, and that the six production base analyses authorized in this section shall be paid for solely by these funds.

The Managers wish to emphasize the importance for national security of developing an adequate information system for the defense industrial base. An ideal system would be one which had full vertical and horizontal visibility into the defense industrial base i.e., reaching up and down the full extent of the production chain for a given weapon system as well as across the full spectrum of systems.

Mindful of the pressing need to improve information on the defense industrial base as much and as early as possible, the Managers authorized the three data collection procedures proposed by the House and Senate bills. They expect that implementation of these procedures will provide valuable, if partial, information capabilities soon and could form the basis of a cost-effective and comprehensive system in the future.

The three procedures authorized by the conference report are the two proposed by the Senate bill (the broad-based, contractor-driven procedure to assess foreign dependence and the procedure to improve the application of Census of Manufacturers data) as well as a reduced number (six rather than the proposed twelve) of special studies required by the House bill.

The Managers intend for the President to draw upon lessons learned in the implementation of these procedures in drafting the strategic plan for creating a system with comprehensive coverage for the future. By requiring the contents of the plan to be submitted to Congress no later than December 31, 1992, the Managers intend to place the Congress in a position to be able to consider authorizing such a system when the Act next comes up for reauthorization in 1993.

Among the information the Committees wish to be gathered in the Special Studies of existing weapons systems prescribed in the Act are the following items, for the purpose of allowing the President to effectively manage increased levels of production to

cope with the range of threats to national security:

"(i) The size of any facility of such contractor or subcontractor involved in such acquisition and production.

"(ii) The number of days of each work week and the number of shifts and the number of hours of each week day during which any activity in connection with such acquisition or production is undertaken pursuant to the contract.

"(iii) The number of production and technical employees involved in such acquisition and production.

"(iv) The age of any machine tools involved in such acquisition and production.

"(v) The extent to which any machine tool required for the acquisition and production is produced and available within the United States.

SECTION 137: PUBLIC PARTICIPATION IN RULEMAKING

The House Bill

No provision.

Section 138 of the Senate Amendment

Section 138 of the Senate amendment provides that any regulation pursuant to the Defense Production Act be subject to publication and comment procedures. The conferees intend for this to assure adequate public review and participation.

Section 137 of the Conference Agreement

The House recedes to the Senate with an amendment which deletes the limitation on judicial review. The conferees note, however, that the judicial review pursuant to the Administrative Procedures Act is not available since subsection (a) is an exemption from all operative provisions of the Administrative Procedures Act.

SECTION 138: CONFLICT OF INTEREST WAIVER AND FINANCIAL DISCLOSURE

The House Bill

The House bill authorizes the President to waive the criminal conflict of interest statutes (18 U.S.C. 203, 205, and 207-290) and the ethics provisions of the Department of Energy Reauthorization Act for persons who serve without compensation and for persons in the National Defense Executive Reserve. It also modifies the financial disclosure requirements for these same persons so they are the same as those of the Ethics in Government Act.

The Senate Bill

The Senate bill modifies the existing financial disclosure requirements of the Defense Production Act by clarifying the language and adding the specific disclosure requirements.

Conference Agreement

The Senate recedes to the House with an amendment.

The Conference Agreement authorizes waivers for only 18 U.S.C. 208, and provides that they may be granted only to 50 special government employees (persons who work for the government for no more than 130 days in any 365 day period) for the entire government. Twenty-five of these waivers are reserved for the Department of Energy to be used by the President to ensure adequate energy supplies during the current crisis in the Middle East. This waiver authority will terminate on September 30, 1991.

The conferees agreed to this waiver authority even though the Department of Energy has not provided specific justification for it. However, in view of the current crisis in the Middle East which was cited by the Department as creating a need for this authority, the Conferees agreed to grant this authority under limited circumstances only until the Congress has an opportunity to fully review the need for such waiver authority.

This provision now requires the designated ethics official of the relevant agency to prepare a report on the activities engaged in by a person who is granted a waiver that would otherwise violate the statute. When a special government employee who has a waiver believes an activity may involve a potential violation of 18 U.S.C. 208, that employee should consult with the designated ethics official. This will allow the designated agency ethics official to obtain the information necessary for the report. When the report is prepared, the special government employee must certify that it is complete and accurate to the best of the employee's knowledge.

The amendment also adopts the House provision on financial disclosure, so that these personnel will file the the same financial disclosure forms as those required by the Ethics in Government Act for other government personnel.

The conferees did not accept the House provisions granting antitrust waivers for the National Defense Executive Reserve and for employees serving without compensation for the reason that should the Federal government wish to immunize the private parties from the operation of the antitrust laws, it may already do so if the requisites are met under existing jurisprudence.

PART E—TECHNICAL AMENDMENTS

SECTION 141: PRIORITIES IN CONTRACTS AND ORDERS

Section 10(a)2 of the House Bill

Section 10(a)2 of the House bill amends the definition of materials to include services.

Section 141 of Senate Amendment

Section 141 of the Senate amendment makes technical amendments to this section of the Defense Production Act, adding the category of "services." It also eliminates obsolete reporting requirements, while maintaining essential elements of the Presidential findings that must accompany the use of Title I authority regarding priority performance of contracts or the allocation of materials.

Section 141 of Conference Agreement

The House recedes to the Senate.

SECTION 142: TECHNICAL CORRECTIONS

The House Bill

No provision.

Section 142 of Senate Amendment

Section 142 makes technical changes to section 301(e) of the Act by striking "and to the Committees on Banking and Currency of the respective Houses" and inserting "and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives."

Section 142 of the Conference Agreement

The House recedes to the Senate.

SECTION 143: INVESTIGATIONS, RECORDS, REPORTS AND SUBPOENAS

The House Bill

No provision.

Section 143 of Senate Amendment

Section 143 changes the spelling of "subpoena" and increases the fine for willful violation from $1,000 to $10,000.

Section 143 of Conference Agreement

The House recedes to the Senate.

SECTION 144: EMPLOYMENT OF PERSONNEL

The House Bill

No provision.

Section 144 of Senate Amendment

Section 144 of the Senate amendment authorizes reimbursement for necessary expenses incurred because of employment under this section. The amendments clarify and simplify the section's current reporting requirements relating to identifying the financial interests of such person that could create a conflict of interest relating to the exercise of advisory responsibilities to Government.

Section 144 of the Conference Agreement

The House recedes to the Senate.

SECTION 145: TECHNICAL CORRECTIONS

The House Bill

No provision.

Section 145 of Senate Amendment

Section 145 eliminates reference to the Bureau of Budget and substitutes the Office of Management and Budget.

Section 145 of the Conference Agreement

The House recedes to the Senate.

PART F—REPEALERS AND CONFORMING AMENDMENTS

SECTION 151: SYNTHETIC FUEL ACTION

The House Bill

No provision.

Section 151 of Senate Amendment

Section 151 repeals Section 307 of the Defense Production Act of 1950 (50 U.S.C. App. 2097). This provision specifies the procedures under which the Senate and House of Representatives will consider a resolution disapproving Presidential action regarding certain matters defined as "synthetic fuel actions." The veto of an action by the Executive through the disapproval of a single House of the Congress was declared unconstitutional in *Immigration and Naturalization Service* v. *Chadha,* 103 U.S. 2764 (1983).

Section 151 of Conference Agreement

The House recedes to the Senate with an amendment retaining the synthetic fuel action definition and the requirement that notice of such action be submitted to Congress.

SECTION 152: VOLUNTARY AGREEMENTS

Section 10(a) of the House Bill

Section 10(a) of the House bill repeals section 708A of the Defense Production Act, by reason of being incorporated into Energy Policy and Conservation Act of 1975.

Section of Senate Amendment

Section 152 of the Senate amendment also repeals section 708A of the Defense Production Act.

Section 152 of Conference Agreement

The Senate recedes to the House.

SECTION 153: REPEAL OF INTEREST PAYMENT PROVISIONS

The House Bill

No provision.

Section 153 of Senate Amendment

Section 153 modernizes section 711(b) of the current Act by eliminating references to events which took place in 1975. Eliminates the payment of interest from one governmental entity to another.

Section 153 of Conference Agreement

The House recedes to the Senate.

SECTION 154: JOINT COMMITTEE ON DEFENSE PRODUCTION

The House Bill

No provision.

Section 154 of Senate Amendment

Section 154 of the Senate amendment repeals section 712 of the Defense Production Act which establishes the Joint Committee on Defense Production.

Section 154 of Conference Agreement

The House recedes to the Senate.

SECTION 155: PERSONS DISQUALIFIED FOR EMPLOYMENT

The House Bill

No provision.

Section 155 of Senate Amendment

Section 155 of the Senate amendment which repeals section 716 of the Defense Production Act which is now generally applicable through provisions of Title 18 of the U.S. Code.

Section 155 of Conference Agreement

The House recedes to the Senate.

SECTION 156: FEASIBILITY STUDY ON UNIFORM COST ACCOUNTING STANDARDS; REPORT SUBMITTED

The House Bill

No provision.

Section 156 of Senate Amendment

Section 156 of Senate amendment repeals current law whch authorized a study which was completed and submitted to Congress in 1978.

Section 156 of Conference Agreement

The House recedes to the Senate.

SECTION 157: NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

Section 10(c) of the House Bill

Section 10(c) of the House bill repeals section 720 which established the National Commission on Supplies and Shortages.

Section 157 of Senate Amendment

Section 157 of the Senate amendment repeals current law.

Section 157 of Conference Agreement

The Senate recedes to the House.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

SECTION 161: AUTHORIZATION OF APPROPRIATIONS

Section 6 of the House Bill

Section 6 of the House bill authorizes $130 million per year for FY 1991-1995 for Title III projects.

Senate Amendment

The Senate amendment authorizes $250 million over a three year period or $83.3 million per year.

Section 161 of Conference Agreement

The Senate recedes to the House with an amendment authorizing appropriations for each fiscal year 1991, 1992, and 1993 of not more than $130 million

SECTION 162: EXTENSION OF PROGRAM

Section 6 of the House Bill

Section 6 authorizes Title I until September 30, 1992, and Title III and Title VII until September 30, 1995.

Section 162 of Senate Amendment

Section 162 of Senate amendment provides that sections 305 to 310, 713, 715, 717, and 721 would become permanent and the remainder of the authorities granted by Title I, III, and VII expires on September 30, 1993.

Conference Agreement

The House recedes to the Senate with an amendment that specifies that all operative authorities of the Act terminate on September 30, 1993.

Title II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

PART A—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

SECTION 201: PROCUREMENT OF CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS

The House Bill

No provision.

Section 212 of Senate Amendment

Section 212 provides for the issuance of a Government-wide procurement policy to assure a certain level of participation by "on-shore" suppliers in contracts for the procurement of critical components or critical technology items essential to national defense.

Section 201 of Conference Agreement

The House recedes to the Senate with an amendment. Section 201 of the conference agreement provides for the issuance of a government-wide procurement policy to insure some participation by domestic suppliers in contracts for the procurement of designated critical components essential to the production, repair, maintenance, or operation of essential weapons systems and other items of military equipment, and of designated critical technology items. The objective of the provision is to maintain some domestic capability relating to the production of items directly employing, derived from, or otherwise utilizing a designated critical technology. The provision adopts and utilizes the definitions of "domestic source", "critical components" and "critical technology item" included elsewhere in the bill.

Under the procurement policy to be issued pursuant to this section, contract solicitations for the procurement of designated critical components or critical technology items would either have to specify that only domestic sources are eligible or would have to specify a minimum percentage of total cost for performance by one or more domestic firms. This requirement could be met directly by a prime contractor, if it is a domestic source, or by subcontracting with domestic firms.

The procedure established by this section would also require that the criteria for evaluating offers received from competing contractors give significant recognition to the amount by which an offeror proposed to surpass the minimum percentage of participation by domestic firms specified in the contract solicitation. The weight accorded to that source selection factor is to be the equivalent of ten percent or less of the total of the values assigned to all the evaluation criteria announced in the solicitation.

In addition, however, the contracting officer may waive these requirements if he determines, supported by specific written findings that justify his decision and which are approved by the senior procurement executive of his department or agency, that the restrictions created by these requirements are likely to result in a significant adverse impact on the national interests of the United States. Any such waivers, including the supporting written justifications and approvals must be made available to the public (consistent with 5 U.S.C. 552) and any member or committee of Congress upon request. The waiver provision of this section is not intended as a means of avoiding implementation of the specified policies. The conferees intend that waivers under this subsection be granted sparingly and only after full and detailed justification explaining what the adverse impact on the United States is and why it is significant and clear.

In order to facilitate the operation of this provision, the President, acting through the Secretary of Defense, must also promptly determine and list critical components and critical technology items, using among other sources, the Defense Industrial Base Information System, and publish such lists in the Federal Acquisition Regulation.

SECTION 202: RECOGNITION OF MODERNIZED PRODUCTION SYSTEMS AND EQUIPMENT IN CONTRACT AWARD AND ADMINISTRATION

The House Bill

No provision.

Section 211 of Senate Amendment

Section 211 of the Senate amendment encourages investment in modern industrial facilities and production systems (including hardware and software) through acquisition policies that will provide recognition in contract award decisions and contract administration actions if the contractor, subcontractor, or supplier invests in any such modern industrial facilities, production systems or other modern production equipment for use in the performance of such contract.

The provision permits the reimbursement of a contractor for additional amounts of the cost incurred for the acquisition of production special tooling, production special test equipment, and production special systems. Under section 2329 of Title 10, U.S. Code, the amounts reimbursable to a contractor for such production special tooling and test equipment shall not exceed 50 percent of the total costs actually incurred. This provision would permit the "cap" on allowable reimbursements specified in a contract pursuant to 10 U.S. Code 2329 to be exceeded by not more than 10 percent.

The provision also allows a contractor to share in any demonstrated cost savings that are attributable to increased productivity resulting from contractor investments not required by the contract.

Section 202 of Conference Agreement

The House recedes to the Senate.

The conferees note that in implementing this provision in the Federal Acquisition Regulation (FAR) special attention should be directed to two important matters. First, the evaluation advantage recognized in any contract solicitation should be limited, and in no event accorded a weight that represents more than 10 percent of the aggregate value assigned to all evaluation factors specified in the solicitation. Second, the conferees expect that the FAR implementation relating to the apportioning of demonstrated cost savings between the contractor and the Government under this provision will adhere to prevailing practice.

Finally, the conferees observe that this provision could well provide a significant competitive advantage in any follow-on contract competitions to an incumbent contractor. In this regard, the conferees expect appropriate care to be taken in both the implementation, and application, of this provision.

SECTION 203: SUSTAINING INVESTMENT

The House Bill

No provision.

Section 213 of Senate Amendment

Section 213 expresses the sense of Congress that contractor investment in advance manufacturing technologies, advanced production equipment, and advanced manufacturing processes should be encouraged to strengthen the Nation's industrial base supporting national defense.

Section 203 of Conference Agreement

The House recedes to the Senate.

PART B—MISCELLANEOUS

SECTION 211: DISCOURAGING UNFAIR TRADE PRACTICES

The House Bill

No provision.

Section 222 of Senate Amendment

Section 222 provides that if a contractor is found to have engaged in specified unfair trade practices, such contractor may be subject to a debarment proceeding which could make a firm ineligible for the award of contracts. This section requires that the Government-wide Federal Acquisition Regulations be amended to specify the circumstances under which a contractor or subcontractor may be suspended or debarred from contracting with the Government for having committed an unfair trade practice.

Section 211 of Conference Agreement

The House recedes to the Senate with a technical amendment.

TITLE III—AMENDMENT TO RELATED LAWS

SECTION 301: ENERGY SECURITY

Section 10 of the House Bill

Section 10 of the House bill calls for a biennial report from the Department of Energy on present capacity and future prospects for renewable and alternative fuel sources for supporting the defense industrial base.

Section 10 of the House bill also extends for two years a provision of the Energy Security Act Amendments of 1980 that authorizes interest subsidies for geothermal energy projects.

Section 151 of Senate Amendment

Section 151 repeals section 307 of current law to correct Chadha one-house veto problem.

Section 301 of Conference Agreement

The Senate recedes to the House with an amendment incorporating House and Senate provisions.

TITLE IV—FAIR TRADE IN FINANCIAL SERVICES

The House Bill

No provision.

Title IV of Senate Amendment

The Senate amendment establishes a framework of negotiations, reports, and discretionary sanctions designed to help end discrimination against U.S. banks and bank holding companies, securities brokers and dealers, and investment advisers that operate or seek to operate abroad. The House bill contains no comparable provision. The House recedes to the Senate with an amendment described as follows.

SECTION 401: SHORT TITLE

This section designates this title as the "Fair Trade in Financial Services Act of 1990."

SECTION 402: EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES

This section adds a new section 15 to the International Banking Act of 1978, establishing a framework of negotiations, reports, and discretionary sanctions designed to help end discrimination against U.S. banks and bank holding companies that operate or seek to operate abroad.

A. Purpose

Subsection (a) of new section 15 states the purpose of section 15: to encourage foreign countries to accord de facto national treatment to U.S. banks and bank holding companies that operate or seek to operate in those countries—and thereby end discrimination against U.S. banks and bank holding companies. "Discrimination" in subsection (a) refers to any failure to accord "national treatment," to refer to "national treatment" as defined in subsection (f).

For simplicity, this joint statement uses the term "de facto national treatment" as defined in subsection (f): e.g., a foreign country accords national treatment to United States banks if it offers them the same competitive opportunities including effective market access as are available to its domestic banks.

B. Biennial Reports Required

Subsection (b) requires the Secretary of the Treasury to report to Congress every two years (1) identifying each foreign country that, according to the Treasury Department's most recent national treatment study under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord de facto national treatment to U.S. banks and bank holding companies, and yet with respect to which no determination under subsection (d)(1) is in effect; (2) explaining why the Secretary has not made (or has rescinded) such a determination; and (3) describing the results of any negotiations conducted pursuant to subsection (c).

C. Negotiations Required

Subsection (c) generally requires the Secretary of the Treasury to initiate negotiations with any foreign country (1) in which, according to the most recent national treatment study, there is a significant failure to accord U.S. banks and bank holding companies de facto national treatment; and (2) if the Secretary has not made (or has rescinded) a determination under subsection (d)(1) with respect to that country. The objective of the negotiations is to ensure that the foreign country accords de facto national treatment to U.S. banks and bank holding companies. However, the Secretary need not initiate such negotiations if the Secretary determines that they would be fruitless or would impair national economic interests, and gives written notice of that determination to the chairman and ranking minority member of the Senate and House Banking Committees.

D. Discretionary Sanctions

1. General rule

Subsection (d) authorizes certain sanctions against persons from countries that discriminate against U.S. banks and bank holding companies. The Secretary of the Treasury may, at any time, open the way for such sanctions by publishing in the FEDERAL REGISTER a determination that a foreign country does not accord U.S. banks and bank holding companies de facto national treatment. Under subsection (d)(2)(B), the Federal banking agencies may then, based on that determination and only in consultation with the Secretary of the Treasury, deny applications and disapprove notices filed by persons of that country. If a determination under subsection (d)(1) is in effect, a denial or disapproval based on that determination is conclusive: it cannot be overturned as an abuse of discretion.

Subsection (d)(2)(B) authorizes the Federal banking agencies to deny applications and disapprove notices notwithstanding any inconsistent statute, regulation, treaty, or international agreement. (Subsection (h)(1) does, however, require that discretion under section 15 be exercised in a manner consistent with certain international agreements.) The phrase "notwithstanding any other provision of law," which appeared in some antecedents of this section such as section 909 of S. 1886 (100th Congress), was omitted from subsection (d)(2)(B) as unnecessary. Thus, for example, applications may be denied and notices disapproved notwithstanding treaty provisions according persons of the foreign country in question "national treatment," "most-favored-nation treatment," or both.

Subsection (d)(2) applies to any application requiring the approval of a Federal banking agency, including an application to acquire shares of a bank or bank holding company; to effect a bank merger; to establish a branch, agency, or commercial lending company; to engage in a nonbanking activity; to establish an Edge Act or Agreement corporation; to engage in a transaction covered by subsection (e)(4); or to obtain Federal deposit insurance. Subsection (d)(2) likewise applies to any notice that is subject to disapproval by a Federal banking agency, such as a notice under the Change in Bank Control Act, and to any transaction covered by subsection (e)(3).

Nothing in section 15 requires a Federal banking agency to consult with the Secretary of the Treasury about issues other than those relating to the exercise of the agency's discretion under that section.

2. Review

Subsection (d)(3) requires the Secretary of the Treasury to review annually any determination in effect under subsection (d)(1) and decide whether that determination should be rescinded. The objective is to avoid having a determination remain in effect through inertia when the reasons for the determination no longer exist. Subsection (d)(3) also specifies that the Secretary may rescind a determination at any time.

If a Federal banking agency denied an application under subsection (d)(2)(B) and the Secretary of the Treasury subsequently rescinded the determination on which the denial was based, the rescission would not grant the application, but would clear the way for a new application.

E. Preventing Existing Entities from Being Used to Evade This Section

1. General rule

Subsection (e)(1) creates a review procedure designed to prevent an existing bank, branch, agency, commercial lending company, or other affiliated entity from being used to evade sanctions under subsection (d). If such an entity is a person of a country that the Secretary of the Treasury (acting under subsection (d)(1)) has determined does not accord de facto national treatment to U.S. banks and bank holding companies, that entity generally may not, without prior approval under subsection (e): (1) commence any line of business in which it was not engaged as of the date on which

the Treasury Secretary's determination was published in the FEDERAL REGISTER; or (2) do business at any location at which it did not do business as of that date.

The term "line of business" is drawn from and intended to have the same meaning as in section 225.145(c) of title 12, Code of Federal Regulations. Thus, for example, the following are discrete lines of business: accepting demand deposits; accepting nondemand deposits that the depositor may withdraw by check or similar means for payment to third parties (e.g., NOW accounts); accepting savings deposits; commercial lending; consumer mortgage lending; consumer credit-card lending; other consumer lending; trust activities; discount securities brokerage; full-service securities brokerage; investment advisory services; and foreign exchange transaction services.

The prior-approval requirement does not apply to acquiring interests in companies that do not operate in the United States, as subsection (e)(1) by its terms applies only to commencing new lines of business and doing business from new locations "in the United States."

Subsection (e) is procedural: it creates a review procedure for certain transactions without specifying how a Federal banking agency should exercise its discretion with respect to those transactions.

2. Exception for transactions under section 2(h)(2)

Subsection (e)(2) specifically excepts from the prior-approval requirement transactions under section 2(h)(2) of the Bank Holding Company Act. Section 2(h)(2) permits a foreign bank or bank holding company principally engaged in banking outside the United States to acquire shares of a foreign company (the "investor company") also principally engaged in business outside the United States, and permits the investor company to acquire shares of any company engaged in the same general line of business as the investor company or a related line of business. Section 2(h)(3) prevents section 2(h)(2) from being used to hold shares of a company that engages in—or holds more than 5 percent of any class of voting securities of a company engaged in—any banking, securities, insurance, or other financial activities in the United States. Thus, because section 2(h)(2) cannot be used to conduct financial services, it does not raise those concerns about national treatment in financial services to which this title is directed.

3. Review procedure

Subsection (e)(3) prescribes the reviews procedure applicable if three criteria are satisfied: (1) the entity in question is an uninsured State bank, an uninsured State branch, a State agency, or a commercial lending company; (2) the State requires that entity to obtain the prior approval of the State bank supervisor before commencing the new line of business or doing business from the new location in question; and (3) no provision of Federal law other than subsection (e) requires the entity to obtain the prior approval of a Federal banking agency before commencing that activity or doing business from that location. In all other cases subsection (e)(4) requires the entity in question to obtain the prior approval of the appropriate Federal banking agency. The effect of subsection (e)(3) is thus to coordinate the Federal review process with State prior-approval procedures in cases where there is currently no Federal prior-approval requirement.

Under subsection (e)(3), the State bank supervisor and the appropriate Federal banking agency consult about an application to commence a new line of business or do business from a new location. If the State bank supervisor approves the application, the Federal banking agency has 45 days in which to review the application. During that period, the Federal banking agency may, after consulting with the State bank supervisor and in consultation with the Secretary of the Treasury, issue an order disapproving the activity in question.

4. Effect on other law

Subsection (e) does not preempt (or otherwise relieve the entity in question from) any otherwise-applicable requirement of Federal law. Nor does subsection (e) in any way limit a Federal banking agency's express or implicit authority to prevent evasions under other provisions of law.

F. National Treatment Defined

Subsection (f) defines "national treatment" as follows: a foreign country accords national treatment of U.S. banks and bank holding companies if it offers them the same competitive opportunities in that country (including effective market access) as are available there to that country's domestic banks and bank holding companies. The reference to "effective market access" is intended to emphasize that national treatment must be de facto as well as de jure; mere equality in the letter of the law will not suffice.

G. Person of a Foreign Country Defined

Subsection (g) broadly defines a person of a foreign country as any person that (1) is organized under the laws of that country; (2) has its principal place of business in that country; (3) if an individual, is a citizen of or is domiciled in that country; or (4) is directly or indirectly controlled by any of the foregoing.

H. Exercise of Discretion

1. International agreements

Subsection (h)(1) requires the Secretary of the Treasury and the Federal banking agencies, in exercising their discretion under section 15, to act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by Congress. Thus, for example, subsection (h)(1) covers the U.S.-Canada Free Trade Agreement and would cover any multilateral agreement governing financial services developed in the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, entered into by the President, and approved and implemented by Congress. Conversely, subsection (h)(1) would not apply to treaties of friendship, commerce, and navigation, even treaties that have some provisions dealing with financial services.

2. Factors to consider

Subsection (h)(2)(A) requires the Federal banking agencies, in exercising their discretion with respect to an entity that is a person of a foreign country and is already operating in the United States, to consider: (1) the extent to which that foreign country has a record of according national treatment to U.S. banks and bank holding companies; and (2) whether that country would permit U.S. banks and bank holding companies already operating in that country to expand their activities there even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies. Other appropriate factors may also be considered.

Under subsection (h)(2)(B), the Federal banking agencies have discretion to further differentiate between entities already operating in the United States and proposed new entrants, insofar as such differentiation is consistent with achieving the purpose of section 15, as set forth in subsection (a).

SECTION 403: EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS

This section adds a new section 36 to the Securities Exchange Act of 1934, creating a framework for securities brokers and dealers parallel to that for banks and bank holding companies under section 402 of this Act.

A. Purpose

Subsection (a) states the purpose of section 36: to encourage foreign countries to accord de facto national treatment to U.S. brokers and dealers that operate or seek to operate in those countries—and thereby end discrimination against U.S. brokers and dealers.

B. Biennial Reports Required

Subsection (b) requires the Secretary of the Treasury to report to Congress every two years (1) identifying each foreign country that, according to the Treasury Department's most recent national treatment study under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord de facto national treatment to U.S. brokers and dealers, and yet with respect to which no determination under subsection (d)(1) is in effect; (2) explaining why the Secretary has not made (or has rescinded) such a determination; and (3) describing the results of any negotiations conducted pursuant to subsection (c).

C. Negotiations Required

Subsection (c) geneally requires the Secretary of the Treasury to initiate negotiations with any foreign country (1) in which, according to the most recent national treatment study, there is a significant failure to accord U.S. brokers and dealers de facto national treatment; and (2) if the Secretary has not made (or has rescinded) a determination under subsection (d)(1) with respect to that country. The objective of the negotiations is to ensure that the foreign country accords de facto national treatment to U.S. brokers and dealers. However, the Secretary need not initiate such negotiations if the Secretary determines that they would be fruitless or would impair national economic interests, and gives written notice of that determination to the chairman and ranking minority member of the Senate Banking Committee and the House Energy and Commerce Committee.

D. Discretionary Sanctions

1. General rule

Subsection (d) authorizes certain sanctions against persons from countries that discriminate against U.S. brokers and dealers. The Secretary of the Treasury may, at any time, open the way for such sanctions by publishing in the Federal Register a determination under subsection (d)(1) that a foreign country does not accord U.S. brokers and dealers de facto national treatment. Under subsection (d)(2)(B), the Securities and Exchange Commission may then, based on that determination and only in consultation with the Secretary of the Treasury, deny applications for registration as a broker or dealer filed by a person of that country, and prohibit any person of that

country from acquiring control of a registered broker or dealer. If a determination under subsection (d)(1) is in effect, a denial or prohibition based on that determination is conclusive: it cannot be overturned as an abuse of discretion.

If the Secretary has published a determination under subsection (d)(1) with respect to a given country, no person of that country may acquire control of any registered broker or dealer without giving the SEC at least 60 days notice of the proposed acquisition.

Subsection (d)(2)(B) authorizes the SEC to deny applications and prohibit acquisitions notwithstanding any inconsistent statute, regulation, treaty, or international agreement. (Subsection (h)(1) does, however, require that discretion under section 36 be exercised in a manner consistent with certain international agreements.) The phrase "notwithstanding any other provision of law," which appeared in some antecedents of this section, was omitted from subsection (d)(2)(B) as unnecessary. Thus, for example, applications may be denied and acquisitions prohibited notwithstanding treaty provisions according persons of the foreign country in question "national treatment," "most-favored-nation treatment," or both.

Nothing in section 36 requires the SEC to consult with the Secretary of the Treasury about issues other than those relating to the exercise of the SEC's discretion under that paragraph.

2. Review

Subsection (d)(4) requires the Secretary of the Treasury to review annually any determination in effect under subsection (d)(1) and decide whether that determination should be rescinded. The objective is to avoid having a determination remain in effect through inertia when the reasons for the determination no longer exist. Subsection (d)(4) also specifies that the Secretary may rescind a determination at any time.

E. National Treatment Defined

Subsection (e) defines "national treatment" as follows: a foreign country accords national treatment to U.S. brokers and dealers if it offers them the same competitive opportunities in that country (including effective market access) as are available there to that country's domestic brokers and dealers. The reference to "effective market access" is intended to emphasize that national treatment must be de facto as well as de jure; mere equality in the letter of the law will not suffice.

F. Person of a Foreign Country Defined

Subsection (f) broadly defines a person of a foreign country as any person that (1) is organized under the laws of the country; (2) has its principal place of business in that country; (3) if any individual, is domciled in or a citizen of that country; or (4) is directly or indirectly controlled by any of the foregoing.

G. Exercise of Discretion

1. International agreements

Subsection (g)(1) requires the Secretary of the Treasury and the SEC, in exercising their discretion under section 36, to act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by Congress. Thus, for example, subsection (g)(1) covers the U.S.-Canada Free Trade Agreement and would cover any multilateral agreement governing financial services developed in the Uruguay Round of GATT negotiations, entered into by the President, and approved and implemented by Congress. Conversely, subsection (g)(1) would not apply to treaties of friendship, commerce, and navigation, even treaties that have some provisions dealing with financial services.

2. Factors to consider

Subsection (g)(2)(A) requires the SEC in exercising its discretion with respect to an entity that is a person of a foreign country and is already operating in the United States, to consider: (1) the extent to which that foreign country has a record of according national treatment to U.S. investment advisers; and (2) whether that country would permit U.S. investment advisers already operating in that country to expand their activities there even if that country determined that the United States did not accord national treatment to that country's investment advisers. Other appropriate factors may also be considered.

Under subsection (g)(2)(B), the SEC may further differentiate between entities already operating in the United States and proposed new entrants, insofar as such differentiation is consistent with achieving the purpose of section 36, as set forth in subsection (a).

SECTION 404: EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS

This section adds a new section 223 to the Investment Advisers Act of 1940, creating a framework for investment advisers parallel to that for banks and bank holding companies under section 402 and securities brokers and dealers under section 403 of this Act.

A. Purpose

Subsection (a) of new section 223 states the purpose of the section: to encourage foreign countries to accord de facto national treatment to U.S. investment advisers that operate or seek to operate in those countries—and thereby end discrimination against U.S. investment advisers.

B. Biennial Reports Required

Subsection (b) requires the Secretary of the Treasury to report to Congress every two years (1) identifying each foreign country that, according to the Treasury Department's most recent national treatment study under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord de facto national treatment to U.S. investment advisers, and yet with respect to which no determination under subsection (d)(1) is in effect; (2) explaining why the Secretary has not made (or has rescinded) such a determination; and (3) describing the results of any negotiations conducted pursuant to subsection (c).

C. Negotiations Required

Subsection (c) generally requires the Secretary of the Treasury to initiate negotiations with any foreign country (1) in which, according to the most recent national treatment study, there is a significant failure to accord U.S. investment advisers de facto national treatment; and (2) if the Secretary has not made (or has rescinded) a determination under subsection (d)(1) with respect to that country. The objective of the negotiations is to ensure that the foreign country accords de facto national treatment to U.S. investment advisers. However, the Secretary need not initiate such negotiations if the Secretary determines that they would be fruitless or would impair national economic interests, and gives written notice of that determination to the chairman and ranking minority member of the Senate Banking Committee and the House Energy and Commerce Committee.

D. Discretionary Sanctions

1. General rule

Subsection (d) authorizes certain sanctions against persons from countries that discriminate against U.S. investment advisers. The Secretary of the Treasury may, at any time, open the way for such sanctions by publishing in the FEDERAL REGISTER a determination under subsection (d)(1) that a foreign country does not accord U.S. investment advisers de facto national treatment. The Securities and Exchange Commission may then, based on that determination and only in consultation with the Secretary of the Treasury, deny applications and disapprove notices filed by persons of that country. If a determination under subsection (d)(1) is in effect, a denial or disapproval based on that determination is conclusive: it cannot be overturned as an abuse of discretion.

Subsection (d)(2) applies to any application requiring the approval of the Commission, and any notice that is subject to disapproval by the Commission. Subsection (d)(2)(B) authorizes the SEC to deny applications and disapprove notices notwithstanding any inconsistent statute, regulation, treaty, or international agreement. (Subsection (g)(1) does, however, require that discretion under section 223 be exercised in a manner consistent with certain international agreements.) The phrase "notwithstanding any other provision of law," which appeared in some antecedents of this title, was omitted from subsection (d)(2)(B) as unnecessary. Thus, for example, applications may be denied and notices disapproved notwithstanding treaty provisions according persons of the foreign country in question "national treatment," "most-favored-nation treatment," or both.

Nothing in section 223 requires the SEC to consult with the Secretary of the Treasury about issues other than those relating to the exercise of the SEC's discretion under that subsection.

2. Review

Subsection (d)(4) requires the Secretary of the Treasury to review annually any determination in effect under subsection (d)(1) and decide whether that determination remain in effect through inertia when the reasons for the determination no longer exist. Subsection (d)(4) also specifies that the Secretary may rescind a determination at any time.

E. National Treatment Defined

Subsection (e) defines "national treatment" as follows: a foreign country accords national treatment to U.S. investment advisers if it offers them the same competitive opportunities in that country (including effective market access) as are available there to that country's domestic investment advisers. The reference to "effective market access" is intended to emphasize that national treatment must be de facto as well as de jure; mere equality in the letter of the law will not suffice.

F. Person of Foreign Country Defined

Subsection (f) broadly defines a person of a foreign country as any person that (1) is organized under the laws of that country; (2) has its principal place of business in that country; (3) if an individual, is a citizen of or is domiciled in that country; or (4) is direct-

ly or indirectly controlled by any of the foregoing.

G. Exercise of Discretion

1. International agreements

Subsection (g)(1) requires the Secretary of the Treasury and the SEC, in exercising their discretion under section 223, to act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by Congress. Thus, for example, subsection (g)(1) covers the U.S.-Canada Free Trade Agreement and would cover any multilateral agreement governing financial services developed in the Uruguay Round of GATT negotiations, entered into by the President, and approved and implemented by Congress. Conversely, subsection (g)(1) would not apply to treaties of friendship, commerce, and navigation, even treaties that have some provisions dealing with financial services.

2. Factors to consider

Subsection (g)(2)(A) requires the SEC, in exercising its discretion with respect to an entity that is a person of a foreign country and is already operating in the United States, to consider: (1) the extent to which that foreign country has a record of according national treatment to U.S. investment advisers; and (2) whether that country would permit U.S. investment advisers already operating in that country to expand their activities there even if that country determined that the United States did not accord national treatment to that country's investment advisers. Other appropriate factors may also be considered.

Under subsection (g)(2)(B), the SEC may further differentiate between entities already operating in the United States and proposed new entrants, insofar as such differentiation is consistent with achieving the purpose of section 223, as set forth in subsection (a).

SECTION 405: FINANCIAL INTERDEPENDENCE STUDY

This section adds a new section 3605 to the Omnibus Trade and Competitiveness Act of 1988, requiring the Secretary of the Treasury to investigate and report on the extent of the interdependence between the financial services sectors of the United States and foreign countries. The extent, nature and consequences of such interdependence are important. Among other significant issues, the report will focus on any impacts on job creation in the U.S. and overseas, the use of foreign capital to finance our national debt and private industry, the autonomy and effectiveness of U.S. monetary policy, access to financing for industry (including high technology industry), and any practices discriminating against U.S. persons. Moreover, the interconnections among the world's financial markets render such financial activities as currency trading, real estate investment, and market trading strategies central to an analysis of global interdependence. It is important that the impact of such activities on the U.S. financial services sector and economy more generally be measured and described.

The Secretary of the Treasury would conduct the investigation and prepare the report in consultation with the Securities and Exchange Commission, the Federal Reserve Board, Federal banking agencies and other appropriate agencies and departments. The SEC, Federal Reserve Board and the Federal banking agencies may take account of the report in carrying out their responsibilities under the Fair Trade in Financial Services Act.

SECTION 406: CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS

This section makes conforming amendments to three sections of current law.

A. Quadrennial Reports on Foreign Treatment of United States Financial Institutions

Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 requires the Secretary of the Treasury to report at least every four years on, *inter alia*, the extent to which foreign countries deny national treatment to U.S. banking and securities organizations. Subsection (a) adds a definition of national treatment consistent with that adopted in sections 402 through 404 of this Act: "a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities."

B. Negotiations to Provide Fair Trade in Financial Services

Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 directs the President or his designee to conduct discussions with foreign governments aimed at "ensuring that United States banking organizations and securities companies have access to foreign markets and receive national treatment in those markets." For consistency with sections 402 through 404 of this Act, subsection (b) specifies that access must be "effective."

C. Primary Dealers in Government Debt Instruments

Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 generally prohibits the Federal Reserve System from designating as a primary dealer in U.S. Government securities (or continuing any existing designation of) any person of a foreign country that "does not accord to United States companies the same competitive opportunities in the underwriting and distribution of government debt securities issued by such country as such country accords to domestic companies of such country." For consistency with sections 402 through 404 of this Act, subsection (c) specifies that "the same competitive opportunities" include "effective market access." In addition, subsection (c) makes two technical changes in phrasing: "accords to" becomes "offers"; and "as such country accords" becomes "as are available."

Subsection (c) affects only the definition of national treatment; it does not alter existing law—including the exemptions from and exceptions to section 3502(b)(1)—in any other respect.

TITLE V—EFFECTIVE DATES

SECTION 501: EFFECTIVE DATES

The House Bill

No provision.

Section 501 of Senate Amendment

Section 501 provides that the provisions of the Act shall take effect on date of enactment. The acquisition policies shall be incorporated in the Federal Acquisition Regulation within 270 days after enactment. Such policies shall apply to solicitations issued 60 days after such regulations are issued.

Section 501 of Conference Agreement

The House recedes to the Senate.

PROVISIONS NOT ENACTED

Evaluation of Domestic Defense Industrial Base Policy

Section 9 of the House Bill

Section 9 of the House bill creates a Congressional Commission to develop criteria for evaluating the effectiveness of defense industrial base policy, and its implementation to support the national security of the country. The Commission would render an interim report after one year and a final report by September 30, 1992 to the Committees having jurisdiction over the Defense Production Act. The sum of $500,000 is authorized to support the Commission's activities.

Sales or Transfers of Excess Industrial Resources

Section 122 of Senate Amendment

Section 122 modernizes existing law regarding the disposal of excess industrial resources no longer needed for defense preparedness. It authorizes the disposal of these excess resources by transfer to other Government programs or by sale to the public.

Study on Foreign Acquisitions

Section 137 of Senate Amendment

Section 137 of the Senate amendment provides that the CIA jointly with the FBI shall review foreign investment patterns to determine the existence of any coordinated strategy by foreign governments or foreign firms concerning the acquisition of U.S. companies involved in critical technologies, and any industrial espionage activities directed at U.S. firms by foreign governments.

GAO Study of State Foreign Investment Incentives

Section 221 of Senate Amendment

Section 221 requires the GAO to conduct a study of the various incentive programs used by several states to attract foreign investments.

Industrial Capabilities Assessment

Section 201 of Senate Amendment

Section 201 directs the President to conduct an Industrial Capabilities Assessment to analyze defense demands on industry and industry's ability to fulfill those needs in peacetime, times of national emergency, mobilization, or graduated mobilization and a review of major government policies and their impact on the defense industrial and technology base. This section specifies a statement of policy regarding the greater integration of national economic policies and national security policies in order to foster industrial modernization.

Approval of Title III Projects by Undersecretary of Defense

Section 301 of Senate Amendment

Section 301 specifies that the Secretary of Defense, acting through the Under Secretary of Acquisition, shall review and approve projects recommended for funding through the Defense Production Act under authority of Title III of the Act.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and sec. 1, titles I, II, and III, and secs. 501(a) and 501(b)(2) of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
JOHN J. LAFALCE,
MARY ROSE OAKAR,
BRUCE F. VENTO,
ESTEBAN E. TORRES,

PAUL E. KANJORSKI,
LIZ PATTERSON,
RICHARD E. NEAL,
CHALMERS P. WYLIE,
TOBY ROTH,
MARGE ROUKEMA,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title IV and sec. 501(b)(1) of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
FRANK ANNUNZIO,
CARROLL HUBBARD,
JOHN J. LAFALCE,
MARY ROSE OAKAR,
BRUCE F. VENTO,
CHARLES SCHUMER,
CHALMERS P. WYLIE,
JIM LEACH,

From the Committee on Energy and Commerce, for consideration of sec. 8 of the House bill and secs. 137, 403, 404, and 405 of the Senate amendment, and modifications committed to conference; except that Mr. Sharp is appointed in lieu of Mr. Walgren for purposes of consideration of section 8 of the House bill and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
DOUG WALGREN,
PHILIP R. SHARP,
NORMAN F. LENT,
MATTHEW J. RINALDO,

From the Committee on the Judiciary, for consideration of secs. 7 and 8 of the House bill, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
BARNEY FRANK,
HAMILTON FISH, Jr.,
CRAIG T. JAMES,

From the Committee on Government Operations, for consideration of secs. 211 and 212 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
CARDISS COLLINS,
GLENN ENGLISH.

Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER J. DODD,
ALAN J. DIXON,
JIM SASSER,
JAKE GARN,
JOHN HEINZ,
ALFONSE D'AMATO,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DICKINSON (at the request of Mr. MICHEL) for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. NIELSON of Utah) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 5 minutes, today.

(The following Members (at the request of Mr. WAXMAN) to revise and extend their remarks and include extraneous material:)

Mr. HOAGLAND, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. STARK, for 5 minutes, today.
Mr. WASHINGTON, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. NIELSON of Utah) and to include extraneous matter:)

Mr. PURSELL in two instances.
Mr. RHODES.
Mr. GILMAN.
Mr. KOLBE.
Mr. BROOMFIELD.
Ms. SCHNEIDER.
Mr. COX.
Mr. CONTE.
Mr. SPENCE in two instances.
Mr. SOLOMON.
Mr. YOUNG of Alaska.
Mr. CAMPBELL.
Mr. HYDE.
Mr. MICHEL.
Mr. BOEHLERT.

(The following Members (at the request of Mr. WAXMAN) and to include extraneous matter:)

Mr. RAHALL.
Mr. DE LA GARZA.
Mr. KILDEE.
Mr. KOSTMAYER.
Mr. ROE.
Mr. WISE in two instances.
Mr. HUBBARD in two instances.
Mr. GEPHARDT.
Mr. LANTOS in two instances.
Mr. EDWARDS of California.
Mr. HAMILTON.
Mr. MORRISON of Connecticut.
Mr. STOKES in two instances.
Ms. PELOSI.
Mr. TOWNS.
Mr. CAMPBELL of Colorado.
Mr. JACOBS in two instances.
Mr. HOYER.
Mr. BONIOR.
Mr. STARK.
Mr. FRANK.
Mr. WALGREN.
Mr. PEASE in two instances.
Mr. APPLEGATE.
Mr. LAFALCE.
Mr. MCMILLEN of Maryland.
Mr. DIXON.
Mr. SLATTERY.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3386. An act to prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and certain other products from contamination during motor or rail transportation, and for other purposes;

H.R. 3888. An act to allow a certain parcel of land in Rockingham County, VA, to be used for a child care center;

H.R. 4151. An act to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes;

H.R. 5209. An act to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements, and for other purposes.

H.R. 5702. An act to amend the Public Health Services Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds, and for other purposes.

H.R. 5749. An act to amend the Act entitled "An Act to incorporate the American University," approved February 24, 1893, to clarify the relationship between the Board of Trustees of the American University and the General Board of Higher Education and Ministry of the United Methodist Church;

H.R. 5794. An act to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967;

H.J. Res. 214. Joint resolution designating the week of October 22 through October 28, 1990, as "Eating Disorders Awareness Week";

H.J. Res. 518. Joint resolution designating October 12 through 20, 1990, as "American Textile Industry Bicentennial Week"; and

H.J. Res. 587. Joint resolution committing to the private sector the responsibility for support of the Civic Achievement Award Program in honor of the Office of Speaker of the House of Representatives, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 1747. An act to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes;

S. 2059. An act to establish the Weir Farm National Historic Site in the State of Connecticut;

S. 2203. An act to authorize appropriation of funds to the Zuni Indian Tribe for reservation land conservation, and for other purposes;

S. 2737. An act to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the Korean war and in honor of those who served;

S. 2846. An act to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and

progression of jazz in the United States, and for other purposes;

S. 3016. An act for the relief of Janice and Leslie Sedore and Ruth Hillman;

S. 3032. An act to designate the planned Department of Veterans Affairs Medical Center in Honolulu, HI, as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center";

S. 3043. An act for the relief of Nebraska Aluminum Castings, Inc.;

S. 3216. An act to designate the Department of Veterans Affairs Medical Center in Charleston, SC, as the "Ralph H. Johnson Department of Veterans Affairs Medical Center";

S.J. Res. 158, Joint resolution designating October 21 through October 27, 1990, as "World Population Awareness Week";

S.J. Res. 293. Joint resolution to designate November 16, 1990, as "National Philanthropy Day";

S.J. Res. 307. Joint resolution designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week"; and

S.J. Res. 324. Joint resolution designating June 2 through 8, 1991, as a "Week for the National Observance of the 50th anniversary of World War II."

ADJOURNMENT

Mr. WAXMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 48 minutes p.m.) the House adjourned until tomorrow, Wednesday, October 24, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred to as follows:

4082. A letter from the Comptroller of the Department of Defense, transmitting a copy of the contract award report for the period November 1, 1990, to December 31, 1990, pursuant to 10 U.S.C. 2431; to the Committee on Armed Services.

4083. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Turkey for defense articles (Transmittal No. 91-02), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

4084. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-253, "D.C. Government Comprehensive Merit Personnel Act of 1978 Employee Benefits Amendment Act of 1990," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4085. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-254, "District of Columbia Jewish Community Center Real Property Tax Exemption Act of 1990," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4086. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-255, "Department of Corrections Grant Award Authorization Temporary Act of 1990," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4087. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-256, "District of Columbia Religious Accommodation Amendment Act of 1990," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4088. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-257, "Naylor Court, N.W., Designation of 1990," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4089. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-258, "D.C. Government Comprehensive Merit Personnel Act of 1978 Employee Benefits Free Clinic Amendment Temporary Act of 1990," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4090. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-259, "D.C. Government Comprehensive Merit Personnel Act of 1978 Employee Benefits Free Clinic Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

4091. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 91-02), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4092. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to the Netherlands for defense articles and services (Transmittal No. 91-06), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs, October 23, 1990.

4093. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO in September 1990, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

4094. A letter from the Administrative Officer, Interstate Commission on the Potomac River Basin, transmitting a letter stating that the Commissions 1990 audit will not be complete until approximately January 1, 1991; to the Committee on Government Operations.

4095. A letter from the Office of Management and Budget, transmitting a report entitled, "Managing Information Resources: Eighth Annual Report Under the Paperwork Reduction Act of 1980", pursuant to 44 U.S.C. 3514; to the Committee on Government Operations.

4096. A letter from the Director, Financial Services, Library of Congress, transmitting The transactions of the Capitol Preservation Fund for Coins Sales Surcharges and Gift and Sales of Art, Property and Money from October 1, 1989 through September 30, 1990; to the Committee on House Administration.

4097. A letter from the Director, Financial Services, Library of Congress, transmitting the summary of the receipt and disbursement activity from the Library of Congress restoration account through September 30, 1990; to the Committee on House Administration.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPIN: Committee of conference. Conference report on H.R. 4739 (Rept. 101-923). ordered to be printed.

Mr. DINGELL: Committee of conference. Conference report H.R. 1396 (Rept. 101-924). Ordered to be printed.

Mr. BONIOR: Committee on Rules. House on Resolution 521. Resolution waiving certain points of order against consideration of the conference report H.R.4739, a bill to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and against its consideration (Rept. 101-925). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Committee Resolution 522. Resolution waiving certain points of order against consideration of the conference report S. 566, a bill to authorize a new Housing Opportunities Partnerships program to support state and local strategies for achieving more affordable housing, and to increase home ownership, and for other purposes, and against its consideration (Rept. 101-926). Referred to the House Calendar.

Mr. CONYERS: Committee on Government Operations. H.R. 3695. A bill to amend chapter 35 of title 44, United States Code, to reauthorize the Office of Information and Regulatory Affairs in the Office of Management and Budget, to make changes in the requirements applying to agency collection of information, and for other purposes; with an amendment (Rept. 101-927). Referred to the Committee of the Whole House on the State of the Union

Mr. BEILENSON: Committee of Conference. Conference report on S. 2834 (Rept. 101-928). Ordered to be printed.

Mr. GORDON: Committee of Rules. House Resolution 523. Resolution waiving certain points of order against consideration of the conference report S. 2834, a bill to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the United States Government, for the intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, and against its consideration (Rept. 101-929). Referred to the House Calendar.

Ms. SLAUGHTER of New York. Committee on Rules. House Resolution 524. Resolution waiving certain points of order against consideration of the conference report S. 1430, a bill to enhance national and community service, and for other purposes, and against its consideration (Rept. 101-930). Referred to the House Calendar.

Mr. UDALL: Committee of Conference. Conference report on H.R. 987 (Rept. 101-931). Ordered to be printed.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5093. A bill to amend title 38 United States Code, to codify and reorganize the provisions of law relating to the creation of the new Department of Veterans Affairs, and for other purposes; with an amendment (Rept. 101-932). Referred to

the Committee of the Whole House on the State of the Union.

Mr. GONZALEZ: Committee of Conference. Conference report on H.R. 486 (Rept. 101-933). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRUCE (for himself, Mr. POSHARD, Mr. WISE, and Mr. DURBIN):

H.R. 5904. A bill to amend the Internal Revenue Code of 1986 to provide tax relief to utilities installing acid rain reduction equipment; to the Committee on Ways and Means.

By Mr. MICHEL (for himself, Mr. GINGRICH, Mr. LEWIS of California, Mr. EDWARDS of Oklahoma, Mr. GOODLING, Mr. SENSENBRENNER, Mr. HYDE, Mr. GUNDERSON, Mr. WYLIE, Mr. SUNDQUIST, Mr. INHOFE, Mr. COUGHLIN, Mr. CHANDLER, Mr. WELDON, Mr. GALLO, Mr. BARTON of Texas, Mr. LIVINGSTON, Mr. GILLMOR, Mr. LOWERY of California, Mr. PARRIS, Mr. DUNCAN, Mr. BUECHNER, Mr. GRADISON, Mr. RIDGE, Mr. LEWIS of Florida, Mr. NIELSON of Utah, Mr. PASHAYAN, Mr. ROGERS, Mr. RITTER, Mr. HILER, Mr. MILLER of Washington, Mrs. BENTLEY, Mr. MCMILLAN of North Carolina, Mr. WALKER, Mr. IRELAND, Mr. DREIER of California, Mr. SHAW, Mr. THOMAS of Wyoming, Mr. RHODES, Mr. DENNY SMITH, Mr. BROOMFIELD, Mr. SMITH of New Jersey, Mr. STEARNS, and Mr. UPTON):

H.R. 5905. A bill to amend the Civil Rights Act of 1964 to strengthen civil rights laws that ban discrimination in employment; jointly, to the Committees on Education and Labor, the Judiciary, House Administration, and Rules.

By Mr. MCEWEN:

H.R. 5906. A bill to amend the Internal Revenue Code of 1986 to provide for a maximum long-term capital gains rate of 15 percent and indexing of certain capital assets, and for other purposes; to the Committee on Ways and Means.

By Mr. COX:

H.J. Res. 679. Joint resolution expressing the sense of the Congress recognizing Hungary's successful transition to democracy; to the Committee on Foreign Affairs.

By Mr. WHEAT (for himself, Mr. DELLUMS, Mr. CLAY, Mrs. COLLINS, Mr. CONYERS, Mr. CROCKETT, Mr. DIXON, Mr. DYMALLY, Mr. ESPY, Mr. FAUNTROY, Mr. FLAKE, Mr. FORD of Tennessee, Mr. GRAY, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. LEWIS of Georgia, Mr. MFUME, Mr. OWENS of New York, Mr. PAYNE of New Jersey, Mr. RANGEL, Mr. SAVAGE, Mr. STOKES, Mr. TOWNS, and Mr. WASHINGTON):

H. Con. Res. 388. Concurrent resolution to express the sense of Congress regarding racially offensive remarks by the Justice Minister of Japan; to the Committee on Foreign Affairs.

By Mr. HUCKABY (for himself, Mr. LIVINGSTON, Mrs. SCHROEDER, Ms. SNOWE, Mr. BAKER, Mr. HAYES of Louisiana, Mr. HOLLOWAY, Mr. MCCRERY, Mr. TAUZIN, Mrs. BENTLEY, Mrs. BOXER, Mrs. BYRON, Mrs. COLLINS, Mrs. JOHNSON of Connecticut, Ms. KAPTUR, Mrs. KENNELLY, Mrs. LLOYD, Ms. LONG, Mrs. LOWEY of New York, Mrs. MARTIN of Illinois, Mrs. MEYERS of Kansas, Mrs. MINK, Ms. MOLINARI, Mrs. MORELLA, Ms. OAKAR, Mrs. PATTERSON, Ms. PELOSI, Ms. ROS-LEHTINEN, Mrs. ROUKEMA, Mrs. SAIKI, Ms. SCHNEIDER, Ms. SLAUGHTER of New York, Mrs. SMITH of Nebraska, Mrs. UNSOELD, and Mrs. VUCANOVICH):

H. Res. 525. Resolution designating the room numbered H-235 in the House of Representatives wing of the Capitol as the "Lindy Claiborne Boggs Congressional Women's Reading Room"; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. OBERSTAR introduced a bill (H.R. 5907) to clear certain impediments to the licensing of the submersible vessel PC 1805 for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 381: Mr. SLAUGHTER of Virginia.

H.R. 1676: Mrs. UNSOELD.

H.R. 2531: Mr. DYSON.

H.R. 2816: Mr. JOHNSON of South Dakota.

H.R. 3004: Mr. HYDE.

H.R. 3270: Mr. BUNNING, Mr. DAVIS, Mr. FEIGHAN, Mr. MCCLOSKEY, Mr. MCMILLAN of North Carolina, Mr. MOAKLEY, Ms. MOLINARI, Mr. PORTER, Mr. RANGEL, Mr. ROBINSON, Mr. SKELTON, Mr. SMITH of Vermont, Mr. SOLOMON, Mr. TRAFICANT, Mr. WISE, Mr. YOUNG of Alaska, and Mr. BROWDER.

H.R. 3605: Ms. PELOSI.

H.R. 3768: Mr. EMERSON.

H.R. 3885: Mr. DYSON.

H.R. 3914: Mr. WILSON.

H.R. 4475: Mr. FRANK.

H.R. 4530: Mr. POSHARD, Mr. PENNY, Mr. JONTZ, and Mr. MCDERMOTT.

H.R. 4761: Mr. SHAYS and Mr. NIELSON of Utah.

H.R. 4849: Mr. APPLEGATE and Mr. HOAGLAND.

H.R. 5212: Mr. DYMALLY.

H.R. 5505: Mr. GLICKMAN and Mr. ENGEL.

H.R. 5589: Mr. JONTZ.

H.R. 5622: Mr. LANCASTER and Mr. HUCKABY.

H.R. 5697: Mr. NATCHER.

H.R. 5806: Mr. MATSUI.

H.R. 5808: Mr. CHANDLER.

H.J. Res. 562: Mr. ROBERTS.

H.J. Res. 636: Mr. WILLIAMS, Mr. WAXMAN, Mr. TRAFICANT, Mr. THOMAS of California, Mr. STANGELAND, Mr. SMITH of New Hampshire, Mr. ROBINSON, Mr. RAVENEL, Mr. RAHALL, Mr. MCCRERY, Mr. MCCOLLUM, Mr. MCCLOSKEY, Mr. LEHMAN of Florida, Mr. LEATH of Texas, Mr. LEACH of Iowa, Mr. KASTENMEIER, Mr. JOHNSON of South Dakota, Mr. HUBBARD, Mr. FORD of Michigan, Mr. FOGLIETTA, Mr. FAWELL, Mr. ESPY, Mr. EMERSON, Mr. DYMALLY, Mr. DWYER of New Jersey, Mr. DICKINSON, Mr. DE LA GARZA, Mr. DEFAZIO, Mr. CRAIG, Mr. COUGHLIN, Mrs. BYRON, Mrs. BOXER, and Mr. ACKERMAN.

H.J. Res. 653: Mr. FISH, Mr. MORRISON of Connecticut, Mr. FRANK, Mr. SMITH of Florida, Mr. LEHMAN of Florida, Mr. MCNULTY, Mr. TOWNS, Mr. WEISS, Mr. ACKERMAN, Mr. FAWELL, Mr. PALLONE, Mr. MRAZEK, Mr. BUSTAMANTE, Mr. FAZIO, Mr. WHEAT, Ms. KAPTUR, Mr. ANDERSON, Mr. GEJDENSON, Mr. HUGHES, Mrs. PATTERSON, Mr. FROST, Mr. FUSTER, Mr. COLEMAN of Texas, Ms. ROS-LEHTINEN, Mr. RANGEL, Mr. GUARINI, Mr. HYDE, Mr. MILLER of Washington. Mr. HORTON, Mr. DEFAZIO, Mr. MOODY, Mr. ROE, Mr. FAUNTROY, Mr. VENTO, Mr. GILMAN, and Mr. BERMAN.

H.J. Res. 673: Mr. HAMMERSCHMIDT, Mr. WISE, Mr. GEREN of Texas, Mr. IRELAND, Mr. HANSEN, Mr. HASTERT, Mr. MCDADE, Mr. STANGELAND, Mr. CLINGER, Mr. LANCASTER, Mr. MCEWEN, Mr. HOLLOWAY, Mr. WELDON, Mr. LIVINGSTON, Mr. GRANDY, Mr. DELAY, Mr. ROBINSON, Mr. BARTON of Texas, Mr. MICHEL, Mr. PACKARD, Mr. SCHUETTE, Mr. BAKER, Mr. MCCOLLUM, Mr. ALEXANDER, Mr. BALLENGER, Mr. BATEMAN, Mr. SMITH of Florida, Mr. MACHTLEY, Mr. DYSON, Mr. DEWINE, Mr. CHAPMAN, Mr. MCMILLEN of Maryland, Mr. UDALL, Mr. BUECHNER, Mr. DARDEN, Mr. DICKS, Mr. BOSCO, Mr. DONNELLY, Mr. HENRY, Mr. ENGLISH, Mr. PICKETT, Mr. HILER, Mr. SMITH of New Hampshire, Ms. SLAUGHTER of New York, Mr. DICKINSON, Mr. MCGRATH, Mr. DENNY SMITH, Mr. ROGERS, Mrs. MORELLA, Mr. COURTER, Mrs. JOHNSON of Connecticut, Mrs. SMITH of Nebraska, Mr. THOMAS of Georgia, Mr. FORD of Tennessee, Mr. SANGMEISTER, Mrs. COLLINS, Mr. HAYES of Illinois, Mr. CLARKE, Mr. JACOBS, Mr. TAUKE, Mr. KOLTER, Mr. HEFLEY, Mr. PICKLE, Mr. TRAFICANT, Mr. LAUGHLIN, Mr. MCCRERY, Mr. LIGHTFOOT, and Mr. HUBBARD.

H. Con. Res. 372: Mr. WOLPE, Mr. FOGLIETTA, and Mr. POSHARD.

H. Con. Res. 383: Mr. JONTZ, Mr. LANTOS, Mr. PORTER, Mr. MCCANDLESS, Mr. MANTON, Mr. MCGRATH, Mr. DEFAZIO, Mr. LIGHTFOOT, Mr. LIPINSKI, Mrs. BOXER, Mr. FROST, Mr. ARMEY, Mr. LEVINE of California, Mr. LENT, Mr. CARDIN, Mr. HYDE, Mr. TORRICELLI, and Mr. LAGOMARSINO.

H. Con. Res. 387: Mr. ROE, Mr. BEREUTER, Mr. FAUNTROY, Ms. PELOSI, Mr. SYNAR, and Mr. TOWNS.

H. Res. 476: Mr. BATES.

SENATE—*Tuesday, October 23, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Eternal God, perfect in truth and justice, righteousness and grace, You have spoken clearly through Your prophet Micah. At this confusing and frustrating time help us examine our lives in the light of the prophet's words:

He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?—Micah 6:8.

Patient Father, the confusion and frustration are no mystery to You. You know where expediency transcends principle—where politics violates statesmanship. Rebuke the spirit of selfishness that obstructs resolution. Dissolve intransigence; that justice, mercy, and humility before God may prevail.

We pray in His name, who is truth incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 23, 1990.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 5769, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Excepted committee amendments: Page 2, line 20; page 101, line 19.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I ask unanimous consent I may suggest the absence of a quorum without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PACKWOOD. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. DIXON. Mr. President, if I may renew my request that the proceedings under the quorum call be rescinded, I ask they be rescinded——

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PACKWOOD. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. DIXON. Mr. President, I ask proceedings under the quorum call be rescinded in order to proceed in morning business without in any way compromising the rights of my friend from Oregon to proceed to the Interior bill when I conclude.

The ACTING PRESIDENT pro tempore. The Senator is reminded that a quorum call is in progress. No unanimous-consent requests are in order except for rescinding the call of the quorum. No debate is in order. The clerk will continue to call the roll.

The assistant legislation clerk resumed the call of the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Oregon is recognized.

Mr. PACKWOOD. The Senator from Illinois is going to make a statement. I ask unanimous consent when he is done I might be recognized.

The ACTING PRESIDENT pro tempore. Is there objection? Hearing no objection, the Senator from Illinois is recognized.

THE MEMORANDUM OF UNDERSTANDING WITH SOUTH KOREA REGARDING THE F/A-18 SALE

Mr. DIXON. Mr. President, on Monday of this week, nine of my colleagues joined me in offering an amendment barring funding of the F/A-18 fighter plane through a coproduction agreement with South Korea until the administration furnished Congress the memorandum of understanding creating the whole deal. The Senate accepted our amendment. Then—wonders of wonders, Mr. President—within 3 hours, the White House gave permission to the Defense Department to deliver the memorandum to me and other interested Members of Congress. This is the same memorandum that the General Accounting Office has had for a number of months.

Over the last several days, my staff has reviewed this document along with the GAO, and, Mr. President, I do have some reservations.

As we all know, South Korea has violated many previous arms sales agreements through unauthorized third party sales. Despite knowing this alarming history of violations, neither the State Department nor the Defense Department required very strict production validation provisions in this agreement. This memorandum of understanding does not restrict Korea from entering into third-party transfers and sales of items produced in Korea. So here we are all over again, Mr. President. Korea can sell to third-party countries without our approval, while the United States—given

Korea's infamous history of violating agreements—requires only periodic checks of production quantities, but only when it is mutually convenient. Mutually convenient? Really, Mr. President. We are dealing here with a country that thinks nothing of violating coproduction agreements, and we are going to check on them only when it is convenient for them? That is like telling a convict on parole that he must only report to his parole officer when it is convenient after he has robbed another bank.

I would like to make a prediction today, Mr. President. I predict that it ain't ever—I repeat, ain't ever—going to be mutually convenient for the South Koreans to allow a production check by us on what they are doing with these planes they are building.

The program will also allow the Korean companies which produce parts for the F/A-18 to compete against United States companies to supply these parts to the United States Navy. That is right. We are giving away our technology and telling the Koreans we are going to allow them to sell us spare parts. Now it is interesting, Mr. President, that the administration made much of the fact that there were no "directed buybacks." Nobody mentioned competitive buybacks. Well, has anybody checked the labor rates in South Korea lately, as compared to the United States? Do we really want our aerospace workers to take pay cuts or layoffs just to accommodate this agreement with South Korea?

We were assured by the Defense Department that they would allow only 30 percent in offsets on the contract value to be given to the Koreans. It is interesting to note that the administration had opposed the legislative language that Senator BINGAMAN and I had passed into law giving them this authority. But when the rubber meets the road, Mr. President, the administration has wimped out. First, licensed production to Korea is not part of the offset agreement. That means Korea gets 30 percent offsets in addition to the large licensed production in this program for Korea. But more important, even the 30-percent figure is in question. This is not a maximum. The Koreans in a letter to Secretary Cheney say only they will "take special measures to apply the bottom line of 30 percent with a view to helping relieve United States businesses of 'offset burden' to [a] reasonable extent." The Defense Department further leaves the responsibility for working out this agreement between the Korean Government and the prime contractor, the same contractor that was willing to give up a lot more than 30 percent to get the contract, and the Korean Government that knows this.

The GAO has also raised some concerns over the transfer of technology. They say the annex to the memorandum of understanding on technology transfer does not really accurately depict the full range of what was agreed to with the Koreans. By the way, Mr. President, for the information of my colleagues, the engine manufacturer must also give up 30 percent in offsets to the Koreans as well as license production to Korea. Hot engine technology is very sensitive because of the materials used and the manufacturing process utilized. I believe that the question of technology transfer in this MOU leaves a lot to be desired. I think that in the long run we are giving up too much technology to the Koreans without having very strong controls to protect American interests.

Mr. President, over 3 years ago I spoke out against a coproduction sale to the Koreans. I believe this sale and the Japanese FSX sale should have been off-the-shelf sales. I still believe that, because nothing in the 3-year interval has occurred to cause me to change my mind. No one—not one person—in this administration, nor any of the many lobbyists hired by the Koreans or the Japanese, have convinced me that these sales are in accord with U.S. National Security or economic interests over the long term.

I also feel very strongly, along with many of my Senate colleagues, that the Arms Export Control Act must be revised to conform more to article I, section 8, clause 3, of the Constitution of the United States. It makes no sense that the General Accounting Office—an arm of the Congress—can see a memorandum of understanding for a sale of military hardware to a foreign nation, but Members of Congress of the United States, who must approve the deal, cannot. How can Congress intelligently review the agreement without having the MOU and related documents associated with the proposed transaction? I do not believe that MOU's like the one with Korea should be classified, and frankly, having looked at it, I do not see any good reason why it should have been classified in the first place. Classifying this document does not allow for a full discussion in this public forum.

I seriously considered opposing this sale. However, because this is not another codevelopment program, as the Japan sale was, and because there are ways, as we move forward, to provide some degree of assurance that vital American interests are being protected, I will not attempt to seek action on a resolution of disapproval.

However, I want to put the administration on notice that this is one Senator that intends to monitor the implementation of this program very carefully. I will be watching the technology licensing process closely, and it is important to remember that any significant technology transferred to Korea will have to be licensed under our applicable export control statutes—this MOU does not exempt any technology to be transferred from United States export control law.

I will also be joining with Senator BYRD and other colleagues in asking the GAO to keep reviewing this deal to make sure that this Congress is kept informed of Korean compliance with this memorandum of understanding. We must guarantee that our Government enforces all of its provisions.

Finally, I intend to review the Arms Export Control Act and other applicable export control statutes very carefully during the recess. I think these policies underlying these statutes need to be reviewed. Our entire policy of promoting production of sophisticated American arms abroad is fundamentally flawed in the view of this Senator, and I will be working in the next Congress to see that appropriate changes are made.

I thank the Chair. I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oregon is recognized.

Mr. PACKWOOD. Is the Senator from Illinois finished?

The ACTING PRESIDENT pro tempore. The Senator from Illinois has finished. Under the previous order, the Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I wonder if I might engage in a colloquy with the chairman of the Appropriations Committee and the Senator from Georgia. We would like to work out an arrangement where the Senator from Georgia would do his amendment on forest roads first and follow with mine on endangered species, in that order. We are both willing to agree to time limits, but on this side, there is apparently an objection. I am not in a position to speak for this side.

Could we at least get a unanimous-consent agreement to consider them in that order on which I think there is no objection to doing them in that order?

Mr. BYRD. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. BYRD. Mr. President, Senator MCCLURE and I are prepared to move quickly today to wrap up the Interior appropriations bill, but to do so we will need the cooperation of every Senator.

Last evening the Senate adopted all the committee amendments save two: the committee amendment which appears on page 2, line 20, and the committee amendment which begins on page 101, line 19. The Senate also

adopted 10 other amendments to the bill last night.

Today we are faced with a lengthy list of 35 possible amendments of which we are aware. There may be others that have not been brought to our attention. Mr. President, I urge all Senators to come to the floor as quickly as possible to offer their amendments so we may dispose of this bill as promptly as possible.

Mr. President, I will ask consent at some point this morning to close the list of amendments. I ask for the cooperation of all Senators in doing so.

Did the distinguished Senator from Oregon [Mr. PACKWOOD] direct a question at me?

Mr. PACKWOOD. What I would like to do, in deference to my good friend from Georgia—and he waited here 6 hours last night—if it is all right with the chairman of the Appropriations Committee, in terms of the sequencing of these amendments, if he might take his first, with or without a time limit, because I do not know if we can get one, take mine second, and I am willing to agree to a time limit, but I do not know if we can get it on that amendment either, but at least to put them in that order so we can go in that sequence.

Mr. BYRD. I have no objection to that sequence.

Mr. FOWLER. Mr. President, in order to be perfectly clear, as I have tried to with my friend from Oregon—and I appreciate his attempt at accommodation as always—I am perfectly willing to agree to a time agreement as the Senator from Idaho [Mr. MCCLURE] knows, 20 minutes on a side.

My understanding—and I should not attempt to speak for him in his absence—is that he would be willing to do that. But there apparently is objection on that side to any time agreements at this time. If I may say to the leader and the manager of the bill, what I would insist on at this time is the regular order, which I understand is the two pending amendments.

Mr. BYRD. The regular order would be the first committee amendment which appears on pages 2 and 3.

Mr. FOWLER. What I would like to say to my friend from Oregon is my amendment would be offered shortly; that I will agree to limit our participation on this side to no more than 30 minutes, if there is no time agreement. If that side could restrain themselves, we could get it over with within an hour after we dispose of the committee amendments.

Mr. PACKWOOD. Here comes the Senator from Idaho now. Perhaps we can see.

Mr. FOWLER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the first committee amendment be considered agreed to; that the second committee amendment be temporarily laid aside; that the distinguished Senator from Georgia [Mr. FOWLER] be recognized to call up an amendment to which no second-degree amendment will be in order, but waiving no points of order; that following the action on and disposition of that amendment, one way or the other, the distinguished Senator from Oregon [Mr. PACKWOOD] be recognized to offer an amendment on which there will be no second-degree amendments, with no points of order waived.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 2, LINE 20, WAS AGREED TO

Mr. BYRD. Mr. President, the first committee amendment has now been agreed to by unanimous consent; is that correct?

The ACTING PRESIDENT pro tempore. That is true.

Mr. BYRD. I thank the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Georgia is recognized.

AMENDMENT NO. 3110

(Purpose: To reduce appropriations for forest road construction by $100,000,000 and reallocate $40,000,000 of that amount to other activities)

Mr. FOWLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. FOWLER] proposes an amendment numbered 3110.

Mr. FOWLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In title I under the heading "RESOURCE MANAGEMENT" under the heading "UNITED STATES FISH AND WILDLIFE SERVICE" (on page 9, line 25), strike "$461,881,000 and insert "$472,631,000".

In title I under the heading "OPERATION OF THE NATIONAL PARK SYSTEM" under the heading "NATIONAL PARK SERVICE" (on page 15, line 3), strike "$873,791,000 and insert "$874,541,000".

In title I under the heading "NATIONAL RECREATION AND PRESERVATION" under the heading "NATIONAL PARK SERVICE" (on page 16, line 5), strike "$16,278,000 and insert "$16,778,000".

In title I under the heading "HISTORIC PRESERVATION FUND" under the heading "NATIONAL PARK SERVICE" (on page 16, line 9), strike "$34,665,000 and insert "$40,665,000".

In title II under the heading "FOREST RESEARCH" under the heading "FOREST SERVICE" (on page 55, line 12), strike "$165,284,000 and insert "$168,284,000."

In title II under the heading "STATE AND PRIVATE FORESTRY" under the heading "FOREST SERVICE" (on page 55, line 18), strike "$190,932,000 and insert "$196,932,000".

In title II under the heading "NATIONAL FOREST SYSTEM" under the heading "FOREST SERVICE" (on page 56, line 11), strike "$1,303,847,000 and insert "$1,314,847,000".

In title II under the heading "CONSTRUCTION" under the heading "FOREST SERVICE" (on page 57, line 18), strike "$299,208,000 and insert "$201,208,000".

In title II under the heading "CONSTRUCTION" under the heading "FOREST SERVICE" (on page 57, line 21), strike "$214,804,000 and insert "$116,804,000".

Mr. FOWLER. Mr. President, I rise again this year with an amendment to restore the Forest Service budget to fiscal and environmental responsibility. Once again I propose to do that by reducing the excessive amounts appropriated for a forest roadbuilding program that increases our budget deficit while threatening the ecological integrity of our national forests.

In 1990, the two most salient public concerns that have agitated the people and elicited the most difficult debates in this body are, hands down, the budget deficit and environmental degradation of our country.

We have just come through a painful summit, trying to eliminate only a small part of a massive and fast growing public debt, and we are still lurching and laboring toward an acceptable budget agreement.

We have also witnessed unprecedented demand, from every direction, for better environmental stewardship. Our people want cleaner air and water, purer food. They want to protect wildlife habitats and prevent the destruction of our remaining natural ecosystems.

Usually there is a conflict between these issues of fiscal belt tightening and environmental protection. In the Clean Air debate we had to balance what we wanted to accomplish with the money it would cost. By cutting funds for an excessive and superfluous Forest Service roadbuilding program, we have a rare opportunity to save money and protect our natural heritage at the same time.

These forest roads are built, thousands of miles every year, mainly to accommodate logging companies in a timber subsidy program that loses money in 102 of 120 national forests in this country. Outside of the three Pacific Coast States, there is only one national forest in the entire country where the Forest Service timber sale shows a positive return.

Timber sales on the Tongass National Forest in Alaska returned 7 cents for every $1 appropriated in 1989, with a total loss of over $34 million. The Shasta-Trinity National Forest in California returned 5 cents on the dollar, losing over $6 million. Also in California, the Cleveland and Los Padres Forests each returned one penny for every dollar appropriated. Sawtooth National Forest in Idaho earned the same distinction, while the Nez Perce brought 5 cents in receipts for every subsidy dollar, for a loss of $8,636,105. In my home State of Georgia, where the timber industry is the No. 1 industry, bar none, below cost timber sales earned 25 cents on the dollar, losing over $4 million. Nearby in Virginia, no national forest earned as much as 10 cents on the dollar for its timber sales. West Virginia was near the average for below cost timber sales, at 39 cents earned for every $1 appropriated.

This year's administration budget proposal showed some progress on this below-cost timber sale issue, with a pilot program to phase out timber sales that consistently lose money on a few national forests. But this proposal did not promise major reductions in the wasteful roadbuilding program. For example, the administration proposal would eliminate 1 new mile of forest road out of 1,425 existing miles in Alabama, where national forest timber sales lost almost $4 million in 1989. It would cut 11 new miles out of 28,705 existing miles in Arizona, where below-cost timber sales cost the Treasury almost $8 million last year.

In 1989, the Forest Service spent $88 million building subsidized roads—adding to the existing 360,000-mile network in our national forests.

That is eight times—eight times—the size of the Interstate Highway System. The number of existing roads on national forest public lands at this moment is eight times the size of the Interstate Highway System. All this was done to carry on timber sales that lost $365 million. These roads also fragmented wildlife habitat, disrupted migration routes, caused extreme soil erosion, degraded water quality, ruined salmon spawning grounds, and destroyed much of the scenic beauty of our national forests.

Clearly, it is time to go further than a negligible cut in the Forest Roads Program and a minuscule reduction in below-cost timber sales. It is time to eliminate these money losers from the Federal budget, in short, to get them off the taxpayers' backs altogether. My amendment reflects the reduced roadbuilding activity that is the first step toward accomplishing that goal. It cuts $100 million out of the $196.6 million slated for forest roadbuilding this year. It transfers $50 million of that to programs for wetlands protection and restoration forestry research, historic preservation, and fish and wildlife habitat.

The other $50 million that my amendment seeks to cut would go to reducing the Federal deficit. I would like to point out that the Senate adopted a similar amendment last year by a vote of 55 to 44. At that time my colleagues approved an amendment to reallocate $40 million in Forest Service roadbuilding money to stewardship programs, and to return $25 million to the Treasury. The conference disregarded this amendment, restored the funds to forest roadbuilding, and added additional funds exceeding the House and Senate numbers and the administration request.

So the cuts I am proposing now are long overdue. They will trim back forest roadbuilding to a more reasonable amount for this year, and enforce the cuts that should have been made, but were not, last year.

You are going to hear from my friends from Idaho and Oregon, and others, in a few moments, that these below-cost timber sales will have tremendous benefits to local economy, local tax earnings for roads and schools, other parochial interests that must be protected. Of all people, I understand the importance of strengthening local communities. But if we want to solve our national fiscal problems—and give the strongest boost to local economies—converting our public trust, the National Forest System, to private use is not the answer. The answer is not to cause irreparable harm to our national forests, while losing money on roadbuilding and below-cost timber sales, so that subsidized timber can compete with private forestry operation. That is crazy.

The Forest Service itself acknowledges in its own figures that other, nonconsumptive uses of our national forests, such as tourism, sporting and recreation, are more beneficial to the environment and can contribute more to these local economies. Yet Forest Service programs for recreation, fish and wildlife, State and private forestry, wetlands protection, and other forms of stewardship are chronically underfunded.

My amendment, by keeping this $50 million in the Forest Service, seeks to fund those chronically underfunded programs from the roadbuilding budget.

In closing now, because I want to give time to my friend from Idaho, our national forests, certainly should be managed for the broadest and most irreplaceable benefits, which only nature can provide.

Our national forests should be managed for the broadest and most irreplaceable benefits, which only nature can provide. In contrast, the Forest Service had every intention to expand its roadbuilding, clearcutting and establishment of monoculture plantations in our national forests. Forest Service plans called for the building of another Interstate Highway System worth of roads in our national forests by the year 2000. We still have 300 million taxpaper dollars committed to build thousands more miles of roads in our national forests this year.

I do not think you have to be a rocket scientist to figure out that this is a prescription for greater budget deficits and a further decline in biological diversity, air and water quality, scenic beauty, wildlife habitat, migration routes, and watershed protection.

We have to reach a more sustainable balance in our use, preservationm and regeneration of our country's natural resources, because diminishing our natural heritage, as well as fracturing forest ecosystems, runs counter to our most important economic interests, our most vital environmental needs, and the most basic responsibilities of our Nation's stewardship.

I hope that my colleagues will seriously consider this amendment. We are not eliminating any of those 360,000 miles of roads that are already there. If my amendment is adopted it would affect less than 1 percent per national forest of the proposed roads the next year.

In most national forests we are talking about three, five, seven, nine roads not yet built, that would be eliminated and the money taken from that and put into the protection of wildlife habitat, prevention of soil erosion, species protection, preservation of migratory routes, all the things that make an ecosystem the extraordinary natural resource that it is for everybody to enjoy.

Lord knows how much money we will save. The most extraordinary thing to me is all the people around here who beat their breasts wanting a balance budget until you show them what can be done to go down the road to a balanced budget where no real defense can be mounted. Yet we see a running for cover when we have a chance to make significant savings to our beleaguered taxpayers. And, I can assure that timber companies will do just find, as I will discuss, if necesary, in a few minutes, when they build roads.

I ask unanimous consent to have printed in the RECORD a table with explanations of this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOWLER AMENDMENT TO H.R. 5769 FISCAL YEAR 1991 INTERIOR APPROPRIATIONS BILL

Program	Current Senate level	Fowler amendment
REDUCTIONS		
Forest Service direct road construction	$196,607,000	−$100,000,000
Total Reductions		−100,000,000

FOWLER AMENDMENT TO H.R. 5769 FISCAL YEAR 1991 INTERIOR APPROPRIATIONS BILL—Continued

Program	Current Senate level	Fowler amendment
REALLOCATIONS		
U.S. Forest Service:		
Timber Management Research	6,676,000	+3,000,000
Anadromous fish habitat	24,230,000	+1,500,000
Inland fish habitat	17,201,000	+4,000,000
Wildlife habitat	37,404,000	+5,000,000
Endangered, Thrn, and Sens. Species habitat	24,484,000	+500,000
Old Growth Eco. Divers.	2,000,000	+6,000,000
Trail construction	18,197,000	+2,000,000
Subtotal		22,000,000
Fish and Wildlife Service:		
Farm bill wetlands restoration	6,955,000	+5,000,000
Migratory Bird Management	16,206,000	+5,000,000
Archaeology Survey		+750,000
Subtotal		10,750,000
National Park Service:		
Antilooting		+550,000
Preservation technology		+500,000
Departmental consulting archaeologist		+200,000
Historic Preservation Fund		
States	28,365,000	+4,000,000
National Trust	5,800,000	+1,500,000
Indian Tribes	500,000	+500,000
Subtotal		7,250,000
Total reallocations		+40,000,000
Net savings as a result of Fowler amendment		−60,000,000

FISH AND WILDLIFE SERVICE

Under United States Fish and Wildlife Service Resource Management strike "$461,881,000" and insert "$472,631,000" for a total increase of $10,750,000 which is to be distributed as follows:

A $5,000,000 increase to the Committee's recommended $27,342,000 for Ecological Services to provide an additional $5,000,000 for wetlands restoration, protection, and technical assistance activities on private lands through the farm bill wetlands restoration program.

A $750,000 increase in the Committee's recommended $137,179,000 for refuge operations and maintenance for an additional $750,000 for archeological survey and protection.

A $5,000,000 increase in the Committee's recommendation of $16,206,000 for migratory bird management for an additional $5,000,000 to support wetlands restoration and enhancement for waterfowl on public lands under the North American Waterfowl Management Plan.

NATIONAL PARK SERVICE

Under Operation of the National Park System, strike "$873,791,000" and insert "$874,541,000" for an increase of $750,000 to the Committee's recommendation of $137,314,000 for Resources Management such that an additional $550,000 is for antilooting efforts on archaeological sites and an additional $200,000 for a departmental consulting archaeologist.

Under National Recreation and Preservation of the National Park System strike "$16,278,000" and insert "$16,778,000" for an increase of $500,000 for a preservation technology transfer program.

Under Historic Preservation Fund of the National Park Service strike "$34,665,000" and insert "$40,665,000" for an increase of $6,000,000 to the Committee recommendation to be distributed as follows:

	Committee recommendation	Fowler amendment	New level
Historic Preservation Fund:			
States	28,365,000	+4,000,000	32,365,000
National Trust	5,800,000	+1,500,000	7,300,000
Indian Tribes	500,000	+500,000	1,000,000
Total	34,665,000	+6,000,000	40,665,000

U.S. FOREST SERVICE

Under Department of Agriculture for the U.S. Forest Service for Forest Research strike "$165,284,000" and insert "$168,284,000" for an increase of $3,000,000 to the Committee's recommendation increasing funds for timber management research to $39,676,000 such that $3,750,000 is available for Southern forest productivity competitive grants.

Under State and Privacy Forestry of the U.S. Forest Service strike "$190,932,000" and insert "$196,932,000" for an increase of $6,000,000 to the Committee's recommendation to increase special projects to $20,480,000 such that $8,000,000 is available for economic diversification in California, Oregon, and Washington state.

Of the $8,000,000 the Pacific Southwest Region shall receive $1,000,000 for competitive grants for economic diversification of communities dependent on timber from federal lands of which $50,000 shall be available on a competitive basis to the Pacific Southwest Region national forest districts to assist such local communities in developing and implementing proposals for economic diversification. The Oregon Economic Development Department and the Washington State Office of Trade and Economic Development shall each receive $1,000,000 to encourage the manufacturing of value-added wood products in these local communities dependent on old growth timber from federal lands. These funds are to be matched on a 50-50 basis by each state. The remaining $5,000,000 shall be equally distributed between Washington and Oregon as competitive grants to communities dependent on federal timber for economic diversification through promotion of forest-based recreation, tourism, and other economic activities. Of these funds $250,000 shall be available on a competitive basis to Pacific Northwest Region national forest ranger districts to assist such local communities in developing and implementing proposals for economic diversification.

Under National Forest System of the U.S. Forest Service, strike "$1,303,847,000" and insert "$1,314,847,000" for an increase of $11,000,000 to the Committee's recommendation to increase funding for fish and wildlife habitat improvement as follows:

	Committee recommendation	Fowler amendment	New level
Wildlife Habitat Improvement	37,404,000	+5,000,000	42,404,000
Inland Fish Habitat Improvement	17,201,000	+4,000,000	21,201,000
Endangered, Threatened, & Sens. Species Habitat Improvement	24,484,000	+500,000	24,984,000
Anadromous Fish Habitat	24,230,000	+1,500,000	25,730,000
Total	103,319,000	+11,000,000	114,319,000

The $500,000 increase above the Committee recommendation for Endangered, Threatened, and Sensitive Species Habitat Improvement includes an additional $50,000 for habitat improvement for the Bald Eagle and $450,000 in habitat improvement for the Red Cockaded woodpecker.

Under U.S. Forest Service for Construction, strike "$299,208,000" and insert "$201,208,000" and strike "$214,804,000" and insert "$116,804,000" such that the distribution of construction funding is as follows:

	Committee recommendation	Fowler amendment	New level
Facilities	82,895,000		82,895,000,000
Roads and trails:			
Direct road construction	196,607,000	−100,000,000	96,607,000
Trails	18,197,000	+2,000,000	20,197,000
Total construction	299,208,000	−98,000,000	201,208,000

Of this $100,000,000 reduction for direct road construction, it is the intent of this amendment that funding for the direct construction of recreation roads as recommended by the Committee be available in full. An increase of $2,000,000 above the Committee recommendation is also provided for trail construction.

Mr. FOWLER. I thank my colleagues for their attention and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. McCLURE. Mr. President, I approach this subject with some trepidation because we covered most of this ground before and I do not want to overstate my opposition—I can scarcely do so—nor do I wish to overlook the opportunity to present information to my colleagues that might aid them in making a decision on how to vote on this amendment.

There are two or three things that my friend from Georgia has mentioned in his statement in support of the legislation that he has offered which are erroneous in my view, and I wish to at least lay that out at the beginning and then talk about the impact of the amendment.

Some suggest that last year, even though the Senate had voted in one manner, we added money in the conference. That is slightly inaccurate and I wish to say exactly what did happen.

The budget request last year was $186 million, and the final action of the conference was to appropriate $164 million, $22 million below the administration's request. We did add in the conference a provision that they could use excess funds in the road program. But, the truth of the matter is the excess funds did not materialize and, therefore, were not available for roadbuilding. Such a contingency was very possible at the time. We added the language which we did add in the conference, that if they did generate excess funds, that is, funds in a larger measure than they had anticipated or laid out in their program, they could use some of that excess funding.

The second thing I think is important to note, my colleague from Georgia has talked about clearcutting,

monocultures, Forest Service management practices generally, below-cost sales, all of which are involved in Forest Service management practices in the debate over what those practices ought to be. But they have little direct relationship to the topic we are discussing here today. They may be good debating topics and we should at sometime debate them, but they have almost nothing to do directly with the roadbuilding program.

Finally, my colleague has suggested that a cut of $100 million out of $191 million, that we have suggested, will have no impact on anyone. Come on, cut $100 million out of $191 million and never affect anyone? What is its purpose? As a matter of fact, it will have dramatic effects, as I will try to outline a little later, with respect to the exact impact of this amendment.

The amendment proposes to reallocate $50 million of the $100 million he would take out of this item into other natural resources programs funded in the bill.

I might state at the outset that I think the amendment is subject to a point of order because it amends the bill in several places. It is not my intention to raise that point of order because I want to give my colleague from Georgia the opportunity to present his issue the way he wants to present it. I want the Senate to see the issue the way he wants to present it, so that there is no confusion on the part of anyone with respect to exactly what the impact is.

As I say, technically I think it is subject to a point of order, but again I do not intend to raise that point of order.

I mention that at this point because we, in the committee, have been trying very hard to respond to exactly the concerns that are raised by the Senator from Georgia in other respects, the funds, where they will be added back. I will get back to that in a moment, but it is not correct to leave the impression that the committee has not been conscious of the needs in the other programs to which funds would be transferred. The committee has already addressed those questions in a very positive way.

I am very grateful for the help that we have had from the chairman of the Appropriations Committee, the distinguished President pro tempore of the Senate and chairman of the Appropriations Committee, chairman of this subcommittee, Senator BYRD from West Virginia. He has supported what we have tried to do not only with respect to the forest roadbuilding program, but also with respect to the needs of the other programs to which funds would be transferred under this amendment.

On the surface, the amendment may seem like a budget gainer. In fact, however, the consequence of such an amendment would have lost-revenue implications that would more than offset the proposed $50 million return to the Treasury. I remind the Senator from Georgia that the timber sales program returned approximately $876 million in receipts of the Treasury last year. By obliterating the forest road program, the Senator from Georgia would cause the timber sales program to decrease by nearly 75 percent. The corresponding revenue loss associated with such an annual sales reduction would be approximately $450 million, with these losses accruing to the Treasury over a multiyear period.

Mr. President, I believe the amendment is subject to a point of order on that point as well, because it affects adversely future revenues to the Treasury. Again, I do not intend to raise that point of order. I want the Senate to look at this issue and have an opportunity to look at the issue very clearly and very cleanly with no diversions.

The ripple effect of this amendment would affect the Treasury in other ways as well:

A reduced timber program means fewer jobs. The Forest Service estimates job loss due to the amendment to be 51,000 jobs, on top of the estimated 28,000 job loss associated with the recommendations of the Interagency Scientific Committee, which have not been violated in the committee's recommendations.

Fewer jobs means less income tax revenue paid to the Treasury.

Fewer jobs can translate into higher unemployment and other public assistance costs. Many of the communities that would suffer the immediate consequences of adopting such an amendment are remote, rural settings. The people in these towns often do not have other alternatives.

A reduction in timber receipts translates into a corresponding reduction in the payments to the States and counties where the timber is sold and harvested, which translates into reduced funding available for schools and local infrastructure—which will place further demands on the Federal Treasury in the long-term.

These reductions to States and counties are not of great concern to the Senator from Georgia since his State would lose only $625,000 under the amendment. Let me highlight the considerable revenue losses that other States may experience over a 3-year period:

Alabama would lose $2.9 million; Arizona, $11.1 million; Arkansas, $7.9 million; California, $23.7 million; Florida, $2.4 million; Idaho, $12.8 million; Kentucky, $1.1 million; Louisiana, $5.4 million; Mississippi, $10.2 million; Montana, $6.1 million; Oregon, $225.9 million; Pennsylvania, $2.7 million; South Carolina, $1.7 million; South Dakota, $1.3 million; Texas, $3.2 million; Washington, $67.9 million; West Virginia would lose $733,000 over that same period of time.

So you can understand why people in the States that I have listed are very much concerned about the impact of the amendment offered by the Senator from Georgia.

The forest road program employment level is estimated to be 2,300 employees for fiscal year 1991. A drastic reduction such as that proposed by the amendment would require an almost complete termination of the engineering work force. According to the Forest Service, the severance and associated costs for a single employee termination total some $16,000. Assuming that roughly 2000 Forest Service employees would be terminated in response to the amendment, this creates a cost of nearly $32 million.

The committee recommendation for forest road construction is the product of a bipartisan effort that represents accurately the funds necessary to address the timber program included in the committee's recommendations, and to address the recreational road projects of interest to Members of the Senate.

The committee recommendation includes no change to the budget request for forest roads associated with the timber program. Senator FOWLER's amendment would take the forest road construction program from approximately $128 million to $28 million.

The Senator from Georgia suggests that more balance is needed in the Forest Service budget. The committee recommendations do exactly that. The committee has provided an increase of $134,315,000 to the State and private forestry program—an increase of 237 percent over the budget request. These programs benefit the State and private landowners throughout the country, particularly those in the South.

Conversely, the Senator from Georgia's amendment proposes to all but eliminate the forest road program that is essential to those States where the Federal Government is the principle landowner, such as Nevada, Idaho, Oregon, Alaska, and others.

The amendment proposes to reallocate funds to a variety of programs. Many of these programs, however, are already funded, under the committee's recommendations, at levels in excess of the fiscal year 1990 level and the fiscal year 1991 President's budget. For example:

Timber management research is funded at a level 25 percent above the fiscal year 1990 level, and 22 percent above the President's budget;

Anadromous fish habitat management programs are funded 35 percent above the fiscal year 1990 level, and 64 percent above the President's budget;

Inland fish habitat management programs are funded 27 percent above

the fiscal year 1990 level, and 21 percent above the President's budget; and

Wildlife habitat programs are funded 37 percent above the fiscal year 1990 level, and 12 percent above the President's budget.

For programs not referenced by the Senator's amendment, the committee has provided significant increases:

Land and water conservation fund land acquisition is increased nearly $100 million, or 39 percent, over the President's request, and is nearly 46 percent over the fiscal year 1990 level.

Recreation management programs in the Bureau of Land Management, which include recreation, wilderness, and cultural resources are increased 31 percent over last year's level. Similar programs in the Forest Service are increased 29 percent over fiscal year 1990.

Resource protection programs in the Fish and Wildlife Service are recommended at a level approximately 17 percent above last year's level, including an increase of nearly 19 percent for endangered species activities.

Park operations programs are increased by roughly 14 percent over fiscal year 1990.

BLM soil, water, and air programs are increased 17 percent over fiscal year 1990, while the Forest Service budget for these programs is increased 26 percent for similar programs.

I would suggest to the Members of the Senate that the recommendations of the committee do indeed reflect a better balance.

We have worked very hard in the committee over the last year or two to increase our funding in these very critical areas, being very responsive, very mindful, and very sensitive to the criticisms that have been leveled in past years that we were not doing enough in these programs.

The "Dear Colleague" letter summarizing the Senator's amendment contains several factual errors that I would like to correct for the RECORD.

I hope my colleagues who may be listening to this debate will compare these facts to those set forth in the Senator's "Dear Colleague" letter.

First, the letter suggests that the Forest Service proposes "to construct an additional 2,300 miles of new roads". The correct number of new miles proposed to be constructed for timber purposes by the Forest Service with appropriated dollars is 219 miles, not 2,300 miles. This is presented on page 7-26 of the fiscal year 1991 explanatory notes for the Forest Service budget.

Second, the letter suggests that the increase recommended by the committee is not justified. I would ask the Senate to refer to page 106 of the committee report which clearly identifies that the increased funds are provided entirely for recreational activities above the budget estimate.

I want to repeat that. The increases that the committee added above the budget request are entirely for recreational activities.

The projects for which the increased funds are provided were requested by Members of the Senate. One of the projects is in the State of West Virginia. It is a needed safety improvement to a road leading into the Big Bend Campground at Smoke Hole. At present, the road is barely a car-width wide, and is aligned in such a way that visitors must make a sharp, downhill curve, to enter the campground.

This is a safety hazard which the Senator from West Virginia has been trying to correct. The project has nothing to do with the timber sales program in the Monongahela National Forest. Other Members are trying to make similar improvements.

Third, the letter suggests that a reduction is appropriate since the timber program recommended by the committee is below the level requested by the President. This contention would be appropriated if the funding contained in the President's budget provided for a stable, sustainable timber sales program. Unfortunately, this is not the case. The President's budget projected an outyear decrease of nearly 25 percent from the current year. The committee report, on pages 92 through 97 discusses the need for a stable, sustainable timber program. The funds recommended for the timber program provide this stability. So to suggest that the funds are not necessary is inaccurate.

A few other points should be made about the forest road program. Forest roads are not just for timber. They provide access also to the forests for fishermen; hunters; hikers; photographers; wilderness users; horseback riders; and casual visitors out for a drive to view the scenery, whether it be the fall colors, the blooming dogwoods and magnolias of spring, the snow-draped landscape of winter, or the cool shade of summer. Forest roads allow access for other purposes as well, including firefighting, pest suppression, firewood gathering, fish stocking of streams, and weed control.

2. Forest management for timber purposes is in a state of transition. New and innovative methods of managing our national forests are being evaluated. More and more, forest managers are moving away from clearcutting. Many of the new perspectives proposals involve selective cutting to enhance wildlife, fisheries, soil, and water values. To do this may require accessing more parts of the forest, which in turn requires road funding.

So if you really want to get away from some of these practices that have been criticized, you cannot get away from them simply by cutting road funding.

The recommendation of the House for forest roads in fiscal year 1991 is $30 million below the President's request. The House recommendation fails to provide any funding for the additional recreation activities recommended in the House allowance. I would suggest that some truth-in-budgeting is in order with respect to these cost implications.

Of the total funding requested for the timber portion of the forest road program, $81,271,000, or 63 percent of the program, is associated with the administration, location, survey, design, inspection, and oversight of the purchaser construction program. The Federal Government has maintained its stewardship and oversight role for the management of the Purchaser Construction Program in order to insure environmental protection, monitor contract compliance, and prevent safety problems.

The Senator from Georgia indicated you can cut $100 million out of this program and never affect any of the existing roads.

That is simply untrue. It is factually inaccurate. Most of the money in this program does not go to new roads. Most of the money in the program goes to the maintenance, the reconstruction, and the engineering oversight with respect to the purchaser activities on timber sales. That is part of the Timber Sales Program, surely, but it is not road construction dollars.

As I said a moment ago, of the $191 million we have $128 million associated with the construction and reconstruction programs. And the $100 million cut that the Senators has suggested would reduce it from $128 million to $28 million. That is scarcely an insignificant action.

I would like to point to a chart with respect to the budget. The Forest Service Road Program should be put in perspective with the total expenditure made by the agency. The fact is the Forest Service road construction comprises only 5 percent of the total Forest Service budget. I want to make certain everybody sees, as we look at the total dollars spent, that what we are talking about here on Forest Service road construction is only 5 percent of the total dollars spent by the Forest Service.

The fiscal year 1991 committee recommendation of $196.6 million can be broken down as follows—I refer to the second chart. I hope people can see this well because it indicates that reconstruction activities constitute 60 percent of the appropriation. Construction accounts for only 40 percent. While 66 percent of the funding supports timber projects, 65 percent of all forest road system use is by recreationists. An additional 5 percent supports administrative uses. Finally, 30 percent of the system's actual use is

for timber purposes. The 11 percent of the funding for recreation construction includes $15 million in earmarked projects.

(Mr. LIEBERMAN assumed the chair.)

Mr. McCLURE. The Forest Service Roads Program is not a waste of taxpayers' money and does not contribute to the Federal deficit. In fact, it is a revenue generator. The Forest Service estimates total receipts to be $950 million in fiscal year 1991.

The size of the road program has decreased in recent years. From fiscal year 1981 to fiscal year 1990, the budget authority decreased by 47 percent. These are factual charts; the exposition of what has actually happened with respect to the roads program in adjusted dollars. These are adjusted dollars so there is a simple comparison, 1981 to 1990, adjusted to 1982 dollars. It has decreased. The Forest Service has become much more efficient in its road building activities, and is under a great deal of pressure from many of us to do so.

There has been a strong downward trend in road construction and reconstruction costs expressed in a per mile basis. I refer to the chart. Forest Service costs per mile have fallen 29 percent. These are facts expressed in adjusted dollars from 1983 to 1989.

A reduction in the roads program of the magnitude talked about in this amendment is an end run around the new forest plans which are publicly reviewed, legally valid documents. By approving a reduction in roads funding, Congress is thumbing its nose at the land and resource management planning process it established in 1976 when it passed NFMA.

The committee report goes to great lengths to emphasize the importance of sustainability to the Timber Sale Program. A significant reduction in the Road Program will shoot an arrow into the heart of the concept of a sustainable program. Without sustainability, States cannot plan for their economic futures, especially those Western States where the Federal Government is the predominant property owner.

It is often suggested that road density on national forests is outrageously high. This is not the case. Forest road density is about the same as the road density in many rural States. The National Forest System comprises 191 million acres, an area that exceeds the size of Texas. The forest road service system, servicing this area, totals about 360,000 miles. The Forest Service average road density is 1.21 miles of road per square mile. This compares favorably with Texas, at 1.04; Colorado at 1.14; and Oregon, at 1.39. It is sometimes argued that the number of Forest Service road engineers is sustained at the expense of wildlife biologists, soil scientists, and other technical positions, and that is another myth. The forest road staffing over the last 2 years has fallen from the level, in 1984, of 4,000, to about 2,000 in 1990. These are facts—a 46-percent reduction in that period of time.

It is misleading, Mr. President, to suggest that road building jeopardizes valuable fish and wildlife habitat to senseless destruction. The national forests are managed according to their new forest plan. The plans set forth management guidelines for fish and wildlife which must be adhered to when timber, roads, and sales are planned. If they are not, the Forest Service is subject to administrative appeal and judicial review.

The Fowler amendment insinuates that the committee has not been adequately funding fish and wildlife programs, and that is patently untrue. In fact, there has been a 119.6-percent increase in Forest Service fish and wildlife habitat management since 1985.

Furthermore, the fiscal year 1991 Senate committee recommendation represents a 28.2-percent increase over the fiscal year 1990 level.

The Appropriations Committee has also increased significantly Forest Service recreation dollars. Since 1985, the recreation program has increased 48 percent. In addition, the fiscal year 1991 Senate committee recommendation is 29.3 percent over the fiscal year 1990 level.

I might mention, too, that the trail construction funding is up 162.4 percent since 1985 and trail maintenance is up 156.9 percent.

The Senate bill, as reported by the Appropriations Committee, provides $3 million for new prospectives forest research. New prospectives may provide us with alternatives to clear cutting and the existing forest timber management cost. However, for new perspectives to work, we may have to spread out the area of harvest geographically and it will take road dollars to make this work.

The Fowler amendment may squelch any chance we have of getting new prospectives off the ground.

While it is true that the fiscal year 1991 timber sale program is about 1 billion board feet less than last year's program, it does not follow that a major reduction in roads is appropriate. In fact, the opposite is true.

For example, the major reason for the timber sale reduction is the spotted owl problem in the Pacific Northwest. Because large blocks of eroded areas are now off limits to timber management activities, the Forest Service must build new roads to reach new timber sales areas. Once again, the roads have to be consistent with the new forest plans.

Mr. President, I have other tables and information with respect to the density of roads. I have other tables with respect to the impact upon jobs. I will not take the time of the Senate at this particular time to go into those in more detail, but certainly if any Senator has questions about them, I have the detail and will be glad to make that information available.

I also have a Forest Service capability statement indicating that they do not need the additional funds allocated by the Fowler amendment.

Let me just read from these, and then I will ask unanimous consent that they be printed in the RECORD in full.

With respect to forest research, they state,

> We believe that increasing timber management research funding above the $36.576 million level in the Senate report should be deferred until the analysis required by the farm bill is completed.

With respect to State and private forest industries, special projects, they state that $25 million included in the House and Senate marks is sufficient to accomplish the old growth diversification project scheduled. We believe that the requested $6 million increase would be better utilized and should remain in the forest road construction program.

With respect to wildlife and fish habitat management, their conclusion is:

> The funding included in the Senate marks is sufficient to accomplish the wildlife and fish habitat improvement programs schedule. We believe that the requested $13 million increase would be better utilized and should remain in the forest road program. In addition, the proposed increase of $4 million for anadromous fish habitat would exceed the amount necessary for implementing forest plans.

Mr. President, I ask unanimous consent that those capability statements be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

USDA, FOREST SERVICE

Appropriation: Forest Research.

Activity: Timber Management Research.

Proposed Amendment: +$3,000,000 to accelerate timber management research.

Current program: The current program supports research on silviculture, genetics, biotechnology, growth and yield, and management of forested ecosystems.

Amount budgeted in fiscal year 1991: $30,000,000.

Feasibility: The President's 1991 Budget proposes significant increases in a number of programs within the Forest Service, while supporting efforts to reduce the Federal deficit in accordance with Gramm-Rudman-Hollings targets. Any increase above the President's Budget request will need to be offset by corresponding reductions in other projects or programs so that deficit reduction targets can be met. The President's budget provides adequate funding for the highest priority research activities.

Capability: This capability statement is in response to Senator Fowler's proposal to offer an amendment which would remove $100 million from the Forest Road Program

for timber related roads and transfer some of those funds to Forest Service research, fish and wildlife habitat protection, and old growth diversification programs. The funds included in the House and Senate marks are sufficient to accomplish the Timber management research objectives planned. We believe that the requested $3,000,000 increase would be better utilized and should remain in the Forest Road Construction program.

The National Research Council report, "Forestry Research: A Mandate for Change," released in July 1990 by the National Academy of Sciences, indentified five broad research areas that critically need to be strengthened: (1) the biology of forest organisms; (2) ecosystem function and management; (3) human-forest interactions: (4) wood as a raw material; and (5) international trade. The first two of these areas fall within timber management research. The Conference Committee version of the 1990 Farm Bill (Section 1233(d)) requires the Secretary, within six months of enactment of the bill, to submit a report to the Congressional committees responding to the NRC findings and recommending changes in programs priorities and funding levels to address the needs indentified. To take advantage of the report being prepared, we believe that increasing timber management research funding above the $36,676,000 level in Senate Report 101-434 should be deferred until the analysis required by the Farm Bill is completed.

Outlay effect: Fiscal year 1991: +$2,505,000; fiscal year 1992: +$495,000.

Proposed by: Senator Wyche Fowler, Jr., October 17, 1990 (C-021).

Date: October 19, 1990.

USDA, FOREST SERVICE

Appropriation: State and Private Forestry.

Activity: Special Projects.

Proposed Amendment: +$6,000,000 for old growth diversification, in addition to what is included in House and Senate marks.

Current program: $19,663,000. The current special projects program is funded at $19,663,000, of which $495,000 was for economic diversification studies. Special projects involve activities to accomplish specialized objectives usually not available through other Forest Service programs.

Amount budgeted in fiscal year 1991: $0.

Feasibility: The President's 1991 Budget proposes significant increases in a number of programs within the Forest Service, while supporting efforts to reduce Federal deficit in accordance with Gramm-Rudman-Hollings targets. Any increase above the President's Budget request will need to be offset by corresponding reductions in other projects or programs so that deficit reduction targets can be met.

Capability: This statement is in response to Senator Fowler's proposal to offer an amendment which would remove $100 million from the Forest Road Program for timber related roads and transfer some of those funds to Forest Service research, fish and wildlife habitat protection, and old growth diversification programs. The $2,000,000 included in the House and Senate remarks is sufficient to accomplish the old growth diversification projects scheduled. We believe that the requested $5,000,000 increase would be better utilized and should remain in the Forest Road Construction program.

Outlay effect: Fiscal year 1991: +$4,800,000; fiscal year 1992: +$1,200,000.

Proposed by: Senator Wyche Fowler, Jr., October 17, 1990 (H1-007).

Date: October 19, 1990.

USDA, FOREST SERVICE

Appropriation: National Forest System.

Activity: Wildlife and Fish Habitat Management.

Proposed Amendment: +$4,000,000 for Anadromous Fish Habitat Improvement, +$4,000,000 for Inland Fish Habitat Improvement, and +$5,000,000 for Wildlife Habitat Improvement.

Current Program: $10,880,000 for Wildlife Habitat Improvement, $7,418,000 for Inland Fish Habitat Management, and $10,880,000 for Endangered, Threatened, and Sensitive Species Habitat Improvement. This provides for the improvement of habitat productivity for those special highly desired by the public such as deer, elk, wild turkey, trout, bass, and salmon. It also allows for the protection of and improvement of habitat to achieve recovery goals for endangered and threatened animals and plants and to protect and sustain viable populations of sensitive animals and plants.

Amount budgeted in fiscal year 1991: $14,815,000 for Wildlife Habitat Improvement, $8,646,000 for Inland Fish Habitat Management, and $12,000,000 for Endangered, Threatened, and Sensitive Species Habitat Improvement.

Feasibility: The President's 1991 Budget proposes significant increases in a number of programs within the Forest Service, while supporting efforts to reduce the Federal deficit in accordance with Gramm-Rudman-Hollings targets. Any increase above the President's Budget request will need to be offset by corresponding reductions in other projects or programs so that deficit reduction targets can be met.

Capability: This statement is in response to Senator Fowler's proposal to offer an amendment which would remove $100 million from the Forest Road Program for timber related roads and transfer some of those funds to Forest Service research, fish and wildlife habitat protection, and old growth diversification programs. The funding included in the Senate remarks is sufficient to accomplish the wildlife and fish habitat improvement programs scheduled. We believe that the requested $13,000,000 increase would be better utilized and should remain in the Forest Road Program. In addition, the proposed increase of $4,000,000 for anadromous fish habitat would exceed the amount necessary for implementing forest plans.

Outlay effect: Fiscal year 1991: +$11,245,000; fiscal year 1992: +$1,775,000.

Proposed by: Senator Wyche Fowler, Jr., October 17, 1990 (V-005).

Date: October 19, 1990.

Mr. McCLURE. Mr. President, there are other people who are also interested in this. I am going to yield the floor in just a moment, but I want to add two more letters to the RECORD. One is the United Paperworkers International Union, a letter dated October 22, 1990.

DEAR CONGRESSMAN: We support the Senate Appropriations Committee version of the fiscal year 1991 Interior appropriations bill (H.R. 5769). We are in full opposition to any amendment proposed by Georgia Senator Wyche Fowler.

Signed by Ben Wightman, standing committee member, and Virgil Cromer on behalf of the union, United Paperworkers International Union in Lewiston, ID.

Finally, Mr. President, and this is not intended as a clincher, but it is just the end of my presentation.

Mr. FOWLER. Did the individual from Idaho say he was opposed to any amendment I might offer? My reputation has suffered so greatly.

Mr. McCLURE. I would say in Lewiston, ID, that is their opinion.

Mr. FOWLER. I am glad we cleared that up. I will remember that in my Presidential bid.

Mr. McCLURE. I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED PAPERWORKERS
INTERNATIONAL UNION,
Lewiston, ID, October 22, 1990.

DEAR CONGRESSMEN: We support the Senate Appropriations Committee version of the FY 1991 Interior Appropriations Bill (HR 5769).

We are in full opposition to any amendment proposed by Georgia Senator Wyche Fowler.

BEN WIGHTMAN,
Standing Committee Member.
VIRGIL CROMER,
Union Member.

Mr. McCLURE. Mr. President, finally, because it is the last and not necessarily the only argument, I ask unanimous consent to print in the RECORD a letter addressed to the Honorable ROBERT C. BYRD, chairman, Committee on Appropriations, U.S. Senate.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC, October 22, 1990.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that Senator Fowler is expected to offer an amendment to the fiscal year 1991 Interior and Related Agencies appropriations bill reducing Forest Service road construction funding by $100 million.

Such a reduction would devastate the timber sale program. We have developed data based on distributing a $100 million reduction across the board. The analysis estimates that it would be possible to sustain only a 4.1 BBF timber sale program. It would have severe impacts on jobs and payments to States. If the $100 million were concentrated in timber alone, the impact would be much greater.

I view this reduction to be of such significance, that were it to pass and be carried through conference, I would recommend to the President that he veto the bill.

The Office of Management and Budget advises that there is no objection to this position.

A similar letter is being sent to Senator Hatfield.

Sincerely,

CLAYTON YEUTTER,
Secretary.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. ADAMS].

PRIVILEGE OF THE FLOOR

Mr. ADAMS. Mr. President, I ask unanimous consent that Forest Service fellow, Loren Ford, be allowed the privilege of the floor for the duration of the Interior appropriations bill.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I know that certain Senators have some problems with having to leave. We all have those problems. I have about a 15-minute statement.

Mr. GORE. I say to my colleague, I have about a 5-minute statement. I have been waiting here since the opening gavel. I am prepared to wait longer.

Mr. ADAMS. I will follow. My colleague from Oregon has a similar problem.

Mr. HATFIELD. Mr. President, if the Senator will yield, I respect the Chair's prerogative in recognizing Senators who are seeking the floor. Like the Senator from Tennessee, I have been here since 10 o'clock this morning as well, as a participant in this exercise. I happen to yield to whoever the Chair recognizes. I have the Chair note I am seeking recognition as I have been this morning.

Mr. ADAMS. I ask unanimous consent that the Chair might recognize in order Senator GORE, Senator HATFIELD, and then Senator ADAMS.

Mr. HATFIELD. Mr. President, I reserve the right to object. If the Chair is going to alternate sides, or whatever the plan is, I would hate to think that we have to decide by unanimous consent who is to be recognized next. The Chair will establish whatever policy it is going to follow; it is fine with me. I am happy to comply with whatever the Chair's policy is. But I do let the Chair know that I have been seeking and continue to seek recognition.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is——

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BAUCUS. Mr. President, reserving the right to object, I think the Senator from Oregon made a very valid point. I will object.

I think it far more proper for the Chair to establish a very judicious policy in recognizing Senators. I think the basic policy outlined by the Senator from Oregon is very fair, and I urge the Chair to follow policy like that.

I do not think we want to set a precedent in lining up the order of speakers. I think it is far better for the Chair to exercise its prerogative and recognize whomever the Chair believes should be recognized. I do object.

Mr. ADAMS. If there is no objection, I will proceed.

Mr. President, I rise today in support of the amendment by Senator FOWLER to reduce the amount budgeted in the Interior appropriation for the building of Forest Service roads.

The Interior appropriation bill we consider today will fund Forest Service activity for the year 1991, the 100th anniversary of the first national forest reserve. In 1891, Congress gave birth to conservation as a national issue by authorizing the President to declare forest reserves. Now, in 1991, more than ever, management of the national forests is a national issue and the Congress has a special obligation to fund activities consistent with the wishes of the American people.

Since that first forest reserve was declared, Congress has passed many laws dictating management of these forests. To a large degree, these laws have kept pace with the evolving wishes of the American people. Early legislation addressed the Nation's need to protect watersheds and furnish a continuous supply of timber for the use of its citizens. After World War II, the Armed Forces returned home, and logging escalated in national forests to provide lumber for their houses and the booming economy. At the same time, these young families turned to the national forests for recreation. Over the years, the demand for timber and recreation has grown, as has our knowledge of the importance of forest ecosystems for the survival of plant and animal species. Through more recent legislation such as the Multiple-Use, Sustained Yield Act of 1960, the Forest and Rangeland Renewable Resources Planning Act of 1974, and the National Forest Management Act of 1976, Congress has addressed the more diverse demands of citizens for our national forest resources.

Mr. President, let me tell you today what I hear from the citizens of Washington State and the rest of the Nation regarding the management of their forests. I hear concern about cutting Government spending. I hear complaints about Federal policies that damage watersheds and destroy fisheries. I hear cries about favorite trails closed because of lack of maintenance, or replaced by logging roads. I hear about wildlife habitat destroyed or fragmented by logging.

In previous years, I have supported cuts in the road budget, and I continue my support this year because I believe that the amendment of Senator FOWLER will address these important fiscal and environmental concerns. This amendment will limit Federal timber sales which cost the Government more than it receives. It will reduce damage to streams and fisheries. And it will decrease impacts on recreation and wildlife.

Mr. President, I would like to address each of these points individually, and I will do it briefly but I hope succinctly.

I begin with the issue of below cost sales. The first Chief of the Forest Service, Gifford Pinchot, promised Congress many times that forests would "pay their own way" by efficient management and the sale of timber, mineral, and grazing rights. Unfortunately today, many timber sales do not pay their own way.

Mr. President, the best and most accessible stands were the first to be cut in the national forests. After five decades of heavy harvest, much of the remaining timber is high up on the ridges, and hard to get out. Roads are expensive and the returns are small. Therefore, in these areas, you have roads being built that cost more than the timber produced. The timber costs more to get out of the forest than the Forest Service charges for it in all except a few forests, and those are the forests of the Pacific Northwest. That is just not right.

Mr. President, there are two principal accounts that fund construction of Forest Service roads, the Forest Road Program for which we appropriate dollars and the Purchaser Credit Program for which we authorize obligations. The Forest Service uses appropriated Federal Road Program funds to contract road construction, and to pay for roads in sales where stumpage receipts are less than the road cost. Engineering support for purchaser credit roads is also funded by the Federal Road Program. At no cost to the taxpayer, purchaser credit roads are built by the timber purchaser for extracting timber, in return for credit toward the purchase of that timber. Up to 90 percent of the annual mileage of Forest Service roads is funded by purchaser credits.

Senator FOWLER's amendment does not reduce the additional authorization of $110,000,000 for purchaser credit roads contained in this appropriation. Under this amendment, the Forest Service can opt to fund roads with purchaser credits for all sales where the stumpage rate of the timber is greater than the cost of the roads. It's the below-cost timber sales that will be curtailed by Senator FOWLER's amendment.

Mr. President, the administration understands that there are below-cost sales, and it has proposed a below-cost timber sale pilot test for 12 national forests. I'm glad to see that the Presi-

dent recognizes the need to stop cutting timber which yields low stumpage rates, yet costs so much to harvest, in both economic and environmental terms. I believe that the American people want below-cost sales eliminated, not only on the 12 pilot forests, but on all national forests.

The second point addressed by the amendment of my colleague from Georgia is national forest stewardship. On the one hand, the amendment reduces the environmental impact of logging by cutting road subsidies of timber sales on steep slopes and poor soils. On the other hand, it reallocates road dollars to wildlife and fisheries habitat and wetlands restoration, thereby enhancing these values.

But, Mr. President, this is a very difficult issue for all of us in the West. In spite of the benefits of the amendment of Senator FOWLER, I would have had a hard time supporting it without its recognition of the difficulties facing timber dependent communities.

In Washington we are facing the loss of thousands of jobs. This is because of the listing of the northern spotted owl as a threatened species. I care deeply about the livelihood of these workers, and that is why I have worked with the distinguished Senator from Georgia to reallocate $6 million of the road money to economic assistance for these communities in the Pacific Northwest.

Mr. President, although the Congress has added some State and private forestry funding in the last 2 years for economic diversification and rural development, we have not put enough money in that pot. In 1989 and 1990, the Forest Service funded only 22 of 111 economic diversity study proposals submitted to the agency, including only one of eight excellent proposals Washington State submitted this year. And none of the 11 rural development proposals from Oregon and Washington was funded in 1990. Mr. President, these were promising proposals. Let me provide you with a couple of examples. One proposal would have transferred laminated wood products technology to small mills to add value to second growth timber in Grays Harbor, Jefferson, Mason, and Pacific Counties in my State. Another, from Senator HATFIELD's and Senator PACKWOOD's State, would have enhanced tourism, and recreation by building a boat dock and improving river access on the Siuslaw River. It is evident that our Federal timber-dependent communities have lots of ideas for economic diversification. Let us put some of the road dividend into these underfunded State and private forestry programs, and help people maintain their lifestyle through new enterprises in secondary manufacturing of forest products, outdoor recreation, and other ventures based on sustainable use of the natural resources in these areas.

Mr. President, in conclusion I suggest that we mark the 100th anniversary of the national forest system by listening to the citizens of the Nation. Let us look to the future, not to the past. Let us act in a fiscally responsible manner and reduce the road subsidy of below-cost timber sales. Let us improve our stewardship of the Nation's natural resources. Let us encourage the diversification of the economies of our timber dependent communities.

Finally, and most important, let us protect our heritage. What little we have left of the magnificent forests of this Nation should be properly managed. Our communities depend on these forests not only for the present, but for the future. It is our responsibility to ensure that our children benefit from the heritage as we have during our lifetimes.

I thank the President for his time. I yield the floor.

Mr. HATFIELD. Mr. President, this is an issue that has obviously become nationalized, because there are those who have seen fit to move to extremes on both sides, in my State and throughout the country. One of these days I would like to discuss the forestry of this Nation in an esoteric context, using the Charles Darwin evolution-of-the-species observation. I think really that it is also a part of the presentations that we have heard on the floor, both before, and probably today, those who say things are static and we are going to freeze them, and those who see that there has been and continues to be an evolution.

But that is another day and context. Today we are talking about an issue in which there are those who say every candidate ought to be a candidate for a chain saw, and others who say every tree ought to be locked up. Let me say the amendment in question is a simple proposition. It is a job wrecker.

In the State of Washington it means an 870 million board feet reduction. It means that that makes about a 75 percent reduction from the sale program that we are now considering for region VI for 1991. It means over 7,000 jobs lost in the State of Washington. That is what it translates into. Overall, it is a 75-percent reduction.

Let me tell you what it means to the State of Oregon—a 2.4 billion board feet reduction. And when you begin to look at the jobs, that is about 25,000 jobs in the State of Oregon.

Mr. President, reaching balance in this great intense controversy is difficult. We, in Oregon, pride ourselves for being a State known for its environmental record. We saw the timber barons in the Midwestern States, in those Northeastern tier States coming west, and we set into place conservation practices. We have more trees today in the State of Oregon than we had 25 years ago. Why? Because we have reforested and reforested.

When I went on the Appropriations Committee, we had 4 million acres of Federal forest lands that had not been reforested, and today we are up even with what we cut and what we planted, because we made a commitment to reforest those lands, 4 million acres. We had a very small investment in an experiment not too long ago, where we had 247,000 acres of land that rejected attempts in regenerating those forests. Through the investment of a line item on the Appropriations Committee in forestry research, we have now returned those 247,000 acres to a production land of forestry. It is called the Forestry Intensified Research Program. We are engaged in a second one called Coastal Oregon Productivity Enhancement or COPE. That is what is happening in our State of Oregon.

I would like to ask any State here today represented, how many wild rivers do you have in your State, if you are concerned about the balance between the environmental needs and the people needs? We have 42. We have 42 scenic wild rivers. I have authored 1.6 million acres of wilderness in my State, fought every acre along the way, by other interests who said we should not lock them up, but we wanted the balance. We have preserved the Hell's Canyon Recreation Area. BOB PACKWOOD, my colleague; Senator FRANK CHURCH, of Idaho; Senator MCCLURE, of Idaho, and others all worked together on that. We have preserved the uniqueness of the Oregon sand dunes along the Oregon beaches in locking them up for preservation. We have preserved the Columbia River Gorge, one of the most scenic areas in the Nation, protected Uquinahead, John Day fossil beds, and at 12:30 last night we protected the 56,000 acres of the Newberry Volcanoes Area in central Oregon. That is part of the balance.

Let me take jobs, j-o-b-s, which is a very impersonal word, which is but a state, and let me translate that into people, because we are going to argue board feet, we are going to argue road construction, and we are going to argue statistics. Let me put the people dimension to this whole issue. There is no one that stands on this floor today that is more opposed to gold-plated roadbuilding in the forests of this Nation than I am. When you take a sledgehammer approach to try to get to that problem, which is cut the whole account and impact 75 percent of the allowable cut, that is not a responsible approach to the problem. To cite numbers of miles of roads on the national forest, as if they were compared to the Interstate Highway System or the State highway system or the county highway system is not

adequate. It is misleading. Come with me on those forest roads, some of them dirt, one-track roads, one-lane roads. But my colleagues, I want to say there are too many gold-plated roads on those forests, and if we are going to get at that, do not do it by cutting the whole account. You identify the road specifications.

The people dimension. A few years ago I had an invitation to speak at a high school commencement, and I have great pleasure in speaking at high school commencements. The whole community comes together, especially in the smaller villages.

Everybody celebrates. A short time before this particular high school commencement, the one mill in that town announced its closure, and that was the last high school commencement ever to be held in Valsetz, OR. The bulldozers came in and leveled what was left of that mill town shortly after that commencement. That commencement was not a celebration. It was a wake; real, live people.

We are not talking about jobs in terms of statistics. We are talking about real, live people.

We have 70 communities in our State of Oregon that have a one- or two-mill economy and most of them are small- and medium-sized operators, dependent totally upon Federal supply. You zap that supply by 75 percent, as this amendment does, you have cut from that community any hope of a future.

Mill towns into ghost towns—that is what the Fowler amendment creates in my State. Come with me to Mill City, and talk to the single mother with two small children who is working in that mill in Mill City, and you answer when she says what is my future, what is my children's future, what are you doing about it?

We are not talking about timber barons, we are not talking about profits, we are not talking about winters in Palm Springs. We are talking about the single mother in that one mill.

Or, come with me to Glendale, OR, another single mill town. Go into that mill and see that after the working hours, here is one of those logger mill workers who is sitting there in a literacy program that mill is providing, and learning for the first time in his life how to read and write. He says to me, what is my future if this mill closes? What kind of a job market do I have?

Oh, we have those quick fixes, those slogans, those chants that go on—well, we are growing in our tourist industry and our tourist industry will absorb the mill workers. The mill worker making $26,500 on the average—going into minimum wages of a tourist industry? Oh, it is so easy to forget the people dimension. It is so easy to polarize something into we/they, either/or, and forget people.

I have heard some very eloquent speeches on this floor about the homeless in this country, sincere speeches, but somehow they do not link. They do not link. Oh, we get up and pontificate about the poor homeless, and then we take action to deny the homeless hopes of opportunity to have housing.

Look at the linkage. I had a letter from a man in Eugene, OR. He said to me, thank you for your vote for the homeless—as I have been battling on this floor, as I have been battling in the Appropriations Committee for the homeless. He said I have just returned from the Sacred Heart Hospital, where my wife has given birth to a beautiful baby daughter. But, as my 3-year-old son and I returned to our automobile, which is our home, I have a little ambivalence about bringing my wife and new baby daughter back to the same automobile.

The homeless, the fastest growing part of the homeless population today are families with children. What do you say to them? Oh, we can make speeches here on the floor. But if you are going to cut off and reduce in major proportions the only renewable resource to build houses, the most energy efficient resource that is grown by free solar energy, and tell the homeless you are going to offer them any hope—we are turning our backs on the homeless.

Translate these matters, link them together with our social concerns. We are not talking about economics in jobs impersonally. We are talking about real, live people. You zap that supply by 75 percent and you are zapping the possibility of many people getting into homes, and you are going to squeeze more people out. This is the homeless-creating amendment in effect. The less supply available, or the more costly the supply, the more you are squeezing people out of affordable housing.

So let us get our linkage, let us get our speeches straight here as to what happens.

Let me just take my State as an example. The timber receipts that flow out to the counties—we have about a $79 per capita per year for education. This amendment is going to close schools in my State. What are you going to do to offset those revenues that are now going to education for the children of my State? It is very easy for the conscience to think, oh, I am just voting against the timber barons. You are voting against the future of the children of my State. That is what you are doing.

What about the other timber receipts that go for hospitals in rural areas? Oh, we get excited about rural health care. We get very concerned but we do not link it. Let me tell you we have lost 550 rural hospitals last year. We have seven in my State that are on a very, very edgy basis. Those timber receipts that go to keep those hospitals are going. You are threatening the health care of those rural communities, those 70 communities in my State that have a one or two-mill economy.

What about the seniors? We have senior centers that are related to those revenues. So we are talking about the elderly. We have firefighters, we have police services. All of them benefit from these receipts. But as long as we can keep that polarized imagery, as long as we can keep this a battle between the "biggies" and the "preservationists," we will lose these little by little, one by one.

But let me tell you we have had a blueprint put out here. We have had a blueprint over the years. The Native Forest Protection Act is one of them; no forestry, no mining, no agriculture on Federal lands; "Range free by '93; moo free by '92" is the slogan.

Again, I come back not to an either/or. We are going to protect the spotted owl in our State because we have the Endangered Species Act that is in process. Senator PACKWOOD will address that subject in his amendment. We are committed to that in our State.

But, Mr. President, we are also committed to a balance that is going to mean people can employ, be employed, producing a product to meet the Nation's needs, at the same time to provide the bread and butter for their own tables, to provide education for their children, health care access for the people, senior services, fire services, police services. We are talking about people.

I feel very strongly, Mr. President, that I must close by reminding ourselves that the current forest plans represent 5.2 billion board feet allowable cut in region 6, which is Washington State and Oregon State.

We have never cut that many trees in the 10-year history of this 5.2 billion board feet potential yield included in the current forest plans, and this Congress and previous Congresses have said to the Forest Service, update your plans. Update your plans.

Now we want to take the wrecking bar and wreck those plans before we ever even get them in place and those plans will say gradually reduce, we want to bring it down to 3.4 billion board feet from the current forest plans of 5.2. On the average of these current forest plans we cut 4.1 billion board feet at the same time we have withdrawn from wilderness, withdrawn from scenic and wild rivers. We have withdrawn from that base for other special considerations and we will continue to do so.

We will have more wilderness. We will save special areas.

Let me say to friends we have locked up 40 percent of the old growth in our State already. And we have reforested our land. We have maintained a stewardship responsibility to our land.

We are going to continue to bring that down, but we are also going to continue to have new forestry practices. I think it is very interesting, a couple years ago we had a very serious forest fire, the Silver Fire burn. We had money and appropriation to say let us begin now to say look at the way we had to rehabilitate that land and we called 22 environmental scientists from across the country, Minnesota, Wisconsin, other States, and we said, "Look at this fire"—even before it was controlled completely, still burning—how are we going to best rehabilitate this with the most modern updated technology? And you know what? Some of those preservation-lock-up people who call themselves environmentalists criticized the fact that we even wanted to have an environmental impact leading to new forestry.

Now the New York Times runs great stories about new forestry because out of that plan we develop a modernized way of reforestation. We are moving in those directions. We have moved. We have led the country in those battles. I would like to have Senators from other States in the Union review their own forestry, what are they doing in their States about reforestation, especially the 13 southern pine States. That is a sorry record.

Let me tell you, we in the northwest have been good stewards. Sure, there have been some errors of judgment and errors in practice, and all of those things, but let me say, taking the overall record, we have been good stewards, and all we are asking now is to let the process work. We are accommodating to the reductions from the last 10 years' forest plans, and we will continue to see those reductions, but for goodness sakes, let us accommodate and have transition to move and to diversify those economies out there as we are doing today, with industrialized housing in our State.

And those who will say, oh, ban log exports as a simple quick fix to fix reduction in use. Out of 3.7 billion board feet, exported 2.9 was from private land owned by the big operators who are not about ready to sell them off to the competition. There is a degree of cannibalism practiced in the forest industry. Run them out. Reduce the competition. I tell you what this is going to do. If the Fowler amendment is agreed to, then we have aided and abetted the concentration of economic power in the hands of a few giants, and you have destroyed the possibility of a small enterprise, and medium enterprise, which I think is the heartbeat of capitalistic system anyway, from existing. As dangerous as concentrating political power of this country is, to concentrate economic power because there is always a nice marriage that occurs between concentrated economic power and concentrated political power. I am not against the big operators, per se, but let me say if we destroy the small and medium operators then I am concerned about the existence of survivability only of the large operations.

I plead for balance. I plead for letting the process work that we have set into motion, to let these plans that the Forest Service has been investing thousands and millions of dollars in developing work, let the Endangered Species Act work as it is now in the process of getting the balance.

I have been here through the snail darter, Mr. President, which was very interesting. We heard a lot about economics, jobs, and people when the snail darter was an issue. We jumpstarted the God squad, and the God squad found against the economic interest in Tennessee, and the Congress overruled it. We have economic interests, yes, but I want to say again, like all other States, the economic interests ultimately translate into real-life human beings.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. GORE. Mr. President, emotions run high on this issue. I say that people on both sides of the issue feel some emotion about it.

I listened very carefully to all of the speeches that have been made thus far. Before addressing the substance of the Fowler assistance, which I support, and I am honored to be a cosponsor, I would like to briefly refer to the larger context here.

Around the world today we are losing 1½ acres of forest land per second. Every second, night and day, 24 hours a day 1½ acres of forest land disappears. That rate of destruction has been going on for several decades now. It is accelerating.

Basically the relationship between human civilization and the ecological system of the Earth has undergone a profound transformation, and in some countries the destruction of the forest land is actually subsidized.

I had the opportunity to accompany some of our colleagues, including my friend, the Senator from Colorado, my friend, the Senator from Pennsylvania, and others down to the Amazon rain forest to look at the destruction of the Amazon, and we were surprised to find that the Brazilian Government, at that time, was actually subsidizing the destruction of the Amazon rain forest by giving large tax subsidies to corporations that destroy the Amazon. The new President of Brazil, President Collor, has now changed that policy, and recently this spring a group of Brazilian legislators came here to Washington to participate in an Interparliamentary Conference on the Global Environment hosted by the United States Senate, and you know what they decided to do. These Brazilian legislators decided to organize a trip to America's national forest to call world attention to the practice going on here of the taxpayers spending huge sums of money to subsidize the destruction of our national forest.

I am not one who says let us stop all logging; of course not. There has to be a balance. And there is a way to harvest timber reponsibly.

But, Mr. President, whatever happened to market economics? Whatever happened to the law of supply and demand? What about letting the marketplace set the price on some of the timber that is being sold, and determine whether or not we will go in and cut a forest or not? Why do the taxpayers have to subsidize all the cutting that is going on in our national forest today? If this were simply a question of jobs and nothing else, then we would all find it very easy to reach a conclusion on this subject. But it is also an environmental question and it is also a deficit question.

Remember the deficit, Mr. President. The last I looked it was still growing fairly rapidly. At the same time we are exporting logs to Japan we are borrowing a couple hundred million dollars every day in order to finance the ongoing deficit.

When we look for places to cut the deficit, our attention is attracted to a program that uses taxpayers' dollars to subsidize the cutting of our national forests. We have now used taxpayers' dollars to build so many roads for loggers that we have built a number of roads equal to eight times the entire length of the whole Interstate Highway System nationwide into our national forests for the purpose of logging at a loss to the taxpayers.

That just does not make sense, Mr. President. We cannot afford it. It is not good environmental policy. And it is not good economic policy.

Now there has been a lot said about the transition, and that is really too antiseptic a word, the loss of jobs—let me put it this way—that is effected with a reduction in the number of trees that are cut.

Anyone who is familiar with this issue knows that that is a serious problem and the Fowler amendment attempts to address it.

Do you know what, Mr. President? That problem is going to occur when all the forest land is cut down anyway. The real question is whether that job loss occurs before the remaining 10 percent of the old growth forest is gone or after that forest is gone. That is really the choice. This amendment is a small step in the direction of cutting down on the size of the taxpayer subsidy.

It is a small step. It is a prudent step. It saves money and it saves forest land that would otherwise be destroyed.

So I rise to join my distinguished colleague, Senator FOWLER, in supporting his amendment to reduce the U.S. Forest Service road construction program by $100 million. This is a good, sound amendment, recognizing the need to reduce spending and the need to protect and preserve our public lands. Of the $100 million, those of us who are cosponsoring this amendment will return $50 million to the Treasury and $50 million will be allocated to the underfunded conservation and historic preservation programs.

When other Interior programs are suffering from lack of funding, the Forest Service road construction has progressed at an astonishing rate. I compared the mileage a moment ago, 360,000 miles, to eight times the length of the Interstate Highway System. There are other ways to describe it. You could go around the Earth 14 times or you could go to the Moon and get halfway back. It would not make any sense to go to the Moon and come only halfway back. But this program does not make a lot of sense either. To use taxpayer funding to subsidize the cutting of the national forests is a bad idea.

A reduction of $100 million in the forest road construction program for fiscal year 1991 will result in a decline in road building of 527 miles. On each forest, this cut would affect less than 1 percent of the existing forest road system. At a time when we are asking every American to help reduce the deficit, we should also take steps to reduce programs like this one, especially when the reduction will result in a return of $50 million to the Treasury and sound environmental practices.

The Forest Service builds roads under two separate programs. This has been noted before, and I will not dwell on it at length. But let me refer to it again briefly.

The first program is the forest road program which is funded through this appropriations and the purchaser credit program, which allows purchasers to count the cost of constructing their own roads against the timber sale price. Approximately 85 percent of the roads are built through the purchaser credit program while only 15 are built with appropriated funds. But, the roads built with Federal money are five times as expensive as the purchaser credit built roads. So, it makes sense to begin to move away from the overly expensive forest road program which has adverse economic and environmental effects.

The construction of roads on our national forests and through our national forests do pose great risks to wildlife habitats and water quality, to migration of species, and to a number of other environmental values.

But, Mr. President, it does not make good economic sense either for a lot of reasons. This amendment gives Congress an opportunity to protect much of the undeveloped forest land and to improve efforts in protecting the land for recreational purposes. The Forest Service estimates that recreation demands on our national forests will increase tremendously during the coming years. I know that many of my fellow Tennesseans are beginning to look more and more to the Cherokee Forest as a vast recreational outlet. It is time that Congress begins to prepare for this.

I will say to my colleagues from the Pacific Northwest, I understand the strong feelings they have on this, but I also want to note that there is opposition to this amendment in my own home State from those who are in the business of logging within the national forests, and we have a substantial amount of that activity going on in my State. But there is beginning to be a change in the way people think about the national forests and about the environment generally.

There used to be a way of thinking that you have an inevitable conflict between protecting the environment on the one hand or saving jobs on the other hand.

Why is it, Mr. President, that everywhere in the world today that you look, the areas with the worst environment are also the areas with the worse economies? Look at Eastern Europe, for example, Economically, they are flat on their backs, trying to figure out what they are going to do to pick themselves up. And they have probably the worse, most degraded environment of anyplace on the face of the Earth. They go hand in hand.

A lot of times a community will have a single industry or a single form of employment that provides a significant number of jobs and they devote everything toward that one practice or that one industry and then, all of a sudden, they realize that the young people are leaving after they graduate from high school and the average age in the community goes up. And they wonder why new businesses are not coming in to locate there. And they ask some of the people who are entrepreneurs creating some of these new kinds of jobs why they do not come. They say, "Well, we do not want to locate in an area where the environment has been destroyed. We like a good quality of life. We want our children to have a bright future in an area where we can start up these small businesses and diversify and create jobs of different kinds."

Then some folks say, "No, we have to stick with exactly what we have always done. We have to hang in there until the very last shred of possibility is gone"—in this case until the very last tree is gone.

Mr. President, this amendment does not stop logging. It begins the transition, it begins the transition away from taxpayer subsidies for the cutting of our national forests.

We have always viewed our public lands as a precious natural resource. A lot of the time we have valued these lands so highly because of the high value that is in what we extract from these lands—minerals and timber. But we are now turning in a new direction. We are seeing that we can scale back some of this use of our public lands and begin to preserve these national treasures for future generations in a better way.

Under this amendment, $22 million will be reallocated to critical U.S. Forest Service programs, including the Timber Management Research Program which benefits forests in the southeast, along with other places, the Old Growth Diversification Program, and to the Wildlife Habitat Program.

Five million dollars will go to the cost-effective historic preservation fund. And this money goes a long way. With the small increase in funds last year, the Tennessee Historical Commission was able to expand its historic preservation survey that assesses the most precious historic sites in Tennessee in need of preservation. I am sure that many States would benefit greatly from the additional dollars that would be made possible by this amendment, as the deficit is reduced.

Mr. President, forest road building also imparts the world's environment in another way. There is a great deal of carbon locked up in the forests before they are cut down. In fact, worldwide, deforestation is second only to the burning of fossil fuels as the principal source of carbon dioxide mounting in the atmosphere. In 1987, deforestration contributed to about one-third of worldwide total carbon dioxide emissions.

We are going to other countries in the world and saying, "Please respond to this crisis and stop this extremely rapid rate of deforestation." Do you know what they say? They say, "Well, how come the U.S. taxpayers are being required to subsidize the rapid rate of deforestation in the United States? How come in some areas you are selling 500-year-old trees for the price of a cheeseburger because of taxpayer subsidies?"

How come you are behaving like a Third World colonial country, shipping logs over to Japan for chopsticks and plywood? How come you are not paying more attention to the preservation of your own environment, the preservation of your own forest land, and finding a new way to create new and better jobs?

This amendment is a good start. We really ought to adopt this amendment. I think it is critical, while we encourage developing countries to slow their rate of deforestation because of its impact on the global enviornment, that we here in the developed world, and especially we here in the United States, stop subsidizing deforestation here in our country. We have a responsibility to get our own house in order and control our own rates of deforestation.

Moreover, if we ever expect to convince the nations of the tropics to preserve their forests, we have to come to that task with some credibility, and this Fowler amendment will help to give us that credibility as a nation. I hope we can see the United States provide the kind of leadership that is needed.

This is clearly a trend, this deforestation, an acre and a half every second; it is clearly a trend we must do everything in our power to halt. The place to begin is right here at home in our own forests, by reducing the unnecessary further logging road construction in those forests being done with taxpayer funds.

I hope my colleagues will consider this debate very carefully and I hope our colleagues will support this amendment offered by the distinguished Senator from Georgia.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. I want to see if I can put this amendment in perspective in terms of national lumber needs, forest practices, and where this amendment is targeted. It limits our ability to produce lumber for this country and will, indeed, target the money in the wrong way.

One, we are lumber-short in this country. Lumber by definition is what you make out of a log when you run it through the mill.

I have a letter from the chief of the Forest Service. This letter is now a year and a half old. I have no reason to believe the statistics are 1 percent different from what they were when this letter was written:

DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, DC, May 12, 1989.

Hon. BOB PACKWOOD,
U.S. Senate, Washington, DC.

DEAR SENATOR PACKWOOD: The purpose of this letter is to follow-up on your conversation with Dr. David Darr of my staff regarding the possible effects of banning U.S. softwood log exports on softwood lumber imports. In 1988, we imported 30 percent of our softwood lumber, almost all from Canada. If softwood log exports from public lands were to be banned and if all the logs were to be processed into lumber and the lumber substituted one-for-one with imports, imports would be reduced to 26 percent of consumption. If exports from public and private lands were to be banned, processed into lumber, and the lumber substituted one-for-one with imports, imports would be reduced to 16 percent of consumption.

This analysis was discussed with you by Dr. Darr on May 12. Please feel free to call him at 382-8052 if you would like further information.

Sincerely,

F. DALE ROBERTSON,
Chief.

With all the forests in the Northwest, mostly public forests, with all the private forests in the South, we do not produce enough lumber for our needs in this country to build houses, to expand decks, to do whatever you want to do with lumber; we do not produce enough and we are not going to produce enough in the foreseeable future. That fact is known.

Canada, which has immense forests, is perfectly happy to supply us with lumber. Canada is a generation or two behind the United States in forest protection, environmental protection. They are cutting in their forests in a way we have not cut in terms of environmental protection for a quarter of a century. But, as their forests are so vast, they have the attitude that we might have had a quarter of a century or half a century ago, that the forests are unending.

So, for those who are concerned with the worldwide environment, do not assume if you reduce the cutting of timber in the United States and thereby increase the quantity of timber cutting in Canada that you are going to do anything for the worldwide environment. You are going to worsen it because, generally, in the United States our environmental laws are better than Canada, in terms of reforestation and the method of cutting.

I think this amendment really has one of two purposes. I have not figured out yet which it is. Either it is aimed at what the proponent of the amendment referred to as the subsidized forests; those where the argument is made that the subsidy that the Federal Government puts up is so much greater in subsidy than the receipts back from the sale of the timber, that that ought to be stopped—either that is the purpose of the amendment or it is aimed at the forests of the Northwest.

In his opening statement my good friend from Georgia indicated that, except for the forests of the Northwest, all others are basically forests that did not equal, in terms of what the sales revenues are, the costs of what the Government puts in.

I am not going to get into the argument of what he calls subsidized forests. But his exception about the Northwest is right. The Forest Service plans to sell, in 1991, 9.6 billion board feet of timber. Of that, 6.8 billion of it comes from Oregon, Washington, northern California, and Idaho. Those, I think, are what he would call the productive forests; these are forests where the Government actually makes money on the sale.

If we cut off the money for roads in those forests, the Federal Government loses money—not makes money; loses money. Because the Government is putting up less to run the Forest Service in that area, to build the roads in that area, to cruise the timber, as we call it in the industry—cruising it is just to appraise what it should be sold for—the Forest Service makes money in Oregon, Washington, northern California, and Idaho.

The other reason the money may not be targeted is because the timber that comes off these very productive forests, money-making forests for the Federal Government, competes with timber coming off private land in the Southeast.

Many timber producers in that area would like nothing better than to shut down their competition in the Northwest. The easiest way to do it is to make the amendment appear in the guise of an environmental amendment when its purpose is to protect industries in the Southeast from other competition.

I think that may be the reason this amendment is not targeted specifically to those forests that the proponents said are the money-losing forests.

But I want to go further now. We heard Senator HATFIELD, my senior colleague from Oregon. He and I have a friendship going back 40 years. I was his student at school; he was my first political science teacher. I worked on his first campaign when he ran for the legislature. And I was his student at Willamette University when he was the dean of students and political science professor.

We heard what the Senator said about the jobs involved; 25,000 jobs lost in the State of Oregon alone, if this amendment is adopted. These are jobs that do not need to be lost, jobs that are going to be lost from forests that produce money for the Federal Government, produce money for the counties in the State of Oregon.

I will put it in very exact prespective. We are going to have roughly $390 million in revenues lost. Of that, almost a third of it comes from the State of Oregon. That is enough to educate 13,000 children a year, every year, forever, in the State of Oregon. And the counties that are the heavily Forest Service-timbered counties use these revenues heavily for education and other purposes.

In the State of Oregon we have a reforestation law for private lands—I will get to the Forest Service reforestation in a minute—but for private lands—in which we compel reforestation. The only exceptions being if you are going to turn it into agricultural land, you are allowed to do that in the same way we used to clear land in pio-

neer years and turn it into productive agricultural land.

There are some exceptions—if your land happens to be on the edge of an urban area and is clearly not going to continue to be forested—but 97 percent of the private land where timber is cut is reforested by State law.

We heard what my senior colleague said about the backlog that used to exist on Forest Service land; 4 million acres. Backlog means the timber has been cut and the land has not been replanted.

Today we are up to date on Forest Service lands. You cut a tree; you plant a tree. We can grow trees forever in the Northwest. As a matter of fact, we have done a better job of it in the Northwest than anyplace else in the country.

The argument about old growth, in all of New England—all of New England—there is about 8,000 acres of old growth timber. New England is operating on third or, in some cases fourth-generation cut, the settlement of New England obviously being older than the settlement of the West. When the pioneers came, they cut the trees. There was no reforestation, in the sense that we understand reforestation, in those days. But amazingly, the trees grew back.

Then the settlers 70, 80 years later, learned they could cut the trees again and they cut them again, and they grew back. You can today drive through the timbered section of New England, Maine, northern New Hampshire, Vermont. They look very much like the West. The mountains are smaller, but there is hillside upon hillside of trees, and they have a thriving little timber industry.

It is not as big as the industry in the South in terms of quality, and not as big as the industry in the West, but the trees have been cut and regrown, cut and regrown, cut and regrown. But in all of New England, there is only about 8,000 acres of what we would call old growth.

In all of the 13 timber States in the South, there are about 110,000 acres of old growth, almost all of it in the Great Smoky Mountains National Park. The South is operating on third, fourth or, in some cases, fifth-generation cut, which means the timber has been cut once and regrown, cut another time and regrown, cut a third time and regrown, cut a fourth time and regrown, and in some cases, a fifth.

The reason it is faster than New England is that it is pine, and it is a faster growing timber. But you can go through the South and you can see hundreds of thousands of acres of timber that has been cut over and regrowing. But in all of the South, there is only about 110,000 acres of old growth.

In the Northwest, just Oregon and Washington alone—and this definition varies depending upon whose definition you accept of what literally is old growth. In the normal definition, I think the bulk of the people have accepted that of Dr. Franklin, University of Washington, which means that in the Northwest alone, there is someplace between 3 million and 4 million acres of old growth, of which about half is already saved. It is in wilderness areas; it is in roadless areas, and is not going to be cut. It is already put aside.

To put it in perspective, 2 million acres of old growth is enough to have a road, or a strip a mile wide from Portland, OR, to New York. Picture it in your mind; roughly a 3,000-mile-long swath of mile wide timber would be about 25 million acres of old growth.

So a great portion in the Northwest has been saved, is going to be saved, is not going to be cut under the current Forest Service plans no matter what. And there is a strong push not to cut the remaining old growth.

Without getting into that argument about how much is enough to save, I think most of the timber industry in the Northwest—I cannot speak for them—but I think they might be willing to say we will make you a deal. We will not cut any of the rest of the old growth if the remaining Forest Service timber can be managed principally for timbering. I think they would make that deal.

But the problem is I do not think you could make it to begin with, and once it is made, their experience has been justifiably the deal does not hold. If this Congress said, "All right," to the Forest Service and to the Bureau of Land Management, "here are your instructions. What existing old growth there is is not to be cut. Now, the remainder of your timber is to be managed principally for commercial timbering to supply the lumber needs of this country, which we do not supply now because we do not have enough lumber." And if Congress passes that, next year there will be a bill introduced in this Congress to start reducing the cut that was left in the field, and there would be lawsuits filed on timber sales from that area.

The only way Congress could ever do it, and nothing is permanent, is if we passed a law and said there cannot be any timber suits. We made the decision on how we are going to manage it; old growth we save. This is for timbering, Forest Service, and put it up for sale on a sustained yield basis. That means trees forever. You cannot cut any more than you can regrow.

But that is not even up for argument here today. But I am saying a whale of a lot of old growth in the Northwest is now set aside and is not going to be cut under any circumstances. Whether the amendment of the Senator from Georgia is agreed to or is not agreed to, it is not going to be cut; whether or not this appropriations bill ever passes, it is not going to be cut. It is saved.

The discouraging factor we find is the factor that the Senator, my senior colleague from Oregon, mentioned, which is the single mother working in Sweet Home, or a fellow and his wife in Grants Pass who both went to Grants Pass High School and are in their mid thirties, their parents are still alive and their children are in high school, third generation Josephine county residents. They have been there since 1910 or 1905. They like Grants Pass. They would like to live in Grants Pass.

They are good citizens. They teach their kids to bowl on Wednesday night, take them hunting and fishing; they camp. They are, by and large, pretty good conservationists. Along comes a nationwide movement attempting to paint people who cut trees as evil. They say to this fellow, by and large, the jobs are pretty good jobs in the timber industry; it pays pretty well. Boy, have we got a deal for you. We are going to retrain you so you can work in the electronics industry. Do not worry about the fact that your job currently pays you $11 an hour and the job in the electronics factory is going to pay you $6.50 or $7, if you are lucky. By the way, you will have to move to the Wallowa Valley, 100 miles away; or to Portland, 270 miles away. Do not worry that you would like to see your daughter graduate from high school a year from June. You are going to like working in the electronics industry. The fellow says, "I like working in the timber industry. I like my job."

I want to emphasize again, that man's father probably worked in the mill and the man's son may work in the mill and the man's grandson could work in the mill, and we could provide trees forever. I know what the argument is. I have seen the pictures on television ad nauseum: Look at those clearcuts; look what they are doing to the forest, et cetera.

So let me tell you why we clearcut Douglas fir. Other species of trees, interestingly, in some parts of Oregon and many parts of Idaho, are not clearcut. But Douglas fir we clearcut because Douglas fir does not regrow well in the shade. Can you make it regrow in the shade? Not as well.

If instead of clearcutting, you wanted to say we will do what we call selectively cut; we will take a tree here and a tree here.

We clearcut because Douglas fir, which is our principal timber, does not regrow in the shade. We could selective cut it, but it is 20 to 30 percent more inefficient. What it means is we

would have to cut 20 to 30 percent more acreage than we now cut to get the same amount of timber, which I think would further offend those who do not want to cut at all.

Without impugning any motives as to why this amendment is here, I know in Oregon this amendment is supported by those who prefer that Oregon get out of the timbering business altogether. They would pray and hope that we move to high tech or tourism or some business that produces other jobs that do not pay nearly as well as the jobs that work in the mill. All I will say, and I will conclude on this so others might have some more time, Mr. President, all I can say is this: One, we can grow timber forever in the Northwest. We have proven that. Two, we are growing timber forever in the Northwest, both on public and, in Oregon, on private lands by compulsion of law. Three, any effort, whether it be the reduction of money for Forest Service roads or whether it be some other form of amendment to reduce the cut in the Northwest, is designed to do one or two or three things: One, cut the revenues to the Federal Government because these forests produce money; two, cut revenues that go to the local government because these forests produce money; three, to make us more dependent on imported timber from Canada, which has worse environmental laws than we do but will be perfectly happy to supply us with all the timber we cannot produce ourselves. But most importantly, this amendment is designed to drive 25,000 Oregonians out of jobs, good jobs, good-paying jobs, jobs that they would like to continue in, in communities in which they would like to live, Mr. President, to no end benefits this country.

I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senate is scheduled to stand in recess at 12:30.

Mr. ROTH. Mr. President, I would appreciate it very much if I could have 10 minutes to make a statement as in morning business.

Mr. FOWLER. Mr. President, I will reformulate my unanimous-consent request.

Mr. President, I ask unanimous consent that the Senator from Delaware may speak as in morning business for 10 minutes, and that the Senate will then recess at 12:50.

Mr. WIRTH. Reserving the right to object, if I might.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, if I might address the manager of the amendment, is there any way we might get a time agreement on that, or does that prove impossible to do?

Mr. McCLURE. That is impossible to do.

Mr. FOWLER. I am afraid at this time, I say to the Senator from Colorado, we cannot get a time agreement.

Mr. McCLURE. I say to the Senator it is my judgment that we would spend more time trying to get it and unsuccessfully so. It would be a waste of time at this time to so attempt.

Mr. WIRTH. I think I was the last person who had wanted to speak on our side. There is no possibility of getting agreement on the Senator's side?

Mr. McCLURE. Not now.

Mr. WIRTH. I withdraw my reservation, Mr. President.

Mr. FOWLER. Mr. President, I renew my unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware is recognized for a period not to exceed 10 minutes.

THE BUDGET

Mr. ROTH. Mr. President, I rise today to bring to my colleagues' attention a recent editiorial that appeared yesterday in the Wilmington News Journal. It is written by Louis Rukeyser and entitled: "Tax Debate Takes U.S. Voters for Numbskulls."

In the column, Mr. Rukeyser debunks some of the popular myths that have been skillfully, but falsely, generated these past few months to convince the taxpayers that it's their fault America is facing a deficit. These myths come in various shapes and sizes. Some are bombastic; others no stronger than a whisper. But the thesis is generally the same: That taxes were cut too deeply in the eighties and that Federal spending followed suit with cruel cuts by a heartless Federal Government. On top of this, big-spending liberals are creating a false agitation between classes of Americans by insisting that the rich got richer, while the poor got poorer.

Nothing could be further from the truth.

The simple facts concerning the eighties are:

First, the Roth-Kemp tax cuts embraced and implemented as part of the Reagan revolution helped spark the longest peacetime economic expansion in the history of America.

This economic recovery brought interest payments and inflation down from double-digit inflation and put home ownership and upward mobility in the hands of millions of Americans who had been denied the same during the late seventies.

This economic recovery stimulated a spirit of risk-taking and investment that encouraged business and technological revolutions in information, medicine, and agriculture. The liberal Members of Congress are right to say this recovery shrunk the middle class; it did. But it shrunk the middle class by raising their income—not lowering it. From 1981 to 1989, the percentage of families with constant 1989 dollars incomes of $50,000 or more soared from 21.6 to 29 percent—a 34-percent jump.

During the era of Carter economics—economics that the liberals in Congress are turning us back to—that share did not change. Whereas in the eighties—under Roth-Kemp and the Reagan revolution—the Census Bureau shows the real, pretax, incomes of every class rose from 1981 to 1989. This dramatic trend put more money in the U.S. Treasury than ever before. I don't need to mention that between 1973 to 1981, these same, pretax, incomes fell in almost every income class.

Which leads me to ask: Why are the liberals bent on taking America back to the bad old days?

Perhaps it has something to do with the second truth about the eighties: The fact that the liberals couldn't stop spending more money than they taxed. Herein lies the rub, Mr. President. The real truth concerning the budget debate waging right now is: How do the liberals continue to feed their insatiable spending appetites, send the bills to the taxpayers, and manage to get reelected?

Well, according to Louis Rukeyser, they are not going to get away with it—despite their blatant attempt at class warfare. The taxpayers are not numbskulls. They realize the big-spending liberal politicians are playing to what Rukeyser calls the "basest instincts of (their) constituents," by encouraging the delusion that there is a vast cornucopia of wealth in Washington to which they are entitled their fair share. The people understand this is not true. They know the Treasury is bankrupt—not because they are not paying their fair share, but because the liberals cannot stop spending.

The problem is, the folks back home cannot see what the liberals are spending their money on. Headlines talk about cities falling apart, roads and bridges crumbling, education deteriorating, crime increasing, and they want to know where's all their money going to. In 1988, Americans earning $58,000 or more paid an average tax of $21,473. Those earning above $73,000 paid an average of $34,788. What are they getting for all their money, Mr. President?

I will tell you what they are getting. According to the GAO, they are getting about $180 billion in inefficient Government. They are getting a top heavy bureaucracy in education and Federal programs. They are getting pork-barrel deals that sprinkle untold billions of dollars from sea to shining sea for programs and projects that die before they are even born.

In addition, it is my understanding that the conferees are considering allowing an extension of the lump sum retirement benefit for Members of Congress and staff while eliminating it for almost all other Federal employees.

This is patently unfair. The administration is opposed to this, calling it a golden parachute.

Mr. President, the American people are tired of this. I am tired of it. And one way or another we are going to be heard—either by my adamant stand for no new taxes, or the way they vote come November.

Mr. President, I ask unanimous consent that the Rukeyser editorial and "The Federal Income Tax Burden," a Senate staff report prepared for the use of Republican Members of Congress, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wilmington New Journal, Oct. 22, 1990]

TAX DEBATE TAKES U.S. VOTERS FOR NUMBSKULLS

(By Louis Rukeyser)

Just how dumb are we Americans, anyhow?

If we're even half as dumb as our politicians have taken us for in this year's tax debate, the answer is: pretty darned dumb indeed.

We're apparently so dumb that we are willing to believe that taxes were cut too deeply in the 1980s, whereas the arithmetical reality is that the federal load was every bit as high at the end of the decade as at the start—and the combined federal, state and local burden has soared this year to the highest level in history.

We're apparently so dumb that we are willing to believe that federal spending was cruelly cut in the 1980s, whereas the arithmetical reality is that it snowballed even beyond the ability of the extra hundreds upon hundreds of billions of tax revenues to pay for it.

We're apparently so dumb that we believe only "the rich" benefited from the limited efforts to restrain government in the 1980s, whereas the arithmetical reality is that the real income of the average American family increased by thousands of dollars, amid the longest peacetime economic expansion ever—and an explosion of paying jobs unmatched anywhere else on the planet.

We're apparently so dumb that we are willing to throw out the baby with the bath water, in our newborn obsession with the federal deficit—which, in arithmetical reality, takes a dramatically smaller portion of our gross national product than it did in the mid-1980s.

And we're apparently so dumb that, in a thrilling historical era when even the communist nations of East Europe have discovered that class-war rhetoric is the enemy of human progress, we are starting to buy the same pernicious nonsense they are finally having the sense to reject.

The interest of the politicians in fostering these fantasies is clear enough: they just want to get re-elected. And responsible statesmanship, as envisioned when the Constitution was drawn, has absolutely nothing to do with it.

The method is simple.

Play to the basest instincts of your constituents. Encourage in them the delusion that there is a vast cornucopia of wealth in Washington, to which they are entitled to their "fair share." Never let them understand that there is actually nothing in Washington except a bankrupt treasury and the ability to tax and borrow.

Never, under any circumstances, think creatively about how to get a genuine handle on federal spending. (You might get somebody mad.) Never amass facts, always count votes.

It may have been James Madison's view that elected representatives should act as teachers to "refine and enlarge the public views," but what did Madison know of Gallup Polls, media consultants and lifetime political tenure?

Cynics have suggested for more than a century that the American experiment was doomed to failure as soon as the have-nots discovered they had the power to grab other people's money.

There is nothing new about the loony suggestions that all we need to do is "soak the rich" and cut defense (popular changes that would, in reality, still leave the deficit close to $300 billion.)

Congress passed the income tax amendment in 1909, and when it was being debated in state legislatures, assurances were given that it would never exceed 4 percent or 5 percent, and would affect only a relatively few rich people at that.

Every major tax increase since then has been introduced shrouded in the same rhetoric.

Does anybody seriously believe that the breaking of faith with "the rich" on the 1986 deal—which promised permanently lower rates for all in return for wholesale elimination of deductions—is not ultimately going to punish the pocketbooks of the great mass of taxpayers, too? As Congress always eventually discovers, that's where the money is.

If we are as dumb as the politicians in both parties now appear to believe, we will accept the nonsense that the only true problem is that some other guy isn't paying his fair share—and that, if he did, Congress could keep on lavishly funding every program we personally hold near and dear.

Are we really that dumb? "I tremble for my country," said Thomas Jefferson, "when I reflect that God is just." How Jefferson would be shuddering today!

THE FEDERAL INCOME TAX BURDEN (1981–87)

(A Senate Staff Report Prepared for the Use of Republican Members of the U.S. Congress, October 1990)

The impact of the federal income tax burden has been controversial in recent years owing to the debate over the budget as well as the impact of the Economic Recovery Tax Act (ERTA) of 1981. This latter measure, popularly referred to as Kemp-Roth, or the Reagan tax cuts, reduced personal income tax rates 23 percent across the board. As its name suggests, ERTA was designed to reduce the tax barriers to labor and capital flowing to production, thereby boosting output. Apart from the question of this measure's economic impact, a separate issue was raised about its effects on personal tax payments by various income groups. Much of this discussion has relied on partisan politics and appeals to base emotion rather than a consideration of the factual evidence.

Such sentiments are very old, of course. In the 18th Century, egalitarian political theorist Jean-Jacques Rousseau, in Emile, wrote, "What was hardest to destroy in me was a proud misanthropy, a certain acrimony against the rich and happy of the world as though they were so at my expense, as though their alleged happiness has been usurped from mine." In another one of his works he also began by saying, "Let us begin by setting aside all the facts." Unfortunately, this approach to public policy has an all too contemporary ring.

There are different views on the function of the tax system and the role of progressivity. According to one side of the argument, the tax code, in raising revenue, should additionally be used to alter the after-tax distribution of income. In other words, the tax code should be an instrument of social policy to redistribute income in a way deemed desirable by politicans and bureaucrats in Washington.

Another view sees the tax system principally as a device to raise revenue to finance needed public goods with a minimum of interference with the private sector. Attempts to manipulate income shares using the tool of tax policy mainly serve to drive the rich into tax shelters. As a result, middle and lower income taxpayers are forced to assume more of the tax burden. In other words, while some may feel good about "soaking the rich" with a high statutory tax rate, this rate will not in reality be paid; thus more of the revenue burden will consequently fall on others. Conversely, by reducing excessively high tax rates, the tax burden can be shifted in a way that may be considered progressive.

Historical experience supports the argument that reduction of very high tax rates can generate increased revenues from upper income groups. As noted in The Economist, this has occurred in the United Kingdom after tax cuts in 1979, and in the United States since 1981. According to this publication, "Across the world in recent years, a reduction in top rates of tax has quickly resulted in higher, not lower, yields to the exchequer." [1] A number of studies and reports have also documented similar results from the Mellon (1921, 1924, and 1926 tax cuts) [2] and the Kennedy tax cuts of 1964. Following both tax cuts, rapid growth in the Adjusted Gross Income (AGI) reported by upper income groups increased both the tax payments and tax burden share of the wealthy.[3]

In retrospect, it is remarkable that in all the discussion about the distributive fairness of the 1981 and subsequent tax legislation the IRS data on actual tax payments have not been used more widely. While simulations and projections of tax payments are widely employed, the acutal data are virtually ignored. Yet these data show the income tax trends during the 1980s very clearly. These IRS data are organized by income percentile, and tax payments of various segments of the population are easily identified.

As Table 1 below shows, the average income tax payments of the top 1 percent of taxpayers (those with AGI over $139,289), adjusted for inflation, jumped 30 percent between 1981 and 1987 (1987 data are pre-

[1] "The Economist," (March 19, 1988), p. 54.

[2] "Annual Report of the Secretary of the Treasury, 1927" (Washington: U.S. Government Printing Office, 1928), p. 26.

[3] James Gwartney and Richard Stroup, "Tax Cuts: Who Shoulders the Burden?" "Economic Review: Federal Reserve Bank of Altanta" (March 1982), p. 21.

liminary). Meanwhile, the average tax payments fo the top 5 percent (AGI over $68,414, including the top 1 percent) also increased, and those of the middle (AGI between $17,768 and $68,414) and lower (AGI below $17,768) income taxpayers declined 17.9 percent and 24.2 percent, respectively.

TABLE 1.—AVERAGE INCOME TAX PAYMENTS, BY TAXPAYER GROUP

[1987 dollars]

Year	Top 1 percent	Top 5 percent	51–59 percentile	Lowest 50 percent
1981	65,578	26,367	4,766	566
1982	65,639	24,931	4,333	507
1983	66,004	24,210	4,010	446
1984	69,533	24,518	4,000	484
1985	73,959	26,304	4,073	486
1986	91,927	30,714	4,215	438
1987	85,274	29,829	3,911	421
Percent change:				
1981–86	40.2	16.5	−11.6	−21.2
1981–87	30.0	13.1	−17.9	−24.2

These data support the view that the reduction of high marginal tax rates can increase the realization of taxable income by upper income persons enough to enlarge their tax payments. According to this view, a reduction of tax rates lessens the incentive to avoid the realization of income and to use tax shelters, thus boosting measured income and tax payments. In contrast, opponents of the 1981 act had argued that it was a "giveaway to the rich" which would reduce the tax payments of high income taxpayers, and so shift more of the tax burden onto low and middle income taxpayers. However, it is clear that this argument is not consistent with the factual evidence.

Of $367.5 billion in taxes collected in tax year 1987, $90.5 billion, or 24.6 percent, was contributed by the top 1 percent of taxpayers. In other words, about one fourth of all personal income tax revenues came from the richest 1 percent of taxpayers, and 43 percent were derived from the top 5 percent. As Table 2 below shows, the personal income tax burden has been shifted since 1981, but the direction has been upward onto higher income taxpayers.

TABLE 2.—INCOME TAX BURDEN SHIFT TOWARDS WEALTHY

Year	Top 1 percent	Top 5 percent	51.95 percentile	Botton percent
1981	17.6	35.1	57.4	7.5
1982	19.0	36.1	56.5	7.4
1983	20.5	37.3	55.5	7.2
1984	21.1	38.0	54.6	7.4
1985	23.8	38.8	57.0	7.2
1986	25.0	41.8	51.6	6.6
1987	24.6	43.1	50.8	6.1

As the share of the personal income tax burden shouldered by the wealthy has increased, that of the middle and lower income taxpayers has declined. By 1987 the bottom 50 percent of taxpayers bore only 6.1 percent of the income tax burden, and this does not count those entirely removed from the tax rolls during the 1980s. The statistical evidence refutes the view that the lower income taxpayers have been subjected to a higher income burden in the 1980s.

Another way to review tax trends is the analysis of effective income tax rates (income tax payments as a percentage of AGI). Table 3 illustrates the impact of the 1981 and 1986 tax legislation on the effective tax rates of various groups of taxpayers. Under Kemp-Roth, the largest reduction in effective tax rates was for lower and middle income taxpayers. With the implementation of the bipartisan 1986 Tax Reform Act, the reduction in effective tax rates became more similar among various taxpayer groups. Low and middle income taxpayers have had the largest decline in effective income tax rates, amounting to 22.7 percent and 32.1 percent, respectively.

TABLE 3.—EFFECTIVE INCOME TAX RATES BY TAXPAYER GROUP

Year	Top 1 percent	Top 5 percent	51.95 percentile	Botton percent
1981	33.4	26.6	14.7	6.6
1982	31.4	25.1	13.6	6.1
1983	30.2	23.6	12.6	5.7
1984	29.9	23.4	12.4	5.8
1985	29.9	23.5	12.4	5.7
1986	31.6	24.8	12.5	5.6
1987	26.1	21.9	11.3	5.1
Percent decline:				
1981–86	−5.4	−6.8	−15.0	−15.2
1981–87	−21.9	−17.7	−23.1	−22.7

The change in tax payments, tax burden, and effective tax rates can also be expressed in terms of the average tax payment made by a representative of the top 1 percent of taxpayers per dollar paid by each taxpayer in the bottom 50 percent. This ratio, called here the "fairness ratio," reflects the relative contributions of the two taxpayer groups. In 1981 a taxpayer in the top 1 percent paid $117.89 for every dollar from each taxpayer in the bottom half. By 1986 this had jumped to $190.91, and by 1987 to $202.55.

TABLE 4.—*Fariness ratio* [1]

1981	$117.89
1982	129.36
1983	141.46
1984	143.67
1985	152.01
1986	190.91
1987	202.55
Percent change:	
1981–86	61.9
1981–87	71.8

[1] Average tax payment of taxpayer in top 1 percent for each dollar of tax paid by each taxpayer in the bottom 50 percent.

Obviously the increase in the fairness ratio could not result from falling tax payments by the wealthy unless the tax payments of the bottom half were falling even faster. However, as shown in the previous tables, the change in the fairness ratio is due to the sharp increase in the real tax payments of the wealthy while the real tax payments of the middle and lower income taxpayers declined.

The IRS data establish that the changes in the personal income tax over the last 10 years have shifted the tax burden in a way most would consider very progressive. However, it is true that some lower income taxpayers have seen some increase in taxes in recent decades. However, it is essential to examine each feature of the tax code separately to determine the source of this increase. Such an examination shows that changes in the personal income tax law is the source of this situaiton; in fact, according to other data, the bottom fifth of taxpayers does not incur any positive income tax liability. The largest single legislative change leading to regressive tax increases for some taxpayers has been the signing into law of significant increases in payroll taxes by President Carter.

CONCLUSION

Advocates of tax rate reduction argued that a cut in high marginal tax rates would tend to draw more income into the taxable economy. Those affected by the highest tax rates would respond to lower rates by generating more taxable income and tax revenue. Wealthy Americans seem to have responded to the tax incentives after 1981 by generating more taxable income and tax revenues, and their share of the tax burden has increased. But with a reduction in marginal tax rates, the real income gains of middle and lower income Americans, less affected by changes in tax avoidance, have resulted in lower real tax payments and tax burden.

Review of the statistical record offers no support for the contention that the personal income tax burden has been shifted from the rich to others; the movement has been in the oppposite direction. Preliminary IRS data for 1988 reflect a surge in the tax payments by millionaires and other upper income taxpayers. While there have been regressive tax increases implemented through Social Security legislation in the late 1970s, these have had nothing to do with changes in the personal income tax.

CHRISTOPHER FRENZE.

OCTOBER 1990.

Mr. Frenze is a Republican Senate staff economist. Scott Borgemenke, Nita Morgan, and Mike Adelman provided research assistance for this paper.

Mr. ROTH. Mr. President, I yield the remainder of my time.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:51 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

The PRESIDING OFFICER. The Senator from Vermont is recognized.

CRUDE OIL PRICES

Mr. LEAHY. Mr. President, I am only going to take a couple minutes.

In the newspaper this morning there is a chart that says on August 1 the crude oil price was $21.54 a barrel. It said yesterday it was back down to $28.38, having gone up to $41.15.

Mr. President, right after Iraq invaded Kuwait, we were told oil prices might go up. Every major oil company in this country sent telegrams and cables down to dealers: "jack those prices up." Every night on TV we saw the prices going up, up, up.

The price of crude jumped to $41.15 and the price of gasoline at the pump skyrocketed.

Now the price of oil has gone way down, almost down to where it was before Iraq invaded Kuwait. Are the same oil companies calling up the dealers saying, "all right, boys, bring the prices back down?" They are not. If they could jack up the price of gasoline when the price of crude was going up, I would like to see them do something to bring it down. I think the Secretary of Energy and the President ought to do the same thing that John

F. Kennedy did when manufacturers tried to raise the price of steel. Secretary Watkins ought to say, "If you can shoot it up that fast, you can bring it down just as fast, and do it before you plunge this country into a recession."

I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3110

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, we are now back on the amendment offered by the distinguished Senator from Georgia [Mr. FOWLER] is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WIRTH. Mr. President, I would like to spend a few minutes. I do not want to spend time talking about purchaser credit programs or appropriated road programs or on a lot of the detailed discussion which has really obscured the fundamental issue in front of us. That fundamental issue behind the Fowler amendment, which I certainly hope that we pass, is simply this: How we are going to manage our public lands? That is the fundamental issue in front of the U.S. Senate in consideration of this piece of legislation.

Are we going to continue to manage our public lands in a very traditional and an extractive approach in which we really view the Mountain States and much of the West as a colony from which minerals, timber, electricity from water resources, and so on, are to be extracted and then sent someplace else where the value is added? That has been the history of the West, for the most part, in the United States. We have been a colony of the rest of the country.

That history is slowly but surely changing as we come to understand that this extractive economy upon which much of the West is dependent is all wrapped up with various kinds of subsidies from the taxpayers. We subsidize water projects. We had a very significant debate last night about the terms under which the Federal Government allows mineral lands to be exploited. We have a whole set of policies set up to favor resource extraction in the West.

Those policies involve various kinds of taxpayer subsidies in this area of the country. We have a long colonial extractive history. This debate today is all about whether or not we are going to recognize changes that are going on in the West, changes in our economies. Whether or not we support the Fowler amendment, no matter what we do, these changes are going on.

I see a very rapid and very marked shift from an extractive economy to what I would call an attractive economy. Instead of extracting from the public lands, the future of much of the West lies in how we are going to go about attracting people to our public lands and how we are going to use scarce taxpayer resources, scarce taxpayer funds, not to further extract but to manage the resources of our rivers and our mountains and our forest, and all of the assets that are out there.

Are we going to manage those resources for the purposes of a long-term future, which is more likely to be dependent economically on this kind of an attractive economy than it is on much of the short-term gain of extraction?

I could cite a number of examples of this, and they are pretty clear to most people watching the transitions being made in county after county after county in the Rocky Mountain region and much of the West.

For example, we have stopped, and stopped a long time ago, the building of most water projects in the West. The good sites were gone. We are now shifting our resources elsewhere and instead of looking at the water resource of the arid West simply as resources to be dammed, we are now coming to understand that what we want to do is to manage these resources for the purposes of using those rivers for rafting and recreation, which is a burgeoning industry in Idaho, Colorado, and elsewhere around the West; to be managing those water resources to protect water quality, which is so extraordinarily important in this very arid part of the country; to be managing those water resources to attract fishermen and others who are going there.

We in the State of Colorado last year sold more than 600,000 fishing licenses. You know that by itself is far more significant to our rural economies than what was going on in the timber industry.

We are managing our forests in a different way as well, Mr. President. We are coming to understand that the short-term extractive "send the timber out" colonial extractive approach to our timber is not the only way to get an economic return from our forests. Rather, we are coming to understand that what we want to do is to manage our forests in all kinds of different ways, managing trials and repairing those trails for the great number of people whether they are going in on foot or going in four-wheel driving or going in on motorcycles, managing the resources of our forests so that people have access to them and enjoy them. A very different approach.

Managing our resources for both summer and winter recreation in a formal sense. The ski industry in the State of Colorado and many of the Rocky Mountain States has escalated to extreme importance. On the western slope of Colorado, the western side of the mountain ranges, skiing is really the reason that our economy was kept alive during the tough recession of the early 1980's. The part of the economy that really kept our housing industry alive was the ski industry. Our housing industry was dependent upon the ski industry and that is the only industry that kept housing alive during those recessionary times. Now, not only the wintertime recreation economy, but yearround ski resorts are dependent upon the Forest Service's ability to manage the lands. The Fowler amendment recongnizes this new transition, Mr. President.

Let me demonstrate the need for change a little more graphically.

Here is a chart of the budget of the Forest Service. If we look at the chart of the budget of the Forest Service we see where and how the Forest Service is spending its money.

This is still, Mr. President, an extractive budget. This is a budget of years ago. This is not a budget that is looking ahead toward the future of the West and the future of the economics of the West.

We are sometime spending more than three-quarters of the funds in the Forest Service for timbering and only 15 percent for recreation, even though recreation in every Mountain State overwhelms the timber industry in terms of size and importance in county after county after county.

Watershed protection gets a tiny sliver of the budget. Fish and Wildlife just a little more than 3 percent.

This picture by itself is a very clear indication of the need for change. This is what the Fowler amendment is all about and why we ought to be supporting it.

Mr. President, this transition going on in the West is not an easy one. It is pitting a lot of the old versus the new, and for many it is very threatening. It is very threatening to the old extractive industries. It is very threatening in many cases to old political structures that are accustomed to dealing very tightly with Uncle Sam, very tightly with Federal subsidies.

It is very difficult to make this transition, but slowly and surely it is going on. Slowly but surely it is happening, whether we like it or not; it is going on.

What I would suggest Mr. President, is that it is absolutely imperative that we recognize this reality and, instead of fighting it with a budget like the one I have just shown my colleagues,

we should go along and help it by supporting the Fowler amendment.

A couple of final notes, Mr. President, related specifically to the State of Colorado and below-cost timber sales. Let me give just a few examples.

On the Arapaho-Roosevelt National Forest in Colorado, the return to the taxpayer was 6 cents on the dollar.

In the Grand Mesa, Uncompahgre, and Gunnison National Forest, the return to the taxpayer was 8 cents per dollar spent.

Pike and San Isabel National Forest, the return is 4 cents on the dollar. The Rio Grande Forest did well; it returned 21 cents on the dollar; the taxpayers subsidized 79 cents.

Routt National Forest, 5 cents returned on the dollar. The White River, 3 cents; 97 cent subsidy.

Why do we not spend this taxpayer money, more of it, Mr. President, managing for the future rather than managing for the past, managing for trails, managing for recreation, managing for the greater number of Americans who want to come and use these resources?

If you go up to almost any national forest in Colorado, you will find the trail system badly eroded, falling apart, the Forest Service having to cut camp sites, close them down, not do the kinds of management that they should be doing, and they will admit that they are years and years and years behind in the amount of money that they have.

Why is that the case? They say it is because they are given a certain requirement, a certain target that they have to meet in terms of timbering and therefore to meet that target what they have to do is to commit much more of their limited budget to this very road program to meet that timber target. If they are meeting that timber target they do not have the money to do all of the other things that have to be done.

That I showed again on this chart. Very clearly what happens is that money is going just to the timber area. They do not have money to manage the trails and keep the camp grounds open and have the interpretation and have the overall management of our forests.

That is what this is all about, Mr. President.

A final footnote, Mr. President. Last summer my wife and I went up to an area called Bowen Gulch. Bowen Gulch is a beautiful old-growth area on the west side near Granby. We are going in on this bill with language to allow the Forest Service to get timber cut someplace else so Bowen Gulch, one of the finest areas of the Rockies, can be preserved.

Louisiana-Pacific had built the road into Bowen Gulch. The Forest Service said over and over and over again, and told everybody that this was an above-cost timber sale. The Government was making money on it. But what they neglected to tell us, until we got there and actually got on the ground and found this out, was that the main stem road going into all of the timber areas was not counted as part of the cost of the timber cut. They built this enormous road going in to bring all of the timber out, but they were not counting it against the timber sale. Only the spider roads going into the timber cuts themselves were counted for the purpose of figuring out whether this was above or below-cost.

When we asked about this road, and we said, "What is the justification for not counting it as a cost of the timber sale," we were told by one of the gentlemen who went in with us, "Well, there are a lot of recreational uses up here. Last year a guy shot an elk up the road here and hauled it out in a wheelbarrow. He thought this road was a pretty good deal."

Apparently we built, for hundreds of thousands of dollars, a road so somebody can wheel an elk out in a wheelbarrow. That was a justification for the road. Those justifications are getting pretty thin, Mr. President. What is happening now is that the understanding and the justification for this whole program, the way it is set up, is getting pretty thin. It is time for us to go along with the change that is going on out there anyway and to start to help direct that change and help manage it so this part of managing our forests—recreation, watershed production, and wildlife—gets bigger than this very small part of the overall budget.

I urge my colleagues to support the Fowler amendment, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

CONSIDERATION OF LEGISLATION TO IMPLEMENT THE URUGUAY ROUND

Mr. HOLLINGS. Mr. President, earlier today I heard a remarkable suggestion that our form of government forbade our trading partners to negotiate on the subject of trade, unless we suspended our constitutional form. I heard we had this funny form of government for consideration in the U.S. Senate, the most deliberative body, trade agreements. Of course, when it comes to life and death, national security, the Marshall plan, NATO, the matter of the SALT I Treaty, the Nuclear Test Ban Treaty, the INF Treaty, we did not have a fast-track procedure. But now when it comes to trade matters, they come to us and say we have to have fast track.

That has nettled a good many of the Senators here in this body, for good reason, that the U.S. Trade Representative in Geneva has not been consulting the Members of Congress, has not really followed the majority view of both bodies in Congress in certain trade bills, like our textile bill, and is trying to change our formative agricultural policy to the detriment of America's agriculture, without consultation, and similarly on the environment.

I am just asking for a monent—I know it will be objected to—I want to be able to present the resolution on behalf of these several Senators. I know that immediate consideration will be objected to. It will just have to stay there on the calendar.

But I want to be able to include my statement in the RECORD. My distinguished colleague from North Dakota also has a statement. I also have a statement from my distinguished colleague, the Senator from Pennsylvania [Mr. HEINZ]. I ask unanimous consent to be allowed to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to know what the inquiry is. Is the inquiry of the Senator to speak for 5 minutes as in morning business?

Mr. HOLLINGS. That is what I just related, that we would call up a resolution and there would be objection to that.

Mr. CHAFEE. I object to that.

Mr. BAUCUS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HOLLINGS. Then Mr. President, we can talk about the matter and some timber matters also. We came here earlier this morning. We will have time—if not now, tomorrow morning, then to present this particular matter when we get to morning business and present the resolution.

We checked this matter, of course, with the leadership.

It is very interesting, Mr. President, that those who would object to it really object to even any sound with respect to deliberate consideration being given to matters of trade. When it comes right down to it, we have moved from the cold war into the trade war, and we have moved more or less from military security interests into economic security interests. As a result, we are really into a very viable and dynamic type of competition with respect to our trading partners in Europe and in the Pacific rim.

The picture has materially changed from the time of the 1974 Trade Act. In the 1974 Trade Act, where they included the fast-track procedure, Mr. President, we were fat, rich, and happy. That is 15 years ago. The American economy is not fat, rich, and happy any longer. It is a dynamic competition. We want to be able to compete. We find the element of what we might call comparative advantage, under the Ricardo doctrine of so-

called free trade—each government and land using its comparative advantage—that the comparative advantage now has envolved into just government. And every government is using its very best of procedures in order to protect its economic and industrial backbone.

We did that in the formative days because we were a fledgling, developing country. Two hundred years ago the very first trade measure was not just on timber and our natural resources here that we have now in discussion before the U.S. Senate. It was a tariff bill, for the preservation of the United States of America, on the imports coming in to the United States, in order to build, for the first time, that industrial backbone. It was the British who were saying, "We will trade with you what you produce best, you taking advantage of your comparative advantage," which was natural resources. We did not have an industrial economy built. They did.

Of course they said, "We will trade back with our comparative advantage. There will be no tariffs. There will be no barriers. We will just have free trade."

Wisely, Alexander Hamilton stated, in his famous booklet "Reports on Manufactures," that there would be no so-called free trade, that we were not going to remain a colony, and that we were going to build up industrially and competitively with the developed part of the world then, 200 years ago.

The very first bill that passed the national government was a tariff bill on July 4, 1789, of a 50-percent tariff on 30 different articles. We could then talk of the development of trade under the Smoot-Hawley tariff bill, which really did not cause the crash. It came after the crash, 8 months afterwards, but it led into the reciprocal trade bill of 1934 under Cordell Hull and President Roosevelt. and we began, then, to use our Government.

But, after World War II, there were not any economies other than that of the United States of America left whole. Wisely, at that time we joined in the General Agreement on Tariffs and Trade and allowed, over the years, the executive branch to more or less negotiate for us. Now we find that that negotiation has been to our detriment; first, by the State Department, and then when we found that out, we put in the special Trade Representative and that was the ambassador for trade and that was an entity, really, of the national Congress, so the people could be represented.

I have been on the floor at times when they said that over at the State Department they have a Australian desk, a Far East desk, a European desk, a South American desk; it is time we have an American desk representing the people of America.

We thought we had that in the ambassador for trade, the Special Trade Representative. We found out instead they are an entity unto themselves, as bad as the Department of State. They do not consult, do not tell us what is going on. And even when we mimic them by proposing a globalization of textile quotas, which they said they would table for us last year in Geneva—when we put that into legislation, they opposed it all.

Mr. President, I can talk a long time on timber. I was just trying to get 5 minutes for the distinguished Senator from North Dakota and myself to put this in, but I can see our colleagues are objecting to the 5 minutes, so we can talk a little bit about timber and then we can talk a little bit about the particular trade measure and some other matters of concern to this U.S. Senate.

When it comes to timber and this particular bill, Mr. President, I have supported similar amendments offered by the Senator from Georgia in the past. I agree with him about abuses in the forest roads construction program during the 1980's, and that a reduction was and is necessary. The unnecessary road buildup in our national forests between 1981 and 1985 should be a constant reminder of the consequences of too little stewardship and too much money to spend. Because of the obvious abuses in this program, I supported efforts by Senator Proxmire in 1987 to cut the road building program by $90 million, at a time when the bill provided more than $276 million for road construction. I supported the $65 million reduction in the forest roads budget last year during floor debate when the bill called for $205,500,000. However, I cannot support this amendment which cuts an additional $100 million from an allocation of $196 million this year. I have several reasons.

First and foremost, my primary concern this year is to remove as much downed timber as possible from the Francis Marion National Forest. As I stated on the Senate floor a little over a year ago, 13 months ago to be exact, South Carolina was burdened with 6.7 billion board feet of timber felled by Hurricane Hugo. Of that 6.7 billion board feet, close to 1 billion of it was in Francis Marion National Forest; 100,000 acres were completely leveled, and the entire forest of 250,000 acres was damaged. The new disaster that threatens us everyday and will continue to threaten us for several years is the threat of forest fires. I have consistently expressed my concern to the Forest Service this year that enough roads be built and maintained to remove the downed timber and provide fire breaks. I cannot now turn around and reduce their budget for road construction.

Second, we have already reduced the budget for roads from $276 million to $196 million in 4 years. An additional reduction of $100 million is a drastic and potentially harmful reduction to be absorbed in 1 year. After all, we asked for only a reduction of $65 million last year when the budget was $205 million, and while I support a reduction, I cannot support cutting the road budget by more than half in one year.

Finally, Mr. President, let me say that I support the principal concern of the Senator from Georgia: Below-cost timber sales and abuse of our national forests must end. We have reduced the roads budget in the past and responsibility is returning in the management of our national forests. I agree that more needs to be done, and I will continue to support efforts to ensure that our forests are made available for more than just subsidized timber harvesting. Efforts to eliminate actual below-cost sales is a good second step which addresses the problem directly.

Mr. President, we must continue to watch the Forest Service roads program closely. Although, I cannot support the full $100 million reduction because it is too drastic, if a solution to the below-cost sales is not found, or if abuse of the roads program returns, I will not hesitate to support a reduction in the program in the future.

So I want to be in a position when there is a matter of debate and discussion, a matter of dispute, if I err, I err on the side of the forestry department today in order to be able to make sure they have sufficient moneys to construct these roads and have access to the various parks. I do not want to hear, after a devastating forest fire, "Well, you know, we could have prevented that if we had not, in the U.S. Senate and if your Senator had not voted against the development of roads so we could access the various incidents of fire in the national forests."

I have explained that to the distinguished leader on this particular amendment, the Senator from Georgia, who I think has done an outstanding job. Forestry is an important part of the economy of Georgia, as well as the State of South Carolina. We wish to cooperate and adopt the proper forestry policy. However, in light of the devastating Hurricane Hugo, we cannot play around much longer here. We need far more moneys than we were able to put in these forestry bills, and agriculture bills continue clearing, and to contuine building roads to regain access to the various sections of the forest in order to be able to stop the forest fires.

So I will not be able to support the distinguished Senator from Georgia on this particular amendment.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 342

Mr. HOLLINGS. Mr. President, I was here earlier today, and our friend from Delaware came and he wanted 10 minutes to proceed as if in morning business. Actually, I had obtained the floor before he had but I figured he was in a rush, so I was glad to oblige. I hope the Senator on the other side will allow us to have 5 minutes and we can get this done. It will not be prevented. It will be done sometime today or tomorrow. We will have due time.

In the meantime, we have a lot of things on our minds. One of the big things at this particular time, as we discuss the cost of the forestry bill, the matter of financial development in this particular measure in the light of our budget and the budget itself, that we are more or less hung up, if you please, between rich and poor, between categories of income, between various other measures as you might imagine, whereby, instead of solving America's budget deficit, we are solving a political problem of who is going to get the high road with respect to who is for the rich or who is for the poor, who is middle class and whether you are between $100,000 and below, $100,000 and $200,000.

We have broken down all of the arguments. The truth of the matter is, if you give either side their particular way and the problem worsens, the problem will be in October of next year even worse than this year. It seems to me that we should realize that and stop embarrassing ourselves up here knowing that we are not solving the problem with either particular approach. It is a momentary high road or point in the political dichotomy.

But other than that, we have to come back to really providing. We have expenditures in this Government of ours. We cannot, under the Operation Desert Shield, cut defense anywhere, give or take many millions, below the $300 billion mark. They have just agreed to an authorization bill of 288. You take Desert Shield and add to it, you will be easily at 200.

So, Mr. President, what happens is with the $300 billion for defense, we then go to health costs, which is $200 billion, and you would be King Solomon himself if you could learn how to hold health costs down to not exceed an 11.5 percent increase. We have tried every approach imaginable, and we have not been able to hold down those health costs because we, in America, want the best of health. We want everything when we become ill.

And so it is, Mr. President, when that occurs, health costs continue to go up. We try to hold the line. We come in with budgets cutting $5 billion out of Medicare at the beginning of the year. Then, when we adjourn in October, we have to recede from that and try to save $1 billion to $2 billion. In one fell swoop, it has gone up about 11.5 percent; 300 for defense, the 200 then for health care, is $500 billion.

We look at Social Security, which is $263 billion, and that is a trust fund and cannot and should not be cut. It comes out of their moneys. They had their taxes increased and who can say let us cut Social Security when you increase the taxes and have a surplus in the fund? Otherwise, you have $286 billion in interest costs.

You take the four entities: Interest costs, Social Security, health and defense, you have over a trillion dollars. With a $1.200-trillion budget, it is readily realized that you can abolish the rest of Government. You can do away with the Congress, the courts, the President, the drug enforcement, the FBI, the Department of Agriculture—just get rid of the rest of Government and you still have a deficit because you are spending it this time in excess of $400 billion more than you are taking in.

Mr. BYRD. Will the Senator yield for a question?

Mr. HOLLINGS. On the condition that I do not lose my right to the floor.

Mr. BYRD. Mr. President, would the distinguished Senator indicate to this Senator what it is he seeks to do with the resolution?

Mr. HOLLINGS. The Senator from South Carolina and others, on behalf of 33 Senators, has a resolution relative to the repeal of the fast track provision of the 1974 Trade Act. It would not be in order unless under unanimous consent.

I checked with the leadership on both sides. They said bring it up just before we have the lunch break. I was here at that particular time. When I was seeking the floor, the distinguished Senator from Delaware, Senator ROTH, got it for 10 minutes to proceed as in morning business. So then I came back. The Senator from Colorado then had an appointment. Then I asked for 5 minutes so the Senator from North Dakota and I could enter our statements, put this up, ask for its immediate consideration. Senator PACKWOOD had already informed me that he was going to object to it. It would go on the calendar and that would be it. I was trying to expedite this particular matter because we have been trying for several days to get it up in this fashion.

Mr. BYRD. So the distinguished Senator wants to offer the resolution and ask for its immediate consideration.

Mr. HOLLINGS. Right.

Mr. BYRD. It is a Senate resolution, as I understand it.

Mr. HOLLINGS. That is exactly right. It would be under rule XIV and would go on the calendar.

Mr. BYRD. With the objection, it would go on the Calendar of Motions and Resolutions Over, Under the Rule?

Mr. HOLLINGS. Exactly.

Mr. BYRD. I do not see why we cannot accommodate the Senator. Let him have 5 minutes in morning business; let him ask unanimous consent to take up the resolution; there would be an objection and it would go on the Calendar of Motions and Resolutions Over, Under the Rule.

Mr. HOLLINGS. With 3 minutes for me; 3 minutes for the Senator from North Dakota. Senator HEINZ has been a leader; Senator KOHL has. We were not going to take that and have a dialog right now in the middle of this. We are as anxious as anybody else to move this particular amendment along.

Mr. BYRD. Will the Senator yield further without losing his right to the floor?

Mr. HOLLINGS. Yes.

Mr. BYRD. Mr. President, I hope we would be able to accommodate the Senator from South Carolina in this regard so that we can get on with the action on the Interior appropriations bill. If the Senator will allow me to make a parliamentary inquiry with the understanding he does not lose his right to the floor. I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, is this not the situation: if the distinguished Senator offers his Senate resolution—it is not a joint resolution; it is a Senate resolution—and asks for its immediate consideration, would not an objection to that request put that resolution on the Calendar of Resolutions and Motions Over, Under the Rule?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Mr. President, I hope Senators will let the Senator proceed in that fashion, and if the Senator would be willing to have a brief time limit under morning business that he might proceed in that fashion, I would be happy to propound the request so we can get on with this Interior appropriations bill. I do not want to stay here all afternoon keeping the Senator from doing what, as I understand, is a very minor matter so far as the Interior appropriations bill is concerned. I ask unanimous consent, if the Senator will yield to me for that purpose.

Mr. HOLLINGS. Definitely.

Mr. McCLURE. Mr. President, reserving the right to object.

Mr. BYRD. The Senator still has the floor.

Mr. McCLURE. Will the distinguished Senator from South Carolina yield to the Senator from Idaho for an inquiry without losing his right to the floor?

Mr. HOLLINGS. I yield.

Mr. McCLURE. I thank the Senator. We are trying to check now with a Senator on this side who is interested. I think there would be objection to an unanimous consent right now. I think it might be possible to accommodate both the schedule and the Senator's desires if the Senator from North Dakota would be permitted to speak with respect to this resolution at this time without having submitted the resolution, and we can determine by that time whether there will be objection. I hope there will not be.

Mr. BYRD. How much time does the Senator think would be necessary until he could clear the matter on his side?

Mr. CHAFEE. I would say about 5 minutes.

Mr. BYRD. How much time would the Senator from South Carolina and the Senator from South Dakota need?

Mr. HOLLINGS. I have talked 3 minutes. Two minutes. I have to get some statements in.

Mr. BYRD. The Senator from North Dakota?

Mr. CONRAD. Five minutes.

Mr. CHAFEE. Then we will have an answer.

Mr. BYRD. I ask unanimous consent that the distinguished Senator from South Carolina may proceed with debate for not to exceed 3 minutes, and that he be followed by the distinguished Senator from North Dakota [Mr. CONRAD] for not to exceed 5 minutes.

Mr. CONRAD. That would certainly be agreeable.

Mr. HOLLINGS. As if in morning business so I can call up the resolution and have it objected to.

Mr. BAUCUS. Reserving the right to object.

Mr. CHAFEE. I will object to that.

Mr. HOLLINGS. Go ahead.

Mr. BYRD. I am trying to help the Senator get that arrangement. I believe and hope at the end of 8 minutes this matter should be cleared on the other side of the aisle.

Mr. BAUCUS. Reserving the right to object. Mr. President, reserving the right to object.

Mr. HOLLINGS. If the distinguished Senator will yield, I am not trying to call it up. I am trying to just submit it and then it will be objected to. I think there is some confusion because I did use the expression "call it up." It is really to introduce it and ask for its immediate consideration.

Mr. BYRD. That is calling it up.

Mr. HOLLINGS. I am not intending to move on it today.

Mr. BYRD. That is what the Senator is trying to do when he asks for its immediate consideration.

Mr. HOLLINGS. I am just trying to submit it.

Mr. BAUCUS addressed the Chair.

Mr. BYRD. The Senator is attempting to call it up regardless of what he has been advised by a staff person. If he is just submitting it, it is just submitted and it goes to a committee.

Mr. HOLLINGS. Then I ask for immediate consideration and it goes on the calendar.

Mr. BYRD. That is right. He is asking for immediate consideration to call it up. If there is an objection, then it would go on the Calendar of Resolutions and Motions Over, Under the Rule.

So is there objection to the time request?

And that at the conclusion of the 8 minutes the distinguished Senator from South Carolina be recognized to submit his resolution, Senate resolution, at which time he will ask unanimous consent that the Senate proceed to its consideration. Is that correct?

Mr. HOLLINGS. That is correct.

Mr. McCLURE. Mr. President, reserving the right to object, and I do not expect to object, it is my understanding that at the end of the 8 minutes he would submit the resolution, ask for its immediate consideration, there would be objection, and it would then, as I understand it, go over under the rule to that portion of the calendar known as Resolutions and Motions Over, Under the Rule.

Mr. HOLLINGS. Exactly.

Mr. McCLURE. There is no objection on our side to that process.

Mr. HOLLINGS. Is there any objection to me doing that now—I think I can save us time—rather than at the end of my 8 minutes?

Mr. BAUCUS. Mr. President, reserving right to object, it is my understanding under this process when the senior Senator from South Carolina then proceeds in this manner, and when he asks then to have the resolution called up, an objection would lie, and if there is an objection then the resolution could not then be called up. I ask a parliamentary inquiry.

The PRESIDING OFFICER. The resolution would go over to the calendar.

Mr. BAUCUS. And it could not come up if any Senator were to object, after that?

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. Why not proceed then.

Mr. BAUCUS. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Objection to what?

Mr. BYRD. Mr. President, if the Senator will yield, I will try to save some time.

Mr. HOLLINGS. I yield to the distinguished Senator from West Virginia.

Mr. BYRD. The Senator from South Carolina has indicated that he is willing to save the time of the Senate if he is allowed at this moment to go into morning business and introduce his resolution and request its immediate consideration.

Mr. HOLLINGS. Exactly. And ask for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I ask unanimous consent there be a period for morning business not to exceed 3 minutes.

Mr. CHAFEE. Mr. President, why not make his request right now before we have the speeches.

Mr. HOLLINGS. That is what I am doing.

Mr. CHAFEE. Go into morning business but before the speeches.

Mr. BYRD. I tell you, this whole thing could have been over by now.

I ask unanimous consent that the Senate proceed as in morning business for not to exceed 5 minutes.

Mr. HOLLINGS. Five minutes, and I will yield that.

Mr. BYRD. The time to be equally divided between Mr. HOLLINGS and Mr. CONRAD, and that at the expiration of the time the Senator from South Carolina be recognized——

Mr. HOLLINGS. Why not at the commencement of the time?

Mr. BYRD. To offer his resolution and make his request for unanimous consent it be taken up.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, today we are offering a resolution to repeal the fast track treatment for legislation implementing bilateral or multilateral trade negotiations.

Mr. President, the so-called fast-track provision, requires an up-or-down vote within 30 days after a trade agreement is sent to the Senate. Furthermore, once a bill is reported out of the Finance Committee, consideration of the bill by the Senate must begin and end within 15 days.

The proponents of fast track claim that, without fast-track authority, trade agreements that are sent to this Chamber will be bogged down in interminable debate. Further, they argue that if an agreement can be amended, when the Senate finishes with it, it will bear no resemblance to the agreement that the administration had negotiated.

Right to the point, the free trade crowd claims that without fast track our trading partners will be reluctant to negotiate with us because they cannot be assured that the agreements they negotiate will not be mutilated here in the Senate. Mr. President, that is just not right. Our trading partners love negotiating with us.

Look at our objectives in the new GATT round. We have basically five areas of interest: trade-related intellec-

tual property rights [TRIPS], trade-related investment measures [TRIMS], an agreement on services, an agreement on agricultural subsidies and a better dispute settlement mechanism for enforcement of GATT rules. The Uruguay round has roughly 6 weeks left before its conclusion and negotiations have not yet begun in earnest. Let me make a prediction. At the end of this round, we will have a services agreement which will be riddled with exceptions and exclusions and that will be partly our own doing. We will not rid the world of agricultural subsidies. We may have a stronger dispute settlement provision, which is only as strong as willing participants make it. We will have some minor changes in TRIPS and TRIMS. It sounds like bric-a-brac.

You may say, that sounds nice and moderate—small steps are better than no steps at all. But what will we have to give up to get these small steps, this bric-a-brac? This is not a laughing matter. Our trading partners are not ignorant. They are going after their objectives with a vengeance, and what do they want?

They want us to get rid of section 301 and bury, once and for all, super 301. Weak as it has turned out to be, they find it objectionable in principle. They want to gut our dumping laws—the only trade law remedy that remains effectual—and they have some U.S. allies on that point. They want to get rid of the MFA, our textile import program. We have already agreed to unilaterally disarm our steel program in 18 months, the MFA is the last thing left. How can we stand by and let this happen? How can the administration prevail with such a package? The answer is: fast track. It is their only hope.

The fast-track provision, Mr. President, is a serious abdication of Congress' constitutionality mandated responsibility to "regulate commerce with foreign nations" under article I, section 8 of the Constitution.

God forbid that the U.S. Congress should have a say in the formulation of U.S. trade policy. We just spent 2 years, 1987 and 1988, writing a trade bill that may have to be rewritten because of events happening in Geneva. Let us take a look at how we have handled our trade responsibilities in the past. The first substantive legislation under our new Constitution on July 4, 1789, was a tariff bill. It levied duties up to 50 percent on some 30 commodities. The attitude shared by Hamilton, Madison, and Washington was that a legitimate and necessary end of the Government was to invigorate and protect American commerce and America's growing manufacturing capability.

We continued this policy, with ups and downs, into the 20th century. Then came the crash in October of 1929 followed by Smoot-Hawley 8 months later in June 1930. I will not go into the myths surrounding Smoot-Hawley today. Suffice it to say that Smoot-Hawley has been blamed for the crash and the Great Depression. In reaction to the opprobrium heaped on Congress, we began to cede our authority over trade matters, first to President Roosevelt and Cordell Hull in 1934 by enacting the Reciprocal Trade Agreements Act. This abdication of responsibility continued after the war and through the creation of GATT. With the largest trade deficits in the history of the world occurring in the late 1980's due to Presidential irresponsibility, Congress began to again assert its rightful authority. This culminated in enactment of the 1988 Trade Act. The resolution we are introducing today is a continuation of that trend.

Since we are declaring victory in the cold war, maybe we should take the time to learn from the history of that struggle.

In the cold war, there was no need to take Congress out of the battle by passing fast-track provisions. Quite the contrary, Mr. President. President Truman and Secretary of State Marshall and his successor, Dean Acheson, came to this body and worked assiduously with Senators Vandenberg and Connally to pass the Marshall plan, and approve our entry into NATO. Mr. President, when this body considered the Nuclear Test Ban Treaty, SALT I, the ABM Treaty, SALT II, and the INF Treaty, there was no need to impose a 30-day limit on our consideration. In fact, to limit our consideration to 30 days would have been considered unconscionable; and, even when we did not approve the SALT II Treaty, the Soviets still continued to negotiate with us, eventually signing the INF agreement. So the argument that our trading partners will not negotiate with us because we will take too much time debating an agreement, or that we will amend it to death does not stand up to scrutiny.

However, in the trade war, the administration wants to take this body out of the fight. While we pop the champagne corks in celebration of the end of the cold war and the triumph of democracy, are we too delirious to recognize that we are losing the struggle for our economic survival, the trade war? Do we need the "nightly news" to do a body count of jobs lost to our overseas competitors?

Mr. President, the Uruguay round of the General Agreement on Tariffs and Trade [GATT] is nearing its conclusion. This agreement will have far-reaching consequences on our economic future. Yet, if the fast-track provision remains, we will be forced to consider this agreement with a gun held to our heads. After 5 years of discussion and negotiation, the administration will come to this body and say, "Here it is, take 30 days to examine it, take it or leave it, no objections, no amendments, just say 'yes.'."

Mr. President, I would be derelict in my duty to the hard-working people of my State, people who have been devastated by imports, if I gave such a cursory review to a major trade agreement that may have deleterious effects upon our economy.

Therefore, Mr. President, I urge my colleagues to put the Senate back in the trade war, and reclaim for this body the full authority given to it by the Constitution.

Mr. HEINZ. Mr. President, my cosponsorship of this resolution signals my growing concern with the direction of negotiations in the Uruguay round and the increasing likelihood that the United States will once again give in to our trading partners' demands for more access to our market while obtaining nothing but promises in return.

In Yogi Berra's immortal words, Mr. President, this is "deja vu all over agin." I well remember the Finance Committee's work in 1979 on the results of the Tokyo round as we tried to craft legislation embodying the results of those negotiations.

Our work at that time required us to rewrite our antidumping and countervailing duty laws to make a number of major concessions. Most significant, we were forced to add an injury test to our countervailing duty law. We also made important tariff concessions and agreed to open most of our Government procurement to foreign bidding.

In return we received promises of good behavior from our trading partners, promises that have simply not been kept. Subsidies continue. Dumping continues. Foreign markets remain closed to our exports. Foreign governments continue to make sure their procurement remains at home. And our laws, as rewritten in 1979, have proved ineffective in defending us from these market distorting practices.

The most notorious area of continuing bad behavior in the 1980's, of course, was in the steel sector, where flagrant dumping and subsidizing cost the American steel industry over 60 percent of its work force—more than 250,000 jobs—and led to the filing of over 200 antidumping and countervailing duty petitions by various companies in the industry.

Those petitions led directly to the steel program of voluntary restraints pursued by two Presidents over the past 6 years. It is unfortunate when a government needs to resort to such measures to defend its basic interests, and it is testimony to the failure of the Tokyo round that we had no real choice within the GATT structure.

Steel, of course, is not the only sector that experienced these problems. Semiconductors was another area where sustained dumping, coupled with Japanese unwillingness to provide access to their market for our producers, led directly to another non-GATT decision; in this case the semiconductor agreement that has been effective in stopping dumping here and in third countries and set a 20-percent market access target for United States chips in Japan, a target that is yet to be met.

In other areas, where we did take our concerns to the GATT, as in the pasta and canned fruit cases with the EC, we have found the dispute settlement process totally ineffective.

The administration's response to this sad history of events, of course, is to tell us we need more negotiations to solve these problems. The purpose of this resolution is to say we are skeptical that the current round will produce the desired results. Obviously, if negotiating were simply a matter of the other nations adopting the American position, the outcome would be entirely acceptable. You won't find many Senators, including this one, critical of the positions the administration has taken so far.

How we deal with the inevitable resistance by our trading partners, of course, is another matter indeed. As the talks have worn on, what we have begun to discover is that, once again, our trading partners have shown themselves adept at penetrating our strategic positions, identifying what is critical to them and focusing on it intensively.

Not surprisingly, what is critical to them is more access to our market. While we are talking about more rules—rules on service, rules on investment, rules on intellectual property, rules on dispute settlement—our trading partners are talking about meat and potatoes, and, typically, are looking for them on our plate. They want virtually unlimited access to our textile and apparel market. They want to make it much more difficult to bring a dumping case against them, and, in the rare event that one is brought they want to make it impossible to find injury and take any action. They want to be able to provide, legally, even more subsidies than the current GATT code permits. They want to force our State and local governments and even some private companies to procure abroad rather than domestically. They want to strangle our law, section 301, that allows the President to take action to open markets abroad.

What I fear, and what I think my fellow cosponsors fear, is that when all is said and done in this negotiation, we will end up with a lot of paper—new rules and new promises—and they will end up with our market.

This may be a pessimistic view. I hope so. This is an area where I would love to be wrong. At the same time, history suggests I am right, and the time is long past when the United States can afford to be cavalier in defending its economic interests. For more than 40 years we have been the bulwark of the free world, continually throughout that period accepting economic costs in return for achieving our political and military objectives all over the world. We did that because we believed in ourselves and in the nobility of our goals, and because the costs were small.

Well, Mr. President, our goals may still be noble, but the costs are no longer small. Imports of manufactured goods are not a minor activity occurring at the margin of our economy. They dominate our economy, have stolen thousands of our jobs and threaten many more. It is long past time for us to start defending our own economic interests and stop defending everyone else's.

This is not to suggest, Mr. President, that our negotiators are going to deliberately give away the store. What will happen is what always happens to Americans in trade negotiations, at some point in the process reaching an agreement becomes more important than the contents of that agreement. At that point it becomes impossible for us to walk away from the table, and at that point we lose our leverage.

I would suggest, Mr. President, that we may well have reached that point, and our trading partners know it. Virtually the only element of this administration's trade policy is completion of the Uruguay round. Other bilateral disputes, such as Japanese refusal to honor the major projects agreement on construction, EC subsidies to Airbus, and Chinese violation of the bilateral agreement on satellite launch pricing, have been shoved to the back burner in the interest of a successful conclusion to the round. I learned just a few days ago that the administration is apparently also planning to propose major cuts in our textile and apparel tariffs in the interest of reaching an agreement, thereby stabbing in the back an industry it only recently also stabbed in the chest through its veto of textile legislation. This is not the way to convince Congress our negotiators are doing their best to uphold American interests.

On the contrary, I believe we are demonstrating not strength, but weakness at the negotiating table. We are signaling that we want to deal and will pay any price to get it. Well, Mr. President, I would like a deal too, but not at any price, for if we pay a high price in December, you can be sure American workers will continue to pay it for years to come, just as they did after the Tokyo round.

That is why I believe it is time for Congress to reassert itself as part of the process. The fast-track provision—section 151 of the Trade Act of 1974—effectively denies the Congress an opportunity to shape the outcome of the negotiations in a way that adequately defends our economic interests. Removing the fast track, as this resolution does, tells both our trading partners and our administration that the Congress will not settle for a bad deal, and that they better not settle for one either. That is an important message in the current climate, and one which I hope all Senators will support.

Mr. HOLLINGS. Mr. President, I yield 5 minutes to the distinguished Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the distinguished Senator from South Carolina not only for yielding this time but also for his leadership on what I think is going to be one of the most significant issues before this Congress in its next session. What we are seeking to do today is to suspend the so-called fast-track procedures that would allow for a rapid consideration of a General Agreement on Tariffs and Trade.

The reason we are doing that, Mr. President, is because there is a constitutional process that is being short circuited. Mr. President, all one has to do is examine the Constitution of the United States, article II, section 2, that gives this body the responsibility to advise and consent in treaties entered into by the President of the United States.

Nowhere in this document, our Constitution, does it say that the Senate should rubberstamp a treaty. Nowhere in this document does it say that there ought to be some new procedure that circumvents the normal Senate procedures for the careful consideration of a treaty that will bind this country possibly for decades to come. Nothing in this document says that the Senate should simply lay on hands and by a majority overrule a minority.

That is the fundamental purpose for the U.S. Senate—to protect minority rights in this country. And the fast-track procedure is simply a way of circumventing that protection for the minority interests in this country.

Mr. President, that is wrong. Let me just say that there is genius in this document of the U.S. Constitution. There is genius. That is why this Republic has endured for 200 years.

We are a representative democracy. Some have said that it will be hard to negotiate any international treaty when the Senate has the role that has been provided for it by the U.S. Constitution.

Mr. President, I simply say to my colleagues this is not a dictatorship. This is a representative democracy. Our negotiators have gotten badly off

track with respect to this GATT negotiation.

I refer to one area, food and fiber, the biggest industry in this country, which represents 20 percent of the gross national product of this economy, and our negotiators have now abandoned the principle of a level playing field for American agriculture. They have abandoned that principle, and said they have gone to a notion of equivalent reductions in the support levels of European agriculture and United States agriculture. The major problem with that is that European agriculture starts from a major higher base than does United States agriculture.

This chart is instructive. I hope my colleagues will pay attention to it. It shows what will happen in just one category if the European position prevails and the United States position prevails. The EC suggests we go from the current levels to a $9 a bushel level of support for EC, $3.80 for the United States. Our position, U.S. proposal, is that we would be at $5.10 for Durum in the EC. And the United States would be at $3.15 for exactly the same product.

European producers would get $5.15, U.S. producers $3.15. That abandons the level playing field. That locks in the European advantage.

Mr. President, that will begin the unraveling of the United States as the dominant economy with respect to agriculture in the world, a very serious mistake. That is why Senator HOLLINGS, 32 of our colleagues, and now Senator SARBANES has asked to join as original cosponsors.

Mr. President, I ask at this time that Senator SARBANES be included as original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, today I join Senator HOLLINGS and 32 of my colleagues to introduce a resolution to suspend fast-track consideration of the trade agreement coming from the Uruguay round of the GATT negotiations. I do so because the agreement coming out of the Uruguay round of the GATT negotiations will be the most important trade agreement to be considered by the Senate in many decades. It will lock-in-place legal rules for international trade for the next two decades. It is the responsibility of the Congress, under the Constitution, to carefully analyze and consider international trade agreements. I do not believe that the fast-track procedures now in law simply allow for such careful analysis and consideration.

I recently had an opportunity to review the latest draft proposal which the United States will table at the Uruguay round this week. Numerous farm groups and food processors have contacted me regarding their deep misgivings about the new U.S. position and the likely outcome of discussions. I share their concern about the latest direction of the discussions concerning agriculture.

The reason for the concern is simple: The United States has abandoned the goal of achieving a level playing field in agricultural and food trade. No longer are we discussing how and when to get to a level playing field. Under the latest United States proposal, the United States negotiators will be arguing about how big an advantage will be given to the European, Japanese, and other farmers. This is an absolute pathetic situation for our negotiators.

In addition to the concerns raised by agricultural groups, a large coalition of environmental groups and manufacturing industries have expressed sharp reservations about the negotiations.

I will focus my remarks on agricultural and food trade issues. Others may wish to discuss at a later time the constitutional responsibilities of Congress, environmental issues, and manufacturers concerns.

First, I would like to provide some background concerning agricultural and food trade. The food and fiber industry is the largest industry in the United States. Nearly one in five Americans works in the food and fiber industry. It accounts for nearly 20 percent of our gross national product. It is also the largest industry in the world and will remain so because people must eat to survive.

The food and fiber industry includes the manufacturers of farm machinery and fertilizers and chemicals, the pasta maker in New York, the railroads and truckers throughout the country, the export facilities on the Great Lakes, Pacific Northwest, and gulf coasts as well as the farmers throughout the country. All of these people will lose if the agreement reached at the Uruguay round of the GATT negotiations fails to create a level playing field in agriculture.

My deep concern and the concern of the agricultural community stems from the decade long trade war engaged in by the European Economic Community [EC] over the past 15 years. The EC has raised high import barriers to agricultural imports and provided immense subsidies for agricultural production and export.

The result of their efforts in grain production has been a huge increase in output. Since 1977, the EC has moved from being the largest importer of grains and grain products to one of the largest exporters. Their net trade position in grains has improved by about 43 million metric tons—1.6 billion bushels of wheat and feedgrains.

During this period, the EC has increased its wheat exports fivefold, while United States wheat exports and the exports of other nations have remained flat. In fact, the EC is currently spending more to subsidize their agricultural exports than the United States is spending on farm programs, crop insurance, credit, and nutrition and agricultural research.

They have taken over a significant and growing share of the United States pasta market by exporting highly subsidized Italian pasta to the United States. A few years ago that pasta was made with American wheat by American workers.

The subsidies do not stop there. The EC heavily subsidizes beef, pork, dairy, and poultry production. But even that is not the end, the EC subsidizes fruit and vegetable production as well. In fact, the major U.S. market for kiwi production has been virtually eliminated by huge EC subsidies to pay the startup costs for a European kiwi industry. The list is almost endless.

The net effect is that the EC has moved from the largest importer to one of the world's largest exporter of agricultural and food commodities. They have built a huge agricultural infrastructure in fertilizer, chemical, seed, and machinery production, in agricultural commodity transportation and export facilities.

They have used the agricultural trade war to create jobs in the food industry—the largest industry in Europe as well as in the United States. In the case of pasta noted above, it costs the European Community 5 cents additional per pound in subsidies to create 95 cents of value-added production. Not only are they developing a strong agricultural infrastructure, they are creating literally thousands of new jobs in the process.

The negative effects on the U.S. economy has been just as dramatic. A recent study by USDA indicates that if the United States had been able to produce agricultural commodities on just half of the land idled in our country, it would have created about 700,000 jobs and $20 billion in higher GNP.

If we had fair trade in agriculture, this would not have happened. America is very competitive in agriculture and food production. We have vast natural resources, highly educated and technologically skilled farmers, advanced nutrition and agricultural research centers, and a vast infrastructure of railroads, highways, rivers, and sea ports. U.S. agricultural efficiency means that the American consumer pays a smaller percent of his income for food than the people of any other country—including those countries with per capita incomes as high or higher than ours. The fact is that American producers can compete with anyone in the world if given a level playing field.

Mr. President, let me repeat, we can compete with anyone in the world in agricultural and food production if we

have a level playing field. Unfortunately, under the direction of Ambassador Hills of the Office of the U.S. Trade Representative and Secretary Clayton Yeutter of the U.S. Department of Agriculture, the most recent U.S. proposal would lock-in-place a severe disadvantage for our food industry. The new United States proposal at the Uruguay round of the GATT negotiations does not call for a level playing field in agricultural production. It proposes to legalize, with a GATT agreement, the huge European advantage in agricultural supports. It would lock-in-place a European farm program which protects their farmers, processors, and agribusinesses from world competition.

Let me explain. First, the U.S. negotiating team has apparently given away our section 22 waiver—a major tool available to U.S. negotiators for stabilizing agricultural prices and keeping out subsidized imports. In return, we have gotten little or nothing in the way of increased access to the EC or Japan or other countries for United States agricultural products.

Second, the latest U.S. proposal calls for cutting internal agricultural supports 75 percent over 10 years from the average level of support during the 1986 through 1988 period. The draft EC proposal would reduce agricultural supports by 30 percent from the level of support in 1986—in reality, a 15 percent cut from the U.S. proposed base period of 1986-88. The inevitable outcome, once the negotiations moved in this direction, is a compromise agreement on the percentage of reductions which will approximately split the difference—locking in place the U.S. production disadvantage. In effect, we have abandoned the goal of achieving a level playing field in the agricultural and food industries.

That will be a disaster for the American agricultural industry from farmer to processor. it will leave the relative United States and EC support levels for Durum wheat virtually unchanged. Even the U.S. proposal, put forward by negotiators who are supposedly working for the U.S. interests, would leave our producers at a sharp disadvantage. The likely compromise—halfway between the two proposals—would be devastating to our food industry, leaving EC producers with support levels of approximately twice that of the United States. Such disparities in support levels will mean that the EC will continue to expand Durum wheat production in the next decade, taking United States export markets in North Africa and the Middle East and taking a larger and larger share of our domestic market.

We would not even be able to use the current section 22 powers to prevent subsidized imports from undermining domestic farm programs.

I have used Durum wheat to illustrate the disastrous turn in negotiations, but similar illustrations could be used for feed grains, oilseeds, livestock, dairy and other agricultural products and commodities.

Some have argued that the European farmers will have to cut back production even if their supports are lowered only a little. That is foolishness. The average farm in Europe is 33 acres—far below a size at which most efficiencies in production are captured—that 33 acres compares to 1,250 acres in North Dakota wheat country and about 400 acres in Iowa corn country. European farmers have a huge potential to increase efficiency by simply increasing the size of their farms. Since most European farmers also have off-farm jobs, that should not be difficult. It means that many of them will simply lease their land to larger, more efficient operations. These larger operations, capturing the efficiencies of larger size, will produce just as much or more livestock, grains, oilseeds, fruits and vegetables at the new, slightly lower support levels.

The effects of such an agreement will not be limited to rural America. Urban America will also feel the hurt. You may be thinking, why should I care if a few farmers are pushed off their land, why should I care about agriculture in the GATT negotiations—less than 2 percent of Americans work on farms? There are few farmers in most States relative to the urban population.

There are good reasons for you to care—try this experiment—ask your State agriculture commissioner how many jobs in your State are part of the food industry. How many people do you have in farming, and food processing, and manufacturing farm machinery, and manufacturing steel for machinery, and agricultural commodity transportation and exports, and fertilizer and chemical production. I wager that it is one of your largest industries.

For example, while the United States has lost markets in the agricultural input industries, fertilizers, chemicals, and machinery, the EC has increased its exports by $5 billion since 1975. High EC supports for agriculture has meant the development of a strong agricultural input industry. People need to eat. The food industry will always be a large industry.

We in the Senate and House cannot escape our responsibility for the GATT negotiations. The Constitution gives the responsibility to regulate international trade to us.

I have sent a letter to Ambassador Hills expressing my deep concern over the latest draft of the U.S. negotiating strategy. I believe it to be a serious disservice to this nation, its farmers, workers, rural small businesses and trade balance.

I have joined with Senators HOLLINGS, KOHL, HEINZ, HARKIN, and other Members to introduce legislation to suspend the fast-track procedures for approval of the GATT agreement. An agreement with such far-reaching and potentially harmful effects should not be considered in haste. It must be carefully studied and evaluated, the public must be aware of all of the consequences of this agreement.

I urge my colleagues to carefully review the U.S. proposal and its implications for U.S. trade.

I thank the distinguished President pro tempore for making this agreement possible, and, of course, my colleague from South Carolina.

Mr. KOHL. Mr. President, I rise today to join with many of my colleagues in introducing a resolution to eliminate the fast-track authority for consideration of any GATT agreement in the U.S. Senate. Since I recognize that the fast-track authority was created for good reason, I support this resolution with some reluctance.

Mr. President, no one intends to push for consideration of this resolution this year. Nor do we necessarily intend to introduce this resolution next year. In fact, we hope we won't need to. This resolution serves one purpose only: to signal our very real concern about the direction of negotiations in certain key areas of the GATT talks. This resolution need not be adopted if that message is received.

But right now, we are getting a different message.

Last week, Argentina announced that it would refuse to sign agreements on any of the issues under negotiation in the Uruguay round until there is a satisfactory agreement in agriculture. It appears likely that other member countries of the so-called Cairns Group—such as Australia—will say the same. Their concept of a satisfactory agreement involves additional concessions on farm subsidies from the European Community.

Yet the EC has been unable to get an agreement internally on even a modest subsidy reduction proposal. It is unlikely that the EC has the collective political will to offer anywhere near the level of concessions sought by Argentina.

Meanwhile, the U.S. negotiators have tabled a new, modified proposal in agriculture. The proposal calls for a 75-percent reduction in domestic support programs, a 90 percent reduction in export subsidies, and a conversion of import access barriers to tariffs that would be sharply reduced over 10 years.

Mr. President, this proposal concerns me. It suggests that we may make a unilateral concession in our section 22 import quotas. If the U.S. proposal was adopted intact, the United States would give up its domes-

tic market protection for commodities such as sugar, peanuts and dairy products. While the proposal may strengthen export opportunities for these products, new export markets may be more than offset by stiff competition from imports here at home.

When I met recently with our Deputy Trade Representative, Ambassador Jules Katz, I asked him whether my concerns were well founded. Unfortunately, he agreed that they were. He could not assure me that the U.S. proposal would be a net gain for dairy farmers. In fact, he admitted that our dairy industry would face—in his words—"restructuring" if the U.S. proposal was accepted. The only words of consolation he could offer were that the administration would walk away from an agreement in agriculture rather than agree to a deal that would be bad for U.S. agriculture as a whole.

That was a lot of words, but not a lot of hope. I can't accept a U.S. proposal that unilaterally gives up our domestic market protection for dairy products. I can't agree with a U.S. proposal that would require "restructuring" in the dairy industry. Restructuring means fewer dairy farmers. The administration may be willing to offer up jobs in the dairy industry in order to get an agreement in agriculture. I'm not.

For that reason, I can not accept a promise from Mr. Katz that the United States will walk away from a bad deal in agriculture. In fact, I do not think that the administration will ultimately do that. The administration has made agreements in intellectual property rights and in services trade high priorities. If, as Argentina and other GATT members have made clear, the price of getting an agreement in these two areas is to have an agreement in agriculture, then I suspect that the administration will not walk away from a bad deal.

I want an agreement. But I do not want an agreement in intellectual property rights made at the expense of Wisconsin's dairy farmers. Nor do I want an agreement in services made at the expense of Wisconsin's textile workers.

Mr. President, if this were a different administration—an administration that I felt had sympathy toward American farmers—then I would not be on this resolution.

But this administration is the same one that proposed dropping the dairy price support to under $8 by 1993. The same administration that has argued for significant cuts in farm program spending. The same administration that believes there is no crisis in rural America. So now, when this administration holds the future of Wisconsin's dairy farmers in its hands at the GATT negotiating table, I believe I am correct to fear for our farmers.

Those fears can be laid to rest if we get a good agreement. And that means an agriculture agreement that does not benefit certain commodities at the expense of others. One that opens world markets, not just our own. One that requires greater reductions in farm subsidies from those countries with higher subsidy levels than ours.

If an agreement incorporating these goals cannot be reached, then I hope the administration will, in fact, walk away from an agreement in agriculture. But if we accept a bad deal, then the administration should know that we will have no choice but to seek the right to amend that agreement next year.

Mr. BAUCUS. Mr. President, I strongly oppose the resolution to remove the administration's authority to negotiate a trade agreement in the Uruguay round of GATT negotiations.

THE FAST TRACK

The resolution is aimed at repealing what is known as the "fast track."

The fast track is an arrangement under which the Senate agrees to vote up or down on a trade agreement negotiated by the administration without amendments.

It was originally forged by then-U.S. Trade Representative Robert Strauss working with the leadership of the Senate and the House.

With the fast track in place, we were able to negotiate a number of important trade agreements, including the Tokyo round of GATT Agreements and the United States-Canada Free-Trade Agreement.

As Ambassador Hills—our Chief Trade Negotiator—noted, without such authority it would be impossible to negotiate trade agreements.

Other nations would have no reason to negotiate with the United States unless there was a reasonable chance that such an agreement would be approved by Congress.

THE URUGUAY ROUND

Mr. President, the United States is now negotiating with 100 other nations to conclude a new GATT Agreement.

We must keep in mind that the United States has a great deal to gain by negotiating trade agreements to open markets and limit subsidies.

Generally speaking, the United States maintains the most open market in the world and extends very few subsidies. If other nations can be convinced to follow our lead, new opportunities will be opened for U.S. business.

In the Uruguay round, the United States is negotiating to lower trade barriers to U.S. exports of services and agricultural products, new rules to protect U.S. intellectual property, and to lower tariffs worldwide.

The United States is the world's leading exporter of agricultural products and service and the leading producer of intellectual property. All of these U.S. industries are likely to benefit if trade barriers are lowered.

Further, more than 100 U.S. businesses have strongly endorsed eliminating all tariffs in their particular sector, including paper and forest products, heavy machinery, and others.

A recent study by the Stern group concluded that a successful GATT Agreement could boost U.S. GNP by $300 billion over the next 10 years.

On the other hand, it concluded that an unsuccessful GATT round could cost the United States $100 billion.

In sum, the United States has a great deal to gain from international trade negotiations.

CONCLUSION

Of course, the Senate has every right to reserve judgment on the outcome of the Uruguay round of GATT negotiations until the negotiations are completed in a few months.

And despite the comments of its supporters, no trade agreement will be approved unless it is supported by the majority of Senators. In fact, it is possible that I may ultimately choose to oppose such an agreement.

But this resolution would effectively kill the negotiations now. Our trading partners would be put on notice that the U.S. Congress would not approve a trade agreement—no matter what provisions it contained.

There is no reason for us to jump to judgment. The next Congress will have every opportunity to carefully consider any trade agreement that is concluded. As chairmn of the International Trade Subcommittee, I have every intention of carefully reviewing any trade agreement that is reached.

But it is premature to make a decision on this trade agreement before it is even negotiated.

I urge my colleagues to reject this resolution.

Mr. President, I ask unanimous consent that a letter dated October 19, 1990, from "The MTN Coalition" signed by our former Trade Representatives be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE MTN COALITION,
Washington, DC, October 19, 1990.

Hon. MAX S. BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: We are writing as former trade representatives and as co-chairs of the MTN Coalition to underscore why the Coalition believes that an ambitious Uruguay Round is vital for the United States and the world economy.

The MTN Coalition is a broad-based alliance of American private sector interests firmly committed to a strengthened and more effective multilateral trading system. Its members, numbering over 14,000, include corporations of all sizes from a broad spectrum of industries across the United States, as well as organizations representing U.S.

manufacturing, consumer, and agricultural interests.

The Coalition does not take positions on individual issues in the Round; in fact, members disagree with each other about many details in the Round. What brings us together is that we want a revitalized, rule-based multilateral system, not a balkanized system of regional trading blocs. Moreover, we see the Uruguay Round as the best opportunity to break down trade barriers and open foreign markets to U.S. manufactured goods, agricultural products, and services. The Coalition strongly supports the ambitious objectives for the Uruguay Round set forth by Congress in the Omnibus Trade and Competitiveness Act of 1988.

We are under no illusions about the present state of the negotiations. There is a great deal of distance to go and little time to do it. It is sometimes difficult to envision the Europeans giving up agricultural export subsidies, to the LDCs opening their markets, what the United States has to offer in return. But we see nothing to be gained by rushing to judgment or throwing in the towel prematurely, because there is still time for major changes in the negotiations. More important, the potential benefits are enormous, the stakes extremely high, and the alternative of failure catastrophic.

From the U.S. standpoint, the heart of the issue in the Uruguay Round is that our economic future increasingly depends on our ability to export. Export growth has been the brightest spot in the U.S. economy for the past few years. OECD data shows that U.S. export volumes have grown an average of 16.6 percent over the past three years, three or four times faster than import volumes. U.S. merchandise exports had a record $97.6 billion in the second quarter of 1990. Merchandise exports accounted for 90 percent of GNP growth in the first half of 1990. The U.S. balance of payment surplus on high technology products was $21.2 billion in the first half of 1990, up 30.1 percent over the same period in 1989. This surge in exports has allowed the U.S. to move past West Germany and Japan to become again the world's leading exporter. While much attention has focused on the "new issues" of agriculture, services, investment and intellectual property rights in the GATT, most of the fifteen negotiating groups are dealing with issues that are critical for removing foreign barriers to U.S. manufactured exports.

For example, we can identify ten or so LDCs which are prepared to give up special treatment—that is, to bind their tariffs, give up licensing and balance-of-payments exceptions—and for the first time really join the GATT. This could bring over 200 million people into the GATT system. They will be looking for investment, and because their trade barriers will be lowered, they will get their share over the next five years. Our member companies/associations see these countries as important future markets for U.S. products.

Similarly, in the negotiations on intellectual property, we are seeking international rules to protect the creativity of American entrepreneurs, who are losing an estimated $60 billion annually from global theft and counterfeiting of their ideas. The ability to sell our patented, copyrighted and trademarked products abroad withour piracy is fundamental to our chemical and pharmaceutical industries, our film-makers and software writers, and countless others. This negotiation is not only critical to our ability to export; it is critical to maintaining our technological edge in key sectors.

A great deal has been written and said about the "new issues" such as services, trade-related intellectual property rights (TRIPs) and trade-related investment measures (TRIMs), but U.S. companies still stand to gain significantly from plain, old-fashioned tariff cuts on our exports of goods. Throughout much of the world, our competitors operate behind higher tariffs than our industries do. We endorse the efforts of the newly formed Zero Tariff Coalition, a group of over 100 U.S. companies which support the elimination of import tariffs around the world in many major industries.

We recognize that the Uruguay Round is no panacea for the problems of the global economy. Obviously, our country must deal effectively and credibly with our budget deficit and related problems. The E.C. has to open up, particularly in agriculture, and avoid the temptation to form a closed trading bloc. Japan has to fundamentally restructure its economy by, among other things, energetically implementing its commitments in the Structural Impediments Initiative. Even if the Uruguay Round negotiations succeed, this will not eliminate the need on many occasions for the U.S. to resort to tough, bilateral trade remedies to open markets. It surely is going to leave many problems unsolved, but the Uruguay Round is the best chance we will have for the rest of this century to open markets; it would take many years to accomplish piecemeal of bilaterally what could take place in the next two months in this Round. It is a major step forward.

When the Round commenced formally in 1986, everyone concerned recognized that it was the most important trade Round since World War II. But few realized that events of the past few years would make the timing of the conclusion of the Round—December 1990—so important. These events include: the emergence of the timetable for the single market of the E.C. in December 1991; the turning to the West and to market economies by Eastern European countries formerly in the Soviet bloc; the fundamental changes in the Soviet Union itself, which is aggressively seeking GATT membership; China's pursuit of GATT membership; and the major changes toward market economies in Latin America, including both Mexico and Venezuela's joining the GATT since 1986.

In short, if the Round was important in 1986, the extraordinary changes since that time make its successful conclusion critical that we have a successful Round and an enhanced multilateral trading system as a model for those countries (and their nearly two billion inhabitants). We make no predictions about the outcome of the negotiations, but we urge members of Congress to defer judgment and not to succumb to pessimism until we see what the negotiators can bring home. Rarely has a confluence of events offered greater opportunities for success—or greater costs for failure.

In closing, we are fortunate to have a tough, knowledgeable, first-rate negotiator in Ambassador Carla Hills, assisted by excellent people. Th two of us strongly support and commend their efforts.

Sincerely,

WILLIAM E. BROCK.
ROBERT S. STRAUSS.

Mr. HOLLINGS. Mr. President, I call up the resolution and ask the clerk to report.

Several Senators addressed the Chair.

Mr. BAUCUS. I object.

The PRESIDING OFFICER. The clerk will state the resolution by title for the information of the Senate.

The legislative clerk read as follows:

A resolution (S. Res. 342), to change the fast track procedure applicable to an implementing bill for the Uruguay Round.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. BAUCUS. I object.

The PRESIDING OFFICER. Objection is heard. The resolution (S. Res. 342) is placed on the calendar in the section entitled "Resolutions and Motions Over, Under the Rule."

Mr. HOLLINGS. I will just take 2 seconds to thank you and particularly our distinguished former majority leader for making possible what just occurred. It saved us a lot of time. I thank the Senator BYRD.

Mr. BYRD. I thank the distinguished Senator.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. MURKOWSKI. I yield to the distinguished President pro tempore without losing my right to the floor.

Mr. BYRD. Mr. President, I ask this rhetorical question. I address it to all Senators. When can we reach conclusion of the debate on this amendment so we can dispose of it? This amendment was first called up about 4½ hours ago.

Today is Tuesday. We are supposed to go out tomorrow at midnight. I would like to get this bill to conference. We have three appropriations bills, including this one that have not passed the Senate.

We just cannot go on and on and on and on as though we have months of the session remaining. We need to reach some end to the debate, and a decision on the amendments so we can go on to some other amendments. There are other amendments pending.

Mr. McCLURE. Will the Senator from Alaska yield to the Senator from Idaho so I might respond to the Senator?

Mr. MURKOWSKI. I yield without losing my right to the floor.

Mr. McCLURE. Mr. President, I think we would be ready on this side to at least get this far, get a time agreement with respect to the Senator

from Alaska on this amendment. How much time do we need?

Mr. MURKOWSKI. The Senator from Alaska would need about 15 minutes.

Mr. KASTEN. Two or three minutes.

Mr. McCLURE. The Senator from Washington, does he need a specific time or just recognition?

Mr. GORTON. I need recognition, I say to my colleague. I doubt seriously that I would take more than 15 minutes and probably less.

Mr. BAUCUS. Ten.

Mr. McCLURE. If we could get a unanimous-consent agreement that would allow the Senator from Alaska 15 minutes on this amendment, the Senator from Wisconsin 3 minutes on the amendment, the Senator from Idaho 5 minutes on the amendment, the Senator from Washington recognition without a time limit——

Mr. BYRD. He said not to exceed 15 minutes.

Mr. GORTON. I do not agree to a time agreement.

Mr. BYRD. Very well. At some point I am going to start moving to table amendments around here. I may not succeed.

Mr. McCLURE. And the Senator from Montana 10 minutes on the amendment. Senator WALLOP 5 minutes on the amendment.

Mr. BYRD. Mr. President, I make the request that the Senator has outlined.

The PRESIDING OFFICER (Mr. GORE). Will the 0President pro tempore restate the request?

Mr. BYRD. Yes. Mr. President, I ask unanimous consent that the following Senators be recognized for the time requested: Mr. MURKOWSKI, 15 minutes; Mr. KASTEN, 3 minutes; Mr. BAUCUS, 10 minutes; Mr. McCLURE, 5 minutes; Mr. WALLOP, 5 minutes; and Mr. GORTON without limit; and that that be all of the time on this amendment; 15 minutes for Mr. FOWLER.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. And that at conclusion of the time specified, the Senate vote on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 15 minutes.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, as we discuss the amendment before us today, it would reduce the Forest Service budget for roadbuilding by $100 million.

I think it is important to note that out of the $181 million which would be reduced to $81 million, there is a consideration that has not been expressed, and that is that 60 percent of the proposed budget of $180 million would go for reconstruction of existing roads. I think the presumption has been that this would be new roads opening up new forests. Forty percent would be new road construction.

Mr. President, as we look at what is happening here, it has been said that we have an undermining of a traditional public perception on the issue of mining, the issue of agriculture, the issue of grazing land, and it has moved on into the forests.

The idea of using public lands for renewable resources is being seriously questioned at this time. One has to reflect on the necessity of what these funds do and why it is necessary that funding continue.

National forests were established to provide for multiple use. Multiple use means just that, not only for industry but recreation and other benefits that come from a renewable resource such as our forests are. Roads serve many uses. They provide access to mineral and timber resources. In Canada roads are primarily built into frontier country by the Government. In this case, roads provide camp grounds, recreation, fire control, fire breaks, provide for control and suppression of pests and disease, provide access for fish and wildlife management and provide access for emergency safety and law enforcement.

What we are seeing here by the amendment of the Senator from Georgia is a restriction to access within our forests which would really limit access to an elite group.

Mr. President, our forests are not in danger of being overharvested. It is interesting to look back and see. In 1952, 603 billion cubic feet of timber existed in the United States. In 1989, that is 830 billion cubic feet. There is an increase of 227 billion cubic feet during that period from 1952 to 1989.

In addition, the use of forest lands and decision regarding forest lands should be made through a planning process, not during a debate on an appropriations bill. I think we should make land use policies decisions in the open and not hidden in an appropriations process.

Mr. President, I think it is interesting to note that there has been some miscommunication on figures concerning below-costs forests. There was mention made by the Senator from Georgia with regard to the Tongass National Forest indicating that it was returning 7 cents on every dollar expended. Mr. President, I would like my friend to note that the Tongass National Forest is not included in the President's list because it is not below cost.

The Tongass released a return of $1.41 for every dollar spent on the timber program in fiscal year 1989.

I think it is important also to note that in areas of the United States we are doing a noble job in relationship to forest management practices. The exception is suggested by some concerning the South American rain forest. A comparison has been offered to Tongass. The difference is, and the point that none of my colleagues have addressed, is that in South America the timber is gone after some very, very poor policies and land planning policies and it goes into an agricultural state. In the Pacific Northwest and Alaska it goes back into trees.

Mr. President, the question of commercial forest land vis-a-vis wilderness is an interesting one and I think one that bears some merit in this discussion. The question is: How much is enough? How much wilderness is enough?

In the State of Alaska we have 5.4 million acres of commerical forest land in our Tongass National Forest; 1.7 million acres of that 5.4 million acres is in wilderness, permanent wilderness. This is old growth, ancient growth timber. We have 2 million acres, or a little over a third, that is closed to logging. It will satisfy legal requirements for protection of the fish, wildlife, and recreation.

We have 1.7 million acres, or one-third, left for a commercial industry, and it is interesting to note just how this works. It is planned over a 100-year cycle. The maximum cut of 17,000 acres per year, or one-tenth of 1 percent of the forest, is cut in any 1 year. The average cut between 1980 and 1988 is 7,000 acres.

So, Mr. President, we have a perpetual yield forest plan. It is a good plan. It is worthy of the support of my colleagues as we address the issue of timbering and providing access in the sense of funding for roads.

Mr. President, little has been mentioned about second growth timber. In the southeastern part of Alaska, 45 seedlings come back for every tree cut. The growth is quite prolific. The second growth is two to three times the volume of the first growth.

The question is what is the underlying objection of our colleagues who want to see this budget not just reduced but for all practical purposes eliminated?

It is a situation, Mr. President, that is evident to the Senator from Alaska. They simply want to do away with timbering on private lands. The excuse, of course, is that clearcuts are unsightly. They do not mean this is a renewable resource. There is no recognition given to second growth and the prolific nature of that growth.

Timber is a renewable resource. It is no different than agriculture. It is like a crop. It needs thinning. It needs access. And most of all the United States needs to maintain a timber in-

dustry. We need homes; we need lumber for those homes. The other alternative is to import that.

All we are talking about here, as we talk about reducing access, is to reduce the timber base in this country. We have added wilderness in the Tongass just the other day. We have added an additional 800,000 acres that is basically exempt from any time. We are talking next about the spotted owl issue which will reduce the timber base even further. And thank God the spotted owl has not been seen in Alaska or we would have that problem, too.

The question of subsidy in the forest is totally misunderstood and the environmental groups fail to recognize the example of what is occurring in the forest. In the State of Alaska, in 1985, 5.4 million acres went into wilderness. It went out of the Tongass, National Forest. They went out of the timber base. In return, the Congress provided $40 million a year for special funding to offset that 5.4 million acres that was put in the wilderness.

What was the logic of that? Very simple. That was the price of wilderness. Is wilderness worth $40 million? What did that do when that land was selected? It took away from the timber base available for cutting adjacent to road systems that were already in and withdrew it and put it in wilderness.

The Senators from Alaska at that time pleaded with their colleagues to have the assurance that there would be special funding available so that the next timber could be accessed.

For the last 10 years we have been charged time and time again that the Tongass is a giant giveaway, that there is a subsidy. But what they do not say is that there were 5.4 million acres put into wilderness.

Mr. President, I beseech you: What is the price of that wilderness? Obviously it is very high, but no recognition is given.

We look at inconsistencies around here and one of the greatest inconsistencies that I have run across is just how much fire wood is burned in the State of New York. It is astounding. It is 1.5 billion board feet for firewood.

We are talking about trying to maintain an industry out West, if you will, where most of the timber growth is. The return to the forest is positive in nature; it is not a deficit. Most of the deficit forests are in the South and the middle part of the United States. And here we are talking about basically reducing from the principle, if you will, of the use of public lands by gutting the funding and the basic consideration for this is under the guise that somehow this is a waste of money, somehow this is a rip-off of taxpayers.

Let us make sure we understand the alternatives. If there is not funding for roads on Forest Service land by the Federal Government, then those roads that might be built by the private sector will not be available to the public. Make no mistake about it. Nobody is going to go in and take the timber out and be responsible for the public having access to those roads; the liability would simply out strip all the potential considerations given.

Furthermore, Mr. President, if you look at the return to the Federal Government, if you put up sales and there is no road, you are not going to get the same premium that you would get for the timber as opposed to the amount that you would get under the current set of circumstances where there is assurance that the Federal Government will provide the roads.

Make no mistake, Mr. President, the roads belong to the Government. They provide access for all Americans. If you restrict and limit this roading, you will not have access into these areas. The public will no longer be able to enjoy access in the conventional sense. It will be limited to an exclusive group that can come in with an extended horseback, helicopter, some other method, where the average American no longer has access.

I do not think that is what we had in mind when we considered the aspects of multiple use. The multiple-use concept is a good management practice. It has worked for a long, long time and to suggest suddenly, as the Senator from Georgia has suggested, that we eliminate this, basically gut it, to the extent suggested, simply makes no sense.

As I mentioned before, preventing roadbuilding is under the guise of an elitist concept to utilization of public lands and it is something that the Senator from Alaska certainly cannot support. I would urge the majority of my colleagues to recognize this for what it is: It is a continuation of what we have seen. It is a new mentality that seems to be creeping into this body where we do not use the renewable resources of this country for the benefit of all the citizens and most important for those whose jobs and lifestyles depend on it.

We have a serious ailment. I suggest we recognize it for what it is because if it spreads it is going to simply wipe out the Western United States economic base that is traditionally based on mining, it is traditionally based on use of grazing lands and forest products, and we cannot replace this, Mr. President, unless we import those products from other nations, and if we do that we are exporting jobs from this country.

I urge my colleagues to reject the amendment as proposed by the Senator from Georgia.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconisn is recognized for 3 minutes under the previous order.

Mr. KASTEN. Mr. President, since coming to the Senate, I have always supported reducing the subsidy for roads in the National Forest. On every vote we have had on reducing taxpayer funding for forest roads, I have voted to cut the subsidy.

But this amendment just goes too far.

If the amendment to cut $100 million from forest roads is adopted, there will be dramatic employment and economic impacts in Wisconsin and across the Nation.

In Wisconsin, we will likely loose 700 jobs directly from the action. If this amendment is adopted. We will lose even more jobs indirectly in the forest products and tourism industries. In addition, we will forgo $705,000 in local revenues.

This year, the committee provided $181 million for national forest roads. This includes operations and maintenance of existing utilized, roads. The proposed 55-percent reduction hits timber roads, as well as roads that are used primarily for recreation.

The second largest industry in Wisconsin is tourism. People come from all over the world to see our northwoods. We have a solid management program. Wisconsin leads the Nation in the management of natural resources. We have a true multiple use program that balances conservation, recreation and the forest products industry.

Over one-fourth of the funding cut in this amendment comes from the Forest Service Recreation Program. That program is critical to Wisconsin.

I will continue to support reasonable constraint on the forest road budget—but this proposal is, in my view, not reasonable.

I am therefore, for the first time, voting against an amendment to reduce funding for the Forest Service Roads Program.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield back his remaining time?

Mr. KASTEN. I yield back my remaining time.

Mr. SYMMS. Mr. President, I ask unanimous consent that the Senator from Alaska yield me one of his remaining minutes.

Mr. MURKOWSKI. Mr. President, I yield the remainder of my time to the Senator from Idaho.

Mr. President, one thing that has been missing in this debate today is who owns the land. I sometimes sit here in the Senate and I wonder where are all the antitrust lawyers. With three-fourths of the softwood timber owned in the United States by the Federal Government, somehow it always astounds this Senator that there is no one over here looking out for the people against the monopolistic practices of the Federal Government. Then the Senator from Georgia, who comes from largely a privately

owned State, comes into the Senate, offers an amendment which will decimate the ability of the American people to be able to get access to those resources which are held by the monopolistic owner and the monopolistic seller, the U.S. Government. This is really an issue about people. If we cut this road fund, we interfere with people's opportunities, their ability, to make a living.

On the environmental front, Mr. President, the distinguished Presiding Officer has been very interested in the Brazilian rain forest, as has this Senator. Many of us have traveled to that part of the world. We have worked hard to limit the lending that went in to clearcut the rain forest. As a matter of fact, in terms of carbon sinking, these temperate forests, if these old growth forests are harvested and young forests replace them, we are doing the world a favor environmentally because young forests consume carbon and young forests make a better, sound ecological situation for the globe.

Mr. President, the national forest road system serves many purposes, far beyond merely access for timber harvesting purposes. On 20.5 million acres in Idaho, the Forest Service road system is how you get from point A to point B, providing access for everything from recreational camping and hiking, hunting and horseback riding, to general maintenance, back country management and fire control.

The Senator from Georgia's proposal to take money out of the Forest Road Program is very ill-conceived. Only a fraction of the Forest Road Program funds are used to construct new forest roads, 24 percent in 1989. The remaining funds go to: General administration, including building rent, utilities, office supplies, location, survey and engineering design for bridges and roads so that they can be as safe and environmentally sound as possible; and inspection of all Forest Service roads, including those not financed out of the Forest Road Program.

Furthermore, very little of this money is involved in new construction—only 36 percent. The vast majority of it—64 percent—is for "reconstruction," improving public safety and ensuring environmental protection on existing roads. The Senator from Georgia's amendment accomplishes little but to lower the quality, safety, and environmental soundness of the present Forest Road system.

Nearly one-third of the money is used exclusively for non-timber-related construction, such as recreational access to fishing areas or campgrounds.

Now perhaps the Senator from Georgia believes he can cut the Forest Service road budget without doing any disservice to the people of Georgia. I would assert that the Senator would be wrong in such an assumption.

Mr. President, if you look at those people who recreate in Idaho's forests, 63 percent are not from Idaho. Nearly 16 percent are from Washington, 8 percent from Montana, 7 percent from California, 5 percent from Oregon, and so on. There are, in fact, many Georgians who travel to Idaho for an enjoyable vacation.

The Senator from Georgia may think that once his native Georgians get to Idaho, they don't want to see roads. Again, I would dispute him on that point. A survey of non-Idaho visitors found that fully 83 percent intend to sightsee Idaho either by car, by RV, by bus, or by motorcycle. It would be hard for them to see much of Idaho's natural beauty without roads to travel on. Only 7 percent of non-Idahoans visiting the State's forests intended to hike, bike or boat to their destinations.

Now assuming that 83 percent of Georgians who visit Idaho want roads to travel on, how will those roads be maintained to ensure them of both a scenic and safe trip? If the amendment of the Senator from Georgia passes, he will be jeopardizing not only the quality of recreation for his own constituents, but their very safety while recreating.

Mr. President, I should mention that every road constructed in a National Forest, whether in Idaho or anywhere else for that matter, must be done in accordance with a forest travel management plan that is developed with public input and professional forestry management. I certainly hope it is not the Senator from Georgia's intention here to imply that the Congress, here on the banks of the Potomac, knows where roads are needed and where they are not, better than the people and professional foresters who live and work on the banks of the Salmon, the Payette, or the Snake. Part of the mandate of these travel management plans is to ensure that areas do not become "overroaded" or "environmentally degraded" by road construction. The Senator's amendment is not needed in order to ensure that the road program is environmentally sound.

Mr. President, there is one more point that I should address with regard to the Senator from Georgia's amendment. It has been suggested that this amendment is not what its sponsors claim it to be: that its intent is not to reduce a wasteful area of the Forest Service budget, but rather, to somehow, through the appropriations process, create yet another stumbling block for the Nation's struggling forest products industry. It is rumored that the real proponents of this amendment care nothing for fiscal responsibility, but rather seek to halt timber harvest, and find this amendment as a way to do so when they cannot achieve their ends under the forest planning process, the Clean Water Act, the National Environmental Policy Act, or the Endangered Species Act. In other words, the nasty word out on the street is that this amendment is merely a way to kill the Nation's timber industry without the messy business of coming up with a reason for killing it.

I will not put faith in these rumors. No Senator could be so crass, so heartless, as to purposely propose a method for arbitrarily thrusting Americans into unemployment, for pulling the rug out from under an entire industry, or for destroying the economies of hundreds of small timber-dependent communities. I refuse to believe it.

Therefore, the only question posed by the Senator from Georgia's amendment is whether or not the Federal Government has an obligation to construct and maintain roads as provided by the bill before us. Mr. President, these are Federal lands, they are not owned by me, or by the timber industry, or by the State of Idaho. They are owned and managed by the Federal Government, for the use and benefit of all Americans. And if, through adoption of the amendment of the Senator from Georgia, the Federal Government shirks its responsibility to build and maintain the Forest Service road system, that responsibility will remain unfulfilled, to the detriment of Idahoans, Georgians, and all Americans alike.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for up to 5 minutes.

Mr. WALLOP. Mr. President, I thank the Chair.

Mr. President, there is a real and present danger to the multiple use of our public lands. Moves are pending in this Congress that, if enacted, would, as some of my colleagues have suggested, shut down the West.

In Wyoming alone, the passage of the Fowler amendment would result in the loss of 209 private sector jobs—209 jobs—and that's only the beginning of an impact with a very crippling ripple effect.

This is basically madness, in my opinion, it is outrageous that in the name of protecting the environment, we ignore basic economic good sense; we ignore the very management practices that preserve and enhance our quality of life.

Forest management tools have become so sophisticated that we are able to meet the Nation's demands for wood products while practicing, at the same time, good stewardship of the land.

In Wyoming, we have some of the world's most spectacular timber-covered mountains. And amongst the breathtaking beauty, timber has been

selected for harvest and by and large we have kept that beauty intact.

Let me tell you that visitors to our mountains can access this beauty because there are roads. Recreation is served, not thwarted, by these roads.

The good Senator from Georgia should understand how necessary—how integral—our road system is to the preservation of jobs and the environment. To cut a program that is essential and also well-managed is absurd.

I am afraid that the proponents of this amendment have armed themselves more with parables from Dr. Seuss' story of "The Lorax," than with the facts and figures of forest management.

For my colleagues who are not familiar with or do not remember, "The Lorax,"—he was a kindly gnome who "spoke for the trees—for the trees had no friends."

In the dreary, despoiled world of the Lorax, nothing reproduced. Once a tree was cut, it simply never grew back. The stumps became permanent reminders that man cannot use the Earth's resources and be a good steward at the same time.

"The Lorax" is an entertaining story for children, Mr. President; it is inventive, creative, and best of all, it defies adult rationale and reason. But clearly, its lessons have no place on the floor of the U.S. Senate. Our future cannot, ought not be guided by a fairy tale.

Then, too, Mr. President, I would point out that the forests are a public expense. Everything about them is a public expense. They were reserved to the public domain to manage as a total resource. Eliminating timber, eliminating grazing, eliminating mining or oil and gas production will not eliminate expense to the Treasury. They must be managed. These forests do not produce recreation at or above cost. It is below cost. Mr. President, it is a cost the public is willingly shoulders. They will yet have to be managed even if no one is ever allowed onto them again. And to do less would be irresponsible—as is, Mr. President, the proposal before us. It is elitist, as has been said. It ignores humans. It ignores the economic life of our communities. It speaks for an elegant class of Americans who do not care for any but their own self-indulgence. They have theirs, and theirs is to be protected.

Those who live on or off the forest do so because our country wanted to assure balance and beadth to our communities. Kill us, Mr. President. Kill us, if you want, those of you who support the Senator from Georgia, but have the grace to admit that that is what you are about. It is not economic sense. It is not envirnmental sense. It is outright murder.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized for up to 10 minutes.

Mr. BAUCUS. Mr. President, let me begin by taking just a moment to commend the chairman for his fine work in bringing this legislation to the floor. The Interior appropriations bill always seems to carry with it a number of difficult and controversial issues. But this year, as usual, Senator BYRD has done his usual statesmanlike job of putting together a package that is fair and balanced.

I also want to add a word about the fine work of the ranking minority member. For 18 years, the distinguished Senator from Idaho has brought great legislative skill and a solid Western perspective to the problems we face in this Chamber. We all wish him the best as he moves on to new endeavors.

Mr. President, I rise in strong opposition to the amendment.

I do so because this amendment is bad medicine; bad medicine for Montana and the West.

At a time when the Forest Service faces unprecedented challenges in meeting the mandate of the forest plans, the last thing we should do is limit this agency's resources.

In Montana, our forests have fallen far behind their annual timber production targets. The numbers are in for the last fiscal year, and the numbers are abysmal. Statewide, the Forest Service met just 57 percent of its annual timber production target. And on some forests—like the Bitterroot, the Gallatin, and the Helena—timber production reached only about 25 percent of its annual target.

Mr. President, I ask that a table showing Forest Service timber production for the last fiscal year in Montana, with other material, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOREST SERVICE TIMBER PROGRAM ACCOMPLISHMENT

[Fiscal year 1990, Montana]

Forest	Target (mmbf)	Accomplished (mmbf)	Percent accomplished
Beaverhead	18.1	15.385	85
Bitterroot	36	7.464	21
Custer	4	3.944	99
Deerlodge	20.3	9.468	47
Flathead	81	44.118	54
Gallatin	28	7.656	27
Helena	20	5.422	27
Kootenai	237	150.377	63
Lewis and Clark	14.2	8.373	59
Lolo	118	76.975	65
Montana total	576.6	329.182	57

DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, DC, October 18, 1990.

Hon. MAX S. BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: Enclosed is information on the impacts of a $100 million reduction in the road construction budget to support timber sales as you requested.

A $100 million reduction from the President's proposed budget of $125 million would put the Forest Service in an impossible situation. The timber sale level (9.6 billion board feet (BBF)) directed by the FY 1991 Appropriations bill, as reported by the full Appropriations Committee on October 16, could not be met. In fact, we estimate that it would reduce our sustained ability to offer timber sales to 4.1 BBf. It would have severe impacts on many States including Montana.

The $128 million included in the Committee reported bill is needed primarily to provide the engineering to locate, survey, and design roads which will be built by timber sale purchasers and to assure that purchasers build these roads to meet long-term public use. Much of the program is directed at correcting environmental and safety problems with existing low standard roads.

A reduction of $100 million would have severe impacts on jobs and on the 25 percent payments to States from timber revenues. These impacts are presented in the enclosed table. Nationally, this would reduce primary employment by an estimated 51,000 jobs and the 25 percent payments by an average of $130 million over each of the next 3 years. It would require us to terminate a major part of our experienced engineering force which could only be replaced over a long period of time. As such, there would be long-term impacts on the sale program.

The Forest Service policy is to build the minimum amount of roads to the lowest standards consistent with the public purposes to be served. The long range Resources Planning Act (RPA) program released this past spring, reflects this policy. While additional access will be necessary, 75 million of the current 81 million acres of roadless or lightly roaded area will still exist in year 2040.

In closing, an adequate road budget is necessary to responsibly meet the targets directed by the Appropriations bill for public use of the National Forests. A $100 million reduction would make that impossible and would have devastating impacts on many communities and individuals across the country.

Sincerely,

F. DALE ROBERTSON,
Chief.

IMPACTS OF 55-PERCENT REDUCTION IN THE FOREST ROAD PROGRAM

[In millions of dollars]

State	W/Pres. Bud. FRP volume offered, fiscal year 1991 (MMBF)	W/ reduced FRP sustainable offer volume, fiscal year 1991 and beyond (MMBF)	FTE reductions by fiscal year 1993 (FTE)	Private primary employment effected (person yrs.)	25-percent fund foregone fiscal years 1991–93 (M$)
Alabama	90.0	37.0	36	610	2,902
Alaska:					
Chugach	2.0	.8	3	6	18
Tongass	351.0	351.0			(1)
Arizona	275.0	84.0	56	8,827	11,112
Arkansas	213.0	89.0	93	1,265	7,938
California	1,657.0	816.9	437	9,399	23,700
Colorado	147.0	51.2	57	553	458
Florida	96.0	51.0	24	396	2,409
Georgia	57.0	39.0	22	197	625
Idaho	720.0	310.0	210	3,249	12,817
Illinois	14.0	6.0	4	16	110
Indiana			4	210	(2(264)
Kentucky	46.0	12.0	33	314	1,139

IMPACTS OF 55-PERCENT REDUCTION IN THE FOREST ROAD PROGRAM—Continued

[In millions of dollars]

State	W/Pres. Bud. FRP volume offered, fiscal year 1991 (MMBF)	W/ reduced FRP sustainable offer volume, fiscal year 1991 and beyond (MMBF)	FTE reductions by fiscal year 1993 (FTE)	Private primary employment effected (person yrs.)	25-percent fund foregone fiscal years 1991–93 (M$)
Louisiana	122.0	35.0	43	774	5,418
Maine	4.0	1.0	6	104	253
Michigan	212.0	142.3	27	1,619	1,012
Minnesota	184.0	150.0	18	246	128
Mississippi	237.0	95.0	63	1,232	10,185
Missouri	86.0	40.0	12	72	2,930
Montana	518.0	183.0	190	2,672	6,148
Nebraska	.2	.1			
Nevada	4.4	3.1	7	23	164
New Hampshire	29.0	13.0	13	185	495
New Mexico	128.0	36.0	30	4,582	2,419
New York	.4	.4			
North Carolina	81.0	35.0	42	729	630
Ohio	5.0	2.5	4	106	132
Oklahoma	26.0	12.0		148	993
Oregon	3,298.0	849.0	329	8,115	225,871
Pennsylvania	85.0	34.0	8	150	2,671
South Carolina	61.0	24.0	24	310	1,710
South Dakota	149.0	51.9	58	662	1,264
Tennessee	17.0	5.0	22	101	342
Texas	126.0	70.0	30	330	3,218
Utah	68.0	36.6	54	249	1,244
Vermont	17.0	8.5	2	2	20
Virginia	49.0	25.0	39	244	279
Washington	1,126.0	255.0	161	2,442	67,966
West Virginia	38.0	20.0	16	174	733
Wisconsin	157.0	110.0	40	642	705
Wyoming	64.0	23.0	25	209	627
National Total	10,560.0	4,108.2	2,242	51,164	401,048

[1] The Tongass National Forest is funded by the Tongass Timber Supply Fund and is not affected by a reduction in the road construction appropriations.
[2] The Hoosier National Forest in Indiana does not have a timber offer in fiscal year 1991. The loss of private sector jobs and 25 percent funds reflects the loss of the Forest's 1992 and 1993 timber programs.

IMPACTS OF 55-PERCENT REDUCTION IN THE FOREST ROAD PROGRAM

[In millions nationally]

State and forest	W/Pres. Bud. FRP volume offered, fiscal year 1991 (MMBF)	W/ reduced FRP sustainable offer volume, fiscal year 1991 and beyond (MMBF)	FTE reductions by fiscal year 1993 (FTE)	Private primary employment effected (person yrs.)	25-percent fund foregone fiscal years 1991–93 (M$)
Montana:					
Beaverhead	18		19	86	196
Bitterroot	27	10	10	142	327
Custer	3	2			
Deerlodge	21	8	10	115	262
Flathead	81	30	30	427	981
Gallatin	21	6	10	115	262
Helena	18	7	10	86	196
Kootenai	235	86	50	1,212	2,812
Lewis and Clark	15	5	10	87	196
Lolo	79	29	40	402	916
Total Montana	518	183	189	2,672	6,148

Mr. BAUCUS. Let us make no mistake about it, this is a job's issue in Montana and throughout the Nation.

Nationally, the Forest Service estimates over 51,000 jobs would be lost if this amendment passes.

And in Montana—a State of just over 800,000 people—the Forest Service estimates a $100 million cut in the road budget would mean the loss of 2,672 private sector jobs.

Mr. President, the amendment we are now considering is elitist, misguided, and uninformed.

The facts are that the timber budget for fiscal 1991 in this Interior appropriations bill calls for a sale volume about 30 percent lower than last year; a major reduction.

Moreover, the timber supply in our country, particularly in the Rocky Mountain Northwest and also the Pacific Northwest generally, is declining. It is declining because we, at least in my State of Montana and our neighboring State of Idaho, have not passed a RARE II bill. To our west, it is declining because of issues like the spotted owl. It is declining because forest plans and timber sales are caught up in appeals and protracted delays.

In addition, Mr. President, costs to the forest products industry, to sawmills, to loggers, are increasing dramatically. Stumpage costs, that is the costs Uncle Sam charges to the forest products industry, are increasing. Why? Because the supply is diminishing; the simple law of supply and demand.

In fact, for some species, lodge pole pine, a species that wasn't worth much until recently, has doubled in stumpage value the last few years. It is very difficult to make a living with cost going up that much.

Mr. President, the effect is already below-cost timber sales are reducing.

This reduction is occurring dramatically.

Mr. President, in an addition, the CBO project, if this amendment passes, Uncle Sam is going to lose—underlining the word lose—$120 million over the next 3 years. This is a budget deficit increase amendment albeit a small amount, $120 million in the overall scheme of the Federal budget deficit. But the fact is, this does increase the deficit over the next several years; a small amount, but it is an increase.

This amendment also is a meat-ax jobs-killer amendment. If this amendment is successful in my State of Montana, forest products industry jobs will decline by approximately 2,700. That is direct jobs, 2,700. The total population in my State is only 800,000. Such a loss would be devastative.

This amendment will cut the timber that is harvested in my State by 60 percent. Meat-ax; not a scapel, not a fine tuning but a meat-ax. Take away jobs; cut the forest products industry in my State by 60 percent, that is what this amendment does and that is just one State.

The effect of this amendment is approximately the same for the Pacific Northwest. I again say, Mr. President, this amendment has a tinge of being a little bit elitist, a little misguided, a little uninformed.

Already in this budget we are moving in the direction of cutting some of the quantity of timber that is harvested. Also the Interior appropriations bill already increases dollars for recreation.

Already in this Interior appropriations bill there is a shift toward recreation, a 20-percent increase over last year. There is about a 28-percent increase for wildlife and recreation in this budget over the last year; a 28-percent increase that is already happening. This amendment not only is not needed, it is wrong.

People in Eureka, in Darby, in Superior, in smaller communities, will no longer be able to live there. They will have to move out if this amendment goes through. Forty percent of the economy of one of my major counties, Flathead County is based on the forest products industry. I hope the Senator from Georgia hears this. The people in the Flathead Valley are for balance. They are for recreation, they are for tourism, and they are also for a balanced forest products industry.

The Chamber of Commerce in the community of Kalispell MT, Flathead County, one of the largest, most populated counties in Montana, is for balance. They are against this amendment because it is unbalanced.

I hope, very strongly, the Senators pay attention to the facts. The amendment offered by the Senator from Georgia is the kind of amendment which will have a devastating effect on too many communities.

I certainly understand the reason and intention behind offering this amendment. Having our country move toward recreation, our country move toward tourism, is a good thing, but this amendment goes too far. I strongly hope this amendment is not agreed to. I yield the remainder of my time.

The PRESIDING OFFICER. Under the previous order, three Senators have time. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, the debate over this amendment is not over the fate of threatened or endangered species. The argument over this amendment is not about the desirability of the preservation or even the increase of acreage in national parks and in wilderness areas. This amendment does not deal with the question of what rivers should be declared wild and scenic and be subject to preservation policies.

This is a debate over whether or not we are going to continue to have any degree of balance whatsoever with respect to the use of our national forests; and whether or not economic use and the support of communities will play any role in the future management of those lands.

Most fundamentally, Mr. President, this is a debate over communities, communities across many States, the Senators from which have already

spoken during the course of this debate. It is a debate over families, and the security of those families; over individual people and the careers, which in many cases have gone through several generations; over careers and the feeling of importance and self worth on the part of the individuals holding those careers.

The direct result, and I suspect the purpose of this amendment, is to reduce the utilization of national forest lands for the production of forest products for the people of the United States to a minor and incidental activity on those lands. That was the testimony of the distinguished Senator from Montana with respect to his State; the Senators from Oregon on theirs; mine, in the State of Washington and many others as well.

The net result of this amendment will be a depression in small communities across the western part of the United States, and in some portions of the East as well, a depression artificially imposed of those communities at just the time at which a national recession is on the threshold or perhaps even here, a push, which will exacerbate an already difficult economic situation for many individuals, many families, many communities for several States.

This amendment will have the inevitable effect of increasing an already alarming and difficult international trade deficit, as it shifts the source of supply from our own national forests to forests in countries overseas or north of our border, not a single one of which provides the environmental protections which our own laws provide with respect to the harvest of our forests.

This amendment will be of particular disadvantage to small- and medium-size logging operations and mills in communities across this country which do not own their own land base or their own source of supply of forest products.

The distinguished junior Senator from Oregon [Mr. PACKWOOD] set up two possible rationales behind this amendment which I would like respectfully slightly to modify. He pointed out that it was advertised as a way in which to prevent the subsidization of the construction of roads in forests where the net value of the forest products was lower than the cost of the roads. But, Mr. President, the actual primary impact of this amendment will be to destroy the road building process in States and in forests in which the roads cost far less than the money produced for the Forest Service and for the Federal Government by the sale of the Forest Service and for the Federal Government by the sale of the forest products from those national forests.

The net result of the amendment, Mr. President, will not be to save the Forest Service or the U.S. Treasury money; it will be to cost it money measuring in the tens of millions or perhaps hundreds of millions of dollars.

I believe that at least one unstated rationale for this amendment is to give significant economic advantages to private forest landowners in the southeast part of the United States, most of them large corporations, by destroying or substantially restricting the competition to which they are subjected from forest products in other parts of the country.

It is a matter of intense regret that it is proposed by a Senator from a State which will suffer almost no disadvantages and lose almost no money as a result of the adoption of the amendment but one which will cause significant economic desolation to a wide range of other States, generally speaking, far from his own.

I believe, Mr. President, it to be somewhat ironic that the source of this amendment and the primary support for this amendment come from a party which has historically denominated itself as the working people of the United States but which with some notable and courageous exceptions, like the distingished President pro tempore who has not forgotten that proud history, and the Senator from Montana who has just spoken, and several others, has abandoned the working people of the United States in favor of urban dilettantes who are always willing to sacrifice the jobs, the communities, the careers, and the life styles of others for their own convenience and at the cost to someone else.

Mr. President, this amendment will cost several thousand jobs, dislocate several, many thousands of families, cause poverty and dislocation and homelessness to several thousands of people in my State alone. In the State to the south of me, Oregon, even more dependent on forest products than is the State of Washington, that impact will be doubled or even tripled. The impact on the State of Montana has been discussed by the previous speaker.

Little, Mr. President, is offered in the way of comfort to those people who will lose their jobs, save perhaps the siren song that they can turn to tourism. Again, as the Senator from Montana pointed out, no one is more interested in tourism than the residents of these communities. No one is more interested in presenting those communities as attractive to tourists than are those who would benefit from it. Yet the residents of these communities know that that is not the answer, that that is not the substitute.

One builds a diversified community and an attractive community on a strong economic base and by adding to that base, not by subtracting to it what it already has in creating a community of welfare recipients.

My distinguished colleague from the State of Washington is comforted and willing to vote for this amendment because the bill includes in it some $6 million to deal with economic dislocations caused by changes taking place in the forest products industry. I do not share that feeling of comfort as the effect of this amendment in the State of Washington alone will be to deprive State and local governments, primarily counties, of 10 times that amount of money in revenue sharing from the forest. It will cause near bankruptcy in some of those counties which are 80 or 90 percent covered by National Forest Service land where that money is almost the sole base of local services.

No, Mr. President, the people of the forest communities of my State want jobs, not welfare programs. They have pride in honorable and productive careers, not in charity from Washington, DC. They wish to contribute to the social and economic health of the United States of America, not add to its burdens.

Fairness to those people, to those communities, to those individuals, justice and the sense of obligation which we all owe to the people whom we represent and to all Americans unite in this case in calling for the rejection of this amendment.

The PRESIDING OFFICER. Under the previous order, time was limited to the Senator from Idaho, 5 minutes; the Senator from Georgia, 15 minutes, and the Senator from Washington who does not have a time limit.

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senator from Montana [Mr. BURNS] be recognized for 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Will the Senator yield? I ask unanimous consent that the time consumed in the Senator yielding to the Senator from West Virginia not be charged against the Senator from Montana.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BURNS. I thank the Senator.

UNANIMOUS-CONSENT AGREEMENT—VETO MESSAGE ON S. 2104

Mr. BYRD. Mr. President, I have been asked by the majority leader to make the following unanimous-consent request.

I ask unanimous consent that the Senate proceed to the consideration of the veto message on S. 2104, the civil rights bill, at 9:30 a.m. on October 24; that there be 2 hours equally divided for debate on the message, under the

control of Senators KENNEDY and HATCH, or their designees; and that at 11:30 a.m., without any intervening action or debate, the Senate vote on whether or not the bill shall pass, the objections of the President to the contrary notwithstanding.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, this has been cleared on our side. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, if the Senator will further yield under the same understanding the Chair heretofore stated, I would like to state now the number of amendments that remain to be called up. Senator McCLURE and I have prepared our lists and the combined lists are the following:

Mr. PRESSLER, 1 amendment, restoring House language renaming the Cedar Pass Visitors Center; Mr. SIMPSON, the Buffalo Bill Dam; Mr. WALLOP, Buffalo Valley; Mr. McCLURE, 1 amendment on forest roads; Mr. HATFIELD, 1 amendment on forest roads; Mr. ARMSTRONG, a timber amendment; Mr. PACKWOOD, an endangered species amendment, spotted owl; Mr. HATCH and Mr. PELL combined on an amendment dealing with a possible amendment dealing with NEA; Mr. HATCH, an amendment on the NEA; Mr. HELMS, three amendments on NEA funding; Mr. HELMS, an amendment on sanctions on obscenity, NEA; Mr. BOSCHWITZ, and NEA funding increase; Mr. LOTT, an amendment of NEA; Mr. CONRAD, second degree to any grazing fee amendment; Mr. CONRAD and Mr. BURDICK conjoining on an amendment on impact aid; Mr. MURKOWSKI, an amendment on ANWR; Mr. McCLURE, a second degree on ANWR; Mr. ROTH, second degree to Mr. MURKOWSKI on ANWR; Mr. SYMMS, ski resort, Wyoming; Mr. WILSON, water policy; Mr. KOHL, a second degree to Mr. WILSON's amendment on water policy; four Senators cosponsoring an amendment on permit processors, those Senators being Mr. McCLURE, Mr. SYMMS, Mr. WALLOP, and Mr. SIMPSON; Mr. ROCKEFELLER, an amendment on Cranberry Wilderness; an amendment by Mr. MURKOWSKI on report on toxic contaminants.

Mr. President, I ask unanimous consent that the remaining amendments be limited to those amendments that I have enumerated. They are in addition to the pending amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. With amendments in order in the second degree but those second-degree amendments must be germane and/or relevant.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Must be germane.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. I do not rise to object.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

Mr. WALLOP. I would just advise the distinguished President pro tempore that the amendment I have on Buffalo Valley will either be worked out or not offered. It is a small window of light but it is one amendment.

Mr. BYRD. Sure. That will be fine. I should state clearly that this request does not entertain a time limitation on any amendment. It is merely a listing of the remaining amendments.

The PRESIDING OFFICER. Under the previous order, the junior Senator from Montana is recognized for 5 minutes.

Mr. BURNS. I thank the Chair.

Mr. BYRD. Mr. President, was the request granted?

The PRESIDING OFFICER. Yes.

Mr. BYRD. I thank the Chair. I thank the Senator for yielding.

Mr. BURNS. I thank the managers of this bill for allowing me the time. We have a telecommunications conference going on in Billings, and I am kind of playing with two hats here today. It will not take me long, and I do not have to stand up here and give you a long speech to tell the people of the United States of America, particularly the people back home, where I stand on this issue. It just absolutely blows my mind that one section of this country can shut down another section of the country and go home with a clear conscience.

Mr. President, the amendment before us now is yet another attempt to set our natural resource management policy through the appropriations process rather than through the normal legislative process. I strongly object to this move both in terms of the policy implications and in the social and economic implications on those communities near the national forests that depend upon the forest for their economic survival.

The men and women who elected me understand the importance of maintaining access to our national forests.

The money in the Forest Service road construction budget is not used only to build roads for timber harvest, although that makes up a large part of it. The money is also used to build and maintain general purpose and recreation roads.

In fact, approximately 30 percent of the funds are used for general purpose and recreation roads. A vote for this amendment is a vote against access to our national forests and against recreation.

Without adequate funds the Forest Service will not be able to properly maintain existing roads. These roads will then have to be closed to the public.

If not maintained, but left open, the roads will pose threats to the environment from erosion and will pose serious safety risks to individuals using them. To severely reduce the amount of funds available to the Forest Service for road construction and maintenance is extremely shortsighted.

Any change to the Forest Road Program carries with it implications for the timber program both for the current fiscal year, and the next 2 to 3 years.

You see, the Forest Service begins reconnaissance and engineering work for roads sometimes several years before they are ever actually built. Montana, like other Western States, is in the middle of a severe timber shortage.

This is not a shortage of raw material, rather it is an administrative shortage. It is a shortage caused by the inability of the Forest Service to carry out its duties.

To make a major cut in the Forest Road Program would only serve to exacerbate an already grim problem.

Let us not kid ourselves into thinking that this cut in road funds will not have an economic impact on communities near national forests.

It will have a major impact. Earlier Stoltze-Conner Lumber Co. in Darby, MT, announced it will have to close down operations within the next couple of months due to the timber shortage. One hundred workers will lose their jobs.

This is not the first sawmill closure we have had this year in Montana. Earlier this year a mill in Dillon, MT, was forced to shut down for the same reason.

If we pass this amendment to reduce the Forest Road Program by 55 percent, we will be forcing more sawmills in Montana and other States to close their doors.

To do this at the same time we are working to reduce the deficit by loading it onto the backs of our work force through additional fees and taxes is a slap in the face of every working person in these areas.

The Forest Service has prepared some estimates of the impact this reduction will have throughout America. For Montana, the Forest Service estimates a loss of nearly 2,700 person years of direct forest industry employment and the loss of 190 person years of Forest Service employment by fiscal year 1993. Montana counties will forgo approximately $6.1 million in 25-per-

cent fund payments over the next 3 years. Montana simply cannot absorb these losses.

The Federal Government owns 30 percent of the land area in Montana. Our counties depend on those 25-percent fund payments to maintain county roads and operate schools.

Causing a loss of both the county payments and the jobs base takes a double economic hit at already hard-hit communities.

I urge all of my colleagues to take a hard look at this amendment.

It is not a regional battle, pitting the West against the South. It is a systematic effort to dismantle natural resource dependent communities and industries throughout America. Please join me in voting to defeat this short-sighted amendment.

Mr. President, if you want to know what is going on in this country, I was out in Los Angeles not long ago having dinner with some people out there. There were some movie stars involved. And they got to railing on some of the ethics in Congress. One lady was in a little bit of a family way. She was not even married, so I bit my tongue on that. She was going to lead the fight of the big five in California to shut down production agriculture out there. I bit my tongue on that. Then she went on talking about the homeless and the hungry, and I could not hold it any longer.

If you want to shut down production agriculture and if you want to shut down the production and development of natural resources in this country on public lands, we do not know what homeless and hungry really is.

What is one thing all of us see when we get up in the morning, if we have a house? I would venture to say it is a frame house made of wood, wood products, wood furniture, all produced by artisans, managers of the natural resources.

Then let us take you back one more step. The only new wealth that a country produces that maintains a high standard of living is from resources, natural resources, natural renewable resources. Every year they grow back. It is like grass. It is like corn or wheat. It is like any other grain. It is renewable and it produces new dollars. It is the only industry in our society where a dollar produced from the soil turns over seven times. It pays a lot of truck drivers and processors. It takes care of a lot of families, pays for schools, communities, all the things that we hold dear in our communities. It supports churches. Yes, it feeds some of our hungry who maybe are not as fortunate as we are and also keeps the weather off of them. That is what we are talking about here—shutting down renewable resources.

I would like to associate myself with the words of the senior Senator from Montana [Mr. BAUCUS]. He hit it right on the head. There was a letter written to him from the head ranger, Dale Robertson. It was on the desk of every Senator. There is only one State in the Union that is not affected by this amendment. It happens to be New York. Every State is affected by funds, by jobs, and the inability to manage their natural renewable resources. Trees grow back just like grass; they grow back just like corn, wheat. They have to be managed. Soils have to be managed.

Let us let the people who know more about it do it. They do a pretty good job in the West. We do not have a lot of dirt out there like they have in the Midwest. We have to hang on to all we have. We have to manage our water. So we know what it is like. We also know what it is like to be a neighbor to the U.S. Government, too. Sometimes they are not very good neighbors. Nonetheless, I just wanted to bring this to your attention because what I could say here has already been said much better, much more eloquently in this debate.

But we are fighting for survival, not only in the West, not only in the State of Montana, but this country will see the day when it will fight for survival, too, if we cannot manage our natural renewable resources. The only new dollar comes from Mother Earth, the only one. This town lives on the dollars it is getting from around the country. The only negative business there is here. Yet it makes us experts to run other people's business in other parts of the country. It is not right. It is not fair. I think what this body should embrace is a sense of fairness.

Mr. President, it is a slap in the face of every working man and woman in this country to go out there and put the taxes on them we are talking about in this reconciliation and then take their jobs away from them and say we are going to take care of you, we are going to retrain you, we are going to move you, when they live where they want to live and they are working where they want to work and they are just paying their taxes and supporting the community. That has to be the height of it. Every working man and woman in this country that draws a paycheck should take note of where it is coming from and why.

I urge my colleagues to vote down this amendment because it sends a loud message that we are not putting our priorities in the right place.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER, Mr. President, I understand I have 15 minutes remaining, then we vote?

The PRESIDING OFFICER. The Senator from Georgia is advised that under the previous order the junior Senator from Georgia has 15 minutes, the Senator from Idaho has 5 minutes.

(Mr. LIEBERMAN assumed the chair.)

Mr. FOWLER. Mr. President, I sat here for the last 4 hours, and have seen a lot of the attacks, many of them far more personal than professional. I have not been used to that in this body. I was used to it in my days in the city council where we played hopscotch with real scotch and had a lot of street fighters. But I must say I can withstand the personal attacks because I have never heard a more preposterous flurry of periodontals in my life on the floor of the U.S. Congress.

Let me just show you a couple of charts here before we vote. That is what I was telling you before. We have 360,000 miles of forest roads. That is eight times the size of the Interstate Highway System. Twenty percent are closed. They could open those up at any time. But they want to keep building. Eighty-five percent in this blue are what are called purchaser credit roads. These are financed by the timber companies, who divide the access.

Why do not we have 100 percent? I do not know the answer to that. I do, but it will take a little bit longer to explain. The fact of the matter is the timber companies build and willingly finance the road to get into where they get the timber because they can still make their profit. They do not have to go up to the top steep slopes, the older growth, places of scenic beauty. We ask the taxpayers to do that. As a result of it, it costs the taxpayers of the United States all over the country five times more to build these appropriated roads using tax dollars than it does to build the 85 percent of the roads by the timber companies.

Why in the world do we do that? We lost $365 million in taxpayers dollars, yours and mine, and Montana, Idaho, in Washington, as well as in Georgia, all of the Southeast, five times more than it should have cost if we had followed the Timber Purchaser Credit Program, $365 million, $1 million a day in taxpayer money.

On this program there is nothing but waste in the access to timber portion. Let me get the record straight, those who can hear my voice: We are talking about the roads built for timber access. We are not talking about all the recreation. We are not talking about the scenic beauty we have heard about. We are not talking about all of things that cause widows to weep and children to be orphaned. We are talking about the roads going in to get to the timber.

I have a friend from Georgia who sent me this, "Our national forest, it does not have any trees."

Bobby Henebry happens to be from Peachtree City, GA.

Everybody else has been reading their letters. Let me read this one to me.

DEAR SENATOR FOWLER: I went to Seattle, Washington for our family vacation. I went to the Olympic National Forest in Washington to walk in the rain forest. Almost all the trees were gone. Big trucks were carryng them away. There were stumps everywhere. This made me very sad. I drew you a postscript of what I saw. Please make them stop cutting down all the beautiful big trees.

Your friend,

BOBBY HENEBRY,
9 years old.

Bobby, they do not have to cut down all the big trees. The timber sales will go on; 85 percent of all the roads that go to the timber access can continue to be done. I could have come in here with an amendment to cut out that other 15 percent like we ought to do, but I did not do that because my amendment only affects less than 1 percent of all the proposed roads of all the other trees in the national forests of our country.

I am sorry. All my friends on the other side of the aisle have hit and run. I have endured about all the self-righteousness that a man can take, but they decided to go, except my good friend from Idaho, who is continuing this argument about how, oh, these nasty fellows who are making regional arguments.

Let me tell you something. Forestry is the No. 1 industry in my State. We have national forests. We know what is happening when you cut them down. We are on the fourth or fifth growth all over the country. And every single proposal that has ever been made affects one region of the country usually out of proportion to another region.

Where are all of these breastbeaters who are talking about cutting the defense budget? I said to my friend from Idaho, it affects the South more than any other. Where are all of these breastbeaters when we are talking about the clean air bill that affects the upper middle west and the coal-producing and using States, a lot of which are in the South? They want to save money. They did not go after that bill.

I cannot wait to hear what my friend, the junior Senator from Washington, has to say on the textile bill. You are talking about putting widows out of work, where 85 percent of all of the employees in the textile industry are women, and I am sure a lot of them have children.

Most extraordinary nongermane arguments are used to go against this amendment because they do not have a single rational leg to stand on.

So all you can hear is this extraordinary rhetorical smoke screen about how all of the West is going to be shut down. If you just look at the Forest Service's own figures, they tell you where the jobs come from. This is the Forest Service. They are the ones who have been putting out their own job-saving memoranda. Recreation, wildlife, provides for 64 percent; 364,000 of these jobs. On the other hand, according to the Forest Service, the Timber Program, only 23 percent of these jobs. In 1989 the Timber Program generated a total of $14 billion; recreation wildlife, 55 percent, or $7.7 billion. At the same time this subsidized program lost taxpayers of the United States $365 million.

The great irony is I ought to go back and redesign my amendment. As the Senator from Idaho and I appreciate, he gave me credit in his opening statement. I stated that in the Pacific Northwest the few non-below-cost timber sales took place.

So any rational allocation by the Forest Service, if we could believe that they would make a rational allocation by the Forest Service, of the reduced roadbuilding program which would be mandated by my amendment would target reductions elsewhere like in my State where we do not make the money. It benefits them, as at least the senior Senator from Washington had the courage to say.

The West would also disproportionately benefit from the $40 million in the redirected spending under my amendment because we put in retraining for loggers, for travel reservation programs, funding for archeological protection. All will go largely or exclusively to the States west of the Mississippi River.

When I come back next year, I am going to remember that. You cannot even try to help those who will not help themselves. You hear some of these arguments, exactly like me, telling you why we still have to subsidize long staple cotton in the South. This amendment would reclaim just a little bit of the public's forest. We can manage them a lot better. Lord knows, they do not need any more roads. You can get to the timber now, and I submit that we would save a tremendous amount of money to help us with this deficit crisis if just a few of the breast beaters who want to cut everybody else's program, but who will not look in their own literal backyard to see where we are wasting our resources and our money unnecessarily, because the access to the timber is there, the forest products industry, and the timber industry will go get it. They can get at it. And they are going to build the roads to where it is economically beneficial to go get that timber. Where they cannot, where it is not economically beneficial, they have been coming to the U.S. taxpayer and saying, "Why do you not do that and subsidize a road straight up that mountain? I would like to get a few trees off the top." That has to end, and we will keep trying until it does end.

Mr. President, I reserve the final 3 minutes of my time.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Idaho [Mr. MCCLURE] for 5 minutes.

Mr. MCCLURE. Mr. President, I will not belabor the point because much has been said already. I ask unanimous consent that a tabulation of excerpts for Senate consideration of the highway bill in 1987 on February 2, 3, 4, March 19, April 1, in debate on the floor of the Senate be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM SENATE CONSIDERATION OF THE HIGHWAY BILL, 1987

FEBRUARY 2

Senator BURDICK: "At stake are * * * tens of thousands of construction jobs" (S. 1452).

Senator CHILES: "Many of you know all too well the result of dollars not spent on needed new capacity * * * economic productivity declines."

"The problems must be dealt with now. Delay will only * * * hurt the quality of life and decrease economic growth and efficiency in many areas of the country." (S. 1464).

FEBRUARY 3

Senator COCHRAN: "Let me point out that employment in this country has declined by 7 percent from 1983 to 1985. Employment is declining again." (S. 1569).

Senator MOYNIHAN: "If you desire to put out of employment all the engineers, all the construction workers, all the truck drivers bringing the construction materials, here is your opportunity." (S. 1573).

FEBRUARY 4

Senator DIXON: "I cannot think of anything that is more important for the creation of job opportunities in my * * * State and every State in the country." (S. 1677).

Senator WIRTH: "A good highway system is crucial to * * * economic growth and the creation of new jobs." (S. 1715).

Senator REID: "It is a sham to use moneys in the highway trust fund to improve the overall deficit picture. All this does is temporarily hide the real deficit and delay needed highway improvements: improvements which would increase jobs and stimulate the economy." (S. 1717).

Senator SARBANES: "Highway improvement projects slated for this years' construction season will be adversely affected if a highway bill is not enacted by May 1. This represents nearly 140,000 jobs." (S. 1718).

Senator DODD: "The longer we deliberate, the more we jeopardize the jobs * * * of millions of Americans." (S. 1724).

Senator HATCH: "We are helping to preserve approximately 7,700 road construction and related jobs in Utah * * * and thousands more throughout the nation." (S. 1726).

Senator HEINZ: "The Federal Highway Program is, in its purest sense, about economic development and jobs." (S. 1727).

MARCH 19

Senator MITCHELL: "The Federal-Aid Highway Program, in its purest sense, is really about economic development and jobs. For Maine, my home state, its $56.2

million in annual commitment to highway repair and construction means creating or preserving thousands of jobs each year." (S. 3490).

Senator REID: "America is in danger of losing its construction season, along with thousands of jobs." (S. 3493).

Senator LAUTENBERG: "Enactment of this bill * * * will * * * provide for economic development in distressed areas. This bill is essential to our states." (S. 3493).

Senator QUAYLE: "Highway funding must be released now or the summer construction season will be lost * * * causing thousands of Americans to lose their jobs." (S. 3494).

APRIL 1

Senator MOYNIHAN: "We do in fact put in jeopardy our economy—not because anybody wants to, but because this ongoing activity will cease." (S. 4328).

Senator BURDICK: "I urge all Senators to vote to override the veto. To do otherwise is to risk losing * * * hundreds of thousands of jobs and the economic growth commensurate with that level of employment." (S. 4332).

Senator PRESSLER: "If things are delayed * * * jobs will be lost and the much needed public roads that help the economy will be lost." (S. 4332).

Senator HECHT: "I am convinced that the consequences of killing this bill would be more harmful to the American economy than enacting it. It will create many jobs, in time for the construction season." (S. 4335).

Senator ADAMS: "The people in my state * * * are looking toward not just the jobs that will be created but also the safety that will result. If the President wins a victory * * * it will not be shared * * * by millions who would share in the dollars that are built up through construction spending." (S. 4340).

Senator BOREN: "The President's action, if sustained, will mean that 11,000 people in my State, which faces a desperate economic situation, will have to go a longer period of time without jobs." (S. 4341).

Senator BENSTEN: "The highway bill is needed * * * jobs are hanging in the balance." (S. 4343).

Senator HARKIN: "Ten thousand people will be unemployed in Iowa. About 800,000 will be unemployed in the Nation." (S. 4344).

Senator KERRY: "This bill is essential to * * * creating a great many jobs would certainly improve our economic and competitive standing." (S. 4344).

Senator BINGAMAN: "If no bill is enacted in time for the 1987 construction season, there will be a loss of approximately 800,000 jobs nationwide." (S. 4347).

Senator JOHNSTON: "The economic and employment benefits associated with the highway construction program are absolutely critical to my state." (S. 4349).

Senator DECONCINI: "The loss of hundreds of thousands of jobs which will result from considerable delays in the passage of a responsible highway program is unacceptable." (S. 4349).

Senator ROCKEFELLER: "If we do not have a highway program this year * * * hundreds of thousands of workers will be unemployed." (S. 4350).

Senator D'AMATO: "Failure to have a highway-transit bill enacted into law will lead to the loss of hundreds of thousands of jobs." (S. 4352).

Senator GORE: "By bottling up those funds, the President jeopardizes hundreds of thousands of jobs in construction and related industries." (S. 4353).

Senator BYRD: "We have 6,000 jobs at stake in my State * * * These people can be put to work as quickly as we cast this vote to override the veto * * * let us cast this vote on the basis of merit, jobs, highways, bridges * * * and the national economy." (S. 4356).

Senator SANFORD: "I take very seriously our responsibility to maintain a strong economy and to be concerned with unemployment." (S. 4359).

Mr. McCLURE. Mr. President, I put that in because a number of Senators debating the Federal Aid Highway Program, critical of the withholding of funds in highway, and referring to the loss of jobs in the construction industry in their States because of the loss of roadbuilding expenditures. I think, to be consistent, they would also be concerned about loss of jobs under the proposed Fowler amendment.

Second, I want to reiterate that Senator FOWLER says this will not affect anything except the timber road program. Taken at his own word that that is what he intends, although it does not specify that on the face of the amendment, there is only $128 million in the bill for that purpose. If you take $100 million out, that leaves $28 million. That is not a scalpel, that is a meat ax, as the Senator from Montana indicated.

Mr. FOWLER. Will the Senator yield?

Mr. McCLURE. Mr. President I yield on his time.

Mr. FOWLER. The Senator leaves out the $128 million for the appropriated funds. It is well over $300 million. That is, as the Senator knows, not just the publicly appropriated moneys that the Senator continues to refer to.

Mr. McCLURE. The Senator is correct.

In addition to the appropriated accounts, there are purchaser credit roads. I repeat, out of the appropriated funds of $128 million, this woud strike $100 million of the $128 million. That is no minor adjustment. That is a convolutive change in the forest management practices and should not be permitted to occur.

Senator WIRTH mentioned that we are going to make this an attractive rather than an extractive industry. I remind my friend from Colorado, as well as any others who may be hearing this debate, that recreation, to which he refers, 95 percent of it occurs in the roaded areas of the forest; 95 percent of the recreation use is closely associated with the presence of roads. Without roads, you disadvantage that 95 percent of the recreation use.

Senator WIRTH also pointed to the imbalance between Forest Service activities on Timber and Forest Service activities on fish and wildlife management. Let me remind you that in the national forest, there is only one agency that deals with timber. That is the Forest Service. But with respect to fish and wildlife activities, almost every other Federal agency expends money. So let us not look just at the narrow question of which agency spends the money and be critical of the Forest Service. Let us look at the total amount that the taxpayers fund in fish and wildlife within the national forest, and you get a different picture.

Earlier today, I gave a description of the increase in funds for those activities that are embodied in this bill, as we attempt to recognize those needs in a balanced program, which we believe the bill brings to you.

Finally, if you really believe that a taxpayer's subsidy is wrong, then let us strike the State and private forestry completely; that is a 100-percent subsidy. There is no reflow of revenues to the Federal Government from the activities in State and private forestry, as there is in the Forest Service activities. So let us just strike the State and private forestry.

I suspect my friend from Georgia would not agree with that, but it may well be that, if we go ahead and adopt the Fowler amendment, that is where we are headed. Because if we want balance, we will reduce those amounts which we have increased by almost—well, we have gone this year to $190 million—and that is about a 300-percent increase in the last 4 years for that activity. For the last year, we have gone from $104 million this current year to $190 million in the next fiscal year. That is total subsidy. That is not partial. There is no reflow of revenues to the Government.

Finally, Mr. President, CBO has just given us its latest scoring of the Fowler amendment. When you count the revenues that come from timber activities, this amendment will cost the Treasury $230 million over the next 3 years in outlays. That does not include what State and local governments lose, does not count what the Federal or State governments lose in income tax revenues, what the increased expenses would be to State and local and Federal Governments with respect to dealing with unemployed people in depressed communities. That is just the loss of revenues.

Finally, although this debate is not with respect to so-called below-cost timber sales, let me give you the one example that is current that we know about. The Office of Management and Budget had succeeded in asking the administration to look at the issue of below-cost sales, and they suggested we have 10 pilot programs. I have not looked at all of those 10 as they would apply, but I looked at one, the Beaverhead National Forest in Montana. They said: We will cut overall the timber activity on the Beaverhead, and we will substitute for that some recreational activity on that forest. Guess what happened. The proposed budget for that forest went up. It did

not go down; it went up. The expenses to the Government of running that forest became higher without timber sales than it did with timber sales. The only thing that went down was revenues. The revenues of the Treasury of this country and the revenue to the local government in that community went down, but the cost to the taxpayers went up. So much for this question of below-cost timber sales. That will be the experience.

If you want to substitute employment, just job for job, let us look at the man that lives in that community and works at a well-paying job in the timber industry, whether it is in the woods or in the mill. You are going to throw him out of that job so he can take a job in the recreation industry, one of the lowest paying industries in this country. Tell a man that has been making $12, $13 an hour that he has to, instead, become a short order cook in the local beanery.

Tell that man that maybe he can get a job as a janitor in a motel. Tell that fellow out there that indeed, while the mill closes and the community closes down, he has to sell his house where there is no market and move out of town to get another job.

Mr. President, this amendment ought to be soundly defeated on the merits, not on the emotions alone, on the merits, on the bare facts. I will, at the appropriate time, move to table the amendment.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Georgia [Mr. FOWLER] who has 2 minutes and 29 seconds.

Mr. FOWLER. Mr. President, I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FOWLER. Mr. President, first of all I pay tribute to the Senator from Idaho [Mr. MCCLURE], whom we will miss when he retires voluntarily from his public service this year. I say without exception, and not as a case of being polite, he has always been a worthy, dispassionate, unemotional and rational opponent, even in defending what I consider to be the unrational. I give him great credit for this debate where he has displayed the usual substantive merits of his public service, and I say genuinely that I will miss him in the coming Congresses.

Mr. President, I hope the junior Senator from Montana, and I hope the senior Senator from Montana—I hope we continue his services despite his fears—and I hope the Senator from Washington, and others, will be around for all this talk about depressions. I do not think they were here a moment ago when I talked about the textile industry in the South. I would like to see them help us on textile matters when we have a chance on a textile bill again, because most of the arguments they have used we have been telling them, and talking about for 30 years, what has happened to our industry. So it has been supremely ironic to hear the same arguments that some of us have used on this industry talking about a lot.

This is not the same. The bottom line is simply this: We have an enormous network of roads that are in place. If more roads are needed to access the timber in the West or the Southeast, or anywhere else, the Forest Service can substitute the purchaser credit program by which the timber companies pay for those roads for the taxpayer subsidized roads that I am talking about and trying to cut back.

Right now they have about $16 to $20 million they could not even use last year that is going to be carried over. Twenty percent of the roads right now are closed in the national forest; those can be reopened.

The only thing that would cause the kind of apocalyptic damage that is being heralded here on the floor by all the opponents of my amendment is an intractable bureaucracy that will not look where the need is and, in conjunction with private enterprise, make an appropriate charge and still make the profit that keeps all the mills open and keeps the widows and orphans safe, and the gold fish from jumping out of their bowls like the junior Senator from Montana thinks is going to happen.

I do not know where all this road-building fear comes from. Maybe it goes back to Nero in Rome—bureaucracy likes to build roads. I have never seen anything like it. We used to have trouble with doctors. They were trained to do appendix operations. They took out a zillion, far more than necessary. We had to have investigations of that and said you do not have to take out people's appendix, God put them there, they must be there for a purpose.

About once a year we have to talk to the Corps of Engineers. They are trained to build bridges and dams, especially dams, and it is the hardest thing in the world to find a river that they do not want to build the dams on because that is what they are trained to do.

Now we have decided that we built 360,000 miles of roads and, as the Senator from Alaska knows, I have hiked all over the Tongass, I have known all those forests in the West, and you have never seen anything like the road network which can access the timber.

If you want to build recreational roads, you vote for my amendment. I take the money out of the access for timber taxpayer and put it into roads for recreation so that all the people of the United States can enjoy their national forests. I put another $2 billion in trails, so those who want to walk can enjoy their national forests. I protect the fish and wildlife habitat so you do not build all the roads unnecessarily, so all the silt comes down when it rains, and snow damages up the salmon streams and ruins the fishing. Why? Just to build more unnecessary roads that if you need the roads to get to the timber then the Forest Service can turn it over to what they call the purchaser credit program which is the private timber companies that will build it. There are no complaints. That is the great irony.

The timber companies, to their great credit, are not in here trying to get after the Fowler amendment. They know they have had a sweet deal that we just gave to them.

It looks like the terrain is a little too steep to get up to the old growth. The Japanese want a little hardwood up there because they need a little more absorbent materials and for their napkins and diapers. We will build you a road up there so you can get the hardwood. It will not cost a dime out of your profit. Preposterous.

If this program was not already in place, had not been going on for 30, 40, or 50 years and somebody came in here and proposed it, even if we were in millions and millions of dollars of surplus, not to think about the deficit, they would be run out of the Capitol.

If I was Kurt Vonnegut, science fiction author, proposing the most apocalyptic Federal program you could design, you could not possibly think of this program. I say to the Senate, I take $50 million of this and put it into good programs in the Forest Service that need it, and they are chronically underfunded. We put $40 billion into the deficit reduction to try to help the country back. It is a good amendment. I hope Senators will support it.

Mr. SANFORD. Mr. President, I have supported cuts in the Forest Service timber road budget each year that I have been in the Senate. I have done so because I believe that such cuts, up to a point, will both reduce the deficit and provide environmental benefits. I have believed that up to a point, the forest road budget could be cut without resulting in an unreasonable impact on the timber program.

I was prepared to support some reduction in the forest road budget again this year. However, I believe the $100 million cut which has been proposed goes much too far. This is a much greater reduction than has been proposed before. It would clearly disrupt the timber program in many States, ultimately leading to greater overhead costs and more below-cost sales. It would delay or eliminate not only timber sales which may be questioned from an environmental standpoint, but also many sales that should not be controversial. It would harm

local communities that depend on timber sales for several years to come.

So I wish to register my opposition to this amendment, Mr. President. Senator KERRY had planned to vote in favor of the amendment, so I have agreed to a pair with the distinguished Senator from Massachusetts.

Mr. SIMPSON. Mr. President, Senator FOWLER, a fine Senator from Georgia, has proposed, with this amendment, to know more about the appropriate management of our forest lands than everyone else around: the Forest Service itself, Secretary Yeutter, Senator MCCLURE, Senator HATFIELD, every one of us from States which have a number of forests with active timber industries. Senator FOWLER has proposed to cut the Forest Service road budget by more than one-half in order to preserve our environment and he has reallocated the moneys into other programs that he believes are more meritorious.

That is quite something. I have seven forests in the State of Wyoming and in my 12 years of service here I have never proposed to know how they should program their money. I have argued with the Forest Service—we have not always seen eye to eye—they do not always do things the way I would "If I were king" or a forester—but they do their job and they work within a very difficult structure of laws and policies that guide various uses of these public lands. That is a reality that those of us from heavily forested States know and live with. To even think that we would know that $22 million more should go toward timber research, or $5 million to another kitty. I just wonder where the Senator got that information and how he is so qualified to make these choices that even the Secretary of Agriculture has not made? That alone gives me great pause when considering his amendment. Disappoints me too—about him.

There has been discussion about the Forest Service using taxpayer money to subsidize the destruction of the global environment through the forest road account. This, my colleagues, is absurd. A number of us have been working day and night on major environmental issues. With the clean air bill, this country has committed itself to expend billions of dollars to address national and global environmental problems. I am here to tell you that cutting $100 million from the road account is not going to save the world environment from eminent destruction. Let us just get that straight here and now.

Why are we here? This body is waiting for a budget summit agreement that will get this country back on the road to fiscal security. A number of our colleagues continue to work around the clock to make those very difficult decisions. And yet, it is late in the year, people are tired, and we stand here and commit hours and hours of our time to argue against very, very specific budget reallocations in the Forest Service.

This debate will go round and round if we talk about the conflict between the environmentalists agenda for the use of our forest lands and the agenda of those people who depend on the use of the land for some of their economic livelihoods. A number of us are well entrenched in that debate. It is a healthy and lively debate. And those of us most familiar with the conflict know that we have processes in place with the National Environmental Policy Act to deal with this conflict—we have forest management plans, resource plans, public comments periods, appeal processes—it is all out there and being used very nicely, I might add.

This is not a debate over a budget matter. Do not let the Senator from Georgia convince you otherwise. This is an amendment to restrict the public from being able to use our public lands.

He says these roads are only logging roads that benefit the timber industry. I have been in a number of forests and have never seen a sign that reads, "Exclusively for logging trucks." No, these roads are used by fishermen, hunters, campers, families that picnic. They are access roads into the forests so the public can use and enjoy these lands. We have millions of acres of wilderness lands and parks lands that are restricted to access on by foot. These lands are preserved for their sole naturalness, but forest lands are not treated that same way by law.

Now, that is the truth. The rest of this discussion is a very interesting exercise and I enjoy listening to the comments of all of my colleagues about fiscal responsibility and concerns for the environment. But let us deal with those issues head on, and not fool ourselves and partake in cloaked debates that skirt the issue. If the Senator from Georgia wants to amend the role of the Forest Service, then he should suggest changing the National Forest Management Act, instead of pursuing this tactic to just chip away at the laws and at our time.

We have heard all of the facts and figures about the moneys, the miles of roads, the role of the timber industry, and it has been presented so very well. Senator MCCLURE is an expert in this area. He has worked for over 20 years on forest and public land matters and he has served us all so well. I urge my colleagues to note that there is hardly any support for this amendment from those Senators in the west who have forests who will be affected by this amendment. It is easy to come up with a budget and spending priorities for programs that you have no ultimate responsibility for.

I urge my colleagues to step back and look at the real impact of this amendment. It is a very specific effort by Congress to tell an agency exactly how they will prioritize and fund the different programs within it. Are we going to do this for the Department of Transportation, and FAA, the Environmental Protection Agency; where do you stop? No, colleagues, this is one bad idea and not the way to go about enforcing changes that only some people feel are necessary on our public lands. I urge my colleagues to vote against this amendment.

Mr. KOHL. Mr. President, I will vote against the amendment offered by the Senator from Georgia, Senator FOWLER. But I will do so with reluctance.

Last year when the distinguished Senator from Georgia offered a similar amendment, I supported it. If the same amendment had been offered again this year, I would have voted for it again. The proposition he offered last year was a reasonable attempt to restore some fiscal and environmental sanity to the Forest Service's roads program.

I still believe that reform of this wasteful program is essential. I still believe we are spending significantly more money than necessary on a roads program that supports uneconomical timber sales. I still believe that we should put more money into underfunded Forest Service programs such as wildlife and fish habitat programs, trail construction, and recreational facilities, and less money into building roads.

But the amendment before us now is substantially harsher than last year's. Last year, we asked for a $65 million reduction in the roads budget. I thought that was a reasonable reduction. But this year, the Senator from Georgia is asking us to support a $100 million reduction in the roads budget. That amounts to a 55-percent reduction in the Forest Service's forest roads program. That level of reduction could cause a significant disruption in timber sales in our national forests, including those in Wisconsin, which would mean a substantial loss of jobs in the timber and paper industry.

The Forest Service estimates that a $100 million reduction in the roads budget would mean the loss of 642 jobs in the pulp and paper industry in Wisconsin alone. While that number may be subject to dispute, I am willing to risk that level of job loss in northern Wisconsin, an area already facing real economic hardship. Now it may, in the long term, be necessary to accept that kind of employment impact. But we ought to move gradually in that direction, as was proposed last year, rather than make the sort of giant leap that this amendment requires. In addition, to the extent that

we are going to impose some economic hardship, we ought to offer some economic hope. I note that the Senator's amendment provides economic development and assistance funding to certain areas of the country that would be impacted by the cut he proposes. That kind of assistance is needed, and it ought to be available uniformly rather than being restricted to one geographic area.

Mr. President, while I will oppose this amendment, I hope to be able to work with Senator FOWLER on future efforts aimed at developing a sensible road building program within the Forest Service. I believe that we can meet the needs of timber dependent economies, while also protecting the Federal Treasury and the environment. I will work with my colleagues in the Senate on behalf of reasonable proposals which move us closer toward that goal.

The PRESIDING OFFICER. The Senator from Idaho has 2 minutes 24 seconds remaining.

Mr. McCLURE. Mr. President, just two points that have not been fully covered already perhaps a dozen different ways. The Senator from Georgia a moment ago showed you a chart and comparison of the costs for the purchaser credit roads and the costs for appropriated roads built by appropriated funds. It is a pretty good reason why the roads built with appropriated funds cost more per mile than do purschaser credit roads.

The roads that are built by appropriated funds are typically the arterial and collector roads. As you are familiar with the general highway system and purchaser credit roads are typically those that are out on the sales ground itself, very low standard roads and therefore the cost are very dramatically different.

Finally, it is not just big timber companies. The letter I put in the RECORD today with respect to that irrelevant work in the Paperworkers Union in Lewiston, ID, those are individuals, laboring men and women. They are not big timber companies we are talking about. This is a very important economic issue for those of us who live in the area and, therefore, I think also a very important economic issue for the country.

Mr. President, I yield back the remainder of my time and I move to table the Fowler amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho to table the amendment (No. 3110) of the Senator from Georgia.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY] and the Senator from Massachusetts [Mr. KERRY] are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey [Mr. BRADLEY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM] is necessarily absent.

Mr. SANFORD. Mr. President, I have a live pair with the junior Senator from Massachusetts [Mr. KERRY]. If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "aye." I, therefore, withhold my vote.

The result was announced—yeas 52, nays 44, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—52

Armstrong	Garn	McConnell
Baucus	Gorton	Murkowski
Bond	Grassley	Nickles
Boschwitz	Hatch	Packwood
Burdick	Hatfield	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Riegle
Chafee	Inouye	Rudman
Coats	Johnston	Shelby
Cochran	Kassebaum	Simpson
Conrad	Kasten	Stevens
D'Amato	Kohl	Symms
Danforth	Levin	Thurmond
Daschle	Lott	Wallop
DeConcini	Lugar	Warner
Dole	Mack	Wilson
Domenici	McCain	
Durenberger	McClure	

NAYS—44

Adams	Fowler	Mikulski
Akaka	Glenn	Mitchell
Bentsen	Gore	Moynihan
Biden	Graham	Nunn
Bingaman	Harkin	Pell
Boren	Heflin	Reid
Breaux	Heinz	Robb
Bryan	Humphrey	Rockefeller
Bumpers	Jeffords	Roth
Cohen	Kennedy	Sarbanes
Cranston	Kerrey	Sasser
Dixon	Lautenberg	Simon
Dodd	Leahy	Specter
Exon	Lieberman	Wirth
Ford	Metzenbaum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sanford, for

NOT VOTING—3

Bradley	Gramm	Kerry

So the motion was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 358.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 358) entitled "An Act to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on the Judiciary, for consideration of the Senate bill and the House amendment, and modifications committed to conference: Mr. Brooks, Mr. Morrison of Connecticut, Mr. Frank, Mr. Schumer, Mr. Berman, Mr. Bryant, Mr. Mazzoli, Mr. Fish, Mr. Smith of Texas, Mr. McCollum, and Mr. Slaughter of Virginia.

From the Committee on Education and Labor, for consideration of section 113 and title V of the Senate bill, and sections 103, 106, 112-113, 311-312, 314(e) and 315 of the House amendment, and modifications committed to conference: Mr. Ford of Michigan, Mr. Miller of California, Mr. Sawyer, Mr. Goodling, and Mr. Ballenger.

From the Committee on Ways and Means, for consideration of section 110 of the Senate bill, and modifications committed to conference: Mr. Rostenkowski, Mr. Stark, Mr. Jacobs, Mr. Archer, and Mr. Vander Jagt.

From the Committee on Post Office and Civil Service, for consideration of title VI of the Senate bill, and modifications committed to conference: Mr. Ford of Michigan, Mr. Sawyer, and Mr. Gilman.

Mr. BYRD. Mr. President, I move that the Senate disagree to the amendment of the House, agree to the request of a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. KENNEDY, Mr. DECONCINI, Mr. SIMON, Mr. SIMPSON, and Mr. THURMOND conferees on the part of the Senate.

ACADIA CULTURE PRESERVATION ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1756.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 3, 5, and 6 to the amendment of the House to the bill (S. 1756) entitled "An Act to provide for

the preservation and interpretation of sites associated with Acadian culture in the State of Maine.".

Resolved, That the House disagree to the amendments of the Senate numbered 2 and 4 to the amendment of the House to the aforesaid bill.

Mr. BYRD. Mr. President, I move that the Senate recede from Senate amendments Nos. 2 and 4.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AVIATION SECURITY IMPROVEMENT ACT

Mr. BYRD. Mr. President, I have been asked by the majority leader to ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 925.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5732) to promote and strengthen aviation security, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3111

Mr. BYRD. Mr. President, on behalf of Mr. LAUTENBERG, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for Mr. LAUTENBERG, proposes an amendment numbered 3111.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LAUTENBERG. Mr. President, I am pleased to bring before the Senate this legislation, which is a modified version of S. 2822, the Aviation Security Improvement Act of 1990, introduced on June 28 of this year by myself, and Senators D'AMATO and MITCHELL.

As my colleagues know, to move a major piece of legislation like this in under 4 months is no small feat. A major reason that we have been able to reach this point is the families of the victims of the bombing of Pan Am flight 103. They have never waivered in their perseverance, and in their insistence that the Federal Government respond in an affirmative way to the deaths of their loved ones.

Whenever we start to single out any individuals, we run the risk of leaving out others who have played an important role. But there are several people whose efforts should be noted. Among them are Bert Ammerman, Aphrodite Tsairis, Paul Hudson, Victoria Cummock, Joe Horgan, Rosemary Wolfe, Bob and Eileen Monetti, George Miller, and the Cory's. Each of them lost a loved one—a child, a brother, a husband. They know that nothing they or anyone can do will bring them back. But, they've been tireless in their efforts to try to make sure that others are spared their grief.

This legislation is a testament to their efforts and dedication. And, it is a legacy to those who died over in Lockerbie. Mr. President, I ask unanimous consent that a list of the 270 victims of the bombing of Pan Am flight 103, from the Commission report, be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

THE VICTIMS OF PAN AM FLIGHT 103

AIRLINE STAFF

COCKPIT CREW

Captain: MacQuarrie, James Bruce, 55, Kensington, New Hampshire. American

First Officer: Wagner, Raymond Ronald, 52, Pennington, New Jersey. American

First Engineer: Avritt, Jerry Don, 46, Westminister, California. American

PURSERS

Murphy, Mary Geraldine, 51, Twickenham, England. British

Velimirovich, Milutin, 35, Hounslow, England. American

FLIGHT ATTENDANTS

Avoyne, Elisabeth Nichole, 44, Croissy-sur-Seine, France. French

Berti, Noelle Lydie, 41, Paris, France. American

Engstom, Siv Ulla, 51, Windsor, England. Swedish

Franklin, Stacie Denise, 20, San Diego, California. American

Garrett, Paul Issac, 41, Napa, California. American

Kuhne, Elke Ehta, 43, Hanover, West Germany. West German

Larracoechea, Maria Nieves, 39, Madrid, Spain. Spanish

Macalolooy, Lilibeth Tobila, 27, Kelsterbach, West Germany. American

Reina, Jocelyn, 26, Isleworth, England. American

Royal, Myra Josephine, 30, Hanwell, London, England. American

Skabo, Irja Synove, 38, Oslo, Norway. Finnish

PASSENGERS

Ahern, John Michael Gerard, 26, Rockville Center, New York. American

Aicher, Sarah Margaret, 29, London, England. American

Akerstrom, John David, 34, Medina, Ohio. American

Alexander, Ronald Ely, 46, New York, New York. Swiss

Ammerman, Thomas Joseph, 36, Old Tappan, New Jersey. American

Apfelbaum, Martin Lewis, 59, Philadelphia, Pennsylvania. American

Asrelsky, Rachel Marie, 21, New York, New York. American

Atkinson, William Garreston, 33, London, England. American

Bacciochi, Clare Louise, 19, Tamworth, England. British

Bainbridge, Harry Michael, 34, Montrose, New York. American

Barclay, Stuart Murray, 29, Farm Barnard, Vermont. Canadian

Bell, Jean Mary, 44, Windsor, England. British

Benello, Julian MacBain, 25, Brookline, Massachusetts. American

Bennett, Lawrence Ray, 41, Chelsea, Michigan. American

Bergstrom, Philip, 22, Forest Lake, Minnesota. American

Berkley, Alistair, 29, London, England. British

Bernstein, Judith Ellen, 37, London, England. American

Bernstein, Michael Stuart, 36, Bethesda, Maryland. American

Berrell, Steven Russell, 20, Fargo, North Dakota. American

Bhatia, Surinder Mohan, 51, Los Angeles, California. American

Bissett, Keneth John, 21, Hartsdale, New York. American

Boatmon-Fuller, Diane, 35, London, Englamd. American

Boland, Stephen John, 20, Nashua, New Hampshire. American

Bouckley, Glenn, 27, Liverpool, New York. British

Bouckley, Paula, 29, Liverpool, New York. American

Boulanger, Nicole Elise, 21, Shrewsbury, Massachusetts. American

Boyer, Francis, 43, Toulosane, France. French

Bright, Nicholas, 32, Brookline, Massachusetts. American

Browner (Bier), Daniel Solomon, 23, Parod, Israel. Israeli

Brunner, Colleen Renee, 20, Hamburg, New York. American

Burman, Timothy Guy, 24, London, England. British

Buser, Michael Warren, 34, Ridgefield Park, New Jersey. American

Buser, Warren Max, 62, Glen Rock, New Jersey. American

Butler, Steven Lee, 35, Denver. Colorado. American

Cadman, William Martin, 32, London, England. British

Caffarone, Fabiana, 28, London, England. British

Caffarone, Hernan, 28, London, England. Argentinian

Canady, Valerie, 25, Morgantown, West Virginia. American

Capasso, Gregory, 21, Brooklyn, New York. American

Cardwell, Timothy Michael, 21, Creso, Pennylvania. American

Carlsson, Brent Wilson, 50, New York, New York. Swedish

Cawley, Richard Anthony, 43, New York, New York. American

Ciulla, Frank, 45, Park Ridge, New Jersey. American

Cohen, Theodora Eugenia, 20, Port Jervis, New York. American

Coker, Eric Michael, 20, Mendham, New Jersey. American

Coker, Jason Michael, 20, Mendham, New Jersey. American

Colasanti, Gary Leonard, 20, Melrose, Massachusetts. American
Concannon, Bridget, 53, Banbury, England. Irish
Concannon, Sean, 16, Banbury, England. Irish
Concannon, Thomas, 51, Banbury, England. Irish
Corner, Tracey Jane, 17, Millhouses, England. British
Cory, Scott, 20, Old Lyme Court, Connecticut. American
Coursey, Willis Larry, 40, San Antonio, Texas. American
Coyle, Patricia Mary, 20, Wallingford, Connecticut. American
Cummock, John Binning, 38, Coral Gables, Florida. American
Curry, Joseph Patrick, 31, Fort Devens, Massachusetts. American
Daniels, William Allen, 40, Bell Mead, New Jersey. American
Dater, Gretchen Joyce, 20, Ramsey, New Jersey. American
Davis, Shannon, 19, Shelton, Connecticut. American
Della Ripa, Gabriel, 46, Floral Park, New York. Italian
Di Mauro, Joyce Christine, 32, New York, New York. American
Di Nardo, Gianfranca, 26, London, England. Italian
Dix, Peter Thomas Stanley, 35, London, England. Irish
Dixit, Om, 54, Fairborn, Ohio. Indian
Dixit, Shanti, 54, Fairborn, Ohio. American
Dornstein, David Scott, 25, Philadelphia, Pennsylvania. American
Doyle, Michael Joseph, 30, Voorhees, New Jersey. American
Eggleston, Edgar Howard III, 24, Glens Falls, New York. American
Ergin, Turhan, 22, West Hartford, Connecticut. American
Fisher, Charles Thomas IV, 34, London, England. American
Flick, Clayton Lee, 25, Coventry, England. British
Flynn, John Patrick, 21, Montville, New Jersey. American
Fondiler, Arthur, 33, West Armonk, New York. American
Fortune, Robert Gerard, 40, Jackson Heights, New York. American
Freeman, Paul Matthew Stephen, 25, London, England. Canadian
Fuller, James Ralph, 50, Bloomfield Hills, Michigan. American
Gabor, Ibolya Robertine, 79, Budapest, Hungary. Hungarian
Gallagher, Amy Beth, 22, Quebec, Canada. American
Gannon, Matthew Kevin, 34, Los Angeles, California. American
Garczynski, Kenneth Raymond, 37, North Brunswick, New Jersey. American
Gibson, Kenneth James, 20, Romulus, Michigan. American
Giebler, William David, 29, London, England. American
Gordon, Olive Leonora, 25, London, England. British.
Gordon-Gorgacz, Linda Susan, 39, London, England. American
Gorgacz, Anne Madelene, 76, Newcastle, Pennsylvania. American
Gorgacz, Loretta Anne, 47, Newcastle, Pennsylvania. American
Gould, David, 45, Pittsburgh, Pennsylvania. American
Guevorguian André Nikolai, 32, Sea Cliff, New York. American
Hall, Nicola Jane, 23, Sandton, South Africa. Australian
Halsch, Lorraine Frances, 31, Fairport, New York. American
Hartunian, Lynne Carol, 21, Schenectady, New York. American
Hawkins, Anthony Lacey, 57, Brooklyn, New York. British
Herbert, Pamela Elaine, 19, Battle Creek, Michigan. American
Hilbert, Rodney Peter, 40, Newton, Pennsylvania. American
Hill, Alfred, 29, Sonthofen, West Germany. West German
Hollister, Katherine Augusta, 20, Rego Park, New York. American
Hudson, Josephine, 22, London, England. British
Hudson, Melina, 16, Albany, New York. American
Hudson, Sophie Ailette Miriam, 26, Paris, France. French
Hunt, Karen Lee, 20, Webster, New York. American
Hurst, Roger Elwood, 38, Ringwood, New Jersey. American
Ivell, Elizabeth Sophie, 19, Robertsbridge, England. British
Jaafar, Khalid Nazir, 20, Dearborn, Michigan. Lebanese/American
Jeck, Robert van Houten, 57, Mountain Lakes, New Jersey. American
Jeffreys, Paul Avron, 36, Kingston-upon-Thames, England. British
Jeffreys, Rachel, 23, Kingston-upon-Thames, England. British
Jermyn, Kathleen Mary, 20, Staten Island, New York. American
Johnson, Beth Ann, 21, Greensburg, Pennsylania. American
Johnson, Mary Alice Lincoln, 25, Wayland, Massachusetts. American
Johnson, Timothy Baron, 21, Neptune, New Jersey. American
Jones, Christopher Andrew, 20, Claverack, New York. American
Kelly, Juliane Frances, 20, Dedham, Massachusetts. American
Kingham, Jay Joseph, 44, Potomac, Maryland. American
Klein, Patricia Ann, 35, Trenton, New Jersey. American
Kosmowski, Gregory, 40, Milford, Michigan. American
Kulukundis, Minas Christopher, 38, London, England. British
Lariviere, Ronald Albert, 33, Alexandria, Virginia. American
Leckburg, Robert Milton, 30, Piscataway, New Jersey. American
Leyrer, William Chase, 46, Bay Shore, New York. American
Lichtenstein, Joan Sherree, 46, New York, New York. American
Lincoln, Wendy Anne, 23, North Adams, Massachusetts. American
Lowenstein, Alexander Silas, 21, Morristown, New Jersey. American
Ludlow, Lloyd David, 41, Macksville, Kansas. American
Lurbke, Maria Theresia, 25, Balve Beckum, West Germany. West German
McAllister, William John, 26, Sunbury-on-Thames, England. British
McCarthy, Daniel Emmet, 31, Brooklyn, New York. American
McCollum, Robert Eugene, 61, Wayne, Pennsylvania. American
McKee, Charles Dennis, 40, Arlington, Virginia. American
McLaughlin, Bernard Joseph, 30, Bristol, England. American
Mack, William Edward, 30, New York, New York. American
Malicote, Douglas Eugene, 22, Lebanon, Ohio. American
Malcote, Wendy Gay, 21, Lebanon, Ohio. American
Marek, Elizabeth Lillian, 30, New York, New York. American
Marengo, Louis Anthony, 33, Rochester, Michigan. American
Martin, Noel George, 27, Clapton, England. Jamaican
Maslowski, Diane Marie, 30, New York, New York. American
Melber, Jane Susan, 27, Middlesex, England. American
Merrill, John, 35, Hertfordshire, England. British
Miazga, Susanne Marie, 22, Marcy, New York. American
Miller, Joseph Kenneth, 53, Woodmere, New York. American
Mitchell, Jewel Courtney, 32, Brooklyn, New York. American
Monetti, Richard Paul, 20, Cherry Hill, New Jersey. American
Morgan, Jane Ann, 37, London, England. American
Morson, Eva Ingeborg, 48, New York, New York. American
Mosey, Helga Rachael, 19, Warley, England. British
Mulroy, Ingrid Elizabeth, 25, Lund Sweden. Swedish
Mulroy, John, 59, East Northport, New York. American
Mulroy, Sean Kevin, 25, Lund, Sweden. American
Noonan Karen Elizabeth, 20, Potomac, Maryland. American
O'Connor, Daniel Emmett, 31 Boston, Massachusetts. American
O'Neil, Mary Denice, 21, Bronx, New York. American
Otenasek, Anne Lindsey, 21 Baltimore, Maryland. American
Owen, Bryony Elise, 1, Bristol, England. British
Owen, Gwyneth Yvonne Margaret, 29 Bristol, England. British
Owens, Laura Abigail, 8, Cherry Hill, New Jersey. American
Owens, Martha, 44 Cherry Hill, New Jersey. American
Owens, Robert Plack, 45, Cherry Hill, New Jersey. American
Owens, Sarah Rebecca, 14 Cherry Hill, New Jersey. American
Pagnucco, Robert Italo, 51 South Salem, New York. American
Papadopoulos, Christos Michael, 45, Lawrence, New York. Greek/American
Peirce, Peter Raymond, 40, Perrysburgh, Ohio. American
Pescatore, Michael, 33, Solon, Ohio. American
Philipps, Sarah Susannah Buchanan, 20, Newtonville, Massachusetts. American
Phillips, Frederick Sandford, 27, Little Rock, Arkansas. American
Pitt, James Andrew Campbell, 24, South Hadley, Massachusetts. American
Platt, David, 33, Staten Island, New York. American
Porter, Walter Leonard, 35 Brooklyn, New York. American
Posen, Pamela Lynn, 20, Harrison, New York. American
Pugh, William, 56, Margate, New Jersey. American
Quiguyan, Estrella Crisostomo, 43, London, England. Filipino
Ramses, Rajesh Trasis Priskel, 35, Leicester, England. Indian
Rattan, Anmol, 2, Warren, Michigan. American
Rattan, Garima, 29, Warren, Michigan. American

Rattan, Suruchi, 3, Warren, Michigan. American
Reeves, Anita Lynn, 24, Laurel, Maryland. American
Rein, Mark Alan, 44, New York, New York. American
Rencevicz, Diane Marie, 21, Burlington, New Jersey. American
Rogers, Louise Ann, 20, Olney, Maryland. American
Roller, Edina, 5, Hungary. Hungarian
Roller, Janos Gabor, 29, Hungary. Hungarian
Roller, Zsuzsana, 27, Hungary. Hungarian
Root, Hanne Maria, 26, Toronto, Canada. Canadian
Rosen, Saul Mark, 35, Morris Plains, New Jersey. American
Rosenthal, Andrea Victoria, 20, New York, New York. American
Rosenthal, Daniel Peter, 20, Staten Island, New York. American
Rubin, Arnaud David, 28, Waterloo, Belgium. Belgian
Saraceni, Elyse Jeanne, 20, East London, England. American
Saunders, Scott Christopher, 21, Macungie, Pennsylvania. American
Saunders, Theresa Elizabeth, 28, Sunbury-on-Thames, England. British
Schauble, Johannes Otto, 41, Kapppellenweg, West Germany. West German
Schlageter, Robert Thomas, 20, Warwick, Rhode Island. American
Schultz, Thomas Britton, 20, Ridgefield, Connecticut. American
Scott, Sally Elizabeth, 20, Huntington, New York. British
Shapiro, Amy Elizabeth, 21, Stamford, Connecticut. American
Shastri, Mridula, 24, Oxford, England. Indian
Sigal, Irving Stanley, 35, Pennington, New Jersey. American
Simpson, Martin Bernard Carruthers, 52, Brooklyn, New York. American
Smith, Cynthia Joan, 21, Milton, Massachusetts. American
Smith, Ingrid Anita, 31, Berkshire, England. British
Smith, James Alvin, 55, New York, New York. American
Smith, Mary Edna, 34, Kalamazoo, Michigan. American
Stevenson, Geraldine Anne, 37, Esher, England. British
Stevenson, Hannah Louise, 10, Esher, England. British
Stevenson, John Charles, 38, Esher, England. British
Stevenson, Rachael, 8, Esher, England. British
Stinnett, Charlotte Ann, 36, New York, New York. American
Stinnett, Michael Gary, 26, Duncanville, Texas. American
Stinnett, Stacey Leeanne, 9, Duncanville, Texas. American
Stow, James Ralph, 49, New York, New York. American
Stratis, Elia G., 43, Montvale, New Jersey. American
Swan, Anthony Selwyn, 29, Brooklyn, New York. Trinidadian
Swire, Flora Margaret, 24, London, England. British
Tager, Marc Alex, 22, London, England. British
Tanaka, Hidekazu, 26, London, England. Japanese
Teran, Andrew Alexander, 20, New Haven, Connecticut. British/Peruvian
Thomas, Arva Anthony, 17, Detroit, Michigan. American
Thomas, Jonathan Ryan, 2 months, Southfield, Michigan. American
Thomas, Lawanda, 21, Southfield, Michigan. American
Tobin, Mark Lawrence, 21, North Hempstead, New York. American
Trimmer-Smith, David William, 51, New York, New York. American
Tsairis, Alexia Kathryn, 20, Franklin Lakes, New Jersey. American
Valentino, Barry Joseph, 28, San Francisco, California. American
van Tienhoven, Thomas Floro, 45, Buenos Aires, Argentina. Argentinian
Vejdany, Asaad Eidi, 46, Great Neck, New York. American
Vrenios, Nicholas Andreas, 20, Washington, D.C. American
Vulcu, Peter, 21, Alliance, Ohio. American
Waido, Janina Jozefa, 61, Chicago, Illinois. American
Walker, Thomas Edwin, 47, Quincy, Massachusetts. American
Weedon, Kesha, 20, Bronx, New York. American
Weston, Jerome Lee, 45, Baldwin, New York. American
White, Jonathan, 33, North Hollywood, California. American
Williams, Bonnie Leigh, 21, Crown Point, New York. American
Williams, Brittany Leigh, 2 months, Crown Point, New York. American
Williams, Eric Jon, 24, Crown Point, New York. American
Williams, George Waterson, 24, Joppa, Maryland. American
Williams, Stephannie Leigh, 1, Crown Point, New York. American
Wolfe, Miriam Luby, 20, Severna Park, Maryland. American
Woods, Chelsea Marie, 10 months, Willingboro, New Jersey. American
Woods, Dedera Lynn, 27, Willingboro, New Jersey. American
Woods, Joe Hathan, 28, Willingboro, New Jersey. American
Woods, Joe Hathan, Jr., 2, Willingboro, New Jersey. American
Wright, Andrew Christopher Gillies, 24, Surrey, England. British
Zwyneburg, Mark James, 29, West Nyack, New York. American

RESIDENTS OF LOCKERBIE

Flannigan, Joanne, 10.
Flannigan, Kathleen Mary, 41.
Flannigan, Thomas Brown, 44.
Henry, Dora Henrietta, 56.
Henry, Maurice Peter, 63.
Lancaster, Mary, 81.
Murray, Jean Aitken, 82.
Somerville, John, 40.
Somerville, Lyndsey Ann, 10.
Somerville, Paul, 13.
Somerville, Rosaleen Later, 40.

Mr. LAUTENBERG. Mr. President, with passage of this legislation, we will be taking a significant step forward in efforts to protect travelers from terrorism. For the benefit of my colleagues, I will summarize its contents, and provide some explanation of what we are seeking to accomplish through this legislation. But first, I believe it is important the record be clear on what led us to this point, and what was considered in putting this bill together.

On December 21, 1988, Pan Am Flight 103 was blown up over Lockerbie, Scotland, while en route from London to New York. All 259 passengers and crew, along with 11 people on the ground, were killed.

It quickly became clear that this explosion was not the result of a mechanical failure. Pan Am 103 had been blown up intentionally, as an act of terrorism.

Investigations began immediately. Broadly, they've proceeded on two tracks. First, a multinational criminal investigation has proceeded under the leadership of Scottish authorities. That investigation continues. As recently as last week, new clues were being turned up, leading investigators, we hope, closer and closer to finding those responsible for this crime.

The other investigation has focused on the weaknesses in the aviation security system that allowed the bomb that blew up Pan Am 103 to get on board. It was important to look into this, not just to help find what happened to that plane, but to identify the weaknesses and try to correct them, so that we might avoid more such tragedies.

On March 14, 1989, my Transportation Appropriations Subcommittee held a hearing to investigate the circumstances surrounding the bombing. We heard from the families of the victims, from the State Department, from the FAA, and from the Secretary of Transportation. However, I was not satisfied that the full story was being told—or, that it was even known.

When the testimony of an FAA official at that hearing was brought into serious question a few days later, I called on the President to appoint a special commission to investigate the bombing, and more broadly, aviation security. On March 17, 1989, I introduced Senate Resolution 86, which made that request of the President. Unfortunately, the administration and leadership of the Senate minority resisted, and blocked efforts to move this resolution forward.

However, after months of negotiations, and in the face of mounting evidence that a thorough, outside review of the events surrounding the bombing truly was needed, such a commission was created. On August 4, 1989, through Executive Order 12686, President Bush established the Commission on Aviation Security and Terrorism. The efforts of Majority Leader MITCHELL were instrumental in this, as was the involvement of Minority Leader DOLE.

I was privileged to be appointed a member of the Commission, along with my distinguished colleague from across the Hudson River, Senator D'AMATO.

Former Secretary of Labor Ann Dore McLaughlin was appointed chairman of the Commission. No one could have asked for a more dedicated, hard-working, or thoughtful person to take up this most difficult task.

The results of the Commission's work are presented in significant detail in the report it submitted to the President on May 15, 1990. Although the legislation we are considering has varied slightly in some cases from the recommendations of the Commission, it is, for the most part, a reflection of the views described in the report.

Having said that, Mr. President, I would now like to summarize the amendment now pending before the Senate.

Sections 101 through 104 makes structural changes within the Department of Transportation. These changes are made to address a common thread that ran throughout the Commission's review: the lack of focus on security, and the lack of accountability for security responsibilities.

Aviation security cannot continue to be put on the back burner, as it clearly was before Pan Am 103. It can't be buried deep within the bureaucracy, isolated from the decisionmakers. It must be elevated, and placed under the jurisdiction of the Secretary and his or her top staff.

This accountability is crucial. It means knowing who is making the decisions, and who is giving the orders. Moreover, it means knowing that the decisions are being made, and the orders given.

This accountability was sorely lacking from the system the Commission reviewed.

Secretary Skinner has made some important changes in his Department. He has given security a higher priority, and I commend him for that. But, we can't just assume that this focus will be shared by his successor, whoever that may be and whenever he or she might take office.

No piece of legislation can ensure that an individual placed in any job will carry out his or her responsibilities adequately. But, in this legislation, we can build in the structure that can clarify where responsibilities lie, and who is accountable for carrying out those responsibilities.

Section 101 establishes within the Office of the Secretary of Transportation the position of Director of Intelligence and Security. This is a slight change from the Commission report, which recommended the creation of a new Assistant Secretary of DOT to address these responsibilities. In this amendment, we have concurred with the Secretary of Transportation in his view that creation of a new Assistant Secretary would represent a departure from recent practices, which have left major structural changes to the Secretary.

However, the legislation makes it clear the responsibilities and authority that would have been vested with a new Assistant Secretary are prescribed to the Director of Intelligence and Security. This person is to be the one ultimately accountable for security and intelligence within the DOT, and charged with the development of policies and with strategic planning relating to long-term security needs. The Director is to have full access to intelligence information in order to carry out these functions, and is to be the Secretary's chief liaison to the intelligence and law enforcement communities.

Creation of this post builds into the Department of Transportation the focus of responsibility and accountability that was sorely missing before Pan Am 103. It is fully expected that the Director would oversee intelligence and security functions not only for aviation, but also for other modes of transportation.

Section 102 directs the Secretary of Transportation to submit, as part of the section 315 security report already required of the FAA, an annual report detailing the activities of the DOT Director of Intelligence and Security, along with an assessment of trends and developments in terrorism. The bill outlines other specific items to be covered in this report.

Section 102 also requires the Department of Transportation to include in its annual budget submission a specific request for the Office of the Director of Intelligence and Security. This will help ensure adequate congressional oversight of this office, and help ensure that the responsibilities of the Director are being given sufficient priority within the DOT.

Section 103 creates the position of Assistant Administrator for Civil Aviation Security in the Federal Aviation Administration. Within the FAA, this person is to have the responsibility and accountability for the day-to-day functioning of the aviation security system. This would include direct oversight of the activities of Federal Security Managers, as established pursuant to section 104 of this legislation. The Assistant Administrator would also have the direct oversight of the FAA's security R&D efforts, which would also be enhanced and focused through this legislation.

Section 104 makes a significant change in the way that the FAA has overseen compliance with security requirements at specific airports. Too often, this oversight was exercised through periodic inspections, that gave only a snapshot of what was really going on. This led to too much emphasis on enforcement through fines and penalties, and too little active cooperation with airport operators and airlines, to help make sure that security goals were being achieved.

Through the creation of Federal security managers at domestic airports and foreign security liaison officers abroad, we hope to change all of that. Security managers would be assigned to specific airports, and charged with the responsibility for ensuring compliance with security requirements at those airports. On a priority basis, managers would be assigned to category x airports, as defined by the FAA Administrator. Beyond that, the FAA would have discretion in determining where the managers are most needed.

An initial responsibility of a manager would be to ensure the development of a single, comprehensive security plan for that facility. Currently, there may be literally dozens of security plans in effect at a given airport prepared by the airport operator, and each of the airlines operating there. The manager would oversee the coordination of these plans, with a goal of providing uniform, efficient, and reliable security throughout the facility.

Instead of having to rely on periodic, nonrepresentative inspections, the onsite manager would have the advantage of being at the facility on a daily basis. The manager would work with the airport operator, tenants, and airlines to make sure that the comprehensive plan is working. Ultimately, there would still be the FAA's enforcement authority over the airport operator and airlines. But, through an active role on a daily basis, it's hoped that problems will be prevented.

An airports abroad, foreign security liaison officers would serve a similar role, subject to the requirements of the host government. These liaison officers should assist U.S. airlines in the event that compliance with FAA regulations is being complicated or limited by the host government.

In the past, the FAA has had difficulty stationing its personnel abroad, as it is subject to agreement by the Department of State. It is essential that the State Department cooperate with the FAA in this regard.

Section 105 addresses a critical issue—who has access to secured areas of airports. This issue has arisen in several ways. Investigations have shown that security personnel have been hired with little or no attention paid to their backgrounds and qualifications. That has to change.

This section authorizes criminal background checks of prospective employees who would have access to security-sensitive areas. It is my understanding that the FAA, with relation to its implementation of the secure area access rule, is developing terms to describe the areas to be covered under that rule, such as working ramp areas. It is our expectation that, in implementing this section, the FAA would define secure areas in a similar manner.

This section would also require the development of standards for security personnel. In the wake of Pan Am 103, we've heard horror stories about the

people hired to protect our citizens from terrorist threats: People being put in sensitive positions with little or no training; people being promoted to upper level security positions because of how they looked, with no regard for whether or not they were qualified. There have been examples of people conducting passenger profiling—a series of questions designed to identify potential saboteurs or innocent dupes who may be unknowingly carrying a bomb—but, because of language barriers, have been unable to understand a word of the responses they are given.

In carrying out the requirements of this section relating to the periodic training of personnel, it is expected that the FAA will work, to the extent possible, with professional organizations to achieve this goal. When appropriate, the Administrator may use FAA-approved educational programs conducted by professional organizations in conjunction with the FAA, as a means of satisfying the requirements.

I will be monitoring the implementation of this section closely. It is not our intent to impose any undue burdens on airport operators. As chairman of the Senate Transportation Appropriations Subcommittee, which oversees the FAA's funding, I will follow the agency's implementation of this section, and will take whatever action is appropriate to address any problems that may arise.

People are indeed an essential part of any security system. That is why this section also directs the FAA to conduct a review of human performance in security systems, and recommend ways for improving that performance. That may mean steps such as rotating work stations, so that personnel do not become complacent and ineffective in performing their tasks.

Section 105 also addresses another important area—the question of how U.S. citizens are protected when flying on foreign air carriers. Many times since the Pan Am 103 bombing, I have heard people talk about our airlines being at greater risk than those of foreign countries. I take great exception to that. There are terrorist elements within many countries, including those European nations that are home to the major international carriers. They are susceptible, and they have been the target of terrorism—more often, in fact, than U.S. carriers.

Let us just look at a few examples. After Pan Am 103, the French carrier UTA had a plane blown up over Chad, killing several Americans, including the wife of the U.S. ambassador. Another bomb blew up an Avianca jet near Bogota, Colombia in November 1989.

Over the last 31 years, there have been 95 explosions aboard aircraft, acts of sabotage; 26 of those have been directed against U.S. planes. Clearly, we are not alone in having to deal with this problem.

In 1989, Secretary Skinner took an important step by requiring foreign carriers to submit their security plans for review. But, because of what I believe may often be an oversensitivity to the concerns of foreign carriers, our Government has never been willing to directly impose our requirements on foreign airlines carrying our citizens and entering the United States.

When the FAA imposes requirements on U.S. carriers, it does so with the belief that those requirements are necessary to best protect American travelers. A great number—as many as half—of U.S. citizens traveling abroad do so on foreign-flag carriers. Those citizens deserve no less protection than Americans flying our carriers. Security requirements should be imposed equally on all airlines carrying our citizens and serving our country.

This legislation takes a major step in that direction. It requires the FAA to approve security plans of foreign carriers serving the United States only if those plans provide a similar level of protection as passengers would receive on U.S. carriers operating under FAA requirements. Further, it requires the FAA to impose equivalent procedures on foreign carriers serving the United States, if the FAA Administrator determines that to be necessary in order to attain that similar level of protection.

Section 106 focuses attention on the domestic security system. First, it requires the FAA and FBI to jointly assess the general terrorist threat to domestic civil aviation. It is appropriate for this study to be conducted jointly because the FBI has expertise and knowledge with regard to the presence of terrorist elements that the FAA does not. However, in assessing threats and vulnerabilities at specific airports, it is more appropriate for the FAA to be in the lead.

The Commission raised concerns about practices such as curb-side check-in, which could make domestic travelers more susceptible to terrorism. This legislation does not make changes to specific domestic airline practices in the United States. That is because, at this point, no comprehensive survey of the domestic system has been conducted. This section addresses that shortcoming. And, it is anticipated that necessary changes could well result from this survey.

Section 107 focuses and accelerates the FAA's security research and development program. The goal of this is specific, yet simple: to develop, and have in place within 3 years, equipment and procedures capable of meeting the terrorist threat.

FAA's R&D Program has been too focused on one system—thermal neutron analysis, or TNA. TNA is a promising step. But, its shortcomings have been well/documented. I will not go into them here. TNA is not the final step; it is one step along the way to more reliable, effective technology.

Section 107 outlines a first, basic step that should be part of any fruitful R&D Program—but, which was apparently not a part of the development and proposed deployment of TNA. This section requires that, before proceeding with the R&D Program, the FAA should first determine the parameters of the problem it is trying to address. That is, before designing a detection unit, the FAA should know just what it is that they're trying to detect, in what quantities and under what conditions. Without this, a tremendous amount of effort and resources can fall short of their goal.

Section 108 addresses the FAA's proposed deployment of explosive detection equipment, particularly TNA. The Commission gave this subject extensive review, and came away with serious reservations about the deployment of TNA, as it exists. The Commissions recommendation that TNA not be required to be widely deployed was not reached easily. Clearly, we want the best technology used as part of a comprehensive security system. But, this cannot be looked at in isolation.

There are serious questions about what the deployment of TNA in its present state would mean. First, the Commission found that TNA today simply cannot do what it must to protect against situations like Pam Am 103. It is the belief of many that different equipment, possibly including new generation TNA, would provide far better protection against terrorism. Such new equipment may be available in the very near future; indeed, that is the goal of the R&D Program authorized in section 107 of this legislation.

TNA is very costly, approximately $1 million per unit. Under the FAA proposal, U.S. carriers would bear this cost. TNA is also large, and gaining the various permits to deploy it has been a slow and laborious process. There is cause for concern that, if the FAA requires the airlines to deploy TNA on wide scale, it will be difficult to come back with a requirement for new or additional technologies in the near future.

Because of these and other factors, this legislation would require that the FAA would have to meet several criteria before proceeding with deployment of TNA or other equipment under its proposed requirement. However, this is in no way an absolute prohibition. First, the FAA is not restricted from deploying any such equipment it has purchased. The FAA's ongoing efforts to put into operation a number of TNA machines it has purchased would not be affected by this provision.

Second, it would provide for limited authority to require deployment, under the following conditions.

The provision is intended to allow the required full deployment of TNA by airlines to proceed only if it alone or as part of an integrated system can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft.

Scientifically developed protocols, to be developed by the FAA in consultation with independent experts, are to be used in conducting tests to demonstrate this capability. The section requires that such protocols be developed, and the tests conducted, within 18 months of enactment of this section.

The Department of Transportation has raised concerns about the possibility that a situation could arise in which the deployment of TNA would be justified, but the prescribed tests were not completed. Under such a scenario, should one exist, the FAA could proceed with deployment on its own, but could not require deployment by airlines or airports. To address this situation, the legislation provides interim authority, to allow the FAA to require limited deployment. This authority would expire with completion of the tests, or at the end of the 18 months following enactment, whichever comes first.

Although interim deployment would not be required to be based on the testing protocols required for full-scale testing, the intent of this provision is that it met the same goals. TNA should not be required to be deployed unless it works.

This interim authority also is coupled with a requirement that the FAA Administrator notify the appropriate congressional committees of his decision to require a deployment.

Section 109 deals with an area of great sensitivity—public notification of threats to aviation. It clearly spells out one very basic premise—that there should not be, under any circumstance, selective notification of a threat.

The section also requires the President to develop guidelines for providing public notification. These guidelines would clearly spell out the responsibilities for making decisions about notifying the public of a given threat, and for canceling a flight, as appropriate.

Section 110 directs the FAA to develop guidelines providing for maximum security considerations to be used in the construction of new airports, or in significant additions to or modifications of existing facilities.

Section 111 is intended to promote greater cooperation among the various agencies with intelligence needs and responsibilities. This lack of coordination was of great concern to the Commission.

Section 112 addresses an area that until now has been largely ignored—the security of mail and cargo. The screening of mail and cargo clearly presents different problems than screening passengers and their baggage. With regard to mail, there are constitutional and legal questions about privacy and delay of delivery. The Postal Service has also raised questions about the feasibility of screening the tremendous volumes of mail transported each day on airplanes. With regard to cargo, the tremendous variety in size, shape, and configuration of cargo presents problems.

It has also been pointed out that, because of the way that mail and cargo are distributed and carried, it is difficult to target a specific plane, or even airline, by placing a bomb in a parcel. Because of that, many contend that the use of mail or cargo as the means of sabotaging a plane is unlikely.

However, I do not believe that any of these factors should prevent the development of procedures and requirements for screening of mail and cargo. The lack of adequate screening procedures is a weakness which could be exploited. It is a weakness that must be corrected.

The legislation requires the FAA to conduct a study to determine the need for, and feasibility of, screening of mail and cargo. This is one area of this bill that I would have liked to see toughened. However, in the give and take that accompanies the passage of any legislation, it does at least represent a step in the right direction.

Additionally, I note that the Postal Service has issued proposed rules that would allow for the random screening of mail, in the face of specific threats. It is my understanding that coordination among the Postal Service and intelligence agencies has improved greatly since Pan Am 103, making this proposal more reasonable than it otherwise may have been. I urge the Postal Service to proceed with this requirement, and I look forward to completion of the FAA study, with the expectation of moving forward with concrete proposals in the near future.

Title 2 of this legislation deals primarily with the response of the Federal Government to victims of terrorism, and their families. This was an area in which our Government failed miserably after Pan Am 103. Title 2 also addresses how the United States deals with foreign governments with regard to aviation security.

Section 201 clarifies that the State Department is the lead negotiator in dealing with foreign governments on aviation security, and encourages renewed negotiations with the purpose of strengthening security standards around the world.

Section 203 requires the FAA to develop standards for the compilation for useful passenger manifests by airlines. This is necessary to assure prompt and reliable determination of the identity of passengers on planes that may be involved in an accident or terrorist incident.

While it is our intent that airlines would collect this information from all passengers, we have recognized in this legislation that there may be cases where that might not be possible; that is, a passenger may refuse to provide the information. In this event, it is not expected that the airline would have to deny passage. Additionally, situations may arise when foreign carriers cancel flights, and redirect their passengers to U.S. carriers. In that event, the U.S. carrier may not have the time to collect on its own, or confirm, manifest information on those passengers transferring from the foreign carrier. Under such a scenario, the U.S. carrier should take all possible steps to assure that it has reliable and full information on its passengers. But, we should recognize that there may be situations where that may not be possible.

Section 204 clarifies that it is the responsibility of the U.S. Government, through the State Department, to provide notification to families to victims of aviation and other disasters abroad. A major criticism of the State Department's handling of Pan Am 103 was that it relinquished this particular duty to Pan Am. An airline may, in a case like this, have an obligation to communicate with the next of kin of its passengers. However, the primary responsibility for doing this lies with the State Department. That responsibility cannot be conceded to any other party.

Section 205 addresses another weakness that was all too apparent in the State Department's response in the wake of Pan Am 103. Families of the victims, desperate for information and assistance, often found such help difficult to locate. Contact with families by the State Department was often sporadic. Families were unsure whom to contact, or how to do it.

This section directs the State Department to assign specific individuals to serve as liaisons with the families of citizens involved in terrorist incidents abroad. It also makes it clear that, unlike what happened after Pan Am 103, the State Department should make available to family members a toll-free communications system.

Section 206 addresses the ability of State Department personnel to work efficiently—and with appropriate compassion—with families of victims of terrorism. Under these circumstances, like in Lockerbie, it is clear that State Department personnel are put in un-

usual and trying circumstances. We have heard numerous stories from Pan Am 103 family members that State Department personnel treated them with insensitivity; and that the treatment by foreign government personnel was far better. I do not believe that our State Department officers did not care about these people. But, they may not have been adequately trained or prepared to face a situation like this. Further, it may be that specialists, such as bereavement counselors, should be brought in to augment the State Department presence already there.

This section would lead to additional training for personnel stationed abroad, and directs the State Department to establish procedures through which specialists could be brought in to address particular needs of American citizens.

Section 207 again addresses the State Department's response to a disaster abroad. It makes it clear that, in the event of a disaster involving U.S. citizens overseas, at least one senior officer from the bureau of consular affairs be dispatched, and, as necessary, crisis teams also be sent to the site.

Section 208 makes it clear that it is the responsibility of the U.S. Government to work, on behalf of U.S. citizens, to provide for the recovery and return of bodily remains, and personal effects of Americans killed overseas.

Section 209 directs the Secretary of State to conduct an assessment of the Department's handling of its responsibilities in the wake of Pan Am 103. Based on that assessment, guidelines are to be developed and distributed to foreign posts, so that the mistakes of the past might be avoided in the future.

Section 210 takes a step in acknowledging that terrorism is essentially an act of war, directed against the U.S. Government. Citizens killed by terrorism are innocent victims, caught in the crossfire. Military and government personnel killed in war are accorded certain ceremonies to note their death. Citizens killed in an act of terrorism also should be accorded appropriate recognition. The Secretary of State is directed to develop guidelines to provide for this recognition.

Section 211 directs the President to submit to the Congress recommendations for legislation to provide for compensation to victims of terrorism. This acknowledges that this is a complicated question, involving, among other things, the issue of defining exactly what terrorism is; and determining when individuals are victims of terrorism.

With regard to the bombing of Pan Am 103, there can be no dispute that it was an act of terrorism. These Americans died in an act of aggression directed against their government. In fact, in this case, there is significant evidence that the bombing was in retaliation for a very specific governmental action: the bombing of an Iran Air jetliner by the U.S.S. *Vincennes.* Because of this, there should be no doubt that all of the civilian victims of the bombing of Pan Am 103 should be accorded treatment comparable to those in the service of the government, including limited forgiveness from tax liability.

Section 212 is included to echo the public notification requirements in section 109, reinforcing the principle that there should be no selective notification of threat warnings. Currently, certain nonclassified information is made available to U.S. interests overseas through electronic bulletin boards. This section requires that procedures be developed to ensure that this information is made available to all U.S. citizens.

Section 213 provides expanded authorities to U.S. Government personnel to provide technical training and other security assistance to foreign governments. This acknowledges a particular need to provide assistance to lesser developed nations that do not have the resources to train their personnel in a manner necessary to provide the best level of protection possible in those countries. Under the provisions of this section, the U.S. Government is authorized to send expert personnel to overseas locations to provide this much needed assistance.

Section 214 addresses several ways that the U.S. Government can help thwart terrorism abroad. Such steps may include making U.S. travelers more aware of how terrorists attempt to use innocent dupes to carry explosives aboard aircraft; publication of the availability of government-sponsored rewards for turning in terrorists; and by making sure that, to the extent possible, all U.S. employees at airports are schooled in antiterrorist procedures.

Section 215 directs the U.S. Government to propose to the International Civil Aviation Organization [ICAO] steps to boost uniform security standards. ICAO has been, and will continue to be, the primary vehicle for improving security standards among nations around the world. It is essential that the United States work through ICAO to boost the standards of all those nations with civil aviation interests.

Mr. President, that concludes my summary of the provisions of this legislation. This is comprehensive legislation, addressing the problems in our aviation security systems from many sides. Through improved FAA oversight, enhanced research and development, the development of standards for security personnel, and other measures, this legislation would take major steps to ensure that we are doing all we can to prevent aviation terrorism. But, no matter what efforts we might make, we cannot provide an iron-clad guarantee against terrorism. Therefore, it is essential that our Government be prepared to respond when and if a disaster may happen.

Mr. President, this legislation has been well considered. As I noted earlier, it is based on the report of the President's Commission on Aviation Security and Terrorism, as well as numerous congressional hearings and investigations. On October 4, the Senate Committee on Commerce, Science, and Transportation held a hearing on S. 2822, looking into the issues addressed in that bill, and in the amendment now pending. The House has passed its version of the Aviation Security Improvement Act, H.R. 5732. Its report on that bill provides additional direction and insight into this legislation.

Mr. President, the short amount of time remaining in this Congress has made it difficult to proceed with legislation through the usual process, including committee markup and a conference between the House and Senate. Without the active interest and cooperation of Senators HOLLINGS, FORD, MCCAIN, and the majority leader, we would not have been able to reach this point.

Staff has been working to iron out differences between the bills of the two bodies, in order to provide us with the opportunity to pass this legislation, and send it on to the President for his signature. For all of the work that they've put into this effort, I would like to commend: Sam Whitehorn and John Timmons, of the Commerce Committee staff; Ann Miano and Alan Schwartz, working for Senator D'AMATO; and Bob Carolla, of Senator MITCHELL'S staff. And, I would like to thank Joe McGrail, who was of great help to me on the Commission, and Jeff Morales of my staff, who has worked on this issue from the beginning, and has spent a great deal of time and effort to put this legislation together.

I would also like to thank Secretary Skinner and his staff for their work and cooperation in moving this legislation.

Mr. President, it has been almost 2 years since the bombing of Pan Am 103. In that time, we have learned a lot about what is right and wrong with the way our Government, the airlines, the airports, and others deal with the difficult job of protecting our citizens against the real and terrible threat of terrorism. This bill moves us ahead in correcting the problems that have been identified. I urge my colleagues to support it, and to approve this legislation.

Mr. BRADLEY. Mr. President, I am pleased to see that the Aviation Security Improvement Act of 1990 has passed the Senate today, Sadly, it took

a tragedy at Lockerbie to get Congress to enact such a bill.

This bill addresses the way the Federal Government approaches aviation security. The security of passengers must be given the priority that it deserves. More importantly, this bill would bring about more effective and compassionate means of responding to the needs of U.S. citizens when such tragedies like Pan Am 103 happen.

I believe that the United States Government learned a few hard lessons after the tragic crash at Lockerbie, Scotland. It took a group of bereaved families to show our Government that procedures must be in place for dealing with such a tragedy. I hope that these lessons never have to be used again, and that we never have to face this form of terrorism, but Mr. President, we do not live in the perfect world. Terrorists will not go away. But, it is my hope that this bill will better make us able to prevent these acts of violence.

This bill is a step forward for millions of citizens who use air transportation every day. It is imperative that their safety is not compromised. The Government has the responsibility to protect its citizens, this bill will put us closer toward fulfilling that role.

As a cosponsor of this legislation, I am especially pleased that the Senate was able to act expeditiously on the bill. I would like to thank my colleague, Senator LAUTENBERG, for his hard work in seeking final passage of this bill.

Mr. FORD. Mr. President, the Aviation Security Improvement Act of 1990 is the result of 1½ years of effort on the part of the Pan Am 103 families, the members of the Pan Am 103 Commission, including Senators LAUTENBERG and D'AMATO, and the commitment of the leadership to some changes in the way the Department of Transportation and the Federal Aviation Administration handle aviation security.

Hindsight allows us to be smarter. First the families and then the Commission pointed out areas in which the system was deficient, and means of improving it. This bill is an attempt to do that. I hope the changes incorporated in the legislation will correct the failures and prevent any future disasters like the tragedy of December 1988.

Special thanks should go to the House and Senate staff members who have worked over the past few weeks, to complete a package which is acceptable to both House and Senate, and which will be passed without delay. This is the best possible job in a difficult and sensitive area.

I ask the support of my colleagues in passing this substitute to H.R. 5732.

Mr. HOLLINGS. Mr. President, H.R. 5732, the Aviation Security Improvement Act of 1990, as amended, will do much to improve the safety of all Americans traveling overseas. The Subcommittee on Aviation of the Committee on Commerce, Science, and Transportation held a hearing on S. 2822, the companion Senate bill, on October 4, 1990. We heard testimony from Senators LAUTENBERG and D'AMATO, Admiral Busey of the Federal Aviation Administration, Ambassador Busby of the Department of State, Bert Ammerman, representing the victims of Pan Am 103, and Paul Hudson, representing the families of Pan Am 103/Lockerbie. H.R. 5732, as amended, is now ready for passage by the entire Senate.

Much has happened to get us where we are today. As all of us remember, on December 21, 1988, Pan Am flight 103, flying at 31,000 feet, exploded over Lockerbie, Scotland. The flight had originated in Frankfurt, Germany, and had continued its journey after a change of planes at Heathrow Airport, England. Just 39 minutes after the plane departed Heathrow, it disappeared from the radar screens.

There were 259 innocent victims on board the aircraft, and 11 residents of Lockerbie also were killed. The work of terrorists is widely believed to be responsible for this tragic attack on innocent people. We also know that, while the criminal investigation continues, all indications suggest that the bomb was placed in a radio cassette player, and put in a bag loaded onto the plane in Frankfurt. Authorities believe that a small amount of semtex, an extremely powerful explosive, was responsible for the destruction of the plane.

It has taken many months to get the legislation to this point. Numerous hearings have been held, including the October 4 hearing and a hearing held on April 13, 1989. We have had a Presidential Commission look into the facts of this tragedy to tell us what happened and also recommend what needs to be changed. This bill before us today seeks to implement the recommendations of that Commission. It also continues the work that is ongoing in the Federal Government to improve the aviation security system. On this point, we have heard testimony from both the Department of State and the Department of Transportation [DOT] indicating essentially, that they agree with the need to change the security system, and that they are, in fact, changing the way our security system is set up. I applaud these efforts. This bill ensures that all of this effort is maintained for the future.

Several of my colleagues are detailing each section of the bill, and thus, I will not touch on each and every provision. However, I will highlight a number of provisions that I believe are critical to this bill.

First, the legislation will provide a structure within the Department of Transportation and the Federal Aviation Administration [FAA] to ensure that there are people charged with the responsibility to oversee security issues, and to ensure that those individuals have access to the Secretary of Transportation and the Administrator of the FAA. This structure is intended to correct many of the flaws found by the Presidential Commission concerning accountability and access to decisionmakers within the Federal Government.

Another key provision, section 104, requires that the FAA establish Federal security managers and foreign security liaisons for airports designated by the FAA Administrator. Managers for the U.S. airports are intended to ensure and assist in the development of airport security programs, and should look at all areas of the airport in carrying out these responsibilities. There are many entities operating at an airport, and the roles of each should be considered in developing plans. The provision is not intended to create Federal czars at each airport.

Flexibility is also given to the FAA in placing foreign security liaison officers overseas. While I would have preferred to mandate that these officials be put into place within 2 years, I recognize that the process is a complicated one and not always within the control of the FAA. Yet, these officials can play a critical role in increasing the level of safety. The liaisons should assist the carriers in carrying out the carriers' responsibilities. It is intended that these newly created positions report directly to the Office of the Assistant Administrator for Civil Aviation within the FAA so that we are not confronted with bureaucratic mazes regarding who is responsible for what function.

Section 105 provides for enhanced requirements for air carrier and airport employers who have access to certain areas of the airport, including training and more thorough background checks. Each employer should be responsible for the background checks of its employees. For example, an airport tenant should be responsible for its employees, while the airport operator should be responsible for its own employees. The section also gives the FAA flexibility to define secured areas, as well as allow for alternate security arrangements, in lieu of employment checks, as in cases where a cargo facility is located in another part of the airport away from passenger aircraft. I also know that there are concerns about potential civil penalties that could be imposed on airport operators if, for example, an airport tenant fails to carry out employment checks or violates other requirements. Airport operators have many responsibilities under this legislation, including those in section 105, and those issues have been addressed under the

Civil Penalty Assessment Demonstration Program.

Section 105 also directs the FAA to continue to review and approve security plans for foreign air carriers. I want to make sure that all U.S. citizens are protected, not just those traveling on U.S. air carriers. Thus, the bill provides that FAA approval of security programs should not be granted if the foreign carrier's security plan does not provide a similar level of protection to that provided by a U.S. carrier. We have heard from DOT and the FAA that flexibility is needed in this area because some countries, particularly the lesser developed countries, are not necessarily able to meet all the standards we might otherwise seek to impose on our major trading partners. Thus, the legislation provides DOT and the FAA some latitude. This latitude, however, is not intended to allow for approval of the lowest common denominator safety programs. DOT and the FAA are well aware of the concerns being addressed and are taking steps to upgrade security requirements for all our citizens.

The section also discusses the security procedures employed by carriers. We have heard much criticism in this area, focusing on the fact that security procedures are heaped on U.S. carriers, and then, not required of foreign air carriers serving the same airport. This section is critical because we want all passengers to be protected. If the FAA believes that it has set up programs and required specific procedures that work, these same types of measures should be looked at for all carriers serving the U.S. market. There should not be a disparity in the level of protection afforded our citizens, merely because some citizens choose to use a foreign carrier.

Mr. President, this section is extremely important, particularly when you consider that approximately 40 to 50 percent of the passengers flying on foreign air carriers are U.S. citizens. In good conscience, we could not tell U.S. carriers to change their safety procedures and then provide a lesser standard of safety for our citizens that choose to fly other carriers. It is also important to note that our carriers are not the only targets of terrorism, as recent events have so tragically demonstrated. Within the last 13 months two carriers, UTA and Avianca, have had aircraft destroyed by terrorists. Our carriers are not alone in this arena. Each and every one of us deserves the best system of protection possible. This bill seeks to accomplish this basic task.

The research, development, and deployment of explosive detection devices also merits some comment. Section 107 provides for a program to accelerate and expand the research, development and implementation of technologies and procedures to counteract terrorist acts against civil aviation. This section is intended to give the FAA guidance in setting out its priorities, which were criticized by the Presidential Commission. An intensive and focused program is mandated.

Section 108 is intended to prevent the deployment of explosive detection equipment, unless it has been subjected to a careful scrutiny and, most important, unless it works. After the Pan Am 103 tragedy, the FAA issued a rule that would have required U.S. air carriers to purchase and deploy thermal neutron analysis [TNA] devices around the world. A total of 150 machines would have been required at 40 airports. Cost estimates for installation vary, but the figure used by the Presidential Commission suggests that the cost would have been at least $150 million for a machine that has had substantial drawbacks. Thus, the section limits the FAA's ability to order deployment until it can certify that the machines do what they are intended to do.

TNA is but one of the types of technologies that people are considering to upgrade aviation security. There are others, such as high speed x-ray computed tomography scanners, and other forms of x-ray technology. My hope is that the research efforts and creativity of American businesses can provide us with machines that are effective, efficient and, most of all, able to detect the amounts of explosives capable of destroying an aircraft.

We, however, have accorded the FAA some flexibility in the legislation to order deployment, if it would enhance significantly aviation safety. This flexibility is not to be taken as the issuance of a blank check to the FAA, but rather to be looked at as an interim authorization pending completion of the testing and protocols required by this legislation. I would be disappointed if wholesale deployment were ordered absent testing and protocols, and believe that this limited exception should be applied judiciously.

I also mention briefly title II of the bill, which is primarily directed to the State Department's activities. One section in particular should be noted, section 203, relating to passenger manifests. This provision requires that U.S. air carriers provide passenger manifest information to the State Department within 3 hours after notice of an aviation disaster. Therefore, carriers will have to collect certain information. The collection requirement should not be read, however, to prohibit a carrier from carrying passengers that were originally to fly on a foreign carrier, for example, and at the last minute had to switch carriers. The U.S. carrier can rely on the manifest information provided by the foreign carrier.

Mr. President, I have mentioned several important provisions, and there are, indeed, others that will clearly improve aviation security. Much work has gone into crafting the substitute bill before us today, and I urge swift passage of this important legislation.

Mr. MOYNIHAN. Mr. President, the United States needs to develop a consistent approach to terrorism which is grounded in the principles of international law. We cannot, one day, say that we oppose terrorism and then proceed to wipe the slate clean in our dealings with nations that support terrorism, because it is expedient to do so. I believe that this legislation, The Aviation Security Improvement Act of 1990, is a first step in emphasizing the seriousness with which the Congress views this issue. I know that there are some concerns about the act. Some do not believe that it goes far enough. But all seem to agree that it is an improvement over current law and I, therefore, support its adoption.

I would like to take this opportunity to thank the families of the victims of the bombing of Pan Am 103. These fine people have dedicated themselves to making positive changes in American law and international procedures as the most fitting memorial to their lost loved ones. I commend them for their persistence, their dedication and their achievements.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the amendment, in the nature of a substitute.

The amendment (No. 3111) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 5732), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 5732) entitled "An Act to promote and strengthen aviation security, and for other purposes" do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Aviation Security Improvement Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
TITLE I—AVIATION SECURITY
Sec. 101. Director of Intelligence and Security.
Sec. 102. Annual aviation security report; budget.
Sec. 103. Assistant Administrator for Civil Aviation Security.

Sec. 104. Federal Security Managers and Foreign Security Liaison Officers.
Sec. 105. Air carrier and airport security personnel.
Sec. 106. Assessment of threats to domestic airport security.
Sec. 107. Research and development.
Sec. 108. Deployment of explosive detection equipment.
Sec. 109. Threats to civil aviation; public notification.
Sec. 110. Airport construction guidelines.
Sec. 111. Intelligence.
Sec. 112. Screening of mail and cargo.
TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD
Sec. 201. International negotiations concerning aviation security.
Sec. 202. Coordinator for counterterrorism.
Sec. 203. Passenger manifest.
Sec. 204. Department of State notification of families of victims.
Sec. 205. Designation of State Department family liaison and toll-free family communications system.
Sec. 206. Disaster training for State Department personnel.
Sec. 207. Department of State responsibilities and procedures at international disaster site.
Sec. 208. Recovery and disposition of remains and personal effects.
Sec. 209. Assessment of Lockerbie experience.
Sec. 210. Official Department of State recognition.
Sec. 211. United States Government compensation for victims of terrorism.
Sec. 212. Overseas security electronic bulletin board.
Sec. 213. Antiterrorism assistance.
Sec. 214. Antiterrorism measures.
Sec. 215. Proposal for consideration by the international civil aviation organization.

SEC. 2. FINDINGS.

Congress finds that—

(1) the safety and security of passengers of United States air carriers against terrorist threats should be given the highest priority by the United States Government;

(2) the report of the President's Commission on Aviation Security and Terrorism, dated May 15, 1990, found that current aviation security systems are inadequate to provide such protection;

(3) the United States Government should immediately take steps to ensure fuller compliance with existing laws and regulations relating to aviation security;

(4) the United States Government should work through the International Civil Aviation Organization and directly with foreign governments to enhance aviation security of foreign carriers and at foreign airports;

(5) the United States Government should ensure that enhanced security measures are fully implemented by both United States and foreign air carriers;

(6) all nations belonging to the Summit Seven should promptly amend the Bonn Declaration to extend sanctions for all terrorist acts, including attacks against airports and air carrier ticket offices;

(7) the United States Government, in bilateral negotiations with foreign governments, should emphasize upgrading international aviation security objectives;

(8) the United States Government should have in place a mechanism by which the Government notifies the public, on a case-by-case basis and through the application of a uniform national standard, of certain credible threats to civil aviation security;

(9) the United States Government has a special obligation to United States victims of acts of terrorism directed against this Nation and should provide prompt assistance to the families of such victims and assure that fair and prompt compensation is provided to such victims and their families;

(10) the United States should work with other nations to treat as outlaws state sponsors of terrorism, isolating such sponsors politically, economically, and militarily;

(11) the United States must develop a clear understanding that state-sponsored terrorism threatens United States values and interests, and that active measures are needed to counter more effectively the terrorist threat; and

(12) the United States must have the national will to take every feasible action to prevent, counter, and respond to terrorist activities.

TITLE I—AVIATION SECURITY

SEC. 101. DIRECTOR OF INTELLIGENCE AND SECURITY.

(a) ESTABLISHMENT OF POSITION.—There is established in the Office of the Secretary of Transportation the position of Director of Intelligence and Security.

(b) POWERS AND DUTIES.—The Director of Intelligence and Security shall report directly to the Secretary of Transportation and shall have the following duties and powers:

(1) Receipt, assessment, and distribution of intelligence information relating to long-term transportation security.

(2) Development of policies, strategies, and plans for dealing with threats to transportation security.

(3) Other planning relating to transportation security, including coordination of countermeasures with appropriate Federal agencies.

(4) Serving as the primary liaison of the Secretary with the intelligence and law enforcement communities.

(5) Such other duties and powers as the Secretary may prescribe as necessary to ensure, to the extent possible, the security of the traveling public.

(c) CONFORMING AMENDMENT.—Section 106(g)(1) of title 49, United States Code, is amended by inserting after "312-314," the following "315-316 (except for the duties and powers vested in the Director of Intelligence and Security by or under section 101 of the Aviation Security Improvement Act of 1990),".

SEC. 102. ANNUAL AVIATION SECURITY REPORT; BUDGET.

(a) ANNUAL AVIATION SECURITY REPORT.—Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended by redesignating subsection (b), and any reference thereto, as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) TRANSPORTATION SECURITY.—

"(1) ANNUAL REPORT.—Not later than December 31 of calendar year 1991 and of each calendar year thereafter, the Secretary shall submit to Congress an annual report concerning transportation security, together with such recommendations as the Secretary considers appropriate. Such report shall be prepared in conjunction with the annual report of the Administrator under subsection (a) and shall not duplicate the information required by subsection (a) or section 1115(c) of this Act. Such annual report may, as necessary, be submitted in 2 parts with 1 part being classified in nature and 1 part being unclassified.

"(2) CONTENTS OF REPORT.—The annual report required by this subsection shall include—

"(A) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of such report;

"(B) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

"(C) recommendations for research, engineering, and development activities relating to transportation security, except research, engineering, and development activities relating to aviation security to the extent such activities are covered by the research plan required by section 312(d) of the Federal Aviation Act of 1958;

"(D) legislative and regulatory recommendations, if appropriate;

"(E) funding and staffing requirements of the Director of Intelligence and Security;

"(F) an assessment of funding and staffing requirements, and attainment of existing staffing goals, for carrying out security functions of the Federal Aviation Administration;

"(G) identification and evaluation of cooperative efforts with other Federal intelligence agencies;

"(H) an evaluation of cooperation with foreign transportation and security authorities;

"(I) the status of implementation of the recommendations of the President's Commission of Aviation Security and Terrorism and the reasons for any delays in implementation of such recommendations; and

"(J) an evaluation of deployment of explosive detection devices.".

(b) PASSENGER SCREENING REPORTS.—Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356(a)) is amended by striking "semiannual" each place it appears and inserting "annual".

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"SEC. 315. Screening of passengers in air transportation."

is amended by striking "(b)" and inserting "(c)" and by inserting after the item relating to subsection (a) the following:

"(b) Transportation security.".

(2) SECURITY ASSESSMENT REPORTS.—Section 1115(c) of such Act (49 U.S.C. App. 1515(c) is amended by inserting "(a)" after "section 315".

(d) ANNUAL BUDGET SUBMISSION.—The annual budget submission for the Department of Transportation shall include a specific request for the Office of the Director of Intelligence and Security. In determining the budget request for the Director, the Secretary shall take into consideration recommendations contained in the annual report submitted under section 315(b) of the Federal Aviation Act of 1958.

SEC. 103. ASSISTANT ADMINISTRATOR FOR CIVIL AVIATION SECURITY.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is amended by adding at the end the following new section:

"SEC. 318. ASSISTANT ADMINISTRATOR OF CIVIL AVIATION SECURITY.

"(a) ESTABLISHMENT OF POSITION.—There is established the position of Assistant Administrator for Civil Aviation Security.

"(b) AUTHORITY OF ADMINISTRATOR.—The Assistant Administrator shall report directly to the Administrator and shall be subject to the Administrator's direction and authority.

"(c) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall include—

"(1) day-to-day management of and operational guidance to Federal Aviation Administration field security resources, including Federal Security Managers;

"(2) enforcement of security-related requirements;

"(3) identification of research and development requirements of security-related activities;

"(4) inspections of security systems;

"(5) reporting to the Director of Intelligence and Security such information as may be necessary to permit the Director to fulfill assigned responsibilities;

"(6) assessment of threats to civil aviation; and

"(7) such other functions as the Administrator considers necessary and appropriate.

"(d) MEASURES TO STRENGTHEN AIR TRANSPORTATION SECURITY.—The Assistant Administrator shall review and, as necessary, develop measures to strengthen air transportation security, including—

"(1) measures to strengthen controls over checked baggage in air transportation, such as measures to ensure baggage reconciliation and inspection of items in baggage of passengers which could potentially contain explosive devices;

"(2) measures to strengthen control over individuals with access to aircraft;

"(3) measures to improve testing of security systems;

"(4) measures to ensure the use of best available x-ray equipment for air transportation security purposes; and

"(5) measures to strengthen preflight screening of passengers.".

SEC. 104. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 319. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

"(a) FEDERAL SECURITY MANAGERS.—

"(1) ESTABLISHMENT OF POSITION.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Federal Security Manager for each airport in the United States at which the Administrator determines that such a Manager is necessary to meet the needs of air transportation security and shall begin designating persons as such Managers and stationing such Managers at such airports. In carrying out the requirements of this section, the Administrator may assign the functions and responsibilities described in this section to existing Federal Aviation Administration field personnel and designate such personnel accordingly.

"(2) 1-YEAR STATIONING REQUIREMENT.—Not later than 1 year after the date of the enactment of this section, the Administrator shall have stationed a Federal Security Manager at each airport in the United States which is designated by the Department of Transportation as a category X airport.

"(3) RESPONSIBILITIES.—The responsibilities of a Federal Security Manager with respect to an airport shall include the following:

"(A) Receipt of intelligence information relating to aviation security.

"(B) Ensuring and assisting in the development of a comprehensive security plan for the airport—

"(i) which establishes responsibilities of each such air carrier and airport operator with respect to air transportation security at the airport; and

"(ii) which includes measures to be taken during periods of normal airport operations and during periods when there is a need for additional airport security, as determined by the Federal Security Manager, and identifies the persons responsible for carrying out such measures.

"(C) Oversight and enforcement of implementation by air carriers and airport operators of Federal security requirements, including the comprehensive plan developed pursuant to subparagraph (B).

"(D) Serving as the on-site coordinator of the response of the Federal Aviation Administration to terrorist incidents and threats at the airport.

"(E) Coordination of day-to-day Federal activities relating to aviation security at the airport.

"(F) Coordination with local law enforcement efforts relating to aviation security.

"(G) Coordination of activities with Federal Security Managers at other airports, as appropriate.

"(4) AUTHORITY OF ASSISTANT ADMINISTRATOR.—A Federal Security Manager shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(5) NONDUPLICATION OF FUNCTIONS.—When a Federal Security Manager is designated or stationed at an airport, the Civil Aviation Security Field Officer shall not be assigned security responsibilities at such airport.

"(b) FOREIGN SECURITY LIAISON OFFICERS.—

"(1) ESTABLISHMENT OF POSITION.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Administrator determines that such an Officer is necessary for air transportation security and, in coordination with the Secretary of State, shall begin assigning such Officers.

"(2) 2-YEAR REQUIREMENT.—Not later than 2 years after the date of the enactment of this section, the Administrator, in coordination with the Secretary of State, shall assign Foreign Security Liaison Officers for airports outside the United States where extraordinary security measures are in place. The Secretary of State shall give high priority to the stationing of such officers.

"(3) RESPONSIBILITIES.—A Foreign Security Liaison Officer shall be responsible (A) for serving as the liaison of the Assistant Administrator for Civil Aviation Security with foreign security authorities (including foreign governments and airport authorities) with respect to implementation of Federal security requirements at the airport, and (B) to the extent practicable, for performing the responsibilities set forth in subsection (a)(3).

"(4) AUTHORITY OF ASSISTANT ADMINISTRATOR.—A Foreign Security Liaison Officer shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(5) COORDINATION WITH CHIEF OF UNITED STATES DIPLOMATIC MISSION.—The activities of a Foreign Security Liaison Officer shall be coordinated with the chief of the United States diplomatic mission to which the Officer is assigned. All activities of a Foreign Security Liaison Officer pursuant to this subsection shall be consistent with the authorities of the Secretary of State and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 and section 207 of the Foreign Service Act of 1980.

"(c) LONG-TERM IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this section, the Administrator shall submit to Congress a plan to fully implement the requirements of this section. Such plan shall include a schedule for implementation and an assessment of personnel and funding needs.".

SEC. 105. AIR CARRIER AND AIRPORT SECURITY PERSONNEL.

(a) IN GENERAL.—Section 316 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357) is amended by adding at the end the following new subsections:

"(g) AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—

"(1) EMPLOYMENT INVESTIGATIONS.—

"(A) IN GENERAL.—In order to ensure the security of aircraft and their passengers, crew, and cargo, the Administrator shall issue regulations to require individuals employed in, and individuals applying for, positions described in subparagraph (B) to be subjected to such employment investigations, including criminal history record check, as the Administrator determines necessary to ensure air transportation security.

"(B) INDIVIDUALS SUBJECT TO EMPLOYMENT INVESTIGATIONS.—An individual shall be subject to an employment investigation under subparagraph (A) if such individual is employed in, or is applying for, a position in which such individual has unescorted access, or may authorize others to have unescorted access, to air carrier or foreign air carrier aircraft, or to secured areas (designated by the Administrator) of United States airports serving air carriers or foreign air carriers.

"(C) REQUIREMENTS OF AIR CARRIERS AND AIRPORT OPERATORS.—Any air carrier, foreign air carrier, or airport operator who employs an individual in a position described in subparagraph (B), or authorizes or contracts for the services of such individual, shall take such actions as may be necessary to ensure that any employment investigation required by the Administrator under subparagraph (A) is performed.

"(2) CRIMINAL HISTORY RECORDS CHECK.—

"(A) IN GENERAL.—If, as part of an employment investigation under paragraph (1)(A), the Administrator requires an identification and criminal history record check of an individual in a position described in paragraph (1)(B) to be conducted by the Attorney General, the Administrator (after consultation with the Attorney General) shall designate persons to obtain and transmit fingerprints to the Attorney General. The costs of any such check shall be paid by the employer of such individual. The Attorney General may for the purposes of this subsection make available the results of any such check to persons designated by the Administrator, after consultation with the Attorney General.

"(B) REGULATIONS.—For purposes of administering this subsection, the Administrator shall prescribe regulations to—

"(i) implement procedures for taking fingerprints; and

"(ii) establish requirements for use of information received from the Attorney General under this subsection in order to limit the dissemination of such information and ensure that such information is used solely for the purposes of this subsection.

"(C) CORRECTION OF CHECK INFORMATION.—An individual who, as part of an employment investigation under paragraph (1)(A), is subject to an identification and criminal history records check shall be provided a copy of any record received from the Attorney General and shall have the right to complete and correct the information contained in such check before any final employment decision is made on account of such check.

"(3) EMPLOYMENT RESTRICTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an air carrier, foreign air carrier, or airport operator shall not employ, or authorize or contract for the services of, any individual in a position described in paragraph (1)(B), if—

"(i) such individual has not been subject to an employment investigation required under paragraph (1)(A); or

"(ii) the results of such investigation establish that such individual in the 10-year period ending on the date of such investigation has been convicted in any jurisdiction of a crime set forth in section 902 (b), (c), (h), (i), (j), (k), (l), (m), (n), (q), or (r); a crime set forth in section 32 of title 18, United States Code; murder; assault with intent to murder; espionage; sedition; treason; rape; kidnapping; unlawful possession, sale, distribution, or manufacture of an explosive or weapon; extortion; armed robbery; distribution of, or intent to distribute, a controlled substance; or conspiracy to commit any of the aforementioned criminal acts.

The Administrator may specify other factors which the Administrator determines to be sufficient to make an individual ineligible for employment in a position described in paragraph (1)(B).

"(B) EXCEPTION.—It shall not be a violation of subparagraph (A) for an air carrier, foreign air carrier, or airport operator to employ, or authorize or contract for employment of, an individual in a position described in paragraph (1)(B) who has not been subject to an employment investigation required by paragraph (1)(A), if the employment of such individual is carried out pursuant to a plan approved by the Administrator which provides alternate security arrangements.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as requiring investigations or record checks where such investigations or record checks are prohibited by applicable laws of a foreign government.

"(5) FEES AND CHARGES.—The Administrator and the Attorney General shall establish reasonable fees and charges to cover expenses incurred in carrying out this subsection. The amount of fees collected under this paragraph shall be credited to the accounts in the Treasury from which such expenses were incurred and shall be available to the Administrator and the Attorney General for paying expenses for which such fees are collected.

"(h) EMPLOYMENT STANDARDS.—Not later than 270 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the hiring, continued employment, and contracting of air carrier and, as appropriate, airport security personnel. Such standards shall include—

"(1) minimum training requirements for new employees;

"(2) retraining requirements;

"(3) minimum staffing levels;

"(4) minimum language skills; and

"(5) minimum education levels for employees, as appropriate.

"(i) HUMAN FACTORS.—The Administrator, in coordination with air carriers, airport operators, and other interested persons shall review issues relating to human performance in the aviation security system with the goal of maximizing such performance. Upon completion of the review, the Administrator shall recommend guidelines and prescribe appropriate changes to existing procedures to improve such performance.

"(j) TRAINING OF AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—Not later than 180 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the education and training of—

"(1) ground security coordinators;

"(2) security supervisory personnel; and

"(3) airline pilots as in-flight security coordinators.

Such standards shall include initial training, retraining, and continuing education requirements and methods by which the performance of ground security coordinators and security supervisory personnel shall be measured annually.

"(k) FOREIGN AIR CARRIER SECURITY PROGRAMS.—

"(1) CONTINUATION OF EXISTING APPROVAL REQUIREMENT.—The Administrator shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that foreign air carriers must adopt and use a security program approved by the Administrator.

"(2) LEVEL OF PROTECTION.—The Administrator may approve a security program of a foreign air carrier under the requirement referred to in paragraph (1) only if the Administrator finds that the security program provides passengers of the foreign air carrier with a similar level of protection as such passengers would receive under the security programs of air carriers serving the same airports. The Administrator shall require foreign air carriers to employ procedures equivalent to those required of air carriers serving the same airport if the Administrator determines that such procedures are necessary to afford a similar level of protection as is afforded passengers of the air carriers serving the same airport.

"(3) REVIEW OF EXISTING PROGRAMS.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall take such action as may be necessary to ensure that a security program of a foreign air carrier approved by the Administrator before such date of enactment meets the requirement of paragraph (2).

"(4) ANNUAL REPORT.—The Administrator shall submit to Congress as part of the annual report required by section 315(a) an assessment of the steps being taken, and the progress being made, in ensuring that foreign air carrier security programs for airports outside the United States—

"(A) at which the Administrator determines that a Foreign Security Liaison Officer is necessary for air transportation security, and

"(B) for which extraordinary security measures are in place,

are in compliance with this subsection.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 316. Air transportation security."

is amended by adding at the end thereof the following:

"(g) Air carrier and airport security personnel.

"(h) Employment standards.

"(i) Human factors.

"(j) Training of air carrier and airport security personnel.

"(k) Foreign air carrier security programs.".

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations implementing subsection (k)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1357), as inserted by subsection (a) of this section.

SEC. 106. ASSESSMENT OF THREATS TO DOMESTIC AIRPORT SECURITY.

(a) GENERAL ASSESSMENT.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly conduct an assessment of current and potential threats to the domestic air transportation system. Such assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against the domestic aviation system and the methods by which such individuals might carry out such acts.

(b) ANALYSIS AND MONITORING.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly determine and implement the most effective method for continually analyzing and monitoring security threats to the domestic air transportation system.

(c) ASSESSMENTS WITH RESPECT TO INDIVIDUAL AIRPORTS.—In coordination with the Federal Bureau of Investigation, the Administrator of the Federal Aviation Administration shall conduct periodic threat and vulnerability assessments with respect to the security of individual airports which are part of the domestic air transportation system. Each such assessment shall include consideration of—

(1) the adequacy of security procedures with respect to the handling and transport of checked baggage, cargo, and mail;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, cargo, and mail;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the United States Customs Service, the Immigration and Naturalization Service, the Federal Aviation Administration, air carriers, and of other law enforcement personnel.

(d) REPORTS TO CONGRESS.—The Administrator of the Federal Aviation Administration shall transmit to Congress for each of calendar years 1991 and 1992 an annual report on the progress being made and the problems occurring in implementation of this section, together with recommendations for improving domestic air transportation security.

(e) REMEDYING SECURITY DEFICIENCIES.—The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve domestic air transportation security by remedying any deficiencies in such security discovered as a result of the assessments, analyses, and monitoring conducted under this section.

(f) SURVEY.—In developing airport construction guidelines under subsection (d) of section 612 of the Federal Aviation Act of 1958, as added by section 110 of this Act, the Administrator shall take into consideration the results of the assessment conducted under subsection (a) of this section.

SEC. 107. RESEARCH AND DEVELOPMENT.

Section 316(d) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1351(d)) is amended by adding at the end the following new paragraphs:

"(3) PROGRAM TO ACCELERATE RESEARCH.—

"(A) IN GENERAL.—The Administrator shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation.

"(B) REVIEW OF THREATS.—Not later than 180 days after the date of the enactment of this paragraph, the Administrator shall complete an intensive review of threats to civil aviation, with particular focus on—

"(i) the explosive materials which present the most significant threat to civil aircraft;

"(ii) the minimum amounts, configurations, and types of explosive material which would reasonably be expected to cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;

"(iii) the minimum amounts, configurations, and types of explosive material which can cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;

"(iv) the amounts, configurations, and types of explosive material which can reliably be detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(v) the feasibility of employing various methods to minimize damage caused by explosive materials which cannot be reliably detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(vi) the ability to screen such different entities as passengers, carry-on baggage, checked baggage, mail, and cargo; and

"(vii) the technologies which might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the methods by which such technologies can be effectively countered.

"(C) USE OF RESULTS.—The results of such review shall be used by the Administrator in developing the focus and priorities of the program established under this paragraph.

"(D) DESIGN AND IMPLEMENTATION.—In designing and implementing the program established under this paragraph, the Administrator shall—

"(i) consult and coordinate with other Federal agencies conducting similar research;

"(ii) identify Federal agencies which would benefit from such research; and

"(iii) seek cost-sharing agreements with such Federal agencies.

"(4) PURPOSE.—It shall be the purpose of the program established under paragraph (3) to develop and have in place not later than 36 months after the date of the enactment of this paragraph such new equipment and procedures as are needed to meet the technological challenges presented by terrorism.

"(5) HUMAN FACTORS.—The program established under paragraph (3) shall include research and development of both technological improvements and ways to enhance human performance.

"(6) GRANTS AND COOPERATIVE AGREEMENTS.—Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants, to colleges, universities, and other appropriate research institutions and facilities with demonstrated ability to conduct research described in paragraph (3). Such grants shall be in such amounts, and subject to such terms and conditions, as the Administrator may prescribe. The Administrator may also enter into such cooperative agreements with such governmental entities as the Administrator considers appropriate.

"(7) REVIEW.—In administration of the program established under paragraph (3), the Administrator shall review and consider the annual reports of the Secretary of Transportation submitted to Congress on transportation security and intelligence.

"(8) SCIENTIFIC ADVISORY PANEL.—The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, for the purpose of reviewing, commenting on, and advising the Administrator on the progress of, and any necessary modifications to, the programs established under paragraph (3), including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

"(A) the development and testing of effective explosive-detection systems;

"(B) aircraft structure and experimentation to determine the type and minimum weights of explosives which an effective technology must be capable of detecting;

"(C) technologies involved in the minimization of airframe damage to aircraft from explosives; and

"(D) such other scientific and technical areas as are considered appropriate by the Administrator.

"(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Airport and Airway Trust Fund, after completion of the review required by paragraph (3)(B), such sums as may be necessary for the purpose of carrying out the grant program established by paragraph (6).".

SEC. 108. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 320. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

"(a) GENERAL RULE.—No deployment or purchase of any explosive detection equipment pursuant to section 108.7(b)(8) and 108.20 of title 14, Code of Federal Regulations, or any similar rule, shall be required after the date of the enactment of this section, unless the Administrator certifies that, based on the results of tests conducted pursuant to protocols developed in consultation with expert scientists from outside the Federal Aviation Administration, such equipment alone or as part of an integrated system can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft.

"(b) DEADLINE FOR COMPLETION OF TESTS.—The tests referred to be in subsection (a) shall completed not later than 18 months after the date of the enactment of this section.

"(c) LIMITED AUTHORITY FOR INTERIM DEPLOYMENT.—Before completion of the tests referred to in subsection (a), but in no event later than 18 months after the date of the enactment of this section, the Administrator may require the deployment of explosive detection equipment referred to in subsection (a) if the Administrator determines that such deployment shall significantly enhance aviation security. In making such determination, the Administrator shall take into consideration, but not be limited to, such factors as the ability of such equipment alone or as part of an integrated system to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives of a deployment decision made pursuant to this subsection.

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Administrator from purchasing or deploying explosive detection equipment referred to in subsection (a).".

SEC. 109. THREATS TO CIVIL AVIATION; PUBLIC NOTIFICATION.

(a) IN GENERAL.—Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 321. REPORTING OF THREATS TO CIVIL AVIATION.

"(a) IN GENERAL.—Pursuant to such guidelines as the Secretary of Transportation shall establish, an air carrier, airport operator, ticket agent, or individual employed by such an entity, receiving information, other than through a communication directed by the Federal Government, of a threat to civil aviation, shall promptly provide such information to the Secretary or the designee of the Secretary.

"(b) FLIGHT CANCELLATIONS.—In the event that a determination is made that a particular threat to civil aviation cannot be addressed in a manner adequate to ensure, to the extent feasible, the safety of the passengers and crew of a particular flight or series of flights, the Administrator shall order the cancellation of such flight or series of flights.

"(c) NOTIFICATION GUIDELINES.—

"(1) PUBLIC NOTIFICATION GUIDELINES.—Not later than 180 days after the date of the enactment of this section, the President shall develop guidelines for ensuring notification to the public of threats to civil aviation in appropriate cases.

"(2) FLIGHT AND CABIN CREW NOTIFICATION GUIDELINES.—Not later than 180 days after the date of the enactment of this section, the Administrator shall develop guidelines for ensuring notification of the flight and cabin crews of an air carrier flight of threats to the security of such flight in appropriate cases.

"(d) RESPONSIBILITIES.—The guidelines developed under subsection (c)(1) shall identify officials responsible for—

"(1) determining, on a case-by-case basis, if public notification of a threat is in the best interest of the United States and the traveling public;

"(2) ensuring that public notification, when considered appropriate, is made in a timely and effective manner, including the use of a toll-free telephone number; and

"(3) canceling the departure of a flight or series of flights under subsection (b).

"(e) CRITERIA.—The guidelines developed pursuant to subsection (c)(1) shall provide for the consideration of—

"(1) the specificity of the threat;

"(2) the credibility of intelligence information related to the threat;

"(3) the ability to effectively counter the threat;

"(4) the protection of intelligence information sources and methods;

"(5) cancellation, by an air carrier or the Administrator, of a flight or series of flights instead of public notification;

"(6) the ability of passengers and crew to take steps to reduce the risk to their safety as a result of any notification; and

"(7) such other factors as the Administrator considers appropriate.

"(f) SELECTIVE NOTIFICATION PROHIBITED.—In no event shall there be notification of a threat to civil aviation to only selective potential travelers unless such threat applies only to them.

"(g) DISTRIBUTION.—The guidelines developed pursuant to subsection (c) shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

"(h) ACCESS TO INFORMATION.—The Administrator, in cooperation with agencies involved in the collection, receipt, and analysis of intelligence information relating to aviation security, shall develop procedures to minimize the number of individuals having access to threat information. Any restrictions adopted pursuant to this subsection shall not diminish the ability of the Federal Government to effectively discharge its responsibilities relating to aviation security, including notification of the public and flight and cabin crews under subsection (c).".

(b) CONFORMING AMENDMENTS TO TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 relating to title III of such Act is amended by inserting after the item relating to section 317 the following new items:

"Sec. 318. Assistant Administrator of Civil Aviation Security.

"(a) Establishment of position.

"(b) Authority of Administrator.

"(c) Responsibilities.

"(d) Measures to strengthen air transportation security.

"Sec. 319. Federal Security Managers and Foreign Security Liaison Officers.

"(a) Federal Security Managers.

"(b) Foreign Security Liaison Officers.

"(c) Long-term implementation plan.

"Sec. 320. Deployment of explosive detection equipment.

"Sec. 321. Reporting of threats to civil aviation.

"(a) In general.

"(b) Flight cancellations.

"(c) Notification guidelines.

"(d) Responsibilities.

"(e) Criteria.

"(f) Selective notification prohibited.

"(g) Distribution.

"(h) Access to information.".

SEC. 110. AIRPORT CONSTRUCTION GUIDELINES.

(a) IN GENERAL.—Section 612 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1432) is amended by adding at the end the following new subsection:

"(d) AIRPORT CONSTRUCTION GUIDELINES.—The Administrator, in consultation with airport authorities, air carriers, and such others as the Administrator considers appropriate, shall develop guidelines for airport design and construction to allow for maximum security enhancement.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 612. Airport operating certificates."

is amended by adding at the end thereof the following:

"(d) Airport construction guidelines.".

SEC. 111. INTELLIGENCE.

(a) INTERNATIONAL TERRORISM REPORTING.—Not later than 180 days after the date of the enactment of this Act, the heads of the agencies of the intelligence community shall promulgate policies and procedures to ensure that intelligence reports concerning international terrorism are made available, as appropriate, to other members of the intelligence community, the Department of Transportation, and the Federal Aviation Administration.

(b) STRATEGIC PLANNING.—The intelligence community shall consider placing greater emphasis on strategic intelligence efforts through the establishment of a unit for strategic planning concerning terrorism.

(c) CENTRAL INTELLIGENCE AGENCY LIAISON.—At the request of the Secretary of Transportation, the Director of Central Intelligence shall designate not less than one intelligence officer of the Central Intelligence Agency to serve in a senior staff position in the Office of the Secretary of the Department of Transportation.

(d) REVIEW OF MEMORANDUMS OF UNDERSTANDING.—Not later than 180 days after the date of the enactment of this Act, the intelligence community, the Department of Transportation, and the Federal Aviation Administration shall conduct a review of and, as appropriate, revise all memorandums of understanding and other written working agreements between the intelligence community and the Federal Aviation Administration.

(e) INTELLIGENCE COMMUNITY.—For purposes of this section, the term "intelligence community" means the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

SEC. 112. SCREENING OF MAIL AND CARGO.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine whether additional requirements should be imposed to enhance the security requirements for the transportation of mail and cargo by passenger aircraft.

(b) FACTORS.—In conducting the study under this section, the Administrator shall consider, among other things—

(1) the extent to which it is practicable to require for mail and cargo the same screening procedures as are required for checked baggage;

(2) constitutional limitations on the authority of the United States Government to screen mail;

(3) existing and reasonably anticipated explosive detection technologies capable of screening mail and cargo;

(4) the variation in threat presented by mail and cargo from various locations;

(5) the use of inspection procedures specific to mail and cargo;

(6) the protection, to the extent possible, of the privacy of the senders and recipients of mail;

(7) precise detection of explosive materials which can cause catastrophic damage to commercial aircraft; and

(8) the desirability of not unduly delaying the delivery of mail and cargo.

(c) CONSULTATION REQUIREMENT.—In conducting the study under this section, the Administrator shall consult with the Postmaster General, the Secretary of Defense, and other interested persons.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under this section, together with such legislative and administrative recommendations as the Administrator considers appropriate.

TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD

SEC. 201. INTERNATIONAL NEGOTIATIONS CONCERNING AVIATION SECURITY.

(a) UNITED STATES POLICY.—It is the policy of the United States—

(1) to seek bilateral agreements to achieve United States aviation security objectives with foreign governments;

(2) to continue to press vigorously for security improvements through the Foreign Airport Security Act and the foreign airport assessment program; and

(3) to continue to work through the International Civil Aviation Organization to improve aviation security internationally.

(b) NEGOTIATIONS FOR AVIATION SECURITY.—(1) The Department of State, in consultation with the Department of Transportation, shall be responsible for negotiating requisite aviation security agreements with foreign governments concerning the implementation of United States rules and regulations which affect the foreign operations of United States air carriers, foreign air carriers, and foreign international airports. The Secretary of State is directed to enter, expeditiously, into negotiations for bilateral and multilateral agreements—

(A) for enhanced aviation security objectives;

(B) to implement the Foreign Airport Security Act and the foreign airport assessment program to the fullest extent practicable; and

(C) to achieve improved availability of passenger manifest information.

(2) A principal objective of bilateral and multilateral negotiations with foreign governments and the International Civil Aviation Organization shall be improved availability of passenger manifest information.

SEC. 202. COORDINATOR FOR COUNTERTERRORISM.

The Coordinator for Counterterrorism shall be responsible for the coordination of

international aviation security for the Department of State.

SEC. 203. PASSENGER MANIFEST.

(a) MANDATORY AVAILABILITY OF PASSENGER MANIFEST.—Section 410 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1380) is amended to read as follows:

"SEC. 410. PASSENGER MANIFEST.

"(a) REQUIREMENT.—Not later than 120 days after the date of the enactment of this section, the Secretary of Transportation shall require all United States air carriers to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State—

"(1) not later than 1 hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight; or

"(2) if it is not technologically feasible or reasonable to fulfill the requirement of this subsection within 1 hour, then as expeditiously as possible, but not later than 3 hours after such notification.

"(b) CONTENTS.—For purposes of this section, a passenger manifest should include the following information:

"(1) The full name of each passenger.

"(2) The passport number of each passenger, if required for travel.

"(3) The name and telephone number of a contact for each passenger.".

(b) IMPLEMENTATION.—In implementing the requirement pursuant to the amendment made by subsection (a) of this section, the Secretary of Transportation shall consider the necessity and feasibility of requiring United States carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to such requirement.

(c) FOREIGN AIR CARRIERS.—The Secretary of Transportation shall consider a requirement for foreign air carriers comparable to that imposed pursuant to the amendment made by subsection (a).

(d) INFORMATION FROM UNITED STATES PASSPORTS.—Notwithstanding any other provision of law, to the extent provided in appropriation Acts, for each fiscal year not more than $5,000,000 in passport fees collected by the Department of State may be credited to a Department of State account. Amounts credited to such account shall be available only for the costs associated with the acquisition and production of machine-readable United States passports and visas and compatible reading equipment. Amounts credited to such account are authorized to remain available until expended.

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking the item relating to section 410 and inserting the following:

"Sec. 410. Passenger manifest.".

SEC. 204. DEPARTMENT OF STATE NOTIFICATION OF FAMILIES OF VICTIMS.

(a) DEPARTMENT OF STATE POLICY.—It is the policy of the Department of State pursuant to section 43 of the State Department Basic Authorities Act to directly and promptly notify the families of victims of aviation disasters abroad concerning citizens of the United States directly affected by such a disaster, including timely written notice. The Secretary of State shall ensure that such notification by the Department of State is carried out notwithstanding notification by any other person.

(b) DEPARTMENT OF STATE GUIDELINES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such regulations, guidelines, and circulars as are necessary to ensure that the policy under subsection (a) is fully implemented.

SEC. 205. DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON AND TOLL-FREE FAMILY COMMUNICATIONS SYSTEM.

(a) DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an aviation disaster directly involving United States citizens abroad, if possible, the Department of State will assign a specific individual, and an alternate, as the Department of State liaison for the family of each such citizen.

(b) TOLL-FREE COMMUNICATIONS SYSTEM.—In the establishment of the Department of State toll-free communications system to facilitate inquiries concerning the affect of any disaster abroad on United States citizens residing or traveling abroad, the Secretary of State shall ensure that a toll-free telephone number is reserved for the exclusive use of the families of citizens who have been determined to be directly involved in any such disaster.

SEC. 206. DISASTER TRAINING FOR STATE DEPARTMENT PERSONNEL.

(a) ADDITIONAL TRAINING.—The Secretary of State shall institute a supplemental program of training in disaster management for all consular officers.

(b) TRAINING IMPROVEMENTS.—

(1) In expanding the training program under subsection (a), the Secretary of State shall consult with death and bereavement counselors concerning the particular demands posed by aviation tragedies and terrorist activities.

(2) In providing such additional training under subsection (a) the Secretary of State shall consider supplementing the current training program through—

(A) providing specialized training to create a team of "disaster specialists" to deploy immediately in a crisis; or

(B) securing outside experts to be brought in during the initial phases to assist consular personnel.

SEC. 207. DEPARTMENT OF STATE RESPONSIBILITIES AND PROCEDURES AT INTERNATIONAL DISASTER SITE.

(a) DISPATCH OF SENIOR STATE DEPARTMENT OFFICIAL TO SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international disaster, particularly an aviation tragedy, directly involving significant numbers of United States citizens abroad not less than one senior officer from the Bureau of Consular Affairs of the Department of State shall be dispatched to the site of such disaster.

(b) CRITERIA FOR DEPARTMENT OF STATE STAFFING AT DISASTER SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate criteria for Department of State staffing of disaster sites abroad. Such criteria shall define responsibility for staffing decisions and shall consider the deployment of crisis teams under subsection (d). The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement criteria developed pursuant to this subsection.

(c) STATE DEPARTMENT OMBUDSMAN.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international aviation disaster involving significant numbers of United States citizens abroad not less than one officer or employee of the Department of State shall be dispatched to the disaster site to provide on-site assistance to families who may visit the site and to act as an ombudsman in matters involving the foreign local government authorities and social service agencies.

(d) CRISIS TEAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate procedures for the deployment of a "crisis team", which may include public affairs, forensic, and bereavement experts, to the site of any international disaster involving United States citizens abroad to augment in-country Embassy and consulate staff. The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement procedures developed pursuant to this subsection.

SEC. 208. RECOVERY AND DISPOSITION OF REMAINS AND PERSONAL EFFECTS.

It is the policy of the Department of State (pursuant to section 43 of the State Department Basic Authorities Act) to provide liaison with foreign governments and persons and with United States air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as the disposition of personal effects. The Secretary of State shall ensure that regulations and guidelines of the Department of State reflect such policy and that such assistance is rendered to the families of United States citizens who are killed in terrorist incidents and disasters abroad.

SEC. 209. ASSESSMENT OF LOCKERBIE EXPERIENCE.

(a) ASSESSMENT.—The Secretary of State shall compile an assessment of the Department of State response to the Pan American Airways Flight 103 aviation disaster over Lockerbie, Scotland, on December 21, 1988.

(b) GUIDELINES.—The Secretary of State shall establish, based on the assessment compiled under subsection (a) and other relevant factors, guidelines for future Department of State responses to comparable disasters and shall distribute such guidelines to all United States diplomatic and consular posts abroad.

SEC. 210. OFFICIAL DEPARTMENT OF STATE RECOGNITION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate guidelines for appropriate ceremonies or other official expressions of respect and support for the families of United States citizens who are killed through acts of terrorism abroad.

SEC. 211. UNITED STATES GOVERNMENT COMPENSATION FOR VICTIMS OF TERRORISM.

(a) COMPENSATION.—The President shall submit to the Congress, not later than one year after the date of the enactment of this Act, recommendations on whether or not legislation should be enacted to authorize the United States to provide monetary and tax relief as compensation to United States citizens who are victims of terrorism.

(b) BOARD.—The President may establish a board to develop criteria for compensation and to recommend changes to existing laws to establish a single comprehensive approach to victim compensation for terrorist acts.

(c) INCOME TAX BENEFIT FOR VICTIMS OF LOCKERBIE TERRORISM.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of any individual whose death

was a direct result of the Pan American Airways Flight 103 terrorist disaster over Lockerbie, Scotland, on December 21, 1988, any tax imposed by subtitle A of the Internal Revenue Code of 1986 shall not apply—

(A) with respect to the taxable year which includes December 21, 1988, and

(B) with respect to the prior taxable year.

(2) LIMITATION.—In no case may the tax benefit pursuant to paragraph (1) for any taxable year, for any individual, exceed an amount equal to 28 percent of the annual rate of basic pay at Level V of the Executive Schedule of the United States as of December 21, 1988.

SEC. 212. OVERSEAS SECURITY ELECTRONIC BULLETIN BOARD.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and regulations as may be necessary to establish, under the Bureau of Consular Affairs, an electronic bulletin board accessible to the general public. Such bulletin board shall contain all information, updated daily, which is available on the Overseas Security Electronic Bulletin Board of the Bureau of Diplomatic Security.

SEC. 213. ANTITERRORISM ASSISTANCE.

(a) AVIATION SECURITY.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $7,000,000 for fiscal year 1991 for aviation security assistance under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.), relating to antiterrorism assistance.

(b) TRAINING SERVICES.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa2) is amended in subsection (d) by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following new paragraphs:

"(1) Training services (including short term refresher training) provided pursuant to this chapter may be conducted outside the United States only if—

"(A) the training to be conducted outside the United States will be provided during a period of not more than 30 days;

"(B) such training relates to—

"(i) aviation security;

"(ii) crisis management;

"(iii) document screening techniques;

"(iv) facility security;

"(v) maritime security;

"(vi) VIP protection; or

"(vii) the handling of detector dogs, except that only short term refresher training may be provided under this clause; and

"(C) at least 15 days before such training is to begin, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in accordance with the procedures applicable to reprogramming notifications.

"(2) Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed 30 consecutive calendar days.

"(3)(A) Except as provided in subparagraph (B), employees of the Department of State shall not engage in the training of law enforcement personnel or the provision of services under this chapter.

"(B) Subparagraph (A) does not apply to training (including short term refresher training) or services provided to law enforcement personnel by employees of the Bureau of Diplomatic Security with regard to crisis management, facility security, or VIP protection.".

SEC. 214. ANTITERRORISM MEASURES.

(a) GUIDELINES FOR INTERNATIONAL AVIATION TRAVELERS.—For the purpose of notifying the public, the Secretary of State, in consultation with the Secretary of Transportation, shall develop and publish guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities. Notices concerning such guidelines shall be posted and prominently displayed domestically and abroad in international airports.

(b) DEVELOPMENT OF INTERNATIONAL STANDARDS.—The Secretary of State and the Secretary of Transportation in all appropriate fora, particularly talks and meetings related to international civil aviation, shall enter into negotiations with other nations for the establishment of international standards regarding guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities.

(c) PUBLICATION OF REWARDS FOR TERRORISM-RELATED INFORMATION.—For the purpose of notifying the public, the Secretary of State shall publish the availability of United States Government rewards for information on international terrorist-related activities, including rewards available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) and chapter 204 of title 18, United States Code. To the extent appropriate and feasible, notices making such publication shall be posted and prominently displayed domestically and abroad in international airports.

(d) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Transportation should take appropriate measures to utilize and train properly the officers and employees of other United States Government agencies who have functions at international airports in the United States and abroad in the detection of explosives and firearms which could be a threat to international civil aviation.

SEC. 215. PROPOSAL FOR CONSIDERATION BY THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Transportation, shall propose to the International Civil Aviation Organization the establishment of a comprehensive aviation security program which shall include (1) training for airport security personnel, (2) grants for security equipment acquisition for certain nations, and (3) expansion of the appropriate utilization of canine teams in the detection of explosive devices in all airport areas, including use in passenger screening areas and nonpublic baggage assembly and processing areas.

Mr. DOLE. Does the Senator from New Jersey wish to be recognized?

Mr. LAUTENBERG. I appreciate the courtesy of the Republican leader. Mr. President, have we passed the bill?

The PRESIDING OFFICER. The bill has been passed.

Mr. LAUTENBERG. Has the motion to reconsider been laid upon the table?

The PRESIDING OFFICER. We have not reconsidered.

Mr. DOLE. I just want to make a brief statement before that happens, if it is all right. The Senator from New Jersey may want to make a statement.

Mr. LAUTENBERG. Now that we have passed the bill, I do want to make a short statement. I appreciate the opportunity to do so, and thank the Republican leader.

Briefly, Mr. President, this is a bill that has been in the works for some time now. It resulted from the terrible tragedy known as Pan Am 103, when some 270 innocent people were killed by what we now know to be a terrorist action.

This legislation says that we are going to do something about preventing terrorist actions. It is especially significant at this time, when America continues to be on guard against countries, particularly in the Middle East, that threaten retaliation for legitimate actions that we take to protect our interests in the free world.

Mr. President, I want to thank my distinguished colleague from New York, Senator D'AMATO, with whom I share a strong interest in this matter. He is the ranking member on the Transportation Subcommittee. We work very well together. He has been very forthright and very diligent about this, as has the distinguished minority leader, Senator DOLE. He, too, was moved by the tragedy. With the help of the majority leader and the Republican leader, action was taken by the President to appoint a commission, which laid out the proposals upon which this legislation is based.

I have been supported through this as well by my colleagues from the Commerce Committee, Chairman HOLLINGS and Senator FORD, who is the chairman of the Aviation Subcommittee of the Commerce Committee.

A lot of people have helped; a lot of people want to see this done. The families of the victims are waiting nearby, Mr. President, to hear the outcome.

I am pleased to announce that finally, after almost 2 years of struggle—it hardly seems that much time has passed—we finally have passed a bill that says America is going to get tougher about tackling terrorism; that we are not going to let our American travelers be subjected to terrorist attack around the world, if there is anything we can do about it.

I take a great measure of satisfaction, Mr. President, in seeing this legislation approved by the Senate and the kind of support that it has engendered. I yield the floor.

The PRESIDING OFFICER (Mr. KERREY). The Chair recognizes the Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. Mr. President, as an original sponsor of S. 2822 and as a member of the President's Commis-

sion on Aviation Security and Terrorism I am pleased to see the Congress act swiftly to adopt meaningful aviation security legislation. This legislation is a testament to the dedication and resolve of the families of the Pan Am 103 victims and, I hope, a permanent memorial to their loved ones—the innocent 270 that perished over and in Lockerbie, Scotland on December 21, 1988. I want to thank my colleagues in the Senate and House who have worked so hard to make this legislation a reality, particularly those who served with me on the Commission—Senator LAUTENBERG, and Congressmen OBERSTAR and HAMMERSCHMIDT.

This proposal reflects a compromise package that was arrived at after long and difficult negotiations with House, Senate, and administration negotiators. While no legislation is perfect, this legislation goes a very long way to implement the Commission's recommendations. The U.S. Government's first obligation is the safety and security of its citizens and this legislation helps assure a structure by which Secretary Skinner, FAA Administrator Busey, and all their successors, can assure the safety and security of the traveling public.

I want to highlight several of the provisions of this legislation that are particularly noteworthy. One of the Commission's major findings, reflected in this legislation, was that aviation security was not sufficiently prominent within the FAA or the Department of Transportation. Elevation of the civil aviation security function, by creation of the Office of Assistant Administrator for Civil Aviation Security, reporting to the FAA Administrator is a key structural change. Likewise, elevation of security and intelligence at the Department of Transportation should help remove impediments to the development of a strategic overview and adequate information flow. Although the Commission recommended that an Assistant Secretary position be created, Secretary Skinner urged that he be left the discretion in structuring the security and intelligence position. Elevation and accountability of the function was paramount, and we have accommodated the Secretary's preference for the position's title.

A key recommendation of the Commission was its call for the creation of Federal security managers. Aviation security cannot be managed solely from Washington; on the scene managers, with ample authority, are necessary to assure that aviation security is not a confused hodgepodge of air carrier and airport procedures but is integrated into a comprehensive site-specific plan under the supervision of the FAA, through the Federal Security Managers [FSM]. At foreign airports, this role is played by a foreign security liaison officer to the extent practicable under the laws of host governments, with whose officials the liaison officer will be in close contact. Aviation security for American travelers is a U.S. Government responsibility that can be best accomplished through Federal personnel who have delegated authority from and report to the Office of Assistant Administrator. The airlines and airports play a crucial role—but that role must be coordinated under an overall security plan developed under the supervision of the FSM.

Sections 107 and 108 address the current gap in our technological capability with respect to the detection of explosive devices. The FAA needs to launch an intensive research and development effort; the R&D effort to date has been inadequate. New section 320 limits the authority of the FAA and DOT to require the deployment or purchase of explosive detection equipment. This is an important provision that follows the harsh criticism of the FAA/DOT explosive detection program leveled by the Commission.

Congress previously appropriated funds for the purchase of six explosive detection devices by the FAA. At that time, the Congress was led to believe that thermal neutron analysis [TNA] devices could reliably detect the types, quantities and configurations of explosive materials that pose a threat to civil aviation.

In October 1989, the FAA announced its plan to require the airlines initially to deploy 150 explosive detection systems [EDS] at 40 international airports served by U.S. carriers—15 in the United States and 25 abroad. The projected cost to the airlines was estimated to be $175 million, and the FAA said that the TNA and only the TNA machine met the FAA's specifications. In a letter to the Senate and House Appropriations Committees, FAA Administrator James Busey indicated that any explosive detection system that would be deployed under this plan would have to meet certain broad, minimum performance requirements:

1. The system must be able to detect all commercial and military explosives, in quantities and configurations determined by the FAA, that pose a threat to civil aviation.
2. The system must have a detection rate of at least 95 percent.
3. The system must be automated and may not rely on human judgement (sic) in detecting explosives.
4. The nuisance alarm rate may not exceed a level that is consistent with operational and security effectiveness, taking into consideration the technology involved.

Commission members and staff went to JFK Airport in New York on April 21, 1990, with three bags containing the plastic explosive semtex to see the operation of the FAA purchased TNA machine. The results of this visit, detailed in the Commission's report, were shocking. The applicable portion of the Commission's report is republished at the end of my remarks. The TNA machine purchased by the FAA could not reliably detect the amount of explosive material that destroyed Pan Am Flight 103, and could not be made sufficiently "sensitive" without unacceptably high false alarm rates.

The problem is less TNA than the FAA. When the FAA developed the specifications for explosive detection systems, it did not first determine with any scientific basis the amounts, types and configurations of explosive material that can destroy a commercial airliner. Moreover, even in the face of evidence that the Pan Am 103 bomb was 50 percent or less of the amount set in the FAA's deployment specifications, it has not altered those specifications.

The FAA's blind ambition to require the mass deployment of TNA machines remains misguided and has forced Congress to impose the scientific rigor that the FAA's policy has lacked. Accordingly, section 320 first requires the FAA to certify, based on protocols and testing developed in consultation with expert scientists in a period not to exceed 18 months, that such equipment works, that is, can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft.

We know that terrorists, using 10-year-old technology, destroyed Pan Am 103 with a small amount of semtex. The purpose of section 320 is to assure the traveling public that before hundreds of million dollar TNA machines are deployed at airports around the world that they actually can provide the protection needed and the protection the public expects. We should deploy detectors that at least can reliably detect bombs like the one that destroyed Pan Am 103. If we need a new technology to meet the threats that we face—or are likely to face—then the FAA should focus on fostering the development of the needed technology. The mass deployment of technologies that cannot do the job will be a disservice to the traveling public and will serve to freeze not foster the private sector development of bomb detectors that work.

Although an 18 month period is permitted for the development of needed tests and protocols, the FAA should be able to get the job done sooner; and the sooner the better. Pending the expiration of the 18-month period—or the completion of protocols and tests, whichever first occurs—the FAA's ability to require the deployment or purchase of explosive detection equipment is also circumscribed. Pending the completion of scientifically devel-

oped protocols and tests, reliance is placed on the sound judgement of the FAA Administrator in evaluating the detection capabilities of the equipment and if such equipment's deployment will significantly enhance aviation security. This brief interim authority is provided solely to avoid the possibility that deployment is not possible only because of the FAA's inability to complete the requisite development of protocols and the completion of testing. In no event should this interim authority be viewed as a window of opportunity to require the deployment of equipment that would not meet the substantive criteria set out in the general rule, subsection (a). Because of the deep concern and controversy that has surrounded this matter, a deployment decision under the limited interim authority contained in subsection (b) is married with a requirement to notify the appropriate congressional committees.

Nothing in this new Section 320 interferes with the Administrator's authority or ability to purchase or deploy equipment. To illustrate, should a particular threat arise, the Administrator would not be constrained, for example, from deploying one of the six TNA machines already purchased at an airport that might be the subject of a threat.

Section 109 addresses an issue of particular concern to me—public notification of credible threats to aviation security. Section 109 follows a core recommendation of the Commission's report: If some are notified of aviation threats then everyone must be notified. There can be no double standard. As the Commission itself found: "There can be no middle ground; there is no justifiable premise for any system of selective notification, whether official or informal." Section 212, which expands access to the Overseas Security Advisory Council's Electronic Bulletin Board, complements this single standard requirement.

In addition, section 109 reaffirms the Commission's judgment that there must be a national standard of notification, and that it is the Government's responsibility, on a case by case basis, to determine when and how to notify the public of credible threats. For threats to civil aviation abroad, ultimately this will be a responsibility of the Department of State; domestically, the FBI and Justice Department in coordination with the Department of Transportation.

Flight cancellation can be an alternative to notification if the threat is fairly specific. Section 109 also crystalizes the FAA Administrator's authority to cancel flights.

Section 112 addresses the question of mail and cargo. The Commission was disturbed at the extent to which our aviation system is vulnerable with respect to the transportation of mail and cargo on passenger aircraft. Ultimately the air carriers are the best hope for effective screening of mail and cargo. The bill calls on the FAA to conduct a study to determine how best to assure mail and cargo safety.

Title II of the bill focuses on the international issues primarily the bailiwick of the Department of State. The Commission's report painted an unflattering picture of the State Department's response to the Lockerbie disaster. Title II will, I hope, provide a blueprint for more effective action, so that the Pan Am 103 legacy will be a U.S. State Department that in the future helps citizens in distress and provides comfort to the families of victims. To speed the Department's ability to provide needed assistance, section 203 requires the airlines to turn over to the Department a manifest within 1 hour of an incident. Under exceptional circumstances, such as a failure of communications or computer equipment, the 1-hour time requirement can be extended, but in no event longer than to 3 hours. To assure the airlines' ability to provide the Department with the full name, passport number and emergency contact for each passenger, that information must be collected prior to boarding.

Mr. President, I ask unanimous consent that at the conclusion of my remarks there be printed in the RECORD a full list of those who died as a result of the bombing of Pan Am 103, as well as relevant portions of the report of the President's Commission on Aviation Security and Terrorism.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE VICTIMS OF PAN AM FLIGHT 103

AIRLINE STAFF

COCKPIT CREW

Captain: MacQuarrie, James Bruce, 55, Kensington, New Hampshire. American

First Officer: Wagner, Raymond Ronald, 52, Pennington, New Jersey. American

First Engineer: Avritt, Jerry Don, 46, Westminister, California. American

PURSERS

Murphy, Mary Geraldine, 51, Twickenham, England. British

Velimirovich, Milutin, 35, Hounslow, England. American

FLIGHT ATTENDANTS

Avoyne, Elisabeth Nichole, 44, Croissy-sur-Seine, France. French

Berti, Noelle Lydie, 41, Paris, France. American

Engstom, Siv Ulla, 51, Windsor, England. Swedish

Franklin, Stacie Denise, 20, San Diego, California. American

Garrett, Paul Issac, 41, Napa, California. American

Kuhne, Elke Ehta, 43, Hanover, West Germany. West German

Larracoechea, Maria Nieves, 39, Madrid, Spain. Spanish

Macalolooy, Lilibeth Tobila, 27, Kelsterbach, West Germany. American

Reina, Jocelyn, 26, Isleworth, England. American

Royal, Myra Josephine, 30, Hanwell, London, England. American

Skabo, Irja Synove, 38, Oslo, Norway. Finnish

PASSENGERS

Ahern, John Michael Gerard, 26, Rockville Center, New York. American

Aicher, Sarah Margaret, 29, London, England. American

Akerstrom, John David, 34, Medina, Ohio. American

Alexander, Ronald Ely, 46, New York, New York. Swiss

Ammerman, Thomas Joseph, 36, Old Tappan, New Jersey. American

Apfelbaum, Martin Lewis, 59, Philadelphia, Pennsylvania. American

Asrelsky, Rachel Marie, 21, New York, New York. American

Atkinson, William Garreston, 33, London, England. American

Bacciochi, Clare Louise, 19, Tamworth, England. British

Bainbridge, Harry Michael, 34, Montrose, New York. American

Barclay, Stuart Murray, 29, Farm Barnard, Vermont. Canadian

Bell, Jean Mary, 44, Windsor, England. British

Benello, Julian MacBain, 25, Brookline, Massachusetts. American

Bennett, Lawrence Ray, 41, Chelsea, Michigan. American

Bergstrom, Philip, 22, Forest Lake, Minnesota. American

Berkley, Alistair, 29, London, England. British

Bernstein, Judith Ellen, 37, London, England. American

Bernstein, Michael Stuart, 36, Bethesda, Maryland. American

Berrell, Steven Russell, 20, Fargo, North Dakota. American

Bhatia, Surinder Mohan, 51, Los Angeles, California. American

Bissett, Keneth John, 21, Hartsdale, New York. American

Boatmon-Fuller, Diane, 35, London, Englamd. American

Boland, Stephen John, 20, Nashua, New Hampshire. American

Bouckley, Glenn, 27, Liverpool, New York. British

Bouckley, Paula, 29, Liverpool, New York. American

Boulanger, Nicole Elise, 21, Shrewsbury, Massachusetts. American

Boyer, Francis, 43, Toulosane, France. French

Bright, Nicholas, 32, Brookline, Massachusetts. American

Browner (Bier), Daniel Solomon, 23, Parod, Israel. Israeli

Brunner, Colleen Renee, 20, Hamburg, New York. American

Burman, Timothy Guy, 24, London, England. British

Buser, Michael Warren, 34, Ridgefield Park, New Jersey. American

Buser, Warren Max, 62, Glen Rock, New Jersey. American

Butler, Steven Lee, 35, Denver. Colorado. American

Cadman, William Martin, 32, London, England. British

Caffarone, Fabiana, 28, London, England. British

Caffarone, Hernan, 28, London, England. Argentinian

Canady, Valerie, 25, Morgantown, West Virginia. American

Capasso, Gregory, 21, Brooklyn, New York. American

Cardwell, Timothy Michael, 21, Creso, Pennylvania. American
Carlsson, Brent Wilson, 50, New York, New York. Swedish
Cawley, Richard Anthony, 43, New York, New York. American
Ciulla, Frank, 45, Park Ridge, New Jersey. American
Cohen, Theodora Eugenia, 20, Port Jervis, New York. American
Coker, Eric Michael, 20, Mendham, New Jersey. American
Coker, Jason Michael, 20, Mendham, New Jersey. American
Colasanti, Gary Leonard, 20, Melrose, Massachusetts. American
Concannon, Bridget, 53, Banbury, England. Irish
Concannon, Sean, 16, Banbury, England. Irish
Concannon, Thomas, 51, Banbury, England. Irish
Corner, Tracey Jane, 17, Millhouses, England. British
Cory, Scott, 20, Old Lyme Court, Connecticut. American
Coursey, Willis Larry, 40, San Antonio, Texas. American
Coyle, Patricia Mary, 20, Wallingford, Connecticut. American
Cummock, John Binning, 38, Coral Gables, Florida. American
Curry, Joseph Patrick, 31, Fort Devens, Massachusetts. American
Daniels, William Allen, 40, Bell Mead, New Jersey. American
Dater, Gretchen Joyce, 20, Ramsey, New Jersey. American
Davis, Shannon, 19, Shelton, Connecticut. American
Della Ripa, Gabriel, 46, Floral Park, New York. Italian
Di Mauro, Joyce Christine, 32, New York, New York. American
Di Nardo, Gianfranca, 26, London, England. Italian
Dix, Peter Thomas Stanley, 35, London, England. Irish
Dixit, Om, 54, Fairborn, Ohio. Indian
Dixit, Shanti, 54, Fairborn, Ohio. American
Dornstein, David Scott, 25, Philadelphia, Pennsylvania. American
Doyle, Michael Joseph, 30, Voorhees, New Jersey. American
Eggleston, Edgar Howard III, 24, Glens Falls, New York. American
Ergin, Turhan, 22, West Hartford, Connecticut. American
Fisher, Charles Thomas IV, 34, London, England. American
Flick, Clayton Lee, 25, Coventry, England. British
Flynn, John Patrick, 21, Montville, New Jersey. American
Fondiler, Arthur, 33, West Armonk, New York. American
Fortune, Robert Gerard, 40, Jackson Heights, New York. American
Freeman, Paul Matthew Stephen, 25, London, England. Canadian
Fuller, James Ralph, 50, Bloomfield Hills, Michigan. American
Gabor, Ibolya Robertine, 79, Budapest, Hungary. Hungarian
Gallagher, Amy Beth, 22, Quebec, Canada. American
Gannon, Matthew Kevin, 34, Los Angeles, California. American
Garczynski, Kenneth Raymond, 37, North Brunswick, New Jersey. American
Gibson, Kenneth James, 20, Romulus, Michigan. American
Giebler, William David, 29, London, England. American
Gordon, Olive Leonora, 25, London, England. British.
Gordon-Gorgacz, Linda Susan, 39, London, England. American
Gorgacz, Anne Madelene, 76, Newcastle, Pennsylvania. American
Gorgacz, Loretta Anne, 47, Newcastle, Pennsylvania. American
Gould, David, 45, Pittsburgh, Pennsylvania. American
Guevorguian, André Nikolai, 32, Sea Cliff, New York. American
Hall, Nicola Jane, 23, Sandton, South Africa. Australian
Halsch, Lorraine Frances, 31, Fairport, New York. American
Hartunian, Lynne Carol, 21, Schenectady, New York. American
Hawkins, Anthony Lacey, 57, Brooklyn, New York. British
Herbert, Pamela Elaine, 19, Battle Creek, Michigan. American
Hilbert, Rodney Peter, 40, Newton, Pennsylvania. American
Hill, Alfred, 29, Sonthofen, West Germany. West German
Hollister, Katherine Augusta, 20, Rego Park, New York. American
Hudson, Josephine, 22, London, England. British
Hudson, Melina, 16, Albany, New York. American
Hudson, Sophie Ailette Miriam, 26, Paris, France. French
Hunt, Karen Lee, 20, Webster, New York. American
Hurst, Roger Elwood, 38, Ringwood, New Jersey. American
Ivell, Elizabeth Sophie, 19, Robertsbridge, England. British
Jaafar, Khalid Nazir, 20, Dearborn, Michigan. Lebanese/American
Jeck, Robert van Houten, 57, Mountain Lakes, New Jersey. American
Jeffreys, Paul Avron, 36, Kingston-upon-Thames, England. British
Jeffreys, Rachel, 23, Kingston-upon-Thames, England. British
Jermyn, Kathleen Mary, 20, Staten Island, New York. American
Johnson, Beth Ann, 21, Greensburg, Pennsylania. American
Johnson, Mary Alice Lincoln, 25, Wayland, Massachusetts. American
Johnson, Timothy Baron, 21, Neptune, New Jersey. American
Jones, Christopher Andrew, 20, Claverack, New York. American
Kelly, Juliane Frances, 20, Dedham, Massachusetts. American
Kingham, Jay Joseph, 44, Potomac, Maryland. American
Klein, Patricia Ann, 35, Trenton, New Jersey. American
Kosmowski, Gregory, 40, Milford, Michigan. American
Kulukundis, Minas Christopher, 38, London, England. British
Lariviere, Ronald Albert, 33, Alexandria, Virginia. American
Leckburg, Robert Milton, 30, Piscataway, New Jersey. American
Leyrer, William Chase, 46, Bay Shore, New York. American
Lichtenstein, Joan Sherree, 46, New York, New York. American
Lincoln, Wendy Anne, 23, North Adams, Massachusetts. American
Lowenstein, Alexander Silas, 21, Morristown, New Jersey. American
Ludlow, Lloyd David, 41, Macksville, Kansas. American
Lurbke, Maria Theresia, 25, Balve Beckum, West Germany. West German
McAllister, William John, 26, Sunbury-on-Thames, England. British
McCarthy, Daniel Emmet, 31, Brooklyn, New York. American
McCollum, Robert Eugene, 61, Wayne, Pennsylvania. American
McKee, Charles Dennis, 40, Arlington, Virginia. American
McLaughlin, Bernard Joseph, 30, Bristol, England. American
Mack, William Edward, 30, New York, New York. American
Malicote, Douglas Eugene, 22, Lebanon, Ohio. American
Malicote, Wendy Gay, 21, Lebanon, Ohio. American
Marek, Elizabeth Lillian, 30, New York, New York. American
Marengo, Louis Anthony, 33, Rochester, Michigan. American
Martin, Noel George, 27, Clapton, England. Jamaican
Maslowski, Diane Marie, 30, New York, New York. American
Melber, Jane Susan, 27, Middlesex, England. American
Merrill, John, 35, Hertfordshire, England. British
Miazga, Susanne Marie, 22, Marcy, New York. American
Miller, Joseph Kenneth, 53, Woodmere, New York. American
Mitchell, Jewel Courtney, 32, Brooklyn, New York. American
Monetti, Richard Paul, 20, Cherry Hill, New Jersey. American
Morgan, Jane Ann, 37, London, England. American
Morson, Eva Ingeborg, 48, New York, New York. American
Mosey, Helga Rachael, 19, Warley, England. British
Mulroy, Ingrid Elizabeth, 25, Lund, Sweden. Swedish
Mulroy, John, 59, East Northport, New York. American
Mulroy, Sean Kevin, 25, Lund, Sweden. American
Noonan, Karen Elizabeth, 20, Potomac, Maryland. American
O'Connor, Daniel Emmett, 31, Boston, Massachusetts. American
O'Neil, Mary Denice, 21, Bronx, New York. American
Otenasek, Anne Lindsey, 21, Baltimore, Maryland. American
Owen, Bryony Elise, 1, Bristol, England. British
Owen, Gwyneth Yvonne Margaret, 29, Bristol, England. British
Owens, Laura Abigail, 8, Cherry Hill, New Jersey. American
Owens, Martha, 44, Cherry Hill, New Jersey. American
Owens, Robert Plack, 45, Cherry Hill, New Jersey. American
Owens, Sarah Rebecca, 14, Cherry Hill, New Jersey. American
Pagnucco, Robert Italo, 51, South Salem, New York. American
Papadopoulos, Christos Michael, 45, Lawrence, New York. Greek/American
Peirce, Peter Raymond, 40, Perrysburgh, Ohio. American
Pescatore, Michael, 33, Solon, Ohio. American
Philipps, Sarah Susannah Buchanan, 20, Newtonville, Massachusetts. American
Phillips, Frederick Sandford, 27, Little Rock, Arkansas. American
Pitt, James Andrew Campbell, 24, South Hadley, Massachusetts. American
Platt, David, 33, Staten Island, New York. American

Porter, Walter Leonard, 35, Brooklyn, New York. American
Posen, Pamela Lynn, 20, Harrison, New York. American
Pugh, William, 56, Margate, New Jersey. American
Quiguyan, Estrella Crisostomo, 43, London, England. Filipino
Ramses, Rajesh Trasis Priskel, 35, Leicester, England. Indian
Rattan, Anmol, 2, Warren, Michigan. American
Rattan, Garima, 29, Warren, Michigan. American
Rattan, Suruchi, 3, Warren, Michigan. American
Reeves, Anita Lynn, 24, Laurel, Maryland. American
Rein, Mark Alan, 44, New York, New York. American
Rencevicz, Diane Marie, 21, Burlington, New Jersey. American
Rogers, Louise Ann, 20, Olney, Maryland. American
Roller, Edina, 5, Hungary. Hungarian
Roller, Janos Gabor, 29, Hungary. Hungarian
Roller, Zsuzsana, 27, Hungary. Hungarian
Root, Hanne Maria, 26, Toronto, Canada. Canadian
Rosen, Saul Mark, 35, Morris Plains, New Jersey. American
Rosenthal, Andrea Victoria, 20, New York, New York. American
Rosenthal, Daniel Peter, 20, Staten Island, New York. American
Rubin, Arnaud David, 28, Waterloo, Belgium. Belgian
Saraceni, Elyse Jeanne, 20, East London, England. American
Saunders, Scott Christopher, 21, Macungie, Pennsylvania. American
Saunders, Theresa Elizabeth, 28, Sunbury-on-Thames, England. British
Schauble, Johannes Otto, 41, Kapppellenweg, West Germany. West German
Schlageter, Robert Thomas, 20, Warwick, Rhode Island. American
Schultz, Thomas Britton, 20, Ridgefield, Connecticut. American
Scott, Sally Elizabeth, 20, Huntington, New York. British
Shapiro, Amy Elizabeth, 21, Stamford, Connecticut. American
Shastri, Mridula, 24, Oxford, England. Indian
Sigal, Irving Stanley, 35, Pennington, New Jersey. American
Simpson, Martin Bernard Carruthers, 52, Brooklyn, New York. American
Smith, Cynthia Joan, 21, Milton, Massachusetts. American
Smith, Ingrid Anita, 31, Berkshire, England. British
Smith, James Alvin, 55, New York, New York. American
Smith, Mary Edna, 34, Kalamazoo, Michigan. American
Stevenson, Geraldine Anne, 37, Esher, England. British
Stevenson, Hannah Louise, 10, Esher, England. British
Stevenson, John Charles, 38, Esher, England. British
Stevenson, Rachael, 8, Esher, England. British
Stinnett, Charlotte Ann, 36, New York, New York. American
Stinnett, Michael Gary, 26, Duncanville, Texas. American
Stinnett, Stacey Leeanne, 9, Duncanville, Texas. American
Stow, James Ralph, 49, New York, New York. American
Stratis, Elia G., 43, Montvale, New Jersey. American
Swan, Anthony Selwyn, 29, Brooklyn, New York. Trinidadian
Swire, Flora Margaret, 24, London, England. British
Tager, Marc Alex, 22, London, England. British
Tanaka, Hidekazu, 26, London, England. Japanese
Teran, Andrew Alexander, 20, New Haven, Connecticut. British/Peruvian
Thomas, Arva Anthony, 17, Detroit, Michigan. American
Thomas, Jonathan Ryan, 2 months, Southfield, Michigan. American
Thomas, Lawanda, 21, Southfield, Michigan. American
Tobin, Mark Lawrence, 21, North Hempstead, New York. American
Trimmer-Smith, David William, 51, New York, New York. American
Tsairis, Alexia Kathryn, 20, Franklin Lakes, New Jersey. American
Valentino, Barry Joseph, 28, San Francisco, California. American
van Tienhoven, Thomas Floro, 45, Buenos Aires, Argentina. Argentinian
Vejdany, Asaad Eidi, 46, Great Neck, New York. American
Vrenios, Nicholas Andreas, 20, Washington, D.C. American
Vulcu, Peter, 21, Alliance, Ohio. American
Waido, Janina Jozefa, 61, Chicago, Illinois. American
Walker, Thomas Edwin, 47, Quincy, Massachusetts. American
Weedon, Kesha, 20, Bronx, New York. American
Weston, Jerome Lee, 45, Baldwin, New York. American
White, Jonathan, 33, North Hollywood, California. American
Williams, Bonnie Leigh, 21, Crown Point, New York. American
Williams, Brittany Leigh, 2 months, Crown Point, New York. American
Williams, Eric Jon, 24, Crown Point, New York. American
Williams, George Waterson, 24, Joppa, Maryland. American
Williams, Stephanie Leigh, 1, Crown Point, New York. American
Wolfe, Miriam Luby, 20, Severna Park, Maryland. American
Woods, Chelsea Marie, 10 months, Willingboro, New Jersey. American
Woods, Dedera Lynn, 27, Willingboro, New Jersey. American
Woods, Joe Nathan, 28, Willingboro, New Jersey. American
Woods, Joe Nathan, Jr., 2, Willingboro, New Jersey. American
Wright, Andrew Christopher Gillies, 24, Surrey, England. British
Zwynenburg, Mark James, 29, West Nyack, New York. American

RESIDENTS OF LOCKERBIE

Flannigan, Joanne, 10.
Flannigan, Kathleen Mary, 41.
Flannigan, Thomas Brown, 44.
Henry, Dora Henrietta, 56.
Henry, Maurice Peter, 63.
Lancaster, Mary, 81.
Murray, Jean Aitken, 82.
Somerville, John, 40.
Somerville, Lyndsey Ann, 10.
Somerville, Paul, 13.
Somerville, Rosaleen Later, 40.

RESEARCH AND DEVELOPMENT

The increasing sophistication of terrorists, and their ability to exploit technological improvements, makes effective detection of weapons and explosive devices critical to aviation security. The challenge for the FAA has been to meet that sophistication and anticipate those improvements by the development of effective detection technologies.

Unfortunately, FAA has not met this challenge. The agency has not planned for the future, but rather has reacted to past events. Long lead times in technological development demand that the United States stay ahead of the threat rather than lag behind it. Only a massive effort now will bring out technology ahead of the destructive devices of terrorist adversaries.

Different techniques exist for the interdiction of explosives carried on passengers, in passenger baggage and in cargo. X-ray technology looks for a particular geometry of a bomb. Other technologies measure the physical or chemical properties of the contents of a bag without opening it, or sniff the vapors or particles emanating from the bag. Magnetometers are used to detect metal carried on passengers. The dominant technologies now employed are magnetometers to screen passengers and X-rays to screen baggage.

Since at least the early 1980s, however, terrorists have used plastic explosives as their preferred bomb material. Large quantities of semtex, a particularly powerful plastic explosive compound, are available to terrorists. The President of Czechoslovakia recently confirmed that his country under the previous regime had sold 1,000 tons of semtex to Libya,[1] and noted that it takes only a very small amount of semtex to destroy a jumbo jet. With at least 1,000 tons of "untagged" semtex in the world, therefore, any international agreement to identify plastic explosives in the manufacturing process, even if enforceable, would offer only distant hope to air travelers.

Plastic explosives pose serious problems for detection. They have no metal content, which traditional detection devices can reliably discern.[2] Semtex bombs can be shaped to fit into items like radios, or formed into thin sheets in luggage, making detection even more difficult. In short, these weapons defy reliable detection by X-ray, or any other equipment now operational at airports.

Most of the latest devices for the effective detection of explosives measure the physical or chemical properties of a bag's contents to detect the presence of organic explosives containing nitrogen, such as semtex. The best known of these devices is the thermal neutron analysis (TNA) machine, which we discuss below in detail. Other nuclear-based technologies include time-of-flight, neutron-gamma techniques and resonance absorption analysis.

Since TNA equipment uses nuclear radiation, albeit in very small quantities, it is unsuitable for screening passengers or carry-on luggage. Vapor-detector technology is very sensitive and discriminating and may offer real promise for detecting plastic explosives concealed on people. To date none has been fully developed or tested to determine whether it can function within acceptable levels of speed and sensitivity at airports.

The Commission is also aware of a device that will soon become available commercially to identify explosives by spotting the lead and mercury used in detonators. Backscatter X-ray equipment, which promises to be

[1] Footnotes at end of article.

far more discriminating than the standard X-ray equipment currently in use, is also nearing production. The potential of electromagnetic technologies for explosives detection is not yet known.

It is evident, therefore, that new technologies now being developed offer great promise of effective plastic bomb detection in luggage and on passengers, but more research must be performed. Until such technologies are scientifically tested, they are promises at best.

Cargo placed aboard an aircraft can theoretically be checked by a TNA device or by vapor-detection. In practice those technologies, however, have not been adapted to cargo screening. The FAA specifications for TNA equipment, for example, anticipate its use for suitcases no more than 16 inches wide, but not for the larger boxes, crates or containers used for cargo.

One foreign airline uses atmospheric-pressure chambers to examine all cargo carried on their planes. Within the chamber, the cargo is pressure "landed" as often as the flight will land, and it is "flown" to the altitude the plane will reach. This process might delay dispatch of cargo for a day, but it warrants serious attention. Unfortunately, the FAA has not adopted a program for serious screening of air cargo at airports. Therefore, neither industry nor the FAA has focused on techniques to screen cargo effectively for explosives.

Beginning in 1985, FAA greatly expanded its research in the threat posed by explosive devices carried or placed aboard aircraft. This shift occurred roughly 30 years after the first bombing of a U.S. commercial aircraft. In 1988, the FAA asked the National Academy of Sciences to evaluate its research programs in explosive-detection systems. The Academy's report has not yet been submitted.

FAA's major R&D effort to counter the explosive threat has been focused on development of a thermal neutron analysis machine. Science Applications International Corporation (SAIC) won an FAA design competition for TNA in 1985, and in 1988 was awarded an FAA production contract.[3]

At the time of the initial design competition and the subsequent production contract, the FAA required that any electronic detection system (EDS) machine be able to detect certain amounts of known explosive materials. The FAA set these amounts without any scientifically-based study. Rather, the specification represented the best guess of FAA personnel based on their accumulated experience with aviation bombs. No computer modeling was performed to arrive at this specification. No instrumented testing was performed on aircraft hulls to determine the minimum amount of explosive that would destroy given airplane models.

Accordingly, without first knowing what it really needed to guard against, the FAA launched a multi-million dollar development program that has dominated the R&D expenditures of the agency ever since. The FAA's specifications were, at best, of doubtful utility, for terrorists had been using plastic bombs at least since 1982 that are lighter than the weight specifications for detection of plastic explosives by an EDS machine.

Pan Am Flight 103 was destroyed in December 1988 by what almost all authorities agree was less than half the amount of plastic explosive material the TNA machine is expected to reliably detect. Nevertheless, the FAA still has not changed the specifications for explosive-detection devices in any respect. The TNA machine manufactured by SAIC remains the only machine qualified under this outdated standard.

Despite these drawbacks to TNA and the absence of any other approved explosive-detection system, FAA issued a rule effective October 5, 1989, permitting it to require U.S. air carriers to use explosive-detection systems to screen checked baggage for international flights. FAA intends to require deployment within the next two years of 150 TNA or other EDS systems at approximately 40 international airports (15 domestic airports and 25 abroad) served by U.S. carriers.[4] FAA believes this action will create an incentive for manufacturers to make technological advances and produce smaller, less costly EDS equipment.[5] FAA did not provide the Commission with any factual basis for that belief.

Absent the use of the TNA machine, the FAA Administrator states, there is no effective check today for plastic explosives in baggage. Passenger safety, he argues, dictates deployment of TNA simply because it is the best available device.

The Commission disagrees. The inescapable fact is that today's TNA machines cannot, without an unacceptably high rate of false positive alarms, detect the amount of semtex widely believed to have blown up Pan Am 103.

The TNA machine produced under the SAIC contract, although never scientifically tested, was approved by the Administrator of FAA for use as meeting the specifications for the detection of plastic and other explosives in checked luggage. This was done without approval from FAA's Technical Center that the TNA met the EDS standards.

The FAA has purchased six of these machines, each combined with a special X-ray unit, called Xenis, to provide a dual-sensor system.[6] The first machine has been installed at JFK International Airport, in New York City, and is being used by TWA to screen interline and intraline baggage for its international flights. Of the five additional machines, one is being installed in Miami International Airport, another is to be installed at Gatwick in London, and the FAA is negotiating for the placement of the additional three machines in U.S. and foreign airports.

The Commission notes that although the FAA's specification for an EDS system requires that it be fully automated, addition of the Xenis X-ray, approved by the FAA, requires operators to oversee the detection process using the SAIC TNA/Xenis equipment. The machine is not, therefore, fully automated.

The Commission viewed the TNA-Xenis machine in use in the TWA terminal area at JFK Airport on April 21, 1990. The Commission staff arranged to test the machine with three suitcases containing various amounts of semtex: an amount equal to the EDS specification; an amount equal to 60 per cent of that amount and an amount equal to 30 per cent of that amount. The amount of semtex believed to have destroyed Pan Am 103 was between 30 and 60 per cent of the EDS specification. Even though the TNA machine at JFK has been undergoing testing at JFK since mid-1989, this was the first time it had been tested at the airport using actual explosive material. Instead, the testing has consisted of strapping simulated explosives onto the outside of suitcases.

The results of the Commission's tests were startling. Although calibrated to detect the EDS specification set out by the FAA, the TNA machine failed to detect the explosive in two out of 10 passes; it failed to detect the amount equal to 60 percent of the EDS specification seven out of eight passes; and it failed to detect 30 per cent of the EDS specification on any of eight passes.

The Commission learned from SAIC personnel present at the JFK test that the TNA-Xenis machine can usually detect semtex in the amounts set forth in the FAA rule 80 percent of the time. False positives (bags that falsely alarm the system and need to be opened to be sure they do not contain explosives) are reduced by running bags through the system a second time. Thus, if 100 bags with explosives are tested, an 80 percent detection rate will let 20 bags go through undetected on the first pass. The second pass will permit an additional 16 bags to go through undetected (80 percent of the remaining 80) for a 64 percent total detection rate.[7]

The SAIC equipment can apparently be adjusted to discern smaller quantities of plastic explosive, similar to the quantity thought to have been used to destroy Pan Am 103. But when it is so adjusted, the rate of false alarms rises sharply, far in excess of the acceptable false-alarm rate permitted under the FAA's EDS specifications. This false identification rate would require that a very large number of bags be opened in the presence of the passengers, a time-consuming task. This prospect argues for the placement of the TNA machines in the terminal area where passengers are processed, but because of its massive weight and size, and because it uses nuclear radiation, this might not always be feasible.

The FAA claims that the order requiring airlines to deploy EDS equipment will stimulate new technologies that may outperform the TNA.[8] This belief appears to the Commission to be unfounded. To require airlines within the next two years to spend $175,000,000 for the SAIC TNA-Xenis machines will inevitably stifle interest in developing new and superior technologies.

Until the threat is scientifically defined and machines capable of countering that threat are approved, widespread deployment of the SAIC TNA machine would mislead the flying public by offering a false sense of protection. The facts argue strongly instead for the FAA to suspend the proposed SAIC TNA deployment by the carriers, to continue to improve the various technologies, and to quickly reach a valid scientific determination of the threat to be countered by such equipment.

In the interim, the FAA needs to bridge the gap between what can destroy aircraft and what can be reliably detected by addressing some fundamental questions. Can steps be taken to modify airframes to minimize the damage that would otherwise be caused by explosive devices? Should manufacturers be encouraged to develop hardened baggage containers for use on specific routes, and what material would be appropriate for that purpose? Should efforts be made to isolate and protect the "avionics" bay in aircraft to safeguard sensitive electronic and navigational equipment? Should all aircraft electronic equipment be specially located in the least vulnerable location of the cargo hold? The best and most inventive minds in science and industry need to answer these questions. While the Commission agrees that the nation cannot wait for the perfect detection device, the quest for it can at least start by asking the right questions.

FAA has used R&D funds in modest amounts for development of vapor-detection systems for screening passengers for concealed plastic explosives. A prototype machine was tested at Boston's Logan Airport in 1988 and proved unacceptably slow. Thus far, FAA has not approved any equipment to detect plastic explosives being carried on the person of a passenger, nor any equipment suitable for use at boarding gates to screen for plastic explosives in carry-on luggage.

After at least five years of experience in developing a device to detect plastic explosives used to destroy aircraft, the FAA is now asking industry and the academic community for research proposals for possible future development. The FAA for years did not have a continuing scientific and engineering advisory committee of independent, acknowledged experts to advice on its research programs.

As of the Commission's Hearing on April 4, 1990, no FAA detection equipment, including the current generation of TNA machines, had been tested by independent authorities under scientifically-developed testing protocols. Scientists told the Commission that such testing should become routine for FAA approval of any new equipment, including the TNA machines. To provide assurance of impartiality, the Commission was urged to recommend that the testing board should be independent of the FAA or DOT, and comprised of scientists and engineers without commercial interest in the results of any tests. The Commission believes that the establishment of such a board is vital.

The Commission concludes that the security of the nation and the traveling public have not been adequately served by the FAA's R&D activities. The FAA must give higher priority and allocate more federal funds to R&D. The FAA must seek independent scientific advice for its research and testing activities, while paying closer attention to the establishment of training standards for surveillance personnel. Until all of these efforts produce better detection equipment, manned by skilled personnel, multiple approaches to detection offer the best approach.

RECOMMENDATIONS

1. FAA should undertake a vigorous effort to marshal the necessary expertise to develop and test effective explosive-detection systems.

2. The FAA should establish an expert panel of persons from the national laboratories, other government agencies, academia and industry to oversee the design and development of this high priority initiative.

3. The FAA should undertake an extensive program of research and experimentation with the structure of aircraft to determine the kind and the minimum weight of explosives which must be detected by any technology.

4. In the interim, the requirement for widespread use of present TNA equipment should be deferred while the technology is developed further.

5. The FAA should conduct research to develop the means of minimizing airframe damage that may be caused by small amounts of explosives.

6. To avoid the undesirable reliance on any single commercial source for TNA equipment, the FAA must make every possible effort to encourage the development of additional sources.

7. FAA must think ahead and anticipate how to counter the next generation of terrorist weapons before they are used to kill innocent people.

FOOTNOTES

[1] "The Washington Post" (March 23, 1990).

[2] Prepared Statement of Professor Lee Grodzins, Commission Hearing, February 2, 1990, pp. 11 and 14.

[3] 55 Fed. Reg. 36938-36946 (September 5, 1989).

[4] Testimony of Raymond Salazar, Director of FAA's Office of Civil Aviation Security, and Monte Belger, FAA's Associate Administrator for Aviation Standards, Commission Hearing, February 2, 1990, pp. 153-155, and 157-158.

[5] Testimony of Admiral James B. Busey, Commission Hearing, April 4, 1990, pp. 361-62.

[6] The first six TNA production units cost over $1,000,000 each. The six X-ray units produced under the SAIC contract cost $2,042,000. Installation, maintenance, and indemnification/insurance costs also add to the installed cost of the TNA, enhanced by the use of the Xenis X-ray devices.

[7] At the lower weights of explosives, virtually all the bags will go through undetected.

[8] Testimony of Monte Belger, Commission Hearing, February 2, 1990, pp. 157-158.

Mr. D'AMATO. Mr. President, we owe a great debt of gratitude to the families of the victims of Pan Am 103. I wish to take the opportunity to commend my colleague, Senator LAUTENBERG, for his dedication, not only in the drafting of this legislation, but in his work on the President's Commission on Aviation, Security and Terrorism. I was pleased to serve with him. I want to thank our distinguished majority leader, as well as our Republican leader, Senators HOLLINGS and DANFORTH, as well as Senator BYRD, and all those who have made it possible for this legislation to be enacted when many said it could not be done. It is not the panacea to all terrorist attacks that may occur in the future, but it goes a long way toward recognizing the kinds of things we can and should be doing.

I have certain concerns as they relate to the direction we are headed in the deployment of sophisticated equipment to detect terrorist explosive devices. Nevertheless, this is a compromise package that was arrived at after long and difficult negotiations with House, Senate, and administration negotiators. It is legislation which, while not perfect, begins to move us in the right direction toward dealing with terrorists that would hold Americans captive. We must ensure that Americans receive the security to which they are entitled while traveling.

Mr. DODD. Mr. President, almost 2 years ago, a terrorist bomb destroyed Pan Am flight 103 over Scotland, snatching life from 270 innocent people and inflicting immeasurable grief upon the families and friends of the victims. Although headlines about the terrorist attack faded from the front pages, many of those close to the victims made a commitment to answer the lingering questions and improve overall airport and airline security.

It is thanks in large part to the unrelenting efforts of these family members and friends—many of them from Connecticut—that the shortcomings in American aviation safety are being addressed today with the passage of the Aviation Security Improvement Act of 1990.

The President's Commission on Aviation Security and Terrorism, in its report of May 15, implicated the failure of the U.S. civil aviation security system in the bombing of Pan Am 103. The panel's recommendations included giving the Federal Aviation Administration's security office a greater role, creating an Assistant Secretary for Security and Intelligence at the Department of Transportation, boosting funds for research and development for bomb detectors, and strengthening cooperation among the FAA, Department of Transportation and the State Department. The passage of S. 2822, which incorporates many of the Commission's recommendations, assures the kind of improvements to safety and security deserved by passengers on U.S. air carriers.

Mr. President, the tragedy of flight 103 should never have occurred. Tougher security measures could have prevented it. My hope, and the hope of the families and friends of the flight 103 victims, is that passage of this important measure today will prevent such tragedies in the future.

Mr. LIEBERMAN. Mr. President, I would like to second the remarks of Senators LAUTENBERG and D'AMATO about the work performed by the families of the victims of the Pam Am 103 tragedy. The passage of the Aviation Security Improvement Act of 1990 is a tribute to their courage and tenacity.

I would also like again to commend Senators LAUTENBERG and D'AMATO for pressing this legislation to passage, as well as the work of the Commission on Aviation Security and Terrorism whose conclusion became the basis for the Aviation Act. I am glad to know that the Commission's conclusions have been largely accepted by the various executive agencies concerned with the tragedy.

I also would like to congratulate my colleagues and our Senate leaders for supporting the Aviation Act. I have discussed the necessity of this bill with many of them since coming to the Senate. They were, almost without exception, in favor of such a bill.

Terrorism in the air remains a danger that must be combated through technological progress and human vigilance. While success in stopping terrorism is not certain, it is possible. In fact, we have succeeded in reducing dramatically the number of airline hijackings since the 1970's.

Now we must step up our efforts to prevent bombs from being placed on board aircraft like Pan Am 103. This will make a significant contribution towards that end by, among other things, improving standards for security personnel, accelerating research and development of bomb detection devices, and strengthening require-

ments for handling checked and carry-on baggage.

This bill is not a panacea, but it is a significant step in the right direction. Some of the bravest families in the United States helped make it possible. They persevered so that others would not suffer the same fate that their loved ones did. Our hearts have always gone out to them. After today, we owe them our gratitude as well.

The PRESIDING OFFICER. The Senate Republican leader is recognized.

Mr. DOLE. Mr. President, I thank my colleague from New Jersey, Senator LAUTENBERG, and also my colleague from New York, Senator D'AMATO and the Senator from West Virginia, the distinguished President pro tempore, for allowing us to consider this bill.

Mr. President, I am very pleased the Senate has passed H.R. 5732, a bill to promote and strengthen aviation security. This legislation is the result of the President's Commission on Aviation Security which was established, in part, at the request of family members and friends of the victims of the Pan Am 103 flight which was bombed over Lockerbie, Scotland and of Korean Air Flight 007 which was shot down by the Soviet Union.

These surviving friends and relatives are to be complimented for their unceasing efforts to guard against future acts of aggression taken upon commercial air passengers. There is probably no place I can think of where people are more vulnerable than while traveling aboard an aircraft and, therefore, I am proud that we have moved this legislation along with great speed.

Mr. President, in the summer of 1989, I was visited by Mrs. Victoria Cummock, who lost her husband on Pan Am flight 103. She told me of the problems faced by all family members. The stories were horrifying, beginning with problems experienced when dealing with the State Department, with recovering belongings, with a lack of assistance in receiving compensation, with being left with an almost complete lack of information on how or why this tragedy occurred.

At my request, Mrs. Cummock met with the majority leader, and we both decided a complete review was warranted. Secretary of Transportation Skinner sent representatives to Capitol Hill and negotiations began with other family members, led by Mr. Paul Hudson. Soon thereafter, the President took the initiative to issue Executive Order 12687, which established the Commission on Aviation Safety. The Senate was most ably represented by Senator AL D'AMATO and Senator FRANK LAUTENBERG.

The Commission first met on August 4, 1989, and released its report on May 15 of this year. Following the recommendations, legislation was introduced in both Houses of Congress. Today, I am proud that a compromise solution has been worked out and that we can send this bill to the House for its approval prior to our adjournment for the year.

Mr. President, there are many people who can take credit in this initiative. First and foremost, the dedicated and tireless efforts of the family members is most responsible for this success. Second, President Bush, the majority leader, Secretary Skinner and Senators D'AMATO and LAUTENBERG were vital in moving on this matter with such speed. Finally, the many members of the airline industry, employees of the Department of Transportation and other executive branch agencies and the many others who helped with the Commission and in drafting this legislation deserve our gratitude.

I would like to take just a minute to explain that, to many, the process of Government moves at a snail's pace. There are many bumps and hurdles along the road. Those involved with the process on this bill have been frustrated and, at times, felt defeated. Rumors of lies and deceit were rampant. But, the process worked—the goal has been achieved. Those whose innocent lives have been taken now have a living legacy.

Mr. President, I also thank Mrs. Ann McLaughlin, who was Chairman of this Commission. In my view she did an outstanding job.

Mr. President, this has been a long time coming, but it is worthwhile legislation, very important, very significant. I thank my colleagues for allowing it to be brought to the Senate floor.

I thank the President pro tempore.

Mr. BYRD. Mr. President, I thank the Republican leader.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I do not want to cut off any Senators who want to speak on this. I ask that any further consideration of this matter be limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Oregon is to be recognized to offer his amendment.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Senator from West Virginia is recognized.

Mr. BYRD. On the matter before the Senate. Has the bill been advanced to third reading and passed?

The PRESIDING OFFICER. The bill was read a third time and passed.

Mr. BYRD. I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I hope that the Senate will now continue its consideration of the appropriations bill. I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I know the Senator from Michigan wants a few moments, and I am prepared to yield to him—I think he has asked for 3 minutes—so long as I not lose my right to the floor. I ask unanimous consent that I yield 3 minutes to the Senator from Michigan without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

ETHICS COMMITTEE PUBLIC HEARINGS

Mr. RIEGLE. Mr. President, I rise to support today's decision by the Ethics Committee to hold public hearings next month in the case before it. I want all the facts out in the open, and this will now allow that to happen.

I think it is significant today that the committee indicated, after lengthy examination, that they have not made any findings of improper conduct or of any rules violations in this matter.

I have fully supported this inquiry, and I have provided the committee many months ago with all of the information known to me. Their decision today to have an open public hearing, I think, is a good decision. It will allow all of the relevant facts to be put fully out in the open where every citizen can see them and make their own judgment. I know what the facts are that pertain to me. While virtually all these facts are already a matter of public record, it is important that they be presented fully and in the context of the relevant events and circumstances.

For many months now, I have been unable to speak out because I have been bound by the pledge of confidentiality that the committee imposed upon all of us until it completes its work. I have scrupulously honored that requirement, and I will continue to do so. That requirement has made it impossible to be able to respond adequately to certain false charges and inaccuracies and misleading characterizations that have appeared in the press. That has been extremely frustrating.

I want to acknowledge the members of the Ethics Committee for their diligence and hard work in what is clearly a demanding and thankless task. It has been an ordeal for them as for the five of us.

As all of us here know, public service is a family business, and the privilege and burden of service falls with equal weight upon our families. When difficulties arise, it is hardest upon our families, who must be very strong and, in turn, give their strength to us. I have been very fortunate in that

regard. My wife, Lori, particularly and my family as a whole have been like iron this last year, and I am deeply grateful to them.

I thank the Senator and I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

The Senate continues with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I am glad to try to engage the appropriations chairman to see if we can get a time agreement on this bill. I am receptive to one if others are.

Mr. BYRD. Mr. President, I think that eventually, hopefully not too far into the future, there will be a possibility of getting a time agreement at least on the spotted owl amendment. But for the moment that would not be possible.

Mr. PACKWOOD. I thank the majority leader.

Mr. BYRD. I thank the distinguished Senator.

Mr. PACKWOOD. Mr. President, it is my intention to very shortly offer an amendment to attempt to legislatively initiate the Endangered Species Committee. Before I propose the amendment, let me give you a background of the Endangered Species Committee, how it came into the law and how it became part of the Endangered Species Act.

The creation of the committee, the attempt to initiate is not a propagation of the act. It is in the act itself. Here is what happened. In the late 1960's, Congress authorized a bill to build a dam called the Tellico Dam in Tennessee. All dams have opponents, of course. It does not matter where they are built—somebody is going to be flooded out, some Indian fishing rights are going to be affected, and there are always opponents to dams. There were objections to the authorization, objections to the appropriation that Congress authorized and appropriated when the dam was started to be constructed.

In 1973, we passed the Endangered Species Act. At this stage, the Tellico Dam was being built. Lawsuits had been brought to attempt to stop the dam, unsuccessfully. Then, one of the plaintiffs hit upon the fact that the Endangered Species Act provided that if an animal, a bird, or any critter, could be found to be threatened or endangered, you could use that to stop a Federal action.

So, midway along in the suit, the issue of the snail darter was raised, the concern being that this dam might threaten or endanger the snail darter. The Fish and Wildlife Service intervened, and they finally decided that it would endanger the snail darter. The issue was then raised in court. This was the irony, however, in this particular suit. It was not the construction of the dam per se that was going to injure the snail darter. It was when the dam was done, the gate was dropped, and the stream in which the snail darter existed was flooded out by a reservoir. That would be the damaging action.

So, the court properly said we are not going to enjoin the construction of the dam, we will let that go ahead. What the court had to consider is whether or not we should allow the final gate to be closed, and the stream to be flooded. So the dam was finished. At this stage the court said you cannot drop the gate.

All the money is in the dam. It is now built but you cannot drop the gate because it will flood the stream, and it will make the snail darter disappear. At this stage, the issue came to Congress.

In 1978, Senator Culver of Iowa, who was then the chairman of the Environment Subcommittee had jurisdiction of this, and Senator Baker offered an amendment to create what was known as the Endangered Species Committee.

The reason the proponents wanted to create it was because under the Endangered Species Act the only thing that the Fish and Wildlife Service could consider was the pure issue of science, nothing else; not what would be the effect on communities, not what would be the effect on flood control or navigation or irrigation or anything else; just the science of whether the flooding of this stream making it a reservoir would threaten or endanger the snail darter.

Senator Culver and Senator Baker offered an amendment to the act to not only create what was known as the Endangered Species Committee, but to immediately legislatively convene. I might quote what Senator Culver said at the time that he created it:

> The bill also contains a provision which is intended to provide a mechanism for the resolution of conflicts which might arise between the Endangered Species Act's mandate to protect and manage endangered and threatened species and other legitimate national goals and priorities such as providing energy, economic development, and other benefits to the American people.

The amendment was eventually adopted in conference, and the statutory committee was created. The committee consists of the Secretary of Agriculture, Secretary of the Interior, Secretary of the Army, Administrator of the Environmental Protection Administration, Chairman of the Council of Economic Advisers, the Administrator of the National Oceanic and Atmospheric Administration, and one individual from each affected state which should vote as one collectively with a seven-person committee, and five would have to agree on its recommendations. The Secretary of the Interior chaired the committee.

At the time of its creation, the Director of the Fish and Wildlife Service, Lynn Greenwalt, said, this proposal provided a practical mechanism for resolving otherwise irresolving confrontation so long as the consultation process remains strong.

The Washington Post said, all and all there is far more balance and perceptiveness in the careful review process that Senators John Culver and Howard Baker have devised. This approach which they urged the Senate to approve would not only protect many fragile species against hasty extinction, but would also buttress an important law.

Then the conference report comes out. It says among other things, this is what the Endangered Species Committee is to consider: Cost impact on consumers, business markets, Federal, State, and local governments; effect on productivity, wage earners, business and government; effect on competition; effect on supplies of important materials, products and services; effect on employment; effect on energy supply and demand, and the conference report specifically said that the criteria should not be limited to that.

And as opposed to what I am trying to do with my amendment, the amendment that created this committee said it shall meet and in 90 days it shall report. And if it does not report, it does not meet the 90-day deadline, then the Tellico Dam is exempt, and they can go ahead and drop the reservoir. They, in essence, overruled the court unless the Endangered Species Committee found otherwise.

At the same time that the Tellico Dam issue was involved, there was another controversial dam. At the very same time that the Endangered Species Committee was created and told to act on Tellico, it was told to act on a dam called Gray Rocks in Wyoming and Nebraska. The dam had been built, it was going to flood out some grounds in Nebraska where the whooping crane migrated on its flights north and south. They did not like it. They were plaintiffs in the suit.

The Fish and Wildlife Service determined there was a possibility that this dam could threaten or endanger the whooping crane. So Congress at the same time said study the Gray Rocks Dam, same timeframe, 90 days. Study it, finish it, or the dam is exempt from the process.

The committee studied it. Interestingly in the case of the snail darter, it came down on the side of the snail darter; weighed everything, said no, we think on balance Fish and Wildlife Service was right, and we come down on the side of the snail darter. You

cannot drip the gate and fill up the reservoir.

Congress at this stage intervened and overruled the Endangered Species Committee. They said that is ridiculous. This dam is done. All we have to do is, in essence cut the cord, drop the gate. We spent all of this money, We voted to overrule it. The gate came down.

The ultimate irony of ironies, the gate came down, water gurgled up. Now, 12 years having gone by and my favorite person to talk with over at the Library of Congress is Lynne Corn who is an expert in this whole area. I asked her what had happened to the snail darter. She says it is amazing, but the fish now exists in all of these streams that flow into the reservior. It has not disappeared at all.

In Gray Rocks, the Endangered Species Committee operated exactly as it was intended, because you have to remember that the Fish and Wildlife Service can consider nothing but science. I hope we have not reached the place where the Holy Grail of Science and only science and nothing else counts.

So the Fish and Wildlife Service probably correctly said this dam is built, it will flood these marshy grounds where the whooping crane lands, and therefore you cannot do it.

In this case, the Endangered Species Committee looked at the situation—bear in mind they can do things and make recommendations that the Fish and Wildlife Service could not do. They looked at the situation and said can we not work out some kind of a compromise? Here is what they finally suggested.

We will charge the user of the water extra money. We will put it into a trust fund. We will buy land around the marshland, and that should be sufficiently mitigating circumstances that the whooping crane will be all right.

I had Lynne Corn check with the Denver Office of the Fish and Wildlife Service within the last 2 weeks—What has happened? It turns out it has worked out perfectly. In this case everybody agreed at the time even those who were suing. $7 million was put into the trust fund, land has been bought up around where the marshy grounds were. As a matter of fact there is now $13 million in the trust fund. They have been making money. The whooping crane are landing and everything worked out fine because the committee could make recommendations that the Fish and Wildlife Service had no legal power to do.

Interestingly, these are the only two times that the Endangered Species Committee has ever acted to conclusion. In both cases they were legislatively initiated, because the process of attempting to administratively do it is almost impossible.

So in one case they came down clearly on the side of the environmentalists and said, no, we are going on the side of the snail darter, and Congress offered it, and they reached a compromise and it is worked out.

Now we come to the situation involving the spotted owl in Oregon, and Washington, and northern California. I think we are going to face this issue on dozens of other animals, birds, bugs, and plants, over the next several years on public and private land——

Before the Endangered Species Committee can act administratively, there must be an action of the Federal Government it can review. And in the case of the Forest Service—and this is where the issue is involved, and to a lesser degree with the Bureau of Land Management—the action to be reviewed is a forest sale; a forest sale is where the Forest Service has gone out and appraised timber that is on public lands, and they are going to put it up for sale, and they get it all ready to go, and they offer it for sale. People come in and bid, and the highest bidder gets it.

In order for the Endangered Species Committee to be able to act at all, the action it is reviewing, and I am quoting from the act, "must be of regional or national significance." And everyone was thinking when this committee was created, dams, projects, big things, one dam is one action. Our problem is that Forest Service sales exist by the thousands. We have over 2,000 a year in Oregon and Washington. An average sale would be some place between 30 and 150 acres, and 200 acres would be a big sale. And there is not a sale big enough that would qualify for the term "regional or national significance."

We are talking about the Thomas report, which reviewed the owl situation after the Fish and Wildlife Service studied it. Basically, the Fish and Wildlife Service and so-called Thomas report, which is a Interagency Scientific Committee report, concluded these owls need 1,200 to 1,500 acres a pair to continue to exist. So if you are going to go in on one Forest Service sale that might be 50 acres, 60 acres in one place, and say here is an action, there is no way that a rational person could say that action in and of itself, in 50 or 60 acres, is going to threaten or endanger the spotted owl. If it is not of regional or national significance, we cannot act.

So there is no administrative way, given the situation we face in the northwest, that this committee can act at all under its administrative procedures. Therefore, my amendment would define action as the Forest Service plans. Under the present law, the Forest Service makes plans 10 years in duration. These are comprehensive plans which have had extensive study and have public input.

One of the worst jobs in America is being a Forest Service supervisor, in my judgment. These poor devils cannot win. They have hundreds of hearings, thousands of hours, and finally they come up with 9 or 10 draft plans, all the way from cut everything to cut nothing, and they put the plans out for comment, and they come up with their selected plan. That is the way the plans work. They have to do it through the environmental impact study and get all of this input to get a plan. All I am suggesting is that the Endangered Species Committee review the comprehensive forest plan, rather than the sale, so that we can have a chance for the committee to consider whether or not the plan of the Forest Service will or will not endanger or threaten the owl.

If we cannot legislatively initiate this Endangered Species Committee, then there is no hope of getting it going. I have made four changes in my amendment to ensure that the problems raised by the opponents of this bill are met.

One, my amendment no longer directs the automatic convening of the Endangered Species Committee. Indeed, there is no guarantee that the committee will ever meet under my provision for this reason.

I had initially said that once you had a consultative process between the Forest Service and Fish and Wildlife Service, the committee would then meet. There is a possibility that the Forest Service in consultation with the Fish and Wildlife Service would come up with a plan that the Fish and Wildlife Service says is OK; in which case, there is not issued a so-called jeopardy opinion. It means the plan does not jeopardize the spotted owl, in which case there is no basis for calling the Endangered Species Committee together. My original amendment said that committee will meet no matter what. It no longer automatically directs that it must meet.

Instead, the amendment now provides for full consideration and possible resolution of the issues in the normal consultation process provided in the act. To ensure that all reasonable and prudent alternatives are fairly considered in the consultation process, the amendment restores the basic timeframes of the Endangered Species Act. It doubles the duration of the process from 6 months to nearly 1 year and, finally—and this was a principal objection—the amendment, as I will offer it, ensures that the Thomas committee report, and this was done by Jack Ward Thomas, one of the principal researchers for the Forest Service, and all information and guidance on the spotted owl issued since the species listing is considered fully in the consultation process.

So I am asking only two things: One, that we legislatively initiate the committee and, two, that the definition of the Federal action is the plans, because if it is the sale, there is no hope.

I want to pass in a list of organizations that have endorsed this amendment starting with the United States Brotherhood of Carpenters and Joiners of America. I will read this:

On behalf of the over 600,000 members of the United Brotherhood of Carpenters and Joiners of America, I am writing to support your amendment which could convene the Endangered Species Committee to address the spotted owl issue. Our union believes that such actions will lead to a long-term solution to the problems associated with the spotted owl controversy.

I will not read the rest of the letter. But that is signed by the general president of the carpenters.

I was informed that the national AFL-CIO is adding their endorsement to the amendment. Their executive committee has not met and actually issued the formal letter, but by contact with Lane Kirkland, the president, this afternoon, they do endorse the position of our amendment. The Building and Construction Trades endorses it; Oregon AFL-CIO; National Association of Home Builders; the National Lumber and Building Material Dealers Association; Hancock Lumber Co., in Maine; and the American Forest Resource Alliance.

I ask unanimous consent that all of those endorsements be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,
Washington, DC, October 3, 1990.

Senator BOB PACKWOOD,
259 Russell SOB, Washington, DC.

DEAR SENATOR PACKWOOD: On behalf of over 600,000 members of the United Brotherhood of Carpenters and Joiners of America, I am writing to support your amendment which would convene the Endangered Species Committee to address the Spotted Owl issue. Our union believes that such action will lead to a long-term solution to the problems associated with the Spotted Owl controversy.

Our union is committed to finding an appropriate balance between preservation of the Spotted Owl habitat and maintaining a viable forest products industry. At stake are tens of thousands of jobs and the economic future of the Pacific Northwest.

Please know that our union wholeheartedly supports your effort and will urge our colleagues in organized labor to support the amendment as well. Thank you for your careful attention and consideration of our views on this vital issue.

Sincerely,

SIGURD LUCASSON
General President.

BUILDING AND CONSTRUCTION TRADES DEPARTMENT,
Washington, DC, October 4, 1990.

DEAR SENATOR: On behalf of the more than 4 million workers represented by the Building and Construction Trades Department, AFL-CIO, I am writing to urge your support for Senator Packwood's amendment which would convene the Endangered Species Committee to address the Spotted Owl issue. Organized Labor believes that such action will lead to a long-term solution to the problems associated with the Spotted Owl controversy.

The labor movement is committed to finding an appropriate balance between preservation of the Spotted Owl habitat and maintaining a viable forest products industry. In the balance are tens of thousands of jobs throughout the country and the future of the building and construction industry in the United States.

Pacific Northwest timber makes up more than 30 percent of all the timber used in the United States. Various proposals currently before Congress would severely limit the amount of timber available for harvesting in the Pacific Northwest, an amount roughly equivalent to the timber required to construct millions of single-family homes.

As forests are "locked up," the reduced timber supply leads to less availability, higher prices and, ultimately, higher costs to mortgage debt and increased costs for new housing, higher mortgage debt and increased costs for repair and remodeling. A recent study determined that a 20-percent increase in average wood costs would mean a $55 billion increase in consumer mortgage debt over a 10-year period and impact as many as 650,000 home buyers. This would be devastating to the livelihoods of our members across America.

We appreciate your careful attention and consideration of our views on this vital issue. We hope we can count on your support.

With kindest regards, I am

Sincerely,

ROBERT A. GEORGINE,
President.

OREGON AFL-CIO,
October 5, 1990.

ORGANIZED LABOR SUPPORTS PACKWOOD AMENDMENT TO CONVENE ENDANGERED SPECIES COMMITTEE

WASHINGTON.—Organized labor today urged the U.S. Senate to support a measure sponsored by Sen. Bob Packwood (R-OR) aimed at resolving the Northern Spotted Owl controversy. The amendment would mandate the convening of the Federal Endangered Species Committee (ESC) under the provisions of the Endangered Species Act.

"The Packwood amendment is perhaps the best hope for the working families and regional economy of the Pacific Northwest," said Irvin Fletcher, President of the Oregon AFL-CIO. "In Oregon, more than 110,000 workers are directly employed in wood products industries. Thousands more depend upon a stable timber industry to support themselves and their families," Fletcher added.

The Endangered Species Act already provides for the establishment of the ESC, Fletcher noted. "This procedural amendment by Senator Packwood simply allows the process to begin. Once the ESC meets, it can attempt to resolve the conflict between the dual interests of protecting the Spotted Owl and protecting the people of the Pacific Northwest," said Fletcher.

The cabinet-level Endangered Species Committee, established by Congress in 1978, was designed to balance environmental and economic concerns in disputed Federal action. The Packwood amendment would convene the seven-member committee to weigh social, economic and environmental concerns according to strict statutory language already written into the Endangered Species Act.

"Organized labor will be contacting members of the U.S. Senate to urge their support for the Packwood amendment and the Endangered Species Committee. With adoption of the amendment, we will all be one step closer to resolving the timber crisis in this country."

NATIONAL ASSOCIATION OF HOME BUILDERS,
Washington, DC, October 4, 1990.

DEAR SENATOR: On behalf of the 157,000 member firms of the National Association of Home Builders, I urge you to support Senator Packwood's amendment to convene the Endangered Species Committee to weigh economic, social and environmental concerns regarding the Spotted Owl.

This is a value-neutral amendment that maintains the integrity of the Endangered Species Act. The amendment does not amend the Endangered Species Act nor establish any new precedents or by-pass any procedural hurdles in the Act. What it will do is permit the convening of the Endangered Species Committee.

This is a responsible amendment that is intended to produce a balance between the protection of the Spotted Owl and the unprecedented reduction in national timber production that could result in the loss of tens of thousands of jobs.

Timber prices and supply play a role in the ability of homebuilders to provide affordable housing for millions of American families. Thus, I urge your consideration and support of the Packwood amendment.

Sincerely,

MARTIN PERLMAN,
President.

NATIONAL LUMBER & BUILDING MATERIAL DEALERS ASSOCIATION,
Washington, DC, October 10, 1990.

Hon. BOB PACKWOOD,
U.S. Senate, Washington, DC.

DEAR SENATOR PACKWOOD: Senator Bob Packwood will be introducing an amendment to convene the Endangered Species Committee as provided under the Endangered Species Act Amendmets of 1978. The Packwood Amendment is an opportunity to bring together noted scientists and economists to formulate a responsible and equitable agreement between the environmental and economic interests of the Pacific Northwest and northern California.

The National Lumber and Building Material Dealers Association, NLBMDA, is a federated association of over 10,000 independent lumber and building material retailers whose businesses are predominantly family-run. We are deeply concerned about the potential regional and national impacts of the listing of the Northern Spotted Owl as a threatened species. A recent study by university economists estimates that over 102,000 direct and indirect jobs will be lost in the Pacific Northwest and northern California. Harvest reductions in the region will amount to slightly more than 23% of the current United States timber production.

Because the Act calls for the Endangered Species Committee to review individual activities rather than the administration of federal programs such as the timber sale program, the Packwood Amendment is necessary to provide the procedural basis to

allow the Committee to consider the owl recovery plan recommendations.

By asking for your support of the Packwood Amendment, NLBMDA is not asking you to vote against the Endangered Species Act or the recovery of the Northern Spotted Owl. Rather, we are asking you to provide the opportunity for a fair hearing on the real human and economic consequences that a severe cutback in timber harvesting would have on the families of the Pacific Northwest and northern California and on an industry which provides one of our nation's most basic renewable resources.

SIncerely,

GARY W. DONNELLY,
CAE Executive Vice President.

AMERICAN FOREST RESOURCE ALLIANCE,
Washington, DC, October 19, 1990.

DEAR SENATOR: On October 19, 1990, seventy-six groups from around the nation interested in a reasonable balance between the protection of the Northern Spotted Owl and the economy, workers, and families of the Pacific Northwest sent the attached letter to each member of the Senate. These groups urged your support for an amendment introduced earlier this month by Senator Bob Packwood to convene the Endangered Species Committee as provided under the Endangered Species Act Amendments of 1978.

Since the original Packwood Amendment was introduced, Senator Packwood has been discussing the proposal with interested parties to assure that nothing in his approach impinged on the integrity of the Endangered Speices Act. Importantly, Senator Packwood has agreed to: (1) mandate a 90-day consultation between the Fish and Wildlife Service, the Forest Service, and the Bureau of Land Management prior to any convening of the Endangered Species Committee; (2) direct that the record for Endangered Species Committee review include all relevant scientific data and owl protection plans; and (3) extend the process from less than six months to almost a year to assure fair consideration of all alternatives.

Today, during Senate consideration of the Interior and Related Agencies Appropriations bill for FY 1991, Senator Packwood will offer a revised version of his amendment that fairly responds to all of the concerns raised about the earlier proposal. On behalf of the undersigned groups, we urge your support for the Packwood compromise.

Sincerely,

BARRY CULLEN,
President, National Forest Products Assn.
MARK REY,
Executive Director, American Forest Resource Alliance.

William T. Robison, President, American Plywood Association, Tacoma, WA; Richard Lewis, President, American Pulpwood Association, Washington, DC; John Hall, President, American Wood Preservers Institute, Vienna, VA; Ed Ehlers, Executive Director, Associated California Loggers, Sacramento, CA; Jim Morgan, C.G.O., Mill City, OR; Scott Wall, President, California Licensed Foresters Assn., Pioneer, CA; Jackie MacAvoy, President, California Women in Timber, Samoa, CA; Claudia Jennings, Citizens Alliance For Resources & Environment, Ukiah, CA; Tom Hirons, President, Communities for a Great Oregon, Mill City, OR; and Bruce Vincent, Chairman, Communities For A Greater Northwest, Libby, MT.

J. William Peterson, Govt Affairs Director, Construction Industry Manufacturers, Washington, DC; Troy Reinhart, Executive Director, Douglas Timber Operators, Roseburg, OR; Mary Livingston, Coordinator, Feather River Alliance For Resource & Env., Quincy, CA; Ted Anderson, Director, FFACTS, Medford, OR; Steve Martin, Helicopter Loggers Assn., Wilsonville, OR; Bernie Barber, Secretary-Treasurer, International Order of HOO HOOS, Gurdon, AR; Don Nelson, International Woodworkers Association, Ft. Bragg, CA; Joan Smith, Klamath Alliance for Resourceful Environment, Ureka, CA; Don Nelson, Mendicino Coast Solidarity Committee, Ft. Bragg, CA; and Bob John, Executive Vice President, Mid-America Lumbermens Association, Kansas City, MO.

Irv Toler, MODOC CARES, Bieber, CA; Candace Boak, Mothers Watch, Hydesville, CA; Myron Ebell, Washington Representative, Multiple Use Land Alliance, Washington, DC; Mr. Robert D. Bannister, Sr. Staff Vice President, National Assn. of Home Builders, Washington, DC; Barry Cullen, President, National Forest Products Assn., Washington, DC; Ernest J. Stebbins, Executive Manager, National Hardwood Lumber Association, Memphis, TN; Charles Cushman, Executive Director, National Inholders Association, Washington, DC; Richard Siebert, President, National Association of Manufacturers, Washington, DC; William H. McCredie, Executive Vice President, National Particleboard Association, Gaithersburg, MD; and John W. Shoemaker, Exec. Vice President, National Wood Window & Door Assn., Des Plaines, IL.

Ron McNally, National Wooden Pallet and Container Assn., Washington, DC; Gary Donnelly, Executive Vice President, Natl Lumber & Bldg Materials Dealers Assn., Washington, DC; Mike Cyr, Executive Secretary, New England Wholesale Lumber Assn., Winterport, ME; Nicholas Kent, Executive Vice President, North American Wholesale Lumber Assn., Rolling Meadows, IL; Robert W. Slocum, Jr., Executive Vice President, North Carolina Forestry Assn., Raleigh, NC; Bill Hermann, President, North Olympic Timber Action Committee, Forks, WA; R. Dennis Hayward, Executive Vice President, North West Timber Association, Eugene, OR; John Brill, Executive Director, Northeastern Retail Lumber Assn., Rochester, NY; James Geisinger, President, Northwest Forestry Association, Portland, OR; and John Hampton, Chairman, Northwest Forest Resource Council, Portland, OR.

M.J. Kuehne, President, Northwest Independent Forest Manufacuturers, Tacoma, WA; Jay Burell, President, Northwest Motorcycle Association, Kent, WA; Rod Harder, Oregon Fur Takers, Blachly, OR; Jackie Lang, State Coordinator, Oregon Lands Coalition, Salem, OR; Valerie Johnson, Oregon Project Portland Metro, Tigard, OR; Rita Kaley, Oregon Project Mid-Colbumia, Odell, OR; Marilyn Parry, Oregon Women in Timber, LaGrande, OR; Pat Harris, Pacific Northwest Four Wheel Drive Assn., Klamath Falls, OR; Rolf Glerum, Executive Director, Pacific Rim Trade Association, Portland, OR; Chris Boscher, P.E.A.R.S., Oregon City, OR; and Donald Purcell, President, Portable Power Manufacturers, Bethesda, MD.

Ron Morganthaler, Chairman, Public Land Users Society, Woodinville, WA; Bill Christie, Save Our Sawmills, Medford, OR; Richard Kelly, Shasta Alliance For Resourceful Environment, Redding, CA; Gregory A. Miller, Executive Vice President, Southern Oregon Timber Industry Assn., Medford, OR; Burt Bundy, Chairman, Tehama Alliance for Resources & Environment, Red Bluff, CA; William N. Dennison, President, Timber Association of California, Sacramento, CA; Darryl Middleton, Timber Resources Equal Economic Stability, Rosebury, OR; Richard Mabie, Trinity Resources Alliance Coalition, Weaverville, CA; Bill Pickell, General Manager, Washington Contract Loggers Assn., Olympia, WA; and Nick Kirkmire, Executive Director, Washington Citizens for World Trade, Olympia, WA.

Ann Goos, Executive Director, Washington Commercial Forest Action Committee, Forks, WA; William C. Jacobs, Executive Director, Washington Forest Protection Assn., Olympia, WA; Ted LaDoux, Acting Manager, Washington Public Forest Institute, Tacoma, WA; Martin Sangster, Executive Vice President, Washington Truckers Association, Seattle, WA; Paula Langager, Chairman, West Coast Alliance for Resources and Environment, Eureka, CA; Joe McCracken, Exec. Vice President, Western Forest Industries Assn., Portland, OR; Grant Gerber, Chairman, Wilderness Impact Research Foundation, Elko, NV; Bernie Barber, Executive Secretary, Woodworks Institute of California, Fresno, CA; Elizabeth Nelson, Women For The Multiple Use of Our Resources, Coos Bay, OR; Bernard J. Tomasko, Executive Vice President, Wood Moulding & Millwork Producers, Portland, OR; and Charlie Janz, Yellow Ribbon Coalition, Springfield, OR.

Mr. PACKWOOD. In conclusion, Mr. President, and I will offer the amendment, let me say this: I think this is really the issue. Under the Endangered Species Act, it is what we would call in land management a single purpose act. Normally, in the management of public lands, unless we change it by statute, we manage lands on a multiple use basis. We look at a forest and say, all right, some of this should be for timbering, some wilderness, recreation, and grazing, and some for fish and wildlife protection. And you try to balance the uses of the land. And no one is ever happy with the balance. Whatever group it is that wants grazing or fish or timber is convinced the balance is not fair, and they will complain to the supervisor or us in Congress that the decision is wrong. You try to do it on a balanced basis.

The Endangered Species Act, however, if in a vote and if a finding is made

that a species may be endangered or threatened, is not only a single purpose act; it is a paramount purpose act, and nothing else matters.

It does not even matter if the invocation of the act to save a particular species may endanger another species. It does not matter that for a century grazing has gone on on the land and not hurt anything. If the species will be threatened or endangered, all other managements have to yield to that single purpose and the decision whether to list a species as endangered or threatened is made on one and only one basis—that is science. In the case of the snail darter science was wrong.

But I am not here to quarrel about science. I am simply here to ask if there are other factors in addition that might be considered, or are we going to say no, if the Fish and Wildlife Service says that there is possibility of a species being threatened or endangered by continued Federal action, then no other factor would be considered—not job, not communities, not school closings, nothing else.

And what we have in the States of Oregon and Washington are based upon the Forest Service's own studies or the University of Washington, Oregon State, or the environmentalists, depending on who you talk with. The Forest Service's own studies said that if they implement the Thomas Report in order to protect the spotted owl, we are faced in Oregon and Washington with a job loss, primary job loss, of about 28,000 people. Oregon State University says 50,000, but their study included private lands. The Forest Service was only public lands. The environmentalists say someplace between 10,000 and 15,000. University of Washington says slightly less than 50,000.

I do not care whose figures you take, whether it is 10,000 or 15,000 or 50,000 jobs—Fish and Wildlife Service could not consider that. Is it a factor to be considered? The Federal Government will lose over $500 million a year in revenues through the sale of the trees. Is that a factor to be considered? Local governments in Oregon alone will lose over $170 million a year that comes from the receipts they receive from the sale of timber off the lands every year. It is enough in Oregon to educate about 31,000 children a year every year. Is this a fact to be considered? Or are we going to say no, the Endangered Species Act is not only paramount but it is holy. And we do not care what else the effects might be. We will never, never, never give any organization, any committee, anybody, any chance to weigh any other facts and we do not care what the consequences are.

That is where we are going to be if the Endangered Species Committee is not created. And I will say at the time it was created, led by Senator Culver, whose environmental credentials were impeccable and endorsed by the Washington Post, it was created for the specific purpose of weighing additional facts, not setting aside the scientific facts, to weigh additional facts. I do not think that is too much to ask when you were saying the communities, anyplace with 15,000 to 28,000 to 50,000 jobs, closed schools, ghost towns, unemployed mill workers are at stake.

Maybe the Endangered Species Committee as it did with the snail darter will come down on the side of the spotted owl and say we considered all the consequences. No, maybe, they will come down like they did in Great Rocks and find a compromise solution that cannot be found under the present law because the Fish and Wildlife Service is not allowed to find it. All we are asking is that you give the committee a chance to meet, a chance to consider things in addition to science.

I wish to offer the amendment.

AMENDMENT NO. 3112

(Purpose: To provide for agency consultation to consider the Northern Spotted Owl)

Mr. PACKWOOD. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment nunbered 3112.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 110, between lines 2 and 3, insert the following:

(a) For the purposes of this section—

(1) the term "Act" means the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(2) the term "Committee" means the Endangered Species Committee established by section 7(e) of the Act (16 U.S.C. 1536(e));

(3) the term "the Secretary" means the Secretary of the Interior;

(4) the term "seventeen Northern Spotted Owl forests of Regions Five and Six" means the Deschutes, Gifford Pinchot, Klamath, Mendocino, Mt. Baker-Snoqualmie, Mt. Hood, Okanogan, Olympic, Rogue River, Shasta-Trinity, Siskiyou, Six Rivers, Siuslaw, Umpqua, Wenatchee, Willamette and Winema National Forests; and

(5) the term "eight Northern Spotted Owl districts of the States of Oregon and California" means the Coos Bay, Eugene, Lakeview, Medford, Roseburg, Salem, Susanville and Ukiah Districts of the Bureau of Land Management.

(b) The Chief of the Forest Service and the Director of the Bureau of Land Management are authorized and directed to submit to the Secretary for consultation pursuant to section 7(a)(2) of the Act (16 U.S.C. 1536(a)(2)) the following agency actions:

(1) agency action by the Forest Service, Department of Agriculture, of the land and resource management plan in effect on the date of enactment of this section and the components thereof directly or indirectly affecting timber management for each of the seventeen Northern Spotted Owl forests of Regions Five and Six, as the plan may be amended or superseded by a subsequent plan prior to the completion of consultation and, if an application for exemption is submitted pursuant to subsection (d) of this section, the issuance of the report of the Secretary pursuant to Section 7(g)(5) of the Act (16 U.S.C. 1536(g)(5)); and

(2) agency action by the Bureau of Land Management, Department of the Interior, of the land use plan in effect on the date of enactment of this section and the components thereof directly or indirectly affecting timber management for each of the eight Northern Spotted Owl districts in the States of Oregon and California, as the plan may be amended or superseded by a subsequent plan prior to the completion of consultation and, if an application for exemption is submitted pursuant to subsection (d) of this section, the issuance of the report of the Secretary pursuant to Section 7 (g)(5) of the Act (16 U.S.C. 1536(g)(5)).

(c) The consultation process pursuant to section 7(a) through (c) of the Act (16 U.S.C. 1536(a) through (c)) for the agency actions defined in subsection (b) hereof shall be completed within 90 days of the date of enactment of this section. In addition to the agency action, the Forest Service and the Bureau of Land Management shall submit for consideration during consultation all guidance or studies concerning the Northern Spotted Owl prepared by such agencies.

(d) If, after consultation under section 7(a)(2) of the Act, (16 U.S.C. 1536(a)(2)) the Secretary's opinion under section 7(b) of the Act (16 U.S.C. 1536(b)) indicates that the agency actions would violate section 7(a)(2) of the Act (16 U.S.C. 1536(a)(2)), the Chief of the Forest Service and the Director of the Bureau of Land Management may apply to the Secretary for an exemption for an agency action as defined in subsection (b) hereof. Such applications for exemption for the agency actions pursuant to section 7(g)(1) of the Act. (16 U.S.C. 1536(g)(1)) must be submitted within 15 days of the date of completion of the consultation process.

(e) If applications for exemption are submitted pursuant to subsection (d) of this section—

(1) the requirement of the proviso of section 7(k) of the Act (16 U.S.C. 1536(k)) shall not apply to the agency actions; and

(2) the requirements for the agency actions of section (7)(c) of the Act (16 U.S.C. 1536(c)) are hereby deemed to have been met and the determination of the Secretary concerning the applications pursuant to section 7(g)(3)(A)(ii) of the Act (16 U.S.C. 1536(g)(3)(A)(ii)) is hereby deemed to have been made.

Mr. PACKWOOD. Mr. President, I thank the Chair, and I especially thank those who are in opposition to this because, as they are well aware, they could offer a motion to strike this and a point of order will be made and it could cut off debate. They have not, and they have given Senators a chance to speak.

Mr. SYMMS. Mr. President, I rise to support the amendment of my colleagues from Oregon. It has been very interesting to listen to the debate between those who claim to be standing up for the spotted owl, and those who want to save the jobs of the people who work in the timber industry.

Frankly, that is not the issue here at all. What we are facing in the Pacific Northwest is not a choice between owls and jobs, but a choice between adherence to a rigid Federal law, the Endangered Species Act, and merely looking at the possibility of setting that law aside in order to work out a can do both alternative.

The scientists who recommended that the spotted owl be listed as an endangered species did not discover that if loggers work, the owl will die. They simply determined that logging makes the flourishing of a spotted owl population less likely. The Endangered Species Act then mandates that logging cease and desist altogether in any area where spotted owls live, but such an abrupt response is not necessary. Changes in the way that logging is done, coupled with a willingness to allow spotted owl populations to decrease in some areas, perhaps only temporarily, while actively working to increase populations in other areas, may achieve the same, if not more, toward ensuring that spotted owls never go extinct. Unfortunately, that kind of solution, what I call a can-do-both approach, is not permitted by the Endangered Species Act.

The amendment of the Senators from Oregon is simple. It is an attempt to give a can-do-both approach a chance. Hanging in the balance are more than just jobs; at stake are the retirements of elderly couples, the college education of hundreds of young people, the staffing and equipment of hospitals and other critical public services, and the welfare of entire towns. We cannot be so heartless as to turn our backs on a possible solution that might save the spotted owl, but do it at a lesser human cost.

I strongly urge my colleagues to support this amendment.

Mr. GORE. Mr. President, I shall speak against the amendment. I compliment my colleague, the Senator from Oregon, for his presentation. I wish to make several comments about the arguments he has advanced and then talk about the merits of the amendment in particular.

First of all, I think there are a lot of misconceptions about this issue. It has been presented in stark contrasting terms with jobs on one side and one endangered species on the other side, and the act itself has been described as a law which leads to this kind of conflict and therefore the Senate must act upon it.

The Senator from Oregon took some time to talk about the history of the Endangered Species Act and mentioned at some length the Tellico Dam which was controversy coming before the Congress about 12 years ago. My distinguished predecessor, Senator Baker, an esteemed former Member of this body, did indeed play a significant role in that particular matter.

But the circumstances involved there are almost exactly the opposite of the circumstances involved here, and in any event, in the 12 intervening years there have been many changes in practice and procedure where the Endangered Species Act is involved. In that case, Congress amended the act to allow for the exemption of certain Federal actions that met strict criteria. That exemption process was intended to be a matter of last resort. Congress did not legislate with respect to Tellico Dam until other processes of the act and the courts had been completely exhausted. Tellico Dam had been completely through the section 7 consultation process and it had been through the court system, even including the U.S. Supreme Court.

The result was an injunction from which no further appeal was available. The situation before us today is diametrically the opposite of the Tellico Dam case. In this case the act's consultation process has not been followed. It has not been given time to run and the consultation process has not yet resulted in a finding of jeopardy with respect to even one single timber sale. No injunction from even the lowest of the Federal courts is based on any violation of the Endangered Species Act.

Congress is being asked to step and make the exemption process a matter not of last resort but a matter of first resort. Such an amendment is entirely unprecedented and in my view entirely unnecessary.

What about the merits of the alternative procedure which many of the opponents of this amendment are recommending? Is the consultation process a reasonable course to follow?

Mr. President, here is where the intervening 12 years experience comes in. There have been 48,000 cases under the Endangered Species Act. The consultation process has routinely been followed in an effort to find a way to prevent the extinction of species and nevertheless accommodate the action proposed which gave rise to the controversies involved.

Out of the 48,000 cases under the act, an accord was reached in—how many?—47,988 cases.

That is pretty impressive record. It seems to me the consultation process has been working pretty well. In only 12 of the 48,000 cases was not an accord not reached. In all of the others, the endangered species involved was protected and the action proposed went forward, albeit in a modified form.

Now, in this case, Congress saw the potential for conflict on the horizon and authorized and directed a very lengthy study called now the Jack Ward Thomas Report. It has already been mentioned by my distinguished colleague from Oregon. But the design of the amendment calls not for the analysis of what the implications of the Jack Ward Thomas Report would be.

Yes, it says that everything can be taken into consideration. The Portland telephone book can be taken into consideration. Any document can be taken into consideration. But the Federal agencies involved here are directed to produce an analysis based upon the impact of the Forest Service plans previously drawn up before this Thomas report was even prepared or printed, and before the spotted owl was listed as a threatened species.

So the plans that have to be analyzed for their impact on the spotted owl was devised long before this controversy arose and predictably will conflict with the survival of this particular species.

Now, of course, there are many other issues besides the spotted owl and we will get to those in just a moment. But my point here at this juncture is to point out that the amendment by design creates an irreconcilable conflict between the mandate of the Fish and Wildlife Service to protect this endangered species and the plan that was created before the species was listed as threatened.

If you put those two things on a collision course, you know they are going to create a conflict. You know that the entire case in controversy will be referred immediately to this committee that they call the "God Squad" which is a stacked deck. The Secretary of the interior, Manuel Lujan is on it. I have the list of the others here, and I will get into that a little bit later, but the views of these people are known. There is no doubt what that outcome would be. There is really no mystery about it at all.

So this act really does create a conflict which is predictable and will definitely cause this committee to be convened.

Here are the others, in addition to the Secretary of the Interior; the Secretary of the Department of Agriculture, Mr. Yeutter; the chairman of the Council of Economic Advisers, Mr. Boskin. We know what his views on the environment are. The Secretary of the Army is on there. The Administrator of the EPA is on there. The Administrator of NOAA is on there. But then President Bush appoints one individual from each affected State. In other words, it is easy to see the deck is stacked.

Mr. President, I said a moment ago that this issue involved more than the

spotted owl. The issue involves the stewardship of the endangered old growth forests itself. The spotted owl is what some of the scientists call an indicator species. It is highly visible. It is easily recognizable. It is about 2 feet tall. But along with it, when the place where it lives is destroyed, there are lots of others that are destroyed along with it, and the forest itself is destroyed.

What happens to those jobs then? You know the real issue here, in this Senator's opinion is whether these jobs will be lost and the people in them moved to other occupations before the remaining 10 percent of the forest is destroyed or after the remaining 10 percent of the forest is destroyed. That is the real issue.

We had a little discussion on this earlier in the day. I do not want to go over old ground, but the fact is the world as a whole is losing 1½ acres of forestland net every single second, 24 hours a day, night and day.

The United States has tried to provide some basis for a dialog in the world about how this tragedy can be dealt with. I am one who does not believe the Bush administration is really providing leadership on this question. But one thing is clear: If we have any chance at all to provide leadership on it, we are going to have to deal ourselves with the deforestation going on here in the United States, especially with the so-called old growth forests.

When the Bush administration announced its recommendations with respect to the spotted owl last month, it said two things worthy of note. First of all, it said none of its recommendations would require the cutting of timber in the areas recommended for protection of the spotted owl by the special scientific committee known as the Thomas committee.

At the same time, however, it also said that it would seek legislation directing the endangered species committee to consider an exemption for timber-harvesting activities in the Northwest.

The amendment of my colleague from Oregon does the second of these, but it most definitely does not do the first. Rather than assuring that no cutting of timber would occur in the areas designated for the owl's protection, the Packwood amendment virtually assures the destruction of these areas. That destruction is virtually assured because of the manner in which the Packwood amendment defines the term "agency action" which in plain English means the plan for logging the forest that are home to this particular owl. Those plans would be submitted for consultation to the Fish and Wildlife Service in the process of seeking an exemption to the Endangered Species Act from the so-called God committee.

The key to this whole debate is this: The Packwood amendment's definition of this critical term agency action encompasses forest management plans that make absolutely no provision for protecting the endangered species that is in the middle of this controversy.

Moreover, if the timber harvest targets reflected in those plans are achieved, they will necessarily result in the wholesale destruction of the owl's supposedly protected areas.

This virtualy assures that the Fish and Wildlife Service will refuse to allow the action to proceed because the action is based on old plans for harvesting timber that were drawn up before the spotted owl was added to the endangered species list.

This amendment invites this collision. It anticipates and asks for an irreconcilable conflict so that the whole process can be hot-wired before any alternative is explored. Out of the other 48,000 cases where this has come up, in 99.9 percent of them a way has been found to allow the action to proceed in some way, shape, or form without destroying the environment in question.

The industry knows the Packwood amendment will create this irreconcilable conflict, and it knows, further, that this will necessitate the convening of this committee to decide whether to exempt logging of the old growth forests from the protection provided by the Endangered Species Act.

They know further that the outcome will be in their favor, if they can move the process quickly to this special committee before the alternatives are considered. And they know that by forcing the Fish and Wildlife Service to consider the old plans for logging rather than any new, modified plans, they will indeed move the process quickly to this special committee.

In short, the pending amendment gives us only half of what the administration promised. It gives no guarantee that the areas recommended for protection will be protected at all. Rather, it guarantees the opposite.

What those of us on this side want is the following: Last year the Congress directed the Forest Service to convene a panel of experts to recommend a way of reconciling the needs of the owl with timber production objectives. That panel of experts earlier this year produced its report, already identified as the Thomas Report. The Forest Service, as recently as September 28, has committed itself to implementing the recommendations of the Thomas Report. That is what the Packwood amendment seeks to prevent.

Therefore, I believe the proper course of action is to let the recommendations of the Thomas Report be the basis for going forward with timber harvests in the ancient forest. Do not force the considerations of plans for harvesting timber, prepared many years ago, that failed to reflect the most recent and best available scientific information. Do not force consideration of plans we all already know cannot possibly satisfy the requirements of the Endangered Species Act. Let the act work so we can strike a balance between the needs of the people who depend on the timber industry and the needs of our precious and dwindling endangered natural heritage. Let the act work so our children and theirs will know the majesty of the ancient forests.

When the Endangered Species Act was first enacted, it set a noble goal for this country, to halt the accelerating rate of species extinction and to pass on to future generations a world rich in biological life, in plant and wildlife. The Endangered Species Act represents an essential step in our national commitment to protect biodiversity both here and abroad.

What is this all about when we talk about biodiversity? Some people say there has always been a rate of extinction that is natural. We heard earlier today about Charles Darwin. It is true, there is a natural rate of extinction. but we can measure that natural rate of extinction going back 65 million years, back to the time the dinosaurs. So many of the species that existed at that time were destroyed by something that the scientists still argue about. But for the last 65 million years, the rate of extinction has been pretty steady until we get to the modern era, specifically in this century. Now, all of a sudden, the rate of extinction has jumped to a rate 1,000 times faster than the rate which has existed for the last 65 million years. It is to the point where some scientists now say that during the lifetimes of people in this Chamber, especially these young pages on the steps of the dais here, in the lifetimes of these pages, we may well lose more than half of all the living creatures God put on Earth. Is that a problem? Is it something we ought to worry about? I think it is.

I do not think we have the right to do this. My Bible tells me we are given dominion over the Earth, but we are required to be good stewards of the Earth. And we acted in good faith to try as a nation to come up with some way to balance the needs of development and economic progress with a moral commitment to try to slow down the rate of extinction, at least where we are responsible for it in this Nation.

The act has worked. Yes, there was rough going in the early days. But out of 48,000 cases, 47,984 have been resolved. The process by which those cases were resolved is being bypassed and hot-wired by this amendment because an industry does not want to see the effort to reconcile its economic in-

terests with the mandates of the act. Instead they want to bypass the act.

There are those who say that the act is too tough. I do not think anything could be further from the truth. If we look more closely at those 48,000 projects reviewed by the Fish and Wildlife Service, less than 1 percent were found to jeopardize the continued existence of threatened or endangered species. And in those rare cases where the conflict did exist it was almost always resolved, as I said.

This pending amendment specifically seeks to convene this special committee, the Endangered Species Committee, within 90 days, in order to consider these old plans I have already referred to. And this action is both ill-conceived and unjustified. More specifically, it is premature, since an irreconcilable conflict has not been shown to exist. Not a single timber sale has been halted in the Northwest under the Endangered Species Act since the northern spotted owl was listed as a threatened species. Thus, the Packwood amendment seeks prematurely to fix an act that is not broken.

More important—and this is the real problem with the amendment—the Packwood amendment would surely lead to continued destruction of a national treasure, the last remaining 10 percent of the ancient forests of the Pacific Northwest. People say they are renewable. There is a great big difference between an ancient forest, with 500-year-old trees, sometimes trees as old as 2,000 years old; a forest that has been untouched since before Columbus landed in the new world—there is a big difference between a forest like that, rich in diversity of life, and a second growth forest that is monoculture; it has these little saplings. They grow up—yes, over time, but they never reproduce what is being destroyed; never.

And the species that live there, not just one, but many, do not come back. They are gone. They are added to the list of the millions that are being lost as we sit here and watch it happen.

Let me refer, again, to religious values, and it is not my purpose to inject my own personal faith in this debate, but I use it as a reference point because I think what is at stake here is so important it is one of the only ways I can really describe why I think it is so important.

In my own religious tradition, there is a parable called A Parable of the Unfaithful Servant. The parable goes as follows: A master leaves the house and leaves a servant in charge of the house and instructs him to protect the house against vandals that might come to ransack the house in the master's absence. There is a word of warning given. The servant is told that if the vandals come and ransack the house, if the servant claims he was asleep and did not know what was going on, that will not be acceptable as a defense.

Mr. President, in a manner of speaking, our environment is being ransacked right now in a kind of global environmental vandalism. I just do not think it is good enough for us to claim we do not know what is going on and to pretend that we are otherwise occupied and not paying any attention to it.

These forests do not come back the way they are now, and there are only 10 percent of them remaining. Some of that is going to go no matter what. We all understand that. But if this act is allowed to work the way it is supposed to work and the way it has almost always worked, a little more of it may be saved. These plans for harvesting the timber may be modified in a way that allows harvesting without destroying this sensitive habitat.

As I have said earlier, if we are going to have any success at all in persuading other countries to join in a worldwild effort to stop this irresponsible ransacking of the environment and especially the destruction of forest land all over the world, we need to pay some attention to what we are doing here.

I think the Packwood amendment sends exactly the wrong message.

Let me elaborate a little bit on the details of how the Endangered Species Act provides for decisionmaking specifically in circumstances like the one such as the circumstances we now face in this case.

The Endangered Species Act contains one very simple and fundamental proposition. That proposition is simply that no agency of the Federal Government ought to be responsible for jeopardizing the continued existence of any endangered species. That is the essence of the act's section 7.

The way in which section 7 works is important to understand in order to appreciate why the amendment before us is both unnecessary and undesirable. Each time a Federal agency plans any action that may affect an endangered species, that agency and the U.S. Fish and Wildlife Service formally consult about the likely impacts of the proposed action. The purpose of that consultation process is not simply to determine the effects of the proposed action, but also to explore alternatives or modification to the proposed action that would avoid what section 7 seeks to prohibit: Jeopardizing the survival of an endangered species.

Remarkably, the process, as I cited earlier, worked extraordinarily well. It has worked well even in the case of timber harvesting on Forest Service lands with spotted owls. Since the spotted owl was listed as a threatened species, the Fish and Wildlife Service and the Forest Service have consulted on some 700 timber sales.

Not a single one of them has been halted as a result of the owl's listing, nor has any timber sale on lands of the Bureau of Land Management been halted by virtue of the spotted owl's listing.

The other important thing to understand about section 7 is that the Endangered Species Act does not dictate how the Federal actions that are the subject of its consultation process should be defined. The act gives flexibility to the Fish and Wildlife Service and the Forest Service or the Bureau of Land Management to demonstrate the scope of their consultations. If they wish to consult about a single timber sale in a single forest, they may do so. If they want to consult about hundreds of timber sales in many timber forests, they may also do that. They have the flexibility to define the scope of the Federal actions that they consult about as they see fit. They have chosen properly to consult about actions broad enough to package together many relative activities but not so broad that it is impossible to provide a meaningful evaluation of their impact on endangered species.

The amendment before us virtually preordains exactly the conflict that the act has so often succeeded in avoiding. It does so by foreshortening the section 7 consultation process and by requiring that the subject of that consultation process include everything even remotely related to timber management in 17 different national forests and 8 different Bureau of Land Management districts based on plans that are outdated, imprecise and no longer reflective of the policies and programs of the agencies that promulgated them.

Let me make this point. These agencies, in anticipation of efforts to try to work this out, have already abandoned, as a practical matter, the plans that they are being asked to take to the Fish and Wildlife Service, mandated to take to them, by the wording of this amendment.

In other words, the Forest Service and the Bureau of Land Management have already moved on and attempted to begin the process of working this out. They are required to go back to the plans that they no longer intend to follow and bring those plans into the process. Why? Because we already know that those old plans will create the conflict and this will be turned over to Secretary Lujan and the Council of Economic Advisers and the other members of this stacked deck on the special committee. The only possible outcome of this wholly artificial consultation process established in the amendment will be a finding that the Forest Service and the BLM cannot ensure that no jeopardy will result of the spotted owl. That is obvious. It is just as plain as day that is what the

amendment does. It mandates that result.

As a result of that finding, the Endangered Species Committee will be asked to consider the exemption, and that is wrong, in my opinion, under these circumstances. There is nothing in the law today that prevents the Forest Service and the BLM from asking the Fish and Wildlife Service to consult about the same comprehensive action that this amendment seeks to exempt. They can do that. What prevents them from doing so is not the law, but rather the fact that they know the outdated forest and land management plans are simply too imprecise to allow for the meaningful evaluation of their impact on the spotted owl.

Those plans set timber harvest targets, but they fail to specify precisely where the harvests are to occur. Without that information, how can their impact on the owl be assessed?

Furthermore, while the Packwood amendment might allow some consideration, to use its own word, of the so-called Thomas Report, the plans themselves, which are the subject of consultation and ultimately any exemption application to the special committee, the plans themselves do not reflect any of the recommendations of the Thomas Report which we in Congress directed to be prepared to guide forest management in the Northwest.

They do not even reflect important policy decisions made by agencies themselves years earlier. For example, the Bureau of Land Management plans do not reflect commitments made by that agency to the Oregon Department of Wildlife in 1983 and 1987 concerning the protection of areas around owl nesting sites. In short, this amendment strips these agencies of the discretion they now have under this law to put forward their own proposals for consultation and forces them instead to put forward a proposal that we in Congress would design.

Mr. President, I want to quote from a document that I will put in the RECORD at the conclusion of this. This will not be lengthy, but this is a memorandum dated just a few days ago from the Regional Director of Region 1 in the Fish and Wildlife Service with the United States Department of Interior. It includes that agency's comments on the amendment that we have before us. The amendment has small modifications since this analysis but I will highlight where the modifications would affect the analysis and where they do not.

I am going to skip around in my quotations, and I would refer readers of the RECORD to the full text of the document so that the full context will be available in the RECORD.

The region believes that the amendment is premature in that it anticipates a worst-case scenario which has not been proven by the facts.

In other words, if I may editorialize, the amendment assumes that no resolution of this problem can ever be found. It assumes that logging and protecting this sensitive habitat are completely irreconcilable. That is not the case, I do not think.

The analysis goes on:

The northern spotted owl is only one small part of a much larger issue involving old-growth forests and forest management in general. A piecemeal solution for the owl will affect the Fish and Wildlife Service's handling of the owl issue on Federal lands, but offers nothing toward the long-term resolution of the issues facing us in the northwest.

This, in other words, would take one controversy out of a web of interwoven controversies and direct a particular result there in a way that does not take into account the related controversies.

I continue to quote:

The overriding issue, though, is the question concerning both the future of the remaining old-growth forest and particularly the question of forest management. Until these are addressed, an amendment of this nature is premature.

The Endangered Species Act, as employed by the Service in the Northwest, has been working, as intended by Congress. It has not been demonstrated that there is an existing problem that requires this course of action.

The Act provides a mechanism to identify the issue that needs to be addressed by the Endangered Species Committee. This section 7 process has not yet resulted in the situation that would trigger the exemption process, which is a strong indication that the act is working as intended and that the agencies can resolve their differences in an acceptable manner.

The purpose of the law is to identify environmental problems and to offer ways to offset those problems while accommodating the intent of the project under review. The amendment assumes that the agencies are simply unable to reach agreement on any issues before they have been surfaced.

The service has reviewed similar issues in the past where there are ongoing, long-term programs, and has handled these with minimum disruption, while providing the environmental review that the law requires.

The Endangered Species Act provides the service the opportunity to review any action that an agency brings forward. There is no restriction that requires the Forest Service or Bureau of Land Management to consult only on individual sales.

This is not a procedural problem.

Just a couple more quotations from this memorandum.

The section 7 process worked well on the fiscal years 1989/1990 timber sale programs, and the service expects that there will be no problems with that well-established process on any upcoming consultations.

I ask unanimous consent that the full text of this document be printed in the RECORD at the conclusion of my remarks, Mr. President.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORE. Mr. President, I wish to offer my compliments to the Senator from Montana [Mr. BAUCUS] who has really been eloquent and has worked on this issue a long time. It was not my purpose in seeking recognition at this point in the debate to step in front of him on this issue. I respect his leadership and will look forward to his remarks in a short period of time. I will have some later remarks myself on the same subject. But at this point I will yield the floor.

EXHIBIT 1

DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE,
Portland, OR, October 3, 1990.

MEMORANDUM

To: Director, U.S. Fish and Wildlife Service Washington, D.C.

From: Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

Subject: Comments on Proposed Legislation to Amend the Endangered Species Act.

Attached are Region 1's (Region) comments on the proposed amendments. The Region believes that the amendment to convene the exemption committee is premature in that it anticipates a worse case scenario which has not been proven by the facts. The Endangered Species Act is working, as intended, and along with the procedures that the Region has put in place (recovery planning, habitat conservation planning, special rule development, critical habitat designation, identification of incidental take standards for State and private lands, etc.) demonstrates that there are existing mechanisms to handle this issue, if there is the support to find an acceptable solution.

It should be noted, though, that the northern spotted owl is only one small part of a much larger issue involving old-growth forests and forest management in general. A piecemeal solution for the owl will affect the Fish and Wildlife Service's (Service) handling of the owl issue on Federal lands, but offers nothing toward the long-term resolution of the issues facing us in the Northwest.

The other amendment to create an incidental take permit seems to be similar to the Region's consideration of a special rule to control the incidental take situation while the States and private landowners pursue the habitat conservation planning (HCP) process. The Region agrees that developing an HCP at the State level is the most appropriate method, but the special rule process may be a more appropriate course of action while HCPs are being pursued. Again, the Region is already actively working with the States and private landowners on this issue.

If you have any questions, please contact Robert Smith or Barry Mulder at FTS 429-6159 or 429-6730 respectively.

ISSUE: COMMENTS ON PROPOSED AMENDMENTS

General comments

(1) The northern spotted owl is only a small part of a much larger issue in the Northwest. The Fish and Wildlife Service (Service) has responsibilities for the owl because of its recent listing as threatened. There are other issues that are related that

must also be resolved. Creating a device (such as this amendment) to solve one piece of the puzzle, does not help reach accommodation on any of these other issues. For example, the Service is presently reviewing the petitions to list the marbled murrelet, fisher, and Pacific yew, all older forest species in the Northwest. The overriding issue, though, is the question concerning both the future of the remaining old-growth forests, and particularly the question of forest management. Until these are addressed, an amendment of this nature is premature.

(2) The Endangered Species Act (Act), as employed by the Service in the Northwest, has been working, as intended by Congress. It has not been demonstrated that there is an existing problem that requires this course of action. If anything, the processes and mechanisms implemented by the Service have shown that the Service has the ability to handle the issues surrounding the owl, and, that if given the support and opportunity, it can continue to work with the Federal, State, and private interest groups to develop a balanced and acceptable solution.

(3) The Act provides a mechanism to identify the issue that needs to be addressed by the Endangered Species Committee (Committee). This Section 7 process has not yet resulted in the situation that would trigger the exemption process, which is a strong indication that the Act is working as intended and that the agencies can resolve their differences in an acceptable manner. The Service's present consultations with the Bureau of Land Management and the Forest Service have resulted in no jeopardy determinations having only minor impact on their timber sale programs. All of the Service's activities regarding the owl (recovery planning, habitat conservation planning, special rule development, critical habitat designation, incidental take guidance, etc.) are part of the Service's overall plan to handle this issue in a coordinated and defensible manner.

(4) The exemption process only involves Federal activities that would be covered under Section 7 consultation. It does not affect implementation of the law on private or State lands where there is still the need to comply with Section 9 (take). This may also remain an issue on Federal lands until the Committee has completed its work. A general shutdown of timber harvest would be the obvious interim approach until final, long-term solutions are reached.

Amendment to convene the Endangered Species Committee

(1) Background, page 3—"The Packwood Amendment Provides the Procedural Basis to Allow the Endangered Species Committee to Consider the Spotted Owl"

Comment: The Endangered Species Act provides the Service the opportunity to review (under Section 7) any action that an agency brings forward. There is no restriction that requires that the Forest Service or Bureau of Land Management (Bureau) to consult only on individual sales. In fact, the Service and the agencies are already discussing consultation on the fiscal year 1991 timber sale programs that would result in consultation on just such a programmatic (or regional) level that the statement seems to indicate doesn't exist. This is not a procedural problem.

(2) Background, page 3—"The Packwood Amendment is Purely Procedural"

Comment: The statement seems to indicate that a barrier exists, but it does not demonstrate that there truly is a barrier that needs surmounting (see previous comment). The amendment itself does erect a barrier to the normal flow of events that the Act envisions. The Service has reviewed similar issues in the past (e.g., offshore oil and gas leasing) where there are ongoing, long-term programs, and has handled these with minimum disruption, while providing the environmental review that the law requires.

(3) Background, page 4—"The Packwood Amendment Sets no New Precedents"

Comment: The statement seems to indicate that Congress convened the Committee in the Tellico and Grayrocks cases, and, therefore, precedent has been established. Those cases should be carefully reviewed, but it is not clear that Congress convened the Committee. An amendment of this type does set an extremely strong precedent by unilaterally convening the Committee before the Service and the agencies, by their respective failure to reach accommodation, have created a situation that would normally trigger the exemption process. The amendment blocks the environmental review that Congress and the Act envisioned would be followed, instead resulting in that review by the Committee itself. The purpose of the law is to identify environmental problems and to offer ways to offset those problems while accommodating the intent of the project under review. The amendment assumes that the agencies are simply unable to reach agreement on any issues before they have been surfaced.

(4) Background, page 4—"The Packwood Amendment Does Not By-Pass Any Procedural Hurdles in the Endangered Species Act"

Comment: The statement notes the present conferencing and consultation process that has been going on between the Federal agencies. The very mention of the presence of this process demonstrates that a workable process is in place, the agencies are following the law as intended, and are finding ways of settling their differences in a manner that does accommodate the owl and ongoing timber sale programs. In other words, the Service is proving that the Act is working as intended. The Service also has in place numerous other activities that, taken collectively, demonstrate a strong, reliable program for conserving the spotted owl while working with Federal, State, and private landowners in finding a balanced and acceptable solution.

Amendment on consultation and incidental take permits

(1) Amendment, page 1: Regional and Interim Guidance

Comment: It is not clear what plans the amendment is referring to. If they are the old resource management plans, their "owl" guidance is out of date and not biologically acceptable. The amendment should refer to the present interim guidance as proposed by both the Forest Service and the Bureau, or address the potential to update these plans as necessary.

(2) Amendment, page 2: Consultation

Comment: The agencies are already well along in their preparation for consultation on the fiscal year 1991 timber sale programs. The Service is actively assisting the agencies and has been doing so since August on the fiscal year 1991 review. The (Section 7) process worked well on the fiscal years 1989/1990 timber sale programs, and the Service expects that there will be no problems with that well-established process on any upcoming consultations. The Service has been consulting under the Act since 1977 and is well prepared to handle the workload and controversy surrounding issues of this nature.

(3) Amendment, page 3: Cooperative Habitat Conservation

Comment: The Service has already been involved in discussions with State representatives in all three States (California, Oregon, and Washington) since early summer on the issue of the development of habitat conservation plans (HCP). In fact, the Service has been in discussions with the State of California, at their request, since the date of the proposal to list the owl in 1989. These latter discussions are progressing very smoothly and on schedule. Little progress has occurred in Oregon or Washington, other than initial discussions. Assistance in this area with those two States would be appropriate.

Given the widespread nature of the owl and ongoing timber harvest, it would be most appropriate and more expedient if HCPs were developed at the State level instead of individual landowners, although the service will work with any party interested in pursuing development of an HCP.

(4) Amendment, page 3: Interim permits

Comment: It is not clear what is intended by the direction to provide incidental take permits to private landowners. The Act presently requires that a landowner submit an HCP (that meets certain qualifications) to be considered for an incidental take permit. For the Service to do this unilaterally without that requisite conservation plan, still requires that the Service have some type of plan or strategy in place upon which to base that permit. If this amendment is intended to change the Act so that such a plan is not necessary, it would set an unnecessary precedent. Processes are already in place or being considered to accommodate this issue. The more appropriate route to take would be the development of a special rule, allowed for threatened species, that would provide a basis for allowing incidental take in some areas. This also requires a plan or strategy upon which that rule (whether interim or long-term) can be based.

The PRESIDING OFFICER. The Chair recognizes the President pro tempore, the Senator from West Virginia.

Mr. BYRD. Mr. President, I wonder if it might be possible now to get a time limit on this amendment?

Mr. PACKWOOD. I am quite agreeable to a time limit.

Mr. GORE. Mr. President, if the distinguished President pro tempore will yield.

Mr. BYRD. Surely.

Mr. GORE. I am not in a position to do that at this time for the following reason, Mr. President. One of my distinguished colleagues, the Senator from Colorado [Mr. WIRTH] is in the process of finalizing, hopefully, an agreement related to an amendment he has offered to another appropriations bill. I am told that great progress is being made. He himself has strong opposition to the pending Packwood amendment. I fully anticipate, I will say, Mr. President, to the distinguished President pro tempore, that a time agreement will be possible soon on this particular amendment. I would prefer the opportunity to consult with

my colleague, the Senator from Colorado, before agreeing to any such time limitation right now, and I would urge that the debate proceed without one at this time.

Mr. BYRD. Mr. President, if the Chair would protect me momentarily.

Mr. President, would the distinguished Senator from Tennessee [Mr. GORE] be willing to attempt to get in touch with the distinguished Senator from Colorado [Mr. WIRTH] and see if we might be able to conclude a time agreement on this matter?

Mr. GORE. Mr. President, I would be happy to do as the President pro tempore suggests and do my best to move this matter along. I think we should come to a vote on it. I do think it needs to be discussed adequately because it is a complex issue.

May I say further that the distinguished Senator from Rhode Island [Mr. CHAFEE] has been an outstanding leader on this particular issue. I referred earlier to the chairman of the environment subcommittee, and I should have included him in the words of praise that I had for those who really led this fight. But I would say in conclusion that I will attempt to do as the President pro tempore suggests and seek a conference with my colleague.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Tennessee.

Mr. McCLURE. Who has the floor, Mr. President?

Mr. BYRD. I have the floor. I yield the floor, Mr. President.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. McCLURE].

Mr. McCLURE. I wish to join in the plea that the distinguished manager of the bill has made. I say to my friend from Tennessee there is no danger that this debate is going to be concluded before Senator WIRTH can get back. The danger is quite the contrary. So I do not think anybody has to protect somebody who is absent by making sure that we talk long enough so they can get here. I do hope that any Members on our side of the aisle who desire to speak on this subject would contact us so that if there is an agreement propounded all Members who have an interest can be protected. I yield the floor.

Mr. CHAFEE. addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. Mr. President, I concur in urging that we reach a time agreement. It seems to me we must be able to identify those who wish to speak. I hope that the distinguished floor manager on this side could round up his people and we could reach a determination. It is getting late. We have other issues. So let me in a weak, frail voice plead for a time agreement.

Mr. MITCHELL. Who seeks recognition?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, I have listened with care to both the remarks of the distinguished Senator from Oregon and my friend, the Senator from Tennessee. I am, I believe, a cosponsor of the amendment which the Senator from Oregon has presented to us. It is appropriate both to make a few remarks about the comments which the Senator from Tennessee favored the Senate with as well as some affirmative remarks with respect to the amendment itself.

If I can presume to condense the reasons for the opposition on the part of the Senator from Tennessee, it seems to me that they fell into three categories: the first was that this whole controversy was over no particularly big deal because all of the jobs which we are discussing will be done in a relatively few years in any event with the exhaustion of the old growth timber which is not located in national parks or in wilderness areas, or otherwise protected from cutting by a wide range of existing set-asides, set-asides which already include in the forest plans so criticized by the Senator from Tennessee literally hundreds of thousands of acres outside of parks and wilderness areas in which spotted owls were deemed to have a habitat or potentially to be able to live.

That point that we are simply talking about at best a reprieve for people who are engaged in the forest products industry is persistent but it is equally false. Studies of both the University of Washington and Oregon State University with respect to region 6—based on the proposition which seems totally to have been lost during the course of much of this debate, the forests are renewable resources, and that the scientific or systematic approach replanting, the tree farming began only 50 years ago—have pointed out that on a constant forest base while there will be slight reduction in timber harvests during the decade of the 1990's potential timber harvests will increase beginning in the year 2000. And on a sustained yield basis, it will be larger than they are at the present time or have been in the past several years.

The utilization, therefore, of some of these forest areas during the course of the 1990's, is vital not to protect a dying industry for a few more years but to smooth out the path of an industry which can continue to produce wood products and fiber, and paper products for the people of the United States and for the people of the world literally forever.

This is a natural resource which differs dramatically from anything which comes out of the Earth whether mineral, petroleum or the like. These resources are renewable. This industry is forever if we will permit it to be forever. We are fine stewards of the land with respect to the way in which these forestlands are managed.

We are growing, as the Senator from Oregon has already pointed out, in each of these States. We are growing timber at a more rapid rate than that timber is being cut. These reforested areas do not become deserts without wildlife. They support different forms of wildlife in many cases but often more and more varied wildlife than their predecessor forest did.

The second assumption or assertion on the part of the Senator from Tennessee is that the amendment which is before us at this point not only causes a conflict but assumes a particular decision. I wish that I could tell some of my desperate constituents who are faced with losing their jobs, their homes, their communities, their careers that that is indeed the case. It is, Mr. President, not the case.

The amendment of the Senator from Oregon is value neutral. It simply authorizes very specifically the treatment of these forests as a whole rather than on a project-by-project basis; that is to say, one proposed sale after another.

It not only allows but it encourages a long-term plan, an overall look at the challenge with which we are faced, and the amendment of, the acceptance of, the complete replacement of forest plans which took in most cases more than a decade to determine and which I may say, Mr. President, already have included wide acreage for the preservation of the spotted owl.

In fact, it is only by putting together such an endangered species committee that we are going to be able to take that long-term look and come up with a long-term plan which considers all of the factors which ought to be considered in any land use or land management decision.

The third assumption, which is an incorrect assumption in the presentation of the Senator from Tennessee, is that the so-called Thomas report presents to us a balanced approach, weighing the needs of those communities for long-term supply of timber against the spotted owl. That is specifically not the case. In all preliminary stages up to the point which we have reached at the present time, a committee such as the Thomas Committee is required and authorized to consider only the species which is listed or which is about to be listed. It is not until one gets to the stage of the Endangered Species Committee that community values, economic values, the whole panoply of issues are appro-

priate for consideration. It is that kind of consideration which the Senator from Oregon seeks in this amendment. That kind of consideration that the Endangered Species Act is possible only at the level which this amendment seeks to call into being.

Mr. President, faced with policy determinations, faced with the economic and social disaster staring the rural timber oriented communities of two Pacific Northwest States together with a part of California during the course of the summer, the administration came up with several recommendations.

The first was that in this bill we call for a cut of roughly 3.4 billion board feet of timber in region 6 during fiscal year 1991, a dramatic decrease from the amount authorized as a rider to this bill just 1 year ago; a cut which in itself will cause great hardship in those communities and great and painful readjustment within the industry.

No such instructions are included in this bill by reason of the objections of people like this Senator from Tennessee.

Second, the administration recommended that lands not controlled by the Federal Government but owned by the two States or privately owned for the duration of this appropriations bill, that is to say, for fiscal year 1991, be exempted from control with respect to the spotted owl, control of the Fish and Wildlife Service. Nothing of that nature appears in this bill or in any legislation.

Third, these two goals were to be referred and to be guaranteed, and that the only way possible would be by having a congressional declaration that these actions would be sufficient for this year to meet the requirement of the Endangered Species Act. The Senator from Tennessee referred to that in saying quite properly that the administration felt that it could reach these goals, 3.4 billion board feet and an exemption of the State and private land without entering into any of the lands which the Thomas Committee had called for to be reserved for the preservation and restoration of the spotted owl.

But without a declaration of sufficiency here, we know from the experience of the last year that almost every sale, almost every plan, almost every proposal of the Forest Service would be tied up in court and that those court actions would last longer than could the communities or the individuals who depend upon the harvest of that forest or service land.

The final recommendation which the administration made was the one which is reflected in this amendment, that a statutory endangered species committee be called in order to bring together all of the strands in this debate, in order to be able to consider not just the fate of the species but the fate of individuals.

In fact, even this amendment is more mild than the recommendation of the administration because, as the Senator from Oregon pointed out, this amendment does not expressly call for a convening of an endangered species committee but calls for it only if consultations between the departments and the Fish and Wildlife Service are unavailable. It is not likely that they would not be. It is not certain, by any stretch of the imagination, that they would not be.

Nor is it at all certain what the endangered species committee would actually recommend. It has been set up by statute to include a wide range of representation within the administration and within the affected States. I daresay it would propose substantial changes in the Forest Service plans which were previously on the verge of being implemented before the listing of the spotted owl. I daresay that they will inevitably, even through an endangered species committee, call for further reductions in the allowable cut in the national forests of the Pacific Northwest. But they will at least provide a degree of predictability and a degree of certainty, which is dramatically absent when all of these decisions are made in the courts, when each and every forest sale, each and every timber sale, can be challenged in court, when nothing is certain in the lives of the human beings who inhabit these areas.

The Senator from Oregon pointed out, quite properly, one consideration which was notably absent from all of the remarks of the Senator from Tennessee, and that is a concern for people, 28,000 people.

Mr. President, we are dealing here not just with a particular species, not just with trees; we are dealing here with communities, with families, with individuals, with careers, with the economic base of counties and communities, and of two States, at the very least, and of the United States, with respect to a renewable resource.

I find it stunning that we should go through such a debate, with one side ignoring completely the impact of decisions which have been taken pursuant to this act on these lives, on these careers, on the trade balance of the United States, on the future of our economy.

It seems to me that in that sense, this debate is a classic, just as the Endangered Species Act, prior to the convening of an endangered species committee, does not consider individual human beings or their communities or their society. So do those considerations find themselves ignored by those who would oppose the amendment of the Senator from Oregon.

Lord knows, we on this side are not asking for the status quo. The status quo called for a cut—and a sustainable cut, I may say—of far more than anything which was called for by the administration, or which will result from a decision by the endangered species committee.

But as earnestly as I possibly can, joining my voice with the Senator from Oregon, I call upon the Members of this Senate to remember that it is people, communities, ideas, careers, families, with which we are dealing. This debate is not over an abstraction by any stretch of the imagination. It is over how we accommodate sometimes conflicting ideas, doing the best job that we can to preserve a part of the past—but not just a part of our natural past—a part of our human past as well.

The Senator from Oregon has made a modest proposal which will help preserve some portion of these communities. The opposition deals with them as a matter of indifference.

Mr. President, I believe that the amendment proposed by the Senator from Oregon should be enthusiastically adopted by the Members of this body.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The President pro tempore.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the time remaining on the amendment be divided and controlled as follows: 95 minutes under the control of the distinguished Senator from Montana [Mr. BAUCUS]; 60 minutes under the control of the Senator from Oregon [Mr. PACKWOOD]; upon the expiration of which time, or the yielding back thereof, a vote occur on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators on both sides for their cooperation.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. I yield 20 minutes to the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I will appreciate the chair notifying me when 15 minutes is used.

I believe that the Endangered Species Act should be allowed to work, as it has time and time again when human activity has come into conflict with a declining species.

Let me start off to say that there are no two Senators that I have greater respect for in this Chamber than the two Senators from Oregon. I understand their objectives and their concern. But I do believe that the best way to proceed in this important

matter, a matter that affects their State—and I understand it—is to let the law work; give it a chance.

Let us briefly review the bidding, if we might, Mr. President. This past June the U.S. Fish and Wildlife Service determined that the northern spotted owl was a threatened species. According to the Service, the owl is threatened due to the loss of and the adverse modification of its habitat. That is usually what causes endangerment to occur, species to become threatened, the loss of a particular habitat. At that time that was the old growth and the mature forests of the northern Pacific coast.

Earlier in the year a congressionally convened interagency group of scientists had concluded that the spotted owl habitat had been reduced by about 70 percent since the year 1800, and that the current forest management practices are inadequate to ensure the continued viability of the owl.

These decisions have made the northern spotted owl the unwitting focus of a larger controversy over the management of our Federal forest lands. I must say, I think, as some have previously referred to that, what we have in here is a real conflict over how the forest lands of the United States are to be managed, and the northern spotted owl is an unwitting football, if you might, in the middle of this contest.

Mr. President, I want to say that Congress does not have a very good track record when it comes to slapping together a solution at the 11th hour with no consideration by the committee of jurisdiction. Last month, on September 18, the Ninth Circuit U.S. Court of Appeals ruled that provisions relating to timbering in the Northwest which were included in last year's Interior appropriations bill were unconstitutional. Last year's band-aid approach was struck down as a violation of the separation of powers. Who can say what legal or practical problems will surface if this amendment, which has been discussed over several weeks but which was actually introduced about a week ago, should be enacted into law?

I believe, Mr. President, there is no reason to rush this legislation through in the waning hours of this Congress without the benefit, as we mentioned before, of the committee of jurisdiction hearings. Both the Forest Service and the BLM have announced their intention to continue to comply with the Endangered Species Act as they proceed with the development of timber plans for the year 1991 and beyond.

I think it is important to note the following: Since the listing of the owl as a threatened species last June, Fish and Wildlife has been consulted on over 1,300 timber sales from either BLM lands or Forest Service lands, and not one request, not one request, has been halted for failure to meet the requirements of the Endangered Species Act. In other words, every one of these 1,300 timber sales has been permitted to go forward.

The Endangered Species Act is based on a very straightforward policy. The policy is as follows: Actions of the Federal Government should not result—should not result—in the extinction of a species. I think we would all agree with that because extinction is final. That is what the word "extinction" means. It is gone. There are no more of the species left. It cannot be undone. That is why, Mr. President, we set up a process that requires interagency cooperation and a careful and thorough review of any action that would jeopardize a threatened or endangered species.

Here is the way the process works. Once a species has been listed, as this has, Federal agencies are required to consult with the Fish and Wildlife Service on actions that are likely to have an adverse effect on these threatened or endangered species. They want to take some action. They come before Fish and Wildlife for consultation. This cooperative process between the action agency—let us say BLM and Fish and Wildlife allows 90 days for the Fish and Wildlife Service to work with the action agency to develop alternatives which satisfy the objectives of the agency. BLM says, "We want to cut here in this area." The process then envisions and carries out a consultative process of actions that the agency might take to reach its objective but which are not likely to contribute toward the extinction of the listed species.

Fish and Wildlife Service's regulations specify that economic considerations are part of the determination as to what constitutes a reasonable and prudent alternative. I believe that has been overlooked here. Economic considerations come into the determination of what is a reasonable and practical, prudent alternative.

The consultation process is designed to identify measures which would minimize the impact of Federal actions on a listed species. This consultation process, Mr. President, is the heart of the Endangered Species Act. That is what it is all about. I might say that the consultation process is successful 99 percent of the time. That is a pretty good success rate. In fact, less than 1 percent of the 48,538 biological opinions issued from 1979 through 1986 concluded that a project would be likely to jeopardize the continued existence of the listed species. Only 1 percent said that, if you persist in proceeding the way you were, do not follow the suggestions that the continued existence of the listed species is affected. In other words, there are alternatives out there, and they adopt the alternatives 99 percent of the time.

The act, as I say, has already demonstrated its flexibility and, indeed, it has demonstrated its flexibility with respect to the northern spotted owl. As I say, since the owl was listed as threatened last June, in these 1,300 individual timber sales, not one of them has been prevented from going forward, and, indeed, they have.

Now, the critical issue under the Packwood amendment, Mr. President, is what action agency will be the subject of the Endangered Species Act, the consultative process. What are they going to consult about? The distinguished Senator from Oregon has provided that the existing plans will be what is considered. There is the hitch. The existing plans were drawn up before the spotted owl was listed as endangered. So, obviously, these plans that the statute says ought to be considered, by not taking into account the fact the spotted owl is endangered, means that there is no decision that Fish and Wildlife can come to but that they jeopardize the existence or the continued existence of the owl. It is true that in the amendment it says that other matters—and I might read from that language. It says: "The Bureau of Land Management shall submit for consideration or guidance and other studies," and so forth. But the action is to be based upon the study, some parts of which were completed 10 years ago. All of the study was completed before the spotted owl was declared endangered. So there is the problem.

What the amendment does, it locks the agencies into consulting in those plans that do not recognize the Endangered Species Act policy. This is what the Endangered Species Act was designed for. It says all Federal departments and agencies shall seek to conserve endangered species and shall utilize their reports in furtherance of that process. But that is not permitted here.

So, it seems to me quite clear, Mr. President, that the purpose of the legislation is to ensure that BLM and the Forest Service will receive this jeopardy opinion, which will be the natural consequence of the opinion being rendered on these old plans. That is predetermined. And then, regardless of what reasonable alternatives may have been identified through consultation with the action agency, BLM will get the jeopardy opinion, and then it can apply for exemption from the Endangered Species Act.

I think the proponents of the amendment are quite clear on that, that that is what they want. Senator PACKWOOD, in his very well-reasoned and forceful argument, which he always does here so well on the floor, has clearly stated this idea to get this

issue before the Endangered Species Committee, the so-called God Committee. And we who wish the processes of the act to be followed believe this tips the scales in favor of the exemption process.

Mr. President, I believe that what we ought to do is let the act work. Let us seek a balance, and maybe it can be achieved, between the logging interests and the owl with no preordained requirement that a jeopardy opinion be issued. Who knows, it might not succeed. But it seems to me it is worth the try. I think it is too early for the Government to throw up its hands and say it is impossible to manage our Federal lands in such a way that sensitive wildlife can survive. So I do not share the pessimism expressed by some in the administration when it comes to the ability, through this act, to carry out a sustainable timber program and comply with our Nation's environmental laws.

I might say further two points: One, there are predictions of loss of jobs in the timbering industry. But I think even the proponents of the act would recognize that there has been a decline in timber jobs anyway over many years just as in the coal industry. We have faced this in the Clean Air Act. They were saying x number of those jobs are going to be lost in the coal mining industry due to the Clean Air Act. But indeed many, many jobs have been lost and will continue to be lost in the coal mines regardless of whether the Clean Air Act conference report is approved here or not. That comes from mechanziation and a whole series of other activities.

So I believe the proponents of the amendment would concur that jobs have been lost in the timber industry, jobs will continue to be lost regardless of whether the spotted owl was just forgotten about because of a variety of reasons, including mechanization and others.

My second point is this, Mr. President. The Endangered Species Act has served as a wildlife preservation model for the entire world. I think it is important for all of us to remember that the United States does set a standard. The United States is a beacon in environmental laws. We have passed strong laws on clean water. We have passed strong laws on dealing with hazardous wastes, preventing them from being disposed of and providing for their cleanup. We have passed strong laws or will, I believe, hopefully, strong laws in connection with clean air, and we have passed a strong law dealing with the protection of endangered species.

Mr. President, what we do in the United States encourages other nations to follow suit. Yes, not only the industrially developed nations, but the Third World nations as well.

Now, I will point to this, Mr. President. On the floor of the Senate, we passed a very strong clean air bill that dealt with CFC's and HCFC's, chlorofluorocarbons and hydrochlorofluorocarbons. As a result of the action that was taken on the floor here, the nations of the world, meeting one week thereafter in London, chose to agree to a protocol that provided for them to take strong action on the curbing of CFC's which are so destructive to the stratospheric ozone layer.

So it is not just that we are acting alone here. What we do indeed does reverberate throughout the world. Our efforts to encourage other nations, particularly Third World nations, to curtail destruction of critical fish and wildlife habitat, I believe, will be undermined if we do not uphold the Endangered Species Act. There is no basis on which to believe that this act will not work.

The PRESIDING OFFICER. In accordance with the Senator's request, the first 15 minutes of the time allocated to the Senator has expired.

Mr. CHAFEE. I thank the Chair.

I hope my colleagues will not retreat from the commitment made under the Endangered Species Act to conserve threatened and endangered species and, of course, their habitat. That is the key to the whole thing. And by requiring the Fish and Wildlife Service to issue a decision on the old plans and precluding the service from issuing an opinion on these plans as modified to incorporate adequate owl conservation measures, I believe, would be a mistake.

So for those reasons, Mr. President, I oppose the amendment.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. Senator is recognized for up to 10 minutes.

Mr. BAUCUS. Mr. President, I oppose the amendment offered by the Senator from Oregon for several reasons. At the heart of the opposition is that this amendment is simply not needed. We should not be here at this time, Tuesday, late in the congressional session, legislating and attempting to change a major statute, the Endangered Species Act, on an appropriations bill, attempting changes when there have been no hearings, there has been no committee markup, no attempt to thoughtfully try to amend the Endangered Species Act, if it should even be amended.

The amendment—the changes sought by the Senator from Oregon [Mr. PACKWOOD] to attempt to have a resolution of the forest products industry on the one hand and the spotted owl on the other—is not needed. There is today a process. It is a thoughtful process. It is a process set up under the Endangered Species Act to resolve these kinds of conflict. The process was very much thought through during the drafting of the Endangered Species Act several years ago.

Now there is an impression left by some here that only scientific considerations are used by the Fish and Wildlife Service or the agency involved in this case, the Forest Service. That is not true. During the consultation process set up and prescribed under the act, not only scientific considerations but economic considerations are also very much in consideration. Under the process, the usual process, an agency, in this case the Forest Service, in consultation with the Fish and Wildlife Service, both agencies attempt to come up with alternative approaches, to come up with a solution so that the species is not in jeopardy. That is the usual process, to try to find different alternatives so that the agency can go ahead, in this case the Forest Service, with the timber sales, but yet in a way which does not result in the species being in jeopardy.

That is the usual process and it is a process which I think makes more sense because it puts the burden on the agencies to try to come up with a resolution that allows the project to proceed, but in a way that does not endanger the species. That makes a lot of sense. In fact, Mr. President, the procedure has worked very well.

Of 1,300 timber sales that have gone through this process, not one has been stopped under the Endangered Species Act. Not one. Thirteen hundred timber sales have gone through this process and not one has been stopped. In addition, as 2 Senators have pointed out during this debate, of the 48,000 actions taken by agencies over the years under the Endangered Species Act, only 1 percent of those 48,000 have resulted in a jeopardy opinion.

That is only the start of it. Only .03 percent of that 48,000 have resulted in the action being stopped. That is 3 out of 10,000 cases.

Now to me that does not indicate that the Endangered Species Act has stopped economic growth, has stopped economic development, because it has not. Again of 1,300 timber sales, not one stopped was under the act. One percent of the 48,000 resulted in a jeopardized opinion, and only 3 out of 10,000 agency actions has resulted in an action that stopped. The Endangered Species Act has not stopped the economic growth and development.

The amendment before us is subtle, it is seductive, but it is very, very dangerous and undermines the purpose of the act. The forest lands under BLM and under the national forests that are in existence when this amendment is enacted, if it is, are the plans sub-

mitted to the Fish and Wildlife Service during the so-called consultation process. That may sound OK on the surface, but what is wrong with that? Here is what is wrong with that.

That forces a conclusion which results in a jeopardy opinion which will then jump start, hot wire, the action then to so-called Endangered Species Committee, which is composed of membership which will find probably an exemption. It jump starts and hot wires and it loads the deck.

This is a loading-the-deck amendment. It is loading the deck against the usual process, against the usual consultation process where an agency, in consulation with the Fish and Wildlife Service, attempts to come up with another solution that basically allows the project to proceed, however, probably on a modified basis.

The Senator from Oregon says that, well, it is specific actions, it is timber sales that are so numerous, and because the process is so narrowly crafted, that it is a problem here.

Mr. President, that is not true. Today the Forest Service can submit plans. It does not have to use only timber plans. It can submit plans. I refer the Senator to 50 CFR 402.14(c)(6) because that is the regulation which allows plans to be submitted. In addition, the regulations under that statute, also, when you read the regulation, is written in a very broad way. The main point being the agencies today do have the authority to submit forest plans. They do have the authority to submit broad-based plans. They are not required to submit narrowly drawn or crafted precise timber sales. It is not required.

I make this point further, Mr. President, because the administration has not attempted to use the statute. It has not attempted to use the normal course of business. It has not attempted to try to make the process work. Instead, this amendment says even though the administration has not tried to make the usual process work, we are not even going to try to make it work. We are, therefore, going to jump start it, hot wire it, and load the deck against this result. That is what this is all about, Mr. President.

That is what this is all about, Mr. President. I submit it is not too late to use the ordinary process under the Endangered Species Act. It is not too late. The administration today could ask the Forest Service or the BLM to consult with the Fish and Wildlife Service as the act contemplates to come up with a modified plan, try to come up with an alternative that works. That is the usual process. Then, under the procedure required by the Endangered Species Act the agency proceeds. If, in fact, a jeopardy opinion is issued, then there is a process for attempting to see if there should be an exemption.

But if and when the process ever gets to that point, it should only get to that point if there has been an earlier opportunity for the kinds of consultation that take both scientific data into consideration and economic feasibility into consideration, which is contemplated under the act.

In summary, we do not need to be tonight trying to enact this amendment because the present process works. We are tonight on an Interior appropriations bill attempting to enact legislation that will change a major statute with no hearings, no opportunity to fully examine what is happening. The present Endangered Species Act has not resulted in economic reuination. I must say the analogy to the Tellico Dam is inapt. It is not comparable to this situation. In that case, the Tellico situation, there was an irreconciliable conflict and we are further down the road in this process.

Here we have not even started the process. We have not attempted to see if the process works. We have not tried the consultation. That is the major difference between the Tellico Dam example—which is inapt, it does not apply here—and the situation here at hand. So I urge my colleagues to look at this very closely. Do not jump start it, do not hot wire it, do not load the deck. We have an Endangered Species Act which, according to the facts, is working. I urge my colleagues to not support the amendment because we do not at this late date want to undermine an act. I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. SIMON). Who yields time?

Mr. PACKWOOD. I yield the Senator from Alaska 15 minutes.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 15 minutes.

Mr. MURKOWSKI. Mr. President, I, along with a number of my colleagues, have gotten numerous letters, all claiming the sky is going to fall if this amendment is agreed to. Certainly all the major environmental organizations seem to feel that Senator PACKWOOD is earnestly in pursuit of some kind of environmental holocaust. The Senator from Alaska disagrees with that contention. Senator PACKWOOD, I think, has proposed an excellent amendment. It is one I wholeheartedly support.

The accusation has been made that the amendment will put the Federal agencies above the law or perhaps undermine the integrity of the Endangered Species Act or thwart the basic purpose of the act—or several other accusations. I think these statements are misleading. Frankly, if they were true I would not support the amendment. Further, if they were true I do not think my distinguished colleague from Oregon would be offering the amendment in the first place. This amendment simply clarifies the status of land and resource management plans under the ESA.

This will ensure the plans as well as specific sales will be considered as Federal actions. This step is extremely important simply because only Federal actions of significant regional or national significance can be considered by the Endangered Species Act.

I repeat that, Mr. President, because I think perhaps some of my colleagues have not reflected on that. It will force the convening of the Endangered Species Committee before the process in the Endangered Species Act is allowed to work.

I think the amendment clarifies the status of land and resource management plans. This will ensure the plans as well as specific sales will be considered as Federal actions, as I have stated. This step is important simply because only Federal actions of significant regional or national significance can be considered by the act. There can be no question that the overall issue of the spotted owl is of significant interest to the Pacific Northwest and I believe that the spotted owl probably has moved up into the Queen Charlotte, and maybe on Vancouver Island. As far as we know it is not in southeastern Alaska. I might add we are not anxious to see it, either.

However, there is every likelihood that if the term "actions" is interpreted to mean individual timber sales, the committee would not be convened and there would be no real effort to balance human economic and social-cultural interests against the interests of the spotted owl.

The amendment is needed and I strongly urge my colleagues to support it.

There is a related issue I wish to mention as well. I think it is extremely ironic that all the forces of the Nation's environmental forces has brought to bear against this much-needed amendment before us, yet these same groups are noticeably silent on recent events that should be drawing their attention.

The issue before us here is obviously the spotted owl and the propriety of bringing the God Committee to address the question of to what degree is, indeed, this species threatened; in what degree might not the species be compatible in second growth; and just how sound is the scientific information that we have.

Sometimes, Mr. President, the left hand really does not pay much attention to what the right hand is doing. This Nation was shocked by the number of birds and sea mammals killed by the Exxon oilspill in Alaska. But in the last few days the press has reported equally shocking news. The Federal Government's lawyers and sci-

entists have been secretly collaborating to kill hundreds of more birds, kill them, and have given their approval for plans to kill deer, minks, and sea mammals, specifically sea otter. These animals were killed, Mr. President, for one reason. They were killed to support the Governor's plans to sue Exxon to pay damages for the loss of wildlife due to the oilspill.

Let me quote a few news accounts; from the Anchorage Daily News, October 18:

> Researchers trying to calculate how many birds died in the Exxon Valdez oil spill deliberately killed up to 350 more birds this summer, dunked some in oil, fitted all with radio transmitters and tossed them into the sea to track them to their final resting place.
>
> The birds—murres, scoters, common eiders, cormorants, ancient murrelets and auklets—were collected on islands in Cook Inlet, the Aleutian chain and elsewhere, mostly in national wildlife refuges * * *.

No word about the study was released until a few weeks ago. No environmental organizations were aware the birds had been killed. A description was released about 2 weeks ago by the Federal Government. But nowhere in the study description was there any mention of the fact that 350 birds were killed; killed to conduct the study.

Mr. President, from the Washington Post of October 19:

> Government officials have quietly ordered the killing of hundreds of birds, some seals and perhaps other mammals for studies that could strengthen their court case against Exxon for the 1989 oil-tanker spill in Prince William Sound. * * *
>
> Federal officials in Alaska confirmed that they authorized the killing of birds for at least eight studies to determine how many animals were killed by the oil spill.

Mr. President, I ask unanimous consent that these two stories, along with an editorial from the Anchorage Daily News of October 19, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MURKOWSKI. Mr. President, I find this so-called study absolutely deplorable, both morally and scientifically. It must be called into serious question.

Mr. President, who should look into a matter of this nature? Might it be the same group that the Senator from Oregon suggests look into situations with regard to the spotted owl? Perhaps there is justification for that. Apparently, Mr. President, the study that has been authorized to kill the birds in Alaska was approved by the regional Fish and Wildlife Service officials and may not even have been cleared with their superiors in Washington. In fact, the Secretary of the Interior has indicated, as late as today, that he did not know about it; does not agree with it; and would not have approved it.

In support of that let me read again from the Washington Post article, in which Mr. Stephen Goldstein, a spokesman for Secretary Lujan is quoted as saying:

> The Secretary did not know of this in advance and would not have approved it if he did.

So who did approve it, Mr. President? Why did he? The Fish and Wildlife Service appeared in earlier stories to be pointing the finger at the Justice Department lawyers saying it was the Department of Justice who felt so strongly that this study needed to be done to make their case. Imagine the degree of the bureaucracy when they have come before an agency and asked for permission—kill the birds, dip them in oil, throw them out in the water and see where the tide is going to bring them back so they can make an accounting of what the estimate might be in preparation for a lawsuit.

Clearly, Mr. President, there is a relationship here between going too far—and I say that we have gone too far in the case of the spotted owl in relationship to those who suggest that this is somehow a major landmark in an endangered species when, indeed, the studies lack the credibility to suggest that the spotted owl in itself is not capable of a modest adjustment.

An interesting question as well, Mr. President, is the realization that the spotted owl can move easily from Forest Service ancient or old growth to private lands as well simply by flittering away. I am sure the spotted owl has no difficulty in addressing its habitat, should it decide to, into the private sector.

What are we looking at? Are we looking at extending this prohibition which would disallow timber harvesting in private lands because the spotted owl may choose to go over there? The environmentalists countered that, Mr. President, by suggesting the spotted owl is only in old growth. The spotted owl has been seen in second growth as well.

The point I am making is an obvious one. We are seeing those in the environmental community, frankly, run amuck on the issue of any excuse to stop timber harvesting in the Pacific Northwest and my State of Alaska. Fortunately, as I have indicated, Mr. President, they cannot use the excuse in my State because we do not have the spotted owl. As far as I know, we never have. But nevertheless, the issue here is to stop logging, stop renewable resources coming from well managed land with forest management practice that basically allow for the regeneration of trees, and that is what good management is all about.

Mr. President, the scientific wisdom of these studies that I have mentioned that have taken place in Alaska I think have to be seriously questioned. Who are the controlling agencies? How can one be sure that birds killed with a shotgun and dipped in oil would behave the same way as birds killed by the prolonged ingestion of oil from the *Exxon Valdez*? What effect would the wind, weather and temperatures have?

My understanding is the permit for this study was for the killing of 350 birds, and these are migratory birds, Mr. President. These are birds that are under Federal jurisdiction. They are not in the same situation as is appropriate in the sense of the spotted owl. The question is they are probably not endangered. There are a lot of these birds, but nevertheless they are protected by the Federal Government.

I ask, why do these studies have to involve killing even more birds when the Government is still storing thousands of birds killed by the real oilspill? They are in freezers and cold storage plants in Seattle and in Alaska as well. A very similar study was carried out last year and actually used birds killed during the spill. Why was that not enough? Are we simply going to see study after study until we finally get one with the numbers that those who are asking for this want?

The most ironic thing and perhaps the saddest, Mr. President, in part of this episode, is the fact that thousands and thousands of hours of time were spent by volunteers trying to save every living bird that could be saved from the *Exxon Valdez* spill, and less than actually 800 of those birds survived the treatment and were released.

Now we are seeing, at a cost to the U.S. taxpayer of some $600,000, the Government itself deliberately killing one-quarter of that number of birds and trying to kill still some more. Come on, Mr. President, one cannot even imagine the hue, the cry that would have resulted if such a plan had been presented in this body. I can think of a number of my colleagues who would be up in arms, and rightfully so.

I think my colleagues would agree that this is an appalling miscarriage of both justice and, more important, Mr. President, science. When are we going to start making our environmental decisions on sound scientific evidence as opposed to hearsay, opposed to inflammatory statements by people who are genuinely interested and have a legitimate concern but really, to a large degree, do not know what they are talking about?

This is appalling in the mind of the Senator from Alaska. Now we are seeing that no one seems to want to come forward in the case of Alaska in the killing of these seabirds and accept the responsibility for it.

Mr. President, I submit that those responsible should be identified, and they ought to give an explanation of their actions. Then we ought to see whether we agree with them or not. I

would have a hard time on the information I have now agreeing that that method, namely, taking somewhere between 200 and 350 birds, killing them, dipping them in crude oil, and then throwing them into the sea to see where they drift and then attempt to make an estimated count so that the Federal Government could bring a suit against the Exxon Corp.

I submit, Mr. President, there ought to be a more reasonable approach, and I think there is a parallel here as we address the Packwood amendment, that there ought to be a more reasonable approach to resolve the spotted owl than the decimation of an industry and jobs.

EXHIBIT 1

[From the Anchorage Daily News, Oct. 18, 1990]

BIRDS KILLED TO MAKE CASE AGAINST EXXON

(By David Whitney)

WASHINGTON.—Researchers trying to calculate how many birds died in the Exxon Valdez oil spill deliberately killed up to 350 more birds this summer, dunked some in oil, fitted all with radio transmitters and tossed them into the sea to track them to their final resting place.

The birds—murres, scoters, common eiders, cormorants, ancient murrelets and auklets—were collected on islands in Cook Inlet, the Aleutian chain and elsewhere, mostly in national wildlife refuges outside the spill zone. The killing was done by a Portland, Ore., company under contract to the U.S. Department of Justice and the Fish and Wildlife Service.

The $600,000 study is aimed at finding a formula that can be used against Exxon Corp. in court to establish the number of birds killed by the 11 million gallon spill in March 1989.

"The Justice Department felt strongly that this study needed to be done to make its case," said Bruce Batten, a spokesman for the Fish and Wildlife Service in Anchorage.

Although more than 30,000 dead birds were pulled from the oily waters and beaches after the spill, many thousands more were believed to have sunk to the bottom of the sea, been eaten after washing up on shore or been washed out to open waters by ocean currents.

By tracking the movement of dead birds thrown into the water this summer, researchers hope to establish a formula that can be used to estimate the total bird loss last year.

If a certain percentage of this summer's study sample washes up on the beaches, for example, the researchers think they can apply that percentage to the number of carcasses found after the spill and come up with a figure for the total spill kill.

"The process of carcass loss both at sea and on the beach face it poorly understood, but it is critical to the estimate of total mortality since this appears to have been the fate of a large portion of the birds killed by the spill," said a partial description of the study released two weeks ago.

While environmentalists contacted about the study Wednesday agreed the results would be useful, they also questioned the government's need to kill more birds to arrive at the formula.

"It's unfortunate they had to collect live birds for the study," said Jack Hesslon, Alaska representative of the Sierra Club. "It's unfortunate the study wasn't given more publicity so that people could comment."

Al Manville, who follows the oil spill for Defenders of Wildlife, said the study could be challenged because there no longer is any oil on the surface of the water and because many of the predators that would ordinarily eat dead birds on the shore were probably killed by the pollution last year.

"It's necessary to get this kind of information but it is curious that they waited for so long after the fact to get it," Manville said.

No word about the 1900 study was released until a few weeks ago and no environmentalist organizations were aware until contacted by a reporter that birds had been killed for the project.

A description of the study was released about two weeks ago by the federal government as part of a package explaining what oilspill research had been conducted this year.

But nowhere in the study description was there any mention of the fact that 350 birds were killed to conduct it.

According to the study description, bird carcasses were to be fitted with radio transmitters and put into the water at a number of locations in Prince William Sound and the Gulf of Alaska, the same areas hit hardest by the spill.

R. Glenn Ford of Ecological Consulting, Inc., the company doing the study for the government, declined to answer questions, saying he had been told Wednesday by the federal government to refer all inquiries to the Fish and Wildlife Service in Anchorage.

In order to kill the birds for the study on the wildlife refuges, the company obtained a permit from the Fish and Wildlife Service.

According to that permit some birds were taken from Chisik Island. That island is part of the Alaska Maritime Wildlife Refuge in Cook Inlet, which on a clear day can be seen from Anchorage.

Hession described Chisik Island as "one of the most important seabird colonies in the state."

The 350 birds sacrificed for the study represent almost half of the 797 birds that the U.S. Fish and Wildlife Service says were retrieved, cleaned and released as part of a highly-publicized bird rescue program after the spill.

U.S. Fish and Wildlife Service biologists last year did similar experiments with the carcasses of birds killed by the spill. Using data from those studies and other sources, they estimated that between 100,000 and 300,000 birds were killed by the spill, more than were killed by any other spill in history, said Cal Lensink, who co-authored the study. Lensink read a paper on the study at a scientific conference in Cordova this spring.

[From the Washington Post, Oct. 20, 1990]

BIRDS KILLED IN ALASKA FOR EXXON CASE

SEATTLE, October 19.—Government officials have quietly ordered the killing of hundreds of birds, some seals and perhaps other mammals for studies that could strengthen their court case against Exxon for the 1989 oil-tanker spill in Prince William Sound.

"Pretty incredible, isn't it?" said Steve Goldstein, a spokesman for Interior Secretary Manuel Lujan Jr. "The secretary did not know of this in advance and would not have approved it if he did."

Federal officials in Alaska confirmed that they authorized the killing of birds for at least eight studies to determine how many animals were killed by the oil spill. The bird carcasses, some of them oiled to simulate the spill, were then tossed into Prince William Sound and tracked.

In one study this year, 250 or more birds were shot. In the others, federal officials indicated the numbers were somewhat lower—a few dozen for each study. By tracking the movement of the bodies through the water, the studies sought to devise a formula for determining how many birds may have succumbed to the effects of oil.

Alaska officials confirmed that they too "collected some animals" in preparation for a damage suit against Exxon. But a state official said lawyers in the case ordered that no specifics be released until the legal implications are studied. All that is known is a previously disclosed kill of 10 harbor seals, including three pups, in Prince William Sound in 1989.

In addition to seals, federal authorities said that the state of Alaska may have killed river otters, deer and other mammals as well as an unknown number of sea ducks as it builds a scientific foundation for its litigation.

Meanwhile, in Anchorage, a federal judge denied a dozen motions made by Exxon Corp. and Exxon Shipping Co. to dismiss criminal charges stemming from the Exxon Valdez spill.

Trial has been set for April 10, more than two years after the tanker left the port of Valdez, and ran aground on a marked reef in Prince William Sound, spewing more than 10 million gallons of oil and fouling fishing grounds and wildlife habitat.

[From the Anchorage Daily News, Oct. 19, 1990]

STRANGE TALE: THIS ONE IS TRULY FOR THE BIRDS

Back in late March and early April of 1989, emotions ran high in Valdez. The biggest oil tanker spill in American history had drenched Prince William Sound in almost 11 million gallons of black crude oil. The spill took a massive toll in wildlife, particularly birds and otters.

Volunteers from all over the nation and Canada converged on the region to help in the animal rescue that got underway. Birds—some of them totally black except for white, frightened eyes, and with feathers knotted by the crude—were brought in from Prince William Sound by the dozen.

Anyone who ever saw it will never forget the effort that went into trying to save those birds. Each animal would have four to six people hunched over it. The volunteers would wash the birds with detergent, dry it, then wash it again. They used tooth brushes to scrub feathers, Water Piks to clean around eyes.

The process could be repeated six, eight, even 10 times. It could take hours or days to adequately clean a bird.

Even then it was not all certain the bird would live. The crude oil's toxins wreaked tremendous damage on internal organs. Some had been terribly weakened when oiled feathers removed any insulation from the Sound's cold waters. Some were frightened into near catatonia. Some caught contagious diseases while in captivity.

The whole process wore down the volunteers. Some worked non-stop for days. The birds fought their rescuers, and those with

vicious beaks, such as loons, often did significant damage to hands and arms.

Emotionally, it was tough too. Rescuers would spend hours on a bird, only to have it die in their hands. Biologists estimated that only about half the birds brought in could be saved. Volunteers would sometimes abruptly break into tears.

In all, the men and women who worked on the bird rescue saved 797 birds. This was the number that went through the whole process; retrieval, cleaning, and then return to freedom.

Now a news report reveals that researchers—ostensibly trying to determine exactly how many birds died in the Exxon Valdez spill—recently killed up to 350 birds, dunked some in oil, and then threw them into the sea. It cost $600,000 to do it, and the study went forward without telling anyone. The Justice Department says it needed information from the study to help make its case against Exxon.

One can only guess at what those bird rescue volunteers are thinking.

[From the Anchorage Daily News, Oct. 23, 1990]

DEPARTMENT DENIES BACKING BIRD STUDY

(By David Whitney)

WASHINGTON.—The Justice Department on Monday said it didn't approve a government study this summer that involved killing seabirds to prepare legal claims against Exxon Corp., and is investigating to find out how it happened.

A spokesman said the department neither asked for nor authorized the $600,000 research project, in which more than 200 seabirds were killed.

"Questions are being asked," spokesman Dan Eramian said at the department's regular Monday briefing.

But Eramian said the Exxon case is in litigation and so he couldn't provide much detail.

"Let me say this; however," he said. "The Department of Justice did not authorize nor did it ask for these studies. And Mr. (Richard) Stewart, the assistant attorney general for the Lands Division, would not have recommended or condoned such a study."

The lands division is in charge of preparing the government lawsuit, against Exxon. The summer study involved killing birds, dunking them in oil," throwing them into the sea and then tracking them to their final resting place in an effort to arrive at a formula that could help the federal government determine how many birds were killed in the 11-million-gallon Exxon Valdez spill.

Last week, when the U.S. Fish and Wildlife Service confirmed that such a study had been conducted, Anchorage office spokesman Bruce Batten said "the Justice Department felt strongly that this study needed to be done to make its case."

Monday, the Fish and Wildlife Service stuck to its claim that the Justice Department was involved in the decision to conduct the study.

"The study was reviewed by a panel of leading experts in their fields." Anchorage Fish and Wildlife official Paul Gertler said. "There was concurrence by the Department of Justice, the Department of Interior and other (oil spill) trustees that this was a high-priority study that needed to be conducted."

"It was a mutual decision, one agreed on mutually by all concerned parties," Gertler said.

The birds were collected by Ecological Consulting, Inc., of Portland, Ore., R. Glenn Ford, an officer with the company, said last week the work was performed under an arrangement with the Justice Department and the Fish and Wildlife Service.

Ecological Consulting had a permit to kill up to 350 birds for the study. Gertler said the actual number killed was "just over 200."

Eramian was asked if lower-ranking Justice Department officials could have been involved in discussions with the Fish and Wildlife Service about the study, but said he didn't know.

I can't confirm or deny that because I just don't know," Eramian said. "Nobody at management level, here at main Justice (headquarters), knew the studies were being conducted."

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. PACKWOOD. Mr. President, I suggest the absence of quorum and ask unanimous consent that it be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 10 minutes.

Mr. ADAMS. I thank the Senator from Montana.

Mr. President, I must tell you that this amendment causes me great difficulty. I believe very strongly in the Endangered Species Act and the procedures set forth under this act. I also care very deeply about the livelihood of Northwest citizens who depend upon a Federal timber supply for their jobs.

Over the past 2 years, Anne Badgley of my staff and Loren Ford who was loaned to us from the Forest Service and I have worked constantly on this supply crisis. We have spent a considerable amount of time searching for ways of assisting timber dependent communities through the current supply crisis. When Mr. PACKWOOD originally raised his amendment, I looked at it very closely. I hoped that it might be another way of assisting our communities. I hoped that he might raise an approach which would be acceptable to those Members of Congress who also feel strongly about the Endangered Species Act. Unfortunately, this amendment falls short on both counts.

Mr. President, this is not some philosophical discussion for me. The timber industry is the second largest business in my State. Many families who depend upon the public timber supply for their employment are worried about their futures. They are angry and afraid. Mr. President, I want to help these people but I refuse to join in building false hopes. They have been led to believe that the Packwood amendment is their salvation. This is not true and I refuse to grandstand with the lives of these people. We have real problems in the Northwest. We need real solutions, not hollow promises.

Mr. President, I find that I cannot support Mr. PACKWOOD's amendment for the following reasons.

First, and perhaps most important, this amendment is not necessary. The Federal agencies could have started the process long ago by submitting their plans to the Fish and Wildlife Service for consultation. However, instead of encouraging the agencies to take that route, the administration squandered more than 3 months on a task force which produced a three page press release directing Congress to waive significant sections of the Endangered Species Act. I believe that with encouragement from the President, the agencies would begin the exemption process. And I strongly suggest that the President push its agencies in that direction. I suggest that the distinguished Senator from Oregon spend his time pushing the administration in a constructive direction rather than trying to turn back the clock.

Second, the Packwood amendment has potential repercussions beyond the spotted owl situation. In fact, it opens the door for waiver of threatened and endangered species all over the Northwest. It does not contain any limitation on the other applications. Other species such as the bald eagle, the gray wolf, may eventually fall under the procedures of this amendment.

Third, the amendment exempts the agencies from preparing biological assessments which are necessary information for a careful consultation process. These biological assessments are crucial in determining where the threatened species are located and how they might be affected by the actions. This is important because for the first time we are beginning to understand how these forests not only regenerate themselves but the species they protect.

Fourth, the Packwood amendment restricts the allowable time for consultation. I understand the desire for a defined end in this process. However, the Forest Service and the Bureau of Land Management have spent more than 10 years putting together their plans. A tremendous amount of information has been developed over that period of time. I believe that it is very important to conduct each step in this process as carefully as possible. This is not the time to shortchange the Fish

and Wildlife Service. If it needs more than 90 days to conduct its consultation let's give it to them. Too many mistakes have been made in the history of the spotted owl. Let's do it right this time.

The PRESIDING OFFICER. The time of the Senator from Washington has expired.

Mr. ADAMS. I ask that I might have 2 additional minutes.

Mr. BAUCUS. I yield 2 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 2 additional minutes.

Mr. ADAMS. I thank the Senator from Montana.

Mr. President, the Endangered Species Act is very thoughtful legislation. When Congress created the Endangered Species Committee, which has been nicknamed the "God Committee," it recognized the awesome responsibility the committee would have of deciding when the need to protect a species from extinction is outweighed by society's other needs. A number of steps were carefully developed to ensure that all information was looked at before an exemption was considered. Mr. President, these steps are there for a reason. I believe that any attempt to convene the Endangered Species Committee without following these steps is unwarranted and sets a very bad precedent for the future. The prospect is very disturbing to me. What this amendment effectively says to me is that if there are elements of the Endangered Species Act which are inconvenient, time-consuming, or potentially damaging to a desired outcome, then Congress will just skip them.

Therefore, I am hopeful that the Congress at this time will not make a precedent-setting decision for the Endangered Species Act. The proper place for those decisions is the authorizing committee. I hope that this amendment will not pass, but that the proper authorizing committees will proceed.

I thank the President, and I thank the Senator from Montana.

The PRESIDING OFFICER. Who yields time?

If no one yields time, the time will be divided equally between the two sides.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum, and ask that the time be divided between both sides.

The PRESIDING OFFICER. Without objection, the time will be equally divided, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask if the distinguished manager of the time will yield me 15 minutes.

Mr. BAUCUS. Mr. President, I yield 15 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 15 minutes.

Mr. WIRTH. Mr. President, thank you very much.

I do not intend to speak this afternon about the procedural pieces of this, which others have spoken in detail. We have an enormously important issue being decided here at the last moment for all of the wrong reasons, and in all the wrong ways. That has been very eloquently discussed. It has been defended. I have heard that defense as well, and I think that stands up for itself.

More importantly, Mr. President, I would like to spend a little bit of time thinking beyond procedural pieces of this, and getting ourselves to ask why are we here? Why are we having this discussion?

Let me start by suggesting that everybody in this Chamber flies back and forth to his or her State. We spend a lot of time on airplanes. We look out the windows. We inspect that airplane a little bit when we are getting on, and we assume it is working well and working right.

What would happen if we got in that airplane, and as we got on we noticed there was a mechanic over on the side popping rivets off the wing? We might be alarmed, concerned; and you would go over and ask, "What are you doing popping rivets off the wing?" And the mechanic there would say, "No problem; this airplane is overengineered, and the wing is overengineered, anyway. We can go out, sell these rivets, and I can make a lot of money doing that sort of thing. No need to worry about it whatsoever." What would you do, Mr. President? I would be crazy if I did not switch airlines and say I am not going to do this anymore.

Each species that we destroy, Mr. President, is a rivet. Each time that we, in our own arrogant way—sometimes in completely unknowing fashion—pop another rivet off the wing, we are inviting disaster.

Sometimes that wing is going to fall off the airplane. Sometime that airplane is going to hit a bad storm; something is going to happen. And you know in this situation, you would change your ways. You would stop popping the rivets off of the wing. Or to put it another way, Mr. President, if you have a bald spot on a tire, you would say to yourself, "What I ought to do is stop driving on this tire. If I continue in this way, we are going to lead ourselves further and further toward the inevitable crash."

That is what we are doing now in the destruction of species, Mr. President. We are here in this debate not because of a single species, the spotted owl, as important as that is; rather, we are here because we should be thinking long-term about our very survival, about the survival of the life-support systems that make this world liveable and growing, that we in fact can survive in it.

By throwing away the spotted owl, by throwing away the incredibly complex ecosystem that exists uniquely in the Pacific Northwest, or in the Amazon, or by throwing away ecocystems any place on this globe, what we are doing is burning the very books of life. What we are doing each time we destroy one of these species, Mr. President, is committing an act of anti-intellectualism, an act of destruction, the equivalent of each one of these with the destruction of the great library at Alexandria.

This biological diversity, which took thousands and thousands of years to create, is wantonly being destroyed overnight. As we do that, we are again destroying the very building blocks upon which life is based. "No one knows for certain how fast genetically distinct populations and species of other organisms are disappearing, but the rates are far too high now and are accelerating." So said Paul Ehrlich, in the CraFoord lecture he delivered in late September 1990:

> This is clear from two things. First, most organisms are highly adapted to their habitat; if a habitat is changed dramatically, most or all of the plants, animals, and microorganisms that once occupied it will depart or die out. Second, humanity today is on a rampage of changing natural habitats dramatically: cutting them down, plowing them up, overgrazing them, building on them, damming them, dousing them with pesticides and acid rain, spilling oil into them, changing their climates, exposing them to increased ultraviolet radiation, and so on.
>
> Why should we care? The loss of biodiversity should be concern to everyone for at least three reasons. The first is ethical and esthetic. Since Homo sapiens is the dominant species on Earth, many of us feel that people have a moral responsibility to protect what are our only known living companions in the universe—especially since we find them pleasing. The popularity of nature tourism, bird-watching, wildlife films, pet keeping, gardening, and the like attest that human beings gain great esthetic rewards from those companions and generate substantial economic activity in the process.
>
> The second reason is that humanity has already obtained enormous direct economic benefits from biodiversity in the form of foods, medicines, and industrial products, and has the potential for gaining many more. Almost a quarter of all medical prescriptions are either for chemical compounds from plants or microorganisms, or for synthetic versions or derivatives of them. One plant compound, quinine, is still a mainstay of humanity's defense against its most important disease, malaria. One can think of biodiversity as a precious "genetic library" maintained by natural ecosystems.

The third reason is * * *. The extinction crisis threatens the very existence of civilization. Natural ecosystems, of which their component organisms are key working parts, supports civilization with a wide array of "essential services."

Professor Ehrlich goes on from there, to talk about what happens with these ecosystems in terms of creating the soil which allows us to grow food and survive. These ecosystems create water and air, the very building blocks of our survival. And here we are talking about taking yet another step to pop a rivet off of the wing, leaving ourselves open to real questions about our survivability.

Natural ecosystems maintain a vast genetic library from which Homo sapiens has already withdrawn the very basis of its civilization and which promises untold future benefits if preserved. That library contains millions of different species and billions of genetically distinct populations. Wheat, rice, and corn were scruffy wild grasses before they were "borrowed" from the library and developed by selective breeding into the productive crops that have become the feeding base of humanity. All other crops, as well as domestic animals, have their origins in the genetic library, as do many medicines and various industrial products, including a wide variety of timbers. But the potential of the library to supply such benefits has barely been tapped. Only a tiny portion of plant species has been screened for possible value as providers of medicines, and although human beings have used about 7,000 plant species for food, at least 75,000 are reported to have edible parts.

That genetic library, Mr. President, ought to be remembered in our own Pacific Northwest. We are getting to a point where we need to remember that it is that old growth forest which contains the genetic diversity we may need for what may happen 100 years or 200 or 300 years from now. The trees that are growing on tree farms there, that second growth might prove to be inadequate to changes in climate, and we would want to have that changed. Where is the genetic diversity for tree species? It is in that same old growth forest. Where is the diversity that allows us to assure there can be a continuing timber crop in the Northwest? It is in that very old growth forest that is being threatened today.

Mr. President, this has long-term major implications for us. In the decision being made by each Member of the U.S. Senate here tonight, at the end of the session, this extraordinarily important issue of biological diversity is one that we all ought to reflect upon deeply and carefully. What is our obligation to the future? What is our obligation to the legacy that we all have inherited, to protect that legacy and to make sure that that is passed on? What is our responsibility to the vast store of knowledge that has been created over hundreds of thousands of years? We cannot create that, Mr. President. We cannot create that, even if we had thousands of years, but we can destroy it in 1 day. We can send in the plows, and we can send in the bulldozers, and we can send in and cut all of that away in one day, Mr. President. That is not fulfilling the responsibility that each of us has.

I close, Mr. President, by saying simply that if natural ecosystems go down the drain, we go down with them. It is absolutely imperative that we start thinking and force ourselves to think beyond the immediacy of where we are today, beyond that next election, beyond that next particular deadline. It is this issue, probably more than anything else, that ought to force us to reach beyond this, and that is why the Endangered Species Act is important, and why the protections that have been built into this act are important; and that is why the proposal in front of us ought to be voted down.

The distinguished biologist that put this Interagency Scientific Committee study of the spotted owl issue together, Mr. President, at our direction, did a superb piece of work. We ought to respect that work, as they respect the legacy they were asked to protect. We ought to protect the work of those biologists and that legacy, and we certainly should not support a fast-track bypass of the Endangered Species Act or of the work which has already gone in to the protection of the spotted owl.

Mr. President, I ask unanimous consent that accompanying materials be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIODIVERSITY AND HUMANITY: SCIENCE AND PUBLIC POLICY

(By Paul R. Ehrlich,[1] Bing Professor of Population Studies, Stanford University)

Professor Wilson has just given us a superb overview of the nature of biodiversity, its generation and destruction, and of the new science of biodiversity studies. Now I'd like to expand on the reasons that the biosphere is entering an extinction episode unprecedented in human history, outline why that should deeply concern the people of all societies, and briefly explain what I think should be done about it.

WHY IS BIODIVERSITY DISAPPEARING?

No one knows for certain how fast genetically distinct populations and species of other organisms are disappearing, but the rates are far too high now and are accelerating. This is clear from two things. First most organisms are highly adapted to their habitats; if a habitat is changed dramatically, most or all of the plants, animals, and microorganisms that once occupied it will depart or die out. Second, humanity today is on a rampage of changing natural habitats dramatically: cutting them down, plowing them up, overgrazing them, building on them, damming them, dousing them with pesticides and acid rain, overfertilizing them, spilling oil into them, changing their climates, exposing them to increased ultraviolet radiation, and so on. That the extinction rate is rapidly increasing can be seen simply from statistics on the destruction of tropical forests, the locus of at least half of the planet's biodiversity. The rate of tropical deforestation in 1989 was almost double that in 1979, with roughly 1.8 percent of the remaining forests disappearing per year.

Among the most frightening data pointing to the urgency of dealing with the extinction problem are those on the human impact on global net primary productivity. Net primary production (NPP) is the energy fixed by photosythesis above and beyond that required to maintain green plants; one can think of NPP as roughly the total food supply of all animals and decomposers.

Human beings use NPP directly when they eat plants or feed them to domestic animals, and when they harvest wood and other plant products. Human beings coopt NPP when entire ecosystems are altered so that their NPP is directed towards human ends, as when natural ecosystems are converted to cropland or pasture. And people reduce the total global NPP by converting highly productive natural systems into less-productive ones—tropical forests to pastures, savannas and grasslands to deserts, and deciduous forests to farms, highways, suburbs, and parking lots.

Almost 40 percent of all NPP generated on land is now directly used, co-opted, or forgone because of the activities of just one of many millions of animal species—Homo sapiens. Although the human impact on aquatic NPP is much smaller, humanity still appropriates about 25 percent of global NPP.

Since the overwhelming majority (probably over 99 percent) of the diversity of species now exists on land, the 40-percent human appropriation there alone shows why there is an extinction crisis. The amount of energy available for the millions of other kinds of animals clearly has been greatly reduced. Furthermore, the human population is projected to double in the next half-century or so—to over 10 billion people. Most ominous of all, the widely-admired Brundtland Report speaks of a five- to ten-fold increase in global economic activity needed during that period to meet the demands and aspirations of that exploding population. What this implies for the cooption of NPP by humanity is obvious—we'll try to take over all of it. Harvard policy analyst William Clark was being extremely conservative when he wrote: "The implications of this desperately needed economy growth for the already stressed planetary environment are at least problematic and are potentially catastrophic."

In fact, if anything remotely resembling that population-economic growth scenario is played out, most of the world's biodiversity will disappear. Habitat destruction will be greatly accelerated as more and more relatively pristine habitat is converted into urban sprawl, farmland, pastures, reservoirs, and the like to service the growing human economy.

This sort of direct loss is symbolized by the dramatic decline of forest-dwelling songbirds in eastern North America, a consequence of habitat destruction both there

[1] This lecture is dedicated to my mentors Charles D. Michener and Robert R. Sokal and the late Joseph H. Camin and Richard W. Holm, and to LuEsther, whose support has made it all possible. I am indebted to Gretchen C. Daily, Anne Ehrlich, John Harte, Mary Ellen Harte, Cheryl E. Holdren, John P. Holdren, and Edward O. Wilson for helpful comments on the manuscript, and to innumerable colleagues for help and support over the years.

and in their Latin American breeding grounds. But even more deadly in the long run will be the habitat degradation likely to result from the combined (and probably synergistic) impact on habitats from rapid climate change, acid precipitation, increased ultraviolet-B radiation, and a general spread of toxic substances in the environment.

It remains to be seen what the scale of each of these broad ecosystemic assaults will be. There is debate in the climatological community about the exact rate of global warming and the resultant patterns of climate change; meanwhile, there has not even been a start at abating emissions of CO_2, nitrous oxide, or methane. Since a great deal of inertia is built into the climatic system by the thermal capacity of the oceans, even if steps to slow the greenhouse gas buildup are begun soon, natural communities, especially in temperate and polar regions, have at least even odds of encountering an unprecedented rate of climate change. And if the warming should trigger more positive than negative feedback mechanisms, as some believe likely, then the rate and degree of change could be catastrophic regardless of human efforts to counter it.

Attempts are being made to deal with various forms of toxic pollution (pesticides, radioactive materials, industrial wastes, etc.), but action to abate acid deposition has been slow in coming. It is likely to be difficult, as the human economy expands, to reduce the release of toxic substances. Reductions in emissions per capita will be offset by population growth. Industrialization in poor countries will increase emissions, and highly stressed agricultural systems will require more and more toxic "inputs." The only really cheering sign in the arena of indirect assaults on biodiversity is the recent agreement to halt the production of ozone-destroying chlorofluorocarbons and halons. Even in this case, the level of compliance with the protocol will not be known for some time, and the precise amount of damage entrained by the quantities already released remains to be seen.

With all the uncertainties, it seems safe to assume that the majority of organisms will suffer greatly from the impacts of these interacting factors. The biotas of many lakes already show serious losses, forests are dying in Europe and North America, and there have been widespread declines in amphibian populations. Such signs, I am afraid, could be only the beginning, as organisms restricted to remnant habitats (typified by most European butterfly species) find the conditions in those fragments becoming increasingly unsatisfactory. Climatic change alone will cause many organisms simply to fade quietly away, especially since human-disturbed areas will severely limit their possibilities of migrating to keep up with changing climatic conditions.

WHY SHOULD WE CARE?

The loss of biodiversity should be of concern to everyone for three basic reasons. The first is ethical and esthetic. Since Homo sapiens is the dominant species on Earth, many of us feel that people have a moral responsibility to protect what are our only known living companions in the universe—especially since we find them pleasing. The popularity of nature tourism, bird watching, wildlife films, pet keeping, gardening, and the like attest that human beings gain great esthetic rewards from those companions (and generate substantial economic activity in the process).

The second reason is that humanity has already obtained enormous direct economic benefits from biodiversity in the form of foods, medicines, and industrial products, and has the potential for gaining many more. Almost a quarter of all medical prescriptions are either for chemical compounds from plants or microorganisms, or for synthetic versions or derivatives of them. One plant compound, quinine, is still a mainstay of humanity's defense against its most important disease, malaria. One can think of biodiversity as a precious "genetic library" maintained by natural ecosystems (I'll discuss that library a little more below).

The third reason is the one I will dwell upon here. The extinction crisis threatens the very existence of civilization. Natural ecosystems, of which their component organisms are key working parts, support civilization with a wide array of essential "services."

These vital ecosystem services include maintaining the gaseous composition of the atmosphere, preventing changes in the mix of gases from being too rapid for the biota to adjust. Few people realize that in Earth's early history, photosynthesizing organisms in the sea gradually made Earth's atmosphere rich in oxygen. Until there was enough oxygen for an ozone shield to form, the land surface was bathed in poisonous ultraviolet-B radiation. Up to some 450 million years ago, life was confined to the seas. Only under the protection of the ozone shield were plants, arthropods (insects and their relatives), and amphibians (our distant ancestors) able to colonize the land. That colonization took place in a relatively short time, geologically speaking, after the shield was fully established—perhaps 40 million years.

Today, our ability to alter significantly the atmosphere's gaseous mix exemplifies the arrival of Homo sapiens as a global force. As a result of human activities, the ozone shield has thinned by as much as 5 percent over Europe and North America, and there is some evidence that the surface intensity of ultraviolet-B radiation has increased there. Each spring the shield is now shredded over the Antarctic, with reductions reaching about 50 percent. The global impact of the human economy is even more evident in the prospect of rapid climate change in response to increasing concentrations of greenhouse gases.

The organisms in natural ecosystems influence the climate in other ways besides their role in regulating atmospheric gases. The vast rain forests of Amazonia to a large degree create the moist conditions that are required for their own survival by recycling rainfall. But as the forest shrinks under human assault, many biologists believe there will be a critical threshold beyond which the remaining forest will no longer be able to maintain the climate necessary for its own persistence. After that point, the loss of the entire forest of Amazonia will be inevitable.

Deforestation and the subsequent drying of the climate could have serious regional effects in Brazil outside of Amazonia, conceivably reducing rainfall in important agricultural areas to the south. There also appear to be regional effects on climate when semi-arid regions are desertified, but their extent remains unclear.

The degree of impact of vegetational changes on global climate is uncertain. Deforestation and desertification certainly cause substantial alteration of the "albedo" or reflectivity of a region, which would change the amount of heating of Earth's surface by the sun. Vegetational changes are taking place over much of Earth's land surface, constituting one more anthropogenic experiment on the global climate.

Natural ecosystems also regulate Earth's hydrological cycle, providing a service related to their climate-control functions. Trees in forests, for example, break the force of falling rain and hold soil in place with their roots. Thus forest soils are capable of soaking up precipitation, releasing it gradually in streams and springs or percolating it downward into aquifers. When a watershed is deforested, the formerly steady flow of surface water is disrupted, and floods tend to alternate with droughts downstream while aquifers may be depleted. Natural ecosystems also are able to purify water contaminated with sewage and some toxic substances, as long as the pollution is not too severe.

The generation and maintenance of soils is another crucial service supplied by natural ecosystems. Soils are much more than fragmented rock; they are themselves complex ecosystems with a rich biota. The living components of soil ecosystems are crucial to their fertility—to their ability to support crops and forests. Charles Darwin discovered that function more than a century ago when he studied the habits of earthworms, which are extremely important because they stir up soil and allow oxygen to penetrate it. Other animals that help give soil its texture and fertility include insects, mites, and millipedes. The abundance of these animals is difficult to comprehend for anyone who has not spent time sorting them from soil and studying them; millions may be found under a square meter of pasture.

Many green plants enter into intimate relationships with mycorrhizal fungi in the soil. The plants nourish the fungi, which in turn transfer essential nutrients into the roots of the plant. In some forests where trees appear to be the dominant organisms, the existence of the trees is utterly dependent upon the functioning of these fungi. On farms, other microorganisms play similar critical roles in transferring nutrients to crops such as spring wheat.

Organisms are very much involved in the production of soils, which starts with the "weathering" (wearing away by the elements) of the underlying rock. Plant roots can fracture rocks and thus help generate particles that are a major physical component of soils; plants and animals also contribute CO_2 and organic acids that contribute to the weathering of parent rock. More importantly, small organisms, especially bacteria, decompose organic matter (shed leaves, animal droppings, dead organisms, etc.), releasing carbon dioxide and water into the soil and leaving a residue of tiny organic particles. These are resistant to further decomposition and make up the key soil component known as "humus." Humus particles help maintain soil texture and retain water. They play a critical role in soil chemistry, permitting the retention of nutrients essential for plant growth.

Plants, animals, and microorganisms are not just crucial to the maintenance of soil fertility, but to soil conservation as well. As noted above, plant roots help soil resist erosion by water and wind. In undisturbed ecosystems, the rate of soil loss is usually balanced or exceeded by the rate of soil formation (both ordinarily measured on a timescale of inches per millennium). But if plant cover is removed, as when an area is deforested or overgrazed, soils start to disappear rapidly. To ecologists, one of the saddest sights in developing countries is the color of

many rivers—brown with silt, which indicates a hemorrhaging of a principal constituent of any country's natural "capital." Animals are involved in soil preservation too, since seeds transported by animals often speed the process of revegetation of denuded areas.

While soils are created and maintained by the more comprehensive regional ecosystems in which they are embedded, soil ecosystems themselves are the main providers on land of two more essential ecosystem services: disposal of wastes and cycling of nutrients. Decomposers break wastes down into simpler constituents that in turn serve anew as nutrients (carbon, hydrogen, oxygen, nitrogen, phosphorus, sulphur etc.) that are essential to the growth of green plants. In some cases, the nutrients are taken up more or less directly by plants near where the decomposers did their work. In others, the products of decomposition may circulate through the global ecosystem in huge "biogeochemical cycles" before being reincorporated into living plants.

Humanity has significantly disrupted these cycles. In the carbon cycle, flows between the pools of carbon dioxide in the atmosphere and oceans and the pools in living and dead organic matter were for a long time roughly in balance; photosynthesis removed about as much carbon dioxide from the inorganic atmospheric and oceanic pools as plant and animal respiration and decomposition returned to them. But now the balance has been shifted. In part, the shift is due to burning of fossil fuels. But the destruction of biodiversity, the cutting and burning of forests, is also adding substantial carbon to the atmospheric pool. Addition of carbon now far outweighs its removal, so carbon dioxide is accumulating rapidly in the atmosphere and becoming a driving force in global warming. Human beings also seriously interfere in the natural cycling of nitrogen, phosphorus, and sulphur.

Another critical service provided by natural ecosystems is the control of the vast majority of pests that potentially can attack crops or domestic animals. Most of those potential pests are herbivorous insects, and the control is provided primarily by insects that naturally prey upon them.

In some cases, this service has been spectacularly disrupted by the misuse of synthetic pesticides. Repeated heavy application of insecticides decimates populations of predatory insects much more rapidly than populations of pests. The latter quickly become resistant and often thrive unless dosages are increased or other insecticides substituted. Meanwhile, other herbivorous insects, previously not considered pests because their populations were small, may multiply explosively in the absence of their predators and be "promoted" to pest status. An outstanding example of this impairment of the pest-control service of natural ecosystems was the promotion of spider mites to pest status in many areas of the world when overuse of DDT killed their natural insect predators.

While natural ecosystems are providing crop plants with stable climates, water, soils, and nutrients, and protecting them from pests, they also often pollinate them. Although honeybees, essentially domesticated organisms, pollinate many crops, numerous other crops depend on the services of pollinators from natural ecosystems. One such crop in lucerne (alfalfa) which is most efficiently pollinated in cooler areas by wild bees.

Natural ecosystems, of course, also provide people with food directly—most notably with a critical portion of their dietary protein from fishes and other marine animals. This service is provided by oceanic ecosystems in conjunction with coastal wetland habitats that serve as crucial nurseries for marine life that is either harvested directly or serves as a food supply for sea life that we eat.

And finally (but not exhaustively), natural ecosystems maintain a vast genetic library from which, as I've already indicated, *Homo sapiens* has already withdrawn the very basis of its civilization and which promises untold future benefits, if preserved. That library contains millions of different species and billions of genetically distinct populations. Wheat, rice, and corn (maize) were scruffy wild grasses before they were "borrowed" from the library and developed by selective breeding into the productive crops that have become the feeding base of humanity. All other crops, as well as domestic animals, have their origins in the genetic library, as do many medicines and various industrial products, including a wide variety of timbers. But the potential of the library to supply such benefits has barely been tapped. Only a tiny portion of plant species has been screened for possible value as providers of medicines, and although human beings have used about 7,000 plant species for food, at least 75,000 are reported to have edible parts.

The loss of the genetic library service is particularly severe when tropical rain forests are cleared, since somewhere between 50 and 90 percent of all of Earth's species of organisms are found in those forests. Replacement of forests by crops, pastures, scrub, or other vegetational types, represents a dire impoverishment of Earth's preindustrial living wealth.

Organisms in natural ecosystems play an enormous and critical role in making Earth a suitable habitat for Homo sapiens. They have already supplied enough oxygen for us to breathe for thousands of years, they play vital roles in keeping us fed, and they help to maintain an equable climate and steady freshwater flows. Furthermore, these services are provided on such a grand scale and in a manner so intricate that there is usually no real possibility of substituting for them, even in cases where scientists might know how. In fact, one could conclude that virtually all human attempts at large-scale substitution for ecosystem services are ultimately unsuccessful, whether it be substitutions of synthetic pesticides for natural pest control, inorganic fertilizer for natural soil maintenance, chlorination for natural water purification, dams for flood/drought control, air-conditioning of overheated environments, or whatever. Generally, the substitutes require a large energy subsidy, thereby adding to humanity's general impact on the environment, and are not completely satisfactory in even the short run.

In sum, of our biotic heritage—the product of four billion years of evolution, along with the ecosystem services that underpin civilization, will be lost as the epidemic of extinctions now under way escalates. And escalate it seems bound to do.

WHAT SHOULD WE DO?

The basic threat to biodiversity is clearly the scale of the human enterprise. The fundamental way to diminish that threat therefore is, first, to limit the growth of that enterprise and, eventually, to reduce its physical dimensions. But doing that will not be easy, given both the clear need for more economic growth in poor nations where population growth is still rapid, and where the greatest diversity of life forms is located. Furthermore, poor nations are least able to afford disruption of ecosystem services. The rich have a much higher capacity to produce new strains of crops and construct irrigation works to meet climatic challenges. They can afford to use synthetic fertilizers *ad lib* to supplement deteriorating soils, and they can deploy more and more powerful pesticides to deal temporarily with pest outbreaks. The loss of ecosystem services will inevitably catch up with the rich, who through their own overpopuation, overconsumption, and use of faulty technologies are doing so much to cause the loss. But the rich have a better chance than the poor of postponing the final reckoning.

So either on a basis of simple equity or of practical politics, trying to bring global economic growth to a halt cannot be the course of choice. Instead, rich nations must take steps that will substantially lessen their impact on Earth's environmental systems. This may cause some standard economic indicators like GNP to shrink, but it can be done without lowering the quality of life of their citizens. By so doing, the rich can make room for the economic growth required to give a decent life to those people in poor nations. Their development, in turn, must be done with careful attention to minimizing environmental impacts. It cannot involve the kind of heedless growth that has swollen the GNPs of developed countries and very nearly destroyed the biosphere in the process. And, of course, ending human population growth as soon as humanely possible and beginning a slow shrinkage appears to be a sine qua non of success even in the medium term.

The best rule-of-thumb measure available for the environmental impact of members of a society is its per-capita energy use. The majority of the most environmentally destructive human activities, from driving automobiles to factory farming are energy-intensive. Even destruction of rain forests is often connected to high-energy activities such as road- and dam-building and selling and shipping beef, timber, and wood pulp to distant markets in rich nations. By the energy-use measure, an average citizen of the United States is approximately 20-50 times as environmentally destructive as a citizen of a very poor country.

Is it possible to construct a scenario in which the five- to tenfold increase in economic activity suggested by the Brundtland Report can be avoided? If for "economic activity," we substitute "energy use," then a reasonable scenario that involves slightly more than doubling today's global energy use of almost 14 terawatts (TW) has been proposed by John P. Holdren of the Energy and Resources Group at the University of California, Berkeley.

Holdren's "optimistic" energy scenario for the planet is based largely on increasing the efficiency of energy use. Note that I emphasize efficiency here rather than "conservation." To many people, the idea of energy conservation carries a false connotation of hardship—cooking over wood fires in underheated, dimly lighted homes. Energy efficiency correctly focuses attention on getting the currently-enjoyed benefits while using less energy and causing less pollution.

In Holdren's scenario, between now and 2025, poor nations would develop fast enough to increase their per-capita energy use by 2 percent per year, doubling it from 1.1 to 2.2 kilowatts (kW). Simultaneously, the rich nations would go all-out to reduce their per-capita use by 2 percent annually,

lowering their use from 7.7 to 3.9 kW. Then, in the last 75 years of the next century both rich and poor nations would converge on an average per-person energy use of 3 kW. Meanwhile, population growth would be capped at 10 billion people; so in 2100 total energy use would be 10 billion x 3 kW, or 30 TW. Holdren's optimistic scenario is summarized in the following table:

	Population (billions = 10^9 people)	×	Energy/person (kilowatts = kW = 10^3 watts)	=	Total energy use (terawatts = TW = 10^{12} watts)
1990:					
Rich	1.2		7.7		9.2
Poor	4.1		1.1		4.5
Total	5.3				13.7
2025:					
Rich	1.4		3.9		5.4
Poor	6.8		2.2		15.0
Total	8.2				20.4
2100	10.0		3.0		[1] 30.0

[1] Greater than two times now.

Holdren's scenario assumes that a high standard of living can be achieved with a rate of energy use per person that is ¼ to ⅓ that now seen in the United States. The technologies to accomplish such a reduction are largely in hand. Indeed, depending on the assumptions made about total energy use in the future, efficiency itself could "supply" 10-40 TW by 2050—it is by far the cheapest, quickest, cleanest "source" of additional energy available to society. Holdren's optimistic scenario depends on increased efficiency supplying some 47 TW by 2100—the difference between the 30 TW projected here and the 77 TW that would be required to give 10 billion people today's lifestyle of the rich, fueled by today's technologies requiring 7.7 kW per capita.

It is not at all clear, though, that even under this scenario, destruction of biodiversity can be halted. If great care were taken to select the most environmentally benign and sustainable energy technologies to supply the 30 TW, and if an enormous social and political effort were put into limiting the habitat destruction that would inevitably accompany a near doubling of the human population, there might be a chance of doing so, at least temporarily. But it would require changes in human attitudes unparalleled in history, since preserving biodiversity would have to become a top priority of all societies. In the long run, however, I am convinced that to restore pre-industrial extinction and speciation rates, a level of human impact (including a human population size) well below today's must be achieved for the long term.

I wish I could be sanguine that such a change of priorities will occur. Even the scientific community seems, at the moment, relatively uninterested in doing its share to stem the tide of biological destruction. In part, the lack of concern probably arises from the narrow reductionist approach of most science, an approach that has been both a blessing and a curse of the entire scientific enterprise. Still, one wonders what the reaction of astronomers would be if they were told that, because of human action, over half of all celestial bodies were to become inaccessible to investigation in the next 30 years or so. How would chemists feel if their ability to work with over half of all elements were to be ended in the next few decades? Or what if physicists by 2020 would only be able to detect less than half of all kinds of particles? One imagines the scientific community as a whole would raise quite a fuss, even though the consequences for humanity as a whole of those lost opportunities for study would be trivial compared to the consequences of the projected loss of biodiversity. After all, those vanishing organisms will not merely be unavailable for study; they'll disappear from civilization's life-support systems.

PUBLIC POLICY

Of course, all kinds of steps could be taken to preserve biodiversity, if the political will could be generated. Perhaps the first step, which would be seen as especially extreme by Americans, would be to cease "developing" any more relatively undisturbed land. Every new shopping center built in the California chaparral, every hectare of tropical forest cut and burned, every swamp converted into a rice paddy reduces biodiversity.

In rich countries, stopping the cancer of "development" is relatively simple in principle. Age structures are such that population shrinkage in most rich nations could be achieved with little effort (a few are already in that desirable mode). When new facilities are needed, they should replace deteriorating old ones. Forestry should be placed on a sustainable basis with careful attention to the conservation of previous reserves of old growth. And much more scientific effort and public support should go into biodiversity studies, including the cataloguing of the genetic library.

In poor nations, the task is both more urgent and infinitely more difficult. It can not be accomplished immediately, and will not be accomplished at all without generous assistance from the rich. For instance, stopping the expansion of cropland and pasture into virgin areas cannot be accomplished unless both population control is instituted and the development of sustainable high-yield agricultural systems is backed by a sound agricultural infrastructure and economy. In many cases, new social/economic systems must be developed in which preservation of biodiversity and sustainable exploitation go hand in hand. The social, political, economic, and scientific barriers to getting this job done are so formidable that nothing less than the kind of commitments so recently wasted on the "Cold War" could possibly suffice to accomplish it. And we're 45 years late in starting.

But ending direct human incursions into remaining natural habitats would be only a start. Simultaneously, an enormous effort should be directed at reducing greenhouse-gas and toxic emissions. This, too, will require an enormous worldwide cooperative effort—but it would be simpler if both population control and the cessation of forest destruction could be achieved.

Finally, since humanity already occupies so much of Earth's surface, substantial effort should be directed at making areas in human use more hospitable to other organisms. Those efforts could range from the substitution of game ranching for cattle and sheep ranching in many areas to the substitution of native vegetation for European-style lawns in desert cities.

If there is to be any chance of ending the irreversible loss of one of humanity's most precious resources—biodiversity—action must be taken immediately. The essential tactics of conservation are being developed within conservation biology, a subdiscipline of biodiversity studies. The indispensible strategy for saving our fellow living creatures and ourselves in the long run, however, is to diminish the scale of human activities. Both the size of the human population and the environmental impact of the average individual must, I believe, eventually be reduced to well below what it is today. The task of accomplishing this with wisdom, fairness, and without racism, sexism, and gross economic inequity will involve a global effort unprecedented in human history. But unless humanity can start moving determinedly in that direction, all of the efforts now going into conservation will eventually be for naught, and our grandchildrens' futures will remain in jeopardy.

THE VALUE OF BIOLOGICAL DIVERSITY

(By Thomas E. Lovejoy)

Certainly the perceived value of biological diversity is very great to Kayapo Indians, whose knowledge and manipulation of the plants and animals in the Amazon rainforest may be without parallel in the modern world. In contrast, it may seem inconsequential indeed to the tribes now dwelling on Manhattan Island; the average city dweller would be surprised to learn of the large numbers of species on which his industrialised society depends. Perception of value is probably a root cause and a root cure of the problem of biological impoverishment (see previous chapter).

Citizens of industrialized nations usually think of themselves as insulated by modern technology from the natural world. It may occasionally intrude in the form of a great storm, but as for wild plants and animals themselves, they are all very nice and to be enjoyed by those amused by such things, but hardly to be considered of central importance. Such people would be startled by how much modern medicine uses or was built on wild plants and animals. We barely give infections much thought beyond appli-

cation of an antibiotic, oblivious that the conscious origin of antibiotics only goes back to 1929, and Sir Alexander Fleming's observation of the antibiotic properties on a mouldy melon. When popping an aspirin few realize the origin of what is probably the best-selling medicine of all time, goes back to an ancient Greek folk cure involving a preparation of willow bark.

Literally millions upon millions of people are alive today because of medicines and medical practices stemming from wild plants and animals. In some cases, as in aspirin, a natural compound only serves as a template for anthesis in the laboratory. In others, such as curare, used for abdominal surgery as a muscle relaxant, the compound is still harvested direct from the wild (in this case from an Amazonian vine). A variety of non-caloric natural sweeteners now under investigation are not just valuable to affluent societies but also important to the treatment of diabetic patients. It might be argued that modern pharmaceutical laboratories could do perfectly well by tiddling with variations of known useful compounds and even using computers to model possible compounds. I suspect, however, it is a stronger argument to recognize the seemingly limitless set of unexplored but 'pretested' biologically active compounds which 10 million species of plants and animals have developed (and continue to develop) to encourage or discourage fellow species or regulate their own biology. Major cures may rest in the repertoire of Amazonian shamans. This takes on greater significance if one recognizes that medicine does not have a limited set of diseases for which to develop cures and treatment. Immune strains of diseases and vectors are continually appearing. The appearance within the last two decades of Old Lyme Disease, Legionnaire's Disease, and Acquired Immune Deficiency Syndrome in North America is testimony to the ability of pestilence to remain a permanent aspect of human existence.

Consideration of medicine alone, but also of agriculture, forestry and fisheries, point up how important biological resources are to us. Our technological advances are often wonderful and of great use, but ultimately it is on biological resources that we depend. Our crops, the product of sophisticated work in the laboratory (and increasingly so with the advent of biological engineering), still depend in great degree on a regular infusion of new genetic variation quite often from wild relatives. A recent review traces close to a quarter of the United States' gross national product to wild plants and animals. While the extent of that dependency may be transitory, the significance is likely to remain great, and the humanitarian value of only a few lives saved will certainly be greater in value than the dollar value attributed.

Thoughtful and careful introductions are the basis for useful crops around the world. Thomas Jefferson took note of this in saying there is no more useful thing a man can do than to add a plant to the cultivation of his country. Monterey pine is an important plantation species in Australia. Italian cuisine was greatly different before tomatoes were brought back from the New World. It took the Spaniards to add sugar from the far east (perhaps New Guinea) to the chocolate they found in the New World. Sometimes the use is indiscriminate, or even thoughtless as in many fish introductions. That does not detract however from the validity of the point that biological resources, and what they contribute to maintenance of agriculture, are of tremendous value to human societies all over the world.

Historically one can see that our history as a species is studded with examples of major and minor advances based on new insights into the value of previously unremarkable species. And one only need scan the pages of scientific journals to note the process continues. Indeed the place of serendipity in discovery is so great even in the engineering sciences (Goodyear's vulcanisation of rubber, Bakeland's invention of plastics, and the discovery of Teflon are three examples) that it would be foolish to ignore its even greater prospects in the biological sciences.

The larger argument here is not only that biological resources are of continuing importance to human society, and in continually changing ways, but also that biology as a branch of knowledge is vital to our wellbeing. That being the case there is no sense in reducing the potential for developing biological science by eliminating through biological impoverishment an important fraction of the data available for study. The situation is rather akin to allowing the destruction of a great number of books as yet unread by anyone.

Another class of arguments involves the 'public services' wildlands provide. One can include here the support of freshwater and marine fisheries. More narrowly it is thought of in terms of watershed protection—both regulating waterflow and preventing soil erosion. Indeed the unnecessary loss of soil through agriculture and other land use practices baring the soil is a deeply serious world problem in its own right. The United States' economy depends heavily on its agriculture capacity, and many nations around the world depend on its surplus, yet the current estimate of soil loss from erosion in the U.S. is 1925.8 million tons per year. It could be considerably reduced by minor adjustments in land use, essentially using narrow strips of wildlands to catch the loss.

On a larger scale around the world, watershed protection is critical to prevent soil loss and landslides on steep slopes, to prevent siltation and reduction of the useful lifespans of hydroelectric projects (for which there is only a limited number of possible locations), of waterways such as the Panama Canal, and of fishery productivity of rivers and lakes.

In cloud forest areas, the forest provides a critical role as a condensation surface. In Costa Rica the productivity of farms and ranches in the Guanacaste lowlands depends on stream flow snatched from passing clouds by the cloud forest. On a greater scale, stable weather patterns in the Amazon depend on maintenance of the hydrological cycle, a job currently done by the forest. It may have implications for global climate patterns as well because cloud formation is important in the transfer of heat within the global circulation. On the largest scale, the biota are involved with the circulation of energy and elements, and the role in the carbon cycle may be of greater significance than some people accord it.

One could argue that known services, (vs. those unknown or imperfectly understood) could be perfectly well provided by cultivated lands, for example plantation forest for watersheds. That is happening, and with success in some instances, but it must be recognised that there is real cost in energy and human effort in maintaining monocultures. When the primary purpose of a plantation forest is for watershed maintenance it must be treated differently and the economic gains are not the same, and generally less. Wild lands perform their 'services' at no out of pocket cost and generally need little or no intervention.

There is another important reason why all wildlands should not be replaced by domesticated lands. This again has to do with knowledge of ecosystems and not of individual species. A representative set of natural ecosystems provides in essence a set of standards against which we can measure our accomplishments in managing and manipulating—often drastically—the same system for production. It is our only real basis for comparison and in that sense remains the only scientific basis to manage the biology of our planet. This is perhaps of greater importance for forestry and fisheries than it is for highly mechanised modern agriculture, but it may have some validity for the latter too. It is only through knowledge of the Amazon forest, and careful experimentation (with continual reference to the natural forest ecosystem) that any really successful and sustainable use of much of the basin will ever be realised. Ecosystem reserves also double in the role of species and genetic banks from which their living resources can be drawn upon when necessary—including for restoration of degraded lands.

I personally believe that one of the most powerful arguments revolves around a real but not well understood correlation—namely, societies that have permitted major erosion in the biological diversity of large units of landscapes and to be ones with eroded standards of living. This of course would not apply to a well managed wheatfield in Kansas which would have at most a couple per cent of its original diversity. It would apply, however, to places like Haiti, El Salvador, stretches of the Sahel, Bangladesh, etc. Partly this reflects the fact that reduction in biological diversity tends to be the consequence of ill-planned and excessive use of the landscape from whatever pressures, suggesting living standards may already be on the decline before the erosion of diversity takes place. It also reflects the general experience that once the loss of diversity has taken place, the public service contribution of the landscape is diminished.

In general once this state of diminished diversity and living standards is reached, deterioration tends to go further as the human population invades marginal lands to satisfy its needs. In yet another sense this represents the folly of trying to design a system dependent on the maximum capacity of a landscape, in the Sahel for example, ignoring cyclical recurrence of drought. While it may not always be the case, and one might, if freed from historical constraints, design an island ecosystem productive for people but severely diminished in diversity, societies seem to be better off in environments shared with the full variety of native flora and fauna. This is an intersection of the social and biological sciences that deserves considerably more exploration.

All the above arguments are devoid of aesthetic and moral considerations, and those deserve consideration as well. In *Biophilia.* E.O. Wilson has argued that an inherent interest in nature and living things exists in our species. Certainly, living things, especially ones that move, immediately attract our attention. That is probably why it is easier to ignore the blaring of a radio than the flicker of a television set even if the sound is off. G. Evelyn Hutchinson argues that the variety of stimuli available from

the natural world is a vital part of psychological development. Personally, I find that anyone who stops long enough to really consider another living thing, whether a flower, butterfly, or whatever, cannot help but be stuck by the beauty, and fascinated by how it works.

Such appreciation comes harder, when one is truly poor to the extent of not knowing from where dinner will come. There are billions of people at that level today and one can lament but hardly blame many of them for neither enjoying the beauty and fascination of our fellow species nor caring about their future. That is why the reduction of poverty is critical not only to alleviating the immediate problems of such people but also fundamental to longer term concerns such as the role of biological diversity in human well-being. It is only in the perspective of the desperately poor that concerns about biological diversity can in any sense seem a luxury.

Above that poverty level all societies seem capable of enjoying nature (and caring about protection of biological diversity). Some seem more capable than others and some are only newly coming to it. National parks have been in danger of being overrun by visitors in Europe and North America. Zoos draw greater numbers in attendance than professional football, baseball and basketball games combined. The magnificent new aquarium in Monterey reached peak visitor capacity within months of opening. Costa Rica's fledgling (in years) park system is attracting growing use.

Certainly there is an aesthetic moral argument to be made against causing extinction and snuffing out an evolutionary line going back to the beginning of life on earth. There is a potential difficulty in trying to determine which species might naturally have been on their way to extinction, and I suppose a moral aesthetic argument could be made that it would be wrong to block such a natural process.

This is an extreme form of what I think of as the ecological paradox—namely that it is impossible for an organism to exist without affecting its environment. The difficult question is to what extent and how much.

It is difficult to tell whether or not a species is naturally heading for extinction (and this only likely to be so in a minority of cases). It is also very difficult to make the case for a single endangered species against whatever human ambitions or needs may threaten it. Yet the overall process of biological impoverishment is clearly undesirable and it appears that the best measure of whether a landscape is being used well and sustainably whether it maintains its biological diversity. This would argue for saving all species where possible. The manipulative power of this (one) species then can be viewed as making it possible to maintain by artifical means the relatively small numbers of species that would normally have been headed for the biological River Styx and to do so for their potential usefulness and the sheer joy and wonder of it all.

The difficulty about all the above arguments is that they are outside economic forces to appear relatively weak when measured by the usual corporate balance sheets or gross national products. This can easily engender despair, while conservationists plaintively continue to articulate these values. It suggests an important solution lies in rethinking the intersection of economics and ecology, and of market forces and biological diversity, regardless of the success of that approach it is a continuing truth that the hallmark of civilisation is a tolerance of, indeed an enjoyment of, diversity.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I yield to the Senator from Oregon as much time as he wants.

The PRESIDING OFFICER. The Senator from Oregon, Senator HATFIELD, is recognized for as much time as he may consume.

Mr. HATFIELD. Mr. President, once again we have heard eloquent presentations today and tonight on the forestry of the Northwest and the forestry of the world. In the presentations, very dedicated and very sincere people are presenting to us, an imagery as well as some basic facts. Let me say that again, I want to emphasize the forests are not in a static state. You would be led to believe that somehow the forest created in Genesis 1 are what we are destroying today, as the statement is used that we only have 10 percent left. Ten percent of what? No one has answered that question, 10 percent of what?

If one looks at forestry, one will find that no more than 20 to 25 percent of the forests have ever been in a condition of old growth. The forests have been changing, they are a dynamic entity. We are not talking about Genesis 1. We are not talking about a situation that is frozen with no kind of change.

Again, let me go back to Charles Darwin. Little did I ever think I would be talking about Charles Darwin as a basis for theories on this floor. I was reared in one of those churches that taught that Darwin's theory was the work of the Devil. But if you listen to the folks here, you would think that Charles Darwin's Evolution of the Species has the same status that the First Baptist Church used to teach about Charles Darwin and his evil thoughts.

We are not thinking in terms of science.

Let me say, there will be evolution that will be accelerated by weather, by fire, and by humankind. Of course. There is no way to freeze the forests.

Ten percent of what? You would think that we had cut 90 percent of the old growth. That is my arithmetic, 10 percent left. That is all we have left, 10 percent old growth. And we can destroy it in 1 day by sending in the bulldozers and other such equipment.

I would like to say to my friend from Colorado, we have about 6.2 million acres of old growth in region 6 of the Northwest. We have a limitation on harvest levels for any year of not more than 1 percent. In addition, we have locked up 40 percent of the old growth in region 6. We have withdrawn it. We have protected it.

I have introduced legislation to say we must study old growth and all the unique ecosystems of the remaining old growth forests, and we should, after scientific study and the establishment of a scientific base, perhaps, preserve more of it. But it is not 10 percent of 100. It is 10 percent of 20 to 25 percent. We have had blowdowns and we have had fires long before the white man moved west.

Let us take those Federal lands. We did not start harvesting those Federal lands until 1940 in the Pacific Northwest; 1940. The war came along and the Federal Government stopped, and they said, in effect, to the private timber growers, you produce the timber for the war effort. This was necessary, because they had roads and had easy quick access to timber that was needed to help win the war. Therefore, we did not begin to get harvest public timber until later. The Federal Government said to these private owners, you harvest your timber and we will make access of public timber after the war.

My friends, these are just simple little facts of history. But you hear that there is only 10 percent left. Even during the days in which the original Americans dominated that part of our country, they would set fire at times to the forests to provide areas to graze for the wildlife.

Let me say I doubt if there is any person in this Chamber that has locked up more timber in their State than I have by legislation, by urging withdrawals, whether it is for wilderness or whether it is for national monuments, whether it is for scenic or wild rivers.

Last night at 12:15, we took another 50,000 acres of Oregon public land to protect a very special piece of creation which is the area surrounding Newbery Crater, in order to preserve the great volcanic history in that area, setting aside some more forest land from even being harvested.

I want to make it clear here tonight that what we are suggesting is, merely to convene an outcome neutral process that is already included in the Endangered Species Act to review the owl situation.

I was here not only when we passed the original Endangered Species Act, but later on, as a member of the Appropriations Committee, I helped fund it. Let me also remind my colleagues, we used a special line-item to fund the study of the spotted owl, and we have $6 million in next year's appropriation in this very bill to study and to set aside habitat for the spotted owl.

But this idea that somehow we are presenting a proposal here to destroy the forest is wrong. By analogy, the opponents of this amendment are referencing forests in many other parts of the world—take the Sahara, take Nepal. When I was in Nepal, I was appalled at the stripping of the land

there and seeing water come and wash that soil down into India. I got a line-item in the appropriations bill, and we have a forest project going in Nepal now. Years and years ago one of the first trips King Mahendra took outside Nepal, he wanted to come to the west coast and look at timber production and reforestation. We entertained him in our State, showed him our reforestation. We have more forest today than we had 25 years ago because of our planting and reforestation.

King Mahendra was very, very fascinated with the idea that we could grow trees; harvest and regrow trees. So we got this line-item and went out to bid. We got a poplar tree that could be planted to grow quickly, to stabilize the soil in Nepal as a pilot project. I have been involved in this type of thing not only in my State but all over the world.

I would like to see more foreign aid going to reforestation. I abhor the kind of deforestation that is going on in Brazil and other places. But that is not the Northwest. That is not the Northwest, and to imply that it is, and use those examples to show somehow that we are in the process of deforesting our forests out in the Northwest, is purely hogwash.

Let me go back to the old growth.

Now, Mr. President, I have seen it in print in the Eastern press and I have heard it said on this floor, that there exist thousand-year-old Douglas firs; there is no thousand-year-old Douglas fir. There may be a thousand-year-old redwood, but let us get our species right. We do not have redwood except scattered through the southern part of our State. There is a difference between a spruce, a fir, a redwood, and a hemlock. Let us be accurate here instead of using these broad generalizations. Thousand-year-old Douglas firs. There are no such things.

But there are 500-year-old Douglas firs and there are 200-year-old Douglas firs. But let me ask a simple question: Did history begin 500 years ago? What happened pre-500 years ago? What happened? What was in the forest before Columbus?

Those 500-year-old trees started as seedlings. And they grew up into second-growth forests, and they then grew into old-growth forests, and that is the cycle of forestry. And they were doing that, if you want to accept the Bible, 5,000 years ago, maybe. Or, if you want to accept science, a few hundred thousand or maybe a million years ago. Whatever age the Earth is, and after the ice age, these forests began to emerge.

That I believe that God created them, and planted them, that is one thing—some may believe they evolved consistent with Darwin's view of the evolution of the species. But these trees that are old-growth trees existed 500 years ago, and there were old-growth trees that existed before that, and old-growth trees that existed before that. And if we carefully manage our forest today we are going to have old-growth forests eventually evolve out of the 200-year-old trees or the 100 or the 50-year-old forests, or the 25-year-old forests.

My great grandson, I hope, will see a Siuslaw old-growth forest which is now a second-growth forest. But the implication somehow that everything started 500 years ago and anything that existed before that has little relevance to today is simply not scientifically correct.

One of the biggest forest fires in the history of the United States occurred in 1933. It is called the Tillamook burn; still a record fire in the history of forestry.

After that fire, Boy Scouts all over Oregon participated in the reforestation of the Tillamook burn. We got Federal funds, State funds, we had contributions from the forest industry and we replanted that magnificent area that is now a second-growth forest.

And yet I can remember when those old-growth trees were there as a small boy, and then seeing that charred land. During the fire, at high noon, we had smoke between us and the Sun that made it look like midnight in our State. Now I go back over there and I see these magnificent second-growth forests and I am very hopeful that we will manage that so that we will have old growth in what was once Tillamook burn.

This is the cycle of forestry. It does not mean that we make everything into a second-growth forest, no. But to say somehow that we are in the business of deforestation is not correct. That Tillamook burn added acreage to the forest. We now have more trees with the addition of other plantings, than we had before that fire.

That is the way we have been good stewards in the Pacific Northwest. We were reared to love the forest. I grew up in the forests.

Let me tell you, it is much like sausage. I sure like sausage and bacon, but I do not want to go to the slaughterhouse to watch it being made. I do not want to see a tree being cut; not one. But I certainly like to rub my hand over nice panneled walls, or see a beautiful table, or see housing that brings people in off the street to give them housing, or make housing affordable to other people. I like the product.

I had 5 acres up until recently. When I took that 5 acres over it was all fields. Now it is all scotch pine. I became a tree farmer. I am proud of an arboretum that I have of exotic conifers. There is no one in this body that I will take a back seat to in the love for trees. I have been inspired, I have been renewed throughout my life in the forest.

I just want to say that to portray somehow that we are in the process of deforesting the Northwest, or that somehow we are ignoring the laws of nature is not true. We are looking at more accurate nature and natural laws than some who talk of freezing everything in the status quo, as if the forest were some inanimate object that could be controlled in that sense. It is evolving. Trees start this big, they get bigger, they get higher, they get a lot of underbrush, and we want to protect those ecosystems. But these are not just the only ecosystems that ever existed in the Pacific Northwest.

I think Senator PACKWOOD has presented us with a proposition that can preserve the environmental commitment of this country.

Let me send up a signal. If we got into a shooting war in the Middle East—God forbid—and we begin to see those coffins come home, let me tell you what the reaction would be in this country. They would say, Why have we not drilled off coast. Why have we not drilled in the Arctic National Wildlife Refuge? Why have we not found other sources of oil? And if I had voted for every one of those cases, to lock up, they would say, "You mean my son has to give his life over in the Middle East in a war because of environmental policy?" You would see the pendulum swing in this country. I think that that is happening more and more.

In my State of Oregon, the Portland Oregonian took a poll of the people a year ago and they said, "if it means locking up great tracts of land to protect the owl which would cost jobs, what would be your view?" Do you know what the results were? Fifty-fifty. We have strong environmental concerns in our State.

One year later, when the implications and the economic costs to our State of owl preservation began to emerge in the minds of the people, they asked the same question. One year later, it was 60-40, no; 60-40 no. When they began to see that men and women were affected in a personal way, they felt differently about it.

I have seen it here on this floor time after time. One of the first bills I introduced in this Senate was to have a national bottle bill to return cans and bottles back to the store to help reduce environmental degradation and also to try to help conserve.

It was very interesting. There was a colleague of mine, we had known each other as fellow Governors. And we established in the Governors Conference the Special Committee on Natural Resources and Environment together. But when I introduced that bill—and there was a perfect voting record that my colleague and I had on environmental issues—my colleague said,

"Now, but wait a minute, Senator, I have breweries in my State. And that means jobs." And the debate on that bottle bill took place here on this floor between two recognized environmental Senators. I, fighting for the bill, and my colleague fighting against it because he said it affected jobs in his State. He had reached a point where his environmentalism had an impact on local jobs and the local economy.

Now we all have that kind of a situation, all of us. I do not know of any two better environmental Senators than the Senators from Nevada. Yesterday we had a debate on mining. And language in question posed a very strong economic problem in Nevada. And they were fighting against that. I have seen examples of many other like instances. I do not have to cite too many more. Another example involved a fine agriculture State representative in this body who had probably established as high a reputation for environmental concerns as any Senator. Because there were certain agriculture economics that he had to consider on a certain vote, he was criticized by some environmental organizations. We all have that type of thing.

What I am saying, is that the public lands of Oregon and Washington belong to the whole Nation. Nobody is going to argue with that. All we are asking for tonight is an opportunity to exercise a process to consider the total picture—economics, social impact, science—and have a balanced review.

We are not asking to predetermine the outcome. We are merely asking for a day in court.

I support the amendment of Senator PACKWOOD.

The PRESIDING OFFICER (Mr. FOWLER). Who yields time? Who turns their time back in?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum, and I suggest the time be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont [Mr. LEAHY] is recognized for 2 minutes.

Mr. LEAHY. Mr. President, anybody listening to the debate knows this is an extremely complex, very contentious issue with real and serious ramifications for both the economy of the Pacific Northwest and its ancient forests, one part of our most treasured natural heritage. It is also a national issue.

Last July, the distinguished senior Senator from Oregon [Mr. HATFIELD] and I engaged in a colloquy regarding the management of the Pacific Northwest great ancient forests. We agreed changes to important natural resource laws are best addressed in the authorizing committees and for that reason I am pleased this year's appropriations bill comes to the floor relatively free of riders.

In that regard, I also commend the senior Senator from West Virginia, the chairman of the committee, and senior Senator from Idaho [Mr. MCCLURE].

The Committee on Agriculture, Nutrition, and Forestry stands ready to address this issue. The legislation was not introduced until the end of June in a year when we had to come up with a 5-year farm bill, much too late to hold the comprehensive hearings necessary to address these issues. I wanted my colleagues to know we will address the issue in the coming year but, unfortunately, the amendment before us runs counter to our policy to avoid making natural resource policy through appropriations bill riders. These ancient forests require a comprehensive, not a piecemeal, solution.

On this issue, the administration has a track record that leaves little to be proud of. The amendment merely gives the administration more wiggle room to avoid making the tough choices.

Let me briefly explain my concern.

The Endangered Species Act was written to make sure that every alternative was pursued to protect a species from extinction and that when an inevitable conflict arose, the action taken would be as narrow as possible.

Once an animal has been declared "threatened" or "endangered" under the Endangered Species Act, the Government is required to develop policies that protect the species. The biological requirements of the act can be modified if economic grounds exist. These modifications are made, following an exhaustive consultative process by the Fish and Wildlife Service and Forest Service or Bureau of Land Management.

These agency decisions can be modified or changed by the Endangered Species Committee—the so-called God Squad—made up of high ranking administration officials. These modifications are normally made on a project-by-project basis, such as one dam or, in this case, an individual timber sale.

This amendment makes an exception to the Endangered Species Act for only the spotted owl. It changes the definition in the act to allow the forest plans to be considered one "agency action." In reality, this one "agency action" will lead to thousands of timber sales in three States that will occur over the next decade. These timber sales have not yet been proposed or mapped. Most are not even a glimmer in a forester's eye.

Rather than require that each project be measured against the tough requirements of Endangered Species Act, this amendment effectively allows the Administration to define timber sales within the forest plans as they see it. Thus, the God Squad could ultimately exempt all the Pacific Northwest forest plans—plans that are used to produce the sales that impact the spotted owl—from the requirements of the Endangered Species Act.

This amendment gives the administration a free hand to ignore the best science available regarding the spotted owl, permanently foreclosing any future consideration of this threatened species throughout the life of the forest plans.

Thus, rather than following the procedures of the Endangered Species Act to minimize conflict between economic and wildlife protection, this amendment attempts to resolve the spotted owl dispute in a manner that will prevent efforts to reach the balanced result that is best for both the environment and the economy.

The amendment will not resolve the underlying issue—protection of the ancient forest ecosystem and the need for a long-term solution. In the end this amendment will simply lead us down a road of more rancor.

The administration has all the flexibility it needs to develop a comprehensive solution on the spotted owl problem. The Act does not need modification, it just needs to be followed. The Endangered Species Act will work if the administration wants it to.

I urge all my colleagues to join me in voting no on this amendment, and to join me in the next session of Congress in searching for lasting and equitable solutions.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN] is recognized for 5 minutes.

Mr. LIEBERMAN. Mr. President, I rise to oppose the amendment proposed by the Senator from Oregon which would seriously undermine the Endangered Species Act, and to associate myself with the remarks of the others who have spoken on behalf of this act.

This Endangered Species Act is a magnificant expression of some of the best values of our society. At its best, the law that we adopt here expresses our aspiration for what kind of society we want to be. It is our way of saying something is wrong and we are passing this law to try to make it better.

In the case of the Endangered Species Act, we are expressing a value

that goes back a long way in the history of civilization. Some might say it goes back as long as the story of Noah who was commanded and directed by the Almighty to take two of every living species into the ark, the first human in that sense who accepted a trusteeship, a stewardship over the natural environment, and particularly the living species within it.

In a very modern context, after a long time in which so many living creatures have been destroyed, forced to extinction, this Endangered Species Act appears as an expression of that desire, to make us humans decent stewards of the natural environment and the wildlife that is part of it. It is a balanced act. It is an important act that combines a lot of the best values of our society.

There are those who have said this amendment represents a compromise, an attempt to modify legislation that Senator PACKWOOD, the Senator from Oregon, had wanted to introduce which would have immediately convened the Endangered Species Committee for purposes of exempting harmful Forest Service and Bureau of Land Management practices in northern spotted owl habitat.

The only thing that is compromised by this amendment, I suggest respectfully, is the integrity of the Endangered Species Act itself. Because this amendment would force a number of erroneous conclusions, waivers and exemptions, it will ultimately compromise the professional integrity of the Federal agencies in question and the survival of the endangered spotted owl.

Obviously, we are talking here about more than just this unique creature, the spotted owl. We are talking about the whole array of life that is represented in the old growth forests of our country. I realize there is certain regional tilt to these arguments, although I admire very much my colleague from Montana who is leading the fight to protect the Endangered Species Act. Sometimes those of us on the East do rise to oppose those from the West in these discussions. Perhaps we do because we know what we have lost in the East.

In the most literal sense, these national lands belong to all of us, including people who live in States like Connecticut, who love to travel out to the West and enjoy those natural and open and wild spaces. But in another sense perhaps those of us in places like New England, like Connecticut, understand that when this country was founded, the land, from coast to coast, was covered with magnificent natural environments—old growth forests, natural wildlife. We have seen them taken from us in so many sections of the country, such as my own, that we want very much to protect that environment, that nature, in other sections of the country.

Mr. President, if we continue to log the ancient forests of the Pacific Northwest at the present rate, they will all be gone in 20 years time. By then, not only will the timber-dependent communities in States of Oregon, Washington, and California face economic hardship and abrupt loss of jobs, but we will have lost our ancient forests forever. The northern spotted owl will have died out long before. This is the foregone conclusion of the amendment. This is what the Packwood amendment seeks to do: exempt the U.S. Forest Service and the U.S. Bureau of Land Management from the provisions of the Endangered Species Act which require that their actions not place threatened or endangered species in further jeopardy.

This amendment seeks to do this by stacking the deck in favor of the following conclusion: that there is no reasonable or prudent alternative to going forward with timber sales and forest management plans that even our own U.S. Forest Service has now begun to question.

This amendment would require the U.S. Forest Service and the U.S. Bureau of Land Management to submit to the U.S. Fish and Wildlife Service plans that these agencies have already acknowledged to be inadequate to the northern spotted owl. The Forest Service and BLM have already begun to try to modify those plans; they've sought additional scientific and biological assessments. But under this legislation, they would not be able to use them. They would be forced to submit plans they know to be destructive to the habitat of a threatened species. This would virtually assure that the Fish and Wildlife Service would issue a jeopardy opinion which would inevitably trigger the exemption process to follow.

Even the consultation process, however, would be compromised. It would be limited by this legislation to 90 days' time, even though the Endangered Species Act allows up to 150 days. Once the time for consultation has been limited, this legislation goes even further to assure that what is discussed in consultation is limited as well. It would waive the provisions of the Endangered Species Act requiring the Forest Service and BLM to complete biological assessments of their proposed actions. It would also exempt them from the National Environmental Policy Act.

With inadequate information, insufficient time and a proscribed consultation process, it is not hard to see that the Endangered Species Committee will be petitioned for relief. And upon what will this committee base its decision on exemption? The same inadequate information proscribed by this amendment.

Mr. President, when the interagency scientific task force produced its report known as the Jack Ward Thomas Report, offering a plan for preserving the habitat of the threatened spotted owl, the administration went crazy. First we saw the President's Chief of Staff on the news saying, in effect, "over my dead body." Then the President announced a few days later that he was calling on the agencies of the Federal Government—in this case the Forest Service, BLM, and Fish and Wildlife Service—to come up with an agreement that would protect both owls and jobs. He did this even though the Fish and Wildlife Service had not yet declared any timber sales to be harmful to the owl.

We waited for a little over 3 months for the results of this interagency process. At the end, the President came back and said the normal procedures of the Endangered Species Act should be bypassed; he called on Congress to convene the Endangered Species Committee to exempt the Forest Service from having to comply with the Endangered Species Act. What happened to the consultation? Who made the decision that there were no prudent or reasonable alternatives to present Forest Service plans? As far as I know, there has been no consultation because none has been allowed.

Mr. President, the integrity of the Endangered Species Act and future of the ancient forests of the Pacific Northwest are too important to be legislated away at the end of a Congress simply because there are some in the administration and in this body who want to rush to the conclusion that we cannot protect the habitat of an endangered species if it means upsetting an industry as powerful as timber.

I believe, Mr. President, that we should let the Endangered Species Act work. I believe we should let the professional men and women of the U.S. Forest Service and the Bureau of Land Management and the U.S. Fish and Wildlife Service obey the law. I believe we should let them consult and base their consultation on science and on facts. I strongly object to any effort to prescribe for them what it is they should conclude.

For these reasons, I urge my colleagues to oppose the Packwood amendment.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I wonder if the distinguished manager might yield me 7 minutes.

Mr. BAUCUS. Mr. President, I yield 7 minutes to the majority leader.

Mr. MITCHELL. Mr. President, I oppose this amendment because it creates a conflict between logging and protection of endangered species when no such conflict currently exists.

It distorts key requirements of the Endangered Species Act to make exemption of ancient forest logging a largely forgone conclusion.

Under this amendment, such an exemption would apply not only to timber harvest, but to virtually every other activity that directly or indirectly affects logging—virtually anything covered by the forest and land use plans.

An exemption could remove protection for more than just the spotted owl. Any other endangered species in the Pacific Nowthwest forests, such as the bald eagle, could be placed in jeopardy by the exempted forest activities.

The Endangered Species Act requires the Forest Service and all other Federal agencies to ensure that their actions are not likely to jeopardize the continued existence of endangered and threatened species.

When there are no economically feasible alternatives that would avoid placing a species in such jeopardy, the act allows agencies to apply to the Secretary of the Interior for an exemption from this requirement.

This amendment effectively would amend the Endangered Species Act by overriding these key protective provisions.

It would directly contradict the mandate of the Endangered Species Act by forcing the Forest Service and the Bureau of Land Management to propose actions that these agencies already have rejected because they would be likely to cause the extinction of the spotted owl.

Initiating consultation on clearly inadequate proposals subverts the act's required search for reasonable, economically feasible alternatives that also would avoid extinction of the spotted owl.

In so doing, the amendment would lead inevitably to the convening of the Endangered Species Committee.

The Congress wisely chose to make it difficult for Federal agencies to apply for an exemption from the Endangered Species Committee unless it could be shown that there was a truly irresolvable conflict.

By forcing Federal agencies to show that there is such an impasse, the act has been remarkably successful in identifying alternatives that allow activities to go forward while ensuring the continued existence and recovery of endangered species. It is precisely that mechanism which has caused the act to be successful that this amendment now would eliminate.

Less than 1 percent of the 48,000 biological opinions issued from 1979 through 1986 concluded that a project would be likely to jeopardize a species' continued existence.

Only about 3 projects in every 10,000 were withdrawn or canceled because of jeopardy opinions issued during that 8-year period.

The flexibility of the Endangered Species Act already has been demonstrated with respect to the spotted owl. The U.S. Fish and Wildlife Service has concluded that none—not one—of the over 1,300 timber sales made this fiscal year will place the owl's existence in jeopardy. Every single sale subject to the Endangered Species Act has been approved.

Given the flexibility that the Endangered Species Act has shown for the past 17 years, the Senate's first response to this conflict should not be to undermine efforts by Federal agencies to find economically feasible modifications that would avoid extinction of the owl.

I want to find a way to continue to both protect jobs and protect the spotted owl.

The best way to do that is by complying with the Endangered Species Act's requirements to avoid placing species at risk to extinction and to consult fairly and make an honest and determined search for economically feasible alternatives that avoid extinction.

If the Senate were to adopt this amendment, it would hamstring this essential process.

It rules out the possibility that the Endangered Species Act can be carried out in a way that finds alternatives that ensure the owl's survival while preserving local economies.

I am not willing to accept that conclusion at this time.

The listing of the spotted owl under the Endangered Species Act sounded a warning that within our lifetime an entire ancient ecosystem may be lost forever.

Let us not respond to the alarm that has been sounded by disabling the warning mechanism.

To do so would be an unforgivable dereliction of our duty to this country's natural heritage and to our descendants.

Mr. President, I yield the floor, and I thank my colleague.

Mr. BAUCUS. I very much thank the leader for this statement.

Mr. President, I see no one at this time on our side seeking recognition. I, therefore, suggest the absence of a quorum and I ask unanimous consent that the time alloted be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk poceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask that I might be yielded 7 minutes.

Mr. BAUCUS. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator from Montana has 25 minutes and the Senator from Oregon has 21 minutes.

Mr. BAUCUS. Mr. President, I yield 7 minutes to the Senator from Colorado.

Mr. WIRTH. I thank the distinguished Senator from Montana for yielding.

Mr. President, I just want to add a couple of footnotes to what I had said before about what we are doing in this.

E.O. Wilson, who is a very distinguished biologist at Harvard, one of the most distinguished in the world, has said that there have been five episodes of mass extinction in the planet's history. Today, he believes, when as many as 10,000 species disappear every year, we are in the midst of an episode of mass distinction. He says we are destroying the Earth's library of genetic material before we have even read the books.

Will our children forgive us if we allow this great period of extinction to continue? Will our genetic inheritance be gone forever? That, I think, is the fundamental issue we are facing.

I have great admiration for the two Senators from Oregon. We have worked together on a whole series of issues, just in the last several weeks. I am sorry to be in such sharp disagreement with them today, but I am.

I outlined before the fundamental reason why biological diversity is important and why we should be opposing this proposal. I would like to add one other item, and that is the role of the leadership of the United States in an endangered globe. The world is looking to us in the United States for leadership.

They are looking to us to see what we are doing in terms of destruction of the ozone, what leadership are we offering there, and we did well. They are looking to us for our leadership in terms of global warming. Our record is much less good on that front. They are looking to us, Mr. President, as to what are we going to do to preserve the extraordinary inheritance that we have received.

We talk a great deal about what is going on in the Amazon, and we say the Brazilians should stop the destruction of the Amazon, they should stop the Federal Government of Brazil from subsidizing the destruction of the Amazon. We smugly say that, Mr. President, while we are effectively about doing exactly the same thing in our own Northwest and in Alaska.

We very soon will come to the conference agreement on the Tongass, and we stopped that, Mr. President; we have stopped much of the ravaging of the Tongass. That was the right thing for us to do both in terms of our inheritance in our own back yard, but

also so the Brazilians cannot come to us and say, "What are you doing talking to us about the Amazon when you are wantonly tearing down the last great rain forest in North America," which in fact we have been doing.

The distinguished Senator from Tennessee and I and others met with former President of Brazil, President Sarney, who said to us when we raised the issue of the Amazon, "Who are you to be arguing that we ought to be changing our ways in the Amazon?"

How can we, Mr. President, provide the kind of leadership that the world is begging for and that the world needs if we are not willing to put our own house in order, nor willing to take the careful management practices that are in the Endangered Species Act and use those as a model for the rest of the world. What kind of leadership can we provide if we're not willing to say that we must do better than just tradeoffs, better than 50-50, that we have an obligation to future generations to do more than achieve a 50-50 balance. Fifty-fifty is not enough, Mr. President. Fifty-fifty is not enough.

It has been described that you have to have some timber harvest over here and some over there. But as we have some over here and some over there, for a short-term gain, we have an enormous long-term loss, an enormous long-term loss not only to the biological diversity I spoke of previously but a very significant loss to our ability to lead as we should around the world.

There are many reasons, Mr. President, for opposing this amendment, and I hope that we will. I am sorry that we are in this very strong disagreement, and would again say that I have great respect for my two colleagues from Oregon and what they have done. I also think that they are wrong on this, and I hope that we reject this proposal when the time comes.

Mr. President, I thank the Chair for the recognition. I thank the distinguished Senator from Montana. I yield the floor.

The PRESIDING OFFICER. Do Senators care to yield back their time?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum and ask that both sides be equally charged.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I yield 7 minutes to the Senator from Tennessee.

Mr. GORE. I thank the Chair. I thank my colleague from Montana for yielding me this time.

There is one thing this issue is about, and there is one thing it is not about. It is about protecting the environment. This is one of the most significant environmental votes of this entire session of Congress. There is no question about that. The proponents of the amendment themselves have said every single environmental group is unanimous on this. It is an extremely important environmental vote.

For those who look at their environmental record or, more importantly, their commitment to casting votes that will protect the environment, this one is absolutely key. It is key because it is not only symbolic. It is not just the spotted owl that is in danger. It is the old growth forests. It is the ancient forest that is endangered.

People on both sides have pointed out that really the owl is an indicator species; it is highly visible, but as it goes so goes the forest. In order to save this particular species, you have to save a significant part of ancient forest. That is why this is so important.

Now, what it is not about really is jobs, not in the longrun, because when these forests are gone, those jobs are going to be in danger anyway. It is the shipping of all these logs over to Japan. It is automation in the lumber industry. There are a lot of things that cause many more jobs to be lost in the lumber industry than protecting a sufficient quantity of the old growth forest.

Mr. President, I have heard the suggestion that we have more forests today than we did years ago and that maybe there is no real problem here.

Some Members of this body have seen it with their own eyes, and a lot of my constituents have seen the articles in National Geographic and in Time magazine and in all manner of publications, and on television, with the pictures of these areas that used to be covered with ancient old-growth forests now clear cut, eroded, with deep gullies cutting through them. We are asked to pretend that these ancient forests are going to come back.

Mr. President, we sometimes act as if the only thing that matters is our convenience and our ability to consume as much of this Earth as we possibly can in the shortest period of time.

We sometimes hear a debate about the rights of the unborn, and I respect that debate and those on both sides of that debate. What about the rights of the unborn and the rights of the as yet unconceived to witness the diversity of life on this Earth and to walk in an old growth forest? Is it our prerogative in our generation to destroy it as quickly as we can and sell it to Japan?

I think that is the wrong way to proceed. I think we have some obligation to those who will come after us. And for anyone who tried to convey the impression that the current logging practices in the ancient forests of the Pacific Northwest are being carried out in a responsible way, I simply cite the studies of the Forest Service itself, the leading experts on the ancient forests that we have in this country or in this world, who say that what we are doing is unsustainable, it cannot continue at this rate.

Look at the pictures in the most recent National Geographic of the extent of the old growth forest that used to be in the Pacific Northwest. This cannot be seen from this distance by my colleagues, but I invite your attention to this. The figures are astonishing. We are chewing it up at a record rate. Only 10 percent of it is left; yes, 10 percent of the ancient forest that was there when we began this orgy of destruction. What remains is being destroyed very rapidly.

What others have said about the rest of the world and the United States trying to communicate with the rest of the world is true. Let me quote from the recent cover story from Time magazine. You may remember it, Mr. President. It is entitled "Who Gives a Hoot? The timber industry says that saving this spotted owl will cost 30,000 jobs. It isn't that simple." Boy, that is an understatement. Why would Time magazine do a cover story on the spotted owl, to say it is not that simple? Because the issue has been misunderstood, and it is not that simple.

Let me quote one passage in this article:

"What happens here"—with this issue—will shake the outcome of similar conflicts between ecological and economic concerns for years to come. It will also enhance or diminish U.S. creditiblity overseas, as America tries to influence other nations to husband their natural resources and protect their endangered species. From Brazil to Japan, the decision will be carefully observed. The stakes are that high.

Mr. President, I wonder if I might have an additional 2 minutes.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Tennessee.

Mr. GORE. Mr. President, I am truly grateful to my colleague for his generosity.

I will ask to have printed in the RECORD the names of these Forest Service officials and experts who have said that the current rate of logging is unsustainable.

Let me conclude by talking about unsustainability. We pretend that the economics of supply and demand are driving this issue. We talked earlier about how we are subsidizing the logging roads into the flat forests. I am not even talking about that here.

When we calculate what is gained and what is lost in the destruction of the ancient old growth forests, some things show up on the ledger and some things do not. If you are interested primarily in those things which show

up on the ledger of the companies that are driving this controversy and cutting down these 500-year-old trees, then maybe you will reach the conclusion that we ought to just go ahead and cut the rest of them down. But if you pay a little bit of attention to the things that do not show up on the ledger, not just the living species that are lost, but the forest itself, which never comes back as it appears today in that remaining 10 percent; if you pay attention to those who are going to come after us, if you pay attention to the environment itself, then you will vote no on the Packwood amendment.

I urge my colleagues on both sides of the aisle to defeat this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield myself 4 minutes, Mr. President.

Mr. President, the question before us basically is whether the present Endangered Species Act works. Ask the question: Does it work so we should let it proceed to try to address the problem of old growth forest versus the spotted owl, or does it not work, therefore we should jump start, hot-wire, somehow change the act? That is the question.

Does the present system work? Mr. President, I think the system works. An examination of the facts that the present Endangered Species Act works with its earlier consultation system, the Fish and Wildlife Service looking to determine whether there should be a jeopardy opinion, and, if there is, working with the relevant agency to try to work out a solution; and, if that cannot be found, then moving forward. Then if still there is a problem, the agency seeks an exemption from the level decisionsmakers. That goes to the Endangered Species Committee. That is the system. The system works.

Why do I say it works? I say it works for several reasons. No. 1, in the 1,300 timber sales that have gone through this process, not one has been stopped.

So for those who say that the system is not working because it stops timber sales, I say it has worked in the 1,300 timber sale cases that have attempted this process.

In addition—you have heard the figure; it bears repetition—only in 1 percent of 48,000 instances has there been a jeopardy opinion. Jeopardy just means if the process continues, the species is in jeopardy. But in only three of 10,000 cases has there not only been a jeopardy opinion, but an action has been stopped. That, to me, indicates overwhelmingly that the system is working.

I also submit the process, the consultation process, the Endangered Species Act, is working in this case in the sense that it has not been tried, not been attempted. The forest products industry has not attempted to engage the ordinary process under the Endangered Species Act. It has not been tried. That to me is evidence that the system works.

The proponents of the amendment really have, as I understand it, only a couple of arguments. One, the categories are too narrow. That is, the process looks only at timber sales and there are lots of timber sales; that it is, therefore, bureaucratic, too much redtape, too many administrative hurdles to go through.

Mr. President, the present law enables the agency, BLM or the Forest Service, to submit broader plans to the system, to the process. That is clear. It is in the law. But for whatever reason, the Forest Service in the forest products industry have not attempted that process. They have not tried.

In addition, you are going to hear or have heard that, "Well, let us speed up the process. It is too lengthy, it is too long, let us speed it up." This is not a speed-up-the-process amendment. This is an amendment which requires that the present existing plans, forest plans, which were enacted several years ago, be the plan submitted to the later Endangered Species Committee. That loads the deck. It loads the deck against an attempted good-faith resolution to both allow the sales to go through, perhaps on a modified basis, and also protect the spotted owl in a reasonable way.

So I say, Mr. President, that the present Endangered Species Act works.

We should not load the deck against the process, and we should not be amending a very important statute at this late hour, not only of the date, but of the Congress, and let us go ahead with the process. I urge the administration to go ahead and submit the plans, the broadened plans to the process, to the Endangered Species Act process, so that the industry and those concerns about the spotted owl are satisfied.

Mr. President, how much time do both sides have remaining?

The PRESIDING OFFICER. The Senator from Montana has 4 minutes, 45 seconds remaining. The Senator from Oregon has 19 minutes.

Mr. PACKWOOD. If I can yield myself 8 or 9 minutes, I think I will be ready to conclude.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, it has been an interesting debate, certainly an eclectic one. On occasion, we talk about old growth and then we talk about second-generation forest and and then resource management procedures. Let me, in the short period of time, as best I can, put this in perspective.

Let us talk about what Senator HATFIELD referred to as the 10 percent. The Senator from Tennessee said 10 percent. Senator HATFIELD said, 10 percent of what?

There is now, in Oregon and Washington, 2 million acres of old growth. There are different definitions from different people as to what they call old growth, but about 2 million acres. In the rest of the Nation—there is about 8,000 acres of old growth in New England, all of it; about 110,000 acres in the South, most of it in the Great Smoky Mountains National Park. That is it.

So, one, are we doing our share in the Northwest? Yes, I think so. Two million acres is a swathe about a mile wide from Portland, Oregon to New York, solid with trees for the entire distance.

Two, will there be more old growth? Of course, there will. We have a great deal of existing wilderness in the Northwest and in Alaska. Some of the old growth is in wilderness and some is not. Much of the wilderness areas are not yet old growth, but they will become old growth. Trees age. Sometimes we think we never age, but trees do get older. Each year they get older and there is another ring, if you cut it down, you can tell how old it is.

Senator HATFIELD was right, there was no old growth that we now know as old growth. Very little Douglas fir existed in its present form 500 years ago. There it is, an ongoing recycling of trees into forests. The fires come and burn it up. He mentioned the Tillamook burn. I will put it in perspective.

The District of Columbia is about 62 square miles. If you squared if off, it is roughly 8 by 8. The eruption of Mount St. Helens a decade ago blew timber flat. You saw the pictures on television. It blew it flat, charred, stumped. It is about 236 square miles; squared off about 15 miles by 15 miles of the force of a volcano blowing some flat and burning it instantaneously.

The District of Columbia is 62 square miles. The St. Helens blowup, 236. The Tillamook burn was roughly 547 square miles, about 25 by 25 miles burned black. You look at pictures of it in the 1930's, and in early 1940's when it happened. Several fires. Look at the old pictures, hillside upon hillside of nothing but stumps, charred, gone. The stories that were written then were not unlike the stories written after the dropping of the atomic bombs in Hiroshima and Nagasaki. Nothing can thrive here—you recall the stories—for 75 or 100 years. We thought it was beyond the knowledge of man to ever make the Tillamook burn come back.

Then the people of Oregon passed a bond issue. I was young enough to remember. The Senator was right. In my

Cub Scout den we went out as a civic venture on a Saturday and we planted little trees.

I have driven people through the 25 square miles and told them about the Tillamook burn as we drive through it. We get to the end of it and I say, what did you think? They say what do you mean? When do we get to see the burn? I say, you have seen it. It is hillside upon hillside of green, and growing trees.

Most of this, ironcally, happens to be State land. The Tillamook Forest is a State forest. Some of this forest one day is going to be old growth because it is set aside. Some of it is going to be campgrounds and not cut around. You can go there today and hunt, fish and find deer. You would have thought 50 years ago you would never find anything in it.

So do we manage our forests well? Yes. As I said earlier, the State of Oregon has a requirement compelling private landowners, private, who cut the trees off their land to reforest.

Are there changes? I listened to my friend from Tennessee saying he had seen the picures on television and in the National Geographic of the clearcuts, areas that used to be beautiful forests which are no longer forests. He is right. Some areas—we call them Portland, Memphis, and New York—used to be forests. They are no longer forests. Other areas that used to be meadows are becoming forests. You do not have to go 40, 50 miles from here, up to Camp Hoover, Park Service building, an area called the meadow that was burned 50 or 60 years ago not far from this Park Service area. And in 2 or 3 decades, you no longer are going to be able to recognize it as the meadow, because it is all going to have been grown up.

I guess the most discouraging fact of all in this debate was something that my good friend—and he has done an excellent job of arguing—from Tennessee said early on when he talked about the committee, the Endangered Species Committee, "This committee is a stacked deck. The process is being bypassed and hot wired."

He does not want this committee to meet at all, not administratively, not legislatively. He went down the list. The Secretary of Interior, Manuel Lujan and Secretary of Agriculture, Clayton Yeutter, we know where they stand. He does not want this committee to exist and review facts and circumstances that the Fish and Wildlife Service was not allowed to review.

The Fish and Wildlife Service, when it makes a decision as to whether or not it is going to declare a species threatened or endangered, looks at science, does not look at the fact that a school is going to be closed, or whether Johnny or Jill in the lumber company are going to be out of business. It looks solely at biology. It is not allowed to look at anything else in the initial decision.

This committee says, let us look at the whole. Let us see what happens if 28,000 people are thrown out of work. And the argument is made that people will be out of work anyway, and through capital investment and modernization you are going to have fewer employees. That is the history of the industrial revolution.

What this report says, from the Forest Service and Bureau of Land Management, is that there are going to be 28,000 people out of work because of automation, that would not be out of work, who will otherwise be out of work because of the decision to declare the spotted owl a threatened species and no consideration for what happens to those people.

I am intrigued with the voting record of my good friend from Tennessee. We talked about the Tellico Dam. The Tellico Dam was the issue over which the Endangered Species Committee was created. I will go over the facts. A dam was being built. It was argued that the dam would cause the snail darter to disappear as a specie. Fish and Wildlife Service made a study and said, yes, the dam is going to cause the snail darter to disappear. You had some consultation between the Corps of Engineers and the Fish and Wildlife Service. They could not reach any agreement, because the Fish and Wildlife Service says the dam is going to finish off the snail darter.

So you know what happened? There was an amendment introduced after the Fish and Wildlife Service that said the dam will make the snail darter disappear. The amendment passed the House of Representatives. It was a close vote. But it passed, exempting the dam altogether from the Endangered Species Act.

My good friend from Tennessee voted for that amendment. After the Fish and Wildlife Service had said this dam is going to finish that species he said, you bet, go ahead, goodbye snail darter.

That amendment was dropped in conference. Instead in conference it created the Endangered Species Committee and said we want you to look at this situation again and consider all of the facts and all of the other circumstances beside biology, not setting biology aside, but we want to consider the economic effects of the action.

The Endangered Species Committee, the Secretary of the Interior, the Secretary of Agriculture, the Corps of Engineers, are the same people that my good friend from Tennessee now says is a stacked deck. It is the same committee. They met. They reviewed all the facts and circumstances. They looked at the economy. They looked at what would happen to communities.

Do you know what they did? This stacked committee came down on the side of the snail darter. Do you know what happened? Congress says we do not care what the Endangered Species Committee says. We do not care that they came down on the side of the snail darter.

We are exempting the dam again. My good friend from Tennessee who is desperately concerned about the environment voted once more to exempt the dam. It so happens the dam was in Tennessee.

I am touched, I am deeply touched, that he is concerned about the environment in my State. I wish he had as much concern for the environment in his State when the issue came down to a project in his State and it was the economy of his State that was affected.

I understand the geography of this: It is not in my backyard. So long as the problem is not my problem, I will vote to prohibit this committee from meeting and giving 28,000 people a chance to work. But if by chance the problem is in my backyard, in Tennessee, that is a different matter. No; it is discouraging.

Mr. President, I think I know what is going to happen, because we have seen it time and again in this body. So long as the problem is somebody else's, somewhere else, we are not concerned.

We see tonight the budget that we are working on. Please balance the budget, but do not tax me. Please balance the budget, but do not cut my benefits. Please do not touch me.

Please save us from the Endangered Species Committee, please save us from the Fish and Wildlife Service—that was in the Tellico Dam—and exempt it and let the snail darter disappear because it is in his State. Anyplace else, bring down that guillotine that will throw 28,000 people out of work.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, how much time does this side have?

The PRESIDING OFFICER (Mr. HARKIN). The Senator has 4 minutes and 40 seconds.

Mr. BAUCUS. And the other side?

The PRESIDING OFFICER. Six minutes and 12 seconds.

Mr. BAUCUS. Mr. President, I yield the remainder of the time remaining to the Senator from Georgia.

Mr. FOWLER. Mr. President, may I inquire of the Senator from Oregon [Mr. PACKWOOD], because we are a little short on time, will he yield 2 minutes to the Senator from Tennessee to respond?

Mr. PACKWOOD. Absolutely. That is only fair.

The PRESIDING OFFICER. The Senator from Tennessee has 2 minutes.

Mr. GORE. Mr. President, I have deep respect for both of my colleagues from Oregon who have pushed this

amendment upon the Senate this evening, and I earlier addressed the Tellico Dam but since the junior Senator from Oregon has made such a point of this, let me repeat the essence of the contrast between these two cases.

What happened 12 years ago was that my State of Tennessee exhausted the entire consultative process, sought every possible alternative to see if there was a way to reconcile that particular conflict. Incidentally, the Senator from Oregon will search in vain for remarks by this Senator. I was not in this Chamber at that time. My distinguished predecessor was. I as a Member of the other body did not speak on this subject. It was not in my district and I did not speak on it.

But my State exhausted the process and the consultative process ran its course, went through the courts, all the way to the Supreme Court. Then and only then was the special committee used, 12 years ago.

In this case, the distinguished Senators from Oregon have not even started the consultative process. They are not asking to use this committee as a last resort. They are asking to use it as a first resort.

And the final point: Since the Tellico Dam case 12 years ago, and partly because of that conflict, a very extensive and elaborate consultative process has developed, 48,000 cases have been the subject of consultations, and 47,988 of them have resulted in a successful resolution.

Those who are pushing this particular case—not just in Oregon—do not want to go through that consultative process. They do not want to give it a chance to work. They want to hot wire the process and direct the result. There could not be a sharper contrast.

I appreciate the courtesy afforded me by my friend and colleague from Oregon in yielding the 2 minutes during which I might respond.

The PRESIDING OFFICER. Time has expired.

Who yields time?

Mr. BAUCUS. Mr. President, I yield 4 minutes and 45 seconds to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized for the remaining time.

Mr. FOWLER. Mr. President, an historical fact. Somewhere in the middle of the 1st century, rats, I assume, landed on an uncharted land and uncharted waters in the South Pacific. It turned out this country, later named New Zealand, had no predators. There were 23 flightless birds because there were no predators. But once some rats from the ships that landed brought by man and some dogs came on somewhere within 35 or 40 years after the first incursion, all the birds that could not fly were no longer; they were extinct. The only one to survive was the kiwi because it could hop, and it hopped up onto the branch, and being nocturnal, somehow survived.

The industrial revolution came along and they said what will we do in this beautiful Eden of a land untrampled there heretofore by human foot? So whatever we will do we will cut down all of the trees, the 400- to 500-year-old hardwood trees. In 40 years the north island of New Zealand was totally denuded, not a single 400- to 500-year-old hardwood was left on the island of New Zealand, all in the name of commercial activity. Not realizing despite what you always hear how trees just keep growing back, there are some trees just like some species that do not come back.

What do you do next? Well, they discovered since there were not any trees they could see farther than. They looked around and walking the cliffs they looked down and all of sudden they saw the most incredible whale spawning grounds ever seen by man and for the next 40 years they developed a fishing industry and they killed all the whales. They exported them and they cut them up and they made a lot of lamplight out of them, I am sure, and probably a lot of baby oil.

I am sure there was a lot of argument about the necessity for commercial activities of the whale. In 40 years, the whales were gone. There is not a whale that spawns within 600 miles of New Zealand. Whales have better sense than that. That is why, as a mammal, it has the intelligence it does. If it did not get out of there, there would not be any whales around. So now we have no birds, we have no trees, we have no whales and except for the manmade resources on the south islands of the extraordinary, the north island of New Zealand looks like southern England, nothing but pastures. The only thing you can raise is sheep. The moral of this story was inspired, and I give the credit to the Senator from Tennessee and the Senator from Connecticut [Mr. LIEBERMAN].

There are two things wrong with the public process in this country and there are two things wrong with this amendment: No. 1, that God, in his creative wisdom, did a bad job and, No. 2, that every public problem presents the opportunity for commercial profit.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Oregon has 3 minutes and 28 seconds remaining.

Mr. PACKWOOD. Mr. President, I listened with interest about the trees disappearing in New Zealand and the whales disappearing. I think we should bring this to a close because, if we do not, incumbents will disappear and that would be the worst of all species to disappear from the Earth. So I am prepared to yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question occurs on the Packwood amendment.

Mr. BAUCUS. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

OWLS YES; GOD SQUAD NO

Mr. AKAKA, Mr. President, the proposed amendment to the Endangered Species Act is unnecessary and unwarranted. It is a wolf in sheep's clothing. Its supporters claim that it "—will—not amend the Endangered Species Act or alter one word of its text"—that all the amendment would do is to convene the Endangered Species Committee.

The truth, Mr. President, is that the Packwood amendment will undermine the procedure which Congress carefully established in 1978 to convene the Endangered Species Committee only in cases of irreconcilable conflict. This committee will make a life-or-death decision on whether or not the northern spotted owl should be exempted from the protection of the Endangered Species Act. Seven mortal men will be empowered to decide the fate of the spotted owl. It's no wonder they call this committee the God Committee or the God Squad.

Mr. President, supporters of the Packwood Amendment claim that the Endangered Species Act does not adequately balance economic and social interests with the need to protect endangered or threatened wildlife like the spotted owl. But I say it does. Read the act. Look at its provisions.

The act contains a fair and reliable process to judge how far certain actions, such as logging, can proceed before alternatives must be considered. Under the Packwood amendment, agencies such as the U.S. Forest Service and the Bureau of Land Management—our experts in the field—would be cut out of the decisionmaking process. And the exemption decision would be left to "beltway bureaucrats." Whose judgment do you trust more: our on-the-site park rangers or some Washington desk jockeys?

I fear this so-called God Committee. One of its seven members is Interior Secretary Manuel Lujan. He has already declared the Endangered Species Act to be "just too tough." He has argued that economics should play the decisive role in determining which creatures will live and which may perish

It's apparent to many that the committee's decision on the future of the spotted owl is already a foregone conclusion.

Now let's look at the health of the timber industry. The General Ac-

counting Office reports that national timber harvests will increase 55 percent during the next 50 years. At that rate, within a generation or two, there won't be any old growth forests left to cut and harvest.

Mr. President, I want to emphasize that this is not a struggle between right and wrong, between good and evil, or anything so simplistic. We must make tough decisions now. But I believe that both sides—those that are concerned with protecting jobs in the one-industry timber towns and those who would protect our forests and endangered species—can come out winners. Save the owl, save the old growth forests, and you will lay the groundwork for an economically more stable future for the loggers and timber communities of the Pacific Northwest.

But how do we do this, you ask? The economies of Oregon, Washington State, and northern California are healthy, vibrant economies.

We can help the timber communities to adapt through job retraining programs and Federal assistance to ease the transition. The fact is, the one-industry timber towns will have to change anyway to survive, spotted owl or no spotted owl.

The alternative is to lose both our northern spotted owl and logging jobs 20 or 30 years down the road. Can we afford to lose both?

We dare not. I'm concerned because my home State of Hawaii has become a desperate battleground where individual battles for survival are waged every day. Numerous plant and wildlife species are barely clinging to survival. Countless others have disappeared altogether.

As the most isolated group of islands in the world, Hawaii accounts for only 0.2 percent of our Nation's land mass. And yet Hawaii possesses 25 percent of America's endangered species. Over 200 years ago, when Captain Cook first set foot in the Hawaiian Islands, more than 70 unique bird species flourished in Hawaii. Twenty-five have since become extinct, and half of the remainder are either threatened or endangered.

I am working my hardest to reverse this decline, Mr. President. But one man standing alone is hardly a match against an army of ignorance and indifference.

The point of all this, Mr. President, is not about one endangered bird, a threatened plant, or the perishing northern spotted owl. The point is human survival and our role as caretakers of the Earth. Lose a bird or a plant species, and the planet will no doubt survive. But lose 100 or 1,000 species, the planet grows ill, and ecosystems come crashing down like a fragile house of cards. And if the earth is no longer fit for animals to live upon, surely it will not be fit for humans, either.

I urge my colleagues to join me in opposing the Packwood amendment. The spotted owl is not the only creature at stake; so are we.

Mr. HARKIN. Mr. President, the Endangered Species Act is based on the simple premise that we are a part of—not apart from—the Earth's complex web of life.

The notion that we should share our planet with the other creatures rather than drive them to extinction is hardly revolutionary. Just 2 years ago, this body reauthorized the Endangered Species Act by an overwhelming margin of 93-2. In the other body, the vote was 399-16.

Yet we find ourselves on the floor today, in the waning hours of the Congress, seeking to bypass key provisions of the Endangered Species Act. No hearings have been held on this bill. There has been no opportunity for public input. This is hardly the way to deliberate the survival of a specie.

Mr. President, the spotted owl is in jeopardy. Now the Senator from Oregon is asking us to put one more nail in the spotted owl's coffin. I suppose it would only be appropriate for that coffin to be made from freshly cut 300-year-old red cedar.

He is asking us, in effect, to rig the consultation process so that the Forest Service and the Bureau of Land Management can petition the so-called God Committee for an exemption from the Endangered Species Act. His first proposal called directly for convening the God Committee. His modified amendment accomplishes the same end: circumventing the Endangered Species Act by forcing the consideration of a hypothetical mega timber sale of all timber in owl habitat, whether or not the timber industry planned to log those tracts. He would waive the usual biological and environmental impact assessments.

Mr. President, we do not need this bill to convene the God Committee. The Endangered Species Act already permits the calling of that committee. However, the Forest Service or Bureau of Land Management must first submit their logging plans to the Fish and Wildlife Service. If the Fish and Wildlife Service rejects those logging plans, then good faith efforts must be made to find alternative plans that would protect the owl. If these good faith efforts fail, then the Secretary of the Interior can call the Endangered Species Committee.

However, we have not passed step one. Since the spotted owl was listed as an endangered species in June, the Fish and Wildlife Service has not rejected a single logging plan. In fact, over 1,300 timber sales have been approved, even though many of these sales will destroy spotted owl habitat.

Since no logging plans have been rejected, there has been no effort to develop alternatives. The Packwood bill is therefore premature, and would undermine the carefully crafted provisions of the Endangered Species Act.

I urge Senators to oppose the Packwood provision, and to give the Endangered Species Act a chance to work.

Mr. CRANSTON. Mr. President, I will oppose any attempt to circumvent the lawful procedures of the Endangered Species Act. Modifying the exemption process set forth in the act is neither warranted nor wise.

Under the normal consultation process in the Endangered Species Act—and with specific respect to the northern spotted owl—the U.S. Fish and Wildlife Service would determine whether a proposed timber harvest would likely jeopardize the continued existence of the owl. No such determination has yet been made. If a so-called jeopardy opinion is issued by FWS, then the FWS goes to work with the responsible agency—in this case, either the U.S. Forest Service or the Bureau of Land Management—to come up with practical, workable alternatives that are unlikely to jeopardize the owl. It is at the conclusion of this process that an exemption could be sought from the Endangered Species Committee, which has the power to review the evidence and, if warranted, grant an exemption.

The amendment proposed by Senator PACKWOOD does not merely expedite this process, it attempts to predetermine the outcome. The Fish and Wildlife Service has not concluded that any proposed timber harvest will jeopardize the existence of the owl. No jeopardy opinion has been issued. Since no jeopardy opinion has been issued, no alternatives have been proposed. Yet the Packwood amendment biases this entire process, under the apparent assumption that there are no alternatives that would not jeopardize the owl.

Mr. President, there are often as many as 14,000 consultations each year under the Endangered Species Act, seeking to mitigate conflicts between species preservation and economic objectives. Maybe 10 jeopardy opinions are issued. This is a process that works a huge percentage of the time. It should not be abandoned.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 3 minutes.

The PRESIDING OFFICER. Hearing no objection, the President pro tempore is recognized for 3 minutes.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, when we began this morning there were 30 amendments on the list. At the present time, there are 16 possible amendments on the list. Some of these we know will not take very long. They can be accepted. And there may be two or three that will go away.

The principal area of controversy—there may be a little controversy on one or two of the other amendments—but the principal area of controversy involves the NEA amendments. And there are four by Mr. HELMS, one by Mr. HATCH, and one possible amendment by Mr. HATCH and Mr. PELL. It is my understanding that Mr. HATCH is in a position to speak for the authorizing committee in terms of this agreement.

I, therefore, ask unanimous consent, with the understanding that if we can get this time agreement on the NEA amendment, this would mean—I think it would mean—that Senators would not have to remain this evening. There would be a few amendments here that Senator MCCLURE and I could accept and dispose of so that, for the most part, all that would be carried over would be the NEA amendments, six of them, six possible amendments, and they would consume at the most 7 hours. The subject matter has been very much discussed last year. Seven additional hours would seem to be a rather liberal application of time.

I ask unanimous consent that on the following amendments there be 1 hour on each amendment equally divided: three amendments by Mr. HELMS on NEA funding; 1 amendment by Mr. HELMS on sanctions on obscenity; one amendment by Mr. HATCH and Mr. PELL, 1 hour equally divided; and an amendment by Mr. HATCH dealing with NEA on which there will be 2 hours equally divided.

So, to repeat, that would be 1 hour on each on four amendments by Mr. HELMS, 1 hour on a HATCH-PELL amendment, and 2 hours on a HATCH amendment, all of these dealing with NEA with the exception of one by Mr. HELMS on sanctions on obscenity—that is NEA also—and in each case equally divided.

Mr. HATCH. Reserving the right to object, could I ask the distinguished President pro tempore a question or two? As I understand it, Senator HELMS wanted to lay down his first amendment tonight and that would be the pending business tomorrow.

Mr. BYRD. Yes, I would include that in the agreement if we can reach an agreement; that Mr. HELMS would lay down an amendment tonight, with the understanding that it could be laid aside so that Senator MCCLURE and I and others could dispose of other amendments.

Mr. HATCH. I understand, But I would like it also to be understood as a part of the unanimous-consent agreement that after that amendment is disposed of, either by vote up or down or whatever it is, that I be permitted to call up a Hatch, Kennedy, Pell, Kassebaum, Metzenbaum, Durenberger, Simon, Jeffords, Dodd, Chafee, Simpson, Adams, Mikulski, and Bingaman amendment.

Mr. BYRD. That would be agreeable and that would be included in the request.

Mr. HATCH. That would be the 2-hour amendment and it will succeed the amendment of the Senator from North Carolina.

Mr. BYRD. Yes.

Mr. HATCH. Then I have no objection.

Mr. MCCLURE. Reserving the right to object, and I shall not object, I might point out to the Senate and inquire of the distinguished manager of the bill, I think every amendment on the list—and we have possibly 18 amendments, including these just referred to on the NEA—every amendment on the list I believe can be handled tonight with no participation necessary from any other Members other than the managers of the bill and the proponent of the amendment, if they desire to be here, with the exception of the one that might be offered by the Senator from Alaska, Mr. MURKOWSKI, and two second-degree amendments thereto. Because we are not certain with respect to that amendment, we cannot know for certain whether we will get done with that one tonight.

Mr. HATCH. Will the distinguished President pro tempore yield for a question?

Mr. BYRD. Yes.

Mr. HATCH. Will it be possible to see copies of the Helms amendment tonight? He has a copy of our amendment, as I understand it. I wonder if we could ask, in fairness, that we see the copies of his amendment?

Mr. BYRD. Mr. President, I ask unanimous consent I may have 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, provided further that the amendments enumerated dealing with the NEA be offered to the pending committee amendment which has not yet been agreed to and that whatever the disposition may be, in any instance, that the amendments that have been enumerated would still qualify to be offered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators and I yield the floor.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing on the motion. The yeas and nays have been ordered.

The Clerk will call the roll.

The legislative clerk called the roll.

Mr. JOHNSTON (When his name was called). Mr. President, I have a live pair with the Senator from Massachusetts [Mr. KERRY.] If he were present, he would vote "aye." I would vote "no." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY] and the Senator from Massachusetts [Mr. KERRY] are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey [Mr. BRADLEY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 62, nays 34, as follows:

[Rollcall Vote No. 303 Leg.]

YEAS—62

Adams	Fowler	Mikulski
Akaka	Glenn	Mitchell
Baucus	Gore	Moynihan
Bentsen	Graham	Nunn
Biden	Harkin	Pell
Bingaman	Heinz	Pryor
Breaux	Hollings	Reid
Bryan	Humphrey	Riegle
Bumpers	Jeffords	Robb
Burdick	Kassebaum	Rockefeller
Chafee	Kasten	Roth
Cohen	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kohl	Sasser
D'Amato	Lautenberg	Shelby
Daschle	Leahy	Simon
DeConcini	Levin	Specter
Dixon	Lieberman	Warner
Dodd	Lugar	Wilson
Durenberger	McCain	Wirth
Exon	Metzenbaum	

NAYS—34

Armstrong	Garn	Murkowski
Bond	Gorton	Nickles
Boren	Grassley	Packwood
Boschwitz	Hatch	Pressler
Burns	Hatfield	Rudman
Byrd	Heflin	Simpson
Coats	Helms	Stevens
Cochran	Inouye	Symms
Danforth	Lott	Thurmond
Dole	Mack	Wallop
Domenici	McClure	
Ford	McConnell	

PRESENT AND GIVING A LIVE PAIR—1

Johnston, against

NOT VOTING—3

Bradley	Gramm	Kerry

So the motion to lay on the table the amendment (No. 3112) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I have sought recognition at this time for two reasons. First, I would like to inquire as to whether or not Mr. MURKOWSKI intends to call up his amendment dealing with the Arctic National Wildlife Refuge?

May I inquire then, while I am awaiting a response, as to whether or not Mr. WILSON intends to call up his amendment?

Mr. McCLURE. Mr. President, if the Senator will yield, Senator WILSON does not intend to call up that amendment.

Mr. BYRD. Very well. Then that disposes of two amendments.

Mr. President, the distinguished majority leader has indicated to me that he has no other matters that he wishes to dispose of tonight that would require a rollcall vote. Therefore, with respect to the Interior appropriations bill, there are a few amendments that can be disposed of this evening. Senator MCCLURE, the ranking member, and I will remain and take care of those amendments. If Senators wish to call up their amendments, if they will remain, we will dispose of those amendments tonight. If there is an amendment that requires a rollcall vote and on which the yeas and nays are ordered, I will put that over until tomorrow.

Is Mr. MURKOWSKI ready to call up his amendment?

Mr. McCLURE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. McCLURE. I understand the Senator from Alaska will not demand a rollcall vote on his amendment. With that assurance from the Senator from Alaska, I know of no amendments which will require a rollcall vote.

Mr. BYRD. Mr. President, there will be a rollcall vote at 11:30 tomorrow on the override of the President's veto. The message will be laid down in the morning. The Senate will proceed with 2 hours of debate beginning at 9:30 in the morning, and there will be a rollcall vote at 11:30. Any other rollcall votes that occur will be stacked to follow immediately, if such are ordered this evening on any other amendment. I do not anticipate the ordering of the yeas and nays on any other amendment in respect to the Interior appropriations bill. If there should be such, however, they will be stacked to occur immediately after the vote on the override of the veto message tomorrow, which will occur, as I have already indicated, at 11:30.

Throughout the day following that vote there will be several votes dealing with NEA. There are six amendments and a maximum of 7 hours of debate on those six amendments. So there will be several rollcall votes tomorrow beginning at 11:30. Otherwise, Senators who do not have amendments and who wish to call them up tonight may stay around or they may go home or wherever they want to go.

Mr. WIRTH. Will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. WIRTH. The Senator mentioned that junior Senator from Alaska will be having an amendment coming up. There are a lot of Senators who might be interested in that if that relates to some of the Alaska issues which have been controversial. Could we get some sense as to what that amendment might be all about?

Mr. McCLURE. Will the Senator yield?

Mr. BYRD. Mr. President, I yield to the distinguished Senator.

Mr. McCLURE. It has been listed on the list as the Alaska National Wildlife Refuge, ANWR, leasing provision.

Mr. WIRTH. I understand that. Beyond that, since the Senator is not going to require a vote and the suggestion is that it is not controversial, could other Senators get a sense of what it is all about?

Mr. McCLURE. I do not think there was any suggestion that it is not controversial.

Mr. WIRTH. OK. Then Senators should know that a controversial amendment on ANWR may be coming up, is that the case?

Mr. MURKOWSKI. The Senator from Alaska may call for a voice vote.

Mr. WIRTH. The ANWR vote will be coming up tonight, is that the case?

The PRESIDING OFFICER. Does the Senator from Colorado direct his question to the floor manager or to the Senator from Alaska?

Mr. WIRTH. If the distinguished President pro tempore would further yield, it was my understanding that the implication in the earlier announcement was that——

The PRESIDING OFFICER. If the Senator will suspend for one moment, the Senate will be in order. The Senator from Colorado is asking the Senator managing the bill to further yield for the purpose of a question.

Mr. BYRD. Yes. I yield.

Mr. WIRTH. I thank the distinguished President pro tempore.

The implication, as I understood from the earlier discussion about the amendments to be done tonight, was that these were going to be small and, I gather, noncontroversial amendments and therefore Senators could go home; that they could be handled by the distinguished President pro tempore and the distinguished senior Senator from Idaho.

The Senator from Colorado wants to know if we can go home and the distinguished President pro tempore can handle this business, or is the ANWR amendment the kind of controversy that those interested in this ought to, therefore, stay around? And if so, could we take that amendment up first?

Mr. BYRD. Yes. I think we should do that. I did indicate, however, that if a rollcall vote should be ordered on any amendment it would be put over until tomorrow.

Mr. WIRTH. I appreciate that. If we could do that first I think that would probably convenience a number of Senators. I thank the distinguished President pro tempore.

Mr. GORE. Will the distinguished President pro tempore yield?

Mr. BYRD. Yes.

Mr. GORE. If the purpose is to give the Senate some rest at this late hour and focus on noncontroversial votes, this could well be the kind of amendment that would lead to a pitched debate lasting for as many hours as the one we just completed. I hope not. But if that is the case, then it might be better to go to some less controversial measures this evening. Of course, I will stay if that amendment is going to come up.

Mr. BYRD. Mr. President, I believe it would be the desire of the majority leader, based on his conversations with me, that we attempt to dispose of any amendments this evening that are going to require rollcall votes other than the NEA amendment; and if that cannot be done, that we stack the votes until tomorrow to follow the override vote.

Therefore, I sense that it would be well to proceed with the ANWR amendment this evening, and take as long as may be required. And if rollcall votes enter thereon, that rollcall vote will be put off until tomorrow for the protection of all Senators who may wish to leave the Chamber tonight.

Mr. McCLURE. Will the distinguished floor manager yield?

Mr. BYRD. Yes.

Mr. McCLURE. It would be our intention under this process to dispose of all of the amendments that are on the list, and therefore, all those which are in order for offering to this bill, with the exception of the NEA amendments, would be to handle them all tonight with the possible exception of a vote to be stacked. The only one that we know of that would require a vote or could possibly require a vote, is the vote on the amendment of the Senator from Alaska, should he pursue that course.

Mr. BYRD. Yes. I thank the Senator.

Mr. President, if the Senator from Alaska would like to call up his amendment, if any other Senators have questions—otherwise, there will be no more rollcall votes this evening.

Mr. MURKOWSKI. Mr. President, in reference to——

The PRESIDING OFFICER. If the Senator from Alaska will suspend for one moment.

If we can have order in the Chamber so the Senator can be heard.

Mr. MURKOWSKI. Mr. President, in deference to the floor managers it would be the intention of the Senator from Alaska to await the clearance of the other pending amendments before the Senator from Alaska seeks recognition.

Mr. BYRD. Very well.

The PRESIDING OFFICER. If we could have order in the Chamber so the floor manager can be heard.

AMENDMENT NO. 3113

Mr. BYRD. Mr. President, on behalf of Mr. BURDICK and Mr. CONRAD, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. BURDICK (for himself and Mr. CONRAD) proposes an amendment numbered 3113.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 403(6) of Public Law 81-874 is amended—

(1) in the third sentence thereof—

(a) in subparagraph (A), by inserting "or" at the end thereof;

(b) in subparagraph (B), by striking the semicolon and "or" and inserting in lieu thereof a period; and

(c) by deleting subparagraph (C); and

(2) by striking the fourth sentence thereof and inserting in lieu thereof the following two sentences: "Notwithstanding the previous sentence and solely for the purpose of making payments to local educational agencies described in section 3(h), such term includes any otherwise eligible school authority that was constituted after January 1, 1989 or before January 16, 1990. Section 3(d)(2)(B) shall not apply to agency or authority that benefits from the preceding sentence."

Mr. BURDICK. Mr. President, I rise in support of the impact aid amendment. For more than 2 years, two school districts in North Dakota have sought administrative or legislative relief to a problem which was thought to be solved.

Personnel of the Grand Forks and Minot Air Force Base school districts have attempted to satisfy a 3-year-old State law and a recent Federal law in order to continue to receive impact aid funds.

Time after time, personnel of the school districts and of my office and that of Senator CONRAD have believed that a solution had been reached, only to be confronted with a new and different interpretation of the law.

This led to the sudden cutoff of both districts' impact aid funds. These districts have spent a long time seeking to carry out the explicit and implicit guidance of the Department of Education, only to encounter roadblocks.

Now, time has just about run out. The State contribution to the education of the children will run out by November 1. Because no education bills are moving in the Senate, the bill before us was chosen as the vehicle.

I hope my colleagues will join me in ensuring that the 4,000 children on these two bases will be allowed to receive an uninterrupted education. Thank you.

Mr. CONRAD. Mr. President, I wish to propose an amendment regarding urgent aid for two school districts in North Dakota.

In May 1990, an amendment to the impact aid legislation was passed by Congress and signed by the President, that would terminate the ability to create new school districts. I had language added that would have exempted the Grand Forks Air Force Base and Minot Air Force Base districts from this amendment, since they were already created and receiving funding.

The Department of Education interpreted the amendment to exclude the school districts, and notified them on July 2, 1990 that they were no longer eligible for the Impact Aid Program and would receive no funding for the upcoming fiscal year. This action leaves two school districts and 4,000 children without funding. The State contribution to the education of the children will be exhausted by November 1, 1990.

Since the decision to terminate eligibility, the school districts and my staff and I have met with the Department of Education to find a remedy. On Friday evening, October 19, the Undersecretary of Education informed the State of North Dakota, that there would be no administrative solution forthcoming. A legislative amendment would be necessary to provide funding for these school districts.

Since there is no education bill pending before the Senate, we seek to attach the approved language to the Interior Appropriations bill. This amendment would restore the previous funding level to the two districts.

BACKGROUND

The two Air Force bases in North Dakota are separated by at least one school district from the closest district of sufficient size to educate the children on the Air Force bases. The children on the Air Force bases are educated in the larger districts physically separated from the Air Force bases. These districts have no legal obligation to educate the children.

In 1987, the State of North Dakota, in an attempt to reduce the number of nonoperating rural school districts, required that all land be organized into a school district, and that each organized school district operate a school. Since its creation in the mid-50's, the Grand Forks Air Force Base has not been in a school district. The Grand Forks Air Force Base schools sought assistance from the U.S. Department of Education to achieve an acceptable solution to the problem.

The Director of Impact Aid allowed the North Dakota Department of Public Instruction to apply for Federal funding for the Air Force Base until an appropriate long-term solution could be found. After consultation with the Department of Education, it was determined that an appropriate solution would be to establish the Air Force bases as separate school districts. At the next opportunity, in 1989, the North Dakota Legislature, which meets every 2 years, established separate school districts for the Grand Forks Air Force Base and Minot Air Force Base. The Grand Forks Air Force Base School district was established on June 2, 1989. The Minot Air Force Base School district was established on December 21, 1989.

These school districts have applied for and received impact aid under their new status. The Grand Forks Air Force Base has received funding for 2 years, and the Minot Air Force Base for one year.

This amendment resolves the problem. I urge my colleagues to support it.

Mr. BYRD. Mr. President, this amendment, as I understand it, provides that two new school districts in North Dakota will qualify for impact aid. On this side, I am willing to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senators from North Dakota.

Mr. McCLURE. Mr. President, this amendment is acceptable on this side. We urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senators from North Dakota.

The amendment (No. 3113) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3114

(Purpose: To rename the Cedar Pass Visitor Center at Badlands National Park, South Dakota, as the Ben Reifel Visitor Center)

Mr. McCLURE. Mr. President, on behalf of Mr. PRESSLER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho, [Mr. McCLURE], for Mr. PRESSLER, proposes an amendment numbered 3114.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"Provided further, That hereafter the Cedar Pass Visitor Center at Badlands National Park, South Dakota, shall be known as the Ben Reifel Visitor Center.".

Mr. PRESSLER. Mr. President, I understand the amendment has been agreed to on both sides, so I will be brief. My amendment renames the Cedar Pass Visitor Center in the Badlands National Park as the Ben Reifel Visitor Center.

Ben Reifel, who was a dear friend of mine, was born and raised on the Rosebud Indian Reservation in South Dakota. In 1960, he became the first Sioux Indian to be elected to the U.S. House of Representatives. Ben served in that body with great distinction and respect until 1970.

Ben's public service was not limited to the House of Representatives. He worked for the Department of the Interior and the Bureau of Indian Affairs for over 23 years. After retiring from Congress, he served briefly under President Ford as interim commissioner of Indian affairs and on various boards.

The people of South Dakota suffered a tremendous loss with Ben's death earlier this year. Ben Reifel certainly will be remembered as one of South Dakota's finest leaders. He was always a hard worker and an articulate spokesman for programs meaningful to South Dakota. The people of South Dakota are forever indebted to Ben Reifel for his lifetime of selfless service to our State.

Mr. President, Ben Reifel's contributions to South Dakota and the entire country will not be forgotten. Renaming the Cedar Pass Visitor Center in the Badlands National Park as the Ben Reifel Visitor Center is the least we can do to show our appreciation for this lifetime of service, and I urge the swift adoption of this amendment.

Mr. PRESSLER. Mr. President, I ask unanimous consent that a document entitled "Trail from Rosebud Led to U.S. Congress," an article on the life of Ben Reifel, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRAIL FROM ROSEBUD LED TO U.S. CONGRESS

(By Brenda Wade)

A country teacher persuaded Ben Reifel to go to school past the sixth grade. Voters of South Dakota persuaded him to go to Congress.

Reifel was born Sept. 19, 1906, near Parmalee on the Rosebud Indian Reservation and grew up there in a log cabin on a ranch. In 1960, he became the first South Dakota Indian to be elected to Congress.

Reifel's mother was a traditional Sioux Indian named Lucy Lily Burning Breast Reifel. His German father, William Reifel, was a rancher and trader who was gone from home for long periods of time. William taught his five sons the importance of showing up for work, working hard and saving for tomorrow.

Scholarships allowed Reifel to earn a masters degree and a doctorate, both in public administration from Harvard.

But his opportunity began years before that when a country school teacher named Ethel Krauss encouraged Reifel to go back to school instead of quitting at age 16 to work for his father.

"If it wasn't for her, I'd probably still be out on the reservation with a sixth-grade education," he said.

He also was inspired by a book about historical leaders and by a man who co-signed a $100 loan to send Reifel to agriculture school in Brookings.

Reifel, 81 and a Republican, served 10 years in Congress before retiring. Before going to Washington, he had been area director for the Bureau of Indian Affairs in Aberdeen.

In Congress, he was instrumental in obtaining funding to bring the Earth Resources Observation System Data Center to South Dakota.

He also helped get money for consolidation and integration of schools in Mission and Sisseton.

Despite a traditional Sioux up-bringing, he said, fellow Indians probably consider him an outsider while accepting him as an individual. In election victories, he didn't win a majority of the Indian vote in his eastern South Dakota district.

"Most of us who are mixed blood, I think we're regarded as being white," he said.

At Harvard, Reifel contemplated why he was successful while many Indians remained poor.

"Finally, it occurred to me that the cultures are so different," he said in a 1980 interview. "We as Americans, we are future oriented. We plan for tomorrow, we save for tomorrow."

He said Indians are misunderstood because of cultural differences. The lack of reservation job leads to the lack of role models, he said.

Today he encourages Indians to get an education and meet the behavior expectations of society.

"Ben has shown what a person can do with perseverance," said Hilton Briggs, a friend and former president of South Dakota State University.

Other Sioux may have resented him at times, but that didn't change Reifel's belief that formal education would improve reservation life," Briggs said.

He remembers visiting Reifel in his Washington office when an Indian delegation came to call. "Ben sat down and talked to those people like no white could ever talk to them. I thought, 'What a man,'" Briggs said.

"He has deep respect for both people and vice versa," said Joe Stuart, director of the South Dakota Art Museum in Brookings where many Indian artifacts from Reifel's childhood are displayed. "He feels that all people are equal in the eyes of God."

After graduating from Harvard, Reifel taught agriculture at a boys school on the Pine Ridge Indian Reservation, served a four-year stint in the U.S. Army during World War II, was hired as superintendent of the Fort Berthold Reservation in North Dakota and was area director of the Bureau of Indian Affairs. It was in Aberdeen that friends persuaded him to run for Congress.

Since retirement, Reifel has been president of the American Indian National Bank and interim commissioner of Indian affairs for former President Gerald Ford.

He also has been involved with the Easter Seals Society, the Episcopal Church and Boy Scouts, and he is presently chairman of the board of the Lower Brule Farm Corp. and president of the Association for the Restoration of the Righting of All Wrongs, an Indian concern group.

Reifel and his wife, Frances, were married in 1972 after the deaths of their spouses. They live in Largo, Fla., in the winter and in a cabin on the north shore of Lake Poinsett during the summer.

PROFILE: BEN REIFEL

Towns: Lake Poinsett; Largo, Fla.

Birth: Sept. 19, 1906, near Parmalee on the Rosebud Reservation.

Education: State College of Agriculture, 1928; bachelor's degree from South Dakota State College, 1932; master's degree in 1950 and doctorate degree in 1952, Harvard.

Contributions: Only Indian from South Dakota to be elected to the U.S. Congress.

Mr. BYRD. Mr. President, on this side of the aisle, this Senator is willing to accept the amendment.

Mr. McCLURE. Mr. President, I not only am willing to accept the amendment, I enthusiastically endorse the amendment. In my 6 years in the House of Representatives I served with Ben Reifel. There was no finer Member of the House that ever served or graced that body than he. I think he had a wide and very positive reputation among all the Members and all the people that he had any association with.

So I am proud to be associated with the passage of this amendment.

I urge its adoption.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. May we have order in the Chamber please so Senators can be heard?

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I would like to associate myself with the remarks by the able Senator from South Dakota with regard to Ben Reifel. I knew Ben Reifel and served here for a number of years with him when he was in the House of Representatives. He was an outstanding man. He made a fine record in the Congress, one of which we can all be proud. I was pleased to claim his friendship. I admire what he stood for.

I am very pleased to join in this tribute to him on this occasion.

The PRESIDING OFFICER. Is there further debate on the amendment? The question is on agreeing to the amendment.

The amendment (No. 3114) was agreed to.

AMENDMENT NO. 3115

(Purpose: To appropriate $2,800,000 to go to the purchase of 560 acres within the Buffalo Valley Composite, Bridger-Teton National Forest, Wyoming)

Mr. McCLURE. I send an amendment to the desk on behalf of Mr. Wallop and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. WALLOP, proposes amendment numbered 3115.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 3, strike "$195,903,000" and insert in lieu thereof "$193,103,000"

On page 58, line 10, strike "$82,719,000" and insert in lieu thereof "$85,519,000".

Mr. WALLOP. Mr. President, this amendment is needed to protect, through purchase, land within Buffalo Valley in the Bridger-Teton National Forest in Wyoming. It has the strong support of the residents in that part of Wyoming, of the environmental community across the Nation, and is a very high priority of the U.S. Forest Service.

Buffalo Valley is located at the gateway to both the Grand Teton and Yellowstone National Parks and is a key portion of the migration route for elk traveling the southern part of Yellowstone to the National Elk Refuge in Jackson Hole. The area also provides critical habitat for elk, moose, grizzly bear, coyote, golden and bald eagle, osprey, sandhill crane, and trumpeter swans.

Composed largely of private ranches surrounded by forest and park lands, Buffalo Valley is truly one of this world's most beautiful treasures and is deserving of protection. Today, it is also in great need of protection, however. There are imminent plans to develop and subdivide this piece of real estate, Mr. President, and that is something we should not allow. This amendment will help keep America beautiful—it will insure that Buffalo Valley is forever protected for the enjoyment of future generations. And though the land is threatened, the private landowners are not as they are willing sellers of their interests in the property.

I urge my colleagues to accept this amendment and I request that language be inserted in the appropriate place in the report indicating $2,800,000 go toward the purchase of 560 acres within the Buffalo Valley Composite, Bridger-Teton National Forest, WY.

Mr. McCLURE. Mr. President, this transfers moneys from one project in Wyoming to another. It has been cleared on both sides of the aisle. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 3115) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3116

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 3116.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 107, line 18 and continuing on line 19, delete the words "and thereafter".

Mr. McCLURE. Mr. President, this amendment is with respect to the application of the Federal Tort Claims Act to Indian contractors. The amendment is made at the request of the administration. It simply extends the current practice for 1 additional year. The committee provision would have made that provision permanent.

I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 3116) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3117

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of the Senator from Alaska [Mr. MURKOWSKI] and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. MURKOWSKI, proposes an amendment numbered 3117.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . The Secretary of Interior is directed to report to Congress by March 1, 1991 the following:

(1) Identification of lands and properties that were transferred to Alaska Native Corporations under the Alaska Native Claims Settlement Act as amended, which at the time of transfer were represented or disclosed by the Federal Government as being free from contaminants, and which subsequent to transfer, were discovered to be contaminated; and

(2) Identification of lands and properties that the Federal Government knowingly transferred to Alaska Native Corporations with contaminants.

SEC. . For the purposes of this title "contaminants" are defined as hazardous substances as described in the Comprehensive Environmental Response, Compensation, and Liability Act, and asbestos as described in the Asbestos Hazard Emergency Response Act.

SEC. . Nothing in this title requires the Secretary to conduct an in the field survey to determine the presence or absence of contaminants on transferred lands or properties.

Mr. McCLURE. Mr. President, this amendment regards the identification of contaminated lands transferred to Alaska Native corporations. It is cleared on both sides of the aisle. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BYRD. We are willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3117) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3118

Mr. BYRD. Mr. President, on behalf of Mr. ROCKEFELLER, I call up an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. ROCKEFELLER, proposes an amendment numbered 3118.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION . BOUNDARY MODIFICATION.

(a) BOUNDARIES OF CRANBERRY WILDERNESS.—Section 1 of the Act of January 13, 1983 (96 Stat. 2538, 16 U.S.C. 1132), is amended by deleting "on a map entitled 'Cranberry Wilderness—Proposed', dated May 1982" and inserting in lieu thereof "on a map entitled 'Cranberry Wilderness—Revised', dated February 1990".

(b) PROTECTIVE STIPULATIONS.—The construction, maintenance, and use of any structure or facility on those National Forest lands excluded from the Cranberry Wilderness by the boundary adjustment made by this Act shall be restricted to protection and enhancement of the fishery and other natural values of the Cranberry River, the Cranberry Wilderness and its surrounding environment, and all such structures and facilities on such lands shall be constructed of materials that blend, and are compatible with, the immediate and surrounding landscape.

Mr. ROCKEFELLER. Mr. President, I am very pleased to offer this amendment that will modify the Cranberry Wilderness boundary in the Monongahela National Forest. This modification will permit the construction of an acid neutralization facility on the North Fork of the Cranberry River. The North Fork of the Cranberry is one of the three major tributaries on the headwaters of the river.

I am especially proud to have the support of Senator BYRD, the senior Senator of West Virginia and the distinguished chairman of the Senate Appropriations Committee. It is always an honor and a pleasure to work with Senator BYRD on improving the quality of life and the natural resources of our beautiful State.

Under the amendment, less than 5 acres would be deleted from the Wilderness Area near the mouth of the North Fork of the Cranberry River. The same acreage would be added to the Cranberry Wilderness at another location.

Each year the West Virginia Department of Natural Resources stocks the Cranberry with trout but the acid level in the stream prevents survival from one year to the next in the main Cranberry.

The other tributaries of the Cranberry River, Dogway Fork and South Fork, have good water quality. If the North Fork facility is constructed and placed in operation, the entire Cranberry River will return to its status as the premier trout stream of the mid-Atlantic region.

The West Virginia Department of Natural Resources estimates that the Cranberry River could provide over 200 fishing days annually if the neutralization facility is constructed. Also, it is estimated that those using the river would contribute over $3 million annually to the local economy.

This project is the result of long and careful study by the West Virginia Department of Natural Resources. The North Fork site is considered to be the best available site for efficient and effective neutralization.

There is tremendous support for the boundary modification and construction of the acid neutralization facility. The West Virginia Department of Natural Resources, the U.S. Forest Service, environmentalists, conservationists, and fishing enthusiasts were instrumental in the development of the proposal leading to this amendment.

It is imperative that the Cranberry River be restored to its original splendor as a habitat for aquatic life. All interested groups support this legislation. The benefits that will accrue to the fishery and the surrounding area are tremendous. This legislation introduced by Congressman STAGGERS passed the House of Representatives in September. I urge my colleagues in the Senate to give this amendment favorable consideration.

Mr. BYRD. This amendment removes a few acres from the existing wilderness boundaries so that an acid neutralization and liming project can be constructed to enhance the fish population in the Cranberry River. The amendment adds a like amount of acreage to another part of the wilderness.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. McCLURE. Mr. President, we are willing to accept the amendment on this side, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3118) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I believe earlier we agreed that Mr. HELMS would lay down one of his NEA amendments this evening. In order to accommodate him so he will not have to remain, I ask for the regular order at this point so the remaining committee amendment be before the Senate, and that the Senator be permitted to lay his amendment down, without any time running on it tonight, and that the Senator's amendment be temporarily laid aside thereafter, and that the Senate may proceed to other amendments this evening.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 3119 TO COMMITTEE AMENDMENT ON PAGE 101, LINE 14

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 3119.

On page 101, line 23, strike "None" and all that follows through the period on page 102, line 7, and insert in lieu thereof the following: "None of the funds appropriated under this Act may be used by the National Endowment for the Arts to promote, distribute, disseminate, or produce materials that depict or describe, in a patently offensive way, sexual or excretory activities or organs.".

Mr. HELMS. Mr. President, I thank Senator BYRD and Senator McCLURE.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ISSUE OF ANWR

Mr. MURKOWSKI. Mr. President, there has been a good deal of interest on the issue of ANWR. It is late in the session. It is late in the evening. There has been a good deal of conjecture as to whether the Senator from Alaska would offer an amendment at this time.

Clearly, the issue of ANWR is of a dimension that is misunderstood by many and has become a rallying cry for the national environmental movement.

There are a few points that I think would be inappropriate if I did not share with my colleagues prior to hopefully the departure of the Senate from Washington, DC, and perhaps this is under the circumstances the best opportunity to do it, but certainly not the one that I had hoped. But being a realist and recognizing that to tie up the Senate with an extensive debate and the possibility of second-degree amendments that would likely result in extended debates as well, I will keep my remarks within, I would anticipate, 15 or 20 minutes because I know many Senators are anxious to go home.

First of all, the issue of ANWR today is not simply an issue of opening up an area that is considered a pristine part of Alaska.

The purpose of the Senator from Alaska to share the current status with regard to the Arctic National Wildlife Refuge is that the issue is no longer in the dimension of whether or not there is a matter of a footprint as a consequence of exploration but the realization that suddenly we have 250,000 troops in a foreign nation defending that foreign nation against a foreign aggressor so that oil may flow to the markets of the Western World, oil that we have become addicted to.

It is no secret to recognize that the imports into our country are currently running at 54 percent. It is no secret that we are currently expending somewhere in the area of $90 billion for foreign oil.

As a consequence of that dependence we find ourselves in indeed a position where the agenda is being con-

trolled by one Saddam Hussein. To reference that in real terms, when Saddam Hussein made his decision to invade Kuwait, he had one idea in mind, and that was to control a major portion of the world's crude supply of oil.

If he had successfully achieved an invasion in Saudi Arabia, he would control about 42 percent of the world's supply of oil today. That did not occur. But the reality of how we relieve our dependence on imported oil is a very real and appropriate issue that this body should address.

As most of my colleagues are aware, the most likely identified area for a major oil discovery is in an area called the Arctic National Wildlife Refuge. A few of my colleagues are aware of the realities associated with that area, but there are 19 million acres in the area. It is an area the size of the State of South Carolina. For those who are concerned about extensive drilling and activity in that area, I would remind my colleagues that 8 million acres, or 42 percent, are already designated as wilderness. That is an area larger than the State of Massachusetts.

In addition, nonwilderness refuge lands, lands that will never be explored, never drilled, consist of 11 million acres. That is 58 percent of the area. That leaves 8 percent in what is called the 1002 or the costal plain area, 1.5 million acres, an area larger than the State of Delaware. It is estimated that if the lease sales are put up, they would utilize a surface area of about 12,500 acres or seven-tenths of 1 percent.

To put that in perspective that perhaps many people can appreciate a little more fully, it would be about the size of the Dulles International Airport complex if the rest of the State of Virginia were a void.

Mr. President, as evidence of the technology that has been developed, I refer you to the tenth largest a year ago and now the sixth largest oil field in the United States. It is called Endicott. It was brought in as an extension of the Prudhoe Bay field. It utilizes 56 acres of land. That is the footprint, that is the technology that has been developed.

As we look at U.S. production today, we find it the lowest in 26 years. We find the reality that my State of Alaska through the Prudhoe Bay field is producing 24 percent of the U.S. production—1.8 million barrels per day—and that is coming through a 4-foot pipeline, 800 miles.

As we look at how we can relieve ourselves of dependence on Mideast oil, there is clearly the alternative of granting the authority to open up ANWR for exploration.

In addition to the reality that we are not over in the Persian Gulf simply to address the motivation of a foreign aggressor, the realization of why we are there is best represented perhaps by an editorial that appeared in the Washington Post, Friday, September 4, 1987. This was at a time when we had in the Persian Gulf some 300 American sailors who were maintaining that artery so that the world could enjoy the fruits of the Mideast oil, and we were doing it with the presence of the U.S. Navy.

Mr. President, I ask unanimous consent to print this particular article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WILDLIFE OR OIL? THE CHOICE IS EASY:

(By Charles Krauthammer)

While 3,000 American sailors steamed up and down the Persian Gulf last month, 10 congressmen headed for a cooler August on the Arctic tundra. Both missions had to do with securing oil supplies. The congressmen's task was to check out the Arctic National Wildlife Refuge. The administration wants to explore it for oil. According to current estimates, there is a 20 percent chance of finding an oil field there as huge as the one at Prudhoe Bay, 60 miles to the west, which now provides Americans with one out of every five domestically produced barrels of oil.

Ecologists, however, worry about the damage that oil exploration might do to the wildlife refuge. Their fears have been heard before. When Prudhoe was discovered, environmentalists protested that the pumping and the pipeline would shatter the delicate "ecosystem."

They were wrong. Even the foremost congressional opponent of Arctic exploration, Rep. Morris Udall, admits it. "We've had 15 years or so with Prudhoe and we came out pretty good," Udall concedes. "The people who talked about ecological disaster have been proven wrong." So? "But 15 years isn't very long in terms of something as fragile and precious as this Northern Slope."

How many years do we wait? Fifty? The question is important and the issue pressing because, even after a decision to explore is taken, it will be between 10 and 15 years before any oil starts to flow. During a future oil shortage, we will not be able just to turn an Alaskan spigot. That capacity has to be built now.

The main concern of environmentalists is the Porcupine caribou herd, which numbers about 180,000 and migrates to the coastal plain for calving. But caribou concern was ruined about Prudhoe 15 years ago. And it turns out that the caribou did very well, thank you. Their numbers have tripled since the pipeline was installed. It is a paradox of the ecology movement that its central theme is the astonishing creative adaptability of an interdependent nature, yet its central task is to prevent man from disturbing the current natural balance lest nature collapse from the strain.

One obvious way to reconcile national security with environmental concerns is strictly to regulate development. No drilling during caribou calving season, if you like. One proponent of the environmental view, writing in The New York Times, warns against such compromises, citing "precautions gone for nought" at the Arctic National Wildlife Refuge.

One incident, it seems, "occurred in March 1986. Glenn Elison, manager of the wildlife refuge, reported that a female polar bear had been routed from and abandoned her den when an oil company crew inadvertently transported equipment through the restricted area. Again, elaborate precautions proved faulty."

What to say to those who rank energy independence with polar-bear housing on the national agenda? Ultimately, sentimental environmentalists are concerned less about the real environment than about the environment of the imagination. People want to know that pristine places exist—somewhere—even if they will never see them. No doubt, such inaccessible preserves are a soothing social asset.

But Alaska consists of 375,296,000 acres. The Arctic National Wildlife Refuge contains 19,000,000 acres. The area proposed for exploration is 15,000 acres, or less than 1 percent of that. It is hard to see how the lower-48 urban dweller's idea of the Great North is noticeably damaged by the existence of gravel pits and oil rigs in this dot in the wilderness. Has our idea of the Great North been diminished by the fact that some 5,000 acres of Prudhoe Bay have been given over to industry?

Environmentalists correctly point out that the Reagan administration, now touting Arctic exploration in the name of energy independence, has prevented other steps toward that goal. It resisted energy-efficiency standards in electrical appliances. It slackened fuel-efficiency standards in cars. It steadfastly opposes oil-import fees and gas taxes. And as part of its budget balancing flimflam last year, it proposed slowing down filling the Strategic Petroleum Reserve.

But the fact that the administration has been lax on conservation does not refute the argument for development. Administration sincerity is irrelevant to the case for exploration. The facts remain: American energy dependence has grown dramatically during the 1980s oil glut lull. Almost half of American oil (45.6 percent in July) is now imported. There may soon be dead Americans in the Persian Gulf. And in the final analysis, when Americans die there, they die for oil. Domestic American oil production is declining. The Prudhoe reserves will be gone within 10 to 20 years. The Arctic National Wildlife Refuge holds the promise of replacing that flow.

Apocalyptic predictions about the caribou were wrong before. The weight of the evidence is that they are wrong again. But even if they are right and one has to choose between caribou and country, it is hard to see how there is a choice.

Mr. MURKOWSKI. The last paragraph states, and I refer again to the date, September 4, 1987, as follows:

* * * There may be soon dead Americans in the Persian Gulf. And in the final analysis, when Americans die there, they die for oil. Domestic oil production is declining. The Prudhoe Bay reserves will be gone in 10 to 20 years. The Arctic National Wildlife Refuge holds the promise of replacing that flow.

Apocalyptic predictions about the caribou were wrong before. The weight of the evidence is that they are wrong again. But even if they are right and one has to choose between caribou and country, it is hard to see how there is a choice.

Well, Mr. President, that was 3 years ago. The prediction has come about that indeed the situation deteriorated and the lives not of just 3,000 Ameri-

cans but 250,000 Americans are what is at stake today.

Why America's environmental community does not recognize its responsibility to these men and women by getting behind a positive, responsible exploration program in the Arctic wildlife refuge is beyond me. The generalities of desecrating the area simply are not a factual reality, as has been evidenced by the development of fields in the area and specifically the Endicott Field.

Mr. President, we saw the reference of partisan politics enter into this particular issue when it was noted that in the first budget document under user fees there was a proposal that $3 billion be raised from the sale of leases in ANWR. It was noted that during the process, where there was an attempt to bring this to the attention of the budgeteers, it was stricken at the request of the environmental community who wanted no part of ANWR in the budget considerations.

Well, Mr. President, the Senator from Alaska attempted to add an amendment on the armed services bill and, as a consequence, the national defense authorization amendment was proposed.

It was kind of interesting to watch that development, Mr. President, because that, too, ran afoul of the environmental community and the specific objections were noted by some of the "Dear Colleague" letters. I ask unanimous consent to have printed in the RECORD at this time a letter that was circulated by the Senator from Florida [Mr. GRAHAM] and another "Dear Colleague" letter circulated by the Senator from Alaska.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 10, 1990.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: During Senate debate on the National Defense Authorization Act, S. 2884, an amendment offered by Senator Murkowski entitled the "National Energy Security Act of 1990" was adopted by unanimous consent. Among other things, the amendment would compel the President to consider leasing onshore and offshore federal lands that are "currently off-limits to oil and gas leasing . . . in order of their potential for oil and gas discovery," without regard for why those lands were placed off limits.

This amendment would allow oil and gas leasing in wilderness and other environmentally sensitive areas now protected from intrusion, such as the Arctic National Wildlife Refuge, the Florida Keys, and the National Marine Sanctuaries off California, "[n]otwithstanding any other provision of law." That means notwithstanding the requirements of important environmental protection statutes such as the National Environmental Policy Act and the Coastal Zone Management Act.

The amendment was not subject to any hearings by the committees of jurisdiction. We believe it takes the wrong approach to energy policy, and urge in the strongest terms that it be deleted in conference.

The United States needs a national energy policy. One goal of that policy should be the reduction of reliance on imports. Reducing oil imports would improve our trade balance, make us less vulnerable to supply disruptions, and reduce the risk of oil pollution from tanker traffic off our coasts.

The proposed amendment makes passing reference to conservation and alternative fuels. Conservation, alternative fuels, demand reduction and environmental protection should be cornerstones of our national energy policy, not just afterthoughts. Energy policy should address multiple goals, and should result from extensive and thoughtful analysis. It should not be merely a hasty response to the crisis of the moment, or a thinly-veiled excuse to abandon measures to protect our environment.

In sum, we encourage the conferees to delete this ill-advised amendment, and allow Congress to work with the Administration to develop a rational and forward-looking national energy policy.

Sincerely,

BOB GRAHAM, JOHN F. KERRY, TIM WIRTH, EDWARD M. KENNEDY, BILL COHEN, DAVE DURENBERGER, GEORGE MITCHELL, PATRICK LEAHY, JOE LIEBERMAN, ALAN CRANSTON, JEFF BINGAMAN, WENDELL FORD, BROCK ADAMS, JIM JEFFORDS, RICHARD BRYAN, JOHN CHAFEE, TERRY SANFORD, JOE BIDEN, CLAIBORNE PELL, HOWARD M. METZENBAUM, BARBARA A. MIKULSKI, BILL ROTH, RICHARD G. LUGAR, HERB KOHL, PAUL SARBANES, AL GORE,

U.S. SENATE,
Washington, DC, October 2, 1990.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On August 3, 1990 Senator Murkowski offered the National Energy Security Act of 1990 as an amendment to S. 2884 the National Defense Authorization Act. This amendment was adopted unanimously with the bipartisan support of sixteen cosponsors and is the only legislation passed by either body to address the current energy crisis that would relieve our dependence on Middle East oil.

We are aware that Senator Graham has written a letter to you opposing our amendment. Based on the rationale stated with his request, it appears he has misunderstood both the amendment and our intent in offering it. Senator Graham states that "this amendment would allow oil and gas leasing in wilderness areas and other environmentally sensitive areas now protected from intrusion . . ." Our amendment is not intended to open wilderness to oil and gas development. It is process oriented and does not give the President authority to make substantive changes in the laws and regulations related to energy or environmental policy.

Senator Graham also calls for a national energy policy, and one that would include energy conservation. We agree that our Nation needs a comprehensive energy policy. Our amendment is in fact, an important component of a national energy strategy because it requires the President to put an energy policy squarely before Congress for consideration. The focus of this energy policy would be to reduce U.S. oil imports in times when they reach a level that threatens national security.

Let's solve our energy problems at home, not in the Persian Gulf.

The Congress talks about the necessity of developing a national energy strategy, but some of our members are very reluctant to make the decisions necessary to implement that policy.

Secretary of Energy Admiral Watkins recently testified before the Senate Energy and Natural Resources Committee that the National Energy Security Act "is very consistent" with the President's forthcoming national energy strategy. The National Energy Security Act will provide a means of implementing a national energy strategy by forcing the President and the Congress to make important decisions to reduce our dependence on foreign oil imports. It gives the energy strategy teeth.

Further, if U.S. oil imports exceed 50% for six out of twelve continuous months, the National Energy Security Act requires the President to make recommendations to Congress on measures to reduce oil imports. These include both energy conservation measures and measures to increase domestic energy production.

Energy conservation measures are not included in the amendment as an "afterthought." Conservation measures are included because we are absolutely convinced that the solution to reducing our dependence on foreign oil will require both energy conservation and increased domestic production.

As a measure to increase domestic energy production, the President will recommend to the Congress a prioritized schedule for leasing federal land tracts, except National Park lands currently off-limits to oil and gas leasing. Every recommendation made by the President is debatable and amendable and requires passage by both houses of Congress. There is no provision in the National Energy Security Act that authorizes or allows oil and gas leasing in wilderness or any other area without the consent of Congress.

The purpose of our amendment is straightforward and simple—to force the President and the Congress to make the hard, but important decisions necessary to reduce our dependence on imported oil at a time when those imports threaten our national security.

Mr. Chairman, we urge you to evaluate for yourself the purpose of this amendment. As Chairman of the Armed Services Committee, you know all too well the perils of our excessive dependence on imported oil. We can no longer put off our responsibility. This very day American men and women are in Saudi Arabia poised to defend our national addiction to foreign oil.

My cosponsors and I urge you to support the National Energy Security Act in conference.

Sincerely,

FRANK H. MURKOWSKI, ALAN K. SIMPSON, JAKE GARN, JOHN B. BREAUX, JIM MCCLURE, TED STEVENS, DON NICKLES, CONRAD BURNS, ARLEN SPECTER, MITCH MCCONNELL, THAD COCHRAN, J. BENNETT JOHNSTON, CHUCK GRASSLEY, KIT BOND, ALFONSE M. D'AMATO, MALCOLM WALLOP, STEVE SYMMS, KENT CONRAD, DAVID L. BOREN, PETE V. DOMENICI, JESSE HELMS, PHIL GRAMM, BOB DOLE, JOHN DANFORTH, RICHARD G. LUGAR, ORRIN HATCH, LLOYD BENTSEN, TRENT LOTT, AND RUDY BOSCHWITZ.

Mr. MURKOWSKI. Mr. President, the point is that the specific National Energy Security Act simply mandated that hard choices be made relative to the President's request that we reduce our dependence on Mideast oil. He suggested several positive alternatives; among those were alternative energy, conservation, CAFE standards, a number of the above.

The purpose of the National Energy Security Act was simply to provide a vehicle for consideration of alternatives and among those alternatives was the opening of public land—not wilderness, not parks, but public land—for exploration to relieve our dependence on Mideast oil.

It is interesting to note, Mr. President, that while that got through the Senate, it ran afoul of the national environmental lobby in the House of Representatives.

Now I ask you, Mr. President, how are we going to adopt an energy policy in this country if we are not going to make some hard choices?

The hard choices that France made are obvious. The French are about 75 percent dependent on nuclear energy. They are not going to be held hostage by the Mideast again. The Senator from Alaska is not proposing nuclear energy by any means, but the fact is we have to make some hard choices.

To suggest that we wind up this session and pass by the most promising opportunity to initiate domestic exploration is foolhardy in the minds of many of us in Alaska that simply cannot understand that mentality.

Mr. President, there are those that suggest the ANWR would only amount to a 180-day to a 200-day supply. Well, if it were a 180-day supply, Mr. President, it would be the third largest field ever found in the United States. It would be next to the East Texas and the Prudhoe Bay fields. If it were as projected by the mining and mineral survey group, it would be much larger than that. It could be as large as Prudhoe Bay.

But the reality, Mr. President, of not pursuing it, at a time when the dimension is just not an environmental question the size of the footprint of ANWR but rather the realization that we have troops, 250,000 men and women overseas, is something that I would request my colleagues reflect on during the recess.

Mr. President, the dimension is different today. The legitimate concern expressed previously concerning ANWR was a concern that did not have the perils of the Persian Gulf and the realization that this country was prepared to go to war to keep oil flowing.

I ask my colleagues, in conscience, to recognize where will they be on this issue if there is a war. I am sure many of them would be the first to seek any relief, any relief at all, to ensure that we maintain other alternatives. I think, unfortunately, that may be the only time when we would get a base of support necessary to get expeditious action.

Mr. President, the Senator from Alaska did not offer the amendment tonight for reasons that I have already stated. But I feel a void, Mr. President, in seeing the departure of this Congress without taking up this issue.

The President has supported it. The Department of Energy has supported it. The chairman of the Energy Committee has supported it. The Energy Committee supported it, my friend from Idaho is correct. But nobody cares to bring it up in this environment. It is just before an election, Mr. President, and, as a consequence of that, there is a concern that somehow this might be considered an environmental vote.

So as a consequence of that, Mr. President, I think it is fair to say that the purpose of my address at this late hour is to remind my colleagues that as they leave this body they leave with some unfinished business, some important unfinished business that in reality should hang heavy in the minds of each. Because we have not fulfilled our obligation that the President challenged us with the last time he spoke at a joint session, and that is to take some positive steps to relieve our dependence on the Mideast.

We leave this Congress without having found that relief. We leave this Congress without having charted a course of action which was available to us to provide some positive relief.

Mr. President, I have much more to say but out of deference to my colleagues and the realization that the ANWR debate will be for another day, I will withhold the balance of my extensive statement for that opportunity.

I thank the President pro tempore for his generosity and understanding. I thank the minority floor manager, the Senator from Idaho for his understanding.

Mr. President, it is with a heavy heart that the Senator from Alaska leaves this subject for the remainder of this Congress.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I commend the Senator from Alaska very highly for having brought this subject again to our attention. I say again, because this is not the first time we have heard from the Senator from Alaska about this subject, nor will it be the last. The Senator from Alaska's last comment certainly moves this Senator to these remarks. He said, "I leave with a heavy heart, this session of the Congress."

As the Senator knows, I am retiring from the Congress after this term. And it is not just the failure of this Congress to act; it is the failure of several Congresses to act.

I got involved in energy issues 20 years ago this year. This is my 21st year on this subject matter of energy policy for this country. I have learned a great deal in the last 21 years about energy and about international politics that sometimes affect energy policy.

It is not just with a heavy heart because of energy policy, but the relationship that that has to the fact that the United States has sent men and women to Saudi Arabia for purposes that are intertwined and linked to the lack of an energy policy in this country. Every person in this body, every American citizen, may well have very heavy hearts indeed before this Congress meets again. I pray not.

I want to make one statement, and I wish there were more people in the Press Galleries listening, because they like to make comments about the reasons we are in the Persian Gulf today. It is not just oil. The distinguished Senator from Kansas, the Republican leader, the other day said we were there for three reasons. I think he said it is oil; it is oil; it is oil.

I respectfully disagree it is the only reason we are there, but it is certainly a major reason. It is the combination of our dependence on imported oil and the presence of an ambitious, ruthless, and reckless leader in Iraq. It is the conjunction of those two that causes us to have our forces in Saudi Arabia today with, if not a likelihood, a very great danger that some of them, indeed, sacrifice their lives for our policies. And a large part of that cause would be the lack of an energy policy in this country.

The Senator from Alaska is entirely right to comment about leaving this session of the Congress with a heavy heart that the Congress has not addressed these issues affirmatively. My heart, too, is heavy. One of the greatest senses of failure that I have is that after 24 years in the Congress of the United States, with the constant effort that I have exerted over the last 21 years in this area, we have not succeeded in being more positive with respect to affirmative actions with respect to energy.

It is not correct to say we have done nothing. Certainly, we have. We have done some things right. We have done a number of things wrong. But one of the things we have done wrong is our failure to have an adequate supply of energy available to the American people at prices they can afford to pay and in the form that they need for energy use in this country. That is a major contributing factor to some of

the unrest in the Persian Gulf area today, and our response to it.

I commend the Senate for having again raised this issue tonight. I share with him the feeling of frustration that we have not been able tonight, or indeed within this Congress, or indeed within the last 21 years, to do a better job in protecting the security and the interests of the U.S. citizens with respect to issues such as ANWR. ANWR is just one part of the mindset that prevents us from getting more affirmative answers to the problems that beset our country.

Mr. MURKOWSKI. Will the Senator yield?

I thank the floor manager, my good friend, the senior Senator from Idaho, with whom I had the privilege of serving during the time he was chairman of the Energy Committee, and since I have had the pleasure of serving with him as the ranking member.

I very much appreciate his comments. I am particularly touched by his sensitivities to the job that he leaves unfinished. As I observe the process that has occurred here as we have addressed the Interior business on the floor of the U.S. Senate, it is quite clear there is a wave of change taking place. Perhaps the sensitivity that the Senator from Alaska has as it affects the traditional timber industry or the agricultural industry or the grazing industry or the mining industry—I think it represents an adjustment within the social structure that is not offset, unfortunately, with any basic resource contribution. It is a sensitivity from the environmental community about wrongs that have been done.

But if I can use a term that has been, perhaps, used too often, we are throwing the baby out with the bathwater by some of the policies we are adopting under the guise of responsible environmental considerations and, as a consequence, we are going to become, obviously, a country that has to depend on imports rather than the renewable resources that we have.

I share the frustration of the Senator from Idaho, and I wonder if this is a full-circle conceptual idea or if, indeed, we are destined to that fate. And our more traditional industries will have to find other means of gainful activity. I am talking about mining; I am talking about those that use public lands for grazing; I am talking about those that are in the timber industry.

Indeed, America should identify closely the significance of this change, because it is clear in the minds and the mindset of our colleagues as they vote.

It is an issue that is regional in the sense of the geography of the country, the areas that have been developed vis-a-vis those that have not.

I hope my good friend from Idaho, as he departs to pursue his interests in the private sector, will give us the objectivity that I am sure exists back in rural America, in Western America, as we reflect on the changing times that are occurring as evidenced by the actions on the floor under this bill.

Mr. McCLURE. Mr. President, I again commend the Senator from Alaska. I know he will be very active in these issues. As I leave the Congress, I do not intend to disassociate myself from the future of this country. I will still have something to say, hopefully, with respect to some of these policies in the years ahead.

I thank the Senator for his contribution this evening, and I yield the floor.

Mr. LIEBERMAN. Mr. President, if we must entertain the possibility of exposing the last remaining intact arctic ecosystem in the world to the devastation of heavy machinery, its tundra ripped up and blackened, its wildlife run off or poisoned, its air fouled, all for less than a 20-percent chance of finding oil that will serve our needs for a few months, then let us debate this possiblity not as an amendment to an appropriations bill which we know we must pass, but on its own terms.

We have been talking for several weeks now about the need to reduce our dependence on oil. Not just our dependence on foreign oil.

If we want to be less dependent on oil, and I think we do, given the consequences of its use, and the fact that it is in increasingly diminishing supply, then I think we ought to be adopting vigorously measures that provide us alternatives while lessening our present dependence. We had an opportunity last month to pass legislation calling for an increase in the corporate average fuel economy standard to 40 miles per gallon. We could have saved 10 times more oil by passing that bill alone than even the most optimistic oil industry executives prophesy is hidden under the Arctic National Wildlife Refuge.

We should be showing leadership on this issue. The American people know we have to move away from our dependency on oil. As Senator BRYAN pointed out to us in the debate over CAFE standards, over 60 percent of our oil consumption in this country is transportation-related. We know we should be lessening that dependence by investing in public transportation. We've been saying this for 40 years. It's time we did something about it.

We should also be investing in alternative and renewable energy sources. We all know the legacy of the last administration: a 90-percent cut in research and development in these areas.

Mr. President, the chances of finding oil in the Arctic National Wildlife Refuge are low: one in five; or, to put it another way, there's at least an 81-percent chance that we will not find oil. Anyone who would call for drilling in the Arctic National Wildlife Refuge—given the low chance of finding oil there and the proven fact of environmental devastation—while at the same time opposing energy conservation measures and the development of energy alternatives has a different agenda. He would not be looking to free us from dependence on oil. He would want to secure our dependence on homegrown.

But Mr. President, our need to break our dependency on oil is just part of the debate. This amendment is wrongheaded not just because it seems to miss the point of the lessons we are learning about our lack of an energy policy or an energy strategy. This amendment is also wrong-headed because its passage necessitates we wear blinders, that we somehow overlook just what it is we will lose by drilling in this now pristine wilderness.

The Wilderness Act of 25 years ago defined wilderness as a place where man is a visitor who does not remain. It acknowledges the intrinsic value of wild places. There is a kind of humility implied here, an understanding that we might not always know best when it comes to our relationship with nature—its places and its forces. I think it's important that we preserve such places so that we can remember—not only what the Earth once was, but what it is that's at stake. As our world becomes more and more developed to meet the demands of an evergrowing population, it seems to me that we need unspoiled places to go away to for recreation and tranquility, we need unspoiled places against which to measure our attempts to preserve and conserve air and water quality, biological diversity, and the true quality of life itself. We need to be reminded sometimes of just what it is we're trying to protect. The Arctic National Wildlife Refuge left as a refuge, a haven, a safe port, the last intact ecosystem of its kind in the world, provides us that.

Mr. President, we already have far more examples than we need of what life is like after the loss—whether it's the loss of reliable land, of clean air, or pure water, of healthy and healthful fish and wildlife and vegetation. Let's not fool ourselves. We know that drilling for oil is heavy industry. We know that voting for the Murkowski amendment means digging up the Coastal Plain of the Arctic National Wildlife Refuge with hundreds of miles of roads and pipelines, erecting warehouses and airstrips, housing for workers, and necessitates drilling and digging for millions of gallons of water and thousands of cubic yards of gravel. And that's just the preparation process. Drilling will produce hundreds of thousands of gallons of drilling muds per well—consisting of mer-

cury, cadmium, lead, arsenic, and other toxic contaminants.

Mr. President, not only do I oppose drilling in the Arctic National Wildlife Refuge; I think for the reasons I've stated above that the long-term interests of our Nation would be far better served by adding the 1.5-million acre Coastal Plain of the refuge to the National Wilderness Preservation System.

I urge my colleagues to oppose Senator MURKOWSKI's amendment.

OGALLALA AQUIFER

Mr. DOMENICI. In 1986, Congress passed section 1121 of Public Law 99-662, which established a new title within the Water Resources Research Act. Title III created an important new program assisting the eight States of the High Plains region in their mutual effort to reclaim a critical water resource, the Ogallala Aquifer.

Following a period of inaction on title III, the Governors of the High Plains States wrote to the distinguished chairman of the Appropriations Committee [Mr. BYRD] and others to declare their strong support for title III and their desire to undertake this cooperative research-demonstration program with the U.S. Geological Survey.

The Governors, in part, wrote of the "importance of the Ogallala to our respective States," then pointed out the "significant economic benefits [that] such a research and demonstration program would have to the region and the Nation * * *"

Because we agreed with that statement, the 16 Senators of the High Plains States also wrote to the chairman to request that $8 million be appropriated as the Federal share of this cost-shared effort with the eight High Plains States.

Within recent days—on September 28—H.R. 1101, legislation that extends the authorization for title III through fiscal year 1995, was signed into law by President Bush.

With that background, Mr. President, I would note that no specific appropriation to the High Plains States has been included within this appropriations bill. Nevertheless, I am pleased to note that the bill includes an increase of $8 million for the U.S. Geological Survey's Federal-State cooperative program during fiscal year 1991.

Before asking the distinguished floor manager to respond to a question, I would note that title III requires a coordinated program among the High Plains States to be directed by a new High Plains Study Council.

Specifically, the High Plains Study Council is directed by law to "coordinate such research efforts to avoid duplication of research and to assist in the development of research plans with each State of the High Plains regions that will benefit the research needs of the entire region."

The Governors of the High Plains long ago appointed representatives to the Council. On April 26, 1989, the chairman of the Council wrote to the Secretaries of Interior and Agriculture requesting the designation of Federal members. That has not occurred as of today.

Further, the Department of the Interior is directed to establish Ogallala Aquifer technical advisory committees in each State. More than a year ago, the Council requested this action. That has not occurred.

Of course, there have been USGS grants for research in the High Plains States—grants that the Survey says "relate to title III—but there has been no effort whatsoever by USGS to encourage or support the States' desire to undertake a unified research program.

Further, I would note that the USGS mistakenly identifies as projects that relate to the Ogallala projects that in the State of New Mexico, for example, involves waters that lie hundreds of miles from the Ogallala.

A ground water study in Farmington, NM, does not relate to the Ogallala just because it involves ground water in New Mexico. Nor does a multi-State water marketing study that specifically excludes Ogallala waters, even though two of those States are High Plains states.

With all of that said, I would like to ask the floor manager, the distinguished President pro tempore [Mr. BYRD], this question: Is it the intent of the committee that a portion of the $10 million increase that I mentioned be allocated to finance important Ogallala Aquifer studies and projects through the High Plains Study Council pursuant to title III of the Water Resources Research Act?

Mr. BYRD. I appreciate the concern of the distinguished Senator from New Mexico [Mr. DOMENICI]. It was the intent of the committee that USGS encourage and support the cooperative efforts of the High Plains States. And it certainly is our desire that the departments act as soon as possible to appoint their members to the Study Council and create the technical advisory committees.

Mr. McCLURE. I would agree with the floor manager [Mr. BYRD], and would commend my friend from New Mexico [Mr. DOMENICI] for his leadership on this important research project.

Mr. DOMENICI. I thank my colleagues for their most helpful and responsive answers. I would also commend the Senator from Nebraska [Mr. KERREY] and others representing the High Plains States for their great efforts in supporting this important research program.

PASSAMAQUODDY INDIAN SEWAGE TREATMENT FACILITY

Mr. COHEN. Mr. President, the majority leader and I would like to enter into a colloquy with the distinguished Senator from West Virginia with regard to the funds that are so badly needed for a sewage treatment facility at the Passamaquoddy Indian Reservation at Pleasant Point, ME. We had jointly written to the Senator in his capacity as chairman of the Interior Appropriations Subcommittee urging support for this long awaited project.

Mr. MITCHELL. Senator COHEN and I understand that the Indian Health Service has specifically indicated to the staff of the subcommittee that phase I of the Pleasant Point sewage treatment plant, estimated to cost $1.7 million, is of sufficiently high priority that it will be constructed from within the $35 million in sanitation funds contained in the bill. Are we correct in our understanding?

Mr. BYRD. The distinguished Senators from Maine are quite correct in their understanding.

Mr. COHEN. We thank the chairman for this clarification and for his continued support for the native people of this country.

WINNEBAGO DRUG DEPENDENCY UNIT

Mr. KERREY. I wish to ask the distinguished chairman a question.

The committee has, I believe, added $24.3 million for services to address the growth in Indian Health Service population. Is that correct?

Mr. BYRD. Yes, that is correct.

Mr. KERREY. The report indicates that the funds provided here are intended to be allocated equitably and are to be used to address tribal and area priorities. It also notes that the Winnebago Tribe considers its drug dependency unit a top priority. Is that correct?

Mr. BYRD. Again, the Senator from Nebraska has characterized the committee's recommendations accurately.

Mr. KERREY. The Winnebago drug dependency unit [DDU], which is funded as part of the Winnebago Hospital, has proven to be highly successful in treating chemical dependency among native Americans. The program has effectively served not only the Winnebago Tribe of Nebraska, but also native Americans living in urban and other areas of Nebraska and Iowa as well as the entire upper Midwest. High percentages of those who participate in the program are able to maintain alcohol and drug-free lifestyles following treatment. This is quite important in view of the fact that outside programs have had virtually no success in treating the native American population.

This is a unique program that serves a very important purpose, one which I believe should certainly be continued at the current level or above. I would

hope that the chairman and the committee share my view.

Mr. BYRD. We are not in disagreement.

Mr. KERREY. I thank the Chairman.

THE GRAZING OF CATTLE AND SHEEP

Mr. WIRTH. I wish to ask the Senator from West Virginia, the distinguished chairman of the Appropriations Committee, and the Senator from Idaho, the distinguished ranking minority member of the Subcommittee on Interior and Related Agencies, about the Committee's attitude about section 318 of the House bill.

That section proposed legislative changes to the Federal Land Policy and Management Act, which would have increased the fee charged to ranchers who lease National Forest and Bureau of Land Management lands to graze cattle and sheep.

In fact, the amendment would raise grazing fees by nearly 500 percent over the next 4 years, with half of that increase coming in the first year.

I wanted to express to the distinguished chairman my belief that this provision of the House bill is ill-founded and should be rejected by the Senate and by the conference.

This proposal is legislation on an appropriations bill, and is a good example of why legislating on an appropriations bill is against the rule of this body, and why those rules exist.

This change in legislation passed by the Congress in 1978—setting up the present grazing fee formula—would affect thousands of people and hundreds of communities in the west in a direct fashion.

Yet we have not even had a hearing on it.

The proposal passed by the House is draconian in nature—it shows little, if any, sign of careful weighing of the interests directly involved. A 500 percent increase in a long-established fee could drive many people out of business. It is punitive, without purpose.

Any change in the grazing fee should only be considered after due consideration by the authorizing committees. Those committees are the places where these issues should be considered—instead of during last-minute debate on a must-pass piece of legislation.

This proposal flies in the face of multiple use management of our public lands. A 500 percent increase in the cost of grazing cattle and sheep on BLM and Forest Service lands would spell economic disaster for many ranchers in Colorado. It would be especially devastating for smaller ranchers, but everyone would feel the pinch. What's more, such a dramatic increase in grazing fees would upset the economic stability of Colorado communities from Gunnison to Craig. That just doesn't make sense.

Many ranchers in Colorado are dependent on the public lands for their livelihood—and so are countless communities across the state. According to Colorado State University, grazing on the public lands contributes $200 million to the State's economy every year, year in and year out. And that translates to 4,700 jobs for people in Colorado. The grazing fee amendment threatens this part of our economy, the communities that depend on ranching, and the principle of multiple use management. I think that is bad economics, and bad legislation.

In summary, Mr. President, I oppose the House proposal on grazing fees. I would like to thank the chairman and the committee for opposing the House language, and I want to ask him and the ranking member what their attitude toward this issue will be in the upcoming conference on this bill with the House.

Mr. BYRD. Mr. President, I thank the Senator from Colorado for his question. The committee has struck the House grazing fee language which appears on pages 110 through 112 of the committee—reported bill. I would feel bound to support the Senate position strongly in conference with the House.

Mr. McCLURE. Mr. President, I agree wholeheartedly with my friend from Colorado and the distinguished chairman of the Appropriations Committee. The House-passed language on grazing fees is bad public policy and bad land management policy. I, too, will oppose the House language in the strongest terms when we go to conference with the House.

HASKELL INDIAN JUNIOR COLLEGE

Mrs. KASSEBAUM. Let me commend the chairman, and ranking member, of the Interior Appropriations Subcommittee for their hard work in bringing this bill in its present form to the floor. It is my hope that full consideration can be given to the merits of all of the programs funded by this measure. I am also grateful for the recognition the committee made of the needs of Haskell Indian Junior College in Lawrence, KS, which is the Nation's only federally run liberal arts college. The $3 million provided in the committee bill are greatly needed to house the many native Americans eligible but unable to attend Haskell simply because there is no dormitory space available.

I would also like to bring to the attention of the able chairman specific language that was approved by the House but not included in the Senate package which outlines the need for ongoing improvements to Building 10 at Haskell. These recommendations outlined in the House report are the final stage of a 1987 audit by the Bureau of Indian Affair's Inspector General, which found that five dormitories were extremely dangerous because of electrical wiring problems and other safety code violations.

I would appreciate greatly some indication from the chairman that the conferees will consider all the needs of Haskell as outlined in both the Senate and House committee reports accompanying the Department of the Interior and related agencies appropriations bill.

Mr. BYRD. As the Senator is aware, the House and Senate addressed different facility needs at Haskell Indian Junior College. The conferees will have to address the mix of funding to be available for facilities at Haskell in fiscal year 1991.

The objective will be to develop a rational, realistic approach to meeting the needs at Haskell, including a master plan to guide the program.

Mrs. KASSEBAUM. I thank the chairman very much.

RESTORATION OF CHESAPEAKE BAY

Mr. SARBANES. Would the distinguished chairman yield for the purpose of a colloquy regarding the USDA Forest Service funding contained in the bill?

Mr. BYRD. I would be happy to yield.

Mr. SARBANES. It is my understanding that there are sufficient funds contained in the budget for the State and Private Forestry Program to continue the Forest Service's efforts to develop and implement a coherent, comprehensive forest conservation strategy for the Chesapeake Bay. It is also my understanding that it is the committee's intent that the Forest Service continue these activities in the Chesapeake Bay region.

Mr. BYRD. The Senator is correct. The committee has appropriated sufficient funds to allow these activities to go forward and it is the committee's intent that the Forest Service continue its participation in the Chesapeake Bay Program.

Mr. SARBANES. I thank the Chairman for these assurances. As the lead Federal agency responsible for conserving the Nation's forest resources, the USDA Forest Service, in cooperation with the State Foresters of the bay States, has a major role to play in restoring the bay. With 60 percent of the Chesapeake Bay watershed forested, the forests, especially the riparian forests along watercourses throughout the bay region, are integral to the health of the bay.

Last year, the Forest Service, Department of Agriculture and EPA signed a Memorandum of Understanding [MOU] outlining the Forest Service's responsibilities in the Chesapeake Bay cleanup effort. The Forest Service assigned a forestry coordinator to work in cooperation with and in support of the State Foresters of the Chesapeake Bay Agreement signatory States as well as the State Foresters of

West Virginia, Delaware, and New York.

The Committee's efforts will enable the Forest Service to continue its Chesapeake Bay activities and to meet the agency's obligations under the MOU. I want to commend the chairman for his leadership and assistance on this matter.

Mr. SIMPSON. Senator WALLOP and I would like to ask our colleague from West Virginia about the reimbursability of funding for irrigation projects located on the Wind River Indian Reservation. Our question concerns funds which were budgeted for fiscal year 1990 and will affect funds which the committee included for fiscal year 1991.

Mr. BYRD. I would be pleased to answer any question the Senator may have.

Mr. WALLOP. Basically, the problem is that contrary to our intent, the Bureau of Indian Affairs has determined that the fiscal year 1990 appropriation in the amount of $1,000,000 is reimbursable and must be paid back. Congress is now going to appropriate more money to continue the rehabilitation of the irrigation system—funds which are badly needed in that area. The Shoshone and Arapaho Tribes are justifiably concerned and have asked for clarification on whether or not the monies are reimbursable.

My question is this, Is it not true that in response to the request for these funds, the BIA prepared a capability statement in which they in no way indicated that the funds would be reimbursable?

Mr. BYRD. Yes, the Senator is correct. The BIA capability statements did not indicate that the funds would be reimbursable.

Mr. SIMPSON. Senator WALLOP and I thank our friend from West Virginia for this clarification and for his help on other matters of great importance to our State. The Senator knows that these funds are part of a continuing effort to enhance the quality of life for all of the good people in this area of Wyoming and appreciates the true sensitivity of this program. This is a program that our offices have been working on for many, many months. This will require continued hard work for a long time before we present Congress with a complete package to resolve a particularly thorny controversy between the State of Wyoming, our native American neighbors and fellow "Wyomingites", and the Federal Government. We do so appreciate the Senator from West Virginia's continued interest and assistance as we all work toward our goal in the months ahead. Senator BYRD is a most knowledgeable Member of the U.S. Senate with regard to procedures and history and we greatly appreciate his assistance.

Mr. WALLOP. I also thank the Senator for his assistance. These funds should send the message that the Federal Government intends to participate, along with the State and the tribes, in a joint effort to finally settle a controversy which has created much turmoil in Fremont County for more than a decade. A comprehensive settlement agreement is going to take a high level of commitment and a lot of hard work and Senator SIMPSON and I aim to see that the Federal Government shoulders its share of the burden.

Mr. KERREY. I wish to ask the distinguished chairman of the subcommittee a question.

The committee report indicates that there is $150,000 for the Grand Island Field Station of the Fish and Wildlife Service for water rights studies. Is that correct?

Mr. BYRD. The Senator is correct. This matter is contained on page 18 of the committee report.

Mr. KERREY. It is my understanding that these funds are to be made available to the University of Nebraska/Lincoln to conduct research on a number of issues of special importance to Nebraska. Water quality and quantity problems, wetlands assessments, critical habitat for threatened and endangered species, fisheries and wildlife mitigation issues, wildlife damage problems, pesticide impacts on fish and wildlife resources, transbasin diversions are among the problems affecting Nebraska's fish and wildlife resources that demand attention. In light of the increasing demands on the Platte and Missouri Rivers it is vital that we have a clear understanding of issues relating to these rivers and their adjacent habitat. UNL is well equipped to conduct this research and help develop the understandings we need. In fact, the Department of Forestry, Fisheries and Wildlife at UNL has expertise and experience in these areas and is already engaged in research, which we need to expand.

Mr. BYRD. I am in complete agreement with the Senator's comments. The committee report language is brief and does not fully describe the scope of the work involved. I understand that the Platte River is a wonderful resource but that it needs careful research to ensure its preservation. The university can be helpful in that effort.

Mr. KERREY. As the distinguished chairman and I have discussed, this work could be done through the establishment of a cooperative research unit at the university. Would the Senator agree?

Mr. BYRD. Yes, that is correct and the committee has recommended funds to establish one new cooperative unit this year, on a competitive selection basis.

Mr. KERREY. As a matter of fact, with this research money plus other money in the bill and the match that would be available from the State, would it not make sense for the Fish and Wildlife Service to establish such a unit at UNL?

Mr. BYRD. I believe that would be cost effective for the Government since the university would provide matching funds if a cooperative research unit were established at the university.

Mr. KERREY. I thank the chairman. We have broad research needs along in the Platte River Valley. In the coming years, Nebraskans are going to need to balance among the various needs and uses of the Platte's water. We will be in a better position to make intelligent decisions if we ensure that we commit the resources to undertake research in a timely and careful manner.

I would hope that, if there is an opportunity to work out an agreement with the House conferees on the cooperative research units, the distinguished chairman would keep our interests at UNL in mind.

Mr. BYRD. The Senator makes an excellent point, and he represents the people of Nebraska very well because he is always looking for every opportunity to assist them. I certainly cannot promise what will happen in conference, but I will keep his interest firmly in mind when we meet in conference with the House.

Mr. KERREY. Again, I thank the chairman for any assistance he may be able to provide.

DOE INDUSTRIALIZED HOUSING

Mr. HATFIELD. I would like to take a few moments of the Senate's time to engage the distinguished chairman of the Appropriations Committee, Senator BYRD, in a colloquy regarding the Department of Energy's industrialized housing program under the Energy Conservation section of the committee's report.

Mr. BYRD. I would be pleased to respond to any questions from the Senator from Oregon.

Mr. HATFIELD. On page 121 of the Senate Committee Report (Report 101-534), the report language indicates that an increase of $1,000,000 is provided for "the ongoing manufactured housing research program, of which $900,000 is for the University of Oregon and Florida Solar Energy Center consortium and the balance is for supporting research. The committee expects that the full $900,000 will be made available to the University of Oregon and the Florida Solar Energy Center or those institutions' approved contractors and/or subcontractors."

Mr. BYRD. Yes, that is correct. I am aware of that provision.

Mr. HATFIELD. While I am extremely pleased that the committee has included this language in the report, it has come to my attention that this language could be interpret-

ed to mean that only the increase of $900,000 will go to the University of Oregon and the Florida Solar Energy Center. Am I correct in saying that in addition to the $900,000 specifically identified in the report, the $600,000 that was included in the administration's fiscal year 1991 budget request should also be made available solely to the University of Oregon and the Florida Solar Energy Center?

Mr. BYRD. The Senator from Oregon is correct. In total, the sum of the $600,000 in the budget request plus the $900,000 in the committee report—for a total of $1,500,000—should be made available solely to the University of Oregon and the Florida Solar Energy Center.

Mr. HATFIELD. I thank the distinguished chairman for this clarification.

THE BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR

Mr. PELL. If I might have the attention of the distinguished manager of the bill, I would like to take a moment to join with my colleague, Senator CHAFEE, in clarifying the intent regarding the Blackstone River Valley Corridor's Fiscal Year 1991 funding. It is our understanding that of the $700,000 allocated to the Corridor in this bill, $350,000 is for technical assistance by the National Park Service.

Mr. BYRD. That is correct.

Mr. CHAFEE. It is also our understanding that the unfortunate timing of the approval of S. 830 by the House created an inadvertent dilemma in funding this important project. Specifically, the Senate did not receive until October 4 the House-approved bill—which authorized $3 million for a new program of demonstration projects, $1 million of which was specified for Fiscal Year 1991. I applaud the House for taking action. However, because of the timing of that action, the Senate was unable to consider including that approved demonstration project funding in this appropriation before us today. We would like to clarify with the distinguished manager that it remains the intent of the Senate to fully fund the $3 million demonstration program.

Mr. KERRY. I would like to join the Senators from Rhode Island in expressing hope that the Interior Appropriations Subcommittee will provide the full authorized funding level for the Blackstone River Valley National Heritage Corridor over the next 3 years.

Mr. KENNDEY. I share the same concerns and hope expressed by my colleagues in Rhode Island and Massachusetts, with respect to the Blackstone Corridor. I also would like to note that the President signed into law on October 18, 1990, the authorization for Blackstone Corridor to receive the additional $3 million during the next 3 years. These funds are vital to implement the Corridor Commission's plans to commemorate the birthplace of the American Industrial Revolution.

Mr. BYRD. I concur with my colleagues that the Senate was unable to give consideration to the demonstration program because of the timing of the House authorization action. We will try to give every consideration to funding the $3 million program over the next 3 years.

Mr. PELL. I thank the Senator from West Virginia for clarifying this point.

Mr. CHAFEE. I join my colleagues in doing so.

Mr. KENNEDY. I too appreciate the Senator from West Virginia's assurances.

Mr. KERRY. And I thank the Senator as well for his consideration.

HABITAT CONSERVATION PROGRAMS

Mr. CRANSTON. Mr. President, I would like to direct a question to the distinguished chairman of the Appropriations Committee and manager of the bill Mr. BYRD, regarding habitat conservation programs for endangered species.

As the Senator knows, I have been keenly interested in multiple species conservation planning in my State of California. Last year the committee provided $500,000 in order for the U.S. Fish and Wildlife Service to prepare a multiple species preservation and management plan for the Stephens Kangaroo Rat and several other species of concern in Riverside County, CA. While the final bill provided $650,000 for Fish and Wildlife consultation, the report language did not earmark a specific amount for the Riverside project. Regrettably, the FWS allocated just $217,000 to the western region, with Riverside receiving just $50,000.

I believe the Riverside project has extraordinary merit. As is true in a growing number of urban areas the habitat area for the species involved is under severe and immediate pressure of urban development. The county of Riverside has invested some $900,000 to get a multiple species preservation and management plan underway and technical assistance by the FWS is critical to the successful completion of this project.

I note that the committee has provided increases totaling $3,225,000 for endangered species consulation and recovery projects for total program funding of these areas at $17,095,000 in fiscal year 1991. I also note that the committee has directed the FWS to work toward multiple species conservation planning and recovery efforts. While I understand the committee's reluctance to earmark specific dollars for specific projects, I ask if it is the committee's intent that a portion of the fiscal year 1991 funds provided in this bill be made available for the Riverside project?

Mr. BYRD. The Senator is correct. That is the committee's intent. Page 15 of the committee report identifies the Stephens Kangaroo Rat, an endangered species in Riverside County, as a specific example of the kind of project we would like to see pursued in fiscal year 1991, and in future planning. We have also directed the Service to provide, in its budget justifications for fiscal year 1992, specific identification of areas of serious development and preservation conflicts.

Mr. CRANSTON. I thank the Senator for his clarification. I appreciate his help on this and other matters important to my State. I am particularly pleased that endangered species programs have done so well under the committee bill.

ENVIRONMENTAL REVIEW PANEL ON NORTH CAROLINA OCS

Mr. SANFORD. Mr. President, I would like to engage the distinguished floor managers in a brief colloquy regarding certain OCS environmental studies pertaining to North Carolina.

Mr. BYRD. I would be pleased to discuss this matter with the Senator from North Carolina.

Mr. McCLURE. I would also be happy to respond to the request of the Senator from North Carolina.

Mr. SANFORD. I thank the distinguished managers. As my colleagues know, the oilspill legislation approved by this body and signed into law this year—Public Law 101-380—contains a provision relating to proposed oil and gas activities off the North Carolina coast. Section 6003 of that legislation provides for the establishment of a special Environmental Sciences Review Panel, which is to assess the adequacy of available environmental and socioeconomic information associated with the proposed North Carolina activities. The Secretary of the Interior may not approve any exploration plans, new leases, or certain other activities until he has reported to Congress on the adequacy of such information, with consideration of the Panel's findings and recommendations. My concern is that if the Panel is not funded and no recommendations are available, we will not have the independent review we need and there may be pressure to move ahead notwithstanding that fact.

I have very strongly supported this provision, which is similar to language in S. 2830, which I introduced earlier this year. I believe it is crucial that we have an independent review of the many questions associated with oil and gas activities off our coast before we allow any such activities to proceed.

I note that the Appropriations Committee has provided funding for Outer Continental Shelf activities by the Minerals Management Service. The committee report directs the Service to focus environmental studies away

from certain areas and towards others meeting specified criteria, but does not specifically mention the Review Panel. As I have stated, I believe the activities of the Review Panel will be of critical importance so that we do not risk moving forward with oil and gas activities that have not been thoroughly considered by an independent body.

Might I inquire of my distinguished colleagues, would funding of the activities of the Environmental Review Panel be consistent with committee's intent in redirecting the focus of MMS's environmental studies program?

Mr. BYRD. The committee has directed the Service to focus environmental studies on those areas which are candidates for leasing in the near and mid-term future, and other areas, which are perceived to have resource potential, environmental resource security, and industry interest. To the extent that environmental questions regarding OCS activities in North Carolina are associated with lands that have already been leased, the Review Panel's activities would certainly be consistent with the committee's intent that MMS focus on areas where environmental information will be needed in the short term rather than well into the future.

Mr. McCLURE. I would agree with the Senator's assessment. I would add that, to the extent that the administration believes that the North Carolina areas in question have resource potential, environmental resource security, and industry interest, it would also be quite appropriate for the administration to utilize environmental study funding for the activities of the Review Panel.

Mr. SANFORD. I thank the distinguished chairman and the distinguished ranking member for their comments. I cannot speak to the resource potential of the North Carolina areas, and the environmental resource security is very much in question. Frankly, that is one of the reasons why we need the Panel. I just feel that it is absolutely essential that these issues be thoroughly explored before any decisions are made that we may regret later. So I very much appreciate the responses of my friends from West Virginia and Idaho, and thank my colleagues for their indulgence on this matter.

GRAND CANYON TRANSPORTATION NEEDS

Mr. DeCONCINI. I see in the committee report accompanying H.R. 5769 that there is language recognizing the internal transportation needs at the Grand Canyon National Park. The language states that the Park Service is to fund improvements to the existing transportation system by utilizing additional funds generated by increasing the entrance fees at this Park from $5 to $8. I am fully supportive and appreciative of the chairman's endeavors in this regard. The committee has recognized that the transportation system currently in place is deficient and is in need of upgrading in order to respond to current and future visitor needs.

Would the distinguished chairman respond to several questions I have concerning the committee intent with respect to this language?

Mr. BYRD. I would be happy to respond to my friend, the senior Senator from Arizona.

Mr. DeCONCINI. Is it the intent of this langauge to direct the Park Service to fund the Grand Canyon visitor transportation plan with the additional funds generated by raising fees to not more than $8 per vehicle and combining these funds with the $622,000 already included in the fiscal year 1991 base budget for internal transportation needs at the Grand Canyon National Park?

Mr. BYRD. The Senator is correct. According to the Park Service, this will generate approximately $2.57 million to implement the visitor transportation plan at the Grand Canyon National Park.

Mr. DeCONCINI. Does the chairman anticipate that these will be recurring funds?

Mr. BYRD. I am hopeful that the Park Service will recognize the merits of the approach the committee has developed to address the visitor transportation needs at the Grand Canyon National Park and will include them in its fiscal year 1992 budget request. It is revenue neutral thereby eliminating any negative impact to the current Park Service budget.

Mr. DeCONCINI. I thank the chairman for clarifying these issues for me. In this bill, he has once again demonstrated that he is truly Arizona's friend.

PORT OF BALTIMORE DESIGNATION AS FISH AND WILDLIFE PORT OF ENTRY

Ms. MIKULSKI. Would the distinguished chairman yield for the purpose of a colloquy with Senator SARBANES and myself concerning report language in the bill?

Mr. BYRD. I would be happy to yield.

Ms. MIKULSKI. It was our understanding that the Interior Subcommittee had agreed to include language from the House report under Fish and Wildlife Service—Law Enforcement providing up to $200,000 to initiate a 3-year trial to determine whether Baltimore should be established as a wildlife port of entry.

Mr. SARBANES. This is a matter of considerable importance to the Port of Baltimore. Designation as a port of entry would facilitiate the entry of fish and wildlife cargo into the Port, providing more efficient delivery of such products to the eastern seaboard region and the rest of the Nation.

Mr. BYRD. The distinguished Senators from Maryland are correct. It was the intention of the Senate Subcommittee to include the report language from the House providing $200,000 out of funds made available within Fish and Wildlife Service's law enforcement operations to initate a 3-year trial to determine whether Baltimore should be established as a wildlife port of entry. However, this language was inadvertently omitted from the version of the report adopted by the full Appropriations Committee.

Ms. MIKULSKI. Does the chairman intend to accept the House language in the conference committee, assuming sufficient funds are available to do so?

Mr. BYRD. Yes. That is my intention.

Ms. MIKULSKI. I thank the distinguished chairman for his attention to this matter, and to many other items of great importance to the State of Maryland and all other States.

Mr. SARBANES. I would also like to thank the distinguished chairman of the Senate Appropriations Committee.

FUEL CELLS

Mr. LIEBERMAN. I want to congratulate the distinguished chairman of the subcommittee for the excellent job that he and his staff have done in putting together this appropriations bill.

I also want to thank the chairman for providing funds for the molten carbonate and direct fuel cells programs. Both of these programs have environmental benefits, while at the same time improving America's energy independence and creating significant new job opportunities. I understand that the committee proposes a new appropriation for fiscal year 1991 of $18.413 million plus a reallocation of $3 million in fiscal year 1990 funds for a total of $21.413 million. I understand that the amounts appropriated for fuel cells is reflective of the subcommittee's commitment to the success of this program.

Mr. BYRD. That is correct. The subcommittee remains committed to a full scale commercial development fuel cell program and the amount we allocated for fuel cells is reflective of what we believed the companies involved with the program would be able to utilize in fiscal year 1991.

Mr. LIEBERMAN. Does this mean that if there is a demonstrated need for an increase of funding to complete the program that the chairman would consider increasing the amount allocated for fuel cells in the future?

Mr. BYRD. Yes, if there is a demonstrated need for additional funding above this year's level in future years to complete the fuel cell development program, we would consider appropriating an additional amount in the future. That decision would, of course, have to be balanced against the sub-

committee's funding constraints at that time.

Mr. LIEBERMAN. I want to thank the distinguished senior Senator from West Virginia for his help and for clarifying this situation for me.

Mr. LEAHY. Mr. President, we have before us today a bill of fundamental importance to the management of our national forests and public lands—the Interior and Related Agencies Appropriations bill. This bill provides the framework for improved management of important Federal forest lands, lands comprising millions of acres of forests and grasslands. These special lands contain a great diversity of resources including fish and wildlife, watershed, recreation, and timber.

As we work to pass this important bill, I would commend Senator BYRD, Senator MCCLURE and the other members of the Appropriations Committee for bringing forward an exceptionally balanced and "clean" appropriations bill—one that does not contain controversial riders with troublesome implications for judicial review and citizens' access to the courts. As I mentioned earlier in my comments on the Endangered Species Act amendment, last year at this time Senator HATFIELD and I had colloquy on the Senate floor specifically addressing the future use of such provisions. I am pleased that the principals of our colloquy have been upheld in the Senate's fiscal year 1991 Interior Appropriations bill.

I would also commend Senator BYRD and my fellow Senators for the overall balance of this bill. Noncommodity forest resource programs including the Forest Services' wildlife and fish habitat management, recreation, and soil, water, and air have received much deserved increases. I am very pleased to see these important forest resources gain more emphasis within the Forest Service.

Unfortunately, there are certain specific sections of the Interior report as it relates to timber sale the management of the Forest Service that are disconcerting.

I am troubled by the provision which directs the Forest Service to offer timber sale volumes specified in the bill for National Forests. This direction, which applies nationally, sets a negative precedent for Interior Appropriations bills. Traditionally, we have passed Interior funding bills which state that the Forest Service "may offer" such volumes of timber for sale as the bill targets. The proposed switch to a mandated timber sale level and should be eliminated in conference.

Nowhere, for example, in the Interior bill is the Forest Service required to meet hard and fast congressional mandates for nontimber resources—such as recreation or wildlife management. Rather, Congress has provided funds corresponding with flexible targets and goals for the management of these resources. To congressionally mandate timber sale volumes appears to be inconsistent with the discretion allowed the agency in the fulfillment of nontimber resource management goals. In the context of the Interior Appropriations bill, it seems to me that responsive and responsible agency management is best encouraged by the passage of timber sale goals—not mandates.

I am also concerned about the Senate bill language which mandates the preparation of a volume of timber sales that is 125 percent of the average annual sale quantity (ASQ) established for each region of the country. Historical timber sale levels rarely approach established ASQ's and, current timber markets are declining. The Senate's mandated timber preparation volume assumes that timber demand will soon increase by over 36 percent, when in fact timber demand during the next 2 years is expected to decline. Preparing more timber than the industry can reasonably use is a waste of the taxpayers money and a misuse of the time and talents of professional forest resource managers.

Mr. MCCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS, FISCAL YEAR 1991

The Senate resumed the consideration of the bill.

UNANIMOUS CONSENT AGREEMENT

Mr. LEAHY. Mr. President, I am shortly about to make a unanimous-consent request regarding legislation. But I yield first to the Senator from Colorado.

Mr. WIRTH. I thank the distinguished chairman of the subcommittee for yielding.

I want to comment briefly on the unanimous-consent request and the agreement which we have just arrived at working through the day. I myself am not entirely pleased with this agreement but wanted to make a number of points related to it.

First, in this agreement I will ask unanimous consent as part of the agreement to withdraw the amendment related to the so-called Mexico City amendment. What happened on this, historically, we got a very good vote on this last Friday night, the first time that has happened in 6 years. It was 57 to 41, very clear that a solid majority of the Senate, and I think to be a greater majority next year, believes that policy should be overturned, and will be coming back to visit it next year. I do not believe anybody had any expectations that we were going to even get that far with that amendment this year. Progress is being made. We will be back next year.

Second, the accommodation which we have reached allows the legislation to move ahead. That of course is the responsible direction for us all to be taking. I agreed to drop my amendment with this unanimous-consent request, and the amendment of Senator HELMS I understand is also disposed of.

I want to pay special thanks to the Parliamentarian for his help in crafting this. The staff and I met with him this morning to see if this was possible, and it was.

So with the agreement that will soon be propounded, and I believe agreed to, a number of things happened. One, the administration gets its loan forgiveness programs for Egypt. That has been the linchpin of the administration's policy in the Middle East, absolutely crucial, and I believe for all of us agree or disagree with what is being done, that is again the responsible course to take.

There are those who would disagree with that. There are many on the other side who were willing to filibuster the whole bill on this. I do not think that at this juncture that is the direction in which we ought to go.

Second, this provides a significant assistance package to Israel, again part of the balance between Egypt and Israel which we have had for a long time.

Third, there are some very significant provisions on Central and Eastern Europe in the legislation, and a variety of other items in the foreign operations bill, that are extremely important.

So again, Mr. President, while I would not first of all have chosen to begin with this loan forgiveness program for Egypt the way it has been done, that has been done. The President has committed the country to doing that. I think we as responsible legislators have the responsibility to support that policy at this particular time.

So I want to thank the distinguished chairman of the subcommittee, Senator LEAHY, for his help in all of this. And I want to pay tribute to the staff who really have worked their way through this. We will be back in Mexico City again next year.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I ask unanimous consent that no further amendments be in order to H.R. 5114, except for the three committee amendments as amended to this point, to be included in the instructions con-

tained in a motion to recommit, that no amendments to those instructions be in order, that no debate be in order on the motion to recommit, and that upon disposition of that motion if agreed to that the amendments contained in the instructions be deemed to be agreed to, without intervening action or debate, and thereafter the Senate proceed without intervening debate or action to third reading of the bill.

The PRESIDING OFFICER (Mr. WIRTH). Is there objection to the unanimous-consent request? The Chair hears none. It is so ordered.

Mr. LEAHY. I, therefore, move to recommit H.R. 5114 to the Committee on Appropriations with instruction that the bill be reported back forthwith with all amendments previously agreed to in status quo, and with the three amendments as previously described.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

Mr. LEAHY. Mr. President, I understand the motion is agreed to, the three committee amendments are agreed to en bloc, and the bill is deemed to be read a third time. Is that correct?

The PRESIDING OFFICER. Without objection, the bill is read the third time.

Mr. LEAHY. Mr. President, in behalf of the majority leader I ask unanimous consent that a vote on final passage of H.R. 5114 occur immediately following the vote disposing of the veto override of the civil rights bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays and final passage of this bill at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Wisconsin.

Mr. KASTEN. I simply want to congratulate all concerned. The process that we have just gone through will make it possible for us now to go to conference immediately following passage of our bill after the vote on the veto. It means we can go to conference with the House of Representatives on a number of important issues. A number of people are involved in this overall process.

I think it is fair to say not everyone was completely satisfied—certainly the Senator from Colorado, the Senator from North Carolina. We do though now have a process whereby we will go forward with the foreign operations appropriations bill.

I particularly want to thank the chairman of the subcommittee.

Mr. LEAHY. Mr. President, I want to thank the distinguished occupant of the Chair, the distinguished Senator from Colorado, who has worked with us very hard and who has by this action and by the fact that he did not object to this action is willing to give up a significant advantage he had with his amendment pending before the Senate, knowing as I am sure the distinguished Senator did that had it been able to come to a vote he would have won a vote.

I also realize, as I am sure he understands, that the situation and the time running out that Senators could block that vote from occurring, and all likelihood would.

I would also like to compliment the distinguished Senator from North Carolina [Mr. HELMS], who also had an amendment pending of course, and agreed to have his amendment in effect struck by this. And I would also like to compliment the distinguished leader, Senator MITCHELL, in agreeing, after he had the bill on the floor longer than he originally intended to, with Senator KASTEN and myself to bring it back at any time that we might be able to work out an agreement like this; and all the other Senators who have worked on it. So that Senators will understand in the morning what this means, after the vote on the veto override, we will vote on the foreign operations or otherwise known as the foreign aid bill, which has Egyptian aid, El Salvador language, and everything else. We will have one up-or-down vote on that. And then if it is passed by the Senate, as I expect and hope it will be, the bill will go on to the other body into the committee of conference. But the impasse is ended.

I thank the Senators on both sides of the aisle that made that possible. I especially thank my distinguished colleague from Wisconsin who has been indefatigable in his efforts to work out this agreement.

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I see the distinguished Senator from Colorado, and I will yield to him.

Mr. WIRTH. Mr. President, I want to say I appreciate the Senator's kind remarks. It is very clear that had the Mexico City issue been allowed to come to the floor for a vote, there was a clear majority for that. There are others on the other side who were going to filibuster it and that, in turn, was going to make sure we got nowhere on the Foreign Operations bill.

Ultimately, we are left with a choice of allowing that filibuster to go ahead, and there was no give at all in any way, shape, or form on the individual filibustering on the other side. That would have brought the bill down. To follow the procedure which we did—as the Senator pointed out, we had significant leverage in the position in which we found ourselves with the Mexico City amendment. But I felt rather than exercising that leverage, the responsible thing to do was to make sure that the bill goes forward, because it includes a variety of other items.

I appreciate the forbearance of the Chair and of the distinguished chairman of the subcommittee.

I yield the floor.

Mr. LEAHY. Mr. President, I appreciate the Senator's willingness to give up several advantages at this point. I will continue to work with him on the matter he had before the body.

MORNING BUSINESS

Mr. LEAHY. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING JIHYUN OH, 1990 NATIONAL WINNER OF THE SPACE SCIENCE STUDENT INVOLVEMENT PROGRAM

Mr. DOLE. Mr. President, today I rise to applaud our Nation's young people who are active participants in space exploration. I am particularly proud of Jihyun Oh, a brilliant high school student from Lenexa, KS, who is this year's national winner of the Space Science Student Involvement Program sponsored by the National Aeronautics and Space Administration and National Science Teachers Associations. Her contribution stresses the importance of our support for such initiatives as the Space Education Week.

JIHYUN'S PROPOSAL

Jihyun's winning proposal, selected out of nearly a million applications, seeks to resolve the depression of astronauts' immune systems during space travel. Along with her teacher and advisor, Eric Flescher, Jihyun proposed that the consumption of water-soluble vitamin E will serve to strengthen an astronaut's immune system. It is uplifting to see America's young minds providing needed solutions for important scientific questions. It is these very solutions that will increase our understanding of new

frontiers such as space. In recognition of Jihyun's achievement, I ask unanimous consent to have placed in the RECORD her proposal and personal reflections on her involvement with the program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION

Previous space flights have shown that in a microgravity environment, there is a loss of T-lymphocytes in the human body. The loss results in a weak immune system. If an astronaut falls ill, this may hinder him/her from completing the assigned task. Through research, vitamin E was shown to help the proliferation of lymphocytes. It was also found to be a potent stimulant of the immune system in laboratory rats, and a neutralizer of free radicals (unpaired electrons) which can attack and harm the immune system. Vitamin E has no side effects.

Tocophersolan, a water-soluble vitamin E developed by the Eastman Kodak Company, could be the answer to T-lymphocyte loss. Commonly called TPGS, tocophersolan is considered a GRAS substance—Generally Recognized As Safe. A waxy substance, it is mixed with water to be consumed as a tasteless liquid. The chief advantage of TPGS over regular vitamin E is that it is more readily absorbed into the body and able to be used immediately by the immune system instead of being stored in the fatty layer. Therefore, the administration of TPGS may solve the problem of the loss of T-lymphocytes in a microgravity environment.

The SSIP program has been a great experience for me. Not only has it helped me improve my research skills and use every available resource wisely, but in doing the research, helped me learn many new things and become interested in an area I had previously very little interest in. I have met many people from across the United States who are also interested in science as I am. Being nationally recognized has given me a feeling of accomplishment because I have spent almost two years on this project and because this project means so much to me. New experiences such as going to Huntsville, Alabama for the regional symposium, and meeting with congressional representatives and other top government officials has made the experience of this program exciting, interesting, and unforgettable. I wish to thank NASA, NSTA, Rockwell International, the regional directors, and the teachers, expecially Mr. Flescher, for making this such a special experience.

TRIBUTE TO DOLLY PARTON

Mr. SASSER. Mr. President, today I rise to pay tribute to one of America's finest entertainers, Dolly Parton. Dolly is an internationally known superstar who has remained loyal to her Tennessee roots and the tradition of country music.

Dolly, a native Tennessean, has enjoyed great success in many areas of the entertainment business. As a country music artist, she has captured the world with her unusual vocal style and heartwarming songs. She has become one of America's top recording artists, with many of her albums reaching the top of country and Top 40 charts.

Dolly is certainly a multifaceted performer. She has starred in four feature films, including most recently, the critically acclaimed "Steel Magnolias." As a songwriter, she wrote the title tune for the film "9 to 5" and captured a starring role. In 1987, Dolly hosted her own television variety show which highlighted her prowess as a comedienne and singer.

During her lifetime, Dolly Parton has seen many of her dreams become realities. One of those dreams was her desire to honor her homeland, the Great Smoky Mountains of Tennessee. In 1985, construction began on "Dollywood," a theme park dedicated to Dolly's Smoky Mountain heritage and the businesswoman has resulted in the creation of many jobs and economic growth in the area. The Dollywood Foundation, a nonprofit organization, is committed to a number of worthy goals—among them lowering the student dropout rate in Sevier County, TN.

In addition, the American eagle has found a new friend in Dolly Parton. The 1991 eagle complex at Dollywood will serve as a natural extension showcasing the official living symbol of America's patriotic and natural heritage. The bald eagle embodies the most treasured of all American traditions—freedom.

Mr. President, it is certainly understandable that Ms. magazine, named Dolly Parton the 1986 "Woman of the Year." Her capabilities are innumerable as well as her success and I join my fellow Tennesseans in honoring this great lady.

FUTURES TRADING PRACTICES ACT OF 1989

Mr. LEAHY. Mr. President, S. 1729, the Futures Trading Practices Act of 1989, appears for all practical purposes dead for this Congress. This legislation, which was approved unanimously from the Committee on Agriculture, Nutrition, and Forestry, is the toughest futures reform package in decades.

It is an embarrassment to this Chamber and to President Bush's administration that we have not enacted this bill into law. The American people today are furious and frustrated that Congress cannot make decisions nor handle its workload. The rules of the Senate traditionally have protected the legitimate interest of minorities. Today, they are being abused to allow any small group of Senators to deny us the chance to vote on issues of vital importance to this country.

Our failure to act on futures trading reform—like our failure to act efficiently on the budget—sends a strong message to the public that their cynicism toward Government is justified. On this issue, Congress and the administration have failed in their responsibilities. We have not done our jobs.

Futures trading practices have been under a cloud since the January 1989 disclosure of a criminal probe of the Chicago Board of Trade and the Chicago Mercantile Exchange. This investigation has resulted in indictments so far against 48 Chicago traders for cheating customers.

In mid-July 1989, an emergency and possible corner in the Chicago soybean futures market raised alarms among farm producers. On September 8 that year, the General Accounting Office reported that there were serious flaws in floor oversight systems at exchanges in both Chicago and New York.

S. 1729 was designed to restore public confidence in these markets by producing two results. First, any broker on an exchange floor who thought about cheating a customer would know that he will be caught and penalized severely. Second, exchanges would know that their business is the public's business and that the public must play a key role in exchange decisions.

When the Agriculture Committee approved S. 1729 last November, the consensus for reform was universal. No responsible person would have guessed that Congress would flinch at correcting the clear regulatory gaps so dramatically exposed.

What went wrong?

Senate action on S. 1729 has been blocked for a full year by controversy over a proposal to strip the CFTC of jurisdiction for stock-index futures contracts and shift this responsibility to the Securities and Exchange Commission. Last June, the Department of the Treasury submitted formal legislation to accomplish this goal.

The SEC—CFTC jurisdictional battle over stock-index futures dates back 16 years to the creation of the CFTC in 1974. It involves not only questions of policy but also affects the competitive balance between two aggressive growth-oriented industries: futures and securities.

I strongly opposed the jurisdictional proposal. Some of my colleagues supported it. The issue was important and deserved a thorough airing and debate. Unfortunately, Treasury took the tack—over the objections of Senator LUGAR and myself—of linking the issue S. 1729. In a May 8 letter, Secretary Brady stated that jurisdiction must be addressed "at the same time" as futures trading reform.

In effect, Secretary Brady, backed by SEC Chairman Breeden, made S. 1729 a hostage—or "guest"—of his jurisdiction-transfer proposal.

The debate over the jurisdiction proposal was confrontational and acrimonious in tone, looking to many like a mud-wrestling match between the SEC and CFTC. Treasury and the SEC suggested that failure to shift jurisdiction would cause another stock crash; both sides threw heavy resources into the lobbying effort and dug in their heels.

All the while, the distrust and hostility kept rising, making ultimate compromise more elusive. S. 1729 became like a ping-pong ball, subject to holds from whichever side felt it lacked the votes at any point.

Last July, Senator LUGAR and I met with Senator DODD, Senator HEINZ, and Senator BOND to try to break the logjam by addressing some of the key concerns raised by the Treasury Department during this debate. It took months for us to iron out our differences and consult with affected groups. Any draft compromise that was acceptable to the securities side was unacceptable to the futures side; and vice versa. What the SEC supported, the CFTC opposed. What the CFTC supported, the SEC opposed.

Draft after draft took its place on the trash heap, each rejected by one party or another refusing to give in.

Finally, last week, we unveiled a package addressing many of these points, particularly margin and CFTC exclusivity. This amendment, in my view, is a fair and reasonable compromise on a group of difficult, hard-fought issues. It is a product which I am happy to recommend to my colleagues and which I will continue to press next year.

Unfortunately, over the past several days, we have not been able to obtain unanimous consent to vote either on the compromise proposal, or on the amendment by Senators GORTON and WIRTH containing the original Treasury proposal. We cannot even obtain consent to act on a stripped-down version of S. 1729 containing trading practice reforms coupled with a 1-year extension guaranteeing all sides a chance to rejoin the jurisdictional battle next year.

Opponents of jurisdictional change refuse to debate S. 1729 with amendments. Supporters of jurisdictional change refuse to debate the bill without amendments. The public sits in the middle and gasps at the absurdity of important reforms being killed in the crossfire.

Mr. President, Senators are elected to make decisions, not to duck behind parliamentary holds and other maneuvers.

To me, the most critical need facing the CFTC today is for Congress to adopt CFTC reauthorization legislation this year. We must resolve the cloud of uncertainty hanging over futures regulation since the 1989 FBI sting.

By failing to pass S. 1729, we leave the CFTC this year in a weakened state. In the meantime, I can only hope that we do not have a blowup in any of the futures markets vital to our national economy, particularly crude oil, heating oil, and gasoline whose fates are linked to the crisis in the Persian Gulf.

If anything does go wrong in these markets because of our failure to enact regulatory reforms, then the extremists on both sides who have blocked this bill will have a serious day of reckoning with the American people.

ALLOCATION OF FISCAL YEAR 1991 SPENDING AUTHORITY TO THE SUBCOMMITTEES OF THE COMMITTEE ON ARMED SERVICES

Mr. NUNN. Mr. President, under section 302(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority. The 302(a) allocation of the fiscal year 1991 budget totals among the Senate committees was printed in the CONGRESSIONAL RECORD on October 10, 1990.

Section 302(b) of the Budget Act requires committees to allocate such spending authority among either subcommittees or programs within their jurisdiction. After consultation with appropriate committees of the other House, the committees are required to report the allocations they have made to their respective House.

The Committee on Armed Services submits the following report in compliance with section 302(b) of the Budget Act allocating its direct spending authority among the subcommittees. I ask unanimous consent that the report be included in the RECORD at this point.

There being no ojection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF THE COMMITTEE ON ARMED SERVICES PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

Mr. Nunn, from the Committee on Armed Services, submitted the following report:

The Committee on Armed Services, which was allocated certain budget authority and outlays by the managers of the conference on the House Concurrent Resolution 310, reports the division of such allocations among subcommittees of the Committee for fiscal year 1991.

BACKGROUND

Under section 302(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority.

Section 302(b) of the Act requires the committees to allocate such spending authority among either subcommittees or the programs over which they have jurisdiction. After consultation with appropriate committees of the other House, the committees are required to report the allocations they have made.

ALLOCATION RECEIVED BY THE COMMITTEE

The allocation received by the Committee on Armed Services from the managers of the conference was in two parts: (1) direct spending authority; and (2) entitlements that require appropriations.

The direct spending authority allocation was made to this committee of original and complete jurisdiction for the federal programs and activities assumed in the allocation.

Entitlements and other direct spending accounts that require appropriations were allocated both to this committee and to the Appropriations Committee of the Senate. These amounts, therefore, are reflected in the reports filed by both committees as required by section 302(b).

The Committee on Armed Services received the following allocations for fiscal year 1991:

Fiscal Year 1991

	Millions
Direct spending authority:	
Budget authority	$47,954
Outlays	34,512
Entitlements that require appropriations:	
Budget authority	0
Outlays	0

ALLOCATIONS MADE BY THE COMMITTEE

The Committee has made its allocations among the several subcommittees as shown in the following table. Budget authority and outlay figures are CBO baseline estimates incorporated in the budget resolution.

The total amount of funds allocated in this report is equal to the allocations made to this committee in H. Con Res. 310, the Concurrent Resolution on the Budget for Fiscal Year 1991.

Fiscal Year 1991

	Millions
Subcommittee on Manpower and Personnel:	
Budget authority	$47,836
Outlays	34,450
Subcommittee on Readiness, Sustainability and Support:	
Budget authority	118
Outlays	62

SUBCOMMITTEE ACCOUNT ASSIGNMENTS FOR FISCAL YEAR 1991 COMMITTEE ON ARMED SERVICES

[Dollars in millions]

		Amount
Committee total	BA	$47,954
	OL	34,512
Subcommittee on Manpower and Personnel:		
Account name: Payment to military retirement fund	BA	11,205
Account number: 97-0040-0 1 054	OL	11,205
Account name: Military retirement fund	BA	36,414
Account number: 97 8097 0 7 602	OL	23,043
Account number: Education benefits fund	BA	217
Account number: 97 8098 0 7 702	OL	202
Account number: Miscellaneous trust funds (Other veterans benefits and services)	BA	0
Account number: 20 9971 0 7 705	OL	0

SUBCOMMITTEE ACCOUNT ASSIGNMENTS FOR FISCAL YEAR 1991 COMMITTEE ON ARMED SERVICES—Continued

[Dollars in millions]

		Amount
Account number: Payment of claims soldiers' and airmen's home	BA	0
Account number: 84 8930 0 7 705	OL	0
Subcommittee subtotal	BA	47,836
	OL	34,450
Subcommittee on Readiness, Sustainability and Support:		
Account number: Department of the Navy trust funds	BA	30
Account number: 17-9972-0-7-051	OL	30
Account number: Navy Trust revolving funds	BA	0
Account number: 17-9981-0-8-051	OL	−1
Account number: Department of the Army trust funds	BA	0
Account number: 21-9971-0-7-051	OL	0
Account number: Surcharge collections, sales of commissary stores, Army	BA	42
Account number: 21-8420-0-8-051	OL	20
Account number: Department of the Air Force general gift fund	BA	0
Account number: 57-8928-0-7-051	OL	0
Account number: Air Force trust revolving funds	BA	0
Account number: 57-9982-0-8-051	OL	−18
Account number: Restoration of Rocky Mountain Arsenal	BA	21
Account number: 21-5098-0-2-051	OL	21
Account number: Homeowners assistance fund, Defense	BA	1
Account number: 97-4090-0-3-051	OL	1
Account number: Coast Guard general gift fund	BA	0
Account number: 69-8533-0-7-403	OL	0
Account number: Panama Canal revolving fund	BA	6
Account number: 95-4061-0-3-403	OL	0
Account number: Barry Goldwater scholarship and excellence in education fund	BA	3
Account number: 95-8281-0-7-502	OL	2
Account number: Panama Canal Commission compensation fund	BA	13
Account number: 16-5155-0-2-602	OL	6
Subcommittee subtotal	BA	118
	OL	62
Grand total	BA	47,954
	OL	34,512

THE ABSENCE OF A NATIONAL ENERGY POLICY

Mr. LIEBERMAN. Mr. President, on several occassions before this body I have expressed my concern about the absence of a national energy policy. I rise today to reaffirm my conviction that our Nation must take prompt and aggressive action to fill this policy vacuum.

The volatile situation in the Middle East underscores the continued vulnerability our Nation faces in powering our massive economic engine with imported oil—our energy trade deficit looms ever larger; we are subject to price and supply disruptions outside of our control; and our international competitiveness in new energy technology is in jeopardy. Add to this the continuing war we are waging against our enviornment, and you have a situation crying out for a solution. Well, Mr. President, a solution is available if we have the will to implement it. We must make conservation, energy efficiency, and alternative clean energy technology the cornerstones of our national strategy if we are to successfully address our growing economic, energy supply, and environmental problems.

During the last 10 years, there has been an 80 percent decrease in the Department of Energy's funding of research and development in renewable energy sources and energy conservation, at a time when oil imports have increased dramatically from a downward trend in the early part of the decade. In 1989 alone, oil imports contributed a whopping $44 billion to our trade deficit, and with recent price increases, the contribution of imported oil to the deficit is on the rise this year. This record is appalling.

The Federal Government is the largest consumer of energy in this country, spending over $8.5 billion to power Federal facilities in the United States in 1989 alone. That's one good reason why we should be pursuing, right now, a forward-looking energy policy geared toward the early commercialization of clean and efficient alternative sources of energy-guzzling Federal facilities as a proving ground. Instead, there has been a declining trickle of Federal support for basic research in renewable and alternative clean energy, and a lack of resolve to follow through with the funds needed to provide the final boost toward commercialization.

Promising technologies now exist that would reduce America's dependence on imported oil, while offering tremendous environmental benefits. There have been major research advances in fuel cells, photovoltaic cells, solar thermal systems, and geothermal, wind, and bimass systems. Most of these technologies are pollution free and compare favorably with traditional energy sources when the very real environmental costs of the traditional sources are factored in. For example, fuel cells produce virtually pollution-free energy without combustion, achieving overall efficiencies which can exceed 80 percent when cogenerated heat is recaptured. In contrast, traditional power generating sources have efficiencies in the neighborhood of 30 percent. Yet, fuel cell manufacturers and other innovative energy industries are struggling in this country because they lack the Federal support that prudent energy policy would dictate.

Even as they struggle in this country, however, alternative energy industries form the basis of aggressive energy strategies in Japan and West Germany. Notably, Japan and West Germany use approximately half as much energy as the United States uses per unit of GNP. It is no accident that both of these countries have ambitious energy conservation programs and are making massive investments in alternative energy technology. Japan plans to satisfy up to 15 percent of its electric power requirements from fuel cell technology by the year 2000. To that end, it is actively pursuing alliances with U.S. companies to capitalize on technological developments that our country pioneered. Japan and West Germany are both enthusiastically embracing solar energy, and each has made major investments in American solar concerns.

The need for clean energy technologies is particularly pressing in light of this country's declining environmental health. According to the Worldwatch Institute, some 150 million Americans breathe air considered unhealthy by the Environmental Protection Agency. Ground-level ozone pollution, caused predominantly by the automobile, has become a serious health problem, causing short-term breathing difficulty and long-term lung damage. The American Lung Association estimates that areas which are home to more than half of all Americans are currently out of compliance with EPA's ozone standard. High ozone concentrations have also been linked with declines in pine forests.

Emissions of sulfur dioxide, nitrogen oxides, hydrocarbons, and various other fossil fuel based poisons from our cars and our utilities add to the devastation. Acid rain is killing our fish, harming our forests, and by some estimates, its associated pollutants are responsible for up to 2 percent of total annual mortality in the United States. The spector of global warming from the buildup of greenhouse gases, emitted during fossil fuel combustion, threatens our climate, our agriculture, our geography, our very survival. In a word, our environment is endangered.

In the short term, simple conservation measures hold great promise for improving our energy and environmental picture, with comparatively little effort. And this is an area which is particularly appropriate for Federal leadership. In the wake of Iraq's invasion of Kuwait, President Bush identified energy conservation, for the first time in my memory, as an important step to address potential oil supply shortfalls. Mr. President, it should not take an act of blatant aggression in the international arena to elicit support from the administration for energy conservation. Common sense ought to suffice. The truth is that energy conservation requirements for Federal facilities have been on the books for several years now, and they have been largely ignored by our leaders.

Our Government has failed to implement conservation measures in its facilities which would ultimately provide the taxpayers billions of dollars in energy savings. The Department of Energy has admitted that just reducing Federal lighting energy needs by 25 percent would save taxpayers up to $930 million per year. This is not a pipe dream, Mr. President—savings of this magnitude are easily achievable today, with new compact fluorescent bulbs which use about one quarter as much energy as typical incandescent bulbs and which can be installed in existing fixtures. In addition, various conservation programs sponsored by electric utilities boast large payoffs and are literally available for the asking, because they would involve no

up-front costs but would instead provide utilities a share of the savings. Unfortunately, the administration has been slow to implement these and other beneficial programs.

The Federal Government cannot afford to abandon its energy and environmental future at this critical time. Our research activities are showing much promise and we are still the acknowledged leader in many alternative energy technologies. Yet, we are selling these technologies to other countries at bargain basement prices made possible by Government apathy. We may ultimately face a day when these technologies that we invented are perfected by others and licensed back to us, effectively substituting one form of energy dependence for another. We are turning our back on simple and readily available conservation measures which would save billions of dollars. We are continuing down the path of ever-increasing dependence on oil, a fuel which is nonrenewable, whose supply is largely outside our control, and the use of which continues to destroy the fragile environment on which we depend.

Mr. President, alternative clean energy technologies are the proud product of American ingenuity and innovation. We must nurture these inventions at home, as they will surely provide the jobs, the exports, and the economic growth of the future. We must make sure that these are American jobs, American exports, and American economic growth. It would be a terrible shame if some of our leaders allowed these benefits to slip from our grasp, through a myopic resistance to sensible energy planning.

I have introduced legislation mandating increased energy-efficiency in Federal facilities (S. 2191, included as amended in S. 324) and legislation providing for the installation and demonstration of clean and efficient fuel cell systems (amendment to S. 324). I have cosponsored legislation which would increase fuel efficiency in automobiles (S. 1224) and legislation which would extend tax credits for businesses that develop energy through solar, geothermal, and ocean thermal technologies (S. 2993). Each of these initiatives has met with continued resistance from the administration. Nevertheless, these provisions constitute a solid investment in our long-term energy security, and can be expected to produce substantial downstream savings and benefits.

I intend to continue my efforts to help this country achieve a cohesive national energy policy. This policy must recognize the importance of conservation and alternative clean energy technologies and of the role government must play in bringing them to the marketplace. If such a policy is implemented, and we free ourselves from reliance on high-priced and dirty oil, I am confident that our Nation will emerge with a stronger economy, a cleaner environment, and a brighter future.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,047th day that Terry Anderson has been held captive in Lebanon.

YEAR-END REPORT OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION

Mr. STEVENS. Mr. President, recently the chairman of the Senate Committee on Rules and Administration, WENDELL FORD of Kentucky, issued the year-end report on its activities for the 101st Congress. It is an impressive report which has been shared with all of the members of the Rules Committee, and I feel that should be more widely circulated. Thus, Mr. President, I ask unanimous consent to have the complete text of the report printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. I want to take this opportunity to extend my congratulations for the successful stewardship of the Committee to my friend, the senior Senator from Kentucky. He has been in every way a leader and a gentleman. It is a pleasure to be part of the Rules Committee team.

I also want to take this time to compliment the majority staff director, Jim King, who under the direction of Chairman FORD, has been extremely cooperative with me and our minority staff director, Wayne Schley. We have an outstanding group of people working for us, including those on the majority, minority and technical nondesignated staff. The Senate is fortunate to have such outstanding men and women working to ensure the smooth operations of this body.

EXHIBIT 1

SIGNIFICANT ACCOMPLISHMENTS OF THE 101ST CONGRESS

AUTOMATION

Economic Allocation Fund for Computers

The Rules Committee, on February 23, 1989, approved new guidelines for allocating computer services to Senators' offices. The Economic Allocation program (EA) was approved by Chairman Ford in November 1988 to replace the outdated numerical allocation with a policy that provided for a broader selection of computers by Senators' offices. All Senators elected in 1988 participated in the program. The 33 Senators who received their full funding in January 1989 have automated their offices as follows:

	District of Columbia	State
Upgraded or installed minicomputers	16	4
Installed PC local area networks (LAN)	12	9
Installed PC's	0	18
Installed nonsupported systems	4	1

PCs have been installed in 304 state offices. Under the EA program, 2,823 PCs, 47 LANS, and 261 laptops have been installed in the District of Columbia and State offices.

2500 PCs Replaced

The Senate experienced problems with certain personal computers in 1989. The Sergeant at Arms reached an agreement with the vendor to replace 2,500 defective PCs with more reliable and up to date equipment in the District of Columbia offices and State offices. Replacements were made with a minimum of disruption and within the required time and have extended the useful life of the current installed base of PCs by two to three years.

Committees' Automation Upgrades

The Committees on Budget, Energy, and Finance, the Select Committee on Indian Affairs, and the Joint Economic Committee have upgraded their AT personal computers to 386 class machines. The surplus AT machines were then tested, cleaned, and sent to the Polish Parliament as a part of the Gift of Democracy to Poland project. Since these committees now have a solid base of 386 technology, fiscal year 1991 outlays for planned upgrades will be reduced.

The installation of the Rules Committee LAN, and the planned installations of LANS for the Labor and Judiciary Committees and the Joint Committee on Printing during the remaining months of 1990 will bring to 12 the total number of LANs installed in committees.

Pilot Study

A pilot study of the Senate Computer Center's Hearing Publication System has begun, with the Armed Services, Commerce, and Rules Committees, and the office of the Secretary of the Senate participating. The system uses WordPerfect word processing and Desk Top Publishing softwares. Initial tests indicate that the system can substantially reduce printing costs for committees and the Senate and could be recommended as a standard for all Committees.

New Procurement Contract for PCs

In January 1990, the Sergeant at Arms and the Rules Committee issued a request for proposals for personal computers. The evaluation was completed, and awards were made on August 14, 1990. The contract provides for 386 DOS based and Motorola-based 68030 microcomputers and may be in effect for five years at the discretion of the Senate.

LANs Installed in Suites of Officers of the Senate

Two of the Senate's largest offices, the Sergeant at Arms and the Office of the Secretary of the Senate, began to install PC LANs this year. The efficiency of these offices should be significantly improved.

Gift of Democracy to Poland

After Senate passage of the Gift of Democracy to Poland Resolution in 1989, $1.5 million was appropriated to establish a fund to assist the Polish Parliament. A staff delegation visited Warsaw in February to identify the Parliament's most critical needs, and 225 PCs and a few printers were shipped. A

second delegation trained the Polish staff to install the machines. An expert on printing from the Senate Service Department also surveyed the Parliament's printing operation. A limited amount of printing equipment has been selected for shipment later this year.

MAIL

Overall mail costs for the Senate are estimated to be $16 million for fiscal year 1990. It is the lowest annual amount since 1979, which confirms the effectiveness of the Senate's cost controls and the soundness of separate accounts for House and Senate official mail.

Costs for returned mail have been drastically cut from approximately $1 million annually to about $150,000, resulting in an annual savings of $850,000. This is the result of a policy change in the endorsements allowed for outgoing third class mail.

In the first three months of testing the Jetstar Mail Sorter in 10 Senators' offices, approximately $16,000 was saved on postage on CMS and other similar letter mail. The new sorter has the potential for saving $500,000 per year in Senate mail costs.

COMMUNICATIONS

State Offices Converted From Old FTS Service

On September 15, 1989, a contract was signed with MCI to provide long distance service from State offices. This service has replaced the old FTS voice network offered by the General Administration Services.

Award made on the Senate Data Communications Network

The contract for a nationwide Senate Data Communications Network (SDCN) was awarded in July. Work has begun on the design of the network, and full implementation is scheduled for August 1, 1991. Data communications will be provided to all 391 Senate state offices, and a Senate-wide network will be established on Capitol Hill. Communications in most offices will be increased up to eight times the speed now being provided.

REGULATIONS

Commercial Reporting Firms

Regulations governing rates payable to commercial reporting firms were approved effective January 23, 1990. This is the first revision of these regulations since 1979 and makes them consistent with those of the House of Representatives.

Furniture, Accessories and Special Allowances Policy

The Furniture, Accessories and Special Allowances Policy for Senate Office Buildings was adopted on September 12, 1989. The regulations specifically address the standard furniture and accessories to be maintained in inventory for Senators' offices. They also establish a special furniture and accessory allowance for the Architect of the Capitol to purchase furniture and accessory items for a Senator's personal office, reception room and conference room which are unique to the Senator's office or home State. The allowance will be authorized during the first year of each Senator's new term of office. Guidelines for administering this allowance were approved on May 10, 1990.

SPACE

City Post Office Building

A lease agreement was negotiated with the General Services Administration and the United States Postal Service for the City Post Office located next to Union Station. The lease provides 50,000 square feet for legislative branch agencies. Since Representatives of the House have indicated that the House is not interested in using the building, all space assigned for legislative agencies will be available to the Senate.

Plans were completed to transfer service activities that occupy approximately 75,000 square feet in the Senate office buildings to recently released space in the Post Office Building. This move will permit the conversion of space in the office buildings to fill other Senate space needs. One option is to move the Senate Library located in the Capitol to the space vacated and convert the space in the Capitol to personal offices and conference rooms.

U.S. Capitol Terrace

Plans were approved to construct additional Senate office and conference space under the terrace of the Capitol. There will be 8,200 square feet for the Senate, and construction should be completed by 1993.

Modular Furniture

The installation of modular furniture in the Hart Senatorial suites is complete and has now begun in the Russell Senatorial offices. Office selection is based on seniority.

Assignment of Space

The Social Security Administration was assigned space to provide "on site" Congressional relations services. This decision should be extremely valuable in handling social security casework.

Dirksen Auditorium

The Dirksen Auditorium has been converted to a multifunctional facility. This space will now accommodate approximately 350 persons for a seated luncheon or dinner or 450 for hearings and conferences.

OTHER ADMINISTRATIVE FUNCTIONS

Accounting Systems

The Committee processed 47,700 vouchers making payments on expenses authorized in the contingent fund of the Senate.

The Senate Committee Expense Accounting System (SCEAS), including a voucher printing feature, became fully operational during 1990. The System also accommodated the surplus carryover provisions authorized in S. Res. 66 and made available to committees through September 30 of each fiscal year.

A Senate working group was formed to develop a design and implementation plan to replace the Senate's internal accounting system.

Closed Caption for Senate Floor Proceedings

A contract has been negotiated with the Department of Education to furnish closed captioning of Senate Floor proceedings. The Department is currently reviewing vendors to conduct a pilot test of this process.

Recycling

The Committee authorized the Architect of the Capitol to implement a one-year pilot program on the fifth and sixth floors of the Hart Building for disposal of recyclable office materials and waste. The pilot began on October 1, 1989. Upon completion of the project, the Architect will prepare a final report for Committee consideration.

Subway System

A new subway system to serve the Hart and Dirksen Senate Office Buildings was approved, and funding was recommended.

Elevator Service

Approval was given to the Architect of the Capitol to initiate steps to improve the elevators in the Senate office buildings.

Electrical System

The Architect of the Capitol has received approval to begin a detailed design of a four-year plan to renovate electrical and telecommunication wiring in the Russell Senate Office Building. He has requested funds in fiscal 1991 to begin the project. The work will be done after office hours and will occur outside the suites.

LEGISLATION

The Committee held extensive hearings during the 101st Congress on a number of election related and campaign finance bills. The subjects included the financing of Senate elections, establishment of a single poll closing time throughout the contiguous continental states in Presidential election years, regional Presidential primaries, and voter registration regulations.

Following hearings on these measures, the Committee reported the "Senatorial Election Campaign Act of 1989" (S. 137), the "National Voter Registration Act of 1989" (S. 874), the "Uniform Poll Closing Act of 1989" (S. 136), S. 326, to repeal the "grandfather clause" which permitted the personal use of excess campaign funds by certain Members, and the "Regional Presidential Primaries and Caucuses Act of 1989" (S. 377). Two of these bills, S. 137 and S. 326, were passed by the Senate.

Joint hearings were held with the Select Committee on Indian Affairs regarding S. 978, the "National American Indian Museum Act", which would establish the National Museum to the American Indian within the Smithsonian Institution and a memorial to the American Indian. The committees issued a joint report on that legislation, and the bill was passed by the Senate and signed by the President on November 28, 1989.

PRINTING

The following printing projects were completed over the past year:

A revised edition of the Senate Manual,

The Standing Rules which reflect the numerous changes effected by the Ethics Act passed in the fall of 1989,

The "Election Law Guidebook" which contains a new section outlining provisions of the new Ethics Act that affect Senate members and employees,

An update of the "Inaugural Addresses of the Presidents of the United States" (through 1989) which was last published in 1973 following Nixon's second Inaugural, and The Legislative Calendar of the Rules Committee.

Projects in progress include a revised edition of the Senate Handbook and distribution of the volume of tributes to Representative Claude Pepper.

DORIS POPPLER

Mr. BURNS. Mr. President, I rise today to offer a few words of commendation for Doris Swords Poppler, who today is being sworn in as U.S. attorney in Billings, MT.

I recommended Doris for this position because she is a very competent and professional attorney, and an outstanding person.

Doris is a pioneer for women in the Montana legal community, and in accepting this nomination she becomes one of only four women to serve as a U.S. attorney nationwide. Her interest

in law came from her father and grandfather who both were lawyers. When she attended the University of Montana law school, from which she earned her law degree, she was the only female law student for 2 out of her 3 years there.

After the death of her husband Doris practiced law as a deputy Yellowstone County attorney and later as a public defender. In 1974 she joined current Montana Supreme Court Associate Justice Diane Barz to establish the first women's law firm in the Northwest.

As U.S. attorney, Doris' goals include continuing emphasis on prosecuting drug dealers, monitoring gangs for signs of Federal violations, and working to establish better relations with Montana's Indian reservations.

She already has established a victim-witness program which keeps crime victims aware of developments in their case, including when the suspect is released on bond and when the suspect is scheduled to appear in court.

This is a proud day for Doris Poppler. Her entire family has traveled from across the country to share the significance of the swearing in ceremony.

This also is a proud day for the State of Montana. Doris Poppler is an outstanding attorney. We will benefit from her tenure as U.S. attorney.

Thank you, Mr. President. I yield the floor.

THE NORTHERN VIRGINIA NAVY OFFICE CONSOLIDATION PROJECT

Mr. WARNER. Mr. President, I would like to address a Navy proposal to consolidate the many offices the Navy currently occupies in the northern Virginia area into one location.

As part of its plan to improve its space management in the National Capital region, the Navy plans to consolidate its five systems commands at a single site in northern Virginia. Currently, the systems commands are located in space leased by GSA in Arlington and Alexandria, VA. GSA leases this space from private organizations and charges the Department of Defense [DOD] for the space used by the Navy.

The Defense Authorization Act of 1989 directed GSA to solicit offers for office and related space to meet the Navy's long-term needs in the National Capital region. In October 1989, GSA issued a solicitation for offers requesting about 3 million square feet of space for about 20,000 employees and related parking to meet the systems commands' long-term needs. Plans call for the consolidation in northern Virginia to be completed in 1998.

The Naval Sea Systems Command, Naval Air Systems Command, Space and Naval Warfare Systems Command, Naval Supply Systems Command, Naval Facilities Engineering Command, and their support organization are presently housed in 2.27 million square feet of space in 20 buildings in Arlington and Alexandria, VA.

Recently, the Senate Committee on Environment and Public Works, of which I am a member, reviewed the request for this project, and authorized $240,000,000 for the site acquisition and construction of 1 million square feet of occupiable office space for fiscal year 1991. The committee agreed to consider an additional funding request, if bids received exceeded this figure. Furthermore, the committee agreed to evaluate a request for a second million square feet when additional justification was provided. In light of the uncertain economic conditions, the downturn in northern Virginia real estate values, potential reductions in Navy manpower, this position was adopted.

This figure, $240,000,000 is in dramatic contrast to the original $821,548,000 for 3 million square feet requested by GSA, or the $679,588,000 authorized and appropriated by the House of Representatives, or even the $273,000,000 that the conference committee on the fiscal year 1991 Treasury, Postal Service agreed upon.

Senator METZENBAUM is now offering a new proposal as an amendment in disagreement to the conference report which would appropriate $240,000,000 for the site acquisition and construction of 1 million square feet of occupiable office space for fiscal year 1991. An additional $10,000,000 in funds may be obligated upon the advance approval of the House and Senate committees on Appropriations and the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

Considering the difference between the Senate Environment and Public Works Committee position that includes $240 million and the House/Senate appropriations conference figure of $273 million, I believe the Metzenbaum amendment of $250 million is a reasonable compromise. The Navy has assured me that this compromise will allow them to go forward successfully with the project under these terms.

Nevertheless, considering the different cost figures associated with this project, I have requested that the General Accounting Office conduct an audit of the General Service Administration's proposal for funding to consolidate the Naval System Command. I ask unanimous consent that a copy of my letter to the GAO be included in the RECORD. It is prudent for the GAO to investigate this matter and determine the cost to acquire the site and construct the first 1 million square feet as well as the cost to construct a second million square feet of occupiable space. I have written to the GSA Administrator to request that no funds be obligated for this project until the GAO report is completed. I have requested that the review be completed within 60 days.

Each day we delay the transition of our Navy offices from costly leases to Government-owned property, we are unnecessarily spending taxpayer dollars. We should move promptly to take advantage of this opportunity to significantly reduce our leasing expenses in the future years.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 19, 1990.

CHARLES A. BOWSHER,
Comptroller General, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: I am writing to request that the General Accounting Office conduct an audit of the General Service Administration's proposal for funding to consolidate the Naval System Command.

Recently, the Senate Committee on Environment and Public Works, of which I am a member, reviewed this request, and authorized $240,000,000 for the site acquisition and construction of one million square feet of occupiable office space for Fiscal Year 1991. The committee agreed to consider an additional funding request, if bids received exceeded this figure. Furthermore, the committee agreed to evaluate a request for a second million square feet when additional justification was provided. In light of the uncertain economic conditions, the downturn in northern Virginia real estate values, potential reductions in Navy manpower, this position was adopted. The Navy has assured me that this approach is sufficient to go forward successfully with this project.

This figure, $240,000,000 is in dramatic contrast to the original $821,548,000 for 3 million square feet requested by GSA, or the $679,588,000 authorized and appropriated by the House of Representatives, for 2 million square feet, or even the $300 million figure that GSA contends is required for 1 million square feet, or the $273 million that the House-Senate Appropriation Conference Committee agreed upon.

Considering the confusion regarding the actual cost of the project, I believe it is prudent for the GAO to investigate this matter and determine the cost to acquire the site and construct the first one million square feet as well as the cost to construct a second million. The review should also focus on the cost per square feet required to lease this second million square feet. Your review will be vital to ensure that taxypayer dollars are being wisely spent for this important project. Please report your findings to the Senate Committee for the Environment and Public Works within 60 days.

In the meantime, I will work to ensure the project is authorized and appropriated with two qualifications. First, that no money be obligated until your review is completed. Second, that if during the bid review process, it becomes apparent that $240,000,000 is insufficient, a request for additional funding will be reviewed by the appropriate committees when justification from GSA is received.

Thank you in advance for your immediate attention to this matter.

With kind regards, I am

Sincerely,

JOHN WARNER.

AMENDMENT TO H.R. 4660

Mr. BURNS. Mr. President, I rise today to offer an amendment to H.R. 4660 with my colleague from Montana, Senator BAUCUS as well as Senators INOUYE and MCCAIN, and BURDICK.

H.R. 4660 was passed on the floor of the House on September 17 of this year. While the House bill significantly supports the intention of S. 2869, a bill to establish a memorial to honor those Indians who fought and won the Battle of the Little Bighorn on June 25, 1876, it does not call for a standard federally recognized committee established by the Federal Advisory Committee Act [5 U.S.C. App.]. The attached amendment corrects that oversight.

This committee would be referred to as the "Battle of the Little Bighorn Indian Memorial Advisory Commission." At least 10 interested Members will be appointed by the Secretary of the Interior to advise the Secretary in the performance of the Secretary's duties under this act.

H.R. 4660 would authorize the Secretary of Interior to hold a competition to select a design to build a monument in honor of those native Americans who fought and won the Battle of the Little Bighorn, on July 25, 1876. Recognition for those heroes is long overdue. This famous battle has long been remembered for the cavalry leader who led his men into one of the bloodiest battles in our Nation's history, Gen. George Armstrong Custer.

Several Indian tribes have long lobbied to establish an appreciable place of recognition placed at Custer Battlefield National Monument to remember their ancestors who took part in this historical battle. We, the Montana delegation, feel their request for recognition must be honored. It is our sincere hope that this bill be passed and the Secretary of the Interior be authorized to begin the process necessary to select and build this long awaited and most important landmark in history.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following enrolled bills and joint resolutions:

On July 26, 1990:

S. 933. An act to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

On July 27, 1990:

S.J. Res. 276. Joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week."

On July 31, 1990:

S.J. Res. 75. Joint resolution relating to NASA and the International Space Year.

S.J. Res. 281. Joint resolution to designate September 13, 1990, as "National D.A.R.E. Day."

S.J. Res. 339. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day."

On August 9, 1990:

S.J. Res. 77. Joint resolution recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmittsburg, Maryland, as the official national memorial to volunteer and career firefighters who die in the line of duty.

S.J. Res. 256. Joint resolution to designate the week of October 7, 1990, through October 13, 1990, as "Mental Illness Awareness Week."

S.J. Res. 316. Joint resolution to designate the second Sunday in October of 1990, as "National Children's Day."

On August 10, 1990:

S. 1046. An act to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the Merrimack River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

S. 1524. An act to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Pemigewasset River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

S. 1543. An act to authorize the Board of Regents of Gunston Hall to establish a memorial to George Mason in the District of Columbia.

S. 1875. An act to redesignate the Calamus Dam and Reservoir authorized under the Reclamation Project Authorization Act of 1972 as the Virginia Smith Dam and Calamus Lake Recreation Area.

S. 2952. An act to amend the Energy Policy and Conservation Act to extend the authority for titles I and II.

S.J. Res. 296. Joint resolution designating August 7, 1990, as "National Neighborhood Crime Watch Day."

S.J. Res. 343. Joint resolution to designate August 13 through August 19, 1990, as "Home Health Aide Week."

On August 15, 1990:

S. 2461. An act to amend the Public Health Service Act to revise and extend the program of grants for reducing the waiting period for receiving treatment services for drug abuse, and for other purposes.

S.J. Res. 248. Joint resolution to designate the month of September 1990 as "International Visitors' Month."

On August 17, 1990:

S. 666. An act to enroll twenty individuals under the Alaska Native Claims Settlement Act.

On August 18, 1990:

S. 2240. An act to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes.

On September 15, 1990:

S. 2088. An act to extend titles I and II of the Energy Policy and Conservation Act, and for other purposes.

On September 18, 1990:

S. 3033. An act to amend title 39, United States Code, to allow free mailing privileges to be extended to members of the Armed Forces while engaged in temporary military operations under arduous circumstances.

On September 20, 1990:

S. 2597. An act to amend the Act of June 20, 1910, to clarify in the State of New Mexico authority to exchange lands granted by the United States in trust, and to validate prior land exchanges.

S.J. Res. 285. Joint resolution to designate the period commencing September 9, 1990, and ending on September 15, 1990, as "National Historically Black Colleges Week."

S.J. Res. 289. Joint resolution to designate October 1990 as "Polish American Heritage Month."

S.J. Res. 309. Joint resolution designating the month of October 1990 as "Crime Prevention Month."

On September 21, 1990:

S.J. Res. 279. Joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week."

On September 25, 1990:

S.J. Res. 313. Joint resolution designating October 3, 1990, as "National Teacher Appreciation Day."

S.J. Res. 331. Joint resolution to designate the week of September 23 through 29, 1990, as "Religious Freedom Week."

S.J. Res. 333. Joint resolution to designate the week of September 30, 1990, through October 6, 1990, as "National Job Skills Week."

On September 28, 1990:

S. 963. An act to authorize a study on methods to commemorate the nationally significant highway known as Route 66, and for other purposes.

S. 2205. An act to designate certain lands in the State of Maine as wilderness.

On October 4 1990:

S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality.

On October 5, 1990:

S. 535. An act to increase civil monetary penalties based on the effect of inflation.

On October 6, 1990:

S. 3155. An act to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990.

On October 11, 1990:

S.J. Res. 301. Joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

On October 12, 1990:

S. 1738. An act to convey certain Oregon and California Railroad Grant Lands in Josephine County, Oregon, to the Rogue Community College District, and for other purposes.

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances.

S.J. Res. 57. Joint resolution to establish a national policy on permanent papers.

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water."

On October 15, 1990:

S. 647. An act to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws and to eliminate abuses in transactions in penny stocks, and for other purposes.

S. 1230. An act to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes.

S. 1974. An act to require new televisions to have built in decoder circuitry.

S. 2806. An act to redesignate the National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways.

On October 16, 1990:

S. 1511. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

On October 17, 1990:

S. 1128. An act for the relief of Richard Saunders.

S. 1229. An act for the relief of Maria Luisa Anderson.

S. 1683. An act for the relief of Paula Grzyb.

S. 1814. An act for the relief of Wilson Johan Sherrouse.

On October 18, 1990:

S. 247. An act to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes.

S. 830. An act to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission.

S. 2437. An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, to improve the management of certain public lands in the State of Minnesota, and for other purposes.

On October 22, 1990:

S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas.

S.J. Res. 304. Joint resolution to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day."

S.J. Res. 317. Joint resolution to designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week."

MESSAGES FROM THE HOUSE

At 12:28 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 3062) to transfer the responsibility for operation and maintenance of Highway 82 Bridge at Greenville, MS, to the States of Mississippi and Arkansas.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 1, 5, 19, 23, 30, 37, 41, 47, 52, 54, 56, 58, 60, 63, 73, 78, 80, 83, 86, 95, 113, and 118 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 6, 11, 13, 17, 18, 25, 48, 51, 61, 62, 65, 75, 76, 77, 82, 85, 90, 94, 100, 101, 102, 105, 108, 112, 116, 119, and 120 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendment of the Senate numbered 42 to the bill.

The message further announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 555. An act to establish in the Department of the Interior the De Soto Expedition Trail Commission, and for other purposes; and

S. 1270. An act to provide for an Indian mental health demonstration grant program.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2582) to amend the Historic Sites, Buildings, and Antiquities Act, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 580) to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1939) to extend the authorization of appropriations for the Taft Institute.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1602) to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WAXMAN, Mr. BATES, Mr. LENT, and Mr. MADIGAN as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5275) to amend the Congressional Award Act to temporarily extend the Congressional Award Board, and to otherwise revise such Act.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5482) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3033) to control the export, to countries pursuing or expanding the ability to produce or deliver chemical or biological weapons, of items that would assist such countries in acquiring such ability, to impose sanctions against companies which have aided in the proliferation of chemical or biological weapons, to provide for sanctions against countries which use or prepare to use chemical or biological weapons in violation of international law, and for other purposes; with an amendment; in which it requests the concurrence of the Senate.

The message further announced that the Speaker makes the following modification in the appointment of conferees in the conference on the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes:

From the Committee on Energy and Commerce: Mr. SHARP is appointed in lieu of Mr. WALGREN for consideration of section 8 of the House bill, and modifications thereto.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 736. An act to require the clear and uniform disclosure by depository institutions of interest rates payable and fees assessable with respect to deposit accounts.

H.R. 4407. An act to require Federal, State, and local law enforcement agencies to report all cases of missing persons under age 18 to the National Crime Information Center of the Department of Justice;

H.R. 5539. An act to provide for the settlement of the water rights claims of the San Carlos Apache Tribe in Arizona, and for other purposes;

H.R. 5762. An act to promote Caribbean regional development;

H.R. 5855. An act to provide for the implementation of the foreign assistance provisions of the Enterprise for the Americas Initiative, and for other purposes;

H.R. 5872. An act to amend title I of the Employee Retirement Income Security Act of 1974 to require qualifying employer securities to include interest in publicly traded partnerships; and

H.R. 5892. An act to provide for the implementation of the foreign assistance provisions of the Enterprise for the Americas Initiative, and to promote Caribbean regional development.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1747. An act to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes;

S. 2059. An act to establish the Weir Farm National Historic Site in the State of Connecticut;

S. 2203. An act to authorize appropriation of funds to the Zuni Indian Tribe for reservation land conservation, and for other purposes;

S.J. Res. 158. Joint resolution designating October 21 through October 27, 1990, as "World Population Awareness Week";

S.J. Res. 293. Joint resolution to designate November 16, 1990, as "National Philanthropy Day";

S.J. Res. 307. Joint resolution designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week"; and

S.J. Res. 324. Joint resolution designating June 2 through 8, 1991, as a "Week for the National Observance of the 50th anniversary of World War II.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 2:58 p.m., the message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5241) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1991, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 1, 16, 20, 35, 36, 40, 41, 42, 51, 53, 59, 90, and 103 to the bill, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 3, 6, 14, 18, 27, 29, 39, 45, 46, 48, 49, 52, 54, 56, 57, 69, 70, 76, 79, 80, 81, 82, 83, 84, 88, 89, 105, 113, 114, 115, 116, 117, 122, 127, 128, 130, 131, 132, and 134 to the bill, and agrees thereto, each with an amendment, in which it request the concurrence of the Senate.

At 10:10 p.m., a message from the House of Representatives delivered by Mr. Hanrahan, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 8, 16, 17, 18, 19, 21, 24, 30, 31, 32, 33, 34, 39, 42, 46, 49, 49A, 50, 51, 52, 60, 61, 62, 63, 70, 71, 73, 75, 76, 77, 78, 79, 80, 81, 85, 90, 93, 94, 95, 96, 99, 101, 103, 104, 112, 113, 114, 117, 119, 120, 125, 126, 128, 132, 142, 156, 159, 160, and 161 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, 7, 9, 10, 11, 12, 14, 15, 20, 23, 26, 27, 28, 35, 41, 43, 44, 45, 47, 48, 53, 54, 55, 56, 57, 59, 64, 65, 66, 67, 74, 82, 83, 84, 87, 91, 92, 100, 102, 105, 106, 107, 108, 109, 110, 111, 118, 121, 123, 131, 133, 134, 135, 138, 139, 140, 143, 144, 148, 155, 162, and 165 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendment of the Senate numbered 164 to the bill.

The message also announced that the House has passed the following bills, each without amendment:

S. 639, An act to establish the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Program Act of 1990; and

S. 3215. An act to authorize the transfer by lease of a specified naval landing ship dock to the Government of Brazil.

The message further announced that the House has passed the following joint resolution, each with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 302. Joint resolution providing for the reappointment of Anne L. Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 318. Joint resolution providing for the appointment of Ira Michael Heyman of California as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2830) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes; and that it recedes from its amendment to the title of the bill.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2061) to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1993, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3695. An act to amend chapter 35 of title 44, United States Code, to reauthorize the Office of Information and Regulatory Affairs in the Office of Management and Budget, to make changes in the requirements applying to agency collection of information, and for other purposes;

H.R. 4333. An act to amend the Federal Water Pollution Control Act and the Coastal Zone Management Act of 1972 to improve the quality of coastal recreation waters, and for other purposes; and

H.R. 5645. An act to amend title 31, United States Code, to reform procedures for closing appropriation accounts, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 382. Concurrent resolution expressing the sense of the Congress that the crisis created by Iraq's invasion and occupation of Kuwait must be addressed and resolved on its own terms separately from other conflicts in the region.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 2737. An act to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the thirty-eighth anniversary of the ending of the Korean war and in honor of those who served;

S. 2846. An act to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes;

S. 3016. An act for the relief of Janice and Leslie Sedore and Ruth Hillman;

S. 3032. An act to designate the planned Department of Veterans Affairs Medical Center in Honolulu, Hawaii, as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center";

S. 3043. An act for the relief of Nebraska Aluminum Castings, Inc.;

S. 3216. An act to designate the Department of Veterans Affairs Medical Center in Charleston, South Carolina, as the "Ralph H. Johnson Department of Veterans Affairs Medical Center";

H.R. 3386. An act to prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and certain other products from contamination during motor or rail transportation, and for other purposes;

H.R. 3888. An act to allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center;

H.R. 4151. An act to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act, and for other purposes;

H.R. 5209. An act to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements, and for other purposes;

H.R. 5702. An act to amend the Public Health Service Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds, and for other purposes;

H.R. 5749. An act to amend the act entitled "An Act to incorporate the American University", approved February 24, 1893, to clarify the relationship between the Board of Trustees of the American University and the General Board of Higher Education and Ministry of the United Methodist Church;

H.R. 5794. An act to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967;

H.J. Res. 214. Joint resolution designating the week of October 22 through October 28, 1990, as "Eating Disorders Awareness Week"; and

H.J. Res. 518. Joint resolution designating October 12 through October 20, 1990, as "American Textile Industry Bicentennial Week"; and

H.J. Res. 587. Joint resolution committing to the private sector the responsibility for support of the Civic Achievement Award Program in honor of the Office of Speaker of the House of Representatives, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated;

H.R. 4333. An act to amend the Federal Water Pollution Control Act and the Coastal Zone Management Act of 1972 to improve the quality of coastal recreation waters, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5645. An act to amend title 31, United States Code, to reform procedures for closing appropriation accounts, and for other purposes; to the Committee on Governmental Affairs.

H.R. 5855. An act to provide for the implementation of the foreign assistance provisons of the Enterprise for the Americas Initiative, and for other purposes; to the Committee on Foreign Relations.

H.R. 5892. An act to provide for the implementation of the foreign assistance provisions of the Enterprise for the Americas Initiative, and to promote Caribbean regional development; to the Committee on Foreign Relations.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that on today, October 23, 1990, he had signed the following enrolled bills and joint resolutions:

H.R. 4111. An act to amend the Mining and Mineral Resources Research Institute Act of 1984, and for other purposes;

H.R. 4238. An act to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases;

H.R. 5144. An act to provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes;

H.R. 5367. An act to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes;

H.R. 5759. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such Act to employee group health plans;

H.J. Res. 519. Joint resolution designating August 28, 1990, as "National Sarcoidosis Awareness Day";

H.J. Res. 520. Joint resolution granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact; and

H.J. Res. 566. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 19, 1990, as "National Military Families Recognition Day".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 3085. A bill to limit the jurisdiction of the Federal Energy Regulatory Commission over local distribution company wholesalers of natural gas for ultimate consumption as a fuel in motor vehicles (Rept. No. 101-552).

By Mr. LEAHY, from the Committee on Appropriations, with amendments:

H.R. 5114. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 1532. A bill to amend the Volunteers in the National Forests Act of 1972 to permit volunteers to be considered employees under section 3721 of title 31, United States Code.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Mary Shannon Brunette, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCONNELL:

S. 3232. A bill to require Federal departments, agencies, and instrumentalities to separate certain solid waste for recycling purposes; to the Committee on Governmental Affairs.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3233. A bill to authorize the addition of 15 acres to Morristown National Historical Park; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself and Mr. REID):

S. 3234. A bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORE:

S. 3235. A bill to amend title 18, chapter 61, section 1307, United States Code, to clarify the exemption of State-conducted lotteries; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 3236. A bill to amend title IV of the Social Security Act to require States to develop plans for cases where the placement of certain children in foster care or transitional independent living may not be carried out immediately; to the Committee on Finance.

By Mr. BRYAN (for himself, Mr. MCCLURE, Mr. SYMMS, Mr. REID, Mr. BAUCUS, Mr. GARN, Mr. BURNS, Mr. GORTON, and Mr. DIXON):

S. 3237. A bill to authorize the Secretary of the Treasury to sell certain silver proof coin sets; considered and passed.

By Mr. DOMENICI (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BOREN, Mr. BURDICK, Mr. DECONCINI, Mr. FORD, Mr. FOWLER, Mr. GLENN, Mr. GORE, Mr. GRAHAM, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSTON, Mr. MOYNIHAN, Mr. NUNN, Mr. SANFORD, Mr. SASSER, Mr. SHELBY, Mr. ARMSTRONG, Mr. BOND, Mr. BOSCHWITZ, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DOLE, Mr. DURENBERGER, Mr. GARN, Mr. GORTON, Mr. HATCH, Mr. HELMS, Mr. HUMPHREY, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. LUGAR, Mr. MACK, Mr. MCCLURE, Mr. MURKOWSKI, Mr. ROTH, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, and Mr. WILSON):

S.J. Res. 384. Joint resolution to designate May 17, 1991, as "High School Reserve Officer Training Corps Recognition Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GLENN (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 341. Resolution to authorize representation by Senate Legal Counsel and testimony and document production by Senate employee in Springfield Terminal Railway Co. v. United Transportation Union, No. 88-0117P; considered and agreed to.

By Mr. HOLLINGS (for himself, Mr. CONRAD, Mr. HEINZ, Mr. KOHL, Mr. AKAKA, Mr. BOREN, Mr. BREAUX, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS,

Mr. DODD, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. HARKIN, Mr. HEFLIN, Mr. HELMS, Mr. INOUYE, Mr. KERREY, Mr. LIEBERMAN, Mr. LOTT, Mr. METZENBAUM, Ms. MIKULSKI, Mr. SANFORD, Mr. SHELBY, Mr. SIMON, Mr. SPECTER, Mr. THURMOND, Mr. WIRTH, Mr. BYRD, Mr. BRYAN, Mr. JOHNSTON, Mr. SARBANES, and Mr. PRYOR):

S. Res. 342. Resolution to change the fast track procedure applicable to an implementing bill for the Uruguay Round; ordered to be over under the rule.

By Mr. CRANSTON (for himself and Mr. PACKWOOD):

S. Con. Res. 154. Concurrent resolution expressing the sense of the Congress that the crisis created by Iraq's invasion and occupation of Kuwait must be addressed and resolved on its own terms separately from other conflicts in the region; ordered held at the desk.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3233. A bill to authorize the addition of 15 acres to Morristown National Historical Park; to the Committee on Energy and Natural Resources.

ADDITION TO MORRISTOWN NATIONAL HISTORICAL PARK

● Mr. BRADLEY. Mr. President, today I am introducing legislation which simply expands the authorized size of the Morristown National Historical Park. I am pleased that Senator LAUTENBERG is joining me as a cosponsor of this bill. This legislation will allow the addition of roughly 13 acres of historic significance to the park. The current owner of the parcel has been negotiating with the National Park Service and a sale, on favorable terms to the U.S. Government, seems likely. In the Senate Interior Appropriations bill, there is included funding to allow for the land acquisition in this current fiscal year.

Morristown has undergone numerous boundary changes since its creation as the first National Historic Park in 1933, the most recent in 1976. The property in question possesses great potential for preserving archaeological resources and for providing historical information on the winter encampment of George Washington's Continental Army. This is due to the location of the northern portion of the property. This area contains a large stream, Primrose Brook, a spring, and the 18th century "Old Army Road," which was used by the troops.

It is most likely that the Connecticut brigades used the spring and stream as primary water sources for the camp, as it is the closest water available. It is also very likely that the army regularly gained access to the camp over the north property from the bordering military road. This extensive military activity over the December to June, 1779-80, encampment period would be expected to yield an abundance of encampment artifacts on this portion of the property.

Mr. President, there clearly is not enough time left this year to move this modest bill. However, I expect the next Congress will turn quickly to this bill and pass it without delay.

I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION TO PARK.

The Act entitled "An Act to authorize the addition of lands to Morristown National Historical Park in the State of New Jersey, and for other purposes", approved September 18, 1964 (16 U.S.C. 409g), is amended by striking "600" each place it appears and inserting "615".●

By Mr. JEFFORDS (for himself and Mr. REID):

S. 3234. A bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes; to the Committee on Labor and Human Resources.

WORKERS' FAMILY PROTECTION ACT

● Mr. JEFFORDS. Mr. President, in the 1980's, we passed or reauthorized legislation to clean up our Nation's dump sites, waters, and air. We've focused considerable attention on radon, on asbestos, on lead, and on chemicals in our food such as Alar. You would think we'd evaluated every environmental risk there is. Unfortunately, Mr. President, this is not the case.

We spend considerable amounts of money on remediating hazardous waste sites even when there is no known exposure. The EPA issues regulations to protect the public which will cost millions of dollars per health effect prevented. Meanwhile, we are neglecting the exposure of our children and spouses to toxic chemicals right in their own homes.

Right now, as I speak, workers in our Nation's industries are unknowingly bringing home toxic chemicals from their place of employment. Lead, mercury, pharmaceuticals, and even radionuclides have been carried home by workers on their clothing where exposure to their families occurs.

I am not talking about a hypothetical problem, but a real problem. In my home State of Vermont, both lead and mercury have been tracked home. In the most recent incident in Vermont, elevated levels of mercury were found in the children of several of the workers. Similar incidents have occurred in the recent past in North Carolina, South Carolina, and Tennessee among other States.

The bill I am introducing today with Senator REID is designed to prevent future such incidents from occurring. The first step in this process is to increase awareness of the problem. In the 1970's, workers homes were contaminated with lead from smelters. Regulations to prevent future such incidents were issued as a result.

Science and our understanding of toxicology has come a long way since the 1970's. Earlier this month, the Senate Environment and Public Works Committee held a hearing on the effects of chemicals such as lead or mercury. These compounds and others can cause permanent damage to the nervous system. Worse yet, as we learned in this hearing, many more chemicals than we know about may cause similar health effects. Therefore, it is vitally important that we protect the most sensitive of us, our children, from exposure to these chemicals.

Our country's workers deserve not only personal protection, but also protection of their families. We need to reexamine this problem again in light of our current state-of-the-art. We also need to examine the effects of home contamination on the families. Workers' families have reported feeling raped by the contamination. Their families have been ostracized because their friends are afraid they may catch the contamination. The parents suffer incredible anxiety worrying about whether or not their children have been permanently hurt.

It's terrible that not only must our workers worry about whether they will have a job in the future, but also if their job will harm their families. Once we determine the extent of the problem, this bill would require the Occupational Safety and Health Administration to issue regulations to prevent future such incidents. Then, hopefully, our families will be safe.

By introducing this bill today, I hope to receive many comments to this legislation in the months before Congress reconvenes in January. Labor and industry's comments can then be used to develop the most effective program for protecting our Nation's workers and their families.●

Mr. REID. Mr. President, I join my colleague, Senator JEFFORDS, in the introduction of the Workers' Family Protection Act of 1990. The insidious link between hazardous chemicals and substances present in the workplace, resulting in contamination of workers' homes, translates into a real health threat to significant numbers of American workers.

The Subcommittee on Toxic Substances, Environmental Oversight, Re-

search and Development of the Environment and Public Works Committee held hearings on worker exposure to toxic chemicals in the aerospace industry. Workers were not only adversely affected by toxic substances while on the job, but were also transporting hazardous chemicals home on their clothing and their person. This may have humorous overtones when watching Homer Simpson coming home with his backpack glowing. When listening to a woman testify that she cannot remember the ages of her children, or in another instance, a woman who was driving with her windshield completely covered did not realize it, the humor soon dissipates. The stark realization that there is a serious and imminent health hazard takes over.

In the recent hearings I chaired in that same Subcommittee on Wednesday, October 3, Dr. Peter Spenser, the Director for the Center for Research on Occupational and Environmental Toxicology, testified that prolonged exposure in the workplace constituted a significant threat to the health of the workers involved. Yet, the data compiled by the Office of Technology Assessment [OTA] strongly suggests that the National Institute for Occupational Safety and Health [NIOSH] has conducted few studies on neurotoxic effects of the chemical substances in the workplace. In fact, OTA suggested that, "given the magnitude of the problem of exposure to neurotoxic substances in the workplace, the present level of effort will not ensure an adequate database to support the anticipated needs of the Occupational Safety and Health Administration."

Attempts are being made to address the problems of toxic substances in the home and workplace on a broad front. I have introduced legislation to reduce the threat of lead poisoning. Lead is an extremely troublesome neurotoxic substance. It is ubiquitous in the environment and poses a problem in the workplace. However, the lack of input on the part of NIOSH, as well as other Federal research programs involved in the study of neurotoxic chemicals and their link to neurodegenerative diseases, is inhibiting the overall effort to identify, define, and operationalize effective responses to the alarming problem of neurotoxicity.

This legislation will be an important step toward advancing the research being done on the relationship between toxic substances and the adverse effects they are known to have on Americans in the workplace. Thank you Mr. President.

By Mr. GORE:

S. 3235. A bill to amend title 18, chapter 61, section 1307, United States Code, to clarify the exemption of State-conducted lotteries; to the Committee on the Judiciary.

STATE-CONDUCTED LOTTERIES CLARIFICATION ACT

● Mr. GORE. Mr. President, I rise today to introduce legislation to limit the ability of States to market new, lottery games based upon athletic contests. In introducing this bill, I want to hasten to recognize the outstanding work of Senators DECONCINI and HATCH and Congressman JOHN BRYANT in the House. They have moved this initiative to a point where it may very well become law as part of the crime bill now in conference.

But I want to also go on record with this legislation as a stand-alone measure, noting that—if the initiative fails in the current Congress—I will join others in revisiting this important issue early in the 102d Congress.

Whether or not you believe that lotteries are good public policy, the fact is, Mr. President, lotteries are now a reality as a way to produce revenues for hard-hit State needs. And, Mr. President, we have to also accept the fact that gambling on not only professional but amateur football, baseball, basketball, and hockey is a reality and even legal in some states.

However, there is a line to be drawn here. Sports lotteries based on the outcomes of these games will only serve to undermine the integrity of sports events. There is ambiguity in the current law which has given rise to plans in some States to institute sports lotteries as a way to bring in new revenues, to cash in on the overwhelming interest in sports as part of a lottery marketing strategy.

Mr. President, I believe the Congress must take a stand on this issue. Consequently, I am introducing this legislation and noting that I intend to join Senators DECONCINI, HATCH and Congressman BRYANT in revisiting this issue if the current Congress fails to enact strict limitations on sports lotteries.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "State-Conducted Lotteries Clarification Act of 1990".

SEC. 2. Chapter 61 of title 18, section 1307, United States Code, is amended—

(1) in subsection (a)(1) by inserting ", except a sports-related lottery," after "lottery";

(2) in subsection (a)(2) by inserting ", except a sports-related lottery," after "lottery";

(3) in subsection (d) striking " 'Lottery' does not include the placing or accepting of bets or wagers on sporting events or contests"; and

(4) by adding a new subsection (e) "*Provided, however,* That the provisions of section 1307(a) shall not apply to a sports-related lottery that involves the placing of bets or wagers, or otherwise is based directly or indirectly on the games of a professional or amateur sporting event or contest." For the purposes of this section, "sports-related lottery" is defined as an undertaking that involves both chance selections and the outcome of a professional or amateur sporting game or games as elements of the undertaking.

By Mr. MOYNIHAN:

S. 3236. A bill to amend title IV of the Social Security Act to require States to develop plans for cases where the placement of certain children in foster care or transitional independent living many not be carried out immediately; to the Committee on Finance.

PLACEMENT OF CERTAIN CHILDREN IN FOSTER CARE

Mr. MOYNIHAN. Mr. President, the purpose of this bill is to require States to have plans for children who are in need of foster care services but are not immediately placeable in foster care or transitional independent living.

I have here two recent articles from the New York Times which I will ask to have submitted in the RECORD. These articles indicate that our foster care system is being overwhelmed, with the result being that children—children who are our society's neediest—spend years in legal limbo. An article by Thomas Morgan in the October 19th New York Times quotes child welfare Advocates as stating: "an inefficient social bureaucracy * * * and overburdened family courts are combining to create a legal limbo of 2 or more years for children in desperate need of permanent homes."

I wish that I could inform my colleagues that this undersupply of permanent foster care placement facilities is a temporary phenomenon that will correct itself. Unfortunately, the opposite is true. Unless we plan now, this problem will grow quickly and disastrously. According to an article by J.C. Barden in the September 21 New York Times, the number of children in foster care reached 360,000 in January of this year, an increase of 33 percent since 1985. Meanwhile, the number of foster families nationwide has decreased from 147,000 to 100,000 in the last 3 years. Mr. Barden tells us: "the rise in drug and alcohol abuse has aggravated other problems: parental neglect and abuse, poverty, single parenthood, teenage parenthood, and homelessness."

What we are witnessing is the reappearance of the no-parent family. The epidemics of AIDS and crack cocaine use have created children who are, to use two old-fashioned words, paupers and orphans.

We should have seen this program coming. A quarter century ago I wrote "there is one unmistakable lesson in American history: a community that

allows a large number of men to grow up in broken families * * * never acquiring any set of rational expectations about the future—that community asks for and gets chaos."

Well now we have it. The absence of family structure reduces immunity to the contagions in society. We must think carefully about how we are to handle this. This bill requires States to plan for what we see before us, and this planning is vital. For as the no-parent family imperils the well-being of our children, so it does our future.

Mr. President, I urge my colleagues to support this measure, and look forward to its prompt passage.

I ask unanimous consent that a copy of the bill along with copies of the two New York Times articles that I referenced be printed after my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting ";and"; and

(3) by adding at the end of the following new paragraph:

"(18) provides that the State agency will develop plans for the placement of any child described in section 470 (where appropriate) in foster care or transitional independent living in the case where the placement of child may not be carried out immediately (as determined by the State).".

[From the New York Times, Oct. 19, 1990]

ADDICTED PARENTS' CHILDREN POSE FOSTER-CARE CHALLENGE

(By Thomas Morgan)

New York City's neediest children, the growing numbers of youngsters born to drug-addicted mothers, are in danger of suffering long-term emotional problems because the city's foster-care system is unable to move quickly to arrange permanent homes, child-welfare advocates said at a symposium yesterday.

An inefficient social-service bureaucracy, they said, and overburdened family courts are combining to create a legal limbo of two or more years for children in desperate need of permanent homes. Some participants in the symposium, conducted by the Children's Aid Society, said the result was a rising number of children deprived of the chance to form emotional attachments needed for normal development.

Nearly 45,000 children are in New York City's foster-care system, up from 17,000 just five years ago. More than half of those in foster care are under 6 years old, and many of them suffer from the attendant medical problems of parents' addictions.

A LACK OF BONDING

Children who have difficulty forming bonds with others pose alarming ramifications for the city, the child-welfare advocates said, voicing a general worry that the city might be creating a generation of teenagers and adults who would suffer from a range of emotional problems because they could not form attachments to others.

"If an attachment experience, bonding, doesn't occur during the first year of life, the result is permanent damage to our humanity as adults," said Philip Coltoff, executive director of the Children's Aid Society, the city's oldest private nonprofit child-welfare agency. "Today, it takes two years to complete an adoption for a child who everyone agrees is adoptable right now."

While the advocates agreed that permanent living situations that encouraged bonding were the goal, some disagreed about whether children in foster homes of relatives might also suffer from a lack of bonding. Almost one-third of the children in foster care live with relatives, city officials said.

"Depending on the situation, children may in fact be able to bond with grandmother or aunt in kinship foster homes," said Megan E. McLaughlin, executive director of the Federation of Protestant Welfare Agencies. "I don't want to assume that all these kids with relatives are in limbo."

The society, which organized the symposium at the City Bar Association on West 44th Street to look at problems in the city's foster-care system, recommended a pilot program to place infants and young children into permanent homes within 12 months. Nearly 8,000 children are ready for adoption, but only 1,100 were adopted last year.

THE PAIN IS SO GREAT

Child-welfare advocates at the conference called for speedier disposition of child-neglect cases, improved social services to keep families together and quicker adoptions of children whose parents clearly cannot care for them.

"If the process of moving a child from home to home occurs over and over again, children may give up forming attachments at all because the pain is so great," said Dr. Holly Ruff, professor of pediatrics at the Albert Einstein College of Medicine.

The issue is complicated by a debate among child-welfare advocates, social workers, lawyers and judges about the rights of children to have stable homes early in life versus the rights of parents to get their children back eventually.

State and Federal laws require the city to document in court child-abandonment, neglect or abuse cases and to try diligently to provide social services to families to keep them united.

AN EXHAUSTIVE PROCESS

But advocates for children say the laws require an exhaustive process that often works to children's disadvantage, particularly when it is clear that parents cannot be rehabilitated because of addiction or mental illness.

"How much time should we give the father of my grandnephew to get his act together?" said Willie Lomax, who, with his wife Marjorie, desperately wants to adopt a 3-year old boy who has been their legal foster child since he was 2 months old.

The Lomaxes, who live in the Crown Heights section of Brooklyn, got their nephew Christopher from the Children's Aid Society after the courts ruled that the boy's mother, who the Lomaxes said has a drug addiction, and the father were abusive and unable to care for the child.

The Lomaxes have started adoption proceedings, but the Family Court has granted the father a time extension to prove he can care for the child. "The boy is 3 years old and he doesn't know anybody as his daddy but me, said Mr. Lomax, a retired metal polisher.

Like the Lomaxes, Carol and William Addiss of Staten Island, foster parents to a 19-month-old baby whose mother was also addicted to drugs, can remember little Bernard's first words and first steps and when he finally responded to their love.

They want to adopt their foster child, but their case is more complex because they are white and Bernard is black, and courts make an effort to place children with adults of the same racial or ethnic or religious backgrounds.

"My husband and I love this baby—love knows no color," Mrs. Addis said.

[From the New York Times, Sept. 21, 1990]

FOSTER CARE SYSTEM REELING, DESPITE LAW MEANT TO HELP

(By J.C. Barden)

Ten years after the signing of a Federal law meant to reduce the need for foster care by helping troubled families stay together, foster care has grown into a multibillion-dollar system of confusion and misdirection, overwhelmed by the profusion of sick, battered and emotionally scarred children who are becoming the responsibility of the public.

In its first five years the Federal law helped cut the number of children in foster care by nearly half, from 500,000 to 270,000. But since 1985 the number has grown steadily. By January it had reached at least 360,000, said Toshio Tatara, director of research for the American Public Welfare Association, and showed few signs of abating.

At the same time, the number of foster parents is falling. There are now about 100,000 foster families nationwide, down from 147,000 three years ago, said Gordon Evans, director of the National Foster Parent Association. The average number of foster children in each family is more than three, more than double the number in 1980, he said.

Congressional hearings over the last two years and interviews with childcare professionals around the country reveal a system in deep trouble, with too few people able to spend too little time trying to care for tens of thousands of children in distress: babies injured in the womb by drugs or alcohol and older children battered or neglected by parents or guardians.

"It is a crisis nationally," said Gary B. Melton, a law professor and psychologist at the University of Nebraska who specializes in children's issues. "The system has gone beyond its capacity."

Judges often have only a few minutes to try to unravel complicated issues that could determine a child's future. Social workers and caseworkers have to balance the needs of far too many people, and the foster families who are the backbone of the system are growing fewer and fewer under the strain of caring for more children much sicker and more troubled, the experts say, than those of 10 years ago.

In Minnesota, social workers were confronted with a 6-year-old boy who repeatedly grabbed women by the breasts and propositioned them about sexual relations. "In many cases, children's responses are perfectly appropriate for what they've been through," said Michael W. Weber, director of the Hennepin County Community Service Agency, who told of the case. For four years the boy had lived in a foster home

where alcohol, drugs and prostitution were a way of life.

Child care professionals say the rise in drug and alcohol abuse has aggravated other problems: parental neglect and abuse, poverty, single parenthood, teen-age parenthood and homelessness. In New York State, which has the nation's second-highest population of foster children after California, a recent survey found that parental drug or alcohol abuse was involved in more than 60 percent of foster placements.

DEVASTATION OF DRUG USE

Jim Purcell, Associate Commissioner of Social Services in New York State, said that in New York City last year, 3,000 infants entered foster care from hospitals, testifying to the devastating effects of their mothers' drug use.

And babies are not the only victims. At a hearing of the National Children's Commission, a panel appointed by the President and Congress to develop a national agenda on issues affecting children, the presiding judge of the Juvenile Courts in Los Angeles said that about 90 percent of the 20,000 children who would come before his courts this year would be there because of parental drug or alcohol abuse. (And the judges have "an average of 10 minutes to spend on each case, to determine each child's fate and each family's future," added to judge, Paul Boland.)

While California, with 80,600 foster children, and New York, with 2,000, account for more than a third of the children in foster care, experts testified that family problems were straining the system in almost every state.

A PROMISE UNKEPT

Beyond factors like drug abuse and homelessness, experts and members of Congress say a major reason for the rise in the foster population is misdirected financing of the 10-year-old Federal law that was intended to help patch up troubled families.

The law, the Juvenile Justice and Delinquency Prevention Act, embodied the growing consensus of child care experts that foster placement should be brief and that is the family could not be reunified, the child should be placed in a permanent adoptive home as soon as possible. Toward this end, the law calls for Federal money to go to families that adopt children with special needs, like those with physical or mental handicaps.

But though the law is supported to discourage foster placements. It puts no limit on Federal payments for foster care of children on welfare. Instead, it puts tight restrictions on spending for programs like intensive family counseling at home in periods of crisis.

At the same time, the Federal law instituted more frequent court hearings at which parents can seek to retain or regain their children. This has contributed to clogged court dockets that have delayed adoption procedures, sometimes for years.

In an assessment of the Federal legislation, the House Select Committee on Children, Youth and Families reported in December, "The promise extended almost 10 years ago has not been kept, and children are paying the price of the failure."

YOUTHS FEAR THE SYSTEM

Young people are sometimes aware of the daunting challenges of public care, which they as well as professionals often call simply "the system." A 12-year-old girl from Sacramento, Calif., who took temporary refuge in a youth shelter last year from an alcoholic mother and a succession of her mother's abusive lovers, told a reporter: "I don't want to become a system kid. They have no chance." After several weeks she returned to her mother.

"The system" is an array of agencies that the experts say are sometimes working at cross-purposes, in child welfare, juvenile law enforcement, mental health, public education. Alongside these agencies are the foster families themselves, who are paid to take care of the children, usually with a combination of state and local funds, although the Federal Government pays a share for about 40 percent, those who receive Federal welfare benefits.

For the children, moving in with strangers is one of the most traumatic experiences they will encounter, the experts say. The House select committee heard a 12-year-old boy testify that he had been in so many foster homes that he could not remember them all, and he added:

"It was terrible to be put in lots of different homes with lots of strangers. My mother used to come to visit me a lot when I was in care, and when she left it felt like the whole world was leaving me."

Olga Oroseo Trevino, a social worker in Austin, Tex., who specializes in trying to keep troubled families together, spoke in an interview of working 50-hour weeks, visiting some families two or three times a week even though the state requires only monthly visits. "The big problem is substance abuse, alcohol, marijuana, cocaine and limited parenting skills," she said. "They repeat what they learned from their parents, using the belt and the cord. A large majority of them have limited income, and they just have a hard time making it."

Foster children are most likely to come from households that are poor or near-poor, experts say; their parents are the most vulnerable to losing a job or an apartment, two leading causes of family breakups. And minority children are vastly overrepresented in the foster care population, said Carole M. Jones, the project director for a study on black children in foster care. The House select committee reported that minority children made up 46 percent of foster children in 1988.

"Overcrowded and inadequate housing are fertile conditions for child abuse or neglect," said Ms. Jones's study, for the Black Child Development Institute, a nonprofit research and advocacy group. "Even if families at risk did not suffer from other problems, such as substance abuse or mental illness, any of these children would still enter care due to a lack of affordable housing for low-income families."

Minority children are also likely to remain out of their homes longer than white children. The institute's study said that while the typical stay in foster care was 17 months, most black children remained in foster care for well over two years.

MORE SPENDING IS URGED

If the 1980 Federal law is to serve its goal of keeping families together, experts and members of Congress say, the Government needs to spend more money on programs to prevent the need for foster care. This year the Federal Government is spending more than $1.5 billion on foster care for children receiving welfare; total spending for all foster children at all levels of government is at least $6 billion a year. Under the 1980 law, the Government is spending $252 million this year on prevention programs, the most it has ever spent.

For the 1991 fiscal year, which begins Oct. 1, the House has voted to increase spending on prevention by $28 million, to $280 million; no action has been taken by the Senate. The Administration is seeking an increase of $50 million.

And some House members are seeking to double the prevention funds. They include Representatives George Miller, Democrat of California, chairman of the Select Committee on Children, and Thomas J. Downey, Democrat of Suffolk, acting chairman of the Ways and Means Subcommittee on Human Resources. A bill they and others are sponsoring, to spend $500 million for prevention programs, awaits action in the Ways and Means Committee.

Beyond the public costs of foster care, private agencies are spending tens of millions of dollars to help foster children. In addition, many foster parents say they are dipping into their own pockets to cover the costs of care. Mr. Evans, the head of the National Foster Parent Association, said the high cost of child care was a leading reason that fewer and fewer people were willing to become foster parents, and he added that many were quitting because they had to take full-time jobs to support their families.

And Mr. Evans said the foster parents got too little support from public agencies to care for children who came to them "battered, bruised and mad at the world."

The North American Council on Adoptable Children, an advocacy group, says permanent homes could be found for all the foster children who have no possibility of returning to a parent. This could be done if more effort was made to find families willing to adopt them and if the courts were more willing to terminate the parental rights of unfit parents, the council contends. But they say many such children are languishing in the system because the agencies and courts are overworked.

"These children," said Judith Anderson, a spokeswoman for the council, "are hostages of a system that has substituted governmental neglect for parental neglect."

By Mr. DOMENICI (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BOREN, Mr. BURDICK, Mr. DECONCINI, Mr. FORD, Mr. FOWLER, Mr. GLENN, Mr. GORE, Mr. GRAHAM, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSTON, Mr. MOYNIHAN, Mr. NUNN, Mr. SANFORD, Mr. SASSER, Mr. SHELBY, Mr. ARMSTRONG, Mr. BOND, Mr. BOSCHWITZ, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DOLE, Mr. DURENBERGER, Mr. GARN, Mr. GORTON, Mr. HATCH, Mr. HELMS, Mr. HUMPHREY, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. LUGAR, Mr. MACK, Mr. MCCLURE, Mr. MURKOWSKI, Mr. ROTH, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, and Mr. WILSON):

S.J. Res. 384. Joint resolution to designate May 17, 1991, as "High School Reserve Officer Training Corps Recognition Day"; to the Committee on the Judiciary.

HIGH SCHOOL RESERVE OFFICER TRAINING CORPS RECOGNITION DAY

Mr. DOMENICI. Mr. President, I rise today to introduce a joint resolution designating May 17, 1991 as "High School Reserve Officer Training Corps Recognition Day." The high school division of the Reserve Officer Training Corps was first established when President Woodrow Wilson signed the National Defense Act on June 3, 1916.

In commemorating the 75th anniversary of this program, commonly referred to as the Junior Reserve Officer Training Corps [JROTC], we acknowledge that it has grown to approximately 1,500 units, involving over 250,000 young cadets.

Not only are these units located across the United States, but also in Department of Defense Schools in the Caribbean, the Pacific, Asia, and in Europe.

The JROTC program offers hundreds of thousands of young men and women a valuable learning experience. Young high school students are given the opportunity to participate in vocatinal or academic JROTC programs while earning credit toward graduation.

The program enables those involved to serve their schools and communities, while learning the importance of leadership, teamwork, academic excellence, physical fitness, and self confidence. In my own State of New Mexico, there are 18 JROTC programs. Many communities that do not already have established units have expressed interest in incorporating the JROTC program into their local high school curriculum.

New Mexico certainly recognizes the value of this program to the educational system as a whole. One of the most detailed studies on the benefits of the JROTC program was conducted by the public school system in Albuquerque.

The results were not surprising. JROTC cadets were found to have higher graduation rates and fewer disciplinary problems. The study also concluded that the family type atmosphere of the JROTC provides individualized attention, tutoring and counseling, while the awards and promotion systems help encourage academic progress.

Mr. President, the JROTC program opens many doors for America's young citizens. Nearly a quarter million dedicated high school students are at the heart of the program's success. Their hard work and achievements, as well as those of their instructors and past participants, deserve our full support and recognition.

ADDITIONAL COSPONSORS

S. 590

At the request of Mr. HEFLIN, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 590, a bill to prohibit injunctive relief, or an award of damages against a judicial officer for action taken in a judicial capacity.

S. 1766

At the request of Mr. DANFORTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1766, a bill to amend titles XVIII and XIX of the Social Security Act to require providers of services under such titles to enter into agreements assuring that individuals receiving services from such providers will be provided an opportunity to participate in and direct health care decisions affecting such individuals.

S. 2111

At the request of Mr. SIMON, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 2111, a bill designating the month of May as "Asian/Pacific American Heritage Month."

S. 2312

At the request of Mr. SYMMS, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2312, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 2898

At the request of Mr. HARKIN, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2898, a bill to improve counseling services for elementary schoolchildren.

S. 2902

At the request of Mr. PRYOR, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 2902, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church and welfare benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 2993

At the request of Mr. DASCHLE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2993, a bill to amend the Internal Revenue Code of 1986 to extend the solar, geothermal, ocean thermal energy tax credits through 1995.

S. 3029

At the request of Mr. PRYOR, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 3029, a bill to amend title XIX of the Social Security Act to provide mechanisms to control Medicaid drug prices, to assure that Medicaid beneficiaries receive quality medical care, and to protect the physician's right to prescribe.

S. 3091

At the request of Mr. THURMOND, the names of the Senator from Virginia [Mr. ROBB], the Senator from Rhode Island [Mr. PELL], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 3091, a bill to amend the Act incorporating the American Legion as to redefine eligibility for membership therein.

SENATE JOINT RESOLUTION 344

At the request of Mr. THURMOND, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of Senate Joint Resolution 344, a joint resolution to designate the week of November 18 through 24, 1990, as "National Wild Turkey Week" and November 22, 1990, as "Natonal Wild Turkey Day."

SENATE JOINT RESOLUTION 372

At the request of Mr. THURMOND, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Joint Resolution 372, a joint resolution to recognize and commend the "Bill of Responsibilities" of the Freedom Foundation at Valley Forge.

SENATE JOINT RESOLUTION 375

At the request of Mr. BOSCHWITZ, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Idaho [Mr. MCCLURE], the Senator from Oregon [Mr. PACKWOOD], the Senator from Michigan [Mr. RIEGLE], the Senator from Hawaii [Mr. AKAKA], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Florida [Mr. GRAHAM], the Senator from Wisconsin [Mr. KASTEN], the Senator from California [Mr. CRANSTON], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 375, a joint resolution to designate October 30, 1990, as "Refugee Day."

SENATE JOINT RESOLUTION 381

At the request of Mr. BURNS, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from North Dakota [Mr. BURDICK], the Senator from Idaho [Mr. SYMMS], the Senator from Missouri [Mr. BOND], the Senator from Washington [Mr. GORTON], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 381, a joint resolution to designate November 2, 1990, as a national day of prayer for members of American military forces and American citizens stationed or held hostage in the Middle East, and for their families.

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Hawaii

[Mr. AKAKA] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate to the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE CONCURRENT RESOLUTION 154—RELATING TO IRAQ'S INVASION OF KUWAIT

Mr. CRANSTON (for himself and Mr. PACKWOOD) submitted the following resolution; which was ordered held at the desk:

S. CON. RES. 154

Whereas there is no parallel between Iraq's unprovoked aggression against Kuwait and Israel's act of self-defense in the war against it by all the surrounding Arab nations in 1967;

Whereas Israel acted in response to an outside invasion to protect its "right to live in peace within secure and recognized boundaries free from threats and acts of force" (United Nations Security Council Resolution 242), and Iraq defied all norms of international law and deprived an entire nation of these fundamental rights; and

Whereas the President and the Secretary of State have repeatedly stated that the policy of the United States is to keep the resolution of the Iraqi-Kuwaiti crisis separate from any other conflict in the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the crisis created by Iraq's invasion and occupation of Kuwait must be addressed and resolved on its own terms separately from other conflicts in the region; and

(2) the President should continue to resist any effort to link the Iraqi-Kuwait crisis with the Arab-Israeli conflict.

SENATE RESOLUTION 342—RELATIVE TO CONSIDERATION OF LEGISLATION TO IMPLEMENT THE URUGUAY ROUND

Mr. HOLLINGS (for himself, Mr. CONRAD, Mr. HEINZ, Mr. KOHL, Mr. AKAKA, Mr. BOREN, Mr. BREAUX, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. DODD, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. HARKIN, Mr. HEFLIN, Mr. HELMS, Mr. INOUYE, Mr. KERREY, Mr. LIEBERMAN, Mr. LOTT, Mr. METZENBAUM, Ms. MIKULSKI, Mr. SANFORD, Mr. SHELBY, Mr. SIMON, Mr. SPECTER, Mr. THURMOND, Mr. WIRTH, Mr. BYRD, Mr. BRYAN, Mr. JOHNSTON, Mr. SARBANES, and Mr. PRYOR) submitted the following resolution; which was ordered to lie over under the rule:

S. RES. 342

Resolved, That the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191), relating to the fast track procedure, shall not apply with respect to the Senate's consideration of an implementing bill, as defined by subsection (b) of such section 151, concerning the Uruguay Round.

AMENDMENTS SUBMITTED

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

FOWLER AMENDMENT NO. 3110

Mr. FOWLER proposed an amendment to the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes; as follows:

In title I under the heading "RESOURCE MANAGEMENT" under the heading "UNITED STATES FISH AND WILDLIFE SERVICE" (on page 9, line 25), strike "$461,881,000 and insert "$472,631,000".

In title I under the heading "OPERATION OF THE NATIONAL PARK SYSTEM" under the heading "NATIONAL PARK SERVICE" (on page 15, line 3), strike "$873,791,000 and insert "$874,541,000".

In title I under the heading "NATIONAL RECREATION AND PRESERVATION" under the heading "NATIONAL PARK SERVICE" (on page 16, line 5), strike "$16,278,000 and insert "$16,778,000".

In title I under the heading "HISTORIC PRESERVATION FUND" under the heading "NATIONAL PARK SERVICE" (on page 16, line 9), strike "$34,665,000" and insert "$40,665,000".

In title II under the heading "FOREST RESEARCH" under the heading "FOREST SERVICE" (on page 55, line 12), strike "$165,284,000" and insert "$168,284,000".

In title II under the heading "STATE AND PRIVATE FORESTRY" under the heading "FOREST SERVICE" (on page 55, line 18), strike "$190,932,000" and insert "$196,932,000".

In title II under the heading "NATIONAL FOREST SYSTEM" under the heading "FOREST SERVICE" (on page 56, line 11), strike "$1,303,847,000" and insert "$1,314,847,000".

In title II under the heading "CONSTRUCTION" under the heading "FOREST SERVICE" (on page 57, line 18), strike "$299,208,000" and insert "$201,208,000".

In title II under the heading "CONSTRUCTION" under the heading "FOREST SERVICE" (on page 57, line 21), strike "$214,804,000" and insert "$116,804,000".

AVIATION SECURITY IMPROVEMENT ACT

LAUTENBERG (AND OTHERS) AMENDMENT NO. 3111

Mr. BYRD (for Mr. LAUTENBERG, for himself, Mr. D'AMATO, Mr. MITCHELL, Mr. HOLLINGS, Mr. FORD, Mr. BRADLEY, Mr. KENNEDY, Mr. SIMON, and Mr. HATFIELD) proposed an amendment to the bill (H.R. 5732) to promote and strengthen aviation security, and for other purposes, as follows :

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Aviation Security Improvement Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
TITLE I—AVIATION SECURITY
Sec. 101. Director of Intelligence and Security.
Sec. 102. Annual aviation security report; budget.
Sec. 103. Assistant Administrator for Civil Aviation Security.
Sec. 104. Federal Security Managers and Foreign Security Liaison Officers.
Sec. 105. Air carrier and airport security personnel.
Sec. 106. Assessment of threats to domestic airport security.
Sec. 107. Research and development.
Sec. 108. Deployment of explosive detection equipment.
Sec. 109. Threats to civil aviation; public notification.
Sec. 110. Airport construction guidelines.
Sec. 111. Intelligence.
Sec. 112. Screening of mail and cargo.
TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD
Sec. 201. International negotiations concerning aviation security.
Sec. 202. Coordinator for counterterrorism.
Sec. 203. Passenger manifest.
Sec. 204. Department of State notification of families of victims.
Sec. 205. Designation of State Department-family liaison and toll-free family communications system.
Sec. 206. Disaster training for State Department personnel.
Sec. 207. Department of State responsibilities and procedures at international disaster site.
Sec. 208. Recovery and disposition of remains and personal effects.
Sec. 209. Assessment of Lockerbie experience.
Sec. 210. Official Department of State recognition.
Sec. 211. United States Government compensation for victims of terrorism.
Sec. 212. Overseas security electronic bulletin board.
Sec. 213. Antiterrorism assistance.
Sec. 214. Antiterrorism measures.
Sec. 215. Proposal for consideration by the international civil aviation organization.

SEC. 2. FINDINGS.

Congress finds that—

(1) the safety and security of passengers of United States air carriers against terrorist threats should be given the highest priority by the United States Government;

(2) the report of the President's Commission on Aviation Security and Terrorism, dated May 15, 1990, found that current aviation security systems are inadequate to provide such protection;

(3) the United States Government should immediately take steps to ensure fuller compliance with existing laws and regulations relating to aviation security;

(4) the United States Government should work through the International Civil Aviation Organization and directly with foreign

governments to enhance aviation security of foreign carriers and at foreign airports;

(5) the United States Government should ensure that enhanced security measures are fully implemented by both United States and foreign air carriers;

(6) all nations belonging to the Summit Seven should promptly amend the Bonn Declaration to extend sanctions for all terrorist acts, including attacks against airports and air carrier ticket offices;

(7) the United States Government, in bilateral negotiations with foreign governments, should emphasize upgrading international aviation security objectives;

(8) the United States Government should have in place a mechanism by which the Government notifies the public, on a case-by-case basis and through the application of a uniform national standard, of certain credible threats to civil aviation security;

(9) the United States Government has a special obligation to United States victims of acts of terrorism directed against this Nation and should provide prompt assistance to the families of such victims and assure that fair and prompt compensation is provided to such victims and their families;

(10) the United States should work with other nations to treat as outlaws state sponsors of terrorism, isolating such sponsors politically, economically, and militarily;

(11) the United States must develop a clear understanding that state-sponsored terrorism threatens United States values and interests, and that active measures are needed to counter more effectively the terrorist threat; and

(12) the United States must have the national will to take every feasible action to prevent, counter, and respond to terrorist activities.

TITLE I—AVIATION SECURITY

SEC. 101. DIRECTOR OF INTELLIGENCE AND SECURITY.

(a) ESTABLISHMENT OF POSITION.—There is established in the Office of the Secretary of Transportation the position of Director of Intelligence and Security.

(b) POWERS AND DUTIES.—The Director of Intelligence and Security shall report directly to the Secretary of Transportation and shall have the following duties and powers:

(1) Receipt, assessment, and distribution of intelligence information relating to long-term transportation security.

(2) Development of policies, strategies, and plans for dealing with threats to transportation security.

(3) Other planning relating to transportation security, including coordination of countermeasures with appropriate Federal agencies.

(4) Serving as the primary liaison of the Secretary with the intelligence and law enforcement communities.

(5) Such other duties and powers as the Secretary may prescribe as necessary to ensure, to the extent possible, the security of the traveling public.

(c) CONFORMING AMENDMENT.—Section 106(g)(1) of title 49, United States Code, is amended by inserting after "312-314," the following "315-316 (except for the duties and powers vested in the Director of Intelligence and Security by or under section 101 of the Aviation Security Improvement Act of 1990),".

SEC. 102. ANNUAL AVIATION SECURITY REPORT; BUDGET.

(a) ANNUAL AVIATION SECURITY REPORT.—Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended by redesignating subsection (b), and any reference thereto, as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) TRANSPORTATION SECURITY.—

"(1) ANNUAL REPORT.—Not later than December 31 of calendar year 1991 and of each calendar year thereafter, the Secretary shall submit to Congress an annual report concerning transportation security, together with such recommendations as the Secretary considers appropriate. Such report shall be prepared in conjunction with the annual report of the Administrator under subsection (a) and shall not duplicate the information required by subsection (a) or section 1115(c) of this Act. Such annual report may, as necessary, be submitted in 2 parts with 1 part being classified in nature and 1 part being unclassified.

"(2) CONTENTS OF REPORT.—The annual report required by this subsection shall include—

"(A) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of such report;

"(B) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

"(C) recommendations for research, engineering, and development activities relating to transportation security, except research, engineering, and development activities relating to aviation security to the extent such activities are covered by the research plan required by section 312(d) of the Federal Aviation Act of 1958;

"(D) legislative and regulatory recommendations, if appropriate;

"(E) funding and staffing requirements of the Director of Intelligence and Security;

"(F) an assessment of funding and staffing requirements, and attainment of existing staffing goals, for carrying out security functions of the Federal Aviation Administration;

"(G) identification and evaluation of cooperative efforts with other Federal agencies;

"(H) an evaluation of cooperation with foreign transportation and security authorities;

"(I) the status of implementation of the recommendations of the President's Commission of Aviation Security and Terrorism and the reasons for any delays in implementation of such recommendations; and

"(J) an evaluation of deployment of explosive detection devices.".

(b) PASSENGER SCREENING REPORTS.—Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356(a)) is amended by striking "semiannual" each place it appears and inserting "annual".

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading:

"SEC. 315. Screening of passengers in air transportation."

is amended by striking "(b)" and inserting "(c)" and by inserting after the item relating to subsection (a) the following:

"(b) Transportation security.".

(2) SECURITY ASSESSMENT REPORTS.—Section 1115(c) of such Act (49 U.S.C. App. 1515(c) is amended by inserting "(a)" after "section 315".

(d) ANNUAL BUDGET SUBMISSION.—The annual budget submission for the Department of Transportation shall include a specific request for the Office of the Director of Intelligence and Security. In determining the budget request for the Director, the Secretary shall take into consideration recommendations contained in the annual report submitted under section 315(b) of the Federal Aviation Act of 1958.

SEC. 103. ASSISTANT ADMINISTRATOR FOR CIVIL AVIATION SECURITY.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is amended by adding at the end the following new section:

"SEC. 318. ASSISTANT ADMINISTRATOR OF CIVIL AVIATION SECURITY.

"(a) ESTABLISHMENT OF POSITION.—There is established the position of Assistant Administrator for Civil Aviation Security.

"(b) AUTHORITY OF ADMINISTRATOR.—The Assistant Administrator shall report directly to the Administrator and shall be subject to the Administrator's direction and authority.

"(c) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall include—

"(1) day-to-day management of and operational guidance to Federal Aviation Administration field security resources, including Federal Security Managers;

"(2) enforcement of security-related requirements;

"(3) identification of research and development requirements of security-related activities;

"(4) inspections of security systems;

"(5) reporting to the Director of Intelligence and Security such information as may be necessary to permit the Director to fulfill assigned responsibilities;

"(6) assessment of threats to civil aviation; and

"(7) such other functions as the Administrator considers necessary and appropriate.

"(d) MEASURES TO STRENGTHEN AIR TRANSPORTATION SECURITY.—The Assistant Administrator shall review and, as necessary, develop measures to strengthen air transportation security, including—

"(1) measures to strengthen controls over checked baggage in air transportation, such as measures to ensure baggage reconciliation and inspection of items in baggage of passengers which could potentially contain explosive devices;

"(2) measures to strengthen control over individuals with access to aircraft;

"(3) measures to improve testing of security systems;

"(4) measures to ensure the use of best available x-ray equipment for air transportation security purposes; and

"(5) measures to strengthen preflight screening of passengers.".

SEC. 104. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 319. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

"(a) FEDERAL SECURITY MANAGERS.—

"(1) ESTABLISHMENT OF POSITION.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Federal Security Manager for each airport in the United States at which the Administrator determines that such a Manager is necessary to meet the needs of air transportation security and shall begin designating persons as such Managers and stationing such Managers at such airports. In carrying out the requirements of this section, the Administra-

tor may assign the functions and responsibilities described in this section to existing Federal Aviation Administration field personnel and designate such personnel accordingly.

"(2) 1-YEAR STATIONING REQUIREMENT.—Not later than 1 year after the date of the enactment of this section, the Administrator shall have stationed a Federal Security Manager at each airport in the United States which is designated by the Department of Transportation as a category X airport.

"(3) RESPONSIBILITIES.—The responsibilities of a Federal Security Manager with respect to an airport shall include the following:

"(A) Receipt of intelligence information relating to aviation security.

"(B) Ensuring and assisting in the development of a comprehensive security plan for the airport—

"(i) which establishes responsibilities of each such air carrier and airport operator with respect to air transportation security at the airport; and

"(ii) which includes measures to be taken during periods of normal airport operations and during periods when there is a need for additional airport security, as determined by the Federal Security Manager, and identifies the persons responsible for carrying out such measures.

"(C) Oversight and enforcement of implementation by air carriers and airport operators of Federal security requirements, including the comprehensive plan developed pursuant to subparagraph (B).

"(D) Serving as the on-site coordinator of the response of the Federal Aviation Administration to terrorist incidents and threats at the airport.

"(E) Coordination of day-to-day Federal activities relating to aviation security at the airport.

"(F) Coordination with local law enforcement efforts relating to aviation security.

"(G) Coordination of activities with Federal Security Managers at other airports, as appropriate.

"(4) AUTHORITY OF ASSISTANT ADMINISTRATOR.—A Federal Security Manager shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(5) NONDUPLICATION OF FUNCTIONS.—When a Federal Security Manager is designated or stationed at an airport, the Civil Aviation Security Field Officer shall not be assigned security responsibilities at such airport.

"(b) FOREIGN SECURITY LIAISON OFFICERS.—

"(1) ESTABLISHMENT OF POSITION.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Administrator determines that such an Officer is necessary for air transportation security and, in coordination with the Secretary of State, shall begin assigning such Officers.

"(2) 2-YEAR REQUIREMENT.—Not later than 2 years after the date of the enactment of this section, the Administrator, in coordination with the Secretary of State, shall assign Foreign Security Liaison Officers for airports outside the United States where extraordinary security measures are in place. The Secretary of State shall give high priority to the stationing of such officers.

"(3) RESPONSIBILITIES.—A Foreign Security Liaison Officer shall be responsible (A) for serving as the liaison of the Assistant Administrator for Civil Aviation Security with foreign security authorities (including foreign governments and airport authorities) with respect to implementation of Federal security requirements at the airport, and (B) to the extent practicable, for performing the responsibilities set forth in subsection (a)(3).

"(4) AUTHORITY OF ASSISTANT ADMINISTRATOR.—A Foreign Security Liaison Officer shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(5) COORDINATION WITH CHIEF OF UNITED STATES DIPLOMATIC MISSION.—The activities of a Foreign Security Liaison Officer shall be coordinated with the chief of the United States diplomatic mission to which the Officer is assigned. All activities of a Foreign Security Liaison Officer pursuant to this subsection shall be consistent with the authorities of the Secretary of State and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 and section 207 of the Foreign Service Act of 1980.

"(c) LONG-TERM IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this section, the Administrator shall submit to Congress a plan to fully implement the requirements of this section. Such plan shall include a schedule for implementation and an assessment of personnel and funding needs.".

SEC. 105. AIR CARRIER AND AIRPORT SECURITY PERSONNEL.

(a) IN GENERAL.—Section 316 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357) is amended by adding at the end the following new subsections:

"(g) AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—

"(1) EMPLOYMENT INVESTIGATIONS.—

"(A) IN GENERAL.—In order to ensure the security of aircraft and their passengers, crew, and cargo, the Administrator shall issue regulations to require individuals employed in, and individuals applying for, positions described in subparagraph (B) to be subjected to such employment investigations, including criminal history record check, as the Administrator determines necessary to ensure air transportation security.

"(B) INDIVIDUALS SUBJECT TO EMPLOYMENT INVESTIGATIONS.—An individual shall be subject to an employment investigation under subparagraph (A) if such individual is employed in, or is applying for, a position in which such individual has unescorted access, or may authorize others to have unescorted access, to air carrier or foreign air carrier aircraft, or to secured areas (designated by the Administrator) of United States airports serving air carriers or foreign air carriers.

"(C) REQUIREMENTS OF AIR CARRIERS AND AIRPORT OPERATORS.—Any air carrier, foreign air carrier, or airport operator who employs an individual in a position described in subparagraph (B), or authorizes or contracts for the services of such individual, shall take such actions as may be necessary to ensure that any employment investigation required by the Administrator under subparagraph (A) is performed.

"(2) CRIMINAL HISTORY RECORDS CHECK.—

"(A) IN GENERAL.—If, as part of an employment investigation under paragraph (1)(A), the Administrator requires an identification and criminal history record check of an individual in a position described in paragraph (1)(B) to be conducted by the Attorney General, the Administrator (after consultation with the Attorney General) shall designate persons to obtain and transmit fingerprints to the Attorney General. The costs of any such check shall be paid by the employer of such individual. The Attorney General may for the purposes of this subsection make available the results of any such check to persons designated by the Administrator, after consultation with the Attorney General.

"(B) REGULATIONS.—For purposes of administering this subsection, the Administrator shall prescribe regulations to—

"(i) implement procedures for taking fingerprints; and

"(ii) establish requirements for use of information received from the Attorney General under this subsection in order to limit the dissemination of such information and ensure that such information is used solely for the purposes of this subsection.

"(C) CORRECTION OF CHECK INFORMATION.—An individual who, as part of an employment investigation under paragraph (1)(A), is subject to an identification and criminal history records check shall be provided a copy of any record received from the Attorney General and shall have the right to complete and correct the information contained in such check before any final employment decision is made on account of such check.

"(3) EMPLOYMENT RESTRICTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an air carrier, foreign air carrier, or airport operator shall not employ, or authorize or contract for the services of, any individual in a position described in paragraph (1)(B), if—

"(i) such individual has not been subject to an employment investigation required under paragraph (1)(A); or

"(ii) the results of such investigation establish that such individual in the 10-year period ending on the date of such investigation has been convicted in any jurisdiction of a crime set forth in section 902 (b), (c), (h), (i), (j), (k), (l), (m), (n), (q), or (r); a crime set forth in section 32 of title 18, United States Code; murder; assault with intent to murder; espionage; sedition; treason; rape; kidnapping; unlawful possession, sale, distribution, or manufacture of an explosive or weapon; extortion; armed robbery; distribution of, or intent to distribute, a controlled substance; or conspiracy to commit any of the aforementioned criminal acts.

The Administrator may specify other factors which the Administrator determines to be sufficient to make an individual ineligible for employment in a position described in paragraph (1)(B).

"(B) EXCEPTION.—It shall not be a violation of subparagraph (A) for an air carrier, foreign air carrier, or airport operator to employ, or authorize or contract for employment of, an individual in a position described in paragraph (1)(B) who has not been subject to an employment investigation required by paragraph (1)(A), if the employment of such individual is carried out pursuant to a plan approved by the Administrator which provides alternate security arrangements.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as requiring investigations or record checks where such investigations or record checks are prohibited by applicable laws of a foreign government.

"(5) FEES AND CHARGES.—The Administrator and the Attorney General shall establish reasonable fees and charges to cover ex-

penses incurred in carrying out this subsection. The amount of fees collected under this paragraph shall be credited to the accounts in the Treasury from which such expenses were incurred and shall be available to the Administrator and the Attorney General for paying expenses for which such fees are collected.

"(h) EMPLOYMENT STANDARDS.—Not later than 270 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the hiring, continued employment, and contracting of air carrier and, as appropriate, airport security personnel. Such standards shall include—

"(1) minimum training requirements for new employees;

"(2) retraining requirements;

"(3) minimum staffing levels;

"(4) minimum language skills; and

"(5) minimum education levels for employees, as appropriate.

"(i) HUMAN FACTORS.—The Administrator, in coordination with air carriers, airport operators, and other interested persons shall review issues relating to human performance in the aviation security system with the goal of maximizing such performance. Upon completion of the review, the Administrator shall recommend guidelines and prescribe appropriate changes to existing procedures to improve such performance.

"(j) TRAINING OF AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—Not later than 180 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the education and training of—

"(1) ground security coordinators;

"(2) security supervisory personnel; and

"(3) airline pilots as in-flight security coordinators.

Such standards shall include initial training, retraining, and continuing education requirements and methods by which the performance of ground security coordinators and security supervisory personnel shall be measured annually.

"(k) FOREIGN AIR CARRIER SECURITY PROGRAMS.—

"(1) CONTINUATION OF EXISTING APPROVAL REQUIREMENT.—The Administrator shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that foreign air carriers must adopt and use a security program approved by the Administrator.

"(2) LEVEL OF PROTECTION.—The Administrator may approve a security program of a foreign air carrier under the requirement referred to in paragraph (1) only if the Administrator finds that the security program provides passengers of the foreign air carrier with a similar level of protection as such passengers would receive under the security programs of air carriers serving the same airports. The Administrator shall require foreign air carriers to employ procedures equivalent to those required of air carriers serving the same airport if the Administrator determines that such procedures are necessary to afford a similar level of protection as is afforded passengers of the air carriers serving the same airport.

"(3) REVIEW OF EXISTING PROGRAMS.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall take such action as may be necessary to ensure that a security program of a foreign air carrier approved by the Administrator before such date of enactment meets the requirement of paragraph (2).

"(4) ANNUAL REPORT.—The Administrator shall submit to Congress as part of the annual report required by section 315(a) an assessment of the steps being taken, and the progress being made, in ensuring that foreign air carrier security programs for airports outside the United States—

"(A) at which the Administrator determines that a Foreign Security Liaison Officer is necessary for air transportation security, and

"(B) for which extraordinary security measures are in place,

are in compliance with this subsection.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 316. Air transportation security."

is amended by adding at the end thereof the following:

"(g) Air carrier and airport security personnel.

"(h) Employment standards.

"(i) Human factors.

"(j) Training of air carrier and airport security personnel.

"(k) Foreign air carrier security programs.".

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations implementing subsection (k)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1357), as inserted by subsection (a) of this section.

SEC. 106. ASSESSMENT OF THREATS TO DOMESTIC AIRPORT SECURITY.

(a) GENERAL ASSESSMENT.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly conduct an assessment of current and potential threats to the domestic air transportation system. Such assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against the domestic aviation system and the methods by which such individuals might carry out such acts.

(b) ANALYSIS AND MONITORING.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly determine and implement the most effective method for continually analyzing and monitoring security threats to the domestic air transportation system.

(c) ASSESSMENTS WITH RESPECT TO INDIVIDUAL AIRPORTS.—In coordination with the Federal Bureau of Investigation, the Administrator of the Federal Aviation Administration shall conduct periodic threat and vulnerability assessments with respect to the security of individual airports which are part of the domestic air transportation system. Each such assessment shall include consideration of—

(1) the adequacy of security procedures with respect to the handling and transport of checked baggage, cargo, and mail;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, cargo, and mail;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the United States Customs Service, the Immigration and Naturalization Service, the Federal Aviation Administration, air carriers, and of other law enforcement personnel.

(d) REPORTS TO CONGRESS.—The Administrator of the Federal Aviation Administration shall transmit to Congress for each of calendar years 1991 and 1992 an annual report on the progress being made and the problems occurring in implementation of this section, together with recommendations for improving domestic air transportation security.

(e) REMEDYING SECURITY DEFICIENCIES.—The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve domestic air transportation security by remedying any deficiencies in such security discovered as a result of the assessments, analyses, and monitoring conducted under this section.

(f) SURVEY.—In developing airport construction guidelines under subsection (d) of section 612 of the Federal Aviation Act of 1958, as added by section 110 of this Act, the Administrator shall take into consideration the results of the assessment conducted under subsection (a) of this section.

SEC. 107. RESEARCH AND DEVELOPMENT.

Section 316(d) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1351(d)) is amended by adding at the end the following new paragraphs:

"(3) PROGRAM TO ACCELERATE RESEARCH.—

"(A) IN GENERAL.—The Administrator shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation.

"(B) REVIEW OF THREATS.—Not later than 180 days after the date of the enactment of this paragraph, the Administrator shall complete an intensive review of threats to civil aviation, with particular focus on—

"(i) the explosive materials which present the most significant threat to civil aircraft;

"(ii) the minimum amounts, configurations, and types of explosive material which would reasonably be expected to cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;

"(iii) the minimum amounts, configurations, and types of explosive material which can cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;

"(iv) the amounts, configurations, and types of explosive material which can reliably be detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(v) the feasibility of employing various methods to minimize damage caused by explosive materials which cannot be reliably detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(vi) the ability to screen such different entities as passengers, carry-on baggage, checked baggage, mail, and cargo; and

"(vii) the technologies which might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the methods by which such technologies can be effectively countered.

"(C) USE OF RESULTS.—The results of such review shall be used by the Administrator in developing the focus and priorities of the program established under this paragraph.

"(D) DESIGN AND IMPLEMENTATION.—In designing and implementing the program established under this paragraph, the Administrator shall—

"(i) consult and coordinate with other Federal agencies conducting similar research;

"(ii) identify Federal agencies which would benefit from such research; and

"(iii) seek cost-sharing agreements with such Federal agencies.

"(4) PURPOSE.—It shall be the purpose of the program established under paragraph (3) to develop and have in place not later than 36 months after the date of the enactment of this paragraph such new equipment and procedures as are needed to meet the technological challenges presented by terrorism.

"(5) HUMAN FACTORS.—The program established under paragraph (3) shall include research and development of both technological improvements and ways to enhance human performance.

"(6) GRANTS AND COOPERATIVE AGREEMENTS.—Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants, to colleges, universities, and other appropriate research institutions and facilities with demonstrated ability to conduct research described in paragraph (3). Such grants shall be in such amounts, and subject to such terms and conditions, as the Administrator may prescribe. The Administrator may also enter into such cooperative agreements with such governmental entities as the Administrator considers appropriate.

"(7) REVIEW.—In administration of the program established under paragraph (3), the Administrator shall review and consider the annual reports of the Secretary of Transportation submitted to Congress on transportation security and intelligence.

"(8) SCIENTIFIC ADVISORY PANEL.—The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, for the purpose of reviewing, commenting on, and advising the Administrator on the progress of, and any necessary modifications to, the programs established under paragraph (3), including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

"(A) the development and testing of effective explosive-detection systems;

"(B) aircraft structure and experimentation to determine the type and minimum weights of explosives which an effective technology must be capable of detecting;

"(C) technologies involved in the minimization of airframe damage to aircraft from explosives; and

"(D) such other scientific and technical areas as are considered appropriate by the Administrator.

"(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Airport and Airway Trust Fund, after completion of the review required by paragraph (3)(B), such sums as may be necessary for the purpose of carrying out the grant program established by paragraph (6).".

SEC. 108. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 320. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

"(a) GENERAL RULE.—No deployment or purchase of any explosive detection equipment pursuant to section 108.7(b)(8) and 108.20 of title 14, Code of Federal Regulations, or any similar rule, shall be required after the date of the enactment of this section, unless the Administrator certifies that, based on the results of tests conducted pursuant to protocols developed in consultation with expert scientists from outside the Federal Aviation Administration, such equipment alone or as part of an integrated system can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft.

"(b) DEADLINE FOR COMPLETION OF TESTS.—The tests referred to in subsection (a) shall be completed not later than 18 months after the date of the enactment of this section.

"(c) LIMITED AUTHORITY FOR INTERIM DEPLOYMENT.—Before completion of the tests referred to in subsection (a), but in no event later than 18 months after the date of the enactment of this section, the Administrator may require the deployment of explosive detection equipment referred to in subsection (a) if the Administrator determines that such deployment shall significantly enhance aviation security. In making such determination, the Administrator shall take into consideration, but not be limited to, such factors as the ability of such equipment alone or as part of an integrated system to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives of a deployment decision made pursuant to this subsection.

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Administrator from purchasing or deploying explosive detection equipment referred to in subsection (a).".

SEC. 109. THREATS TO CIVIL AVIATION; PUBLIC NOTIFICATION.

(a) IN GENERAL.—Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end of the following new section:

"SEC. 321. REPORTING OF THREATS TO CIVIL AVIATION.

"(a) IN GENERAL.—Pursuant to such guidelines as the Secretary of Transportation shall establish, an air carrier, airport operator, ticket agent, or individual employed by such an entity, receiving information, other than through a communication directed by the Federal Government, of a threat to civil aviation, shall promptly provide such information to the Secretary or the designee of the Secretary.

"(b) FLIGHT CANCELLATIONS.—In the event that a determination is made that a particular threat to civil aviation cannot be addressed in a manner adequate to ensure, to the extent feasible, the safety of the passengers and crew of a particular flight or series of flights, the Administrator shall order the cancellation of such flight or series of flights.

"(c) NOTIFICATION GUIDELINES.—

"(1) PUBLIC NOTIFICATION GUIDELINES.—Not later than 180 days after the date of the enactment of this section, the President shall develop guidelines for ensuring notification to the public of threats to civil aviation in appropriate cases.

"(2) FLIGHT AND CABIN CREW NOTIFICATION GUIDELINES.—Not later than 180 days after the date of the enactment of this section, the Administrator shall develop guidelines for ensuring notification of the flight and cabin crews of an air carrier flight of threats to the security of such flight in appropriate cases.

"(d) RESPONSIBILITIES.—The guidelines developed under subsection (c)(1) shall identify officials responsible for—

"(1) determining, on a case-by-case basis, if public notification of a threat is in the best interest of the United States and the traveling public;

"(2) ensuring that public notification, when considered appropriate, is made in a timely and effective manner, including the use of a toll-free telephone number; and

"(3) canceling the departure of a flight or series of flights under subsection (b).

"(e) CRITERIA.—The guidelines developed pursuant to subsection (c)(1) shall provide for the consideration of—

"(1) the specificity of the threat;

"(2) the credibility of intelligence information related to the threat;

"(3) the ability to effectively counter the threat;

"(4) the protection of intelligence information sources and methods;

"(5) cancellation, by an air carrier or the Administrator, of a flight or series of flights instead of public notification;

"(6) the ability of passengers and crew to take steps to reduce the risk to their safety as a result of any notification; and

"(7) such other factors as the Administrator considers appropriate.

"(f) SELECTIVE NOTIFICATION PROHIBITED.—In no event shall there be notification of a threat to civil aviation to only selective potential travelers unless such threat applies only to them.

"(g) DISTRIBUTION.—The guidelines developed pursuant to subsection (c) shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

"(h) ACCESS TO INFORMATION.—The Administrator, in cooperation with agencies involved in the collection, receipt, and analysis of intelligence information relating to aviation security, shall develop procedures to minimize the number of individuals having access to threat information. Any restrictions adopted pursuant to this subsection shall not diminish the ability of the Federal Government to effectively discharge its responsibilities relating to aviation security, including notification of the public and flight and cabin crews under subsection (c).".

(b) CONFORMING AMENDMENTS TO TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 relating to title III of such Act is amended by inserting after the item relating to section 317 the following new items:

"Sec. 318. Assistant Administrator of Civil Aviation Security.

"(a) Establishment of position.

"(b) Authority of Administrator.

"(c) Responsibilities.

"(d) Measures to strengthen air transportation security.

"Sec. 319. Federal Security Managers and Foreign Security Liaison Officers.
"(a) Federal Security Managers.
"(b) Foreign Security Liaison Officers.
"(c) Long-term implementation plan.
"Sec. 320. Deployment of explosive detection equipment.
"Sec. 321. Reporting of threats to civil aviation.
"(a) In general.
"(b) Flight cancellations.
"(c) Notification guidelines.
"(d) Responsibilities.
"(e) Criteria.
"(f) Selective notification prohibited.
"(g) Distribution.
"(h) Access to information.".

SEC. 110. AIRPORT CONSTRUCTION GUIDELINES.

(a) IN GENERAL.—Section 612 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1432) is amended by adding at the end the following new subsection:

"(d) AIRPORT CONSTRUCTION GUIDELINES.—The Administrator, in consultation with airport authorities, air carriers, and such others as the Administrator considers appropriate, shall develop guidelines for airport design and construction to allow for maximum security enhancement.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 612. Airport operating certificates."

is amended by adding at the end thereof the following:

"(d) Airport construction guidelines.".

SEC. 111. INTELLIGENCE.

(a) INTERNATIONAL TERRORISM REPORTING.—Not later than 180 days after the date of the enactment of this Act, the heads of the agencies of the intelligence community shall promulgate policies and procedures to ensure that intelligence reports concerning international terrorism are made available, as appropriate, to other members of the intelligence community, the Department of Transportation, and the Federal Aviation Administration.

(b) STRATEGIC PLANNING.—The intelligence community shall consider placing greater emphasis on strategic intelligence efforts through the establishment of a unit for strategic planning concerning terrorism.

(c) CENTRAL INTELLIGENCE AGENCY LIAISON.—At the request of the Secretary of Transportation, the Director of Central Intelligence shall designate not less than one intelligence officer of the Central Intelligence Agency to serve in a senior staff position in the Office of the Secretary of the Department of Transportation.

(d) REVIEW OF MEMORANDUMS OF UNDERSTANDING.—Not later than 180 days after the date of the enactment of this Act, the intelligence community, the Department of Transportation, and the Federal Aviation Administration shall conduct a review of and, as appropriate, revise all memorandums of understanding and other written working agreements between the intelligence community and the Federal Aviation Administration.

(e) INTELLIGENCE COMMUNITY.—For purposes of this section, the term "intelligence community" means the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

SEC. 112. SCREENING OF MAIL AND CARGO.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine whether additional requirements should be imposed to enhance the security requirements for the transportation of mail and cargo by passenger aircraft.

(b) FACTORS.—In conducting the study under this section, the Administrator shall consider, among other things—

(1) the extent to which it is practicable to require for mail and cargo the same screening procedures as are required for checked baggage;

(2) constitutional limitations on the authority of the United States Government to screen mail;

(3) existing and reasonably anticipated explosive detection technologies capable of screening mail and cargo;

(4) the variation in threat presented by mail and cargo from various locations;

(5) the use of inspection procedures specific to mail and cargo;

(6) the protection, to the extent possible, of the privacy of the senders and recipients of mail;

(7) precise detection of explosive materials which can cause catastrophic damage to commercial aircraft; and

(8) the desirability of not unduly delaying the delivery of mail and cargo.

(c) CONSULTATION REQUIREMENT.—In conducting the study under this section, the Administrator shall consult with the Postmaster General, the Secretary of Defense, and other interested persons.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under this section, together with such legislative and administrative recommendations as the Administrator considers appropriate.

TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD

SEC. 201. INTERNATIONAL NEGOTIATIONS CONCERNING AVIATION SECURITY.

(a) UNITED STATES POLICY.—It is the policy of the United States—

(1) to seek bilateral agreements to achieve United States aviation security objectives with foreign governments;

(2) to continue to press vigorously for security improvements through the Foreign Airport Security Act and the foreign airport assessment program; and

(3) to continue to work through the International Civil Aviation Organization to improve aviation security internationally.

(b) NEGOTIATIONS FOR AVIATION SECURITY.—(1) The Department of State, in consultation with the Department of Transportation, shall be responsible for negotiating requisite aviation security agreements with foreign governments concerning the implementation of United States rules and regulations which affect the foreign operations of United States air carriers, foreign air carriers, and foreign international airports. The Secretary of State is directed to enter, expeditiously, into negotiations for bilateral and multilateral agreements—

(A) for enhanced aviation security objectives;

(B) to implement the Foreign Airport Security Act and the foreign airport assessment program to the fullest extent practicable; and

(C) to achieve improved availability of passenger manifest information.

(2) A principal objective of bilateral and multilateral negotiations with foreign governments and the International Civil Aviation Organization shall be improved availability of passenger manifest information.

SEC. 202. COORDINATOR FOR COUNTERTERRORISM.

The Coordinator for Counterterrorism shall be responsible for the coordination of international aviation security for the Department of State.

SEC. 203. PASSENGER MANIFEST.

(a) MANDATORY AVAILABILITY OF PASSENGER MANIFEST.—Section 410 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1380) is amended to read as follows:

"SEC. 410. PASSENGER MANIFEST.

"(a) REQUIREMENT.—Not later than 120 days after the date of the enactment of this section, the Secretary of Transportation shall require all United States air carriers to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State—

"(1) not later than 1 hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight; or

"(2) if it is not technologically feasible or reasonable to fulfill the requirement of this subsection within 1 hour, then as expeditiously as possible, but not later than 3 hours after such notification.

"(b) CONTENTS.—For purposes of this section, a passenger manifest should include the following information:

"(1) The full name of each passenger.

"(2) The passport number of each passenger, if required for travel.

"(3) The name and telephone number of a contact for each passenger.".

(b) IMPLEMENTATION.—In implementing the requirement pursuant to the amendment made by subsection (a) of this section, the Secretary of Transportation shall consider the necessity and feasibility of requiring United States carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to such requirement.

(c) FOREIGN AIR CARRIERS.—The Secretary of Transportation shall consider a requirement for foreign air carriers comparable to that imposed pursuant to the amendment made by subsection (a).

(d) INFORMATION FROM UNITED STATES PASSPORTS.—Notwithstanding any other provision of law, to the extent provided in appropriation Acts, for each fiscal year not more than $5,000,000 in passport fees collected by the Department of State may be credited to a Department of State account. Amounts credited to such account shall be available only for the costs associated with the acquisition and production of machine-readable United States passports and visas and compatible reading equipment. Amounts credited to such account are authorized to remain available until expended.

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking the item relating to section 410 and inserting the following:

"Sec. 410. Passenger manifest.".

SEC. 204. DEPARTMENT OF STATE NOTIFICATION OF FAMILIES OF VICTIMS.

(a) DEPARTMENT OF STATE POLICY.—It is the policy of the Department of State pursuant to section 43 of the State Department Basic Authorities Act to directly and promptly notify the families of victims of aviation disasters abroad concerning citizens of the United States directly affected by such a disaster, including timely written notice. The Secretary of State shall ensure that such notification by the Department of State is carried out notwithstanding notification by any other person.

(b) DEPARTMENT OF STATE GUIDELINES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such regulations, guidelines, and circulars as are necessary to ensure that the policy under subsection (a) is fully implemented.

SEC. 205. DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON AND TOLL-FREE FAMILY COMMUNICATIONS SYSTEM.

(a) DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an aviation disaster directly involving United States citizens abroad, if possible, the Department of State will assign a specific individual, and an alternate, as the Department of State liaison for the family of each such citizen.

(b) TOLL-FREE COMMUNICATIONS SYSTEM.—In the establishment of the Department of State toll-free communications system to facilitate inquiries concerning the affect of any disaster abroad on United States citizens residing or traveling abroad, the Secretary of State shall ensure that a toll-free telephone number is reserved for the exclusive use of the families of citizens who have been determined to be directly involved in any such disaster.

SEC. 206. DISASTER TRAINING FOR STATE DEPARTMENT PERSONNEL.

(a) ADDITIONAL TRAINING.—The Secretary of State shall institute a supplemental program of training in disaster management for all consular officers.

(b) TRAINING IMPROVEMENTS.—

(1) In expanding the training program under subsection (a), the Secretary of State shall consult with death and bereavement counselors concerning the particular demands posed by aviation tragedies and terrorist activities.

(2) In providing such additional training under subsection (a) the Secretary of State shall consider supplementing the current training program through—

(A) providing specialized training to create a team of "disaster specialists" to deploy immediately in a crisis; or

(B) securing outside experts to be brought in during the initial phases to assist consular personnel.

SEC. 207. DEPARTMENT OF STATE RESPONSIBILITIES AND PROCEDURES AT INTERNATIONAL DISASTER SITE.

(a) DISPATCH OF SENIOR STATE DEPARTMENT OFFICIAL TO SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international disaster, particularly an aviation tragedy, directly involving significant numbers of United States citizens abroad not less than one senior officer from the Bureau of Consular Affairs of the Department of State shall be dispatched to the site of such disaster.

(b) CRITERIA FOR DEPARTMENT OF STATE STAFFING AT DISASTER SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate criteria for Department of State staffing of disaster sites abroad. Such criteria shall define responsibility for staffing decisions and shall consider the deployment of crisis teams under subsection (d). The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement criteria developed pursuant to this subsection.

(c) STATE DEPARTMENT OMBUDSMAN.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international aviation disaster involving significant numbers of United States citizens abroad not less than one officer or employee of the Department of State shall be dispatched to the disaster site to provide onsite assistance to families who may visit the site and to act as an ombudsman in matters involving the foreign local government authorities and social service agencies.

(d) CRISIS TEAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate procedures for the deployment of a "crisis team", which may include public affairs, forensic, and bereavement experts, to the site of any international disaster involving United States citizens abroad to augment in-country Embassy and consulate staff. The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement procedures developed pursuant to this subsection.

SEC. 208. RECOVERY AND DISPOSITION OF REMAINS AND PERSONAL EFFECTS.

It is the policy of the Department of State (pursuant to section 43 of the State Department Basic Authorities Act) to provide liaison with foreign governments and persons and with United States air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as the disposition of personal effects. The Secretary of State shall ensure that regulations and guidelines of the Department of State reflect such policy and that such assistance is rendered to the families of United States citizens who are killed in terrorist incidents and disasters abroad.

SEC. 209. ASSESSMENT OF LOCKERBIE EXPERIENCE.

(a) ASSESSMENT.—The Secretary of State shall compile an assessment of the Department of State response to the Pan American Airways Flight 103 aviation disaster over Lockerbie, Scotland, on December 21, 1988.

(b) GUIDELINES.—The Secretary of State shall establish, based on the assessment compiled under subsection (a) and other relevant factors, guidelines for future Department of State responses to comparable disasters and shall distribute such guidelines to all United States diplomatic and consular posts abroad.

SEC. 210. OFFICIAL DEPARTMENT OF STATE RECOGNITION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate guidelines for appropriate ceremonies or other official expressions of respect and support for the families of United States citizens who are killed through acts of terrorism abroad.

SEC. 211. UNITED STATES GOVERNMENT COMPENSATION FOR VICTIMS OF TERRORISM.

(a) COMPENSATION.—The President shall submit to the Congress, not later than one year after the date of the enactment of this Act, recommendations on whether or not legislation should be enacted to authorize the United States to provide monetary and tax relief as compensation to United States citizens who are victims of terrorism.

(b) BOARD.—The President may establish a board to develop criteria for compensation and to recommend changes to existing laws to establish a single comprehensive approach to victim compensation for terrorist acts.

(c) INCOME TAX BENEFIT FOR VICTIMS OF LOCKERBIE TERRORISM.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of any individual whose death was a direct result of the Pan American Airways Flight 103 terrorist disaster over Lockerbie, Scotland, on December 21, 1988, any tax imposed by subtitle A of the Internal Revenue Code of 1986 shall not apply—

(A) with respect to the taxable year which includes December 21, 1988, and

(B) with respect to the prior taxable year.

(2) LIMITATION.—In no case may the tax benefit pursuant to paragraph (1) for any taxable year, for any individual, exceed an amount equal to 28 percent of the annual rate of basic pay at Level V of the Executive Schedule of the United States as of December 21, 1988.

SEC. 212. OVERSEAS SECURITY ELECTRONIC BULLETIN BOARD.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and regulations as may be necessary to establish, under the Bureau of Consular Affairs, an electronic bulletin board accessible to the general public. Such bulletin board shall contain all information, updated daily, which is available on the Overseas Security Electronic Bulletin Board of the Bureau of Diplomatic Security.

SEC. 213. ANTITERRORISM ASSISTANCE.

(a) AVIATION SECURITY.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $7,000,000 for fiscal year 1991 for aviation security assistance under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.), relating to antiterrorism assistance.

(b) TRAINING SERVICES.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa2) is amended in subsection (d) by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following new paragraphs:

"(1) Training services (including short term refresher training) provided pursuant to this chapter may be conducted outside the United States only if—

"(A) the training to be conducted outside the United States will be provided during a period of not more than 30 days;

"(B) such training relates to—

"(i) aviation security;

"(ii) crisis management;

"(iii) document screening techniques;

"(iv) facility security;

"(v) maritime security;

"(vi) VIP protection; or

"(vii) the handling of detector dogs, except that only short term refresher training may be provided under this clause; and

"(C) at least 15 days before such training is to begin, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in accordance with the procedures applicable to reprogramming notifications.

"(2) Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed 30 consecutive calendar days.

"(3)(A) Except as provided in subparagraph (B), employees of the Department of State shall not engage in the training of law enforcement personnel or the provision of services under this chapter.

"(B) Subparagraph (A) does not apply to training (including short term refresher training) or services provided to law enforcement personnel by employees of the Bureau of Diplomatic Security with regard to crisis management, facility security, or VIP protection.".

SEC. 214. ANTITERRORISM MEASURES.

(a) GUIDELINES FOR INTERNATIONAL AVIATION TRAVELERS.—For the purpose of notifying the public, the Secretary of State, in consultation with the Secretary of Transportation, shall develop and publish guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities. Notices concerning such guidelines shall be posted and prominently displayed domestically and abroad in international airports.

(b) DEVELOPMENT OF INTERNATIONAL STANDARDS.—The Secretary of State and the Secretary of Transportation in all appropriate fora, particularly talks and meetings related to international civil aviation, shall enter into negotiations with other nations for the establishment of international standards regarding guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities.

(c) PUBLICATION OF REWARDS FOR TERRORISM-RELATED INFORMATION.—For the purpose of notifying the public, the Secretary of State shall publish the availability of United States Government rewards for information on international terrorist-related activities, including rewards available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) and chapter 204 of title 18, United States Code. To the extent appropriate and feasible, notices making such publication shall be posted and prominently displayed domestically and abroad in international airports.

(d) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Transportation should take appropriate measures to utilize and train properly the officers and employees of other United States Government agencies who have functions at international airports in the United States and abroad in the detection of explosives and firearms which could be a threat to international civil aviation.

SEC. 215. PROPOSAL FOR CONSIDERATION BY THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Transportation, shall propose to the International Civil Aviation Organization the establishment of a comprehensive aviation security program which shall include (1) training for airport security personnel, (2) grants for security equipment acquisition for certain nations, and (3) expansion of the appropriate utilization of canine teams in the detection of explosive devices in all airport areas, including use in passenger screening areas and nonpublic baggage assembly and processing areas.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

PACKWOOD AMENDMENT NO. 3112

Mr. PACKWOOD proposed an amendment to the bill H.R. 5769, supra, as follows:

On page 110, between lines 2 and 3, insert the following:

(a) For the purposes of this section—

(1) the term "Act" means the Endangered Species Act of 1973 (16 U.S.C 1531 et seq.);

(2) the term "Committee" means the Endangered Species Committee established by section 7(e) of the Act (16 U.S.C. 1536(e));

(3) the term "the Secretary" means the Secretary of the Interior;

(4) the term "seventeen Northern Spotted Owl forests of Regions Five and Six" means the Deschutes, Gifford Pinchot, Klamath, Mendocito, Mt. Baker-Snoqualmie, Mt. Hood, Okanogan, Olympic, Rogue River, Shasta-Trinity, Siskiyou, Six Rivers, Siuslaw, Umpqua, Wenatchee, Willamette and Winema National Forests; and

(5) the term "eight Northern Spotted Owl districts of the States of Oregon and California" means the Coos Bay, Eugene, Lakeview, Medford, Roseburg, Salem, Susanville and Ukiah Districts of the Bureau of Land Management.

(b) The Chief of the Forest Service and the Director of the Bureau of Land Management are authorized and directed to submit to the Secretary for consultation pursuant to section 7(a)(2) of the Act (16 U.S.C.1536(a)(2)) the following agency actions:

(1) agency action by the Forest Service, Department of Agriculture, of the land and resource management plan in effect on the date of enactment of this section and the components thereof directly or indirectly affecting timber management for each of the seventeen Northern Spotted Owl forests of Regions Five and Six, as the plan may be amended or superseded by a subsequent plan prior to the completion of consultation and, if an application for exemption is submitted pursuant to subsection (d) of this section, the issuance of the report of the Secretary pursuant to Section 7(g)(5) of the Act (16 U.S.C. 1536(g)(5)); and

(2) agency action by the Bureau of Land Management, Department of the Interior, of the land use plan in effect on the date of enactment of this section and the components thereof directly or indirectly affecting timber management for each of the eight Northern Spotted Owl districts in the States of Oregon and California, as the plan may be amended or superseded by a subsequent plan prior to the completion of consultation and, if an application for exemption is submitted pursuant to subsection (d) of this section, the issuance of the report of the Secretary pursuant to Section 7(g)(5) of the Act (16 U.S.C. 1536(g)(5)).

(c) The consultation process pursuant to section 7(a) through (c) of the Act (16 U.S.C. 1536(a) through (c) for the agency actions defined in subsection (b) hereof shall be completed within 90 days of the date of enactment of this section. In addition to the agency actions, the Forest Service and the Bureau of Land Management shall submit for consideration during consultation all guidance or studies concerning the Northern Spotted Owl prepared by such agencies.

(d) If, after consultation under section 7(a)(2) of the Act, (16 U.S.C. 1536(a)(2)) the Secretary's opinion under section 7(b) of the Act (16 U.S.C. 1536(b)) indicates that the agency actions would violate section 7(a)(2) of the Act (16 U.S.C. 1536(a)(2)), the Chief of the Forest Service and the Director of the Bureau of Land Management may apply to the Secretary for an exemption for an agency action as defined in subsection (b) hereof. Such applications for exemption for the agency actions pursuant to section 7(g)(1) of the Act (16 U.S.C. 1536(g)(1)) must be submitted within 15 days of the date of completion of the consultation process.

(e) If applications for exemption are submitted pursuant to subsection (d) of this section—

(1) the requirement of the proviso of section 7(k) of the Act (16 U.S.C. 1536(k)) shall not apply to the agency actions; and

(2) the requirements for the agency actions of section (7)(c) of the Act (16 U.S.C. 1536(c)) are hereby deemed to have been met and the determination of the Secretary concerning the applications pursuant to section 7(g)(3)(A)(ii) of the Act (16 U.S.C. 1536(g)(3)(A)(ii)) is hereby deemed to have been made.

BURDICK (AND CONRAD) AMENDMENT NO. 3113

Mr. BYRD (for Mr. BURDICK, for himself and Mr. CONRAD) proposed an amendment to the bill H.R. 5769, supra, as follows:

Section 403(6) of Public Law 81-874 is amended:

(1) in the third sentence thereof—

(a) in subparagraph (A), by inserting "or" at the end thereof;

(b) in subparagraph (B), by striking the semicolon and "or" and inserting in lieu thereof a period; and

(c) by deleting subparagraph (C); and

(2) by striking the fourth sentence thereof and inserting in lieu thereof the following two sentences: "Notwithstanding the previous sentence and solely for the purpose of making payments to local educational agencies described in section 3(h), such term includes any otherwise eligible school authority that was constituted after January 1, 1989 or before January 16, 1990. Section 3(d)(2)(B) shall not apply to agency or authority that benefits from the preceding sentence."

PRESSLER AMENDMENT NO. 3114

Mr. McCLURE (for Mr. PRESSLER) proposed an amendment to the bill H.R. 5769, supra, as follows:

At the appropriate place, please insert the following: *"Provided further,* That hereafter the Cedar Pass Visitor Center at Badlands National Park, South Dakota, shall be known as the Ben Reifel Visitor Center."

WALLOP AMENDMENT NO. 3115

Mr. McCLURE (for Mr. WALLOP) proposed an amendment to the bill H.R. 5769, supra, as follows:

On page 28, line 3, strike "$195,903,000" and insert in lieu thereof "$193,103,000"

On page 58, line 10, strike "$82,719,000" and insert in lieu thereof "$85,519,000".

McCLURE AMENDMENT NO. 3116

Mr. McCLURE proposed an amendment to the bill H.R. 5769, supra, as follows:

On page 107, line 18 and continuing on line 19, delete the words "and thereafter".

MURKOWSKI AMENDMENT NO. 3117

Mr. MURKOWSKI proposed an amendment to the bill H.R. 5769, supra, as follows:

SEC. . The Secretary of Interior is directed to report to Congress by March 1, 1991 the following:

(1) Identification of lands and properties that were transferred to Alaska Native Corporations under the Alaska Native Claims Settlement Act as amended, which at the time of transfer were represented or disclosed by the Federal Government as being free from contaminants, and which subsequent to transfer, were discovered to be contaminated; and

(2) Identification of lands and properties that the Federal Government knowingly transferred to Alaska Native Corporations with contaminants.

SEC. . For the purposes of this title "contaminants" are defined as hazardous substances as described in the Comprehensive Environmental Response, Compensation, and Liability Act, and asbestos as described in the Asbestos Hazard Emergency Response Act.

SEC. . Nothing in this title requires the Secretary to conduct an in the field survey to determine the presence or absence of contaminants on transferred lands or properties.

ROCKEFELLER AMENDMENT NO. 3118

Mr. BYRD (for Mr. ROCKEFELLER) proposed an amendment to the bill H.R. 5769, supra, as follows:

On page 55, after line 6, insert:

SECTION . BOUNDARY MODIFICATION.

(a) BOUNDARIES OF CRANBERRY WILDERNESS.—Section 1 of the Act of January 13, 1983 (96 Stat. 2538, 16 U.S.C. 1132), is amended by deleting "on a map entitled 'Cranberry Wilderness—Proposed', dated May 1982" and inserting in lieu thereof "on a map entitled 'Cranberry Wilderness—Revised', dated February 1990".

(b) PROTECTIVE STIPULATIONS.—The construction, maintenance, and use of any structure or facility on those National Forest lands excluded from the Cranberry Wilderness by the boundary adjustment made by this Act shall be restricted to protection and enhancement of the fishery and other natural values of the Cranberry River, the Cranberry Wilderness and its surrounding environment, and all such structures and facilities on such lands shall be constructed of materials that blend, and are compatible with, the immediate and surrounding landscape.

HELMS AMENDMENT NO. 3119

Mr. HELMS proposed an amendment to the bill H.R. 5769, supra, as follows:

On page 101, line 23, strike "none" and all that follows through the period on page 102, line 7, and insert in lieu thereof the following: "None of the funds appropriated under this Act may be used by the National Endowment for the Arts to promote, distribute, disseminate, or produce materials that depict or describe, in a patently offensive way, sexual or excretory activities or organs."

TREASURY, POST OFFICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

LEAHY AMENDMENT NO. 3120

Mr. LEAHY proposed an amendment to the amendment of the House to the amendment of the Senate numbered to the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes, as follows:

I move to concur in the House amendment to the Senate amendment number 132, with an amendment as follows:

At the end of the amendment, add the following: 'Notwithstanding any other provision of this act, $240,000,000 in General Services Administration Federal Buildings Fund revenues shall be available for the construction of the Naval Systems Commands Headquarters, Northern Virginia: *Provided,* that $10,000,000 in additional funds may be obligated upon the advance approval of the House and Senate Committees on Appropriations and the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works: *Provided further,* that no more than $250,000,000 shall be available for acquisition, through direct purchase and construction, of 1,000,000 square feet of occupiable space: *Provided further,* That acquisition of an additional 1,000,000 square feet either through direct purchase, construction or lease, shall only be permitted upon the advance approval of a prospectus by the House Committee on Public Works and Transportation and Senate Committee on Environment and Public Works."

DeCONCINI AMENDMENT NO. 3121

Mr. LEAHY (for Mr. DeCONCINI) proposed an amendment to amendment No. 3120 proposed by Mr. LEAHY to the amendment of the House to the amendment of the Senate numbered 132 to the bill H.R. 5241, supra, as follows:

At the end of the pending amendment, insert the following:

"SEC. 631A. Under the heading, 'General Services Administration, Real Property Activities, Federal Buildings Fund, Limitations on Availability of Revenue', in this act, insert the following:

NEW CONSTRUCTION—DISTRICT OF COLUMBIA

General Services Administration, Southeast Federal Center, Headquarters, $148,500,000: *Provided,* That such funds shall be obligated only upon the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works".

SEC. 631B.

HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT

EXON AMENDMENT NO. 3122

Mr. LEAHY (for Mr. EXON) proposed an amendment to the bill (S. 2936), a bill to amend the Hazardous Waste Materials Transportation Act to authorize appropriations for fiscal years 1990, 1991, 1992, and for other purposes, as follows:

On page 3, line 21, strike "The" and insert in lieu thereof "Except as provided in subsection (c), the".

On page 4, line 13, strike "Not" and insert in lieu thereof "Except as provided in subsection (c), not".

On page 7, immediately after line 23, insert the following new subsection:

"(c) RECONSIDERATION NOT REQUIRED.—Nothing in this section is intended to require reconsideration of existing highway routing regulations or standards related to transportation of radioactive materials.".

On page 16, line 20, through page 19, line 3, strike all and insert in lieu thereof the following:

TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS

SEC. 10. The Hazardous Materals Transportation Act (49 App. U.S.C. 1801 et seq.) is amended by redesignating section 115 as section 119, by striking section 116, and by inserting immediately after section 114 the following new section:

"TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS

"SEC. 115. (a) RAILROAD TRANSPORTATION STUDY.—The Secretary, in consultation with the Department of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the railroad transportation industry, and shippers of high-level radioactive waste and spent nuclear fuel, shall undertake a study comparing the safety of using trains operated exclusively for transporting high-level radioactive waste and spent nuclear fuel (in this section referred to as "dedicated trains") with the safety of using alternative methods of rail transportation. The Secretary shall report the results of the study to

Congress not later than one year after the date of enactment of this section.

"(b) SAFE RAIL TRANSPORT OF CERTAIN RADIOACTIVE MATERIALS.—Within 24 months after the date of enactment of this section, taking into consideration the findings of the study conducted pursuant to subsection (a), the Secretary shall amend existing regulations as the Secretary deems appropriate to provide for the safe transportation by rail of high-level radioactive waste and spent nuclear fuel by various methods of rail transportation, including by dedicated train.

"(c) MODE AND ROUTE STUDY.—The Secretary shall, within 12 months after the date of enactment of this section, undertake a study to determine which factors, if any, should be taken into consideration by shippers and carriers in order to select routes and modes which, in combination, would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel. Such study shall include notice and opportunity for public comment, and shall include but not be limited to assessing the degree to which various factors, including population densities, types and conditions of modal infrastructures (such as highways, railbeds, and waterways), quantities of high-level radioactive waste and spent nuclear fuel, emergency response capabilities, exposure and other risk factors, terrain considerations, continuity of routes, available alternative routes, and environmental impact factors, affect the overall public safety of such shipments.

"(d) DEFINITIONS.—As used in this section, the term—

"(1) 'high-level radioactive waste' has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)); and

"(2) 'spent nuclear fuel' has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).".

On page 26, line 23, and on page 27, line 2, strike "118" and insert in lieu thereof "119"; and on page 30, line 13, through page 32, line 2, strike all and insert in lieu thereof the following:

MOTOR CARRIER SAFETY RATINGS

SEC. 16. (a) AMENDMENT.—The Hazardous Materials Transportation Act (49 App. 1801 et seq.), as amended by this Act, is further amended by inserting immediately after section 117 the following new section:

'UNSATISFACTORY SAFETY RATINGS

"SEC. 118. (a) PROHIBITION ON TRANSPORTATION.—Effective January 1, 1991, if a motor carrier receives a safety rating from the Secretary which is unsatisfactory, such motor carrier shall have 45 days to take such action as may be necessary to improve such safety rating to conditional or satisfactory. After the last day of such 45-day period, if such motor carrier has not received a safety rating from the Secretary which is conditional or satisfactory, such motor carrier shall not operate a commercial motor vehicle (as defined in section 204(1) of the Motor Carrier Safety Act of 1984)—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver, until such motor carrier has received such a safety rating from the Secretary.

"(b) REVIEW OF RATING.—If a motor carrier who has received an unsatisfactory safety rating from the Secretary requests the Secretary to reveiw the conditions and other factors which resulted in such motor carrier receiving the unsatisfactory safety rating, the Secretary shall conduct such review within 30 days after the date of such request.

"(c) PROHIBITION ON FEDERAL AGENCY USE.—No Federal agency may use a motor carrier who has an unsatisfactory safety rating from the Secretary—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver.".

(b) PUBLIC AVAILABILITY OF SAFETY RATINGS.—Not later than one year after the date of enactment of this Act, the Secretary, in consultation with the Interstate Commerce Commission, shall issue a final rule amending the Federal motor carrier safety regulations contained in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to periodically update, the safety ratings of motor carriers which have been assigned unsatisfactory safety ratings by the Secretary.

On page 34, lines 1 and 9, redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and on page 33, immediately after line 23, insert the following new subsection:

(d) AMENDMENT TO SECTION 206 OF FRSA.—Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) is amended by adding at the end the following new subsection:

"(h)(1) The Secretary, by regulation, shall establish and carry out a program for the purpose of imposing on railroads, and collecting, fees related to State participation.

"(2) Such fees shall be established based on such factors, among other relevant factors, as revenue ton-miles, track miles, passenger miles, revenues, other relevant factors, or any combination thereof. In no case shall the aggregate surcharges imposed for any one fiscal year exceed $5,000,000.

"(3) The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

"(4) Fees collected by the Secretary shall be retained by the Secretary and maintained in a separate fund and used by the Secretary for making payments to the States to assist such States in carrying out safety programs in accordance with subsection (d). Moneys in such fund shall be available to the Secretary for each fiscal year hereafter until expended by the Secretary in accordance with this section.

"(5) The Secretary shall promulgate regulations under this subsection prior to the expiration of the 60-day period immediately following the date of its enactment.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LEAHY. Mr President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Tuesday, October 23, 1990, at 9:30 a.m., on the nomination of James F. Blumstein, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

H.R. 4638, ORPHAN DRUG ACT AMENDMENTS OF 1990

● Mr. SIMON. Mr. President, I rise today to discuss the Orphan Drug Act Amendments of 1990 (H.R. 4638). These amendments make a change in the incentives provided for the development of orphan drugs that could have potentially significant effects on companies that have made investments in reliance on that statute. Specifically, section 2(b) of the amendments provides that market exclusivity granted under the act will be withdrawn "if a drug has been designated under section 526 for a rare disease or condition described in section 526(a)(2)(A) and if after such designation such disease or condition does not meet such description * * *." That provision does not specify how it will be determined when a disease no longer meets the required description. I was able to support this provision despite the lack of an explicit description of the decisionmaking process based on our confidence that the decision will be made, by the Food and Drug Administration, in an orderly process. That process would allow the company, whose market exclusivity may be affected, a meaningful opportunity to review and respond to any data or arguments presented by the company that seeks to show that exclusivity should be withdrawn, or any data or arguments developed independently by the Food and Drug Administration. In addition, the affected company would be given a meaningful opportunity to present its own data and arguments on this issue. In my view, due process, and fundamental fairness to those whose businesses may be affected, require nothing less.

The criteria utilized in the amendments for removing orphan drug designation are, of course, already in use for making initial designation decisions. We expect that those criteria will be applied in a fair and orderly manner to any decision to revoke market exclusivity. I am, frankly, concerned that these amendments may have the ultimate, unintended, effect of discouraging investment in the development of nonpatented AIDS drugs. To assure that that effect is not accentuated, the Food and Drug Administration should, as I have discussed, implement the new provisions with care and with fairness.●

CHILDREN'S TELEVISION

● Mr. LAUTENBERG. Mr. President, yesterday, this Nation took a major step in protecting the interest of our Nation's children. Yesterday, the Children's Television Act of 1990 became law and established as a matter of national policy the obligation of television licensees to serve the educational and informational interests of children. This represents the culmination of a legislative effort that has spanned several years. I have been pleased to be a part of that effort, along with my distinguished colleague Senator WIRTH, with whom I began working on this when he was the chairman of the House Telecommunications Subcommittee. I also commend the efforts of the chairman of the Commerce Committee, Senator HOLLINGS, the chairman of the Communications Subcommittee, Senator INOUYE, and my colleague Senator METZENBAUM.

Mr. President, America's educational system must work harder and harder to prepare our children to compete. Television, with its immense power, has the capacity to assist in that effort, to help educate and inform our children. It can arouse their curiosity about the world around them.

Educating and informing our children should not be an option that broadcasters can choose to pursue or not pursue. Now, under the new law, a broadcaster who ignores children risks his license, because service to children will be part of any review of a license renewal.

That's the way it should be. In return for the priviliege of using the public's airwaves, as public trustees, broadcasters should use the medium to serve our children. Unfortunately, commercial television broadcasters have failed the children of this Nation. They air precious little programming directed toward children, even less of some educational or informational value. They overwhelm our children with advertising messages; some programs are nothing more than commercials, hawking toys or other products.

When one looks at the market's incentives, their performance is no surprise. Left to their own devices, broadcasters will sell children short. Indeed, broadcasters who want to serve children, do so at their commercial peril.

This is a classic case that justifies regulation. For years, under different leadership, the FCC agreed. In 1974, the FCC adopted its Children's Television Policy Statement that set out broadcasters' duty to serve the unique needs of children. Broadcasters were required to air a "reasonable amount' of programming designed for specific child audiences.

However, in 1984, the Commission in its Report on Children's Television Programming and Advertising Practices let it be known to broadcasters that they need not pay special attention to our Nation's children. The FCC dropped the requirement for age-specific programming. It stated that a broadcaster's duty to serve children could be reduced if children were served by other, unrelated media, like cable TV or VCRs. The Commission also removed the limits on the amount of time that could be taken by commercial ads during a children's program. The U.S. court of appeals found that decision unfounded.

Mr. President, the Children's Television Act now finally established in the law some minimum requirements on broadcasters.

It limits the amount of time that can be consumed by commercials in each hour of children's programming. The limit would be 10.5 minutes on the weekend and 12 minutes on the weekdays. The limit would also apply to cable television.

It requires the FCC to complete a proceeding on the issue of program length commercials.

The act also creates an Endowment for Children's Educational Television, to support the creation and production of educational television programming for children.

Last and most important, it restores the special obligation of broadcasters to serve the education and informational needs of children, through not just its overall programming, but programming specifically designed to such children's needs.

Mr. President, I am pleased that the Children's Television Act of 1990 is now law. It is now up to the Federal Communications Commission to vigorously implement and to enforce this new law. I for one will be keeping a watchful eye on the Commission in an effort to make sure that it does.●

SALUTE TO RED RIBBON SCHOOLS

● Mr. BOSCHWITZ. Mr. President, I rise today to bring to the attention of this body the outstanding work and participation of several of Minnesota's finest schools. I'm pleased to recognize these schools and am particularly proud of their firm commitment to a healthy drug-free America and their recent exercise of that commitment.

As many of my colleagues know, I recently held a drug-free essay contest in Minnesota for elementary, middle-school and senior high students. All Minnesota schoolchildren were asked to write essays on the topic, "What would help keep my friends drug-free?" These essays were then judged by an independent panel of parents, drug counselors and law enforcement officials. The three, very fine, young Minnesotans who won my antidrug contest were Laura Whipkey of Blue Earth, Mike Solorz of Royalton, and Jamie Kronbeck of Hawley. They were guests of mine at the 1990 National Red Ribbon Kick-Off Ceremony on the Ellipse. Others joining us at the kick-off and unveiling of the national drug-free billboard were Mrs. Dan Quayle, FBI Director Bill Sessions, my colleagues Senators ROTH and AKAKA and the distinguished Senator from Alaska, Mr. MURKOWSKI and his wife Nancy, who's the president of Congressional Families for Drug-Free Youth.

Every student who participated in this contest about the importance of a drug and alcohol-free lifestyle is a winner in my heart. As I mentioned earlier, I want to recognize the outstanding Minnesota schools that encouraged their kids to participate in this contest.

These schools include Blue Earth Elementary, Menahga Elementary, Jordan High School, Rockford Intermediate School, Cass Lake Area Learnings Center, Tri-County High School, Hermantown Elementary, Wayzata High School, Washington Middle School in Brainerd, Metcalf Junior High School in Burnsville, Hidden Vallery Elementary in Savage, Inver Grove Heights Elementary School, Grygla Public Schools, Kelliher Schools, Meadow Lake Elementary in New Hope, Hawley Middle and High School, Royalton High School, Becker Elementary, Olson Junior High in Bloomington, Echo Elementary, Brainerd Senior High, Deer Creek Schools, Fridley Middle School, Watertown Elementary, Glencoe Elementary, Middle and High Schools, Cook High School, Folwell School in Rochester, Truman Elementary, Hostermann Middle School in New Hope, Technology Learnings Campus in Robbinsdale, Zumbrota-Mazeppa Schools, Frazee-Vergas Schools, Storden-Jeffers Elementary, Cass Lake-Benz High School, Park Rapids Middle School, Bertha Schools, St. James Schools, Indian Mounds Elementary in Bloomington, Borup Schools, Coon Rapids Senior High.

I hope entering this contest meant more than just winning a trip to Washington, I hope everyone that entered took a little time to think about the evils of drugs and strengthened their commitment to a healthy drug-free lifestyle. If this contest helped just one young person make the decision not to use drugs, all our efforts will have been worth it.

Again, Mr. President, I commend all the kids in all the schools in Minnesota who entered my contest. Together we truly can make a difference.●

CREDIT UNIONS

● Mr. AKAKA. Mr. President, I learned that the Bush administration is developing a set of proposals to be introduced at the beginning of the

102d Congress which will extensively overhaul the regulatory laws governing credit unions. The commercial for-profit banking industry appears to be behind these efforts to bring credit unions under the same regulatory and tax requirements as other financial institutions.

Although we have yet to see a final set of proposals, Mr. President, I anticipate that these initiatives may have a very negative impact on credit unions in Hawaii and throughout the mainland. As a consequence, I wish to indicate in advance that I will vigorously oppose any changes to existing laws that would weaken or reduce the ability of credit unions to provide safe, responsible, low-cost financial services to their members.

Moreover, it is my view that the continued success and security of our credit unions is the one bright spot in the otherwise desolate landscape of our Nation's financial services industry. I am on record—and reaffirm today—that we need to initiate regulatory reforms and revamp the commercial, for-profit banking industry. However, our non-profit, mutually owned, democratically run, service-oriented credit unions appear to be in remarkably good financial shape. Credit unions were not part of the savings and loan problem, Mr. President, and I see no legitimate reason why they should be part of the savings and loan solution—a solution, I might add, that could come at great cost to individual credit union members.

Why, for example, should credit union members be asked to pay increased Federal deposit insurance rates when credit unions were not involved in the massive multibillion-dollar fraud and corruption we have witnessed with the for-profit commercial savings and loan institutions?

With respect to proposals being put forward by the commercial banking industry to tax the earnings of credit unions, I see no logic to such a plan. The principle of mutuality has deep roots in American law and custom. If mutual fund organizations do not have to pay taxes on their earnings—provided they pass them through to their shareholders—I see no reason why credit unions should do so, either.

Furthermore, Mr. President, as a member of nine credit unions myself, the stability of this system gives me a true sense of financial security. To those who suggest that we merge credit unions with other financial institutions for regulatory and other purposes, I say, "If it ain't broke, don't fix it." Let us preserve what we have, namely, a separate and independent credit regulatory system, free of taxes, nonprofit in motivation, and dedicated to services.●

IBM ROCHESTER WINS NATIONAL QUALITY AWARD

● Mr. BOSCHWITZ. Mr. President, I am very proud to bring to the attention of this body IBM Corp.'s Rochester, MN, division which recently won the prestigious 1990 Malcolm Baldrige National Quality Award. The Baldrige award was established by Congress to recognize those whose pursuit of quality sets the highest standard in American industry. In winning this award, IBM Rochester joins a select group of nine companies who have been honored for excelling in quality achievement and international competitiveness. IBM Rochester is, I expect, the first of many Minnesota corporations to win this award.

The Baldrige award is truly an honor for the 8,100 employees who work at IBM Rochester. This award is also an honor for the people of Minnesota.

The folks at IBM Rochester design and build the successful IBM AS/400 computer system and storage products. The AS/400 was secretly developed in Rochester in the late 1980's under the code name Silverlake, which is the name of a lake in Rochester—and one of Minnesota's 10,000 lakes.

Commerce Secretary Mosbacher, in announcing the award, said "the winners of this award have made quality improvement a way of life. Quality is their bottom line, and that kind of can-do attitude made for world class products and services."

Mr. President, I also want to bring to your attention the hard work and dedication of Larry Osterwise, general manager of the plant. He's a good friend of mine and an extremely bright and energetic leader. Larry developed the theme "Rochester Excellence, Customer Satisfaction." This, Mr. President, is much more than just a saying for IBM Rochester—they've turned this phrase into a working quality policy.

Again, Mr. President, I am very proud of the achievements of IBM Rochester and I wish them much success.●

BREAKING NEW GROUND IN PSYCHIATRIC CARE

● Mr. SIMON. Mr. President, I would like to inform my colleagues of an exciting development in Illinois. Recently I was privileged to announce the awarding of a $2.5 million 5-year research grant to Thresholds, a Chicago-based psychiatric rehabilitation organization. The grant will be funded jointly by the National Institute on Disability and Rehabilitation Research, of the Department of Education, and the National Institute of Mental Health. The grant will finance the establishment of the Thresholds Research Institute.

This is the first time that such an award has not been given to a major university or medical school. It is a great honor for Thresholds, and Chicago, to receive this award. According to Dr. Judith Cook, the director of the new research center, Thresholds will fill an important void in identifying the real needs of persons with serious mental illness.

The new center will undertake a number of research projects, focused on how community based treatment strategies affect different aspects of mental illness. In addition, the center will provide innovative training programs, in community based rehabilitation, for psychiatric students in Northwestern University Medical School.

One of the truly unique aspects to the Thresholds Program will be the involvement of people who have lived with and through psychiatric problems in all aspects of the center: policymaking, planning, implementation, and evaluation of the center's activities. The center also plans to target outreach efforts to minorities and to begin reaching out to rural residents who are experiencing psychiatric problems.

Mr. President, I am proud to bring this matter to the attention of the Senate. I congratulate Thresholds on the award and thank their staff for providing the Chicago region with such an excellent resource.●

THREE MINNESOTA SCHOOLS WIN FITNESS AWARDS

● Mr. BOSCHWITZ. Mr. President, I rise today to recognize three of the Nation's "best fit" schools, who will be receiving the 1990 State Champion Physical Fitness Awards. These "in shape" Minnesota schools are St. Raphael School of Springfield, Northrop Montessori School of Minneapolis, and Richfield Intermediate School of Richfield. Awards will be presented by the President's Council on Physical Fitness and Sports, an effort led by my good friend and probably one of America's healthiest persons, Arnold Schwartzeneggar.

State champion awards like these are based on school performance for the 1989-90 school year. To qualify for the Presidential award, students must score at or above the 85th percentile on all test items for the President's Challenge. The President's Challenge is the national fitness test, which measures heart/lung endurance, muscular strength and endurance, speed and agility.

I am proud to represent a State like Minnesota where keeping fit is important. Keeping the President's Challenge in mind myself and depending upon the schedule of the Senate, I usually try to jog several miles each day.

It is good to see our youth interested and excited about good health. Again, Mr. President, I am very proud of the Minnesota schools selected for this outstanding honor award of fitness and achievement.●

HELPING POLISH DEMOCRACY—MINNESOTA STYLE

● Mr. BOSCHWITZ. Mr. President, there are a variety of ways in which Americans can help Poland and other countries in Eastern Europe to revitalize their economies and governments. One route is through official U.S. economic assistance and through technical advice from relevant U.S. Government agencies.

That's a good way to help—but not the only way, or even the best way. I'm pleased to report that in Minnesota there are also a number of people who think they have something to offer as well—as private citizens or through businesses and voluntary organizations, without need for a great deal of bureaucratic redtape.

Today I'd like to talk about one of these citizens, a gentleman from Willmar, MN, who decided he wanted to do what he could, personally, to help the Polish people develop a framework of effective local government to replace the discredited and unrepresentative Communist system that had been imposed for 40 years on Poland's cities and towns.

I've known Wally Gustafson for many years. After 10 years in the Minnesota Legislature, he served as general counsel for the National Association of Townships, and, for the past 3 years, has headed the National Association of Town and Township Attorneys.

Wally came to see me last December to offer his services to Poland. We put him in touch with a few people in Washington and elsewhere in the country, including a Polish Senator who happened to be in town under the auspices of the National Endowment for Democracy. One thing led to another quickly, and Wally visited Poland in February, paying his own way.

He met with members of the Parliamentary committee looking into township reform, and also developed a variety of other contacts that led to several reciprocal visits to Willmar, in west central Minnesota, Wally's home, on the part of several delegations of Polish lawyers trying to familiarize themselves with our way of local government.

Wally also is interested in getting Minnesota businessmen and managers to contribute their expertise in helping develop small to mid-size private businesses in Poland—we're working with him on some possibilities there. In addition, he and his legal secretary, Jody Kent, were catalysts in getting the National Association of Legal Secretaries [NALS] and its executive director, Stan Orr, to invite Anna Popowicz to their July educational Conference in Philadelphia. Ms. Popowicz, a leading member in Poland's Soladarity movement, occupies a very important position as general secretary of the Polish Council of Legal Advisors. The NALS is taking the lead in fostering cooperation between American and Polish lawyers by putting together a data base of Americans who can be of assistance to Poles.

Wally Gustafson is, in these and many other ways, helping to create a real bridge to the fledgling Poland democracy halfway around the world. He is one of Minnesota's thousand points of light. His efforts, those of Jody Kent and of NALS—on a volunteer basis—are worthy of highest praise.

I ask to place into the RECORD at this point a February 1, 1990 article, from Willmar's West Central Daily Tribune, about Wally Gustafson's exciting mission, as well as an article from the July/August 1990 issue of NALS The Docket, about NALS' efforts.

The articles follow:

[From the West Central Daily Tribune, Feb. 1, 1990]

WILLMARITE TO HELP DEMOCRACY BLOOM IN POLAND

(By Anne Polta)

WILLMAR.—As a youngester growing up in Renville County, Wally Gustafson was always, fascinated with government, especially at the local level.

He went to law school, spent 10 years in the Minnesota Legislature, served a stint as general counsel for the National Association of Townships and has headed the National Association of Township Attorneys for the past three years.

Now the Willmar attorney has a lifetime chance at helping another country build a grassroots democracy.

Gustafson travels to Poland next week to work with the Foundation in Support for Local Democracy as the Polish people make the transaction from Communism to democracy.

"I've always had a private dream to go to a foreign country and help them establish a framework for a viable form of local government but I never thought it would happen," Gustafson said.

The sweeping events in Eastern Europe and the collapse of Communist rule this past year set the stage for making his dream come true. Hoping to offer his background and expertise and perhaps play a role in helping those countries rebuild, Gustafson contacted Sen. Rudy Boschwitz and was invited to Washington, D.C., in early December.

He met with the staffs of the Polish and Hungarian embassies, the State Deprtment and the National endowment for Democracy. Through them, he was introduced to a Polish senator who is undersecretary of state for local government reform, president of the Foundation in Support for Local Democracy and a personal friend of Solidarity leader Lech Walesa.

That led to an invitation for Gustafson to spend nine days in Warsaw, visiting with some of the Polish officials and members of Parliament who'll be redesigning their country's government.

Elections are being held this spring to establish self-government in Poland. But with almost an entire generation grown up accustomed to a bureaucracy that governed through centralization, the task will be enormous, Gustafson said.

"They have a framework of local government but it hasn't been functioning . . . Practically nobody has any experience in governing. They're going to literally reinvent the wheel. If those democracies are going to survive, it's elemental that there be a local form of government."

It's estimated that at least 110,000 new councilors will be elected this spring. Many of them will need training, and the entire process will need a framework in which to organize itself.

Gustafson plans to hold several formal and informal meetings with the Polish foundation to discuss suggestions and answer questions.

He said he'd like to recommend that the current local board system—roughly equivalent to townships—be reduced from 30 members to three or five, and that those boards be given some authority to help finance projects such as rural sales barns that would allow farmers to sell their goods on an open market.

Gustafson said he also plans to recommend that local government assume a strong zoning authority to ensure land use control, and he'll give some guidelines on how to organize a zoning commission.

In addition, he hopes to plant the seeds of a training program that would allow newly-elected Polish officials to observe democracy in action in other countries. That could include visits to the United States.

"They may adopt none of it. They may adopt some of it. Who knows?" Gastafson said of the recommendations he plans to make.

He noted that United States leaders are committed to helping Poland and other Eastern European countries through this critical phase in their history, not only with restructuring local government but with economic, environmental and social issues as well. President Bush has already set up a committee to act as an information clearinghouse on assistance to Poland.

"These countries are most anxious to tap our expertise in every aspect," Gustafson said.

[From the Docket, July/August 1990]

AMERICANS IN POLAND

When Wallace Gustafson landed in Warsaw in December 1989, he knew only that he was staying at the Hyatt Hotel. He knew that back in the United States there was talk of serious problems as Poland began to struggle with its newfound freedom. "I wanted to do something," he said. "We're always talking about why doesn't someone do something. I wanted to see if there wasn't some way we could help."

Gustafson is a partner in the law firm of Gustafson & Waechter, Willmar, Minnesota. He was also president of the National Association of Town and Township Attorneys, had spent 10 years in the Minnesota legislature and served at one point as assistant majority leader in the Minnesota House of Representatives.

He called his friend, Senator Rudy Boshwitz. "He told me to come to Washington, D.C., and he would arrange interviews with some of the Eastern European embassies

and the people in the State Department that deal with Eastern bloc countries. I went. There I met Senator Jerry Regulski, Undersecretary of State for Local Government Reform. He invited me to go to Poland to share information on local government and our legal system with the Polish people."

Officials in the Polish government arranged the interviews. "I didn't know a soul," he said. "But here were all these people eager to find out more about democracy and our legal system. Here was an emerging country struggling with basic legal issues—how to set up a capitalistic system, how the develop an out-of-court settlement system.

"They asked tens of thousands of questions-how we elect officials, judges, how bankruptcy courts operate." During his 11 days in Warsaw, Gustafson met Anna and Krzyztof Popowicz.

"There's a lot of people traveling to these countries," he said, "but there's a lot of confusion and very little coordination. The revolutions in Eastern Europe have touched Americans' altruism, and it seems everybody wants to help. We want to share our knowledge and experience.

"What Poland needs is talent. But the Poles are still so new at this that they don't even know what to ask or what they need. If we're to help them succeed—and succeed ourselves—then we must make the right connections and devise real programs that can make a difference."

When he returned, Gustafson urged his legal secretary, Jody Kent, to write NALS and suggest that the association consider developing working ties with the new democracy.

"The suggestion came just as we were investigating what might be possible," said Stan Orr, NALS executive director. "We did not want to just be part of the many groups that were traveling to Poland but not really accomplishing anything. Gustafson and Kent had made a connection into Poland that helped us make an immediate decision. It was the kind of opportunity that just doesn't happen every day. We acted immediately."

The NALS executive committee and staff issued an invitation to Anna Popowicz to speak at the annual educational conference in Philadelphia in July. Working out all the details was no small feat. "Despite phone calls that did not connect, faxes that took hours, letters that had to be translated and three-way conversations with interpreters, we managed to shape an itinerary," Orr said. "However, five days before Popowicz was to leave Poland, her visa had still not been okayed. We got on the phone to one senator for help and also to a Polish business partner to check it out. We had the visa the next day. That in itself seemed like a small miracle to Popowicz." Popowicz's visit—and the exchange programs that are beginning to take shape—are the result of a forward-thinking association leadership, spurred on by one lawyer and his legal secretary who recognized the chance to create a bridge with a fledgling democracy halfway around the world.

Do you speak Polish?

Does your firm have a Polish-speaking attorney?

Does your firm have a partner in Poland?

Does your firm do business in Poland?

If you can answer yes to any of the above, please contact NALS headquarters. We are building an information database. Simply state your connection or your firm's connection and enclose it with business cards of those individuals (or names, addresses, phone numbers typed neatly on your letterhead). Send to: Poland Database, NALS, 2250 East 73rd Street, Suite 550, Tulsa, Oklahoma 74136-6864●

S. 2602—THE RESEARCH ON ALZHEIMER'S DISEASE AND INDEPENDENCE FOR OLDER AMERICANS ACT OF 1990

● Mr. PRYOR. Mr. President, I am pleased to be a cosponsor of S. 2602, the Research on Alzheimer's Disease and Independence for Older Americans Act of 1990. Biomedical research is one of the most fundamental, yet often overlooked, ways to reduce health care costs and the need for long-term care. With the rapid expansion of the Nation's elderly population, the incidence of diseases and conditions afflicting the aged is expected to increase dramatically as well.

An estimated 4 million people suffer from Alzheimer's disease. This progressive and irreversible degenerative brain disease is the fourth-leading killer in the United States. S. 2602 strengthens the existing Alzheimer's disease research centers by creating core center grants and developing satellite clinics to meet the needs of rural, minority, and other underserved populations. In addition, this legislation creates a task force to coordinate all of the aging research sponsored by Federal agencies. Finally S. 2602 establishes the Claude Pepper Older Americans Independence Centers, which will develop and conduct research, training, and demonstrations to enhance the independence of older Americans.

As chairman of the Senate Special Committee on Aging, I recognize the integral relationship between research and chronic illness and the welfare of older Americans. In July of this year, the Senate Aging Committee invited Dr. Franklin Williams, Director of the National Institute on Aging [NIA], and a number of NIA research directors, to come to Capitol Hill to discuss with congressional staff the status of aging research. This was an important step in bridging the gap between the often complex world of biomedical research and the public policy arena.

Dr. Deborah Claman of the Neuroscience and Neuropsychology of Aging Program at NIA reviewed a bit of history that I believe each of us should keep in mind when considering the expansion of aging research funding. Many of you will remember the epidemic in the 1950's when children were being paralyzed in large numbers by an unknown agent. If the investment at that time had been focused on building bigger and more efficient iron lungs for the afflicted, perhaps the preventive measure of a vaccine for polio would never have been found.

The majority of our health care costs are spent in treating acute and chronic illnesses as opposed to investing in methods to prevent or even cure them. Today, we have an opportunity to alter this pattern by directing an expansion of age-related research. I urge you to consider the implications of not supporting S. 2602. Similar to the iron lung, we can continue to develop the most efficient nursing homes or methods to provide home care, or we could alleviate much of the need for long-term care by finding a cure for such chronic conditions such as Alzheimer's disease and related disorders.●

CELEBRATION OF FREEDOM

● Mr. GRAHAM. I rise, Mr. President, to commend the worldwide "Celebration of Freedom" for the thousands of Soviet Jews emigrating in a great modern-day exodus.

Communities around the globe are participating in this celebration in various ways. In south Florida, "A Celebration of Freedom" will be held on Sunday, November 11 at the Holocaust Memorial on Miami Beach, sponsored by the Greater Miami Jewish Federation.

This joyous event is part of the federation's commitment to operation exodus—the emergency campaign to help rescue and resettle Soviet Jewish emigres.

Mr. President, there are many lessons in the book of exodus that apply today: the struggle for justice versus tyranny, the liberation of Passover and the Ten Commandments. How many Jews left Egypt? The Bible speaks of 600,000 men, plus women and children. There are about that many Jews in the Soviet Union today.

In 1984, only 896 Soviet Jews were able to leave. In 1986, the number was 914. Just 914 out of hundreds of thousands. Then, the doors opened. This September, 18,725 Soviet Jews emigrated to Israel. In August, it was more than 17,000. This year, more than 80,000 Soviet Jews have arrived in Israel.

There has been no plague of the locusts in Moscow, but today's exodus is no less dramatic than the exodus from Egypt. The Red Sea of Soviet intransigence has parted. The collective Biblical cry of this century to "Let My People Go" has been heard. The bracelet, the letters, the countless trips to Moscow, Leningrad, and beyond, the twinned bar mitzvahs and bat mitzvahs and the prayers have produced a modern-day miracle.

Some might argue that this tremendous population shift is a burden. To some, it might seem like a burden to help resettle a brother or sister, or to teach a new language. But I say this great exodus is nothing short of a mir-

acle. This exodus isn't a burden, it's an answered prayer.

On November 11, we celebrated our own freedom. We celebrate the freedoms of thousands of Soviet Jews who have emigrated. And, we celebrate the privilege of helping these newcomers to freedom.●

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991—CONFERENCE REPORT

Mr. LEAHY. Mr. President, I submit a report of the committee of conference on H.R. 5241 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5241) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1991, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 22, 1990.)

Mr. LEAHY. Mr. President, if there is no further debate, I urge the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that the amendments of the House to the amendments of the Senate in disagreement, be considered and agreed to en bloc, with the exception of amendment No. 132.

The amendments, considered and agreed to en bloc, are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5241) entitled "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 1, 16, 20, 35, 36, 40, 41, 42, 51, 53, 59, 90, and 103 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; and not to exceed $3,000 for official reception and representation expenses; $16,488,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$40,265,000: Provided further, That the Federal Law Enforcement Training Center shall hire up to and maintain an average of not less than 441 direct full-time equivalent positions for fiscal year 1991*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$1,135,961,000, of which $7,000,000 shall be for the Interagency Border Inspection System, and*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That Customs shall increase by 10 the number of full-time inspectors in the Charleston, South Carolina Customs District: Provided further, That Customs shall increase by 75 the number of full-time inspectors in the San Diego, California Customs District: Provided further, That the express designations of Customs positions provided for in this Act and in the accompanying House and Senate Reports shall only apply to positions in excess of those positions funded in Public Law 101-136, and shall not adversely impact staffing increases which are otherwise provided for in fiscal year 1991*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert: *: Provided, That additional amounts above fiscal year 1990 levels for international tax enforcement shall be used for the establishment and operation of a task force comprised of senior Internal Revenue Service attorneys, accountants, and economists dedicated to enforcement activities related to United States subsidiaries of foreign-controlled corporations that are in non-compliance with the Internal Revenue Code.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided, That of the $247,878,000 provided for tax systems modernization up to $15,000,000 may be available until expended for the establishment of a federally-funded research and development center and may be utilized to conduct and evaluate market surveys, develop and evaluate requests for proposals, and assist with systems engineering, technical evaluations, and independent technical reviews in conjunction with tax systems modernization.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

UNITED STATES POSTAL SERVICE

GENERAL PROVISIONS

SECTION 1. ELIMINATION OF SUBSIDIES FOR BULK THIRD-CLASS MAIL CONTAINING CERTAIN ADVERTISING MATTER.

(a) IN GENERAL—Section 3626 of title 39, United States Code, is amended by adding at the end the following:

"(j)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail which advertises, promotes, offers, or, for a fee or consideration, recommends, describes, or announces the availability of—

"(A) any credit, debit, or charge card, or similar financial instrument or account, provided by or through an arrangement with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

"(B) any insurance policy, unless the organization which promotes the purchase of such policy is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the policy is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization, and the coverage provided by the policy is not generally otherwise commercially available; or

"(C) any travel arrangement, unless the organization which promotes the arrangement is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the travel contributes substantially (aside from the cultivation of members, donors, or supporters, or the acquisition of income or funds) to one or more of the purposes which constitute the basis for the organization's authorization to mail at such rates, and the arrangement is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization.

"(2) Matter shall not be excluded from being mailed at the rates for mail under former section 4452(b) or 4452(c) of this title, by an organization authorized to mail at those rates solely because—

"(A) such matter contains, but is not primarily devoted to, acknowledgements of organizations or individuals who have made donations to the authorized organization; or

"(B) such matter contains, but is not primarily devoted to, references to and a response card or other instructions for making inquiries concerning services or benefits available as a result of membership in the authorized organization, provided that advertising, promotional, or applica-

tion materials specifically concerning such services or benefits are not included.

"(3) Upon request, an organization authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title shall furnish evidence to the Postal Service concerning the eligibility of any of its mail matter or mailings to be sent at those rates.

"(k)(1) No person or organization shall mail, or cause to be mailed by contractual agreement or otherwise, at the rates for mail under former section 4452(b) or 4452(c) of this title, any matter to which those rates do not apply.

"(2) The Postal Service may assess a postage deficiency in the amount of the unpaid postage against any person or organization which violates paragraph (1) of this subsection. This assessment shall be deemed the final decision of the Postal Service, unless the party against whom the deficiency is assessed appeals it in writing within 30 days to the postmaster of the office where the mailing was entered. Such an appeal shall be considered by an official designated by the Postal Service, other than the postmaster of the office where the mailing was entered, who shall issue a decision as soon as practicable. This decision shall be deemed final lunless the party against whom the deficiency was assessed appeals it in writing within 30 days to a further reviewing official designated by the Postal Service, who shall issue the final decision on the matter.

"(3) The Postal Service shall maintain procedures for the prompt collection of postage deficiencies arising from the violation of paragraph (1) of this subsection, and may in its discretion, following the issuance of a final decision regarding a deficiency under paragraph (2) of this subsection, deduct the amount of that deficiency incurred during the previous 12 months from any postage accounts or other monies of the violator in its possession.".

(b) CONFORMING AMENDMENT.—Section 2401(c) of title 39, United States Code, is amended by striking "3626(a)-(h)" and inserting "3626(a)-(h) and (j)-(k)".

(c) EFFECTIVE DATE.—The amendment enacted by this section shall become effective 90 days after the date of enactment of this Act.

SEC. 2. FORBEARANCE REGARDING CERTAIN POSTAGE DEFICIENCIES.

(a) IN GENERAL.—The United States Postal Service may forbear from the collection of any postage deficiency assessed against an organization authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of title 39, United States Code, if the assessment of that deficiency arises from a violation of the cooperative mailing regulations of the Postal Service set forth at section 625.5 of the Domestic Mail Manual, and the Postal Service has made no determination that the organization knowingly or willfully violated such regulations. If any organization authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of title 39, United States Code, has paid on its own behalf all or part of a postage deficiency which the Postal Service would forbear from collecting under this section, the Postal Service may refund to that organization the amount which it has paid.

(b) EFFECTIVE DATE AND APPLICABILITY.—The provisions of this section shall become effective on the date of enactment of this Act, and shall apply to mailings which were sent on or between July 1, 1986, and the effective date of this section.

SEC. 3. Section 3626 of title 39, United States Code, as amended by the General Provisions of Title II, is further amended by adding at the end the following;

"(k) In the administration of this section, the term 'advertising', as used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

$99,000,000 of which $82,000,000 shall be available for drug control activities which are consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas: Provided, That of the $82,000,000 made available, $50,000,000 shall be transferred to Federal agencies and departments for implementing approved strategies and shall be obligated by the end of fiscal year 1991: Provided further, That of the $82,000,000, not less than $32,000,000 shall be transferred to the Department of Justice and the Department of the Treasury for disbursement to State and local entities for drug control activities which are consistent with the approved strategy for each designated High Intensity Drug Trafficking Area: Provided further, That in the case of the Southwest Border High Intensity Drug Trafficking Area such funds shall be available only for drug control activities which are consistent with the approved strategy and approved by the Drug Advisory Board of the affected State: Provided further,

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

For activities authorized by Public Law 100-690, $46,000,000 to be derived from deposits in the Special Forfeiture Fund; of which $4,548,000 shall be transferred to Federal Bureau of Investigation, "Salaries and expenses"; of which $2,637,000 shall be transferred to Immigration and Naturalization Service, "Salaries and expenses"; of which $6,941,000 shall be transferred to Interagency Law Enforcement, "Organized Crime Drug Enforcement"; of which $18,884,000 shall be transferred to United States Customs Service, "Salaries and expenses"; of which $3,856,000 shall be transferred to Bureau of Alcohol, Tobacco and Firearms, "Salaries and expenses"; of which $3,059,000 shall be transferred to Internal Revenue Service, "Tax law enforcement"; of which $91,000 shall be transferred to Secret Service, "Salaries and expenses"; of which $4,984,000 shall remain available until expended for automated data processing enhancements at the El Paso Intelligence Center; and of which $1,000,000 shall remain available until expended to implement section 7604 of Public Law 100-690, the National Commission on Measured Responses to Achieve a Drug-Free America by 1995 Authorization Act: Provided, That amounts transferred under this heading shall be used for salaries and expenses of drug enforcement personnel.

OFFICE OF NATIONAL DRUG CONTROL POLICY

GENERAL PROVISION

SECTION 1. Section 524(c)(9) of title 28, United States Code is amended by deleting the second sentence and inserting the following: "For each of fiscal years 1991, 1992, and 1993, the Attorney General shall transfer not to exceed $150,000,000 in unobligated amounts available in the Fund to the Special Forfeiture Fund: Provided, That such amounts will be transferred on a quarterly basis: Provided further, That, upon each transfer, not to exceed $15,000,000, or, if determined by the Attorney General to be necessary to meet forfeiture program expenses, an amount not to exceed one-tenth of the previous year's obligations shall be retained in the Fund and remain available for payment of authorized expenses: Provided further, That, any unobligated amounts in excess of $150,000,000 shall remain on deposit in the Fund.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

For additional expenses necessary to carry out the purpose of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $1,645,733,000 to be deposited into said Fund. The revenues and collections deposited into said Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of $5,268,651,800 of which (1) not to exceed $1,460,678,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Arizona:

Flagstaff, a grant to Northern Arizona University, Southwest Forestry Science Complex, $4,500,000

California:

East Los Angeles, a grant to California State University, $350,000

Los Angeles, a grant to the Japanese American National Museum, $39,000

Los Angeles, a grant to Loyola Marymount University, $4,000,000

Menlo Park, U.S. Geological Survey, Laboratory Building A, $22,000,000

Sacramento, John E. Moss Federal Building U.S. Courthouse, Extension, $5,801,000

San Diego, a grant to Children's Hospital, $1,750,000

Colorado:

Denver, a grant to the National Research Center for Environmental Lung Disease, $1,000,000

District of Columbia:

A grant to the American Indian Higher Education Consortium, $1,908,000

A grant to the D.C. Children's National Medical Center, $1,750,000

Federal Bureau of Investigation, Field Office, $37,800,000: Provided, That such funds shall be obligated only upon the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works

Department of Transportation, Headquarters, site, $50,000,000: Provided, That such funds shall be obligated only upon the advance approval of the House and Senate Committees on Appropriations and the House Committee on Public Works and Transportation and Senate Committee on Environment and Public Works.

Southeast Federal Center, $88,000,000: Provided, That such funds shall be obligated only upon the advance approval of the House Committee on Public Works and Transportation and Senate Committee on Environment and Public Works.

Florida:

Miami, a grant to Mt. Sinai Medical Center, $1,750,000

Georgia:

Athens, a grant to University of Georgia, Dean Rusk Center for International and Comparative Law, $1,000,000

Augusta, U.S. Courthouse, $353,000

Idaho:

Moscow, a grant to University of Idaho, Environmental Laboratory, $5,800,000

Illinois:

Chicago, John C. Kluczynski Federal Building, Claim, $455,000

Iowa:

Ames, a grant to Iowa State University, Midwest Supercomputer Access Center, $2,200,000

Kansas:

Kansas City, Federal Building U.S. Courthouse, $29,475,000

Pittsburg, a grant to Pittsburg State University, School of Technology Complex, $5,000,000

Louisiana:

Shreveport, Federal Building and U.S. Courthouse, $24,669,000

Maryland:

Baltimore, a grant for planning and design of Christopher Columbus Center on Marine Research and Exploration, $4,000,000

College Park, a grant to the University of Maryland for superconducting materials research, $1,375,000

Prince Georges County, Internal Revenue Service, $206,502,000

Prince Georges County, U.S. Courthouse, $21,883,000

Massachusetts:

Boston, Federal Building U.S. Courthouse, $184,200,000

Waltham, a grant to establish and construct a National Center for Complex Systems at Brandeis University, $4,000,000

Woods Hole, a grant for the continued development of the Marine Biomedical Institute for Advanced Studies, $4,750,000

Michigan:

Houghton, a grant to Michigan Technological University for construction of a center for applied metallurgical, minerals, and materials research, $1,750,000

Minnesota:

Minneapolis, Federal Building and U.S. Courthouse, $68,772,000

Montana:

Great Falls, a grant to the McLaughlin Research Institute for Biomedical Sciences, $5,000,000

Nebraska:

Lincoln, a grant to University of Nebraska, George W. Beadle Center for Genetic and Biomaterials Research, $4,500,000

Omaha, a grant to Creighton University, Criss Research Building $2,000,000

Nevada:

Carson City, Federal Building-Post Office, parking construction, $50,000

New Jersey:

Camden, Post Office and Courthouse Annex, Escalation, $8,903,000

New Mexico:

Alamogordo, a grant to the Primate Research Institute, Site and Facilities, to be constructed on a site leased from the United States Air Force at Holloman Air Force Base, $4,000,000

Albuquerque, a grant to Sandia National Laboratory for research in environmentally conscious manufacturing, $3,000,000

New York:

New York, a grant to Columbia University, Center for Disease Prevention, $1,000,000

Rochester, a grant to Rochester Institute of Technology for a strategic materials research center, $1,750,000

White Plains, Courthouse, $26,350,000

Oregon:

Portland, Courthouse Annex, $33,320,000

Pennsylvania:

Philadelphia, a grant to the Philadelphia Urban League for the administration of a community-based drug prevention program, $778,000

Wilkes-Barre, Social Security Administration Data Operations Center, escalation, $11,905,000

Tennessee:

Knoxville, U.S. Courthouse-Post Office, $3,431,000

Texas:

College Station, a grant to Texas A&M University for the establishment of the Institute for National Drug Abatement Research at the Texas Engineering Experiment Station, $1,000,000

El Paso, a grant to the University of Texas, $1,750,000

Virginia:

Alexandria, U.S. Courthouse, $58,202,000

Northern Virginia, Naval Systems Commands, $273,000,000

West Virginia:

Charleston, Federal Building U.S. Courthouse, $80,407,000

Nonprospectus construction projects, $5,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$790,251,800*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Maryland:

Avondale, Federal Executive Training Center, $10,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 54 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$272,777,000, including $1,600,000 for Building No. 6, World Trade Center, New York, New York*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 56 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$1,473,804,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$247,665,000 for design and construction services of which $5,500,000 shall be available for payment to a public entity in fiscal year 1991 to house the Bureau of Mines, the United States Geological Survey and the National Weather Service in Tucson, Arizona, such location to be designated by the housed agencies and such agencies are to be housed rent free, exclusive of operating expenses, in such location;*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert:

SEC. 5. Notwithstanding any other provision of law, the Secretary of the Interior shall transfer to the General Services Administration, without consideration, that parcel of land known as the Avondale site comprising approximately 17.8 acres of land located at 4900 LaSalle Road in the Avondale section of Prince Georges County, Maryland, together with any improvements, structures and fixtures located thereon: Provided, That the Administrator of General Services after consultation with the Office of Personnel Management shall provide for such design and alterations to the structures and fixtures located thereon, as may be required, to prepare the site for use as a training and seminar center: Provided further, That upon completion of such alterations the Administrator of General Services shall make the property available to the Director of the Office of Personnel Management for use as a Federal Executive Training Center (Center) and shall delegate to the Director of the Office of Personnel Management any authority necessary to operate the Center: Provided further, That the Administrator of General Services is authorized and directed to charge the Office of Personnel Management, at the time of the delegation, and for a period of not to exceed five additional years at rates equal to the net revenue generated by operation of the Center in each of such years, and that such rates may be less, but not more than, those rates provided for under Section 210(J) of the Federal Property and Administrative Services Act of 1949, as amended: Provided further, That the General Services Administration and the Office of Personnel Mangement shall negotiate annual rates in subsequent years that will, in the aggregate, including the rates and operating costs charged in the first five years and the recovery of the costs of the alterations and additions that are in excess of $10,000,000, and that there will be no further charges to the Office of Personnel Manage-

ment, except for routine operational expenses and costs in anticipation of future repairs subsequent to the recovery of the costs of alteration and additions in excess of $10,000,000: Provided further, That the $6,500,000 previously authorized for Avondale is no longer available for obligation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 6. Notwithstanding any other provision of law, such property as may be necessary, but not to exceed twenty acres, at the Beltsville Agricultural Research Center located in Beltsville, Maryland, may be provided at fair market value to the General Services Administration for the purpose of constructing a Federal Courthouse and that any amount resulting from the acquisition of the property shall be placed in an escrow account to be available hereafter for use in the renovation and restoration of the Beltsville Agricultural Research Center, to be released as specified in advance in appropriations Acts.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 76 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert:

SEC. 12. Notwithstanding any other provision of law, the Administrator of General Services is authorized and directed to provide not less than 120,000 square feet of storage space, together with additional space as necessary for office use, to establish a National Long Term Records Center in Pittsfield, Massachusetts for the specialized storage of federal agency records by the National Archives and Records Administration: Provided, That notwithstanding any other provision of law, the Administrator of General Services is authorized and directed to provide not less than 3,000 square feet of public space in Pittsfield, Massachusetts for a satellite facility of the New England Regional Archives: Provided further, That the Archivist of the United States shall assign adequate personnel to operate the satellite facility established by this section: Provided further, That the Administrator of General Services and the Archivist of the United States shall report on a quarterly basis to the House and Senate Committees on Appropriations on the progress made to implement the directives in this section and the resources necessary to complete the Long Term Records Center and the satellite facility.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 79 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 15 Notwithstanding any other provision of law, the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), is authorized to receive any revenues, collections, or other income received during fiscal year 1991 in the form of rebates, cash incentives or otherwise, related to energy savings, all of which shall remain in the Fund until expended, and remain available for Federal energy management improvement programs as may be authorized by law or as may be deemed appropriate by the Administrator of General Services. The General Services Administration is authorized to use such funds, in addition to amounts received as New Obligational Authority, in such activity or activities of the Fund as may be necessary: Provided, That the General Services Administration shall provide the House and Senate Committees on Appropriations with a plan to ensure a balanced and equitable approach for the relocation of Federal agencies in the Washington, D.C. metropolitan area by March 31, 1991.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *16*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *17*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 82 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *18*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *19*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 20. Notwithstanding any other provision of law, the General Services Administration is directed to maintain during the fiscal year ending September 30, 1991, the vehicle rental rates and per mile rates charged to schools and dormitories funded by the Bureau of Indian Affairs that were in effect on June 30, 1990, except for subsequent per mile rate adjustments related to fuel cost increases.

SEC. 21. Notwithstanding any other provision of this Act, the amount available in the Federal Buildings Fund for program direction and centralized services shall not exceed $122,474,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

GENERAL PROVISION

SECTION 1. (a)(1) The position of Director of the Center for Legislative Archives within the National Archives and Records Administration shall be established without regard to chapter 51 title 5. Effective on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act, the basic rate of pay for such position shall be the minimum rate of pay grade GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(2) There is established within the Center for Legislative Archives within the National Archives and Records Administration the position of Specialist in Congressional History.

(b) There shall be made available from funds appropriated in each fiscal year to the National Archives and Records Administration, $20,000 for the administrative expenses of the Advisory Committee on the Records of Congress established under section 2701 of title 44, United States Code.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of subsections (a) and (b) of this section.

(d)(1) Title 44, United States Code, is amended by inserting after chapter 25, the following new chapter:

CHAPTER 27—ADVISORY COMMITTEE ON THE RECORDS OF CONGRESS

"Sec.
"2701. Advisory Committee on the Records of Congress.
"2702. Membership; chairman; meetings.
"2703. Functions of the Committee.
"2704. Powers of the Committee.
"2705. Compensation and travel expenses.
"2706. Administrative provisions.

"§ 2701. Advisory Committee on the Records of Congress

"(a) There is established the Advisory Committee on the Records of Congress (hereafter in this chapter referred to as the Committee).

"(b) The Committee shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), except that the Committee shall be of permanent duration, notwithstanding any provision of section 14 of the Federal Advisory Committee Act.

"§ 2702. Membership; chairman; meetings

"(a)(1) The Committee shall consist of the eleven members including—

"(A)(i) the Secretary of the Senate;

"(ii) the Clerk of the House of Representatives;

"(iii) the Archivist of the United States;

"(iv) the Historian of the Senate; and

"(v) the Historian of the House of Representatives; and

"(B) six members of whom one shall be appointed by each of the following:

"(i) the Speaker of the House of Representatives;

"(ii) the Minority Leader of the House of Representatives;

"(iii) the Majority Leader of the Senate;

"(iv) the Minority Leader of the Senate;

"(v) the Secretary of the Senate; and

"(vi) the Clerk of the House of Representatives.

"(2) Each member appointed under paragraph (1)(B) shall have knowledge or expertise in United States history, archival management, publishing, library science, or use of legislative records.

"(b) The Secretary of the Senate shall serve as Chairman during the two-year period beginning on January 1, 1991, and the Clerk of the House of Representatives shall serve as Chairman during the two-year period beginning on January 1, 1993. Thereafter, such members shall alternate serving as Chairman for a term of two years.

"(c)(1) Members of the Committee referred to in subsection (a)(1)(A) shall serve only while holding such offices.

Members appointed to the Committee under subsection (a)(1)(B) shall serve for a term of

two years, and may be reappointed without limitation. The initial appointments for such terms shall begin on January 1, 1991.

"(2) Any vacancy on the Committee shall not affect the powers of the Committee. Any vacancy in an appointed position on the Committee shall be filled in the same manner in which the original appointment was made.

"(d)(1) No later than thirty days after the date on which the first session of the 102d Congress begins, the Committee shall hold its first meeting. Thereafter, the Committee shall meet semi-annually or at the call of a majority of its members.

"(2) Seven members of the Committee shall constitute a quorum, but a lesser number may hold hearings.

"§ 2703. Functions of the Committee

"The Committee shall—

"(1) review the management and preservation of the records of Congress;

"(2) report to and advise the Congress and the Archivist of the United States on such management and preservation; and

"(3)(A) no later than December 31, 1991, conduct a study and submit a report to the Congress on—

"(i) the effect any transfer of records of the National Archives and Records Administration from facilities located in Washington, D.C., to any location outside of Washington, D.C., shall have on the management and preservation of the records of Congress; and

"(ii) the five year plan for the management and preservation of the records of Congress; and

"(B) no later than December 31, 1995, conduct a study to update the report submitted under subparagraph (A)(ii), and submit a report to the Congress.

"§ 2704. Powers of the Committee

"(a) For purposes of carrying out the duties referred to under section 2703, the Committee or, on the authorization of the Committee, any subcommittee or member thereof, may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as is appropriate.

"(b) The Committee may secure directly from any department or agency of the United States such information as the Committee may require to carry out the duties referred to under section 2703. Upon request of the Chairman of the Committee, the head of such department or agency shall furnish such information to the Committee.

§ 2705. Compensation and travel expenses

"A member of the Committee may not be paid compensation for service performed as a member of the Committee. However, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Committee.

"§ 2706. Administrative provisions

"(a) Upon request of the Committee, the head of any Federal agency is authorized to detail to the Committee, on a non-reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out the duties referred to under section 2703 and such detail shall be without interruption or loss of civil service status or privilege.

"(b) For purposes of supporting the Committee, the Archivist may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-16 of the General Schedule under section 5332 of such title.".

(2) The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 25 of such title the following:

"27. Advisory Committee on the Records of Congress 2701".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: $114,461,000, of which up to $250,000 shall be made available to continue the use of job sharing arrangements in agencies as authorized in section 3402 of title 5, United States Code, and of which not less than $400,000 nor more than $1,000,000 shall be made available for the establishment of Federal health promotion and disease prevention programs for Federal employees

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 105 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 521. None of the funds appropriated or otherwise made available to the Department of the Treasury by this or any other Act shall be obligated or expended to contract out positions in, or downgrade the position classifications of, members of the United States Mint Police Force and the Bureau of Engraving and Printing Police Force, or for studying the feasibility of contracting out such positions.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 113 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: 530

Resolved, That the House recede from its disagreement to the Senate numbered 114 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first section number named in said amendment, insert: 531

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 115 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: 532

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 533. Notwithstanding any other provision of this Act, the amount appropriated to the Federal Labor Relations Authority for salaries and expenses is $18,693,000.

SEC. 534. Notwithstanding any other provision of this Act, the appropriation for salaries and expenses for the Advisory Committee on Federal Pay shall be $100,000.

SEC. 535. REPORT ON PRODUCTIVITY OF THE FEDERAL WORKFORCE.

(a) IN GENERAL.—The Office of Personnel Management shall review and report on the productivity of the Federal workforce. The report shall include recommendations with regard to the following:

(1) How productivity with the Federal workforce can be increased, the delivery of Government services improved, and the payroll costs of Government controlled through improved organization, training, advanced technology, and modern management practices.

(2) The size, structure, and composition of the Federal workforce.

(3) Criteria for use by departments and agencies to determine the level of personnel necessary to accomplish their functions and goals.

(4) Changes in Federal law, regulations, and administrative practices to promote economy, productivity, effectiveness, and managerial accountability within the Federal workforce.

(b) DEADLINE.—This report shall be submitted to Congress no later than 24 months after the date of enactment of this Act.

SEC. 536. (a) Notwithstanding any other provision of law, sick leave provided by section 6307 of title 5, United States Code, may be approved for purposes related to the adoption of a child in order to test the feasibility of this concept during fiscal year 1991.

(b) Subsection (a) shall cease to be effective as of September 30, 1991.

SEC. 537. None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the SES upon reassignment or transfer.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 117 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 617. No funds appropriated in this or any other Act for fiscal year 1991 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement does not contain the following provisions:

"These restrictions are consistent with and do not supersede conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 USC 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill,

and concur therein with amendments as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *622*

On page 80 lines 23 through and including line 2 on page 81 of the House engrossed bill, H.R. 5241, strike

"(1) announce in any solicitation for offers to procure such goods or services (including construction services) the amount of Federal funds that will be used to finance the acquisition for which such offers are being solicited; and" and insert in lieu thereof

"(1) specify in any announcement of the awarding of the contract for the procurement of the goods and services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 627. (a) Agencies receiving funds appropriated by any Act and which award contracts under the Federal Acquisition Regulations shall provide to the General Accounting Office during October 1991, the following information for contracts awarded during fiscal year 1991—

(1) the number and total dollar value of contracts awarded which required bonding of the contractors;

(2) the number and total dollar value of contracts for which individual sureties were used to meet the bonding requirements;

(3) the number of defaults by contractors using individual sureties and percentage they represent of total defaults;

(4) the number of individual sureties who defaulted on their obligation and the total dollar value of such defaults; and

(5) the number of contracts awarded to Minority Business Enterprises which required bonding of contractors and the number of these which used individual sureties to meet the bonding requirements.

(b) The General Accounting Office shall compile the information collected under subsection (a) and provide a report to the Senate and House Appropriations Committees no later than April 1, 1992. Such report shall include—

(1) the percentage of contracts for which individual sureties were used to meet bonding requirements;

(2) the percentage of total defaults by contractors using individual sureties;

(3) the percentage of individual sureties which default on their obligations; and

(4) the percentage of contracts awarded to Minority Business Enterprises for which individual sureties were used to meet bonding requirements.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *628*

Resolved, That the House recede from its disagreement of the amendment of the Senate numbered 130 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *629*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *631*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *635*

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3120

Mr. LEAHY. Mr. President, I move to concur in the House amendment to the Senate amendment 132 with an amendment as follows:

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], proposes an amendment numbered 3120.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

I move to concur in the House amendment to the Senate amendment number 132, with an amendment as follows:

At the end of the amendment, add the following:

"Notwithstanding any other provision of this Act, $240,000,000 in General Services Administration Federal Buildings fund revenues shall be available for the construction of the naval systems commands headquarters, northern Virginia:

Provided, That $10,000,000 in additional funds may be obligated upon the advance approval of the House and Senate committees on appropriations and the House committee on public works and transportation and the Senate committee on environment and public works: Provided Further, that no more than $250,000,000 shall be available for acquisition, through direct purchase and construction, of 1,000,000 square feet of occupiable space:

Provided further, That acquisition of an additional 1,000,000, square feet either through direct purchase, construction or lease, shall only be permitted upon the advance approval of a prospectus by the House committee on public works and transportation and Senate committee on environment and public works".

AMENDMENT NO. 3121 TO AMENDMENT NO. 3120

Mr. LEAHY. Mr. President, I send to the desk, a further amendment to the pending amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], proposes an amendment numbered 3121 to amendment no. 3120.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment, insert the following:

"SEC. 631A. Under the heading, 'General Services Administration, Real Property Activities, Federal Buildings Fund, limitations on availability of revenue', in this act, insert the following: New Construction:

"District of Columbia:

"General Services Administration, Southeast Federal Center, Headquarters, $148,500,000: *Provided,* That such funds shall be obligated only upon the advance approval of the House committee on public works and transportation and the Senate committee on environment and public works".

SEC. 631B.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3121) was agreed to.

Mr. DECONCINI. Mr. President, I am pleased to bring before the Senate the conference report on H.R. 5241, the Fiscal Year 1991 Treasury, Postal Service and General Government Appropriations Act.

The conference report on H.R. 5241 totals $20.7 billion in budget authority and $19.9 billion in outlays. It is within the subcommittee's 302(B) allocation for budget authority and outlays.

Mr. President, the conference report contains important increases for the law enforcement activities of the U.S. Customs Service; the Bureau of Alcohol, Tobacco and Firearms; the Federal Law Enforcement Training Center; the U.S. Secret Service; and the Office of National Drug Control Policy for high intensity drug trafficking areas. All of these agencies are funded at levels above the president in the conference report. It also contains a $600 million increase for the Internal Revenue Service—an amount which includes the full $191 million requested by the president and assumed in the bipartisan budget agreement for revenue enhancement.

Mr. President, conference on the treasury, postal service appropriations act is never easy. We have many very critical government programs contained in this act which never receive the full amount of funding and attention they deserve. Nonetheless, the conference report, I believe goes a long way toward correcting this problem. I want to thank my ranking member, Mr. DOMENICI, and his very able staff, Rebecca Davies, for all of the fine work they contributed to the conference.

Mr. President, before I conclude my remarks, I want to take a few minutes to bring to the attention of the Members of this body perhaps the most

noteworthy provisions in this appropriations act, ironically, these are provisions which are legislative in nature. Amendment No. 112 contains two separate titles which authorize comprehensive pay reform and increased benefits and entry pay levels for our Nation's Federal law enforcement officers.

For years, Members of this body, Federal agencies, and employee groups have discussed the ever-widening gap between Federal salaries and those paid to employees in the private sector. Recent reports show the pay disparity of Federal workers to be 30 percent less than that paid to workers in comparable jobs in the private sector. As a result, Mr. President, each year we lose thousands of the most talented civil servants from the Federal Government.

Mr. President, we are attempting to rectify that situation in this bill. Not only have we included provisions on general pay, but I am pleased to announce to this body that the Federal Law Enforcement Pay Reform Act of 1990, which I introduced in March of this year, will become a reality.

Mr. President, at a time when our country attempts to wage a war on drugs, terrorism and violent crime, we have been sending the wrong message of the courageous men and women in the federal law enforcement profession. The pay reform section of the conference report contains a separate title designed to address the recruitment and retention problems facing federal law enforcement agencies which were documented by the National Advisory Commission on Law Enforcement. The extreme disparities which exist between Federal officers and their State and local counterparts has caused the departure of many talented and experienced officers from the Federal Government and at the same time has reduced the pool of available candidates to fill the vacancies. It has taken 3 years to identify the problem, study the problem, and produce recommendations to correct the problem. Today, we can solve the problem with the passage of this conference report.

Mr. President, I would like to take a few minutes to publicly commend and express my appreciation to those individuals who helped us reach this point. Special credit must go to Attorney General Richard Thornburgh who sat, along with me, as a commissioner on the national advisory commission and spoke out frequently on the dire need to pass this legislation. I also want to thank his bureau chiefs: FBI Director William Sessions, DEA Administrator Robert Bonner, former DEA Administrator Jack Lawn, Bureau of Prisons Director Mike Quinlan, INS Commissioner Gene McNary, U.S. Marshals Service Director Michael Moore, former Marshals Director Stan Morris.

I also want to express my appreciation and thanks to Secretary of the Treasury Nicholas Brady and his bureau heads: Secret Service Director John Simpson, ATF Director Stephen Higgins, Customs Commissioner Carol Hallett, IRS Commissioner Fred Goldberg.

Next, I want to recognize the important contributions made by several employee organizations including Dave Williams, Association of Federal Investigators, Bob Van Etten, Federal Law Enforcement Officers Association, Ernie Alexander, Federal Criminal Investigators Association.

Last, I want to thank all of the commissioners, staff director Drew Valentine of the GAO, and the entire commission staff for producing a document which led to the introduction of this legislation.

Mr. Chairman, I also want to note the courtesy and support this Senator received from members of the Governmental Affairs Committee.

I urge the adoption of the conference report.

Mr. DOMENICI. Mr. President, we present for the Senate's approval today the conference report on H.R. 5241, the fiscal year 1991 Treasury, Postal Service, and General Government Appropriations Act.

It was not easy to resolve the differences between the House- and Senate-passed versions of this measure and stay within the fiscal year 1991 budget authority and outlay limitations set for this bill. We accomplished this task however. We resolved our disagreements with the House, and we bring back to this body a conference agreement within the subcommittee's 302 spending allocations for fiscal year 1991. Senator DECONCINI, The chairman of the subcommittee, deserves much credit for this. Without his hard work, dedication and leadership, this conference result would not have been possible.

I would also like to recognize the members of the Senate Governmental Affairs Committee—Senators GLENN, ROTH, PRYOR, and STEVENS—for the contribution they made to this bill. As you will recall, amendments passed by the Senate added law enforcement and Governmentwide pay reform authorizations to this appropriations measure. These members worked with their House counterparts and the administration to reach an agreement on a Federal pay reform package for inclusion in this conference agreement. The Federal Employees Pay Comparability Act now a part of this appropriations bill seek to close the gap between Federal and non-Federal pay. It will hopefull overcome the recruitment and retention problems faced by Federal agencies and make Federal service more attractive to the brightest, most qualified individuals.

I would also like to bring one more item to my colleagues attention, Mr. President. Since the time the Senate acted on this appropriations bill, the bipartisan summit negotiators reached agreement on a deficit reduction package. That package includes increased revenues from enhanced IRS enforcement initiatives. In compliance with that agreement, this conference report includes an additional $191 million above the Senate-passed level for audit and collection functions of the IRS. This puts in place the funding increase required to meet the summit agreement revenue targets.

Mr. President, on balance, this is a good conference agreement. While each and every item in disagreement was not resolved the way I would have preferred, we bring back a reasonable compromise between the House and Senate versions of this bill. I urge my colleagues to support it.

NAVY BUILDING

Mr. DECONCINI. Mr. President, the administration originally requested $821,548,000 in its March 29, 1990, budget amendment for design, site acquisition and construction of a new Naval Systems Commands Headquarters to be located in northern Virginia. That budget request contemplated a building consisting of 3 million occupiable square feet of space.

In September, GSA and Navy revised the scope of the original Navy request and revised the initial request for appropriations in fiscal year 1991 to $300 million for construction of 1 million square feet of space with a subsequent long-term lease with option to purchase of a second 1 million square feet. The September agreement would have kept the door open for additional space if Navy requirements were to grow in the future.

As the Senator from Ohio knows, we did not include any funds in the Senate version of H.R. 5241 for the Navy Building. When we marked up our bill, we did not have adequate information concerning the request.

By the time we went to conference, however, we had been persuaded that long-overdue funding for building construction was warranted.

However, subsequently, questions concerning the actual cost for construction of the 1 million square-foot building and questions about Navy's actual square footage requirements were raised by the Senate Environment and Public Works Committee. The distinguished Senator from Ohio persuaded the Senate Environment and Public Works Committee to reduce funding for the first phase of this project to $240 million with approval by the committee prior to obligation of the GSA funds.

In conference, however, Congressman WOLF, who represents the Arlington area and who was a conferee on H.R. 5241 insisted on a figure of $273 million for this project. He also sent a letter to GAO, a copy of which I ask be inserted in the RECORD, which asks GAO to review the cost estimates for the first 2 million square feet of space and determine if the funding request of GSA is in the best interests of the taxpayer. It is my understanding that the senior Senator from Virginia also sent a similar letter to the GAO.

Mr. President, recognizing the concerns expressed by the Senator from Ohio, the conferees agreed to a figure of $273 million for the Navy building, an amount which was $27 million less than that contained in the revised request of Navy and GSA. We believed this was a good compromise, particularly since GAO will be reviewing the cost estimates.

In the meantime, the Navy has advised in a letter to Richard Austin, Administrator of General Services, that they can live with $240 million.

Mr. President, I have no other choice but to agree to the amendment offered by the Senator from Ohio which would limit the amount of construction funds which may be obligated on this building to $240 million, with another $10 million being provided subject to the approval of the appropriations and authorizing committees.

I will reluctantly accept the amendment offered by the distinguished Senator from Ohio. I say, reluctantly, because I am concerned about what impact this amendment may have on our ability to get this Treasury appropriations bill through the Congress and enacted into law.

I thank the distinguished Senator from Ohio for his interest in this legislation and his willingness to work with us on an amendment which permits an additional $10 million to be obligated if it is warranted.

I ask unanimous consent to print in the RECORD a letter from Congressman WOLF to Mr. Bowsher, dated October 19, 1990.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 19, 1990.

Mr. CHARLES A. BOWSHER,
Comptroller General, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: I am writing to request that you perform an accounting review of the request by the General Services Administration (GSA) for appropriated funds to consolidate the Naval Systems Commands (NSC) of the Department of the Navy.

As a member of the House Treasury, Postal Service, and General Government subcommittee, I have serious concerns about the discrepancies between dollar figures for the request, which consists of the first million square feet of a two million square foot project. Since the Administration first sought $821,548,000 for a three million square foot NSC project in a budget amendment transmitted to Congress on March 29, 1990, there have been conflicting statements about the actual dollar amount needed to complete the project.

The Senate Committee on Environment and Public Works has expressed interest in the project, and officials at the GSA and the Navy have offered cost estimates for the project that have varied by tens of millions of dollars, with swings in estimates of $60 million overnight. The conference committee on H.R. 5241 appropriated the amount necessary to complete the first of two million square feet, relying on the information provided by the career federal employees—and I emphasize *career* federal employees who are immune from political pressure—that have worked on the consolidation of funding intended to avoid future cost overruns.

My concern is that the legitimacy of the competitive procurement process for the NSC project be preserved, in order to reflect the best interests of the American people. I would therefore request that the audit focus on the amount of money needed to deliver the first of two million square feet under the terms of the current procurement.

I also firmly believe that the Congress and the American people should be able to rely on the appropriateness and accuracy of the dollar figures provided by executive agencies in appropriations requests. There were too many discrepancies in the figures provided, where good government demanded that there be clarity and fairness.

I have sent a letter to the Administrator of General Services requesting that he not obligate the funds for the project prior to your investigation of this matter. I would therefore respectfully request that you investigate the matter and report back to the House and Senate Appropriations Committees within 60 days of your receipt of this letter.

Sincerely,

FRANK R. WOLF,
Member of Congress.

ADVISORY COMMITTEE ON FEDERAL PAY

Mr. DECONCINI. Mr. President, the conferees reduced the funding available for the advisory committee on Federal pay to $100,000 in fiscal year 1991. This action was taken because the comprehensive pay reform section of the bill assumes the advisory committee will be abolished and replaced by the Federal Pay Council. The $100,000 included in the bill will give the committee sufficient funds to cover close-down costs, severance pay and other benefits for current employees. The conferees expect the termination of the advisory committee to become effective January 25, 1991.

Mr. METZENBAUM. Mr. President, there is an item in this conference report which appropriates funds for the construction of naval office space. I am convinced that the amount of money set aside for this project is too high, and I will shortly move to amend the provision to lower the dollar amount. I believe this will be accepted by the floor managers of this conference report.

I refer to an extra $33 million which has been appropriated to construct new naval office space in northern Virginia. This appropriations conference report sets aside a total of $273 million for 1 million square feet of space. That's $33 million more than what was authorized by the Senate Environment and Public Works Committee, of which I am a member.

Why this extra $33 million?

The Navy conceded to me that it can do the project for $240 million.

Why is the Government contemplating spending $273 per square foot to build in northern Virginia?

Ask any private developer. That number is way out.

In these economic times, lenders and builders are begging for work. Instead of taking advantage of this "buyers" market, the Government wants to throw money away.

At a time when we are struggling to slash $500 billion from our deficit, it is an outrage to be wasting even one red cent.

Let me be clear, Mr. President.

I do not take issue with the Navy's interest in building this facility. I have great respect for the Navy and do not question its need for this space.

But I do take issue with the pricing of this project.

Some wildly divergent dollar figures have been tossed around.

Originally, the Navy wanted to build a 3-million-square-foot project which GSA estimated would cost over $821 million.

But the House authorized and appropriated $680 million for the project.

Then somewhere along the way the project was downsized to 2 million square feet. The price tag was slashed to $300 million. That was supposed to cover the first 1 million square feet. A potentially costly lease with option to buy, arrangement was included for the second million square feet in space: $821 million! $680 million! $300 million! $273 million! $240 million!

Why such confusion?

Why such costly price tags?

After all, this is not the Taj Mahal. It is office space. It does not cost anywhere near $273 to $300 per square foot to build new offices.

Mr. President, I have spent a good deal of time examining the issue. Indeed, I insisted that the Environment and Public Works Committee, as part of the authorization process, reduce the $300 million figure to $240 million.

I also insisted that we not lock the Government into a costly lease/purchase arrangement for the second million square feet of space. If the Navy needs the extra space, the Environment and Public Works Committee has said the Navy can come back and ask for it.

Mr. President, the Senate Environment Committee, with the cooperation and assistance of Senator WARNER who sits on the committee, agreed to $240 million for 1 million square feet of space.

But this appropriations measure exceeds this level. This is a mistake. There is simply no good reason for adding another $33 million.

We must reduce the appropriations and save the taxpayers some more money.

My amendment would provide GSA with $240 million to go forward on the acquisition of 1 million square feet of new office space. It would also enable GSA and the Navy to come back to the appropriations and authorizing committees to get an additional $10 million should the $240 million prove not to be enough.

Furthermore, the amendment would require GSA and the Navy to come back to the authorizing committees should a second million square feet of office space be necessary.

Mr. President, let us not leave the temptation there to spend more money than we absolutely have to. Let us reduce the appropriation to a level which more accurately reflects today's economic conditions.

Mr. ROTH. Mr. President, this conference report contains the most fundamental reform of the Federal compensation system in the history of our Nation. This legislation represents a year-long effort by the Bush administration and the Congress to improve the ability of the Federal Government to recruit and retain the best and the brightest for Federal service. As the ranking Republican member of the Committee on Governmental Affairs, I urge the Senate to support these provisions because it will improve our ability to channel our resources in those localities and occupations where recruitment and retention problems are most pervasive.

The diversity of jobs and skills of the Federal Government's 2 million strong work force is as varied as the 50 States from which they come. In my home State of Delaware more than 5,000 Federal employees work diligently to provide such services as care in veterans hospitals to the issuing and delivery of Social Security checks, and insuring the safety of our highway, rail, and air transportation systems.

Across our country, Federal employees are dedicating their careers to public service, whether it be a customs official protecting our borders, a medical scientist searching for cures for cancer and AIDS, or a social worker providing moral and inspirational support to help retrain a displaced worker for a new career. It is critical that we do our utmost to attract and retain the best employee possible.

Unfortunately we are failing in our efforts—the Federal Government is experiencing a quiet crisis. At a time when communication and technological advances in the workplace provide fertile ground for sweeping improvements in employee productivity, we must do more to attract and retain highly educated and well-trained employees. The Federal Government is simply not doing enough to meet this challenge, which will only become greater and greater. The reforms incorporated in this legislation will move us closer to meeting these challenges.

In its 1989 report, "Leadership in America—Rebuilding the Public Service," the National Commission on the Public Service, chaired by Paul Volcker, pointed to some startling statistics:

Only 13% of Federal Government senior executives interviewed would recommend that young people start their careers in Government, while several recent surveys show that less than half the senior career civil servants would recommend a job in Government to their own children;

Of the 610 engineering students who received degrees at M.I.T. and Stanford in 1986, and the 600 who graduated from Rensselaer Polytechnic Institute in 1987, only 29 took jobs in government at any level; and

More than 50% of the respondents to a recent survey of Federal personnel officers said recruitment of quality personnel had become more difficult over the past five years.

The General Accounting Office testified before the Committee on Governmental Affairs that of 64 college students in various discussion groups, only 2 indicated a willingness to accept a starting salary at the Federal entry-level rate. While the pay gap between the private and Federal sector is a significant factor contributing to the failure of the Federal Government to recruit and retain the best possible employees, it is not the only factor.

Earlier in the year, after introducing by request the administration's proposal for comprehensive pay reform, I heard from every Cabinet Secretary on the need for reform.

Secretary of Defense Dick Cheney wrote:

DoD faces a formidable challenge in attracting and retaining top quality civilian personnel as we reshape our civilian work force in the coming years. Increased flexibility is essential. The Department has a particularly crucial need for the legislation to improve its ability to attract and retain highly skilled and experienced scientific, technical, professional and administrative personnel.

Secretary of Energy Admiral Watkins:

Since coming to the Department, my efforts to staff key positions, particularly in highly technical fields, have been stymied continually by our inability to offer competitive salaries and financial incentives. The Administration's proposal will help remedy these problems immediately while also restructuring the entire Federal pay system in a way which will enable us to compete successfully in the marketplace over the long term. Without statutory relief, the Department is unable to hire the individuals having the special skills and experience necessary to revitalize the nuclear weapons complex.

Secretary of Health and Human Services Sullivan wrote:

The Department of Health and Human Services has encountered particular difficulty in recent years in staffing positions requiring high levels of professional competence in medical and related occupations.

Agriculture Secretary Yeutter wrote:

One of the most challenging personnel issues I have faced as Secretary of Agriculture has been the lack of flexibility and competitiveness in the Federal compensation system. The problems with the pay structure have persisted for years and need immediate attention. The diversity of our programs requires a large and dispersed work force. Geographic differentials and expanded relocation allowances will provide incentives for employees to accept jobs in the locations where they are most needed.

Mr. President, these are but a sample of the many letters I have received. I ask unanimous consent that the full text of these letters be printed in the RECORD.

Mr. President, we must do more to promote the ideal of public service and all Americans must recognize the value these public servants are providing. And we must do more to insure that civil servants know what their responsibilities are and know how they are performing. We must provide Federal employees with the assurance that they will be rewarded appropriately for their service. If employees are not recognized for their service, or told how they can perform their jobs better, we will continue down the slippery slope of a Federal Government that can't do. And this is unacceptable at a time when the Federal Government has the capability to be more responsive to the needs of the American people. It is my hope and belief that this legislation will help to accomplish these goals.

This legislation is designed to achieve many objectives. It will provide increased flexibility in the pay system to adapt to special situations and needs. The bill provides for a range of new authority including new recruitment, retention, and relocation bonuses and allowances; expanded authority to hire above minimum entrance rates; and travel expenses for job candidates and new appointees.

One of the most important features of this legislation is that it institutes a credible, effective, and enduring pay adjustment process. The President's Pay Agent will recommend pay adjustments based on data from the Bureau of Labor Statistics in time for the President's annual budget submission. The legislation sets forth a new locality pay system, starting in 1994, with the goal of narrowing the comparability gap over the following 9 years. It is critical to point out that these provi-

sions envision that the statistical methods used under current law by the Office of Personnel Management for calculating pay comparability will continue to be used for determining pay disparities in the local pay areas established under this bill.

This means that in calculating pay comparability in the localities established by the Pay Agent, the Office of Personnel Management will continue to base its calculation on achieving 95 percent of the median non-Federal pay. By allowing Federal salaries to come within 5 percent of the median of rates paid by other employers for comparable jobs, this legislation will let the Government compete for talent in the marketplace without paying more than absolutely needed.

In addition, this legislation provides immediate relief for critical pay problems. This includes geographic differentials in high labor cost areas—New York, San Francisco, and Los Angeles, and nationwide 5 percent salary increases for some college entry level occupations.

Mr. President, I would like to briefly outline with more specificity some of the more immediate changes within the legislation which will help to remedy some of the Federal Government's most critical recruitment and retention problems. The legislation will provide:

Greater authority to hire above the minimum rate within a grade level. This will provide agencies more flexibility in hiring college graduates and other entry level employees at a higher wage if the applicant has special skills.

Relocation bonuses with service agreements. Agencies would be given the flexibility to establish relocation bonuses, up to 25 percent of basic pay, which would be available to employees who must relocate to fill a position in which the agency is having difficulty filling. An employee receiving such a bonus would have to agree to work for the Federal Government for a certain period of time.

Advance pay for new hires. This would provide agencies with flexibility to provide new hires with two pay periods of advance pay prior to the beginning of work. This helps new hires with moving expenses and costs of settling in a new city.

Travel and transportation expenses for employment interviews and new hires. This matches private sector policy with regard to recruitment of new employees.

Exemption of up to 800 positions Governmentwide from the pay ceiling to help recruit in the hardest areas. This is primarily for scientists and engineers. For instances, Secretary Watkins at the Department of Energy is still having a very difficult time recruiting nuclear scientists to help with the cleanup of the DOE's nuclear facilities.

It is important that these provisions be used wisely and prudently and the decisions be made by those not only responsible but also accountable to the President, the Congress and above all the taxpayers for assuring budgetary constraint.

At the same time that we are considering Federal pay reform, the Federal deficit continues to grow. We cannot consider pay reform out of the context of the budget gap. The Office of Management and Budget in its July midsession review of the Federal budget increased its deficit projections dramatically. The fiscal year 1991 baseline deficit jumped more than 100 percent, from $101 billion to $232 billion. The Congressional Budget Office reported in their update of the economic and budget outlook that the fiscal year 1991 baseline deficit had increased to $232 billion.

As everyone who worked on this legislation is aware, I have been concerned with the potential costs of this legislation from the very beginning. During the Governmental Affairs consideration of this legislation, I offered an amendment which would have provided an early retirement window for Federal employees.

I envision the early retirement legislation as a transition for the Federal work force, a transition to a leaner, but better paid work force. As we move through the 1990's the Federal Government must begin to take advantage of the technological advances in the workplace, to help improve worker productivity. Work stations, advanced communications, faxes, can all help improve productivity in the workplace. And the early retirement bill could provide the transition to this more productive, better paid workforce. At the same time, we will have shifts within the Federal Government. Some departments will be increasing their work force, while others, like Defense, will be slimming down. Budget savings from the early retirement bill could be partially used to help fund some of the increases in spending for higher salaries.

The early retirement provision was not approved by the Governmental Affairs Committee, but Federal employees can be assured that I will continue my strongest possible efforts in this area. This conference agreement does include, however, a requirement that the Office of Personnel Management shall review and report on the size, structure, and composition of the Federal work force. It also requires that the Office of Personnel Management develop criteria for use by departments and agencies to determine the level of personnel needed to accomplish their functions and goals. This criteria can then be used by the departments and agencies of the executive branch in determining whether changes in their work force are needed.

Finally, I once again commend the Bush administration for putting its strongest efforts into addressing this quiet crisis. Pay reform is complex, but like the reform of the Federal employee retirement system several years ago, it is a task the administration and this Congress considered important in doing our part to help the executive branch remain competitive with the private sector in attracting and retaining valued employees.

Mr. President, I ask unanimous consent to have printed in the RECORD various letters on this matter.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, May 14, 1990.

Hon. WILLIAM V. ROTH, Jr.,
Ranking Republican, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR BILL: The Director of the Office of Personnel Management recently transmitted to Congress the Administration's proposed "Federal Pay Reform Act of 1990." Swift enactment of the legislation is a high priority for the Administration. Its enactment is particularly vital to the Department of Defense, whose civilian personnel constitute more than half of the Federal civilian work force.

The Department faces a formidable challenge in attracting and retaining top quality civilian personnel as we reshape our civilian work force in the coming years. Increased flexibility is essential. The Department has a particularly crucial need for the legislation to improve its ability to attract and retain highly skilled and experienced scientific, technical, professional and administrative personnel.

The Administration's proposed legislation will modernize the Federal civilian pay system and improve the quality of work life for Federal civilian employees in a manner consistent with fiscal limitations. The legislation is an integral part of the Department's plan to strengthen and streamline its management practices in accordance with my July 1989 Defense Management Report to the President. Its enactment is critical to the accomplishment of our civilian personnel management objectives.

I urge prompt consideration and enactment of the proposed Federal Pay Reform Act.

Sincerely,

DICK CHENEY.

THE SECRETARY OF ENERGY,
Washington, DC, May 14, 1990.

Hon. WILLIAM V. ROTH, Jr.,
Ranking Minority Member, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: I am writing to let you know that the Department of Energy has an urgent need for prompt passage of the Administration's "Federal Pay Reform Act of 1990."

Since coming to the Department, my efforts to staff key positions, particularly in highly technical fields, have been stymied continually by our inability to offer competitive salaries and financial incentives.

The Administration's proposal will help remedy these problems immediately while also restructuring the entire Federal pay system in a way which will enable us to compete successfully in the marketplace over the long term.

Without statutory relief, the Department is unable to hire the individuals having the special skills and experience necessary to revitalize the nuclear weapons complex. The Administration's proposal contains two particular reforms that are urgently needed to accomplish this task.

The first provision is special pay authority, under which agency heads could be authorized to hire individuals for certain critical positions at salaries up to the pay level for Cabinet Secretaries. The current demands on the nuclear weapons complex require an infusion of talent from individuals highly skilled in fields such as nuclear engineering and physics, and technical disciplines required for hazardous and radioactive waste management. Under current law, the plain fact is that individuals possessing these skills and the demonstrated ability to make a difference in managing the nuclear defense complex cannot be recruited at current Government pay levels. Even scientists at the national laboratories that conduct the Nation's nuclear defense research and development are compensated at levels significantly higher than those currently authorized by law for Federal employees.

The second key authority contained in the Administration's proposal involves the ability of the Office of Personnel Management to waive application of the Dual Compensaton Act restrictions for civilian and military retirees. One significant source of individuals possessing both the technical skills and demonstrated ability and expertise to master the problems affecting the nuclear defense complex is a small cadre of retired military officers whose careers were devoted to developing and applying this particular type of expertise. We have found that such individuals, required to return to civilian life by compulsory military retirement, have made professional employment opportunities available to them in private life which do not require forfeiture of their military pensions. This is a significant talent pool that could be extremely beneficial in the Department's efforts to apply excellence in the conduct of its nuclear defense responsibilities.

The authorities for speical pay for critical positions and case-by-case waivers of the Dual Compensaton Act restrictions of current law would be extremely important tools in managing the Department effectively. Their availability would make a real difference in successfully meeting our responsibilities to resume defense nuclear materials production safely and in the environmentally-responsible fashion.

I appreciate your leadership in focusing Congressional attention on reform of the Federal pay system. Please let me know if I can be of assistance.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC May 17, 1990.

Hon. WILLIAM V. ROTH, Jr.,
Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: I am writing to urge your favorable consideration and early action on the "Federal Pay Reform Act of 1990." This legislation is urgently needed to address and correct deficiencies in the current pay system that are hampering our ability to attract and retain a quality work force.

The Department of Health and Human Services has encountered particular difficulty in recent years in staffing positions requiring high levels of professional competence in medical and related occupations. In addition to addressing the underlying structural problems of the current system, this legislation offers immediate relief in the form of special allowances that will help us hire and retain these highly skilled professionals. We are also interested in the authorities that would be granted by the proposal for special pay treatment of world class experts and separate systems for occupations that cannot be accommodated fully in the general system. We believe the health related occupations may require such separate treatment.

I commend the proposal to you as a means of strengthening the entire Federal service and for its particular importance to programs of this department. Please let me know if I can be of any assistance.

Sincerely yours,

LOUIS W. SULLIVAN, M.D.,
Secretary.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, May 11, 1990.

Hon. WILLIAM V. ROTH, Jr.,
Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR BILL: One of the most challenging personnel issues I have faced as Secretary of Agriculture has been the lack of flexibility and competitiveness in the Federal compensation system. The problems with the pay structure have persisted for years and need immediate attention.

The Department of Agriculture supports the "Federal Pay Reform Act of 1990" because it attempts to solve current major pay problems by reaching further into the pay system than any recent pay initiative. We believe this proposal reflects the application of prudent fiscal and compensation theory.

We want to continue our tradition of excellence here at the Department in carrying out the programs to be mandated by the 1990 Farm Bill. The diversity of our programs requires a large and dispersed work force. Geographic defferentials and expanded relocation allowances will provide incentives for employees to accept jobs in the locations where they are most needed.

Enactment of the Administration's proposal will provide immediate relief for our most pressing problems. It will replace the current structure with a more flexible and market sensitive pay system. We will be able to respond to the changing labor markets and obtain better value for our resources.

Sincerely,

CLAYTON YEUTTER,
Secretary.

THE SECRETARY OF THE TREASURY,
Washington, DC, June 13, 1990.

Hon. WILLIAM V. ROTH, Jr.,
Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: I am writing to urge favorable action by your Committee on the Administration's "Federal Pay Reform Act of 1990."

The current Federal pay system is seriously hindering our ability to compete in the labor market for the skilled workers needed to carry out our Congressionally-mandated programs. Enactment of the Administration's proposal will provide immediate relief for the most pressing problems in the form of new pay authorities and allowances. Over the longer term, it will replace the current structure with a new, more cost-effective and market-sensitive pay system.

Please let me know if I can be of assistance in facilitating prompt Congressional action on reforming the Federal pay system.

Sincerely,

NICHOLAS F. BRADY.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, July 6, 1990.

Hon. WILLIAM V. ROTH, Jr.,
Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: I am writing to urge favorable action by your Committee on the Administration's "Federal Pay Reform Act of 1990."

The inflexible and outmoded Federal pay system currently in effect is seriously hindering our ability to compete in the labor market for the skilled workers needed to carry out our Congressionally mandated programs. Enactment of the Administration's proposal will provide immediate relief for the most pressing problems in the form of new pay authorities and allowances. Over the longer term, it will replace the current structure with a new, more cost effective and market-sensitive pay system.

We believe that if the Office of Personnel Management's implementing regulations allow agencies sufficient flexibilities, we will be able to address most of the staffing problems of the Department, including the Federal Aviation Administration. Should the bill prove to not fully address our problems, we believe the provision allowing for separate pay systems for selective occupations will provide the flexibility the Department needs.

We consider the "Federal Pay Reform Act of 1990" an important first step toward solving our pay problems and hope that it will be enacted quickly. If we can be of assistance in facilitating Congressional action on this proposal please let me know.

Sincerely,

SAMUEL K. SKINNER.

THE SECRETARY OF COMMERCE,
Washington, DC, May 4, 1990.

Hon. WILLIAM V. ROTH, Jr.,
Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: I am writing to urge favorable action by your Committee on the Administration's "Federal Pay Reform Act of 1990."

The inflexible and outmoded Federal pay system currently in effect is seriously hindering our ability to compete in the labor market for the skilled workers needed to carry out our Congressionally mandated programs. Enactment of the Administration's proposal will provide immediate relief for the most pressing problems in the form of new pay authorities and allowances. Over the longer term, it will replace the current structure with a new, more cost effective and market-sensitive pay system.

Please let me know if I can be of assistance in facilitating prompt Congressional action on reforming the Federal pay system.

Sincerely,

ROBERT A. MOSBACHER.

Mr. ROBB. Mr. President, I rise in support of the conference report to ac-

company H.R. 5241, Treasury and Postal Service appropriations for fiscal year 1991. I would like to speak to two matters in the bill.

First, I support the compromise amendment regarding office space for the Navy proposed by the Senator from Ohio, [Mr. METZENBAUM]. This amendment provides $240 million in 1 million square feet of space, with $10 million in additional funds to be made available upon advance approval of the House and Senate Committees on Appropriations, the House Committee on Public Works and Transportation, and the Senate Committee on Environment and Public Works. The first 1 million square feet is limited in cost to $250.0 million. An additional 1 million square feet may be acquired, either through lease, direct purchase, or construction, only with the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

I recognize, Mr. President, that the reduced appropriation for this facility may require GSA to revise the specifications for the solicitation. In fact, GSA may have to even issue a new solicitation. I understand this may take time, but I believe that the Nation's taxpayers will be better served by the reduced level of funding during this restricted budgetary period.

Mr. President, this project was first proposed at $821.5 million for three facilities of 3 million square feet each. Due to reductions in the size of the Navy and budgetary limitations, the project has been downsized to 2 million square feet in total. The Senator from Ohio's amendment helps us to acquire new headquarters for the Naval Systems Command in northern Virginia at the least cost to the Federal taxpayer. I am pleased to join the Senator from Ohio and my senior colleague from Virginia in support of the amendment.

Second, I am pleased that the conferees included language requiring a study by the General Services Administration concerning the siting of Federal office space in the Virginia and Maryland suburbs and the District of Columbia. Such a study is very important in these times of limited Federal budget resources.

Finally, Mr. President, I want to thank the chairman of the subcommittee, Senator DECONCINI, and the ranking member, Senator DOMENICI, for their time and attention to the aforementioned matters.

Mr. WILSON. Mr. President, as I have been saying for many years, fighting a war on drugs means more than simply declaring war—we must also pony-up the money to pay for it.

Our ability to meet the threat posed by drug trafficking and the violence it has spawned depends largely on the men and women who serve as law enforcement officers. Yet, in many high cost cities across this Nation, from San Diego to Washington, DC, our efforts to recruit and retain qualified Federal officers is being threatened by a growing disparity between the wages we offer to Federal officers and those earned by State and local law enforcement officers.

I have heard from many law enforcement officers in California, and the information they have shared with me more than demonstrates the inadequate conditions under which many of them must live with the current pay structure.

One study revealed that a bus driver in Los Angeles, with 3 years of service, earns $3,200 more than an FBI agent with the same length of service. In addition, a Special Agent with the Bureau of Alcohol, Tobacco, and Firearms [ATF] wrote to me stating that for the first 2 years on the job, an ATF Special Agent with a family of four qualifies for food stamps in Los Angeles County.

We cannot expect our dedicated law enforcement officers to spend the long hours investigating cases, often at risk to their lives, unless we are willing to pay them a decent wage.

I was pleased to join with the Senator from Arizona, Senator DECONCINI, in 1987 to say this when we created the National Advisory Committee on Law Enforcement. I said it to Drug Czar William Bennett in a letter last summer recommending initiatives to enhance the Federal war on drugs. And, I said it on the Senate floor last November when the Senate adopted my amendment requiring the President to implement the pay recommendations of NACLE.

Last month, the Senate finally took action by adopting as an amendment to the fiscal year 1991 Treasury/Postal appropriations bill legislation originally introduced by Senator DECONCINI and myself earlier this year, S. 2250, the Federal Law Enforcement Pay Reform Act.

In the midst of bitter and divisive debate on other equally important fiscal issues, I am pleased that Congress stands unified in its support for our dedicated law enforcement officers. Today, Congress will be taking final action on the Treasury/Postal appropriations bill which includes much-needed reform not only for law enforcement, but for most Federal employees.

Once enacted, the conference committee recommendations will add as much as 21 percent to the pay checks of Federal law enforcement officers in my State and in other high-cost cities nationwide. This figure includes a nationwide salary increase, up to a 16-percent high-cost city increment, and up to a 5-percent for foreign language proficiency—for which the FBI and DEA already are eligible.

The conference committee recommendations also grant law enforcement agencies discretion to pay an officer who transfers to another region with a higher cost of living up to 25 percent or $15,000, whichever is higher.

Mr. President, I am dismayed that the law enforcement pay provisions will not take effect this year and does not include the level of increases that the Senate originally adopted. I had earnestly hoped that we could find the money to do full and immediate justice for Federal law enforcement. Unfortunately, because of present budgetary constraints, the money could not be found to fund an earlier start.

However, the conference committee recommendations include provisions which gives the President the authority to grant up to an 8-percent increase during this fiscal year. I call on the President to work with FBI Director William Sessions, Assistant Treasury Secretary Peter Nunez, and other law enforcement officials to find the funding in their respective budgets to grant an immediate increase in law enforcement pay.

With recent reports showing that we are losing seasoned law enforcement officers in such sensitive areas as drug enforcement and savings and loan fraud, the need for immediate compensation reform becomes even more imperative. Indeed, with the cost of training recruits, this proposal may actually save significant sums.

It is my sincere hope that what we enact today will be seen as a significant beginning. This legislation requires the Office of Personnel Management [OPM] to submit to Congress before January 1993, a separate pay and classification system for Federal law enforcement. I am hopeful that OPM will adopt a pay system much like that proposed by the National Advisory Commission on Law Enforcement, one that compensates our law enforcement officers at the level that Senator DECONCINI and I proposed earlier this year.

The total DeConcini-Wilson proposal is not cheap, but if we simply stopped sending congressional newsletters, which cost taxpayers more than $100 million per year, we could cover more than one-half of the cost.

The legislation we are passing today is as important as any to the war against drugs even at the local level. That is why local law enforcement organizations in my State have endorsed a pay increase for Federal agents.

Mr. President, Federal law enforcement officers are our first line of defense in our Nation's drug war, putting their lives on the line to protect our families and neighborhoods from the scourge of drugs. By reforming the law enforcement pay system, Congress is sending a message that we intend to

stand firmly behind these dedicated men and women and create the conditions that will make it possible to continue to recruit and retain highly qualified and dedicated officers.

Mr. President, I applaud the tireless efforts of my friend from Arizona, Senator DECONCINI. I was pleased to be an original cosponsor of the law enforcement pay legislation when he introduced it earlier this year. Passage of reform legislation today would not have been possible without Senator DECONCINI's inspiring leadership on behalf of our law enforcement officers.

Mr. DODD. Mr. President, I would like to engage the distinguished chairman of the Treasury, Postal Service, and General Government Appropriations Subcommittee in a colloquy. First, I would like to commend him for his leadership on the issue of the pay rates of Federal law enforcement officers. Given the ongoing battle against crime and illicit narcotics, it is absolutely essential that federal agencies be able to recruit and retain good people on the front lines. That effort is much easier because of the important work the Senator has done to bring pay rates for Federal law enforcement officers more into line with compensation received by local law enforcement officers.

Mr. DECONCINI. I thank the Senator for his kind words.

Mr. DODD. At the same time, the locality pay provisions of this measure, which are intended to increase the pay of Federal law enforcement officers employed in regions of the country with high costs of living, would apparently create some problems in my State of Connecticut. As I understand it, the areas covered by this provision would be limited to 13 consolidated metropolitan statistical areas [CMSA's] designated by the Office of Personnel Management. I ask the Senator if I am correct in my understanding that in Connecticut, all of Fairfield County and eight towns in neighboring counties are considered to be part of New York's CMSA, and so would be covered by the locality pay provision, while the remainder of Connecticut would be excluded?

Mr. DECONCINI. The Senator is correct.

Mr. DODD. Mr. President, I would also ask the Senator if it is not the case that, under this locality pay provision, Connecticut is treated in a unique manner. As I understand it, there are 13 CMSA's affected by the locality pay provisions, but Connecticut is the only State in which the district offices and the duty stations of a majority of Federal law enforcement officers are outside the CMSA.

Mr. DECONCINI. To my knowledge, the Senator is correct.

Mr. DODD. Mr. President, as I understand it then, the locality pay provisions as currently structured would result in pay disparities between Federal agents working at different sites in Connecticut, but under the supervision of the same district office. I am concerned that these disparities will create morale problems.

From what I have been able to gather, only 20 percent of the FBI agents in Connecticut would receive cost-of-living pay hikes under the locality pay provisions as presently written, and none of the Secret Service and Customs agents stationed in Connecticut would have their wages increased. In addition, half the Treasury agents in Connecticut would apparently be eligible for the cost-of-living pay increases, while half would not be. Moreover, as I understand it, the provision as currently written would create disparities among agents living within the same town. I know of one case, for example, in which a Federal law enforcement officer living in Cheshire and working in Bridgeport would be eligible for the pay increase, while her colleague who also lives in Cheshire, but works in New Haven, would not be. I simply indicate my concern to my friend from Arizona that these disparities would lead large numbers of Federal law enforcement officers stationed in Connecticut to seek reassignment to higher paying posts, and would engender resentment and ill-feeling among those who do not receive reassignment.

Mr. DECONCINI. I would respond to the Senator by saying that it certainly is not the intent of the locality pay provision to create disparities. On the contrary, the purpose of this provision is to establish rates of pay which are consistent with the high cost of living and labor in certain geographic regions. For this reason, I am synpathetic to the concerns the Senator raises.

Mr. DODD. I thank the distinguished chairman for empathizing with the plight of Federal law enforcement agents in Connecticut. I ask him if he would be supportive of efforts to address this matter in appropriate legislation next year.

Mr. DECONCINI. I can assure my friend from Connecticut of my interest in working with him next year to find a solution to the problem he has outlined so well.

Mr. DODD. I thank the distinguished Senator from Arizona for his courtesy.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Vermont.

The motion was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSENT TO AMENDMENTS TO THE DELAWARE-NEW JERSEY COMPACT

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar 1014, House Joint Resolution 657 a joint resolution granting consent of Congress to amendments to the Delaware-New Jersey compact.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 657) granting the consent of the Congress to amendments to the Delaware-New Jersey compact, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BIDEN. Today the Senate is approving and sending to the President a bill granting congressional consent to amendments to an interstate compact between Delaware and New Jersey. The amendments, which have been passed by both State legislatures, allow the Delaware River and Bay Authority to engage in economic development activities.

The original compact was consented to in 1962. The compact approved by Delaware and New Jersey at that time contemplated allowing the Delaware River and Bay Authority to engage in activities beyond operation of the Delaware Memorial Bridge and the Lewes-Cape May Ferry. However, as consented to by Congress, the compact limited the authority's activities to those related to the bridge and ferry.

After 27 years of successful and profitable operation of the Delaware Memorial Bridge, Delaware and New Jersey decided the authority's mandate could and should be expanded. Allowing an interstate authority of this type to engage in economic development is not unusual. New Jersey has similar arrangements with interstate authorities established with its two other neighbors, Pennsylvania and New York.

I would like to make clear that the authority will not be able to include economic development projects in its rate base when determining bridge tolls. Those tolls are limited by Federal law to levels that are just and reasonable, and that determination can be based only on the authority's investment in the bridge and related transportation facilities. Additional protections for commuters are included under the State laws of Delaware and New Jersey.

The compact also explicitly requires that environmental concerns be met before proceeding with any economic development activities. Delaware and

New Jersey have long supported strong protective measures for their coastlines. In approving the compact, both States made sure that the authority would have to comply with strict environmental standards. Article XXII was written in response to environmental concerns in both States. Section 2 of the joint resolution addresses Federal concerns.

For example, Delaware has established an extensive review process for economic development projects. For a project to be approved in Delaware, it must be initiated by the Governor, reviewed by the State Department of Natural Resources and Environmental Control, be the subject of public hearings by the authority, and approved by a majority of commissioners from both States, and finally, receive all applicable Federal, State, and local environmental permits. And if it is a major project, it must also have the approval of the Delaware General Assembly.

In short, environmental protections were extensively considered during development of the compact by the States and strong provisions were included in it. In particular, the compact in no way affects the jurisdiction of the Coastal Zone Management Act, Federal wetlands protection programs such as the section 404 program or other Federal environmental laws over the authority's projects. The authority will be subject to all applicable environmental laws.

Earlier this month, I introduced Senate Joint Resolution 373, the companion bill to House Joint Resolution 657. The Senate Judiciary Committee approved Senate Joint Resolution 373 on October 11. In order to expedite congressional consent to the compact amendments, the Senate has taken up the House bill to send to the President.

The economic development activities of the Delaware River and Bay Authority will not, by themselves, assure a solid economic future for Delaware or southern New Jersey. And it is important that the authority not forget that its main purpose remains the operation of the Delaware Memorial Bridge and the Lewes-Cape May Ferry. The bridge and ferry are among the finest in the world. The authority must make sure that those high standards continue to be met.

But the new responsibility, if put to good use, can assist the economic future of the counties bordering the Delaware Bay. Yearly figures vary, but with the compact change, millions of dollars will be available to assist economic growth in Delaware and New Jersey. With the environmental, financial, toll rate, and other protections included in the compact and congressional reservations, the economic development projects of the authority will be conducted within carefully drawn parameters.

I would like to thank the ranking minority member of the Judiciary Committee, Senator THURMOND, for his cooperation in moving the Senate joint resolution through the committee. I would also like to thank the leadership of the Environment and Public Works Committee, Senators BURDICK and CHAFEE, for their assistance in clearing the changes to the Bridge Act that are part of the joint resolution so congressional consideration could proceed smoothly and quickly.

The PRESIDING OFFICER. Without objection, the joint resolution is deemed read the third time and passed and the preamble is agreed to.

So the joint resolution (H.J. Res. 657) was passed.

The preamble was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that Calendar No. 966 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 803, S. 2936, the Hazardous Materials Transportation Safety Improvement Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2936) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1990, 1991, and 1992, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Hazardous Materials Transportation Safety Improvement Act of 1990".

DEFINITIONS

SEC. 2. Section 103 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1802) is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (3), (5), (6), and (7) (and any reference thereto) as paragraphs (7), (8), (9), and (10), respectively; and

(3) by inserting immediately after paragraph (2) the following new paragraphs:

"(3) 'imminent hazard' means the existence of a condition which presents a substantial likelihood that death, serious illness, severe personal injury, or substantial adverse effect to health, property, or the environment may occur before the reasonably foreseeable completion date of an administrative hearing or other formal proceeding initiated to abate the risk of such harm;

"(4) 'Indian tribe' shall have the meaning given that term under section 4 of the Indian Self-Determination and Education Act (25 U.S.C. 450b);

"(5) 'motor carrier' means a motor common carrier, a motor contract carrier, or a motor private carrier as those terms are defined in section 10102 of title 49, United States Code;

"(6) 'person' means an individual, firm, copartnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, government, Indian tribe, or agency or instrumentality of any government when it offers hazardous materials for transportation in commerce or transports hazardous materials in furtherance of a commercial enterprise, but does not include the United States Postal Service and, for the purposes of sections 110 and 111 of this title, any agency or instrumentality of the Federal Government;".

REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS

SEC. 3. Section 105 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1804) is amended to read as follows:

"REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS

"SEC. 105. (a) GENERAL.—(1) The Secretary shall issue, in accordance with the provisions of section 553 of title 5, United States Code, including an opportunity for informal oral presentation, regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce.

"(2) The regulations issued under this subsection shall be applicable to any person who transports, or causes to be transported or shipped, a hazardous material, or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person as qualified for use in the transportation in commerce of certain hazardous materials.

"(3) Regulations issued under this subsection shall govern any aspect of hazardous materials transportation safety which the Secretary determines necessary or appropriate.

"(b) HIGHWAY ROUTING OF HAZARDOUS MATERIALS.—(1) Not later than 1 year after the date of enactment of the Hazardous Materials Transportation Safety Improvement Act of 1990, the Secretary shall issue standards for the designation of highway routes over which hazardous materials may be transported in commerce by motor carriers. Following issuance of such standards, no State,

political subdivision of a State, [or] Indian [tribe] *tribe, or Federal agency* shall designate highway routes for the transportation of hazardous materials, except in accordance with those standards.

"(2) Highway routing standards issued by the Secretary under paragraph (1) shall include the following requirements:

"(A) Highway route designations shall enhance overall public safety in the jurisdiction of the authority designating the route and in other jurisdictions directly affected by the designation.

"(B) Each State, political subdivision of a State, Indian tribe, or Federal agency seeking to designate a highway route for the transportation of hazardous materials shall consult with each jurisdiction directly affected by the designation and offer an opportunity for public comment.

"(C) No such route designation by a State, political subdivision of a State, [or Indian tribe] *Indian tribe, or Federal agency* may be executed unless (i) it is agreed to by each [State or Indian tribe] *State, Indian tribe, or Federal agency* directly affected by the designation, or (ii) any dispute over the route designation arising from the failure of such an affected [State or Indian tribe] *State, Indian tribe, or Federal agency* to agree to that designation is resolved in favor of the designating [State or Indian tribe] *State, Indian tribe, or Federal agency* under paragraph (5) of this subsection.

"(D) Such route designations shall not unreasonably burden commerce.

"(E) The route designation process provided in this subsection, including the participation of affected jurisdictions, shall be completed in a timely manner.

"(3) Standards issued by the Secretary under paragraph (1) shall provide for consideration of factors such as—

"(A) population density;

"(B) type of highways;

"(C) type and quantities of hazardous materials;

"(D) emergency response capabilities;

"(E) consultation with affected parties;

"(F) exposure and other risk factors;

"(G) terrain considerations;

"(H) continuity of routes;

"(I) alternative routes;

"(J) effects on commerce; and

"(K) such other factors as the Secretary considers appropriate.

"(4) States shall be responsible for determining, in accordance with requirements established by the Secretary, that the highway route designations of their political subdivisions are in accordance with this subsection.

"(5)(A) If a State (on its behalf or on behalf of one of its political [subdivisions) or an Indian tribe] *subdivisions), Indian tribe, or Federal agency* is unable to obtain the agreement of any adjacent [State or Indian tribe] *State, Indian tribe, or Federal agency* to a highway route designation in accordance with this subsection, after attempting to resolve the dispute directly with such adjacent [State or Indian tribe, the State or Indian tribe] *State, Indian tribe, or Federal agency, the State, Indian tribe or Federal agency* seeking designation may petition the Secretary to resolve the dispute. This paragraph does not apply to disputes between political subdivisions within a State.

"(B) The Secretary shall, within 18 months after the date of enactment of the Hazardous Materials Transportation Safety Improvement Act of 1990, issue regulations for resolving disputes between or among [States and Indian tribes] *States, Indian tribes, and Federal agencies* under this paragraph.

"(C) The Secretary shall resolve a dispute under this paragraph within 1 year after the date the Secretary receives the petition for resolution of such dispute.

"(D) Where any [State or Indian tribe] *State, Indian tribe, or Federal agency* is seeking a highway route designation, the regulations issued under subparagraph (B) shall provide for a finding in favor of such [State or Indian tribe] *State, Indian tribe, or Federal agency* if that designation is in accordance with the standards issued under paragraph (1) of this subsection and the highway route in dispute will provide the greatest level of highway safety without unreasonably burdening commerce.

"(c) JUDICIAL REVIEW.—(1) Except as provided in paragraph (2), route designations and dispute resolution decisions rendered under subsection (b) shall not be subject to judicial review in any civil or criminal proceeding to enforce a route designation.

"(2) Any State or Indian tribe that is a party to a proceeding under subsection (b)(5) and that is adversely affected by a decision rendered in such proceeding may, at any time before the expiration of 60 days after that decision becomes final, file a petition for judicial review with the appropriate district court of the United States.

"(d) LIST OF ROUTE DESIGNATIONS.—The Secretary shall periodically update and publish a list of currently effective hazardous materials highway route designations.

"(e) INTERNATIONAL UNIFORMITY.—(1) Subject to guidance and direction from the Secretary of State, the Secretary shall participate in international forums that establish or recommend mandatory standards and requirements for the transportation of hazardous materials in international commerce.

"(2) The Secretary may consult with interested agencies to assure that, to the extent practicable, regulations issued by the Secretary pursuant to this section shall be consistent with standards adopted by international bodies applicable to the transportation of hazardous materials. Nothing in this subsection shall require the Secretary to issue a standard identical to a standard adopted by an international body, if the Secretary determines the standard to be unnecessary or unsafe, nor shall the Secretary be prohibited from establishing safety requirements that are more stringent than those included in a standard adopted by an international body, if the Secretary determines that such requirements are necessary in the public interest.

"(f) DISCLOSURE.—(1) Each person who offers for transportation in commerce a hazardous material that is subject to the shipping paper requirements of the Secretary shall provide the carrier, or maintain on the vehicle if a private motor carrier, a shipping paper that, at a minimum, discloses in a manner prescribed by the Secretary, the following:

"(A) a description of the hazardous material including the proper shipping name;

"(B) the hazard class of the hazardous material;

"(C) the identification number (UN/NA) of the material;

"(D) immediate first action emergency response information or a means for appropriate reference to such information which must be immediately available; and

"(E) a telephone number for the purpose of obtaining more specific handling and mitigation information concerning the hazardous material at any time during its transportation.

"(2) Any person who transports a hazardous material in commerce shall, in the event of an incident involving such material, immediately disclose to appropriate emergency response authorities, upon their request, information on the hazardous material being transported.

"(g) UNLAWFUL REPRESENTATION.—No person shall, by marking or otherwise, represent that—

"(1) a container or package for the transportation of hazardous materials is safe, certified, or in compliance with the requirements of this title unless it meets the requirements of all applicable regulations issued under this title; or

"(2) a hazardous material is present in a package, container, motor vehicle, rail freight car, aircraft, or vessel, if the hazardous material is not present.

"(h) UNLAWFUL TAMPERING.—No person shall unlawfully alter, remove, deface, destroy, or otherwise tamper with—

"(1) any marking, label, placard, or description on a document required by this title or a regulation issued under this title; or

"(2) any package, container, motor vehicle, rail freight car, aircraft, or vessel used for the transportation of hazardous materials.

"(i) RETENTION OF MARKINGS AND PLACARDS.—Not later than 6 months after the date of enactment of this subsection, the Secretary of Labor, in consultation with the Secretary of Transportation and the Secretary of the Treasury, shall issue under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) standards requiring any employer who receives a package, container, motor vehicle, rail freight car, aircraft, or vessel which contains a hazardous material and which is required to be marked, placarded, or labeled in accordance with regulations issued under this Act to retain the markings, placards, and labels, and any other information as may be required by such regulations on the package, container, motor vehicle, rail freight car, aircraft, or vessel, until the hazardous materials have been removed therefrom.".

HAZARDOUS MATERIALS TRANSPORTATION SAFETY PERMITS

SEC. 4. Section 106 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1805) is amended by adding at the end the following subsection:

"(d) PERMITTING.—(1) Effective [one] *1* year after the date of enactment of this subsection, no motor carrier may transport or cause to be transported in commerce, in a quantity established by the Secretary, any class A or B explosives, any hazardous material which has been designated by the Secretary as extremely toxic by inhalation, or any highway route controlled quantity of radioactive materials as defined by the Secretary, unless the carrier obtains and possesses a valid safety permit issued by the Secretary authorizing the carrier to engage in such transportation. Each person who offers for transportation in commerce a hazardous material to which this subsection applies may only offer such material to a carrier presenting a valid safety permit.

"(2) The Secretary shall issue a safety permit to each carrier required under paragraph (1) to possess a permit if the carrier submits a complete application and meets all other requirements of the regulations

issued by the Secretary under paragraph (4), including a certification that the carrier has identified all hazardous material regulations of the Secretary applicable to the carrier's operations and is in full compliance therewith and with the Federal Motor Carrier Safety regulations contained in subchapter B of chapter III of title 49, Code of Federal Regulations.

"(3) Any safety permit issued under this subsection may, after notice and an opportunity for a hearing, be amended, suspended, or revoked by the Secretary in accordance with procedures established under paragraph (4) whenever the Secretary determines that a carrier has failed to comply with a requirement of this title or any regulation issued under this title. In cases of imminent hazard, the Secretary may amend or suspend a safety permit immediately without the opportunity for a hearing.

"(4) The Secretary shall, by regulation, establish—

"(A) to which hazardous materials and in what quantities this subsection applies;

"(B) standards of compliance required to be met for issuance of a safety permit;

"(C) application procedures, including form, content, and filing fees;

"(D) standards for determining the duration, [terms] *terms*, conditions, or limitations of a safety permit;

"(E) procedures for the amendment, suspension, or revocation of a safety permit; and

"(F) any other procedures the Secretary considers appropriate to implement this subsection.

"(5) Not later than 12 months after the date of enactment of this subsection, the Secretary shall initiate a rulemaking proceeding to determine which additional materials, if any, should be included among the materials specified in paragraph (1), for which motor carrier safety permits are required because of their high degree of risk when transported. Such proceeding shall take into consideration factors [including] *including* toxicity, inhalation hazard, and evacuation distances required, as well as the potential for multiple deaths or injuries or significant environmental hazards, in the event of an accident. Such proceeding shall be completed within 24 months after such date of enactment. The Secretary shall, within 3 months after completion of such proceeding, issue a rule specifying the materials, if any, which shall be included among those materials whose carriage requires a safety permit in order to protect the public interest.

"(6) The Secretary shall conduct a rulemaking proceeding and, within 12 months after the date of enactment of this subsection, shall issue regulations requiring safe operations by persons who transport or cause to be transported by rail, air, or water in commerce any class A or B explosives, any hazardous material which has been designated by the Secretary as extremely toxic by inhalation, any radioactive material in such quantity as established by the Secretary, or any other hazardous material the Secretary determines should be subject to such regulations because of its high degree of risk when transported. Such proceeding shall take into consideration factors including toxicity, inhalation hazard, and evacuation distances required, as well as the potential for multiple deaths or injuries or significant environmental hazards, in the event of an accident.".

ELIMINATION OF PUBLICATION REQUIREMENT FOR RENEWAL OF EXEMPTIONS

SEC. 5. Section 107(a) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1806(a)) is amended by inserting immediately before the period in the fourth sentence the following: "except that such publication shall not be required in the case of a renewal involving only an extension of the time during which the exemption is in effect".

DEFINITION OF RADIOACTIVE MATERIALS

SEC. 6. Section 108(b) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1807(b)) is amended by striking the second sentence and inserting in lieu thereof the following: "The term does not include any material which the Secretary determines is of such low order of radioactivity that when transported does not pose a significant hazard to health or safety.".

PURPOSE OF REVIEW OF HAZARDOUS MATERIALS TRANSPORTATION

SEC. 7. Section 109(d)(1)(C) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1808(d)(1)(C)) is amended by striking "recommend" and inserting in lieu thereof "take".

PENALTIES

SEC. 8. (a) CIVIL PENALTIES.—Section 110(a)(1) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1809(a)(1)) is amended—

(1) by striking "(except an employee who acts without knowledge)";

(2) by striking "knowingly" each place it appears;

(3) by striking "title or of a" and inserting in lieu thereof "title, or an order or";

(4) by inserting "order or" immediately after "violation of any" each place it appears; and

(5) by striking "$10,000" each place it appears and inserting in lieu thereof "$25,000 and not less than $250".

(b) CRIMINAL PENALTIES.—Subsection (b) of section 110 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1809) is amended to read as follows:

"(b) CRIMINAL.—A person who knowingly violates section 105(f) of this title or willfully violates a provision of this title or an order or regulation issued under this title shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.".

CONFORMING AMENDMENT

SEC. 9. Section 111(b) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1810(b)) is amended by striking the second sentence.

TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS

SEC. 10. The Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) is amended by redesignating section 115 as section 118, by striking section 116, and by inserting immediately after section 114 the following new section:

"TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS

"SEC. 115. (a) DEDICATED TRAINS.—Within 120 days after the date of enactment of this section, the Secretary shall issue regulations, in accordance with this section and pursuant to section 105 of this title, with respect to the transportation by rail of high-level radioactive waste and spent nuclear fuel. Such regulations shall prohibit any transportation of such materials by rail, including shipments of such materials made by or under the direction or supervision of the Department of Energy or the Department of Defense, unless such materials are transported on trains operated exclusively for such purpose. The Secretary shall establish effective procedures for monitoring and enforcing the provisions of such regulations.

(b) MODE AND ROUTE SELECTION.—The Secretary shall, within 12 months after the date of enactment of this section, issue standards for the selection of shipping modes and routes used for the transportation of high-level radioactive waste and spent nuclear fuel. Such standards shall be developed in consultation with all potentially-affected States and Indian tribes and after notice and opportunity for public comment, and shall include but not be limited to requirements that enhance overall public safety, taking into consideration population densities, types [of highways,] *and conditions of modal infrastructures (including highways, railbeds, and waterways)*, quantities of high-level radioactive waste and spent nuclear fuel, emergency response capabilities, exposure and other risk factors, terrain considerations, continuity of routes, [and] *available* alternative [routes including] *routes*, environmental impact [factors] *factors*, and such other factors [related to alternative routes as the Secretary considers appropriate.] *as may be necessary to facilitate selection of shipping modes and routes by the Secretary.*

"(c) REQUIRED CERTIFICATION OF PACKAGES.—(1) The Secretary shall not permit transportation of high-level radioactive waste or nuclear spent fuel except in packages or containers that have been certified for such transportation by the Commission.

"(2) As part of the process of certifying any package or container referred to in paragraph (1), the Commission shall require the performance of actual testing on a sample full-scale package or container, in addition to any simulated testing, testing on scale models, or engineering analysis.

"(d) DEFINITIONS.—As used in this section, the term—

"(1) 'Commission' means the Nuclear Regulatory Commission;

"(2) 'high-level radioactive waste' has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)); and

"(3) 'spent nuclear fuel' has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23))."

EMERGENCY RESPONSE PLANNING AND TRAINING GRANTS

SEC. 11. The Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.), as amended by this Act, is further amended by inserting immediately after section 115 the following new section:

"EMERGENCY RESPONSE PLANNING AND TRAINING GRANTS

"SEC. 116. (a) AUTHORITY TO MAKE GRANTS.—(1) The Secretary shall make grants beginning not later than 1 year after the date of enactment of this section to States and Indian tribes to enhance planning for responding to emergencies involving transportation of hazardous materials and for training public sector personnel used for such response.

"(2) The Secretary may not make a grant to a State or Indian tribe under this section unless such State or Indian tribe agrees that the aggregate expenditure of funds of the State or Indian tribe, exclusive of Federal funds, for training public sector personnel

to respond to accidents and incidents involving the transportation of hazardous materials will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years preceding the date of the enactment of this section.

"(3) At least 75 percent of amounts [appointed] *appropriated* for making grants to States under this section shall be allocated by States to political subdivisions of the State.

"(b) GRANT USE PLAN.—(1) In addition to any other requirements established by the Secretary for applications for grants under this section, an applicant for a grant under this section shall submit to the Secretary a detailed plan for the effective and coordinated use of such grant that describes—

"(A) activities to be carried out with the grant; and

"(B) the justification for and objectives of those activities.

"(2) A grant use plan submitted under this subsection shall—

"(A) include a description of the training and planning objectives to be accomplished with such grant;

"(B) foster and promote to the maximum extent possible regional cooperation, regional emergency response teams, and regional approaches to handling hazardous materials, including the linking of response capabilities and emergency response planning between communities and their neighbors; and

"(C) eliminate duplication of existing efforts and provide for coordination of activities carried out with the grant with other emergency response activities conducted by Federal, State, tribal, regional, and local governmental and non-governmental entities.

"(c) ADMINISTRATION OF PROJECTS.—Not later than 1 year after the date of enactment of this section, the Secretary shall issue regulations establishing requirements for the administration of projects to be carried out with grants under this section. Such regulations shall require that such projects shall be administered, in whole or in part—

"(1) by State or tribal emergency response commissions established pursuant to section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001);

"(2) by local emergency planning committees established pursuant to that section; or

"(3) by a State or tribal agency or regional coordinating entity to be designated by the Governor of a State or Chief Executive Officer of an Indian tribe.

"(d) USE OF GRANTS.—Amounts received in the form of a grant under this section shall be used for—

"(1) surveying the routes over which hazardous materials are transported and the characteristics of that transportation;

"(2) analyzing hazards associated with that transportation;

"(3) defining specific response functions and roles of agencies and personnel of the grantee for those emergencies;

"(4) developing a long-term strategy to assure that governmental resources, and training for those resources, will be available to implement emergency response functions defined pursuant to paragraph (3);

"(5) improving and exercising hazardous materials transportation emergency response plans;

"(6) developing procedures for notifying, evacuating, and sheltering the public in the event of a hazardous materials transportation emergency;

"(7) paying for training and costs associated with training courses and materials; or

"(8) increasing the capability of the grantee to train personnel and plan for and respond to emergencies involving transportation of hazardous materials.

"(e) REQUIREMENTS TO PROMOTE EFFECTIVE USE OF TRAINING AND PLANNING FUNDS.—(1) As a condition of receiving a grant under this section for carrying out training of personnel, a State, political subdivision of a State, or Indian tribe shall certify in writing to the Secretary that the grant will be used to train a wide variety of emergency response personnel, including police, emergency medical technicians, and fire and rescue service personnel.

"(2) Training of personnel conducted with grant monies authorized under this section shall be carried out in accordance with—

"(A) training requirements of section 305(a) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11005(a)); and

"(B) occupational safety and health standards issued by the Administrator of the Environmental Protection Agency or issued by the Secretary of Labor, including but not limited to the standards set forth in part 1910 of title 29, Code of Federal Regulations, and consensus standards of the National Fire Protection Association; or

"(C) other training standards or courses issued, approved, or recommended by the Secretary, the Administrator of the Environmental Protection Agency, the Director of the Federal Emergency Management Agency, [the Chairman of] the Nuclear Regulatory Commission, the Secretary of Labor, the Secretary of Energy, the Secretary of Health and Human Services, the Federal Radiological Preparedness Coordinating Committee (for radioactive materials), or the National Response Team established under [part] *section* 300.32 of title 40, Code of Federal Regulations.

"(3) The Secretary shall allocate funds made available for grants under this section for a fiscal year among States and Indian tribes which are eligible to receive such grants in such fiscal year based upon the needs of such States and Indian tribes for emergency response planning and training. In determining such needs, the Secretary shall consider the number and type of facilities affecting hazardous materials transportation in the State or on the lands of the Indian tribe, the types and amounts of hazardous materials transported in the State or on the lands of the Indian tribe, and also whether or not the State or Indian tribe assesses and collects fees on the transportation of hazardous materials, whether or not such fees are used solely to carry out purposes related to the transportation of hazardous materials, whether or not regional or cooperative response efforts have been coordinated, and such other factors as the Secretary determines are appropriate to carry out the objectives of this subsection.

"(f) ADOPTION OF FEDERAL STANDARDS AND COMPLIANCE WITH EMERGENCY PLANNING REQUIREMENTS BY STATES OR INDIAN TRIBES.—The Secretary may only make a grant to a State or Indian tribe under this section in a fiscal year if the State or Indian tribe is complying with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 1101 and 1103), including compliance with and enforcement of such sections with respect to accidents and incidents involving the transportation of hazardous materials.

"(g) FEDERAL SHARE.—By a grant under this section, the Secretary shall reimburse any State or Indian tribe an amount not to exceed 80 percent of the cost incurred by such State or Indian tribe in the fiscal year for carrying out the activities for which the grant is made. The funds of the State or Indian tribes which are required to be expended under subsection (a)(2) shall not be considered to be part of the non-Federal share.".

ASSISTANCE TO STATE, TRIBAL, AND LOCAL GOVERNMENTS

SEC. 12. The Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.), as amended by this Act, is further amended by inserting immediately after section 116 the following new section:

"ASSISTANCE TO STATE, TRIBAL, AND LOCAL GOVERNMENTS

"SEC. 117. As appropriate, in cooperation with the Director of the Federal Emergency Management Agency and the Administrator of the Environmental Protection Agency, the Secretary shall—

"(1) provide technical assistance to State, tribal, regional, and local governments to encourage effective and efficient emergency responses to accidents involving the transportation of hazardous materials, including assistance in the development and use of regional response teams;

"(2) develop, collect, and disseminate information concerning methods of responding to such accidents and training programs for responding to such accidents;

"(3) provide technical and financial assistance for regional planning in, and studies of, methods of improving coordinated and effective responses to such accidents;

"(4) provide technical guidance and support to assist State, tribal, regional, and local governments in enforcing regulations issued pursuant to this [Act;] *title;*

"(5) provide other technical and policy assistance to State, tribal, regional, and local government entities before or during the formulation of regulations affecting hazardous materials transportation safety and before or during the formulation of routing schemes; and

"(6) provide other forms of technical, policy, and financial assistance to State, tribal, regional, and local government entities that would promote hazardous materials transportation safety.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. Section 118 of the Hazardous Materials Transportation Act, as so redesignated by section 10, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 118. (a) IN GENERAL.—There is authorized to be appropriated for carrying out the provisions of this title other than section 116 not to exceed $10,600,000 for the fiscal year ending September 30, 1990, $12,000,000 for the fiscal year ending September 30, 1991, and $14,000,000 for the fiscal year ending September 30, 1992.

"(b) EMERGENCY RESPONSE PLANNING AND TRAINING GRANTS.—There is authorized to be appropriated for carrying out the provisions of section 116 not to exceed $10,000,000 for the fiscal year ending September 30, 1991, and $25,000,000 for the fiscal year ending September 30, 1992.".

ADDITIONAL SAFETY INSPECTORS

SEC. 14. (a) IN GENERAL.—The Secretary of Transportation, in fiscal year 1991, shall employ and maintain thereafter an additional 30 *hazardous materials* safety inspectors above the number of safety inspectors

authorized for fiscal year 1990, in the aggregate, for the Federal Railroad Administration, the Federal Highway Administration, and the Research and Special Programs Administration. The Secretary shall take such action as may be necessary to assure that the activities of 10 such additional inspectors focus on promoting safety in the transportation of radioactive materials, as defined by the Secretary. These activities shall include, but not be limited to—

(1) the inspection at the point of origin of every shipment of high-level radioactive waste or nuclear spent fuel, as those terms are defined in section 115 of the Hazardous Materials Transportation Act, as added by section 10 of this Act; and

(2) the inspection, to the maximum extent practicable, of shipments of radioactive materials that are not high-level radioactive waste or nuclear spent fuel.

(b) COOPERATION.—In carrying out their duties, the 10 additional inspectors authorized by this section to focus on promoting safety in the transportation of radioactive materials shall, to the maximum extent possible, cooperate with safety inspectors of the Nuclear Regulatory Commission and appropriate State and local government officials.

(c) ALLOCATION OF INSPECTORS OF RADIOACTIVE MATERIALS.—Of the 10 additional inspectors authorized by subsection (a) to focus on promoting safety in the transportation of radioactive materials—

(1) not less than 1 shall be allocated to the Research and Special Programs Administration;

(2) not less than 3 shall be allocated to the Federal Railroad Administration;

(3) not less than 3 shall be allocated to the Federal Highway Administration; and

(4) the remainder shall be allocated, at the discretion of the Secretary, among the agencies referred to in paragraphs (1), (2), and (3).

(d) ALLOCATION OF OTHER SAFETY INSPECTORS.—The 20 additional inspectors authorized by subsection (a) not referred to in subsection (c) shall be allocated, at the discretion of the Secretary, among the agencies referred to in paragraphs (1), (2), and (3).

STUDY OF IDENTIFICATION OF HAZARDOUS MATERIALS IN TRANSIT

SEC. 15. (a) STUDY.—The Secretary of Transportation, in consultation with representatives of the transportation industry, transportation labor organizations, equipment manufacturers, police and fire protection organizations, shippers, and appropriate international organizations, shall undertake a study of the present system of identifying hazardous materials and means to improve such identification while in transit. The study shall address the following issues:

(1) The effectiveness of the present system of identifying hazardous materials while in transit including—

(A) [estimates of] the *estimated* frequency of improper identification and the *estimated* frequency of missing identification;

(B) the causes of improper or missing identification; and

(C) training and enforcement measures designed to ensure proper identification and the effectiveness of [these] *such* measures.

(2) Modifications or alternatives to improve the present system of identifying hazardous materials while in transit.

(3) The costs associated with the present system and each of the modifications or alternatives [studies.] *studied.*

(b) REPORT.—The Secretary of Transportation shall report the results of the study under subsection (a) to Congress within 1 year after the date of enactment of this Act.

MOTOR CARRIER SAFETY RATINGS

SEC. 16. (a) PUBLIC AVAILABILITY; REASSESSMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Interstate Commerce Commission, shall issue a final rule amending the Federal motor carrier safety regulations contained in subchapter B of chapter III of title 49, Code of Federal Regulations, to—

(1) establish a system to make readily available to the public, and to periodically update, the safety ratings of motor carriers which have been assigned safety ratings determined by the Secretary to be unsatisfactory; and

(2) provide that, in any case in which a motor carrier has been assigned a safety rating determined by the Secretary to be unsatisfactory and has submitted a written request to the Secretary for a reassessment of the rating, the Secretary shall, to the extent practicable, conduct the reassessment within 9 months after receipt of the request.

(b) PROHIBITION.—The Secretary of Transportation shall, not later than 1 year after the date of enactment of this Act, issue a final rule providing that any motor carrier that receives a safety rating determined by the Secretary to be unsatisfactory shall be prohibited from operating a commercial motor vehicle which meets the description set forth in section 204(1)(B) or (C) of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2503(1)(B) or (C)) until such motor carrier has received a safety rating determined by the Secretary to be conditional or satisfactory.

(c) DEFINITIONS.—As used in this section—

(1) the term "commercial motor vehicle" has the meaning given such term in section 204(1) of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2503(1)); and

(2) the terms "conditional" and "unsatisfactory" have the meanings given those terms in part 385 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

RULEMAKING ON REGISTRATION

SEC. 17. Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding concerning the need to establish annual or other registration requirements for persons or any class or category of persons who transport, ship, or cause to be transported or shipped in commerce hazardous materials, who store in transit hazardous materials, or who manufacture, fabricate, mark, maintain, recondition, repair, or test packages or containers which are represented, marked, certified, or sold for use in the transportation in commerce of hazardous materials. Such rulemaking shall take into consideration the feasibility of registration as a means of promoting compliance with the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) or any order or regulation issued under that Act, targeting enforcement efforts, and identifying areas of high risk, including consideration of alternatives to registration, the costs of administering a registration program, and mechanisms for the recovery of such costs. Any final rule issued under this subsection shall be issued not later than 30 months following the date of enactment of this Act.

STATE PARTICIPATION IN INVESTIGATIONS AND SURVEILLANCE

SEC. 18. (a) AMENDMENT OF SECTION 206(a) OF FRSA.—Section 206(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(a)) is amended—

(1) by inserting "related to railroad safety" immediately after "standard prescribed";

(2) by striking "under this title" the first place it appears;

(3) by striking "established under this title" in paragraph (2); and

(4) by striking "prescribed by the Secretary under section 202(a) of this title" and inserting in lieu thereof "relating to railroad safety prescribed by the Secretary".

(b) AMENDMENT OF SECTION 206(b) OF FRSA.—Section 206(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(b)) is amended by striking "prescribed by him under section 202(a) of this title" and inserting in lieu thereof "relating to railroad safety prescribed by the Secretary".

(c) AMENDMENT OF SECTION 206(f) OF FRSA.—Section 206(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(f)) is amended by striking "under this title".

(d) AMENDMENT OF SECTION 207(a)(1) OF FRSA.—Section 207(a)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. [436(1)(1))] *436(a)(1))* is amended—

(1) by striking "under section 209 of this title with respect"; and

(2) by striking "issued under this [title,] *title* or under any law transferred by section 6(e)(1), (e)(2), or (e)(6)(A) of the Department of Transportation Act".

(e) AMENDMENT OF SECTION 210(a) OF FRSA.—Section 210(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439(a)) is amended by striking "this title or to enforce rules, regulations, orders, or standards established under this title" and inserting in lieu thereof "or to enforce rules, regulations, orders, or standards relating to railroad safety".

SHIPPER RESPONSIBILITY STUDY

SEC. 19. Within 3 months after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on—

(1) the safety benefits of providing that if a person causes a hazardous material to be transported in bulk in commerce by a motor carrier which has an unsatisfactory safety rating issued by the Secretary, or by a motor carrier which has a conditional rating and which has not received a satisfactory safety rating during the previous 12 months, such person shall be liable for at least 50 percent of the costs, damages, and attorneys' fees assessed against the motor carrier for any hazardous material incident involving such transportation;

(2) such other systems as the Secretary may determine would assure responsible actions by a person who causes the transportation of a hazardous material in bulk in commerce; and

(3) the safety benefits of providing that the liability of the person or persons who caused such a shipment cannot be transferred by indemnification, hold harmless agreements, or similar agreements, except that such person or persons may obtain insurance covering such liability.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 3122

(Purpose: To make various amendments)

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of Senator Exon and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. EXON, proposes an amendment numbered 3122.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 3, line 21, strike "The" and insert in lieu thereof "Except as provided in subsection (c), the".

On page 4, line 13, strike "Not" and insert in lieu thereof "Except as provided in subsection (c), not".

On page 7, immediately after line 23, insert the following new subsection:

"(c) RECONSIDERATION NOT REQUIRED.—Nothing in this section is intended to require reconsideration of existing highway routing regulations or standards related to transportation of radioactive materials.".

On page 16, line 20, through page 19, line 3, strike all and insert in lieu thereof the following:

TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS

SEC. 10 The Hazardous Materials Transportation Act (49 App. U.S.C. 1081 et seq.) is amended by redesignating section 115 as section 119, by striking section 116, and by inserting immediately after section 114 the following new section:

"TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS

"SEC. 115. (a) RAILROAD TRANSPORTATION STUDY.—The Secretary, in consultation with the Department of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the railroad transportation industry, and shippers of high-level radioactive waste and spent nuclear fuel, shall undertake a study comparing the safety of using trains operated exclusively for transporting high-level radioactive waste and spent nuclear fuel (in this section referred to as "dedicated trains") with the safety of using alternative methods of rail transportation. The Secretary shall report the results of the study to Congress not later than one year after the date of enactment of this section.

"(b) SAFE RAIL TRANSPORT OF CERTAIN RADIOACTIVE MATERIALS.—Within 24 months after the date of enactment of this section, taking into consideration the findings of the study conducted pursuant to subsection (a), the Secretary shall amend existing regulations as the Secretary deems appropriate to provide for the safe transportation by rail of high-level radioactive waste and spent nuclear fuel by various methods of rail transportation, including by dedicated train.

"(c) MODE AND ROUTE STUDY.—The Secretary shall, within 12 months after the date of enactment of this section, undertake a study to determine which factors, if any, should be taken into consideration by shippers and carriers in order to select routes and modes which, in combination, would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel. Such study shall include notice and opportunity for public comment, and shall include but not be limited to assessing the degree to which various factors, including population densities, types and conditions of modal infrastructures (such as highways, railbeds, and waterways), quantities of high-level radioactive waste and spent nuclear fuel, emergency response capabilities, exposure and other risk factors, terrain considerations, continuity of routes, available alternative routes, and environmental impact factors, affect the overall public safety of such shipments.

"(d) DEFINITIONS.—As used in this section, the term.

"(1) 'high-level radioactive waste' has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)); and

"(2) 'spent nuclear fuel' has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).".

On page 26, line 23, and on page 27, line 2, strike "118" and insert in lieu thereof "119"; and on page 30, line 13, through page 32, line 2, strike all and insert in lieu thereof the following:

MOTOR CARRIER SAFETY RATINGS

SEC. 16. (a) AMENDMENT.—The Hazardous Materials Transportation Act (49 App. 1801 et seq.), as amended by this Act, is further amended by inserting immediately after section 117 the following new section:

UNSATISFACTORY SAFETY RATINGS

SEC. 118. (a) PROHIBITION ON TRANSPORTATION.—Effective January 1, 1991, if a motor carrier receives a safety rating from the Secretary which is unsatisfactory, such motor carrier shall have 45 days to take such action as may be necessary to improve such safety rating to conditional or satisfactory. After the last day of such 45-day period, if such motor carrier has not received a safety rating from the Secretary which is conditional or satisfactory, such motor carrier shall not operate a commercial motor vehicle (as defined in section 204(1) of the Motor Carrier Safety Act of 1984)—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver,

until such motor carrier has received such a safety rating from the Secretary.

"(b) REVIEW OF RATING.—If a motor carrier who has received an unsatisfactory safety rating from the Secretary requests the Secretary to review the conditions and other factors which resulted in such motor carrier receiving the unsatisfactory safety rating, the Secretary shall conduct such review within 30 days after the date of such request.

"(c) PROHIBITION ON FEDERAL AGENCY USE.—No Federal agency may use a motor carrier who has an unsatisfactory safety rating from the Secretary—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver.".

(b) PUBLIC AVAILABILITY OF SAFETY RATINGS.—Not later than one year after the date of enactment of this Act, the Secretary, in consultation with the Interstate Commerce Commission, shall issue a final rule amending the Federal motor carrier safety regulations contained in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to periodically update, the safety ratings of motor carriers which have been assigned unsatisfactory safety ratings by the Secretary.

On page 34, lines 1 and 9, redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and on page 33, immediately after line 23, insert the following new subsection:

(d) AMENDMENT TO SECTION 206 OF FRSA.—Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) is amended by adding at the end the following new subsection:

"(h)(1) The Secretary, by regulation, shall establish and carry out a program for the purpose of imposing on railroads, and collecting, fees related to State participation.

"(2) Such fees shall be established based on such factors, among other relevant factors, as revenue ton-miles, track miles, passenger miles, revenues, other relevant factors, or any combination thereof. In no case shall the aggregate surcharges imposed for any one fiscal year exceed $5,000,000.

"(3) The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

"(4) Fees collected by the Secretary shall be retained by the Secretary and maintained in a separate fund and used by the Secretary for making payments to the States to assist such States in carrying out safety programs in accordance with subsection (d). Moneys in such fund shall be available to the Secretary for each fiscal year hereafter until expended by the Secretary in accordance with this section.

"(5) The Secretary shall promulgate regulations under this subsection prior to the expiration of the 60-day period immediately following the date of its enactment.".

Mr. EXON. Mr. President, the legislation before the Senate, S. 2936, the Hazardous Materials Transportation Safety Improvement Act of 1990, was ordered favorably reported by the Senate Commerce Committee in July of this year. Prior to moving this legislation to the Senate floor, the Commerce Committee was notified by the chairman of the Senate Energy and Natural Resources Committee, Senator JOHNSTON, and by the Senator from Ohio, Mr. METZENBAUM, regarding separate objections they held with regard to the reported bill. The amendment I am offering today is the result of many weeks of negotiations with both the chairman and ranking member of the Energy Committee and with Senator METZENBAUM. While I was not in any way dissatisfied with the original bill I introduced, I am offering this amendment to accommodate the concerns of my colleagues and to foster action on this matter of overall critical importance.

The first portion of the amendment before the Senate modifies section 10 of the reported measure which concerns the transportation of high-level

radioactive waste and spent nuclear fuel. The original bill would have required the use of single-purpose dedicated trains for such shipments, would have required the Secretary of Transportation to issue standards for the selection of shipping modes and routes used for such transportation, and would have required that shipping packages or containers be certified by the Nuclear Regulatory Commission [NRC] following full-scale sample testing. These provisions provoked the interest of the Energy Committee by virtue of that committee's interest in nuclear waste policy, with the Energy Committee expressing concerns that statutory mandates, in the absence of proper study and rulemaking proceedings, could impact negatively our national waste policy.

The amendment before the Senate incorporates language that the Commerce Committee has worked out with the Energy Committee. I feel confident that we have been able to reach such an accord without sacrificing the protections that the Commerce Committee believes important in this area. Specifically, this amendment would establish a requirement for a study comparing the safety of using dedicated trains for transporting high-level radioactive waste and spent nuclear fuel with the safety of using alternative methods of rail transportation. The Secretary of Transportation would conduct this study in consultation with the Department of Energy, the NRC, potentially affected States and Indian tribes—which would be given the opportunity to participate if they so choose—representatives of the rail industry and shippers of high-level waste and spent nuclear fuel. Within 24 months after the date of enactment of this section, the Secretary would be required to amend existing regulations to provide for the safe transportation by rail of high-level radioactive waste and spent nuclear fuel by various methods of rail transportation, including by dedicated train.

The agreement reached with the Energy Committee also provides for the Secretary of Transportation to undertake a study to determine which factors should be taken into consideration by shippers and carriers in order to select routes and modes to enhance overall public safety in this area of transportation. No agreement could be reached with the Energy Committee on the inclusion of NRC certification requirements for containers, for which reason the amendment deletes this provision in the original bill.

Second, the amendment before the Senate makes several changes in section 16 of the bill, concerning motor carrier safety ratings. These changes are being made solely for the purpose of conforming this provision in S. 2936 with a similar provision that was approved recently by the House and Senate as part of H.R. 3386, the Sanitary Food Transportation Act. The amendment simply modifies section 16 in a manner that is consistent with the agreement that we reached with the House on this provision.

The final portion of this amendment represents an agreement that was reached with Senator METZENBAUM on the issue of the participation program for State rail safety inspectors. One of the critical issues of debate in the hazardous materials [hazmat] transportation safety hearing the Commerce Committee held this past summer concerned the extent to which States should be allowed to enforce hazmat laws against railroads. Some States have argued for such authority, while the rail industry has argued that States are preempted from enforcement of hazmat laws by virtue of the provisions of the Federal Railroad Safety Act of 1970. The committee chose to resolve this conflict by including within S. 2936 a provision which expands the State rail safety participation program to include authority for States to inspect for hazmat violations, as well as general rail safety violations. Evidence collected by the States then would be forwarded to the Federal Railroad Administration [FRA] for enforcement, with residual authority granted to the States to act in the event that the FRA does not initiate an enforcement action.

Senator METZENBAUM has expressed the view that the expansion of the State participation program in S. 2936 is inadequate to address the problem because the Federal Government has failed, since 1988, to fund State inspectors authorized by section 206 of the Federal Railroad Safety Act [FRSA]. He has taken the position that for State participation to be an effective tool—particularly if it is to be a substitute for State enforcement authority—funding is necessary for the State inspectors. This amendment, therefore, includes language proposed by Senator METZENBAUM that would impose user fees on the rail industry to raise up to $5 million annually to fund the State participation program. To ensure that this money is properly targeted for safety, the amendment requires that funds collected be maintained separately and restricted for use to assist States in carrying out safety programs authorized by section 206. While I have concerns about the level of fees that have been imposed on the rail industry through the fiscal year 1991 budget process, I believe that inclusion of a user fee to fund the State participation program is the only way that we can resolve the enforcement question and move this legislation to the Senate floor.

For the foregoing reasons, I urge my colleagues' support for the pending amendment. This amendment is necessary to allow this measure to move to the Senate floor, and its adoption will do much to foster a successful resolution of this long-awaited measure.

Mr. METZENBAUM. Mr. President, the amendment offered by the Senator from Nebraska contains a provision which I authored, and which I believe to be a very important addition to this legislation.

The provision renews the Federal commitment to the cooperative railroad safety programs administered by the States. These State programs have not been funded since 1988, and as a result, safety on our Nation's railroads has suffered.

By way of background, Mr. President, the Railroad Safety Act of 1970, established a program under which States would be certified to share the responsibility of inspecting railroads and writing citations for safety violations. The legislation provided that States would receive Federal funds to cover half the cost of their safety programs, and by 1981, 32 States were participating. That was the last year the program was fully funded, at a level of approximately $3 million.

This amendment would enable the Federal Railroad Administration to collect a fee from railroads, not to exceed $5 million each year, to once again help pay for the State safety programs.

That is the issue, Mr. President—safety. It is about preventing derailments, and life threatening explosions. It is about preventing mass evacuations of people from their homes. It means involving the States in the area of hazardous materials transportation—an area in which under current law, they are not permitted to be involved.

Only the Federal Railroad Administration may enforce railroad safety standards, and the job they are doing is appalling. Last year, the General Accounting Office issued a report criticizing the Federal Railroad Administration for mismanaging its hazardous materials inspection program. The report was shocking:

Over 1.1 million carloads of poisons, chemicals, pesticides, and other hazardous materials move over the rails each year.

The 85 railroads, 15,000 shippers, and 100,000 tank cars handling these materials are not being inspected each year, as they are supposed to be.

The Federal Railroad Administration employs only 34 full-time hazardous materials inspectors for the entire country, needless to say, not enough to do the job.

Unfortunately, the courts have ruled that States are not allowed to help. They are not permitted to inspect carriers and shippers for violations of the Hazardous Materials Transportation Act.

But, I am happy to say that this legislation as reported from committee will correct that problem. And, this amendment will go a step further, providing the States with a small amount of money to help them do the job.

The States want to be involved and they should be involved.

In 1986, 14 cars of a CSX train derailed in Miamisburg, OH, igniting a load of white phosphorus that burned for 4 days; 50,000 people were evacuated from their homes.

Two years later, two CSX tank cars carrying highly flammable butane derailed in downtown Akron, OH; 2,000 people were evacuated. I visited the accident site. It was a major disaster.

Last year, a derailed tanker car in Freeland, MI, burned for 5 days; 2,000 people were forced out of their homes.

The list goes on. Another train carrying 34,000 gallons of liquid chlorine and sodium hydroxide derailed in Columbus, OH, just 2 weeks ago. A train derailed in the exact same location 2 years before.

It is time the States were brought into the process of ensuring rail safety. This bill and this amendment will do just that, Mr. President, I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3122) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I rise today in support of passage of an important and long-sought-after piece of legislation, S. 2936, the Hazardous Materials Transportation Safety Improvement Act of 1990. This bill is the product of a vigorous debate which has focused on ways to improve the safety of hazardous materials [hazmat] transportation and has been going on for at least the past three Congresses. The current statute, the Federal Hazardous Materials Transportation Act, has not had any substantial revisions since its enactment in 1975. On July 30, 1990, S. 2936 was unanimously ordered reported by the Senate Commerce Committee.

In July of this year, the Surface Transportation Subcommittee held a hearing on hazmat reauthorization. This hearing followed a series of hearings held on this subject during the 100th Congress and revealed a growing consensus by the interested parties on many central issues. The bill we are considering today, S. 2936, builds on the areas where agreement has been reached. Included within this legislation are numerous provisions designed to strengthen the Federal hazardous materials transportation program. These provisions include: First, increasing the Federal safety-inspection force by 30 additional inspectors; second, requiring safety permits for those hazardous materials posing the greatest risk during transit; third, imposing a minimum civil penalty of $250 for violations of the hazardous materials laws and increasing the maximum penalty to $25,000 per violation per day; fourth, providing for the use of single-purpose, dedicated trains for the transportation by rail of high-level radioactive waste and spent nuclear fuel; fifth, requiring the Secretary of Transportation to make planning and training grants for responding to emergencies involving hazardous materials to States and Indian tribes meeting certain requirements; sixth, mandating that 75 percent of the funds from these grants be allocated by the States to local communities; seventh, prohibiting motor carriers receiving an unsatisfactory rating from transporting hazardous materials; eighth, requiring the Department of Transportation to initiate a rulemaking on the need to establish a registration program for carriers, shippers, those who store in transit, who manufacture, recondition or are otherwise involved with containers used to transport hazardous materials; and ninth, extending the Federal participation program for State rail safety inspectors to include hazardous materials.

I am delighted that the many parties involved in this issue have helped develop a consensus on many of the provisions contained in this bill. I believe that the Hazardous Materials Transportation Safety Improvement Act of 1990 is a long-needed and good measure which warrants the President's signature. This legislation is very much in the public interest as a tool to strengthen the way we govern the transportation of hazardous materials, as well as allow for increased training for those who are charged with protecting the safety of our citizens. I urge my colleagues to support passage of S. 2936.

Mr. DANFORTH. Mr. President, I urge my colleagues to support S. 2936, as amended, which would reauthorize the Hazardous Materials Transportation Act.

This is important legislation for the people of Missouri. Missouri lies at the transportation crossroads of the Nation. Kansas City is the second busiest railroad hub in the Nation, followed by St. Louis. No fewer than five interstate highways cross the State of Missouri.

Missourians cannot escape the fact that major transportation activity means major hazardous materials activity. Two-thirds of all hazardous materials shipped in the United States are transported by rail or by trucks. Barges, traveling on rivers like the Mississippi and the Missouri, carry the third largest amount of hazardous goods.

In April 1989, Senators BOND, KASSEBAUM, and I introduced S. 728, the Hazardous Materials Transportation Amendments of 1989. This simple, straightforward bill was written to address directly the serious safety concerns raised by our constituents in Kansas and Missouri.

It also addressed lessons learned from our experiences with the rail shipment of radioactive wastes from the damaged Three Mile Island nuclear power plant in Pennsylvania to the Department of Energy's research center in Idaho Falls, Idaho.

I am pleased that S. 2936, as amended, addresses many of the same issues addressed by S. 728. Specifically, S. 2936 includes the following:

1. A STUDY AND RULEMAKING REGARDING THE USE OF DEDICATED TRAINS

Currently, shippers can decide to transport railcars carrying high-level radioactive materials on "mixed" trains, transporting everything from dangerous chemicals to grain. The choice to ship Three Mile Island nuclear wastes from Pennsylvania to Idaho over the past several years by single-purpose, or "dedicated," trains was done as a matter of policy.

S. 728 would have directed the Secretary of Transportation to issue regulations making dedicated trains mandatory for the shipment of high-level radioactive wastes and spent nuclear fuel in order to ensure public safety. S. 2936, as amended, directs the Secretary to compare the safety of using regular trains with the safety of using dedicated trains under various circumstances, and to use the results of that study to issue rules requiring the use of dedicated trains as necessary for public safety.

2. DETERMINATION BY THE DEPARTMENT OF TRANSPORTATION (DOT) OF FACTORS TO BE TAKEN INTO CONSIDERATION IN SELECTING THE SAFEST MODES AND ROUTES FOR TRANSPORTING HIGH-LEVEL RADIOACTIVE MATERIALS AND SPENT NUCLEAR FUEL

Decisions on modes and routes for nuclear shipments now are made at the whim of the shipper, who often is more concerned about cost than safety. S. 728 would have required DOT to issue guidelines for shippers and carriers to consider when selecting routes and modes for shipping high-level radioactive wastes and spent nuclear fuel. S. 2936, as amended, requires DOT to determine which factors, if any, must be considered by carriers and shippers in order to select routes and modes that enhance public safety. In particular, DOT must assess the degree to which various factors affect public safety. These factors include population densities, emergency response capabilities, exposure and

other risks, terrain considerations, and potential environmental impacts along alternative highway or railroad routes.

3. AUTHORIZATION OF 20 DOT INSPECTORS DEDICATED TO SAFE TRANSPORTATION OF RADIOACTIVE MATERIALS

When this legislation was introduced last year, DOT's only nuclear transportation safety inspector had just left the Department. This was especially disturbing in view of the fact that between 100 and 300 shipments of high-level radioactive waste and spent nuclear fuel are transported annually. Thousands of low-level radioactive shipments, many of them for medical or research purposes, also are being shipped each year.

We don't know how many of these shipments are inspected. Transportation safety generalists at the Federal level inspect some of them; State and local inspectors inspect others. Both S. 728 and S. 2936 contain an identical provision, similar to legislation first introduced by Senator KASSEBAUM during the 100th Congress, which would ensure that all high-level radioactive shipments are inspected at point of origin, and that lower-level radioactive shipments are checked regularly.

4. MANDATORY PERMITS FOR MOTOR CARRIERS TRANSPORTING CERTAIN HAZARDOUS MATERIALS

DOT does not have a complete list of motor carriers who transport various hazardous materials, nor can it tell which ones operate safely. This provision, which is the same in both S. 728 and S. 2936, would require motor carriers to obtain a federal permit to transport certain highly dangerous cargoes: Class A or B explosives, materials that are extremely toxic by inhalation, or certain radioactive materials. Carriers who fail to comply with the law would lose their permits. Shippers could use permitted carriers only.

5. RETENTION OF PLACARDING ON PACKAGES OR CONTAINERS UNTIL ALL HAZARDOUS MATERIALS HAVE BEEN REMOVED

On November 29, 1988, six Kansas City firemen were killed when the arson-caused fire they were fighting caused the violent explosion of an unmarked truck trailer parked at a highway construction site. Because the trailer's hazardous materials warning placards had been removed, the firemen were unaware that it contained over 25,000 pounds of explosives. Both S. 728 and S. 2936 would require packages, containers or vehicles containing hazardous materials to remain placarded until their dangerous contents are gone.

6. DELETION OF "KNOWINGLY" FROM THE CIVIL PENALTIES SECTION OF THE HAZARDOUS MATERIALS TRANSPORTATION ACT

The Hazardous Materials Transportation Act imposes a civil penalty upon anyone who "knowingly commits" a violation of the Act or its regulations. The DOT always has interpreted the term "knowingly" to mean that a person knew, or, in the exercise of reasonable care, should have known, of the facts constituting a violation.

However, a U.S. district court recently ruled that DOT could not levy penalties unless it could prove that the actions involved "willful negligence," or a "reckless disregard for the probable consequences." If this standard prevails, DOT will be powerless to protect the public from careless transporters of hazardous goods, unless their violations are especially egregious.

It is obvious that the court's decision goes too far, seriously undermining DOT's existing enforcement efforts. Both S. 728 and S. 2936 would strike the word "knowingly" in order to allow DOT to continue to enforce the law.

7. ADDITION OF CIVIL OR CRIMINAL PENALTIES FOR VIOLATIONS OF DOT "COMPLIANCE ORDERS"

DOT is authorized to issue compliance orders, but only the District Courts of the United States, upon petition by the U.S. Attorney General, can enforce such orders. Both S. 728 and S. 2936 would authorize DOT to enforce compliance orders.

8. PROHIBITION AGAINST TAMPERING WITH HAZARDOUS MATERIALS SHIPMENTS

During 1988, an improperly placarded car was hooked up to one of the Three Mile Island spent nuclear fuel trains as it was about to enter Missouri. During the investigation of this incident, it was discovered that no provision in the existing Hazardous Materials Transportation Act explicitly prohibits tampering with such shipments.

Both S. 728 and S. 2936 provide civil penalties for any person, without lawful authorization, who tampers with markings, placards or documents required on a hazardous materials shipment, or with any package, container, motor vehicle, railroad car, aircraft, or vessel used for transporting hazardous materials.

Legislation to reauthorize the Hazardous Materials Transportation Act has not been enacted for 6 years. Enactment of S. 2936, as amended, would make hazardous materials transportation safer for Missouri and for the nation. I urge my colleagues to join me in support of S. 2936.

Mr. HOLLINGS. Mr. President, I urge my colleagues to support S. 2936, the Hazardous Materials Transportation Safety Improvement Act. For more than 5 years, Congress has sought to pass legislation that would reauthorize and strengthen the Federal hazardous materials program. The Senate Commerce Committee, in this Congress and last Congress, has held numerous hearings on this issue, receiving testimony from a wide variety of different sources and experts. The Congressional Office of Technology Assesssment prepared a thorough report on this subject, at the request of the Commerce Committee. Clearly, this issue is important to many interested parties, and I believe this bill is one which everyone can accept.

Through our hearings, meetings and deliberations, we have reached a consensus on this legislation which strengthens the Federal hazardous materials transportation program. This bill increases fines for violations, requires safety permits for transportation of certain hazardous materials, directs training for State and local emergency responders, and increases the number of Federal inspectors for hazardous materials, just to name a few provisions. Mr. President, I believe this bill is a good one, and a necessary one. I urge all my colleagues to support this legislation.

Mr. KASTEN. Mr. President, the Department of Transporation estimates that over 6,000 hazardous material transportation incidents occur on U.S. highways each year involving trucks. That is 16 incidents per day. An incident is an event or occurrence which would include a vehicular accident and/or release of a hazardous material into the environment. These figures are conservative because they only involve hazardous materials moving under DOT regulations.

Highway accidents involving cargo tank trucks pose a particularly serious threat to public health and safety mostly because of the potential release of large quantities of hazardous materials. Life, property, and the environment are at risk with an accident such as we saw in Bhopal. The types of materials transported in bulk, 5,000 gallons or more, include such potentially dangerous substances as gasoline, acids, and chemicals which are toxic by inhalation or produce explosive gases.

In the reauthorization of the Hazardous Materials Transportation Act, the Secretary of Transportation is directed to conduct a study which, I believe, has the potential of improving the safe transportation of bulk quantities of hazardous materials, by requiring the shippers of those hazardous materials to be responsible for selecting safe motor carriers. At the present time, many shippers base their selection of motor carriers primarily on who has the lowest price. The carrier's safety record, emergency response capabilities, maintenance of its equipment, training of its personnel and its insurance coverage are not taken into account by most shippers. This must change.

Frankly, my preference was not to request the Secretary to conduct a study, but to offer an amendment creating shared shipper-carrier liability in cases where there was an accident and a carrier with an unsatisfactory safety rating, or a conditional safety rating for more than a year, was involved. I believe an amendment such as this would encourage shippers of hazard-

ous materials to be more concerned about the safety performance of the motor carriers that they hire to transport their products. Under this proposal, a shipper could be responsible for up to 50 percent of the costs, damages, and attorneys' fees assessed against the carrier if an accident occurred. The shipper would be prohibited from transferring this liablity back to the carrier. The amendment I preferred would also create an economic incentive for conditional-rated carriers to improve their safety rating to satisfactory, while giving those carriers with satisfactory ratings an incentive to continue safe practices.

However, I understand that the current DOT safety rating system may not be sophisticated enough to ensure that the rating assigned to a motor carrier is current and accurate. In addition, the rating system needs to be made more accessible to the general public, including the shipper community. For this reason, my amendment requires DOT to conduct a study.

During the course of this study, I would hope that DOT would reevaluate how it manages its truck and bus safety responsibilities. Since this shared shipper liability proposal depends upon a current and accurate safety rating system that is readily available to the public, considerable DOT effort should be directed toward the identification of improvements to that system.

The Department of Transportation has approximately 300 safety investigators throughout the United States, who are attempting to evaluate the safety performance of over 210,000 motor carriers and assign safety fitness ratings to these companies. This task is made more difficult by the fact that each year, approximately 20,000 motor carriers go out of business, while a similar number begin business. I raise these numbers because of my concern about DOT's ability to evaluate and assign safety fitness ratings to each of these companies, and to assure the continued accuracy of the ratings once they have been assigned. Many of the motor carriers that have been rated in the past hold a rating that is several years old. I question the value of a safety rating system that does not periodically reevaluate the accuracy of those ratings.

I know that my colleague from Nebraska shares my concerns in this area.

Mr. EXON. I do share your concerns about safe motor carrier transportation, particularly in the hazardous materials area. In this study, I would expect DOT to evaluate its current operating practices and consider utilizing methodologies that will ensure that when a safety fitness rating of either satisfactory, conditional, or unsatisfactory is assigned to a motor carrier, it is an accurate statement of the company's relative safety. In addition, DOT's safety rating system should include methodologies to ensure that the rating assigned to a motor carrier continues to be accurate.

DOT should also evaluate the efficacy of its attempt to evaluate and assign a safety fitness rating to all motor carriers. Perhaps a higher level of safety could be provided to the American people if DOT focused its resources more directly toward motor carriers, such as those transporting hazardous materials and passengers, where an accident could be catastrophic, and toward motor carriers showing certain symptoms of unsafe operation; symptoms such as high vehicle out of service rates and high accident frequencies.

Mr. KASTEN. I also highlight the fact that we will expect to receive this study in 3 months, and that we are expecting a blueprint for action, not a statement that it can't be done.

Mr. EXON. This study will provide us with valuable information as we consider important motor carrier safety issues early in the 102d Congress.

Mr. WIRTH. Mr. President, I rise for the purpose of engaging in a colloquy with the senior Senator from Nebraska. Once again, I want to applaud the distinguished flood managers for bringing the issue of hazardous materials transportation before the Senate. This is a critical issue to my State for many reasons. First and foremost, we had in Denver a number of years ago, a major spill of Navy torpedoes that paralyzed the most heavily traveled intersection in the State. This accident occurred at the place where two interstate highways, Interstate 70 and Interstate 25, meet. The torpedo spill stymied emergency responders for hours on end as they tried to figure out exactly what kind of spill they were dealing with.

In response to this situation, I wrote a bill that would have updated the Hazardous Materials Transportation Act, which was introduced in the House of Representatives. When I began my service in the Senate, I once again introduced that legislation in the 100th Congress. Working with the distinguished senior Senator from Nebraska, hearings were held on my bill and the issue of hazardous materials transportation in 1987. That was a good set of hearings and they helped serve as the impetus for the movement that has brought this bill to the floor today.

Hazmat transportation is also important to my State because Colorado is home to some outstanding emergency response capabilities. The emergency response team in Aurora, CO, is recognized across the country as one of the Nation's best. The Colorado Department of Transportation and the division of highway safety has developed many outstanding safety programs for hazardous materials. And most importantly, the U.S. Department of Transportation utilizes its nationally-recognized test center in Pueblo, CO, to offer a wide range of privately-funded educational programs to train emergency responders in both the public and private sectors. The Federal Government has invested about $100 million in the Pueblo facility, and we need to ensure that future Federal and private efforts to train emergency responders makes full use of facilities like that which is housed in Pueblo.

The Energy and Commerce Committee of the House of Representatives included report language in its version of this bill that recognizes the important contributions of the Pueblo facility and its Hazmat training program. Similar language is not included in the Senate version of the bill. Therefore, I want to ask of my friend from Nebraska if it would not be possible for the Senate conferees to endorse the House language in this instance.

Mr. EXON. I thank the Senator for bringing this issue to my attention and I want to assure the Senator from Colorado that, for my part, I would be happy to endorse the House language and recognize the DOT facility in Pueblo, as well as all of the Nation's emergency response training centers for the important role they are playing in training emergency responders to confront hazardous materials accidents—such as the one that occurred in Denver.

Mr. JOHNSTON. Mr. President, today the Senate in considering S. 2936, amendments to the Hazardous Materials Transportation Act. Included in the committee amendment to S. 2936 is an amendment related to transportation of radioactive waste that was worked out between the staff of the Committee on Energy and Natural Resources and the staff of the Committee on Commerce, Science, and Transportation.

I believe this amendment adequately addresses the concerns expressed by members of the Committee on Energy and Natural Resources. I thank the distinguished Commerce Committee chairman, Senator HOLLINGS, and the distinguished ranking minority member, Senator DANFORTH, for their courtesy in working with us to address these issues.

The Committee on Energy and Natural Resources has a longstanding interest in and commitment to all issues related to nuclear waste. Our committee worked long and hard in 1982, and again in 1987, to establish an effective program for dealing with the storage, transportation, and disposal of spent nuclear fuel and high-level radioactive waste. We continue to be deeply involved in these, issues, both with respect to the Department of Energy's

civilian nuclear waste program and the Department's defense waste cleanup programs. It is that decade-long interest and involvement with these issues that led to development of this amendment with the Commerce Committee.

The amendment worked out between our two committees provides for two studies related to the transportation of high-level radioactive waste and spent nuclear fuel. In calling for these studies, Congress does not mean to suggest that there is any need to alter present regulations governing such transportation. One study involves investigation of the additional safety, if any, resulting from the use of dedicated trains for moving these wastes by rail. The other would examine factors that should be taken into consideration in the selection of routes and modes for such transportation generally.

The provisions added by this amendment do not require the Secretary to amend existing regulations for the transportation of high-level radioactive waste and spent nuclear fuel except as the Secretary deems appropriate under other provisons of law. The purpose of these studies is only to provide information to inform the Secretary's discretion under existing law.

Thus section 115(b) does not require the use of dedicated trains in any instance. This section merely requires the Secretary to amend the regulations as he deems appropriate to provide for safe rail transportation by various methods. The various methods selected by the Secretary may not include any use of dedicated trains. The Secretary may not deem it appropriate to amend the regulations at all. Either of these results is possible. The enactment of this new section 115 is not intended to create a presumption in favor of any amendment to existing regulations.

I will look forward with interest to an opportunity to review results of these studies. It is my intention that the risk associated with the transportation of these wastes be presented in these studies in perspective, compared to the risk of the nuclear fuel cycle as a whole and compared to the risks of transportation of other hazardous materials. These comparisons should provide a guide to the additional safety benefits, if any, that may result from more expensive transportation schemes in relation to the added costs of these schemes. I would expect the Secretary to take these benefit-cost comparisons into account in deciding how to structure the regulations.

Mr. SPECTER. Mr. President, as the sponsor of S. 581, the Hazardous Materials Rail Transportation Act, I want to express my support for Senate passage of S. 2936, the Hazardous Materials Transportation Act as reported by the Senate Commerce Committee. I believe that the provisions contained in S. 2936 regarding the transportation of hazardous materials by rail, many of which are similar to the provisions contained in my bill, are vital to the safe transportation of hazardous materials.

Mr. President, the transportation of hazardous materials is a dangerous but essential activity. According to the Department of Transportation, approximately 4 billion tons of regulated hazardous materials are transported each year throughout the United States. The Association of American Railroads reports that approximately 925,000 full carloads of hazardous materials were transported in 1987 alone. While transportation by rail is considered the safest method of moving these enormous amounts of hazardous materials, a number of problems remain to be remedied. This bill would make rail transportation safer and would provide better protection for surrounding communities and their residents.

Mr. President, I had the privilege of testifying before the Senate Committee on Commerce, Science, and Transportation on July 25, 1990. During the hearing, I discussed with the committee my concerns regarding the many rail accidents in the Commonwealth of Pennsylvania and the provisions of my bill to further ensure the safety of transporting hazardous materials by rail.

In turn, the committee reported S. 2936 that includes a number of important measures to improve the transportation of hazardous materials across all modes of surface transportation. Specifically, in the area of rail transportation, S. 2936 addresses the need for uniform procedures in the railroad industry, while providing more resources to emergency responses after an accident occurs.

My interest in this issue is in response to the disturbing number of train derailments nationwide and in Pennsylvania, and numerous site and personal meetings with railroad officials, labor leaders, and concerned citizens regarding rail accidents.

In 1987 alone, there were 307 train accidents in Pennsylvania, resulting in the deaths of 35 persons and $6.6 million in damaged railroad property as reported to the FRA by the involved rail carriers. These accidents in 1987 resulted in the evacuation of approximately 12,360 residents from their homes following the release of hazardous materials. The General Accounting Office has noted that in 1987, the number of evacuations in the Commonwealth was more than 50 percent of the total evacuations nationwise.

During the past several years, there have been at least 11 serious accidents in western Pennsylvania on one stretch of track alone. Those included accidents on May 17, 1986, June 30, 1986, October 31, 1986, and January 15, 1987. On April 11, 1987, two freight trains collided in Bloomfield, PA, near, Pittsburgh, causing several derailed cars to ignite and forcing the evacuation of some 16,000 persons. A derailed car leaked phosphorus oxychloride, a gasoline and hydraulic fuel additive which can be lethal in large doses. The accident also involved a car containing toluene disocyanate, a flammable substance which can irritate lungs, skin, and eyes. The catastrophe is considered Pennsylvania's worst train accident in a decade and the largest chemical-caused evacuation in Pittsburgh's history.

Less than 1 month later, on May 6, 1987, a serious rail accident occurred in Confluence, PA. Twenty-seven train cars derailed and crashed into an adjacent tower, killing the tower operator. Approximately 1,000 residents were evacuated from their homes for over 12 hours because 21 of the derailed cars contained hazardous materials. Hydrochloric acid and a small amount of caustic soda were released.

In response to these accidents and the concerns expressed by area residents, I toured the tracks on July 27, 1987, in Confluence and personally met with local officials, union leaders, CSX Transportation, Inc. representatives, Federal Railroad Administration representatives, and local residents. Two days following my site inspection, yet another accident occured on the same track, 27 miles away in Connellsville, PA. One of the 17 cars involved was carrying residues of liquid chlorine and liquid petroleum.

I express special concern about the condition of the tracks and the continued derailments in light of Amtrak's use of these tracks for its Capital Limited line. This passenger train travels between Chicago and Washington, DC, carrying an average of 543 passengers per day in each direction. Amtrak advises that approximately 60 trains transport 16,295 passengers during each month. Only 6 days after I raised these concerns, Amtrak's eastbound Capital Limited No. 30 derailed approximately 2½ miles east of the Pittsburgh station. According to Amtrak, 2 of the 3 locomotives and all 14 passenger cars left the track. Amazingly, the cars somehow remained upright and fortunately there were no serious injuries among the 234 passengers on board.

Elsewhere in Pennsylvania, accidents have occurred which included hazardous materials with potential serious consequences. On February 9, 1987, in Morrisville, PA, an attempt was made to couple two cars containing hazardous white phosphorus on a track occupied by other tank cars. Reports indicated that the cars' couplers missed connecting and punctured one of the hazardous materials tank cars. The punctured car consequently re-

leased white phosphorus which ignited, destroying three tank cars, damaging adjacent equipment and track, and requiring extensive cleanup of contaminated soil. Approximately 2,500 people were evacuated for over 5 hours because of the accident.

Most recently, western Pennsylvania has suffered two more rail-related accidents that were associated with hazardous materials and resulted in the evacuation of nearby residents. On November 19, 1989, 6 cars of a 91-car mixed consist derailed near Adrian, PA, one of which, a tank car containing flammable methyl methacrylate was punctured necessitating an evacuation of some 30 nearby residents. Again, on April 22, 1990, 29 cars of a 97-car train traveling near Craigsville, PA, derailed causing 2 tank cars that were loaded with crude oil to catch fire, prompting the evacuation of some 200 local residents. Subsequently, one of the derailed tank cars released approximately 16,000 gallons of product into Buffalo Creek, which flows into the Allegheny River a major source of water to western Pennsylvania.

In light of the growing concern in the Commonwealth of Pennsylvania regarding the many rail accidents in western Pennsylvania during 1987, I joined Senator HEINZ and Representative GAYDOS on August 24, 1987, in requesting the General Accounting Office [GAO] to assess railroad safety in Pennsylvania and throughout the Nation, and to review FRA's inspection and enforcement policies. GAO completed its assessment raising a number of issues and concerns, many of which I have addressed in S. 581.

Mr. President, rail safety is not a localized problem. I believe the track and equipment problems in western Pennsylvania are representative of the situation nationwide. The Congressional Research Service [CRS] reports that in 1986 alone, approximately 842 train incidents nationwide involving hazardous materials were reported to the Department of Transportation. The General Accounting Office reports that in 1986, 39,701 people were evacuated from their homes nationwide as a result of accidents involving hazardous materials. The GAO further advises that in 1987 alone, there were 8,816 railroad accidents and incidents nationwide resulting in 1,107 deaths, 6,585 injuries, and over $180 million in damages to railroad property.

Mr. President, transporting hazardous materials by rail obviously involves risk. While it is not realistic to expect an accident-free industry, nevertheless we have a responsibility to reduce obvious hazards and make the system as safe as possible.

As I indicated several provisions contained in this bill before the Senate today are similar to provisions of my bill. Specifically, these provisions will require that shipping papers regarding hazardous materials present in the shipment be available on board trains transporting hazardous materials, with disclosure of this information upon request by local emergency personnel. Also, the legislation will require that a telephone number be provided on the shipping papers for the purpose of obtaining more specific handling of the material being shipped.

Another integral part of the legislation which is similar to my bill involves the use of placards, which designate the type of hazardous material that is being transported. Following an accident, it is most important to properly identify the substance which may have leaded and caused subsequent adverse public health effects. Therefore, the bill states that it is unlawful for any person to willfully alter, remove, deface, destroy, or tamper with any placard involved in the transportation of hazardous materials.

The GAO report requested by Senator HEINZ, Representative GAYDOS, and myself noted the lack of enforcement of FRA rules and regulations and the lack of use of civil penalties. Therefore, my bill included provisions to create a uniform civil penalty for violations of the Federal safety laws with a maximum penalty of $10,000 per violation, a minimum of a $500 penalty, and a penalty for gross negligence of $20,000. The legislation reported from the Senate Commerce Committee proposes to increase the maximum civil penalty from the current $10,000 to a new maximum of $25,000 per violation per day, and a minimum civil penalty of $250.

Mr. President, local fire and police department personnel are usually the first to respond to a hazardous material transportation accident, therefore, training of these individuals is and should be a high priority. The Congress' Office of Technology Assessment estimates that of the 2 million emergency response personnel, 75 percent are unprepared to deal with accidents involving hazardous materials. The National Fire Academy reports that of 1.2 million firefighters, approximately 85 percent are volunteers and do not have the sufficient financial resources to take advantage of available training programs.

In response, I have proposed in my bill to address the importance of proper training of emergency response teams through emergency response planning and training grants. Similarly, S. 2936 provides grants to States to enhance training of emergency response personnel. The provision requires authorities to submit plans to the Secretary of Transportation which will foster and promote the development and training of regional emergency response teams.

In addition, my bill would authorize the Federal Railroad Administration to double its number of hazardous materials track inspectors to assist in carrying out the track and train inspections. Similarly, S. 2936 provides 30 new hazardous materials inspector to further advance the effort to ensure that hazardous materials are transported as safe as possible.

Mr. President, I congratulate the Commerce Committee in crafting this legislation. The bill offers reasonable and practical solutions to advance the safety of transportation of hazardous materials across all modes of surface transportation nationwide. Accordingly, I my urge my colleagues to support this comprehensive effort to create a safer system for the transportation of hazardous materials.

The PRESIDING OFFICER. Without objection, the bill is deemed read a third time and passed.

So the bill (S. 2936), as amended, was passed.

(The bill S. 2936, as passed, will appear in a subsequent issue of the RECORD.)

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SILVER COIN PROOF SETS ACT

Mr. LEAHY. Mr. President, I also, on behalf of Senators BRYAN, MCCLURE, and other Senators, ask unanimous consent that the Senate proceed to the immediate consideration of S. 3237, a bill to authorize the Secretary of the Treasury to sell certain silver proof coin sets, introduced earlier today; that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 3237) was passed.

(The bill S. 3237, as passed, will appear in a subsequent issue of the RECORD.)

CORRECTION OF CONFEREES—H.R. 5269

Mr. LEAHY. Mr. President, I ask unanimous consent that a technical error made in the appointment of conferees on the part of the Senate for H.R. 5269, the Comprehensive Crime Control Act, be corrected so that Senators PELL and HELMS are listed as conferees for title XXVII of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERATION OF THE BLIND DAY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 667, designating November 16, 1990, as "National Federation of the Blind Day."

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 667), designating November 16, 1990, as National Federation of the Blind Day.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection the Senate proceeded to consider the joint resolution.

The joint resolution (H.J. Res. 667) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 383

Mr. LEAHY. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 383 and that the joint resolution be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDIAN PREFERENCE ACT OF 1990

Mr. LEAHY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 321.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 321) entitled "An Act to revise provisions of law that provide a preference to Indians," do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Indian Preference Act of 1990".

SEC. 2. FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress, after careful review of the economic conditions on Indian reservations, and the historical and special legal relationship of the Federal Government with Indian people, finds that—

(1) economic self-sufficiency is an essential element in achieving self-determination by Indian tribes and Indian people;

(2) increased Indian employment and business opportunity is a critical element in the elimination of the poverty, alcoholism, high suicide rates, substandard housing, and other problems that are the focus of many of the Federal programs serving Indians;

(3) the funds spent by the United States on reservations or otherwise spent for the benefit of Indians need to be utilized not only to purchase goods and services, but, to the maximum extent feasible, to promote Indian employment and business opportunities;

(4) the awarding of a preference in training, employment, contracting, and subcontracting opportunities has proven to be an exceptionally effective means of ensuring that Indians receive the maximum benefit from Federal funds appropriated on their behalf;

(5) the existing Federal laws on Indian preference in contracting need to be updated, revised, and consolidated to include appropriate recognition of tribal laws that establish preference programs for Indian members; and

(6) companies and individuals that seek to take improper advantage of Indian preference opportunities do not contribute to Indian economic development and damage the credibility of Indian preference programs.

(b) DECLARATIONS.—The Congress declares that—

(1) a major national goal of the United States is to ensure that the procurement of goods and services on Indian reservations or otherwise for the benefit of Indians shall be carried out in a manner that achieves the maximum benefit for Indian employment and business development; and

(2) a secondary, but essential goal, is to prevent and prohibit companies from misusing Indian preference programs.

SEC. 3. BUY INDIAN ACT AMENDMENTS

(a) BUY INDIAN ACT AMENDMENT; PREFERENCE IN CONTRACTS AND GRANTS.—Section 23 of the Act on June 25, 1910 (36 Stat. 861; 25 U.S.C. 47) is amended to read as follows:

"SEC. 23. (a)(1) Each Federal agency administering funds appropriated for the benefit of Indians that are awarded or distributed under a contract or grant shall—

"(A) provide a preference to Indian preference enterprises in the award of the grant or contract, including (but not limited to) contracts for construction or printing; and

"(B) require that the recipient of the contract or grant—

"(i) provide preferences to Indians for training and employment in connection with such contract or grant and require any recipient of a subcontract or subgrant under such contract or grant to provide such preferences, and

"(ii) provide a preference to Indian preference enterprises in the awarding of subcontracts and subgrants under the contract or grant.

"(2) The Secretary may authorize preferences for Indian preference enterprises in the award by any Federal agency of contracts that do not involve funds appropriated for the benefit of Indians upon the request of that agency if the Secretary believes the preferences will help fulfill the special responsibilities of the Secretary toward Indians.

"(3) The preferences provided by reason of this subsection shall have priority over all other Federal procurement preferences.

"(4)(A) For the purposes of this section, funds awarded or distributed under a contract or grant are appropriated for the benefit of Indians if—

"(i) Indians are the primary beneficiaries of the contract or grant;

"(ii) the majority of the activity to be undertaken under the contract or grant takes place within the exterior boundaries of an Indian reservation; or

"(iii) the contract is entered into, or the grant is provided, under the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.), or under title II of the United States Housing Act of 1937 (42 U.S.C. 1437aa et seq.).

"(B) The provisions of this section shall not apply to the awarding of contracts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), but shall apply to the awarding of subcontracts of such contracts, to employment and training opportunities under such contracts and subcontracts, and with respect to the awarding of, and opportunities under, grants and subgrants provided under such Act.

"(C) The provisions of this section shall not apply with respect to—

"(i) contracts for the procurement of expert advice and testimony in litigation conducted by the United States as trustee for Indians or Indian tribes; or

"(ii) contracts awarded under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(D) This section shall apply with respect to the Five Civilized Tribes and the members of the Osage Tribe.

"(5)(A) A Federal agency shall implement the preference provided under paragraph (1)(A) by limiting the competition for the awarding of a contract to Indian preference enterprises if—

"(i) there is a reasonable expectation that offers will be obtained from at least—

"(I) 3 responsible offerors in the case of a contract for architectural-engineering services, or

"(II) 2 responsible offerors in the case of a contract for the procurement of any other services or for the procurement of any product; and

"(ii) the contract can be awarded at a fair and reasonable price.

"(B) If only one offer is received under a competition restricted to Indian preference enterprises for a contract for a product or service other than architectural-engineering services, the procuring agency may negotiate an award of the contract at a fair and reasonable price.

"(6)(A) If it is not feasible for a Federal agency to limit the competition for the award of a contract under the authority of paragraph (5), the agency shall award the contract after full and open competition. In such case, the contract shall be awarded to any responsible Indian preference enterprise submitting the lowest bid that does not exceed the lowest bid submitted by any other responsible bidder by more than the percentage prescribed by the head of the Federal agency in regulations. If a factor other than price is determinative in the award of the contract, the Federal agency shall utilize a comparable method to provide a preference to Indian preference enterprises in the selection process.

"(B) The percentage prescribed in subparagraph (A) that establishes a maximum limitation on the difference between the bids shall not be more than 10 percent.

"(7) The preference requirements of this section may be waived only if the responsible officer determines that it is necessary to accomplish the mission of the agency. The determination to make such a waiver may only be made by—

"(A) if the procuring agency is within the Department of the Interior, the Assistant Secretary of the Interior for Indian Affairs;

"(B) if the procuring agency is within the Department of Health and Human Services, the Director of the Indian Health Service; and

"(C) in all other cases—

"(i) the senior procurement executive of the procuring agency, as designated under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)), or

"(ii) the principal deputy of such executive who is—

"(I) a general officer (as defined in section 101(40) of title 10, United States Code) or a flag officer (as defined in section 101(41) of such title), or

"(II) a civilian employee in a position in grade GS-16 of the General Schedule under section 5331 of title 5, United States Code (or an equivalent position in the Senior Executive Service).

"(8) Each Federal agency, to the greatest extent feasible, shall advertise the contracts to which this section applies at a date sufficiently in advance of the date performance must begin under the contract to permit a subsequent open market advertisement of the contract if the contract cannot be awarded under the limited competition provision of this subsection.

"(9)(A) Except as otherwise provided in this paragraph, the preferences required to be provided to enterprises under this section may only be provided to Indian enterprises.

"(B)(i) An Indian preference enterprise may benefit from a preference provided under this section only if the enterprise submits to the agency or person that is to provide the preference an affidavit certifying that the enterprise continues to meet the requirements necessary for certification by the Secretary as an Indian preference enterprise. The affidavit shall be executed and submitted at the time the contract or subcontract bid, or grant or subgrant application, is submitted and again at the time the contract, subcontract, grant, or subgrant is awarded.

"(ii) Any agency or person that receives an affidavit submitted by an enterprise under clause (i) shall submit a copy of the affidavit to any Indian tribe that would be affected by the contract, subcontract, grant, or subgrant for which the enterprise seeks a preference under this section.

"(C)(i) Any Indian preference enterprise that—

"(I) is engaged in construction activities, and

"(II) has successfully completed, independently, at least one contract, may enter into joint ventures with other enterprises that are not Indian preference enterprises.

"(ii) Any Indian preference enterprise that enters into a joint venture under clause (i) shall remain eligible, and the joint venture shall be eligible, for preferences under this section so long as the Indian preference enterprise—

"(I) owns and controls at least 51 percent of the joint venture and receives at least 51 percent of the profits of the joint venture, and

"(II) has successfully completed, independently, at least one contract for each contract awarded to the joint venture for which a preference is provided under this section.

"(b) For purposes of this section—

"(1) The term 'Indian preference enterprise' means an Indian enterprise that is certified by the responsible officer identified in paragraph (7) of subsection (A) as eligible for the preferences provided under this section.

"(2) The term 'Indian enterprise' means—

"(A) an enterprise which—

"(i) is engaged in construction (within the meaning of the Indian Self-Determination and Education Assistance Act), and

"(ii) is entirely owned by one or more Indian tribes, which receive 100 percent of the profits of the enterprise, or

"(iii) is entirely owned by one or more Indians, one of whom—

"(I) acts as the chief executive officer of the enterprise, and

"(II) has the experience and training to manage, and does in fact manage, the day-to-day activities of the enterprise.

"(B) an enterprise—

"(i) which is engaged in any business other than construction, and

"(ii) at least 51 percent of which is owned by one or more Indian tribes that receive not less than 51 percent of the profits of the enterprise, or

"(C) an enterprise—

"(i) which is engaged in any business other than construction,

"(ii) at least 51 percent of which is owned by one or more Indians who receive not less than 51 percent of the profits of the enterprise, and

"(iii) which has an Indian owner who—

"(I) acts as the chief executive officer of the enterprise, and

"(II) has the experience and training to manage, and does in fact manage, the day-to-day activities of the enterprise.

"(3) The terms 'Indian' and 'Indian tribe' have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(4) The term 'Secretary' means the Secretary of the Interior.

"(5) Except for purposes of subsection (a)(4)(B),—

"(A) the term 'contract' includes subcontracts, and

"(B) the term 'grant' includes subgrants.

"(6) The term 'Indian reservation' has the same meaning given to the term 'Reservation' by section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

"(c)(1) The Secretary shall—

"(A) develop and publish a set of criteria for certifying Indian enterprises as eligible for the preferences provided under this section;

"(B) in the event of any complaint alleging a fraudulent claim for preference eligibility, investigate the financial backgrounds of enterprises which apply for certification as Indian enterprises eligible for the preferences provided under this section, of enterprises that have acquired such certification, and of owners and officers of such enterprises;

"(C) review applications from Indian enterprises for such certification;

"(D) certify as Indian enterprises eligible for the preferences provided under this section those Indian enterprises that satisfy the criteria established under clause (A);

"(E) prescribe such regulations, and establish such policies, monitoring systems, and enforcement systems, in conjunction with the Office of Federal Procurement Policy, as may be necessary to ensure that the provisions of this section are carried out;

"(F) investigate complaints alleging one or more violations of this section or the regulations prescribed under this section, including (but not limited to) allegations that—

"(i) an enterprise not certified by the Secretary as an Indian enterprise eligible for the preferences provided under this section was awarded a contract or grant with the assistance of a preference provided under this section,

"(ii) an enterprise was wrongly certified by the Secretary as an Indian enterprise eligible for the preferences provided under this section,

"(iii) an enterprise misrepresented its status to the Secretary, or

"(iv) an enterprise is no longer an Indian enterprise or in compliance with the criteria established under this section;

"(G) investigate complaints alleging that an Indian tribe is improperly administering preferences required under this section in a manner that exhibits a documented pattern of abuse and seriously jeopardizes the rights of Indians or Indian enterprises; and

"(H) develop and assist Federal agencies in implementing a program to ensure that Federal funds expended for the benefit of Indians also assist, to the maximum extent feasible, in the promotion of Indian economic development.

"(2) The regulations that are to be prescribed under subparagraph (1)(E) shall include—

"(A) a standard application to be used by an enterprise applying for certification as an Indian enterprise eligible for the preference provided under this section;

"(B) the procedures under which completed applications for such certification will be acted upon within a reasonable period of time after receipt by the Secretary;

"(C) procedures which guarantee that all decisions rendered by the Secretary regarding such certification will be communicated to such enterprise in writing; and

"(D) a description of the appeal procedures available to any enterprise which is denied such certification by the Secretary.

"(3) The regulations that are to be prescribed, and the policies and systems that are to be established, under subparagraph (1)(E) shall be prescribed and established in conjunction with the Office of Federal Procurement Policy in a manner that considers the existing procurement practices of Federal agencies, promotes maximum consistency, uniformity, and coordination among Federal agencies, and promotes the maximum participation of Indian tribes.

"(4) To the maximum extent feasible, each Federal agency and Indian tribe shall implement, and comply with, the regulations prescribed, and the policies and systems established, under subparagraph (1)(E).

"(5) If, as the result of an investigation, the Secretary determines that any of the conditions described in any subclause of subsection (c)(1)(F) exists with respect to any enterprise, the Secretary shall—

"(A) revoke the certification of such enterprise as an Indian enterprise eligible for the preferences provided under this section, if such certification has been made by the Secretary; and

"(B) transmit all information available regarding such conditions to the Inspector General of, or the head of, the agency that administers the contract or grant to which such conditions relate.

"(6)(A) Any determination by the Secretary to deny any enterprise certification as an Indian enterprise eligible for the preferences provided under this section, or to revoke such certification, may be appealed to the Office of Hearings and Appeals of the Department of the Interior.

"(B) The decision of the Office of Hearings and Appeals of the Department of the Interior on an appeal brought under subparagraph (A) shall—

"(i) be considered final agency action by the Department on petition, and

"(ii) be subject to judicial review under chapter 7 of title 5, United States Code.

"(7) The Secretary may, at his discretion, waive the provisions of the Act of August 24, 1935 (49 Stat. 793; 40 U.S.C. 270a *et seq.*), with respect to a contract awarded to an Indian preference enterprise by a Federal agency if—

"(A) the award price of the contract is anticipated to be $10,000,000 or less;

"(B) the Indian preference enterprise has been determined to be a responsible contractor capable of performing the contract;

"(C) the Federal agency determines that the Indian preference enterprise has been unable to obtain the requisite bonds after making good faith application to at least 2 surety firms determined by the Secretary of the Treasury to issue acceptable bonds pursuant to chapter 93 of title 31, United States Code, even with a guarantee provided pursuant to title IV of the Small Business Investment Act of 1958 (15 U.S.C. 692 *et seq.*); and

"(D) the Indian preference enterprise has provided for the protection of persons furnishing materials and labor, in lieu of a payment bond, through a program of direct disbursement from the Federal Government of payments due to such persons from such Indian preference enterprise through—

"(i) an escrow account established and maintained by the Indian preference enterprise at any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, or

"(ii) a Federal Government Payment center servicing the procuring agency, if approved by the procuring agency.

"(d)(1) If—

"(A) a contract or grant to which the preferences provided under this section apply is to be performed on a reservation of an Indian tribe; and

"(B) the governing body of the Indian tribe has—

"(i) established preferences generally comparable to those provided under this section,

"(ii) established a tribal office to enforce those preferences, and

"(iii) submitted to the Secretary a written request by tribal resolution that this paragraph apply,

the Federal agency or grantee awarding the contract on that tribe's reservation shall delegate to the tribe responsibility for monitoring the contractor's compliance with that agency's Indian preference requirements.

"(2) Enforcement authority under this section shall remain with the Federal agency or grantee.

"(3) A Federal agency shall provide an Indian tribe with notification of any contract, the performance of which will occur on such tribe's reservation, no less than 30 days prior to the advertising of the contract and shall otherwise work cooperatively with the tribe on enforcement of Indian preferences provided in this section.

"(4) Nothing in this section shall be interpreted to preempt tribal authority to independently impose or enforce Indian preference requirements which are not inconsistent impose or enforce Indian preference requirements which are not inconsistent or in conflict with this section or other applicable law.

"(e) In addition to any other penalties provided under Federal or tribal law, whoever misrepresents the status of an individual as an Indian, or of an enterprise as an Indian enterprise or an Indian preference enterprise, in order to obtain a preference under this section for such person or any other person—

"(1) shall be subject to a civil action brought in a tribal court of an Indian tribe affected by the misrepresentation and a civil penalty of not more than $5,000 may be imposed;

"(2) shall be liable to the United States for the amount of any grant, or the amount paid under any contract, that was obtained by reason of the preference;

"(3) shall be subject to suspension and debarment as specified in subpart 9.4 of part 9 of title 48 of the Code of Federal Regulations (or any successor regulation) on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government; and

"(4) shall be ineligible for any preference provided under this section.

"(f)(1) The Secretary may request the Inspector General of the Department of the Interior to conduct an investigation of any contract, grant, subcontract, or subgrant with respect to which preferences are required to be provided under this section.

"(2) By no later than the date that is 30 days after the date on which a request is submitted to the Inspector General of the Department of the Interior under paragraph (1), the Inspector General shall submit to whoever made the request a written response to the request detailing the actions, if any, the Inspector General will take with respect to the request.".

(b) Conforming Amendments.—(1) Section 33 of the Act of June 25, 1910 (36 Stat. 863; 25 U.S.C. 353) is amended by striking out "section thirty-two" and inserting in lieu thereof "sections 23 and 32".

(2) The first paragraph under the subheading "Secretary" that is under the superior heading "I. General Provisions" of the Act of April 30, 1908 (35 Stat. 71; 25 U.S.C. 47) is amended by striking out the last proviso.

SEC. 4. CRIMINAL PENALTIES.

Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"Sec. 1169. Indian preferences

"Any person who, in any document, with the intent to defraud the government knowingly conceals or fails to disclose any fact, the disclosure of which—

"(a) is required under section 23 of the Act of June 25, 1910 (36 Stat. 861; 25 U.S.C. 47), or any regulations prescribed under such Act, or

"(b) is necessary to verify or clarify whether an enterprise or individual is eligible for any preference provided under such section,

shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.".

SEC. 5. MANPOWER AND JOB TRAINING.

The Secretary of the Interior is authorized to negotiate and enter into cooperative agreements with Indian tribes to engage in cooperative manpower and job training and development programs including the performance of work on lands owned and controlled by the Department of the Interior. Such cooperative agreements may be entered into with any agency or office within the Department of the Interior. In such cooperative agreements, the Secretary of the Interior is authorized to advance or reimburse funds to tribes from any appropriations available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment without regard to the provisions of section 3324 of title 31, United States Code.

Mr. LEAHY. I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL OIL AND GAS LEASING AMENDMENTS ACT

Mr. LEAHY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1805.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1805) entitled "An Act to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Oil and Gas Leasing Amendments Act of 1990".

SEC. 2. TREATMENT OF SECTION 14 LEASES.

Section 14 of the Mineral Leasing Act (30 U.S.C. 223) is amended by inserting "(a)" before the first sentence and by adding the following new subsection at the end thereof:

"(b) Notwithstanding any other provision of law, any lease issued pursuant to subsection (a) shall, upon renewal on or after the date of enactment of the Federal Oil and Gas Leasing Amendments Act of 1990, include the terms and conditions of noncompetitive leases issued under section 17, and all requirements applicable to such noncompetitive leases shall apply in the same manner and to the same extent to any lease issued under subsection (a).".

SEC. 3. REINSTATEMENT; IN GENERAL.

Section 31(g) of the Mineral Leasing Act (30 U.S.C. 188(g)) is amended by adding the following new paragraph:

"(3) Notwithstanding any other provision of law, any lease issued under section 14 shall be eligible for reinstatement under provisions of this section applicable to noncompetitive leases issued under section 17, except that upon reinstatement such lease shall include the terms and conditions of noncompetitive leases issued under section 17, and all requirements applicable to such noncompetitive leases shall apply in the same manner and to the same extent to any lease issued under section 14.".

SEC. 4. REINSTATEMENT OF CERTAIN LEASES.

(a) Notwithstanding any other provision of law, United States oil and gas leases CALA 033164, CAS 019746C, and CAS 021009B shall be eligible for reinstatement pursuant to section 31(g)(3) of the Mineral Leasing Act (30 U.S.C. 188(g)(3)).

(b) Within 30 days after the enactment of this Act, the Secretary of the Interior shall give written notice by registered mail to the last lessee of record for each of the leases listed in subsection (a) that said lessees may petition for reinstatement of such leases in accordance with this subsection and the provisions of section 31 applicable to noncompetitive leases issued under section 17 of the Mineral Leasing Act (30 U.S.C. 188). The lessee shall have 60 days from the date of the Secretary's notice to file such petition. No lease may be reinstated if the lessee fails to file such a petition within 60 days from the date of the Secretary's notice. If a lessee files such a petition within 60 days from the date of the Secretary's notice, and upon determination by the Secretary that any lease listed in subsection (a) qualifies for reinstatement in all respects except for compliance with the deadlines imposed by section 31(d) of the Mineral Leasing Act (30 U.S.C. 188(d)), the Secretary shall reinstate the lease.

SEC. 5. MINING PROJECTS.

(a) The Director of the Bureau of Mines is authorized and directed to enter into such arrangements as may be necessary with the Idaho Geological Survey to conduct a joint mining experimental project in the State of Idaho to demonstrate the efficacy of extracting and processing black sands from alluvial placer deposits for yttrium and rare earth elements. The project shall be completed prior to September 30, 1993. There is authorized to be appropriated $1,000,000 to carry out this subsection.

(b) The Director of the Bureau of Mines is authorized and directed to enter into such arrangements as may be necessary with the Mackay School of Mines' Center for Strategic Materials Research and Policy Study to conduct a joint mining experimental project in the State of Nevada to determine the genesis of platinum-group metals associated with hydrothermal ore deposits and their distribution in Nevada. The project shall be completed prior to September 30, 1993. There is authorized to be appropriated $1,200,000 to carry out this subsection.

(c) In furtherance of the goals and objectives of the Mining and Minerals Policy Act of 1970, the Secretary of Agriculture, acting through the Chief, National Forest Service, is authorized and directed to enter into such arrangements as may be necessary to undertake a titanium mining demonstration project in the Angeles National Forest, California, pursuant to the unsolicited proposal "Soledad Canyon Demonstration Project" dated March 5, 1988.

(d) Notwithstanding any other provision of law, in order to demonstrate the efficacy of utilizing effluents from abandoned coal mines for the purpose of establishing fishery resources the State of West Virginia may allocate up to $2,500,000 of the annual grants available to the State under section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977 for the purpose of establishing a fish hatchery in McDowell County, West Virginia.

Amend the title so as to read: "An Act to amend sections 14 and 31 of the Mineral Leasing Act, and for other purposes.".

Mr. LEAHY. I move that the Senate disagree to the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

Mr. LEAHY. Mr. President. I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE HELD AT DESK—SENATE CONCURRENT RESOLUTION 154

Mr. LEAHY. Mr. President, I ask unanimous consent that Senate Concurrent Resolution 154, submitted earlier today by Senator CRANSTON, be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. LEAHY. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate recesses today, it stand in recess until 9:10 a.m., Wednesday, October 24; that following the prayer, the Journal of Proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 9:30 a.m.; that during morning business, Senators BOREN and KERREY of Nebraska be recognized for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. LEAHY. Mr. President, the majority leader asked me to announce that on tomorrow at 9:30 a.m., the Senate will turn to the consideration of the veto message on S. 2104, with 2 hours for debate, and a vote to occur at 11:30 a.m.; that upon disposition of the veto message, the Senate will vote on final passage of the Foreign Operations appropriations bill, to be immediately followed by the Senate resuming consideration of the Interior appropriations bill.

RECESS UNTIL 9:10 A.M. WEDNESDAY

Mr. LEAHY. Mr. President, if the acting Republican leader, my good friend from Wisconsin, has nothing further, I ask unanimous consent that the Senate stand in recess, under the previous order, until 9:10 a.m., Wednesday, October 24.

There being no objection, the Senate, at 11:24 p.m., recessed until Wednesday, October 23, 1990, at 9:10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 23, 1990:

LEGAL SERVICES CORPORATION

J. BLAKELEY HALL, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1992, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM NOVEMBER 22, 1989, TO JANUARY 23, 1990.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. ROBERT D. CHELBERG, [redacted], U.S. ARMY.

EXTENSIONS OF REMARKS

BUDGET REFORMS ALL BUBBLES AND NO BITE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. BROOMFIELD. Mr. Speaker, for weeks now the American people have been reading that the Federal budget has been cut to the bone, that the only way out of the budget deficit is to raise new taxes.

Then they pick up their morning paper and read that the House has just voted half a million dollars to renovate the birthplace of Lawrence Welk.

The American taxpayers are calling for serious cuts in the budget and all they're getting from Congress is champagne music. These so-called budget reforms are all bubbles and no bite.

The taxpayers are angry and I don't blame them.

A LETTER FROM JAMES MOYLAN

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. PURSELL. Mr. Speaker, on July 31 I entered into the CONGRESSIONAL RECORD two letters from constituents of my Second Congressional District in Michigan. I wish to reenter one of those letters today in its entirety. The letter came to me from Mr. James Moylan of Plymouth, MI. The text follows:

DEAR REPRESENTATIVE PURSELL: I am writing this short letter to express my concern about any pending legislation that will adversely affect the current guidelines for Credit Unions in this country. The Credit Union that I deal with through my place of employment is very successful and sound. It does not need any new guidelines or restrictions just because of the competition that it may impose on other banking institutions. In fact, I have always felt that competition is supposed to be a healthy way of insuring services for the common good of consumers. Having the rules changed is not a fair way of competing.

My wife, children and I have savings and checking accounts in two other banks besides our Credit Union and we intend to keep them balanced that way for security and convenience. In my opinion, the current guidelines for banks and credit unions do not need to be revamped. I can only recall the last time the Government broadened the guidelines of Savings & Loans for the betterment of the saving public!

Respectfully yours,

JAMES MOYLAN.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. WISE. Mr. Speaker, I rise in support of the Food, Agriculture, Conservation, and Trade Act of 1990. Title XXIII of the bill, which I first introduced a year ago as H.R. 3564, amends the Rural Electrification Act of 1936 to ensure that the Rural Electrification Administration and the Rural Telephone Bank are responsive to the evolving telecommunications needs of rural telephone subscribers.

Due in large part to the telephone loan programs of REA and RTB, most rural Americans today enjoy basic telephone service at affordable rates. But basic telephone service is no longer sufficient to meet the needs of rural America. We are in an era where service industries are rapidly replacing agriculture, manufacturing, and mining as the mainstays of the rural economy. Rural America is struggling to emerge from a period of economic decline.

In order for rural businesses to survive, they must have access to computer modems, fax machines, and other advanced telecommunications technologies that urban businesses have come to find essential. For many in rural America, such access is only feasible with the continued assistance of the REA and RTB programs.

Title XXIII makes clear that recent technological developments such as fiber optic cable and data transmission are included in the definition of telephone service for which REA and RTB loans can be made. The legislation also allows qualified rural telephone borrowers to invest a certain percentage of their own capital for rural development purposes.

At the same time, Title XXIII ensures that the REA and RTB telephone programs operate under the watchful eye of the public. Under the bill, RTB will become subject to the open meeting requirements of the Sunshine Act. REA will become subject to the notice and comment requirements of the Administrative Procedure Act.

Enactment of the Food, Agriculture, Conservation, and Trade Act of 1990 will not only facilitate the advancement of rural telecommunications but will be a major step toward the development of our rural economy and the improvement of the quality of rural American life.

VOTE NO ON THE HONEY POT.—VOTE NO ON THE FARM BILL

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. CONTE. Mr. Speaker, we'll be taking up the farm bill conference today, and I want to alert the House to one very important provision.

You know what I'm talking about—the killer beekeepers. The House's bill capped payments to beekeepers at $100,000 by 1994. And the other body, in an unusual show of fiscal sanity and wise policy, eliminated the honey subsidy altogether.

Now, did the conferees split the difference? did they reach a $50,000 cap? No. Did the Senate conferees give up and agree to the cap at a full $100,000? No. They combined to raise the cap to $125,000. A full 25 percent over the House's number.

This week USDA's Agriculture Research Service is out hunting killer bees along the border near Harlingen, TX. They're trying to trap them with sex pheromones and keep them out of Texas. Well, it's clear to me they're looking in the wrong place. They should be out hunting the conferees who are stinging the taxpayers. Vote no on the honey pot. Vote no on the farm bill.

FIX THE BUDGET BY CUTTING SPENDING, NOT BY RAISING TAXES

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. SPENCE. Mr. Speaker, I would like to commend to my colleagues a few thoughts from an editorial that appeared recently in a South Carolina paper. It makes two points about the budget debate that, in my view, have not received enough attention. The first is that the so-called spending cuts included in the various proposals we have considered in this deficit reduction discussion have only made cuts in spending increases in existing programs. It is my belief that the shallowness of these budget cuts has not been sufficiently highlighted. The second point is that the tax increases included in the bill hit not only once but are more accurately double taxes as the producers or transporters of goods and services inevitably pass along their added costs to consumers. This effect, too, seems to have been ignored in many circles.

We need real cuts to reduce the deficit. We don't need any more taxes and I hope that the following excerpts will convince you also.

Many of the criticisms weighed against the Senate package can just as easily be applied to the House bill in many ways. From what I have heard about the prospective conference report, it doesn't seem to do much better.

The editorial follows:

DOING THE WRONG THING ON THE BUDGET

[From the Charleston (SC) News and Courier, Oct. 19, 1990]

The Senate package that seems to be sailing toward presidential approval contains genuine tax increases of roughly $149 billion and "cuts" in government expenditures of approximately $250 billion. There is no way to get a precise reading on either the new taxes or the spending "cuts" because Congress' tax-writing committees have yet to fill in all the blanks. What is certain, however, is that the "cuts" aren't cuts at all; they are reductions in the rate of growth in government spending, not the growth itself.

Thanks to an accounting device called "baseline budgeting", brought to us by the folks who wrote the 1974 Budget Act, government spending automatically increases each year to meet projected rates of inflation. If Congress cuts $5 million from the $15 million automatic increase in a program's $100 million appropriation, the "savings" are illusory. A real cut would be to lop off the $15 million increase and trim the $100 million appropriation by $5 million. Every American who balances a checkbook knows that. Why doesn't Congress?

There is nothing illusory about the taxes, however. They are real, and they are going to hurt. In many cases, the new levies will result in a hidden "double tax." That means, simply, that increased taxes on, for example, gasoline will force truckers (the ones who survive, that is) to pass along the higher cost of doing business to consumers. Most of the new taxes will have a similar ripple effect throughout the economy, driving up the cost of virtually everything Americans eat, drink, drive, wear, rent, or own.

Meanwhile, real government spending will continue to grow. The only area in which it will actually decline is defense. While the term "tax and spend" may sound hackneyed by now, it is true nonetheless. When the largest tax hike in terms of dollars in American history sinks in—and the deficit continues to grow, only at a slower rate—the taxpayers will realize just how badly they've been hoodwinked.

FINAL PASSAGE OF THE NEGOTIATED RULEMAKING ACT OF 1990

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. PEASE. Mr. Speaker, I am very pleased that the U.S. House of Representatives yesterday gave final approval to legislation that I introduced on January 31, 1989—the Negotiated Rulemaking Act of 1990. I look forward to President Bush signing this measure into law within the next few days. I also want to salute Senator CARL LEVIN, who has worked so diligently with me for several years in seeking the enactment of this legislation. We also both recognize that our efforts would not have come to fruition without the staunch support of Congressman BARNEY FRANK, who thoughtfully guided this bill through the House Judiciary Committee.

As you know, administrative regulations too often become the object of protracted litigation. For example, nearly 80 percent of the 300 regulations promulgated each year by the Environmental Protection Agency are contested in court. Now I realize that Washington, DC, is a city of attorneys, but many thoughtful attorneys themselves would surely join me in saying it is in our national interest to find prudents ways in which to cut down on endless litigation.

Many court battles are time consuming, unproductive, costly affairs that could be avoided. In certain cases, the process of rulemaking can be accomplished more fairly and efficiently through direct negotiations among the principal parties concerned.

Negotiated rulemaking has been tried a number of times. It has met with enough success that its wider application should be encouraged.

I sponsored this bill because the Federal Government ought to be doing all we can to reduce unnecessary and costly litigation. Too often the relationship among government, industry, labor, other interest groups is altogether too adversarial. I have pushed for enactment of this legislation for more than 8 years, believing it would be good public policy to provide Federal agencies with an option to encourage consultation and negotiation as an alternative to the customary rulemaking process.

This legislation will not force Federal agencies to do anything against their will. Certainly I do not intend that negotiated rulemaking be employed to establish fundamental policy directives or to permit Federal agencies to frustrate the will of the Congress. Rather I want to make negotiated rulemaking a viable option for Federal agencies to pursue when it is appropriate. Following this path more often in the future will foster more harmonious, rational policy implementation between public and private sector participants.

A SALUTE TO MATTIEDNA JOHNSON, NURSING PIONEER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. STOKES. Mr. Speaker, I rise today to pay tribute to Mattiedna Johnson, R.N., M.A. Divinity, M.T., who is being honored at an upcoming "Salute to Nursing Pioneers Program." On November 11, 1990, friends and colleagues will gather at Cory United Methodist Church in Cleveland to pay tribute to Mattiedna Johnson for her 50 years of nursing service to the community. I am pleased to salute Nurse Johnson on this special occasion and I am proud to share with my colleagues some of the highlights of her distinguished career.

Mattiedna Johnson graduated from the Jane Terrell Memorial Hospital School of Nursing in Memphis, TN in 1940. She completed post-graduate nursing at the Homer G. Phillips Hospital in St. Louis, MO. After receiving her license, she went on to the Northwest Institute of Medical Technology in Minneapolis, MN.

In 1944, Nurse Johnson conducted research at the University of Minnesota Department of Plant Pathology which resulted in the cure for scarlet fever. In 1945, she was certified by the American Red Cross and began teaching disaster nursing and basic first aid. One year later, Nurse Johnson was certified as a medical missionary and served in Liberia, West Africa, where she promoted the organization of the Liberian National Nursing Association.

Nurse Johnson moved to Cleveland in 1959, where she tutored nurses for the Ohio Board of Nurse Education and Registration, and spent much of her time as a leading American Red Cross volunteer instructor. Classes included "Mother's Helper," "Teenage Baby-Sitting," and "Home Nursing." She also developed special courses for church nurses, utilizing church basements throughout Cleveland for her classroom.

Mr. Speaker, Mattiedna Johnson has also been an outspoken and courageous advocate on behalf of black nurses. At a nurses convention in 1970, she called black nurses together. That meeting led to the formation of the National Black Nurses Association. She went on to organize the Cleveland Council of Black Nurses and, in 1973, with the Akron black nurses, she convened the first institute and conference of the National Black Nurses Association.

Although now disabled, Mattiedna has not lessened in her efforts. She is an active participant in the 21st Congressional District Caucus, and the Congressional Black Caucus Health Braintrust, which I chair. In addition, she is the author of "The Penicillin Project Diary Notes," and is now publishing the "Johnson's Manual for Church Nurses."

Mr. Speaker, I take pride in congratulating Mattiedna Johnson. She is a great pioneer and a source of inspiration to our community and the Nation.

THE LIFE AND DEATH OF A MAYOR

HON. ANDY JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. JACOBS. Mr. Speaker, the following article, written by Phyllis Theroux and published in the October 21 Washington Post denotes a tragedy for our beloved Lindy. It is a tragedy for us all:

THE LIFE AND DEATH OF A MAYOR: BARBARA BOGGS SIGMUND AND HER GIFT OF LIVING WELL

(By Phyllis Theroux)

Ten days ago, Barbara Boggs Sigmund, mayor of Princeton, N.J., died of cancer at the age of 51. If politicians can be divided into mutts and purebreds, Barbara had "papers." She was the daughter of the late House majority leader, Hale Boggs, and Rep. Lindy Boggs, and her family's political

roots extended far beyond her own parents into the soil of Louisiana.

But while her sister, Cokie Roberts, is a political reporter with National Public Radio and ABC News on Capitol Hill and her brother, Tommy, is a Washington lawyer-lobbyist who works the same turf, Barbara was the only of the Boggs children to enter politics directly. There were those of us who thought that, given her background and gifts, she should have risen higher than she did. This thought did not stem from some *droit de roi* conviction that to whom much has been given, more should be supplied. From her childhood, Barbara exhibited a quicksilver mind, a compassionate heart and a tolerant spirit that probably came from growing up knee-deep in eccentric New Orleans relatives who bounced checks, wore opera caps to breakfast and reputedly gave Tennessee Williams some of his best material.

All the right ingredients for public service ran in Barbara's veins and early indications pointed to easy success. Even in school—from first grade through college—she was always elected class president. Yet despite her drive and intellectual commitment, she never successfully rose above the local level in politics. Having just returned from her funeral, however, I am reminded that to lay a ladder against a person's life and measure its success by rungs climbed is to confuse height with influence. In fact, she did seek to rise higher. But she never lost the understanding that public service, at every level, is a privilege and, for someone of Barbara's temperament, a necessity.

In 1982, the same year she lost a race for Congress, Barbara discovered a melanoma behind her left eye, which was removed to prevent further spreading. In 1983, she was elected mayor of Princeton by a large majority and put the cancer behind her. Then, in 1989, the year she ran unsuccessfully for governor, the cancer returned, claiming her entire body, including the area behind her remaining eye.

During her last year, Barbara continued serving as mayor and astonished even her closest friends by publishing a book of poetry that was both polished and profound. "Whether I go into eternal darkness/ or into unrelenting light/I shall miss the interplay between the two/that, except on endless flat gray days/makes our earth a joyful, bouncing place." She feared blindness more than dying and called her remaining seeing eye "a glutton, a lecher, and a drunk" that could not get enough of what it saw.

Barbara planned her own funeral in Churchillian detail, down to the parking—which she wanted to be free. Then she put a double asterisk by that and wrote, "I've changed my mind about this. The borough needs the money." That was the only request her family reversed. Parking was free. But on the day of her funeral, there were too many people to park anywhere. Mourners walked through the town toward Princeton University Chapel, which holds 2,000 people but was not quite large enough to hold us all.

An impressive phalanx of senators, congressmen, judges and other high officials attended the service. But it was love, not obligation, that drew the vast majority of mourners. Among them were her children's former babysitters, a large contingent of battered women for whom Barbara had founded a shelter and almost every couple she had married—one of her favorite mayoral tasks. An American Legionnaire sat next to a physics professor who sat next to some children who helped decorate the town parking meters with funny hats the day Barbara decided to throw a birthday party on their 50th year of installation.

Old, young, rich, poor, black and white, we all arrived at the funeral feeling smug in the knowledge that Barbara viewed us as a person apart and special from everybody else she knew and viewed. Egos were being silently adjusted in every pew.

The casket was borne by Barbara's three sons and various nephews toward a row of priests, ministers and rabbis who took part in the service. Behind it came the family and then the special guests wearing purple armbands (Purple was her favorite color and local merchants had tacked a purple ribbon on every tree from her house to Borough Hall.) The Princeton volunteer firemen were first, hats tucked stiffly under their arms, then the borough employees, road crews, janitors, secretaries, sewer workers, police officers. If Barbara was trying to make a political point posthumously, it was to let the mourners teach each other that this is what we should strive to be; a political body at peace. That afternoon everybody was.

At first glance, Princeton looks like an affluent, exquisitely tasteful town that could run itself quite well without any mayor, let alone anyone of Barbara's talents. But in fact there are many factions: decendants of Italian stonecutters who were brought over to build Princeton University, a large black community and a deep pool of New York commuters, government employees, professors and writers. To govern the town well took a brilliant mind and a populist heart. Barbara got the people to redesign the center of the city, tear out 200-year-old pipes, pave roads, install bike paths and—her pride—create beautiful low-income housing. She used to bring children into her office and tell them how much fun it was to be in government, not how much work.

Many people spoke at her funeral, including her son Paul, who read a letter written to him by his mother before he was born. "As surely as I am introducing you to life," she wrote, "I am introducing you to death, and against the knowledge you will shape your life."

A candlelight procession through silent Princeton followed the casket to its burial place. Then the family left, and five of Barbara's oldest friends remained behind. We surrounded the coffin as it descended, placed our hands upon the top and, reclaiming the hymn "Tantum Ergo" from our memories, we sang our old friend into the earth.

"In each class," wrote Matthew Arnold in his book "Culture and Anarchy," "there are born a certain number of natures with a curiosity about their best self, with a bent for seeing things as they are, for disentangling themselves from machinery, for simply concerning themselves with reasons and the will of God, and doing their best to make these prevail . . . and this bent always tends to take them out of the class and to make their distinguishing characteristic their 'humanity.' They have, in general, a rough time of it in their lives."

Barbara would have disagreed. She loved her life until the end.

VIEWS FROM BUCKS COUNTY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. KOSTMAYER. Mr. Speaker, as we continue with our discussion on the deficit reduction measure, I would like to share with you some very strong views expressed to me by a constituent in Bucks County.

WE CAN'T BE HOSTAGES TO GREED AND WAR MENTALITY

(By Isaac Ben Ezra)

Last week Congress "read our lips" and defeated the Bush tax deal. The president's compromise with the bipartisan leadership was a bad deal for Main Street America and a good deal for wealthy taxpayers who finance the political campaigns of the president and his bipartisan pals in Washington.

The deal failed because the politicians got a wake-up call from Americans concerned about imminent war in the Middle East and in no mood for tax increases and Medicare cuts, while oil companies, taking advantage of the Gulf crisis, nickel and dime us to death at the gas pumps every day.

Growing unemployment, increased sheriff sales, shrinking paychecks, a collapsed housing industry and galloping inflation fueled by profiteering oil companies testify that "our way of life" is in jeopardy—and the enemy is greed. And we are angry and disgusted with the inability of our political leaders to tax the greedy and stop inflation at the door of the companies.

Why not a rollback of fuel oil prices to pre-Gulf crisis levels?

Why not an excess profits tax on the billions oil companies already have milked from consumers?

Why not a comprehensive plan for conservation and promotion of alternative sources of energy?

Why not financial support for mass transit to help save our health and environment, while reducing our dependence on foreign oil?

Why not legislation to give Detroit a deadline to produce gas-efficient automobiles?

The president said we need to reduce government spending.

Why not begin by ending our military buildup in the sands of Saudi Arabia?

How many billions of dollars will we save if we stop buying Middle East allies by forgiving their debts?

Unemployment has been on the rise for three straight months, while oil prices have increased by 50 percent. Each 1 percent in unemployment costs $16 billion in annual lost revenue to the U.S. Treasury.

Why not a plan to put people back to work?

We can build a city to prepare for war in the quicksands of the Middle East in nine weeks. Why not a plan to rebuild America's neglected cities and put our housing industry back to work?

War talk was not cool in the men's locker room at the Y last week. The Bush tax plan was the straw that broke our back. Anger about Neil Bush's alleged involvement in the $500-billion S&L scandal and talk of a one-term presidency if American blood flows for oil in the Middle East was not idle talk.

According to last week's New York Times poll, "Nine out of 10 Americans are opposed to going to war in the Persian Gulf."

Why not let the United Nations solve the crisis in the Middle East?

Why not give the United Nations-sanctioned economic boycott a chance to bring the Iraqi government to the negotiating table?

The greatest hope for peace at home and abroad came when the United States and the Soviet Union ended 45 years of cold war. The world cries out for a peace dividend, not a new devastating war in the Persian Gulf.

And Americans, while there is still time, need to tell our president and our Congress that it is time to come home and give peace a chance.

THE AZERBAIJANI SUPREME SOVIET ELECTIONS: THE SOVIET CONTEXT, THE AMERICAN IMPLICATIONS

HON. STENY HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. HOYER. Mr. Speaker, the Helsinki Commission, of which I am cochairman, embarked in 1990 on a new and important field of activity. Beginning in February, Commission staffers have been traveling to the Soviet Union to gather first-hand information for reports we have issued about the elections to republican legislatures, or "Supreme Soviets." These elections, an initiative President Gorbachev promoted in 1989, have turned out to be an historic stage in the democratization of the U.S.S.R.

In a multinational state divided into nationally based republics, glasnost and elections have proved an explosive combination. Urged by the country's top leadership to take responsibility for their own governance, and unafraid for the first time to express their grievances and national longings, the peoples of the various republics have gone to the polls to choose their legislators. The results have been dramatic. For the first time, republican parliaments have taken on genuine significance. Their activities have been instrumental in promoting the two most fundamental reform processes in today's Soviet Union: the devolution of power from the center to the republics, and the end of the Communist Party's monopoly of power.

In many republics, communists have either lost their hold on the legislature or must now contend with strong oppositions. And almost all newly elected republican legislatures have declared sovereignty and proclaimed the predominance of their own laws over laws passed in the all-union Supreme Soviet in Moscow. The refusal of these parliaments, backed by their electorates, to continue obeying Moscow's dictates has produced a constitutional crisis of the first order. Its outcome is still uncertain and much will hinge on the future of this confrontation.

As might have been expected, the progress of these reform patterns has not been uniform throughout the U.S.S.R. The Baltic States of Latvia, Lithuania, and Estonia, which never accepted their forcible annexation by Joseph Stalin, have either declared their independence or made clear their intention to do so. In some regions, however, notably Central Asia, relatively little has changed.

The Helsinki Commission has been able to track closely these developments. Commission staffers have written reports about the elections in Lithuania, Moldavia, the Russian Republic [RSFSR], Ukraine, Latvia, and Estonia. When the cycle of elections is completed this fall, the Commission will release a compendium of these reports, accompanied by an introduction that will analyze the larger significance of the elections. The next scheduled elections will take place in Georgia on October 28, and I am pleased that a Helsinki Commission staffer will be there.

I would like now to share with you information about the latest election to a republican Supreme Soviet, a republic about which Americans are not as well informed as they are about others: Azerbaijan. This information is based on a report written by the Commission and reflects the benefits of being on the spot.

The September 30 Azerbaijani Supreme Soviet elections were not technically multiparty elections, despite Azerbaijan's abolition last spring of the Communist Party's constitutional monopoly of power. A June 6 resolution on temporary registration of social organizations did not provide for registration of political parties and no law on political parties is yet on the books. But the election was the first in Azerbaijan in which the Communist Party did not enjoy a total monopoly and non-Communist organizations were free to nominate candidates.

Nevertheless, there was never any doubt, given the circumstances of the election, that the Communists would gain control of the legislature; the question was whether non-Communist groups, many of whom had joined the "Democratic Azerbaijan" coalition, would manage to win any seats. Though the final figures are not yet in, it is clear that noncommunist forces led by the Azerbaijani Popular Front will for the first time have some representation in the new parliament—if they want it.

When I say, "given the circumstances of the elections," I mean the following: the elections in Azerbaijan took place in a state of emergency. Non-Communist groups argued that holding free and fair elections under such conditions was impossible and claimed that the authorities maintained the state of emergency in order to facilitate rigging the election's outcome.

The elections were marked—and marred—by allegations of widespread fraud. There were several different but related types of complaints about the elections: the undemocratic nature of the election law; flagrant violations by the authorities of this law; and, the authorities' refusal to let outside observers monitor the proceedings. Even the Communist Party-controlled media in Azerbaijan carried numerous detailed reports of chicanery, ranging from refusal to register non-Communist candidates during the campaign to stuffing ballot boxes on election day. Post-election reportage on central Soviet television from Moscow also publicized these abuses.

Most alarming have been the allegations that a candidate of the Azerbaijani Popular Front was murdered 2 days before the elections. The Popular Front sees his murder as an blatant instance of attempted intimidation.

Col. Valery Buniatov, the military commandant of Baku, closed the city from September 26 to October 2 to nonresidents in an attempt to keep out election observers invited by non-Communist groups. Soviet troops met would-be election monitors, including members of the Moscow and Leningrad city Soviets, at the airport and sent them home. Nevertheless, Helsinki Commission staff and a representative of the U.S. Embassy in Moscow were permitted to go to Baku. They encountered no difficulties in meeting with Communist Party and government officials, as well as with representatives of non-communist organizations.

Runoff and repeat elections will be needed before the new Azerbaijani Supreme Soviet can convene. According to spokesmen for the current Azerbaijani Supreme Soviet, only about 10 percent of its members were nominated in the September elections, so the eventual turnover will be almost total. Nevertheless, based on the results of the September 30 voting, the Communists' hold on the legislature will remain solid, even if the "Democratic Azerbaijan" bloc wins all the runoff and repeat elections. This sets Azerbaijan apart from general electoral trends in the Soviet Union—outside of Central Asia—where even if Communists retained a numerical majority, the opposition won a much stronger position than the Azerbaijani opposition appears capable of attaining under current circumstances.

When the new Supreme Soviet convenes, prospects for cooperation between the Communist majority and the non-Communist opposition are unclear because the Popular Front has called for the non-recognition of a legislature it sees as fraudulently elected. Whatever the ultimate balance of forces in the Supreme Soviet all those interviewed by Helsinki Commission staff agreed that developments in the ongoing conflict with Armenia over Nagorno-Karabakh would have a decisive influence on the parliament's future activity. Within that context, the crucial items on the legislative docket will include: legal guarantees of Azerbaijan's political and economic sovereignty and rewriting the republic's constitution in that spirit; the deliberations in Moscow on a new Treaty of Union and voting on whatever proposal emerges from those negotiations; moving toward a market economy; dealing with the refugee problem in Azerbaijan; and establishing independent relations with other Soviet republics and with countries outside the U.S.S.R.

The outcome of the Azerbaijani Supreme Soviet elections will affect fateful political questions, among them: whether, as the U.S.S.R. appears to be breaking up, Azerbaijan proceeds on a course toward independence, a prospect that concerns not only Moscow but Teheran, with its large Azerbaijani population; the chances of peacefully resolving the Nagorno-Karabakh crisis with Armenia; the possible influence of trends and events in Azerbaijan on the U.S.S.R's other Moslem populations; the future of relations between Turkic Azerbaijan and Turkey, a NATO country; and Azerbaijan's hopes of es-

tablishing independent relations with countries outside the Soviet Union.

As political power in the Soviet Union decentralizes at ever greater speed, the administrative and legislative branches of the United States Government have begun to take a serious interest in establishing dialog with the peoples and Republics of the U.S.S.R. One of the most natural and important channels of contact and communication in this effort would be among elected public offficals at all levels of government, an idea in which Azerbaijani government officials expressed strong interest to Helsinki Commission staff. Given the many reported abuses during the Azerbaijani Supreme Soviet election, however, and the Popular Front's call for nonrecognition of the newly elected deputies, the United States Government and especially the Congress must consider carefully whether and how to proceed along these lines.

A TRIBUTE TO MAJ. GEN. CHARLES CALVIN ROGERS

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. WISE. Mr. Speaker, I rise today to pay tribute to Maj. Gen. Charles Calvin Rogers, one of West Virginia's former Congressional Medal of Honor recipients. General Roberts, who was retired, passed away Friday, September 21, in Munich, Germany, at the age of 61.

A graduate of Mt. Hope's DuBois High School, General Rogers was a 1951 distinguished military graduate of West Virginia State College and was inducted into the college's ROTC Hall of Fame in 1980. He received a master's degree from Shippensburg State College. He was also a graduate of the Army Command and General Staff College and of the Army War College.

His major assignments included deputy chief of staff for military operations in the Pentagon; deputy chief of staff for ROTC, Training and Doctrine Command in Fort Monroe, VA; and deputy commanding general for V Corps, U.S. Army Europe.

As one of the few Americans to receive the Medal of Honor, General Rogers distinguished himself on November 1, 1968, as a battalion commander during the defense of a forward fire support base. Although injured, the then Lieutenant Colonel Rogers continued to direct his men until the enemy was defeated and repelled.

General Rogers also received the Legion of Merit with Oakleaf Cluster, Distinguished Flying Cross, Bronze Star Medal with V Device and 3 Oakleaf Clusters, 10 Air Medals, Joint Service Commendation Medal, Army Commendation Medal with 3 Oakleaf Clusters, Purple Heart, and Parachutist Badge.

He is survived by his wife, Margaret, and three daughters.

THE 100TH ANNIVERSARY OF THE WOMEN'S CLUB OF PITTSFIELD

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. CONTE. Mr. Speaker, I rise today to recognize the landmark to be reached and passed on November 16, 1990 by the Women's Club of Pittsfield. It was one century ago that this organization opened its doors to women over 17 years old and began to implement its goals of education, self improvement, and charity.

Throughout the years, the Women's Club has been selflessly committed to reaching out to those who are less fortunate through donations of time and money. The Christian Center, the Women's Services Center, the Salvation Army and many other charities around western Massachusetts can attest to the generosity of the Women's Club. But it has been without fanfare and without expectation of material reward, that the Women's Club has given and given again to their community.

Every year the Women's Club has a special celebration, the silver tea. These celebrations with their many distinguished guests have been the highlight of many a year. As you all know, every successful celebration must have many hours of hard work and planning behind it. Mrs. Alice Zerbato, the current executive director of the Women's Club, has been instrumental not only in leading the Women's Club to its 100th anniversary, but also she will lend her wisdom and guidance toward steering the Women's Club into the 1990's and beyond.

Today, the ambiance of the clubhouse retains it original charm and warmth. From its humble beginnings in the days of Henry Adams, Mark Twain, and Susan B. Anthony, this organization has grown greatly, but has stayed true to its goals and high standards.

I am very proud of the fact that the Women's Club has been such a productive member of the Pittsfield community through this last century. Though many organizations have fallen along the wayside during this quickly changing age, I know the Women's Club will continue to stand the test of time. I also know that they will do so with the same class and dignity which they have always exemplified.

Mr. Speaker, as the years pass, many women of Berkshire County will proudly stride through the ever-open doors of 42 Wendell Avenue. They will experience the excellence which has been the rule rather than the exception at the Women's Club. May their contributions and rewards continue to be memorable ones.

IN OPPOSITION TO THE DEFICIT "REDUCTION" BILL

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. SPENCE. Mr. Speaker, we don't need to pass a so-called budget deficit reduction bill that, instead, really increases spending by 34 percent over the next 5 years. The alleged reductions in this bill will only be in proposed increases. Also, new spending proposals are included in the bill. To pay for this spending, all of our people will be taxed more, in one way or another, to the tune of an additional $170 billion.

We don't need any more taxes. We need real cuts to reduce the deficit, or at least, a freeze on spending.

I recently came across a poem on taxes from the Masonic Light that I would like to share with you. It sets forth some of the tax burden that our people already must bear.

Tax his cow, tax his goat,
Tax his pants, tax his coat,
Tax his ties, tax his shirt,
Tax his work, tax his dirt,
Tax his chew, tax his smoke,
Teach him taxes are no joke,
Tax his car, tax his gas,
Tax the roads he must pass,
Tax his land, take his wage,
Tax the bed in which he lays,
Tax his tractor, tax his mule,
Teach him taxes are the rule,
Tax his tobacco, tax his drink,
Tax him if he tries to think,
Tax his booze, tax his beers,
—if he cries, tax his tears,
Tax him good and let him know,
—after taxes he'll have no dough,
If he hollers, tax him more,
Tax him 'till he's good and sore,
Tax his coffin, tax his grave,
Tax the sod in which he lays!
Put these words upon his tomb,
"Taxes drove me to my doom."
And when he's gone we won't relax,
We'll still be after inheritance tax.

A SPECIAL SALUTE TO REV. ANZO MONTGOMERY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. STOKES. Mr. Speaker, on Saturday, October 27, 1990, family and friends will gather at the Confluence Park Restaurant and Conference Center in Columbus, OH, to pay tribute to Rev. Anzo Montgomery. Pastor Montgomery recently retired after completing 57 years of clerical service to the Christian Methodist Episcopal Church; 47 years in the pastoral ministry, and 4 years as general secretary of evangelism. I am proud to rise today and pay tribute to Pastor Montgomery. He is a strong leader, a committed servant of God, and a great inspiration to the Christian Methodist Episcopal Church and the community.

Pastor Montgomery has demonstrated his leadership as president of the Interdenomina-

tional Minister's Alliance; vice president of the Greater Cleveland Council of Churches; board member of the Ohio Council of Churches; and life member of the Ohio Pastor's Convocation. He has also been a leader on other fronts. In 1954, Pastor Montgomery was one of the first black ministers in Topeka, KS, whose concern for quality education for all children laid the foundation for the landmark Brown versus Board of Education Supreme Court decisions on school desegregation. In the 1960's, Pastor Montgomery, a strong advocate for civil rights, assisted Dr. Martin Luther King, Jr., in his efforts to register black voters in Cleveland. His efforts were instrumental in the election of my brother, Judge Carl B. Stokes, as the first black mayor of a major American city in 1967, and the creation of the first black majority congressional district in Ohio, which I am today proud to represent.

Mr. Speaker, it is a real honor to pay tribute to a great and dynamic leader. Pastor Montgomery and his lovely wife, Daisy Horne Montgomery, have been a source of strength and support through the years. I extend my very best wishes to them on this special occasion. I also want to take this opportunity to share with my colleagues some of the significant achievements of Pastor Montgomery during his career.

REV. ANZO MONTGOMERY

DISTRICT AND ANNUAL CONFERENCE POSITIONS

Dean, District Training School Kansas-Missouri Conference.

Director, Christian Education.

Director, Young People's Jubilee.

Director, Evangelism—Second Episcopal District.

Treasurer, Kansas-Missouri.

Instructor in Leadership Schools—Kansas-Missouri, Ohio, Carolina Conferences.

Member, Joint Board.

Chairman, Board of Evangelism—Carolina Conference.

Chairman, Annual Conference Board of Trustees—Carolina Conference.

Member, Committee on Ministry.

ECUMENICAL ACTIVITIES

President, Interdenominational Minister's Alliance (Kansas and Ohio.)

Ohio Council of Churches—General Board and Executive Board.

Ohio Pastor's Convocation, Life Member.

Co-Organizer and First President, Opportunity Industrialization Center, Cleveland, Ohio.

Member, National Board of Trustees, OIC.

World Methodist Council on Evangelism.

Vice President, Greater Cleveland Council of Churches.

CIVIC ACTIVITIES

His love of children led him to reach out and dig in deeply, thus as one of five black ministers in Topeka, Kansas in concern for quality education for all children, he served to help prepare the soil for the NAACP's Case "Brown vs. The Board of Education", which finally led to the 1954 Supreme Court Decision.

Involved with Dr. Martin Luther King, Jr. in the movement of registering black voters which led to the election of mayor Carl B. Stokes as the first black mayor of a major American city, Cleveland, Ohio and next to the election of his brother Louis Stokes to that prestigious body the Congress of the United States of America, Pastor Montgomery served as Co-chairman in his re-election.

Travels: Israel, Italy, Greece, London, Paris, Canada, Lima, Peru, and Panama.

Daily Quote: from "The Triumphant Song of Confidence of David"; "The Lord is my light and my salvation; whom shall I fear? The Lord is the stronghold of my life; of whom shall I be afraid".—Psalm 27:1 New RSV.

PERSONAL

Anzo Montgomery, 6353 Well Fleet Drive S, Columbus, Ohio 43231. Phone: 614-895-2659. Married: Daisy Horne Montgomery. They share the love of two young adult sons, two daughters-in-law and three grandchildren.

EARLY LIFE AND EDUCATION

Born in Jackson, Tennessee. Parents: Lucille and Roy Montgomery. He is the oldest of ten children.

Graduated: Merry High School.

Henderson Business College. Memphis, Tennessee. Washburn University. Topeka, Kansas.

Music Education: Montgomery's music education started in Jackson, Tennessee when his music teacher, Mrs. Celeste Mitchum, discovered his rich baritone voice, and started to give him free vocal and theory lessons. His music education continued in Topeka, Kansas under the tutelage of voice instructor, Mrs. Meredith Lee and blossomed to full fruition under Dr. Harold Decker at Wichita University, Wichita, Kansas. He became a member of the Wichita Choral Society where he sang such numbers as "The Messiah", "The Elijah" and "The Maccabees".

ANSWERING THE CALL AND ORDINATIONS

April 28, 1938—Answered The Call To The Ministry. Ordinations: Deacon's Ordination and Elder's Ordination.

PASTORATES HELD IN THE CHRISTIAN METHODIST EPISCOPAL CHURCH

Pastor Montgomery held pastorates in the states of Tennessee, Kansas, Ohio, Pennsylvania (an interim), North Carolina, Ohio (for the second time).

General officer: Montgomery served four years as General Secretary of Evangelism.

SHUTDOWN COST $1.6 MILLION, GAO STUDY FINDS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. JACOBS. Mr. Speaker, we owe our colleague, GERRY SIKORSKI, a lot for pinning down what most people suspected in the first place: political grandstand plays in Government designed to prove to the people how frugal the grandstanders are, usually end up costing the people dearly.

Of particular interest in the following article from the Washington Post is the assertion in the fourth paragraph that* * * * "When the government shuts down, as it must do if there is no spending authority * * *"

Contrast that assertion with what is found in the next paragraph: "At most, 500,000 of 2.4 million civilian Federal employees have been sent home during previous shutdowns. The rest were deemed 'essential' by their departments and agencies.

There is nothing in the Constitution that distinguishes between "essential" and "nonessential" functions of the Government. There is just as much authority to keep what a given President called a nonessential function as there is to keep what he or she might call an essential function during the absence of appropriations bills.

The whole idea of just laying off nonessential employees raises the question of what in the world such employees are doing on the payroll in the first place.

Besides, payday comes at the end of the month. Keeping people on the payroll with a relative certainty that the money will be in the bank at the end of the month to pay them would be a matter of ordinary common sense. If you don't have enough money today to pay your light bill but reasonably expect to have it by the end of the month, you do not turn out your lights tonight.

Closing down the Government, or part of it, under the foregoing circumstances is not a Presidential duty—it is a Presidential weapon. And as Mr. SIKORSKI'S GAO report shows, the weapon is usually fired at the taxpayers's expense.

SHUTDOWN COST $1.6 MILLION, GAO STUDY FINDS

CLOSING GOVERNMENT FOR COLUMBUS DAY WEEKEND INCREASED EXPENSES, LOWERED REVENUE

(By Dana Priest)

The federal government is $1.6 million deeper in the hole than it would have been had it not closed down for the three-day Columbus Day weekend because of the Budget impasse, according to a General Accounting Office study released yesterday.

Most of the $1.6 million loss was attributable to uncollected revenue and the costs of planning and carrying out the shutdown, according to the study.

The 14 executive departments and the Environmental Protection Agency, General Services Administration, NASA and the Office of Personnel Management also told GAO it would cost $398 million to shut down the government for three days during the workweek.

"Playing chicken" by threatening to shut down the government costs "government employees and the community they live in," said Rep. Gerry Sikorski (D-Minn.), who requested the GAO study. "It cost the president over 10 points in the polls and it cost the American taxpayers money."

Experts across the political spectrum agree that the U.S. Treasury reaps no financial benefit when the government shuts down, as it must do if there is no spending authority—either in the form of a temporary continuing resolution, such as the one in effect until 12:01 a.m. Thursday, or standard appropriations bills.

Even so, shutdowns, including the one earlier this month, have not really closed down the government. At most, 500,000 of 2.4 million civilian federal employees have been sent home during previous shutdowns. The rest were deemed "essential" by their departments and agencies.

Since the fiscal year began Oct. 1, Congress has passed and President Bush has signed three "continuing resolutions," stopgap funding measures giving the government authority to spend and borrow money for a limited period to keep the government running until there is a budget agreement.

In theory, the threat of a shutdown is supposed to be enough to force Congress,

now Democratic-controlled, and the administration, now Republican, to focus on the budget problem and reach an agreement. Experts disagree, however, on whether the potential for disruption is sufficient to elicit that cooperation.

The extent a shutdown disrupts the federal government, federal workers and the public is not easy to assess. Part of the calculation is anecdotal: employees who spend time worrying about personal finances rather than doing their jobs or who say their morale has taken a bruising; Americans who have become incensed that the nation's parks, including the Washington Monument, were closed Columbus Day weekend because Congress and the President could not bridge their differences.

The GAO study offers a more concrete assessment of the damage.

Of the $1.6 million the government lost over the three-day weekend, about $926,000 was in administrative costs—planning for a shutdown and keeping employees notified of developments. These are expenses departments otherwise would not have incurred.

The Energy Department calculated it spent $395,000 on administrative costs. The Labor Department reported its administrative costs were $300.697.

The Interior Department, which runs the national parks, the Smithsonian Institution and the monuments on the Mall, including the Washington monument, estimated its net loss at $315,000.

Some departments and agencies offered incomplete explanations for the shutdown costs. The Defense Department did not provide any cost information, citing national security considerations.

Other departments, asked to explain any negative impact from the shutdown, gave the following examples:

The Departments of Education said there were delays in the preparation of year-end financial reports.

The EPA noted that some work in an emissions-testing lab in Ann Arbor, Mich., was delayed.

The inspector general's office at the Department of Housing and Urban Development was forced to reschedule a trial in Michigan because a special agent was unavailable to testify.

The State Department told the GAO that the department's "senior level management is besieged by the endless number of scenarios possible' and that "losses of productivity are widespread."

The Goverment Printing Office did not print the Federal Register.

The Library of Congress prohibited the 1,000 to 1,500 researchers who normally use the library from doing so.

MS. ROMAINE HOWARD RECIPIENT OF CAREER CIVIL SERVICE AWARD

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. DYMALLY. Mr. Speaker, I am pleased to bring to your attention and award which was received by Miss Romaine Howard, accreditation manager, Department of Juvenile Justice, New York City. The award was given to Miss Howard by "The 100-Year Association of New York," and the city of New York Department of Personnel, at their annual presentation of Career Civil Service Awards. Miss Howard was commended for her dedication to quality services for youth and the community. We offer our congratulations to Miss Romaine Howard.

The citation follows:

ROMAINE HOWARD, ACCREDITATION MANAGER, DEPARTMENT OF JUVENILE JUSTICE $2,500 AWARD

In January, 1967, Romaine Howard began working for the Department of Juvenile Justice, and has since been promoted five times. Her many years of service have benefited the Spofford Juvenile Center, a correctional facility for adolescents. As Accreditation Manager, Ms. Howard is responsible for ensuring the agency's compliance with American Correctional Association standards, policy and program development, safety and security, health care, resident care, staff development, and administration.

Ms. Howard is turned to for guidance when a responsibility area in the agency needs leadership, strong management skills, and creative input. She is always willing to be a trouble-shooter and never loses sight of the interests of the children she serves. She has been most recognized for the development and implementation of the Behavior Management Program in her unit. In 1988, Ms. Howard received a commendation from the Commissioner for her efforts and success in developing the Intake and Orientation Unit into a more rewarding and educational place for the resident children. Her commitment to community and civic service is further shown through her involvement with the Voter Registration Drive, her union, and her Tenants' Association.

Ms. Howard's dedication to quality services for youth and the community continues to be a source of inspiration for other employees, youth, and the City of New York.

THE BUDGETARY QUAGMIRE

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. VALENTINE. Mr. Speaker, as the Congress and the administration continue to slog our way through the budgetary quagmire, we need to focus our attention more clearly on our overseas military commitments.

For nearly a half-century, American military personnel on the front lines in Europe have played a key role in averting another world conflict in which everyone would lose. We can be proud of their achievements.

Today, however, the world has changed dramatically. The Soviet bloc in Eastern Europe no longer exists. And the Soviet Union itself is in the process of a massive transformation that will occupy all of its energy and resources.

What, then, is the justification for continuing a large American troop presence in Western Europe? What is the threat against which we are defending?

Mr. Speaker, I have consistently supported a strong defense posture, and I believe that we need to maintain the capability to protect our national interests. But we should not continue business as usual in the face of a vastly altered international order and changing national security requirements.

In my opinion, either we should begin to reduce the number of American troops in Europe or the administration should offer a clear explanation of their purpose and their value to the taxpayers whose dollars support them. We need a strong defense, but we cannot afford a defense that we do not need.

A SALUTE TO THE AMERICAN SMALL BUSINESS STOCK EXCHANGE

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. OWENS of New York. Mr. Speaker, America's small businesses are a critical part of our economy, as they employ a sizable number of our working people. Seven years ago, a constituent from my 12th Congressional District, Reginald E-H. Butts, organized a group of fellow enterpreneurs to outline a plan for capital access to assist small business development. They recognized that the only real source of large capital infusions was through the mechanism of Wall Street and the various stock exchanges that control vast sums of investment dollars in our economic system.

Mr. Butts and his associates concluded that the only way to meet the challenges of the 1990's and the 21st century was to establish a national stock exchange patterned along the lines of the New York Stock Exchange, the American Stock Exchange, the Over-the-Counter, Philadelphia, Boston, and Denver Stock Exchanges, and the Unlisted Securities Market of the International Stock Exchange of London, England. In 1984, Mr. Butts and his group of entrepreneurs incorporated the American Small Business Stock Exchange, Inc. Mr. Butts is currently its vice president for administration.

The firm provides a formal, regulated market designed to meet the needs of small companies unlikely to apply for listing, and to bring under formal regulatory control those unlisted companies having no market emphasis and whose securities are being freely traded.

Mr. Speaker, I rise to salute Mr. Butts for having the foresight to launch this enterprise that will help smaller, less mature companies which are unwilling or unable to apply for listing on other exchanges due to size standards and the amount of capital needed. Additionally, as a result of the creation of this exchange, capital will be accumulated, jobs will be developed along with new products, new companies, new real estate developments, redevelopment of towns and cities, new industries, and most of all, economic development concomitant with the ongoing processes.

I also applaud the fact that Mr. Butts and others representing the American Small Business Stock Exchange, Inc., are the only Americans to be invited to the prestigious Price Waterhouse International Second Market Conference in London, England, sponsored by Price Waterhouse in association with the Unlisted Securities Market magazine. The event will be held Friday, November 9, and Saturday, November 10, in the Queen Elizabeth II Conference Center. It will bring together

second market practitioners from all over Europe and the United States to discuss issues which are of central importance to smaller, growing public companies and those professionals who advise them. It will provide a forum for companies and their advisers from the United Kingdom, continental Europe and the United States to meet and discuss areas of common interest. Over the 2 days, 24 speakers from 10 countries will be addressing the delegates. Each has an extensive knowledge of the marketplace; speakers include representatives from the major European stock exchanges and sponsoring institutions. By highlighting the differences between the various second markets, this conference will broaden advisers' perspectives, and will lead to increased appreciation and awareness of the opportunities available on a worldwide scale. Mr. Butts and his associates will obtain a great deal of valuable information which they may then put to good use in assisting their clients.

Mr. Butts brings a wealth of experience and knowledge to his new venture. He has a B.S. degree from Central State University, a historically black institution in Wilberforce, OH. He obtained his M.S. degree from the Massachusetts Institute of Technology in Cambridge, MA, and his M.A. degree from New York University in New York City. He has served as the president and director of the American Association of Securities Dealers in Fort Lauderdale, FL; the president, vice president, and operating officer of Romare Business Miscellany, Inc., in New York City; the district manager for Bell Communications Research Co., Inc., in Livingston, NJ; the district manager of American Telephone & Telegraph Co., Inc., in New York City; and was the chairman and chief executive officer of his own company, Reginald Butts & Associates (Investments), in New York City.

Mr. Speaker, I am proud to have Mr. Butts as a constituent, for he is a living example of what can be accomplished in the business world through hard work, training, and persistence. I congratulate Mr. Butts on his small business assistance venture, and for the selection of representatives of his company to attend the upcoming Price Waterhouse International Second Market Conference.

MOUNTAINEERS PROUD TO SERVE IN PERSIAN GULF

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. RAHALL. Mr. Speaker, I rise to speak on behalf of a group of soldiers serving today in the Middle East. Like every State in the Nation, West Virginia has its sons and daughters on duty in the current conflict in the Persian Gulf. I am inserting for the RECORD a letter from Rifle Platoon Leader Shawn C. Reger who is proudly serving his country in the region. As an American I am proud of our men and women serving in our armed services, as a West Virginian I am particularly proud of those soldiers from our beautiful State committed to serving the needs of the United States.

SIR: Thank you very much for the flag of the Great State of West Virginia. My platoon and I have it flying over our tents.

My soldiers and I are very aware of our responsibility to protect our country's interests overseas. We are dedicated, and very intent to accomplish any mission we are called upon to execute. In the same light we are proud to be West Virginian's. Everywhere you go you may run into a fellow West Virginian. Once they find out that you are from our great state, you instantly have a friend.

West Virginia has its share of soldiers over here. In proportion it is larger than any other state that I've run into. In my company alone there are quite a few. In my platoon there are four.

So while you are fighting in Washington, D.C., remember that there are soldiers in Saudi Arabia from the 101st Airborne (Air Assault) Division, that appreciate your gift. We will carry it on any operation in which we participate. Its nice to know we have a friend in Washington.

Keep up the good work.

Sincerely,

SHAWN C. REGER,
2 LT INF. USAR,
Rifle Platoon Leader.

A WAKE-UP CALL ON WAR POWERS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. HYDE. Mr. Speaker, I wish to draw the attention of my colleagues to an excellent and timely piece which appeared in the co-ed page of the Washington Post on October 23, 1990. In this piece, BILL BROOMFIELD, the ranking Republican member of the Foreign Affairs Committee, took exception to the editorial position of the Post that Congress should go ahead on its own and form a special consultative group to be the point of contact with the President regarding developments in the Persian Gulf.

Forming a special new group is not the answer to broaden consultation with the executive branch on U.S. military operations. The problem is not congressional organization but the demonstrated inability of Congress to act in situations that involve war and peace. Only once since passage of the War Powers Resolution of 1973—in 1983 with the Lebanon Multinational Force Resolution—has Congress provided specific authority for the deployment of U.S forces.

If Congress went ahead to form a consultative group it would further polarize the relations between the legislative and executive branches in this sensitive area. As Congressman BROOMFIELD points out, such a move would undermine rather than enhance true consultation between the President and Congress.

In recent days, we have heard that some Members of Congress are considering trying to establish this group through the routine adjournment resolution that must be passed before the end of the session. Consideration is also being given to drafting this resolution to contain a specific condition permitting the leadership to reconvene Congress in response to developments in the Persian Gulf.

I believe this is an especially bad idea. Specific considerations are seldom if ever included in adjournment resolutions. Such resolutions often, however, contain provisions allowing the leadership to call the Houses back into session if the public interest requires. Inserting a special provision relating to the Persian Gulf could be misread overseas as implying that Congress might not support military action against Iraqi forces, if that became necessary.

No one doubts that the leadership can return Congress to session, provided they have obtained this authority in a general manner in the adjournment resolution. The Constitution itself provides a means to convene a special session of Congress; it states that the President "may, on extraordinary occasions, convene both Houses." Finally, even the War Powers Resolution of 1973 adopts a different approach. Section 5(a) of that resolution provides that the congressional leadership may request the President to reconvene Congress in the event of actual or potential hostilities involving U.S. forces overseas.

Let's not tinker with these important matters in the final hours of the 101st Congress. I encourage my colleagues, and the public, to reflect on the relevant comments of Congressman BROOMFIELD on the subject of war powers and consultations between the President and Congress:

[From the Washington Post, Oct. 23, 1990]

IN PLACE OF THE 60-DAY CLOCK

(By William S. Broomfield)

Thanks to an Oct. 9 editorial ["The 60-Day Clock"], readers of The Post recently awoke to the ringing of the clock set by the War Powers Resolution. Under the resolution, passed over presidential veto in 1973, U.S. troops are to be withdrawn from potentially hostile situations overseas after 60 days unless Congress specifically authorizes continued deployment. U.S. troops have now been in Saudi Arabia more than 60 days, and the only actions Congress has taken to date are separate House and Senate resolutions expressing support for the president's actions.

The Post's editorial correctly pointed to the basic flaw of the War Powers Resolution—that through it, Congress attempted to exercise a check on military action "without . . . even a vote," and that this "substitutes a parliamentary device for a political decision." Indeed, in the 17 years since its passage, Congress has authorized the deployment of U.S. forces pursuant to the resolution only once—in connection with the 1983 deployment of U.S. Marines to Lebanon as part of a multinational force. (U.S. forces were withdrawn soon afterward when the bombing of the Marine barracks revealed their tenuous position.)

In the years since its passage, Congress has never seriously debated amendments to the War Powers Resolution. There was some consideration by the Senate in 1987-88, after U.S. naval protection had been provided to reflagged Kuwaiti tankers in the Persian Gulf. But this effort failed, primarily as a result of the unwillingness of some in Congress to give up their claim under the resolution to limit the deployment of U.S. forces. The leading proposal at that time involved repealing the 60-day provision and instead providing for congressional debate

under special expedited procedures. It also would have provided for the formation of a special group of congressional leaders to consult with the president regarding commitment of U.S. forces abroad.

The Post argues that, having failed to amend the War Powers Resolution, Congress should just go ahead and form the special consultative group. Without the incentive of repealing the 60-day limit, however, the administration would be unlikely to go along with a formalization of congressional consultation procedures. And for good reason. Creating a new congressional organization would inevitably lead to calls for greater congressional participation in planning and supervision of military missions.

As one of the original cosponsors of the War Powers Resolution, I feel that it has become counterproductive. The essential flaw is the 60-day clock, which necessarily polarizes the positions of the executive and legislative branches. Aside from the illusion of congressional power given by the resolution in its current form, it would be preferable to replace this provision with expedited procedures for congressional debate.

On the other hand, there should be some limitation on such debate, which can itself send the wrong signal in times of crisis. Guaranteed debating rights should not be available at any time, but, say, only once every six months during a period of military confrontation. (Military operations could be discussed at any other time under the normal congressional procedures.) Also, to receive special consideration, a bill regarding U.S. troop deployments should already have broad support in Congress—say one-third of the members of the house in which it is introduced.

The proposal to which The Post referred would have made a special legislative body—a supercommittee of senior members of Congress—responsible for guiding congressional debate on commitments of U.S. forces abroad, especially proposals for expedited consideration. In fact, the President already consults congressional leaders on U.S. troop deployments, including in the Persian Gulf. Creating a special legislative organization would not only detract from the congressional committee structure and normal legislative process envisioned in the Constitution; it would also inevitably threaten the security of military operations and create a new bureaucracy complete with special privileges and possibly even more staff. It would lessen, not improve, prospects for genuine consultation between the President and Congress.

Let's put an end to endless argument over whether congressional authorization is required for the President to send forces overseas, a power presidents have exercised throughout the history of the republic. If Congress wishes to play a formal role, it should be prepared to take the only route provided in the Constitution and present legislation to the President in appropriate cases. The real challenge is to improve congressional debate on matters of war and peace, not add another layer to the congressional organization chart.

A TRIBUTE TO SHERIFF RICHARD GERMOND

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. PURSELL. Mr. Speaker, I rise today to pay tribute to an outstanding member of the Lenawee County (Michigan) community. This gentleman has been a longstanding resident and has devoted himself to the betterment of his county. He is Sheriff Richard Germond.

Dick Germond is this year's recipient of the Lenawee Chamber of Commerce's Maple Leaf Award. He is being recognized for his ongoing service to Lenawee County.

Born in Adrian, MI, Dick graduated from Catholic Central High School in Adrian in 1953. He later graduated from Michigan State University with a B.S. in police administration and criminal justice in 1958. He also has attended the University of Toledo Law School.

Dick Germond joined the Lenawee County Sheriff's Office at the age of 21. In 1964, at the age of 29, he was appointed to fill an unexpired term as Sheriff. Later that year he won his first of many elections to that important office.

As the head of one of Michigan's finest law enforcement agencies, Dick remains active in the Michigan Sheriff's Association and the National Sheriff's Association. He was elected president of the Michigan association in 1970. In 1985 he served as president of the national association, and currently serves on its board of directors.

Sheriff Germond also has been active in the International Association of Chiefs of Police, the Southern Michigan Law Enforcement Training Academy, the Southern Michigan Law Enforcement Association, the Governor's Crime Commission and the Michigan Association of Chiefs of Police.

Locally, Dick remains active in the Adrian Kiwanis Club, having served as club president in 1969 and as district lt. governor in 1976. He also works with the Salvation Army Advisory Board, the United Fund, the YMCA, the A.E. Curtis Scholarship Association, the Emma L. Bixby Medical Center Board of Trustees and the Adrian Elk's Lodge.

Mr. Speaker, I ask my colleagues to join with me in congratulating a truly outstanding member of the Lenawee community, Sheriff Richard Germond. He is well deserving of the Maple Leaf Award.

U.S. SECRETARY OF LABOR DOLE ABANDONS TOUGHER CHILD LABOR PENALTIES

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thusday, October 23, 1990

Mr. PEASE. Mr. Speaker, one of the touchstones of a civil society is respect for the rule of law. We are taught at an early age to obey the laws as we become familiar with them. We learn hopefully to appreciate, as adults, that our laws protect our persons, our property, and our liberty.

Why then are some Americans so willing to make excuses for those employers, who by their illegal conduct, show young Americans every day how to break the law on the job and how to escape any real punishment? It is a sad commentary that detected child labor violations in America have increased by 15 percent in the last 6 years. Common Cause magazine last August carried the following excellent article detailing the spreading scourge of child labor across the American landscape. Yet, U.S. Secretary of Labor Elizabeth Dole this week is hard at work attempting to pull the teeth from impending legislation that seeks to increase the civil penalties levied on child labor scofflaws.

Current law provides a civil penalty up to $1,000 per child labor violation. But $159 has been the average fine meted out by the Labor Department during the past 7 years. It is not surprising that unscrupulous employers have come to view these meager penalties as acceptable costs of doing business.

Last April, I was joined by Congressmen SCHUMER and LANTOS in sponsoring comprehensive legislation (H.R. 4733) to overhaul and update our Nation's child labor laws. We were encouraged last summer when Labor Secretary Dole overcame her initial reluctance and endorsed at least that portion of our bill providing tougher civil and criminal penalties, especially on willful child labor violators.

An extensive series of congressional hearings this year compiled a disturbing record of widespread commercial exploitation of young Americans on the job. Lax and inept enforcement of existing child labor laws shocked many Americans across the Nation.

I wrote to Labor Secretary Dole on September 10th, 5 months after H.R. 4733 was introduced. I asked for her constructive comments about my bill, hoping that at least portions of H.R. 4733 could be enacted yet this year. Ten days later, I spoke with her by phone. She was unfamiliar with my bill, but she promised to focus upon it and share with me her official views within a few days. More than 1 month later, I am still waiting for any response. I ask that a copy of my letter be reprinted in the RECORD.

This week, Mr. Speaker, I received at least a third party response from Labor Secretary Dole. I refer to the following letter that she sent a few days ago to Senator GEORGE MITCHELL in which she states her opposition to the Congress enacting increased child labor penalties.

Clearly, Elizabeth Dole is no Frances Perkins. She continues to bob and weave in the face of clear and convincing evidence that tougher penalties are needed to effectively deter child labor violators. She continues to ask young Americans on the job to entrust their job safety and employment rights to a few highly-publicized, media-oriented sting operations and a bevy of press releases instead of lasting laws backed with serious penalties.

[From Common Cause, July—August 1990]

KIDS AT WORK: THE TRAGIC COSTS OF CHILD LABOR

(By Beth Baker)

When 15-year-old Kevin Curley went to work one night at a neighborhood bakery in West Pittston, Pa., his parents, thinking he had been hired to bag rolls, never imagined he was going to his death.

But on October 26, 1986, while cleaning a dough-mixing machine, Kevin was killed.

The employers—friends of Kevin's family—had broken a number of child labor laws. They illegally allowed Kevin to work on a dangerous machine, late at night, and without the required work permit. They paid him under the table, not even knowing his Social Security number until after his death.

Yet despite these violations, the bakery owner was fined just $200.

"In retorspect, the [owners] wish that child labor laws were so stringent as to make it unthinkable to have employed my son," said Kevin's father in testimony before a congressional oversight committee this spring.

Labor Secretary Elizabeth Dole earlier this year vowed to crack down on businesses that break child labor laws. "Violations, whether motivated by greed or by ignorance, will not be tolerated." Dole declared when announcing results of a well-publicized sweep, dubbed Operation Child Watch, that turned up massive child labor law violations.

The Labor Department continued to insist, however, that enforcement efforts and penalties were adequate to deter violators. But at the end of June the department did a turnaround when Dole called for stiffer measures for employers who willfully break child labor laws.

The issue of child labor came to public attention after advocacy groups and members of Congress began learning of abuses. When Rep. Don. J. Pease (D-Ohio) sponosored a bill last summer to prohibit imported goods made by children working in factories and mines, he realized there was little reliable information about child labor practices in the United States and asked for a study by Congress's investigative arm, the General Accounting Office (GAO). Its recently released investigation shows that child labor violations grew dramatically—from about 10,000 in 1983 to nearly 25,000 in 1989—during the late 1980s, a period of intense efforts to cut back government regulations.

Oddly enough this is occurring as the overall number of employed minors decreases with the end of the baby boom. But because of a labor shortage at the entry level, employers must increasingly rely on younger workers for these unskilled jobs. "With demographics and a relatively low unemployment rate, people have to go down to the lower age ranges," says Bob Cuccia, a Labor Department spokesperson. As a result, children are working longer hours and in more dangerous occupations than allowed by law.

During the first phase of Operation Child Watch, nearly half of the 4,000 workplaces investigated were violating child labor laws. Of more than 15,000 minors illegally employed in 47 states and the District of Columbia, 2,250 were 14- to 17-year-olds in hazardous occupations, 500 were younger than 14 and thus prohibited from working, and the rest, some 13,000, were working longer hours than permitted.

Comprehensive national data is not available, but in the 34 states responding to GAO's investigation, nearly 134,000 minors suffered work-related injuries and illnesses in the years 1987 and '88. During this period at least 29 cases of children killed on the job were reported to the Occupational Safety and Health Auministration (OSHA). "Even those numbers are incomplete, because many kinds of work are excluded . . . and not all employers report injuries and deaths," according to Rep. Pease.

Farm accidents, for example, one of the leading causes of work-related death in children, are not counted. And small businesses with less than $500,000 annual revenue—often the biggest offenders—are not covered by the Federal Fair Labor Standards Act, which governs worker protections. To muddy the picture further, many states have labor laws different from those of the federal government; other states have none.

"One thing this study makes very clear is that there is no real way to measure the incidence of child labor violations in this country, and no comprehensive national work-related injury and illness data for minors exist," Pease says of the GAO investigation.

According to the available data, the restaurant and supermarket industries rack up the most violations for keeping teenagers on the job longer hours than allowed. Burger King—whose advertising slogan "sometimes you've gotta break the rules" has become a source of amusement around the Labor Department—was recently slapped with $318,000 worth of fines, primarily for violating hour and age restrictions.

These are not frivolous violations. Working in excess of 18 hours a week is detrimental to a 14- or 15-year-old's education, teachers and child experts say. Students who work long hours often sleep through classes, skip homework and fall behind in school. While fast food companies like McDonald's argue that many of these students are providing much-needed income to impoverished families, a study by the University of Michigan found that 82.5 percent of working teens use the money to buy personal consumer items. In cases where students need to work, they should be provided with vocational training instead of being locked into low-paying dead-end jobs say Linda Golodner, executive director of the National Consumer League, which pushed for child labor laws in the early 1900s and is lobbying to protect the work-hour rules.

While the vision of a future work force made up of ill-educated burger flippers is troubling, the immediate reality is even worse: Young people are being killed and maimed on the job. Matthew Garvey, a 13-year-old from Maryland lost his leg while working at a Quality Car Wash. While sitting atop a dryer fooling around with another young employee his leg was suddenly sucked into the dryer and severed from his body. The employer did not have the required safety lid on the machine and had hired Matthew and other children illegally.

Justin Lowell of New Hampshire, hired by a pizza place at the local mall to wash dishes was asked to operate an automatic cheese grater. His hand became caught in the machine and he required 788 stitches to save his fingers. "I [can't] hold or throw a baseball properly, throw a football, open a pop-top can, hold a knife to cut meat, pick up a coin off a flat surface and many other small things in normal everyday life," Lowell says.

Other minors are illegally employed in hazardous construction and manufacturing jobs. In New York City sweatshops and in fields around the Nation, according to numerous news reports an uncounted army of immigrant children toils under conditions reminiscent of the turn of the century. A special New York State Labor Department task force found 90 garment factories illegally employing minors during the first three months of this year. An estimated 5,000 to 10,000 Asian and Hispanic children work in the garment industry daily in New York, many not attending school at all.

It was the grim spectacle of children losing their lives in mills and factories that propelled passage of the Fair Labor Standards Act in 1938. The act set forth not only child labor restrictions but also such basic worker guarantees as the eight-hour day and minimum wage. Only Congress can amend the act, including increasing the penalties for violations.

The act offers protection for children in three areas: setting minimum age requirements (in most cases 14 years old), limiting the hours and occupations of 14- and 15-year-olds, and restricting 16- and 17-year-olds from working in certain "hazardous" jobs such as mining, meat-cutting and construction.

The task of protecting youngsters from exploitation falls to 954 wage-and-hour compliance officers, operating out of 300 field stations around the country. Their task is a formidable one.

Compliance officers are responsible not only for child labor investigations, but for all violations of the Fair Labor Standards Act, including minimum wage and immigration reform. Nearly 64,000 complaints are handled annually, says Assistant Administrator Charles Pugh, a 23-year veteran of the Labor Department. According to Pugh, two to four months after a labor-practices complaint is received, research is begun. It often takes as long as six months for a resolution. Pugh maintains that child labor and occupational injury complaints are bumped to the front of the line and investigated more promptly. However, since most child labor violations turn up during investigations of other complaints, there's no guarantee that investigators will track down violators in a timely manner.

GAO found that in fiscal year 1989 compliance officers inspected just 1.5 percent of all establishments covered by the Fair Labor Standards Act. Compliance officers spent less than 5 percent of their enforcement time annually on child labor violations from 1983 through 1989, GAO found.

"There aren't nearly enough [compliance officers] to even begin to get at the problem," says Sally Potter, a government relations specialist for the National Education Association and a member of the Labor Department's Child Labor Advisory Committee, a group put together in 1988 when the department came under pressure to change or clarify child labor laws.

Others agree with her assessment, Rep. Tom Lantos (D-Calif.), who chaired the congressional oversight hearings of the Labor Department this spring, congratulated Assistant Labor Secretary William C. Brooks for his direction of Operation Child Watch, but said the sweeps "are no substitute for ongoing year-round compliance work which has clearly been pathetically weak in the past."

Compliance officers themselves have complained to the Child Labor Advisory Committee, which is chaired by the National Consumers League's Linda Golodner. Officers say they could use twice as much help, according to Golodner. One complained

that his office waits for five complaints before conducting an investigation.

"In fact, some have said the child labor investigations go to the bottom of the pile because they take longer," Golodner says. Compliance officers are evaluated on the number of investigations they complete, and child labor cases are time consuming because schools must be contacted and birth certificates examined, according to Golodner.

"Compliance officers are very frustrated in that they are responding to complaints and not doing the random or surprise visits," she says.

Brooks denied during the Lantos hearings that investigations are "complaint-driven." But Pugh confirms that "by and large, the largest portion of our workload is the investigation of complaints"—although he hastens to add that it "came as a complete surprise" to hear that officers were waiting for five complaints before investigating child labor violations. A spokesman for a regional Labor Department office told Common Cause Magazine that it "could always use more compliance officers." He later called to retract the statement, saying he had "found his notes and made a mistake."

Even if more compliance officers were hired, Labor Department critics say, companies might continue to ignore the law because of small penalties. The maximum fine of $1,000, which Congress and Labor are talking about increasing, "is rarely exercised," GAO notes. In addition, companies often appeal and "in most instances an appeal is likely to result in a reduced penalty assessment," the report found. For willful or repeat violations, the department may issue a $10,000 fine and a six-month prison sentence. But these penalties have never been levied on a child labor law violator, even when a violation has led to death (see box).

In addition, under the Worker's Compensation system created during the early part of this century, victims collect set amounts for certain injuries and in return, even in cases resulting in death, families are prevented from suing employers. "It is cheaper to kill the younger worker than to injure him," testified Margaret Kimmel, whose 15-year-old son was killed after illegally being told to drive a truck that "didn't even have a working gas pedal" and had a brake pedal that "was worn slick." The average penalty OSHA assessed in 1987 and '88 for a health and safety violation contributing to the death of a minor was $460.

During the heady days of the early Reagan administration, industry saw an opportunity to weaken child labor rules, particularly those regarding work hours. Urging an extension of the work week for 14- and 15-year-olds from 18 to 24 hours, John Dankos, president of the National Restaurant Association at the time, said he also supported opening up cooking, banking, laundering, and car washing to young teens.

Industry hasn't given up, however, Shannon Tuel, a lobbyist for the National Restaurant Association, argues that the law is outdated. "Recognizing that some of the regulations have been on the books since 1938," she says, "it's time to take a look at those again in light of changing demographics and to ensure the regs actually meet the needs of employees and employers as well."

Golodner responds that eight hours a day of combined school and work is enough for children, just as it was 52 years ago.

She and other Advisory Committee members have opposed several industry efforts to weaken child labor laws. Convened in 1988 by Reagan's last Labor Secretary, Ann Dore McLaughlin, the 21-member committee is made up of industry, labor and child welfare representatives. Four members represent organized labor, four are from business (including the fast food, amusement park, restaurant and grocery industries), and the reminder are educators and advocates for safely issues, children and consumers.

"I think Labor thought they were appointing a committee that would look at the child labor laws and say, 'this is all outdated, kids can really work longer hours,' " says Golodner. "All of a sudden we're coming back and saying, 'we don't want sliced fingers' and 'education is important!' "

Committee member Ed Carroll, general manager of New England's largest amusement park, says serving on the committee has changed his perspective. He says he understands why some companies want to revise the law but believes it would be a mistake to open it up for exceptions.

One industry claim the committee refutes is that modern-day workplaces are safer for children. Following a manufacturer's presentation of a new, improved dough mixer declared to be safe for teenagers to use, committee members did an on-site inspection of a wholesale bakery in Silver Spring, Md. As a result, the committee recommended not only that minors not be allowed to operate power-driven bakery machines, but that the provisions be strengthened to prohibit them from cleaning the machines as well.

All told the Advisory Committee has made over 50 recommendations aimed at strengthening child labor laws. It also has urged that more occupations be included in the hazardous category, including poultry and sea-food processing,. Labor Secretary Dole ignored the work of the committee until the issue was covered widely by the media, according to some members. "We had been meeting and submitting recommendations [for two year] and they sort of disappeared." says committee member Potter of the National Education Association.

Members of both the House and Senate picked up the ball, however, and introduced legislation to strengthen child labor laws. A bill pending in the House would set up a nationwide reporting system, expand the list of hazardous occupations and increases the maximum penalty from $1,000 to $10,000 per violation. For willful violations resulting in the death of a minor, the bill would fine the employer up to $250,000 and establish criminal sanctions of up to 14 years in prison.

Dole recently endorsed the penalty increase to $10,000 and urged prison sentences for first-time willful violators. "The sponsors are taking it as an endorsement of many portions of the bill." says Bill Goold, staff director for Pease.

In contrast to the early '80s, industry is generally keeping a low profile. To lobby against child labor law reform "would be a public relations disaster from their point of view," say Eric Hauser, an aide to Rep. Charles Schumer (D-N.Y.), one of the bill's sponsors.

But even while calling for increased or stiffer fines, the Labor Department has not been giving out the maximum penalties available. A review of the fines meted out in the first phase of Operation Child Watch in April and May reveals that of 24 businessses charged with seriously harming minors, only three were given the maximum penalty of $1,000 per violation.

For example. Exquisite Builders, a general contractor in Chalfont. Pa., was fined $2,000 for three violations, one that resulted in serious injury and two that allowed a 17-year-old to use hazardous machines. A fast food restaurant in Collins. Colo., that employed three minors illegally—one of whom was seriously injured—was fined $1,450, less than half the maximum.

Assistant Labor Secretary Brooks said. "We must apply effective sanctions against offenders, and fine flagrant offenders severely, without discouraging other employers from legally hiring youngsters."

Pugh maintains companies will be deterred by a new department policy that has already doubled the average penalty—from $165 to $345 . "Three hundred and forty-five dollars is significant for some small businesses." he says.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 10, 1990.

Hon. ELIZABETH DOLE,
U.S. Secretary of Labor, Washington, DC

DEAR SECRETARY DOLE: As you know we are sponsoring comprehensive legislation (H.R. 4733) to update and strengthen our nation's laws to combat the exploitation of American youth in the workplace. We also know that you share our concerns about the alarming surge in child labor violations reported nationwide in the past seven years. You have provided strong leadership through Operation Child Watch and otherwise to better protect young Americans on the job.

Last November, we were very pleased when Labor Department officials attended the highly-successful Capitol Hill Forum on the Exploitation of Children in the Workplace which was co-sponsored by 48 House and Senate members and an extraordinary array of business, labor, industry, health, human rights, and public interest groups. (See attachment 1). An outgrowth of the Forum has been the establishment of the multi-sectoral Child Labor Coalition. (See attachment 2). Since that coalition began meeting regularly last winter, its activities have augmented your own efforts and ours in building awareness of exploitation of children in the workplace in America and abroad among the media, the federal government, and the general public.

Beginning last March, the first in a series of very compelling and informative congressional hearings on child labor trends was held. We were pleased that, in testifying at some of these hearings, you described the non-legislative steps you have taken to improve enforcement of existing child labor laws.

At those same hearings, you also called for the enactment of tougher civil and criminal penalties against child labor law violators—an important part of our pending legislation (H.R. 4733). Soon thereafter, Labor Department officials met with private sector experts to discuss various provisions in our bill as well as other suggestions for legislative improvements that would complement your non-legislative actions to crackdown on child labor. We are certain that, having had fully four months to think about and evaluate various suggestions for strengthening our nation's child labor laws, you clearly recognize the need for legislation. Therefore, we are writing to ask that you expeditiously share with us the specific legislative proposals that the Labor Department will support for amending and improving current child labor laws this year.

The landscape of child labor in America in 1990 is substantially different than what existed in 1938. We all agree that current law needs revision to take stock of these changes.

In sum, we are poised to take prompt and serious action, yet this year, in Congress to deter the growing exploitation of young Americans in the workplace. We applaud your leadership on this issue and we appreciate your call for tougher penalties. If you will share with us your legislative proposals, we are confident that we can reach a meeting of the minds which will facilitate the enactment of much-needed legislation this year.

An important legislative window now exists to enact an effective, responsible child labor bill with strong bipartisan support. A steady drumbeat of attention in the print and electronic media is arousing widespread concern about exploitative child labor inside and outside the halls of Congress. Mounting evidence on the public record points to the need for both legislative and non-legislative remedies. We hope that you will personally and actively work with us during the remainder of this session to secure prompt congressional approval and enactment in 1990 of tougher child labor laws to better protect young Americans on the job.

Sincerely yours,

DON J. PEASE,
CHARLES E. SCHUMER,
TOM LANTOS,
Members of Congress.

U.S. DEPARTMENT OF LABOR,
Washington, DC.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR GEORGE: I am writing to express the Administration's strong opposition to the inclusion of several labor provisions currently being considered in the conference on the House and Senate passed reconciliation bills. These provisions include new increased civil penalties for NLRA, OSHA, MSHA and child labor violations; and greater restrictions on pension plan asset reversions.

The President's senior advisors would recommend that the President veto the bill if it includes the following provision:

NLRA Punitive Civil Penalties: The House bill includes a provision last considered during "Labor Law Reform" in 1977-78. The provision authorizes the General Counsel of the National Labor Relations Board (NLRB) to assess minimum fines of $1,000 and maximum fines of $10,000 per affected individual for employer or union violation of NLRA sections 8(a)(3) and 8(b)(2), which deal with discriminatory discharge for exercising rights under the law, and sections 8(a)(5) and 8(b)(3), which deal with bad faith bargaining.

The Administration strongly opposes this provision. The National Labor Relations Act (NLRA), since its enactment in 1935, has been a remedial statute and not punitive. This significant amendment to the NLRA was included without benefit of any hearings or legislative debate. The NLRA's remedial approach was designed to foster voluntary settlements. Injecting the concept of monetary fines into that settlement mix will move the focus of discussions from the resolution of labor disputes to that of money. The end result will likely be a reduction in the NLRB's settlement rate and an increase in litigation.

In addition, the Administation and the Department of Labor have serious concerns about several other provisions in the House and Senate passed reconciliation bills as follows:

1. *OSHA Civil Penalties:* The Senate bill includes five-fold increases in OSHA maximum civil penalties, consistent with the budget summit agreement. House language, however, includes seven-fold increases in OSHA civil penalties and new mandatory minimum penalties (similar to the provisions struck on the Senate floor).

The Administration supports Senate language increasing *maximum* civil penalties five-fold, consistent with the budget summit. The Administration strongly opposes the House language creating OSHA mandatory *minimum* civil penalties. Mandatory minimum penalties would greatly reduce OSHA's flexibility in setting citation amounts, restrict the agency's ability to match a penalty with the relative severity of the violation and increase the rate of contest of penalties—all of which would impede abatement. Small businesses would be especially hit hard by any minimums.

2. *MSHA Civil Penalties:* The Senate bill increases maximum MSHA penalties three-fold, consistent with the budget summit agreement, and does not include increased minimum penalties. The House bill, however, increases maximum MSHA penalties five-fold and includes a provision which requires a fifty-fold increase in minimum MSHA fines from $20 to $1,000. Although it is estimated by CBO that increasing minimum penalties will raise an additional $49 million in revenue during FY '91, the provision may actually lose revenue in FY '91 and possibly in future years as well due to the increased contest rates and delinquent payments. While the Administration supports a three-fold increase in maximum fines, it strongly opposes a statutory minimum MSHA fine.

Legislating a $1,000 minimum civil penalty would adversely affect the health and safety of miners. Legal challenges to citations would increase, thereby reducing inspector presence at the mines. It would also increase hostility at the mines leading to increased denials of entry to inspectors and impeding essential communication between MSHA and miners about mining hazards. Given the Mine Act's frequent mandatory inspections at all mines, including the more than 10,000 small mines with less than 20 employees, the impact of the House bill will be especially severe on small employers.

3. *Child Labor Penalties:* The House bill would increase (to a $10,000 maximum) child labor penalties ten-fold under the Fair Labor Standards Act (FLSA), with a mandatory minimum of $1,000 per violation. A further possible inadvertent change apparently eliminates the civil money penalty for repeated and willful minimum wage and overtime violations.

While the Department has supported an increase in child labor penalties for the most serious violators of FLSA hazardous Occupation Orders, the House reconciliation language would unacceptably apply the increased penalty scheme to *all* child labor violations. In particular, the Department objects of the imposition of new minimum penalties. This provision would authorize fines that are inappropriate and unwarranted, unnecessarily harm small businesses, jeopardize employment opportunities for youth, and interfere with the Department's administrative flexibility and overall ability to enforce the FLSA.

4. *Pension Plan Asset Reversions:* The Finance Committee provisions in the Senate bill are consistent with the original budget summit agreement. However, the House bill would increase the amount of the reversion that must be set aside for a new pension plan from the twenty percent required in the summit agreement to thirty percent. It would also increase the excise tax imposed on employers who do not establish new plans with appropriate cushions or grant benefit increases from the forty percent agreed upon in the budget summit to fifty percent. This larger cushion and excise tax requirements in the House bill is estimated to lose $100 million over 5 years. The Administration supports the Senate bill and summit agreement. Further, the Administration will support deleting both the reversion and the related retiree health provisions in conference if the cushion and excise tax amounts are increased above the summit agreement.

The Office of Management and Budget advises that there is no objection to the presentation of this report to Congress and that enactment of this legislation would not be in accord with the program of the President.

Sincerely,

ELIZABETH DOLE.

HOLOCAUST SURVIVORS SHOW SUPPORT FOR U.S. HOLOCAUST MEMORIAL MUSEUM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. LANTOS. Mr. Speaker, I invite my colleagues in Congress to join me in paying tribute to the Holocaust survivors who came to Washington on October 2, 1990, from across the Nation in support of the U.S. Holocaust Memorial Museum now under construction in Washington, DC. They were led by Benjamin Meed, president of the American Gathering of Jewish Holocaust Survivors and chairman of the National Survivors Campaign of the U.S. Holocaust Memorial Museum.

These men and women are a testimony to the perseverence and courage of the human spirit. They experienced the greatest evil inflicted at any time in history, yet they have retained the motivation to do good. Having lost so much, they continuously strive to give of themselves. This meeting presents one such example: they are here to help us remember those who perished and suffered, and to insure that history's darkest hour is never repeated.

These men and women teach us directly and show us by example that every human life has infinite value. They have each recreated a life which the Nazis considered worthless, and have made it full of strength and hope. They teach us that one voice can make a difference, that one life filled with caring can hold immeasurable power.

The lessons we can learn from these survivors and from the Holocaust will be taught in the U.S. Holocaust Memorial Museum, scheduled to open in April 1993. Since 1980—with the creation of the U.S. Holocaust Memorial Council—Congress and subsequently three Presidents have acknowledged the vital role the museum will play in the moral and ethical

education of our great Nation. As supporters of the museum, these survivors will help us remember what can happen when prejudice, racism and bigotry develop unchecked. Conversely, we will never forget what greatness can occur when hope, courage and perseverence prevail.

We pay tribute to these survivors, for their courage and appreciation of human life.

These survivors issued the following resolution during their visit:

We, survivors of the Holocaust, have come as pilgrims to our nation's capital, Washington, D.C., to witness the creation of the United States Holocaust Memorial Museum.

We came uncertain that a National Museum could convey the uniqueness of the Jewish tragedy and the magnitude of the Holocaust.

We are moved by what we saw.

We are convinced that this museum will tell the story of the Holocaust in an authentic manner; that its exhibition is accurate, bold, compelling and dignified; that it is faithful to the history we experienced directly in our flesh; that it conveys with power and integrity the survivors' story of the journey back from the world of death and destruction.

We are convinced that the Museum's exhibition depicts the uniqueness of the Jewish tragedy without dilution or dejudiazation while also including all the victims of Nazi tyranny. It is faithful—as it must be—to the history of the Holocaust. It is uncompromising in describing the role of the perpetrator and the indifference of the bystander. It is honest in portraying those noble enough to have had the courage to care.

We are one with the United States Holocaust Memorial Museum. We collectively pledge our support and promise to engage ourselves in the effort to bring this dream into reality. We anticipate the privilege of participation in its opening.

Steve Bickel, of Los Angeles, California, child of a Holocaust survivor.

Morris Dombrower, of Bronx, New York, who was liberated in Uchta, Soviet Union, and his wife, Regina.

Henry Dorfman, of Detroit, Michigan, Holocaust survivor.

Arie Halpern, of Woodbridge, New Jersey, Holocaust survivor.

Sam Halpern, of Woodbridge, New Jersey, Holocaust survivor.

Al Kooper, of Forest Hills, New York, who was liberated in Lublin, Poland, and his wife, Jean.

Charles Kushner, of Hillside, New Jersey, child of Holocaust survivor.

Dara Kushner, of Hillside, New Jersey, grandchild of a Holocaust survivor.

Rae Kushner, of Hillside, New Jersey, partisan fighter and Holocaust survivor.

Miles Lerman, of Vineland, New Jersey, who was a resistance leader in Poland.

Benjamin Meed, of New York, New York, who was a member of the Warsaw Ghetto Underground.

Commissioner Abe Resnick, of Miami Beach, Florida, Holocaust survivor, and his wife Sarita.

Eugene Schlesinger, of Los Angeles, California, Holocaust survivor.

Charles Schwecher, of Bronx, New York, survivor of Auschwitz who was liberated in Theresienstadt, and his wife, Rose, who was liberated in Czestochowa.

Steven Springfield, of Long Island, New York, Holocaust survivor.

Joseph Wilf, of Short Hills, New Jersey, Holocaust survivor.

Cheryl Zoller, of Los Angeles, California, child of Holocaust survivor.

TIGHTENING OF EXPORT CONTROLS IN THE FEDERAL REPUBLIC OF GERMANY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. HAMILTON. Mr. Speaker, on July 25, 1990, I submitted for inclusion in the CONGRESSIONAL RECORD my correspondence with Ambassador Juergen Ruhfus of the Federal Republic of Germany concerning German export control laws.

I have received an update from Ambassador Ruhfus reporting on the enactment of new laws on export controls in Germany, and I would like to submit his letter and the attached memoranda for the attention of my colleagues. The text follows:

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY,

October 16, 1990.

Hon. LEE H. HAMILTON,

House of Representatives, Committee on Foreign Affairs, Washington, DC.

DEAR CONGRESSMAN: With reference to my letter of July 16, 1990, I should like him to send you an update on the tightening of my country's export controls.

The German legislature has approved the last measure of a detailed and ambitious plan for tighter controls, the amendment to the War Weapons Control Act introducing extraterritorial penal regulations against Germans participating abroad in the production of nuclear, biological and chemical weapons. It will enter into force by the end of this month.

The Federal Government hopes that these measures will contribute to further strengthening international and in particular US-European cooperation in the crucial area of nonproliferation.

Sincerely yours,

JUERGEN RUHFUS.

TIGHTER EXPORT CONTROLS IN THE FEDERAL REPUBLIC OF GERMANY

Reacting to serious cases of illegal exports, proliferation and misuse in the areas of nuclear, chemical and biological weapons technology the Federal Republic of Germany has considerably strengthened its export administration and regulations.

Since the Federal Government adopted a detailed plan for tighter controls on foreign trade and payments as well as on war weapons early in 1989, the following steps have been implemented:

Approval must now also be obtained for the export of technological data and software (authorization is now required for exports to any country, with the exception of the OECD countries, of manufacturing and technological documents, technical data, software, etc.; thus transfer of technology will be subject to much stricter controls).

Export controls have been placed on transit trade.

Export controls have been extended to cover a total of 50 chemical precursors suitable for the production of chemical weapons.

Authorization required for export of chemical plans has been made more precise (the authorization requirement, which has been in force since 1984, for the export of certain chemical installations, has been tightened by means of a new version of Section D of the Export List, thus improving export controls).

An authorization requirement for export of biological plants has been introduced (through the addition to the Export List of Section E, dealing with installations suitable for the production of biological warfare agents).

Germans working abroad need authorization for any services they perform for the development, manufacture or testing of rockets.

The Government can introduce legislation to extend this authorization requirement to all services performed abroad for such work in the entire field of armaments.

Fines have been raised from DM 500,000 to DM 1,000,000.

Penal provisions for violations of the Foreign Trade and Payments Law have been tightened (Article 34 of the Foreign Trade and Payments Law). Previously, Article 34 stipulated that external relations with the Federal Republic of Germany had to be seriously affected. In the future, prosecution will be possible if infringements of the law are merely liable to seriously affect these external relations. The penal framework has been altered from 3 to 5 years imprisonment under normal circumstances, and to 10 years in particularly serious cases.

Special export controls have been introduced for supplies to a number of individual projects in Iraq and Libya.

The participation of Germans in the development and export of nuclear, biological and chemical weapons in Germany and abroad is prohibited. The amendment to the War Weapons Control Act provides for completely new prohibitory and penal regulations relating to German participation in the setting up of plants for the manufacture of nuclear (exception: participation in NATO programs), biological or chemical weapons. These regulations apply as well to Germans working in Germany as to Germans working abroad. Violations of these new regulations are punishable by a maximum of life imprisonment.

GERMAN EXPORT POLICY TOWARD IRAQ AND ACTIONS AGAINST ILLEGAL EXPORTS BY GERMAN COMPANIES

First. The Federal Government has stopped exports of war weapons, military equipment and "dual use" goods to military end users in Iraq and Iran since the beginning of the Iran-Iraq war.

Unlike other states supplying large numbers of war weapons to Iraq throughout the Gulf conflict and thereafter, the Federal Republic pursued a restrictive export policy toward both states, Iraq and Iran, long before the UN imposed the embargo against Iraq. Except for less sensitive "dual use" items these restrictions also applied to civilian recipients.

Second. As it became more and more obvious that Iraq was also using civilian deliveries, for many of which no export permit was required, to build up its arms industry (example: Taji Industrial Complex), the Federal Government further tightened its export control policy even before the UN Security Council imposed its embargo. Export controls were extended to dual use items like forges and certain machine tools and special restrictions were introduced concerning transport of goods through the territory of the Federal Republic of Germany to Iraq.

Third. The Federal Government has from the outset supported the embargo against Iraq imposed by the UN Security Council and immediately took the necessary steps for implementation.

Fourth. Recent allegations of illegal German deliveries to the Iraqi industry are being thoroughly investigated. Criminal investigations have been initiated. Those responsible for any violation of export controls will be called to account.

This applies in particular to a number of German companies which have been under investigation or facing criminal proceedings for some time for unauthorized deliveries for the Iraqi missile or poison gas program.

Fifth. It should be noted that the Federal Government has considerably extended and tightened its export controls since Libyan plans for poison gas production in Rabta became known. A series of statutory regulations has raised to 50 the number of chemical substances suitable for use as precursors for chemical weapons which require an export permit. The Federal Government thus controls all precursors recorded by the Australian Group. The Federal Republic of Germany along with the USA and Japan are the only countries to apply such stringent controls.

PRESS AND INFORMATION OFFICE OF THE FEDERAL GOVERNMENT

Dr. Lutz Stavenhagen, Minister of State, welcomes the adoption of the tightened War Weapons Control Act in the Bundesrat.

The Bundesrat has thus adopted in full the proposals submitted by the Federal Government for the tightening of the War Weapons Control Act. Dr. Stavenhagen pointed out that activities abroad in the proliferation of nuclear, biological and chemical weapons are thus included extensively for the first time in our export control system. Direct or indirect German participation in the development and manufacture of NBC weapons at home and abroad is comprehensively banned and punishable. The ban also applies to the reckless promotion of NBC weapons. A very broad framework has deliberately been chosen for banned activities, e.g. supplies. In view of the particular danger of NBC weapons, contravention of the law is categorized as an offense subject to between 2 and 15 years' imprisonment.

The measures have immediate effect. Dr. Stavenhagen emphasized that the Federal Government had thus taken action in consequence of the scandalous cases of illegal technology exports and created the conditions for the imposition of severe penalties in future. It is hoped that they will have the necessary deterrent effect.

Through this and the tightened Foreign Trade and Payments Act, which is already in force, the Federal Government has created an export control system to set an example at international level. The new legal provisions will make it possible to establish a close-meshed information network for the purpose of preventing illegal exports.

BIOSPHERE II

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. KOLBE. Mr. Speaker, in December of this year a totally new type of research project will commence 25 miles outside of Tucson, AZ, in the town of Oracle. This experiment will have major implications for mankind. The project has been deemed Biosphere II, an attempt to replicate the original Biosphere, our own mother Earth, in order to study the effects of humankind on the Earth's everchanging environment.

Biosphere II is the first experiment of its kind to be done on such a grand scale. The laboratory will be a completely isolated three and a half acre Earth-like environment complete with wildlife and an abundance of plantlife, and eight human beings monitoring this miniature world for 2 years.

I commend to my colleagues a feature article appearing in the Arizona Republic on September 30, 1990, which tells the story of Biosphere II, and what promises to be a most unique endeavor.

PROJECT WILL TRY TO COPY EARTH'S BALANCE OF LIFE

[From the Arizona Republic, Sept. 30, 1990]

ORACLE.—It's the world writ small, Adam and Even's Garden and Noah's Ark under glass.

It's an oversize dream, part cult, part colony.

It's a 3-acre fantasy of microbes and steel, occupying a scientific twilight zone between imagination and hokum.

This is Biosphere II: an attempt to replicate the exquisite balance of Biosphere I, Mother Earth. Its backers say it's both a prototype for a colony on Mars and a catalyst for a new age of ecological awareness.

Biosphere II is a tightly sealed terrarium in which eight human volunteers, three furry bush babies, five hummingbirds, six bats, and assorted snakes, lizards, turtles, fish and insects are expected to live on the fruit and exhalations of 3,800 species of plants and animals. The humans hope to feed themselves indefinitely on an organic garden 10 times as productive as the best farmland and a barnyard menagerie of potbellied pigs and jungle chickens.

The builders, like God in his Garden, have included a bit of everything: a 150-crop organic farm, a misted rain forest, a wave-washed coral reef, a dry savanna and a gritty desert.

The details involved are mind-numbing. The designers fretted about the hormones of flowers and the chemistry of decay. They worried about tastes of termites, meanderings of moths. They pondered the predators of polliwogs and fungus on the turtles' toes.

This daring experiment is the marriage of one man's messianic vision and another's stupendous wealth.

The cost of the seven-year project is somewhere between $100 million and $150 million, most of which has come from the pockets of oil billionaire Ed Bass. The shadowy Bass has become both true believer and fairy godfather to a group intent on seeding the stars and fostering a whole new attitude toward the planet. Biosphere II's builders say they'll seal the air lock in December, a year behind schedule.

The experts with their Ph.D.s, federal grants and academic appointments don't know what to make of it. Although most are bemused by the outlandish blend of evangelical fervor and scientific jargon, many are jealous of the astonishing flow of money.

Certainly, the people behind the project have backgrounds full of strange twists and unconventionality.

There's John Allen, the group's brilliant guru, who has spent the past 20 years gathering a group of free thinkers seeking to remake an unkempt world. And introverted billionaire Bass, the money behind the scene.

The people who have volunteered to spend two years in the dome are no less fascinating. They include a dolphin expert who also has trekked through Nepal and China, a doctor on a borderline starvation diet who wants to live to be 150, a German electrical engineer, an Arizona botanist, an English ecologist and a Belgian builder.

The animals will breathe the oxygen produced by the plants, which will subsist on the carbon dioxide exhaled by the animals. The bush babies will eat the fruit from the plants that are pollinated by the insects that eat the bacteria on the rotting leaves discarded by the bush babies.

CHECKS AND BALANCES

That kind of reliance on natural systems runs through all of the planning and philosophy of the project. The aim of the "biospherians" is to use air-conditioners and desalinators to supplement a custom-designed system of biological checks and balances.

Worried about the effects of trapped pollutants from plant hormones to furniture fumes?

No problem.

Five times a day, the dome's 7 million cubic feet of air is forced by blowers through dirt filled with hungry microbes. The flourishing microbes will dwell in the half-acre bed of potting soil that the biospherians will farm.

Nervous about disposing of hunman waste, tampons and toilet paper?

AN ODE TO THE PLANET

The soul of Biosphere II is pure poetry: an ode to a beloved, endangered planet. It stretches a compelling idea across a framework of glass, steel, dirt and hope.

It's a test module for the latest in ecological fashions: the notion that life itself has made Earth livable.

Scientists call it the Gaia hypothesis: the idea that living things have regulated temperature, recycled nutrients, made the atmosphere, filtered ultraviolet rays and turned the waste of plants into life's breath of the animals.

Odes to Mother Earth and reverence for the natural world run throughout the literature and philosophy of Biosphere II.

It's like something Walt Disney might have built, without the roller coaster. There's a mountain of fake rocks in the midst of a soul-soothing rain forest, on which rain falls daily. There's a meandering stream flooded regularly to create monsoon seasons. There's a pile of coral chipped off a reef in the Yucatan Peninsula and stocked with brilliantly colored fish, a giant clam and a stowaway octopus, now being hunted for fear he'll wreck the coral. There's a weed-choked grassland, awaiting its tortoise lawn mowers. There's a desert stocked with bizarre, upside-down boogum trees and intermittently dry playas harboring fairy shrimp.

The whole thing is a lush, green incongruity amid the thorns and sun-seared rock 40 miles northeast of Tucson.

No problem.

Throw the biodegradable tampons on a compost heap. Don't bring toilet paper, use water jets. Then feed the wastes from the flushless toilets to ravenous bacteria in the lily pond. Feed the bacteria to the voracious fish in the rice paddies. Then feed the plump fish to the hungry humans in their flashy red jumpsuits.

Concerned about the buildup of salt in the 25-foot-deep ocean, due to the constant evaporation?

No problem.

Hang cooled metal tubes above the rain forest. Let water in the hot, humid air condense and fall in droplets to the rain forest. Let the water flow into the artificial stream, through the savanna, the freshwater marsh, the saltwater marsh and into the 2-million-gallon ocean before it is pumped into a desalting plant where the water is boiled, leaving behind the salt.

Worried about the expansion of air in the dome on a 110-degree day?

No problem.

Just build two giant pits with rubber seals at the end of a tunnel connected to the dome. As the air in the dome expands from the heat, air rushes into the pits, lifting weights and easing the air pressure in the dome. And be sure to call the pits lungs, yet another hint that the world in the dome is a strange new organism.

The magic is in the idea, the work is in the details.

THE GUEST LIST

Consider the plight of Peter Warshall, a biologist with the University of Arizona's Office of Arid Land Studies, hired to draw up the guest list for vertebrates on this stationary ark.

He started with high hopes.

Monkeys would be marvelous. But a pair would strip every leaf off every tree in the rain forest inside of six months.

Deer would be darling. But only the tiny mouse deer had a small enough appetite. But they're nervous by nature. Imagine the public-relations disaster if they should break their necks on the glass or prong off the cliff dividing the rain forest and the ocean. Warshall left them out.

In fact, the guest list proved very exclusive: Just 40 terrestrial vertebrates were invited.

That doesn't include an international blend of custom-designed farm animals. There will be Vietnamese potbellied pigs, rumpled, rotund porkers with the dispositions of dogs.

The milk will come from African pygmy goats. The eggs will come from the jungle chickens, crosses between a hen and a jungle fowl, bred specifically for Biosphere II.

Among the wild creatures, bush babies are the sentimental favorite. They're small, well-behaved primates who will keep company with the Homo sapiens.

They pose two problems.

Their haunting nocturnal cries can make a mother's heart stop in her sleep. Earplugs, anyone?

Bush babies also need a lot of fruit. Not to worry. Warshall insisted on a six-month supply of packaged food, just in case.

Hummingbirds were perhaps the most essential for the flowers.

But how many flowers does a hummingbird need? No one knows. Armed with a calculator and a few studies on hummingbird metabolism, Warshal hit on the mostly wild guess of 1,200 flowers per bird per day. Just in case, central supply includes a couple of hummingbird feeders.

Consider the six bats, crucial pollinators in the rain forest. Flexibility is important, so start with bats that eat nectar, fruit and insects.

But, how many moths does a bat need? Rough calculations suggest 10 a night. But bats miss more moths than they hit. That mean allowances have to made for 100 moths per bat per night, or 50 if they encounter the same moth twice.

So, include some moths.

But what do the moths eat?

Nectar.

Fair enough. Flowers are already in hand. Bats are on order.

But who's going to pollinate the flowers before the moths hatch and the bats arrive? Not to worry. Biosphere biologists are pollinating the bat flowers with cat whiskers.

TRUE BELIEVERS

All the details add up to an almost-syncopated rhythm of life.

And presiding over it all, back in the Garden after all these eons, will be four Adams and four Eves picking apples under the gaze of tourists peerings through observation ports.

So why are the mainstream scientists who also dream of colonizing space so leery of this strange Eden?

And is it possible this little band of New Age idealists really thinks they're going to Mars?

TRIBUTE TO JOE BILLY McDADE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. MICHEL. Mr. Speaker, it is always an honor for me to share with my colleagues the name of the recipient of the Bradley University Distinguished Alumnus Award. This year, I am honored and pleased to say that this year's recipient is a good friend of mine, Joe Billy McDade.

Joe was graduated in 1959 from Bradley University, and was an outstanding basketball player for the Bradley Braves. Since that time, Joe has traded in his basketball shoes for law books and legal cases, and currently serves as the 10th judicial circuit judge. I know that the Peoria community joins me in congratulating Joe on a job well done and hoping for his continued success—on the basketball court as well as "in court."

At this point in the RECORD, I wish to insert "Judge Receives Bradley's Distinguished Alumnus Award" which appeared in the Peoria Journal Star.

JUDGE RECEIVES BRADLEY'S DISTINGUISHED ALUMNUS AWARD

(By Sally McKee)

Joe Billy McDade, 10th Judicial Circuit judge, was honored Wednesday with Bradley University's Distinguished Alumnus Award during Founder's Day celebrations.

Founder's Day is an annual event at Bradley honoring Lydia Moss Bradley, the university founder.

"We use Founder's Day to remind ourselves once annually about the lady who formed this institution," said Bradley President Martin Abegg. "She had dreams of leaving a legacy to her own six children. She hoped each would have greater educational opportunities than she had.

"Moss's children all died before adulthood, and this personal tragedy deepened her personal resolve to leave this legacy for others."

McDade received his award at a Founder's Day luncheon at the Student Center Ballroom. A 1959 Bradley graduate and an outstanding BU basketball player, McDade was elected circuit judge in 1988.

His prior appointments include associate judge, executive director of the Greater Peoria Legal Aid Society and serving in private practice for 14 years.

Other awards presented as part of Founder's Day events are as follows:

Outstanding Young Graduate Award, Robin Jarrett: Jarrett, a 1975 Bradley graduate, is a faculty member at Loyola University in the sociology and anthropology department, and director of African-American studies. She is also a trustee of the 4-H foundation, board member at the Chicago City Colleges, author of several papers and has been a consultant to various institutions.

Mergen Award, Robert Pardieck: The Francis C. Mergen Award for community service was awarded to Pardieck for his service ranging from church to community to school.

Pardieck has served on the Dunlap Village Board, fire department, and Dunlap Days Advisory Board. He was a founding member of the Epiphany Lutheran Church in Dunlap and has been involved with the Boy Scouts, Jaycees and Kiwanis International. He is a past chairman of the board of education for Trinity Lutheran School and presently serves on the Tri-County School Problems Committee.

He is the director of career resources in the center for career development at Bradley.

Rothberg Award, Kenneth Kolb: The Samuel Rothberg Professional Excellence Award is presented for distinguihed contributions to research or creative productions. Kolb, a Bradley chemistry professor, has had several articles published in scientific journals, organized national symposia in his field and has been program chairman for numerous scientific meetings. His research while working in industry led to eight patents.

Putnam Award, Thomas Cummings: The Putnam Award for Excellence in teaching was presented to Cummings, a chemistry professor, for his outstanding teaching as cited by former students. He has taught at Bradley since 1955 after earning his Ph.D. at Case Institute of Technology. He has taken four sabbatical leaves at international institutes and has served as a consultant for Illinois Environmental Protection Agency and a major chemical company.

Burlington Northern Award for teaching, Barbara Frase: The Burlington Northern teaching award is annually presented to a Bradley faculty member who is not tenured. Frase, an associate biology professor, was noted by her peers as having the ability to channel the energies of students into well-focused research projects. She spends her summers in field research at the Rocky Mountain Biological Laboratory in Colorado and has published nine articles.

Burlington Northern Award for scholarship, Rustan Kosenko: Kosenko, an associate marketing professor, received the honor for both his excellent teaching and research work. In the past year, he has published nine articles in the areas of international business, economic price perceptions and healthcare quality-of-life marketing.

The following people received Emeritus status during Founder's day activities:

Margaret Burke, professor of educational leadership and human development; Edgar Gasdorf, biology professor; Donald McVeain, educational leadership and

human development professor; and Paul Sawyer, English professor.

THE SBA IN WESTERN NEW YORK—A RECORD SETTING PERFORMANCE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. LaFALCE. Mr. Speaker, I rise today to offer my congratulations to the Buffalo District Office of the U.S. Small Business Administration. The office, which only became a district office this year, guaranteed the lending of over $72 million in fiscal year 1990, and has exceeded all previous western New York SBA records. It is with great pleasure that I extend congratulations to Charles Freeman, SBA region II Regional Administrator, Franklin J. Sciortino, Buffalo District Director, and Peter Flihan, Rochester Branch Manager for their continued dedication to assisting small business in the western New York area.

This success is also shared by the chairman, presidents and chief executive officers of the four local banks who made over $42 million in loan money available: Erland E. Kailbourne, Jr., chairman and chief executive officer, Norstar Bank, N.A.; Charles Mitschow, regional president of Marine Midland Bank; Robert Wilmers, chairman, president, chief executive officer of Manufacturers and Traders Trust Co.; and Gary R. Allen, chairman and chief executive officer of Key Bank of Western New York. Each of these institutions have demonstrated their continued commitment to helping create economic opportunity in our community.

I wish to call to the attention of my colleagues an article written by James Madore of the Buffalo News which appeared in that newspaper on October 1, 1990.

[From the Buffalo News, Oct. 1, 1990]

AREA BANKS BATTLE FOR SMALL BUSINESS LOANS—NORSTAR, MARINE, M&T AND KEY WIN SPA GOLD MEDALS FOR THEIR LOAN ACTIVITY

(By James T. Madore)

Western New York's banks are crazy about small business, judging from the fierce competition among them to be the area's biggest U.S. Small Business Administration lender.

The annual bankers marathon was long and hard last year. But once again, Norstar Bank crossed the finish line first with 63 loans totaling about $12 million.

Marine Midland Bank, the long-time favorite and champion for many decades, came in second with 78 loans totaling about $10.5 million.

The SBA loan-race, however, has changed dramatically from fiscal year 1989. The contest is no longer between just two institutions. M&T Bank and Key Bank of Western New York have bolstered their small-business lending programs and are poised to overtake Norstar and Marine in the future.

Loan officers at M&T and Key now seem fired up about small business. About $300,000 separated M&T from No. 2 Marine. And Key missed third place by only $86,900.

"It was close between the top four banks," said Franklin J. Sciortino, the SBA's district director for the Buffalo-Rochester region. "For the first time, we have four banks who went over the $10 million mark," he said.

Sciortino explained that the top four banks will receive gold medals from the SBA in recognition of their $10 million worth of loans. Bronze medals will be awarded to the Business Loan Center, Wyoming County Bank and the Bank of Castile.

Competition within Buffalo's financial community for small-business loans helped the SBA shatter all previous local records, he said. In the eight counties of Western New York, the SBA had its biggest year ever in 1990, with a total of 324 bank loans worth about $53.9 million—all guaranteed by Uncle Sam. The SBA's local financing climbed $13.2 million from $40.5 million during fiscal year 1989.

"I'm very pleased with last year. But, I wonder what I'm going to do for an encore," Sciortino said, explaining it will be difficult, but not impossible, for the agency to do even better during the federal government's 1991 fiscal year, which starts today.

"The volume of these loans shows that the small-business economy in Western New York is vibrant," Sciortino said.

He noted that for every $10,000 lent to entrepreneurs the agency saves or creates a job. Thus, using that formula, the SBA loan-race maintained or crated 5,400 local jobs last year.

Robert G. French, regional credit administrator for Marine, acknowledged that the competition for small-business loans became intense three years ago, when Norstar surged into first place. Up until then, Marine had been the dominant player for decades.

"Certainly there is a competitive spirit here. But I'm tickled pink to see the number of loans," French said. "It means now everyone is on the bandwagon and almost everyone is supportive of the small-business community," he added.

The SBA guaranteed loan program is attractive to bankers because it allows them to back an entrepreneur with virtually no risk, said Thomas D. Grover, a Norstar senior vice president. The federal government offers to guarantee the pay-back of up to 90 percent of bank loans made to qualified small businesses. Moreover, the SBA's loss ratio is about 2.7 percent.

The agency routinely refuses to guarantee loans submitted by banks for businesses that are too risky. In short, the SBA helps small businesses that banks normally would not go out on a limb for, Sciortino said.

The secondary market for the guaranteed portion of SBA loans also is heating up, providing a greater incentive for financial institutions. This means banks can loan the funds, get the SBA guarantee, then turn around and sell the loan to brokers or investors, explained Grover of Norstar.

Loaning money to entrepreneurs is simply good business, because small-business owners tend to be loyal customers, said Nancy La Tulip, a Key Bank vice president. She explained that Key recently launched a special program designed to help start-up companies that need small loans under $50,000.

"We felt they (people just starting in business) weren't getting enough attention. We hope they will stay with us as they expand and grow," she said.

Alfred F. Luhr, an M&T vice president, agreed, saying small companies often grow into large, publicly-traded firms. For example, two highly-successful local businesses—Comptek Research Inc. and Ultra Tool & Plastics Inc.—got their start with SBA loans.

"These people represent good business to us," Luhr said. "They will be qualified customers in the future."

The SBA loan program in Western New York is unusually busy, according to Robert C. Novak, the agency's assistant district manager. He noted that Buffalo processed more loans than any other district office in Region 2 of the SBA, which encompasses New York, New Jersey, the U.S. Virgin Islands and Puerto Rico. Yet, the Buffalo district office has the third smallest work force in the SBA network.

It's precisely because of this small-business energy that the Business Loan Center, the area's most active non-bank lender, decided to keep its Western New York office open, while it closed outlets on Long Island and New Jersey.

Henry P. Fierst of the Business Loan Center concluded: "Buffalo is unusual on the East Coast in that it has heavy participation from a number of institutions."

SITUATION IN THE SUDAN

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. HALL of Ohio. Mr. Speaker, I rise today to alert my colleagues to the sharp deterioration of the situation in the Sudan. Current conditions in the Sudan indicate a nationwide food crisis possibly as bad as the disastrous famine of 1984 when perhaps as many as 100,000 people died. With national food stocks already very low, the failure of seasonal rains and the continuing civil war limiting planting, it will take all our humanitarian skill and resources—and a lot of luck—to avert a massive famine with tens of thousands of deaths.

Experts fear that Sudan may be facing a food shortage in 1991 of up to 1 million metric tons. There are already reports of death due to malnutrition in drought areas, and thousands of people have already migrated to urban areas and across borders in search of food.

Further complicating the situation, however, is the fact that the Sudanese leader, President Bashir, refuses to acknowledge that there is any hunger problem at all in the Sudan. Beyond simply not acknowledging the tragedy, President Bashir's government has blocked relief efforts by grounding United Nations and International Committee of the Red Cross relief flights, obstructed movement of relief food by train or barge, and even prohibited movement of donated food. These actions combined make relief work nearly impossible in the Sudan.

However, if the Government of the Sudan chooses to cooperate, the relief infrastructure is in place. The creation of Operation Lifeline Sudan was a significant accomplishment in a country like the Sudan—and it still can be reactivated. Huge obstacles have been overcome in both the Sudan and Ethiopia, through the perseverance, dedication, and creative strategies of the relief organizations, including United States private voluntary organizations.

For the benefit of my colleagues, I am including for the RECORD the following excellent articles. The first, from the New York Times, details the devastating effects of President Bashir's policies. The second, an editorial by Roger Winter, Director of the United States Committee for Refugees, reports on his recent visit to the Sudan. Mr. Winter reminds us that Mickey Leland gave his life in an effort to help Sudanese refugees. That humanitarian dedication and courage is what is most needed right now.

[From the New York Times, Oct. 5, 1990]

UNITED STATES, BLAMING SUDAN, CURBS AID AGAINST FAMINE

ASSAILING SUDAN, U.S. CUTS FOOD AID

Other Donors Say Khartoum Has Blocked Famine Help

(By Jane Perlez)

KHARTOUM, THE SUDAN, October 3.—The Sudan, Africa's largest country, faces its third major famine in six years. But this time the United States has warned that Islamic fundamentalist Government that because it has blocked or diverted aid intended for the hungry in the rebellious south, any pleas for more help will be ignored.

American and other Western officials say the Government confiscated 40,000 tons of American grain intended for hungry southern Sudanese that month. These officials also say that the Government has repeatedly bombed towns in the south while United Nations and Red Cross relief efforts were in progress and that the Government forbade relief flights by United Nations and Red Cross planes into the southern Sudan last weekend.

SEASONAL RAINS FAIL

Seasonal rains have failed and plantings have been limited by the continuing civil war, and thus the chances of a new famine are growing more and more certain. Aid experts predict that the expected famine could prove as extensive as the one caused by the drought of 1985, when hunger gripped an estimated third of Sudan's 25 million people.

Despite such forebodings, officials of the United States and other aid donors say they will restrict their contributions because of the actions of the Sudanese Government, noting with frustration the Government's moves to block the delivery of aid to ease the effects of the earlier famine in the south.

The use of food as a weapon is not new in the Sudan, which has slid into hopeless poverty during the seven-year-old civil war.

The nation had long been considered an important American ally and an aid recipient. But since a civilian Government was replaced in a coup by Lieut. Gen. Omar Hassan Ahmed al-Bashir, the country has been treated with increasing aloofness by Washington and its other traditional sources of humanitarian and financial aid.

The United States Ambassador here, James R. Cheek, described the looming famine in the direct of terms. Mr. Cheek, who was the senior American diplomat in Ethiopia during the 1984–85 famine there, informed Washington two weeks ago that the situation in the Sudan now was worse than in Ethiopia then. The two situations were analogous, he wrote, except that "the obstacles to be overcome here actually loom far more formidable than anything we ever faced in Ethiopia."

"Literally millions of people here are at risk, with every conceivable obstacle standing in the way of their salvation," Mr. Cheek wrote. "There is an impending disaster of enormous proportions looming, and we are not very sanguine it can be averted."

The Government lacks food reserves, and Western officials said they suspected that the Government had traded up to 300,000 tons of sorghum, the basic food staple, with Libya and Iraq in exchange for war materiel this year.

The Sudanese Government, which has not told the country's people about the impending famine or acknowledged it publicly, quietly asked the Bush Administration for $150 million in food aid last week, according to the United States Agency for International Development. The Administration scoffed at the request.

In an unusually strong reaction to the Sudan's actions, Washington decided on Tuesday to divert an American ship, the Omi Sacramento, from Port Sudan where it was to have unloaded American wheat, Western officials said. The 5,400 tons of wheat, which has been re-routed to Kenya, was intended for commercial use in Khartoum for making bread.

Although the United States has traditionally been a chief aid donor to the Sudan, Washington is not alone in its anger at the Government. The senior representative of the United Nations in the Sudan, Michael Priestley, told colleagues last week that a meeting he had just had with Mr. Cheek and Mr. Bashir on the question of the civil war and obstruction of humanitarian aid was the worst meeting he had ever experienced in his 38 years with the United Nations.

All major Western donors to the Sudan, including the European Community, have refused to pledge any new development aid to the country. This year, the Community has also refused to send humanitarian aid, saying the Government has been uncooperative and has exported Sudanese grain.

The International Committee of the Red Cross has been flying assistance into both Government and rebel-held towns for the last two years, although with periodic interruptions when the Government has refused permission for the aid flights.

RED CROSS CANCELS FLIGHTS

Red Cross representatives here said that on Saturday, the Government again refused permission for the Red Cross to fly into the south, and because the organization insists on an evenhanded policy, it has canceled air flights into northern or Government held towns as well.

Many smaller non-governmental aid organizations have wound down operations in the Sudan, finding it too difficult to work, while others stay in Khartoum but find it difficult to get permits to travel to the field to work. The Government consistently refuses travel permits for diplomats and journalists to travel outside the capital.

In an example of the Government's refusal to admit a food shortage publicly, a senior Government official and member of the National Islamic Front, Fadlelsayed Abu-Goseisa, said in an interview this week, "We believe we will produce a bit more than necessary for our consumption."

"We are not worried at all," said Mr. Fadlelseed, the secretary general of the advisory political committee to the junta. The forecast by the United Nations Food and Agricultural Organization that the Sudan would have a million-ton food shortage next year would be proved wrong, he said.

IMPOSING FUNDAMENTALISM

The diversion of the wheat and Washington's anger at the Sudanese request for aid come after what diplomats here describe as excruciating frustration with the Government

The junta appears bent on prosecuting the civil war between the mostly Arab and Muslim north and the mostly African and animist south at all costs, Western officials say. It also seems, they say, intent on imposing as pure a form of Islamic fundamentalism as possible on the religiously and ethnically mixed country.

Diplomats here expressed dismay at the welcome accorded General Bashir at the United Nations summit for children last weekend. At the conference General Bashir made a speech saying children were a priority for his Government. The week before, the diplomats here said, his Government bombed civilian targets in four southern towns.

By holding back wheat at a time of food shortages in Khartoum—a family's monthly supply of sorghum costs more than the monthly salary of a well-paid civil servant—Washington is putting significant internal political pressure on the regime, Western officials acknowledged. The Government, which now has 300 political prisoners in jail, has put down four coup attempts since ousting the civilian Government of Sadiq al-Mahdi 15 months ago, the last time early last month.

By siding with Iraq in the Persian Gulf crisis, the Sudan has also alienated traditional Arab allies: Egypt, Saudi Arabia and Kuwait. Until the gulf crisis, Saudi Arabia and Kuwait gave important financial help to the Sudan, but money from both sources has dried up.

The Sudan's hopeless financial situation was underlined last month when the International Monetary Fund declared the country a "non-cooperative member" because of its huge arrear dating from 1984. Such a status has been conferred on only one other country, Liberia, and is tantamount to expulsion.

The impending famine is more serious than the one two years ago because the rains have failed in the north where the Government is strong and where major cities are, as well as the south, which is mostly controlled by rebels of the People's Liberation Army outside the major cities.

Growing numbers of makeshift canvas shacks thrown up by hungry rural people in the dusty, arid fields of Ondurman, the old city across the Nile from Khartoum, are evidence of who Mr. Cheek wrote about.

The failed rains have already pushed about 10,000 people from El Obeid, provincial center usually rich in food into the outskirts of Khartoum. There were food riots last week in Babanus south of El Obeid, diplomats said.

And near Babanus, a train with United Nations flags that was loaded with 1,400 tons of American grain a year ago still had not delivered the food to its destination. The train awaited military escort from the Government so it could travel several hundred kilometers to a Government garrison town of Aweil, dropping off food in rebel-held areas along the way.

SUDAN CHIEF SAYS HE WON'T CHANGE AID OR POLITICS

(By Chris Hedges)

Lieut. Gen. Omar Hassan Ahmed al-Bashir, who took control of the Sudan in a

coup 14 months ago, says he has no plans to change his Government's handling of humanitarian aid or establish "a Western, multi-party political system."

The Sudanese leader, in an hour long interview on Wednesday, also condemned Western governments for "pressuring" his administration.

He lashed out at church relief groups, who have accused his Government of blocking food deliveries in rebel-held areas in the south, and accused these groups of backing the rebels of the Sudanese People's Liberation Army, who have been fighting Sudanese Governments for seven years.

"We are not following the kind of line the Western governments desire," General al-Bashir said. "These governments want us to follow the Western model. They would like us to be part of the multi-party system of government."

U.S. IS CRITICAL OF GENERAL

United States officials have criticized the general for failing to institute democratic reforms and allow relief agencies to work unmolested in rebel zones.

"Hundreds of thousands of people are at risk in Sudan," said Tony P. Hall, chairman of the House Select Committee on Hunger." I know it, A.I.D. knows it, and international relief organizations know it. President Bashir refuses to admit it. His stubborness is killing his own people."

General al-Bashir, since he took power in a coup 15 months ago, has alienated many Western governments, an alienation that has only been exacerbated by his support for Saddam Hussein in the current gulf crisis and what he calls his "excellent" relations with the Libyan leader, Col. Mu'ammar Qadhafi.

PLAYS DOWN THREAT OF FAMINE

The Sudanese leader played down the threat of famine, dismissing projections by relief agencies like UNICEF that over a quarter of a million people are at risk unless a major effort is mounted to distribute food.

The general said the reports that the Government blocked food deliveries to the south were unfounded.

The general said the decline in aid donations was done for "political reasons."

He accused some humanitarian groups of working in tandem with the guerrillas.

OPPOSITION PARTIES BANNED

"Many church organizations contribute arms and assistance" to the guerrillas, he said.

Since coming to power the general has banned all opposition parties, denied freedom of association and jailed several hundred political dissidents. He said he was conducting an investigation of the former Prime Minister to see if he should be put on trial.

A committee will submit recommendations for the new system of government on Oct. 26, General al-Bashir said.

He said committee members were visiting "various parts of the country to find out from the local people what is the best system of government."

General al-Bashir said he had no plans to lift his ban on opposition political parties. "We would like our political system to have the largest possible participation by the people," he said.

"We will exclude the political parties represented in the past. These parties depended on sectarianism, tribalism and ethnicity. We would like to exclude all this. The unity of the whole nation is very important to us."

[From the Houston Chronicle, Sept. 9, 1990]

MICKEY LELAND'S "CHILDREN" IN AFRICA DESERVE BETTER

(By Roger Winter)

In a sense, Mickey Leland is still alive. In Pinyudo, Itang and Dimma—sprawling settlements of Sudanese refugees in western Ethiopia—he has taken on a character larger than life. He has become the father figure, almost the patron saint, of thousands upon thousands of the world's most miserable and desperate people, most of them children.

In August 1989, while on a mission of mercy to the Sudanese refugee camps, Leland's plane went down in the mountains of Ethiopia. There were no survivors. Now, one year later, I have spent the last week with the same refugees the Houston congressman was coming to help. I've learned a lot—about hope, about the human spirit, and about the symbolism a single person can embody. Kids who have never heard of President Bush or President Reagan know well the name Mickey Leland. He has 40,000 children.

Although there are many children in these refugee settlements with family, the unaccompanied minors—perhaps 18,000 at Pinyudo, 7,000 a Itang and 15,000 at Dimma—represent a unique challenge. The needs are enormous.

Sudan has been racked by a brutal civil war for years, which in oversimplified terms, has pitted the have-nots of the South, who tend to be more African and Christian or followers of traditional religion, against those holding power in the North, who tend to be more Arab and Islamic. Since the current regime took power in a military coup on June 30, 1989, the battle lines have been very clear. The government's political base is drawn almost entirely from the fundamentalist movement known as the National Islamic Front, which seems bent on remaking that marvelously diverse nation in its own narrow image.

In June 1988, knowing that a humanitarian emergency was in full bloom in Sudan, I was able to visit the southernmost portion of the country, the "rebel sector" held by the Sudan Peoples Liberation Army. What I encountered were thousands of displaced people, uprooted by the conflict and with limited ability to provide for themselves. Thousands were dying, from lack of food and the myriad diseases that ravage human bodies in such a situation. They were part of the more than 250,000 Sudanese civilians who died from the war-induced famine that year.

On my visit, I met with the SPLA commander of the "Brightstar Campaign," the rebel code word for the hostilities in Equitoria, the southernmost part of Sudan. Commander Kual Manyang is a distinguished looking man, tall even for a Dinka. His military prowess was superb, as subsequent battlefield triumps demonstrated. But he knew, with thousands, perhaps hundreds of thousands of uprooted civilians pouring into his operational area, that no capacity existed to meet their needs. Starvation on an incomprehensible scale was in the offing.

Under one of the few trees left in the battle-scarred town of Kapoeta, we analyzed the desperate nature of the situation with the only (and very effective) private humanitarian agency then working in the area, Norwegian People's Aid. At one point, somewhat in desperation, Kual looked at me and said, "Can you get us that black American congressman?"

"Mickey Leland?" I asked.

"Yes, that's the one."

Leland's reputation, as the tireless chairman of the House Select Committee on Hunger, had preceded him to one of the most remote corners of this Earth.

On my return to the United States, Leland—with the cooperation of Reps. Howard Wolpe, D-Mich., Bill Emerson, R-Mo., and Gary Ackerman, D-NY.—promptly dispatched a staff fact-finding mission headed by Leland's capable aide, Jeff Clark. Together, they became the sparkplugs for what became a substantial humanitarian relief effort—Operation Lifeline Sudan. Leland—literally—delivered the goods.

Meanwhile, in a remote corner of Ethiopia, in a "parrot's beak" that juts into Sudan, a somewhat less noticed aspect of the Sudan, a somewhat less noticed aspect of the Sudan civil war was playing itself out. In late 1987 and early 1988, thousands upon thousands of displaced Sudanese civilians sought haven as refugees in areas north, west and south of the town of Gambella. An extraordinary number were children, mostly young boys unaccompanied by any family adult, fleeing violence targeted against them by Arab militias, essentially cutthroats armed by the government in a desperate move to halt the SPLA. United Nations officials who observed their arrival recognized that thousands of other had lost their lives in a desperate trek of hundreds of miles across the most desolate of landscapes. As one colleague put it, many seemed desperately trying to prove their mettle to their companions by surviving just long enough to arrive in Ethiopia and then succumbing to death within hours after their arrival.

The more than 350,000 Sudanese refugees in Ethiopia have never had much, but by 1989 the U.N. High Commissioner for Refugees, the international agency responsible for protecting and assisting refugees, was in the worst financial disaster of its history. The world's donor governments, with the United States as a prime example, were no longer responding adequately to the needs of the world's growing number of refugees. The Sudanese, like other refugees worldwide, would receive their share of the budget cuts.

In August 1989, Leland, with then staff chief Hugh Johnson and 13 others from a number of U.S. government humanitarian and development organizations, set out to visit the Sudanese refugee settlements near Gambella. Between Addis Ababa, Ethiopia's capital, and the flat plains of the Gambella region, Ethiopia is a marvel of the greenest, haziest mountains imaginable. At certain times of the year—like August—harsh rains and violent thunderstorms are the rule..

As Houstonians well know, Leland's party never made it. In a mountainside crash, some of the best hearts and minds in America's great humanitarian efforts were wiped out. While America was shocked, 40,000 unaccompanied minors in Pinyudo, Itang and Dimma were stunned. Their rescuer was gone.

Today, although new refugeees still arrive with starving, scrawny children who look like newborn robins spilled from a broken egg, most food and medical needs are being met in a basic fashion. But when you meet the unaccompanied minors, they don't speak of such things. In a sea of young, black and hopeful faces, they plead for education—for schools, pencils and paper.

In Pinyudo, which means "land of the hostages," for example, the children are divided into 18 living compounds. Each houses

over 1,000 unaccompanied minors. They survive by caring for themselves: building their homes, pounding maize, cooking and performing other chores that, in their culture, normally take the full range of skills of all ages and both sexes. They have, however, given a priority, with the assistnace of the adult Refugees Committee, to building mud and thatch schools. Almost 500 adults, some with previous teaching experience but many without, struggle daily to communicate English, mathematics, even Arabic, teaching students who study with a tenacity that would make most American teachers green with envy.

The 18 schools, each with multiple classrooms, equipped with mud seats and almost nothing else but energetic minds, are coed and include some children beyond the unaccompanieds. They are collectively called "the Mickey Leland Schools." Having seen them in operation, I believed the sign, held by two children during my visit: "American Humanists, we have food. What we want is education."

As the U.S. Congress struggles to complete its work on the 1991 foreign aid budget this month, I can think of no more fitting tribute to Mickey Leland than to provide the relatively limited extra resources it would take to turn his schools into places of learning where the young minds of his 40,000 children will grow.

All too often, the education of refugee children is an afterthought at best; at best; during years of exile, their minds shrivel. Mickey Leland's children deserve better.

THE WALLENBERG MYSTERY MUST BE SOLVED

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. LANTOS. Mr. Speaker, 9 years ago this month Raoul Wallenberg was made an honorary citizen of the United States. Wallenberg was only the second person to be so honored, after Sir Winston Churchill. My first legislative act as a Congressman was to introduce this honorary citizenship legislation, and President Ronald Reagan signed the bill in a Rose Garden ceremony.

Conferring honorary citizenship upon Wallenberg, an American citizen, was a top priority when I came to Congress because of my desperately strong desire to free him from the horrors of the gulag. Both my wife, Annette, and I owe our lives to this hero of the Holocaust. We were among the over 100,000 Hungarian Jews who were saved by his incredible actions in Budapest near the end of World War II. Our hope was that we could use the honorary American citizenship as a new tool to save Wallenberg in much the same way he had used Swedish "Schutzpasses" to save Hungarian Jews.

The years have passed, and Wallenberg is still not free. Nor has the full truth been told. But some developments in the last year have given new hope of finally solving the Wallenberg mystery. One year ago a delegation from Wallenberg's family was invited to Moscow and given some of Wallenberg's personal belonging which officials claimed had suddenly been discovered. This fall an international commission was permitted to investigate the Wallenberg case in the Soviet Union. The 15 member commission headed by Wallenberg's half-brother, Guy von Dardel, included University of Chicago biochemistry professor Marvin Makinen, an American who was once a political prisoner in the Soviet Union's Vladimir prison; Irwin Cotler, a Canadian human rights lawyer and a professor at McGill University; and a number of Soviet citizens.

After an extensive investigation the commission concluded that the KGB has prevented the Wallenberg case from ever being thoroughly investigated and that Wallenberg may still be alive.

Mr. Speaker, I commend to you and my colleagues the following article in the Northern California Jewish Bulletin by Bram Eisenthal which provides the very interesting details about the findings of the commission. Let us hope that this set of findings and the Soviet cooperation which allowed the formation of this commission and its investigation represents a new beginning in United States-Soviet relations and a true glasnost which will finally solve the Wallenberg mystery.

[From the Northern California Jewish Bulletin, Oct. 5, 1990]

WALLENBERG ALIVE? GLOBAL REPORT: YES

(By Bram Eisenthal)

MONTREAL.—An international commission has concluded that Raoul Wallenberg may still be alive.

The commission, which visited Soviet prisons last summer in an effort to establish the fate of the missing Swedish diplomat, has reached the preliminary conclusion that Wallenberg may be hidden somewhere in the vast gulag that is the Soviet penal system.

In any event, it believes it has "incontrovertible evidence" that Wallenberg did not die in 1947 in Lubyanka prison, as the Soviets have insisted until recently.

The commission consists of experts in the fields of law, science, politics, academia and other humanities—from countries that include the Soviet Union.

It began its "search for the truth" about Wallenberg's fate Aug. 27 and concluded the first phrase of that quest late last month.

The commission's members included Wallenberg's half brother, physicist Guy von Dardel of Sweden; University of Chicago biochemistry professor Marvin Makinen, an American who was once a political prisoner in the Soviet Union's Vladimir prison; and Montreal's Gill University professor Irwin Cotler, a human rights advocate.

Cotler has been probing for years to get at the truth about Wallenberg. He said the most recent effort was unique because the Soviets who for 45 years refused to allow any outside investigation into Wallenberg's whereabouts, agreed to cooperate fully with the commission.

In fact, Soviet officials agreed to open their prisons, prison archives and dossiers for scrutiny by the commission. The archives have not been made available to outsiders at least since 1917.

The investigation revealed that the Soviets did not investigate Wallenberg's fate even though they gave many assurances to the contrary.

Alexander Semyonova, the warden at Butyrka prison, was quoted as saying, "Wallenberg was a non-person for us until 1988, an unmentionable. We couldn't even talk about him before that, let alone investigate if he had been imprisoned here."

Regarding the "incontrovertible evidence," Cotler recounted a call from the Swedish Embassy. "They had been contacted by a man who . . . said that he had been imprisoned in Kasan in the Tatar Republic in recent years," said Colter. "He claimed that Wallenberg was there and very much alive.

"We believe that now . . . others will come forward with more information."

It was quickly established by the commission that the official Soviet stance on Wallenberg had no foundation.

Certainly there was none to substantiate the Feb. 6, 1957 memorandum of then-Soviet Foreign Minister Andrei Gromyko stating that Wallenberg died of a heart attack at Lubyanka July 17, 1947.

The commission centered its examination on prisons where Wallenberg was reported to have been seen alive after that date. It spent a full week at Vladimir prison, the site of much of the witness testimony of the 1950s, for example.

Analysis clearly confirms the existence "of witnesses who gave testimony that they had seen Wallenberg alive," Cotler stated. "We now have proof of the existence of 15 of these individuals, something we did not have before."

The commission also discovered that in addition to personal prison files there were parallel "investigative" or "operative" files kept by the KGB on foreign prisoners at Vladimir that were transferred to the KGB in Moscow.

Evidence therefore points to the KGB offices as a place where more about the exact fate of Wallenberg can be found—if the files there are ever allowed to be viewed.

Two additional findings were deemed "incredulous" and "astounding" by the commission.

The first was the KGB's assertion that in 1988 it found items belonging to Wallenberg "by accident" when his family visited Moscow.

After claiming for 32 years no knowledge of his whereabouts, the KGB found, supposedly by chance, such items as Wallenberg's passport, prison registration card and money.

Under the Soviet system, such belongings are classified in separate files. The commission found it difficult to believe that all of the separate files were uncovered simultaneously and by accident.

The disclosure by the Soviet procurator general that it opened its first file on Wallenberg only in 1988 and promptly closed it also did not rest well with the commission.

The rationale offered by the procurator general was that it lacked authority to investigate in the absence of a "criminal case—where there has been no trial, no judgment, no sentence."

The recent trip by investigators to the Soviet Union represented only the beginning phase of the probe.

The Soviet component of the commission will continue archival investigation and interviews with prison personnel, and the international group will continue to study the computerized data and cross-referencing information already received.

The worldwide interest in Wallenberg stems from his humanitarian accomplishments during the closing months of World War II and the subsequent mystery surrounding him.

A young diplomat at the time, Wallenberg was posted to the Swedish legation in Budapest. He is credited with saving at least 100,000 Hungarian Jews from deportation to

Nazi deaths camps by providing them with Swedish documents and diplomatic refuge.

Wallenberg was arrested by the Red Army when it entered Budapest in January 1945 and has not been heard from since.

ENVIRONMENTAL TAX CREDIT

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. BRUCE. Mr. Speaker, I rise to draw the attention of my colleagues to H.R. 5904 I am introducing with the support of my colleagues GLENN POSHARD and BOB WISE. Tax credits have played an important role in improving the quality of this Nation's environment. We believe the tax system must again work to promote better air quality.

The Clean Air Act Amendments of 1990 will severely impact utilities in 21 States, and could cause dramatic drops in the production of our most abundant domestic fuel, coal, particularly among coals with high sulfur contents. The cost to ratepayers from changes in energy production may run as high as $5 billion annually. The cost to families suffering the loss of an income cannot be calculated in dollars.

H.R. 5904, which we are introducing today, would allow the following measures to mitigate these burdens: 20-percent environmental tax credit for pollution control devices; tax exempt pollution control bonds; 60-month amortization for pollution control devices; 20-percent credit for minerals used in cleaning coal; and exemption from taxation for the revenue a utility receives from selling allowance credits as established in the Clean Air Act amendments.

We expect the economic impact of this legislation to be revenue positive since these incentives will encourage investments in pollution control devices, which are multimillion-dollar acquisitions. It will create more jobs for construction, save more coal mining, and support jobs, and allow the continued use of millions of tons of coal which could be abandoned as a result of clean air legislation.

The Congress has decided that the States affected by the Clean Air Act must deal with its costs on their own. This legislation makes available to these States the tax relief available to other States as they installed required pollution control equipment.

I want to thank Mr. POSHARD and Mr. WISE for their continued outstanding efforts on behalf of our region and the Nation's coal miners. I urge my colleagues to join us in supporting this needed initiative.

H.R. 5904

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. TAX CREDIT FOR EQUIPMENT TO MEET ACID RAIN REDUCTION STANDARDS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

"SEC. 30. ACID RAIN CONTROL PROPERTY.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—If qualified acid rain control property is placed in service during any taxable year, there shall be allowed as a credit for each taxable year in the credit period an amount equal to 6⅔ percent of the taxpayer's qualified investment in such property.

"(2) CREDIT PERIOD.—For purposes of paragraph (1), the term 'credit period' means, with respect to any qualified acid rain control property, the 3-taxable year period beginning with the taxable year such property is placed in service.

"(3) ACID RAIN CONTROL QUALIFIED PROGRESS EXPENDITURES.—In the case of any taxpayer who so elects under subsection (g) the amount of the credit allowed under paragraph (1) shall be increased in the taxable year of construction and in the two succeeding taxable years by 6⅔ percent of the qualified progress expenditures, (as defined in Section 46(d)(3) and applied under section 46(d)(4)) made in the taxable year of construction to construct property which it is reasonable to believe (i) has a normal construction period of two years or more and (ii) will be qualified acid rain control property when it is placed in service. Any credit allowable under paragraph (1) in the taxable year the qualified acid rain control property is placed in service and in each of the two succeeding taxable years shall be reduced by one-third of the aggregate amount of credits allowed under this paragraph during the construction of such property. If the property shall fail to qualify as qualified acid rain control property when placed in service, the taxpayer's tax for the taxable year in which such failure occurs shall be increased by (i) the credits allowed under this paragraph with respect to the property and (ii) interest for the period from the due date for the filing of the return of tax imposed by chapter 1 for the taxable year for which such credit was allowed to the due date for the taxable year in which the property is placed in service.

"(b) QUALIFIED ACID RAIN CONTROL PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified acid rain control property' means—

"(A) tangible property which—

"(i) is installed in order to comply with the sulfur dioxide emission limitations under title IV of the Clean Air Act (as in effect after the Clean Air Act Amendments of 1990), and

"(ii) reduces sulfur dioxide emissions by 70 percent or more at the source (or sources) in connection with which such property is installed, or

"(B) property which is installed on or in connection with property described in subparagraph (A).

"(2) ONLY DEPRECIABLE PROPERTY ELIGIBLE.—The term 'qualified acid rain control property' includes only—

"(A) property to which section 168 applies (without regard to any useful life), or

"(B) any other property—

"(i) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

"(ii) which has a useful life (determined at the time the property is placed in service) or 3 years or more.

"(3) PROPERTY MUST BE NEW.—

"(A) IN GENERAL.—The term 'qualified acid rain property' includes only property the original use of which commences with the taxpayer.

"(B) RECONSTRUCTION.—For purposes of subparagraph (A), a rule similar to the rule of the last sentence of section 48(b)(1) shall apply.

"(4) CERTAIN OTHER REQUIREMENTS.—In determining whether property is qualified acid rain control property, rules similar to the rules of the following provisions of section 48(a) shall apply:

"(A) Paragraph (2) (relating to the requirement that property must be used predominately in the United States).

"(B) Paragraphs (4) and (5) (relating to exclusion of property of certain tax-exempt organizations, governmental units, and foreign persons and entities).

"(C) Paragraph (7) (relating to property completed abroad or predominately of foreign origin).

"(5) TERMINATION.—The term 'qualified acid rain control property' shall not include property placed in service after December 31, 2000.

"(c) QUALIFIED INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified investment' means, with respect to any qualified acid rain control property, the basis of such property as of the time such property is placed in service.

"(2) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—In determining qualified investment, rules similar to the rule of section 46(e) shall apply.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—The credit allowable under subsection (a) for any taxable year shall not exceed—

"(A) the sum of—

"(i) the taxpayer's minimum tax liability under section 55(a) for such taxable year, plus

"(ii) the taxpayer's regular tax liability for such taxable year (as defined in section 26(b)) over

"(B) the sum of the credits allowable against the taxpayer's regular tax liability under subparts A and D of this part and sections 27, 28, and 29.

"(2) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) of this subsection for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an acid rain control credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an acid rain control credit carryforward to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit under subsection (a) for such years. If any portion of such excess is a carryback to a taxable year beginning on or before the date of the enactment of this section, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit shall be carried to the earliest of the 18 taxable years to which such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in paragraph (1), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATIONS.—The amount of the unused credit which may be taken into account under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by

paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(e) RECAPTURE UPON DISPOSITION.—

"(1) IN GENERAL.—If a taxpayer disposes of qualified acid rain control property during any taxable year (or the property otherwise ceases to be qualified acid rain control property with respect to the taxpayer) before the close of the 5-year period beginning on the date such property was placed in service, the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under this section for all taxable years which would have resulted solely for reducing to zero the qualified investment taken into account with respect to such property.

"(2) RECAPTURE PERCENTAGE.—For purposes of paragraph (1), the term 'recapture percentage' has the meaning given such term by section 47(a)(5)(B).

"(3) OTHER RULES.—Rules similar to the rules of section 47(a)(5)(D) and (a)(6) shall apply for purposes of this subsection.

"(f) OTHER LIMITATIONS.—For purposes of this section—

"(1) LIMITATION IN CASE OF CERTAIN REGULATED COMPANIES.—No credit shall be allowed under this section with respect to any property which is public utility property (as defined in section 46(f)(5) with respect to which a credit would not be allowed under section 38 if section 46(f)(2) (relating to cost of service and base rate reductions) applied to such property, except that subparagraph (B) of section 46(f)(2) shall be applied by inserting 'not' before 'reduced'.

"(2) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowable under subsection (a) with respect to qualified acid rain control property, the basis of such property shall be reduced by the amount of such credit (determined as if the entire credit with respect to such property was allowable in the taxable year such property was placed in service).

"(g) ELECTION.—An election under subsection (a)(3) may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to qualified acid rain control property constructed in the taxable year for which the election is made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary."

"(b) CONFORMING AMENDMENTS.—

(1) Section 196 of the Internal Revenue Code of 1986 (relating to deduction for certain unused business credits) is amended by adding at the end thereof the following new subsection:

"(e) ACID RAIN CONTROL CREDIT.—The provisions of subsections (a) and (b) shall apply in the same manner to the credit allowable under section 30(a)."

(2) Section 383(a)(2) of such Code (defining excess credit) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B), by striking the period at the end of subparagraph (B) and inserting a comma and "and", and by adding at the end thereof the following new subparagraph:

"(C) any unused acid rain control credit of the corporation under section 30(d)."

(3)(A) Section 6411(a) of such Code (relating to tentative carryback and refund adjustments) is amended by inserting "by an acid rain control credit carryback provided in section 30(d)," after "section 172(b),".

(B) Section 6411(a) of such Code is amended—

(i) by inserting "unused acid rain control credit," after "net capital loss,", and

(ii) by inserting "or an acid rain control credit carryback" after "business credit carryback".

(C) Sections 6411(b) and 6411(c) of such Code are each amended by inserting "unused acid rain control credit," after the "net capital loss," each place it appears.

(4) Subparagraph (C) of section 6511(d)(4) of such Code is amended by inserting "or any acid rain control credit carryback under section 30(d)" after "section 39".

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting at the end thereof the following new item:

"Sec. 30. Acid rain control equipment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1990, in taxable years ending after such date.

SEC. 2. TAX-EXEMPT FINANCING OF ACID RAIN CONTROL PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bonds) is amended by striking "or" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(12) qualified acid rain control property."

(b) QUALIFIED ACID RAIN CONTROL PROPERTY DEFINED.—Section 142 of such Code is amended by adding at the end thereof the following new subsection:

"(j) QUALIFIED ACID RAIN CONTROL PROPERTY.—For purposes of this section, the term qualified acid rain control property' means tangible depreciable property installed by the taxpayer to meet requirements of the sulfur dioxide emissions limittions under title IV of the Clean Air Amendments of 1990."

(c) EXEMPTION FROM VOLUME CAP.—Subsection (g) of section 146 of such Code is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(5) any exempt facility bond issued as part of an issue described in paragraph (12) of section 142(a) (relating to qualified acid rain control property)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of the Clean Air Act Amendments of 1990.

SEC. 3. TAX CREDIT FOR MINERALS USED TO REDUCE THE SULFUR IN COAL.

(a) IN GENERAL.—Subpart D of part IV if subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by inserting after section 42 the following new section:

"SEC. 43. TAX CREDIT FOR COAL CLEANING MINERALS.

"(a) GENERAL RULE.—For purposes of section 38, the credit for qualified coal cleaning minerals for the taxable year shall be an amount equal to 20 percent of the expenses paid or incurred during the taxable year for qualified coal cleaning minerals.

"(b) QUALIFIED COAL CLEANING MINERALS.—For purposes of this section, the term 'qualified coal cleaning minerals' means minerals and ores used in connection with qualified acid rain control property to remove or reduce the sulfur content of coal.

"(c) QUALIFIED ACID RAIN CONTROL PROPERTY.—For purposes of this section, the term 'qualified acid rain reduction facility' means tangible depreciable property installed by the taxpayer to meet requirements of the sulfur dioxide emissions limitations under title IV of the Clean Air Act Amendments of 1990."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of such Code (relating to business credits) is amended by striking "plus" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(6) the coal cleaning minerals credit determined under section 43(a)."

(2) Section 162 of such Code (relating to deduction of trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) COAL CLEANING MINERALS.—

"(1) IN GENERAL.—The deduction allowed by subsection (a) shall not exceed 80 percent of the expenses paid or incurred during the taxable year for qualified coal cleaning minerals.

"(2) DEFINITION.—For purposes of this subsection, the term 'qualified coal cleaning minerals' means minerals and ores for which a credit shall be allowable in the taxable year under section 43."

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 43. Credit for coal cleaning minerals."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of the Clean Air Act Amendments of 1990.

SEC. 4. EXCLUSION FROM GROSS INCOME OF RECEIPT OF QUALIFIED CLEAN AIR ALLOWANCE AND PROCEEDS OF DISPOSITION THEREOF.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 136 as section 137 and inserting after section 135 the following new section:

"SEC. 136. QUALIFIED CLEAN AIR ALLOWANCES.

"(a) RECEIPT OF ALLOWANCES.—Gross income does not include the value of qualified clean air allowances allocated to the taxpayer.

"(b) DISPOSITION OF ALLOWANCES.—

"(1) IN GENERAL.—At the election of the taxpayer, gross income does not include amounts received or accrued from the sale or exchange of qualified clean air allowances.

"(2) LIMITATION.—The amount to which an election under paragraph (1) applies shall not exceed the aggregate adjusted basic of the qualified acid rain control property held by the taxpayer at the beginning of the taxable year following the taxable year in which the sale or exchange occurs.

"(3) SPECIAL RULES.—

"(A) ELECTION.—Any election under paragraph (1) shall be made in the manner prescribed by the Secretary by regulations and shall be made not later than the due date prescribed by law (including extensions) for filing the return of tax under this chapter

for the taxable year in which the amounts were received or accrued.

"(B) BASIS REDUCTION.—The amount excluded from gross income under this subsection shall reduce the basis of the qualified acid rain control property of the taxpayer under subsection (a)(26) of section 1016.

"(C) TAXABLE YEAR OF BASIS REDUCTION.—The basis reduction described in subparagraph (B) shall be made at the beginning of the taxable year following the taxable year in which the sale or exchange occurs.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CLEAN AIR ALLOWANCES.—The term 'qualified clean air allowances' means allowances allocated to the taxpayer by the Administrator of the Environmental Protection Agency under section 403 of the Clean Air Act (as in effect after the Clean Air Act Amendments of 1990—.

"(2) QUALIFIED ACID RAIN CONTROL PROPERTY.—The term 'qualified acid rain control property' means tangible depreciable property installed by the taxpayer to meet requirements of the sulfur dioxide emissions limitations under title IV of the Clean Air Act Amendments of 1990."

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of such Code (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) for amounts excluded from gross income pursuant to an election under section 136(b)(1)."

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

"Sec. 136. Qualified clean air allowances.
"Sec. 137. Cross references to other Acts.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of the Clean Air Act Amendments of 1990.

SEC. 5. 60-MONTH AMORTIZATION OF ACID RAIN CONTROL PROPERTY.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding as Section 169A the following new section:

"SEC. 169A. AMORTIZATION OF QUALIFIED ACID RAIN CONTROL PROPERTY.

"(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortizable basis of any qualified acid rain control property (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each of such period within the taxable year, equal to the amortizable basis of the qualified acid rain control property at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of such month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such qualified acid rain control property for such month provided by section 167. The 60-month period shall begin, as to any qualified acid rain control property, at the election of the taxpayer, with the month following the month in which such property was completed or acquired, or with the succeeding taxable year.

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the property is completed or acquired, or with the taxable year succeeding the taxable year in which such property is completed or acquired, shall be made by filing with the Secretary in such manner and form, and within such time as the Secretary may be regulations prescribe a statement of such election.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the armortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such property.

"(d) DEFINITIONS.—

"(1) QUALIFIED ACID RAIN CONTROL PROPERTY.—For purposes of this section, the term 'qualified acid rain control property' means any tangible property other than a building and its structural components (except for a building which is exclusively a treatment property) that—

"(A) is installed in order to comply with sulfur dioxide emission limitations under title IV of the Clean Air Act Amendments of 1990, and has been certified by the Administrator of the EPA as reducing sulfur dioxide emissions at the source (or sources) where such property is installed, or

"(B) is installed on or in connection with property described in subparagraph (A).

Tangible property installed in order to comply with the sulfur dioxide emission limitations shall include additions to or replacements of facilities or parts of facilities in existence prior to 1990 provided that the additions or replacements are certified by the Administrator as contributing to the sulfur dioxide emission reduction required by the Clean Air Act Amendments of 1990.

"(e) AMORTIZABLE BASIS.—

"(1) DEFINED.—For purposes of this section, the term 'amortizable basis' means that portion of the adjusted basis (for determining gain) of the tangible property of a qualified acid rain control property which may be amortized under this section.

"(2) SPECIAL RULES.—

"(A) If any tangible property constituting all or part of a qualified acid rain control property which has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such property shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such property, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the applicable recovery period of such property determined under section 168.

"(B) The amortizable basis of an acid rain control property with respect to which an election under this section is in effect shall, at the election of the taxpayer, be increased for purposes of this section, for additions or improvements after the amortization period has begun, effective with the month following the month of completion which month shall be deemed the first month of the 60 month period applicable to such addition or improvement.

"(f) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

"(g) CROSS REFERENCE.—

"For the special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

(b) CONFORMING AMENDMENTS.—

(1) Section 1245(a)(3) of such Code is amended by striking "(or subject to the allowance of amortization provided in section 185 or 1253(d) (2) or (3)" after "section 167" and inserting in lieu thereof "(or subject to the allowance of amortization provided in section 169A, 185, or 1253(d) (2) or (3)".

(2) The table of sections of part VI of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 169 the following new item:

"Sec. 169A. Amortization of clean air facilities."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of the Clean Air Act Amendments of 1990.

H.R. 5692—TITLE X REAUTHORIZATION

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. RHODES. Mr. Speaker, during my two terms in Congress I have been a strong pro-life advocate. I have always supported legislation which would forbid the use of Federal funds for abortions, unless the life of the mother is endangered. However, I have also been a strong supporter of title X funds which provide grants for family planning services.

I have received some criticism from my constituents regarding what they perceive to be an apparent inconsistency regarding my support for title X programs. However, as you know, although title X funds cannot be used to fund abortions, they can be used for a variety of necessary family planning services. Title X funds are used to provide natural family planning services, infertility services, adolescent services, and screening for sexually transmitted diseases. I do not believe that I must defend to anyone my support for these services.

However, I do not support the House procedures allowing H.R. 5692—title X reauthorization—to be brought to the floor of this House under Suspension of the Rules. House procedures allow for Suspension of the Rules for noncontroversial pieces of legislation. The title X reauthorization is far from noncontroversial.

As we witnessed this weekend, during the debate of the District of Columbia appropriations bill, the appropriation of Federal funds

for family planning and abortion services can be a very contentious subject. Mr. Speaker, I support title X reauthorization, but I do not support the House procedures under which H.R. 5692 has been brought to the floor of the House of Representatives.

On September 26, 1990, the Senate passed by voice vote, an amendment to the Senate family planning reauthorization bill which would require single parent notification before an abortion can be performed on a minor child. The law requires parental consent before a minor can obtain a driver's license, play sports, go on a field trip or give blood. At the very least, I believe that we should allow the House an opportunity to debate and vote on an amendment to require parental notification before an abortion is allowed to be performed on a minor child.

The House of Representatives has already provided $144.4 million for title X services in the Labor, Health and Human Services and Education appropriations bill. A "no" vote on H.R. 5992 will delete the funding from the title X program, rather it would allow the House to vote on this controversial legislation and consider language requiring single parent notification.

TRIBUTE TO DANIEL M. DAUGHERTY

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. WALGREN. Mr. Speaker, it is with great pride that I rise today to recognize a man who personifies the meaning of the words commitment and dedication to our community, Mr. Daniel Daugherty of West View Borough. Mr. Daugherty has been a leader on the job, in his community, and as a member of the Veterans of Foreign Wars.

Mr. Daugherty began his long career by serving his country in the U.S. Marine Corps. After being honorably discharged in January of 1956, Dan was employed by Allis Chalmers and became a member of the International Association of Bridge Structural and Ornamental Iron Workers Local Union No. 3. Dan has played a pivotal and unique role in the protection of labor for 33 years. His service to others has continued as executive director of the West View Water Authority.

In recognition of his long-standing commitment to the citizens of the community, Dan was elected to West View Borough Council in 1969. He is presently serving his 21st consecutive year on council, the past 16 years as president. This is an outstanding accomplishment as West View Borough has grown tremendously under Dan's leadership. Mr. Daugherty's service to Allegheny County and strong commitment to local government was recognized by his colleagues through his election to the presidency of the Allegheny County Borough's Association and office of the treasurer to the Allegheny County League of Municipalities.

Mr. Daugherty joined the Veterans of Foreign Wars, Post 2754 in 1965 and became a life time member in 1977, serving in many capacities these past 25 years. He exemplifies the ideal of volunteer service and, like a number of other area veterans, gives generously of time, money and effort to support veterans' activities throughout the district.

Mr. Daugherty's neighbors also recognized his leadership abilities by electing him as Democratic committeeman of the Allegheny County Democratic Party in 1965. He has served as the chairman of the Democratic Party of West View since 1975. Dan's leadership and guidance to others have been and continue to be a strong force in the community.

On October 26, 1990, Dan will be honored by the West View VFW with the "Citizen of the Year Award for Excellence in Service to the Community." This award is dedicated to recognizing those individuals who seek to serve the public good with integrity and principles.

Dan has touched so many lives in so many ways. He is part of the past, a creator of the present, and a planner for the future.

Mr. Speaker, Daniel Daugherty's leadership, hard work, and compassion have earned him the respect and love of those who know him well in all walks of life. It is a matter of personal privilege and pride for me to work with such an outstanding American.

MARY LOU RYAN TEACHING FOR OUR FUTURE

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. BOEHLERT. Mr. Speaker, because of her outstanding achievement in conservation and stewardship of our natural resources, Mary Lou Ryan, of Middleburgh, NY, has been named by President George Bush a national recipient of a Theodore Roosevelt Conservation Award.

As a third grade teacher at the Middleburgh Elementary School in the district I represent, I have seen first-hand Mary Lou's commitment to our environment, and was proud to have nominated her for this award. The respect for our natural heritage she instills through her innovative and creative curriculums opens new doors to her students of the world around them.

Through studies and experiments with her third graders on acid rain pollution, Ryan has taught her students about a major environmental problem in New York and has encouraged them to get involved and do something about it. The children have passed their findings on to their family, friends, and even their Congressman. In fact I cited their letter in a speech to Congress on the Clean Air Act amendments.

Ms. Ryan has taught her children that each and every one of us can make a difference. She has mobilized her third graders and has given them the confidence to do something about the problems facing our environment. Just think, in the year 2000 these students will be 20 and 21 years-old, ready to begin families and careers of their own. Some day these leaders of tomorrow will visit lakes and forests, once dead from environmental deterioration, and realize that because of the work of people like Mary Lou Ryan, the water and trees are alive again.

I have met with Mary Lou and her students at a community forum to discuss the damage acid rain causes to buildings, monuments, forests, lakes and wildlife in upstate New York. I was impressed with the students, knowledge of the subject and their willingness to learn more.

Teachers play such an important role in the development of our youth. The efforts of Ms. Ryan lay a strong foundation in tomorrow's adults by teaching environmental awareness, and the means to minimize and prevent pollution, in the spirit of our first great conservationist President, Theodore Roosevelt.

Mary Lou's creative approach to teaching by encouraging her students to learn more does not end in the classroom; rather, it instills in her youth a sense of responsibility and commitment to personally undertake changes in their own life-style. Through her students, Mary Lou's legacy will live on and inspire others.

THE DILEMMA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. YOUNG of Alaska. Mr. Speaker, recently, I received a poem called The Dilemma by Roy Smith. The poem is the type that ought to be funded by the National Endowment for the Arts, instead of some of the garbage they've been squandering our money on. It talks to the issue of the day in many Western States' communities brought on by crusading urbanites—primarily in the Eastern United States.

I ask that the poem be printed in its entirety, for the edification of Members, in the RECORD.

THE DILEMMA

(By Roy Smith)

The people in the country
Will have to make a stand
The Urbanites and Bureaucrats
Are locking up the land

They tell us not to graze our cows
And not to log the trees
It has to bring our way of life
Directly to its knees

The economy, it's a pyramid
With production at its base
No one's ever mentioned yet
Just what will take its place

It's hard for us to fathom
Where this power grab will end
A permit for a picnic lunch
Is right around the bend

The lion is endangered
But we have one here in town
I guess we just tie up the kids
And let him prowl around

They've offered to retrain us
For a new and better life
How do we feed our children
What do we tell our wife

We can always move to town
Move in with our city brother
Try to learn about insurance
Try to sell it to each other

We can't desert the battle
Even if the odds are slim
I'm feeling like the Indian felt
When they took care of him.

AGAIN, I SAY—TAXES ARE NOT THE ANSWER

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. HUBBARD. Mr. Speaker, during recent weeks I have consistently voted against the budget proposals that have come before this body because I recognize the fact that my western Kentucky constituents cannot bear the burden of higher Federal taxes.

Earlier this year, the Kentucky General Assembly adopted the highest single tax increase in the history of the Commonwealth. But even though Kentuckians do not want higher taxes, they still remain committed to the principle of balancing the Federal budget and eliminating the deficit.

As I have said repeatedly in conversations with my colleagues and on the House floor, I believe that the solution to the deficit and balancing the budget lies in cutting spending—not in raising taxes. The majority of my constituents share this belief.

An editorial in the October 19, 1990, edition of the Kentucky New Era, a Hopkinsville, KY, newspaper, did an excellent job in educating its readers as to why the current approach of raising taxes to reduce the deficit simply will not be effective.

I want to congratulate the newspaper's executive editor, Cecil Herndon, who authored this editorial. At the end of this month, Cecil Herndon will retire after 22 years of distinguished service at the Kentucky New Era. Residents of Christian County and other surrounding western Kentucky counties who read the Kentucky New Era have long appreciated Cecil Herndon for his fair and accurate reporting. His services at the newspaper will be sadly missed.

It is necessary for the Federal Government to reduce spending as a means of reducing the deficit.

I agree with the editorial which follows:

TAX HIKES WON'T WORK

President Bush's popularity has plummeted among the American people in recent days, largely because he caved in to congressional Democrats on taxes as part of the budget fiasco on Capitol Hill.

The sad part of it all is that the president didn't have to do it. Had he stood fast, the overwhelming majority of the people would have stood with him as they did in his election campaign.

Worse, when all is said and done, any tax increase will not increase federal revenue and therefore do nothing toward reducing the federal deficit.

The principle involved here seems hard for many people to understand, but that makes it no less valid. Few tax increases at the federal level result in increased revenue, and most usually end up diminishing potential revenue.

Tax cuts during the John F. Kennedy presidency yielded higher federal revenues, as was the case during the Ronald Reagan presidency.

In fact, those revenues more than doubled during the 1980s. President Bush certainly knows that, as he indicated often during his successful election campaign. Yet he reneged on his pledge against higher taxes in an attempt to get a budget deal through Congress.

From that point on, it became a matter not of whether there would be tax increases, but one of how much and who would be hit hardest.

Had the president stuck by his guns, the worst that could have happened would have been deep spending cuts in a wide range of federal programs under the Gramm-Rudman deficit reduction act.

Certainly such deep cuts would have been painful, but at least they would have provided a perfect example of what it will take to reduce the deficit—significant spending cuts.

Should Gramm-Rudman spending cuts ever be imposed, and if they proved to be painful enough, they just might coax Congress into giving careful consideration to squeezing the waste from spending programs.

The so-called Grace Commission has identified ways to cut billions of dollars in wasteful spending from the budget without significant damage to any worthwhile program.

Congress has paid little or no attention to those recommendations. Instead it's politics as usual. The budget bill the president eventually will sign supposedly will cut the deficit by $500 billion over the next five years.

It will not.

HEALTH CAPTIVES IN THE UNITED STATES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. STARK. Mr. Speaker, the CONGRESSIONAL RECORD for October 22 reports that Senator KASTEN, on behalf of Senator STEVENS successfully amended the foreign aid appropriations bill to provide "life and health insurance benefits for the United States hostages in Iraq and Kuwait and their family members."

That's a worthy amendment.

And I hope that next year, we can provide health insurance to all the U.S. hostages in the United States:

Those with preexisting medical conditions that no insurance firm will cover;

Those who face a doubling and tripling of insurance bills once they use their health insurance;

Those who are afraid to leave a stifling job because they will lose company-provided health insurance;

Those retirees who are suddenly told that a health care service they were promised is now canceled;

Those whose employer goes bankrupt, leaving them with no health insurance;

Those families of two trapped in States where Medicaid is denied if their income is above $1,056 a year; and

Those who are in the only industrialized nation in the world other than South Africa—that does not provide health insurance for its poor and unemployed.

I congratulate the Senators for offering an important precedent for ensuring health care for all Americans. I hope they can persuade their party's President to quit studying the issue and come forth with support for a national health care policy.

IN HONOR OF ARTHUR C. LATNO, JR.

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute to Arthur C. Latno, Jr., on the occasion of his receiving the Anti-Defamation League "Americanism Award" on Thursday, October 25, 1990, in San Francisco, CA.

Arthur C. Latno, Jr., executive vice president of the Pacific Telesis Group, is a 35-year veteran of the telephone industry. His extensive background and experience in operations and regulatory matters led to his election as vice president in 1972. Three years later, Art was named vice president of external affairs, encompassing public and governmental relations in addition to his responsibilities in the regulatory field. He was elected executive vice president in 1978.

Art's dedication to his profession is matched only by his never ending community involvement. Over the years, Art has devoted much of his time to a wide range of organizations in the bay area including the Marin General Hospital Foundation, the Fine Arts Museum of San Francisco and the Port of San Francisco Strategic Planning Advisory Panel. He serves on the boards of Westamerica Bank, Pactel Corp., Nevada Bell and Saint Mary's College, and is chairman of the San Francisco Economic Development Committee.

In addition, Art is a member of the International Host Committee and the Fromm Institute of Lifelong Learning at the University of San Francisco. Most recently, he was named chairman of the newly formed San Francisco 2000 Committee by Mayor Art Agnos. Art is a former U.S. Ambassador and Chairman of the U.S. Delegation Treaty Conference in Melbourne, Australia, and a Knight in the Western Association of the Sovereign Military Order of Malta.

Art and his wife Joan reside in his native Marin County. They have four daughters and three sons.

It is with great respect that I honor Arthur C. Latno in the House of Representatives today as he receives the Anti-Defamation League "Americanism Award."

JASON GUNTERT OF HUDSON, NEW YORK AWARDED YOUNG AMERICAN MEDAL FOR BRAVERY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. SOLOMON. Mr. Speaker, we all spend a lot of time talking about what's wrong with young people these days. I'd like to spend a few minutes today talking about what's right with many young people.

I had the pleasure today of announcing to my district that a Young American Medal for Bravery was awarded yesterday to Jason Frank Guntert, the son of Linda and Terry Guntert of Hudson, NY.

On the night of February 19, 1989, Jason was driving his girlfriend Susan home when he encountered a car on the side of the road. The car was filled with flames and smoke, its driver's side against a guardrail.

Jason got out of his own car and approached the passenger side of the car, which first appeared to be empty. But he heard a voice cry out "help me, please," and he saw a woman sticking her head partially out of the driver's window. Jason, with complete disregard to his own safety, reached in and pulled the woman out of the car.

He extinguished the woman's burning coat with his bare hands, suffering serious burns to his hands. Meanwhile, Susan ran to a nearby house and called for an ambulance, which took the woman and Jason to the hospital.

Mr. Speaker, that kind of response isn't something a person thinks about, he does it instinctively, out of an inner strength and regard for his fellow man.

Jason Guntert is a credit to his parents, to his school, to his community, and to everyone who formed him into the outstanding young man he is today.

It was fitting that Attorney General Dick Thornburgh should present the award to Jason on Monday, October 22, Jason's 19th birthday.

Mr. Speaker, let us pay our own tribute today to Jason Guntert, whose act of heroism saved a life and taught us that the spirit that made America the greatest, freest nation on Earth is still strong among the youth of today.

FAMILY PLANNING ASSISTANCE IS THE BEST FOREIGN AID PROGRAM

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. EDWARDS of California. Mr. Speaker, our Government spends billions of dollars each year attempting to help developing nations establish strong economies. Yet, despite our policymakers' best intentions, development aid will continue to have little impact until it begins to fully address the problem of global overpopulation.

Our colleague from California, ANTHONY BEILENSON, has tackled this issue head on in an editorial published in the Los Angeles Times. As he points out, much of the progress achieved with the economic development money the United States sends overseas is canceled out by the growing population in the Third World. Therefore, we need to consider seriously shifting our foreign aid emphasis from economic development to family planning programs.

I would like to insert Mr. BEILENSON's article in the RECORD, and I commend it to the attention of my colleagues.

[From the Los Angeles Times, July 23, 1990]

POPULATION GROWTH IS THE GREAT ENEMY

(By Anthony C. Beilenson)

Foreign Aid: So long as current trends continue, the money we spend to alleviate poverty in the Third World is wasted.

At the moment, more than 5 billion people share our planet. By this time tomorrow, another quarter of a million will be added to that number.

More than 90% of the newcomers will be born in the Third World. Many of them will die in childhood of malnutrition or disease and most of the rest will live out their lives in countries that cannot adequately feed and shelter the people they already have.

By the year 2025, the world's already strained and overexploited resources will have to sustain life for more than 8 billion people—an increase of 3 billion, most of them desperately poor, in just 35 years.

Besides condemning people to lives of starvation and poverty, this rapid growth in population is invariably taking a huge toll on the environment—stripping forests, eroding fragile soil and polluting and then exhausting water supplies. More and more land is becoming desert and tens of millions of people are moving every year to increasingly crowded urban slums, creating conditions that will inevitably lead to political instability and upheaval.

The harsh fact is that without a decrease in population growth rates, the outlook is bleak, both for developing countries and for our ability to provide them with any real, sustainable help. So long as current population trends continue, the billions of foreign-aid dollars we spend each year in an effort to alleviate povety and stimulate economic growth in the Third World are simply being wasted; our generosity will always remain several steps behind the growing number of mouths to feed and hands to employ.

What can the United States do that will be of help? One good way to start would be to phase out all bilateral economic aid to developing nations (totaling in the proposed 1991 bill about $6.7 billion) and offer instead, to those countries that want it, substantial amounts of funding for family-planning programs.

In addition, we should take $1 billion a year from the money that would be saved and dedicate it to a crash project to develop inexpensive, effective and easily used methods of contraception. In many of those countries now, oral contraceptives, IUDs, diaphragms and condoms are either too expensive, rejected for cultural reasons or are ineffective because they require healthcare services that often are not available.

Ending economic assistance except for family-planning services is not nearly so hardhearted a proposal as it may at first seem. The truth of the matter is that our foreign-aid program does very little good in a world where a great amount needs to be done—our contribution to each country is relatively small and the effect upon the lives of its people is negligible. Our current aid projects help only a few thousand of the millions of people in a particular country; spending those same dollars on family planning would help that country provide more adequately for all its citizens.

More importantly, no matter how much aid is given by the United States and others, the truth of the matter is that developing countries cannot solve their economic problems without first solving their population problems. The reason is obvious: In most Third World countries today, populations are growing faster than the ability to provide food, shelter, health care, education and jobs.

If these countries cannot adequately meet the basic needs of their own people now, they surely will be less able to do so in 20 years, when their populations will have doubled. By then they will be much worse off, even after the expenditure of billions of dollars in economic assistance by us and others in the meantime.

This inevitable reality of population growth is so simple and so inescapable that our failure to recognize it is striking. Yet we mindlessly go about our business, throwing away billions of well-intended foreign-aid dollars on development projects that are not doing the supposed beneficiaries of any real good.

Hundreds of millions of people throughout the world would welcome greater family-planning assistance. Surveys indicate that half of the married women in developing countries do not want any more children; millions more would like to delay subsequent births.

Providing greater amounts of family planning aid and developing new contraceptive methods would be, without question, the most constructive, cost-effective and humanitarian contributions we could make to help developing countries achieve economic and political self-sufficiency, and to better the quality of life of people around the world.

We would be sending a needed message to the entire world that all of us—rich and poor nations alike—are careening toward immense and irreversible human and environmental tragedy that can be averted only if we immediately get serious about slowing our planet's burgeoning population growth.

A TRIBUTE TO JUDGE HANSON SLATON

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. HUBBARD. Mr. Speaker, Hopkins County, KY, lost one of its most outstanding citizens on March 21 this year when Hopkins County Judge/Executive Hanson Slaton died at Vanderbilt Hospital in Nashville, TN.

My wife Carol and I lost a dear friend and one we admired so much when Hanson Slaton died.

Judge Slaton, an effective, efficient, hard-working judge/executive from 1968 until ill health forced him to resign on January 20 this year, was remarkably popular and noncontroversial as he was reelected may times as the top executive county government official in western Kentucky's Hopkins County—population 46,200.

I often said at public events at Madisonville—the country seat of government—Dawson Springs, Nortonville, White Plains, Earlington, Hanson and other communities in Hopkins County that "I want to enroll in the 'how-to-run-unopposed school of politics' taught by Judge Hanson Slaton."

One major reason for Hanson Slaton's popularity through the years was his attractive, vivacious, helpful wife Betty.

Judge Slaton was an elected official whose advice I sought many times. And he gave me excellent advice! He was so highly respected.

Hanson Slaton was born at White Plains, KY, in 1924.

He was plagued with ill health from a comparatively young age when he contracted tuberculosis and at one point appeared to face the life of an invalid.

With the support of his wife, Betty, he got into politics in 1955, backing Al Neisz for Hopkins County sheriff and becoming a deputy sheriff at the age of 28.

When Neisz's successor, Al Lantrip, died in the middle of his 4-year term, Slaton filled Lantrip's unexpired term and then was elected to the office of Hopkins County sheriff by a 10-to-1 margin.

He was elected Hopkins County judge in 1968.

Judge Slaton was a member of the Hanson United Methodist Church. He was a member of the Madisonville Lions Club, Rizpah Shrine, Scottish Rite and the Hopkins County Historical Society. He was a member of the board of directors of the Trover Clinic Foundation, the Hopkins County Health Department and Peoples Bank & Trust Co. in Madisonville.

Survivors are his wife, Betty Callis Slaton of Hanson; a sister, Ada Mauk, Madisonville; and a brother, Clyde Slaton, Jr., Memphis, TN.

My wife Carol and I extend to our dear friend Betty Slaton and other members of Hanson Slaton's family our sympathy.

ACCESS TO VETERANS HOUSING PROGRAM FOR DESERT SHIELD RESERVES

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. RAHALL. Mr. Speaker, today I have introduced a bill which will make members of the Selected Reserve who served in Operation Desert Shield in the Persian Gulf eligible for the Department of Veterans Affairs home loan program. While our young men and women serving in the gulf continue to face this explosive situation with courage and perseverance, we must show them that their service will not go unrecognized here in America.

My bill is quite simple. It says to American reservists serving in the gulf, "we understand." Many of our troops have been there for some time already, and as far as we know, could be there for a prolonged period. Their lives already have been and will continue to be disrupted. This bill will give these service members a chance to achieve stablity for themselves and their families upon their return to America.

Over the past 2 months, I have seen countless news reports containing messages from our troops in the desert to their loved ones who remain here in safety. I have seen young men and women who have displayed absolute devotion to America despite this unexpected call to duty. All I want to do is assure these soldiers that they do not have to give up their plans for the future, regardless of the upheaval in their lives. When they return, they will be able to purchase a home under the existing VA program. This is not a reward for their bravery, for although there can be no doubt of their courage, there can be no reward equal to their service. This is one way that we in Congress can show our troops in the Middle East that they are not forgotten, and that we understand their need for stablity when they return home.

The United States is only now moving toward fair compensation for our Vietnam veterans for such issues as exposure to agent orange. We must not make the same mistake this time. I urge my colleagues to support this legislation and those who need our support now more than ever.

OHIOAN ELIZABETH P. CARTER HONORED WITH 222D POINT OF LIGHT FROM PRESIDENT BUSH

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. APPLEGATE. Mr. Speaker, I rise today to pay tribute to a distinguished member of the community of East Liverpool, OH, Elizabeth P. Carter. Elizabeth has just been recognized by President Bush as the 222d Point of Light honoree for founding the Tri-State Promoters Cultural and Creative Society.

This group is a nonprofit, nonpolitical, nonfunded, self-help, all volunteer social service club that is celebrating 25 years of helping the needy and underprivileged in Ohio, Pennsylvania, and West Virginia. A silver anniversary extravaganza is planned for November 3, 1990 to celebrate these 25 years of dedication to the community.

Mrs. Carter maintains that "if I can help somebody as I pass along, then my living shall not be in vain." This philosophy is incorporated in everything Elizabeth does. After having two sons, she opened a delicatessen that proved to be the unintentional birth of the Promoters Society. What was supposed to be a revenue generating business turned out to be a money-losing missionary. One day a young boy came to her deli and asked for a slice of bread, and Elizabeth, not being able to turn away the poor and hungry, began giving this boy and his family bags of groceries. This young man turned out to be one of Elizabeth's Cinderella stories, as he went on to become a successful lawyer, and a large contributor to the East Liverpool organization.

The Tri-State Promoters Cultural and Creative Society serves as an umbrella organization that includes the facilities of the Tri-State Adult Clothing House, the Tri-State Children's Clothing House, the Tri-State Music House, which provides a music study program for the underprivileged, and the Carter Dining Room, serving as an entertainment center.

There is no limit to the services the Promoters perform. "You name it, we do it," says Elizabeth, who was the 1975 recipient of the Governor's Award for Community Action, and was also singled out in USA Today's 1987 list of people who have "made a difference."

The society started out giving food, then added workshops on self-esteem; they say no to drugs and yes to music. The club song, "Reach Out and Touch Somebody's Hand," is sung after each meeting by volunteers holding hands in a circle. The society holds self-help seminars and promotes reading by providing books at all five of its locations. It allowed over 600 people to enjoy Thanksgiving dinner and fellowship last year, and some 400 this past Easter. More than 200 families were given school clothes this year.

As part of its 25th anniversary celebration, the society held a youth summer enrichment program that featured arts and crafts, reading and spelling contests, guest lecturers, and seminars on good manners and etiquette. With the help of donations and fundraisers, The Tri-State Music House sent 56 young people to Washington, DC last summer.

Elizabeth says her motivation has always come from within: "What I'm doing is just a part of life. It's just my lifestyle." Mr. Speaker, it is my distinct privilege and honor to ask my colleagues to join with me in acclamation of Elizabeth P. Carter, a unique individual that some have called an angel on Earth, and to congratulate the Tri-State Promoters Cultural and Creative Society on 25 years of dedication to those in need.

FREE ELECTIONS IN HUNGARY

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. COX. Mr. Speaker, 34 years ago today, Soviet tanks rolled through the streets of Budapest and the Hungarian countryside. Soviet troops, senseless to the cries of the Hungarian people, brutally crushed them for their attempt to throw off the shackles of socialism.

Fortunately, while the Hungarian freedom fighters were temporarily defeated, the spirit of their movement has never been extinguished. Today, the Iron Curtain has been lifted, and Hungary's first democratically elected government bears witness to the strength and perseverance of the Hungarian people in their quest for freedom and democracy.

The triumph of democracy and free enterprise over socialism in Hungary has been a long time coming, and on this very important anniversary, it should be recognized.

In 1968, Hungary was one of the first Eastbloc countries to loosen economic controls on private enterprises. Twenty-one years later, the first crack in the Iron Curtain appeared along the Hungarian-Austrian border, when Hungarian officials allowed thousands of East Germans to escape to the West—thus precipitating the collapse of the Berlin Wall.

Hungary was also one of the first Eastern European countries to dismantle its one-party socialist political apparatus, and install a democratic multiparty system. In March and April 1990, parliamentary elections were held and today the Hungarian people are beginning to enjoy the first fruits of representative government.

By instituting such reforms, the people of Hungary have shown that they embrace democracy and renounce socialist rule. The United States should recognize this progress. I hope you will join me in doing so by sponsoring the following joint resolution.

H.R. 5693, THE TITLE X FAMILY PLANNING REAUTHORIZATION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. ANDERSON. Mr. Speaker, I rise today in support of H.R. 5693, a bill to extend the authorization for title X Federal family planning assistance through fiscal year 1994. I believe family planning assistance is a vitality important service the Federal Government can provide to local communities to reduce the number of abortions and unwanted pregnancies, especially those of teenagers.

Family planning programs are intended to help families plan the size of their families and space the timing of their children, and to prevent unintended pregnancies. Family planning providers are also in many cases the primary source of health care for their clients, who tend to be low-income women without the means to turn to other health-care providers. In addition to contraceptive information, family planning clinics provide pregnancy testing and counseling, as well as such basic medical services as blood pressure testing, breast examination, pap smears, and cancer screening. Testing for and treatment of sexually transmitted diseases, including AIDS, is also a major service of family planning clinics.

Some people mistakenly confuse family planning with abortion. Let me make it clear that these are two very separate issues. In fact, one of the primary successes of the title X program is to reduce the number of abortions performed by providing information on safe and effective contraceptive use. Indeed, by law, no abortions may be provided with title X funds. Nor are family planning clinics in the business of wantonly providing contraceptive devices to teenagers. Eighty-eight percent of teenagers requesting assistance have been sexually active for a year or more. This statistic illustrates how important family planning is in combating the overwhelming tragedy of teenage, out-of-wedlock births. Giving information on contraceptives and responsible sexual behavior means we can break the endemic cycle of teenage pregnancy, and its contribution to inescapable poverty. Moreover, we can reduce the likelihood of a baby being brought up in an environment where it is not wanted and where the mother cannot afford to give her baby the attention or care it desperately needs.

Nationwide, family planning programs provide assistance to 5 million low-income women and teenagers each year. The requirement for this program is obvious. In 1985, in California alone, there were 57,380 pregnancies to women age 17 and younger. In 1987, an estimated 1.5 million teenage and poor women were at risk for unintended pregnancy. There are 500,000 women considered to be at risk in Los Angeles alone, while only one-third of these women are provided any services. Nearly three-quarters of Los Angeles family planning clients have incomes less than half the poverty level. Seventeen percent of family planning clients are teenagers. In my district alone, 30,864 women need family planning services while only 8,101 received assistance, in spite of the presence of five clinics and health service centers providing care.

While the above numbers are growing as population size increases, the Federal funds for family planning have shrunk from $162 million in 1981 to $140 million today. It is clear to me we need to do more. This legislation is especially important because it turns this downward spiral around, and provides for modest increases in these funds. By authorizing $156 million for fiscal year 1991, rising to $181.5 million in 1994, we take a small step in meeting the needs of our communities and the poor women in our districts. I urge my colleagues to support this legislation, and support family planning assistance.

THE 45TH ANNIVERSARY OF NATIONAL RADIO SHOW

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. SCHEUER. Mr. Speaker, with the escalating cost of movies, and plays in modern society, it is rare to find any truly affordable family entertainment. I am both pleased and honored to commemorate the 45th anniversary of Mr. Oscar Brand's radio show, "The Folksong Festival."

Mr. Brand is a wonderful entertainer who, for nearly half a century, has delighted and thrilled audiences around the world.

Mr. Brand has a long history in the field of entertainment apart from his radio show. He has recorded a long list of children's albums, including "Singing Holidays," and "It's your Birthday"; and was a member of the panel that created the most unique show in the history of educational television: "Sesame Street."

For all that Mr. Brand has done, he has been given an honorary doctorate from the University of Winnipeg, a "Laureate" from Fairfield University, among being honored by numerous other educational institutions and political entities.

His radio show, "The Folksong Festival," has been broadcast every week on WNYC, National Public Radio's flagship station. A feat even more amazing than the duration of this show's popularity is the fact that Mr. Brand continues to perform, as always, for absolutely no pay.

Mr. Brand is a resident of Great Neck, NY, and I am proud to have him as a constituent.

Mr. Speaker, there are very few people who have added so much to our lives. It is for these reasons, that we honor the generosity and achievement of Mr. Oscar Brand with the 45th anniversary show of "The Folksong Festival" on National Public Radio, on December 10, 1990.

THE BUDGET AND SMALL BUSINESS

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. CAMPBELL of California. Mr. Speaker, a recent survey by the National Federation of Independent Business (NFIB) confirms that small business owners across America consider the Federal budget deficit as one of the most pressing issues facing our country. Small business wants action on the deficit, and it has been frustrated with the lack of direction from this Congress.

In the final days before adjournment, it looks as if we will vote on a final budget reconciliation bill. But will that bill create a favorable climate for investment and U.S. competitiveness? Will it hold the line on domestic spending? And what effect will that bill have on small business, the biggest creator of new jobs in our economy?

A few provisions of the House and Senate tax bills do benefit small business. The Senate bill, for instance, establishes a 25-percent deductibility for the self-employed and contains a $5,000 tax credit to help small businesses comply with the new Americans with Disabilities Act [ADA]. The House bill has slightly improved treatment of capital gains. However, by and large, the two bills would hurt small business. The House bill would delay indexing for 1 year, which most hurts the smallest of businesses, and both versions raise the ceiling on the FICA payroll tax.

More importantly, small businesses recognize that neither bill contains the necessary cuts in domestic discretionary spending. The latest budget resolution allows domestic spending to grow at the annual inflation rate, which is no cut at all. And any small business owner will tell you that she must plan for the coming years with realistic expectations of costs and revenues. The economic assumptions in the budget resolution represent a classic, highly unrealistic "Rosy Scenario"—inflation falling to 2.8 percent by 1995, interest rates falling to 4.2 percent, growth doubling next year and tripling the year thereafter. Any small business that bases its 5-year planning on these assumptions would not likely remain in business that long.

I would urge my colleagues to keep these small business concerns in mind as we rush to finish the budget over the next few days. In addition to finding a fair tax package, we must commit to real cuts in domestic spending. Anyone who balances a checkbook can tell us that.

WELCOME TO OUR NEWLY NATURALIZED CITIZENS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the residents of New York's 22d Congressional District who have chosen to become citizens of the United States with all the privileges, freedoms, and responsibilities that American citizenship entails.

Our beautiful Hudson Valley region in New York State is proud of its newest citizens, and I invite my colleagues to join me in welcoming the following newly naturalized Americans and extending to them our best wishes for a happy and prosperous life in their new homeland:

LIST OF NEWLY NATURALIZED CITIZENS

Nopoleon Abillar, Qosia Ahmad, Sudhir Alampur, Leonara Alday, David Alony, Farah Alouidor, Beaubrun Ardouln, Ella Bakhmutsky, Michael Bakhmutsky, Esther Berger, Eliezer Biksenshpan, Carmen Blum, Fred Boncy, Carolyna Bregaudit, Juliette Bryan.

Victor Cadet, Consolar Casapao, Enery Cave, Ishwar Chainani, Mollie Chainani, Bory Chan, Vuthai Chan, Diana Chelewsky, Chantal Colo, Maria Custodio, Roy Daher, Mariamma Daniel, Saleh Darismail, Role-Dany David, Jane Dawkins.

Garry Doxy, Martha Echevarria, Ed Elioney, Khusro Elley, Albert Ergas, Okeya Ernest, Dilicia Espinal, Lourdes Fernandez, Leighton Finch, Michael Flynn, Mario Gareri, Charles Gaspard, Cygethia Gayle, Remedios Gerencser, Abraham Glauber, Perl Glauber, Jairo Glen Leon Gold.

Avenel Golding, Elida Gonzalez, Gabriele Greenstein, Angella Harding, Alexander Hart, Mary Hearty, Guilermo Hernandez Ospina, Moshe Hirsch, Sara Hirsch, Jih-Perng Hu, Ralph Hutt.

Ileana Ivanciu, Chaim Ivry, Alan Jackson, Mohamed Jaffer, Beenamma James, Jean-Renaud Joseph, Marie Julien, Mohammed Kaleemullah, Chana Kaplan, Eleftherios Karmaboulis, Achillefs Kentimenos, Carmen Khayat, David Kilerciyan, Sylvia Kuriachan, David Laboriel, Jean Lahens, Dieula Lemoine, Diana Levy, Marion Linsangan, Mei Liu Wu.

Ee Lo, Andrealita Magloire, Jack Maharath, Merson Malivert, Elfrida Malkin, Michele Mancini Brandt, Georgios Maravegios, Samuel Mark, Miguel Martinez, Louis-Pierre Michel, Efraim Milman, Anat Mizrachi, Insam Mohomed, Yolande Monczyn, Althea Mundy, Anna Narcisse, Yves Narcisse, Ratnakar Nayampalli, Mui Nguy, Oanh Nguyen, Peter Ochel, Marie Oge, Marie Orelien, Feiga Ostreicher, Eiko Park, Shinho Park, Lydia Parvu, Roxana Passaro, Amit Patel, Dinesh Patel, Priti Patel.

Richard Pen, Frank Pena-Urena, Pedro Perez, Larky Peterson, Yu Petriello, Lang Pham, Phuong Pham, Maria Pizzano, Brendan Plunkett, Marurizio Policicchio, Kisland Posy, Celestina Pozo, Sylvia Rab, Jessy Rajan, Otoniel Ramirez, Soledad Rapay, Elaine Richardson.

Maria Rivas, Karen Sanson, Josefina Santana, Mona Sarju, Amelia Sarsonas-Sumadchat, Jeanette Schmelzer, Charles Schwartz, Susan Scrobe, Alexander Serban, Jacob Shasha, Ofier Sigal, Isabel Socorro.

Senaretta Spencer, Meherban Syed, Nasreen Syed, Luisa Taddeo, Armando Tangonan, David Tashjian, Zulmise Therlius, Kathleen Thompson, Reynaldo Tolentino.

Lourdes Toral-Barza, Sonnia Torres, Percy Tsao, Milada Urban, Zdenek Urban, Jorge Urra, Augustin Valerius, Samuel Varghese, Haydee Vasquez, Danila Vega, Yolanda Villa, Camille Vixamar, Sylvia Warren, Vania Weksler, Beverlene White, Lionel Williams, Dieter Wingen, Lynne Wit, Winsome Wright, Donald You, Alfredo Zaldivar, Litsa Zervakis, Jin Zhang, Elad Ziv.

FEELINGS TOWARD CRISIS IN MIDDLE EAST

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Ms. KAPTUR. Mr. Speaker, I would like to put on official record representative statements by high school seniors from northwest Ohio. These students are enrolled in an American political systems class and responded to the question, "What are your feelings toward the crisis in the Middle East?" At this critical time when military force is one option in the Middle East, Congress should solicit and consider the opinions of all people, especially those young adults that would be deployed to travel to Saudi Arabia to defend our Nation. In resolving this situation, President Bush and the Congress have an awesome responsibility in justifying a protracted military involvement to the American people.

I don't think we should be sacrificing our men for an oil feud.

I think that our troops should come home.

I feel we're protecting our American interests, which is good. But, I don't feel it's right to strand young men and women in a foreign land.

I don't think it's right because we're losing lives over oil."

I think America is really messed up if we would want to sacrifice the lives of young men in a war over who gets oil.

I don't think our men and women should be over there.

I think that the U.S. and the other countries are doing the right thing.

It's going to be another useless battle, such as Vietnam.

I think the U.S. should stick up for what it believes is theirs, but I also don't think the rising price of oil is worth going to war over."

I think its crazy we are losing lives over oil.

I do not want to go to war, but if that is what we must do, then I support it. I don't think that all we are doing is "protecting" our oil. I think we are giving a message to other countries that they cannot overrun little countries just because they are littler and have less strength. We cannot permit a tyranny to occur through overpowering rulers and still live without feeling guilty.

I think it should all stop. We don't need to lose lives just because of oil.

I feel that Saddam Hussein should be stopped but not with military actions. If we can't get oil, we should use the great mines of America to work for a new source of oil. I totally disagree that Iraq is in Kuwait, but we should only hold the trade embargo, we should not be the aggressor.

The Middle East situation is one that is utterly ridiculous. Risking a human being's life for the price of oil/a barrel full of oil is inhumane, and totally unexplainable.

I really hope it doesn't lead to war. However I do believe that Hussein needs to get his troops out of Kuwait, and if it has to be done by force, then we might have to use military force.

I feel we should seek more peaceful means.

The crisis in the Middle East isn't something that we really should be involved in. However, if they do attack us, then I feel that we should have the right to do what we want.

I think that American lives are more important than oil.

TRIBUTE TO PUERTO RICAN PANORAMA WITH DIEGO CASTELLANOS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay special tribute to a television program and a man who have done much for the Puerto Rican community in Philadelphia. The program is Puerto Rican Panorama with producer and host Dr. Diego Castellanos. This year it celebrates its 20th anniversary.

Dr. Castellanos is a native of Puerto Rico and is a successful educator, public administrator, author, Army National Guard officer, pilot and guitarist. In 1971, he created the award-winning bilingual show Puerto Rican Panorama and has served as its host ever since. The show highlights Hispanic culture and community concerns, showcasing success stories and providing an opportunity for local Latino artists, musicians, and other performers to display their talent on a major television station.

Dr. Castellanos is credited with having drafted the New Jersey State bilingual education law and being the major force behind its enactment. He is also very active in the Puerto Rican community, having served two consective years as president of the high profile Philadelphia Puerto Rican Week Festival and has received well over a hundred awards for his community service—including the Jaycees outstanding young man of the year and a commendation from President Ronald Reagan for his volunteer work.

Mr. Speaker, Dr. Costellanos and Puerto Rican Panorama deserve our respect and admiration for the great work they have done on behalf of the Hispanic community.

THE VIOLENCE IN LEBANON MUST STOP

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. BONIOR. Mr. Speaker, I rise today to express deep concern for the future of Lebanon. The violence that has gripped Lebanon

for the past 16 years has claimed thousands of lives. Most of these casualties and fatalities have been innocent civilians. I have watched with heartache and frustration as the violence raged on.

In 1982, I had a chance to visit Lebanon. The images from that trip still haunt me. Since then, I have sought a peaceful resolution to the crisis and worked to secure humanitarian aid.

In the aftermath of General Aoun's removal from the Presidential Palace, there have been reports of looting and kidnapping in parts of East Beirut. Law and order must be restored immediately for a lasting peace to develop.

I am appalled by the cold-blooded murder of Dany Chamoun and his family. There is no justification for killing innocent children. If continued, the current series of retributions and assassinations will only perpetuate the cycle of violence.

The bitter recriminations and divisions of the past need to be overcome to pave the way for a united and independent Lebanon. Finally, the time has come for all foreign troops to withdraw in an orderly and timely manner. Let the Lebanese people work out their differences and regain their proud and prosperous heritage.

I urge my colleagues to voice their support for the aspirations of the Lebanese people at this critical juncture. I also urge President Bush to send a strong message that those who now control East Beirut, especially foreign forces, will be held responsible for any violations of human rights which have occurred in areas under their influence.

TAIWAN'S VIOLATION OF U.S. INTELLECTUAL PROPERTY RIGHTS

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. GEPHARDT. Mr. Speaker, I would like to bring to the attention of my colleagues another violation of the U.S. intellectual property rights by one of our trading partners. I am referring to the October 19 New York Times report on "Fake Software in Taiwan," involving 5,500 false copies of the MS-DOS computer operating system, originally produced by Microsoft Corp.

The culprit in this case is a company in a country which was removed by the U.S. Trade Representative [USTR] from the "priority watch list" under the "special 301" provision of the 1988 Trade Act as a result of its "accelerated action plan" to improve enforcement. Based on today's news report, I am left wondering about the commitment of Taiwan to its action plan.

As many of us remember, in the 1990 National Trade Estimate Report on Foreign Trade Barriers, the USTR cited issues of concern about Taiwanese intellectual property protection. The report states that this country has "inadequate enforcement of existing laws protecting intellectual property rights, especially, computer software, which remains a serious concern to U.S. exporters."

Though the Taiwanese company has been caught, the fact that Microsoft has suffered a monetary loss of almost $1 million in sales is irreversible. Counterfeiting must be stopped before products are pirated, not after such products come off the assembly line.

At a time when intellectual property rights for international consumption is being discussed at the General Agreement on Tariffs and Trade [GATT] as part of the TRIPS negotiations, the United States has continued to act responsibly. Recent passage by the House of H.R. 5498, Computer Software Rental Amendments Act, to strengthen already effective U.S. intellectual property rights laws, is evidence of our own commitment to this area and the investments of U.S. businesses.

In this light, we should expect and urge our trading partners to pursue efforts that will make their companies more accountable for their actions and halt the practice of pirating without investing. I encourage the USTR to continue pressing our trading partners toward this end.

KENTWOOD PLAYERS CELEBRATE 40TH ANNIVERSARY

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. DIXON. Mr. Speaker, it is with great pleasure that I rise today to congratulate the Kentwood Players community theater group of Westchester, CA, on the occasion of their 40th anniversary.

Located in my congressional district, the Kentwood Players began in 1949 as a group of eight or nine couples who were all members of the Kentwood Elementary School PTA. The theater group's first project was the staging of a Christmas pageant at the Kentwood Elementary School. Sustained by the success of the pageant and given the paucity of other live theater productions in the community, the group formed the Kentwood Players.

Forty years later, the Kentwood Players are housed in the Westchester Playhouse which the group purchased in 1961. The group provides low-cost, quality theater productions six times per year, with each show running for a period of six to seven weeks. The sole source of revenue for these productions comes from ticket sales and membership dues which are paid by the theater's own players. No restrictions or conditions are placed upon membership; anyone who is willing to work hard and do his or her best may become a member of the Kentwood Players.

Over the years, the Kentwood Players have grown beyond the boundaries of Westchester. Today, there are members from other areas of Los Angeles County—as far south as Huntington Beach, and as far north as Encino.

With productions including "The Odd Couple," "Equis," "Anne of a Thousand Days," "Man of La Mancha," "Broadway Bound," "Arsenic and Old Lace," and "Who's Afraid of Virginia Woolf" under their belt, the Kentwood Players community theater group has received well-deserved recognition for its work at several Los Angeles County drama festivals.

I am pleased to join with the citizens of Westchester in saluting the Kentwood Players on their 40th anniversary, and extend my wishes for continued success in the years ahead.

THE STUDENT-ATHLETE RIGHT-TO-KNOW ACT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. TOWNS. Mr. Speaker, I am pleased that the House of Representatives has extended final approval to my legislation, the Student-Athlete Right-to-Know Act. I want to personally thank the gentleman from Montana, the chairman of the Subcommittee on Post-Secondary Education, for his willingness to support this bill. I also want to extend my thanks to the gentleman from Maryland [TOM MCMILLEN], for his cooperation and support in moving this legislation forward.

Mr. Chairman, the Student Right to Know and Security Act will require an annual reporting of the graduation rates of student-athletes as well as statistical information on campus crime problems. Campus security concerns are an unfortunate but important aspect of college life today. The addition of these provisions to the student-athlete right to know legislation, I believe, will make an important contribution toward improving the quality of life on our college campuses.

The major purpose of this bill is to provide consumers, in this case student-athletes and their parents, with information about the quality of education provided to athletes at a given institution. Colleges and universities would be required to report graduation rates broken down by race, sex, and sport on an annual basis to the Department of Education. If we can report the on-time arrivals of airlines, surely we can let student-athletes know whether they are likely to receive a useful college degree, if they sign a letter of intent at "X" University.

I would hope, Mr. Chairman, that our action today will result in a quick acceptance by the Senate of this compromise package so that this bill can become law as soon as possible.

Finally, it is our belief that the Student Right-to-Know Act will result in a consumer selection process. The bill supports the efforts of those campuses who are doing a good job of graduating their athletes, and it will force those who are not, to do a better job, if they want to compete effectively for the best athletes.

ESPY GIVES TRIBUTE TO WILLIE DIXON

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. ESPY. Mr. Speaker, I rise today to give tribute to one of the greatest musicians of our country—Mr. Willie Dixon. Though he is considered the Grand-Daddy of Chicago Blues, we, in Mississippi, consider him the Grand-Daddy of All Blues. That's why we have proclaimed it Willie Dixon Week in Mississippi from October 21 to 27.

Mr. Dixon was born in 1915 in Vicksburg, MS, along the muddy Mississippi River. After growing up in the delta for 11 years, the young Willie Dixon moved to Chicago in 1926. There, he became the master of the blues. In the 1940's, he was playing the string bass with his own band.

Through the years, Mr. Dixon has written over 200 hits. Some of those tunes include "Hoochie-Coochie Man" and "Little Red Rooster."

Mr. Dixon—the Grand-Daddy of All Blues—has touched the heart and souls of millions with his music. He serves as an inspiration to young musicians throughout Mississippi, and we are proud that Mr. Dixon's roots are in the Second Congressional District.

FOUR CORNERS HERITAGE COUNCIL

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. CAMPBELL of Colorado. Mr. Speaker, after months of hard work, an interstate, interdisciplinary team that advocates the formation of a Four Corners Heritage Council is releasing its comprehensive report—"Partners for the Past"—that suggests ways in which the rich cultural heritage of the region can be preserved and promoted.

The report was a result of the Four Corners Governors' Conference in June, 1990. At that time representatives of the Governors of Colorado, New Mexico, Utah and Arizona held a conference in Cortez, CO, to discuss opportunities to increase the Nation's sensitivity to an understanding of the "Ancient Ones" and to promote the area's cultural resources as a way to encourage visitors to the Four Corners.

The report details the recommendations of archaeologists, land managers, Ute Mountain Ute Indian tribal members, public officials, chamber of commerce representatives and the general public concerning the promotion, enhancement, interpretation and preservation of cultural resources of the Four Corners.

Senator WIRTH and I intend to introduce legislation in the next Congress to expand the Yucca House National Monument, to show our appreciation of these incomparable resources and our commitment to the work of the many people involved in this interstate partnership. The expansion will allow the public to take advantage of a generous donation made by a nearby landowner.

In addition, I intend to seek the support of all the members who represent the region and encourage them to help me pursue additional legislation that will provide some consistency in interpreting sites throughout the Southwest and will further protect and interpret other sites.

I am pleased that as a result of a "New Areas Study" I directed the National Park Service [NPS] to undertake in 1987, people are taking a fresh look at the archaeological resources of the entire Four Corners region. Much activity has taken place in the recent years to develop and interpret these resources, including legislation creating the El Malpais National Monument, the Petroglyphs National Monument and designation of the Masai Trail.

The NPS study discussed four alternatives for developing the cultural resources of the area. The alternative that has generated the most discussion involves establishing a federally funded council that could make recommendations for continued study and for linking existing archaeological sites in the Four Corners region. It also would allow all the agencies, individuals and interest groups to remain actively involved in what no doubt will be a slow, but ultimately rewarding, process in protecting and promoting these resources.

RETIREMENT OF GEORGE GEPHART

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to congratulate George Gephart on the occasion of his retirement from his position of manager of communication and public affairs department of the Baltimore Gas and Electric Co.

As a 30-year employee of Baltimore Gas and Electric, Mr. Gephart is an example to us all of the benefits of hard work. A graduate of Yale University, Mr. Gephart has worked his way up to become a supervisor, before going back to school at Harvard University and becoming part of the management team at Baltimore Gas and Electric. Not only is Mr. Gephart's service to his company exemplary, but so is his service to his community. Mr. Gephart served in the U.S. Marines from 1943 to 1946. He currently serves as a trustee of the St. Mary's College of Maryland Foundation, and of the St. Paul's School for Girls, in addition to being the president of the Byron/Kaufman Foundation, Inc. In the past, Mr. Gephart has been president of the Baltimore Area Council of the Boy Scouts of America, a trustee of Mount Washington Pediatric Hospital and a host of other organizations all dedicated to the welfare of Maryland. Few individuals can stand alongside George Gephart when it comes to dedication to American society.

On this, the occasion of his retirement, I congratulate George Gephart for his outstanding achievements and service to his community and the State of Maryland. I wish him all the best.

TRIBUTE TO ANITA PYATT

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. FRANK. Mr. Speaker, on October 25, a very well-deserved award will be made to Anita Pyatt of Fall River, MA. Anita Pyatt is the president of the Fall River Alliance for the Mentally Ill. I can testify personally to the dedication, integrity, intelligence and energy she brings to this position. I know of no individual who has worked harder and more effectively for fairness for those suffering from mental illness.

I have myself been the beneficiary of her extremely thoughtful advice on the entire range of issues relating to public policies that make sense in the field of mental health. Anita Pyatt has patiently worked with me and others in public to help us understand the issues, and to urge us to act appropriately on them.

In recognition of the extraordinary work which she does for others, Anita Pyatt will be receiving on Thursday the George Washington Honor Medal for excellence in the category of individual achievement, presented by the Freedom Foundation at Valley Forge. She was selected for this along with a few others out of thousands of nominees.

I congratulate the Freedom Foundation for its good work, and for its wisdom in conferring this richly deserved honor on a woman whom I am proud to have learned from, and whom I am privileged to work with on behalf of a decent and humane America in which the rights of all to fair treatment are fully honored.

THE CLEAN AIR ALTERNATIVE TO TIRE INCINERATION

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Ms. SCHNEIDER. Mr. Speaker, now is the time for the House of Representatives and Senate to conclude action on strong, comprehensive Clean Air legislation. I congratulate my colleagues on the conference committee for their diligence in reaching a conference agreement.

It has been 13 years since Congress last reauthorized the Clean Air Act. One of the reasons that it has taken so long to move legislation is due to scientific uncertainty surrounding the debate. This fact is the basis for my strong support for title IX of H.R. 3030 that would authorize clean air act research and development. This title would revise the old research section of the Clean Air Act, giving greater emphasis to expanded monitoring, health effects research, and pollution prevention. Enactment of these provisions will help to ensure that future clean air policies will be based on sound scientific information, improving our ability to respond to air pollution problems.

Preventive pollution strategies will be especially important in achieving these clean air objectives. As revealed in hearings before the Subcommittee on Natural Resources, Agriculture Research and Environment, it is ultimately more cost-effective and environmentally healthful to prevent pollution than to undertake the remedial task of waste cleanup after the fact. For example, air pollution prevention research in such areas as energy conservation, source reduction of toxic emissions, and alternatives to tire incineration could yield significantly lower costs.

On this latter point, I would like to note that about 2 billion tires are in storage in the United States, while every year Americans dispose of another 240 million tires, including about 1 million in Rhode Island. Finding safe and effective ways of disposing of these tires would benefit the State and the Nation. Therefore, I am pleased that my amendment calling for the development of tire recycling methods and alternatives to tire incineration was included in the clean air conference report.

Thus, because of the importance of adopting an effective Clean Air Act that can respond to the continuing needs of our Nation, I urge the timely adoption of the clean air conference report in order that the President may sign it into law.

BETTER THAN A LETTER

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. DE LA GARZA. Mr. Speaker, a very patriotic gesture is occurring in the Persian Gulf and I commend all who are participating. The USO, the Defense Logistics Agency, and the Montgomery Ward chain of department stores nationwide are working together to assist families and personnel involved in Operation Desert Shield to have free two-way video communications.

The company has created a project entitled "Better Than a Letter." Nearly 2 million dollar's worth of television sets, VCR's, and camcorders and 250,000 blank videotapes have been sent to the Persian Gulf, allowing our military women and men to make and send video messages to loved ones and friends back home. There are 10 more planeloads of blank videotape and camcorders ready to go.

Montgomery Ward has also made private space available in each of its stores for the viewing of videotapes from Operation Desert Shield. In addition, the company has made provisions for service families to come into any of its stores and tape video messages free of charge. The firm made these arrangements in the thought that many people do not have VCR's at home and therefore would have no way of viewing a tape sent to them by someone in the Persian Gulf area. Even fewer people have camcorders in order to make a videotape. The USO also has free viewing facilities at its installations around the country.

Being able to see and hear a loved one is indeed "Better Than a Letter." As we all know, being able to stay in touch with the folks back home really helps to boost the morale of military personnel stationed in remote and dangerous posts. What we have here is a great example of what a service organization such as the USO, the Government, and the business community can accomplish when working together toward a common goal and in a most worthy cause.

Montgomery Ward, its officials and all others who are participating in this project really deserve our high praise and appreciation for their outstanding efforts. I would like to thank my good friend and colleague, the Honorable FRANK MCCLOSKEY for bringing this to our attention.

CONGRESSMAN KILDEE HONORS MRS. MADELINE McGUIRE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to Mrs. Madeline McGuire, who is retiring from teaching in my hometown of Flint, MI. Mrs. McGuire will be honored at a retirement dinner on November 3, 1990.

Mrs. McGuire began her teaching career in Flint at Merrill Elementary School in 1968. She has taught her entire career at Merrill. She has been active in the National Education Association and the Michigan Education Association. Mrs. McGuire has also been a charter member of the Teacher of the Year Committee at Merrill School as well as the president of the Teachers Club. Throughout her busy teaching schedule, she has also found time to be active in her church, St. Roberts Catholic Church.

During her 22 years as a teacher, Mrs. McGuire touched over 600 children's lives. She has also touched countless others, such as parents and community leaders by her selfless dedication to her profession. She is leaving our community a better place because of her excellence in teaching. There is no doubt that Mrs. McGuire exemplifies all that is good about the teaching profession. She has been a leader throughout her teaching career, leaving those fortunate to work with her, and those taught by her, valuable lessons on life.

Mr. Speaker, it is indeed an honor and privilege to rise before my colleagues today to pay tribute to someone who has excelled in the most noble of professions, teaching. As a former teacher, I can certainly appreciate her efforts to educate the children of Flint. When I entered the teaching profession, I looked up to those teachers who exemplified the ideals of the pursuit of knowledge. Mrs. McGuire is one of those teachers today who has shown the qualities necessary to be a superb teacher. I hold Mrs. McGuire in the highest esteem for her very successful efforts.

Mrs. Madeline McGuire has been an inspiration to those she has worked with, and those she has taught. She has motivated young people, taken the time to work individually with students who had questions, and been a positive influence in many people's lives. I am thankful that Mrs. McGuire chose the profession of teaching. There is no doubt that she is leaving Merrill Elementary School, its faculty, staff, and students, a much better place. While she is retiring from this phase of her career, I am sure that Mrs. McGuire will remain active and be successful in whatever she pursues. Mrs. Madeline McGuire truly exemplifies the qualities of excellence in teaching.

SENATE—*Wednesday, October 24, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9:10 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. The prayer will be offered by the Reverend John E. Stait, Assistant to the Chaplain.

PRAYER

The Reverend John E. Stait, Assistant to the Chaplain, U.S. Senate, Washington, DC, offered the following prayer:

Let us pray:

Verily I say unto you, Whatsoever ye shall bind on earth shall be bound in heaven; and whatsoever ye shall loose on earth shall be loosed in heaven.—Matt. 18:18 K.J.V.

Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.—Psalm 127:1 K.J.V.

Almighty God of the Universe, Lord of Heaven and Earth. It is an awesome responsibility we have on Earth to be involved in government, to bind things on Earth that have eternal significance even in ways we are completely unaware of.

Our forefathers were aware of the sacredness of the task and even designed our Nation's Capitol like a cathedral as a constant reminder. Help the Senators and all in leadership to be reminded. Help them to be aware of You and to be receptive of Your guidance in their lives. Help us all to be receptive and aware of whether we are cooperating with You or laboring in vain.

In the name of Him who promised to be with us always, even unto the end of the world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 24, 1990.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m.

In my capacity as a Senator from the State of Wisconsin, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR WILLIAM COHEN HAS MADE A LASTING CONTRIBUTION TO INTELLIGENCE OVERSIGHT

Mr. BOREN. Mr. President, in January 1987, Senator BILL COHEN of Maine became vice chairman of the Senate Select Committee on Intelligence. With the close of this Congress he will step down from that position as his 8-year term as a member of the committee comes to an end. It has been my privilege to chair the committee and to work closely with Senator COHEN during these past few years. When the history of the intelligence oversight process is written, no one will have made more long lasting contributions to the fairness and effectiveness of that process than my colleague from Maine.

Working closely with another person on a daily basis on highly sensitive issues related to national security certainly gives an opportunity for evaluating that person and his performance. My experience in working with Senator COHEN these past 4 years has left me with the greatest admiration for his ability, his moral courage, and his true love for his country. Time and time again he set aside his own personal interest in order to protect the national interest. While we are of different parties and sometimes have honest differences of opinion, I have deep respect for him as a person and as a Senator. Senator BILL COHEN would easily make any list of the most capable half dozen Members of the Senate. He ranks with the best of those who have served in this great institution over the past two centuries.

From the very beginning Senator COHEN and I attempted to work together as a team to establish a bipartisan spirit in the Intelligence Committee. We knew that on issues of national security, we needed to think as Americans and not as Republicans or Democrats. In that spirit we created a nonpartisan policy in the hiring of professional committee staff.

Senator COHEN also strongly supported strict rules and policies to stop the leaking of sensitive information to restore confidence and trust in the intelligence oversight process. No compromise of any important sensitive information has occurred as a result of actions by committee members or staff during his 4 years? that BILL COHEN has served as vice chairman of that committee.

During the Cohen vice chairmanship, the committee has been restructured with periodic and systematic tracking and review of all covert action programs in force.

A new special audit unit has been formed as a part of the Senate Intelligence Committee staff to provide independent information about the operation of our most secret programs. This is the first time that the oversight process has had that kind of independent monitoring capability. The office of a statutory inspector general has also been established at the CIA.

Senator COHEN also assisted in negotiations with the White House on a series of reforms in the way in which covert action programs are initiated. Included in these reforms is a requirement that Presidential covert action orders or findings be written and nonretroactive, and include information about any involvement by other governments or private parties. These are the most significant reforms to result from the Iran/Contra hearings.

Senator COHEN has taken the lead in efforts to strengthen the counterintelligence program of our Government in order to reduce the costly compromises of technical and military programs of spies and foreign agents.

He has helped to begin a process for reshaping the CIA and the Intelligence Community to meet new challenges in a post-cold war environment. As economic competition begins to replace military competition and regional conflicts pose greater risks than superpower confrontations, the CIA will need very different capabilities especially in the area of human intelligence and analysis. BILL COHEN has made an important contribution to that process of change.

The Intelligence Committee is a unique committee. The members are asked to serve as trustees for the rest of the Senate and for the American people. It was established to make certain that the most secret programs of our Government would be carried out in an effective and cost-efficient manner, and above all in a manner consistent with the democratic and moral values of the American people. For the past 8 years as a member of the Senate Intelligence Committee, and for the last 4 years as vice chairman, Senator BILL COHEN has measured up to the trust which has been placed in him. Without regard to party or faction, Senator COHEN deserves the appreciation of all Americans. He is a statesman in an era in which statesmanship has been tragically in short supply.

Mr. President, I thank my colleagues.

I yield the floor.

Mr. KERREY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, let me add to the remarks of the distinguished Senator from Oklahoma.

I, too, share his admiration for the distinguished Senator from Maine, and observe that if the history of our intelligence operation of the United States of America were to be written today it unquestionably would identify Senator COHEN as being a leading figure in making certain that our intelligence operation is an effective one.

If it were to be written a couple of years from now it is apt to be the case that the distinguished Senator from Oklahoma would be identified as well as someone that has brought new credibility, and as well I think a new focus to the operation of our intelligence-gathering work. He certainly has made it an awful lot easier for those of us who are not on the Intelligence Committee to understand what needs to be done, to understand the relationship of this effort to our own efforts, and had made it an awful lot easier for us to be comfortable in fact that this operation is being done with the best interests of the United States in mind.

I applaud the efforts of the distinguished Senator from Oklahoma as well as the distinguished Senator from Maine whom he identified in his remarks.

THE GULF CRISIS

Mr. KERREY. Mr. President, in a matter of days, and hopefully a matter of hours, Congress will adjourn. We will leave Washington quickly. We will return home trying to persuade constituents out of their sound instinct that this Congress has done very little to reduce the deficit, invest in America's future, or otherwise advance their interests.

Depending upon where we live, we will go home to an economy either in a recession, or where people will be wondering when the slowdown will reach them. We will hear stories about capital shortages—in thrifts, banks, and in insurance companies—made worse by our end game deficit reduction dance with the President.

Between our adjournment and the beginning of the next Congress the news will focus upon domestic issues. I predict the President will take note of this and will present a State of the Union Address which includes an aggressive and underfunded domestic agenda.

Before the beginning of the next Congress the political and economic scene in the Soviet Union will deteriorate further. The Conventional Force Treaty presented at Paris at the Conference on Security and Cooperation in Europe will seem hopelessly behind the times. And Soviet strategic capabilities—which still drive our own nuclear modernization efforts—will look much different to us as the Soviet republics pull further and further apart.

When we return to Congress, the strategy needed for America's defense will appear different. Not only will our current funding levels look excessive, but the nature of the risk will continue to change before our eyes. Perhaps then we will begin a serious discussion of military conversion rather than merely the accounting expressions which have followed this year's analysis of the peace dividend. This military conversion will require a commitment of Americans like the one given in any war. Business as usual will not work. Appropriations cannot be a process dominated by legislative or executive pork. What is needed for the 1990's is a higher purpose: the rebuilding, retraining, and retooling of America.

This year the gulf crisis made us timid in addressing domestic needs; next year I believe we must be more bold. Next year it will be clear: A convergence of the end of the cold war, the cost of the gulf effort, and economic stagflation will necessitate a new look at our future.

Mr. President, I rise not just to predict what we will face when we return in January, but also because I am deeply concerned that our departure will complete another kind of convergence, a convergence of forces pulling us toward war in the Persian Gulf.

For this month we leave more than Washington. We also leave over 200,000 American troops and their commanders stationed in the gulf—hot, frustrated, impatient. We leave with the Army commander asking the President for authority to deploy an additional 100,000 GI's.

We leave a President who has been known to use force when Congress was out of session. We leave a Secretary of Defense who confided "it was an advantage that Congress was out of town" when he first deployed troops to the gulf. We leave a Secretary of State who says it is impossible to rely on advance congressional authorization before using force in the gulf. And we leave an administration, on the verge of midterm elections, the strength of its convictions newly challenged, grappling with a bungled budget, a looming recession, and declining popularity.

I do not believe this or any President would ever unleash a war for political purposes. But I am not convinced this administration will do everything in its power to avoid war with this constellation of influences tugging at it to take action.

Mr. President, If ever there was an avoidable war, it is this one. If ever there was a circumstance where the political leaders with the responsibility to make the final decisions are afraid of the political consequences of failing, it is this one.

The United States and the broad international coalition we have assembled have the upper hand in the gulf. Our hand has been strengthened by an unprecedented, effective economic and military blockade; strengthened by eight U.N. resolutions; strengthened by the successful assembly of troops that stopped Iraqi aggression at the Saudi border; strengthened by the determined certainty that atrocities by the Iraqi military and Mukhabarat against innocent Kuwaitis and foreign nationals will be indelibly recorded in the outrage of civilized humanity and the docket of International Courts of Law.

What weakens our hand is the administration's constant worrying about the appearance of rewarding aggression. The Secretary of State recently fretted: "It would be a terrible mistake in terms of establishing a new world order if we began by working deals that would permit unprovoked aggression to pay."

Never mind that scarcely 100 days ago his State Department was doing just that: Working deals, through diplomatic signals, that would permit Saddam Hussein to grab Kuwait's northern oil fields. The question is:

Where does the administration's principled unwillingness to pursue diplomatic solutions lead? It could lead to the kind of overreaction to terrorism that has crippled U.S. foreign policy more than once in recent history. It could lead to the martyrdom of Saddam Hussein. It could lead to an expenditure of American blood and treasure which has been authorized by neither the American public nor its Representatives in Congress.

I have lived through two wars—one cold and one hot. I confess that the results of each of those wars changed my initial thoughts about their merits. I did not fight in World War II, although I may have been born because of it. My memories begin instead with fragments from the early days of the cold war: Duck and cover drills; Weekly Reader and Readers Digest stories about the dangers of Communist subversion. Although I grew up amid the violent energy of those who feared the red tide, my cold war experiences did not make me a passionate anti-Communist.

My participation in the fight against the Communists of North Vietnam was a much more direct consequence of the draft and a sense of duty than it was a response to the call to "pay any price, bear any burden." The more advanced my military training the less thought I gave to the political objectives of my enemy.

But after returning to the United States and upon my release from the Philadelphia Hospital I was asked: For that cause, and this cost, would I do it again? My answer was: "No, I would not."

I denied my own bitterness and confusion. Consumed by anger toward leaders and promised peace with honor, secret plans to end the war, and other noble sounding disguises for their own political retreat, I grew to distrust anyone whose call to arms appeared phony and insincere. That distrust has not disappeared. I remain deeply skeptical whenever I hear we have no choice but to send our troops into battle. And while I know there are times we must use force, I do not apologize for my cynicism. I believe it can be constructive. It is usually warranted.

That experience stands in sharp contract to the verdict I have reached about the cold war, some four decades after my earliest memories of it. Today I look at the new freedoms and promise that fill people's lives in the former Eastern bloc. I hear the grateful words of Vaclav Havel and Lech Walesa. And I know that while they have secured their own liberty, our Nation made an important contribution to Eastern Europe's freedom with our patient policy of quiet pressure and firm containment.

We were right, across those decades, to commit our resources; to draw the line; to expose the egalitarian rhetoric of Stalin and his heirs as a flimsy front for the hard realities of persecution, murder, and the gulag. Likewise, we were right to stand up for Nelson Mandela and others whose humanity has been denied by apartheid in South Africa.

We are right, in the same way, to stand up to Saddam Hussein. We are right if we exercise the same patient firmness in our embargo of Iraq that brought victory in the cold war. But we are wrong if the pull of money obscures the goal of freedom.

We are also wrong, if we weaken our hand by firing the first shot. We are wrong if we reject diplomacy in the name of honor. Peace with honor has almost always meant peace with the honor of elected politicians intact.

If war occurs, the outcome is predictable: A lot of people will die; a lot of people will have their bodies torn apart but will live; a lot of people will make a lot of money selling arms, building bases, repairing equipment; and a lot of people will look at the scene 10 years from now and wonder why we did it.

There is a better course, and it must be stated clearly before we leave town. First, the administration needs to confirm what Americans already sense: That we have achieved a victory here. The first objective of the deployment of troops to the gulf was to prevent an Iraqi invasion of Saudi Arabia.

The President should declare: We were the only nation with the capacity to deploy a force big enough and fast enough to deter further Iraqi aggression. We succeeded. American troops again deserve the world's gratitude. They accomplished their mission.

Second, the President should announce the start of phase 2: A transition into a genuinely international force under U.N. auspices to continue enforcement of the embargo and protection of Saudi Arabia and other Gulf States. The President should refute dangerous suggestions that we must launch an American offensive now because international unity cannot be sustained over time. That is not true for our economic response. Surely it takes less effort to manage the discipline of a blockade than to manage the fury of a war. No one has suggested we will suffer 20,000 casualties dispatching our diplomats to plug up leaks in the blockade. Nor is it true that an international force is inferior if fighting does occur. Indeed, a truly international force—not one where nearly two-thirds of the ground troops are American—will draw strength from the greater presence of nations with a more immediate stake in the conflict. In short, a genuinely international force will keep Saddam Hussein isolated and threatened. The effectiveness of our response will not deteriorate because the makeup of the force has been altered.

Third, the President, should signal a receptivity to the thoughtful proposals from the Senate Foreign Relations Committee and others on Capitol Hill to establish a consultative process, especially while Congress is adjourned. If they are not willing, then Congress should pass legislation establishing a consultative process.

Fourth, this administration should worry less about being perceived as weak if they find a peaceful solution. The American people will not perceive a negotiated settlement within the context of the U.N. resolutions as a failure of resolve. There are many diplomatic efforts yet to be tried. This is the challenge of the second phase of the gulf conflict. If the administration rises to this challenge—rather than yielding to the lethal gravity that tugs it now toward war—it will have performed honorably and acted wisely on the lessons of the past 45 years.

Finally, the President must find the leadership to return our Nation's attention from the martial distractions of the gulf to the real battle for our way of life here at home. For we will not find our moment of opportunity out on the midnight sands of the Arabian Peninsula. That opportunity is here, in the spirit of our families; in the hands of our workers; in the minds of our students; in the hopeful eyes of our children. I pray President Bush will understand and remember that during the weeks to come.

Mr. President, in a few moments the distinguished Senator from Massachusetts will lead an effort to override the veto of the civil rights legislation, legislation important to provide equality in the workplace. In addition to that, there is a whole range of issues that I believe we must pay attention to at home if we are going to build the kind of strength this Nation is going to need if it is going to advance in the 21st century with the capacity to still stand forcefully for all men and women in the world and lead the world.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CIVIL RIGHTS ACT OF 1990—VETO

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate the President's veto message on S. 2104, which the clerk will state.

The legislative clerk read as follows:

Veto message on S. 2104 entitled "Civil Rights Act of 1990."

The veto message is as follows:

To the Senate of the United States:

I am today returning without my approval S. 2104, the "Civil Rights Act of 1990." I deeply regret having to take this action with respect to a bill bearing such a title, especially since it contains certain provisions that I strongly endorse.

Discrimination, whether on the basis of race, national origin, sex, religion, or disability, is worse than wrong. It is a fundamental evil that tears at the fabric of our society, and one that all Americans should and must oppose. That requires rigorous enforcement of existing antidiscrimination laws. It also requires vigorously promoting new measures such as this year's Americans with Disabilities Act, which for the first time adequately protects persons with disabilities against invidious discrimination.

One step that the Congress can take to fight discrimination right now is to act promptly on the civil rights bill that I transmitted on October 20, 1990. This accomplishes the stated purpose of S. 2104 in strengthening our Nation's laws against employment discrimination. Indeed, this bill contains several important provisions that are similar to provisions in S. 2104:

—Both shift the burden of proof to the employer on the issue of "business necessity" in disparate impact cases.

—Both create expanded protections against on-the-job racial discrimination by extending 42 U.S.C. 1981 to the performance as well as the making of contracts.

—Both expand the right to challenge discriminatory seniority systems by providing that suit may be brought when they cause harm to plaintiffs.

—Both have provisions creating new monetary remedies for the victims of practices such as sexual harassment. (The Administration bill allows equitable awards up to $150,000.00 under this new monetary provision, in addition to existing remedies under Title VII.)

Both have provisions ensuring that employers can be held liable if invidious discrimination was a motivating factor in an employment decision.

—Both provide for plaintiffs in civil rights cases to receive expert witness fees under the same standards that apply to attorneys fees.

—Both provide that the Federal Government, when it is a defendant under Title VII, will have the same obligation to pay interest to compensate for delay in payment as a nonpublic party. The filing period in such actions is also lengthened.

—Both contain a provision encouraging the use of alternative dispute resolution mechanisms.

The congressional majority and I are on common ground regarding these important provisions. Disputes about other, controversial provisions in S. 2104 should not be allowed to impede the enactment of these proposals.

Along with the significant similarities between my Administration's bill and S. 2104, however, there are crucial differences. Despite the use of the term "civil rights" in the title of S. 2104, the bill actually employs a maze of highly legalistic language to introduce the destructive force of quotas into our Nation's employment system. Primarily through provisions governing cases in which employment practices are alleged to have *unintentionally* caused the disproportionate exclusion of members of certain groups, S. 2104 creates powerful incentives for employers to adopt hiring and promotion quotas. These incentives are created by the bill's new and very technical rules of litigation, which will make it difficult for employers to defend legitimate employment practices. In many cases, a defense against unfounded allegations will be impossible. Among other problems, the plaintiff often need not even show that any of the employer's practices caused a significant statistical disparity. In other cases, the employer's defense is confined to an unduly narrow definition of "business necessity" that is significantly more restrictive than that established by the Supreme Court in *Griggs* and in two decades of subsequent decisions. Thus, unable to defend legitimate practices in court, employers will be driven to adopt quotas in order to avoid liability.

Proponents of S. 2104 assert that it is needed to overturn the Supreme Court's *Wards Cove* decision and restore the law that had existed since the *Griggs* case in 1971. S. 2104, however, does not in fact codify *Griggs* or the Court's subsequent decisions prior to *Wards Cove.* Instead, S. 2104 engages in a sweeping rewrite of two decades of Supreme Court jurisprudence, using language that appears in no decision of the Court and that is contrary to principles acknowledged even by Justice Steven's *dissent* in *Wards Cove:* "The opinion in *Griggs* made it clear that a neutral practice that operates to exclude minorities is nevertheless lawful if it serves a valid business purpose."

I am aware of the dispute among lawyers about the proper interpretation of certain critical language used in this portion of S. 2104. The very fact of this dispute suggests that the bill is not codifying the law developed by the Supreme Court in *Griggs* and subsequent cases. This debate, moreover, is a sure sign that S. 2104 will lead to years—perhaps decades—of uncertainty and expensive litigation. It is neither fair nor sensible to give the employers of our country a difficult choice between using quotas and seeking a clarification of the law through costly and very risky litigation.

S. 2104 contains several other unacceptable provisions as well. One section unfairly closes the courts, in many instances, to individuals victimized by agreements, to which they were not a party, involving the use of quotas. Another section radically alters the remedial provisions in Title VII of the Civil Rights Act of 1964, replacing measures designed to foster conciliation and settlement with a new scheme modeled on a tort system widely acknowledged to be in a state of crisis. The bill also contains a number of provisions that will create unnecessary and inappropriate incentives for litigation. These include unfair retroactivity rules; attorneys fee provisions that will discourage settlements; unreasonable new statutes of limitation; and a "rule of construction" that will make it extremely difficult to know how courts can be expected to apply the law. In order to assist the Congress regarding legislation in this area, I enclose herewith a memorandum from the Attorney General explaining in detail the defects that make S. 2104 unacceptable.

Our goal and our promise has been equal opportunity and equal protection under the law. That is a bedrock principle from which we cannot retreat. The temptation to support a bill—any bill—simply because its title includes the words "civil rights" is very strong. This impulse is not entirely bad. Presumptions have too often run the other way, and our Nation's history on racial questions cautions against complacency. But when our efforts, however well intentioned, result in quotas, equal opportunity is not advanced but thwarted. The very commitment to justice and equality that is offered as the reason why this bill should be signed requires me to veto it.

Again, I urge the Congress to act on my legislation before adjournment. In order truly to enhance equal opportunity, however, the Congress must also take action in several related areas. The elimination of employment discrimination is a vital element in achieving the American dream, but it is not enough. The absence of discrimination will have little concrete meaning unless jobs are available and the members of all groups have the skills and education needed to qualify for those jobs. Nor can we expect that our young people will work hard to prepare for the future if they grow up in a climate of violence, drugs, and hopelessness.

In order to address these problems, attention must be given to measures

that promote accountability and parental choice in the schools; that strengthen the fight against violent criminals and drug dealers in our inner cities; and that help to combat poverty and inadequate housing. We need initiatives that will empower individual Americans and enable them to reclaim control of their lives, thus helping to make our country's promise of opportunity a reality for all. Enactment of such initiatives, along with my Administration's civil rights bill, will achieve real advances for the cause of equal opportunity.

GEORGE BUSH.

THE WHITE HOUSE, *October 22, 1990.*

The Senate proceeded to reconsider the bill.

The ACTING PRESIDENT pro tempore. The question is, Shall the bill (S. 2104) pass, the objections of the President of the United States to the contrary notwithstanding.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand that the remaining time prior to 11:30 a.m. is equally divided; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, with this shameful veto, President Bush has placed himself on the wrong side of history and the wrong side of civil rights.

The two-century-old struggle to erase the legacy of slavery and redeem the promise of America for all citizens has not been a partisan effort.

It has been a joint national undertaking, and it has brought great credit to both political parties in recent years.

The landmark civil rights laws enacted by Congress in the past quarter century were achieved in a spirit of true national reconciliation.

Distinguished Senators from the Republican and Democratic Parties came together, putting principle above partisanship, in order to advance the uniquely American ideals of equal justice under law and equal opportunity for all.

That bipartisan tradition in Congress has continued to this day.

The Civil Rights Restoration Act, the Fair Housing Amendments Act, the Americans with Disabilities Act—none would be law today if it were not for the leadership of Republican as well as Democratic Senators.

The Civil Rights Act of 1990 is part of that historic tradition.

It was introduced with bipartisan support earlier this year in response to a series of Supreme Court decisions that were clear setbacks for civil rights.

Throughout the past 8 months, Senators METZENBAUM, SIMON and I, and Senators JEFFORDS, DANFORTH, SPECTER, and others, have worked together to refine the issues and develop broad support for this legislation. To a large extent, I believe we have succeeded.

Unfortunately, that bipartisan effort did not extend to the Bush administration. From the outset, the President's advisers have viewed the Supreme Court's retreats on civil rights as victories for their narrow constituencies, not as defeats for the Nation's high ideals. Attorney General Thornburgh has referred to those decisions as cases won by the Justice Department.

White House Counsel Boyden Gray believes that the key Supreme Court case which this bill is seeking to reverse—the Wards Cove decision—was correctly decided.

Perhaps the full story will never be known about the events of the past 8 months that have led us to this veto.

At several stages along the way, many of us genuinely believed that the White House was negotiating in good faith. But on every occasion when we felt a compromise was within our grasp, the White House advisers always pulled back, and raised additional objections or submitted patently unreasonable new proposals.

To some extent, President Bush is at the mercy of his lawyers. The Civil Rights Act of 1990 involves a number of complex legal issues that are difficult for laymen to understand. Any lawyer worth his salt can throw sand in the gears and prevent a meeting of the minds on a complicated legal question.

But no lawyer worth his salt, and certainly not a lawyer who is an adviser to the President of the United States, should throw sand in the gears of civil rights. Yet that is what Attorney General Thornburgh and White House Counsel Boyden Gray have done.

I am not alone in this view. Many, many people with whom I have talked in recent weeks and who are familiar with the negotiations on this bill are deeply troubled by this veto. They feel that the White House advisers have done a serious disservice to the President and to the country. Instead of searching in good faith for a compromise, the White House has negotiated in bad faith and sought to cover up its opposition to civil rights.

Although there are other important provisions in this legislation, the issue that has dominated the many months of this debate is how to deal with so-called "disparate impact" cases. In these cases, intentional job discrimination is not alleged, but job discrimination still results—because certain subtle and not-so-subtle practices used by employers in making decisions on hiring, promotion, or other aspects of employment often lead to flagrant discrimination against women and minorities.

In 1971, in a unanimous decision by Chief Justice Burger in the Griggs case, the Supreme Court laid down the landmark rule of law applicable to these antidiscrimination cases, requiring employers to justify such practices by demonstrating that they are required by business needs. Indeed, the Griggs standard is widely referred to as the "business necessity" test.

In 1989, however, the membership of the Supreme Court had changed, and a new decision changed the law. In a 5-to-4 decision in the Wards Cove case, the Supreme Court overrruled the Griggs decision.

The Court made it far easier for employers to justify discriminatory practices in disparate impact cases, and far more difficult for victims of this insidious form of job discrimination to win their case in court.

All of us in Congress who are committed to civil rights recognized the devastating implications of the Wards Cove decision. There was an immediate outcry over what the Court had done.

From the beginning, a key component of the momentum driving the Civil Rights Act of 1990 was the need to overturn the Wards Cove ruling and reinstate the Griggs case. This bill has been vetoed—not because we failed to achieve that goal in our legislation—we did. It has been vetoed because the administration, while paying lip service to reinstating Griggs, is bent on salvaging as much of the Wards Cove decision as it can.

That is why the quota argument is such a transparent smokescreen for the administration's anticivil rights position.

No one has to guess about whether this legislation would encourage employers to resort to quotas. It will not. For 18 years, the rule of law we are trying to reinstate was on the books. It was the law of the land from 1971 to 1989. Throughout all those 18 years, there is not a shred of evidence that any employer felt obliged to resort to quotas.

Ask your lawyers, Mr. President, how this can possibly be a quota bill, if the very same rule of law was in effect for 18 years, and it never led to quotas.

This is an antidiscrimination bill, not a quota bill. And if President Bush were genuinely committed to civil rights, he would have signed it instead of vetoing it.

Throughout the legislative process, we have repeatedly modified the provision to ensure that it fairly and clearly reflects the Griggs decision.

We modified it first as a result of discussions with Senator DANFORTH. We modified it again to address concerns raised by the administration during the course of our negotiations.

We modified it a third time by including the text of the amendment proposed on the Senate floor by Senator PRYOR, declaring that the mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex or national origin does not create a violation of the law.

To remove any doubt about how courts would interpret the issue, we added a fourth modification; making it clear that the act should not be construed to "require or encourage employers to adopt hiring or promotion quotas."

Finally, we modified the bill a fifth time, to include two worthwhile suggestions by Senator HATCH, which further clarified the application of the business necessity test, and to make three other significant compromises proposed by Senator HATCH relating to other provisions of the bill.

Senator HATCH had been the leading opponent of the bill when it was originally considered by the Senate. He urged us to accept these modifications in good faith—and we did. He urged the President to accept them too, because he was satisfied that they were sufficient to keep this legislation from becoming a quota bill.

Five times, we modified the legislation to eliminate any possibility that it could lead to quotas. Five times, the President's advisers refused to agree.

But in the wake of all these modifications, after the long and intense debate about the quota issue, in light of the strong legislative history we are making, it is impossible to believe that any court or any reasonable Presidential adviser would interpret the Civil Rights Act of 1990 as requiring quotas.

The changes we have made have also satisfied many neutral observers, including conservative columnist James J. Kilpatrick. Still, the administration persists in calling this a quota bill, even though the charge is clearly false.

No one wants a quota bill. Quotas are not the issue.

The millions of working women who would benefit from this legislation—the millions of black Americans and Hispanic Americans and other minorities in the work force—are not asking for quotas or any other special advantage. They are asking for simple justice.

All they are asking is to be free of discrimination on the job. All they want is a fair opportunity—an equal opportunity—the same equality of opportunity that all other Americans have to use their God-given talents. That opportunity is the defining quality of the Nation, the ideal for which people have fought and died since 1776. It is what makes America, America today.

Instead of supporting the Civil Rights Act as he should, the President has now offered so-called compromise legislation that would leave wide gaps in our anti-discrimination laws.

His proposal would fail to overrule key aspects of the Wards Cove decision. The administration's bill would permit employers to apply a lesser legal standard than the Griggs rule. As a result, many employers would be able to escape having unfair practices challenged in the courts.

The second major issue in this legislation involves adequate remedies for women or religious minorities who are victims of intentional discrimination on the job. Under a serious double standard in current law, only racial minorities—not women or religious minorities—are entitled to recover compensatory and punitive damages for intentional job discrimination.

That double standard is unacceptable. The Civil Rights Act of 1990, will permit victims of sex or religious discrimination to obtain compensatory damages, just as victims of racial discrimination can.

It also permits women and religious minorities to obtain punitive damages; but in a key compromise in this legislation, the punitive damages are capped at $150,000 or the amount of the compensatory damages, whichever is greater.

The White House bill cuts back drastically on the damages to which women and religious minorities would be entitled. It attempts to ban the right to a jury trial.

It limits victims of discrimination to a maximum award of $150,000 for all damages, compensatory as well as punitive. In addition, under the administration's proposal, no damages at all would be available, unless a court finds that such damages must be awarded in order to deter the employer from engaging in discriminatory practices and is otherwise in the public interest.

These limitations would give courts vast discretion to deny any meaningful remedy to victims of even the most offensive types of sexual and religious discrimination on the job. It would mean, for example, that in many cases, victims of vicious and repeated sexual harassment in the workplace, who often suffer physical and mental trauma requiring medical treatment, would not even be reimbursed for the expenses caused by the discrimination, let alone recover the full damages to which they should be entitled.

The White House proposal would also permit repetitious challenges to consent decrees that have been entered in numerous jurisdictions as part of good faith efforts to resolve festering job discrimination cases and put an end to litigation.

The Civil Rights Act of 1990, strikes a fair balance by prohibiting subsequent challenges to consent decrees in cases where a party's interests had been adequately represented by other persons in a previous unsuccessful challenge to the decree.

Once again, we see the hypocrisy of the Administration's position. The President has criticized other portions of the bill for promoting excessive litigation. Yet he is quick to invite excessive litigation when the issue is reopening long-settled consent decrees.

In addition, the administration's bill is prospective only. A vote to sustain this veto, therefore, would give no relief to Brenda Patterson and the more than 200 other victims of intentional racial discrimination whose cases have been dismissed under the Supreme Court's erroneous decision in the Patterson case.

A vote to sustain this veto would give no relief to the millions of women who endure humiliating sexual harassment on the job, who are denied equal opportunity in hiring and promotion, and who are subjected to discriminatory work conditions.

A vote to sustain this veto is to tell Mayor Richard Arrington and the people of Birmingham, AL, and many other communities across the country, that they will have to endure repeated, divisive efforts to reopen consent decrees in discrimination cases that were settled long ago.

The Senate does not have to accept these unsatisfactory results, even if the White House does. President Bush was wrong to veto this civil rights bill. Congress can override the veto, if the Senate is true to the historic bipartisan ideals that have enabled the Nation to continue to move forward, not backward, on civil rights.

Certainly, this veto contravenes the basic principles for which George Bush has stood in his long and distinguished career in public life.

Many of us hoped that the Willie Horton strategy adopted by President Bush as a candidate in the 1988 Presidential campaign was an aberration that would never be repeated. But it does not appear to be. When the chips are down, President Bush, like candidate Bush, is willing to divide the Nation for narrow or partisan advantage.

It is bad enough to resort to such disgraceful tactics in a political campaign. But it is far more serious when a President of the United States, who is supposed to be the President of all the people, dishonors his high office, abuses the noble cause of civil rights, and stoops to divisive appeals to prejudice and resentment. The President has taken the low road on civil rights, but that is no reason for the Senate to take it too.

Civil rights is the unfinished business of the United States. In the long run, there is probably nothing that matters more to the future of the country than how we deal with the issue of race and discrimination. This

is no time for America to retreat on civil rights. It is wrong, for short-term political gain, to jeopardize the long-term interests of the Nation.

Some of the proudest moments in the history of the Senate have occurred when Senators from both parties joined together to enact historic civil rights legislation. Let us do so now, by voting to enact the Civil Rights Act of 1990.

I withhold the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, pure and simple, take it from me, this is still a quota bill, and it is still a litigation bonanza for lawyers, two of the most important reasons that President Bush has cited for vetoing this bill. By the way, those are not the only reasons he cited, but those are two of them. I think he considers both of them very important reasons.

This bill is going to cost American society billions of dollars through the years because it is not a civil rights bill. It is an employer-employee relations bill, except for the overrule of the Patterson versus McLean case which would take care of Brenda Patterson. We are prepared to do that right now. We are for overruling the Patterson versus McLean case.

We are also for overruling the Lorance case with regard to seniority systems. The Lorance case basically said you only have a cause of action from the time an intentionally discriminatory seniority system was instituted. We would overrule it so that they have a cause of action when the initial injury occurs, something that the other side will not do for a substantial number of American citizens under the Martin versus Wilks case, the way this bill is written. It is written just one way to take care of one group of people, but it does not take care of other groups of people.

Now those two—the overrule of the Patterson versus McLean case and the overrule of the Lorance case—we will agree to right now. Those are the civil rights aspects of this bill.

I just came from the President of the United States, from the Oval Office. I know George Bush, and I know that the distinguished Senator from Massachusetts knows George Bush well. I think the American people have observed him, and I think they look at George Bush and they say here is a truly moderate, decent, wonderful man. He has stood for civil rights during his whole political career.

I think what is happening in the minds of many people in this society today is they are saying if George Bush—this wonderful moderate, decent man who listens to everybody—feels that this is a quota bill, and a litigation bonanaza for lawyers, or a lawyers' relief act—which is what we do around here; we benefit the legal profession more than anybody else—then I think people in their minds are saying if he feels that way, there must be something wrong with this bill.

Because this is the President who advocated—and by the way, this is the Senator who advocated—for the most sweeping civil rights bill in the last two decades, and that is the Americans with Disabilities Act. I helped put that through, and I advocated it, even though I know it is going to be an expensive bill. It is written right, it is fair, it does not discriminate against other people, it has no quotas in it, and it is not a lawyers' relief act.

This is the President who put it through. I do not think they could have gotten it through with most other Presidents. So do not make the argument that George Bush is mistaken here.

The fact is, George Bush does understand this bill and it is not just the quota aspect that bothers him, it is not just the lawyers' relief act that bothers him. I am going to mention some of the other things that bother this President of the United States, and properly so.

Mr. President, I urge my colleagues to sustain the President's well-justified veto of the so-called Civil Rights Act of 1990.

Americans want a piece of the American dream; they want no part of a quota. Americans want an equal chance to succeed in the job market; they do not want preferential treatment on the basis of race, ethnicity, color, religion, or gender.

Title VII of the 1964 Civil Rights Act promises every American equal opportunity.

The Civil Rights Act of 1990, in stark contrast, promises preferential treatment on the basis of race, ethnicity, color, religion, and gender for some Americans.

The Civil Rights Act of 1990 promises reverse discrimination against Americans who themselves are guilty of no wrongdoing.

Title VII of the 1964 Civil Rights Act promised colorblind treatment of all Americans in the workplace, where every citizen should be treated on the basis of his or her talents and merit.

The Civil Rights Act of 1990 promises to make race, color, religion, and gender a conscious part of an employer's treatment of American workers. This bill promises to move America away from its ideals, not toward them, as title VII did.

The Civil Rights Act of 1990 promises that some Americans will be denied an equal chance to a day in court. These Americans will be effectively denied the right to challenge a consent decree or litigated judgment, entered in a case to which they were not a party, at the time the decree or judgment operates to harm him or her. I believe this is the first time in over 25 years, perhaps the first time ever, that Congress has restricted or denied access to court for persons asserting constitutional equal protection claims and statutory civil rights claims.

The Civil Rights Act of 1990, this bill, promises an increase in tension and discord in the workplace. This bill will convert title VII from a statute fostering conciliation and settlement into a statute encouraging protracted, costly litigation. This bill, with its many provisions aimed at helping lawyers, is a litigator's dream come true. Take it from me, I used to be a litigator.

It will prolong disputes and make them more difficult to settle.

I will just summarize the specific continuing problems with this bill.

Take the Wards Cove case, and quotas and disparate impact cases.

No. 1, broad-scale, across-the-board attacks on all employer practices are still permitted by this bill. Even with the language I tried to craft, that is true. And, by the way, we crafted the language, and in the joint statement of the conference committee, they completely took that away. So do not say it does not have quotas. They took it away. There is no need to prove a specific practice causes a disparity between the percentage of a group in a job and the percentage of that group in the relevant labor pool. The bill says if certain records are maintained, only then is the plaintiff eventually required to identify specific practices responsible in whole or in significant part for the disparity. Unfortunately, the explanation in the joint statement of the conference committee takes away even this partial improvement in the bill's language. It seriously waters down the language in the bill by explaining that the significant part requirement only rules out practices that make a trivial or insubstantial contribution to the disparity. So what we thought we had, they took away in the joint statement. Moreover, the bill makes the use of subjective practices such as supervisory evaluations, interviews, and reference checks, much more difficult if not impossible to defend.

No. 2, this bill, as it is currently written, still shifts the burden of persuasion in disparate impact cases to employers, compelling employers to prove their innocence even though they did not bring the case. The case was brought against them. It is a complete turn around in American jurisprudence. This change alone converts title VII from a statute whose touchstone is equal opportunity for individuals into one whose touchstone is equal results—quotas—for groups.

No. 3, the definition of business necessity is much more burdensome than current law. It is not Griggs, and it will permit adoption of only minimum standards in the workplace. The bill requires an employer to prove its challenged practices bear a significant relationship to successful performance of the job.

In contrast, the Griggs case, which the proponents have always said they have tried to codify in this bill, says that employer practices must have a manifest relationship to the employment in question.

Industrial psychologists say the significant relationship test is a more difficult standard than the manifest relationship test. With respect to successful performance of the job—that language means only minimal standards are acceptable. What that means is that employers, if this bill passes, will have to hire on the basis of the lowest common denominator. They will no longer have the right to hire the most qualified employee for the job. If that helps America, I would like to know how. Any higher standard which falls with a disparate impact on a group is illegal, because it is not related merely to successful job performance, but to a level of performance beyond the minimum necessary to be successful.

Again, the employer will have to hire on the least common denominator basis; no longer will be able to say we want to hire the most qualified person for this job so we can have the best employment situation we can have.

No. 4, the surest way for an employer under this bill to avoid a costly lawsuit it cannot win, and huge liability and attorney's fees and costs, is to avoid being sued in the first place. And the ony way to do that is to hire and promote by quota.

No. 5, let me talk about the right of an individual citizen to have his or her day in court, Martin versus Wilks. While better notice is given to employees not parties to the case under this bill, they and many others are barred from challenging implementation of a consent or litigated judgment after it harms them. This is fundamentally unfair—as the bill has always been in this regard. And the same double standards I have always criticized remain embedded in this section. For example, when the Government sues an employer on behalf of a group of persons, members of that group can still sue an employer after entry of a consent decree if the consent decree does not provide them with backpay or a job.

Mr. BRYAN assumed the Chair.

Mr. HATCH. Mr. President, but an employee harmed by implementation of the same consent decree, is effectively barred from being heard, even though they were never a party to it. Moreover, the bill allows challenges to seniority systems but not consent decrees when they operate to harm someone.

Let me move to title VII, and this argument that this is a litigation bonanza for lawyers and that the bill contains incentives to litigate, not settle cases.

Let me go to my point No. 6. The bill permits injunctive relief, attorneys' fees and costs in mixed motive cases overturning a Justice Brennan opinion in Price Waterhouse and encouraging litigation. Even Justice Brennan, one of the all-time most liberal Justices on the Court, a man I happen to admire and love, but nonetheless a liberal, even Justice Brennan is not good enough to satisfy that. Thus, even when an employer has selected a better qualified applicant over a lesser qualified applicant, the employer can still be sued in litigation costly to defend, even though they selected the person for the right reasons.

No. 7, in title VII intent cases, the bill adds unlimited compensatory damages and up to $150,000 or the total of the amount of compensatory damages and back pay, whichever is greater, in punitive damages. This so-called cap on punitive damages is not a real cap. These provisions will be a magnet for prolonged title VII litigation, a litigation bonanza for lawyers.

No. 8, it effectively adds jury trials for disparate impact claims where the plaintiff alleges both intentional discrimination and disparate impact discrimination. This is going to encourage plaintiffs to pursue cases all the way to trial before a jury rather than refer a settlement because they are going to be able to get more from the employer because it is stacked in their favor.

No. 9, it extends the statute of limitations from its current 6 months—meaning they must bring their claims in an expeditious fashion so everybody knows where they stand—to 2 years. Rather than require plaintiffs to bring allegations of discrimination in a timely way for resolution, the bill allows these allegations to fester in the workplace, exacerbating tension and uncertainty. In addition, the costs in attorneys' fees continue to amount and run up.

No. 10, the bill modifies the statute of limitations so that it runs, not just from the time of the alleged illegal occurrence, as under current law, but also from the time the alleged illegal occurrence "has been applied to affect adversely the person aggrieved, whichever is later."

That language overturns at least three Supreme Court decisions: *United Airlines* v. *Evans,* 431 U.S. 553 (1977); *Delaware State College* v. *Ricks,* 449 U.S. 250 (1980); *Chardon* v. *Fernandez,* 454 U.S. 6 (1981).

This opens the door to many stale claims. For example, suppose an employer lays off an employee for intentionally discriminatory reasons in 1990, but the employee does not bring a title VII action within 6 months. Under current law, this person has foregone his or her title VII claim. They have to move, act expeditiously; it is only fair.

If the person is later rehired in 1995 under this bill, the person can seek retroactive seniority loss since 1990, and 2 years of back pay.

Moreover, he or she will be able to seek uncapped compensatory damages and punitive damages of $150,000, or the total of his or her back pay in compensatory damages for lowered earnings, pain, suffering and other damages since 1990.

Oddly, here again, civil rights plaintiffs get two bites of the apple after being harmed, but an innocent person harmed by the implementation of a consent or litigated judgment is effectively barred from bringing a constitutional or a statutory civil rights claim.

That alone is reason to veto this bill. I cannot understand, for the life of me, why people cannot see that. We tried to resolve that, and we could not.

No. 11: It helps lawyers, again, by overturning a 1986 Supreme Court decision by Justice Stevens in Evans versus Jeff D., which allows a defendant, such as an employer, to condition a lump sum settlement offer on the plaintiff's waiver of attorney's fees leaving the plaintiff to work out the fee with his or her own lawyer.

This provision of the bill will likely have a serious adverse impact on the ability of parties to settle the cases, because now it is in the lawyers' interest to continue the case and get more attorneys' fees. It is just like falling off a log, the way this bill is written.

No. 12: It encourages lawyers to drag out cases by overturning a 1985 decision by Justice Stevens in Marek versus Chesny, thereby making the recovery of attorneys' fees even easier than it is today, much easier.

Under current law, suppose a plaintiff rejects an employer's formal settlement, and the plaintiff later obtains a judgment for less than the amount of the employer's offer? The plaintiff is not entitled to attorneys' fees he incurs from the date he rejected the offer. So it is an incentive under current law to get matters settled amicably and get the person back to work.

Under this bill, however, the plaintiff is entitled to such fees even after rejecting the offer, even if they do not obtain a judgment as large as the employer's earlier offer. This is a further incentive not to settle a case. It is a further incentive for lawyers to pursue it all the way to trial, because they are going to get more fees and we are all going to pay for it, every citizen in this country. The increased cost of goods and services is going to pay for this lawyers' relief bill.

It is not a civil rights bill. It is a relief bill for lawyers, and it is a quota bill.

No. 13: This bill seeks to preserve affirmative action preferences for minorities and women with no protection at all for white males. They are completely left out of the equation. Thus, an employer may seek to prefer, voluntarily, minorities and women at the expense of others. The bill provides no protection for those who might be adversely affected.

Moreover, if a consent or litigated judgment in favor of minorities or women is entered in a case, innocent nonparties adversely affected by the implementation of such a judgment, are denied their right to a day in court to assert their constitutional and civil rights.

No. 14: This bill permits uncapped expert witness fee costs—overturning a 1987 court decision, Crawford Fittings Co. versus J.T. Gibbons, Inc.

The current limit under law today is $30 per day. All of these are going to be passed on to the consumers of America.

Again, this is not a civil rights bill, but a bill that takes away rights that currently exist.

No. 15: It requires broad construction, and this is a sleeper, but it calls for broad construction—it requires it—of at least 70 other civil rights statutes. This provision in and of itself would give bureaucrats and Federal judges carte blanche to revise current interpretation of these laws that have, for a long time, been hallowed in the law, and do whatever they want to do.

Mr. President, I have to tell my colleagues that we have at least, according to those who have researched this matter, we have at least 26 different cases—in addition to the 4 they claim they filed this bill for—26 additional Supreme Court cases, which have been modified or overruled by this type of legislation, and countless other appellate court cases.

The law is going to be completely disrupted and overturned by this bill.

Mr. President, a vote to sustain the veto is a vote in favor of a fair America. I urge my colleagues to sustain the President's veto of S. 2104.

We do not need to eliminate the rights of some Americans to ensure equal opportunity. We do not need to resort to quotas, and proportionality, to protect against employment discrimination. We do not have to initiate a lawyers' litigation frenzy to guarantee equality.

We, as a nation, should not adopt the policy of parceling out legal rights on the basis of race, color, ethnicity, religion and gender.

So a vote to sustain the President's veto is a vote to preserve title VII of the Civil Rights Act of 1964 which has served our Nation well for over the last quarter century.

Mr. President, I would like to yield, because the Senator has to go to another meeting, 5 minutes to the distinguished Senator from Kansas.

Mr. KENNEDY. Will the Senator yield for a brief question?

Mr. HATCH. Sure. Can I yield on the Senator's time?

Mr. KENNEDY. Yes, 1 minute. Why then did the Senator recommend to the President of the United States that he support this legislation?

Mr. HATCH. The Senator never personally recommended to the President of the United States that he support this legislation, even if he takes the Hatch language.

The reason he did not is because I did not like that language. My commitment was this: I would do the best I could to try to put it together. It was the best we could do. I said that if they would change this bill the way I would like it changed, then I would come out here and be for it whether or not the President would do it. They would not.

So I said I would at least give it to the President, which the distinguished Senator from Pennsylvania did, and if he decided to accept it, I would then support the bill based upon that.

But I also said from the beginning that if he did not decide to take it, that I would fight this bill with everything I had because I still do not think these problems are——

Mr. KENNEDY. Did you recommend to the President that he do support it?

Mr. HATCH. No, I never did personally.

Mr. KENNEDY. But did you recommend to the President that you could support this legislation?

Mr. HATCH. I was willing to recommend to the President that if he took this bill——

Mr. KENNEDY. That you could support it?

Mr. HATCH. With the changes, that I would support him, but no——

Mr. KENNEDY. Mr. President, I have to reserve the remainder of my time.

Mr. HATCH. Let me answer the question.

Mr. KENNEDY. On the Senator's time.

Mr. HATCH. I will answer it on my time. Even the language that was accepted, even that language was changed in the language of the managers. As I pointed out here in my earlier remarks, even that language was changed to nullify what we had really done in one of the most important sections, so I could not have supported this under any circumstances with that change. And they knew it.

I was a little shocked to find that even the language I did not think was great, but nevertheless something that if the President wanted it, he could take it, even that language's meaning was changed in the joint statement of the conference committee.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

Mr. HATCH. I would like to yield to the distinguished—I believe I have the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator has the floor.

Mr. HATCH. I would like to yield 5 minutes to the distinguished Senator from Kansas.

Mrs. KASSEBAUM addressed the Chair.

THE PRESIDING OFFICER. If the Senator will suspend. The floor manager on the Republican side has yielded time to the Senator from Kansas.

Mr. SPECTER addressed the Chair.

Mr. KENNEDY addressed the Chair.

Mrs. KASSEBAUM. I would like to yield to the Senator from Pennsylvania, because we would like to work out some time agreement.

Mr. KENNEDY. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. KENNEDY. As I understand the regular order, the Senator gains recognition, and then those who have the responsibility for giving time then grant the time. That is the procedure.

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. So the Senator cannot, as I understand it—an individual Senator has to get recognition in their own right, and then the floor managers that have the responsibility to yield the time, am I not correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. So, Mr. President, I want recognition myself, and I yield myself 20 seconds. I want the record to point out that the language of the managers was submitted to the Senator from Utah for requested changes or alterations, and no such alterations or changes were made. That language was effectively cleared, and now I would yield 10 minutes to the Senator from Pennsylvania.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas has been recognized.

Mr. HATCH. Mr. President, I think the manager has preferential right. I want to answer that 20-second statement, and then I will be happy to yield the floor.

I hope that the distinguished Senator from Kansas will be able to get the floor, because she is only going to take 5 minutes and she has to go.

Mr. President, my good friend from Massachusetts complains that we did not alert him to the subtle slants contained in the key of legislative history

in this conference report which undermines and contradicts the language of the bill itself.

He neglects one important detail. I voted against the revised conference report. I had no obligation to assist supporters of the bill to explain revisions that they sought to make at that point; it was not my language and it was not my proposal. Indeed, as I have repeatedly pointed out, the language was not my preferred language, nor did it address all of my concerns.

I never met with the President on this. The distinguished Senator from Pennsylvania did. Had I met with him, we would have had to see what happened.

Once it became clear that a compromise could not be worked out, if someone else wanted to use the language for their purposes, that was a process that did not involve me. And given how I was going to vote, I certainly was in no position to request or demand changes in the joint statement.

Mr. President, I understand the difficulty of the Senator from Massachusetts in this regard. He was neither present nor was he represented in any conversations I had on this particular bill. Now, I have to say I for one wish we could have solved this problem. I would like to have done it. But we were unable to do it, and in good faith we tried and we failed.

That is all I have to say about it. I reserve the remainder of my time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

Mr. SPECTER. Mr. President, I thank my friend from Massachusetts. I would ask my friend from Utah if he would yield me 10 minutes. I had sought in the unanimous-consent request 20 minutes and had been given assurances that I would have it. Otherwise, I would have been on the floor myself.

Mr. HATCH. Mr. President, might I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator from Utah has under his control 29 minutes.

Mr. HATCH. Mr. President, I have a problem, because I have a number of people who want to speak on our side. I would be willing to expand the time this bill by 10 minutes to give the distinguished Senator his 10 minutes, but I need that 20 minutes.

Mr. SPECTER. I ask then, Mr. President, unanimous consent that the time on the bill may be extended by 10 minutes, so that I may have 20 minutes.

Mr. KENNEDY. Mr. President, if the Senator will withhold so I can check with the leadership. Quite frankly, we were prepared, at least I was, to vote this veto in the last 3 days, and there has been the request—not from our side but as I understand it, from the other side—to accommodate various Senators who were necessarily absent.

So I would at this time have to object, although I will make that request to the majority leader to see if there is any reason why the Senator's request cannot be acceded to.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, so that it will be clear to those watching on C-SPAN II, the practice is when there is a unanimous-consent request, a Senator ordinarily need not come to the floor to protect his interests. I had specifically agreed to the unanimous-consent request on the condition that I have 20 minutes. I have put about 200 hours, if not more, in this bill, and I need at least 20 minutes to speak.

But at this juncture, I will proceed on the 10-minute allocation and seek unanimous consent for an additional 10 minutes, with a lesson to this Senator to be here at all times. There will be no unanimous-consent agreement entered into where I have an interest without the express reservation.

Mr. President, I would begin by disagreeing with both of my distinguished colleagues. I disagree with the distinguished Senator from Massachusetts when he raises arguments of bad faith. I have been intimately involved with both sides on this matter, and I do not believe there has been bad faith. Beyond that, I think it is totally counterproductive to talk about bad faith. I think that we would have had an agreement before this time had such allegations not been made.

I also disagree with my colleagues from Massachusetts when he brings Willie Horton into this argument and seeks to bring that issue into the President's motivation on civil rights. Willie Horton has nothing to do with this bill or this issue. Willie Horton involved the matter of the furlough program in Massachusetts, which was a unique program, permitting the release of a person convicted without the possibility of parole. President Bush was preeminently correct on that. We can discuss that matter at great length here later.

I would similarly like to disagree with my friend from Utah. And I hope to have the attention of the distinguished Senator from Utah when I make these comments.

Mr. President, may I have the attention of the Senator from Utah [Mr. HATCH] while I make these comments, because the issue has arisen, and it was raised by the distinguished Senator from Utah before Senator KENNEDY got into it when Senator HATCH said that he had crafted language which was satisfactory, and it was taken away in the conference report.

I would submit, Mr. President, that the language which was crafted in the bill clearly takes precedence and controls what will happen, and the report language prepared by those not involved in our negotiations cannot detract or take away from what was crafted in the bill.

There were extensive negotiations in October involving the distinguished Senator from Utah [Mr. HATCH]; the former Secretary of Transportation, William Coleman; and myself, and we hammered out an agreement on the critical parts of this bill.

When the agreement was finished, Mr. President, Senator HATCH said that he found it acceptable, not perfect, and that he would recommend it to the President but he would reserve the right to vote against the bill if the President opposed it and disagreed with Senator HATCH's recommendation.

Senator HATCH said he did not present it to the President. I do not think that has anything to do with the issue at all. Senator HATCH presented it to the President's representatives the afternoon after we agreed to it. Senator HATCH says he did not meet with the President. He said he met with the President this morning. But the critical aspect on whether this is a quota bill and the critical aspect on whether Senator HATCH made an agreement, found it acceptable although not perfect, and said he would recommend it to the President is the fact of the matter.

If my distinguished colleague from Utah disagrees with that, I invite him to use my time, up to a minute, to state his disagreement.

Mr. HATCH. Mr. President, I think the prior, if the Senator will yield to me, debate showed that I made it clear what my position was during the prior debate. I did not believe in the language. I was willing to recommend it to the President. If he was willing to take it, I would have supported the President, but it was not language that pleased me.

Then in the prior debate on this, I made it very clear that the more I read it, the more I study it, the less I like it now; but it is an improvement. There is no question, the language is an improvement.

I commend the distinguished Senator from Pennsylvania for helping to bring it about. I commend the distinguished Senator from Massachusetts for accepting it. It certainly is an improvement over what the language was.

But if you read it, and read it carefully, it still does not solve the quota

problem. Certainly nothing we did really solved the litigation bonanza aspects of the bill.

So I would not like to have a twist put on this to make it look like I reneged on an agreement, because if the President had taken that language, as much as I did not like it, I would have held my nose and voted for this bill. But he did not. He was smart enough to realize it did not solve all the problems that he wanted solved. I had made it clear from the beginning if he did not, I was going to support him.

So I hope that clarifies it once and for all.

Mr. SPECTER. Mr. President, I think that does clarify it. When you boil down what the distinguished Senator from Utah has said, he does not disagree with my factual characterization that he found it acceptable, not perfect; and that he agreed to recommend it to the President, but he reserved the right to vote against it if the President opposed it.

Mr. HATCH. If the Senator will yield for 10 seconds on my time, I do disagree with that factual statement. The Senator's word "acceptable" has been used throughout this, and I have not made a big fuss about it. I think the very tenor of my statement is that it was not totally acceptable to me, but if the President wanted it, it would be acceptable and I would vote for it. That is the only condition on which I intended to use the word "acceptable."

So I disagree with the statement but I have to say this: The Senator is right. We made a valiant effort, mainly because of his insistence that we did. I give him credit for that.

At one time I thought maybe this would be enough for the President to support this bill. But he did not. I made it clear right from the word go that unless I got everything I wanted, all the changes I wanted, I could not support this bill. I would not support it unless the President took this language. If he did, I would have, like I say, voted for it and supported the President. But I also told his representatives that if he did not, that I was going to fight the bill.

Mr. SPECTER. I accept Senator HATCH's modifications. He did not find it totally acceptable. He only found it acceptable. But that is the point, Mr. President. The point is what is acceptable. The point is not what satisfies all of our wishes. We ought to learn in this body, Mr. President, in this Senate, we ought to learn it in this country, that everybody cannot have his or her way about everything.

Right now there is a bitter dispute going on in the Congress about the budget. We are sent to Washington to practice the art of the possible and to do the Nation's business. Everyone cannot have everything that he or she wants. Neither can Senator HATCH have everything that he wants.

Never mind that it is not totally acceptable. It was found to be acceptable, and a commitment was made to recommend it to the President with the limitation that if the President opposed it, Senator HATCH reserved his right to vote against it.

Mr. President, there has been much argument about whether this is or is not a quota bill. Again, I refer to the acceptability found by the distinguished Senator from Utah. If ORRIN HATCH accepted a bill, you can bet your bottom dollar it was not a quota bill. Let me tell you something else. If ARLEN SPECTER accepted a bill, it was not a quota bill. There is nothing that I personally abhor more, Mr. President, than quotas. When the time came for me to go to college a few years ago, I found my entry blocked because there were quotas on how many young Jewish students could go to colleges in this country. Quotas are an anathema to me, just like they are an anathema to most Americans. This is not a set-aside bill, and this is not a quota bill. The details of the bill prove it.

Mr. President, the burden of proof is on the plaintiff to prove with particularity the specific practice or practices which have resulted in the disparate impact. Only at that juncture does the employer have the obligation to come forward and show business necessity.

When the distinguished Senator from Utah says that the employer has to prove his innocence, and that it is a complete turnaround in American jurisprudence, that simply is not so. It is an affirmative defense which is well recognized for more than 200 years in American jurisprudence. And as an affirmative defense, it is the employer who has the burden to make the showing.

Mr. President, it is still my hope that there will be an agreement on this civil rights legislation. I say that, Mr. President, because there are still many of us who are working actively at this moment to try to bring about that agreement. I personally became deeply involved in the negotiations on this bill when President Bush called three Senators, Senator DANFORTH, Senator JEFFORDS and myself into the Oval Office.

The PRESIDING OFFICER. The Chair informs the Senator that the 10 minutes yielded to him has expired.

Mr. SPECTER. I ask unanimous consent that I be permitted to speak an additional 10 minutes, Mr. President.

Mr. HATCH. Mr. President, I understand it is very difficult to do that. Could the Senator complete his remarks, even though he is on the other side? I understand Senator KENNEDY's time is alloted, and mine basically is allotted, but I could yield him some minutes so that he can complete his statement. He has been a sincere and dedicated participant in this complete debate; I have nothing but respect for him.

Mr. SPECTER. I will proceed as expeditiously as I can. But it will take less time without interruptions.

Mr. HATCH. I yield 5 minutes from our time to the distinguished Senator from Pennsylvania. During that time I hope he will not characterize my position anymore.

Mr. SPECTER. No deals. [Laughter.]

The PRESIDING OFFICER. The Senator from Pennsylvania is yielded 5 minutes, chargeable to the time under the control of the Senator from Utah.

Mr. SPECTER. I thank my friend from Utah both for yielding the time and for this prior acceptance.

Mr. President, I was saying that in the spring President Bush called three of us into his office, and it was Senators DANFORTH, JEFFORDS, and myself, and asked that we try to work out a compromise.

A week ago Sunday, a week ago Sunday when the President was in the midst of his budget negotiations, he called again on the phone and spent considerable time again urging that a settlement be reached.

Last Thursday afternoon when a number of us met with the President, again he urged that a settlement be reached.

Mr. President, this legislation is not as complicated as the SALT II treaty. One of the things we learned in SALT II was the comment by the distinguished Soviet negotiator that a third of the business was done in the first 2 months, a third of the business was done in the next 2 years, and the final third of the business was done in the last 20 minutes. That is what is referred to as the end game. I should not call anything a game because it is not a game around here. But they call it the end game because in the final analysis we cannot come to terms until the end.

Mr. President, I submit to you that we are very, very very close. We met with representatives of the President, and for all practical purposes worked out particularity. The issue of business necessity is really very, very close. This is an argument about whether it should be a significant relationship with successful job performance, or a manifest relationship with job performance.

Mr. President, if you submit that question to 20 scholars on the English language, they would split as to which was the more exacting standard, significant or manifest. Late yesterday afternoon I talked to a principal sponsor on the House side, and he is still willing to work out a compromise.

Last night the Republican leader, Senator DOLE, Senator JEFFORDS, and I

talked about the legislation. Senator DOLE was on his way to the White House to talk about the budget and said he would take up the matter again with the President. There are others who have been involved here who are still prepared to work all night tonight. And we are going to be here for a few more days, Mr. President. We can yet bring this matter to closure.

I feel very strongly that minorities and women have good reason to believe they are not getting a fair share of job opportunities in the United States. We have talked about discrimination on this floor. Mr. President, Bill Coleman, who was first in his class at Harvard Law School, could not get a job, and had to travel from Philadelphia to New York.

The morning newspaper talks about Gov. Mario Cuomo, who was first at his class at Fordham and could not get an interview on Wall Street.

I was not first in my class at Yale, but was close. I experienced job discrimination because I was Jewish and specifically could not get a job.

There is plenty of job discrimination that goes on in America today, and it is high time we stop deciding major issues in this country by 5-to-4 decisions by the Supreme Court and high time that in the Senate and Congress we all stop maneuvering for every last ounce of advantage.

We reached a milestone on principles of justice and civil rights in 1954 when the Supreme Court handed down the unanimous decision in Brown versus Board of Education. I think it would be repugnant and terrible if 65 percent of this body votes in favor of the Civil Rights Act and it is vetoed by the President, and millions of Americans are grossly dissatisfied.

When Senator HATCH talks about litigation and the bonanza for lawyers, the bitterness which will be spawned by that kind of a result will be overwhelming and will produce more litigation, bitterness and strife. I was district attorney of Philadelphia in the sixties and saw a lot of problems, which I am not going to recount now. I am very concerned about my party, to be partisan for just 1 minute, which has been tagged as the party of the rich, and unfairly so, in the arguments now going on about the tax bill, and as being tagged as the party of special interests. I am concerned about my colleagues, and there are at least 8, 10, perhaps 12 Republicans who want to vote for this bill, who have urged the President to sign a civil rights bill; but out of loyalty to the President they may stay with him here, and they will suffer defeat at the polls, because this is a bill which ought to be signed for America.

I came to this body in the 1980 election, and we are now missing a half-dozen of our colleagues who, out of loyalty to an abstract principle, which did not stand up, on Social Security and other matters, are not here today because they did not vote the way they should have voted in the interest of justice for America.

This bill provides a level playing field. When I got into this bill—and I consulted both sides—I brought in an experienced lawyer in this field who represented defendants, Mark Klugheit, from my former law firm in Philadelphia. And this bill has detailed expanses of defendant's rights, by putting a wider variety of proof. It is a bill for civil rights, not a quota bill, and we ought to work out a consensus on it. I yield the floor.

Mr. HATCH. Mr. President, let me briefly respond on the burden of persuasion issue. The Senator from Pennsylvania is wrong: Wards Cove marks no change in Supreme Court jurisprudence on this point. The burden of persuasion to prove discrimination—not a mere statistical imbalance caused by a particular practice—is on the plaintiff. This is hardly unusual.

I ask unanimous consent to insert in the RECORD at the end of these remarks a copy of a July 16, 1990, memorandum on this point, from my staff to Senator SPECTER's staff, which I also shared with Senator SPECTER in July.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. Mr. President, I might also add, one of the remarks made during the months-long debate on this bill is, "there were no quotas under Griggs, so why fear quotas under this bill?" The answer is simple: This bill does not restore Griggs, it overturns it. It drastically rewrites the disparate impact theory developed in Griggs and its progeny before 1989. It does not require the plaintiff to focus his or her lawsuit on a particular practice causing the disparity; it switches the burden of persuasion to the employer to prove its innocence upon a mere showing of a relevant disparity; and it dramatically increases the burden on the employer by changing the Griggs definition of "business necessity." In Griggs and subsequent cases, the Supreme Court made clear that definition is "manifest relationship to the employment in question," not the new language of this bill. I have addressed each of these points in great detail in earlier debates on this bill.

EXHIBIT 1

MEMORANDUM

JULY 16, 1990.

To: Richard Hertling.
From: Mark Disler.

BURDEN OF PERSUASION IN DISPARATE IMPACT CASES

I realize that, in *Griggs*, the Court said, "Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question." 401 U.S. at 432. Other Supreme Court disparate impact cases have referred to the employer's obligation to "show," "prove," and "articulate" the manifest relationship to the employment. But these terms are fully consistent with a burden of production—as the Supreme Court held in a Title VII intent case in 1978. *Board of Trustees of Keene State College*, v. *Sweeney*, 439 U.S. 24 (1978).

Basically, in *Sweeney*, the appellate court had imposed a heavier burden on an employer, in an intent case than the Supreme Court had imposed in its caselaw. In an intent case, once a plaintiff establishes a prima facie case, the burden that shifts to the employer is one of production. Once the employer articulates a reason for its employment decision, the burden shifts back to the plaintiff to show that the explanation is a pretext, merging with the plaintiff's ultimate burden of persuasion.

The appellate court in *Sweeney* misconstrued some words—"articulate," "show"—and imposed a heavier burden on the employer. The Supreme Court, in a two-paragraph per curiam decision, said:

"In *Furnco Construction Co.* v. *Waters*, 438 U.S. 567 (1978), we stated that "[t]o dispel the adverse inference from a prima facie showing under *McDonnell Douglas* [an intent case], the employer need only articulate some legitimate, nondiscriminatory reason for the employee's rejection.'" Id., at 578, quoting *McDonnell Douglas Corp.* v. *Green*, 411 U.S. 792, 802 (1973). We stated in *McDonnell Douglas* that the plaintiff 'must be afforded a fair opportunity to show that [the employer's] stated reason for [the plaintiff's] rejection was in fact pretext." Id., at 804. The Court of Appeals in the present case, however, referring to McDonnell Douglas, stated that "in requiring the defendant *to prove absence of discriminatory motive*, the Supreme Court placed the burden squarely on the party with the greater access to such evidence." 569 F.2d 169, 177 (CA1 1978) (emphasis added).

"While words such as "articulate," "show," and "prove," may have more or less similar meanings depending upon the context in which they are used, we think that there is a significant distinction between merely "articulat[ing] some legitimate, nondiscriminatory reason" and "prov[ing] absence of discriminatory motive." By reaffirming and emphasizing the *McDonnell Douglas* analysis in *Furnco Construction Co.* v. *Waters*, supra, we made it clear that the former will suffice to meet the employee's prima facie case of discrimination. Because the Court of Appeals appears to have imposed a heavier burden on the employer than Furnco warrants, its judgment is vacated and the case is remanded for reconsideration in the light of *Furnco*, supra, at 578. 439 U.S. 24, 25 (1978)." (Footnotes omitted.)

In short, these terms are consistent with a burden of production. All of the lower court cases Bill Coleman cites which use terms like "prove," "show," and "demonstrate," thus, are of no help in the analysis of *Supreme Court* precedent. *Sweeney* is the key, as well as *Beazer*, to the Supreme Court's guidance on the burden of persuasion.

In *Sweeney*, the Court said the context of the words used is important. In *Beazer*, the Court said, "At best, [plaintiffs'] statistical showing is weak; even if it is capable of establishing a prima facie case of discrimination, it is assuredly rebutted by (the employer's) demonstration that its narcotics rule * * * is 'job-related' * * *. Whether or not [plaintiffs'] weak showing was sufficient to establish a prima facie case, it clearly failed

to carry respondents' ultimate burden of proving a violation of Title VII." 440 U.S. at 587 and n. 31. In context, it is clear that the *Beazer* Court considered the plaintiff to have the ultimate burden of persuasion in a disparate impact case.

In her plurality opinion in *Watson* (1978), Justice O'Connor said: "A second constraint on the application of disparate impact theory lies in the nature of the "business necessity" or "job relatedness" defense. Although we have said that an employer has "the burden of showing that any given requirement must have a manifest relationship to the employment in question, "*Griggs*, 401 U.S. at 432, such a formulation should not be interpreted as implying that the ultimate burden of proof can be shifted to the defendant. On the contrary, the ultimate burden of proving that discrimination against a protected group has been caused by a specific employment practice remains with the plaintiff at all times. Thus, when a plaintiff has made out a prima facie case of disparate impact, and when the defendant has met its burden of producing evidence that its employment practices are based on legitimate business reasons the plaintiff must "show that other tests or selection devices, without a similarly undesirable racial effect, would also serve the employer's legitimate interest in efficient and trustworthy workmanship." *Albermarle Paper Co.*, 422 U.S., at 425, 98 S.Ct., at 2375 (citation omitted.)

That the burden of persuasion is on the plaintiff in a Title VII disparate impact case has been the law in the Third Circuit since 1981. I gave you *NAACP* v. *Medical Center*, which used Title VII principles to determine the burden of persuasion in Title VI cases (Title VI bans racial discrimination in federally-aided programs.) It concluded, relying on *Albemarle*, *Sweeney*, and *Beazer*, that the burden that shifts to the employer in Title VII disparate impact cases is one of production, not persuasion. Judge Higginbotham sat on that case. Later that year, relying on this decision, the Third Circuit squarely held in a Title VII disparate impact case that: "As with claims of discriminatory intent, the burden of persuasion remains at all times with the plaintiff. "*Croker* v. *Boeing Co.*, 662 F 2d 975, 991, (3rd Cir. 1981). This statement appears in Part IV of the opinion. Judge Higginbotham joined two dissents in this case on a Section 1981 issue. Both dissents specifically state that they join Part IV. I have not searched through all of Higginbotham's opinion, but in 1983, he did cite *Croker's* passages on this point, which in turn cite *NAACP* v. *Medical Center. Wilmore* v. *City of Wilmington*, 699 F. 2d 667, 670 (3rd Cir. 1983).

A key point on all of this: the harm under this theory of Title VII is a disparate impact caused by a neutral, identified device or devices *which are not manifestly related to the employment in question.* That is why placing the burden on the plaintiff to prove each element of the offense, including that a job practice is not manifestly related to the employment in question, is appropriate. Under current case law, the plaintiff's task is made manageable because once a plaintiff establishes a prima facie case of statistical disparity actually caused by a specified practice(s), the employer must explain its justification for the practice. This, the plaintiff need not disprove every concernable justification for an employment practice, but only that proffered by the employer.

If, in contrast, Congress now shifts the burden of persuasion to employers, 25 years of express Title VII policy is irrevocably changed. This is what will become illegal: a mere racial imbalance in a job. In other words, by converting the employer's explanation into an affirmative defense upon the showing of mere imbalance, even if current case law on causation is retained, the absence of a quota in a job is illegal. This implicitly repeals Section 703(j) of Title VII.

As Professor Kingsley R. Browne, Associate Professor of Law at Wayne State University, said in his testimony before the Committee:

"Fundamentally, the question of whether the burden that shifts is one of persuasion or one of production depends upon what constitutes the "wrong" in a disparate-impact case. If the wrong is * * * that an employer has a work force that is 'out of balance,' then arguably it makes sense to say that an employer may attempt to prove the "affirmative defense" of 'business necessity.' The affirmative defense is simply an act of grace by Congress. However, if the wrong is the placement of arbitrary barriers (that is, barriers that are not job related) in the way of minority advancement, as *Griggs* held, then showing that the barrier is in fact arbitrary is part of the plaintiff's case. Of course, the plaintiff's presentation is facilitated by the employer's obligation to come forward with evidence of justification, so that the plaintiff need not preemptively rebut all conceivable justifications."

BURDEN OF PRODUCTION

One last observation: Justice Brennan wrote in *Price Waterhouse* v. *Hopkins* in 1989: "conventional rules of civil litigation generally apply in Title VII cases, [citing the Court's comment in Aikens that discrimination [is] not to be 'treat[ed]; * * * differently from other ultimate questions of fact." 109 S.Ct. 1775, 1792. One such rule is Federal Rule of Evidence 301. The Rule says that unless otherwise provided, "a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast."

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 5 minutes.

Mr. JEFFORDS. Mr. President, last year the Supreme Court left our employment discrimination laws in tatters. In decision after decision, the fundamental right of Americans to equal opportunity was undermined.

On this point there is little disagreement. In fact, I want to begin my remarks by pointing out the substantial areas of agreement.

First, virtually everyone agrees that the employer should bear the burden of proof of an affirmative defense such as business necessity.

Second, there is a broad consensus that the Patterson case needs to be reversed.

Third, most of us agree that remedies for title VII violations need to be increased.

Finally, there is substantial agreement that the Lorance and Price Waterhouse cases need to be overturned as well.

Where do we disagree? We disagree principally on the definition of "business necessity." In other words, we disagree on the degree of permissible discrimination.

I had the opportunity recently to spend some time talking to the President on the issue of civil rights. I am absolutely convinced that he wants what the proponents of this legislation want—a solid bill that will overturn Wards Cove and restore the Griggs standard.

However, I cannot say that the President's desires have been reflected in the proposals from the White House. The proposal made on September 21 was nothing short of outrageous. And on the most important issue, this weekend's proposal was a step backward.

I was sorry to hear the President had, in fact, vetoed the civil rights bill. I am sorry because I think this is the wrong decision and an unnecessary decision. I am also sorry that the efforts of those who have worked so hard have failed when we were not very far apart on the actual words that either side would accept.

Obviously, the major reason advanced for the veto is the speculation that the congressional bill will promote quotas. The theory goes that the defense of discrimination actions will become so expensive and difficult to win that employers will simply hire and promote by the numbers and thus avoid ever being sued in the first place.

I believe that this is a false issue. I do not believe that quotas will be the inevitable result of this bill. However, the subject of quotas is an easy target; it is an easy rallying cry in opposition to any civil rights measure, and this one is no exception.

It is too bad that this brand has been placed on our bill. I believe that the availability of the quota charge has made it too easy for some representatives of the administration to avoid real negotiations on the issues. For too long the administration was able simply to oppose our bill without having to work to shape it in a way that it could support. In fact, only when pressured by the impending close of this session of Congress have we discovered the administration's view on the real issue, which is, what should businesses be allowed to get away with under the guise of business necessity? What loopholes should we allow in the law to protect business practices which are shown to discriminate against women and minorities? That's what this whole business necessity dispute is all about.

The definition of business necessity which the administration sent us is even more loophole oriented than some of the previous versions we had seen. The so-called Kennedy-Sununu language would have limited its application to selection and job performance situations. Only in rare circumstances would as lesser standard, tied to business objectives rather than job performance, be applied. The "defended by" version drafted by the administration would allow employers to push virtually all employment practices into the second category and justify them, when they are proven to discriminate, on the basis of ordinary business objectives rather than on the basis of their ability to predict which employees will be successful on the job.

The reason that this lesser standard is opposed by the civil rights community is that it could provide justification for practices which had been previously outlawed or were viewed as inherently suspect under the more stringent Griggs standard. Of particular concern in this regard is the possibility that actual—or simply perceived—business costs, and especially health costs, would once again be raised as excuses to deny employment opportunities to women.

Limiting business costs is inherently a legitimate employer goal. Most employers are in business to make a profit. It is simple economics that to the extent they are able to control or suppress the cost side of the equation their profitability will be enhanced. The question is whether such cost control incentives could be supported under the more lenient standard as a basis for permitting continued use of discriminatory employment practices. Under the stricter Griggs standard, such a rationale has repeatedly been rejected.

The proposal received from the administration on September 21 sheds light on what there is to fear in this situation. There, spelled out in black and white, was an incredible step backward, in terms of both the negotiations and the law.

This proposal would have sanctioned not only the loopholes we had agreed to, but some fairly outrageous ones as well—legitimate customer preference, for example. The customer's always right? Even if he does not want to deal with Jews, women, or blacks? Many cases involving the rights of women would be effectively overruled if we were to embrace this concept.

Another good one is "promotional potential". Mr. Griggs only wanted a job as an entry level laborer, but just in case he might wind up being president of Duke Power some day, he was going to need that high school diploma. These concepts are outdated, outmoded and, for the time being at least outlawed.

The administration's approach on this issue represents a veritable opening of the Pandora's box of discrimination horrors. First, this is true because the "defended by" configuration allows an employer accused of discrimination to construct its defense on an after-the-fact basis. This does not encourage employers to think through their policies on an ongoing basis and to remove any discriminatory impact from them before a charge is filed. Thus, the issue of whether there is discrimination gets addressed only in the context of a litigation. And promotion of litigation was supposed to be the great failing of the congressional bill.

The second concern here is that the defended by concept permits the employer to choose the actual standard against which the suspect employment policy is to be measured. The mere granting of this choice would not be so problematic to the supporters of civil rights if the standard in the second paragraph was higher than the first. From my point of view, it should be more difficult to justify a discriminatory practice which promotes an employer objective other than getting qualified workers. This could be done by making the second standard relate to a compelling business objective or some other heightened level of interest. However, the administration proposal reverses this priority and, thus, makes it possible for an employer to justify all practices on the basis of merely significant business objectives, which may be unrelated to job performance. It is academic that employers faced with this choice will opt for the lesser standard, thus rendering moot the Griggs concept of job relatedness. This will obviously put us into all new territory rather than returning us to the land mapped out by the Griggs decision.

Finally, the ultimate guardian of the Pandora's box of discrimination has been the U.S. Supreme Court. However, in recent years a slim conservative majority of the Court has shown a marked willingness to abandon this role. Clearly, the faith of the civil rights community that its interests will be protected by the Court has been shaken. Now, with the confirmation of the latest justice, that majority has solidified and may well become entrenched on the right for years to come.

The shift in the makeup of the majority on the Court leads the supporters of civil rights to be concerned that the guardian of the Pandora's box of discrimination will become even less diligent in the performance of this vital duty. This is yet another reason that we feel the need to secure the locks on the box by reaffirming and strengthening the protections provided by the civil rights laws. While we have no great faith in the Court's resolve on civil rights issues, the administration should be able to take heart that its point of view will be represented there.

We have been down this road many times before. Throughout the mid-eighties, the Civil Rights Restoration Act was greeted by all sorts of dire predictions.

Calamity is the currency of our trade, but the dire predictions are seldom borne out in practice. The Grove City bill has not crippled our country, indeed it has strengthened it. So, too, will the Civil Rights Act of 1990.

Yes, there are substantial areas of agreement. But it is only half a loaf. Our country cannot be nourished by such a paltry serving. We must enact this legislation.

I will vote to override the veto of this important legislation because I believe that it is necessary and proper. I do not believe in or support quotas any more than do the most outspoken opponents of this bill, and I would not vote for legislation which mandated or promoted them. This is not a quota bill; it is truly a civil rights bill which sounds of high moral principles. We cannot let a well tried fabric of law protecting those principles be punched full of loopholes. We should vote to overturn the President's veto.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise not to talk about the formalities of this legislation, not to talk about disparate impact or about quotas or some of the legalisms that the lawyers have been talking about in all the meetings at the White House, but to talk about the impact that this bill will have and can have on women and minorities.

This is not a new issue for America. We have lived with this issue for a long time. I remember when I introduced a bill in 1943 in the Ohio General Assembly to ban discrimination based upon race, color, creed, or national origin. At that time, that bill was considered horrendous legislation, that was radical.

What we are talking about is the right of some poor man or woman to get a job. That is all this is about. This is a jobs bill. This is a bill that says that you ought to be able to work instead of having to go on welfare. And when you apply for a job, you ought not to be discriminated against because of the color of your skin, or because you are a woman instead of a man. All this other gobbledygook is good for the lawyers. It is the kind of stuff Washington thrives on. But people do not care about it out in the countryside. What they know is that

this bill has to do with whether you can get a job.

If you believe people should be working rather than on welfare, then you ought to be for this bill because this bill says you cannot discriminate against minorities, you cannot discriminate against women. I think that every one of us on the floor of the U.S. Senate should not focus on all this gobbledygook that they are talking about at the White House, regardless of who is right or wrong. The real issue is, do you believe that a person ought to have an opportunity to get a job without taking into consideration the question of whether or not the person is black or Hispanic or native American, or whatever the case may be, or whether that person is a woman? That is what this bill is all about. And there is nothing else that is involved other than that.

Mr. President, I urge my colleagues who are always talking about people being on welfare to say this is a bill to take people off of welfare and give them a chance to go to work.

I urge Senators to vote to override this veto. This will give people in this country a chance to work, not to be forced on the welfare rolls. This will give people a chance to be judged on the basis of their merits, not on the basis of color of their skin or on their gender. Mr. President, I want to discuss the implications of this misguided veto on this Nation.

Last week, on the floor of the U.S. Senate, I asked President Bush to cut through the rhetoric, ignore the labels, and sign this critical measure into law. Regrettably, for millions of America's working women and minorities, President Bush did not take my advice. Instead, he listened to the corporate lobbyists. He succumbed to their incessant, but false, drumbeat of "quotas, quotas, quotas." He followed the guidance of his cloistered White House operatives. He ignored the voices of reason and moderation in his own party. Unfortunately, by vetoing this bill, President Bush missed a golden opportunity to repudiate, in no uncertain terms, voices of division and intolerance in this country.

This veto should tell the American people a great deal about the real George Bush. He has had a split personality in the area of civil rights. In 1964, George Bush publicly opposed the landmark Civil Rights Act of 1964. But in 1988, he promised that civil rights would be at the top of his administration's agenda and guaranteed personal involvement on this issue. Little did we know that his idea of personal involvement was to veto the most important civil rights legislation since 1964.

In 1988, Mr. President, you called for a "kinder, gentler" America. By now we know better than to trust those empty campaign promises. With this veto, George Bush joins the ranks of Andrew Johnson and Ronald Reagan as the only Presidents in our history to veto civil rights legislation. So much for a "kinder, gentler" America.

The public should learn a great lesson from this veto. When push comes to shove, the real George Bush reverts to his roots and follows his instincts. He supports the interests of wealthy employers over the legitimate concerns of women and minority workers.

That is a shame. President Bush was elected to be the President of all the people—not just wealthy corporate lobbyists who have power to get access to the White House. This veto is a slap in the face to millions of Americans who are struggling to get a fair chance to compete in our society.

That is what makes this veto all the more devastating. The issue goes beyond the mere technical terms of this legislation. The American people understand that we are talking about something bigger than buzzwords like "quotas" or "disparate impact" or even "civil rights."

This bill is about the very fiber of our Nation.

We are a nation of immigrants. Tens of millions of people have flocked to our shores looking to make a better life for themselves and their families. America has been a beacon of freedom, a haven of opportunity. We have welcomed people with open arms. Together we have made this country the greatest Nation in the history of the world.

The magnet that has drawn people to America is the promise that every person has a fair chance, based on ability, to make it in our society. That is the very essence of the American dream. And that is what President Bush has threatened by this veto.

He has changed the rules for women and minorities who want jobs, who want to better themselves and their families. These people are not seeking a Government handout. They want work, not welfare. They want jobs and the chance to prove themselves.

That is not too much to ask. But this veto means that it will be much easier for employers to discriminate against workers because of their race or gender. It will be much easier for women and minorities to be denied jobs or promotions, even though they are qualified to perform the work in question. The President's veto threatens to crush the hope and the opportunity for a better life for millions of women and minorities. That simply is not the American way.

Mr. President, we all must live with the consequences of our decisions. President Bush has cast his lot with wealthy corporate interests. This Senator will cast his vote for the millions of women and minority workers who are striving to achieve the American dream.

When it comes to civil rights, George Bush is following in lockstep in the path of Ronald Reagan. President Reagan was the first President in over a century to veto a civil rights bill. But Congress would not ignore the needs of the people: we overrode President Reagan's veto of the Civil Rights Restoration Act.

Now we must do our job again, we must stand up for the civil rights of millions of American women and minorities. We must protect the victims of discrimination by rejecting this regrettable veto.

I urge my colleagues to do the right thing for America. I urge all Senators to join together to override the veto of the Civil Rights Act of 1990.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I have had the pleasure of serving in the U.S. Senate for 24 years. And during my tenure, I have cast over 10,600 votes; many of them controversial, all of them significant in one way or another.

But very few of these votes could be characterized as representing a watershed event in the history of our country. Our vote on the President's veto of the Civil Rights Act of 1990 will be one such vote.

Guaranteeing civil rights remains at the top of our Nation's unfinished agenda. No more important domestic goal faces Congress, or any State legislature today than ensuring equal opportunity for all Americans.

My State of Oregon has been a leader in enacting civil rights legislation. Oregon was the second State in the Nation to enact a fair employment practices act. My involvement in this issue spans many public offices over several decades. 37 years ago, as a young State representative in the Oregon Legislature, I helped introduce Oregon's first public accommodations law.

Yet if anyone should deny that racism remains a blind spot in our vision of America, or doubt the importance of maintaining our commitment to equal rights legislation, they need only look to my State. Let me direct my colleague's attention to a trial recently concluded in Portland, OR, resulting from the murder of a young Ethiopian man who was beaten to death with baseball bats by several so-called skin heads simply because he was standing on the street. The jury found the murder was directly attributable to the message of hate deliv-

ered by a white supremacist group. Mr. President, we have made so much progress in civil rights, yet remain so far away.

We have relied upon the Civil Rigths Act of 1964 for 26 years. That landmark law has been the foundation upon which our efforts to erase the blight of bigotry and promote equal rights in the workplace and in the marketplace have been based. Yet recent decisions by the Supreme Court have delivered a near mortal blow to the future vitality of the act. The Civil Rights Act of 1990, which I cosponsored, was designed specifically to overrule those cases, restore our civil rights laws and revitalize our national quest for equality.

Mr. President, I was quite disappointed to learn of the President's veto. I think he received very bad advice, and neither he nor this Nation were well served by this decision.

We are all aware of the countless hours spent in negotiations to hammer out a compromise and how close the conferees and the administration were to a mutually agreeable result. Apparently, however, too many lawyers spent too much time on legal niceties and subtle distinctions. So much so, in fact, that the purpose behind the bill has been lost. In short, they lawyered it to death.

While the legions of lawyers have been arguing about burdens of proof, the burdens on people who have been the victims of employment discrimination continue. Those of us who have been involved in difficult negotiations on other pieces of legislation realize that at some point, you must decide whether you want a bill or you want to make a statement. I regret that, once again, both the Congress and the administration seem more interested in making statements than in coming to agreement. There are no winners or losers in this game, only victims.

Mr. President, I will vote to override the President's veto when the Senate votes on this matter later this morning.

Mr. President, let me quickly summarize that I believe that guaranteeing civil rights remains still one of the top pieces of unfinished agenda on our Nation's business. I think ensuring equal opportunity for all Americans is certainly one of the highest commitments we all have. To me, this bill is but a building block that is so important in the field of employment but it, in itself, does not answer our entire problem today.

Let me take my State as an example. Oregon has always been proud of its progressivism, always proud of its classical liberalism, always proud about being the first or second in the Nation. Oregon won second in the Nation in its fair employment practice act, won first in the Nation in its public accommodations act, won first in the Nation in its migratory labor legislation.

But last week we concluded a trial in my State of Oregon, a trial that had followed a criminal trial, a civil action, of a young Ethiopian standing on a street corner in Portland being beaten to death by hoodlums with baseball bats representing one of the regional organizations. The jury found $12½ million of damages. That is not going to bring his life back. But not only did they cite in the criminal action the individuals' guilt but they related the message of hate that led to this kind of bizarre action on our streets.

I want to say that I suppose there are advantages in not being a lawyer. I have seen and observed the countless hours that have gone into the negotiations to hammer out a compromise on other issues and then we realize that there is a time that comes when you have to either make a compromise work or you are more interested in making a statement.

I would like to have had less emphasis on statements by the lawyers and more focus upon getting a bill. That is not our choice here today. In fact, I think perhaps this bill was lawyered to death. And we are not then winners or losers. We are all victims of this particular process, I think, when the legions of lawyers have been arguing about burdens of proof, the burdens on the people who have been victims of employment discrimination continue.

And I emphasize that the bottom line is there are no winners or losers in this game, only victims.

I shall vote to override the President's veto and I am very hopeful we can find a solution to this very shortly thereafter.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield 8 minutes to start to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, as the distinguished Senator from Utah has said, there are many different issues which have justified the President's veto of this bill. The litigation bonanza which it could create ironically is not denying rights to access to the courts to people not parties to lawsuits which have created a quota or affirmative action systems, to challenge those quotas, but I wish to devote my time here to one single central issue, the definition of that two-word phrase "business necessity," a phrase created by the courts and to this point defined by the courts.

Remember, Mr. President, as should the people of the United States, the central portion of this debate has not directed itself to the definition of or to the sanctions against intentional discrimination. The 1964 Civil Rights Act deals very expressly and well with that. Numerous lawsuits alleging intentional discrimination have been won and nothing in this debate derogates from the ability to prevail to such cases.

The central issue here is the degree to which the courts of the United States should be authorized and directed to penalize employers who without any intention to discriminate whatsoever nevertheless have groups of employees which do not reflect precisely the demographic pattern of eligible employees, whether by race, religion or gender, or the like.

I repeat that, Mr. President: We are dealing here with what is called euphemistically unintentional discrimination which almost by definition is not discrimination at all.

In a decision rendered by the Supreme Court of the United States last year called Wards Cove, which has been the central area of controversy, the Supreme Court said that once that disparate pattern, that disparate impact has been shown successfully by an employee, this is what the employer had to establish—and I am quoting from the Supreme Court:

> Though we have phrased the query differently in different cases, it is generally well-established that at the justification stage of such a disparate impact case, the dispositive issue is whether a challenged practice serves, in a significant way, the legitimate employment goals of the employer. * * * The touchstone of this inquiry is a reasoned review of the employer's justification for his use of the challenged practice. A mere insubstantial justification in this regard will not suffice, because such a low standard of review would permit discrimination to be practiced through the use of spurious, seemingly neutral employment practices. At the same time, though, there is no requirement that the challenged practice be "essential" or "indispensable" to the employer's business for it to pass muster: this degree of scrutiny would be almost impossible for most employers to meet and would result in a host of evils we have identified above.

That host of evils are self-imposed quotas according to the majority of the Supreme Court itself.

Mr. President, it seems difficult for me to hear from anyone here what is wrong with that definition of business necessity which become the defense only in the case of an unintentional discrimination shown by employment population.

Now, this bill, while it seeks to reverse or change a number of decisions quite validly, expressly goes after that definition.

When the distinguished Senator from Massachusetts introduced this bill, his precise language was that in order to show "business necessity", the practice had to be essential to the employer's business, exactly what the Supreme Court had said was next to impossible for any employer to prove.

It was the design of this bill, when it was introduced, to say that a mere showing of disparate impact, a mere showing of an employee population which was at variance with that of the surrounding community, would be enough to prove discrimination. In the course of negotiations over the bill, that word has disappeared. We now have a 36-line definition of business necessity which will keep lawyers at work for 50 years.

But a precise overruling of this Supreme Court decision on this point remains in this bill and thus its intention and the intention of its sponsors remains the same. Employers will not be able to justify, for all practical purposes, any disparity between their employee populations and the populations of the community as a whole.

Contrary to the statement of the distinguished Senator from Ohio, this is not a dispute about whether or not people will get jobs. It is whether or not we will determine who gets jobs on the basis of their merit and their qualification or simply make those decisions on the basis of race, religion, and gender.

It is a radical departure from the philosophy of the Civil Rights Act of 1964. It goes away from our theory that judgments should be based on merit.

As for the proposition for which they began this debate that the Wards Cove decision makes it impossible for employees alleging discrimination to win disparate impact cases, Mr. President, the statistics of the last year show that to be false.

In that period of time there have been 27 cases based on this disparate impact; 12 of them have been won by employees asserting discrimination, 13 by employers in their defenses and 2 have not yet reached final decision.

That, interestingly enough, is almost the same percentage which litigation resulted in before the decision in the Wards Cove case.

Those of us on this side of this debate long ago offered to the proponents of the bill simply to codify the precise language of the so-called Griggs decision. The bill introduced by the Senator from Kansas [Mrs. KASSEBAUM] and myself did so word for word. Mr. President, we were rejected.

The proponents of this bill do not want the language of the Griggs decision. They have turned it down. They do not want a direct reversal, a codification of the Griggs decision. They turned that down. They want language which will make it impossible for employers to prove business necessity and they want employers to be forced, in order to prevent constant litigation, to defend themselves by establishing their own quotas.

This bill does not require quotas directly by Government action, but it requires employers who wish to stay out of the courts to establish quotas on their own employeee population in order to be able to stay in business.

The veto of the President of the United States should be upheld.

The PRESIDING OFFICER (Mr. ROBB). The time yielded to the Senator from Washington has expired.

Who yields time?

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for up to 5 minutes.

Mrs. KASSEBAUM. Mr. President, along with many of my colleagues, I am deeply disappointed that we have reached this vote. We have tried for months in many negotiations and many meetings, to restore the necessary balance to our civil rights laws. I think all of us agree on that goal and no one more than President Bush. But it has not been achieved. For that reason, President Bush vetoed this bill and I will vote to sustain the veto.

It is the President's view a view I strongly share, that legislation is needed to address the Supreme Court decisions handed down last year that have weakened civil rights protections. These rulings have swung the pendulum in favor of employers and against the real and potential victims of discrimination and harassment.

Unfortunately, in seeking to correct these problems, I believe the legislation before us swings the pendulum too far the other way in favor of employees and against employers. This bill does not restore the balance that existed before the Supreme Court rulings last year. It unsettles civil rights laws in sweeping and fundamental ways that are as disturbing as the effects of the court rulings.

We are not certain what will happen under this bill, and I think it is this ambiguity that causes all of us some concern.

Many of the arguments on this bill have focused on the issue of quotas. President Bush and his advisers are convinced this bill will force employers to resort to quotas to protect themselves from a flood of lawsuits that this legislation could well trigger. Supporters of the bill reject this argument as flatly unfounded.

Mr. President, I do not know if this bill will lead to hiring quotas and the truth is that I do not believe that anyone else in this Chamber knows whether it will or will not. What we all do know, however, is that this legislation sets aside existing legal terms and definitions that have been well defined through years of court decisions. In their place we are creating new terms and definitions that will require many more years of litigation to become clear.

The distinguished Senator from Washington [Mr. GORTON] has just carefully and eloquently delineated the problems with how we define business necessity, and I will not go into that any further.

My colleagues in the House issued a strong indictment that, without the right to sue, all the promises in the world are empty promises to women. Mr. President, I just do not believe that is so. We have made advances. Those who are trying to find substitute language to the present Kennedy-Hawkins bill have made advances. These, too, have been delineated earlier and I will not go into that any further now.

Winds of change are taking place in the labor force today and we are not sure what the results will be. I seriously question at this point, Mr. President, whether we should go that much further in continuing to set higher standards and bring new remedies when we are unsure of the results.

I would like to call attention to a case decided earlier this month by the U.S. Court of Appeals for the Second Circuit, which upheld a firing on what could be a precedent-setting ground. According to the court, if there is clearly stated public policy—in this case that sexual harassment in the workplace is forbidden—that doctrine takes priority over the terms of a union contract. "In sum," the court said in its ruling, "there is an explicit, well-defined, and dominant public policy against sexual harassment in the workplace." And if that is the case—and who knows whether this would be upheld if it is appealed to the Supreme Court—clearly it shows some of the conflicts, concerns and tensions that we see developing in the workplace.

This bill takes steps that Congress refused to take when it passed the landmark Civil Rights Act of 1964. For the first time, we are opening every employer in America to lawsuits for unlimited compensatory damages—damages for pain and suffering—when they are accused of discrimination. This applies to the largest corporations as well as small businesses to city and county governments, school boards, universities, and every other employer that could be brought into court to defend themselves from multi-million-dollar lawsuits.

Supporters of this legislation argue that this is only fair when an employer is guilty of intentional discrimination. I would agree completely with that argument, but I always get stopped by one vital point that is absolutely central to this bill—the proving of guilt.

In 1964, Congress decided that affixing blame and extracting monetary vengeance was a sidetrack that our civil rights laws must not go down. It was clearly understood then, if not now, that endless lawsuits could tear

us apart, pitting workers against employers, and each other, in the workplace. I believe that this is something that we must continue to take into consideration.

Mr. President, the goal of our civil rights laws is to correct injustice and end inequality. There is no higher purpose that we can set, and there is no lower standard that we should accept. We have not fully achieved that goal yet. Indeed, there is much that remains to be done. If I thought that this legislation would advance us closer to our goal, I would support it.

I do not regard myself as a rightwing extremist. I feel very strongly about this issue. But we have to be careful and consider its larger impact, just as we are attempting to end discrimination.

I do not understand why we have failed to come to agreement on this matter—which we all agree must be addressed. We have come so close, and yet we remain still divided. If ever an issue cried out for reason and calm deliberation, it is this one. If reason deserts us now, I fear for what might happen.

But, Mr. President, I want you to know I believe this should be the first issue before us when we come back in the next Congress, and I pledge to make every effort to achieve language we can agree to on all sides.

The PRESIDING OFFICER. The additional time yielded to the Senator from Kansas has expired. Who yields time?

The Senator from Massachusetts.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Mr. President, on behalf of the majority leader, I ask unanimous consent that the vote on the President's veto message occur at 12 noon; and that the time from 11:30 to 11:45 be under the control of the Republican leader; and the time from 11:45 to 12 noon be under the control of the majority leader; and that the previous order on the foreign operations bill remain in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I rise today to support an override of the President's veto of the Civil Rights Act of 1990.

I have followed the debate on this bill closely and have had many concerns over the provisions in this important bill. As my colleagues well know, I was the only Senator from this side of the aisle to vote against invoking cloture on the bill. I agreed to support the bill on final passage only after assurances were provided that further improvements would be made in conference.

This bill concerns a highly technical and complex area of our laws. To make matters much worse, there are about as many interpretations of the effects of this bill as there are attorneys. And that means there are many, many different views on this bill even within the Senate.

Not only are there differing interpretations of how this bill would change the law, there are differing interpretations of what the law was and how it was changed under the "Wards Cove" court decision. Given the confusing and conflicting views regarding this legislation, it is easy to lose sight of what should be the common goal of Congress and our President—equal employment opportunity for all Americans.

In the area of civil rights, our Nation has made much progress in a short period of time. Yet the hurdles that we now face are higher and perhaps more numerous. Our Nation now readily rejects the messages of racial and religious hate groups. Yet discrimination in other forms remains a serious threat to the American community. If allowed to smolder, covert discrimination can easily catch fire.

I am concerned about the manner in which our Nation's commitment toward civil rights has in recent years been slowly unraveled by the Supreme Court. While we may need to regroup our efforts at times, we should never retreat from a commitment to equal opportunity for all.

This bill will stop the retreat that was led by the Court. It will further our commitment against sex discrimination by expanding the remedies available to those who are victims. Our Nation's women have made great strides toward equality in recent years, yet there remains much room for improvement.

I share our President's view that the Nation now chart a course that leads to hiring quotas. Discrimination as a cure for discrimination rarely makes sense. For that reason, I sought language in the bill that clearly stated that quotas would not be mandated. That language has been included in this bill as have additional assurances that hiring quotas are not the means endorsed by this bill.

Section 13 of the bill states:

> Nothing in the amendments made by this act shall be construed to require or encourage an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin. * * *

In addition, the bill assures that the "mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation."

Not only were changes made to the bill to clarify its intent concerning quotas, but changes have also been made that address the concerns raised by my friend and colleague from Utah, myself, and others regarding the comparable worth issue.

This is a much different, and better bill than was originally introduced.

I have been impressed by the fact that changes have been made and that compromises have indeed been forged.

One of my concerns about this bill is that it might increase civil rights litigation and would be of the most benefit to the legal profession. Unnecessary and costly litigation can be profound detriment to the ability of our Nation's businesses to compete in our world markets.

Included in the bill is a provision, sought by myself and others, that caps punitive damages at $150,000, or the equivalent of compensatory damages. I can well understand why many possible defendants advocate a smaller cap on damages or even no damages at all. But the intent of the cap is not to protect employers from liability for discriminatory actions but rather to protect employers from unfounded litigation spurred on by the possibility of unlimited financial awards.

In this regard, I have joined with Senator PRYOR in asking the GAO to conduct a study regarding the effects over the next 3 years of the Civil Rights Act of 1990 should it become law. The study will focus on whether this bill encourages insubstantial claims of employment discrimination and will be a valuable resource in reviewing the impact of this bill over the next few years.

Mr. President, I am very disappointed that the bill has come to this point. The administration has long agreed that some changes need to be made in our civil rights laws. Both sides of this issue have negotiated in good faith efforts to develop a bill. Our President has made many suggestions for this bill that were incorporated. Many others have made valuable contributions. While all of us might want something a little different here, or a little different there, this bill is a worthy compromise that should have been supported by our President and that deserves the support of the U.S. Senate.

This bill has the strong support of many thoughtful and influential members from the President's own party. That simply would not be the case were this truly a quota bill as the President wrongly asserts. I was very interested in the remarks made last week by the senior Senator from Missouri who I note supported the conference report on this bill. I fully suspect that the only stumbling block at this point for many of the opponents of this bill is the President's opposition.

It is time for our Nation's leaders to work to unite rather than divide our citizens, particularly when it comes to the volatile and potent issue of civil rights. I am very afraid that the President's veto of the Civil Rights Act of 1990 has further opened the divisions,

caused by discrimination, that continue to plague our society.

I will vote to override the veto of our President on this bill and urge my colleagues to do so as well.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH Mr. President, I have a problem here. In trying to accommodate the majority and minority leaders, we have changed the time from 11:30 for an absolute set vote that a lot of people have been relying upon, to 12.

I did not realize this was a problem, but it is a problem to some who have to make other appointments. So I wonder if we can get the majority leader up here and see if we can work out this time so it does not inconvenience so many other Senators.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey, Mr. BRADLEY, is recognized for up to 3 minutes.

Mr. BRADLEY. Mr. President, unfortunately President Bush has decided to follow in the footsteps of his predecessor and vanquish civil rights instead of validating them. With his decision to veto the Civil Rights Act of 1990, President Bush rejects the promise that opportunity will be based on ability and not frustrated by an employer's wrong-headed notion about limits based on race, on sex, or other irrelevant factors.

President Bush's action would return us to a day when discrimination in hiring and promotion was routinely accepted. Many Senators in both parties have urged the President not to take this unwise action. Members of Congress including Members of his own party have worked incredibly hard to craft language that would satisfy every one of his objections, and still, President Bush went ahead and vetoed it.

This civil rights bill is not a quota bill. It would simply restore the basic measures of fairness that the American people and American business took for granted for 18 years. The bill is supported by a broad array of civic and religious groups that are unalterably opposed to quotas. The bill which Congress approved was what the court had held for 18 years.

What we want is a society free of discrimination, with sufficient legal remedies for those who find themselves victims of discrimination.

The Senate took the President's stated objections seriously and, in all, 30 amendments were added to meet the objections of the White House and the Justice Department. Yet the President still chose to veto this bill.

Many of us wonder whether the President was serious when he said he wanted to sign a civil rights bill that restored the standards originally set by the Supreme Court this year. We should not play politics with the basic right of all Americans to equal justice.

I say to my distinguished colleagues on the other side, I know that within the Republican Party there is a very severe division between those elements of the coalition that want to make progress on civil rights, and those elements of the coalition that want to turn the clock back.

This is a moment of judgment. There are many Senators on the other side of the aisle who care as fervently about civil rights as anyone on this side of the aisle. But the problem is a coalition that is built in part upon elements that want to turn the clock back in this country.

I appeal to my colleagues on the other side of the aisle on this vote, at this moment in our Nation's history, when the President has wrongly yielded to the temptations of a small faction of his party, to vote to override this veto. Because to vote not to override the President's veto will make this a sad day for this country, a sad day that many Senators on the other side of this aisle will regret as time passes.

There are certain moments in this life when you either choose to move forward or you choose to step backward. On the issue of civil rights, the progress must always be forward.

The PRESIDING OFFICER. The time allocated to the Senator from New Jersey has expired. Who yields time?

Mr. KENNEDY. Mr. President, I yield 3 minutes to my colleague, Senator KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is recognized for up to 3 minutes.

Mr. KERRY. Mr. President, I thank my distinguished senior colleague, and I congratulate him for his extraordinary leadership in this effort. I am sorry that we are here now at a moment when the President has denied the Congress the work that it has pursued so diligently and, I think, so effectively and cautiously with respect to this legislation.

This is not a quota bill. That has been said again and again. A majority of the U.S. Congress passed the bill and so stated this fact. It is an antidiscrimination bill, a bill that seeks to redress wrongs committed against our citizens that for years we have said we would redress and reestablishes the same standard that has applied over the years in the effort to redress those grievances. The President's veto is, I think, an appeal to fear. It is an appeal to some of the worst instincts in people, not the best, and it is a statement about relationships and about the most negative. This statement will not sit lightly with those in this country who depend upon us to try to defend their rights.

Countless of our citizens, not just those who are people of color, but women, handicapped—countless citizens—daily try to surmount barriers that are placed against them in the workplace, and this bill was carefully structured to guarantee the access and protection which we have promised in this country to all people. As a result of the President's veto, we have not only a denial of the reality of that access, but also a statement by this President and by the White House about its attitude toward that access. In many ways, it is this statement about attitude that is far more damaging than perhaps even the hiatus between the veto and our efforts, should it be sustained, to be able to address the legal questions of how people achieve that access.

Mr. President, I believe that achieving access is a promise that has been broken over and over again in recent years. It is such a significant promise of such importance to people at this point in time, given the increasing spread between rich and poor, the increasing number of homeless, the diminishment of the pie for which people are going to try to vie for economic opportunity; that to deny that promise with a veto of this legislation is to deny a part of ourselves and who we are.

The veto override we will undertake today is unfortunate, because it did not have to end up this way. After months and months of work by many people the President decided to oppose civil rights, to oppose the public interest and to veto legislation designed to stop discrimination.

My colleagues on both sides of the aisle and in both Houses of Congress, operated diligently and in good faith, trying time and again to address the concerns raised by the White House with this bill. Yet, for every step forward, we took 10 steps backward. Each time we moved forward in the spirit of cooperation and compromise, the administration moved us 10 steps backward with more concerns and more issues, until finally only one issue was left: quotas.

The charge that this bill creates quotas is simply not true. This bill is not a quota bill, it is an antidiscrimination bill. In fact, the bill specifically states that nothing in the bill should be interpreted even to encourage employers to adopt quotas, let alone require them to do so. This bill is an antidiscrimination bill to protect victims by enabling them to prove that they have been discriminated against. The President's veto was wrong on substance and wrong on politics. It is a mistake that the people of this country will remember.

Mr. President, this bill is neither a quota bill nor a radical departure from basic civil rights law. What this bill at-

tempts to do is to restore the 18 years of experience that we have lived under since the Supreme Court ruled on employment discrimination in the Griggs case. The businesses throughout this country functioned effectively for those 18 years under the Griggs standard. During that time we heard no massive hue or cry about quotas or about business decimation. Instead, what we had and what we effectively operated under was basic protection against job bias for minorities.

Yes, this bill allows women and religious minorities to be compensated for pain and suffering when the discrimination was committed with malice, reckless disregard or callous indifference, but the bill also sets a limit on the amount of punitive damages an individual may recover from an employer. The false characterizations of this bill made by those who oppose it do a grave disservice to the millions of working men and women in this country and the millions of minorities who stand to benefit from the protections we attempt to reestablish with this legislation. These are the people who live with job discrimination daily, confronted with blatant racial prejudice and flagrant sex harassment.

Our country is built on—in fact was founded on—the principle that all men are created equal, and that principle has guided the course of this Nation's development for decades.

The experiences we have shared and the lessons we have learned—while not always easy or pleasant—have ultimately made us a stronger America. Because after each lesson, after each bitter experience, the fundamental rights and liberties envisioned by our Founding Fathers because more clear, more firm and more a part of who we are as a nation and who we are as a people.

It is our responsibility as legislators to ensure that the fundamental rights, liberties, and principles established in our founding documents are available to all Americans—not just to some Americans. As a result of the President's veto on Monday, millions of Americans who face employment discrimination—black Americans, women, Jews, Catholics, native Americans, Irish Americans, the disabled—have no effective remedy against this discrimination. This is just plain wrong.

Despite its proud history in helping achieve racial justice and equality in America, the Supreme Court recently began to turn its back on injustice and discrimination. In a series of decisions last year, the Court dramatically weakened key Federal civil rights laws passed by Congress and placed a tragic stamp of Government approval on job bias.

This bill is designed to correct those decisions, to restore the full force of the antidiscrimination laws which have guided us for more than two decades.

I will vote to override President Bush's veto. I sincerely hope that my colleagues will join me in fighting injustice and inequality by overriding this veto.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. HATCH. I yield 2 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I think it is very important that the President's veto be sustained. I am saddened that the rhetoric on this issue has deteriorated in some circles to the point there is a suggestion that if you do not support this legislation, you are somehow a racist. That kind of discussion is demanding both to the speaker and to the listener. We do not need that. No one in this body deserves that kind of vicious and stupid innuendo.

This is an issue of how closely the Congress of the United States is going to micromanage the day-to-day business decisions of our Nation's employers, that is all. An official of an employer group said it best Tuesday morning, "If you can get hauled into the court by the numbers, if you can get sued by the numbers, then you will hire by the numbers." That means quotas. That is what this is. It is an issue of whether or not we are going to enact a law that in effect, creates a presumption that an employer is a racist. There are those who will deny this, but that is the effect of this bill.

Sometimes you cannot match the employment roster with the diversity of the community. This legislation ignores that very real fact of life.

The President is very disappointed. He wanted to sign a civil rights bill. We did not send him one. We sent him a "quiet quota" bill. This bill makes race the sole criteria of employment decisions. That is racism—not civil rights.

I hope my colleagues hear me on this. We have to come back and readdress this. We were presented with a very cleverly crafted and drafted bill, and we did not get a proper opportunity to debate it. Remember what happened on this bill. It was so important that we just chopped everything up and went right ahead with it, and that is how we got to this point. My hunch is, if we sustain the veto, within minutes we will be back in business and we will get something before we go out of session.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time? The Senator from Utah.

Mr. BOSCHWITZ. Mr. President, I would like to ask a question of the Senator from Utah, as well as the Senator from Massachusetts.

I hired, as I told you, hundreds of people in my business career, and I told you the instance of one fellow who worked for a moving company, North American Van Lines. They used to send them all over the country. He would not be home for weeks. He drove up into the parking lot of my retail store with this big truck, came in and applied for a job. I was just really interested in getting that truck out of the parking lot. But he wanted to be home with his kids and everybody and not be gone for 4 weeks at a time. So I thought he was well-motivated, and I thought he really had the motivation to sell, and I hired him. He is still with us today, as a matter of fact.

My question to you is in those kinds of hiring practices—mine were always very informal; I sized up the people and hired or did not hire them—in those kinds of hiring practices today before this bill, would a statistical disparity result in a lawsuit or would a lawsuit lie if there were statistical disparities, as they say?

Mr. HATCH. Today, no.

Mr. BOSCHWITZ. The second part of the question, I ask it also of the Senator from Massachusetts, if he would answer it, will it apply after this bill?

Mr. HATCH. On a pure statistical basis, that lawsuit would not lie today because the plaintiff has to show the disparity and then point at the specific business practice that caused it.

If this bill passes, all the plaintiff would have to do is show the disparity because they can then allege all the employer's practices caused it. Thus, you are going to be in a lawsuit based primarily on the statistical disparity. It does change the law. It will change the burden of persuasion to the employer. The burden will be on you as an employer and you are going to find yourself in litigation you never were in before.

Mr. BOSCHWITZ. I might say, I was never sued nor sued anybody in my entire business career. I ask the same question of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the question is an excellent question. I would quote from the legislation:

> The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

Just the fact you have a statistical difference is not sufficient. You have to demonstrate, you have to show what the particular practice is that causes effectively the discrimination. The statistical impact in and of itself does not permit a prima facie case.

The PRESIDING OFFICER. Who yield time?

Mr. HATCH. Mr. President, needless to say, my original statement is correct. You will be in litigation which you would not be in today because of the way this bill was written. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BOSCHWITZ. I say to my friend from Utah, the provision in the bill that the Senator from Massachusetts cited——

Mr. HATCH. We have run out of time, but I ask unanimous consent to put into the RECORD the provision of the bill and the answer to that and I will bring it to my colleague. My time has expired.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The language added in conference purporting to address the quota problem, and referred to by Senator KENNEDY occurs at paragraph 4 in section 4. That language states:

The mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

I respect this effort to ameliorate the quota problem of this bill. I do not believe, however, it addresses the problems I have been mentioning for months in any real way.

At the outset, let me note that the language on its face is not even keyed to individual jobs. To say that racial or gender imbalance in an employer's entire work force is not alone sufficient to establish a prima facie case of disparate impact violation does not address the fact that these disparate impact cases, since 1971, have been basically aimed at particular jobs within an employer's work force.

Moreover, as explained by its supporters, this amendment merely requires statistical comparisons between the racial composition of the jobs at issue and the racial composition of the qualified population in the relevant labor market or applicant pool. But, as I have argued for months, this does not solve the quota problem. Let's use plumbers as one example in the Senate committee report's minority views. Suppose a person from a specific group is rejected for a job at a plumbing company. Twenty percent of the plumbers in the relevant geographical labor market are from that group; but only 10 percent of the company's plumbers are from the group. The rejected applicant sues, alleging illegal disparate impact under this bill. All the plaintiff would have to do is show that in the relevant labor market 20 percent of the plumbers are from the group, that the employer has filled its plumbers jobs at only half of that percentage, and allege that a group—or all—of the company's hiring practices cause the imbalance. At this point, the plaintiff wins, unless in a reversal of traditional American jurisprudence, the employer can prove its innocence, which can only be done under a much stricter standard than the Supreme Court set forth in *Griggs* v. *Duke Power*.

My concern is absolutely no different if the comparison is between the pool of qualified applicants for a job and those selected for the job.

All this amendment does it say a plaintiff cannot compare a group's percentage of plumbers at a company with the percentage of that group in the general population—but that doesn't solve the problems. In short, a mere imbalance alone in a job between those selected for the job and those qualified for it in the relevant labor pool, is still the basis of a claim under this bill. Moreover, a plaintiff never alleges a mere statistical imbalance anyway; he or she always alleges that employer practices, together with the statistical imbalance, are illegal. This language does not solve the problem.

As President Bush write to Congressman JOHN J. LAFALCE on August 2, 1990: The changes in the bill by House amendments, "in fact, do nothing to cure the bill's defects. * * * I want to make it clear that the adoption of these * * * amendments would not result in a bill I can sign."

Kingsley R. Browne, associate professor of law at Wayne State University, and a witness before the Labor Committee, wrote to me on September 28, 1990, and raised the same concerns:

First, in a disparate impact challenge, the relevant statistical imbalance is usually with a given job classification. That is, the plaintiff does not argue that the employer's workforce as a whole has only 8% blacks when it 'should' have 14% blacks. Instead, it argues that an employer has only 8% blacks instead of 14% in its machinist classification. On its face, then, this provision seems not to be responsive to the objection that an imbalance within a job category should not be sufficient to establish a prima facie case.

The second problem with the above "disclaimer" is that it is not clear what else a plaintiff must show to establish the prima facie case. The plaintiff is not going to assert the "mere existence of statistical imbalance * * * alone." Under the bill, the plaintiff will argue that an unidentifiable "group of employment practices" has caused the imbalance. Although such an assertion seems to be sufficient to establish the prima facie case, it is really no different from simply allowing a plaintiff to challenge the imbalance "alone."

The third, and most fundamental flaw, in the disclaimer is that it cannot be reconciled with the other provisions of the section. It simply makes no sense to say in one paragraph that a statistical imbalance is sufficient to establish a prima facie case, where other paragraphs make clear that such an imbalance is indeed sufficient. The plaintiff who asserts that a group of employment practices had resulted in a statistical disparity has established a prima facie case even if he cannot identify what those practices were. That is the clear meaning of the prior sections. To add a seemingly contradictory provision later in the statute is hardly an improvement to the bill.

Mr. KENNEDY. Mr. President, at this time, I would like to place into the RECORD letters from two very distinguished individuals who have had extraordinary careers in the field of civil rights.

The first is from Father Theodore M. Hesburgh, who served for many years as the chairman of the U.S. Commission on Civil Rights and also as president of Notre Dame University.

The second is from Prof. Drew Days of the Yale University Law School, who served as assistant attorney general in charge of the Civil Rights Division from 1977 through 1981.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CITIZENS' COMMISSION ON
CIVIL RIGHTS,
Washington, DC, October 22, 1990.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR TED: I write to commend you on the extraordinary bipartisan campaign you have led to enact the Civil Rights Act of 1990 and to let you know that I support the efforts that you and your colleagues are making to override President Bush's veto.

The need for the legislation is very clear. For almost two decades, Title VII, as applied and interpreted in the *Griggs* case, had been a practical instrument for the economic advancement of minorities and women in who have suffered discrimination in the workplace. Title VII had worked very well and it came as a shock when a narrow majority of the Supreme Court issued rulings in 1989 which severely impaired the effectiveness of the law.

The bill that you and your colleagues drafted and that was passed by substantial bipartisan majorities in both Houses of Congress was carefully designed to undo the harm done by the Supreme Court's decisions.

By no stretch of the imagination is it a "quota" bill or even one that could lead to quotas. The civil rights policies that the bill would restore never have been quota policies but rather measures that call upon employers to take affirmative steps to provide opportunities for those who have been unfairly excluded. Many of my friends, in the Jewish community and elsewhere, would not be supporting the Civil Rights Act of 1990 if it were in any way a quota bill.

I am greatly saddened by President Bush's veto of the bill. It seems to me that he has been very badly served by advisors who have mischaracterized and distorted the contents of the legislation. If there ever was even a hint of quotas in the bill, the clarifications that were made in the legislative process should long ago have put that issue to rest.

For several decades now fair minded Republicans and Democrats put aside partisan differences and have worked together to bring about through law the progress that has occurred in civil rights. The Civil Rights Act of 1990 would continue that progress and enable the country to right the wrongs that still occur. I know that you and your

colleagues will persist until the bill is enacted into law.

Sincerely yours,

REV. THEODORE M. HESBURGH, C.S.C.

YALE LAW SCHOOL,
New Haven, CT, October 23, 1990.

Senator EDWARD M. KENNEDY,
Chairman, Labor and Human Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: I was very disappointed by President Bush's decision to veto the Civil Rights Act of 1990. I think that the bill that you co-sponsored represented a responsible, bi-partisan effort to put employment discrimination law back on track after the unfortunate Supreme Court decisions in 1989. I hope, sincerely, that the Congress will keep the faith with the thousands of minorities and women who look to the federal courts for vindication of their rights by overriding the veto and making this important legislation the law of the land.

I understand that the Bush Administration has offered an alternative bill to the Civil Rights Act of 1990, suggesting that it would achieve many of the objectives of the vetoed legislation wihout promoting "quotas." I have had an opportunity to review the Administration's proposal and its Section-By-Section Analysis. My firm conclusion, from that review, is that it exacerbates, in several respects, the problems caused by the 1989 Supreme Court decisions and is not sufficiently corrective, even where changes in the post-1989 case law are made.

Let me give just a few examples. First, under Section 3 of the Administration bill, the definition of "business necessity" turns on whether the employer decides to defend an employment practice "as a measure of job performance" or not. If the employer opts for the former approach, then the practice must "bear a significant relationship to successful performance of the job." However, if the latter approach is chosen, the practice need only "bear a significant relationship to a significant business objective of the employer". Moreover, the bill authorizes a court to look to, among other things, "prior successful experience" in determining whether the "business necessity" test is met. Let me say that this approach makes a charade of employment discrimination law by giving employers broad latitude to adopt practices that do not evaluate applicants according to merit but rather rely upon stereotypes and outmoded views as to the proper roles of racial minorities and women. This bill stands *Griggs* on its head.

Second, Section 6 of the Administration's bill does not respond adequately to the undermining effect that *Martin* v. *Wilks* has had upon consent decrees in employment discrimination suits. As drafted, the bill would continue to leave such decrees open to collateral attack years after they go into effect. The consequence of this half-measure would be to continue the "chilling effect" of *Wilks* with respect to voluntary resolution of disputes as Congress envisioned when it enacted Title VII.

Third, Section 8 of the bill, far from achieving a parity between racial minority plaintiffs under Section 1981 and other plaintiffs (women and religious minorities) under Title VII with respect to the availability of damages, creates an inadequate, and arguably unconstitutional scheme. It has three major defects: it leaves the awarding of monetary relief, other than backpay, to the court's discretion; it places a cap on the exercise of that discretion; and it deprives a jury of any role in the awarding of such relief. In this last respect, there may be serious Seventh Amendment problems that would have to be sorted out through a series of lawsuits.

Fourth, the bill attempts to cut back on existing law that was unaffected by the 1989 decisions. In Section 14 the bill makes a frontal assault upon affirmative action jurisprudence that the Supreme Court has developed up to this point and generally adhered to. That section, although it speaks in terms of preventing "quotas," in practice would create substantial confusion with respect to numerical goals and timetables approved by the Supreme Court in situations where such arrangements have been entered into voluntarily, as in *Weber*, or as a result of court order, as in *Local 28*. This would be an unfortunate revision of Title VII, in my estimation. It would deprive both employers and courts of valuable tools to ensure that systemically discriminatory practices are thoroughly eradicated.

Time does not allow me to go into further detail with respect to the deficiencies of the Administration's bill and the unfortunate consequences, whether intended or not, that would flow from its enactment. However, I hope that these comments are sufficient to support my conclusion that this bill is no substitute for the Civil Rights Act of 1990 and deserves to be firmly rejected by the Congress.

Sincerely,

DREW S. DAYS III,
Professor of Law.

Mr. THURMOND. Mr. President, the President has vetoed the so-called civil rights bill and I believe he has used good judgment in doing so.

This legislation was introduced in response to recent Supreme Court decisions in the area of employment discrimination, particularly concerning treatment of disparate impact cases.

The proponents of S. 2104 claimed it was necessary to restore the basic protections under title VII. However, the legislation, properly vetoed by the President, went far beyond Senator KENNEDY's stated goals of restoration and protection of employees from discriminatory practices. The conference report on S. 2104 would have created a system where employers must hire by quotas or face litigation.

The President has negotiated in good faith for months with the author of the bill to draft language consistent with the goals of title VII as adopted by the Congress in 1964. At that time, the Congress specifically rejected quota hiring and the idea that preferential treatment should be granted in employment practice based on statistics.

Unfortunately, supporters of S. 2104 would not come to agreement with the Bush administration and passed a bill which would necessitate quota hiring and encourage plaintiff attorneys to file discrimination suits whenever they can show a mere statistical imbalance in an employer's work force.

The President has submitted language to the Congress which addresses the major problems of S. 2104 and would protect employees from discrimination. The President's recommendation would effectively prohibit discrimination in the workplace without placing employers at substantial risk when hiring is done based on legitimate business reasons which have long been established by prior Supreme Court decisions.

The "business necessity" defense in the S. 2104 conference which employers would use in employment discrimination suits would virtually mandate businesses to hire based on quotas to avoid costly litigation.

In a recent letter to Senator DOLE, Attorney General Thornburgh expressed the administration's opposition to the definition of "business necessity" in the conference report on S. 2104. He stated and I quote, "(It) prohibits (employers) from offering other legitimate business justifications that have been recognized as permissible by the Supreme Court for many years."

The supporters of S. 2104 made cosmetic changes in conference which did nothing to alter the substantive impact of this legislation if it becomes law.

To blunt criticism, new language was added to assert that nothing in the bill would "require or encourage an employer to adopt hiring or promotion quotas. * * *" The Attorney General responded to this new language in his letter, which I mentioned earlier, to Senator DOLE. He stated, and I quote, "As we have repeatedly pointed out, * * * the trouble with the bill is not that it explicitly encourages or requires quotas, but that it will inevitably result in quotas being adopted * * * to avoid the cost and trouble of disparate impact lawsuits under this bill * * *."

Mr. President, in short the maladies with S. 2104 were not cured in conference. The conference report passed by this Congress remains a quota bill, not a civil rights bill. The President was compelled to veto this legislation.

I urge my colleagues to vote with the President and sustain his veto.

Mr. BURNS. President, I rise today to voice my support of the President's veto on Senate bill 2104, the 1990 Civil Rights Act.

No one in the Congress will stand before his constituents and the Nation and announce he or she is against civil rights. Every one believes in equal rights for all Americans regardless of race, sex, religion, or ethnicity, as required by title VII of the Civil Rights Act of 1964. I am no different.

However, I have some problems with this piece of legislation.

First and foremost, under this bill, employers who have not filled their jobs by quota would be presumed to be guilty of discrimination in every instance, and they would bear the

burden of proving their innocence. The notion that a person should be judged and hired or promoted because he or she is the most qualified, regardless of sex, race, national origin, or region, would be discarded.

Instead, employers are being told that race, sex, national origin, and religion must become the paramount factor in every employment decision.

Second, this bill adds compensatory and punitive damages and jury trials for certain cases. If a person is a member of a protected class and if that person applies for an open position but is not offered a job, that person can file suit alleging an intentional discrimination.

Undoubtedly, the opportunity to recover damages under these circumstances will create an explosion of expensive, unnecessary litigation.

Third, this bill would eliminate the right of nonminority members to challenge court imposed racial quotas that discriminate against them.

This bill is a quota bill. It would allow a plaintiff to win a civil rights case by simply showing that an employer is not hiring in proportion to the number of available minority workers.

This bill allows a plaintiff to prevail on the bases of statistical imbalance without requiring evidence of intentional discrimination.

For that reason, the bill creates an obvious, powerful pressure toward quota hiring.

This bill would force employers to adopt hiring and promotion quotas to avoid court fights they cannot win.

Mr. President, I believe that the Kennedy quota bill does more harm than good in its attempt to help civil rights.

If we don't sustain the President's veto, the bill will place another regulation upon small businesses in America. This bill would also apply to State and local governments. The Federal government would once again pass a law that is costly and cumbersome for local governments, placing further strain on local budgets and forcing an increase in the local tax based to enforce the Federal mandate.

I wish this body would have had the opportunity to vote up or down on the Kassebaum-Gorton alternative but we didn't. Obviously, it is just a few days before an election, and politicking and posturing, rather than sound public policy, have become the primary focus of the debate.

I intend to vote to sustain the President's veto and hope the 102d Congress can produce a better piece of legislation next year.

Thank you Mr. President. I yield the floor.

Mr. HOLLINGS. Mr. President, I rise to endorse an override of the President's veto of the Civil Rights Act of 1990. High passion and abstruse legal distinctions have characterized debate on this legislation, but I know its passage results from a unified, simple urge to fulfill America's promise of equal opportunity and equal protection for all.

This legislation overturns the Wards Cove Packing Co. versus Antonio, Patterson versus McClean Credit Union, Martin versus Wilkes, Lorance versus AT&T, and other Supreme Court decisions. This array of cases documents a shift in the Court decisions. This array of cases documents a shift the Court's interpretation of basic civil rights laws which were thought to be settled accomplishments by most Americans. Such weakening changes require legislative redress. Unlike other nations, the United States was constituted by political documents guaranteeing freedom and natural equality. These guarantees have been enshrined in law through great struggles over many years, and no American should endorse their erosion.

Under the Wards Cove decision, the Court weakened the 18-year old standards under which an employee could prove a prima facie case of disparate impact, and under which an employer could construct a "business necessity" defense. While a small percentage of civil rights cases involve disparate impact analysis, most of the debate has concerned the section of the bill clarifying these standards. The resulting conference report includes a sensitive and sensible restoration of the law as from 1971 until 1989. I cannot stress strongly enough that, despite misinformation spread about this bill, these disparate impact standards did not result in quota hiring and will not in the future. In short, I do not support quotas and this is not a quota bill.

This bill also overrules Patterson versus McClean Credit Union, which found that an 1866 Civil Rights act (section 1981) guaranteeing all persons "the same right to make and enforce contracts * * * as is enjoyed by white citizens" does not prohibit racial harrassment on the job. Mr. President, it is clear to any citizen that this decision twisted the spirit of the law, and the current legislation is needed to restore its intent. Congress did not go to the trouble of prohibiting racially-biased contracts in law, only to have contracts implemented in a racially-biased way.

Consideration of section 1981 brings up a point of inconsistency in current law which is addressed by the legislation before us. While victims of discrimination on the basis of race may seek monetary damages under section 1981, similar victims of other forms of discrimination cannot seek the same damages. The Civil Rights Act of 1990 ensures that individuals of any race, gender, or religious affiliation are protected equally under the law.

In Lorance versus AT&T Technologies, the Court found that the 30-day statute of limitations for reporting title VII violations prohibited women employees form even challenging allegedly discriminatory layoffs, because the seniority system on which the layoffs were based had been adopted 3 years before. This is an outrageous circumvention of the intent of title VII. When employees move quickly to challenge employment decisions, the Court should not slam the door in their face because questionable rules for the decision were set up long before the alleged discrimination occurred. Conversely, the Court is wrong to encourage employees to prevent the expiration of the deadline by bringing suits before any discriminatory effect has been felt.

In these and other cases, the Court has wrongly interpreted congressional intent, and has weakened our country's guarantees of equality. The Court has assessed laws protecting our most hard-fought gains without proper regard for legislative history or its own precedents. Americans deserve better, and I am glad to help set the record straight by supporting this legislation.

Mr. ADAMS. Mr. President, over the last several months, a great deal of discussion has taken place on the floor of the U.S. Senate by supporters and opponents of this legislation concerning the case of Atonio versus Wards Cove Packing Co. Now it turns out that the primary reason for the President's decision to veto the entire Civil Rights Act of 1990, is because he objects to our effort to deal with that specific Supreme Court decision. For most of my colleagues, Wards Cove is a confusing legal issue, a complicated civil rights case, and a devastating landmark Supreme Court decision. The underlying discussion before us is the Civil Rights Act of 1990, a bill that was reported out of the Senate Labor Committee on April 4, 1990, the 18th anniversary of the assassination of Dr. Martin Luther King. I deeply regret that the problems of the Wards Cove Packing Co. ever reached the U.S. Supreme Court, and that those problems are now cited as a justification for vetoing this landmark legislation. Quite frankly, this case may well stand as a classic example of how bad cases make bad law.

Mr. President, I expect that I am the only Member of this body who has ever worked at a salmon cannery like Wards Cove. I know and respect the Seattle family that owns the company, and I have a longstanding friendship with the workers, who spend long hours under difficult conditions in Alaska during the summer salmon season. I know the system that developed over the years in that cannery. During my first summer in Alaska, I

spent much of my non-working hours in the bunkhouse that was overwhelmingly inhabited by Filipino workers. For me it was a valuable, transitory experience, and something that has remained with me over the many years that have passed since that summer. I feel I owe it to those of my fellow workers who never made it beyond that bunkhouse, and the cannery, to speak out about the system that existed when I worked in Alaska, and existed at the time this lawsuit was filed. I do not intend to point the finger of blame in any direction, but I feel strongly that this is not the time nor the place to end the discussion regarding the purpose or effect of the system that developed over the years at Wards Cove, and in the Alaska cannery industry.

What concerns me most about this discussion, is the suggestion that some injustice will be done by sending the Wards Cove case back to the western district of Washington for final decision under the facts that have been developed by both the plaintiff, and the defendant. It is true that the Wards Cove Co. has spent many thousands of dollars defending this case. They also chose to take this case to the U.S. Supreme Court, rather than to have it remanded for trial, as was suggested by an 11-member panel of the Ninth Circuit Court of Appeals in a decision entered on September 2, 1987. In that decision, the court noted:

In assessing how racial labeling and segregated housing and mess facilities may cause an adverse impact, we suggest that the court consider the message that such practice conveys to the general population.

The court went on to state:

The cannery workers argue pursuasively that the companies' use of separate hiring channels and world-of-mouth recruitment, and their failure to announce vacancies should serve to excuse the cannery workers from the necessity of establishing the timeliness of their applications and automatically elevate oral inquiries to the status of applications.

According to the Ninth circuit:

The defendant companies do not claim their practices have no impact, rather they assert business justifications for the practices.

Mr. President, maybe those practices were justified, and maybe they were not. But what is the proper forum for deciding those important issues? I suggest the proper venue for that determination is in a Federal courthouse in Seattle, WA, where I once served as U.S. Attorney, not on the floor of the U.S. Senate, where I now serve as a Senator from the State of Washington.

Wards Cove is an awkward and unusual case, when looked at in the context of our present respect for civil rights, and the employment rights and economic aspirations of racial minorities. The ninth circuit decisions, sending this matter back for further trial proceeding stated, "Race labeling is pervasive at the salmon canneries, where "Filipinos" work with the "Iron Chink" before retiring to their "Flip bunkhouse." The district court did not find the conduct laudatory but found that it was not persuasive evidence of discriminatory intent." Perhaps not, but the court must carry the analysis further and consider whether such a practice has any adverse impact upon minority people; that is whether it operates as a headwind to minority advancement."

The troubling questions raised in the many years of litigation in Atonio versus Wards Cove cry out for final resolution. Thousands of hours have been spent by excellent counsel for both parties, and I would point out that the attorneys for the plaintiff cannery workers have expended thousands of dollars in costs, and have received no fees, so the burden of pursuing this matter has not been borne solely by Wards Cove. There has been no "litigation bonanza" for the affected workers in this litigation. Speaking as one whose careeer horizons were not limited by the 5 summers I worked in Alaska with my Filipino coworkers, I urge my colleagues to step aside and allow the party litigants to either negotiate a settlement, or litigate this case to final resolution at the trial level. For these reasons, I believe we should vote to override the President's veto of the Civil Rights Act of 1990. I compliment the Senator from Massachusetts for the long hours he has spent shaping this legislation, and working with the administration to find the middle ground around which consensus can be forged. I oppose any effort that would relieve Wards Cove Packing Co., and future companies whose practices are challenged by women and minorities, of their obligation to justify those practices that have been identified by the ninth circuit as needing further examination at the trial level. This body should not allow the President of the United States to block the door toward the restoration of our civil rights law. I urge my colleagues to vote in favor of an override of the President's veto.

Mr. WIRTH. Mr. President, I rise to urge all of my colleagues to vote to override President Bush's veto of the Civil Rights Act of 1990.

In declaring ourselves a free nation, one of the basic ideals defining ourselves was that of equality. At that time, the national perception of just whom should be treated equally was fairly limited. But as social norms were dispelled and mindsets broadened we, as a nation, came to understand that when stating that all men are created equal, that we mean that all people are created equal.

The history of America in the last three decades has been marked by long struggle to widen this mindset—to assure all American equality in the voting booth, in the workplace and equality in the marketplace. This is the legacy of Martin Luther King, Jr.'s, odyssey and martyrdom; it is also the legacy of thousands of other Americans who courageously broke color barriers in the classroom, the lunch counter and the polls.

After three decades of progress in support of civil rights, I am truly appalled that the Bush administration is willing to turn the clock backward and reverse the gains our Nation has made in assuring equality of opportunity.

As a Coloradan, I am particularly appalled by this retrograde attitude. My State was one of the first in the Nation to outlaw lynching—and one of the first to pass civil rights provisions to protect Americans from racism. This progressive tradition reached an apex in the midst of the Second World War when a Republican Governor, Ralph Carr, courageously opposed the internment of Japanese Americans even though he knew it would cost him his political career. This is the kind of lesson of courage and conviction from which the Bush administration should learn.

Mr. President, the civil rights bill represents a bipartisan effort to simply ensure that American workers are protected against racial, sexual or religious discrimination. This bill does not require hiring quotas, and it does not represent a new burden on employers or businesses; it merely confirms the original intent of the Federal law—to protect people from discrimination.

President Bush's so-called compromise bill would wash away years of progress in protecting civil rights. The Bush proposal would allow employers to hide discriminatory practices through a very loose interpretation of business necessity that could result in businesses refusing to hire someone because of the attitudes or prejudices of clients and customers. It is bad enough that the Bush administration refuses to support a renewed civil rights bill—but the President's compromise represents an enormous loophole that will actually condone intentional discrimination.

I urge all of my colleagues to reject the administration's plan, override President Bush's veto and pass a Civil Rights Act to ensure that our Nation's progress continues. The road from the days of drafting the Constitution to protect the freedom of religion, to the suffragettes to the dark days of Selma and on has been rocky, Mr. President. But we continued the march for equality and freedom—and we cannot and should not turn back now.

Mr. President, I ask unanimous consent that a copy of an editorial on this subject by the Denver Post appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Oct. 23, 1990]

ON RIGHTS, BUSH IS WRONG

George Bush's veto yesterday of the most salient civil rights measure of recent years shows both his hypocrisy and opportunism on the issue.

The measure, passed last week by both the U.S. House and the U.S. Senate would have overturned six U.S. Supreme Court decisions that crippled the right of American workers to be free from racial, sexual or religious discrimination on the job.

The measure has been painstakingly written, and included 30 amendments designed to allay business fears that the new law might be overly restrictive.

Indeed, the bill specifically said it wasn't intended to encourage quotas and that a statistical imbalance in hiring wasn't proof of discrimination. That means, clearly, no quotas.

The proposal also would have given employers added protection by making it difficult for workers to collect punitive damages from discrimination suits.

But Bush, who claims he wants to attract more blacks, Hispanics and women to the Republican Party, has nixed this carefully worded proposal on the flagrantly untrue pretense that it would encourage employers to hire according to quotas.

To compound his offense, Bush offered a substitute that would negate most of the on-the-job progress women and minorities have made since the early 1960s. For example, Bush's proposal would let employers use the discredited excuse of "customer relations" to defend racial or sexual discrimination.

Bush wants to be seen as promoting civil rights, so he can solicit votes from women and minorities. But he doesn't want to actually do anything that might advance the cause, lest he alienate the GOP's right wing.

Colorado's Democratic senator and three Democratic representatives voted for the congressional measure. But the State's Republican delegation: Sen. William Armstrong; and Reps. Hank Brown, Joel Hefley and Dan Schaefer voted "no."

None of these Colorado Republicans is a racist; instead, the votes appeared to have been cast out of party loyalty.

But being loyal sometimes means having to tell a leader that he's wrong, and Bush is radically wrong on this issue.

Both Colorado's senators and all six of its representatives should affirm their belief in equal rights by casting their votes to override Bush's veto. Civil rights shouldn't be a partisan concern.

Mr. CHAFEE. Mr. President, I would like to make a few comments about the veto message that we are about to consider. As I said last week when the Senate voted on the conference report on this bill, I think that the measure before us is a good solid bill, and it deserves support.

The string of 1989 Supreme Court decisions that the bill addresses should not go unnoticed by Congress. These decisions had a significant impact on the body of civil rights law that exists today. At worst, the Court took a 180-degree turn away from what we in Congress have tried to do; at best, they took an unnecessarily strict and severe interpretation of our intent.

Many of the decisions handed down were of a complex and technical nature. In most cases, the questions turned upon a series of definitions: how to define business necessity in cases of disparate impact, how to define the standards regarding the establishment of a prima facie case, how to define the burden of proof and when or if it should shift, and so on. As one of my colleagues said earlier, it is the kind of detailed arguments that only lawyers would seem to care about.

The debate of these issues thus may sound dry and overly technical. But the definitions make a great deal of difference in civil rights law. These terms help from the basis of important antidiscrimination and civil rights law. Thus, these terms bear a direct relation to the ability of Americans, including women and minorities, to be able to participate in the job market without fear of discrimination. This is the basic promise that we make—that we owe—to all Americans. And carrying out that basic promise of fairness is what the debate of the past year has been about.

The 1989 rulings affected some of these definitions, and they need our attention. We cannot let cramped interpretations of our national civil rights statutes to go unnoticed. We need a civil rights bill that clarifies just exactly what we mean when we say, "All Americans deserve a guarantee that their civil rights will be protected, and we will provide that guarantee."

I am disappointed that the situation now before us has occurred. I would have preferred to see a negotiated resolution to this matter, rather than a veto and an override. During the Bush Presidency, I have not voted once to override a Presidential veto. But in this case I shall. I have given the measure before us a lot of thought, and I do not think that this bill is a "quota bill." It may not be perfect, but it is a good bill. And I do not believe that it will cause employers to adopt hiring quotas.

I hope we will be able, even in this 11th hour, to work out a compromise. Regardless, I will be voting to override this veto. The conference bill before us is needed to counteract the harmful and cramped 1989 Supreme Court decisions; it is a solid bill; and it will help ensure not quotas, but fairness, in the workplace.

Mr. DOMENICI. Mr. President, today the Senate will vote on whether or not to override the President's veto of S. 2104, the Civil Rights Act of 1990. I support this critical legislation that will strengthen our civil rights laws prohibiting discrimination in employment, and I will vote to override this veto.

Mr. President, our Nation was founded upon principles of equality and a respect for individual freedom that sought to establish throughout our society a system of fairness for all; a system that would enable anyone, regardless of who they are or from what station in life they came, to have just as much of an opportunity as anyone else to get a job, advance in that job, and succeed in life. All would have that opportunity because they would be judged upon their abilities.

Much of our Nation's history has been a history of the struggle to realize that ideal, and it has been a difficult struggle that at times has threatened to tear our Nation apart. Every generation has struggled with it, and one fought a war over it.

For the racial and cultural minorities of our Nation, and for many, many women who have been the victims of discrimination the struggle has been hard felt, and it continues. Today many still struggle to get the opportunities that should be their right.

What we are trying to do today is to take a few more steps toward that ideal of equal opportunity. It is a very difficult task since it is often difficult to judge how any law we enact will be interpreted, and what effects it will have.

Yet, it is a tremendously important task, and we must do the best we can to promote the fairness we seek. To do this our country must have effective civil rights laws; laws that will assure that all workers—regardless of their race, gender, or background—are given a fair chance to get a job and to move ahead in that job.

I believe this bill we are considering today is a very positive step forward for civil rights in this country. To the many in our country who have been discriminated against simply because of the color of their skin, or their gender, or their religion, this bill says we very much want you to have a fair chance to challenge that discrimination. Whether involving a clearly discriminatory action by an employer or a seemingly innocuous and meaningless job screening practice, those job practices that prevent minorities, women, and others from getting a fair shot to move ahead in the work force, should be challengeable and must be eradicated.

Let me say, Mr. President, that I do not support the use of quotas in the workplace. Quotas function to discriminate against people based upon their race, gender, or some other factor that should be irrelevant in employment decisions—just the kind of thing we are trying to prevent with our civil rights laws. I would not have supported this bill if I felt it provided for quotas.

The President of the United States is very committed to civil rights, and

he has struggled to see that the requirements of this bill are fair for employer and employee. He is concerned that this bill will place too great a burden upon employers and that they will essentially be forced to adopt quotas.

I share his concern about quotas, and the need to be cautious in what we do, but I disagree with the President's view on the impact this bill will have.

The language in this bill that relates to the quota issue would, in my opinion, do the following. In cases where a charge of discrimination is based upon a legitimate showing of disparate impact—that is, a clear showing that an employment practice, or practices, cause a significant imbalance between the pool of applicants and those hired or promoted—the burden of defending the employment practices leading to the disparate impact shifts to the employer. This would reverse the 1989 Wards Cove decision.

This burden would require that the employer, who has the best access and best understanding of the employment practice or practices being challenged, must demonstate that the challenged practices bear a "significant relationship to successful performance of the job." This language is drawn, word for word, from 1971 Griggs decision. That decision first set forth the way disparage impact cases should be handled.

The interpretations of key phrases like "significant relationship to successful performance of the job" have been at the center of the debate over this bill. I believe what we all have been striving for, and what this bill does, is to adopt the standard set forth in the Griggs case, and used by the courts up to the time of Wards Cove.

Now Griggs said a number of things, and we could argue about what all the words mean. However, I believe the way we intend this bill to be interpreted is this: employers faced with the burden of defending their practices must do more than just provide a reasonable rationable for the existence of a practice which is clearly impeding job opportunities for minorities, women, and others.

Employers must show, with some evidence beyond their own subjective beliefs, that the challenged employment practice tells the employer something meaningful about the applicant and the applicant's ability to do the job in question. It says to employers, the practices you use to judge potential employees should be considered carefully and must significantly relate to real employment questions.

As long as the procedures used to judge applicants have a real, and well-considered, basis for evaluating applicants, employers are not liable and should not resort to quotas. Quotas have not been the legacy of disparate impact cases since Griggs, and we are, essentially, restoring the standard to what it was before Wards Cove. We are not intending to impose any burden beyond what we had before.

Let me also say that this does not mean that employers should not be able to judge the relative merit of applicants. This bill does not require employers to hire or promote those from protected groups, just as long as they are minimally qualified. Such an interpretation directly contradicts the opinion in Griggs, and we have expressly stating that the purpose of this part of the bill was to codify Griggs.

I believe, Mr. President, that we are not putting forth with this bill a new standard that employers must meet. It says that we believe Wards Cove went too far, and we want this law to mean what it meant before Wards Cove. Such a declaration will not end the debate about what exactly is required of employers in each case but I think it does show that this bill does not intend to impose upon employers a greater standard than that which existed before Wards Cove and since Griggs. On this point, the record is very clear.

Let me also comment on the other important provision of this bill.

S. 2104 would amend section 1981, a post-Civil War statute prohibiting discrimination in the making and enforcement of contracts, so that it includes coverage of the full performance of a contract. This will provide protection from on-the-job racial and sexual harassment.

The bill would also make illegal any discriminatory act that is a motivating factor in an adverse employment action against an employee. This enables employees to challenge practices that are clearly illegal, yet damages would not be allowed if the same adverse employment action would have resulted even without the discriminatory act.

Regarding consent decrees that implement desegregation plans, this bill would limit the ability of outside parties to challenge and disrupt such decrees. The bill does provide for a number of exceptions from this exclusion to assure that all interested parties retain the opportunity to make a fair challenge to a consent decree.

S. 2104 would allow the filing period for discrimination claims to start at the point where discriminatory practices actually cause harm, rather than when the practices were adopted. These provisions would assure that the statute of limitations would not expire before a practice, such as a discriminatory seniority system, actually harms someone.

The last significant provision in the bill would allow for the awarding of compensatory and punitive damages for discrimination carried out with malice or with reckless or callous indifference. This section would grant victims of intentional sexual, religious, and ethnic discrimination the same rights to damages currently available to racial minorities under section 1981. There would be a $150,000 cap on punitive damages.

Undoubtedly, Mr. President, the courts will have to decide how all this is to be applied. That is unavoidable, and would have to be faced by whatever bill we adopt. I am confident that once the courts begin to settle what is required and what is not, that this bill will not lead to quotas, and that it will do much to give women, blacks, Hispanics, and others a fair shot at a job or promotion—one they should have, and one for which our Nation has long struggled.

Mr. DODD. Mr. President, I rise today to strongly urge my colleagues to join me in voting to override the President's veto of the Civil Rights Act of 1990.

As we all know, the Supreme Court last year set back the clocks of the civil rights movement. And, President Bush has now endorsed that retreat. President Bush's veto is a slap in the face for all working women and minorities in this Nation.

For over a year, the President has courted civil rights groups and publicly spoken of his support for a civil rights bill. And, for over a year, the President has used the same excuse for not supporting the Civil Rights Act of 1990. Each time the Congress has sent the President a bill for discussion, he has cried "quotas." Well, I am sick of hearing the quota plea.

Time and time again, my colleagues in the Congress have amended the Civil Rights Act to ameliorate the President's concerns about quotas. As early as July, Senator KENNEDY offered a committee substitute to amend the definition of business necessity and include language that specifically stated that the bill should not lead to quotas. We thought then that the changes would bring the President's support. But we thought wrong. So, we amended the bill further. Once again, the President came back with the "Q-word."

It does not take a Ph.D. in political science to figure out that the President has never intended to sign a civil rights bill. Simply put, his promises have been empty. He would rather bow to the most conservative elements of his party—and accept discrimination in the workplace—than protect the rights of working Americans. On a matter as important as civil rights, he has turned his back on the increasing number of women and minorities entering the work force.

The Civil Rights Act of 1990 is not a quota bill. How many times do we have to say it? The measure in its current form reflects the many changes made by the Congress to assure busi-

nesses that a strengthening of the civil rights laws would not lead to quotas.

Mr. President, I will vote to override the President's veto. Every working American, regardless of their gender, race or religious affiliation, deserves equal protection under the laws. It is their right under the Constitution. And, the Civil Rights Act of 1990 provides such protection. For this reason, I once again urge my colleagues to join me in supporting the Civil Rights Act and vote to override the President's veto.

Mr. HELMS. Mr. President, I support the President's veto of the so-called Civil Rights Act of 1990.

Before the alarm bells start going off in the media and the civil rights establishment, it is essential that all of us take a step back and remember just what civil rights actually mean.

We should also remember which group would reap the benefits of this legislation: Lawyers across the land would soon discover a cash cow in this legislation—more appropriately called The Civil Relief Act for Lawyers of 1990.

Mr. President, civil rights are carefully crafted limitations on the power of government. These rights identify the things that government is prohibited from doing to any citizen—regardless of race, creed, or color.

The Bill of Rights, for example, lists a number of things that this Government does not have the power to do. The first amendment states clearly that "Congress shall make no law" prohibiting the freedom of speech and the press. The rights guaranteed by the first amendment are rights that every American holds—not just the privileged few in the media. We all have the same rights regardless of our position in society.

The conference report on civil rights shows just how far we have come from the original understanding the founders had of rights. In the report before us, civil rights are rewritten to represent a massive redistribution of benefits and privilege from those who—according to some—have too much of it, in favor of those with supposedly too few. In order to redistribute these benefits, the coercive powers of the Government are allowed to grow and to threaten hard working people in the name of civil rights.

Mr. President, where civil rights once meant a check on government abuse of individuals' rights, we now have a bill which expands government power to the point where the rights of all citizens are in danger. As I said, the only class of Americans who benefit from this bill are the lawyers who will enter what George Will calls a potentially lucrative lottery.

Unlike the Civil Rights Act of 1964, this bill sets up a litigation bonanza with a strong incentive to fling open the court house doors. Instead of promoting peaceful settlement, this bill promotes disharmony and division.

It encourages lawyers to drag out cases in order to increase attorneys' fees. It permits unlimited jury trials, unlimited punitive damages, unlimited expert witness fees, and codifies the statute of limitations so that it runs not just from the time of the alleged illegal occurrence, but from the time the plaintiff decides he has been adversely impacted, whichever is later—that means the lawyer gets more than one bite at the gold apple.

Mr. President, this bill forces Senators to choose between two visions of America. One vision is of an America stratified by racial and ethnic quotas—an America whose laws codify a system where benefits and advantages are doled out according to group identity rather than on merit and the content of character. The other vision is one that enhances the progress of every citizen by removing obstacles to individual initiative and excellence.

The current civil rights leadership now engages in an open battle for social and economic benefits to be conferred on the basis of race and other invidious classifications rather than campaigning for equal justice under law for all Americans, regardless of race.

We should look to the clear meaning of the Constitution to determine just how we should view civil rights. The late Justice William O. Douglas—hardly a pillar of conservative legal thought—argued that the Constitution prohibited any legislatively mandated racial or ethnic quota system. After the 1964 Civil Rights Act passed, Justice Douglas observed:

> The Equal Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized. * * * So far as race is concerned, any state-sponsored preference to one race over another . . . is in my view "invidious" and violative of the Equal Protection Clause.

However, the authors of the Civil Rights Act of 1990 claim that disproportionate racial representation is in and of itself proof of discrimination. Under this bill an employer who dares hire people in such a way as to produce an employee pool that is not a racial reflection of his community risks being sued. In effect the employer is presumed guilty.

Do we want a nation where privilege and employment are handed out on the basis of group identity rather than on individual merit? Do we want quota justice? There already exists a model for this type of stratified and proportionalized society, it is called Lebanon.

Mr. President, we have had 25 years of social engineering masquerading in the guise of progress. In the meantime, millions and millions of Americans are more isolated from the economic mainstream than ever before. The race conscious policies of the last quarter century have done a great deal to benefit the most advantaged in minority groups, but the vase majority have been left further and further behind.

Mr. President, Robert Woodson, the president of the National Center for Neighborhood Enterprise—an organization promoting urban black progress through the free market—calls the Civil Rights Act of 1990 a fraud. Mr. Woodson told President Bush at a conference in May, that by focusing on so called white racism as the major problem facing black Americans, this legislation siphons off attention from the true crisis affecting the poor and disadvantaged. Mr. Woodson stated:

> The elimination of the last racist thought from the last mind would do nothing to change the plight of the inner cities one whit.

When asked to lay out an equal opportunity program to fall in line with the spirit of true civil rights, Woodson declared:

> We'd have economic empowerment for the poor, exemption of poor people from laws and regulations that discourage employment and enterprise formation, a streamlining of social service delivery systems, an amendment to the 1964 Civil Rights Act to enhance penalties for intentional discrimination and the expansion of the Dependent Care Tax Credit—for starters. But no progress is possible until we acknowledge that racism is no longer the central problem for blacks.

Bob Woodson is right on target. This bill creates a system of racial preferences that does little for the average person. Most people find quotas, preferences, and the assumptions of cultural inferiority hidden in this bill to be offensive—despite the civil rights establishment's adherence to them.

Mr. BINGAMAN. Mr. President, on Monday, the President of the United States said in a message to the Senate:

> Discrimination, whether on the basis of race, national origin, sex, religion, or disability, is worse than wrong. It is a fundamental evil that tears at the fabric of our society, and one that all Americans should and must oppose.

Then he vetoed the Civil Rights Act of 1990.

I do not believe we will soon recover from the blow President Bush leveled against the women and minorities of this country with his veto, but I pledge to do everything I can to rectify this wrong and see this fundamental piece of legislation enacted into law, hopefully during this session of Congress. If that cannot be done, if we lack a sufficient number of votes to override the veto, then we will simply redouble our efforts in the 102d Congress.

With his veto, the President turned his back on the working women and men of this country and reversed much of our Nation's progress down

the long, slow, and arduous path toward assuring all Americans of their fundamental right to equal opportunity in the workplace. I fervently urge all my colleagues to reject the President's weak alternative to the Civil Rights Act of 1990 and join with us in overriding his ill-advised veto. I urge my colleagues to join us in sending a strong signal to the working women and men of this country, and to the President and the Supreme Court, that we will not tolerate discrimination—we will not turn away from more than 100 years of slow progress toward equality.

I believe that had the President not listened so intently to the rhetoric of his advisers and, instead, had personally examined the provisions of the Civil Rights Act of 1990, he would have recognized that none of the bill's provisions could be construed as pressuring businesses into adopting hiring or promotion quotas. If he had examined the bill, I believe the President would have realized that the bill is simply an antidiscrimination bill. It is not in any way, shape, or form a quota bill.

Our distinguished colleagues who worked long and hard on this bill have, I believe, responded to every legitimate objection raised against this bill. They have crafted a bill that removes any reasonable doubt about quotas. At the administration's urging, they changed the language of the bill to reflect Griggs versus Duke Power Co., the prevailing interpretation of civil rights law for 17 years, until the Supreme Court's 1989 decisions. Yet, the allegations continue, and they trouble me deeply.

Allegations that this is a quota bill do an incredible disservice to the millions of women and minorities who stand to gain the fundamental right of equality through passage of this legislation. No one—not one Member of the Senate, the House, or the administration—supports quotas. I certainly do not. I firmly believe that merit, not race or sex, should determine who is hired for a job. And through the excellent efforts of Senators KENNEDY, JEFFORDS, DANFORTH, DECONCINI, SPECTER, and others, the bill's provisions make clear that quotas are not advocated, mandated, or intended. Indeed, the bill specifically says that nothing in the act "shall be construed to require or to encourage an employer to adopt hiring or promotion quotas."

The bill also effectively addresses two issues important to many of my colleagues, me, and our business constituencies: The status of the law regarding disparate impact cases and jury awards of punitive damages. During the House-Senate conference, provisions were adopted limiting punitive damage awards and clarifying that in cases involving disparate impact, the mere existence of a statistical imbalance in an employer's work force on account of race, sex, religion, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

Mr. President, the evolution of civil rights laws in this country has been slow and arduous. The Supreme Court's decisions last year and the President's veto this week make clear that we have by no means reached a point where we can be complacent. The burden is on us, the Members of Congress, to restore equality and equal justice for all Americans. That is the goal of the Civil Rights Act of 1990, and that is why we must override the President's veto. Thank you.

Mr. AKAKA. Mr. President, I rise this morning to express my deep disappointment over the President's veto of the Civil Rights Act of 1990. President Bush, through his action, now has the dubious distinction of being only the third President in our Nation's history to veto a civil rights bill.

Those of us who support civil rights sought this bill to overturn six recent Supreme Court decisions that have greatly diminished the ability of women and minorities to win job discrimination suits. We saw our vote as restoring prohibitions against employment discrimination that have been in force for nearly 20 years.

The President, however, said he vetoed the bill because he thought it imposed quotas. This is untrue—the bill is about basic civil rights affecting women and minorities—it is not about quotas. Despite what the White House has claimed, this was never the intent of the bill. In fact, the bill was modified in direct response to concerns about quotas.

I urge my colleagues to overturn the President's veto. We were promised a kinder and gentler nation under the Bush administration. But the President's kinder and gentler policies do not apply when it comes to safeguarding the rights of women and minorities. We must overturn this veto so that working men and women are guaranteed redress from job discrimination.

Ms. MIKULSKI. Mr. President, I rise today to express my deep disappointment at George Bush's veto of the Civil Rights Act yesterday.

For more than 200 years women and people of color in this Nation have been fighting for economic, social and political equality. We have marched and demonstrated. We have proposed legislation. We have tried constitutional amendments. Any progress we have made has come slow and hard.

It took 75 years from the writing of the Constitution until it was amended to forbid slavery. And it took 55 years after that for American women to get a constitutional right to vote. And it was another 45 years before the Voting Rights Act of 1965 effectively gave millions of African Americans the right to vote without risking their lives.

But Mr. President, when it came time for the Constitution to explicitly guarantee the equal rights of women, people said: "We're for the E, and we're for the R, but we're not for the A. We'll give women equality one law at a time."

Well, the Congress has passed a law, a law that does not even guarantee any new rights, but only restores rights taken away by the Supreme Court, and the President of the United States has vetoed it.

President Bush is hiding behind a phony issue. He calls the Civil Rights Act a "quota bill".

Let me tell you, where I come from we absolutely oppose quotas. For too many years, people whose names ended in "ski" or "y" or "o" were labeled with despicable, bigoted slurs. When we tried to get into college or law school or a good job, quotas were used to keep us out.

So you can be sure that no Senator whose name is Mikulski would support a quota bill; and you can be sure that any Senator whose name is Barbara is absolutely supportive of this civil rights bill.

It is time the President began listening to the hard working people of this country, instead of the big businesses and corporate interests that fought this bill.

Mr. President, we are on the brink of the 21st century. It is time to leave behind 18th-century attitudes about women and minorities.

When we talk about gender and skin color, we are talking about God-given attributes. But God has also given us the attribute of equality. Is it too much to ask that employers recognize what God has given us? Is it too much to ask that our Government support equal rights for all Americans?

Is it too much to ask that civil rights, for which people marched and fought and died, not be taken away by the Supreme Court; and that they not be denied again by the President of the United States?

We are entering the next century with the broadest spectrum of ethnic diversity this Nation has ever had. We have to make sure that those diverse people—who have come here to better themselves and to help us build our Nation—have equal protection.

And the women who are bringing their talents into the work force, in increasing numbers, need to be recognized as well. America cannot compete economically if we do not encourage all of our citizens to work and to contribute to our economy.

Mr. President, I am the 16th woman to serve in the U.S. Senate. I am also the first Democratic woman to be elected to the Senate in her own right. I do not intend to be the last.

I came to politics through social work and community organizing, but I intend to fight for the women who will come to this body through law and business, through education and through engineering.

I will fight to overturn this veto of legislation that would ensure their civil rights, and I urge my colleagues to do the same. I will fight to get on with fulfilling the American dream and the hopes of our Founding Fathers.

Mr. WIRTH. Mr. President, I rise to urge all of my colleagues to vote to override President Bush's veto of the Civil Rights Act of 1990.

In declaring ourselves a free nation, one of the basic ideals defining ourselves was that of equality. At that time, the national perception of just whom should be treated equally was fairly limited. But as social norms were dispelled and mind sets broadened we, as a nation, came to understand that when stating that all men are created equal, that we mean that all people are created equal.

The history of America in the last three decades has been marked by long struggle to widen this mindset—to assure all Americans equality in the voting booth, in the workplace and equality in the marketplace. This is the legacy of Martin Luther King, Jr.'s, odyssey and martyrdom; it is also the legacy of thousands of other Americans who courageously broke color barriers in the classroom, the lunch counter, and the polls.

After three decades of progress in support of civil rights, I am truly appalled that the Bush administration is willing to turn the clock backward and reverse the gains our Nation has made in assuring equality of opportunity.

As a Coloradan, I am particularly appalled by this retrograde attitude. My State was one of the first in the Nation to outlaw lynching—and one of the first to pass civil rights provisions to protect Americans from racism. This progressive tradition reached an apex in the midst of the Second World War when a Republican Governor, Ralph Carr, courageously opposed the internment of Japanese-Americans even though he knew it would cost him his political career. This is the kind of lesson of courage and conviction from which the Bush administration should learn.

Mr. President, the civil rights bill represents a bipartisan effort to simply ensure that American workers are protected against racial, sexual, or religious discrimination. This bill does not require hiring quotas, and it does not represent a new burden on employers or businesses; it merely confirms the original intent of the Federal law—to protect people from discrimination.

President Bush's so-called compromise bill would wash away years of progress in protecting civil rights. The Bush proposal would allow employers to hide discriminatory practices through a very loose interpretation of "business necessity" that could result in businesses refusing to hire someone because of the attitude or prejudices of clients and customers. It is bad enough that the Bush administration refuses to support a renewed civil rights bill—but the President's compromise represents an enormous loophole that will actually condone intentional discrimination.

I urge all of my colleagues to reject the administration's plan, override President Bush's veto and pass a Civil Rights Act to ensure that our Nation's progress continues. The road from the days of drafting the Constitution to protect the freedom of religion, to the suffragettes to the dark days of Selma and on has been rocky, Mr. President. But we continued the march for equality and freedom—and we cannot and should not turn back now.

Mr. President, I ask unanimous consent that a copy of an editorial on this subject by the Denver Post appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Oct. 23, 1990]

ON RIGHTS, BUSH IS WRONG

George Bush's veto yesterday of the most salient civil rights measure of recent years shows both his hypocrisy and opportunism on the issue.

The measure, passed last week by both the U.S. House and the U.S. Senate, would have overturned six U.S. Supreme Court decisions that crippled the right of American workers to be free from racial, sexual or religious discrimination on the job.

The measure had been painstakingly written, and included 30 amendments designed to allay business fears that the new law might be overly restrictive.

Indeed, the bill specifically said it wasn't intended to encourage quotas and that a statistical imbalance in hiring wasn't proof of discrimination. That means, clearly, no quotas.

The proposal also would have given employers added protection by making it difficult for workers to collect punitive damages from discrimination suits.

But Bush, who claims he wants to attract more blacks, Hispanics and women to the Republican Party, has nixed this carefully worded proposal on the flagrantly untrue pretense that it would encourage employers to hire according to quotas.

To compound his offense, Bush offered a substitute that would negate most of the on-the-job progress women and minorities have made since the early 1960s. For example, Bush's proposal would let employers use the discredited excuse of "customer relations" to defend racial or sexual discrimination.

Bush wants to be seen as promoting civil rights, so he can solicit votes from women and minorities. But he doesn't want to actually do anything that might advance the cause, lest he alienate the GOP's right wing.

Colorado's Democratic senator and three Democratic representatives voted for the congressional measure. But the state's Republican delegation: Sen. William Armstrong; and Reps. Hank Brown, Joel Hefley and Dan Schaefer voted "no."

None of these Colorado Republicans is a racist; instead, the votes appeared to have been cast out of party loyalty.

But being loyal sometimes means having to tell a leader that he's wrong, and Bush is radically wrong on this issue.

Both Colorado's senators and all six of its representatives should affirm their belief in equal rights by casting their votes to override Bush's veto. Civil rights shouldn't be a partisan concern.

Mr. LEVIN. Mr. President, I rise to urge my colleagues to join me in voting to override the President's misguided veto of the Civil Rights Act of 1990.

This legislation deserves the President's support and I regret his opposition. This bill would restore some rights we fought so hard for in the 1960's and 1970's that were lost in a few Supreme Court decisions in the 1980's. Those decisions last year took us backward. This bill would overturn those decisions and take us forward.

For instance, it would grant women and ethnic minorities the same remedies that are currently provided to persons discriminated against based on their race. And it would restore what has always been assumed to be the clear intent of Congress that employment discrimination laws cover the period after a person is hired as well as the hiring process itself.

The President's advisers are misrepresenting this bill. This is not a quota bill. It has nothing to do with quotas. The bill explicitly states that it does not require quotas and should not be read or interpreted in any way to promote quotas. To say it's a quota bill is like saying the First Amendment requires Americans to listen to speeches by politicians. The White House mangles the wording and intent of the bill to fit its own erroneous interpretation. By the President's action both truth and opportunity are lost.

The President's veto of this legislation is inconsistent with everything our country stands for and has fought for. We have fought to stamp out discrimination. We have not yet reached the day where we can say that discrimination is in our past. We have not yet arrived at the point where people are always judged on the basis of their ability and not on their sex, the color of their skin, or the sound of their last name. This bill would have taken us closer to that day.

I ask my colleagues to join in the effort to move forward by supporting this legislation. I wish the President were supporting this effort, but he is not. He has chosen to take the advice of his strategists. It's now up to the American people and Congress to show the President that we won't go back.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair reminds the Senator he controls 30 seconds.

The majority leader.

Mr. MITCHELL. Mr. President, I have discussed the matter with the distinguished Republican leader, and in order to accommodate the interest of all Senators, I now ask unanimous consent that the vote occur at 11:50 this morning, with the remaining 20 minutes to be divided: 5 minutes for the distinguished Republican leader and 15 minutes to the majority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Under the revised unanimous consent order, the Republican leader is recognized for up to 5 minutes.

Mr. DOLE. Mr. President, first let me indicate for the record I have advised the distinguished majority leader that I will only need about 5 minutes. Let me also say that for some of us who have never voted against civil rights bills, the title alone is not sufficient. I believe the President is correct. We run around putting labels on titles, saying this is a civil rights bill; this is a reform bill; if you vote against it, somehow you are anticivil rights or reform. Maybe that is the way the press plays it, but in my view you have to look beyond the label.

This was a tough decision for President Bush. I am here to say that he is prepared between now and the time this Congress adjourns sine die to help pass a civil rights bill, a real civil rights bill, not a quota bill, and sign that bill into law.

For those who are on the other side, if this veto is sustained, as I hope it will be, then if you are serious about civil rights and not some job, work-related placement type bill, then I think you will find you will have a lot of support on this side of the aisle.

The President said from day one he wanted to sign a civil rights bill. That has always been his goal. That is why he has walked the extra mile. When it was child care, he walked the extra mile. When it was clean air, he walked the extra mile. When it was the budget process, he walked the extra mile.

I can tell you the President feels the same about civil rights; he is willing to walk the extra mile but not go over the cliff, as some would have him do. But Congress in this case has dropped the ball. It has chosen to deliver not a civil rights bill but a bill with a civil rights label—a label that masks the harsh realities of an America where good character and merit do not count and where due process, the right to one's day in court, is nothing more than an empty slogan.

I suppose, Mr. President, that it comes with the territory, too. When all the smoke has cleared, when all the partisan sniping is finally put to rest, Americans will thank President Bush because the President has made the right choice.

He has chosen equality of opportunity over equality of results. He has chosen individual rights over group rights. He has chosen to restore title VII, not to distort title VII by transforming it into a national tort law. He has chosen common sense over a twisted logic that will allow lawyers to reap a windfall in the name of racial justice. And the President, to his credit, has said "No" to a bill that stands not for civil rights, as most Americans understand the term, but for quotas, quotas, quotas, and more job quotas.

In a few moments I will introduce the President's civil rights proposal. The President's proposal is fair; it is responsible, and it guarantees a Rose Garden signing ceremony yet this week, if others on the other side are serious. If they want a political issue, they can have it. If they want a civil rights bill, not a jobs quota bill, they can have that this week. I do not have any illusion we are going to leave here tonight at midnight. It will probably be more like Thursday or Friday.

Mr. MITCHELL. Mr. President and Members of the Senate, race has been the most divisive issue in American history.

Race was at the heart of our Nation's most devastating war, the Civil War. Race discrimination distorted the development of democratic systems in many States for more than a century after that war. Race discrimination deformed the lives of millions of Americans, black and white, for many decades.

Today, overt racism is rare. The vast majority of Americans believe that each of us should be judged on the basis of our efforts and our abilities, not on the basis of our skin color or our ancestry.

But the legacy of our racial history remains a potent force for exploitation. It is a sad truth that in the past decade relations between the races in our country have deteriorated.

It is also a sad truth that there have been some, black and white, who have chosen to exacerbate those tensions for their own purposes.

A decade of accumulated race-baiting on both sides has injured our society. Americans have been encouraged to blame national problems on each other, rather than to join together to search for solutions.

The President's veto of the Civil Rights Act of 1990 is deeply regrettable. It rejects a modest legislative proposal that would reverse the tragic trend of recent years.

The President's veto is also a rejection of the aspirations of American women. In recent decades, women have entered the work force by the millions, for the most part because of economic need. For the most part, the workplace has welcomed them. Their skills have helped our economy grow. Their wages have helped lift their families' living standards.

But in some ways, the workplace has created barriers to the entry and promotion of women as it long did for black Americans. That is why the goal of civil rights enforcement today is a multiracial goal. The civil rights of white working women as well as black men and women and other minorities all depend on the protection of our laws.

But with his veto, the President has rejected that fact. He has turned his back on working men and women, white and black whose rights would be protected by this bill.

The Civil Rights Act of 1990 would restore to the law the interpretation of job-place discrimination which was the law of the land from 1971 to 1989. It would restore explicitly to the law the understanding that a contract cannot be honored in the making and broken in the performance. And it explicitly instructs the courts that it is not to be construed to require any form of quota.

Under the 1971 Griggs ruling by the Supreme Court, which was the effective law of this land for nearly 20 years, no quotas were imposed, no unseen quotas were covertly implemented, no major additional costs to the business community accrued.

Yet this measure, which restores the law to its prior condition, a condition where no quotas existed, has been vetoed on the pretext that it would require quotas.

That allegation is disheartening.

It is discouraging that almost 40 years after the Supreme Court ruling in Brown versus Board of Education, a full quarter-century after passage of the Voting Rights Act and the Civil Rights Act, a full quarter century since America's conscience was awakened by the use of attack dogs and firehoses against peacefully assembled American citizens—it is discouraging to learn that we have come so far in time but so short a distance in understanding.

The bill the President vetoed does not constitute a major shift in civil rights law. It does not grant discontented employees carte blanche to harass their employers. It requires the same stiff burdens of proof that were required before 1989. It grants no novel relief to those who are able to meet these substantial requirements.

Yet, despite months of protracted negotiations to meet the President's stated goal of wanting a bill that would reverse these Supreme Court rulings, we were still met with a veto.

The reasoning for a veto is faulty. The bill does not require quotas. Indeed, it explicitly rejects quotas.

The President says he supports the goal of the legislation—workplaces free of the practices that lead to race-based or gender-based discrimination. He claimed he wanted to sign such a bill.

But when Congress gave him the opportunity to sign such a bill he chose to veto it instead.

The vetoed bill explicitly instructed the courts that no quota-style employment action is required or condoned by this law.

It retained the defense of business necessity with which employers have successfully defended against these suits for almost 20 years. It created no novel causes of action against employers. It did not impose novel demands on corporate employment practices. It did not require quotas. It would not result in quotas. It did not deserve a veto.

It deserved support because it restored to this area of law the most fundamental American value: equality of opportunity.

The bill would not have mandated equal results. It simply required that everyone get a fair chance. That is the goal and the promise of our system: That every American is entitled to fair treatment, every single American.

It is one of our proudest boasts that in America, no matter who your parents, no matter if they were rich or poor, black or white, Asian or Hispanic, you have a fair chance, an equal opportunity to compete with the most well-born, the best-connected, the most fortunate people in our society.

That fair chance was given to so many of us in past decades. We are now trying to ensure it for others in the future, those who face barriers of a different kind, barriers of race or sex or ethnic origin.

It is the most basic American promise. It is a promise we cannot deny to some Americans unless we want to see it eroded for all Americans.

If today we suggest that a certain degree of unfairness in the workplace is acceptable, if we suggest that reflexive prejudices should not necessarily be penalized, then how long will it be before we accept the claim that segregated workplaces or segregated neighborhoods or segregated schools reflect free choices which we should not disrupt?

If we accept the idea that a little bit of discrimination does not matter much in the larger scheme of things, then when that discrimination is turned against us, what will be our protection?

It has been much too long since an American leader reminded us that we are one Nation; that the laws we depend upon must serve all of us, not just the favored few; that the fair chance we seek for ourselves must also be available to our neighbor; that our neighbor is an American deserving of the same freedoms and rights we take for granted.

Abraham Lincoln said that a nation cannot endure half-slave and half free. He was right, although it took a ruinous war to prove it.

It took the civil rights marches of the 1960's to remind us that the rule of law cannot endure when the protection it guarantees to all is systematically denied to some.

Today we face no immediate crisis, no civil war, no civil disobedience, but the challenge is no less critical.

It is the fundamental challenge of America: to assure every American a fair chance; the equal opportunity promised by our Constitution. The Civil Rights Act of 1990 is designed to meet that challenge. It seeks to assure all Americans, those who are black, Asian, Hispanic, and women that in the workplace, they will be judged on their skills and their work, not on their skin color or their gender.

Yet we have a veto by a President who says he wants a civil rights bill. We have a veto justified by vague speculative fears of a very specific and precise bill.

It is hard to avoid the conclusion that this veto has little to do with the content of this legislation and much to do with political perceptions. That is a shame.

It is a rejection of the harsh history through which all Americans, black and white together, have come in the last quarter century.

We fought segregation by law and action. We fought discrimination based on fears and silent hatreds. We sought to give all Americans, black and white, the economic and personal security that would allow them to see each other as fellow Americans, not as potential threats.

The racial tragedy of America has been that our history is bound together and we will succeed or fail together, but that is also our great hope.

Ours will never be, like South Africa, two nations inhabiting the same continent. We will always strive for the goal of a unified nation, with liberty, justice, opportunity and respect for all.

We have come a long way toward that goal. But now we see that the road still stretches far ahead of us.

The promise of our Constitution and our law is so great. It has been such an inspiration to other nations and other societies.

In the past year, there have been stirring events abroad, as the people of Eastern Europe come to grips with the distortions communism forced upon their societies for 40 years. The peoples of the Soviet Union now struggle with the deformations that communism brought to their societies for 70 years.

We know that none of these societies will be able to escape their history, however unsought, however unfair.

Unlike those societies, America does not have to overcome 40 or 70 years of repression. But, like them, we are not free of our own history. In that history, the relations of the races have been a central fact.

The legacy of our national history is something none of us can escape. That legacy has left Americans of all colors with responsibilities as well as rights.

One of those responsibilities is to create the conditions in our society and in the hearts and minds of our children which will prevent for all time a recurrence of the darkest days of racial conflict in the past. That is a responsibility for parents, teachers, and leaders of all races. Sadly, for the past decade, our leaders have not fulfilled this responsibility. In the black community, some voices that should have spoken of constructive action have turned instead to recrimination. In the white community, some leaders who should have reminded us of our moral responsibilities sought, instead, to remind us of our differences.

That is why the Civil Rights Act of 1990 is so important. It seeks to restore the common American understanding that ours is a nation based on equality, on fairness, and on justice for all. The President's veto of this bill does him and his office no honor.

The veto does not reflect a President of all the people, a President whose vision of a kinder and gentler nation restored American spirits and hopes. The veto does not reflect a President who sees our society brightened by a thousand points of light.

The bill deserved the strong support it received from the Congress last week. The President's veto of the bill deserves our equally strong rejection and override.

I urge every one of my colleagues to vote to override the President's unwise veto of this important civil rights bill.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, under the previous order there will be about 1 minute until the vote would begin.

Several Senators addressed the Chair.

Mr. HATCH. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays are automatically ordered on override.

The Chair recognizes the Senator from Illinois.

Mr. SIMON. I have 1 minute. I ask unanimous consent to address the Senate for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, let me point out one thing that happened in

conference. Because we went out of our way to meet the objections of the President on this matter of quotas, this language that keeps coming up, and we bent over backward, two of the African-American members of that conference committee voted against it in conference. We had gone so far. A majority voted for it.

But I just mention this because we have an opportunity to see that opportunity is here for all Americans. I note the presence of some members of the Congressional Black Caucus. We ought to be listening to them as we listen to our conscience in voting on this veto override. I hope we do the right thing.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Under the previous order, Mr. President, a rollcall vote on final passage of the foreign operations appropriations bill was scheduled to occur immediately following this vote.

In an effort to accommodate the interests of the schedule of some Senators, I ask unanimous consent that that vote now occur following the first rollcall vote on the NEA amendments to the Interior appropriations bill, which will be the pending business following completion of this vote.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

If not, without objection it is so ordered.

Mr. MITCHELL. Mr. President, I want to take a moment to extend my sincere gratitude to Senator LEAHY, the manager of the foreign operations bill, for the relentless and tireless effort he made to get that bill cleared of the many complications which it had as it now commences to proceed to a rollcall vote on it early this afternoon.

The PRESIDING OFFICER. The hour of 11:50 having arrived, the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire the vote?

The result was announced—yeas 66, nays 34, as follows:

[Rollcall Vote No. 304 Leg.]

YEAS—66

Adams	Breaux	Danforth
Akaka	Bryan	Daschle
Baucus	Bumpers	DeConcini
Bentsen	Burdick	Dixon
Biden	Byrd	Dodd
Bingaman	Chafee	Domenici
Boren	Cohen	Durenberger
Boschwitz	Conrad	Exon
Bradley	Cranston	Ford
Fowler	Kerrey	Pell
Glenn	Kerry	Pryor
Gore	Kohl	Reid
Graham	Lautenberg	Riegle
Harkin	Leahy	Robb
Hatfield	Levin	Rockefeller
Heflin	Lieberman	Sanford
Heinz	Metzenbaum	Sarbanes
Hollings	Mikulski	Sasser
Inouye	Mitchell	Shelby
Jeffords	Moynihan	Simon
Johnston	Nunn	Specter
Kennedy	Packwood	Wirth

NAYS—34

Armstrong	Helms	Pressler
Bond	Humphrey	Roth
Burns	Kassebaum	Rudman
Coats	Kasten	Simpson
Cochran	Lott	Stevens
D'Amato	Lugar	Symms
Dole	Mack	Thurmond
Garn	McCain	Wallop
Gorton	McClure	Warner
Gramm	McConnell	Wilson
Grassley	Murkowski	
Hatch	Nickles	

The PRESIDING OFFICER. The Chair would remind the galleries that expressions of approval or disapproval are not permitted under the rules of the Senate.

On rollcall vote 304, the veto override of S. 2104, the yeas are 66, the nays are 34. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the bill on reconsideration fails to pass over the President's veto.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator will suspend.

The Senate is not in order. The Senate will be in order before we proceed.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Will the Senator yield to the Senator from Kansas?

Mr. CHAFEE. Yes, I yield.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on the motion to table the motion to reconsider.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion——

Mr. DOLE. I ask that it be temporarily laid aside.

The PRESIDING OFFICER. Is there objection to temporarily laying aside the motion to table? Without objection, it is so ordered.

The Senator from Wyoming.

Mr. WALLOP. I thank the leaders. I also suggest to them the remarks I am about to make may be interrupted in order to bring to a conclusion those negotiations that are now on the floor.

The PRESIDING OFFICER. Is there objection to that request?

Will the Senator suspend?

The Senator from Wyoming.

Mr. WALLOP. Mr. President, it had been my purpose to introduce a joint resolution calling for a declaration of war against the government of Saddam Hussein and Iraq. It is clear to me that despite the gasps of amazement, outrage, and dismay that this action would have caused, its effect might will have been salutary.

Even mentioning such an intention on my part is bound to elicit shock, Mr. President, but hear me out. A declaration of war is not—let me repeat not—a call to combat, but a declaration of national purpose.

War does not necessarily entail the clash of armed forces, but it is a contest of wills and of opposing interests, interests which must be backed up with the moral and material readiness to fight if necessary.

A declaration of war defines the circumstances of basic conflict between states. It may lead to a variety of outcomes, depending on the will and capabilities of the antagonists. But it leaves no doubt in the mind of either side as to the other's purpose. Yet such doubt does exist today with respect to Operation Desert Shield.

For the past few weeks the American people have watched the lamentable spectacle of their Government in disarray amounting to near paralysis. We are still struggling to pass a budget that will forestall the dread Gramm-Rudman-Hollings tax from falling, though I for one would be perfectly content to see it fall.

This sorry travesty is not simply a failure of competence on the part of the Congress or the administration as many Members aver. We are for the most part intelligent, competent, and hard-working men and women. Most of us have the best interests of the Nation at heart.

No, Mr. President, what we are experiencing is much worse than a failure of competence. It is a failure of principle, a collective loss of understanding, a mass lapse of judgment, such that neither the Congress nor the executive branch any longer seems capable of interpreting facts correctly, and of taking the necessary action dictated by the facts.

Mr. President, when muddle and confusion hold sway over the budget process, then we get at worst a shutdown of the Government for a short period—to be sure no small matter to those Federal employees whose livelihoods are affected, or we get an increase in taxes, to be sure no small matter to hard-working Americans.

But when muddle and confusion hold sway over military operations, then we face far more than a temporary inconvenience. We court disaster. We face the needless deaths of young Americans in faraway places. We risk permanent damage to vital national interests.

In warfare there is a direct relationship—a synergism—between the combatant nation's purposes in the conflict and the conduct of the war at the operational or tactical level. No military commander can ever be assured of victory. But clear and sound national policies, goals, and overall strategies generally contribute to success on the battlefield. On the other hand, lack of clarity of purpose, with flawed goals and policies, inevitably lead to operational failure and needless loss of life.

I remember vividly the words of Senator HOLLINGS in 1983, when we deployed a marine amphibious unit to Lebanon without a clear purpose. Senator HOLLINGS said, "If they are there to fight, they are too few. If they are there to die, they are too many."

As it happened, they went there to die. The terror bombing of the marine barracks in Beirut on October 23, 1983, killed 241 marines and sailors, the worst loss of life in the U.S. military since the Vietnam war. This happened not because of the incompetence of the marines, but because muddle and confusion at the top trickled down to the tactical and operational level and sowed the seeds of disaster.

This is the issue that I want to address, Mr. President. The same uncertainty and confusion that spelled disaster in Lebanon are now creeping into our Persian Gulf operation, and hold the same potential for disaster.

A number of recent events and developments have brought me to this point. First, the Foreign Relations Committee, in a hearing with Secretary of State Baker last week, admonished the Bush administration not to launch an offensive operation against Iraq after sine die adjournment without carefully consulting the Congress. And some Senators even suggested that the President should ask for a formal declaration of war before engaging in hostilities, and so he should.

Article 1, section 8 of the Constitution is clear and unequivocal—Congress has the power to levy war. But I feel that the Foreign Relations Committee has missed the larger point. This is not simply a narrow question of congressional prerogative—far from it. I believe the founders conferred this power on the Congress for a loftier purpose than to instigate a constitutional game of chicken with the executive every time we face a foreign threat.

The power to declare war should not be seen as an impediment to the executive branch; it is a congressional obligation, in the right circumstances. It contributes to victory by ensuring first a clear understanding of the war aims, and of gaining the Nation's commitment to those aims.

The Bush administration appears to differ with the Congress over the interpretation of the constitutional provisions to declare and prosecute a war. I can appreciate the administration's desire to avoid a major political battle and constitutional crisis on the eve of conflict, and while U.S. troops are at risk. Yet, I do not understand why the Secretary of Defense fears that a formal declaration would result in loss of surprise. A declaration of war certainly does not oblige him immediately to launch an offensive, or a military action of any kind.

But rather than clarify our purposes in the gulf, some Members of Congress have only added to America's confusion. Mr. President, in the budget debate last Wednesday in this Chamber, some of my colleagues trivialized the national interests at stake in Saudi Arabia and the Persian Gulf, repeating the canard that we are only interested in cheap oil. They invoked the gulf crisis to justify a tax increase. This has persuaded me that we are not all thinking clearly or seriously about our reasons for being there. It is time we do start to think about these things, and about how we are going to bring the conflict to a successful conclusion now that we are there.

For all these reasons, I believe that a debate on a declaration of war would be the best means to force ourselves to begin thinking more rigorously about our national interests, our policy goals, and our military and diplomatic strategy. Perhaps then Mr. President, our purposes—and the national commitment needed to ensure success—will become clear.

So let us not delude ourselves, Mr. President. There is ample evidence in the actions of the administration that confusion has begun to set in. The President is placing more emphasis on the process rather than on the substance of our policy. The administration displays an excessive preoccupation with stroking and pacifying the coalition, as if that coalition itself were the object of the exercise. The lowest common denominator then sets the coalition's policy. We become enmeshed in the process of debating and passing U.S. resolutions, as if mere words have ever stopped aggression.

So I feel compelled, Mr. President, to raise the question of a declaration of war. I am not eager to see carnage or bloodshed. On the contrary, I believe that armed conflict must be the last resort, and I hope that we can achieve our aims short of open war. Nor do I wish to raise an impediment to decisive, forceful action by the administration, nor undermine the clear warmaking prerogatives of the President implicit in the Constitution. Nonetheless, someone has to raise these questions—we must know what we are about.

A declaration of war requires passage of a joint resolution in both Houses. Mr. President, sadly, there is not enough time left in this session for the required parliamentary steps to bring it to completion before both houses.

It would be easy were I to introduce it to merely refer it to committee and we would not see it again before this was over.

And were I to do that and we were to debate that, its failure would only add to the sense of the irresolution on the part of America. So I offer these few observations instead as a means of raising the issue.

Mr. President, it is necessary to recognize that our Nation is poised on the threshold of war, formally declared or not. Since we face such a serious possibility, and since the Congress has the constitutional prerogative to declare war, we have an obligation to demand of ourselves and of the Commander in Chief: Precisely what are our military forces in the Persian Gulf supposed to accomplish, and how are they supposed to accomplish it? It is necessary to consider in our own minds the relationship between our ends and our means in this conflict.

Since World War II, few of America's deployments of military forces overseas have been successful. Korea, Vietnam, and our recent involvement in Lebanon turned into national tragedies largely because the President and Congress sent troops in harm's way without even seeking to answer fundamental questions: Whom are we marching off to fight? What is the military objective, which, if achieved would constitute success and allow us to come home with heads held high? Just what are our plans for achieving that objective? What is the endgame?

By its wanton aggression since August 2, 1990, and particularly by seizing and threatening American citizens and besieging our Embassy in Kuwait, the regime of Saddam Hussein of Iraq has put itself in a state of war against the United States. As much as we might wish, we cannot hide from this unpleasant reality, nor pretend that the actions of Iraq are anything other than an act of war.

Mr. President, after the Iraqi attack on Kuwait, this government deployed its forces boldly and decisively, and now we have some 200,000 men and

women in the gulf region. The operation was a superb feat of logistics, and the diplomacy that accompanied it was equally skillful, adding considerably to our combat power and providing vital political support. So I wholeheartedly supported the operation, and my hat is off to the President and the Secretary of Defense for these initial successes.

But now I begin to see serious cracks in the edifice. Drift, muddle, and confusion are beginning to replace the confident spirit of August. Now we seem uncertain what to do with the forces we have amassed.

So let us face the fundamental questions about our purposes. If the answers are adequate, then let us solemnly commit ourselves. If the answers are not adequate or forthcoming, then I for one will do my utmost to get our forces withdrawn before they become involved in bloodshed that is either meaningless or counterproductive, or before we find ourselves diplomatically obliged to a humiliating withdrawal. I would not want the old doggerel repeated about our President: "The noble Duke of York, he had 10,000 men. He marched them up the hill, and then, he marched them down again."

Mr. President, I must ask my colleagues to consider: Why it is that we Americans, and not the rest of the world, are now constrained to face such a decision. After all, President Bush has said repeatedly that this conflict is not a case of the United States versus Iraq; but rather Iraq versus the whole world. I wish that were true, but it is not. Why not?

First, President Bush himself has underlined the bilateral nature of the conflict by sending his video tape message to the Iraqi people. I will argue later that the content of that message was ill-advised. For now I simply note that the President was speaking for himself—or for the U.S. Government. The Secretary General of the United Nations did not deliver the message to Iraq on behalf of the world. King Fahd nor President Mubarek delivered it on behalf of the Arab world.

Nor did Mr. Bush even speak for the other States that are nominally on our side in this conflict. While the President's words said that Saddam Hussein was confronting the whole world, his act argued that the quarrel is with the United States.

Second and more important, the essentially bilateral nature of the conflict is made unmistakable by the composition of the forces deployed. Other nations have sent token forces. We are glad to have them. But the anti-Iraq coalition stands or falls on what the vast bulk of the forces—American forces—do.

Third, while our Turkish, Egyptian, Saudi, and Gulf State allies have interests at stake greater than ours, it is just plain fanciful to conjure up an image of a world united in arms against Saddam Hussein. Our Arab friends are fearful of being swamped by a wave of popular favor from Saddam that grows with each day of his successful defiance. If he offers the Arab States a deal, they just might take it, leaving us to hold the bag.

Iran has basically joined Iraq. Nor should this surprise us. It is simply a modern, Middle East version of the Hitler-Stalin pact. And the Soviet Union, rhetoric aside, is on Iraq's side as well. Its economic and military advisers, numbering in the hundreds and perhaps thousands, are keeping the Iraqi military together, and the Soviets will be marketing Iraqi oil through Iran. In fact, the cash-starved Soviets have much to gain from the high oil prices caused by the conflict.

Most of our European and Japanese allies are clearly anxious for a graceful exit from the impasse. In short, the whole world is against Saddam Hussein only insofar as we Americans can manage to defeat him.

But, Mr. President, what does it mean for us to defeat him? How can we do it? Always we come face to face with these unavoidable questions. We as a government have not answered them adequately, and have not made a commitment of purpose that matches our commitment of troops and resources. That is why we ought to debate the concept of a declaration of war.

Mr. President, it is possible for democratic nations to fight wars without declaring them, or by calling them by other names—police actions for example—just as it is possible for men and women to live together without declaring marriage, or by calling their cohabitation by other names. But declarations of war, like declarations of marriage, are useful because they force people to ask themselves, "What am I doing?", and, once they understand, to make the sort of commitment that enhances the prospects of securing our long-term interests.

What are our long-term interests in the Persian Gulf and Arabian peninsula? First, we must have absolute freedom of navigation and commerce in the Persian Gulf. Second, we must keep the world's oil tap—the power to set oil prices—out of Saddam Hussein's grasp. If he can control such a vast reservoir of a critical global resource, the major portion of the world's petroleum; if he can set world oil prices rather than the market, then we will no longer be a secure power, much less a great power. Third, American interests require that no single, warlike, aggressive power gains hegemony over the entire gulf and Arabian peninsula, which contain not only the bulk of the world's crude oil supply but also adjoin some of the most strategic littoral and maritime choke-points on the globe.

So what then threatens our interests? Quite simply, the regime of Saddam Hussein; its control over its people, its great military power, including chemical weapons, someday soon possibly nuclear weapons, and an array of ballistic missiles to deliver them; its exploitation of the volatile Arab temperament, and its vaulting ambition.

The invasion of Kuwait and the threats to Saudi Arabia are only symptoms, manifestations of the Iraqi threat. If we limit our purpose to safeguarding Saudi Arabia from invasion, or even the withdrawal of Iraqi forces from Kuwait, we are making the most dreadful of mistakes because we may well get our wish, but still leave Saddam Hussein with power to dominate the Arab world and set the world price of oil.

Besides, even the safety of Saudi Arabia is unachievable if we make that our ultimate goal. It is absolutely impractical to garrison a line in the sand for a long period. But even if it could be done it would not solve our basic problem. Indeed, an American, non-Muslim, garrison permanently encamped on the holy soil of Islam would soon unite the Arab masses against us. A passive line in the sand would cede the initiative to Iraq, and the spirit of Saddam Hussein would triumph.

Furthermore, the sovereignty of Kuwait by itself is an illusory goal. Saddam Hussein might make a withdrawal under a face-saving formula, promising elections or even a return to the status quo ante, but now that he has depopulated Kuwait of half its people and replaced them with Iraqis, he could easily manipulate elections, or intimidate a restoration government. He might even let the Emir return on condition that Kuwait be demilitarized. In any case the Government of Kuwait would exist by Iraqi sufferance. The rest of the Gulf States would live under his shadow. Even a successful war which stopped at liberating Kuwait would not fulfill any national purpose.

Saddam, having survived that war with his internal power and most of his military intact, would be an Arab hero-martyr much as Gamal Abdul Nasser became after he lost the 1967 war with Israel. In the long run, Saddam's political-military supremacy would achieve all the goals he set for himself in 1990. He would come to dominate the entire gulf, and very possibly absorb our other Arab allies on the Arabian Peninsula into a new warlike empire, fueled by the immense natural wealth of the region.

What about the embargo? That, of course, is a set of means, not an end. What the embargo can achieve is not

up to us. It is up to the world's nations that can join in it to a greater or lesser extent. Who can doubt that Saddam's defiance of the United States encourages cracks in the united front to grow, especially when the United States is willing to accept mere verbal assurances of Soviet compliance even in the face of their blatant noncompliance.

I am referring specifically to the Soviet regime's word of support combined with its effective management of the Iraqi military supply system. Why should any nation suffer the pinch of an embargo when our Government is so willing to whistle in the dark? The success of the embargo also depends on the Iraqi regime's willingness to kill those who dissent. Who can doubt that willingness in light of Saddam's bloody history?

Let us then ask what Saddam Hussein can do to win? To defeat the line in the sand he need do nothing. It will defeat itself in time. To defeat the embargo, especially of military goods, he must rely on the self-interest of dubious third parties, like Iran, certainly no friend of the United States or the U.S.S.R. The Soviet regime, for example, stands to collect some $50 billion per year in hard cash from the rise in oil prices.

To defeat a war to liberate Kuwait, Saddam can rely on appeals for peace, on Pan-Islamic propaganda, on promises of cheap oil, on threats to set the world on fire, on linking the gulf crisis with the Palestinian issue and invoking jihad against Israel; and finally if necessary, by promising to withdraw from Kuwait, a matter of miles, in exchange for the withdrawal of the United States to the other side of the globe.

Quite simply, Mr. President, our problem is Saddam Hussein and his regime, and nothing but the removal or neutering of that regime will solve it. Anything we do that does not contribute to the elimination of a permanent Iraqi threat is worse than doing nothing.

A life lost or a life taken, except to pull down that regime, is a life wasted. That is what we ought to declare. We ought to declare it because it is true, and because it is useful for the Iraqi people, for the world; and, not least, for ourselves to have no doubts about it.

Consider by way of contrast the video tape message the President delivered to the Iraqi people. He told them their ruler is harsh and lawless—as if they did not already know it. He told them that they would suffer because of their ruler—as if this were news. He told them their army must withdraw from Kuwait—as if they had anything to say about its presence in Kuwait. He told them that the whole world is against them—which they took for a lie because every day on their TV sets they see Arab mobs demonstrating in support of Saddam, and because they see Soviet technicians still in their midst.

Mr. Bush told them that United States objectives were strictly to safeguard Saudi Arabia and to free Kuwait—and left the implication however unintentional that regardless of what might happen the United States would leave the Iraqi people to Saddam's tender mercies. No wonder Saddam Hussein was so eager to broadcast the President's message in Iraq. It can only have helped strengthen Saddam's message that the United States is contemptible and in the end must lose.

Let us now send the Iraqi people another message. Let us make unmistakable our willingness to remove the regime that oppresses them as well as Kuwait. That message must assure Iraq that whatever happens, Saddam Hussein and his henchmen will be out of power, and the future of Iraq will be at the disposal of a freely elected Iraqi Government.

The second message is that unless Saddam Hussein relinquishes power, his life will be required, and anyone else who stands with him. I tell you Mr. President, we cannot make war merely to kill poor Iraqi draftees. To fight without a clear purpose is to make war on soldiers, not with soldiers, and is obscenely immoral. No, Mr. President, we dare not measure success by counting the bodies of Iraqi soldiers, much less Iraqi civilians. But one fugitive—Saddam Hussein—will be the measure of our success.

How must our Armed Forces and their commanders approach this war, God forbid that we send armored columns to smash Iraq's dug-in tanks and artillery at the cost of thousands of men on both sides who would really rather be someplace else.

Let our military apply the lessons of our blunders in Korea, Vietnam, the Desert One debacle, Lebanon, and Grenada. If Saddam Hussein does not surrender, let the military use all its force, but apply our strength against his weakness, not against his strong points. We must destroy his air force and missile launchers and isolate his far-flung ground forces by making it impossible to resupply and sustain them. Then we can remove him from power. Only then is there a chance that the chiefs of the Iraqi Armed Forces, fearful of going down with him, will get rid of him.

Mr. President, I feel my colleagues recoiling from all the talk of war and destruction. But the Members of this body must remember that the billions of dollars of hardware we have shipped to the gulf are designed to kill. We must decide to use it carefully, or we will act irresponsibly. If we cannot swallow this hard reality, then the stakes in the gulf are not worth the huge financial cost, much less the blood.

But Mr. President, I urge my colleagues to ponder these critical issues and their own responsibilities, as befits the elected leaders of a great and free people, and as called for by our Constitution. We owe it to our military, our allies, and our citizens to define a purpose or to come home. I thank my colleagues for their attention, and yield the floor.

Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold?

Mr. WALLOP. I withhold.

Mr. BYRD. Mr. President, I thank the Senator.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I have been asked by the majority leader to ask unanimous consent that the vote on the motion to table the motion to reconsider the vote on the veto message S. 2104 be further laid aside until following the next rollcall vote today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, it is my understanding that the distinguished Senator from South Carolina will be calling up a conference report. He has every right to do that.

I ask unanimous consent that at such time as he calls up that conference report, the time on the conference report and on any amendments in disagreement, the overall time be limited to——

Mr. HOLLINGS. If the distinguished leader will allow, we will have an amendment by the Senator from Pennsylvania. I do not know how much time he will take. I think the other side can tell.

Other than that, we have some amendments in disagreement that we will recede to. I know my ranking colleague, the Senator from New Hampshire [Mr. RUDMAN]—we have an amendment on the Securities and Exchange Commission, which will only take a few minutes to explain. That will be adopted, I take it, unanimously.

But the distinguished Senator from Pennsylvania had an amendment to an amendment in concurrence thereof relative to a free trade zone. I know he will want a little time on that. I understand the Senator from Iowa will want to be heard on it. They can tell us what the time will be. Then we can agree to it.

Mr. WALLOP. Mr. President, I might just say that I am not prepared to give an answer to the Senator. I will search one out immediately. I do not know where the Senator from Iowa is, but we will set about trying to do that. Until such time, I would actually with-

hold that until we make an effort to get hold of him.

Mr. BYRD. Mr. President, under the rules the Senator knows conference reports are privileged. As long as the distinguished Senator from South Carolina gets the floor, there is no way the Senate can prevent him from bringing up that conference report unless someone asks for a yea-and-nay vote. That might delay a few minutes. But he has a right to call up that conference report.

I am simply seeking to try to get a little time agreement covering that conference report so that the Senate will not be unduly delayed in proceeding to the Interior appropriations bill. There are seven amendments that we know about under the list that was agreed to yesterday that remain on the Interior appropriations bill totaling 7 hours of debate. If there are seven rollcall votes, that would mean 105 additional minutes. If those rollcall votes were kept to 15 minutes each, it would mean that about 8½ hours to 9 hours remain today on that bill if all time is used, and all of the six amendments are called up. This would mean that if we were to resume consideration right now, we would probably be able to close down no earlier than 9:30.

The longer we delay getting on that bill, the longer we push ourselves into the evening—because I am going to insist that the Senate complete action on that bill today. We have had it now up in the Senate parts of 3 days, and I am going to urge the two leaders to keep that bill before the Senate until we can complete it so we can take it to conference.

That is the reason I am seeking a time limit on the conference report which the Senator from South Carolina will call up. I withdraw the request for the moment.

I understood the distinguished Senator from Maryland wished to be recognized.

Mr. WALLOP. Mr. President, will the distinguished leader yield to me for just a minute?

Mr. BYRD. Yes.

Mr. WALLOP. Senator HEINZ is on his way. I realize the privileged nature of this thing. It is not our intention nor our side's intention, but there was not an understanding of what was contained in the Harkin amendment. I am sure it can be resolved as soon as the Senator from Pennsylvania arrives.

Mr. BYRD. Then if the Senator from South Carolina would not mind waiting for a few minutes until we can resolve that matter, I have some requests that the majority leader has sent to me to propound to the Senate.

Before I proceed with them, how much time does the distinguished Senator from Maryland wish?

Mr. SARBANES. I just want to make a unanimous-consent request.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Maryland [Mr. SARBANES] for the purpose of his making a unanimous-consent request and making any statement that he wishes to make.

The PRESIDING OFFICER. Without objection, the Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I listened very carefully to the distinguished Senator from Wyoming as he spoke just a few minutes ago. I think he has raised some very fundamental questions which the Members of this body need to give some careful thought to. I am not fully prepared to address all of the points that he raised, obviously, at this point.

But in order to help to contribute to that dialog, I will ask unanimous consent to include in the RECORD immediately following this statement, two articles which appeared in the papers recently. One by William Bragg Ewald, Jr., who worked for President Eisenhower on his White House staff, was an assistant to him on his Presidential memoirs and the author of three books on that administration, including one entitled "Eisenhower the President: Crucial Days, 1951-1960." The article is entitled "What Ike Would Do in the Gulf."

I think it is a very thoughtful analysis of the situation and how he at least envisions that President Eisenhower would have responded to this situation. The essential theme is that he would have taken an international approach. In fact, the subheading to it is, "As in 1958, in Lebanon, he would urge the U.N. to take over." I think it is an interesting perspective.

I also submit for the RECORD an article by Zbigniew Brzezinski, which appeared in the New York Times, entitled "Patience in the Persian Gulf, Not War." This discusses the two approaches and the consequences and the ramifications of each of the likelihood of success; and I think, again, this raises a number of very important questions which need to be addressed by the Members of this body as we think about the very fundamental issues which the Senator from Wyoming raised in his thoughtful statement.

I ask unanimous consent that those articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WHAT IKE WOULD DO IN THE GULF

(By William Bragg Ewald, Jr.)

GREENWICH, CT.—Late last month, Iraqi soldiers seized our 24-year-old son in Kuwait. He had gone there three days before the Aug. 2 invasion after repeated reassurances from the State Department that nothing untoward was going to happen. The soldiers took him first to Baghdad, then to a military installation as part of Iraq's "human shield." Finally, came word of his release in response to a desperate appeal from his mother to President Saddam Hussein.

Throughout this nightmare, punctuated by long stretches in which we knew nothing of his whereabouts, we prayed he and the other hostages would survive the ordeal. But we also prayed for our country—that if blood were to be shed, it would be for a foreign policy of which all Americans could be proud.

We stand today at a crossroads. One way leads to another Vietnam, the policy of American macho unilateralism. The other way is the way of President Dwight Eisenhower, which President Bush largely has followed so far.

As a member of Eisenhower's White House staff, as assistant to him on his Presidential memoirs and as author of three books of my own on his Administration, I believe I know what he would do in the Persian Gulf.

He would not go it alone. At Dienbienphu in 1954 he saw many reasons to go into Vietnam—but only in company with allies, a large international alliance. He couldn't put such an alliance together. So he stayed out, and thus avoided U.S. humiliation.

He would work through the U.N. In a single day in 1958, Ike sent some 15,000 soldiers and marines into Lebanon, the biggest peacetime deployment of troops in our history up to that time—a force comparable to what Presidents Kennedy and Johnson dribbled into Vietnam over three long years. But Ike did something else. He instantly went to the U.N. cited the right of nations under the U.N. Charter to engage in collective self-defense, urged the U.N. itself to replace American troops in protection of Lebanon, and pledged that when the U.N. did so, we'd get out. And we did get out, a few weeks later.

He would never mention Saddam Hussein, Ike had a hot temper; he did a lot of boxing as a young man; and he had a swift impulse to lash out at an adversary. But as President he never attacked his enemies by name—not even Stalin.

To him, no great contest should become a personal contest. Sure, Lyndon Johnson bragged about one-day emasculating Ho Chi Minh, the North Vietnamese leader. Ronald Reagan branded Nicaragua's former President, Daniel Ortega, a tinhorn dictator, and President Bush took pokes at Manuel Noriega. Ike never would have. To turn international differences into a name-calling brawl only makes their resolution harder.

"Some day," Ike said of Stalin, "I might have to negotiate with him." And, as his perceptive press secretary, Jim Hagerty, observed, Ike "always left an escape route, both for himself and for the other guy."

He would respect cultural differences. Ike shunned a "white man's party"—white foot soldiers against Vietnamese natives—in the jungles of Asia. He would, I feel sure, shun a white man's party in the Middle East—the prolonged presence of huge numbers of Americans. Whatever we do there should have overwhelming Arab approval and participation. As Ike recognized when he turned back the 1958 British, French and Israeli invasion of Suez, the age of imperialism has ended.

He would respect the rights of the powerless. At times during his Presidency, Ike encountered difficult demands from smaller, weaker countries. These he considered "the tyranny of the weak." But, he told aides, "we must put up with it"—an idea he reiterated later with great eloquence in his military-industrial-complex farewell address,

calling for "a proud confederation . . . of equals."

He would watch the polls. Anthony Eden invaded Egypt in 1956 with the House of Commons split down the middle. "I'd never commit American forces with such weak public backing," Ike said of his old friend.

Worried that American and allied enthusiasm for Middle East action may melt away in a few weeks or months, the Bush Administration may feel a pressure to act now. First, however, we should ask ourselves whether we might end up as a house divided, fighting the wrong war in the wrong place against the wrong enemy.

He would take the long view. After the Lebanon landing in 1958, Ike went to the U.N. General Assembly for a major address on building a lasting peace in the Middle East, including a far-ranging program for increasing the Arab region's water supply food, health and education. The mere cessation of hostility did not suffice for Ike and should not suffice for us.

I know the ardent devotion of President Bush's family to the memory of Dwight Eisenhower. I know the strong personal affection and respect between Ike and President Bush's father when he served as an Eisenhower loyalist in the Senate. And I know that repeatedly President Bush has taken actions—like the prompt and massive buildup of forces in defense of Saudi Arabia, and the organization of an unprecedented worldwide United Nations alliance against Iraqi aggression—that Ike would applaud.

But a growing chorus of experts is urging a different course—away from internationalism and toward the Lone-Rangerism that gave us Vietnam. That option remains very much alive.

Ike has left us a valuable lesson in the successful conduct of international relations. I hope we keep it before us in the days ahead.

PATIENCE IN THE PERSIAN GULF, NOT WAR

(By Zbigniew Brzezinski)

WASHINGTON. The crisis in the Persian Gulf is the first crisis of the post-cold-war era. Thus, fortunately, it does not pose the danger of a U.S.-Soviet confrontation. Nonetheless, if mishandled, the crisis could prompt devastating consequences for the world economy, perhaps result in massive Arab and American bloodshed, and almost inevitably generate major regional instability throughout the Middle East.

It is thus a crisis that is too serious to be resolved by decisions in one capital alone and too dangerous to be addressed on the basis of hysteria. It calls for thorough strategic consultations among the countries concerned—including, beyond the democratic West, the leaders of moderate Arab countries outraged by Saddam Hussein's aggression—regarding the issues involved, the policies to be pursued and the costs to be assumed.

As its point of departure, a collective strategic response to the Iraqi challenge must be based on shared perspectives regarding three central concerns:

It must provide for stable access by the West to reasonably priced oil, which in practical terms means assuring the security of Saudi Arabia and the Emirates from any further Iraqi pressures or aggression;

It must protect the sanctity of the international order against unilateral use of force, which in practical terms means a satisfactory resolution of the status of Kuwait;

It must take into account Iraq's significant military arsenal as a longer-term regional security concern. (Additionally, and depending on whether the crisis is resolved peacefully or militarily, the future of Saddam Hussein's personal leadership may have to be addressed by the international community.)

All three of these issues involve objectives that are desirable, even though not all of these goals are equally urgent or vital. But there is consensus not only in the West but also among the moderate Arabs regarding the imperative need to deter any Iraqi move against Saudi Arabia.

This objective is so vital to the well-being of the world economy that the United States, rightly and courageously, was prepared to fight even alone. That is why it immediately deployed such large forces to the region. There is little doubt that other states, both Arab and non-Arab, would also join in a common effort if the Iraqi Army were to strike further south.

The consensus is less strong and strategic options become more divergent, regarding the other two issues. Subtle differences emerge once the surface is scratched as to what precisely should be the international coalition's objectives and how should they be pursued.

WHAT IS TO BE DONE?

Broadly speaking, two strategies are emerging. The first favors sustained international pressure on Iraq through the embargo to compel its withdrawal from Kuwait. The alternative—which some favor if peaceful means fail, and some prefer as the more effective solution—involves the use of military power, thereby dealing not only with the issue of Kuwait but also with the challenge posed by the Iraqi military machine. Given the enormous stakes, it is important to assess these alternatives carefully, for their costs and prospects of success differ significantly.

The peaceful coalition strategy will require time to prove itself. It may take months to convince Saddam Hussein that the coalition's unity will survive and that any leakage in the embargo will be insufficient to prevent a massive deterioration in Iraq's economy and social well-being. This will impose major demands on the democratic publics in the West to support the necessary sacrifices and on their leaders, especially in America, to rebut hysterical calls for military action. The approaching Congressional elections in the United States may tempt some to advocate military action in the expectation that the initial surge of patriotic feeling will work to the advantage of the party in power.

A prolonged embargo will also require major economic cooperation among the members of the coalition. Especially important will be the contributions of Japan and Germany, both exceedingly rich countries yet countries that have made a small contribution compared with America's.

There is thus the risk that, in the pursuit of the peaceful and patient strategy, allied unity may come to be strained by increasingly sharp disagreements regarding the distribution of the burdens involved. These disagreements could become especially acrimonious as the recession—in part stimulated by the higher energy costs and other expenses generated by crisis—deepens in the United States.

THE RISK OF WAITING

The peaceful strategy, in any case, may also be derailed by developments beyond America's and the international coalition's control. One cannot, for example, preclude attempts at deliberate provocations, designed to inflame American public opinion and to precipitate a military collision between America and Iraq.

Given the bitter personal enmity between the Syrian and Iraqi leaders, or in view of reports of Israeli fears that America may opt for a peaceful outcome to the crisis, not to mention Iranian fundamentalist passions, it is also quite possible that outside parties may set in motion events that derail the peaceful strategy. Last but not least, there is the possibility that Saddam Hussein, fearful of being strangled by the international embargo, will himself initiate hostilities.

Finally, it must be admitted that the peaceful strategy cannot in any case resolve the third issue, that of Iraq's military power; at best it can probably yield only a partial success on the status of Kuwait, a success certainly short of "unconditional surrender" by Iraq. More likely, the eventual success of the peaceful strategy will require, at some point, quiet, behind-the-scenes negotiations regarding the issues that precipitated the Iraqi aggression.

In other words, once a sustained embargo had succeeded in convincing Saddam Hussein that he must concede, some confidential discussions, either through Arab intermediaries or perhaps through Soviet ones (and Mikhail Gorbachev deliberately positioned himself in the Helsinki talks with President Bush to be an eventual mediator) would ensue. They would address the adjudication—following an Iraqi withdrawal from Kuwait—of the Iraqi financial and territorial claims (not all of which were unfounded), which will have to take place.

If much of the international community were willing to accept such an outcome, it would be difficult for the United States alone to oppose it. Moreover, it is likely that by then the peaceful strategy would have imposed substantial financial costs on all parties, even though it would have spared everyone from potentially massive bloodshed. Thus there is bound to be some international predisposition to settle, even if the outcome were to be not quite as unconditional as currently some desire. However, any such outcome would still leave major issues pertaining to regional security and Iraqi military power unresolved.

This is why some argue that the peaceful strategy cannot work and that the crisis must be resolved by force of arms. The peaceful strategy—the critics point out—would resolve satisfactorily the first issue only, the second perhaps partially (and, at best, only after a very prolonged effort), and the third not at all. In contrast, the military strategy would deal with both the second and the third at the same time, while perhaps also enhancing Saudi security for the longer term.

Accordingly, proponents of the military strategy argue that force should be used once the necessary preparations have been completed. Given the pace of the American troop and weapons deployments, that could be as soon as late October (thus before the American Congressional elections) but in any case no later than late winter. The reason for the latter deadline is that the onset of the fierce sandstorms that follow the winter season would adversely affect the technological performance of weapons and impose additional difficulties on the American and other forces not accustomed to desert warfare.

The military option would have to deal simultaneously with the goal of liberating Kuwait and of destroying Iraqi military

power for the simple reason that is not possible to do the first without the second. A conventional ground attack on Kuwait would be prohibitively costly in casualties and perhaps even impossible to execute without a deployment of forces vastly larger than even the currently projected deployment of some 200,000 American troops.

Military action will therefore require an all-out air assault on Iraq's political and military command centers, key military concentrations and principal industrial-military targets, in addition to some unavoidable ground fighting. Particularly intensive efforts will have to be made to destroy preemptively, any Iraqi capacity to retaliate through missile strikes with chemical warheads.

A particular complication pertaining to the air assault is that its effectiveness would be greatest if it came as a sudden bolt out of the blue. But that could only be the case if it was undertaken solely on the American initiative, since only American airpower would be capable of undertaking this task effectively and alone.

The decision to initiate hostilities through a decapitating air attack would thus have to be made solely by Washington, without any genuine consultations with the other powers that are participating in the anti-Iraq coalition, especially Arab one. That could breed political resentments and even pose the danger that America would eventually find itself increasingly isolated in the world arena.

There is also a domestic American complication to be noted here. An American bolt-out-of-the-blue attack would not only strain allied relations. If the resulting hostilities were to become costly and prolonged, the U.S. Congress might be outraged that its constitutional prerogative of declaring of war was not respected. Yet a declaration of war would be incompatible with any surprise attack.

In any case, the military operations, to be effective, will have to combine major air and ground initiatives, the former to paralyze Iraq's capacity to respond and the latter to drive the Iraqis out of Kuwait. The effort will thus have to be massive in scale. It will probably involve the infliction of thousands, and maybe even tens of thousands, of deaths on the Iraqi civilian population.

And it will involve inevitably heavy fighting against an Iraqi Army that is battle-tested and experienced in defensive fighting. Since it is almost certain that the brunt of the military effort would have to be undertaken by American forces, one must expect therefore also thousands of deaths among American servicemen.

One should not entertain in this connection any illusions that air attacks by themselves will force the Iraqis to capitulate. Total and prolonged U.S. control over the air did not terminate promptly the Korean and Vietnam Wars, nor did it force either Germany or Italy to capitulate. Moreover, it is not possible to predict precisely what course the combat will take and how long it will last. Iraq is not a Panama. The fighting could prove to be heavy and prolonged.

Moreover, even massive air attacks may be unlikely to deprive Saddam Hussein of some capacity to react. One cannot exclude the possibility of sporadic Iraqi gas attacks on Israeli cities and perhaps even a deliberate invasion of Jordon, in an effort to widen the war by drawing in the Israelis. That then could have the effect of transforming the war, in Arab perceptions, into a struggle against an American-Israeli coalition.

Not only the military but also the geopolitical dynamics are unpredictable. At some point the war could also expand in other directions. Syria, Iran and even Turkey (following perhaps a Kurdish uprising within northern Iraq) might all be tempted to pursue their own territorial interests. Iraq might be partitioned; Jordon might be the victim of an Iraqi or Israeli military initiative; and the entire region subsequently Lebanized.

The conflict would thus become regionally destabilizing on a scale that is difficult precisely to define but that could become also impossible to contain. Moreover, if Arab emotions were to become aroused by military action against Iraq that is seen as largely American in origin, the ensuing radicalization of the Arab masses could eventually even produce upheavals in those more moderate Arab states that the United States is currently seeking to protect.

THE COST OF WAR

All of that could produce potentially devastating economic consequences. One would have to anticipate the serious possibility of at least a temporary cutoff in much of the flow of oil from the Persian Gulf. Military action would probably result in the destruction of most of Kuwait's and Iraq's oil facilities, while sabotage could also affect the installations in other gulf states. The price of oil could easily climb to $65 per barrel or even more.

The financial costs of the war by themselves would also be extraordinarily high. It has been estimated that for the United States the costs of large-scale combat could amount to about $1 billion per day. An economic and financial world crisis might thus prove difficult to avoid.

It is hard to predict whether the American public, after the likely initial surge in patriotic emotions, would long support such an operation. Parents and others would almost certainly begin to ask whether American lives should be sacrificed for the sake of the wealthy rulers of Kuwait. Arguments about the sanctity of the international order might cease to have much appeal once American fatalities begin to rise into the thousands. There is also the risk that at some point the public might blame Israel for allegedly having pressed America to go to war against Iraq for the sake of Israeli interests.

The military strategy thus suffers from fundamental liabilities. Its costs could prove to be prohibitive, its success is not easy to define in terms of the time involved and the scope of the required effort, and its dynamic consequences, could have a regionally destructive ripple effect.

On balance, therefore, the better part of wisdom is for the existing international coalition to pursue the strategy of sustained pressure, and to apply that pressure under the protection of credible military power that deters any Iraqi military countermoves. To put it simply, a policy not of preventive war but of punitive deterrence is the most sensible.

That strategy must be given time to prove effective, and it must be openly conceded that its success may not be compatible with the notion of an Iraqi unconditional surrender regarding Kuwait. More specifically, one should not rule out a priori the acceptability of some arrangement that combines an Iraqi withdrawal with the eventual adjudication of the financial and territorial issues that precipitated the unacceptable act of Iraqi aggression. Nor should quiet mediation by some third parties, either by the Arabs themselves or by the Europeans (such as President Mitterrand), or even perhaps by the Soviets, be discouraged.

As noted, a nonviolent resolution of the Kuwait issue will not resolve the region's security problem. In any case, for some time to come, to insure longer-range regional security, some separate American-Saudi military arrangements will be required.

These might include some provision for the continuing presence of an American security tripwire in Saudi Arabia, designed to insure against any future Iraqi aggression. American naval and air offshore power will probably also have to be enhanced on a continuing basis. At a later stage, it might then prove possible to convene an international conference that deals with the wider issue of regional security. In that setting, the destabilizing and unacceptably ambitious Iraqi military programs could be subjected to some agreed limitations.

In the context of any eventual regional accommodation regarding security, it will probably also be necessary for Israel to finally accept the nonproliferation treaty and to place its own nuclear weapons program under some similar restraints.

Obviously, the resolution of these tangled and complex issues will require prolonged negotiations. For these negotiations to succeed, some progress toward peace on the Israeli-Palestinian conflict may also be needed, given the obvious connection between Israeli and Iraqi military buildups and the persisting possibility of renewed Israeli-Arab hostilities. But all of that represents an agenda for the more distant future. The wider issue of regional security and the Israeli-Arab conflict cannot be and should not be linked directly to the current, more immediate crisis.

To be sure, there are those who argue that Saddam Hussein's military potential must now be pre-emptively destroyed before he acquires nuclear weapons. But the advocates of preventative war, for some of whom the Iraqi occupation of Kuwait is a convenient excuse, have yet to make a compelling case in terms of the American national interest for such a reckless undertaking.

America has lived for 40 years under the shadow of Soviet nuclear weapons, and Stalin or Khrushchev had no compunctions about killing those weaker than themselves. But deterrence worked, and America surely has the power to deter Iraq as well. And so does Israel, which has already acquired nuclear weapons.

The bottom line is this: there is no easy solution to the crisis. The peaceful strategy of sustained pressure suffers from obvious limitations and has its costs. Moreover, it will not resolve fully all of the central problems generated by the Iraqi aggression. But it imposes enormous punitive pains on Iraq, at a cost and a risk to America that is incomparably lower than the costs and risks of preventive war.

Hence patience and prudence are to be preferred over the leap into the abyss of warfare. The basic fact is that the overall situation in the region is so unstable that no military solution can be confidently postulated as assuring the productive termination of the ongoing crisis at a cost that is predictable and reasonable. Destroying Iraq but possibly blowing up the Middle East can hardly be advocated as a rational calculus.

Given the stakes, it is particularly urgent that the leaders of the advanced democracies—with America have already successfully assured the deterrence of further Iraqi aggression—sit down together, carefully

analyze their options and recommit themselves to a sustained strategy of punitive deterrence—without dangerous illusions about military solutions.

Mr. WALLOP. Will the Senator from West Virginia yield? I wanted to make a quick observation.

Mr. BYRD. Mr. President, I yield for not to exceed 3 minutes.

Mr. WALLOP. I thank the Senator.

My point is basically that I do not know, and I would not claim to know, nor do I know anybody else who knows, where this body would take us, given a debate and declaration of purpose. My only point is, and I thank the Senator for what he said, where we ought to go, we ought to do it on purpose, and not by a sort of reaction of events, as they tumble out in front of us. That is the one sure path to disaster.

I thank my colleague from Maryland. I was raising questions I think we ought to talk about.

Mr. SARBANES. I thought the Senator had indeed raised fundamental questions, and I think it is important that we start thinking in greater depth on it, to have the benefit of the wide range of views and, particularly, some very careful analysis which has been done, because I think the questions are indeed very fundamental, as the Senator has stated.

Mr. HOLLINGS. Mr. President, on the conference report, Senator HEINZ has agreed to a time, and we can get a time agreement on this, really.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, at such time as the distinguished Senator from South Carolina [Mr. HOLLINGS] calls up his conference report on the Commerce, State, Justice appropriations bill, H.R. 5021, I ask unanimous consent that there be a time limit, overall on that conference report, and any amendments in disagreement thereto, of not to exceed 15 minutes.

Mr. HOLLINGS. Ten minutes to each Senator.

Mr. HEINZ. Twenty minutes equally divided.

Mr. BYRD. Between Mr. HOLLINGS and Mr. HEINZ.

Mr. HOLLINGS. That is correct.

Mr. BYRD. Very well. Furthermore, Mr. President, that any amendments thereto be limited to two, at most.

Mr. HOLLINGS. We have two amendments in disagreement that we will proceed to. We have one that is on the Securities and Exchange Commission. It is the language relative to a fee. It has been checked with the Banking Committee on both the Republican and Democratic sides. I know it has been cleared on both sides. Let us take this thing through. We will take 15 minutes and pass the thing. I will take less.

Mr. BYRD. I ask that such amendments be limited thereto.

Mr. HEINZ. Reserving the right to object, and I shall not object, I want to be clear on whether amendments to any amendments in disagreement were in order.

Mr. BYRD. I understood it would be limited——

Mr. HOLLINGS. Limited to Senator HEINZ' amendment and the amendment on SEC. That is undisputed.

Mr. HEINZ. No other either first- or second-degree would be in order?

Mr. BYRD. Exactly.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business immediately following the disposition of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991—CONFERENCE REPORT

Mr. HOLLINGS. Mr. President, I submit a report of the committee of conference on H.R. 5021 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 23, 1990.)

Mr. HOLLINGS. Mr. President, let me explain the parliamentary situation. What we have in true disagreement are two amendments, No. 155 and No. 164. Number 155 provides funds for the Radio and Television Marti, on which we will recede to the House. Amendment 164 deals with limitations on postemployment activities of the U.S. Trade Representative. We will recede to the House on that particular amendment.

Regarding that amendment, I would like to discuss the reason this was put in the Senate's bill, and passed this body without a dissenting vote. Amendment 164 extends current law's 1-year prohibition on representing foreign governments. It prohibits the U.S. Trade Representative, our top trade official, after leaving the job, from representing foreign governments for 5 years.

Great changes are taking place around the globe. Democratic principles are sprouting in Eastern Europe and the Soviet Union. As the world moves away from the cold war, we find ourselves playing a new game: the trade war. It is a no-holds-barred struggle among nations for market share and standard of living in a largely zero-sum world market place. To date, not only is the United States losing this new contest, we still haven't the foggiest idea how the game is played. Rather than mobilize for the new challenge of government-controlled capitalism or trade war, recent administrations have opted for the equivalent of unilateral disarmament.

Let's be clear where America stands 4½ decades after World War II. The United States has gone from the world's largest creditor to world's fattest debtor in just 8 years. After running trade surpluses from 1945 through 1970, and as late as 1975, our trade deficits in the 1980's totaled almost $900 billion. This stunning economic reversal was America's dutiful sacrifice on the altar of free trade.

Well, now in the post-cold war era, our economic security is part and parcel of the national security. If anyone doubts this, you need look no further than the Persian Gulf. If economic interests are to be elevated to the same national priority as defense and foreign policy, then we must take a fresh look at the laws governing those who represent foreign governments and foreign companies on trade and economic issues. If Colin Powell resigned as Chairman of the Joint Chiefs of Staff tomorrow, and 1 year later, he was advising Saddam Hussein, we would be outraged. Yet, this happens every day in the trade war, and no one says a thing.

Congress has the responsibility to safeguard the integrity of the Government's decisionmaking process and strengthen the American public's confidence in it.

Mr. President, according to Business Week magazine, the Japanese Government and Japanese companies spend $100 million a year for Washington lobbyists, lawyers, and political advisers. They employ over 100 lobbying, public relations and law firms to represent their interests. We can compare this to the $52 million in salaries for all 535 Senators and Congressmen.

As Pat Choate reports in the September issue of the Harvard Business Review, between 1973 and 1990, one-

half of our former U.S. Trade Representatives have represented foreign interests in the private sector. These and other examples lead me to conclude that a further cooling-off period is needed in order to protect the integrity of the U.S. Government's policymaking process. The open revolving door in Washington and the cynicism it engenders is not the fault of the Japanese, or the British, or the Dutch. It is our fault if we allow it to continue to undermine the faith in our system of government.

While I am yielding on this today to the House's wishes, I intend to continue to pursue changes in our current ethics laws in the next session.

Then two other amendments, No. 9 and No. 139. No. 9 would be an amendment on which the distinguished Senator from Pennsylvania would present in concurrence an amendment thereto. No. 139 deals with the Securities and Exchange Commission. So I want to present that one in particular, so that that is clearly understood to be a user fee and not a tax. Over on the House side they raised the point that that was a tax and, therefore, they voted that down. Now we have gone along with the House, concurred on both sides, and checked with the Securities and Exchange Commission.

Mr. RUDMAN. Mr. President, the conference report before the Senate today reflects our continued commitment to maintain sufficient funding for the Department of Justice and the Federal judiciary in order to meet our drug and law enforcement needs. While most of the programs and agencies in the bill are funded at or near base levels, we have, to a large extent, funded much of the programmatic increases proposed by the administration for law enforcement agencies. In addition, we have provided $106.8 million above the administration request for savings and loan and financial fraud investigations. As such, for S&L enforcement, the conference agreement provides an additional amount above the President's request of $47.3 million for the FBI, $45 million for U.S. attorneys, and $14.5 million for general legal activities.

If one discounts the nonrecurring costs associated with last year's prison construction appropriation, the Justice Department is effectively receiving a $1.5 billion—or 18.5 percent—increase over fiscal year 1990 funding. Similarly, the Federal Judiciary is being funded at $253.5 million above last year's level, or 14.9 percent. To highlight some of the specific increases, the Drug Enforcement Administration will be funded at a level which is $145.6 million higher than the fiscal year 1990 appropriation. A $113 million increase is provided for the Organized Crime Drug Enforcement task forces. We are providing a $45.3 million, or 10-percent increase for antidrug abuse grants to State and local governments. Given the budget constraints under which we are operating, the conference agreement clearly represents the priority we are placing on addressing the problems of drugs and crime in this country.

In recognition of events in the Persian Gulf, the conference agreement concurs in the President's request to fully meet our responsibilities to the United Nations and other international organizations; to meet our peacekeeping responsibilities around the world; and to pay 20 percent of our arrearage to these international organizations. Furthermore, the conference agreement allows for an expansion of our sealift capacity through an appropriation of $225 million for the Ready Reserve Force of the Maritime Administration.

The conference agreement also reflects the need to respond to the outbreak of democracy throughout Eastern Europe and the rest of the world by maintaining our public diplomacy efforts through the United States Information Agency, the Board for International Broadcasting, and the National Endowment for Democracy.

In view of the limitations placed upon our subcommittee, this conference agreement gives priority to the highest concerns of Congress and the Nation. I'd like to commend the chairman of the Senate Subcommittee, FRITZ HOLLINGS, and the chairman and ranking minority member of the House subcommittee, Congressmen NEAL SMITH and HAL ROGERS, for their excellent work in producing this bill.

Mr. HOLLINGS. Mr. President, I urge that the Senate agree to the conference report on H.R. 5021.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote and move that that motion be laid on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I further ask unanimous consent that the Senate concur in the amendments of the House to the amendments of the Senate en bloc with the exception of amendment Nos. 9 and 193; that the Senate recede from amendment No. 164; that motions be deemed to have been made to reconsider the votes on the amendments and on the receding from the amendment No. 164 and these be laid upon the table.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

The amendments of the House agreed to en bloc are as follows:

Resolved, That the House agree to the report of the Committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5021) entitled "An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 8, 16, 17, 18, 19, 21, 24, 30, 31, 32, 33, 34, 39, 42, 46, 49 49A, 50 51, 52, 60, 61, 62, 63, 70, 71, 73, 75, 76, 77, 78, 79, 80, 81, 85, 90, 93, 94, 95, 96, 99, 101, 103, 104, 112, 113, 117, 119, 120, 125, 126, 128, 132, 142, 156, 159, 160, and 161 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *including not to exceed $2,000 for official entertainment, $29,595,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$110,250,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$272,700,000 to remain available until expended*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$36,200,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *and for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $209,000,000: Provided, That during fiscal year 1991 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: Provided further, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: Provided further, That the Economic Development Administration shall not implement the funding policy for the university center program as stated in the Federal Register notice of May 24, 1990 to reduce the grant of each university center from the Fiscal Year 1990 level and that any changes in individual grant amounts be made on the basis of failing to conform to the EFA grant agreements in place in fiscal year 1990, other than the funding policy for the university center program as stated in the Federal Register notice of May 24, 1990: Provided further, That any reduction in an individual grant amount to a university center from the Fiscal Year 1990 level shall*

be subject to the reprogramming procedures stated in section 606 of this Act.

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

Of the unobligated balances in the Economic Development Revolving Fund, $35,000,000 are rescinded

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: $27,018,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1991, of which no more than two positions shall be designated as National Economic Development Representatives: Provided further, That such positions shall be maintained within an organizational structure that provides at least one full-time EDR in each State to which a full-time EDR was assigned as of December 31, 1987

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$43,599,000" named in said amendment, insert: $43,099,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with the following amendments:

In lieu of the sum "$42,459,000" named in said amendment, insert: $40,549,000

In lieu of the sum "$26,873,000" named in said amendment, insert: $24,873,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; not to exceed $15,000 for representation expenses abroad; and grants to States or other eligible entities pursuant to 22 U.S.C. 2123 for the purpose of providing financial assistance for States whose tourism promotion needs have increased due to disasters; $19,596,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: $1,353,156,000 to remain available until expended, of which $2,200,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas, and to acquire equipment and furnishings necessary for such facility which are consistent with the original plan for the facility, and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas, and of which $400,000 shall be available only for a semitropical research facility located at Key Largo, Florida; and in addition, $34,521,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $60,900,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $7,000,000 shall be derived by transfer from the Coastal Energy Impact Fund: Provided, That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: Provided further, That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities: Provided further, That notwithstanding any other provision of law, $400,000 shall be available to the South Carolina Coastal Council for the Charleston Harbor Estuary Special Area Management Plan

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: $5,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: including defense of suits instituted against the Commissioner of Patents and Trademarks; $91,000,000 of which $88,000,000 shall be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: Provided, That the amounts made available under the Fund shall not exceed amounts deposited; and

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: $4,200,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$172,228,000" named in said amendment, insert: $166,228,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: $49,100,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: $15,252,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 105. (a) Funds appropriated by this Act to the National Institute of Standards and Technology of the Department of Commerce for the Advanced Technology Program shall be available for award to companies or to joint ventures under the terms and conditions set forth in subsection (b) of this section, in addition to any terms and conditions established by rules issued by the Secretary of Commerce.

(b)(1) A company shall be eligible to receive financial assistance from the Secretary of Commerce only if—

(A) the Secretary of Commerce finds that the company's participation in the Advanced Technology Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided by the Secretary of Commerce to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(B) either—

(i) the company is a United States-owned company; or

(ii) the Secretary of Commerce finds that the company has a parent company which is incorporated in a country which affords the United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those funded through the Advanced Technology Program; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

(2) The Secretary of Commerce may, 30 days after notice to Congress, suspend a company or joint venture from receiving continued assistance through the Advanced Technology Program if the Secretary of Commerce determines that the company, the country of incorporation of the parent company of a company, or the joint venture has failed to satisfy any of the criteria set forth in this subsection, and that it is in the national interest of the United States to do so.

(3) As used in this section, the term "United States-owned company" means a company that has a majority ownership or control by individuals who are citizens of the United States.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$22,140,000" named in said amendment, insert: *$25,140,000*

Resolved, that the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert: *$10,051,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$352,103,000" named in said amendment, insert: *$343,603,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$2,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$674,095,000" named in said amendment, insert: *$673,095,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$64,300,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$28,172,000" named in said amendment, insert: *$27,172,000*

In lieu of the sum "$20,214,000" named in said amendment, insert: *$19,614,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 54 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $328,000,000, of which $50,000,000 shall remain available until expended: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: Provided further, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in the succeeding fiscal year, subject to the reprogramming procedures described in section 606 of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with the following amendments:

In lieu of the sum "$1,690,962,000" named in said amendment, insert: *$1,687,962,000*

In lieu of the phrase "activities funded by this appropriation" in the last sentence of said amendment, insert: *construction of Pod C of the Engineering Research Facility at Quantico, Virginia*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 56 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum $696,900,000" named in said amendment, insert: *$694,340,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum $883,501,000" named in said amendment, insert: *$884,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum $1,359,843,000" named in said amendment, insert: *$1,357,843,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

ADMINISTRATIVE PROVISION

Federal Prison Industries, Inc., is authorized and directed to enter into a contract to carry out an independent market study at a cost not to exceed $250,000. The study shall be conducted by a private sector market analysis firm, that is not affiliated in any way with the Federal Prison Industries or the Bureau of Prisons. Federal Prison Industries is directed to report the results of this study to Congress not later than nine (9) months from the enactment (or effective date) of this Act. The study shall include an analysis and appropriate recommendations to Congress concerning the following:

(1) identify potential new product lines for prison-made products, which will have a minimal impact on the private sector;

(2) analyze the impact that Federal Prison Industries has had on certain private sector industries (furniture, textiles, printing, electronics and apparel) in terms of production levels, employment levels, and annual sales to Federal government departments and agencies;

(3) provide, after consulting with the Department of Labor and the Department of Commerce, an estimate of the number of jobs displaced in the private sector (on an industry-by-industry basis) by the operation of Federal Prison Industries;

(4) analyze whether Federal departments and agencies should consider placing limits on the market share that Federal Prison Industries can obtain in specific products or product lines; and

(5) determine whether the current law governing Federal procurement from the Federal Prison Industries should be retained or revised.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 65 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$91,467,000" named in said amendment, insert: *$87,916,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 66 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert: *$475,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *, and in addition, $17,000,000, to remain available until expended, shall be available to the Director of the Federal Bureau of Investigation for the National Crime Information Center 2000 project: Provided, That notwithstanding any other provision of law, the grant limitation established in section 504(f) of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Public Law 100-690 (102 Stat. 4333), is hereby waived for fiscal year 1991 for grants awarded to state and local governments for the purpose of participating in multi-jurisdictional drug task forces*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with amendments as follows:

In lieu of the phrase "During fiscal year 1991 and thereafter with respect" in the first sentence of subsection (b)(1) of said amendment, insert: *During fiscal year 1991 with respect*

In lieu of the phrase "closed in fiscal year 1991 and each fiscal year thereafter—" in the first sentence of subsection (b)(4)(A) of said amendment, insert: *closed in fiscal year 1991—*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 82 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 210. (a) Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356), as amended, is further amended—

(1) by inserting in subsection (e)(1), after the word "passenger" the phrase ", other than aircraft passengers,";

(2) by inserting ", except the fourth quarter payment for fees collected from airline passengers shall be made on the date that is ten days before the end of the fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment" after the words "in which fees are collected" in subsection (f)(3);

(3) by inserting ", within forty-five minutes of their presentation for inspection," after the word "provided" and before the words "when needed" in subsection (g);

(4) by striking the first two sentences of subsection (h)(1)(A) and inserting "There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration User Fee Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration User Fee Account all fees collected under subsection (d) of this section, to remain available until expended" before the words "At the end of each 2-year period".

(5) by replacing the previously repealed subsection (1) with the following new subsection—

"(1) Report to Congress

In addition to the reporting requirements established pursuant to subsection (h), the Attorney General shall prepare and submit annually to the Congress, not later than March 31st of each year, a statement of the financial condition of the 'Immigration User Fee Account' including beginning account balance, revenues, withdrawals and their purpose, ending balance, projections for the ensuing fiscal year and a full and complete workload analysis showing on a port by port basis the current and projected need for inspectors. The statement shall indicate the success rate of the Immigration and Naturalization Service in meeting the forty-five minute inspection standard and shall provide detailed statistics regarding the number of passengers inspected within the standard, progress that is being made to expand the utilization of United States citizen by-pass, the number of passengers for whom the standard is not met and the length of their delay, locational breakdown of these statistics and the steps being taken to correct any non-conformity.".

(b) The amendment made by subsection (a)(1) of this section shall apply to fees charged only with respect to immigration inspection or preinspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1990.

(c) Pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, the amendments made by this section which transfer receipts from one fiscal year to the next are a necessary (but secondary) result of a significant policy change.

(d) Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356), as amended, is further amended—

(1) by inserting in subsection (m), after the phrase "shall be deposited" the phrase "as offsetting receipts";

(2) by inserting in subsection (m), after the phrase "the treasury of Guam" the following: ": Provided further, That fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional costs associated with the administration of the fees collected";

(3) by inserting a new subsection after subsection (p) as follows:

"(q) Land Border Inspection Fee Account

(1) Notwithstanding any other provision of law, the Attorney General is authorized to establish, by regulation, a project under which a fee may be charged and collected for inspection services provided at one or more land border points of entry. Such project may include the establishment of commuter lanes to be made available to qualified United States citizens and aliens, as determined by the Attorney General.

(2) All of the fees collected under this subsection shall be deposited as offsetting receipts in a separate account within the general fund of the Treasury of the United States, to remain available until expended. Such account shall be known as the Land Border Inspection Fee Account.

(3)(A) The Secretary of Treasury shall refund, at least on a quarterly basis amounts to any appropriations for expenses incurred in providing inspection services at land border points of entry. Such expenses shall include—

(i) the providing of overtime inspection services;

(ii) the expansion, operation and maintenance of information systems for nonimmigrant control;

(iii) the hire of additional permanent and temporary inspectors;

(iv) the minor construction costs associated with the addition of new traffic lanes (with the concurrence of the General Services Administration);

(v) the detection of fraudulent documents used by passengers travelling to the United States;

(vi) providing for the administration of said account.

(B) The amounts required to be refunded from the Land Border Inspection Fee Account for fiscal years 1992 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years: Provided, That any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committee on Appropriations of the House of Representatives and the Senate in accordance with section 606 of Public Law 101-162.

(4) The Attorney General will prepare and submit annually to the Congress statements of financial condition of the Land Border Immigration Fee Account, including beginning account balance, revenues, withdrawals, and ending account balance and projections for the ensuing fiscal year.

(5)(A) The program authorized in this subsection shall terminate on September 30, 1993, unless further authorized by an Act of Congress.

(B) The provisions set forth in this subsection shall take effect 30 days after submission of a written plan by the Attorney General detailing the proposed implementation of the project specified in subsection (q)(1).

(C) If implemented, the Attorney General shall prepare and submit on a quarterly basis, until September 30, 1993, a statue report on the land border inspection project.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 211. (A) Notwithstanding any other provision of law, in the specific case involving the Iowa Power Inc. and Redlands, Inc. ownership within the proposed Walnut Creek NWR, condemnation is authorized to determine the just compensation of the Iowa Power Inc. and Redlands Inc. lands, provided there is agreement by both parties involved.

(B)(a) This subsection may be cited as the "National Commission to Support Law Enforcement Act".

(b) The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decrease funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

(c) There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this section as the "Commission").

(d) The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) The sufficiency of funding, including a review of grant programs at the Federal level.

(2) The conditions of law enforcement employment.

(3) The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) The status of law enforcement research and education and training.

(5) The adequacy of equipment, physical resources, and human resources.

(6) The cooperation among Federal, State, and local law enforcement agencies.

(7) The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(e) The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

(f) The Commission shall be composed of 19 members as follows:

(1) Five individuals from national law enforcement organizations representing law enforcement officers and management, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(2) Five individuals from national law enforcement organizations representing law enforcement officers and management, appointed jointly by the minority leader of the House of Representatives and the minority leader of the Senate.

(3) Two individuals with academic expertise regarding law enforcement issues, appointed by the President.

(4) Two Members of the House of Representatives, appointed jointly by the Speaker and the minority leader of the House of Representatives.

(5) Two Members of the Senate, appointed jointly by the majority leader and the minority leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(g)(1) Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) Upon request of the Commission, the head of any Federal agency is authorized to detail, on non-reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this section.

(j) The Administrator of General Services shall provide to the Commission administrative support services as the Commission may request.

(k) The Commission may, for purposes of this section, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(l) Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(m) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this section. Upon request of the chairperson of the Commission, the head of any agency shall furnish the information to the Commission to the extent permitted by law.

(n) The Commission may accept, use, and dispose of gifts or donations of services or property.

(o) The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(p) Not later than the expiration of the eighteen-month period beginning on the date of the enactment of this Act, the Commission shall submit to the Congress a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate.

(q) The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under subsection (p).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 212. (a) Notwithstanding any other provision of law, for fiscal years 1991 and 1992, the provisions of the Office of Management and Budget Circular A-76 and any similar provisions in any other order or directive shall not apply to activities conducted by the Federal Bureau of Prisons, Federal Bureau of Investigation, Drug Enforcement Administration, Immigration and Naturalization Service, United States Attorneys, United States Marshals Service, the Office of Justice Programs, the Office of Inspector General, and any of the litigating activities of the Department of Justice, unless such provisions are specifically approved by an Act of Congress.

(b) For fiscal years 1991 and 1992, no reduction in resources for the Justice Department activities described in subsection (a) shall be effected pursuant to the provisions of the Office of Management and Budget Circular A-76 or any similar provision in any other order or directive unless specifically provided therefore by an Act of Congress.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *of which not to exceed $2,000,000 may be available for rewards, and to publicize the availability of rewards, as authorized by section 36 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2708), and in addition*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *, and in addition, not to exceed $15,000 shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (section 119 of Public Law 101-246), and of the total amount appropriated in this paragraph, $350,000 may be available for the purpose of preparations for the 1992 United Nations Conference on Environment and Development.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided, That the obligation of funds for the Department of State Telecommunications Network (DOSTN) shall be subject to the reprogramming provisions of section 606 of this Act: Provided further, That the Secretary of State shall submit a report to the appropriate committees of the Congress not later than December 1, 1990, which justifies the requirement for the Department of State Telecommunications Network (DOSTN)*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 302. (a) Not to exceed .5 per centum of the appropriation, Administration of Foreign Affairs, "Salaries and expenses" may be transferred to Administration of Foreign Affairs, "Emergencies in the Diplomatic and Consular Service" or International Organizations and Conferences, "International Conferences and Contingencies" but no such appropriation shall be increased by more than 35 per centum by any such transfer: Provided, That the Department shall follow the normal reprogramming procedures of the Senate and House Appropriations Committees before obligating or expending any funds so transferred.

(b) Funds appropriated in this Act under the heading "Contributions to International Organizations" for payment to the United Nations or any of its specialized agencies, which are not made available to the United Nations or any such specialized agency due to the operation of any provision of this or any other Act, may be transferred to any account under the heading "Administration of Foreign Affairs", notwithstanding any other provision of law: Provided, That the Department shall follow the normal reprogramming procedures of the Senate and House Appropriations Committees before obligating or expending any funds so transferred.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 102 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 304. (a) Section 303 of the Department of State Appropriations Act, 1988 (as contained in section 101(a) of Public Law 100-202 (as amended by section 303(a) of Public Law 100-459)) is amended in the first sentence—

(1) by striking out "$340,000" and inserting in lieu thereof "$440,000"; and

(2) by striking out "section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985" and inserting in lieu thereof: "section 109 (b) and (c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985".

(b) Section 109(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985, is amended—

(1) by striking out "Of the amount" through "Spring 1984" and inserting in lieu thereof: "There are authorized to be appropriated each fiscal year $50,000, to be equally divided between delegations of the Senate and the House of Representatives, to assist in";

(2) by inserting after "meeting" the following: "the expenses of the United States Group";

(3) by striking out "which" through "United States"; and

(4) by inserting the following sentence at the end thereof: "Amounts appropriated under this section are authorized to remain available until expended.".

(c) MEXICO.—Section 2 of Public Law 86-420 is amended—

(1) by striking out "$50,000" and inserting in lieu thereof "$100,000"; and

(2) by striking out "$25,000" both places it appears and inserting in lieu thereof "$50,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 105 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *$9,711,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 106 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$1,598,623,000" named in said amendment, insert *$1,589,124,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *the Compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign*

countries with which the United States has a treaty for the execution of penal sentences, and

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 108 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *$132,761,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 109 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *, to remain available until expended: Provided, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code: Provided further, That not to exceed $81,000 of the amounts appropriated herein shall be transferred to "Salaries and expenses," United States Court of International trade, and not to exceed $4,919,000 of the amounts appropriated herein shall be transferred to "Salaries and expenses," Courts of appeals, District Courts, and Other Judicial Services.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 110 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$71,261,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 111 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$37,400,000" named in said amendment, insert: *$37,178,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 118 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first sum named in said amendment, insert: *$69,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 121 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$500,000, to remain available until expended*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 123 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$37,040,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$117,794,000" named in said amendment, insert: *$115,794,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 133 to the aforesaid bill, and concur therein with amendments as follows:

In lieu of the first sum "$76,095,000" named in said amendment, insert: *$74,095,000*

In lieu of the sum "$56,095,000" named in said amendment, insert: *$54,095,000*

In lieu of the second sum "$76,095,000" named in said amendment, insert: *$74,095,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$40,671,000" named in said amendment, insert: *$40,299,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 135 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment insert:

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $327,186,000 of which $280,314,000 is for basic field programs, $7,445,000 is for the Native American programs, $10,282,000 is for migrant programs, $1,166,000 is for the law school clinics, $1,060,000 is for supplemental field programs, $662,000 is for regional training centers, $7,663,000 is for national support, $8,315,000 is for State support, $917,000 is for the Clearinghouse, $541,000 is for computer assisted legal research regional centers, and $8,821,000 is for Corporation management and administration.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$18,936,000" named in said amendment, insert: *$20,000,000*

Resolved, That the House recede from its disagreement go the amendment of the Senate numbered 140 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *and not to exceed $3,500 for official reception and representation expenses, $274,753,000, of which $1,500,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, of which $100,000 shall be made available for a grant to the School of Forestry of the University of Montana for a planning study for locating a Value-Added Wood Products Development, Marketing and Small Business Assistance Research Laboratory at the University of Montana, of which $200,000 shall be made available for a grant to Central Arkansas University to establish a national communications and data center for the Small Business Institute program, of which $1,500,000 shall be made available for a grant to the University of Kentucky's Somerset Community College for a regional center for rural economic development with a special emphasis on small business, or which $1,500,000 shall be made available for a grant to the West Philadelphia Economic Development Corporation for a national demonstration project for community economic development and small business assistance, of which $500,000 shall be made available for a Center for Manufacturing Productivity at the University of Massachusetts at Amherst, of which $1,200,000 is for the Small Business Development Center Technical Assistance Program, of which $15,000,000 shall be made available to implement section 24 of the Small Business Act, as amended, of which $1,000,000 shall be made available to implement section 25 of the Small Business Act, as amended, and*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 143 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *nothing herein shall preclude the Small Business Administration from preparing or formulating, but not publishing in the Federal Register, proposed rules, nor shall anything herein apply to uniform common rules applicable to multiple Federal departments and agencies, including the Small Business Administration; nor may any of the funds provided in this paragraph restrict in any way the right of association of participants in such program.*

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 1. DEPUTY ADMINISTRATOR.

(a) Section 4 of the Small Business Act is amended by striking "The Administrator is authorized to appoint a Deputy Administrator and" from the fourth sentence of paragraph (1) of subsection (b) and inserting in lieu thereof the following: "The President also may appoint a Deputy Administrator, by and with the advice and consent of the Senate. The Administrator is authorized to appoint".

(b) The provisions of subsection (a) of this section shall apply to any vacancy in the position of Deputy Administrator of the Small Business Administration after the effective date of this Act.

SEC. 2. JOINT VENTURES WITH TRIBALLY OWNED PARTICIPANTS IN THE 8(a) PROGRAM.

Section 602 of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended—

(1) in subsection (c), by striking "two" and inserting "5", and

(2) in subsection (e), by striking "September 30, 1991" and inserting "September 30, 1992".

SEC. 3. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

Section 112 of the Small Business Administration Reauthorization and Amendment Act of 1988 (Public Law 100-590) is amended by striking from the end of subsection (c) "October 1, 1990" and by inserting in lieu thereof "October 1, 1994".

SEC. 4. NATURAL RESOURCE DEVELOPMENT.

The Small Business Act is amended by adding the following new section:

"SEC. 24. (a) The Administrator is authorized to make grants to or to enter into contracts with any State for the purpose of contracting with small businesses to plant trees on land owned or controlled by such State or local government. The Administrator shall require as a condition of any grant (or amendment or modification thereof) under this section that the applicant also contribute to the project a sum equal to at least 25 per centum of a particular project cost from sources other than the Federal Government. Such non-Federal money may include inkind contributions, including the cost or value of providing care and maintenance for a period of three years after the planting of the trees, but shall not include any value attributable to the land on which the trees are to be planted, nor may any part of any grant be used to pay for land or land charges: Provided, That not less than one-half of the amounts appropriated under this

section shall be allocated to each state, the District of Columbia, and the Commonwealth of Puerto Rico on the basis of the population in each area as compared to the total population in all areas as provided by the Census Bureau of the Department of Commerce in the annual population estimate or the decennial census, whichever is most current. The Administrator may give a priority in awarding the remaining one-half of appropriated amounts to applicants who agree to contribute more than the requisite 25 per centum.

"(b) In order to accomplish the objectives of this section, the Administrator, in consultation with appropriate Federal agencies, shall be responsible for formulating a national small business tree planting program. Based on this program, a State may submit a detailed proposal for tree planting by contract.

"(c) to encourage and develop the capacity of small business concerns, to utilize this important segment of our economy, and to permit rapid increases in employment opportunities in local communities, grantees are directed to utilize small business contractors or concerns in connection with the program established by this section, and shall, to the extent practicable, divide the project to allow more than one small business concern to perform the work under the project.

"(d) For purposes of this section, agencies of the Federal Government are hereby authorized to cooperate with all grantees and with State foresters or other appropriate officials by providing without charge, in furtherance of this program, technical services with respect to the planting and growing of such trees.

"(e) There are authorized to be appropriated to carry out the objectives of this section, $15,000,000 for fiscal year 1991 and $30,000,000 for each of the fiscal years 1992 through 1994, and all of such sums may remain available until expended.

"(f) Notwithstanding any other law, rule, or regulation, the administration shall publish in the Federal Register proposed rules and regulations implementing this section within sixty days after the date of enactment of this section and shall publish final rules and regulations within one hundred and twenty days of the date of enactment of this section.

"(g) As used in this section:

"(1) the term 'local government' includes political subdivisions of a State such as counties, parishes, cities, towns and municipalities;

"(2) the term 'planting' includes watering, application of fertilizer and herbiciules, pruning and shaping, and other subsequent care and maintenance for a period of three years after the trees are planted; and

"(3) the term 'State' includes any agency thereof.

"(h) The Administration shall submit annually to the President and the Congress a report on activities within the scope of this section.".

SEC. 5. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21 of the Small Business Act is amended by striking the second proviso in subsection (a)(4) and inserting in lieu thereof the following: "Provided further, That no recipient of funds under this section shall receive a grant which would exceed its pro rata share of a $70,000,000 program based upon the population to be served by the Small Business Development Center as compared to the total population of the United States, plus $100,000 for each State but no State shall receive less than $200,000.";

(b) section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302), as amended, is hereby repealed; and

(c) the amendments to the second proviso in subsection (a) (4) made by subsection (a) of this section shall apply to contracts, grants or cooperative agreements for performance commencing on or after October 1, 1991; contracts, grants or cooperative agreements for performance commencing prior thereto shall receive funding for the entire term of performance without regard to this amendment and according to the state's pro rata share of a $65,000,000 program as computed on the effective date of this section under population estimates used for calendar year 1990 agreements, plus $50,000 for each state, but no state shall receive less than $200,000.

SEC. 6. SBDC GRANTEE ELIGIBILITY.

Section 21 of the Small Business Act is amended by striking the period at the end of the first sentence of paragraph (1) of subsection (a) and inserting the following: ": Provided, That after December 31, 1990, the Administration shall not make a grant to any applicant other than an institution of higher education as a Small Business Development Center unless the applicant was receiving a grant (including a contract or cooperative agreement) on such date. The Administration shall require any applicant for a small business development center grant with performance commencing on or after January 1, 1992 to have its own budget and to primarily utilize institutions of higher education to provide services to the small business community.".

SEC. 7. CENTRAL EUROPEAN ENTERPRISE DEVELOPMENT.

The Small Business Act is amended by adding the following new section:

"SEC. 25. (a) There is hereby established a Central European Small Business Enterprise Development Commission (hereinafter in this section referred to as the 'Commission'). The Commission shall be comprised of a representative of each of the following: the Small Business Administration, the Association of American Universities, and the Association of Small Business Development Centers.

"(b) The Commission shall develop in Czechoslovakia, Poland and Hungary (hereinafter referred to as 'designated Central European countries') a self-sustaining system to provide management and technical assistance to small business owners.

"(1) Not later than 90 days after the effective date of this section, the Commission, in consultation with the Agency for International Development, shall enter a contract with one or more entities to—

"(A) determine the needs of small businesses in the designated Central European countries for management and technical assistance;

"(B) evaluate appropriate Small Business Development Center-programs which might be replicated in order to meet the needs of each of such countries; and

"(C) identify and assess the capability of educational institutions in each such country to develop a Small Business Development Center type program.

"(2) Not later than 18 months after the effective date of this section, the Commission shall review the recommendations submitted to it and shall formulate and contract for the establishment of a three-year management and technical assistance demonstration program.

"(c) In order to be eligible to participate, the educational institution in each designated Central European country shall—

"(1) obtain the prior approval of the government to conduct the program;

"(2) agree to provide partial financial support for the program, either directly or indirectly, during the second and third years of the demonstration program; and

"(3) agree to obtain private sector involvement in the delivery of assistance under the program.

"(d) The Commission shall meet and organize not later than 30 days after the date of enactment of this section.

"(e) Members of the Commission shall serve without pay, except they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their functions in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

"(f) Two Commissioners shall constitute a quorum for the transaction of business. Meeting shall be at the call of the Chairperson who shall be elected by the Members of the Commission.

"(g) The Commission shall not have any authority to appoint staff, but upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist in carrying out the Commission's functions under this section without regard to section 3341 of title 5 of the United States Code. The Administrator of the General Services Administration shall provide, on a reimbursable basis, such administrative support services as the Commission may request.

"(h) The Commission shall report to Congress not later than December 1, 1991, and annually thereafter, on the progress in carrying out the provisions of this section.

"(i) There are hereby authorized to be appropriated to the Small Business Administration the sum of $3,000,000 for fiscal year 1991, $5,000,000 for fiscal year 1992 and $8,000,000 for fiscal year 1993 to carry out the provisions of this section. Such sums shall be disbursed by the Small Business Administration as requested by the Commission and may remain available until expended. Any authority to enter contracts or other spending authority provided for in this section is subject to amounts provided for in advance in appropriations Acts.".

SEC. 8. LOAN SERVICING FEE.

In the Small Business Investment Act of 1958, insert the following new subsection:

"SEC. 503 (e)(3). Notwithstanding any other provision of law, qualified State or local development companies shall be authorized to prepare applications for deferred participation loans under Section 7(a) of the Small Business Act, to service such loans and to charge a reasonable fee for servicing such loans.".

SEC. 9. SMALL BUSINESS DEVELOPMENT CENTER TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 21, the following new section.

"21A. Small Business Development Center Technical Assistance Program.

"(a) The Administration is authorized to make grants to establish pilot programs at 5 Small Business Development Centers in order to increase access by small businesses in each center's service area to online data bases. The purpose of this program shall be to provide small businesses, in states select-

ed to participate in this demonstration program, with improved online access to public and private technology services and expertise, so as to accelerate the transfer of technology and expertise to small businesses and to improve the productivity and economic competitiveness of these small businesses.

"(b) Any Small Business Development Center which is funded by the Administration is eligible to receive an additional grant to provide access to online data bases as described in subsection (a) providing it contributes at least a fifty percent matching contribution.

"(c) The grants authorized by this section must be used to—

"(1) defray all or part of the cost of accessing data bases from private vendors for a limited period of time,

"(2) demonstrate to small businesses the benefits of accessing such data bases, and

"(3) train small businesses to use such data bases to access technical information and services."

(b) AUTHORIZATION.—There is authorized to be appropriated to the Small Business Administration for each of fiscal years 1991 and 1992, $1,200,000 to carry out the terms of section 21A of the Small Business Act.

SEC. 10. CONTINUATION OF AUTHORITY.

Notwithstanding any other provision of law, an amount shall be made available from the unobligated balances in the Business Loan and Investment Fund to make a grant designated in Public Law 100-459 in subsection (c) under the heading "Economic Development Assistance Programs", at a funding level, not less than the level provided during fiscal year 1990, and notwithstanding any other provision of law, an amount shall be made available from the unobligated balances in the Business Loan and Investment fund to make a grant to the first entity designated in Public Law 100-459 in subsection (k) under the heading "Economic Development Assistance Programs" at a funding level not less than the level provided during fiscal year 1990 to such entity.

SEC. 11. COOPERATIVE AGREEMENTS.

Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) as amended, is further amended by striking "October 1, 1990" and inserting in lieu thereof "March 31, 1991".

SEC. 12. TRANSFER FROM DISASTER LOAN FUND.

In addition such sums as may be necessary

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 144 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$13,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 148 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$159,708,000" named in said amendment, insert: *$163,151,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 162 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$9.28" in subparagraph (1) of said amendment, insert: *$9.22*

In lieu of the term "6 cents" in subparagraph (1) of said amendment, insert: *5 cents*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 165 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 609. (a) None of the funds in this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose government the President determines to be assisting Iraq to improve its ballistic missile technology or chemical, biological, or nuclear weapons capability and so reports to the Congress.

(b) None of the funds in this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose nationals are assisting Iraq to improve its rocket technology or chemical, biological, or nuclear weapons capability: Provided, That this provision shall apply only if the President determines that the government of the country has made inadequate efforts to restrict such involvement by its citizens or corporations and so reports to the Congress.

Resolved, That the House insist on its amendment of the Senate numbered 164 to the aforesaid bill.

Mr. HOLLINGS. Mr. President, I move to concur in the amendment of the House to the Senate amendment No. 139 in disagreement with an amendment as follows, and I think I will save time and read that amendment.

The PRESIDING OFFICER. If the Senator will suspend for a moment, the regular order is to report Senate amendment No. 9 in disagreement and Senate amendment No. 139 in disagreement.

Mr. HOLLINGS. I want to get to this and then I am coming back to No. 9.

AMENDMENT IN DISAGREEMENT NO. 139

The PRESIDING OFFICER. The clerk will report the amendment in disagreement, No. 139.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 139 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $160,185,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and, for 1991 only, not to exceed $100,000 shall be available to host a conference of the International Organization of Securities Commissions, such sum to cover related translation, printing, facility and other necessary logistic and administrative expenses.

AMENDMENT NO. 3123 TO AMENDMENT IN DISAGREEMENT NO. 139

Mr. HOLLINGS. Mr. President, I move that the Senate concur in the amendment of the House to amendment No. 139 with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina, [Mr. HOLLINGS], proposes an amendment numbered 3123. Beginning with the sum "$160,185,000" in the pending amendment, strike all through the end of the paragraph and insert "$157,485,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and, for 1991 only, not to exceed $100,000 shall be available to host a conference of the International Organizations of Securities Commissions, such sum to cover related translation, printing, facility and other necessary logistic and administrative expenses: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting collection to this appropriation to recover costs of services of the securities registration process: *Provided further,* That such fees shall remain available until expended.".

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HOLLINGS. Mr. President, I yield now to our distinguished colleague from Pennsylvania.

AMENDMENT IN DISAGREEMENT NO. 9

The PRESIDING OFFICER. If the Senator will withhold, the clerk will report the remaining amendment in disagreement, amendment No. 9.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $330,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $185,620,000 to remain available until expended, of which $3,000,000 shall be for support costs of a new materials center in Ames, Iowa, and of which $7,175,000 is for the Office of Textiles and Apparels, including $3,315,000 for a grant to the Tailored Clothing Technology

Corporation: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: Provided further, That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed twelve. The Secretary of Commerce shall establish a foreign trade zone for Cedar Rapids, Iowa, not later than February 1, 1991, notwithstanding any other provision of law

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 3124 TO AMENDMENT IN DISAGREEMENT NO. 9

Mr. HEINZ. Mr. President, I move that the Senate concur in the House amendment with an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 3124.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I do not have a copy of the amendment, Mr. President.

Mr. HEINZ. If the Senator will withhold, I will explain exactly what the amendment does.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania?

Mr. HARKIN. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following "and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $330,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $185,620,000 to remain available until expended, of which $3,000,000 shall be for support costs of a new materials center in Amex, Iowa, and of which $7,175,000 is for the Office of Textiles and Apparels, including $3,315,000 for a grant to the Tailored Clothing Technology Corporation: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Age of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purposes of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further*, That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed twelve.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the Senator from Iowa.

What I have sent to the desk is exactly the same as most of the text of amendment No. 9 except that it strikes the last sentence of that amendment which directs the establishment of a foreign trade zone in the United States of America. This one I believe is to be established in Cedar Rapids, IA.

I come to the floor as a member of the Finance Committee, which has jurisdiction over this matter, as somebody who helped write over the years and perfect the foreign trade legislation that is a part of the United States Code, and as someone who has on occasion worked on a case-by-case basis to assist applicants through the process that they must follow in order to obtain proper approval of a foreign trade zone. In all the years I have been involved with this issue—and I think this statement is true not just for me but for this body—there has never been any effort either in the Finance Committee where it might properly originate, or on the Senate floor, or in the other body to legislate the establishment of a foreign trade zone, and for good reason.

There are simple, clear procedures to be followed in order to create a foreign trade zone. The purpose of the foreign trade zone legislation is clear. We have generally tried to facilitate their establishment when doing so encouraged the establishment of minimal assembly kinds of operations in or adjacent to areas which had good transportation—often ports of entry.

To the best of my understanding, there has never been an application made by the principal party of interest in this foreign trade zone. It happens to be a company called Poongsan a Korean company. They want to, I am told, build a facility that would manufacture brass and stainless steel items.

To the best of my knowledge, it is also unprecedented that any manufacturing facility would be in effect permitted through this kind of legislation but I do not use that as my principal argument or concern. What I am concerned about is whether or not proper procedures have been followed. My information is that they have not. Perhaps my information is incorrect. But if I am right, there is no justification, no excuse whatsoever for trying to legislate something which has not even been applied for through normal processes.

Maybe the reason that no application has been made is because this company felt it could not get it through the normal process. It is a company that has been found guilty of dumping brass mill products in this country. But even more important, from what I understand in neither body, neither the House nor the Senate, were any hearings held on this subject. There has been, I can tell my colleagues for a fact, no consideration, even the most cursory consideration by the committee of jurisdiction, Finance, on this side of the Capitol.

There has been no apparent floor debate until just now, and most important of all, the safeguard that exists with the Foreign Trade Zones Board, which is an opportunity for public comment, has not been afforded.

Finally, of course, this is legislation on an appropriations bill, and under other circumstances it would be subject to an objection on that ground.

So, Mr. President, I reserve the remainder of my time and hope the Senate will see fit to agree to the amendment I have offered.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Before I yield our time on this side to the distinguished Senator from Iowa, I wish to make a statement.

Mr. President, we had the formal conference on October 18, after several days of intense negotiations with the House managers to work out the 167 Senate amendments to the bill. While this may appear to be an unusual number of amendments, it is par for the course with this bill. As the Senators will recall, our House colleagues only appropriated for authorized programs and sent to the Senate a bill consisting of only 31 pages. When we got to the conference, however, the House gave us their full agenda.

The distinguished ranking minority member and former chairman, the junior Senator from New Hampshire [Mr. RUDMAN], was with me during ne-

gotiations with the House managers despite his heavy schedule of Ethics Committee meetings. In an entirely bipartisan fashion, Senator RUDMAN and I negotiated agreements on as many of the Senate's objectives as possible.

The major issue on which we could not initially reach an agreement with the House negotiators was the Kasten amendment on the ban of supercomputer sales to countries which are aiding the Iraqi war effort. The compromise language the House conferees insisted on is not satisfactory to either Senator KASTEN or myself, but it became clear during conference that they would not budge from their position. The compromise does give the President the tools he needs to stop such exports if he chooses. I give credit to the senior Senator from Wisconsin [Mr. KASTEN], for raising this issue, and I give notice to the administration that we will be monitoring this situation very carefully.

Mr. President, when the Senate approved H.R. 5021 on October 11, the total new budget authority in the bill was $19,305,879,000. Due to the House's original bill not including unauthorized programs, the Senate amount was $8,714,963,000 over the level approved by the House. The conference agreement totals $19,326,768,000 and is within the section 302(b) allocation for the subcommittee.

WAR ON DRUGS

As has been the case for the past several years, the conference agreement reflects our continued commitment to escalate the war on drugs. Specifically, if we take into account the nonrecurring costs associated with prison construction money provided last year, the conference agreement for the Justice Department reflects a $1.4 billion or 19.4 percent increase above the amounts provided in fiscal year 1990. Similarly, the Judiciary recommendations are $254 million, or 15 percent above the fiscal year 1990.

Mr. President, we want to move this bill along so I will highlight the major law enforcement program increases included in the conference report now before us:

U.S. attorneys. An increase of $154 million of which $109 million covers the cost of annualizing prosecutors provided in the 1990 drug bill and $45 million supports additional positions financial institution prosecutions.

U.S. Marshals. An increase of $43.3 million to support judicial protection, prisoner transportation and detention, and management of the seized assets program.

Support of U.S. prisoners. An increase of $34.6 million to support the housing of unsentenced Federal prisoners in State and local jails as well as $15 million to support the Cooperative Agreement Program.

Organized crime drug enforcement. An increase of $113 million to support requested program increases for the following agencies: FBI, IRS, INS, Customs, BATF, DEA, and U.S. attorneys.

Federal Bureau of Investigation. An increase of $87 million of which $39.8 million will support 164 new agents and 414 new professional, technical, and clerical positions and $47 million to enhance the FBI's investigation of financial institution fraud cases.

Drug Enforcement Administration. An increase of $146 million to support the hiring of 408 new agents, expansion of domestic enforcement, additional aircraft, and relocation of DEA's airwing to Fort Worth, TX.

Prison construction. $374.4 million to expand capacity of the Federal prison system by 6,175 beds through the construction of 1 correctional complex, 1 long-term medical care unit, expansion at 6 existing institutions detention units at 7 existing institutions, and conversion of military facilities.

Prison, salaries and expenses. An increase of $231 million to finance the care of a prison population increase of 6,050 (56,400 to 62,450), as well as the activation of 1 new prison and expansion projects as 13 existing institutions.

State and local drug grants. An increase of $92 million to expand the program, of which $17 million will support NCIC 2000. Language in the conference agreement also retains the current 75/25 Federal-State match for the drug grant program.

FINANCIAL INSTITUTION FRAUD INVESTIGATION AND PROSECUTION

Mr. President, deeply concerned with the spiralling number of failures of financial institutions, particularly savings and loans, and the overwhelming evidence of criminal conduct related to these failures, the conferees agreed to the Senate initiative greatly expanding funding for financial institution fraud investigations and prosecutions. Specifically, the conference agreement provides an additional $106.8 million above the President's request for savings and loan investigations and prosecutions. The breakdown of these increases are as follows:

Federal Bureau of Investigation	+$47,300,000
United States Attorneys	+$45,000,000
Criminal Division	+$6,200,000
Civil Division	+$4,900,000
Tax Division	+$3,400,000
Total	+$106,800,000

OTHER HIGHLIGHTS

Mr. President, the conference agreement recommends additional important provisions, including:

For the Census Bureau's periodic census account, the conference agreement provides $272,700,000, an increase of almost $3,000,000 over the Senate level. This should provide more than enough funds to conduct a special census for the Federated States of Micronesia as directed in the Senate report and requested by Senator INOUYE.

Two hundred nine million dollars is provided for the Economic Development Administration for infrastructure and economic development activities.

Within NOAA, $47,000,000 is provided for the Climate and Global Change Program, a substantial increase over last year's level of $18,000,000; $154,000,000 is appropriated for the National Weather Service modernization program, including procurement of new weather radars, an increase of $53,500,000 over the 1990 level; in addition, the conferees are recommending new funding of $3,000,000 for Zebra mussel research to assist our friends in the Great Lakes States.

The conference agreement also includes the President's request of $787,605,000 to fully fund our assessed contributions to the United Nations, its specialized agencies, and other international organizations. This funding will also meet 20 percent of the arrearage we have incurred to these organizations.

The request of $225,000,000 for the Ready Reserve Force of the Maritime Administration is also provided. My colleagues might be interested to know that 40 vessels from the Ready Reserve Force have been deployed for Operation Desert Shield.

In September, the President requested $14,249,000 to increase Arabic broadcasts of the Voice of America to the Middle East; the conferees have included this funding within the amount provided to the U.S. Information Agency.

Mr. President, this has been a difficult year in which to address new spending items, but we have done the best job that can be done, under the circumstances. I appreciate the fine work of all the members of the subcommittee, and I yield the floor to the distinguished minority member if he would like to add anything.

Mr. President, there is also a unique thing that has to be commented upon. I have the priviledge of having the distinguished John Shank work with Dorothy Seder of my staff on this bill. Mr. Shank is the counsel for the Republican side. We are getting too ecumenical around here. We have been in Washington too long. I want to thank Senator RUDMAN for loaning me the services of John Shank as well as thank Dorothy Seder.

As to the Senator from Pennsylvania's amendment, let me say that this provision was worked out on the House side, the House included this measure. It was included without any objection, as I understand it, over on the House side.

As manager from this side, I think on this particular point on a matter that does concern me as well as it does the Senator from Pennsylvania, that we move along now and get our conference reported out.

Let me yield time to the distinguished Senator from Iowa.

Mr. HARKIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. HARKIN. Mr. President, I rise in opposition to the motion of the distinguished Senator from Pennsylvania.

Mr. President, we have a lot of foreign trade zones in the United States. The last count that I have here, there were 165 foreign trade zones plus 177 special purpose subzones in the United States. A lot of these have been established in the past. I note that there is at least one, if not more than one, in the State of Pennsylvania right now.

I might also add for the benefit of Senators that the House Ways and Means Committee does not have, at this point, any objection to this. There were no objections raised on the House floor whatsoever from the jurisdictional committee. The objection came from the administration, and the administration's objection was that Cedar Rapids, IA, is not big enough, not enough activity; it is too small.

Well, now, what is good for the goose is good for the gander. We can have foreign trade zones in the large cities. And here is a small city, a little over 100,000 in population. Sure, it is not as big as Philadelphia, but we have industries in Cedar Rapids that employ people that can use goods coming from a foreign country just like they do in Philadelphia. They have a foreign trade zone in Philadelphia. Why should we not have one in Cedar Rapids, IA? It is not taking jobs away from anybody in the United States.

Mr. HEINZ. Will the Senator yield for a question?

Mr. HARKIN. I did not take any of the Senator's time. I want to make my statement.

Mr. President, the administration's objection was it was not big enough. But what we are talking about here—and it is not just the company that was mentioned by the Senator from Pennsylvania, PMX. We have a company which makes industrial tire chain; another which makes laminated paper; we have a number of different businesses interested in having a foreign trade zone in Cedar Rapids. We are talking about maybe $150 million capital investment; hundreds of jobs.

I can tell you in the State of Iowa that is important. We were No. 2 only to West Virginia in the last 10 years in the percentage of our people that left the State. We are looking to diversify our economy. We have lost a lot of farmers in the last 10 years. It has hurt our towns.

All we are asking for here is for a foreign trade zone so that people can work there, they can bring in goods from different countries, assemble it there and transship it out of this country. They do it in Philadelphia. They do it in several hundred other cities in the United States. That is all we are asking for here.

As I said, there were no objections raised on the House floor. There are objections from the Ways and Means Committee. I have heard no objections from anybody else on the Finance Committee on this side. Only today this objection comes on the floor. Well, I suspect there may be more to it than this.

Mr. President, there is nothing amiss with this. It was put in by the House. It was accepted in conference by the distinguished chairman of the committee. I have heard nothing here until the Senator from Pennsylvania just got up to oppose it.

But we are talking about a much needed provision for a small city in the State of Iowa which is going to provide much needed jobs in an economy that has been wracked over the last 10 years. So I hope that the motion by the Senator from Pennsylvania would not be upheld and at the proper time I am going to move to table that motion. Because, as I said, there is absolutely no reason to strike this, no reason whatsoever.

We are not taking any jobs from Pennsylvania. We are not hurting anybody. All we are doing is providing for the city of Cedar Rapids something that Philadelphia, PA has. That is the only thing we are doing, Mr. President.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 45 seconds.

Mr. HEINZ. Will the Senator yield for a question?

Mr. HARKIN. Now I am delighted to yield.

Mr. HEINZ. Can the Senator tell me if application was made to the Foreign Trade Zone Board, as the law requires?

Mr. HARKIN. It is my information and belief, based upon representations made to this Senator, that many inquiries were made about applying for this. They were told to forget it, because Cedar Rapids was not big enough.

Mr. HEINZ. Is the Senator aware, notwithstanding what anybody is told, that his constituents not only have a right to apply, but if they want due process, need to exercise their right to due process by applying? The first and foremost right of due process to them, to Cedar Rapids, and to other citizens in Iowa, as I am sure the Senator knows, is a public hearing. Can the Senator tell me if a public hearing was ever held on this, as is required?

Mr. HARKIN. I cannot answer whether there was a public hearing held or not. All I know is that representations and information that this Senator received from the community in Cedar Rapids was that time and time again they were told, that, because of their size, and level of activity it would be fruitless and useless to apply.

Again, Cedar Rapids does not have a lot of money. We do not have the wherewithal of a big city like New York or Los Angeles over something like that. When a small community is told to forget about it—and they are strapped for money anyway—are they going to waste a lot of money hiring lawyers and everything else to make all these applications and stuff when they are told at the beginning that is not going to do them any darn good at all? Of course, they are not. So they come to the right place and that is the Congress of the United States to help them out a little bit, and that is what we are trying to do right here.

Mr. HEINZ. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. HEINZ. Mr. President, I yield myself 1 minute just to say to my friend from Iowa that I have some familiarity with Cedar Rapids. My mother was born there. Indeed, I have not found anyone in the Senate yet who has as many generations of Iowans in their family as I do. I have Senator GRASSLEY beaten. He admits that. And he is hard to beat on issues like that, as you know, because that is his original bailiwick. But because I do know a little bit about Cedar Rapids, I can tell you there are communities a lot smaller than Cedar Rapids that have applied for and have been granted foreign trade zones.

I do not know what kind of a bill of goods has been presented. I know this is not the Senator's doing, but I think the Senator is getting some very questionable information.

I hope my colleagues will understand that if we set a precedent here to simply have communities end run, or applicants in this case—I do not know what the situation is with the city fathers in Cedar Rapids; I have not received any correspondence or anything from the mayor or county commissioners or any of the people—we set a very poor precedent and, most important of all, we deny the public their basic protections here which is an opportunity for public comment that the Foreign Trade Zone Board must provide on this kind of proposal.

I reserve the remainder of my time.

Mr. HARKIN. How much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute and 6 seconds remaining.

Mr. HARKIN. Mr. President, I would just again respond to the Senator that it was size. I am told they successfully apply because there was not enough businesses there involved in foreign trade.

Well, it is sort of a chicken and egg. If you do not have the businesses, you cannot apply. But if you cannot apply, you will not get the businesses. So we are trying to break the chicken and egg cycle here. If we get them a foreign trade zone, we will have the businesses there.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 38 seconds remaining. Who yields time?

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, there is not time enough remaining for a quorum call.

The PRESIDING OFFICER. There are 4 minutes remaining, total time; 37 seconds to the Senator from Iowa, 3 minutes and 23 seconds to the Senator from Pennsylvania.

Mr. HARKIN. Mr. President, if the Senator would be willing to yield back his time, I will yield back all of my time.

Mr. HEINZ. Mr. President, could the Senator withhold 1 minute? I was advised Senator SPECTER was coming over. I want to give him that opportunity.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized. The time will be charged to the Senator from Pennsylvania.

THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes without the time being charged to either side.

The PRESIDING OFFICE. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, I take this time to conduct a little morning business at the request of the majority leader.

NUTRITION LABELING AND EDUCATION ACT OF 1990

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 784, H.R. 3562, the nutrition labeling bill; that an amendment by Mr. MITCHELL on behalf of Senators METZENBAUM and HATCH be agreed to; that statements by Senators METZENBAUM and MITCHELL, and colloquies between Senators DECONCINI and METZENBAUM, and between Senators SYMMS and METZENBAUM appear in the RECORD as though stated in their entirety; that an amendment on behalf of Senators JEFFORDS and KOHL be agreed to; printing of a statement by Mr. KOHL be agreed to; all amendments be agreed to and the bill be advanced to third reading and passed, the motion to reconsider be laid on the table, and that motions to reconsider en bloc be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered..

1. Page 2, line 22, strike "and", page 3, line 2, strike the period and insert ", and", and after line 2 insert the following:

"(E) any vitamin, mineral, or other nutrient required to be placed on the label and labeling of food under this Act before October 1, 1990, if the Secretary determines that such information will assist consumers in maintaining healthy dietary practices.".

Page 11, strike lines 12 through 21 and redesignate paragraphs (3) and (4) as paragraphs (2) and (3).

2. Page 3, strike lines 3 through 7 and insert in lieu thereof the following: "The Secretary may by regulation require any information required to be placed on the label or labeling by this subparagraph or subparagraph (2)(A) to be highlighted on the label or labeling by larger type, bold type, or contrasting color if the Secretary determines that such highlighting will assist consumers in maintaining healthy dietary practices.".

3. Page 3, line 24, strike "shall" and insert "may" and page 4, line 1, strike "may".

4. Page 8, line 23, strike "of labeling" and insert "or labeling".

5. Page 9, line 5, strike "may" and insert "shall" and in line 6 insert after "form" the following: "prescribed by the Secretary".

6. Page 17, insert after line 2 the following:

"(D) Subparagraph (2) does not apply to a claim described in subparagraph (1)(A) which uses the term "diet" and is contained in the label or labeling of a soft drink if (i) such claim is contained in the brand name of such soft drink, (ii) such brand name was in use on such soft drink before October 25, 1989, and (iii) the use of the term "diet" was in conformity with section 105.66 of title 21 of the Code of Federal Regulations. Such a claim is subject to paragraph (a).

"(E) Subclauses (i) through (v) of subparagraph (2)(A) do not apply to a statement in the label or labeling of food which describes the percentage of vitamins and minerals in the food in relation to the amount of such vitamins and minerals recommended for daily consumption by the Secretary.".

7. Page 20, insert after line 19 the following:

"(D) A subparagraph (1)(B) claim made with respect to a dietary supplement of vitamins, minerals, herbs, or other similar nutritional substances shall not be subject to subparagraph (3) but shall be subject to a procedure and standard, respecting the validity of such claim, established by regulation of the Secretary.".

Page 24, line 8, strike "subject to sections 403(r)(1)(B) and 403(r)(3)" and insert ", subject to sections 403(r)(1)(B) and 403(r)(3) or sections 403(r)(1)(B) and 403(r)(5)(D),".

8. Page 21, strike the quotation marks in lines 7 and 11 and after the references to sections in lines 10, 12, and 15 insert "of such Act".

9. Page 21, redesignate clauses (iii) through (viii) as clauses (iv) through (ix) and insert after line 6 the following:

"(iii) shall, in defining terms used to characterize the level of any nutrient in food under section 403(r)(2)(A)(i) of such Act, define—

"(I) free,

"(II) low,

"(III) light or lite,

"(IV) reduced,

"(V) less, and

"(VI) high,

unless the Secretary finds that the use of any such term would be misleading,".

10. Page 23, strike lines 17 through 21 and insert the following:

"(C) if the Secretary is diligently prosecuting a proceeding in court pertaining to such food, has settled such proceeding, or has settled the informal or formal enforcement action pertaining to such food.

In any court proceeding described in subparagraph (C), a State may intervene as a matter of right.", and

11. Page 24, line 24, strike "foods" and insert "food", page 25, line 1, strike "foods" and insert "food", and page 25, line 6 strike "foods" and insert "food".

12. Page 25, line 7, insert before the comma the following: ", except a requirement for nutrition labeling of food which is exempt under subclause (i) or (ii) of section 403(q)(5)(A)".

Page 25, line 10, insert before the period the following: ", except a requirement respecting a claim made in the label or labeling of food which is exempt under clause (B) of such section".

13. Page 25, line 8, insert after "claim" the following: "of the type described in section 403(r)(1)".

14. Page 25, strike out lines 13 through 16, page 25, line 17 strike "(2)" and insert in lieu thereof "(b)", redesignate subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), and on page 28, insert after line 20 the following:

"(c) CONSTRUCTION.—

"(1) The Nutrition Labeling and Education Act of 1990 shall not be construed to preempt any provision of state law, unless such provision is expressly preempted under section 403A of the Federal Food, Drug, and Cosmetic Act.

"(2) The amendment made by subsection (a) and the provisions of subsection (b) shall not be construed to apply to any requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of the food or component of the food.

"(3) The amendment made by subsection (a), the provisions of subsection (b) and paragraphs (1) and (2) of this subsection shall not be construed to affect preemption, express or implied, of any such requirement of a State or political subdivision, which may arise under the Constitution, any provision of the Federal Food, Drug, and Cosmetic Act not amended by subsection (a), any other Federal law, or any Federal regulation, order, or other final agency action reviewable under chapter 7 of title 5, United States Code.".

15. Page 26, line 5, strike "The" and insert "For the purpose of implementing section 403A(a)(3), the".

16. Page 10, line 9, page 11, line 24, and page 12, line 3, strike "18" and insert "24".

Page 22, lines 9, 15, and 18, strike "18" and insert "24".

Page 27, lines 6 and 17, strike "18" and insert "24".

Page 27, line 20, strike "24" and insert "30".

Page 31, line 2, strike "18" and insert "24".
Page 33, line 15, strike "9" and insert "18".
Page 33, line 19, strike "18" and insert "24".

17. Page 3, line 9, strike "listed in" and insert "required by" and strike "or (1)(D)" and insert ", (1)(D), or (1)(E)" and beginning in line 17 strike "or (1)(D)" and insert ", (1)(D), or (1)(E)".

18. Page 13, line 5, insert after "in" the following: "clauses (A) through (C) of", in line 17 strike "subparagraph (3)" and insert "subparagraph (3) or 5(D)", and beginning in line 23 strike "(4)(A)(ii), (4)(A)(iii), and (5)" and insert "(4)(A)(ii) and (4)(A)(iii) and clauses (A) through (C) of subparagraph (5)".

19. Page 20, line 11, strike "(vi)" and insert "(v)".

20. Page 22, line 5, strike "and", line 8, strike the period and insert in lieu thereof ", and" and after line 8 insert the following:

"(ix) shall establish, as required by section 403(r)(5)(D), the procedure and standard respecting the validity of claims made with respect to a dietary supplement of vitamins, minerals, herbs, or other similar nutritional substances and shall determine whether claims respecting the following nutrients and diseases meet the requirements of section 403(r)(5)(D) of such Act: folic acid and neural tube defects, antioxident vitamins and cancer, zinc and immune function in the elderly, and omega-3 fatty acids and heart disease.".

21. Page 24, line 21, strike "which" and insert "that" and in line 22, strike "which" and insert "that".

22. Page 28, line 17, and page 33, line 13, strike "(b)(2)" and insert "(b)".

Mr. METZENBAUM. Mr. President, I want to begin by congratulating my colleague from Utah, Senator HATCH, for his outstanding contribution to the development of this legislation. By providing the public with better nutrition information, this bill makes a major step forward in enabling consumers to select foods to protect and improve their health.

In the course of developing the Metzenbaum-Hatch amendment, a number of questions have arisen that need to be addressed. The first of these involves the provisions of the bill relating to dietary supplements.

It is obvious from the language of the amendment, and from what I said in the Metzenbaum-Hatch manager's statement—placed in the RECORD separately—that the Secretary has complete discretion to decide the appropriate standard for establishing the validity of health claims for dietary supplements. Under this provision, the Secretary could establish the same procedure and standard for dietary supplements as the bill adopts for health claims on conventional foods, or he could establish a more restrictive or less restrictive procedure and standard. It is my view that there is no reason to do anything other than utilize the same procedure and standard for dietary supplements.

Whatever approach the Secretary takes, he must establish a system that evaluates the validity of health claims for dietary supplements. The system must be based on the same considerations that guide other agency decisions: public health, sound scientific principles and consumer fraud.

It is also obvious from the amendment and the manager's statement that there are many other factors which the Secretary will want to take into consideration in determining the appropriate procedure and standard for health claims for dietary supplements. The bill imposes no restrictions on the factors which the Secretary can consider.

Another issue involves the exemption from the nutrition labeling requirements imposed by section 403(q)(1)-(4) with regard to food that is processed and prepared in a retail establishment and sold at that establishment to consumers for consumption at home or elsewhere. This exemption recognizes that when food is processed and prepared primarily on the premises and sold there, as in the prepared food sections of supermarkets, nutrition labeling is not appropriate. On the other hand, if the preparation or processing of food is standardized and is accomplished primarily at another establishment and the same food is then shipped to a retail food store in a form that requires minimal or no further processing, nutrition labeling can be easily accomplished and is required.

Another issue involves State nutrition labeling requirements for restaurants. Because food sold in restaurants is exempt from the nutrition labeling requirements of section 403(q)(1)-(4), the bill does not preempt any State nutrition labeling requirements for restaurants. If States do require such labeling in restaurants, it is important that they make every effort to make those requirements consistent with the requirements of this bill. To the extent that a consistent format and content is used, consumers will be able to make greatest use of the nutrition information.

Another issue involves the provision of the bill which allows States to enforce the nutrition labeling requirements established by this bill. The concern involves the proper disposition of a case brought by the State when the Food and Drug Administration settles an enforcement proceeding regarding the same violation while the State's suit is pending. In such a circumstance, the court would be expected to dismiss the State's action if the FDA action resolves all matters pending before the court.

The last issue involves the Secretary's responsibility under the bill to regulate nutrition content claims which use certain "descriptor" words, like "low-fat" and "light." The Secretary is required to define in regulations the terms which may be used to characterize the level of a nutrient in food. In determining which terms to allow, the Secretary should consider the different ways such terms are used today. For instance, the word "light" has been used in a variety of different ways, including with regard to calories, fat, color and texture. By considering current uses and current consumer understanding, the Secretary can best decide how to define the term under this bill.

Mr. President, Senator HATCH and I were the primary authors of the amendments made by the Senate to the House passed bill. As the authors of the amendment and the managers of the bill in the Senate, we want to comment on two matters contained in the bill as amended by the Senate. In addition to our comments here as managers, we both will have statements on other aspects of the bill, as amended.

The first matter involves the subject of preemption. We want to clarify that nothing in section 4 of the bill, as amended, prevents a State from acting under State law to address an emergency.

The second matter involves the subject of dietary supplements. Congress has long acknowledged the unique nature of dietary supplements and the role they play in the diet of many Americans. Many individuals choose to use dietary supplements in an effort to assure balanced, complete nutrition and to help prevent chronic disease.

The Senate substitute to this bill handles health claims for dietary supplements differently from health claims for conventional food products. The substitute sets forth a mechanism for the consideration of health claims for conventional food products and requires that such food with such a claim not be treated as a drug under the provisions of the Federal Food, Drug and Cosmetic Act. The substitute spells out the standard and the procedure by which such claims will be regulated. In contrast, the substitute provides that dietary supplements will not be subject to the mechanism for conventional food products but will be subject to a procedure and standard that the Secretary is to establish, by regulation, for the consideration of health claims for dietary supplements. In addition, the substitute requires that such a claim not be treated as a drug under the provisions of the Federal Food, Drug and Cosmetic Act.

The purpose for the different handling of conventional food products and dietary supplements is to provide the Secretary flexibility in the development of the procedure and standard for health claims for dietary supplements. With this flexibility, the Secretary will be able to determine the appropriate procedure and standard for dietary supplements. In making that determination, the Secretary should take into account, among the many

factors which are relevant for consideration, the following two factors:

The rapid pace of scientific advances linking nutritional substances to the maintenance of long-term human health and the prevention of long-term disease; and

The ways in which dietary supplements are marketed and used by individuals differently from conventional food products.

Mr. MITCHELL. Mr. President, I commend my distinguished colleague from Ohio, Senator METZENBAUM, for his diligent efforts to produce a sound piece of important consumer legislation, the Nutrition Labeling and Education Act of 1990.

The nutrition labeling bill will require the Food and Drug Administration to develop standardized nutrition labels for our foods, and to regulate the use of special nutritional claims that may appear on food packages. These rules will apply to such terms as "lite" and "reduced," as well as regulating specialized claims regarding the effect of certain nutrients on disease—such as "reduces the risk of cancer."

The elements of this bill will help all consumers to better understand and improve their eating habits by providing uniform nutritional information in a coherent and understandable format. When a special nutritional claim appears on a food package, consumers will know that the claim has been approved by the Food and Drug Administration on the basis of scientific evidence.

This is an important piece of legislation for the American consumer, and for the American food industry as well. Throughout the development of this legislation, Senator METZENBAUM has worked closely with consumer and industry groups alike, eventually building a general consensus for a workable food labeling program.

It is also important that this program, which requires nationally uniform nutritional labeling, is sensitive to the regulatory roles played by the States. This bill has been refined to provide national uniformity where it is most necessary, while otherwise preserving State regulatory authority where it is appropriate.

Overall, the Nutrition Labeling and Education Act of 1990 represents a careful balance of firm regulation and enough flexibility to ensure that the labeling program can accommodate the diversity of our food supply and the various needs of our consumers. I believe that American consumers want and deserve accurate nutrition labeling, and I therefore support passage of this bill.

Mr. DECONCINI. Mr. President, at this time, I would appreciate engaging the distinguished manager of this bill, Senator METZENBAUM, in a colloquy. It is my understanding that the bill requires the Secretary of the Department of Health and Human Services to define descriptors used to characterize the level of a nutrient in a food. Is that correct?

Mr. METZENBAUM. Yes, that is correct.

Mr. DECONCINI. When seeking to define how "light" might be used, would it be within the authority of the Secretary to consider permitting the use of "light" on foods that show a reduction of calories, fat or sodium as compared to another food?

Mr. METZENBAUM. As the Senator knows, the bill does not specify how the term "light" should be defined or how the Secretary should permit the term to be used. However, the bill gives the Secretary broad authority to develop an appropriate definition, so the Secretary certainly could consider permitting the term "light" to be used in the manner you describe.

Mr. DECONCINI. When seeking to define "light," would it be within the authority of the Secretary to consider, in addition to comparative claims, permitting the use of "light" on foods, such as entrees, meals or dinners, which consumers find useful in the reduction or maintenance of body weight? Entrees, meals and dinners which make significant nutrient contributions and are prepared with ingredients that are inherently low in calories or ingredients selected for their low calorie content should be permitted to use the term light.

Mr. METZENBAUM. Yes, for the reasons I just described, the Secretary could consider permitting the term to be used in the manner you describe. After receiving a wide range of comments and recommendations, the Secretary would decide on an appropriate definition.

Mr. DECONCINI. I thank the distinguished Senator from Ohio for discussing the use of the term light with me. I recognize that there have been past abuses in regard to light products, and that this bill seeks to stop those abuses. However, it would seem to me that we should not make the definition for light so narrow and rigid that few products would be able to comply with it. Consumers have become more knowledgeable about the importance of diet and health, and it would be unfortunate if they were denied an effective tool in helping to identify foods which are useful in reducing weight while also making a significant positive nutrient contribution.

Mr. SYMMS. Mr. President, I have some questions about the amendment proposed for H.R. 3562. I will ask those questions shortly, but first, I want to express my reservations about not only this bill, but also the way in which the Senate has considered the bill.

Had it not been for my eagle-eyed colleague from Utah, Senator HATCH, we might have completely run over by a bill sent to use from the House with serious flaws in an effort to "pass something" in these closing hours of the 101st Congress. Senator HATCH wisely slowed this process down by insisting on the amendment we are considering here today. I congratulate him on vastly improving the bill with that amendment.

Aside from this approach which largely avoided serious committee hearings and public comment here in the Senate, I also believe this bill will further extend the regulatory hand of government into the lives of American consumers. This bill will direct the Secretary of Health and Human Services to write new regulations to govern what can and cannot be used in the label and labeling of foods and foods for special dietary use. Even with the improved approach to expanding this regulation under Senator HATCH's amendments, American consumers will not be permitted to get the whole story about the health benefits of certain foods and food supplements unless the regulators at the Department of Health and Human Services agree to allow it. Another chink will be taken out of the armor of freedom and the free-market.

However, there are a few questions I have about this bill before it moves any further. Perhaps the Honorable Senator from Ohio, Mr. METZENBAUM, could respond to each of these questions. Mr. President, does the Senator from Ohio yield?

Mr. METZENBAUM. Yes, Mr. President, I will yield.

Mr. SYMMS. I thank the Senator. First, in the seventh paragraph of the amendment, where a new subparagraph "(D)" is inserted after line 19 on page 20 of the bill, is it the Senator's understanding that the phrase "or other similar nutritional substances" would include substances which the Food and Drug Administration includes in the April 1, 1990, edition of 21 Code of Federal Regulations, chapter 1, section 105.3, described as "other dietary property" used for "supplementary or fortifying the ordinary or usual diet?"

Mr. METZENBAUM. Yes, that is my understanding of the intent of this amendment. I agree that the term "other nutritional substances" would include items currently described as "other dietary property" under that Food and Drug Administration regulation.

Mr. SYMMS. I thank the Senator from Ohio. For clarification, I would like to reprint at this point in the RECORD 21 C.F.R., chapter 1, section 105, subparagraph (iii).

"(iii) Uses for supplementary or fortifying the ordinary or usual diet with any vitamin, mineral or other dietary property. Any such particular use of a food is a special dietary use, regardless of whether such food also

purports to be or is represented for general use."

Also, I want to clarify a few of the many kinds of foods and articles included by this understanding by the Senate that the language in this bill is at least as encompassing as the language in current regulations. What follows is a list of a few of the items and foods that I believe would fall under the "other similar nutritional substances" category established by this bill:

Primrose oil, black currant seed oil, cold-pressed flax seed oil, "Barleygreen" and similar nutritional powdered drink mixes, Coenzyme Q10, enzymes such as bromelain and quercetin, amino acids, pollens, propolis, royal jelly, garlic, orotates, calcium-EAP (colamine phosphate), glandulars, hydrogen peroxide (H2O2), nutritional antioxidants such a superoxide dismutase (SOD), and herbal tinctures.

Would the Senator agree that, to the extent these items are currently included in the description of "other dietary property" by Food and Drug Administration regulations, these items and items similar to them are or would be included in the definition of "other similar nutritional substances?"

Mr. METZENBAUM. Yes, the Senator's analysis of the definition of the phrase "other similar nutritional substances" is a correct one. This phrase would include items now included in the description of "other dietary property." I agree with the Senator on this point.

Mr. SYMMS. Again, I thank the Senator. This nuance of law is important to clarify and I appreciate the Senator's assistance in that regard.

Mr. HATCH. Mr. President, I am pleased to join my colleague, Senator METZENBAUM, in putting forward compromise legislation to change our Nation's food labeling laws. The compromise that we reached, while not perfect, will help American consumers become more informed on the value of improved nutrition to their health care needs.

One of the least expensive changes we could make in this country to reduce our health care costs would be to increase our efforts in the area of health promotion and disease prevention. During 1985, Americans spent nearly $438 billion, $1.2 billion per day, for health care. Yet, two of every three deaths in this country were premature. Most of these deaths could have been prevented through appropriate use of preventive services and behavior changes.

Heart disease, cancer, and stroke—our No. 1, 2, and 3 causes of death—still take an incredible toll in our society. In 1986, they took an estimated 1.6 million lives and cost $137 billion in medical care and lost productivity. Diet has been implicated as a factor in all three of these diseases as well as large number of others.

To the extent that the American people do not adopt sound dietary practices, they will be truly healthy. To the extent that Americans are not healthy, our national economy pays the bill. But, most tragically, millions of Americans die each year.

Our effort to educate consumers on dietary practices has been less than adequate. It is now time that we have legislation requiring accurate and uniform nutrition labeling on all processed packaged foods.

As I have pushed for changes in our Nation's food labeling laws, there are four criteria by which I evaluate such legislation:

First, I believe that what appears on the food labels should be based on science. Consumers should have modern, scientific diet and health information on the label so that they can make informed judgments as they shop at the Nation's 177,500 supermarkets and grocery stores.

Second, manufacturers should have the economic incentives they need to be creative and innovative so that more and more low-fat, reduced sodium, and high-fiber foods come onto the market. We should not deter such benefits for the consumer.

Third, the consumer should be able to read the full nutrient disclosure statement and make a judgment whether or not to buy a product. Consumers should not be denied information they want in the form they want it—on product labels on supermarket shelves.

Fourth, it is wrong to permit each of the 50 States to require manufacturers of 20,000 packaged food items to display different health and diet information on identical products sold throughout this country. And, it is wrong to burden the manufacturer with the fear of potentially 50 different lawsuits from 50 different State attorneys general, even if similar cases have been dismissed or settled.

Today's compromise goes a long way toward many of these goals. It will mandate that all processed package foods have uniform nutritional labels. This legislation does require the listing of specific macronutrients and a listing of those micronutrients that would be important to American's daily diet. In addition, this compromise allows more discretion by the Secretary of Health and Human Services to decide what, where, and how nutrition labeling shall be done.

A second important element which, when implemented, will bring a sense of order to the understanding of terms used when describing characterizations of food products. Today, there is confusion about terms that are used when products are advertised as being "light," or "free," or "high". By virtue of this compromise, the Secretary will define specific terms within a set period of time. Consumers will benefit because of this legislative change.

Another part of this legislation establishes specific mechanisms when health and diet-related claims may be made. A health or diet claim may not be made about a product unless there is premarket approval or unless it is in a category of "preapproved claims" as defined in the bill. In order to get approval for a claim, there must be publicly available scientific evidence and significant scientific agreement that the claim is accurate while reviewed with the totality of publicly available scientific evidence.

The legislation requires the Secretary to review and establish standards for health claims to be made regarding the following nutrients and diseases: calcium and osteoporosis, dietary fiber and cancer, lipids and cardiovascular disease, lipids and cancer, and dietary fiber and cardiovascular disease.

While these types of claims will largely be allowed, it is my hope that other claims will be able to be made. If the standard and procedure outlined in this bill become too arduous, I will ask my colleagues to carefully re-examine these provisions. Food companies should be able to advertise the health benefit of their product so long as these claims are not false or misleading. Such advertising encourages food companies to produce healthier foods.

The compromise bill also recognizes the important role of vitamins and minerals in maintaining a balanced diet and in helping to prevent certain serious illnesses and health problems. In recent times, much of the focus has been directed toward macronutrients. However, we should not lose sight of the value of micronutrients.

The compromise thus incorporates what I consider to be an essential right of our citizens to have access to vitamins, minerals, herbs and other nutritional supplements without fear of their being branded unlawful drugs. Section 403(r)(5)(D) takes that further step by bringing the same protection to claims for dietary supplements—under the new section 201(g)(1), a dietary supplement will not be considered a drug solely because it carries a valid health claim.

Because of the historically distinct role of dietary supplements from conventional foods, the compromise also provides an exemption for dietary supplements from the mandatory regulations and scientific agreement standard articulated in section 403(r)(3).

By their very nature, the dietary supplements must be marketed so that the consumer is informed of the health or disease-prevention benefits that may be conferred. Greater flexibility is thus required to permit communication of these benefits. This increased regulatory flexibility is also

mandated by the very rapid pace of scientific advances here and abroad linking the prevention of long-term disease to improved nutritional supplementation. For these reasons, a more lenient standard for dietary supplement is envisioned.

Finally, the compromise makes clear that the national uniformity in food labeling that is set forth in the legislation has absolutely no effect on preemption of State or local requirements that relate to such things as warnings about foods or components of food. Taken together, the uniformity provisions and the language agreed to in this compromise are an important first step in achieving a rational, uniform system of food regulation in this country.

Specifically, the uniformity amendment has two components. First, it states that the carefully crafted uniformity section of this legislation is limited in scope. That section does not preempt or affect a requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of a food or a component of a food. An example of such a warning would be a statement required under a state law regarding the possibility of an allergic reaction from a component of a food.

Perhaps more important is the second rule of construction embodied in the amendment, which makes it abundantly clear that the lack of preemption of such warning requirements in the legislation is not extrapolated, through overzealous statutory interpretation, to imply that preemption of such warning requirements is somehow affected by the enactment of limited preemption in this legislation. Specifically, the amendment provides that the bill "does not affect preemption, express or implied, of any State or local warning requirement which arises under the Constitution, any other provision of the Federal Food, Drug, and Cosmetic Act, any other Federal law, or any regulation, order or other final agency action reviewable under the Administrative Procedure Act".

Thus, in the example I have given, although the provisions of this bill may not preempt a State warning requirement respecting the allergenic properties of a food component, that very same State warning may be preempted by virtue of the Constitution, another statutory provision, or agency action. This result is an essential element of the compromise embodied in the uniformity provisions of this legislation. The decision of the Congress in this legislation to specifically preempt certain State or local requirements is not evidence, one way or the other, of any congressional view about the existence of preemption which may arise from other existing legal authorities or actions.

It is important that we recognize that the limited preemption in this bill in only one step toward expanding uniformity of labeling laws and food safety requirements through existing law as well as future legislation. In addition to undermining the credibility and effectiveness of Federal policy in this area, inconsistent State and local laws seriously disrupt food manufacturing and distribution, resulting in higher prices for consumers. Moreover, they frustrate food safety and nutrition education efforts by presenting consumers with varying and inconsistent information and warnings. In sum, we simply must remember that a warning on everything means a warning on nothing.

Mr. President, the major complaint against uniformity is preemption of State regulation. Over the last decade or so, it has been suggested by some that Federal food safety and labeling enforcement is not as vigorous or responsive to the needs and wishes of consumers as it should be. To that allegation, I would say that the answer is not for each State to go about its own way, but for Members of Congress, like us here today, to recognize that there is an appropriate level of Federal activity. It is up to us to make order out of chaos in the regulation of food and to give consumers confidence in place of uncertainty. It has not been since the 18th century that we have had thousands of individual and local food markets in this country. Today, we have a single food supply. Therefore, we need a single, integrated, and coordinated system with an appropriate allocation of regulatory responsibility among the Federal, State, and local governments. And, we need this for a reason: We must have confidence in the safety of our national food supply; and, we must have consumers who can make informed decisions so they can adopt sound dietary practices.

Mr. President, I hope all Members will share my goal: mandatory nutrition and food labeling. Consumers want this information. Consumers need this information. I urge my colleagues to support this compromise bill.

Mr. JEFFORDS. Mr. President, I commend my colleagues Senator METZENBAUM and Senator HATCH for all their efforts to ensure clear and accurate food labeling. I fully support them in this effort and in fact voted for S. 1425, the nutrition labeling bill reported out by the Senate Labor and Human Resources Committee last July. However, H.R. 3562, the nutrition labeling bill we are considering today is somewhat different than S. 1425.

In particular, section 8 of H.R. 3562, would change the current process for determining and amending standards of identity for food. Standards of identity are requirements defined by the Secretary of Health and Human Services for various food products to assure a reasonable standard of quality. The Jeffords-Kohl amendment will retain the process for amending certain standards of identity. It will protect the integrity of important standards of identity by preserving the current process for amendment of a standard with its system of checks and balances. It will also assure that certain new standards of identity will be afforded the same valued protections provided in current law.

Specifically the food labeling bill that we are considering today, repeals the current law process for issuing and amending standards of identity for food and replaces it with a new process. The new process is not as thorough as current law as it no longer requires that a hearing on standards of identity take place before an administrative law judge. The new process is particularly problematic for the dairy industry, as dairy markets are built on the high quality and recognized consistency of the products. This is assured by standards of identity. Standards of identity for dairy products are comparable to the brand name recognition many other nongeneric products enjoy. Should a standard of identity be changed without a thorough examination of the issue, changes could be made that undermine the solid foundation on which dairy markets were established, damaging the long standing reputation of these valued products.

Our amendment, through protecting the process provided for in current law, furthers an important objective of this bill, ensuring that people will not be mislead as to the contents of those dairy products so familiar to our households.

I want to thank the sponsors of this legislation, in the Senate and the House, for their willingness to accept this amendment. I also want to thank Senator KOHL and his staff for their efforts, as well as the interested parties who met on Monday afternoon to work out the details of this amendment.

Mr. President, I urge passage of this legislation.

On page 29, strike lines 11 and 12 and insert in lieu thereof, the following:

SEC. 701(e) (21 U.S.C. 371(e)) is amended by striking out "Any action for the issuance, amendment, or repeal of any regulation under section 401, 403(j), 404(a), 406, 501(b), or 502(d) or (h) of this Act" and inserting in lieu thereof the following: "Any action for the issuance, amendment, or repeal of any regulation under section 403(j), 404(a), 406, 501(b), or 502(d) or (h) of this Act, and any action for the amendment or repeal of any definition and standard of identity under section 401 of this Act for any dairy product (including products regulated under parts 131, 133 and 135 of title 21, Code of Federal Regulations) or maple syrup (regulated

under section 168.140 of title 21, Code of Federal Regulations).

Mr. KOHL. Mr. President, I would like to take just a moment to thank the sponsors of this legislation, Senator METZENBAUM and Senator HATCH, for their willingness to work with Senator JEFFORDS and me to make a small but important change to this legislation.

The amendment that Senator JEFFORDS and I are offering is designed to preserve the integrity of new and existing standards of identity for dairy products. The amendment requires the continuation of the current process under section 401 of the Food, Drug, and Cosmetic Act for an amendment or repeal of a standard of identity for dairy products. In doing so, it ensures that all petitions or actions to amend or repeal standards of identity, whether existing or new, will be awarded the same degree of scrutiny that they are now ensured.

Mr. President, the dairy industry has been well serviced by standards of identity. And the industry has worked hard to protect the integrity of its products through the standard of identity process. The current section 8 of H.R. 3562 does not, in my mind, provide as thorough an evaluation of changes in standards of identity that I believe are necessary to protect the integrity of these products. While I would have preferred to see section 8 of this legislation deleted entirely, I am willing to accept this compromise amendment in an effort to see this important legislation move this year. I am hopeful that this amendment will continue to allow the dairy industry ample opportunity to assist in the development of dairy products that meet the needs of consumers as well as the interests of the dairy industry.

I thank the managers of this bill and their staffs for their help in crafting this amendment. And I want to commend both Senator METZENBAUM and Senator HATCH for their tireless work in developing and moving this important legislation this year.

So, under the previous order, the amendments were ordered to be engrossed and the bill read a third time.

The bill (H.R. 3562), as amended, was read the third time and passed.

STUDENT RIGHT-TO-KNOW AND CAMPUS SECURITY ACT—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report to the committee of conference on S. 580 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses, on the amendment of the Senate to the amendment of the House to the bill (S. 580) to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 16, 1990.)

Mr. BRADLEY. Mr. President, about 2½ years ago, with Congressmen ED TOWNS and TOM MCMILLEN, I introduced the Student-Athlete Right to Know Act in an effort to help student-athletes make better decisions about which college to attend. The legislation required colleges to report on the graduation rates of their student-athletes.

Over the course of the past 2½ years, this legislation has undergone intense scrutiny and modification. Often, such deliberations tend to water down the intent of the original legislation to make it more palatable to different constituents. I am pleased to say that this is not the case with this legislation.

The legislation now before us requires all colleges to report on the graduation rates of their entire student body as well as their student-athletes. My colleagues have come to realize that all students need better information in choosing a college. I believe that this is landmark consumer legislation for students and student-athletes.

We have all heard about both the highlights and pitfalls of participating in intercollegiate athletics. Many high school and college athletes dream of playing for a Division I team and, perhaps, of a professional sports career. Yet only 1 out of every 100 high school athletes will receive a scholarship to play at a Division I college. Most of those lucky few can expect a pressure-packed environment where academics and athletics collide in a world with heavy demands and little time. And even fewer of those who do play in this high pressure league will ever make it to the pros. In 1986, 12,000 men played college basketball, but only 161 were drafted by the NBA. Of the 161 who were drafted, only a few will play more than 3 or 4 years.

Single-minded devotion to athletics among our Nation's schools and colleges can lead to exploitation and abuse of the student-athlete. The result can be a sad story. Too frequently the student-athlete, failing his or her courses or not carrying a full course load, exhausts eligibility, loses an athletic scholarship, and drops out of school—with no education, no training, and only a few memories, perhaps a trophy, for comfort. A recent General Accounting Office report indicated that the graduation rate of basketball and football student-athletes who attend Division I schools is very poor. It is my understanding that at one Division I institution, the graduation rate was a pathetic 7 percent for students on basketball scholarships during the decade of 1972-83.

That should not happen. With the proper balance between academics and athletics, sports can provide the means to an education that might otherwise be unattainable. Many athletes have applied the discipline of the arena to the classroom and have gone on to satisfying careers. We need more stories built on good habits and opportunities seized.

That is why I introduced the Student-Athlete Right to Know Act in the Senate. As introduced, it was a consumer information bill for student-athletes and their families. Student-athletes about to enter college should be consumers of education and participants in sports, if our priorities are in order. As such, they are entitled to the relevant and basic consumer information that is an essential element of an informed choice. The choice of which college or university to attend is likely to be one of the most important decisions of a young person's life. A potential student-athlete and his or her family are entitled to a direct and valid answer to the question, "If I enter your college or university as a freshman on an athletic scholarship in my sport, what are the chances that I will graduate within a year or 2 of those in my entering class?"

This legislation requires colleges and universities to report graduation rates, including the graduation rates of student-athletes broken down by sport, race, and sex and the proportion of the entire student body, students who earn a degree reported by race and sex. The information is to be made available to high school students and student-athletes, their families, and high school guidance counselors, coaches, and principals to aid them as they choose the schools they will attend.

Last January, the NCAA—in a nearly unanimous vote—adopted requirements consistent with this legislation. And I understand that the National Association of Intercollegiate Athletics and the National Junior College Athletic Association are also taking steps along this line. I applauded their actions.

Education is the passport to a productive and rewarding life in our society. The challenge of a college experience should not simply be "making the team" or becoming an All-Star, but preparing to be a good citizens, friend, and family member. Our student-athletes must participate in sports as they pursue the primary goal of an education for life, rather than

trying to obtain an education in the process of working in revenue-producing sports.

The Student-Athlete Right to Know Act is one important step in straightening out these priorities. It seeks to strengthen the role of education rather than weakening the role of athletics. It will help all students make better choices, now that the legislation has been broadened to get graduate rate information to all students. I believe that an informed choice will lead to a real education and a college degree. Adoption of these requirements is the right thing to do, and it is right for Congress to do it now for more students.

Last, Mr. President, I want to take this opportunity to thank the chairman of the Senate Labor Committee, Senator KENNEDY, for his continued commitment to this legislation. His concern for students and his commitment to this legislation is obvious. This legislation is better because of his efforts, I urge the adoption of this conference report.

Mr. KENNEDY. Mr. President, today the Senate will approve the conference report of the Student Right-To-Know and Campus Security Act of 1990. I believe that this vitally important legislation will help students and their families make informed decisions about which college to attend. This is the most important piece of education accountability legislation ever approved by the Congress.

Mr. President, the decision to attend a particular institution of higher education is one of the most important choices facing young Americans. In making this choice, they should have information available to them that lets them judge their chances of completing that education.

The bill will guarantee them that opportunity. Colleges will be required to provide students, and prospective students, with the graduation rate of full-time, degree seeking students at the institution. These data must be interpreted carefully, but they will give students more information than they have ever had before.

The bill will also ensure that student-athletes have information about their chances of earning their college degree. Earlier this year the Labor Committee held a hearing in which the General Accounting Office [GAO] described the academic performance of student athletes. The record was shocking, especially for students receiving scholarships in football and basketball.

Some athletic associations, such as the National Collegiate Athletic Association [NCAA], have begun to ensure that this data is available to prospective student-athletes. I applaud that effort. But I am glad that this legislation will guarantee that this information is available at all colleges and universities.

This legislation also requires institutions to disclose the rates of crime on their campuses. It is of utmost importance that we make this information available. Most of us think of colleges and universities as tranquil and idyllic places. Many times they are.

But college campuses are not walled off from the broader community. And, as the recent tragedy at the University of Florida showed, students are not immune to violent crimes.

Under this bill, institutions must make information about campus crime available to their students and employees at least once a year. They must also give students information about institutional security policies, practices and procedures. We all recognize that merely providing information will not prevent crimes from occurring, but making these materials available will enable students to judge the safety of their campus and to better protect themselves.

In drafting this bill, we have tried to pay particular attention to the reporting burden that we will impose on the colleges and universities. We have worked closely with the higher education community to assure that the students have access to the information but in a way that does not overwhelm the institutions that must provide the data. If there are technical problems in the implementation of these provisions, we will address them during the reauthorization of the Higher Education Act in the next Congress.

Mr. President, I would like to recognize several important people and thank them for their efforts on behalf of this legislation. First, the distinguished senior Senator from New Jersey [Mr. BRADLEY]. He and I introduced the Student Athlete Right To Know Act in the last Congress and have worked closely to enact it in this Congress. Ken Apfel of his staff was of great assistance as we put this legislation together.

Senators SPECTER and GORE were strongly committed to the campus security provisions of this legislation. I appreciate their efforts in making this bill possible.

I would also like to recognize the contributions of Connie and Howard Cleary to the campus crime provisions of this bill. In April 1986, their daughter was murdered in her dormitory room at Lehigh University. Since then, they have organized a clearinghouse of information about campus crime. They have also worked for the passage of State and Federal legislation that would require colleges to disclose information about campus crime. This legislation owes much to their hard work and advocacy.

I also wish to recognize the hard work by many others on this bill. I would like to recognize Senator PELL and Charlie Bouthot of his staff, Senator KASSEBAUM and Becky Voslow of her staff, Senator HATCH and Laurie Chivers of his staff, Senator COCHRAN and Doris Dixon of his staff, and Senator THURMOND and Craig Metz and Kent Talbert from his office. Terry Hartle, Rusty Barbour and Adele Robinson of the Labor Committee staff spent many long hours working on this bill.

Mr. President, this is vitally important legislation and I urge my colleagues to join me in approving it.

Mr. GORE. Mr. President, today I am very pleased to join the distinguished chairman of the Senate Committee on Labor and Human Resources in supporting final passage of the Student Right To Know and Campus Security Act. This legislation will make available crucial information concerning student athlete graduation rates and campus crime and security policies and statistics to students attending postsecondary institutions in this country.

Last November, I, along with Senator KENNEDY, introduced the Campus Safety and Security Act, which addresses the urgent need to heighten student and employee awareness of what is happening where they live and work. I am pleased that the substitute bill that Senator KENNEDY offers today includes a significant portion of the Campus Safety and Security Act. As the incidence of crime on college campuses has risen in recent years, it has become apparent that action must be taken to make our campuses safer for our Nation's young people.

It is no secret that crime rates have grown at an alarming pace the last few years. Each time we open a newspaper or turn on the television, we are reminded of the figures and the reality behind them—people are being killed, lives are being destroyed, and businesses and neighborhoods are being threatened. In recent weeks, we have all been shocked and saddened by the brutal slayings of five college students in off-campus apartments in Gainesville, FL.

At first glance, a college campus appears to offer students the security and comfort of home. Many students consider their college environment to be as safe as their own backyard.

Unfortunately, the fact is that the college campuses and surrounding areas are as vulnerable to crime as any other environment. The Carnegie Foundation for the Advancement of Teaching revealed in its recent report, "Campus Life: In Search of a Community," that one in four student affairs officers, responding to a survey conducted by the foundation, state that crime on their campuses has risen during the last 5 years. According to the report, students are responsible for 78 percent of sexual assaults on

campus. In fact, a recent Towson State study reports that much of the crime committed on college campuses is committed by students.

Many of campus crimes are petty thefts and other relatively minor acts; but some of these crimes have tragic consequences. A student named Tom Baer was fatally stabbed at a fraternity house in Tennessee. A young woman, Jeanne Cleary, in Pennsylvania was awakened in her campus dormitory room by another student who was robbing the room. He then brutally attacked, sexually assaulted, and killed her.

Tragedies such as these have shaken public consciousness and caused students, parents, and other concerned citizens, on and off campus, to unite in demanding that steps be taken to prevent such brutal acts from happening again. Howard and Constance Cleary, the parents of the young woman killed in Pennsylvania, last year devoted themselves to passing a Pennsylvania law that now ensures college employees and students are aware of crimes committed on their campus and the school's security policies. Tom Baer's parents helped draft and pass a similar law in my home State of Tennessee. I have had the opportunity to meet with both families and am deeply inspired by their commitment to this issue.

Many colleges and universities are becoming more aggressive in improving security on campus. The Carnegie Foundation report chronicles many different accounts of better lighting, escort services, emergency phone systems, and strengthened police forces.

The State laws and individual institutional initiatives are important steps, but we are a long way from solving the problem. There is a strong need for basic uniformity in requirements and standards because the problem still exists.

Two daughters of a friend of mine tried to get information about all types of crimes on their college campus, as part of an educational program on self-defense. They were told they couldn't have this information. Crimes themselves are tragic enough, especially when the victims are young people. But to deny college students information that would help them protect themselves only serves to make the situation worse.

Since introducing campus crime legislation last fall, I have heard from parents and young people from around the country whose lives have been impacted by crime on campus. Each person asks, "What can we do to make these campuses safer for our children or friends or classmates?" There is no easy answer. But, it is clear that a strong defense is knowledge of what is happening in one's environment.

As a father myself, I want my children to grow up understanding that they need to take precautions. And I want them to grow up with the right to find out what they need to know to protect themselves.

The Student Right To Know and Campus Security Act amends the Higher Education Act to require colleges and universities throughout the Nation to compile an annual report which provides statistics for certain crimes committed on campus for the most recent academic year and during the two preceding school years for which data is available and information on campus security policies. The institution must make this information available to students, employees, and applicants for enrollment.

This bill seeks to better equip students with knowledge of crime prevention through informing them of current campus security policies, procedures and practices, including information concerning security for campus facilities; campus law enforcement; a description of policies that encourage students and employees to report criminal actions promptly and accurately to campus and local police; and, a description of programs designed to inform students and employees about the frequency of crimes and crime prevention. This bill will also require from the colleges and universities statistics concerning the number of arrests for the following crime occurring on campus: Liquor law violations; drug abuse violations; and weapons possessions.

Central to fostering a safer environment for young people is the institution's duty to warn students about possible dangers on campus. With proper warning, an individual is more likely to take extra measures to ensure his or her personal safety. I believe that the knowledge of crime on and off campus committed against students will encourage victims to report any violation of their rights.

Many institutions and some State legislatures have taken great steps to heighten students' and employees' knowledge of crime committed on campus and taken other preventative actions to ensure campus safety. However, not all institutions are willing to provide this information, much less encourage students and employees to obtain it. This legislation will bring uniformity to campus crime statistic disclosure requirements at postsecondary institutions throughout the United States.

Upon passage of this bill, we will be one step closer to making safer the campuses of our Nation's colleges and universities. It is my hope that along with new State laws, it will encourage institutions to take assertive action to protect their students and employees.

I congratulate Senator KENNEDY and others on their work on this bill and I join my colleagues in supporting final passage of this legislation.

Mr. SPECTER. Mr. President, as original sponsor of S. 1925, the Crime Awareness and Campus Security Act of 1989, I am pleased to support passage of the conference report on the Student Right to Know Act of 1990, an important first step to improve campus security standards and awareness nationwide.

The Student Right to Know Act includes provisions similar to my bill to require colleges and universities that participate in Federal student assistance programs to report campus crime statistics and security policies. The act requires that such reports be sent to all current students and employees, as well as to prospective students, as a means of deterring campus crime. These reports must include a detailed description of current campus security procedures and practices, and statistics concerning the occurrence of violent crimes against students, such as murder, rape, robbery, and aggravated assault, as well as drug and liquor law violations.

The crime awareness and campus security provision was based on a Pennsylvania law enacted due largely to the efforts of Connie and Howard Cleary whose daughter Jeanne was brutally raped and murdered at Lehigh University in 1986. Their crusade on behalf of their beloved daughter was to ensure that tragic deaths like Jeanne's be prevented.

Crime on our college campuses has been on the rise, and I believe that until a uniform system of reporting is in place, we will not know the actual scope of campus crime. Although in recent years, many institutions have established crime prevention measures to increase campus security, there also is an indication that when rapes and other violent crime occur on campuses, campus security officers may be disinclined to make such information known or available to the public or the campus community. This bill ensures that all colleges disclose this crucial information, forcing those institutions with poor records to improve their performance.

In addition, I believe that public awareness of campus crime will help awaken parents and students to the reality of modern campus life. This awareness, in turn, will help students to be more careful in observing security precautions. Security is not just the responsibility of school administrators, it is everyone's responsibility. Working together, parents, students, and colleges can most effectively fight campus crime.

Overall, I believe the conference report on S. 580 is a success. The conferees maintained many of the strongest measures in both the House and Senate versions. One provision, however, that was dropped from the Senate bill is of particular concern to me be-

cause it dealt with off-campus students who reside in private housing. Opponents of this provision claim that including students in this category is beyond the scope of university responsibility. I agree that it is difficult for a college or university to be responsible for these students, but a number of factors need to be taken into consideration. A good portion of students at American colleges live off-campus. Many colleges simply cannot guarantee on-campus housing for students beyond their freshman year. In addition, the boundaries between college property and the local community are often blurred. I believe that what happens to these students reflects on overall safety and ought to be reported.

Mr. President, we cannot rest with passage of this conference report. This act, while being helpful in the fight to reduce campus crimes, will not eliminate this national problem. I will be monitoring the effectiveness of this legislation. I believe it is a good start in the right direction, and I look forward to hearing from the Secretary of Education who is instructed by this act to review the campus crime statistics and report to the Congress by September 1, 1995.

Mr. President, it is unfortunate that it took the tragic murder of students across the country to create momentum to move this important legislation forward. While Members of Congress reviewed this conference report, students were being held hostage at the University of Berkeley, and prior to that, five students were brutally murdered in Gainesville, FL.

The Student Right to Know Act of 1990 is a glimmer of hope and I applaud its passage by the Senate.

Mr. BYRD. Mr. President, I urge that the conference report be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF MOST-FAVORED-NATION TREATMENT TO THE PRODUCTS OF CZECHOSLOVAKIA

Mr. BYRD. I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 649, approving the extension of most-favored-nation treatment to the products of Czechoslovakia; that the joint resolution be passed; a statement by Mr. BENTSEN appear in the RECORD as though stated in full; and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I rise in support of H.J. Res. 649, a joint resolution approving both the extension of most-favored-nation [MFN] treatment to products imported from the Czech and Slovak Federal Republic—Czechoslovakia—and the trade agreement with Czechoslovakia that the administration recently submitted to Congress.

The trade agreement was signed in April, and the Czechoslovaks have been waiting patiently now for 6 months for us to approve the agreement. The administration delayed in sending the agreement to the Congress until we corrected a possible constitutional defect in the statutory mechanism that had been established for approving such trade agreements. The necessary correction was made in the Customs and Trade Act of 1990, which we approved in early August, and which was signed into law on August 20, 1990.

This emerging democracy clearly deserves our support. Czechoslovakia has witnessed tremendous political and economic changes over the past year. The Havel government has begun a radical overhaul of the country, ending political repression and curtailing the police and security apparatus. New laws have been passed guaranteeing freedom of emigration, speech, religion, and the press.

The Havel government has also introduced legislation intended to strengthen market mechanisms and accelerate Czechoslovakia's economic integration into the West. Czechoslovakia is a charter member of the General Agreement on Tariffs and Trade and, in September, became a member of both the International Monetary Fund and the World Bank.

This trade agreement will pave the way for closer trade ties between our two countries. The agreement provides for reciprocal MFN treatment, which means that United States exports to Czechoslovakia, as well as our imports from Czechoslovakia, will no longer face punitive tariffs. In addition, the agreement contains a number of provisions designed to make it easier for American companies to do business in Czechoslovakia. Included in the agreement are measures to encourage the mounting of trade promotion events; ease the establishment of business offices and the direct hire of employees; and improve the transparency of laws and regulations affecting trade and commercial matters. Additional provisions require that trade between the two countries be conducted in convertible currencies and that both countries provide nondiscriminatory treatment with respect to a range of financial transactions. It provides that hard currency earnings from trade may be immediately repatriated. Further, Czechoslovakia has agreed to improve its intellectual property laws with respect to patents, copyrights, trade secrets, and computer chip designs.

In short, this agreement will help cut through much of the redtape that had made it difficult for United States companies to conduct their day-to-day activities. It will clearly improve the access that our companies will have to the Czechoslovak market, and help them regain some of the ground that they may have lost to their European and Japanese competitors.

House Joint Resolution 649 and the trade agreement with Czechoslovakia, will benefit both American and Czechoslovak companies, and I believe we should approve the resolution without further delay.

Mr. CRANSTON. Mr. President, the Senate has just acted upon a very important legislative initiative granting most-favored-nation trading status to Czechoslovakia.

Extending most-favored-nation status to Czechoslovakia holds numerous benefits for both the United States and this new democracy.

First and foremost, our action today evidences our support and confidence in Czechoslovakia's bold move toward self-determination.

Second, MFN allows Czechoslovakia's economy to be transformed. It does so by allowing the CSFR to be more involved in international trade and thus increase its hard currency earnings.

Finally, MFN status moves the United States and Czechoslovakia into a new phase in bilateral trade. This relationship and the opportunities it creates for joint ventures, investments, and the exchange of goods and technologies, will inure to the economic benefit of both nations and strengthen our cultural ties.

In sum, I congratulate the people of Czechoslovakia and the United States in bringing this change to fruition.

So, the joint resolution (H.J. Res. 649) was ordered to a third reading, read the third time, and passed.

MEASURE INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 361

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 997, Senate Joint Resolution 361, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING THE CONTROLLED SUBSTANCES ACT

Mr. BYRD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar Order No. 787, S. 1829, a bill to amend the Controlled Substances

Act to further restrict the use of steroids and human growth hormones; statements be printed in the RECORD at this point on behalf of Senators BIDEN and THURMOND as though read; an amendment offered by Mr. HUMPHREY be considered agreed to; a statement by Mr. HUMPHREY appear at this point in the RECORD as though read; the committee-reported substitute, as amended, be considered agreed to; the bill be considered read a third time and passed; and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, today the Senate will take action on a bill to address one of America's most serious drug problems: the abuse of anabolic steroids. Though we do not hear much about it, the fact is that steroid abuse is nearly as widespread as the use of crack cocaine is among male high school students.

As many as 500,000 male high school seniors use, or have used, steroids; one-third of these users are 15 or younger; and 40 percent of these users are hard-core or weekly users.

The use of steriods by our young people is troubling, and steriods are a dangerous threat to the physical and mental health of millions of young people. Steriods can cause serious physical disorders, including sterility in men, an increased risk of cardiovascular disorders, and liver and kidney disease.

In addition, various psychological effects have been linked to steriod use. A soon-to-be-released study will reveal that steriod users, like alcoholics, have an increased risks of developing personality disorders including frequent episodes of depression, anxiety, and violence during steriod use.

But the use of steroids by our best and brightest athletes is troubling not just because of the serious health consequences. What is troubling about steriod use by young athletes is that it is cheating. Athletes cheat themselves, they cheat their colleagues, and they cheat society. For millions of young people, sports offers a chance to learn some of society's most basic values. Those values includes, among others, dedication, drive, and sportsmanship. But the use of steriods threatens to undermine these values. Dedication turns to obsession, drive turns to addiction, and sportsmanship turns to dishonesty.

An athlete does not have to take steriods to become a champion. Athletes like Mike Hall, members of the United States powerlifting team and winner of the gold medal in the superheavyweight competition in France, are drug free. Mike Hall also holds the current record for the most weight lifted by a drug-free lifter—a record he is proud to share with young althletes who think they need steriods to become a champion. I am proud of Mike Hall, who is a native of Delaware.

Despite the serious threats that steriods pose to our young people, the Federal Government's response has been—at best—anemic. A year-long investigation by the Judiciary Committee revealed startling information about our current steriod control efforts.

First, one-third of the illegal steriod supply is diverted from legimate U.S. drug manufacturers;

Second, the FDA has only 38 full-time personnel to control a $300 to $400 million illegal steriods trade;

Third, the FDA investigators have neither the authority nor the expertise to attack the increasingly sophisticated steriods trade—they cannot carry guns, they cannot execute search warrants, and they cannot conduct undercover investigations; and

Fourth, the FDA does not require drug producers to submit information on the amount of steriods that they produce. As a result, the FDA has no idea of whether steriod production is increasing or decreasing, whether prescriptions have increased or decreased, or the amount of diversion occurring in the steriod industry.

Despite these glaring deficiencies in our steriods control efforts, the administration's response has been to propose a new interagency task force to further study the problem.

But when there are half a million kids who are taking steriods—threatening their physical and mental well-being for years to come—we need to do more than just conduct a study. We need to mount an effective national crackdown on the use of steriods.

That is why I introduced S. 1829, the Steriods Trafficking Act of 1990. This bill would attack the problem by designating anabolic steriods as a schedule II substance, in the same category as cocaine. Specifically the bill would further restrict the use of steriods in four ways:

First, it would increase steriod trafficking penalties to match the penalties for selling cocaine and other dangerous drugs;

Second, it would impose tight record keeping and production control regulations to prevent the diversion of legally produced steriods into the illicit market;

Third, it would give the Drug Enforcement Administration and authority and responsibility to investigate violations involving the illegal production, distribution, or possession with intent to distribute steriods; and

Fourth, the bill would require U.S. demand reduction agencies to incorporate steriods in all federally supported drug abuse prevention, education, and treatment programs.

For many young athletes steriods hold the promise of perfection. The promise is shattered, however, when individuals are faced with the brutal reality of steriod abuse: steriods not only cause physical damage but can cause severe psychological disorders, including addiction, depression, and violence.

Attempting to strengthen the body, a steriod user can destroy his mind.

Finally, I would like to thank Senator THURMOND, cosponsor of the Judiciary Committee substitute of S. 1829, for his assistance in helping this legislation move swiftly through committee.

I ask unanimous consent that an article on Mike Hall be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PERSONALITY OF THE YEAR—HALL HONORED FOR CONTRIBUTION TO YOUTH

SEAFORD.—World champion heavyweight powerlifter Mike Hall has been named as The Leader and State Register 1990 "Personality of the Year."

The purpose of the award, which will be awarded annually, is to recognize outstanding personalities who have contributed to the betterment of the community.

Hall, a former resident of Laurel, is being recognized for his continued work in providing a positive role model for youth all over the world and for promoting anti-substance abuse.

Recognized and revered all over the world as "the strongest natural man," Hall has dedicated his powerlifting career to giving the youth a message that says "no" to drugs and alcohol.

"A lot of people say 'Oh, the kids are something else nowadays.' It's not that; it's just that they've got a lot to go through," Hall said in a recent interview.

"They don't have any role models. I used to look up to the president, look up to other role models, doctors and preachers; nowadays, it's sort of hard for kids to find good role models because society is messing up so much," he said.

Beginning his powerlifting at a young age, Hall started by lifting car wheel rims and cinder blocks attached to the ends of tree branches.

At the age of 15, weighing about 225 pounds, he was rated second statewide in olympic weightlifting. Now at age 32, Hall weighs in at a massive 380 pounds and is ranked as one of the most powerful lifters in the world.

He has won numerous titles, including three world titles and eight national titles.

He has brought the "Gold home for the United States in a number of world class championship competitions, including the recent competitions in Canada in November. He also won a special competition against known steroid users held in Hawaii.

He has an all-time high lift of 633 pounds in the bench press, 953 pounds in squat lift and 815 pounds in the dead lift.

In June, Mike Hall will travel to Paris, France, to compete in the World Drug-free Powerlifting Championships.

In a letter to Hall announcing his selection as the 1990 "Personality of the Year, The Leader and State Register news editor, Tony Windsor, stated:

"Mike, you have spent many years dedicating the passion of your powerlifting career to fuel the fires of hope in America's youth.

"You have given these kids a role model that they can look up to; someone they can see as living proof that there is much in life to be gained through natural efforts and aspirations.

"You are a true leader in the war against substance abuse and have recognized the need to impart the wisdom of natural ability without the use of illegal substances to our nation's youth, long before many who stand on the front lines today."

Hall will be presented with the "Personality of the Year" award by The Leader and State Register publisher, George Terwilliger, at a special ceremony on Jan. 23 in the auditorium of the Seaford High School.

According to Windsor, the sight was considered the "perfect setting" for presenting the award.

"What better place for Mike to be given his award than in front of the very people that he works so hard to impress an anti-drug message upon—the youth?

"We appreciate the Seaford High School staff for allowing us the opportunity to present the award in their auditorium," he said.

AMENDMENT NO. 3127

At the appropriate place in the bill, insert the following:

"SEC. . FREE SPEECH PROTECTION.

Section 1961(1) of title 18, United States' Code, is amended by adding at the end "but such term does not include participation in, or the organization or support of, any nonviolent demonstration, assembly, protest, rally, or similar form of public speech;".

Mr. HUMPHREY. Mr. President, the amendment I offer is important, timely, and has already gained the support of strong majorities of both the Senate and House Judiciary Committees.

In brief, this amendment prevents the abuse of the Racketeer Influenced and Corrupt Organizations Act, popularly known as RICO, as a tool to suppress the exercise of first amendment rights. It simply provides that nonviolent public speech, protected by the first amendment, may not be treated as racketeering activity for purposes of crippling RICO lawsuits.

Mr. President, there is considerable support in Congress for broad legislation correcting widespread abuse of the RICO civil action. The Senate Judiciary Committee approved broad RICO reform legislation this year in the form of S. 438, and the House Judiciary Committee also approved strong RICO reform legislation in the form of H.R. 5111.

Due to the limited time left before adjournment, it seems apparent that neither of the broad RICO reform bills will be enacted this year. However, we can and should enact limited RICO reform in the critical area of first amendment freedoms. I think all members will agree that the RICO statute should not be used as a tool to supress free speech. And for that reason I strongly urge my colleagues to approve the limited RICO amendment I now offer.

The RICO free speech amendment has already been approved by both the Senate and House Judiciary Committees as part of the RICO reform bills. The Senate and House free speech provisions were essentially identical, except that the Senate provision limited the measure to noncommercial speech. The amendment I now offer conforms to the House version in order to provide stronger first amendment safeguards and to avoid overly narrow construction of the provision. But the central provision of the amendment remains the same: RICO actions may not be based upon any nonviolent demonstration, assembly, protest, rally, or similar form of public speech.

So this RICO free speech amendment has already gained wide approval in Congress. Moreover, it enjoys the support of outside groups ranging from the American Civil Liberties Union to various prolife organizations. It has also been endorsed by civil libertarians and first amendment advocates, such as Harvard Law professor, Alan Dershowitz.

Let me briefly outline the background and purpose of this amendment.

RICO's original purpose was straightforward and sound. It was designed as a powerful tool for prosecutors to use in their efforts to battle the infiltration and corruption of legitimate businesses by organized crime and racketeers. And in fact, RICO has served us well when it has been employed for this sound original purpose.

Almost as an afterthought, Congress included provisions for private parties to bring civil actions under RICO, in the hope that private enforcement could serve as a supplement to Government prosecutions. And since the intended targets of these civil actions were organized crime and racketeers, Congress provided that private plaintiffs could obtain the same sweeping remedies made available in RICO suits brought by the Government, including treble damages and recovery of attorney's fees.

To put it mildly, the RICO statute brought us much more than we bargained for. RICO's original purpose as a tool for prosecuting racketeers has been all but eclipsed by its development as an all-purpose tool for aggressive lawyers in ordinary civil litigation. The flood of civil RICO suits has reached the point where Chief Justice Rehnquist has called on Congress to limit RICO actions to their original purpose of prosecuting genuine racketeers.

But there is one particular abuse of civil RICO that should arouse the concern of every Member of this body: RICO actions are now being used as a conscious and effective tool to suppress freedom of speech in this country.

As but one example, the U.S. Court of Appeals for the Third Circuit upheld the application of harsh RICO remedies against prolife demonstrators engaged in a protest in Philadelphia. Encouraged by that decision, civil RICO suits are underway across the country in a conscious, concerted effort to suppress the first amendment rights of demonstrators. And in order to have the broadest possible chilling effect on potential demonstrations, these RICO complaints include even persons who merely assist in the organization and dissemination of information concerning demonstrations.

Civil RICO actions are suppressing free speech in this country even as we speak. I have learned that there are reputable organizations which are afraid to even send correspondence supporting demonstrations because they have been made aware that such actions may cause them to be named as a defendant in a RICO suit.

I wish to stress that RICO's threat to free speech knows no ideological or political boundaries. Indeed, some of the Nation's leading liberal champions of civil liberties have been among the leading voices in identifying and condemning this abuse of RICO. Washington Post columnist Nat Hentoff, Harvard Law Professor Alan Dershowitz, and the American Civil Liberties Union have all spoken out forcefully against the abuse of RICO as a tool to suppress protest and demonstrations. Even the Washington Post published an editorial stressing the need for Congress to reform RICO to prevent its misapplication to demonstrations and protests.

Professor Dershowitz provided a convincing statement of the need for this amendment in a letter to the Senate Judiciary Committee, which I will briefly quote:

> The implications of applying RICO to political protesters are frightening and dangerous to the great tradition of nonviolent protest in this country. Especially at a time when we are seeing an increase in political protest throughout the world . . . it is tragic to see our laws being used to frighten protesters by threatening their pocketbooks as well as their liberty.

While prolife demonstrators are the targets of some RICO suits, the same legal theory can be used to justify RICO suits against protesters of any political or ideological persuasion. Anyone who is offended or irritated by a vigorous public demonstration now has a convenient and effective tool to silence the demonstrators: Hire a pushy lawyer and have him file the broadest possible RICO complaint, naming anyone even remotely connected with the demonstration as a coconspirator in a racketeering scheme.

Mr. President, it is clear that RICO has no proper application to these

demonstration and protest cases. RICO's unlimited breadth and draconian remedies present an intolerable threat to free speech. My amendment will make it clear that the term "racketeering activity" as used in RICO does not extend to nonviolent protests and demonstrations and that no RICO civil action can be based on such conduct. It is also the intent of this amendment to make it clear that those who participate peacefully in a demonstration may not be subjected to RICO claims merely because other participants may have engaged in unlawful acts.

I urge all my colleagues to support this effort to eliminate a serious threat to civil liberties by supporting the RICO free speech amendment.

So, under the previous order, the bill (S. 1829), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 1829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Steroid Trafficking Act of 1990".

TITLE I—ANABOLIC STEROIDS

SEC. 101. STEROIDS LISTED AS CONTROLLED SUBSTANCES.

(a) ADDING STEROIDS TO SCHEDULE II OF THE CONTROLLED SUBSTANCES ACT.—Subdivision (b) of schedule II of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by inserting at the end thereof the following:

"(22) Anabolic steroids.".

(b) DEFINITION.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(41) term 'anabolic steroids' means—

"(A) any drug that is chemically and pharmacologically related to the male hormone testosterone and that promotes or purports to promote muscle growth, including any amount of the folllowing chemical designations and their salts, esters' and isomers:

"(i) boldenone,
"(ii) chlorotestosterone,
"(iii) clostebol,
"(iv) dehydrochlormethyltestosterone,
"(v) dihydrotestosterone,
"(vi) drostanolone,
"(vii) ethylestrenol,
"(viii) fluoxymesterone,
"(ix) formobulone,
"(x) mesterolone,
"(xi) methandienone,
"(xii) methandranone,
"(xiii) methandriol,
"(xiv) methandrostenolone,
"(xv) methenolone,
"(xvi) methyltestosterone,
"(xvii) mibolerone,
"(xviii) nandrolone,
"(xix) norethandrolone,
"(xx) oxandrolone,
"(xxi) oxymesterone,
"(xxii) oxymetholone,
"(xxiii) stanolone,
"(xxiv) stanozolol,
"(xxv) testolactone,
"(xxvi) testosterone,
"(xxvii) trenbolone, and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in subparagraph (A), or any substance labeled as being or containing any such drug.

As used in schedule II, such term shall not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration, except that if any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed a steroid in schedule II of this Act.".

(c) EFFECT OF SCHEDULING ON PRESCRIPTIONS.—Any prescription for anabolic steroids subject to refill on or after the date of enactment of the amendments made by this section may be refilled without restriction under section 309(a) of the Controlled Substances Act (21 U.S.C 829(a)).

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 102. REGULATIONS BY ATTORNEY GENERAL.

(a) ABUSE POTENTIAL.—The Attorney General, upon the recommendation of the Secretary of Health and Human Services, shall, by regulation, exempt any compound, mixture, or preparation containing a substance in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 101 of this Act) from the application of all or any part of the Controlled Substances Act if, because if its concentration, preparation, mixture or delivery system, it has no significant potential for abuse, and, at a minimum, shall exempt estrogens, progession and corticosteroids.

(b) DRUGS FOR TREATMENT OF RARE DISEASES.—If the Attorney General finds that a drug listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 101 of this Act) is—

(1) approved by the Food and Drug Administration as an accepted treatment for a rare disease or condition, as defined in section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb); and

(2) does not have a significant potential for abuse,

the Attorney General may exempt such drug from any production regulations otherwise issued under the Controlled Substances Act as may be necessary to ensure adequate supplies of such drug for medical purposes.

(c) DATE OF ISSUANCE OF REGULATIONS.—The Attorney General shall issue regulations implementing this section not later than 45 days after the date of enactment of this Act, except that the regulations required under subsection 102(a) shall be issued not later than 180 days after the date of enactment of this Act.

TITLE II—HUMAN GROWTH HORMONE

SEC. 201. AMENDMENT TO THE FOOD, DRUG AND COSMETIC ACT.

Section 303 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 333) is amended by inserting a new subsection (e) as follows:

"(e)(1) Except as provided in paragraph (2), whoever knowingly distributes, or possesses with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition pursuant to the order of a physician is guilty of an offense punishable by not more than 5 years in prison, such fines as are authorized by title 18, United States Code, or both.

"(2) Whoever commits any offense set forth in paragraph (1) and such offense involves an individual under 18 years of age is punishable by not more than 10 years imprisonment, such fines as are authorized by title 18, United States Code, or both.

"(3) Any conviction for a violation of paragraphs (1) and (2) of this subsection shall be considered a felony violation of the Controlled Substances Act for the purposes of forfeiture under section 413 of such Act.

"(4) As used in this subsection the term 'human growth hormone' means—

"(A) somatrem, somatropin, and any of their analogs; and

"(B) Any substance which is purported, represented or labeled as being or containing any amount of any drug described in clause (A)(i), or any substance labeled as being or containing any such drug; and

"(5) The Drug Enforcement Administration is authorized to investigate offenses punishable by this subsection.".

SEC. 202. CONVICTION OF SECTION 303(e) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 2401 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181) is repealed.

TITLE III—FREE SPEECH

SEC. 301. FREE SPEECH PROTECTION.

Section 1961(1) of title 18, United States Code, is amended by adding at the end "but such term does not include participation in, or the organization or support of, any nonviolent demonstration, assembly, protest, rally, or similar form of public speech;".

FISHERY RESOURCES OF THE GREAT LAKES

Mr. BYRD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar order No. 921, H.R. 4299, regarding fishery resources of the Great Lakes, and that the bill be considered read a third time and passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4299) was ordered to third reading, read the third time, and passed.

INJURY PREVENTION AND CONTROL ACT

Mr. BYRD. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar order No. 717, H.R. 5113, the Injury Prevention and Control Act; the substitute amendment on behalf of Mr. KENNEDY be agreed to; the statement by Mr. KENNEDY in support thereof appear in the record as though stated; and that the bill be advanced to third reading, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT No. 3128

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Injury Control Act of 1990".

SEC. 2. REVISION AND EXTENSION OF PROGRAM FOR PREVENTION AND CONTROL OF INJURIES.

(a) RESEARCH.—Section 391(a) of the Public Health Service Act (42 U.S.C. 280b(a)) is amended—

(1) in paragraph (2), by inserting after "grants to" the following: ", or enter into cooperative agreements or contracts with,"; and

(2)(A) in paragraph (1), by striking "and" after the semicolon at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and "; and

(C) by adding at the end the following new paragraph:

"(3) make grants to, or enter into coopertive agreements or contracts with, academic institutions for the purpose of providing training on the causes, mechanisms, prevention, diagnosis, treatment of injuries, and rehabilitation from injuries.".

(b) CONTROL ACTIVITIES.—Section 392(b)(2) of the Public Health Service Act (42 U.S.C. 280b-1(b)(2)) is amended to read as follows:

"(2) work in cooperation with other Federal agencies, and with public and nonprofit private entities, to promote injury control.".

(c) REQUIREMENT OF REPORT ON ACTIVITIES OF AGENCY.—Section 393 of the Public Health Service Act (42 U.S.C. 280b-2) is amended to read as follows:

"SEC. 393. REPORT.

"By not later than September 30, 1992, the Secretary, through the Director of the Centers for Disease Control, shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities conducted or supported under this part. The report shall include—

"(1) information regarding the practical applications of research conducted pursuant to subsection (a) of section 391, including information that has not been disseminated under subsection (b) of such section; and

"(2) information on such activities regarding the prevention and control of injuries in rural areas, including information regarding injuries that are particular to rural areas.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 394 of the Public Health Service Act (42 U.S.C. 280b-3) is amended—

(1) in the first sentence, by inserting before the period the following: ", $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993";

(2) by striking the subsection designation; and

(3) by striking the second sentence.

Mr. KENNEDY. Mr. President, the financial and human costs of injury in America are immense; the total lifetime cost of injuries occurring in 1988 is estimated to be $180 billion. Injuries resulting from motor vehicles, falls, and accidental shootings are the leading cause of death for those under the age of 45.

Since 1986, the Centers for Disease Control has studied the incidence of injuries and conducted research and educational activities on the prevention of injuries. The Senate amendment to H.R. 5113, which incorporates the provisions of S. 2631, will reauthorize $30 million in 1991, and such sums as may be necessary through 1995, to allow for an increased effort by the Federal Government in injury control.

I urge all of my colleagues to join us in supporting the Senate amendment to H.R. 5113.

So the bill (H.R. 5113), as amended, was ordered to third reading, was read the third time and passed.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. I am prepared to yield the remainder of my time if the Senator from Iowa will do likewise.

Mr. HARKIN. I yield the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. HARKIN. Mr. President, I move to table the motion of the Senator from Pennsylvania, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question occurs on the motion of the Senator from Iowa to table the motion of the Senator from Pennsylvania. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—52

Adams	Exon	Metzenbaum
Akaka	Ford	Mikulski
Baucus	Gore	Mitchell
Biden	Graham	Moynihan
Bingaman	Grassley	Pell
Boren	Harkin	Pryor
Bradley	Heflin	Reid
Breaux	Hollings	Riegle
Bryan	Inouye	Robb
Bumpers	Johnston	Rockefeller
Burdick	Kennedy	Sanford
Byrd	Kerrey	Sarbanes
Conrad	Kerry	Sasser
Cranston	Kohl	Shelby
Daschle	Lautenberg	Simon
DeConcini	Leahy	Wirth
Dixon	Levin	
Dodd	Lieberman	

NAYS—47

Armstrong	Boschwitz	Coats
Bentsen	Burns	Cochran
Bond	Chafee	Cohen
D'Amato	Humphrey	Packwood
Danforth	Jeffords	Pressler
Dole	Kassebaum	Roth
Domenici	Kasten	Rudman
Durenberger	Lott	Simpson
Fowler	Lugar	Specter
Garn	Mack	Stevens
Glenn	McCain	Symms
Gorton	McClure	Thurmond
Gramm	McConnell	Wallop
Hatch	Murkowski	Warner
Heinz	Nickles	Wilson
Helms	Nunn	

NOT VOTING—1

Hatfield

So the motion was agreed to.

Mr. HARKIN. I Move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I move concurrence in amendment in disagreement No. 9.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HOLLINGS. Mr. President, that concludes the consideration of the conference report on State-Justice-Commerce. I thank my distinguished colleague, Senator RUDMAN, and staff.

Mr. KASTEN. Mr. President, I rise today to voice my strong objection to the conference agreement that purports to stop the export of supercomputers to Iraq.

I, with Senator INOUYE, offered a solid, strong, and serious amendment that would have denied funding for any export program or activity which provides supercomputer technology to countries which are aiding Iraq in the acquisition of nuclear, biological, chemical, or ballistic missile technology. It is hard to imagine opposition to this anti-Iraq amendment, but some members of the House proved me wrong.

My amendment was simple in its intent. It did not penalize American business. Rather, it made countries decide what was more important, a strong trading relationship with the United States or a relationship with Iraq's military machine. My amendment sought to put pressure on countries seeking our supercomputer technology to make that choice.

I believe that the choice is a simple one. However, my colleagues in the House made the wrong choice. They were concerned about the free flow of trade. Mr. President, I am an ardent defender of free trade. But the Nation's security interests are more important.

In conference, House lawmakers refused to accept my language. One was quoted in a recent New York Times article as saying, that the Senate language would have "impeded American exports."

Yes, but what exports, and for what? How can anyone oppose an amend-

ment that cuts off specific exports when those exports may very well be used to support the chemical and nuclear war machine of Iraq? It makes no sense. Since the imposition of the U.N. sanctions, no trade whatsoever can flow to Iraq. My amendment simply reinforces what the world has already said through its support of the embargo.

Mr. President, I cannot support this weak and ineffective language. The conference agreement guts our bipartisan amendment and fails to address the real problem, the flow of high technology to Iraq's war machine. My amendment was aimed at restricting the proliferation of weapons technology.

The justification for denying a supercomputer to a country that is aiding Iraq in its development of its military program is simple:

First, a supercomputer can simulate the thrust of a rocket engine;

Second, it can calculate the heat and pressure on a warhead entering the atmosphere; and

Third, it can simulate virtually every other force affecting a missile from launch to impact.

For countries like Iraq, trying to develop a missile program, this technology can cut dramatically the development time, costs and the need for flight tests of a madman's weapons arsenal.

The problem with this new language is its lack of direction and enforcement. According to the language, "this provision shall apply only if the President determines that the government of the country has made inadequate efforts to restrict such involvement by its citizens. * * *" This provision does not require the President to do anything if he chooses not to.

But, it is acceptable to the Department of State and Commerce. Those two agencies of the American Government lobbied hard to defeat the Senate provision. The Department of State was too concerned about maintaining strong relations with countries dealing with Iraq. The Department of Commerce wanted free and unfettered trade. But nobody wanted to stop the proliferation of this high technology to wayward countries. This is unconscionable.

Mr. President, the defeat of our bipartisan amendment is a sad commentary. Our national security should be our prime objective. But some people in our government and in our business community have mixed up the priorities. I believe time will prove my approach to be right.

CIVIL RIGHTS ACT OF 1990—VETO

The PRESIDING OFFICER. The question occurs on the motion to table the motion to reconsider the vote wherein the Senate failed to override the President's veto of S. 2104.

The motion to table the motion to reconsider was agreed to.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS, FISCAL YEAR 1991

The Senate resumed with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask unanimous consent that it be in order to offer an amendment on behalf of Senators KENNEDY and STEVENS, extending to the American hostages held in Lebanon the same health benefits as those accorded the United States hostages held in Iraq and Kuwait previously granted in this bill; that the amendments be deemed agreed to; and the provision for a rollcall vote on final passage on the bill, previously entered, now take place.

Mr. BYRD. Mr. President, I cannot hear the Senator.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order. The Senator will suspend until the Chair obtains order.

Mr. BYRD. Mr. President, what is the request? I was not able to hear it.

Mr. LEAHY. Mr. President, if the distinguished Senator will yield, the request is to make a modification on an earlier amendment by the distinguished Senator from Alaska [Mr. STEVENS] and the distinguished Senator from Massachusetts [Mr. KENNEDY] regarding those people held hostage in Lebanon and Kuwait and elsewhere. Apparently the way it was originally worded, as I understand it, there were a couple that had been left out of previous actions. It was done unanimously here in this body and this is to correct it.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Vermont? Hearing no objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I rise today to support final passage of the fiscal year 1991 Foreign Operations bill. We have debated and dispensed with a wide variety of relevant issues. Per usual practice with the foreign operations bill, many of these issues are extremely controversial.

As the Senate prepares to vote on final passage of this bill, I would like to comment on two of its more controversial provisions: aid to El Salvador and Egyptian debt forgiveness.

On military aid to El Salvador, the Senate debate focused on how to condition the aid to affect and influence people and events in El Salvador. It contains punitive sanctions against the government for human rights violations; and, through a series of conditions, the provisions attempt to provide incentives for future actions.

Mr. President, there have been many articulate and impassioned statements made in this body about El Salvador, United States policy, and congressional actions pertaining to both. I must confess, however, to a deep sense of frustration about this debate.

I have observed and participated in events pertaining to El Salvador for many years. In my own, personal assessment, Congress has substantially overestimated its ability to influence people and events in El Salvador. We have overestimated our ability to legislate diplomatic solutions to the civil war in El Salvador, to problems that have existed for many years and will take many more years to finally and fully resolve.

Mr. President, I am very skeptical about the value of conditioning this aid. I am not at all convinced that we in this country or in this Congress have nearly as much influence and leverage as we'd like to think.

It remains my view that we're placing far too much emphasis on these conditions. We debate the nuances, the signals, the messages that we think we're sending. But it is very difficult for me to conclude that the messages we think we're sending to the difference audiences in El Salvador are being received as intended.

It is far more likely that the different audiences will interpret the messages in ways that best suit their purposes and agendas, regardless of our intentions. It appears to me sometimes that we in Congress think we can pull strings here and make them act there according to our dictate. Mr. President, I am not persuaded that's the case.

Mr. President, I must say that part of my frustration with this debate results from what appears to be a void of leadership from the administration on this issue. I understand that the administration attempted to negotiate compromise positions with the proponents of the committee provisions, and that those discussions didn't get very far.

Those discussions may be one thing, but I believe we would have been better served if there was a more active leadership role from the administration in helping to craft the kind of bipartisan solution that we achieved regarding Nicaragua last year. That is a sterling example of what we can achieve when we work together to solve seemingly intractable policy issues.

Mr. President, let me conclude my comments on the military aid question by restating my conviction that much of this debate is off the mark. I remain skeptical about the value and importance of the conditions and their potential for success.

I'm not at all convinced that any of the provisions, neither those contained in the Graham/McCain amendment nor those in the committee bill, will have the desired impact.

My deepest hope remains that the people of El Salvador will soon enjoy the peace, security, and prosperity that they so deeply desire and richly deserve.

Mr. President, I'd like to shift gears for a moment to the question of debt forgiveness for Egypt.

As the record of the Senate debate will show, I supported the administration's proposal to forgive Egypt's debt. I did so, however, reluctantly and with personal reservations.

As my colleagues and my constituents know, I have spoken out against debt forgiveness as a way of rewarding Egypt for its courageous leadership in the gulf crisis and for assisting it financially to deal with the burdens the crisis has generated.

I want to emphasize very strongly that I commend the courageous and heroic efforts taken by President Mubarak in the gulf crisis. He has valiantly led the Arab world's response to the egregious Iraqi actions.

But despite my personal misgivings about the mechanism the administration has chosen, I feel a deep sense of obligation to support our President in this time of crisis. No, I don't believe debt forgiveness is the best way to go, but it is the way the President has chosen.

There comes a time, and that time is now, when the greater national interest must prevail. Today, that means standing along side and support President Bush during these difficult and challenging times.

I am sufficiently convinced that we now must continue on this path and carry through on the President's commitment and policy.

I continue to believe, however, that the President would have been better served if he had consulted more fully with the Congress on this issue prior to its disclosure. Secretary Baker assures me that the plan was leaked to the press before the administration had the opportunity to consult with the Congress.

This is unfortunate because I sincerely believe that had the President and Secretary discussed the matter with Congress, we would have been able to devise more cooperatively a plan to assist Egypt that would have broad support.

It has become clear in recent weeks, however, that rejecting this administration proposal would have grave political and economic implications for President Mubarak at home and could potentially weaken Egypt's commitment to the United States-led efforts against Iraq. President Bush and Secretary Baker have emphasized this point quite strongly in recent weeks.

Given that Egypt's participation and leadership is so vitally important to the international coalition against Saddam's aggression, I am sufficiently convinced at this point, that we must proceed with the President's plan.

To do otherwise would jeopardize President Mubarak at home and Egypt's essential participation in the gulf crisis. Such a development would work to our fundamental and lasting disadvantage.

Thank you, Mr. President. I yield the floor.

THE FISCAL YEAR 1991 FOREIGN AID APPROPRIATIONS

Mr. LAUTENBERG. Mr. President, I rise in support of the fiscal year 1991 foreign aid appropriations bill. I want to commend the chairman and ranking member for an excellent job in making our scarce resources go as far as they possibly can. I also want to express my appreciation to them for working with me to take into account programs and policies important to me.

Mr. President, I am especially pleased that this bill includes the text of S. 2267, a 2-year extension of the law I wrote which makes it easier for certain historically persecuted groups of refugee applicants to enter the United States as refugees. That law was enacted as part of the fiscal year 1990 Foreign Aid Appropriations Act. It sunsets on October 1, 1990, and the provisions in this bill will assure that the law will continue in effect for the next 2 years.

The law we approved last year formally recognized that the historical experience of certain persecuted minorities in the Soviet Union and Southeast Asia, and a pattern of arbitrary denials of refugee status to members of these minorities, entitled them to a temporarily relaxed standard of proof in determinations about whether they are refugees.

It lessens the evidence required for Soviet Jews, Soviet Evangelical Christians, religiously active Soviet Ukrainian Catholics and Orthodox, and certain categories of Vietnamese, Laotians, or Cambodians to qualify for admission to the United States as a refugee. Once a refugee applicant proves he or she is a member of one of these groups, he or she only has to prove a "credible basis for concern" about the possibility of persecution. Refugee applicants normally must prove a "well-founded fear of persecution."

The law also provides for the adjustment of status from parolee to permanent resident for nationals of the Soviet Union, Vietnam, Laos, or Cambodia who entered the United States on or after September 1, 1988, and before September 1, 1990, as parolees. Under this 2 year extension, parolees in the specified groups who entered the country after August 15, 1988, and before September 1, 1992, will qualify for this adjustment of status.

This law is working as intended. It has replaced an arbitrary and slow process of refugee adjudication in the Soviet Union and Southeast Asia with a stable, consistent and fair process.

It has meant that people terrorized by longstanding hatred and persecution in their native lands are not further traumatized by a system that does not recognize their suffering, or makes arbitrary distinctions between people who have suffered similar fates. I am pleased that the 2-year extension of this law is included in this bill.

I am also pleased that this bill includes the text of S. 3019, the Iraqi Embargo Compliance Enforcement Act, which I introduced on September 11, 1990.

This language bars U.S. military or economic aid to any country that violates the United Nations embargo against Iraq, except if the President certifies to Congress that: First, it is in our national interest to provide such aid; second, the aid would be used to provide humanitarian assistance to refugees in that country; third, the aid will directly benefit the needy people in such country; or fourth, the government is making a good faith effort to comply with the embargo.

Press reports in September indicated that Iraq had received shipments of food from Yeman, Jordan, Libya, Iran, and Sudan, and that Jordan was getting some oil from Iraq. In October, there were reports of food sent by Jordanian children to Iraqi children. There were also reports that Jordan operates a joint air force squadron with Baghdad, continues to permit Iraqis to fly reconnaissance missions along its border with Israel, and that it may be using its American made F-5 aircraft to conduct military reconnaissance mission for Iraq along the Saudi border.

There have also been press reports that other countries had considered sending food and other supplies to their citizens trapped in Kuwait. Many of these countries are traditional recipients of U.S. aid, and may receive more aid this year. For example, Jordan received $68 million in military aid and $35 million in economic aid in fiscal year 1990, and the House approved an earmark of $50 million in military and $35 million in economic support funds.

Absent compelling humanitarian or other reasons, we should not reward countries that violate the U.N. embargo with the help of our scarce aid dollars. Effective enforcement of the economic embargo of Iraq is the key to bringing about the withdrawal of Iraqi soldiers from Kuwait peacefully.

If the embargo fails, military force may be necessary. Thus, the fate of

both the American hostages and American soldiers depends on the success of the U.N. embargo. It is not too much to ask that those countries which benefit from American largesse also support America and the world in enforcing the U.N. embargo of Kuwait.

This provision puts countries that are considering violating the embargo on notice that there will be real consequences to their actions if they now receive U.S. aid. Second, it gives countries that are already violating the embargo and now receive or hope to receive U.S. aid an incentive to stop violating it.

Mr. President, I am also pleased that this bill also contains provisions I authored that would: First, require the U.S. directors of international financial institutions to vote against loans to countries that are on the terrorist list kept by the Secretary of State pursuant to the requirements of the Export Administration Act; and second, bar countries that are on the terrorist list from receiving bilateral foreign aid, except where humanitarian concerns justify such aid.

These provisions are aimed at curbing the activities of various states which support and sponsor international terrorism. They would do so by making sure that the benefits of American friendship, such as foreign aid and international lending assistance, do not go to countries that, by their presence on the terrorist list, have been found to have a consistent pattern of state support for terrorism.

I am also pleased that this bill earmarks $45 million within the refugee account for resettlement of Soviet Jews within Israel. Soviet Jews continue to arrive in Israel at levels not imagined 6 months ago by even the most optimistic officials. It is now expected that more than 100,000 Soviet Jews will arrive in Israel during 1990 alone. With heightened anti-Semitism and harassment of Jews in the Soviet Union, the numbers are sure to increase for 1991.

The historic influx of Soviet immigrants will breathe new life into Israel and give new hope to its future. These immigrants bring with them new ideas, talents, and energy. Many have advanced skills that will be critical to bringing Israel into the 21st century as a technological leader. Their enthusiasm for their new home will reinvigorate Israel and strengthen her for the challenges to come. Escaping the religious persecution and harsh anti-Semitism of the Soviet Union, they have a keen appreciation for the safe harbor that a Jewish homeland can provide.

We must do what we can to assist Israel in this historic endeavor. It is a monumental task to transport and integrate these Soviet Jews into a new society and way of life. The burden on Israel's already trapped resources is large. These Soviet immigrants need many kinds of help once they arrive in Israel. They need homes and jobs. Most of them must learn Hebrew. Despite their skills and education, many have no idea of what a Jewish state means. None have any experience living in a free and democratic society. They need help to adjust and to become a part of the State of Israel.

This bill also contains, in addition to Israel's $3 billion in aid, a package of provisions to help her address the new threats to her security resulting from the Persian Gulf crisis. These provisions would allow her to receive her United States military aid within the first 30 days of the fiscal year, would allow the United States military to stockpile $200 million in spare parts and ammunition in Israel, which Israel could use in an emergency, allow her to convert up to $200 million from United States economic aid to military purposes, allow her to pay for defense equipment from a special defense stockpile over 3 years, instead of requiring her to pay the whole cost up front, and give the President discretion to draw down $700 million in defense stocks and provide that defense equipment to Israel.

Israel has had to increase her military readiness because of the Persian Gulf crisis, and her military edge has been seriously eroded. She has had to prepare for any contingency, including a chemical or biological weapons attack from Iraq. Further, the possibility of sales of sophisticated weapons to countries still at war with Israel poses new risks to her ability to defend herself from attack.

Since steps have already been taken to help Egypt, Turkey, and other countries supporting United States policy in the gulf to deal with the economic effects of the crisis, this aid is consistent with our overall policy in the region.

Israel remains our staunchest ally in the Mideast. She has been extremely helpful in the current crisis, providing invaluable intelligence on Iraq, guaranteeing Jordan's integrity against Iraqi aggression, and enabling Egypt and Syria and send troops to Saudi Arabia without fear of weakening their defenses along Israel's borders. We must do everything we can to ensure that she has the resources necessary to defend against Iraqi aggression.

Mr. President, I urge my colleagues to support this bill.

AID TO POOR CHILDREN AND ADULTS IN DEVELOPING WORLD

Mr. LAUTENBERG. Mr. President, I rise in support of the fiscal year 1991 foreign aid appropriations bill, and draw my colleagues' attention in particular to funding I have supported for various programs that aim to help poor children and adults in the developing world.

The $75 million for UNICEF, a leader in the field of child survival and development, will help fund its widely known work in immunizations and oral rehydration therapy, and emergency relief. UNICEF's efforts now save 3 million children's lives annually, and our support of its efforts enables us to contribute in areas where bilateral assistance is not feasible. The funding provided to UNICEF will save some of the 50 million additional children still at risk over the next decade.

The $100 million provided for child survival activities is also vital to accelerating achievements in primary health care for children. These programs complement UNICEF's efforts in immunization and oral rehydration therapy, as well as helping to implement other low-cost preventative health measures, and prevent additional hundreds of thousands of child deaths annually.

The $10 million we have provided for AID's program to eliminate vitamin A deficiencies is also a critical part of preventative health care measures that can reduce child deaths as well as prevent blindness. The potential reduction in mortality rates that can be achieved through relatively simple and low-cost supplement procedures, and the 250,000 children still being blinded due to vitamin A deficiencies each year are an important reason to provide this funding.

The $2 million provided for the U.N.'s Capital Development Fund provides financial assistance for small-scale investment projects to promote economic development and self-reliance in the poorest countries. It has had impressive results in such countries, in spite of its relatively small size. And funding U.N.'s International Fund for Agriculture at $30 million will help increase food production in the poorer developing regions of the world.

Mr. President, in short, I am pleased that this bill includes many provisions that express our Nation's priorities in helping ameliorate the poverty and disease faced by children and adults in the developing world. These programs are, to me, a critical part of our foreign aid efforts around the world, and I am pleased that this bill addresses those priorities in a meaningful way.

I urge my colleagues to support this bill.

AID GRANTS TO U.S. PRIVATE VOLUNTARY ORGANIZATIONS

Mr. LAUTENBERG. Mr. President, I rise in support of the fiscal year 1991 foreign aid appropriations bill, and in particular, to draw my colleagues' attention to the bill's provision of $15 million for AID grants to United States private voluntary organizations to establish programs in Lithuania, Latvia, and Estonia to accelerate private market economies.

Mr. President, this provision expresses Congress' concrete support for the courageous people of Lithuania, Latvia, and Estonia during this difficult period of struggle for their independence. This money will help move them along toward economic independence, and in so doing, support their struggle for complete political independence and self-determination.

Mr. President, 1990 marks the 50th anniversary of the Soviet occupation of these once independent countries. In 1940, Joseph Stalin's Red Army invaded the borders of the three autonomous nations of Lithuania, Latvia, and Estonia. Each one had its own culture, national identity, and traditions. By invading these clearly independent states, the Soviet Union violated the Helsinki Final Act, an agreement it had voluntarily signed.

Throughout the illegal incorporation into the Soviet Union, the people of Lithuania, Latvia, and Estonia have endured great hardship. Over 600,000 Baltic people were deported to gulags in Siberia and elsewhere. The Soviets stripped the Baltic people of a great part of their cultural, religious, and national traditions through their deliberate policy of russification. The Soviet Union attempted to cut over 5 million people off from their cultural heritage.

Yet, despite these terrible trials, the Baltic peoples have triumped over oppression and resisted despair. They have never lost their vision of themselves as free people who would someday control their own destiny. They have never lost hope. During the long, dark night of Stalinism, they nursed the light of freedom with courage and fortitude. Despite war and oppression, they maintained their languages, religions, and ideals. In the face of the violence done to them, the Baltic people responded with peace. They have earned their freedom. I fervently hope that they will soon enjoy its fruit.

The Lithuanians, Latvians, and Estonians recently have taken bold and courageous steps to reestablish their independence from the Soviet Union. Defying world opinion and admonitions to put their dreams aside for a better time, they seized the opportunity to press forward toward the realization of their dream of independence. At this critical moment in their 50-year-old struggle for freedom, the United States must support their aspirations. Now more than ever, it is important to recognize and reaffirm the dream of Baltic freedom. Now, more than ever, we must support the goal of self-determination and independence, a goal which finally appears to be within reach.

We must also do all we can to prevent the use of military force and economic coercion against these brave people. To encourage a peaceful, negotiated solution to the conflict. President Gorbachev's recent meeting with Baltic leaders, and his decision to give up his longstanding demand that the republics cancel their declarations of independence in order to begin negotiations on Baltic independence, are promising signs that a settlement may be near.

The United States is known the world over as a protector of liberty. We cherish the right of every person to participate in the activities and traditions of his or her own culture and religion. For this reason, we must show our continued support for those brave individuals who, despite their oppression, still dare to long for freedom.

Mr. President, I believe this small but significant grant of money will help accelerate the day when the Baltic States are once again free, and demonstrate our continued solidarity with their struggle.

AID TO YUGOSLAVIA

Mr. LAUTENBERG. Mr. President, I rise in support of the fiscal year 1991 foreign aid appropriations bill, and in particular, an amendment I cosponsored to deny funds to republics in Yugoslavia unless the aid will be used in a republic which has held democratic elections and is not engaged in systematic abuse of human rights. The amendment was adopted unanimously during consideration by the full Senate Appropriations Committee.

This provision sends a clear message to the Federal Government of Yugoslavia and to each Republic about our concern for human rights—in Kosovo and throughout Yugoslavia. And, it attempts to put teeth into our concerns.

Mr. President, in July, Serbia engineered a referendum to delay free, multiparty elections until after its Communist-controlled Parliament adopts a new constitution. When the ethnic Albanian majority of the Kosovo Legislature voted to declare Kosovo the equivalent of a republic, the Serbian authorities dissolved Kosovo's Parliament, assuming legislative and administrative powers in Kosovo. They also dismissed the editors of Kosovo's main Albanian-language newspapers and the managers of its radio and television stations, and dismissed thousands of Albanian workers who were replaced by Serbs.

These events represent serious curtailments of basic human rights which violate Yugoslavia's Helsinki obligations. The dispersal of peaceful Albanian demonstrations by the authorities, often through the use of force and mass arrest, constitutes a further abridgement of rights and reflects an attitude which stresses conflict over dialog.

The violations of human rights in Kosovo are perhaps the worst and most widely known symptoms of more general problems in Yugoslavia. The way this situation is handled by the Serbian and Yugoslav federal authorities may affect other republics and may, in fact, be the principal threat to Yugoslavia's stability and ultimately, its continued growth and economic development.

For these reasons, I am pleased that this amendment is included in this bill, expressing the priority our Nation attachés to seeing an improvement in the situation in Kosovo and Yugoslavia in general. I also ask unanimous consent that a copy of a letter I wrote to Secretary Baker on this subject be included following my statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 26, 1990.

Mr. JAMES A. BAKER III,
Secretary of State,
Washington, DC.

DEAR MR. SECRETARY: I am writing to express my deep concern about events in the Yugoslav province of Kosovo, especially the continuing violations of the rights of ethnic Albanians. I commend your efforts to date, and urge you to continue to press the Yugoslavian government to make good on its Helsinki promises, and to make clear to them that their hopes for increased American business investment are jeopardized by the current situation.

I was pleased that Ambassdor Kampelman raised the issue of Kosovo at the Helsinki Conference in Copenhagen and that the Administration publicly expressed its concern over the situation last June. Congress, especially the Helsinki Commission, of which I am a member, has also tried to bring pressure to bear to improve the situation in Kosovo and end human rights violations. Despite our efforts, I remain concerned that the succession of events over the last year and the continued lack of a peaceful dialogue between interested parties in Kosovo raise the chances of further human rights violations, large scale unrest, and more hardship for residents of Kosovo. The situation thus requires our continued attention and pressure.

In July, Serbia engineered a referendum to delay free, multi-party elections until after its communist-controlled parliament adopts a new constitution. When the ethnic Albanian majority of the Kosovo legislature voted to declare Kosovo the equivalent of a republic, the Serbian authorities dissolved Kosovo's Parliament, assuming legislative and administrative powers in Kosovo. They also dismissed the editors of Kosovo's main Albanian-language newspapers and the managers of its radio and television stations, and dismissed thousands of Albanian workers who were replaced by Serbs.

These events represent serious curtailments of basic human rights which violate Yugoslavia's Helsinki obligations. The dispersal of peaceful Albanian demonstrations by the authorities, often through the use of force and mass arrest, constitutes a further abridgement of rights and reflects an attitude which stresses conflict over dialogue. These events wiped out the small measure of optimism that resulted after the April visit of the Helsinki Commission when there were several positive developments in the situation in Kosovo.

The violations of human rights in Kosovo are perhaps the worst and most widely

known symptoms of more general problems in Yugoslavia. The way this situation is handled by the Serbian and Yugoslav federal authorities may affect other republics and may, in fact, be the principle threat to Yugoslavia's stability, and ultimately, its continued growth and economic development.

One very disturbing factor is the attitude of Serbian and Yugoslav federal authorities as portrayed in statements to the Helsinki Commission delegation and to the U.S. Congressional Human Rights Caucus. Two factors are apparently being used to justify failure to deal with the problems in Kosovo: human rights violations by ethnic Albanians against the Serbian minority in Kosovo and the separatist motives and violent acts of some ethnic Albanians.

Using violations committed by members of one group to justify violations against that entire group in return is intolerable. Using separatist motives to justify violating human rights does not bode well for other Yugoslav republics where separatist sentiment is on the rise. And, dealing appropriately with violent criminals, no matter what their motives, does not require denying fundamental human rights.

Further, I was disappointed that the State Department's June 29, 1990 statement on Kosovo does not mention that the Yugoslavian federal government bears ultimate responsibility for what occurs in Kosovo, saying: "It is incumbent on the ethnic majority in each republic and province to guarantee the security and fundamental human rights of all national and ethnic minorities living within its territory." But the constitutional division of powers between the federal government and the republics and provinces is clearly no longer in effect. Serbia has been able to unilaterally override the 1974 Yugoslav constitution which provided for the autonomy of Kosovo. It was the government of Yugoslavia, not the republics and provinces, that signed the Helsinki Final Act. Therefore, it is incumbent on that government to take steps to fulfill its obligations.

Finally, it should be made clear to the Yugoslav government that this problem has tarnished the image of Yugoslavia, and could hurt its ability to attract American investment. President Markovic asked the Helsinki Commission delegation to do what it could to encourage U.S. business to look to Yugoslavia as a partner for trade and investment. I fear that the potential for political and social instability in Yugoslavia will discourage U.S. business.

I urge you to keep the pressure on the Yugoslavian government through every available channel to end all human rights abuses and assure that its Helsinki promises are fulfilled.

Thank you for your help in this matter.

Sincerely,

FRANK R. LAUTENBERG.

REOPENING OF PALESTINIAN SCHOOLS AND UNIVERSITIES IN THE WEST BANK AND GAZA

Mr. CHAFEE. Mr. President, I wish to speak in favor of the compromise language that has been adopted on the subject of reopening of the schools and universities in the Israeli occupied West Bank and Gaza Strip. One of the basic dilemmas facing the United States is how to reconcile our desire to support a key ally in the Middle East—Israel—and still speak out in defense of human rights in the occupied territories. I believe the compromise language strikes a balance between these two important objectives.

To understand the need for the current language; it is important to review some of the history of this issue. Israel began a systematic closure of all West Bank schools and universities in October 1987; claiming that they were centers of violence.

On July 20, 1989, I offered an amendment urging Israel to reopen the schools, which the Senate approved unanimously. I introduced this amendment because I felt the closing of schools for political reasons was an unjustifiably punitive act by the Israeli authorities. At the same time, reestablishing a more normal educational environment on the West Bank would be an important step toward creating a climate which is more conducive to progress toward peace.

On July 22, 1989, Israel reopened the schools, only to close them again in November 1989. In January of this year; Israel once again reopened the schools. On February 26, Israel announced it would slowly begin to reopen community colleges, technical schools, and teacher's training colleges.

On May 18, Senator KASSEBAUM and I introduced Senate Resolution 288 calling for Israel to reopen all the Palestinian Universities, which had been closed for over 2½ years. This resolution has been cosponsored by eight other Senators; INOUYE; KERRY, LEAHY, DOLE, JEFFORDS, LUGAR, MCCLURE, and MURKOWSKI.

On August 30, Israel announced that it was reopening the University of Bethlehem—one of six universities in the occupied territories.

Like all my colleagues, I deplore the violence that took place on the Temple Mount on October 8, 1990. Unfortunately, the Israeli authorities have responded by once again closing Palestinian elementary—grades 5 to 8—and secondary schools.

In my judgment, the closing of schools is an improper response to the stated objective of reducing violence in the occupied territories. Many children are severely affected by the actions of a few. It has been shown that when youngsters are kept out of school for any length of time, particularly younger children, it greatly slows their cognitive development.

Rather than foreclosing the opportunity for Palestinian children to receive an education, Israel should focus on the root causes of violence in the occupied territories.

Prior to the events of the last weeks, Israel was considering reopening the remaining universities on a case by case basis in the coming months. It is my hope that all of the universities can also be reopened as soon as possible so that the young adults of the West Bank can focus on the positive improvement of their lives and not just the violence that has been so prevalent in recent years.

Not only will doing so help foster a climate for peace; it will also bring Israel into compliance with the Geneva Convention articles concerning administration of occupied territories.

I believe the reopening of Palestinian schools and universities will be helpful in encouraging a new era of goodwill.

POPULATION PLANNING

Mr. PACKWOOD. Mr. President, I rise today to comment on world progress toward population stabilization and to note the need for increased efforts in this area. It is appropriate to raise this issue because today we vote on H.R. 5114, the foreign operations bill, without Senator WIRTH's amendment which would have overturned the Mexico City policy. That is unfortunate. That ill-advised and counterproductive policy keeps the United States from funding family planning through any organization which even tells women that abortion is an option. Once again, as in the title X reauthorization bill, we have failed to stop the nonsense—the unfounded notion that informing women of their medical options is the same as using United States dollars to perform abortions. It is not. But the continuing confusion of abortion with the family planning issue is greatly hurting our efforts to bring world population under control.

I have spent some time pouring over a chart which was recently given to me by the population crisis committee, an organization which is doing an excellent job of educating Congress and the public on population issues. The chart, which is entitled "1990 Report on Progress Toward Population Stabilization," shows family planning data on women of reproductive age. The most striking thing to me is that about half of the countries studied, most of which are developing nations, show a contraceptive use age of less than 15 percent. Another one-fourth of the countries listed show a maximum contraceptive use rate of between 15 and 40 percent, with many being at the low end of the scale.

Why should this concern us? I think the answer is best explained with a quote by Dwight D. Eisenhower:

> Once, as President, I thought and said that birth control was not the business of our Federal Government. The facts changed my mind * * * I have come to believe that the population explosion is the world's most critical problem.

At an earlier point in my Senate career, I regularly reported world population figures to my colleagues on the Senate floor. I did this not to be a doomsayer, but because there are critical facts the United States cannot responsibly ignore. Population is an exacerbating factor in the creation of

hunger, disease, environmental damage and resource depletion.

The Sierra Club testified in April before the House Subcommittee on Foreign Operations that the number of human beings the Earth is called upon to sustain has an enormous effect on the planetary ecosystem. And a 1990 study by Paul J. Werbos for Negative Population Growth, Inc., reports that population growth is a major obstacle to our ability to convert to sustainable energy technology.

Yet the alarming fact is, we have not yet come to grips with population increases. The Population Crisis Committee reports that if present birth and death rates continue, the world population will double in 39 years.

We do not need to let that happen. We have a window of opportunity in the 1990's to have a serious impact on the population crisis. I have long been a vocal advocate of strong U.S. participation in family planning, and I deplore the fact that confusion over the abortion issue keeps us from going forward in this area with all deliberate speed. The stakes are high, and we do not have unlimited time. I urge my colleagues' support for domestic and international family planning.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

I further announce that, if present and voting the Senator from Oregon [Mr. HATFIELD] would vote "nay."

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 76, nays 23, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—76

Adams	Gorton	Mitchell
Akaka	Graham	Moynihan
Bentsen	Gramm	Murkowski
Bingaman	Grassley	Nickles
Bond	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Heinz	Pell
Bryan	Inouye	Reid
Bumpers	Jeffords	Riegle
Burns	Kassebaum	Robb
Chafee	Kasten	Rudman
Coats	Kennedy	Sanford
Cochran	Kerrey	Sarbanes
Cohen	Kerry	Sasser
Cranston	Kohl	Shelby
D'Amato	Lautenberg	Simon
Danforth	Leahy	Simpson
DeConcini	Levin	Specter
Dixon	Lieberman	Stevens
Dodd	Lott	Thurmond
Dole	Lugar	Wallop
Durenberger	Mack	Warner
Ford	McCain	Wilson
Fowler	McConnell	Wirth
Glenn	Metzenbaum	
Gore	Mikulski	

NAYS—23

Armstrong	Daschle	Johnston
Baucus	Domenici	McClure
Biden	Exon	Pressler
Boren	Garn	Pryor
Breaux	Heflin	Rockefeller
Burdick	Helms	Roth
Byrd	Hollings	Symms
Conrad	Humphrey	

NOT VOTING—1

Hatfield

So the bill (H.R. 5114), as amended, was passed.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I move that the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. KERREY] appointed Mr. LEAHY, Mr. INOUYE, Mr. JOHNSTON, Mr. DECONCINI, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. BYRD, Mr. KASTEN, Mr. HATFIELD, Mr. D'AMATO, Mr. RUDMAN, Mr. SPECTER, Mr. NICKLES, and Mr. STEVENS as conferees on the part of the Senate.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

The PRESIDING OFFICER. Under the previous order the clerk will report the pending business, H.R. 5769, the Interior appropriations bill.

The legislative clerk read as follows:

A bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 3119 TO COMMITTEE AMENDMENT ON PAGE 101

The PRESIDING OFFICER. The pending question is amendment No. 3119 offered by the Senator from North Carolina to the committee amendment on page 101 of the bill.

TIME LIMITATION AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that time for the debate on this measure be limited to 1 hour, to be equally controlled and divided between the distinguished Senator from Idaho [Mr. MCCLURE] and this Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, for the information of Senators now, what we have here—I believe I state it correctly, or will state it correctly—we have a maximum of six amendments, that may be called up, and they all deal with NEA, the National Endowment for the Arts. There is a time limitation on those amendments of 1 hour on each with the exception of one amendment on which there are 2 hours, which means there are 7 hours of debate on six amendments and there is 1 hour of debate overall on the bill now under the control of the two managers.

I think one might assume with some degree of certitude that there will be rollcall votes on those six amendments, and beginning at 2:30 p.m.—circa 2:30 p.m.—today we have 7 hours plus 105 minutes, or an hour and a half, making a total of 8½ hours at best unless the time is yielded back or not used.

That would mean, then, at the earliest we can count on bringing to a conclusion this bill is by 11 o'clock tonight. I am going to insist that the Senate stay in session until we complete this bill tonight.

The Senate took up this bill the day before yesterday. The Senate, on receiving it from the House last Tuesday, a week ago, reported it out of the subcommittee and the full committee a week ago. So the Senate has moved expeditiously. But we cannot wait another day. The bill has to go to conference. I would hope that we would have the cooperation of all Senators, and if some Senators can restrain their eagerness to exercise their vocal chords and not use all of the time, it might help all of us to get home and get a little sleep which knits up the raveled sleeve of care.

Mr. President, let me just say a few words now and I will ask that I may use such time as I may consume to set the background of the stage for the NEA discussion.

Mr. McCLURE. Mr. President, before doing that will the Senator yield briefly?

Mr. BYRD. I yield.

Mr. McCLURE. I thank the Senator for yielding.

I join with him in the hope that we will not consume all of the time on each of these amendments and we may find a way as the afternoon goes on and the subject becomes more repetitious, although slightly varied by the subject matter of the amendment, we will be able to not consume all of the time allotted to the amendments.

For the information of the Members and their scheduling of their activities this afternoon, the first amendment has a 1-hour time limit, the second one that will be considered has a 2-hour time limit, and the remainder have a 1-hour time limit.

Mr. BYRD. Mr. President, I ask unanimous consent that no other measure or matter may be taken up in the Senate this afternoon without the consent of the two managers of the bill. And we will be very liberal and

fair in that if we are allowed to control this matter in that fashion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the recommendations by the Senate Appropriations Committee regarding the funding for the National Endowment for the Arts reflect the concerns that have been voiced by many in this Chamber about the appropriate use of taxpayer dollars for so-called works of art.

The committee recommendation continues language enacted in this bill last year with respect to obscenity and the use of NEA funds. The language has been continued in this bill because of the failure of the Congress to enact the reauthorization legislation for the endowments. The language contained in the committee-reported bill reflects a compromise that was developed after many, many hours of deliberation during conference on the Interior bill last year. It is, by nature, a compromise. It does not please everyone, but it is an attempt to provide guidance to the Chairman of NEA as grant decisions are made. Rather than attempt to craft new language which would likely consume an inordinate amount of floor time during debate on this bill, the managers recommended to the Appropriations Committee that the matter be brought to the floor and not be taken up in the committee and that last year's language be continued at that point.

Additionally, the committee has proposed striking the House version of the NEA reauthorization bill which was added in its entirety to the Interior bill during floor action in the House. The Interior appropriation bill is not the proper place to resolve the authorization of NEA, NEH, and IMS for the next 5 years. The Senate has authorizing committees, the responsibility of which is to report such legislation and move the relevant bill through the Senate debate and action. In this case, the Senate Labor and Human Resources Committee reported out its version of the NEA reauthorization language last month. Floor action has yet to be taken on that legislation. The responsibility for moving that legislation to a conclusion does not rest with the managers of this Interior appropriation bill.

The committee bill also strikes the House provision which would have prohibited the NEA from using any appropriated funds for the preparation of an affidavit regarding the use of grant moneys. By proposing to strike the language, the committee has not required the preparation or signature of any such affidavit. The committee has placed the responsibility for this decision with the Chairman of the NEA, who ultimately bears the responsibility for the use of any grant funds awarded.

The committee recommendation also includes a proposed reduction funding of $5 million below the funding level requested in the President's budget for the NEA. I would note that the House-passed version of the Interior bill included a recommended increase in NEA's funding of $5 million, to a level of $180 million, for fiscal year 1991. The reduction proposed by the committee will provide the Senate with a broader array of options when our conferees meet with those from the House to consider the appropriate funding level for the NEA and the appropriate use of those funds.

Mr. President, this issue has consumed the Senate during the entire course of the consideration of NEA funding this fiscal year. It is not an issue to be dealt with lightly. But given the press of business to be completed prior to sine die adjournment, I urge adoption of the committee recommendation as a reasonable, temporary solution and as a means to expedite consideration of the Interior bill so that it may proceed to conference, where I can assure my colleagues that it will receive full attention.

This is not to say that the measure cannot be improved.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I yield myself such time as I may require on the amendment.

Incidentally, I ask unanimous consent that the amendment be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 101, line 23, strike "none" and all that follows through the period on page 102, line 7, and insert in lieu thereof the following: "None of the funds appropriated under this Act may be used by the National Endowment for the Arts to promote, distribute, disseminate, or produce materials that depict or describe, in a patently offensive way, sexual or excretory activities or organs.".

Mr. HELMS. Mr. President, perhaps a review of the history of this issue for the past 15 months would be useful at this time.

Let me say to the distinguished Senator from West Virginia, my friend, BOB BYRD, that I have always had high respect for him. That respect was enhanced in July 1989, when I came to this floor and he was managing Department of the Interior Appropriations for fiscal year 1990. I showed him some of the so-called art that the taxpayers were subsidizing and rewarding. Senator BYRD took one look at it and said, "Good gosh, I will take your amendment." And there it began.

After I offered my amendment to prohibit the funding of obscenity, I was greeted with hoots and jeers all across this country, and have been for the past 15 months. One Senator now boasts that he has raised $1 million for my opponent in North Carolina from the artists who claim that they are entitled to have a pipeline to the pocketbooks of the American people to subsidize whatever they want to do in the so-called art field.

Sure, I voiced concern then, and I voice concern now about the assault on the Nation's basic values by some of these self-proclaimed artists who insist upon mocking the American people and shocking the sensibilities of the American people and who shield themselves behind the sponsorship of the National Endowment for the Arts, which is a loose cannon in terms of spending the taxpayers' money. To this day, these self-proclaimed artists declare that it is somehow censorship for Congress to even contemplate denying the taxpayers' money to finance and reward the kind of sleeze that has been produced by some of these people who have received Federal grants.

Now, that is the history of it.

Since I first brought up the subject last year, little has changed. If anything, it has become worse. All Senators, I am sure, have seen reports, entirely accurate, of the kind of filth that is going on, produced by people who have received funds from the National Endowment for the Arts in the past 15 months.

The same contrived pronouncements still pour forth from officials of the NEA, along with their allies in the arts community. There has been, in fact, a militant display of disdain for the moral and religious sensibility of the majority of the American people. I do not know how many tens of thousands of pieces of mail and telegrams I have received from people all across the country who agree that they should not be forced to subsidize these obscene materials. Other Senators tell me they also have been deluged with similar letters. The American people are darn well sick of this thing. And the provision included in the appropriations bill is not even a fig leaf. It will not have the slightest effect on the practices of the NEA.

Last year, the arts lobby moved in after my amendment was adopted, and a watered-down, meaningless version was substituted in conference. I could not do anything about that because many Senators have connections to the arts community through their wives or others, and frankly they are afraid politically to do what the American people want them to do. Not all Senators, but some have admitted as much to me personally.

Mr. President, I realize more than ever before that what is involved here is far more than a mere debate about

the allocation of the $170 million in this bill for the NEA for the coming year. The NEA will receive that much or more for the next several years.

Well, that approaches $1 billion that can be wasted if the NEA wants to waste it. And they have demonstrated at the National Endowment for the Arts that they have little concern about how the taxpayer money is spent.

The funds involved may be regarded by some as trivial. I do not consider it that way. But I will acknowledge that the Federal Government spends more than that amount in a few hours.

No, what is really at stake is whether America will allow the cultural high ground in this Nation to sink slowly into an abyss just to placate people who clearly seek or who are willing to destroy the Judeo-Christian foundations of this Republic. That is what is involved. It is in that light that I am obliged to bring to the floor the subject of the National Endowments for the Arts again, and that is why my amendment is now pending.

Let us lay to rest the nonsense about censorship somehow being involved in the Federal Government refusing to automatically grant funds to self-proclaimed artists. There is a great deal of difference—all the difference in the world—between censorship and sponsorship. We are talking about sponsorship.

These artists who have their minds in the gutter are free to do whatever they want to do on their own time and with their own money. I have often said, Mr. President, that people who want to scrawl dirty words on the men's room walls are free to do it, provided it is their own wall and their own crayons. But no, this crowd wants the Government—that is to say the American taxpayers—to pay them for that sort of thing, and this Senator says no.

Censorship is when the Government bans the production, distribution, or display of materials in both the private and the public sector. That is censorship. What we are talking about is merely a question of sponsorship. It does not have anything to do with banning anything. It has only to do with the Federal Government financing it at the taxpayers' expense.

So when the Government refuses to pay for the production and distribution or exhibition of certain obscene materials, it is refusing to sponsor this sleaze.

The Government has no obligation whatsoever to require the taxpayers to subsidize projects that are so far beyond the applicability of constitutional protection that the Federal Government in fact could legally ban its dissemination. But the Government's refusal to pay does not prevent people from displaying or selling such materials at their own expense in the private sector.

The point is, if material is legally objectionable, do not try to dip into the public trough to pay for it.

Let me say again that my respect for Senator ROBERT C. BYRD was enhanced by his reaction a year ago and his reaction now to this sort of thing. I say again that I have always had the highest respect for my friend from West Virginia, and I am even prouder of him today.

The committee report notes that the funding for the NEA has been reduced as a result of the repeated fiascoes during the past year.

Just for point of emphasis, I am talking about things that have happened since the watered-down version of what pretended to be a restraint on this giveaway of the taxpayers' money. Under that version, passed last year, the situation has grown worse, not better, and we have the documents to prove it.

The subcommittee also retained the language from last year's amendment and deleted the House's prohibition on NEA's requiring artists to sign an agreement with the NEA, as a condition of receiving the money, that they will abide by this congressional restriction.

So, I thank my friend from West Virginia. He sincerely abhors obscenity. I regret, however, that this disgusting so-called art, which most Americans regard as obscene, is not covered by the technical legal definition of obscenity in the committee amendment. As I said, the language that my friend from West Virginia has included in the bill is identical to that contained in last year's conference report.

I say again, that is not even a figleaf. It does not prevent these sleazeballs from getting themselves naked on the stage, rubbing chocolate on themselves and saying: Look at me, I am an artist. It has not prevented it and it will not.

It fails to restrict the NEA in terms of supporting patently offensive works, and that is because the language in the bill allows the NEA to fund anything that the so-called experts at the National Endowment for the Arts happen to consider to have some artistic merit. That is a loophole wide enough to drive six Mack trucks through abreast.

During the debate last year, Senator after Senator expressed disgust with the Mapplethorpe photos and declared that such art never should have been funded. But they did not vote that way because the pressure was put on. Yet the language included in last year's conference report creating the loophole that I just mentioned will, as a result of the Mapplethorpe obscenity trial in Cincinnati, allow the National Endowment for the Arts to continue to fund materials such as the disgusting portion of the Mapplethorpe works—again and again and again.

Last year, Congressman YATES, as well as sources from the NEA, and a prominent arts lawyer with a prestigious Los Angeles law firm, said that, in each of their opinions, the language in last year's Interior appropriations conference report—which is identical to the language in this bill—would not, as a practical matter, provide any degree of content control over what the National Endowment for the Arts decides to fund.

For instance, in an exchange with Congressman ROHRABACHER in the House last year, Representative YATES said, "Funding of obscene art was not effectively prohibited by the conference report's compromise language." At least he was honest about it. I do not agree with Congressman YATES, but he told the truth about this.

Then the Los Angeles Times quoted James Fitzpatrick, a prominent arts lawyer, as concluding that the conference report "fails completely to achieve any degree of subject matter control." The Los Angeles paper even quoted unidentified sources within the NEA itself as saying, "The wording appears to be so vague that virtually no artistic subject matter would be taboo."

Mr. President, who are we trying to kid? This Senate will do one of two things. It will do something to stop this revolting practice by the National Endowment for the Arts by adopting my amendment or it will not. I am going to give them a chance to vote on it. I rather imagine that millions of Americans will be looking at this vote. I hope so.

Last year's conference report language, which is identical to the pending committee amendment which I seek to amend, has this to say:

> None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate or produce materials which, in the judgment of—

Get this—

> which in the judgment of the National Endowment for the Arts or the National Endowment for the Humanities may be considered obscene, including but not limited to depictions of sadomasochism, homoeroticism, the sexual exploitation of children or individuals engaged in sex acts and—

Get this—

> and which, when taken as a whole, do not have serious literary, artistic, political or scientific value.

See? there is that loophole with those six Mack trucks racing down upon you. The taxpayers better get out of the way because the NEA is going to stick it to them again if this committee amendment, to which I am offering an amendment—if this amendment stands as is. If that hap-

pens, the taxpayers are going to have it stuck to them again.

The conference report adopted this language last year because the art community insisted that we must use the Supreme Court standard from the Miller case to restrict Federal funding for obscenity. But what no one bothers to mention, when they talk about the Miller case, is that it was not a standard that the Government has to meet before it may refuse to pay for patently offensive material. In the Miller case, Mr. President, the Supreme Court held that materials cannot be banned—bear in mind that word "banned." I am not talking about banning anything. I am talking about subsidizing it or rewarding it with the taxpayers' money.

But the Miller case said, "Material cannot be banned unless the average person, applying the community standard, would find that the work, taken as a whole, appeals to prurient interest in sex, depicts or describes in a patently offensive way sexual conduct, and "—there you go—" when taken as a whole, lacks serious literary, artistic, political, or scientific value."

That means that even if a work appeals to prurient interest, even if a work depicts or describes sexual or excretory conduct in a patently offensive way, the Government cannot ban it as long as some art expert at the NEA says it has "literary, artistic, political, or scientific value."

But the issue today—and I hope the distinction can be understood—is not whether we ban something. It is whether we will require the taxpayers to support it, subsidize it, and reward it with their money. I imagine if you put it to a referendum of the American people, it would be about 90 to 1 against using their money for this purpose.

The bottom line is that the committee language, which I am seeking to amend at this moment, will continue to allow the NEA to fund works that are patently offensive. The issue is simple. If you believe that the NEA should continue to fund works such as the Mapplethorpe photos—and I cannot begin to describe those photos—then vote against my amendment. These photos are so bad that the newspapers, which have been so critical of this Senator and others who have stood up on this issue, would not dare publish one of those pictures in their newspaper. Oh, they publish a picture of Mr. Mapplethorpe, a self-portrait. They publish a picture of a rose. But they do not publish a picture of that naked guy with a bullwhip protruding from his posterior, or any of the other Mapplethorpe trash.

We are not talking about the picture of the rose. We are not talking about the picture of Mr. Mappelthorpe. We are talking about his sleaze, which the American people have been required to subsidize and reward.

So if you believe that NEA should continue to waste the taxpayers' money like that, then you should vote to preserve the committee language and vote against the Helms amendment, because that is exactly what is going to happen.

But, on the other hand, Senators who happen to believe that the National Endowment for the Arts should not be allowed to use the taxpayers' dollars to fund rotten material, such as Mapplethorpe and others, "that depict or describe in a patently offensive way, sexual or excretory activities or organs," I suggest Senators will want to vote for my amendment.

I ask unanimous consent that the following articles—none of which have been subsidized by the NEA—be printed at the conclusion of my remarks: an editorial from the Paducah Sun on August 30, 1990; an article by Paul Greenburg that was in today's Washington Times; a resolution passed by the Southern Baptist Convention at its national convention in New Orleans this past summer; an article I submitted for the NOVA Law Review last spring; and an article by André Ryerson that appeared in the Heritage Foundation's fall 1990 Policy Review.

Mr. President, I reserve the remainder of my time, and I yield the floor.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Paducah Sun, Aug. 30, 1990]

QUEST FOR MONEY, NOT ARTS FREEDOM

They call it a fight for rights, for constitutional principles, for artistic freedom. They say they are striking a blow against censorship and on behalf of elevating the national cultural level.

What malarkey. Why can't they just be honest and admit that what they really want is to get their hands on more federal tax dollars?

"They" are the so-called artists who are caterwauling about being cut off by their once generous, unquestioning Uncle Sam.

Four of the artists, outraged that their National Endowment for the Arts funding for this year had been vetoed, are contemplating lawsuits. Their weeping supporters gathered last week to castigate NEA Chairman John Frohnmayer, who made the decision. and Sen. Jesse Helms, who has become the arts elite's symbol for the Philistines who would trample creative liberty to death.

It's popular in those circles to assert that Sen. Helms is not qualified to judge art. Maybe not. But compared to those connoisseurs who believe Karen Finley is worthy of federal patronage by smearing chocolate over herself, the senator from North Carolina is qualified to be curator of the Louvre.

The four artists who find being weaned from the federal tax dollar so traumatic were caught in new law that denies grants for work deemed to be obscene or sacrilegious. And that goes back to the uproar over the infamous Mapplethorpe and Serrano exhibits, which initiated the national debate on the entire NEA program.

That debate essentially follows one of two tracks—whether there should be any restriction on government-sponsored art according to content, or whether there should be federal tax support for the arts at all.

A sizable number of observers, this newspaper among them, believe the federal art subsidies ought to be halted entirely as a matter of spending priority. That also would put a stop to all that nonsense from the arts people about censorship and end the haggling over what's obscene and what's not.

On the surface, critics of the NEA program may seem concerned about waste of taxpayers' money on non-essentials, but it's the obscenity-sacrilege issue that gives the controversy its emotional edge.

What bothers a lot of ordinary people is that by its financial sponsorship of the Robert Mapplethorpes and Annie Sprinkles, their government seems to turn hostile to the values held by them and society in general. There is a disturbing perversity when the state sees evil and calls it virtue, sees ugliness and calls it beautiful, sees silliness and calls it profound. If this is cultural warfare, as some believe, government not only is taking sides, it's taking the wrong side.

It's not enough for the NEA to say that out of thousands of grants, only a relatively few are offensive. Why should any be? How would the Urban League respond if told that of 1,000 restaurants in a city, only a couple of dozen refuse to serve blacks.

To hear some tell it, suspension of federal patronage of the arts and artists would make of the nation a cultural wasteland. But the NEA has existed for just 25 years. Does anyone recall American life in pre-1965 being bereft of art, music, literature and theater?

The NEA and its beneficiaries had a good thing going until they aroused the American public with their excesses. Now that their "right" of access to the public Treasury is being challenged, the arts groups condescendingly put down their critics as unschooled bumpkins. And every time that happens, the idea is reinforced that the endowment and its friends are a clubby little clique of elitists.

Creativity is a wonderful thing. It ought to be given as much freedom as possible—and that includes freedom from government sponsorship.

[From the Washington Times, Oct. 19, 1990]

ARTSMANSHIP: THEIR RIGHT TO YOUR MONEY

(By Paul Greenberg)

In a study of American society that has never been bettered, "Democracy in America," Alexis de Tocqueville pointed out that every great political question in such a society sooner or later becomes a legal one. Now, more than a century later, Americans have progressed to the point where every petty question apparently must go to court, too. No matter what Congress does this week, appropriations for the arts will wind up in a court. You can bet your favorite painting on it.

Item: Four artists plan to sue the National Endowment for the Arts because their applications for federal grants were turned down by the NEA's governing body. It's not easy to tell how many other grants have benefited these artists—Karen Finley, Holly Hughes, Tim Miller and John Fleck. The assistant managing editor of Chronicles magazine, Katherine Dalton, counts "four or five" grants for Mr. Miller over eight years, and "something like nine" for Miss Finley; the other two got grants just last year. Are they suing for the right of untrammeled artistic expression or to retain a permanent

place on the federal dole? That's something for the courts to decide.

You may remember Miss Finley as the chocolate lady; she has achieved a measure of fame or notoriety by smearing herself with the confection. The critics may be divided over whether this is art, but some of us chocolate lovers are moved to tears by the waste. (Chocolate, as a great philosopher once pointed out, is the definitive refutation of the doctrine of free will.)

The decisive question in this Great Hullabaloo, though it may be lost in all the grand pronouncements and moving manifestoes, is not: Is this art? Surely even critics of the NEA's new caution would not be willing to entrust that timeless question—What Is Art?—to the assorted competencies of American congressmen, bureaucrats and judges. The relevant question is: Should the public pay for it? That question is sidestepped by all the cries about the sky falling on the arts in America. Just listen to these cries of alarm:

"This is no longer a fight about obscenity. This is about the very principles of democracy and the fundamental values of this country."—Mary Schmidt Campbell, New York City's commissioner of cultural affairs. Her way with hyperbole only confirms what a lot of us think about the state of culture in New York City.

A very small minority who oppose federal support of the arts are on a war footing, and they are intent on either killing or crippling the arts endowment."—Rep. Pat Williams, Montana Democrat.

And so hysterically on, all because a lot of folks' reaction to a homo-sado-masochistic-arty photograph, or a crucifix in urine, or a waste of good chocolate is: No Sale. Yes, there are zealots who have exploited the shock value of such artifacts to warn that Western civilization is in danger (it probably, always has been). But NEA isn't censoring the trendy. It has just decided not to finance some of it any more. It shouldn't have to, any more than a private patron should have to buy stuff he doesn't like or that might offend Aunt Matilda if she spotted it hanging in the living room. Just because it's the government that's shelling out the money doesn't mean it can't prefer Norman Rockwell to Robert Mapplethorpe.

Thomas Jefferson argued for the separation of church and state because, among other reasons, no one should be compelled to support the propagation of a doctrine he doesn't share. The mixing of art and state presents the same danger. But because a civilized society has an obligation isn't as possible or desirable. So this democratic society has compromised by funding Public Art and leaving the chocolate-encrusted performances to the private sector. It isn't very neat and it won't satisfy everybody, but it's democracy in America.

Public Art is the aesthetic equivalent of civil religion: limited, decorative, unifying, a little dull, maybe-but a legitimate expenditure of public funds. Outraging the public with its own money isn't. That's an establishment of art; its a way of compelling support from people who would never give it voluntarily. (Rest assured, privately supported art can be just as boring, especially if it is intended to shock. Flicking through the channels on cable TV has much the same effect. Years ago, I read a letter to the editor with a phrase that still sticks in my mind: "It gets boring not having peace of mind all the time.")

Those who want to practice Public Art as if it were the private kind are kidding themselves as well as the rest of us if they believe they can go on indefinitely assaulting the sensibilities of their patron. Even the U.S. government will have its attention caught after a while. And that's just what has happened. The application of various 2-by-4s finally woke up even this bureaucracy.

If a public endowment is to continue endowing, it will have to listen to its master's voice—the public's. That, too, is democracy in America. These grants always have been political; what has changed is the kind of politics being practiced (Surely no one contends that politics is unknown in the art world.) The threat to public funding for the arts doesn't come from the NEA but from those artists who have confused a subsidy with a natural right. Now the paying customers have decided to walk out; that would seem their inalienable right.

[From the SBC Bulletin]

REPORT OF COMMITTEE ON RESOLUTIONS

RESOLUTION NO. 4—ON GOVERNMENT SUPPORT OF OBSCENE AND OFFENSIVE "ART"

Whereas, God has ordained government to do good works; and

Whereas, Southern Baptists have historically supported the constitutional rights of free speech and have opposed censorship; and

Whereas, the Supreme Court has held that obscenity is not constitutionally protected (Roth v. U.S., 1957; Miller v. California, 1973); and

Whereas, the Supreme Court has declared that First Amendment rights of speech and expression do not extend to the possession, production, distribution, or sale of child pornography (New York v. Ferber, 1982; Osborne v. Ohio, 1990); and

Whereas, regulations of pornographic material which is deemed to be harmful to minors has been upheld by the Supreme Court (Ginsberg v. New York, 1968); and

Whereas, restrictions on government funding of art which either denigrates or promotes a certain religious belief are constitutionally permissible; and

Whereas, opposing government funding of art is not censorship of art; and

Whereas, taxpayers should not be forced to pay for those things which violate their consciences as Thomas Jefferson said in 1785, to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical . . .; and

Whereas, it has been revealed that the National Endowment for the Arts has had, in recent years, an increasing pattern of support for obscene, highly offensive, morally repugnant, and sacrilegious "Art;" and

Whereas, Congress is considering various proposals to abolish or reasonably restrict the content of what the National Endowment for the Arts may fund; and

Whereas, the President of the United States and some in Congress are opposing legislation which would either abolish National Endowment for the Arts or government funding for or would impose restrictions on types of art it would fund; and

Whereas, the United States Constitution in no way requires the federal government to fund the arts.

Therefore, be it Resolved, That we the messengers of the Southern Baptist Convention meeting in New Orleans, Louisiana, June 12-14, 1990, call on Congress and the President to set standards which prevent funding of highly offensive, morally repugnant, and sacrilegious "Art," or, if such is not done, cease funding the National Endowment for the Arts.

[From the Nova Law Review, Spring 1990]

ART, THE FIRST AMENDMENT, AND THE NEA CONTROVERSY

(By Jesse Helms)

TAX-PAID OBSCENITY

America* has been caught up in a struggle between those who support values rooted in Judeo-Christian morality and those who would discard those values in favor of a radical moral "relativism." As Congressman Henry Hyde has said, "the relativism in question is as absolutist and as condescending self-righteous as any 16th century [Spanish] inquisitor."

For my part, I have focused on the federal government's role in supporting the moral relativists to the detriment of the religious community. I confess that I was shocked and outraged last year when I learned that the federal government had funded an "artist" who had put a crucifix in a bottle of his urine, photographed it, and gave it the mocking title, "Piss Christ." Obviously, he went out of his way to insult the Christian community, which was compounded by the fact that Christian taxpayers had been forced to pay for it.

As one distinguished federal judge wrote in a personal letter to me,

when a federally-funded artist creates an anti-Christian piece of so-called art, it is a violation of an important part of the First Amendment which guarantees the right of all religious faiths to be free from governmentally-sanctioned criticism. When the National Endowment for the Arts contributes money to an artist for him to use to dip a crucifix in his own urine for public display, it is no different [in terms of church and state entanglement] from a municipality's spending taxpayers' money for putting a crucifix on the top of city hall."

The controversy over Andres Serrano's so-called "art" had hardly begun when it was disclosed that the National Endowment for the Arts also had paid a Pennsylvania gallery to assemble an exhibition of Robert Mapplethorpe photographs which included photos of men engaged in sexual or excretory acts. The exhibit also included photos of nude children. A concerned Borough President in New York City sent me a copy of an NEA-supported publication in New York, Nueva Luz, which featured photos of nude children in various poses with nude adults, men with young girls and young boys with adult women.

All of those "works of art" were offensive to the majority of Americans who are decent, moral people. Moreover, as any student of history knows, such gratuitous insults to the religious and moral sensibilities of fellow citizens lead to an erosion of civil comity and democratic tolerance within a society. Therefore, funding such insults with tax dollars surely is anathema to any pluralistic society.

This was the basis of my offering an amendment to the Interior Appropriations bill to prohibit the National Endowment for the Arts (NEA) from using tax dollars to subsidize or reward "art" which is blasphe-

* Senator Helms represents North Carolina in the United States Senate. He is the Minority Leader of the Committee on Foreign Affairs, a member of the Committee on Agriculture, Nutrition and Forestry and a member of the Select Committee on Ethics and the Rules Committee.

mous or obscene. Congress unwisely enacted only a severely weakened version of the amendment that does not even prohibit funding for such works as those by Mapplethorpe and Serrano—which created the controversy. Even so, this weakened amendment has been the target of unfounded and often absurd criticisms.

Opponents of the legislation often make the following unfounded and misleading allegations:

1. Restrictions on federal funding for the arts constitutes direct censorship.

This is a deliberate attempt to confuse censorship with sponsorship. Such deliberate misrepresentations are intellectually dishonest.

The Constitution gives Congress the responsibility and duty to oversee the expenditure of all federal funds—including funding for the arts. The amendment originally proposed, as well as the one passed, was intended to forbid the federal government from taking money from citizens by force and then using it to subsidize or reward obscene or blasphemous art. The amendment clearly limits the issue to the question of whether the government should use tax funds in the role of a patron (sponsor) for such "art." The legislation in no way "censors" artists; it does not prevent artists from producing, creating, or displaying blasphemous or obscene "art" at their own expense in the private sector.

Therefore, sanctions comparisons between the amendment and communist dictatorships in Eastern Europe fall on their face. In communist countries everything is paid for by the government; therefore, if not approved by the government, it is not produced. Western democracies, on the other hand, rely on the private sector where ideas are left free to compete with minimal or no governmental participation.

Thus, it should be obvious to all that, despite the amendment, American artists who choose to shock and offend the public can still do so—but at their own expense, not the taxpayers'. *Censorship* is not involved when the government refuses to subsidize such "artists." People who want to scrawl dirty words on the men's-room wall should furnish their own walls and their own crayons. It is tyranny, as Jefferson said in another context, to force taxpayers to support private activities which are by intent abhorrent and repulsive.

The enormous response I have received from throughout the country indicates that the vast majority of Americans support my amendment because they were aghast to learn that their tax money has been used to reward artists who had elected to depict sadomasochism, perverted homoerotic sex acts, and sexual exploitation of children.

2. Subsidizing some art forms but not others (obscene art) constitutes indirect censorship.

If this is true—and it isn't—the NEA has been in the censorship business for 25 years, which means that the only way to get the government completely out of the "censorship business" is to dismantle the NEA.

By its very nature, the NEA has the duty to establish criteria for funding some art while not funding others. So, those who are crying "censorship" in this regard are ignoring the defect of their logic (or *lack* thereof). Do they not see that, following *their* logic, every applicant denied federal funding can protest that he has been "censored" by the *subjective* value judgments of the NEA's artistic panels?

3. Is there such a thing as obscene art?

The vast majority of taxpayers would first ask themselves whether something is obscene—and if it is, then it's not art. However, some verbose art experts—and the NEA—do just the opposite. Anything they regard as "art" cannot be obscene no matter how revolting, decadent, or repulsive. As NEA's Chairman John Frohnmayer told a California newspaper, "If an [NEA art] panel finds there is serious artistic intent and quality in a particular piece of work, then by definition that is not going to be obscene."

4. Federal funding restrictions must use the obscenity definition outlined by the Supreme Court in Miller v. California?

It is important to remember that the Supreme Court has never established an obscenity definition for the purposes of restricting government funding. But Chairman Frohnmayer and the "arts community" erroneously assert that the Constitution requires that the definition in *Miller v. California* be used in both restricting federal funding *and* banning obscenity. However, refusing to subsidize something does not "ban" it. In order to *BAN* obscenity, *Miller v. California* requires the government to prove that materials: (1) appeal to a prurient interest; (2) depict in a patently offensive manner sexual or excretory activities or organs; and (3) lack serious artistic or scientific value.

Numerous cases show that the Court does not apply the same standards to government's refusal to *fund* First Amendment activities as it does to the government's effort to *ban* such activities.

For example, in *Maher v. Roe*, the Court stated that merely because one has a Constitutional right to *engage* in an activity, he or she does not have a Constitutional right to Federal funding of that activity. As long ago as 1942, in *Wickard v. Filburn*, the Court stated that, "It is hardly lack of due process for the Government to regulate that which it subsidizes." And recently as 1983, in *Regan v. Taxation With Representation*, a unanimous Court reiterated a litany of cases holding that restriction on the use of taxpayers' funds, in the area of expressive speech, do not violate the First Amendment and need not meet the same strict standards of scrutiny.

Thus, it is unlikely that the Supreme Court would require Congress to use the *Miller* test in its entirety in order to prohibit the NEA from funding obscenity. In fact, I believe the Court would uphold a Congressional *prohibition on funding* for any patently offensive depictions or descriptions of sexual or excretory activities or organs regardless of the presence or absence of artistic merit.

It would be interesting if Congress should decide to adopt the *Miller* standard in its entirety because *Miller* allowed a jury of ordinary citizens to decide if something is or is not obscene. The 1989 amendment approved by Congress on the other hand, effectively grants the NEA and its elitist arts panels *sole* authority to decide what is or is not obscene *for purposes of government funding.*

Thus, the legal effect of the current law is to prohibit nothing. The NEA can cloak even the most patently offensive depictions of sexual or excretory conduct with "artistic merit" simply by deciding to fund the work, thereby making *legally* non-obscene. This was precisely what the current amendment's drafters intended since they wanted to deceive the public into assuming that federal funding for obscenity had been prohibited—when, as a legal matter, it has not. Since last fall, Chairman Frohnmayer has asserted that he would and could fund the Mapplethorpe exhibit under the language passed by Congress.

5. The original Helms amendment is not enforceable

This is nonsense, and those who say that *know* that it's nonsense. There was nothing vague about it—and the Federal Communications Commission is having no problem making the determination that various broadcasts are indecent and/or obscene. The Postal Service is able to do the same thing concerning obscene or indecent mail. The Justice Department's National Obscenity Task Force has been able to determine what is obscene under the federal criminal statutes.

If the FCC, the Postal Service, and the National Obscenity Task Force can handle *their* responsibilities in this regard, why cannot the National Endowment for the Arts do likewise?

6. The amendment chills artistic expression

The "arts community" is fond of asserting that prohibiting NEA funding of obscene art will either "destroy art in America" or, at best, "lead to art which is bland." On the other hand, they also argue that the NEA has funded only about 20 controversial works out of 85,000 grants over the last 25 years. (This, by the way, is statistical manipulation, but that's an argument for another day.)

The point is this: The "arts community" cannot have it both ways. Either the NEA is funding so many controversial works that eliminating such funding will devastate the arts community—or the NEA has funded so few (20 in 25 years) that an obscenity restriction could have no more than a negligible impact.

My response to the first argument is that if art in America is so dependent on obscenity in order to be creative and different, then Congress has a duty to the taxpayers to shut the NEA down completely, thereby slowing America's slide into the sewer. My answer to the second argument is that if so few offensive works have indeed been subsidized by the NEA, why all the fuss from the "arts community"?

In summary, the National Endowment for the Arts has always had the responsibility and the duty to decide what is and is not suitable for federal funding of the arts—and that has been precisely the problem. The NEA has defaulted upon that responsibility. It has been insulated from mainstream American values so long that it has become captive to a morally decadent minority which delights in ridiculing the values and beliefs of decent, moral taxpayers.

It should therefore be evident that as long as the NEA is given the *sole* authority to decide what is artistic—and thus not obscene—the agency intends to continue to fund obscenity under the pretense that it is "art"—even when the taxpayers disagree. Congress, at a minimum, should use the entire *Miller* test by allowing a panel of lay citizens—and not the self-appointed elitists at the NEA—to decide whether patently offensive works merit taxpayer funding.

Or Congress could just adopt my original amendment, and let the "art community" continue to howl.

[From the Policy Review, Fall 1990]

ABOLISH THE NEA—GOVERNMENT IS INCAPABLE OF DETECTING ARTISTIC GENIUS

(By André Ryerson)

Imagine a government so confident of its discernment, and so obvious of this capacity in its citizens, as to declare each year which automobile it considered the most desirable, then awarded a subsidy, say, to General Motors for its Cutlass Supreme Sedan, or to Ford for its Taurus wagon. It is likely that the news media together with the auto industry, and joined by the public at large, would be scandalized. In a market economy we expect government to play the role of umpire, ensuring that fair rules of competition prevail, but not otherwise meddling in matters of private choice. This role is clearly perverted by the government's cheering for one competitor over another and giving it a seal of approval plus cash rewards. The monarchs of Britain once did so, but republican values in America forbade such royal favors as a matter of principle.

Yet in a realm far less open to laboratory testing than the automobile industry, far more liable to error in the long lens of time, where personal taste reigns with magisterial indifference to modes of scientific verification—the arts—we find our government selecting among artists which are worthy to receive public funds and which are not. That the system has provoked a scandal that has reverberated through the halls of Congress is not especially remarkable. What is remarkable is that it took this long to occur.

AESTHETICS OR SCANDAL

The National Endowment for the Arts (NEA) managed to survive outside the light of public scrutiny for a good quarter century, quietly giving grants to artists of "approved" tendencies. The public was indifferent to art that was subsidized but out of sight. In recent years, however, with the rise of photography and "performance art" to places of prominence, the awards the NEA has made in these more accessible art forms have captured media and public attention as never before. With public scrutiny, cries of indignation were not long in coming at the extreme vulgarity of many works supported by the NEA, works of varying technical accomplishment but certain to offend the religious, moral, and aesthetic sensibilities of ordinary Americans.

The downward spiral of taste that the art world has suffered in recent decades follows, in large part, from a mistake about the nature of art that arose from an accident of history. In the 19th century, middle-class mores became wedded to officious norms of academic art, so that the genuine artists of the day, without trying to shock anyone and merely by creating original works, appeared as revolutionary iconoclasts who threatened the social order. Ironically, some of the most brilliant figures of that was emerging as modern art, Manet, Degas, and Cézanne, were men of middle-class values and conservative politics. Neither they nor their liberal colleagues had any intention of overthrowing the social order with their work, a fact attested to by what they had to say for their art and even more by the paintings themselves. Cézanne spoke of achieving classical ideals by handling nature through "the cylinder, the sphere, the cone, all placed in perspective," and by distilling visual essentials in a painting, "producing pictures that are a lesson." Both in creating art and collecting, Cézanne recommended not radicalism, but taste: "Taste is the best judge. It is rare. The artist addresses himself only to an exceedingly restricted number of individuals." He did not consider critics prominent in this group of the elect, though they have since come to dominate the discussion of what constitutes art. "Discussions about art are almost useless," remarked Cézanne. "The labor that achieves progress in one's own craft is sufficient compensation for not being understood by imbeciles."

Impressionist painting's "shock value"—a novel factor in art history—was clearly incidental to the aesthetic value of its works. None of the world's great art until then, through some 5,000 years of labor, had ever been certified as superior by indignant public outcry against it. But ever since the fuss that greeted Impressionism, public scandal has become a convenient "proof" of aesthetic authenticity. By dint of some very sloppy reasoning, the accidental became confused with the essential—at least for certain cultural elites—and a series of simplistic tenets took root: To express the self is to shock. Art is expression. Therefore art must be shocking.

The shallowness of this syllogism is rarely plumbed by the gallery directors, museum curators, art critics, and foundation heads who embrace and propagate it, among other reasons, because it makes connoisseurship an instantly acquired skill. For while judging the intrinsic merit of a new work of art is extremely difficult, virtually anyone can identify which play or painting is likely to be the most shocking to the average citizen. To fall into this basic error is lamentable enough for gallery managers and theater directors restlessly in search of clients. It is wholly unacceptable as the national arts policy of a government of, for, and by the people.

MORTAL CONNOISSEURS

The case for making the NEA more discerning with the people's money has been argued by some capable politicians, including Congressman Henry Hyde (in *National Review*), and by thoughtful art critics such as Samuel Lipman (in *Commentary*). Unfortunately, they err by recommending better judgment at the NEA to clean up the prevailing mess, instead of seeing that the very enterprise of selecting certain artists to receive grants, while rejecting others, is not an appropriate function for a democratic government.

The scandal has resurrected the old question, "What is art?" It has also added a new one to the agenda, "Why have an NEA?"

People outside a given field tend to trust its practitioners with more expertise than they actually possess. Disappointment follows from discovering that doctors do not have all the right answers and occasionally have the wrong ones, that judges do not always know the law, and that professors can be narrow-minded and ignorant. The recent scandal at the NEA should add to our wisdom in this regard, since it involves state-appointed connoisseurs selecting works of art judged so superior to the norm—a man squashing beetles on his chest, a woman defecating on stage, a porn queen inserting a speculum in her vagina to offer the audience a peek, lesbians inflicting wounds on themselves to prove that ours "is a sick society," a crucifix photographed in a jar of urine, a young girl photographed to reveal her genitals, a homosexual with a whip stuck in his rectum—that these achievements deserve the gift of taxpayers' money plus the imprimatur "funded by the NEA."

The whole misadventure ought to instruct the public that artists and art connoisseurs are no less mortal than the rest of humanity, and no more to be trusted to steer the ship of art than generals are to be trusted to choose our wars.

The brouhaha at the NEA obscures, by the very outlandishness of the works rewarded, that even in the most trustworthy and mature hands, ascertaining the value of contemporary art is fiendishly difficult. A great hoax is played on the public when the belief is sponsored that objective criteria exist to discern superior art from the ordinary, the way a consumer service can test the nutrition in a loaf of bread or the acceleration of a given car. And that is why most conservative critics of the NEA, in their moderation, are at odds with the past two centuries of experience, which teach us that there is no sure compass, certainly no unbiased trail guide, in the wilds of contemporary art. At least two generations must pass before any sort of meaningful judgment can be made about the lasting value of a newly minted sculpture, painting, play, or sonata. Critics are needed, certainly, to pass immediate judgment so that we may bestir ourselves to see and hear what in time may prove enduring. But their judgment is fallible and should not be endowed with a perspective it lacks and which only time can provide.

Nor are artists themselves possessed of this gift where the assessment of other artists is involved. An anecdote from the 19th century makes the point. A young painter went to see Manet, the great inaugurator of the Impressionist revolution. The master carefully looked at the young man's canvases, then told him the hard truth. He had absolutely no talent, and ought to find some other vocation. The young man, as it happened, ignored the expert's well-intended advice. His name was Renoir.

When Cézanne was shown some paintings by Van Gogh and asked what he thought of them. Cézanne opined that they were simply the works of a madman.

We expect some professional jealousy in any field, whether among lawyers, doctors, or auto mechanics. But what makes the arts different is that technical skills that are central to other professions are not central to the value of a work of art. Cézanne got lower grades for drawing at the lycée than did his companion Zola. But Cézanne became a great artist despite his awkward draftsmanship because of the quality and power of his vision. Art, as Proust underlined, is above all not a matter of technique, but of vision. And to cultivate a unique and personal vision may well insulate the artist from the virtues of competing visions. In consequence, the presence of artists on government panels distributing grants to other artists is no guarantee against poor judgment, not to mention cabals, cronyism, networks of convenience, political log-rolling, along with ideological self-advancement. All of these charges have been made against those involved in grant-giving at the NEA.

HOW GOVERNMENT CAN HELP

But are we not obligated, as a society, to "do something" for the arts? Is art not one of the highest pursuits of the human spirit, the embodiment of ideals all too unattainable in politics or commerce? Yes. And that is precisely why the funding of the arts in a free society should follow from the accumulated choices of the people in their natural diversity, whether as individuals or corporately as businesses and philanthropic foun-

dations. It is not the role of government to "assist" the process either by joining in the swings of art fashion that anoint one coterie today and another tomorrow, or by trying to check or balance them by throwing state influence and power behind some others.

The response of a rigorous laissez-faire capitalist to the entire question would be that art is a commodity like any other, and those who want the product should pay for it. If no one wants Jane Doe's poems or John Brown's paintings, they deserve to sit unsold. Certainly government should have no role in paying for products that no individual will buy.

As a point of departure, the laissez-faire or market argument is unassailable. Society as a whole should not pay for what no individual member of it wants. But this argument omits a consideration that does make art different from other products, namely, the unique factor of time required to assess the ultimate value of a work. The examples of William Blake, Van Gogh, Emily Dickinson, and others unappreciated by their contemporaries rightly haunt those who think about the problem. Is there no way to assist, while they are alive, those who are creating the treasures of posterity, but which the marketplace in the short term identifies only haphazardly?

Some answers are fairly easy. If we want more people to appreciate art, to visit museums with their children, and to invest their taste in an occasional print or painting, an appreciation of art is an obvious precondition. Here the function of government through the schools is sensible and desirable, within the competing demands of a school curriculum.

Closely related to art education is the preservation of our cultural past, through museums, classical theater, and symphony orchestras. While private philanthropy should be our first preference, a role for government, nonetheless, is wholly acceptable in materially preserving our cultural inheritance about which, thanks to the passage of time, rough consensus reigns. Government also has a special pace in choosing the architecture of civic buildings.

It is also the case that public space and buildings can be improved with public art. Indeed, commissioning works for this purpose began with the Parthenon of Athens in the time of Pericles. More innovative modes of selection than presently prevail, however, would be a healthy turn. It would be refreshing to see (if only for experimental purposes) a simple vote by visitors to an exhibit of models placed in competition, since the voters would be self-selecting (anyone who cares about public art) whose taste, arguably, might prove more distinguished than that of many foundations, and easily of the National Endowment for the Arts.

PART-TIME WORK

Beyond these rather conventional ideas in support of art are innovations yet to be attempted. Once we honestly admit to having no institutional method for identifying greatness among contemporaries (beyond success in the marketplace), we can see that any institutional role for government should aim at helping artists as a class, rather than playing at the roulette wheel of identifying genius.

One innovation of this sort would involve the tax code, to allow artists deductible losses without a limit of years after which the activity is deemed "a hobby," as is presently the case. Another might involve collecting. If we agree that buying art is desirable but beyond the means of ordinary citizens, a tax deduction could be granted for money spent to participate in "art clubs" to buy art and circulate the works among members who share similar tastes, creating, in essence, fluid mini-museums in the private sphere. (This is how Ben Franklin launched what eventually became our system of lending libraries.

On the supply-side of the equation, creating art is a financially hazardous choice among vocations. Yet the risk is widely understood and appreciated. The overriding desire of any artist is to secure, not money, but time—the time needed for creative work. Society has no obligation, however, to sustain every self-declared artist—although the Dutch have attempted this with a workfare-for-artists scheme, paying basic salaries and filling countless warehouses with paintings no one sees or cares about. Dutch artists themselves find the system somewhat depressing, and there appears no great push to repeat the experiment elsewhere.

What remains possible on the part of both government and business is a modest, if neglected, gem of an idea; part-time work.

Flexible work schedules have long been demanded by feminists alert to the special problems of working mothers. Industry is awakening to the need for part-time professional schedules because without them superior workers are leaving. But the concept of part-time work has much wider applications. Whole categories of people, not just mothers, would benefit from the option of part-time work. While some jobs are not susceptible to such arrangements, many others are, and the advent of fax machines and modem-linked computers is loosening and decentralizing the modalities of much traditional work. More fluid work schedules would also make better use of office and factory equipment than does a rigid 9-to-5, five-day week, and would also relieve commuter gridlock and its attendant auto pollution and waste of time.

Yet there remains a suspicion that anyone wishing to work part-time is not to be taken seriously. However, studies reveal that part-time professionals have higher rates of productivity than the 60 to 70 percent levels of full-time workers, and in professions with high "burnout" rates, part-time professionals perform above standard.

With part-time work, both professional and unskilled, made more available, an ambitious but unknown artist would be able to work two 10-hour days, receiving exactly half the salary and benefits of his 40-hour co-worker, and still have five full days a week to pursue his art. He would be self-sustaining, a burden on no one, accepting a more ascetic standard of living in order to pursue a creative ideal.

AMATEUR TREASURES

One can imagine an objection, nonetheless, that would run as follows: "We don't want people working less and producing less: we want them working more. And we certainly don't want a large army of persons playing at art. We want artists who are skilled, competent, in demand, and who work at art full-time. In a word, we want professionals, not amateurs."

The answer to these points is, first, that in a free society people should be able to buy a very precious commodity: time. As we steadily become more affluent in the decades and centuries ahead, more people are going to prefer time to a second or third car in the garage, whether to watch their children grow or to pursue a neglected talent. Time will be seen as the ultimate luxury, and while some will waste it, history shows that leisure has permitted many of the finest works of art and philosophy to arise. And, yes, their authors were very often "amateurs," in that no one was prepared to pay them for their work.

The list of philosophers who were amateurs begins with Socrates, who earned not a drachma for his ideas, and includes Descartes, Locke, Bacon, and Spinoza, whose livelihoods were, respectively, artilleryman, tutor, judge, and lens grinder. Poetry would scarcely exist but for its amateurs, who include Villon, Keats, Baudelaire, Rimbaud, Mallarmé, Whitman, and Dickinson, who earned their living at everything from picking pockets and teaching English to working as a Washington bureaucrat. Proust was an amateur novelist, as were Jane Austen and Stendhal. In discursive writing, Montaigal was one of our more distinguished amateur essayists, as were Pascal and Thoreau. In painting, the names of Degas, Cézanne, Van Gogh, and Modigliani are emblematic of artists who spend most of their lives working at their easels without pay. Western civilization would be a sorry thing without its ledger of unpaid work and the heroism of its visionary amateurs.

DECENTRALIZING JUDGMENT

Other ideas to advance the arts need to be explored. But our ultimate goals and established truths need to be kept in view. The last thing we should want for a democracy is a government rhinoceros attempting to arrange the china shop of aesthetic preference. Nor does it matter whether the disruption proceeds from a belief that art is a tool for improving the people (the old Communist thesis of socialist realism) or from the belief that government is competent to identify artistic genius and reward it (with grants from the NEA for "cutting edge" artists).

The distribution of grant money to a chosen few assumes a wisdom that government does not possess, and affords it powers it does not deserve. A free society naturally develops a healthy pluralism of competing tastes and preferences, whether in cheeses, wines, books, or art. The ethos of a free society aims at decentralizing opportunities and power, not narrowing them. In diversity is strength. This applies as much to art collecting and connoisseurship as to art creation. Only by encouraging widespread, spunky and independent judgment among the public do we improve our chances that an Emily Dickinson or a Cézanne will be identified while still alive. Quite the reverse will occur by "letting the government" take care of what government is utterly ill-designed to do—discern subtlety of expression and artistic genius. Through the NEA we are fostering the worst of all worlds. We are institutionalizing the nation's taste, and doing so at the lowest level of sensationalist vulgarity.

DEATH OF PATRONAGE

The recent scandal of government funding may prove a blessing if the policy implications behind the events are plumbed to their root. The enterprise of identifying enduring art has no agreed-upon criteria, for its standards are hotly debated by critics, curators, and the artists themselves. Government, least of all, is suited to select the worthies amid the crowd. Government has no special authority or expertise whatever in the arts, and its role should be one of a strictly neutral agent so far as regards the success or failure of this artist or that, this school or another.

We should recall that Shakespeare, Rembrandt, Shelley, Keats, and countless other great artists did not depend on government grants to create their works. Their support came from private patrons. Even when governments played a role, it was mainly for the purchase of art in public places—usually sculpture—the selection of which enjoyed broad support. The Church was a great institutional patron, whose place today has been largely taken by corporations and foundations. What is new in recent decades is a widely noted decline in independent taste, An elitist herd mentality has begun to steer the art support process, with timid corporations looking to the NEA for leadership, the NEA narrowly in thrall meanwhile to the "cutting edge" discerned in provocative "performance art" and whatever else enjoys the passing spotlight of New York fashion.

What is lacking today are bold patrons with genuinely independent taste. We need to think about the problem by remembering that Van Gogh sold exactly one painting in his lifetime. It would be interesting to know who the buyer was. We know it was not a museum, and certainly not a government. It was an individual with the courage of this taste. We badly need such patrons at all levels of our society, free of government attempts to steer the selection process.

We have no way of knowing how our grandchildren will judge our preference and rearrange our museums. Some humility is in order here. We have no more wisdom about which few living artists will survive the sorting process and enter the pantheon of the finest painters and poets of the age. In some sense, this is a fundamental condition of art. As Andre' Malraux put it: "Art obeys its own peculiar logic, all the more unpredictable that to discover it is precisely the function of genius."

ART-STATE SEPARATION

The closest policy model to consider might be the government's relation to religion. The tax code grants religious personnel and institutions general advantages on the grounds that religious faith serves society in moral and spiritual ways distinct from the works of commercial enterprise. But we forbid the government from favoring one sect over another, this faith over that. The faiths and sects must compete among themselves for public favor in the marketplace of belief. The state establishes rules of fair play, but otherwise does not meddle in the free choice of individuals and voluntary groups.

The same policy should operate in the arts. The government has no business favoring one school of art over another, or awarding funds to this painter rather than to that. It lacks the competence to do so, because discernment in as personal and private a matter as art is as unsuitable to public measurement as religious faith.

An enlightened arts policy for a free society must respect the diversity that freedom creates, limited only by the frontiers of morally acceptable behavior as defined by law. Government may serve in a general way to facilitate activities deemed good. But where diversity of private taste contends, the state must stand aside.

Mr. BYRD. Mr. President, I ask unanimous consent that the time on amendments be controlled and divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the time in opposition to this amendment be under the control of Mr. PELL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, may I inquire about the time situation?

The PRESIDING OFFICER. There is 9 minutes 31 seconds controlled by the Senator from North Carolina. The Senator from Rhode Island controls 24 minutes, 28 seconds.

The Senator from Rhode Island.

Mr. PELL. I thank the Chair. Mr. President, I appreciate the arguments and the thoughtful way the Senator from North Carolina has presented his amendment.

I think what this amendment does is seeks to impose content restrictions on projects funded by the endowment. These content restrictions go much further than those funded by the Congress in the fiscal year 1991 Interior Appropriations Act.

The Helms amendment attempts to address offensive depictions of sexual activities. The term "patently offensive" is derived, as we know, from the Miller decision which established a 3-prong test for obscenity. The Helms amendment does not leave the decision about what is obscene to the courts, as we have done in the past. He would exercise prior restraint on matters that may be perceived in the future as offensive.

As we know, prior restraint has been ruled as unconstitutional. The Miller standard uses the judgment that the word "project" would be patently offensive according to community standards. There is no accommodation of the community standards. Obviously, community standards in Los Angeles would differ a little bit from that in my home town of Newport, RI. Standards differ all around. As the saying goes: "beauty is in the eye of the beholder" and I believe it is correct to say that "obscenity is also in the eye of the beholder."

In general, there are some broader questions we will get to when this amendment is being decided upon, one way or the other, and we will make the arguments in full for even moving further away from the directions Senator HELMS would like us to move.

In that regard, too, I believe that any agency that has produced about 85,000 grants with only 20 being lemons is a pretty good record in the Federal Government. I only wish I could say the same for many other Government programs. I appreciate the arguments, and we will get on to a vote shortly. I yield such time as he desires to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I also appreciate the work of the distinguished Senator from North Carolina. He has been, I think, one of the vociferous voices against some of the improprieties that many have criticized with regard to a few grants that the National Endowment for the Arts has at least in the end result, helped to fund.

I think because he has raised this issue, he has been vastly criticized by some. I think some of the criticism has been very unjust. He has gone through a lot of pain, but he is very sincere and he has raised some very important issues here.

I think every one of us in this body, does not want to see patently offensive art in any form, whether it depicts patent sexual activity or excretory activities or organs. I think most people probably would agree with that. But when you start defining what that means, that is where you get into difficulties.

Any time you put a content restriction into the field of art, you are saying you may have difficulties with art that is even good, with art that is excellent, art that in certain ages and in certain times and certain places is offensive to the people there, but becomes major art accepted by the world a century or two later.

So content restriction, it seems to me, is the real issue. I have to say, along with the distinguished Senator from Rhode Island, that when an agency of this Government does 85,000 plus acts and it is criticized maybe 20 times, that is a super extraordinarily successful agency of Government. Not all 20 are going to be found offensive by everybody. Maybe there are more. Maybe there are 100, if you really go through all the 85,000-plus grants, that some people will find offensive. In fact, I think some people will find anything that the National Endowment for the Arts funds offensive, but I am talking about the general public at large.

The question is, do we want to continue with the National Endowment, do we want our artists to have freedom of expression that might lead to the new Michelangelo? I know people today who would be offended by some of Michelangelo's works. The very fact he would have the ambition and temerity to depict God might be offensive to some people. Because he did, we have been inspired for years in the Sistine Chapel and elsewhere.

I know art that would be criticized by some people no matter what it is. I also know that there are certain people who would like to do away with the National Endowment for the Arts and use this particular issue, 20 criticized works of art or approaches to art, some of which I highly criticize, as a means to do away with an agency that has done good all over America.

Mr. President, the problem with content restriction is that it is very diffi-

cult to define what it means and what a recipient will do in advance. We do not want to limit creativity, and it seems to me, that works have to be judged in totality and in content. What may be offensive to the distinguished Senator from North Carolina and me, may not be offensive to a large group of people out there who are better purveyors of art than we are. In his amendment, it is not clear who makes this decision about what materials "depict or described in a patently offensive way, sexual or excretory activities or organs."

This is no way to recapture the funds in this amendment, if there was a way of defining exactly what is meant by his amendment. So there is no way to recapture the funds that will be spent in violation of his amendment, because the only way you can find it in violation is after the fact. Frankly, there is no definition of what patently offensive means. I contend there will be as many definitions as there are different groups of people in our society as to what is or is not patently offensive.

The Supreme Court has spent decades trying to define what obscenity and pornography really are, and they still have not quite defined them. In fact, I think they are as far away today, from a definition, as they were when the first case came before the court. They have outlined some definitions. There are at least some guidelines in the Miller case, but they still leave it up to the local community.

As we all know, the Miller case says that the average person applying contemporary community standards, if that average person applying community standards, would find that the work taken as a whole, appeals to the prurient interest in sex; if the work depicts or describes, in a patently offensive way, sexual conduct; and if the work, when taken as a whole, lacks serious literary, artistic, political or scientific value, then a jury can find that work to be obscene or pornographic. The court really does not define any of those terms themselves. So that is the problem with having content restriction. I think there are the protections provided to recipients of NEA funds.

Mr. President, I do not intend to prolong this. I know what the distinguished Senator from North Carolina is trying to do. I admire him for it. I just happen to disagree with the approach.

What I would like to do, Mr. President, is call people's attention to the amendment that we will file immediately after this one, whether it is adopted or not, because in that amendment we think we provide for sanctions that will work, that will be acceptable to the community, of those who participate in the arts and want to participate in the arts, sanctions and procedural protections, that we think will lead to excluding even more than the 85,000-plus grants of the NEA have done so far, works that the community as a whole, the country as a whole, the people as a whole, would find patently offensive.

But we leave it up to the people who are skilled in the arts to do it. We think there are the incentives in the amendment that we will file afterwards, that will accomplish everything the distinguished Senator from North Carolina would like to accomplish, without the content restrictions, and without trying to bind the artistic community in a way that its freedom of expression will be hurt.

Mr. President, I appreciate what the distinguished Senator is trying to do, and I have to say that I appreciate him personally. I think he has created the debate. It has not been an unhealthy debate for the country, but now is an opportunity for all of us to put this debate to rest. I think the way to do that is the amendment that we will file immediately after the disposition of this amendment, whatever its disposition may be.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. CONRAD). Who yields time?

Mr. PELL. Mr. President, what is the time situation?

The PRESIDING OFFICER. Nine minutes and 31 seconds to the Senator from North Carolina. The Senator from Rhode Island controls 15 minutes 28 seconds.

Mr. McCURE. I wonder if the Senator would yield 3 minutes to the Senator from Idaho. I am not in opposition to the amendment. I did want to make some comments with respect to comments made by the Senator from North Carolina.

Mr. PELL. I would like to do it on the time of the Senator from North Carolina, and try to move it along as quickly as possible, but I yield to the Senator.

Mr. McCLURE. I do not want to fly under false colors. I am not opposed to the Senator from North Carolina, but I do want to say this as we start the debate here today. This is an extremely troublesome issue. It is a very difficult one for all of us to handle.

I was anxious to be yielded time from the Senator from Rhode Island, because I am not in opposition to the amendment, but I do not want that position to be overbroadly stated in opposition to all of the activities of the National Endowment for the Arts.

I do believe this country is measured by, and enriched by, the activities in the arts community, broadly speaking. The problem that I have is, I do not see any way for us to really object to the content of the Helms amendment.

Who in the world on this floor wants to say they really are in favor of granting money, taxpayers' money for the exposition, promotion, distribution, dissemination, or production of materials that are described in the amendment.

The Senator from Utah has indicated that is no way to define this. I suspect that is true. The struggle of the Supreme Court has been, in their restraints on expression under constitutional guarantees, the right of expression and, second, with respect to criminal standards, and that is where I am going to have difficulty with the amendment, that will be offered by the Senator from Utah, that it is a criminal standard. There is a difference between what is criminal and what is supportable, and that is the very center of this dabate.

The Senator from North Carolina, however, in his opening statement, indicated broad opposition of the National Endowment. I do not have the broad opposition. Neither do I believe that it is impossible for the National Endowment to do a much better job than they have done up until this time.

I have no trouble at all making the National Endowment responsible for their activities. The taxpayers of this country have a right to demand that, and therefore while I do not agree with all the statements made by my friend from North Carolina about the National Endowment, I am not in opposition to this amendment. I find nothing wrong with saying to the National Endowment, you must do certain things. It seems to me, on the face of the amendment, it is not hard to find out who has the responsibility under this amendment. The National Endowment has that responsibility.

I thank the Senator for yielding this time.

Mr. PELL. Mr. President, under this amendment, if it was passed, we would find that Rodin's "The Kiss," Monet's "Reclining Lady," and Michelangelo's "David," could, in some communities, be ruled illegal or unfinanceable.

I am prepared to yield back the remainder of my time if nobody on this side has anything more to say. I hope it might be the same on the proponent's side as well.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair. I wish I could accommodate—no, I do not wish I could accommodate the Senator from Rhode Island. I do not feel I could accommodate him, although he is my friend. We serve together on a major committee in this Senate.

Mr. President, first on this figure of 85,000 grants. We have asked the NEA to validate that figure but they can't. It is bandied around as if it is fact. It has taken on a life of its own.

We are not talking about 85,000 symphony orchestras or choral groups, or authors. We are talking about sleaze in the art world.

Now, I do not know of anybody who can find any redeeming features in some of the stuff that has been supported. Let me give you a few examples. I am going to have to leave out some words because I do not want to use them on the Senate floor.

For example, the Kitchen Theater in New York City, let us discuss that for just a moment. Does anybody remember Annie Sprinkle? Let me tell you about this act that was indirectly funded by the National Endowment for the Arts. I suppose there may be somebody in this broad land who thinks it has a redeeming feature. But Miss Sprinkle's performance at the Kitchen included what I would consider disgusting live sex acts. She urinated on stage and invited the audience to play gynecologist on her with a flashlight. She brazenly declared, "Usually I get paid a lot of money for this, but tonight its' Government funded."

The NEA also helped Illinois State University Gallery in Normal, IL, put on an exhibit entitled "David Wojnarowicz: Tongues of flame." Unbelievably, this man submitted some pictures which were subsidized by the taxpayers. They were more repulsive, in my judgment, than Robert Mapplethorpe's. I have attempted to have some copies of them sent over here for Senators to look at them, if they doubt my word about it. But I will warn them that these pictures display homosexuals actually engaged in ultimate sexual and excretory acts with one another.

The taxpayers money went to fund these. That is the reason I am on the floor.

Yet another offensive project the taxpayers have recently paid for through the NEA is the San Francisco International Gay and Lesbian Film Festival. The NEA gave this 10-day festival—that is what they called it—$9,000 for "administrative costs." More than 100 films were shown with titles which I cannot use on the Senate floor.

But let me read a review of it. "Scenes from some of the films include masturbation, and oral sex between men and men, and women and women," according to a newspaper story.

Karen Finley's little show was entitled "We Keep Our Victims Ready," and this was another one of those Kitchen Theater performances that the NEA decided the taxpayers should support.

Let me say to my friend from Idaho that not once have I advocated the dissolution of the National Endowment for the Arts. I think it is very good to teach kids how to play in the symphony orchestra or to sing or to write or to participate in drama. That is fine as far as I am concerned, even though in this time of budget crises we might think twice about it.

The NEA recently denied funds to a woman named Mrs. Hughes to perform in one of these obscene plays as a result of intense public scrutiny. But the NEA still gave her $15,500 playwriting fellowship based on the script that she wrote for the obscene play. Do you see the pattern?

Now do not talk to me about 85,000 nice grants and 20 obscene ones. In the first place, who knows what has gone on before last year that was not detected? Where do we get the figure of 85,000 for all of the grants? They cannot tell you. They pull this figure of 85,000 out, and they throw it out, and it takes a life of its own. And the American people have it stuck to them again.

Senators can vote as they dab blamed may wish. But I am saying to you, Mr. President, that if they vote against this amendment, they are voting in favor of funding for the most vile, most crude, most rotten, kind of material imaginable.

I yield such time as the Senator from New Hampshire may wish.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. HELMS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes 26 seconds.

Mr. HELMS. I thank the Chair.

Mr. HUMPHREY. Mr. President, I thank the Senator from North Carolina for yielding.

More than that, I want to thank him for his courageous fight against the abuses of the NEA. It takes some courage to do that, Mr. President. The arts community and the entertainment community are very powerful politically. The Senator has described the retribution he has suffered at the hands of that community for his temerity in standing up against this waste of taxpayers' funds.

So my hat is off, as it so often is, to the Senator from North Carolina for being right on the issue, and having the courage to stand up and to make his case so powerfully.

I hope Senators support him. I would go farther, frankly, than the Senator from North Carolina. Just the other day, I remind my colleagues, we passed a measure in this body against the vote of this Senator to increase the gasoline tax 9 cents per gallon. That is on top of a 35-cent or 40-cent per gallon increase over the last few months because of the Persian Gulf crisis.

We passed that tax and so many others on the excuse that there was no more place where we could cut; nothing more that we could cut in the budget. What absolute rubbish. Here is a perfect example of the waste and abuse of taxpayer funds that exists in this budget. The budget is larded with this kind of stuff. It is a favor for a community with a lot of political clout. They raise 1 million bucks to defeat Senator HELMS or attempt to defeat Senator HELMS, and they get in return a $185 million reward on their appropriations bill for this year alone. That is the kind of payoff that comes from pandering to the arts community. It is an outrage.

We ought to terminate the National Endowment for the Arts because there will be no end to this argument and controversy over what is art and what is not. The Government ought not to be subsidizing this endeavor. If people want to paint anything they want, anything imaginable, fine. They are protected by the first amendment. But there is nothing in the Constitution, Mr. President, as the Senator has pointed out, that obliges the taxpayers to subsidize the exercise of that right.

So I would go much farther. I think the Senator is being too moderate. I would get rid of it. I say get rid of it. I say let us get serious. This is a time of crisis. We cannot afford the wasting of money on such frivolity and decadence. It is outrageous.

The Senator's proposal is much too mild in my opinion but I applaud him for the courage of offering it. I will certainly support him with my vote as I have in the past.

Mr. President, I reserve the remainder of the time for Senator HELMS

Mr. HEINZ addressed the Chair.

Mr. PELL. Mr. President, I yield 2 minutes.

Mr. HEINZ. Mr. President, what we are fundamentally talking about here is whether or not we are going to try to write and impose a certain type of content restriction that goes beyond any definition of obscenity or pornography which, as we know, is not protected speech. And to those who say that the Government should not be in the business of using the taxpayers' money to support obscenity, or pornography, I say they are absolutely right. But that is not the issue that we are discussing.

I would like to illustrate it by drawing upon two works of art that probably many of us have seen either in books or we studied them in school. One is the work of Hieronymus Bosch the 15th century northern European painter who depicted the worst personality traits of people in the form of ugly little creatures who are half human often engaged in utterly depraved acts painted on canvas or panel, activities that included those that were sexual, or scatological in nature. I have no doubt at the time there were people who found those works extremely alarming, even repul-

sive. But today, we view his work not only as art but we view his message, his content, as extremely moralizing because it says to us if you have this kind of tendency, beware, you may turn into the kind of ugly, little creature and engage either symbolically or literally in the worst kinds of acts.

Francisco Goya we accept today as one of the great painters the world have ever known. Nevertheless, he had a gift for caricature. One of his targets was the clergy of the Spanish realm. He depicted corrupt priests actually in the act of thievery or in the act of rape. To the establishment of his day, that was considered blasphemous. And in Spain, in that day and age, that was a very dangerous thing to do. He was denounced and worse.

Yet, the content of his art, however, shocking it may have been to them, today we accept and even praise as an acute and utterly justified form of social criticism.

So Mr. President, in sum, we legislate content at our peril, and I hope we will just trust President Bush's appointee and the National Endowment which has made very few mistakes out of some 80,000-plus decisions.

Mr. HELMS. Mr. President how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina controls 24 seconds.

Mr. HELMS. I ask unanimous consent for 1 more minute in addition to that.

Mr. President, I am tempted to ask the Senator from Pennsylvania if the artist whom he identified got a Federal grant from the National Endowment for the Arts. I have no argument with what he said. I am not talking about banning. I am talking about subsidizing.

If the Senator will forgive me, I do not follow his line of reasoning. Let me use the remainder of my time to read the text of the amendment on which Senators will be voting:

None of the funds appropriated under this act may be used by the National Endowment for the Arts to promote, distribute, disseminate, or produce materials that depict or describe, in a patently offensive way, sexual or excretory activities or organs.

That is all. It does not say ban them. It simply prohibits use of the taxpayers' money. I think that is a fair proposition.

Mr. President, have the yeas and nays been ordered on the amendment?

The PRESIDING OFFICER. They have not.

Mr. HELMS. I ask unanimous consent that it be in order that I ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection? Without objection.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator controls 5 minutes and 30 seconds.

Mr. PELL. I yield to the Senator from Colorado for a minute, and I would like to retain the remainder of my time.

Mr. WIRTH. I thank the Senator. I will be brief. I had not intended to speak on this amendment until I heard the Senator from New Hampshire talk about the investment of $1 million and getting back $145 million in pandering.

That kind of a discussion and kind of analysis is simply inappropriate on the floor of the U.S. Senate, Mr. President. It is certainly not the level of debate that we ought to have on what is a fundamentally very important issue related to freedom of expression and freedom of speech in the greatest democracy that the world has known.

Mr. President, for more than a year the public, and consequently the Congress, has vigorously debated the National Endowment for the Arts [NEA] and how it does its job. Its job is to fund thousands of programs and productions across the United States, to encourage and sustain a climate where artistic efforts can flourish, and to bring this art to the view of the public.

Last year, in reaction to the support of the work of Andres Serrano and Robert Mapplethorpe, the Congress cut the appropriation for the NEA by $45,000—the total amount for these two grants. Congress also restricted the content of projects receiving grants, leaving it up to the officials of the NEA to determine what is appropriate and what is not. Declaring that these content restrictions would be only temporary, Congress created an independent Commission, composed of members appointed by Congress and the administration, to examine the grantmaking process of the endowment and make recommendations for a more permanent solution. This solution was to be considered during the NEA reauthorization—clearly a more appropriate vehicle than an appropriations bill.

Well, Mr. President, we find ourselves in the waning days of the 101st Congress without the promised reauthorization for the National Endowment of the Arts. Rather, what we find in the Interior appropriations bill is a simple extension of the misguided policy from last year. I opposed these subjective content restrictions then, and I oppose them today—as does 80 percent of the mail I have received from my fellow Coloradans.

Mr. President, the Senate does not have to accept this continuation of business as usual. The Independent Commission has finished its work and made its recommendations. The authorizing committees in the House and the Senate have reported legislation—in large part reflecting these recommendations—and the House has even found the time to approve its version. I believe that the Senate can act in a similarly responsible fashion.

Today, Senators HATCH, PELL, KENNEDY, and KASSEBAUM are offering an amendment to replace the obsolete language currently contained in the bill we are considering. This proposal reflects elements contained within the Senate reauthorization legislation currently pending on the calendar, as well as certain concepts found in the House bill.

The amendment would permit a court of law to determine if the nature of the work is obscene. In the event that a court so rules, the artist or group would be required to repay the grant. Failure to repay would result in loss of eligibility for any future NEA funding.

Mr. President, this amendment will assure us that if an artist creates or produces an obscene work, he or she would be liable for that error. But it would remove the decisionmaking process from politically influenced bureaucrats and it would be made with sufficient due process.

I oppose legislating a moral code on the value of particular works of art. But this amendment we are now considering is a reasonable compromise, one that can work and should be adopted.

Mr. President, the formulation of policy from heated reaction to public controversy is a sure-fire way to make bad decisions. The continuation of such a policy is worse. I urge my colleagues to adopt the Hatch-Pell approach.

Thank you Mr. President, and I yield the floor.

Mr. PELL. Mr. President, I yield 1 minute to Senator ADAMS, who is a cosponsor of the amendment.

Mr. ADAMS. I thank the Senator from Rhode Island very much. I rise in opposition to the amendment of Senator HELMS and in support of the amendment of Senator HATCH, which is an excellent amendment.

Mr. President, I am alarmed that this bill once again contains restrictions on what is art. How can we, as responsible policymakers, vote for a bill that includes language that essentially forbids Federal funding for art that "may be considered obscene?" Almost anything "may" be considered obscene by some. As a young district attorney, I once was asked by enforcers to prosecute a man signing his name as Hugo N. Frye, or "you go and fry," for sending a horse dropping placed in a milk carton through the mail to a Federal district judge, alleging it was sending obscenity through the mail.

How can we support a bill that in reality censors artists by defining what may be considered obscene so broadly? That, I submit, is not our job.

Members of Congress are in no position to sit as censors over the works of our Nation's artists. I am sure that each of our colleagues has a different eye for what is pornography.

Several weeks ago during a Labor and Human Resources Committee markup, I voted for a bipartisan compromise to reauthorize the Endowment. I voted for this bill with a heavy heart. But the compromise was necessary in order to prevent further damage to the integrity of the National Endowment of the Arts. I did not speak on that compromise, but today we must prevent, if we can, the language contained in this bill.

I ask my colleagues to oppose the language contained in this appropriations bill and to support the amendment offered by Senator HATCH.

The amendment before you is similar to the compromise adopted by the Labor and Human Resources Committee. The House has supported this language twice. Once during the consideration of the NEA reauthorization, and again during consideration of the Interior appropriations bill. Moreover, the amendment is also similar to language recommended by the independent commission that Congress created just last year to review the Endowment controversy.

The amendment before the Senate today leaves the decision regarding obscenity up to the courts. That is how it should be. The amendment provides that if the court determines a project is obscene, the person or group held to be in violation of the law will face certain sanctions. They would be prohibited from receiving a grant for up to 3 years and would have to repay the grant funds to the Government.

After all is said and done, I still have a hard time understanding why we want to punish the NEA. What is this controversy about? It's about a handful of artistic works. Only 25 out of a grand total of 85,000 grants ever awarded by the NEA. I challenge my colleagues to find another federally funded program that enjoys the kind of support and record of achievement as does the NEA.

The last 11 Pulitzer Prize winning plays were developed at NEA funded nonprofit theaters.

Since 1965, 100 local arts agencies have grown into over 2,000 local arts agencies across our country.

As I stated earlier, 85,000 grants have been made in the NEA's 25 years of existence, and only a handful have created this controversy.

The NEA's record of achievement speaks well for itself. We must not abandon our support of the arts. I urge my colleagues to support the pending amendment by Senator HATCH.

Mr. BRADLEY. Mr. President, I am saddened that this debate about restrictions of expression has derailed us from the task of reauthorizing a program that, at a very small cost, has opened the imagination of America. The National Endowments for the Arts and Humanities have touched the lives of nearly every American, bringing paintings, sculpture, symphonies, theater, stories, and dreams into schools, community centers, and town halls across our land.

Twenty-five years ago, Congress displayed a remarkable prescience about America's purpose in a changing world. In establishing the National Endowment for the Arts and its companion, the National Endowment for the Humanities, we affirmed that our Nation's leadership "cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and of the spirit." As the Soviet threat diminishes, America's purpose in the 1990's will stem not so much from our military strength as from the power of our example. The NEA helps us set an example of a Nation that nurtures the talents of all its citizens and opens the doors to a full, rich public life.

Now that the insight of 1965 that inspired the founding of the NEA has been validated by the events that led to the end of the cold war, it comes as quite a surprise to me and to many of my constituents that this agency should be the object of controversy and suddenly become subject to restrictive legislation. The NEA was founded on a set of principles derived from the principle of democratic pluralism that inspired the Bill of Rights. To refer again to the words of Congress in 1965, "the intent of this act should be the encouragement of free inquiry and expression" and "no undue preference should be given to any particular style or school of thought or expression."

Perhaps we have forgotten how difficult it is to create art which truly enriches, inspires, and educates. It is a process of trial and error, false starts, and unconscious creative surges. The NEA exists not to make art, but to make this process possible.

The value of an open creative process to an entire society cannot be judged solely by one or two examples of its outcomes, just as the value of the first amendment cannot be judged solely by a few outrageous things that people say. But those seek to constrain and undermine the very purpose of the NEA do just that—take one or two pieces of art and call them typical of the entire institution.

Mr. President, allow me to describe for my colleagues briefly a program funded by the NEA that truly typifies the Endowment's work. The Mayors Institute on City Design began in 1986, when the mayors of seven American cities, including Trenton, NJ, came together at the University of Virginia for 3 days of intensive conversations among themselves and with urban designers about how to construct humane, livable cities. With the addition of 2 yearly regional institutes in the Midwest and the South, the mayors of 77 cities, representing nearly 34 million people, have now participated in the Mayors Institute for City Design, funded by the Design Arts Program of the National Endowment for the Arts.

Each mayor comes to the institute alone, without staff or files. Each mayor brings a design problem from his or her city, which might range from the redevelopment of a waterfront to the design of a sidewalk or a housing project. While the institute ideally helps each city find a solution to each problem, its real purpose is to help the mayors, who may be expert on politics, finance, social services, or development, open their imaginations about the design of the communities we share. As Mayor Vincent Schoemehl, Jr., of St. Louis put it, the institute "helped me to understand—and to persuade others—that what makes a city successful is the quality of the environment it offers."

Besides Trenton, the Mayors Institute has brought to the University of Virginia the mayor of Newark, NJ, Sharpe James, and the mayor of Princeton, the late Barbara Boggs Sigmund. The program helped each of these mayors find a clear direction for the physical layout of their communities. I describe the Mayors Institute at some length, Mr. President, not only because it indicates what the NEA really funds, but because I believe it exemplifies the reasons we have an NEA and the purpose it serves. The communities we live in are going to look like something. They can be unplanned, sterile, havens for crime and cruelty. Or they can be humane and warm, good spaces to work, raise children, or visit a museum on a Sunday afternoon. Only by devoting attention and resources to this project, and by opening our imaginations without restrictions, can we make that happen.

The NEA helps us shape a rich and humane cultural life for our entire Nation. In New Jersey, it has helped millions of families enjoy the Hoboken Chamber Orchestra, the McCarther Theater Company, the Composers Guild of New Jersey, the Willowbrook Jazz Festival, and more. Young people with talent and ambition found guidance at the New School for the Arts in Montclair, the Center for Innovative Printmaking at Rutgers, the Newark Community School for the Arts, and

other institutions that rely on the NEA to fund their educational programs.

The rich cultural pluralism made possible by the NEA has renewed America's role as the leader of the world in culture and spirit. Our artistic successes are a source of national pride for all of us, and they are made possible only by an open process of creativity and dedication to excellence with no other restrictions. At a time when the nations of the world look to the United States as a model of democratic pluralism and cultural diversity, we must continue to nurture our culture in the spirit of democracy and national purpose. Mr. President, if we are blocked from reauthorizing this important program this year, I hope that very early in the next Congress we will consider the National Endowments for the Arts and the Humanities as a whole and reauthorize their contributions to our society for years to come.

Mr. GRASSLEY. Mr. President, I will not take very long on this matter. There are just a couple of points I would like to make in support of the amendment offered by my friend from North Carolina.

I have received thousands of letters, cards, and phone calls from Iowans expressing their concerns about Federal funding for the arts endowment.

By an overwhelming margin of 8 to 1, they want Congress to adopt legislation to prevent the flow of Federal funds to offensive and pornographic work.

Clearly, taxpayers are outraged by claims that they must be forced to pay for such offensive exhibits. To do this in the name of free speech is even more revolting.

Mr. President, Senator HELM'S amendment, which simply seeks assurances that taxpayers' money will not be misused, hardly infringes upon an artist's freedom of speech or expression. Artists who are intent on such depictions need not apply for Federal funding.

Mr. President, the real focus of this amendment is restricting tax dollars, not restricting art. Artists can do with private funding whatever they like.

There is nothing in the Constitution which guarantees any artist a dime. It is pure arrogance to suggest anything to the contrary.

I recognize that the National Endowment for the Arts has helped make possible many quality programs throughout the country. I hope that it will continue to do so.

But taxpayers should not be forced to pay for a photograph of subjects far too obscene for any gentleman to describe.

The reason Congress established the NEA was to promote the arts and to encourage appreciation of the arts throughout the country. This function of the NEA does not require funding projects which stretch the boundaries of public tolerance.

Again, Mr. President, I support the arts and I support the NEA. I also support standards, such as those proposed by the Senator from North Carolina. Only then can we be assured the goals of the National Endowment for the Arts will not be distorted and that, instead, Federal sponsorship of quality art programs will be maintained.

Mr. LEVIN. Mr. President, I do not believe that the Government should fund art which has been determined to be obscene by a court that is applying standards required by the Constitution. But, the Helms amendment applies an unconstitutionally vague standard. Later during this debate I will be supporting an amendment which will deny NEA funding for art and apply a constitutional standard.

Mr. PELL. Mr. President, I believe all time has been used up by my adversary, and I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina retains 22 seconds.

Mr. HELMS. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The time having been yielded back, the yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

The result was announced—yeas 29, nays 70, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—29

Armstrong	Grassley	McConnell
Burns	Heflin	Murkowski
Byrd	Helms	Nickles
Coats	Hollings	Pressler
Cochran	Humphrey	Roth
Conrad	Kasten	Shelby
Dole	Lott	Symms
Exon	Mack	Thurmond
Garn	McCain	Wallop
Gramm	McClure	

NAYS—70

Adams	Durenberger	Mikulski
Akaka	Ford	Mitchell
Baucus	Fowler	Moynihan
Bentsen	Glenn	Nunn
Biden	Gore	Packwood
Bingaman	Gorton	Pell
Bond	Graham	Pryor
Boren	Harkin	Reid
Boschwitz	Hatch	Riegle
Bradley	Heinz	Robb
Breaux	Inouye	Rockefeller
Bryan	Jeffords	Rudman
Bumpers	Johnston	Sanford
Burdick	Kassebaum	Sarbanes
Chafee	Kennedy	Sasser
Cohen	Kerrey	Simon
Cranston	Kerry	Simpson
D'Amato	Kohl	Specter
Danforth	Lautenberg	Stevens
Daschle	Leahy	Warner
DeConcini	Levin	Wilson
Dixon	Lieberman	Wirth
Dodd	Lugar	
Domenici	Metzenbaum	

NOT VOTING—1

Hatfield

So the amendment (No. 3119) was rejected.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, the conference report on the——

Mr. BYRD. Mr. President, there has been an order entered that no matter or measure may be taken up during the consideration of this bill without the consent of the two managers.

The PRESIDING OFFICER. The Senator is correct. Under the previous order, the Senator from Utah [Mr. HATCH] is to be recognized to offer an amendment.

Mr. BYRD. That is correct. But I understood that the distinguished Senator from Louisiana was going to bring up another matter.

Mr. JOHNSTON. Mr. President, I was going to see, with the concurrence of the managers and with a short time limit, whether we might bring up the Tongass report, which has some time sensitivity because it needs to go into reconciliation. We are trying to get a time agreement, and, as I understand it, the two Alaskan Senators are willing to give that time agreement.

The PRESIDING OFFICER. That would require unanimous consent, because there is a previous order providing for the Senator from Utah [Mr. HATCH] to offer an amendment.

Mr. BYRD. Mr. President, I will be very happy to try to work out something to accommodate the Senator from Louisiana and the Senators from Alaska, but I do not believe they are ready to proceed right at this moment.

Mr. JOHNSTON. Very well. I thought they were here and ready.

Mr. BYRD. I certainly want to try to accommodate the Senator.

In the meantime, I wonder if we could proceed to the Hatch amendment.

The PRESIDING OFFICER. The Senator will suspend.

Mr. HATCH. Will the Senator yield? I will be happy to yield if this will get the work done, but I would just as soon go ahead, too.

Mr. BYRD. I am just looking at the clock.

Mr. JOHNSTON. Mr. President, I wonder if the Senator would permit me to ask the Alaskan Senators if they are willing to go with a 10-minute time limit?

Mr. BYRD. Mr. President, they are so asked.

Mr. President, I yield myself 1 minute from the debate on the pending bill for the Senator to speak, Mr. MURKOWSKI.

Mr. MURKOWSKI. I thank the President pro tempore.

Mr. President, the previous discussion indicated we would be allowed 15 minutes. I believe that was the discussion with the President pro tempore, if my memory serves me correctly.

Mr. BYRD. That was not set in concrete.

Mr. MURKOWSKI. That is true. It was not set in concrete.

Mr. BYRD. We discussed that but since that time——

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. I will be happy to.

Mr. STEVENS. The only urgency is if, as they say, we have to act before the reconciliation bill is closed on the other side in the section of the Interior Committee and the Energy Committee here.

Mr. BYRD. I want to accommodate the Senators. Could we do it in 10 minutes?

Mr. STEVENS. I understand that. I do not know why the Senator does not tell them just close the section of that bill. We are not going to stop this bill. It is reluctantly said on my part, but we are not going to stop this bill, so what is the rush.

Mr. JOHNSTON. Can we do it in 10 minutes?

The PRESIDING OFFICER. The Senator from West Virginia retains the floor.

Mr. BYRD. I yield myself 1 additional minute. Can we complete the whole action in 10 minutes?

Mr. HATCH. Will the Senator yield? I have no objection, if this is important, to interrupt or delay calling up my amendment until this is disposed of. If it takes longer, it does.

Mr. BYRD. Mr. President, I do have. I am attempting to accommodate the Senators and I will accommodate them. If they need 15 minutes——

Mr. STEVENS. Let me assure the Senator, the Senator is not accommodating me. I would like to kill this bill but I am not going to kill it because of the circumstances that exist today. But I do not know why people do not take my word that we are not going to stop this bill, I will object from now until we go home, and we will stop it.

I object to a limitation on us on a bill where we want to explain why we are going to not stop it. I think that is imperative.

Mr. BYRD. Very well, Mr. President. Let us proceed with the pending measure.

The PRESIDING OFFICER. On this amendment there are 2 hours of debate equally divided and controlled in the usual form between the Senator from Utah [Mr. HATCH] and the majority manager [Mr. BYRD] if he opposes the amendment.

If the majority manager favors the Hatch amendment, the time in opposition is controlled by the Republican leader or his designee.

Mr. BYRD. Mr. President, I yield the time in opposition to the amendment of Mr. MCCLURE.

The PRESIDING OFFICER. Very well. The majority managers yield the time in opposition to the Senator from Idaho.

The Chair will inform the Senator from Utah that we do not have the amendment at the desk.

The Senator from Utah.

AMENDMENT NO. 3130

(Purpose: To require that the National Endowment for the Arts establish review panel procedures and sanctions for persons who produce obscene projects or productions

Mr. HATCH. Mr. President, on behalf of myself Senators KENNEDY, PELL, KASSEBAUM, METZENBAUM, DURENBERGER, SIMON, JEFFORDS, DODD, CHAFEE, SIMPSON, ADAMS, MIKULSKI, BINGAMAN, MOYNIHAN, WIRTH, and LEAHY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. KENNEDY, Mr. PELL, Mrs. KASSEBAUM, Mr. METZENBAUM, Mr. DURENBERGER, Mr. SIMON, Mr. JEFFORDS, Mr. DODD, Mr. CHAFEE, Mr. SIMPSON, Mr. ADAMS, Ms. MIKULSKI, Mr. BINGAMAN, Mr. MOYNIHAN, Mr. WIRTH and Mr. LEAHY, proposes an amendment numbered 3130.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 101, line 22 of the bill, strike all after the colon and all that follows through page 102, line 7 and insert the following: *"Provided further,* That section 10 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 959) is amended—

"(1) in subsection (a)(6), by striking '529' and inserting '3324';

"(2) by striking subsections (e) and (f);

"(3) by redesignating subsections (b), (c), and (d) as subsections (e), (f), and (g), respectively;

"(4) by designating the second through the fifth sentences of the existing subsection (a) as subsection (b);

"(5) by designating the sixth through the eighth sentences of the existing subsection (a) as subsection (c);

"(6) by designating the ninth through the eleventh sentences of the existing subsection (a) as subsection (d);

"(7) in subsection (b) (as redesignated in paragraph (4)) by inserting ', including local arts representatives' after 'represent cultural diversity';

"(8) in subsection (c) (as designated by paragraph (5)), by striking 'clause (4)' and inserting 'subsection (a)(4)';

"(9) by striking the second sentence of subsection (c) (as redesignated in paragraph (5));

"(10) in subsection (g)(3) (as redesignated by paragraph 3)), by striking 'the last sentence of subsection (a)' and inserting 'subsection (d)'; and

"(11) by adding at the end thereof the following new subsections:

" '(h)(1) The Chairperson of the National Endowment for the Arts shall develop procedures that—

" '(A) ensure that each panel of experts established pursuant to subsection (a)(4) has a wide geographic, aesthetic, ethnic, minority representation by—

" '(i) creating an agency-wide panelist bank, containing names of both qualified arts professionals and knowledgeable lay persons that have been approved by the Chairperson of the National Endowment for the Arts, or the designee of such Chairperson; and

" '(ii) ensuring that such panels, where feasible, have knowledgeable lay persons serving on such panels at all times;

" '(B) establish, where feasible, standardized panel procedures;

" '(C) require, where necessary and feasible, the increased use of site visitations to view, and issue a written report on, a work of an applicant in order to assist the panel of experts in making recommendations;

" '(D) require a written record summarizing all deliberations and recommendations of each panel of experts;

" '(E) require that the membership of each panel of experts change substantially from year to year, with no appointment to a panel of experts to exceed 3 consecutive years; and

" '(F) require all meetings of the National Council on the Arts be open to the public in accordance with the provisions of section 552b of title 5, United States Code.

" '(2) In making appointments to panels established pursuant to subsection (a)(4), the Chairperson shall ensure that an individual who has a pending application for financial assistance under this Act, or who is an employee or agent of an organization with a pending application, does not serve as a member of any panel before which such application is pending. The prohibition described in the preceding sentence shall commence with respect to such individual beginning on the date such application is submitted and shall continue for so long as such application is pending.

" '(3) The Inspector General of the National Endowment for the Arts shall conduct the appropriate reviews to ensure grantee compliance with all regulations that relate to the administration of all programs and operations of the National Endowment for the Arts. This review includes, but is not limited to, grantee compliance with all accounting and financial criteria.

" '(4) The procedures described in paragraph (1) shall be developed not later than 90 days after the date of the enactment of this subsection.

" '(i)(1) The Chairperson of the National Endowment for the Arts shall establish sanctions for groups or individuals who receive funds pursuant to the provisions of section 5 and use such funds to create, produce, or support a project or production that is found to be obscene under State criminal laws or is found to be a criminal violation of State child pornography laws in the State or States in which the group or individual produced such project or production or in the State or States described in the grant award as the site or sites of the project or production, as determined by a court decision, after final appeals.

"'(2) Except as provided in paragraphs (3) and (4), the sanctions described in paragraph (1) shall include—

"'(A) repayment by the individual or organization that created or produced the project or production found to be obscene or to violate child pornography laws pursuant to the provision of paragraph (1) to the Chairperson of the portion of the funds received under section 5 that were used to create or produce such project or production in accordance with the provisions of paragraph (3); and

"'(B) ineligibility of the individual or organization that—

"'(i) used funds received under section 5 to create or produce the project or production found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph (1); and

"'(ii) was a defendant convicted in the criminal action described in paragraph (1);

to receive funds under this Act for a period to be determined by the Chairperson of the National Endowment for the Arts, that shall be not less than 3 years after the date such project or production if found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph (1) or until repayment of the funds pursuant to the provisions of subparagraph (A), whichever is longer.

"'(3)(A) Except as provided in paragraph (4), funds required to be repaid pursuant to the provisions of this subsection shall be repaid not later than 90 days after the date such project or production is found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph(1).

"'(B) If a State, local, or regional agency or arts group received funds directly from the Chairperson under section 5 and awarded all or a portion of such funds to an individual or organization that used such funds to create, produce or support a project or production found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph (1), and the Chairperson determines that such individual or organization has not or is not able to repay such funds in accordance with the provisions of paragraph (2) and this paragraph, then such agency or group shall repay such funds to the Chairperson not later than 30 days after the expiration of—

"'(i) the 90-day period described in paragraph (3); or

"'(ii) the waiver period described in paragraph (4).

"'(C) Each individual or organization required to repay funds pursuant to the provisions of subparagraph (A) of paragraph (2) shall be ineligible to receive further funds under this Act until such funds are repaid.

"'(D) If a State, local, or regional agency or arts group is required to repay funds pursuant to the provisions of subparagraph (A) of paragraph (2) or subparagraph (B) of this paragraph and fails to make such repayment in accordance with the provisions of this subsection, then such agency or group shall be ineligible to receive funds under this Act until such funds are repaid.

"'(4) The Chairperson of the National Endowment for the Arts may waive the provisions of paragraph (3)(A) for a period not to exceed 2 years.

"'(5) The Chairperson of the National Endowment for the Arts shall develop procedures to ensure compliance with the sanctions described in paragraph (1).

"'(6) The general information and guidance form provided to recipients of funds under section 5 shall include on such form the following:

"REPAYMENT OF FUNDS AND DEBARMENT.—In accordance with a Congressional directive, recipients of funds under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 are requested to note the provisions of section 10(i) of such Act regarding repayment of funds and debarment."

"'(7) The Chairperson shall develop regulations to implement the sanctions described in this subsection.'.".

The PRESIDING OFFICER (Mr. DIXON). The Senator from Utah.

Mr. HATCH. May I reserve the remainder of the time that was yielded to him? I want to thank him for his kind remarks with regard to this amendment.

Mr. President, this amendment that I have offered to the Interior appropriations bill concerns the recent controversy surrounding the National Endowment for the Arts. It has been a very difficult thing for all us.

I would like to express my appreciation to the distinguished chairman of the Appropriations Committee, Senator BYRD, for his work in trying to ensure that the NEA does not fund work which is obscene. I admire the Senator from West Virginia and I appreciate his commitment to carefully and judiciously guard the public funds.

The questionable projects that have been funded by the NEA in the last 2 years has been a cause of concern for every one of us. None of us wants to spend hard-earned tax dollars on projects which are offensive to taxpayers. However, the amendment I am offering further strengthens the efforts of the distinguished Senator from West Virginia.

I believe this amendment will help us pass the legislation while protecting the taxpayer funds and at the same time artists', in the plural, freedom of expression at the same time.

I appreciate the cooperation of Senators KENNEDY, PELL, KASSEBAUM, and others. We have worked together to fashion language to deal with this issue. It has been a long and very difficult process. I also appreciate the strong support we have received from the members of the Labor and Human Resources Committee. We passed a similar amendment 15 to 1 out of that committee. I think it was a very courageous and good thing to do. The langauge was adopted from the reauthorization bill which passed out of the committee on a vote of 15 to 1.

Mr. President, I am guided on this issue by two principles: First, that we have a responsibility to the taxpayers we represent to make sure that Federal funds are spent in a manner that is consonant with our American values and, second, that Congress, and this is an important point, Congress cannot effectively micromanage matters that are inherently subjective. We just cannot. If we get into that, we will have as many viewpoints and opinions as we have Members of Congress.

This amendment may not satisfy every single person's concerns on either side of this debate. It does, however, address the issue head on and provides a method of enforcement in what I consider to be a constitutional matter. Such a procedure for sanctions has been missing to date, and I view these provisions as signifcant and as a way to resolve this very serious controversy.

I strongly believe that Congress has the responsibility to the taxpayers of this country to ensure that the National Endowment for the Arts is a good steward of Federal funds. In fact, the NEA organic act already requires grantees to meet a certain number of requirements.

The amendment I am proposing today adds to these requirements by mandating that the funds be returned to the NEA if a criminal court of law determines that the project funded by NEA is obscene or violates child pornography laws. The National Endowment for the Arts will now have a statutory obligation to prevent direct or indirect subsidies to projects of this nature. Artists will also have the right inherent in our legal system which protect them from the whims of individuals in Government who may fashion a standard based on their personal values rather than on community values.

Additionally, NEA will have specific authority to recover grant money that is not spent in accordance with those guidelines and to sanction grantees who flaunt the rule. Congress has never been successful in setting bright line standards when the matter at hand is so subjective in nature, and this is subjective.

In many Federal activities, we have invested peer review panels with responsibility for making good judgments. I do not believe that we should discard this essential method for making these grants under the National Endowment for the Arts, although this amendment also includes changes to the panel procedures and membership to ensure broader representation and more access to procedures by the public.

The amendment calls for the National Endowment for the Arts to involve Americans in the review process who come from a wide variety of backgrounds and specifically mentions geographic and aesthetic, ethnic and minority representation. An agencywide panelist bank is to be created. It is my understanding that the National Endowment for the Arts will undertake nationwide recruitment on the bases that I just mentioned. The panelists will then be selected from a diverse pool on a nondiscriminatory basis. We

do not intend that every panel has to have a member representing each geographic region or a particular racial or ethnic group, but by recruiting widely, these review panels will, overall, naturally reflect a cross-section of our people.

The amendment also prohibits persons with a conflict of interest from serving on the panel making decisions about projects which affect them. The endowment should continue to have the responsibility for the distribution of the funds. I do not believe this time is inconsistent with the demand for greater accountability from the NEA.

I also want to express my strong support for the NEA and the good work it has done. The National Endowment for the Arts has increased the outreach of opera companies, ballet companies, art museums, local symphony orchestras, and local arts festivals to people throughout our country. These significant and important accomplishments have strengthened our Nation and I think they have enriched our people.

In Utah, the National Endowment for the Arts in our State, a small innermountain State in the Western part of our country, 1.7 million people, the National Endowment has been very helpful with our Utah Symphony Orchestra which has consistently been rated in the top 25 orchestras in the country, many years in the top 10; Ballet West, one of the best ballet companies in the world; the Utah Opera Co.; the Shakespearian festival, world renowned for putting on Shakespearian plays in the summer. Arts festivals, and other approaches. Without that we just would not have had the quality of arts appreciation or life we have today. Today, Utah has become a colony for artists of all forms of art. It has uplifted all of us out in that area.

In the past 25 years, the NEA has made over 85,000 grants that have enriched the lives of people all over our country in every State, not just the State of Utah. They have helped communities all over America to provide cultural activities for their people. Twenty-five years ago, only five States had arts councils. Only five. Today, every State has its arts council.

There are eight times as many professional dance companies today as there were back in 1965; Three times as many professional orchestras; nearly five times as many opera companies, and nearly eight times as many professional nonprofit theaters.

The expansion of cultural activities means that many more citizens have been able to attend performances and exhibits and benefit from the arts. I wish all agencies could do as good as the National Endowment for the Arts. Eighty-five thousand grants and we have 20 that have been criticized, and not all of those would be criticized by everybody in this body.

Some of them deserve every ounce of criticism they have received, but that is a pretty sparkling record. It is a decent record. It is the best of any agency in Government that I know of. It is something we ought to be proud of and not attack it.

As I say, my own State of Utah has benefited substantially from grants to opera, ballet companies, museums, and other cultural activities.

The people of my own State, particularly those Utahns in rural areas, have appreciated diversity of cultural offerings available to them at least partly because of the National Endowment for the Arts. I greatly appreciate the contribution of this legislation to making all of these things possible. Unfortunately, the good work of the National Endowment for the Arts has been obscured by several highly controversial grants. The people of this country are justifiably outraged by some of these grants and some of the funding of a small number of highly objectionable art works.

As a supporter of the arts, I have been concerned about the views expressed by both taxpayers and artists. I certainly hope each group will listen patiently and openly to the other side as this bill moves through Congress. There clearly are two sides to this issue and neither side can or should be ignored.

I think the distinguished Senator from North Carolina, for all the criticism that has been heaped upon him, has done the country a service because we have been able for the first time to really start telling people the good side of the National Endowment for the Arts and we have had to do it because of the criticisms that have been lodged. But some of the criticisms have been just, too, and we have to take those criticisms seriously.

Congress has to continue to encourage broad support of the arts by ensuring that the Endowment assists projects that support the diversity, talent, beauty, and cultural heritage of the arts in this country, but I believe we can do this without compromising the balance of good taste. I hope you will see that this amendment is a step in the right direction.

I call upon all my colleagues to support it. I surely hope they will. I think it is worthy of their support. I hope, when we vote on it, we can vote overwhelmingly in favor of this amendment. I hope this amendment will help to resolve some of the conflicts that some feel exist in the arts.

Mr. PELL. Mr. President, it is a pleasure to rise as a cosponsor of the amendment put forward by my colleague from Utah that would strike a section of the administrative provisions under the heading of the National Foundation on the Arts and Humanities that relates to language established in the fiscal year 1990 appropriations legislation that directs the Endowments on the use of its funds. I am also pleased that the chairman of the Labor and Human Resources Committee and the ranking members of the Subcommittee on Education, Arts, and Humanities are joining us in this effort.

I fully respect the position of the distinguished chairman of the Appropriations Committee and could not agree with him more that obscenity has no place in the work of the National Endowment for the Arts. Moreover, I believe we are in complete agreement that very specific steps must be taken by the Congress to ensure the accountability of taxpayers' dollars as they are distributed by the Endowment in the future. We differ only on the best way to achieve this.

As chairman of the subcommittee that authorizes the National Endowments, I am particularly disappointed that the Appropriations Committee did not take the guidance offered by the Labor and Human Resources Committee. We have spent many months of intense work on these difficult questions and believe the inclusion of the language so overwhelmingly approved by our committee would have been the best course of action. We began our work in earnest last spring with a series of hearings in the subcommittee that explored the Endowment grant process in great detail. Witnesses testified from all corners of the political spectrum and offered thoughtful and useful insights into the controversy which has been with us for over a year and a half now.

The Committee on Labor and Human Resources carefully reviewed the testimony and began a long and painstaking process to find the best way to make the Endowment grant process as accountable as possible to the public who is the ultimate sponsor. As one of those who helped establish the Arts Endowment 25 years ago, I am particularly alarmed at how quickly this controversy mushroomed and became distorted. It is truly a case of making a mountain out of a molehill.

As a matter of coincidence it should be noted that fate has not been kind to the original band of lead sponsors of this legislation enacted 25 years ago—in fact, I'm the sole survivor. Two were defeated at the polls, one died and two went to jail. I make this point, not to show a connection, but as a matter of possible interest to my colleagues.

Our perspective has been skewed and all of the positive things this agency has accomplished have been largely ignored in this unfortunate debate. We should not be here today talking about obscenity and the NEA.

We should be talking about the cultural life of this country and how the Arts Endowment is so central to its vitality.

The committee reviewed many options over the course of the summer. It was not easy to find common ground. But because of the extraordinary bipartisan effort of my committee colleagues—and I mention Senator KENNEDY, Senator HATCH, Senator KASSEBAUM, and Senator METZENBAUM in particular—we were able to fashion a proposal that we believe deals with the difficult question of obscenity in a fair and responsible manner.

The Labor and Human Resources Committee met on September 12 and endorsed our proposal by a margin of 15 to 1. The members of the committee showed wisdom and resolve in reporting a strong bill to the Senate that deals with the issue of obscenity in a balanced and rational way.

Our approach not only reflects our goals for the future of the Arts Endowment but it also shows the very high regard we each have for this agency and its mission. I know, too, that the vast majority of Senators know how much the Arts Endowment has accomplished and want to see it continue to thrive in the spirit of bipartisanship and mutual cooperation that has been the hallmark of its existence.

To my great regret, our reauthorization proposal is not likely to be considered by the Senate during this session. This is especially disappointing because we believe we had reached a solution that would find broad support in the full Senate. The House was able to move ahead, however, and pass a bill last week that contains many provisions present in our own bill. I am eager to point out that the House addressed the issue of obscenity in the same manner as the Senate Labor Committee.

The amendment we are now considering takes the very core of our larger reauthorization proposal—the provisions dealing with NEA accountability and obscenity—and substitutes these points for the obscenity language in the bill before us. By presenting this amendment, we offer Members of the Senate the opportunity to respond to the work of the Labor Committee that was so carefully developed in a bipartisan spirit over the last 5 months.

This amendment addresses obscenity directly but we are mindful to avoid the constitutional pitfalls that would arise with the imposition of guidelines that would establish prior restraint on NEA grant awards. Instead of requiring the Endowment itself to set standards on what may or may not be obscene, this amendment places that role in the courts where such a decision truly belongs. This avoids the potentially serious constitutional problems which could arise if an administrative agency like the NEA were to make determinations of obscenity. It acknowledges that obscenity and child pornography are not forms of protected speech under the first amendment. Obscenity and child pornography are illegal and this amendment requires strict sanctions against any NEA grantee who is convicted of violating such laws.

If such a grantee is convicted by a court of violating obscenity or child pornography laws, the amendment requires this individual, or organization to repay all Federal grant funds and be ineligible for any Endowment grants for a period of 3 years.

The amendment echoes the findings of the Independent Commission which was established a year ago in this same Interior appropriations bill. The Commission, which made its report to the Congress in September, found that, "the National Endowment for the Arts is an inappropriate tribunal for the legal determination of obscenity, for the purposes of either civil or criminal liability." It went on to tell us, and I quote here directly from the Commission report, that:

> The nature and structure of the Endowment are not such that it can make the necessary due process findings of fact and conclusions of law involved in these determinations. The Endowment must, of course, make grants that comply with federal and state law but the appropriate forum for the formal determination of obscenity is the courts.

I ask the Senate to give its support to this amendment which reflects the almost unanimous recommendation of the Labor and Human Resources Committee, as well as the final position of the House of Representatives and the findings of the Independent Commission that was established in the Interior appropriations bill. Taken together, this is a strong endorsement of the amendment before us, and I urge my colleagues to support it.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in strong support of the amendment offered by my colleague from Utah. I want to take this time to commend the work that he and Senators PELL, KENNEDY, and KASSEBAUM have devoted to this extremely difficult and sensitive issue. They have worked out what I think is a very excellent reconciliation of the difficulties we have.

The amendment before us addresses language in the appropriations bill which places content restrictions on funds expended by the National Endowment of the Arts [NEA]. The restrictive language forbids funding of works that may be considered obscene "* * * which, when taken as a whole, do not have serious literary artistic, political, or scientific value." That standard certainly is not one with which we can disagree.

The Hatch amendment, which I cosponsored, modifies that language with regard to who makes the determination. The compromise language was painstakingly developed by the Committee on Labor and Human Resources. That compromise language addresses the question of Federal funding of obscenity or child pornography by debarring anyone convicted by a court of creating or producing such work from NEA funding for at least 3 years and by recouping all Federal funds used to support such work.

Both this amendment and the language in the appropriations bill restrict the promotion of obscenity in the arts. Let us all be perfectly clear: This is not a debate on obscenity. I think I can speak for every Member in this body when I say that no one questions the offensive nature of obscene work and no one questions that there is no room for Federal funding of obscenity.

The debate is not whether Federal money should fund obscene work. The debate is the question of who decides what is obscene.

Thus, the difference is how we approach the matter. The Appropriations Committee places the onus upon the Chairman of the National Endowment for the Arts to determine what is offensive and obscene. The Hatch amendment on the other hand, places that function upon the courts. Let me explain why this is such a fundamental distinction.

By placing responsibility on the chairman to determine what is obscene, he or she is placed in an extremely difficult position to decide an issue that he or she is not qualified to make. Although public debate and congressional action have focused on "obscenity," the term is ambiguous. In a narrow, legalistic sense, obscenity involves the exacting standards of proof prescribed most recently by the U.S. Supreme Court in Miller versus California. It is certainly appropriate for the Court to make those decisions.

The other meaning of the term, in common parlance, involves grossly offensive matter—with the term grossly offensive having a different definition depending on the situation.

Therefore, by requiring that the Chairman of the NEA be responsible for determining such an inexplicit term places a tremendous burden upon the Chair.

As the bipartisan independent commission, named by President Bush and the Democratic and Republican leaders of Congress, concluded:

> * * * the NEA is an inappropriate tribunal for the legal determination of obscenity. The Commission believes it inadvisable for the Endowment to attempt to make determinations of what constitutes legal obscenity. The nature and structure of the Endow-

ment are not such that it can make the necessary due process findings of fact and conclusions of law involved in these determinations. The Endowment must, of course, make grants that comply with Federal and State law but the appropriate forum for the formal determination of obscenity is the courts.

This is the conclusion of a commission that this body established in order to resolve a conflict that threatened to undermine the integrity of an important Federal program. Now, the body that put this Commission in place is about to throw away its recommendations, effectively saying that Congress knows better. Congress knows better than the Commission whose goal it was to study the issue intently and diligently and to recommend a resolution.

Instead, this body may adopt language that raises serious constitutional questions under the first amendment protections of free speech and expression, imposing an indirect system of censorship with standards so vague and an impact so severe as to result in a chilling of free expression in our society.

By keeping the language as included within the appropriations bill there is no question in my mind that it will fail a first amendment test. It would represent an impermissible attempt by the Government to restrict speech through a Federal-funded program. I am afraid that we will have created an atmosphere in which artists will fear Government or public reprisal for work that is supported by the endowments.

I have argued for this provision on the merits of placing a decision of determining obscenity in the courts and further argued that such a system would guard first amendment rights. I have not even touched upon the secondary issue of what I believe to be a frustrating and needless debate.

I say that not because I wish to overlook the issue that has been raised with regard to obscenity. Obscenity itself is no small matter.

However, when you put it in the context of the number of grants and awards and all the wonderful things that the NEA does, it becomes one on which we should not focus all of our attention. The Senator from Utah extolled the virtues of the many programs that go on in his State. The same is true in mine, as you see the artists in residence and the wonderful opportunities that young people have to discover the thrill of being involved in the arts.

Between 1965 and 1988, the NEA reviewed approximately 302,000 grant applications and funded approximately 85,000 grants. Last year alone, more than 17,000 grant applications were considered, resulting in 4,600 grants to arts institutions and individual artists. The national attention focused on the NEA involved two particular artists. Together these grants account for less than 3/100 of 1 percent of the total 1988 Arts Endowment budget. That is a small concern.

However, if we are to address this issue it is imperative that we do so in a manner which does not threaten or stifle the free expression of artistic work, which many argue is the signature of our culture.

To me it is a question of risk in our society. Is it not worth the risk of 3/100 of 1 percent to ensure that we do not stifle the potential of just one such future artist? The Hatch amendment achieves the fine balance of restricting Federal funding of obscene art without unduly crippling artistic expression.

I urge my colleagues to support the Hatch amendment.

The PRESIDING OFFICER. Who yields time.

Mr. HATCH. I yield 5 minutes to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank my colleague from Utah, Mr. President.

Let me, first of all, commend him for his leadership on this issue and for his eloquent statement this afternoon in support of his amendment.

Mr. President, I would like to pick up on a point the Senator from Utah made. I think he made it eloquently, and strongly, but I think it needs to be emphasized in this debate.

It almost borders on the ludicrous, Mr. President, that we are here debating this. I would have thought that maybe an amendment was going to be offered that might have been a resolution commending the National Endowment for the Arts.

When you have a Federal agency after 25 years that extends 85,000-plus grants and at the end of a quarter of a century we are able to look over the landscape and find 20 grants that offended some people, I would suggest that maybe half of those would not even be in controversy today, since some of them were in controversy 10 or 5 years ago, and here we are trying to restrict the ability of an agency to do its job with the kind of record the NEA has.

So I am disappointed in many ways, that we are even engaging in debate, which would restrict the ability of this agency, which has achieved the incredible performance level it has. I find it somewhat remarkable that we are involved in this process at all, where we are defining or restricting the ability of this agency to do its job.

But I commend my colleagues from Utah, as well as others who are responsible for drafting this compromise proposal. In many ways, Mr. President, I regret that they have had to do this because, frankly, as I said a moment ago, I think the agency is performing remarkably well. But the fact is the political realities are such that we need to have some language that is going to satisfy some people, and that the agency is going to do its job.

I just want to be on record, Mr. President, that I think it is doing its job. I think the taxpayers in this country can be deeply proud of an agency of the Federal Government, that after 25 years, a quarter of a century, 85,000 grants, has 20 cases they can point to that upset some people. In a couple cases the grants were not even made to artists. They were made to museums, who in turn, made the grants or chose the artists. The NEA was not even a sponsor in a couple of these cases. Here we are spending good time this afternoon, quibbling over the fact there was some controversial grants extended out of an agency that has performed that well.

I wish to make just a couple of points about the agency, Mr. President, because, unfortunately, I think people assume that these artists are only supported by the National Endowment for the Arts. It has been pointed out by the Chairman of NEA that the $119 million we provide to the NEA actually generates something in the neighborhood of $1.6 billion in private contributions to support artistic productions across this country.

That is a remarkable incentive for generating that kind of private capital to support art in this Nation. In the absence of that kind of seed money, if you will, I suspect, as he does, that that number would be significantly less.

The Senator from Utah pointed out 25 years ago, only a handful of States had arts councils. As a result of the work of the NEA, we now find that all 50 States are engaged, or have arts councils, and are promoting, of course, all sorts of artistic productions, from youth programs to the actual productions of the visual arts, performing arts; really generated a tremendous amendment of interest across the country.

I would like to make an additional point on all of this. The NEA's job ought to be, in a sense, to promote not the accomplished artist, not the one who has arrived, not the one who has achieved commercial acclaim or success. The idea behind this, at least a good part of it, is to say those who have not yet achieved that kind of status, that we believe enough in you, we believe in what you are trying to do, that we would like you to continue what you are doing.

So the essence of the program, in a sense, is to reach out to those artists who have not yet achieved that kind of success, and to say, stick with it, keep trying, we think you are on the right track, we would like to see you do more.

So, by the very nature of the program, we end up dealing, from time to time, with artists who are on sort of the cutting edge.

So when we hear of artists who are performing things or performing productions, or engaging in the production of art that is not yet commercially acceptable, that is exactly the kind of work that the NEA ought to be involved in, promoting that sort of activity.

Last, I hope that we in this Chamber today, would recognize that, throughout history, it often appears that though the politicians get quickly forgotten, the artists of the day are remembered. That is not always true, but it is from time to time throughout world history. So the signature, the identifying characteristics of a generation, in many ways, are left by the artists which the generation produces, not by the speeches given by Senators, Congressmen, not by Presidents or heads of state necessarily, but by what the artists say and perform, do, at any given time in history.

In a sense this great country of ours has always taken pride that we have produced great artists throughout our history, and today we ought to be encouraging even more.

So I hope the Hatch amendment is adopted. I regret it had to be offered. My hope would have been that we would have gone back to what had been done earlier. But if this is the way we are going to achieve the kind of openness in this process that I think is possible, then I am going to strongly support this amendment, because I believe without it we would not end up with an NEA that would perform as well as it has in years past.

Connecticut, like Utah, like Vermont, of course with our Godspeed Opera House, the O'Neill Theater, Hartford Stage, countless other organizations in our State, have benefited as well in this program.

So, I strongly urge the adoption of the Hatch amendment, and hope we can finally put this issue behind us, and recognize the significant contribution of this remarkable agency that is celebrating its 25th anniversary.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I feel very deeply about the arts. I think that is apparent. I am concerned about it. I do not think it is a liberal-conservative issue. I think it is an issue of human understanding.

Shortly after my birth, my folks lost their home in the Depression. My dad built us a home with $50 worth of old lumber that he bought from an old burnt-out shell of a building. We did not have indoor facilities for a number of years in that home. We were very poor.

My father was a building tradesman. In fact, he taught me his trade. I worked at it 10 years myself, and became a full-fledged member of the AFL-CIO as a Journeyman. I am proud of it to this day.

I loved athletics. I would rather have done athletics than anything else. But my mother and my rough old father, who worked with his hands, started me playing the piano when I was 6 years old. I practiced piano for 6 months. I always have remembered what I learned, and I can still flutter around on the piano a little bit. Somehow my folks got their hands on a beautiful violin. Then my mom and dad sacrificed everything they had so that I could have violin lessons.

As an athlete, I have to admit, I did not like carrying that violin to school at first. I got into all kinds of fights over it. Gradually I got so I enjoyed standing up for the violin. My folks encouraged my interest in music and spent less on groceries so I could get season passes to the Pittsburgh Symphony Orchestra, and the old Syria Mosque in downtown Pittsburgh. I walked 2 miles, rode streetcars, transferred all the way over to Oakland, sat in Peanut Heaven in the Syria Mosque, and listened to the great Pittsburgh Symphony Orchestra play.

I saw all the great artists: Roberta Peters, Fritz Kreisler, Rubinstein, Horowitz, you name it. My folks made sure I had the opportunity to appreciate the arts. I could talk about their sacrifices and their encouragement of my interest in the arts for quite awhile.

I will not bore the Senate tonight, nor do I want to take a lot of time. I am, to this day, in such debt to that caring mother and devoted father for taking time, and for sacrificing to help me to play the violin, the viola, the string base, the organ, and the piano. I am not very good at any of those now, but I was at one time. I have not played the violin since I left high school. However, I was the concert master in our high school orchestra. I was in "Who's Who in America High Schools" for music.

I liked playing basketball even more. But all the basketball playing in the world did not do as much for me as playing that violin and defending my right to play it with my friends in the schoolground.

Mr. President, the distinguished Senator from Connecticut hit the nail right on the head when he said that for this little bit of seed money that we give to the National Endowment for the Arts we get billions of dollars of product. Money spent on the arts benefits kids—like that poor kid from the wrong side of the tracks in Pittsburgh named ORRIN HATCH.

I do not mean to make it so personal. There are millions of kids just like I was, whose only chance to ever play an instrument, see a symphony orchestra, ballet, opera, hear the reading of poetry, or other great works of fiction, or experience real drama, live jazz, arts festivals, or museums, depends upon seed money from the NEA. The few dollars of seed money given to NEA, account for billions of dollars of private contributions and increase cultural offerings all over this country.

I feel the same way the distinguished Senator from North Carolina does about pornography, obscenity, filth and, criticism of our fellow religions. However I do not believe that content restrictions will help further the arts. I think such restrictions will hurt the arts. Some will say that my amendment does not do enough. Others will say it goes too far.

I think it is a reasonable balance to get us where I think the distinguished Senator from North Carolina would like to see us. I know he is a broad-minded person, and he sees the value of the arts.

I hope that this amendment will be agreed to, because the NEA helps people all over the country experience the arts and I want to see them continue as a viable agency. This is an important decision; this is not some insignificant debate in the U.S. Senate. Our votes today, will make a difference as to whether or not the NEA continues to do the excellent job it has done through all these years.

Mr. President, I feel very deeply about the arts. I am sorry to have unburdened my soul to the degree of telling personal experiences, but personal experiences shape our lives. To my dying day, I will be grateful to that loving mother who only went to the 8th grade, but spent the rest of her life studying literature, poetry, and music, even though she never played an instrument. Her kids benefited from her love of the arts.

I have to say, to my dying day, I will be grateful to her, and for what she taught me. NEA exponentially has done a similar thing for the people of Utah, many of whom would never experience the symphony, the ballet, and the opera, if it was not for the help of this agency.

I reserve the remainder of my time.

Mr. HELMS. Mr. President, I wonder if the Senator will yeild 5, 6 minutes to me.

Mr. McCLURE. I yield 6 minutes to the Senator from North Carolina.

Mr. HELMS. Mr. President, I do not want to offend any Senator. But if there has ever been more irrelevant oratory about a matter in this U.S. Senate than we just heard from several Senators—the saints have been good to me—I have never heard it.

First of all, let us click off a few things. You always hear that only 20 out of 85,000 grants have been obscene. I tried to get the NEA to justify their assertion that there were 85,000 grants. They cannot do it. Nor can they justify the assertion that only 20

were obscene. The truth of the matter is that they do not know.

In any event, I say to my good friend from Utah—and he is my good friend—Mrs. Helms often says she wants to adopt ORRIN HATCH, because he is such a nice young man. But the Senator from Utah talked about the violin. Well, I played the violin, too, when I was a boy, until the instructor called my mother and said "I cannot teach him anything."

Mr. HATCH. I can see from the Senator's technique that he did not play it very well. Neither did I, by the way.

Mr. HELMS. I did play the base fiddle, but not very well, and I was once on the board of directors of an opera association. I do not know whether that gives me any credentials to talk about this thing or not.

But we are not talking about violins or symphony orchestras or choral groups. We are talking about the kind of art—and I dislike putting it this way—where a photographer is subsidized and rewarded because he took a picture of a naked man with a riding crop protruding from his rear end. That is what we are talking about. We are not talking about all of the good decent art the taxpayers' money is paying for.

A lot of Senators—I do not know whether there are a lot—but some Senators would like to do away with all the funding. I have never suggested that. The NEA has supported some very good things.

Behind the scenes in the Senate, Mr. President, and perhaps I ought not to do this, but it seems relevant to me, Senators have come to me and said, "I agree with you, but my wife is active in the arts community, and she said, 'Buster, you better not vote for HELMS' amendment.'" Then there are some Senators who date actresses, and the entertainment industry is solidly against any restriction whatsoever on the NEA's funding.

But Mr. President, we are not talking about banning anything. Let that be made clear. We are talking about the use of the taxpayers' money to fund filth. Whether there have been 20 or 10 or 200 offensive grants, nobody knows. Nobody really knows if there have been 85,000 grants. I do not know about that. But I do know that even one pornographic photograph by Mapplethorpe is too many for the taxpayers to have to fund.

The amendment of the Senator from Utah will probably pass because it gives some political cover for the Senators who have just voted against my amendment. That is all it does. And all that it was meant to do.

But let me tell you something. If the amendment's supporters are really expecting to get NEA grants back from artists who have been taken to court and convicted of an obscenity violation, I would advise them not to count on it. In the first place artists are not going to be taken to court. And even if they are, they are not going to be convicted. You just have to look at what happened in Cincinatti to know that.

Mr. President, we cannot duck our responsibility here. But the Senate is ducking it; the Senate ducked it last year and passed some fig leaf legislation to get around my amendment last year. And the sleaze continued, unabated, of course.

I guess I am old-fashioned, Mr. President, but I do not like to talk on the Senate floor about the kind of stuff that has been funded and taxpayers' money wasted on—like the woman who urinated on the stage and invited people to come up and—there is no way to put it delicately—conduct a gynecological examination.

That is what I am talking about Mr. President. That is all I am talking about. That is all I have ever talked about.

We are not talking about the 85,000 good things, Mr. President. We are talking about the sleazeballs who have been getting money from the NEA under the pretext of having produced something that they call "art."

I submit to you that that is a farce. It is worse than a farce; it is a fraud upon the taxpayers of the United States of America. I will get outvoted every time, I suppose, but I will keep trying, Mr. President.

I will say one more thing.

I have a friend who came to the office not long ago, and he stopped before the Archives Building on the way to the Capitol to see me.

He walked in and said, "Jesse, I just had an interesting experience." He said, "We stopped at the stop light in front of the Archives Building. I looked on the marble there, and there were the words "What is past is prologue." He said, "I thought I would have a little fun with the cab driver. So I said, 'Driver, what does what is past is prolog mean?'" He said, "I thought the cabbie would say 'I do not know.' But he did not. The cabdriver said, 'That means you ain't seen nothing yet.'"

Assuming that I am still in the Senate next year—I do not know whether I will or not; that is up to the Lord and the people in North Carolina—but assuming that I am here, I say to those in the arts community, and all of the homosexuals and all the rest, who are upset about this amendment, what is past is prolog—You ain't seen nothing yet.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 3 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to join with my colleagues on the Labor Committee in supporting this amendment regarding the National Endowment for the Arts, or NEA. I know that there is a great deal of concern in this body about the Federal funding of the arts via the NEA, and I do not take that concern lightly. But I believe that the amendment proposed by the Senator from Utah, myself, and others is a solid one, and I urge its adoption.

As we all remember, last year the NEA came under intense public and congressional scrutiny for having indirectly supported certain distasteful exhibits by two artists: Robert Mapplethorpe and Andres Serrano. As a result of the uproar, Congress struggled for months with the question of just what the relationship between art and Government should be.

Finally, after some heated floor debate, several rollcall votes, and a lengthy House/Senate conference, an uneasy compromise was forged. Yet, the compromise could not satisfy everyone, and thus it pleased no one. In the meantime, the NEA has spent a year under siege, unable to please anyone.

I was one of the two members who rose in July 1989 to speak against the first NEA amendment. Why did I do so? Not because I had planned to. Not because I am a big fan of the Mapplethorpe portfolio. Not because I think art should be offensive, or pornographic. And not because I believe so-called lascivious artists should prosper on taxpayers' money.

I spoke because in my view, the amendment came dangerously close to prescribing what should constitute "art." And for me, that comes dangerously close to censorship—a very, very slippery area. I do not endorse pornography. No one does. But I also do not want to see doused our much-admired American spirit, our ability to express ourselves freely and creatively. As President Bush has said:

> I would prefer (not to) risk censorship, or (get the) Federal Government into telling every artist what he or she can paint, or how he or she might express themselves.

There is another argument expressed—that the Government has no business funding the arts at all, especially in this time of budget deficit. Reinforcing that view is the constant reference made to the sick art and immoral trash funded by the NEA. Those references give many the impression that some radical, independent agency known as the NEA has been running amok promoting offensive art since 1965.

I agree that we must be careful to spend money on only those programs that are worthwhile. But I do not think that the majority of people realize to what extent the NEA has touched their communities. It is an agency that has proven itself to be not only worthwhile, but exemplary.

The NEA was created with bipartisan support in 1965 with the goal of fostering professional excellence of the arts in America, and helping create a climate in which the arts may flourish. To that end, the NEA has successfully provided nearly 90,000 grants since its inception. Of these, less than 25 have been the subject of controversy. That is a phenomal track record—one to be very proud of. I would venture that there are very few programs with that kind of track record.

My home State of Rhode Island is small in size, but rich in cultural and artistic activity. For us, the NEA has had a far-reaching and positive impact on our children, our communities, and even our economy. Last year, all 39 cities and towns in Rhode Island participated in arts programs, and more than 2.6 million people attended nonprofit arts events sponsored in part by the NEA. Rhode Island received $796,000 in fiscal year 1989 NEA moneys, benefitting 128 organizations, 500 schools, and 60 artists. The net result? A flourishing, popular public arts program, and a boost of $72 million to the Rhode Island economy.

I might add that NEA moneys are often matched 3:1 by private sector funds, thus generating a tremendous amount of support for, and stimulating public/private partnerships in, the arts. Last year, $153 million in Federal support helped generate $1.4 billion in private sector arts funds. In fact, corporate support for the arts has skyrocketed from $22 million in 1966, to $436 million in 1989. State support has risen likewise: from $2.6 million in 1966, to over $100 million today. Such partnerships bring communities together for the enjoyment and benefit of all involved. Clearly, art activities often act as a catalyst for economic growth, while at the same time helping showcase America's cultural heritage.

We Americans enjoy the arts. In 1985, 29 million people went at least once to a musical play or operetta; 25 million watched dance performed on TV; 31 million listened to jazz on the radio; 38 million visited art museums; and 96 million Americans read short stories, poetry, or plays. Since 1966, the arts have exploded in growth. The number of art museums nearly doubled in the past 25 years, from 375 to 700. The number of dance companies jumped sixfold, from 37 to 250. Nonprofit theaters went from 56 to 420. So our interest in the arts is strong. Americans are taking an active part in their history and culture.

But you do not have to be a museum-goer to enjoy the arts. Many daily local activities are arts-oriented. Likewise, contrary to popular belief, NEA funds are not reserved exclusively for art institutions. In fact, the broad, diverse range of individuals and groups that receive NEA support would come as a very big surprise to most. Schools, churches, community groups, groups for those with mental or physical handicaps, libraries, boys and girls clubs, parks, theaters, and even prisons receive help for their arts and arts-related programs.

NEA-sponsored projects are not elite, radical activities that are of interest to only a very few. they are projects that are accessible to everyone, projects that improve the quality and richness of our—and our children's—lives. Most of us have probably taken part in NEA-sponsored events without ever realizing it. For example, here are just some of the hundreds of NEA-supported Rhode Island projects:

"Project Discovery," which allowed 18,500 students to attend 41 performances at Trinity Repertory Co. in Providence;

The West Warwick "Chance to Dance" after school activity for over 100 fifth and sixth graders;

Tours and programs for 12,000 students at the RI Museum of Design;

A Pawtucket art program for persons with cerebral palsy;

The Providence "First Night" celebration;

The Langston Hughes Center for the Arts' performances on the cultural contributions of African-Americans;

The Newport Folklore Society;

The Newport Music Festival; and

The Cranston "Big Sister" Association.

Nationally, NEA-sponsored projects are of equally high quality:

The Boston Museum of Fine Arts' Renoir exhibit;

The Music Program and Opera-Musical Theater Program, which provide support to orchestras and opera companies who provide free or discounted tickets to older and disabled persons;

Children's public television programs such as "Wonderworks";

The Dance Theater of Harlem;

Philadelphia's WHYY radio station's "Fresh Air" writers interview program;

The Vietnam War Memorial;

"Metropolitan Opera Presents" and "Great Performances" on public television; and

The American Film Institute.

That is an impressive list. One further note: All four 1990 Pulitzer Prize winners—music, fiction, poetry, playwriting—received, at one point in their respective careers, NEA grants.

If there is any debate today about the importance of the NEA, it should be framed in terms of the overall record of the agency, not in terms of a few individual grants that may have escaped careful scrutiny. A few rotten apples in the bunch should be viewed for what they are—anomalies—instead of being used as the yardstick by which the entire agency is judged.

The amendment that is here before us is a solid compromise that addresses many concerns that have been raised. It would debar from NEA funding for 3 years anyone convicted of creating work that is obscene or that involves child pornography. The ruling of whether or not a work is obscene would be made by the courts; that is where any debate on obscenity belongs. As they say, you know it when you see it. But getting a crystal-clear definition is next to impossible. So I think that leaving the obscenity question up to the courts is the wise and thoughtful solution.

This conclusion is bolstered by the Independent Commission that Congress set up last year to review the NEA's grantmaking and art standards. The Commission report states that the NEA is "an inappropriate tribunal for the legal determination of obscenity," and that the Commisison "recommends against legislative changes to impose specific restrictions on the content of works of art." The report closes by saying that "[t]he NEA record establishes that a relatively small investment of Federal funds has yielded a substantial financial return and made a significant contribution to the quality of American life." And that is certainly true in my State, Mr. President.

To be honest, I would have preferred a clean NEA reauthorization bill without any restrictions; and last June I joined nine of my colleagues in introducing such a bill. But if we are to have legislative safeguards, if there remains concern about the NEA and its work, then I believe that the compromise crafted by the distinguished Senator from Utah and others is a reasonable solution. At least it is much more workable than what we have seen in the past year.

So let us let the fires of originality burn. There might be some singeing, but I think that is a risk worth taking if we want to allow American creativity to shine. I do not think we want to see safe art—that of the lowest common denominator—become the only art supported by the NEA. The NEA has helped our arts programs flourish. That is what it was created to do. And it is working.

So I hope we will adopt the compromise. I thank the Chair.

Mrs. KASSEBAUM. Mr. President, I strongly support the Hatch amendment and am indeed a cosponsor. This amendment incorporates the approach taken by the Labor and Human Resources Committee in a reauthorization bill approved by a 15-to-1 vote in committee. This approach is the culmination on the part of many to try to achieve a compromise that would address the question of accountability on the National Endowment for the Arts. I think that this amendment does that.

There are many people in Kansas as well as, I would suggest, in North Carolina who strongly support the development of the arts and humanites in this country and do believe that the Federal Government has a role to play. However, we obviously have encountered—and I think rightly so—questions of accountability. There is a certain arrogance that does not bode well for the fine work that has been done by the National Endowment for the Arts through the years. I think this amendment answers those concerns.

I deeply regret that we are not able to consider this issue as part of the full reauthorization bill. Because it appears that the Interior appropriations bill offers our only opportunity to debate the NEA, I believe it is important that the work of the authorizing committee be considered.

This amendment assures accountability in two ways:

First, by assuring that tax funds will not be used to support that which is obscene or is child pornography; and

Second, by making a number of changes in NEA grant procedures.

In brief, the amendment would address the question of Federal funding of obscenity or child pornography by debarring for at least 3 years anyone for creating such a work and by recouping all Federal funds used to support such work. A determination of whether or not an art work is obscene or is child pornography would be made by the courts.

The reasoning behind this approach is that:

First, it assures taxpayers accountability by making certain that any individual or group responsible for work which is obscene or is child pornography is punished through debarment, and it assures that the Government gets its money back.

Second, it addresses issues—obscenity and child pornography—for which clear legal standards exist. Such clear standards do not exist for other types of work which many of us might find offensive.

Third, it places decisionmaking authority in the hands of those most qualified to make such determinations—the courts. The National Endowment for the Arts is not a judicial body and is poorly equipped to make legal decisions.

In short, we are seeking an approach which made a strong statement regarding the appropriate use of tax dollars, which would establish clear standards, and which would be effectively enforced. I believe this proposal meets these goals. With respect to NEA procedures, we are proposing a number of reforms to be included in the basis NEA statute. The goals behind these changes are:

To broaden input into the process by adding lay people to review panels and requiring rotating panel membership;

To make more complete information available to panel members by requiring more site visits, followed by a written report to panelists;

To make the process more open by requiring a written record of all panel deliberations and by opening to the public all National Council on the Arts meetings; and

To avoid any possible conflict of interest by barring from panel membership any individual with a grant proposal pending or any employee of an organization with a pending proposal.

Real accountability can be assured only by a sound and open process of grant review. I believe this proposal makes significant improvement in this area.

For 25 years, the NEA has helped nurture our Nation's rich cultural heritage—not only supporting our celebrated institutions, groups, and individuals but also extending the reach of the arts to communities in all corners of our Nation.

Maintaining this proud tradition will be possible only if the American taxpayer can feel confident that the NEA will exercise good judgment in selecting award receipients. I believe this proposal will help bolster that confidence.

I believe this is an answer that we have been seeking in both the House and the Senate to answer the concerns that some have felt, and I think rightly so, about the role and future of the National Endowment for the Arts. I urge my colleagues to lend support to the Hatch amendment.

I yield the floor.

The PRESIDING OFFICER. The time has expired.

Who yields time?

Mr. McCLURE. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, first, I state how firmly I am in oppoition to the amendment that is now before this body, and then I wish to ask the sponsor of the amendment one or two questions about the amendment because I want to make certain that I do not mischaracterize the amendment as I speak concerning it.

On page 6 of the amendment, if the Senator will refer to it, there is reference made to "violate child pornography laws." That is found on page 6, lines 7 and 8, and again on page 7, lines d5 through 8, "found to be obscene or to violate child pornography laws." In those references I think it refers back to paragraph No. 1. Paragraph No. 1, I take it, is that paragraph which is found on page 5, lines 6 through 16. Am I correct?

Mr. HATCH. I believe the Senator is correct.

Mr. McCLURE. The reason I ask that question is, in the paragraph it has referred to the child pornography laws. Are these criminal violations of child pornography laws?

Mr. HATCH. That is correct.

Mr. McCLURE. So we are talking about criminal violations of child pornography laws, therefore criminal laws.

Mr. HATCH. I assume they are child pornography laws, capable of being criminal.

Mr. McCLURE. I assume if they are criminal laws, there is a criminal statute and a criminal penalty and a criminal trial before they are found guilty of violating the child pornography laws.

Mr. HATCH. That is correct.

Mr. McCLURE. I think that is the central thrust of that portion.

Mr. HATCH. It may not necessarily have to be a statute. However, the fact is, in most cases it is a statute.

Mr. McCLURE. I assume you do not find someone guilty of criminal violation unless there is a statute.

Mr. HATCH. Unless the State has a common law or something like that.

Mr. McCLURE. I do not know that there is a common law violation of criminal law.

Mr. HATCH. I presume the Senator is right on that.

Mr. McCLURE. I thank the Senator.

What we really get down to in this debate is whether or not we establish any standards at all. It is not a question of whether or not the NEA has done good work, and I will not even quibble over the numbers of good grants that have been made. I do not care whether it is 50,000, 60,000 or 80,000 or 120,000. I think we would all stipulate, for the purposes of this debate, that the National Endowment's granting history has been good most of the time. That is not the issue. It is not the issue for this Senator.

The issue is whether or not they have any responsibility to do anything or are they responsible for the content of the arts or the productions which they fund? And there are some who say, no; that it is not our business; they are entitled to do whatever they wish. Indeed, I have heard it said from members of the arts community, "You have a duty to give us money. It is none of your business how we spend it."

I suggest we cannot so easily evade our own responsibilities with respect to the expenditure of the taxpayers' money. Nor do I submit it is possible for us to say to the National Endowment for the Arts, "You have no responsibility for the expenditures of the taxpayers' money." So a simple question, as far as I am concerned, is answered by saying: "Yes, indeed, you

do have responsibility. Yes, indeed, you do have accountability, you, the National Endowment for the Arts, you the Members of the Senate of the United States."

The taxpayers out there whose hard money goes into these programs have a right to expect that we are trying to make sure that the money that we have taken from them and provided for the support of the arts is expended in a responsible fashion. That is the issue.

I can understand some who say, "No, you do not have any right." I disagree with them. I think we have a responsibility. The question is does this amendment meet this responsibility? I think not.

We have a choice of saying there will be no standards at all or to attempt to provide some standards or direction to the National Endowment for the Arts so we can determine whether or not they are meeting what we believe is their responsibility. Or we could, as is done in this amendment, say the only standard we can set is criminal violation, as though we are saying that anything that is not criminal deserves our support. How silly can we be? To say that anything less than criminal deserves the taxpayers' financial support. It does not.

I do not mean to be unduly personal, but I will give a personal example: I suspect that if a private organization, not funded by the Federal Government through the National Endowment for the Arts, would have Annie Sprinkle performing in Temple Square in Salt Lake City, the Senator from Utah would object.

Mr. HATCH. I think the Senator would object. In fact, the Senator objects to Annie Sprinkle anywhere.

Mr. McCLURE. I suspect if the Senator from Utah knew that Federal money was supporting the Annie Sprinkle performance in Temple Square, he would get some questions from his taxpayers why did he not do something about that.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. McCLURE. Because the taxpayers will look at us and say, "You are responsible for how the money is being spent."

Mr. HATCH. Will the Senator yield on that?

Mr. McCLURE. I am happy to yield.

Mr. HATCH. I do not worry about Annie Sprinkle performing in Temple Square. That is not going to happen.

Mr. McCLURE. No. Now, if the Senator will yield, why is that not going to happen?

Mr. HATCH. For many reasons, which I would just as soon not go into.

One thing I do agree with the distinguished Senator from North Carolina on, is that some of these illustrations he brought up are very serious. They have to be paid attention to. I think Senator HELMS has done the country a service in raising the issue.

Mr. McCLURE. Let me recover my time.

Mr. HATCH. If I could just say one other thing.

Mr. McCLURE. Surely.

Mr. HATCH. That is, the National Endowment has stated that it did not fund Annie Sprinkle.

Mr. McCLURE. Come on.

I recover my time at this point. I will respond to that.

Mr. HATCH. Might I just answer on my own time?

Mr. McCLURE. Just a moment, I will yield back in a minute.

Mr. HATCH. I am not saying they did not.

Mr. McCLURE. I want to respond to that right now.

For the National Endowment to say that we did not hand her the check, therefore we are not responsible for what she did, is just an absolute evasion of the kind of responsibility we think they ought to have.

Now, I will not accept for 1 minute the idea because they did not hand her the check their hands are clean. If the National Endowment were to say to me and to say to the American public, we are sorry for what happened; if the National Endowment were to say, we accept responsibility for this and we are going to tighten up on the processes and reviews and see this does not happen again, many of us would feel differently about it.

Now I do not agree with my friend from New Hampshire, who came in a moment ago and in a brief speech indicated he would do away with the whole thing, because I agree with the Senator from Utah, from personal experiences, which I could recite but will not take the time to do so, how much the arts mean to this Senator. I share many of the experiences that many people across this country share with respect to the enrichment of our lives because of the arts, and I support what the National Endowment is supposed to be doing and ought to be doing and most of the time does.

I reject the idea, however, that the National Endowment, because they do good things, should not have responsibility for the bad things which they permit to happen with taxpayers' money.

Mr. HATCH. Will the Senator yield on that point?

Mr. McCLURE. Yes.

Mr. HATCH. I do not mean to take the Senator's time, but I think he has quite a bit of time.

Is the Senator familiar with the GAO report requested by the distinguished Senator from North Carolina? In that GAO report, he asks them to investigate Annie Sprinkle.

As a preface to my comments, I want to say that I do not condone Annie Sprinkle.

Mr. McCLURE. May I yield on your time?

Mr. HATCH. Sure.

I do not condone Annie Sprinkle. I do not like that type of performance. But I think to use that example, when the GAO report shows that the money was given to the Kitchen and was spent a long time before Annie Sprinkle's show was produced, may not be quite totally fair. Whether that is true or not, I do not know. All I can say is, I do not like performances like Annie Sprinkle's any more than the distinguished Senator from Idaho does, or the distinguished Senator from North Carolina does.

The procedures we have in this bill will result in the NEA making grants which clearly identify where the funds go. I think that is going to eliminate questions about whether or not a project is funded by NEA. It is one of the things we tried to do. The procedural changes are as important as, if not more important, than the sanctions we have proposed.

I also think its fair to ask questions about any of the 20 exceptions that have been raised. Suppose there are 100 that are suspect, very questionable and open to criticism. I am not sure any of us would disagree with each other about our right and responsibility to criticize them. The point is, how do we want this agency with an excellent record to be run? Where do we want it to go? Do we want to destroy it or do we want freedom of expression in this country?

I think freedom of expression is very important. I want to support freedom of expression.

Be that as it may, I reserve the remainder of my time.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator——

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. McCLURE. Mr. President, I would be happy to have the Senator from Utah yield to the Senator from Kansas.

Mrs. KASSEBAUM. Will the Senator from Utah yield just a minute so I may respond to the Senator from Idaho?

Mr. HATCH. Yes.

Mrs. KASSEBAUM. The Senator from Idaho made some very good points, and I agree totally with his comment that there is a responsibility that comes with funding. That is a responsibility that we have, that is a responsibility that the National Endowment for the Arts has.

You ask what, then, has improved as far as accountability—because that is what we are aiming at when you mention a show such as the Annie Sprinkle show. In other words, what would there be in the particular amendment that we are discussing that would not have allowed this type of perform-

ance? I would simply say I think the procedural changes that are in the amendment really provide the answer, because real accountability can only be assured by a more open and broader review process. I think it has already been ennunciated what that review process is and what changes have been made there.

I clearly believe, and would say to the Senator from Idaho, that I think with the change in those procedures, such a performance would have been questioned before any money was given to fund the project.

The PRESIDING OFFICER (Mr. BINGAMAN). The time of the Senator from Kansas expired.

Who yields time?

Mr. McCLURE. Mr. President, I would say to my friend from Kansas—and she is my friend and an excellent Senator and I have a very, very high personal regard for her, so my comments are not personal in any way. I heard what the Senator said. I think she is dead wrong.

Now I agree that the movement in this bill, in the amendment before us, is in the right direction. I think the process changes may yield some favorable results. I will note for the record that on page 3 of the amendment, where it describes the lay members, that I read the amendment to say that the lay panel members must be selected from a group who has been approved by the chairman.

Now if that is not a rubber stamp or lapdog process, I do not know what it is. That does not strike me as being an independent review or independent analysis. So as much as I would like to say about moving the process in the right direction, and it does, it does not move it far enough.

Now, to say that, yes, we think they ought to be accountable, I agree with that. I am glad that others agree with that. But what does this amendment do to make them more accountable? I do not think I see that.

I think the process is improved and may yield improvements in accountability, but what I hear from the arts community is that it is none of your darn business what we do with the money you have provided. They do not wish us to hold them accountable. They deny that we have any right to expect accountability.

That is why it is important, from the standpoint of this Senator, that we attempt, as feebly as it might be, attempt to write some standards against which that accountability will be judged. And writing into this amendment the process that if you violate a criminal law you have to pay it back falls far short of the standards of accountability that I think are necessary when it comes to the expenditure of taxpayers' funds.

I think the statement made by the distinguished Senator from Rhode Island about "you shall not apply any prior restraint" has absolutely nothing to do with the appropriate process by which you judge whether or not taxpayers funds should be spent.

Now, a moment ago, I said, would you want Annie Sprinkle on Temple Square in Salt Lake City? My friend from Utah says, well, she will not ever appear there. Well, whether she does or does not appear there, or whether that particular program would or would not be shown in Salt Lake City, is illustrative of the problem that we have when we start trying to say, let us fund the arts but have no standards at all.

If the National Endowment had in the past said these few—and they are few—grants that have been made, that have caused the problem, are aberrations and we are going to stamp them out, then some of us would have trusted the Endowment to indeed attempt to stamp them out. I have a great deal of respect for John Frohnmayer. I have talked to him upon a number of occasions about this very problem.

When he first arrived in town he said he was going to take steps to stop this. The minute he said I am going to take steps to stop this the arts community descended on him like a ton of bricks and said, what do you mean you are going to stop this? You have no right to try to stop this.

Will he? I do not know. But I have the very strong and grave suspicion that if we lose the attention that is focused on this subject by these kinds of debates, we will see more rather than less of the inappropriate expenditure of taxpayers' money.

I am not willing to see that happen. I, therefore, oppose this amendment even though I think it moves in the right direction because I think it is a sincere attempt to improve the process but will have the result of diverting attention away from something upon which attention should be focused.

Let us not adopt this amendment and say now we have solved this problem. Let us keep a focus on the problem so we do solve the problem.

I will guarantee that every taxpayer in this country will, I hope, continue to focus on our activities, as to whether or not we have met our responsibility to make certain we keep our attention on the National Endowment to make certain they have met their responsibility.

I am happy to yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

Mr. COATS. Mr. President, I approach this issue as I did in committee as a supporter of the National Endowment. The National Endowment has provided significant amount of financial help to some very important institutions in Indiana: The Indiana Museum of Art, the Fort Wayne Philharmonic—I can go on and on naming important things that the National Endowment has provided. So I approach this issue as someone who wants to see the agency survive and flourish if possible in these tough budget times, but continue its work.

But I also approach this as someone who has personally been deeply offended by some of the works that have been funded with my tax dollars and my constituents' tax dollars; and someone who represents 5.5 million people in the State of Indiana, many of whom have been deeply offended that their funds, their hard earned dollars, have gone to support works that are called art but that I think everyone of us knows is not only objectionable but for the most part obscene.

To me this does not seem to be a difficult issue, because we do not have to stand on this floor and debate what the definition of obscenity is. We do not have to delve into the Supreme Court cases and make a determination as to what is allowed under the first amendment and what is not.

Our responsibility as elected Representatives is to make wise use of the taxpayers' funds that are entrusted to us. I for a moment do not see how we can, in the midst of a budget deficit crisis that is going to, unless we pass another continuing resolution, shut down this Government at midnight tonight, that has caused months and months of anguished negotiation over a Federal deficit, I do not understand how we can be standing here saying we have no basis to put any restriction whatsoever on how taxpayers' dollars will be spent by an agency that frankly many people would like to just close down in the name of fiscal austerity and just say well, we simply cannot afford it. I did not want to do that.

But I submit unless we can demonstrate to the American people that we can make wise use of their tax dollars, they are going to be demanding that we shut down some of these programs.

I do not think the amendment of the Senator from North Carolina is in any way unreasonable. We are trying to put some preconditions on dispensing of tax dollars for materials that clearly have been and are very offensive to the American public. I know the efforts of the Senator from Utah and others over several months to fashion a process solution to the problem have been laborious and toughly negotiated. But those are after-the-fact restrictions. They do nothing to give guidelines to the NEA as to how they shall dispense the funds before the fact.

Simply saying if a court somewhere finds a work obscene, then the artist has to return the money and not be eligible for any future funding for 5 years, is not the kind of restriction and not the kind of stewardship that I

think the American taxpayer expects of us.

In committee I offered an amendment. I am new to this body so I obviously did not understand how this was going to play out. But I thought, how can anybody reject this? Instead of trying to define what is obscene, what art was, and so on, I said let us take the Supreme Court's definition of obscenity. Let us take the Federal statute that defines child exploitation, the Federal standards on child pornography. Let us just see if we can incorporate those into the law and let that be the basis so we do not have to be censors here on the Senate floor, but so that the NEA has some guidelines which have been sanctioned by the court and by Congress, previously sanctioned. That amendment went nowhere.

Here we are attempting to deal, now, with the committee-designed process which I agree with the Senator from Idaho may be a step in the right direction.

The PRESIDING OFFICER. The Senator is advised that his 5 minutes has expired.

Mr. McCLURE. I yield my colleague 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. COATS. Mr. President, I think it is important to get to the bottom line. The bottom line is what responsibility do we have to the taxpayers that we represent in the expenditure of their funds?

This argument has nothing to do with whether or not some artist can go off on his own and create whatever he wants. If he wants to do that on his own time and can stand the muster of a potential court test, more power to him. But I do not think we have to fund his effort. I do not think we have to go to the taxpayer and fund his effort when some of these efforts have resulted in works that have been profoundly offensive to the American people; that have profoundly attacked my religion.

I cannot stand for it. My constituents cannot stand for it. I do not think this body should stand for it.

These are the most minimalist of restrictions. We impose guidelines on every other agency and every other expenditure of Government. Why can we not impose one here? Can you imagine us here saying we cannot put any preconditions on HUD or the S&L's and what money they can loan because they ought to have unfettered ability to loan that, and if they make a mistake and the court finds they made a mistake they will not make loans in the future? I cannot imagine us saying that. I support the Senator. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 2 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 minutes.

Mr. SIMON. Mr. President, I join my colleague from Indiana in being deeply offended by two of the things that have been funded. But, in fact, we have guidelines. When my friend from Indiana says that we have guidelines for other agencies and he mentions HUD and the savings and loan, there is a totally different thing when you are talking about guidelines for agencies and what they do and when you are talking about expression by people.

Yes, we have had a couple of things that have offended me, frankly. I do not think they should have been funded.

Out of 85,000 grants in total by the National Endowment for the Arts over the years there have been about 20 that have been controversial.

I think we have some guidelines implicit here. They are loose, but they do precisely what our colleague from Idaho has suggested and that is tightening procedures. If you want to reflect on what we are doing and why we ought to do it, I suggest anyone who is in doubt in this body—and I do not know if anyone is—but go back and read the speech by Senator DANFORTH from Missouri when this issue first came up. It was one of the most eloquent speeches I have heard in my years in the Senate.

Basically, what he was saying is, if we err, let us err on the side of freedom. I think that is not bad advice for this body. I think the proposal from my colleague from Utah, which I am pleased to cosponsor, is sensible middle ground. I think we have an Administrator of the National Endowment for the Arts in Mr. Frohnmayer who is moving us in the right direction. I think this is the amendment that should be accepted, and then we we can go ahead and approve the funding for the National Endowment for the Arts.

Mr. HATCH. I yield 2 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. DURENBERGER. Mr. President, the National Endowment for the Arts [NEA] and the National Endowment for the Humanities [NEH] were created 25 years ago this month. At that time President Lyndon Johnson declared that—

> Government can seek to create conditions under which the arts can flourish: through recognition of achievements, through helping those who seek to enlarge creative understanding, through increasing the access of our people to the works of our artists, and through recognizing the arts as part of the pursuit of American greatness.

Because of the recent controversy associated with the National Endowment for the Arts, I have spent a lot of time reviewing the original mission of the NEA.

Federal involvement in the arts is not new. In the past, Government involvement in the arts meant preserving it as a symbol of status and wealth and limiting its benefits to the elite. Today, Government acts as an equalizer of access and an identifier of quality and achievement. While access and recognition has primarily been the role of the NEA, it's important to remember that the Federal Government has also supported the arts through other means including tax-exempt status and other preferential treatment under the Tax Code.

I believe the top priority of Federal funding should be to facilitate access to the arts for all Americans—the poor as well as the rich, people who live in New York City as well as people who live in Barrett, MN, population 388. Has the NEA been successful on this count? It certainly has. When the NEA was established 25 years ago, there were only 37 professional dance companies, today there are over 250; in 1965, there were only 60 professional orchestras, today there are over 212; there were only 56 professional nonprofit theaters, today there is a network of over 400. Today, more people attend cultural events than attend sporting events.

The NEA promotes access by supporting the Prairie Wind Players in Barrett, the Chamber Music Society in St. Cloud, the Duluth Superior Symphony, St. Francis Music Center in Little Falls, the Fargo-Moorhead Symphony, the Hengel Museum in New Ulm, and many other small town and rural community arts organizations who might not otherwise exist without the help and support of the NEA. Yes, the NEA has been successful in expanding access to the arts for all Americas.

Mr. President, I would like to share with you one particular instance of NEA funding involving a production by the Great North American History Theater in St. Paul featuring Sister Mary Giovanni Gourhan. The Great North American History Theater is a unique theater that presents works by contemporary artists that explore human stories of real people as a way of connecting us to each other and our common future. Last summer, this theater received NEA support through the State arts board to present four one-act plays entitled "Homegrown Heroes." One of the plays celebrated the life of Sister Giovanni, who is a personal heroine of mine. Sister G, as those of us who know her call her, is best known for founding and leading the Guadalupe Area Project on St. Paul's West Side. I am only too

pleased to say that NEA funds have helped bring her story to life for the many individuals who have not been as fortunate as I to have been personally touched by her.

The second priority of national funding should be to bring recognition to the very best of America's artists. It is an opportunity to acknowledge the success of the applicant and to challenge the artist and others to produce. This recognition not only helps a struggling artist get off the ground but also helps facilitate new works and new artists. The private sector will always support the established artist, but it is the aspiring artist, that needs the seed of support and recognition only a national organization like the NEA can bring.

What does this recognition mean for different communities and different States? I know what it has meant for my own State of Minnesota. We have always held a deep interest in the arts, but until the last couple of decades have never been recognized as a leader in the arts. But the efforts Minnesota has taken at the State level in arts education and community involvement has earned it the recognition of the NEA. And this recognition from the NEA has helped transform Minnesota into a nationally recognized cultural center. Today, it receives the third largest amount of NEA funding, behind only New York and California.

National recognition not only has the benefit of stimulating the artist and the arts community, but also acts as a catalyst for private sector support. In 1988, Endowment grants totaling $119 million generated over $41.6 billion in private funds. National recognition serves as an endorsement of quality and achievement, which enhances the fundraising capabilities of grantees and other arts organizations.

Much of the controversy which has endangered the NEA stems from how we go about defining quality art, and deciding which artists will receive national recognition. It is this question that I think is difficult for us as legislators to answer.

I was reminded recently of the incident of the Rivera mural within the Rockefeller Center during the days of the Red scare. Nelson Rockefeller commissioned Diego Rivera to paint a mural in the entrance hall of the main building. The work was done in fresco, in which the plasterer lays up the surface just ahead of the painter who uses water soluble pigments that penetrate the wet plaster—so when the plaster dries, the painting is permanently part of the wall. When Rivera finished and went to sign his name, he painted a large head of Lenin and the hammer and sickle, then signed his name.

There was a great uproar and the mural was ultimately destroyed. E.B. White wrote a poem about it which I ask unanimous consent to print in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. DURENBERGER. Mr. President, while this work does not cross the line of obscenity which is the center of the debate today, I think it illustrates clearly the difficulty one has—especially a legislative body—defining offensive art. Had Rivera painted his mural today, I doubt that it would get a second look.

Those who support restrictions would like us here in Congress to define and legislate against works of art they find offensive or obscene. Obscene, as defined by Webster's dictionary is "offensive to modesty, or decency." I suppose a lot of art could be classified by some to be offensive to modesty, or decency, as the Rivera mural was years ago, but still not be obscene in the pornographic sense of the word. How is an artist to know, if his or her work will meet this standard?

Is it possible or advisable to add restrictive language prohibiting the NEA from funding obscene art? The Independent Commission instructed by Congress to look into the controversy surrounding the NEA said no. They reported that if the Federal Government chose to fund the arts that legally "what it may not do * * * is to choose those to be funded—and, often more important, those not to be funded—in a manner which punishes what Congress views as dangerous content." The Commission also went on to say that it is "inadvisable for the Endowment to attempt to make determinations of what constitutes legal obscenity." That "the nature and structure of the Endowment are not such that it can make the necessary due process findings of facts and conclusions of law involved in these determinations."

I would like to emphasize that my support for this legislation does not mean that I believe we as a nation should have to put up with art that is obscene or pornographic, in order to allow artistic freedom.

That a concern reflected in thousands of phone calls and letters I have received over the past year from constitutents. I share with those constitutents an abhorrence of pornography and obscenty and the degradation of respect for persons—especially women in society—and the threat it represents to the moral values we all strive to pass on to our children.

Plain and simple, I could not support this legislation if I felt it somehow sanctioned, supported or encouraged child pornography or obscenity. Obscenity and pornography are illegal and should not be tolerated period. I believe this legislation is consistent with that intolerance and illegality—even strengthening leverage now available through the courts to discourage obscenity and pornography and to punish and remove it when it occurs.

The legislation before us says that we should rely on the long history we have in our courts of defining, discouraging and removing both obscenity and pornography. The legislation says we should rely on the body of law to guide us to mean sure artists are not rewarded with Federal funding for art that has been found in violation of law. And imposes tough sanctions against an artist who is found guilty of violating obscenity or child pornography laws. The bill also makes needed and necessary changes to the grantmaking process to increase accountability and to open the process for greater public involvement and understanding.

Mr. President, I want to compliment the work of Senators PELL, HATCH, and KASSEBAUM for their hard work on this bill and for finding a solution that addresses the problem in a manner that will preserve all the many good things the Endowment has given us over the years. The bill before us is a good one, and I urge my colleagues support.

EXHIBIT 1

I PAINT WHAT I SEE

(A Ballad of Artistic Integrity, on the Occasion of the Removal of Some Rather Expensive Murals from the RCA Building in the Year 1933)

"What do you paint, when you paint on a wall?"
Said John D.'s grandson Nelson.
"Do you paint just anything there at all?
"Will there be any doves, or a tree in fall?
"Or a hunting scene, like an English hall?"
"I paint what I see," Said Rivera.
"What are the colors you use when you paint?"
Said John D.'s grandson Nelson.
""Do you use any red in the beard of a saint?
"If you do, is it terribly red, or faint?
"Do you use any blue? Is it Prussian?"
"I paint what I paint," said Rivera.
"Whose is that head that I see on my wall?"
Said John D.'s grandson Nelson.
"Is it anyone's head whom we know, at all?
"A Rensselaer, or a Saltonstall?
"Is it Franklin D.? Is it Mordaunt Hall?
"Or is it the head of a Russian?"
"I paint what I think," said Rivera.
"I paint what I paint, I paint what I see,
"I paint what I think," said Rivera.
"And the thing that is dearest in life to me
"In a bourgeois hall is Integrity;
"However . . .
"I'll take out a couple of people drinkin'
"And put in a picture of Abraham Lincoln;
"I could even give you McCormick's reaper
"And still not make my art much cheaper.
"But the head of Lenin has got to stay
"Or my friends will give me the bird today,
"The bird, the bird, forever."
"It's not good taste in a man like me,"
Said John D.'s grandson Nelson,
"To question an artists' integrity
"Or mention a practical thing like a fee,
"But I know what I like to a large degree,
"Though art I hate to hamper;

"For twenty-one thousand conservative bucks
"You painted a radical. I say shucks,
"I never could rent the offices—
"The capitalistic offices.
"For this, as you know, is a public hall
"And people want doves, or a tree in fall,
"And although your art I dislike to hamper,
"I owe a little to God and Gramper,
"And after all,
"It's my wall . . ."
"We'll see if it is," said Rivera.

—E.B. WHITE

Mr. DURENBERGER. Mr. President, in summary, I rise in support of the Hatch amendment to substitute the language which we passed 15 to 1 in the Labor and Human Resources Committee for the content restrictions in the underlying bill.

There has been a fair amount of conversation here this afternoon about responsibility to the taxpayer. I rise to say if this is the place that is going to be responsible for the taxpayer, we have not done a good job of demonstrating the capability of designing a legislative answer or any other answer for that responsibility.

Instead, I remind my colleagues of what the mission of the National Endowment for the Arts to the taxpayers, and everybody else in this country, has been since 1965. The first mission has been to facilitate access to the arts that are American to everybody in this country, for people who are poor as well as rich, people who live in rural areas, as well as in big cities. The folks in New York City and the folks in a little town called Barrett, MN, population 388, which has now a nationally recognized Prairie wind players in this little town of Barrett, MN. And because of the recognition to the people in New York City, and in Barrett, MN, today, as compared to 1965, there has been a growth in professional dance companies from 37 to 250; in 1965 there were only 60 professional orchestras in America; today there are 212. I could go on and talk about nonprofit theaters. We talk about individual artists. That is the responsibility that this body has and every one of us has to the taxpayers, to the people of this country.

Our second priority, is to bring recognition to the very best of America's artists, and through a system of national recognition, to make sure that the cultural diversity of this country, that is so well represented by our artists, is conveyed from one generation to another. You cannot do that just in Barrett, MN. You cannot do that just in St. Paul, MN. You can only do that through this National Government and the instrument is the National Endowment.

I strongly support the substitute language of my colleague from Utah.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 2 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I regret I was not here earlier in the debate as one of the principal sponsors, along with Senators HATCH, KASSEBAUM, and PELL. We were in the conference on the immigration bill. I commend him for the excellent leadership he has provided in this extremely important area of public policy.

The debate on the future of the National Endowment for the Arts has consumed this body for over a year. Were this truly a debate about the proper role of the Federal Government in supporting the arts, it would be significant enough. But even more significant, is this assault on the First Amendment protection of freedom of expression.

The Endowment has an outstanding record of success and achievement. Not even its harshest critics can point to more than a handful of controversial, or questionable grants in the entire quarter century of its existence.

The National Endowment has had an extremely positive impact on the lives of all citizens of our country. Before the Endowment came into being, arts in America were largely exclusive, now they reach every corner of America. Since 1965, 100 local arts agencies have grown to over 2,000. Total State arts budgets at that time totaled $2.7 million; now the States spend a total of $268.3 million.

Quality and excellence have been the hallmark of the agency.

The last 11 Pulitzer Prize winning plays were developed with the help of NEA at nonprofit theaters. Additionally, "Driving Miss Daisy," a recent released Oscar-winning film, was developed with Endowment support.

For a quarter century, ever since its creation in 1965, the Arts Endowment has enjoyed broad bipartisan approval in Congress. Our support has been overwhelmingly reaffirmed every 5 years since then—and now is surely not the time to walk away from our essential public commitment to the arts and free expression.

Around the world, new freedoms are being won by peoples who have endured censorship and repression all their lives. In Eastern Europe and even the Soviet Union, demands for liberty are being heard and heeded. At a time when Berlin Walls are coming down in many other lands, it would be shameful for the United States to fail the test of liberty by erecting new barriers against free expression here at home.

During the final day of the hearings which the Committee on Labor and Human Resources held on the reauthorization of the Endowment, Maestro Mstilslav Rostropovich took time to share with the committee members, his personal observations on the tragedy of suppression of ideas and expression. He recounted for us that the works of many brilliant composers in the Soviet Union were censored, and his fellow countrymen were deprived of the power and beauty of this part of their national cultural heritage.

He amused the committee with his description of his personal encounter with government censors. He was once asked as a young Soviet artist preparing for a tour in the West what music he intended to play. He told the censors his program included Bach Suite No. 7 and Mozart Sonata for Cello and Piano in G Minor. Well, it seems Bach only composed 6 suites, and Mozart never composed anything for Cello and Piano, but the Government censors were none the wiser.

Government officials are not the appropriate adjudicators of the arts. Art professionals have compiled an excellent track record in developing the peer panel system that is currently in place. We have no business substituting congressional judgments for peer review.

We must resist the calls to censorship—to return to our Nation's regrettable periods of Comstock, McCarthyism, and anti-intellectualism.

A century ago, the painter Claude Monet would probably have been banned in Boston. This year, his impressionist paintings were the toast of the city—with rave reviews and unprecedented waiting lines to view the exhibition of his work at the Museum of Fine Arts. This exhibition, too, was funded in part by the National Endowment for the Arts.

The arts are a measure of our society. They chronicle our history, record our successes, warn of our weaknesses, expand our understanding, and challenge us to seek what is best in ourselves and in our national character. A nation which censors intellectual and creative activity does so at great risk to itself.

I am pleased that the Committee on Labor and Human Resources was able to recommend bipartisan legislation that was approved 15-to-1 by the members of the committee. The bill is a well-constructed and carefully crafted response to the concerns raised in conjunction with the Endowment's controversial grants.

Although the committee worked separately from the bipartisan Independent commission appointed by President Bush this past year, we came to similar conclusions about ways which would be effective and appropriate to improve the Endowment's grantmaking procedures.

On the issue of obscenity, we were able to develop a solution to assure that no Federal funds go to work that is ruled obscene or which violates State child pornography laws. Neither the NEA, the arts community, or the members of the Labor Committee sup-

port Federal funding of obscenity. Obscenity is without artistic merit and is not protected by the Constitution.

The provisions on obscenity recommended by the Labor and Human Resources Committee represent a bipartisan compromise which, I hope, will be adopted by the conferees.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 2 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise in support of the amendment of the Senator from Utah and in support of the National Endowment for the Arts.

With a relatively small investment of Federal dollars, this much maligned agency has made an enormous contribution to the cultural life of our Nation, bringing theater, ballet, symphonies, public television shows, and great works of art to millions of Americans in their own communities.

It would be a tragic mistake to continue to allow the furor over a few controversial art awards to overshadow the excellent job that the Endowment has been doing. It's time to put this controversy into perspective once and for all.

For the past 25 years, the National Endowment for the Arts has compiled an outstanding record of achievement, encouraging and supporting artists and promoting excellence in dance, theater, music, the visual arts, and other fields. It has helped to make the arts accessible to an ever wider audience, and has leveraged millions of dollars of support for the arts from the private sector. Each Federal dollar invested through the NEA generates $10 in private donations.

To a great extent, the Endowment has been responsible for the explosion of dance companies, theater groups, orchestras, and opera performances which has occurred over the last 25 years. In 1965, when the NEA was authorized, there were only 37 professional dance companies in the United States; today there are at least 250. In 1965 there were 60 professional orchestras; today there are over 200 providing enjoyment to their communities. In the early 1960's there were only 27 opera companies in the United States; today our Nation boasts 113. In 1965, there were 56 professional nonprofit theaters in the United States. Today, there are over 400, and the vast majority of new American plays and playwrights have come from this nonprofit sector. In fact, the last 11 Pulitzer Prize winning plays were developed at NEA—funded nonprofit theaters.

In my own State of Ohio, the Endowment has provided support for a wide range of programs and institutions across the State, including art museums, ballet companies, symphony orchestras, dance groups, folk arts festivals, opera companies, and theater groups.

Let me cite just a few examples of projects which the Endowment has supported recently in Ohio.

The Dayton Contemporary Dance Company, a black modern dance repertory company, received a grant from NEA which helped support its 21st season, highlighting a new ballet by Ulysses Dove, a rising choreographer who has worked with Alvin Ailey and the Paris Ballet.

The Ohio Arts Council used NEA funds to support presentations of master folk artists Lois K. Ide, a quilter from Bucyrus, Donald McConnell, a woodworker from Mount Vernon, and June Radcliff, a country musician from Wellston, and their apprentices.

The Endowment provided a grant to the Mad River Theater Works, which creates new plays based on the culture of the rural midwest through interviews and oral histories from people of the area.

An NEA grant enabled the Fairmount Theater of the Deaf to tour outside of Ohio, offering performances in schools and elsewhere, often providing its audiences with their first exposure to deaf actors.

The Arts Commission of Greater Toledo received a grant to bring together major arts institutions, small arts groups, arts professionals, and individual artists to collaborate with educators in planning a curriculum for a new regional public school for the creative and performing arts to open in the fall of 1991.

A grant to the Columbus Symphony Orchestra allowed it to expand its educational programs, reaching close to 20,000 high school and elementary students, and to form a children's chorus.

These and the many other programs supported by the NEA have immeasurably enriched the lives of the citizens of my State.

Endowment support has also contributed to economic development, revitalizing inner cities, stimulating revenue and creating jobs. Cleveland's well-known Playhouse Square, for example, which has brought important cultural and economic advantages to my own home city was begun with a challenge grant from the National Endowment for the Arts.

The Cleveland Ballet, which has enjoyed Endowment support, employs nearly 300 men and women, and estimates its contribution to the local economy at more than $12 million annually.

These are just a few examples of the many ways in which the endowment has helped to generate support and enthusiasm for American arts.

It is important to note that the Endowment's peer review system of awarding grants has generally worked well, while protecting artistic freedom from Government control. It is the rare exception when public funds are used to support art which elicits widespread public opposition. Throughout the 25-year history of the Endowment, it has awarded more than 85,000 grants, only some 20 of which have stirred controversy. That is a pretty good record. I wonder how many other Federal agencies or departments can match it. Certainly not HUD or the Pentagon.

No doubt, like any system, there are ways it can be improved and fine tuned. The Chairman of the Endowment has already taken a series of steps in this regard. And the amendment offered by the Senator from Utah includes a number of procedural reforms approved by the Labor and Human Resources Committee to increase accountability.

In addition, our amendment addresses responsibly the concerns which have been raised regarding funding of obscenity. The amendment will substitute the compromise language on obscenity which was approved by the Labor and Human Resources Committee in its reauthorization bill. This language, offered in committee by Senator HATCH, ensures that no Federal funds will be used to support obscenity or child pornography, by debarring from NEA funding for at least 3 years anyone convicted of creating or producing such work and by recouping all Federal funds used to support such work.

Frankly, this approach was not my first choice. I cosponsored and strongly supported the original legislation proposed by President Bush to reauthorize the Endowment without any changes in this area.

However, I believe this is a reasonable and workable compromise, which addresses concerns about obscenity, but puts the issue where it belongs—in the courts. It also avoids the many problems and the chilling effect on artistic expression which have resulted from the current language.

Mr. President, this compromise language was the result of months of bipartisan work by the committee and subcommittee leadership on both sides of the aisle, and I commend them for their efforts to resolve this highly emotional issue. The compromise was approved in committee by a vote of 15 to 1, and is similar to the approach taken in legislation which was overwhelmingly approved in the House just days ago.

I hope my colleagues will accept this reasonable and responsible approach and oppose any restrictive amendments so that we can finally put this issue to rest.

The compromise language is also in keeping with the recommendations made by the bipartisan independent

commission established last year to look into this issue. The commission concluded that the appropriate forum for the determination of obscenity is the courts, and recommended against legislation to impose specific restrictions on the content of works of art supported by the Endowment. "Content restrictions," the commission said, "may raise serious constitutional issues, would be inherently ambiguous, and would almost certainly involve the endowment and the Department of Justice in costly and unproductive lawsuits."

The commission also reminded us of a fundamental American principle that has been too often forgotten during the hysteria over this issue: "Maintaining the principle of an open society," the commission said, "requires all of us, at times, to put up with much we do not like, but the bargain has proved in the long run a good one."

I believe the commission is exactly right. True, a small number of grants have been made which some have found offensive or inappropriate. And controversies may arise again in the future. Yet, in the long run, I strongly believe that continuation of the peer review system, with its commitment to artistic excellence, will serve us better than any alternative. This Senator, for one, does not believe that the Congress should be in the business of telling artists what is art, or requiring them to take loyalty oaths.

And the American people agree. Several polls conducted since this controversy erupted have indicated that the American public overwhelmingly opposes censorship of controversial art, even if they find it personally offensive. Solid majorities oppose placing content restrictions on Endowment-funded projects. Clearly, the American people recognize the importance of freedom of expression and the value of the arts.

Mr. President, it is ironic that, when the whole world seems to be embracing the idea of freedom, we are facing these challenges to free expression here in the United States of America. Earlier this year, Vaclav Havel, playwright and new President of Czechoslovakia, sent a moving letter to the American artistic community. He said:

> We know first hand how essential is a fierce, independent, creative artistic spirit to the attainment of freedom. Through a long night of repression and control, the artistic community in our land helped keep alive the unquenchable flame of freedom. And artists played a central role in helping organize our final transformation to a new democratic state.
>
> There are those around the world, indeed even in those democracies with the longest tradition of free speech and expression, who would attempt to limit the artist to what is acceptable, conventional, and comfortable. They are unwilling to take the risks that real creativity entails. But an artist must challenge, must controvert the establishment order. To limit that creative spirit in the name of public sensibility is to deny to society one of its most significant resources.

It could not have been said better. We would do well to heed the words of Vaclav Havel.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I believe the distinguished manager yielded 2 minutes to me.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. MOYNIHAN. Mr. President, I will use no more than 2 minutes to rise as a cosponsor to thank those who crafted this very thoughtful and balanced position and to note that it does, indeed, follow the recommendations of the Independent Commission which worked so ably under the direction of our former colleague from the House, John Brademas, now the president of NYU, and Leonard Garment, who is so important a person in the history of the national endowments, both of the arts and the humanities.

Mr. President, I was here in Washington at the time these concerns began. For what it has to do with it, it involved a musicians' strike at the Metropolitan Opera in New York which Arthur Goldberg, as President Kennedy's Secretary of Labor, was asked to arbitrate.

Finding that there was no money in the company to give the musicians, he decided instead to offer them hope and said the Federal Government really must do something to help with the costs of performance in the arts and music, and in 1965 this was done in these two extraordinary undertakings. They have been successful beyond expectation—or, no, not beyond expectation. They have succeeded as was hoped they would do. And this sudden flurry of difficulty we have had here on this floor this last year is passing. We saw it from the last vote.

We received good recommendations from the Independent Commission. This amendment follows those recommendations. Peace returns to the legislative process and the artists are once again on their own to be as perplexing and important as they have ever been in our lives.

I thank the Chair.

Mr. McCLURE. Mr. President, I yield the Senator from North Carolina 5 minutes.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. HELMS. Mr. President, I thank my friend from Idaho.

I am not much of a forecaster, but I will make one prediction without any fear of being contradicted: We will be in the same fix 1 year from now with respect to the National Endowment for the Arts that we are in right now. This amendment, as everyone knows, is a fig leaf. It is political cover for Senators who do not want to face up to the voters on the issue of whether the National Endowment for the Arts shall be required to be responsible.

We have heard all the arguments—we heard them last year—about the compromise language, which was itself a figleaf and did not restrain the NEA at all. We are hearing the same false arguments today in connection with the amendment from my friend from Utah, and he is my friend.

Oh, it is going to take care of the situation; it is a step in the right direction, and all that good stuff. But I predict that such predictions are without merit.

Mr. President, the pending amendment basically provides that the NEA can and must recover its subsidies from any artist or organization that uses NEA funding to produce materials that are subsequently found to be obscene by a court.

Do you want to know the flaws in that proposal? First off, the amount of money the Government would recover in most cases would be miniscule compared to the cost of bringing an offender to trial. So, I make another prediction that the Government will not initiate even one lawsuit. I may be wrong. There may be one somewhere. But I expect there will be none.

Now, the second problem with the pending amendment is demonstrated by the outcome of the recent obscenity trial in Cincinnati. Just bear in mind that in that case one of the jurors acknowledged that the entire jury, everybody, felt that the homoerotic Mapplethorpe photographs were, as the juror put it, "gross," and that the photographs appealed to a prurient interest in sex and thus the first two prongs of the definition of obscenity were violated.

Now, Mr. President, this is a juror telling how all of his fellow jurors felt. But, he said, since some experts had testified in the trial that the materials had "artistic merit," the jurors felt obliged to find that the materials did not meet the legal definition of obscene because the law requires that materials lack artistic merit to be obscene.

Now, if that is not newspeak and doublespeak, I do not know what is. In fact, it was even argued at trial that the photographs had artistic merit—now get this—because the photos had been funded by the National Endowment for the Arts.

Since the NEA is prohibited by law from funding anything that their experts do not consider artistic, and because those experts recommended funding for the Mapplethorpe show, the photos had to have artistic merit

it was argued. And, therefore, by definition they could not be legally obscene; even those photographs I have described two or three times on the floor this afternoon.

So Mr. President, this amendment of my friend from Utah creates a classic catch-22 situation. On the one hand, the amendment would require the NEA to recover its funding if a work is found to be obscene by a court. On the other hand, the works cannot be considered obscene if the NEA funds them. That, Mr. President, does not even make good nonsense.

So with all due respect to my friend from Utah, the pending amendment is nothing more than another attempt by supporters of the National Endowment for the Arts, and specifically Mapplethorpe, Serrano, and all the rest, to perpetuate a snow job on the American people by hiding behind the technicalities of the Supreme Court's test for banning obscenity.

But, read my lips. We are not talking about banning anything. We are talking about requiring the American taxpayers to pay, to subsidize and reward self-proclaimed artists, who produce sleaze, filth, and perversion.

Under the Hatch language Mr. President, the NEA will be able to continue funding patently offensive depictions of sexual or excretory activities and thus its support for attacks on the moral fiber of America. And that is the bottom line.

Nobody, nobody, not even Chairman Frohnmayer—a very pleasant man I met with two or three times—nobody, including him, has been able to give me even one example of what the modern arts community would be willing to concede is obscene.

In fact, it is one of the primary premises of the art world, Mr. President, that there is no such thing as obscenity. They assert that the belief that any "art" can be obscene is "a kind of cramp in the consciousness of the unenlightened [read that middle-class American] minds."

Mr. President, Senator ROBERT C. BYRD, and I met with Mr. Frohnmayer, I guess, an hour and a half, and I was never more impressed with anybody than I was with the way Senator BYRD spelled out his feelings about the public funding of the filth that is being passed off as "art." He made it very clear in one-syllable words.

As a practical matter—and this is a forecast that I am making and I do not make it lightly, but I do make it unhesitatingly—the Hatch amendment, which will be approved. It will be approved because it is a cover job for Senators who want to say "I did something about taxpayer-funded pornography" even though they did not and have not.

Mr. President, the Hatch amendment will leave things exactly as they have been since the NEA was created. This was true of the coverup job perpetrated on the taxpayers a year ago. It is true of this coverup this year.

In 1969, for example, the NEA gave over $1,000 for the one word poem "Lighght." The NEA's supporters in response to the outrage told us to trust the NEA's experts.

In 1971, a group called the Living Stage had public school children obscenities as part of a performance. The NEA's supporters response: trust the experts.

In 1973, the NEA helped Erica Jong write her book "Fear of Flying" which, among other things, recounts her having sex with a German Shepard. The NEA's response, trust us, we'll take care of the problem.

In 1977, William Proxmire gave the NEA the Golden Fleece Award for paying an artist to throw crepe paper out of an airplane. Again, we were told to trust the NEA, don't restrict it.

In 1983, Representative Mario Biaggi objected to NEA support of a play with "disparaging ethnic images" and once again, the cry went out to trust the NEA.

In 1985, Congress finally lost its patience with the NEA in response to the NEA's support for homosexual poetry with descriptions and illustrations of men having sex with one another and with animals. Congress finally put a restriction into law which stated that the NEA's art experts "shall recommend for funding ONLY applications which in the expert's view, have serious literary, scholarly, cultural, or artistic merit." (20 U.S.C. 959(a).)

Well, what did we get from the NEA's experts as serious artistic merit after 1985? They gave us Andres Serrano's blasphemous work and Robert Mapplethorpe's repulsive photos as examples of artistic merit worthy of Federal funding.

When Congress disagreed with those offensive NEA judgments of artistic merit, we passed last year's watered down restriction, which once again made the fatal mistake of leaving in a giant loophole.

As a result, the NEA's art experts have funded a number of patently offensive materials and works. In fact, the NEA's Visual Art's director says, "art is always on the cutting edge, and anything that is on the cutting edge is going to offend someone."

So, Mr. President, the Hatch amendment will continue the mistakes of the past and will not prevent the NEA from outraging the American public once again. It is time to put a real restriction on what the NEA may and may not fund in the way of sexually explicit materials.

The Hatch language does not do that, my amendment would have.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I yield to the Senator from South Carolina 3½ minutes.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment.

Under the amendment, the primary focus of the issue of funding of controversial art work and exhibits would be shifted to the courts. I believe the amendment falls short of ensuring that no Federal taxpayer dollars go toward funding obscenity or pornographic art work. Accordingly, I cannot support the amendment.

This amendment is similar to S. 2724, the National Endowment for the Arts [NEA] reauthorization bill recently reported from the Labor and Human Resources Committee. Under the amendment, persons or entities which receive NEA funds, and use them in creating or producing work found by a court to be obscene or in violation of child pornography laws, must repay the funds used to create the work. Additionally, the individual or organization could be debarred from receiving further NEA funds until it does repay the funds in question.

As a member of the Labor and Human Resources Committee, I did not oppose reporting S. 2734, the bill on which the present amendment is based, to the Senate. That bill represented a positive step to strengthen NEA accountability. However, I made clear, in the committee report, my concerns with respect to guidelines for NEA grant recipients.

In short, Mr. President, I believe the proposed NEA guidelines for receipt of Federal grants—as contained in H.R. 5769, the Interior appropriations bill—represent the better approach to this matter. These guidelines are similar to provisions contained in the Interior appropriations bill last year which I was pleased to support. Very simply, the guidelines would ensure that no Federal funds are used to promote, disseminate, or produce materials which may be considered obscene, and which, when taken as a whole, do not have serious literary, artistic, political, or scientific value.

I believe the establishment of guidelines for the voluntary acceptance of public funds, by duly elected representatives of the people of our country, is neither censorship nor a violation of constitutionally guaranteed freedoms. In my opinion, it is part of our responsibility, as elected officials, to ensure that limited Federal funds are used appropriately. The Interior appropriations guidelines would do just that.

The guideline mentioned above could serve as a reasonable check on the actions of the NEA, while also allowing funding for appropriate projects to continue. Accordingly, I support the Interior appropriations

guidelines and oppose this amendment.

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

I might say parenthetically I have discussed this with the distinguished author of the amendment. He knows of no other speakers on his side of the issue. We may wish to have a little time to sum up his position.

I know of no other speakers on our side who desire recognition. I will just advise Members that, if that continues, we ought to be prepared to vote before too much longer.

Mr. President, I do not want to belabor the point, but I want to reiterate that I think this amendment moves in the right direction in terms of reforming a process of adding to the process, but it fails in the central requirement of establishing responsibility in the NEA.

The NEA resolutely says: Do not bother us; we will take care of it. If they had been taking care of it, that is where the matter would rest. I think they are doing a better job. I think they will, so long as they are under scrutiny, do a better job.

I give Mr. Frohnmayer very much credit for having attempted to meet the obligation I believe that they have. What concerns me, however, is not the attitude of the NEA as much as it is of the arts community, with whom they must live and interact daily, we continually say that it is none of the rest of society's business if they spend our money.

I agree that they have the right, within the limits of the law, to do whatever they wish as individual artists. They have the right to draw, to produce, to exhibit, to perform, within the limits of the law. But they do not have the right to expect us to subsidize whatever it is they wish to do without regard to the desires of the American taxpayer to fund it.

I do not suppose any member of the arts community will give the Senator from Idaho any credit for having fought off some of the efforts that have been made to slash the funding for the National Endowment for the Arts, because there are such efforts. There are people who wish to see that result, for whatever reason. They use these examples as justification for substantially reducing or eliminating public support for the arts.

Mr. President, we have a congressional race in my State of Idaho in which this has become an issue. The incumbent Congressman has taken the position that the majority in the House of Representatives have taken, that we should put no prior restraints on the National Endowment; what the artists do is their thing and the taxpayers might take a retrospective look at it, but we have no right to take a prospective look at it, whether or not we fund.

His opponent in that race is very critical of that posture. I leave to the candidates in that congressional race to defend their respective positions. But what disturbs me is that the discussion, without regard to the rightness or wrongness on either side, damages public support for the art. That is what makes me angry.

I said that same thing last year. It makes me angry that people hurt public support for the arts by refusing to recognize that the taxpayers have some rights to tell us what they believe with respect to the expenditure of their money. And the very debate over this issue erodes public support for the funding of the arts.

It was never said better than in an article for the Boston Globe newspaper company by Ellen Goodman, which was reprinted in the Washington Post on Tuesday, October 9. Mr. President, I will not read the entire article, but I think there are two or three things that will make the point superbly well, and I will emphasize that portion of my concern.

I quote from the article:

There were times when the Mapplethorpe trial in Cincinnati produced testimony worthy of the title attached to the museum exhibit: "The Perfect Moment."

Perfect Moment No. 1: Prosecutor Frank Prouty holds up two photographs, one of a man with a bullwhip in his rectum. He asks the art director who chose these images for the show: "Would you call these sexual acts?

She answers: "I would call them figure studies."

Perfect Moment No. 2: Prouty questions museum director Dennis Barrie: "This photograph of a man with his finger inserted in his penis what is the artistic content of that?"

He responds: "It's a striking photograph in terms of light and composition."

She goes on in the same article to say:

The seven photographs at issue in this trial contain some grotesque subjects. In one of them a man urinates into another man's mouth. Show me somebody who can look at that photograph and think about the composition, the symmetry, the classical arc of the liquid, and I'll show you someone with an advanced degree in fine arts.

Further on in the article, she says:

But even in the moment of victory, there is still a warning here. This trial, and the funding woes of the NEA, are not just the fault of Jesse Helms on the rampage. They are the fault as well of an art community whose members prefer to live in a rarefied climate, talking to each other, subject only to "peer review" and scornful of those who translate the word "art" into "smut."

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 9, 1990]

A WARNING FROM THE MAPPLETHORPE TRIAL

(By Ellen Goodman)

BOSTON.—There were times when the Mapplethorpe trial in Cincinnati produced testimony worthy of the title attached to the museum exhibit: "The Perfect Moment."

Perfect Moment No. 1: Prosecutor Frank Prouty holds up two photographs, one of a man with a bullwhip in his rectum. He asks the art director who chose these images for the show: "Would you call these sexual acts?"

She answers: "I would call them figure studies."

Perfect Moment No. 2: Prouty questions museum director Dennis Barrie: "This photograph of a man with his finger inserted in his penis, what is the artistic content of that?"

He responds: "It's a striking photograph in terms of light and composition."

Perfect Moment No. 3: This one occurs when even the most devoted defender of free expression lifts her eyes from the page to offer her own art criticism to the great curator in the sky: "Aaaarggh!"

There was never any doubt in my mind that the trial over Robert Mapplethorpe's photographs would bring a "cultural clash" into the courtroom, Soho meets Cincinnati.

But at the trial, the testimony often sounded like a linguistic battle, a tale of two tongues: one side speaking art; one side speaking English. It sounded less like a case about obscenity than about class, elitism, artistic sensibilities and common sense.

Americans often divide like this when dealing with art. One group thinks that Andy Warhol's Brillo Box is brilliant, and the other thinks it's a scam. Each believes the other a pack of fools, though one may be called snobs and the other rubes. Guess which one is larger?

The divide is bad enough when the argument is about Brillo. But when it's about bodies, watch out.

The seven photographs at issue in this trial contain some grotesque subjects. In one of them a man urinates into another man's mouth. Show me somebody who can look at that photograph and think about the composition, the symmetry, the classical arc of the liquid, and I'll show you someone with an advanced degree in fine arts. This was the sort of thing said in Cincinnati.

In the wake of this, it is remarkable that the verdict was not guilty. A jury without a single museum-goer, artist or student of "What is Art?" decided that the museum was protected turf in the legal quarrel over obscenity.

But the trial in Cincinnati, like the troubles at the National Endowment for the Arts, is partly the result of the art world's own chic insularity. The troubles come because the art community speaks its private language to a circle so small, so cozy and so closed as to be dangerously isolated.

Perfect Moment Number Four: The prosecution asked how art was determined—was it merely the whim of the museum?

The witness, a museum director, said no, it was the culture at large. And this is how he defined the culture at large: "museums, critics, curators, historians, galleries."

I agree with the decision and with those who defended the museum's right to show these photographs. To leave the dark side out of a Mapplethorpe show would be like leaving the tortured black paintings out of a retrospective of Goya's work. It wouldn't be

legitimate to pick and choose the sunny side of the work—the Calla lilies and celebrities—and show it as the whole.

Indeed, as the director also said, Mapplethorpe set out to capture the line between the disgusting and the beautiful. There is room in life for the deliberately disturbing. The museum's room—a glass case in a separate gallery—was tame enough.

But even in the moment of victory, there is still a warning here. This trial, and the funding woes of the NEA, are not just the fault of Jesse Helms on the rampage. They are the fault as well of an art community whose members prefer to live in a rarefied climate, talking to each other, subject only to "peer review" and scornful of those who translate the word "art" into "smut."

In many cities, there is still the knock of the policeman at the door. Having failed to make its case in public, the art community ends up making it in court. In the history of art, this is not a perfect moment.

Mr. McCLURE. Mr. President, that, to me, is the issue. Public support for the arts, which I wholeheartedly support, must be based upon an understanding of what it is, what its value is, and public acceptance of the result. When you destroy public acceptance of the result, when you erode the confidence of the process, you must inevitably reduce public support for what most of us believe is overwhelmingly in the national interest but cannot support if the taxpayers rebel.

Mr. President, this amendment will help push this away from public attention. And in doing so, it will invite further abuse, which will inevitably reduce public confidence, and therefore public support, for the funding of the arts. I say again to my friend, it moves in the right direction, though it does not move far enough. The myth contained in the amendment that somehow any action which is not criminal is worthy of support, simply is not supportable as a matter of public conscience or responsible public representation of the taxpayers of this country. I hope the amendment is defeated.

I reserve the reminder of my time.

Mr. HATCH. Mr. President, this amendment is a classic compromise. There are those who do not believe that it goes far enough, and there are those right here in this body who do not want anything at all. The fact of the matter is that this amendment, has some teeth in it that will, get the National Endowment for the Arts to consider what it is doing in every way, shape, and form.

It is important to focus on 85,000 grants. Of the 85,000, only 20 are criticized. Probably, if you get it down to grants that are really offensive, you probably have 10 out of 85,000. Any agency in Government with a record that good is well on its way to becoming a superagency of Government. Whenever you have freedom of expression, you are going to have some things funded that shouldn't be funded. We can handle those problems when they arise. Let us not ruin the whole agency.

I think it is important, before we finish, that I review what this amendment does. I have done it obliquely up to now, but I will go into a little more depth. The amendment addresses the question of Federal funding of obscenity or child pornography. It debars from NEA funding for at least 3 years—they can do it for more than 3 years—anyone convicted of creating or producing such work, and recouping all Federal funds used to support such work.

That is not in the Byrd amendment. That is not anywhere in the statute today. That is a tough sanction. Specifically, No. 1, a determination of whether or not an art work is obscene or is child pornography will be made by the courts.

No 2, after a final court ruling that a federally funded work is obscene or is in violation of child pornography laws, the person or group convicted for violation of the obscenity or child pornography laws will be debarred for not less than 3 years or until the grant money is repaid, whichever is longer.

Three, the person or group which has received or used NEA funds for the work must repay the grant funds to the Government. If for any reason they do not repay those funds, the grantor which gave NEA funds to them will have to repay. Any person or group liable for repayment of NEA funds who fails to do so will be ineligible for NEA funds in the future. So if NEA grants funds to a grantor in Utah, and if they grant it to somebody convicted of obscenity or child pornography, the grantee is supposed to pay it back. If they cannot, the NEA grantor is supposed to pay it back. If they do not, they are debarred for the rest of their lives until they do. That is tough. It is going to be an incentive to not allow this to happen.

We put in a lot of procedural changes, which I think are even more important. The amendment includes a series of changes in NEA procedures and basic NEA statutes. I will discuss a few of them. No. 1 creation of a panelist bank of art professionals and knowledgeable lay persons, and the addition of knowledgeable lay people to the review panels, not done in the past.

Two, standardization of panel procedures. No. 3, a requirement of site visits where necessary and feasible to view works, followed by a written report to the panels. Four, a requirement for a written public record of all panel deliberations and recommendations. No. 5, a requirement for rotating panel membership, so we do not keep the same people on the panel. No. 6, the opening to the public of all National Council on the Arts meetings. Finally, a prohibition of service on a review panel by any individual with a pending application for NEA assistance or by any employee of an organization with a pending application. We think those procedures will help solve this problem

The distinguished Senator from North Carolina said something like this. You cannot find something obscene until after it is funded, but anything funded by NEA is automatically not obscene. That is not true. The fact is, if it is funded by NEA, it still can be found obscene by community standards and in accordance with the Miller rule, under current criminal laws and under this amendment. If it is, found to be obscene the grantee is going to be debarred up to 3 years, and will have to pay back the money. If the grantee cannot, the grantor is going to have to or they will be debarred until they do. The addition of new lay persons on these panels will help ensure we do not have this type of disgusting art in the future. I think we all can agree that a number of these grants are disgusting, and they should not have been funded by NEA. But they are so few and so infinitesimal in number compared to the totality of what the NEA has done, that, it should not constitute the kind of an uproar that has been caused here today.

I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. Mr. President, may I address one question to the Senator from Utah, and then I will be prepared to yield back the remainder of my time as well.

The Senator has, in describing the amendment quite correctly, referred to the questions of debarment and recovery of funds and repayment of funds and the debarment for the failure to repay funds. In each instance, these are based upon the conviction of a criminal violation under State or local statute, is that not correct?

Mr. HATCH. That is correct.

Mr. McCLURE. And there is no other restraint expressed in the amendment, am I not correct?

Mr. HATCH. The other restraints are procedural restraints which make it very clear that offensive art should not be funded. Everybody in the NEA and everybody that serves on any of these panels knows their decision on grants will be scrutinized in every way. Again, I think the distinguished Senator from North Carolina has done the country a favor. The distinguished Senator from Idaho is doing a favor in pointing out that sanctions are limited to convictions under criminal law. However, I think NEA will be very careful about what they fund in the future.

Mr. McCLURE. I say that I agree that they know. They better know. The concern I have is that they will feel more secure after the passage of the amendment than they do under the present circumstances. And there is no other standard expressed in the amendment.

Mr. HATCH. Will the Senator yield on that point?

Mr. McCLURE. I yield to the Senator an additional 1 minute.

Mr. HATCH. The fact that the grantor is responsible for the recoupment of funds is going to be a strong incentive to ensure that the grantees who get the funds use them appropriately. I think this amendment does have teeth—I know it does. The procedures we have in here are going to make everybody aware of what has to be done. I personally believe that this is the appropriate way to go, I hope our colleagues will vote for it.

Mr. McCLURE. I yield back the remainder of my time.

Mr. ADAMS. Mr. President, I am alarmed that this bill once again contains restrictions on what is art. How can we, as responsible policymakers, vote for a bill that includes language that essentially forbids Federal funding for art that "may be considered obscene?" Almost anything "may" be considered obscene by some. As a young district attorney, I once was asked by enforcers to prosecute a man signing his name as Hugo M. Frye for sending a horse dropping placed in a milk carton through the mail to a Federal district judge, alleging it was sending obscenity through the mail.

How can we support a bill that in reality censors artists by defining what may be considered obscene so broadly? That, I submit, is not our job.

Members of Congress are in no position to sit as censors over the works of our Nation's artists. I am sure that each of our colleagues has a different eye for what is pornography.

Several weeks ago during a Labor and Human Resources Committee markup, I voted for a bipartisan compromise to reauthorize the Endowment. I voted for this bill with a heavy heart. But the compromise was necessary in order to prevent further damage to the integrity of the National Endowment of the Arts. I did not speak on that compromise, but today we must prevent, if we can, the language contained in this bill.

I ask my colleagues to oppose the language contained in this appropriations bill and to support the amendment offered by Senator HATCH.

The amendment before you is similar to the compromise adopted by the Labor and Human Resources Committee. The House has supported this language twice. Once during the consideration of the NEA reauthorization, and again during consideration of the Interior appropriations bill. Moreover, the amendment is also similar to language recommended by the independent commission that Congress created just last year to review the Endowment controversy.

The amendment before the Senate today leaves the decision regarding obscenity up to the courts. That is how it should be. The amendment provides that if the court determines a project is obscene, the person or group held to be in violation of the law will face certain sanctions. They would be prohibited from receiving a grant for up to 3 years and would have to repay the grant funds to the Government.

After all is said and done, I still have a hard time understanding why we want to punish the NEA. What is this controversy about? Its about a handful of artistic works. Only 25 out of a grand total of 85,000 grants ever awarded by the NEA. I challenge my colleagues to find another federally funded programs that enjoys the kind of support and record of achievement as does the NEA.

The last 11 Pulitzer Prize winning plays were developed at NEA funded nonprofit theaters.

Since 1965, 100 local arts agencies have grown into over 2,000 local arts agencies across our country.

As I stated earlier, 85,000 grants have been made in the NEA's 25 years of existence, and only a handful have created this controversy.

The NEA's record of achievement speaks well for itself. We must not abandon our support of the arts. I urge my colleagues to support the pending amendment by Senator HATCH.

Mr. KOHL. Mr. President, I rise today in support of the amendment offered by our colleague from Utah, Senator HATCH.

There are, it seems to me, a number of issues which have been raised and need to be responsed to as we consider this issue. I have heard from constituents who want to abolish the National Endowment, who ask why we should spend anything to support the arts when we spend so little to support education or health care or some other noble cause. Now that is a legitimate question. And is Federal spending went to support artists—which appears to be the assumption of many of the people who make the argument—I might be sympathetic to it. But Mr. President, the purpose of the National Endowment is to support the arts, not just the artists. The Endowment is designed to help programs which bring the arts to our children and our communities. As a result, our society benefits from the program more than an artist does. We don't fund the NEA to keep artists from starving: We fund the NEA to keep feeding our capacity for culture.

Let me give you some specifics, Mr. President. In my own State of Wisconsin, recipients of National Endowment grants include the Madison and Milwaukee Symphony orchestras and repertory theatres, the University of Wisconsin-Madison Museum, rural arts projects, arts education programs in River Falls and Whitewater, a Menomonie design project, the Milwaukee Pabst Artist series, the Ballet Foundation, the Florentine Opera Company, the Milwaukee Arts Museum, literary services and countless other worthy artistic and cultural programs. These are programs which bring the arts to people who would not have access to them if we just depended on the free market laws of supply and demand. These are the people who benefit from the National Endowment.

But we do not hear about that, Mr. President. We don't hear about the increase in the number of dance companies, arts events, orchestras, opera and theater companies in this Nation since the creation of the National Endowment. One time grant recipient, Garrison Keillor, remarked that the National Endowment, "has contributed mightily to the creative genius of America." I agree.

It isn't just the NEA. We don't just give the grants and support the arts. We encourage the community to get involved. In 1988, NEA grants totaling $119 million generated in excess of $1.36 billion in private funds. Continuing to support the NEA allows us to continue to assist communities in leveraging private funds to preserve their culture, to educate their youth and to support the arts.

There is, then, ample reason to continue funding for the NEA. Which leads to the next question: Should we somehow restrict that funding so that it only goes to projects that are unoffensive?

To answer that question we have to find out just how many offensive projects we are funding.

Like many of my colleagues, I have been contacted by constituents expressing concern about their tax dollars being used to pay for pornographic and obscene art. I took those concerns seriously. I've tried to check each assertion that taxpayer's were supporting these exhibits. In each case, I discovered that the exhibits being mentioned did not receive any Federal funding. Since the restrictions imposed during last year's consideration of the Interior and related appropriations bill, I have been unable to find any substance to the claims that taxpayer dollars are being spent to pay for pornographic art.

One performance that was suggested to have been funded by Federal dollars was a New York performance by porn-star Annie Sprinkle. In fact, no NEA money funded any of her performance at the Kitchen Theatre. And the New York State Council on the

Arts, which is a recipient of NEA grants, purposely did not fund the theater's full yearlong performance series because it did not believe that the Annie Sprinkle presentation was worthy of the council's support. More recently, those seeking political gain at the cost of dismantling the NEA have made allegations that the NEA funded a pornographic puppet show at the Arts Festival of Atlanta. In fact, not only did the NEA not fund that puppet show, but the Arts Festival of Atlanta has not received Endowment funds in over 4 years.

And on and on it goes.

During fiscal year 1989, it was possible to closely analyze the NEA grants and conclude that less than one-half of 1 percent of them might be found offensive to some Americans, and those grants were mostly made as a result of mistakes. On the basis of $74,780 of questionable expenditures out of a $170 million budget, Congress embarked on this overly trod and ill-fated path of attempting to define obscenity for the purpose of funding the arts by adopting section 304(a) of Public Law 101-121: "None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate, or produce materials which * * * may be considered obscene, including but not limited to, depictions of sadomasochism, homoeroticism, the sexual exploitation of children, or individuals engaged in sex acts and which when taken as a whole do not have serious, literary, artistic, political, or scientific value." During the past year, the National Endowment for the Arts has engaged in the highly criticized effort of attempting to comply with those restrictions.

The restrictions have clearly impacted the funding of the arts. The Chairman of the NEA has usurped the decisionmaking authority of council panels. Some of our outstanding artists have refused to play any part in a process that requires them to take an oath concerning the content of their work. And in June 1990, the General Accounting Office testified before the House Subcommitte on Postsecondary Education that the National Endowment had, "met its legal obligation to adopt reasonable controls designed to prevent violations of section 304(a) and that it has the ability to seek recovery of any grant funds that may be used in violation of section 304(a)."

Yet, here we are again. Our distinguished colleague from North Carolina seeks further restrictions of the arts. Where, Mr. President, is the broken system that needs fixed? Why must we continue to politicize the arts, to debate the definition of obscenity knowing full-well that matter is best determined by the courts? The amendment before us addresses the concern of reasonable Americans: it assures that their hard-earned dollars will not be spent to fund obscenity and child pornography.

The amendment states clearly that works determined by the courts to be obscene or in violation of child pornography laws are not eligible for Endowment support. It goes further to impose sanctions, including repayment of NEA funds that supported such work, and in the event that those Federal funds are not returned, the recipient is permanently barred from eligibility.

This is a strong and fair proposal, Mr. President. It protects the use of taxpayer moneys without sacrificing the first amendment to political whims. It sets into motion a process that will effectively prevent funding for art found to be obscene. And it does so while protecting the 99 percent of all projects which deserve the grants they receive.

The amendment also allows us to leave the definition of obscenity where it belongs: in the courts and local communities. The last thing the people in this country should want is Congress imposing its definition of obscenity and offensiveness on the American people.

I believe Supreme Court Chief Justice Burger was correct when he wrote, in the Miller versus California case, "The people in different States vary in their tastes and in their attitudes, and this diversity is not to be strangled by the absolutism of imposed uniformity."

The amendment before us preserves for Americans, in all communities, their right to determine their own standards of decency. It prevents any American from having his or her tax dollars used to fund obscenity.

It took a year of hearings and consultations and compromises to develop the amendment now before us. It is the best that we can hope for under these circumstances, Mr. President and I urge my colleagues to support it.

Mr. KERRY. Mr. President, I rise today in support of the amendment offered by Senator HATCH. I believe it deals best with the issue of obscene and offensive art which receives Federal grants from the National Endowment for the Arts. Therefore, I will oppose the amendments offered by Senator HELMS which, while perhaps well-intended, are too broad in scope and would have unintended consequences.

I would like to commend my colleagues on the Labor and Human Resources Committee for their enormous efforts over the past year in trying to forge a delicate and bipartisan compromise that allows the NEA to operate without imposing "content restrictions" on grant recipients while also providing the Government with the necessary tools to recover money from those artists who produce "obscene" work, as defined by the courts.

It seems to me that there are two vital questions to consider regarding NEA funding for the next fiscal year. First, how can Congress reform the NEA grant process to make it more accountable to the American taxpayer? And second, how can Congress ensure that the NEA continue to provide millions of Americans with the important contribution it makes to our Nation's culture. I believe this amendment addresses both these concerns ably by establishing enforceable mechanisms in the grant process without restricting the freedom of speech vital to artistic creativity.

Since its creation 25 years ago, the NEA has immeasurably enriched the lives of all Americans and has built a proud heritage of artistic accomplishment on which we all can stand. Let us not tear down the NEA by imposing content restrictions on grant recipients and forcing the Congress to micro-manage every single grant and determine whether it deems it obscene. However, I do not believe that the American taxpayer and the NEA will be best served by imposing content restrictions.

Instead, I hope we will support the Hatch amendment and implement the new standards and regulations it establishes regarding the awarding of grants. It opens the peer review system to ordinary people, not just those in the arts community, and in doing so, I believe the NEA and the American public will be better served. Moreover, unlike the proposal offered by the Senator from North Carolina, this amendment establishes accountability. It allows the government to recover the money used by an NEA grantee if a court finds the art work in violation of obscenity laws.

I would like to commend again the distinguished Senator from Utah for his active role in finding a balanced solution to this problem. The amendment is the result of months of compromise, Senate hearings, and recommendations by the bipartisan Independent Commission. I urge my colleagues to adopt the amendment.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MITCHELL. I announce that the Senator from California [Mr. CRANSTON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota, [Mr. BOSCHWITZ and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

The result was announced—yeas 73, nays 24, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—73

Adams	Durenberger	Mikulski
Akaka	Exon	Mitchell
Baucus	Fowler	Moynihan
Bentsen	Garn	Murkowski
Biden	Glenn	Packwood
Bingaman	Gore	Pell
Bond	Graham	Pressler
Boren	Harkin	Pryor
Bradley	Hatch	Reid
Breaux	Heinz	Riegle
Bumpers	Hollings	Robb
Burdick	Jeffords	Rockefeller
Burns	Johnston	Roth
Chafee	Kassebaum	Sanford
Cochran	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Warner
Dodd	Lieberman	Wirth
Dole	Lugar	
Domenici	Metzenbaum	

NAYS—24

Armstrong	Heflin	McConnell
Bryan	Helms	Nickles
Byrd	Humphrey	Nunn
Coats	Inouye	Rudman
Ford	Lott	Symms
Gorton	Mack	Thurmond
Gramm	McCain	Wallop
Grassley	McClure	Wilson

NOT VOTING—3

Boschwitz	Cranston	Hatfield

So the amendment (No. 3130) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, we are going to have a series of votes this evening. We have already had several today. All Senators are aware there are going to be votes. There are time limitations on these amendments and yet we have had to hold these votes for very long times because Senators are late getting here. I have tried very hard, and I believe without exception have accommodated every Senator who has been anywhere near the Capitol, and held votes for a long period of time.

We are right down to the end now. When Senators know votes are going to occur, it is not too much to ask Senators to be here within 15 minutes so that we can expedite the business of the Senate.

One of the things we are going to have to consider next year is whether to revert to the strict 15-minute rule that was in existence in the previous Congress. But for now it seems to me that it is not unreasonable, not an imposition on any Senator, to ask Senators to come to the Senate floor as soon as a vote begins so that we do not have to hold these votes for a long period of time and thereby guarantee that we will be here even later than we have to be, which is already much too late.

I would just like to ask Senators out of courtesy to their colleagues to, over these next several hours and next few days, be thoughtful and considerate of others and to get here in prompt time for these votes.

I thank my colleague.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from North Carolina [Mr. HELMS].

AMENDMENT NO. 3131

(Purpose: To forbid the use of appropriations to provide financial assistance to individuals above a certain income level)

Mr. HELMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 3131.

At the end of the amendment, add the following: ": *Provided further*, That none of the funds appropriated under this Act may be used by the National Endowment for the Arts to provide financial assistance to an individual whose family income exceeds 1500 percent of the income official poverty line, as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))."

The PRESIDING OFFICER. The Senator from West Virginia.

TONGASS TIMBER REFORM ACT—CONFERENCE REPORT

Mr. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate the conference report on H.R. 987, the Tongass timber reform bill; that there be a 15-minute time limitation thereon; and that the 15 minutes come out of my time on the pending amendment.

The PRESIDING OFFICER. Are there objections? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that 15 minutes be under the control of Senator STEVENS and Senator MURKOWSKI, equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amenof the Senate to the bill (H.R. 987) to amend the Alaska National Interest Lands Conservation Act, to designate certain lands in the Tongass National Forest as wilderness, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 23, 1990.)

Mr. JOHNSTON. Mr. President, I rise in strong support of the conference agreement on H.R. 987, the Tongass Timber Reform Act. The conference agreement is a fair and reasonable compromise, which carefully balances the many resources of the Tongass National Forest.

It protects the centuries-old trees in an ecosystem replicated nowhere in North America. It protects key fisheries and wildlife habitat. And, importantly, the conference agreement retains a viable, healthy timber industry.

I know that this compromise goes too far for some, and not far enough for others. But, I sincerely believe that the conference agreement represents a reasonable balance between many conflicting interests. I further believe that this agreement will allow Alaskans the certainty they need and deserve by resolving this issue once and for all.

I would like to address one issue that was raised in the conference on this measure. The Senate-passed Tongass bill contained an amendment, which was offered on the floor by Senator GARN, encouraging the Forest Service to negotiate, on an expedited basis, a land exchange with Sealaska Corp. involving the Greens Creek area of Admiralty Island. During conference on the Tongass bill, the conferees, for several reasons, agreed to delete that language at the request of Senator GARN.

I want to make clear that deleting the amendment is not an indication that the Senate Energy Committee opposes the negotiations between the Forest Service and Sealaska Corp. To the contrary, I understand the negotiations are ongoing and near completion. I encourage the Forest Service to continue negotiations with Sealaska to

reach an agreement that is in the public interest. I look forward to considering this issue in the committee when the land exchange agreement has been completed and made available to us.

I would like to conclude by thanking Senator MURKOWSKI and Senator STEVENS for their willingness to work with us on this very delicate issue. While we have not always agreed on every aspect of this legislation, the two Alaska Senators have been very gracious and demonstrated a sincere desire to resolve this important matter. I would also like to acknowledge the contributions of Senator WIRTH in this compromise. As the sponsor in the Senate of legislation which went much further than the bill before us today, he offered a number of constructive suggestions during our negotiations which eventually resulted in bringing the parties together. Finally, I would like to recognize Congressman GEORGE MILLER for his tireless efforts to bring about reform in the Tongass National Forest. While he has been a strong and determined advocate of his point of view, in the end, he, like the rest of us, was willing to find a middle ground which is embodied in the conference report in H.R. 987. I commend him on his willingness to meet us half way and to get this issue behind us.

Mr. President, I urge my colleagues to join with me in adopting this conference report.

Mr. President, I believe that the land allocations made in this act, in conjunction with the other laws relating to the management of the Tongass National Forest, provide significant protection for the national interest in the wilderness, scenic, natural, cultural, subsistence, and environmental values on the Tongass National Forest. Those lands which remain open to timber harvesting, mining, hydropower development, developed recreation, and other uses will provide the opportunity for economic growth and for protection of the dependent communities of southeast Alaska. I believe that the designation and disposition of the public lands in the Tongass National Forest pursuant to this act represent a responsible balance between the statutory preservation of wildland areas and the availability of lands for more intensive use as determined appropriate by administrative planning and management.

Mr. MURKOWSKI. Mr. President, I concur with the views of the chairman of the Committee on Energy and Natural Resources on this matter. This legislation should lay to rest the long and divisive debate over land use and management on the Tongass. Therefore, additional study by the Secretary, in conjunction with the current revision of the Tongass land management plan, for the purpose of proposing additions to conservation system units in the Tongass National Forest should not be necessary unless required by further act of Congress.

Does the chairman share my views in this regard?

Mr. JOHNSTON. Yes, I agree with the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. Mr. President, I thank the Chair and I thank the floor managers. I want to particularly thank the chairman of the Energy Committee, Senator JOHNSTON, for his cooperation.

Mr. President, as the Senate prepares to take action on the conference report on the Tongass National Forest reform bill it is appropriate that I make a few brief remarks.

Let their be no doubt, Mr. President, that this legislation is extremely important to the people of southeast Alaska and to me personally. There are those who have waged a public relations campaign based on mischaracterizations of our forest management practices to cause serious damage to the economic and social fiber of southeast Alaska.

Nonetheless, Mr. President, Alaskans have risen to the challenge presented by those who would destroy their livelihood. Field hearings which I held in Alaska revealed that while there were many disparate opinions about Tongass management, a great effort was being made to develop a consensus Alaskan position. The southeast conference, a group of community leaders from throughout southeast Alaska had worked long and hard to build a detailed position that a majority of the communities could support. Their position was supported by the Governor at the hearing in Sitka and later became the foundation for the compromise bill advanced by Senator JOHNSTON in committee. This bill was reported unanimously by the committee and passed unanimously, 99 to 0, by the full Senate.

The development of Tongass legislation in the Senate is in stark contrast to what has occurred in the House. The House-passed measure took away the consideration given for 5.4 million acres of wilderness designations by the Congress in 1980, canceled existing timber contracts exposing the United States to potentially huge liability, and designated nearly 2 million acres of additional wilderness in the Tongass Forest. This measure would have devastated the timber industry in my State—an industry which is the economic underpinning of a region larger than West Virginia. This measure passed the House over the objections of the entire Alaska congressional delegation and Alaska's Governor. To make matters worse, the House measure was advanced without a single hearing in Alaska.

Mr. President, the comprise crafted by the House and Senate conferees is less damaging than the House bill but still goes too far. I supported the Senate position because it was based on the input of Alaskans. The changes made to the Senate bill in conference were made in order to compromise with the House, but they went beyond the consensus concerns of the people of southeast Alaska. I am concerned about the impact this compromise package might have on jobs in southeast Alaska.

The conference bill would withdraw from the timber base more than 1 million acres. This is 345,000 acres more than the Senate bill and 781,000 acres less than the House bill. The House bill designated 1.8 million acres of new wilderness, while the Senate bill had none. The compromise creates 296,000 acres of new wilderness, within the total 1 million acre withdrawal.

The remaining withdrawal in the compromise bill, 722,482 acres, would be classified using the Forest Service's land use designation 2 (LUD 2). On LUD 2 lands, no commercial timber harvesting is permitted, but roads, hydroelectric projects, mining operations, fish hatcheries, and other uses are permitted.

The compromise legislation repeals both the annual $40 million appropriation for the U.S. Forest Service to enhance timber sales and a requirement for a specific amount of timber to be sold each year. It adds instead a requirement for the USFS to seek to meet the market demand of the industry and to make economically marginal timber available to the industry.

Additionally, the USFS is directed to work with the Small Business Administration to identify the needs of small timber operators in the Tongass and do everything it can to meet those needs through timber sales. The legislation also includes Alaska in a program which allows small business purchasers to request the forest service to construct roads on small business timber sales.

The conference bill adopted the Senate approach to buffer requirements alongside streams by requiring buffers only on anadromous fish streams and on tributaries to those streams that have resident fish. This approach contrasts with the House proposal that would have required buffers on all streams and tributaries regardless of fish content.

Under the conference bill existing timber contracts with the major pulp mills would not be canceled but they would be modified. The modifications will ensure the USFS decides where mills harvest timber, will prohibit the mills from cutting only the best

timber, and will ensure the mills pay a fair market value for their timber.

The important thing is that the mill operations will remain viable. The timber volume requirement of the contracts are protected, which means the jobs related to the mill operations are preserved.

Mr. President, the conference bill adds 345,562 acres of additional land designations to the Senate bill. To meet the needs of the small communities in Southeast Alaska, I had proposed during pre-conference discussions with the House six of the seven additional areas included in the conference bill. However the total acreage and specific boundaries differed in many instances.

The problem is that key areas of commercial forest land are taken away—timber desperately needed for the industry. These are areas with very little community support and reflect little more than a timber grab by the national preservationists. The total impact of the conference bill may be to delete somewhere between 40 million and 60 million board feet of timber annually from the available base.

Mr. President, I want to point out that while this legislation errs too far on the side of preservation, it does go very far toward meeting the concerns expressed during field hearings by the people of southeast Alaska. Important land additions to the Senate bill are Port Althorp, Idaho Inlet, Mud Bay, Point Adolphus, Pleasant Island, Lemesurier Island, Inian Island, Salmon Bay Lake, Anan Creek, and the Naha River. These areas have been of great concern to the communities of Gustavus, Elfin Cove, Hoonah, Petersburg, Wrangell, and Ketchikan and were not included as LUD 2 areas in the Senate bill. In fact, protection of the important sockeye salmon habitat at Salmon Bay Lake, an area very important to fishermen in Petersburg, is addressed even though this area was not included in either the Senate or House bills.

Where the House bill simply prohibited the completion of a road between the communities of Tenakee Springs and Hoonah, at my urging the conference bill provides a veto to these communities over the completion of this road, following the premise that the best resolution of this issue is to leave it up to the people themselves.

In an effort to finally resolve as many land allocation questions in the Tongass as possible, the conference bill also includes a provision accelerating the land selection rights of the Haida Native Corp. The lands Haida will receive are traditional lands, but are located in a very important transportation corridor. Therefore, the conveyance of these lands will be subject to an easement in the United States to allow a public transportation corridor through the area, leaving the rights to the timber with Haida Corp. It is my understanding that Haida Corp. is to retain full control over the timber and surface estate covered by the easement, except to the extent the Government needs to exercise control for road building activities. This will best serve the interests of Haida and the State of Alaska in the use of this area.

However, Mr. President, I must point out that all communities and interested groups were not served well by this legislation. A proposed land trade involving the Goldbelt Native Corp. was deleted form the final Tongass compromise. Goldbelt deserved better treatment than they were given by this conference. This is the second time Congress has dealt them a bad deed. The first time was in 1980 when they were forced off Admiralty Island and moved their land to Hobart Bay with the expectation of servicing future timber harvests in that area. The conference bill surrounds the Goldbelt holdings with wilderness.

Finally, the conference bill requires the Forest Service to study the reacquisition of lands which were removed from the Tongass forest to fulfill State or Native land entitlements. Only lands where timber harvest has occurred would be eligible. The lands reacquired will be added to the timber base and the allowable sale quantity. Since these are some of the best timber growing lands, they will have an important impact on the availability of timber to the dependent industry in the future. This concept has support from environmental groups and the timber industry because it will provide proper timber management on highly productive lands, it will increase the supply of timber in the future, and it will reduce the pressure to provide timber from the presently unroaded portions of the forest.

Mr. President, prior to final action on this conference report I have engaged in a colloquy with the distinguished chairman of the Senate Energy and Natural Resources Committee to explore the degree of peace and certainty this legislation can bring to the competing interest groups in southeast Alaska. Similarly, I engaged in a discussion with the distinguished House conference chairman and received an assurance that this legislation should bring some finality to the Tongass reform issues addressed and some comfort to southeast Alaskans. It is fair to say that while all Members of Congress and all special interest groups have not obtained 100 percent of their objectives in this legislation, this compromise represents the final solution for those who have worked diligently over the subject of Tongass reform.

Mr. President, for the record, I oppose this bill because it goes farther in reducing the multiple use land base than southeast Alaskans would like. I attempted to improve this bill in conference. In fact, I circulated 19 proposed changes or additions to the chairman's mark, all of which were rejected. The majority would simply not accept amendments at the meeting of the conferees to the compromise they constructed outside the conference meetings. For these reasons I have refused to sign the conference report.

However, with its passage will come an end to the many divisive issues involved in the debate over Tongass reform. Many of my constituents look forward to this dark cloud passing. I call on all Alaskans to put their differences aside with the passage of this legislation and to work in harmony to produce a diversified and healthy economy in southeast Alaska. While this legislation has been pending, much of the timber available for harvest has been tied up in litigation. Seventy-five percent of the timber the Sitka mill has available is currently tied up in litigation. For the Ketchikan mill, 33 percent of their available timber is tied up in litigation. This is causing hardship and the loss of jobs. I urge the conservation groups to drop these lawsuits once this legislation has passed.

This legislation working in concert with the revised forest plan will hopefully provide a stable land base and certainty of resource allocation necessary for sound business and community planning. It should provide a secure basis for southeast Alaskans to work together toward common goals and objectives. It is my sincere hope that we can have at least a decade of peace in the Tongass. It is time that opponents and proponents give their lawyers a rest. It is my desire and hope that fishermen, loggers, mill workers, and those in the tourism industry can come together and direct their energies to stablize the economic vitality of southeast Alaska and those who choose to live there.

I remind my colleagues of the able negotiations of Senator JOHNSTON, the chairman of the committee; my senior colleague, Senator STEVENS; Representative YOUNG; and the tremendous staff, both the professional staff and our own staffers, who have worked very hard on this. I have been at it 10 years. I think my colleagues should understand they have not had to take a hard vote on this.

Mr. GARN. Mr. President, may I engage my distinguished colleague from Alaska in a colloquy regarding land exchange discussions on Admiralty Island in Alaska which affect the Greens Creek Mine. As the Senator knows, that mine is operated by the Kennecott Corp. of Salt Lake City. At its request, I sponsored an amendment during floor consideration of H.R. 987, the Tongass Timber bill, to encourage

ongoing land exchange discussions between the Forest Service and the Sealaska Corp., an Alaska Native Corp. Since the floor consideration of H.R. 987, events concerning the land exchange have changed. For reasons which need not be detailed here, I am informed that negotiations to reach agreement on a land exchange cannot hope to reach a consensus which all affected parties can support. For that reason, I asked that my amendment be removed from H.R. 987 in the conference committee.

It was removed. Now the question remains what is the status of the negotiations. That is simple. There is no congressional mandate for the current negotiations to continue. It is my hope and urging that they will cease. In any case, the deletion of the amendment should clearly send the signal that no negotiations are required or requested by the Congress. Further, it should send a clear signal that any such negotiations cannot be concluded unless the single most affected party, the Greens Creek Joint Venture, for which Kennecott operates the Greens Creek Mine, is not harmed or negatively affected in any way by such negotiations. This means that the Joint Venture must be involved in any negotiations. My own feeling is the current negotiations are not going to be successful. I would advise the Forest Service to begin to look at other options.

Mr. MURKOWSKI. Mr. President, I appreciate the remarks of the distinguished Senator from Utah. I fully understand his point of view. I supported his amendment on the floor and regretfully respect his decision to oppose its inclusion in the conference report. Nonetheless, this was his amendment in the Senate and I must respect his wishes at this time. I want to assure the Senator that the point of this exchange has never been to adversely impact the existing operations at the Greens Creek Mine but to enhance those operations. I agree that future negotiations will only be successful if all parties, including the Greens Creek Joint Venture, are involved. I have long advocated the merits of this land exchange as being not only in the interest of the affected parties but also in the interest of the United States and southeast Alaska. If the parties can get together this can be a win-win situation for everyone, and I would support such an effort.

Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 7½ minutes remaining.

Mr. STEVENS. Mr. President, 19 years ago we received a request from a new group of environmental organizations for a wilderness area in the Tongass. It was 1971, about this same time of the year. They sought approximately 3 million acres of the Tongass to be set aside for a single purpose, taken out of a multipurpose forest that was being run fairly well.

By 1973, we had a study of this subject, and that study recommended that about 1.8 million acres be set aside.

We have been on this subject almost every year for 19 years. By 1978, we had worked out a bill. It was a comprehensive bill dealing with Alaska national interest lands, and we were within 10 minutes from the end of the Congress when my former colleague blocked a conference report just like this, a conference report that would have withdrawn 2.7 million acres of land in the Tongass.

The blocking of that bill killed the legislation for that Congress, obviously, and we started again in 1979. The demand as we opened in January 1979 was for 100 percent more wilderness, because one of Alaska's Senators had had the temerity to block a bill. We fought through a period of time, and in 1980, in fact, the bill did withdraw 5.4 million acres of the Tongass as wilderness.

We came back in 1981, and one of the first things we faced was another demand, a demand for more wilderness in the Tongass. At that time, through, the year of 1981, somewhere around 2 million acres in additional withdrawals were sought.

Now, 10 years later, after having faced this subject in each Congress since that time, we have another conference report to withdraw this time 1,018,000 acres in one of the greatest national forests of our country; a forest, incidentally, that was created in order to assure the production of timber so that the Federal Government in the days of Gifford Pinchot could be assured that the monopolies that controlled the private timber base would always have a yardstick to measure against them.

The yardstick of the Tongass has been broken in half, Mr. President, because half of the timbered area will now be wilderness.

There are at least three items in this bill that I think are bad. In the first place, the section on small business says that the Forest Service shall seek to provide timber to small companies. That does not go far enough, as far as I am concerned. We asked for a reservation of timber for small operators.

Goldbelt, one of southeastern Alaska's native village corporations had a land selection that will be severely impacted by one of the areas put aside by this bill. To make a long story short, a provision dropped which would have counteracted that impact, and I think that is a very unfortunate decision.

Third, this bill prohibits harvesting timber on slightly more than a million acres. As I have said, the impact of that on this forest will be that the yardstick is finally cut in half.

Mr. President, I ask unanimous consent that my reservations on the bill be printed in the RECORD.

There being no objection, the reservations were ordered to be printed in the RECORD, as follows:

TONGASS—RESERVATIONS ABOUT BILL

SMALL BUSINESS

One section of this bill is intended to make sure the supply of timber for the small operators in the Tongass is adequate.

However, because the bill says only that the Forest Service shall seek to provide timber to these small companies, it does not go far enough.

If there is a shortfall in timber supply because of this bill, this language is not enough to assure an adequate supply for the small operators.

GOLDBELT

One of Southeast Alaska's Native village corporations, Goldbelt, moved its land selections to a place called Hobart Bay several years ago in response to pressure from environmental groups. They expected to be able to bid for timber sales on the neighboring Forest Service lands.

This bill makes the neighboring forest service land wilderness. This bill should have included an exchange which would have made up for this second blow to Goldbelt's expectations.

That provision was dropped when the House insisted on shaving back the offer made to Goldbelt.

LAND

This bill prohibits timber harvesting on slightly more than 1 million acres. The withdrawals are spread throughout the Forest, but will have a disproportionate impact on the north end.

It would have been easy to reduce the impact of this bill—particularly in Hoonah Sound. This withdrawal is intended to protect the Lisianksi River drainage—which is on the other side of a saddle at the top end of the sound.

The upper three quarters of Hoonah Sound are closed to timber harvesting by this bill. It is an area rich in timber, with fewer competing uses than any of the other areas closed to timber harvesting by the bill.

At least one unit should have been removed from the Lisianski withdrawal—VCU 282. This unit was one of the last added to the bill in conference. It is 15,641 acres, with 70 million board feet of commercial quality timber.

Mr. STEVENS. The only reason we are not continuing the battle—it is not that we are tired of battling after 19 years. This Senator is perfectly willing to have another battle. But in this instance we have a situation where the Governor of Alaska has announced that he is willing to accept this compromise. We have had a series of spokesmen for southeastern Alaska indicate that they would like to have some peace.

I am sure that the Senate would realize that after 19 years of battle, there have been some casualties. The ability to borrow money to expand the facilities in the timber industry in southeastern Alaska has been hurt.

The stability of that industry is not what it should be, and it is affecting the lives and the futures of a great many people.

I had a feeling that we were at the point where we ought to go back and take a look at what we said in 1980.

I ask, Mr. President, that two excerpts from the 1980 act be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

ANILCA, section 101(d):

(d) This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby.

SEC. 1326(b):

(b) No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.

Mr. STEVENS. Let me emphasize the first one ends with this clause.

Thus Congress believes the need for future legislation designating new conservation systems, new national conservation areas, or new national recreation areas, has been obviated.

The second one is this provision:

No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this act or further act of the Congress.

We called it in 1980, Mr. President, a "no more" clause, that there would be no more withdrawals. This action now obviously shows that even an act of Congress did not protect Alaska from future withdrawals. So this time we have asked for some assurances from the individuals who would be involved.

I want to place in the RECORD a fax that I have received from the Southeastern Alaska Conservation Council. It asks me to support this bill and requested the President sign it.

It says:

Ted, it surely sounds like Alaskans are ready and willing to put this issue to rest.

I have been assured on all sides that this action will put this issue to rest; that there will be no more requests for wilderness in the Tongass. After 19 years, we deserve a little peace. And after 19 years, I guess it is time to seek peace. We tried to do that with the support of the bill that passed the Senate unanimously, but the House wanted to go further.

Mr. President, I ask unanimous consent that a letter from the Southeast Alaska Conservation Council be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SOUTHEAST ALASKA
CONSERVATION COUNCIL,
Juneau, AK.

To: the Honorable TED STEVENS,

Please review Alaskan reactions to the Johnston Compromise—I can send the actual clippings if need be.

Ted, it surely sounds like Alaskans are ready and willing to put this issue to rest.

I hope you can support H.R. 987 on the floor and request that President Bush sign it into law.

Let's finally resolve this.

Thank you,

BART KOEHLER.

ALASKANS REACT TO JOHNSTON COMPROMISE VERSION OF THE TONGASS TIMBER REFORM ACT

Governor STEVE COWPER. "Southeast Alaskans who are directly affected can finally breathe a sigh of relief that this issue is behind us after so many years. [The bill is] a compromise. . . . But overall I think Alaska's timber industry can remain healthy while the environment and other uses of the forest can be protected."

Senator FRANK MURKOWSKI. "The important thing [about the Johnston compromise] is the mill operations remain viable. The timber volume requirements of the contracts are protected, which means the jobs related to mill operations are preserved."

Alaska Pulp Corporation (Sitka and Wrangell timber mill owners): "We certainly will not be donning our party hats and cheering. But we will have to find ways to live with it." Spokesman Rollo Pool also said his mill will continue to operate.

Ketchikan Pulp Corporation (Ketchikan timber mill owners): ". . . [H]opefully this bill will bring an element of peace to the Tongass so planning can be more organized for the continuous timber program."

United Fishermen of Alaska (State's largest fishermen's association): "[the Johnston bill] is a decent package. It does not put the loggers out of business."

Southeast Alaska Conservation Council: "It's bittersweet. Senator Johnston's compromise protects many, but not all, important fish and wildlife areas and it brings about a balanced and fair resolution of this hard-fought battle."

Mr. STEVENS. We have, through the assistance of the two ranking members, Senator JOHNSTON, Senator MCCLURE; my colleague, Senator MURKOWSKI; and Congressman YOUNG, obtained a compromise. As I said, I think it is deficient. But I am willing to accept this request for peace.

I hope that the Senate understands and the Congress understands that we have not sought new assurances in the law. Congress gave us that assurance in 1980 and promptly did not live up to it. This time we are calling on the people who are Members of the House and the Senate to listen to our voices, and to understand that we have looked into the eyes of the people who have the power to change these laws and they have assured us that they now recognize that this is the end.

As this note to me says, let us finally resolve this. And I am willing to allow this conference report to pass on the basis that we are finally resolving it, that there will be no more demands for wilderness in the Tongass National Forest.

Thank you, Mr. President.

Mr. BYRD. Mr. President, does the Senator need additional time?

Mr. STEVENS. I took 2 minutes of the Senator's time. I am grateful. I thank him very much.

Mr. BYRD. Mr. President, I yield 1 minute to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we have enjoyed this exercise so much that I look forward to bringing back Tongass legislation again next year.

I thought that would get a smile from the Senator from Alaska.

Seriously, Mr. President, this has been a tremendously long, detailed, exasperating, difficult exercise, but it has ended successfully. It has taken the cooperation of the Senators from Alaska; it has taken the leadership of Senator WIRTH and others in our committee; it has taken especially good staff work; Beth Norcross, who is the staffer who worked this for the majority on the Senate Energy Committee. It is her last bill, but I must say I do not believe we could have passed it without her. She did an extraordinary job on this bill.

Mr. President, I want to thank all Senators who were involved in this. This is one of those rare bills where no one loses; it constitutes a tremendous victory for all.

With that, Mr. President, I ask that we adopt the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

AMENDMENT NO. 3131

The Senate continued with the consideration of the bill.

Mr. BYRD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 7 minutes, 16 seconds remaining.

The Chair recognizes the Senator from North Carolina.

Mr. HELMS. Mr. President, I say to the distinguished Senator from West Virginia if he needs time he can get it from me because I want to expedite the procedures.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I have time. Whatever time he does not use, if he wishes to yield it back, I will yield back.

Mr. HELMS. As the Prince of Denmark said, " 'tis a consummation Devoutly to be wish'd." Let us see how it goes.

Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. No.

Mr. HELMS. I request the nays and yeas.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, this amendment would prohibit the National Endowment for the Arts from providing grants or fellowships to individuals whose family income exceeds 1500 percent of the official poverty line as defined by the Office of Management and Budget every year.

The current poverty threshold income for a single individual is $6,311. So an individual's income would have to exceed $94,665 before the pending amendment would prohibit the NEA from giving him or her an NEA fellowship or grant. An artist with a family of four would have to have a family income of more than $190,125, before the NEA would be prohibited from giving him or her a grant.

Mr. President, I was prompted to offer my amendment by the many news accounts indicating that not only are the NEA's art experts recommending their friends, relatives, and professional partners for NEA grants, but they are also taking the taxes of middle-income Americans to provide fellowships and grants to professionally accomplished and economically successful artists. I see no reason whatsoever to tax middle-income Americans in order to give money to artists who are enjoying successful and lucrative careers.

Let me cite just a few examples, Mr. President, of some grants to artists who are much wealthier than the average American worker, to say the least, but who were nevertheless able to get handouts from the National Endowment for the Arts. I am going to leave out the names, but if Senators want to know who these recipients are, I will be glad to identify them.

There is a New York painter who recently sold eight of his paintings for amounts ranging from $8,000 to $25,000 at the Kasmin Gallery in Soho, NY. Before that, he had had 27 solo exhibitions from Japan to Brazil to Sweden, over the past 10 years. This painter could not be more financially secure, yet the NEA gave him $15,500 in what is called a Visual Artists Fellowship—that is $15,500 of taxpayers' money—so this guy could take off and do some painting. This painter admits that he used his NEA grant to pay the taxes he owed the IRS on his other income.

Then there is the actor who had been sought by casting directors literally begging him to take more than a dozen roles over a period of 7 years prior to 1987, the year the NEA decided to give him a $20,000 playwriting fellowship so he could take time off from his acting job to write instead of act.

This actor had already been able to write a number of well-regarded plays during his career as an actor. Why on Earth, and how on Earth, did the NEA decide that this guy ought to get $20,000 of the taxpayers' money?

Then there is the Philadelphia-based artist, whose work sells so well in Philadelphia that he has been able to build a second home in the Dominican Republic, where he spends half of his time.

His paintings sell for $8,000 to $25,000 a pop, and he has had 53 one-man shows and 127 group shows over the past 25 years and his work is found in 21 public collections. Yet, the NEA in 1989 decided that this man needed $15,000 of the taxpayers' money to take time off to paint. The 1989 Visual Artists Fellowship was the third grant the NEA has given the artist during his career.

Then there is yet another painter whose show this past March, at the Barbara Fendrick Gallery, was sold out. The asking prices for the artist's work ranged from $25,000 to $45,000 each. He has works on display in the Museum of Modern Art and the Metropolitan Museum of Art in New York City, at the Corcoran Gallery and the Smithsonian in Washington, and the Tate Gallery in London and so on. Nevertheless, what do you know, the NEA gave him a $15,000 visual artists fellowship in 1989 so he could take time off to create. This painter had previously received individual fellowships from the NEA in 1967, 1973, and in 1974.

Another painter who received a $15,000 Visual Artists Fellowship in 1989 has a waiting list of buyers at the Phyllis Kind Gallery in Soho, NY, who are willing to ante up $30,000 for one of his paintings.

It does not stop there Mr. President. A painter who lives in the Berkshire Hills in western Massachusetts—who sells his paintings for prices ranging from $12,000 to $18,000 apiece—was not as impressed by the $15,000 NEA fellowship he got in 1989 as he was by the NEA fellowship he got in 1979. He stated that, "Now things cost so much—it's a nice sum, but it's not like winning magabucks." I wish he would tell that to the American families whose taxes were used to pay his grant.

So, Mr. President, the bottom line is this: Not only has the NEA been very, very liberal in giving away the hard-earned tax dollars of middle-class Americans—giving it to artists who are far more financially secure than the average American—but the process for selecting who receives the NEA grants is absolutely rife with conflicts of interest between the experts who dole out the money and the people who get the money.

For example, one person served on the panel of literary experts that awarded his brother—do you believe that, his brother—a $20,000 NEA grant in 1985. The first himself received a $20,000 NEA Creative Writing Fellowship in 1987. If that is not keeping the money in the family, I do not know what is. The trouble is that it is the American taxpayers' money they are keeping in the family.

Mr. President, one woman received a $5,000 NEA artistic grant based on the recommendation of a panel of experts that included her stepmother. The stepmother was also able to give fellowships to two more artists who sell their paintings at the same gallery the stepmother does.

Then there is the musician who frequently collaborates—I choose my words carefully—with Karen Finley. Remember her, the chocolate smeared young lady? Well this musician actually sat on the peer panel that recommended both Karen Finley and Holly Hughes for the NEA grants that Chairman Frohnmayer denied this year because of the intense public scrutiny of the NEA. I will not describe the vulgar acts they intended to perform with the taxpayers' money had they gotten their grants.

Mr. President, I should also mention that the musician himself got a grant from the panel he sat on. The Los Angeles Times also recently revealed that the Kitchen Theater in New York will receive a $25,000 NEA grant to support a work to be developed by this musician in conjunction with you guessed it, Karen Finley. Of course, the Kitchen was recommended for the grant by the panel of course the panel the musician was serving on.

Come on, Mr. President, surely anybody with any administrative ability whatsoever, or certainly with any dedication whatsoever, is bound to catch that sort of thing.

One or two more examples and I will conclude.

There was an artistic director of the Ohio Chamber Ballet who sat on an

NEA panel that recommended a $60,900 grant to the Ohio Chamber to support development of what? The guy's own musical compositions. See what I mean by "keeping it in the family," Mr. President?

The Kitchen Theater's artistic director sat on the NEA's 1988 panel of experts that approved a $12,000 grant to the Kitchen. The director of the Institute of Contemporary Art [ICA] in Philadelphia sat on the 1988 NEA panel that gave the ICA a total of $155,000, including the $30,000 award to put the Mapplethorpe exhibition of homoerotic photographs together.

The director of the Center for New Television in Chicago sat on the 1990 NEA panel which awarded the center a $45,000 grant to support its operations.

The executive director of Film/Video Arts, Inc., in New York, sat on the 1990 panel that recommended a $30,000 grant for Film/Video Arts, Inc. to support the firm's operations.

The Director of the Southwest Alternate Media Project, Inc., sat on the 1990 NEA panel that recommended a $35,000 grant to support his organization's general operations.

Mr. President, according to the Washington Times, at least 130 of the approximately 730 peer panelists who assisted the NEA's grant-making process in 1988 sat on panels that gave their own organization's grants.

I say again, come on, what is going on here?

Mr. President, the NEA does have a conflict of interest rule which requires a panelist with a personal stake in the awarding of a grant to excuse himself from the arts panels deliberations of that particular grant. But excusing or recusing oneself from the room is not going to prevent the other panelists from being affected, particularly if they have been lobbied. We all know how that happens.

As Hilton Kramer, chief art critic for the New York Times from 1965 to 1982, says, that rule:

> Has no significance whatsoever because the person leaving the room is the person who is going to vote on the next application when someone else has to leave the room.

Mr. Kramer states further that:

> The very least that can be said of the [NEA] system is that it is very much a buddy system. You give me a grant, I give you a grant, that sort of thing. Among arts professionals, they joke a great deal among themselves about how it works. * * * A votes for B and B votes for A.

Mr. President, I do hope that the NEA has learned something from this kind of outrageous conduct and will hereafter prevent anyone from sitting on any panel considering grants that will benefit that individual or his personal friends or relatives in any way. That is just common decency in the distribution of the taxpayers' money.

I do not intend to offer an amendment at this time to prevent this self-dealing among the NEA's arts panels, but my pending amendment would prevent the most established and successful artists from using the NEA's panel review system to benefit one another at the taxpayers' expense. That does not make sense.

Mr. President, it should be pointed out that the NEA's authorizing statute has never said anything about the NEA giving grants to individuals—which is probably why there has never been a needs test applied to NEA's individual grant recipients. The policy of awarding grants to individuals is the result of an administrative decision made back in the late 1960's.

Michael Straight, who was deputy NEA Chairman from 1969 to 1978, says that individuals' grants has been a catastrophe in the making for 23 years. The arts endowment was created to enrich the lives of Americans through the arts; it was not created to support artists.

Mr. President, the NEA awarded 777 individual grants to individual writers, jazz musicians, choreographers, museum professionals, classical musicians, painters, performance artists, playwrights, mimes, stage designers, and numerous others. Those grants totaled $9,544,222.

The NEA even awards grants to ceramists. Warren MacKenzie recently wrote in the "Ceramics Monthly" publication:

> I find crafts people whose sale of work amounts to approximately $100,000 a year, ones who maintain two or three studios and houses on several continents. These people are applying for and receiving support from the NEA sometimes two or three times in succession.

Then Warren MacKenzie had these logical, sensible words:

> Let the established artists show a little restraint.

That just about says it all. I could not agree more with Mr. MacKenzie, and I thank him for being candid about it. That is why the amendment is now pending at the desk. I hope Senators will join in making sure that the wealthy and the successful artists in the six-figure income will not pick the pockets of the average American out there. Mr. President, I yield the floor and reserve the remainder of my time.

Mr. President, I ask unanimous consent that a table be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WEIGHTED AVERAGE POVERTY THRESHOLDS IN 1989

Size of family unit	Threshold	x15
1 person (unrelated individual)	$6,311	$94,665
Under 65 years	6,451	96,765
65 years and over	5,947	89,205
2 persons	8,076	121,140
Householder under 65 years	8,343	125,145
Householder 65 years and over	7,501	112,515
3 persons	9,885	148,275
4 persons	12,675	190,125
5 persons	14,990	224,850
6 persons	16,921	253,815
7 persons	19,162	287,430
8 persons	21,328	319,920
9 persons or more	25,480	382,200

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

Mr. President, I think the Senator from North Carolina has at least exposed to view something which perhaps needs some consideration. I do rise in opposition to the amendment. I do so for a couple of reasons: Because I think when we are talking about the other issues that have been raised here, we are talking about something quite different than the question of who receives the grants, in terms of their own financial security or financial position.

I think since it is an entirely different kind of a subject matter it is something I am not willing to entertain here at this time personally. I believe he has also pointed out potential conflicts of interest.

I might just observe, although I opposed the amendment offered by the Senator from Utah, the Senate did overwhelmingly accept that amendment and while it does not go as far as it should perhaps in dealing with the question of conflicts of interest, it does at least begin to address that question. I hope that the Endowment will go farther than they have done before and farther than the Hatch amendment will require with respect to looking at the actual and potential conflicts of interest between grantor and grantee and the review panelists and the proposed grantees.

But having said that, I am in opposition to the amendment. I hope the amendment is defeated.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, who controls time in opposition to the amendment?

Mr. McCLURE. I do.

Mr. GORTON. Will the Senator yield me 5 minutes?

Mr. McCLURE. I yield 5 minutes to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the National Endowment for the Arts was designed to bring the benefits of the various arts to communities and to individuals across the United States who otherwise might have been deprived of

those benefits. It was also designed to encourage creativity in the arts with a wide range of grants across the broadest possible spectrum.

Funding this kind of activity, having a National Endowment for the Arts, is not, of course, a constitutional requirement. It lies fully within the discretion of the Members of both Houses of Congress. Because it is not a constitutional requirement, no individual or group is entitled to a grant from the National Endowment for the Arts which has broadened discretion in determining how its purposes can best be carried out and through which organizations its goals can best be reached.

As a consequence, the National Endowment for the Arts has full authority to deny any grants to applicants whose message is primarily political in nature, and the message of many artists at the present time is primarily political in nature, or to art which offends the moral or reasonable views of a large segment, or, for that matter, of a vast majority of Americans. It is, of course, the way in which the National Endowment for the Arts has made these decisions which has become a significant issue in our society during the course of the last couple of years.

The question with which we are all faced is one with which I am not particularly happy, and one in which I have found no home in any of the suggestions which have been before the Senate during the course of this debate.

The question is whether or not either the restrictions which were included in the bill as it was reported to the floor and which have now been stricken, or any of the restrictions contained in the amendments proposed by the distinguished Senator from North Carolina, or the restrictions contained in the successful amendment by the Senator from Utah [Mr. HATCH], encouraged the National Endowment for the Arts to pursue these worthy goals and to turn down grant requests which derogate from them and which do insult the views of large numbers of Americans.

It seems to me that the kernel of the problem lies in the confusion on the part of the proponents of all of these amendments which base their objections on some kind of legal definition of obscenity for criminal law purposes or language which is taken from decisions related to criminal law proposes with good taste. There simply is no relationship between the criminal definition of what is obscene and what ought in fact to be supported by the National Endowment for the Arts.

As a consequence, I voted against the Hatch amendment not because I thought that it was particularly better or worse than the requirement that has been in the law during the course of the last year but because it seemed to me that all of them missed the fundamental point. The bill on which the Hatch amendment was based, the House authorization bill, did include language of an affirmative nature stating that the National Endowment for the Arts should reflect in some measure at least the views of a majority of Americans as to what was good taste.

Inexplicably that was left out of the Hatch amendment. Had that language been included in the Hatch amendment I would have supported it.

It seems to this Senator that the difficulty is in attempting to anticipate or to pass by anticipatory language restrictions on what the National Endowment for the Arts ought to do. It seems to me that the proper function that this Senate and that this Congress has is to judge afterwards whether or not the National Endowment for the Arts has lost its way and to use the power of the purse to provide that kind of discipline.

If I understand correctly, this bill reduces by $5 million the amount recommended by the President of the United States. In my view that is appropriate given the negative type of controversy which NEA has caused.

If in fact the National Endowment for the Arts establishes procedures by which we have some concern for good or for better tastes, I would be among the first to state that next year we ought to increase its appropriation. But with all respect to the Senator from North Carolina I do not believe that any of his amendments will be effective in changing that course of action, and I hold those views as well with respect to the amendment by the Senator from Utah, and even the committee language itself.

We should not be seeking simply to prohibit obscenity. We should be seeking to promote good taste. In my view we will promote that reasonable good taste, a decent respect for the people of the United States who are asked to pay for this art, by exercising more appropriately our power over the purse.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from North Carolina.

Mr. HELMS. Mr. President, I do not want the Senate to stay in here until 11 or 12 o'clock.

I ask unanimous consent that the yeas and nays on this amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I thank the distinguished chairman and manager of the bill and also my good and close personal friend, Senator MCCLURE, for his consideration. We will go on a voice vote on this and then I will have one more amendment and maybe we can expedite that as well.

Mr. BYRD. Mr. President, I thank the distinguished Senator and I thank him for vitiating the yeas and nays. That will save us at least 15 minutes as well.

I yield back the remainder of the time on this side.

Mr. HELMS. I yield back the remainder of my time, if any.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 3131) was rejected.

Mr. HELMS. Mr. President, let the record show I was defeated 2 to 1.

I thank the Senator and I thank the Chair.

Mr. President, I shall suggest the absence of a quorum.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, time will have to come out of the time on the amendment or on the bill.

Mr. HELMS. Mr. President, I thank the Chair.

AMENDMENT NO. 3132

(Purpose: To prohibit the use of appropriated funds for the dissemination, promotion, or production of obscene or indecent materials or materials denigrating a particular religion)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 3132.

At the end of the amendment, add the following:

"None of the funds authorized to be appropriated pursuant to this Act may be used to promote, disseminate, or produce material which denigrates the objects or beliefs of the adherents of a particular religion.".

Mr. HELMS. Mr. President, the pending amendment arose out of an issue that originally came to the attention of the Senate when the able Senator from New York [Mr. D'AMATO], and I came to this Senate floor—and I will never forget the occasion—to express our outrage that the National Endowment for the Arts had subsidized an artist who had put a crucifix in a vat of his own urine, taken a picture of it, and gave it a mocking, degrading title.

He went out of his way to insult the Christian community. It was an insult, compounded by the fact that taxpayers were forced to help honor, if that is the word, this so-called art denigrating our Lord, Jesus Christ.

Now I recall well that more than 25 Senators—Democrats and Republicans—expressed their outrage that day by cosigning a letter to Hugh Southern, the then acting chairman of the NEA, asking him to review the NEA's procedures and to determine what

steps are necessary to prevent such abuses from recurring in the future.

Well, Mr. Southern replied that he too was personally offended by Mr. Serrano's so-called art, but that—and I have heard this time and time again—the endowment is prevented by its authorizing language from "promoting or suppressing" particular points of view.

Mr. Southern's letter went on to endorse the endowment's panel review system, as he put it, "as a means of ensuring competence and integrity in grant decisions," and he stated that the endowment would review their processes to be sure that they are effective and maintain the highest artistic integrity and quality.

Mr. President, as we have pointed out, under the current procedures of the NEA, taxpayers can end up funding another disgusting assault on religion—Catholics, Jews, Moslem's, anybody. The pending amendment will simply seek to ensure that the National Endowment for the Arts will not provide the funds for another work that "denigrates the objects or beliefs of the adherents of a particular religion."

Last year, when I offered my original amendment, there was quite a bit of criticism about the issue of prohibiting funding for materials that denigrate religion. I thought that most of it was cockeyed; I still do. But in any case, that is why I decided to narrow the scope of the restriction and to offer it as a separate amendment.

Mr. President, the language of the amendment, as read by the able clerk, is straightforward and clearly understandable. Although there is no statute or case law that defines the limits of Federal support for works that denigrate religious beliefs, tenets, or the objects of a particular religion or that are offensive to widely held religious beliefs, it is clear, at least to this Senator, that the Federal Government—meaning the taxpayers of America—should not be forced to fund an activity that deliberately attacks religion.

We cannot ignore the fact that the NEA has funded a number of controversial projects that have offended people of diverse religious convictions and that have deliberately attacked historically religious traditions, tenets, symbols, or figures. That is the basis of this pending amendment.

Mr. President, let me just dwell for 2 or 3 minutes, no more than that, on the word "denigrate" and what it means. The word "denigrate" is defined in Webster's Third International Unabridged Dictionary as follows:

* * * to cast aspersion on the character or reputation of: belittle maliciously: defame, sully.

Mr. President, it is that sense of the word that is employed in the pending amendment. It is that sense of the word that would preclude the amendment from being interpreted to cover some of the outrageous things the amendment's critics said it covered last year. The amendment last fall was said to prohibit everything from quoting the Bible to talking about war. But none of that was true then and it is certainly not true now. But I have taken steps to safeguard against any legitimate criticism of this amendment in that regard.

Mr. President, the NEA's general counsel, in a letter to me, stated that "the NEA does not fund art with a purposely religious content. Art work intended to advance a particular religion is proselytism, which is clearly not appropriate for the Government to fund under the Constitution."

Well, when I read that, the question obviously and immediately occurred that: if the NEA can determine which art is intended to "advance a particular religion" in violation of the Constitution, should the NEA also not be able to determine which art is intended to "denigrate a particular religion?" If they do one, surely they can do the other. Does the Government not violate the Constitution every bit as much when it pays to denigrate religion as it does when it pays to advance religion? Or is there a double standard here? You cannot have it both ways.

Mr. President, there may be examples where some question will exist as to the overall message conveyed by a particular work and the NEA will have to exercise some discretion in those cases just as it does when determining which works are too overtly religious to fund. But a crucifix, or a menorah, or a Torah, or other deeply revered religious symbol immersed in urine is not a close call at all. Neither is a photo of an amply endowed large breasted woman breast-feeding an infant carrying the title, "Jesus S. . . ." and I shall not finish that word.

Mr. President, the pending amendment will ensure that the NEA treats all religions equally and will not fund deliberate attacks on any of them. Artists would still be free to create such hate-filled works, but they would have to do it on their own time and with their own money, not with the taxes furnished by the American people.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I suggest the absence of a quorum charged against my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I would like to inquire if the distinguished Senator would be willing not to have a rollcall vote on the amendment and not call up his remaining amendment if we would accept this amendment and take it to conference on a voice vote?

Mr. HELMS. Absolutely, Mr. President. That will save some time for the Senate.

Mr. BYRD. It certainly will. It will save at least 2 hours of the Senate's time, a half hour on this amendment and a hour and a half on the other one.

Mr. McCLURE. Will the Senator yield? I will be happy to accept it on this side and take it to the conference and deal with it in conference with our House colleagues.

Mr. BYRD. Mr. President, I yield back the remainder of my time.

Mr. HELMS. I yield back my time. The yeas and nays have not been ordered.

The PRESIDING OFFICER. All time has been yielded back. If there be no further debate, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 3132) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, we will soon reach a final vote on this bill. I would like to alert the chairman and ranking member of the subcommittee handling the legislative appropriations bill we hope to get that bill up this evening and dispose of it.

I yield 1 minute to the distinguished Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. Mr. President, I want to say to my colleagues, I think we should note this will be the last time my senior colleague will handle an Interior and related agencies appropriations bill. As one Member of the Senate, I would like to say a personal "well done" to JIM McCLURE for his many years in the Senate. I think my part of the country is going to find we miss him dearly for the job and the work he has done for our part of the country, from a regional point of view, as a member of this committee.

I also extend my thanks to the distinguished chairman of the Appropriations Committee for the many years of cooperation he has given both to this Senator and especially to my senior colleague who has worked so much with Senator BYRD over the years on so many issues important to our State.

I think the Nation will miss my senior colleague's thoughtful leadership, his very persuasive and logical

approach to problems. We wish him well in the future.

Next year when this bill comes before the committee, it will be other Senators handling it. I hope we can measure up in some way to the success on my senior colleague. And I wish to say how much I appreciated working with him these last 10 years in the Senate.

Mr. BYRD. Mr. President, I yield myself 1 minute.

It will be a long time, Mr. President, before anyone in this Senate acquires the knowledge of this particular bill that the distinguished senior Senator from Idaho possesses. I say that without any mental reservation whatsoever.

I have already stated how much I will miss him, so I will not enlarge upon that here. But I will have something further to say before the session ends on this subject matter.

Mr. McCLURE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. McCLURE. I thank the Senator for yielding. I thank my friend from Idaho. Obviously he and I have a very good working relationship which has made it a pleasure for me in the years he and I have served together in the Senate, representing the interests of the people of our State and the broader interests of the Nation. I do thank, also, my friend from West Virginia for the friendship he has exhibited and continues to exhibit. That is something I will cherish for all my life. I thank them both very much for their remarks here this evening.

Mr. BYRD. Mr. President, the amendment by Mr. PELL and Mr. HATCH earlier today substituted language for the language beginning on page 101, line 22. The Senate still needs to adopt the committee amendment preceding the word "provided" on line 22 of that page. The language begins, "provided further," on line 19.

I ask the Senate now vote on that language.

COMMITTEE AMENDMENT, PAGE 101, LINE 19

The PRESIDING OFFICER. The question is on the remaining committee amendment, as amended.

So the committee amendment, as amended, was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion by lay on the table was agreed to.

Mr. LEAHY. Mr. President, I would like to confirm the purposes of the Northern Forest Lands Study which the Appropriations Committee funded in the fiscal year 1991 Interior and related agencies appropriations bill. My understanding is that the $1.275 million in funding will be used for the following purposes:

First, $175,000 should be allocated for a 1-year phase out of the Northern Forest Lands Study office until a permanent Forest Service coordinator and a Northern Forest Lands Council are established.

Second, $400,000 should be allocated as $100,000 grants to each of the four States to hire a resource planning specialist. The planning specialist should initiate resource conservation planning on the State level, coordinate among State and Federal agencies, and assist in developing criteria and guidelines for the establishment of the council.

Third, $200,000 should be allocated for the regional Northern Forest Lands Council. The council should be comprised of representatives appointed by each Governor and a designee(s) of the Forest Service. The council should solicit public involvement and develop a work plan for implementing the Northern Forest Land Study and task force recommendations. The council's role should be outreach and coordination of Federal and State implementation programs.

Fourth, $500,000 should be made available through matching grants under guidelines set up by the Forest Service in cooperation with the States. These grants should be matched equally by each State.

Finally, the Forest Service should hold all State funding until State planning specialists are named and the council is formulated.

Mr. BYRD. The Senator from Vermont is correct in clarifying the manner for which northern forest lands appropriations will be used in fiscal year 1991.

FUNDING FOR INDEPENDENCE NATIONAL HISTORIC PARK

Mr. LAUTENBERG. Mr. President, I rise to voice my concern about the condition of Independence National Historic Park. Independence NHP is one of our most important historic sites, a monument to our Declaration of Independence and the Constitution, as well as the home of the Liberty Bell. But, Mr. President, I am worried that instead of being a lasting reminder of our Nation's founding and development, this historic site is becoming, in the words of the Philadelphia Inquirer, "a memorial to the sad decline of America's cities."

Specifically, I am alarmed over the deterioration of Independence Mall. The presence of numerous broken fountains, dangerously uneven walking surfaces, and other signs of decay leads me to believe that the mall and other portions of the park have been neglected. I have shared these concerns with the distinguished chairman of the Interior Subcommittee some time ago about this matter, and I know he shares my concern.

Mr. BYRD. I too, am deeply concerned about the condition of Independence NHP and all of the parks in the National Park System.

Mr. LAUTENBERG. I understand that the bill provides increases for park maintenance and management, to address the kind of problems we are seeing at Independence Mall. The increase would include an additional $293,000 above the budget request for Independence Mall. Is it the committee's intent that these additional funds be used to address some of the repair and maintenance problems at Independence Mall?

Mr. BYRD. These funds have been made available by the committee for that purpose and other pressing needs at our national parks.

Mr. LAUTENBERG. I thank the chairman for his efforts on behalf of the National Park System, and especially Independence NHP, which is of particular concern to me and the people of New Jersey and the Delaware Valley.

MARAIS DES CYGNES

Mr. DOLE. Mr. President, I would like to thank the managers, Senators BYRD and McCLURE, for accepting my amendment to add funds to the Interior appropriations bill for the purchase of 4,000 acres along the Marais Des Cygnes River in Linn County, KS.

If accepted by the House, this amendment will have benefits far beyond the boundaries of my State. Marais des Cygnes has been identified by both the Nature Conservancy and the Fish and Wildlife Service as a top acquisition priority for fiscal year 1991. It offers prime wetland habitat, including forested wetlands and one of Kansas' most pristine and scenic wild rivers. This unique wetland is home to 11 species listed as threatened and endangered by the State of Kansas and 2 species—the bald eagle and peregin falcon—listed by the U.S. Fish and Wildlife Service.

Clearly, the opportunity to buy this land at a reasonable price is one the Federal Government should not let pass by. But, Mr. President, I want to emphasize two words here: reasonable price. Why am I bringing this point to the Senate's attention? Because there has been some concern raised that developers may try to profit unfairly from the sale of the land to the Fish and Wildlife Service.

Over the last year, Allen Pollem of the Nature Conservancy has worked quietly to purchase these 4,000 acres. Unfortunately, Nature Conservancy has been unsuccessful because the owner of the land, P&M Mining Company, is interested in selling their entire 26,000 acre holding to a single party. Recently, Mr. Pollen informed my office that a group of Kansas City developers have made an offer on the 26,000 acres, including the 4,000 acres

of refuge land. There is nothing wrong with that. The land is for sale and, from what I have been told, they have no knowledge of the Fish and Wildlife's interest in this land.

But, these developers should not turn around and try to sell this land at a huge profit to the Government. If the Fish and Wildlife Service cannot get a fair market price for it, then they should not buy it.

FOREST SERVICE ROAD CONSTRUCTION BUDGET

Mr. McCAIN. Mr. President, the amendment of my friend from Georgia, Senator FOWLER, to cut the Forest Service road construction budget has posed a very difficult dilemma.

First, I would like to make clear my opposition to the construction of roads which are unnecessary and do not meet public muster. Those who share that concern should take some comfort in knowing that whether, there is one dollar or one billion dollars in the Forest Service's road building budget, the construction of new roads must be planned and implemented within the context of the relevant forest plan and subject to the public processes and ecological considerations established by the National Environmental Policy Act. These safeguards should ensure that the arbitrary and excessive construction of roads does not occur.

Nevertheless, I know that many concerns have been expressed about the road costruction program, particularly when roads are constructed for timber cutting purposes in areas where the Forest Service may not be adhering to environmentally sound and sustainable harvesting practices. Again, Mr. President, I want to be clear, I share my colleague's concerns about the construction of unwanted or unnecessary roads, particularly those which have serious impacts on wildlife and important habitat, or those which may be built where overcutting is taking place. My main concern about this amendment, however, is the impact it would have on road programs targeted for multiple purposes including recreation, public access, and administration. I am particularly concerned about the impact I am informed this amendment will have on the implementation of the Arizona recreation initiative.

The Arizona congressional delegation has worked diligently to advance the initiative in order to provide our citizens with expanded recreational opportunities, including the construction of camp sites and other facilities. I contacted the Forest Service southwestern region office to request information on the impact of the Fowler amendment on recreation spending. In response, I was informed that if this amendment passes we will lose a significant portion of the road construction budget earmarked to implement the Arizona recreation initiative. This is something I cannot support. Outdoor recreation is critical to the well being of Arizonans who love to camp, hike, fish, and hunt, and who have a right to enjoy our national forests. All people have that right. I'm sure we all agree we must be particularly mindful of the elderly, the handicapped and children, who may not have the physical capacity to hike into our natural areas for recreation but who have the need and every right to access and recreational opportunity.

I would like to submit for the RECORD a letter from Mr. David Jolly, the regional forester, which outlines the impacts of the Fowler amendment on my State. I ask unanimous consent that the letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE, SOUTHWESTERN REGION,
Albuquerque, NM, October 22, 1990.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: If the Fowler amendment passes and the Senate Committee marks of $3.1 million for recreation roads are then added back in, this will be a net reduction to the Southwestern Region of $3 million. (The original appropriation is approximately $10 million. The Fowler amendment will reduce this to about $4 million. The Arizona roads are about $3 million, leaving a new program of around $7 million or a net reduction of $3 million).

This reduction will require the region to layoff (fire) a number of employees. The severance expenses of this layoff will be about $1.8 million. This is for unemployment and related expenses required by law when the federal government releases people under these circumstances. The $1.8 million is not covered in the appropriation bill. The Region will have to get it from existing appropriations. Furthermore, the law requires these payments be made out of the accounts that paid the salaries of the affected employees. In this case it will be the construction appropriation. The $7 million available in the construction appropriation will be reduced by $1.8 million leaving about $5 million.

The Region could not construct a $3 million dollar recreation roads program in Arizona out of the $5 million remaining. This is especially true when the Region would be expected to produce approximately 120 million board feet of timber from both Arizona and New Mexico at a cost of $4.5 million.

Sincerely,

DAVID F. JOLLY,
Regional Forester.

Mr. McCAIN. Mr. President, I'm also informed that the Fowler amendment would have a number of disturbing economic impacts on my State. Apparently, the proposed budget cut would affect a number of timber contracts which have already been executed as well as sales called for in the existing forest plan. The Forest Service estimates that the reduction will cost nearly 9,000 jobs, and cost our rural counties nearly $11 million. The counties depend on these moneys for schools and county road construction and the related social and economic benefits.

As I said, I oppose those timber sales and the construction of associated service roads which violate the forest plans or the tenets of sustainable yield. To advocate such activity would do the forest, our environment, and the future of our economy and the forest products industry a grave injustice. Overharvesting and the construction of ill-advised roads, however, should be addressed by utilizing the proper administrative and legal means rather than using the budget process, particularly when doing so adversely affects recreation and public access initiatives which are so crucial to my State.

Mr. LEVIN. Mr. President, I would like to thank the chairman of the full Appropriations Committee and the Interior Subcommittee for including funds in the Energy Information Administration's budget for fiscal year 1991 to establish a propane price and inventory system. In addition, I hope that in conference the Senate will retain language encouraging the formation of a public-private consortium to commercialize electric vehicles, and accept the House provision providing funding for the State Heating Oil and Propane Program [SHOPP].

H.R. 5769, the Department of the Interior and Related Agencies Appropriations bill, 1991, will help the Energy Information Administration [EIA] fulfill and begin implementing the promises that have been made to myself, and Senators WIRTH and LIEBERMAN, regarding improving the collection and analysis of information on home heating fuels, including propane. Senator LIEBERMAN and I introduced legislation earlier this year, S. 2177, to require EIA to collect better data and publish it more frequently, on the home heating fuels market so that crises like the shortages and price rises that occurred last winter will not be recreated. Our bill also required the Secretary of Energy to recommend adequate inventory levels of home heating fuels.

At a July 26 hearing of the Senate Subcommittee on Energy Conservation and Regulation, and in a recent letter, the Department of Energy has indicated its willingness to strive to achieve many of the goals intended in S. 2177. Publishing a winter fuels report, expediting propane data collection, and conducting an interruptible natural gas study, will provide the market with more information and policymakers with a better chance to spot and ward off dangerous price spirals. Though the Department is unwilling to recommend adequate inventory levels, EIA will publish current inventory levels with a comparison to the historical levels. I consider the increased resources devoted by EIA to

these efforts very important given the rising price situation many of my constituents now face.

Mr. President, a related appropriations item which has not been included in the Senate version of H.R. 5769, is $550,000 found in the House bill, for the State Heating Oil and Propane Program [SHOPP]. SHOPP has provided information on heating oil prices in Michigan for over 10 years and is, currently, the only timely and accurate source of State level residential fuel oil price information, despite the lapse in Federal funding.

Over 400,000 households in Michigan depend on fuel oil for their heating needs. These people need to have some assurance that regulators and policy makers are carefully collecting accurate data and watching the market for signs of supply and demand imbalances. Currently, there is no Federal coordination of this program and no Federal grants to make what information that is being collected more effective. I hope that the conferees will accept the House provisions to revivify the SHOPP Program in time for the heating season which is now upon us.

Mr. President, last but not least, I am pleased that the committee has included increased funding for a number of initiatives dealing with electric and hybrid vehicles. I have long supported research and development in this area because I believe that in the long run we will need these leap-ahead technologies to achieve clean air and a healthy environment.

I am particularly pleased that H.R. 5769 provides funding for a joint venture to research electric vehicle battery technologies. By adding the weight of public funding to a consortium of automobile manufacturers and electric utilities, the joint venture approach could provide the resources and expertise necessary to produce a long-awaited breakthrough in battery technology. This approach should serve as a model for more extensive private-public cooperation in the development of ultraclean vehicles.

Mr. President, the committee report also notes that the funds provided for batteries may be used by the Department to pursue research and development on additional battery technologies, such as sodium-metal chloride, among others.

A recent report by the Argonne National Laboratory found that the nickel-metal hydride batteries developed by a small business in Michigan are potentially suitable for use in electric vehicles. The report concludes that "Recent progress in the development of nickel-metal hydride rechargeable batteries have made them potential candidates for further development for transportation purposes." I hope that the Department of Energy will seriously consider using some of the funds made available to it for further development of this promising technology.

Mr. President, I am hopeful that joint private-public research and development of ultraclean vehicles will keep our country at the forefront of automotive technology and will yield real, significant improvements in air quality in the next century. I commend the committee for its approach and I hope that it will insist on this provision in conference with the House.

Mr. DOLE. Mr. President, I want to express my support for the amendment offered by the Labor Committee leadership for the reauthorization of the National Endowment for the Arts. As we all know, the furor over Federal funds for the NEA continues to occupy a prominent position in the public's view.

This amendment is designed to achieve two important goals. First, it would punish those individuals, organizations, and institutions which try to spend taxpayers' money on works that, under existing legal standards, would be considered obscenity or child pornography. In addition to retrieving the grant funds for such works, the Government also restricts convicted parties from receiving further NEA funding for a period of at least 3 years.

The amendment would also address problems in the grant-making process. We no longer want to see gallery directors use their position on the NEA panels to funnel thousands of dollars to their own organizations. We no longer want to see panelists make funding decisions behind closed doors with money that does not belong to them. This amendment makes changes in the grantmaking process which would hold panelists more accountable, changes like rotating panel membership and opening to the public meetings of the National Council on the Arts.

I do want to point out that, while I supported the Labor Committee amendment, I did not oppose the more restrictive amendments offered by my colleague, Senator HELMS. In my view, we need to send a strong message to the arts community—that it must act responsibly if it is to expect continued financial aid from the taxpayers. If the arts community feels this position is unfair, it certainly has the right to make its views known. But this is a two-way street and it should also be clear that the American taxpayers have just as much right to discontinue their support.

In my view, however, this compromise is a reasonable one, achieved through bipartisan cooperation. It allows the NEA to continue its worthwhile endeavors, yet addresses the issue of greatest importance to me, many of my colleagues, and the majority of the American people—preventing the use of Federal funds to support obscenity. I commend the members of the Senate Labor Committee for their hard work in crafting this agreement.

Mr. LAUTENBERG. Mr. President, I rise to support H.R. 5769, the fiscal year 1991 Interior Appropriations bill, and to commend the distinguished chairman, Senator BYRD, for his efforts on this bill. This legislation makes important investments in the preservation of our Nation's natural heritage, through its support of the National Park Service, the U.S. Fish and Wildlife Service, and the Forest Service. It also provides essential support for the National Foundation on the Arts and Humanities and the Smithsonian Institute. It also contains money for health and education programs that are vital to native Americans.

I would like to discuss a number of items involving the parks and open space in my State that are addressed in the bill and the report.

ELLIS ISLAND

Mr. President, the report on the bill addresses the problem of the cost of access to the new Immigration Museum at Ellis Island.

A basic premise of Ellis Island was that America was open and available to just about everyone. Flanked by the Statue of Liberty, it was a gateway for people of all backgrounds and classes. We didn't ask that immigrants be of significant means.

Unfortunately, the same can't be said of the restored Ellis Island. The cost and inconvenience of reaching the island threaten to keep out many American families who would like to visit the facility, to reestablish a link with their past.

Today, it costs a family of four $18 to visit the island. On top of that, they may have to wait in line for several hours before boarding the ferry. When our parents and grandparents came to Ellis Island, they expected certain hardships. Visitors today shouldn't have to endure the same.

These fares were adopted in spite of a National Park Service staff recommendation. In May of this year, even the Park Service recommended that the fare for an adult be no more than $5. But, the concessionaire was eventually allowed to boost that to $6, a 20-percent increase. And, under the existing system, the current concessionaire, which runs the ferries to and from Ellis Island, has exclusive rights to provide that transportation. There can be no competition.

There may be cases where such a policy makes sense. But in this case, the policy is disserving the public. Ohers have expressed interest in providing ferry service at lower cost. But they aren't allowed.

There's one way to make it more available: Use the bridge that currently connects Ellis Island with Liberty State Park in New Jersey. That's why I asked the distinguished chairman of the committee to include a two-part directive to the National Park Service. First, the committee directs the Park Service to work with the Statue of Liberty-Ellis Island Foundation, which controls the bridge, to keep the bridge open. Second, it directs the Park Service to conduct a review of issues that have to be resolved as we consider making the bridge permanent, and open to the public.

It's important that we move ahead with this. Few places hold as important a place in our culture and history as Ellis Island. Through those immigration facilities came millions of people, all looking to become part of the American dream. No doubt, many in this room can trace their families' beginnings in the United States to the gates of Ellis Island. My roots race back through Ellis Island. Because of that, it will always be a special place to me.

The ability of American citizens to visit a national treasure like Ellis Island should not be unreasonably restricted. The option of making the bridge available to the public should be considered, and I again thank the chairman for addressing this matter in the committee report.

LIBERTY SCIENCE CENTER

At my request, the committee has also provided $12 million in Park Service construction funds for the Liberty Science Center and Hall of Technology at Liberty State Park, NJ.

Liberty Science Center is the largest science center currently under construction in the United States. It will be located in the most densely populated and ethnically diverse region in the United States, with a population of some 20 million. It is estimated that 1.5 million people will visit the center annually. Many of them will come from around the country. They will also visit the National Park facilities at Ellis Island and Liberty Island.

The center's exhibits and programs will represent the state of the art in science education. Inservice training of teachers, as well as a broad range of interactive programs ranging from aerospace to superconductors for elementary schoolchildren, their parents and the general public will be available at the facility. The center will also operate special outreach programs for minorities and other groups that do not participate fully in science.

Liberty Science Center is unique in the depth and breadth of the public-private partnership that has given its strong support. The idea for the Center originated in the New Jersey Corporate community out of a concern about the quality of science education in the schools and the implications for the availability of scientific and technical manpower as well as for national competitiveness and prosperity. At this innovative museum and science center, young Americans will receive hands-on experience with science and technology.

The estimated cost of construction and equipment is $55 million for the project. So far, $28 million has been raised from private sources and $10 million has been contributed by the State of New Jersey, which also donated the site. The $12 million that the Federal Government will contribute through this bill will go a long way toward bringing this important project to fruition.

STERLING FOREST STUDY

Mr. President, I would point out that this bill also contains an amendment I offered in committee to fund a study of the Sterling Forest in New York and New Jersey. This is an initiative which was developed by my colleague in the House, Representative ROBERT TORRICELLI, and I am pleased to support it in the Senate.

Sterling Forest is a beautiful, environmentally sensitive and significant area which lies along the New Jersey-New York border. The study, funded in this bill, will provide us with information on how best to preserve and manage this area. And let me say Mr. President, that this study is all the more important because inadequate management of Sterling Forest could have grave consequences for the quality of drinking water in my State. Two reservoirs, Monksville and Wanaque, are fed by streams with headwaters located within the Forest. Also, ill-considered development could aggravate flooding in the Passaic River Basin in New Jersey.

I would like to thank the committee for accepting this amendment. I'm hopeful that the study will help preserve a pristine area and ensure the safety of New Jersey's drinking water.

NEW JERSEY WILDLIFE REFUGES

Mr. President, this legislation also contains funding for refuge and park land acquisition that is of special significance to my State. New Jersey is the most densely populated and urbanized State in the Nation, but New Jersey also has some beautiful areas that are home to diverse plant and animal life. The fact that New Jersey is so urbanized, makes the preservation of our remaining pristine areas that much more important.

The bill includes $6,000,000 at my request for land acquisition within the Wallkill National Wildlife Refuge. The Wallkill Refuge is New Jersey's newest wildlife refuge and was created in response to legislation I introduced last year with Senator BRADLEY. The Wallkill River corridor is one of the last high-quality waterfowl concentration areas in northwestern New Jersey, and is home to a diversity of wildlife, including 16 State-listed endangered species. No land has been acquired yet, and the requested funding would provide for an initial purchase of 3,000 acres of land.

At my request, the bill also contains $2.8 million for land acquisition at the Great Swamp National Wildlife Refuge. This refuge, located 25 miles west of New York City, is under heavy development pressure. The acquisition of land provided for in the bill will prevent encroachment from residential development that is rapidly destroying valuable habitat, degrading water quality and threatening the ecological integrity of the swamp.

Additionally, the bill contains $585,000 to purchase land adjacent to the Morristown National Historic Park, which is not only historically significant due to its use as a wintering place for the Continental Army, but also because it contains the headwater streams leading to the Great Swamp Refuge.

For the Forsythe National Wildlife Refuge the bill provides $4.5 million for the acquisition of the Herring Point/Reedy Creek area. The E.B. Forsythe Refuge includes critical wintering habitat for black ducks and Atlantic brant, as well as habitat for the federally listed piping plover. The area also includes the Swan Point Relay, where clams are cleansed by the Reedy Creeks clean waters before being made available to the public, and which is crucial to New Jersey's clamming industry.

The bill provides $4 million for land acquisition at the Cape May National Wildlife Refuge. The two divisions of this refuge include land considered among the Atlantic flyway's most important staging and wintering areas during spring and fall migration, as well as habitats important for at least five plant species being considered for Federal threatened or endangered listing.

GATEWAY AND DELAWARE WATER GAP RECREATION AREAS

Mr. President, I also want to point out that the bill contains funding for Sandy Hook, part of the Gateway National Recreation Area. Gateway remains a popular vacation spot for over 9 million people. The Sandy Hook Unit is in need of construction funding for a number of important projects, and, at the request of myself and Senator BRADLEY, the fiscal year 1991 Department of Interior and related agencies bill provides money for these projects. This money would go toward construction of much needed new restrooms, lifeguard facilities and concessions. In addition, the funds would help improve and expand parking for Sandy Hook.

The Delaware Water Gap National Recreation Area is another heavily used recreation area in my State. How-

ever, the area is in need of a number of essential improvements. Last year, funding was provided for initiation of some of these projects. This bill appropriates money to continue last year's work on the new Weygadt Visitor's Center. Also, funding is provided for added visitor protection, the stabilization of historic structures in the park, and land acquisition.

HISTORIC PRESERVATION

Mr. President there are also significant funds here for a number of historic preservation projects in my State. In particular, the bill would provide $1.5 million I requested to aid in the renovation of Newark Symphony Hall. Listed in the National Historic Register, Newark Symphony Hall is currently being refurbished in coordination with development of the New Jersey Performing Arts Center, a $200 million public-private partnership for a multitheatre cultural and arts center to be located in downtown Newark. The completion of this project is essential to the revitalization of New Jersey's largest city because it will bring jobs, new businesses and new life to the central city.

Symphony Hall is an integral part of the revitalization project and this money is needed to complete the renovation of this historic structure which is home to the New Jersey Symphony, the Garden State Ballet, and the Newark Boys' Chorus. By providing this money the Senate is helping scores of urban families and children to have access to cultural events and education that they might not otherwise have. As well, we aid in the rebuilding of one of New Jersey's most important cities.

The bill also contains funding for surveys of historic structures in both Millville and Commercial Townships. These funds will go toward a comprehensive study of stuctures in these towns so that we can preserve those that are historically important for our children.

The relatively small amount of funds provided for the operation of the Edison National Historic Site in West Orange, NJ, will go a long way toward allowing an increased number of people from all over the country to view this historic structure. The labs and home of the great inventor Thomas Edison are currently open only part time. The $150,000 operating subsidy included in the bill will allow for expanded operation of the labs and Edison's home, Glenmont.

ABANDONED MINES

Last, Mr. President, North Arlington and Mine Hill are two communities in my State that face a grave situation, one which may be familiar to the distinguished chairman. Both these New Jersey towns have abandoned mine shafts running underneath them. New Jersey has hundreds of abandoned mining shafts running underneath it. In both North Arlington and Mine Hill, many of these shafts have begun to collapse, or in some cases already collapsed, causing damage to property for some and posing a potential danger to others. Also, residents have had difficulty in securing bank loans and insurance since the incidents.

Both towns have been working with the Bureau of Mines and Office of Surface Mining Reclamation and Enforcement, and North Arlington has already sealed the mine that first collapsed. However, these towns need the financial and technical help of the Federal Government. That's why I requested funding to aid these communities. I appreciate that the committee has included $1.4 million to aid North Arlington and $450,000 for Mine Hill.

Mr. President, I would again like to commend the distinguished chairman for his outstanding work on this bill and to thank him for his help in addressing my requests. I urge my colleagues to support the bill.

OUTER CONTINENTAL LEASING

Mr. LAUTENBERG. Mr. President, I rise to address the matter of outer continental leasing activities of the Department of the Interior. I believe that there should continue to be a moratorium on activities leading up to leasing for energy development in Outer Continental Shelf areas in the mid-Atlantic. The risks to New Jersey's precious coastal environment, and to its coastal industries are too great to proceed recklessly to wholesale leasing in the waters off my State.

I raised this matter with Secretary of the Interior Lujan when he appeared before the Interior Subcommittee earlier this year. Recently, the Secretary sent to me a letter assuring me that the Department would not conduct lease sale 121 under its current 5-year program which extends to July 1992. Consequently, it is my expectation, and the expectation of the committee as expressed in its report, that the Department shall not conduct preleasing activities including area identification and activities requiring public participation in the area until July 1992.

Earlier this year, the President announced his decision to establish moratoria off a number of coastal areas. Included were areas off the coasts of California, Oregon, New England, and Florida. Many of these moratoria bar energy development up to 10 years.

Excluded from these moratoria was lease sale 121, covering the area from Rhode Island to Maryland, despite significant environmental concerns, and the fact that it is far less attractive to the oil industry than the areas to be protected. New Jersey's beaches are just as precious as those of States covered by the administration's ban. And our beaches deserve equal treatment.

The recent events in the Middle East have led some to renew calls for offshore drilling. But the answer to our energy problems is not to drill for oil in our sensitive coastal regions for a few days worth of oil. The Interior Department estimates of oil in the entire mid-Atlantic planning area would result in offsetting only 13 days of our existing rate of oil imports, according to a CRS study. What we need is a comprehensive, long-term national energy policy which enhances the role of energy conservation, renewable energy, and alternative fuels.

The National Academy of Science took 3 years and the President's OCS task force took another year just to conclude that the areas under consideration needed further study. Then the President's decision called for another 6 or 10 years to answer all the questions about the environmental impacts in those other states. If more study is needed for these other areas—and it is—then how can anyone assure us that the administration has all the answers for New Jersey? It does not.

The administration claimed that it used the analytical guidelines of "environmental sensitivity" and "resource potential" in its June OCS decision to protect areas where the environmental risks outweigh the potential energy benefits. The CRS analysis noted that using those analytical guidelines "an area which had high environmental sensitivity and low resource potential would be a likely candidate for inclusion in a moratorium." Lease sale 121 clearly fits that description. Yet, lease sale 121, was not considered for a moratorium by the President.

Mr. President, I welcome the Secretary of the Interior's commitment to postpone action of lease sale 121 until July 1992. I am pleased that the committee as well has recognized the need to postpone preleasing and leasing activities in the mid-Atlantic.

I ask unanimous consent that the letter from the Secretary Lujan be inserted in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE INTERIOR,
Washington, DC, October 16, 1990.

Senator FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: You have requested additional information concerning the Department of the Interior's plans to schedule lease sales offshore New Jersey.

The Department of the Interior will not conduct any lease sales in the Mid-Atlantic Planning Area in the current Five-Year Program, which concludes in July, 1992.

We hope this additional information on future leasing activities offshore New Jersey will assist you in your contemplations regarding the Department's FY 1991 appropriations bill.

Sincerely,

MANUEL LUJAN, Jr.

Mr. LEAHY. Mr. President, I wish every Federal agency were as account-

able as the NEA has been, over its 25-year history, with the money we give them to spend.

Before an NEA check is written, each grant application goes through meticulous review—three peer panels, and final review by the NEA chairman.

Yes, the NEA has made a few mistakes in recent years. These mistakes have offended and disturbed me. But only a tiny percentage of the grants made by the NEA, over 25 years, has sparked controversy or violated accepted community standards.

Specifically, the NEA has approved over 85,000 grants to arts organizations and to individuals—of which less than 20 have been charged with violating public interest because of frivolity, obscenity, indecency or ethnic disparagement.

In other words, less than one-fourth of one-tenth of 1 percent—that is, less than .025 percent—of the total number of NEA grants has been called into serious question.

COMMUNITY OUTREACH

The NEA has brought great works of art to millions of Americans in their own communities. As such, it is one of the most effective of our Federal agencies at the grass roots level. Its reach extends to inner city and rural town—to Harlem, and St. Johnsbury, VT—on a regular basis.

NEA brought us the Vietnam Memorial, Pulitzer-prize winning plays—including Academy Award winner "Driving Miss Daisy"—and a host of traditional arts programs. Far and away, its standard fare is nothing more objectionable than Mozart, Grandma Moses, or traditional clogging.

The number of choruses, dance companies, museums, orchestras, theaters, and opera companies across the country has more than tripled since the NEA began in 1965.

In Vermont, these grants have supported the Mozart festival, the New England Bach Festival, the Flynn Theater for the Performing Arts, and the Vermont Symphony—which enrich and uplift thousands annually.

WE HAVE MORE IMPORTANT THINGS TO DO

For a year and a half—since May 1989—this Congress has spent thousands and thousands of hours of staff and Member time—and more public funds than I want to calculate—on going round and round, in committees and on the floors, on the issue of the NEA, and whether to kill, cut, or alter it.

Remember, this seemingly endless tangent was not set off by impending war in the Middle East. Or the S&L debacle. Or multibillion dollar procurement problems at the Pentagon. Or the increasingly ignored problem of the homeless.

No. We are on this tangent because a tiny fraction—a small handful—of NEA grants offended some people and got turned into a big political issue.

We trivialize this institution, and ourselves as individual Members, when we carry on like this. I believe that the great majority of the American people see through this exercise. That great majority knows we are not art critics. They know we should not be keepers of the public morality.

Most of all, they want us to take better care of the Federal treasury, and their tax dollars that flow into it. And if we talk on and on about the NEA, they know that we are not really taking care of those tax dollars, because the NEA is wasting very, very few of those dollars.

Instead the great majority of the American people know, when we remain stuck on an issue like this for more than a year, that Congress—not the NEA—is wasting those tax dollars.

It is a waste to spend more of those dollars trying to gain the moral high ground on this issue—reaping campaign contributions in the process—than we spend debating child nutrition or education or the Mideast situation.

Let us bring some reason to this controversy. Let's stop being afraid of the 30-second sound bite. You know, the one that says—"Senator X is soft on pornography; Senator Y voted to accelerate the moral ruin of the Nation."

On both sides of this issue, we do the American people, ourselves and the Senate a disservice by prolonging the debate on this important but quickly solvable issue.

Let us get on with the most important business of the Nation. Let's show the American people that we stand for more than moral posturing, campaign fund-raising, and dodging the 30-second sound bite bullet. Let's show them some leadership.

Let us go with the recommendations of the Senate and House authorizing committees, and of the Special Independent Commission—after all, the majority of us voted to create it, just last year.

Let us make the well-considered, judicious procedural changes in the NEA recommended by those two committees, and that Commission. Most of all, let us leave the matter of making decisions on obscenity and pornography to the courts, where it belongs, and poise ourselves to act against only those NEA grant recipients found guilty in courts of law.

The Pell-Hatch amendment is the only reasonable, rational, way to resolve this matter. I plan to vote for it, and I urge my colleagues to join me.

Mr. DOMENICI. Mr. President, today I would like to share with you some of the reasons why I support the reauthorization of the National Endowment for the Arts without restrictions. As seen in communities around the Nation, since the establishment of the Endowment 25 years ago, artistic expression in the United States has flourished. With assistance from the NEA, the number of professional dance companies has increased from 37 in 1965 to over 250, professional orchestras from 60 to over 212, and nonprofit theaters from 56 to over 400. The NEA has provided fellowships allowing young writers the opportunity to create, funded museum expansion and collection, and reached out to over 3.5 million children with their Arts in Education Program in the 1986-87 school year. These numbers go on and on, and let me tell you that I find these statistics quite impressive. Over 85,000 projects have been funded during the years of the NEA's existence, funded without restrictions, to have achieved this level of success. Yet now, due to the controversy surrounding less than 0.03 percent of 25 years work, there are amendments suggested that will restrict the future of the endowment. Let me suggest that if our august body was successful enough to engender protests over only 0.03 percent of our votes, worries over reelection would be a thing of the past. As further evidence of its success, I am going to take a few minutes now to discuss the impact of the endowment on an area, I know well, the arts in New Mexico.

As of October of this year, 57 separate artists and institutions in New Mexico received over $2.5 million in funding from the NEA. Many of the grants were awarded to applicants in the Albuquerque and Santa Fe areas, and are intended to support concert series or educational programs that would benefit large numbers of people in those areas. For example, 10 of the 14 grants to the Albuquerque area were in support of performances. Some of these grants were supporting art in forms that we are all familiar with: $7,500 to the New Mexico Repertory Theatre to defer expenses associate with the 1990-91 production season, or $5,000 to the New Mexico Jazz Workshop to support the 13th annual Guest Artist Series of jazz performances. Yet although I have inferred that these plays and performances are ordinary, it is important to remember that the average citizen's familiarity with this type of art and culture is due in part to exposure allowed by generous funding from the NEA.

Other programs in the area are vital to bringing forth types of art that are not so well known, art that promotes the culture of the Southwest. Artists of Indian America, the AIA, have received a $15,000 grant to support a professionally directed, multidisciplinary arts program for various Indian communities throughout the Southwest. The group will provide workshops in traditional dance, music,

song, and storytelling to the Indians in their own communities, helping to keep the ancient culture alive. AIA is the only national program of its kind, and is committed to working with Indian people to preserve customs, language, and values that might otherwise disappear.

Several other groups of artists have contributed to the preservation of the Spanish culture which has played a large role in New Mexico's history. Musica Antiqua de Albuquerque established themselves in 1978 as New Mexico's only professional ensemble to perform music with instruments from the composer's time period. In support of the cultural heritage of the district, their performances are programmed in the early Spanish tradition, with music from the medieval, Renaissance, and Baroque periods.

Endowment funds also assist groups in areas other than performance. The Hispanic Culture Foundation is committed to increasing understanding of the Hispanic culture in New Mexico, and to encouraging community pride in their rich heritage. They have established themselves as a catalytic force behind New Mexico artists. Working both on a one-on-one basis with individual artists and through workshops, the foundation helps Hispanic artists publicize and market their work. As part of this effort, the Hispanic Culture Foundation has just completed a 5-year project on a New Mexico art directory. This directory is a statewide listing of galleries, museums, exhibits, and artistic events related to the hispanic culture. All of these valuable activities will continue to be supported by this years $20,000 grant in expension arts to the Hispanic Culture Foundation.

Several other grants are going to assist rather unusual types of art. Shared Horizons in Corrales, NM, is receiving $30,000 under the heading of Design Advancement and Organizational Project Grants. Reflecting the Nation's growing interest in the environmental movement, this grant money will be used to support creation of a conceptual and visual model for building on fragile natural sites. At New Mexico State University in Las Cruces, funds have been granted to support a visual artists forum. Public exhibits entitled "Modern Art and the Politics of Protest" will be open to the university community as well as the public.

Dual grants have been awarded to the Santa Fe Opera Association. This is an organization that has greatly benefited from NEA assistance as it grew from a fledgling organization to its current status as a world renowned opera. Now the Santa Fe Opera, with a $5,000 grant from the NEA, works to insure the continuation of the arts into the next generation with an apprentice program for young American singers and theater technicians. The examples continue; grants for museum collection, state art in education, and solo artists have been awarded throughout New Mexico.

I have taken the time to share with you these examples of the NEA's work to demonstrate how well the endowment has served New Mexico and our entire Nation. Yet despite the NEA's success, there are Members of the Senate who wish to interfere with the grantmaking process. As passed by the Appropriations Committee on October 16, the NEA appropriations bill rejects the compromise achieved in the House and again attempts to impose content restrictions on NEA funding. The restrictions forbid the funding of works that may be considered obscene, but the NEA does not have any desire to support obscenity, nor have they ever intended to. In a mere 25 of the 85,000 grants that have been made, the NEA may have made a mistake. However, forcing artists to sign a statement forbidding obscenity will not change this. Artists should be free to let their creativity flow, not restricted by promising to limit their art to gain much needed funding. The system of peer review that is undertaken in the grant award process is designed to select quality art. As the NEA incorporates the improvements suggested by the Independent Commission, this process should continue to improve. Therefore, I truly urge that the NEA be allowed to promote art as it was designed to do, not through restrictions but through selection and promotion of work with artistic value. This goal can only be accomplished through funding without restrictions. As the old saying goes, "if it ain't broke, don't fix it"; let the NEA continue as the lifeblood of the arts in this Nation.

Mr. BYRD. Mr. President, I suggest the absence of a quorum to come out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3133

Mr. BYRD. Mr. President, I send an amendment to the desk. I ask unanimous consent that it be considered, agreed to, and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3133) was agreed to, as follows:

On page 35, line 10, before the period insert the following: ": *Provided further*, That within the funds that would otherwise be allocated to the State of Pennsylvania from the funds made available in this Act under this head, up to $1,000,000 shall be made available to the Office of Surface Mining, in cooperation with the Bureau of Mines, for the purpose of extinguishing the Thomas Portal fire.".

EFFORT TO EXTINGUISH THE MATHIES MINE FIRE

Mr. SPECTER. Mr. President, on October 17, 1990, the Mathies Coal Co.'s Thomas Portal in Venetia, Washington County, PA, erupted into fire. The amendment which Senator HEINZ and I have proposed and offered by Senator BYRD to the Interior appropriations bill for fiscal year 1991 provides an emergency fund to assist in the efforts to extinguish the mine fire at the Mathies Coal Mine. Approximately 320 miners were at work in the mine at the time. Fortunately, to date, there have been no fatalities as a result of the fire, and few injuries.

Shortly after the fire started, the Labor Department's Mine Safety and Health Administration officials toured the mine, and gave orders for the evacuation of all employees. After unsuccessful attempts to extinguish the fire, company officials have taken steps to seal the mine in an effort to cut its oxygen supply.

Mr. President, it is my understanding that sealing a mine is typically done as a last resort, when the underground environment is too hazardous to personnel to fight the fire directly. The concern, Mr. President, is that this procedure of cutting off the oxygen can take an undetermined amount of time to have an impact on the fire and could ultimately result in a loss of jobs in this economically depressed area of Pennsylvania. Sealing the mine will result in the immediate layoff of more than 400 workers, and could ultimately lead to the permanent closure of the mine which produces some 4,300 tons of coal daily.

Following the eruption of the fire, approximately 250 residents living in a 4-mile radius of the mine portal were evacuated due to the high level of poisonous carbon monoxide that spewed from the underground fire.

Mr. President, as we have seen in the past, if a mine fire is not properly handled and all attempt to extinguish the fire are not exhausted the fire may burn for years. These fires endangers the residents and renders the region virtually inhabitable.

This amendment provides a much needed $1 million for the Bureau of Mines to proceed with extinguishing the fire. It is my hope that these funds will help to ensure that the families living in the region are safe from the fire and the workers in the mine can return to work as soon as possible. These workers cannot afford to be out of work for months or longer.

I thank the distinguished chairman of the Senate Subcommittee on Interior Appropriations, Senator BYRD, and the ranking Republican member, Sen-

ator McCLURE, for their assistance in providing this important amendment. In addition, I thank Representative AUSTIN MURPHY for his efforts with this regard.

Mr. President, I thank the Senate in joining with Senator HEINZ and me in support of this amendment.

Mr. BYRD. Mr. President, I yield back my time on the bill.

Mr. McCLURE. Mr. President, I yield back all time.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

The PRESIDING OFFICER (Mr. WIRTH). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—92

Adams	Fowler	Metzenbaum
Akaka	Garn	Mikulski
Armstrong	Glenn	Mitchell
Baucus	Gore	Moynihan
Bentsen	Gorton	Murkowski
Biden	Graham	Nickles
Bingaman	Gramm	Nunn
Boren	Harkin	Packwood
Bradley	Hatch	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Hollings	Reid
Burdick	Inouye	Riegle
Burns	Jeffords	Robb
Byrd	Johnston	Rockefeller
Chafee	Kassebaum	Rudman
Coats	Kasten	Sanford
Cochran	Kennedy	Sarbanes
Cohen	Kerrey	Sasser
Conrad	Kerry	Shelby
Cranston	Kohl	Simon
D'Amato	Lautenberg	Simpson
Danforth	Leahy	Specter
Daschle	Levin	Stevens
DeConcini	Lieberman	Symms
Dodd	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	Wilson
Exon	McClure	Wirth
Ford	McConnell	

NAYS—6

Bond	Grassley	Humphrey
Dixon	Helms	Roth

NOT VOTING—2

Boschwitz	Hatfield

So the bill (H.R. 5769), as amended, was passed.

Mr. BYRD. Mr. President, I move that the Senate request a conference with the House, that the Senate insist on its amendments, that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BYRD, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. BUMPERS, Mr. HOLLINGS, Mr. REID, Mr. McCLURE, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. RUDMAN, Mr. NICKLES, and Mr. DOMENICI conferees on the part of the Senate.

Mr. BYRD. Mr. President, I thank the distinguished majority leader and the distinguished minority leader for their assistance in helping us to move this bill, so that we have been able to take it up, debate it, and the Senate has acted on it, and we are ready to go to conference now.

I also thank my ranking friend here, Senator McCLURE, for the fine cooperation, the never failing courtesy and consideration that he has given to me as chairman; and there was a time when he was chairman, and I was ranking member of the subcommittee.

I already thanked the members of the staff, and I hope that we can take up the legislative appropriations bill tonight. That will be the last appropriations bill. It will be the 13th appropriations bill, and we can go to conference on these bills and, hopefully, we will get the conference reports back and adopted by the day after tomorrow.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I want, also, to thank all of those who were so helpful and persevering in getting this important bill passed, the distinguished chairman of the Appropriations Committee and the distinguished Senator from Idaho. It is my hope that we can proceed to the legislative appropriations bill. I understand that is at this moment being discussed by the managers. I am advised by Senator REID that we will be able to proceed.

Mr. President, I will momentarily suggest the absence of a quorum, in the expectation that the managers will be ready to proceed with that remaining appropriations bill shortly.

Mr. BYRD. Mr. President, before the distinguished majority leader yields the floor, will he yield to me?

Mr. MITCHELL. Yes.

Mr. BYRD. Mr. President, I just want to say to all Senators, with reference to the 12 appropriations bills that have been passed, not one single appropriations bill has exceeded the allocation ceiling, which means it demonstrates discipline on the part of the Senate and the Appropriations Committee. I am very proud of the committee, and I am proud of the Senate, that we have been able to demonstrate that kind of discipline. I hope we can continue to do that in the future. I thank the majority leader.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to H.R. 5399, the legislative branch appropriations bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5399) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1991 and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, S. 3207, which was reported on Tuesday, September 16, incorporates the recommendations of the Committee on Appropriations for the legislative branch in fiscal 1991, exclusive of House items. Delays in House floor action on H.R. 5399 made it necessary to proceed in committee with an original Senate bill if we were to get a legislative branch appropriations bill to the President before adjournment.

The House has now completed action on H.R. 5399 which passed the House this last Sunday, and has been placed on the Senate Calendar. This presents us with a minor procedural problem. We need to move from the Senate bill to the regular House-passed bill, modified to reflect the action of the Senate Appropriations Committee, as reported in S. 3207. We will then be in position to proceed in the usual manner.

The most straightforward solution is to commit H.R. 5399 to the Appropriations Committee, with instructions to report the bill back forthwith, incorporating the substance of S. 3207 as Senate amendments thereto, with the usual proviso that the committee amendments would be considered original text for the purposes of further amendment, and that no points of order would be waived. The effect would be to put us back in the normal process at the point where committee amendments have been adopted, and the bill is open to further debate and amendment.

Adopting such an approach, will simplify the procedural situation and facilitate orderly consideration of the bill.

The committee bill, assuming inclusion of House items would provide a

total of $2,187,001,500 in discretionary budget authority for the agencies of the legislative branch. This is a reduction of from the budget request of $224,79,500 and an increase of $245,088,000 over the current level. This amount is within the subcommittee's 302(b) allocation for budget authority and outlays.

IMPACT OF FUNDING CONSTRAINTS

Mr. President, I wish to talk about the impact of the funding constraints in this bill.

Some may object to providing any increases for the legislative branch in the present budget climate. I would just make a couple of observations as we begin this discussion. First, $245 million, the amount of the increase, is not a large sum in the context of a $1 trillion budget. We are obviously not going to eliminate the deficit in this bill, although we feel we have done our share.

Moreover, about $123 million of the increase is for House items over which we in the Senate have no control under the rule of comity. But, it should be understood that this number includes $58 million for franking costs which were not part of the House accounts in fiscal year 1990.

The increases for the balance of the bill approved by the committee in S. 3207 comes to $122 million. Now, Mr. President, of this amount—and I want to emphasize this point so I hope that my colleagues will pay close attention—of this amount, $95 million is necessary just to fund current agency program levels. In other words, 77.8 percent of the increases in this bill simply support a current services budget. The balance is accounted for by a combination of growing workload costs and a few major capital improvements.

Funding constraints imposed over the last several years on the domestic side of the budget have had a particularly injurious impact on legislative branch agencies. Most legislative branch agencies are labor intensive. They typically lack the flexibility that many other Federal agencies have in adjusting funding shortfalls. They do not administer grant programs and their external contracts, procurement activities, and capital projects comprise a minor part of their budgets. So they have little maneuvering room when the budget ax falls.

Moreover, several agencies have major infrastructure or equipment requirements which have been permitted to accumulate and will have to be dealt with in the near term. We have tried to include only the most pressing projects in this bill. But we cannot continue to postpone some needed investments in our infrastructure.

Mr. President, the facilities and institutions funded in the bill have a unique role and value in our national history and political life. The Capitol complex and Library of Congress, for example, are much more than just a collection of buildings. They are irreplaceable assets and, more than any other Government entity, symbolize the primacy of informed public will in our constitutional scheme.

We have to remind ourselves, and I think often, just how important and valuable the Capitol and its associated complex really are. The L'Enfant plan of 1792 symbolically expressed the philosophy of the three constitutional branches of the republic. But of the three separate but equal branches, the legislative has always been the central and defining element, the institution where the people most directly express their will. The Capitol Building is the primary focus not only of this city but of our public life as a nation.

The Senate Chamber and the Old Senate Chamber across the hall—the beautiful hearing rooms and offices—the ornate moldings, the magnificant paintings and tapestries, the frescoes and friezes and the Minton tile on which we walk—the priceless Brumidi murals that grace the corridors through which we pass—none of this belongs to us as individuals or as Senators. It all belongs to the people of this country. We are merely their trustees.

We should also remember the role that this great building has played in the history of this country. The Capitol has in a very real sense risen and fallen with the fortunes of this republic. In the heady days following independence, the States of the new Republic agreed to relocate the Capitol to a more neutral site on the banks of the Potomac. It was then that the first Capitol Building was constructed on this small rise called Jenkins Hill, which overlooked a swampy lowland and the rude beginnings of this city. This was the building that the British burned in the War of 1812. But the country recovered and we began to rebuild the Capitol. In 1857 the House wing was completed; and the Senate wing was completed 2 years later before the civil war begun.

In the meantime, construction of the great dome began. During its construction, civil war rent the Nation and temporarily halted the dome's completion. President Lincoln, though, ordered the work continued as "a sign we intend the Union shall go on." Beginning in 1958, the east front was replicated, extending it 33 feet and adding 90 rooms. In 1983 the restoration of the last original facade of the building, the west central front, began and was completed 4 years later.

And historical importance is not confined to the Capitol Building itself. The House and Senate Office Buildings contain rooms in which historic events have occurred and continue to occur to this day. The Caucus Room in the Russell Office Building has been the site of major instances in which Congress has exercised its investigative responsibilities—the hearings on the Teapot Dome scandal during the Harding administration, the hearings conducted by Senator Estes Kefauver in 1951 exposing organized crime in the United States, and the Watergate investigation were all held in the Caucus Room. In this room President Woodrow Wilson drew the first draft number of World War I.

Now Mr. President the Library of Congress is also a little recognized but priceless asset. The Library of Congress Thomas Jefferson Building, completed in 1897, is one of the grandest architectural monuments of 19th century America. Its sculpture and murals reflect our cultural ancestry. It is one of the finest examples of neoclassical architecture in the country. The building, which was built for $6,300,000, contains a magnificent series of murals, mosaics, and sculptural decorations that contribute to its notable position among American buildings. The U.S. Government called upon a representative number of American painters and sculptors to help decorate this great public monument. In all, nearly 50 American painters and sculptors are represented in the building.

After World War II the building suffered from increasing crowding by the collections and staff. In 1984, Congress appropriated to the Architect of the Capitol $81.5 million for the renovation and restoration of the Jefferson Building and the John Adams Building. Our distinguished ranking minority member of the Appropriations Committee who is also a member of the Joint Committee on the Library was in the forefront of this effort. In addition to removing fire hazards and bringing the building up to present day safety codes and installing appropriate wiring for sophisticated technology, the funds were to restore and renew the Library of Congress Thomas Jefferson Building. I am happy to report that this project has reached the conclusion of the phase I work. I would ask that Members who have not seen the great work restoration work done should do that. They should look at it. It is unbelievably fine.

I believe we have an obligation to make the investments necessary to preserve and care for these treasures with which we have been intrusted.

Now let me touch briefly on the highlights of the bill.

SENATE

Mr. President, the amount provided for the Senate for fiscal year 1991 is $442,582,500. This includes, however, $35.5 million in a new Senate mail account. So exclusive of the mail item, the increase over fiscal 1990 is $38 mil-

lion and is a reduction of $7 million from the request.

AGENCY HIGHLIGHTS

Now, Mr. President, a lot of people apparently have the notion that the legislative branch appropriations bill just funds the Congress, its purported perks, and its satellite institutions. That is a serious misconception. Through this bill, we serve the interest all Americans share in the preservation and protection of the irreplaceable national treasures embodied in the Capitol complex. And the organizations, like GAO and CBO, that directly support the Congress help to offset the executive branch advantage in the development and control of information. Thus they help to strengthen the representative function in our system.

It helps maintain the checks and balances the Founding Fathers wrote into the great Constitution of this country.

LIBRARY OF CONGRESS

We are recommending a total of $284,107,000 along with authority to spend $19,885,000 in receipts for the Library. The aggregate increase for the Library of Congress is $31 million, which is less than the amount requested by $21.2 million. Fifty-seven percent of this increase—$17.7 million—is for mandatory pay and inflationary costs which are necessary to keep the Library from losing more ground. The remainder of the increases—$13 million—is to address the most urgent needs in the Library's mission.

The single most pressing problem for the Library is the explosion of uncataloged items in the Library's collections. This bill provides $7.6 million to fill 170 vacant positions to reverse this trend. This arrearage now totals more than 38,000,000 items out of the Library's collection of 90 million items.

The Library of Congress is the intellectual heritage of our Nation. For instance, the Library of Congress' music manuscript collection has no peer. I have been through it. You can walk into the Library and physically handle manuscripts of Gershwin, Rogers and Hammerstein, Bernstein, Victor Herbert, and Aaron Copland—to say nothing of those of the European masters, Beethoven, Brahms, Lizst, and so on.

I was in the library and actually had in my hand an original Mozart composition on original paper that he wrote, signed by Mozart. So we have valuable pieces of music there.

The Manuscript Division in the Library of Congress is a virtual who's who in America, including the papers of most of our founding fathers, 23 Presidents, most of the Justices of the Supreme Court, major literary figures, American scientists, and the rough draft of the Declaration of Independence in Jefferson's own hand with changes made by Ben Franklin and John Adams.

Those of us who watched the recent PBS Civil War series were probably unaware that most of the remarkable photographs and prints were from the collections of the Library of Congress. However, there are over 12 million photographs and other graphic materials awaiting processing and not available for use.

And the real problem that we have, Mr. President, is to stop them from being wasted and destroyed. They are in warehouses all over this area. Some are not properly cared for in the way of temperature control. We are trying to save these documents. What we have done here will allow us to save almost half of them.

I would say, Mr. President—as I have indicated with just two of the areas that the library protects, that is the manuscript division and music division—there are many others. What we are talking about here are things just as valuable and as important as those things in those two divisions.

Many of my colleagues maybe are not aware, and if they are, they should be reminded, that the library catalogs books for the Nation. Every library in this Nation is economically dependent upon getting the Library of Congress cataloging information. By cutting the Library of Congress budget, it will affect libraries in the Presiding Officer's State, in the State of every Senator that is in this Chamber; libraries in their States will be directly affected.

When sequestration hit the Library of Congress, complaints came to each one of us because it basically shut down the library at home. They cannot make books available to our schoolchildren, our college students, and to the general public in our States without the Library's having first cataloged them. A conservative estimate on savings to our Nation's libraries is $352 million—more than the entire appropriation of the Library of Congress, including the Congressional Research Service.

Congress has built and nurtured this Library for nearly two centuries as a monument to the people's Representatives' dedication to knowledge and freedom. To continue to ignore the need to process priceless collections, preserve them, and add to the knowledge base of this country because of lack of resources is not only shortsighted, but I believe reflects tragically on the values we have in this country.

GENERAL ACCOUNTING OFFICE

Mr. President, another extremely important organization funded in this bill is the General Accounting Office. The increase for the General Accounting Office is $43.8 million in direct appropriation and another $5.9 million is authorized to be credited from a special fund for renovation and operations of the headquarters building. This is a reduction from the request of $19.7 million.

Of this increase over $33 million covers mandatory salary and price level costs needed just to maintain a current services budget.

So, Mr. President, out of the $43.8 million, $33 million covers mandatory salary and price level costs.

Mr. President, the General Accounting Office continues to be one of the most important assets to the Congress that we have. Their work is noted for its objectivity and reliability and is relied upon heavily by both Houses.

GAO recommendations made to the Congress in reports, testimony and other work over the past 8 years has resulted in estimated savings of over $94 billion. So what we spend here is extremely important because it multiplies in savings for this country. This means that every dollar appropriated to GAO has resulted in $40 saved by the American taxpayers.

OFFICE OF TECHNOLOGY ASSESSMENT

Science and technology figure prominently in most of the questions facing Congress today. Yet scientific experts disagree on the answers, and interested parties make conflicting claims. The Office of Technology Assessment [OTA] helps chart a course through these complex areas of disagreement with its impartial assessment reports, technical memoranda, and testimony.

During the last year, OTA has examined many short- and long-term consequences of technological development in many domains. They have examined issues from hazardous waste reduction and management, the defense technology base.

OTA published a report on oilspill cleanup technologies and provided testimony and technical assistance to the Congress during considerations of the 1990 oilspill legislation that was passed and signed by the President in August.

OTA completed a major study on rural health care in the United States which found that rural America lacks health insurance coverage, lives great distances from health care, and suffers from higher rates of chronic disease and disability.

That is a document that is available to everybody in this Congress.

The vast majority of States are concerned about what is happening to the health care delivery system in rural America. What they have done gives us a document that we can use.

The recommended bill contains $19,557,000 for OTA activities in fiscal 1991.

CONGRESSIONAL BUDGET OFFICE

The Congressional Budget Office is a nonpartisan analytic organization that furnishes the Congress with information and analyses on issues relating to the U.S. economy, the Federal

budget, and Federal programs. The committee bill includes $21,183,000 for CBO.

The current budget turmoil serves to underscore how important CBO's analytical capabilities are to the Congress vis-a-vis the executive branch. Without CBO, we would be at the mercy of OMB and the executive branch insofar as systematic budget and policy data are concerned. When I speak of this, Mr. President, I speak of the Democrats and the Republicans. And we all know how impartial those sources are. Remember that David Stockman was Director of OMB. And according to his book, he and his minions had no scruples when it came to lying to the Congress. Just remember Rosey Scenario and her magic asterisks.

ARCHITECT OF THE CAPITOL

The Architect is responsible for the supervision of all structural and mechanical improvements, additions, alterations, and repairs to:

The Capitol Building and surrounding grounds;

Senate Office Buildings;

House Office Buildings;

Library of Congress Buildings and grounds;

U.S. Supreme Court Building and grounds;

Senate garage;

Robert A. Taft Memorial; and

The U.S. Botanic Garden.

These facilities aside from their intrinsic historical and architectural significance, constitute invaluable capital investments that have a conservatively estimated replacement value of $3.6 billion. Their care, maintenance, and enhancement is a public trust of the highest order.

The bill, exclusive of House Office Buildings, reduces the Architect's request by $63.6 million. Fifty-four percent of the remaining increase—$13.2 million—is necessary for the Architect just to maintain current operations. The remainder includes a variety of projects or new requirements that ought not be deferred.

CAPITOL POLICE

Too often, we take the services provided by the Capitol Police for granted. They are here long before and long after our working days are over—24 hours a day, 7 days a week. The Capitol Police Force now patrols a 40-block 200-acre area which includes 20 buildings. Policing an area of this size and character poses distinctive problems. A delicate balance has to be struck between maintaining adequate security and public order and preserving the constitutional rights of all citizens to peaceable assembly and free political expression.

The bill before the Senate contains a total of $60,499,000 to finance the Capitol Police in fiscal 1991. This will support a total of 1,265 sworn officers and 81 civilians.

MAIL PROVISIONS

Last year, we sought to improve our control over official mail costs. Congressional mail is an issue that always kicks up a lot of dust. But, despite the controversy, we made some real progress, especially in the Senate where an allocation scheme was reinstituted to keep franking costs within the amount appropriated. The Rules Committee—and especially Chairman FORD and the ranking member, Senator TED STEVENS—deserve a lot of credit for their leadership on this regard.

This year we are extending and refining some of those reforms. Let me briefly summarize the prinicpal changes.

The House bill establishes a separate House appropriation for its mail costs funded at $58.9 million along with an allocation scheme similar to the one now in force in the Senate. There is also provision for disclosure of the mail expenses of individual Members. In addition, the House bill would prohibit the transfer of franking funds from one Member of Congress to another or their carryover from one session to another.

We recommend that the Senate follow suit with a separate Senate mail account funded at the level of the estimate, $35.5 million.

This leaves $33.2 million in the old joint account to cover projected House overruns for the current fiscal year. We really have no choice but to provide this money, even though it is the House that incurred these excess costs. Otherwise, the Postal Service will pass them on to postal patrons. The reforms the House has adopted should assure that no overruns occur in the future.

Thus after this year, each House of the Congress will have its own account for official mail costs together with a system of allocation and disclosure among individual Members. Each House, that is the Senate and the House will then be fully, and solely, responsible for the amount it spends to pay for franked mail.

Now, Mr. President, before closing I want to record my gratitude—first to Senator NICKLES—and to the other members of the subcommittee—Senators MIKULSKI, ADAMS, and HATFIELD.

I want to say about Senator HATFIELD—Senator HATFIELD has been involved in a reelection campaign. He has been very busy as the ranking member of the Appropriations Committee. But he has spent untold hours of time on this Appropriations Subcommittee, a subcommittee that he does not have to be involved in. He has done it. He has had special meetings with the Library of Congress and I would like to publicly extend my appreciation to him for having done that.

Each has contributed specifically to development of this legislation. As ranking member, the distinguished Senator from Oklahoma [Mr. NICKLES] has played a special role.

He is always cooperative. I was trying to express to a Member of my staff how it is to deal with Senator NICKLES. All I can say is he is very frugal. I think that is enough said. He is cooperative but frugal. And when we disagree, and that is not often, he is cooperative then.

I think there has never been, at least the word that I have gotten, two people who have worked as closely together on this Legislative Branch Subcommittee. There is a lot of reprogramming that has to take place. In the past this has been done by the majority member.

We have adopted in the 2 years we have been working together on this legislative Appropriations Committee, the procedure where both the chairman of the subcommittee and the ranking member, Senator NICKLES, sign off on these reprogrammings. It has worked well and has established, I think, a paper trail that is supportive of what this body wants to do.

I, of course, wish to express my appreciation to the leadership of the full committee: Senator BYRD, our chairman and President pro tempore of the Senate, is not just another Senator. He is a man of the Senate. His dedication to the Congress and to the institutions of representative government, in my opinion, being a history student, is unrivalled. I thank him for his help and support in moving the bill to this point in the process.

Mr. President, the Legislative Branch Subcommittee is hardly regarded as a political plum—especially in the current environment. The programs and agencies in this bill have few organized constituent groups. In fact, they have none. Moreover, the public and media—and unfortunately too many Members of this and the other body, like nothing better than to hold the Congress up to scorn and ridicule. Almost any other subcommittee would be considered a superior assignment from a political point of view. That is why we are so fortunate that Senator HATFIELD, the ranking member of the full committee, is on the subcommittee. He could have any other subcommittee he wants. But he has chosen to continue serving on this one. We are all in his debt for putting the interests of our institutions above his own.

I yield the floor for a statement by the ranking member of the subcommittee, Senator NICKLES.

Mr. NICKLES. Mr. President, I wish to compliment my friend, the chairman of the Legislative Branch Subcommittee, Senator REID. It is a pleasure to work with him. We have worked

together on this bill. We made a lot of progress, as well.

Mr. President, I will certainly not repeat everything Senator REID said. He went through and gave a good summation of the bill before us, the legislative branch appropriations bill. This bill has a total amount before the Senate of $2.187 billion. That is an increase of 12.62 percent over last year. I think that is too large an increase. I will offer amendments in the near future to reduce that amount significantly. It is an increase of $124 million.

I would note, Senator REID mentioned it was this increase that we have in the Senate bill before us today, an increase of $245 million. We had requests from the various agencies in excess of almost twice that amount, about a $440-some million increase request.

Under the bill before us, we funded about half that increase, or a 12.5-percent increase over last year. If we had funded all the increase from the agencies—we are talking about the Architect of the Capitol; we are talking about GAO and other agencies—we would have been looking at an increase of 24 percent. The Library of Congress requested a 24-percent increase, for example, I could go on and on.

I will be offering a couple of amendments to reduce the total amount of this bill.

One will be to have the total mail expense equal to last year's appropriated amount. This bill provides for about a $12 million increase in Senate mail. I understand the justification for it, but still I think we should hold the lid on Senate mail, and hopefully this will prevail.

I also want to make a comment concerning the House of Representatives. They voted in the last couple of days to enact some reforms on House mail. I compliment those House Members for making those changes. They included in the reforms, disclosure. We have disclosure in the Senate on mail costs. We have disclosures on how much mail costs per individual Member.

I think that is a big reform, an important reform, one that we have had in the Senate for the last couple of years that I worked for, Senator REID has worked for, Senator WILSON, Senator HUMPHREY, Senator FORD, and others. I think that is a positive reform. I think disclosure is primarily responsible for the fact that we have been able to reduce our mail expense. As a matter of fact, total mail expenses in the Senate has been dropping the last couple of years, I think primarily because of disclosure.

Now, for the first time, the House has passed legislation that has stated that they will have disclosure. That is good reform. It is partly as a result of the efforts of Senator REID, Senator FORD, and myself last year in enacting reform that required the House and the Senate to segregate mail accounts, again, a very positive reform one that we are able to tell exactly how much the House mail is costing as compared to the Senate mail.

I might mention the estimated cost for the Senate this year is $17 million, which is well below estimates, well below what we had appropriated the previous year. The House last year appropriated $44 million, and they underappropriated that amount by $33 million. They actually overspent their appropriated account by $33 million. I think the reforms that they have enacted in the legislative branch bill, if we maintain those and possibly even strengthen those in conference, will save a lot of money, save millions of dollars. So I compliment the House for their leadership in making some positive changes in mail.

I do not plan on offering a couple of amendments. I think one may require a rollcall vote. That remains to be seen. One would prohibit the transfer of mail from one Member to another Member. I think that speaks for itself. Also, we would limit the rollover ability of Members to be able to roll over unused mail for the next year. That is another amendment that I expect and hope will be agreed to.

Then, finally, on the cost of mail, last year we appropriated $23 million for mail. This bill has $35 million appropriations. I will have an amendment to keep the mail appropriation at last year's level, which would save $12 million.

Mr. President, I also have one additional amendment. That would be a 5-percent cut. This is somewhat patterned after the House. The House passed a 2-percent cut. It does give us the discretion to make those changes. My reasons for pushing this is, frankly, I still think this bill has too much of an increase. As I stated before, it has an increase of $245 million over last year. If we are successful with both my mail reduction of $12 million and my reduction of 5 percent. This bill will still be growing by $124 million over last year. That would equal a 6.41-percent increase over last year, which I personally think is enough to meet the legislative needs and demands on the legislative branch.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that H.R. 5399 be referred to the Committee on Appropriations with instructions that it be reported back forthwith incorporating the substance of Calendar Order 990, S. 3207, and Senate committee amendments thereto; and that the committee amendments be agreed to en bloc, provided that no points of order be waived thereon and that the measure, as amended, be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object, and I wish to consult with my colleague, but as to the amendments, I ask Senator REID, is he including in the amendments to be offered en bloc these floor amendments?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. There is a unanimous-consent request made by my friend and colleague, Senator REID. There is no objection from this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3134, 3135, 3136, 3137, 3138, 3139, 3140, AND 3141, EN BLOC

Mr. REID. Mr. President, we have a number of noncontroversial amendments which the distinguished minority manager and I have reviewed. It is our understanding that they have been cleared on both sides of the aisle. I believe it would expedite the buisness of the Senate if we could dispose of these en bloc. They include the following items:

An amendment by Senators FORD and STEVENS to limit the carryover of unused franking allowances for any year to the next year only; an amendment by Senators FORD, STEVENS, and NICKLES to limit the amount that Senators can transfer from the mass mail allocations to their office accounts to the lesser of $100,000 or 50 percent of the mass mail allocation for the year; an amendment by Senators FORD, STEVENS, and NICKLES to clarify the definition of the House-passed bill of unofficial office accounts applies only to the House; an amendment by Senator FORD to make the provision in the House-passed bill preventing the use of nonofficial funds to defray official expenses effective with respect to the Senate upon the beginning of the second session of the 102d Congress; a technical amendment with respect to the availability of funds appropriated for art conservation on the Senate side of the Capitol; an amendment by Senator INOUYE with respect to a commemorative medal in honor of our departed colleague, Senator Spark Matsunaga; an amendment by Senator HUMPHREY to require that copies of mass mailings be registered with the Office of Public Records quarterly and

that such registrations include the number of pieces mailed; and an amendment by Senators NUNN and WARNER relative to the waiver of penalty for continued service in the legislative branch.

Mr. President, I ask unanimous consent that the amendments I have enumerated be agreed to, en bloc.

The PRESIDING OFFICER. The Chair first asks the distinguished chairman of the subcommittee if he would send the amendments to the desk.

Mr. REID. Mr. President, I send the amendments to the desk and I ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes amendments numbered 3134 through 3141, en bloc.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment are as follows:

AMENDMENT No. 3134

(Purpose: To modify the rules for the use of the congressional frank for Members of the Senate)

Subsection (a)(2) of section 310 of the bill is amended to read as follows:

(2)(A) with respect to the House of Representatives, allocation of funds for official mail to be made to each such person with respect to each session of Congress (with no transfer to any other session or to any other such person); and

(B) with respect to the Senate, allocation of funds for official mail to be made to each such person with respect to each session of Congress, except that a Member may carry forward an allocation to the next fiscal year; and

---

AMENDMENT No. 3135

(Purpose: To permit a Member of the Senate to transfer not to exceed the lesser of $100,000 or 50 percent of amounts allocated to such Member for mass mail)

On page 15, line 18, by striking "not more than" and inserting "not to exceed the lesser of $100,000 or 50 percent of".

AMENDMENT No. 3136

(Purpose: To modify the definition in the bill for an unofficial office account with respect to Members of the Senate)

Subsection (g)(3) of section 310 is amended by inserting "; with respect to the House of Representatives of," before "means".

AMENDMENT No. 3137

(Purpose: To provide an effective date with respect to the Senate for implementation of provisions with respect to office accounts)

Subsection (i) of section 310 is amended by inserting before the period the following: ", except that with respect to the Senate subsection (d) shall apply with respect to sessions of Congress beginning with the second session of the One Hundred Second Congress."

AMENDMENT No. 3138

Section 302 of title III is amended by striking "No" and inserting in lieu thereof "Except as otherwise provided by law, no."

AMENDMENT No. 3139

At the appropriate place, add the following new section:

SEC. SPARK M. MATSUNAGA MEDAL OF PEACE.

IN GENERAL.—Section 1705 of the United States Institute of Peace Act (22 U.S.C. 4604) is amended—

(1) in subsection (b)—

(A) by adding "and" after the semicolon at the end of paragraph (8);

(B) by striking out paragraph (9); and

(C) by redesignating paragraph (10) paragraph (9);

(2) by redesignating subsections (c) through (n) as subsections (d) through (o), respectively; and

(3) by inserting after subsection (b) the following:

"(c)(1)(A) The Institute, acting through the Board, may each year make an award to such person or persons who it determines to have contributed in extraordinary ways to peace among the nations and peoples of the world, giving special attention to contributions that advance society's knowledge and skill peacemaking and conflict management. The award shall include the public presentation to such person or persons of the Spark M. Matsunaga Medal of Peace and a cash award in an amount of not to exceed $25,000 for any recipient.

"(B)(i) The Secretary of the Treasury shall strike the Spark M. Matsunaga Medal of Peace with suitable emblems, devices, and inscriptions which capture the goals for which the Medal is presented. The design of the medals shall be determined by the Secretary of the Treasury in consultation with the Board and the Commission of Fine Arts.

"(ii) The Spark M. Matsunaga Medal of Peace shall be struck in bronze and in the size determined by the Secretary of the Treasury in consultation with the Board.

"(iii) The appropriate account of the Treasury of the United States shall be reimbursed for costs incurred in carrying out this subparagraph out of funds appropriated pursuant to section 1710(a)(1).

"(2) The Board shall establish an advisory panel composed of persons eminent in peacemaking, diplomacy, public affairs, and scholarship, and such advisory panel shall advise the Board during its consideration of the selection of the recipient of the award.

"(3) The Institute shall inform the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate and the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives about the selection procedures it intends to follow, together with any other matters relevant to making the award and emphasizing its prominence and significance.

(b) USE OF MEDAL NAME.—Section 1704(e)(1) of the United States Institute of Peace Art (22 U.S.C. 4603(e)(1) is amended by inserting " 'Spark M. Matsunaga Medal of Peace'," after " 'International Peace',".

(c) CONFORMING AMENDMENT.—Section 1707(b) of the United States Institute of Peace Act (22 U.S.C. 4606(b)) is amended by striking out "section 1705(g)(3)" and inserting in lieu thereof "section 1705(h)(3)".

AMENDMENT No. 3140

SEC. . WAIVER OF PENALTY FOR CONTINUED GOVERNMENT SERVICE IN THE LEGISLATIVE BRANCH.

(a) WAIVER AUTHORITY.—The applicability of sections 5532, 8344, and 8468 of title 5, United States Code, may be waived in accordance with subsection (b) for employees in positions in the legislative branch for which there is exceptional difficulty in recruiting and retaining qualified employees.

(b) DEFINITION.—The waiver authority under subsection (a) may be exercized—

(1) in the case of a position in the House of Representatives, under procedures established by the Committee of House Administration,

(2) in the case of a position in the Senate, under procedure established by the Committee on Rules and Administration.

AMENDMENT No. 3141

At the end of the bill, add the following:

SEC. . In fiscal year 1991 and thereafter, when a Senator disseminates information under the frank by a mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code), the Senator shall register quarterly with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary a copy of the matter mailed and providing, on a form supplied by the Secretary, a description of the group or groups of persons to whom the mass mailing was mailed and the number of pieces mailed.

Mr. NUNN. Mr. President, the conference report on the Treasury-Postal appropriations bill includes a major reform of the Federal pay system for the executive branch. Within that legislation, there is a provision which authorizes waiver of the dual compensation penalty on further Government service for executive branch employees in critical positions. This is an excellent provision. As the Deputy Inspector General of the Department of Defense testified before the Armed Services Committee: "It makes little sense to encourage a brain drain from the Government by forcing retired military personnel with badly needed skills to become contractors/consultants instead of civil servants."

It is essential that similar authority should be provided for the legislative branch. Committees, such as the Armed Services Committee, have a critical need for highly qualified employees with scientific, technical, and professional expertise in areas involving military affairs.

Some of the best candidates are persons with extensive military experience. In recent years, we have lost some of our best staffers, and have lost out on the opportunity to recruit excellent candidates, because of the dual compensation penalty.

The granting of waiver authority to the executive branch, which I strongly support, will further exacerbate this situation, by placing the Congress at a further competitive disadvantage. As a result, we are likely to lose some of our best candidates, and some of our

best employees, to the executive branch.

The amendment which I have proposed with Senator WARNER will provide the legislative branch with the same waiver authority for critical employees as the Treasury-Postal appropriations bill will provide to the executive branch. I urge the adoption of the amendment.

Mr. WARNER. Mr. President, I wish to commend the Appropriations Committee for including a provision in the conference report on the Treasury-Postal appropriations bill that would authorize waiver of the dual compensation penalty on further Government service for executive branch employees in critical positions. This is a very important provision, because it will enhance the ability of Government to attract and retain skilled personnel to critical positions. We have a similar need in Congress.

From my perspective on the Armed Service Committee, I know that persons with extensive Government experience, both in the civil service and in the military, can help us meet our critical needs for highly qualified personnel. The pending amendment will provide the Congress with the same waiver authority that the Treasury-Postal bill provides for the executive branch. This is a much needed provision, and I urge approval of the amendment.

Mr. NICKLES. Mr. President, we have no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments (Nos. 3134 through 3141) were agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3142

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3142.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 311.

At the appropriate place insert the following new section:

"SEC. . Two percent of the total amount appropriated or otherwise made available by this Act, that is not required to be appropriated or otherwise made available by a provision of law, shall be withheld from obligation. The Committees on Appropriations of the Senate and the House of Representatives shall set forth recommendations in the conference report on this Act with respect to the apportionment of the total amount to be withheld among the various appropriations made by this Act.".

Mr. REID. Mr. President, the purpose of this amendment is essentially technical in nature. It modifies a provision adopted on the House floor that reduces discretionary amounts in the bill by 2 percent to conform the language to standard appropriations practice.

In addition, some confusion has arisen concerning the exact language adopted by the House and this amendment makes it clear that 2 percent of the amounts in the bill are to be withheld from obligation and the Committee on Appropriations of the House and Senate are to decide how this is to be accomplished.

I know of no objection to this amendment, and I urge it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3142) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the legislative branch appropriations bill for fiscal year 1991, as recommended by the Committee on Appropriations, provides funding for the operation of the Senate as well as for the Library of Congress, the Architect of the Capitol, the Congressional Budget Office, the Office of Technology Assessment, the Botanic Gardens, and the Government Printing Office.

The measure as recommended by the committee did not include appropriations for items exclusively in the jurisdiction of the House of Representatives. It is the intention of the managers to include House items without change at the appropriate time.

The bill as recommended by the Committee on Appropriations provides total obligational authority of a $1,508,651,500. This represents a decrease of $179,761,500 below the recommendations of the President. It is $122,208,900 above the amounts appropriated in fiscal year 1990.

With respect to the subcommittee's 302(b) allocation, the bill as recommended is below its budget authority and below its outlay ceilings.

I commend Senator REID, the chairman of the subcommittee, and I commend Senator NICKLES, the ranking minority Member, for their excellent work in accommodating the priorities of the Senate with respect to congressional operations within the constraints of the budget agreement, and I commend them for bringing a bill to the floor that is below the President's budget request.

Theirs is a somewhat thankless task, but somebody has to do the work. This is an important subcommittee. This is an important appropriations bill.

I also wish to extend my thanks to the subcommittee staff on both sides of the aisle: Jerry Bonham, Keith Kennedy, and Lula Joyce. Their good work makes the task of the subcommittee members and all future committee members less arduous.

I will not review the highlights of the bill. The managers will have done that. The bill as reported by the Appropriations Committee deserves the support of the Senate. I again thank the two Senators, Mr. REID and Mr. NICKLES, in addition to all of the members of the subcommittee on the appropriations for the legislative branch.

Mr. NICKLES. Mr. President, I wish to thank the chairman of the Appropriations Committee for his kind remarks. I comment he mentioned that the request from the administration was for an increase of $469 million, almost $470 million over last year. That came from each one of the agencies that we fund. They just put in their full request. They actually did not go through OMB. I am talking about the Library of Congress, Architect of the Capitol, et cetera.

AMENDMENT NO. 3143

(Purpose: To reduce the total funds appropriated in the act by five percent)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 3143.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amendment No. 3142 is modified by striking "2 percent" and inserting in lieu thereof "5 percent".

Mr. NICKLES. I ask unanimous consent that the amendment at the desk be in order.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. NICKLES. Yes.

The PRESIDING OFFICER. The Chair would first ask the Senator from Oklahoma to repeat his unanimous-consent request.

Mr. NICKLES. I ask unanimous consent that the amendment at the desk be in order. This is an amendment that modifies an amendment that we just adopted by UC in our list.

Mr. FORD. I thank the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, can the Chair state the unanimous-consent request?

The PRESIDING OFFICER. The Chair asked the Senator from Oklahoma to restate his unanimous-consent request. It was simply that the amendment be in order to be considered at this time.

Mr. NICKLES. Mr. President, I thank my friend and colleague.

This amendment is an amendment that would reduce the total amount appropriated by 5 percent. I might mention that the House had an amendment that reduced it by 12 percent. They also considered an amendment that was barely defeated that reduced the amount by 8 percent.

But before my friends and colleagues in the Senate start thinking this is the end of the world, that we are cutting so much, I will say we are reducing the rate of growth. I think that is one of the big problems we have in the growth of Federal spending, because we always work off what I am going to say are inflated figures.

I see friend and colleague, chairman of the committee is still here. I told him when we first took up this bill that I thought it was growing too much. As a matter of fact, this bill was growing at 14 point-some percent. I do not know how we can justify that when we are asking Americans to pay more taxes supposedly for deficit reduction, particularly for ourselves.

So I think we need to have deficit reduction. Actually, in this bill, even after this 5 percent cut is enacted and even if my mail reduction amendment is enacted, we are going to have a mail amendment. I hope and expect it will be adopted. That will save $12 million. The amendment that we are considering now coupled with that will save an additional $90 million-some. If you add the two amendments together, we will have total savings in this bill of $100 million still even after both amendments are adopted. Or assuming maybe that both are adopted, this bill will still increase. I am talking about House and Senate functions. The bill will still increase by $124 million or 6.41 percent over last year.

That is enough to take care of the cost-of-living adjustments. That is enough to take care of the staffing requirements. Frankly, Mr. President, I think that is ample in this day and time when we do really have a budget crisis, when we really do have a deficit problem. I think we need to limit the growth of spending, and this is a good place to start.

I hope my colleagues will agree to this amendment.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BREAUX). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, so my colleagues will know what the legislative status is or what we are trying to accommodate for tonight for Senators' schedules, we expect that we will have a vote shortly on the amendment that I have pending at the desk that would provide for a 5-percent reduction. We expect that that vote will occur in the not-too-distant future.

I might ask my colleague from West Virginia, maybe in 20, 30 minutes, whatever?

Mr. BYRD. Could be; I do not know how long. I do not intend to keep the floor very long myself.

Mr. NICKLES. I thank the Senator. Then it is our expectation that we will try to handle all other amendments tonight, and have those amendments that require rollcall votes to be stacked for tomorrow.

Mr. BYRD. Mr. President, I speak in opposition to this amendment. It probably is not a very popular thing to do, but one cannot necessarily pick and choose the popular things always and defer to take a stand on those things that may not be perceived to be popular at the moment.

The amendment that is before the Senate, as I understand it, would reduce the legislative branch appropriations 5 percent across the board. Am I correct?

Mr. NICKLES. The Senator is correct.

Mr BYRD. The Senator from Oklahoma indicates that that is correct.

Mr. President, I congratulate the Senator from Oklahoma on his desire to reduce the appropriations for the legislative branch. I think this is the wrong way to go about it. I suggest that the distinguished Senator approach this matter in a way that uses the rifle rather than the shotgun. He is in a position to know what particular elements of the legislative appropriations bill could stand some reduction. I suggest that that would be a better way to approach the matter.

I am a little tired, Mr. President, of all this self-flagellation that we engage in. We who are the Members of the legislative branch can get a good headline by talking about the legislative branch, seeking to cut the funds for the legislative branch. There is a great feeling of animosity out there in the country toward the legislative branch and toward Government in general, for that matter. And I can understand it.

Several of us have participated for months in the effort to reduce the budget deficit. And I am sure that the American people have good reason to be impatient and frustrated with the speed, or lack thereof, that both the executive and the legislative branches have demonstrated in coming up with a budget package that will reduce the deficit by $50 billion in fiscal year 1991 and by $500 billion over a period of 5 years.

The legislative branch is one of three branches of Government. The legislative branch, the executive branch, and the judicial branch. The legislative branch is the people's branch. The House of Representatives considers itself to be the people's House. The Senate is the forum of the States. There is nothing like the U.S. Senate anywhere in the world today.

Romulus, the legendary founder of Rome, perhaps 1,000 years before Christ, somewhere between 1,000 years and 800 years before Christ, founded the city of Rome. He appointed the members of the first Roman Senate, 100 nobles. Lycurgus, the lawgiver, created the Senate of Sparta, made up of 28 Senators. Out of all the institutions that were established by Lycurgus, the Senate was the outstanding institution, the purpose of it being to keep a rein, a check on the Kings.

There have been other senates. The U.S. Senate, created by our Founding Fathers in 1789, was perhaps the greatest spark of brilliance that flowed from those marvelous intellects that gathered in that illustrious band in Philadelphia in that hot summer.

The Senate is unique in many ways; unique because it is an investigative body. It has executive powers, legislative powers, judicial powers. Here in the Senate one may speak as long as his feet and his backbone will sustain him—unlike the other body. It is one of the few upper houses in which amendments may be offered. And the Constitution itself provides that the Senate, while it cannot originate revenue-raising measures, it may amend them. This is a remarkable body, as Gladstone said, the most remarkable invention of modern politics.

Mr. President, there have been 1,793 individuals who have served in this body since its beginning in 1789. I happen to be the 1,579th one. I think it is time that we start taking some pride in this institution and stop posturing and pretending to the galleries, whether they be these galleries or the galleries out there in the hills and valleys and the prairies and the plains of

this country. We ought to stop fouling our own nests. It is little wonder that the people hold the legislative branch in low esteem when we ourselves seem to reflect a very low opinion of the body in which we are honored to be Members.

I have been in the Senate now 32 years. When I came here, the Senate was made up of men, not boys. They believed in this institution; they revered it. We can all get a laugh if we go out there and crack a joke about the legislative branch, and there is nothing particularly wrong with that. But I think we ought to go home and reflect a little on this matter tonight and remember the Members of this institution are a chosen group of people. There are 250 million people in this country today and only 100 of them are U.S. Senators. I venure to say most any Member of this body would have given his right arm to be elected to the U.S. Senate. If we are going to go around and engage in self-flagellation, the people will not only enjoy it, but they will join us in that.

"He that makes himself an ass must not take it ill if men ride him," said Thomas Fuller 250 years ago. I did not originate that quotation, but it is a good one. So, if we want people to deride this institution, let us join them in running it down.

The total budget this year is $1.434 trillion, and here is an amendment before the Senate that would cut 5 percent out of the legislative branch appropriation, one-third of the three branches of Government, with a budget of something like $2.25 billion—I am told that is right. So, in other words, we are talking about a branch of Government the total appropriations for which would be one seven-hundredths of the total budget; a little over $2 billion out of $1.434 trillion.

When I came to this body, I first came to the House of Representatives. I believe we adjourned on August 2 of that year, and I believe the next year, or the year following, we adjourned on July 29 or 30, sine die. Anymore, it is almost the year round.

This is the people's branch. I have seen the workload here grow. There was a time in this century when a Senator, perhaps, received 100 pieces of mail in a month's time, and a few visitors would come to call on him. But today a Senator does not have the time to deal with his constituents' mail, to deal with his constituents, reflect, attend committee meetings, be on the floor; acquire for himself the knowledge to debate important matters in this great forum of liberty. Nobody works harder than some of the men and women in this institution, and the work and the decisions of Senators impact on every minute of every hour of every day in the life of every American. You name it.

Decisions are made in committees here and in this body that deal with the highways of this country, bridges, water quality, air quality, recreation, health services, education, job training, postal services, Social Security, Medicaid, Medicare, veterans pensions, veterans compensation, parks, U.S. forests, rivers and harbors, immigration, drugs, crime, law enforcement, and on and on and on.

Franklin D. Roosevelt said if we were to eliminate the Congress, we would immediately cease to be a republic. We all get frustrated. I do. I am not one to say that money is not wasted in this branch or any other branch of Government. This is the most important board of directors on the planet called Earth, the elected representatives of the American people, 535 of them.

I have seen the staffs grow around here, but I have also seen them mushroom in the executive branch.

Let us talk about the Committee on Appropriations. We have a total staff of 82 persons on the Appropriations Committee in the Senate; 82 staff people. I have one sitting right here by me, Jim English, unexcelled by any staff person on this Hill or any staff person in Washington, or any staff person across this land. I believe that. I ought to know. I do not have to ask him to be here at 10 o'clock on Sunday morning or midnight on Saturday night. He has been here at 7 o'clock on Sunday morning, calling me out of bed; 7 o'clock on Sunday morning. I call him at home if I need to call him at home. He is a professional, able, meticulous, highly dedicated staff person. That is the only kind I will have.

I have fired a few staff people around here myself. If we want to cut the legislative branch, if there is someone on the staff we think is not pulling his weight—take a look at the scriptures. A certain man had a vineyard, and he went to a fig tree in that vineyard. He called the dresser of the vineyard and said, "Behold here is this fig tree, and I have come to it these 3 years and I find no fruit thereon. Cut it down. Cut it down."

So if we want to start cutting and start making savings around here, every Senator knows his staff and if there is a laggard there, do like the owner of the vineyard; behold these 3 years I come and find no fruit on this tree; cut it down. Do not take a meat ax and say cut 5 percent across the budget, 5 percent out of this appropriations.

So we have 82 persons on the appropriations staff. Let us take a look at what they have to compete with. When I say "they," that should include us. We seek to serve the people. I want to serve the people of West Virginia. The Senator from Oklahoma seeks to serve the people of Oklahoma. The Senator from Nevada seeks to serve the people of Nevada. The Senator from Maryland seeks to serve the people of Maryland. JOHN GLENN seeks to serve the people of Ohio. Senator FORD seeks to serve the people of Kentucky, and they serve them well. Senator THURMOND of South Carolina; Senator PACKWOOD, Oregon; Senator GARN, Utah; Senator LAUTENBERG, New Jersey; Senator RIEGLE, Michigan, they serve them well, but we have to have able staff persons here.

Take a look at what these people are up against. NASA has 1,011 budget personnel; the Department of Interior and related agencies, 145 budget presonnel. I happen to be the chairman of the Appropriations Subcommittee on the Department of Interior and related agencies. On the whole committee staff on appropriations, we have 82 persons, and yet down at one department, the Department of the Interior and related agencies, they have 145 budget personnel.

By sheer weight of numbers, we cannot compete with the Interior Department. And yet these same 82 persons have to deal not only with the 145 budget personnel in the Department of Interior and related agencies, these 82 persons in the Senate who are on the Appropriations Committee, have to deal with all of the departments of this Government, all of the agencies in this Government, and we are just greatly outnumbered.

The Lacedaemonians did not ask how many the enemy were, but where; where they are. We know where the enemy are. And I use that word just for the moment to square with the quotations that I used. But knowing where they are is not good enough.

Take a look at the Office of Management and Budget. There are 570 budget personnel in the Office of Management and Budget alone; 570. In the Environmental Protection Agency, 84 budget personnel. There is one agency that just has 2 more budget personnel than we have on the Appropriations Committee. HUD, 50 budget personnel; Veterans' Administration, 127 budget personnel; the Department of Education, 169 budget personnel; Coast Guard, 60 budget personnel; Federal Aviation Administration, 70 budget personnel; the Office of the Secretary of Transportation, 36 budget personnel.

This is just a sample—just a sample—and here we are with 82 personnel standing up against a vast array of people down in the executive branch who have all of the equipment, all of the accoutrements. They come up here, year after year, and they want to increase the appropriations. They want to add an additional 50 persons. They want to add an additional 500 persons. We may cut it in half, but the next year they will be back and

want the other half. This is just a sample.

I know we have grown here, but the country has grown. The population of the country has grown. The problems of the country have grown. We ought to consider that. How can we stand up against this overwhelming army of personnel in the executive branch?

Mr. President, if the Senate wants really to get serious about saving the people's money, let us pass a campaign financing reform bill. That will save the people's money, and they will get a bargain.

The lobbyists and the special interest groups want control of the votes, and once again the people of the country will be more ably represented by their elected representatives. I have had a great deal to say about that over the past few years.

I sought to get a campaign financing reform bill through this Senate and was unable to do it. I offered eight cloture motions to shut off a filibuster, and I was not able to get that done.

But I am telling the people of this country, and I am going to continue to tell them, if they really want to get back to a truly representative Government, they ought to rise up and demand that their elected representatives pass legislation that will wipe out these political action committees, wipe them out, and I expect a lot of the people who are engaged in those PAC's would be happy to see it. I expect they get tired of seeing us come to them with our hats in our hands.

So there are many ways to save money other than to use a meat ax on the people's branch.

I suggest to the distinguished Senators who are on this subcommittee—I compliment them. I compliment the Senator from Oklahoma. He is trying to save the people's money. But I suggest that he uses a rifle rather than a shotgun. Go after those areas. If it is the Architect of the Capitol, go after it. Prepare his case, bring his case to the floor, and let us vote.

But let us not use this easy approach, 5 percent across the board. That is no way to get at warts. If we are going to get the wart, let us cut the wart out.

I am tired of this business of seeing us self-flagellate ourselves, just whip ourselves. Maybe we ought to go home and dive under the bed and say, "Here goes nothing." But let us not condemn everybody else in the act.

I think the Senate has lost its soul. I am sorry to say that.

I am in no hurry. I think the Senate has lost its soul. I wish there was some way we could appropriate money for spine, spine and guts. I would be willing to stand up and vote for that. That is what this country needs, spine and guts. We need to tell the American people the truth and stop this running with every wind that blows.

Yes, there are all kinds of editorials and columns, commentators. They like to make fun of the Congress. And who can blame them, when we ourselves, run against the Congress, we ourselves help to make the Congress unpopular?

I do not want to criticize the Senator from Oklahoma. He has offered an amendment in good faith, and he has several times sought to amend legislation to make savings. I am not against making savings here, but let us find the flaws and go after those flaws. Let us not take a meat ax and cut this bill 5 percent across the board.

Bring in your targets and use the rifle sight on them. Let us hear your case and let us vote. I will support the Senator if he can make a case against a particular activity or account. Make a case. I will support him. But I am not going to support this 5-percent cut across the board because I do not think it is justified.

I want to see how many men and women believe in this Senate tonight. I may be alone. I was alone yesterday, or the day before. I have lost count of the anodyne of time in most of these last few weeks. But I do not mind standing alone. If I had to do it over again, I would do it again. I expected to be alone on that occasion. I may be alone tonight, but we are going to see. We are going to find out how many believe. Then I would say to those who vote for this, I would like to see how many people on their staff they take off the payroll. It may be none. They may feel that their staff people are as meritorious as I believe mine are, and I would think they do.

But let us just step up to the bar now, and let us see where we stand. If this carries, I will go home, and say to my wife and my little dog, Billy Byrd, "I took my stand. I got runover, but I will be back tomorrow."

If this amendment does not carry, I would express the hope that the bill will lay over until tomorrow, and the Senators would bring in their case-by-case basis and let us cut where cutting is due.

Mr. President, I will not keep the Senator longer. I thank all Senators for their patience. I hope that the amendment is rejected.

Mr. REID. Mr. President, I am reminded of the statement of Yogi Berra. He said "when you come to a fork in the road, take it." I think that is what we do too often in this body. We come to a fork in the road, and we take it. We do not have proper direction. I would hope that the President pro tempore of this body is wrong, that the Senate has not lost its soul.

Mr. President, I first came to Washington, DC, as a young law student. During that period of time, I worked in the Nation's Capitol as a policeman most of the time. As the chairman of the Appropriations Committee just stated, things were different then, in the early 1960's. As a police officer in those days, the most dangerous thing that I was called upon to do was to direct traffic. That is not way it is anymore. Each day that we are in session, in those days that we are not in session, police officers that we are now being asked to cut their budget are called upon to do bomb patrol, to guard the entries and exits to this building, to keep terrorists out coming upon the facility. So things really have changed. Our life has become more complicated.

As the chairman of the Appropriations Committee talked about his staff, I recall an amendment. After working here on the floor for a couple of days, like the President pro tempore said, you lose track of—but I had a young woman who worked with me that night 5 hours on this Senate floor with me on that amendment with a fever of over 100. She was sick. She had worked on this amendment. It meant a lot to her. I told her to go home. She would not go home. This is a talented young woman, a graduate of Columbia Univeristy.

Mr. President, she could work lots of different places but she is here because she feels that this is her way of rendering public service to this country.

This is the type of person who worked that day approximately 20 hours, sick, that we would be asked to cut.

Also this body should recognize that we are not here cutting the ever worrisome congressional mail frank. That will come later. Everyone can at that time flex their muscles and vote against congressional mail. That is not this amendment.

Why do we have in this bill the things that we have included? Again, as the chairman of the Appropriations Committee said, it has taken a long time to get this bill before the Senate. The other 12 bills have been handled. This is the last. The reason it is last is it is kind of the stepchild. No one wants to be on the subcommittee. No one wants to have this bill come before the body because there can be some tough votes. But what have we done?

Since 1981, we have cut $1,220,500,000 from what has been requested, almost $1.2 billion. We have done our job. Why do we have the funds in this bill that we have?

Well, for example, Mr. President, we are being asked in this bill to pay for some things that the people outside this Hill are paying for all the time. In the city of Las Vegas, NV, because of a bill we passed here two high schools closed down for a year. They had to remove asbestos—as a result, these two schools in the most rapidly growing State in the Union, the most rapidly growing part of our countryreater Las

Vegas area were forced to double sessions. They were initially overcrowded when they were separate schools. But when they had to close them because of asbestos they were really crowded. They started in the dark, and completed their school day in the dark—two different classes.

Part of what we are doing in this bill is removing asbestos from our office buildings. We are asking others to do it. Should we allow our people to work in asbestos-poisoned buildings? That is part of what we are asking this money be spent on.

I serve on the Environment and Public Works Committee. PCB's is one of the most dangerous substances we have. We are asking that some of the transformers in this facility that have PCB's be removed.

Before the Senate acts on the amendment, I want to make sure that all Senators understand fully what the implications of this amendment really are. The effect of this amendment is to increase the amount which would be cut from this bill, 2 percent—which is my amendment, and which is consistent with the amendment adopted in the House—to 5 percent. This amounts to a reduction of another $66 million.

As it now stands, Mr. President, the committee has already cut 225 million for the request of the legislative branch. The 2-percent reduction adopted on the House floor reduced funding in the bill by $44 million.

So the total reduction from the request before the Nickles amendment is $269 million. Cuts of this magnitude are going to make a big difference in the capabilities of our legislative branch agencies.

As I pointed out in my opening statement, $95 million of the increase recommended by the committee, exclusive of House items, is necessary just to keep the Senate and our joint agencies funded for the existing programs. This leave $28 million to cover all additional workload requirements and needed capital improvements.

Mr. President, just this week there was a rainstorm. We were all inside. I do not know how many of you saw it. I did not. But it was a violent rainstorm. As a result of that downpour there was a leak in the beautiful rotunda of this Capitol behind me caused by, some have said, disrepair. As a result of that there is possible damage to the beautiful frescoes that have been there.

You know, what we are recommending in this bill is for essential items, no puff.

The 2-percent reduction in the House bill and in my amendment would cut another $30 million from the Senate and joint items, leaving them $2 million below current service requirements. Another 3 percent cut on top of this would equal another $45 million. This would leave the agencies in this bill exclusive of the House with exactly half the amount necessary to cover their cost increases, and maintain their existing level programs.

If we do that, we are not cutting fat. We are cutting into really the sinews and the bones of this, as the President pro tempore has stated, the people's branch of the Government. I am only one Senator of course. These issues are issues that I think should be resolved by the whole Senate.

So I certainly welcome my colleagues to come here and talk about why they are for or against this amendment. If no one else is interested in the possible problems that I see with this amendment—maybe I disagree with the chairman of the committee—perhaps we should just accept this amendment. If the Members of this body do not care, why should Senator BYRD of West Virginia or Senator REID of Nevada care?

As Senator BYRD indicated, this is not an attractive bill. This amendment is, maybe some would think, difficult to vote against, especially in the current climate. Cutting money from any bill is politically appealing. And if it is on a legislative branch bill, it is great, man, hack away at it. It is only when you look below the surface that such amendments may seem less beautiful.

I am not any more concerned than any Senator should be about this, but I am concerned. I want to make it clear that the money in the bill, and the money that would be cut by this amendment, is not just to run my own personal office or to run the subcommittee of which I happen to be chairman. This amendment is not going to affect this Senator any more than it is going to affect any other Members of this body.

having said that, I would like to hear from my colleagues. If in no other manner, they should vote to defeat this amendment.

I would like to find out how they feel about it. Let me pose some questions to my colleagues who are in this Chamber and watching this on television. Do you know how many times a day your staff calls the Congressional Reference Service to get an answer to a question? I really do not know. But it is at least 10 times. If so, do you care whether they get an answer or how long it takes to get an answer, or if the information you get is useful?

Do you think that the information you demand from your staff just falls from the sky? Do you think that the information that our constituents demand from us comes when you pull open a drawer and it is there?

I represent the small State of Nevada, but there are days when we get 1,000 pieces of mail in our office. We, I think, should respond to those pieces of mail, which we try to do. They are very complicated, difficult questions a lot of times. Where do we get answers to those questions? We get them from the auxiliary agencies that support this body.

And how often have you asked the General Accounting Office to respond to a request? Does it matter to you whether or not the General Accounting Office is effective in exercising the responsibility of the Congress; that is, our responsibility to determine if the billions of dollars appropriated to the executive branch annually are spent for a good purpose or utterly wasted through fraud or incompetent management?

It is our responsibility, as elected representatives of the people, to be on top of that. The General Accounting Office is our watchdog. They have saved $94 billion in the last 8 years in recommendations that they have made.

Or when you submit vouchers for reimbursement for expenses you have incurred in the performance of your official duties, do we expect these to the paid accurately and promptly? The answer is yes.

So we could go on with examples of how this amendment could cut your staff, and reduce the availability of essential support whether it involves the printing of bills, resolutions, conversations on the telephone, preparations of printed material, analysis on computers, or moving from place to place on elevators and subways. The impact is on the ability to freely meet with each other and citizens of this country, and to deal with the complex issues that face us. We take all these things for granted.

So, as I said, the Library of Congress has things stacked all over that are being ruined—millions and millions of things. I think we should recognize that we have treasures to protect. If this amendment is adopted, the Congressional Budget Office will lose nine professional staff positions. The Office of Technology Assessment would have to furlough all staff for 20 days. The GAO would have to postpone getting the personal computers needed by their analysts and would lack what they need to keep up with what we are going. Thirteen percent of the positions of the Architect of Capitol would be held vacant for an entire year.

These are not mundane matters, but important matters to help us arrive at a point where we can do a good job here on the Senate floor and do an appropriate job of drafting legislation for our constituents, and certainly so that we can do a good job for the people that we represent.

I respectfully submit that the chairman of the Appropriations Committee has really called upon us to have a focus and a direction. And I really believe that this amendment is not well taken, and that the Senator from

Oklahoma is mistaken in this blanket cut. We should defeat this amendment.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will be brief. I thought we would be voting some time ago, and it was my hope that we would. This is a simple amendment which reduces the legislative branch appropriation bill by 5 percent. Even after this amendment is enacted, if it is, the legislative branch spending will grow by 6.4 percent.

I might make mention, I heard some eloquent remarks by my friend and colleague, the chairman of the Appropriations Committee, Senator BYRD, about the Senate and our duties and our functions. I tell my colleagues that the Senate portion of this legislative branch bill is 20 percent; 80 percent of this bill is non-Senate; 31 percent is to the House. So, in other words, for House and Senate functions together, it is 51 percent of the bill.

Other functions include other agencies. Title I includes Capitol Police. I tell my colleagues that we have 1,346 Capitol Police. That is more than most of the municipalities surrounding Washington, DC have. I think that is too many. I think some reductions could be made. Maybe they do not have to be made. It goes on and on.

Mr. President, I have a whole list of very large increases that are in this bill, and I am more than happy to go through and come up with an amendment that would call for reducing several of these down.

I told the chairman of the Appropriations Committee that I think he has a good point; maybe there should be a rifle shot.

Also, we have already adopted an amendment that calls for an across-the-board reduction of 2 percent. We have done that already, but I personally think we need a little bit more, because this bill grows, it grows by 12.62 percent, a $245 million increase over last year.

You might say: What have you done in the past? That is a 12.6-percent increase this year. Last year it grew by 8 percent. The year before it grew by 3 percent; 7 percent the year before. Back in 1987 it grew by 2 percent. So we have had lower growth rates until just this last year, and all of a sudden we are growing at 12.5 percent. I think that is too much. I think it is indicative of a lot of problems that we have; the spending is out of control.

I tell my colleagues that, yes, the Senate is 20 percent of this bill. The Senate happens to grow at 12.78 percent. The House grows at 12.89 percent.

Title I, these non-Senate or House functions, which include Capitol Police, Capitol Guide Service, Office of Technology Assessment, CBO, Architect of the Capitol, and CRS, grows by 12.7 percent.

Title II, which are other agencies, grows by 12.29 percent. And so if you look at it altogether, almost everything in this bill grows about 12.5 percent.

So my amendment said across the board, a 5-percent reduction. It would bring spending growth down to 6.4 percent. To me, that makes sense. Maybe that is too much. I have heard colleagues say that it is too much. I do not think it is.

I will include for the RECORD, and I will not go throgh this, but we have significant increases, well above even 12 percent for many items—Senate mail for example—and we will have an amendment dealing with Senate mail. It comes up 49.9 percent higher than last year's level. Sergeant at Arms, $16.7 million, a 22-percent increase. We have the Capitol Building and grounds, $3.8 million; that is a 22-percent increase. CRS, Congressional Research Service, a 15-percent increase. Library of Congress, $28.8 million over last year, a 13.5-percent increase, and so on. GAO salaries and expenses grow by $55.3 million, or a 15.5-percent increase.

And again, I could go all the way through. There are a lot of big increases. Even small increases, small accounts, the office of the majority and minority whips, go up by 33 percent. And on and on. I think some reductions are in order. That is what this amendment calls for. If it is defeated, and it may well be defeated, I do not know what the results will be. We can come back tomorrow, and maybe make more specific reductions. I am happy to do that.

I was kind of following the guidelines the House followed, and also those my colleague, Senator REID, followed, by having a 2-percent reduction. I think a 6½-percent growth in the legislative branch is certainly sufficient. I hope this amendment will be agreed upon.

Mr. BYRD. Mr. President, I will just take 2 minutes, and then I will end. The distinguished Senator mentioned the General Accounting Office. The Geneal Accounting Office is an arm of the Congress. It is the watchdog over the executive branch. It saves the American taxpayer millions of dollars. That is where the $600 toilet seats are discovered. There were the $40 light bulbs which were discovered. However much did those hammers cost?

Mr. REID. It was $700, or $200.

Mr. BYRD. It was $200 per hammer or whatever it was. Way too much.

We talk about cutting the Government Printing Office, and the CBO which has to compete with the Office of Management and Budget. CBO has 226 people. It cost $21 million. The OMB has 750 people and cost $48 million. We cut the OMB—how much did we cut OMB—$1 million. We went to conference, and they want to cut the OMB $2 million more.

Mr. Darman said, "Do not cut us $2 million more." You know, I should ask you, do you know who went to Mr. Darman's aid? ROBERT C. BYRD. So we have cut them $1 million. So I say let us cut where cutting is due. A lot of people would like to see OMB cut.

We are talking now about cutting CBO. It has less than half the people the Office of Management and Budget has. And cut the Government Printing Office. That is what we do when we come in with a broad ax, a meat-ax cut across the board. I say let us cut out the warts and the carbuncles and boils and bunions; he cut them out. Do not take a broad ax.

I have said enough. I hope the Senate will reject this amendment.

The PRESIDING OFFICER. The Senator from Maine.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent request which has been cleared by the Republican leader, dealing with the continuing resolution, which we expect to receive shortly from the House.

I ask unanimous consent that when the Senate receives House Joint Resolution 681, the continuing resolution, from the House, the Senate proceed to its immediate consideration; that the resolution be considered read a third time and passed, that the motion to reconsider be laid upon the table, and the above action takes place without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, I have no intention of objecting. Could the leader tell us what the terms of the continuing resolution are?

Mr. MITCHELL. They will go to Saturday midnight.

Mr. ARMSTRONG. I thank the leader.

The PRESIDING OFFICER. Without objection, it is so odered.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I regret the interruption in the debate.

I now yield the floor.

Mr. BYRD. Mr. President, House Joint Resolution 681 extends the current continuing resolution from October 24 to October 27, 1990. It continues to provide temporary, restrictive financing for fiscal year 1991, which began on October 1, 1990. In addition, House Joint Resolution 681 continues to provide that implementation of any sequestration order is suspended for the term of the continuing resolution.

It is critical that the Senate complete action on this continuing resolution today. It simply allows for the continuation of the operations of the Federal Government for the period from October 24 through October 27, under the terms and conditions of the current continuing resolution for fiscal year 1991.

This resolution follows the same basic form and concept as have other continuing resolutions in previous years. In summary, the resolution provides restrictive funding for 13 appropriation measures depending on their legislative status as of October 1, 1990, under a formula that specifies that:

First, when the particular appropriations bill has passed both Houses, and the amount as passed by the House is different from that as passed by the Senate, the project or activity is continued under the lesser amount or more restrictive authority, provided however that in no case does the rate exceed the current rate.

Second, when provision is made for a program in only one version of a bill as passed by both the House and the Senate, the rate of operations shall not exceed the current rate or the rate provided by the one House, whichever is lower.

Third, when the particular appropriations bill has passed only the House, the rate of operation for a particular program shall not exceed the current rate or the rate provided by the House, whichever is lower.

Fourth, when provision is not made for a particular program in a bill that has passed only the House, and that program was funded in fiscal year 1990, the program shall be continued at the current rate.

Fifth, finally, when a bill had not passed either the House or the Senate by October 1, programs under these bills shall be continued at the current rate, except for defense, which is continued at a special rate above the House-passed budget resolution but below the amount allocated under the budget agreement.

Under the provisions of the resolution, it is expected that the Essential Air Services Program will continue without any service reduction and that the Office of Commercial Space Transportation will continue at the current rate, in view of its important safety responsibilities associated with licensing the commercial space industry.

Mr. President, the continuing resolution also extends a provision which suspends any sequester orders for the term of the continuing resolution.

Mr. President, I fully support the passage of House Joint Resolution 681.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, FISCAL YEAR 1991

The Senate continued with consideration of the bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, could I ask the distinguished chairman and manager of the bill just one question, if I might?

Mr. President, is it not the fact that if any Member of Congress feels that the appropriation is too much for their office, for their operations, they have the perfect right to return 5, 10, 75, 95 percent, if they want to, to Treasury, just by not spending it, and just by not drawing it down; is that correct?

Mr. REID. If the Senator from Vermont will yield. There are in fact Senators that do this on a yearly basis, and so the answer to the Senator's question is yes.

Mr. LEAHY. In fact, the Senator from Vermont has turned back well over a half million dollars in a particular period of time in that same fashion.

But on the other hand, each Senator, I might say to my friend from Nevada, I believe had the responsibility to determine, having been elected by that State, what the needs of the State are, and what must be done to serve the interests of that State.

I thank the distinguished chairman.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I congratulate my friend from Oklahoma for offering this amendment. I agree with its intent. I agree with its effect.

I want to clarify a thing or two and make a couple of brief observations. First of all, I want to be sure I understand correctly, if we are to adopt the Nickles amendment, that nonetheless, the result would be an increase in spending for the legislative branch in the next fiscal year over last year. So the talk of cuts is really reducing somewhat the rate of increase in the appropriation.

Mr. NICKLES. The Senator from Colorado is exactly correct.

Mr. ARMSTRONG. And do I understand that as the bill came to the floor, it called for an increase of approximately $122 million in 1991 over 1990?

Mr. NICKLES. No. The yield, the increase when the bill came before us, called for an increase of $245 million. That is a total legislative branch increase in 1991 from 1990.

Mr. ARMSTRONG. Then where did I get the $122 million? I see that listed as the figure on the front of the committee report.

Mr. NICKLES. If the Senator would yield further.

MR. ARMSTRONG. I see it is the difference between——

Mr. NICKLES. I expect that is the increase excluding the House.

Mr. ARMSTRONG. I thank my friend for explaining that. So as the bill came to us, it was an increase of $245 million, or about what percent 11 or 12 percent?

Mr. NICKLES. 12½ percent.

Mr. ARMSTRONG. After the adoption of the Nickles amendment, there will be a remaining increase of about——

Mr. NICKLES. 6.4 percent.

Mr. ARMSTRONG. Mr. President, I do not know whether 6 percent is the magic number, or 7 percent is a good number, or 4 percent would be a good number. But it appears to me that there are a lot of individuals and families and companies out there trying to get by on an increase that is much smaller than 12, 10, 11, or even 6, 5, or 4 percent.

In fact, out our way, there seems to be quite a few people trying to get by on the same amount they had last year; and even some, I hate to tell my colleagues, are getting by on a little less. And a few on quite a bit less. The notion somehow there is inevitable year-by-year growth in the rate of spending for every worthwhile function simply cannot be permitted to pass unchallenged.

I do not want to debate it at any length, but the idea that somehow a 4-percent increase or a 5-percent increase or a 6-percent increase, let alone a 12-percent increase, is just inevitable or to be accepted, and that somehow scaling back even as the Senator from Oklahoma wishes to do is arduous or draconian, or is a stringent measure, just does not square up with the way that most of the constitutents live, or the way the rest of the world works.

Even the prosperous corporations in America, and especially those who want to remain prosperous, have found that they had in many cases to reduce their actual year-to-year expenditures; not just reduce the rate of increase, but in fact cut back on functions which formerly seemed to be important to them, on functions which is past years, they thought they could afford, and in some cases, thought they could not afford to get along without.

So, Mr. President, I think the Senator's amendment is well advised and well justified, just on the simple ground that this is a time when we are trying to get the Federal deficit under control, and Congress certainly is not exempt from that process.

But, Mr. President, there is a larger issue here. Sometime in the next 24 or 48 hours, we are going to be called on

to vote for a big tax increase. It is no secret to my colleagues that I am not going to vote for that. But there is a likelihood, I think a probability, that most Members, a majority, are going to vote for a big tax increase, maybe the largest tax increase in the history of this country.

Here we are, teetering on the brink of a recession, and we are getting ready to increase taxes. I cannot help wondering if there would not be some symmetry, some sense of proportion and justice, and just common sense, to the idea that in a moment when we are asking our constituents to take a huge whack, an average family to pay hundreds of dollars a year more in gasoline tax and income tax, in taxes on luxury commodities, on automobiles, on their health insurance and other tax payments, if maybe we could not also show an example of restraint in how we spend their money.

We are asking them to make a big sacrifice. We are talking about families who did not have a pay raise last year, in many cases. In many cases, they actually took a pay cut after adjusting for inflation. We are saying in addition to this that we are going to whack you with a big tax increase.

Could we not at least go back to them when we go home, if we ever get to go home, and say, "At least, folks, we were willing to scale back on our own expenditures," maybe not permanently, maybe not 2 years in a row or 3 years in a row. We are not talking about a freeze, but just once there was a little dip in the graph of increase in spending for the legislative branch.

This is not a big issue as a percentage of the total Federal budget. We are talking about, I guess, less than 2 percent of the total Federal budget will be spent on the legislative branch. But, it is a big issue in terms of leadership. I think any leader will say that, whether you are leading troops or a sales force in business or a Boy Scout troop or whatever it is, that leader is a person who shares the hardships of those he seeks to lead. Indeed, particularly when they were asking sacrifices of those that they were providing leadership for, many leaders have thought it important for them to set the pace, to be an example, in fact, to show more willingness to bear the burden than they were asking others to bear.

That is the real question that is involved in this amendment, more than the money. Mr. NICKLES is right on the money. But more than anything else, it seems to me it is a question of leadership, it is a question of setting the example.

I listened with great interest as our distinguished colleague from West Virginia talked about the men and women who are the staff of the Senate. Honestly, what he said touched my heart. In fact, sometime in the next day or two before we adjourn I am going to make a little speech on the floor about that myself. I agree with practically everything he said.

In the 12 years that I have been in the Senate, I have encountered men and women of talent and ability and creativity and dedication. I have learned a lot from them. In many, many cases they have been better informed and more intelligent and men and women of greater stamina than I am able to bring to this process. I am indebted to them. The people I serve are indebted to them. They take great responsibility. They perform their tasks superbly well.

I have had the privilege of working with some outstanding people in the private sector, and I will match up the men and women of the Senate and of the Appropriations Committee, and of the Finance Committee and of the other Committees and those who work here on the floor and elsewhere with the best that anybody can find in the private sector or in universities or voluntary agencies. They are great. That is not the issue in this amendment.

To try to say that because Senator NICKLES wants to restrict to no more than, say, 6 percent the rate of increase, that somehow that is a slur on the reputation or on the character or contribution or the ability of these talented and dedicated men and women just does not add up, in my book, and I did not want to let that pass without noting it. I think they are great, and I am going to speak about it in greater length and in more specific terms sometime before the week is over.

That is not the issue. I think the issue is leadership, and the quality of leadership that is called for in this particular case, I believe, on a lot of these appropriation bills is the scale back. I think it is important to scale back HUD. I think it is important to scale back the Defense Department and HHS and Justice and Commerce. Practically every function of Government needs to grow a little less rapidly.

But particularly the legislative branch, the policymakers, ought to be able to control their appetites to a standard of at least moderate increases. I personally would be much more comfortable if the Senator from Oklahoma had proposed an amendment that limited the rate of increase to last year's level, no more than last year. I would have even been a little more comfortable if he had said maybe for next year 99 percent of last year. Now that would have been a gesture that I would have appreciated and would have approved of. I think he did not do that because he realized it is going to be tough enough to get this amendment adopted.

I do congratulate him for bringing it before us. I think he is right. I hope my colleagues will approve the amendment.

In closing, I would just like to ask if he would be kind enough to add me as a cosponsor to his amendment.

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senator from Colorado [Mr. ARMSTRONG] be added as a cosponsor, as well as Senator SYMMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I am pleased to be a cosponsor of this important amendment. The legislative appropriations bill provides over $2.1 billion to fund the operations of Congress in fiscal 1991, more than $200 million above the appropriation for 1990. Adoption of this amendment would cut the proposed increase in congressional spending by about half and leave Congress with an increase of $100 million over last year.

I don't believe it is too much to ask—in fact it may well be too little to ask—for Congress to limit the increase in its own funding to $100 million over last year's level. With the Nation facing a staggering budget deficit caused by profligate Federal spending and with Congress threatening to impose hefty new taxes on the American people, I believe this 5-percent reduction in the bill to fund Congress' own operations is entirely appropriate and would be strongly supported by our constituents.

I recently returned to the Treasury more than $102,000 of my office expense account and have made a habit of returning at least that much money every year since coming to the Senate in 1981. I know Congress could get by with less money for its annual operations. As I have pointed out, this amendment would still leave us with an increase over last year, but it is a real step in the right direction, and most importantly it indicates we are serious about getting the deficit under control.

The buck has to stop here. I urge my colleagues to vote for the amendment.

Mr. NICKLES. Mr. President, I ask unanimous consent that three tables that I have be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1991 LEGISLATIVE BRANCH APPROPRIATIONS

	1990	Fiscal year 1991 House bill	Amount over 1990 (dollars)	Amount over 1990 (percent)	Fiscal year 1991 Senate bill	Amount over 1990 (dollars)	Amount over 1990 (percent)	Nickles 5-percent cut plus mail freeze	Amount over 1990 (dolalrs)	Amount over 1990 (percent)	Nickles under fiscal year 1991 Senate
Senate	392,428,600	442,582,500	50,153,900	12.78	442,582,500	50,153,900	12.78	409,231,975	16,803,375	4.28	33,350,525
House	603,043,500	667,819,000	64,775,500	10.74	680,770,000	77,726,500	12.89	648,392,500	45,352,000	7.52	32,377,500
Title I	1,336,971,100	1,470,864,850	133,893,750	10.01	1,507,723,500	170,752,400	12.77	1,421,115,925	84,144,825	6.29	86,607,575
Title II	604,942,000	671,351,940	66,409,940	10.98	679,278,000	74,336,000	12.29	645,314,100	40,372,100	6.67	33,963,900
Total W/O House	1,338,869,600				1,506,231,500	167,361,900	12.50	1,419,698,525	80,828,925	6.04	86,532,975
Total	1,941,913,100	2,142,216,790	200,303,690	10.31	2,187,001,500	245,088,400	12.62	2,066,430,025	124,516,925	6.41	120,571,475

Notes:
In order to provide fair comparisons, Senate and House mail costs, including House arrearages, are reflected in Senate and House items. The summary provided on page 4 of S. Rpt. 101–533 included fiscal year 1990 House and Senate mail costs as a joint item, reflected 1989 House arrearages as a fiscal year 1990 joint item, reflected 1990 House arrearages as a fiscal year 1991 joint item, reflected fiscal year 1991 Senate mail costs as a Senate item, and did not include fiscal year 1991 House mail costs. The presentation of the Senate report summary, therefore, does not provide fair comparisons between fiscal year 1991 and fiscal year 1990 totals.
Senate Buildings and House Buildings are included in title I as an Architect of the Capitol item and are not reflected in Senate and House items. The summary on page 4 of S. Rpt. 101–533 treated such accounts as House and Senate items and does not reflect the House Buildings account.
To allow comparisons, the Senate entry in the fiscal year 1991 House bill column reflects the amount reported by the Senate Appropriations Committee; such funds were not included in the House-passed bill.
Items under the fiscal year 1991 House bill column assume application of the Penny 2 percent reduction amendment to all items uniformly.
Items under the Nickles proposal assumes application of the 5 percent reduction amendment to all items uniformly.
Items under the fiscal year 1991 Senate bill column do not reflect application of the Penny 2 percent reduction amendment.
Source: Prepared by the Office of Senator Don Nickles—Oct. 24, 1990.

LEGISLATIVE BRANCH SUBCOMMITTEE BUDGET AUTHORITY

[Dollars in millions and fiscal year]

Legislative Branch	1986	1987	Change from 1986		1988	Change from 1987		1989	Change from 1988		1990	Change from 1989		1991 Senate	Change from 1990	
			Dollars	Percent		Dollars	Percent		Dollars	Percent		Dollars	Percent		Dollars	Percent
Total budget authority	1,600	1,635	35	2	1,745	110	7	1,804	59	3	1,941	137	8	2,817	246	13

Senate Appropriations Committee estimates.

Senate officers and employees salaries: $7.3 million, 13.7 percent.
Senate Sergeant at Arms: $16.7 million, 22.8 percent.
Senate official mail: $11.8 million, 49.9 percent.
Miscellaneous items: $1.3 million, 19.0 percent.
Congressional Budget Office: $2.0 million, 10.2 percent.
Capitol Buildings and Grounds: $23.8 million, 22.0 percent.
Congressional Research Service: $6.9 million, 15.1 percent.
Library of Congress salaries/expenses: $21.8 million, 13.5 percent.
Copyright Office salaries/expenses: $3.1 million, 15.3 percent.
Library of Congress furniture: $2.4 million, 94.7 percent.
GAO salaries/expenses: $55.3 million, 15.5 percent.
Many other accounts under one million dollars increase at rates in excess of 10 percent under the Senate bill:
Legislative Counsel, 19.4 percent.
Legal Counsel, 13.6 percent.
Secretary of the Senate, 10.4 percent.
Joint Committee on Taxation, 19.5 percent.
Capital Guide Service, 12.8 percent.
Botanic Garden, 35.9 percent.
Copyright Royalty Tribunal, 25.7 percent.
All of the items outlined above are in addition to House accounts.

Mr. REID. Mr. President, I want to make sure that the Senate understands that, in addition to this cut, there is going to be another one of approximately $12 million sought by the Senator from Oklahoma to Senate mail. Remember, 80 percent, approximately, of the increases in this budget, simply provides a current services budget. That is all it does.

I think Senator LEAHY's statement is right on the mark. If someone feels their staff is getting too much, services too much, they can turn that back.

I also suggest that we have a lot of things that have been in disrepair, some of which we have talked about. I hope that the Senate does have a soul, as the President pro tempore mentioned.

Mr. BYRD. Mr. President, I will speak less than 2 minutes, and then I will move to table.

Mr. President, the Senator from Colorado [Mr. ARMSTRONG] I believe, stated that the appropriations for the legislative branch, something like $225 billion, would be something like 2 percent of the total budget. In fact, I think it would be less than two-tenths of 1 percent; a little over $2 billion out of $1.434 trillion. That is one seven-hundredths of the total budget. So that is not 2 percent of the total budget. That is less than two-tenths of 1 percent.

Finally, let me say for myself and for all those who vote to support this motion to table, I am not saying we should not make some cuts. I am not saying we should not show some restraints. I have not said that at all. I am simply saying let us cut out the warts. Let the Senator from Oklahoma and the other Senators on the subcommittee, bring in the specific cuts, make their cases, and let the Senate vote.

That could have been done in the subcommittee before the bill was brought to the full committee. We did not have to wait until we got on the Senate floor and make broad cuts. So let us make the cuts, bring them up in the subcommittee, bring them up to the full committee and, as chairman of the full committee, I will be glad to entertain those cuts. If they are individual cuts, I will probably support most of them if the case can be made.

So we are not saying that the legislative branch should not show self-restraint. I am not saying that at all. I have not said that, and the record will so show.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 3143. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. DECONCINI], and the Senator from Georgia [Mr. NUNN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Oregon [Mr. HATFIELD], the Senator from Mississippi [Mr. LOTT], and Senator from New Hampshire [Mr. RUDMAN] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay."

The PRESIDING OFFICER (Mr. SIMON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 32, nays 60, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—32

Adams	Inouye	Pryor
Bentsen	Johnston	Reid
Burdick	Kennedy	Riegle
Byrd	Kerrey	Rockefeller
Cranston	Lautenberg	Sanford
Daschle	Leahy	Sarbanes
Dodd	Lieberman	Sasser
Ford	McClure	Simon
Fowler	Mikulski	Stevens
Gore	Mitchell	Wirth
Hollings	Moynihan	

NAYS—60

Akaka	Durenberger	Lugar
Armstrong	Exon	Mack
Baucus	Garn	McCain
Biden	Glenn	McConnell
Bond	Gorton	Metzenbaum
Bradley	Graham	Murkowski
Breaux	Gramm	Nickles
Bryan	Grassley	Packwood
Bumpers	Harkin	Pell
Burns	Hatch	Pressler
Chafee	Heflin	Robb
Coats	Heinz	Roth
Cochran	Helms	Shelby
Cohen	Humphrey	Simpson
Conrad	Jeffords	Specter
D'Amato	Kassebaum	Symms
Danforth	Kasten	Thurmond
Dixon	Kerry	Wallop
Dole	Kohl	Warner
Domenici	Levin	Wilson

NOT VOTING—8

Bingaman	DeConcini	Nunn
Boren	Hatfield	Rudman
Boschwitz	Lott	

So the motion to lay on the table amendment No. 3143 was rejected.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the Nickles amendment.

The amendment (No. 3143) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3144

(Purpose: To reduce the appropriation for fiscal year 1991 official mail costs to fiscal year 1990 levels)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] (for himself, Mr. HELMS, Mr. PRESSLER, and Mr. WILSON), proposes an amendment numbered 3144.

On page 6, line 22 strike "$35,500,000" and insert in lieu thereof "$23,688,000".

Mr. NICKLES. Mr. President, for the information of all of my colleagues, I am sure my colleagues are aware the majority leader has indicated there will be no more votes tonight.

This amendment basically would reduce the mail account for the Senate from $35.5 million to $23.688 million. That is the same amount that we appropriated last year.

I might also mention for my colleagues' information that for fiscal year 1990 we actually spent $17 million. I do not know that we have the exact figures, but about $17 million. So actually if we went with the $35.5 million we are looking at it would be almost a 100-percent increase over last year's actual mail cost.

The amendment that I have would say, well, we should not appropriate any more money than we did last year. It would leave it at last year's amount. It would save about $12 million.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I yield to the chairman of the Rules Committee.

Mr. FORD. Mr. President, I think it is my responsibility as chairman of the Rules Committee to explain what this really will do.

This amendment would reduce the appropriation for official mail for Members to the 1990 level. The reduction means that no Member from a State with three or more congressional districts will be able to send out one statewide mailing. That is what it says.

Let me make another point very clear, Mr. President. The appropriations for the House is based upon three districtwide mailings at first class postal rates. The appropriations bill as reported for the Senate was based upon one statewide mailing at third class postal rates. That is what the original funding was.

The Committee on Rules and Administration recommended sufficient funds for each Member to have one statewide mailing because it felt that one mailing was fair and it was reasonable, and it is at third class rate.

Under the amendment, the equivalent statewide mailing will be 0.67—that is 0.67—for States with three or more congressional districts, one for States with two congressional districts, and 1.33 pieces of mail for States with one congressional district.

These allocations include postage costs for responses to the constituents and mass mail.

My statement is made in the effort to explain what this amendment will do.

We have had an increase in mail costs. Postage has gone up.

There have been some additional residents since last time. There has been some shift in population since last year. What we are saying, out of this amendment, Senators cannot mail one statewide mailing. I say to the Chair, he would get 0.67 pieces of mail for his constituency, and then have to take out of that his response mail.

So when you start cutting around here, it sounds like it is good. Then you say, well, all the costs have gone up, and we are not even close to where we were last year in the ability to mail.

So, Mr. President, I have worked hard to reduce the mailing costs of this Senate. I have worked extremely hard. We do a lot of things that my colleagues do not like. But the House is now coming around to some of those things. When they get three mailings per district, and first-class mailings, and the Senate cannot get one piece of mail to its constituents, I think it is absolutely wrong as it relates to what we are doing to ourselves.

This is trying to be fair, and is only a third of what the House does. If we just mail as many mailings as each Congressman has, think what that would do. It would be $180 million, Mr. President. But we are only asking for a little over $30 million in this piece of legislation. I think it would be a detriment to all of our colleagues if they could not have at least one mailing per constituent.

I yield the floor.

Mr. REID. Mr. President, at third-class rates, the House allowance provides the equivalent of roughly six districtwide mailings. If the Senate did the same thing, it would cost $190 million, instead of the amount that we have in the bill.

I want to notify all the Members of this body, after the vote that we just went through, personally, that I am not going to ask for a rollcall vote on this. I think it would be an exercise in futility. We cannot get Members to support the Rules Committee, which has worked tireless hours trying to assure a reasonable but cost-conscious approach to the mail. It has been done on a bipartisan basis. But I do not know of what benefit it would be for us to vote on this amendment.

Remember, a year ago, there was a rule that you could have six statewide mailings. Of course, there was no money for it, but that is what the law said. We cut that back to three. We eliminated that in this year's law. Why have anything in it relating to the number of mailings, because there is not even enough money to do one. We took it all out of the law.

So everyone should understand when they are crying about their mail, right here is where it is funded. We do not have anyone here defending the committee recommendation, except the chairman of the Rules Committee and the ranking member; they are the ones trying to protect everybody's needs for the mail. But the money for mail is right here.

Unless there is a request from someone for a vote, I am going to accept

the amendment of the Senator from Oklahoma.

Mr. MOYNIHAN. Will the distinguished chairman yield for a comment?

Mr. REID. I would be happy to yield.

Mr. MOYNIHAN. I say, sir, that the momentary advantage of a measure such as this will obviously prevail. But we are tampering with a tradition of communication between the Congress and the American people that goes back in our records to 1791. That was when the first franked printed newsletter came out of Philadelphia, as it then was, and the first recipient we have on record, I believe, is from South Carolina.

This has been an aspect of the American democracy. It has been something that has distinguished it from other democracies. For two centuries, we have written to our constituents. Now all of a sudden we find this a burden that the Nation cannot sustain. While we go about and raise a fortune for television and other modes of communication, we tamper with an institution of this body.

I would like to thank the chairman for defending it, even though there are those who know little of what large consequence we deal.

Mr. STEVENS. Mr. President, the great difficulty with this amendment is that it really is just a continuance of a concept of whittling down our ability to communicate with our constituents.

I remember the day that I walked into my office after the invasion of Cambodia, and I found a room full of telegrams. We could hardly get through the door. We thought then it was a big mailing that we had to face, but we did answer all of those telegrams.

Our mail now runs greater, on a daily basis, than it did after the invasion of Cambodia. Almost every single entity or organization I know is asking our constituents to write to us. We used to have just one woman in my office who opened the mail. Now we have two. I think that we have reduced the cost of mailing for the Senate by almost two-thirds, and now we are faced with the question of reducing it down again.

I represent a State that is one-fifth the size of the United States, and many of the little towns and villages of my State have no daily papers. They get news over a public radio station, but they do not tell them what the Government has done that might affect them.

From time to time, we may mail what I call rifle shots; 100 letters to this village and 75 of that one. There is no way to get information to those people in remote areas about what has happened here in Washington that affects their lives without a newsletter.

This bill will allow me to send one of those to each resident in my State annually—one. I think that some people are losing perspective in terms of what is savings and what is responsibility. We face the cost of appropriating for the executive branch and the judicial branch without much question. But somehow or other, in the interest of demonstrating to our electorate that we are fiscally conservative, we have to continue to whittle away at our ability to communicate.

I am going to abide by the wishes of the chairman. For myself, I am prepared to vote on it. I would have no problem at all in voting on this and, defending the vote. We have demonstrated our fiscal conservatism in this body in the last year, but I do not think we should start denying the ability of a Senator to meet his or her responsibility to communicate with constituents, and to tell them how our actions have affected them.

If anyone thinks that the people in the press gallery tell the people of Holikachuk or Unalakleet or Shishmaref what happend to them, they are crazy; they are flat out crazy.

I, for one, wonder about the future of this institution, if we do not have the intestinal fortitude to stand up to some of our critics. Some groups send out direct mail to constituents and point out the cost of our mailing, and yet these groups are sending their mail out, as a nonprofit basis, which is subsidized. Their mail is costing the taxpayers more than our mail costs.

But I tried once to limit that abuse, and no one would listen to me. This body was not about to stop nonprofit mailings. I cannot believe that we are going to reduce this proper cost and continue to reduce our ability to inform the public.

As a matter of fact, the Constitution, as Senators know, protects the right of an individual to contact a Member of the Congress. In my office a communication to me as a Senator is privileged. We would not disclose it to anyone unless the person who wrote to us permitted us to do so. I think that is a constitutionally protected right.

But does not everyone who writes to us have a right to get an answer? How far are we going in this drive to try to demonstrate that we are fiscally conservative?

Would we not be more conservative if we walked in here in shorts and underdrawers and demonstrated we did not spend money for clothes?

What is going on is undressing the Senate and telling the people we do not have enough sense to know when we should and should not mail.

As a matter of fact, I think the Senate owes my friend and colleague, the chairman of the Rules Committee, a great deal of thanks. We have and every Member who appeared before the Rules Committee knows we have been very tight fisted with money. What is more, the money that has been allocated to individual Senators this year has not been used. We have controls now. We know precisely who mails and how much they mail and when they mail.

We have set prohibitions. You cannot mail 60 days before an election, both the primary and general election. We are not abusing this mailing privilege.

There were abuses in the past. I think we have controlled those excesses. But it is time now for some people to understand what they are doing. There are other provisions of the bill with which I do not agree. They are going to cause great deal of trouble and embarrassment for us.

The net result of this is that people will raise more campaign money. Remember this: We are trying to stop people from going out and being campaign fundraisers for the first 6 years of their terms. If you cannot get the money through official allowances, people are going to go and raise money and they are going to raise it from the same groups that people say it is wrong to take from.

I can tell you, with one or two exceptions in my time here, now 22 years, I have never had a constituent accuse me of wasting money by sending him or her a newsletter that was informative. There are a couple of them who said they did not think it was too informative. But they write back about the content, not about the fact they received a newsletter. I would hope that somewhere we will get some common sense in dealing with this issue.

There are other issues in this bill that are coming up. I hope we get a time while other Members are listening to explore them. We are sort of talking to the choir here to a certain extent. But, I think the proposal is wrong. I think it is wrong to have a decision to reduce the ability to mail letters to our constituents given the limited amount we now have.

Mr. REID. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. I yield.

Mr. REID. As he has established and the senior Senator from New York has established, this mail that we send out is not a new perk we developed in the last 10 years. It is something that has been in existence since 1791; is that not right?

Mr. STEVENS. That is correct. I tell the Senator when I came here everyone in the Senate was sending out one newsletter a month. We now have the ability to send out one letter a year?

Mr. REID. It is only 67 letters a year; that is what we have here, be-

cause that is the effect of this amendment.

Mr. STEVENS. I realize that the amendment will take it down. I am talking about what was in the bill. I understood it allowed one mass mailing per year.

Mr. REID. Will the Senator yield for another question?

Mr. STEVENS. Yes.

Mr. REID. If a Senator does not want to use his mail allowance, he does not have to; is that right?

Mr. STEVENS. That is right.

Mr. REID. They can, in effect, turn it back to the Treasury, if they do not use it; is that not right?

Mr. STEVENS. I have seen Members who did that and literally had a check drawn by the disbursing office to go back to the Treasury for that purpose. There is nothing wrong with that. However, some people who come from States like mine, I believe is a necessity to mail newsletters.

I tell the Senator on two occasions this year I supplemented my fund with political funds to send out mail to people I felt was necessary. I did not do it within the blackout period, but I have done it in this year because of the developments in my State?

Mr. REID. Will the Senator yield for a further question?

Mr. STEVENS. Yes.

Mr. REID. If the Senator will respond to this, when I served in the House of Representatives he was in this body at the time that the withholding on savings accounts controversy arose. He can probably remember as well all the thousands and thousands of pieces of mail that came in on that issue. Does the Senator remember that?

Mr. STEVENS. Yes.

Mr. REID. In the House there was a Member who received all that mail just like the rest of us. He took all that mail and threw it in the garbage, did not answer a single letter that the people wrote to him about that very major issue. That was a privilege he had, is that right?

Mr. STEVENS. Yes.

Mr. REID. He was the only one out of 435 Members in the House who did not respond to their constituent's questions. I believe the Senator from Alaska has been here a lot longer than I have, but I believe that is a responsibility we have when someone writes to us that we should respond to them. Would the Senator agree?

Mr. STEVENS. It is my policy, I say to my friend, to answer every letter I get from an Alaskan.

Mr. REID. Under the present situation if we had a controversy such as the withholding of interest on savings accounts, the Senator understands that he may not be able to answer all those under the budget he now has?

Mr. STEVENS. That is correct.

I might say to my friend when I was visiting with some of the members of parliament from Great Britain, I asked them what they do with their mail. They have a card that they send out and for every constituent who writes to them there is a card sent back, a card that says, "Your communication is being received and is being duly noted."

I was interested because I wonder if it would save us money if we did that. I wonder if the Senator from Nevada realizes that the cost of our news letter that go out from the mailing room that are properly sorted according to zip code and bundled is lower than the cost of sending out a postal card. We are sending these now at the lowest reduced rate of presorted and bundled by zip code mail, and therefore the cost to the Senator has been reduced. Not only have we reduced the amount that we can send but we have reduced the cost of what we send, too. It is very efficient. It is as efficient as you can get in terms of our modern mailing tactics for anyone in the private sector.

But again the real problem is what is our responsibility. I agree with the Senator on that. What is our responsibility? And every Senator's responsibility is different, at least every pair of us is different, because we represent different constituencies.

I do not think a lot of people who appear on the floor who object to this mailing account understand my State. I wish they would come and travel with me. As a matter of fact, I wish I were home right now. I am a candidate and have not been home since August.

My constituency is farther from me now than I would be at if I were in Tokyo. The distances in this country are very vast and great and more vast in my State then anywhere else.

Sending out a newsletter is an individual decision. If my people want to vote me out of office for sending 12 newsletters in a year, the fact I am here shows they were not really too upset with those 12 newsletters during the years I first got here.

I tell you, Mr. President, the real thing that bothers me is that in order to secure an approval and applause from the bunch of people who do not understand government we have taken the position that we should continue to reduce the funds to run this Senate beyond what is necessary. I think this bill provides a minimum amount necessary, one mailing per constituent per year. That to me is an absolute minimum.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before the Senator from Alaska leaves the floor, I would note that the areas in his State, of course, are vast. The State of Nevada is much smaller than the State of Alaska, but it is still a large State. It is the sixth largest State to travel from a place like Laughlin, NV, Winnemucca is 600 miles. It is not often we can get to those places. The only way we can really keep them informed of all the highways and byways in that 600-mile district, except for Reno and Las Vegas which have air service, is through the mail.

So I hope everyone in the Senate understands, when they cannot communicate the way they want, that this amendment is the reason.

Mr. NICKLES. Mr. President, I appreciate the comments that were made by my friend and colleague from Alaska and also from Nevada as well. Again Mr. President, I would just state that the amendment that I have would mean that the appropriated amount would be the same thing as we had last year. We appropriated last year $23.7 million; we did not use it all. We actually only mailed last year, estimates are, about $16.4 million. So we did not even mail all the $23 million.

Now granted, some Senators did and some Senators did not mail any. But the fact is I do not think the American people were deprived of their mail last year. I do not know that constituents were crying to us to please send us more newsletters, please send us more town meeting notices.

The amendment that I have would provide $23.6 million; that is an average of $236,000 per Senator. That is not an insignificant amount. That is significantly over what we have actually mailed in fiscal year 1990.

Mr. President, I do not think this is a draconian change. Basically it leaves the appropriated amount for Senate mail the same as last year. I urge the adoption of the amendment.

Mr. STEVENS. Will the Senator yield for just a minute before he gives up the floor?

Mr. NICKLES. Yes.

Mr. STEVENS. Would the Senator agree that the amount that was appropriated last year was appropriate.

We did not spend all the money we had last year, and I think that is good.

Does the Senator agree with that, He implies there is an undue increase here.

FURTHER CONTINUING APPROPRIATIONS—FISCAL YEAR 1991

The PRESIDING OFFICER (Mr. BURDICK). Will the Senator yield for an announcement?

Pursuant to the previous order, House Joint Resolution No. 681 is deemed considered, read a third time, and passed and the motion to reconsider the vote is laid upon the table.

So the joint resolution (H.J. Res. 681) was passed.

LEGISLATIVE BRANCH APPROPRIATIONS ACT—FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

Mr. NICKLES. Mr. President, I appreciate my friend's question. I am not sure I totally understood it. There may or may not have been a carryover. I am not aware of that, but the facts are that in 1990, at least according to the record that I have, we actually mailed less than $17 million in the Senate.

Mr. FORD. Would the Senator from Oklahoma yield?

Mr. NICKLES. I am happy to yield in just a second.

We appropriated last year $23.7 million, so we did not mail as much as we appropriated last year. I want to congratulate and compliment my friend, Senator FORD from Kentucky and also Senator STEVENS from Alaska because they worked with us, and Senator REID, and we pushed and we had a big battle last year on the floor of the Senate on mail reforms. Some of those mail reforms have taken effect. Some of them had some real bite to them and we have seen a significant savings or cost reduction in Senate mail. The House now is making similar reforms and hopefully they will have similar reductions.

Mr. STEVENS. Mr. President, if my friend will yield again, the comparison of the practice in the House and the practice in the Senate is day and night. But in terms of the amount that was made available per Senator last year, that is what was in this bill. Now there are a lot of Senators who do not mail and therefore that savings is there, and I encourage Senators not to mail. But as long as we are going to have uniform accounts, every Senator has to have available the same amount of money on a per capita basis.

In order to make savings that the Senator wants to make, instead of taking away from the people who are not going to mail, the Senator is going to take away from this Senator who does mail. This amendment is inflexible.

It will put us back in the situation we were in when I was a freshman Senator at one time and we used to get stamps. Did the Senator know that? In order that we not have some of the reports about how much people mailed, we had stamps. We had to go to the leadership and get stamps.

If the Senator wants to go back to the idea of waiting in line at the majority leader's office to get rolls of stamps to get for people to put on envelopes because we do not want to frank them and go through that disguise, maybe we could go back there, I do not prefer that.

We reformed the Senate and the Senate now has full disclosure of all accounts and all that we spend. Anyone can find out how many of these I mail and what it costs the Government, and I am pleased to defend that. But the Senator's amendment has no flexibility. It will not allow the Senator who does not want to mail to make that decision for himself or herself and instead makes the decision for me that I cannot mail at least one piece of news per year to each of my constituents.

Mr. FORD. Mr. President, did the Senator from Oklahoma yield the floor?

Mr. NICKLES. Yes.

Mr. FORD. Mr. President, the point that my colleague from Alaska just made is precisely the point I wanted to make. What the Senator from Oklahoma is doing is saying to those who want to mail, you cannot mail. To those who do not mail, it does not make any difference.

So when you cut across the board, then you say that you are forcing upon the Senators from a State like Alaska that has long distance, small communities, little mail, no newspapers, that he cannot mail to those people.

So what you are doing here is saying to those who do not mail—I do not mail mass mail. I do not mail newsletters, so your cut does not bother me one iota, but it does bother and reduces that individual that wants to mail. Then you are going to turn around and ask us, with an amendment, and say, I cannot help that colleague of mine who needs some money to at least send out one mail to his constituent that wants the mail. His next amendment would say I cannot do that.

Mr. STEVENS. Would the Senator yield?

Mr. FORD. I am delighted to yield, Mr. President.

Mr. STEVENS. Mr. President, would the Senator accept just a request? We do have newspapers, but they are not a Washingon Post in each village.

Mr. FORD. I apologize. I was just quoting what the Senator was referring to. Referring to the Washington Post getting to Alaska, you may be lucky.

Mr. President, what is happening here is that the Senator from Oklahoma is imposing upon all Senators a reduction. Forty-four of those Senators do not mail; that is where the savings are. They turn that money back. It seems to me that this is an unfair amendment.

Now those who do not mail, cut them, but at least those Senators that would like to mail, let them at least have one mailing to their constituencies. That is all, and that is fair.

The reduction is because Senators are not using the funds for mass mailings, and that, I think, is a compliment. But others have real reasons to do it. I think the Senator is being unfair to all of the Senators.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, again I do not want to be too repetitive, but the amendment I have did not take us back to the level we actually mailed last year, about $17 million. The amendment that I have introduced, takes us back to the amount we appropriated, $23.7 million. And, so, we had that amount appropriated. The Rules Committee allocated that amongst Members last year. They would allocate it amongst Members this year.

Mr. FORD. Will the Senator yield for a question?

Mr. NICKLES. I will be happy to yield.

Mr. FORD. How much did the postal rates go up?

Mr. NICKLES. I do not recall.

Mr. FORD. They went up considerably. And we add that on and you take that away.

You continue to nibble away, and you are more devastating than I think you realize, as it relates to the cut in the ability of a Senator to communicate with his constituency.

As I said, Mr. President, the Senator does not bother me any because I do not send out mass mailings, but he certainly is cutting other Senators who would like to, roughly 55 of them. I think you find when this is all over and Senators start coming around to me and ask me to help, I am going to say, "I voted right. You voted to cut your own mail, not me."

Mr. STEVENS. Will the Senator yield for one last question? I am not sure I am going to agree this is going to be voted tonight, by the way.

I would like to ask one last question tonight, and that is this.

If the Senator says this is to be made available to people who did not mail last year, what are we going to do with the new people who come in? Are we going to make the decision for them, they cannot mail? Because there is just enough money in here now for the people who mailed this last year to mail with the increased cost of mail. Does the Senator intend to say, only those people who mailed in the past are grandfathered-in and there are no allowances?

The two of us who sit there on the Rules Committee have allocated this money fairly. The only way it has been allocated fairly in the past is by population on a formula, and that means that there is not enough money here to say everyone has the same access because we have to presume those who did not mail last year, in fact, may want to mail next year. Further, we have to understand that some of the people who made the decision not to mail last year, may not be here

next year. Their successors may understand communications a little bit better, and decide to send at least one mailing per year.

Does the Senator intend for us to establish a new system of allocation?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, to answer my friend from Alaska, last year we spent $17 million. There is ample room. There is a $6 million increase. Granted, not everybody mailed last year. I did not mail. I do not think I used—maybe half the mail I was allotted. My colleague mailed almost zero. There are a lot people who do not use mail.

There may be some new colleagues who come in who want to use the mail, but again we have a significant increase, if we go from $17 to $23 million. I happen to think that is enough. Maybe I am wrong. We can have a chance to vote on it but my amendment says, well, let us appropriate the same amount we did last year. We did not use it all last year. As a matter of fact we probably used only about 70 percent of it, if that is right. We used $17 million out of $23 million.

I say why go from $17 million to $35 million? I think we should not appropriate any more than we appropriated last year. Last year was enough. Maybe it did not satisfy everybody's needs. There were constraints. People were not allowed to mail lots of mass unsolicited mail as we did in the past. It was a change. I will grant that. But I do not think it was a bad change. I think it was a good change. I think it will save lots of money. I will be happy to vote on a voice vote tonight, or if the Senator requests a rollcall vote, we will be happy to do it tomorrow morning.

Mr. STEVENS. Let us have the Senate approve it. I do not think we should leave it to the Rules Committee, Mr. President, to determine what is fair. We can probably establish some sort of drawing account, and say every Senator is entitled to a percentage of this per month. If he or she does not use it, it goes back to the pot the next month and the people who want to, use it. Finally in the 12th month, I would have enough to mail one letter to every person in the State that way, provided no one else decided to change their mind.

I think we have to have a new system here in that the Senate has to decide what system, if it is going to make this cut. If the Senate is going to make this cut, it is going to tell us what kind of formula to use in allocating the money because I can tell my colleagues now, there is not enough money in your amendment to allow every Senator to make one mailing.

Are we to tell a new Senator, say from California or Michigan or one of the larger States, what the most they can get is? They have to decide. Who will you mail to? Pull the names out of a hat? You can only mail to one out of every four of their constitutents? That is what this amendment is going to do to the large States.

It is not right, in my opinion, to make that judgment. We can guarantee the Senator that we will have savings. We will not spend the full amount. We never do. That is why this amendment is a little smoke and mirrors. We did not spend it last year. We did not spend it the year before.

He is cutting it down to about where we ended up spending last year after the collective decisions of 100 separate Senators on how much they would use, but the Senator is making the decision this year. The decision will be made by the amendment Senator from Oklahoma, and I think the Senate ought to realize that.

If he is going to do that I may want to offer a series of amendments tomorrow presenting, separate formulas, and let us see which one they will take.

Maybe there are 55 Senators here that will admit that they are not mailing. If they are not, the Senator's amendment will be defeated. There are 55 Senators who use more money than this on an individual basis.

Mr. NICKLES. Will the Senator yield, though? I think he is almost confusing two amendments. Right now we have not prohibited the transfer of mail. If one Senator did not use his or her mail, it could be transferred unless a separate amendment, which I intend to offer, is agreed to. But right now, you have the same provision that a Senator has this year, to allow transfers from one Senator who does not use his or her mail to another Senator. I personally object to that too. But right now, that is available.

Again, so there is ample money for the Senators who have shown a tendency to mail, to mail to every constituent once, an unsolicited letter. So I wanted to make that point clear.

The real question is, Does the Senator want a rollcall vote?

Mr. STEVENS. If the Senator does not want to vote tonight, it is not going to be voted on tonight, and I think I have the staying power to assure that is not going to happen. But I want to tell the Senator, Mr. President, his problem is he wants to make a beggar out of every new Senator, because new Senators will be the first ones that will have to come in and ask for money to be transferred so they can make a report to their constituents.

When a Member first comes here, he or she does not even have a good mailing list, Mr. President, until you send out one mailing. They have no way of even establishing a correct file under our computer system until you make a mailing.

So the answer is, all of the new Senators would have to come hat in hand, and see one of the older Senators. I had to do that when I first got to the Senate, and I do not intend to do it again. I did not come here to have a begging bowl in order to serve my constituency. If I have to pay for the mailing, we will find other ways to pay for it. I am not going to go to another Senator and ask for his allowance to communicate with my constituents. But I am also not going to accept this amendment the way it is now.

Mr. REID. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. REID. The problem, as I see it, is that we have just been through a 2-hour debate, led by the most senior Member of this body, and it was futile. And tomorrow we can have a vote, but the result is foregone. My colleague knows what it is going to be, and I know it is going to be. We are going to run through this process, and this amendment will be adopted, unless the Senator from Alaska comes up with some amendments that may change the way people think about this.

I ask the Senator, during the night resolve whether we should vote on this issue. As I indicated in my opening statement, the Senators have to decide what they want. It is obvious, as we have determined in an earlier vote when we got 32 votes, that most of the Senate wants to beat around the legislative branch.

Mr. STEVENS. I can conceive an amendment, Mr. President, which would simply say each Senator who wishes to do so shall be able to draw from an account to mail one mailing per capita in his or her State, and that that money will be available from the general funds to operate the Senate. And you can put this total amount somewhere; do it however you want. But I can tell my colleagues how much they will spend. They will spend more money than they would otherwise spend, because there are more people mailing than the Senator realizes are mailing.

I do not think you realize that some people are not mailing in the same way. They do not blanket their States. They mail on specific issues to specific areas. I am one who believes, Mr. President, that it actually saves money if you anticipate a mass mailings coming in from these driven-type of direct mail activities; it saves money to produce what I call a rifle shot. Send mail to that city or area and give the answer that you know you are going to give if you would send out individual responses. Individual response letters, I hope the Senate knows, costs 2½ times as much as first class mail and it goes as first class. That is a response mail that is not going to be touched by this. That is a different approach.

Mr. REID. Will the Senator yield?

Mr. STEVENS. The money is needed.

Mr. REID. It is charged off against this account.

Mr. STEVENS. It saves money because the amount is less if you send out bulk mail to provide the information you know you will need to provide by answering individual letters plus you save in opening it, preparing a response, and sending it out on an individual first-class basis. It actually saves money to send out an information-type mail to the people you know have to have an answer to a question. The farmers learned that a long time ago. I am surprised people from farm country do not understand how much we spend sending out farmers notices from the Department of Agriculture. Maybe we should, each of us, take a portion of the money that is allocated to the farmers in our State to send out our letters to inform them what has happened to change the law.

Mr. REID. That might be an amendment the Senator would consider tomorrow. We do not have a lot of farmers in Alaska and Nevada.

Mr. STEVENS. I think my farmers would be pleased to let me use their allocations because they do not get notices anyway.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Was the Senator moving to a vote?

Mr. President, I send an amendment to the desk and ask for its consideration. Mr. President, I ask unanimous consent that the amendment by the Senator from Oklahoma be temporarily laid aside.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I Object.

The PRESIDING OFFICER. Objection is heard.

Mr. GLENN. Mr. President, is the Senator from Oklahoma then going to hold the floor all evening so we cannot put in any other amendments? Is that permissible?

Mr. STEVENS. Mr. President, I will solve the parliamentary situation.

I move to table this amendment.

Mr. GLENN. Mr. President, this was not my understanding earlier this evening. I thought we were supposed to stay here, and I was told if I remained here, I could offer an amendment. Now I am stymied from doing that. I think that is a good breach of faith here. I am sorry to see that. This was done in good faith earlier this evening. I was told I would be able to bring this up. I stayed around here late tonight and now I am told that the floor will not be yielded for other amendments.

I withdraw the amendment with sincere regret.

Mr. STEVENS. If the Senator will wait just a moment, I will be pleased to make a motion to table the amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Alaska wish the floor?

Mr. STEVENS. Not unless the Senator from Ohio wishes to offer his amendment. If he does not want to offer his amendment, I just as soon wait until tomorrow morning.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, what is the parliamentary procedure now to set this amendment aside so we might consider it tomorrow? Do we move it be set aside tomorrow? There will be other amendments.

The PRESIDING OFFICER. It would require unanimous consent to set it aside.

Mr. FORD. Mr. President, I ask unanimous consent this amendment be set aside.

Mr. NICKLES. Reserving the right to object, I have another mailing amendment that the Senator is well aware of.

Mr. FORD. I understand that. He has 10 percent and 5 percent and 2 percent. Pretty soon you are going to nibble away at us. What I want to do is set this aside so we can have some amendments tomorrow; that we can move to table this amendment if we want to. I do not want my rights or the right of the distinguished Senator from Alaska jeopardized in any way.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard. Is there further debate on the amendment?

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO SIGN HOUSE JOINT RESOLUTION 681

MR. REID. Mr. President, I ask unanimous consent that Senator WENDELL FORD be authorized to sign House Joint Resolution 681.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3145 TO AMENDMENT NO. 3144

(Purpose: To reduce the appropriation for FY 1991 official mail costs to FY 1990 levels)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 3145 to Amendment No. 3144.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert "$30,000,000".

Mr. STEVENS. Mr. President, what this amendment will do is to increase the amount that is in the amendment of the Senator from Oklahoma to take into account the increased cost of postage that will take affect in February, and to make available to the Rules Committee, the same amount of money to allocate that was available in fiscal year 1990.

We know that amount will not be spent, but it will be allocated according to the uniform formula.

I have discussed it with the chairman, and we will work out ways we can account for the savings, and report that to the Senate.

Mr REID. Mr. President, I express the appreciation of the committee to Senator NICKLES and Senator STEVENS. I am confident that the Rules Committee will save us money, as they did last year.

Mr. NICKLES. Mr. President, this amendment would appropriate $30 million for next year. It is $5.5 million less than originally called for under the bill, and about $6 million more than appropriated last year. In the spirit of compromise, I have no objection.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3145) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3144, as amended.

The amendment (No. 3144), as amended, was agreed to.

AMENDMENT NO. 3146

(Purpose: To prohibit the transfer of Senate official mail allocations)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] (for himself and Mr. HUMPHREY), proposes an amendment numbered 3146.

Mr. FORD. Mr. President, I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. PROHIBITION ON TRANSFERS OF OFFICIAL MAIL FUNDS.

During any fiscal year in which appropriations for official mail costs of the Senate are allocated among offices of the Senate, no such office may transfer any of its allocation to any other such office.

AMENDMENT NO. 3147 TO AMENDMENT NO. 3146

(Purpose: To modify the rules for the use of the Congressional frank for Members of the Senate)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] proposes an amendment numbered 3147 to Amendment No. 3146.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the matter proposed to be inserted and insert the following:

Subsection (a)(2)(B) of section 310, as amended is further amended by adding at the end thereof "a transfer may be made to another Member, provided no transfer may be made to another Member who is a candidate for public office during the period beginning on January 1st of the calendar year in which the Member is a candidate and ending on the date of election for the public office; and".

Mr. FORD. Mr. President, my amendment to the amendment is very simple. The original amendment said that there would be no transfer of mail accounts from one Senator to another. My amendment in the second degree limits that to no transfers in the year of election.

I think under the circumstances now, when we have reduced our amount of money to mail, there may be some influx of mail from a State we would not have from others, and come up short, and we would like to help that colleague, so he might answer his mail. I think it is only appropriate to do that.

And I hope that the distinguished Senator from Oklahoma will accept this, and that we will not have this bill linger around tomorrow.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. NICKLES. Mr. President, reserving my objection, and I expect that I will object, as the Senator is aware——

Mr. FORD. There is no objection; it is just for or against the amendment.

Mr. NICKLES. Mr. President, on the amendment, the amendment that I offered, which I did not explain, but as the Senator from Kentucky explained, it would prohibit transfers from Senators to other Senators of unused mail.

As many of us are aware, several Senators mail quite a lot, maybe half, a little over half. There is also about 40-some who do not mail very much, do not use all of their mail.

Right now, under the present situation, they can transfer their unused mail accounts to other Senators. My amendment would prohibit that. Sometimes this has been abused. Maybe it has, maybe it has not. I do not know. But at least it is open for abuse.

You can have a person who is running for reelection, say, need more mail. The Senator from Kentucky would prohibit transfer in an election year, but in the other 5 years, transfers would be allowed.

Therefore, if you appropriate, as we just did, $30 million, that is an average of $300,000 per Senator; $300,000. If a Senator does not use it—I know it varies from State to State. Small States would get less, maybe less than $100,000; big States get as much as $1 million or more. But the average is $300,000 per Senator.

So if one Senator does not use it, right now under our present rules, they can transfer their unused mail to other Senators who mail over and above their direct allocation. My amendment would stop that. The amendment of the Senator from Kentucky would prohibit that transfer only in election years.

I personally am not quite willing to go that far. I might consider a restriction that would say one could not transfer mail in their election cycle, those 2 years. I offered that, and that was not quite agreed to. So anyway, my amendment would ban transfers altogether.

I think we are at a disagreement on this. My guess is we will be voting on this tomorrow morning, in all likelihood, at about 10:30, would be my guess.

Mr. REID. Mr. President, I rise in support of the amendment offered by the distinguished chairman of the Rules Committee.

I rise to urge adoption of the amendment offered by the distinguished chairman of the Rules Committee.

I agree that transfers of mail money among Members should not be used for electioneering. But I believe there are legitimate purposes that can be served by such transfers.

The $24 million that was appropriated for Senate mail costs for the current year, for example, is far short of what would be necessary for each Senator to make one statewide mass mailing. That would take at least $35.5 million, the total proposed for fiscal 1991. And this would not cover any other mail costs.

Some Senators have a lower volume of mail than others—even from the same State. Others do not find it useful or necessary to have large volume mailings to their constituents on particular topics.

Other Senators, though, are in quite a different situation. Their committees may be heavily involved in issues that have a very important impact on specific groups within their State. Sending such constituents information on the status of such issues is a perfectly legitimate and necessary use of congressional mail.

But a Senator's annual allocation of franking funds may be inadequate to support this kind of communication with his constituents. In such cases, I see nothing wrong at all with borrowing mail funds from a colleague who happens to have a surplus.

Senator FORD's amendment makes transfers of this sort possible while curtailing possible political abuses of the practice. I urge my colleagues to support it.

Mr. STEVENS. Mr. President, I will make my comments tomorrow.

I hope my friend will reconsider. He just stated at length that his prior reduction in the amount of money that was requested was valid was that transfers were available. We now have reduced that amount.

But now his next amendment says transfers are not available. Most people do not understand this process. Other committees come to the Rules Committee to get an allocation of the money available. The Rules Committee comes to the Senate to get approval for the allocation which is a fair way to do things.

But if we handled committee allocation of the committees that came to us for allocation of funds the way this is being handled, it would be chaos. I hope the Senators who are listening, if there are any, will look at this and realize the last amendment does not really make sense unless the transfer is available.

This will cut off the transfers.

The PRESIDING OFFICER. The question before the Senate is the amendment of the Senator from——

Mr. REID. Mr. President, I ask unanimous consent that the vote on this matter occur at 10:30 a.m. in the morning.

Mr. FORD. Reserving the right to object.

Mr. REID. It is this morning now.

Mr. FORD. What time are we coming in? 10:15. I would like to have 5 minutes on each side; that we vote 10 minutes after we take this piece of legislation up in the morning; that we have 10 minutes equally divided, and then we have the vote.

Mr. STEVENS. Parliamentary inquiry: Is there a time for convening tomorrow established?

Mr. REID. 10:15.

Mr. STEVENS. Without having been involved in the leadership for 8 years, I think it would be a matter for the leadership to determine what time the first vote will occur tomorrow. Has that been cleared? All right. I have no objection.

Mr. FORD. Mr. President, before I ask for the consent, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, this bill contains an amendment offered by my colleague from Wisconsin, Congressman KLECZKA, that would require that motorcycles purchased by the Capitol Police be domestically manufactured.

I believe this is a small but important amendment. Although the Capitol Police have some 78 American-made vehicles in their fleet, they have no domestic-made motorcycles out of the 50 they are now using. The police motorcycle fleet contains only Hondas, Kawasakis, and Suzukis.

The Capitol Police contend that there is not an American-made motorcycle made in the size range that meets the requirements of the Capitol Police. But I contend, as my friend and colleague from Wisconsin, Congressman KLECZKA, indicated during the House debate on this amendment, that there is a domestic manufacturer of motorcycles who could easily meet the needs and requirements of the Capitol Police.

The Harley-Davidson Co., located in Milwaukee, WI, serves some 750 U.S. and Canadian law enforcement agencies. Harley motorcycles are also used by the District of Columbia Police Department and the U.S. Park Police. Many of the models used by these 750 agencies have been custom made to meet the specific requirements of the agency. I cannot believe that the requirements of the Capitol Police are so different from these other law enforcement agencies as to make the purchase of Harleys—or any other domestically built motorcycle—a burden.

Mr. REID. I believe this amendment does have merit, and it is included in the bill. I thank the Senator from Wisconsin for calling this matter to our attention. We left the language in the bill at your request.

Mr. KOHL. I thank the manager of the bill for his support. I believe it is only right that the Capitol Police, who buy only domestic cars and trucks, should be asked to buy domestic motorcycles as well.

REVIEW AND RELEASE OF GAO REPORTS

Mr. JOHNSTON. Mr. President, I want to thank the subcommittee chairman, Senator REID, for his help in securing adoption of a "good government" provision of this legislation that will help Congress and the public to make better use of reports prepared by the General Accounting Office. The provision to which I refer is section 316 of the bill. This section provides for a needed tightening of GAO procedures to ensure that Congress and the public have timely access to information generated by GAO. It also ensures that GAO will obtain comment in a timely fashion from the federal department or agency that is the subject of a GAO report.

In addition to its traditional role of reviewing Federal programs, GAO is increasingly also engaged in investigations, studies, and analyses that contain information and recommendations relevant to controversial public policy issues. Under present GAO rules, a report based on these efforts can languish long after it has been completed before the public or Congress generally is made aware of the report's findings. This serves no useful purpose and often casts doubt on GAO's competence and credibility.

In addition, many GAO reports are released without opportunity for agency comment on GAO's findings. This practice excuses the agency from answering what may be serious charges about its conduct and often leads to misleading and unbalanced reports.

The bill before us requires the Comptroller General to release completed reports promptly and establishes firm limits on the time during which an agency has an opportunity to comment.

Under the amendment, GAO reports must be released withn 7 days after review has been completed or within 7 days after the Comptroller General approves a report whose content has changed as a result of the review.

The limits on review guarantee an agency the opportunity to comment, but at the same time do not permit an agency to unreasonably delay release of a report by delaying comment. Thus, each agency whose activities have been reviewed by a report would have a minimum of 15 days, but would not be offered more than 30 days, to assemble its comments. Any comments provided would be included in the GAO report.

These limits are intended to establish order in the GAO's report review and release process. Enactment of this amendment will also ensure that Congress and the public will see the report promptly after the review process has been completed.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined, H.R. 5399, the legislative branch appropriations bill and has found that the bill is under its 302(b) budget authority allocation by $47.7 million and under its 302(b) outlay allocation by $94.8 billion.

I compliment the distinguished manager of the bill, Senator REID, and the distinguished ranking member of the Legislative Branch Subcommittee, Senator NICKLES on all of their hard work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the legislative branch appropriations bill and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5399—LEGISLATIVE BRANCH SUBCOMMITTEE—SPENDING TOTALS (SENATE REPORTED)

[Fy 1991 in billions of dollars]

302(b) bill summary	Budget authority	Outlays
H.R. 5399, Senate Reported (new budget authority and outlays)	1.5	1.3
Enacted to date	0.1	0.3
Adjustment to conform mandatory programs to resolution assumptions	+(*)	+(*)
Scorekeeping adjustments	0.7	0.6
Bill total	2.3	2.2
Senate 302(b) allocation	2.3	2.3
Total difference	−(*)	−0.1
Discretionary:		
Domestic Discretionary spending	2.2	2.1
Domestic Discretionary allocation	2.2	2.2
Domestic Discretionary difference	−(*)	−0.1
Mandatory spending	0.1	0.1
Mandatory allocation	0.1	0.1
Mandatory difference	(*)	(*)
Bill total above (+) or below (−):		
Presdient's request	0.2	0.2
House-passed bill	−(*)	−(*)
House 302(b) allocation	NA	NA
Programmatic baseline	0.1	0.1

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for morinig business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,048th day that

Terry Anderson has been held captive in Lebanon.

Today in Orchard Park, NW, friends and family of the hostages yet in Lebanon will participate in a vigil of hope. Mr. President, we all know it is easy to dwell on the negative. The time lost. The suffering endured. But to focus on the hope—of possible release, of family reunification, of new life—commands courage. Courage that ought be commended.

Indeed. The rumblings from within Beirut of an impending hostage release summon renewed hope in all hearts. As those gathered in Orchard Park remember each of their loved ones in Lebanon, I urge my colleagues keep them in their thoughts and prayers.

THE ROLE OF THE UNITED NATIONS IN THE PERSIAN GULF CRISIS

Mr. SANFORD. Mr. President, I rise today to make my colleagues aware of a fine piece of research and analysis recently prepared by the United Nations Association of the United States of America by David J. Scheffer, an international lawyer and senior associate at the Carnegie Endowment of International Peace.

Funded by a grant to the UNA-USA by the Ploughshares Fund, this thorough paper of which I will insert only a few excerpts, discusses the critical role of the United Nations in the Persian Gulf crisis and explores the finer points of many of the points of the United Nations charter which will go beyond this immediate crisis into the long-term restructuring of the post-cold war era. I appreciate the opportunity to share this scholarship with my colleagues, and encourage them and their staffs to review the entire piece.

My purpose here today is to bring these issues to the fore and to facilitate discussion about the new potential for the United Nations.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

UNITED NATIONS ASSOCIATION OF THE UNITED STATES OF AMERICA, OCTOBER 1990

[Background Paper]

THE UNITED NATIONS IN THE GULF CRISIS AND OPTIONS FOR U.S. POLICY

The Iraq-Kuwait crisis has directly engaged the United Nations with unprecedented speed and effectiveness. The major powers, especially the United States, are resorting to the U.N. Security Council for authority under Chapter VII of the U.N. Charter to isolate and compel Iraq to reverse its violations of international law. The crisis dominates the 45th session of the General Assembly. Specialized agencies of the United Nations are coping with the flood of refugees out of Iraq and occupied Kuwait. The U.N. Secretary-General held direct talks with Iraq officials.

This background paper summarizes the key issues confronting the United Nations in the Iraq-Kuwait crisis, particularly those issues which are of concern to the United States Government. It presents a number of options for the United Nations and the United States which may be considered in the immediate and long-term future as steps toward the restoration of Kuwait's sovereignty.

II. COLLECTIVE SELF-DEFENSE

Article 51: Individual and collective self-defense. The final provision of Chapter VII of the U.N. Charter—Article 51—states in part that nothing in the Charter "shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security."

The "inherent" right of collective self-defence is considered a principle of customary international law. The principle permit one nation to come to the aid of another nation that has been the object of an armed attack. The International Court of Justice (World Court) has further defined the right of collective self-defense as one that permits a state to use military force in support of another state provided the victim state considers itself under attack and lodges a request for assistance. The World Court has not expressed a view on the lawfulness of a nation initiating military actions in response to the imminent threat of armed attack against another nation.

American reliance on collective self-defense. The United States has relied upon the inherent right of collective self-defense, and frequent references to Article 51 of the Charter, to justify the deployment of U.S. Armed Forces to Saudi Arabia and other states on the Arabian Peninsula, as well as on the adjoining seas. There are no defense treaties between the United States and any Gulf nation. Kuwait, which is the only victim state of Iraqi aggression to date, requested the assistance of the U.S. Armed Forces shortly after the Iraqi invasion. Following meetings with Secretary of Defense Richard Cheney in early August, Saudi government officials requested American military deployments on Saudi territory to help Saudi Arabia defend against possible Iraqi agression against that nation. The United Arab Emirates, Bahrain, Oman, and Qatar (members of the Gulf Cooperation Council along with Kuwait and Saudi Arabia) followed later in August with agreements to permit the stationing of U.S. Armed forces on their respective territories.

Absence of written commitments. During a hearing of the Subcommittee on Europe and the Middle East of the House Foreign Affairs Committee on September 18, the Assistant Secretary of State for Near Eastern and South Asian Affairs, John Kelly, confirmed that there are no written documents, and hence no official record, establishing the commitments of the United States tothe defense of any of the Gulf nations, including Kuwait and Saudi Arabia. Therefore the invocation of the principle of collective self-defense rests upon the oral requests of the victim state of Iraqi aggression and other states in the Gulf region which desire military assistance to defend against possible further Iraqi aggression.

Scope of Security Council resolutions. No Security Council resolution explicitly recommends, requests, or authorizes the deployment of the multinational forces in the Gulf region. Nor does any Security Council resolution direct or acknowledge the right of any nation to use military force in collective self-defense against Iraq. To date the only action taken by the Security Council that is generally understood to authorize the use of force by any portion of the U.S. Armed Forces in the Gulf region, or portions of the military forces of more than 20 other nations deployed there, arises under Resolution 665 which authorizes states participating in the maritime operation of the trade embargo to use "such measures commensurate to the specific circumstances as may be necessary under the authority of the security council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations."

In mid-August the United States took the position that military force could be used to enforce Security Council Resolution 661, the trade embargo, under the principle of collective self-defense and in accordance with a controversial interpretation of Resolution 661 without further Security Council authorization. Disagreement among Member States of the Security Council and of the United Nations over this interpretation of international law and Resolution 661 ultimately led to Resolution 665.

Interrelationship with collective security. Article 51 of the Charter qualifies the inherent right of collective self-defense by limiting its application when "the Security Council has taken measures necessary to maintain international peace and security." If such measures are undertaken by the Security Council, then the principle of collective self-defense may need to be harmonized with the operation of approved collective security mechanisms. Security Council Resolutions 660-667, 669, and 670 evidence substantial measures taken by the Security Council in response to Iraq's armed attack on Kuwait.

III. COLLECTIVE SECURITY

Chapter VII of the Charter, encompassing Articles 39 through 51, establishes the procedure and organization for collective security measures authorized by the Security Council. During the Iraq-Kuwait crisis, the Security Council has acted repeatedly pursuant to Chapter VII.

Article 39: Security Council determination. Article 39 authorizes the Security Council to determine the existence of any threat to the peace, breach of the peace, or act of aggression. Article 39 further authorizes the Security Council to make recommendations or to decide what non-military and military measures shall be taken "to maintain or restore international peace and security."

Article 40: Provisional measures. Prior to making the recommendations or decisions provided for in Article 39, the Security Council can call upon the parties concerned to comply with specified provisional measures pursuant to Article 40 of the Charter.

The Security Council explicitly invoked Articles 39 and 40 of the Charter in Resolution 660, which condemned the Iraqi invasion (thereby determining a breach of the peace and an act of aggression), demanded immediate and unconditional withdrawal (a provisional measure), and called upon Iraq and Kuwait to begin immediately intensive negotiations and to support other diplomatic efforts (another provisional measure).

Past Security council recommendations: Korea. The power to recommend, as distinguished from the power to decide, was tested by the Security Council at the outbreak of the Korean War. The Security Council made recommendations under Article 39 to authorize military action during

the summer of 1950 when North Korean forces invaded South Korea. With the Soviet delegate absent, the Security Council recommended that Members of the United Nations furnish assistance to repel the armed attack. The Security Council further recommended that those Members providing military or other assistance make it available to a unified command under the United States, requested the United States to designate the commander of such forces, and authorized the unified command at its discretion to use the U.N. flag in operations concurrently with the flags of the various participating nations. 39 Member States offered assistance and 16 of them finally sent armed forces to Korea. When the Soviet delegate returned to the Security Council and exercised the veto power, the General Assembly became seized with the Korean matter under the Uniting for Peace Resolution.

Article 41: Non-military actions. The power to decide, and thus require, specific non-military measures against a violating Member arises specifically under Article 41, which includes in its list of mandatory measures that can be approved by the Security Council "complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."

Past example: Rhodesia. The Security Council employed its Article 41 power against Rhodesia with a series of decisions in the 1960's that started with an arms embargo and request for Member States to terminate economic relations, proceeded to selective mandatory economic sanctions, and finally authorized comprehensive and mandatory economic sanctions. In early 1966, following the Security Council's selective mandatory economic sanctions against Rhodesia, the United Kingdom requested authority from the Security Council to use military force against a specific oil tanker heading for the port of Beira with a full cargo of oil destined for Rhodesia. The Security Council approved a resolution that authorized the United Kingdom "to prevent by the use of force if necessary the arrival at Beira of vessels reasonably believed to be carrying oil destined for Rhodesia, and empowers the United Kingdom to arrest and detain the tanker known as the Joanna V upon her departure from Beira in the event her oil cargo is discharged there." This resolution represents the only example prior to the Iraq-Kuwait crisis where the Security Council explicitly authorized the use of military force by decision rather than by recommendation. However, that decision was not implemented pursuant to Article 42 of the Charter, which empowers the Security Council to decide upon the use of military force, or pursuant to any other explicitly stated article.

Example: South Africa. Another notable example of Security Council action pursuant to Article 41 is South Africa. In 1963 the Security Council recommended a voluntary arms embargo against South Africa. In 1970 the Council strengthened the voluntary arms embargo with a recommended ban on training of or cooperation with South African forces. In 1975 and 1976 Western permanent members of the Security Council vetoed attempts to make the arms embargo mandatory under Chapter VII, arguing that the threshold requirement of Article 39—that there be a threat to peace—had not been met. But in 1977 the Security Council approved Resolution 418 which imposed mandatory sanctions relating to arms and related material under Chapter VII generally but of the non-military character covered by Article 41. Resolution 418 remains in force.

Article 42: Military action. In the event non-military measures authorized by Article 41 "would be inadequate or have proved to be inadequate," then the Security Council can exercise its power under Article 42 to decide upon mandatory military action. The text of Article 42 offers an illustrative list of such actions, including "demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations." The language of Article 42 thus does not require that the trade sanctions against Iraq and occupied Kuwait prove to be inadequate prior to any authorized use of military force. Rather, the Security Council could determine that the trade sanctions "would be inadequate" and authorize the use of force long before the trade sanctions cripple the Iraqi economy.

The Security Council's authorization under Resolution 665 to enforce the maritime trade sanctions could be interpreted as straddling both Articles 41 and 42 since it contemplates the use of minimal force as well as a naval and air embargo that has taken on many of the characteristics of a comprehensive blockade. The reluctance to invoke explicitly the provisions of Article 42 stems in part from the content of the succeeding articles in Chapter VII.

Article 43: Special agreements. Article 43 requires Member States to "undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purposes of maintaining international peace and security." The original intent of the drafters of the Charter in 1945 was that the use of military force by the United Nations pursuant to Article 42 would be accomplished with the armed forces provided under the special agreements entered into between the United Nations and the various Member States. These forces would be available on call for any contingencies that might arise requiring Security Council action under Article 42. Under the terms of Article 45, Member States would have to hold available a certain number of national air-force contingents for immediate service, but again pursuant to terms worked out in the special agreements.

Although Article 43 requires that the special agreements "be negotiated as soon as possible on the initiative of the Security Council," and despite the fact that in 1947 the U.N. Military Staff Committee (discussed below) prepared a report on special agreements, the permanent members of the Security Council disagreed among themselves on so many of the conditions that would ahve to be incorporated in special agreements that none were ever signed. The prospect for special agreements remained nil until the Iraq-Kuwait crisis. During his address to the General Assembly on September 25, Soviet Foreign Minister Eduard Shevardnadze signalled his country's willingness to negotiate and enter into a special agreement with the United Nations.

Articles 45, 46, 47: Military Staff Committee. Articles 45, 46, and 47 govern the Military Staff Committee. Since 1945 there has been a Military Staff Committee consisting of "the Chiefs of Staff of the permanent members of the Security council or their representatives." The function of the Military Staff Committee is "to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament." Any Security Council plans for the application of armed force are to be made "with the assistance of the Military Staff Committee."

During the Cold War the Military Staff Committee was staffed by designated subordinates of the Chiefs of Staff who undertook no substantive work and met regularly but very briefly. But the Security Council has taken a tentative step toward activating the Military Staff Committee in response to the Iraqi aggression. Resolution 665 requests states to coordinate their actions to enforce the trade sanctions "using as appropriate mechanisms of the Military Staff Committee. . . ." But for all practical purposes the Committee remains unused. Command control of the military contingents in the Middle East remains with the respective national governments, as do determination of their rules of engagement.

The Military Staff Committees was intended to function in a system where special agreements made the armed forces of Members available to the Security Council. Since special agreements were never concluded, the Charter's provisions governing the Military Staff Committee remain largely unimplemented. Article 47 states that the "Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Secretary Council." If the armed forces are not placed at the disposal of the Security Council pursuant to special agreements, then arguably the Military Staff Committee would not become involved.

Even if the Military Staff Committee does assume responsibility for the strategic direction of the armed forces, Article 47 further provides: "Questions relating to the command of such forces shall be worked out subsequently." This example, during the Iraq-Kuwait crisis, the Security Council could agree that the United States command the multinational forces under U.N. authority while the Military Staff Committee assists the Security Council, to a degree determined by the United States and other permanent members, in the application of armed force.

Article 48: Mandatory compliance. Further collective security provisions of Chapter VII include Article 48, which requires compliance of Security Council decisions (non-military and military) by all or some U.N. Members as the Security Council may determine. In the Iraq-Kuwait crisis, the Security Council Resolutions 661, 662, 665, 666, and 670 require compliance of all states. Resolutions 660, 662, 664, and 667 are directed solely at Iraq. Article 25 of the Charter (falling under Chapter V which governs the Security Council) embodies the agreement of all Members "to accept and carry out the decisions of the Security Council in accordance with the preent Charter." Resolution 670 specifically refers to the obligations of Members under both Article 25 and Article 48 in the Security Council's determination to insure compliance with and enforcement of the trade sanctions.

Article 49: Obligatory assistance. Article 49 requires U.N. Members to "join in affording mutual assistance in carrying out the measures decided upon by the Security

Council." Resolution 665, for example, requests all states to provide assistance for enforcement of trade sanctions. Resolution 670 requires all states to take such measures as may be necessary to insure effective implementation of the trade sanctions and air embargo.

Article 50: Economic hardship. Article 50 provides that if a Member is "confronted with special economic problems" arising from preventive or enforcement measures taken by the Security Council, then that Member "shall have the right to consult with the Security Council with regard to a solution to those problems." A number of Members have sought economic assistance to offset the losses being absorbed as a result of their compliance with Security Council resolutions during the Iraq-Kuwait crisis. These Members include Jordan, Turkey, and Egypt. However, the Security Council has not taken any collective action to deal directly with such economic problems. That task has been left to the individual permanent members of the Security Council as will as other donor nations, such as Germany and Japan. (See the discussion under Part VII ("Financing") below.)

IV. ENFORCEMENT OF THE UNITED NATIONS TRADE SANCTIONS

The enforcement of the U.N. trade sanctions against Iraq and occupied Kuwait appears, by all accounts, to be largely effective in cutting off almost all international trade with those two nations. The imposition of trade sanctions and their subsequent enforcement have been unprecedented multilateral undertakings pursuant to authority granted by the Security Council.

Three Security Council resolutions. Resolution 661 authorizes the trade sanctions, but does not explicitly authorize any maritime or air operation to enforce the sanctions. Resolution 665 acknowledges the multinational maritime operation that had been launched by the date of that resolution (August 25) and authorizes necessary measures (which is broadly agreed to include the use of minimal force) by the multinational maritime operation to enforce the trade sanctions on the seas. Resolution 670 confirms that the trade sanctions apply to all means of transport, including aircraft, and then sets forth detailed requirements for enforcing the sanctions against air traffic to and from Iraq and occupied Kuwait.

Record of enforcement of maritime operation. By September 27, the maritime operation had interdicted 1,400 vessels to inquire about their cargo and destinations. More than 125 vessels had been boarded; the United States Navy had made approximately 110 of these boardings. Shots had been fired across and bows of vessels three times by American warships and one time by an Australian warship to persuade such vessels to permit inspection of cargo. There had been six instances where vessels loaded with cargo bound for Iraq were prevented from proceeding to port—five of these after boarding, one without boarding.

Air embargo. The air embargo authorized by Resolution 670 created some confusion in the days immediately following its approval due to its ambiguity on the issue of passenger flights to and from Iraq and occupied Kuwait. The resolution is clearly aimed at preventing shipment of cargo to and from those nations. The Sanctions Committee established by Resolution 661 has determined that passenger flights will be permitted provided they are inspected to insure that they are not carrying any cargo prohibited by the trade sanctions. The Sanctions Committee has further determined that passenger flights of Iraqi Airways are not permitted under the terms of the Security Council resolutions.

Unlike the maritime operation to enforce the trade sanctions, the air embargo approved under Resolution 670 does not authorize the use of military force against aircraft. The resolution explicitly refers to enforcement measures "consistent with international law, including the Chicago Convention. . . ." The Chicago Convention on International Civil Aviation, signed in 1944, does not contain an express prohibition on the use of armed force against civil aircraft. But following the destruction of Iran Air 655 over the Strait of Hormuz in 1988, the Council of the International Civil Aviation Organization (ICAO), a specialized agency of the United Nations, reaffirmed what it regards as "the fundamental principle of general international law that States must refrain from resorting to the use of weapons against civil aircraft." This reaffirmation also was made by the ICAO Council "without prejudice to the provisions of the Charter of the United Nations." One of those provisions is Article 51 and its incorporation of the inherent right of individual and collective self-defense.

In May 1984, following the destruction of KAL 007 over Sakhalin Island on September 1, 1983, the ICAO Assembly approved an amendment to the Chicago Convention at its 25th Session (Extraordinary). The new Article 3 bis. would state in part: "(a) The Contracting States recognize that every State must refrain from resorting to the use of weapons against civil aircraft in flight. . . ." The ICAO Council has appealed "urgently" to all contracting states of the Chicago Convention to ratify Article 3 bis as soon as possible. As of July 27, 1989, the amendment had been ratified by 52 states. It will not come into force until 102 states have ratified it. The United States, Iraq, Iran, Turkey, and the Soviet Union have not ratified the amendment. But Kuwait, Saudi Arabia, and Jordan are among those states which have ratified the amendment.

Humanitarian assistance. Resolution 661 exempts from the trade sanctions "medical supplies intended strictly for medical purposes, and, in humanitarian circumstances, foodstuff. . . ." What constitutes "humanitarian circumstances" proved to be a contentious issue among members. The United States argued that humanitarian circumstances had not yet arisen to permit shipments of foodstuffs.

This ambiguity led to Resolution 666, which provides that the Sections Committee will make any determination that a humanitarian need exists to ship foodstuffs. The Sanctions Committe must report its determination to the Security Council and recommend how the need should be met. But the Sanctions Committee is limited to recommendations that will be carried out "through the United Nations" and with the cooperation of the International Committee of the Red Cross or other appropriate humanitarian agencies. The distribution of the foodstuffs inside Iraq or occupied Kuwait also must be done under the supervision of the chosen humanitarian agency.

Resolution 670 further stipulates an exemption from the air embargo of "food in humanitarian circumstances, subject to authorization by the [Security] Council or the [Sanctions] Committee established by Resolution 661 (1990) and in accordance with Resolution 666 (1990), or supplies intended strictly for medical purposes or solely for UNIIMOG [the United Nations Iran-Iraq Military Observer Group created in 1988 to observe the cease-fire between Iran and Iraq and monitor troop withdrawals]."

As of September 25, the Sanctions Committee had approved only one shipment of foodstuffs into occupied Kuwait. Iraq agreed in mid-September to allow an Indian ship loaded with foodstuffs and medical supplies to dock in Kuwait and to permit the Indian Embassy in occupied Kuwait and the Indian Red Cross to distribute the supplies.

Enforcement against violator nations. Resolution 670 includes the decision of the Security Council to deal directly with violations of the trade sanctions. In the event the provisions of Resolution 661 or 670 are evaded "by a state or its nationals or through its territory", the Security Council will decide "measures directed at the state in question to prevent such evasion." Therefore, Resolution 670 does not authorize automatic punitive measures against a violator state. Rather it requires the Security Council to consider punitive measures if and when such violations occur. This means that further decision by the Security Council will be required to determine and implement any such punitive measures. As of October 3, no case of violation had been considered by the Security Council.

VI. POTENTIAL MILITARY ENFORCEMENT ACTION UNDER CHAPTER VII

Military enforcement action under the authority of the United Nations could take one of several forms:

Option 1: Article 39 recommendation. The Security Council could make recommendations "to maintain or restore international peace and security" pursuant to Article 39. This method was employed during the summer of 1950 in connection with the Korean conflict. The Security Council action in the current crisis probably would consist of a recommendation that Members provide military forces and other assistance to a unified command under the United States and that such forces be used to defend against further Iraqi aggression and/or to re-take Kuwait. Compliance with the recommendations would be voluntary, but participation would be authorized by the Security Council.

Option 2: Article 42 decision. The Security Council could reach a decision pursuant to Article 42 that the trade sanctions "would be inadequate or have proved to be inadequate" to compel Iraqi compliance with prior Security Council resolutions. The decision then would specify what military action will be taken under United Nations authority to "restore international peace and security." The Security Council has never invoked Article 42 in any of its decisions.

Special Agreements. The immediate question will be whether military action can be authorized pursuant to Article 42 in the absence of the special agreements called for under Article 43. The text of Article 42 does not specify any requirement for special agreements. However, the Security Council probably could not compel any Member to commit any portion of its armed forces to a U.N. military enforcement action without the obligatory commitments that were to have been established under the special agreements. Nonetheless, the Security Council might invoke Article 42 and acknowledge that a large multinational army, air force, and navy have been deployed to

the Middle East for the purpose of defending against further Iraqi aggression. In one respect, the purpose of the special agreements—to make available to the Security Council contingents of the armed forces of Members for the purpose of enforcing Security Council decisions—has been achieved in fact though not in law in connection with the Iraq-Kuwait crisis. The Security Council could decide that, contingent upon the approval of the participating Members of the multinational force, that force is authorized and directed to take military enforcement action against the Iraqi army under the United Nations flag.

Congressional approval of U.S. special agreement. If it were determined that special agreements would be required before the Security Council could take any action pursuant to Article 42, then the ratification of a special agreement between the United States and the United Nations would have to be accomplished in accordance with procedures set forth in the United Nations Participation Act of 1945. Section 6 of the Act grants the president authority to negotiate a special agreement with the Security Council, but requires that such agreement be approved by both the Senate and the House of Representatives. Once the special agreement is duly ratified, then the president is empowered to make available to the Security Council "on its call in order to take action under article Article 42" the armed forces, facilities, or assistance provided for under the special agreement. But Section 6 adds the proviso that nothing in the Act "shall be construed as an authorization to the President by the Congress to make available to the Security Council", for the purpose of taking an Article 42 action, any American forces, facilities or assistance in addition to that previously committed under the special agreement.

Military Staff Committee. Another immediate question will be whether military action authorized pursuant to Article 42 will activate all of the provisions under Articles 45, 46, and 47 regarding the Military Staff Committee and require a unified U.N. command of the multinational force. This raises many concerns, especially within the U.S. Government, about assigning any national military command responsibilities to a U.N. command group consisting in part of military officers from other nations reporting to the Military Staff Committee and, in turn, to the Security Council.

Chapter VII of the Charter can be read as providing considerable flexibility on the issue of the military command of an authorized U.N. enforcement body. Even if the Military Staff Committee necessarily becomes more engaged in the military operation approved by the Security Council, the Military Staff Committee's powers can be broadly or narrowly defined within the parameters of Articles 45, 46, and 47 at the pleasure of the Security Council. Articles 45 and 46 refer only to the Military Staff Committee assisting the Security Council. Article 47 refers to the Military Staff Committee's function "to advise and assist" the Security Council and to be responsible to the Security Council for the "strategic direction of any armed forces placed at the disposal of the Security Council." The latter requirement has never been tested and could be narrowly tailored for the military operations authorized by the Security Council.

For example, the Military Staff Committee could be tasked to mediate disputes among various national contingents of the multinational force, to coordinate (without necessarily having full access to) the flow of intelligence and military information within the multinational force, and to participate in long-range planning exercises. But all of this could be done with express limitations on the scope of the Military Staff Committee's duties and how it might relate to a unified or coordinated command structure approved or acknowledged by the Security Council.

Option 3: Chapter VII decision. Rather than open up a debate about whether an Article 42 decision requires the prior implementation of Article 43 special agreements and the intrusive involvement of the Military Staff Committee, the Security Council could be more general in its expression of authority and simply reach a decision to use military force "under Chapter VII," employing some of the same language and proposals discussed above under Option 2. Resolution 665 comes close to embracing this approach with its preambular reference to: "Having Decided to Impose Sanctions in Accordance with Chapter VII of the Charter of the United Nations." Resolution 665 then proceeds to acknowledge the "maritime forces in the area" and to authorize the use of necessary measures to enforce the trade sanctions. The Military Staff Committee is explicitly mentioned and its duties expressly integrated with the enforcement of the trade sanctions.

Reference to Chapter VII in general might not forestall a debate over Article 43 or over the precise functions of the Military Staff Committee, but it could be a reasonable method by which either to avoid specific reference to these provisions of chapter VII in the actual text of the Security Council resolution and in its implementation or to refer to them and to implement them in a manner uniquely tailored for the Iraq-Kuwait crisis.

Part 2. Longer Term Issues

I. UNITED NATIONS PEACEKEEPING

Normally, U.N. peacekeeping forces are armed with light defensive weapons which the U.N. troops are authorized to use only in self-defense. U.N. observers always have been unarmed. Typically, U.N. peacekeeping forces separate belligerent forces and are deployed by the Security Council only with the approval of the parties directly involved. U.N. observer groups sometimes operate alongside U.N. peacekeeping forces and sometimes are deployed independently. The observers usually are tasked to monitor military affairs in a designated territory and to report directly to the Secretary-General.

At some point in the future there may arise an opportunity to deploy a new U.N. peacekeeping force to Iraq, Kuwait, and/or Saudi Arabia either to implement a negotiated settlement or to separate belligerent forces following a military conflict. The only United Nations presence in the region currently is the U.N. Iran-Iraq Military Observer Group (UNIIMOG) referred to in Security Council Resolution 670. This is a small group (numbering in the low hundreds) of unarmed observers from about 15 countries whose mission is to observe the 1988 cease-fire between Iran and Iraq, monitor Iraqi and Iranian troop withdrawals, and to assist in the implementation of Security Council Resolution 598, which also calls for an exchange of prisoners of war. UNIIMOG staffs offices in Teheran and Baghdad. This observer group has no mandate from the Security Council with respect to the current crisis.

A negotiated settlement of the Iraq-Kuwait crisis—one that presumably would restore the sovereignty of Kuwait—could embody an agreement to station a new U.N. peacekeeping force or observer group in Kuwait and along the Iraqi-Kuwait border. The peacekeeping/observer force probably would be required to help restore peace and stability to the area. Its mandate could include monitoring the withdrawal of Iraqi forces from Kuwait, restoring law and order in Kuwait, observing the conduct of any Iraqi or multinational forces that might enter Kuwaiti territory with or without the authority of the Security Council, and patrolling Kuwait's borders.

In the aftermath of a war, a U.N. peacekeeping/observer force could undertake similar duties as well as oversee the exchange of prisoners or war, guard against looting and other threats to public safety, and help restore confidence in the security of Kuwait as multinational forces eventually depart. In the event the United Nations authorizes the use of military force against the Iraqi army and the multinational force is deployed under a U.N. command structure, then it may be proposed that a part of this force be authorized as a peacekeeping force for long-term deployment in Kuwait once the armed conflict comes to an end.

Given the rapidly improving relations between the United States and the Soviet Union, there also is the possibility that the governments of both superpowers would be willing to assign military personnel from their respective armed forces to a U.N. peacekeeping force or observer group in Kuwait. Both countries have done so in the past with U.N. observer groups but never with an armed U.N. peacekeeping force.

There may also arise an opportunity to consider a long-term U.N. naval peacekeeping role in the Persian Gulf. This concept was much explored during 1987 and 1988 when Kuwaiti-owned oil tankers were reflagged under United States registration and protected by U.S. warships from attack by Iranian forces. Depending upon the outcome of any negotiated settlement or military confrontation, a U.N. naval peacekeeping force may prove useful.

II. UNITED NATIONS ADMINISTRATIVE ROLE IN RESTORING KUWAIT'S SOVEREIGN GOVERNMENT

The prospects for a United Nations role in contributing to the restoration of Kuwait's sovereign government may arise in terms of an expanded peacekeeping role there. Recent experience indicates the possibilities:

The United Nations recently completed an unprecedented and highly successful operation in Namibia where a U.N. peacekeeping force took on a wide range of additional duties.

On a lesser but still significant scale, the Security Council also deployed a 600-member military observer group to Central America (known by its Spanish acronym ONUCA) in 1989 to patrol borders in the region and ensure a halt in cross-border raids and government support for rebels and to help end outside interference in the region. ONUCA consisted of soldiers, observers, and technicians contributed by Canada, West Germany, Spain, and a number of Latin American countries. Another United Nations observer group known as ONUVEN oversaw plans for elections in Nicaragua that eventually were held, again under ONUVEN monitoring, in February 1990. Following the success of those elections ONUCA's mandate was expanded by the Security Council to including monitoring the cease-fire in the region, the separation of

forces, and the demobilization of the Nicaraguan *contras*.

The most ambitious plans for United Nations peacekeeping now involve Cambodia, where the United Nations would take on an enormous administrative responsibility.

In Kuwait, where it is reported that the administrative character of the government has been obliterated by the occupying Iraqi army, there will be a daunting challenge awaiting the United Nations in the event the Iraqi army is withdrawn or defeated and Kuwait's sovereignty restored. The Security Council could fulfill a critical role in undertaking a massive restoration of governmental agencies, public services, and other administrative functions. A special United Nations peacekeeping operation could be launched, on a scale that might invite comparison with the U.N. operation in Namibia, to restore Kuwait's government. The United Nations may prove to be the only feasible organization for the job in light of Arab sensitivities over any foreign efforts to "run" Kuwait.

III. REMOVING THREATS TO MIDDLE EAST STABILITY

The United Nations could play an important role over the long term in removing threats to peace and stability in the Middle East. There will be a need to monitor more directly and comprehensively the development and proliferation of chemical, biological, and nuclear weapons as well as ballistic missiles, especially in Iraq. A special U.N. agency might be created to undertake inspection of weapons facilities in Iraq and other Middle East countries. Another possibility would be for the International Atomic Energy Agency to broaden its inspections under United Nations authority or under the Non-Proliferation Treaty. In the absence of a Chemical Weapons Convention (especially one signed and ratified by Iraq), the United Nations might play a role in developing a regional treaty regime to control proliferation of such weapons in the Middle East.

Aside from weapons of mass destruction, the United Nations could explore ways to limit arms transfers to Iraq after the trade sanctions imposed under recent Security Council resolutions are lifted. The Security Council may decide to continue the arms embargo on Iraq after other economic sanctions are lifted. An effective enforcement mechanism for such an arms embargo may require further Security Council action.

Soviet Foreign Minister Eduard Shevardnadze has proposed the creation of a United Nations arms transfer register to record the flow of weapons between nations. This proposal may prove instructive in developing some kind of arms transfer register for the Middle East.

Proposals for a United Nations conference on the Middle East have circulated for years. But the Iraq-Kuwait crisis has stimulated much more interest in the idea. It could evolve further either as part of a negotiated settlement or as a more likely possibility following a military conflict that restores Kuwaiti sovereignty.

IV. PROSECUTION OF IRAQI VIOLATIONS OF INTERNATIONAL LAW

The United Nations has a long history of defining crimes against peace, crimes against humanity, and war crimes. Much of the international law violated by Iraqi authorities is codified in conventions, treaties, and resolutions approved by or under the auspices of the United Nations. In addition, the United Nations Charter and the Security Council resolutions pertaining to the Iraq-Kuwait crisis will be key documents in determining the character and scope of Iraqi violations of international law.

In 1946 the U.N. General Assembly unanimously adopted Resolution 95(I) which affirmed "the principles of international law recognized by the Charter of the Nuremberg Tribunal and the judgment of the Tribunal." The U.N. International Law Commission endorsed the "Nuremberg principles" in 1950.

The behavior of the Iraqi government and army will be judged against the standards embodied in a host of additional documents, including:

1970 Hague Convention IV Respecting the Laws and Customs of War on Land.

1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare.

1949 Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War.

1954 Hague Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict.

1977 Geneva Protocol I Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts.

1961 Vienna Convention on Diplomatic Relations.

1963 Vienna Convention on Consular Relations.

1973 Convention on Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents.

1979 Inernational Convention Against the Taking of Hostages.

The International Court of Justice, the judicial arm of the United Nations, may prove to be an unlikely forum in which to bring a case against any particular Iraqi official or the Iraqi government. The jurisdiction of the Court extends only to cases brought by and between states and not by a state against a national of another state. Further, a state must agree to the jurisdiction of the Court for a particular case either by having accepted the compulsory jurisdiction of the Court in advance (Iraq has not done so) or through an existing treaty violation. Iraq is a party to the 1961, and 1963 Vienna Conventions and the 1973 Convention on Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents. These three multilateral treaties include compulsory jurisdiction clauses. Iraq thus would be obligated to participate in a case brought to the International Court of Justice in connection with Iraqi violations under any of these treaties. Whether Iraq would appear to defend itself or would comply with the judgment of the Court is problematical.

The United Nations has examined proposals for an International Criminal Court ever since the Nuremberg Tribunal. In recent weeks, considerable attention has been focused again on the creation of such a court. In testimony before the House Foreign Affairs Committee on September 4, Secretary of State James Baker regarded the suggestion of an International Criminal Court as a "good one" and spoke about the possibility, notwithstanding the absence of such a court today, of taking "actions against the leadership of the government of Iraq, should that ever become necessary and/or possible, and the military personnel who might be committing violation of the law against our citizens and the citizens of other countries."

Soviet Foreign Minister Eduard Shevardnadze alluded to an International Criminal Court during his September 25 address to the U.N. General Assembly when he emphasized the need to create the necessary legal environment in which to bring individuals charged with "grave crimes against mankind" to justice. The Iraq-Kuwait crisis already has generated more serious interest in the proposal, but it is doubtful any such body would be created soon enough to deal swiftly with the culpability of Iraqi officials.

BI-STATE COMPACT BETWEEN THE STATES OF NEW JERSEY AND DELAWARE

Mr. LAUTENBERG. Mr. President, last night, the Senate approved House Joint Resolution 657 by voice vote. I rise today to express my support for that legislation, which approves a modification in the compact between New Jersey and Delaware which governs the Delaware River and Bay Authority, or DRBA.

This is the companion measure to Senate Joint Resolution 373, which Senators BIDEN, ROTH, BRADLEY, and I introduced on October 2, 1990. The purpose of this legislation is simple: To help promote economic development in southern New Jersey and Delaware.

The legislation would approve a change in the existing compact, to allow the DRBA, which runs the Delaware Memorial Bridge and the Cape May, NJ to Lewes, DE, ferry, to allocate some of its financial resources for needed economic development efforts. The types of projects that would be eligible for funding would include: recreational and commercial fishery development; beach restoration; recreational and park development; foreign trade zone site development; and manufacturing and industrial facilities.

In New Jersey, this assistance will be targeted to areas that have not shared as fully as some other parts of our State in the economic growth of recent years. Specifically, it will be the counties of Salem, Gloucester, Cumberland, and Cape May that will benefit from this change.

By its nature, a toll-collecting facility like the Delaware Memorial Bridge is relatively cash-rich. In recent years, the DRBA has been able to meet its operation and maintenance costs within the revenues it has collected through tolls. This has left the authority with excess revenues. Mr. President, I believe that some of those revenues can be put to good use to help those areas of our State that could use a helping hand.

Under the terms of the agreement reached between New Jersey and Delaware, which this legislation approves, each State would designate eligible economic development projects, which would have been the subject of a public hearing and approved by the respective State legislature. Four of the

six commissioners from each State would then have to approve the project for funding.

I point out, Mr. President, that this legislation does not call for any increase in tolls paid on the Delaware Memorial Bridge. It retains the existing Federal requirement that tolls be just and reasonable.

Mr. President, this legislation has the strong support of New Jersey Governor Florio. I urge my colleagues to approve this measure.

CLEAN AIR ACT AMENDMENTS CONFERENCE SUMMARY

Mr. BAUCUS. Mr. President, later this week the Senate will consider the conference report concerning S. 1630, the Clean Air Act Amendments of 1990. In an effort to assist my colleagues as they prepare for the debate of this comprehensive legislation, I have requested the staff of the Committee on Environment and Public Works to prepare a detailed summary of the Clean Air Conference agreement. I ask unanimous consent that the committee summary be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF HOUSE-SENATE CONFERENCE AGREEMENT ON CLEAN AIR

Since July 13, House-Senate Conferees have been meeting to reconcile differences in their respective bills to amend the Clean Air Act. On Monday, October 22, the Conferees reached final agreement on provisions which address mobile sources of air pollution, toxic act pollution, acid rain, enforcement, clean air research and miscellaneous provisons. The Conference agreement also includes provisions regarding areas in nonattainment, stratospheric ozone protection, and permits which were agreed to previously. A summary of the House-Senate Conference agreement follows:

TITLE I: NONATTAINMENT PROVISIONS

Currently over 100 areas in the United States do not meet health standards under the Clean Air Act for ozone (smog); more than 40 areas are failing to attain the carbon monoxide standards; and an estimated 58 areas exceed the health standard for particulate matter (PM-10). State and local governments have a major responsibility for implementing measures that will reduce pollution to levels that do not threaten health; the Federal government sets certain minimum requirements and assures that States carry out their responsibilities.

Title I of the Conference Agreement, which adopts the House Title I with a minor change concerning offsets for oxides of nitrogen, divides areas that fail to meet any one of the pollution standards listed above into categories, depending on the severity of the problem, and sets out requirements of different levels of stringency for each category. Following is a summary of the provisions of Title I:

Depending on the severity of the pollution problem, nonattainment areas for any of the pollutants must attain the health standard for ozone within five, ten, fifteen, or seventeen years (twenty years for Los Angeles).

Nonattainment areas for each of the pollutants must achieve specified increments of progress from the present until the health standard is achieved. This new requirement will ensure early ozone reductions and, for the first time, steady progress toward meeting the standard. In the case of ozone, areas must reduce emissions of volatile organic compounds (VOCs), a precursor of ozone, by 4% per year (with waivers for certain specified conditions) until the standard is attained.

In areas exceeding the standard for ozone, service stations dispensing more than 10,000 gallons per month of gasoline (50,000 in the case of small businesses) are required to install equipment on pumps to reduce emissions of VOCs.

Vehicle inspection and maintenance programs must be upgraded in ozone and carbon monoxide areas that already have such programs and must be instituted in most other areas that do not already have them.

The Environmental Protection Agency is required to impose one of the following sanctions in an area that fails to prepare or implement a plan to attain a health-based air quality standard: limited use of Federal highway funds or a requirement that new industry offset emissions at a 2 to 1 ratio.

The definition of major sources in current law is modified so that smaller sources of VOCs are required to control emissions (50 tons in moderate and serious areas; 25 tons in severe areas; 20 tons in extreme areas)

When a State fails to develop a plan that meets the requirements of the law, the Environmental Protection Agency is required to promulgate a Federal Implementation Plan.

The Environmental Protection Agency is required to issue control requirements for a number of sources of pollution, including commercial and consumer products.

TITLE II. MOTOR VEHICLE-RELATED PROVISIONS

Cars and trucks currently account for 50% of the smog (ozone) pollution and 90% of the carbon monoxide pollution in urban areas in the United States. They are also responsible for significant emissions of toxic pollutants. It is not only the vehicles but the fuel they use that causes pollution.

The agreement contains the following measures to reduce these pollutants:

Reformulated Gasoline

Cleaner, reformulated gasoline would be mandated in the nine cities with the severest ozone pollution beginning in 1995. States could elect to have the requirements apply in other cities with ozone pollution problems.

In comparison with conventional gasoline, reformulated gasoline would be required to have 15 percent lower emissions of volatile organic compounds and toxic chemicals by 1995, and 20 to 25 percent lower by 2000. The agreement also contains additional standards for oxygen, benzene and aromatics.

The agreement establishes an oxygen content level of 2.7% in 44 cities with carbon monoxide pollution, starting in 1992. These provisions will encourage the use of oxygen-containing additives like ethanol and MTBE, a natural gas derivative.

Tailpipe Standards for Cars and Trucks

Auto manufacturers are required to reduce tailpipe emissions of hydrocarbons and oxides of nitrogen, which form smog, by 35% and 60%, respectively, beginning with 40% of the vehicles sold in 1994 and increasing to 100% of vehicles sold in 1998. Comparable reductions are required for light trucks such as vans and pickups.

The period during which cars would be subject to recall for failure to meet emissions standards would be doubled to ten years or 100,000 miles whichever occurs first.

An additional reduction in auto emissions—a 50% cut below the standards required in the mid-1990's—would be required after 2003 if EPA finds that this new standard is both necessary and technologically feasible.

Other Requirements

Vehicle manufacturers must install systems to alert drivers when an emission control system is malfunctioning.

Auto manufacturers are required to install canisters on vehicles to capture hydrocarbons that would otherwise be emitted into the atmosphere during refueling beginning in 1995 and phased-in over a three year period, if these devices are determined to be safe by the EPA and the Department of Transportation.

The agreement requires new transmit buses, beginning in 1994, to use cleaner fuel such as natural gas or methanol to meet particulate standards. The agreement encourages clean diesels and new procedures for testing diesel vehicles.

The Conference Agreement retains the present Section 177 language that provides for adoption and enforcement of California auto standards by other States.

The agreement requires enhanced vehicle inspections in the most highly polluted areas. The conferees adopted House language that requires annual, centralized programs or programs which achieve equivalent reductions in the serious non-attainment areas.

Fleet Vehicles

A program for fleet vehicles is included in the agreement. Fleet vehicles covered by the program would be substantially cleaner than conventional vehicles.

The fleet program applies in serious, severe and extreme nonattainment areas to fleets of ten or more vehicles that are capable of being centrally fueled (but not including vehicles garaged at personal residences each night under normal circumstances).

The fleet program agreed upon will mandate California's low emission vehicle (LEV) standards by 1998 for light duty vehicles and light duty trucks below 6,000 lbs., provided these vehicles are offered for sale in California. By 2001, these vehicles will be required without regard to availability in California. The tailpipe standard for these vehicles includes a limit at 0.075 gram per mile NMHC (non-methane hydrocarbon) compared to the 0.25 gpm NMHC standard applying to conventional cars.

EPA is mandated to establish an equivalent "wrap around" standard (exhaust, evaporative and refueling emissions combined) for LEV's using reformulated gasoline. It will be left to the manufacturers to decide which standard to use (the LEV tailpipe standards or the wrap around standard).

Heavy duty fleet vehicles from 8,500 lbs. to 26,000 lbs. will be required to meet a combined NO_x and hydrocarbon emission standard of 3.15 grams perbrake horsepower hour, which is a 50% reduction below emissions from a 1994 heavy duty diesel engine. If EPA determines this standard is not possible for a clean diesel fueled engine, it can be waived to only a 30% reduction.

The Agreement requires EPA to study off-highway engines and emissions from off-highway vehicles (other than locomotives). If the study concludes that they are significant contributors to ozone or carbon monoxide problems in more than one area, EPA must regulate their emissions. California would be precluded from adopting its own standards for engines smaller than 175 HP used in construction equipment or farm equipment and from locomotives. Within five years EPA must regulate emissions from new locomotives.

The Agreement would shorten the warranty period for most light duty vehicle emission control components to two years or 24,000 miles starting in 1995 but extends the applicable coverage for major components costing more than $200 (such as the catalytic converter, onboard diagnostics and the electronic control system) to eight years or 80,000 miles. This revision only applies to light duty vehicles.

California Pilot Program

The Agreement contains a pilot program for California, a modification of the House bill. Beginning in 1996, 150,000 clean fuel vehicles per year must be produced for sale in California; by 1999, this number must rise to 300,000. These vehicles must meet California's TLEV (transitional low emissions vehicle) standards (0.125 NMOG, 0.4 NOx, 3.4 CO and 0.015 formaldehyde) until the year 2000 when they must meet the LEV requirements (0.075 NMOG, 0.2 NOx, 3.4 CO and 0.015 formaldehyde). California must assure that sufficient clean fuels are produced, distributed and made available for all clean fuel vehicles to operate exclusively on such fuels in the covered area. If California fails to adopt a fuels program that meets this requirement, EPA must establish such a program within three years.

Other states with serious, severe or extreme ozone non-attainment areas are authorized to "voluntarily" opt-in to the California standard. This voluntary opt-in cannot include any production or sales mandate for vehicles or fuels but must rely on incentives to encourage their sale and use.

TITLE III: AIR TOXICS PROVISIONS

Routine Emissions from Major Sources

List of Pollutants and Source Categories:

The Conference agreement establishes a list of 189 chemicals taken from the Administration's bill, except that ammonia and hydrogen sulfide were deleted from the list.

EPA is to establish a list of major source categories (chemical plants, oil refineries, steel plants, etc.) for the purpose of issuing standards. Approximately 250 source categories will be subject to regulation. Different standards may apply for different categories.

MACT Standard

For each category of sources, EPA will promulgate a standard which requires the installation of maximum achievable control technology (MACT) by the sources in the category. MACT is generally the best available control technology, taking cost into account.

All standards are to be promulgated within 10 years, with standards for 41 source categories required within 2 years.

Existing sources must comply with MACT standards not later than 3 years after they are issued (with a possible 1 year extension).

When listing pollutants and setting standards, EPA would be required to consider impacts on the environment as well as effects on human health.

Voluntary Reduction

Any source making a voluntary reduction of 90% below 1987 emissions levels receives a 6-year extension on the MACT compliance date.

Residual Risk

Under some circumstances, MACT may not provide enough public health protection.

If, after installation of MACT, a significant risk remains, EPA must tighten the standards 8 years after initial promulgation of the MACT standard.

Standard for protection is "an ample margin of safety to protect public health" unless a more stringent standard is necessary to protect the environment.

EPA is required to set such "residual risk" standards for pollutants which may cause cancer whenever the risk is greater than 1-in-1,000,000 to the person in the general population most exposed to emissions from a source in the category.

Permits

Each source subject to these standards will be required to apply for a permit under title IV of the bill. The permit program will be managed by the States, so long as they meet minimum Federal requirements.

Special Provisions for Coke Ovens and Utilities

Coke ovens which achieve a stringent level of control may qualify for an extension of the compliance date for residual risk standards to 2020.

Utility emissions of air toxics would only be regulated after a study by EPA and only if EPA found that regulation is warranted.

Great Lakes Pollution

The Conference agreement requires EPA to study toxic pollution of the Great Lakes which results from atmospheric deposition of metals and other toxic particulates. EPA is required to take action to protect the water quality of the Great Lakes and the Chesapeake Bay.

Routine Emissions from "Area" Sources

Based on the list of pollutants mentioned above, EPA can also list an area source category (dry cleaners, gas stations, woodstoves and small combustion units, etc.) just as the agency would list a major source category and require MACT. EPA must list sufficient source categories to assure that 90% of the emissions of the 30 most serious area source pollutants are regulated.

There is an alternative area source control program for those sources that present a substantial risk to health, but for which best available technology is too costly.

EPA is to monitor a broad range of urban toxics in cities with populations over 250,000 to determine which area source pollutants present the greatest risk.

Five years after enactment, EPA is to propose a national urban air toxics strategy to reduce cancer risks associated with urban air toxics by 75%. EPA is to report on reductions achieved in 8 and 10 year intervals.

Accidental Releases

The agreement contains provisions that are designated to prevent chemical accidents.

These provisions impose a general duty on the owner or operator of each facility handling extremely hazardous substances to operate safely.

EPA is to publish a list of at least 100 extremely hazardous air pollutants, of which approximately 20 are listed in the agreement.

Each owner of a facility handling extremely hazardous substances must complete an engineering analysis of the facility to identify possible hazards to public health. The assessments would be publicly available.

The Conference agreement establishes a Chemical Safety Board, similar to Transportation Safety Board, to investigate chemical accidents.

EPA is authorized to promulgate accident prevention regulations.

Municipal Incinerators

The Conference agreement includes provision to control the air emissions from municipal, hospital and other commercial and industrial incinerators.

Recycling and ash management provisions from the Senate bill were deleted.

TITLE IV: ACID RAIN PROVISIONS

Acid rain continues to pose a threat to public health and the environment. The agreement reduces sulfur dioxide (SO_2) emissions by ten million tons per year and provides a national cap on sulfur dioxide emissions. This title, based on the Senate bill, also reduces emissions of oxides of nitrogen (NOx) by approximately two million tons per year.

Reduction Requirements for Sulfur Dioxide

The agreement reduces SO_2 by 10 million tons per year below 1980 levels.

Annual sulfur dioxide emissions are capped beginning in the year 2000.

Marketable Allowances

In addition to its pollution control permit, each source will receive "allowances" equal to the pollution it is permitted to emit. An allowance is a marketable federal permit to emit one ton of sulfur dioxide.

If a source reduces its pollution more than required, it will have left-over allowances it can sell to another source—which would permit the second source to emit more than allowed while remaining in compliance. This ensures that total reductions will be achieved in the most cost-effective way and that reduction costs will be allocated fairly.

Phase I

In Phase I, which begins January 1, 1995, utility powerplants emitting at a rate about 2.5 pounds of sulfur dioxide per million Btu (lbs./mmBtu) (about 111 plants) will have to reduce their emissions to a level equal to 2.5 lbs./mmBtu multiplied by their average 1985-87 fuel consupmtion.

Plants that use certain control technologies to meet their Phase I reduction requirements may either postpone compliance until 1977 or receive early-reduction bonus allowances for reductions they achieve between 1995 and 1997. In addition, Phase I plants that use certain control technologies will also receive 2 for 1 credit for every ton of reduction they achieve below a 1.2 lbs./mmBtu level during Phase I.

A special allocation of 200,000 annual allowances per year will be made in each of the five years of Phase I to powerplants in Illinois, Indiana and Ohio that are required to make reductions in Phase I.

Phase II

In Phase II, which begins January 1, 2000, all utility power plants emitting at a rate above 1.2 lbs./mmBtu will have to reduce emissions to a level equal to 1.2 lbs./mmBtu multiplied by their average 1985-87 fuel consumption.

Nationwide, plants that emit SO_2 at a rate below 1.2 will be able to increase their emissions between now and the year 2000 by

roughtly 20% and will then be limited to that level. This requirement is necessary to maintain the nationwide cap on SO_2 emissions.

Bonus allowances are distributed to accommodate growth by units in States with statewide average emissions below 0.8 lbs./mmBtu. Plants that have experienced increases in their utilization in the last five years also receive bonus allowances.

50,000 bonus allowances per year are allocated to plants in 10 Midwestern States that make reductions in Phase I.

Units that use energy conservation or renewable energy will receive special incentive allowances for making early reductions in SO_2 emissions.

Plants now under construction will either receive allowances to offset their emissions or will be exempted from the emissions limitation program altogether.

EPA will auction allowances to ensure their availability to utilities that may not be able to acquire them in the allownce "market".

The 1977 "percentage reduction" requirement for coal is repealed once the emissions cap goes into effect.

Utility NOx Emissions

Not later than 1993, EPA is required to establish performance standards under which utilities required to reduce sulfur dioxide emissions in Phase I are also required to control their NOx emissions based on performance standards for certain boiler types. The emissions standards will be based on low NOx burner technology.

Not later than 1997, EPA is required to establish performance standards for all remaining types of utility boilers.

Remaining affected sources under the acid rain title must meet these standards by the Phase II deadline. This standard will also be set based on low-NO_x burners, and will be updated as new technologies are developed.

EPA is required to promulgate a revised NO_x New Source Performance Standard for utility boilers.

Provisions permitting emissions averaging and granting extensions to plants that suffer substandard performance from pollution control equipment or that face shortages in the supply of needed technology ensure that the program will be flexible.

Clean Coal Technology Projects

Temporary clean coal technology demonstration projects (those operating for 5 years or less) are exempt from the requirements of Title I of the Clean Air Act.

Permanent demonstration projects that are retrofits are presumed not to be major modifications.

Permanent demonstration projects that employ repowering are exempt from Part C and section 111 requirements if their potential emissions for any criteria pollutant do not increase over the potential emissions before the project.

Clean coal technologies that employ repowering are exempt from New Source Review if actual emissions for any criteria pollutant do not increase over previous emissions. If there is an increase in emissions, States are encouraged to give such projects expedited review.

TITLE V: PERMIT PROVISIONS

The conference agreement includes provisions that require various sources of air pollution to obtain operating permits which would ensure compliance with all applicable requirements of the Clean Air Act. The permit program is modeled after the existing Clean Water Act permit program.

Permit Programs

EPA is required to issue permit program regulations within one year. States are required to develop programs consistent with those regulations. The programs would be in effect within four years, and the requirement to have a permit would be phased-in over the ensuring three years.

EPA Oversight of Permit Programs

The conference agreement provides EPA with the authority to review permits proposed to be issued by a State and to object to permits that violate the Clean Air Act. EPA would also have the opportunity to waive review permits for small sources.

Citizen Review of EPA Permit Actions

If EPA fails to object to a permit that violates the Act, any person can petition EPA to issue such an objection. The petition must be based upon objections that were raised during the public comment period unless the petitioner demonstrates that the issues raised in the petition could not have been raised during that period (or that it was impracticable to raise them). The petition will not delay the effectiveness of a permit that had already been issued. EPA is required to act upon the petition within 60 days and is required to object to the permit if the petitioner demonstrates that the permit is not in compliance with the Act.

State Response to EPA Objections

Under the conference agreement, States would be granted 90 days to revise permits to meet any EPA objection. If the State fails to revise the permit, EPA will issue or deny the permit.

Permit Shield

The agreement provides that compliance with a permit is deemed compliance with the requirements of the permit program. Permit compliance also will be deemed compliance with other applicable provisions of the Clean Air Act if the permit includes those provisions, or if the permitting authority includes in the permit a specific determination that such provisions are not applicable.

Operational Flexibility

Facilities will be authorized to make changes in operations without the necessity for a permit revision so long as: (i) the changes are not "modifications" under title I of the Act, (ii) the changes will not result in emissions that exceed emissions allowable under the permit, and (iii) the facility provides EPA and the permitting authority with seven days written notice in advance of the changes.

Processing Permit Applications

Except for applications submitted within the first year of the permit program (for which a 3-year phased review is allowed), States are required to act upon permit applications within 18 months.

Small Business Stationary Sources

The agreement provides that small business sources are eligible for technical and compliance assistance in satisfying the permitting requirements.

TITLE VI: STRATOSPHERIC OZONE PROTECTION

The conference agreement includes compromise provisions on—CFC, halon, carbon tetrachloride, and methyl chloroform phase out schedules (see below for table showing schedule);

HCFC production freeze in 2015 and elimination in 2030, coupled with use limitations beginning in 2015 and, for use as a refrigerant in appliances, 2020;

recapture, recycling, and safe disposal regulations to be phased in beginning January 1, 1992;

a July 1, 1992 prohibition on venting during appliance service, repair, and disposal;

effective January 1, 1992, a requirement to use certified recycling equipment when servicing motor vehicle air conditioners;

restrictions on the sale of small cans of class I and class II refrigerants;

a ban on nonessential uses of ozone depleting chemicals;

labeling requirements;

a safe alternatives policy to promote the transition to safe substitutes;

a requirement for Federal agencies to modify procurement regulations in accordance with the requirements and policies of this title;

a prohibition on the export of technologies to produce class I substances and on investments to produce class I or class II substances to nations that are not Parties to the Montreal Protocol;

domestic and international trading of production allowances (industrial rationalization);

authorization for the U.S. contribution to the international fund that has been established to assist developing countries; and

studies on sources of and options for controlling emissions of methane.

Phase out schedules

The percentages in the following table refer to the maximum allowable production as measured against baseline production in percent.

	carbon tetrachloride	methyl chloroform	CFC's and halons
1991	100	100	85
1992	90	100	80
1993	80	90	75
1994	70	85	65
1995	15	70	50
1996	15	50	40
1997	15	50	15
1998	15	50	15
1999	15	50	15
2000		20	
2001		20	
Total	415	[1] 685	440

[1] New authority would be added for EPA to authorize the production of methyl chloroform in an amount not to exceed 10 percent of baseline per year in 2002, 2003, and 2004 for use in essential applications for which no safe substitutes are available.

SUMMARY OF TITLE VI: FEDERAL ENFORCEMENT

The conference agreement includes a number of provisions that enhance the enforcement authority of the federal government under the Clean Air Act. In general terms, the agreement increases the range of civil and criminal penalties for violations of the Clean Air Act. These provisions grant the Environmental Protection Agency new enforcement authorities that are comparable to those found in other environmental statutes.

SIP and Permit Violations

The conference agreement revises and strengthens EPA enforcement authority regarding violations of State Implementation Plans and permits, including authority to bring civil actions for injunctive relief and penalties, as well as new authority to issue administrative penalty orders in response to violations. These authorities can also be used by EPA when States fail to enforce SIPs or permit requirements.

Violations of other requirements

EPA is authorized to initiate a range of enforcement actions for a number of violations of specified sections and titles of the Act, including section 303 (emergency orders), the permits title, the acid rain title, and the stratospheric ozone protection title. Included is authority to issue administrative penalty orders, file civil actions, and initiate criminal proceedings via the Attorney General.

Criminal Penalties

Criminal fines and penalties are included for a range of violations of the Act, including negligent or knowing violations that result in the endangerment of others, knowing violations of SIPs that occur after the violator is on notice of the violation, knowing violations of certain sections in the permit title, and knowing violations of the acid rain title or the stratospheric ozone protection title. In addition, the agreement provides criminal fines and penalties for the knowing filing of false statements and other similar recordkeeping, monitoring, and reporting violations. Consistent with other recent environmental statues, criminal violations of the Clean Air Act are upgraded from misdemeanors to felonies.

Field Citations

The conference agreement provides new authority for EPA to implement a field citation program for minor violations of the Act.

Definitions of "operator" and "person"

Except in the case of knowing and willful violations, the term "operator" does not include persons responsible for the operation of equipment unless they are senior management or a corporate officer. In addition, except in the case of knowing and willful violations, persons carrying out their normal activities shall not be subject to the criminal provisions regarding recordkeeping, monitoring and reporting. Finally, except in the case of knowing and willful violations, persons carrying out their normal activities who are acting under orders from their employer shall not be subject to the criminal provisions relating to endangerment and certain other violations of the Act.

Citizen suits

As under current law, citizen suits are authorized to enforce nondiscretionary actions of the EPA. In addition, the conference agreement authorizes courts to apply civil penalties in citizen suits and, rather than directing the payment of penalties into the U.S. Treasury, to direct that the moneys be used to pay for beneficial mitigation projects. The agreement also allows citizen suits to be brought to enforce the requirement to obtain a permit, the conditions of permits, and the requirements contained in SIPs. Finally, in response to the Supreme Court ruling in *Gwaltney of Smithfield, Ltd. v. Chesapeake Bay Foundation, Inc.*, 484 U.S. 49 (1987), the conference agreement allows citizen suits to be brought with respect to past violations if there is evidence that the violation has been repeated.

Environmental Audits

The conference agreement includes a statement of managers that encourages owners and operators to conduct environmental audits and to correct any compliance problems discovered in such audits. The statement of managers suggests that criminal penalties should not ordinarily be applied where owners and operators engage in such audits and act promptly to correct any problems that are discovered as a result of such audits.

TITLE IX: CLEAN AIR RESEARCH

The House and Senate provisions in this area were generally similar. The conference agreement adopts the House title with several changes drawn from the Senate bill.

The primary change involves adoption of the Senate's proposal to continue the acid rain research program begun under NAPAP with a Task Force composed of several agency heads. Under the agreement, the President would appoint the chairman of the Task Force. The Task Force would be responsible for reviewing the status of acid rain research conducted to date, coordinating acid rain research activities with other Federal agencies, publishing and maintaining a National Acid Lakes Registry, making budgetary recommendations to the President for the Federal government's acid rain research activities, and reporting to Congress on a variety of data. With certain modifications, the conference agreement also adopts the Senate's Westen Lakes and Waters research provision.

The agreement generally follows the House provisions with respect to the various research and study programs to be conducted by the EPA. It provides for an EPA program of research, testing, and development of methods for sampling, measurement, monitoring, analysis, and modeling of air pollutants. In addition, EPA will be required to conduct an environmental health research program on the short-term and long-term effects of air pollution.

EPA is further directed to conduct an ecosystems research program and, in consultation with the Secretary of Energy and others, to oversee an experimental research and analytical research and field testing effort at the Liquified Gaseous Fuels Spill Test Facility in Nevada. This effort is intended to develop improved models for atmospheric dispersion of chemicals, evaluate existing and future models, and evaluate the effectiveness of certain hazard mitigation and emergency response technologies.

EPA is directed to conduct a basic engineering research and technology program to develop, and demonstrate non-regulatory strategies for air pollution prevention. In addition, EPA will conduct a research program to identify, characterize, and predict air emissions related to the production, distribution, storage, and use of clean alternative fuels to determine the risks and benefits to human health and the environment relative to those from using conventional gasoline and diesel fuel.

The Adminstrator is also required to develop and implement a plan for coordinating research with other Federal ecological and air pollution research efforts. A study that compares international air pollution control technologies of selected industrialized countries will also be conducted for the purpose of determining if there exist such technologies abroad that may have beneficial applications in the United States.

Comprehensive Analysis of Benefits and Cost

The EPA is directed to make a comprehensive analysis of the benefits and costs of the various requirements of the Clean Air Act. A council of independent experts would advise EPA on how to predict future costs and benefits of various clean air programs.

OTHER PROVISIONS

Disadvantaged Business Concerns

The conference agreement adopts the House's title X, relating to disadvantaged business concerns, with one substantive modification. Under the bill, as modified, the Administrator shall, to the extent practicable, require that not less than 10 percent of total Federal funding for clean air research relating to the requirements of the Act will be conducted by disadvantaged business concerns.

Wise Job Displacement Provision

The conferees approved a modified version of the Wise Amendment, establishing a program of training and weekly benefit payments for workers terminated or laid off as a consequence of compliance with the Clean Air Act. This program will be administered under the Job Training Partnership Act with a five-year, $250 million authorization, earmarked for displaced workers and to be used for both training and benefit payments. Eligibility requirements for these displaced workers will be developed by the Secretary of Labor in a rulemaking process. Benefit payments are set at the level of unemployment insurance or the poverty level, whichever is higher, and may be received as long as displaced workers are enrolled in approved training programs.

Visibility Provisions

The Conference Agreement retains the Senate provisions concerning visibility. EPA and other federal agencies are directed to conduct a study to identify and evaluate sources of visibility impairment. In addition, EPA is given authority to establish visibility transport regions and commissions.

THE RETIREMENT OF CAPT. THOMAS G. KELLEY, USN

Mr. McCAIN. Mr. President I take this time to note the retirement of Capt. Thomas G. Kelley from the U.S. Navy after a distinguished career of 30 years.

Captain Kelly last served as the Special Assistant to the Chief of Naval Personnel for Legislation. In this assignment, he was responsible for all legislative issues involving Navy manpower and personnel.

He worked closely with the Armed Services Committee over the past 3 years, and has been personally responsible for helping to protect and improve the quality of life for the men and women of the Navy and their families. They could not have had a better spokesman than Tom Kelley.

Tom was a naval officer of extraordinary talents. He continually demonstrated outstanding leadership in every assignment, including command at sea, and major command ashore. All who have served for or with Captain Kelly have nothing but praise and the highest possible regard for him.

He is a man of exemplary character, and the highest sense of personal honor. He epitomizes all that the concept of being a naval officer has meant through the over 215-year history of the U.S. Navy.

These accomplishments, and this distinguished career, are significant enough to merit our thanks and praise. But Tom Kelley did something else in his career that places him

among the very special group of Americans whose service to our Nation was "above and beyond the call of duty."

On June 15, 1969, then—Lt. Tom Kelley was awarded the Medal of Honor. On that day, while in command of River Assault Division 125, Tom Kelley led his division of eight assault craft into the Ong Muong Canal in Vietnam to extract a company of Army infantry.

During the operation, one of his boats had a mechanical failure that required the crew to raise the loading ramp with block and tackle. At that moment, his column came under rocket attack and 75mm recoiless rifle fire from a heavily fortified Vietcong force.

With enemy shells striking all around, Lieutenant Kelley quickly, and calmly, ordered the remaining boats to form a protective cordon around the disabled craft and maneuvered his boat to the exposed side of the cordon in direct line of enemy fire. Sighting the enemy bunkers, he directed his battery to return fire.

Suddenly, an enemy rocket scored a direct hit on the coxswain flat. Absorbing the full blast, Lieutenant Kelley was blown to the deck with an almost mortal head wound. His face broken, bleeding profusely and with jagged shrapnel piercing his right eye, he struggled to retain consciousness and to reach for the radio in order to continue to direct the attack.

Disregarding his wounds and refusing assistance, he relayed commands through one of his men until the enemy attack was silenced and the extrication mission completed.

His leadership, bold initiative and resolute determination served to inspire his men. His extraordinary courage under fire, his gallantry at the risk of his own life, and his selfless devotion to duty, on June 15, 1969, and throughout his Navy career, have enhanced the finest traditions of the naval service.

Despite losing his right eye as a result of his wounds, Tom Kelley fought to stay on active duty, and was able to continue a long and distinguished career. As we debate the course of out Nation's defense policy over the next decade, we should keep in mind that the success our Nation has had in preserving peace, and in protecting our freedom, was achievable because of people like Tom Kelley, who were willing to answer the call to serve.

We here and our fellow citizens owe a deep debt to Capt. Tom Kelley and I salute him and wish him, in the tradition of the Navy, "Fair winds and following seas."

Thank you, Mr. President.

THE BOYS & GIRLS CLUBS OF AMERICA'S ANNUAL YOUTH OF THE YEAR CONGRESSIONAL BREAKFAST

Mr. THURMOND. Mr. President, I recently had the pleasure of serving as cohost with Representative STENY HOYER of Maryland for the Boys & Girls Clubs of America's annual "Youth of the Year" congressional breakfast. At this breakfast, five young people were honored as "Youth of the Year" finalists.

The finalists were: David Capps of Knoxville, TN; Beverly Fernandez of Greeley, CO; James Splude of Portland, ME; Rosa Cross of southeastern Michigan; and Adam Cornell-Stubbs of Kirkland, WA. We are proud of the outstanding achievements of these five young Americans.

In addition to honoring the "Youth of the Year" finalists, Mr. Arnold Burns, vice chairman of the Boys & Girls Clubs, paid tribute to the CBS/Fox video for their ongoing support of the clubs. Accepting the award was the president of CBS/Fox Video North America, Mr. Robert Delellis. We thank him for his dedication to the children of our Nation.

Others who were officially recognized included: FBI Director William Sessions; Frank Ronnenberg of Reader's Digest, Inc.; and John Walsh, host of "America's Most Wanted."

Mr. Bud O'Shea, president of MGM/United Artists Home Video, added to the excitement by announcing the donation of $100,000 from the home video release of "All Dogs Go To Heaven." This Don Bluth production will greatly benefit the Boys & Girls Clubs of America, thanks to the generosity of these fine members of the motion picture industry.

The breakfast ended with the announcement of the 1990-91 National Youth of the Year. The crowd sat silently as Jeremiah Milbank, chairman of the Boys & Girls Clubs of America board, announced the winner—Adam Cornell-Stubbs of Kirkland, WA.

Seventeen-year-old Adam was abandoned at the age of 5 and for 2 weeks he took care of his younger siblings, changing their diapers and cooking for them. He bounced from foster home to foster home until he was finally adopted. Adam is now an honor roll student at his high school. As he graciously accepted the award for "Youth of the Year," Adam thanked the Boys & Girls Clubs for always being there for him. He is a fine young man, and I wish him well.

Vice chairman of the board Arnold Burns then closed the annual event by reminding us that Boys & Girls Clubs serve over 1,500,000 young people. Mr. Burns also spoke of the great importance this organization has to our Nation's future strength.

In addition to all who participated in the program, I would like to take this opportunity to give a special commendation to Mr. Robbie Callaway, director of government relations for the Boys & Girls Clubs, and his colleague Mr. Tom Garth, for the excellent work they did in connection with this event. Their efforts are greatly appreciated and were instrumental in making the 20th annual awards breakfast a very special time for all present.

WHAT ARE IRAQI MILITARY AIRCRAFT DOING IN YUGOSLAVIA?

Mr. DOLE. Mr. President, as my colleagues know, the foreign operations appropriations bill we passed today contains a provision that prohibits assistance to foreign governments which are in violation of the United Nations embargo of Iraq. I believe that this foreign aid restriction is critical for the duration of the Middle East crisis. And I believe that it reflects the heart of the international community's consensus, and efforts to respond in unison to the blatant and arrogant aggression of Saddam Hussein.

Mr. President, I would like to draw to my colleagues' attention a recent announcement by the newly elected democratic Government of the Republic of Croatia, one of the constituent republics of Yugoslavia. Last week, the Prime Minister of the Croatian Republic announced that there are Iraqi military aircraft at the Yugoslav Air Force military service installation outside of the Croatian capital of Zagreb. Noting the actions taken by the United Nations, the Croatian Government protested to the commander of the Yugoslav Armed Forces and to the Federal Government of Yugoslavia. The protest condemned the servicing of Iraqi aircraft, as well as overflights by these aircraft—which took place earlier this month.

Mr. President, in my view, these events merit a serious and thorough investigation by the U.S. Government. Moreover, it seems to me that, if the Yugoslav Government is engaged in providing assistance to the Iraqi military, any and all aid from the United States to the Government of Yugoslavia would be precluded under the provisions of this bill. Therefore, I urge the administration to investigate this matter as soon as possible, and to communicate our serious concerns to the Government of Yugoslavia, if this has not already been done.

IISS DOING GOOD WORK IN EASTERN EUROPE

Mr. DOLE. Mr. President, we have completed work on the foreign operations appropriations bill. I want to say a brief word about that section of the bill which will provide funds for United States assistance programs in

Eastern Europe—the so-called SEED Program.

Wisely, we have chosen to focus our assistance efforts where there is real need, and we have a special capacity to help—particularly in the areas of building democratic institutions, and the development of free market economies.

A number of private organizations have particular expertise in these areas, and are already working with various Eastern European countries. For good reason, this legislation does not seek to identify any specific organizations for support. That is properly the work of the administration, as it implements these programs. But I know that many organizations will be seeking funding out of this bill. Undoubtedly, there will be many worthy proposals.

I simply wanted to note at this point one organization, the International Institute of Strategic Studies [IISS], which has been working effectively with some of the governments of the emerging democracies in Eastern Europe. I would hope that the expertise and experience of IISS might be tapped for some of the programs contemplated in this legislation for scholarships, technical advice, and exchanges.

ELIZABETH HANFORD DOLE

Mr. SIMON. Mr. President, I heard today along with many of you—some of you probably heard yesterday—that Secretary Elizabeth Dole is going to become the president of the American Red Cross.

I have had the chance in my 16 years in Congress to deal with a great many Cabinet members, some of whom do an excellent job, some of whom frankly never should get appointed. That happens under both Democrats and Republicans. Elizabeth Dole has been one of the finest.

I worked with her a little when she was Secretary of Transportation, was favorably impressed but frankly I did not work with her that much.

But as Secretary of Labor, I have had the chance to work with her a great deal. She is a hands-on person who works, very, very diligently, who gets the job done, works well with people of both political parties.

I think significant for her new role as head of the American Red Cross she has a heart. She has compassion. A very significant thing was when President Bush announced her appointment. She stood in front of the Vice President's home, as I recall, and she mentioned as Secretary of Labor she hoped to get jobs for people. She said, "You know my husband and I just visited a soup kitchen, and this man came up to me and said 'If I could just get a job I would not be homeless.' "

I think first of all the fact that BOB DOLE and Elizabeth Dole were visiting a soup kitchen here in Washington, DC, says something about her, says something about our colleague, Senator BOB DOLE. But it says something also about her compassion. I think she will do an absolutely superb job. I think she will bring credit to the American Red Cross, and to this Nation in the leadership that she will provide.

I am certain that there will be people around the face of the Earth, in countries most of us know only as names on a map, people in those countries, who will be helped because of her leadership.

I think we are all very very proud of the job she has done as Secretary of Labor, and I know we all join in wishing her the very best.

THE LIBRARY OF CONGRESS

Mr. PELL. Mr. President, as vice chairman of the Joint Committee on the Library, I simply want to express my support for the provisions of this bill which fund the important work and activities of the Library of Congress.

The Library is not only the intellectual and informational reservoir which nurtures the Congress of the United States, but it is a national resource which influences and helps sustain the cultural life of the Nation. It is the largest library in the world and, as has been said, it embraces the accumulated wisdom of all the ages.

For all these reasons, I believe we have a responsibility to sustain the Library, especially in this time of fiscal duress. The bill before us tonight makes adequate provision for continuity of the Library's programs and I urge its adoption.

Mr. President, I ask unanimous consent that a memorandum describing the Library's contributions to the Nation be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

THE LIBRARY'S CONTRIBUTIONS TO THE NATION

Members of Congress and their staffs are made aware daily of the Library of Congress' contribution to their work, through the efforts of the Congressional Research Service in providing research and reference assistance to Members, committees, and their staffs. But the work of CRS is only part of the mandate of the Library of Congress.

The resources of the Library of Congress form the core of our national intellectual life and national memory. With book collections exceeding 14 million volumes, a photography collection in excess of 11 million items, nearly 37 million items in manuscript collections, 3 million musical scores, and 7 million rare items preserved on microforms, the Library collection comprises an unparalleled intellectual resource for various academic disciplines.

Not only is the Library's collection a national resource, in this era of growing international cooperation, it is also an unmatched international resource. The Library's Hispanic Division has the largest Spanish and Portuguese language collection outside of the Iberian Peninsula and Latin America; the Library's Arabic language collection is the largest such repository outside of the Middle East. The LC dual role as both a legislative library and the national library has attracted the attention of large numbers of foreign visitors eager to draw upon the experience of the Library of Congress in developing similar resources in their own nations.

The Library plays a key role in the intellectual life of the United States through its role as the American copyright depository. The Library's recent exhibit "To Secure to Authors * * *" commemorated the vital role of copyright laws in protecting intellectual property rights. Its legal staff is currently providing key advice to the Congress in legislative proposals designed to protect copyright of new technological processes, including computer software. The Copyright Office also seeks to enforce international copyright laws against infringement—a function which protects not only American copyrights, but also international copyright conventions.

The Library is not just a home for established scholars. It is the training ground for future scholars just beginning their professional careers, and it is also a center for research libraries and public libraries throughout the country. Library book cataloging efforts, made available to local private and public libraries, save countless thousands of dollars annually in eliminating the need for local libraries to catalog their own new acquisitions. The Library is also a center of interlibrary lending activity, of book sharing among public and private libraries throughout the United States. In an era of fiscal constraints on many local public libraries and college and university libraries, the Library's loan programs help overcome some unfortunate gaps in the collections of local libraries.

The Library's Music and Motion Picture Divisions have done invaluable work in preserving key works in recorded sound and visual media. Its public concert series, broadcast nationally, and film showings bring these works to a large and growing audience. Plus, through the Library's Reading Program for the Blind and Physically Handicapped over 22 million talking books are loaned to 700,000 readers annually. The Library's work serves a diverse international clientele, ranging from world renowned scholars to average citizens who find in the Library services vital to their needs.

UNITED NATIONS DAY

Mr. KENNEDY. Mr. President, today, as we observe United Nations Day, it is fitting that we recognize that organization's many recent achievements. Over the past year, the United Nations has actively advanced the cause of peace and human rights around the world. Most recently it has been at the forefront of the international cooperative effort to combat the blatant aggression of Iraq.

Last month, the leaders of the world gathered in New York for the World Summit for Children sponsored by UNICEF. This important gathering served to focus the world's attention on the need to protect and nurture our most important global resource—our children.

The United Nations was instrumental in bringing independence to Namibia earlier this year. It oversaw the elections in Nicaragua and continues to play an important role in the effort to bring peace to the region. It is also working to bring about peaceful and just resolutions to the conflict on Cyprus, and the civil wars in Cambodia, Afghanistan, and El Salvador.

I am pleased that the Congress—for the first time in 5 years—has provided full funding for our assessed contributions to the United Nations as well as the first payment toward offsetting our arrears. Over the last decade, our unconscionable disregard for our U.N. treaty obligations was a national disgrace which damaged our credibility and called into question our commitment to the organization. I hope that this restored commitment to funding the United Nations signals an end—once and for all—to our hostile approach to an organization which is, and can continue to be, indispensable to the goal of world peace.

Much of the United Nations success can be attributed to the leadership and dedication of Secretary-General Javier Perez de Cuellar and I ask unanimous consent that his United Nations Day message be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

MESSAGE OF SECRETARY-GENERAL JAVIER PEREZ DE CUELLAR—UNITED NATIONS DAY, 24 OCTOBER 1990

United Nations Day comes this year after possibly the most historic 12-month period in the life of our Organization. It has been a period of solid accomplishment.

The success of the complex operations in Namibia and Central America have shown the ability of the United Nations to manage transitions from conditions of conflict and upheaval to those of peace. At the same time, the notable advances made in the settlement of several other major international disputes have brought home sterling lessons about the crucial role of the United Nations. It can, and does deliver on its promises.

This series of positive developments has had as its backdrop the termination of the cold war and the end of the paralysis that had seized peace-making over four decades. With the lucidity thus regained, the value of multilateral effort can no longer be in question. We are entitled to a measure of pride that, through the difficult and daunting years of the recent past, we did not let our conviction be weakened that the procedures of our Organization are eminently practical and there is no substitute for them.

It is, however, the very nature of our vocation that we can never be permitted to rest on our laurels. A restless, rapaidly changing world situation permits no complacent simplifications. Then, again, the persistence of some old conflicts that gravely threaten peace and the eruption of the crisis resulting from the Iraqi invasion of Kuwait, with its incalculable consequences, subject the Organization to a severe test. What is being tested is nothing less than the Organization's capacity to establish the rule of law in international relations and its consistence in applying its principles.

Moreover, we cannot forget that while the iron curtain has been brought down, the poverty curtain still separates two parts of the world community. A new global dispensation will remain more a hope than a reality as long as the anxieties and strains caused by the disparity between the rich and the poor societies remains unremedied. Nor is such an order compatible with frequent and often massive violations of human rights.

What we have to bear in mind is that the more the United Nations is moved to the center of the stage in the conduct of world affairs, the higher is the level of our responsibility and the more exacting will be the tasks laid on us. Given the dedication of all who work for the United Nations, I have no doubt that this though will act as a spur rather than a bridle on our efforts.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:35 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2516. An act to augment and improve the quality of international data compiled by the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act by allowing that agency to share statistical establishment list information compiled by the Bureau of the Census.

The message also announced that the House has passed the following bill and joint resolution, each with an amendment, in which it requests the concurrence of the Senate:

S. 2628. An act to amend the Public Health Service Act to reauthorize certain National Institute of Mental Health grants and to improve provisions concerning the State comprehensive mental health services plan, and for other purposes; and

S.J. Res. 206. Joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4638) to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4808. An act to encourage solar, wind, waste, and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978;

H.R. 5687. An act to amend title 31, United States Code, improve the financial management of the Federal Government;

H.R. 5707. An act to limit the jurisdiction of the Federal Energy Regulatory Commission over local distribution company wholesalers of natural gas for ultimate consumption as a fuel in motor vehicles; and

H.R. 5520. An act to amend the Petroleum Marketing Practices Act to require certification and posting for all liquid automotive fuels, to provide the States more authority to enforce automotive fuel posting requirements, and for other purposes.

At 3:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3533. An act to amend the Earthquake Hazards Reduction Act of 1977 to improve the Federal effort to reduce earthquake hazards, and for other purposes.

ENROLLED BILLS SIGNED

At 6:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills.

H.R. 2331. An act to amend title 39, United States Code, to designate as nonmailable matter solicitations for the purchase of goods or services, or solicitation for donations which could reasonably be construed as implying any Federal Government connection or endorsement, unless such matter contains an appropriate conspicuous disclaimer, and for other purposes; and

H.R. 5019. An act making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 7:05 p.m. a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 1430) to en-

hance national and community service, and for other purposes.

The message also announced that the House concurs in the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 132 to the bill (H.R. 5241) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1991, and for other purposes.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3960. An act to increase the amounts authorized to be appropriated for the Colorado River Storage Project, and for other purposes.

At 11:17 p.m., a message from the House of Representatives, delivered by Mr. Hays, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4739) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message also announced that the House has passed the bill (S. 2924) to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2834) to authorize appropriations for fiscal year 1991 for the intelligence activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5732) to promote and strengthen aviation security, and for other purposes.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ended September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. OBEY, Mr. YATES, Mr. MCHUGH, Mr. LEHMAN of Florida, Mr. WILSON, Mr. GRAY, Mr. MRAZEK, Mr. COLEMAN of Texas, Mr. WHITTEN, Mr. EDWARDS of Oklahoma, Mr. LEWIS of California, Mr. PORTER, Mr. GALLO, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 139 to the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The message further announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 681. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes;

H.R. Res. 682. Joint resolution waiving certain enrollment requirements with respect to any reconciliation bill, appropriation bill, or continuing resolution for the remainder of the One Hundred First Congress.

ENROLLED JOINT RESOLUTION SIGNED

At 12:12 a.m. (October 25, 1990), a message from the House of Representatives announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 681. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

The enrolled joint resolution was subsequently signed by Mr. FORD.

MEASURES REFERRED

The following bill, received from the House of Representatives for concurrence on October 11, 1990, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3617. An act to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes; to the Committee on Energy and Natural Resources.

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3960. An act to increase the amounts authorized to be appropriated for the Colorado River Storage Project, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5520. An act to amend the Petroleum Marketing Practices Act to require certification and posting for all liquid automotive fuels, to provide the States more authority to enforce automotive fuel posting requirements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3533. An act to amend the Earthquake Hazards Reduction Act of 1977 to improve the Federal effort to reduce earthquake hazards, and for other purposes, and

H.R. 4407. An act to require Federal, State, and local law enforcement agencies to report all cases of missing persons under age 18 to the National Crime Information Center of the Department of Justice.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The PRESIDENT pro tempore (Mr. BYRD) reported that on today, October 24, 1990, he had signed the following enrolled bills and joint resolutions, which had been previously signed by the Speaker of the House:

S. 2737. An act to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the Korean war and in honor of those who served;

S. 2846. An act to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes;

S. 3016. An act for the relief of Janice and Leslie Sedore and Ruth Hillman;

S. 3032. An act to designate the planned Department of Veterans Affairs Medical Center in Honolulu, HI, as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center";

S. 3043. An act for the relief of Nebraska Aluminum Castings, Inc.;

S. 3216. An act to designate the Department of Veterans Affairs Medical Center in Charleston, S.C., as the "Ralph H. Johnson Department of Veterans Affairs Medical Center";

H.R. 3386. An act to prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and certain other products from contamination during motor or rail transportation, and for other purposes;

H.R. 3888. An act to allow a certain parcel of land in Rockingham County, VA, to be used for a child care center;

H.R. 4151. An act to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other pruposes;

H.R. 5209. An act to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistance packaging requirements, and for other purposes;

H.R. 5072. An act to amend the Public Health Services Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds, and for other purposes;

H.R. 5749. An act to amend the act entitled "An Act to Incorporate the American University," approved February 24, 1893, to clarify the relationship between the Board of Trustees of the American University and

the General Board of Higher Education and Ministry of the United Methodist Church;

H.R. 5794. An act to amend the Age Discrimination Claims Assistance Act to 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967;

H.J. Res. 214. Joint resolution designating the week of October 22 through October 28, 1990, as "Eating Disorders Awareness Week"; and

H.J. Res. 518. Joint resolution designating October 12 through October 20, 1990, as "American Textile Industry Bicentennial Week"; and

H.J. Res. 587. Joint resolution committing to the private sector the responsibility for support of the Civil Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, October 24, 1990, he had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 1747. An act to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes;

S. 2059. An act to establish the Weir Farm National Historic Site in the State of Connecticut;

S. 2203. An act to authorize appropriation of funds to the Zuni Indian Tribe for reservation land conservation, and for other purposes;

S. 2737. An act to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the thirty-eighth anniversary of the ending of the Korean War and in honor of those who served;

S. 2846. An act to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes;

S. 3016. An act for the relief of Janice and Leslie Sedore and Ruth Hillman;

S.J. Res. 158. Joint resolution designating October 21 through October 27, as "National Philanthropy Day";

S.J. Res. 307. Joint resolution designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week"; and

S.J. Res. 324. Joint resolution designating June 2 through 8, 1991, as a "Week for the National Observance of the 50th anniversary of World War II.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 1140. A bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements (Rept. No. 101-553).

By Mr. REID, from the Committee on Appropriations, with amendments:

H.R. 5399. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1991; and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Dennis W. Shedd, of South Carolina, to be United States District Judge for the District of South Carolina; and

James L. Webb, of Oklahoma, to be United States Marshal for the Eastern District of Oklahoma for the term of 4 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHAFEE (for himself, Mr. PACKWOOD, Mr. JEFFORDS, Mr. COHEN, Mr. SIMPSON, Mr. WILSON, Mr. AKAKA, Mr. WIRTH, Mr. PELL, Mr. BINGAMAN, Mr. METZENBAUM, Mr. HOLLINGS, Mr. ADAMS, Ms. MIKULSKI, Mr. GORE, Mr. BURDICK, Mr. CRANSTON, Mr. BRADLEY, Mr. SIMON, Mr. INOUYE, Mr. KENNEDY, Mr. RIEGLE, Mr. KOHL, Mr. ROBB, and Mr. LEAHY):

S. 3238. A bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOLE (for himself, Mr. GORTON, Mr. MCCAIN, and Mr. D'AMATO) (by request):

S. 3239. A bill to amend the Civil Rights Act of 1964 to strengthen civil rights laws that ban discrimination in employment, and for other purposes; to the Committee on the Judiciary.

By Mr. DODD:

S. 3240. A bill to amend the Higher Education Act of 1965 in order to promote equal access to opportunities for study abroad; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (for himself, Mr. BOREN, Mr. EXON, Mr. CONRAD, Mr. DASCHLE, and Mr. KERRY):

S. 3241. A bill entitled the "Iraqi Assets Control Act" to the Committee on Banking, Housing, and Urban Affairs.

By Mr. METZENBAUM (for himself and Mr. BRADLEY):

S. 3242. A bill to provide a Federal leadership role in the development of approaches to reduce community based tension at the local level; to the Committee on the Judiciary.

By Mr. KASTEN:

S. 3243. A bill to improve disclosure of the tax policy revenue estimating process; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has thirty days to report or be discharged.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself, Mr. PACKWOOD, Mr. JEFFORDS, Mr. COHEN, Mr. SIMPSON, Mr. WILSON, Mr. AKAKA, Mr. WIRTH,, Mr. PELL, Mr. BINGAMAN, Mr. METZENBAUM, Mr. HOLLINGS, Mr. ADAMS, Ms. MIKULSKI, Mr. GORE, Mr. BURDICK, Mr. CRANSTON, Mr. BRADLEY, Mr. SIMON, Mr. INOUYE, Mr. KENNEDY, Mr. RIEGLE, Mr. KOHL, Mr. ROBB, and Mr. LEAHY):

S. 3238. A bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes; to the Committee on Labor and Human Resources.

TITLE X PREGNANCY COUNSELING ACT

● Mr. CHAFEE. Mr. President, I am pleased today to introduce the Title X Pregnancy Counseling Act of 1990. This is an important piece of legislation and addresses an issue which is critical for the women of this country.

When title X of the Public Health Service Act was enacted in 1970, its stated goal was to provide quality family planning and health care services to low-income women who would otherwise have little or no access to such services. Title X has been very effective in fulfilling this mandate, and thus Congress has continued to fund this program for 20 years. It is imperative that we keep in mind the original goal of the legislation: namely to combat the problem of lack of access to health care services for poor women so that all women, regardless of their financial situation, are given complete information. This is a basic ideal, and one which I do not believe there is any disagreement on.

Let me point out from the start that since its enactment in 1970, title X has included a prohibition on the use of family planning funds for abortion. Section 1008 of title X states:

None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

Mr. President, I point this out because I want to assure my colleagues that we are not talking about federally funded abortions. Such activitiy is prohibited, and title X clinics have abided by that prohibition. So, I emphasize, Mr. President, that my legislation does not concern itself with abortion.

So, while title X clinics are prohibited from providing abortions, a distinction was drawn from the beginning between providing abortions and providing information about abortion as a legal and medical option. Title X clinics were always allowed to provide counseling and referrals on abortion when an indigent pregnant woman requested such information. Under guidelines issued in 1981 by HHS, clin-

ics were encouraged to provide abortion counseling and referral. These 1981 guidelines stated the following:

Grantees must provide pregnancy diagnosis and counseling to all clients in need of this service. Pregnancy testing is one of the most frequent reasons for an initial visit to the family planning facility, particularly by adolescents. It is therefore important to use this occasion as an entry point for providing education and counseling about family planning.

The 1981 guidelines go on to say:

Pregnant women should be offered information and counseling regarding their pregnancies. Those requesting information on options for the management of an unintended pregnancy are to be given non-directive counseling on the following alternative courses of action, and referral upon request:

Prenatal care and delivery;

Infant care, foster care, or adoption; and

Pregnancy termination.

Through these guidelines, HHS made it clear that family planning providers should provide women who seek information about how to manage their pregnancies with nondirective, noncoercive counseling which includes all legal and medical options.

In 1988, however, HHS suddenly decided that not everyone is entitled to complete information about their health care options. In fact, women, poor women, do not share this right. HHS made this clear by issuing new guidelines governing title X which specifically prohibit counselors from counseling or from making referrals on abortion, even if the pregnant woman requests such information. This action effectively created a two-tiered health care system, where women who can afford to go to a private physician, receive complete information, and thus, complete health care. However, women who cannot afford a private physician and who must therefore rely on government subsidized health care, would receive less information, and thus, inadequate health care.

Mr. President, I believe these guidelines are unconscionable, discriminatory and, most important, constitute bad health policy. Under any other medical circumstance, we would not even question whether a patient should be given full information about his or her options. Why then, should we limit the information given to pregnant women? These guidelines conflict with the professional ethics of major medical organizations including the American Medical Association and the American College of Obstetricians and Gynecologists. These organizations, as well as 78 other medical organizations, are opposed to the 1988 guidelines. They insist on the patients' right to full information, and they object to the imminent increase in exposure to medical malpractice for failing to fully advise a patient.

The legislation I am introducing today along with 24 of my colleagues will reverse these guidelines and return title X clinics to the guidelines issued by HHS in 1981. Several weeks ago, I offered this legislation in the form of an amendment to the Family Planning Amendments of 1989, and it was approved by a vote of 62 to 36. This vote, and the legislation I am introducing today, send a signal that Congress intended in title X to expand—not limit—access to health care for poor women.

In closing, Mr. President, I would like to say that I know that some of my friends and colleagues in this body oppose a woman's right to have an abortion. While I disagree with them, I certainly respect their views. The fact remains, however, that abortion is a safe medical procedure and is legal in every State and the District of Columbia. It is wrong for federally sponsored programs to censor vital information about a legal medical health care option simply because some people disagree with the availability of the option.

I urge my colleagues to view this legislation, not from the abortion rights perspective, but from the health care perspective. I urge them to take into consideration the right of every woman to complete information about her health care, and the obligation of a family planning provider to provide such information.●

By Mr. DOLE (for himself, Mr. GORTON, Mr. MCCAIN, and Mr. D'AMATO):

S. 3239. A bill to amend the Civil Rights Act of 1964 to strengthen civil rights laws that ban discrimination in employment, and for other purposes; to the Committee on Labor and Human Resources.

CIVIL RIGHTS ACT OF 1990

Mr. DOLE. Mr. President, I am today introducing, at the request of the President, the Civil Rights Act of 1990.

The President's proposal overturns the Patterson and Lorance decisions.

It expands the scope of section 1981.

It addresses some of the potentially troublesome side effects of the Martin versus Wilks and Price Waterhouse decisions.

It adopts a definition of business necessity with teeth, but one that is not so restrictive that it will force employers to hire-by-the-numbers.

And it provides, for the first time in our Nation's history, a remedy—up to $150,000—that will help the women of this country by detering sexual harassment in the workplace.

The President's proposal is the real civil rights bill in this debate.

And I sincerely hope that my colleagues—from both sides of the aisle—will be able to move beyond blind partisanship and give the President's proposal the consideration it deserves.

Mr. President, I am a realist.

I understand that legislation does not always get passed because it "deserves" to get passed.

But the President's bill is deserving.

And if Congress has the will, it seems to me that we can certainly find the way to pass a civil rights bill the President's civil rights bill—before we adjourn later this week.

The choice is ours.

Finally, Mr. President, I want to commend Senators NANCY KASSEBAUM and SLADE GORTON for their leadership in putting a fair, but responsible, civil rights bill before the Senate last week. They have worked long and hard on this issue and they deserve the Senate's, and the Nation's, gratitude.

I also want to thank my Republican colleagues, Senators HATCH, SPECTER, JEFFORDS, and DANFORTH, for their tireless work in trying to broker an acceptable compromise between the administration and Congress. The determination and commitment of these four Senators has won my respect and the respect of their Senate colleagues.

Mr. President, I ask unanimous consent that President Bush's veto message, the full text of the Civil Rights Act of 1990 proposed by the administration, and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that additional protections and remedies under Federal law are needed to deter unlawful discrimination.

(b) PURPOSE.—The purpose of this Act is to strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices that are defended as a measure of job performance, the practice must bear a significant relationship to successful performance of the job; or

"(B) in the case of other employment practices that are not defended as a measure of job performance, the practice must

bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards described in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The court may rely on as such evidence statistical reports, validation studies expert testimony, performance evaluations, written records or notes related to the practice or decision, testimony of individuals with knowledge of the practice or decision involved, other evidence relevant to the employment decision, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(o) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof.".

SEC. 4. DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact under this Title is established only when a complaining party demonstrates that a particular employment practice causes a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity: *Provided, however,* That if the elements of a decision-making process are not capable of separation for analysis, they may be analyzed as one employment practice, just as where the criteria are distinct and separate each must be identified with particularity: *and provided further,* That an unlawful employment practice shall nonetheless be established if the complaining party demonstrates the availability of an alternative employment practice, comparable in cost and equally effective in measuring job performance or achieving the respondent's legitimate employment goals, that will reduce the disparate impact, and the respondent refuses to adopt such alternative.

"(2) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE MOTIVATING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent demonstrates that it would have taken the same action in the absence of any discrimination. On a claim where a violation is proven under section 703(l) and the respondent demonstrates that it would have taken the same action in the absence of any discrimination, the court may grant declaratory relief, injunctive relief, attorney's fees and costs, and it shall not make an award under section 706(g)(3)".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENT OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice specifically required by a litigated or consent judgment or order resolving a claim of employment discrimination under this title may not be challenged by a person who during the period of of notice was an employee, former employee, or applicant who, prior to the entry of such judgment or order had actual notice of the proposed judgment or order in sufficient detail to apprise such person—

"(A) that such judgment or order would likely adversely affect the interests and legal rights of such person;

"(B) of any relief in the proposed judgment;

"(C) that a reasonable opportunity is available to challenge such judgment or order by a future date certain; and

"(D) that such person will likely be barred from challenging the proposed judgment or order after such date.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or other was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.".

SEC. 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended by the adding at the end thereof the following sentence: "For purposes of this section, an alleged unlawful employment practice occurs when a seniority system is adopted, when an individual becomes subject to a seniority system, or when a person aggrieved is injured by the application of a seniority system, or provision thereof, that is alleged to have been adopted for an intentionally discriminatory purpose, in violation of this title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.".

SEC. 8. PROVIDING FOR ADDITIONAL EQUITABLE RELIEF IN CERTAIN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) (as amended by Section 5) is further amended—

(1) by designating the first sentence is paragraph (1);

"(2) by designating the second and third sentences as paragraph (2);

"(3) by designating the last sentence as paragraph (4); and

"(4) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3) In fashioning remedies for unlawful intentional discrimination under this Title, the court may, in the exercise of its equitable discretion, require the respondent to pay the complaining party an amount not to exceed a total of $150,000.00, if the court finds—

"(A) that an additional equitable remedy beyond those otherwise available is needed to deter the respondent from engaging in such unlawful employment practices; and

"(B) that such an award is otherwise justified by the equities, is consistent with the purposes of this Title, and is in the public interest.".

Section 706 (42 U.S.C. 2000e-5) is further amended by adding at the end the following new subsection:

"(1) JUDICIAL DETERMINATION. —All issues in cases arising under this title shall be heard and determined by a judge, as specified in section 706(f): *Provided, however,* That if the court determines that one or more of the claims presented may require relief under section 706(g)(3), and if the court holds that a jury trial with respect to issues of liability is constitutionally required on claims for such relief, then a jury may be empaneled to hear and determine such liability issues and no others.".

SEC. 9. ALLOWING THE AWARD OF EXPERT FEES.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended by inserting "(including expert fees)" after "attorney's fee,".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

"(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

"(2) in subsection (d), by inserting before the period", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties".

SEC. 11. PROHIBITION AGAINST RACIAL DISCRIMINATION IN THE MAKING AND PERFORMANCE OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contract.

"(c) The rights protected by this section are protected against impairment by nongovernment discrimination as well as against impairment under color of State law.".

SEC. 12. NOTICE OF LIMITATIONS PERIOD.

Section 7(e) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)) is amended—

(1) by striking out paragraph (2);

(2) by striking our the paragraph designation in paragraph (1);

"(3) by striking out "Sections 6 and" and inserting "Section"; and

"(4) by adding at the end thereof the following: "If a charge filed with the Commission is dismissed or the Commission's proceedings are otherwise terminated by the Commission, the Commission shall so notify the individual referred to in subsection (d) and such individual may bring an action against the respondent named in the charge at any time after 60 days from the time the charge was timely filed until the expiration of 90 days after the receipt of the notice provided under this subsection.".

SEC. 13. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

"(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No Member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment;

on the basis of such individual's race, color, religion, sex, national origin, age, or State of physical handicap.".

"(2) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discriminations in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Act referred to in paragraph (2).

(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designated, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under the Americans with Disabilities Act of 1990 shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) PROPOSED REMEDIES AND PROCEDURES.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraphs (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (1), (2), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other law, the purposes of such title shall, subject to paragraph (2), apply in their entirety to the House of Representatives.

(2) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act and title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The Chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: The Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16).

SEC. 14. CONSTRUCTION.

Nothing in the amendments made by this Act, or in any statute amended by this Act shall be construed so as to require, permit, or result in the adoption or implementation of hiring, promotion, compensation, or termination quotas by an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof), on the basis of race, color, religion, sex, or national origin.

SEC. 15. SEVERABILITY.

If any provision of this act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 16. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

SEC. 17. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect upon enactment.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The legislation may be cited as the "Civil Rights Act of 1990."

SECTION 2. FINDINGS AND PURPOSE

The Congress finds that this legislation is necessary to provide additional protections and remedies against unlawful discrimination in employment. The purpose of this Act is to strengthen existing protections and remedies in order to deter discrimination more effectively and provide meaningful relief for victims of discrimination.

SECTION 3. DEFININITIONS

This section adds definitions to those already in Title VII. It defines a complaining party as the Equal Employment Opportunity Commission (EEOC), the Attorney Gen-

eral, or a person who may bring an action or proceeding under this title.

The definition of "demonstrates" requires that a party bear the burden of production and persuasion when the statute requires that he or she "demonstrate" a fact.

The term "required by business necessity" is meant to codify the meaning of business necessity as used in *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971), and other opinions of the Supreme Court.

The term "respondent" is clarified to include those entities listed in the bill.

SECTION 4. DISPARATE IMPACT CLAIMS

Under this Act, a complaining party makes out a prima facie case of disparate impact when he or she identifies a particular employment practice and demonstrates that the practice has caused disparate impact because of race, color, religion, sex, or national origin. The burden of proof then shifts to the respondent to demonstrate that the practice is required by business necessity. It is then open to the complaining party to rebut that defense by demonstrating the availability of an alternative employment practice, comparable in cost and equally effective in measuring job performance or achieving the respondent's legitimate employment goals, that will reduce the disparate imact, and the respondent refuses to adopt such alternative.

In identifying the particular employment practice alleged to cause disparate impact, the plaintiff is not required to do the impossible in breaking down an employer's practices to the greatest conceivable degree. Courts will be permitted to hold, for example, that vesting complete hiring discretion in an individual guided only by unknown subjective standards constitutes a single particular employment practice susceptible to challenge.

It is therefore the specific intention of the proponents of this Act to reaffirm the sort of analysis employed on this issue in *Sledge* v. *J.P. Stevens & Co.*, 52 EPD para. 39,537 (E.D.N.C. Nov. 30, 1989). The court alluded to the difficulty of "delving into the workings of an employment decisionmaker's mind" and noted that the defendant's personnel officers reported having no idea of the basis on which they made their employment decisions. The court held that: "the identification by the plaintiffs of the uncontrolled, subjective discretion of defendant's employing officials as the source of the discrimination shown by plaintiff's statistics sufficed to satisfy the causation requirements of *Wards Cove*." This Act contemplates that the use of such uncontrolled and unexplained discretion is properly treated as one employment practice and need not be divided by the plaintiff into discrete subparts.

If the elements of a decision-making process are demonstrated to be not capable of separation for analysis, therefore, they may be analyzed as one employment practice, just as where the criteria are distinct and separate each must be identified with particularity. See letter of Charles Fried to Senator Edward M. Kennedy, March 21, 1990 at 4 n.2.

It should also be noted that, assuming compliance with all other Title VII procedures, if a plaintiff can make a reasonable good faith allegation that the elements of a decision-making process are not capable of separation for analysis, as described above, he or she may file a complaint and commence discovery on that basis, although this does not affect the plaintiff's burden in making out his or her prima facie case.

Finally, this section provides that it is not a violation of this title for an employer to use a rule barring illegal drug use unless the rule is adopted or applied with an intent to discriminate on the basis of race, color, religion, sex, or national origin.

SECTION 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES

Section 5 of the bill addresses the holding in *Price Waterhouse* v. *Hopkins*, 109 S. Ct. 1775 (1989), in which the Court ruled in favor of a woman who alleged that she had been denied partnership by her accounting firm or account on her sex. The Court there faced a case in which the plaintiff alleged that her gender had supplied part of the motivation for her rejection for partnership. The Court held that once she had established by direct evidence that sex played a substantial part in the decision, the employer could still defeat liability by showing that it would have reached the same decision had sex not been considered.

This provision allows the employer to be held liable if invidious discrimination was a motivating factor in causing the harm suffered by the complainant. Thus, such discrimination need not have been the sole cause of the final decision.

The provision also makes clear that if an employer establishes that it would have taken the same employment action absent consideration of race, sex, color, religion, or national origin, the complaint is not entitled to reinstatement, backpay, or additional monetary award. Courts may award other relief, including attorney's fees, consistently with the principles enunciated in other civil rights cases.

SECTION 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS

Under specified conditions, Section 6 of the bill would preclude certain challenges to employment practices specifically required by court orders or judgments entered in Title VII cases. This section would bar such challenges by any person who was an employee, former employee, or applicant for employment during the notice period and who, prior to the entry of the judgment or order, received notice of the judgment in sufficient detail to appraise that person that the judgment or order would likely affect that person's interests and legal rights, of the relief in the proposed judgment, that a reasonable opportunity was availabale to that person to challenge the judgment or order by a future date certain, and that the person would likely be barred from challenging the proposed judgment after that date. The intent of this section is to protect valid decreees from subsequent attack by individuals who were fully appraised of their interest in litigation and given an opportunity to participate, but declined that opportunity.

This section, therefore, addresses the Supreme Court's decision in *Martin* v. *Wilks*, 109 S. Ct. 2180 (1989). That case arose in the context of a civil rights action, but it turned on principles of fairness and access to court that apply in every area. The Court held that white firefighters who had not been parties to a consent decree that mandated racial preferences could have their day in court to contend that the decree violated their civil rights. The Court rejected the so-called "collateral attack" doctrine, pursuant to which some lower courts had held that, once a decree was entered, it could not be challenged, even by individuals who not had been parties to the original lawsuit.

The section modifies the rule of *Martin* v. *Wilks* to the extent that it would preclude challenges by individuals who were not parties to the litigation that produced a decree if they were applicants or employees and had adequate actual notice and an adequate opportunity to assert their interests in the litigation prior to adoption of the decree. This rule strikes a balance between the interest in preserving the finality of judgments and the requirement of fundamental fairness that underlies our judicial system, in which individuals are traditionally guaranteed a meaningful opportunity to assert their inteterest in court before they are bound by judicial action.

This section will work in conjunction with a variety of doctrines that already exist to head off nonmeritorious challenges to decrees. The doctrines of law of the case, res judicata, and stare decisis will allow courts to deal with them summarily at little expense in time or money to the parties. In addition, the rules of joinder and the use of defendant class actions make it relatively easy for parties to ensure that affected people have their day in court in the original action. The threat of an award of attorney fees against the losing party who brings a frivolous suit is a further deterrent to such challenges.

The section states that it would not alter the rules governing intervention in federal courts. Nor would this action apply to parties to the action in which an order was entered, members of a class represented in an action, or members of a group on whose behalf was sought by the federal government.

The section would not preclude challenges to judgments based on allegations that the judgment was obtained through collusion, fraud, or lack of subject matter jurisdiction. These are grounds upon which judgments traditionally may be attacked.

SECTION 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS

Section 7 would overrule the holding in *Lorance* v. *AT&T Technologies, Inc.*, 109 S. Ct. 2261 (1989), in which female employees challenged a seniority system pursuant to Title VII, claiming that it was adopted with an intent to discriminate against women. Although the system was facially nondiscriminatory and treated all similarly situated employees alike, it produced demotions for the plaintiffs, who claimed that the employer had adopted the seniority system intentionally to alter their contract rights. The Supreme Court held that the claim was barred by Title VII's requirement that a charge must be filed within 180 days (or 300 days if the matter can be referred to a state agency) after the alleged discrimination occurred.

The Court held that the time for plaintiffs to file their complaint began to run when the employer adopted the allegedly discriminatory seniority system, since it was the adoption of the system with a discriminatory purpose that allegedly violated their rights. According to the Court, that was the point at which plaintiffs suffered the diminution in employment status about which they complained. The Court viewed this result as dictated by its prior cases holding that the statute of limitations begins to run when the act of discrimination occurs and not when its effects are felt.

The *Lorance* rule is contracry to the position taken by the Department of Justice and the EEOC. It would shield existing seniority systems from legitimate discrimination claims. The discriminatory reasons for adoption of a seniority system may become apparent only when the system is finally applied to affect the employment status of the employees that it covers. Moreover, such an application surely focuses the controversy between an employer and an employee more sharply and permits more precise litigation. In addition, a rule that limits challenges to the period immediately following adoption of a seniority system will promote unnecessary, as well as unfocused, litigation. Employees will be forced to challenge the system before it has produced any concrete impact or forever remain silent. Given such a choice, employees who might never suffer harm from the seniority system may be forced to choose to file a charge—an especially difficult choice since they may be understandably reluctant to initiate a lawsuit against an employer if they do not have to. And, finally, the *Lorance* rule will prevent employees who are hired more than 180 (or 300) days after adoption of a seniority system from ever challenging the adverse consequences of that system, regardless of how severe they may be. Such a rule fails to protect sufficiently the important interest in eliminating employment discrimination that is embodied in Title VII.

Likewise, a rule that an employee may sue only within 180 (or 300) days after become subject to a seniority system is unfair to both employers and employees. The rule fails to protect seniority systems from delayed challenge, since so long as employees are being hired someone will be able to sue. And, while this rule would give every employee a theoretical opportunity to challenge a discriminatory seniority system, it would do so, in most instances, before the employee's status had been adversely affected by the seniority system and, therefore, before the challange was sufficiently focused and before it was clear that a challenge was necessary. Finally, most employees would be reluctant to begin their jobs by suing their employers.

This change in the law, therefore, is warranted. Indeed, it is necessary to safeguard the same principles upheld by the Supreme Court in *Martin* v. *Wilks, supra,* and discussed in the preceding section.

SECTION 8. PROVIDING FOR ADDITIONAL EQUITABLE RELIEF IN CERTAIN CASES OF INTENTIONAL DISCRIMINATION

This provision is designed to redress an anomaly in current law. Title VII currently prohibits intentional discrimination in the terms and conditions of employment of employment, but provides inadequate remedies for certain unlawful employment practices, including sexual harassment in the workplace, which the Supreme Court has recognized as actionable under Title VII. See *Meritor Savings Bank, FSB* v. *Vinson,* 447 U.S. 57 (1986). Such harassment frequently will not be so intolerable that an employee subjected to it immediately leaves. In such circumstances, the only remedy the victim of harassment can obtain under Title VII's remedial scheme as currently drafted is declaratory and injunctive relief against continuation of the harassment.

Such a rule is plainly inequitable. It effectively tells employers that the only consequence of creating an environment so hostile to a woman employee that she is forced to sue to obtain relief is a directive to refrain in the future. Additional remedies for this situation are clearly appropriate and warranted.

At the same time, Title VII's existing framework, with its emphasis on conciliation and mediation, has served the country well as a tool for combatting discrimination during its 26-year history. It would be unwise to jettison it in favor of a tort-style approach including compensatory and punitive damages at a time when our tort system is widely recognized to be in crisis.

Section 8 strikes a reasonable balance between these concerns. It allows courts to award a remedy beyond declaratory and injunctive relief. This remedy consists of a monetary award not greater than a total of $150,000. Courts are authorized to make it available in the exercise of their equitable discretion only where an additional equitable remedy is needed to deter the respondent from engaging in such practices and where such an award is justified by the equities, is consistent with the purpose of Title VII, and is in the public interest.

This section allows a court to make a monetary award "not to exceed a total of $150,000." This language is intended to make clear that where there are several related incidents that could arguably be subdivided into distinct unlawful employment practices, or where different claims under Title VII are brought in the same lawsuit, the award that can be obtained under this section for all of them combined is limited to $150,000. Otherwise, plaintiffs and their lawyers will have incentives to spend resources on hair-splitting litigation over how many unlawful employment practices have occurred. $150,000 is a large enough amount to be an adequate and effective deterrent to the type of conduct sought to be prevented by this section. No good purpose would be served by encouraging lawyers to use their inventiveness to circumvent the limitation it imposes.

The additional remedy this section creates is available only for "intentional discrimination." Nobody has argued that Title VII's existing remedial scheme for disparate impact claims is inadequate. The availability of this remedy (and its limitation to claims based on intentional discrimination) would of course also apply to claims brought under the Americans With Disabilities Act, on account of that Act's section 107, which incorporates section 706 of Title VII by reference.

As new subsection 706 (*l*) makes clear, it is the intention of the Congress that both liability and remedies under section 706, including the new remedy this section creates, continue to be decided by a judge. Because of the equitable nature of the relief to be awarded, the courts should find this consistent with the Seventh Amendment. See *Local No. 391* v. Terry, 110 S. Ct. 1339 (1990); *Tull* v. *United States,* 107 S. Ct. 1831 (1987). This provision is important in maintaining to the greatest extent possible the current structure of Title VII's remedies provisions and preventing it from being replaced with a tort-like approach. Because the question of constitutionality is not entirely free from doubt, however, subsection (*l*) also provides that should a court hold that a jury trial with respect to issues of liability is constitutionally required, it may empanel a jury to hear those issues and no others. This ensures that the additional relief this scheme makes available will not become a dead letter should a court find that the Seventh Amendment requires a jury trial on liability.

Finally, it should be noted that this provision is exclusively remedial. It is not intended to recognize or create any new causes of action under Title VII. Rather, it is merely intended to ensure that as to those unlawful employment practices that Title VII already prohibits, the remedial scheme it establishes is adequate and appropriate.

SECTION 9. CLARIFYING ATTORNEY'S FEES PROVISIONS

This section would authorize the recovery of expert witness fees by prevailing parties according to the same standards that govern awards of attorney fees pursuant to Title VII. Under existing law, expert witness fees may not be shifted pursuant to Title VII. See *Crawford Fitting Co.* v. *J.T. Gibbons, Inc.,* 482 U.S. 437 (1987).

SECTION 10. PROVIDING FOR INTEREST AND LENGTHENING FILING PERIOD IN ACTIONS AGAINST THE FEDERAL GOVERNMENT

This section provides that, where the Federal Government is a defendant found to be liable in an action brought under this Title, it is subject to paying the same interest to compensate for delay in payment as in cases involving nonpublic parties. The filing period in such actions is also lengthened.

SECTION 11. PROHIBITION AGAINST RACIAL DISCRIMINATION IN THE MAKING AND PERFORMANCE OF CONTRACTS

Section 11 would overrule *Patterson* v. *McLean Credit Union,* 109 S. Ct. 2363 (1989). In *Patterson,* an employee sued under 42 U.S.C. 1981, alleging that her employer had harassed her on the job, failed to promote her, and ultimately discharged her, all because of her race. The Court held that Section 1981 is limited by its terms to prohibiting discrimination in "mak[ing] and enforc[ing] contracts," and does not extend to "problems that may arise later from the conditions of continuing employment." *Patterson,* 109 S. Ct. 2372. Thus, the Court held, the statute prohibits discrimination—whether governmental or private—only in the formation of a contract and in the right of access to a legal process that will enforce established contract obligations without regard to race. While the plaintiff's allegation that she had been discriminatorily denied promotion might fall within the prohibition against discrimination in making contracts, her allegations of harassment on the job addressed only conditions of employment. And there was no allegation that she had been discriminatorily denied access to legal process to enforce her contract of employment.

The law as interpreted in *Patterson* leaves a significant gap in section 1981 coverage that should be filled. This provision would also remove any possible ambiguity for future cases by codifying the holding of *Runyon* v. *McCrary,* 427 U.S. 160 (1976), that section 1981 prohibits private, as well as governmental discrimination.

SECTION 12. NOTICE OF LIMITATIONS PERIOD

This section generally conforms procedures for filing charges under the Age Discrimination in Employment Act with those used for other portions of Title VIII. In particular, it provides that the EEOC shall notify individuals who have filed charges of the dismissal or completion of the Commission's proceedings with respect to those charges, and allows these individuals to file suit from 60 days after filing the charge until the expiration of 90 days after completion of these proceedings. This avoids the problems created by current law, which imposes a statute of limitations on the filing of suit regardless of whether the Commission

has completed its action on an individual's charge.

SECTION 13. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH

This section would extend the anti-discrimination prohibitions of Title VII to all employees of Congress, while establishing a special remedial scheme that does not include a private right of action.

SECTION 14. CONSTRUCTION

This section states that neither this Act nor the laws it amends shall be construed to require, permit, or result in quotas on the basis of race, color, religion, sex, or national origin.

SECTION 15. SEVERABILITY

This section states that if a portion of this Act is found invalid, that finding will not affect the remainder of the Act.

SECTION 16. ALTERNATIVE MEANS OF DISPUTE RESOLUTION

This section would encourage the use of alternative means of dispute resolution in resolving disputes pursuant to the Act.

SECTION 17. EFFECTIVE DATE

This section specifies that the Act takes effect upon enactment.

[From the White House, Office of the Secretary, Oct. 22, 1990]

PRESS RELEASE

To the Senate of the United States:

I am today returning without my approval S. 2104, the "Civil Rights Act of 1990." I deeply regret having to take this action with respect to a bill bearing such a title, especially since it contains certain provisions that I strongly endorse.

Discrimination, whether on the basis of race, national origin, sex, religion, or disability, is worse than wrong. It is a fundamental evil that tears at the fabric of our society, and one that all Americans should and must oppose. That requires rigorous enforcement of existing antidiscrimination laws. It also requires vigorously promoting new measures such as this year's Americans with Disabilities Act, which for the first time adequately protects persons with disabilities against invidious discrimination.

One step that the Congress can take to fight discrimination right now is to act promptly on the civil rights bill that I transmitted on October 20, 1990. This accomplishes the stated purpose of S. 2104 in strengthening our Nation's laws against employment discrimination. Indeed, this bill contains several important provisions that are similar to provisions in S. 2104:

Both shift the burden of proof to the employer on the issue of "business necessity" in disparate impact cases.

Both create expanded protections against on-the-job racial discrimination by extending 42 U.S.C. 1981 to the performance as well as the making of contracts.

Both expand the right to challenge discriminatory seniority systems by providing that suit may be brought when they cause harm to plaintiffs.

Both have provisions creating new monetary remedies for the victims of practices such as sexual harassment. (The Administration bill allows equitable awards up to $150,000.00 under this new monetary provision, in addition to existing remedies under Title VII.)

Both have provisions ensuring that employers can be held liable if invidious discrimination was a motivating factor in an employment decision.

Both provide for plaintiffs in civil rights cases to receive expert witness fees under the same standards that apply to attorneys fees.

Both provide that the Federal Government, when it is a defendant under Title VII, will have the same obligation to pay interest to compensate for delay in payment as a nonpublic party. The filing period in such actions is also lengthened.

Both contain a provision encouraging the use of alternative dispute resolution mechanisms.

The congressional majority and I are on common ground regarding these important provisions. Disputes about other, controversial provisions in S. 2104 should not be allowed to impede the enactment of these proposals.

Along with the significant similarities between my Administration's bill and S. 2104, however, there are crucial differences. Despite the use of the term "civil rights" in the title of S. 2104, the bill actually employs a maze of highly legalistic language to introduce the destructive force of quotas into our Nation's employment system. Primarily through provisions governing cases in which employment practices are alleged to have *unintentionally* caused the disproportionate exclusion of members of certain groups, S. 2104 creates powerful incentives for employers to adopt hiring and promotion quotas. These incentives are created by the bill's new and very technical rules of litigation, which will make it difficult for employers to defend legitimate employment practices. In many cases, a defense against unfounded allegations will be impossible. Among other problems, the plaintiff often need not even show that any of the employer's practices caused a significant statistical disparity. In other cases, the employer's defense is confined to an unduly narrow definition of "business necessity" that is significantly more restrictive than that established by the Supreme Court in *Griggs* and in two decades of subsequent decisions. Thus, unable to defend legitimate practices in court, employers will be driven to adopt quotas in order to avoid liability.

Proponents of S. 2104 assert that it is needed to overturn the Supeme Court's *Wards Cove* decision and restore the law that had existed since the *Griggs* case in 1971. S. 2104, however, does not in fact codify *Griggs* or the Court's subsequent decisions prior to *Wards Cove.* Instead, S. 2104 engages in a sweeping rewrite of two decades of Supreme Court jurisprudence, using language that appears in no decision of the Court and that is contrary to principles acknowledged even by Justice Stevens' *dissent* in *Wards Cove:* "The opinion in *Griggs* made it clear that a neutral practice that operates to exclude minorities is nevertheless lawful if it serves a valid business purpose."

I am aware of the dispute among lawyers about the proper interpretation of certain critical language used in this portion of S. 2104. The very fact of this dispute suggests that the bill is not codifying the law developed by the Supreme Court in *Griggs* and subsequent cases. This debate, moreover, is a sure sign that S. 2104 will lead to years—perhaps decades—of uncertainty and expensive litigation. It is neither fair nor sensible to give the employers of our country a difficult choice between using quotas and seeking a clarification of the law through costly and very risky litigation.

S. 2104 contains several other unacceptable provisions as well. One section unfairly closes the courts, in many instances, to individuals victimized by agreements, to which they were not a party, involving the use of quotas. Another section radically alters the remedial provisions in Title VII of the Civil Rights Act of 1964, replacing measures designed to foster conciliation and settlement with a new scheme modeled on a tort system widely acknowledged to be in a state of crisis. The bill also contains a number of provisions that will create unnecessary and inappropriate incentives for litigation. These include unfair retroactivity rules; attorneys fee provisions that will discourage settlements; unreasonable new statutes of limitation; and a "rule of contruction" that will make it extremely difficult to know how courts can be expected to apply the law. In order to assist the Congress regarding legislation in this area, I enclose herewith a memorandum from the Attorney General explaining in detail the defects that make S. 2104 unacceptable.

Our goal and our promise has been equal opportunity and equal protection under the law. That is a bedrock principle from which we cannot retreat. The temptation to support a bill—any bill—simply because its title includes the words "civil rights" is very strong. This impulse is not entirely bad. Presumptions have too often run the other way, and our Nation's history on racial questions cautions against complacency. But when our efforts, however well intentioned, result in quotas, equal opportunity is not advanced but thwarted. The very commitment to justice and equality that is offered as the reason why this bill should be signed requires me to veto it.

Again, I urge the Congress to act on my legislation before adjournment. In order truly to enhance equal opportunity, however, the Congress must also take action in several related areas. The elimination of employment discrimination is a vital element in achieving the American dream, but it is not enough. The absence of discrimination will have little concrete meaning unless jobs are available and the members of all groups have the skills and education needed to qualify for those jobs. Nor can we expect that our young people will work hard to prepare for the future if they grow up in a climate of violence, drugs, and hopelessness.

In order to address these problems, attention must be given to measures that promote accountability and parental choice in the schools; that strengthen the fight against violent criminals and drug dealers in our inner cities; and that help to combat poverty and inadequate housing. We need initiatives that will empower individual Americans and enable them to reclaim control of their lives, thus helping to make our country's promise of opportunity to reality for all. Enactment of such initiatives, along with my Administration's civil rights bill, will achieve real advances for the cause of equal opportunity.

GEORGE BUSH.

THE WHITE HOUSE, *October 22, 1990.*

By Mr. DODD:

S. 3240. A bill to amend the Higher Education Act of 1965 in order to promote equal access to opportunities for study abroad; to the Committee on Labor and Human Resources.

ACCESS TO INTERNATIONAL EDUCATION OPPORTUNITIES ABROAD AMENDMENTS

● Mr. DODD. Mr. President, today I am pleased to introduce the access to international education opportunities abroad amendments. This legislation addresses a crucial but little understood knowledge gap which increasingly hurts the United States—our serious lack of knowledge about other countries, their languages, and cultures.

In 1989 fewer than 4,000 of our 12.2 million undergraduate students studied abroad in Asia. This region, which includes several of the fastest growing economies in the world, is of paramount importance to the future of the United States. In contrast, Japan alone sent more than 24,000 students to the United States that year. Overall, less than 1 percent of our undergraduates study abroad each year. And over 75 percent of such students elect to study at the traditional Western European universities.

The fact is, we are sending too few of our students abroad to gain international skills essential to our future economic well-being and ability to exert global leadership.

In the increasingly competitive international environment, we can no longer afford to be ignorant of other cultures and their languages. As the distinguished last chairman of the National Governor's Association, Gerald L. Baliles, put it in the 1989 Report of the NGA Task Force on International Education, "America in Transition: The Last Frontier":

> How are we to sell our products in the global marketplace if we neglect to learn the language of the customer? How are we to open overseas markets when other cultures are only dimly understood? How are our firms to provide international leadership when our schools are producing insular students?

As the figures I discussed above show, these points are well understood by decisionmakers in Japan. The lesson has also not been lost on the nations of the European Community. A key element of their economic integration plan is an ambitious scheme know as "Erasmus" through which an additional 150,000 European Community university students will have studied abroad in another EC country by 1992. The aim of Erasmus is to create a large cadre of young professionals in every field who will be fluent in the language of at least one other EC country and knowledgeable about how to conduct business there. Most recently, the EC has announced a new initiative called Tempus to extend this important international student mobility initiative to the nations of Central and Eastern Europe.

It is no longer the case that study abroad can be viewed as a nice optional add-on to the education of language and humanities majors who can afford it, but is not needed for the business student, the engineer, the banker, the economist, the scientist, and others essential to the operation of the American economy. Developing international business skills through study abroad is now essential to those we are preparing for work in virtually every field.

There is another important dimension to this problem. American students do not currently enjoy equal access to these increasingly important educational opportunities abroad. These inequalities do not exist simply because some students have the personal and family funds to afford study abroad while others do not. They also exist because of ambiguities and defects in Federal financial assistance programs through which some students can apply their financial aid funds to study abroad while others cannot. As a result, students from one campus may be able to use their financial aid for an approved study abroad program while students at another campus will be denied use of their aid to participate in the very same program. Under current law, applying Federal aid to study abroad is complicated, confusing and difficult. Generally, only those institutions which put particular emphasis on the importance of overseas education go to the trouble of allowing financial aid for study abroad.

The access to international education opportunities abroad amendments addresses these crucial problems through a series of technical changes to major Federal financial assistance programs designed to both simplify the way aid is applied to study abroad and to ensure that institutions do not deny use of aid for approved study abroad. Complementing these technical provisions, the legislation also proposes a modest expansion of the authority of the Department of Education to support the development of study abroad programs in countries and subjects not currently available.

In sponsoring this legislation in the Senate, I am pleased to join with a distinguished education leader in the House of Representatives, WILLIAM D. FORD of Michigan, who recently introduced the bill in the House. It is not our intention that the legislation be enacted during the closing days of this session of Congress. Rather, we hope that introducing the legislation now will both call attention to the problems the bill addresses and provide an opportunity for all interested organizations and institutions to review the legislation and make suggestions regarding it. Representative FORD and I would then reintroduce a perfected version of this measure early in the next Congress.

This measure embodies the recommendations of the national task force on undergraduate education abroad which was established by three respected U.S. international education organizations: The Council on International Educational Exchange [CIEE], the Institute of International Education [IIE], and NAFSA—the Association of International Educators. The details of the bill has been developed in conjunction with a national team of campus study abroad experts working with financial aid officers. It has the endorsement of the organizations. I look forward to the comments of my colleagues and all other interested parties on this important legislation.●

By Mr. BAUCUS (for himself, Mr. BOREN, Mr. EXON, Mr. CONRAD, Mr. DASCHLE, and Mr. KERRY):

S. 3241. A bill entitled the "Iraqi Assets Control Act"; to the Committee on Banking, Housing, and Urban Affairs.

IRAQI ASSETS CONTROL ACT

● Mr. BAUCUS. Mr. President, I rise to introduce legislation to identify Iraqi assets in the United States and authorize the President to seize them in order to repay Iraq's debts to United States creditors.

Since Iraq's invasion of Kuwait the United States has imposed a number of economic sanctions against Iraq.

On August 3, 1990, the President imposed an embargo on Iraq and froze substantial Iraqi assets in the United States. Precise estimates of the value of the Iraqi assets frozen are not available, but they appear to be worth several hundred million dollars.

In retaliation, Iraq took a number of steps, including suspending payments on debts to creditors in the United States.

On September 19, Iraq took the additional step of seizing all assets of nations supporting the U.N. embargo of Iraq.

This included an as yet unspecified amount of U.S. assets.

Iraq now owes creditors in the United States about $2.6 billion.

This includes about $1.9 billion in loans to Iraq guaranteed by the United States Department of Agriculture for loans to purchase United States agricultural exports.

If Iraq defaults on these debts, USDA's Commodity Credit Corporation would be forced to pay off the loans.

These debts would cost the CCC approximately $900 million in fiscal year 1991 alone.

That would be a tremendous drain on CCC assets that are already drawn thin to support the farm program.

My legislation would direct the President to liquidate a portion of Iraqi assets sufficient to repay these debts to United States creditors—particularly the Department of Agriculture.

The point of this amendment is simple.

American farmers are already suffering because of the Middle East crisis in many ways.

Farmers are paying drastically higher fuel prices because of the threat of the flow of oil.

Farmers also stand to lose hundreds of millions in sales to Iraq because of the embargo.

But if we do not take action, farmers will also be effectively forced to pay off Iraqi debts out of the farm program.

This is simply unacceptable.

Iraq has seized United States assets. It is now time for us to follow suit.

I have introduced similar legislation earlier this session. The new legislation reflects some of the comments made by the administration and my House colleagues.

This legislation is co-sponsored by Senators BOREN, DASCHLE, CONRAD, KERRY, and EXON.

The legislation is endorsed by the National Association of Wheat Growers, the American Farm Bureau, and the National Farmers' Union.

We must move to pass this critical legislation quickly.

I ask unanimous consent that the text of this legislation appear in the RECORD directly following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO REVIEW IRAQI CONTROL OF U.S. ASSETS.

(a) IDENTIFICATION OF IRAQI-CONTROLLED U.S. ASSETS.—The President shall identify—

(1) within 120 days of the date of enactment of this Act, those persons engaged in interstate commerce in the U.S. that are controlled by Iraqi persons, and

(2) within 10 days of the date of enactment of this Act, property in which transactions have been blocked pursuant to Executive Order 12722 of August 3, 1990.

(b) INVESTIGATIONS.—

(1) DETERMINATION TO BE MADE.—Except as provided in paragraph (2), the President shall conduct an investigation with respect to each person identified pursuant to subsection (a)(1) for purposes of determining whether Iraqi control of U.S. persons engaged in interstate commerce in the United States might impair the national security.

(2) EXCEPTIONS TO REQUIREMENT FOR INVESTIGATION.—An investigation is not required pursuant to paragraph (1) with respect to a person identified pursuant to subsection (a)(1) if the President determines that there would be no reasonable basis for making the determination described in that paragraph with respect to that person.

SEC. 2. SEIZURE AUTHORITY AND PAYMENT OF CLAIMS BY U.S. NATIONALS AGAINST IRAQ.

(a) If the President makes the determination specified in section (l)(b)(1) with respect to the control by Iraqi persons of a person engaged in interstate commerce in the United States, and if the President determines that it is in the national interest to take action with respect to property identified pursuant to section (1)(a)(2), the President may take the following actions:

(1) SEIZURE BY THE UNITED STATES.—The President may direct that any interest identified pursuant to a determination made under section (1)(b)(l) or identified pursuant to section (1)(a)(2) that is held directly or indirectly by any Iraqi person shall vest (when, as, and upon such terms as the President may direct) in such agency or person as the President may designate. Upon such terms and conditions as the President may prescribe, such interest shall be held, used, administered, liquidated, sold, or otherwise dealth with, in the interest of and for the benefit of the United States; and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes. Any payment, conveyance, transfer, assignment, or delivery of any interest made to or for the account of the *United States,* or as otherwise directed, pursuant to this paragraph shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this paragraph.

(2) PAYMENT OF CLAIMS BY U.S. NATIONALS AGAINST IRAQ.—The President is authorized to pay U.S. creditors and other holders of obligations (including loans, contracts, and all other obligations) for which Iraq has suspended payment or repayment, and the President is directed to equitably distribute the funds gained from the liquidated assets among all creditors and other obligation holders, including the United States government.

SEC. 3. DEFINITION OF IRAQI PERSON.

As used in this Act, the term "Iraqi person" means the Government of Iraq, any entity organized under the laws of Iraq, and any citizen of Iraq (excluding any such citizen who is lawfully admitted to the U.S. for permanent residence).●

By Mr. METZENBAUM (for himself and Mr. BRADLEY):

S. 3242. A bill to provide a Federal leadership role in the development of approaches to reduce community based tension at the local level; to the Committee on the Judiciary.

COMMUNITY RELATIONS ACT

● Mr. METZENBAUM. Mr. President, I am pleased to introduce today an important new bill, the Community Relations Act. This bill will foster the development of a new approach to reduce community based tension.

A quick glance at the newspaper reveals that cross-group tension is on the rise in America. While highly visible cases, like Bensonhurst, and hate crimes by organized groups like the Skinheads or the Klan draw media attention, average teenagers cause most of the problems.

Researchers and community mediation specialists have learned that creating coalitions of community residents from different groups can be a first step in resolving a community problem. When coalitions work on issues of common concern, like youth recreation, drug education or job training, barriers among groups are broken down and frustrations are eased. The reward for these efforts is less violence and the prevention of further conflict.

The Community Relations Act will foster this approach to resolving community based tensions. The bill would fund 20 model, multicultural coalitions in communities which have recently experienced cross-group conflict. Federal money would cover local administrative costs, coalitions would provide an inkind or monetary match, and community residents, government and private institutions would work together to develop ongoing, participatory projects. The annual authorization is $5 million.

Symbolic gestures alone will not solve cross-group tensions in American communities. This legislation will help develop the concrete approaches that are required to address this problem.

At this point, Mr. President, I ask unanimous consent to put in the RECORD a summary of the bill as introduced and a list of organizations and individuals who have endorsed the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY: COMMUNITY RELATIONS ACT

A. PURPOSE AND GOAL

To authorize a demonstration program in the Community Relations Service of the Department of Justice which will address "community based tension" in specific communities by fostering the development of multi-cultural coalitions to work on specific projects of concern to those local communities. "Community based tension" means ongoing, day-to-day conflict between people from socially defined groups which regularly come in contact with each other within a locally defined geographic area and which arises from differences due to race, nationality, religion, sexual orientation or ethnicity. (Events where individuals from various localities go to randomly selected geographic communities to attack people who are different are not included in "community based tension".)

The goal is to foster, on a long-term basis, the presence of such a coalition in order to improve communication, and ease tension, between different groups as they learn about each other and improve their communities and their own life chances.

B. PROGRAM OUTLINE

1. The success of the program depends on the combination of two equally important components: local coalitions and federal administrative and technical support.

2. Local coalitions:

a. Federal funds are targeted on communities which have recently experienced community based tension.

b. In such communities, a coalition would be developed which would:

(1) include individuals from the different groups (based on race, nationality, religion, sexual orientation or ethnicity) which are experiencing tension;

(2) include representatives from a wide range of community organizations;

(3) cross locally defined neighborhoods or communities and income groups; and

(4) require all coalition members to play an active role in developing and implementing projects of immediate concern to the communities represented.

c. Coalition projects must:

(1) fulfill a concrete, locally defined need related to youth recreation, training or education; crime; drugs, community development or safety; community recreation or arts; or citizenship participation;

(2) involve a wide range of community residents working together in an ongoing, participatory effort; and

(3) not duplicate ongoing community efforts.

d. Federal funding covers an administrator and related supplies. The local community must provide an in-kind or monetary match. Federal funding would be maintained at 100 percent for 3 years and then decrease by 25 percent each year.

3. Federal involvement:

a. The Community Relations Service of the Department of Justice would aid in the development of multi-cultural coalitions in communities experiencing community based tensions, select coalitions for pending, and provide on-site technical assistance to coalitions, including after their federal funding has been phased out.

b. In addition, the Community Relations Service would provide training for coalition staff, conduct evaluations and conferences and disseminate information regarding the program to all participating coaltions and other interested communities.

c. The Community Relations Service would be assisted by a national advisory board of experts in the fields of civil rights, conflict mediation, community and neighborhood development and law enforcement.

4. Authorization: $5 million for each of the fiscal years 1991 through 1997, which would fund approximately 20 coalitions.

ENDORSEMENT LIST: COMMUNITY RELATIONS ACT

NAACP.
National Organization of Black Law Enforcement Officers.
American Jewish Committee.
American Jewish Congress.
National Urban League.
U.S. Conference of Mayors.
Metropolitan Strategy (Ohio).
Friends Committee on National Legislation.
National Council of La Raza.
Japanese American Citizenship League.
Organization of Chinese Americans.
National Association of Neighborhoods.
National Federation for Neighborhood Diversity.
National Institute Against Prejudice and Violence.
National Puerto Rican Coalition.
ACORN.
National League of Cities.
MALDEF.
National Neighborhood Coalition.
City of Shaker Heights.
Heights Community Congress.
Congress of Racial Equality.
Center for Community Change.
Dr. Mary Francis Berry, Commissioner, U.S. Commission on Civil Rights.
Roger Wilkins.
William L. Taylor, Esquire.

What people are saying about the Community Relations Act:

NAACP: "(this) legislation . . . presents a brave attempt to address the problem of mounting racial tensions in American residential communities. The NAACP is proud to support such a measure and believe that the potential gains of the program far out weigh the program's small price tag."

The United States Conference of Mayors: "I am writing on behalf of the nation's mayors to congratulate you for writing the Community Relations Act and to indicate the support of the U.S. Conference of Mayors for its passage."

The National Urban League: "We view the Community Relations Act as a pro-active and positive approach to bring people from different groups together to work on specific projects of mutual concern within their local communities. We endorse your efforts at getting this legislation enacted."

ACORN: "We must frankly identify our problems before we can solve them. Through this bill, the Federal government will help America's neighborhoods face up to, and begin to heal, the devisiveness that hobbles them."

National Puerto Rican Coalition: "I would like to restate how critical NPRC believes this legislation is for the Puerto Rican community. Please let us know if there is anything else we can do to quickly move this legislation through congress."●

● Mr. BRADLEY. Mr. President, if the United States is to retain its leadership of a changing world, it will be because of the power of our example. The world looks to us as a place where people are free and where people care about one another. That caring begins in our families and our neighborhoods. Our children should be able to walk safely and freely through the communities that make up a city, and our neighborhoods should be as safe as our living rooms, while bringing people of different backgrounds together in harmony.

I cannot deny that in many American communities, this description is a vision of a long-lost ideal. When the bonds of neighborhood and community are frayed, it comes as no surprise that our nation finds it difficult to agree on a common purpose, a direction for the future in which we all have a stake. Where kids shoot kids in our streets, where people of different races are building new walls of hostility and suspicion, and where drugs and gangs rule life is where we must look to rebuild the bonds of American community.

That is why, Mr. President, I rise to cosponsor the Community Relations Act, introduced today by my colleague Senator METZENBAUM. In 20 communities, this legislation would establish model, multicultural coalitions to resolve the tensions that have divided and imperiled these neighborhoods. Perhaps every one of these programs would take a completely different approach. Certainly every one would be developed by the residents and institutions based in that community, drawing on their insights and their firsthand expertise. From these programs we would learn what works and what doesn't in the effort to help our communities heal themselves.

Mr. President, I believe our Nation has the will and the means to restore the harmony and pride that holds our communities together. America's strength lies in our diversity, but if we allow diversity to divide us on the streets, it will threaten our purpose as a nation. We do need more knowledge about how to repair neighborhoods that are already divided, and this legislation would help us find that knowledge. It wuld be a shame not to pursue these solutions.●

By Mr. KASTEN:

S. 3243. A bill to improve disclosure of the tax policy revenue estimating process; pursuant to the order of August 4, 1977, referred jointly to the Committee on Governmental Affairs and the Committee on the Budget.

TAX POLICY FREEDOM OF INFORMATION AND SUNSHINE ACT

● Mr. KASTEN. Mr. President, today I am introducing a bill to open up the congressional revenue estimating process to public scrutiny. This legislation called the Tax Policy Freedom of Information and Sunshine Act would require the Joint Committee on Taxation to disclose the assumptions, data, and methodology used to arrive at revenue estimates of proposed changes in the tax law.

The congressional tax-writing process remains shrouded in secrecy. The fate of proposed tax changes—like cutting the capital gains tax or expanding savings incentives—are often decided behind closed doors by the accountants and economists who make revenue estimates.

In some of the most important tax policy debates of the last decade, the official estimates were often misleading, incomplete and incorrect—leading Congress to enact misguided tax increases and reject much-needed tax cuts.

Under current practices, Congress must accept these revenue estimates without the opportunity to question the methods by which they were developed.

Full disclosure would improve the process, by making it responsive to the needs of the real economy. It would facilitate the exchange between the Joint Committee on Taxation and outside analysts, which would result in improved techniques, data collection and revenue modeling—all of which would lead to more accurate estimates.

The Congressional Budget Office is an excellent example of what happens when you open up the process to the light of day. Their models and methods are well-documented and open to constructive criticism, and the result is integrity and realism in the estimating process.

Now that Congress has reformed the budget process to require that tax cuts be offset with spending cuts or tax in-

creases, the role of the Joint Committee on Taxation will become even more critical. That's why it's essential that we build tax policy on the solid ground of realistic estimates.

I ask unanimous consent that the full text of the bill be entered in the RECORD:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Policy Freedom of Information and Sunshine Act of 1990".

SEC. 2. DECLARATION OF PURPOSE.

The Congress declares that it is essential that—

(1) the Congress be fully informed and presented with all relevant information while making vital tax policy decisions; and

(2) the methods, assumptions, and procedures used by the congressional staff conducting revenue gain and loss estimates should not be hidden, but should be disclosed to Members of Congress and the public so that the methods may be analyzed by non-governmental analysts and improved and the quality of the tax policy process enhanced.

SEC. 3. FULL DISCLOSURE OF ECONOMIC ASSUMPTIONS AND METHODOLOGY.

(a) REPORT ON CONCURRENT BUDGET RESOLUTION.—Section 301(e) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 632(e)) is amended—

(1) by striking paragraph (5) and inserting the following new paragraph:

"(5) the economic assumptions and methodology that underlie each of the matters set forth in such concurrent resolution and any alternative economic assumptions and methodology which the committee considered, with technical explanations setting forth the economic data, assumptions, and methodology in sufficient detail to permit replications of the results by nongovernmental analysts;", and

(2) by adding at the end thereof the following new flush sentence:

"The contents of the report described in paragraph (5) shall be made available to Members of Congress not later than 48 hours before the consideration of the concurrent resolution by the Congress and the technical explanations described in such paragraph shall be made available to the public separately from the report."

(b) REPORTS OF JOINT TAX COMMITTEE.—Paragraph (3) of section 8022 of the Internal Revenue Code of 1986 is amended to read as follows:

"(3) REPORTS.—

"(A) IN GENERAL.—To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and in its discretion, to the Senate or the House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

"(B) REPORTS ACCOMPANYING COMMITTEE OR CONFERENCE ACTION.—To report the economic assumptions and methodology that underlie each of the matters set forth in—

"(i) a bill, resolution, or committee amendment considered or reported by the Committee on Finance or the Committee on Ways and Means, or

"(ii) a conference report with respect to such bill or resolution,

with technical explanations setting forth the economic data, assumptions, and methodology in sufficient detail to permit replications of the results by nongovernmental analysts; such reporting being made available not later than 48 hours before the consideration of the bill, resolution, committee amendment, or conference report by the Committee on Finance, the Committee on Ways and Means, or the Congress and the technical explanations in such report being made available to the public separately from the report."●

ADDITIONAL COSPONSORS

S. 1795

At the request of Mr. HOLLINGS, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1795, a bill to exclude the Social Security trust funds from the deficit calculation and to extend the target date for Gramm-Rudman-Hollings until fiscal year 1995.

S. 2258

At the request of Mr. BRYAN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2258, a bill to amend the Nuclear Waste Policy Act of 1982 to allow commercial nuclear utilities that have contracts with the Secretary of Energy under section 302 of that act to receive credits to offset the cost of storing spent fuel that the Secretary is unable to accept for storage on and after January 31, 1998.

S. 2619

At the request of Mr. GLENN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2619, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program.

S. 2989

At the request of Mr. HEINZ, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2989, a bill to amend title XIX of the Social Security Act to provide for an expansion of Medicaid benefits to low income pregnant women and children and to raise the tax on cigarettes to fund such Medicaid expansion.

S. 3072

At the request of Mr. GRAHAM, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 3072, a bill to amend the Public Health Service Act to establish State health service corps demonstration projects and for other purposes.

SENATE JOINT RESOLUTION 235

At the request of Mr. HUMPHREY, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Joint Resolution 235, a joint resolution proposing a constitutional amendment to limit congressional terms.

SENATE JOINT RESOLUTION 292

At the request of Mr. PELL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 292, a joint resolution to designate the year 1991 as the "Year of the Lifetime Reader."

SENATE JOINT RESOLUTION 375

At the request of Mr. BOSCHWITZ, the names of the Senator from Virginia [Mr. WARNER], the Senator from Michigan [Mr. LEVIN], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Joint Resolution 375, a joint resolution to designate October 30, 1990, as "Refugee Day."

AMENDMENT NO. 3115

At the request of Mr. SIMPSON, his name was added as a cosponsor of amendment No. 3115 proposed to H.R. 5769, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

AMENDMENTS SUBMITTED

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, FISCAL YEAR 1991

HOLLINGS AMENDMENT NO. 3123

Mr. HOLLINGS made a motion that the Senate concur in the amendment of the House to the amendment of the Senate numbered 9 to the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, as follows:

Mr. President, I move to concur in the amendment of the House to amendment No. 139 with an amendment as follows:

Beginning with the sum "$160,185,000" in the pending amendment, strike all through the end of the paragraph and insert "$157,485,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and, for 1991 only, not to exceed $100,000 shall be available to host a conference of the International Organizations of Securities Commissions, such sum to cover related translation, printing, facility and other necessary logistic and administrative expenses: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting collection to this appropriation to recover costs of services of the securities registration process: *Provided further,*

That such fees shall remain available until expended.".

HEINZ AMENDMENT NO. 3124

Mr. HEINZ made a motion to concur in the amendment of the House to the amendment of the Senate numbered 139 to the bill H.R. 5021, supra, as follows:

I move that the Senate concur in the House amendment with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following "and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not be exceed $330,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $185,620,000 to remain available until expended, of which $3,000,000 shall be for support costs of a new materials center in Ames, Iowa, and of which $7,175,000 is for the Office of Textiles and Apparels, including $3,315,000 for a grant to the Tailored Clothing Technology Corporation: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purposes of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed twelve.

NUTRITION LABELING ACT

METZENBAUM (AND HATCH) AMENDMENT NO. 3125

Mr. BYRD (for Mr. METZENBAUM, for himself and Mr. HATCH) proposed an amendment to the bill (H.R. 3562) to amend the Federal Food, Drug, and Cosmetic Act to prescribe nutrition labeling for foods, and for other purposes, as follows:

1. Page 2, line 22, strike "and", page 3, line 2, strike the period and insert ", and", and after line 2 insert the following:

"(E) any vitamin, mineral, or other nutrient required to be placed on the label and labeling of food under this Act before October 1, 1990, if the Secretary determines that such information will assist consumers in maintaining healthy dietary practices.".

Page 11, strike lines 12 through 21 and redesignate paragraphs (3) and (4) as paragraphs (2) and (3).

2. Page 3, strike lines 3 through 7 and insert in lieu thereof the following: "The Secretary may by regulation require any information required to be placed on the label or labeling by this subparagraph or subparagraph (2)(A) to be highlighted on the label or labeling by larger type, bold type, or contrasting color if the Secretary determines that such highlighting will assist consumers in maintaining healthy dietary practices.".

3. Page 3, line 24, strike "shall" and insert "may" and page 4, line 1, strike "may".

4. Page 8, line 23, strike "of labeling" and insert "or labeling".

5. Page 9, line 5, strike "may" and insert "shall" and in line 6 insert after "form" the following: "prescribed by the Secretary".

6. Page 17, insert after line 2 the following:

"(D) Subparagraph (2) does not apply to a claim described in subparagraph (1)(A) which uses the term "diet" and is contained in the label or labeling of a soft drink if (i) such claim is contained in the brand name of such soft drink, (ii) such brand name was in use on such soft drink before October 25, 1989, and (iii) the use of the term "diet" was in conformity with section 105.66 of title 21 of the Code of Federal Regulations. Such a claim is subject to paragraph (a).

"(E) Subclauses (i) through (v) of subparagraph (2)(A) do not apply to a statement in the label or labeling of food which describes the percentage of vitamins and minerals in the food in relation to the amount of such vitamins and minerals recommended for daily consumption by the Secretary.".

7. Page 20, insert after line 19 the following:

"(D) A subparagraph (1)(B) claim made with respect to a dietary supplement of vitamins, minerals, herbs, or other similar nutritional substances shall not be subject to subparagraph (3) but shall be subject to a procedure and standard, respecting the validity of such claim, established by regulation of the Secretary.".

Page 24, line 8, strike "subject to sections 403(r)(1)(B) and 403(r)(3)" and insert ", subject to sections 403(r)(1)(B) and 403(r)(3) or sections 403(r)(1)(B) and 403(r)(5)(D),".

8. Page 21, strike the quotation marks in lines 7 and 11 and after the references to sections in lines 10, 12, and 15 insert "of such Act".

9. Page 21, redesignate clauses (iii) through (viii) as clauses (iv) through (ix) and insert after line 6 the following:

"(iii) shall, in defining terms used to characterize the level of any nutrient in food under section 403(r)(2)(A)(i) of such Act, define—

"(I) free,
"(II) low,
"(III) light or lite,
"(IV) reduced,
"(V) less, and
(VI) high,

unless the Secretary finds that the use of any such term would be misleading,".

10. Page 23, strike lines 17 through 21 and insert the following:

"(C) if the Secretary is diligently prosecuting a proceeding in court pertaining to such food, has settled such proceeding, or has settled the informal or formal enforcement action pertaining to such food.

In any court proceeding described in subparagraph (C), a State may intervene as a matter of right.", and

11. Page 24, line 24, strike "foods" and insert "food", page 25, line 1, strike "foods" and insert "food", and page 25, line 6 strike "foods" and insert "food".

12. Page 25, line 7, insert before the comma the following: ", except a requirement for nutrition labeling of food which is exempt under subclause (i) or (ii) of section 403(q)(5)(A)".

Page 25, line 10, insert before the period the following: ", except a requirement respecting a claim made in the label or labeling of food which is exempt under clause (B) of such section".

13. Page 25, line 8, insert after "claim" the following: "of the type described in section 403(r)(1)".

14. Page 25, strike out lines 13 through 16, page 25, line 17 strike "(2)" and insert in lieu thereof "(b)", redesignate subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), and on page 28, insert after line 20 the following:

"(c) CONSTRUCTION.—

(1) The Nutrition Labeling and Education Act of 1990 shall not be construed to preempt any provision of state law, unless such provision is expressly preempted under section 403A of the Federal Food, Drug, and Cosmetic Act.

(2) The amendment made by subsection (a) and the provisions of subsection (b) shall not be construed to apply to any requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of the food or component of the food.

(3) The amendment made by subsection (a), the provisions of subsection (b) and paragraphs (1) and (2) of this subsection shall not be construed to affect preemption, express or implied, of any such requirement of a State or political subdivision, which may arise under the Constitution, any provision of the Federal Food, Drug, and Cosmetic Act not amended by subsection (a), any other Federal law, or any Federal regulation, order, or other final agency action reviewable under chapter 7 of title 5, United States Code.

15. Page 26, line 5, strike "The" and insert "For the purpose of implementing section 403A(a)(3), the".

16. Page 10, line 9, page 11, line 24, and page 12, line 3, strike "18" and insert "24".

Page 22, lines 9, 15, and 18, strike "18" and insert "24".

Page 27, lines 6 and 17, strike "18" and insert "24".

Page 27, line 20, strike "24" and insert "30".

Page 31, line 2, strike "18" and insert "24".

Page 33, line 15, strike "9" and insert "18".

Page 33, line 19, strike "18" and insert "24".

17. Page 3, line 9, strike "listed in" and isnert "required by" and strike "or (1)(D)" and isnert ", (1)(D), or (1)(E)" and beginning in line 17 strike "or (1)(D)" and insert ", (1)(D), or (1)(E)".

18. Page 13, line 5, insert after "in" the following: "clauses (A) through (C) of", in line 17 strike "subparagraph (3)" and insert "subparagraph (3) or 5(D)", and beginning in line 23 strike "(4)(A)(ii), (4)(A)(iii), and

(5)" and insert "(4)(A)(ii) and (4)(A)(iii) and clauses (A) through (C) of subparagraph (5)".

19. Page 20, line 11, strike "(vi)" and insert "(v)".

20. Page 22, line 5, strike "and", line 8, strike the period and isnert in lieu thereof ", and" and after line 8 insert the following:

"(ix) shall establish, as required by section 403(r)(5)(D), the procedure and standard respecting the validity of claims made with respect to a dietary supplement of vitamins, minerals, herbs, or other similar nutritional substances and shall determine whether claims respecting the following nutrients and diseases meet the requirements of section 403(r)(5)(D) of such Act: folic acid and neural tube defects, antioxident vitamins and cancer, zinc and immune function in the elderly, and omega-3 fatty acids and heart disease.".

21. Page 24, line 21, strike "which" and insert "that" and in line 22, strike "which" and insert "that".

22. Page 28, line 17, and page 33, line 13, strike "(b)(2)" and insert "(b)".

JEFFORDS (AND KOHL) AMENDMENT NO. 3126

Mr. BYRD (for Mr. JEFFORDS,) (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 3562, supra, as follows:

On page 29, strike lines 11 and 12 and insert in lieu thereof, the following:

SECTION 701 (e) (21 U.S.C. 371(e)) is amended by striking out "Any action for the issuance, amendment, or repeal of any regulation under section 401, 403(j), 404(a), 406, 501(b), or 502(d) or (h) of this Act" and inserting in lieu thereof the following: "Any action for the issuance, amendment, or repeal of any regulation under Section 403(j), 404(a), 406, 501(b), or 502(d) or (h) of this Act, and any action for the amendment or repeal of any definition and standard of identity under Section 401 of this Act for any dairy produce (including products regulated under parts 131, 133 and 135 of title 21, Code of Federal Regulations) or maple sirup (regulated under Section 168.140 of title 21, Code of Federal Regulations).

STEROID TRAFFICKING ACT

HUMPHREY AMENDMENT NO. 3127

Mr. BYRD (for Mr. HUMPHREY) proposed an amendment to the bill (S. 1829) to amend the Controlled Substances Act to further restrict the use of steroids and human growth hormones; as follows:

At the appropriate place in the bill, insert the following:

"SEC. . FREE SPEECH PROTECTION.

Section 1961(1) of title 18, United States' Code, is amended by adding at the end "but such term does not include participation in, or the organization or support of, any nonviolent demonstration, assembly, protest, rally, or similar form of public speech;".

INJURY PREVENTION AND CONTROL AMENDMENTS

KENNEDY AMENDMENT NO. 3128

Mr. BYRD (for Mr. KENNEDY) proposed an amendment to the bill (H.R. 5113) to amend the Public Health Service Act to revise and extend the program for the prevention and control of injuries, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Injury Control Act of 1990".

SEC. 2. REVISION AND EXTENSION OF PROGRAM FOR PREVENTION AND CONTROL OF INJURIES.

(a) RESEARCH.—Section 391(A) of the Public Health Service Act (42 U.S.C. 280b(a)) is amended—

(1) in paragraph (2), by inserting after "grants to" the following: ", or enter into cooperative agreements or contracts with,"; and

(2)(A) in paragraph (1), by striking "and" after the semicolon at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) make grants to, or enter into cooperative agreements or contracts with, academic institutions for the purpose of providing training on the causes, mechanisms, prevention, diagnosis, treatment of injuries, and rehabilitation from injuries.".

(b) CONTROL ACTIVITIES.—Section 392(B)(2) of Public Health Service Act (42 U.S.C. 280b-1(b)(2)) is amended to read as follows:

"(2) work in cooperation with other Federal agencies, and with public and nonprofit private entities, to promote injury control.".

(c) REQUIREMENT OF REPORT ON ACTIVITIES OF AGENCY.—Section 393 of the Public Health Service Act (42 U.S.C. 280b-2) is amended to read as follows:

"SEC. 393. REPORT.

"By not later than September 30, 1992, the Secretary, through the Director of the Centers for Disease Control, shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities conducted or supported under this part. The report shall include—

"(1) information regarding the practical applications of research conducted pursuant to subsection (a) of section 391, including information that has not been disseminated under subsection (b) of such section; and

"(2) information on such activities regarding the prevention and control of injuries in rural areas, including information regarding injuries that are particular to rural areas.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 394 of the Public Health Service Act (42 U.S.C. 280b-3) is amended—

(1) In the first sentence, by inserting before the period the following: ", $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993";

(2) by striking the subsection designation; and

(3) by striking the second sentence.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, FISCAL YEAR 1991

KENNEDY (AND STEVENS) AMENDMENT NO. 3129

Mr. LEAHY (for Mr. KENNEDY, for himself and Mr. STEVENS) proposed an amendment to the bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 183, between lines 17 and 18, insert the following:

SEC. 599 F. BENEFITS FOR UNITED STATES HOSTAGES CAPTURED IN LEBANON.—

(a) ELIGIBILITY.—United States nationals held hostage in Lebanon since Jan. 1, 1990 shall be entitled to the same health benefits accorded under this Act to U.S. hostages in Iraq and Kuwait.

(b) DEFINITION.—For purposes of this section the term "hostage" means forcibly detained, held hostage, or interned by an enemy government or its agents, or a hostile force.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

HATCH AMENDMENT NO. 3130

Mr. HATCH (for himself, Mr. KENNEDY, Mr. PELL, Mrs. KASSEBAUM, Mr. METZENBAUM, Mr. DURENBERGER, Mr. SIMON, Mr. JEFFORDS, Mr. DODD, Mr. CHAFEE, Mr. SIMPSON, Mr. ADAMS, Ms. MIKULSKI, Mr. BINGAMAN, Mr. MOYNIHAN, Mr. WIRTH, and Mr. LEAHY) proposed an amendment to the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 101, line 22 of the bill, strike all after the colon and all that follows through page 102, line 7 and insert the following: *"Provided further,* That section 10 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 959) is amended—

"(1) in subsection (a)(6), by striking '529' and inserting '3324';

"(2) by striking subsections (e) and (f);

"(3) by redesignating subsections (b), (c), and (d) as subsections (e), (f), and (g), respectively;

"(4) by designating the second through the fifth sentences of the existing subsection (a) as subsection (b);

"(5) by designating the sixth through the eighth sentences of the existing subsection (a) as subsection (c);

"(6) by designating the ninth through the eleventh sentences of the existing subsection (a) as subsection (d);

"(7) in subsection (b) (as redesignated in paragraph (4)) by inserting ', including local arts representatives' after 'represent cultural diversity';

"(8) in subsection (c) (as designated by paragraph (5)), by striking 'clause (4)' and inserting 'subsection (a)(4)';

"(9) by striking the second sentence of subsection (c) (as redesignated in paragraph (5));

"(10) in subsection (g)(3) (as redesignated by paragraph 3)), by striking 'the last sentence of subsection (a)' and inserting 'subsection (d)'; and

"(11) by adding at the end thereof the following new subsections:

"'(h)(1) The Chairperson of the National Endowment for the Arts shall develop procedures that—

"'(A) ensure that each panel of experts established pursuant to subsection (a)(4) has a wide geographic, aesthetic, ethnic, minority representation by—

"'(i) creating an agency-wide panelist bank, containing names of both qualified arts professionals and knowledgeable lay persons that have been approved by the Chairperson of the National Endowment for the Arts, or the designee of such Chairperson; and

"'(ii) ensuring that such panels, where feasible, have knowledgeable lay persons serving on such panels at all times;

"'(B) establish, where feasible, standardized panel procedures;

"'(C) require, where necessary and feasible, the increased use of site visitations to view, and issue a written report on, a work of an applicant in order to assist the panel of experts in making recommendations;

"'(D) require a written record summarizing all deliberations and recommendations of each panel of experts;

"'(E) require that the membership of each panel of experts change substantially from year to year, with no appointment to a panel of experts to exceed 3 consecutive years; and

"'(F) require all meetings of the National Council on the Arts be open to the public in accordance with the provisions of section 552b of title 5, United States Code.

"'(2) In making appointments to panels established pursuant to subsection (a)(4), the Chairperson shall ensure that an individual who has a pending application for financial assistance under this Act, or who is an employee or agent of an organization with a pending application, does not serve as a member of any panel before which such application is pending. The prohibition described in the preceding sentence shall commence with respect to such individual beginning on the date such application is submitted and shall continue for so long as such application is pending.

"'(3) The Inspector General of the National Endowment for the Arts shall conduct the appropriate reviews to ensure grantee compliance with all regulations that relate to the administration of all programs and operations of the National Endowment for the Arts. This review includes, but is not limited to, grantee compliance with all accounting and financial criteria.

"'(4) The procedures described in paragraph (1) shall be developed not later than 90 days after the date of the enactment of this subsection.

"'(i)(1) The Chairperson of the National Endowment for the Arts shall establish sanctions for groups or individuals who receive funds pursuant to the provisions of section 5 and use such funds to create, produce, or support a project or production that is found to be obscene under State criminal laws or is found to be a criminal violation of State child pornography laws in the State or States in which the group or individual produced such project or production or in the State or States described in the grant award as the site or sites of the project or production, as determined by a court decision, after final appeals.

"'(2) Except as provided in paragraphs (3) and (4), the sanctions described in paragraph (1) shall include—

"'(A) repayment by the individual or organization that created or produced the project or production found to be obscene or to violate child pornography laws pursuant to the provision of paragraph (1) to the Chairperson of the portion of the funds received under section 5 that were used to create or produce such project or production in accordance with the provisions of paragraph (3); and

"'(B) ineligibility of the individual or organization that—

"'(i) used funds received under section 5 to create or produce the project or production found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph (1); and

"'(ii) was a defendant convicted in the criminal action described in paragraph (1);

to receive funds under this Act for a period to be determined by the Chairperson of the National Endowment for the Arts, that shall be not less than 3 years after the date such project or production if found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph (1) or until repayment of the funds pursuant to the provisions of subparagraph (A), whichever is longer.

"'(3)(A) Except as provided in paragraph (4), funds required to be repaid pursuant to the provisions of this subsection shall be repaid not later than 90 days after the date such project or production is found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph(1).

"'(B) If a State, local, or regional agency or arts group received funds directly from the Chairperson under section 5 and awarded all or a portion of such funds to an individual or organization that used such funds to create, produce or support a project or production found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph (1), and the Chairperson determines that such individual or organization has not or is not able to repay such funds in accordance with the provisions of paragraph (2) and this paragraph, then such agency or group shall repay such funds to the Chairperson not later than 30 days after the expiration of—

"'(i) the 90-day period described in paragraph (3); or

"'(ii) the waiver period described in paragraph (4).

"'(C) Each individual or orgnaization required to repay funds pursuant to the provisions of subparagraph (A) of paragraph (2) shall be ineligible to receive further funds under this Act until such funds are repaid.

"'(D) If a State, local, or regional agency or arts group is required to repay funds pursuant to the provisions of subparagraph (A) of paragraph (2) or subparagraph (B) of this paragraph and fails to make such repayment in accordance with the provisions of this subsection, then such agency or group shall be ineligible to receive funds under this Act until such funds are repaid.

"'(4) The Chairperson of the National Endowment for the Arts may waive the provisions of paragraph (3)(A) for a period not to exceed 2 years.

"'(5) The Chairperson of the National Endowment for the Arts shall develop procedures to ensure compliance with the sanctions described in paragraph (1).

"'(6) The general information and guidance form provided to recipients of funds under section 5 shall include on such form the following:

"REPAYMENT OF FUNDS AND DEBARMENT.—In accordance with a Congressional directive, recipients of funds under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 are requested to note the provisions of section 10(i) of such Act regarding repayment of funds and debarment."

"'(7) The Chairperson shall develop regulations to implement the sanctions described in this subsection.'.".

HELMS AMENDMENT NO. 3131

Mr. HELMS proposed an amendment to the bill H.R. 5769, supra, as follows:

At the end of the amendment, add the following: ": *Provided further,* That none of the funds appropriated under this Act may be used by the National Endowment for the Arts to provide financial assistance to an individual whose family income exceeds 1,500 percent of the income official poverty line, as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).".

HELMS AMENDMENT NO. 3132

Mr. HELMS proposed an amendment to the bill H.R. 5769, supra, as follows:

At the end of the amendment, add the following: "None of the funds authorized to be appropriated pursuant to this Act may be used to promote, disseminate, or produce material which denigrates the objects or beliefs of the adherents of a particular religion.

BYRD AMENDMENT NO. 3133

Mr. BYRD proposed an amendment to the bill H.R. 5769, supra, as follows:

On page 35, line 10, before the period insert the following: ": *Provided further,* That within the funds that would otherwise be allocated to the State of Pennsylvania from the funds made available in this Act under their head, up to $1,000,000 shall be made available to the Office of Surface Mining, in cooperation with the Bureau of Mine, for the purpose of exinguishing the Thomas Portal fire.".

LEGISLATIVE BRANCH APPROPRIATIONS, FISCAL YEAR 1991

FORD (AND STEVENS) AMENDMENT NO. 3134

Mr. REID (for Mr. FORD, for himself and Mr. STEVENS) proposed an amendment to the bill (H.R. 5399) making appropriations for the legislative branch for the fiscal year ended September 30, 1991, and for other purposes, as follows:

Subsection (a)(2) of section 310 of the bill is amended to read as follows:

"(2)(A) with respect to the House of Representatives, allocation of funds for official mail to be made to each such person with respect to each session of Congress (with no transfer to any other session or to any other such person); and

"(B) with respect to the Senate, allocation of funds for official mail to be made to each such person with respect to each session of Congress, except that a Member may carry forward an allocation to the next fiscal year; and".

FORD (AND OTHERS) AMENDMENT NO. 3135

Mr. REID (for Mr. FORD, for himself, Mr. STEVENS, and Mr. NICKLES) proposed an amendment to the bill H.R. 5399, supra, as follows:

On page 15, line 18, by striking "not more than" and inserting "not to exceed the lesser of $100,000 or 50 percent of".

FORD AMENDMENTS NOS. 3136 AND 3137

Mr. REID (for Mr. FORD) proposed two amendments to the bill H.R. 5399, supra, as follows:

AMENDMENT No. 3136

Subsection (g)(3) of section 310 is amended by inserting ", with respect to the House of Representatives," before "means".

AMENDMENT No. 3137

Subsection (i) of section 310 is amended by inserting before the period the following: ", except that with respect to the Senate subsection (d) shall apply with respect to sessions of Congress beginning with the second session of the One Hundred Second Congress.".

REID AMENDMENT NO. 3138

Mr. REID proposed an amendment to the bill H.R. 5399, supra, as follows:

Section 302 of Title III is amended by striking "No" and inserting in lieu thereof "Except as otherwise provided by law, no".

INOUYE (AND OTHERS) AMENDMENT NO. 3139

Mr. REID (for Mr. INOUYE), (for himself, Mr. KENNEDY, and Mr. AKAKA) proposed an amendment to the bill H.R. 5399, supra, as follows:

At the appropriate place, add the following new section:

SEC. . SPARK M. MATSUNAGA MEDAL OF PEACE.

(a) IN GENERAL.—Section 1705 of the United States Institute of Peace Act (22 U.S.C. 4604) is amended—

(1) in subsection (b)—

(A) by adding "and" after the semicolon at the end of paragraph (8);

(B) by striking out paragraph (9); and

(C) by redesignating paragraph (10) as paragraph (9);

(2) by redesignating subsections (c) through (n) as subsections (d) through (o), respectively; and

(3) by inserting after subsection (b) the following:

"(c)(1)(A) The Institute, acting through the Board, may each year make an award to such person or persons who it determines to have contributed in extraordinary ways to peace among the nations and peoples of the world, giving special attention to contributions that advance society's knowledge and skill in peacemaking and conflict management. The award shall include the public presentation to such person or persons of the Spark M. Matsunaga Medal of Peace and a cash award in an amount of not to exceed $25,000 for any recipient.

"(B)(i) The Secretary of the Treasury shall strike the Spark M. Matsunaga Medal of Peace with suitable emblems, devices, and inscriptions which capture the goals for which the Medal is presented. The design of the medals shall be determined by the Secretary of the Treasury in consultation with the Board and the Commission of Fine Arts.

"(ii) The Spark M. Matsunaga Medal of Peace shall be struck in bronze and in the size determined by the Secretary of the Treasury in consultation with the Board.

"(iii) The appropriate account of the Treasury of the United States shall be reimbursed for costs incurred in carrying out this subparagraph out of funds appropriated pursuant to section 1710(a)(1).

"(2) The Board shall establish an advisory panel composed of persons eminent in peacemaking, diplomacy, public affairs, and scholarship, and such advisory panel shall advise the Board during its consideration of the selection of the recipient of the award.

"(3) The Institute shall inform the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate and the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives about the selection procedures it intends to follow, together with any other matters relevant to making the award and emphasizing its prominence and significance.".

(b) USE OF MEDAL NAME.—Section 1704(e)(1) of the United States Institute of Peace Act (22 U.S.C. 4603(e)(1)) is amended by inserting " 'Spark M. Matsunaga Medal of Peace'," after " 'International Peace',".

(c) CONFORMING AMENDMENT.—Section 1707(b) of the United States Institute of Peace Act (22 U.S.C. 4606(b)) is amended by striking out "section 1705(g)(3)" and inserting in lieu thereof "section 1705(h)(3)".

NUNN (AND WARNER) AMENDMENT NO. 3140

Mr. REID (for Mr. NUNN for himself and Mr. WARNER) proposed an amendment to the bill H.R. 5399, supra; as follows:

SEC. . WAIVER OF PENALTY FOR CONTINUED GOVERNMENT SERVICE IN THE LEGISLATIVE BRANCH.

(a) WAIVER AUTHORITY.—The applicability of sections 5532, 8344, and 8468 of title 5, United States Code, may be waived in accordance with subsection (b) for employees in positions in the legislative branch for which there is exceptional difficulty in recruiting and retaining qualified employees.

(b) DEFINITION.—The waiver authority under subsection (a) may be exercized—

(1) in the case of a position in the House of Representatives, under procedures established by the Committee on House Administration;

(2) in the case of a position in the Senate, under procedures established by the Committee on Rules and Administration;

HUMPHREY AMENDMENT NO. 3141

Mr. REID (for Mr. HUMPHREY) proposed an amendment to the bill H.R. 5399, supra; as follows:

At the end of the bill, add the following:

SEC. . In fiscal year 1991 and thereafter, when a Senator disseminates information under the frank by a mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code), the Senator shall register quarterly with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary a copy of the matter mailed and providing, on a form supplied by the Secretary, a description of the group or groups of persons to whom the mass mailing was mailed and the number of pieces mailed.

REID AMENDMENT NO. 3142

Mr. REID proposed an amendment to the bill H.R. 5399, supra; as follows:

Strike section 311.

At the appropriate place insert the following new section:

"SEC. . Two percent of the total amount appropriated or otherwise made available by this Act, that is not required to be appropriated or otherwise made available by a provision of law, shall be withheld from obligation. The Committees on Appropriations of the Senate and the House of Representatives shall set forth recommendations in the conference report on this Act with respect to the apportionment of the total amount to be withheld among the various appropriations made by this Act."

NICKLES (AND OTHERS) AMENDMENT NO. 3143

Mr. NICKLES (for himself, Mr. SYMMS, Mr. ARMSTRONG, and Mr. THURMOND) proposed an amendment to amendment No. 3142 proposed by Mr. REID to the bill H.R. 5399, supra, as follows:

Amendment No. 3142 is modified by striking "2 percent" and inserting in lieu thereof "5 percent".

NICKLES (AND OTHERS) AMENDMENT NO. 3144

Mr. NICKLES (for himself, Mr. HELMS, Mr. PRESSLER, and Mr. WILSON) proposed an amendment to the bill H.R. 5399, supra, as follows:

On page 6, line 22, strike "$35,500,000" and insert in lieu thereof "$23,688,000".

STEVENS AMENDMENT NO. 3145

Mr. STEVENS proposed an amendment to amendment No. 3144 proposed by Mr. NICKLES to the bill H.R. 5399, supra; as follows:

In lieu of the langauge proposed to be inserted, insert "$30,000,000".

NICKLES (AND HUMPHREY) AMENDMENT NO. 3146

Mr. NICKLES (for himself and Mr. HUMPHREY) proposed an amendment to the bill H.R. 5399, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . PROHIBITION ON TRANSFERS OF OFFICIAL MAIL FUNDS.—During any fiscal year in which appropriations for official mail costs of the Senate are allocated among offices of the Senate, no such office may transfer any of its allocation to any other such office.

FORD AMENDMENT NO. 3147

Mr. FORD proposed an amendment, which was subsequently modified, to amendment No. 3146 proposed by Mr. NICKLES (for himself, Mr. WILSON and Mr. HUMPHREY) to the bill H.R. 5399, supra; as follows:

In the amendment strike all after the "," in line 4 and insert the following: no Member may transfer any of his/her mail allocation to any Member who is a candidate for public office during the period beginning January 1st of the calendar year in which the Member is a candidate for public office and ending on the date of election for such public office.

ATTENDANT ALLOWANCE ADJUSTMENT ACT

KENNEDY AMENDMENT NO. 3148

Mr. REID (for Mr. KENNEDY) proposed an amendment to the bill (H.R. 3911) to amend title 5 of the United States Code to increase the allowance for services of attendants; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This act may be cited as the "Attendant Allowance Adjustment Act".

SEC. 2. INCREASE IN AMOUNT.

Subsection (a) of section 8111 of title 5, United States Code is amended by striking out "$500" and inserting in lieu thereof "$1,500".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall take effect October 1, 1990.

SCHOOL DROPOUT PREVENTION AND BASIC SKILLS IMPROVEMENT ACT

PELL AMENDMENT NO. 3149

Mr. REID (for Mr. PELL) proposed an amendment to the bill (H.R. 5140) to amend the Elementary and Secondary Education Act of 1965 to improve secondary school programs for basic skills improvement and dropout prevention and reentry, and for other purposes; as follows:

At the end of the bill, insert the following:

SEC. . CENTER FOR COMMERCE AND INDUSTRIAL EXPANSION.

(a) GRANT AUTHORIZED.—(1) The Secretary of Education (hereafter in this section referred to as the "Secretary") is authorized to award a grant to Loyola University of Chicago located in Chicago, Illinois, to pay the Federal share of the cost of construction and related costs for the establishment of a Center for Commerce and Industrial Expansion at Loyola University of Chicago.

(2) The Federal share shall not be less than 33 percent.

(b) APPLICATION.—No grant may be awarded under this section unless an application is made at such time, in such manner and containing or accompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $8,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

SEC. . ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT.

Section 6103 of the Secondary Schools Basic Skills Demonstration Assistance Act of 1988 (20 U.S.C. 3263) is amended by striking "fiscal year 1989" and inserting "each of the fiscal years 1991 and 1992".

SEC. . STATEMENT OF PURPOSE.

Section 6102(b) of the Training Technology Transfer Act of 1988 (20 U.S.C. 5092) is amended by striking "education training, and" and inserting "education and training of students and teachers and the".

SEC. . CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.

Section 614(a) of the Higher Education Act of 1965 (20 U.S.C. 1130b(a)) is amended—

(1) by striking "$5,000,000" and inserting "$7,500,000"; and

(2) by striking "3 succeeding" and inserting "4 succeeding".

SEC. . DAKOTA WESLEYAN UNIVERSITY.

Notwithstanding the provisions of section 487(c)(2)(B) of the Higher Education Act of 1965, the Secretary of Education shall reassess the amount owed by the Dakota Wesleyan University, located in Mitchell, South Dakota, in the amount of $159,260, plus any accrued interest thereon to $16,113.

FDA REVITALIZATION ACT

HATCH (AND KENNEDY) AMENDMENT NO. 3150

Mr. STEVENS (for Mr. HATCH, for himself, and Mr. KENNEDY) proposed an amendment to the bill (S. 845) to amend the Federal Food, Drug, and Cosmetic Act to revitalize the Food and Drug Administration, and for other purposes; as follows:

Strike the Committee amendment and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Food and Drug Administration Revitalization Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Federal Food, Drug, and Cosmetic Act.
TITLE I—CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY
Sec. 101. Consolidated administrative and laboratory facility.
TITLE II—RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS
Sec. 201. Recovery and retention of fees for FOIA requests.
TITLE III—SCIENTIFIC REVIEW GROUPS
Sec. 301. Scientific review groups.
TITLE IV—AUTOMATION OF FDA
Sec. 401. Automation of FDA.

SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)

TITLE I—CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY

SEC. 101. CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY.

Chapter VII (21 U.S.C. 371 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 710. CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY.

"(a) AUTHORITY.—The Secretary, in consultation with the Administrator of the General Services Administration, shall enter into contracts for the design, construction, and operation of a consolidated Food and Drug Administration administrative and laboratory facility.

"(b) AWARDING OF CONTRACT.—The Secretary shall solicit contract proposals under subsection (a) from interested parties. In awarding contracts under such subsections, the Secretary shall review such proposals and give priority to those alternatives that are the most cost effective for the Federal Government and that allow for the use of donated land, federally owned property, or lease-purchase arrangements. A contract under this subsection shall not be entered into unless such contract results in a net cost savings to the Federal Government over the duration of the contract, as compared to the Government purchase price including borrowing by the Secretary of Treasury.

"(c) DONATIONS.—In carrying out this section, the Secretary shall have the power, in connection with real property, buildings, and facilities, to accept on behalf of the Food and Drug Administration gifts or donations of services or property, real or personal, as the Secretary determines to be necessary.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for fiscal year 1991, and such sums as may be necessary for each of the subsequent fiscal years, to remain available until expended.".

TITLE II—RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS

SEC. 201. RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS.

Chapter VII (21 U.S.C. 371 et seq.) (as amended by section 101 of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 711. RECOVERY AND RETENTION OF FEES FOR FREEDOM OF INFORMATION REQUESTS.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, may—

"(1) set and charge fees, in accordance with section 552(a)(4)(A) of title 5, United States Code, to recover all reasonable costs incurred in processing requests made under section 552 of title 5, United States Code,

for records obtained or created under this Act or any other Federal law for which responsibility for administration has been delegated to the Commissioner by the Secretary;

"(2) retain all fees charged or such requests; and

"(3) establish an accounting system and procedures to control receipts and expenditues of fees received under this section.

"(b) USE OF FEES.—The Secretary and the Commissioner of Food and Drugs shall not use fees received under this section for any purpose other than funding the processing of requests described in subsection (a)(1). Such fees shall not be sued to reduce the amount of funds made to carry out other provisions of this Act.

"(c) WAIVER OF FEES.—Nothing in this section shall supersede the right of a requester to obtain a waiver of fees pursuant to section 552(a)(4)(A) of title 5, United States Code.".

TITLE III—SCIENTIFIC REVIEW GROUPS

SEC. 301. SCIENTIFIC REVIEW GROUPS.

Chapter IX (21 U.S.C. 391 et seq.) is amended by adding at the end thereof the following section:

"SEC. 903. SCIENTIFIC REVIEW GROUPS.

Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Commissioner of Food and Drugs may—

"(1) establish such technical and scientific review groups as are needed to carry out the functions of the Food and Drug Administration (including functions prescribed under this Act); and

"(2) appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups.".

TITLE IV—AUTOMATION OF FDA

SEC. 401. AUTOMATION OF FDA.

Chapter VII (21 U.S.C. 371 et seq.) (as amended by sections 101 and 201 of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 712. AUTOMATION OF FOOD AND DRUG ADMINISTRATION.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, shall automate appropriate activities of the Food and Drug Administration to ensure timely review of activities regulated under this Act.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated each fiscal year such sums are necessary to carry out this section.".

ADMINISTRATIVE DISPUTE RESOLUTION ACT

PRYOR AMENDMENT NO. 3151

Mr. REID (for Mr. PRYOR) proposed an amendment to the bill (S. 971) to authorize and encourage Federal agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, and for other purposes; as follows:

On page 38, line 24, insert "but shall not extend to matters specified under the provisions of sections 2302 and 7121(c) of title 5" after "decision".

KOHL AMENDMENT NO. 3152

Mr. REID (for Mr. KOHL) proposed an amendment to the bill S. 971, supra, as follows:

On page 37, strike out lines 10 through 24 and insert in lieu thereof:

"(5) 'dispute resolution communication' means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participants; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;"

On page 38, line 6, strike out "(7)" and insert in lieu thereof "(6)".

On page 38, line 11, strike out "(8)" and insert in lieu thereof "(7)".

On page 38, line 19, strike out "(9)" and insert in lieu thereof "(8)".

On page 39, line 1, strike out "(10)" and insert in lieu thereof "(9)".

On page 39, line 4, strike out "(11)" and insert in lieu thereof "(10)".

On page 39, line 11, strike out "(12)" and insert in lieu thereof "(11)".

On page 39, line 13, strike out "(13)" and insert in lieu thereof "(12)".

On page 42, line 25, insert "disclose" before "or through".

On page 43, lines 1 and 2, strike out "dispute resolution document or any".

On page 43, line 3, insert before the comma "or any communication provided in confidence to the neutral".

On page 43, lines 6 and 7, strike out "or dispute resolution document".

On page 43, lines 9 and 10, strike out "or document".

On page 43, lines 11 and 12, strike out "or dispute resolution document".

On page 43, line 14, strike out "or document".

On page 43, lines 15 and 16, strike out "provide the document or".

On page 44, line 3, strike out "Except as provided in subsection (d), a" and insert in lieu thereof "A".

On page 44, line 4, insert "disclose" after "voluntarily".

On page 44, lines 6 and 7, strike out "any dispute resolution document or".

On page 44, insert between lines 8 and 9:

"(1) the communication was prepared by the party seeking disclosure";

On page 44, line 9, strike out "(1)" and insert in lieu thereof "(2)".

On page 44, line 11, strike out "(2)" and insert in lieu thereof "(3)".

On page 44, lines 11 and 12, strike out "or document".

On page 44, line 13, strike out "(3)" and insert in lieu thereof "(4)".

On page 44, lines 13 and 14, strike out "or dispute resolution document".

On page 44, line 16, strike out "(4)" and insert in lieu thereof "(5)".

On page 45, line 3, strike out "(5) the dispute resolution document or" and insert in lieu thereof "(6) the".

On page 45, lines 9 and 10, strike out "or dispute resolution document".

On page 45, line 13, strike out "or document".

On page 45, line 15, insert before the period "for disclosures by a neutral".

On page 45, line 23, strike out "document or".

On page 46, line 21, strike out "document" and insert in lieu thereof "communication".

On page 46, line 24, strike out "document" and insert in lieu thereof "communication".

LEAHY AMENDMENT NO. 3153

Mr. REID (for Mr. LEAHY) proposed an amendment to the bill S. 971, supra, as follows:

On page 44, line 2, strike out "confidential." and insert "confidential; or".

On page 44, insert between lines 2 and 3:

"(6) the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding."

On page 46, after line 25 insert:

"(j) This section shall not be considered a statute specifically exempting disclosure under section 552(b)(3) of this title."

GRASSLEY AMENDMENT NO. 3154

Mr. STEVENS (for Mr. GRASSLEY) proposed an amendment to the bill S. 971, supra, as follows:

On page 53, strike out lines 1 through 6 and insert in lieu thereof:

"(g) If an agency head vacates an award under subsection (c), a party to the arbitration (other than the United States) may within 30 days of such action petition the agency head for an award of attorney fees and expenses (as defined in section 504(b)(1)(A) of this title) incurred in connection with the arbitration proceeding. The agency head shall award the petitioning party those fees and expenses that would not have been incurred in the absence of such arbitration proceeding, unless the agency head or his her designee finds that special circumstances make such an award unjust. The procedures for reviewing applications for awards shall, where appropriate be consistent with those set forth in subsection (a)(2) and (3) of section 504 of this title. Such fees and expenses shall be paid from the funds of the agency that vacated the award.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION AUTHORIZATION

INOUYE AMENDMENT NO. 3155

Mr. REID. (for Mr. INOUYE) proposed an amendment to the bill (S. 1839) to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That there is authorized to be appropriated for activities of the National Telecommunications and Information Administration $14,554,000 for fiscal year 1990 and $18,000,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee ben-

efits required by law, and other nondiscretionary costs, for fiscal year 1991.

SEC. 2. (a) THE CONGRESS FINDS THAT—

(1) the Pacific Ocean region is of strategic and economic importance to the United States;

(2) other nations, especially the Soviet Union and Japan, are seeking to increase their influence in this region.

(3) because the Pacific Basin communities are geographically isolated and because many are relatively poor, they are in great need of quality, low-cost communications services to maintain contact among themselves and with other countries;

(4) from 1971 until 1985, such communications needs were satisfied by the Pan-Pacific Educational and Cultural Experiments by Satellite Program (hereinafter referred to as the "PEACESAT Program") operating over the ATS-1 satellite of the National Aeronautics and Space Administration;

(5) the ATS-1 satellite ran out of station-keeping fuel in 1985 and has provided only intermittent service since then;

(6) the Act entitled "An Act to provide authorization of appropriations for activities of the National Telecommunications and Information Administration", approved November 3, 1988 (Public Law 100-584; 102 Stat. 2970), authorized $3,400,000 in funding during fiscal year 1988 and 1989 for re-establishing the communication network of the PEACESAT Program;

(7) Congress appropriated $1,700,000 for fiscal year 1988 and $200,000 for fiscal year 1989 for the purposes of re-establishing the communications network of the PEACESAT Program;

(8) since 1988, significant progress has been made to ensure resumption of this vital communications service by repairing earth terminals in the Pacific communities, by identifying the short-term and long-term needs of the residents of these communities, and by negotiating to acquire the use of the GOES-3 satellite owned by the National Oceanic and Atmospheric Administration, which is expected to provide service from 1990 to 1994;

(9) the National Telecommunications and Information Administration will issue a contract for the design and construction of earth terminals to work with the GOES-3 satellite by early 1990 that will exhaust the funds previously appropriated;

(10) additional funding will be necessary for fiscal year 1990 and 1991 to pay for the costs of operating the GOES-3 satellite, for installing the earth stations and training engineers to operate them, and for administering the program; and

(11) additional but undetermined funding may also be necessary in fiscal year 1991 to begin acquiring replacement satellite capacity for the GOES-3 satellite after it goes out of service.

(b) It is the purpose of this section to assist in the acquisition of satellite communications services until viable alternatives are available and to provide interim funding in order that the PEACESAT Program may again serve the educational, medical, and cultural needs of the Pacific Basin communities.

(c)(1) The Secretary of Commerce shall expeditiously negotiate for and acquire satellite space segment capacity and related ground segment equipment to provide communications services for former users of the ATS-1 satellite of the National Aeronautics and Space Administration.

(2)(A) The Secretary of Commerce shall provide to the manager of the PEACESAT Program such funds, from appropriations authorized under subsection (d) of this section, as the Secretary considers necessary to manage the operation of the satellite communications services provided with the capacity and equipment acquired under this subsection.

(B) The recipient of funds under subparagraph (A) of this paragraph shall keep such records as may reasonably be necessary to enable the Secretary of Commerce to conduct an effective audit of such funds.

(C) The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipient that are pertinent to the funds received under subparagraph (A) of this paragraph.

(d) There are authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for fiscal year 1991 for use by the Secretary of Commerce in the negotiation for and acquisition of capacity and equipment under subsection (c)(1) of this section and the management of the operation of satellite communications services under subsection (c)(2) of this section. Sums appropriated pursuant to this subsection may be used by the Secretary of Commerce to cover administrative costs associated with the provisions of this section.

(e) The Secretary of Commerce shall consult with appropriate departments and agencies of the Federal Government, representatives of the PEACESAT Program, and other affected parties regarding the development of a long-term solution to the communications needs of the Pacific Ocean region. Within one year after the date of enactment of this Act, the Secretary of Commerce shall report to the Congress regarding such consultation.

SEC. 3. (a) It is the purpose of this section to improve the ability of rural health providers to use communications to obtain health information and to consult with others concerning the delivery of patient care. Such enhanced communications ability may assist in—

(1) Improving and extending the training of rural health professionals; and

(2) improving the continuity of patient care in rural areas.

(b) The Secretary of Commerce, in conjunction with the Secretary of Health and Human Services, shall establish an advisory panel (hereafter in this section referred to as the "Panel") to develop recommendations for the improvements of rural health care through the collection of information needed by providers and the improvement in the use of communications to disseminate such information.

(c) The Panel shall be composed of individuals from organizations with rural constituencies and practitioners from health care disciplines, representatives of the National Library of Medicine, and representatives of different health professionals schools, including nurse practitioners.

(d) The Panel may select consultants to provide advice to the Panel regarding the types of information that rural health care practitioners need, the procedures to gather and disseminate such information, and the types of communications equipment and training needed by rural health care practitioners to obtain access to such information.

(e) Not later than 1 year after the Panel is established under subsection (b), the Secretary of Commerce shall prepare and submit, to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources of the Senate and to the Committee on Energy and Commerce of the House of Representatives, a report summarizing the recommendations made by the Panel under subsection (b).

(f) There is authorized to be appropriated to the Secretary of Commerce to carry out this section $1,000,000 to remain available until expended.

SEC. 4. (a) Section 226 of the Communications Act of 1934 (47 U.S.C. 226) is amended by striking "30" each place it appears in subsection (b) (1) and (2), subsection (c)(1), and subsection (h)(1)(A) and inserting in lieu thereof "90".

(b) Section 226(b)(1) of the Communications Act of 1934 (47 U.S.C. 226(b)(1)) is amended—

(1) in subparagraph (H) by adding "and" at the end;

(2) in subparagraph (I) by striking "; and" and inserting in lieu thereof a period; and

(3) by striking subparagraph (J).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT

GORE (AND OTHERS) AMENDMENT NO. 3156

Mr. REID (for Mr. GORE) (for himself, Mr. HOLLINGS, Mr. DANFORTH, and Mr. PRESSLER) proposed an amendment to the bill (S. 2287) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991".

* * * generates critical technology breakthroughs that benefit our economy through new products and processes that significantly improve our standard of living;

(6) the United States aeronautics and space program excites the imagination of every generation and can stimulate the youth of our Nation toward the pursuit of excellence in the fields of science, engineering, and mathematics;

(7) the United States aeronautics and space program contributes to the Nation's technological competitive advantage;

(8) the United States aeronautics and space program requires a sustained commitment of financial and human resources as a share of the Nation's Gross National Product;

(9) the United States space transportation system will depend upon a robust fleet of space shuttle orbiters and expendable and reusable launch vehicles and services;

(10) the United States space program will be advanced with an assured funding stream for the development of a permanently manned space station with research, experimentation, observation, servicing, manufacturing, and staging capabilities for lunar and Mars missions;

(11) the United States aeronautics program has been a key factor in maintaining preeminence in aviation over many decades;

(12) the United States needs to maintain a strong program with respect to transatmospheric research and technology by developing and demonstrating National Aero-Space Plane technology by a mid-decade date certain;

(13) the National Aeronautics and Space Administration is primarily responsible for formulating and implementing policy that supports and encourages civil aeronautics and space activities in the United States; and

(14) commercial activities of the private sector will substantially and increasingly contribute to the strength of both the United States space program and the national economy.

SEC. 102. POLICY.

It is declared to be national policy that the United States should--

(1) rededicate itself to the goal of leadership in critical areas of space science, space exploration, and space commercialization;

(2) increase its commitment of budgetary resources for the space program to reverse the dramatic decline in real spending for such program since the achievements of the Apollo moon program;

(3) ensure that the long-range environmental impact of all activities carried out under this title are fully understood and considered;

(4) promote and support efforts to advance scientific understanding by conducting or otherwise providing for research on environmental problems, including global change, ozone, depletion, acid precipitation, deforestation, and smog;

(5) forge a robust national space program that maintains a healthy balance between manned and unmanned space activities and recognizes the mutually reinforcing benefits of both;

(6) maintain an active fleet of space shuttle orbiters, including an adequate provision of structural spare parts, and evolve the orbiter design to improve safety and performance, and reduce operational costs;

(7) sustain a mixed fleet by utilizing commercial expendable launch vehicle services to the fullest extent practicable;

(8) support an aggressive program of research and development designed to enhance the United States preeminence in launch vehicles;

(9) continue and complete on schedule the development and deployment of a permanently manned, fully capable, space station;

(10) develop an advanced, high pressure space suit to support extravehicular activity that will be required for Space Station Freedom when Assembly Complete is reached;

(11) establish a dual capability for logistics and resupply of the space station utilizing the space shuttle and expendable launch vehicles, including commerical services if available;

(12) continue to seek opportunities for international cooperative in space and fully support international cooperative agreements;

(13) maintain an aggressive program of aeronautical research and technology development designed to enhance the United States preminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system;

(14) conduct a program of technology maturation, including flight demonstration in 1997, to prove the feasibility of an air-breathing, hypersonic aerospace plane capable of single-state-to-orbit operation and hypersonic cruise in the atmosphere;

(15) seek innovative technologies that will make possible advanced human exploration initiatives, such as the establishment of a lunar base and the succeeding mission to Mars, and provide high yield technology advancements for the national economy; and

(16) enhance the human resources of the Nation and the quality of education.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the National Aeronautics and Space Administration the following amounts:

(1) For "research and development", for the following programs:

(A) United States International Space Station Freedom:

(i) Notwithstanding section 201(a)(1)(A) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, not more than $2,451,000,000 shall be made available for fiscal year 1991.

(ii) Such sums as are necessary from funds authorized for the United States International Space Station Freedom shall be used to initiate a flight test of the solar dynamic power program. By May 1, 1991, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the implementation plan for the conduct of a flight test of the solar dynamic power program.

(B) Space transportation capability development, $723,400,000 for fiscal year 1991. Of such funds, $10,000,000 shall be used only for supporting heavy-lift launch vehicle studies, which shall include study of commercially developed variants as well as other appropriate concepts, rather than studying Shuttle-derived heavy-lift launch vehicles alone.

(C) Physics and astronomy, $985,000,000 for fiscal year 1991.

(D) Life sciences, $168,400,000 for fiscal year 1991. Of the amounts authorized for such purposes, by this or any other Act, for fiscal year 1991—

(i) $5,000,000 shall be used for the development of payloads for the Lifesat program; and

(ii) not less than $400,000 shall be used for space food processing studies and bioregenerative modeling assessments.

(E) Planetary exploration, $337,200,000 for fiscal year 1991.

(F) Earth sciences:

(i) $542,500,000 for fiscal year 1991, of which $5,000,000 shall be made available for the conduct of an advanced sensor technology demonstration program, $35,000,000 shall be made available for Earth Probes, including the development of the Total Ozone Mapping Spectrometer, and $44,300,000 shall be made available for Modeling and Data Analysis, including the development of Earth Science Data Directories and remote sensing data conversion.

(ii) Notwithstanding section 201(a)(1)(A) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, not more than $132,000,000 may be made available for the Earth Observing System Platform for fiscal year 1991.

(G) Materials processing in space, $97,300,000 for fiscal year 1991.

(H) Communications, $52,800,000 for fiscal year 1991, including not more than $2,000,000 for experimenter ground stations for the Advanced Communications Technology Satellite, but only if the experimenter receiving funds obtains at least an equal amount of funds from sources other than the National Aeronautics and Space Administration.

(I) Information systems, $36,800,000 for fiscal year 1991.

(J) Technology utilization, $24,400,000 for fiscal year 1991.

(K) Commercial use of space, $76,600,000 for fiscal year 1991.

(L) Aeronautical research and technology, $537,000,000 for fiscal year 1991.

(M) Transatmospheric research and technology, $119,000,000 for fiscal year 1991.

(N) Space research and technology, $412,900,000 for fiscal year 1991. Of the amounts authorized for the Exploration Technology program, by this or any other Act, for fiscal year 1991, at least 10 percent shall be for university contracts and grants.

(O) Exploration mission studies, $21,000,000 for fiscal year 1991, which is authorized for studies conducted by the National Aeronautics and Space Administration. The Administrator shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, by March 15, 1991, a report setting forth the goals for academic participation and enhancement of the educational infrastructure with regard to the human exploration initiative.

(P) Safety, reliability, and quality assurance, $33,000,000 for fiscal year 1991.

(Q) Tracking and data advanced systems, $20,000,000 for fiscal year 1991.

(R) University Space Science and Technology Academic Program, $50,100,000 for fiscal year 1991.

(S) Comet Rendezvous Asteroid Flyby/Cassini mission, not to exceed $1,600,000,000 for development, launch, and 30 days of operations thereof, to remain available until expended, of which—

(i) $490,000,000 shall be available for obligation after October 1, 1989;

(ii) an additional $370,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a preliminary design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(iii) An additional $640,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a critical design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate; and

(iv) an additional $100,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a spacecraft integration and systems test to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

A cost containment plan shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by January 31, 1991, and updated on July 31 and January 31 of each succeeding year until such funds are expended.

(2) For "space flight, control, and data communications", for the following programs:

(A) Shuttle production and operational capability, $1,364,000,000 for fiscal year 1991. Of such funds, $45,000,000 shall be used only for carrying out the safety modifications recommended by the Aerospace Safety Advisory Panel and for such other safety related elements of an Assured Shuttle Availability Program as the Administrator considers necessary. By September 30, 1991, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a full report on the completion of planned safety enhancements.

(B) Shuttle transportation operations, $2,831,400,000 for fiscal year 1991, of which $4,000,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988.

(C) Expendable launch vehicle services, $229,200,000 for fiscal year 1991.

(D) Space and ground network, communications, and data systems, $868,800,000 for fiscal year 1991.

(E) Tracking and data relay satellite system, $1,209,732,000 for fiscal year 1991, which shall be used only for the purpose of reducing all outstanding debt to the Federal Financing Bank.

(3) For "construction of facilities" for fiscal year 1991 as follows:

(A) Construction of Neutral Buoyancy Laboratory, Johnson Space Center, $15,000,000.

(B) Construction of Space Station Processing Facility, Kennedy Space Center, $25,000,000.

(C) Construction of Addition for Flight Training and Operations, Johnson Space Center, $12,000,000.

(D) Rehabilitation of Mission Control Center Power and Control Systems, Johnson Space Center, $8,500,000.

(E) Construction of Transporter/Canister Facility, Kennedy Space Center, $5,500,000.

(F) Construction of Processing Control Center, Kennedy Space Center, $9,400,000.

(G) Replacement of Heating, Ventilating, and Air Conditioning System, Hypergolic Maintenance Facility, Kennedy Space Center, $2,100,000.

(H) Replacement of Operations and Checkout Building, West Cooling Tower, Kennedy Space Center, $1,000,000.

(I) Restoration of Heavy Equipment Area, Kennedy Space Center, $900,000.

(J) Upgrade of Orbiter Processing Facility High Bay Heating, Ventilating, and Air Conditioning System, Kennedy Space Center, $3,300,000.

(K) Upgrade of Yundum International Airport to Full Fransoceanic Abort Landing Site, Banjul, The Gambia, $3,400,000.

(L) Repair of Condensate System, Main Manufacturing Building, Michoud Assembly Facility, $900,000.

(M) Construction of Project Engineering Facility, Marshall Space flight Center, $17,000,000.

(N) Restoration of Information and Electronic Systems Laboratory, Marshall Space Flight Center $4,000,000.

(O) Rehabilitation of Hydrogen Transfer Facility, Stennis Space Center, $2,700,000.

(P) Restroation of Space Shuttle Main Engine Test Complex "A" Stennis Space Center, $2,800,000.

(Q) Construction of Advanced Solid Rocket Motor Program Facilities, including land acquisition, various locations, $92,000,000.

(R) Construction of Addition to Site Electrical Substation, Johnson Space Center, $11,000,000.

(S) Addition to Administration and Engineering Building, Stennis Space Center, $3,800,000.

(T) Construction of Earth Observing System Data Information System Facility, Goddard Space Flight Center, $8,000,000.

(U) Construction of Detector Develpment Laboratory, Goddard Space Flight Center, $3,100,000.

(V) Replacement of Chillers, Central Heating/Refrigeration Plant, Goddard Space Flight Center, $4,000,000.

(W) Replacement/Modernization of Electrical Power Feeders, Goddard Space Flight Center, $1,500,000.

(X) Construction of Observational Instruments Laboratory, Jet Propulsion Labortory, $14,000,000.

(Y) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $13,200,000.

(Z) Restoration of Utilities, Wallops Flight Facility, $5,200,000.

(AA) Modifications to the High Pressure Air System, Langely Research Center, $12,000,000.

(BB) Modifications up Upgrade the 30 × 60-Foot Wind Tunnel, Langley Research Center, $4,000,000.

(CC) Repairs to the Tunnel Shell, Unitary Plan Wind Tunnel, Langley Research Center, $2,700,000.

(DD) Rehabilitation of Central Air System, Lewis Research Center, $7,900,000.

(EE) Rehabilitation of Propulsion Systems Laboratory, Lewis Research Center, $6,000,000.

(FF) Construction of Liquid Hydrogen Structural Test Facility, Dryden Flight Research Facility, $18,800,000.

(GG) Rehabilitation and Modification of the Electrical Distribution System, Dryden Flight Research Facility, $4,000,000.

(HH) Construction of Addition for Light-Alloy Research Laboratory, Langley Research Center, $4,600,000.

(II) Construction of Space Experiments Laboratory, Lewis Research Center, $7,100,000.

(JJ) Refurbishment of Electric Power Laboratory, Lewis Research Center, $8,900,000.

(KK) Construction of 34-Meter Multifrequency Antenna at Goldstone, CA, Jet Propulsion Laboratory, $13,200,000.

(LL) Rehabilitation of 70-Meter Antenna Drive Gear Boxes in Australia, Spain, and Goldstone, CA, Jet Propulsion Laboratory, $4,400,000.

(MM) Repair of facilities at various locations, not to exceed $1,000,000 per project, $30,000,000.

(NN) Rehabilitation and modification of facilities at various locations, not to exceed $1,000,000 per project, $34,000,000.

(OO) Minor construction of new facilities and additions to existing facilities at various locations, not to exceed $750,000 per project, $11,000,000.

(PP) Environmental compliance and restoration, $32,000,000.

(QQ) Facility planning and design not otherwise provided for, $28,000,000.

(4) For "research and program management", for fiscal year 1991, $2,252,900,000.

(5) For "Inspector General", $11,000,000 for fiscal year 1991.

(b) LIMITATIONS.—(1)(A) Notwithstanding paragraph (4), appropriations authorized under this section for "research and development" and "space flight, control, and data communications" may be used—

(i) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts; and

(ii) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase of construction of additional research facilities.

Title to facilities described in clause (ii) shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant.

(B) None of the funds appropriated for "research and development" and "space flight, control, and data communications" pursuant to this title may be used in accordance with this paragraph for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000, unless the Administrator has notified the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, of the nature, location, and estimated cost of such facility

(2) Any amount appropriated pursuant to this title for "research and development", for "space flight, control and data communications", or for "construction of facilities may remain available until expended. Any amount appropriated pursuant to this title for "research and program management" for maintenance and operation of facilities, and for other services, shall remain available through the next fiscal year after the fiscal year for which such amount is appropriated.

(3) Appropriations made pursuant to subsection (a)(4) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and his determination shall be final and conclusive upon the accounting officers of the Government.

(4)(A) Funds appropriated pursuant to subsection (a) (1), (2), and (4) may be used for the construction of new facilities and additions to, or repair, rehabilitation, or modification of existing facilities, but only if the cost of each such project, including collateral equipment, does not exceed $200,000.

(B) Funds appropriated pursuant to subsection (a) (1) and (2) may be used for unforeseen programmatic facility project needs, but only if the cost of each such project, including collateral equipment, does not exceed $750,000.

(C) Funds appropriated pursuant to subsection (a)(4) may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, but only if the cost of each project, including collateral equipment, does not exceed $500,000.

SEC. 104. CONSTRUCTION OF FACILITIES REPROGRAMMING.

Authorization is hereby granted whereby any of the amounts prescribed in section 103(a)(3) (A) through (QQ)—

(1) may be varied upward 10 percent, in the discretion of the Administrator or the Administrator's designee, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the circumstances of such, may be varied upward 25 percent to meet unusual cost variations.

The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of amounts specified in section 103(a)(3) (A) through (QQ).

SEC. 105. SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of 1 percent of the funds appropriated pursuant to section 103(a) (1) or (2) to the "construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 103(a)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost, and the reasons therefor.

SEC. 106. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this title—

(1) no amount appropriated pursuant to this title may be used for any program deleted by the Congress from requests as originally made to either the Committee on Science, Space, and Technology of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate;

(2) no amount appropriated pursuant to this title may be used for any program in excess of the amount actually authorized for the particular program by section 103(a) (1), (2), and (4); and

(3) no amount appropriated pursuant to this title may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by each such committee of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 107. AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958.

Section 203(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(a)) is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) adding at the end the following new paragraphs:

"(4) seek and encourage, to the maximum extent possible, the fullest commercial use of space; and

"(5) encourage and provide for Federal Government use of commerically provided space services and hardware, consistent with the requirements of the Federal Government.".

SEC. 108. NATIONAL SPACE COUNCIL AUTHORIZATION.

(a) There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,363,000 for fiscal year 1991, of which not more than $1,000 shall be available for official reception and representation expenses. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

(b) It is the sense of Congress that the National Space Council should, by October 1, 1991, establish guidelines and policy recommendations, including the need for licensing, for the conduct of expendable launch vehicle operations in which a Federal agency assumes substantial responsibility for public safety, indemnification, and administrative oversight.

SEC. 109. GEOGRAPHICAL DISTRIBUTION.

The Administrator shall distribute research and development funds geographically in order to provide the broadest practicable participation in the programs of the National Aeronautics and Space Administration.

SEC. 110. BUY AMERICAN.

(a) GENERAL RULE.—The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) EXCEPTIONS.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States;

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this title; and

(2) solicitations for bids are issued after the date of enactment of this Act.

SEC. 111. ADVANCED SOLID ROCKET MOTOR.

The Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate the following:

(1) A report on the projected cost to complete the design, development, and qualification of the Advanced Solid Rocket Motor. The first report shall be submitted by March 1, 1991, and thereafter with the National Aeronautics and Space Administration's annual budget request.

(2) An annual report on the projected unit cost of the flight motors.

(3) An annual report on the increase in space shuttle payload capability provided by the Advanced Solid Rocket Motor. The report shall include the original baseline payload capability, adjustments to the baseline capability, and the projected payload capability.

(4) An assessment by the National Research Council by July 1, 1991, of the quality assurance and testing program that will ensure the achievement of safety and reliability for the Advanced Solid Rocket Motor.

SEC. 112. SPACE SHUTTLE USE POLICY.

(a)(1) It shall be the policy of the United States to use the Space Shuttle for purposes that (i) require the presence of man, (ii) require the unique capabilities of the Space Shuttle or (ii) when other compelling circumstances exist.

(2) The term "compelling circumstances" includes, but is not limited to, occasions when the Administrator determines, in consultation with the Secretary of Defense and the Secretary of State, that important national security or foreign policy interests would be served by a Shuttle launch.

(3) The policy stated in subsection (a)(1) shall not preclude the use of available cargo space, on a Space Shuttle mission otherwise consistent with the policy described under subsection (a)(1), for the purpose of carrying secondary payloads (as defined by the Administrator) that do not require the presence of man if such payloads are consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(b) The Administrator shall, within six months after the date of enactment of this Act, submit a report to the Congress setting forth a plan for the implementation of the policy described in subsection (a)(1). Such plan shall include—

(1) details of the implementation plan;

(2) a list of purposes that meet such policy;

(3) a proposed schedule for the implementation of such policy;

(4) an estimate of the costs to the United States of implementing such policy; and

(5) a process for informing the Congress in a timely and regular manner of how the plan is being implemented.

(c) At least annually, the Administrator shall submit to the Congress a report certifying that the payloads scheduled to be launched on the space shuttle for the next four years are consistent with the policy set forth in subsection (a)(1). For each payload scheduled to be launched from the space shuttle, which do not require the presence of man, the Administrator shall, in the certified report to Congress, state the specific circumstances which justified the use of the Space Shuttle. If, during the period between scheduled reports to the Congress, any additions are made to the list of certified payloads intended to be launched from the Shuttle, the Administrator shall inform the Congress of the additions and the reasons therefor within 45 days of the change.

(d) The report described in subsection (c) shall also include those National Aeronautics and Space Administration payloads designed solely to fly on the space shuttle which have begun the phase C/D of its development cycle.

SEC. 113. LIFE SCIENCES STRATEGIC PLAN.

(a) FINDINGS.—The Congress finds that—

(1) the current knowledge base in life sciences is not compatible with the National Aeronautics and Space Administration's current objectives in space, and the National Aeronautics and Space Administration lacks an adequate strategic plan to acquire a knowledge base;

(2) it is critical to the success of manned missions in space, be they commercial operations of microgravity laboratories or manned missions to Mars, that a realistic appraisal of the influences of the space environment on biological systems is completed and appropriate protective countermeasures developed;

(3) the space station is rapidly approaching design maturity without a corresponding development of the physiological and other human factors knowledge base necessary for long-term manned operations in space; and

(4) space station laboratory hardware specifications are being fixed before fully establishing the objectives and requirements for life sciences research.

(b) STRATEGIC PLAN.—The Administration shall—

(1) review currently proposed manned space flight missions in order to—

(A) identify the physiological and other human factors knowledge base necessary to determine the human capacity to adapt to and perform effectively in the space environment according to mission requirements, including identifying which life sciences parameters must be measured and which technologies, processes, and procedures must be developed; and

(B) develop a schedule indicating when specific components of information, technologies, processes, or procedures identified under subparagraph (A) will need to be acquired or developed in order to verify that human adaptability requirements of manned space flight missions can be achieved;

(2) develop a strategy plan for life sciences research and technology development sufficient to accomplish the life sciences knowledge base acquisition schedule developed under paragraph (1)(B), including—

(A) a crew certification plan setting acceptable crew conditioning standards for Extended Duration Orbiter operations and verifying countermeasures sufficient to meet those standards before actual Extended Duration Orbiter operations; and

(B) a life sciences implementation plan for the design and development of the space station, to be provided as part of the Preliminary Design Review for the space station, and to include crew adaptability standards; and

(3) verify the physiological and technical feasibility of the life sciences implementation plan developed under paragraph (2)(B), as part of the Critical Design Review for the space station.

SEC. 114. STUDY ON INTERNATIONAL COOPERATIVE IN PLANETARY EXPLORATION.

(a) FINDINGS.—The Congress finds that—

(1) the President on July 20, 1989, established the long-range goal of establishing a lunar base, followed by manned exploration of Mars in the early twenty-first century;

(2) the United States and the Soviet Union, in cooperation with other countries, are currently planning further unmanned missions to the Moon and to Mars with the possible goal of landing a human on Mars;

(3) a series of international missions to expand human presence beyond Earth orbit would further a spirit of, and follow through on the commitment made in, the 1987 agreement between the Soviet Union and the United States for space cooperation, as well as the successful cooperative agreements the United States has pursued with over one hundred countries since its inception, including the agreement with Japan, Canada, and the European countries for Space Station Freedom;

(4) international manned missions beyond Earth orbit could further encourage a cooperative approach in world affairs unrelated to activities in space;

(5) international manned missions beyond Earth orbit could save the individual nations involved tens of billions of dollars over national missions; and

(6) a multilateral effort for manned missions to establish a lunar colony, a Mars mission, and other missions that have the goal of establishing human presence beyond Earth's orbit and possibly landing a human on Mars would lead to greater understanding of our universe and greater sensitivity to our own planet.

(b) STUDY.—The National Space Council shall conduct a study on International Cooperation in Planetary Exploration (hereafter in this section referred to as the "study").

(c) PURPOSE OF STUDY.—The purpose of the study is—

(1) to develop an inventory of technologies and intentions of all national space agencies with regard to lunar and planetary exploration, both manned and unmanned;

(2) to seek ways, through direct communication with appropriate officials of other nations or otherwise, to enhance the planning and exchange of information and data among the United States, the Soviet Union, European countries, Canada, Japan, and other interested countries with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

(3) to prepare a detailed proposal that most efficiently uses the resources of the national space agencies in cooperative endeavors to establish human presence beyond Earth orbit;

(4) to develop priority goals that accomplish unmet needs that could not be achieved by any individual country;

(5) to explore the possibilities of international unmanned probes to the Moon and Mars, and the possibilities for international manned missions beyond Earth's orbit; and

(6) to devise strategies for such cooperation that would prevent the unwanted transfer of technology.

In developing the inventory under paragraph (1), and in preparing the detailed proposal under paragraph (3), consideration shall be given to the potential contributions of commercial providers of space goods and services.

(d) REPORT.—The National Space Council shall, within one year after the date of the enactment of this Act, prepare and submit to Congress a report—

(1) outlining a preliminary strategy for cooperation among the United States, the Soviet Union, European countries, Canada, Japan, and other interested countries, based on their respective national strengths, with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

(2) including a conceptual design of a possible international manned mission, in coordination with the preliminary strategy referred to in paragraph (1), with target dates and a breakdown of responsibilities by nation;

(3) containing an inventory of planned and anticipated missions, manned and unmanned, that are being considered by national space agencies and commercial providers of space goods and services; and

(4) containing an inventory of space exploration technologies that either—

(A) are not immediately available in the United States but are available from other nations; or

(B) are available in the United States but are available from other nations in equal or superior form.

SEC. 115. OFFICE OF SPACE COMMERCE.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce for the Office of Space Commerce, $487,000 for fiscal year 1991.

(b) REPORT TO CONGRESS.—Commencing in fiscal year 1992, and every fiscal year thereafter, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report of the activities of the Office of Space Commerce, including planned programs and expenditures.

SEC. 116. NATIONAL AERO-SPACE PLANE PROGRAM.

(a) NATIONAL AERO-SPACE PLANE PROGRAM.—The Secretary of Defense (hereafter in this section referred to as the "Secretary") and the Administrator shall jointly pursue on a high priority basis a National Aero-Space Plane program whose objective shall be the development and demonstration, by 1977, of a primarily air breathing single-stage-to-orbit and long range hypersonic cruise research flight vehicle. The program shall be a research program, and to the extent practicable technological information developed shall be transferred to the military and to the domestic civil aviation and other private industries.

(b) MANAGEMENT PLAN.—

(1) The Secretary and the Administrator shall jointly develop a management plan for the program established under subsection (a), which shall include goals, major tasks, anticipated schedules, organizational struc-

ture, funding profiles, details of the respective responsibilities of the Secretary and the Administrator, and resource procurement strategies.

(2) The management plan developed pursuant to paragraph (1) shall be submitted to the Congress within 120 days after the date of enactment of this Act.

SEC. 117. COMMERCIAL SPACE LAUNCH ACT AMENDMENTS.

(a) AUTHORIZATION.—Section 24 of the Commercial Space Launch Act (49 U.S.C. App. 2623) is amended by adding at the end thereof the following: "There are authorized to be appropriated to the Secretary to carry out this Act $4,517,000 for fiscal year 1991, of which $250,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988.".

(b) ACQUISITION BY STATE GOVERNMENTS.—Section 15(a) of the Commercial Space Launch Act (49 U.S.C. App. 2614(a)) is amended by inserting "and State governments" after "by the private sector".

(c) CONGRESSIONAL FINDINGS.—Section 2 of the Commercial Space Launch Act (49 U.S.C. App. 2601) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs;

"(8) space transportation, including the establishment and operation of launch sites and complementary facilities, the provision of launch services, the establishment of support facilities, and the provision of support services, is an important element of the Nation's transportation system, and in connection with the commerce of the United States there is a need to develop a strong space transportation infrastructure with significant private sector involvement; and

"(9) the participation of State governments in encouraging and facilitating private sector involvement in space-related activity, particularly through the establishment of space transportation-related infrastructure, including launch sites, complementary facilities, and launch site support facilities, is in the national interest and is of significant public benefit.".

(d) CONGRESSIONAL STATEMENT OF PURPOSE.—Section 3 of the Commercial Space Launch Act (49 U.S.C. App. 2602) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new paragraph:

"(4) to facilitate the strengthening and expansion of the United States space transportation infrastructure, including the enhancement of United States launch sites, as well as launch site support facilities, with Federal, State, and private sector involvement, to support the full range of United States space-related activities.".

(e) GENERAL RESPONSIBILITIES OF SECRETARY.—Section 5(a) of the Commercial Space Launch Act (49 U.S.C. App. 2604(a)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and";

(3) by adding at the end the following new paragraph:

"(3) work to facilitate private sector involvement in commercial space transportation activity, and to promote public-private partnerships involving the Federal Government, State governments, and the private sector to build, expand, modernize, or operate space launch infrastructure.".

SEC. 118. SPACE DEBRIS.

(a) FINDINGS.—The Congress finds that—

(1) if space users fail to act soon to reduce their contribution to debris in space, orbital debris could severely restrict the use of some orbits within a decade;

(2) the lack of adequate data on the orbital distribution and size of debris will continue to hamper efforts to reduce the threat that debris poses to spacecraft; and

(3) existing international treaties and agreements are inadequate for minimizing the generation of orbital debris or controlling its effects.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the goal of United States policy should be that—

(1) the space related activities of the United States should be conducted in a manner that does not increase the amount of orbital space debris; and

(2) the United States should engage other spacefaring Nations to develop an agreement on the conduct of space activities that ensures that the amount of orbital space debris is not increased.

SEC. 119. SUPPORT FOR SPACE SHUTTLE ORBITER PRODUCTION LINE.

The Administration is authorized to expend excess funds appropriated for orbiter production under section 101(g) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" (100 Stat. 3341-242) to maintain the space shuttle orbiter production line and related production lines of orbiter subcontractors.

SEC. 120. INDUSTRIAL APPLICATION CENTERS.

In any agreement entered into by the National Aeronautics and Space Administration for an Industrial Application Center, the center shall be allowed to retain all client income without any deductions from appropriated funds received or to be received by that center.

SEC. 121. USERS' ADVISORY GROUP.

(a) ESTABLISHMENT.—(1) The National Space Council shall establish a Users' Advisory Group composed of non-Federal representatives of industries and other persons involved in aeronautical and space activities.

(2) The Vice President shall name a chairman of the Users' Advisory Group.

(3) The National Space Council shall from time to time, but not less than once a year, meet with the Users' Advisory Group.

(4) The function of the Users' Advisory Group shall be to ensure that the interests of industries and other non-Federal entities involved in space activities, including in particular commercial entities, are adequately represented in the National Space Council.

(5) The Users' Advisory Group may be assisted by personnel detailed to the National Space Council.

(b) EXEMPTION.—The Users' Advisory Group shall not be subject to section 14(a)(2) of the Federal Advisory Committee Act.

SEC. 122. SCIENTIFIC BALLOON LAUNCH SITE.

The Administrator may purchase approximately 8 acres within section 16, Township 3 North, Range 26 East, N.M.P.M., De Baca County, New Mexico, to use as a balloon launching facility.

SEC. 123. PEACEFUL USES OF SPACE STATION.

No civil space station authorized under section 103(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 124. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

The Administrator may utilize up to 5 percent of the funds provided for the Small Business Innovation Research Program for program management and promotional activities.

SEC. 125. PROPULSION STRATEGIC ASSESSMENT.

By July 1, 1991, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment by the National Research Council of the requirements, benefits, technological feasibility, and roles of Earth-to-orbit propulsion system options that could be developed in support of the national space program including the assembly and operation of the Space Station and potential space activities beyond the year 2000.

SEC. 126. NATIONAL CIVIL REMOTE-SENSING ADVISORY COMMITTEE.

Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall report to the Congress on the advisability of establishing a permanent National Civil Remote-Sensing Advisory Committee. The report should address concerns related to national security, conflict of interest, and duplication of existing authorities. In preparing the report, the Director shall assess the effectiveness of a National Civil Remote-Sensing Advisory Committee comprised of interested private-sector persons (including remote-sensing data users, data vendors, technology developers, system operators, information management and telecommunications specialists, and social scientists) which would—

(1) provide advice and policy recommendations to the President, the President's Science Advisor, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and relevant committees of the Congress on the development of a national civil remote-sensing policy that would be responsive to both user and global developments, in terms of—

(A) coordinating land, oceanic, and atmospheric remote-sensing systems, including ground stations;

(B) coordinating research and development, applications, and commercial remote-sensing activities;

(C) fostering effective integration of satellite, aerial, and in situ data; and

(D) assessing current institutional arrangements for the management, exploitation and sharing of both real-time and archived data;

(2) provide recommendations on the conduct of cooperative test and applications demonstration projects designed to manage environmental pollution and the use of natural resources; and

(3) coordinate with the United States Global Change Research Program on issues of mutual concern.

SEC. 127. DEFINITION.

For purposes of this title, the term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

TITLE II—LAUNCH SERVICES PURCHASE

SEC. 201. SHORT TITLE.

This title may be cited as the "Launch Services Purchase Act of 1990".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the United States commercial launch industry is technically capable of providing reliable and cost efficient access to space and is an essential component of national efforts to assure access to space for Government and commercial users;

(2) the Federal Government should encourage, facilitate, and promote the United States commercial launch industry, including the development and enhancement of commercial launch facilities, in order to ensure United States economic preeminence in space;

(3) the interests of the United States will be served if the commercial launch industry is competitive in the international marketplace;

(4) commercial vehicles are effective means to challenge foreign competition;

(5) the use by the Federal Government of performance specifically in lieu of detailed specifications relating to vehicle design, construction, and operation will facilitate the efficient operation of the United States commercial launch industry;

(6) the procurement of commercial launch services in a commercially reasonable manner permits a reduced level of Federal Government regulation and oversight and economies of scale which may result in significant cost savings to the commercial launch industry and to the United States;

(7) it is the general policy of the Federal Government to purchase needed goods and services, including launch services, from the private sector to the fullest extent feasible; and

(8) predictable access to National Aeronautics and Space Administration launch markets would encourage continuing United States private sector investment in space and related activities.

SEC. 203. DEFINITIONS.

For the purposes of this title—

(1) the term "commercial provider" means any person providing launch services, but does not include the Federal Government;

(2) the term "launch services" means activities involved in the preparation of a launch vehicle and its payload for space transport and the conduct of transporting a payload;

(3) the term "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space; and

(4) the term "payload" means an object which a person undertakes to place in outer space by means of a launch vehicle, and includes subcomponents of the launch vehicle specifically designed or adapted for that object.

SEC. 204. REQUIREMENT TO PRODUCE COMMERCIAL LAUNCH SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the National Aeronautics and Space Administration shall purchase launch services for its primary payloads from commercial providers whenever such services are required in the course of its activities.

(b) EXCEPTIONS.—The National Aeronautics and Space Administration shall not be required to purchase launch services as provided in subsection (a) if, on a case by case basis the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle;

(2) cost effective commercial launch services to meet specific mission requirements are not reasonably available and would not be available when required;

(3) the use of commercial launch services poses an unacceptable risk of loss of a unique scientific opportunity; or

(4) the payload serves national security or foreign policy purposes.

Upon any such determination, the Administrator shall, within 30 days, notify in writing the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the determination and its rationale.

(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION LAUNCH VEHICLES.—Launch vehicles shall be acquired or owned by the National Aeronautics and Space Administration only—

(1) as required under circumstances described in subsection (b); or

(2) by the National Aeronautics and Space Administration for conducting research and development on, and testing of, launch technology.

(d) PHASE-IN PERIOD.—Subsections (a) and (c) shall not apply to launch services and launch vehicles purchased by the National Aeronautics and Space Administration before the date of enactment of this Act.

(e) HISTORICAL PURPOSES.—This title shall not be interpreted to prohibit the National Aeronautics and Space Administration from acquiring, owning, or maintaining launch vehicles solely for historical display purposes.

SEC. 205. PURCHASE OF LAUNCH SERVICES.

(a) FULL AND OPEN COMPETITION.—(1) Contracts to provide launch services to the National Aeronautics and Space Administration under section 204 shall be awarded on the basis of full, fair, and open competition, consistent with section 2304 of title 10, United States Code, and section 311 of the National Aeronautics and Space Act of 1958.

(2) The National Aeronautics and Space Administration shall limit its requirements for submission of cost or pricing data in support of a bid or proposal to that data which is reasonably required to protect the interests of the United States.

(b) SPECIFICATION SYSTEMS.—Reasonable performance specifications, not detailed Government design or construction specifications, shall be used to the maximum extent feasible to define requirements for a commercial provider bidding to provide launch services. This subsection shall not preclude the National Aeronautics and Space Administration from requiring compliance with applicable safety standards.

SEC. 206. OTHER ACTIVITIES OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—Commercial payloads may not be accepted for launch as primary payloads on the space shuttle unless the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle; or

(2) launching of the payload on the space shuttle is important for either national security or foreign policy purposes.

(b) REPORT.—By March 15, 1991, the Administrator, in consultation with the Office of Federal Procurement Policy, shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report outlining the minimal requirements for documentation and other administrative data needed to procure launch services in a commercially reasonable manner, including—

(1) the need for data to integrate a payload with a launch vehicle;

(2) the need for data to carry out mission-specific modifications to the launch vehicle;

(3) the need for notification to the National Aeronautics and Space Administration of changes, delays, or difficulties in the construction or preparation of a launch vehicle that may affect the delivery of its payload to its destination at the time and under the conditions provided for under the contract between the United States and its contractors;

(4) the need for data to protect public health and safety; and

(5) the need for cost or pricing data for the fulfillment of a contract.

ANTARCTIC PROTECTION AND CONSERVATION ACT

KERRY AMENDMENT NO 3157

Mr. REID (for Mr. KERRY) proposed an amendment to the bill (H.R. 3977) to protect and conserve the continent of Antarctica, and for other purposes, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctic Protection Act of 1990.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Antarctic continent with its associated and dependent ecosystems is a distinctive environment providing a habitat for many unique species and offering a natural laboratory from which to monitor critical aspects of stratospheric ozone depletion and global climate change;

(2) Antarctica is protected by a series of international agreements, including the Antarctic Treaty and associated recommendations, the Convention of the Conservation of Antarctic Marine Living Resources, which are intended to conserve the renewable natural resources of Antarctica and to recognize the importance of Antarctica for the conduct of scientific research;

(3) recurring and recent developments in Antarctica, including increased siting of scientific stations, poor waste disposal practices, oil spills, increased tourism, and the over-exploitation of marine living resources, have raised serious questions about the adequacy and implementation of existing agreements and domestic law to protect the Antarctic environment and its living marine resources;

(4) the parties to the Antarctic Treaty have negotiated a Convention on the Regulation of Antarctic Mineral Resources Activities which the United States has signed but not yet ratified;

(5) the Convention on the Regulation of Antarctic Mineral Resources Activities does not guarantee the preservation of the frag-

ile environment of Antarctica and could actually stimulate movement toward Antarctic mineral resource activity;

(6) the exploitation of mineral resources in Antarctica could lead to additional degradation of the Antarctic environment, including increased risk of oil spills;

(7) the Antarctic Treaty Consultative Parties have agreed to a voluntary ban on Antarctic mineral resource activities which needs to be made legally binding;

(8) the level of scientific study, including necessary support facilities, has increased to the point that some scientific programs may be degrading the Antarctic environment; and

(9) the planned special consultative meeting of parties to the Antarctic Treaty and the imminence of the thirtieth anniversary of the Antarctic Treaty provide opportunities for the United States to exercise leadership toward protection and sound management of Antarctica.

(b) PURPOSE.—The purpose of this Act is to—

(1) strengthen substantially overall environmental protection of Antarctica;

(2) prohibit prospecting, exploration, and development of Antarctic mineral resources by United States citizens and other persons subject to the jurisdiction of the United States;

(3) urge other nations to join the United States in immediately negotiating one or more new agreements to provide an indefinite ban on all Antarctic mineral resource activities and comprehensive protection for Antarctica and its associated and dependent ecosystems; and

(4) urge all nations to consider a permanent ban on Antarctic mineral resource activities.

SEC. 3. DEFINITIONS.

For the purposes of this Act;

(1) The term "Antarctica" means the area south of the Antarctic Convergence as defined in section 303(1) of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2432).

(2) The term "Antarctic mineral resource activity" means prospecting, exploration, or development in Antarctica of mineral resources, but does not include scientific research within the meaning of article III of the Antarctic Treaty, done at Washington on December 1, 1959.

(3) The term "development" means any activity, including logistic support, which takes place following exploration, the purpose of which is the exploitation of specific mineral resource deposits, including processing, storage, and transport activities.

(4) The term "exploration" means any activity, including logistic support, the purpose of which is the identification or evaluation of specific mineral resource deposits. The term includes exploratory drilling, dredging, and other surface or subsurface excavations required to determine the nature and size of mineral resource deposits and the feasibility of their development.

(5) The term "mineral resources" means all nonliving natural nonrenewable resources, including fossil fuels, minerals, whether metallic or nonmetallic, but does not include ice, water, or snow.

(6) The term "person" means any individual, corporation, partnership, trust, association, or any other entity existing or organized under the laws of the United States, or any officer, employee, agent, department, or other instrumentality of the Federal Government or of any State or political subdivision thereof.

(7) The term "prospecting" means any activity, including logistic support, the purpose of which is the identification of mineral resource potential for possible exploration and development.

(8) The term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 4. PROHIBITION ON ANTARCTIC MINERAL RESOURCE ACTIVITIES.

Pending a new agreement among the Antarctic Treaty Consultative Parties in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which provides an indefinite ban on Antarctic mineral resource activities, it is unlawful for any person to engage in, finance, or otherwise knowingly provide assistance to any Antarctic mineral resource activity.

SEC. 5. INTERNATIONAL AGREEMENT.

(a) It is the sense of Congress that the Secretary of State should enter into negotiations with the Antarctic Treaty Consultative Parties to conclude one or more new international agreements to—

(1) conserve and protect permanently the natural environment of Antarctica and its associated and dependent ecosystems;

(2) prohibit or ban idefinitely Antarctic mineral resource activities by all parties to the Antarctic Treaty;

(3) grant Antarctica special protective status as a land of science dedicated to wilderness protection, international cooperation, and scientific research;

(4) ensure that the results of all scientific investigations relating to geological processes and structures be made openly available to the international scientific community, as required by the Antarctic Treaty; and

(5) include other comprehensive measures for the protection of the Antarctic environment.

(b) It is the sense of Congress that any treaty or other international agreement submitted by the President to the Senate for its advice and consent to ratification relating to mineral resources or activities in Antarctica should be consistent with the purpose and provisions of this Act.

SEC. 6. ENFORCEMENT.

(a) IN GENERAL.—A violation of this Act or any regulation promulgated under this Act is deemed to be a violation of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431-2444) and shall be enforced under that Act by the Under Secretary or another Federal official to whom the Under Secretary has delegated this responsibility.

(b) PENALTY.—If the Under Secretary determines that a person has violated section 4—

(1) that person shall be ineligible to locate a mining claim under the mining laws of the United States; and

(2) the Secretary of the Interior shall refuse to issue a patent under the mining laws of the United States, or a lease under the laws of the United States related to mineral or geothermal leasing, to any such person who attempts to perfect such patent or lease application after the Under Secretary has made such determination.

SC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Under Secretary not more than $1,000,000 for each of fiscal years 1991 and 1992 to carry out the purposes of this Act; and

(2) to the Secretary of State not more than $500,000 for each of fiscal years 1991 and 1992 to carry out section 5 of this Act.

NOTICES OF HEARINGS

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Conservation and Forestry of the Senate Committee on Agriculture, Nutrition, and Forestry will hold a hearing on October 25 at 2 p.m. in SR-328A. The purpose of the hearing is to hear testimony on S. 3200—the North Carolina Wilderness Act of 1990—and S. 2984—the Illinois Wilderness Act of 1990. Senator FOWLER will preside. For further information, please contact Ben Yarbrough at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on October 24, 1990, at 3:30 p.m., on the nomination of James L. Webb, to be U.S. marshal for the Eastern District of Oklahoma and Dennis W. Shedd to be U.S. District Judge for the District of South Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session during the session of the Senate on Wednesday October 24, 1990, at 2 p.m. to consider the nomination of Gen. Merrill A. McPeak, USAF, to be Chief of Staff of the Air Force.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the full Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 24, at 2 p.m. to conduct a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO CAPITOL OPERATORS

● Mr. DECONCINI. Mr. President, I would like to take a few minutes of the Senate's time to thank the Capitol telephone operators for their always generous and kind assistance. They are a crucial link in the Senate communications system—a link that is a lifeline for most of us. Whether it is early morning or the middle of the night, they are always courteous and responsive to our requests, yet they

rarely, if ever, receive the recognition they deserve. So I would like to extend my thanks and appreciation to each and every one for their loyal and dedicated service.●

AMERICAN RESORT AND RESIDENTIAL DEVELOPMENT ASSOCIATION

● Mr. MACK. Mr. President, when I came to Congress in 1983, and since I have been a Member of this body, I have been acutely aware of the need to enlist the private sector in solving the myriad of problems facing our Nation.

Many workable, cost-effective solutions evade our grasp in Congress, yet these solutions can be found among those individuals and groups which must face day-to-day problems directly.

In my own State of Florida, our largest industry is tourism. We are home—and second home—to millions of Americans who enjoy our sunshine, beaches, family attractions, and so many other gifts which God has given our State and our people.

It has taken hard work from hundreds of thousands of people, from digging the first shovel full of dirt to maintaining a resort reservations system.

It has taken the support of Florida's communities along with the contribution of organizations throughout the State to ensure that both our visitors and our residents can enjoy quality services.

Mr. President, one such organization is the American Resort and Residential Development Association [ARRDA]. ARRDA is a national trade association serving the resort, recreational land, timeshare, and recreational property management industry.

ARRDA's Seal of Achievement, which is available only to those resorts which commit to having every employee trained and tested according to ARRDA Education Institute standards, has become the distinction between a qualified resort industry employee and one who has not yet taken the steps to ensure the high standards we all want and need as consumers.

That is why I want to take this opportunity to commend ARRDA and the 650 companies who are members of ARRDA for their effort to better serve the public.

I think it is important we have responsible national trade organizations which understand that commitment to excellence and quality is beneficial to a free economy.●

FEDERAL RECYCLING BILL

● Mr. McCONNELL. Mr. President, yesterday I introduced a bill which I believe takes an important step in our efforts to address the growing environmental problems facing our Nation.

No issue symbolizes these problems more than the solid waste crisis. As landfills around the country near capacity. I believe there is an area where the Federal Government can and must do more—that area is recycling.

The environmental benefits of recycling are clear. Recycled aluminum cans save 95 percent of the energy needed to extract aluminum from ore. Manufacturing paper from recycled fiber creates 74 percent less air pollution, and 35 percent less water pollution than using virgin fiber. Recycling waste conserves increasingly scarce landfill space at a time when tipping fees have risen nationally 73.5 percent between 1982 and 1988.

Well, Mr. President, I say that this issue needs more than lipservice. It needs more than public relations. It needs action. However, before Congress acts to impose ridiculous costs and regulations on industry, why do we not first get our own house in order?

The Federal Government uses 2.2 percent of all the paper consumed in the United States. Two percent doesn't sound like much, but it amounted to more than 1.7 million tons of paper in 1987. Eighty-five percent of this paper is recyclable.

According to a GAO analysis late last year, if the Federal Government recycled all of the paper it uses, it would save over 5 million cubic yards of landfill space annually. It would save over 3 million barrels of crude oil used in the manufacture of paper. And, in terms we can all identify with, it would save 26 million trees each year. Now that's not just a small stand of trees, that's a huge forest.

Mr. President, the good news is that parts of the Federal Government are already doing their fair share to help our national recycling effort. The bad news is that far too many Federal facilities are not complying.

According to the Washington Times, only 120 of the 6,000 Federal facilities nationwide had documented recycling programs in 1988. This is less than a stellar performance from a Federal bureaucracy that is supposed to be setting an example for the rest of the country.

The reason that Federal facilities do not comply with the current law is that they simply do not have an economic incentive to do so. They obtain no benefit from recycling, and no punishment for wasting.

The problem is that these facilities must spend money separating garbage to be recycled, but when this separated material is sold, the money goes back into the bottomless pit of the General Fund of the Federal Government. Managers of Federal facilities see no direct link between their efforts to recycle and the financial returns that recycling produces. So the bureaucracy continues to throw away recyclable materials, despite the economic benefits of recycling.

GAO states the problem succinctly:

> The inability of agencies to recoup the sales proceeds to offset their costs for separating wastepaper is a significant obstacle to increased recycling.

My bill addresses this situation by introducing a carrot and stick into the current law. It works by allowing Federal facilities that recycle to keep the revenues derived from the sale of source separated paper, cans, and glass. It gives the managers of these facilities a real economic stake in recycling.

My legislation also requires the General Services Administration to compile a list each year of those Federal facilities that do not comply with recycling regulations currently on the books. This list will be printed in the Federal Register for everyone to see. If Federal bureaucrats are not obeying the law, they must answer to the American public, just as we do on election day.

Mr. President, this bill is not an elaborate scheme creating task forces and bureaucracies that we will never hear from again—it is just plain common sense.

Approaches like this one address our environmental concerns without causing economic dislocations that, in the end, hurt the working families of America. By providing market-oriented economic incentives to promote Federal Government recycling, I believe we can start a trend in this country toward reasonable solutions to serious environmental problems.

In the process, our children will have more forests to wander in, fresher air to breathe, and an America as beautiful and as vast as their great-grandparents had.●

BUSH'S BLUNDERS IN DESERT

● Mr. DODD. Mr. President, although some time has passed since the observations of my constituent, former Assistant Secretary of State Roger Hilsman, were published in Newsday, I think you will agree that his insights remain quite pertinent to the ongoing crisis in the Persian Gulf. For the benefit of my colleagues, I request that his article be printed in the RECORD.

The article follows:

[From Newsday, Aug. 16, 1990]

BUSH'S BLUNDERS IN THE DESERT WON'T TOPPLE HUSSEIN

(By Roger Hilsman)

President George Bush's decision to send troops to Saudi Arabia and to launch an economic boycott of Iraq is both naive and wildly optimistic.

Bush demands that Saddam Hussein withdraw from Kuwait. For Hussein to turn back on the "eternal merger" that he has proclaimed is not like Bush going back on a

campaign slogan like "Read my lips—no new taxes." For Hussein to bow to pressure from the United States—the superpower that arouses more Arab suspicion and fear than any other—would be so humiliating that it would likely mean the end of his reign.

Would a line drawn in the sand of Saudi Arabia and an economic boycott of Iraq bring that much pressure? Hardly.

First, economic boycotts have never been as effective as wartime blockades. And Bush's allies are split because they think a blockade is in fact a military move. But boycotts leak. There are too many countries that will be tempted by Iraq's offer of bargain-basement oil and too many circuitous routes for it to leave and other goods to enter. The Iraqi people will have to tighten their belts, but it will be easier for Hussein to convince them to do that as long as the country cracking the whip is the hated United States.

Second, the Arab world is far from united in its outrage at the Iraqi invasion of Kuwait. In many Arab eyes, the Kuwaiti were the spoiled rich kids of the Middle East. Bush may get some Arab support in the short run, but this is no short-run crisis. As the confrontation drags on and on, more and more Arabs will come to resent the American presence in the land of Mecca more than they do the Iraqi annexation. The rulers of a number of Arab states are feudal lords who will find holding on to power while they're allied with the United States a slippery business.

So the best that Bush can expect from his policy is a confrontation stretching into years—a confrontation fraught with the possibility that at any moment it could escalate into an all-out war. And as time goes on, Bush's support in the Arab world, among the other Western powers, and in America will steadily erode.

But this is the most optimistic scenario. Saddam Hussein commands an army of a million men. The United States fielded half a million men in Vietnam; to appease domestic sentiment, the Pentagon had to implement a policy of rotating troops home at the end of 12 months, just as they were beginning to be seasoned soldiers. The same sentiment will no doubt be felt this time around.

If Hussein does attack Saudi Arabia, the United States would have to follow President Lyndon Johnson's example when he bombed North Vietnam—use its superior airpower against the Iraqi homeland. Bombing Iraq would probably be no more effective in ending the war on U.S. terms than bombing North Vietnam was.

But Hussein has a countermeasure that the Vietnamese did not have. He has a huge stockpile of chemical weapons—enough to lay down a no-man's land 50 miles wide across Saudi Arabia that soldiers could enter only in full protective gear. Fighting in such gear in the desert heat is next to impossible, but the only troops in the world who have had some experience in doing so are the Iraqis.

The problem is perspective. Hitler conquered Western Europe and posed a threat to the entire world. Hussein's aggression is a regional threat. The only way that it could become a threat to the world is if Bush makes it so.

What could Bush have done that would be in keeping with the realities of today's world? Not much to restore the independence of Kuwait, but a great deal to put the United States in a position in which future presidents would not have to face crises rooted in energy.

First, Bush should have said that any superpower's intervention in the Middle East was just as unacceptable as Hussein's threat to Saudi Arabia.

The problem is an Arab problem and will have to be dealt with by Arabs. The United States could give both military and economic aid to those Arab countries threatened by Iraq, but it would not send troops.

Second, the United States should not be the architect of a boycott of Iraq, but it could say it would join such a boycott if the Arab states chose to organize one.

Third, and most important, Bush should have coupled these policy statements with a far-reaching program to make the United States less dependent on Middle Eastern oil. Much could be done to replace oil with other fossil fuels. Solar energy would help. A Manhattan Project could be launched to perfect fusion power, which is infinitely safer than fission. The technology already exists to run automobiles on a form of hydrogen fuel that is safer than gasoline, and with the additional bonus that the by-product is not the pollution that plagues the cities of America, but simple H_2O.

The rise of nationalism in the Third World convinced most leaders in the West that the days of Western military intervention in Asia, Africa, Latin America, and the Middle East were gone. It took a defeat by Vietnamese peasants clad in black pajamas to make Lyndon Baines Johnson understand this elemental fact. What will it take to convince George Herbert Walker Bush?●

DR. ILA MARIE GOODEY

● Mr. HATCH. Mr. President, I rise to recognize the volunteer efforts of an individual in my home State who has overcome a great deal of adversity to provide daily service to the community. Dr. Ila Marie Goodey, of Salt Lake City, UT, is a psychologist who was afflicted with polio at the age of 3, leaving her paralyzed, in a wheelchair, and on a respirator.

Through rehabilitation, Dr. Goodey received her Ph.D. but cannot use her expertise for compensation because she is considered medically fragile and will lose her medical benefits. Medical regulations allow very little flexibility, and current regulations prohibit more cost effective preventative measures.

However, because Dr. Goodey is a highly motivated individual, she provides daily service to various community organizations in the State of Utah through personal counseling and support for individuals, families and groups; public relations; lobbying; new programs and services; fundraising; training and supervision of human services; and morale and group cohesion.

Dr. Goodey codeveloped the Center for Disabled Students at the University of Utah and developed a self-hypnosis workshop. She also codeveloped the Attendant Care Program, which allows physically disabled people to live in their own residences.

It has been said that Dr. Goodey exemplifies the spirit of voluntarism that we, as U.S. citizens, strive to honor. Her personal commitment underscores her devotion to community service by illustrating the true meaning of the Golden Rule, which provides us with a moral goal to help others. Although she has and will continue to experience a great deal of personal discomfort because of her condition, she is a model of how individuals can make a difference.

Mr. President, I choose to bring Dr. Goodey's effort to your attention because she is being honored as the 1990 recipient of the J.C. Penney National Golden Rule Award. This award was established in 1982 to promote the importance of volunteer work at the community level and serves to honor those individuals who play a vital role in improving the quality of life for others. She is receiving this award for her work with the University of Utah student services, the Utah State Division of Services to the Handicapped, and the Utah Youth Village.

I feel that Dr. Goodey is the worthy recipient of this award and want to publicly recognize her personal commitment to service.●

AMERICA'S CHOICE: HIGH SKILLS OR LOW WAGES

● Mr. CHAFEE. Mr. President, the Commission on the Skills of the American Workforce recently released a valuable report entitled "America's Choice: High Skills or Low Wages!" This study, supported by the National Center on Education and the Economy, highlights the tremendous challenges and opportunities confronting America's work force.

The Commission is comprised of a bipartisan panel of leaders from business, labor, education, and government. Two Rhode Islanders made significant contributions to the report. Ira Magaziner—educator, author, businessman, and founder of the SJS consulting firm—chaired the Commission. Paul Choquette, Jr., president of the Gilbane Building Co., offered his many talents as a Commission member.

"America's Choice" provides a thought-provoking plan to develop a high-quality American educational and training system. The proposals are bold, even daring. I would like to mention three of the Commission's especially noteworthy recommendations:

Recommendation No. 1: Create a new educational performance standard to be met by all students at age 16.

The message in this recommendation is straightforward. If American workers; have trouble in the educational arena, they will be unable to complete in the economic arena.

Today's young people are expected to become productive workers; they must have certain essential skills. Unfortunately, standardized tests do not accurately reflect what students know

or should know. High school degrees have become devalued. How can students measure their progress? How can businesses evaluate a potential worker's employment qualifications?

The Commission suggests that by age 16, all American students should achieve competency in a number of subject areas to be measured by a cumulative assessment system. Students who have mastered courses in science, history, math, and other subjects would be awarded a certificate of initial mastery. This system would set objective standards for students, and provide objective means for employers to measure the capabilities of job applicants.

Recommendation No. 2: Develop alternative learning environments for those in or out of school who need special help attaining the new performance standard.

The study recommends the establishment of new local employment and training board youth centers to help young people age 14 to 21 achieve minimal performance standards. These centers could help youngsters master subjects year-round in an alternative setting. Moreover, youth centers could provide an essential link between displaced students and employers. To help young people understand the importance of proficiency standards, the report suggests that individuals without a certificate or not enrolled in a program leading to a certificate be prevented from entering the job market before age 18. Proposed changes in child labor laws would penalize employers in violation of this provision.

This is an interesting recommendation that merits closer examination. The traditional classroom remains the preferred educational setting, but with dropout rates soaring about 50 percent in many urban areas, youth centers could play an important role in preparing individuals for the work force.

Recommendation No. 3: Encourage employers to invest in further worker training programs.

Only a dedicated investment on the part of American employers will enable American productivity to improve in the next decade. "America's Choice" suggests that all employers should spend 1 percent of their payroll on education and training.

Employers must invest in human capital. Investments in training and retraining will reap long-term dividends for business. Factory workers, service providers, and upper level management all benefit from further training. Unfortunately, just 10 percent of American training dollars go toward front-line or blue-collar training. If the United States is to remain an economic superpower, across-the-board training is essential.

The Commission has done an excellent job of framing the educational and work force problems confronting the Nation. Equally important, the report proposes a plan of action to improve American competitiveness. In order to implement many of these proposals, however, schools will need additional resources. The call to improve work force quality will require a significant human and financial commitment. To ensure a more prosperous future, we must be prepared to make investments today.

For too long politicians, educators, and employers have made excuses for the decline in American productivity. We need to demand quality in the classroom, on the assembly line, and in the boardroom. The publication of "America's Choice" is an important step toward correcting the problems that are hindering America's growth in a fiercely competitive world economy.

I encourage my colleagues to read the Commission's report. It is a valuable document that deserves to be considered seriously.●

CABLE LEGISLATION

● Mr. DANFORTH. Mr. President, as this session draws to a close, it has become apparent that we will be unable to consider cable television reform legislation on the floor of the Senate in the 101st Congress. It is not for lack of effort; it is not for lack of support by most of our colleagues; it is not for lack of concern by our constituents. No, we are unable to bring cable reform legislation to the floor because of the delaying tactics of the cable industry and a very small number of Senators.

The support for cable reform is both deep and wide. Our constituents are fed up with the high prices and "who cares" attitude of the cable companies. In a poll recently conducted by Cable News Network, cable television viewers were asked "Should cable TV be regulated?" Mr. President, 92 percent of those responding said "Yes, cable TV should be regulated."

Why are consumers so unhappy with cable? Consumers are not well served by unregulated cable monopolies. In 99 percent of all communities, cable operators face no competition from another cable system or other multichannel provider. And yet the 1984 Cable Act forbids regulation of cable rates. Facing neither competition nor regulation, cable rates have skyrocketed. According to the National Cable Television Association's own statistics, rates for basic cable service in Missouri increased an average of 53 percent between 1986 and 1989. In St. Louis the increase was 61 percent; in Cape Girardeau the increase was 100 percent.

We have tried to respond to the outrage of cable customers. Over a dozen cable reform bills were introduced in this Congress. Because of the leadership of Chairman HOLLINGS and Chairman INOUYE, the Senate Commerce Committee held 11 days of hearings on cable and related issues in the 101st Congress. The committee heard testimony from scores of witnesses.

Last November, in response to the deluge of complaints I had received about cable from consumers, cities, broadcasters, and potential cable competitors, I introduced a cable reform bill, S. 1880, the Cable Television Consumer Protection Act. The bill enjoyed bipartisan support and was cosponsored by Senators MCCAIN, HATCH, GORE, FORD, LIEBERMAN, LOTT, WARNER, BURDICK, PRYOR, GORTON, BURNS, METZENBAUM, BUMPERS, and PRESSLER. The Consumer Federation of America called the bill the best piece of consumer legislation pending in Congress, and a companion measure was introduced by Representatives JIM COOPER and CHRIS SHAYS.

The theory of S. 1880 is simple and straightforward. First, the bill seeks to encourage competition by ensuring that cable cannot unfairly lock up all the programming. Second, the bill allows local rate regulation—within Federal guidelines—until competition develops. Third, to ensure that cable subscribers will continue to have access to local programming, S. 1880 requires cable operators to carry local broadcast stations.

But despite our best efforts, the delaying tactics of the industry have given cable a short-term victory. Mr. President, from the beginning, the cable industry's strategy has been to delay consideration of this bill. Months before I introduced S. 1880, the cable industry asked for an opportunity to meet with my staff prior to the actual drafting of the bill. For weeks, the industry representatives delayed and canceled meetings. After the bill was introduced, the Commerce Committee staff held hours of meetings with the cable industry. For a number of weeks, meetings were held every morning. But the cable industry representatives were not forthcoming with proposals. They did not like the bill, but refused to say what would satisfy their concerns.

When the chairman of the Commerce Committee and Communications Subcommittee scheduled S. 1880 for consideration by the committee, the cable industry representatives asked the committee to delay so that they would not be inconvenienced—their annual convention was about to take place. To accommodate their unusual request, the chairmen graciously agreed to postpone the markup. Throughout this process, the chairmen have been both patient and gracious.

When the markup was rescheduled, the industry representatives told the committee leadership that they did want to work together on a bill. They said that they wanted to end the regulatory and financial uncertainty left in the wake of a dozen pending cable reform bills. Shortly before the Commerce Committee was to debate its cable bill, the committee leadership reached a compromise and the industry representatives told us that they would not oppose the legislation. However, hours before the markup, the industry representatives made new demands. They insisted on new provisions—provisions that would give cable programmers the explicit legislative authority to refuse to deal with certain potential distributors of video programming. The committee balked at the industry's tactics and new demands and propelled the bill out of committee on June 7, by a vote of 18 to 1.

On July 26, the House Energy and Commerce Committee reported its cable reform bill by voice vote. The bill passed the House without amendment on the Suspension Calendar on September 10.

Mr. President, even after the Senate Commerce Committee's June committee's markup, the committee leadership made it clear that we were willing to sit down with the industry to address their concerns. The door was open, but for months no one came. Then, the night before the full Senate was to consider S. 1880, a cable-friendly amendment was slipped under the door of the Commerce Committee offices. That was the first we had seen of the proposal.

On September 28, the majority leader attempted to bring S. 1880 to the floor. But the opportunity to debate the bill was foreclosed by a tiny minority of Senators who objected to its consideration. At the end of a Congress, with the crush of budget and appropriations bills to be passed, such delaying tactics spell doom for legislation. And so, cable reform legislation, as the chairman of the Communications Subcommittee put it, was "killed and buried" on September 28.

Mr. President, this brief chronology of our dealings with the cable industry illustrates its refusal to negotiate and its delaying tactics. If this cable reform measure had come to a vote in the Senate, it would have passed by an overwhelming majority. I am confident it would be a veto-proof majority. But for now, the cable industry, not the consumers, have won.

I am confident, however, that consumers will win in the next Congress. I intend to offer a new cable reform bill early in the next Congress. And, Mr. President, let me point out that it will be a tougher measure. Next year's bill will ensure the role of local franchising authorities in regulating cable. And, it will address the problem potential competitors face when they want to buy cable programming.

Mr. President, next year's bill will not be tougher to punish the industry. No, it will be tougher because the committee leadership has learned that there is nothing to be gained by negotiating with the cable industry. This year, we compromised. A number of Senators made compromises in an attempt to move legislation quickly at the end of this Congress. But next year, we will have the luxury of time. And in my view, next year we will have time to do it right.●

NATIONAL FOUNDATION FOR EXCELLENCE

● Mr. BOREN. Mr. President, I would like to thank the members of the Education Subcommittee of the Labor and Human Resources Committee for their support of the proposal for a National Foundation for Excellence. I would like to especially thank Senators KASSEBAUM, PELL, SIMON, and KENNEDY for their commitment to this scholarship program. I first began work on this legislation in 1985 and am now gratified by its inclusion as a committee amendment to S. 1675 in 1990.

Many of the problems we faced in education in 1985 remain the same, and, in several areas, our problems have worsened. It is crucial in this coming decade that we recognize and begin to address our urgent need to support our best teachers and to replenish the talent pool available for the classroom.

We must work to attract our best and brightest students to the classroom, and we must restore the honor this profession so greatly deserves. We must take positive steps to ensure that outstanding students from disadvantaged backgrounds who are underrepresented in the teaching profession are given the incentive to go into the classroom. We must ensure that our inner city and our rural schools are staffed by teachers who graduated in the top portions of their class or excelled in a particular subject or discipline. And we, as a government, must begin to include American educators and business leaders in coalitions to meet these goals. Mr. President, we must make a commitment to our Nation's students by making a commitment to our Nation's teachers. The National Foundation for Excellence and the National Teachers Act makes this commitment.

The National Foundation for Excellence establishes a national foundation funded by a public and private partnership to fund educational costs for outstanding students who wish to enter the teaching profession. It provides for governance by a board of distinguished citizens and is patterned somewhat after the Harry S. Truman Scholarship Foundation which awards scholarships to students interested in careers in public service.

One of the roles of the National Foundation for Excellence will be to provide additional scholarship funds for the Paul Douglas Teacher Scholarship Program. Named in honor of the Senator from Illinois who contributed so much to the cause of education during his years in the Senate, the Paul Douglas program grants $5,000 per year scholarships for our Nation's very best students who then agree to teach for 2 years for every year of scholarship that they receive. Chosen from applicants who were in the top 10 percent of their high school class, these students have excelled both in the classroom and in their extracurricular activities. Because I envisioned a program with the same high standards as the Paul Douglas Scholarship but with the potential for even greater funding to cover up to the full costs of education for our future teachers, we today will be creating the National Foundation for Excellence to build upon this concept and both supplement and expand the scholarships for our best students to go into teaching.

The National Foundation for Excellence will also supplement and expand scholarships for the Teacher Corps Scholarship Program. Based on the original Teacher Corps program begun by President Johnson 25 years ago to "enlist thousands of dedicated teachers to work alongside local teachers in city slums and in areas of rural poverty," the newly created Teacher Corps Program will renew our Nation's commitment to our most needy schools. Scholarship recipients will be chosen based on their strong academic promise, as well as their interest, skill, or experience in fields in which a State has determined that there is a shortage of teachers.

By providing supplemental funds for the Paul Douglas and Teacher Corps Scholarships, the National Foundation for Excellence will encourage more students to apply for these important grants. With the potential to receive up to the full cost of attendance to any university in the United States, we can convince our very best students to consider teaching as a career. Since some of our Nation's finest universities now cost almost $20,000 per year for the cost of attendance, many students can simply not afford to attend such expensive institutions. And those who take out student loans to finance their degrees are faced with enormous debt when they graduate, thus forcing our best and brightest to make career decisions based on salary rather than personal fulfillment.

The National Foundation for Excellence will not only supplement other scholarships but will also provide additional scholarships to other outstand-

ing students who have excelled in high school. The goal of the National Foundation for Excellence is to encourage as many of our best and brightest students as possible to pursue a career in teaching.

The National Foundation for Excellence also encourages State and local participation in the program. State or local governments can partially fund a scholarship to a particular student who would then agree to return to that state or locality to teach. Businesses will also be allowed and encouraged to participate at a state or local level by partially funding the scholarships and specifying the State or locality where they want the student to return to teach. In doing so, State and local governments and businesses become an integral participant in our national effort to provide scholarships to our best and brightest students.

This past year has been witness to an avalanche of studies, conferences and panel discussions of the crisis we know face in education. But studies, conferences and discussions will not change SAT scores and academic performance. We must stop talking about the problems in education and start making real changes.

While it is important to understand and evaluate the statistics generated regarding our classrooms, it is even more important to take active steps in trying to change all that we know is wrong with our schools. Again I quote Senator William Fulbright who stated, "creative leadership and liberal education, which in fact go together, are the first requirement for a hopeful future for humankind."

Six years ago, I was so frustrated by the lack of real change that I started a private foundation in my State called the Oklahoma Foundation for Excellence. The foundation is proof positive that action leads to results. Since the foundation was begun, we have given out over 20 $5,000 cash awards to our State's best educators and over 400 $1,000 scholarships to our State's best students. Even more importantly, the work of the Oklahoma Foundation for Excellence has led to a new sense of importance and appreciation for our State's outstanding teachers and students. It is time we try to create the same momentum on a national level and that is why I have worked so vigorously on behalf of the National Foundation for Excellence.

Like the Oklahoma Foundation for Excellence, the National Foundation for Excellence will directly involve the private sector and combine the talents and vision of our Nation's educators to help find solutions to the problems we now face. The board of directors will include members appointed by the President of the United States from both the teaching community and the private sector, including our Nation's business and community leaders. Additional private sector representatives will be appointed to the board by Congress and the board will also include Members of the House and Senate, appointed by the leaders of both parties.

By drawing on the talents and commitment of our most respected teachers, business leaders and Members of Congress, we will work together to find solutions. Many of our previous attempts to improve the American education system have failed because they did not bring all the vital players together as one to make the system work. Now more than ever we must forge a strong alliance between the education, private and public sectors to reach our common goal of helping our Nation's students to succeed.

In a report just released by the Department of Education, our students are failing to make the grade. The study shows that despite the attention given to education this past year, our students are still lacking in many critical areas. Most importantly, our Nation's students do not have the analytical skills nor the mathematical ability necessary to compete in today's global environment. The report, compiled by the Educational Testing Service of the U.S. Department of Education, also chronicles our students' failure to make the grade in many other important areas of education.

As I have said before on the floor of the U.S. Senate, Mr. President, as chairman of the Intelligence Committee I consider our single greatest threat to our national security to be our failure to fully develop our Nation's human resources. We are moving into a new world environment. Our influence can no longer be based solely upon our military strength. We must equip ourselves for the 21st century by building our economic strength. Our future well being as a Nation and our ability to compete in world trade is dependent upon the development of our human resources.

In order to develop our human resources, we must start with effective educators. The talents of our best students coming out of colleges and universities in our country must be utilized in the classroom.

Despite the grim news about the current abilities of our Nation's students, it is encouraging to note that we are making progress in the area of teaching. In time, the quality of new teachers will have a reverberating impact across-the-board in our Nation's classrooms. Some top students have begun to reevaluate the field of teaching and to recognize the many rewards the profession offers. It is our duty as a nation to encourage these students to pursue their interests in teaching and to further elevate the status of this important profession so that more outstanding students will choose this path as well.

In a recent front-page New York Times series on education, Susan Chira chronicled the good and bad news for future teachers. The series was an excellent account of the dilemma many students now face. As Chira pointed out, our Nation's top students have a reawakened commitment to teaching but still face the stigma of a profession that is both underpaid and underappreciated. Because of the new commitment to teaching, education students now typically rank in the top 70th percentile in their high school classes and maintain a B average or better in college, according to The American Association of Colleges for Teachers Education. This is a significant overall improvement in academic performance by future teachers, and bodes well for our children's futures as well. But these same students voice serious concerns about their decision to teach. They recognize that their choice will mean many hardships, not the least of which will be financial.

One of our most talented classroom teachers in Oklahoma, Nancy O'Donnell, was a recipient of many awards in her years as a classroom teacher, including the Oklahoma Foundation For Excellence Award for Excellence in Teaching, given to four outstanding educators each year. Nancy now works at Oklahoma State University in the college of education, helping those committed college students who want to become classroom teachers to realize their goals. Nancy recently told me that she is very pleased with the quality of the students at the college of education, and she is encouraged by the growing caliber of these students. But she says that the college of eduation still can't compete with the college of engineering, for example, in consistently getting students who graduated at the very top of their high school classes. Nancy acknowledges that the main problem in attracting the best and the brightest students to education is financial. If we took steps to provide scholarships and other financial compensation to our teachers, our Nation would be taking an important step toward a brighter future for our Nation's students and teachers.

In creating the National Foundation for Excellence, we at least begin to address the financial concerns facing our Nation's future teachers. And in passing the National Teachers Act we go even farther to help enhance and improve the skills of classroom teachers by creating new opportunities for learning and thus educating.

It is our duty, Mr. President, as U.S. Senators, to do all that we possibly can to ensure that our very best students consider teaching as a future career. I am pleased that through this bill we are taking a step toward this responsibility. The National Teachers

Act makes a new and vital commitment to improving opportunities for educators. I am proud to see the proposal for a National Foundation for Excellence included in this important legislation.●

POPULATION PRESSURES AND ENVIRONMENTAL DEGRADATION IN LATIN AMERICA

● Mr. BOSCHWITZ. Mr. President, I spoke here several times earlier this summer about the clear link between world population pressures and the degradation of our global environment. Previously, I described this linkage in the Near East and in sub-Saharan Africa. Today, I would like to touch briefly on the situation in Latin America and the Caribbean.

In 1950, the populations of North America and of Latin America were roughly equal—165 million inhabitants each. Let us look at what's happened since then, over the past four decades.

Today, the combined population of the United States and Canada totals 278 million. South of the Rio Grande, however, the corresponding figure is 447 million, more than double its size 40 years ago, more than 60 percent larger than that of its northern neighbors.

Population growth in Latin America and the Caribbean has been particularly explosive in the cities, where migration from rural areas compounds growth due to high fertility. Four of the world's 10 largest cities are in Latin America: Mexico City, Sao Paulo, Buenos Aires, and Rio de Janeiro. Lima, which now ranks 25, will overtake Chicago and London in size during the next decade.

If we think New York City is crowded, consider this: Sao Paulo is smaller in area than Philadelphia, but it has as many people as New York City and Philadelphia combined. Simply imagine Mexico City, with almost twice as many people as New York City crammed into less than half the space.

This growth brings in its wake very negative consequences for the ecology of the region. This spring, the well-regarded World Resources Institute characterized Latin America's environmental situation this way: "Increasingly pollution and environmental degradation are blighting the natural resources of the region, decreasing its productive potential for current and future generations, and threatening human health and the very existence of countless plant and animal species."

I think most of you know of my grave concerns about the world's diminishing forests. As I have previously described, both here and at last spring's Interparliamentary Conference on the Global Environment, half of the world's tropical forests have been lost since the turn of the century.

More and more people have led to increasing acceleration of land clearing. The resultant destruction of trees continues today, with precious little in the way of planned reforestation. This destruction's going on, most unfortunately, in Brazil—which has the world's largest remaining tropical forest, and by far the largest area of annual deforestation. It is also going on in Costa Rica, which has much smaller forest areas, but probably the highest annual rate of forest loss, an estimated 7.6 percent, in the world.

My concerns, and those of most Latin American leaders, however, go beyond forests, important as those resources are. Increasing population pressures have been directly responsible for the region's intensification of agriculture, for opening of marginal land, for the diversion of river and ground water, and for continuing soil erosion.

These burgeoning numbers of people have created life-threatening air, water, and other forms of pollution in crowded urban areas, river pollution from untreated sewage and from mining and other industrial operations, and damage to coastal estuaries and other marine resources through pollution, clearing of mangrove swamps, and overfishing.

In addition, Latin America is a significant contributor to global environmental problems through emissions of carbon dioxide and other greenhouse gases. Population pressure is not the only cause of this rape of the land. Other culprits include land tenure inequities, lack of emission controls, and very serious fiscal indebtedness.

Ultimately, most of these problems are closely interrelated, and, in my view, can be traced to excessive population growth—by which I mean, growth at levels that threaten sustainable development, growth that outpaces resources, and, last, growth that substantially exceeds the opportunities for productive employment.

Notable achievements in slowing population growth have taken place in a number of countries. Brazil, Colombia, and Mexico, together accounting for almost 61 percent of the region's total population, have all achieved impressive declines in population growth and fertility. Families in those countries have about half of the number of children that families had 30 years ago—primarily due to the increased use of contraceptives by women.

But progress is mixed. The average Haitian woman, for example, has approximately 8 children. And only 7 percent of married in that country use any form of contraception. Most countries in the region fall somewhere between these two extremes, with moderate progress in increasing access to family planning services.

Mr. President, family planning will not solve all of Latin America's problems by any means. But it can help to buy time needed to cope with other development challenges. Previous United States investments of money and expertise have paid off in Brazil, Colombia, and Mexico. We need now, and over the coming years, to provide modest increases in the family planning budget of the Agency for International Development, increases that will allow for continuation and expansion of this work for the whole of the region.

Last month, Senator WIRTH and I coordinated a letter to our esteemed colleague, Senator PAT LEAHY, urging his appropriations subcommittee to raise to the House level the amounts designated for AID's population programs. I am happy that many of my colleagues signed that letter. I am even more pleased that this year's foreign aid appropriations bill now incorporates the increased levels we sought.

But this is not just a one-time need. So I look forward to your support in the years ahead in coping with the extremely serious threat that rapid population growth poses to our planet's quality of life.

I ask to place into the RECORD at this point the September 24, 1990, letter to Senator LEAHY on this vital subject.

The letter follows:

U.S. SENATE,
Washington, DC, September 24, 1990.

Hon. PATRICK LEAHY,
Chairman, Appropriations Subcommittee on Foreign Operations, Dirksen Senate Office Building, Washington, DC.

DEAR PAT: We are writing to express our support to aggressive funding levels for international family planning programs.

As you know, rapid population growth is a vital determinant of environmental quality and economic opportunity around the world. In our lifetimes, the global population has more than doubled from 2 billion to 5.4 billion people. By the year 2000, demographic data suggests that more than 6 billion people will inhabit the globe. The implications of rapid population growth for the health of our environmental and the economic aspirations of all nations—particularly in the developing nations where growth rates are extremely high—are significant.

Population growth further strains our planet's natural resources and exacerbates threats such as global warming, acid rain and local air pollution. In addition, the population explosion has compounded the challenge of assisting developing nations in the development of growing and vibrant economies. Ultimately, population growth increases the responsibilities of the United States—both in terms of the foreign assistance requested of us and the efforts and resources required to protect the environment.

The issue of the funding level for population assistance should not be confused with the separate debate over the abortion—related criteria which govern the program—such as the Mexico City policy—about which many senators disagree. We all agree, however, that the funding level for population assistance must be increased.

Unfortunately, the U.S. contribution to international family planning programs has declined over the last five years. We are encouraged that the House has approved significant funding increases for population programs in its foreign assistance appropriations bill. The House bill would provide $250 million through the Development Assistance program and up to $80 million through the Development Fund for Africa.

Demographic experts have testified that domestic and international support for family planning programs could have a significant impact on the future size of the population if funding increases dramatically in the early 1990's. These same experts estimate that a comprehensive international program would require a $500 million U.S. commitment in Fiscal Year 1991. Looking ahead, we believe that further increases in U.S. family planning assistance programs will be necessary in the future. At a minimum, we would support the House levels of funding as a first step towards realizing the goals set forth by the population experts. We hope that you will build on the efforts begun in the House to provide the fullest possible funding for Fiscal Year 1991.

Sincerely,

Tim Wirth, Jeff Bingaman, Daniel K. Akaka, Dave Durenberger, Bob Packwood, Chris Dodd, Alan Cranston, Claiborne Pell, Rudy Boschwitz, Bill Bradley, Bill Cohen, Jim Jeffords, Al Gore, J. Lieberman, Ted Kennedy, Don Riegle, Herb Kohl, John H. Chafee, John F. Kerry, Brock Adams.●

REAUTHORIZING THE HIGHER EDUCATION ACT

● Mr. LIEBERMAN. Mr. President, I recently visited the Diesel Technology Institute in Enfield, CT, in conjunction with a field hearing I held on education, business, and the U.S. economy. One of the issues that was very much on their minds—as a proprietary school with a very low student loan default rate of less than 9 percent and a consistently high placement rate of 87 percent—was the upcoming reauthorization of the Higher Education Act of 1965. Their students, who are learning a skill for which there is much demand, often rely on student loans to receive their education. They are concerned that, as the act is reconsidered, students who do repay their loans will lose access to future student loans.

We are about to mark the 25th anniversary of this historic piece of legislation. This reauthorization will define the parameters of higher education for the 21st century. I believe we must continue to ensure that all students, regardless of their socioeconomic status, have access to the kind of education that best meets their needs, interests, and abilities. If we close the door of educational opportunity, not only will individuals suffer, but our Nation's economic future will be at risk. If the United States is to remain economically competitive in the 1990's and the 21st century, we must train increasing numbers of skilled workers.

Unfortunately, we are not meeting this challenge. Secondary schools are oriented toward the students who go on to college. Our education system is failing to keep many of the noncollegebound students in school or to teach them the skills they need. We also have an inadequate system of retraining displaced workers and upgrading the skills of our current work force to keep up with changes in technology.

When we reauthorize student financial aid programs, we must recognize the diversity of needs for postsecondary training and education, and the importance of student aid to individuals attending various types of schools. We should be careful that financial aid does not favor one type of education over another, arbitrarily disrupting goals for our economy.

There is no doubt that loan default rates are too high and have become a serious and costly problem. We must take tough steps to fight fraud in student aid programs and ensure that students pay back their loans. As a member of the Permanent Subcommittee on Investigations of the Governmental Affairs Committee, I have participated in a series of hearings on this problem chaired by the distinguished Senator from Georgia [Mr. NUNN] this year. We also must not jeopardize good education programs while we pursue bad ones. Part of the answer could be to ensure that students receive better information before making educational decisions and incurring debt. One possible reform, suggested to me by the Diesel Technology Institute, that could help students make informed decisions about which school to attend, would be to require all postsecondary institutions to provide information on the cost, educational requirements, success rates, and employment or continuing education possibilities experienced by their graduates.

As we consider action to reduce student loan default rates, we must make sure that we do not deny access to education to our young people, especially low-income people who otherwise may not get the education and training they need for meaningful employment. To deny those at the bottom of the economic ladder the opportunity to go to school would only diminish the intent of the Higher Education Act of 1965.●

FOR THE RELIEF OF LEROY W. SHEBAL

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 936, S. 620, a bill for the relief of Leroy W. Shebal of North Pole, AK.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 620) for the relief of Leroy W. Shebal of North Pole, AK.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. Notwithstanding any other provision of law, including, but not limited to section 8 of the Wild and Scenic Rivers Act (16 U.S.C. 1279) or any provision of the public land laws of the United States, the Secretary shall survey and convey all right, title, and interest of the United States in the approximately five acres located at township 8 north, range 1 west, section 36, west half of southwest quarter, Fairbanks Meridian and describe in Small Tract Application Numbered F-021611 and which is currently under permit to Leroy W. Shebal, to Leroy W. Shebal in exchange for the sum of $650 in 1965 dollars adjusted for inflation to 1990 dollars or $3,000 whichever is less, and subject to the following conditions:

(a) existing improvments on such property may not be substantially expanded and use of the property is limited to prior or current levels;

(b) retention of a right of first refusal to reacquire such property at fair market value (as set forth in the Uniform Relocation Assistance and Land Acquisiton Policies Act of 1970 (Public Law 91-646, 84 Stat. 1905)) upon a decision by Leroy W. Shebal to sell such property or his death: *Provided*, That, such right shall be extinguished if not exercised by the Secretary by payment of such value within one year from the date on which Leroy W. Shebal notifies the Secretary in writing of his decision to sell the property or the date on which Leroy W. Shebal dies, whichever occurs first.

SEC. 2. Section 1110(b) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, 94 Stat. 2371), shall not apply to the property described in section 1 of this Act.

SEC. 3. The provisions of this Act shall be effective only if Leroy W. Shebal notifies the Secretary, in writing, within one year from the date of enactment of his intention to purchase the property.

The PRESIDING OFFICER. The bill is open to amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding any other provision of law, including, but not limited to section 8 of the Wild and Scenic Rivers Act (16 U.S.C. 1279) or any provision of the public land laws of the United States, the

Secretary shall survey and convey all right, title, and interest of the United States in the approximately five acres located at township 8 north, range 1 west, section 36, west half of southwest quarter, Fairbanks Meridian and described in Small Tract Application Numbered F-021611 and which is currently under permit to Leroy W. Shebal, to Leroy W. Shebal in exchange for the sum of $650 in 1965 dollars adjusted for inflation to 1990 dollars or $3,000, whichever is less, and subject to the following conditions:

(a) existing improvements on such property may not be substantially expanded and use of the property is limited to prior or current levels;

(b) retention of a right of first refusal to reacquire such property at fair market value (as set forth in the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (Public Law 91-646, 84 Stat. 1905)) upon a decision by Leroy W. Shebal to sell such property or his death: Provided, That, such right shall be extinguished if not exercised by the Secretary by payment of such value within one year from the date on which Leroy W. Shebal notifies the Secretary in writing of his decision to sell the property or the date on which Leroy W. Shebal dies, whichever occurs first.

SEC. 2. Section 1110(b) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, 94 Stat. 2371), shall not apply to the property described in section 1 of this Act.

SEC. 3. The provisions of this Act shall be effective only if Leroy W. Shebal notifies the Secretary, in writing, within one year from the date of enactment of his intention to purchase the property.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ATTENDANT ALLOWANCE ADJUSTMENT ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3911, the Attendant Allowance Adjustment Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3911) to amend title 5 of the United States Code to increase the allowance for services of attendants.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Are there amendments?

AMENDMENT NO. 3148

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr REID] for Mr. KENNEDY, proposes an amendment numbered 3148.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Attendant Allowance Adjustment Act".

SEC. 2. INCREASE IN AMOUNT.

Subsection (a) of section 8111 of title 5, United States Code is amended by striking out "$500" and inserting in lieu thereof "$1,500".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall take effect October 1, 1990.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3148) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3911), as amended, was passed.

SCHOOL DROPOUT PREVENTION AND BASIC SKILLS IMPROVEMENT ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 767, H.R. 5140, a bill to improve secondary school programs.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5140) to amend the Elementary and Secondary Education Act of 1965 to improve secondary school programs for basic skills improvement and dropout prevention and reentry, and for other purposes.

The PRESIDING OFFICER. Are there amendments?

AMENDMENT NO. 3149

(Purpose: To establish a Center for Commerce and Industrial Expansion at Loyola University of Chicago; to increase the authorization of appropriations for the Centers for International Business Education from $5,000,000 to $7,500,000; and for other purposes)

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator PELL.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. PELL, proposes an amendment numbered 3149.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following:

SEC. . CENTER FOR COMMERCE AND INDUSTRIAL EXPANSION.

(a) GRANT AUTHORIZED.—(1) The Secretary of Education (hereafter in this section referred to as the "Secretary") is authorized to award a grant to Loyola University of Chicago located in Chicago, Illinois, to pay the Federal share of the cost of construction and related costs for the establishment of a Center for Commerce and Industrial Expansion of Loyola University of Chicago.

(2) The Federal share shall not be less than 33 percent.

(b) APPLICATION.—No grant may be awarded under this section unless an application is made at such time, in such manner and containing or accompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $8,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

SEC. . ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT.

Section 6103 of the Secondary Schools Basic Skills Demonstration Assistance Act of 1988 (20 U.S.C. 3263) is amended by striking "fiscal year 1989" and inserting "each of the fiscal years 1991 and 1992".

SEC. . STATEMENT OF PURPOSE.

Section 6102(b) of the Training Technology Transfer Act of 1988 (20 U.S.C. 5092) is amended by striking "education training, and" and inserting "education and training of students and teachers and the".

SEC. . CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.

Section 614(a) of the Higher Education Act of 1965 (20 U.S.C. 1130(a)) is amended—

(1) by striking "$5,000,000" and inserting "$7,500,000"; and

(2) by striking "3 succeeding" and inserting "4 succeeding".

SEC. . DAKOTA WESLEYAN UNIVERSITY.

"Notwithstanding the provisions of section 487(c)(2)(B) of the Higher Education Act of 1965, the Secretary of Education shall reassess the amount owed by the Dakota Wesleyan University, located in Mitchell, South Dakota, in the amount of $159,260, plus any accrued interest thereon to $16,113.

Mr. SIMON. Mr. President, I rise in support of H.R. 5140, the School Dropout Prevention and Basic Skills Improvement Act of 1990. As we all know, the primary goals of this bill, brought to the floor today by my distinguished colleague, the Senator from Rhode Island, CLAIBORNE PELL, is to assure that this Nation regains its

economic competitiveness by ensuring that each child is educated to his or her full potential and to encourage them to finish secondary school. I want to applaud Senator PELL for moving this bill, and for working with me on my amendment to authorize an important project at Loyola University of Chicago.

Loyola University of Chicago is in a unique position to facilitate the goals of this legislation through its Center for Commerce and Industrial Expansion. Loyola University has a long-standing reputation of commitment to the Chicago community—and particularly to educationally disadvantaged students—through its outreach programs.

For 20 years, the Upward Bound Program has reached out to low-income students, providing them with skills to finish high school and pursue college education. For almost 50 years, the Doyle Center has provided counseling to disturbed children and teenagers along with their families, enabling them to cope with the problems that frequently result in school failure.

In the Hispanic Alliance, Loyola provides peer tutoring at the Robert Clemente High School in Chicago—a program which reduced the dropout rate of participants by 40 percent. The new Midwest Comprehensive Regional Center for Minorities, directed by Loyola Professor Eric Hamilton, will increase the presentation of minorities in specific and technological careers. The program targets minority students, beginning at kindergarten level; it provides special support for promising students from the junior high school level to the college level.

The Center for Commerce and Industrial Expansion is designed to strengthen the university's downtown campus, and provide support for both campus-based and outreach programs. One highlight of the new center will be the most advanced library in Chicago. Linking computer training with library skills, this library of the future will support advancement in the second stage of literacy—the ability to access public information available only as electronic data.

H.R. 5140 provides grant authority and priorities for community-based organizations to meet the basic educational needs of inner city, low-income youths. Among the priorities established are a a need for successful transition from vocational and academic programs to a broad range of post-secondary institutions, employment, and integration into America's economic mainstream. Through the programs I have already detailed as well as Loyola University's outreach service to the Chicago business community, I believe the Center for Commerce and Industrial Expansion can have a significant impact on the youth of the city of Chicago and can serve as a national model.

Mr. President, I ask that my colleagues accept this amendment to H.R. 5140.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3149) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 5140), as amended, was passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MENTAL HEALTH AMENDMENTS OF 1990

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2628.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2628) entitled "An Act to amend the Public Health Service Act to reauthorize certain National Institute of Mental Health grants and to improve provisions concerning the State comprehensive mental health services plan, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mental Health Amendments of 1990".

SEC. 2. REAUTHORIZATION OF DEMONSTRATION GRANTS FOR HEALTH SERVICES.

(a) IN GENERAL.—Section 520(a) of the Public Health Services Act (42 U.S.C. 290cc-13(a)) is amended to read as follows:

"(a) SERIOUSLY MENTALLY ILL INDIVIDUALS, AND CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL AND MENTAL DISTURBANCES.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the National Institute of Mental Health, may make grants to States, political subdivisions of States, and nonprofit private agencies for—

"(A) mental health services demonstration projects for the planning, coordination and improvement of community services (including outreach and consumer-run self-help services) for seriously mentally ill individuals and their families, seriously emotionally and mentally disturbed children and youth and their families, and seriously mentally ill homeless and elderly individuals;

"(B) demonstration projects for the prevention of youth suicide;

"(C) demonstration projects for the improvement of the recognition, assessment, treatment and clinical management of depressive disorders;

"(D) demonstration projects for programs to prevent the occurrence of sex offenses, and for the provision of treatment and psychological assistance to the victims of sex offenses; and

"(E) demonstration projects for programs to provide mental health services to victims of family violence.

"(2) MENTAL HEALTH SERVICES.—Mental health services provided under paragraph (1)(A) should encompass a range of delivery systems designed to permit individuals to receive treatment in the most therapeutically appropriate, least restrictive setting. Grants shall be awarded under such paragraph for—

"(A) research demonstration programs concerning such services; and

"(B) systems improvements to assist States and local entities to develop appropriate comprehensive mental health systems for adults with serious long-term mental illness and children and adolescents with serious emotional and mental disturbance.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 520(e)(1) of the Public Health Service Act (42 U.S.C. 290cc-13(e)(1)) is amended to read as follows:

"(1) For purposes of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 3. STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.

(a) FUNDING FOR PLANS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 1924(c) of the Public Health Service Act (42 U.S.C. 300x-10(c)) is amended by inserting before the period the following: ", and $5,000,000 for each of the fiscal years 1991 through 1993".

(2) ESTABLISHMENT OF AUTHORITY FOR USE OF FUNDS UNDER SUBPART 1.—Section 1915 of the Public Health Service Act (42 U.S.C. 300x-3) is amended by adding at the end the following new subsection:

"(e) Amounts paid to a State under section 1914 may be used by the State for the purpose of developing and implementing State comprehensive mental health plans in accordance with section 1925. With respect to compliance with the limitation established in subsection (d), none of the expenditures by the State for the purpose described in the preceding sentence form amounts received under section 1914 may be considered to have been expended for administering the amounts.".

(b) REQUIRMENTS FOR PLANS.—Section 1925 of the Public Health Service Act (42 U.S.C. 300x-11) is amended—

(1) by striking "chronically mentally ill individual" each place such term appears and inserting "individual with a serious mental illness";

(2) by striking "chronically mentally ill individuals" each place such term appears and inserting "individuals with serious mental illnesses";

(3) in subsection (b)—

(A) in paragraph (1), by inserting before the period the following: "and children with serious emotional and mental disorders";

(B) in paragraph (3), by striking "describe services to be provided" and inserting the following: "describe services, available treatment options, and available resources (including Federal, State and local public services and resources, and to the extent practicable, private services and resources) to be provided";

(C) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively;

"(D) by striking paragraph (4) and inserting the following new paragraphs:

"(4) The State plan shall describe health and mental health services, rehabilitation services, employment services, housing services, educational services, medical and dental care, and other support services to be provided to individuals and children with serious emotional and mental disorders with Federal, State and local public and private resources to enable such individuals to function outside of inpatient or residential institutions to the maximum extent of their capabilities, including services to be provided by local school systems under the Education of the Handicapped Act.

"(5) The State plan shall describe the financial resources and staffing necessary to implement the requirements of such plan."; and

(E) by adding at the end the following new paragraph:

"(10) The State plan shall describe a system of integrated social services, educational services, juvenile services, substance abuse services which together with health and mental health services, should be provided in order for children and adolescents with serious emotional and mental disorders to receive care appropriate for their multiple needs, including services to be provided by local school systems under the Education of the Handicapped Act."; and

(4) by adding at the end the following new subsections:

"(e) The State shall utilize the State mental health planning council described in section 1916(e), or establish a new council with comparable membership requirements, to advise, review, monitor and evaluate all aspects of the development and implementation of the State plan. The comments on such council shall be formally transmitted to the Governor of the State prior to the submission of such plan to the Secretary and such comments should be transmitted to the Secretary together with such plan.

"(f) Not later than March 30 of each year, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report concerning the development and implementation of the State plans. Such reports shall include—

"(1) the status of the implementation of such plans by the States;

"(2) a description of the extent of the participation of the councils described in subsection (e) in such development and implementation;

"(3) a description of the coordinated services for children and adults conducted under such plans;

"(4) the extent to which State and local public, and private resources are utilized in the enhancement and delivery of designated services; and

"(5) a quantitative measurement of the improvement in services projected and achieved under the plan.".

"(c) ENFORCEMENT.—Section 1926 of the Public Health Service Act (42 U.S.C. 300x-12) is amended—

"(1) in subsection (b)—

"(A) by striking "1991" and inserting "1992"; and

"(B) by striking "1990" and inserting "1991";

(2) in subsection (c), in the first sentence—

"(A) by striking "1992" and inserting "1993"; and

"(B) by striking "1991" and inserting "1992";

(3) subsection (d), in the second sentence, by striking "the State is permitted to expend for administrative expenses" and inserting "that the State received under subpart 1, as such subpart existed on October 1, 1985"; and

(4) in subsection (e)—

"(A) by striking "for any fiscal year" and inserting "during the period covered by the plan";

"(B) by striking "for such fiscal year" and inserting "during such period"; and

"(C) by inserting before the period the following: ", taking into consideration savings on inpatient hospitalization that can reasonably be anticipated to result from a well designed and implemented plan".

"(d) MISCELLANEOUS TECHNICAL AMENDMENT.—Section 902(c) of the Public Health Service Act (42 U.S.C. 299a(c)) is amended by striking "subsection (b)" and inserting "subsection (a)".

Mr. REID. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FDA REVITALIZATION ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 440, S. 845, a bill to revitalize the Food and Drug Administration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 845) to amend the Federal Food, Drug, and Cosmetic Act to revitalize the Food and Drug Administration, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "FDA Revitalization Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Federal Food, Drug, and Cosmetic Act.
TITLE I—CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY
Sec. 101. Consolidated administrative and laboratory facility.
TITLE II—SENIOR SCIENTIFIC SERVICE
Sec. 201. Senior Scientific Service.
TITLE III—RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS
Sec. 301. Recovery and retention of fees for FOIA requests.
TITLE IV—SMALL BUSINESS TRAINING AND TECHNICAL ASSISTANCE
Sec. 401. Small business training and technical assistance.
TITLE V—BIOTECHNOLOGY DEMONSTRATION PROJECT
Sec. 501. Biotechnology demonstration project.
TITLE VI—TRAINING AND LOAN REPAYMENT PROGRAMS
Sec. 601. Training and loan repayment programs.
TITLE VII—SCIENTIFIC REVIEW GROUPS
Sec. 701. Scientific review groups.
TITLE VIII—HUMAN FOOD SAFETY, TECHNOLOGY, AND NUTRITION ADVISORY COMMITTEE
Sec. 801. Human Food Safety, Technology, and Nutrition Advisory Committee.
TITLE IX—AUTOMATION OF FDA
Sec. 901. Automation of FDA.
TITLE X—COMPENSATION AND EMPLOYMENT REQUIREMENTS FOR FDA AND EPA SCIENTISTS
Sec. 1001. Compensation and employment requirements for FDA and EPA scientists.
TITLE XI—FUNDING FLOOR FOR FDA
Sec. 1101. Funding floor for FDA.
TITLE XII—PLAN OF MANAGEMENT INITIATIVES
Sec. 1201. Plan of management initiatives.

SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

TITLE I—CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY

SEC. 101. CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY.

Chapter VIII (21 U.S.C. 371 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 710. CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY.

"(a) AUTHORITY.—The Secretary, in consultation with the Administrator of the General Services Administration, shall enter into contracts for the design, construction, and operation of a consolidated Food and Drug Administration administrative and laboratory facility.

"(b) AWARDING OF CONTRACT.—The Secretary shall solicit contract proposals under subsection (a) from interested parties. In awarding contracts under such subsection, the Secretary shall review such proposals and give priority to those alternatives that are the most cost effective for the Federal

Government and that allow for the use of donated land, federally owned property, or lease-purchase arrangements. A contract under this subsection shall not be entered into unless such contract results in a net cost savings to the Federal Government over the duration of the contract, as compared to the Government purchase price including borrowing by the Secretary of Treasury.".

TITLE II—SENIOR SCIENTIFIC HEALTH SERVICE

SEC. 201. SENIOR SCIENTIFIC HEALTH SERVICE.

Part A of title III of the Public Health Service Act is amended by inserting after section 301 (42 U.S.C. 241) the following new section:

"SEC. 301A. SENIOR SCIENTIFIC HEALTH SERVICE.

"(a) ESTABLISHMENT.—The Secretary may establish a Senior Scientific Health Service (hereinafter in this section referred to as the 'Service').

"(b) MEMBERSHIP.—

"(1) CIVIL SERVICE.—An individual chosen to serve in the Service shall not be a part of the competitive service established under chapter 33 of subpart B of part I of title 5, United States Code.

"(2) APPOINTMENT.—A person may be appointed to the Service by the Secretary based solely on distinction and achievement of the person in the field of biomedical research or clinical research evaluation.

"(c) DUTIES.—A member of the Service shall be assigned to duties that require expertise in biomedical research, behavioral research, or clinical research evaluation, and may also be assigned to supervise other scientists in carrying out the activities described in this subsection.

"(d) COMPENSATION.—An individual selected to serve on the Service by the Secretary under subsection (b) shall be compensated at a rate not in excess of 110 percent of the annual rate of pay in effect for level I of the Executive Salary Schedule established in section 5512 of title 5, United States Code.

"(e) RETIREMENT.—For purposes of section 211, the continuous service in the Service of any person who commences such service on termination of service as a commissioned officer in the Public Health Service Corps may be treated as service as a commissioned officer in the Public Health Service Corps and shall not be considered as service that is subject to any other retirement system for officers and employees of the Federal Government.".

(c) Section 5948(g)(1) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (H);

(2) by striking out "and" at the end of subparagraph (I), and inserting in lieu thereof "or"; and

(3) by adding at the end thereof a new subparagraph as follows:

"(J) section 301A of the Public Health Service Act, relating to the Senior Scientific Health Service; and".

TITLE III—RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS

SEC. 301. RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS.

Chapter VII (21 U.S.C. 371 et seq.) (as amended by section 101) is further amended by adding at the end thereof the following new section:

"SEC. 711. RECOVERY AND RETENTION OF FEES FOR FREEDOM OF INFORMATION REQUESTS.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, may—

"(1) set and charge fees to recover all reasonable costs incurred in processing requests made under section 552 of title 5, United States Code, for records obtained or created under this Act or any other Federal law for which responsibility for administration has been delegated to the Commissioner by the Secretary;

"(2) retain all fees charged for such requests; and

"(3) establish an accounting system and procedures to control receipts and expenditures of fees received under this section.

"(b) USE OF FEES.—The Secretary and the Commissioner of Food and Drugs shall not use fees received under this section for any purpose other than funding the processing of requests described in subsection (a)(1). Such fees shall not be used to reduce the amount of funds made to carry out other provisions of this Act.

"(c) WAIVER OF FEES.—Nothing in this section shall supersede the right of a requester to obtain a waiver of fees pursuant to section 552(a)(4)(A) of title 5, United States Code.".

TITLE IV—SMALL BUSINESS TRAINING AND TECHNICAL ASSISTANCE

SEC. 401. SMALL BUSINESS TRAINING AND TECHNICAL ASSISTANCE.

Chapter VII (21 U.S.C. 371 et seq.) (as amended by sections 101 and 301) is further amended by adding at the end thereof the following new section:

"SEC. 712. SMALL BUSINESS TRAINING AND TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, shall establish within the Food and Drug Administration an identifiable office to provide technical and other nonfinancial assistance to small manufactures of medical devices, drugs, cosmetics, and foods to assist the manufacturers in complying with this Act.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $18,000,000 for each of the fiscal years 1990 through 1992.".

TITLE V—BIOTECHNOLOGY DEMONSTRATION PROJECT

SEC. 501. BIOTECHNOLOGY DEMONSTRATION PROJECT.

Chapter VII (21 U.S.C. 371 et seq.) (as amended by sections 101, 301, and 401) is further amended by adding at the end thereof the following new section:

"SEC. 713. BIOTECHNOLOGY DEMONSTRATION PROJECT.

"(a) IN GENERAL.—The Secretary shall establish and carry out a demonstration project under which the Secretary shall use the facilities of a public or private cooperative, with the permission of any such cooperative and in conjunction with such cooperative, to promote the development of biotechnology.

"(b) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this section.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1990 and such sums as are necessary for each of the fiscal years 1991 and 1992.".

TITLE VI—TRAINING AND LOAN REPAYMENT PROGRAMS

SEC. 601. TRAINING AND LOAN REPAYMENT PROGRAMS.

The Act (21 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER X—TRAINING AND LOAN REPAYMENT PROGRAMS

"Subchapter A—Training Program

"SEC. 1001. AUTHORITY.

"The Secretary may make grants to, or enter into contracts with, public or nonprofit academic institutions (including schools of medicine, dentistry, pharmacy, public health, and food science) to enable such institutions to design and develop core curriculum programs that will be used to train individuals in the field of regulatory review.

"SEC. 1002. REQUIREMENTS.

"(a) IN GENERAL.—No grant shall be awarded under this subchapter unless—

"(1) the institution has submitted to the Secretary an application for a grant and the Secretary has approved the application; and

"(2) the institution provides, in such form and manner as the Secretary shall by regulation prescribe, assurances satisfactory to the Secretary that individuals receiving funds through the institution under such grants will meet the service requirement of section 1004.

"(b) APPLICATION.—An application for a grant submitted under subsection (a) shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe.

"SEC. 1003. USE OF GRANTS.

"An institution that receives a grant under this subchapter—

"(1) shall use such grant to—

"(A) design and develop a core curriculum program that has as its primary emphasis regulatory review; and

"(B) train health professionals and scientists in regulatory review; and

"(2) may use such grant to provide stipends, tuition, fees, and allowances (including travel and subsistence expenses and dependency allowances), to individuals who participate in the regulatory review program developed with funds provided under this subchapter.

"SEC. 1004. REQUIREMENT OF SERVICE.

"(a) IN GENERAL.—Each individual who receives funds from an institution through a grant provided under this subchapter shall, in accordance with subsection (c), serve an obligated period of time as an employee of the Food and Drug Administration.

"(b) PERIOD OF REQUIRED SERVICE.—For each month for which an individual receives funds in accordance with subsection (a), such individual shall remain employed for 2 months with the Food and Drug Administration.

"(c) COMPLIANCE.—The requirements of this section shall be complied with by any individual to whom it applies within such reasonable period of time, after the completion of the training of such individual under the grant received under this subchapter, as the Secretary shall by regulation prescribe.

"(d) FAILURE TO COMPLY.—If any individual to whom this section applies fails, within the period prescribed under subsection (c), to comply with such requirements, the United States shall be entitled to recover from such individual an amount determined in accordance with a formula prescribed through regulations issued by the Secretary.

"SEC. 1005. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter $4,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 through 1992.

"Subchapter B—Loan Repayment Program

"SEC. 1011. LOAN REPAYMENT PROGRAM.

"The Secretary shall establish a loan repayment program under which the Secretary shall repay loans incurred by individuals to obtain training in regulatory review in exchange for the individuals serving a period of time as employees of the Food and Drug Administration.

"SEC. 1012. ADMINISTRATION.

"(a) REGULATIONS.—Not later than 1 year after funds are first made available to carry out this subchapter under section 1013, the Secretary shall issue such regulations that are necessary to carry out this subchapter, including regulations prescribing eligibility for the loan repayment program, the method of disseminating applications to participate in the program, the content of a contract entered into to participate in the program, costs that are eligible for payment through the contract, and such other information as is necessary to carry out the program.

"(b) RELATIONSHIP TO NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.—The Secretary shall carry out the loan repayment program established under this subchapter, to the extent practicable, in a manner that is consistent with the National Health Service Corps Loan Repayment Program established under section 338B of the Public Health Service Act (42 U.S.C. 254l-1).

"(c) EMPLOYMENT CEILING.—Notwithstanding any other provision of law, an individual who has entered into a written contract with the Secretary under this subchapter, while undergoing academic or other training, shall not be counted against any employment ceiling affecting the Department.

"SEC. 1013. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter $2,000,000 for each of the fiscal years 1990 through 1992.".

TITLE VII—SCIENTIFIC REVIEW GROUPS

SEC. 701. SCIENTIFIC REVIEW GROUPS.

Chapter IX (21 U.S.C. 391 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 903. SCIENTIFIC REVIEW GROUPS.

"Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Commissioner of Food and Drugs may—

"(1) establish such technical and scientific review groups as are needed to carry out the functions of the Food and Drug Administration (including functions prescribed under this Act); and

"(2) appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups.".

TITLE VIII—HUMAN FOOD SAFETY, TECHNOLOGY, AND NUTRITION ADVISORY COMMITTEE

SEC. 801. HUMAN FOOD SAFETY, TECHNOLOGY, AND NUTRITION ADVISORY COMMITTEE.

Chapter IV (21 U.S.C. 341 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 413. HUMAN FOOD SAFETY, TECHNOLOGY, AND NUTRITION ADVISORY COMMITTEE.

"(a) ESTABLISHMENT.—The Secretary shall establish an advisory committee which shall be known as the 'Human Food Safety, Technology, and Nutrition Advisory Committee' (hereinafter in this section referred to as the 'Advisory Committee').

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Advisory Committee shall consist of 15 members appointed by the Secretary.

"(2) MEMBERSHIP.—In making appointments under paragraph (1), the Secretary shall—

"(A) consult with the Secretary of Agriculture; and

"(B) ensure that the membership of the Advisory Committee includes—

"(i) consumers who are not otherwise represented under this subparagraph;

"(ii) representatives of the food industry;

"(iii) experts in the field of food technology and food production;

"(iv) experts in the application of biotechnology to food products;

"(v) experts in the field of nutrition; and

"(vi) experts in the field of food safety.

"(c) DUTIES.—The Advisory Committee shall advise the Secretary and the Commissioner of Food and Drugs on issues involving food for human consumption, including issues relating to—

"(1) food technology and production;

"(2) food research and development;

"(3) biotechnology and food products;

"(4) food safety;

"(5) the relationship between diet, nutrition, and health; and

"(6) health-related claims for food for human consumption.

"(d) TERMS.—A member of the Advisory Committee shall be appointed for a term of 3 years, except that of the members first appointed, 5 members shall be appointed for a term of 1 year, 5 members shall be appointed for a term of 2 years, and 5 members shall be appointed for a term of 3 years, as determined by the Secretary.

"(e) SUPPORT.—The Commissioner of Food and Drugs shall provide the Advisory Committee with such professional and clerical staff and information as may be necessary for the Advisory Committee to carry out this section.

"(f) TRAVEL EXPENSES.—A member of the Advisory Committee, while so serving away from the home or regular place of business of the member, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized under section 5703 of title 5, United States Code, for employees serving intermittently.".

TITLE IX—AUTOMATION OF FDA

SEC. 901. AUTOMATION OF FDA.

Chapter VII (21 U.S.C. 371 et seq.) (as amended by sections 101, 301, 401, and 501 of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 714. AUTOMATION OF FOOD AND DRUG ADMINISTRATION.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, shall automate appropriate activities of the Food and Drug Administration to ensure timely review of activities regulated under this Act.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated each fiscal year such sums are necessary to carry out this section.".

TITLE X—COMPENSATION AND EMPLOYMENT REQUIREMENTS FOR FDA AND EPA SCIENTISTS

SEC. 1001. COMPENSATION AND EMPLOYMENT REQUIREMENTS FOR FDA AND EPA SCIENTISTS.

The Director of the Office of Personnel Management shall take such action as is necessary to ensure, to the extent practicable, that the level of compensation and employment requirements are comparable for scientists employed by the Food and Drug Administration and scientists employed by the Environmental Protection Agency.

TITLE XI—FUNDING FLOOR FOR FDA

SEC. 1101. FUNDING FLOOR FOR FDA.

Notwithstanding any other provision of law, there shall be appropriated no less than $500,000,000 each fiscal year to carry out the activities of the Food and Drug Administration.

TITLE XII—PLAN OF MANAGEMENT INITIATIVES

SEC. 1201. PLAN OF MANAGEMENT INITIATIVES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall contract for a study of the management initiatives undertaken to assess, prioritize, and improve the efficiency and productivity of the activities of the Food and Drug Administration. Such plan shall provide for identifiable and measurable goals and objectives.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary in each of the fiscal years 1990 and 1991.

AMENDMENT NO. 3150

(Purpose: To make a substitute amendment)

Mr. STEVENS. Mr. President, I send an amendment to the desk for Senator HATCH and Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. HATCH (for himself and Mr. KENNEDY) proposes an amendment numbered 3150.

Mr. STEVENS. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the Committee amendment and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Food and Drug Administration Revitalization Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Federal Food, Drug, and Cosmetic Act.

TITLE I—CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY

Sec. 101. Consolidated administrative and laboratory facility.

TITLE II—RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS

Sec. 201. Recovery and retention of fees for FOIA requests.

TITLE III—SCIENTIFIC REVIEW GROUPS

Sec. 301. Scientific review groups.

TITLE IV—AUTOMATION OF FDA

Sec. 401. Automation of FDA.

SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

TITLE I—CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY

SEC. 101. CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY.

Chapter VII (21 U.S.C. 371 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 710. CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY.

"(a) AUTHORITY.—The Secretary, in consultation with the Administrator of the General Services Administration, shall enter into contracts for the design, construction, and operation of a consolidated Food and Drug Administration administrative and laboratory facility.

"(b) AWARDING OF CONTRACT.—The Secretary shall solicit contract proposals under subsection (a) from interested parties. In awarding contracts under such subsection, the Secretary shall review such proposals and give priority to those alternatives that are the most cost effective for the Federal Government and that allow for the use of donated land, federally owned property, or lease-purchase arrangements. A contract under this subsection shall not be entered into unless such contract results in a net cost savings to the Federal Government over the duration of the contract, as compared to the Government purchase price including borrowing by the Secretary of Treasury.

"(c) DONATIONS.—In carrying out this section, the Secretary shall have the power, in connection with real property, buildings, and facilities, to accept on behalf of the Food and Drug Administration gifts or donations of services or property, real or personal, as the Secretary determines to be necessary.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for fiscal year 1991, and such sums as may be necessary for each of the subsequent fiscal years, to remain available until expended.".

TITLE II—RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS

SEC. 201. RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS.

Chapter VII (21 U.S.C. 371 et seq.) (as amended by section 101 of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 711. RECOVERY AND RETENTION OF FEES FOR FREEDOM OF INFORMATION REQUESTS.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, may—

"(1) set and charge fees, in accordance with section 552(a)(4)(A) of title 5, United States Code, to recover all reasonable costs incurred in processing requests made under section 552 of title 5, United States Code, for records obtained or created under this Act or any other Federal law for which responsibility for administration has been delegated to the Commissioner by the Secretary;

"(2) retain all fees charged for such requests; and

"(3) establish an accounting system and procedures to control receipts and expenditures of fees received under this section.

"(b) USE OF FEES.—The Secretary and the Commissioner of Food and Drugs shall not use fees received under this section for any purpose other than funding the processing of requests described in subsection (a)(1). Such fees shall not be used to reduce the amount of funds made to carry out other provisions of this Act.

"(c) WAIVER OF FEES.—Nothing in this section shall supersede the right of a requester to obtain a waiver of fees pursuant to section 552(a)(4)(A) of title 5, United States Code.".

TITLE III—SCIENTIFIC REVIEW GROUPS

SEC. 301. SCIENTIFIC REVIEW GROUPS.

Chapter IX (21 U.S.C. 391 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 903. SCIENTIFIC REVIEW GROUPS.

Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Commissioner of Food and Drugs may—

"(1) establish such technical and scientific review groups as are needed to carry out the functions of the Food and Drug Administration (including functions prescribed under this Act); and

"(2) appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups.".

TITLE IV—AUTOMATION OF FDA

SEC. 401. AUTOMATION OF FDA.

Chapter VII (21 U.S.C. 371 et seq.) (as amended by sections 101 and 201 of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 712. AUTOMATION OF FOOD AND DRUG ADMINISTRATION.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, shall automate appropriate activities of the Food and Drug Administration to ensure timely review of activities regulated under this Act.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated each fiscal year such sums are necessary to carry out this section.".

Mr. LEAHY. Mr. President, will the distinguished Senator from Utah yield for a question?

Mr. HATCH. I am pleased to yield to my colleague from Vermont.

Mr. LEAHY. I understand that a reference to section 552(a)(4)(A) of title 5, United States Code, the Freedom of Information Act, was inadvertently dropped from title II of S. 845, the FDA Revitalization Act.

The change in section 201 of this amendment which we jointly support, clarifies that the fees set and charged by the Secretary, acting through the Commissioner of Food and Drugs, will conform to the 1986 Freedom of Information Reform Act. Is that correct?

Mr. HATCH. Yes, my colleague from Vermont is correct.

Mr. LEAHY. I thank my distinguished colleague, the Senator from Utah, for his clarification and his cooperation.

Mr. HATCH. Mr. President, I am pleased to join Senator KENNEDY today in support of S. 845, the FDA Revitalization Act. This bipartisan legislation was reported out of the Committee on Labor and Human Resources by a 16-to-0 vote.

The FDA is a preeminent force in consumer protection and for advancing the technological development of new foods, drugs, devices, and cosmetics. This act is intended to ensure that the FDA can function in today's climate with sufficient resources.

The role of today's FDA covers a greater portion of our lives than ever envisioned by authors of the original act in 1938. Today, the FDA is responsible for regulating more than 700 billion dollars' worth of foods sold annually to Americans—constituting about 25 percent of the total dollars spent for personal consumption in the United States each year. The average American pays about $2 a year to have the agency assure the soundness of goods worth an average of $3,000 to each consumer.

In the years ahead, the FDA will be asked to respond to the many innovations in medicine, medical devices, and food products that American technology will inevitably develop. Developments in biotechnology alone are changing the face of science and adding to the demands on FDA. In order to meet these challenges, and continue to successfully react to unanticipated crisis, the agency will need new resources. Whether it be protecting the consumer from cyanide in Tylenol or Chilean grapes, ensuring the safety of the Nation's blood supply, or swiftly bring new products to desperately ill patients in the face of a national epidemic, the FDA must have the resources to do their job effectively.

FDA needs resources, and I don't mean merely money. They need some important tools. The FDA Revitalization Act will strengthen the infrastructure of FDA.

The FDA is currently scattered among 23 different buildings at seven different sites in the Washington, DC, area. One laboratory is in a converted chicken coop built over 50 years ago; other offices are remodeled bathrooms and freezers. One FDA field office in particular is so run down that it has a net suspended above its entrances to catch falling debris and protect the employees from serious injury. The FDA laboratories have serious problems—including inadequate electrical, heating and cooling, and waste disposal systems. These can result in damaging scientific equipment and result in inaccurate test results.

The FDA revitalization bill will require that FDA be consolidated into one office space or campus.

The FDA needs to enter the computer age by automating the application process, reducing the mountainous paper flow under which the agency is now laboring. In a recent visit to the FDA, I saw the piles of paper that FDA staff must handle, over 100,000 pages of paper for a new drug application. I was told that because of the limited space that the frequent complaint of, the FDA is setting on my application, was actually true because there frequently is no room for a chair in the reviewer's office. S. 845, calls for updating FDA's existing automated systems and introducing automation throughout the Agency.

With a revitalized FDA, the result should be newer and safer food products, drugs, cosmetics and medical devices. Also products will be approved in a scientifically sound and more timely manner. S. 845 will provide FDA with the resources to fulfill its basic mission and to strengthen its readiness to meet the challenges ahead of it. Mr. President, I urge my colleagues to join me in moving this legislation forward for the President's signature.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3150) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 845

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Food and Drug Administration Revitalization Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Federal Food, Drug, and Cosmetic Act.
TITLE I—CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY
Sec. 101. Consolidated administrative and laboratory facility.
TITLE II—RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS
Sec. 201. Recovery and retention of fees for FOIA requests.
TITLE III—SCIENTIFIC REVIEW GROUPS
Sec. 301. Scientific review groups.
TITLE IV—AUTOMATION OF FDA
Sec. 401. Automation of FDA.

SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

TITLE I—CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY

SEC. 101. CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY.

Chapter VII (21 U.S.C. 371 et seq.). is amended by adding at the end thereof the following new section:

"SEC. 710. CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY.

"(a) AUTHORITY.—The Secretary, in consultation with the Administrator of the General Services Administration, shall enter into contracts for the design, construction, and operation of a consolidated Food and Drug Administration administrative and laboratory facility.

"(b) AWARDING OF CONTRACT.—The Secretary shall solicit contract proposals under subsection (a) from interested parties. In awarding contracts under such subsection, the Secretary shall review proposals and give priority to those alternatives that are the most cost effective for the Federal Government and that allow for the use of donated land, federally owned property, or lease-purchase arrangements. A contract under this subsection shall not be entered into unless such contract results in a net cost savings to the Federal Government over the duration of the contract, as compared to the Government purchase price including borrowing by the Secretary of Treasury.

"(c) DONATIONS.—In carrying out this section, the Secretary shall have the power, in connection with real property, buildings, and facilities, to accept on behalf of the Food and Drug Administration gifts or donations of service or property, real or personal, as the Secretary determines to be necessary.

"(d) AUTHORIZATION OF APPROPRIATIAONS.—There are authorized to be appropriated to carry out this section $100,000,000 for fiscal year 1991, and such sums as may be necessary for each of the subsequent fiscal years, to remain available until expended.".

TITLE II—RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS

SEC. 201. RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS

Chapter VII (21 U.S.C. 371 et seq.). (as amended by section 101 of this Act) is further amended by adding at the end thereof the following new section

"SEC. 711. RECOVERY AND RETENTION OF FEES FOR FREEDOM OF INFORMATION REQUESTS

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, may—

"(1) set and change fees, in accordance with section 522(a)(4)(A) of title, 5 United Stated Code, to recover all reasonable costs incurred in processing requests made under section 552 of title, 5, United States Code, for records obtained or created under this Act or any other Federal law for which responsibility for administration has been delegated to the Commissioner by the Secretary;

"(2) retain all fees charged for such requests; and

"(3) establish an accounting system and procedures to control receipts and expenditures of fees received under this section.

"(b) USE OF FEES.—The Secretary and the Commissioner of Food and Drugs shall not use fees received under this section for any purpose other than funding the processing of requests described in subsection (a)(1). Such fees shall not be used to reduce the amount of funds made to carry out other provisions of this Act.

"(c) WAIVER OF FEES.—Nothing in this section shall supersede the right of a requester to obtain a waiver of fees pursuant to section 552(a)(4)(A) of title 5, United States Code.".

TITLE III—SCIENTIFIC REVIEW GROUPS

SEC. 301. SCIENTIFIC REVIEW GROUPS.

Chapter IX (21 U.S.C. 391 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 903. SCIENTIFIC REVIEW GROUPS.

"Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Commissioner of Foods and Drugs may—

"(1) establish such technical and scientific review groups as are needed to carry out the functions of the Food and Drug Administration (including functions prescribed under this Act); and

"(2) appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups.".

TITLE IV—AUTOMATION OF FDA

SEC. 401. AUTOMATION OF FDA.

Chapter VII (21 U.S.C. 371 et seq.) (as amended by sections 101 and 201 of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 712. AUTOMATION OF FOOD AND DRUG ADMINISTRATION.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, shall automate appropriate activities of the Food and Drug Administration to ensure timely review of activities regulated under this Act.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated each fiscal year such sums are necessary to carry out this section.".

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LAND EXCHANGE IN WEST VIRGINIA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5433, regarding a land exchange in West Virginia, now at the

desk, that the bill be deemed read the third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5433) was passed.

MEASURE PLACED ON THE CALENDAR—H.R. 4407

Mr. REID. Mr. President, I ask unanimous consent that the following bill received from the House be placed on the calendar: H.R. 4407, to require all law enforcement agencies to report all cases of missing persons under age 18 to the National Crime Information Center of the Department of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADMINISTRATIVE DISPUTE RESOLUTION ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1012, S. 971, the Administrative Dispute Resolution Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 971) to authorize and encourage Federal agencies to use mediation, conciliation arbitration, and other techniques for the prompt and ifnormal resolution of disputes, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Dispute Resolution Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) administrative procedure, as embodied in chapter 5 of title 5, United States Code, and other statutes, is intended to offer a prompt, expert, and inexpensive means of resolving disputes as an alternative to litigation in the Federal courts;

(2) administrative proceedings have become increasingly formal, costly, and lengthy resulting in unnecessary expenditures of time and in a decreased likelihood of achieving consensual resolution of disputes;

(3) alternative means of dispute resolution have been used in the private sector for many years and, in appropriate circumstances, have yielded decisions that are faster, less expensive, and less contentious;

(4) such alternative means can lead to more creative, efficient, and sensible outcomes;

(5) such alternative means may be used advantageously in a wide variety of administrative programs;

(6) explicit authorization of the use of well-tested dispute resolution techniques will eliminate ambiguity of agency authority under existing law;

(7) Federal agencies may not only receive the benefit of techniques that were developed in the private sector, but may also take the lead in the further development and refinement of such techniques; and

(8) the availability of a wide range of dispute resolution procedures, and an increased understanding of the most effective use of such procedures, will enhance the operation of the Government and better serve the public.

SEC. 3. PROMOTION OF ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

(a) PROMULGATION OF AGENCY POLICY.—Each agency shall adopt a policy that addresses the use of alternative means of dispute resolution and case management. In developing such a policy, each agency shall—

(1) consult with the Administrative Conference of the United States and the Federal Mediation and Conciliation Service; and

(2) examine alternative means of resolving disputes in connection with—

(A) formal and informal adjudications;

(B) rulemakings;

(C) enforcement actions;

(D) issuing and revoking licenses or permits;

(E) contract administration;

(F) litigation brought by or against the agency; and

(G) other agency actions.

(b) DISPUTE RESOLUTION SPECIALISTS.—The head of each agency shall designate a senior official to be the dispute resolution specialist of the agency. Such official shall be responsible for the implementation of—

(1) the provisions of this Act and the amendments made by this Act; and

(2) the agency policy developed under subsection (a).

(c) TRAINING.—Each agency shall provide for training on a regular basis for the dispute resolution specialist of the agency and other employees involved in implementing the policy of the agency developed under subsection (a). Such training should encompass the theory and practice of negotiation, mediation, arbitration, or related techniques. The dispute resolution specialist shall periodically recommend to the agency head agency employees who would benefit from similar training.

(d) PROCEDURES FOR GRANTS AND CONTRACTS.—

(1) Each agency shall review each of its standard agreements for contracts, grants, and other assistance and shall determine whether to amend any such standard agreements to authorize and encourage the use of alternative means of dispute resolution.

(2)(A) Within 1 year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended, as necessary, to carry out this Act and the amendments made by this Act.

(B) For purposes of this section, the term "Federal Acquisition Regulation" means the single system of Government-wide procurement regulation referred to in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)).

SEC. 4. ADMINISTRATIVE PROCEDURES.

(a) ADMINISTRATIVE HEARINGS.—Section 556(c) of title 5, United States Code, is amended—

(1) in paragraph (6) by inserting before the semicolon at the end thereof the following: "or by the use of alternative means of dispute resolution as provided in subchapter IV of this chapter"; and

(2) by redesignating paragraphs (7) through (9) as paragraphs (9) through (11), respectively, and inserting after paragraph (6) the following new paragraphs:

"(7) inform the parties as to the availability of one or more alternative means of dispute resolution, and encourage use of such methods;

"(8) require the attendance at any conference held pursuant to paragraph (6) of at least one representative of each party who has authority to negotiate concerning resolution of issues in controversy;".

(b) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"§ 581. Definitions

"For the purposes of this subchapter, the term—

"(1) 'agency' has the same meaning as in section 551(1) of this title;

"(2) 'administrative program' includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter;

"(3) 'alternative means of dispute resolution' means any procedure that is used, in lieu of an adjudication as defined in section 551(7) of this title, to resolve issues in controversy, including but not limited to, settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, or any combination thereof;

"(4) 'award' means any decision by an arbitrator resolving the issues in controversy;

"(5) 'dispute resolution communication' means any oral communication made in confidence in connection with a dispute resolution proceeding by any party, neutral, or nonparty participant;

"(6) 'dispute resolution document' means any written material that is—

"(A) prepared in confidence for the purpose of, in the course of, or pursuant to a dispute resolution proceeding, including any memoranda, notes, or work product of the neutral or the parties; or

"(B) provided in confidence to the neutral or other parties in a dispute resolution proceeding for purposes of that dispute resolution proceeding;

except that an agreement or arbitral award reached as a result of a dispute resolution proceeding is not a dispute resolution document unless the parties so agree in writing and the law otherwise allows that it shall be regarded as such a document;

"(7) 'dispute resolution proceeding' means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

"(8) 'in confidence' means, with respect to information, that the information is provided—

"(A) with the expressed intent of the source that it not be disclosed; or

"(B) under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

"(9) 'issue in controversy' means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement be-

tween the agency and persons who would be substantially affected by the decision;

"(10) 'neutral' means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy;

"(11) 'party' means—

"(A) for a proceeding with named parties, the same as in section 551(3) of this title; and

"(B) for a proceeding without named parties, a person who will be significantly affected by the decision in the proceeding and who participates in the proceeding;

"(12) 'person' has the same meaning as in section 551(2) of this title; and

"(13) 'roster' means a list of persons qualified to provide services as neutrals.

"§ 582. General authority

"(a) An agency may use a dispute resolution proceeding for the resolution of an issue in controversy that relates to an administrative program, if the parties agree to such proceeding.

"(b) An agency shall consider not using a dispute resolution proceeding if—

"(1) a definitive or authoritative resolution of the matter is required for precedential value, and such a proceeding is not likely to be accepted generally as an authoritative precedent;

"(2) the matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and such a proceeding would not likely serve to develop a recommended policy for the agency;

"(3) maintaining established policies is of special importance, so that variations among individual decisions are not increased and such a proceeding would not likely reach consistent results among individual decisions;

"(4) the matter significantly affects persons or organizations who are not parties to the proceeding;

"(5) a full public record of the proceeding is important, and a dispute resolution proceeding cannot provide such a record; and

"(6) the agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a dispute resolution proceeding would interfere with the agency's fulfilling that requirement.

"(c) Alternative means of dispute resolution authorized under this subchapter are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques.

"§ 583. Neutrals

"(a) A neutral may be a permanent or temporary officer or employee of the Federal Government or any other individual who is acceptable to the parties to a dispute resolution proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

"(b) A neutral who serves as a conciliator, facilitator, or mediator serves at the will of the parties.

"(c) In consultation with the Federal Mediation and Conciliation Service, other appropriate Federal agencies, and professional organizations experienced in matters concerning dispute resolution, the Administrative Conference of the United States shall—

"(1) establish standards for neutrals (including experience, training, affiliations, diligence, actual or potential conflicts of interest, and other qualifications) to which agencies may refer;

"(2) maintain a roster of individuals who meet such standards and are otherwise qualified to act as neutrals, which shall be made available upon request;

"(3) enter into contracts for the services of neutrals that may be used by agencies on an elective basis in dispute resolution proceedings; and

"(4) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis.

"(d) An agency may use the services of one or more employees of other agencies to serve as neutrals in dispute resolution proceedings. The agencies may enter into an interagency agreement that provides for the reimbursement by the user agency or the parties of the full or partial cost of the services of such an employee.

"(e) Any agency may enter into a contract with any person on a roster established under subsection (c)(2) or a roster maintained by other public or private organizations, or individual for services as a neutral, or for training in connection with alternative means of dispute resolution. The parties in a dispute resolution proceeding shall agree on compensation for the neutral that is fair and reasonable to the Government.

"§ 584. Confidentiality

"(a) Except as provided in subsections (d) and (e), a neutral in a dispute resolution proceeding shall not voluntarily or through discovery or compulsory process be required to disclose any information concerning any dispute resolution document or any dispute resolution communication, unless—

"(1) all parties to the dispute resolution proceeding and the neutral consent in writing, and, if the dispute resolution communication or dispute resolution document was provided by a nonparty participant, that participant also consents in writing;

"(2) the dispute resolution communication or document has already been made public;

"(3) the dispute resolution communication or dispute resolution document is required by statute to be made public, but a neutral should make such communication or document public only if no other person is reasonably available to provide the document or disclose the communication; or

"(4) a court determines that such testimony or disclosure is necessary to—

"(A) prevent a manifest injustice;

"(B) help establish a violation of law; or

"(C) prevent harm to the public health or safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

"(b) Except as provided in subsection (d), a party to a dispute resolution proceeding shall not voluntarily or through discovery or compulsory process be required to disclose any information concerning any dispute resolution document or any dispute resolution communication, unless—

"(1) all parties to the dispute resolution proceeding consent in writing;

"(2) the dispute resolution communication or document has already been made public;

"(3) the dispute resolution communication or dispute resolution document is required by statute to be made public;

"(4) a court determines that such testimony or disclosure is necessary to—

"(A) prevent a manifest injustice;

"(B) help establish a violation of law; or

"(C) prevent harm to the public health and safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential; or

"(5) the dispute resolution document or dispute resolution communication is relevant to determining the existence or meaning of an agreement or award that resulted from the dispute resolution proceeding or to the enforcement of such an agreement or award.

"(c) Any dispute resolution communication or dispute resolution document that is disclosed in violation of subsection (a) or (b), shall not be admissible in any proceeding relating to the issues in controversy with respect to which the communication or document was made.

"(d) The parties may agree to alternative confidential procedures. Upon such agreement the parties shall inform the neutral before the commencement of the dispute resolution proceeding of any modifications to the provisions of subsection (a) that will govern the confidentiality of the dispute resolution proceeding. If the parties do not so inform the neutral, subsection (a) shall apply.

"(e) If a demand for disclosure, by way of discovery request or other legal process, is made upon a neutral regarding a dispute resolution document or communication, the neutral shall make reasonable efforts to notify the parties and any affected nonparty participants of the demand. Any party or affected nonparty participant who receives such notice and within 15 calendar days does not offer to defend a refusal of the neutral to disclose the requested information shall have waived any objection to such disclosure.

"(f) Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a dispute resolution proceeding.

"(g) Subsections (a) and (b) shall have no effect on the information and data that are necessary to document an agreement reached or order issued pursuant to a dispute resolution proceeding.

"(h) Subsections (a) and (b) shall not prevent the gathering of information for research or educational purposes, in cooperation with other agencies, governmental entities, or dispute resolution programs, so long as the parties and the specific issues in controversy are not identifiable.

"(i) Subsections (a) and (b) shall not prevent use of a dispute resolution document to resolve a dispute between the neutral in a dispute resolution proceeding and a party to or participant in such proceeding, so long as such dispute resolution document is disclosed only to the extent necessary to resolve such dispute.

"§ 585. Authorization of arbitration

"(a)(1) Arbitration may be used as an alternative means of dispute resolution whenever all parties consent. Consent may be obtained either before or after an issue in controversy has arisen. A party may agree to—

"(A) submit only certain issues in controversy to arbitration; or

"(B) arbitration on the condition that the award must be within a range of possible outcomes.

"(2) Any arbitration agreement that sets forth the subject matter submitted to the arbitrator shall be in writing.

"(3) An agency may not require any person to consent to arbitration as a condition of entering into a contract or obtaining a benefit.

"(b) An officer or employee of an agency may offer to use arbitration for the resolution of issues in controversy, if such officer or employee—

"(1) has authority to enter into a settlement concerning the matter; or

"(2) is otherwise specifically authorized by the agency to consent to the use of arbitration.

"§ 586. Enforcement of arbitration agreements

"An agreement to arbitrate a matter to which this subchapter applies is enforceable pursuant to section 4 of title 9, and no action brought to enforce such an agreement shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"§ 587. Arbitrators

"(a) The parties to an arbitration proceeding shall be entitled to participate in the selection of the arbitrator.

"(b) The arbitrator shall be a neutral who meets the criteria of section 583 of this title.

"§ 588. Authority of the arbitrator

"An arbitrator to whom a dispute is referred under this subchapter may—

"(1) regulate the course of and conduct arbitral hearings;

"(2) administer oaths and affirmations;

"(3) compel the attendance of witnesses and production of evidence at the hearing under the provisions of section 7 of title 9 only to the extent the agency involved is otherwise authorized by law to do so; and

"(4) make awards.

"§ 589. Arbitration proceedings

"(a) The arbitrator shall set a time and place for the hearing on the dispute and shall notify the parties not less than 5 days before the hearing.

"(b) Any party wishing a record of the hearing shall—

"(1) be responsible for the preparation of such record;

"(2) notify the other parties and the arbitrator of the preparation of such record;

"(3) furnish copies to all identified parties and the arbitrator; and

"(4) pay all costs for such record, unless the parties agree otherwise or the arbitrator determines that the costs should be apportioned.

"(c)(1) The parties to the arbitration are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

"(2) The arbitrator may, with the consent of the parties, conduct all or part of the hearing by telephone, television, computer, or other electronic means, if each party has an opportunity to participate.

"(3) The hearing shall be conducted expeditiously and in an informal manner.

"(4) The arbitrator may receive any oral or documentary evidence, except that irrelevant, immaterial, unduly repetitious, or privileged evidence may be excluded by the arbitrator.

"(5) The arbitrator shall interpret and apply relevant statutory and regulatory requirements, legal precedents, and policy directives.

"(d) No interested person shall make or knowingly cause to be made to the arbitrator an unauthorized ex parte communication relevant to the merits of the proceeding, unless the parties agree otherwise. If a communication is made in violation of this subsection, the arbitrator shall ensure that a memorandum of the communication is prepared and made a part of the record, and that an opportunity for rebuttal is allowed. Upon receipt of a communication made in violation of this subsection, the arbitrator may, to the extent consistent with the interests of justice and the policies underlying this subchapter, require the offending party to show cause why the claim of such party should not be resolved against such party as a result of the improper conduct.

"(e) The arbitrator shall make the award within 30 days after the close of the hearing, or the date of the filing of any briefs authorized by the arbitrator, whichever date is later, unless—

"(1) the parties agree to some other time limit; or

"(2) the agency provides by rule for some other time limit.

"§ 590. Arbitration awards

"(a)(1) Unless the agency provides otherwise by rule, the award in an arbitration proceeding under this subchapter shall include a brief, informal discussion of the factual and legal basis for the award, but formal findings of fact or conclusions of law shall not be required.

"(2) The prevailing parties shall file the award with all relevant agencies, along with proof of service on all parties.

"(b) The award in an arbitration proceeding shall become final 30 days after it is served on all parties. Any agency that is a party to the proceeding may extend this 30-day period for an additional 30-day period by serving a notice of such extension on all other parties before the end of the first 30-day period.

"(c) The head of any agency that is a party to an arbitration proceeding conducted under this subchapter is authorized to terminate the arbitration proceeding or vacate any award issued pursuant to the proceeding before the award becomes final by serving on all other parties a written notice to that effect, in which case the award shall be null and void. Notice shall be provided to all parties to the arbitration proceeding of any request by a party, nonparty participant or other person that the agency head terminate the arbitration proceeding or vacate the award. An employee or agent engaged in the performance of investigative or prosecuting functions for an agency may not, in that or a factually related case, advise in a decision under this subsection to terminate an arbitration proceeding or to vacate an arbitral award, except as witness or counsel in public proceedings.

"(d) A final award is binding on the parties to the arbitration proceeding, and may be enforced pursuant to sections 9 through 13 of title 9. No action brought to enforce such an award shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"(e) An award entered under this subchapter in an arbitration proceeding may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding. Such an award also may not be used as precedent or otherwise be considered in any factually unrelated proceeding, whether conducted under this subchapter, by an agency, or in a court, or in any other arbitration proceeding.

"(f) An arbitral award that is vacated under subsection (c) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the award was made.

"(g) If an agency vacates an award under subsection (c), a party to the arbitration other than the United States may petition for an award of attorney fees and expenses pursuant to the Equal Access to Justice Act. Such fees and expenses shall be paid from the funds of the agency that vacated the award.

"§ 591. Judicial Review

"(a) Notwithstanding any other provision of law, any person adversely affected or aggrieved by an award made in an arbitration proceeding conducted under this subchapter may bring an action for review of such award only pursuant to the provisions of sections 9 through 13 of title 9.

"(b)(1) A decision by an agency to use or not to use a dispute resolution proceeding under this subchapter shall be committed to the discretion of the agency and shall not be subject to judicial review, except that arbitration shall be subject to judicial review under section 10(b) of title 9.

"(2) A decision by the head of an agency under section 590 to terminate an arbitration proceeding or vacate an arbitral award shall be committed to the discretion of the agency and shall not be subject to judicial review.

"§ 592. Compilation of information

"The Chairman of the Administrative Conference of the United States shall compile and maintain data on the use of alternative means of dispute resolution in conducting agency proceedings. Agencies shall, upon the request of the Chairman of the Administrative Conference of the United States, supply such information as is required to enable the Chairman to comply with this section.

"§ 593. Support services

"For the purposes of this subchapter, an agency may use (with or without reimbursement) the services and facilities of other Federal agencies, public and private organizations and agencies, and individuals, with the consent of such agencies, organizations, and individuals. An agency may accept voluntary and uncompensated services for purposes of this subchapter without regard to the provisions of section 1342 of title 31.".

(c) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"581. Definitions.
"582. General authority.
"583. Neutrals.
"584. Confidentiality.
"585. Authorization of arbitration.
"586. Enforcement of arbitration agreements.
"587. Arbitrators.
"588. Authority of the arbitrator.
"589. Arbitration proceedings.
"590. Arbitration awards.
"591. Judicial review.
"592. Compilation of information.
"593. Support services.".

SEC. 5. JUDICIAL REVIEW OF ARBITRATION AWARDS.

Section 10 of title 9, United States Code, is amended—

(1) by redesignating subsections (a) through (e) as paragraphs (1) through (5), respectively;

(2) by striking out "In either" and inserting in lieu thereof "(a) In any"; and

(3) by adding at the end thereof the following:

"(b) The United States district court for the district wherein an award was made that was issued pursuant to section 590 of title 5 may make an order vacating the award upon the application of a person, other than a party to the arbitration, who is adversely affected or aggrieved by the award, if the use of arbitration or the award is clearly inconsistent with the factors set forth in section 582 of title 5.".

SEC. 6. GOVERNMENT CONTRACT CLAIMS.

(a) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 606) is amended by adding at the end the following new subsections:

"(d) Notwithstanding any other provision of this Act, a contractor and a contracting officer may use any alternative means of dispute resolution under subchapter IV of chapter 5 of title 5, United States Code, or other mutually agreeable procedures, for resolving claims. In a case in which such alternative means of dispute resolution or other mutually agreeable procedures are used, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his or her knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. All provisions of subchapter IV of chapter 5 of title 5, United States Code, shall apply to such alternative means of dispute resolution.

"(e) The authority of agencies to engage in alternative means of dispute resolution proceedings under subsection (d) shall cease to be effective on October 1, 1995, except that such authority shall continue in effect with respect to then pending dispute resolution proceedings which, in the judgment of the agencies that are parties to such proceedings, require such continuation, until such proceedings terminate.".

(b) JUDICIAL REVIEW OF ARBITRAL AWARDS.—Section 8(g) of the Contract Disputes Act of 1978 (41 U.S.C. 607(g)) is amended by adding at the end the following new paragraph:

"(3) An award by an arbitrator under this Act shall be reviewed pursuant to sections 9 through 13 of title 9, United States Code, except that the court may set aside or limit any award that is found to violate limitations imposed by Federal statute.".

SEC. 7. FEDERAL MEDIATION AND CONCILIATION SERVICE.

Section 203 of the Labor Management Relations Act, 1947 (29 U.S.C. 173) is amended by adding at the end the following new subsection:

"(f) The Service may make its services available to Federal agencies to aid in the resolution of disputes under the provisions of subchapter IV of chapter 5 of title 5, United States Code. Functions performed by the Service may include assisting parties to disputes related to administrative programs, training persons in skills and procedures employed in alternative means of dispute resolution, and furnishing officers and employees of the Service to act as neutrals. Only officers and employees who are qualified in accordance with section 583 of title 5, United States Code, may be assigned to act as neutrals. The Service shall consult with the Administrative Conference of the United States and other agencies in maintaining rosters of neutrals and arbitrators, and to adopt such procedures and rules as are necessary to carry out the services authorized in this subsection.".

SEC. 8. GOVERNMENT TORT AND OTHER CLAIMS.

Section 2672 of title 28, United States Code, is amended by adding at the end of the first paragraph the following: "Notwithstanding the proviso contained in the preceding sentence, any award, compromise, or settlement may be effected without the prior written approval of the Attorney General or his or her designee, to the extent that the Attorney General delegates to the head of the agency the authority to make such award, compromise, or settlement. Such delegations may not exceed the authority delegated by the Attorney General to the United States attorneys to settle claims for money damages against the United States. Each Federal agency may use arbitration, or other alternative means of dispute resolution under the provisions of subchapter IV of chapter 5 of title 5, to settle any tort claim against the United States, to the extent of the agency's authority to award, compromise, or settle such claim without the prior written approval of the Attorney General or his or her designee.".

SEC. 9. USE OF NONATTORNEYS.

(a) REPRESENTATION OF PARTIES.—Each agency, in developing a policy on the use of alternative means of dispute resolution under this Act, shall develop a policy with regard to the representation by persons other than attorneys of parties in alternative dispute resolution proceedings and shall identify any of its administrative programs with numerous claims or disputes before the agency and determine—

(1) the extent to which individuals are represented or assisted by attorneys or by persons who are not attorneys; and

(2) whether the subject areas of the applicable proceedings or the procedures are so complex or specialized that only attorneys may adequately provide such representation or assistance.

(b) REPRESENTATION AND ASSISTANCE BY NONATTORNEYS.—A person who is not an attorney may provide representation or assistance to any individual in a claim or dispute with an agency, if—

(1) such claim or dispute concerns an administrative program identified under subsection (a);

(2) such agency determines that the proceeding or procedure does not necessitate representation or assistance by an attorney under subsection (a)(2); and

(3) such person meets any requirement of the agency to provide representation or assistance in such a claim or dispute.

(c) DISQUALIFICATION OF REPRESENTATION OR ASSISTANCE.—Any agency that adopts regulations under subchapter IV of chapter 5 of title 5, United States Code, to permit representation or assistance by persons who are not attorneys shall review the rules of practice before such agency to—

(1) ensure that any rules pertaining to disqualification of attorneys from practicing before the agency shall also apply, as appropriate, to other persons who provide representation or assistance; and

(2) establish effective agency procedures for enforcing such rules of practice and for receiving complaints from affected persons.

SEC. 10. DEFINITIONS.

As used in this Act, the terms "agency", "administrative program", and "alternative means of dispute resolution" have the meanings given such terms in section 581 of title 5, United States Code, as added by section 4(b) of this Act.

SEC. 11. SUNSET PROVISION.

The authority of agencies to use dispute resolution proceedings under this Act and the amendments made by this Act shall terminate on October 1, 1995, except that such authority shall continue in effect with respect to then pending proceedings which, in the judgment of the agencies that are parties to the dispute resolution proceedings, require such continuation, until such proceedings terminate.

Mr. GLENN. Mr. President, I rise to make several points concerning the jurisdiction of the Governmental Affairs Committee over S. 971, the Administrative Dispute Resolution Act, which Senator GRASSLEY introduced on May 11, 1989. Among other things, S. 971 would amend the Administrative Procedure Act [APA] to authorize alternative means of dispute resolution. The Parliamentarian referred the bill to the Governmental Affairs Committee, which in turn referred the bill to the Subcommittee on Oversight of Government Management. S. 971 was the subject of a subcommittee hearing, which included the testimony from the bill's sponsor. The committee then spent many months working on improving the bill and incorporating suggestions from the ABA, the Justice Department, the Administrative Conference of the United States, public interest groups and other interested parties. There can be no doubt that the final bill, as favorably reported by the full committee on October 19, 1990, which is being considered by the Senate today, is the product of thoughtful consideration of the APA issues raised in the bill.

Although I am fully supportive of Senate passage of S. 971, as amended by the committee's proposed amendments being offered by Senator LEVIN, I must point out a problem which occurred on Friday, October 19.

Specifically, very late Friday, October 19, 1990, a letter from the chairman and ranking minority members of the Judiciary Committee, and the chairman of the Subcommittee on Courts and Administrative Practice, apparently was hand delivered to the Governmental Affairs Committee offices. That letter was addressed to me as chairman of the Governmental Affairs Committee and Senator ROTH, the committee's ranking minority member. It concerned the jurisdiction of S. 971, and sought to make a record that "for this and future Congresses, [the authors of the letter] feel it is important to reaffirm the Judiciary Committee's jurisdiction over amendments to the Administrative Procedure Act." The letter sought a sequential referral of S. 971 to the Judiciary Committee with an automatic discharge in order not to hold up full Senate consideration of S. 971.

Neither I or my staff became aware of the letter until Monday, October 22. Neither Senator ROTH nor his staff knew of the letter until Monday, October 22. However, on October 19, S. 971 was sequentially referred to the Judiciary Committee for 24 hours by unanimous consent. That sequential referral to the Judiciary Committee was an error.

Moreover, I take issue with the assertion by the Judiciary Committee that it has jurisdiction over all amendments to the APA, or any implication that it has exclusive jurisdiction over APA legislation. The Governmental Affairs Committee has a longstanding history of involvement in and jurisdiction over legislation amending the APA, which is set forth in subchapter II of chapter 5 of title 5, United States Code. Title 5 forms the basis for much of the committee's legislative jurisdiction.

Specifically, the Governmental Affairs Committee has—under its rightful title 5 legislative authority—pursued many matters involving the Administrative Procedure Act, including a long series of hearings and reports on the regulatory process as well as legislation such as S. 971, the previously passed Regulatory Negotiation Act (S. 303), and prior regulatory reform bills. In light of this history, I trust that such an assertion or implication was not the intent of the authors of the letter from the Judiciary Committee to the Governmental Affairs Committee.

I recognize the Judiciary Committee's interest in and involvement in APA matters and particular pieces of legislation. However, the Governmental Affairs Committee does not agree that Judiciary shares jurisdiction over all aspects of the APA. The October 19 sequential referral should not be interpreted any other way.

Mr. LEVIN. Mr. President, I am pleased that the Senate is considering S. 971, the Administrative Dispute Resolution Act, introduced by Senator CHARLES GRASSLEY. This bill was referred to the Subcommittee on Oversight of Government Management, which I chair, and we held a hearing on this innovative legislation last year. Congressman GLICKMAN introduced similar legislation in the House, H.R. 2497, and that was passed by the House on June 5, 1990. The full Governmental Affairs Committee recently voted to favorably report this bill to the Senate with an amendment in the nature of a substitute. That is the bill that is before us now.

I take this opportunity to commend Senator GRASSLEY and his staff for their work in this area and the development of the legislation before us today. I would also like to thank Congressman GLICKMAN and his staff for their parallel effort on the House side. This is an innovative piece of legislation and can result in significant savings in time and money for the Federal Government—something we are in great need of right now.

S. 971 encourages, and establishes procedures for, Federal agencies to use alternative dispute resolution [ADR] to resolve disputes concerning Federal programs. ADR techniques are informal, consensual procedures utilized to reach a resolution by parties in a dispute in lieu of formal litigation. These procedures include settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials and arbitration, or any combination thereof. The goal is to gain more effective, fair, timely, and less costly dispute resolution through the use of informal procedures.

As the former president of the Detroit City Council and a lawyer, I am all too familiar with the enormous burden litigation can place on the parties involved. While there are many instances in which litigation is the appropriate route to reach an effective and fair resolution of a particular dispute, there are also many instances in which a more flexible, consensual method can result in an effective and fair resolution at less cost, in a shorter amount of time, and even with less animosity.

We live in an increasingly complex world, and, as a result, the laws and regulations have become increasingly complex. Oftentimes, complicated situations require innovative approaches. Due to my belief in the promise of such methods, I introduced S. 303, the Negotiated Rulemaking Act which both the Senate and the House passed earlier this year and which is now awaiting final House consideration. The purpose of that bill is to improve the Federal regulatory process by encouraging agencies to use negotiated rulemaking where appropriate. Negotiated rulemaking is a process that attempts to avoid protracted litigation over agency rules by involving the affected parties early in the rulemaking process and having them help craft the draft rule. We have learned through experience in negotiated rulemaking that it works.

Given the positive experience with negotiated rulemaking and the sobering fact that, according to the Administrative Office of the U.S. Courts, in 1989 the total number of civil cases commenced in the United States was over 220,000, it makes sense to promote other innovative methods such as ADR procedures.

Moreover, the use and success of ADR methods as an alternative to litigation in the private sector is growing. More and more lawyers are being trained in ADR methods and over half the law schools in the Nation, now, offer courses in dispute resolution. Also, there are over 360 nonprofit community resolution programs in operation.

States, including my own State of Michigan, have also recognized ADR methods as valuable tools. Over 20 State legislatures have enacted laws establishing statewide mediation centers or other dispute resolution procedures, and there are as many as 275 operating court-related ADR programs of various types in over 40 States.

Federal agencies can currently engage in many ADR techniques such as mediation, and minitrials without express authorization by statute or regulations. In fact, agencies such as EPA, the Army Corps of Engineers, the Merit System Protection Board, and the Department of Justice have individual programs which utilize ADR methods. And, I might add, it is not intended that this bill in any way interfere with ongoing ADR programs. However, up to now, there has been no real government-wide emphasis on the use of ADR techniques, and, therefore, there is little knowledge on the part of many agencies as to what ADR methods exist and what the accepted procedures are for their use. S. 971 would provide needed guidance and support to individual agencies to promote the appropriate use of ADR techniques in the Federal Government.

S. 971 amends the Administrative Procedure Act to authorize parties involved in dispute arising under Federal administrative programs to agree to use ADR methods. It establishes in each agency an ADR expert and an ADR program, including training for key personnel. It requires agencies to review their standard contract, grant, and other program documents to include, where appropriate, inducements for the use of ADR.

At the same time, the bill specifically discourages the use of ADR in cases which may be inappropriate for resolution through ADR methods. These are listed in section 582(b) and stem from the recognition that not all disputes which arise involving the Federal Government are appropriate for submission to ADR methods. For example, agencies should not use ADR if the dispute involves significant policy questions or the dispute is important to establish authoritative precedent. Again, ADR is not aimed at endrunning established Government practice, but is aimed at enhancing, where appropriate, the Government's ability to effectively resolve a dispute.

S. 971 specifically authorizes the use of voluntary, binding arbitration when all parties consent subject to safeguards of justicial review and agency review of the appropriateness of arbitral awards. This is an important provision, since there has been real confusion as to the authority of an agency to enter into arbitration. In fact the

General Accounting Office has interpreted existing law to preclude the use of arbitration by Federal agencies unless such use is specifically authorized by Congress. This provision will make it clear that arbitration is not only available to agencies, but, where appropriate, it is encouraged.

During the subcommittee's consideration of the bill, concern was expressed over the possibility that binding arbitration involving a Federal agency could result in a private citizen, the arbitrator, exercising the constitutional authority of the executive branch. The bill eliminates that problem by allowing an agency head to terminate an arbitration proceeding or to overturn an arbitrator's decision. If the agency head takes such action, however, the agency will be liable to pay the expenses and fees of the party to the arbitration unless the agency head determines that special circumstances make such an award unjust. This process ensures that an officer of the United States is ultimately responsible for the decision reached as the result of an arbitration proceeding, not an outside party. The arbitration proceeding is, in effect, "non-binding" for a period of 30 days.

The bill also establishes standards of confidentiality in ADR proceedings and lays out judicial review procedures. Certain necessary modifications are made to the Federal Acquisition Regulation, Contract Disputes Act, and Federal Tort Claims Act to facilitate the use of ADR in these areas.

S. 971 draws on the experience and expertise of the Administrative Conference [ACUS] and the Federal Mediation and Conciliation Service [FMCS] to further aid agency use of ADR. Agencies are instructed to seek guidance from these two entities. ACUS is required to support, assist, and monitor agency use of ADR. ACUS is also charged with reporting to Congress periodically on agency implementation of the law and with establishing a roster—with the assistance of FMCS—of qualified neutrals for optional use by parties in a dispute. The bill increases the scope of duties for the FMCS to include mediation, training, and other ADR assistance.

Although the provisions of S. 971 are sunsetted on October 1, 1995, as to any new dispute resolution proceedings, that sunset would not affect an agency's ability to use ADR under its own existing authority.

As as matter of clarification, Mr. President, I want to point out that the provision in section 589(c) of the bill pertaining to ex parte proceedings in an arbitration, is the same language in section 557 of the Administrative Procedure Act and is intended to be interpreted the same. Thus, when we use the term "interested person" in section 589(c) we mean to include any party as well.

Mr. President, CBO estimated that the bill could cost up to $1 million for the first several years as a result of increased staffing needs of the Administrative Conference and the Federal Mediation and Conciliation Service. I believe this is an inaccurate estimate, because it does not take into account the amount of savings that will result from using ADR methods as an alternative to litigation, nor does it take into account that ACUS already has extensive expertise in this area. I expect this bill will result in real savings to the agencies that aggressively take advantage of its provisions.

Finally, let me add that there has been concern and some confusion about the extent to which documents used in and prepared for ADR proceedings are to be kept confidential—that is, they are not to be voluntarily disclosed or released "through discovery or compulsory process." Under the terms of Senator KOHL's amendment, the bill would treat only those documents prepared for purposes of an ADR proceeding as dispute resolution communications subject to these confidentiality provisions. Thus, a preexisting document would not be covered. Senator LEAHY's amendment would exclude from that confidentiality restriction, moreover, any such documents which are made available to all parties—as in an arbitration proceeding.

Moreover, with Senator LEAHY's amendment, the bill explicitly provides that nothing in this bill is intended to create a (b)(3) exemption under the Freedom of Information Act [FOIA]. That means that any documents involved in a dispute resolution proceeding would be available to the public from a Federal agency to the extent it is permitted under FOIA.

Mr. GRASSLEY. Will the Senator yield?

Mr. LEVIN. I will be happy to yield to the Senator from Iowa and the sponsor of this bill.

Mr. GRASSLEY. Although we have agreed to incorporate these amendments in the bill at this time, I am concerned that this is not the best approach when it comes to mediation, and I hope we will revisit the issue early next year. One of the keys to making ADR proceedings—particularly mediation—attractive and effective is the ability of the parties to be candid with the neutral in an effort to achieve settlement. That candor requires in proceedings like mediation the expectation of confidentiality with respect to communications prepared for the purpose of the ADR proceeding and given to the neutral in confidence. The provisions in the bill as amended do not, in my opinion, sufficiently address that need for confidentiality.

Mr. LEAHY. Will the Senator yield?

Mr. GRASSLEY. I would be happy to yield to the Senator from Vermont.

Mr. LEAHY. Our staffs have discussed the confidentiality issues involving this bill to some extent over the last few days, but those discussions did not resolve all of the issues. As chairman of the Judiciary Subcommittee with jurisdiction over the Freedom of Information Act, I was unwilling to carve out an exception in this bill from FOIA requirements in the final days of this Congress. I think such a step requires more deliberation. I can pledge, however, to the sponsor of this bill, Senator GRASSLEY, that I will be happy to work with him next year on this issue and try to determine whether certain dispute resolution communications should be exempt from FOIA.

Mr. GRASSLEY. I thank the Senator from Vermont and look forward to working with him on this matter next year. I yield the floor.

Mr. LEVIN. Mr. President, I am pleased that we were able, for purposes of passing this bill this year and getting the ADR process rolling, to temporarily resolve the confidentality issue. As the Administrative Conference of the United States wrote in its recommendation on this subject, "* * * since settlements are essential to administrative agencies, a careful balance must be struck between the openness required for the legitimacy of many agency agreements and the confidentiality that is critical if sensitive negotiations are to yield to agreements."

The provisions in this bill as amended, do not as yet achieve that balance, and I am pleased that both Senators GRASSLEY and LEAHY have agreed to address this issue more completely next year.

The PRESIDING OFFICER. Are there amendments to the committee substitute?

AMENDMENT NO. 3151

(Purpose: To clarify issues suitable for mediation, conciliation, arbitration, and other such techniques)

Mr. REID. Mr. President, I have an amendment which I send to the desk on behalf of Senator PRYOR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] for Mr. PRYOR proposes an amendment numbered 3151.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, line 24, insert the "but shall not extend to matters specified under the provisions of sections 2302 and 7121(c) of title 5" after "decision".

Mr. PRYOR. Mr. President, the amendment that I am offering to S. 971 is short and sweet. I am concerned that alternative dispute resolution [ADR] might further confuse an already confusing area. Federal employees, retirees, and applicants for Federal employment have a number of appeal routes open to them depending on their particular circumstance. If S. 971 is read to overlay these current rights with additional appeal mechanisms, the maze may become impenetrable.

My amendment simply says that S. 971 does not apply to appeals involving pay, health or life insurance, retirement, or certain personnel practices. However, collective bargaining agreements that allow for the use of ADR in areas not covered by my amendment, will not be affected. I believe this clarification is necessary to ensure that an already difficult process is not made impossible. I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3151) was agreed to.

AMENDMENT NO. 3152

(Purpose: To provide clarification of dispute resolution communications, and for other purposes)

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KOHL, proposes an amendment numbered 3152.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, strike out lines 10 through 24 and insert in lieu thereof:

"(5) 'dispute resolution communication' means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participants; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;"

On page 38, line 6, strike out "(7)" and insert in lieu thereof "(6)".

On page 38, line 11, strike out "(8)" and insert in lieu thereof "(7)".

On page 38, line 19, strike out "(9)" and insert in lieu thereof "(8)".

On page 39, line 1, strike out "(10)" and insert in lieu thereof "(9)".

On page 39, line 4, strike out "(11)" and insert in lieu thereof "(10)".

On page 39, line 11, strike out "(12)" and insert in lieu thereof "(11)".

On page 39, line 13, strike out "(13)" and insert in lieu thereof "(12)".

On page 42, line 25, insert "disclose" before "or through".

On page 43, lines 1 and 2, strike out "dispute resolution document or any".

On page 43, line 3, insert before the comma "or any communication provided in confidence to the neutral".

On page 43, lines 6 and 7, strike out "or dispute resolution document".

On page 43, lines 9 and 10, strike out "or document".

On page 43, lines 11 and 12, strike out "or dispute resolution document".

On page 43, line 14, strike out "or document".

On page 43, lines 15 and 16, strike out "provide the document or".

On page 44, line 3, strike out "Except as provided in subsection (d), a" and insert in lieu thereof "A".

On page 44, line 4, insert "disclose" after "voluntarily".

On page 44, lines 6 and 7, strike out "any dispute resolution document or".

On page 44, insert between lines 8 and 9: "(1) the communication was prepared by the party seeking disclosure";

On page 44, line 9, strike out "(1)" and insert in lieu thereof "(2)".

On page 44, line 11, strike out "(2)" and insert in lieu thereof "(3)".

On page 44, lines 11 and 12, strike out "or document".

On page 44, line 13, strike out "(3)" and insert in lieu thereof "(4)".

On page 44, lines 13 and 14, strike out "or dispute resolution document".

On page 44, line 16, strike out "(4)" and insert in lieu thereof "(5)".

On page 45, line 3, strike out "(5) the dispute resolution document or" and insert in lieu thereof "(6) the".

On page 45, lines 9 and 10, strike out "or dispute resolution document".

On page 45, line 13, strike out "or document".

On page 45, line 15, insert before the period "for disclosures by a neutral".

On page 45, line 23, strike out "document or".

On page 46, line 21, strike out "document" and insert in lieu thereof "communication".

On page 46, line 24, strike out "document" and insert in lieu thereof "communication".

Mr. KOHL. Mr. President, I rise today to offer an amendment to S. 971, the Administrative Dispute Resolution Act, introduced by my distinguished colleague, Senator GRASSLEY. This bill would increase Government use of alternative methods of dispute resolution. My amendment ensures openness in the process.

S. 971 would encourage Federal agencies to seek out alternative means of resolving disputes—for example, negotiation, mediation, arbitration—without going to court for a full-blown trial. Alternative procedures benefit both the parties who are seeking redress and the Federal Government. The private parties can expect to have their grievances heard and addressed more quickly and inexpensively than would be the case in a trial. At the same time, the Government agency saves time and money in alternative dispute resolution instead of a lengthy lawsuit.

These desirable ends, however, should not be bought at the price of a free and open process. Public access to court proceedings and to court records is a long-established tradition in our country. The Constitution's framers considered an open court system essential to maintain public confidence in the judicial branch. As a substitute for a court trial, alternative dispute resolution should also be open.

Still, we must recognize that for mediation and arbitration to be effective there must be a degree of confidentiality. Parties cannot negotiate candidly if settlement offers and certain other internal documents are subject to later release. Indeed, very few parties would even elect to use an alternative dispute resolution procedure if that were the case.

My amendment strikes the proper balance between disclosure and confidentiality. Under this bill, as amended, only dispute resolution communications may be kept confidential by the parties. Such communications do not include anything that existed before the beginning of the resolution process. Any my amendment makes clear that the terms of final awards and settlements also cannot be shielded from disclosure. By redefining the term "dispute resolution communication" the amendment creates a presumption of openness, but it keeps a narrowly crafted exception for items that must be kept secret for the process to work. Equally important, S. 971 retains language allowing a court to release communications that may help prevent harm to public health or safety, even if they would otherwise be confidential.

Some people have suggested that this bill could remove some communications from the reach of the Freedom of Information Act. But with the amendment by Senator LEAHY, this clearly will not be the case. And I understand that we will revisit the relationship between today's alternative dispute resolution measure and FOIA in the next Congress.

Mr. President, the intent of S. 971 is clearly beneficial. The measure will save time and money while promoting equitable results. My amendment will not dilute the effectiveness of alternative dipsute resolution; rather, it will simply make a good bill better by ensuring public access to the dispute resolution process.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3152) was agreed to.

AMENDMENT NO. 3153

(Purpose: To clarify the confidentiality of dispute resolution communications, and for other purposes)

Mr. REID. Mr. President, I send an amendment to the desk on behalf of

Senator LEAHY and ask for its immediate consideration.

Mr. REID. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEAHY, proposes an amendment numbered 3153.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, line 2, strike out "confidential." and insert "confidential; or".

On page 44, insert between lines 2 and 3:

"(6) the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding."

On page 46 after line 25 insert:

"(j) This section shall not be considered a statute specifically exempting disclosure under section 552(b)(3) of this title."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3153) was agreed to.

AMENDMENT NO. 3154

(Purpose: To provide for the award of attorney fees and expenses in arbitration awards under certain circumstances, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk for Senator GRASSLEY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. GRASSLEY, proposes an amendment numbered 3154.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, strike out lines 1 through 6 and insert in lieu thereof:

"(g) If an agency head vacates an award under subsection (c), a party to the arbitration (other than the United States) may within 30 days of such action petition the agency head for an award of attorney fees and expenses (as defined in section 504(b)(1)(A) of this title) incurred in connection with the arbitration proceeding. The agency head shall award the petitioning party those fees and expenses that would not have been incurred in the absence of such arbitration proceeding, unless the agency head or his or her designee finds that special circumstances make such an award unjust. The procedures for reviewing applications for awards shall, where appropriate, be consistent with those set forth in subsection (a)(2) and (3) of section 504 of this title. Such fees and expenses shall be paid from the funds of the agency that vacated the award.

Mr.GRASSLEY. Mr. President, this amendment provides that in those rare cases where the agency head vacates an arbitral award, a private party may within 30 days of the award petition the agency for an award of attorney fees and expenses incurred in connetion with the arbitration. An award will be made unless the agency head finds that special circumstances would make an award unjust under the circumstances.

The purpose of the amendment, which was developed in consultation with our colleagues in the other body and which restores almost all of the House language, is to restore the private party to the status quo before the commencement of the arbitration. The mechanics of the award process will generally follow that of the Equal Access to Justice Act, though not literally, since in this case the private party has not "prevailed" under the terms of EAJA—at least not at this point. However, we believe it is important to not create a financial disincentive for parties to seek arbitration; such a disincentive may result if agency heads routinely vacate arbitral awards, after private parties have incurred substantial attorney costs and expenses

Mr. President, I candidly hope and expect that this particular provision will not often come into play. If appropriate, I will be pleased to revisit the matter after Congress has an opportunity to assess the use of arbitration by Government agencies.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3154) was agreed to.

Mr. GRASSLEY. Mr. President, as one who as long been committed to the use of alternative dispute resolution techniques, I am very pleased that this day has come in the U.S. Senate. I am grateful to my colleagues on the Committee on Governmental Affairs, particularly the chairman of the Subcommittee on Oversight, Senator LEVIN from Michigan, for his stewardship of my legislation through the committee. Thanks are also due to Representative GLICKMAN of Kansas, the sponsor of the companion bill to mine in the other body.

Several years ago, with the able assistance of the Administrative Conference of the United States, chaired by Marshall Breger, I introduced the first comprehensive Federal agency ADR bill, to apply some of the techniques that are revolutionizing the civil justice system in the States. The version we approve today is one that has been refined and honored through committee hearings and hours of discussion with those knowledgeable in and out of Government. I am confident that S. 971 will mark the beginning of an era of more consensual resolution of agency disputes with the public.

Mr. President, this development comes not a minute too soon, because resort to traditional litigation is threatening to overload our civil justice system, in both the courts and the agencies.

It is a fact of life in our sprawling government that Federal agencies are a party to more disputes with the public than ever before: Contract and benefits disputes, formal rulemakings and adversary adjudications, enforcement actions and license revocations. Administrative proceedings, once thought of as being less formal than traditional litigation, have come to mimic the worst aspects of the courts, complete with delays, costs and uncertainties. Our Federal scheme allows for review of agency actions in the courts, permitting in some cases both trial and appellate lawyers of review. But Judicial review cannot be meaningful when it takes so long or is too costly. Justice delayed really is justice denied. We must find and encourage alternatives; that is what ADR is all about.

This legislation—the Administrative Dispute Resolution Act of 1990—will encourage agencies and private parties to use ADR methods, including arbitration, mediation, minitrials and negotiations, where these methods are consistent with the public interest and when the parties agree.

The bill adds a new subchapter to the Administrative Procedure Act [APA], titled "alternative means of dispute resolution in the administrative process", which addresses comprehensively the issues that arise in ADR procedures. Except in cases of arbitration—the most "trial like" of the methods—S. 971 leaves it to the parties to frame the issues and the procedures. The bill is premised on voluntariness; no one can be forced to submit to an ADR proceeding against his or her wishes. For those agencies that have already experimented successfully with ADR—and our hearing record demonstrated these successes—nothing in S. 971 will cut back on their existing authority. Each agency will promulgate its own rules, after taking public comment, to fit ADR into the array of current procedures. Thus the firm statutory foundation provided by S. 971 will be shaped to fit the details of agency programs and disputes.

Even in the case of arbitration, the procedures spelled out are carefully made flexible. Again, ADR is made noncompulsory; all parties consent is essential. Another improtant element, confidentiality, is also provided for communications made to the neutral during the course of ADR proceedings. Thus the bill prevents the ADR procedure from being unfairly used as a "dry run" for a subsequent litigation.

Of course, even private disputes can raise public policy questions that are inappropriate for ADR. The bill carefully recognizes this, and exempts entire categories of cases from cover-

age, such as cases in which precedent is important, or where a significant government policy is at stake, or when others not a party would be substantially affected, among other cases. Nor does S. 971 change current law with respect to the traditional presumption of openness of agency practices. The bil is intended to be applied in a way consistent with the Freedom of Information Act, as the bill makes explicitly clear, at the request of Senator LEAHY. Since an arbitration proceeding, for example, resembles an ADR or judicial hearing in some respects, the evidence presented during the hearing which forms the basis for the arbitrator's decision will be available to the public. Second, documents that are exchanged among all the parties to a dispute resolution should be treated the same way, in terms of public availability, as they would in cases without a neutral.

Thus S. 971 is not heavy handed, nor does it auger forth an era of "private justice" on public policy in a public forum. Rather, it explicitly adds another arrow in the dispute resolution quiver of agencies and the public, giving them an opportunity to experiment with ADR when its use in the public interest. And while no agency is required to use ADR, I am quite confident that once they try it, both agency and the public will wonder how they lived without it for so long.

Mr. President, during the development of the legislation concerns were expressed by the Department of Justice about the use of arbitration where a private party acts as a neutral. The bill reported by the committee addresses any remaining fears about the constitutionality of such an approach by giving an agency head involved in an arbitration a 30-day window during which an arbitral award can be vacated. During this period, the award is essentially nonbinding. Should 30 days elapse without a move to vacate, the arbitral award against the agency is final and enforceable in the courts pursuant to title 9 of the United States Code. In those rare cases where the agency head vacates an award, the agency must pay to the private party all expenses incurred in the proceeding, unless special circumstances warrant against such an award. Thus the private party is "made whole" in terms of the costs associated with the arbitration and is no worse off financially than before agreeing to arbitrate. This compromise provision, developed in consultation with the other body, accommodates the concerns of the Justice Department while providing a disincentive for the routine vacating of an arbitral award.

The bill also establishes the administrative conference [ACUS] as a clearinghouse for data on ADR proceedings handled by agencies will share than information. The bill also authorizes the Federal Mediation and Conciliation Service to make its services available to Federal agencies. These services include training, furnishing of neutrals and maintenance of rosters of neutrals in consultation with ACUS.

The bill amends other statutes such as the Contracts Disputes Act and Federal Tort Claims Act to authorize and encourage resolution of relatively small dollar claims. The bill also authorizes each agency to adopt policies permitting the use of nonattorneys in ADR proceedings.

Finally, though the bill sunsets agency authority to use ADR on October 1, 1995, I feel certain that informed congressional oversight will prove the worth of ADR well beyond the sunset date. Indeed, I expect these procedures, including arbitration, to become a staple of the administrative process.

Mr. ROTH. Mr. President, as a cosponsor of S. 971, the Administrative Dispute Resolution Act, I am pleased to see that we are considering this worthwhile legislation and urge its adoption. S. 971 would encourage Federal agencies to use the types of alternative dispute resolution procedures that have proven so cost-effective in the private sector. By providing a framework for the use of such alternatives as mediation and arbitration, more widespread acceptance and use will be fostered within the Federal Government. I hope that Congress will be able to enact this legislation before we adjourn, and in that regard, I am surprised that its progress was slowed by an unnecessary detour to the Judiciary Committee. Last Friday night, without my clearance and without the clearance of the chairman of the Committee on Governmental Affairs, the bill was sequentially referred. The Governmental Affairs Committee—the committee of jurisdiction—has worked long and hard to address all legitimate concerns and this bill is ready for our approval.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

Mr. REID. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 2497, and that the Senate then proceed to its immediate consideration, that all after the enacting clause be stricken, and the text of S. 971, as amended, be inserted in lieu thereof; that the bill be advanced to third reading and passed and the motion to reconsider be laid upon the table, and that S. 971 then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2497), as amended, was passed.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION AUTHORIZATION ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 565, S. 1839, the NTIA authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1839) to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3155

(Purpose: To make an amendment in the nature of a substitute)

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator INOUYE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. INOUYE, proposes an amendment numbered 3155.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That there is authorized to be appropriated for activities of the National Telecommunications and Information Administration $14,554,000 for fiscal years 1990 and $18,000,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1991.

SEC. 2. (a) THE CONGRESS FINDS THAT—

(1) the Pacific Ocean region is of strategic and economic importance to the United States;

(2) other nations, especially the Soviet Union and Japan, are seeking to increase their influence in this region.

(3) because the Pacific Basin communities are geographically isolated and because many are relatively poor, they are in great need of quality, low-cost communications

services to maintain contact among themselves and with other countries;

(4) from 1971 until 1985, such communications needs were satisfied by the Pan-Pacific Educational and Cultural Experiments by Satellite Program (hereinafter referred to as the "PEACESAT Program") operating over the ATS-1 satellite of the National Aeronautics and Space Administration;

(5) the ATS-1 satellite ran out of station-keeping fuel in 1985 and has provided only intermittent service since then;

(6) the Act entitled "An Act to provide authorization of appropriations for activities of the National Telecommunications and Information Administration", approved November 3, 1988 (Public Law 100-584; 102 Stat. 2970), authorized $3,400,000 in funding during fiscal year 1988 and 1989 for re-establishing the communication network of the PEACESAT Program;

(7) Congress appropriated $1,700,000 for fiscal year 1988 and $200,000 for fiscal year 1989 for the purposes of re-establishing the communications network of the PEACESAT Program;

(8) since 1988, significant progress has been made to ensure resumption of this vital communications service by repairing earth terminals in the Pacific communities, by identifying the short-term and long-term needs of the residents of these communities, and by negotiating to acquire the use of the GOES-3 satellite owned by the National Oceanic and Atmospheric Administration, which is expected to provide service from 1990 to 1994;

(9) the National Telecommunications and Information Administration will issue a contract for the design and construction of earth terminals to work with the GOES-3 satellite by early 1990 that will exhaust the funds previously appropriated;

(10) additional funding will be necessary for fiscal year 1990 and 1991 to pay for the costs of operating the GOES-3 satellite, for installing the earth stations and training engineers to operate them, and for administering the program; and

(11) additional but undetermined funding may also be necesary in fiscal year 1991 to begin acquiring replacement satellite capacity for the GOES-3 satellite after it goes out of service.

(b) It is the purpose of this section to assist in the acquisition of satellite communications services until viable alternatives are available and to provide interim funding in order that the PEACESAT Program may again serve the educational, medical, and cultural needs of the Pacific Basin communities.

(c)(1) The Secretary of Commerce shall expeditiously negotiate for and acquire satellite space segment capacity and related ground segment equipment to provide communications services for former users of the ATS-1 satellite of the National Aeronautics and Space Administration.

(2)(A) The Secretary of Commerce shall provide to the manager of the PEACESAT Program such funds, from appropriations authorized under subsection (d) of this section, as the Secretary considers necessary to manage the operation of the satellite communications services provided with the capacity and equipment acquired under this subsection.

(B) The recipient of funds under subparagraph (A) of this paragraph shall keep such records as may reasonably be necessary to enable the Secretary of Commerce to conduct an effective audit of such funds.

(C) The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipient that are pertinent to the funds received under subparagraph (A) of this paragraph.

(d) There are authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for fiscal year 1991 for use by the Secretary of Commerce in the negotiation for and acquisition of capacity and equipment under subsection (c)(1) of this section and the management of the operation of satellite communications services under subsection (c)(2) of this section. Sums appropriated pursuant to this subsection may be used by the Secretary of Commerce to cover administrative costs associated with the provisions of this section.

(e) The Secretary of Commerce shall consult with appropriate departments and agencies of the Federal Government, representatives of the PEACESAT Program, and other affected parties regarding the development of a long-term solution to the communications needs of the Pacific Ocean region. Within one year after the date of enactment of this Act, the Secretary of Commerce shall report to the Congress regarding such consultation.

SEC. 3. (a) It is the purpose of this section to improve the ability of rural health providers to use communications to obtain health information and to consult with others concerning the delivery of patient care. Such enhanced communications ability may assist in—

(1) Improving and extending the training of rural health professional; and

(2) improving the continuity of patient care in rural areas.

(b) The Secretary of Commerce, in conjunction with the Secretary of Health and Human Services, shall establish an advisory panel (hereafter in this section referred to as the "Panel") to develop recommendations for the improvements of rural health care through the collection of information needed by providers and the improvement in the use of communications to disseminate such information.

(c) The Panel shall be composed of individuals from organizations with rural constituencies and practitioners from health care disciplines, representatives of the National Library of Medicine, and representatives of different health professionals schools, including nurse practitioners.

(d) The Panel may select consultants to provide advice to the Panel regarding the types of information that rural health care practitioners need, the procedures to gather and disseminate such information, and the types of communications equipment and training needed by rural health care practitioners to obtain access to such information.

(e) Not later than 1 year after the Panel is established under subsection (b), the Secretary of Commerce shall prepare and submit, to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources of the Senate and to the Committee on Energy and Commerce of the House of Representatives, a report summarizing the recommendations made by the Panel under subsection (b).

(f) There is authorized to be appropriated to the Secretary of Commerce to carry out this section $1,000,000 to remain available until expended.

SEC. 4. (a) Section 226 of the Communications Act of 1934 (47 U.S.C. 226) is amended by striking "30" each place it appears in subsection (b) (1) and (2), subsection (c)(1), and subsection (h)(1)(A) and inserting in lieu thereof "90".

(b) Section 226(b)(1) of the Communications Act of 1934 (47 U.S.C. 226(b)(1)) is amended—

(1) in subparagraph (H) by adding "and" at the end;

(2) in subparagraph (I) by striking "; and" and inserting in lieu thereof a period; and

(3) by striking subparagraph (J).

Mr. INOUYE. Mr. President, I rise today to offer an amendment in the nature of a substitute to S. 1839, the NTIA authorization bill for fiscal years 1990 and 1991 and to support final passage of this amendment by the Senate. This substitute is noncontroversial and enjoys the support of Senator HOLLINGS, chairman of the Commerce Committee.

This bill makes several small but nevertheless significant changes in the law. First, the bill reauthorizes funding for the National Telecommunications and Information Administration for fiscal years 1990 and 1991. NTIA fulfills a valuable role as an independent, unbiased adviser to the President on communications policy. I expect NTIA to continue to maintain that independence and to consider all points of view in making its recommendations.

The substitute retains the authorization figure for fiscal year 1990 of $14,554,000, the same amount proposed in the President's budget for that year. The substitute increases NTIA's authorization amount for fiscal year 1991 by $3 million to a total of $18 million. The purpose of this additional authorization is to permit NTIA to expand its international activities, especially regarding Eastern Europe. These funds are needed to support field assessments of the telecommunications needs and priorities of Eastern European countries, to evaluate the spectrum management systems of those countries and develop recommendations for improvements in such systems, to support education and training programs for Eastern European telecommunications professionals, to support pilot projects to assist the development and operation of private telecommunications or broadcasting facilities in Eastern Europe, and to provide grants for market research projects by small and medium-sized United States telecommunications companies seeking to do business in Eastern European countries.

In carrying out this initiative, NTIA should cooperate with and draw upon the expertise of the Federal Communications Commission, the Corporation for Public Broadcasting, and other private sector telecommunications and broadcasting entities.

No later than April 1, 1991, NTIA should submit a report to the Senate Committee on Commerce, Science, and Transportation and the House Com-

mittee on Energy and Commerce on the status of the Eastern European telecommunications initiative. This report shall describe the results to date of the field assessments of telecommunications needs and priorities of Eastern European countries, the status of projects begun under the initiative and NTIA's plans for continuing these projects, and assess the competitive position of the United States telecommunications industry in the Eastern European market relative to foreign telecommunications entities.

The bill also reauthorizes the Peacesat Program, which was first authorized in the NTIA authorization bill for fiscal years 1988 and 1989. NTIA has made substantial progress in restablishing the Peacesat Program. It has secured the agreement of the National Oceanic and Atmospheric Administration to move and use a GOES satellite for the Peacesat Program. It has also contracted for the construction and installation of several Earth terminals in the Pacific for the purpose of providing the Peacesat service. Because of these successful efforts, the Peacesat Program will once again provide the only means by which many island communities can maintain contact with the developed world. We expect NTIA to continue to monitor the Peacesat Program, to ensure that additional Earth terminals are installed in the Pacific region and that the Peacesat Program continues to expand. We also expect NTIA to continue its efforts to locate and contract for additional satellite capacity necessary to replace the GOES satellite beyond the end of 1994.

This substitute also includes an additional authorization of $1 million in funding to the Secretary of Commerce so that he may convene, along with the Secretary of Health and Human Services, a panel to consider ways of satisfying the needs of rural health care providers for enhanced telecommunications facilities and services. This amendment is supported by the National Rural Health Association and Senator BURDICK.

Last month, the Office of Technology Assessment [OTA] released a significant report detailing the severe difficulties faced by rural health care providers, especially nurse practitioners, in keeping up with the latest advances in medical science. The report makes clear that the lack of adequate telecommunications facilities makes it very difficult for rural health practitioners to provide health care using the same advanced and essential information that is available to those serving the urban areas.

Often the rural health care provider is a solo practitioner and does not share the advantage his urban counterpart has in being able to consult with a number of specialists. Rural providers are unable to attend conferences unless they leave the community without health care coverage. Additionally, rural practitioners do not have access to continuing education offerings and considerable library holdings that are typically available to urban practitioners in large teaching hospitals. Consequently, rural providers often practice in professional isolation, with numerous barriers to practicing state of the art health care delivery. As a result, the quality of health care delivery in rural areas can be directly affected.

Enhanced telecommunications can be designed to provide the capacity to move information from sources such as the National Institutes of Health and the divisions of the Public Health Service to rural health care delivery systems more rapidly and broadly. Such telecommunications abilities can improve decisionmaking and health service delivery in rural areas. Telecommunications systems can make remote services available locally and improve the flow of educational and administrative information, including patient and provider education and administration, as well as patient care.

The study authorized by this bill is intended to be the first step toward a wide-ranging plan to address the needs of rural health care providers. The OTA report identified the problems suffered by rural health care providers; the study authorized by this bill will begin to set forth a plan for solving these problems. It is my intention to seek additional funding to implement the recommendations of this study once it is completed. I strongly urge my colleagues to join me in supporting this effort to address the needs of rural health care providers through improved communications facilities and services.

Finally, Mr. President, in response to several requests from the telephone companies, this bill contains two small amendments to the recently enacted operator services legislation. This bill cleared the Congress by unanimous consent just 3 weeks ago. The particular provisions which the telephone companies seek to have changed were included in the version of the bill that the committee reported out last June. The telephone companies, however, did not bring their concerns about these provisions to the attention of my staff until last week. I am disappointed that the telephone companies did not bring this information to us sooner.

Nevertheless, I am always willing to be cooperative, and it appears that the changes that the telephone companies have suggested to have merit. The first change would delete the provision that bars a telephone company from providing service when a caller uses another company's "proprietary" calling card. The provision was intended to protect consumers from being charged rates that are higher than the rates of the company that issued the card. After further reflection, however, it appears that the consumer will be protected even without this provision because of the way the market operates. First, the consumer can ensure that he or she receives service from the carrier issuing the card by simply dialing that carrier's access code. Second, it is unlikely that the company issuing the proprietary calling card will allow another company to provide the service and bill the call to the calling card unless that carrier's rates are reasonable. Otherwise the caller will complain to the company issuing the card.

I believe that regulation, in general, should only be imposed where necessary. For this reason, I have agreed to delete the provision in the bill which prohibits carriers from billing when the customer uses another carrier's proprietary card. This change is agreed upon by all the interested parties to this legislation and is noncontroversial.

The second provision would extend the time period for compliance with the law from 30 days to 90 days. The 30-day provision appeared to be reasonable when it was adopted by the committee in June because it was understood that the telephone companies would be visiting their pay telephone once every month simply to empty the coins collected in each machine.

Subsequent information provided by the telephone companies indicates that some day telephones, especially in rural areas, may not be visited for 2 or 3 months. It now appears that it will be impossible for the telephone companies to post stickers on all their pay telephones, upgrade their software to allow them to identify themselves twice on every call, and amend their contracts with aggregators all within 30 days. An extension until 90 days would avoid subjecting the telephone companies to the penalty provisions in the Communications Act for noncompliance. The changes included in this bill will thus extend the time period for compliance without causing any substantial consumer inconvenience. All the interested parties have also agreed to this change.

In sum, I believe that the substitute bill I offer today addresses a number of needs that have long gone unmet. It is time that Congress step forward to take responsibility to ensure that the benefits of modern engineering and technology can be brought to all citizens of this world, whether they be residents of rural areas or Eastern Europeans. I strongly urge my colleagues to join me in supporting the substitute amendment and the passage of S. 1839, as amended.

Mr. HOLLINGS. Mr. President, the National Telecommunications and Information Administration [NTIA] plays a vital role in setting and coordinating the Nation's telecommunications policy. This role is becoming more and more difficult, as the advances in telecommunications technology raise new policy issues before the old issues have been resolved. The precedents and traditions of the past will no longer serve as in the future. Each issue requires an independent review, each problem a fresh look.

NTIA has taken these responsibilities and for the most part has fulfilled them. Although it has taken some positions with which I disagree, such as on our cable legislation, I believe that NTIA has demonstrated a sincere desire to maintain its integrity while struggling with several contentious issues.

Senator INOUYE has worked hard to craft this consensus, noncontroversial substitute amendment to reauthorize NTIA. I am pleased to join him in supporting this amendment and urge my colleagues to vote for S. 1839, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3155) was agreed to.

The PRESIDING OFFICER. Without objection, the bill is deemed read a third time.

Mr. REID. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 3310, the House companion bill, that all after the enacting clause and the text of S. 1839, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3310), as amended, was passed.

Mr. REID. Mr. President, I ask unanimous consent that S. 1839 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EMPLOYER RETIREMENT SECURITY ACT AMENDMENTS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5872, a bill to amend title I of the Employee Retirement Income Security Act of 1974, now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5872) to amend title I of the Employee Retirement Income Security Act of 1974 to require qualifying employer securities to include interest in publicly traded partnerships.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SIMON. Mr. President, I rise in support of H.R. 5872. This legislation is noncontroversial legislation that is identical to a bill, S. 868, introduced by myself and Senator ALAN DIXON last year. The legislation simply conforms the treatment of the profit-sharing plans of publicly traded partnerships to that of corporations. It would permit the profit-sharing plans of publicly traded partnerships to invest in units of the employer partnership. Corporate profit-sharing plans can already do this.

Mr. President, the employees of publicly traded partnerships deserve the same opportunity to share in the success of their employer as the employees of corporations. Without this legislation, thousands of employees who would otherwise benefit from their profit-sharing plan's investment in the employer's units will continue to be at a relative disadvantage to a corporation's employees. I urge swift passage of this legislation.

The PRESIDING OFFICER. Without objection, the bill is deemed read a third time and passed.

So the bill (H.R. 5872) was passed.

Mr. REID. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, FISCAL YEAR 1991

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 814, S. 2287, the NASA authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2287) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3156

(Purpose: To make an amendment in the nature of a substitute)

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senators GORE, HOLLINGS, DANFORTH, and PRESSLER as a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. GORE (for himself, Mr. HOLLINGS, Mr. DANFORTH, and Mr. PRESSLER) proposes an amendment numbered 3156.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. GORE. Mr. President, I am pleased to bring the NASA authorization bill, which is vital to the future of the U.S. space program, to the Senate for its consideration. It is the result of many weeks of hearings and countless hours of deliberations by members of the Subcommittee on Science, Technology, and Space. The bill is an essential element in our effort to continue preeminence of the United States in the areas of aeronautics and space.

I am also happy to report to my colleagues that this amendment, which I offer today on behalf of myself, Senator HOLLINGS, Senator DANFORTH, and Senator PRESSLER, has been worked out with our colleagues in the House of Representatives. Passage of this legislation today by the Senate, followed by its adoption by the House, will ensure that the Congress has provided its guidance to NASA on the future direction of the U.S. space program. This is particularly critical in light of our failure last year to reach an agreement on such a bill for fiscal year 1990.

S. 2287, as amended, authorizes more than $15.023 billion for NASA in fiscal year 1991, an increase of 22 percent over fiscal year 1990 program levels. This increase is needed to continue work on a wide variety of ongoing programs, as well as to begin work on NASA's new start in fiscal year 1991: the Earth observing system [EOS]. The bill also authorizes funds in fiscal year 1991 for continued operation of the Department of Transportation's Office of Commercial Space Transportation, the National Space Council, and the Office of Space Commerce in the Department of Commerce.

Mr. President, I will be the first to admit that the last several months have been difficult ones for the space program in this country. The temporary loss of many of the scientific capabilities of the Hubble space telescope, persistent fuel leaks that grounded the space shuttle fleet for much of the year, and design shortcomings of the space station freedom are the most visible problems affecting public confidence in NASA and its

ability to manage the resources committed to the U.S. space program.

There are many theories why NASA has faced these latest challenges, as well as a great deal of debate as to whether they reflect problems within the system or problems with specific programs. I await completion of the Augustine Commission's work later this year, for its conclusions on NASA's ability to manage the planned expansion of the space program. I can assure my colleagues that the subcommittee will continue its oversight of NASA and the U.S. space program, working to return both to their position of worldwide preeminence.

Mr. President, I would like now to summarize briefly the major provisions of the bill before us. Funding is authorized in this bill for the continued development of the space station Freedom, the production and operation of a safe and reliable space shuttle, and significant growth in the space sciences. The bill provides full funding of the National Aerospace plane, and enhanced funding for aeronautical research and technology development programs that are critical to this Nation's continued leadership in civil and military aviation.

The bill also provides enhanced funding and new start status for the Earth observing system and the Earth probes, major components of NASA's mission to planet Earth and the agency's contribution to the U.S. global change research program. It also fully authorizes Admiral Truly's stated priorities for fiscal year 1991—research and program management, which funds all civil service staff, maintenance of facilities, and R&D contract support—and provides the President's request for the construction of facilities account.

There are a number of provisions that were adopted by our colleagues in the House that have been included in this compromise legislation. For example, language has been included that directs NASA to undertake a flight test of the solar dynamic program on the space station Freedom. In the spirit of compromise, this language was included in this legislation, and, if the space station program is fully funded, this flight test may be justified. However, at a significantly reduced appropriations level for the space station program, NASA cannot be expected to undertake work on a full flight test in fiscal year 1991.

A second area on which I feel compelled to comment is title II, which requires the procurement of commercial launch services. Title II of the legislation is intended to foster space commercialization and to support our current space launch and satellite industries. In adopting this provision, there is no intent on our part to adversely affect contracts in existence at time of enactment of this legislation or, for that matter, the unexercised options of those existing contracts. I strongly support a robust and commercial space industry that benefits both the Federal Government and the industry and contributes to our Nation's competitiveness, and I believe this clarification will benefit all involved parties.

In total, Mr. President, this bill will provide the guidance and resources needed for growth of the U.S. space program in the 1990's. It thus will ensure continued leadership in aeronautics and space by the United States. It does this by emphasizing current program requirements: the space station, space shuttle, aeronautics, and a wide range of important space sciences.

Mr. President, the bill before us does not provide the authority for the administration to begin its mission for manned exploration of the Moon and Mars, referred to as the space exploration initiative. This is consistent with action taken by the Commerce Committee earlier this year when it reported S. 2287.

Funds have been included in this bill for several specific on-going programs that the President packaged under the Moon/Mars heading. However, let me caution that we have authorized funds only for those programs that have applications to initiatives other than the human exploration of the Moon and Mars. Specifically, this includes funds for the advanced launch system program, heavy-lift launch vehicle studies, the Lunar and Mars observers, and the advanced program funds for space suits and solar dynamic programs associated with the space station program. But let me make clear, we do not endorse the undertaking of the space exploration initiative in fiscal year 1991, and the bill does not fund those program increases requested to support the Moon/Mars mission.

I support the concept of manned exploration of Mars, having joined the late Democratic Senator Spark Matsunaga in advocating such a mission years ago. It is consistent with my belief that NASA must have a long-term focus.

However, this administration must have a long-term focus on how it plans to pay for the Moon/Mars mission. While estimates vary, some experts project the total cost of such a mission to be upwards of $500 billion over the next several decades.

To get the Moon/Mars mission underway in fiscal year 1991, NASA has requested $188 million in new funds. That amount ramps up very quickly, however, increasing to $444 million in fiscal year 1992, and up to almost $1.1 billion by fiscal year 1995.

In the current fiscal environment, particularly in light of expected constraints on future non-defense discretionary expenditures, the growth in NASA's budget needed to support the funding increases for a possible Moon/Mars mission, as well as the space shuttle program, development and launch of the space station Freedom, and initiation of NASA's mission to Planet Earth, is, at best, unlikely.

Mr. President, we need to give careful consideration to a possible mission for human exploration of the Moon and Mars before committing hundreds of billions of dollars to it. Very simply, it must be better defined: we currently have no idea of how such a mission would be structured, the total cost of such an effort, its scientific objects, or the level of international partnership. I strongly believe the American people will benefit from such a review.

I agree with President Bush that funding for the U.S. space program must increase significantly. NASA is an essential part of our effort to make America more competitive. It plays a critical role in developing new technologies that apply to industries throughout our economy. And it helps to attract this Nation's youth to the technical fields of science, engineering and math.

But we must take into account the prevailing fiscal realities. Given the fact that the annual funding requirements of virtually every NASA project; increase as they mature, we simply cannot undertake every program. To do so without a long-term plan in which revenues are dedicated to support growth in NASA's budget could do damage to those other ongoing programs that have such strong support. That has been the committee's approach on this bill: fund ongoing programs first, and when appropriate, such as the clearly defined EOS and the Earth probes programs, initiate a new start.

Before concluding, Mr. President, I ask unanimous consent to include in the CONGRESSIONAL RECORD, at the end of my statement, a brief summary of the major provisions of S. 2287, as amended, as well as a table highlighting NASA program funding levels included in this bill.

Mr. President, I believe this is a bill that provides strong support for the U.S. aeronautics and space program. It is also a realistic bill. I hope it will be supported by the Senate today, and I urge its adoption.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2287, NASA AUTHORIZATION ACT, FY 1991

I. NASA FUNDING LEVELS

Bill authorizes $15.023 billion in FY 1991 for the National Aeronautics and Space Administration [NASA]. This represents a $2.726 billion increase over FY 1990 funding levels (22 percent).

SUMMARY TABLE

[In billions of dollars]

	1990 Oper. plan	Pres. request	Proposed auth.
R&D	5.246	7.074	6.968
Space flight	4.556	5.289	5.293
Const/Facil.	.437	.498	.498
R&PM	2.049	2.253	2.253
IG	.009	.011	.011
NASA total	12.297	15.125	15.023

RESEARCH AND DEVELOPMENT

Space Station—Limits previous spending authority to $2.451 billion in FY 1991 for continued development of the Space Station Freedom. Within this amount, the bill directs NASA to conduct a flight test on the Space Station Freedom of the solar dynamic power program.

Space Transportation Capability—Authorizes $723.4 million, with a $50 million reduction to the Orbital Maneuvering Vehicle, consistent with NASA's termination of this program. The bill fully funds the Advanced Launch System program and heavy-lift launch vehicle studies.

Space Science—Authorizes the President's request of $985 million for Physics and Astronomy programs. For Life Sciences, the bill authorizes $168.4 million, with $5 million added for Lifesat payload development and $400,000 added for space food processing and bioregenerative life support modeling assessments. For Planetary Exploration, the bill authorizes $337.2 million, which does not include funding for the CRAF/Cassini mission (authorized separately).

CRAF/Cassini—Authorizes $1.6 billion for the full program cost of the CRAF/Cassini mission, with periodic reporting requirements.

Earth Sciences—Authorizes $542.5 million for Earth Science programs in FY 1991, which is in addition to the $132 million previously authorized for the Earth Observing System (EOS). Of the authorized amount, $5 million is provided for an advanced sensor technology demonstration program. The President's request is augmented with funds for the Total Ozone Mapping Spectrometer Earth Probe ($10 million), development of an earth science data director ($2 million), and conversion of defense and intelligence remote sensing data for civilian research use ($1 million).

Space Applications—Authorizes the President's request of $97.3 million for Materials Processing in Space and $36.8 million for Information Systems. Of the $52.8 million authorized for Communications programs, not more than $2 million is provided for experimenter ground stations for the Advanced Communication Technology Satellite.

Commercial—Authorizes the President's request of $101 million for Technology Utilization programs and the Commercial Use of Space.

Aeronautics and Space Technology—Authorizes $537 million for Aeronautical Research and Technology. This amount reflects the President's request with $25 million added for subsonic technology and $15 million for high speed computing programs, as well as a $15 million general reduction to be taken at NASA's discretion.

Transatmospheric Research—Authorizes the President's request of $119 million in FY 1991 for NASA's share of this joint NASA/DOD program.

Space Research and Technology—Authorizes $412.9 million, which is $88 million below the President's request, reflecting the termination of funds requested for the Space Exploration Initiative (Moon/Mars mission). The bill also reduces the President's request for Mission Exploration studies to $21 million, limiting these funds to studies conducted by NASA.

Academic Programs—Authorizes the President's request of $50.1 million for the University Space Science and Technology Academic Program.

Space Flight, Control, and Data Acquisitions

Space Shuttle Production and Operations Capability—Authorizes $1.364 billion, which reflects an increase in the budget request of $35 million for Shuttle structural spares, and $45 million for carrying out Shuttle safety modifications recommended by the Aerospace Safety Advisory Committee, with a general reduction of $18 million to be taken at NASA's discretion.

Space Transportation Operations—Authorizes $2.831 billion, which is a reduction of $58 million from the President's request. This reflects the termination of funds requested for the procurement of hardware for unassigned Shuttle flights of opportunity. The bill also includes $4 million for the provision of launch satellites of eligible satellites in accordance with section 6 of the Commercial Space Launch Act of 1986.

Expendable Launch Vehicles—Authorizes the President's request of $229.2 million for Expendable Launch Vehicles.

Space and Ground Network, Communications and Data Systems—Authorizes the budget request of $868.8 million for FY 1991. The bill also provides more than $1.209 billion for a one-time transfer to reduce NASA's debt to the Federal Financing Bank for the Tracking and Data Relay Satellite System.

Construction of Facilities

Authorizes full funding of $497.9 million.

Research and Program Management

Authorizes full funding of $2.253 billion.

Inspector General

Authorizes full funding of $11 million.

II. NASA LEGISLATIVE REQUIREMENTS

Amendments to NASA Act

Directs the Administrator to seek and encourage full commercial use of space, and to encourage Federal government use of commercially provided space services and hardware, consistent with Federal requirements.

Geographical Distribution

Directs the Administrator to distribute research and development funds in order to provide the broadest practicable participation.

Buy American

Imposes Buy American requirement on contracts to domestic firms.

Advanced Solid Rocket Motor Reports

Directs NASA to undertake a series of studies on the cost and capabilities of the Advanced Solid Rocket Motor, along with the National Research Council to assess the quality assurance and testing program at NASA that will ensure the achievement of safety and reliability for ASRM.

Space Shuttle Usage

Establishes the policy specifying the use of the space shuttle for purposes that require the presence of man or require unique capabilities of the space shuttle, or when other compelling circumstances exist.

Life Sciences Strategic Plan

Directs NASA to formulate a strategic plan for life sciences.

Study on International Cooperation in Planetary Exploration

Directs the National Space Council to conduct a study on International Cooperation in Planetary Exploration aimed at developing a strategy for cooperation among the U.S. and other space-faring nations in international manned and unmanned missions, a conceptual design of a possible international manned mission with an inventory of space exploration technologies not currently available to the U.S. but available from other nations.

National Aerospace Plane

Directs NASA and the Defense Department to jointly pursue the National Aerospace Plane program on a high priority basis and directs submission of the joint NASP management plan to Congress.

Commercial Space Launch Act Amendments

Establishes Congressional findings and statement of purpose on the need to develop a strong space transportation infrastructure and the importance of having State government participation. The Secretary of Transportation is directed to promote public-private partnerships in expanding and operating space launch infrastructure.

Space Debris

Expresses the sense of the Congress that the goal of U.S. policy should be that space-related activities in the U.S. should be conducted in a manner that does not increase the amount of orbital debris, and that the U.S. should develop an agreement with other nations to ensure that the amount of orbital debris is not increased.

Space Shuttle Production Line

Authorizes the expenditure of excess funds appropriated for orbital production to maintain the space shuttle production line.

Industrial Application Centers

Authorizes Industrial Application Centers to retain all client income derived from work accomplished under any agreement with NASA.

Users' Advisory Group

Directs the National Space Council to establish a Users' Advisory Group composed of non-Federal representatives of industry and other persons to meet with and provide input to the Council.

Scientific Balloon Launch Site

Authorizes NASA to purchase land in New Mexico for use as a balloon launching site.

Peaceful Use of Space Station

Establishes a policy for the peaceful use of the Space Station.

Small Business Innovation Research

Permits NASA's use of up to 5 percent of the Small Business Innovation Research funds for program management and promotional activities.

Propulsion Strategic Assessment

Directs the National Research Council to report on the requirements, benefits, technological feasibility, and roles of propulsion systems for the future space program.

Title II—Launch Services Purchase

Directs NASA to purchase launch services for its primary payloads (except suborbital launches) from commercial launch companies whenever such services are required. Such a requirement may be waived if the

Administrator determines that: (1) the payload requires the unique capabilities of the space shuttle; (2) cost effective commercial launch services launch services are not reasonably available; (3) the use of commercial launch services poses an unacceptable risk of loss of unique scientific opportunities; or (4) the payload serves national security or foreign policy purposes.

Title II also specifies that commercial payloads may not be accepted for launch as primary payloads on the space shuttle unless the Administrator determines that the payload requires the unique capabilities of the space shuttle or use of the shuttle is important for either national security or foreign policy purposes.

III. OTHER AGENCY FUNDING LEVELS

Office of Commercial Space Transportation

Authorizes the President's request of $4.517 for the Office of Commercial Space Transportation in the Department of Transportation. The bill also identifies $250,000 for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act of 1988.

National Space Council

Authorizes the President's request of $1.363 million for the activities of the National Space Council.

Office of Space Commerce

Authorizes the President's request of $487,000 for the Office of Space Commerce in the Department of Commerce in FY 1991.

Mr. HOLLINGS. Mr. President, I take this opportunity to express my support for the substitute amendment to S. 2287, the NASA Authorization Act for Fiscal Year 1991. This amendment is the result of discussions with the House of Representatives and the administration and reflects our collective commitment to the future of the U.S. aeronautics and space program.

S. 2287 is a strong endorsement of the vast majority of the President's request for fiscal year 1991, as it authorizes more than $15.02 billion in fiscal year 1991 to support a balanced program of aeronautical research and manned and unmanned exploration of space. In total, the bill is $102 million below the amount requested for NASA, which represents a 22-percent increase over last year's appropriated level.

The bill before us will continue the current direction of the U.S. aeronautics and space program by focusing funds on NASA's ongoing programs, including the Space Shuttle Program, the Space Station Freedom, space science and applications programs, including the Mission to Planet Earth, aeronautical research, commercial space programs, transatmospheric research, and related academic programs. It also gives a strong endorsement to the initiation in fiscal year 1991 of the Earth Observing System, part of NASA's Mission to Planet Earth, in which space-based technologies will be utilized to enable mankind to understand better and respond to our Earth processes and global changes.

This bill, which is considerably above the mark agreed to earlier this week by the appropriations conferees, reflects the level of support that I and many others believe NASA should receive. Fiscal constraints, however, have forced those of us on the Appropriations Committee to make a number of difficult choices with respect to certain programs under NASA's domain.

However, we must not lose sight of the fact that the space program in this country cannot be driven solely by the budget. There is strong public support for the U.S. space program. This authorization bill reflects that broad support and is an essential part of our ongoing efforts to establish specific priorities for our space program.

Mr. President, problems that have come to light in recent months with the Hubble space telescope and the space shuttle have led many to question NASA's ability to manage the space program. There is no doubt that NASA's image has been tarnished. Yet, we must continue our space exploration program. Others, including the Europeans, Soviets, Chinese, and Japanese, will simply take advantage of our absence if we do not continue our efforts. It is therefore imperative from the point of view of long-term world competitiveness, that we provide the resources needed to ensure our continued leadership in space.

There is one critical administration proposal for fiscal year 1991 that was not included in this bill. During its consideration of S. 2287, the Commerce Committee agreed to terminate all funds requested to support the President's Space Exploration Initiative, which calls for human exploration of the Moon in the next decade and Mars by the year 2019.

Our position has remained unchanged after our discussions with the House. That is, no funds are authorized in this legislation for programs that are associated solely with the Moon/Mars mission. We have agreed to continue funding for ongoing programs, such as the advanced launch system, that have other identifiable mission applications, but we have deleted funds for the President's Space Exploration Initiative.

Right to the point, NASA cannot support a program costing hundreds of billions of dollars over the next 30 years. Constraints on the Federal budget will not allow it, not when payments to interest on the debt are our fastest growing expenditure. To initiate a series of projects with the design of sending humans to the Moon and Mars, without a corresponding financing mechanism, would be sheer folly. Instead, we must focus our limited resources and energies on the space shuttle, space station, and other ongoing programs, as well as the important new initiative proposed under the Mission to Planet Earth Program.

The bill before us also deletes funding for contractor mission architecture studies. We have done this in two ways: by deleting the $16 million requested for such contracts, and by including specific language limiting Exploration Mission studies to those conducted by NASA. With its expertise in outlining future space exploration missions, NASA is eminently qualified to complete any architectual study needed for a future mission to the Moon and Mars. Outside contractor involvement is not needed and, at this time, not desired.

Let me say, however, that it is not my intention to restrict NASA's use of these funds for NASA center team and technical support contracts. Such a prohibition would be unreasonable and is not the intent of this bill.

I would comment briefly on one other section of this bill, that being a sense-of-the-Congress expression urging the involvement of the National Space Council in developing guidelines and policy recommendations on the issue of which Federal agency is responsible for future expendable launch vehicle operations. I strongly urge the Space Council to comply with this provision in an expeditious manner, for it is one of a growing number of interagency disputes that should and must be resolved by the Council. The National Space Council, located in the Executive Office of the President, was created not only to coordinate national space policy, but also to consider and take appropriate actions to resolve disputes among competing Executive agencies.

Mr. President, I believe this legislation will help to maintain NASA's preeminence in space and aeronautics. I urge my colleagues to join me in approving this bill today. Prompt action will enable us to send this bill to the House for its consideration and on to the President for his approval.

Mr. DANFORTH. Mr. President, as the ranking Republican member on the Commerce Committee, I ask my colleagues to join me in supporting this substitute amendment to S. 2287, the fiscal year 1991 NASA authorization bill. This substitute bill is the product of weeks of negotiations between the House and the Senate, and I think we have drafted a compromise that accommodates each Chamber's vision of our U.S. civil space programs and policies.

The substitute authorizes $15 billion for the U.S. space program, an increase of 22 percent over NASA's fiscal year 1990 budget. This high authorizaton level reflects the importance of maintaining the leadership of the United States in space science and exploration in the face of increasing competition from the U.S.S.R., West-

ern Europe, and other spacefaring nations. A robust space program is critical to our national economy. At a time when other high-tech industries have lost out to foreign competition, the aerospace industry consistently has posted a positive trade balance. In addition, the space program has generated numerous technological spinoffs such as pacemakers and microminiature computers which have spawned new industries and enhanced the quality of our lives.

I am pleased that the substitute fully funds virtually all of the NASA programs at the levels recommended in the President's fiscal year 1991 budget request for NASA. Prime among these programs is the Space Station Freedom, which is funded at the $2.5 billion budget request. The space station will be the foundation for our space program throughout the 1990's, both as an international space laboratory and a way station for manned spaceflight beyond Earth orbit. More important, the space station is an example of how nations can join forces to accomplish ambitious space missions. The bill also fully funds the National Aerospace Plane [NASP] Program. NASP represents the future of American aerospace. NASP is aimed at developing the propulsion and airframe technologies necessary to create a plane that can take off from a conventional runway and vault into orbit at mach 25 speed.

The concerns about ozone depletion and global warming in recent years have made global change research an international priority. To that end, the bill authorizes a new start for NASA's Mission to planet Earth. This satellite program will give us critical data over a 15-year period to help us understand and predict the major climate processes and changes that affect our lives.

The bill also supports the space exploration initiative [SEI], the President's bold commitment to manned missions to the Moon and Mars by the year 2019. The bill authorizes $100 million of the $188 million that was requested by President Bush for the Moon-Mars effort. SEI represents the very best in the NASA tradition. It promises to recapture the pioneering spirit of the Apollo program and its historic first lunar landing 20-years ago.

As with Apollo, the Moon-Mars effort again will drive NASA's talent, imagination, and creativity to the limit as we further expand man's presence in the universe. SEI will spawn new scientific breakthroughs and technological spinoffs. The technical challenges of planning and implementing such a mammoth mission are certain to rekindle interest in math and science as careers and help alleviate the current scientific manpower shortage which threatens to undermine U.S. competitiveness.

I fully appreciate the fiscal constraints affecting our ability to initiate SEI. The cost estimates for SEI are as high as $500 billion over its lifetime. I am also mindful of recent setbacks in several of NASA's ongoing programs. Nevertheless, the United States must not let these problems cause it to be timid in its core mission of space exploration. NASA has always attempted the seemingly impossible in outer space. SEI is consistent with that goal and heritage.

Mr. President, I would also like to make special note of a program that gets little attention but which may, in the long run, determine the fate of our future capability. I am referring to the Advanced Launch Systems [ALS] program. The bill continues authorization for this joint NASA-DOD program, which is designed to develop a new generation of low-cost unmanned launch systems. ALS is critical to the future space transportation needs of our civil and military space programs and our commercial launch industry. Our current family of unmanned launch vehicles, while reliable, reflects 1950's rocket technology. Those rockets do not incorporate any of the recent advances in propulsion, airframes, or assembly techniques.

To remain competitive with the other spacefaring nations, we will have to make dramatic improvements in our space transportation system. The United States faces a serious competitive challenge from the low-cost, heavy-lift rockets of the U.S.S.R. and Western Europe. By paving the way for a new generation of low-cost, high-reliability launch vehicles, ALS will enable the United States to meet that challenge and, at the same time, satisfy the long-term needs of NASA and the Department of Defense.

Finally, Mr. President, I want to express my full support for the space commercialization provisions that we have accepted from the House version of this legislation. Space is the next international marketplace. Japan, the U.S.S.R., and other countries are poised to deliver launch services, satellite systems, and other space-related goods and services.

The United States must not be left behind in this competition. The bill assists the commercial launch industry by requiring NASA to purchase launch services from commercial launch companies, except where payloads require the shuttle, or national security and foreign policy issues are involved. This should provide a stable demand base for the U.S. launch companies on which they can rely as they seek other launch contracts around the world.

Mr. President, I believe that this bill provides the basis for an existing U.S. space program throughout this decade and beyond. Mr. President, I urge unanimous approval of S. 2287.

Mr. PRESSLER. Mr. President, as the ranking Republican member of the Senate Commerce Committee's Space Subcommittee, I join my distinguished colleague from Missouri in support of the committee's substitute amendment to S. 2287, the fiscal year 1991 NASA authorization bill. The committee substitute authorizes $15 billion for NASA in fiscal year 1991. This is the largest space agency authorization in our Nation's history and speaks to the committee's strong support of the President's commitment to maintaining the U.S. preeminence in space.

The committee authorizes a new start status for Mission to Planet Earth—NASA's contribution to the U.S. Global Change Research Program aimed at providing researchers much-needed long-term data on how the oceans, atmosphere, land, and other Earth systems affect global climate trends. This is precisely the kind of information the world's scientists will need to find answers to such alarming phenomena as global warming and ozone depletion. This bill contains authorization to support NASA's two proposed initiatives: Earth observing system [EOS] and Earth probes.

I am proud that the EROS Data Center in Sioux Falls, SD, will play an important role in these NASA initiatives. The EROS Data Center will serve as a ground-based center that will archive, process, and distribute the enormous volume of data received from the satellites and probes. The world's scientific community will use that data to develop sophisticated mathematical models for predicting global temperature change and other climatic trends. These models will guide us in making policy decisions critical to global change issues.

Sioux Falls and South Dakota are proud of the excellent job done by the people of the EROS Data Center over the past two decades in providing space-based, remotely sensed data from NASA and other agencies's satellite systems to researchers worldwide. I was particularly proud to share the podium at EROS with NASA Associate Administrator Dr. Lennard Fisk and U.S. Geological Survey [USGS] Director Dr. Dallas Peck on August 28, 1990, for a flag raising ceremony between those two integral Federal agencies. That date marked the beginning of a new initiative and a new relationship between NASA and the USGS. I look forward to this committee's full support of this initiative during its lifetime.

I believe that the funding levels in our committee substitute provide a firm fiscal foundation for a robust space science program that will maintain the U.S. preeminence in space for

generations to come. Accordingly, I urge my colleagues to adopt the committee substitute to S. 2287.

MISSION TO PLANET EARTH EARTH OBSERVING SYSTEM

Mr. HEFLIN. Mr. President, one of the greatest benefits of America's space program is the opportunity it affords us to look not only outward to the stars, but inward at our own planet Earth.

Who among us was not thrilled—and humbled—when we first saw our planet in the images transmitted from Apollo spacecraft. The Earth hung motionless, a beautiful blue sphere laced with white clouds, suspended against the star-speckled black curtain of space.

We really saw our planet for the first time. In that instant, we realized the importance we must give to understanding, protecting, and preserving this world upon which we live. To understand the increasing stresses imposed upon Earth's ecosystem by human activity, we must learn how our planet works as a system. The international scientific community is organizing research efforts which will advance our knowledge of both natural and manmade global change.

The United States will play a major role in studying the changes to our global environment through an interagency effort called the U.S. Global Change Research Program in order to better understand and predict man's impact on our planet.

Our National Aeronautics and Space Administration is leading the primary U.S. contribution through a proposed initiative for fiscal year 1991, called Mission to Planet Earth. The major NASA component in this effort is the Earth observing system, or EOS.

EOS will consist of a space-based observing system, a data and information system, and a scientific research program. The space-based portion involves scientific payloads attached to Space Station Freedom, polar-orbiting platforms, and Earth probes.

Once it is activated by the middle of the decade, the space station will serve as a permanent observation post in space from which we can begin to study the Earth as never before.

The Freedom Space Station will have a low inclination orbit to the Earth, 28½ degrees above and below the Equator. Astronaut scientists on the space station, will be able to measure many of the most ecologically stressed areas of the globe every 90 minutes, and then compare their human observations and result of space-station based experiment readings with data collected by the polar platforms and Earth probes.

The Marshall Space Flight Center, in my own State of Alabama, is developing several environmental experiments to be attached to the space station, as well as three of the scientific payloads for the popular platforms.

One of these experiments is the high resolution microwave spectrometer sounder, which will measure the Earth's circulation and distribution of water. With this device, we will gain knowledge of the ever-changing locations and amounts of ice, water vapor, clouds, precipitation, and soil moisture which are so important to agriculture over the globe.

A lightning mapper sensor is being developed to provide information which may help us understand one of the Earth's deadliest and most violent naturally occurring phenomena. A small, state-of-the-art optical sensor is being developed to detect and locate lightning flashes over large areas of the Earth's surface.

The lightning sensor will enable scientists to study, for the first time, electrical discharge behavior simultaneously over the full viewable disk of the Earth. This sensor will provide information that can only be obtained through a space-based instrument over areas where little information is available, such as the tropics and oceanic regions.

The need for a better understanding of lightning phenomenon was heavily underscored during 1987. Statistics show that 86 persons were killed by lightning strikes and a further 365 persons were injured.

In addition to its toll of dead and injured, lightning accounted for billions of dollars' worth of property damage. Some 900 lightning-caused forest fires charred thousands of acres of America's prime timberland and damaged homes, factories, and other structures. The potential power of a thunderstorm has been estimated as five times that of the atomic bomb which destroyed Hiroshima. The temperature of a single lightning bolt is up to five times greater than the surface temperature of the Sun.

A third instrument, the laser atmospheric wind sounder, will provide real-time, global-scale wind profiles for the lowest weather-producing layer of the Earth's atmosphere.

Whether the wind profile data is obtained globally, using the polar-orbiting Earth observing system platform, or just over the tropics and subtropics, using Space Station Freedom, the information will provide essential data to improve understanding of the global interrelationship of biology, geology, and chemistry.

With the laser atmospheric wind sounder, we will learn about the action of water on the planet's land forms and come to understand large-scale atmospheric circulation and climate dynamics.

This information can also be used by weather forecasters worldwide to improve predictions. The sounder would enable meteorologists at the National Oceanic and Atmospheric Administration to develop more accurate 5- to 10-day weather forecasts.

At present, severe weather warnings can only be issued for broad areas of the United States. The laser atmospheric wind sounder would enable forecasters to track severe wind flows; therefore, better pinpointing areas where severe weather warnings should be issued.

The sounder would also allow us to obtain global wind velocity measurements. Most atmospheric wind speed data is obtained using sounding balloons which are, of necessity, launched from land. However, more than two-thirds of the Earth's surface is water; thus, there exist large areas of the globle—particularly in the southern hemisphere—which receive only minimal wind measurement coverage.

The atmospheric wind sounder will allow world wide coverage with special emphasis given to tropical and subtropical areas where, previously, measurements have been sparse to nonexistent.

In addition to weather projections, researchers anticipate that the data will assist in analyzing the global environmental impact of natural occurrences, such as volcanic eruptions; and human activity, such as the slash-and-burn land clearing, now under way in many developing countries.

The third portion of the space-based observatories in the EOS initiative involves Earth probes—sensors which are destined for early flights of opportunity aboard the space shuttle—and sounding rockets which will observe specific Earth processes, where smaller platforms or unique orbits are required. Because of their reduced complexity, some Earth probes may be launched sooner than the somewhat larger polar-orbiting platforms.

These probes include the total ozone mapping sensor to provide interim ozone observations until the Earth observing system can be flown, the sea-viewing wide-field sensor to provide improved observations of oceanic chlorophyll, and the scatterometer to study marine surface winds.

Finally, the tropical rainfall measuring mission will provide the first space-borne measurements of low-latitude rainfall.

There are also a number of Earth probe experiments which have been selected to go on low-Earth-obiting satellities other than those I've already mentioned.

The EOS's data and information system development, will support research and analysis of existing data and of data from future missions. This state-of-the-art system will permit rapid and easy user access to all Earth science data bases, including ground-based measurements.

The EOS system will be able to monitor, in real-time, the effects of drought in the United States and around the globe; deforestaton of the Amazon and elsewhere; the growth of the desert of East Africa; the formation of storm systems in the oceans; and other events, which contribute to the world's changing climate. We will also be able to monitor depletion of the fragile ozone layer, which protects this planet.

Scientists on the ground will be able to monitor the information from space at the same time, and interact with the astronauts on the space station, to study events immediately, as they happen.

The polar-orbiting platforms and space station attached payloads will provide coordinated, simultaneous data on the interactions of land masses, the atmosphere, oceans and hydrologic and biogeochemical cycles, United States platforms will be supplemented by platforms operated by Japan and the European Space Agency.

As an adjunct to the EOS initiative, NASA's spacelab activity is contributing to the mission to planet Earth effort with its Atlas spacelab program. In this case, the low-Earth-orbiting satellite is the space shuttle.

The Atlas missions will provide critically important calibration once each year for the next decade which will assure high-precision monitoring of important global change parameters now under investigation.

The need for the EOS program is increasingly obvious. We are constantly made aware of the fact that we live on a planet of extraordinary complexity—a complexity that we have not begun to fathom. It is a planet upon which the human population is approaching 6 billion and growing exponentially.

For eons, our planet has supported an abundant diversity of life. Now, for the first time, one of those forms of life—man—is changing our global environment in ways we do not begin to understand.

Some researchers suggest that the Earth should be warming in response to increasing levels of carbon dioxide and other gases in the atmosphere. Other observations seem to confirm that our environment is undergoing rapid global fluctuations, possibly, induced by human activities. Still, other observations are ambiguous.

Is what we're seeing simply normal climate variations, or are there other processes involved? Until we can more completely understand our planet, we cannot hope to answer these crucial questions.

It is essential that we continue to expand our knowledge—that we come to understand how the components of this system interact.

We need to understand everything from short-term effects, such as weather systems, to events, such as ice ages and continental drift which transpire over thousands or millions of years.

The demonstrated human role in global change requires that we develop a comprehensive, interdisciplinary program of Earth studies. We must obtain a scientific understanding of the Earth as a system—an understanding from which we can develop an ability to predict future changes.

The key to understanding is accurate observation coupled with enhanced analysis. To make the necessary observations, we must put appropriate instruments on the Earth's surface and in space. Surface-based observations can validate space-based observations, and vice-versa. Satellites and the space station will allow us to observe the entire globe. Earth-based instruments will complement this flow of data by revealing detailed information which cannot be addressed from space.

The objective of NASA's Mission to Planet Earth Program, of which EOS is a major component, is to establish the instruments in space necessary to understand the Earth as a total global system, and to understand and predict global change.

NASA's efforts, coupled with work to be done by other Federal agencies and in the international community, will result in the creation of a mutually supporting operation which will benefit all mankind.

Throughout the first half of this decade, a number of missions are planned to provide remotely sensed data for the global change research program. These missions will be complemented by operational missions currently consisting of geosynchronous and polar-orbiting satellites for weather forecasting and land measurements. Simultaneously, the Earth observing system's data and information system will provide a means for accessing data from these missions and integrating it into global change studies. All of this will pave the way for the comprehensive Earth observing system in the latter half of this decade.

It is no exaggeration to say that the mandate to explore inner space—our own home planet—is, at the very least, as important as our mandate to explore outer space. We have begun searching the heavens for life. We have only found it here, on Earth.

If we are to avoid the fate of Venus, where the greenhouse-effect temperatures are hot enough to melt lead—if we are to keep Earth from becoming a dry sterile world such as Mars—we must begin now to understand how to preserve and protect those aspects of our world which sustain life. No nation has ever undertaken a greater or more important task.

CAPTURING OMV TECHNOLOGY

Mr. President, the Senate Commerce Committee has expressed its concurrence with the thrust of the language at pages 24-25 of House Report 101-763 to accompany H.R. 5649 regarding the orbital maneuvering vehicle [OMV], which unfortunately, was terminated by NASA several months ago. It is clear that there are significant benefits to be derived from completing key elements of the OMV design, so the legacy of achievements on the program can be preserved for future programs.

As noted in the House report, NASA recognized at the time of termination that a vehicle with capabilities similar to OMV would be a necessary infrastructure element of any space architecture. Accordingly, NASA has recently initiated a phase A study of a Cargo Transfer Vehicle [CTV], whose mission can be defined as providing: First, an alternative to the space transportation system for provisioning of equipment and supplies to space station Freedom; and second, on-orbit capability for unmanned docking, transfer, and undocking of payloads. The CTV will undoubtedly differ in design from the OMV. However, it will use many of the same items of technology that were being developed for the OMV, including some that had been descoped from the OMV at the time of termination of the program.

Following are seven key OMV technology developments that are specific examples of items which should be pursued to the point of transferability to a future program without significant loss:

(1) CONFIGURATION DESIGN

Complete configuration design—incorporating weight reductions and expendable launch vehicle capability, and a trade study between the OMV baseline modular propulsion subsystem, and an integrated propulsion capability leading to incorporation of the selected concept in the resulting configuration.

(2) GROUND CONTROL CONSOLE

Complete ground control console development, incorporating modifications resulting from the man-machine interface and crew reviews.

(3) COMMUNICATION SYSTEM DESIGN

Complete communication system design, incorporating the results of a trade study between the OMV video compression/reconstruction baseline and a Ku-band (non-compressed) video link, plus equipment specifications for the communication system which is selected.

(4) LONG TERM ON-ORBIT STORAGE CAPABILITY

Complete qualification of the AgZn battery and preliminary design (through equipment specification generation) of the GaAs solar array, in

order to complete definition of long term on-orbit storage capability.

(5) PROPULSION PRESSURIZATION ELECTRONICS

Complete Propulsion Pressurization Electronics through detail and product design.

(6) ON-ORBIT OPERATIONS

Complete the definition of on-orbit operations, incorporating use of a GPS-based navigation subsystem. Define guidance and navigation operating modes and algorithms for changes in orbit altitude, approach to targets, approach to the shuttle and space station, and long term on-orbit storage.

(7) TARGET IDENTIFICATION, APPROACH & DOCKING

Complete definition of target identification, approach and docking, to include generation of equipment specifications for the rendezvous radar and the pan/tilt/zoom camera, definition of a sensor providing range and range-rate-to-zero-distance, design specifications for the three-point docking mechanism latch, and selection of a docking algorithm.

It is recognized that several months have passed since NASA directed the contractor team to terminate the OMV program. Despite the fact that an effort begun now, might not be as efficient or effective as one begun at the outset of termination, there is great validity to the view expressed in the House report, that NASA should proceed immediately to capture and document those key technologies, where it reasonably can do so. The seven key items listed above provide a starting point for NASA, and the OMV contractor team to effectively begin this work. Because of the time that has passed since termination, it appears most logical that this work now be accomplished in the context of the phase A study of the CTV. This effort should enable NASA to maximize the value for dollars spent on OMV and protect for future use the key technologies needed for any spacecraft with OMV-like capabilities.

NASA/FT. SUMNER WEATHER BALLOON LAUNCH SITE

Mr. DOMENICI. Mr. President, I am pleased to be here today to lend my support for the National Aeronautics and Space Administration authorizations and for the Fort Sumner Weather Balloon Site.

NASA has been launching weather balloons at Ft. Sumner since 1987. The purchase of eight acres of land near the Municipal Airport in Fort Sumner, New Mexico, will enable NASA to continue its data collection on such critical issues as global warming and ozone depletion. Without this legislation, NASA's research would be homeless.

NASA's project was originally housed in a hanger at the Municipal Airport in Fort Sumner, NM. The Village of Fort Sumner, however, has developed plans to utilize this facility for industrial development. As a consequence, NASA must move their operation to a new site.

Weather Balloons provide a relatively inexpensive means of collecting atmospheric data. They carry loads of approximately 6,000 pounds. NASA currently averages 50 launches per year from Fort Sumner, NM.

It is becoming increasingly more important to study the atmosphere and to determine the critical parameters associated with global warming. The United States is exemplifying our commitment to the environment by studying this complex scientific problem. the weather balloon launches from Fort Sumner provide important data for the study of climate change.

Ownership of this land will give NASA a permanent site upon which to construct buildings and expand their operations. In addition, there are plans to construct a downrange tracking station for similar operations conducted from the National Scientific Balloon Facility at Palestine, TX.

The purchase of land by NASA will perpetuate a cooperative effort between NASA and academia. New Mexico State University manages and operates the Palestine, TX facility. As a result, graduate students are intimately involved in day-to-day experimental work.

The funding for the purchase of the land will not increase this years Federal expenses. The funds for this transaction, including the initial phase of building construction, were appropriated in fiscal year 1990.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment.

The amendment (No. 3156) was agreed to.

The PRESIDING OFFICER. Without objection the bill, as amended, is deemed read the third time and passed.

So the bill (S. 2287), as amended, was passed as follows:

S. 2287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991".

TITLE I—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATIONS

SEC. 101. FINDINGS.

The Congress finds that—

(1) over the next decade, the United States aeronautics and space program will be directed toward major national priorities of understanding, preserving, and enhancing our global environment, hypersonic transportation, human exploration, and emerging technology commercialization;

(2) the United States aeronautics and space program is supported by an overwhelming majority of the American people;

(3) the United States aeronautics and space program genuinely reflects our Nation's pioneer heritage and demonstrates our quest for leadership, economic growth, and human understanding;

(4) the United States space program is based on a solid record of achievement and continues to promote the objective of international cooperation in the exploration of the planets and the universe;

(5) the United States aeronautics and space program generates critical technology breakthroughs that benefit our economy through new products and processes that significantly improve our standard of living;

(6) the United States aeronautics and space program excites the imagination of every generation and can stimulate the youth of our Nation toward the pursuit of excellence in the fields of science, engineering, and mathematics;

(7) the United States aeronautics and space program contributes to the Nation's technological competitive advantage;

(8) the United States aeronautics and space program requires a sustained commitment of financial and human resources as a share of the Nation's Gross National Product;

(9) the United States space transportation system will depend upon a robust fleet of space shuttle orbiters and expendable and reusable launch vehicles and services;

(10) the United States space program will be advanced with an assured funding stream for the development of a permanently manned space station with research, experimentation, observation, servicing, manufacturing, and staging capabilities for lunar and Mars missions;

(11) the United States aeronautics program has been a key factor in maintaining preeminence in aviation over many decades;

(12) the United States needs to maintain a strong program with respect to transatmospheric research and technology by developing and demonstrating National Aero-Space Plane technology by a mid-decade date certain;

(13) the National Aeronautics and Space Administration is primarily responsible for formulating and implementing policy that supports and encourages civil aeronautics and space activities in the United States; and

(14) commercial activities of the private sector will substantially and increasingly contribute to the strength of both the United States space program and the national economy.

SEC. 102. POLICY.

It is declared to be national policy that the United States should—

(1) rededicate itself to the goal of leadership in critical areas of space science, space exploration, and space commercialization;

(2) increase its commitment of budgetary resources for the space program to reverse the dramatic decline in real spending for such program since the achievements of the Apollo moon program;

(3) ensure that the long-range environmental impact of all activities carried out under this title are fully understood and considered;

(4) promote and support efforts to advance scientific understanding by conducting or otherwise providing for research on environmental problems, including global change, ozone depletion, acid precipitation, deforestation, and smog;

(5) forge a robust national space program that maintains a healthy balance between manned and unmanned space activities and

recognizes the mutually reinforcing benefits of both;

(6) maintain an active fleet of space shuttle orbiters, including an adequate provision of structural spare parts, and evolve the orbiter design to improve safety and performance, and reduce operational costs;

(7) sustain a mixed fleet by utilizing commercial expendable launch vehicle services to the fullest extent practicable;

(8) support an aggressive program of research and development designed to enhance the United States preeminence in launch vehicles;

(9) continue and complete on schedule the development and deployment of a permanently manned, fully capable, space station;

(10) develop an advanced, high pressure space suit to support extravehicular activity that will be required for Space Station Freedom when Assembly Complete is reached;

(11) establish a dual capability for logistics and resupply of the space station utilizing the space shuttle and expendable launch vehicles, including commercial services if available;

(12) continue to seek opportunities for international cooperation in space and fully support international cooperative agreements;

(13) maintain an aggressive program of aeronautical research and technology development designed to enhance the United States preminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system;

(14) conduct a program of technology maturation, including flight demonstration in 1997, to prove the feasibility of an air-breathing, hypersonic aerospace plane capable of single-stage-to-orbit operation and hypersonic cruise in the atmosphere;

(15) seek innovative technologies that will make possible advanced human exploration initiatives, such as the establishment of a lunar base and the succeeding mission to Mars, and provide high yield technology advancements for the national economy; and

(16) enhance the human resources of the Nation and the quality of education.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the National Aeronautics and Space Administration the following amounts:

(1) For "research and development", for the following programs:

(A) United States International Space Station Freedom:

(i) Notwithstanding section 201(a)(1)(A) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, not more than $2,451,000,000 shall be made available for fiscal year 1991.

(ii) Such sums as are necessary from funds authorized for the United States International Space Station Freedom shall be used to initiate a flight test of the solar dynamic power program. By May 1, 1991, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the implementation plan for the conduct of a flight test of the solar dynamic power program.

(B) Space transportation capability development, $723,400,000 for fiscal year 1991. Of such funds, $10,000,000 shall be used only for supporting heavy-lift launch vehicle studies, which shall include study of commercially developed variants as well as other appropriate concepts, rather than studying Shuttle-derived heavy-lift launch vehicles alone.

(C) Physics and astronomy, $985,000,000 for fiscal year 1991.

(D) Life sciences, $168,400,000 for fiscal year 1991. Of the amounts authorized for such purposes, by this or any other Act, for fiscal year 1991—

(i) $5,000,000 shall be used for the development of payloads for the Lifesat program; and

(ii) not less than $400,000 shall be used for space food processing studies and bioregenerative modeling assessments.

(E) Planetary exploration, $337,200,000 for fiscal year 1991.

(F) Earth sciences:

(i) $542,500,000 for fiscal year 1991, of which $5,000,000 shall be made available for the conduct of an advanced sensor technology demonstration program, $35,000,000 shall be made available for Earth Probes, including the development of the Total Ozone Mapping Spectrometer, and $44,300,000 shall be made available for Modeling and Data Analysis, including the development of Earth Science Data Directories and remote sensing data conversion.

(ii) Notwithstanding section 201(a)(1)(A) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, not more than $132,000,000 may be made available for the Earth Observing System Platform for fiscal year 1991.

(G) Materials processing in space, $97,300,000 for fiscal year 1991.

(H) Communications, $52,800,000 for fiscal year 1991, including not more than $2,000,000 for experimenter ground stations for the Advanced Communications Technology Satellite, but only if the experimenter receiving funds obtains at least an equal amount of funds from sources other than the National Aeronautics and Space Administration.

(I) Information systems, $36,800,000 for fiscal year 1991.

(J) Technology utilization, $24,400,000 for fiscal year 1991.

(K) Commercial use of space, $76,600,000 for fiscal year 1991.

(L) Aeronautical research and technology, $537,000,000 for fiscal year 1991.

(M) Transatmospheric research and technology, $119,000,000 for fiscal year 1991.

(N) Space research and technology, $412,900,000 for fiscal year 1991. Of the amounts authorized for the Exploration Technology program, by this or any other Act, for fiscal year 1991, at least 10 percent shall be for university contracts and grants.

(O) Exploration mission studies, $21,000,000 for fiscal year 1991, which is authorized for studies conducted by the National Aeronautics and Space Administration. The Administrator shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, by March 15, 1991, a report setting forth the goals for academic participation and enhancement of the educational infrastructure with regard to the human exploration initiative.

(P) Safety, reliability, and quality assurance, $33,000,000 for fiscal year 1991.

(Q) Tracking and data advanced systems, $20,000,000 for fiscal year 1991.

(R) University Space Science and Technology Academic Program, $50,100,000 for fiscal year 1991.

(S) Comet Rendezvous Asteroid Flyby/Cassini mission, not to exceed $1,600,000,000, for development, launch, and 30 days of operations thereof, to remain available until expended, of which—

(i) $490,000,000 shall be available for obligation after October 1, 1989;

(ii) an additional $370,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a preliminary design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(iii) an additional $640,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a critical design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate; and

(iv) an additional $100,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a spacecraft integration and systems test to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

A cost containment plan shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by January 31, 1991, and updated on July 31 and January 31 of each succeeding year until such funds are expended.

(2) For "space flight, control, and data communications", for the following programs:

(A) Shuttle production and operational capability, $1,364,000,000 for fiscal year 1991. Of such funds, $45,000,000 shall be used only for carrying out the safety modifications recommended by the Aerospace Safety Advisory Panel and for such other safety related elements of an Assured Shuttle Availability Program as the Administrator considers necessary. By September 30, 1991, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a full report on the completion of planned safety enhancements.

(B) Shuttle transportation operations, $2,831,400,000 for fiscal year 1991, of which $4,000,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988.

(C) Expendable launch vehicle services, $229,200,000 for fiscal year 1991.

(D) Space and ground network, communications, and data systems, $868,800,000 for fiscal year 1991.

(E) Tracking and data relay satellite system, $1,209,732,000 for fiscal year 1991, which shall be used only for the purpose of reducing all outstanding debt to the Federal Financing Bank.

(3) For "construction of facilities" for fiscal year 1991 as follows:

(A) Construction of Neutral Buoyancy Laboratory, Johnson Space Center, $15,000,000.

(B) Construction of Space Station Processing Facility, Kennedy Space Center, $25,000,000.

(C) Construction of Addition for Flight Training and Operations, Johnson Space Center, $12,000,000.

(D) Rehabilitation of Mission Control Center Power and Control Systems, Johnson Space Center, $8,500,000.

(E) Construction of Transporter/Canister Facility, Kennedy Space Center, $5,500,000.

(F) Construction of Processing Control Center, Kennedy Space Center, $9,400,000.

(G) Replacement of Heating, Ventilating, and Air Conditioning System, Hypergolic Maintenance Facility, Kennedy Space Center, $2,100,000.

(H) Replacement of Operations and Checkout Building, West Cooling Tower, Kennedy Space Center, $1,000,000.

(I) Restoration of Heavy Equipment Area, Kennedy Space Center, $900,000.

(J) Upgrade of Orbiter Processing Facility High Bay Heating, Ventilating, and Air Conditioning System, Kennedy Space Center, $3,300,000.

(K) Upgrade of Yundum International Airport to Full Transoceanic Abort Landing Site, Banjul, The Gambia, $3,400,000.

(L) Repair of Condensate System, Main Manufacturing Building, Michoud Assembly Facility, $900,000.

(M) Construction of Project Engineering Facility, Marshall Space Flight Center, $17,000,000.

(N) Restoration of Information and Electronic Systems Laboratory, Marshall Space Flight Center, $4,000,000.

(O) Rehabilitation of Hydrogen Transfer Facility, Stennis Space Center, $2,700,000.

(P) Restoration of Space Shuttle Main Engine Test Complex "A", Stennis Space Center, $2,800,000.

(Q) Construction of Advanced Solid Rocket Motor Program Facilities, including land acquisition, various locations, $92,000,000.

(R) Construction of Addition to Site Electrical Substation, Johnson Space Center, $11,000,000.

(S) Addition to Administration and Engineering Building, Stennis Space Center, $3,800,000.

(T) Construction of Earth Observing System Data Information System Facility, Goddard Space Flight Center, $8,000,000.

(U) Construction of Detector Development Laboratory, Goddard Space Flight Center, $3,100,000.

(V) Replacement of Chillers, Central Heating/Refrigeration Plant, Goddard Space Flight Center, $4,000,000.

(W) Replacement/Modernization of Electrical Power Feeders, Goddard Space Flight Center, $1,500,000.

(X) Construction of Observational Instruments Laboratory, Jet Propulsion Laboratory, $14,000,000.

(Y) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $13,200,000.

(Z) Restoration of Utilities, Wallops Flight Facility, $5,200,000.

(AA) Modifications to the High Pressure Air System, Langley Research Center, $12,000,000.

(BB) Modifications to Upgrade the 30 x 60-Foot Wind Tunnel, Langley Research Center, $4,000,000.

(CC) Repairs to the Tunnel Shell, Unitary Plan Wind Tunnel, Langley Research Center, $2,700,000.

(DD) Rehabilitation of Central Air System, Lewis Research Center, $7,900,000.

(EE) Rehabilitation of Propulsion Systems Laboratory, Lewis Research Center, $6,000,000.

(FF) Construction of Liquid Hydrogen Structural Test Facility, Dryden Flight Research Facility, $18,800,000.

(GG) Rehabilitation and Modification of the Electrical Distribution System, Dryden Flight Research Facility, $4,000,000.

(HH) Construction of Addition for Light-Alloy Research Laboratory, Langley Research Center, $4,600,000.

(II) Construction of Space Experiments Laboratory, Lewis Research Center, $7,100,000.

(JJ) Refurbishment of Electric Power Laboratory, Lewis Research Center, $8,900,000.

(KK) Construction of 34-Meter Multifrequency Antenna at Goldstone, CA, Jet Propulsion Laboratory, $13,200,000.

(LL) Rehabilitation of 70-Meter Antenna Drive Gear Boxes in Australia, Spain, and Goldstone, CA, Jet Propulsion Laboratory, $4,400,000.

(MM) Repair of facilities at various locations, not to exceed $1,000,000 per project, $30,000,000.

(NN) Rehabilitation and modification of facilities at various locations, not to exceed $1,000,000 per project, $34,000,000.

(OO) Minor construction of new facilities and additions to existing facilities at various locations, not to exceed $750,000 per project, $11,000,000.

(PP) Environmental compliance and restoration, $32,000,000.

(QQ) Facility planning and design not otherwise provided for, $28,000,000.

(4) For "research and program management", for fiscal year 1991, $2,252,900,000.

(5) For "Inspector General", $11,000,000 for fiscal year 1991.

(b) LIMITATIONS.—(1)(A) Notwithstanding paragraph (4), appropriations authorized under this section for "research and development" and "space flight, control, and data communications" may be used—

(i) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts; and

(ii) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities.

Title to facilities described in clause (ii) shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant.

(B) None of the funds appropriated for "research and development" and "space flight, control, and data communications" pursuant to this title may be used in accordance with this paragraph for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000, unless the Administrator has notified the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, of the nature, location, and estimated cost of such facility.

(2) Any amount appropriated pursuant to this title for "research and development", for "space flight, control and data communications", or for "construction of facilities" may remain available until expended. Any amount appropriated pursuant to this title for "research and program management" for maintenance and operation of facilities, and for other services, shall remain available through the next fiscal year after the fiscal year for which such amount is appropriated.

(3) Appropriations made pursuant to subsection (a)(4) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and his determination shall be final and conclusive upon the accounting officers of the Government.

(4)(A) Funds appropriated pursuant to subsection (a)(1), (2), and (4) may be used for the construction of new facilities and additions to, or repair, rehabilitation, or modification of existing facilities, but only if the cost of each such project, including collateral equipment, does not exceed $200,000.

(B) Funds appropriated pursuant to subsection (a)(1) and (2) may be used for unforeseen programmatic facility project needs, but only if the cost of each such project, including collateral equipment, does not exceed $750,000.

(C) Funds appropriated pursuant to subsection (a)(4) may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, but only if the cost of each project, including collateral equipment, does not exceed $500,000.

SEC. 104. CONSTRUCTION OF FACILITIES REPROGRAMMING.

Authorization is hereby granted whereby any of the amounts prescribed in section 103(a)(3)(A) through (QQ)—

(1) may be varied upward 10 percent, in the discretion of the Administrator or the Administrator's designee, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the circumstances of such, may be varied upward 25 percent to meet unusual cost variations.

The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of amounts specified in section 103(a)(3)(A) through (QQ).

SEC. 105. SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of 1 percent of the funds appropriated pursuant to section 103(a)(1) or (2) to the "construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 103(a)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period

of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost, and the reasons therefor.

SEC. 106. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this title—

(1) no amount appropriated pursuant to this title may be used for any program deleted by the Congress from requests as originally made to either the Committee on Science, Space, and Technology of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate;

(2) no amount appropriated pursuant to this title may be used for any program in excess of the amount actually authorized for that particular program by section 103(a)(1), (2), and (4); and

(3) no amount appropriated pursuant to this title may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by each such committee of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 107. AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958.

Section 203(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(a)) is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) adding at the end the following new paragraphs:

"(4) seek and encourage, to the maximum extent possible, the fullest commercial use of space; and

"(5) encourage and provide for Federal Government use of commercially provided space services and hardware, consistent with the requirements of the Federal Government.".

SEC. 108. NATIONAL SPACE COUNCIL AUTHORIZATION.

(a) There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,363,000 for fiscal year 1991, of which not more than $1,000 shall be available for official reception and representation expenses. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

(b) It is the sense of Congress that the National Space Council should, by October 1, 1991, establish guidelines and policy recommendations, including the need for licensing, for the conduct of expendable launch vehicle operations in which a Federal agency assumes substantial responsibility for public safety, indemnification, and administrative oversight.

SEC. 109. GEOGRAPHICAL DISTRIBUTION.

The Administrator shall distribute research and development funds geographically in order to provide the broadest practicable participation in the programs of the National Aeronautics and Space Administration.

SEC. 110. BUY AMERICAN.

(a) GENERAL RULE.—The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) EXCEPTIONS.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States;

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this title; and

(2) solicitations for bids are issued after the date of enactment of this Act.

SEC. 111. ADVANCED SOLID ROCKET MOTOR.

The Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the following:

(1) A report on the projected cost to complete the design, development, and qualification of the Advanced Solid Rocket Motor. The first report shall be submitted by March 1, 1991, and thereafter with the National Aeronautics and Space Administration's annual budget request.

(2) An annual report on the projected unit cost of the flight motors.

(3) An annual report on the increase in space shuttle payload capability provided by the Advanced Solid Rocket Motor. The report shall include the original baseline payload capability, adjustments to that baseline capability, and the projected payload capability.

(4) An assessment by the National Research Council by July 1, 1991, of the quality assurance and testing program that will ensure the achievement of safety and reliability for the Advanced Solid Rocket Motor.

SEC. 112. SPACE SHUTTLE USE POLICY.

(a)(1) It shall be the policy of the United States to use the Space Shuttle for purposes that (i) require the presence of man, (ii) require the unique capabilities of the Space Shuttle or (iii) when other compelling circumstances exist.

(2) The term "compelling circumstances" includes, but is not limited to, occasions when the Administrator determines, in consultation with the Secretary of Defense and the Secretary of State, that important national security or foreign policy interests would be served by a Shuttle launch.

(3) The policy stated in subsection (a)(1) shall not preclude the use of available cargo space, on a Space Shuttle mission otherwise consistent with the policy described under subsection (a)(1), for the purpose of carrying secondary payloads (as defined by the Administrator) that do not require the presence of man if such payloads are consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(b) The Administrator shall, within six months after the date of enactment of this Act, submit a report to the Congress setting forth a plan for the implementation of the policy described in subsection (a)(1). Such plan shall include—

(1) details of the implementation plan;

(2) a list of purposes that meet such policy;

(3) a proposed schedule for the implementation of such policy;

(4) an estimate of the costs to the United States of implementing such policy; and

(5) a process for informing the Congress in a timely and regular manner of how the plan is being implemented.

(c) At least annually, the Administrator shall submit to the Congress a report certifying that the payloads scheduled to be launched on the space shuttle for the next four years are consistent with the policy set forth in subsection (a)(1). For each payload scheduled to be launched from the space shuttle, which do not require the presence of man, the Administrator shall, in the certified report to Congress, state the specific circumstances which justified the use of the space shuttle. If, during the period between scheduled reports to the Congress, any additions are made to the list of certified payloads intended to be launched from the Shuttle, the Administrator shall inform the Congress of the additions and the reasons therefor within 45 days of the change.

(d) The report described in subsection (c) shall also include those National Aeronautics and Space Administration payloads designed solely to fly on the space shuttle which have begun the phase C/D of its development cycle.

SEC. 113. LIFE SCIENCES STRATEGIC PLAN.

(a) FINDINGS.—The Congress finds that—

(1) the current knowledge base in life sciences is not compatible with the National Aeronautics and Space Administration's current objectives in space, and the National Aeronautics and Space Administration lacks an adequate strategic plan to acquire a knowledge base;

(2) it is critical to the success of manned missions in space, be they commercial operations of microgravity laboratories or manned missions to Mars, that a realistic appraisal of the influences of the space environment on biological systems is complet-

ed and appropriate protective countermeasures developed;

(3) the space station is rapidly approaching design maturity without a corresponding development of the physiological and other human factors knowledge base necessary for long-term manned operations in space; and

(4) space station laboratory hardware specifications are being fixed before fully establishing the objectives and requirements for life sciences research.

(b) STRATEGIC PLAN.—The Administration shall—

(1) review currently proposed manned space flight missions in order to—

(A) identify the physiological and other human factors knowledge base necessary to determine the human capacity to adapt to and perform effectively in the space environment according to mission requirements, including identifying which life sciences parameters must be measured and which technologies, processes, and procedures must be developed; and

(B) develop a schedule indicating when specific components of information, technologies, processes, or procedures identified under subparagraph (A) will need to be acquired or developed in order to verify that human adaptability requirements of manned space flight missions can be achieved;

(2) develop a strategy plan for life sciences research and technology development sufficient to accomplish the life sciences knowledge base acquisition schedule developed under paragraph (1)(B), including—

(A) a crew certification plan setting acceptable crew conditioning standards for Extended Duration Orbiter operations and verifying countermeasures sufficient to meet those standards before actual Extended Duration Orbiter operations; and

(B) a life sciences implementation plan for the design and development of the space station, to be provided as part of the Preliminary Design Review for the space station, and to include crew adaptability standards; and

(3) verify the physiological and technical feasibility of the life sciences implementation plan developed under paragraph (2)(B), as part of the Critical Design Review for the space station.

SEC. 114. STUDY ON INTERNATIONAL COOPERATION IN PLANETARY EXPLORATION.

(a) FINDINGS.—The Congress finds that—

(1) the President on July 20, 1989, established the long-range goal of establishing a lunar base, followed by manned exploration of Mars in the early twenty-first century;

(2) the United States and the Soviet Union, in cooperation with other countries, are currently planning further unmanned missions to the Moon and to Mars with the possible goal of landing a human on Mars;

(3) a series of international missions to expand human presence beyond Earth orbit would further a spirit of, and follow through on the commitment made in, the 1987 agreement between the Soviet Union and the United States for space cooperation, as well as the successful cooperative agreements the United States has pursued with over one hundred countries since its inception, including the agreement with Japan, Canada, and the European countries for Space Station Freedom;

(4) international manned missions beyond Earth orbit could further encourage a cooperative approach in world affairs unrelated to activities in space;

(5) international manned missions beyond Earth orbit could save the individual nations involved tens of billions of dollars over national missions; and

(6) a multilateral effort for manned missions to establish a lunar colony, a Mars mission, and any other missions that have the goal of establishing human presence beyond Earth's orbit and possibly landing a human on Mars would lead to greater understanding of our universe and greater sensitivity to our own planet.

(b) STUDY.—The National Space Council shall conduct a study on International Cooperation in Planetary Exploration (hereafter in this section referred to as the "study").

(c) PURPOSE OF STUDY.—The purpose of the study is—

(1) to develop an inventory of technologies and intentions of all national space agencies with regard to lunar and planetary exploration, both manned and unmanned;

(2) to seek ways, through direct communication with appropriate officials of other nations or otherwise, to enhance the planning and exchange of information and data among the United States, the Soviet Union, European countries, Canada, Japan, and other interested countries with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

(3) to prepare a detailed proposal that most efficiently uses the resources of the national space agencies in cooperative endeavors to establish human presence beyond Earth orbit;

(4) to develop priority goals that accomplish unmet needs that could not be achieved by any individual country;

(5) to explore the possibilities of international unmanned probes to the Moon and Mars, and the possibilities for international manned missions beyond Earth's orbit; and

(6) to devise strategies for such cooperation that would prevent the unwanted transfer of technology.

In developing the inventory under paragraph (1), and in preparing the detailed proposal under paragraph (3), consideration shall be given to the potential contributions of commercial providers of space goods and services.

(d) REPORT.—The National Space Council shall, within one year after the date of the enactment of this Act, prepare and submit to Congress a report—

(1) outlining a preliminary strategy for cooperation among the United States, the Soviet Union, European countries, Canada, Japan, and other interested countries, based on their respective national strengths, with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

(2) including a conceptual design of a possible international manned mission, in coordination with the preliminary strategy referred to in paragraph (1), with target dates and a breakdown of responsibilities by nation;

(3) containing an inventory of planned and anticipated missions, manned and unmanned, that are being considered by national space agencies and commercial providers of space goods and services; and

(4) containing an inventory of space exploration technologies that either—

(A) are not immediately available in the United States but are available from other nations; or

(B) are available in the United States but are available from other nations in equal or superior form.

SEC. 115. OFFICE OF SPACE COMMERCE.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce for the Office of Space Commerce, $487,000 for fiscal year 1991.

(b) REPORT TO CONGRESS.—Commencing in fiscal year 1992, and every fiscal year thereafter, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report of the activities of the Office of Space Commerce, including planned programs and expenditures.

SEC. 116. NATIONAL AEROSPACE PLANE PROGRAM.

(a) NATIONAL AERO-SPACE PLANE PROGRAM.—The Secretary of Defense (hereafter in this section referred to as the "Secretary") and the Administrator shall jointly pursue on a high priority basis a National Aero-Space Plane program whose objective shall be the development and demonstration, by 1997, of a primarily air breathing single-stage-to-orbit and long range hypersonic cruise research flight vehicle. The program shall be a research program, and to the extent practicable technological information developed shall be transferred to the military and to the domestic civil aviation and other private industries.

(b) MANAGEMENT PLAN.—

(1) The Secretary and the Administrator shall jointly develop a management plan for the program established under subsection (a), which shall include goals, major tasks, anticipated schedules, organizational structure, funding profiles, details of the respective responsibilities of the Secretary and the Administrator, and resource procurement strategies.

(2) The management plan developed pursuant to paragraph (1) shall be submitted to the Congress within 120 days after the date of enactment of this Act.

SEC. 117. COMMERCIAL SPACE LAUNCH ACT AMENDMENTS.

(a) AUTHORIZATION.—Section 24 of the Commercial Space Launch Act (49 U.S.C. App. 2623) is amended by adding at the end thereof the following: "There are authorized to be appropriated to the Secretary to carry out this Act $4,517,000 for fiscal year 1991, of which $250,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988.".

(b) ACQUISITION BY STATE GOVERNMENTS.—Section 15(a) of the Commercial Space Launch Act (49 U.S.C. App. 2614(a)) is amended by inserting "and State governments" after "by the private sector".

(c) CONGRESSIONAL FINDINGS.—Section 2 of the Commercial Space Launch Act (49 U.S.C. App. 2601) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs;

"(8) space transportation, including the establishment and operation of launch sites and complementary facilities, the provision of launch services, the establishment of support facilities, and the provision of support services, is an important element of the Nation's transportation system, and in connec-

tion with the commerce of the United States there is a need to develop a strong space transportation infrastructure with significant private sector involvement; and

"(9) the participation of State governments in encouraging and facilitating private sector involvement in space-related activity, particularly through the establishment of space transportation-related infrastructure, including launch sites, complementary facilities, and launch site support facilities, is in the national interest and is of significant public benefit.".

(d) CONGRESSIONAL STATEMENT OF PURPOSE.—Section 3 of the Commercial Space Launch Act (49 U.S.C. App. 2602) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new paragraph:

"(4) to facilitate the strengthening and expansion of the United States space transportation infrastructure, including the enhancement of United States launch sites, as well as launch site support facilities, with Federal, State, and private sector involvement, to support the full range of United States space-related activities.".

(e) GENERAL RESPONSIBILITIES OF SECRETARY.—Section 5(a) of the Commercial Space Launch Act (49 U.S.C. App. 2604(a)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and";

(3) by adding at the end the following new paragraph:

"(3) work to facilitate private sector involvement in commercial space transportation activity, and to promote public-private partnerships involving the Federal Government, State governments, and the private sector to build, expand, modernize, or operate space launch infrastructure.".

SEC. 118. SPACE DEBRIS.

(a) FINDINGS.—The Congress finds that—

(1) if space users fail to act soon to reduce their contribution to debris in space, orbital debris could severely restrict the use of some orbits within a decade;

(2) the lack of adequate data on the orbital distribution and size of debris will continue to hamper efforts to reduce the threat that debris poses to spacecraft; and

(3) existing international treaties and agreements are inadequate for minimizing the generation of orbital debris or controlling its effects.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the goal of United States policy should be that—

(1) the space related activities of the United States should be conducted in a manner that does not increase the amount of orbital space debris; and

(2) the United States should engage other spacefaring Nations to develop an agreement on the conduct of space activities that ensures that the amount of orbital space debris is not increased.

SEC. 119. SUPPORT FOR SPACE SHUTTLE ORBITER PRODUCTION LINE.

The Administrator is authorized to expend excess funds appropriated for orbiter production under section 101(g) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" (100 Stat. 3341-242) to maintain the space shuttle orbiter production line and related production lines of orbiter subcontractors.

SEC. 120. INDUSTRIAL APPLICATION CENTERS.

In any agreement entered into by the National Aeronautics and Space Administration for an Industrial Application Center, the center shall be allowed to retain all client income without any deductions from appropriated funds received or to be received by that center.

SEC. 121. USERS' ADVISORY GROUP.

(a) ESTABLISHMENT.—(1) The National Space Council shall establish a Users' Advisory Group composed of non-Federal representatives of industries and other persons involved in aeronautical and space activities.

(2) The Vice President shall name a chairman of the Users' Advisory Group.

(3) The National Space Council shall from time to time, but not less than once a year, meet with the Users' Advisory Group.

(4) The function of the Users' Advisory Group shall be to ensure that the interests of industries and other non-Federal entities involved in space activities, including in particular commercial entities, are adequately represented in the National Space Council.

(5) The Users' Advisory Group may be assisted by personnel detailed to the National Space Council.

(b) EXEMPTION.—The Users' Advisory Group shall not be subject to section 14(a)(2) of the Federal Advisory Committee Act.

SEC. 122. SCIENTIFIC BALLOON LAUNCH SITE.

The Administrator may purchase approximately 8 acres within section 16, Township 3 North, Range 26 East, N.M.P.M., De Baca County, New Mexico, to use as a balloon launching facility.

SEC. 123. PEACEFUL USES OF SPACE STATION.

No civil space station authorized under section 103(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 124. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

The Administrator may utilize up to 5 percent of the funds provided for the Small Business Innovation Research Program for program management and promotional activities.

SEC. 125. PROPULSION STRATEGIC ASSESSMENT.

By July 1, 1991, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment by the National Research Council of the requirements, benefits, technological feasibility, and roles of Earth-to-orbit propulsion system options that could be developed in support of the national space program including the assembly and operation of the Space Station and potential space activities beyond the year 2000.

SEC. 126. NATIONAL CIVIL REMOTE-SENSING ADVISORY COMMITTEE.

Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall report to the Congress on the advisability of establishing a permanent National Civil Remote-Sensing Advisory Committee. The report should address concerns related to national security, conflict of interest, and duplication of existing authorities. In preparing the report, the Director shall assess the effectiveness of a National Civil Remote-Sensing Advisory Committee comprised of interested private-sector persons (including remote-sensing data users, data vendors, technology developers, system operators, information management and telecommunications specialists, and social scientists) which would—

(1) provide advice and policy recommendations to the President, the President's Science Advisor, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and relevant committees of the Congress on the development of a national civil remote-sensing policy that would be responsive to both user needs and global developments, in terms of—

(A) coordinating land, oceanic, and atmospheric remote-sensing systems, including ground stations;

(B) coordinating research and development, applications, and commercial remote-sensing activities;

(C) fostering effective integration of satellite, aerial, and in situ data; and

(D) assessing current institutional arrangements for the management, exploitation, and sharing of both real-time and archived data;

(2) provide recommendations on the conduct of cooperative test and applications demonstration projects designed to manage environmental pollution and the use of natural resources; and

(3) coordinate with the United States Global Change Research Program on issues of mutual concern.

SEC. 127. DEFINITION.

For purposes of this title, the term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

TITLE II—LAUNCH SERVICES PURCHASE

SEC. 201. SHORT TITLE.

This title may be cited as the "Launch Services Purchase Act of 1990".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the United States commercial launch industry is technically capable of providing reliable and cost efficient access to space and is an essential component of national efforts to assure access to space for Government and commercial users;

(2) the Federal Government should encourage, facilitate, and promote the United States commercial launch industry, including the development and enhancement of commercial launch facilities, in order to ensure United States economic preeminence in space;

(3) the interests of the United States will be served if the commercial launch industry is competitive in the international marketplace;

(4) commercial vehicles are effective means to challenge foreign competition;

(5) the use by the Federal Government of performance specifically in lieu of detailed specifications relating to vehicle design, construction, and operation will facilitate the efficient operation of the United States commercial launch industry;

(6) the procurement of commercial launch services in a commercially reasonable manner permits a reduced level of Federal Government regulation and oversight and economies of scale which may result in significant cost savings to the commercial launch industry and to the United States.

(7) it is the general policy of the Federal Government to purchase needed goods and services, including launch services, from the private sector to the fullest extent feasible; and

(8) predictable access to National Aeronautics and Space Administration launch markets would encourage continuing United States private sector investment in space and related activities.

SEC. 203. DEFINITIONS.

For the purposes of this title—

(1) the term "commercial provider" means any person providing launch services, but does not include the Federal Government;

(2) the term "launch services" means activities involved in the preparation of a launch vehicle and its payload for space transport and the conduct of transporting a payload;

(3) the term "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space; and

(4) the term "payload" means an object which a person undertakes to place in outer space by means of a launch vehicle, and includes subcomponents of the launch vehicle specifically designed or adapted for that object.

SEC. 204. REQUIREMENT TO PROCURE COMMERCIAL LAUNCH SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the National Aeronautics and Space Administration shall purchase launch services for its primary payloads from commercial providers whenever such services are required in the course of its activities.

(b) EXCEPTIONS.—The National Aeronautics and Space Administration shall not be required to purchase launch services as provided in subsection (a) if, on a case by case basis the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle;

(2) cost effective commercial launch services to meet specific mission requirements are not reasonably available and would not be available when required;

(3) the use of commercial launch services poses an unacceptable risk of loss of a unique scientific opportunity; or

(4) the payload serves national security or foreign policy purposes.

Upon any such determination, the Administrator shall, within 30 days, notify in writing the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the determination and its rationale.

(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION LAUNCH VEHICLES.—Launch vehicles shall be acquired or owned by the National Aeronautics and Space Administration only—

(1) as required under circumstances described in subsection (b); or

(2) by the National Aeronautics and Space Administration for conducting research and development on, and testing of, launch technology.

(d) PHASE-IN PERIOD.—Subsections (a) and (c) shall not apply to launch services and launch vehicles purchased by the National Aeronautics and Space Administration before the date of enactment of this Act.

(e) HISTORICAL PURPOSES.—This title shall not be interpreted to prohibit the National Aeronautics and Space Administration from acquiring, owning, or maintaining launch vehicles solely for historical display purposes.

SEC. 205. PURCHASE OF LAUNCH SERVICES.

(a) FULL AND OPEN COMPETITION.—(1) Contracts to provide launch services to the National Aeronautics and Space Administration under section 204 shall be awarded on the basis of full, fair, and open competition, consistent with section 2304 of title 10, United States Code, and section 311 of the National Aeronautics and Space Act of 1958.

(2) The National Aeronautics and Space Administration shall limit its requirements for submission of cost or pricing data in support of a bid or proposal to that data which is reasonably required to protect the interests of the United States.

(b) SPECIFICATION SYSTEMS.—Reasonable performance specifications, not detailed Government design or construction specifications, shall be used to the maximum extent feasible to define requirements for a commercial provider bidding to provide launch services. This subsection shall not preclude the National Aeronautics and Space Administration from requiring compliance with applicable safety standards.

SEC. 206. OTHER ACTIVITIES OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—Commercial payloads may not be accepted for launch as primary payloads on the space shuttle unless the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle; or

(2) launching of the payload on the space shuttle is important for either national security or foreign policy purposes.

(b) REPORT.—By March 15, 1991, the Administrator, in consultation with the Office of Federal Procurement Policy, shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report outlining the minimal requirements for documentation and other administrative data needed to procure launch services in a commercially reasonable manner, including—

(1) the need for data to integrate a payload with a launch vehicle;

(2) the need for data to carry out mission-specific modifications to the launch vehicle;

(3) the need for notification to the National Aeronautics and Space Administration of changes, delays, or difficulties in the construction or preparation of a launch vehicle that may affect the delivery of its payload to its destination at the time and under the conditions provided for under the contract between the United States and its contractors;

(4) the need for data to protect public health and safety; and

(5) the need for cost or pricing data for the fulfillment of a contract.

Mr. REID. Mr. President, I moved to reconsider the vote by which the bill as amended, was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF IRA MICHAEL HEYMAN TO BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on Senate Joint Resolution 318, a joint resolution to appoint Ira Heyman to the Smithsonian Institution's Board of Regents.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 318) entitled "Joint resolution providing for the appointment of Ira Michael Heyman of California as a citizen regent of the Board of Regents of the Smithsonian Institution," do pass with the following amendments:

Strike out after the resolving clause, and insert:

That, in accordance with section 5581 of the Revised Satutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of A. Higginbotham, Junior, of Pennsylvania, is filled by appointment of Ira Michael Heyman of California. The appointment is for a term of six years and shall take effect on the date on which this joint resolution becomes law.

Amend the title so as to read: "Joint resolution providing for appointment of Ira Michael Heyman as a citizen regent of the Smithsonian Institution.".

Mr. REID. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REAPPOINTMENT OF ANNE L. ARMSTRONG TO THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House on Senate Joint Resolution 302, a joint resolution to reappoint Anne Armstrong to the Smithsonian Institution's Board of Regents.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 302) entitled "Joint resolution providing for the reappointment of Anne L. Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution," do pass with the following amendments:

Strike out all after the resolving clause, and insert:

That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Anne Legendre Armstrong of Texas, is filled by reappointment of the incumbent for a term of six years, effective May 10, 1990.

Amend the title so as to read: "Joint resolution providing for reappointment of Anne Legendre Armstrong as a citizen regent of the Smithsonian Institution.".

Mr. REID. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROTECTION OF ANTARCTICA AS A GLOBAL ECOLOGICAL COMMONS

Mr. REID. Mr. President, I ask the Chair to lay before the Senate a message from the House on Senate Joint Resolution 206, a Resolution calling for the United States to encourage a new agreement among Antarctic Treaty consultative parties, for the full protection of Antarctica as a global ecological commons.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 206) entitled "Joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons," do pass with the following amendment:

Strike out all after the resolving clause, and insert:

That—

(1) Antarctica is a global ecological commons and should, therefore, be subject to new agreements or protocols which supplement the Antarctic Treaty of 1959, providing for comprehensive environmental protection of Antarctica, and which should for an indefinite period establish Antarctica as a region closed to commercial minerals development and related activities;

(2) under such new agreements, information about mineral or other resources in Antarctica should be obtained under strictly controlled arrangements and should be openly shared in the international scientific community;

(3) the Convention on the Regulation of Antarctic Mineral Resource Activities, though a considerable step forward, does not guarantee protection of the fragile environment of Antarctica and could actually stimulate movement toward commercial exploitation;

(4) pending the negotiation of entry into force of the new agreements referred to in paragraph (1) the Convention on the Regulation of Antarctic Mineral Resource Activities should not be presented to the Senate for advice and consent to ratification;

(5) until such new agreements enter into force, the United States should support the interim restraint measures currently in effect among the Consultative Parties to the Antarctic Treaty; and

(6) the negotiation of the new agreements referred to in paragraph (1) should be fully supported by the United States at the November 1990 meeting of the Antarctic Treaty Consultative Parties in Santiago, Chile.

Mr. REID. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANTARCTIC PROTECTION ACT

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 1001, H.R. 3977, an act to protect and conserve the continent of Antarctica.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3977) to protect and conserve the Continent of Antarctica, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HOLLINGS. Mr. President, I commend Senator KERRY and Senator PELL for their work on the Antarctica Protection Act. A few years ago, I had the good fortune to visit Antarctica and see both the American research base at McMurdo Sound and our base at the South Pole. Thus, I have observed the fragile nature of the Antarctic ecosystem first hand and am aware of the irreversible damage that human activity can cause.

The Commerce Committee has a history of involvement with environmental protection issues in the Antarctic. The committee has jurisdiction over both the Antarctic Marine Living Resources Convention Act and the Antarctic Conservation Act, as well as several other pieces of legislation pertaining to Antarctica. In addition, the Commerce Committee has jurisdiction over the National Science Foundation [NSF], which runs the U.S. Antarctic Program [USAP].

At this time, I want to thank personally Senator PELL for his cooperation and work with the Commerce Committee in addressing jurisdictional concerns this committee had with S. 2575. As reported by the Foreign Relations Committee, the bill contained two provisions that were of particular concern to the Commerce Committee. The bill would have applied the National Environmental Policy Act of 1969 [NEPA] to all U.S. Government or Government-funded activities in Antarctica, and would have allowed private citizens to file lawsuits against any person, including the Federal Government, alleged to be in violation of the bill's provisions.

The primary impact of these provisions would be on the U.S. Antarctic Program, which is overseen by NSF. It is the belief of the Commerce Committee, which has joint jurisdiction over NSF and the Antarctic Program with the Senate Committee on Labor and Human Resources, that the potential impacts of these provisions needs to be explored further. I am therefore very pleased that they were removed from the bill.

The amendment before us also includes a new provision that would extend the Antarctic Marine Living Resources Convention Act, and would require the National Oceanic and Atmospheric Administration [NOAA] to enforce the provisions of the bill. Because the NOAA has extensive experience in Antarctica, I believe they are well qualified to take on these duties. Naturally, the Commerce Committee will closely monitor the implementation of this provision since the NOAA falls under our jurisdiction.

Mr. PELL. I am very pleased that we were able to reach an agreement on the bill. The Foreign Relations Committee, which has jurisdiction over international issues and over Antarctica, will also be exercising oversight over the implementation of this legislation as well as over ongoing efforts to protect the Antarctic environment and to enforce measures to keep that incomparable resource pristine.

This legislation is the culmination of efforts in both the House and the Senate. It urges the President to negotiate a ban on mineral resource activities in the Antarctic and prohibits U.S. citizens from engaging in mineral resource activities in the Antarctic until such time as a prohibition is negotiated. It sends a clear and strong message to the administration that Congress is committed to protecting Antarctica's pristine and delicate environment from degradation caused by mineral resources activities. I am pleased to be a part of this collaborative effort, and I urge the administration to support this legislation.

AMENDMENT NO. 3157

(Purpose: To strengthen environmental protection of Antarctica)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KERRY, proposes an amendment numbered 3157.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctic Protection Act of 1990.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Antarctic continent with its associated and dependent ecosystems is a distinctive environment providing a habitat for many unique species and offering a natural laboratory from which to monitor critical aspects of stratospheric ozone depletion and global climate change;

(2) Antarctica is protected by a series of international agreements, including the Antarctic Treaty and associated recommendations, the Convention of the Conservation of Antarctic Marine Living Resources, which are intended to conserve the renewable natural resources of Antarctica and to recognize the importance of Antarctica for the conduct of scientific research;

(3) recurring and recent developments in Antarctica, including increased siting of scientific stations, poor waste disposal practices, oil spills, increased tourism, and the over-exploitation of marine living resources, have raised serious questions about the adequacy and implementation of existing agreements and domestic law to protect the Antarctic environment and its living marine resources;

(4) the parties to the Antarctic Treaty have negotiated a Convention on the Regulation of Antarctic Mineral Resources Activities which the United States has signed but not yet ratified;

(5) the Convention on the Regulation of Antarctic Mineral Resources Activities does not guarantee the preservation of the fragile environment of Antarctica and could actually stimulate movement toward Antarctic mineral resource activity;

(6) the exploitation of mineral resources in Antarctica could lead to additional degradation of the Antarctic environment, including increased risk of oil spills;

(7) the Antarctic Treaty Consultative Parties have agreed to a voluntary ban on Antarctic mineral resource activities which needs to be made legally binding;

(8) the level of scientific study, including necessary support facilities, has increased to the point that some scientific programs may be degrading the Antarctic environment; and

(9) the planned special consultative meeting of parties to the Antarctic Treaty and the imminence of the thirtieth anniversary of the Antarctic Treaty provide opportunities for the United States to exercise leadership toward protection and sound management of Antarctica.

(b) PURPOSE.—The purpose of this Act is to—

(1) strengthen substantially overall environmental protection of Antarctica;

(2) prohibit prospecting, exploration, and development of Antarctic mineral resources by United States citizens and other persons subject to the jurisdiction of the United States;

(3) urge other nations to join the United States in immediately negotiating one or more new agreements to provide an indefinite ban on all Antarctic mineral resource activities and comprehensive protection for Antarctica and its associated and dependent ecosystems; and

(4) urge all nations to consider a permanent ban on Antarctic mineral resource activities.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) The term "Antarctica" means the area south of the Antarctic Convergence as defined in section 303(1) of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2432).

(2) The term "Antarctic mineral resource activity" means prospecting, exploration, or development in Antarctica of mineral resources, but does not include scientific research within the meaning of article III of the Antarctic Treaty, done at Washington on December 1, 1959.

(3) The term "development" means any activity, including logistic support, which takes place following exploration, the purpose of which is the exploitation of specific mineral resource deposits, including processing, storage, and transport activities.

(4) The term "exploration" means any activity, including logistic support, the purpose of which is the identification or evaluation of specific mineral resource deposits. The term includes exploratory drilling, dredging, and other surface or subsurface excavations required to determine the nature and size of mineral resource deposits and the feasibility of their development.

(5) The term "mineral resources" means all nonliving natural nonrenewable resources, including fossil fuels, minerals, whether metallic or nonmetallic, but does not include ice, water, or snow.

(6) The term "person" means any individual, corporation, partnership, trust, association, or any other entity existing or organized under the laws of the United States, or any officer, employee, agent, department, or other instrumentality of the Federal Government or of any State or political subdivision thereof.

(7) The term "prospecting" means any activity, including logistic support, the purpose of which is the identification of mineral resource potential for possible exploration and development.

(8) The term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 4. PROHIBITION ON ANTARCTIC MINERAL RESOURCE ACTIVITIES.

Pending a new agreement among the Antarctic Treaty Consultative Parties in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which provides an indefinite ban on Antarctic mineral resource activities, it is unlawful for any person to engage in, finance, or otherwise knowingly provide assistance to any Antarctic mineral resource activity.

SEC. 5. INTERNATIONAL AGREEMENT.

(a) It is the sense of Congress that the Secretary of State should enter into negotiations with the Antarctic Treaty Consultative Parties to conclude one or more new international agreements to—

(1) conserve and protect permanently the natural environment of Antarctica and its associated and dependent ecosystems;

(2) prohibit or ban idefinitely Antarctic mineral resource activities by all parties to the Antarctic Treaty;

(3) grant Antarctica special protective status as a land of science dedicated to wilderness protection, international cooperation, and scientific research;

(4) ensure that the results of all scientific investigations relating to geological processes and structures be made openly available to the international scientific community, as required by the Antarctic Treaty; and

(5) include other comprehensive measures for the protection of the Antarctic environment.

(b) It is the sense of Congress that any treaty or other international agreement submitted by the President to the Senate for its advice and consent to ratification relating to mineral resources or activities in Antarctica should be consistent with the purpose and provisions of this Act.

SEC. 6. ENFORCEMENT.

(a) IN GENERAL.—A violation of this Act or any regulation promulgated under this Act is deemed to be a violation of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431-2444) and shall be enforced under that Act by the Under Secretary or another Federal official to whom the Under Secretary has delegated this responsibility.

(b) PENALTY.—If the Under Secretary determines that a person has violated section 4—

(1) that person shall be ineligible to locate a mining claim under the mining laws of the United States; and

(2) the Secretary of the Interior shall refuse to issue a patent under the mining laws of the United States, or a lease under the laws of the United States related to mineral or geothermal leasing, to any such person who attempts to perfect such patent or lease application after the Under Secretary has made such determination.

SC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Under Secretary not more than $1,000,000 for each of fiscal years 1991 and 1992 to carry out the purposes of this Act; and

(2) to the Secretary of State not more than $500,000 for each of fiscal years 1991 and 1992 to carry out section 5 of this Act.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 3157) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 3977), as amended, was passed.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDING THE WILD AND SCENIC RIVERS ACT

Mr. REID. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 5004, a bill to designate certain segments of the Mills River in North Carolina for addition to the Wild and Scenic Rivers System, and that the Senate proceed to its immediate consideration; that it be read a third time and passed and the motion to reconsider be laid on the table. I further ask unanimous consent that any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5004) was passed.

AUTHORIZING THE ESTABLISHMENT OF GLORIETA NATIONAL BATTLEFIELD

Mr. REID. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 4090, a bill to authorize the establishment of the Glorieta National Battlefield in New Mexico, and that the Senate proceed to its immediate consideration; that it be read a third time and passed and the motion to reconsider be laid on the table. I further ask unanimous consent that any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4090) was passed.

Mr. DOMENICI. Mr. President, the Senate has approved H.R. 4090, which will provide Federal protection to the site of the Battle of Glorieta in New Mexico. My colleague from New Mexico, Mr. BINGAMAN, and I sponsored a similar bill, S. 2165, that passed the Senate last week.

Millions of Americans were enthralled recently by PBS's outstanding documentary on the Civil War. This program increased the public's knowledge of the most turbulent era of our Nation's history and has generated new interest in the sites associated with the war.

Mr. President, I am sure that before "The Civil War" aired very few Americans realized that the Civil War was fought not only in the East but also in the Southwest.

In March 1862, Glorieta Pass on the Santa Fe Trail was the site of one of the western-most battles of the Civil War. The Battle of Glorieta Pass, known as the Gettysburg of the West, marked the turning point of the Confederate drive to occupy Arizona and New Mexico and thus establish a foothold for control of the Far West.

The troops fought to a draw, but the Union forces won the battle when a Union regiment snuck behind Confederate lines and burned their supply wagons, thus forcing the Confederates to abandon their campaign.

H.R. 4090 would establish 682 acres at the site of Glorieta Battle as the Glorieta Unit of Pecos National Historical Park. Pecos National Historical Park was established earlier this year by merging Pecos National Monument with the adjacent Forked Lightning Ranch, which will soon be donated to the National Park Service by the Conservation Fund. Pecos National Historical Park currently contains the campsite and headquarters of the Union forces that were involved in the Battle of Gloieta.

The Glorieta Unit of Pecos would consist of the Pigeon's Ranch Site and the Johnson's Ranch Site.

Mr. President, I had a concern about the use of condemnation to acquire the lands that would be protected by this legislation. I am pleased that the legislation has been modified to address those concerns and reduce the possibility that condemnation will be utilized.

The site of the Battle of Glorieta is worthy of protection. This legislation will preserve this site and increase the public's knowledge of this important episode in the Civil War. I am glad the Senate has approved this bill.

INTELLIGENCE AUTHORIZATION ACT—CONFERENCE REPORT

Mr. REID. Mr. President, I submit a report of the committee of conference on S. 2834 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2834) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by all of the conferees.

The PRESIDENTIAL OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 23, 1990.)

Mr. REID. Mr. President, I urge the conference report be adopted.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HIGH PERFORMANCE COMPUTING ACT

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 710, S. 1067, regarding United States leadership in high performance computing.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1067) to provide for a coordinated Federal research program to ensure continued United States leadership in high performance computing.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. This Act may be cited as the "High-Performance Computing Act of 1990".

SEC. 2. (a) The Congress finds and declares the following:

(1) Advances in computer science and technology are vital to the Nation's prosperity, national and economic security, and scientific advancement.

(2) The United States currently leads the world in development and use of high-performance computing for national security, industrial productivity, and science and engineering, but that lead is being challenged by foreign competitors.

(3) Further research, improved computer research networks, and more effective technology transfer from government to industry are necessary for the United States to fully reap the benefits of high-performance computing.

(b) It is the purpose of Congress in this Act to help ensure the continued leadership of the United States in high-performance computing and its applications. This requires that the United States Government—

(1) expand Federal support for research, development, and application of high-performance computing in order to—

(A) establish a high-capacity national research and education computer network;

(B) expand the number of researchers, educators, and students with training in high-performance computing and access to high-performance computing resources;

(C) develop an information infrastructure of data bases, services, access mechanisms,

and research facilities which is available for use through such a national network;

(D) stimulate research on software technology;

(E) promote the more rapid development and wider distribution of computer software tools and applications software;

(F) accelerate the development of computer systems and subsystems;

(G) promote the application of high-performance computing to Grand Challenges; and

(H) invest in basic research and education; and

(2) improve planning and coordination of Federal research and development on high-performance computing.

SEC. 3. As used in this Act, the term—

(1) "North American company" means a company or other business entity in which majority ownership or control is held by individuals who are citizens of the United States, or citizens of Canada, or a combination of United States and Canadian citizens, except that such term includes a company owned or controlled by Canadian citizens only if, in the judgment of the Secretary of Commerce, the company is not acting, with respect to the joint venture concerned, as an agent or intermediary for a third-country company or foreign government; and

(2) "Grand Challenge" means a fundamental problem in science and engineering, with broad economic and scientific impact, whose solution will require the application of high-performance computing resources.

TITLE I—NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM

SEC. 101. The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VI—NATIONAL HIGH-PERFORMANCE COMPUTER TECHNOLOGY PROGRAM

"FINDINGS

"SEC. 601. (a) The Congress finds and declares the following:

"(1) In order to strengthen America's computer industry and to assist the entire manufacturing sector, the Federal Government must provide leadership in the development and application of high-performance computing. In particular, the Federal Government should support the development of a high-capacity, national research and education network; make information services available over the network; facilitate the development of software for research, education, and industrial applications; continue to fund basic and applied research; and provide for the training of computer scientists and computational scientists.

"(2) Several Federal agencies have ongoing high-performance computing programs. Improved interagency coordination, cooperation, and planning could enhance the effectiveness of these programs.

"(3) A 1989 report by the Office of Science and Technology Policy outlining a research and development strategy for high-performance computing provides a framework for a multiagency high-performance computing program.

"NATIONAL HIGH-PERFORMANCE COMPUTING PLAN

"SEC. 602. (a)(1) The President, through the Federal Coordinating Council for Science, Engineering, and Technology (hereafter in this title referred to as the 'Council'), shall develop and implement a National High-Performance Computing Plan (hereafter in this title referred to as the 'Plan') in accordance with the provisions, findings, and purpose of this Act. Consistent with the responsibilities set forth under subsection (d) of this section, the Plan shall contain recommendations for a five-year national effort, to be submitted to the Congress within one year after the date of enactment of this title and to be revised at least once every two years thereafter.

"(2) The Plan shall—

"(A) establish the goals and priorities for a Federal high-performance computing program for the fiscal year in which the Plan (or revised Plan) is submitted and the succeeding four fiscal years;

"(B) set forth the role of each Federal agency and department in implementing the Plan;

"(C) describe the levels of Federal funding for each agency and specific activities, including education, research activities, hardware and software development, and acquisition and operating expenses for computers and computer networks, required to achieve such goals and priorities; and

"(D) consider and use, as appropriate, reports and studies conducted by Federal agencies and departments, the National Research Council, or other entities.

"(3) The Plan shall address, where appropriate, the relevant programs and activities of the following Federal agencies and departments—

"(A) the National Science Foundation;

"(B) the Department of Commerce, particularly the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, and the National Telecommunications and Information Administration;

"(C) the National Aeronautics and Space Administration;

"(D) the Department of Defense, particularly the Defense Advanced Research Projects Agency and, as appropriate, the National Security Agency;

"(E) the Department of Energy;

"(F) the Department of Health and Human Services, particularly the National Institutes of Health;

"(G) the Department of Education;

"(H) the Library of Congress, the National Library of Medicine, and the National Agricultural Library; and

"(I) such other agencies and departments as the President or the Chairman of the Council considers appropriate.

"(b) The Council shall—

"(1) serve as lead entity responsible for development and implementation of the Plan;

"(2) coordinate the high-performance computing research and development activities of Federal agencies and departments and report at least annually to the President, through the Chairman of the Council, on any recommended changes in agency or departmental roles that are needed to better implement the Plan;

"(3) prior to the President's submission to the Congress of the annual budget estimate, review each agency and departmental budget estimate in the context of the Plan and make the results of that review available to the appropriate elements of the Executive Office of the President, particularly the Office of Management and Budget;

"(4) work with Federal agencies, with the National Research Council, and with academic, State, industry, and other groups conducting research on high-performance computing.

"(c) The Office of Science and Technology Policy shall establish a High-Performance Computing Advisory Panel consisting of representatives from industry and academia to provide the Council with an independent assessment of (1) progress made in implementing the Plan, (2) the need to revise the Plan, (3) the balance between the components of the Plan, (4) whether the research and development funded under the Plan is helping to maintain United States leadership in computing technology, and (5) other issues identified by the Director of the Office of Science and Technology Policy.

"(d)(1) The Plan shall take into consideration, but not be limited to, the following missions and responsibilities of agencies and departments:

"(A) The National Science Foundation shall continue to be responsible for basic research in computer science and engineering, computer technology, and computational science. The Foundation shall continue to solicit grant proposals and award grants by merit review for research in universities, nonprofit research institutions, and industry. The National Science Foundation shall also provide researchers with access to supercomputers and have primary responsibility for the establishment, by 1996, of a multi-gigabit-per-second national computer network, as required by section 201 of the High-Performance Computing Act of 1990. Prior to deployment of a multi-gigabit-per-second national network, the National Science Foundation shall maintain, expand, and upgrade its existing computer networks. Additional responsibilities include promoting development of information services and data bases available over such computer networks; facilitation of the documentation, evaluation, and distribution of research software over such computer networks; encouragement of continued development of innovative software by industry; and promotion of science and engineering education.

"(B) The National Institute of Standards and Technology shall be responsible for developing, through the open standards setting process, standards, guidelines, measurement techniques, and test methods for the interoperability of high-performance computers in networks and for common user interfaces to systems. In addition, the National Institute of Standards and Technology shall be responsible for developing benchmark tests and standards, through the open standards setting process and in conjunction with industry, for high-performance computers and software. Pursuant to the Computer Security Act of 1987 (Public Law 100-235; 100 Stat. 1724), the National Institute of Standards and Technology shall continue to be responsible for adopting standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems. These standards and guidelines shall be developed through the open standards setting process and in conjunction with industry.

"(C) The National Oceanic and Atmospheric Administration shall continue to observe, collect, communicate, analyze, process, provide, and disseminate data about the Earth and its oceans, atmosphere, and space environment. The National Oceanic and Atmospheric Administration shall improve the quality and accessibility of the environmental data stored at its four data centers and shall perform research and develop technology to support its data handling role.

"(D) The National Aeronautics and Space Administration shall continue to conduct basic and applied research in high-performance computing, particularly in the field of

computational science, with emphasis on aeronauticals and the processing of remote sensing data.

"(E) The Department of Defense, through the Defense Advanced Research Projects Agency and other agencies, shall continue to conduct basic and applied research in high-performance computing, particularly in computer networking, semiconductor technology, and large-scale parallel processors. Pursuant to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) and other appropriate Acts, the Department shall ensure that unclassified computing technology research is readily available to United States industry. The National Security Agency, pursuant to the Computer Security Act of 1987 (Public Law 100-235; 100 Stat. 1724), shall continue to provide, where appropriate, technical advice and assistance to the National Institute of Standards and Technology for the adoption of standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

"(F) The Department of Energy and its national laboratories shall continue to conduct basic and applied research in high-performance computing, particularly in software development and multiprocessor supercomputers. Pursuant to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), and other appropriate Acts, the Department of Energy shall ensure that unclassified computer research is readily available to North American companies.

"(G) The Department of Education, pursuant to the Library Services and Construction Act (20 U.S.C. 351 et seq.) and the Higher Education Act of 1965 (20 U.S.C. 1060 et seq.), shall encourage the distribution of library and information resources, through library linkages to the National Research and Education Network and through other means.

"(H) The Library of Congress, the National Library of Medicine, and the National Agricultural Library, as national libraries of the United States, shall continue to compile, develop, and maintain electronic data bases in appropriate areas of expertise and provide for dissemination of, access to, and use of these data bases and other library resources through the Network.

"(2) The Plan shall facilitate collaboration among agencies and departments with respect to—

"(A) ensuring interoperability among computer networks run by the agencies and departments;

"(B) increasing software productivity, capability, and reliability;

"(C) encouraging, where appropriate, agency cooperation with industry in development of software;

"(D) promoting interoperability of software;

"(E) distributing software among the agencies and departments; and

"(F) distributing federally-funded, unclassified software to State and local governments, industry, and universities.

"(e)(1) Each Federal agency and department involved in high-performance computing shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report identifying each element of its high-performance computing activities, which—

"(A) specifies whether each such element (i) contributes primarily to the implementation of the Plan or (ii) contributes primarily to the achievement of other objectives but aids Plan implementation in important ways; and

"(B) states the portion of its request for appropriations that is allocated to each such element.

"(2) The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency and departmental responsibilities set forth in the Plan, and shall include, in the President's annual budget estimate, a statement of the portion of each agency or department's annual budget estimate that is allocated to each element of such agency or department's high-performance computing activities. The Office of Management and Budget shall ensure that a copy of the President's annual budget estimate is transmitted to the Chairman of the Council at the same time as such budget estimate is submitted to Congress.

"ANNUAL REPORT

"SEC. 603. The Chairman of the Council shall prepare and submit to the President and the Congress, not later than March 1 of each year, an annual report on the activities conducted pursuant to this title during the preceding fiscal year, including—

"(1) a summary of the achievements of Federal high-performance computing research and development efforts during that preceding fiscal year;

"(2) an analysis of the progress made toward achieving the goals and objectives of the Plan;

"(3) a copy or summary of the Plan and any changes made in such Plan;

"(4) a summary of agency budgets for highperformance computing activities for that preceding fiscal year; and

"(5) any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title.".

SEC. 102. (a) Section 102(a)(6) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6602(a)(6)) is amended to read as follows:

"(6) The development and implementation of long-range, interagency research plans to support policy decisions regarding identified national and international concerns, and for which a sustained and coordinated commitment to improving scientific understanding will be required.".

(b)(1) Section 401 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651) is amended to read as follows:

"FUNCTIONS OF COUNCIL

"SEC. 401. (a) The Federal Coordinating Council for Science, Engineering, and Technology (hereinafter referred to as the 'Council') shall consider problems and developments in the fields of science, engineering, and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designated to—

"(1) provide more effective planning and administration of Federal scientific, engineering, and technological programs;

"(2) identify research needs, including areas requiring additional emphasis;

"(3) achieve more effective utilization of the scientific, engineering, and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication; and

"(4) further international cooperation in science, engineering, and technology.

"(b) The Council may be assigned responsibility for developing long-range and coordinated plans for scientific and technical research which involve the participation of more than two Federal agencies. Such plans shall—

"(1) identify research approaches and priorities which most effectively advance scientific understanding and provide a basis for policy decisions;

"(2) provide for effective cooperation and coordination of research among Federal agencies; and

"(3) encourage domestic and, as appropriate, international cooperation among government, industry, and university scientists.

"(c) The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chairman of the Council.

"(d) For the purpose of carrying out the provisions of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

"(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

"(2) undertaking, upon request of the Chairman, such special studies for the Council as come within the scope of authority of the Council.

"(e) For the purpose of developing interagency plans, conducting studies, and making reports as directed by the Chairman, standing committees and working groups of the Council may be established.".

(2) Section 207(a)(1) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6616(a)(1)) is amended by striking "established under Title IV".

TITLE II—NATIONAL RESEARCH AND EDUCATION NETWORK

SEC. 201. The National Science Foundation shall, in cooperation with the Department of Defense, the Department of Energy, the Department of Commerce, the National Aeronautics and Space Administration, and other appropriate agencies, provide for the establishment of a national multi-gigabit-per-second research and education computer network by 1996, to be known as the National Research and Education Network, which shall—

(1) link government, industry, and the education community;

(2) provide computer users with access to supercomputers, computer data bases, and other research facilities;

(3) provide users of libraries and other educational institutions with access to the Network and information resources;

(4) be developed in close cooperation with the computer, telecommunications, and information industry;

(5) be designed and developed with the advice of potential users in government, industry, and the higher education community;

(6) be established in a manner which fosters and maintains competition and private sector investment in high speed data networking within the telecommunications industry;

(7) where technically feasible, have accounting mechanisms which allow, where appropriate, users or groups of users to be charged for their usage of the Network and copyrighted materials available over the Network; and

(8) be phased out when commercial networks can meet the networking needs of American researchers.

SEC. 202. In addition to other agency activities associated with the establishment of the National Research and Education Network, the following actions shall be taken:

(1) The Federal Coordinating Council for Science, Engineering, and Technology shall—

(A) establish a Federal Networking Advisory Committee to provide technical advice from the interests involved in existing Federal research networks and the National Research and Education Network; and

(B) submit to the Congress, within one year after the date of enactment of this Act, a report describing and evaluating effective mechanisms for providing operating funds for the maintenance and use of the Network, including user fees, industry support, and continued Federal investment, and containing a plan for the eventual commercialization of the Network.

(2) The National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Department of Defense, the Department of Commerce, the Department of the Interior, the Department of Agriculture, the Department of Health and Human Services, and the Environmental Protection Agency shall allow recipients of Federal research grants to use grant monies to pay for computer networking expenses.

(3) The Department of Defense, through the Defense Advanced Research Projects Agency, shall have the primary responsibility for research and development of advanced fiber optics technology, switches, and protocols needed to develop a multi-gigabit computer network.

(4) The National Institute of Standards and Technology shall, in consultation with the National Science Foundation. the National Security Agency, other relevant agencies, and industry, adopt a common set of standards and guidelines, developed through an open standards setting process, to provide interoperability, common user interfaces to systems, and enhanced security for the Network.

(5) The National Telecommunications and Information Administration shall determine to what extent current State and Federal telecommunications laws and regulations hinder or facilitate private industry participation in the data transmission field. Within one year after the date of enactment of this Act, the Administration shall report such determination to the Congress.

TITLE III—INFORMATION SERVICES

SEC. 301. The National Science Foundation, with assistance from the Department of Commerce (in particular the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, the National Technical Information Service, and the Bureau of the Census), the Department of Defense, the National Aeronautics and Space Administration, the Department of Energy, the National Institutes of Health, the Library of Congress, the United States Geological Survey, the Department of Agriculture, and other agencies identified by the Director of the Office of Science and Technology Policy, shall promote development of information services over the National Research and Education Network established under section 201 of this Act. These services shall include, but not be limited to—

(1) directories of users of networks;

(2) directories of data bases available over the Network;

(3) identifying, cataloguing, and providing for access to unclassified Federal scientific data bases, including weather data, census data, economic data, and remote sensing satellite data, and providing data bases and knowledge banks for use by artificial intelligence programs;

(4) digital libraries to video programming, books, and journals stored in electronic form and other computer data;

(5) orientation and training of users of data bases and networks;

(6) commercial information services to researchers using the Network;

(7) rapid prototyping of integrated circuits and other devices using centralized facilities connected to the Network; and

(8) technology to support computer-based collaboration that allows researchers around the Nation to share information and instrumentation.

SEC. 302. Within one year after the date of enactment of this Act, the Office of Science and Technology Policy shall report to the Congress on—

(1) how commercial information service providers could be charged for access to the National Research and Education Network in order to defray some of the Network operating expenses;

(2) the technological feasibility of allowing commercial information service providers to use the Network and other federally-funded research networks;

(3) how Network users could be charged for such commercial information services;

(4) how best to protect the copyrights of authors whose work may be distributed over the Network; and

(5) appropriate policies to ensure the security of resources available on the Network and protect the privacy of users of networks.

TITLE IV—SOFTWARE

SEC. 401. (a) The Office of Science and Technology Policy, as indicated in the National High-Performance Computing Plan (hereinafter referred to as the "Plan") developed and implemented under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976, as added by section 101 of this Act, shall oversee the cooperative efforts of Federal departments and agencies in the research and development of high-performance computer software, including projects focused on astrophysics, geophysics, engineering, materials, biochemistry, plasma physics, and weather and climate forecasting.

(b)(1) The National Science Foundation and the National Aeronautics and Space Administration shall define several Grand Challenges and provide for the research and development of the high-performance computer software and hardware needed to address such Grand Challenges.

(2) The Grand Challenges to be addressed by the National Science Foundation under paragraph (1) could include—

(A) prediction of global change, with the goal to understand the coupled atmosphere, ocean, biosphere system in enough detail to be able to make long-range predictions about its behavior and determine its response to human-caused releases of carbon dioxide, methane, chlorofluorocarbons, and other gases;

(B) materials science, with the goal to use high-performance computing to improve our understanding of the atomic nature of materials, leading to the design and production of improved semiconductors, superconductors, ceramics, and other materials;

(C) computer vision, with the goal to develop vision systems for computers and robots;

(D) ocean sciences, with the goal to develop a global ocean model incorporating temperature, chemical composition, circulation, and coupling of the ocean and atmosphere; and

(E) astronomy, with the goal to develop the computer systems and algorithms needed to process and analyze the very large volume of data generated by radio telescopes such as the Very Large Array and other astronomical facilities.

(3) The Grand Challenges to be addressed under paragraph (1) by the National Aeronautics and Space Administration could include—

(A) turbulence, with the goal to better understand turbulence to allow engineers to more accurately model the aerodynamic behavior of airplanes, spacecraft, ships, submarines, trucks, automobiles, and other vehicles;

(B) transportation, with the goal to use computer models in the design of air and land vehicles in order to improve their stability, performance, and life-cycle;

(C) prediction of global change, with the goal to understand the coupled atmosphere, ocean, biosphere system in enough detail to be able to make long-range predictions about its behavior and determine its response to human-caused releases of carbon dioxide, methane, chlorofluorocarbons, and other gases; and

(D) speech, with the goal to develop computer systems that can understand normal human speech.

(4) The National Science Foundation and the National Aeronautics and Space Administration shall support collaborative research groups consisting of scientists and engineers concerned with a particular Grand Challenge, software and systems engineers, and algorithm designers, and provide them with—

(A) computational and experimental facilities, including supercomputers for numerical modeling;

(B) access to the National Research and Educational Network and other computer networks; and

(C) access to and technology for effectively utilizing scientific data bases.

(c) The National Science Foundation shall support the development of software tools and components to accelerate development of software for computers, especially supercomputers. Support shall be provided for research on fundamental algorithms, models of computation, program analysis, and new programming languages. Particular emphasis shall be given to development of programming languages, compilers, operating systems, and software tools for parallel computer systems.

SEC. 402. The National Science Foundation shall establish clearinghouses to improve, document, evaluate, and distribute unclassified public-domain software developed by federally-funded researchers and other software, including federally-funded educational and training software. Such clearinghouses shall—

(1) maintain libraries of programs;

(2) provide funding to researchers to improve and maintain software they have developed;

(3) help researchers locate the software they need;

(4) make software available through the National Research and Education Network; and

(5) promote commercialization of software where possible.

SEC. 403. The National Institute of Standards and Technology shall adopt standards, developed under an open standards setting process and in conjunction with industry, for software programs purchased or developed by the Federal Government. The purpose of these standards shall be to promote development of interoperable software systems that can be used on different computer systems with different operating systems.

SEC. 404. (a) The Secretary of Commerce shall conduct a study to—

(1) evaluate the impact of Federal procurement regulations which require that contractors providing software to the Federal Government share the rights to proprietary software development tools that the contractors used to develop the software; and

(2) determine whether such regulations discourage development of improved software development tools and techniques.

(b) The Secretary shall, within one year after the date of enactment of this Act, report to the Congress regarding the results of the study conducted under subsection (a).

TITLE V—COMPUTER SYSTEMS

SEC. 501. The National Science Foundation shall provide for research and development on all aspects of highperformance computer systems, including processors, memory and mass storage devices, input/output devices, and associated systems software.

SEC. 502. Where appropriate, Federal agencies shall procure prototype or early production models of new high-performance computer systems and sub-systems to stimulate hardware and software development in North American companies. Particular emphasis shall be given to promoting development of advanced display technology, alternative computer architectures, advanced peripheral storage devices, and very high-speed communication links.

SEC. 503. Within 120 days following the date of enactment of this Act, the Secretary of Commerce, in consultation with the Department of State, the Department of Defense, the Central Intelligence Agency, the National Security Agency, and other appropriate agencies, shall review export controls that hinder the devlopment of foreign markets for supercomputer and other high-performance computer technology made by North American companies, and report to the Congress the results of such review.

TITLE VI—BASIC RESEARCH AND EDUCATION

SEC. 601. The Office of Science and Technology Policy shall oversee and coordinate efforts of the relevant departments and agencies to—

(1) support basic research on computer technology;

(2) create technology transfer mechanisms to ensure that the results of basic research are readily available to North American companies;

(3) promote basic research in computer science, computational science, library and information sciences, electrical engineering, and materials science; and

(4) educate and train more researchers in computer science and computational science.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

SEC. 701. (a) There are authorized to be appropriated to the National Science Foundation for the research, development, and implementation of the National Research and Education Network, in accordance with the purposes of title II, $15,000,000 for fiscal year 1991, $25,000,000 for fiscal year 1992, $55,000,000 for fiscal year 1993, $50,000,000 for fiscal year 1994, and $50,000,000 for fiscal year 1995.

(b) There are authorized to be appropriated to the National Science Foundation for the purposes of titles III, IV, and V of this Act, $23,000,000 for fiscal year 1991, $53,000,000 for fiscal year 1992, $77,000,000 for fiscal year 1993, $107,000,000 for fiscal year 1994, and $131,000,000 for fiscal year 1995.

(c) To expand its traditional role in supporting basic research in universities and colleges, and in training scientists and engineers in computer science, computational science, library and information sciences, and electrical engineering, there are authorized to be appropriated to the National Science Foundation, $8,000,000 for fiscal year 1991, $10,000,000 for fiscal year 1992, $13,000,000 for fiscal year 1993, $15,000,000 for fiscal year 1994, and $18,000,000 for fiscal year 1995.

SEC. 702. There are authorized to be appropriated to the National Aeronautics and Space Administration for the purposes of titles II, III, IV, V, and VI of this Act, $22,000,000 for fiscal year 1991, $45,000,000 for fiscal year 1992, $67,000,000 for fiscal year 1993, $89,000,000 for fiscal year 1994, and $115,000,000 for fiscal year 1995.

SEC. 703. The amounts authorized to be appropriated under sections 701 and 702 are in addition to any amounts that may be authorized to be appropriated under other laws.

AMENDMENT NO. 3158

(Purpose: To make an amendment in the nature of a substitute)

Mr. REID. Mr. President, I send a Gore substitute amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. GORE (for himself, Mr. JOHNSTON, Mr. DOMENICI, and Mr. MCCLURE), proposes an amendment numbered 3158.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Performance Computing Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) The Congress finds the following:

(1) Advances in computer science and technology are vital to the Nation's prosperity, national and economic security, and scientific advancement.

Mr. GORE. Mr. President, I rise to offer an amendment in the form of a substitute for S. 1067, the High-Performance Computing Act of 1990. This amendment incorporates most of the provisions of S. 1067 as reported by the Senate Committee on Commerce, Science, and Transportation, and S. 1976, which was reported in July by the Committee on Energy and Natural Resources.

This bill will have a major, long-term impact on American science, technology, and education. It will help the U.S. remain at the leading edge of computing technology critical to America's competitiveness. This bill will accelerate the development of new generations of supercomputers and new uses for these powerful machines. It will provide funding for a National Research and Education Network to give researchers around the country access to supercomputers, data bases, and other research facilities. It will help ensure that America's scientists and engineers in our universities, our national laboratories, and our industrial laboratories have access to the supercomputers they need. In many areas of research, including a global climate modeling, aeronautics, and geophysics, researchers are facing computational problems that overwhelm the capacity of today's most powerful supercomputers. This bill will fund the development of supercomputers that will provide benefits to all branches of science and engineering.

High-performance computing will help American industry design and manufacture better products. Already, in firm after firm, million dollar computers are paying for themselves in terms of productivity gains. High-technology firms are in the vanguard, using supercomputers to design faster computer chips and quieter, more efficient airplanes. In the world of finance, companies are using ever-larger computers to store and sort out mountains of economic data, such as stock and commodity prices, in order to catch market trends. In smokestack industries, advanced computers, and networks are being used to streamline manufacturing. Computers are replacing blueprints on the shop floor.

Supercomputers are allowing engineers to design better products without having to build and test dozens of prototypes. In some cases, advanced computers are cutting the time it takes to design a new product by 50 to 75 percent. That means beating the foreign competition to the market, and that means more jobs for Americans.

The bill before us lays out an ambitious, 5-year program to roughly double Federal funding for advanced computing and networking. The multiagency program established by the bill would roughly double Federal funding for research and development on supercomputing and high-speed computer networks. The bill authorizes an additional $413 million over the next 3 years for research and development programs at NASA and the National Science Foundation.

The multiagency program established by S. 1067 is similar to that proposed in September 1989, by the

Office of Science and Technology Policy in a report entitled "The Federal High Performance Computing Program." This report represents the combined efforts of researchers from more than half a dozen Federal agencies, including NSF, NASA, the Department of Energy, the Department of Defense—particularly the Defense Advanced Research Projects Agency—the Department of Commerce, the National Security Agency, and others.

It is clear that both the agencies and the Congress recognize the need for more investment in computing technology. And both the agencies and the Congress recognize the need for a broad, multiagency approach. A National High-Performance Computing Program is too large to be implemented by one agency; we need to use the scientific and technical expertise available throughout our research agencies.

I am glad that the Commerce Committee could join with the Energy Committee to produce this bill. S. 1067 as introduced established a multiagency High-Performance Computing [HPC] Program to be coordinated by the Federal Coordinating Council on Science, Engineering, and Technology [FCCSET] convened by the White House Science Office of Science and Technology Policy. In addition, it authorized funding for the program—funding to be distributed to NASA, the National Science Foundation [NSF], the Department of Energy [DOE], and the Department of Defense [DOD]. The version of S. 1067 reported by the Commerce Committee contained authorizations for NSF and NASA, over which the committee has jurisdiction. To authorize DOD's part of the HPC plan, I worked with Senator NUNN and the other members of the Armed Services Committee to establish and provide funding for a HPC Program at DARPA in the fiscal year 1991 Department of Defense authorization bill. To authorize DOE's part of the HPC Program, Senators JOHNSTON and MCCLURE and I introduced S. 1976, the Department of Energy High-Performance Computing Act, which as introduced authorized $675 million over 5 years for DOE's part of the HPC Program.

The Energy Committee considered S. 1976 and reported it in July. Since then, the Commerce Committee and the Energy Committee have worked together to combine the two bills. The compromise bill before us contains two titles, title I establishes the HPC Program, authorizes funding for NSF and NASA and is under the Commerce Committee's jurisdiction. Title II deals with the Energy Department and falls under the Energy Committee's jurisdiction.

The compromise bill lays out an effective way to coordinate the HPC Program and the deployment of the NREN. The Commerce Committee oversees several interagency programs, including the National Earthquake Hazards Reduction Program and the National Climate Program. Over the years, we have often grappled with the problem of getting agencies with different missions to cooperate effectively for a common purpose. With the High-Performance Computing Program it is clear that close cooperation is essential, especially if the NREN is to be a success. This bill endorses the FCCSET process which has so far provided for very effective cooperation between the agencies in the HPC Program, while providing FCCSET and the participating agencies with the flexibility they need to meet changing needs and new challenges.

FCCSET has developed a comprehensive plan for the HPC Program and has assigned roles to the participating agencies. NSF is lead agency for deploying an operating NREN. DARPA is lead agency for developing the technology needed to build the NREN. NASA has a very important role to play in applications of high-performance computing, especially in aerospace and remote-sensing. DOE will contribute in a number of these areas and others. Such a division of labor is rare among in the Federal bureaucracy. Too often turf fights result in two or three agencies duplicating each other's effort, wasting resources and talent. I suspect the excellent cooperation we are seeing in the High-Performance Computing Program results from everyone realizing that there is more than enough work for everyone to do. This bill is designed to ensure that such close cooperation continues.

I hope that this bill can serve as a model of how both Federal agencies and congressional committees can work together to improve our Federal science and technology programs.

In many ways, this bill is very unusual. I have been working on this bill for more than 2 years, and almost no one has said a discouraging word about it. Instead, I hear enthusiastic support in many, many different quarters—within the administration, in the telecommunications industry, in universities, in the computer industry—among researchers, teachers, librarians, and many others.

I hope that my colleagues will join in supporting this very important legislation. It has been endorsed by both the Commerce Committee and the Energy Committee, and it has many cosponsors, from both sides of the aisle and from both ends of the political spectrum.

I thank all my cosponsors and my other colleagues for their support of this important bill.

Mr. HOLLINGS. Mr. President, I rise in support of this amendment for S. 1067. This is a bill focused on the future, a bill which will help keep America competitive into the 21st century.

We all know how computers have transformed the way Americans live. We use them at work, at the bank, at the supermarket—dozens of times each day.

However, as powerful and useful as today's computers are, they are electronic half-wits compared to the computers that will be available in a few years. Today's personal computers are as powerful as the most powerful supercomputers available just 15 years ago. In the future, we will have even greater machines, and we only can imagine how these new machines will improve our lives.

Similar advances are happening in computer communications. For more than 20 years, computers have been able to communicate with each other through computer networks, but most networks are very slow, able to transmit only a few words a second. However, today the technology exists to transfer dozens of pages of information from coast to coast—10 to a 100 times faster than a fax machine. Think about how fax machines have changed the way American business works, and imagine having technology 10 or a 100 times better.

In this regard, the bill before us would set up a National Research and Education Network [NREN] and allow more than a million computer users nationwide to share their data, digital images, and all manner of electronic information in a matter of seconds. When fully deployed, the NREN will be 50 times faster than the fastest national networks available today. It will be capable of transmitting the entire contents of the Encyclopedia Britannica in a second.

The NREN has people in South Carolina and around the country very excited. With a national network, researchers, students, and educators at a small college in South Carolina will have instant access to computers and scientific equipment and data banks previously only available at universities. For small schools throughout the country, this network will be a window to the world of information.

It is hard to oppose the High-Performance Computing Program established by S. 1067, particularly the NREN. Unlike many proposed science projects, this initiative will benefit all aspects of science. This is not just for the biologist or just for the astronomers. This is for everyone.

Furthermore, it is not just for researchers. This is the National Research and Education Network. The NREN could become the most powerful teaching tool ever built. Imagine giving students throught the country access to libraries of electronic information on everything for the moons of

Mars to the DNA sequence of the human genome. Imagine giving students at a small rural school the ability instantly to send and receive electronic letters from other students throughout the country and eventually throughout the world.

The network is for industry as well. Too often, research done in the laboratory stays there, when it could be helping American industry improve its competitiveness and its profits. Connecting our research labs to our high-technology firms (and low-technology firms) with a high-speed computer network would allow instant two-way technology transfer. What better way to harness the talent in our universities and laboratories.

Over the last 2 years, the University of South Carolina and South Carolina's 16 technical colleges have established a regional center for the transfer of manufacturing technology to assist small- and medium-sized businesses adopt and effectively utilize manufacturing technology to improve their products and their profits. Paul Huray, the vice president for research at USC, recently visited with me to describe his proposal to establish a statewide computer network to connect the schools involved in the center and the businesses that can benefit from it. This network will allow companies to exchange documents and improve communication in dozens of ways. Companies will be able to exchange electronic blueprints for parts, speeding up manufacturing, and reducing costs.

The NREN established by S. 1067 will lead the way to development of a commercial high-speed computer network. The NREN will prove that there is a market for billion-bit-per-second networks and will lead to all sorts of new applications for computer networks. Other countries have realized the competitive advantage such networks could provide. The Japanese and the Germans are spending billions of dollars on this technology. We cannot afford to rely on 1980's technology if we are going to stay ahead of our foreign competitors in the 1990's.

I am particularly pleased that the Commerce Committee could join with the Energy Committee to produce this bill. S. 1067 as introduced established a multi-agency High-Performance Computing [HPC] Program to be coordinated by the Federal Coordinating Council on Science, Engineering, and Technology [FCCSET] convened by the White House Office of Science and Technology Policy. In addition, it authorized funding for the program—funding to be distributed to NASA, the National Science Foundation [NSF], the Department of Energy [DOE], and the Department of Defense [DOD]. The version of S. 1067 reported by the Commerce Committee contained authorizations for NSF and NASA, over which the committee has jurisdiction. To authorize DOD's part of the HPC plan, Senator GORE worked with Senator NUNN and the other members of the Armed Services Committee to establish and provide funding for a HPC Program at DARPA in the fiscal year 1991 Department of Defense authorization bill. To authorize DOE's part of the HPC program, Senator GORE and Senators JOHNSTON and MCCLURE introduced S. 1976, the Department of Energy High-Performance Computing Act, which as introduced authorized $675 million over 5 years for DOE's part of the HPC Program.

The Energy Committee considered S. 1976 and reported it in July. Since then, the Commerce and Energy Committees have worked together to combine the two bills. The compromise bill before us contains two titles. Title I establishes the HPC Program, and authorizes funding for NSF, NASA, and the Department of Commerce. Title II deals with the Energy Department.

The resulting compromise bill lays out an effective way to coordinate the HPC Program and the deployment of the NREN. The Commerce Committee oversees several interagency programs, including the National Earthquake Hazards Reduction Program and the National Climate Program. Over the years, we often have grappled with the program of getting agencies with different missions to cooperate effectively for a common purpose. With the HPC Program it is clear that close cooperation is essential, especially if the NREN is to be a success. This bill endorses the FCCSET process which so far has provided for very effective cooperation between the agencies in the HPC Program, while providing FCCSET and the participating agencies with the flexibility they need to meet changing needs and new challenges.

FCCSET has developed a comprehensive plan for the HPC Program. It has assigned roles to the participating agencies. NSF is lead agency for deploying an operating NREN. DARPA is lead agency for developing the technology needed to build the NREN. NASA has a very important role to play in applications of high-performance computing, especially in aerospace and remote-sensing. DOE will contribute in a number of these areas and others. The DOE and especially its national labs have extensive expertise in the applications of supercomputing, development of new types of supercomputers, and networking of supercomputers. Such a division of labor is rare in the Federal bureaucracy. Too often turf fights result in two or three agencies duplicating each other's effort, wasting resources and talent. I expect that the excellent cooperation we are seeing in the HPC Program results from everyone realizing that there is more than enough work to do. This bill is designed to ensure that such close cooperation continues.

I hope that this bill can serve as a model of how Federal agencies can work together to improve our Federal science and technology programs. I urge my colleagues to join me in support of this important bill.

Mr. DOMENICI. Mr. President, I rise in strong support of the pending amendment which would significantly advance U.S. supercomputing networking and technology, and thereby enhance America's international competitiveness.

This amendment is the merger of the Energy and Natural Resources Committee reported bill, S. 1976 (Calendar No. 700), and the Commerce Committee reported bill, S. 1067 (Calendar No. 710), reflecting the supercomputing policies embodied in both.

As the President's science adviser, Dr. Allan Bromley, noted in his 1989 report, high performance computing is a vital and strategic technology, exerting strong leverage on the rest of the computer industry and other cutting-edge areas, and that this Nation simply cannot afford to cede our historical leadership in this area. The report also stated that:

> High performance computing is a powerful tool to increase productivity in industrial design and manufacturing, scientific research, communications, and information management. It represents the leading edge of a multi-billion dollar world market, in which the United States is increasingly being challenged. A stong, fully competitive domestic high performance industry contributes to U.S. leadership in critical national security areas and in broad sectors of the civilian economy, including the technical base for many national economic and military security needs.

I agree with Dr. Bromley's observations.

There is no question that advances in high performance computer science and technology are vital to this Nation's prosperity, international competitiveness, national and economic security and scientific advancement; and this bill will make those advances possible.

Although the United States currently leads the world in the development and use of high-performance computing, that lead is being challenged. Unless we want to cede this technology and the commercially important spinoffs to foreign competitors, we must take action. That is why I strongly support the pending amendment.

Mr. President, this amendment would advance U.S. supercomputing technology in several different ways.

First, it would create the National High Performance Computing Program [NHPC Program]. The NHPC Program would require the President to develop a Government-wide high

performance computing effort that would coordinate the efforts of all Federal agencies and departments.

This effort would, among other things, identify how Federal agencies can ensure the interoperability among Federal computer networks, how they can accelerate the development of supercomputer systems and associated software, and how they can provide computing support necessary to address "Grand Challenges" in astrophysics, geophysics, engineering, materials, biochemistry, plasma physics, weather and climate forecasting, to name a few.

Second, it would require the creation by 1996 of a multigigabit national computer network known as the National Research and Education Network, or NREN for short. The NREN would link together Government, industry and the education community, thereby providing computer users, including libraries and educational institutions, with access to supercomputers, computer data bases and other research facilities.

Third, and perhaps most importantly, it would create at the Department of Energy a high performance computing program, thereby giving that agency a new mission. As part of that mission, DOE would be required to create a high-performance computer network, to be known as the Department of Energy Network, which would link the Government, researchers, industry and higher education and research in high-performance computational science and related fields by making the Department's supercomputing facilities more available to students and faculty from the Nation's educational institutions.

But the most important part of the DOE Program, and the one of which I am the most proud, is the establishment of supercomputing research and development collaborative consortia at the Nation's DOE National Laboratories.

The key duties of these DOE National Laboratory collaborative consortia are to undertake basic research and development of high-performance computing hardware and associated software, to undertake research and development of advanced prototype networks, and to conduct research directed at scientific and technical problems whose solutions require the application of high performance computing resources.

At a time when this Nation is cutting back in its military forces and related activities, this is truly a guns into plowshares program for the National Labs, two of which are located in New Mexico.

Mr. President, it is for these reasons that I strongly support the matter now pending before the Senate and urge my colleagues to vote this important amendment.

Mr. McCLURE. Mr. President, I rise to discuss certain aspects of the pending amendment which may not be clear on their face, and therefore warrant further explanation so that the Senate will fully understand the amendment before voting.

First, if a Federal agency or other person, including a State or local government agency, an educational institution, a library, a business or research organization whether or not for profit, and an individual, wishes to connect to the National Research and Education Network [NREN] created by this act, it is the responsibility of that agency or person to establish the linkage. Such linkage might involve only a minor expenditure or, on the other hand, if the agency or person is very remote it could entail substantial expenditures.

Second, I want to make clear to the Senate the relationship between Federal agency computers, network facilities and other related equipment, whether owned, leased or rented by the agency, and the NREN. If a Federal agency connects its computer, network or other equipment to the NREN, that computer, network or other equipment, including its operation and management, remain in the exclusive control of the agency. If, for example, after having connected to the NREN, an agency elects, for any reason whatsoever, to disconnect any or all of its computers, network facilities or other equipment, nothing in this act prevents the agency from so doing. The agency is free to connect or disconnect, based on its needs and requirements, including what best satisfies its mission and statutory requirements; that agency decision or action is not predicated on the needs or the requirements of any other person or agency who is connected, or wishes to connect, to the NREN. In short, agency control over their own computers, networks and equipment, including the operations and management thereof, is unaffected by any decision to link or unlink to the NREN and remains entirely in the hands of the agency.

That is not to say, however, that if an agency wishes to link to NREN it would not have to meet the technical operating standards established for the NREN. Obviously, in order for such a linkage to be successful there would have to be a technical compatibility. But apart from the potential requirement that linking computers and networks may have to change technical operations in order to meet technical operating standards for connection to the NREN, the management of the NREN can not direct or affect the use or operations of agency computers, networks and equipment.

Similarly, the requirement of section 105(b)(6) that the NREN "be phased into commercial operation as commercial networks can meet the networking needs of American researchers and educators" does not require the transfer or sale of computers, networks or equipment owned by any agency.

In the same vein, I would also note that section 106(b) does not confer upon any agency or other person the right to control or access data bases owned or operated by another agency or person. It is entirely within that agency or person's discretion as to whether and how to make such data available.

Similarly, although section 102(g)(2) requires the National Institute of Standards and Technology to adopt standards and guidelines, such adoption would not necessarily require Federal agencies and departments to conform to those standards and guidelines, although there is a strong expectation that they would.

With these understandings I am willing to support the pending matter, and I will urge my colleagues to vote for it.

I ask the Senator from Tennessee, Mr. GORE, if that is also, his intepretation of the provisions of the pending matter.

Mr. GORE. The senior Senator from Idaho [Mr. McCLURE] is correct.

Mr. JOHNSTON. Mr. President, I rise in strong support of the High-Performance Computing Act of 1990. The amendment being presented to the Senate today represents the merger of two bills reported earlier this year.

The two bills are S. 1975, the Department of Energy High-Performance Computing Act of 1990, reported by the Committee on Energy and Natural Resources on July 19 and S. 1067, the High-Performance Computing Act of 1990, reported by the Committee on Science, Commerce and Transportation on July 23. The two committees have worked hard together to create this legislation. I particularly want to thank Senator GORE for his leadership in bringing this issue before the Senate. I also wish to thank Senators HOLLINGS, DANFORTH, McCLURE, and DOMENICI who were actively involved throughout the process contributing much to the final product.

Five years ago the White House Science Council Committee on Research in very high-performance computing came to the following conclusion:

> The bottom line is that any country which seeks to control its future must effectively exploit high performance computing. A country which aspires to military leadership must dominate, if not control, high performance computing. A country seeking economic strength in the information age must lead in the development and application of high performance computing in industry and research.

While the United States continues to lead the world in the development of high-performance computing, that lead is being challenged. Some estimate that the Japanese will dominate

the supercomputer market in the early 1990s. Yet, the Japanese did not enter the field of high-performance computing until 1983. Today, outside of the United States, Japan is the single biggest market for, and supplier of, supercomputers.

The United States needs an integrated, cooperative effort among industry, universities and government in supercomputing to meet the challenge of foreign competition. The purpose of the legislation before the Senate today is to establish such an effort.

There are two titles to the act. The first title is based on S. 1076, and the second is based on S. 1976.

Under title I, the President, through the Federal Coordinating Council for Science, Engineering, and Technology [FCCSET], is required to develop a national high-performance computing plan for the Federal Government. The 5-year plan will establish the overall goals and priorities for high-performance computing for the Federal Government and recommend roles, funding levels and ways to coordinate high-performance computing activities of Federal agencies and departments.

Title 1 also authorizes the establishment of a multi-gigabit-per-second national research and education computer network. This network will link Government, industry and the higher education community. Computer users at more than 1,000 universities, Federal laboratories and industry research centers will have access to supercomputers, computer data bases and other research facilities. The network will be unequaled anywhere in the world.

We intend that the Federal network will act as a catalyst for a much larger effort by the Nation as a whole. As services over the network and the number of users increase, we expect that the private sector will begin to demand more and more from the network. Universities and private industry will come to rely more and more on the network and will eventually be willing to fund the network itself or at least larger portions of it.

Initially, Federal agencies and departments will work together to connect their individual networks. Existing user communities of Federal networks will be expanded. New user communities will be brought into these networks. Network speeds and capabilities will be upgraded as the results of research carried out under this legislation become fruitful. Eventually, a national network, operating at over a billion bits of data per second will be in place. Even then, the network will continue to grow, becoming faster and faster, connecting more and broader user communities. It will become much like the telephone system we have in place today.

At the same time, each individual agency will be free to operate its own individual network to meet individual agency mission needs. To the extent an agency can contribute to the national network, it should do so. To the extent individual agency mission needs require autonomy from the national network, that autonomy is preserved.

We know that this national network can only succeed as a cooperative effort of all the interested agencies. We do not know what the network will look like in the coming years. Technology to develop the network envisioned in this legislation is still being developed. The legislation governing the network therefore must be flexible. Instead of creating a rigid, unchangeable management structure, the legislation directs the President, through FCCSET, to establish an entity or entities to carry out management functions for the network.

We expect that the President will take a fresh look at the future of computer networks in the United States and make use of this legislation to move forward from where we are now. The plan required under title I provides an opportunity to indicate where we should be going. The authority to structure the network as he sees fit provides the President with an opportunity to devise a national computer network that meets national needs, now and in the future.

The bill requires the Department of Defense, through the Defense Advanced Research Projects Agency [DARPA], to support research and development of advanced fiber optics technology, switches, and protocols needed to develop the network. This requirement does not mean the DARPA has a role in this kind of research and development that is any greater than any other agency qualified to perform such research.

Similarly, the granting of primary responsibility to any agency in this legislation is not a grant of exclusive responsibility.

The remainder of title I outlines some of the roles of the National Science Foundation, the National Aeronautics and Space Administration, and the Department of Commerce are expected to carry out. No doubt FCCSET will recommend other roles in the national high-performance computing plan. The final section in title I, miscellaneous provisions, makes clear that classified activities are not affected by the act, Federal agencies may procure prototype machines commonly referred to as paper machines, and that the act does not limit the authority or ability of any Federal agency or department to perform any activity it was previously or may be authorized to do.

Title II is based on S. 1976 as reported by the Committee on Energy and Natural Resources. However, a main feature of S. 1976 as reported is not included in today's amendment. The Department of Energy is not named to head the national computer network. Rather, title II establishes for the Department a strong role in the national high-performance computing initiative set forth in title I. The Department of Energy would be one of several equals within the program under title I. Nothing in title II changes that.

The Department of Energy has always had a key role in high-performance computing. The Department and its laboratories are in a position to help the United States maintain its leadership, strengthen the U.S. computing industry, and encourage deployment of high-performance computing in analysis, design, concurrent engineering, and manufacturing for U.S. industry. In the past, the Department accomplished this role with the assistance of financial support of fundamental science and the nuclear weapons, research, development and testing program. The role of weapons development programs is changing rapidly today. The Department's contributions now extend to a much broader spectrum from the human genome project to enhanced oil recovery. From these new applications the Department can continue to shape high-performance computing.

The Department's laboratories have become the world's most demanding, sophisticated, and experienced users of supercomputers. Manufacturers of high-performance computers routinely send new prototype computers to the national laboratories for testing. The laboratories help the manufacturer identify problems, find solutions for them, and write the unique software packages supercomputers require.

This title builds on that proven relationship. The Secretary is directed to establish collaborative consortia between its national laboratories and other Federal laboratories or agencies, educational institutions and industry. The consortia will undertake basic research and development of high-performance computing hardware, software, and networks. The consortia will carry out its research directed at scientific and technical problems which require the application of high-performance computing resources.

One of the highlights of this session for the Energy and Natural Resources Committee was the passage of S. 1976, the Department of Energy High-Performance Computing Act of 1990. One of the highlights for the 101st Congress will be the enactment of the High-Performance Computing Act of 1990.

Mr. President, I urge my colleagues to accept this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 3158) was agreed to.

Mr. RIEGLE. Mr. President, I wish to make a few comments about the national network initiative in S. 1067, the High Performance Computing Act of 1990.

I believe that NSFNet, a national network created and run by the National Science Foundation has demonstrated the feasibility and desirability of the National Research and Education Network called for in this bill. The NSFNet, operated under a cooperative agreement between the National Science Foundation and MERIT, a not-for-profit corporation in Michigan, has provided a foundation of experience and successful practice in national networking in support of research and education. It has also demonstrated the value of cooperative efforts including industry, government at all levels, and the higher education community.

Supporters of the effort have made clear through their statements and letters that they believe it is highly desirable for the network initiative to continue to be a cooperative effort by all of these sectors. They believe the National Science Foundation has displayed effective leadership and is the appropriate agency to continue as the head agency for implementation of the network, and for the governance of this networking effort among the Federal Government, industry, and higher education.

In the past, each mission agency has run its own networks, which were often unconnected or incompatible with each other. I believe the future productivity of the United States demands a unified national network which all researchers and scholars can use jointly.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1067

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Performance Computing Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) The Congress finds the following:

(1) Advances in Computer science and technology are vital to the Nation's prosperity, national and economic security, and scientific advancement.

(2) The United States currently leads the world in the development and use of high-performance computing for national security, industrial productivity, and science and engineering, but that lead is being challenged by foreign competitors.

(3) Further research, improved computer research networks, and more effective technology transfer from government to industry are necessary for the United States to fully reap the benefits of high-performance computing.

(4) Several Federal agencies have ongoing high-performance computing programs, but improved interagency coordination, cooperation, and planning could enhance the effectiveness of these programs.

(5) A 1989 report by the Office of Science and Technology Policy outlining a research and development strategy for high-performance computing provides a framework for a multi-agency high-performance computing program.

(b) It is the purpose of Congress in this Act to help ensure the continued leadership of the United States in high-performance computing and its applications. This requires that the United States Government—

(1) expand Federal support for research, development, and application of high-performance computing in order to—

(A) establish a high-capacity national research and education computer network;

(B) expand the number of researchers, educators, and students with training in high-performance computing and access to high-performance computing resources;

(C) develop an information infrastructure of data bases, services, access mechanisms, and research facilities which is available for use through such a national network;

(D) stimulate research on software technology;

(E) promote the more rapid development and wider distribution of computer software tools and applications of software;

(F) accelerate the development of computer systems and subsystems;

(G) provide for the application of high-performance computing to Grand Challenges; and

(H) invest in basic research and education; and

(2) improve planning and coordination of Federal research and development on high-performance computing.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "Director" means the Director of the Office of Science and Technology Policy; and

(2) "Council" means the Federal Coordinating Council for Science, Engineering, and Technology chaired by the Director of the Office of Science and Technology Policy.

SEC. 4. MISCELLANEOUS PROVISIONS.

(a) Except to the extent the appropriate Federal agency or department head determines, the provisions of this Act shall not apply to—

(1) programs or activities regarding computer systems that process classified information; or

(2) computer systems the function, operation, or use of which are those delineated in paragraphs (1) through (5) of section 2315(a) of title 10, United States Code.

(b) Where appropriate, and in accordance with Federal contracting law, Federal agencies and departments may procure prototype or early production models of new high-performance computer systems and subsystems to stimulate hardware and software development.

(c) Nothing in this Act or in any amendment made by this Act limits the authority or ability of any Federal agency or department to undertake activities, including research, development, or demonstration, in high-performance computing or computer network applications or technologies.

(d) Nothing in this Act shall be deemed to convey to any person, partnership, corporation, or other entity immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this section, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

TITLE I—THE HIGH-PERFORMANCE COMPUTING ACT OF 1990

SEC. 101. NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VII—NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM

"NATIONAL HIGH-PERFORMANCE COMPUTING PLAN

"SEC. 701. (a)(1) The President, through the Federal Coordinating Council for Science, Engineering, and Technology (hereafter in this title referred to as the 'Council'), shall, in accordance with the provisions of this title—

"(A) develop a National High-Performance Computing Plan (hereafter in this title referred to as the 'Plan'); and

"(B) provide for interagency coordination of the Federal high-performance computing program established by this title.

The Plan shall contain recommendations for a five-year national effort and shall be submitted to the Congress within one year after the date of enactment of this title. The Plan shall be resubmitted upon revision at least once every two years thereafter.

"(2) The Plan shall—

"(A) establish the goals and priorities for a Federal high-performance computing program for the fiscal year in which the Plan (or revised Plan) is submitted and the succeeding four fiscal years;

"(B) set forth the recommended role of each Federal agency and department in implementing the Plan; and

"(C) describe the levels of Federal funding for each agency and department and specific activities, including education, research activities, hardware and software development, and acquisition and operating expenses for computers and computers networks, required to achieve the goals and priorities established under subparagraph (A).

"(3) The Plan shall address, where appropriate, the relevant programs and activities of the following Federal agencies and departments:

"(A) the National Science Foundation;

"(B) the Department of Commerce, particularly the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, and the National Telecommunications and Information Administration;

"(C) the National Aeronautics and Space Administration;

"(D) the Department of Defense, particularly the Defense Advanced Research Projects Agency;

"(E) the Department of Energy;

"(F) the Department of Health and Human Services, particularly the National Institutes of Health and the National Library of Medicine;

"(G) the Department of Education;

"(H) the Department of Agriculture, particularly the National Agricultural Library; and

"(I) such other agencies and departments as the President or the Chairman of the Council considers appropriate.

"(4) In addition, the Plan shall take into consideration the present and planned activities of the Library of Congress, as deemed appropriate by the Librarian of Congress.

"(5) The Plan shall identify how agencies and departments can collaborate to—

"(A) ensure interoperability among computer networks run by the agencies and departments;

"(B) increase software productivity, capability, portability, and reliability;

"(C) encourage, where appropriate, agency cooperation with industry in development and exchange of software;

"(D) distribute software among the agencies and departments;

"(E) distribute federally-funded software to State and local governments, industry, and universities;

"(F) accelerate the development of high performance computer systems, subsystems, and associated software;

"(G) provide the technical support and research and development of high-performance computer software and hardware needed to address Grand Challenges in astrophysics, geophysics, engineering, materials, biochemistry, plasma physics, weather and climate forecasting, and other fields; and

"(H) identify agency rules, regulations, policies, and practices which can be changed to significantly improve utilization of Federal high-performance computing and network facilities, and make recommendations to such agencies for appropriate changes.

"(6) The Plan shall address the security requirements and policies necessary to protect Federal research computer networks and information resources accessible through Federal research computer networks. Agencies identified in the Plan shall define and implement a security plan consistent with the Plan.

"(b) The Council shall—

"(1) serve as lead entity responsible for development of, and interagency coordination of the program under, the Plan;

"(2) recommend ways to coordinate the high-performance computing research and development activities of federal agencies and departments and report at least annually to the President, through the Chairman of the Council, on any recommended changes in agency or departmental roles that are needed to better implement the Plan;

"(3) review, prior to the President's submission to the Congress of the annual budget estimate, each agency and departmental budget estimate in the context of the Plan and make the results of that review available to the appropriate elements of the Executive Office of the President, particularly the Office of Management and Budget; and

"(4) consult and coordinate with Federal agencies, academic, State, industry, and other appropriate groups conducting research on high-performance computing.

"(c) The Director of the Office of Science and Technology Policy shall establish a High-performance Computing Advisory Panel consisting of prominent representatives from industry and academia who are specially qualified to provide the Council with advice and information on high-performance computing. The Panel shall provide the Council with an independent assessment of—

"(1) progress made in implementing the Plan;

"(2) the need to revise the Plan;

"(3) the balance between the components of the Plan;

"(4) whether the research and development funded under the Plan is helping to maintain United States leadership in computing technology; and

"(5) other issues identified by the Director.

"(d)(1) Each appropriate Federal agency and department involved in high-performance computing shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report to the Office identifying each element of its high-performance computing activities, which—

"(A) specifies whether each such element (i) contributes primarily to the implementation of the Plan or (ii) contributes primarily to the achievement of other objectives but aids Plan implementation in important ways; and

"(B) states the portion of its request for appropriations that is allocated to each such element.

"(2) The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency and departmental responsibilities set forth in the Plan, and shall include, in the President's annual budget estimate, a statement of the portion of each appropriate agency or department's annual budget estimate that is allocated to each element of such agency or department's high-performance computing activities.

"(e) As used in this section, the term 'Grand Challenge' means a fundamental problem in science and engineering, with broad economic and scientific impact, whose solution will require the application of high-performance computing resources.

"ANNUAL REPORT

"SEC. 702. The Chairman of the Council shall prepare and submit to the President and the Congress, not later than March 1 of each year, an annual report on the activities conducted pursuant to this title during the preceding fiscal year, including—

"(1) a summary of the achievements of Federal high-performance computing research and development efforts during that preceding fiscal year;

"(2) an analysis of the progress made toward achieving the goals and objectives of the Plan;

"(3) a copy and summary of the Plan and any changes made in such Plan;

"(4) a summary of appropriate agency budgets for high-performance computing activities for that preceding fiscal year; and

"(5) any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title.".

SEC. 102. NATIONAL RESEARCH AND EDUCATION NETWORK.

(a) The National Science Foundation, the Department of Defense, the Department of Energy, the Department of Commerce, the National Aeronautics and Space Administration, and other appropriate agencies shall provide for the establishment of a national multi-gigabit-per-second research and education computer network by 1996, to be known as the National Research and Education Network (hereinafter referred to as the "Network"), which shall link government, industry, and the education community.

(b) The Network shall provide—

(1) computer users with appropriate access to supercomputers, computer data bases, and other research facilities; and

(2) users of libraries and other educational institutions with appropriate access to the Network and information resources.

(c) The Network shall—

(1) be developed in close cooperation with the computer, telecommunications, and information industries;

(2) be designed and developed with the advice of potential users in government, industry, and the higher education community;

(3) be established in a manner which fosters and maintains competition and private sector investment in high speed data networking within the telecommunications industry;

(4) be established in a manner which promotes research and development leading to deployment of commercial data communications and telecommunications standards;

(5) where technically feasible, have accounting mechanisms which allow, where appropriate, users or groups of users to be charged for their usage of the Network and copyrighted materials available over the Network; and

(6) be phased into commercial operation as commercial networks can meet the networking needs of American researchers and educators.

(d) The Department of Defense, through the Defense Advanced Research Projects Agency, shall support research and development of advanced fiber optics technology, switches, and protocols needed to develop the Network.

(e) Within the Federal Government, the National Science Foundation shall have primary responsibility for connecting colleges, universities, and libraries to the Network.

(f)(1) The President, through the Council, shall, within one year after the date of the enactment of this Act, establish an entity or entities to carry out the functions set forth in paragraph (2).

(2) Consistent with the Plan developed under section 701 of the National Science and Technology Policy, Organization and Priorities Act of 1976 (42 U.S.C. 6601 et seq.), as added by section 101 of this Act, the entity or entities established under paragraph (1) shall—

(A) develop goals, strategy, and priorities for the Network;

(B) identify the roles of Federal agencies and departments implementing the Network;

(C) provide a mechanism to coordinate the activities of Federal agencies and departments in deploying the Network;

(D) oversee the operation and evolution of the Network;

(E) manage the connections between computer networks of Federal agencies and departments;

(F) develop conditions for access to the Network; and

(G) identify how existing and future computer networks of Federal agencies and departments could contribute to the Network.

(3) The President shall report to Congress within one year after the date of the enactment of this Act on the implementation of this subsection.

(g) In addition to other agency activities associated with the establishment of the Network, the following actions shall be taken:

(1) The Council shall submit to the Congress, within one year after the date of enactment of this Act, a report describing and evaluating effective mechanisms for providing operating funds for the maintenance and use of the Network, including user fees, industry support, and continued Federal investment, and containing a plan for the eventual commercialization of the Network.

(2) The National Institute of Standards and Technology shall adopt a common set of standards and guidelines to provide interoperability, common user interfaces to systems, and enhanced security for the Network.

(h) Within one year after the date of enactment of this Act, the Director, through the Council, shall report to the Congress on—

(1) how commercial information service providers could be charged for access to the Network;

(2) the technological feasibility of allowing commercial information service providers to use the Network and other federally-funded research networks;

(3) how Network users could be charged for such commercial information services;

(4) how to protect the copyrights of materials distributed over the Network; and

(5) appropriate policies to ensure the security of resources available on the Network and to protect the privacy of users of networks.

(i) Nothing in this section confers upon the entity or entities established under subsection (f) any authority to direct a Federal agency's or department's computer networking activities.

SEC. 103. ROLE OF THE NATIONAL SCIENCE FOUNDATION.

(a) The National Science Foundation shall provide funding to enable researchers to access supercomputers. Prior to deployment of the Network, the National Science Foundation shall maintain, expand, and upgrade its existing computer networks. Additional responsibilities include promoting development of information services and data bases available over such computer networks; facilitation of the documentation, evaluation, and distribution of research software over such computer networks; encouragement of continued development of innovative software by industry; and promotion of science and engineering education.

(b)(1) The National Science Foundation shall, and other agencies and departments may, promote development of information services that could be provided over the Network established under section 102. These services shall include, but not be limited to, the provision of directories of users and services on computer networks, data bases of unclassified Federal scientific data, training of users of data bases and networks, access to commercial information services to researchers using the Network, and technology to support computer-based collaboration that allows researchers around the Nation to share information and instrumentation.

(2) The Federal information services accessible over the Network shall be provided in accordance with applicable law. Appropriate protection shall be provided for copyright and other intellectual property rights of information providers and Network users, including appropriate mechanisms for fair remuneration of copyright holders for availability of and access to their works over the Network.

(c) The National Science Foundation shall expand efforts to improve, document, evaluate, and help distribute unclassified public-domain software developed by federally-funded researchers and other software, including federally-funded educational and training software. Such efforts shall—

(1) maintain libraries of programs;

(2) provide funding to researchers to improve and maintain software they have developed;

(3) help researchers locate the software they need;

(4) make software available through the Network; and

(5) promote commercialization of software where possible.

(d)(1) There are authorized to be appropriated to the National Science Foundation for the research, development, and support of the Network, in accordance with the purposes of section 102, $15,000,000 for fiscal year 1991, $25,000,000 for fiscal year 1992, and $55,000,000 for fiscal year 1993.

(2) There are authorized to be appropriated to the National Science Foundation for the purpose of this title, $31,000,000 for fiscal year 1991, $63,000,000, for fiscal year 1992, and $90,000,000, for fiscal year 1993.

(3) The amounts authorized to be appropriated under this subsection are in addition to any amounts that may be authorized to be appropriated under other laws.

SEC. 104. THE ROLE OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) The National Aeronautics and Space Administration shall continue to conduct basic and applied research in high-performance computing, particularly in the field of computational science, with emphasis on aeronautics and the processing of remote sensing and space science data.

(b) There are authorized to be appropriated to the National Aeronautics and Space Administration for the purposes of this Act, $22,000,000 for fiscal year 1991, $45,000,000 for fiscal year 1992, and $67,000,000 for fiscal year 1993.

(c) The amounts authorized to be appropriated under subsection (b) are in addition to any amounts that may be authorized to be appropriated under other laws.

SEC. 105. ROLE OF THE DEPARTMENT OF COMMERCE.

(a) The National Institute of Standards and Technology shall adopt standards and guidelines, and develop measurement techniques and test methods, for the interoperatility of high-performance computers in networks and for common user interfaces to systems. In addition, the National Institute of Standards and Technology shall be responsible for developing benchmark tests and standards for high performance computers and software. Pursuant to the Computer Security Act of 1987 (Public Law 100-235; 100 Stat. 1724), the National Institute of Standards and Technology shall continue to be responsible for adopting standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

(b)(1) The Secretary of Commerce shall conduct a study to—

(A) evaluate the impact of Federal procurement regulations which require that contractors providing software to the Federal Government share the rights to proprietary software development tools that the contractors used to develop the software; and

(B) determine whether such regulations discourage development of improved software development tools and techniques.

(2) The Secretary shall, within one year after the date of enactment of this Act, report to the Congress regarding the results of the study conducted under paragraph (1).

SEC. 106. FUNCTIONS OF THE FEDERAL COORINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY.

(a) Section 102(a)(6) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6602(a)(6)) is amended to read as follows:

"(6) The development and implementation of long-range, interagency research plans to support policy decisions regarding identified national and international concerns, and for which a sustained and coordinated commitment to improving scientific understanding will be required.".

(b) Section 401 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651) is amended to read as follows:

"FUNCTIONS OF COUNCIL

"SEC. 401. (a) The Federal Coordinating Council for Science, Engineering, and Technology (hereinafter referred to as the 'Council') shall consider problems and developments in the fields of science, engineering, and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designed to—

"(1) provide more effective planning and administration of Federal scientific, engineering, and technological programs;

"(2) identify research needs, including areas requiring additional emphasis;

"(3) achieve more effective utilization of the scientific, engineering, and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication; and

"(4) further international cooperation in science, engineering, and technology.

"(b) The Council may be assigned responsibility for developing long-range and coordinated plans for scientific and technical research which involve new participation of more than two Federal agencies. Such plans shall—

"(1) identify research approaches and priorities which most effectively advance scientific understanding and provide a basis for policy decisions;

"(2) provide for effective cooperation and coordination of research among Federal agencies; and

"(3) encourage domestic and, as appropriate, international cooperation among government, industry, and university scientists.

"(c) The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chairman of the Council.

"(d) For the purpose of carrying out the provisions of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

"(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

"(2) undertaking, upon request of the Chairman, such special studies for the Council as come within the scope of authority of the Council.

"(e) For the purpose of developing interagency plans, conducting studies, and making reports as directed by the Chairman, standing committees and working groups of the Council may be established.".

(c) Section 207(a)(1) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C.

6616(a)(1)) is amended by striking "established under Title IV".

TITLE II—DEPARTMENT OF ENERGY HIGH-PERFORMANCE COMPUTING ACT OF 1990

SEC. 201. SHORT TITLE AND DEFINITIONS.

(a) This title may be cited as the "Department of Energy High-Performance Computing Act of 1990".

(b) For the purposes of this title, the term—

(1) "Secretary" means the Secretary of Energy;

(2) "Department" means the Department of Energy;

(3) "Federal laboratory" means any laboratory, or any federally-funded research and development center, that is owned or leased or otherwise used by a Federal agency or department and funded by the Federal Government, whether operated by the Government or by a contractor;

(4) "national laboratory" means any Federal laboratory that is owned by the Department of Energy;

(5) "educational institution" means a degree granting institution of at least a Baccalaureate level; and

(6) "software creation" means any innovation or preparation of new computer software of whatever kind or description whether patentable or unpatentable, and whether copyrightable or non-copyrightable.

SEC. 202. DEPARTMENT OF ENERGY HIGH-PERFORMANCE COMPUTING PROGRAM.

(a) The Secretary, acting in accordance with the authority provided by the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.) and subject to available appropriations, shall establish a High-Performance Computing Program (hereinafter referred to as the "HPC Program").

(b) Within one year after the date of the enactment of this Act, the Secretary shall establish a management plan to carry out HPC Program activities. The plan shall—

(1) be developed in conjunction with the Director's overall efforts to promote high-performance computing;

(2) summarize all ongoing high-performance computing activities and resources at the Department that are not classified or otherwise restricted;

(3) describe the levels of funding for each aspect of high-performance computing that are not classified or otherwise restricted;

(4) establish long range goals and priorities for research, development, and application of high-performance computing at the department, and devise a strategy for achieving them; and

(5) ensure that technology developed pursuant to the HPC Program is transferred to the private sector in accordance with applicable law.

SEC. 203. DEPARTMENT OF ENERGY HIGH-PERFORMANCE COMPUTING PROGRAM ACTIVITIES.

(a)(1) The Secretary shall provide for a high-performance computer network the "Department of Energy Network" to link the government, research, industry, and education constituencies of the Department.

(2) The Secretary may create networks or make use of existing networks (including the Network established under section 102), to carry out the requirements of paragraph (1).

(b) The Secretary shall promote education and research in high-performance computational science and related fields that require the application of high-performance computing resources by making the Department's high-performance computing resources more available to undergraduate and graduate students, post-doctoral fellows, and faculty from the Nation's educational institutions.

(c) The Secretary shall establish at least two Collaborative Consortia, and as many more as the Secretary determines are needed to carry out the purposes of this Act, by soliciting and selecting proposals.

(1) Each Collaborative Consortium shall—

(A) undertake basic research and development of high-performance computing hardware and associated software technology;

(B) undertake research and development of advanced prototype networks;

(C) conduct research directed at scientific and technical problems whose solutions require the application of high-performance computing resources;

(D) promote the testing and uses of new types of high-performance-computing and related software and equipment;

(E) serve as a vehicle for computing vendors to test new ideas and technology in a sophisticated computing environment; and

(F) disseminate information to Federal departments and agencies, the private sector, educational institutions, and other potential users on the availability of high-performance computing facilities.

(2) Each Collaborative Consortium shall be comprised of a lead institution, which has responsibility for the direction and performance of the consortium, and participants from industry, Federal laboratories or agencies, educational institutions, and others, as may be appropriate.

(3) Each lead institution shall be a national laboratory which has the experience in research on problems that require the application of high-performance computing resources.

(4) Industrial participants in each consortium shall not be reimbursed for costs associated with their own involvement, though the consortium may fund research and development associated with prototype computing technology.

(c) The provisions of the National Cooperative Research Act of 1984 (15 U.S.C. 4301-4305) shall apply to research activities taken pursuant to this section.

(d) Each Collaborative Consortium may be established by a Cooperative Research and Development Agreeement was provided in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(e) The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives regarding the HPC Program.

SEC. 204. GOVERNMENT AND PRIVATE SECTOR COOPERATION.

In accordance with applicable law, the Secretary may cooperate with, solicit help from, provide funds to, or enter into contracts with private contractors, industry, government, universities, or any other person or entity the Secretary deems necessary in carrying out the provisions of this Act to the extent appropriated funds are available.

SEC. 205. OWNERSHIP OF INVENTIONS AND CREATIONS.

(a) Except as otherwise provided by the National Competitiveness Technology Transfer Act of 1989 (103 Stat. 1674) and any other applicable law, title to any invention or software creation developed under this title shall vest in the United States and shall be governed by the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

(b) Trade secrets and commercial or financial information that is privileged and confidential and which is obtained from a non-Federal party participating in research or other activities under this title may be withheld in accordance with section 552(b)(4) of title 5, United States Code.

(c) The Secretary, for a period of up to 5 years after the development of information that results from research and development activities conducted under this title and that would be a trade secret or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a non-Federal party, may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.

SEC. 206. AUTHORIZATION.

In addition to existing authorizations that may be used to carry out this title, there is authorized to be appropriated for the purposes of this title $65,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and $135,000,000 for fiscal year 1993.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1991

The Senate continued with the consideration of the bill.

CONCLUSION OF MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that morning business be closed and we return to regular business.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

AMENDMENT NO. 2147, AS MODIFIED

Mr. FORD. Mr. President, I send a modified amendment to the desk, which will be an amendment in the second degree to the Nickles amendment.

The PRESIDING OFFICER. The amendment is so modified, as the Senator does have a right to modify his amendment.

The amendment, as modified, is as follows:

In the amendment strike all after the "," in line 4 and insert the following: "no member may transfer any of his/her mail allocation to any member who is a candidate for public office during the period beginning January 1st of the calendar year in which the member is a candidate for public office and ending on the date of election for such public office.".

ORDER OF PROCEDURE

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the legislative appropriations bill that there be 10 minutes for debate on the pending Ford second-degree amendment to the Nickles amendment; that the time be equally divided and controlled in the usual form: that when the time is used, the Senate will proceed to vote on or in relation to the Ford amendment No. 3147.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate recesses today, it stands in recess until 10:15 a.m., Thursday, October 25; that following the prayer, the Journal of proceedings be deemed approved to date; that the time of the two leaders be reserved for their use later in the day; and that there be a period for morning business not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:15 A.M. THURSDAY

Mr. FORD. Mr. President, if there be no further business, I ask unanimous consent that the Senate stand in recess, under the previous order, until 10:15 a.m., Thursday, October 25.

There being no objection, the Senate, at 1:02 a.m., recessed until Thursday, October 25, 1990, at 10:15 a.m.

NOMINATIONS

Executive nominations received by the Senate October 24, 1990:

AFRICAN DEVELOPMENT FOUNDATION

SCOTT M. SPANGLER, AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 22, 1991, VICE CHARLES L. GLADSON, RESIGNED.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

LEWIS W. DOUGLAS, JR., OF CALIFORNIA, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1993, VICE HERSHEY GOLD, TERM EXPIRED.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

A. PIERRE GUILLERMIN, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1993, VICE ROBERT LEE MCELRATH, TERM EXPIRED.

NATIONAL COUNCIL ON DISABILITY

GEORGE H. OBERLE, JR., OF OKLAHOMA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1992. (REAPPOINTMENT)

TENNESSEE VALLEY AUTHORITY

WILLIAM H. KENNOY, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR THE TERM EXPIRING MAY 18, 1999, VICE CHARLES H. DEAN, JR., TERM EXPIRED.

HOUSE OF REPRESENTATIVES—*Wednesday, October 24, 1990*

The House met at 10 a.m.

The Reverend Andrew Merritt, Straight Gate Church, Detroit, MI, offered the following prayer:

Precious God, Creator and Ruler of all nations, we gather today with grateful hearts and songs of praise on our lips thanking You for life, freedom, and for the privilege of living in this great land, the United States of America. We thank You for the blessings You have bestowed upon this country and praise You for its great people.

Now, we ask that You bless our President, Congress, and all branches of Government. Give them wisdom, guidance, and understanding as they endeavor to lead our Nation. Keep those who protect and serve our country and bring them safely home.

Finally, we pray for peace, justice, and love throughout the world. To You now, who alone is worthy, we ascribe glory, honor, and praise forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Michigan [Mr. CONYERS] please come forward to lead the House in the Pledge of Allegiance.

Mr. CONYERS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE REVEREND ANDREW MERRITT

(Mr. CONYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, I am very delighted that Rev. Andrew Merritt, the pastor of Straight Gate Church, could join us today in the invocation. He comes here as a copastor with his wife, Viveca Merritt, of a church that started 12 years ago in Detroit with three members and now has 3,500.

As you can see, he is a young minister of great dynamic qualities. He has the largest church facility in the city of Detroit. He has a wonderful family of six.

I have had the pleasure of knowing him for only a few years, although he was born and raised in Detroit.

We are deeply honored in our city that he could bring the word this morning.

BE A PLAYER IN A MODERN DAY MIRACLE

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, today with a simple blood test, Members of Congress and Capitol Hill staff have the opportunity to be players in one of the most dramatic medical miracles that we have seen in a long time. I am talking about the program of bone marrow transplantation, where a person with leukemia or some other type of blood cancer or some 60 other blood diseases that can now be cured by a bone marrow transplant, where a short time ago there was no hope for their survival.

Today in room B-344 of the Rayburn House Office Building, and in room 188 of the Senate Office Building, the Russell Building, Navy medical personnel will be on hand to do the simple blood tests that are required to do the typing of bone marrow.

This is an opportunity for all of us to be players in this wonderful opportunity to give a living gift of life to someone who has no hope without this bone marrow transplant.

I would ask the Members and their office managers and their administrative assistants to remind the staffers, and I might also say, Mr. Speaker, that visitors to the Capitol today may take part in this program, and the lobbyists working out in the halls can take part in this program.

Be part of today's modern day miracle. Be part of the bone marrow transplant program.

PRESIDENT HURTS MAJORITY OF AMERICANS BY VETO OF CIVIL RIGHTS BILL

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, while the President protects millionaires from a surtax and while the President is out collecting millions for Republican candidates, he has struck a blow to middle-class working America with his veto of the Civil Rights Act.

Pundits say he vetoed it for cynical political reasons, while saying it is a quota bill.

The Civil Rights Act is not a quota bill. Groups who support it have fought quotas for years.

The bill clearly states twice that it is not a quota bill, so that is a phony issue.

What the President may not have realized is that every working woman in America needs the Civil Rights bill, and in vetoing it he has injured not a minority of Americans, but a majority of Americans. Every family in America that has a working woman within it, every American family that has a daughter or a granddaughter who will one day enter the work force should be outraged at this veto which the President should reconsider.

CYNICAL RELEASE OF HOSTAGES IN IRAQ

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, in the last several days we have seen the welcome release of some hostages by President Saddam Hussein of Iraq. While I join everyone in welcoming the release of these individuals, I hope that the world will not lose sight of the fact that this is a cynical attempt to appear humanitarian by the very individual who has caused this crisis himself through Iraq's invasion of Kuwait and through Iraq's violation of all norms of international law by holding hostages against their will. Although I am glad to see hostages released and although I hope we will see more released, I think the world should be proud of itself that it has stood up against international aggression. I hope these events will not cause the world to weaken that resolve in the future.

PRESIDENT SHOULD RECONSIDER HIS POSITION ON TAXING MILLIONAIRES

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, when I woke up this morning, I did my usual thing of scanning the newspaper head-

lines, and unless my eyes let me down, Mr. Speaker, the only item in serious disagreement in the budget reconciliation conference is a tax on millionaires.

The Democrats essentially say yes, the millionaires should pay their fair share. The Republicans basically say no, that should not be done.

Mr. Speaker, let me say that one more time. It could be that the Government could shut down—not over something like Operation Desert Shield, or how the senior citizens in the country might be treated, or the young people or the sick people or the infirmed people—but whether or not there is going to be some fair tax on those who make the most money.

I certainly think, Mr. Speaker, that the President to this time has risen above his own background on many occasions to do good things for the people of this country. I would hope, Mr. Speaker, that the President would reconsider his position on this issue today so that the Government is not shut down and so that the millionaires in this Nation do pay their fair share. That would be the right thing to do.

DEMOCRATS NEVER HAVE ENOUGH ON TAXES

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I, too, was struck by the newspapers this morning. One says "Democrats Balk at Deficit Deal." Another says "Hesitant Democrats Fail To Embrace Deal."

You know, I do not understand what is going on around here. In June we had a summit. In June the President said that he would put revenues on the table. In September he would accept $133 billion in new revenue. By October we are at $192 billion between user fees and increased taxes. The President has agreed to raise the rates. He has agreed to accept the deduction limitations on those in upper incomes. He has agreed to a plan that is going to increase domestic discretionary spending by $132 billion, and you people have the gall to say it is not enough. You ought to be embarrassed. My God, we are like a bunch of drunken sailors. The economy is going down and this Congress cannot agree on a budget deal because nothing is ever enough.

When are we going to have a little courage to stand up and insist that we have some budget discipline in the House of Representatives?

REPUBLICAN BUDGETS PLAY LIKE A EULOGY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it is not hard to figure this out, for the last speaker. We have had 10 years of Republican budgets and it has become a funeral in this country with the line items of Republican budgets playing like a eulogy.

I say it is time for the Democrats to propose a budget, the party of Roosevelt, Truman, and Kennedy. It is time to propose a people's budget, and that means we do not increase payments on Medicare.

We give $170 billion a year to take care of Japan and Germany. Japan spends half a billion dollars lobbying Congress.

□ 1010

It is time to cut that. I say it is time for the Democratic Party to submit a people's budget to this President and put him right on the spot because the way he is waffling, everybody is throwing up over that breakfast.

D-DAY—DEFICIT DAY—ONCE AGAIN

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, we are at "D-day"—deficit day—once again, with nothing achieved all year, in fact, nothing achieved in the past 8 years, and no solutions in sight.

House Democrats will not pass what the President will sign, and the President will not sign what the Democrats can pass. Impasse. Gridlock. Stalemate.

House Republicans took themselves out as players long ago when they failed to support the President in his effort to solve the deficit problem with a sensible compromise agreement, which contained some increased taxes, but all on the consumption side, and virtually none affecting income. Now the President, stands largely alone, and if he is forced to sign a package produced by the Democrats, the responsibility for that result will largely rest with those who failed to support him on the original budget compromise.

There is, however, another way. The President can insist in the absence of any agreement, that he will sign no new spending bills, with the substantial increases in every function, except defense, that the Democrats have now produced. He can insist that the line be held on spending at last year's level in every bill as the only way to achieve some deficit reduction.

This is the path I have been advocating for the past 6 years. Had we put a freeze on spending across the board when I first introduced such a budget in 1985, the deficit problem would long since have been solved.

SYRIAN-SPONSORED ATROCITIES IN LEBANON

(Mr. BERMAN asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, the list of atrocities committed by the Syrian-sponsored government in Lebanon is growing in incidence and in cruelty. Last weekend, Lebanese Christian leader Dany Chamoun, an enemy of Syria, was assassinated in his home—and then the gunmen murdered his wife, shot his 8-year-old son in the face and chased his 6-year-old son into the bedroom to shoot him, point-blank, in cold blood, in the head.

Where is the U.N. resolution condemning Syria for sponsoring the deliberate murder of innocent children? Where is the call for a U.N. commission to investigate reports of atrocities in Syrian-occupied Lebanon? Why does the United States not support, and indeed lead, the international community in protesting such moral outrages?

Instead, the United States treats Syria with kid gloves, as a new-found friend and ally, merely because Syrian national interest momentarily coincides with our own in the Persian Gulf crisis.

But we must not lose sight of the fact that we do not share interests in Lebanon. And if it threatens our momentary cooperation with Syria to protest the extension of Syria's brutal regime into that country, then we have bought Syrian cooperation at far too great a price. What Syria is doing is wrong, and we should be deeply ashamed if its vicious brutality goes without our loud and sustained condemnation.

WE SHOULD NOT FORGIVE NUCLEAR INDUSTRY'S BILLIONS OF DOLLARS' WORTH OF DEBT

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, I came before this House to point out that the Senate, in their reconciliation bill, is proposing the forgiveness to the nuclear industry of $10 to $30 billion in debts that are owed by that industry to the DOE.

The DOE says that we need to forgive this debt because the fact is that they cannot sell the goods to the industry, the nuclear material; the industry will buy from some private purveyors around the world.

Well, Mr. Speaker, I do not believe the American public is ready to bail

out the nuclear industry to the tune of about $30 billion. I think it is money we need to collect from them, money they owe the Government.

Maybe this money can be used to defray some of the costs of the tax increase proposed in the reconciliation bill.

There is merit in the Senate proposal, but bring a separate bill to us and let us hear it. But please do not bury it in the reconciliation bill.

The American public is sick of bailouts, whether it is FSLIC's for the savings and loans or any kind of bailout. They want us to collect the money owed to our Government.

Let us not let the Senate get away with this. Let us tell our conferees to make sure the Senate does not prevail to forgive the debts owed by the industry to the DOE. The nuclear industry is well able to pay back this money.

OVERRIDE BUSH'S VETO OF CIVIL RIGHTS ACT

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker, President Bush claims the Civil Rights Act of 1990 would have led businesses to adopt hiring quotas. That's simply untrue.

Women do not need quotas to get hired. We are better than that.

What we need is to reinstate antidiscrimination laws recently narrowed by the Supreme Court. Current law fails to provide relief for women who are victimized by discrimination. The Civil Rights Act would give us a chance to change this deplorable situation.

The President's veto sends us back. It returns American society to a time when women weren't considered equal, when it was acceptable to discriminate against women, and when no laws existed to protect them.

Well, Mr. Speaker, America does not yearn for this type of nostalgia. American women know what we are capable of doing, and if businesses refuse to hire or to promote us because we are women, we want the right of redress.

We need the Civil Rights Act of 1990 to afford us this right. I urge the House to vote to override the President's ill-conceived veto. We must not defend employers who discriminate, nor should we deny victims of discrimination access to justice.

THE OIL PROFITEERS

(Mr. HERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERTEL. Mr. Speaker, I want to talk about the oil profiteers.

Yesterday we heard reports in the news of the last quarter profits: Texaco, $381 million profit, up 25 percent; Phillips Oil, $175 million in 3 months, up 104 percent; Ashland Oil, profits up 250 percent in 1 quarter.

Thirty and one-half cents per gallon price increase since the invasion. This week the price of oil is down, but it is not down at the pump.

You know, they raised the price the day after the invasion up from 5 cents to 25 to 30 cents a gallon. Now that the price of oil is down, it has not come down at all at the pump this week.

How long does it take to get it down?

Join with me and sign my bill putting all oil profiteers in jail. The public needs action. Our economy needs action for the defense of our country.

IT IS TIME TO GO HOME

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, it is time to go home.

This Congress cannot keep voting against budget compromises because they are not perfect. Common sense should tell us that there is no perfect budget package. Clearly, to cut the deficit requires shared sacrifice. All areas of Government spending have to take a hit, and every taxpayer, especially the wealthy, must understand that the era of borrow and spend must end.

Later today we may get yet another vote on a deficit reduction package. It is time to make the tough vote, it is time to go home.

OVERRIDE THE PRESIDENT'S VETO ON THE CIVIL RIGHTS ACT

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, I would urge the Senate today and also the House to override the Presidential veto on the Civil Rights Act of 1990. There is a lot of talk in this country about this being the land of opportunity. Well, it is if you are white and if you are male.

And if you ask all but the most hate-blinded bigots, most will say they do not harbor any prejudice against anyone. Yet we foster discrimination when we allow an employer to deny a job, a promotion, a raise, on a benefit to any employee based solely on race or sex. You know, in many business offices you hear things like, "Get rid of that woman. Don't hire that Asian-American, promote the inexperienced white male over the senior and better-qualified black or white woman."

"Don't worry, it is okay, the Supreme Court says so, and the President agrees."

It is a sad state of affairs that 26 years after the passage of the Civil Rights Act of 1964 we are still trying to secure equal rights for all of our citizens in America.

Give us a fair chance to reach our potential in the workplace. You would think that we would have moved beyond this in 1990 to solve other problems. Yet, instead of building on the solid foundation of the original Civil Rights Act, all we have done is retreat from the spirit, letter, and intent of that law. When espousing the virtues of equality of opportunity, Americans talk a big game, but when our words and convictions are put to the test, this Nation comes up short.

The Declaration of Independence tells us that all men are created equal with inalienable rights for life, liberty, and the pursuit of happiness. But I want everybody to remember that that does not mean just men; in God's eyesight and in everybody else's, that stands for women too.

THE DEMOCRATS ARE BEING BLAMED FOR ALL THE PROBLEMS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, I have been listening to a lot of this stuff where the Republicans get up and Bush gets up, in earlier speeches, and how they are blaming the Democrats for all of the problems. What a bunch of BS. I heard this time and time again that the Democrats are at fault for everything that has ever happened in this country. The Republicans do not want to tax the middle-income people. I think that is great. They also do not want to tax their rich friends. I disagree with that.

What they say is, "Let's just cut spending, that is all, not defense, just cut domestic spending. Let's cut the elderly, Medicare, cut Social Security, veterans' disability, the disabled, in education, the poor," and so on and on.

□ 1020

Hey, these people are not the ones to blame. They are not the ones that caused the Reagan-Bush deficits over the past 10 years.

Republicans say, "Well, we got to bite the bullet," and I say, "Well, if you bite it in the wrong place, it's going to blow up in your face."

Mr. Speaker, we have got to get it from those who got it in the first place. Let us hit the foreign corporations. Let us hit the wealthy people in this country. Let us get it from the de-

fense contractors. They are the ones that got the big bucks.

Yes, if we are going to bite the bullet, let us make sure we bite the right one. But let us hit the right people, the ones who are responsible for the deficit that we are in today.

HOUSE PASSES REAUTHORIZATION OF THE MAGNUSON ACT

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, last night the House passed the reauthorization of the Magnuson Act. In it we have included for the first time a new section that seeks the permament ban of high seas drift nets, those 30-to-40-mile long curtains of death. We have sought to make clear that the United States will no longer put up with drift net fishing, the piracy of our marine resources on the high seas. We put the Secretary of State on notice that he should begin negotiations with Japan, Taiwan, South Korea, to ban the use of high seas drift nets. The Secretary should also keep Congress informed so that we can take action to get the attention of those countries that will not cooperate.

Mr. Speaker, that is the approach I took in my bill, H.R. 2958.

This day has been a long time coming. Nearly 2 years ago, when I introduced by bill to call for a ban, I could find no cosponsors. A year ago the House committee finished hearing the bill. Repeated disputes over parochial issues had stalled the Magnuson Act in the Senate for 8 months. Now we have sent it back to the Senate for a second time. It is up to them and the President, whose people at OMB say he opposes it. Mr. Speaker, let us urge him to sign it.

ELIZABETH DOLE TO BECOME PRESIDENT OF THE AMERICAN RED CROSS

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, I rise today to salute a remarkable woman. Elizabeth Dole, the Secretary of Labor, is leaving Government service in a short while, and I would simply like to salute this beautiful daughter of the South who, after a brilliant career at Duke University, invaded the North and became a very fine graduate student and a graduate of the Law School of Harvard University. She took all of this learning and all of these beautiful accolades about her, and she put them into Government service.

As my colleagues know, Elizabeth Dole served in consumer affairs, she served in Health and Human Services, she served as an assistant to the President, and for all this service she won the coveted and distinguished Arthur S. Fleming Award in Government. She went on, of course, to be the Secretary of Transportation, and then the Secretary of Labor, and all of us glory in her accomplishments and her dedication to our country and to our Government.

However, Mr. Speaker, now we have to release her because she is going to use these considerable talents and that vast reservoir of experience to become the president of the American Red Cross and to extend them to all humanity.

We all wish her well, and we thank her for her outstanding service.

THE AMERICAN RED CROSS IS REALLY GOING TO BENEFIT

(Mr. GOODLING asked and was given permission to address the House for 1 minute.)

Mr. GOODLING. Mr. Speaker, since I heard that beautiful tribute to our Secretary, I, too, want to rise and say what a wonderful privilege it has been, as a ranking member on the Committee on Education and Labor, to work with Libby Dole. She certainly has been an outstanding Secretary, wonderful to work with, and we are truly going to miss her.

I am sure, as is always the problem, there is always the kitchen cabinet, and then the Cabinet, and I would imagine one becomes very disillusioned being in the Cabinet when the kitchen cabinet is probably doing more than they should be doing.

We are truly going to miss her, and this administration is going to miss her, but the Red Cross is going to really benefit, and I am sure we will see and hear a lot more about Secretary Libby Dole in the future.

WE MUST OVERRIDE PRESIDENT BUSH'S VETO OF THE CIVIL RIGHTS ACT

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, every woman in America should be very concerned about President Bush's veto of the Civil Rights Act. If the President's position prevails, American women will have the same legal standing with regard to suing for damages due to sexual discrimination as they did in 1800. By vetoing the Civil Rights Act of 1990, President Bush wants to make sure it stays that way. With the Civil Rights Act of 1966, others were granted the right to sue for damages, if they were the victims of discrimination, but women did not get that right. It is time for the President to allow Congress to bring America into the 20th century, really prepare for the 21st century, and guarantee victims of sexual discrimination the right to sue for damages.

Mr. Speaker, in retrospect it is clear that the President never really intended to support a civil rights bill. The gentleman from California [Mr. HAWKINS], Senator KENNEDY, and other civil rights supporters have gone to tremendous lengths to accommodate the concerns of the President. We must not allow the President to stem the progressive tide of history by one stroke of his veto pen. We must ensure that the country moves forward. We must acknowledge the aspirations of women in America. We must override this veto.

To the women of America I say, "It doesn't have to be this way. Let's override the veto."

PRESIDENT BUSH'S VETO OF THE CIVIL RIGHTS BILL

(Mrs. MINK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MINK. Mr. Speaker, I decry the fact that the President vetoed the Civil Rights Act of 1990. All this bill is, is a reenactment of laws prohibiting discrimination in the workplace which had been in effect for as long as 19 years until the U.S. Supreme Court overturned them recently. This bill also corrects a grave error which prohibits women from obtaining the same redress in sex discrimination cases as others who won cases on the grounds of race discrimination. The major losers if this bill does not become law are the women of America.

The Civil Rights Act of 1990 is not paving new ground. It is needed to reaffirm the commitment made years ago to working people that employment decisions on hiring, promotion, and firing would be made without regard to color, race, or sex.

The fundamental question is whether we want to protect women and minorities against employment discrimination by allowing employers the excuse of justifying it on the grounds of business necessity. The bill passed by Congress and vetoed by the President would allow the employer to defend his hiring practice if it had a significant relationship to the successful performance of the job. The President's bill would allow employers to choose to defend employee selection practices on the basis of job performance or other business objectives unrelated to job performance. I find it totally unacceptable that any law would be written and advocated which would sanction job discrimination on the basis of business necessity.

The Civil Rights Act of 1990 corrects a serious inequity by finally allowing women to obtain damages in cases that they win on the grounds of intentional sex discrimination. Today, if the proven case of discrimination is based on racial discrimination damages are allowed, but not on the basis of sex discrimination.

Under current law, women may not recover damages, except for backpay. This is so wrong. I urge the Senate and the House to vote to override this veto. This civil rights bill is good law. It is based on fundamental equity, and on the principle of equal justice under the law.

NOT FAIR FOR PRESIDENT TO MANDATE AND DICTATE WHEN HE CAN'T DELIVER

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, my mother-in-law always has said, "When you're dependent, don't act like you're independent."

Mr. Speaker, it seems like our President wants to do that. He wants to dictate and mandate what kind of plan or package that he wants us to adopt that he will sign, and yet he cannot deliver any Republicans to the table because all Republicans for the last 10 years have made the statement, "It doesn't matter what's in the package, it doesn't matter whether it's fair, it doesn't matter about anything. We won't sign any tax increase at all."

Is that fair? Knowing full well the last 10 years or more we have seen the tax rates go from 80 percent, 70 percent, 50 percent, down to 28 percent?

□ 1030

Why do we not burst the bubble? Why do we not make capital gains a part of the package? Why do we not have zero gasoline tax? That is the kind of plan I would prefer. That is the kind of plan I expect would be adopted by the House, and I would like to think the Senate as well. But I do not think it is fair for the President to mandate and dictate, when he cannot deliver any Republicans.

Sure, it takes a lot of courage to make these difficult, complex decisions that we have to make. Sure, everyone has got a different plan to present at the table. But at least the Republicans, when they can vote for one tax reduction after another, can at least consider bursting the bubble.

DEMOCRATS MUST GET OFF DEAD CENTER

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, there is a great deal of discussion about having another continuing resolution. In fact, one line of discussion focuses on a new continuing resolution which would run through February 15, and another has us coming back here for a lameduck session.

I have been a Member of this House for 32 years now and have been involved in a lot of lameduck sessions. Believe me, there is nothing more disgraceful—nothing more disgraceful—than a lameduck session. Nothing gets done.

I hope that we stay here. I hope that we approve a short continuing resolution. I voted for the original summit agreement. I was on that summit for 5 months. I voted for the Rostenkowski compromise that passed here with nine other of my colleagues on this side of the aisle, in order to keep the process going.

I want the process to continue. I do not know about your districts, Republicans or Democrats, but in my district, the people are upset. They are very upset. They do not talk so much about the particulars of the package, although I did get some calls earlier on the Medicare issue, which was taken care of. But what they are upset about is we are not doing anything. They want us to do something.

Why can't you folks do something? Get off dead center. Government is the art of compromise. I am willing to compromise. There are a lot of Members over here that are ready to compromise. I know there are a lot that do not want to compromise, but there are a lot over here that will compromise when the chips are down. But first of all, we have to get a package. Once we get a package, then we will go ahead, and the leader will go ahead, and try to sell it.

Let me tell you, we don't look like the cedars of Lebanon; we look like a bunch of willow trees around here.

ACTIVATE COMBAT UNITS OF NATIONAL GUARD

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I would like to talk about two subjects. First, I would like to commend Elizabeth Dole for the great work during 25 years that she had been with the Federal Government, and wish her the best, as she moves as president of the American Red Cross.

My other subject is, that we will be taking up the defense authorization bill today. I fully support this legislation. In the legislation we encourage the Department of Defense to call up combat units of the National Guard and Reserves who have not been called up.

We have a total force which says the National Guard and Reserves train right alonside the active forces. When the active forces march off, the Reserves and National Guard goes with them.

That has not happened. They have left the National Guard combat units at home.

Secretary Cheney will come up on the Hill today to talk to us about Saudi Arabia. Mr. Speaker, I am going to certainly ask him why haven't you done what the Congress wants you to do, call up the combat units of the National Guard?

PASS A BETTER BUDGET: CUT WEAPONS SYSTEMS

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, the gentleman from Massachusetts [Mr. CONTE] said it like it is: Government here in Washington largely has failed in this budget process, and it is a disgrace. Our constituents are unhappy. They are not even mildly unhappy, they are at the point of utter exasperation.

We ought to stick here in Washington and do the job. We should not go home until we pass the kind of budget that makes sense to the American people.

Before we tax middle class Americans, before we tax blue-collar workers, we ought to eliminate a lot of the fat that is in the defense budget. To the great credit of the gentleman from Wisconsin [Mr. ASPIN], chairman of the Committee on Armed Services, a lot of that fat was cut out. A lot of those unnecessary military expenditures were deep-sixed. But, somehow or another, like the cat that has nine lives, these outdated, outmoded, needless military systems enjoyed a resurgence and came back to us like a bad penny in this final conference report we are going to vote on this afternoon.

Let us send it back to the drawing board. We do not need a new tactical strategic nuclear missile. It is nonsense, in an era when the cold war is substantially being cranked down, when Mr. Gorbachev got the Nobel Peace Prize, when the Soviet Union is a democracy.

We do not need star wars; we do not need the B-2 bomber; we do not need the MX missile; and we certainly do not need a tactical short range nuclear missile.

Let us cut the waste out, apply it to minimizing the deficit, forget about laying additional tax burdens on the middle-class, provide real, necessary services, and quit posturing. That is what the American people expect us

to do and we shouldn't dare leave the Capital until we do.

PRESIDENT MOVING AMERICA INTO DARK PERIOD

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, today we come, looking back on history and realizing that there have been some dark moments, dark moments when there were persons of various races and classes and sexes who felt not included in this American dream, this American landscape.

You came before us at your inauguration and you said to the American people that this will be an administration where we will be able, with our thousand points of light, to make everybody feel some degree of inclusion.

Mr. President, as we come today, we have to wonder, whether or not, you meant what you said, for once again, we are moving back into another dark period where there are people who believe that by your veto, you have turned the lights out.

Mr. Speaker, we must override the veto, because we want those lights turned on.

ANNOUNCEMENT BY THE SPEAKER (PRO TEMPORE)

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would advise Members that under the House rules it is not appropriate to address the President directly. The President should be addressed through the Speaker.

DEFENDERS OF AMERICA SHOULD BE DEFENDED BY THEIR GOVERNMENT

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, without addressing the person that my dear colleague, the gentleman from New York [Mr. FLAKE] addressed, I think that all people should be aware that many minorities have joined our Armed Forces, not only to be there and protect this great Republic in case the national security was threatened, but also because they thought that there would be a better chance for them to provide a livelihood for themselves, that there were better opportunities in the Armed Services than there would be in the private sector.

Now that the threat of communism seems to be no longer around us, there would be no need for the tens of thousands of American troops that are around the world, and they will be coming home, the same troops that went to Grenada, that invaded Panama, and that today are in Saudi Arabia.

I ask Members in the House and the other body, do not allow these troops, that were prepared to put their lives on the line for this great country, to be discharged from the services and to try to find a job, only to find out that they have to fight the racism and the bigotry that exists in the United States, without the Congress and the President of the United States giving them some protection.

Mr. Speaker, it seems to me that they deserve nothing less than their Government standing behind them, after all they have done for us.

POLITICS SHOULD HAVE NO ROLE IN CIVIL RIGHTS

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, it is absolutely vital that the Senate and then the House override the veto of the President with regard to this very important civil rights legislation that the President just vetoed.

Mr. Speaker, I oppose quotas, but this is not a quota bill. If this were a quota bill, a number of the organizations and individuals that have supported this very important bill would not be supporting it.

Let us be frank about what is at stake here: This is a very cynical, political ploy by the President of the United States to appeal to the David Duke constituencies that may exist, not just in Louisiana, but in other parts of this country.

Instead of playing to this bigotry and racism, the President should be a leader of all the people, a leader who will protect the people in this society who need help the most.

As my distinguished friend, the gentleman from New York [Mr. RANGEL], just indicated, women and minorities are very heavily represented among the 200,000 Americans who have put their lives on the line in the Persian Gulf. When these American women and American minority members of our society come home, let us allow them to come home to equal opportunity, and not to the kind of cynical politics that are being played by the White House. Let us override this veto.

WEALTHY BEING HURT BY ECONOMIC UNCERTAINTY

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, Adam Smith and the economic marketplace will prevail when the political marketplace fails. My wealthier constituents are telling me that their stock and real estate portfolios are falling in value daily. They are being taxed one way or another by this economic uncertainty. The President and the administration cannot get the political nerve to frontally tax millionaires, and are willing to bring the Government to a halt, laying off thousands of Federal workers and putting our country into economic chaos.

□ 1040

If George Bush prefers economic anarchy, then it is Adam Smith who is really President.

I urge the economic royalists at the White House to show leadership. Let those who have more pay more.

Mr. Speaker, even the rich want a budget agreement, and they are willing to pay for it.

NATIONAL ENERGY POLICY

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, we do not have a national energy policy, and today the United States of America is 50 percent oil dependent. It will be 60 percent dependent on foreign oil by the year 2000 and 65 percent by the year 2010.

The subcommittee that I chair has conducted 11 public hearings on various aspects of energy security, and at each step, we have reminded the White House, that it was required by law since 1977, to develop a national energy policy. The response has been that the administration was studying the matter.

Our Nation may be facing the specter of gasoline lines and electrical blackouts or brownouts because of this laissez faire attitude by the White House. The time for studying the matter is over, and we have valuable natural resources in our own country that could make us energy-independent.

So today I am introducing a resolution, and I hope we can pass this before Congress adjourns, expressing the sense of Congress that the President should prepare and submit, as he is required to do by law, by the way, a proposed national energy policy plan before December 31, 1990.

I urge my colleagues to cosponsor this resolution.

OUTRAGE AT PRESIDENT'S VETO OF CIVIL RIGHTS ACT OF 1990

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, I rise to express my outrage at the

President's veto of the Civil Rights Act of 1990. This veto is unacceptable to all who have fought for equal rights in these United States. These rights should be a firm sovereignty in our democratic system. This veto in regard to civil rights borders on the unacceptable.

It must also be noted that once again, the President has demonstrated his indifference to the needs of the millions of American women who must work outside the home. Once again, the President has exemplified his lack of commitment to a workplace, free from discrimination.

Why does this surprise me? This is certainly not the first time the President has turned his back on American working women. Hopes for a more reasonable working environment for women were dashed when the President vetoed the family and medical leave bill. Why am I surprised and disheartened at the President's latest stroke of his veto authority?

I suppose, like millions of women and men in America, I believed the President when he promised a kinder and gentler Nation. I trusted his motives as sincere when he critiqued the Civil Rights Act which passed the Congress. And I listened in good faith for ways in which the Congress and the President could work together to reach an agreement—an agreement that would satisfy the President's concerns, yet would make some real progress in restoring the original intent of the Civil Rights Act of 1964.

Throughout the debate that has ensued these past few months, I assumed that the goals of the President, and the goals of those wanting to restore civil rights were not mutually exclusive. Now, as I look at the fate of the Civil Rights Act of 1990, I find this not true.

With the veto of this bill, civil rights progress of the past few decades has been negated.

We must always remember, race and sex discrimination knows no boundaries. They cross racial distinctions. White women are not immuned. Black women are not spared. Asian women know it well. Put simply, women deserve the same protection from sexism, as they do from racism. We all deserve both.

With the President's veto women and minorities will continue to know such discrimination in the workplace.

THE CIVIL RIGHTS ACT OF 1990

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, in our country the majority may rule, but the rights of the minority must be protected. Our civil rights laws have opened the doors for women and minorities in the workplace for many years now. Much progress has been made, but there is still much to be done to achieve equity in the workplace, so that each American citizen can realize his or her true potential.

Instead of all of these arguments about what we cannot do, I think we need a good healthy dose of what we can do, so that more Americans can see that they can contribute in the workplace and realize their full potential.

If history, and I might add the Bible, teaches us anything, it teaches us that we reap what we sow. Throughout the world, we are seeing people react to oppression. We are seeing those who have been out of power take to the streets and demand they be accorded what we recognize as their unalienable rights. Isn't it easier to be fair at the onset—to treat others the way we would be treated, to evaluate them on their abilities and not on their race or sex or religion? Much of the world's troubles could have been avoided if each leader had only done so.

The people this legislation ensures justice for will be key players in America's future. Between now and the next century, 91 percent of the net growth in America's workforce will be minorities and women. If America is to hold onto a competitive place in the world economy, we need to be encouraging them to reach their full potential—not reversing 100 years of progress. Discrimination has no place in society. This bill is a just remedy to problems which must be addressed.

If we are going to realize our full potential as a Nation, then we must see that women and minorities are able to realize their full potential in the workplace. We should not turn back the clock. Let us move ahead in this country. Let us do what is right, and override this veto today.

CONGRESS ON TRIAL

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, a series of speakers on the majority side have taken the floor today to criticize if not trash the President of the United States. It is hard not to conclude that this is a sham and a shame.

It is a sham because it is not the President who is on trial today; it is the Congress. At issue is whether this body can govern. After all, it was the President that came forth with a deficit reduction plan. It is the President who has agreed that the Brady-Gephardt bubble be broken, and that we have greater fairness and equity in the Tax Code.

The tax laws which the majority say are unfair were written by the majority, not by the minority in this Congress.

I would also stress to this body it is a sham because all the cloakroom chatter is that the majority party wants to weaken the enforcement provisions of the compromise budget bill under consideration, so as to make more room for more spending.

What this Member as well as many other Members of the minority are suggesting is: let us have fair tax laws, let us break the bubble, let us increase taxes on the well to do, and let us have a restraint in spending as a quid pro quo. That to me is fairness.

NO REREGULATION OF CABLE RATES THIS YEAR

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, the legislation the House passed last summer to reregulate the cable industry—in order to keep down rates for Americans and to introduce new competition into the cable marketplace—is about to die for the 101st Congress. Under the threat of a pocket veto from President Bush, it is impossible for us to pass legislation this year.

Unfortunately, ratepayers across this country—millions of them—will once again be faced with the prospect of a 10 percent, 20 percent, or 30 percent increase in their cable rates because the administration opposes any controls on cable rates.

The administration is unwilling to raise taxes on millionaires but is more than willing to burden American consumers with higher cable rates.

The crocodile tears shed by the White House obscure this administration's indifference to the efforts of Congress to relieve the burden on consumers of excessive cable rates. And that, Mr. Speaker, is a shame.

CONFERENCE REPORT ON S. 1430, NATIONAL AND COMMUNITY SERVICE ACT OF 1990

Ms. SLAUGHTER of New York. Mr Speaker, by direction of the Committee on Rules, I call up House Resolution 524 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 524

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1430) to enhance national and community service, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Pennsylvania [Mr. GOODLING], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 524 provides for the consideration of the conference report on S. 1430, the National and Community Service Act of 1990.

The rule waives all points of order against the conference report and against its consideration. The conference report requires waivers of House rules on the scope of conference reports because of modifications made to meet administration objections to the House and Senate bills. Specifically, the conference report eliminates student loan forgiveness and college work-study provisions, sets lower authorized appropriation levels than either House's bill, and adds authorizations for employer based retiree volunteer programs.

Further, the rule provides that the conference report will be considered as read when called up for consideration.

Mr. Speaker, the conference report on S. 1430, the bill for which the committee has recommended this rule, is designed to nurture and expand our Nation's community service programs. Already meeting needs ranging from child and elder care to conservation and urban rehabilitation, service programs are filling gaps caused by slowed economic growth and the loss of Federal funds for social programs. S. 1430 builds upon successful service programs such as VISTA, the Peace Corps, the Older American Volunteer Programs and the Student Literacy Corps to expand service opportunities, especially for youth who are at risk or have dropped out of school.

Among its important initiatives are: School-based service-learning programs; a youth build program to provide opportunities to construct or rehabilitate low-income or transitional housing while providing skills training and job placement; the conservation corps to preserve and revitalize our nation's natural, historical, and cultural heritage; and the human services corps to encourage service in our nursing homes, senior centers, libraries, day care centers, schools, and law enforcement agencies.

With the increasing strictures on funding at all levels of Government, we need to encourage citizens to share their time and skills to help their neighbors. This conference report is a vital step forward toward that goal.

Mr. Speaker, I ask my colleagues to support this rule so that we may proceed with consideration of the merits of this important conference report.

□ 1050

Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. GOODLING. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER].

The SPEAKER pro tempore. The gentleman from Illinois [Mr. PORTER] is recognized for 10 minutes.

Mr. PORTER. Mr. Speaker, I rise in reluctant opposition to the underlying bill and want to begin by saying that the gentleman from California, the chairman of the Committee on Education and Labor, has been more than fair and equitable in understanding my great concern with the way that the provision relating to volunteer liability has been treated in the process of considering this legislation. I would also thank the gentleman from Pennsylvania, the vice chairman of the Committee on Education and Labor, for his fair and equitable treatment as well. I cannot say the same, however, for the representatives of the Committee on the Judiciary who originally had waived jurisdiction over this legislation and then had taken a position in the conference opposed to the direction of the House not only in adopting an amendment on volunteer liability but also in adopting overwhelmingly a motion to instruct conferees regarding that amendment.

In 1987, I introduced in the House legislation called the Volunteer Protection Act that would provide encouragement to the States to exempt unpaid volunteers of not-for-profit organizations from negligence liability except in extreme circumstances. The need for that legislation was very clear and very great. Many organizations from the American Red Cross and the Boy Scouts and Girl Scouts and hundreds of similar organizations were having great difficulty in attracting volunteers, either direct service volunteers or members of their boards, because people were very frankly afraid that they would end up in court a defendant in a lawsuit with their home or farm or assets at risk.

We had 254 cosponsors of that legislation (H.R. 911) in the 100th Congress, and the chairman, the then chairman of the Committee on the Judiciary, ignored the legislation and refused to provide it even a hearing.

It was reintroduced in the 101st Congress as H.R. 911 with some slight changes to it. Over half the House was again cosponsors of the legislation, and I sat down with the chairman of the Committee on the Judiciary, the able gentleman from Texas, and asked him specifically if he would grant a hearing for this legislation. He assured me that he would. No hearing was ever granted or scheduled.

I then sought to offer the bill in substantially the same form as an amendment to the National Service Act. The House adopted that amendment and placed that bill in its essence in the National Service Act dealing with one provision, the Governors' grant program in the bill. I then asked the House to reaffirm their commitment to that legislation with a motion to instruct conferees that the House considered and adopted on a vote of 412 to 0, with the members of the Committee on the Judiciary, having jurisdiction initially over such a provision, also voting unanimously for it.

In the conference, there were appointed three members from the majority side of the Judiciary Committee and two from the minority side to confer on that particular provision which was the only provision that they were required to consider, because it was the only provision over which they had jurisdiction. They took about 5 seconds under the instructions of the majority on the Committee on the Judiciary to excise that provision from the bill without any further consideration.

The members from the minority side attempted to raise the issue, but were simply and quickly outvoted. So a provision that was adopted by the House of Representatives, a provision that was supported in the motion to instruct conferees unanimously with over 400 votes, a provision that reflected over half the House of Representatives having cosponsored the underlying legislation was simply swept away without any thought or any encouragement or any chance for a hearing or any consideration of the views not only of the minority party in the House but of the majority of the House Members who were actively supporting this legislation.

It seems to me, Mr. Speaker, that Members of the House deserve better. I would suggest to the majority that it might be in order for them in the next Congress to consider a change in House rules that might provide that if more than one-half of the House are cosponsoring legislation it is the responsibiliiity of the majority to at least hold a hearing on that legislation, if not to report it.

I would ask once again, because I intend to reintroduce this legislation in the next Congress, and I assume and I believe very strongly that we will have over half the House cosponsor the legislation, that the chairman of the Committee on the Judiciary and the members of that committee grant a hearing to this legislation. It is widely supported, supported by organizations like the Little League and the AAUW and the PTO and hundreds of similar organizations across this country. These people have the right to have an opportunity to be heard and some caring and consideration by the Congress about an issue that is hurting the very essence of America: volun-

tarism, where people are willing to stand up and work for causes and for each other and to help people who are less fortunate than they.

This legislation ought to have the opportunity to be heard and considered by this House, and the Judiciary Committee must stop its stonewalling and ignoring the wishes of the majority of this body.

I have included with these remarks an analysis by the National Council of Nonprofit Associations of the various State laws regarding liability of charitable organizations and volunteers and commend it to the Members for their future information:

STATE LIABILITY LAWS FOR CHARITABLE ORGANIZATIONS AND VOLUNTEERS

INTRODUCTION

Prior to the last decade, the number of lawsuits filed against volunteers might have been counted on one hand, perhaps with fingers left over. Although the law permitted suits against volunteers, in practice no one sued them and volunteers had little reason to worry about personal liability. In the mid-1980's, that changed. More volunteers were sued and those suits attracted a lot of media attention. Suddenly, the possibility of personal liability was on volunteers' minds.

At about the same time, the insurance picture for volunteers and nonprofit organizations darkened. Premiums rose dramatically, exclusions increased, and some forms of coverage became unavailable. To meet the cost of higher insurance premiums, some Nonprofit organizations cut back on services. Others "went bare," increasing the risk that an injured party would look to the organizations' volunteers in search of a "deep pocket." As publicity about the lawsuits and insurance crunch raised volunteers' apprehension, their willingness to serve waned. Several surveys conducted during this period reported that many organizations suffered board resignations and volunteer recruitment difficulties.

Faced with the prospect of charitable organizations closing their doors and potential volunteers staying home, legislators sought to remove the liability chill from volunteering. On the national level, Congressman John Porter dramatized the problem by assigning bill number 911 to his proposed Volunteer Protection Act, a federal bill designed to spur state adoption of volunteer protection laws. Although the Act has been introduced in each session of Congress since 1987 and has had over 200 co-sponsors in the 435-member House of Representatives, it has not become law. Even without a federal prod, though, state legislatures took action.

Principal findings

Every state now has a law pertaining specifically to legal liability of at least some types of volunteers. All of this legislation has created the false impression in some quarters that volunteers nationwide now enjoy complete protection. To the contrary, most volunteers in most states remain fully liable for any harm they cause and all volunteers remain liable for some actions. Volunteer protection laws in about half of the states apply only to directors and officers. Legislatures concentrated on protecting board members because they faced the worst insurance problems when most of the volunteer protection statutes were enacted. The resulting anomaly is greater protection for the volunteers who make policy than for the ones who carry it out.

Moreover, every volunteer protection statute has exceptions. The most common and understandable are exclusions for claims based on a volunteer's willful or wanton misconduct. A few exclude gross negligence or some other category of error above negligence. A few laws even permit suits based on negligence, which nullifies the protection they purport to offer. In addition to the listed exceptions are actions based on federal law. The Supremacy Clause of the United States Constitution prevents states from cutting off federal claims. Thus, the Internal Revenue Service can sue a volunteer director for failure to withhold income tax and wronged employees can sue for civil rights or employment violations. Congress alone can reduce the federal threat to volunteers' personal assets, and Congress has not acted.

Beyond these intentional exclusions are gaps that result from ambiguity in some of the laws that were passed hastily at the height of the insurance crunch. Some of these laws are confusingly worded, exceptionally complicated, designed for profit-making corporations, or otherwise problematic. Even the very best laws require careful analysis to determine which volunteers they cover and what exceptions they contain.

The diversity of the laws reflects varying conclusions of state legislatures that weighed the competing equities inherent in volunteer protection. Reasonable people can differ over the choice of protecting a volunteer from personal liability or providing compensation to the innocent victim of the volunteer's negligence. Some statutes attempt to resolve this conflict by immunizing volunteers only if the agencies they serve are insured. Beyond that requirement, the laws do not attempt a comprehensive response to the broad issue of how individuals who suffer harm as the result of volunteer activity should be compensated. A fully adequate response would entail reconsideration of the liability and damages standards for both volunteers and their sponsoring agencies. Although that undertaking is beyond the scope of the present effort, this assessment of the state of the law may serve as a step toward creating a more fully satisfactory arrangement.

Insurance implications

Given that many of the volunteer protection statutes were passed in response to the high cost or unavailability of insurance for some volunteers in the mid-1980s, the question naturally arises as to whether enactment of the laws eliminates the need for insurance. Reading this survey may not give an unequivocal answer to that question, but it should provide a sound basis for reaching a conclusion. The statutory summaries indicate how much protection each state's law affords volunteers. All of the statutes have some exceptions, some of which insurance may cover, others it may not. For example, insurance policies, like the volunteer protection statutes, exclude claims based on willful or wanton misconduct.

One significant exception in the statutes that may be insurable is for claims based on federal law. Some insurance policies provide coverage for such suits, others do not. Only a careful analysis of the policy will reveal whether it offers coverage beyond the law's protections.

Two additional considerations may favor insurance. The first is that few states limit the liability of the organization. The organization may still need protection even if its volunteers are immune. Moreover, some laws protect volunteers only if the sponsoring organization carries liability insurance. Another advantage of carrying insurance is that the laws do not totally bar a lawsuit. A volunteer who is sued may eventually succeed in having the claim dismissed, but that result might occur only after a trial in which the volunteer is found to be negligent rather than grossly negligent. If the volunteer were insured, the insurer would be responsible for paying what could be very substantial defense costs.

Finally, a court might declare the volunteer protection law invalid and hold the volunteer fully liable. As yet, none of the volunteer protection statutes have been tested in court, although the Massachusetts Supreme Court recently upheld that state's statutory limitation on the liability of charitable organizations.

Even if volunteer protection laws do not eliminate the need for insurance, they should affect the cost and conditions of coverage. Premiums should be lower and insurers should be more willing to cover volunteers at little or no extra cost under a policy that covers the organization. Although an insurer might be required to pay defense costs and perhaps even pay a judgment if the law were ruled invalid, existence of a good volunteer protection law substantially reduces the likelihood of a claim. If more states adopt a model volunteer protection statute, the increased uniformity should further help to reduce insurance costs because insurers will be able to measure the effects of the laws on a larger scale.

[Graphs not reproducible in the Record.]QUILLEN

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the chairman and the ranking member of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS], and the gentleman from Pennsylvania [Mr. GOODLING], for their hard work in putting together this package. I also want to thank the gentleman from Illinois [Mr. PORTER] for his remarks.

The able gentlewoman from New York [Ms. SLAUGHTER] has fully explained the provisions of the rule, and I will not repeat those provisions.

□ 1100

At the time of the Rules Committee meeting, no one appeared to object to the granting of this rule.

Mr. Speaker, I support the rule and ask for its adoption.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I will just take a brief moment to express my appreciation to the gentlewoman from New York [Mrs. Slaughter] and to the gentleman from California [Mr. HAWKINS] and his committee and to the fine work of the gentleman from Pennsylvania [Mr. GOODLING] and others on this bill.

This bill is a very important bill that was touted very highly at the begin-

ning of this Congress. I think we should recognize the effort that has gone into it.

A provision that Senator MIKULSKI and I introduced is part of this bill, and I just want to thank the chairman for including it in the conference report. Basically, it says that people who volunteer in important areas in their community, that if they give 2 weekends a month and 2 weeks during the year, that they can indeed earn up to $1,000 a year for first-time home purchase or for education, two pillars of the American dream.

It is very, very limited in its scope. It is a pilot program. We want to see how it works. It is not very costly at all. If in fact it works, we can bring it back and the Members of this body can review and expand it if they want. If it does not, then we can discard it, but I think it is something I know a lot of our young people across this country are yearning for, to have the opportunity for education at a higher level, as well as the opportunity to purchase a new home.

So I thank my colleague for yielding time to me. I wanted to raise this issue. I hope my colleagues will not only support this rule, but the conference report as brought to us today.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. HAWKINS. Mr. Speaker, I call up the conference report on the Senate bill (S. 1430) to enhance national and community service, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 524, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Wednesday, October 17, 1990 at page 30173.)

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of the conference report on the National and Community Service Act of 1990. This report, which has passed the Senate, also has the enthusiastic support of the administration.

The conference agreement assumes a 3-year authorization of $62 million in fiscal year 1991, $105 million in fiscal year 1992, and $120 million in fiscal year 1993. These funds are to support K through 12 and college programs, the conservation and youth service corps, and demonstrations for full- and part-time community service.

This bill intends to stimulate national service by incorporating service learning into elementary and secondary school curricula, provides a role for colleges and universities to promote service, creates American conservation and youth service corps to enable youth to carry out a variety of projects addressing unmet environmental and social needs and establishing full- and part-time service programs. It gives Americans, particularly disadvantaged youth the opportunity to serve their communities, their country, and themselves.

This legislation targets the young, the poor, and others presently not asked to serve. Further, it promotes opportunities for senior citizens through a blend of new and existing programs.

I believe this conference agreement should satisfy all but those who are convinced that the Federal Government has no role whatsoever to play in the promotion of national service. First, the costs of the House and Senate bills have been reduced to bring them into line with current appropriations. Second, the conferees dropped all provisions relating to loan forgiveness, postponing discussion of this issue until the reauthorization of the Higher Education Act.

Also, the conferees agreed to authorize the Points of Light Foundation to promote President Bush's concept of community service.

The conservation corps intend to carry out programs to promote the conservation, rehabilitation, and improvement of public lands, urban and rural revitalization, flood and erosion control projects, wetlands protection and pollution control, energy conservation projects, as well as helping to make public facilities accessible to individuals with disabilities.

Youth corps may participate in programs in nursing homes, senior centers, hospitals and hospices, recreational facilities, programs serving people with disabilities and other programs.

Mr. Speaker, I would like to quote from a letter sent by Gov. George Deukmejian of California to President Bush. He wrote:

> While there are programs such as the California Conservation Corps already in existence, they still reach only a fraction of the young people who could become involved. States and community agencies cannot do it alone; the federal partnership provided under this legislation would help provide more service opprtunities.

These programs can help meet pressing human service and environmental needs in a cost effective manner. Here in California, the CCC has returned to the taxpayers $1.77 in benefits for each dollar spent. And the legacy of preserving natural resources for the enjoyment of future generations is priceless.

This bill is faithful to a set of principles which emerged from hearings conducted by the Education and Labor Committee. First, it categorically rejects any linkage between service and student financial assistance. Second, it contains adequate and realistic protections regarding job displacement. Third, the programs authorized include appropriate compensatory education and job training, where necessary. finally, it recognizes the large number of service efforts underway in virtually every American community and therefore intends to build upon, not smother, these efforts.

Supporters of National Services legislation include the AFSCME, AARP, American Red Cross, Child Welfare League of America, Children's Defense Fund, American Federation of Teachers, National Collaboration for Youth, People for the American Way, as well as Big Brothers/Big Sisters, the Association of Junior Leagues, American Association of Homes for the Aging, Boy Scouts of America, Boys and Girls Club of America, Campfire, Catholic Charities, Council of Jewish Federations, Family Service America, Girl Scouts, Goodwill Industries, Lutheran Council, National Council of Negro Women, Salvation Army, Travelers Aid Association, United Service Organizations [USO], United Way of America, YMCA, and YWCA.

This conference agreement passed the Senate on October 15 with a vote of 75 to 21 with overwhelming bipartisan support. I urge the House to follow suit and send the President the national service bill he has agreed to sign.

□ 1110

Mr. GOODLING. Mr. Speaker, I yield my self such time as I may consume.

Mr. Speaker, I would commend the Style section of the Washington Post to you and to all our colleagues. The Style section is certainly the proper place to feature our dear chairman, because he is a chairman with much style. This will be the last opportunity we will have to pay tribute to Chairman HAWKINS because there are two very important bills coming later but we will not have an opportunity to debate nor discuss them and, therefore, will not have time to pay the kind of tribute that we should to our chairman.

As I said at the unveiling of his portrait, very few chairmen in the history of this institution have ever brought education bills or any bills to the floor

of the House and have received the kind of vote that he has received. Many times 300 something to 1, many times 300 something to 10. That is a tribute to the ability of this chairman to bring all side together on education issues.

He did not bring bills to the floor unless he got a broad consensus.

As I have said many times, he is an example of carrying the big stick but speaking softly. And I think all of us owe a great debt of gratitude to Chairman HAWKINS. I know that millions and millions of children in this country owe a great debt of gratitude because of his leadership.

He will be known for his 56 years, I believe, of dedication to public service as a State legislator and then as a Member of the U.S. House of Representatives because unselfishly he has given of himself to serve others.

I am sorry we do not have the child care bill here today or the omnibus education bill, because those are two bills that he has worked long and hard to bring about and they will be here before this session is over and they will be successfully passed and signed. But today we will have to pay our accolades on a bill not quite of the stature of the two bills that will come later on.

So we thank Chairman HAWKINS for his dedicated service and, above all, for his ability to let the 2-to-1 minority feel as if they have some significance for being here. That has not always been true in all of the assignments that I have had in the Congress of the United States. But serving side by side with him in the Committee on Education and Labor, it was really a joy and I really felt that there was a reason for my being here.

Mr. Speaker, I rise in support of the conference report on S. 1430, the National and Community Service Act of 1990. This legislation will provide support to a host of public service activities including school-based programs, adult volunteer and partnership programs, community-based programs for dropouts and out-of-school youth, Youth Corps programs, and the national service demonstration program. The National Service Act will also authorize the Points of Light Initiative Foundation which was a key piece of the President's community service proposal.

The conference agreement represents a compromise both between the House bill and the Senate bill and between the administration and the sponsors in both Houses. Compromise was reached on funding level, scope of programs, and administrative structure. Of particular import to me was the removal of the provisions providing for the cancellation and deferral of student loans held by those involved in certain public service work. The fiscal impact of loan cancellation and deferral was unknown and whether the provisions were workable as an administrative matter was not clear. The reauthorization of the Higher Education Act which we will be undertaking next year is the more appropriate time to assess the feasibility and effectiveness of loan cancellation.

The National Service Act will support many worthwhile service activities taking place in every State across this Nation. In my State of Pennsylvania, there is a very active network of service organizations starting right at the top with the Governor's Office of Citizen Service. Pennsylvania also supports a youth corps program called PennServe which will be helped with the passage of this bill and a public-private partnership, the Pennsylvania Citizen Service Project, which is similar to the partnership model used in the bill. Just this past Monday in my district, the York County Citizen Service Recognition Day ceremony was held honoring those who have completed 100 hours or more of service to their community. The award winners served in the Big Brother-Big Sister program, the Girl Scouts, the Center for Highway Safety, the York County Hospital, and the American Red Cross, to name a few. Community service activities similar to these are exactly what we will encourage with the passage of this conference report.

I urge my colleagues to support the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume, before yielding to the next Member, in order to express my appreciation to the gentleman from Pennsylvania, the ranking minority member of the committee, as a matter of fact, to the members on the minority side of committee. They have been wonderful. They have been very cooperative. They have, I think, in terms of crossing many times partisan lines, benefited the children and all of the people of our great Nation.

With that type of support, they have made the chairman of the committee look good at times when he really did not always deserve the credit.

One of the sadnesses of leaving this body is that you will no longer have such individuals involved with you. But I am confident that we leave in the committee the type of people represented by the gentleman, the ranking minority member from Pennsylvania, and I am confident that the future will be made much more secure because of their outstanding contributions.

I wish them well not only politically but in their family lives.

It is with that great regret, although there are some things in the final days of this session we would like to forget, there are some pleasant matters I think we will long remember and certainly the Members, the ranking minority member, and the other minority members of the committee along with my majority members, will always be those that I will remember with fondness.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. I thank the chairman for yielding this time to me.

Mr. Speaker, I rise today in support of the conference report and commend the chairman, the gentleman from California [Mr. HAWKINS], and the gentleman from Pennsylvania [Mr. GOODLING] as well.

In addition to that, Senator KENNEDY, I believe, deserves recognition on this occasion. Senator KENNEDY has noted from time to time that in some measure this program that is being proposed for final passage today is a reflection of an initiative that I undertook during my tenure as mayor of the city of Springfield in a program that serviced children from K through 12.

I think this calls up the wonderful history of voluntarism in America. Just as importantly, I think it illustrates what de Tocqueville wrote during his touring of America in that marvelous epic during the 1860's. He struggled to come to terms with what was special about the American people and that spirit of generosity. In the end, searching for a term but unable to find one, he simply said, "Americans had special habits of the heart." I think this is a wonderful testimony to the good work of Chairman HAWKINS that this bill will finally become law. It is consistent with President Bush's thousand points of light.

As I close, Mr. Speaker, I would like to say that in America for the last two decades we have done a marvelous job of inculcating our young people with a spirit of understanding their rights. We have done, frankly, a very poor job of having them understand their responsibilities.

We cannot ask them to love something they do not know. I think this initiative today will go a long way toward giving that sense of responsibility that has been so sadly and sorely lacking in this country during the last two decades.

Mr. GOODLING. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker and Members, let me follow the lead of my distinguished leader and begin my discussion by saying "thank you" to our chairman, the gentleman from California [Mr. HAWKINS].

Mr. Speaker, I would like to also say, "You are without question one of the real gentlemen and one of the leaders

and clearly one of the most fair, if not the most fair, chairman here in the House of Representatives."

For me, the last 10 years have been a unique privilege and honor to serve first in his subcommittee under his leadership and now in the full committee.

I do not know how we can convince GUS that we are going to miss him to the magnitude that we are. We have got to find a way to keep your counsel and your wisdom here in the House of Representatives. If we cannot do that as chairman of the committee, we have to find another way. I say that from the bottom of my heart.

□ 1120

Unfortunately, Mr. Speaker, I do have to rise in opposition to the conference report that is in front of us, and I do that with no great enjoyment, if this, indeed, turns out to be our chairman's last bill before this Congress.

I think there is still time. A couple of those other bills can come back and can be positive, and we are going to go out of here with one big win for the chairman, the gentleman from California [Mr. HAWKINS], that he so richly deserves.

However, my colleagues, I have got to ask the question: Has the Congress of the United States gone bonkers? I mean, think about it. The headlines in the papers today say that there is no deficit reduction deal, that the Democratic conference cannot buy the latest package.

I must ask my colleagues, "What's next?"

The President agreed to a summit in late spring, early summer. He agreed, to the great pain of many of this side of the aisle, to have revenues in the package. By September he had agreed to $130 billion in new revenue. By October we were at a package that had $175 billion in new revenue. We had increased fees for a total net gross increase in revenue of $192 billion. We had an increase in rates. We have limits on deductions. All these things the President said he would not accept. We had an increase, or a protection of domestic discretionary, of $132 billion. And the headlines in the papers today say, "Not enough."

I mean are the people in this Congress ever going to be satisfied? Is there no limit to the thirst for new revenue and new spending? I guess the answer to that is in this bill.

Mr. Speaker, the very first bill that we bring up on this floor after all the 1 minutes and partisan rhetoric on both sides this morning, the very first bill we bring up is a bill that is going to spend $287 million to pay for volunteer activities in this country.

Imagine that. People wonder why the American public is upset with the Congress of the United States. I will tell my colleagues why they are upset. Because they do not understand this kind of drunkenness with new bureaucracy and new spending. There is not a Member of Congress that cannot go home and list organization after organization, individual after individual, that my friend is organizing volunteer activities in their schools, and their communities and colleges today, and they are doing it without the Federal Government, and they are doing it without $287 million of new spending.

Mr. Speaker, worse than that is the priorities. Listen to this. We in the Committee on Education and Labor fund only 56 percent of the authorized level for vocational education. Why? Because we do not have the money. We spend only 50 percent of the authorized level for chapter one, education for educationally disadvantaged young people. Why? Because we do not have the money. We only provide 20 percent of the Head Start needed in this country out of Pell grants. Rather than the $2,900 a year we have authorized, we only fund a maximum of $2,200. Why? Because we do not have the money. In terms of the Job Training Partnership Act, we provide only 5 percent of the need. Why? Because we do not have the money. In terms of education of the handicapped, we promised the States we would provide 40 percent of the cost of educating the handicapped in this country. We only provide 7 percent. Why? Because we do not have the money. Think of the lack of priorities we are embellishing in this particular conference report.

My colleagues, there is not one of those programs I just talked about where we are above 60 percent of our commitment. All but one of them were at 50 percent or less of what we had promised the American people for education, and here we are authorizing a program on the day the Government is going to stop because we are going to go broke because we cannot agree on deficit reduction. We are authorizing a program of $287 million in new money to set up grants and bureaucracy for voluntarism. My colleagues, have we lost our minds?

Mr. HAWKINS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I, too, would like to spend a moment at the outset of my remarks paying tribute to the very distinguished chairman, the gentleman from California [Mr. HAWKINS], whom I am proud to call a friend. I have not had the privilege of serving on his committee, but, as a colleague of his from southern California, I have had the extraordinary pleasure and privilege of working closely with him on any number of issues during my entire tenure here in the House. There have been very few Members of this House throughout our history who have made the contribution that our distinguished chairman has made, and I want to add my comments and my affection to those of the others that have expressed theirs today. I want to compliment the ranking member, the gentleman from Pennsylvania [Mr. GOODLING] as well as our distinguished chairman for the work they have done in putting this conference report before us today.

Mr. Speaker, this is a very important conference report and a very important piece of legislation which helps to chart an important new direction for America which reflects the best in American values and American virtues.

Mr. Speaker, the gentleman from Wisconsin [Mr. GUNDERSON] concluded his comments by asking, "Have we lost our minds?" I would say completely the contrary. Fortunately the President has, as I understand it, indicated his willingness to sign this legislation, and the fact of the matter is, as we review the specific language of this bill; I refer to section 143 which defines types of national service, and it says, and I quote, "A participant in a program that receives assistance under the subtitle shall perform national service to meet unmet educational, human, environmental and public safety needs, especially those needs relating to poverty." Unmet needs.

My colleagues, this bill is a bargain. This bill returns America back to the type of ethic in which individual volunteers were prepared to roll up their sleeves, and go into a community and try to meet the most basic and vital unmet needs that our society has to offer. Frankly, Mr. Speaker, I wish we could do more than is contained in this piece of legislation, and I trust that in the future we will do more. But this bill at least for now signals a change from the "me generation" of the 1980's to a community service ethic that I hope will pervade America in the 1990's. This bill helps to chart the essense of what is best in America, Americans working side by side with other Americans to fulfill unmet educational, environmental and public safety needs. What would be more appropriate as we move into a new decade?

Mr. Speaker, I am pleased that this bill in many respects mirrors other programs with similar virtures. The gentleman from California [Mr. HAWKINS] and the gentleman from Pennsylvania [Mr. GOODLING] were instrumental in assuring that an amendment that I offered earlier in the session to another education bill creating the Robert Noyes Math and Science Scholarship was included in another piece of legislation. It is a very similar concept where we will provide scholarships to young people to study math and science, provided they commit to

spend a period of time teaching math and science to disadvantage students who need this type of assistance in America. We have moved that legislation. That is now a part of the education bill. This is similar, as the chairman indicated, to a very important program in California that our Governor referenced in correspondence to the chairman, the California Civilian Conservation Corps, which does a lot along the lines that are included in this bill of dealing with unmet social needs by having Californians work with other Californians, and this broadens this concept.

Mr. Speaker, I cannot help but hark back to the beginning of a period which certainly awakened my interest in politics that in many respects was mirrored and reflected by President Kennedy's inaugural speech when he said in that speech at the beginning of the 1960's that Americans should ask not what their country could do for them, but should ask what they could do for their country.

□ 1130

That is the type of ethic upon which America was built. That is the type of ethic which provides the greatest hope, the greatest promise for our society. That is the type of ethic on which this bill rests.

I commend the leadership of this committee, the ranking minority member [Mr. GOODLING], and in particular, the gentleman from California [Mr. HAWKINS], our chairman, for their leadership in helping to return America to that type of extremely important community service ethic.

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], and the Chair will notice there is no gag rule by the ranking member on this side of the aisle.

Mrs. ROUKEMA. Mr. Speaker, I certainly want to associate myself with the remarks of our ranking member with respect to the distinguished chairman. The chairman's devotion to his constituents, to America's working families, and to education, is absolutely legendary. We will miss the gentleman from California [Mr. HAWKINS] very much. As a member of the minority, I appreciate the fact that you have always been fair, you have always been a mediator, and even when we disagree, you are never disagreeable. I appreciate that.

Mr. Speaker, this unfortunately is one of those times when we disagree. I cannot support this bill. I must ask the question, what has the Nation come to, when we feel it is necessary to authorize nearly $300 million for voluntary service?

When I was a teacher, schools organized and carried out community service voluntarily and without financial incentives from the Federal Government. If we want to encourage civilmindedness, clearly paying schools to participate is contradictory to that goal.

Aside from the sheer contradiction this bill represents, we have no business creating yet another Federal program while currently existing worthwhile, tested programs go starving for funds. After this committee passes this legislation, student financial aid, vocational education, education of the handicapped, and the WIC programs will still be funded inadequately. Can you explain that to your constituents? I think not.

Simply stated—in these days when we have deficits spiraling out of control and existing critical programs grossly underfunded—we have no right to create yet another new program. The only new program we should vote for is a moratorium on all new programs.

National service is not a problem requiring the infusion of Federal dollars. The lack of national service and civilmindedness is a problem that can only be addressed by changing the way our youth and adults think about what they owe their country. This cannot be accomplished by spending money. This is typical of the philosophy of throwing money at a problem:

What precedent do we set by saying that it is important to serve others—for a price? Will people only volunteer as long as it is profitable? Have we come here again today to talk about the virtues of national volunteer service to our fellow citizens while lining the pockets of those that serve? Can we not persuade and encourage our citizenry to give of their time freely and willingly? Is authorizing $287 million the only way to accomplish this task?

If this is so—if we cannot pass volunteer legislation without these perquisites, then is it any wonder that we have raised a generation of young people with the attitude of "I don't know, and I don't care?"

I urge my colleagues to resist the temptation to approve this "well intended but misguided legislation and vote for fiscal responsibility and common sense! Let's find other ways to help encourage the ideals of national service by recognizing purely voluntary community leadership and service. I urge a "no" vote on this ill-conceived and ill-timed legislation.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Speaker, I am so proud to be able to say that the chairman [Mr. HAWKINS] is a native of Louisiana. I have gloried in his service to this body and to this country.

I am also very, very fond of the gentleman from Pennsylvania [Mr. GOODLING], and admire his work very much. I feel that every time a child eats a school lunch, they and their parents should thank the gentleman from Pennsylvania.

Mr. Speaker, I rise because the National Service Corps is a dream come true. We have been working toward this concept for many, many years. I would also like to say to the gentleman from California [Mr. HAWKINS] and the gentleman from Pennsylvania [Mr. GOODLING] that they have incorporated into this conference report so many of the areas that are interesting to so many of the Members of this body. You have the President's Points of Light Program, you have the First Lady's Literacy Program, and you have the House's own Youth Bill Program.

Mr. Speaker, any moneys that are spent in these programs are seed money, and it grows into proportions that are just unbelievable in the services that it can indeed perform for the country and for its people, and especially for the children of this country.

We were talking about the Kennedy speech. I would just like to say that the reason this is a dream come true to me is because my later daughter Barbara Boggs Sigmund was working in the Kennedy White House, a great and thrilling experience for a young woman. She left that service in order to try to start a National Service Corps. She worked very hard with all of the young people of whom she had been their president when she was in college, all the leaders in the colleges and universities around the country, trying to engage them into this type of activity that this Congress will be setting up today.

So I salute the gentleman from California [Mr. HAWKINS], the gentleman from Pennsylvania [Mr. GOODLING], and all of the members of the committee, for making this dream come true for me and for my daughter Barbara.

Mr. GOODLING. Mr. Speaker, now some good news from my side: I yield 5 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. I thank the ranking member of this committee for yielding the time to me.

Mr. Speaker, I have just got to add my accolades to those who spoke before me commending the very distinguished chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS], for the legacy that he has left with us to carry forward for our young people, for all that he has done. I think this bill is a hallmark in terms of the distinguished career of the gentleman from California [Mr. HAWKINS].

Mr. Speaker, I am also very proud of the ranking Member on this side of the aisle, the gentleman from Pennsylvania [Mr. GOODLING] because he has

always been attuned to what was needed on educational issues, realizing that education is the key to our competitiveness, it is the key to our growth, it is the key to our development, it is the key to opportunity, and it is the key to get people off of welfare involved in public service.

Mr. Speaker, I must say I did not think this could happen, that we could reach the point where they have been able to craft this bill to the point where the President is ready to sign it.

Mr. Speaker, I rise in strong support of the conference report on S. 1430, the National Service Act of 1990.

I am particularly pleased that the conference was able to produce a compromise bill which the President will sign. The conferees have stricken the loan forgiveness laughter which caused some of my colleagues—on my side of the aisle—to oppose the House version of the legislation, H.R. 4330, when he considered it last month.

I would respectfully remind my Republcan colleagues that, in his inauguration address, President Bush called on us to "make gentler the face of the world." It is time that a new generation of American students and we as a nation took up that challenge. I firmly believe that the national service legislation which we are debating is necessary to provide our youth with the opportunities to confront that challenge, and is an important investment in our young people whose profits we will be reaping in the years to come. I urge my colleagues to join me in strong support of the conference report.

Surely my colleagues have noticed, as I have, a new idealism and an eagerness to serve others among the young people of our Nation. This bill represents a number of proposals to expand their opportunities to do that, and to encourage them to take advantage of those service opportunities.

For example, I have heard from students from all over my district and around the country who are interested in my proposal, incorporated in this bill, to create a Peace Corps training program. This program, modeled after our military's Reserve Officers Training Corps, would provide 2-year scholarships to qualified students who agree to serve 3 years in the Peace Corps.

□ 1140

It is particularly geared to attract minority students who are so sharply underrepresented in the Peace Corps. As an example, 2 percent of the members of the Peace Corps currently are of African-American background, whereas they comprise over 12 percent of the American population. It would also be geared to attracting people with scarce skills that are needed.

Peace corps volunteers have been called our best exports. Especially in this postcold war era, they have been called on to help spread and instill the principles of democracy in Eastern Europe and around the world. They return from their service overseas as our best imports, serving our people as teachers, public interest advocates, social workers, and in other community service careers, including legislators. We have some in our Congress who are former Peace Corps volunteers.

This is but one example of the many fine programs in this bill which will bring our Nation untold benefits, and help to strengthen democracy both in this country and around the world.

It is with great pride that I will support this bill, and I certainly urge my colleagues to join in supporting the legislation, and congratulate those involved in so crafting it.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Speaker, I rise in support of the national service conference report and commend the Education and Labor Committee for their wisdom in accepting one provision, title III, of the Senate bill.

This very important provision puts in place a demonstration program to test the concept of youth serving their community and country in exchange for financial benefits for education.

Although this is a very small pilot program, it will prove that American youth can be the key to reducing the seemingly insurmountable social problems our country faces and at the same time afford these deserving youth the opportunity to get an education. This pilot program has no link to financial aid, as did original Nunn-McCurdy concept. However, it is my hope that this test program will demonstrate that financial aid—in return for national service—is an idea whose time has come.

The GI bill, Mr. Speaker, was one of the most successful programs this Government has ever created, and I have to compare that with the problems with the student loan program today.

However, in the midst of the economic turmoil that our Nation is now facing, and the unwillingness of most Americans to sacrifice to get the Nation back on the road to financial stability, this legislation may be just the thing we need to re-instill the sense of obligation that Americans should feel toward their country.

In order to deal effectively with the issues facing our Nation today, a broad structural change must be effected. It is not simply enough to hope for change. We must cause it to happen. This bill and particularly, the National Service Demonstration Program, are important first steps in making that change.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, this bill may well be the worst idea to come before Congress since we discovered deficit financing some 20 to 30 years ago. I urge my colleagues strongly to cast a "no" vote on this ill-conceived legislation. It is a dumb idea to start a new spending program in the face of a $300 billion deficit. It is a dumb idea to start a program that pays people for volunteer activities.

This legislation contains two oxymorons. One is the oxymoron of paid volunteers, and the other half is the oxymoron of mandatory volunteers which is built into the commission on so-called national service that the gentleman from Oklahoma [Mr. MCCURDY] spoke of.

I want to divert from that just a moment, and offer my congratulations, along with others, to the leadership of Chairman HAWKINS, not so much on this legislation. This legislation was not Chairman HAWKINS' brainchild, although he is at this point supporting it. In fact, he had been rather critical of it during the course of the hearings on the legislation, but both he and the gentleman from Pennsylvania [Mr. GOODLING], are supporting it as it came out of conference. But I want to congratulate him for his leadership on education bills, and on other conference bills that may come up, and specifically on the potential child care legisaltion that may come up later this session, that would include mandatory vouchers to parents to be able to select their own child care.

Back on this legislation, on the oxymoron of paid volunteers or mandatory volunteers, let us look at the facts. If we had wanted to encourage volunteerism in this country, we could have adopted the John Edward Porter proposal to limit the liability of volunteers who try to volunteer for Meals on Wheels, or in the Little League or in community service. If we had wanted to help volunteers, we could have done that, but the rule was closed at every single opportunity.

The fact is that voluntarism is and ought to be rampant in this country. In 1989 some 98 million Americans volunteered their time to others. That is a 23-percent increase from 1987.

Look at this legislation, $62 million for the first year of new spending programs, going up to $120 million in future years.

Look at the legislation, a pilot program to link financial student aid to bureaucratically determined, so-called voluntarism, and the so-called youth bills program, and that is the only

good thing about it, is its name, establishing a new bureaucracy of government workers to be between young people who want to volunteer, and the volunteer agencies themselves, establishing a condition of receiving job skills and education training, in exchange for paid stipends for doing so-called volunteer work, school-based volunteer programs when our schools and principals and teachers are crying out for more time on tasks for academics. Every conceivable categorical program for 16 titles is thrown into this legislation.

Mr. Speaker, voluntarism is good. We should be nurturing it. This bill squashes voluntarism flat.

Mr. HAWKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding, and along with my other colleagues today, I want to recognize the gentleman from California [Mr. HAWKINS] for more than a half century of service in California, and in this Congress. His history of legislating during those past 50 years, has made a significant difference for the better in the lives of countless Americans. The hallmark of his leadership has been his gentleness and quiet determination.

And if I may go somewhat outside the rules to address the gentleman personally, Mr. Speaker, I want to say, GUS, that I have enjoyed learning from you during my time with you on the House Education and Labor Committee.

□ 1150

Mr. Speaker, there is, in this legislation before us, a title which deals with students in higher education. It encourages those students to participate in community service activities throughout the United States. It encourages student-initiated and student-designed community service programs and facilitates the integration of community service into academic curricula.

This legislation is very important for the differences that it will make on college campuses and postsecondary-institution facilities throughout the United States. This legislation is also critical for what it does not do. When the legislation was first before us, some would have substituted this bill, in effect, for the current system of grants and loans to college students. That legislation would have said that America's college-bound students are not eligible for grants or loans until they have agreed to voluntarily serve their country, in other words, until they went to work for the Government, they would not be eligible to receive grants and loans to attend college. This legislation, under the leadership of the gentleman from California [Mr. HAWKINS], does not do that. Rather, it continues the current system of grants and loans and finds other ways to encourage America's students involved in higher education, to become also involved during their college careers in community service.

Again, I commend the chairman.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, here we go again. Another new program, $62 million this year, over a $100 million next year—and where we stop nobody knows. We have here today another perfect example of Federal spending running completely amok. We are not just increasing virtually every domestic discretionary program; we are creating new ones right and left.

In this case, we are going to set up a new Federal bureaucracy and new Federal programs to advance voluntarism. Now that is an oxymoron if I ever heard of one. Voluntarism is essentially private and nongovernmental. Government does not need to tell people to volunteer, to encourage them to volunteer, or to pay them to volunteer. They are volunteering already on their own, all across America, right now even as we debate this new Federal bureaucracy and programs. And they are volunteering as much as they ever have, young and old alike. There is simply no need for a Federal bureaucracy and programs in this area.

Moreover, I firmly believe that a Federal bureaucracy and programs will be positively harmful. People will depend more and more on the Government to organize things and do things that were taken care of privately before.

Therefore, I urge all my colleagues to vote against this bill. This is not the time to be throwing taxpayers' money into new programs, least of all unnecessary or even counterproductive ones like these. The Congress is talking about passing the largest tax increases in our history, and everyone ought to understand clearly the reasons why. It is because we just cannot resist spending.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, first, I want to thank the chairman for his fairness. The many times that we worked together, we have disagreed philosophically on many things, but both of us have tried to do it without being disagreeable.

Mr. Speaker, I have been a volunteer my entire life. I have helped the Boy Scouts, the Red Cross, the homeless, colleges and many other good causes. I worked with other volunteers who never worried about being paid for their good deeds. Their primary concern was to help others. Voluntarism is not dead; it is thriving across America.

However, now the Federal Government wants to step in and assist this volunteer effort. If we want to destroy the volunteer movement in our country today, let us start organizing and weakening this movement with Government financing and organization. If we want to destroy the idea of doing good work as a volunteer, allow the Federal Government to take charge.

Next year we will be debating legislation to mandate maximum hours and benefits for volunteers. Our United Fund at home has never failed to pass its goal in 45 years, always with volunteers, and never with Federal guidance. To spend millions of Government money to assist in organizing and arranging the volunteer movement, is the beginning of the fund's first failure.

In this time of budget confusion, I also question the wisdom of millions more in new spending. This is surely a mockery of fiscal restraint.

Join me in voting "no" on this conference report.

Mr. GOODLING. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, after the moving remarks offered by the gentlewoman from Louisiana, I was too moved to comment when she finished, but I would like to say that my father was one who never said anything bad about anybody, but he also had a difficult time letting the love within, inside of him, bubble out.

But long before I came to the Congress of the United States, I heard about this wonderful, gentle lady from Louisiana, and not only is this a tribute to her wonderful daughter, but it is also a tribute to a very wonderful lady, LINDY BOGGS.

Mr. Speaker, I yield back the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I, just in including some concluding remarks, indicate that basically, there is really very little compensation of individuals under this bill.

The bill is a combination of various programs, a few demonstration programs, a few pilot programs that we have included. In including those programs, there will be some individuals who, on a part-time basis, will be receiving minimum wages which really constitutes the greatest outlay in the bill.

Other than that, we estimate that there will be millions of individuals who will offer their services without any compensation whatsoever. So we would estimate that the actual return to society would be ten- fifteen-twenty-fold, no doubt, for the small, very small outlay which I would say is a very outstanding investment on a businesslike basis.

But for that, we have obviously received the criticism of some who look on the bill as probably a spending bill. The irony of the situation is that the Governor of my State, with whom I disagree very strongly, who is an ultraconservative, who I would criticize because he does not want to spend anything on anything, and yet he supports the bill. I disagree with the President on practically everything we have had outstanding this session. He has threatened to veto almost all of my bills with the exception of this one. So I am placed in a strange situation.

The one opportunity that I have of getting credibility as a moderate conservative, I am accused of overspending, and yet I am in the company of the President and also my Governor, and I may say that I think the bill is an outstanding tribute to the First Lady, because I think when we think of volunteers, I think we always respect the contribution that Mrs. Barbara Bush has made in this field.

I am not claiming that she is a sponsor or a supporter, or has endorsed the bill, but I think that in that same vein of thought as to individuals who have gone beyond the call of duty and who have really earned a reputation in our country for the work that they have done, that Mrs. Barbara Bush is the outstanding volunteer that I can think of.

I think it is a good, good bill. I had some problems with it myself along the way. I am strongly supporting it.

I think the small amount that we are going to invest in this bill is worth the investment, and I would hope that a bill, which seems to have divided even the members of my own committee, will unify hopefully, the Nation behind the concept of what they can do for America.

□ 1200

On that basis, I would hope that the Members would feel free to support this bill, knowing that it is highly respected by the very individuals who are, I think, as much concerned with the fiscal condition of the Nation as anyone.

Mr. GOSS. Mr. Speaker, I rise in opposition to the National Service Act. The fact that we are even discussing this legislation today is mind boggling.

Mr. Speaker, our job is to pass a budget with real deficit reduction. Another deadline for a Federal Government shutdown comes tonight and here we are considering an unnecessary new domestic spending program. This legislation will cost the taxpayer another $193 million for paying volunteers.

No wonder public confidence in Congress is at an all time low. When will this body get the message, knock off the nonsense, shut down the spending machine, and pass a budget with real spending cuts.

Mr. Speaker, this body is about to prove once again that its addiction to new spending cannot be controlled. The taxpayers are watching. What we are about to do is take President Bush's idea of a thousand points of light and turn it into a Federal spending program. Community service is one of the finest traditions in America but involving the Federal Government in paying volunteers will undermine the very spirit that makes this tradition great. Perhaps, we should rename the National Service Act. Perhaps this bill should be called a thousand points of pork.

Mr. FAWELL. Mr. Speaker, I rise today in opposition to the conference report on H.R. 4330, the National Service Act of 1990.

I understand this conference report represents a compromise involving Members on both sides of the aisle and the administration. And, surely, this bill is better than the House-passed version. The conference report's structure, which specifies that States should apply for block grants from a national commission, is far better than the House categorical grant programs. Furthermore, conferees agreed to remove all loan forgiveness provisions in the measure; this too is a welcome change. Finally, the lower authorization levels reflect better our cataclysmic fiscal situation.

But, I still cannot support a bill which purports to solve a problem which does not exist. I have long struggled against our tendency to appropriate money for feel-good programs which yield little benefit. All too often, I have failed. At a time when we are going to enact the largest tax increase in American history, I would think Congress could set some priorities. Obviously, we will not. When the deficit, even after the budget deal, will exceed $250 billion in fiscal year 1991, I would think Congress could resist a new, unneeded grant program. We cannot.

Simply put, this bill is unnecessary. According to a just released survey by the Independent Sector, an umbrella organization for most of the charitable groups in the country, voluntarism thrives without government intervention. In the survey—which took place in 1989—98 million Americans reported that they regularly volunteer. This total is 23 percent higher than in 1987. In total, individuals gave an estimated 20.5 billion hours in 1989, at a value of $170 billion.

Mr. Speaker, the American people know how to volunteer—let's prove to them that Congress knows how to earn its salary. Vote "no" on the National Service Act.

Mr. OWENS of New York. Mr. Speaker, I rise in support of the conference report on S. 1430, the National and Community Service Act of 1990.

This legislation is a significant but appropriately modest response to the renewed interest in voluntarism and service we are seeing around the Nation. This bill will encourage and provide necessary support to State and local youth volunteer efforts, but it does not, as some urged us to do earlier in this Congress, create any massive new volunteer programs. H.R. 4330 recognizes that young people do care and are willing to serve their communities if they are given an opportunity and do not need to be compelled or coerced to serve as some have advocated. H.R. 4330 also forthrightly rejects the demands of some that postsecondary financial aid be provided only to those who perform service, recognizing that the Nation's woefully underfunded postsecondary aid programs are not welfare but a critical investment in our future.

Unfortunately, unlike the original House bill, the conference report errs in creating yet another new and duplicative bureaucracy to administer most of the new programs. I want to make it clear that the House conferees did not agree to this provision because they found that there was any compelling need for another new agency to administer these programs. Rather, the House agreed to this provision solely on the basis of commitments made by some Members of the Senate that funding for these new programs would be guaranteed if some way were found to assure that they fell within the jurisdiction of the Appropriations Subcommittee on VA, HUD and Independent Agencies. The only way to accomplish this result was to create another new agency to run the programs. And it was for this reason, and this reason alone, that the House agreed to create the Commission.

I want to note, however, that the authorization for the Commission and its programs expires in fiscal year 1993, the same time that the authorization for the ACTION Agency and other Federal volunteer programs expire. It is my hope that at this time, the Congress and the President will reexamine the need for the taxpayers to foot the bill for two agencies with essentially identical missions. The ACTION Agency was created by President Nixon in 1971 specifically to support and administer volunteer programs like VISTA, Foster Grandparents, and Student Community Service and to promote service and voluntarism generally. The statutory purpose of ACTION is set out in section 2(b) of the Domestic Volunteer Service Act of 1973:

The purpose of ACTION, the Federal domestic volunteer agency, is to foster and expand voluntary citizen service in communities throughout the Nation in activities designed to help the poor, the disadvantaged, the vulnerable, and the elderly. In carrying out this purpose, ACTION shall utilize to the fullest extent the programs authorized under this Act, coordinate with other Federal, State, and local agencies, and utilize the energy, innovative spirit, experience, and skills of all Americans.

Given that many Members of this body dispute the need for even one volunteer agency and have sought at various times over the last two decades to dissolve ACTION, it seems very foolish of us to plunge ahead and create a second Federal volunteer agency. But as I have already noted, it was only through this device that the conferees believed that appropriations could be assured for these new programs. We will have to leave it to future Congresses to try to fashion a more coherent, sensible, and efficient way of administering volunteer and service programs. Two Federal bureaucracies, certainly, is not the answer.

Another defect in the conference report is that few of the new resources it would authorize are targeted to improving opportunities for service by low-income and other disadvantaged young people. Some of the new demonstration programs, in fact, seem targeted to middle and upper class young people, as a kind of public service employment program for the well-to-do. With so few resources avail-

able to support existing Federal programs for the disadvantaged, this is most regrettable.

I am very pleased, however, that the conference report does include provisions I authored to support Youthbuild training and employment projects. Up to $8 million over 3 years is authorized for grants to assist local development projects which provide disadvantaged youth with education, skills training, and work experience in the construction or rehabilitation of housing for homeless and other low-income people or community facilities needed in low-income communities.

At least 75 percent of Youthbuild participants must be economically disadvantaged high school dropouts between the ages of 16 and 24 with reading or math skills below the eighth grade level—persons who are frequently unserved by JTPA and other training programs and who are among those with the greatest difficulties in the job market. The remaining 25 percent of participants could be other young people who are not disadvantaged or who are high school dropouts with reading skills above the eighth grade level or high school graduates who have educational needs despite their attainment of a degree. This is an option and not a requirement; programs could, if they chose, elect to serve only economically disadvantaged youth. Every program would also have to undertake special recruitment activities to attract the participation of young women, ex-offenders, foster care youth, and youth who are homeless.

Youthbuild participants would spend half their time in academic remediation, GED clases, and other educational programs. The rest of their time would be spent on the construction site, working at minimum wage, and learning marketable job skills. Upon its completion, the housing Youthbuild participants help to build would be reserved permanently for homeless and low-income families at affordable rents.

Youthbuild would be administered by the ACTION Agency in consultation with the Department of Labor. The program must be administered by an individual at ACTION with "significant experience in the administration of youth service programs that explicitly attempt to enhance the basic academic and vocational skills of participants." In the event that this expertise is not available at ACTION or elements of the program could be better administered elsewhere, the Director is given specific authority to delegate administrative functions to the Department of Labor. The Director is further required to contract with a qualified public or private nonprofit agency to provide technical and management assistance to the grantees.

The innovative model upon which Youthbuild is based has proven successful wherever it has been tried. It has been carefully developed in East Harlem by the Youth Action Program since 1978. The Banana Kelly Community Improvement Association has successfully replicated it in the South Bronx since 1984. Public/Private Ventures has implemented the model in 12 cities. Youthbuild programs are now being developed by community groups in Minneapolis, Salt Lake City, San Francisco, Cleveland, Youngstown, Boston, Chicago, Dallas, Los Angeles, Newark, and in many other locations, but they are struggling without an adequate an stable source of funding.

The Youthbuild Program has proven to be particularly attractive to and beneficial for young minority males and comprises an important part of the response we must make to the terrible crisis facing these young people. The average earnings of all young men have fallen since the early 1970's, but the earnings losses of young black and Hispanic men have been particularly severe. The average annual earnings of young black men fell by 36.7 percent between 1973 and 1987. Young Hispanic men lost 26.7 percent and young white men lost 21.5 percent. Black male dropouts have been hardest hit by changes in the economy. In 1987, young black male dropouts earned an average of only $2,986, compared to $8,496 in 1973—a drop of 64.8 percent. This is twice the size of earnings losses experienced by white and Hispanic male dropouts.

A devastatingly high proportion of young black and Hispanic men are in prison, in jail, or on probation or parole. In 1989, nearly 1 in 4 young black men between the ages of 20 and 29 were under the control of the criminal justice system—either in prison, in jail, or on parole—on any given day. The proportion was 1 in 10 for young Hispanic men and 1 in 16 for young white men. Young black and Hispanic men are also disproportionately the victims of violent crimes. For example, black men are seven times more likely to die from homicide than their white peers.

Despite the magnitude of this crisis, precious little is being done at the Federal, State, and local levels to arrest and reverse this horrible waste of human potential. There are few programs available to meet the needs of young men in the inner city. As the founder of Youthbuild, Dorothy Stoneman, put it in testimony before our committee, "the only active recruitment of low-income minority men is for them to become drug dealers." By providing support for the replication of the Youthbuild model in communities across the Nation, S. 1430 will help to remedy this paucity of meaningful alternatives for young minority males. During consideration of this legislation, the House Education and Labor Committee heard testimony from Mr. Ventura Santiago, a Youthbuild graduate from East Harlem who obtained his GED through the program and learned construction skills which helped him to obtain a good job paying over $23 per hour. Mr. Santiago spoke eloquently about what Youthbuild meant for him and what it could mean to other young people:

It's not easy growing up in East Harlem. Especially nowadays everybody thinks everybody is on crack or selling drugs or something. A lot of young guys are dropping out at early ages. It's just a shame. Most of them drop out because they really don't have anything to do. You've got to give people something to look forward to, like this training, something to look forward to that they could use in the future. If it wasn't for this training, I don't know where I'd be today. I really don't.

Through Youthbuild, S. 1430 will provide many more opportunities for young men like Mr. Santiago. I urge my colleagues to support the conference report.

Mr. CAMPBELL of Colorado. Mr. Speaker, I rise today to express my support for the conference report on S. 1430, the National Service Act. I applaud the initiatives this legislation will undertake and look forward to seeing its implementation. I am particularly pleased that language is included in section 601 that will amend the Rail Passenger Service Act to instruct Amtrak to retrofit many of its passenger cars to prevent the dumping of human waste on its tracks.

This legislation would require the national Railroad Passenger Corporation, Amtrak, begin purchasing cars that contain sewage retention facilities as well as to begin retrofiting certain cars in its existing fleet. Additionally, this language addresses the issue of current dumping practices in environmentally sensitive areas and directs the Secretary of Transportation to implement a study to determine means in which this damage can be mitigated.

Mr. Speaker, the people of my district have repeatedly expressed their disgust at this practice and for the past 4 years I have worked deligently to persuade Amtrak to change its policies. Although passenger train service is a crucial link for my constituents, I am proud that they refused to be bullied by these insensitive practices and am relieved to see their persistentence rewarded.

Mr. PANETTA. Mr. Speaker, the issue of national service, Mr. Speaker, dates back to the days of Roosevelt's Civilian Conservation Corps during the 1930's, moves through the 1960's to Johnson's Volunteers in Service to America and Kennedy's Peace Corps programs, and brings us right up through to the present day 1990's. National service is an issue with a long and distinguished role in our society.

It is today that we have been given the opportunity, the true challenge to alter, shape, and create the leadership of this country by continuing to embrace this role. This challenge is upon us. That challenge involves society's responsibility to teach and prepare our future generations. What an incredible task to instill the values this country was founded upon and holds dear, a task that must not be taken lightly.

What is the world about today, Mr. Speaker, what types of problems do we leave to our children and how are we to account for this Nation's current state? I ask my colleagues to think about the atmosphere, the choices we are creating for our youth. Today's environment is filled with crime, greed, unemployment, drugs, and violence. The picture is grim and all too real. Where do we expect our kids to turn, what kind of life do we expect them to lead, what kinds of dreams and values do we want them to have?

My parents came to this country as immigrants, grateful for the opportunity, grateful for the new freedoms bestowed upon them. The strong sense of responsibility to contribute back to society was a tenet my parents lived by. It was this quality that they so well ingrained in me. I was taught to work hard, damn hard, and help contribute back to society what it provided for me. This motivation was a primary factor in my decision to seek a career in public service, a career that has spanned 13 years and enabled me to help people in my home State of California and across this country. The ability and opportunity

to help and contribute transcends race, sex, creed, and economic status. It is a desire long imbeded in the American people and responsible for making this country such a success.

It is this drive to contribute, to help serve that must be preserved and encouraged and taught. Citizenship in this country is a twofold concept. As an American we are afforded certain rights, and along with those rights, certain obligations. National service, along with education, provides the atmosphere to foster these values. I am delighted to have been involved in these efforts to develop a national service bill over the past decade and am pleased that this Congress has truly taken to task the challenge of preparing our children for the future.

Included in this comprehensive legislation are benefits for the participants as well. There will be opportunity to finish an education, embark on a new one and receive training benefits. I am pleased that the American Conservation and Youth Service Corps, based on my bill H.R. 717, will be a part of this plan. The American Conservation Corps will focus on environmental and conservation projects on public Federal and State lands. The Youth Service Corps will work with projects in nonprofit social services agencies, schools, nursing homes, and other facilities meeting human needs. The legislation also contains provisions regarding job displacement. Youth will have the opportunity for such skill enhancement, and the legislation will build upon the existing youth and conservation corps programs across this country. It will promote and coordinate efforts to address social problems through community service.

It is a tremendous day when the efforts of my fellow colleagues, long involved and interested as I with the development of these programs, comes to fruition in a bipartisan package that Chairman HAWKINS and Senator KENNEDY fashioned, and are to be commended for. I believe that this package seeks to provide creative ways to address the incredible resource problems in this country, one sure to exacerbate over time. The package will provide benefits to both the participants and the community they serve.

As we move toward the end of the 20th century, we must draw on all the resources available to us, and we must use imagination and innovation. I believe that national service is one of the most promising of our means in meeting these challenges, a vast natural resource that we have only begun to tap. It is the entire Nation in the long run which stands to gain the most from the more outward looking citizenry that would develop from such a program. This national service program would offer young adults a renewed opportunity to earn a sense of pride and self-respect, and fulfill many pressing national, human, social, and environmental needs.

I strongly urge my colleagues to support passage of the conference report on national and community service before us today.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GUNDERSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 235, nays 186, not voting 12, as follows:

[Roll No. 512]

YEAS—235

Ackerman	Evans	McGrath
Alexander	Fascell	McHugh
Anderson	Fazio	McMillen (MD)
Andrews	Feighan	McNulty
Annunzio	Fish	Mfume
Anthony	Flake	Mineta
Applegate	Foglietta	Mink
Aspin	Ford (MI)	Moakley
Atkins	Frank	Molinari
AuCoin	Frost	Mollohan
Bates	Gaydos	Moody
Beilenson	Gejdenson	Morella
Bereuter	Gephardt	Morrison (CT)
Berman	Gibbons	Morrison (WA)
Bevill	Gillmor	Mrazek
Bilbray	Gilman	Murphy
Boehlert	Gonzalez	Murtha
Boggs	Goodling	Nagle
Bonior	Gordon	Natcher
Borski	Gray	Neal (MA)
Bosco	Hall (OH)	Neal (NC)
Boucher	Hamilton	Nelson
Boxer	Harris	Nowak
Brennan	Hawkins	Oakar
Brooks	Hayes (IL)	Oberstar
Browder	Hefner	Obey
Brown (CA)	Hertel	Ortiz
Bruce	Hoagland	Owens (NY)
Bryant	Hochbrueckner	Owens (UT)
Bustamante	Horton	Pallone
Campbell (CO)	Hoyer	Panetta
Cardin	Jacobs	Payne (NJ)
Carper	Johnson (SD)	Pease
Carr	Johnston	Pelosi
Chapman	Jones (NC)	Perkins
Clarke	Jontz	Pickett
Clay	Kastenmeier	Pickle
Coleman (TX)	Kennedy	Poshard
Collins	Kennelly	Price
Condit	Kildee	Quillen
Conte	Kleczka	Rahall
Conyers	Kolter	Rangel
Cooper	LaFalce	Regula
Costello	Lancaster	Richardson
Coyne	Lantos	Roe
Crockett	Leach (IA)	Rose
Darden	Lehman (CA)	Rostenkowski
Davis	Lehman (FL)	Rowland (GA)
de la Garza	Lent	Roybal
DeFazio	Levin (MI)	Russo
Dellums	Levine (CA)	Sabo
Derrick	Lewis (GA)	Sangmeister
Dicks	Lipinski	Savage
Dingell	Lloyd	Sawyer
Dixon	Long	Scheuer
Donnelly	Lowey (NY)	Schiff
Downey	Luken, Thomas	Schneider
Durbin	Machtley	Schroeder
Dwyer	Manton	Schumer
Dymally	Markey	Serrano
Dyson	Martinez	Sharp
Early	Matsui	Shays
Eckart	Mavroules	Sikorski
Edwards (CA)	Mazzoli	Sisisky
Engel	McCloskey	Skaggs
Erdreich	McCurdy	Skelton
Espy	McDermott	Slaughter (NY)
Smith (FL)	Thomas (GA)	Watkins
Smith (IA)	Torres	Waxman
Solarz	Torricelli	Weiss
Spratt	Towns	Wheat
Staggers	Traficant	Whitten
Stark	Traxler	Williams
Stokes	Udall	Wise
Studds	Unsoeld	Wolpe
Swift	Vento	Wyden
Synar	Visclosky	Wylie
Tallon	Walgren	
Tanner	Washington	

NAYS—186

Archer	Hastert	Porter
Armey	Hatcher	Pursell
Baker	Hayes (LA)	Ravenel
Ballenger	Hefley	Rhodes
Barnard	Henry	Ridge
Bartlett	Herger	Rinaldo
Barton	Hiler	Ritter
Bateman	Holloway	Roberts
Bennett	Hopkins	Robinson
Bentley	Houghton	Rogers
Bilirakis	Hubbard	Rohrabacher
Bliley	Huckaby	Ros-Lehtinen
Broomfield	Hughes	Roth
Brown (CO)	Hunter	Roukema
Buechner	Hutto	Sarpalius
Bunning	Hyde	Saxton
Burton	Inhofe	Schaefer
Byron	Ireland	Schuette
Callahan	James	Sensenbrenner
Campbell (CA)	Jenkins	Shaw
Chandler	Johnson (CT)	Shuster
Clement	Jones (GA)	Skeen
Clinger	Kanjorski	Slattery
Coble	Kasich	Slaughter (VA)
Coleman (MO)	Kolbe	Smith (NE)
Combest	Kostmayer	Smith (NJ)
Coughlin	Kyl	Smith (TX)
Courter	Lagomarsino	Smith, Denny (OR)
Cox	Laughlin	
Craig	Leath (TX)	Smith, Robert (NH)
Crane	Lewis (CA)	
Dannemeyer	Lewis (FL)	Smith, Robert (OR)
DeLay	Lightfoot	
DeWine	Livingston	Snowe
Dickinson	Lowery (CA)	Solomon
Dorgan (ND)	Madigan	Spence
Dornan (CA)	Marlenee	Stallings
Douglas	Martin (NY)	Stangeland
Dreier	McCandless	Stearns
Duncan	McCollum	Stenholm
Emerson	McDade	Stump
English	McEwen	Sundquist
Fawell	McMillan (NC)	Tauke
Fields	Meyers	Tauzin
Flippo	Michel	Taylor
Frenzel	Miller (CA)	Thomas (CA)
Gallegly	Miller (OH)	Thomas (WY)
Gallo	Miller (WA)	Upton
Gekas	Montgomery	Valentine
Geren	Moorhead	Vander Jagt
Gingrich	Myers	Volkmer
Glickman	Nielson	Vucanovich
Goss	Olin	Walker
Gradison	Oxley	Walsh
Grandy	Packard	Weber
Grant	Parker	Weldon
Green	Parris	Whittaker
Guarini	Pashayan	Wilson
Gunderson	Patterson	Wolf
Hall (TX)	Paxon	Yates
Hammerschmidt	Payne (VA)	Yatron
Hancock	Penny	Young (AK)
Hansen	Petri	Young (FL)

NOT VOTING—12

Edwards (OK)	Martin (IL)	Saiki
Ford (TN)	McCrery	Schulze
Kaptur	Ray	Shumway
Lukens, Donald	Rowland (CT)	Smith (VT)

□ 1222

Messrs. HAYES of Louisiana, ENGLISH, YATRON, GUARINI, BARNARD, and PURSELL changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5241) "An Act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes".

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 3, 6, 14, 18, 27, 29, 39, 45, 46, 48, 49, 52, 54, 56, 57, 69, 70, 76, 79, 80, 81, 82, 83, 84, 88, 89, 105, 113, 114, 115, 116, 117, 122, 127, 128, 130, 131 and 134, to the above-entitled bill.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 132 with an amendment.

The message also announced, that, Mr. PELL and Mr. HELMS, be appointed conferees, on the part of the Senate, on the bill (H.R. 5269) "An act to control crime" for the consideration of title XXVII of the above-entitled bill.

RESIGNATION AS A MEMBER OF THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation as a Member of the House of Representatives, which was read:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 24, 1990.

RICHARD F. CELESTE,
Governor, State of Ohio,
State House, Columbus, OH.

DEAR GOVERNOR CELESTE: Effective immediately, for the good of the Congress and the integrity of the institution, I resign my seat in the United States House of Representatives.

Sincerely,

DONALD E. LUKENS,
Member of Congress.

PERSONAL EXPLANATION

Mrs. ROUKEMA. Mr. Speaker, due to unavoidable circumstances I was not present to vote on rollcall No. 554, the vote on the conference report on the Labor-HHS appropriations bill. If I had been present, I would have voted against the bill; I would have voted "no."

I ask unanimous consent that the permanent RECORD include my statement of explanation.

The SPEAKER. Is there objection to the request of the gentlewoman form New Jersey?

There was no objection.

THE UNITED STATES SHOULD PURSUE DIPLOMATIC SOLUTION TO THE PERSIAN GULF CRISIS

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, reports persist that Arab nations are huddling in pursuit of a diplomatic solution to the Persian Gulf crisis. These efforts appear to be an attempt to jump start the talks that began in early August, immediately after Saddam Hussein's invasion of Kuwait. Unfortunately, talks were scuttled on the eve of the Arab summit, and within hours the first United States troops were on their way to the Saudi desert.

Today, we learn that the Arab nations—with Soviet intercession—are once again trying to work out a deal for Iraq's peaceful withdrawal from Kuwait. In the meantime, the administration prepares to send even more troops to the front lines, and President Bush pounds the podium with even more belligerant rhetoric.

Clearly, international sanctions are forcing Iraq to the bargaining table. But if the United States is absent from that table, United States troops are nothing less than a bargaining chip for Arab power brokers and their Soviet emissaries. If the Arab nations strike a deal in our absence, rest assured that United States interests will not be adequately protected—despite the tremendous sacrifices that the American people are now making. The President ought to send a clear message that if Saddam Hussein withdraws his troops from Kuwait, he need not fear a military confrontation.

We should heed the call of former British Prime Minister Heath and others that the United States get in the diplomatic loop now, before it is too late. As the Cuban missile crisis proved, it is possible to talk without appeasing a cagey and unscrupulous foe.

Mr. Speaker, I ask unanimous consent to proceed for 1 additional minute.

Mr. BARTON of Texas. Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair will not extend the gentleman's time.

The Chair would advise the gentleman from Massachusetts [Mr. KENNEDY] that at the end of the day he may seek recognition for a special order.

PROVIDING FOR CONSIDERATION OF FISH SAFETY ACT OF 1990

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 511 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 511

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2924) to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed ninety minutes, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be considered as having been read for amendment under the five-minute rule. The amendment printed in part one of the report of the Committee on Rules shall be considered as having been adopted in the House and in the Committee of the Whole. No other amendment to the bill shall be in order except the amendment in the nature of a substitute printed in part two of the report of the Committee on Rules, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. Said substitute shall be considered as having been read, shall be debatable for not to exceed one hour, equally divided and controlled by the proponent and a Member opposed thereto. No amendment to said substitute shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

□ 1230

Mr. GORDON. Mr. Speaker, I yield the customary 30 minutes for the purpose of debate only to the gentleman from New York [Mr. SOLOMON]. Pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 511 is a modified closed rule providing for 90 minutes of general debate. Debate

will be allocated as follows: 30 minutes is to be equally divided and controlled by the chairman and ranking minority member of the Agriculture Committee; 30 minutes is to be equally divided and controlled by the chairman and ranking minority member of the Energy and Commerce Committee; and, finally, 30 minutes is to be equally divided and controlled by the chairman and ranking minority member of the Merchant Marine and Fisheries Committee.

The rule provides that the amendment in part 1 of the report will be considered to have been adopted in the House and in the Committee of the Whole. This amendment will add important whistleblower protections to the bill.

House Resolution 511 makes in order no other amendments with the exception of an amendment in the nature of a substitute printed in part 2 of the report. The substitute amendment is a complete substitute to the bill and will be debatable for 1 hour, to be equally divided and controlled by a proponent and an opponent of the substitute. The rule waives clause 7 of rule XVI against the substitute. No amendments to the substitute will be in order.

Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, during consideration of a rule for S. 2924, the Rules Committee was presented with two very different approaches for the expansion and improvement of the present fish inspection system.

S. 2924 will grant a majority of the enforcement and site inspection authority to the Department of Agriculture. The substitute amendment made in order under the rule will enhance the inspection and enforcement duties and authority of the Food and Drug Administration and not grant any authority to the USDA. The rule gives Members a clear choice as to which Government agency is best suited to carry out this most important safeguard to the American consumer's health.

Mr. Speaker, I believe this is a fair rule and I urge my colleagues to adopt House Resolution 511.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 511 is a closed rule under which the House shall consider a Senate-passed bill creating a fish inspection program.

The consideration of this bill, provided for in this rule, will undercut and undermine the legislative process of this House. Under this rule the Senate-passed legislation will have preference over the work of three House committees, and that is wrong, wrong, wrong.

Under this rule Members will have only one chance to vote to amend the bill. This is arguably the worst feature of the rule.

Mr. Speaker, the amending process is severely limited. There shall be no opportunity to discuss individual amendments Members might have or might want to offer. For all practical purposes, this restrictive rule offers hardly any amending process at all, and the rule itself amends the Senate bill.

There is no vote on this self-executing amendment, and no opportunity to discuss the amendment itself. Vote for the rule and you vote for the amendment. It is that simple. The rule shortcuts the normal legislative process of this House.

The amendment also adds language to protect employees of seafood producing companies from retaliation for cooperating with Government inspectors, or for refusing unreasonably dangerous work, or for blowing the whistle on violations of the law that endanger the public health or safety.

Mr. Speaker, Members are not given an opportunity to debate this amendment. The point to be made about the rule, however, is that any other amendments that Members want to offer to improve the Senate bill are not provided for. They will not come up. That means you are being gagged on both sides of this aisle. You are being forced to vote for a Senate bill.

Mr. Speaker, three committees have reported bills to improve seafood inspections during this Congress. Two of these committees, the Committee on Energy and Commerce and the Committee on Merchant Marine and Fisheries, very clearly have the legislative jurisdiction under the rules of the House over the subject of fish and seafood inspection.

The jurisdiction of the third committee, the Committee on Agriculture, is less clear. The Committee on Agriculture must have been taking notes several years ago when the House considered the metric conversion bill.

I call attention to our former colleague, the gentleman from Missouri, Mr. Gene Taylor, when he remarked at the time that metric conversion would "change the length of an inch."

Mr. Speaker, if Mr. Taylor were here today he might think that the Committee on Agriculture proposes to change fish to meat.

When the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], came before the Committee on Rules last Tuesday, he asked that the normal practice of the House be followed on this legislation. The normal practice.

The Committee on Rules did not honor the request made by the chairman of the Committee on Energy and Commerce. Mr. DINGELL asked for three things. He asked that the bill, a bill reported from the Committee on Merchant Marine and Fisheries, jointly developed with the Committee on Energy and Commerce, be made in order as original text, and that is normal procedure around here. That is what we normally do.

He asked that the bill reported from the Committee on Agriculture be made in order as a substitute. Finally, he asked that the normal practice be followed at the end of the process when the House takes up a Senate-passed bill.

The chairman and ranking Republican member of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES], and the gentleman from Alaska [Mr. YOUNG] made the same request.

The gentleman from Michigan [Mr. FORD] was quite colorful in his testimony before the Committee on Rules.

Speaking for the Committee on Education and Labor, the gentleman from Michigan [Mr. FORD] said:

> It would be a bizarre perversion of the committee system for the Committee on Rules to promote this unwanted Senate bill over the work of three committees and in the face of the unqualified opposition of a fourth.

Mr. Speaker, the Committee on Rules turned both gentlemen from Michigan down. The Committee on Rules hardly blinked when a third gentleman from Michigan, the chairman of the Committee on Government Operations, Mr. CONYERS, made the same point. You are talking about half the Congress now.

Mr. Speaker, the rule provides preferential treatment for the Senate-passed bill. Is this what you want to do here? The rule makes in order an amendment in the nature of a substitute consisting of the text of a bill offered as a compromise on behalf of the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce.

Mr. Speaker, I will try to cut this short by saying there is absolutely no opportunity for Members to offer amendments to the substitute. Where is the fairness in having no amendment to this substitute, This rule is a closed process for the substitute on both sides of the aisle.

Mr. Speaker, it is a sad day when the House is given only 90 minutes to debate widely varying proposals dealing with fish and seafood inspection. Mr. Speaker, it is even a sadder day when Members are placed in a straitjacket and are prevented from offering amendments to legislation that is coming onto the floor for the first time.

I am absolutely appalled and astounded that the majority leadership would attempt to limit the rights of Members from all of these important committees.

□ 1240

Mr. Speaker, let me just close by saying these issues are important enough to be considered one by one, through the normal legislative process of offering amendments to the bill and debating the fine points of each section of these two proposals.

Under this rule, the House is denied that opportunity. Under this rule, only one amendment is made in order for the Members to vote on, only one.

This straitjacket rule ought to be defeated. The Members of the House deserve better, and I urge every Member on both sides of the aisle to vote against this unfair rule and support your committee system. It is what this House is all about.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 2 minutes and 30 seconds to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I support this rule. It is an unusual rule, but let me just make a couple of comments about it.

If this rule is not passed, this country will end up with no seafood inspection for another 4, 5, or 6 months at the minimum, maybe another year or two.

Most Americans are not aware of the fact that seafood in this country is not subject to a mandatory continuous, Government inspection for safety and wholesomeness. Contaminated fish poses a real health threat to consumers.

Approximately 65,000 illnesses and 22 deaths occur each year from seafood. Meat and poultry are inspected, seafood is not. That is the purpose of this bill, to provide inspection of seafood so every American will know that the seafood that they eat is safe.

The bill we are taking up today is substantially the identical bill as that which passed the Senate authored by Senator MITCHELL. The bill in the House has been authored by your chairman of your Agriculture Committee, the gentleman from Texas [Mr. DE LA GARZA]. The bill and the rule provides that we take up the Mitchell-de la Garza bill with the self-executing whistleblower amendment that was not in the Senate bill, but which all of the parties have agreed to, and what whistleblower amendment has strong whistleblower langauge so that we than end up with a bill that, if it passes, the House could get a conference, if necessary, quickly, but it will pass this year.

The gentleman from Michigan [Mr. DINGELL] and others, the gentleman from North Carolina [Mr. JONES], the gentleman from Massachusetts [Mr. STUDDS], have a substitute which does fish inspection differently. Their substitute gives the Food and Drug Administration much more day-to-day power over inspecting fish. It is one way to go, and it is a respectable way to go.

The Mitchell-de la Garza bill provides that the Department of Agriculture shall in fact do the basic day-to-day inspection of fish. The problem we have is if Members vote down this rule they will end up with no fish inspection at all, either way, either the Dingell way or the de la Garza way.

I happen to believe the de la Garza bill is the way, the right way to go because I believe that if we would adopt the Dingell amendment we will also end up with no fish inspection this year because it is different entirely from what the Senate has done.

But at the bare minimum, do not vote this process down. Do not create the continued uncertainty about adulterated fish. Do not create the additional uncertainty out there about fish that is not inspected by the Government.

Most fish is safe. Most fish is wholesome. But some of it is not because it is not inspected, while meat and poultry is in this country.

Vote for this rule, and then after the rule is approved vote for the Mitchell-de la Garza bill. That is the only way we will see adequate fish inspection in this country this year. Your constituents deserve no less.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, when our forefathers drafted the Constitution that we are all sworn to defend, they created two Houses of Congress.

The House of Representatives, in which I am proud to serve, was established to provide equal representation to all the people. The Senate was established to provide equal representation to each of the States. Thus, our two bodies provide a perfect check and balance to ensure that legislation which is passed reflects the views of the people we represent.

The rule you are being asked to vote on puts a hole in this system that rivals the crack in the Liberty Bell. Let me explain the situation to you. We have three committees in this House who have addressed the issue of seafood inspection. Because three different bills were reported, the committees attempted to work out their differences in order to present the House with a unified position. Under normal circumstances, if that did not occur, then the Rules Committee would make in order one of the bills and allow the other two committees the appropriate opportunity to present their points of view before the Members on the floor of this House. That is the rule our committee requested.

Instead, what we have today is a rule that makes in order a Senate bill, which has never been considered by any committee in the House of Representatives. The only amendment to this bill is one being offered jointly by the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce.

Now, Mr. Speaker, I support the substitute that is going to be offered but, as an elected representative of the people of Alaska and as a Member of this body, I resent the tactics that are being used here. No member from any committee of jurisdiction, no Member who might have an interest in the legislation before us, will be able to offer an amendment. Furthermore, if our substitute is defeated, then the House has gone on record as approving a Senate bill which has never been considered under the normal process in the House of Representatives.

Now I can stand up here and talk until my time runs out about the good and bad of seafood inspection, and which agency should be in charge, and how best to protect the public health. I will reserve that for debate on the bill and on our substitute. What concerns me here is the process. The Members of this body are not being allowed to perform the job that they were elected to do.

I want to caution my colleagues on the Democratic side of the aisle, especially those who are chairmen of committees and subcommittees. Is this the way you wish to be treated? Do you want to see your bills cast aside in favor of a bill from the other body that has never been considered by this House? If you do, then vote for the rule that is before us today. But if you do not, if you respect this institution, if you respect the Constitution of the United States, if you respect the people who elected you to do a job, then vote "no" on this rule.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Texas, my good friend.

Mr. DE LA GARZA. I thank my dear friend from Alaska for yielding.

Mr. Speaker, what I wanted to mention was that this is part of the usual procedure. The Mitchell bill is about 98 percent of the de la Garza bill. We held hearings and the normal process was utilized.

We were forced at this end of session to this position, but the bills are also identical and hearings have been held.

Mr. YOUNG of Alaska. Reclaiming my time, that is not the point. If that is the case, then bring your bill to the floor as a House bill and not the Senate bill.

This is being shoved down the House side without consideration of the House rules, and if we do this it can happen again and again and again. I do not like what the Senate is doing. I will tell Members very truthfully, I do

not like what the Senate is doing, but more than that, more than that, I can tell Members that this bill will never become law if we adopt this rule today.

We have heard that we will never have a fish inspection bill. The administration is adamantly opposed to this bill, and I am going to urge my Members to vote "no" on this bill, "no" on this rule, and if our substitute is not accepted, "no" on the bill because we will not have fish inspection.

If I may say this, everybody talks about fish not being inspected and meat and poultry being inspected. We have more illness created by chickens and meat that are inspected than we do by fish which are not, and fish are not raised like chickens and cows.

This bill, very frankly, that is being reported to us today and that we are being asked to vote on is wrong. It is wrong for this House, I am saying it is wrong and that Members of this House ought to stand up for what they stand for, for the House of Representatives and not the Senate. If they want to run for the Senate, run for the Senate.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I thank the gentleman for yielding time to me. I will not take 2 minutes, and I do not have any jurisdictional concerns about this bill. I do not understand them and I do not know them. I am not on any of the committees that are fighting for jurisdiction here.

I would only say that I think the time is now. I think the public has been aroused by the deaths that take place and the illnesses that take place for lack of fish inspection.

If we are going to pass a bill I think we have to act today. I think we have to act within the framework of what we have here.

I do not know if the Mitchell bill is a perfect bill. It probably should have a whistleblower feature, which I understand will be offered. But I do think it is important to recognize that a number of consumer groups, health groups, and public policy groups are supporting this format that we have before us.

The American Council on Consumer Awareness, Concerned Consumers League of Wisconsin, the Public Voice for Food and Health Policy, Americans for Safe Food, the Center for Science in the Public Interest, Environmental Action, Friends of the Earth, Physicians Committee for Responsible Medicine, Wisconsin Consumers League, and so on and so forth, a long list of consumer and health policy groups who think now is the time. If we do not act today along the format we have before us we will not get any action at all this year. I am hoping any jurisdictional disputes can be worked out in conference or by other ways, but I think the public is crying out for action at this time, and I would hope that we would move ahead and not defeat the rule.

□ 1250

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I do not know what a person from Dodge City, KS, which is the meat capital of the world, is doing here lauding the efforts of fish inspection but it does make sense.

Having said that, if illness and safety in this whole category, is the issue, we can always eat good, lean red meat. Perhaps that is the answer.

But, this does tie in with the meat industry. It is a very serious subject. It is not often that I find myself at odds with the gentleman from New York [Mr. SOLOMON], who is a good friend, and the gentleman from Alaska [Mr. YOUNG], who I think is opposed to the rule.

The gentleman from New York [Mr. SOLOMON] has raised an issue. He said that we are in a straitjacket because of this rule and we cannot go to the committee system. No amendments are going to be allowed, and so that is why this rule should be defeated; it should go to three committees.

The gentleman from Alaska [Mr. YOUNG] indicates that this is somehow in violation of the constitutional system. I do not think that the Founding Fathers sat at a fishing pond and said that, "If we are going to inspect fish, we have to go to three committees." We are worried about process here in this body now at this late date in going to three committees? If this issue goes to three committees, I tell you what, people crawl out of train wrecks faster than we get things done out of committees in this place.

We need a fish inspection bill. The gentleman from Kansas [Mr. GLICKMAN] is exactly right. The rejection of the rule is, in essence, a vote against fish inspection. Without the adoption of the rule, you are not going to have any chance for any inspection bill. It is that simple.

Sixty thousand people suffer from some kind of illness as a consequence of having no program. We have to step up to that. If we are arguing about rules and turf fights, or what should be surf and turf fights in this particular instance, we are never going to get it done.

The USDA can do the job. They do it with meat and poultry. We have an outstanding program. We should reject the Dingell amendment.

First, we should pass this rule, and reject the Dingell amendment, and then pass fish inspection. That is what we should be doing, I urge a "yes" vote on the rule.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, we need fish inspection legislation. We need fish inspection properly considered on the House floor. We need the rules of the House properly adhered to, and we need to have this body consider the dignities of this institution, as opposed to swallowing whole and unchewed the work product of the other body.

One of the reasons we have got a mess right now in this body, over the issue of budget and reconciliation, is the fact that the Senate is incapable of dealing either with legislative affairs, or dealing with appropriations matters. So to save that body from its own inadequacies, the House has been forced to undergo some absolutely curious behavior, not only on the part of that body, but on the part of this body. We are now confronted with a similar——

The SPEAKER pro tempore (Mr. MAZZOLI). Will the gentleman suspend just for a second?

The Chair is constrained to advise the gentleman that under the House rules references to the other body, particularly with regard to actions they take or do not take, are not considered appropriate.

Mr. DINGELL. Mr. Speaker, I thank the Chair, and I will, in the correction of my remarks, try to excise any improper comments I have made with regard to the other body and its curious behaviors.

In any event, the House today has been presented with a very quaint rule which puts the House in some rather extraordinary positions.

We are asked to take a bill passed by the other body. The reason why we should do that, rather than considering the carefully thought out work products of the two committees which have had long jurisdiction over both fish matters and health matters, the Committee on Merchant Marine and Fisheries and the Committee on Energy, I cannot explain to you.

We are asked to take a package which involves a bill which has come fresh, unreviewed, and unchewed from the other body, with an amendment which would put in a whistleblower package, which has long been in the proposals which are before the Committees on Merchant Marine and Fisheries and Energy and Commerce.

It is interesting to note that in this process not only can we ask the question about how this got in there, but we can ask how long that whistleblower package will survive, if the Commit-

tee on Agriculture takes this matter to conference.

My good friend, the gentleman from Kansas, got up and said, it is very curious that the House should be considering a package which involves fish inspection by the Department of Agriculture. I agree with that statement. It is, indeed, curious.

The Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce have long been working to try to bring to this body a package which, in fact, does work.

One of the interesting things about the presentations made by the other body, or, rather, made by the proponents of this legislation, is how many institutions support their package. They came forward and said that, no less than five organizations support the package, which is put forward by the Committee on Agriculture. Each of those five institutions has said, in fact, they do not. They support the proposal, which is brought forward by the Committee on Energy and Commerce and the Committee on Merchant Marine and Fisheries; the Center for Science in the Public Interest, Americans for Safe Food, Commissioner of Consumer Affairs, city of New York, Natural Defense Council and the Vermont Public Interest Research Group.

I intend to hold my nose and support this rule, and I leave my colleagues to arrive at whatever judgment they are going to exercise with regard to whether or not they support this rule, because, as I say, it is a most curious rule, but I do think that we ought to consider first of all the fact that if this bill is passed by the House as the Committee on Agriculture has suggested, it is going to be vetoed by the President, as well it should. It is going to cost untold amounts of money, whereas, the additional expenditures under the Merchant Marine and Fisheries and the Energy and Commerce package will only be about $14 million, and it will be a carefully focused program of investigation and controls, which will focus on the areas where the real danger occurs, rather than putting a bunch of Department of Agriculture inspectors in the kind of facilities that you see conducted by the Department of Agriculture.

Now, if the Committee on Agriculture really wants to do something about food safety, I would suggest that they ought to concentrate on cleaning up their act, and seeing to it that what takes place in institutions inspected by Agriculture inspectors, really contribute to the safety of American people, because they are busy dipping chickens in filthy, dirty messes.

They are contributing much more to the threat to the health of the American people than, indeed, are all the problems that exist in the fish processing industry.

We have here, then, my colleagues, what is a baldfaced raid by the Department of Agriculture seeking to get themselves in a position where they can hire a whole mess more of inspectors to preside over the same kind of sorry mess that they preside over with regard to the chicken inspection business.

I would urge my colleagues to vote for the rule, vote against the Michell-de la Garza, or, I guess Mr. DE LA GARZA got aboard that rather late, package, and to support the package that is suggested by the committees, which have long worked on this matter, which have jurisdiction on both fish, and on health, and on food and drugs.

Mr. SOLOMON. Mr. Speaker, I would just call attention to the Speaker that there are extenuating circumstances considering this, the House rule, which prevent us from mentioning the other body. After all this is the other body's bill, and that is basically what we are opposed to. This is a Senate bill.

The SPEAKER pro tempore. The Chair advises the gentleman from New York that the Chair recognizes what the gist of the discussion is, but there still are rules as to how that is addressed.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, my colleagues, I urge you to vote "no" on the rule, regardless of whether you are supporting the Dingell substitute or whether you are voting with the Committee on Agriculture approach to this issue.

No matter which side you choose on that there are problems with this rule because of provisions which have been intertwined relative to labor law. Labor law, you ask? What are we doing with labor-worker health and safety protections and labor rights in this bill? Something is fishy.

When I heard about this, I thought maybe there were new rules in here relative to how large the rungs could be on fish ladders or what type of fall protection devices we might have for tuna.

Let me tell the Members what there are. There are two sets of whistleblower legislation. Now, the first set of whistleblower legislation is appropriate and proper, and it is self-executed in the rule. I do not think that is a problem for any of us. It takes existing whistleblower protection as we now know it in environmental law and in other public agencies such as the Department of Defense and those public workers who have the trust of the American people as their charge and puts them in existing whistleblower law.

□ 1300

It covers them. It extends them. That is appropriate and that part I have no objection to; but what most Members do not know is that the Dingell-Studds substitute has contained in it yet another whistleblower protection for the first time in the history of this country, extending whistleblower protection into the private sector.

Where did that come from? Where was the committee hearing?

The gentleman from Michigan [Mr. FORD] has had a bill in this House for 2 years and for 2 years it has never come before the Subcommittee on Health and Safety of the Committee on Education and Labor. To the best of my knowledge, there has never been a hearing requested on it.

So now we have issues in terms of the right to refuse work, reinstatement, what are the burdens on the employer or the employee for reinstatement, compensatory damages.

Now, I will say that what is in there is substantially different than the rather encompassing provisions of the bill of my colleague, the gentleman from Michigan [Mr. FORD] that are before the committee; but I simply point out that there have been no hearings on this provision. I point out that there are unanswered questions relative to reinstatement and compensatory damages.

Adoption of the rule puts those of us who may very well want to support the approach of the gentleman from Michigan [Mr. DINGELL] on this question in an awkward situation, because for the first time we are doing these new whistleblower protections in the private sector and the Dingell substitute and have no opportunity really to isolate that question from the broader public health question.

So again what I am saying is because of the way in which the rule is structured, if you vote for the Dingell approach, and I must say that is my leaning, you get caught, however, in other provisions that cannot be attached or addressed in any way and really have nothing to do with the fundamental question whether we are going the FDA route or the Department of Agriculture route, and you turn this into a labor bill rather than a health food inspection bill.

So I just point out, that there are two sets of whistleblower protections; the one set which I think is not a matter of controversy, which is part of the rule in terms of the self-executing provision, but the second set which is the cases in the Dingell substitute.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker and my colleagues, let me first say that I support the rule.

I feel somewhat ill at ease because the distinguished chairman of the Energy and Commerce Committee, my good friend, the gentleman from Michigan, is probably the foremost parliamentarian in this institution. I was so proud, I thought we copied an act from him to get this type of rule, but now the gentleman comes and blasts us all over the place. I thought this was the de la Garza time to do a Dingell, but somehow people are complaining that the rule does this and does that.

Now, it is not a question here of turf. We have a basic difference. Our legislation said that Agriculture does inspection of meat and poultry and seafood. Food and Drug sets the standards. We give it to them.

Commerce works with waters. We leave it here. There is no turf fight for us. Heaven knows we have enough problems with what we have on our hands besides going out for turf fights or getting more business for the Department of Agriculture. We did it because we thought that was the right way to go; Agriculture for inspection and food and drug standards, but now I am concerned because there has been some illusion made to a documentary on television. I think I can quote my chairman about that need and poultry and so on.

Well, if that is the issue, let me read this:

> $1 million fine levied in generic drug fraud. A federal judge today fined a drug manufacturer $1 million, the largest such penalty so far in the government's investigation of fraud and corruption in the generic drug industry. This company pleaded guilty to paying more than $60,000 in illegal gratuities to the Food and Drug Administration chemists.

So I hope that we do not spend the time addressing those issues. The issue here is does the American public demand and is it entitled to safe seafood inspection.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I thank my good friend for yielding to me.

That fine was levied as a result of investigations conducted by the Committee on Energy and Commerce.

Mr. DE LA GARZA. And I commend the gentleman for it. All of us congratulate the gentleman.

This is one of the areas that his strong oversight made it even into the jurisdiction of all the committees of the House. The gentleman has very strong oversight. If you find any footsteps in the other committees of the House, you will see where they came from.

So my sincere congratulations to the gentleman; but nonetheless, we cannot be pointing the finger at one or the other.

The main thing is, the American people want to be assured that there is safety in the seafood inspection process, and we will get into this.

I do hope when the rule is approved, and I hope it will be, I hope that we do not get into pot calling the kettle black.

Mr. Speaker, I have a chart here that says: "Outbreaks per billion pounds consumed." The red part is fish and shellfish. The tiniest portion is beef, pork, and poultry. This is per billion pounds consumed, but you are going to be hearing that beef and poultry are the worst.

It says: "Food-borne disease outbreak by food vehicle." Again, the red is the fin fish at the top, and this is from the Centers from Disease Control. It is beef, then pork, then shellfish. If you do it by billions of pounds, that is where it is at.

Now, in numbers, more people eat meat and poultry, so more people will be represented here, but in the percentages, it is here.

I felt I had at least learned something from my distinguished friend, the chairman of the Energy and Commerce Committee, that once we got a rule that allowed us to do our thing, and now he does not like it.

But vote for the rule and then I think we can discuss the legitimate issues that should be discussed, and it is very simple. I have already told you what should be discussed.

Mr. SOLOMON. Mr. Speaker, I would just say that chart looks like the same one that the distinguished gentleman used on the budget the other day. I would love to have a copy of it.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. GRANT], a member of the Committee on Agriculture.

Mr. GRANT. Mr. Speaker, let me make one point that perhaps was not made. For all the Members of Congress who has a seafood industry or for any Member who might have some agriculture project, some industry in your district, whether it is in Kansas or Florida or wherever it happens to be, this is also a proposal that the industry itself has checked off on. They want to submit themselves to this mandatory inspection program, simply because they want to remove any cloud that may be hanging over the industry.

We do hear a lot about people who have been poisoned by unsanitary conditions in the processing industry. We want to remove that. Goodness knows, in the Apalachicola Bay region of Florida, we want that cloud removed from the oyster industry. For those of you who have been deprived of those great oysters from Apalachicola Bay, we want you to have them again, because we know that they can be saved and we want a fair and reasonable inspection program.

Mr. Speaker, I urge a vote for the rule.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 4½ minutes to the gentleman from North Dakota [Mr. DORGAN].

□ 1310

Mr. DORGAN of North Dakota. I thank the gentleman and appreciate his yielding time to me.

Mr. Speaker, it was 6 years ago that I introduced the first fish inspection bill in the House, and I have introduced fish inspection bills ever since.

Since mine was the first bill in Congress requiring mandatory fish inspection, I began to get telephone calls and letters from coastal areas.

I recall some in Massachusetts who were having seizures, almost, about what I would do to devastate their economy, and they were very angry about it, very upset. Well, I want to tell you where the stimulus for my bill came from. A fellow from North Dakota named Jack Dahl, who came to see me once, said, "I am a rancher. We understand it." I understand as well because my family raised some cattle. And Jack said:

> We understand the inspection of flesh food. We have had meat inspection since Teddy Roosevelt was President. When you have beef, pork, poultry, it is inspected. And it is a mandatory inspection program. I understand that, I accept that, I think it makes a lot of sense.

He said:

> I was in a place where they processed seafood not long ago. I was aghast at what I saw.

There is no mandatory inspection for seafood and fish in this country. There is optional inspection. The result is that one of the fastest growing areas of American consumption, fish and seafood, is the only flesh food left that is not under mandatory inspection for the consumers' food safety.

As a result I began putting in legislation year after year.

I am delighted that this has finally come to a point where we are, I hope, today going to pass this rule and pass this bill to provide for mandatory fish and seafood inspection.

The Centers for Disease Control says the risk of food poisoning outbreak from eating seafood is 25 times greater than it is for beef, 16 times greater than it is for poultry or pork.

Why? We do not have a mandatory inspection system.

Now I do not like Government anymore than anybody else does, "That which governs best governs least," as Jefferson said. I agree with all of that.

But I also believe that safety, food safety, is paramount, absolutely critical. It is long past the time, in my

judgment, that we have a mandatory inspection system in this country.

If we do not pass this bill today, if we move, as some have counseled on the floor earlier in this debate, to accept what they would like as a substitute, frankly it means we have put off once again the day of reckoning, we postpone the day in which we will have a mandatory inspection system for fish and seafood.

We have delayed far too long already. Most of this decade has gone by. We have delayed and delayed.

Mandatory inspection of fish and seafood is good for those industries because it will assure the consumer that the products they get from those who process fish and seafood is a wholesome, healthy product. Americans consume more and more of that product, and I think that is good news. But the Americans who consume it want to be assured that what they are consuming is healthful, what they are consuming has been inspected, and what they are consuming will be good for them and their families.

This bill will guarantee that. Vote for this rule. This rule makes sense.

Vote for this bill for the good of this country.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to a very distinguished member of the majority party, the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, in tax matters, a duck may be a duck may be a duck, but a chicken is not a fish. It is not even a crawfish.

Now, the issue today is not whether we want to inspect seafood. The issue is whether we want the Agriculture Committee, who may not understand the difference between a chicken and a crawfish, to undertake that effort. Now, the Agriculture Committee bill coming from the other body, whom we are not supposed to mention, would have you believe we are facing some sort of national seafood health emergency in America.

Let me give you the figures: In America you are likely to get one illness per 25,000 servings of chicken. That is with an inspection program. In America you are likely to get one illness per 5 million servings of finfish. That is without an inspection program, and we ought to have one.

In America you will get one illness per 250 servings of raw moluskan shellfish, however. That is where the problem is.

You are going to have 64,000 illnesses from eating any kind of seafood this year, and 61,000 will come from shellfish, not finfish. But the Agriculture Committee bill coming from that other place does not even make a definition for shellfish, does not even show a difference in the bill, does not treat shellfish different from finfish, much less from chicken. It sets up an inspection program that will afford the American public no greater protection today than they would have tomorrow under the agriculture bill coming from the other place over there.

Now, I, like the chairman of our Committee on Energy and Commerce, would like to talk about the way we are being treated somewhere else, but we are not allowed to under the rule. I am not going to mention the fact that some people somewhere have 47 of our bills, all of our telecommunication bills holed up. We have not seen them.

The fact is that when this body under a rule gives preference to a bill coming from somewhere else that lets the Agriculture Committee, which does not know a chicken from a crawfish, set up an inspection program that does not define finfish from shellfish and expects the American public to take that kind of a bill, then I suggest this rule ought to go down.

At least we ought to adopt a substitute prepared by the committees of jurisdiction, the Committee on Energy and Commerce, which has FDA inspection programs, first; and Merchant Marine and Fisheries, which understands what a crawfish looks like and understands what a finfish looks like, understands what an oyster is all about and understands what a good inspection program ought to be about.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentleman for yielding.

Mr. Speaker, I would just like to make this comment: It really does not do either of our industries, the seafood industry or red meat and poultry industry the justice that they deserve by referring to the health problems in the other guy's program.

Let me repeat what the gentleman from Florida said a moment ago: The seafood industry has come to the Congress and asked for an inspection system. There are differences of opinion as to what that system should look like, and we will be able to debate those in just a moment. But the industry has asked for this inspection.

Now, aspersions on the red meat and poultry inspection systems are totally unfounded from any kind of a historical or numerical basis.

Mr. Speaker, we have the safest food supply in the world, bar none. No one in the world does a better job of providing wholesome red meat and poultry for the United States consumer than the current system.

Can we do better? Absolutely. And the red meat and poultry industry has adopted that, and we would like to improve on our system. But the same divisions and the same opposition that you will hear from distinguished Members of this body have kept us from doing that. But that is a battle for next year.

Today it is whether or not we are going to begin the seafood inspection system in the general light of what the industry has asked for.

Please vote for the rule and then pay particular attention to the debate. I believe you will see that the Agriculture Committee's version makes much more sense than the opposite version.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, for purposes of debate only I yield 2 minutes to the gentleman from Maine [Mr. BRENNAN].

Mr. BRENNAN. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the Fish Safety Act of 1990, fish inspection is an issue of vital importance to the fisheries industry, and to the Nation's consumers—seafood is the only major animal food not subject to a comprehensive Federal inspection program.

In my State of Maine, where the fishing industry plays such a vital role in our economy, we believe the time for Federal inspection is long overdue.

The Fish Safety Act calls for inspection by the Department of Agriculture, the one organization I believe trained and equipped for the massive job of national inspection.

Both the national seafood industry and national consumer groups support an agriculture-run inspection program.

In contrast, the approach in the substitute is not responsive to the needs of America's citizens, nor to the needs of industry.

The bill before us today will give our Nation the guarantee of safe seafood at a price we can afford.

It is the bill that my State of Maine needs, and that the Nation must have.

I urge my colleagues to support the rule and the bill and oppose the Merchant Marine and Energy and Commerce substitute.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I may bring a personal experience to this debate that other Members cannot. I may be the only Member of the House of Representatives who worked for 12 months in a slaughterhouse when he was growing up in East St. Louis, IL, in pork production, and worked with the agriculture inspectors. In that capacity, I have some stories to tell which I will not.

I also can tell you that in my capacity of working on the Agriculture Appropriations Subcommittee, we have both the USDA and the FDA in our subcommittee. I have tried to work on

this subject matter by actually going to the places where seafood inspection is now taking place, by visiting those who were providing the seafood that our Nation enjoys.

□ 1320

Mr. Speaker, let me share with my colleagues two things that I think are important to remember. I concur completely with my colleague from Texas that we are fortunate in the United States to have such a safe food supply, and we should not underestimate the fine work done by so many agencies to make that possible.

However, Mr. Speaker, I want to tell my colleagues that privately, privately, the investigators for the Food and Drug Administration have a little saying. It is a saying I am never going to forget, and the saying is this: "Raw shellfish is like unprotected sex."

The reasons for that, of course, Mr. Speaker, is that some of the shellfish beds in America are not being properly supervised, and there is a lingering question as to whether or not those who consume raw shellfish may expose themselves to serious disease, such as paralytic shellfish poisoning.

So, there is a need for inspection and standards.

Second, the reason why the statistics are so good when it comes to seafood consumption can be found in the fact that the prime inspector for the FDA in the Boston area is a gentleman who literally spends his day sniffing fish. He tells me the fish that do not pass inspection are called neck snapers because the minute he takes a sniff, then his neck snaps back. That is why most consumers do not eat bad fish. They can smell it coming.

We need Federal standards.

Mr. SOLOMON. Mr. Speaker, if the gentleman from Tennessee [Mr. GORDON] has no further requests for time, I will sum up by saying we are not about to vote on the merits of this bill. This is the rule we are about to vote on. Mr. Speaker, in excess of 50 percent of the rules to have come before this body in the 101st Congress were closed or modified. Worse than that, 32 percent of all of the rules that have come before this body in the 101st Congress waived the Budget Act, and we wonder why we are in the position we are in today.

But worst of all, we are making in order a bill which is not a House bill. It is the other body's bill, if I may say so, Mr. Speaker, that has never been debated on this floor.

Mr. Speaker, the Members of this House are not able to offer amendments to this piece of legislation which has never been considered in the body of this House or in any committee, and that is wrong. That is why I ask for a no vote on this rule.

Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, this rule provides a clear choice between two distinct options that are before the House today.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. MAZZOLI). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 300, nays 119, not voting 13, as follows:

[Roll No. 513]

YEAS—300

Ackerman	Dellums	Horton
Alexander	Derrick	Hoyer
Anderson	Dicks	Huckaby
Andrews	Dingell	Hutto
Annunzio	Dixon	Inhofe
Anthony	Donnelly	Jenkins
Applegate	Downey	Johnson (SD)
Aspin	Durbin	Johnston
Atkins	Dwyer	Jones (GA)
AuCoin	Dymally	Jones (NC)
Barnard	Dyson	Jontz
Barton	Early	Kanjorski
Bateman	Edwards (CA)	Kastenmeier
Bates	Emerson	Kennedy
Beilenson	Engel	Kennelly
Bereuter	English	Kildee
Berman	Erdreich	Kleczka
Bevill	Espy	Kolter
Bilbray	Evans	Kostmayer
Boehlert	Fascell	Kyl
Bonior	Fazio	LaFalce
Borski	Feighan	Lancaster
Bosco	Flake	Lantos
Boucher	Flippo	Laughlin
Boxer	Foglietta	Leath (TX)
Brennan	Ford (MI)	Lehman (CA)
Brooks	Ford (TN)	Lehman (FL)
Browder	Frank	Levin (MI)
Brown (CA)	Frost	Levine (CA)
Bruce	Gallo	Lewis (FL)
Bryant	Gaydos	Lewis (GA)
Bustamante	Gejdenson	Lloyd
Byron	Gephardt	Long
Callahan	Geren	Lowey (NY)
Campbell (CO)	Gibbons	Machtley
Cardin	Gillmor	Madigan
Carper	Gilman	Markey
Carr	Glickman	Martinez
Chapman	Gonzalez	Matsui
Clarke	Gordon	Mavroules
Clay	Gradison	Mazzoli
Clement	Grandy	McCloskey
Coble	Grant	McCrery
Coleman (MO)	Gray	McCurdy
Coleman (TX)	Guarini	McDade
Collins	Gunderson	McDermott
Combest	Hall (OH)	McHugh
Condit	Hamilton	McMillen (MD)
Conte	Harris	McNulty
Conyers	Hastert	Meyers
Cooper	Hatcher	Mfume
Costello	Hayes (IL)	Miller (CA)
Courter	Hayes (LA)	Miller (OH)
Coyne	Hefner	Mineta
Craig	Hertel	Mink
Darden	Hiler	Moakley
Davis	Hoagland	Mollohan
de la Garza	Hochbrueckner	Montgomery
DeFazio	Hopkins	Moody
Moorhead	Richardson	Staggers
Morella	Ridge	Stallings
Morrison (CT)	Roberts	Stangeland
Morrison (WA)	Roe	Stenholm
Mrazek	Rose	Stokes
Murtha	Rostenkowski	Studds
Myers	Roukema	Synar
Nagle	Rowland (GA)	Tallon
Natcher	Roybal	Tanner
Neal (MA)	Russo	Tauke
Neal (NC)	Sabo	Thomas (GA)
Nelson	Saiki	Torres
Nielson	Sangmeister	Torricelli
Nowak	Sarpalius	Towns
Oakar	Savage	Traficant
Oberstar	Sawyer	Traxler
Obey	Scheuer	Udall
Olin	Schroeder	Unsoeld
Ortiz	Schuette	Valentine
Owens (NY)	Schulze	Vento
Owens (UT)	Schumer	Visclosky
Oxley	Serrano	Volkmer
Pallone	Sharp	Walgren
Panetta	Shays	Walsh
Parker	Shuster	Washington
Parris	Sikorski	Watkins
Patterson	Sisisky	Waxman
Payne (NJ)	Skaggs	Weber
Payne (VA)	Skeen	Weiss
Pease	Skelton	Wheat
Pelosi	Slattery	Whittaker
Penny	Slaughter (NY)	Whitten
Perkins	Smith (FL)	Williams
Pickett	Smith (IA)	Wilson
Pickle	Smith (NE)	Wise
Poshard	Smith (NJ)	Wolf
Price	Smith (TX)	Wolpe
Quillen	Smith, Robert (OR)	Wyden
Rahall	Snowe	Yates
Rangel	Solarz	Yatron
Ray	Spratt	
Regula		

NAYS—119

Archer	Hancock	Pursell
Armey	Hansen	Ravenel
Baker	Hefley	Rhodes
Ballenger	Henry	Rinaldo
Bartlett	Herger	Ritter
Bennett	Holloway	Robinson
Bentley	Houghton	Rogers
Bilirakis	Hubbard	Rohrabacher
Bliley	Hughes	Ros-Lehtinen
Boggs	Hunter	Roth
Broomfield	Hyde	Saxton
Brown (CO)	Ireland	Schaefer
Buechner	Jacobs	Schiff
Bunning	James	Schneider
Burton	Johnson (CT)	Sensenbrenner
Campbell (CA)	Kasich	Shaw
Chandler	Kolbe	Slaughter (VA)
Clinger	Lagomarsino	Smith, Denny (OR)
Coughlin	Leach (IA)	Smith, Robert (NH)
Cox	Lent	Solomon
Crane	Lewis (CA)	Spence
Dannemeyer	Lightfoot	Stearns
DeLay	Livingston	Stump
DeWine	Lowery (CA)	Sundquist
Dickinson	Luken, Thomas	Swift
Douglas	Manton	Tauzin
Dreier	Marlenee	Taylor
Duncan	Martin (NY)	Thomas (CA)
Eckart	McCandless	Thomas (WY)
Edwards (OK)	McCollum	Upton
Fawell	McEwen	Vander Jagt
Fields	McGrath	Vucanovich
Fish	McMillan (NC)	Walker
Frenzel	Michel	Weldon
Gallegly	Miller (WA)	Wylie
Gekas	Molinari	Young (AK)
Gingrich	Murphy	Young (FL)
Goodling	Packard	
Goss	Pashayan	
Hall (TX)	Paxon	
Hammerschmidt	Petri	

NOT VOTING—13

Crockett	Kaptur	Shumway
Dorgan (ND)	Lipinski	Smith (VT)
Dornan (CA)	Martin (IL)	Stark
Green	Porter	
Hawkins	Rowland (CT)	

□ 1342

Mr. SLAUGHTER of Virginia changed his vote from "yea" to "nay."

Messrs. CARR, PARRIS, and HUTTO changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1991

Mr. ROYBAL. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes, with the remaining Senate amendment numbered 132 in disagreement, and concur in the Senate amendment to the House amendment to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendment numbered 132.

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 132 with an amendment as follows: At the end of the amendment, insert:

Notwithstanding any other provision of this act, $240,000,000 in General Services Administration Federal buildings fund revenues shall be available for the construction of the Naval Systems Commands Headquarters, northern Virginia: *Provided*, That $10,000,000 in additional funds may be obligated upon the advance approval of the House and Senate Committees on Appropriations and the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works: *Provided further*, That no more than $250,000,000 shall be available for acquisition, through direct purchase and construction, of 1,000,000 square feet of occupiable space: *Provided further*, That acquisition of an additional 1,000,000 square feet either through direct purchase, construction or lease, shall only be permitted upon the advance approval of a prospectus by the House Committee on Public Works and Transportation and Senate Committee on Environment and Public Works"

SEC. 631A. Under the heading, 'General Services Administration, Real Property Activities, Federal Buildings Fund, Limitations on Availability of Revenue', in this act, insert the following: new construction:

District of Columbia:

General Services Administration, Southeast Federal Center, headquarters, $148,500,000: *Provided*, That such funds shall be obligated only upon the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works"

SEC. 631B

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. ROYBAL] will be recognized for 30 minutes, and the gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this amendment makes available $240 million for the construction of the Naval Systems Command headquarters instead of $273 million contained in the original motion adopted by the House. It also designates $148.5 million—funds for which were included in the conference agreement—for the General Services Administration headquarters in Washington, DC. Although we would have preferred the language originally agreed to by the conferees, we will accept this amendment and revisit this issue in next year's appropriations bill. I urge the adoption of the amendment.

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion offered by the gentleman from California.

This further amendment made by the Senate to amendment No. 132 makes two changes to the conference agreement, one technical and one substantive.

The technical change concerns the GSA headquarters building at the Southeast Federal Center. The amendment adds the language necessary to make $148.5 million available for this project which was requested by the President. It adds no new money to the bill since this amount was assumed in the overall totals for the conference agreement, but the language was inadvertently omitted.

The second change made by the Senate is substantive and more troublesome.

The further Senate amendment in this case reduces the amount available for the Naval Systems Command headquarters in northern Virginia from $273 million provided in the conference agreement to $240 million provided in this amendment. The amendment also includes restrictive language. I am concerned that this amendment changes the amount agreed to in conference, and I am sure that the issue will be revisited during the next fiscal year. And on behalf of the gentleman from Virginia [Mr. WOLF], a member of the subcommittee, I will include for the RECORD a copy of a letter that Congressman WOLF sent to the General Accounting Office asking the Comptroller General to conduct an investigation of this matter.

Mr. Speaker, considering the time we have left in this session, I urge the House to accept this Senate amendment and support the motion of the gentleman from California.

The letter referred to follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 19, 1990.

Mr. CHARLES A. BOWSHER,
Comptroller General, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: I am writing to request that you perform an accounting review of the request by the General Service Administration (GSA) for appropriated funds to consolidate the Naval Systems Commands (NSC) of the Department of the Navy.

As a member of the House Treasury, Postal Service, and General Government subcommittee, I have serious concerns about the discrepancies between dollar figures for the request, which consists of the first million square feet of two million square foot project. Since the Adminstration first sought $821,548,000 for a three million square foot NSC project in a budget amendment transmitted to Congress on March 29, 1990, there have been conflicting statements about the actual dollar amount needed to complete the project.

The Senate Committee on Environment and Public Works has expressed interest in the project, and officials at the GSA and the Navy have offered cost estimates for the project that have varied by tens of millions of dollars, with swings in estimates of $60 million overnight. The conference committee on H.R. 5241 appropriated the amount necessary to complete the first of the two million square feet, relying on the information provided by the career federal employees—and I emphasize career federal employees who are immune from political pressure—that have worked on the consolidation project over the last several years. The Committee provided a level of funding intended to avoid future cost overruns

My concern is that the legitimacy of the competitive procurement process for the NSC project be preserved, in order to ensure that the federal funds are obligated in a manner that reflects the best interests of the American people. I would therefore request that the audit focus on the amount of money needed to deliver the first of two million square feet under the terms of the current procurement.

I also firmly believe that the Congress and the American people should be able to rely on the appropriateness and accuracy of the dollar figures provided by executive agencies in appropriations requests. There were too many discrepancies in the figures provided, where good government demanded that there be clarity and fariness.

I have sent a letter to the Administrator of General Services requesting that he not obligate the funds for the project prior to your investigation of this matter. I would therefore respectfully request that you investigate the matter and report back to the House and Senate Appropriations Committees within 60 days of your receipt of this letter.

Sincerely,

FRANK R. WOLF,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 19, 1990.

Mr. RICHARD AUSTIN,
General Services Administration, Washington, DC.

DEAR MR. AUSTIN: I am writing to request that you not obligate funds provided in H.R. 5241 to consolidate the Naval Systems Commands (NSC) pending an investigation by the General Accounting Office (GAO).

As the attached letter to Comptroller General Charles A. Bowsher indicates, I have serious concerns about how the federal agencies involved determined the dollar figures for the request, which consists of the first million square feet of a two million square foot project. There were too many discrepancies in the figures provided.

This is an important matter involving millions of dollars and the public trust, and I would appreciate your cooperation.

Sincerely,

FRANK R. WOLF,
Member of Congress.

Mr. Speaker, I yield back the balance of my time.

Mr. ROYBAL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

A motion to reconsider was laid on the table.

□ 1350

FISH SAFETY ACT OF 1990

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 511 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 2924.

□ 1350

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 2924) to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes, with Mrs. BOGGS in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the Senate bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 15 minutes; the gentleman from Kansas [Mr. ROBERTS] will be recognized for 15 minutes; the gentleman from Louisiana [Mr. TAUZIN] will be recognized for 15 minutes; the gentleman from New York [Mr. LENT] will be recognized for 15 minutes; the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 15 minutes; and the gentleman from Alaska [Mr. YOUNG] will be recognized for 15 minutes.

The chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Madam Chairman, I yield myself such time as I may consume.

Mr. DE LA GARZA. Madam Chairman, my colleagues, we have in part debated this issue during the consideration of the rule, but just let me say that as the Members heard earlier today, the time has come for this Nation to put in place a comprehensive mandatory Federal inspection program for fish and shellfish.

Today, Americans are eating more fish and seafood than ever before, but guess what, nationwide, the chances are that most of the seafood, most of the shellfish, and most of the establishments that handle and process this catch are rarely ever inspected by a Federal agency. There are some State agencies that do so.

The reason why is simple. Fish and seafood are the only flesh foods not subject to a comprehensive mandatory Federal inspection program. Madam Chairman, in an era of heightened concern about food safety, we must do better. We can no longer allow jurisdictional squabbles beween the committees of Congress and among Federal agencies to keep us from having a mandatory food inspection program.

For at least 10 years one committee or another in the House and in the Senate have looked at the safety question. For a variety of reasons sparked by industry opposition and the complexity of implementing a workable inspection program, but most importantly because of turf battles between committees of Congress and Federal agencies, nothing has been done.

Today, we can show the American people leadership. Today, we can show the American people that public health and safety come before inside-the-beltway battles. Food safety is on everybody's mind today. It is on the minds of consumers who question the effectiveness of Government inspection efforts in the wake of recent food safety scares. It is on the minds of the fishing and seafood industries which want to provide consumers with a level of assurance they deserve.

Some people, such as former FDA Commissioner Frank Young, have told us that seafood safety is not a big enough problem to worry about. About a year ago, Commissioner Young said, "I believe the current negative perception in consumers' minds is not warranted when the health risks of seafood are compared with other sources."

This chart drawn from data gathered by the Centers for Disease Control and the U.S. Department of Agriculture shows you the number of disease outbreaks per billion, and you can see that 18 as compared to poultry, 1.1 pork, 1.1, and beef, 0.7.

Members will hear later numbers, yes, the numbers are higher, because there is more consumption of beef and poultry, so the numbers of persons being sick will be higher, but the percentages, which is what we have to deal with here today, because that is where the perception comes from, and in this city and in the country, perception becomes reality.

This chart that we are using here, disease outbreaks by vehicle, again, we have the seafood which is the highest one all the way to eggs at the bottom. We have recently been hearing more about eggs. Then the other chart is a comparison of seafood-related illnesses, and the red is the finfish, so you are going to hear that only the shellfish are the problem. No, that is not so. We need to go across the board and see that all of the shellfish and finfish are inspected.

When we say finfish, that means every fish that has fins, and this I think should be documented, because there will be confusion between shellfish and finfish. I do not know where crawfish come in. We will have to have our friends from Louisiana decide for that one where the crawfish comes in. I guess it is an Acadian molluscan, and that is what probably it will be.

But lack of a Federal seafood inspection program also leaves our domestic fish and seafood products industry at a competitive disadvantage. This is why this industry wants it. They do not want to be at a disadvantage.

The United States is one of a few countries engaged in major fish and seafood commerce that does not have a national inspection program.

Let me also say, and I would hope that this would change, 60 percent of all of the seafood coming in is from abroad, and we do not know how or if they are inspected abroad.

We have a provision in the meat and poultry that the plant in the other country has to meet the standards of our inspection, of our plants here, and this is something that I think should be of importance to us and of concern, that 60 percent of the food comes from outside this country. Certainly the consumer interest and our best interest demands that there be a mandatory inspection.

Let me just say that there will be differences, but let me have now chart 5, which is the estimated resources for food safety, and the blue is where the USDA is. These are people on hand. The red is where the FDA is, and these are people on hand.

So people talking about budget and implications, whichever way you go, you are going to have to have more inspections, but the fact is that you have

on hand a quantity of inspectors at this time.

Again, let me repeat, people demand that we need to be responsible. The Ag Committee version takes the normal natural step.

USDA, the Department of Agriculture, already inspects meat and poultry. We have now shellfish and all seafood. The Food and Drug sets the standards. We say, "You have the expertise, you set the standards."

The Commerce Department handles the waters, contaminated waters, opening and closing, so from our perspective this is not a turf battle. This is not a USDA versus the world or anything of that sort. This is where we legitimately and logically through a thought process worked out how we can best handle the situation.

The establishments are inadequate handling now, the establishments that process or serve, process or move the seafood.

So I would hope that you would listen to the debate and then in the end now, we have already adopted a rule, but let me say again, because there would be some mention.

□ 1400

The Mitchell bill is about 95 percent of the bill that I introduced. We held hearings. We have been holding hearings on this issue since the gentleman from North Dakota [Mr. DORGAN] introduced legislation 5 or 6 years ago.

So the process is now, the time element that we have been assured that if the Mitchell bill is picked up and a whistleblower provision is added, that he would accept this bill, and we are off to the President for signature. Otherwise, we do not have time for a conference. We only have, hopefully, but a few hours. We do not have time for three committees to go and have all the time necessary for conference.

So it is not like this bill has not been studied. It has, but the easiest, most feasible, the proper legislative way to do, because legislation is the art of the possible. What is possible that day, that hour, that minute. That is what is possible today.

We are going to argue all over the place, but that is the legislative need of today, that we do the most feasible thing and pick up this bill which is very similar.

Now, the request for whistleblower came form the Senate, and we took from the Clean Air Act, existing law for whistleblower. I think this would satisfy and certainly with great pride that we said we took what has been worked out by the distinguished members of the Committee on Energy and Commerce in the area of the Clean Air Act, and we thought that that would be proper and adequate whistleblower. There is now a version that has much more reach.

I do not have any problem with, but my problem is, are we going to have seafood inspection mandatory by Federal Government? Yes or no. The odds are no if we go the other way. Yes, if we take the Mitchell bill.

Madam Chairman, the time has come for this Nation to put in place a comprehensive, mandatory Federal inspection program for fish and shellfish.

Today Americans are eating more fish and seafood than ever before.

But guess what. Nationwide the chances are that most of the seafood, most of the shellfish, and most of the establishments that handle and process this catch are rarely ever inspected by a Federal agency.

The reason why is simple. Fish and seafoods are the only flesh foods not subject to a comprehensive, mandatory Federal inspection program.

Madam Chairman, in an era of heightened public concern about food safety, we must do better. We can no longer allow jurisdictional squabbles between the committees of Congress and among the Federal agencies to keep us from having a mandatory Federal seafood inspection program.

For at least 10 years, one committee or another—in the House and in the Senate—have looked at the seafood safety question.

For a variety of reasons—sparse data, industry opposition, and the complexity of implementing a workable inspection program, but most importantly, because of turf battles between committees of Congress and Federal agencies—nothing has been done.

Today we can show the American people leadership. Today we can show the American people that public health and safety come before inside-the-beltway turf battles.

Food safety is on everybody's mind these days.

It's on the minds of consumers who question the effectiveness of Government inspection efforts in the wake of recent food safety scares.

And it's on the minds of the fishing and seafood industries which want to provide consumers with the level of assurance they deserve.

Some people, such as former FDA Commissioner Frank Young, have told us that seafood safety is not a big enough problem to worry about. About a year ago Commissioner Young said:

I believe the current negative perception in consumers' minds is not warranted when the health risks of seafood are compared with other food sources.

Data gathered by the Centers for Disease Control and the U.S. Department of Agriculture shows you the number of disease outbreaks per billion pounds of product consumed. Beef, pork, and poultry all have around one—just one—reported disease outbreak for every 1 billion pounds of meat eaten.

Fish and shellfish, by contrast, have 18 times as many outbreaks of disease.

Beef, pork, and poultry are all inspected by USDA. Fish and shellfish are not.

White House Chief of Staff Sununu and FDA officials will tell you that shellfish safety is the only problem. Governor Sununu in a letter sent to me in May of this year said that: "the clearest health risk from seafood involves the consumption of raw molluskan shellfish."

But the data says otherwise. Over a 15-year period—from 1973 to 1987—finfish actually accounted for 15 percent of foodborne disease outbreaks.

Madam Chairman, the data collected by Government agencies simply doesn't back him up. Sununu may know budgets, but he doesn't know seafood safety.

Some Members may think seafood or fish safety is not a big deal to their constituents unless they're from a coastal State.

However, States like Missouri, Minnesota, Wisconsin, Pennsylvania, and New York, have had fish or shellfish consumption restricted because their waterbodies are closed or under advisories restricting consumption of their fish and shellfish. Eight States—including New York and California—have had more than 10 water bodies in this category.

What is the reason for these water closures? Chemical contamination—from metals like lead and mercury, from industrial toxics like PCB's, and from pesticides that are already banned in the United States like chlordane and DDT.

These chemicals are dangerous. They accumulate in the flesh of the fish and in the bodies of the shellfish as they feed on the water's bottom. Only testing the waters or testing the fish can detect these dangerous chemicals. But only a small percentage of the fish is ever inspected.

Food safety concerns are having an impact on the seafood and fish products industry. After nearly 30 years of slow but steady growth in consumption of seafood and fish products, the industry now finds sales stagnating.

Lack of a Federal seafood inspection program also leaves our domestic fish and seafood products industry at a competitive disadvantage.

The United States is one of the few countries engaged in major fish and seafood commerce that doesn't have a national inspection program. Major seafood trading countries such as Canada, Norway, Iceland, and New Zealand already have such programs.

Madam Chairman, a mandatory Federal inspection program for fish and shellfish is supported by a broad coalition of consumer groups, food groups, and the seafood industry.

Let me name just a few in this coalition:

American Council on Consumer Awareness.
Public Voice for Food and Health Policy.
Association of Massachusetts Consumers.
Empire State Consumer Association.
American Seafood Institute.
Consumer Action (San Francisco).
National Aquaculture Association.
Boston Fisheries Association.
Georgia Consumer Center.
National Restaurant Association.
General Mills, Inc., owner of Red Lobster Seafood Restaurants.

S. 2924, the Fish Safety Act, is supported by these groups because it would establish a seafood inspection program today—one that

can begin to better protect American consumers than the current patchwork of programs.

They don't want hollow promises from the White House. They don't want more studies. They want to provide Americans with the assurance of safety and wholesomeness they deserve.

S. 2924 has already passed the Senate. It alone provides us with the opportunity to make seafood inspection a reality this year.

The single most important reason to vote for S. 2924 is that it allows us to use the expertise of three agencies which share an interest in protecting public health and ensuring the safety and wholesomeness of fish and seafood products.

First, S. 2924 provides USDA with the authority to inspect all seafood produced in the United States, as well as that from abroad. This is critical because 60 percent of the seafood Americans consume is imported from abroad.

Second, it keeps the Food and Drug Administration in charge—as it should be—of setting limits for chemical and microbiological contaminants.

And third, it continues the Commerce Department's authority to monitor harvesting and growing waters and to limit or restrict fishing, if necessary.

Madam Chairman, the Department of Agriculture is the best-equipped agency to do the inspection job we need to do. It has the personnel and it has the expertise that comes from more than 80 years of food safety activities.

Let no one kid you, implementation of a comprehensive seafood inspection program won't be easy. It will require money and it will require personnel.

Some disagee. Governor Sununu, in his letter to me in May, said:

The public health interests of the Nation would best be served by a modest but well-targeted expansion of the programs operated by FDA and NMFS.

Let's compare the resources of USDA and FDA.

The Department of Agriculture has a field staff of 7,600 food safety inspectors. Add to that USDA food scientists, you have a total of 9,400 full-time equivalent positions engaged in food safety activities.

By contrast, FDA has only 2,000 full-time equivalent positions. FDA simply does not have the personnel to do the job. In fact, according to GAO, FDA is severely understaffed to fulfill its current responsibilities.

Under its current authority, FDA does inspect seafood plants. But it's unlikely an inspector will walk through a plant's doors more than once every 4 years.

This fact becomes even more apparent when one looks at the intensity of food inspections by the two agencies.

USDA has 7,600 full-time equivalent inspectors for 6,900 plants.

FDA has only 500 full-time equivalent inspectors for 67,000 plants around the country.

Madam Chairman, USDA is the best choice as the lead inspection agency because it has the experience—and the manpower—to carry-out a comprehensive mandatory meat-type inspection program.

There has been some concern expressed that S. 2924 as passed by the Senate did not have a whistleblower protection clause.

The legislation now before us remedies that problem. Now that the House has approved the rule and its self-executing provision, S. 2924 contains an effective whistleblower protection clause—one that is in current law. In fact, it's the same whistleblower clause in the current Clean Air Act which our colleagues on the Energy and Commerce Committee developed.

Madam Chairman, the 101st Congress will end soon. We have had the hearings. We have heard from all the outside groups. We have had the markups.

S. 2924 takes the best of all the proposals and makes the best use of our available resources. Failure to pass S. 2924 leaves Federal seafood inspection dead in the water.

Let's give the President an opportunity to sign Federal seafood inspection legislation into law this year.

Vote against the Dingell/Studds substitute and vote for the Fish Safety Act of 1990.

Madam Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Madam Chairman, I yield 4½ minutes to the distinguished gentleman from Illinois [Mr. MADIGAN], the Republican leader of the Committee on Agriculture and the pride of Lincoln, IL.

Mr. MADIGAN. Madam Chairman, seldom is Congress presented with the opportunity before us today. We have broad agreement among consumer groups, the food industry, and the seafood industry that now is the time for mandatory Federal fish inspection. They also agree that S. 2924, the Mitchell-de la Garza bill, is the best vehicle to implement such a program. Though we are in the waning days of this session, we can put a fish inspection program into place if we act now.

Fish is becoming a greater part of the American diet every year. Passage of this bill will give the consuming public assurance that if they choose to eat fish, they can do so safely. S. 2924 will utilize the special expertise of three agencies to create a complete, integrated inspection structure.

Under the bill, the Food and Drug Administration would be responsible for setting food contaminant standards, as they are in all food inspection programs. The Department of Agriculture would perform the actual inspections and enforcement for all domestic and imported fish, as they already do for meat and poultry. The Department of Commerce would bring its special expertise to bear in monitoring and closing contaminated waters.

This system would play to the particular strengths and experience of all the relevant agencies. This is especially important with regard to the Agriculture Department which has decades of experience in inspecting meat. Agriculture would be able to build upon a huge existing network of food inspectors and international monitoring sites to put in place a functioning program without delay.

There is a substitute being offered today that would change the nature of the seafood inspection program. In fact, it would delay the overdue decision as to whether or not to even begin a full-scale fish inspection program. The substitute has been touted as being less expensive, but this is largely because it does not actually put a full program in place. The substitute attempts to place responsibility for fish inspection in the FDA, an already overworked, underfunded agency that is having extreme difficulty doing the work it is already assigned. This is not an agency that is prepared or capable of taking on major new responsibilities.

All of these things by themselves are sufficient and persuasive arguments against the substitute amendment. But there is another even more serious component of the substitute that makes it unacceptable. The substitute changes the basis of standard setting for the entire food supply. The standard for adulteration of food is changed in the Food, Drug and Cosmetics Act, the Meat Act, the Poultry Act, and the Egg Act are changed in a single page of text. The meat, poultry, and egg laws are not even within the jurisdiction of the committee proposing these changes.

The adulteration standards are the foundation of entire consumer food system in this country. These changes are being proposed without notice, hearings, or comment. No one knows whether these are appropriate changes or what effect they will have on food safety or the delivery of affordable, wholesome food to the consumer. It is almost certain that this kind of change would engender huge amounts of litigation that would keep the food system in turmoil for years.

The one thing we do know is that the provisions were so hastily drafted that it required a unanimous-consent request to prevent the substitute from eliminating any adulteration standard. The basis of protecting the public and making food available to the public is too important to be changed in so cavalier a manner. For this reason alone the substitute must be rejected.

Finally, there is no time remaining in this session to conference the many differences between the Mitchell-de la Garza bill, which has already passed the Senate, and the substitute amendment. If we are to have fish inspection this year you must reject the substitute and pass the Mitchell-de la Garza bill.

Mr. ROBERTS. Madam Chairman, I yield 2 minutes to the gentlewoman from Maine [Ms. SNOWE].

39-059 O—92-33 (Pt. 23)

Ms. SNOWE. Madam Chairman, I rise today in support of passage of S. 2924, the Fish Safety Act and urge my colleagues to join with me. This legislation represents one of the most important pieces of consumer legislation to be considered by the 101st Congress.

The need for S. 2924 cannot be understimated. Fish is the only flesh food that is not subjected to a mandatory and comprehensive food safety inspection program. Given recent incidents of food contamination and the increased awareness of the consumer regarding food wholesomeness, the need for seafood inspection could not be greater.

It is the need for an effective program that also causes me to be concerned about the substitute amendment. S. 2924 would establish the U.S. Department of Agriculture as the lead agency in a comprehensive and consistent seafood inspection program. The substitute would create an inspection program without a lead agency and without direction.

Let us consider some of the facts that clearly illustrate the qualifications of the USDA to administer a seafood inspection program. The USDA has 1,100 trained food inspectors. The Food and Drug Administration, the agency which would carry out inspections under the substitute, has only 300 inspectors.

The substitute does not address the needs and concerns of both consumers and the fish industry. There would be an 19-month lag before a comprehensive inspection plan would even be proposed, let alone implemented. We need an inspection program now, not 2 years from now.

In my own State of Maine, the Associated Fisheries of Maine have indicated their clear support for a fish inspection program run by the U.S. Department of Agriculture. The industry recognizes the clear order in which authority would be delegated to the various responsible agencies. They agree that the Food and Drug Administration should establish food safety standards while the Department of Commerce would retain its authority to manage fisheries.

Maine's fishermen have worked to develop their own voluntary system of seafood inspection, but remain convinced that the industry and the consumer will be best served by a national, mandatory system of fish inspection, S. 2924 retains the ability of States to develop and implement their own, more stringent, inspection programs.

I am proud of the accomplishments of Maine's fishing industry. These men and women have earned a reputation for fierce determination and proud independence in pursuit of their trade. They are truly an inspiration to all of us.

Our action today will demonstrate our commitment to the fishing industry and to the health and safety of consumers. S. 2946 establishes a system of inspection that will ensure the quality of fish and seafood.

Madam Chairman, consumers have become increasingly concerned about the wholesomeness and safety of the food they consume. Certainly, recent events have caused the public to carefully evaluate their buying habits. In addition, concerns about pollution of our aquatic and marine environments have helped to fuel skepticism toward fish and seafood.

A comprehensive inspection program that allays the fears of the consumers and the needs of industry is necessary. S. 2924 accomplishes this difficult task. I urge my colleagues to support this legislation.

Mr. ROBERTS. Madam Chairman, I thank the gentlewoman from Maine for her contribution.

Madam Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Madam Chairman, I rise in support of the bill before the House of Representatives, the Fish Safety Act of 1990. This bill, offered by the chairman of the Committee on Agriculture, the gentleman from Texas, is a comprehensive bill establishing a mandatory Federal inspection program for seafood.

This is legislation designed to protect the public health, assist States in improving water and fish quality, and improve the public confidence in the safety of fish—by ensuring a more wholesome product and training and educating people in the handling and the preparation of fish.

Currently, all flesh food, with the exception of fish, is subject to a mandatory inspection program operated by the U.S. Department of Agriculture. This bill continues with the expertise of USDA in the inspection of fish. The USDA already inspects all other meats: red meat, pork and poultry. Inspection policies, regulatory practices, label approval, enforcement, and import regulation applicable to meat would be established by the same department, with the established expertise, for fish.

USDA has been in the meat and poultry inspection business for over 80 years; with over 9,000 employees who are experts in food safety and provide daily, on-site inspection in the United States. It is logical to use the expertise of this Department for a mandatory fish inspection program. Let us not try to reinvent the wheel, especially in this time of budget constraints.

The de la Garza bill makes the best use of all three agencies involved in food inspections. The Food and Drug Administration sets the contaminant standards; USDA will do the inspections for domestic, imported, and exported seafood; and the Commerce Department will monitor contaminated waters. This bill takes the expertise of the Federal agencies and puts it to the best use.

It is important to have a seafood inspection bill this year. The bill offered by the gentleman from Texas is the one means by which this can be accomplished.

I urge my colleagues to support passage of the Fish Safety Act of 1990.

□ 1410

Mr. ROBERTS. Madam Chairman, I wish to thank the gentleman from Missouri [Mr. EMERSON] for his most pertinent testimony in regard to this bill.

Madam Chairman, I reserve the balance of my time.

Mr. TAUZIN. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, today I rise to speak on the importance of providing safe and healthy seafood to the consumers of America. As the Representative from Louisiana, I come from one the largest harvesting areas in the United States. Louisiana is the second largest producer, and in 1989 landed 1.2 billion pounds with a dockside value of more than $272 million. We are the No. 1 producer of shrimp, crawfish, oysters, tuna, and blue crab with over 500 companies involved in processing and wholesaling seafood in the State. Therefore, I strongly believe we must approach seafood inspection in the most efficient and effective way.

As we know, seafood consumption has shown a significant growth over the past 10 years. During this time, imports have rapidly expanded to about 65 percent of the seafood consumed in the United States. In recent years, we have seen the increase concern about the hazards of consuming spoiled or contaminated seafood. With the help of NOAA, FDA, and other agencies, we have been able to attribute over 90 percent of the reported illneses to three specific areas. They are microbial pathogens in raw shellfish, ciguatoxin and scrombrotoxin in finfish.

Only the Dingell-Studds substitute, which we will debate today, targets those three primary health hazards.

The consumer deserves the right of our Government to immediately address these concerns, and educate them on the safety factors of consuming seafood.

Today, we will debate S. 2924, and the substitute amendment crafted by the Energy and Commerce and Merchant Marine and Fisheries Committees, and we will again, have a chance to choose between an inspection program that we believe will work, and properly target those health hazards,

and one that we think will prove inadequate.

S. 2924 moves the normal and current seafood inspection program to the Department of Agriculture. This is despite the fact that the administration opposes such a change. It also develops a major comprehensive national seafood inspection program that is general rather than specific in addressing the safety issues. This bill will cost the taxpayer over $334 million through 1995 from a department with no expertise in seafood inspection.

The substitute, however, directs NOAA and FDA to immediately address the health threats through the establishment of tough standards in order to protect the consumer from contaminated seafood. It also spends only $15 million, which is what the agencies believe is needed to carry out the authority. This will help the problems with raw shellfish. With these tough standards, we are able to protect the consumer from imports since they will be subject to the same strenuous standards.

Madam Chairman, let me point out that imports account for over 60 percent of the seafood consumed in America. Only the substitute targets these imports, and especially targets imported shellfish, which happens to be the problem where the principal health concern is centered.

In the midst of these awful budget negotiations, we simply ought to look seriously at the programs we develop and provide our constituents with the best benefits for the dollars we spend here in the Federal Government. Therefore, I urge my colleagues, take a good hard look at what will be offered as a proper seafood inspection program, and indeed support the Dingell-Studds substitute.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. LENT].

Mr. LENT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in opposition to this legislation, S. 2924.

I support seafood inspection, but not as envisioned by this legislation in its present form. An improved seafood inspection program in this country is essential to insure public confidence in our food supply. Despite the fact that all meat and poultry is now inspected, a similar comprehensive policy has not been put in place for seafood, and it ought to be.

Currently, the Food and Drug Administration and the National Oceanic and Atmospheric Administration [NOAA] have in place, seafood inspection programs. True, they are limited, but they do exist partially on a voluntary basis, partially funded by user fees; so therefore, a program as comprehensive as that for meat and poultry merely requires expanding the current process, not transferring it to another agency.

That is why the administration has issued a letter concerning this legislation, it is dated October 17, 1990, and it says:

> The Administration continue to believe that overall responsibility for seafood safety should remain with the FDA, an agency of the Department of Health and Human Services, and NOAA, an agency of the Department of Commerce. The President's FY 1991 Budget includes an increase for the Federal seafood inspection program directed toward those agencies.

Further quoting this statement from the administration, it says:

> NOAA is the only Federal agency authorized to control fishing activities of vessels in Federal waters and has closed those waters to harvesting when a FDA tolerance for a contaminant in shellfish has been exceeded. NOAA has an unsurpassed knowledge of fishing vessels and acceptability of catch. Like FDA, NOAA has experience in inspecting seafood processors under its current voluntary program.

So therefore, Madam Chairman, transferring the seafood inspection program would not improve seafood safety, and would be a waste of resources. It has been estimated that the USDA would have to hire up to 2,000 new inspectors at a cost of up to $100 million.

Mr. DE LA GARZA. Madam Chairman, will the gentleman yield?

Mr. LENT. I am happy to yield to the gentleman from Texas.

Mr. DE LA GARZA. Madam Chairman, may I ask the gentleman, who in the administration sent that letter? Who is it signed by?

Mr. LENT. This is an Office of Management and Budget letter, dated October 17, 1990. I would be glad to give the gentleman a copy.

Mr. DE LA GARZA. Madam Chairman, if the gentleman will yield further, I just wondered what signature was on it.

Mr. LENT. It would not be usual for there to be a signature. This is a statement of administration policy.

Mr. DE LA GARZA. That would be Mr. Darman from the OMB, I guess.

Mr. LENT. As I indicated to the gentleman it definitely comes from the OMB.

Mr. DINGELL. Madam Chairman, will the gentleman yield?

Mr. LENT. I am happy to yield to the gentleman from Michigan.

□ 1420

Mr. DINGELL. Madam Chairman, I would be delighted to make a copy of this letter available to the gentleman from Texas [Mr. DE LA GARZA]. It is signed by Robert Mosbacher, Secretary, Department of Commerce; Louis Sullivan, M.D., Secretary of Health and Human Services; and John H. Sununu, Chief of Staff to the President. And it says there will be a veto of this bill if the basic bill S. 2924 is passed.

Mr. LENT. Madam Chairman, I thank the gentleman for that very important contribution.

Madam Chairman, in conclusion, the President's 1991 budget requested $14 million to expand the current program at FDA and NOAA. In addition, S. 2924 would not be fully implemented for 5 years. This surely would not be in the interest of consumer safety.

So that unless a substitute to be offered by the gentleman from Michigan [Mr. DINGELL] and the gentleman from Massachusetts [Mr. STUDDS] is adopted today, this bill should be defeated.

Madam Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the House will soon be asked to make a choice between two different approaches to the issue of mandatory seafood inspection. The Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce will offer a substitute that concentrates on the most serious potential threats to the public health posed by uninspected seafood; the Committee on Agriculture favors a more general approach. The joint committee substitute would cost an estimated $15 million per year. The Committee on Agriculture's bill would cost taxpayers 10 times that amount.

Despite these differences, there is one issue on which we do agree. We both want to protect the public from unsafe seafood. And both the bill and the substitute would do so.

We know, after 2 years of hearings and countless meetings of a less formal nature, that the overwhelming majority of seafood-related illnesses stem from one of three problems: First, viral or bacterial illnesses resulting from the consumption of raw shellfish harvested from polluted waters; second, tropical reef fish poisoning, also called ciguatera; and third, iscombroid fish poisoning which results from improper handling of fish on fishing vessels. Of these, by far the greatest problems are related to the consumption of raw shellfish.

The substitute proposed by the Merchant Marine and Fisheries Committee and the Energy and Commerce Committee is based on the simple reasoning that we ought to concentrate our greatest energy and resources on the primary cause of the problem, which is the harvesting of fish and shellfish from polluted waters. That is why our proposal—unlike the Agriculture Committee bill—is specifically aimed at establishing and enforcing

strict standards that will prevent this from occurring.

The joint committee substitute builds on the work that has already been done by the States, the FDA, EPA, and others to determine what waters are safe and what waters are not safe. Unlike the Agriculture Committee bill, which would ignore this work and waste already scarce resources to reinvent the wheel, our proposal would recognize and continue programs that are at least as strong as the proposed Federal regime.

In addition, our proposal would allow each Federal agency involved to continue doing what it does best; we would continue to make use of the public health expertise within the FDA; the knowledge of fisheries within NOAA; and, potentially, the experience conducting inspections of the Department of Agriculture. The Agriculture bill, on the other hand, would uproot the entire Federal regulatory structure for seafood/and transfer responsibility for the entire program to the Department of Agriculture, an approach that is strongly opposed by the administration, consumers, labor, and fishing industry groups and that would strain Agriculture Department resources to—and beyond—their breaking point. Putting all fish inspection activities in the Department of Agriculture would mean a weakening of an already overburdened inspection program for meat and poultry.

And that brings up what is really the central issue in this debate. Money.

We have spent a great deal of time in recent days discussing that issue in this body. We have talked about new taxes, about cuts in defense and Medicare and farm programs and virtually everything else. The experts are unanimous that we should respond to what is a limited, relatively narrow health problem associated with certain kinds of fish and shellfish harvested from certain kinds of waters. I cannot believe that we will vote today to approve an added annual expenditure of $150 million we don't have to solve a problem that—with these limited exceptions—barely exists. Whatever your perspective on the various budget packages we have been considering, that kind of new expenditure at this time simply make no sense.

It is important to understand, moreover, that by voting for the substitute, the House will not be foreclosing the possibility of moving to the more elaborate approach recommended by the Agriculture Committee at a future time. Our proposal requires the President to come back to Congress with a plan that would use the personnel and expertise of all three agencies. All we are saying is that we should do the most important things first; that we should be careful with limited dollars we have; and that we should not set up a whole new federal bureaucracy unless we are sure we need it.

Members will hear a lot of statistics thrown around today. I don't have to tell any of you what can be done with statistics. But to me the most telling information is that provided by the experts in the field, the Food and Drug Administration and the Centers for Disease Control. And that information is that you have one chance in 25,000 of getting sick after eating a serving of chicken; one chance in 5,000,000 of getting sick after a serving of fish—other than shellfish.

So I ask you to do what is so rarely done in this body. Vote for efficiency. Vote for common sense. Vote for the substitute offered jointly by the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce.

Madam Chairman, if I may, one additional observation with respect to statistics: The distinguished chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA], brought his charts to the floor demonstrating the statistics based on outbreaks of illness, amongst various foods. The key word there is "outbreak."

An outbreak can involve 1 person, an outbreak can involve 1,000 people. We happen to know these statistics. The FDA, in testifying before our committee on precisely this subject and referencing precisely the charts shown a moment ago by the gentleman from Texas, pointed out that outbreaks are not what matter, it is the number of illnesses that matter.

The number of illnesses per outbreak in foods other than seafoods is 53; the number of illnesses per outbreak with all seafood is 11; the number of illnesses per outbreak with finfish is 7.

At the risk of hopelessly throwing numbers around here, let me observe that the real problem is raw molluskan shellfish.

Now, raw molluskan shellfish account for one-tenth of 1 percent of the fish we consume, that is all. But they account for 95 percent of all the illnesses associated with eating fish. That, I suggest, Madam Chairman, is the heart of the problem to which the substitute is directed and on which is not even met by definition by the Committee on Agriculture.

Madam Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Madam Chairman, as you might guess, I am not in favor of this bill. I think it needs a little bit of improvement.

Before we talk about the improvements, however, let's look at some of the facts.

I have served for a long time with my colleague, the chairman of the Agriculture Committee, Mr. DE LA GARZA. We served together for many years on the Committee on Merchant Marine and Fisheries. Mr. DE LA GARZA is a strong defender of the shrimp industry in his State. I have voted with him time and again in support of that shrimp industry. I therefore find it very confusing to have him stand on the floor of the House today and tell us that the shrimp produced by his fishermen and his processors are going to make us sick and maybe even kill us.

I ask my colleague, how can that be? All of these years we've voted together to help the American fishing industry and now you're telling us that the fishing industry we are supporting is producing fish that will make us sick.

Maybe my colleague exaggerates a bit. Can fish make you sick? Sure it can. So can rice, so can corn so can beef, so can chicken. In fact, according to testimony received at our committee's hearings, chicken is 7 to 11 times more likely to make you ill than seafood, and chicken is 2 to 8 times more likely to result in death than seafood.

Now that's a terrible problem, and I'm sure that my colleagues on the Committee on Agriculture want to address it. But, unfortunately, they are not. Rather than pushing for more inspectors for chicken, for higher standards for chicken and beef, they are asking you to vote in favor of a $354 million program to inspect seafood that is not going to make you sick.

Can you believe that? At this time when we are fighting over how best to reduce the deficit that is plaguing our country, the Committee on Agriculture wants you to spend $354 million more in the next 5 years and $100 million each and every year after that to inspect seafood that doesn't make you sick. Why do they want to do that? Well, if you listen to the National Cattlemen's Association, "We think that a fish inspection program should be comparable to the same standards and procedures that are applied to meat and poultry." Do you know what that means? I'll tell you what it means. They want you to spend your constituents' money to make seafood as unsafe as chicken.

Now what else are they telling us? They say that the Department of Agriculture has the knowledge to inspect seafood and it has the personnel to inspect seafood. Once again, I hate to disagree with my good friend from Texas, but they don't. According to the Department of Agriculture, they would need 1,100 new inspectors to properly carry out a seafood inspection program.

There are 1,100 new inspectors. That is a lot of people. Now I know that we are all interested in creating jobs, but

do we really wish to create a whole new Federal bureaucracy to inspect fish that isn't going to make you sick? Do we need to create a Federal bureaucracy that—in personnel costs alone—will mean spending over $48 million every year? Why aren't we spending this money inspecting the chicken that's going to kill you instead of talking about inspecting the fish that's not going to hurt you?

What's going on here is that the Department of Agriculture, aided by its constituent groups, is trying to expand its jurisdiction into an area in which it has no knowledge and no personnel. That's what we are talking about here. We're talking about a fight over jurisdiction among departments of the Federal Government.

Now let's be realistic. I want to protect the public health as much as my colleague from the State of Texas and, like my colleague from the State of Texas, I know that his shrimp fishermen aren't causing the problem. What causes the problem is raw shellfish, and certain fish from warm water areas. Those are the things that make people sick and those are the things that need to be inspected and need to be kept off the market.

Mr. Chairman, my colleagues and I will be offering a substitute amendment which addresses these problems. It puts in place a national shellfish safety program, relying on the experts in NOAA and FDA as well as the State programs. It bans foreign shellfish from our markets unless that shellfish meets standards equivalent to the United States. It establishes new standards to protect the public health from contamination. It allows the Government to close down polluted waters so that people will not get sick from eating contaminated fish.

Mr. Chairman, that's the program that is needed. We don't need a $354 million, budget-busting, Federal bureaucracy inspecting fish that isn't going to hurt you, just to satisfy the Department of Argiculture. We don't need to spend over four times what the Coast Guard spends on boating safety every year just to satisfy the National Cattlemen's Association. I urge Members to reject the Senate bill and adopt the committee substitute.

□ 1430

First, it should never be before us. It should be a House bill. It should be the Ag bill. Then we can substitute. Why we are addressing the Senate bill, Madam Chairman, I do not know. I do not know where the leadership of this House was. We should defend this House. We have not done that. That was a rule of this House. They voted for a rule that should never pass. But, if it has passed, then the committee substitute should be adopted.

Mr. STUDDS. Madam Chairman, would the gentleman yield?

MR. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Madam Chairman, would the gentleman from Alaska [Mr. YOUNG] think it might be advisable for the Committee on Merchant Marine and Fisheries to devise a soybean program?

Mr. YOUNG of Alaska. Madam Chairman, I think we ought to get involved in soybeans and cattle inspection, too, while we are at it.

Mr. STUDDS. How does the gentleman think we would do with cotton and tobacco?

Mr. YOUNG of Alaska. Madam Chairman, I think we would do well with cotton and tobacco. It has a great relation with fish. I mean, when my colleagues think about it, we might as well all do this together, if we are going to do it.

Mr. STUDDS. Madam Chairman, if the gentleman will continue to yield, as the gentleman has pointed out, it is a closed rule, and we do not have time to devise the necessary amendments to do that.

Let me for the benefit, if I may, of out Members who may not have yet had lunch, give them some FDA statistics very briefly.

I say to my colleagues, "If you're thinking of eating chicken, there is one illness per 25,000 servings. If you're thinking of eating finfish, there is one illness per 5 million servings, If you're thinking of eating raw shellfish, there is one illness per 250 servings."

Mr. YOUNG of Alaska. Madam Chairman, that is the problem we can address in the substitute. We do not need the Senate bill. Let us adopt the substititue offered by the gentleman from Michigan, the substitute supported by the chairman, the gentleman from North Carolina [Mr. JONES], and the gentleman from Massachusetts [Mr. STUDDS] and myself.

Mr. DE LA GARZA. Madam Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Madam Chairman, I thank the distinguished gentleman from Alaska [Mr. YOUNG], my friend, for yielding; and, one, I do not believe his figures. I do not know where he got his figures. It is not $350-some million.

Mr. YOUNG of Alaska. The money figures are the authorization in the bill. I say to the gentleman, it's your bill.

Mr. DE LA GARZA. Madam Chairman, we do not have those figures.

Second, my seafood, basically shrimp, people ask me for a Federal mandatory seafood inspection. That is where I am coming from. The shrimp industry requested it.

Then also to the surprise——

Mr. YOUNG of Alaska. Reclaiming my time, Madam Chairman, I have the information. Apparently we are not on the same wave length. The Texas Shrimp Association supports our substitute, not his substitute. Not the Senate bill. In fact, they are opposed to the Senate bill.

Mr. DE LA GARZA. Madam Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Texas

Mr. DE LA GARZA. Madam Chairman, my shrimpers in my district asked me.

Now, surprise of all surprise, because of soybean and all of the other things, and I thank my distinguished friend for yielding, but, surprise of all surprise. Food safety inspection service involvement in fish inspection has been increasing. That is in the Department of Agriculture. Between fiscal 1990 and 1991, the amount of money transferred from Commerce to the USDA for fish inspection has more than doubled. USDA is doing the inspection for Commerce. They are contracting it out to USDA. The gentleman from Alaska [Mr. YOUNG] does not have that information.

Mr. YOUNG of Alaska. Madam Chairman, reclaiming my time, I want to refer to page 87 of the Senate bill, section 1927, authorization of appropriations. It appropriates $14 million, $40 million, $80 million, and $100 million. It totals up to $354 million, and that is in this bill for fish, and it does not make you sick. For fish. That is in the Senate bill which the gentleman is promoting. It does not make anyone sick. We are going to spend that much more money supposedly for something that does not make us sick we are trying to balance the budget.

Madam Chairman, if we want to inspect the shellfish, I am all for that. Anybody that eats raw clams, it ought to be suggested that they have a little problem. But, very frankly, to say that we have to have this program under the Department of Agriculture to create this new bureaucracy of 1,100 new employees is wrong.

Mr. DE LA GARZA. Madam Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. Just for a second.

Mr. DE LA GARZA. Madam Chairman, I told the gentleman from Alaska [Mr. YOUNG] USDA is contracting to do the inspection for Commerce, and the figures from CBO are 13, 38, 71, 83, 82 between now and 1995, per year. We do not have a figure for—there never was a hearing on this substitute. They had seafood inspection or seafood hearings, so did we, but we do not know what it is going to cost. It is going to be what Mr. Sununu says it is going to cost, and that is what it is going to be.

Mr. YOUNG of Alaska. Reclaiming my time, Madam Chairman, we had 2 years of hearings on this issue. We

worked on this legislation. The reason, very frankly, the substitute that we are not having a hearing on, very honestly, is because we had a closed rule. We could offer our side.

The rule, the rule was wrong.

Madam Chairman, I am suggesting that, if we want good food inspection for fish, shellfish specifically, then we adopt this substitute, do not create this monstrous new government expenditure program, and the public will have their safe fish. That is all I am suggesting.

Madam Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Madam Chairman, I reserve the balance of my time.

Mr. ROBERTS. Madam Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. LANCASTER], a most valued member of the Committee on Agriculture.

□ 1440

Mr. LANCASTER. Madam Chairman, I rise in opposition to the substitute amendment and in support of the bill.

Madam Chairman, there are several important differences between the two different proposals which I believe make S. 2924 the superior version of this legislation and I urge my colleagues to support the recommendation of the Agriculture Committee.

First, for all my colleagues from Coastal States, the amendment opens the door to real conflict between fishermen and the Federal Government. Specifically, the amendment gives the Commerce Department authority to prescribe regulations establishing standards concerning the handling, storage, and transportation of fish and fish products on board fishing vessels. This provision is unnecessary. If the new inspection program will cover all fish and fish products, as mandated by the Agriculture Committee bill, then we simply have no need to unleash the Commerce Department on our fishermen. If a fisherman knows that his product must meet certain standards once the catch is unloaded on the dock, then there is no reason to harass him while he is trying to conduct his fishing operations.

Fishermen are some of the most independent-minded individuals in this country. They work long hours in a dangerous environment. The last thing they need is some guy from the Commerce Department boarding their boat with the stated intention of enforcing these new regulations, thereby stopping all productive work. Again, these regulations are simply not needed. If the product does not meet the appropriate standards when inspected during its processing, then the consumer will still be protected, and that is the point of this exercise. Please lets not create any more unnecessary bureaucracy.

My second point concerns the provision in the substitute that would change the definition of adulteration under the food and drug law. Why in a bill that purports to establish a seafood inspection program are we changing the standards that would also apply to meat, poultry, and eggs? And, it is unclear to me exactly what the new standard means. It seems to me that we are asking for a tremendous amount of new litigation over this change in existing law. If these standards need to be rewritten, it should only be done after a complete opportunity for hearings and public comment.

There are certainly other good arguments to oppose this amendment and support the bill written by the Committee on Agriculture. However, for the two reasons I have discussed in this statement, I ask my colleagues to reject the substitute and support passage of S. 2924. Of the two, it is the only proposal that actually establishes a complete seafood inspection program on enactment of the bill.

Mr. ROBERTS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of this bill. The gentleman from Massachusetts [Mr. STUDDS] is exactly right: We need fish inspection, and we do have a choice. It seems to me that some toes are getting apparently rather red and sensitized here as we go through this surf-and-turf fight in regard to jurisdiction.

Madam Chairman, we have talked about costs. The costs seem to be the difference between an estimated $354 million, and that is with an M, not a B—it is very rare we talk about millions instead of billions in this town—$15 million.

Let me say, if you have a program for fish inspection at $15 million a year, you will not have a fish inspection program. You will have, as the gentleman from Massachusetts [Mr. STUDDS] has said, and the gentleman from Alaska [Mr. YOUNG], a program for inspection for shellfish.

Being from Kansas, from Dodge City, I do not know why people eat shellfish to begin with, but if that is the problem, fine, we should inspect them. But you also need a comprehensive fish inspection program for all fish, and $15 million is not going to cut it.

Second, there has been a lot of talk about the number of inspectors. We have 7,000 inspectors in the USDA, and another 1,200 medical experts who will do the inspecting. We will let the FDA do its work and, yes, we will need new inspectors. You do not have inspectors for your program. All you have is a shellfish program. You will need inspectors to do the kind of program that we need, or you will have an inspection program by lawsuit.

Pick up existing FDA statutes, and that is how you enforce this program. The gentleman from Alaska [Mr. Young] will have inspection of his fish in that area by lawsuit, by the very people that he does not want to bring those lawsuits.

Madam Chairman, this is a good, comprehensive bill. You do have a choice. It is the difference, as I say, between a comprehensive fish inspection program that we need for the entire fishing industry. The gentleman from Texas is exactly right. They came to us, they came to the Committee on Agriculture, and they said they wanted a fish inspection program.

Madam Chairman, that is what we have. That is the bill we should support.

Mr. TAUZIN. Madam Chairman, I yield 3½ minutes to the distinguished gentleman from New York [Mr. WEISS].

Mr. WEISS. Madam Chairman, I rise to urge support of the substitute bill offered by the Merchant Marine, and Energy and Commerce Committees. That bill places the Federal Fish Inspection Program in the Food and Drug Administration, the agency that will in my judgment do the best job of protecting consumers from unsafe fish.

I do not sit on any of the committees that have legislative jurisdiction over fish inspection. Instead, I offer my views based on 14 years of service on the Committee on Government Operations. For the last 8 of those years I have had the privilege of serving as chair of the Human Resources and Intergovernmental Relations Subcommittee.

My subcommittee has conducted extensive oversight of both the Food and Drug Administration and the U.S. Department of Agriculture. One of these agencies will be given primary responsibility for conducting Federal inspection of fish. The overwhelming weight of the evidence I have seen favors placing the program at FDA.

FDA and USDA have one fundamental difference in their statutory duties under the law. FDA is designed to be only a public health agency. Its sole mission is to protect the health of Americans. USDA, by contrast, has the conflicting responsibilities of both promoting consumption of meat and poultry while, at the same time, regulating the safety of those foods. This inherent conflict at USDA often forces public health considerations to compete with industry concerns to a degree that simply is not present at FDA.

Last year, my subcommittee held a hearing to review USDA's inspection program for meat and poultry processing plants. At the urging of the industries it regulates, USDA was plunging ahead with plans to gut its inspection

program. Ignoring the pleas of consumer groups and Government inspectors, USDA was attempting to cut the Federal inspection work force in half while turning over major inspection responsibilities to the companies themselves—a clear case of USDA actively promoting a fox guarding the chicken coop program that would have made meat and poultry less safe.

Our hearing identified massive problems with USDA's inspection of processing plants, problems which still persist today. Other USDA inspection programs have also come under fire. For example, the National Academy of Sciences [NAS] recently issued a report that was highly critical of USDA's cattle slaughter inspection program. The NAS concluded that, as far as food safety is concerned, USDA's new plan for cattle inspection is not better, and in some situations, less effective than its current program.

An agency that has so many problems inspecting those foods under its current statutory authority, should not be entrusted with additional inspection responsibilities. Yet, the Senate fish inspection bill before us today would do just that. It gives lead fish inspection responsibilities to USDA. For these reasons, I can only support a plan that gives primary fish inspection duties to the Food and Drug Administration.

The other reasons I support the Merchant Marine Energy and Commerce substitute is its strong whistleblower protection provisions. Whatever Federal Fish Inspection Program we adopt must protect corporate whistleblowers to the fullest extent of the law. These company employees are the eyes and ears for the Federal inspectors when the Federal inspector is not in the plant.

The substitute bill contains language that is modeled on the Whistleblower Protection Act of 1989. The Senate bill has a much weaker whistleblower provision taken from the Clean Air Act. No whistleblower has won a case under that act since 1984. Blowing the whistle under the law is tantamount to committing professional suicide. By contrast, whistleblowers stand about a 1-in-3 chance of winning a case under the Whistleblower Protection Act of 1989. At least these are odds that may be worth taking.

I will vote for the substitute because it will do the best job of protecting consumers from unsafe fish and protecting corporate whistleblowers who call attention to safety problems at their plants. I urge Members to join with me in supporting the substitute.

Mr. TAUZIN. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. CONYERS].

□ 1450

Mr. CONYERS. Madam Chairman, I rise in opposition to S. 2924, the Fish Safety Act of 1990, and instead in support of the Dingell-Waxman substitute.

S. 2924 would make a radical change in the way the Federal Government inspects one of our most important and most commonly eaten foods: Seafood.

It would transfer the primary responsibility for seafood inspection from the Food and Drug Administration [FDA] and the National Oceanic and Atmospheric Administration [NOAA] to the U.S. Department of Agriculture [USDA], a change which could seriously roll back the safety standards for our seafood. Of course, it is no secret that USDA has done an exceedingly poor job in inspecting the Nation's meat which it is chartered to do under current law.

The establishment of a new seafood inspection program within the USDA should involve a critical analysis of the overall efficiency and effectiveness of the operations of this new program. The transfer proposed in S. 2924 would reorganize agency oversight responsibility for seafood safety and would require the hiring of new personnel, creating potential huge costs to the Federal Government in return for fewer protections for our edible seafood. The USDA has no experience or expertise in seafood inspections. The Government Operations Committee, which has jurisdiction over such reorganizations as this, has not had adequate time to consider the merits of the transfer.

During the past several decades, there has been an explosion of diseases such as cancer, hepatitis, and parasite-inflicted disorders that are caused to some extent by the contaminants that we ingest in the air, our water and food. Something as vital to our every-day health as the safety of seafood, should be entrusted to the agency that can most effectively protect the Nation's health.

The Merchant Marine and Energy and Commerce Committees have developed a compromise bill that would strengthen and monitor the quality of our Nation's seafood consumption standards and would keep seafood inspection entrusted to FDA and NOAA. I urge rejection of S. 2924 and support of the Dingell-Waxman substitute.

Mr. STUDDS. Madam Chairman, I yield 2 minutes to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Madam Chairman, I rise in support of the House substitute to the Fish Safety Act of 1990, S. 2924. The House Committees on Merchant Marine and Fisheries and Energy and Commerce have thoroughly reviewed the issue of seafood inspection. There is obviously broad agreement on the need to improve seafood inspection. However, which administrative agency should implement such a comprehensive seafood inspection program remains the question. The House committees with jurisdiction have agreed on a reliable inspection plan, placing enforcement responsibility with both the Food and Drug Administration and the National Oceanic and Atmospheric Administration. These agencies currently operate a seafood safety program in conjunction with States and foreign countries.

The House substitute to this important bill more adequately meets the health and safety needs of seafood consumers and places the most qualified agencies in charge. In addition, the committee substitute does the most effective job for the least amount of taxpayer dollars, about one-tenth as much. I urge my colleagues to support the Dingell-Studds substitute to the Fish Safety Act of 1990. It is the fiscally responsible thing to do, and in the best interest for the safety of all Americans.

Mr. STUDDS. Madam Chairman, I yield 4 minutes to the gentleman from Washington, Mr. SWIFT.

Mr. SWIFT. Madam Chairman, obviously coming from a coastal area I have seafood interests in my district. But I also have a lot of chickens grown there, and a large dairy area, and they have some interests, so I am probably not going to make any friends on this vote no matter what I do.

But if the gentleman from Massachusetts would be kind enough to enter into a colloquy with me, I heard the gentleman use some figures in the debate a moment ago, and I was wondering if I could have heard correctly when the gentleman compared the number of illnesses from servings of chicken compared with finfish and then compared with shellfish. Could the gentleman give me those figures again?

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Madam Chairman, I appreciate the gentleman asking for clarification, or rather reexposition I guess is the word. Let me say to the gentleman I think these are the most meaningful and easiest to comprehend statistics. When one speaks of outbreaks and other things one obfuscates the real numbers.

The number of illnesses per serving is the way one can assess the relative risk of foods, and to respond directly to the question of the gentleman with respect to finfish, fish other than shellfish, there is one illness per 5 million servings. With respect to chicken, there is 1 illness per 25,000 servings, and with respect to raw shellfish there is 1 illness for every 250 servings.

Mr. SWIFT. I thank the gentleman because the number 250 in mathematics is easy, and even someone as bad as I am can conclude rather easily from those figures that what you are saying is that it is 200 times safer to eat finfish than it is to eat chicken, but it is 20,000 times safer to eat finfish then it is shellfish, raw shellfish, which would lead us as policymakers to the conclusion that the focus should be on shellfish, would it now?

Mr. STUDDS. Precisely.

Mr. SWIFT. Could the gentleman also tell me about the legislation before us; does it focus on shellfish?

Mr. STUDDS. The response to the gentleman's question is that the substitute of the gentleman from Michigan and myself on behalf of our respective committees focuses initially on the problem, which is to say on raw shellfish. In addition to that, it directs the administration within 18 months to present recommendations to the Congress with respect to the rest of the universe; namely, finfish. At that time we could take a look, and it may well be they would recommend something analogous to the proposal of the Committee on Agriculture, and at that time the Congress would have an opportunity to look at that, to assess it, and to assess the cost and its needs. At this point, as the figures reelicited by the gentleman clearly show, the overwhelming need with respect to public safety is in the field of raw shellfish, and that is precisely what the substitute addresses.

Mr. SWIFT. So the substitute addresses the problem where it is most critical. The basic bill that is before us does not focus on shellfish.

Mr. STUDDS. The basic bill, the Senate bill or the agriculture bill has an enormous program with respect to all fish. It makes no distinction between finfish and shellfish. It does not even have a definition of shellfish.

I would say to the gentleman that if one is looking at processing and handling, whether it is of poultry, meat or finfish, that is one thing. No one processes shellfish. They grow quietly, so far as we know, quietly in the water under the subsurface. It is in process, it is harvested and eaten, and hence the danger.

Mr. SWIFT. So the choice we have here is to go with the proposal that says we are going to spend this money and we are going to do that on something that will cause you a 1 in 5 million versus focusing this on something where you have a 1 in 250 change of getting ill, and the choice here really is whether we are going to take a shotgun at this and waste the money on a 1 in 5 million chance, or whether we are going to focus on the 1 in 250 chance and spend those dollars where they are really going to have results in terms of public health.

Mr. STUDDS. The gentleman is correct. The shotgun is not the recommended approach to fish.

Mr. YOUNG of Alaska. Madam Chairman, I yield 5 minute to the gentleman from New Jersey, Mr. SAXTON.

Mr. SAXTON. I thank the gentleman for yielding the time.

Last evening we spent some time here on the floor debating a bill under suspension of the rules that had to do with coastal waters, that many of us here represent, and the thrust of that bill was to create national standards by which we could measure the degree of dirtienss in the waters. Ladies and gentleman, those are the same waters that shellfish grow in, and that bill last night passed by an overwhelming vote. So I do not think anybody here this afternoon is here to debate whether or not we need a shellfish, seafood inspection program. The question here is what kind do we need.

While we were debating that bill last night, we were debating another bill, off the floor: how we going to balance our budget, we asked ourselves. And we are still debating that bill, and I am told that we are going to debate that issue until 4 o'clock this morning, or else that Government is going to shut down.

There are two ways to do this job. One way is to spend $70 million a year to do it, and the other way is to spend $15 million a year to do it. I cannot imagine anybody, any single Member of this House, knowing that the job can be done at least equally well both ways, wanting to spend $70 million a year, which incidentally grows into $100 million a year after 5 years, to do the job.

□ 1500

Second, the job can be done, and we can look at it in another way. Currently the Federal Government through various agencies is conducting this task through the Food and Drug Administration, through the National Oceanic and Atmospheric Administration, through the National Marine Fisheries Service, the Centers for Disease Control, the U.S. Fish and Wildlife Service, and the U.S. Geological Survey, all have parts of this program, and those bureaucracies are all in place.

We are now asked to spend $70 million which grows into $100 million a year to create a brand new bureaucracy to do the job that we are already doing.

Madam Chairman, I think I speak for most Members of this House when we say there is a right way and a wrong way to do things; there is an expensive way and a less expensive way. There is a way that makes sense, and there is a way that does not make sense.

I am here to say today that I support the Dingell substitute. I think it answers the questions that have been asked, and I think it is the way to go.

Mr. DE LA GARZA. Madam Chairman, I yield myself 1 minute.

Madam Chairman, one thing that needs to be made clear right now is that we have the safest food in the world in the history of the world, and it sells for the least amount of disposable income per family of any industrialized nation in the world.

Some of us are getting cute here and comparing chickens with fish and so on. We have the safest food in the world, period, bar none, in the history of the world, and so let us not get cute and confuse the issue.

Also, there is no Dingell bill. The bill will be written by Mr. Darman and Mr. Sununu. Let us get that straight right now. There is no bill from Energy and Commerce. That bill is delegated to be written by Mr. Sununu and Mr. Darman.

Do you want to trust those two gentleman again? That is your business, but that ought to be made perfectly clear. There is no bill. There are guiding directions, but the bill will be written by the White House, ostensibly by Sununu and Darman.

Madam Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I want to compliment the chairman, the gentleman from Texas [Mr. DE LA GARZA], and my friend, the gentleman from Texas [Mr. STENHOLM], and others for their leadership on this issue and rise in support of what they are trying to do in support of this legislation.

Madam Chairman, I introduced legislation requiring mandatory fish inspection in the early 1980's. Someone yesterday, a press person, asked me what was the frustration being in Congress. I said, "Well, things do not happen as quickly as you would like to see them happen." Sometimes it takes many years, and that is the case with this bill. It has been 6 or 8 years, I guess, since I introduced legislation saying that fish and seafood ought to have mandatory national inspection for the health and safety of the American consumer. When I introduced the legislation there were stories around the country in the coastal areas what a devastating blow this would be to the industry.

In fact, now, much of the industry supports it and understands that its time has come.

We have had meat inspection since Teddy Roosevelt was President. We have inspected poultry since the time Sam Rayburn sat in that chair as Speaker of the House.

It is interesting to me that all of these years we have continued this

hodgepodge of optional fish inspection that says "let the buyer beware." It is long past the time, in my judgment, when we should have mandatory fish and seafood inspection.

Those who preceded me in the well a while ago seemed to be, by implication, suggesting that we are still debating about whether there should be inspection. They have missed part of this debate. They have missed part of the change in the industry. That decision has been made. The question now is how, and those who argue for the Dingell substitute, I think, are saying, "Let us wait some more; we do not need to do this now, let us keep waiting."

We have waited year after year. Now is the time. This is the bill. This is the way.

The gentleman from Texas [Mr. DE LA GARZA], the chairman, is correct. We ought to operate in a way that protects the safety of the American consumer. This bill does that in a sensible way.

I am pleased to have the opportunity to say that this is the right thing for right now, for the American consumer and, indeed, for the fish and seafood industry as well. It makes sense for all of us, and I applaud the chairman.

Mr. LENT. Madam Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Madam Chairman, I had no intention when I came here at the beginning of this debate to get into this debate, but as I sat here and I listened to the debate, I started smelling something. It got worse and worse and worse.

How fishy it is that all of the cattlemen, the guys that represent the cattle industry, my good friend PAT ROBERTS, and CHARLIE STENHOLM, KIKA DE LA GARZA, are all worried about fish. I got to thinking. I thought, "You know, this is strange. The players here just do not add up. You know, if they were talking about soybeans and wheat and honey and bees and all of that, now, I would understand it, but I am confused."

And then I got thinking, it dawned upon me that, you know, there has been a great increase in consumption of fish in this country, and there has been a decrease in the consumption of red meat because of cancer. You know, maybe, maybe they would like to have USDA get into this game here to see if they could get the price of fish up so that the consumption would go down and make red meat a little more salable.

Now, I do not think that is so.

But I am going to vote for Dingell, Studds, and Young.

Mr. ROBERTS. Madam Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kansas.

Mr. ROBERTS. Madam Chairman, I want to assure the gentleman that cows do not kill people unless you are lying down in the feedlot or on the wrong end of a stampede. I also want to tell the gentleman that there is no hint of a conspiracy on the part of the red-meat industry, all of my cowboys, all of my beef producers. We would not do that to you.

Mr. CONTE. I do not know; I do not know. I am so confused; I am so confused at PAT and KIKA DE LA GARZA, and at STENHOLM up there, and the wheat man and the soybean man who almost got up here. You all know I hunt geese, and they feed on soybeans. You know, I hunt geese over in those soybeans. Oh, my goodness, I will never step on those again. We never inspect those things. Those geese are all over the soybeans and we do not have any inspection of those soybeans. They just wash them off with a hose and sell them.

Am I right, DON? Do you get that funny smell around here?

Mr. YOUNG of Alaska. Madam Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I would say this, I have got a cold. I cannot smell as well. But I want to compliment the gentleman, because I do think that it possibly brings a new light to this whole discussion.

Mr. CONTE. I thank the gentleman very much.

Mr. TAUZIN. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, there has been an allegation or an argument made that somehow those of us who are in the areas that produce the seafood of America are not interested in inspection. Nothing could be further from the truth.

Thirteen States now have their own inspection programs, and the Department of Commerce now has cross-license inspection agreement with those 13 States. We inspected over 830 million pounds of fish in 1990, 200 inspectors of the Department of Commerce who do the job, and we inspect an average of 200 plants a year.

Now, that is the current system that we are building on in the substitute bill and targeting the problem areas in shellfish.

Let us now talk about the USDA Inspection Program and the way, for example chickens are inspected under the continuous inspection programs.

Today, an inspector stands watching a processing line while as many as 90 chickens pass per minute on a conveyor belt. That is called 100-percent inspection. That is 90 chickens a minute. In 3 minutes that would be 270 chickens which run by the inspector. The inspector also takes samples. He samples 20 out of 43,200 chickens. That is the current inspection program.

I want the Members to know that the inspection program of USDA is understaffed. It is entirely possible that full coverage of processors is no longer possible due to those staff shortages, and yet the bill we have before us would call upon that system to inspect America's seafood.

We have a good system going, building, and our substitute bill builds on it, and more importantly, as the gentleman from Massachusetts so clearly pointed out, targets the one area, shellfish, where there is a real problem, targets imported shellfish where there is a particular problem, and does it in a fashion that is proper in terms of the economically tought times we have.

Mr. DE LA GARZA. Madam Chairman, will the gentleman yield?

Mr. TAUZIN. Madam Chairman, I have very little time but I yield to the gentleman form Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Madam Chairman, I apppreciate the gentleman yielding.

We get just so confused with facts here.

□ 1510

Only about 10 percent of the seafood is inspected under the Department of Commerce, and it is a voluntary program, not mandatory.

Under that inspection, the Food and Drug inspection, we talk about and we have the safest food in the world, but under the Food and Drug inspection, an inspector goes into a plant once every 4 years. That is what we do now.

Mr. TAUZIN. Madam Chairman, the fact of the matter is when 20 chickens out of 43,200 are inspected, and we have now going with the program, we have not yet expanded as we will under the substitute bill, as much as 12 percent of all the seafood inspected, we have to wonder about transferring this program to USDA.

I think the gentleman from Massachusetts has the right order in his nostrils.

Madam Chairman, I reserve the balance of my time.

Mr. LENT. Madam Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Madam Chairman, to close this debate, I think we should summarize, and I support the Dingell-Studds substitute, because we are dealing with seafood inspection, which is fundamentally different from meat or poultry, as has been brought out in debate.

Seafood inspection requires a system to check for chemical and toxin contamination or microbes that are not the primary concerns of feed or poultry inspectors, or the methods that

they use in meat or poultry inspection. Transferring seafood inspection to the Department of Agriculture will further aggravate and delay the current problems with beef and chicken inspection programs, and dilute all the current health safeguards.

We support the Dingell-Studds substitute because it will take effect far more quickly than the bill before Members today. I ask Members to vote yes on the Dingell-Studds substitute.

The CHAIRMAN. The Chair would advise Members that the gentleman from Texas [Mr. DE LA GARZA] has 2 minutes remaining, the gentleman from Louisiana [Mr. TAUZIN] has 2½ minutes remaining, the gentleman from New York [Mr. LENT] has 8 minutes remaining, the gentleman from Massachusetts [Mr. STUDDS] has 1 minute remaining.

The gentleman from Alaska [Mr. YOUNG] and the gentleman from Kansas [Mr. ROBERTS] have consumed all of their time.

Mr. TAUZIN. Madam Chairman, I yield the remainder of my time to the distinguished gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. LENT. Madam Chairman, I also yield such time of my remaining 6 minutes as the gentleman from Michigan [Mr. DINGELL] may require.

Mr. DINGELL. Madam Chairman, I, like my colleagues here, rejoice in the presence of the gentlewoman from Louisiana [Mrs. BOGGS] in this body, and we are particularly pleased to see the gentlewoman, as her career in this body terminates, to be presiding over the House and on behalf of all my colleagues. I would like to be among the first to wish the gentlewoman good fortune and great happiness in her retirement.

The CHAIRMAN. The Chair is very grateful. Thank you very much.

Mr. DINGELL. I hope the applause does not come out of my time.

Madam Chairman, we have before Members, bills written by good friends who come from the farming areas of the country who do not know anything about fish inspection or about maritime matters or other things of importance in terms of inspecting seafood.

They have presented Members a bill which would impede the same kind of practices that one uses in inspecting chickens. Now, remember, chickens and the inspection thereof, out of an 8-hour sample, 62,000 birds will be examined, but only 10 or so will be examined about four times. That means that if we use the same philosophy on inspecting shellfish, that 10 mollusks will be inspected, they will be taken from the line, and they will be opened up and looked at. The rest will not.

The current system closes waters to taking of shellfish when there is a period of peril or when there is danger or when the waters fall into a level of lacking safety. That is the way we control this. Now, there are some things wrong with the other legislation.

First, all of a sudden in the bill shows up a whistleblower protection that had never been there before. It is regrettably, however, too weak, and we must assume through some strange event like the fellow St. Paul on the road to Damascus, a lightning bolt struck and caused a huge reform. This reform is more occasioned by the desire for votes than it is by any real determination to reform. I would point out, importantly, that the reform is apparently both of temporary duration and not of sufficient character to provide the real protection needed.

Second of all, the bill that we are discussing provides for a new program. We have heard the number of people that would be hired and the amount of expenditure that it would entail, but it will not go into place for 5 years. On top of that, it is not going to be signed by the President because we have already been warned by the administration that a veto will follow.

So, if Members are interested in having legislation on the books, and starting to build up on a good existing program, then the way to do it is to accept the substitute which will shortly be offered.

Now, we have heard about State agencies. The Committee on Agriculture bill would preempt State agencies from conducting the inspections which they now conduct. That is a sufficient indictment of that legislation all alone because it removes hundreds of inspectors, and it eliminates a basic cog in the protection machinery with regard to consumers of shellfish.

There are some other points that should be borne in mind. The President shall veto it. Let me look a little beyond that. A number of comments have been made as to who supports the different bills. Here is who supports the bill offered by the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce: the administration has said they will veto the Committee on Agriculture bill; the Consumers Union; Public Citizen's Congress Watch; Government Accountability; the Consumers Federation of America; the National Consumers League; the AFL-CIO; the United Food and Commercial Workers International Union of the AFL-CIO; the Interstate Shellfish Sanitation Conference. That is the State agencies who are in charge of protecting consumers against contaminated and dangerous shellfish. Also, the consumer affairs of the city of New York; the United Auto Workers; the Vermont Public Interest Research Group. That is a distinguished panel of public interest servants and people who want good protection of the American consumers.

Now, my good friends from Agriculture mention that there were a number of agencies that were also supporting the Committee on Agriculture version. We will now look at that. They mention the Center for Science in the Public Interest. They have taken no position on the bill. They mention Americans for Safe Food. They have taken no position on this. They mention the commissioner of consumer affairs of the city of New York. He supports the bill to be offered by the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce. The Natural Resources Defense Council has taken no position. We have a specific letter on this point. The Vermont Public Interest Research Group.

Mr. GLICKMAN. Madam Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Kansas, an admirable expert on matters of agriculture, but if he wants to speak on fishing.

Mr. GLICKMAN. Madam Chairman, a growing catfish State, as well.

However, I would say one group that the gentleman did not mention was Public Voice, a woman named Ellen Haas leads that group.

Mr. DINGELL. Madam Chairman, I will be glad to let the gentleman tell this on his own time. I am telling Members who support our committees, and telling Members who it is that he has said is supporting his version who has, in fact, not done so.

Mr. GLICKMAN. Madam Chairman, I did not want the implication left that the consumer interests in this country were all supporting the gentleman's position. They are not.

Mr. DINGELL. Somehow or another, somebody belonging to an organization with "Citizens" in the title is supporting the Committee on Agriculture's bill.

□ 1520

I say that it is good, because they should not be left out there alone with a bill so starkly in error as this.

Now, having said those things, I would just urge my colleagues to recognize that there are just two ways to deal with this matter, one by building on an existing program which has the support of the administration, which is going to have modest costs and which has the support of the State agencies which seek the protection of consumers, labor and the administration.

The other is to support a package which is opposed by those groups and which is going to be vetoed. You have a choice between a veto and a 5-year bill and 5 years before the program comes into effect, or a bill which can do something. You can set up a program which is going to have everybody who is going to be employed in this

enormous undertaking going around opening shellfish, looking inside and investigating out of every 62,500 about 40. That is a splendid idea if you like that.

You know, if I came from the Agriculture Committee, I would probably support that kind of a package, because this is a committee that has created for this country a program where now we are finding the number of employees of the Department of Agriculture are shortly going to exceed the number of farmers in the country.

Mr. DE LA GARZA. Madam Chairman, will the gentleman yield?

Mr. DINGELL. Yes, I yield to my friend, the gentleman from Texas.

Mr. DE LA GARZA. Madam Chairman, I thank the gentleman for yielding to me.

Just for correction, our legislation does not preempt the States. It has to be at least equal. The gentleman stated we preempted.

Second, there was mention by the gentleman of people who are not acquainted with seafood and so on. I represented almost half the shrimp industry of Texas when the gentleman and I served on the Merchant Marine and Fisheries Committee.

Mr. DINGELL. I remember those days with great affection.

Mr. DE LA GARZA. Both of us were there, so it is not like the gentleman saying, well, Agriculture cannot do the job.

What does the United Auto Workers know about shellfish?

Mr. DINGELL. Madam Chairman, I love the gentleman and I want to engage in a dialog, which means I should talk a little, too.

For that reason, I would inform the gentleman that the Texas shrimpers support the bill offered by the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce. Having heard that I am sure that the gentleman is going to want to reform his ways, join us in support of a good piece of legislation and repudiate something which is pushed by I know not who, but which is opposed by the administration, which I assume even speaks for the Department of Agriculture.

Mr. DE LA GARZA. Madam Chairman, will the gentleman yield?

Mr. DINGELL. I am glad to yield to the gentleman from Texas.

Mr. DE LA GARZA. Madam Chairman, the Texas Shrimp Association supported the Mitchell bill in the Senate. The letter is there.

Mr. DINGELL. Madam Chairman, I can only tell the gentleman he is in error.

I will be glad to make available to the gentleman a copy of a piece of correspondence that tells him that the Texas shrimpers support the bill offered by the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce.

I would point out that the gentleman from Louisiana, who is handling the bill on behalf of our committee, speaks on behalf of the shrimpers of Louisiana, who are not in any way disinterested in the subject of prosperity for the fishing industry.

Mr. DE LA GARZA. Madam Chairman, if the gentleman will yield, I apologize to the gentleman, but I represent shrimpers, too. I probably have more coastline than the gentleman does or some of the other Members that are involved in the debate here, so it is not like pointing the finger at Agriculture, that Agriculture does not know about seafood, because Commerce now hires Agriculture to do the inspection.

Mr. TAUZIN. Madam Chairman, will the gentleman yield?

Mr. DINGELL. I am glad to yield to my friend, the gentleman from Louisiana.

Mr. TAUZIN. Madam Chairman, I have a letter from Lucy Gibbs, executive director of the Texas Shrimp Assoication, dated August 13, 1990, which reads as follows:

THE TEXAS SHRIMP ASSOCIATION,
Austin, TX, August 13, 1990.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, DC

DEAR SENATOR HOLLINGS: The Texas Shrimp Association wishes to express our appreciation to you and your staff for your support of a comprehensive and equitable seafood inspection bill.

This association supports the concept of seafood inspection remaining within the jurisdiction of the Department of Commerce and the Food and Drug Administration. We further support your assurance that the government will provide inspection services for the seafood industry in those areas dealing with health and safety. The industry, in turn, will underwrite costs associated with grading of product.

This association further wishes to express to you our apprehensions concerning imported product. Imports must be inspected at least as stringently as domestic product, and TSA would prefer mandatory in-country inspection programs for those countries importing a significant amount of product into the U.S.

Thank you again for your support of this industry. We look forward to working with you to insure that this legislation becomes law.

Sincerely,

LUCY GIBBS,
Executive Director.

Mr. DINGELL. Madam Chairman, would the gentleman from Louisiana as a kindness to me hand that letter to the gentleman from Texas, who is apparently desperately in need of it.

Mr. DE LA GARZA. Madam Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my friend, the gentleman from Texas.

Mr. DE LA GARZA. Madam Chairman, I would make the request that we be allowed to submit for the RECORD the letter sent endorsing the Mitchell bill. In that way, we have evened it out.

The fact is that the United Auto Workers do not know anything about shellfish.

Mrs. UNSOELD. Madam Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the distinguished gentlewoman from Washington.

Mrs. UNSOELD. Madam Chairman, the FDA Seafood Safety Program currently includes extensive research programs as well as longstanding working relationships with the State. Perhaps the second most significant difference between the substitute, which I support, and the Agriculture bill is that the substitute acknowledges the fundamental differences between fish and shellfish and the importance of those differences in seafood safety.

Mr. DINGELL. Madam Chairman, the gentlewoman is eminently correct. It also does not preempt the State agencies which have, heretofore, been engaged in these kinds of activities.

Mrs. UNSOELD. And the substitute on which I have been working with my shellfish producers establishes a new national shellfish safety program.

This special recognition is important, because raw shellfish, particularly those harvested from contaminated waters, is the one seafood product that poses a greater health risk than poultry, beef, and pork.

The Agriculture Committee bill does not even define shellfish.

Mr. DINGELL. Madam Chairman, the gentlewoman is eminently correct. It would have a few Department of Agriculture inspectors going around opening up clams, looking at them, in conformity with the great traditions of the Department of Agriculture.

Mr. STUDDS. Madam Chairman, I yield my remaining 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Madam Chairman, I rise in support of the substitute prepared jointly by the Merchant Marine and Fisheries and Energy and Commerce Committees.

The great diversity of the seafood industry makes mandatory inspection a very difficult and complex issue. It involves many different species of fish; many different sizes and kinds of fishing vessels; and different kinds and scales of fish processing operation. I want to begin by commending the leadership of these two committees for their good work in trying to resolve the many difficult questions on this subject.

The issue being debated on the floor today is not whether there should be a mandatory seafood safety program, but rather how such a program should

be designed. There are two very different proposals before us.

The Agriculture Committee bill makes the Department of Agriculture the lead agency for seafood safety, despite this agency having no experience inspecting seafood, no staff experience in fish or shellfish, and no doctors of human medicine or public health on its staff.

The substitute places seafood inspection authority within the Food and Drug Administration, the agency with the primary responsibility for the overall safety of foods, under the Food, Drug and Cosmetics Act. FDA's seafood safety program currently includes extensive research programs as well as longstanding working relationship with States.

Perhaps the second most significant difference between the substitute and the Agriculture bill is that the substitute acknowledges the fundamental difference between fish and shellfish and the importance of those differences in seafood safety. The substitute establishes a new national shellfish safety program. This special recognition is important because raw shellfish—particularly shellfish harvested from contaminated growing waters—is the one seafood product that poses a greater health risk than poultry, beef, and pork.

The Agriculture Committee bill does not even define shellfish.

On the subject of pork, the Agriculture Committee bill will cost the taxpayer at least $150 million each year. The substitute is estimated to cost the Government $10 to $15 million.

I urge my colleagues to support the bipartisan substitute. It establishes a reasonable, cost effective seafood safety program that takes into account the unique features of different sectors of this industry. It promotes public health and safety concerns by building upon and strengthening current Federal programs and cooperation with existing State programs.

Mr. DE LA GARZA. Madam Chairman, I yield the remainder of my time to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, I would like very strongly to suggest that this is not a laughing matter. The funny jokes that went on in all of this and the smelling and all this, people are dying because of the lack of the kind of improved food safety inspection system that the House Agriculture Committee is bringing to us today. The system is not perfect, but it is the best in the world and we are bringing you a bill that the opposition, particularly the distinguished gentleman from Michigan has not read, because he has consistently stated that we preempt State law. That is untrue. If the gentleman would read the bill, he would see that it is not.

The gentleman also made joking reference to the whistleblower protection, which is exactly the whistleblower protection that the gentleman has agreed to in the Clean Air Act, and I do not believe he will come to this floor and say that it is weak.

The Agriculture Committee is involved in this because we believe agriculture is important. It is not a beef versus poultry versus fish. It is an industry together. We proved that by putting $40 million of research money into the 1990 farm bill for purposes of improving fishfood safety, aquaculture educational efforts.

MAJOR USDA EXPERIENCE WITH FISH

Aquaculture is a major industry in the United States.

Both the 1981 and 1985 farm bills established aquacultural research, development, and demonstration centers in the United States.

This year's farm bill confirms a major role of the Department of Agriculture regarding fish safety. The farm bill: Authorizes over $40 million in major fish food safety, and aquaculture research and education efforts; creates a national program for fish disease research; and funds research on the safety and wholesomeness of fish species and products.

The Department of Agriculture already conducts major research, testing and inspection, export assistance, and education programs regarding aquaculture. For fiscal year 1990, USDA is spending over $20 million on aquaculture research and export assistance.

USDA is spending over $600,000 on research just on the genetic improvement of oysters. Not only is research on shellfish and finfish is supported through USDA, but the National Agricultural Library has a Aquaculture Information Center to assist scientists and aquaculture farmers throughout the United States.

U.S. aquaculture production of fish and shellfish was estimated at 790 million pounds in 1988—$700 million wholesale. That is more than the national production totals for lamb and mutton combined. Over 10 percent of the total domestic catch of fish is from aquaculture.

USDA has greatly assisted in the growth and expansion of this industry—USDA has provided grants and loans, training, education, disease control, and other technical assistance, and export enhancements to help expand aquaculture production.

This is a major success story.

Farm raised channel catfish now annually account for well over 340 million pounds of live fish. During the 1980's, processors' volume in catfish rose at an anual rate of 25 percent. Trout production is 50 to 60 million pounds annually.

Thanks in part to USDA assistance, aquaculture has become a dominant industry for a growing number of States.

□ 1530

Also the people supporting it, and I will introduce 19 seafood and fishery organizations that support the House Agriculture position as endorsed by the Senate. Also we do not preempt FDA.

FISHERY ORGANIZATIONS SUPPORTING MITCHELL-DE LA GARZA FISH SAFETY ACT OF 1990

American Seafood Institute.
American Shrimp Processors Association.
Associated Fisheries of Maine.
Blue Water Fishermen's Association.
Boston Fisheries Association.
Catfish Farmers of America.
East Coast Tuna Association.
Maine Sardine Council.
Massachusetts Lobstermans Association.
National Aquaculture Association.
National Blue Crab Industry Association.
National Fisheries Institute.
Oregon Trawl Commission.
Organized Fishermen of Florida.
Rhode Island Seafood Council.
Shellfish Institute of North America.
U.S. Trout Farmers Association.
Virginia Seafood Council.
Wisconsin Commercial Fisheries.

If you will read the bill, we suggest that USDA be the predominant responsible organization for enforcing the inspection program. But we suggest that it might be done better than what is being done with current meat and poultry. In fact, I would like to see the same thing done for meat and poultry inspection. Let us adopt a unanimous recommendation of the National Academy of Sciences as well as the Food Research System of this country in saying that we need the HACCP system.

[The HACCP system follows:]

HAZARD ANALYSIS AND CRITICAL CONTROL POINT SYSTEM [HACCP]

It is agreed that fish inspection should be based on the HACCP systems approach to food product control.

HACCP is a food protection approach designed to prevent problems from occurring, rather than to merely catch bad product at the end of the production line.

HACCP examines the steps involved in creating a quality product.

Procedures include:

First, identifying and assessing hazards associated with growing, harvesting, preparation, processing, marketing, and use of a given raw material or food product;

Second, determining critical control points to control any identifiable hazard; and

Third, establishing systems to monitor critical control points.

The National Research Council supports the implementation of the HACCP system.

Mr. STENHOLM. We have seen recommendations by the leading scientists in the world of suggesting a new and improved food safety and inspec-

tion system. That is what we want for seafood. If you would read the bill, you would see why we should support the House Agriculture position and oppose the other version.

S. 2924, THE FISH SAFETY ACT OF 1990

The Mitchell-de la Garza bill amends the Food Security Act of 1985 to establish a comprehensive fish inspection program.

The Federal inspection program applies to interstate commerce. States can be authorized to implement the Federal interstate program on a 50-50 cost-share basis. State-designed programs for intrastate commerce could receive Federal assistance if they are at least equal to the Federal program.

Exemptions are provided for non-processing fishing vessels, and for certain private-use processors.

The overall program would be led by USDA, which would have responsibility for administering the inplant inspection program. The Food and Drug Administration and the Department of Commerce are also given important roles. FDA would establish standards for contaminants on the basis of scientific risk assessments, and the Department of Commerce would be responsible for classifying fish and shellfish growing and harvesting areas.

FDA will set standards for any "deleterious substances that may adulterate fish products."

The fish inspection program will utilize the Hazard Analysis Critical Control Point [HACCP] methodology, relying on USDA's residue testing program. Frequent, random, unannounced inspections of processing facilities will be conducted.

Imported fish products will be subject to the same standards and procedures as domestic products, consistent with the General Agreement on Tariffs and Trade [GATT]. These international trade provisions are particularly important because the United States is the world's leading fish exporter and second-leading importer. USDA's extensive network of foreign operations would be utilized to oversee all aspects of import inspection.

S. 2924 relies on, and does not affect, EPA's authority under the Clean Water Act for setting water quality standards and monitoring compliance. When trends of fish contamination are detected by the USDA inspection program, EPA and the States would be notified immediately.

A 3-year implementation schedule is established for the program. Current inspection programs would be continued in effect until the new program is phased-in.

The bill focuses strictly on food safety; no promotional provisions are included.

The bill relies on the employee protection provisions already contained in the Clean Air Act.

Madam Chairman, I rise in strong support of S. 2924, a bill to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for domestic human consumption.

Currently, seafood is virtually the only flesh food in the United States that is not processed under a comprehensive mandatory Government inspection scheme. Individuals in industry, Government, science and in the consumer sector all agree there is a need for improvement, and that is what is provided for under S. 2924.

Public health safeguards should be the first and only purpose of this legislation. For that reason, there is ample merit for assigning this important task to the U.S. Department of Agriculture [USDA]. USDA is uniquely positioned to expand its inspection efforts to cover fish and seafood because of its demonstrated capacity to conduct meat and poultry inspections, and its extensive domestic and international infrastructure of inspectors, laboratories, and field offices.

Consumers have a lot to look forward to as the seafood industry enters the 1990's. For the past decade, the industry has been shifting from one driven by regional production needs to one driven by a global market. Seafood is recognized as a source of low-fat, low-calorie protein. In the coming decade, consumers will realize it is also easy to prepare, available in good quantities year-round, and inexpensive enough to fit the family budget.

Aquaculture is playing an increasingly important role in world fish supplies. In addition, improved technology will combine seafood proteins and other foods in new, more healthful ways.

A seafood inspection program under USDA aegis should improve consumer confidence and provide an added safety net against unwholesome seafood and economic fraud. Granted, the long-term impacts of this new inspection program will not be known for some time. However, changes in certain segments of the industry are likely. Reputable companies who have provided dependable quality, service, and value to their customers will be less affected by Federal regulation than those that are in business for quick profits. In addition, any inspection program ultimately established should not place an undue financial burden on the resources of certain small and reputable producers, all of which tend to be vulnerable to increased costs and fluctuations in sales.

Because the United States is a major producer, importer, and exporter of fish and seafood, any actions taken regarding a national inspection program could have a significant effect on domestic sales and international trade in seafood products. An inspection program that is not cost effective and does not serve to improve the overall safety and quality of seafood products could adversely affect domestic production capability and could serve as an impediment to foreign trade. With this in mind, S. 2924 establishes a Federal program for the inspection of consumable domestic and imported fish that comports with U.S. obligations under the General Agreement on Tariffs and Trade (GATT).

Today, there are approximately 128,000 U.S. vessels involved in fish harvesting. In addition, the seasons of production vary. Of domestic consumption 63 percent is made up of imports of seafood from over 120 countries with varying degrees of seafood inspection competence. Currently, an average of 1,200 seafood establishments out of a total of 4,000 are inspected annually at a cost to the Federal Government of approximately $5 million. Currently, approximately 24 States classify areas in which shellfish can be harvested, patrol illegal harvesting and oversee the sanitation of shellfish dealers. There have been repeated concerns with nonconformity, however. According to a 1988 Food and Drug Administration [FDA] report on State shellfish sanitation programs, 9 States, which produce over half the U.S. shellfish harvest, had major deficiencies of public health significance.

The lack of a single, unified Federal seafood inspection program is very real. The FDA currently samples less than 1 percent of domestic seafood and only 3 percent of imported seafood products. A voluntary seafood inspection program within the National Oceanic and Atmosphere Administration [NOAA] covers only 11 percent of the seafood consumed in the United States. Coastal States hire State inspectors to monitor and inspect seafood establishments in addition to sampling fish products for contaminants.

Growing public awareness and concerns about seafood contamination have raised questions about the adequacy of current programs and prompted calls for a mandatory fish inspection program comparable to those for meat and poultry. Even the seafood processing industry, which has historically been skeptical about the need for inspection, has concluded that such a system is needed to boost consumer confidence.

Since 1907, USDA has inspected all meat products, and since 1956 all poultry products sold in the U.S. through interstate and foreign commerce. Therefore, the experience of incorporating and administering a new inspection program would not be new to USDA.

The USDA has an established network of human and physical resources and is effectively and efficiently conducting the Nation's meat and poultry inspection system. More specifically, the Food Safety and Inspection Service [FSIS] has the administrative structure, trained work force resources, laboratory capabilities, prior label approval requirements, information network, training facilities, compliance systems, import/export network, and scientific orientation that should make a mandatory seafood inspection program viable and effective. Most importantly, building on existing USDA structure means cost savings and faster start up.

A mandatory Federal fish and seafood inspection program should require interaction with those States that currently have seafood inspection programs. FSIS has invaluable experience in assuming, merging or sharing the responsibilities of inspection with State meat and poultry programs.

Additionally, USDA has in place a strong import/export system for meat and poultry that utilizes foreign country approvals and on-site monitoring of foreign inspection programs. The fish industry is heavily trade dependent, with 60 to 70 percent of fish and fish products imported, and 30 to 40 percent of the U.S. catch exported. There are approximately 40 agricultural attachés and counselors in different countries that USDA utilizes to facilitate trade.

With an 83-year record of leadership on meat and poultry inspection, I believe USDA would be in the best position to develop and implement a consumer protection program for fish and seafood inspection.

Certainly, there are a variety of issues that need to be addressed when deciding how to implement a seafood inspection program.

Consideration should be given to whether a federally mandated seafood inspection system should: First, be based upon Hazard Analysis Critical Control Point [HACCP] principles and tailored to the needs of particular fish commodities; second, cover problems from the growing waters to the marketplace; third, prohibit or restrict through fisheries management plans, where appropriate, harvesting of fish from certain areas to prevent the processing and marketing of unsafe fishery products; fourth, provide for a system of registration and certification of plants and vessels for basic sanitation; fifth, effectively address issues of economic fraud; sixth, provide similar levels of assurance for fish and seafood products of domestic and foreign origin; and seventh, provide necessary certification of exported products to facilitate trade.

In addition, Congress must balance legitimate employee protection against the rights of employers to operate their businesses in a lawful manner and protect employers from unsubstantiated and malicious claims or fraudulent activities on the part of employees. It should be recognized that a mandatory seafood inspection program is first and foremost a public health inspection program whose primary purpose is to protect consumers and prevent adulterated or unsafe product from moving into the marketplace.

There should be no question that it is the responsibility of the employer to ensure that the product moving through the plant is safe and wholesome and will not represent a hazard to the consuming public. It is the responsibility of the employer to ensure the health and safety of their workers and that the facility is operated in compliance with Federal and State law. Under S. 2924, it is the responsibility of the USDA to carry out the seafood inspection program to ensure the public's safety.

If a successful whistleblower system is to work, as provided for under the bill, the USDA must be granted the authority to investigate all violations of the Act. If whistleblower protection is granted, the protection should be granted only when clear and major violations are present and could pose a serious public health risk if left uncorrected.

Moreover, the employeee should be required to notify the employer of the violation and afford the employer the opportunity to correct the violation before initiating further action. Put simply, it is incumbent on the employee to notify his or her employer of the alleged problem and seek its correction immediately in order to protect the consumer. Unless this notification is made, no protection should be granted. All disclosures should be made to the appropriate Federal official with responsibility to seize product and order abatement of the violation. Disclosures to the public, competitors, the media or others should not be protected under the statute.

Whatever inspection program is created, it must be reasonable, extensive, and take into account the unique featurs and needs of different sectors of the seafood industry. I regonize that the move to more intense regulation will not be simple or painless. But, the record shows that the U.S. fish and seafood industry has matured greatly since the subject of inspection was broached more than 20 years ago. In fact, the very introduction of legislation in the past caused a reexamination of practices in the industry with resulting improvements in quality and wholesomeness. These improvements have contributed to the growth the indusy has achieved. While inherent difference in the biology, harvest, and processing of fishery products necessitate a type of inspection system that is different from that of red meat and poultry, I believe that a more comprehensive and modernized inspection program merits prompt support, development, and implementation.

Madam Chairman, in concluding my remarks, I encourage all my colleagues to support this important legislation.

Mr. DORGAN of North Dakota. Madam Chairman this Nation has had a national meat inspection program since Teddy Roosevelt was President.

It's had a national poultry inspection program since Sam Rayburn presided in these Chambers.

So, I have long found the absence of a national fish inspection program to be a glaring hole in our food purity programs. It's hard to fathom how we came this far—through generations of advancement in public health, medical technology and consumer awareness—to find our country with a hodgepodge fish inspection program that sells most of its product on a buyer-beware basis.

Shortly after I came to Congress a decade ago, I began sponsoring legislation for the Food Safety and Inspection Service to add a national fish inspection program to the programs for meat and poultry. Today, I am greatful to the leadership of this assembly for bringing such a program to the brink of passage.

I think that our tardiness in creating a national fish inspection program is hard to justify because we have had the basic machinery for such a program in operation for so many years. USDA meat inspectors and laboratories not only inspect all red meat and poultry produced in this country, but inspect plants and monitor inspections programs for all nations importing meat into this country. With 60 percent of our seafood imported, it will be extremely important that the agency assigned to inspect fish be prepared to deal with the import market.

Some Members have proposed a substitute bill that does not create a national fish inspection program, but sends the program back to the planning stages. They want the program built under the administration of the Food and Drug Administration. I think they are wrong in proposing further deals because we have worked hard to present a strong and effective program for consideration today. And I think they are wrong in bypassing the agency most qualified to execute the actual inspection of fish and seafood.

The sponsors of the substitute say in a letter to me that, "the key to seafood inspection is expertise." I think they are absolutely right.

S. 2924 draws the best expertise, experience, and facilities from three Federal agencies and State inspection programs to form a comprehensive national program at the least cost.

We drew on FDA to set the standards for healthful products.

We draw on USDA to add seafood to its comprehensive, international program of meat and poultry inspection, and to monitor States that wish to conduct their own programs under national standards.

We draw upon the Commerce Department to continue monitoring waters where fish are harvested.

Finally, let me comment on the wholly illogical reasoning in the argument that the Food Safety and Inspection Service cannot be trusted—that it has a conflict of interest because USDA is a promoter of agriculture and food products.

Yes, some agencies within USDA do promote, and even help market, food commodities FSIS is not among them. There is, in addition, no incentive within FSIS to allow bad meat or fish into the market as a way of promoting the products or increasing sales.

Just the opposite is true. If meat or fish inspectors are interested in promoting the products they inspect, the last thing they want to do is allow tainted products into the retail food market. Nothing destroys sales quicker, nothing does more to hurt demand, for a product than reports of harmful or hazardous product on the supermarket shelves.

There is just no good reason to delay a national fish inspection program any longer. This bill sets a timetable for the Federal Government to implement a national inspection program. It's time to move forward. Please vote to reject the substitute and vote for a national program.

The CHAIRMAN. All time has expired. Pursuant to the rule, the Senate bill is considered as having been read for amendment under the 5-minute rule.

The text of the Senate bill, S. 2924, as modified by inclusion of the amendment printed in section 1 of House Report 101-891, is as follows:

S. 2924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fish Safety Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) fish are an important component of the flesh food supply of the United States and are processed and marketed by a large and diverse industry;

(2) the wholesomeness and safety of fish and fish products are important to the health and well-being of the people of the United States;

(3) the Department of Agriculture currently conducts inspection programs for all flesh food products other than fish products and has the technical expertise and work force capacity necessary to rapidly expand meat inspection programs to cover fish and fish products or to assist in efforts by States to accomplish that objective;

(4) heightened public awareness of the health benefits associated with eating fish and fish products, and greater diversity of products, have raised consumption rates and the demand for wholesome products;

(5) current Federal health inspection and monitoring programs are insufficient to ensure public confidence in the wholesomeness and safety of fish and fish products;

(6) the sale of unwholesome, adulterated, mislabeled, or deceptively packaged fish or fish products is hazardous to consumers;

(7) existing Federal standards are inadequate to maintain good fish and fish products handling and manufacturing practices, to ensure consistent fish and fish products packaging and labeling procedures, and to detect hazardous levels of contaminants in fish and fish products;

(8) the Federal Government, in cooperation with the States, has the responsibility of ensuring the wholesomeness and safety of all fish and fish products sold in interstate commerce for consumption in the United States;

(9) a public health-based inspection program is important for fish and fish products because of several factors, including—

(A) the fish habitat is often an uncontrolled environment;

(B) certain fish species tend to concentrate contaminants;

(C) deterioration of fish and fish products tends to occur more rapidly; and

(D) fish are consumed raw in some instances;

(10) deceptively labeled or packaged fish products can compete unfairly with properly labeled and packaged products to the detriment of consumers and the public generally; and

(11) in the past decade, various State and local agencies have issued warnings concerning the dangers of consuming certain types or species of fish, and the absence of Federal standards has made it difficult to assure that adequate standards are being applied nationwide.

(b) PURPOSE.—It is the purpose of this Act—

(1) to expand current flesh food inspection programs administered by the Department of Agriculture to include fish and fish products and to assist those States desiring to implement the inspection and sampling program described in this Act;

(2) to ensure the wholesomeness and safety of all fish and fish products in the United States through the development of a comprehensive safety program, that will include—

(A) a mandatory health-based program for the inspection of fish and fish products that will ensure that fish and fish products are properly labeled and packaged;

(B) the establishment and enforcement of safety and wholesomeness standards for fish and fish products;

(C) the monitoring and evaluation of fish and fish product safety risks;

(D) the scientific assessment of consumer health risks attributable to the consumption of adulterated fish and fish products;

(E) consumer education programs; and

(F) the proper storage, labeling, processing, handling, and packaging of fish and fish products; and

(3) to enhance public confidence in the wholesomeness and safety of fish and fish products, and protect the fish and fish products market by requiring the development of a comprehensive safety program.

SEC. 3. FISH INSPECTION PROGRAM.

The Food Security Act of 1985 (7 U.S.C. 1281 note) is amended by adding at the end thereof the following new title:

"TITLE XIX—FISH INSPECTION PROGRAM

"SEC. 1901. DEFINITIONS.

"As used in this title:

"(1) ADULTERATED.—The term 'adulterated' means any fish product that—

"(A) bears or contains any poisonous or deleterious substance that may render such product injurious to health, except that if such substance is a naturally occurring part of the fish product, such product shall not be considered adulterated if the quantity of such substance does not ordinarily render such fish product injurious to human health;

"(B)(i) bears or contains any added poisonous or added deleterious substance (other than a substance that is a pesticide chemical, a food additive, or a color additive) that may, in the judgment of the Secretary, make such product unfit for human food;

"(ii) is, in whole or in part, a raw agricultural commodity and such commodity bears or contains any pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a);

"(iii) bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 348); or

"(iv) bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 376), except that a fish product that is not otherwise considered to be adulterated under this clause or under clauses (ii) or (iii) shall be considered to be adulterated if the use of a pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations promulgated by the Secretary in establishments;

"(C) consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthy, unwholesome, or otherwise unfit for human food;

"(D) has been prepared, packed, or held under insanitary conditions that may have resulted in such fish product becoming contaminated with filth, or becoming injurious to human health;

"(E) is, in whole or in part, derived from any fish product identified as adulterated under the procedures described in section 1903(d);

"(F) is or was contained in a container that is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;

"(G) has been intentionally subjected to radiation, except that the use of radiation in compliance with a regulation or exemption in effect under section 409 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 348) shall not make such fish product adulterated under this subparagraph;

"(H)(i) has any valuable constituent, in whole or in part, omitted or abstracted therefrom;

"(ii) has any substance substituted, wholly or in part therefor;

"(iii) has damage or an inferiority concealed in any manner; or

"(iv) has substance added thereto or mixed or packed therewith so as to increase the bulk or weight, reduce the quality or strength, or make the appearance of such fish product better or of greater value than it actually is;

"(I) has been made or derived in whole or in part from fish harvested in a production area that has been closed under this title, or closed to commercial fishing for that species by any State or other appropriate authority for reasons related to food safety;

"(J) has been imported and is not in compliance with the requirements of section 1910;

"(K) has been processed by any establishment whose facilities or equipment, or the operation thereof, fail to meet the requirements of this title; or

"(L) has been handled by an establishment for which a certificate has not been issued, or by an establishment no longer holding a certificate.

"(2) CAPABLE OF USE AS HUMAN FOOD.—The term 'capable of use as human food' shall apply to any fish product that is capable of being consumed by humans as food, unless it is denatured or otherwise identified as required by regulations promulgated by the Secretary to deter its use as human food, or unless it is naturally inedible by humans.

"(3) CERTIFICATE.—The term 'certificate' means any certificate, prescribed under regulations promulgated by the Secretary, for issuance by an inspector or other person performing official functions under this title.

"(4) COMMERCIAL FISHING VESSEL.—The term 'commercial fishing vessel' means a vessel that commercially engages in the catching, taking, or harvesting of fish or any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish, capable of use as human food and intended for human consumption.

"(5) CONTAINER, PACKAGE.—The terms 'container' and 'package' include any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

"(6) ESTABLISHMENT.—The term 'establishment' means any fish processing vessel that is subject to the jurisdiction of the United States, or any building, premises, structure, or other facility located in any State or Territory that is used in the handling or processing of fish products. Such term shall not include—

"(A) recreational vessels, fish tender vessels, commercial fishing vessels, or aquaculture operations, unless any such vessels or operations process fish;

"(B) retail stores;

"(C) restaurants; or

"(D) contract or common carriers that transport fish products.

"(7) FISH.—The term 'fish' includes freshwater or marine finfish, mollusks, crustaceans, and other forms of aquatic animal life, including amphibians, whether from wild or cultured sources, other than birds or mammals.

"(8) FISH PROCESSING VESSEL.—The term 'fish processing vessel' means a vessel that commercially prepares fish products, other than by gutting, decapitating, salting, gilling, skinning, shucking, icing, freezing to the extent that such freezing is associated with other actions related to processing, or brine chilling.

"(9) FISH PRODUCT.—the term 'fish product' means any food product capable of use as human food derived in whole or in substantial part from fish, including unprocessed fish or any part thereof, excepting products which contain fish ingredients only in a relatively small proportion or that historically have not been considered by consumers as products of the fish food industry, and that are exempt from the definition of fish or fish product by the Secretary under such conditions as the Secretary may prescribe to ensure that the fish ingredients contained in such product are not adulterated and that such products are not represented as a fish product.

"(10) FISH TENDER VESSEL.—The term 'fish tender vessel' means a vessel that commercially supplies, stores, refrigerates, or transports fish products that are intended for human consumption, or materials directly related to fishing or the preparation of fish, to or from a commercial fishing vessel, fish processing vessel, fish tender vessel or a fish processing facility.

"(11) IMMEDIATE CONTAINER.—The term 'immediate container' includes any consumer package, or any other container in which fish products, not consumer packaged, are packed.

"(12) INSPECTOR.—The term 'inspector' means any individual appointed or authorized by the Secretary to make inspections, to review compliance, or to perform other functions under this title.

"(13) INTERSTATE COMMERCE.—The term 'interstate commerce' means commerce between any State or Territory, and any place outside thereof, or within any territory not organized with a legislative body.

"(14) LABEL.—The term 'label', with respect to fish products, means a display of written, printed, or graphic matter appearing on the immediate container (not including package liners) of any fish product.

"(15) LABELING.—The term 'labeling', with respect to fish products, means all labels and other written, printed, or graphic matter on any fish product or on any of the packages, containers, or wrappers of such article, or accompanying any fish product.

"(16) MISBRANDED.—The term 'misbranded' means any fish product—

"(A) the labeling of which is false or misleading in any manner;

"(B) if such fish product is offered for sale under the name of another food;

"(C) if the package of such fish product is so made, formed, or filled as to be misleading;

"(D) if the label of such fish product is not approved by the Secretary, or is not in a standard form that is approved by the Secretary, or otherwise is not in conformity with regulations promulgated by the Secretary;

"(E) if such fish product is an imitation of another food product, unless the label of such fish product bears, in type of uniform size and prominence, the word 'imitation' and immediately thereafter, the name of the food imitated;

"(F) such fish product does not bear a label disclosing—

"(i) the name and the place of business of the manufacturer, packer, or distributor; and

"(ii) an accurate statement of the quantity of such fish product in terms of weight, measure, or numerical count, except that reasonable variations may be permitted, and exemptions as to small packages or articles that are not in packages or other containers may be established by regulations promulgated by the Secretary;

"(G) if any word, statement, or other information required by or under the authority of this title to appear on the label or labeling of such fish product is not prominently placed on such product with such conspicuousness (as compared with other words, statements, designs, or devices, in such labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(H) if such fish product purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by the regulations of the Secretary under section 1908 of this title unless—

"(i) such fish product conforms to such definition and standard; and

"(ii) the label of such product bears the name of the food specified in such definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

"(I) if such fish product purports to be or is represented as a food for which a standard or standards of fill of the container of such product have been prescribed under regulations promulgated by the Secretary, and such fish product falls below the standard of fill of container that are applicable thereto, unless the label of such product bears, in such manner and form as such regulations require, a statement that it falls below such standard;

"(J) if such fish product is not subject to the provisions of subparagraph (H), unless its label bears—

"(i) the common or usual name of the food, if any such common or usual name exists; and

"(ii) in the case of a product that is fabricated from two or more ingredients, the common or usual name of each such ingredient, except that spices, flavorings, and colorings may, when authorized by the Secretary, be designated as spices, flavorings, and colorings without naming each and, to the extent that compliance with this clause is impracticable or results in deception or unfair competition, exemptions shall be established through regulations promulgated by the Secretary;

"(K) if such fish product bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless the fish product bears a label that states that fact, except that to the extent that compliance with the requirements of this subparagraph are impracticable, exemptions shall be established through regulations promulgated by the Secretary; or

"(L) if such fish product fails to bear on its package or immediate container, and in the case of nonconsumer packaged fish (if the Secretary so requires) directly thereon, as the Secretary may through regulations prescribe, the official mark, and such other information as the Secretary may require in such regulations to ensure that such fish product will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

"(17) OFFICIAL MARK.—The term 'official mark' means any official inspection legend or any other symbol, prescribed under regulations promulgated by the Secretary, to identify the establishment and the status of any fish product under this title.

"(18) OWNER OR OPERATOR.—The term 'owner or operator' means any person who owns, operates, leases, charters, or otherwise controls in whole or in part any establishment or vessel.

"(19) PERSON.—The term 'person' means any individual, partnership, corporation, establishment, importer of fish products, association, or other business unit.

"(20) PESTICIDE CHEMICAL, OTHER TERMS.—The terms 'pesticide chemical', 'food additive', 'color additive' and 'raw agricultural commodity' shall have the same meanings given such terms under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, et seq.).

"(21) PROCESS.—The terms 'process' and 'processing', with respect to fish products, means to prepare or manufacture such fish products by canning, cooking, smoking, filleting, fermenting, freezing to the extent that the freezing is associated with other actions related to processing, dehydrating, drying, and consumer packaging.

"(22) PROGRAM.—The term 'program' means all aspects of the inspection and sampling program for fish products established under this title.

"(23) RECREATIONAL VESSEL.—The term 'recreational vessel' means a vessel operated primarily for pleasure, or leased, rented or chartered to another for the pleasure of the leasee.

"(24) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(25) SHIPPING CONTAINER.—The term 'shipping container' means any container used or intended for use in packaging a fish product packed in an immediate container.

"(26) STATE.—The term 'State' means any of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa.

"(27) TERRITORY.—The term 'Territory' means any territory or possession of the United States not included in the definition under paragraph (26).

"SEC. 1902. EXEMPTIONS AND EXCLUSIONS.

"(a) GENERAL EXEMPTIONS.—The Secretary shall, by regulation and under such conditions as the Secretary may prescribe, exempt from specific provisions of this title—

"(1) the processing by any individual of fish products raised or harvested by that individual exclusively for use by that individual or by the members of the household, the nonpaying guests, and the employees of that individual;

"(2) the custom processing, in any establishment or vessel, of fish products that the owner of such products will exclusively use, in the household of the owner, for the owner or the members of the household, the nonpaying guests, or the employees of the owner, if—

"(A) such establishment or vessel ensures that such fish products are segregated at all times from fish products processed for sale;

"(B) such fish products are plainly labeled or marked as "Not for Sale"; and

"(C) such establishments and vessels are maintained and operated in a sanitary manner;

"(3) any establishment or vessel that processes only fish products that are not intended for use as human food, if such fish products are, prior to their offer for sale or other disposition in commerce, not capable of use as human food.

"(4) the entry, or withdrawal from warehouse, for consumption in the United States of any fish product acquired outside the United States for consumption by the person entering or withdrawing it if—

"(A) the total amount of such fish product does not exceed 50 pounds as the Secretary may prescribe by regulation; or

"(B) the fish product is exempted by regulation because it was caught for other than commercial purposes in waters outside the United States; and

"(5) operations of types traditionally and usually conducted at retail stores or restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities of fish products to consumers at such stores or restaurants.

"(b) EXCLUSIONS.—This title shall not apply to recreational vessels, commercial fishing vessels or fish tender vessels except where such vessels process fish.

"SEC. 1903. FEDERAL AND STATE COOPERATION.

"(a) STATE PROGRAMS.—

"(1) POLICY.—It is the policy of Congress to protect the consuming public from fish products that are adulterated or misbranded and to assist in the efforts of State and other government agencies to accomplish this objective.

"(2) INTRASTATE INSPECTION PROGRAMS.—

"(A) AUTHORITY OF SECRETARY.—

"(i) IN GENERAL.—The Secretary may, when the Secretary determines that it would effectuate the purposes of this title, cooperate with the appropriate State agency in any State that has enacted a mandatory State fish product inspection law that imposes inspection, sampling, sanitation and other requirements of the type described in this title, that are at least equal to those described in this title, to assist such State in developing and administering a State fish product inspection program with respect to all or certain classes of persons engaged in the State in processing fish products solely for sale or other distribution within such State.

"(ii) MARKS OR CERTIFICATES.—Each State program described in clause (i) applicable to fish products in intrastate commerce shall not permit such fish products to bear any official marks or certificates applicable to fish products in interstate commerce as authorized under this title, and any labels on such fish products shall clearly indicate that the fish product is for intrastate commerce only.

"(B) ADULTERATION.—Fish products processed or handled for intrastate commerce, as authorized under a program established under subparagraph (A), that are sold, transported, or delivered for introduction into, or offered for sale in interstate commerce shall be considered to be adulterated for purposes of this title.

"(C) WARNING NOTICE.—If the Secretary determines that a State fish product inspection program established under subparagraph (A) is not at least equal to the program established under this title, or that a State has failed to maintain or is not enforcing a fish product inspection program at least equal to the program established under this title, the Secretary shall promptly notify the chief executive officer of the State of such determination.

"(D) NOTICE.—If, after notification is provided to a State under subparagraph (C), and after the Secretary has consulted with the State and provided the State with an opportunity to promptly correct any deficiencies identified in such notification, the Secretary determines that a State fish product inspection program continues to have State standards that are not at least equal to those established under this title or that the State has failed to maintain or is not enforcing a program having standards at least equal to those established under this title, the Secretary shall—

"(i) promptly notify the chief executive officer of such State of such determination;

"(ii) discontinue assistance to such State under this title;

"(iii) advise the Commissioner of Food and Drugs of such determination; and

"(iv) notwithstanding any other provision of this title, in the case of adulterated fish products that are being distributed or sold within such State that are determined to clearly endanger the public health, the Secretary shall immediately notify the chief executive officer of the State of such determination, and if the State does not take action to prevent such endangering of the public health within a reasonable period of time after the receipt of such notice, as determined by the Secretary, in light of the risk to public health, the Secretary may require that such State be subject to the provisions of this title as though the fish products were in interstate commerce until such time as the Secretary determines that the State has developed and will enforce requirements at least equal to those imposed under this title.

"(3) INTERSTATE COMMERCE.—

"(A) AUTHORITY OF THE SECRETARY.—

"(i) IN GENERAL.—The Secretary may, when the Secretary determines that it would effectuate the purposes of this title, cooperate with appropriate State agencies concerning the State administration of the inspection and sampling components of the program established under this title on behalf of the Secretary.

"(ii) REGULATIONS CONCERNING STATE ADMINISTRATION.—The Secretary shall promulgate regulations concerning the State administration of the sampling and inspection components as described in clause (i) on behalf of the Secretary.

"(iii) COOPERATION.—The Secretary may cooperate with other agencies of the Federal Government in implementing this title.

"(iv) EXAMINATIONS, ETC.—In carrying out this title, the Secretary shall conduct such examinations, investigations, and inspections as the Secretary determines practicable through any officer or employee of any State commissioned by the Secretary for such purpose. The Secretary shall monitor, investigate and evaluate each program administered under this paragraph on behalf of the Secretary by a State on an ongoing basis to assure that such programs comply with the regulations and other requirements of the Secretary. The Secretary shall be responsible for the enforcement of this title with respect to States that administer the program on behalf of the Secretary.

"(B) FINANCIAL ASSISTANCE.—

"(i) AUTHORITY.—The Secretary, in cooperating with State agencies under this paragraph, may provide such State agencies with—

"(I) advisory assistance in planning and otherwise developing an adequate State program under this paragraph; and

"(II) technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other assistance necessary for the administration of a program under this paragraph.

"(ii) AMOUNT.—The amount to be contributed to any State by the Secretary for an approved State interstate commerce sampling and inspection program for any year shall not exceed 50 percent of the total cost of the cooperative program, and Federal funds utilized by the Secretary under such clause shall be allocated among the States desiring to cooperate under this paragraph on an equitable basis. Such cooperation and payment shall be contingent at all times on the demonstration that the State program is adequate to effectuate the sampling and inspection requirements of this title.

"(iii) WITHHOLDING OF ASSISTANCE.—The Secretary may promulgate regulations to provide for the withholding of Federal assistance under this subparagraph if the Secretary determines that the State is not effectively and properly administering the State program under this title. Such regulations may provide for the subsequent payment of any withheld assistance if the State, to the satisfaction of the Secretary, corrects any deficiencies determined by the Secretary to exist.

"(C) FEDERAL-STATE PARTNERSHIPS.—The Secretary shall establish procedures to enable States to apply to administer, on behalf of the Secretary, an inspection and sampling program under this paragraph.

"(D) PLAN OF OPERATION.—Each State approved by the Secretary to administer an inspection and sampling program for the Secretary under this paragraph shall annually prepare and submit to the Secretary a plan of operation that shall contain such information as the Secretary shall by regulation require, including a description of—

"(i) the manner in which the State intends to administer the fish product inspection and sampling program consistent with the requirements of this title;

"(ii) the State plans for sampling fish products and for inspecting and monitoring establishments;

"(iii) State cost projections that contain the anticipated cost to the State in administering the program on behalf of the Secretary;

"(iv) the staffing, equipment, and other needs of the State to administer such program and the indicators of the expected performance of the State in the administration of the program;

"(v) the types of reports and other information that the State shall provide, as may be required by the Secretary; and

"(vi) the procedures that the State will utilize for the issuing and handling of advance Federal payments under this title, and for the financial recordkeeping concerning the Federal share of the total cost of the cooperative programs administered under this paragraph.

"(E) STANDARDS FOR FEDERAL-STATE COOPERATION.—

"(i) ESTABLISHMENT.—The Secretary shall establish standards for the efficient and effective administration of the sampling and inspection program by each State whose application and plan of operation has been approved under this paragraph.

"(ii) WARNING NOTICE.—If the Secretary determines that any State inspection and sampling program established under this paragraph is not at least equal to the program established under regulations promulgated by the Secretary, or that a State has failed to maintain or is not operating a program at least equal to the program established under this title, the Secretary shall promptly notify the chief executive officer of the State of such determination.

"(iii) DESIGNATION BY SECRETARY.—If, after issuing a notification under clause (ii) to a State and after consulting with such State and providing an opportunity for the State to promptly correct any deficiencies identified in such notification, the Secretary determines that a State inspection and sampling program operated under this paragraph does not have standards that are at least equal to those required under this title or that such State has failed to maintain or operate a program having standards at least equal to those under this title, the Secretary shall promptly notify the chief executive officer of such State of such determination and designate such State as one in which the Federal inspection program established under this title shall apply.

"(F) DEPUTIZATION OF STATE EMPLOYEES.—The Secretary may deputize specific State

employees in States approved to administer the Federal inspection and sampling program on behalf of the Secretary under this paragraph, under an annual agreement with each participating State to carry out, on behalf of the Secretary, the inspection program established under this title.

"(4) ADVISORY COMMITTEES.—The Secretary may appoint advisory committees consisting of such representatives of appropriate State agencies as the Secretary and the State agencies may designate to consult with the Secretary concerning State and Federal programs with respect to fish product inspection and other matters within the scope of this title. Such advisory committees may conduct evaluations of State programs and attempt to obtain improved coordination and more uniformity among such State programs and between the Federal and State programs, and shall provide advice on the protection of consumers.

"(5) LOCAL COOPERATION.—The appropriate State agency with which the Secretary may cooperate under this subsection shall be a single agency in the State that is primarily responsible for the coordination of the State programs having objectives that are the same as the objectives of this title. If the State program includes performance of certain functions by a municipality or other subordinate governmental unit, such unit shall be considered to be a part of the State agency for purposes of this subsection.

"(b) DEVELOPMENT OF FEDERAL INSPECTION PROGRAM.—The Secretary shall develop and administer a comprehensive and efficient health-based inspection program for fish products designed to protect the consuming public from fish products that may be adulterated or misbranded.

"(c) FEDERAL PROGRAM REQUIREMENTS.—The inspection program established by the Secretary under subsection (b) shall—

"(1) be specifically designed to take into consideration the special characteristics of fish species and fish products;

"(2) be based on a comprehensive assessment of fish and fish products, and the processing and handling of such products, that identifies the hazards and assesses the severity of the hazards and risks, and that prescribes health-based standards for sanitation in the processing of fish products in establishments to ensure that fish products will not be adulterated or misbranded when delivered to the consumer;

"(3) be based on a consideration by the Secretary of all procedures utilized during the processing and distribution of fish including—

"(A) the identification and assessment of the severity of the potential health risks associated with fish, fish species, and fish products and with the processing and handling of such fish, species, and products;

"(B) a determination of the sources and specific points of potential contamination that may adulterate fish products; and

"(C) the potential for persistence and multiplication or concentration of contaminants in fish and fish products;

"(4) be based on the need to require procedures to prevent, eliminate or control potential contaminants that may adulterate fish and fish products and the need to monitor those procedures;

"(5) be specifically designed to take into consideration the distinctive characteristics, hazards, control points, and processing procedures related to different species of fish;

"(6) assure, through frequent, and unannounced or announced, inspections of establishments that the processing of fish products complies with the standards prescribed pursuant to this title and the regulations issued by the Secretary thereunder, including standards for good sanitation, manufacturing, processing, storage, temperature control, packaging, and handling, taking into consideration—

"(A) the nature and frequency of operations;

"(B) the adequacy of monitoring programs;

"(C) the history of compliance with this title;

"(D) the recommendations of the Model Seafood Surveillance Program;

"(E) the potential of the operations to affect human health based on the probability of fish, fish species, or fish products being susceptible to adulterants or otherwise having potential to affect public health;

"(F) the compliance of the establishment with other federal health and safety laws; and

"(G) such other factors as the Secretary may determine appropriate;

"(7) not require the freezing or cooking of fish or fish products that are intended for raw consumption unless the Secretary determines that such freezing or cooking is the only practical procedure available that will adequately prevent, eliminate, or control an identified source of adulteration in the specified fish species;

"(8) provide for the identification and classification of fish growing and harvesting areas in conjunction with the appropriate Federal and State agencies;

"(9) provide for the delegation, as described in this title, of certain inspection and sampling authorities to State governments and provide compensation to the States for carrying out such authority at a level not to exceed 50 percent of the total cost of the cooperative program;

"(10) provide for the sampling and inspection of fish products, and for the monitoring, and the taking of samples or readings, at such points, in such manner, and with such frequency as the Secretary determines necessary, taking into consideration the factors described in subparagraphs (A) through (G) of paragraph (6);

"(11) establish procedures (that may include requiring the marking of containers, packages or fish products, or by requiring such recordkeeping, lot processing, or other handling procedures as the Secretary determines appropriate) to assist the Secretary in determining sources of contamination, including determining which harvesting or growing areas are likely to produce fish that are adulterated; and

"(12) provide for the promulgation of regulations establishing rules for the identification, naming, labeling and fill of containers of fish products taking into consideration current industry practices and Federal regulations.

"(d) TOLERANCES.—

"(1) POISONOUS OR DELETERIOUS SUBSTANCES.—

"(A) IN GENERAL.—The Commissioner of Food and Drugs shall establish tolerances, except where such tolerances are established by the Administrator of the Environmental Protection Agency, that shall be applicable to poisonous or deleterious substances that may adulterate fish products under the definition of adulteration contained in subparagraphs (A) and (B) of section 1901(1), which shall be used by the Secretary to determine instances in which fish products will be considered adulterated under such subparagraphs. Any such tolerances shall be established at levels so that fish products are not injurious to health.

"(B) CONSULTATION.—Tolerances shall be established under subparagraph (A) in consultation with—

"(i) the National Academy of Sciences;

"(ii) the Environmental Protection Agency;

"(iii) the Centers for Disease Control;

"(iv) the Secretary of Agriculture;

"(v) the Secretary of Commerce; and

"(vi) the Interstate Shellfish Sanitation Conference.

"(C) BASIS.—Tolerances shall be established under subparagraph (A) based on a scientific analysis of the health risks attributable to the poisonous or deleterious substance for which the tolerance is being established.

"(D) TRADE REPRESENTATIVES.—The Commissioner of Food and Drugs shall consult and advise the United States Trade Representative concerning tolerances that may apply to international trade negotiations.

"(E) RECONSIDERATION.—The Commissioner of Food and Drugs or the Administrator of the Environmental Protection Agency shall review and reconsider any tolerances established under subparagraph (A) concerning fish products as new scientific information or new technologies become available.

"(2) CONTAMINANTS.—The Commissioner of Food and Drugs shall establish tolerances, except where such tolerances are established by the Administrator of the Environmental Protection Agency under the Federal Food, Drug and Cosmetic Act, for harmful chemicals, toxins, parasites, pathogenic microorganisms, viruses, bacteria, and other harmful agents, that may render fish products adulterated.

"(3) INDICATORS.—The establishment of tolerances under this subsection may include the use of indicators present in fish or fish products, including indicator organisms, from which it may reasonably be inferred that a hazardous or injurious contaminant or substance is present whenever the contaminant or a poisonous or deleterious substance itself cannot be cost-effectively detected.

"(e) CONSTRUCTION.—Nothing in this section shall be construed to preclude any State from establishing an additional fish products quality program for fish products grown or harvested in such State.

"SEC. 1904. GROWING AND HARVESTING AREAS.

"(a) IDENTIFICATION OF GROWING AREAS.—The Secretary of Commerce for waters under the exclusive jurisdiction of such Secretary, and appropriate State authorities for waters under the jurisdiction of such appropriate State authorities, shall establish a system for the identification and classification of growing and harvesting areas for fish in coastal areas and the Great Lakes.

"(b) MONITORING.—The Secretary shall sample and test fish products to determine if there is any significant instance or trend in the condition of such fish products that may pose a significant threat to the health and safety of consumers.

"(c) NOTICE.—

"(1) DETERMINATION.—If the Secretary determines that a significant instance or trend of the type described under subsection (b) exists, the Secretary shall notify the appropriate State or Federal agencies with authority to remedy such instance or trend. Such agencies shall include—

"(A) the Interstate Shellfish Sanitation Conference;

"(B) the State from which any such fish may have been harvested;

"(C) the Secretary of Commerce;

"(D) the Commissioner of Food and Drugs; and

"(E) the Administrator of the Environmental Protection Agency.

The Secretary shall publish notice of the significant instance or trends determined to exist in the Federal Register.

"(2) ACTIONS.—Each agency notified under paragraph (1) shall, not later than 30 days after the receipt of such notice, inform the Secretary in writing of any actions that such agency has taken to prevent the distribution of adulterated fish products to consumers. Any such written information shall be available for public inspection.

"(d) GRANTS.—The Secretary, in cooperation with States under this section, may provide States with financial and other assistance to prevent the entry of adulterated fish products into establishments, including annual grants to each State that is a member of the Interstate Shellfish Sanitation Conference.

"(e) CLOSURE OF AREAS.—

"(1) IN GENERAL.—In the case of public health emergencies or on receiving notice of the type described in subsection (b) from the Secretary, the Secretary of Commerce may close waters under the exclusive jurisdiction of the Secretary of Commerce, or otherwise restrict the harvesting of a fish species in such waters if the Secretary of Commerce determines that fish of such species within the identified harvesting or growing areas are likely to be adulterated.

"(2) REVIEW.—The Secretary of Commerce shall periodically review the growing and harvesting areas closed or restricted under this subsection to determine whether such closure or restriction should be removed. The Secretary of Commerce shall establish procedures to permit further review on petitions by affected persons.

"(3) NOTICE.—The Secretary of Commerce shall give reasonable public notice, except in cases determined to be public health emergencies, prior to ordering any closure or restriction under this section.

"SEC. 1905. POWER OF INSPECTORS.

"(a) ACTIONS OF INSPECTORS.—Inspectors authorized by the Secretary to conduct inspections, enforce compliance, and otherwise implement this title (including State employees so authorized) shall, pursuant to procedures prescribed by the Secretary, take such actions as are necessary in the judgment of the inspector to implement this title and the regulations promulgated under this title. Such actions may include—

"(1) the inspection of establishments and all locations within establishments, including fish products, packages, containers, labeling, equipment, processing procedures, and records related to this title;

"(2) the sampling and testing of fish products;

"(3) the detention and condemnation of adulterated or misbranded fish products in accordance with this title; and

"(4) the inspection, sampling and testing of imports of fish products.

"(b) CONDEMNED FISH PRODUCTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), all fish products found by the Secretary to be adulterated or misbranded shall be immediately segregated, seized, and, if objection is not made within 48 hours, condemned. If objection is made, such fish products that are in perishable form may be processed to the extent necessary to prevent spoilage pending hearing and judicial review.

"(2) COMPLIANCE ACTIONS.—If the Secretary determines that an adulterated or misbranded fish product can, by relabeling or other action, be brought into compliance with this title or the regulations promulgated under this title, the Secretary may defer a final determination as to the condemnation of such fish product pending the performance by the applicant within a time period specified by the Secretary of such relabeling or other action as the Secretary may authorize. If after such action is performed, the Secretary determines that the fish product has been brought into compliance with this title, the Secretary shall permit its entry into commerce.

"(3) DESTRUCTION.—A fish product condemned by the Secretary without objection, or after hearing and judicial review under section 1918, shall be destroyed and not utilized for human food purposes under the supervision of the Secretary.

"(c) ACCESS.—Inspectors under this title shall have access, for purposes of examination, sampling, inspection, condemnation, and for such other purposes as are determined necessary, to every part of any establishment.

"SEC. 1906. SANITARY CONDITIONS.

"(a) MAINTENANCE OF FACILITIES.—Each establishment shall maintain premises, facilities, and equipment, and the operation of such, in accordance with such sanitary practices as are required under regulations promulgated by the Secretary for the purpose of preventing the entry into, or flow or movement in, or burdensome effect on, commerce, of fish products which are adulterated.

"(b) STORAGE OR HANDLING.—The Secretary shall, by regulation, prescribe conditions under which fish products shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, or importing, such articles, when the Secretary determines that such action is necessary to ensure that such articles will not be adulterated or misbranded when delivered to the consumer. The Secretary may establish guidelines for the training of persons who are employed by establishments involved in fish and fish product sanitation and quality control.

"(c) TEMPORARY EXEMPTION AUTHORITY.—The Secretary may, under such sanitary conditions as the Secretary may by regulation prescribe, exempt from the inspection requirements of this title until, July 1, 1995, or earlier, the handling or processing of fish products by any person, where the Secretary determines—

"(1) that it is impractical to provide such inspection based on the amount of funds appropriated for the administration of this title; and

"(2) that an exemption under this subsection will aid in the effective transition to the program implemented under this title.

"SEC. 1907. CERTIFICATION OF ESTABLISHMENTS, IMPORTERS.

"(a) IN GENERAL.—

"(1) PROCEDURES.—The Secretary shall establish procedures for the annual certification, or decertification for good cause, of establishments, and persons engaged in the business of importing of fish or fish products.

"(2) INFORMATION.—The Secretary shall require such information as the Secretary determines appropriate for application for certification under paragraph (1), including the name of the owner and operator of the establishment or import business, the principal place of business, and a list of each type of fish or fish product typically processed, handled, or imported by each such establishment or importer.

"(3) PROHIBITION.—No establishment or person engaged in the business of importing shall process or handle any fish product for commercial purposes unless such establishment or importer is certified by the Secretary.

"(b) APPLICATIONS.—Applications for certification under subsection (a) shall be made to the Secretary using such forms and requiring such information as the Secretary shall prescribe by regulation including a description of the quality control program of the establishment or importer.

"(c) REFUSAL TO CERTIFY, REVOCATION.—

"(1) IN GENERAL.—If an establishment or importer certified under subsection (a) fails to comply with any requirement of this title or the regulations promulgated under this title, the Secretary may, after notice and an opportunity for a hearing—

"(A) revoke such certification;

"(B) suspend such certification for a period of time; or

"(C) impose conditions or restrictions on such certification as the Secretary determines necessary and appropriate.

"(2) DENIAL OR REVOCATION.—The Secretary may (for such period, or indefinitely, as the Secretary determines necessary to effect the purposes of this title) refuse to certify or decertify an establishment or importer if the Secretary determines, after providing such establishment or importer with an opportunity for a hearing, that such establishment or importer is unfit to engage in any business subject to or requiring inspection under this title as a result of the establishment or importer, or anyone responsibly connected with the establishment or importer, having been convicted in any Federal or State court of—

"(A) acquiring, handling, or distributing adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food; or

"(B) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

"(3) RESPONSIBLY CONNECTED.—For the purpose of this subsection a person shall be considered to be responsibly connected with the establishment or importer if such person is a partner, officer, director, holder, or owner of 10 percent or more of the voting stock of the establishment or importer or is an employee in a managerial or executive capacity, as defined in regulations promulgated by the Secretary.

"(4) HEARINGS.—On the revocation of a certification for failure to destroy condemned fish products as required under this title, or as a result of any other failure of an establishment or importer to comply with the requirements of this title as to premises, facilities, or equipment, or the operation thereof, or other noncompliance with the requirements of this title, the applicant for, or holder of, the certification shall, on request, be afforded an opportunity for a hearing with respect to the merits or validity of such action under section 1918. Such decertification or refusal to certify shall continue in effect unless otherwise ordered by the Secretary.

"(5) REINSTATEMENT.—

"(A) IN GENERAL.—An establishment or importer that has had a certification revoked or suspended under this subsection may apply for reinstatement of such certification. The Secretary shall grant such reinstatement, if the revocation or suspension is pending in a hearing or appeal under paragraph (4), if the Secretary determines that the establishment or importer is fit to engage in the handling or processing of fish products.

"(B) CONDITIONAL OR RESTRICTED CERTIFICATIONS.—An establishment or importer that has a certification that is conditional or restricted may apply for the removal of such conditions or restrictions. The Secretary shall immediately remove such conditions or restrictions, if the existence of the condition or restriction is pending in a hearing or appeal under paragraph (4), if the Secretary finds that adequate measures have been taken to comply with this title or regulations promulgated under this title.

"SEC. 1908. LABELING, PACKAGING AND MARKING.

"(a) LABELING.—All fish products processed at any establishment certified under this title, and that are not found to be adulterated, shall at the time that such products leave the establishment bear, in distinctly legible form, on their shipping containers and immediate containers such information as the Secretary may require. The Secretary may permit such fish products to bear a seal stating that the product was processed in accordance with Federal standards or such similar language as the Secretary determines appropriate.

"(b) PROTECTION OF PUBLIC.—The Secretary, when the Secretary determines such action is necessary for the protection of the public, may prescribe—

"(1) the styles and sizes of type to be used, with respect to material required to be incorporated in labeling to avoid false or misleading labeling, in marking and labeling any fish products subject to this title;

"(2) definitions and standards of identity or composition of articles subject to this title and standards of fill of containers for such articles that shall not be inconsistent with any such standards established under the Federal Food, Drug, and Cosmetic Act; and

"(3) procedures that permit statements on labels that indicate the State or location of origin of the product.

"(c) MARKING.—The Secretary shall—

"(1) require the owner or operator of any establishment certified under this title, to cause each package of fish product that is processed in such establishment to be marked at the time the package leaves the establishment with—

"(A) the appropriate identification issued under the authority of this title; and

"(B) labeling that bears or contains an official mark; and

"(2) ensure that the official mark shall be available only for fish products that are processed in establishments certified under this title.

"(d) NO SALES.—No article subject to this title shall be sold or offered for sale in commerce by any person, under any name or other marking or labeling that is false or misleading, or in any container of a misleading form or size. Established trade names and other marking and labeling that are not false or misleading and that are approved by the Secretary are permitted.

"(e) FALSE LABELS OR MARKINGS.—

"(1) WITHHOLDING REQUIREMENT.—If the Secretary has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this title is false or misleading in any particular, the Secretary may require that such use be withheld unless the marking, labeling, or container is modified in such manner as the Secretary may prescribe so that it will not be false or misleading.

"(2) REQUEST FOR HEARING.—If a person using or proposing to use markings, labeling, or a container that is subject to a withholding requirement under paragraph (1) does not accept such requirement, such person may request a hearing, and the use of such marking, labeling, or container shall, if the Secretary so requires, be withheld pending such hearing and final determination by the Secretary.

"(3) APPEALS.—Any determination by the Secretary under paragraph (2) shall be conclusive unless, not later than 30 days after the person receives notice of such final determination, such person appeals such determination to the United States Court of Appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (7 U.S.C. 194) shall be applicable to appeals brought under this section.

"SEC. 1909. RECORDS, REPORTS AND DISCLOSURE.

"(a) IN GENERAL.—Establishments shall maintain accurate records as determined to be appropriate by the Secretary. Any requirements imposed under this section may include information concerning—

"(1) the receipt, delivery, sale, movement, or disposition of fish or fish products;

"(2) matters reasonably related to whether fish products may be adulterated or misbranded, including the growing or harvesting area from which such fish was harvested;

"(3) the effective enforcement of this title to ensure against the sale or distribution of adulterated or misbranded fish products to consumers; and

"(4) other activities and matters relevant to food safety and sanitation.

"(b) TIME PERIODS.—The persons described in subsection (c) shall, for such period of time as the Secretary may by regulation prescribe (not to exceed 2 years unless otherwise directed by the Secretary for good cause shown) keep and maintain such records as determined by the Secretary to be appropriate under subsection (a).

"(c) PERSONS AFFECTED.—The recordkeeping and other requirements of this section shall apply to any person, not exempted under section 1902—

"(1) that engages in the business of processing any fish product for interstate commerce; and

"(2) that engages in the business of buying or selling (such as acting as products brokers or wholesalers), or transporting, in interstate commerce, or storing in or for interstate commerce or importing any fish products.

"(d) ACCESS TO RECORDS.—The Secretary and the Secretary of Commerce shall, on request at reasonable times, have access to and make copies of records maintained under this section.

"SEC. 1910. IMPORTS.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—No fish product shall be entered, or withdrawn from warehouses, for consumption in the United States, unless such fish product—

"(A) is not adulterated or misbranded;

"(B) complies with all requirements applicable to fish products in commerce in the United States under this title;

"(C) is marked and labeled as required by regulations for imported articles; and

"(D) complies with the requirements of this title and regulations promulgated under this title.

"(2) TREATMENT.—On entry into the United States, any fish product that satisfies the requirements of paragraph (1) shall be considered and treated as domestic fish products under this title, except that all labeling of such fish products shall identify the country of origin.

"(b) INSPECTION OF IMPORTS.—The Secretary shall enforce the requirements of this section through inspections and other procedures, and the sampling and inspection of fish products that are offered for importation or entered, or withdrawn from warehouses, for consumption in the United States, and through any other procedures that the Secretary determines necessary to ensure compliance with this title.

"(c) CORRECTIVE ACTIONS.—All fish products that are refused entry into commerce in the United States under subsection (a) or that are entered, or withdrawn from warehouses, for consumption in the United States in violation of this section, shall pursuant to regulations promulgated by the Secretary, be destroyed unless—

"(1) such fish products are exported within a time fixed for such exportation by the Secretary; or

"(2) the Secretary determines that such fish product can be brought into compliance with this title through relabeling or other action.

If the Secretary makes a positive determination under paragraph (2), the destruction of such fish product may be deferred pending the filing of a written application by the owner or consignee and the execution by the applicant of a bond within a time period specified by the Secretary. On such filing and execution of a bond, the Secretary may authorize the applicant to perform such relabeling or other actions required by the Secretary. If after such action is performed, the Secretary determines that such fish product has been brought into compliance with this title, the Secretary shall permit its entry into commerce.

"(d) COSTS.—Storage, cartage, labor, and other costs resulting from the denial of entry, or withdrawal from warehouse, of any fish product under this section shall be paid by the owner or consignee of such product. The nonpayment of such costs shall constitute a lien against such product and any other fish product thereafter entered, or withdrawn from warehouse, for consumption in the United States by such owner or consignee.

"(e) FOREIGN SEAFOOD INSPECTION PROGRAM.—

"(1) REVIEW.—On request of a country desiring to export fish products to the United States, the Secretary shall review the inspection program, including the sanitary, wholesomeness, quality, species verification, residue and other requirements and tolerances, with respect to fish products to be offered for importation into the United States, to determine whether such requirements and tolerances for such products are at least equal to those established under this title.

"(2) CERTIFICATION.—If the Secretary determines that a country desiring to export fish products to the United States meets the

standards and procedures set forth in paragraph (1), with respect to fish products to be offered for importation into the United States, and that such country will permit the enforcement measures that the Secretary determines necessary pursuant to paragraph (5), the Secretary shall issue a certificate to such country stating that the country meets such requirements.

"(3) EFFECT OF NONCERTIFICATION.—All fish products imported from a country that is not certified by the Secretary under this section shall be inspected by the Secretary at the port of entry to ensure compliance with the provisions of this section.

"(4) REVIEW.—

"(A) IN GENERAL.—The Secretary shall periodically review certificates issued under this subsection and shall revoke any such certificate if the Secretary determines that such action is necessary.

"(B) INSPECTION.—The consideration of any application for a certification under this subsection and the review of any such certification, by the Secretary, shall include the inspection of individual establishments that produce fish products to be offered for export to the United States to ensure that such products, and the procedures and standards used in handling and processing such products, meet the inspection, sanitary, quality, species verification, residue and other standards and tolerances required by this title.

"(5) ENFORCEMENT.—The Secretary shall enforce the requirements of this section through inspections, sampling, testing, or such other actions at such stages in the handling or processing of fish products, whether in the foreign country, during importation, or otherwise as the Secretary determines necessary to ensure compliance with this title.

"(f) REPORTS TO CONGRESS.—Not later than March 1 of each year, the Secretary shall submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate, a comprehensive and detailed written report with respect to the administration of this section during the immediately preceding calendar year. Such report shall include—

"(1) a certification by the Secretary that foreign entities exporting fish products under this section have complied with requirements at least equal to all the inspection, building construction standards, and all other provisions of this title and regulations issued thereunder;

"(2) the names and locations of establishments authorized or permitted to have imported fish products into the United States;

"(3) the number of inspectors employed by the Department of Agriculture in the calendar year for which the report is being prepared that were assigned to inspect the establishments referred to in paragraph (2) and the frequency with which each such establishment was inspected by such inspectors;

"(4) the number of inspectors licensed by each country from which any imports subject to the provisions of this section were imported who were assigned, during the calendar year concerned, to inspect such imports and the facilities in which such imports were handled and the frequency and effectiveness of such inspections;

"(5) the total volume of fish products that were imported into the United States during the year for which such report was prepared from each country, including a separate itemization of the volume of each major category of such imports from each country during such year, and a detailed report of rejections of entities for certification and products because of the failure of such entities or products to meet appropriate standards prescribed under this section; and

"(6) the name of each foreign country that applies requirements for the importation of fish products from the United States.

"SEC. 1911. EXPORTS.

"(a) STANDARDS.—Fish products intended for export to a foreign country shall not be considered to be adulterated or misbranded under this title if such products—

"(1) are exported consistent with the specifications of the foreign purchaser;

"(2) are not in conflict with the laws of the country to which they are intended for export;

"(3) are labeled on the outside of the shipping package that they are intended for export; and

"(4) are not sold, offered for sale, or otherwise disposed of in commerce within the United States except that such fish product shall be considered to be adulterated if the Secretary determines such products represent a threat to the health of the eventual consumer.

"(b) INSPECTION.—The Secretary shall inspect fish products intended to be exported to foreign countries at such times and places and in such manner as the Secretary determines necessary.

"(c) CERTIFICATES.—The Secretary shall, on request of the exporter, provide a certificate for export stating the condition of fish products inspected under this section.

"SEC. 1912. RECALL.

"The Secretary may require any person who owns or operates an establishment or is in the business of importing of fish products, to recall any fish product that is adulterated or misbranded if the Secretary determines that such fish product is adulterated or misbranded and could cause serious health consequences.

"SEC. 1913. COOPERATION WITH CENTERS FOR DISEASE CONTROL.

"The Secretary of Health and Human Services shall establish, through the Centers for Disease Control, an active surveillance system, based on a representative proportion of the population of the United States, to provide an accurate estimate of the frequency of human disease in the United States associated with the consumption of food, including a comparison of each major food category.

"SEC. 1914. PROHIBITED ACTS.

"The following acts and the causing thereof are prohibited under this title—

"(1) the processing or handling of any fish product at any establishment except in compliance with the requirements of this title;

"(2) the refusal to permit entry or inspection to or on any establishment or business engaged in importing fish products, or to otherwise interfere with any inspector or other person in carrying out the duties required under this title or under regulations implementing this title;

"(3) the sale, transportation, or offer for sale or transportation, in interstate commerce of any fish product that is adulterated or misbranded at the time of such sale, transportation, or offer for sale or transportation;

"(4) the possession by any establishment of fish products except in compliance with the requirements of this title or regulations issued under this title;

"(5) the commission of any act, or the omission of any act, while fish product is being transported in interstate commerce, or held for sale after such transportation, that is intended to cause or has the effect of causing such products to be adulterated or misbranded;

"(6) the sale, transportation, or offer for sale or transportation, in interstate commerce of any fish product that is not processed in accordance with the requirements of this title or any regulations promulgated under this title;

"(7) the reproduction, alteration, or destruction of any official stamp or certificate without the authorization of the Secretary;

"(8) the misbranding of fish products, or the creation or maintenance of records that are false either by content or omission, or destruction of records containing information required under this title or the alteration or removal of the whole or any part of the labeling of, or the doing of any other act with respect to fish products if such act is done while such fish products are held for sale (whether or not such sale is the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded;

"(9) the handling or processing for interstate commerce of fish products in any establishment unless there is in effect for such establishment a certification issued by the Secretary; and

"(10) the importation into the United States of fish products if such articles are adulterated, labeled or packaged in a false or misleading way, or otherwise misbranded, or fail to comply with all the inspection, good processing practices, and other provisions of this title and regulations issued under this title applicable to such articles in interstate commerce within the United States.

"SEC. 1915. CIVIL PENALTIES.

"(a) FINES.—

"(1) IN GENERAL.—Any person who violates any provision of this title, or the regulations promulgated pursuant to this title, shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for the first violation. Each day of a continuing violation shall constitute a separate offense.

"(2) CIVIL ACTIONS FILED IN DISTRICT COURT.—The Secretary may commence a civil action in the United States district court in which the person subject to requirements of this title resides, to seek a civil fine from any such person for violation of this title.

"(3) FINDING OF FAILURE TO COMPLY.—If the court, in an action brought under paragraph (2), finds on the basis of clear and convincing evidence, that the person subject to the requirements of this title has failed to comply with such requirements, or the rules and regulations promulgated thereunder, the court shall fine the person not more than $5,000 for each such violation.

"(4) NOTICE.—Not less than 90 days, and not more than 180 days, prior to commencing a civil action under paragraph (2), the Secretary shall provide to each person that is the subject of the action, a written notice that shall include—

"(A) a statement that the Secretary intends to commence such an action;

"(B) a comprehensive description of the alleged violations of this title and the regulations promulgated under this title; and

"(C) a description of the actions to be taken by such person that the Secretary considers necessary to enable the person to

comply with this title and to eliminate the need to commence such civil action.

"(5) OPPORTUNITY TO BE HEARD.—Prior to the commencement of a civil action by the Secretary under paragraph (2), the Secretary shall provide the person with an opportunity to present, orally or in writing, information concerning the alleged violations or with respect to such proceeding.

"(6) WRITTEN NOTICE OF WARNING.—In determining whether the public interest would be adequately served by issuing a written notice of warning in lieu of commencing a civil action under paragraph (2), the Secretary shall take into account—

"(A) the compliance history of the person;

"(B) the magnitude of the violations by the person;

"(C) whether compliance with this title would be obtained as a result of a notice of warning; and

"(D) whether such violation is of a minor or technical nature.

Prior to commencing any such civil action under paragraph (2), the Secretary, after considering the the factors described in subparagraphs (A) through (D), shall provide a written explanation to the establishment concerning the reasons why the alleged violations of the person warrant commencing a civil action.

"(b) MODIFICATION.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

"SEC. 1916. CRIMINAL PENALTIES.

"(a) IN GENERAL.—Any person who intentionally violates any provision of section 1903, 1908, 1910 or 1914, or the regulations promulgated thereunder, may—

"(1) be fined in an amount not to exceed $10,000, or imprisoned for not more than 1 year, or both; and

"(2) if such intentional violation involves the intent to defraud, or any distribution of any fish product that is adulterated or misbranded, be fined in an amount not to exceed $20,000, or imprisoned for not more than 3 years, or both.

"(b) NOTICE OF WARNING.—In the case of one or more minor violations of this title or the regulations promulgated under this title, the Secretary may, when the Secretary determines that the public interest will be adequately served thereby, issue to the person committing such violation a suitable written notice of warning. In determining whether the public interest will be adequately served by a written notice of warning, the Secretary shall consider, among other factors—

"(1) the compliance history of such person;

"(2) the magnitude of the violation;

"(3) whether compliance with this title would likely be obtained as a result of such notice; and

"(4) whether such violation is of a minor or technical nature.

"(c) NOTICE TO ALLEGED VIOLATOR.—

"(1) IN GENERAL.—Before any violation under this title is reported by the Secretary to any United States attorney for institution of a criminal proceeding under this section, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and an opportunity to present the views of such person orally or in writing with regard to such contemplated proceeding.

"(2) EXCEPTION.—Paragraph (1) shall not apply in those cases where it is determined that such notice would significantly interfere with the ability of the United States attorney to prosecute any violation. Nothing in this title shall be construed as requiring the Secretary to report for criminal prosecution violations of this title when the Secretary believes that the public interest will be adequately served by the procedures described in subsection (b).

"(d) PUBLICATION.—In each case in which a criminal penalty is imposed under this section, the Secretary shall publish the name of the offending person, the location of the violator, the amount of the fine and the reason for the fine.

"SEC. 1917. CARRIERS.

"No common carrier or contract carrier, including such carriers that are fish tender vessels, shall be subject to penalties under this title for the receipt, carriage, holding, or delivery, in the usual course of business, as a carrier, of any adulterated or misbranded fish product owned by another person, unless the carrier—

"(1) during the time of such receipt, carriage, holding, or delivery, had knowledge or was in possession of facts that would cause a reasonable person to believe that the fish products were adulterated or misbranded or were otherwise not eligible for transportation under this title; or

"(2) refuses to furnish on request of the Secretary the name and address of the person from whom the carrier received the adulterated or misbranded fish product, and copies of all documents pertaining to the delivery of such fish product.

"SEC. 1918. HEARINGS AND SUBPOENAS.

"(a) ADMINISTRATIVE HEARINGS.—Except in the case of criminal prosecutions under section 1916, and as described in section 1908(e) and 1915, the Secretary shall afford an opportunity for an administrative hearing, under procedures established by the Secretary through regulations, to any person claiming to be adversely affected by the action or inaction of the Secretary under this title (hereinafter referred to in this section as the 'claimant'). Such procedures shall include an opportunity to present evidence, a right of cross examination, and a right to be heard in person or by counsel and through witnesses. After the expiration of 60 days after the entry of an order by the Secretary against the claimant under this section, the Secretary shall take any appropriate action under such order, unless the claimant files for judicial review under subsection (d).

"(b) SUBPOENAS.—

"(1) AUTHORITY.—For the purposes of any hearing or investigation under this title, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of any documentation or other evidence that relates to any matter under investigation or in dispute before the Secretary and to administer oaths or affirmations.

"(2) COMPENSATION.—The Secretary shall pay witnesses subpoenaed under this subsection customary reasonable fees and transportation expenses.

"(c) INTERIM RELIEF.—The Secretary may take any actions in emergency situations determined necessary, during the pendency of the administrative hearing process and during the pendency of judicial review (unless the court shall order otherwise) to protect the public health, curb persistent violations that endanger public health, or enforce other provisions of this title or regulations promulgated pursuant to this title.

"(d) JUDICIAL REVIEW.—

"(1) PETITION.—Not later than 60 days after the entry of an order by the Secretary, a person adversely affected by such order may obtain judicial review through the filing of a petition of judicial review in the United States court of appeals for the circuit in which such person resides or where the principal place of business of such person is located, by filing with the clerk of such court a written petition praying that the order of the Secretary be set aside or modified in the manner stated in the petition together with a bond in such sum as the court may consider appropriate. A copy of the petition shall be transmitted by the clerk to the office of the Secretary, and the Secretary shall file in the court the record of the proceeding.

"(2) EVIDENCE.—The evidence contained in the record of the proceeding filed by the Secretary under paragraph (1) shall be considered by the court as evidence in the case. Judicial review of any such order shall be on the record on which the determination and order are based.

"(3) FINDINGS.—The findings of the Secretary concerning questions of fact surrounding the order for which a petition for judicial review is filed shall be sustained if supported by substantial evidence when considered on the record as a whole.

"(4) ACTION BY COURT.—The court may affirm, modify, or set aside the order of the Secretary. If the court determines that just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence in such manner and on such terms and conditions as the court determines to be appropriate. The Secretary may modify the findings of the Secretary as to the facts or make new findings by reason of the additional evidence so taken, and the Secretary shall file such modified or new findings, and the recommendations of the Secretary, if any, for the modification or setting aside of the order of the Secretary, with the return of such additional evidence.

"(5) APPEAL.—The judgment of the court affirming or setting aside, in whole or in part, any order by the Secretary under this subsection shall be final and subject only to review by the Supreme Court of the United States on certiorari or certification as provided for in section 1254 of title 28 of the United States Code.

"SEC. 1919. OTHER CRIMES.

"(a) BRIBES.—

"(1) PERSON WHO BRIBES.—Any person, or agent or employee of any person, who shall give, pay, or offer, directly or indirectly, to any inspector, or other officer or employee of the United States or a State, authorized to perform any of the duties authorized under this title or under rules or regulations of the Secretary promulgated under this title, any money or other thing of value, with the intent to influence such inspector, officer or employee, in the discharge of any duty of such inspector, officer or employee provided for under this title, shall be considered to have committed a felony and, on a conviction thereof, shall be punished by a fine not less than $5,000 nor more than $10,000 and by imprisonment for not less than 1 year nor more than 3 years.

"(2) PERSON ACCEPTING BRIBES.—Any inspector, officer or employee of the United States or a State authorized to perform any of the duties authorized under this title or under rules or regulations of the Secretary promulgated under this title, who shall

accept any money, gift, or other thing of value from any person, or officers, agents, or employees thereof, given with the intent to influence the official action of such inspector, officer, or employee, or who shall receive or accept from any person engaged in commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be considered to have committed a felony and shall, on a conviction thereof, be summarily discharged from office and shall be punished by a fine not less than $1,000 nor more than $10,000 and by imprisonment not less than 1 year nor more than 3 years.

"(b) ASSAULT.—Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any inspector or other person while engaged in or on account of the performance of the official duties of such inspector or other person under this title shall be fined not more than $5,000 or imprisoned not more than 3 years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than 10 years, or both. Whoever kills any person while engaged in or on account of the performance of the official duties of such person under this title shall be punished as provided under sections 1111 and 1114 of title 18, United States Code.

"SEC. 1920. REGULATION OF PRODUCTS AND ESTABLISHMENTS.

"(a) PROCESSING.—Each establishment or import business that is subject to inspection under this title shall be operated in accordance with such sanitary, good processing, quality control, and handling procedures or practices as are required by regulations promulgated by the Secretary.

"(b) STAMP.—The Secretary shall by regulation prescribe standards for identifying and otherwise marking fish or fish products, or their packages or containers, with an official stamp. The Secretary shall ensure that the official stamp is available only for fish and fish products that are processed or handled in accordance with the requirements of this title.

"(c) RECORDKEEPING.—The Secretary shall promulgate regulations providing for the preparation and maintenance of records that specifically describe all activities relevant to food safety and sanitation. Any such records shall be maintained for such periods of time as the Secretary may by regulation prescribe, but such period shall not exceed 2 years unless the Secretary directs otherwise for good cause shown. Any duly authorized representative of the Secretary shall, at all reasonable times, on notice, be given the opportunity to examine and to copy all such records.

"SEC. 1921. RESEARCH AND EDUCATION.

"(a) RESEARCH.—The Secretary shall, in consultation with other Federal agencies and with the States, establish priorities for fish and fish products safety research, such as test methodology for microbiological and chemical contaminants, and the appropriate Federal agencies shall conduct research regarding such priorities.

"(b) EDUCATION GRANTS.—The Secretary, acting through the Extension Service, shall provide $2,000,000 each fiscal year out of the funds appropriated to carry out this title to award grants for the establishment of demonstration projects by States, under terms and conditions prescribed by the Secretary, to assist States in conjunction with the Extension Service in providing food safety information and instruction regarding the proper handling, storage and preparation of fish and fish products for human consumption.

"(c) SHELLFISH INDICATOR RESEARCH PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Administrator of the Environmental Protection Agency, shall establish and administer, for a 5-year period, a shellfish indicator research program to develop a system of classification of shellfish harvesting areas based on the latest technological advancements in microbiology and epidemiological methods. In establishing such a program, the Secretary of Commerce shall develop a program that shall include the following activities:

"(A) ASSESSMENTS.—An assessment of commercial shellfish growing areas in the United States, including the evaluation of the relationships between indicators of fecal contamination and human enteric pathogens.

"(B) EVALUATIONS.—An evaluation of the relationships described in subparagraph (A) with respect to potential health hazards associated with human consumption.

"(C) COMPARISONS.—A comparison of the current microbiological methods used for evaluation of indicator bacteria and human enteric pathogens in shellfish and shellfish harvesting areas with new technological methods designed for this purpose.

"(D) EPIDEMIOLOGICAL STUDIES.—The design of epidemiological studies to relate microbiological data, sanitary survey data, and human shellfish consumption data to actual hazards to health associated with such consumption.

"(2) GRANTS.—The Secretary of Commerce shall carry out the research program established under paragraph (1) by providing assistance in the form of grants to eligible applicants.

"(3) SOLICITATION.—Not later than 90 days after the date of enactment of this title, the Secretary of Commerce shall publish in the Federal Register a solicitation of research proposals to carry out the research program established under this subsection.

"(4) AWARDING OF GRANTS.—Not later than 90 days after the date of the publication of the solicitation under paragraph (3), the Secretary of Commerce shall award a grant or grants to eligible applicants to carry out the research program established under this subsection.

"(5) ELIGIBLE APPLICANT.—As used in this subsection, the term "eligible applicant" means—

"(A) any public or private institution of higher education;

"(B) any public or private organization with suitable research capabilities; or

"(C) any consortium of two or more entities referred to in subparagraphs (A) and (B).

"(d) ADVISORY PANEL.—The Secretary shall establish an advisory panel, consistent with the requirements of the Federal Advisory Committee Act, to assist in the development and implementation of the research programs under this section. Such advisory panel shall include one representative each from the Environmental Protection Agency, the Food and Drug Administration, the Department of Commerce, the Fish and Wildlife Service, the Interstate Shellfish Sanitation Conference, appropriate State health authorities and a representative from the commercial fish industry and from a public interest group.

"(e) PERIODIC REVIEW.—The Secretary shall review the research programs established under this section not less than once every 2 years and, on the basis of that review, make changes in the administration of the programs that are appropriate to carry out more effectively the activities described.

"(f) RESEARCH STUDY CONCERNING INSPECTIONS OF HARVESTING AND FISH TENDER VESSELS.—

"(1) CONDUCT OF STUDY.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Secretary, in cooperation with the Secretary of Commerce shall conduct and complete a study of—

"(i) the role of fish tender and fish harvesting vessels in safeguarding the wholesomeness of fish products;

"(ii) the potential necessity of requesting the Secretary of Commerce, in cooperation with the Coast Guard and the States, to establish procedures for the registration of commercial fishing vessels, fish processing vessels, and fish tender vessels; and

"(iii) based on a scientific analysis, the potential necessity of including any particular type or class of such vessels in the inspection program conducted pursuant to this title.

"(B) UPDATE.—The Secretary, in cooperation with the Secretary of Commerce, may from time to time update the study conducted under subparagraph (A) and shall on completion of such study or after any such updates, immediately submit to the Committees on Agriculture and Merchant Marine and Fisheries of the House of Representatives and the committees on Agriculture, Nutrition, and Forestry and Commerce, Science, and Transportation of the Senate, the results of such study and the results of any update of such study.

"(2) CONCLUSIONS.—If as a result of the study conducted under paragraph (1) or any update of such study the Secretary concludes, in consultation with the Secretary of Commerce, that any type or class of vessels not subject to inspection should be subject to inspection, the Secretary shall so advise the Committees described in subparagraph (B) of paragraph (1).

"(g) OTHER RESEARCH.—The Secretary shall conduct and support research concerning—

"(1) the testing of methodology for detecting and measuring biological and chemical contaminants in fish products;

"(2) the techniques and procedures utilized for inspecting fish and fish products;

"(3) the sanitation practices for the harvesting, processing, transportation, and storage of fish and fish products; and

"(4) any other matters that may further the purposes of this title.

"(h) REPORTS TO CONGRESS.—The Secretary of Agriculture in cooperation with the Secretary of Commerce shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a biennial report concerning the research and education programs authorized and established under this section. Such reports shall be made available to appropriate Federal and State agencies, the fish industry, and the general public. Each such report shall include, with respect to the period for which such report was prepared—

"(1) a description of the research assisted under this section and the results of such research;

"(2) all changes that were made in the administration of the programs established

under this section subsequent to the date of the previous report; and

"(3) any recommendations for legislative action to improve the effectiveness of the inspection program for fish products.

"SEC. 1922. MISCELLANEOUS.

"(a) PROHIBITION ON COPYING OF OFFICIAL MARKS.—No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of certificate or simulation thereof, except as authorized by the Secretary.

"(b) COMPLIANCE.—No establishment processing fish products for interstate commerce or otherwise subject to this title shall process any fish product except in compliance with this title.

"(c) ENTRY OF ARTICLES INTO ESTABLISHMENTS.—The Secretary may limit the entry of fish products and other materials into any establishment, under such conditions as the Secretary may prescribe to assure that permitting the entry of such products into such establishments will be consistent with the purposes of this title.

"(d) CONDEMNATION OF SEIZURE.—This title shall not be construed to limit the authority of the Secretary to condemn or seize property that is conferred by provisions of other laws.

"(e) ADMINISTRATIVE DETENTION, CONDEMNATION.—

"(1) ADMINISTRATIVE DETENTION.—When any fish product is found by any authorized representative of the Secretary on any premises where it is held for purposes of, or during or after distribution in, commerce or otherwise subject to the requirements of this title, and there is reason to believe that any such product is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this title or any other Federal law or the laws of any State or Territory, or the District of Columbia, or that it has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period of not to exceed 20 days, pending notification of any Federal, State, or other governmental authorities having jurisdiction over such product, and shall not be moved by any person, from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such product before it is released unless it appears to the satisfaction of the Secretary that the product is eligible to retain such marks.

"(2) CONDEMNATION.—

"(A) LIBEL OF INFORMATION; JURISDICTION.—Any fish product that is being transported in commerce or otherwise subject to the requirements of this title, or that is held for sale in the United States after such transportation, and that—

"(i) is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of this title;

"(ii) is capable of use as human food and is adulterated or misbranded; or

"(iii) in any other manner is in violation of this title;

shall be liable to be proceeded against and seized and condemned at any time, on a libel of information in any United States district court or other proper court as provided for in this title within the jurisdiction of which the product is found.

"(B) DISPOSAL.—If a fish product is condemned it shall, after the entry of the decree of condemnation—

"(i) be distributed in accordance with regulations promulgated by the Secretary; or

"(ii) be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but such product shall not be sold contrary to the provisions of this title, or the laws of the jurisdiction in which it is sold.

On the execution and delivery of a good and sufficient bond conditioned that the fish product shall not be sold or otherwise disposed of contrary to this title, or the laws of the jurisdiction in which the disposal is made, the court may direct that such product be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws.

"(C) COURT COSTS AND FEES.—When a decree of condemnation is entered against a fish product and such product is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the fish product.

"(D) PROCEEDINGS.—The proceedings in libel cases under this subsection shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand a trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

"(3) ADMINISTRATION AND ENFORCEMENT.—For the efficient administration and enforcement of this title, the provisions (including penalties) of sections 46, 48, 49, and 50 of title 15, United States Code (except subsections (c) through (h) of section 46 and the last paragraph of section 49 of such title) and the provision of section 4091 of title 47, United States Code, shall be applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this title and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as the Secretary may designate, may prosecute any inquiry necessary to carry out the duties of the Secretary under this title, and the powers conferred by sections 49 and 50 of title 15, United States Code, on the district courts of the United States may be exercised for the purposes of this title.

"(f) JURISDICTION.—Except as otherwise provided in this title, the United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this title and shall have jurisdiction in all other kinds of cases arising under this title. All proceedings for the enforcement or to restrain violations of this title shall be by and in the name of the United States.

"(g) SEVERABILITY.—If any provision of this title, or the application of such provision to any person or circumstance is held to be unconstitutional or otherwise invalid, the remainder of this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

"SEC. 1923. REGULATIONS.

"(a) ISSUANCE.—The Secretary shall issue regulations necessary or appropriate to carry out this title in accordance with the informal notice and prior public comment requirements of section 553 of title 5, United States Code.

"(b) COPY AND JUSTIFICATION.—Not later than 5 days prior to issuing of any regulation under subsection (a), the Secretary shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the regulation and a statement in justification of the regulation.

"SEC. 1924. INTERAGENCY COOPERATION.

"The Secretary may, by agreement with the head of any Federal agency, utilize on a reimbursable basis or otherwise, the personnel, services, and facilities of any other department or agency of the United States in the performance of the duties of the Secretary under this title.

"SEC. 1925. EXEMPTION FROM FEDERAL FOOD, DRUG, AND COSMETIC ACT.

"The inspection, sampling or regulation of fish products, and the handling, processing, storage, or transportation of fish products, shall be exempt from the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) to the extent that this title applies to such fish products, or the handling, processing, storage, or transportation of fish products, except that this title shall not diminish any authority conferred by the Federal Food, Drug, and Cosmetic Act prior to the implementation or enforcement of this title under section 5 of the Fish Safety Act of 1990.

"SEC. 1926. COST OF INSPECTION, OVERTIME.

"The cost of inspections rendered under the requirements of this title, shall be borne by the United States, except that the cost of overtime work for overtime hours as defined by the Secretary at any given establishment, or for any required holiday work at an establishment, shall be borne by the establishment at such rates as the Secretary may determine appropriate. Sums received by the Secretary in reimbursement for sums paid out by the Secretary for such premium pay work shall be available without fiscal year limitation to carry out this title.

"SEC. 1927. AUTHORIZATION OF APPROPRIATIONS.

"(a) INSPECTION PROGRAM.—There are authorized to be appropriated to carry out this title, not to exceed $14,000,000 for fiscal year 1991, $40,000,000 for fiscal year 1992, $80,000,000 for fiscal year 1993, and $100,000,000 in each of the fiscal years 1994 and 1995.

"(b) RESEARCH PROGRAMS AUTHORIZATION.—Of the amounts appropriated under subsection (a), the Secretary shall use not to exceed $5,000,000 in each of the fiscal years 1991, 1992, and 1993, to carry out the research programs under section 1921 of this title.

"(c) EARMARKING OF FUNDS.—

"(1) FOOD AND DRUG ADMINISTRATION.—Of the amount appropriated under subsection (a) in a fiscal year, the Secretary shall ensure that the Food and Drug Administration shall receive—

"(A) 80 percent of such amount in fiscal year 1991;

"(B) 60 percent of such amount in fiscal year 1992;

"(C) 40 percent of such amount in fiscal year 1993; and

"(D) 20 percent of such amount in each of the fiscal years 1994 and 1995.

"(2) DEPARTMENT OF COMMERCE.—Of the amounts appropriated under subsection (a), the Secretary shall ensure that the Depart-

ment of Commerce shall receive 10 percent of such amounts in each of the fiscal years 1991 through 1995 to carry out its research and classification functions under this title.

"SEC. 1928. EMPLOYEE PROTECTION.

"(a) IN GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions or privileges of employment because the employee has engaged in or assisted in activity under the provisions of this title.

"(b) APPLICABLE PROVISIONS.—The scope of protection, process and procedures with respect to discharge and discrimination under subsection (a) shall be governed by the applicable provisions of section 322 of the Clean Air Act (42 U.S.C. 7622).

"SEC. 1929. EFFECTIVE DATE.

"This title shall become effective on the date of enactment of this title.".

SEC. 4. AMENDMENTS TO THE ACT OF MAY 8, 1914.

(a) EXTENSION SERVICE.—Section 2 of the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 342), is amended by inserting "food safety," after "home economics,".

(b) EDUCATION.—Section 3 of such Act (7 U.S.C. 343) is amended by adding at the end thereof the following new subsection:

"(g) There are authorized to be appropriated for each of the fiscal years 1991 through 1995, $750,000 for additional programs to be administered by the Secretary of Agriculture through the Extension Service to disseminate food safety information, publications, and instruction to consumers, restaurant food handlers, schools and other persons concerning the proper handling, storage and preparation of fish products.".

SEC. 5. IMPLEMENTATION BY SECRETARY OF AGRICULTURE.

(a) IN GENERAL.—Except as otherwise provided in this section or in title XIX of the Food Security Act of 1985 (as added by section 3), the Secretary of Agriculture shall, not later than 18 months after the Commissioner of Food and Drugs has issued the initial set of final regulations under section 6, develop and implement by regulation the comprehensive fish product inspection program required under such title XIX. Such regulations issued by the Secretary of Agriculture shall include regulations—

(1) establishing inspection procedures;

(2) setting forth procedures for training inspectors;

(3) regarding the certification of establishments and importers;

(4) for inspecting imported fish products;

(5) authorizing State programs; and

(6) establishing labeling requirements and procedures for the approval of labels and labeling in accordance with the program established under the amendment made by section 3.

(b) PHASE-IN OF STATUTORY PROVISIONS.—

(1) EFFECT OF CURRENT REGULATIONS.—The provisions of law in effect on the date of enactment of this Act relating to fish product safety, fish product labeling, fish product inspection, and related matters, that are relevant to the regulations of the Secretary of Agriculture, the Secretary of Commerce, or the Food and Drug Administration in effect on such date concerning such matters, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations promulgated under title XIX of the Food Security Act of 1985 (as added by section 3).

(2) TRANSITION.—The Secretary of Agriculture shall issue regulations as the Secretary determines necessary or appropriate, in consultation with the Secretary of Commerce and the Commissioner of Food and Drugs, that provide for an orderly transition to the program required under title XIX of the Food Security Act of 1985 (as added by section 3). During such transition and phase-in period, the Secretary of Agriculture may implement any aspects of such program prior to the implementation of other aspects of such program and may require the implementation of such aspects in certain geographic areas prior to such implementation in other areas.

SEC. 6. IMPLEMENTATION BY THE COMMISSIONER OF FOOD AND DRUGS.

(a) IN GENERAL.—Except as otherwise provided in this section or in title XIX of the Food Security Act of 1985 (as added by section 3), the Commissioner of Food and Drugs, in cooperation with the Secretary of Agriculture, shall not later than 2 years after the date of enactment of this Act, develop and implement a program to carry out and administer such title XIX.

(b) SPECIFIC REQUIREMENTS.—

(1) CONTRACT WITH NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of enactment of title XIX of the Food Security Act of 1985 (as added by section 3), the Commissioner of Food and Drugs shall enter into contracts with the National Academy of Sciences to identify chemical and microbiological contaminants, parasites, toxins and other harmful substances that are most likely to be found in fish and fish products and that are most likely to cause fish and fish products to be adulterated.

(2) REPORT.—Not later than 6 months after the date of the execution of the contract under paragraph (1), the National Academy of Sciences shall prepare and submit, to the Secretary of Agriculture, the Secretary of Health and Human Services, the Secretary of Commerce, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report describing the results of the research conducted under paragraph (1).

(3) REGULATIONS.—

(A) PUBLICATION OF TOLERANCES BASED ON REPORT.—Not later than 6 months after receiving the report under paragraph (2), the Commissioner of Food and Drugs shall publish an initial set of proposed regulations that shall include tolerances for those chemical and microbiological contaminants, parasites, toxins and other harmful substances that under such report are found in fish and fish products and that are most likely to cause fish and fish products to be adulterated.

(B) FINAL REGULATIONS.—Not later than 6 months after the date on which the Commissioner issues the proposed regulations under subparagraph (A), the Commissioner shall promulgate final regulations. Such final regulations shall contain a timetable for the issuance of additional rules and regulations.

SEC. 7. IMPLEMENTATION BY THE SECRETARY OF COMMERCE.

Except as otherwise provided in this section or in title XIX of the Food Security Act of 1985 (as added by section 3), the Secretary of Commerce in cooperation with the Secretary of Agriculture shall, not later than 2 years after the date of enactment of this Act, develop and implement a program to carry out the requirements of such title XIX. Not later than 18 months after such date of enactment, the Secretary of Commerce shall issue proposed regulations.

The CHAIRMAN. The amendment printed in section 1 of House Report 101-891 is considered as adopted.

No other amendment is ordered except the substitute amendment printed in section 2 of House Report 101-891, which will be considered as read and is not subject to amendment. Debate time for said amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STUDDS

Mr. STUDDS. Madam Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. STUDDS: Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Seafood Act of 1990".

SEC. 2. DEFINITIONS.

For the purpose of this Act, the term—

(1) "fish"—

(A) means any species of freshwater or marine finfish, crustacean, or other form of aquatic animal life from a wild or cultured source intended for human consumption; and

(B) does not include shellfish, birds, or mammals;

(2) "fish product" includes any product intended for human consumption derived in whole or in part from fish or shellfish, including fish or shellfish that has been processed in any manner;

(3) "fish tender vessel" means a vessel that commercially supplies, stores, refrigerates, or transports fish to or from a fishing vessel or fish tender vessel;

(4) "fishing vessel" means a vessel that engages in—

(A) the catching, taking, or harvesting of fish; or

(B) an activity that can reasonably be expected to result in the catching, taking or harvesting of fish;

(5) "Secretary" means the Secretary of Health and Human Services;

(6) "shellfish" means any species of oyster, clam, or mussel intended for human consumption, and any part thereof—

(A) that is in a form that at room temperature is subject to contamination or otherwise becoming toxic for human consumption; and

(B) includes such species or part that is uncooked, otherwise unprocessed, or frozen;

(7) "shellfish shipper" means a person who transports shellfish in commerce, or holds shellfish for such transport; and

(8) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.

TITLE I—SEAFOOD SAFETY PROGRAM

SEC. 101. ESTABLISHMENT AND CONTENTS OF NATIONAL SHELLFISH PROGRAM.

(a) ISSUANCE OF REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Commerce and other appropriate entities, shall issue regulations to establish a national shellfish safety program for the purpose of protecting public health by ensuring the safety of shellfish consumed in the United States.

(b) STANDARDS AND PROCEDURES.—

(1) IN GENERAL.—The program established under subsection (a) shall include regulations establishing standards, procedures, and requirements designed to—

(A) protect against hazards to human health associated with the consumption of shellfish; and

(B) provide safe and high quality shellfish that meets the standards established under section 413 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), as amended by this Act.

(2) REQUIRED ELEMENTS.—Standards and procedures established under this subsection shall include—

(A) standards for the growing, harvesting, handling, processing, and shipment of shellfish;

(B) standards for the water quality of shellfish growing and harvesting areas;

(C) procedures for classifying shellfish growing and harvesting areas that are subject to State jurisdiction as being fit or unfit for the harvest of shellfish, based on standards established under this subsection;

(D) procedures under which the Secretary may—

(i) request the Secretary of Commerce to close shellfish growing and harvesting waters that are under Federal jurisdiction in accordance with section 104(b); and

(ii) in the absence of State action, close shellfish growing and harvesting waters under State jurisdiction whenever a public health emergency exists, for a period of not longer than 90 days;

(E) a system for tracking shellfish in commerce;

(F) a system for maintaining a list of certified shellfish shippers in accordance with subsection (d); and

(G) such other standards, procedures, and requirements as are necessary to carry out this section.

(3) INCORPORATION OF EXISTING GUIDELINES.—Regulations issued under this section shall incorporate, to the maximum extent practicable, guidelines issued in accordance with the memorandum of understanding between the Interstate Shellfish Sanitation Conference and the Food and Drug Administration, dated March 14, 1983.

(c) STATE PROGRAMS.—

(1) SUBMISSION AND REVIEW OF STATE PROGRAMS.—Not later than 6 months after the issuance of standards and procedures under subsection (b), a State may submit to the Secretary for approval a proposed State shellfish safety program. Not later than 60 days after the submission of such a proposed State program, the Secretary shall—

(A) approve the program if it meets the requirements described under paragraph (2); or

(B) disapprove the program if it does not meet the requirements, notify the Governor of the State identifying the reasons for the disapproval, and provide an opportunity for the State to correct and resubmit the program for approval.

(2) REQUIREMENTS FOR APPROVAL.—The Secretary shall approve a proposed State shellfish safety program submitted under this subsection if the Secretary determines the program—

(A) achieves the purpose stated in subsection (a);

(B) ensures that standards established under subsection (b) are met through a comprehensive State monitoring program;

(C) provides adequate law enforcement to ensure that harvesting of shellfish occurs only in waters that—

(i) meet applicable standards established under subsection (b); and

(ii) are properly classified as being fit for harvest of shellfish in accordance with procedures established under subsection (b); and

(D) includes requirements for certifying shellfish shippers that are in compliance with the program.

(3) ANNUAL REVIEW.—The Secretary shall review at least annually each State program approved under this subsection to determine whether the program and the State's implementation of the program continue to meet the requirements of paragraph (2).

(4) WITHDRAWAL OF APPROVAL.—The Secretary shall withdraw approval of a State program that the Secretary determines no longer meets the requirements of paragraph (2) and shall promptly publish notice in the Federal Register regarding such determination.

(5) FEDERAL ASSISTANCE.—The Secretary may provide to a State implementing a program under this subsection—

(A) advisory assistance;

(B) technical and laboratory assistance and training (including necessary materials and equipment); and

(C) subject to appropriations, financial assistance and other aid.

(d) LISTING SHELLFISH SHIPPERS.—

(1) IN GENERAL.—The Secretary shall establish, maintain, and publish a list of shellfish shippers that are certified—

(A) pursuant to subsection (c)(2)(D) by a State under a State program approved under subsection (c); or

(B) pursuant to section 102(b)(1)(B)(iii) by a foreign country with which there is in effect a reciprocal agreement under section 102.

(2) DENIAL OF LISTING.—The Secretary may exclude a shellfish shipper from a list under this subsection that is certified by a State, if the Secretary determines that the shellfish shipper is not in compliance with—

(A) an applicable approved State program under this section or reciprocal agreement under section 102; or

(B) requirements under any Federal law relating to the safety of shellfish for human consumption.

SEC. 102. IMPORTED SHELLFISH SAFETY.

(a) RESTRICTIONS ON IMPORTATION.—No shellfish may be entered, or withdrawn from warehouse for consumption, in the customs territory of the United States unless—

(1) such shellfish—

(A) complies with all standards and requirements applicable to shellfish in commerce in the United States;

(B) is marked as to country of origin in accordance with section 304 of the Tariff Act of 1930; and

(C) is labeled in accordance with other laws governing labeling of shellfish in commerce; and

(2) the Secretary has issued a certificate under subsection (b)(2) to the country of origin of the shellfish.

(b) RECIPROCAL AGREEMENTS AND CERTIFICATION.—

(1) RECIPROCAL AGREEMENTS.—(A) The Secretary, in consultation with the Secretary of Commerce, may enter into an agreement with any foreign country which the Secretary determines has a shellfish safety program that provides protection to human health at least equivalent to the protection provided by the program established by the Secretary under section 101(a).

(B) An agreement under this paragraph with a foreign country shall—

(i) provide for such verification activities by the Secretary and the Secretary of Commerce as the Secretary considers appropriate to determine that the shellfish safety program of the foreign country continues to provide the protection referred to in paragraph (1);

(ii) provide for reciprocity with respect to imports and exports between the United States and the foreign country; and

(iii) require the foreign country to—

(I) establish a system for certifying shellfish shippers as being in compliance the foreign country's shellfish safety program; and

(II) promptly notify the Secretary of any shellfish shipper whose certification is revoked by the foreign country.

(2) ISSUANCE OF CERTIFICATE.—(A) Upon the entering into force of an agreement with a foreign country under paragraph (1), the Secretary shall issue a certificate to such country stating that the country maintains a shellfish safety program that provides protection to human health that is at least equivalent to the protection provided by the program established by the Secretary under section 101(a).

(B) The Secretary shall periodically or for good cause, but in no less than once every 3 years, review each certificate issued under this paragraph and shall revoke the certificate of any foreign country that the Secretary determines as a result of such review is not maintaining a shellfish safety program that provides protection to human health that is at least equivalent to the protection provided by the program established by the Secretary under section 101(a).

SEC. 103. FISH AND FISH PRODUCT SAFETY ON VESSELS.

(a) STANDARDS.—If the Secretary of Commerce, after notice and opportunity for comment, determines that no practicable alternative exists for protecting the public health, the Secretary of Commerce shall issue regulations which establish standards concerning the handling, storage, and transportation of fish and fish products on board fishing vessels and fish tender vessels.

(b) DEVELOPMENT.—In developing the standards under subsection (a), the Secretary of Commerce shall—

(1) consider what measures are necessary to protect the public health;

(2) consider the geographic location where vessels will operate, the history of fish and fish product safety problems in those geographic locations, and the degree to which such standards will improve the safety of fish and fish products;

(3) consult with the Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of title 46, United States Code, to ensure that such standards do not affect the safety of fishing vessels or fish tender vessels;

(4) consider the specialized nature and economics of the operations and the character, design, and construction of fishing vessels and fish tender vessels in different fisheries;

(5) consider the recommendations of the National Marine Fisheries Service Model Seafood Surveillance Project; and

(6) ensure that the standards developed cause the least disruption to normal operation of vessels that are subject to the standards.

(c) EFFECTIVE DATE OF REGULATIONS.—In specifying the effective date of regulations issued under this section, the Secretary of Commerce shall allow a reasonable amount of time for vessel owners to complete any necessary modifications to their vessels before such regulations are effective.

SEC. 104. MONITORING AND CLOSURE OF FEDERAL GROWING AND HARVESTING AREAS.

(a) MONITORING SYSTEM.—The Secretary of Commerce shall establish and maintain for waters under Federal jurisdiction a system to monitor and classify geographic growing and harvesting areas from which originate, or may reasonably be expected to originate, significant quantities of shellfish or fish—

(1) which do not meet the standards established under this title; or

(2) the consumption of which pose a threat to public health.

(b) CLOSURE AND RESTRICTION.—

(1) IN GENERAL.—The Secretary of Commerce shall close or otherwise restrict the harvesting of a species of fish or shellfish in an area subject to Federal jurisdiction if—

(A) as a result of monitoring conducted under subsection (a) or activities conducted by the Secretary of Health and Human Services under section 413 of the Federal Food, Drug, and Cosmetics Act, as amended by this Act, the Secretary of Commerce determines that fish or shellfish of that species harvested from the area—

(i) are likely to be in violation of standards established under this Act; or

(ii) are likely to pose a threat to public health; or

(B) if the Secretary of Health and Human Services requests such closure pursuant to section 101(b)(2)(D)(i).

(2) REVIEW.—The Secretary of Commerce shall periodically review growing and harvesting areas closed or restricted under this subsection to determine whether such closure or restriction should be terminated or modified.

SEC. 105. CLOSING OF STATE WATERS TO HARVESTING OF FISH.

If the Secretary determines that consumption of a species of fish harvested in an area of State waters would pose a threat to human health, the Secretary shall request the State to close or otherwise restrict such area to harvesting of that species of fish until that threat no longer exists.

SEC. 106. SHELLFISH AND FISH DEEMED ADULTERATED.

(a) SHELLFISH.—Shellfish is deemed to be adulterated for purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) if it is—

(1) grown, harvested, or processed in—

(A) a State that does not have a program approved under section 101(d); or

(B) a foreign country that is not certified by the Secretary under section 102(b)(2);

(2) grown or harvested in State waters that are—

(A) closed by a State; or

(B) closed by the Secretary pursuant to section 101(b)(2)(D)(ii);

(3) harvested in Federal waters that are closed or otherwise restricted for that species by the Secretary of Commerce under section 104(b); or

(4) transported in commerce, or held for such transport, by a person who is not included in the list maintained by the Secretary under section 101(d).

(b) FISH.—Fish is deemed to be adulterated for purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) if it is—

(1) harvested in State waters—

(A) that are closed or otherwise restricted by a State; or

(B) that the Secretary requests be closed or otherwise restricted under section 105;

(2) harvested in Federal waters that are closed or otherwise restricted under section 104(b);

(3) handled, stored, or transported on a fishing vessel or a fish tender vessel that is in violation of regulations issued by the Secretary of Commerce under section 103.

(c) EFFECTIVE DATES.—

(1) SHELLFISH.—Subsection (a) shall take effect July 1, 1992.

(2) FISH AND FISH PRODUCTS.—(A) Subsection (b)(1) and (2) shall take effect on the date of the enactment of this Act.

(B) Subsection (b)(3) shall take effect on the effective date of regulations issued under section 103.

SEC. 107. CONSUMER EDUCATION.

The Secretary and the Secretary of Commerce shall jointly design and implement a national consumer education program on fish products. Such program shall provide—

(1) information on the proper handling and preparation of fish products;

(2) advice to individuals involved in recreational and subsistence fisheries concerning the health hazards associated with the fish they may harvest and the precautions they should take to safeguard themselves and others from those hazards; and

(3) such other information or advice to consumers and other persons as the Secretaries determine will promote the purposes of this Act.

SEC. 108. RESEARCH.

(a) IN GENERAL.—The Secretary of Health and Human Services may conduct, directly or through grants or contracts with public or nonprofit private entities or individuals, research and demonstrations to assist the Secretary in implementing the amendments made by this Act, including—

(1) to improve sanitation and quality control practices in the processing of fish, shellfish, and fish products,

(2) to develop improved techniques in the conduct of monitoring and inspection of fish, shellfish, and fish products under the Federal Food, Drug, and Cosmetic Act,

(3) developing efficient, rapid, and sensitive methods for determining and detecting the presence of harmful chemical and microbiological contaminants, parasites, and toxins in fish, shellfish, and fish products,

(4) determining the sources of contamination of fish, shellfish, and fish products with harmful chemical and microbiological contaminants, parasites, and toxins, and

(5) developing consumption data with respect to fish, shellfish, and fish products.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Commerce, in cooperation with the Secretary, shall establish and administer a 5-year shellfish indicator research program to develop a system of classification of shellfish growing waters based upon the latest technological advancements in microbiology and epidemiological methods. In establishing such a program, the Secretary shall develop a program plan which shall at a minimum provide for—

(A) an environmental assessment of chemical shellfish growing areas in the United States, including evaluation of the relationships between indicators of fecal contamination and human enteric pathogens,

(B) the evaluation of such relationships with respect to potential health hazards associated with human consumption of shellfish,

(C) a comparison of the current microbiological methods used for evaluating indicator bacteria and human enteric pathogens in shellfish and shellfish growing waters with new technological methods designed for this purpose,

(D) the design of epidemiological studies to relate microbiological data, sanitary survey data, and human shellfish consumption data to actual hazards to health associated with such consumption, and

(E) recommendations for revising the Federal standards established under this title or title II and improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of fish products containing shellfish.

(2) COORDINATION WITH EXISTING PROGRAM.—The Secretary shall coordinate the program established under subsection (a) with the National Shellfish Indicator Study conducted by the Secretary of Commerce.

(3) CONTRACT AUTHORITY.—Subject to the availability of appropriations, the Secretary is authorized to enter into contracts and agreements with States, universities, and private entities to carry out the programs established under subsection (a).

SEC. 109. COOPERATION WITH CENTERS FOR DISEASE CONTROL.

The Secretary of Health and Human Services shall establish, through the Centers for Disease Control, an active surveillance system, based on a representative proportion of the population of the United States, to provide an accurate estimate of the frequency of human disease in the United States associated with the consumption of fish, shellfish, and fish products.

TITLE II—AMENDMENTS TO FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 201. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 202. STANDARDS FOR FISH, SHELLFISH, AND FISH PRODUCTS.

(a) STANDARDS.—Chapter IV is amended by adding at the end the following:

"STANDARDS FOR FISH, SHELLFISH, AND FISH PRODUCTS

"SEC. 413. The Secretary shall establish standards for chemical and microbiological contaminants, parasites, and toxins to assure that fish, shellfish, and fish products are safe for human consumption. Such standards may include indicators (including indicator organisms) from which it may reasonably be inferred that a contaminant, parasite, or toxin is present in fish, shellfish, or fish products.".

(b) CONFORMING AMENDMENT.—Section 402 (21 U.S.C. 342) is amended by adding at the end the following:

"(f) If the fish, shellfish, or fish products contain a chemical or microbiological con-

taminant, parasite, or toxin for which a standard has been established under section 413 and the contaminant, parasite, or toxin is not within the limits of such standard.".

(c) REGULATIONS.—

(1)(A) Within 60 days of the date of the enactment of this Act, the Secretary of Health and Human Services shall contract with the National Academy of Sciences to—

(i) identify the chemical and microbiological contaminants, parasites, and toxins which are likely to be found in fish, shellfish, and fish products and which are likely to cause fish, shellfish, or fish products to be unsafe for human consumption,

(ii) recommend priorities for the development of standards under section 413 of the Federal Food, Drug, and Cosmetic Act for chemical and microbiological contaminants, parasites, and toxins on the basis of health risks, and

(iii) provide such other data or assistance as the Secretary determines necessary.

(B) The National Academy of Sciences shall prepare the report described in subparagraph (A) within 12 months of the date of the execution of the contract of the Secretary under subparagraph (A).

(C)(i) The Secretary shall issue proposed regulations to implement section 413 of the Federal Food, Drug, and Cosmetic Act within 6 months of the date of receiving the report of the National Academy of Sciences. Not later than 6 months after the date the Secretary issues proposed regulations, the Secretary shall issue final regulations to implement the requirements of such section which shall be effective upon their promulgation.

(ii) In promulgating regulations to implement such section 413, the Secretary shall establish standards for those chemical and microbiological contaminants, parasites, and toxins which are most likely to be found in fish, shellfish, and fish products and which are most likely to cause fish, shellfish, and fish products to be unsafe for human consumption.

(2) The Secretary shall, in a timely manner, issue revisions to such regulations which take into account new scientific and other information regarding the safety of fish, shellfish, and fish products.

(d) REPORTS.—The Secretary of Health and Human Services shall report to the Congress on the progress of the Secretary in implementing standards established under section 413 of the Federal Food, Drug, and Cosmetic Act. The report shall include a description of the research that has been conducted with respect to such standards and the research which must be conducted before additional standards may be established, the health significance of the lack of such additional standards, a timetable for the establishment of such standards, and the estimated costs, including costs of research, associated with the establishment of such standards. The report shall be transmitted every other year for 6 years beginning one year after the date of the enactment of this Act.

SEC. 203. RECALL.

Chapter IV, as amended by section 202, is amended by adding at the end the following:

"RECALL

"SEC. 414. The Secretary may require any person who owns or operates a facility engaged in the processing of fish, shellfish, or fish products or in the importing of fish, shellfish, or fish products to recall any fish, shellfish, or fish product which is in violation of section 106 section 402(f) or 413 if the Secretary finds that there is a reasonable probability that such fish, shellfish, or fish product will cause a significant, adverse health consequence or death. The Secretary shall by regulation require such persons to adopt methods by which fish, shellfish, and fish products may be traced in connection with a recall ordered under this section.".

SEC. 204. JUDICIAL REVIEW.

Chapter IV, as amended by section 203, is amended by adding at the end the following:

"JUDICIAL REVIEW

"SEC. 415. In any action seeking judicial review of any decision of the Secretary in the implementation or enforcement of sections 413 or 414, the court shall have the principal responsibility for deciding issues of law."

SEC. 205. DEFINITIONS.

Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(bb) The term 'fish' means any species of freshwater or marine finfish, crustacean, or other form of aquatic animal life from a wild or cultured source intended for human consumption and does not include shellfish, birds, or mammals;

"(cc) The term 'shellfish' means any species of oyster, clam, or mussel intended for human consumption, and any part thereof—

"(1) that is in a form that at room temperature is subject to contamination or otherwise becoming toxic for human consumption; and

"(B) includes such species or part that is uncooked, otherwise unprocessed, or frozen.

"(dd) The term 'fish product' includes any product intended for human consumption derived in whole or in part from fish or shellfish, including fish or shellfish that has been processed in any manner.".

SEC. 206. CIVIL PENALTIES.

(a) IN GENERAL.—Section 303(a) (21 U.S.C. 333(a)(1)) is amended—

(1) in paragraph (1), by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (3), any", and

(2) by adding after paragraph (2) the following:

"(3) If a person violates section 301 for the first time because of a violation of section 106 section 402(f) or the standards prescribed under section 413, such person may be subject to criminal penalties in accordance with paragraph (1) or may be subject to a civil penalty of $10,000.

"(4)(A) Any person who violates section 301 because of a violation of a violation of section 106 section 402(f) or the standards prescribed under section 413 and who has not been subject to a civil penalty under paragraph (3) shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

"(B) A civil penalty under subparagraph (A) shall be assessed by the Secretary by an order made on the record after opportunity for a hearing provided in accordance with this subparagraph and section 554 of title 5, United States Code. Before issuing such an order, the Secretary shall give written notice to the person to be assessed a civil penalty under such order of the Secretary's proposal to issue such order and provide such person an opportunity for a hearing on the order. In the course of any investigation, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(C) In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"(D) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which may be assessed under subparagraph (A). The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

"(E) Any person who requested in accordance with subparagraph (B), a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides. Such a petition may only be filed within the 60-day period beginning on the date the order making such assessment was issued.

"(F) If any person fails to pay an assessment of a civil penalty—

"(i) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subparagraph (E), or

"(ii) after a court in an action brought under subparagraph (E) has entered a final judgment in favor of the Secretary,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 60-day period referred to in subparagraph (E) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.".

(b) IDENTIFICATION.—If a person is convicted of a violation of section 106 section 402(f) or 413 of the Federal Food, Drug, and Cosmetic Act under section 303 of such Act and is subject to a civil penalty under such section for such violation or is subject to an injunction or seizure action under section 302 or 304 of such Act for such violation, the identity of such person involved in the violation or registration revocation and the aggregate of any penalty imposed shall be published in the Federal Register and in accordance with section 705 on the last business day of the quarter in which the violation was committed.

TITLE III—SEAFOOD INSPECTION

SEC. 301. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the President shall submit to the Congress a proposed comprehensive program for inspecting all fish products sold in commerce.

(b) GENERAL REQUIREMENTS FOR PROPOSED PROGRAM.—In developing a proposal pursuant to this title, the President shall—

(1) utilize the relevant and available resources, expertise, and personnel of the departments of Commerce, Health and Human Services, and Agriculture;

(2) give special consideration to—

(A) the research capabilities, laboratory facilities, and existing inspection programs (particularly with respect to shellfish in-

spection) of the Department of Health and Human Services;

(B) the knowledge possessed by personnel of the Department of Commerce regarding fishing industry vessels, product quality and safety, and fishery habitat, and the existing inspection programs of that department; and

(C) the existing domestic and foreign meat and poultry processing facility inspections programs of the Department of Agriculture.

(3) submit to the Congress recommendations for any legislation necessary to implement the proposal or a schedule for the implementation of the program by regulation.

SEC. 302. REQUIRED FEATURES OF PROGRAM.

The proposed comprehensive fish product inspection program submitted to the Congress by the President under this title shall—

(1) be designed to—

(A) take into consideration the special characteristics of fish species and fish products, including—

(i) the identification and assessment of the severity of the potential health risks associated with different fish species and fish products and with the processing and handling of fish species and fish products,

(ii) a determination of the sources and specific points of potential contamination that may adulterate fish products, and

(iii) the potential for persistence and multiplication or concentration of contaminants in fish products;

(B) require procedures to prevent, eliminate, or control potential contaminants that may adulterate fish and fish products and to monitor those procedures, taking into consideration the distinctive characteristics, hazards, control points, and processing procedures related to different species of fish;

(2) require the promulgation by regulation of health-based and other appropriate standards and procedures for safety and sanitation in the processing of fish and fish products and in facilities engaged in processing of fish or fish products, including standards and procedures requiring training and certification in fish and fish product sanitation and quality control for employees of facilities engaged in the processing of fish or fish products;

(3) provide for frequent and randum unannounced inspections of facilities in which fish and fish products are processed to determine if the facilities meet the requirements of the program;

(4) provide for inspectors to have access to all appropriate and necessary documentation and records;

(5) provide sufficient requirements, including certification of the inspection programs of other nations and intensive inspections at port of entry, to ensure that imported fish and fish products meet the same standards as domestic fish and fish products;

(6) provide for the annual registration and certification of processors and importers of fish and fish products, including the circumstances under which such registration or certification may be revoked;

(7) provide procedures to ensure the qualify of fish and fish products and to protect against economic fraud; and

(8) outline appropriate funding mechanisms to provide for the provision of these services.

SEC. 303. WHISTLEBLOWER PROTECTION.

(a) PROHIBITION OF DISCHARGE FOR COMPLAINTS.—No person shall discharge, discipline, or in any manner discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because such employee (or any person acting pursuant to a request of the employee) has filed any complaint or caused to be instituted any proceedings relating to a violation of this Act or of any regulation promulgated under this Act, or has testified or is about to testify in any such proceeding.

(b) WORK REFUSAL.—(1) No person shall discharge, discipline, or in any manner discriminate against an employee with respect to the employee's compensation, terms, conditions, or privileges of employment for refusing to perform the employee's duties when performing such duties would result in a substantial and specific violation of this Act or any regulation promulgated under this Act, or a substantial and specific danger to the public from adulterated or misbranded fish and fish products. The circumstances causing such refusal must be of such nature that there is a substantial and specific danger to the public resulting from adulterated or misbranded fish and fish products. In order to quality for protection under this subsection, the employee must have sought from his or her employer, and have been unable to obtain, correction of the circumstances causing such refusal.

(2) An employee is not protected under this subsection if an inspector is present in the establishment. In those instances, the employee is protected for immediate notification to the inspector of the alleged illegal or dangerous activity.

(3) This provision shall not create any right of refusal to work. An employee is only protected for refusing to obey an order whose implementation would constitute a violation of law or a substantial and specific danger to the public, the employee, or other workers.

(c) EMPLOYEE RIGHTS.—(1) Any employee who believes he or she has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) or (b) may, within 180 days after such alleged violation occurs, file (or have filed by any person on the employee's behalf) a complaint with the Secretary of Labor alleging such discharge, discipline, or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint of the filing of the complaint.

(2) The legal burdens of proof that prevail under section 1221(e) of title 5, United States Codes, shall govern adjudication of protected disclosures under this Act.

(3)(A) Within 60 days of receipt of the a complaint filed under paragraph (1), the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and shall notify the complainant and the person alleged to have committed a violation of this section of the findings resulting from the investigation. Where the Secretary concludes that there is reasonable cause to believe that a violation has occurred, the Secretary shall accompany the findings with a preliminary order providing the relief prescribed by subparagraph (B). Thereafter, the person alleged to have committed the violation and the complainant may each, within 30 days after notification, file objections to the findings or preliminary order, or both, and request a hearing on the record, except that the filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be expeditiously conducted. Where a hearing is not timely requested, the preliminary order shall be deemed a final order which is not subject to judicial review. The Secretary of Labor shall issue a final order within 120 days after the conclusion of such hearing. In the interim, such proceedings may be terminated at any time on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

(B) If in response to a complaint filed under paragraph (1) such Secretary determines that violation of subsection (a) or (b) has occurred, the Secretary of Labor shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complaint to the complainant's former position (taking into account any seasonal nature of such position) together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, and (iii) compensatory damages. If such an order is issued, the Secretary of Labor, at the request of the complainant may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by such Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(d) JUDICIAL REVIEW.—(1) Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation with respect to which the order was issued, allegedly occurred, or the circuit in which such person resided on the date of such violation. The petition for review must be filed within 60 days after the issuance of the order of the Secretary of Labor. Such review shall be in accordance with the provision of chapter 7 of title 5, United States Code, and shall be heard and decided expeditiously.

(2) An order of the Secretary of Labor, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceedings.

(e) CIVIL ACTION.—Whenever a person has failed to comply with an order issued under subsection (c)(2), the Secretary of Labor shall file a civil action in the United States district court for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, reinstatement, and compensatory damages.

SEC. 304. ADULTERATION STANDARDS.

(a) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Section 402(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a)(1)) is amended by striking out in paragraph (a)(1) "if the quantity of such substance in such food does not ordinarily render it injurious to health" and inserting in lieu thereof "if there is a reasonable probability that the quantity of such substance in such food will cause adverse health consequences", and

(b) FEDERAL MEAT INSPECTION ACT.—Section 1(m)(1) of the Federal Meat Inspection Act (21 U.S.C. 601(m)(1)) is amended by striking out "if the quantity of such substance in or on such article does not render it injurious to health" and inserting in lieu

thereof "if there is a reasonable probability that the quantity of such substance in such article will cause adverse health consequences".

(c) POULTRY PRODUCTS INSPECTION ACT.—Section 4(g)(1) of the Poultry Products Inspection Act (21 U.S.C. 453(g)(1)) is amended by striking out "if the quantity of such substance in or on such article does not ordinarily render it injurious to health" and inserting in lieu thereof "if there is a reasonable probability that the quantity of such substance in such article will cause adverse health consequences".

(d) EGG PRODUCTS INSPECTION ACT.—Section 4(a)(1) of the Egg Products Inspection Act 921 U.S.C. 1033(a)(1)) is amended by striking out "if the quantity of such substance in or on such article does not ordinarily render it injurious to health" and inserting in lieu thereof "if there is a reasonable probability that the quantity of such substance in such article will cause adverse health consequences".

SEC. 305. EFFECTIVE DATES.

Section 303 and section 304 shall take effect upon issuance of final regulations establishing the program described in section 301, or on December 31, 1993, whichever is earlier.

Mr. STUDDS. Madam Chairman, I ask unanimous consent that the 30 minutes allocated by the rule to the proponents of the bill be divided equally in 7½-minute segments among myself, the gentleman from California [Mr. WAXMAN], the gentleman from Alaska [Mr. YOUNG], and the gentleman from New York [Mr. LENT], and that each of the four of us be permitted to allocate that time to other Members.

The CHAIRMAN. Pursuant to the rule, the gentleman has the right to do that.

Without objection, Members may be permitted to allocate time.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. I thank the Chair.

Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I have said many times before that it is safer to be a lobster in not-so-pristine Boston Harbor than to be a seafood safety bill in the middle of a turf fight in Congress. The truth of that statement has been demonstrated here today.

I can only guess that many Members are listening to our arguments and saying to themselves, what is this all really about?

Is the real issue public health, or committee jurisdiction?

Is the goal to inspect food, or simply to promote the consumption of certain kinds of foods?

Are we trying to solve a problem, or to create a new bureaucracy?

All of these are good questions and to an extent, the answer to each of them, as contradictory as it may sound, is "yes."

There are a variety of motives at work here.

The seafood industry wants a Federal seal of approval for its products, whether it is really necessary or not. I can't blame them for that.

The Agriculture Department wants a whole new set of responsibilities. All bureaucracies are like that.

The sponsors of the Agriculture Committee proposal hope that the money will take care of itself. Members of Congress do have a tendency to think like that.

But I believe we can do better.

On behalf of the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce, I ask you to vote for our substitute to the Agriculture Committee bill.

Unlike the bill, the substitute would be signed, not vetoed, by the President.

Unlike the bill, the substitute focuses on what is by far the primary cause of any risk to the public health from seafood—the consumption of raw molluscan shellfish and other fish from polluted waters.

Unlike the bill, the substitute builds on the State and Federal programs we already have; that's cheaper, more efficient, more logical, and it will result in greater protection for the public health.

And unlike the bill, the substitute is affordable; $15 million a year, not $150 million.

Madam Chairman, it seems to me that if Members accept the indisputable fact that the vast majority of seafood-related problems are caused by the consumption of raw molluscan shellfish, there can be no doubt about which approach to this problem is the better approach.

And the facts are clear. According to the FDA, approximately 95 percent of the illnesses and 95 percent of the deaths attributable to the consumption of seafood are caused by eating raw shellfish. Of the estimated 22 deaths, 21 are likely to come from a group of high-risk individuals who have cirrhosis of the liver and who eat contaminated shellfish.

So if the issue is public health, the substitute is preferable, because it focuses on the real source of the problem.

And if the issue is money or efficiency or expertise or whether there is any point in this exercise at all, the substitute is preferable because it is better designed, less extravagant, and supported by the administration, rather than veto-bait.

I urge Members to vote for common sense; vote to solve a problem, not create a bureaucracy; vote for the joint committee substitute, not the Agriculture Committee bill.

Madam Chairman, I reserve the balance of my time.

The CHAIRMAN. Does a Member seek time in opposition?

The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes.

Mr. DE LA GARZA. Madam Chairman, I ask unanimous consent that I be permitted to yield 15 of those 30 minutes to the distinguished gentleman from Kansas [Mr. ROBERTS] on behalf of the minority, and that he may allocate time.

The CHAIRMAN. Without objection, the request is agreed to.

There was no objection.

Mr. DE LA GARZA. Madam Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Madam Chairman, I would echo the words about the gentlewoman in the chair. Her birthday is the exact same date as my mother's, date, year, and everything. I will miss her very much. She reminds me of my home.

The CHAIRMAN. The Chair thanks the gentleman and will not deduct that away from his time.

Mr. GLICKMAN. Madam Chairman, I urge my colleagues to vote for the Mitchell-de la Garza bill and against the Dingell substitute.

Let us make no mistake about it, if the Dingell-Studds passes, the bill is dead for this year. So we shall not have seafood inspection, thousands of people may get sick and may die because of adulterated shellfish and finfish that are not inspected.

This is an important point again to repeat: If the Mitchell-de la Garza bill is passed and the Dingell substitute does not pass, we will get a bill this year and the American public can have full confidence that our already-safe food in this country is even safer.

Second of all, what the Mitchell-de la Garza bill does is take the best of government resources and make a complex job easier to solve.

They take the FDA, which does standards, and put them into that role; they take the Department of Commerce, which regulates fishing and water, and put them into that role; and then they take the Department of Agriculture and put them into the inspection of food.

After all, when you inspect protein, whether it is poultry, meat, whether you inspect fish, it is human safety we are talking about. The Department of Agriculture is unique in doing those types of responsibilities.

This is not a joking matter as some Members have made out of it. It is a serious matter of life and death to millions of Americans who eat fish all the time.

What we are trying to do is come up with the best program possible.

Let me end with a letter from Public Voice.

Ellen Haas, a lady who has bascially written the entire fish legislation we are talking about today, one of the

most distinguished consumer groups in the country, says the Dingell-Studds substitute is a far weaker bill. It calls for States to monitor shellfish and has no finfish inspection program at all. The need for a program covering finfish as well as shellfish is clear. According to the Center for Disease Control, consumption of finfish causes more outbreaks of food-borne illness than any other food group, including shellfish.

Since there is no time left for a conference committee in this session, it is clear that the substitute serves only as an obstacle to enactment of a strong Federal fish-shellfish inspection program. She says it is clear that the substitute, the Dingell-Studds substitute, serves only as an obstacle to enactment of a strong Federal fish-shellfish inspection program. Please do not leave consumers unprotected. A vote for the Dingell-Studds substitute is a vote to kill Federal fish inspection legislation.

That is from Ellen Haas, the lady who is largely responsible for the legislation we have today.

It is too bad that some of this debate has deteriorated into a conflict between committee jurisdictions.

My colleague from Kansas, Mr. ROBERTS, I believe referred to this as a surf-and-turf war, or somebody did. It should not be that way. It is not that way at all.

We are here to protect folks. My constituents eat fish, constituents all over the country eat fish, both finfish and shellfish. We have offered legislation which can pass, can become law. The Dingell-Studds substitute will not become law. Vote against it.

Mr. ROBERTS. Madam Chairman, I yield such time as he may consume to the distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Madam Chairman, I rise in strong opposition to the Studds amendment to the Fish Safety Act of 1990.

Madam Chairman, I rise today in strong opposition to the Studds amendment to S. 2924, the Fish Safety Act of 1990.

In 1938, Congress passed the Food, Drug, and Cosmetic Act, setting basic standards and definitions which have safeguarded the quality of our Nation's food supply for over 50 years. The Studds amendment proposes to radically change definitions contained in the 1938 act, and will call into question over half a century of judicial precedent used to interpret what constitutes adulterated food.

There are three particularly troubling provisions that merit consideration here today. First, this amendment would eliminate longstanding language governing the existence of naturally occurring deleterious substances. At a minimum, this change would result in confusion in industry and the courts as to what amount of naturally occurring substances render a product "adulterated." Since 1938, the courts have used the "does not originally render it injurious" test in determining whether a substance found in a food product renders that product adulterated. The original act has been amended several times; however, this standard has remained intact. There is no reason to amend the definition at this time.

Second, the amendment could result in more products being found to be adulterated because of naturally occurring substances. Under the proposed amendment, the phrase "reasonable probability" could cause products which are currently acceptable under existing law to be deemed adulterated. In effect, the standard for products with naturally occurring deleterious sustances could be the same as the standard for food products with added substances.

The courts have consistently ruled that a higher standard should apply when deciding whether products with naturally occurring deleterious substances are adulterated. This amendment would lower that standard and make it more likely that natural foods would be found to be adulterated.

Finally, the amendment's "adverse health consequences" language broadens the scope of whether a natural food product may be found to be adulterated. The original law set a standard that requires the Government to prove that the product is harmful when consumed in ordinary quantities. Therefore, products such as coffee and tea are not deemed to be adulterated unless the naturally occurring deleterious substances in them are at such high levels that consumption in ordinary quantities would injure the consumer.

"Adverse health consequences," the proposed definition in the Studds amendment, is far broader and could be applied in any number of ways.

Madam Chairman, the standards set in the 1938 Food, Drug, and Cosmetic Act have served us well, There is no evidence to suggest that such expansive, radical changes are warranted at this time.

Mr. ROBERTS. Madam Chairman, I reserve the balance of my time.

Mr. WAXMAN. Madam Chairman, I yield myself 3½ minutes.

Madam Chairman, the issue of the elements of an adequate fish inspection program has been extremely controversial and extremely divisive over the past 2 years, as it has been debated in three House committees, two Senate committees, and in numerous places outside Congress. Before I address the issues that divide us, I think it is useful to identify the areas where we agree.

First, we all agree that it is critical that our country have a first class fish inspection program to protect consumers from fish that is contaminated or otherwise unhealthy. As consumers eat more fish, the quality of such a program has become critical.

Second, we all agree that the current Federal program needs to be strengthened. That program is administered by the Food and Drug Administration and the National Marine Fisheries Service. The U.S. Department of Agriculture has no role whatsoever.

Third, the bills from the three House committees and the Senate bill all envision that the Food and Drug Administration will set the standards for fish contamination. This choice reflects the unanimous view that the FDA has the strongest scientific capability to set standards. These standards will be based on sophisticated techniques for measuring the substances that pollute waters and contaminate fish, and techniques for measuring the risks to humans of these substances.

Finally, we should all be able to agree that the principal problem that needs to be addressed concerns shellfish. Of approximately 65,000 illnesses per year due to fish, only about 3,000 are due to finfish. To put these figures in context, it is significant that chicken causes approximately 1.7 million illnesses per year. Given the current budget crisis, any program for fish inspection should focus on the area of concern—the risks of shellfish.

Now I would like to turn to the differences between S. 2924 and the Merchant Marine-Energy and Commerce substitute amendment.

First, the substitute amendment has adopted the same whistlblower protections as are currently available to Federal employees. The Senate bill has a weaker and inadequate provision. Strong whistleblower protections will make it possible for employees in the private sector to report violations of the law to Federal authorities. With no Federal expense, the Federal Government gets additional help in enforcing the law.

Second, the substitute amendment has a strong adulteration standard, while the Senate bill retains the standard adopted in 1906. This provision is at the heart of consumer protection. The size of the Federal program does not matter if the standards are weak. We have come a long way since 1906 in terms of public health and the American people deserve a modern standard.

The differences in the standard appear with regard to contaminants that are inherent or not added to food. Mercury in fish has been held to be not added in certain situations; so has salmonella which can occur in chicken and fish. The 1906 standard for substances that are not added is "ordinarly injurious to health." This means that the substance must usually injure the consumer. An occasional injury, or even a death, is not enough.

The subsitute amendment adopts a "reasonable probability" standard, so that if there is evidence that consumers could be injured, the authorities have power to act. In order to establish a level playing field for both industry and consumers, the substitute amendment extends this protection to meat and poultry.

Madam chairman, this is an important consumer issue. Surely consumers are entitled to the basic protection

that the amendment would give them—the assurance that there is a reasonable probability that the food they eat will not cause adverse health consequences. But the standard places no burdens on a business that is responsible; such a business has no interest in selling to consumers an unsafe product, even if most people do not suffer injuries.

I hear that certain segments of the meat and poultry industry are distressed that this new standard will apply to the products that they market. They are fighting to retain the old standard that Congress adopted in 1906.

Madam Chairman, in terms of public health protection, we have come a long way since 1906. We have strengthened laws with respect to pesticides, artificial food additives, and animal drugs. In fact, we have changed virtually every other provision of the Food, Drug, and Cosmetic Act to better protect the consumer, except the one at issue today.

The final difference concerns the agency that will administer the inspection and other parts of the program. The substitute amendment leaves the program where it is under existing law, with FDA responsible for standard setting and inspections, and National Marine Fisheries Service responsible for closing waters and administering other parts of the program.

The Senate bill would place responsibility for inspections of plants and imports and virtually all other important functions at the USDA.

Madam Chairman, I believe that we would be making a serious mistake in splitting the standard setting and inspections function between FDA and USDA. We have a similar split in the regulation of pesticides between FDA and EPA and it has not worked. Neither agency has the necessary commitment to the program, and splitting authorities disadvantages both agencies in carrying out their missions.

There is on final point. The data show that the principal risk from seafood comes from raw shellfish. For this reason, there is a clear need to strengthen the Federal programs regarding shellfish inspection. The substitute amendment is targeted at this problem, and allows the agencies to act immediately.

In contrast, the Senate bill envisions a massive inspection program directed at all fish. The program would be administered by USDA, and would not be in place for 5 years, at the earliest. This is both too much and not enough. It is too much because it would waste valuable Government resources on intensive inspection of fish processing plants, where there is no evidence of a problem. But it is not enough because it doesn't address the immediate problem—the health risks from shellfish.

The substitute amendment is by far the strongest measure in terms of protecting the public health. It has the support of virtually all the labor and consumer organizations that have taken a position on the issue, and I urge the Members to support it.

□ 1540

Mr. LENT. Madam Chairman, I yield myself such time as I may consume.

(Mr. LENT asked and was given permission to revise and extend his remarks.)

Mr. LENT. Madam Chairman, I rise in support of the Studds-Dingell substitute, worked out between the majority of the Energy and Commerce Committee and the Merchant Marine Committee.

An improved seafood inspection program in this country is essential to ensure public confidence in the food supply. The substitute would provide for an expansion of the existing seafood inspection programs of the FDA and NOAA.

FDA's Seafood Safety Program currently includes mandatory, random inspections, and extensive research. It relies on longstanding relationships with States, other Federal agencies, and foreign countries. NOAA is the only Federal agency authorized to control fishing and shellfishing activities of vessels in Federal waters and has the authority to close those waters to shellfishing when the FDA tolerance for a contaminant has been exceeded. Like FDA, NOAA has experience in inspecting seafood processors under its current voluntary program. For all these reasons fish inspection should remain the responsibility of the FDA and NOAA and should not be transferred to another agency.

The Studds-Dingell substitute also provides for the protection of whistleblowers. The Seafood Safety Program would rely on random, unannounced inspections to keep fish safe. This type of program can only work if it has strong protection for those employees who alert the Government when a vessel or plant violates health and safety standards.

To ensure the safety of seafood and to protect consumers against potentially dangerous contaminants, I urge my colleagues to support the Studds-Dingell substitute.

Madam Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Madam Chairman, I yield myself 4 minutes.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Madam Chairman, I want to join with my friends from the Committee on Energy and Commerce and the Committee on Merchant Marine and Fisheries in offering and supporting a bill that will truly solve seafood health problems at minimal cost to taxpayers.

Let's think for a moment about what this substitute does. It establishes a new national program to ensure the consumer a supply of safe and high quality shellfish.

It tells the FDA, the Federal agency that knows about unsafe food, to establish new standards that fish and shellfish must meet to prevent pollution from chemicals and organic substances.

It builds upon existing State shellfish safety programs.

It gives the Secretary of Commerce the authority to close Federal waters to the harvesting of fish which might harm public health.

It tells the President to design a national seafood inspection program using the knowledge and resources of the Department of Agriculture, the Department of Commerce, and the Food and Drug Administration.

It creates protection for workers who try to inform Federal authorities of threats to public health and it does all this, Madam Chairman, at a cost far less than the program suggested by my colleague from Texas.

Madam Chairman, our committee held three hearings on seafood safety in this Congress. Members and staff have held numerous meetings with labor groups, the fishing industry, consumer groups, and experts from the Department of Agriculture, the Department of Commerce, and the Food and Drug Administration. Everyone agrees, and the facts bear this out, that the three main threats to human health from seafood are eating raw shellfish, eating certain fish caught in warm waters, and improperly handling certain species of fish that can concentrate toxic substances in their flesh. Our program protects the public against these health threats.

We have listened to a great deal of debate about the need for a national seafood inspection system. The fact remains that establishing a national seafood inspection system will not do anything more to protect the public's health. What it will do is cost the public additional tax dollars. No Federal agency has the resources to establish a national inspection system of the type proposed by my colleague from the Agriculture Committee. The Department of Agriculture admits this. The chairman of the Agriculture Committee admitted it the other day in his testimony before the Rules Committee. No matter how you slice it, if we establish a national seafood inspection system right now, it's going to cost us hundreds of millions of dollars. And that system is not needed to protect the public's health.

Who supports our bill? The administration supports it. Twenty-two different fishing, labor, and consumer

groups support it. My own State of Alaska supports it; and let me tell you, Madam Chairman, I represent the State that has the largest volume and value of fish landed in this country. Further, my State already has an excellent fish inspection program. We do not need a budget-busting, national inspection program at this time to protect the public's health.

Let me go back to the record. You are eight times more likely to die from eating chicken than you are from eating seafood, and we don't have enough inspectors right now to inspect all the chickens we eat. Why on earth are we trying to increase the Federal deficit by inspecting seafood that isn't going to hurt you?

There has been a lot of anger in the House over the past few weeks on both sides of the aisle over how to decrease the deficit. We all have our own theories as to how this should be done, but surely we can agree that we should not increase the deficit by establishing a program that is not needed.

Again, let me remind you, I represent the State that has more seafood landed than any other. If I thought for a minute that a national seafood inspection program would protect the health of consumers, and would ensure safety in my fishing industry, I would vote for it; but the facts do not bear this out.

We can protect public health and we can do it without bankrupting the taxpayers. We can do it by voting in favor of this substitute, and I urge its adoption.

Mr. CALLAHAN. Madam Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Madam Chairman, I thank the gentleman from Alaska [Mr. YOUNG] for yielding.

Representing the State of Alabama, which probably has the finest seafood harvested any place in the entire world, let me tell my colleagues that the industry there has undergone a sufficient amount of trauma, probably caused a great deal by this Congress, and this is not the time to make further problems for that industry. We have no problem with contamination in Alabama shrimp. We have no problem with contamination in Alabama oysters. All of the fine restaurants in the great and wonderful city of the gentlewoman from Louisiana [Mrs. BOGGS] serve Alabama seafood there.

Madam Chairman, this is an industry that has a sufficient amount of bureaucracy controlling them now, and we do not need any more.

Let me encourage my colleagues to support the amendment of the gentleman from Michigan [Mr. DINGELL] and the gentleman from Massachusetts [Mr. STUDDS], and let us not put additional problems on our shrimping industry and our fishing industry in the State of Alabama and in the United States.

Mr. YOUNG of Alaska. Madam Chairman, I thank the gentleman from Alabama [Mr. CALLAHAN].

Madam Chairman, in closing I am asking my colleagues, "Let's save a little money. Let's adopt a substitute that sets up the program of the problem and solves that problem. Let's not go beyond that."

Madam Chairman, I do not say that in rancor at all, but it is time that the committee that had jurisdiction actually be listened to on this issue, and we accept that substitute as the bill that should go to the President and will be signed by the President.

Madam Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. PENNY].

□ 1550

Mr. PENNY. Madam Chairman, I rise in support of S. 2924, the Fish Safety Inspection Act of 1990, and strongly oppose the substitute. I believe that S. 2924, and not the substitute, will ensure that fish and other seafood products are safer for American consumers.

As my colleagues are well aware, food safety is a very important issue to the American people. To maintain public confidence in the safety of our food supply, especially that of increasingly popular seafood, we need to implement a seafood inspection program that will be supported by the public and rely on scientifically determined tolerance standards.

S. 2924, the Mitchell-de la Garza Fish Safety Inspection Act, will implement such a program. The U.S. Department of Agriculture would be responsible for the inspection of all domestic, imported, and exported seafood. The USDA has been in the food safety business for over 80 years, and operates the successful meat and poultry inspection services with over 10,000 employees dedicated to food inspection activities.

The Mitchell-de la Garza bill relies on the Food and Drug Administration to continue to use its scientific expertise to set food standards for fish, and directs the Department of Commerce to continue to manage natural fish stocks and control access to fishing waters.

S. 2924 would rely on all three, the USDA, the FDA, and the Commerce Department, to continue to do what they do well in the best interests of the American consumer. This system has worked exceptionally well in the meat and poultry business.

Today, the risk of a food poisoning outbreak from eating seafood is 25 times greater than it is for beef, 16 times greater than for pork, and 16 times greater than for poultry. Our consumers deserve more protection from contaminated seafood than this, and it is high time to begin a mandatory seafood inspection program by approving S. 2924.

S. 2924 is supported by numerous food, consumer, and fishing industry groups. In addition, it is instructive to review what some major newspapers have said in support of this legislation. The New York Times on October 17, 1990, said, "* * * the legislation promises a reasonable measure of protection. The House version deserves prompt support." The Washington Post on June 9, 1990, in supporting the Mitchell bill, called it, "* * * a fish inspection program that would not provide as constant a federal presence as in meat and poultry plants but would nonetheless be a great advance over the industry's present voluntary system, said to cover only 12 percent of U.S. seafood."

The Mitchell-de la Garza bill is a public health program funded by the public. It deals with safety standards only, and authorizes no promotional activities. The implementation schedule is well defined, and there is clear delineation of enforcement authority. S. 2924 is compatible with the President's GATT trade policy. It does not affect EPA authority under the Clean Water Act for setting water quality standards and monitoring compliance.

The safety of America's seafood depends on this legislation. The substitute puts off real change in seafood inspection to the detriment of our consumers. Let's get started today on improving the safety of our seafood by approving S. 2924 and rejecting the substitute.

Mr. ROBERTS. Madam Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Madam Chairman, I rise in opposition to the substitute and in support of the bill before us. I find it interesting listening to this debate, because everybody is concerned we are going to spend something like $300 to $400 million to guarantee that fish in this country is inspected. All the people that say we cannot afford to do that in the midst of a budget deficit are the same ones who less than 2 hours ago came to this floor and voted to spend $300 million to pay people to volunteer. It seems to me it is a little bit a matter of priorities around here.

The fact is, if we want an integrated, comprehensive fish inspection program, the only place to do that is in the Department of Agriculture, because they do have the integrated management inspection program.

I read all of these "Dear Colleague" letters going around here that we are going to transfer fish inspection if the

bill that is before us is adopted rather than the substitute.

Madam Chairman, you cannot transfer something that does not exist. It is not going to transfer anything. The question here today is whether we are going to establish a comprehensive fish inspection program, and the only way that it is going to be done is if you use the standards at the FDA, if you use the Commerce authority to deal with the waters, and you use the authority and the expertise of the 10,000 Federal employees that presently exist, professionals, to deal with good safety inspection.

There ought to be no question that if we are seriously committed to good quality, if we are seriously committed to using professionals in the area of their expertise, and if we are seriously interested in comprehensive government efficiency in the area of inspection, we ought to pass the Senate bill that is before us, and we ought to reject the substitute that is now in front of us.

Mr. STUDDS. Madam Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. McMILLEN].

Mr. McMILLEN of Maryland. Madam Chairman, I rise today in support of the Dingell-Studds amendment in the nature of a substitute to the Seafood Inspection Act of 1990.

I support this amendment for two reasons.

First, this substitute will continue the current system of utilziing the Food and Drug Administration [FDA] and the National Oceanic and Atmospheric Administration [NOAA] as the primary agencies responsible for operating a seafood inspection program. S 2924 would shift this authority to the U.S. Department of Agriculture [USDA].

While it is true that USDA is responsible for both meat and poultry inspection, there is no clear relationship between these methods of inspection and seafood inspection that merits transfer of this program from FDA authority. It would be costly and wasteful to abandon the existing expertise of the FDA for no clear benefit.

The second reason I support the Dingell-Studds substitute is because I want to see a seafood inspection bill signed into law this year. We know that the President will veto this bill without adoption of the Dingell-Studds amendment. The public health simply cannot wait for Congress to go through the motions just so we can find ouselves back at this same impasse next year.

Delay in implementing a comprehensive seafood inspection program has real consequences. Delay means that more people will get sick, and quite possible more people may die, from eating contaminated seafood.

My State of Maryland has a large seafood industry. What happens today affects both the health and economic well-being of my constitutents. I urge adoption of the Dingell-Studds amendment because I believe it will best serve the interests of the industry and consumers.

The Dingell-Studds substitute will strengthen existing seafood inspection standards while using the existing resources found within the FDA to rapidly implement an effective seafood inspection program.

Support the Dingell-Studds amendment.

Mr. LENT. Madam Chairman, I yield the balance of my time to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Madam Chairman, I rise in support of the Dingell-Studds substitute. It is more effective than the Senate-approved bill both in cost and focus. Most importantly, it enhances State and Federal seafood safety activities and programs that are already in place.

Why do the support of the Senate bill want the Department of Agriculture to inspect fish when Federal agencies currently involved in seafood safety issues include the Food and Drug Administration [FDA] and the National Oceanic and Atmospheric Administration [NOAA] which includes the National Marine Fisheries Service [NMFS], The Centers for Disease Control, the U.S. Fish and Wildlife Service, and the U.S. Geological Survey.0

What are some of these seafood safety activities and programs?

I quote from "Meeting the Challenge: New Directions in Seafood Inspection," a report issued by the National Oceanic and Atmospheric Administration:

> The Federal Government conducts, through a number of agencies, programs to help monitor and assess current and changing conditions affecting the safety and wholesomeness of the Nation's commercial and recreational seafood supply. These activities include inspections, product sample analysis, water quality assessments, research and data gathering, management of fish harvesting, enforcement, and technical assistance to States and industry.
>
> In addition, State governments conduct similar activities that help to monitor the condition of commercial and recreational seafood in their jurisdiction. These activities include seafood establishment inspections, seafood sample analysis, water quality assessments, and patrols of harvesting areas.

I think it is quite clear that in order to ensure a safe and wholesome supply of seafood, it takes more effort than just inspecting fish flesh. It takes extensive water quality research and management programs and requires the combined expertise of a number of Federal and State agencies.

The Senate-passed bill would require the establishment of a new framework and inspection program, and would take 5 years to put the bureaucracy in place within the Agriculture Department. The last thing we should be doing is spending money to further bloat Federal bureaucracy.

The major health hazard with regard to seafood is the consumption of contaminated raw shellfish. I have just two points to make.

First, the problem arises from shellfish being harvested from contaminated waters; therefore, the major issue is one of monitoring the quality of those waters and implementing and enforcing closures.

Second, the risk to public health can be eliminated or greatly reduced through education. Let me suggest to you, don't eat raw shellfish unless you are confident that they were harvested from waters that were adequately tested and taken by reputable harvesters.

Let's put the dollars where they are most needed and most effective. To the existing efforts and inspection programs currently in place involving the FDA, NMFS, and the States. That's what the Dingell-Studds substitute amendment does. Therefore, I urge my colleagues to vote for the Dingell-Studds substitute amendment.

Mr. WAXMAN. Madam Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Madam Chairman, I thank the gentleman for yielding. I rise in support of the Studds-Dingell substitute. The Health and Environment Subcommittee and the Energy and Commerce Committee have worked long and hard on this issue and the substitute represents the best efforts of our committee and those of the Merchant Marines and Fisheries Committee.

It is incomprehensible to me how this country cannot have a comprehensive, federally mandated fish and shellfish inspection program. Despite the obvious risks to consumers, these products are the only flesh foods not subject to this kind of inspection.

Fish and shellfish inspection is a matter of public safety and public health. I prefer the substitute amendment because it would place the inspection program in the Food and Drug Administration [FDA] the Nation's primary food safety agency. The FDA operates under the aegis of the Department of Health and Human Services, the agency primarily responsible for public health matters. Both are equipped with the trained and experienced staff and resources to carry out an effective inspection program.

As health officials warn us to limit the amount of red meat in our diets, and the dietary benefits of fish and shellfish become better known, many Americans, including those who have high chloesterol and/or cardiovascular problems, are increasingly turning to these products as they change their eating habits. We must ensure that the fish and shellfish products that

are consumed are of the highest quality and purity possible. Madam Chairman, a week or so ago, I attended a hearing held by the Congressional Black Caucus and listened with a great deal of alarm at some workers who had been telling us how bad their plant conditions were.

Madam Chairman, although I realize this is not a bill that deals with working conditions, it did afford us sort of a keyhole view of some of the things that go on in some of the fish processing plants.

At one such plant we were told that the conditions for refrigeration and good, careful processing were pretty bad. I just want to quote some of the testimony.

One woman testified that the conditions at the plant in which she worked "are very bad." She went on to say that "in the summertime there is no air and it is very hot * * *" and that she "would not store fish at that temperature, that's for sure." She then said, "In the summertime, the odor from the place where they killed the fish comes over to where I work. It smells so bad."

I was even more disturbed when she testified:

In some areas there are night creatures—known as maggots—that come out, because they do not clean the plant properly. There are also leftover fish that are just left there until the next day.

□ 1600

One day, we were (processing) fish and they brought out some fish that were green and smelled real bad. We told our supervisor about it * * * he told us to go ahead and (process) it anyway, It was all reddish and slimy inside. It had to be old fish.

Clearly, this is not the kind of fish that we want to see processed in the United States.

While I feel certain the author of the bill is on the right track, I do not think the bill goes far enough. The substitute requires FDA, which operates under the aegis of the Department of Health, to set health standards for fish and fish products, including standards for chemical microbiological contaminants and parasites, as well as health-based standards for safety and sanitation in processing. Mandatory fish and seafood inspection is good for the public which has a right to expect that all of the fish and shellfish products available for human consumption were prepared under sanitary conditions and are free of contaminants and harmful agents.

Clearly the substitute is needed. I urge my colleagues to vote for it.

Mr. DE LA GARZA. Madam Chairman, I yield myself 1 minute.

Madam Chairman, I sympathize and agree with what our distinguished colleague, the gentlewoman from Illinois, has said. That is the reason we are trying to get the bill, to address the situation she just mentioned.

Over here it was mentioned about contaminated waters. Our bill lets Commerce continue working with contaminated waters.

Over here it talks about building expertise. We build on expertise. The Food and Drug Administration will do the standards.

Also it is kind of like saying Agriculture does not know anything. Commerce contracts the Food Safety Insepction Service to do the inspections for them. How many times do I have to say that and keep repeating and repeating.

Whistleblower, my dear colleague, the gentleman from California [Mr. WAXMAN], and my good and dear friend, Chairman DINGELL, they wrote the whistleblower provision that is in the Clean Air Act. They just kept it in the Clean Air Act, they did not raise their voices against it in the Clean Air Act, and now that we honor them by accepting their version, they say it does not do enough.

Mr. YOUNG of Alaska. Madam Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Madam Chairman, some of us have been working for years to get a seafood inspection law passed, and finally the day has come. This is going to be a major step forward in protecting public health. It is going to give substantial protection to American consumers, and also boost the confidence in our seafood industry.

In passing this law we have a choice, whether to put primary responsibility in the Department of Agriculture or to put primary responsibility in the National Oceanographic and Atmospheric Administration and the Food and Drug Administration.

I favor the Dingell-Studds alternative which does the latter, not only because NOAA and FDA have the expertise when it comes to seafood, but because of the focus that this alternatives places on shellfish. This is the major seafood health problem.

Let me just give some statistics from the Center for Disease Control. Chicken is responsible for 1 illness for every 25,000 4-ounce portions. Fish is responsible for 1 illness for every 250,000 4-ounce servings. But uncooked shellfish is responsible for 1 illness in every 250 servings. Shellfish causes 95 percent of the health problems stemming from the consumption of seafood.

That is why all of the major consumer organizations support the Dingell-Studds alternative. This is the way we should go as we pass this seafood inspection law.

Mr. ROBERTS. Madam Chairman, I yield myself as much time as I might consume.

Madam Chairman, I would like to talk a little bit about this veto threat that has been raised by the esteemed chairman of the Energy and Commerce Committee, a man whose expertise and power is second to none in this House. I find it a little unique, a little different that the esteemed chairman is now the champion of administration consistency on a veto threat.

I have a letter that is signed, as he has indicated, by the Secretary of HHS, Mr. Sullivan, and the Secretary of the Department of Commerce, Mr. Mosbacher, and John Sununu, who is the Chief of Staff, as we all know, to the President. I would say to the chairman and my good friend, and my colleague, that the fishy hand of consistency does not rest long on the shoulders of Mr. Sununu as of these days, and if fish are going to swim and birds are going to fly, we have to pass fish inspection or we all might die.

I do not make those comments lightly, in that I do not think the President is going to veto this. They simply say they will recommend a veto.

If we have a comprehensive fish inspection program, which this bill represents, I cannot imagine the President of the United States vetoing this kind of a program.

Now let me talk just a minute about this business of health and the fact that the shellfish are the primary problem here, and I agree with that. But let me also point out that the gentleman from Massachusetts [Mr. CONTE] is right. Well, he is not right but he is close in terms of perception.

The United States is the world's largest exporter of seafood products. The Surgeon General is recommending that more people eat fish, and if that happens, and it will, and it is a safe product, then obviously we need a fish inspection program. That just follows.

Now we have 60,000 people estimated by the Centers for Disease Control that fell ill in regards to eating adulterated fish, and it is not just shellfish. Let me say in regard to barracuda, red snapper, amberjack, grouper, tuna, mackerel, bonita, and skipjack, and puffer fish, all fish with past records of poisoning, they cause nausea, cramps, diarrhea, numbness of lips and tongue, reversal of hot and cold sensation, pain in the extremities, flushing, headache, dizziness, burning of mouth and throat, and these people end up in the hospital. I am reading from the symptoms of poisoning from the Centers for Disease Control. This is a real problem, not only in regards to shellfish.

So I would say to my friends that we need, we need a comprehensive program to address the problems other than the shellfish.

At this time I would like to engage in a colloquy with my friend, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, will the gentleman yield?

Mr. ROBERTS. I am delighted to yield to the gentleman from Texas.

Mr. STENHOLM. Madam Chairman, I would ask the gentleman from Kansas, does the substitute amendment intend to make more restrictive the adulteration standards in the Food, Drug, and Cosmetic Act, and the Meat and Poultry Inspection Acts?

Mr. ROBERTS. That is my understanding. However, there appears to be an error, the consequence of which is to lessen the adulteration standard. If the substitute amendment were adopted without a change—we are talking here about inserting a "not" in the appropriate place—then it would become more difficult for the FDA and the USDA to find foods adulterated. Clearly, the authors of the amendment did not intend this. But, equally clear is the fact that this substitute amendment was hastily drafted and poorly conceived.

Mr. STENHOLM. I appreciate that clarification. I would also like to note that in my experience, when amending existing law and introducing new terms and new concepts, there must be precision and clarity of purpose. And, that is not apparent in the substitute amendment. I fear that using undefined terms like "reasonable probability" and "adverse health consequences" will open the adulteration standard to an avalanche of lawsuits. We know of many activist organizations that would like nothing better than for the Federal Government to regulate the availability of foods and make explicit determinations as to what is good food and bad food.

It appears to me that the Dingell substitute weakens those food safety standards currently in effect for foods that do not contain added substances; in other words, for naturally occurring foods. It says that foods are adulterated if there is a reasonable probability that the quantity of substance will cause adverse health consequences. This new adulteration standard in the substitute is weaker than current law, and it applies to meat, poultry, and eggs as well as fish.

□ 1610

Therefore, this standard absolutely should not be adopted, and this amendment or substitute amendment should be defeated.

Mr. ROBERTS. Madam Chairman, I thank the gentleman for his contribution.

Madam Chairman, reclaiming my time, what is basically wrong with the Dingell-Studds substitute is this: It only continues the existing shellfish program and asks the President to send to Congress a legislative proposal to create a program at some future date.

They now claim that this substitute costs only $15 million per year, and that is true. It is because there is no mandatory inspection program. Any comprehensive program will cost as much as any other comprehensive program.

The gentleman from Alabama [Mr. CALLAHAN], my good friend, said there were additional problems for the industry in his State. Talk about problems. The substitute amends all, all of the food inspection laws to revise the adulteration standards for all food.

Section 304 of the substitute changes those standards. It would throw the entire food industry into chaos. These changes are being proposed without hearing or comment.

In one section we move from a debate on how to inspect fish to a proposal changing the very basis of the food system. No matter what agency you believe should inspect fish, you must reject the substitute because of the threat that it imposes on the stability of our food-delivery system.

The gentleman from Washington [Mr. MILLER] indicated we needed a bill. We do. We desperately need a fish inspection bill. This bill is commensurate to the bill in the other body. We can pass it. It will be on the books.

The President, without Mr. Sununu, in terms of representing a veto, with our advice, will sign it, and it will be a good bill and consumers will be better off as well as those who represent the fish industry.

Madam Chairman, I yield back the balance of my time.

Mr. DE LA GARZA. Madam Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Madam Chairman, I rise in support of the bill, S. 2924, and in opposition to the substitute amendment. We debated the fish inspection issue in the House Agriculture Committee and reported our version of a fish inspection program earlier this year, one which is very similar to the Senate-passed bill, as modified, which is before us today. Over the last few weeks, we have tried to work out differences between the provisions of this bill and the versions reported out by other committees and, having been unable to reconcile the differences, we are now asking the House to chose the best approach. I hope that the House will choose the de la Garza bill, which is very similar to the Senate-passed version which is being offered here today.

The bill before us, S. 2924, provides for the establishment of a comprehensive fish inspection system with fish products being inspected by the Department of Agriculture [USDA], fisheries management being handled by the Department of Commerce, and safety tolerances being handled by the Food and Drug Administration [FDA]. The establishment of such a system is long overdue and represents a significant step forward in food safety. Unlike other proposals, this bill details the outline of a comprehensive plan and then moves ahead in a science-based manner to fill in the details.

Under this proposal, USDA would assume the role for domestic and imported fish inspection, building on its expertise as the agency which inspects meat and poultry products. The Department of Commerce, which has the expertise for fisheries management, coastal water management, and currently conducts programs in these and other areas would continue as the lead agency for the matters dealing with fin and shell fish management. FDA would continue its lead role as the Federal agency which determines levels of harmful toxicants and bacteria in food. In short, this proposal would build upon the talent and expertise of three Federal agencies and create a comprehensive national fish inspection program.

Given that it is impossible to continuously inspect every fish, we are proposing a program which is based upon certifying individual plants and processes for types of fish. Under this proposal each processing plant would develop a science-driven process of identifying critical points of controlling harmful adulteration of fish. This process would vary by type of fish, from warm water fish to cold water fish and from fin fish to shell fish. Once these critical points were identified, a hazard control plan would be developed which would have to be followed. Proof of compliance would be required, as well as a series of other record keeping and verification steps.

In addition, we have added whistle blower protection to this legislation which is similar to that which we have agreed to in the Clean Air Act. Under this proposal, protection would be granted to a worker who is acting legitimately to report violations of the provisions of this act and the certification agreement for the processing facility.

As I stated before, this proposal outlines a comprehensive plan but allows a phased implementation of the details of that plan. This flexibility is the basic departure from other food inspection systems and allows us to concentrate our scarce resources where scientific review shows the greatest problem is. If a bacterial problem can be solved by better refrigeration, that will become a part of the plan. If closing unsanitary coastal areas eliminates shell fish problems, then that becomes the regulatory response in that case.

In short, the proposal outlined in S. 2924, is the reasonable one, the course which builds upon our experience in Federal food safety programs. It

pushes that experience ahead into this new area of food safety concern, guaranteeing the consumer a safer more reliable food supply. I urge my colleagues to support S. 2924.

Mr. YOUNG of Alaska. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I am going to suggest to my colleagues, wherever they may be, that they vote for this substitute. It is the correct way to go. It is the right way to do legislative action with what we have left.

It was interesting to me to hear someone say that if we could have got together we could have got together. We did not have the Senate bill on the rule we just worked on.

Madam Chairman, I yield the remaining time I have to the gentleman from Massachusetts [Mr. STUDDS].

The CHAIRMAN. Without objection, the gentleman from Massachusetts [Mr. STUDDS] may control the remainder of the time yielded by the gentleman from Alaska [Mr. YOUNG].

There was no objection.

Mr. DE LA GARZA. Madam Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Madam Chairman, I rise in support of the committee bill and in opposition to the Studds amendment. I can remember 25-30 years ago when U.S. poultry inspection was just commencing, and in my area there was a great deal of opposition at the time. Later, as it became effective we discovered that it helped increase consumption throughout the United States, because the consumer could depend upon the fact that the meat and poultry products were wholesome and safe.

Americans are confident that meat and poultry products purchased in the marketplace are safe and wholesome.

The wholesomeness depends on each link in a chain from the farm to the slaughterhouse to the consumer's table.

The Food Safety and Inspection Service [FSIS] of USDA administers a comprehensive system of inspection to ensure that meat and poultry products moving in interstate commerce for use as food are safe, wholesome, and accurately labeled.

USDA's responsibilities include: Assurance of a sanitary environment in slaughter and processing plants, and monitoring all relevant stages of animal slaughter as well as meat and poultry processing procedures.

During fiscal year 1989, over 2.4 million analyses were performed on samples of meat and poultry. Approximately 99,000 samples were taken from processed products.

During the same period, over 137,000 labels were reviewed for approval.

USDA is committed to protecting the public health through enforcing meat and poultry laws. Approximately 60,000 compliance reviews were conducted in 1989.

The ultimate goal of USDA's inspection program is to ensure that meat, poultry, and their byproducts are wholesome, unadulterated, properly labeled, and do not constitute health hazards.

To this end, USDA inspectors examine meat and poultry products animal-by-animal and process-by-process in slaughterhouses and processing plants.

USDA conducts sampling tests to determine chemical and drug residue levels in products.

The meat and poultry inspection program of USDA has been effective in ensuring that healthy animals are processed for consumption, and, as a result reducing risks to public health.

In 1989, poultry consumption was 68 pounds per person in the United States. Fish consumption was 15 pounds per person. As this consumption increases, there will be a need for a comprehensive fish inspection program. In my view, the existing food inspection system of USDA that now inspects poultry, beef, and other flesh foods is that appropriate agency. I urge support of the committee bill.

The Food Safety and Inspection Service of the U.S. Department of Agriculture administers an extremely comprehensive system of inspection on a bird-by-bird basis. I have watched this time and again throughout my district. They do an outstanding job, and we ought to have one food inspection service for all flesh foods. We ought to lodge these under a common agency that will be responsible for inspection of food, whether it be fish or whether it be poultry or whether it be beef, and I think that the committee approach is a sound approach that ought to be supported by this House.

Madam Chairman, I urge my colleagues to oppose the Studds substitute and support the version as presented by the Committee on Agriculture.

Mr. WAXMAN. Madam Chairman, I yield myself 1 minute.

Madam Chairman, I just want to indicate that people have said we should pass this bill, and they argue that we should pass the weaker Agriculture bill and get something on the books. I think if we are going to do this job of fish inspection, let us do it right. Let us do it in the agency that has the capability of setting the standards, give them the resources to enforce those standards, do what all the consumer and labor groups tell us to do and the Bush administration as well.

□ 1620

That is, to support the substitute for the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Michigan [Mr. DINGELL], I urge an aye vote for the substitute.

Mr. DE LA GARZA. Madam Chairman, I yield 1 minute to the distinguished gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Madam Chairman, I rise in opposition to the Studds substitute.

This vote comes down to one decision: whether or not we really want a comprehensive fish inspection program for the entire industry.

We need to inspect both shellfish and finfish.

We need the expertise of all three agencies with experience in food inspection: FDA, USDA, and Commerce.

We need the experience of USDA which has been in the meat and poultry inspection business for over 80 years.

And we need to restore consumer confidence by implementing a seafood program that will be supported by the public and rely on scientifically determined tolerance standards.

Madam Chairman, passing the Studds substitute is like inspecting half the fish. And that's not a chance I want to take.

Mr. DINGELL. Madam Chairman, the gentleman from California [Mr. WAXMAN] through the voice of the gentleman from Michigan [Mr. DINGELL], will yield the balance of our time to the gentleman from Massachusetts [Mr. STUDDS].

The CHAIRMAN. The gentleman from Massachusetts [Mr. STUDDS] has 5 minutes remaining and the gentleman from Texas [Mr. DE LA GARZA] has 4 minutes remaining.

Mr. DE LA GARZA. Madam Chairman, I yield 3 minutes to our distinguished colleague, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, attempting to summarize where we are at this point in the debate, it was interesting to hear the House Committee on Agriculture's version of this bill as declared the weaker version of the bill when we had a very comprehensive plan of how we will not only begin, but also implement seafood inspection that is supported by the majority of the seafood industry.

They want a study. The other side wants a study, and turn it over to OMB to decide how this particular system should be implemented.

The gentleman from Kansas [Mr. ROBERTS], I thought, made a very eloquent point on the veto threat. There should be no veto of the House Committee on Agriculture version of this bill based on dollars, based on costs, because we are comparing apples and oranges, not apples and apples, when we compare costs, because there is no comprehensive seafood inspection plan being offered in the substitute, only a study.

In ours, we clearly have a plan. We clearly have it. It utilizes USDA, FDA,

and the Department of Commerce in doing the things that we do best. Now, it is valid to suggest that our Food Safety and Inspection Service can be improved. I agree with that. It can be improved. That is what we hope to begin the first step in doing, because in our plan, the USDA part, and while we believe that is the most efficient way of doing it is because we already have 7,000 inspectors, 1,200 food scientists doing the work, and it will not take as many as the gentleman from Alaska asked for additionally. In fact, I submit it will take none additional if we begin adopting the best science available to citizens today.

I mentioned HAACP before. That is the little code word for Hazard Analysis and Critical Control Point System which is in our bill. The National Research Council supports the implementation of the HAACP system in seafood inspection, and in red meat and poultry inspection, and our system will be much better when we do that.

We suggest in the House Committee on Agriculture version that is the way we ought to start the HAACP system—decides, identifies where the problems are and attacks the problems where they are. In the seafood industry, that makes eminent good sense for all the reasons Members have heard. Opposing our side, but I do not understand why they oppose it, because this is the way, at least in the House Committee on Agriculture's interpretation and opinion that we should proceed.

The USDA has the manpower. We have training facilities. We have all of these things necessary to implement. That makes sense. FDA has certain expertise that they do a better job with. We acknowledge that, and encompass that into our bill. And the same is true with the Department of Commerce.

Therefore, all the things that we have heard about budget costs, et cetera, if we will clearly identify in our bill those points of contention, we will see that, in fact, the House Committee on Agriculture's version is the way for Members to go. I urge the defeat of the substitute and support of the House Committee on Agriculture's bill today.

PARLIAMENTARY INQUIRY

Mr. YOUNG of Alaska. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. YOUNG of Alaska. As the sponsor of the amendment, does the sponsor of the amendment have the right to close?

The CHAIRMAN. Yes, the sponsor of the amendment will close, but the gentleman from Texas [Mr. DE LA GARZA] has the right to speak just prior to those closing remarks.

Mr. DE LA GARZA. Madam Chairman, I yield myself the remaining 1 minute. First, the consumers of America, the people of America deserve and need a fish inspection bill. We provide it.

The whistleblower provision, we accepted the Waxman-Dingell version. Now, they provide a study. We act. A study says the President, we know it is going to be Mr. Darman from OMB. We are being criticized for not acting now. That is what happened with the summit. Do not yield to another summit. They could get a Dingell-Darman deal. We can act now, vote no on the substitute, vote yes on the bill that is before Members. Members will be acting responsibly. We will exert leadership, and we would allow the people what they need and what they want, which is a mandatory seafood inspection. Vote no on the substitute.

Mr. STUDDS. Madam Chairman, I yield myself the balance of my time. The gentleman from Texas almost convinced me to withdraw the substitute. I hope when the debate is over that the alliance between the gentleman from Kansas and those of the saltwater district can be restored, as I understand the gentleman used to love clams and oysters as long as they were breaded. We hope to restore that alliance.

I will not, God help us, repeat everything that was said, but in response to statements made by the gentleman from Kansas [Mr. ROBERTS] and just now by the chairman of the Committee on Agriculture, namely the contention that the substitute does not address the real problem of shellfish.

One more time with respect to the problem. There is a very serious problem with respect to seafood, and almost all of it is in the area of shellfish. The FDA says there will be 1.7 million illnesses because of contaminated chicken, and 300 will die. Sixty-four thousand illnesses will be due to contaminated seafood, and 22 deaths due to contaminated seafood. Almost all illnesses, and 21 of the 22 deaths, are expected to be from raw shellfish. So, this really is our problem.

Therefore, the contention of the gentleman from Kansas that we do not address is critical.

The Committee on Agriculture bill does not even define shellfish. Instead, it treats it like any other fish under the program. This is the No. 1 concern. The industry has repeatedly emphasized the need for a specific shellfish program. It is unusual, it is not processed in the sense that other fish is. It is simply harvested and then consumed. That is why the shellfish industry supports the substitute. They know there is a problem, and they know we tackle it.

□ 1630

The primary weakness of the current shellfish program is that it is voluntary, it is adhered to unevenly by various States and it lacks tough enforcement standards.

Our substitute directly addresses this, the heart of the real problem, by establishing a shellfish program at the Federal level, by setting Federal shellfish health standards for the first time, by strengthening State and local enforcement capabilities and authorizing financial assistance to the States for the first time. It has new authority in the bill that enables the Federal Government to close polluted shellfish beds for public health emergencies in State waters for the first time, and the substitute requires the FDA to establish a system for tracking shellfish in commerce to prevent uncertified shellfish handlers from selling or transporting shellfish.

Madam Chairman, this is a tough, comprehensive program, dealing with what the real problem is.

Now, finally, the gentleman from Texas and others have alleged that we just study the crest of the problem, that we send it to the OMB. There may be a Member of this House less inclined to let OMB do something than this Member, but I seriously doubt it, and that is why the gentleman frightened me so much with his reference to Mr. Darman. We do not turn it over to him. What we do with respect to the rest of the universe of seafood, namely, finfish is say to the administration, please take a look at this, look at the expertise of the three agencies involved and make a recommendation to the Congress as to the proper course to follow with respect to the rest of the seafood industry. Do not decide for yourself. Do not ask Mr. Darman what to do. He can make an opinion if he has one, but tell the Congress what the recommendations are, and we will act.

The Constitution does not provide, as I understand it, for Mr. Darman to do much of anything by way of enacting law. That is our responsibility. It will remain our responsibility.

Therefore, I would say in conclusion to the Members, we do have a problem. It is addressed clearly and comprehensively and specifically by the substitute, and the rest of the industry, which we really are not quite sure what to do with, and the gentleman may turn out to be right. The administration may come back here and say with respect to finfish, we suggest a program which divides it among the three agencies and that is maybe what we should do, but right now we ought to address the problem.

Mr. DE LA GARZA. Madam Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Madam Chairman, the gentleman mentioned that it is not processed. It is processed. It is canned. It is cooked. It goes to canning plants also.

Mr. STUDDS. Madam Chairman, let me say to the gentlemen, the problem is not with cooked shellfish. There is no danger in cooked shellfish. The problem is in raw shellfish. That is the problem and that is what we seek to address.

Madam Chairman, I want to thank all the Members who have controlled the time here, and the distinguished gentlewoman in the chair who has endured us all. I think we surprised people at what length it was possible to debate this question.

I want to thank the gentleman from Texas for his great good will, and the gentleman from Michigan for his overwhelming and characteristic humor, and the gentleman from Alaska for not further withdrawing his knife. I was watching him over there.

I thank all Member for their forebearance.

Mr. HUGHES. Madam Chairman, I rise in support of the amendment in the nature of a substitute that has been offered on behalf of the Committees on Merchant Marine and Fisheries, and Energy and Commerce.

I believe this substitute is a reasonable alternative to S. 2924, the Fish Safety Act of 1990. The substitute establishes a new National Shellfish Safety Program involving the States and the Federal Government, putting the emphasis on those areas that pose the greatest threat to public health and safety, without creating yet another, massive bureaucratic program.

Under the substitute, the Seafood Inspection Program covers the inspection of shellfish, and shellfish harvesting waters; and the handling, storage, and transportation of all fish and fish products. The substitute provides protection to the consumer, better protection to the workers in the industry, at a much lower price to the American taxpayer.

The substitute capitalizes on the expertise of the National Marine Fisheries Service and the Food and Drug Administration in carrying out the Seafood Safety Program. The National Marine Fisheries Service has knowledge of fisheries and fish handling practices and the FDA, our Nation's primary health-oriented agency, has experience in setting standards for contaminants. The substitute strengthens the existing program, and gives new authority to FDA to monitor waters and to test seafood and seafood products. Placing the primary responsibility for the program under these two agencies is a common-sense choice.

In addition, this bill provides the President with the flexibility to call on the experience and expertise of the Department of Agriculture in food safety and inspection to assist in whatever way is deemed necessary to better carry out the program.

I urge my colleagues support of this more responsible, sensible legislation.

Mrs. UNSOELD. Madam Chairman, in the Northwest 40 percent of the Nation's seafood is produced. We have a keen interest in the wholesomeness and quality of seafood. We believe seafood inspection is necessary to protect public safety and to promote consumer confidence.

The Agriculture Committee bill makes the Department of Agriculture the lead agency for seafood safety, despite this agency having no experience inspecting seafood, no staff experience in fish or shellfish, and no doctors of human medicine or public health on its staff.

The substitute places seafood inspection authority within the Food and Drug Administration, the agency with the primary responsibility for the overall safety of foods, under the Food, Drug and Cosmetics Act. FDA's seafood safety program currently includes extensive research programs as well as long standing working relationships with States.

Mr. JONES of North Carolina. A lot of hard work has gone into bills in this Congress to protect the public health by establishing a national seafood inspection system.

Unfortunately, the approach in S. 2924 would create an expansive—and very, very expensive—new fish inspection program in a department that has no experience with fish or fish inspection. It would attack many problems that probably do not exist, and would require over $100 million in new funding to do so.

S. 2924 simply attempts to do too much, in the wrong way, and at an expense that is unacceptable under our current and foreseeable national budget climate.

Three House committees worked hard to devise a common approach to seafood inspection. Unfortunately, despite extensive good faith efforts, several unresolvable issues made it impossible to reach agreement.

Given the lack of a three-committee agreement, the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce jointly propose a different approach: the amendment in the nature of a substitute to S. 2924 strengthens existing programs and expertise to meet all immediate public health needs at less than one-tenth the cost of the S. 2924.

We are going through a painful budget reconciliation process this very week. We are cutting billions from the Agriculture Department. How can we at the same time add an expensive new responsibility for USDA? Let's choose a more fiscally responsible course. Support this joint committee substitute amendment to S. 2924.

Mr. FAWELL. Madam Chairman, I rise in support of the Dingell-Studds substitute to S. 2924. I do so because the substitute insures public safety in a fiscally responsible manner. The substitute allows the experts in the Food and Drug Administration [FDA], and the National Oceanic and Atmospheric Administration [NOAA] to act in concert to protect public health and safety.

I have grave concerns, however, about the so-called whistleblower protections in the substitute. I understand that under this substitute the seafood industry would be subject to the provisions of H.R. 3368, a whistleblower protection measure which I believe has significant flaws. I hope that these provisions can be modified in conference. Without such changes, I will not be able to support the conference report.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Massachusetts [Mr. STUDDS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DE LA GARZA. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 277, noes 153, not voting 2, as follows:

[Roll No. 514]

AYES—277

Ackerman	Erdreich	Martin (IL)
Anderson	Evans	Martin (NY)
Andrews	Fascell	Martinez
Annunzio	Fawell	Matsui
Applegate	Fazio	Mavroules
Archer	Feighan	Mazzoli
Armey	Fields	McCandless
Aspin	Fish	McCollum
Atkins	Flake	McCurdy
AuCoin	Foglietta	McDade
Baker	Ford (MI)	McDermott
Barnard	Ford (TN)	McGrath
Bartlett	Frank	McHugh
Bates	Frost	McMillan (NC)
Beilenson	Gallo	McMillen (MD)
Bennett	Gaydos	McNulty
Berman	Gejdenson	Mfume
Bilbray	Gekas	Miller (WA)
Bilirakis	Gephardt	Mink
Bliley	Geren	Moakley
Boehlert	Gillmor	Molinari
Boggs	Gilman	Mollohan
Bonior	Gingrich	Moorhead
Borski	Gonzalez	Morella
Bosco	Goodling	Morrison (CT)
Boucher	Gordon	Mrazek
Brooks	Goss	Murphy
Broomfield	Green	Murtha
Bruce	Guarini	Neal (MA)
Bryant	Hall (OH)	Neal (NC)
Buechner	Hawkins	Nelson
Burton	Hayes (IL)	Nielson
Bustamante	Hayes (LA)	Nowak
Callahan	Hertel	Oberstar
Campbell (CA)	Hoagland	Ortiz
Campbell (CO)	Hochbrueckner	Owens (NY)
Cardin	Holloway	Owens (UT)
Carper	Horton	Oxley
Carr	Hoyer	Packard
Chandler	Hughes	Pallone
Chapman	Hunter	Patterson
Clay	Hutto	Paxon
Clement	Hyde	Payne (NJ)
Clinger	Jacobs	Pease
Collins	James	Pelosi
Conte	Johnson (CT)	Perkins
Conyers	Johnston	Petri
Cooper	Jones (GA)	Poshard
Costello	Jones (NC)	Price
Coughlin	Kanjorski	Pursell
Courter	Kaptur	Quillen
Coyne	Kasich	Rahall
Crockett	Kastenmeier	Rangel
Dannemeyer	Kennedy	Ravenel
Davis	Kennelly	Regula
DeFazio	Kildee	Rhodes
DeLay	Kleczka	Richardson
Dellums	Kolbe	Ridge
Derrick	Kolter	Rinaldo
Dickinson	Kostmayer	Ritter
Dicks	LaFalce	Roe
Dingell	Lantos	Rohrabacher
Dixon	Lehman (FL)	Roukema
Donnelly	Lent	Rowland (CT)
Dornan (CA)	Levin (MI)	Roybal
Douglas	Levine (CA)	Sabo
Downey	Lewis (GA)	Saiki
Dreier	Lipinski	Sangmeister
Dwyer	Livingston	Savage
Dymally	Lowery (CA)	Sawyer
Early	Lowey (NY)	Saxton
Eckart	Luken, Thomas	Schaefer
Edwards (CA)	Manton	Scheuer
Engel	Markey	Schroeder

Schulze	Spence	Vento
Schumer	Spratt	Visclosky
Serrano	Stearns	Walgren
Sharp	Stokes	Walker
Shaw	Studds	Washington
Shays	Sundquist	Waxman
Sikorski	Swift	Weiss
Skaggs	Synar	Weldon
Slattery	Tauzin	Wheat
Slaughter (NY)	Taylor	Whittaker
Slaughter (VA)	Torres	Wilson
Smith (FL)	Torricelli	Wise
Smith (NJ)	Towns	Wolpe
Smith (TX)	Traficant	Wyden
Smith (VT)	Traxler	Wylie
Smith, Robert (NH)	Udall	Yatron
	Unsoeld	Young (AK)
Solarz	Upton	Young (FL)
Solomon	Vander Jagt	

NOES—153

Alexander	Hefley	Pickett
Anthony	Hefner	Pickle
Ballenger	Henry	Porter
Barton	Herger	Ray
Bateman	Hiler	Roberts
Bentley	Hopkins	Robinson
Bereuter	Houghton	Rogers
Bevill	Hubbard	Ros-Lehtinen
Boxer	Huckaby	Rose
Brennan	Inhofe	Rostenkowski
Browder	Ireland	Roth
Brown (CA)	Jenkins	Rowland (GA)
Brown (CO)	Johnson (SD)	Russo
Bunning	Jontz	Sarpalius
Byron	Kyl	Schiff
Clarke	Lagomarsino	Schneider
Coble	Lancaster	Schuette
Coleman (MO)	Laughlin	Sensenbrenner
Coleman (TX)	Leach (IA)	Shuster
Combest	Leath (TX)	Sisisky
Condit	Lehman (CA)	Skeen
Cox	Lewis (CA)	Skelton
Craig	Lewis (FL)	Smith (IA)
Crane	Lightfoot	Smith (NE)
Darden	Lloyd	Smith, Denny (OR)
de la Garza	Long	
DeWine	Machtley	Smith, Robert (OR)
Dorgan (ND)	Madigan	
Duncan	Marlenee	Snowe
Durbin	McCloskey	Staggers
Dyson	McCrery	Stallings
Edwards (OK)	McEwen	Stangeland
Emerson	Meyers	Stark
English	Michel	Stenholm
Espy	Miller (CA)	Stump
Frenzel	Miller (OH)	Tallon
Gallegly	Mineta	Tanner
Gibbons	Montgomery	Tauke
Glickman	Moody	Thomas (CA)
Gradison	Morrison (WA)	Thomas (GA)
Grandy	Myers	Thomas (WY)
Grant	Nagle	Valentine
Gray	Natcher	Volkmer
Gunderson	Oakar	Vucanovich
Hall (TX)	Obey	Walsh
Hamilton	Olin	Watkins
Hammerschmidt	Panetta	Weber
Hancock	Parker	Whitten
Hansen	Parris	Williams
Harris	Pashayan	Wolf
Hastert	Payne (VA)	Yates
Hatcher	Penny	

NOT VOTING—2

Flippo	Shumway

Messrs. HUBBARD, MICHEL, BROWN of Colorado, MACHTLEY, and STARK, Mrs. VUCANOVICH, Mrs. BENTLEY, and Mr. GRAY, changed their vote from "aye" to "no."

Messrs. UDALL, GILLMOR, DEFAZIO, GONZALEZ, KOSTMAYER, and BOSCO changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker [Mr. HOYER] having assumed the chair, Mrs. BOGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (S. 2924) to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes, pursuant to House Resolution 511, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HENRY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 324, nays 106, not voting 2, as follows:

[Roll No. 515]

AYES—324

Ackerman	Carr	Evans
Anderson	Chandler	Fascell
Andrews	Chapman	Fawell
Annunzio	Clay	Fazio
Applegate	Clement	Feighan
Archer	Clinger	Fields
Aspin	Coble	Fish
Atkins	Coleman (TX)	Flake
AuCoin	Collins	Foglietta
Baker	Condit	Ford (MI)
Barnard	Conte	Ford (TN)
Bartlett	Conyers	Frank
Bateman	Cooper	Frost
Beilenson	Costello	Gallegly
Bennett	Coughlin	Gallo
Bereuter	Cox	Gaydos
Berman	Coyne	Gejdenson
Bilbray	Crockett	Gephardt
Bilirakis	Dannemeyer	Geren
Bliley	Davis	Gibbons
Boehlert	DeFazio	Gillmor
Boggs	Dellums	Gilman
Bonior	Derrick	Gingrich
Borski	DeWine	Glickman
Bosco	Dickinson	Gonzalez
Boucher	Dicks	Goodling
Boxer	Dingell	Gordon
Brennan	Dixon	Goss
Brooks	Donnelly	Grant
Broomfield	Douglas	Gray
Bruce	Downey	Green
Bryant	Dreier	Guarini
Buechner	Durbin	Hall (OH)
Bunning	Dwyer	Hamilton
Bustamante	Dymally	Hawkins
Callahan	Early	Hayes (IL)
Campbell (CA)	Eckart	Hayes (LA)
Campbell (CO)	Edwards (CA)	Henry
Cardin	Engel	Hoagland
Carper	Erdreich	Hochbrueckner
Holloway	Miller (WA)	Schulze
Hopkins	Mineta	Schumer
Horton	Mink	Serrano
Houghton	Moakley	Sharp
Hoyer	Molinari	Shaw
Huckaby	Mollohan	Shays
Hughes	Moody	Shuster
Hunter	Moorhead	Sikorski
Hutto	Morella	Skaggs
Hyde	Morrison (CT)	Slattery
Jacobs	Mrazek	Slaughter (NY)
James	Murphy	Slaughter (VA)
Johnson (CT)	Murtha	Smith (FL)
Johnson (SD)	Natcher	Smith (IA)
Johnston	Neal (MA)	Smith (NJ)
Jones (GA)	Neal (NC)	Smith (TX)
Jones (NC)	Nelson	Smith (VT)
Kanjorski	Nowak	Smith, Robert (NH)
Kaptur	Oakar	
Kasich	Oberstar	Snowe
Kastenmeier	Obey	Solarz
Kennedy	Ortiz	Solomon
Kennelly	Owens (NY)	Spence
Kildee	Owens (UT)	Spratt
Kleczka	Packard	Staggers
Kolbe	Pallone	Stearns
Kolter	Panetta	Stokes
Kostmayer	Parris	Studds
Kyl	Patterson	Sundquist
LaFalce	Paxon	Swift
Lagomarsino	Payne (NJ)	Synar
Lantos	Pease	Tanner
Leach (IA)	Pelosi	Tauke
Lehman (CA)	Perkins	Tauzin
Lehman (FL)	Petri	Taylor
Lent	Pickle	Thomas (WY)
Levin (MI)	Porter	Torres
Levine (CA)	Poshard	Torricelli
Lewis (GA)	Price	Towns
Lipinski	Pursell	Traficant
Livingston	Quillen	Traxler
Lloyd	Rahall	Udall
Lowery (CA)	Rangel	Unsoeld
Lowey (NY)	Ravenel	Upton
Luken, Thomas	Regula	Vander Jagt
Machtley	Rhodes	Vento
Manton	Richardson	Visclosky
Markey	Ridge	Walgren
Martin (IL)	Rinaldo	Walker
Martin (NY)	Ritter	Washington
Martinez	Roe	Waxman
Matsui	Rogers	Weiss
Mavroules	Ros-Lehtinen	Weldon
Mazzoli	Rostenkowski	Wheat
McCandless	Roukema	Whittaker
McCloskey	Rowland (CT)	Whitten
McCollum	Roybal	Williams
McCrery	Russo	Wilson
McCurdy	Sabo	Wise
McDade	Saiki	Wolf
McDermott	Sangmeister	Wolpe
McGrath	Savage	Wyden
McHugh	Sawyer	Wylie
McMillan (NC)	Saxton	Yates
McMillen (MD)	Schaefer	Yatron
McNulty	Scheuer	Young (AK)
Meyers	Schneider	Young (FL)
Mfume	Schroeder	
Miller (CA)	Schuette	

NOES—106

Alexander	Duncan	Inhofe
Anthony	Dyson	Ireland
Armey	Edwards (OK)	Jenkins
Ballenger	Emerson	Jontz
Barton	English	Lancaster
Bates	Espy	Laughlin
Bentley	Frenzel	Leath (TX)
Bevill	Gekas	Lewis (CA)
Browder	Gradison	Lewis (FL)
Brown (CA)	Grandy	Lightfoot
Brown (CO)	Gunderson	Long
Burton	Hall (TX)	Madigan
Byron	Hammerschmidt	Marlenee
Clarke	Hancock	McEwen
Coleman (MO)	Hansen	Michel
Combest	Harris	Miller (OH)
Courter	Hastert	Montgomery
Craig	Hatcher	Morrison (WA)
Crane	Hefley	Myers
Darden	Hefner	Nagle
de la Garza	Herger	Nielson
DeLay	Hertel	Olin
Dorgan (ND)	Hiler	Oxley
Dornan (CA)	Hubbard	Parker

Pashayan	Schiff	Stark
Payne (VA)	Sensenbrenner	Stenholm
Penny	Sisisky	Stump
Pickett	Skeen	Tallon
Ray	Skelton	Thomas (CA)
Roberts	Smith (NE)	Thomas (GA)
Robinson	Smith, Denny (OR)	Valentine
Rohrabacher	Smith, Robert (OR)	Volkmer
Rose	Stallings	Vucanovich
Roth	Stangeland	Walsh
Rowland (GA)		Watkins
Sarpalius		Weber

NOT VOTING—2

Flippo	Shumway

□ 1727

Messrs. HEFNER, ANTHONY, ALEXANDER, and DORGAN of North Dakota changed their vote from "yea" to "nay."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2924, the Senate bill just passed.

The SPEAKER pro tempore (Mr. HERTEL). Is there objection to the request of the gentleman from Texas?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 4299. An act to authorize a study of the fishery resources of the Great Lakes, and for other purposes;

H.J. Res. 649. Joint resolution approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of Czechoslovakia;

H.J. Res. 657. Joint resolution granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes; and

H.J. Res. 667. Joint resolution to designate November 16, 1990, as "National Federation of the Blind Day."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5114. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5021) "An act making appropriations for the Departments of commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes."

The message also announced that the Senate agree to the amendments of the House to the amendments of the Senate numbered 1, 3, 4, 5, 6, 7, 9, 10, 11, 12, 14, 15, 20, 23, 26, 27, 28, 35, 41, 43, 44, 45, 47, 48, 53, 54, 55, 56, 57, 59, 64, 65, 66, 67, 74, 82, 83, 84, 87, 91, 92, 100, 102, 105, 106, 107, 108, 109, 110, 111, 118, 121, 123, 131, 133, 134, 135, 138, 140, 143, 144, 148, 155, 162, and 165, to the above-entitled bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 580) entitled "An act to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions."

The message also announced that the Senate insist upon its amendments to the bill (H.R. 5114) "An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LEAHY, Mr. INOUYE, Mr. JOHNSTON, Mr. DECONCINI, Mr. LAUTENBERG, Mr. HARKINS, Ms. MIKULSKI, Mr. BYRD, Mr. KASTEN, Mr. HATFIELD, Mr. D'AMATA, Mr. RUDMAN, Mr. SPECTER, Mr. NICKLES, and Mr. STEVENS to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 321) entitled "An act to revise provisions of law that provide a preference to Indians."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1805) entitled "An act to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2936. An act to amend the Hazardous Materials Transportation Act ot authorize appropriations for fiscal years 1990, 1991, and 1992, and for other purposes; and

S. 3237. An act to authorize the Secretary of the Treasury to sell certain silver proof coin sets.

APPOINTMENT OF CONFEREES ON H.R. 5114, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1991

Mr. OBEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and appoints the following conferees, and without objection, reserves the right to appoint additional conferees: Messrs. OBEY, YATES, MCHUGH, LEHMAN of Florida, WILSON, GRAY, MRAZEK, COLEMAN of Texas, WHITTEN, EDWARDS, of Oklahoma, LEWIS of California, PORTER, GALLO, and CONTE.

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. SMITH of Iowa. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year ending September 30, 1991, and for other purposes, with the remaining Senate amendment numbered 139 in disagreement and concur in the Senate amendment to the House amendment to the Senate amendment.

□ 1730

The Clerk read the title of the bill.

The text of the Senate amendment to the House amendment to the Senate amendment numbered 139 is as follows:

Resolved. That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 139 with an amendment as follows: strike out "$160,185,000" and all that follows down to "expenses" at the end of the paragraph and insert "$157,485,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and, for 1991 only, not to exceed $100,000 shall be available to host a conference of the International Organizations of Securities Commissions, such sum to cover related translation, printing, facility and other necessary logistic and administrative expenses: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting collection to this appropriation to recover costs of services of the securities registration processes: *Provided further,* That such fees shall remain available until expended".

Resolved, That the Senate recede from its amendment numbered 164, to the above entitled bill.

The SPEAKER. The gentleman from Iowa [Mr. SMITH] is recognized for 30 minutes.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to state for the record the services of the Securities and Exchange Commission included in the securities registration process which the fee will cover. I would also like to state for the record the services and activities of the Securities and Exchange Commission which are not included in the securities registration process and are not covered by the fee authorized in the Senate amendment.

SERVICES OF THE SECURITIES REGISTRATION PROCESS

Receipt, processing, and public availability of securities registration statements.

Review of securities registration statements filed under the securities acts including period reports, proxy soliciting material, and tender offer schedules.

Inspection of investment companies that have registered securities with the Commission to determine the accuracy and adequacy of related disclosures.

Oversight of the accounting profession with respect to financial statements contained in filings made with the Commission.

Activities, including rulemaking, planning, system development and coordination, associated with establishing and operating the system for mandatory electronic filing of registration statements and related disclosure documents.

Relating rulemaking, legal, interpretive, consumer information and economic services.

Oversight of securities markets and securities professionals in connection with the public offering and trading associated with the issuance of registered securities.

Related automation and administrative support services.

SERVICES NOT INCLUDED IN THE SECURITIES REGISTRAION PROCESS

Regulation of investment advisers.

Regulation of public utility holding companies not related to the securities registration process.

Rulemaking, legal, interpretive, law enforcement, consumer information and economic services not related to the securities registration process.

Receipt, processing, and public availability of filings not related to the securities registration process.

Oversight of securities markets and securities professionals not related to distribution and trading of registered securities.

Automation and administrative support services not related to the securities registration process.

The SPEAKER. The gentleman from Kentucky [Mr. ROGERS] is recognized for 30 minutes.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, yesterday, the House approved the conference report accompanying the Commerce-Justice-State appropriations bill.

The Senate has agreed to all actions taken by the House except for one amendment which it added. The Senate amendment affects funding for the Securities and Exchange Commission.

The motion of the gentleman from Iowa is to accept the Senate amendment, and I support it.

Under the Senate amendment, the SEC would be able to add vitally needed personnel, step up its vital registration services. Without this change, the SEC would be left below last year's level of funding—and that would be a catastrophic and unnecessary result.

The gentleman's motion would resolve a serious problem and I urge we support it.

Mr. SMITH of Iowa. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

CONFERENCE REPORT ON S. 2834, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1991

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 523 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 523

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 2834) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore (Mr. HERTEL). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, I yield the customary 30 minutes for the purpose of debate only to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 523 waives all points of order against consideration of the conference report on S. 2834, the Intelligence Authorization Act for fiscal year 1991. Under the rules of the House, conference reports are privileged and are considered in the House under the 1-hour rule with no amendments being in order. The rule also waives all points of order against the conference report. In addition, the rule provides that when the conference report is called up for consideration, it shall be considered as read.

Mr. Speaker, S. 2834 is the House-Senate conference agreement for the Intelligence Authorization Act for fiscal year 1991. Like its House counterpart, H.R. 5422, this conference report addresses all intelligence and intelligence-related activities of the U.S. Government in the coming year.

Mr. Speaker, due to the classified nature of the conference report's contents, all funding and authorization levels are included in a classified annex to the conferees' joint explanatory statement.

The conference report includes changes in the House bill, H.R. 5422, in the areas of funding and assistance to Angola and Cambodia. The conference report also calls for the repeal of the Hughes-Ryan amendment of the Foreign Assistance Act of 1961.

Mr. Speaker, this is a noncontroversial rule allowing for the full and expeditious consideration of this very important conference report. Members will have the opportunity to fully debate the merits of the conference report during general debate.

Mr. Speaker, I urge my colleagues to adopt House Resolution 523.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

The rule before Members is quite simple. It waives all points of order against consideration of this conference report, and all points of order against the conference report itself.

This is essentially the same rule we will be seeing later when the conference report on the Defense authorization bill is brought up here tonight. I will not debate against this rule even though I must object to this business of blanket waivers. This kind of approach to rulemaking, if that is the correct word, really does violence to the letter and spirit of our House

rules, which we continue to break day after day, night after night, in the waning moments of this 101st Congress.

However, I am much more concerned with the bill itself, because the conference report on Intelligence authorizations is not, in my view, a good piece of legislation. It started out fine when it first came to this body as reported by the Permanent Select Committee on Intelligence. The authorization bill was an acceptable one, and I commend the chairman of that committee, the gentleman from California [Mr. BEILENSON], formerly from Brooklyn, for the good job that he does on that committee, as well as the gentleman from Illinois [Mr. HYDE], the ranking Republican. They really had done a good job. The amendment process here on the floor pushed the bill in the wrong direction, and the conference report made the bill even worse, and I mean worse. My personal hope is that the President will veto this conference report. I know that a veto has, in fact, been threatened. But I am also told that the administration may hold its nose and let the bill become law, despite the very serious objectionable provisions that this conference report contains.

Mr. Speaker, there are several provisions in this conference report which chart new dimensions in the congressional micromanagement of foreign policy, something we have no business doing because it infringes on the constitutional right of the President of the United States, whomever that might be, of whatever political party. Angola and Cambodia are two such issues contained in this conference report.

However, the most sinister aspect of this conference report is to be found in the statement of the managers. I know that in the rush to adjourn probably 95 percent of the Members of the body have not read the statement of the managers. Specifically, there is a section in that statement which attempts to rewrite two decades worth of history concerning what it means for the President to provide timely notice to Congress about covert operations. It is a very serious issue.

The gentleman from Illinois [Mr. HYDE], the distinguished ranking Republican on the Permanent Select Committee on Intelligence, will have more to say about that later when he arrives here to carry the bill. Suffice it for me to say right now that the crude attempt at revisionist history which is contained in the statement of managers is a blatant distortion of the historical record. The statement of managers would have Members believe that the only situation in which the President of the United States is not required to provide timely notification to Congress about covert operations is one in which time is of the essence. In other words, the timing of the thing is all important. No other criteria such as strategic necessity or diplomatic sensitivity are to be considered. I believe that such an interpretation of the legislative history on this issue is a grotesque misunderstanding of the facts. The gentleman from Illinois [Mr. HYDE] will discuss this in detail a little bit later. For now let me just conclude by saying that Members should feel free to do whatever they want to do on this rule, but there is no way I can support the conference report.

The issues of intelligence gathering and covert activities are too important than to be made subject to this kind of what I would call frivolous legislating, primarily done by the other body.

Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. LIVINGSTON], a distinguished member of the Committee on Appropriations, and a current member of the Permanent Select Committee on Intelligence.

Mr. LIVINGSTON. Mr. Speaker, the gentleman has mentioned a number of points which, of course, detract from the overall benefit of this intelligence authorization conference report.

I might only add that the gentleman from Illinois [Mr. HYDE] has, on a number of occasions over the last many years, offered some suggestions on how we could strengthen the integrity of the process of the Permanent Select Committee on Intelligence. He has come up with some very good ideas, and he has produced before this House a wealth of evidence that shows that members of the Permanent Select Committee on Intelligence and members of the executive branch are not protecting the secrets of this Nation.

□ 1740

Even though he has come forth with a number of good suggestions of how we might improve upon the process, those improvements have not been adopted, and in fact have been categorically rejected by a denial by either the Rules Committee, the authorizing committee, or the leadership of this House. Specifically, the gentleman from Illinois [Mr. HYDE] has recommended first that the House Intelligence Committee be joined with the Senate Intelligence Committee and that we have just one committee for both Houses.

Any number of times, the gentleman suggested that we shrink the size of the committee. Not only have we not heeded his advice in that regard, but over the last 4 to 6 years, since I was initially appointed to serve on the committee, it has actually expanded by 50 percent.

The gentleman from Illinois [Mr. HYDE] also recommended that members who are appointed to the Intelligence Committee as guardians of the top secrets of this country should be compelled to undergo a security clearance; yet that idea has not yet been adopted.

Finally, the gentleman from Illinois [Mr. HYDE] suggested, as I think would be exceedingly proper, that we go through the same process that we compel upon our witnesses, that is, before we undertake our responsibilities at the beginning of each congressional term, we be sworn to secrecy as members of the committee. That has not been adopted.

As a result, I must say that we continue to have an appalling lack of an ability to keep our secrets. Just since this conference report was adopted, there have been four violations of secrecy. There have been no official public statements at all, and yet we see an article dated October 14, 1990, by Jim Drinkard, commenting on the House and Senate negotiators reaching agreement with respect to Angola.

Second, we see an article dated October 24, 1990, that Afghan and Cambodia covert aid is cut, according to the conferees' report.

Third, we see a New York Times article dated October 24, 1990, that the Congress is claimed to end covert aid to the rebels in Angola.

Fourth, an article by George Lardner of the Washington Post talks about the covert program to Angolan rebels.

I would like to make all these a part of the RECORD, if I may, Mr. Speaker.

The point is that here the ranking Republican of the Intelligence Committee has come time and time again to the well of the House and proposed four very concrete, well-intentioned and sensible suggestions to protect the integrity of the secrets guarded by the Intelligence Committees of the House and the Senate; first to combine the committees, second, to shrink the committees and the numbers of members and staff on those committees; third, to provide security clearance for the members and staff, and fourth to compel the members who take their seats on those committees to be sworn to oaths of secrecy. Yet none have been adopted and we continue to see evidence of Members of Congress and/or staff leaking vital secrets that have been referred to in confidence, all because of loose lips.

I think it portrays a gross lack of integrity of the Congress, and sooner or later we are going to have to address this grave problem. I would hope that while we do not address it in this conference report, maybe next year we will.

The articles referred to follow:

AGREEMENT REACHED ON INTELLIGENCE BILL

(By Jim Drinkard)

WASHINGTON.—House and Senate negotiators reached agreement last Friday on an intelligence bill that would provide for a sus-

pension of covert lethal aid to rebels in Angola if the Marxist government agrees to elections, sources said.

The bill, agreed to after day-long talks between the two intelligence committees, also would phase out a covert aid program to Cambodian rebels and trim roughly $50 million from the administration's $300 million request for aid to rebels in Afghanistan.

The changes reflect dwindling support on Capitol Hill for proxy wars in the Third World that were a leading feature of President Reagan's anticommunist crusade. With thawing relations between the United States and the Soviet Union and reduction of Soviet support of client groups, much of the rationale for U.S. involvement in those conflicts has evaporated.

On Angola, the committees agreed to provide that military aid to the UNITA rebels—about half the total $60 million annual support—could be suspended if the president certifies that the Luanda government schedules free elections in which the rebels are free to participate.

But members deleted key provisions passed by the House earlier this week that would have permitted Congress to make the decision to suspend military aid if the president did not.

On Cambodia, the roughly $13 million aid program for non-communist resistance factions fighting the communist Phnam Penh government would be ended early next year and converted to an open program of humanitarian aid, the sources said.

And aid to the mujaheddin rebels fighting the Soviet-supported Afghan government would be cut by about $50 million, said officials who spoke only on condition of anonymity. The cut was a compromise between a Senate-passed $100 million cut and the full $300 million the House adopted.

The negotiators also left in place a House-passed provision that would disburse the Afghan rebel aid in two six-month installments, U.S.-Soviet talks result in a withdrawal of aid by both superpowers.

Also included in the compromise bill were changes that arose out of the Iran-Contra scandal, incluidng a new requirement that presidential authorization for covert operations must be in writing.

Money for various programs covered by the bill is provided in various parts, some of them secret, of the defense appropriations bill. The sum spent for intelligence activities of all kinds is believed to be about $30 billion.

[From the Washington Post Oct. 24, 1990]

AFGHAN, CAMBODIA COVERT AID CUT

CONFEREES' REPORT SETS OUT NEW RULES FOR CIA OPERATIONS

(By George Lardner, Jr.)

Senate and House intelligence conferees agreed yesterday to cut covert aid to anti-government forces in Afghanistan by more than 10 percent, and also ordered a reduction in secret funding for the non-communist resistance in Cambodia, according to informed sources.

Aid to rebel groups in Afghanistan was pegged at $250 million, a reduction of $30 million from last year's level, the sources said. In addition, they said, half the money is be held in reserve, its release subject to futher congressional approval.

The covert aid allocations were contained in a classified section of the 1991 Intelligence Authorization Act, which conferees reported out yesterday along with a 75-page public report.

The report sets out new rules for the conduct of Central Intelligence Agency covert actions and calls for less duplication of effort in military intelligence agencies. It also contained rare public discussions of the CIA's aid programs in Angola and Cambodia, although details and funding levels remained classified.

Under the new rules for covert action, the president must approve each such action in writing and may not retroactively approve covert actions that have taken place. But excluded from the definition of "covert action"—and thus from the need for explicit presidential approval—are disinformation and propaganda programs, "traditional counterintelligence activities" such as double-agent operations, "traditional military activities" such as hostage/rescue operations and activities whose "primary purpose" is to collect intelligence.

The conferees assistance to the non-communist resistance (NCR) in Cambodia may not include weapons and must comply with existing law prohibiting support for the Khmer Rouge, with which the NCR has been allied. More than a million Cambodians died when the country was under Khmer Rouge rule from 1975 until the Vietnamese invaded in 1979.

The Senate Select Committee on Intelligence voted last summer to cut off all funds for the NCR, estimated at $10 million for military training and supplies, but the House committee restored some of the funds.

The conferees agreed to keep covert aid alive, but emphasized that it should be used to "promote the Cambodian peace settlement" and be transformed soon into "an overt, acknowledged program of U.S. assistance."

Congressional support for the Afghan rebels has been diminishing since Moscow withdrew it troops last year and Islamic fundamentalist factions of the resistance began expressing increased hostility toward the United States. There is also growing concern about reports of heroin trafficking by some Afghan guerrillas and Pakistani military officers.

The conferees authorized a full $60 million in CIA aid for Jonas Savimbi's rebel army in Angola, sources said, but ordered half of that amount put in "a restricted account." The two intelligence committees would have to act separately on any administration request for release of the money.

In an effort to encourage the Soviet-backed regime in Luanda to move toward a settlement, the conferees also provided for suspension of lethal aid to Savimbi's forces—now slightly under $30 million a year—if President Bush certifies that the Angolan government is moving toward a cease-fire, proposes "a reasonable and specific timetable" for free and fair elections and that the Soviet Union has withdrawn its military support and advisers from the country.

If Bush does not make such a certification by next March 31, the conferees require him to submit a report explaining why and what additional measures are needed for certification.

[The New York Times, Oct. 24, 1990]

CONGRESS TO END COVERT AID TO REBELS IN CAMBODIA

(By Michael Wines)

WASHINGTON, Oct. 23—House and Senate negotiators agreed today to end secret nonmilitary assistance by the Central Intelligence Agency to anti-Communist rebels in Cambodia, and ordered that future aid to the rebels be allotted publicly through other Government agencies.

The action, taken as the two sides agreed on a bill to finance intelligence agencies for the fiscal year that began Oct. 1, was part of an unusual package of restraints imposed on three of the C.I.A.'s most controversial programs to affect the behavior of foreign governments, known as covert operations.

The negotiators agreed in a closed meeting to cut $50 million from the agency's largest covert operation, a $300 million-a-year program of military aid to rebel forces fighting a Communist Government in Afghanistan according to an official who insisted on not being identified.

They also voted to put legal curbs on a $60-million-a-year program of assistance to anti-Communist guerrillas in Angola, but Congressional officials said the restrictions were unlikely to substantially affect the C.I.A. program.

All actions were said to reflect increasing impatience by members of Congress with the American support for prolonged civil wars in the three nations.

"We've heard all the Administration's arguments before, and they just don't wash any more," an official said.

All three C.I.A. programs are aimed at toppling Communist Governments supported by the Soviet Union, and Congressional backing for such anti-Soviet crusades has waned, two officials said, as Moscow's influence "has disintegrated before our eyes."

The Soviet Union supports peaceful settlements of all three wars, and separate negotiations to end the conflicts are all reported near conclusions.

The Bush Administration opposes the restrictions, but it is uncertain whether the President will veto the legislation.

The changes in the Cambodia program, which allots about $20 million in aid annually to non-Communist guerrillas, are the most radical.

They follow a proposal by Representative Bill Richardson, Democrat of New Mexico, that were inserted into the House bill this week.

The provision prohibits further aid through the C.I.A. Instead, on official said, the State Department probably will allot the aid subject to public debate and Congress's approval.

It also bars aid to rebels who assist the Khmer Rouge, a brutal Communist movement loosely allied with the non-Communist guerrillas backed by the United States.

More than a million Cambodians died under the Khmer Rouge's rule in the 1970's, and they have become the strongest of the rebel groups now inside Cambodia.

POWER TO SUSPEND SAVIMBI AID

Critics contend that American aid is indirectly helping to restore them to power.

The Angola restrictions immediately allot less than $10 million in humanitarian aid and some $25 million in military aid to the United States-backed Union for the Total Independence of Angola, or Unita.

The remaining $25 million will be held for release by the two Congressional intelligence committees at the President's request.

The agreement also allows Mr. Bush to suspend aid to Unita if he certifies that a peace accord is effectively reached between Unita and Angola's leftist Government, and if the Soviet Union agrees to end its $800 million in annual military aid to the Angola regime.

The provision was backed by House Democrats led by Stephen J. Solarz, Democrat of Brooklyn.

Mr. Solarz tried last week to put tighter curbs on the Angola program, and his supporters said today that they had scored a symbolic victory by imposing any legal curbs on the assistance at all.

But other Democratic supporters of the program said Mr. Bush already had authority to suspend the Angola aid and that the new restrictions would have no practical effect on the civil war.

[From the Washington Post]

COVERT LETHAL AID TO ANGOLAN REBELS IS CURBED; CEASE-FIRE WOULD SUSPEND IT

(By George Lardner, Jr.)

House and Senate intelligence committee conferees have decided to limit covert lethal aid for Jonas Savimbi's rebel army in Angola and to provide for its quick suspension if there is a cease-fire in the 15-year civil war and firm progress toward free elections.

The restrictions, first enacted by the House last week, were modified in conference after warnings of a possible presidential veto. But administration officials were still uncertain last night whether the compromise would be acceptable.

Lethal aid to Savimbi's National Union for the Total Independence of Angola (UNITA), sources said, is slightly less than half of the $60 million of covert aid in the classified section of the 1991 Intelligence Authorization Act. The conferees said the flow of weapons should be suspended if the Soviet-backed Angolan government is willing to accept a cease-fire and proposes "a reasonable timetable" for free and fair elections and if the Soviet Union indicates it has ceased to provide the regime with lethal aid and has withdrawn its advisers from the region.

The leading sponsor of the suspension plan, Rep. Stephen J. Solarz (D-N.Y.), said in House floor debate last week that it was designed to prod the regime in Luanda to reach a settlement in the war.

The House enacted the Solarz proposal last week with a provision stating that either the President or Congress by joint resolution could certify that the conditions for a suspension had been met. But sources said the conferees dropped the congressional certification language after the State Department said it might recommend a veto.

"The administration is still extraordinarily skeptical of what is going to emerge [in the conference report]," one source said last night. "A lot depends on the fine print."

The conferees also agreed to overhaul the laws governing U.S. covert actions and make the president personally responsible for keeping Congress "fully and currently informed" of U.S. intelligence activities.

The new rules, growing out of the Iran-contra scandal, include several provisions sought by the American Civil Liberties Union, according to informed sources.

One of the changes, sources said, will be to make it clear that any covert action undertaken by the CIA or any other component of the government must be in support of "identifiable foreign policy objectives."

"That has never been in the law before," one source said. For instance, he said, harking back to the Iran-contra scandal, "if our policy is to isolate Iran and not sell them weapons, you couldn't sell them weapons covertly because that would run counter to an identifiable foreign policy objective."

The new rules, approved by the Senate in August and modified by House and Senate intelligence conferees over the weekend, would require written presidential approval of covert actions undertaken by any unit of the government in addition to making it the president's duty to keep Congress informed of his decisions.

Current law, which would be repealed, applies only to the CIA's covert actions and is ambiguous about whether the president must approve them in writing. The existing rules also make it the CIA director's responsibility to keep Congress informed about these and other U.S. intelligence activities.

In their final 1987 report on the Iran-contra scandal, the select House and Senate investigating committees said that "covert actions should be consistent with publicly defined U.S. foreign policy goals." In the Iran-contra affair, the committees said, the covert operation to supply military aid to the contra rebels in Nicaragua "was carried out in violation" of an explicit congressional ban on such aid and the secret arms-for-hostages deals with Iran were carried out "in violation of the country's stated policy against selling arms to Iran or making concessions to terrorists."

The provision requiring that covert actions be in support of identifiable policies is still open to manipulation, several sources said.

"There's always going to be a problem with that—like saying what you're doing is in support of the containment of communism or the release of hostages or something like that," one source said. The new rule, he said, is "a minor step forward, but a new step."

Broader than current law, the new rules define covert action as activity "conducted by an element of the United States government to influence political, economic or military conditions abroad so that the role of the United States government is not intended to be apparent or acknowledged publicly."

The ACLU and other critics attacked the Senate version in August because it would have "explicitly authorize[d] the conduct of covert activities" for the first time. Sources said the conferees changed this to a negative formulation, saying the president may not authorize such actions unless he finds them "necessary to support identifiable foreign policy objectives" and "important to the national security."

The rules do not define "currently informed," but the Senate and House select intelligence committees say they expect to be notified before the initiation of any covert action except in emergency situations where notice can be withheld for "a few days" after the president decides to act.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN], a member of the Permanent Select Committee on Intelligence.

Mr. DORNAN of California. Mr. Speaker, it is just redundant around this Chamber to say what an honor it is to serve on the Intelligence Committee and to compliment Members on both sides of the aisle on how it works, generally in a very effective bipartisan way.

I am disgusted with the leaks. I bumped into one of the ambushes by one of the inside-the-beltway newspapers at the foot of the stairs on the second floor. He came at me and said, "Have you decided the Angola thing yet?"

I resorted to a white lie, frankly. I told him "No, we haven't decided anything yet." That is the fast way. Just move on. No, it is all confusing, nobody has decided anything.

But I read a pretty good account of what took place the next day on the front page story in that paper.

That is not the main reason I am going to go against this conference. I guess the White House is going to sign it. I am voting against it as a protest against the whole budget summitry process that the Majority Leader, the gentleman from Missouri [Mr. GEPHARDT] so effectively put down in the well in the most forceful speech he has given in this Chamber in 14 years, when he said, "I'm tired of this line, hold your nose and vote this way or that way."

The problem with this conference report is that it was done in October instead of July, August, or early September, in a slower, more thoughtful way, with more White House input about protecting their prerogatives when it comes to covert programs, particularly covert programs against Communist forces.

There are a lot of people in this Chamber who never lifted a pinky in the fight against communism, who all their lives thought being called an anti-Communist or calling someone an anti-Communist was a worse insult to be stuck with that title than racist, bigot, anti-Semite, that nothing was worse than being called an anti-Communist, and ran from that term if it was ever applied to them.

Communism has collapsed, not just from its own dead weight inside its own brutality, Stalinism, the Gulag Archipelago of slave camp labor, the slaughter of 4 to 7 million kulaks. How do you lose 3 million people and scholars arguing over the head count?

It lost partly in measure because of anti-Communist efforts in what we loosely refer to as the free world, and there are a lot of people who took exception to that term.

So hopefully next year we will have a conference a little slower, a little more deliberate, with a slightly better work product, putting the final nails into the effort of communism around the world, supporting some worthy covert programs, and we will do it in a timely fashion, not 6 weeks late and rushed, trying to jam our meetings in-between all these other emergency meetings.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just conclude by saying that we do have the problem in this Congress with leaks, whether they are intentional or not intentional. I certainly would hope they are not

intentional, and that is why we fought so hard against the so-called Boxer amendment. These 24- or 48-hour notification requirements before any covert activity can be undertaken just do not work.

If we had had that kind of law on the books at the time when our American hostages were being held in Iran and the Canadian Embassy there was giving secret haven to some American citizens, those people would probably be dead today, instead of being rescued. That is why we are so opposed to this kind of legislation.

Mr. Speaker, I will not go any further except to say that I am opposed to the bill itself; however, I am not going to call for a vote on this rule, because we need to get on with our business. I would just hope that the bill itself is defeated after the rule does pass.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1750

Mr. BEILENSON. Mr. Speaker, I call up the conference report on the Senate bill (S. 2834) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the U.S. Government, for the intelligence community staff, for the Central Intelligence Agency retirement and disability system, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HERTEL). Pursuant to House Resolution 523, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 23, 1990.)

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to accompany S. 2834, the fiscal year 1991 Intelligence Authorization Act. The funding authorized is set forth in the classified schedule of authorization, which is incorporated by reference in the conference report. The schedule of authorization is described in detail in the classified annex to the statement of managers which accompanies the conference report. Both of these classified documents are available for review by Members in the offices of the Intelligence Committee. I urge Members, particularly those concerned with the disposition by the conferees of the amendments adopted by the House on Cambodia and Angola, to take the time to examine the classified schedule of authorizations and the classified annex.

The decisions by the conferees on authorization levels reflect what I believe was the shared understanding of the two intelligence committees about the need to adjust the budgets of our intelligence agencies to reflect the changed fiscal and geopolitical realities that we face. The conferees recommended a level of authorization which, while lower than requested by the President, is sufficient to ensure that adequate funding is provided for all essential intelligence programs and activities. These funding levels, and the report language which accompanies them, are intended to convey the willingness of both committees to assist the intelligence agencies in their transition to the post-cold war era.

The conference report contains a number of legislative provisions. I want to advise the Members that all legislative provisions which were contained in the House bill are found, in some form, in the conference report. To reach agreement with our colleagues from the Senate, however, modifications had to be made to the provisions adopted by the House on Cambodia and Angola.

With respect to Cambodia, the conferees agreed to what I believe were the essential elements of the House position: First, that any program of non-lethal assistance to the non-Communist resistance should be structured so as to promote a Cambodian peace settlement;

Second, any assistance program should be able to be transitioned to an overt, acknowledged U.S. effort; and,

Third, the Congress should have the ability to openly and expeditiously consider the scope of an overt United States assistance program to facilitate a Cambodian peace settlement.

In addition, the conference report contains a provision, similar in intent to language adopted by the House, which is designed to ensure that no assistance is provided to any Cambodian resistance organization that the President determines is engaged in tactical or strategic cooperative activities with the Khmer Rouge in their military operations.

In my judgment, the effect of the provisions in the conference report is to place the United States squarely in support of efforts to achieve a peaceful settlement to the fighting in Cambodia. The administration has assured Congress that the prospects for a settlement in that regional conflict are good, but that success is not yet ensured. The provisions in the conference report are not intended to upset the progress toward peace in Cambodia.

With respect to Angola, the conference agreement is composed of two parts, each intended to encourage the parties to the civil war to work seriously toward a political settlement.

First, half of any lethal assistance which may be authorized for UNITA is to be placed in a special reserve account from which it may not be withdrawn without the approval of the intelligence committees.

Second, a certification system is established through which the President may measure the commitment of the Government of Angola to the process of negotiation. Indicators of that commitment include:

First, the willingness of the Government to accept a reasonable ceasefire, peace settlement, and timetable for free and fair internationally supervised elections in which UNITA would be free to participate;

Second, the degree to which the Government has ended its reliance on outside sources, such as the Soviet Union, for lethal assistance and certain types of technical assistance, advice and training which are involved with the planning or execution of military actions in Angola; and,

Third, the lack of the initiation by the Government of a significant military offensive against UNITA. If the President certifies that the conditions set forth in the conference report have been met, any lethal assistance to UNITA shall be suspended. The suspension could be revoked if the President certified that the conditions on which the suspension had been based ceased to be true, or credible evidence indicated that an offensive by the Government against UNITA was imminent.

I believe this provision represents an effective compromise which should encourage both UNITA and the Government of Angola to actively engage each other in the search for a peaceful end to the civil war. It disadvantages neither side, while retaining with the President full discretion to decide if lethal assistance should be suspended.

The conference report also contains several important modifications to the intelligence oversight provisions contained in title VII of the Senate bill. These modifications, which were suggested by the House conferees, will ensure that the system of congressional oversight of intelligence is strengthened considerably. While my colleague from New York, Mr. MCHUGH, will discuss the oversight section in more detail, I want to note that the improvements made by the conferees have been endorsed by the American Civil Liberties Union, which was con-

cerned by some parts of title VII in the Senate bill, and which has a long record of working helpfully and effectively with Congress on this particular issue.

With the enactment of the conference report, many of the weaknesses which the Iran-Contra affair identified in our intelligence oversight system will be corrected. Among the positive changes are requirements: that the President determine that a covert action is necessary to support identifiable foreign policy objectives of the United States before it is authorized; that findings be in writing and not retroactive; and that when notification of a covert action is made to the congressional leadership group instead of the intelligence committees, such notification will be followed by submission of a written finding to the intelligence committees.

Under current law, notification of intelligence activities, including covert actions, may be made to the congressional leadership group, rather than the intelligence committees, when the President determines that extraordinary circumstances so dictate. The conference report expands membership in that group from the current number of eight to such additional members of the congressional leadership as the President may include. As an example, this provision will permit the House majority and minority leaders, both of whom are ex-officio members of the Intelligence Committee, to be treated in a consistent manner with respect to the notification provisions of the National Security Act of 1947.

The oversight section also contains a provision which deems a request by the U.S. Government to a nongovernmental third party to conduct a covert action to be, in and of itself, a covert action. This will ensure that early notice is given to Congress of the use of third parties in covert actions. It will also prevent the conduct of a covert action specifically requested by the United States in a way that bypasses the normal process of congressional consultation and review.

Finally, I would like to note language which appears in the statement of the managers accompanying the conference report commenting on proposals to reorganize the way in which the Defense Department pursues intelligence and intelligence-related activities. Budget constraints will affect all defense programs in the coming years, including intelligence. The conferees strongly believe, however, that any decisions in these areas must be based on conclusions resulting from comprehensive hearings and thorough reviews. To attempt to prejudge those conclusions by establishing a premature goal for personnel ceilings is, in the judgment of the conferees, ill-advised.

Mr. Speaker, the conference report represents the best efforts of the conferees to reach agreement on a number of difficult issues. I believe that it is an effective and workable compromise between the concerns of Congress and the administration. I urge that it be adopted by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the House version of this legislation emerged from the Intelligence Committee, it was, for the most part, acceptable. During the markup process, the committee struggled with, but resisted, the strong temptation, which is a visceral yearning of Congress, to micromanage the President's conduct of foreign affairs. However, when it reached the floor, I regret that, by the absolute barest of majorities, the House was unable to resist the urge to micromanage, and with the tie-breaking vote of the Speaker, the House adopted the Solarz-Miller amendment on Angola. It was so convoluted that its multiple certifications, reporting requirements and intertwining conditions resembled a wilderness of mirrors. Actually, Mr. Miller's amendment improved, but did not perfect a damaging legislative intervention.

What is most tragic about this congressional indulgence in micromanagement is that it strikes at a critical juncture in an extremely sensitive, painstakingly developed diplomatic effort to achieve peace at long last in Angola. After lengthy, careful and arduous efforts, the executive branch succeeded in reaching a workable agreement to phase out the Cuban and South African military support roles in Angola and to achieve a related peaceful political solution in neighboring Namibia.

Now, the Administration is just inches away from the climax of this regional tragedy—agreement on a process for a peaceful settlement of Angola's long and bloody civil war. The administration has worked to obtain some constructive contributions from the U.S.S.R. and the former colonial power, Portugal. It has coaxed and cajoled the opposing parties to the negotiating table and persevered in the face of foot-dragging and periodic bad faith by the MPLA. But then, with the Solarz amendment, the House tried to rewrite the script, in the midst of this virtuoso diplomatic performance, to tie legislatively the President's foreign policy shoelaces together and, in so doing, risk changing a dramatic success into a failure. Or to put it another way, it's as if a skilled doctor is performing brain surgery and an intern bumps his elbow.

Many of us looked to the conference on this bill as an opportunity for Congress to retreat from this unhelpful meddling with the President's conduct of extraordinarily sensitive and important negotiations. But regrettably, the conferees were not up to the task. Some recognized many of the needless risks posed to important U.S. national interests by the Solarz amendment, but, in critical circumstances where congressional patience and self-restraint were clearly indicated, a majority of the conferees could not resist the temptation to do something, even if it is wrong. Hence this conference report.

The best that can be hoped from this approach is that it will prove irrelevant to the sensitive Angola negotiations. Unfortunately, it bears the seeds of a possible disruption of this delicate peace process, at least for a period of months. It may well encourage the MPLA to dig in their heels for a while longer to see if the United States will finally lost its resolve to frustrate an MPLA military victory. The MPLA is certainly aware of this congressional second guessing. Some information on the treatment of the Angola issue in the classified annex to the joint explanatory statement of managers was published in the press even before this conference report was filed. Now that is timely notice, but to the wrong people. Each month, indeed each day, of delaying a peaceful settlement means more lives will be needlessly lost.

With respect to Cambodia, Congress suffered the same affliction, another irresistible attack of micromanagement. During floor consideration of the House bill, we acted responsibly. We adopted the excellent amendment of the gentleman from New Mexico [Mr. RICHARDSON]. That statesmanlike amendment preserved the necessary degree of flexibility for the President and did not set a date certain for terminating any contemplated option for covert aid. Most importantly, it was carefully drafted to avoid undercutting U.S. negotiators seeking to promote a peaceful, negotiated settlement among the various factions. Once again, however, the conference was unable to refrain from meddling. In the classified annex to the joint explanatory statement of managers, the conferees have spelled out some procedures which in all likelihood will undercut the administration's diplomatic efforts, for no good reason, at a time when we have finally seen some progress toward a workable settlement.

The conference report includes a slightly modified version of title VII of the Senate bill, which rewrites the existing statute governing intelligence oversight. With the possible exception of the new and more accurate definition of "covert action," the remainder of the title is probably unnecessary in light of the reforms already made by

the executive branch in its procedures for approval, review and reporting of covert actions.

However, there is troublesome language in the joint explanatory statement of managers discussing the application of the provision for giving Congress notice in a timely fashion of covert actions in those undefined situations where prior notice has not been given. It is troublesome, because it is inaccurate and misleading in its characterization of the existing legislative history of the notice in a timely fashion language which is in the existing 1980 oversight statute and is reenacted in the rewrite of the statute in the conference report. More importantly, this nonstatutory language is a highly questionable back-door effort to rewrite, ex post facto, the legislative history and practice interpreting the purposely ambiguous statutory alternative for "notice in a timely fashion." It seeks to assert an interpretation which is inconsistent with the actual statutory language retained. That inconsistent interpretation states that the congressional notification option of "timely notice" in lieu of prior notice is only available to the President in exigent circumstances, that is to say, only when time is of the essence. It is based primarily on a comment of former Senator Huddleston and ignores the contrasting comments of Edward Boland, the first chairman of the House Intelligence Committee, Clem Zablocki, the then chairman of the House Foreign Affairs Committee, and his ranking Republican counterpart, BILL BROOMFIELD, and LES ASPIN, who as then a member of the House Intelligence Committee.

The Statement of Managers seeks to characterize the legislative history surrounding the 1980 act with regard to the notice in a timely fashion option as follows:

> The legislative history of this language makes clear that its drafters intended that prior notice could be withheld only in exigent circumstances when a quick reaction to events was necessary and that notice would be forthcoming in a few days.

With all due respect, the legislative history on this provision in the 1980 act is not at all clear. This assertion of clarity appears to rely largely on a statement by Senator Huddleston during the floor consideration in the other body of the conference report on the 1980 act. However, this supposed strict limitation that timely notice could be provided in lieu of prior notice only in exigent circumstances is plainly inconsistent with a number of statements made by our Intelligence Committee members and House conferees during consideration of the same conference report on the House floor. For example, then HPSCI Chairman Boland, a House conferee, specifically stated that the provision permitting notice to only the so-called gang-of-eight leaders, not the timely notice exception, was "* * * the provision which responds to the concern of the executive branch that certain covert operations will be of such urgency that time will be of the essence * * *." In fact, when Chairman Boland was asked about the circumstances under which timely notice could be provided instead of prior notice, he made no reference whatsoever to limiting that statutory option to exigent circumstances. Rather, his only explanation of the circumstances where prior notice would be withheld and notice given instead in a timely fashion was "* * * if the President believed that he had constitutional authority to withhold information and not supply prior notice. Then that would be a circumstance under which it might be done." Clearly exigent circumstances are not present in such cases.

Similarly, Congressman BROOMFIELD, also a House conferee, described the legislative intent of the notice in a timely fashion exception as:

> * * * just allowing him, that is, the President, to postpone his reporting in those rare instances where, for example, prior disclosure would jeopardize the lives of the personnel or the methods employed in a particular covert action activity.

Mr. BROOMFIELD continued that his understanding of the application of the timely notice option is consistent with the executive branch practice between 1974 and 1980 under the Hughes-Ryan amendment when notice in a timely fashion was the only statutory standard for notifying Congress of covert action. He stated:

> Since the passage of the Hughes-Ryan amendment in 1974, there has been only one known covert action that was not reported to Congress prior to its initiation. Our committee was subsequently briefed on that action and learned that the reason for the deferred reporting was because the President felt such prior notification would jeopardize the lives of the personnel involved in that action. Moreover, participants in this successful operation—which we all applauded when we became aware of it—agreed to participate in the action only after being assured that there would be no prior disclosure to Congress.

Of course, we now know that the gentleman from Michigan was referring to the covert action involving the daring exfiltration of American diplomats from the Canadian Embassy in Tehran. Again, this is an interpretation of the timely notice language which is not at all consistent with limiting that provision only to cases where time is of the essence. It took some 3 months during the execution of that covert action before President Carter determined that it was timely to notify Congress because the risk to American and other lives had diminished sufficiently.

In describing the purpose of the timely notice exception, Congressman Zablocki, another senior House conferee, also made no reference to limiting it only to cases where time is of the essence. On the contrary, Chairman Zablocki used the broader phrase extraordinary circumstances to describe cases in which "* * * advance information on covert operations might be withheld * * * provided the President informs the committees in a timely fashion * * *." Concomitantly, he justified the inclusion of the timely notice exception as "absolutely essential to a strong intelligence community and important for U.S. security * * *" and stated that "[s]uch exceptions will also help the American intelligence community to maintain the extraordinary secrecy necessary in intelligence activities and promote cooperation from the intelligence communities of friendly countries." These are explanations of legislative purpose far too broad to support a conclusion that the timely notice exception was intended in 1980 to be limited only to exigent circumstances.

Chairman Zablocki went on to describe the timely notice exception to prior reporting as "* * * fully consistent with the Committee on Foreign Affairs amendment to Hughes-Ryan." "I therefore welcome its inclusion in the conference report," he continued. This is significant because the similar Foreign Affairs Committee amendment he understood to be consistent with the timely notice provision at issue here was one which specifically defined the circumstances in which prior notice could be deferred to include "* * * circumstances affecting the vital interest of the United States or * * * essential to avoid unreasonable risk to the safety or security of the personnel or methods employed." This formulation had in fact been approved by the House when it was adopted as an amendment to the House foreign aid authorization a few months earlier by a vote of 325–50, as Mr. BROOMFIELD reminded the House during this same floor debate.

Yet another senior majority member of HPSCI, Congressman ASPIN, explained his understanding of the timely notice exception in terms that belie the present assertion in our statement of managers today that this exception was always clearly intended to apply only in exigent circumstances. During the 1980 floor debate, the gentleman from Wisconsin had the following comments regarding the interpretation of the timely notice option:

> There is, second of course, the possibility, and I guess the statutory possibility that the administration can, in effect, just waive the whole thing. I think it is vague under whether [sic] the administration does have the constitutional authority or under sources and methods to, in fact, not inform the committee.

We had a chance in our bill here to make this very specific and to clear up once and for all that matter. We could not clear it up because there was an irrevocable difference as to what the Constitution gives the President. We could not, in effect, come to any agreement on that, so what we have done in this language is, in a sense, still left it vague. I think that is unfortunate.

In short, an examination of that law and its surrounding legislative history reveals an ambiguous picture that was painted very carefully by legislators who clearly recognized the constitutional implications of the problem they confronted. The overriding concern was to avoid a head-on collision between the interests and responsibilities of the executive and legislative branches. Consequently, what emerged as law amounted to a classic legislative finesse of a vexing issue.

Blithely ignoring the ambiguous reality of the contemporaneous legislative history of the 1980 act, the statement of managers accompanying the conference report before us today tries nevertheless to foist the following bogus ex post facto legislative history on the House:

The conferees * * * *state unequivocally* that the "timely fashion" provision of the conference report means that *in exigent circumstances where the President needs to implement a covert action immediately to protect United States interests*, the President may do so without first notifying the intelligence committees. But then must notify the committees within a few days. [Emphasis added.]

There is nothing in the actual statutory language of the conference report to support in any way this pseudo-interpretation that the timely notice alternative to prior notice may only be invoked in exigent circumstances. As the statement of managers itself notes with respect to the actual statutory language in the conference report, "* * * the conferees essentially restated the current provisions of law requiring notice in a timely fashion in those rare cases when prior notice is not given."

If the conferees wished to restrict the timely notice exception to only cases involving exigent circumstances, they should have included wording to that effect in the actual statutory language of the conference report essentially reenacting the existing provision of law. But, the most recent piece of legislative history explains why they did not. Last year's Senate intelligence authorization bill (S. 1324) was the immediate predecessor for the statutory oversight language in today's conference report. The timely notice provision in S. 1324 was virtually identical to the actual bill language before us now except that when S. 1324 reached the floor in the other body, it did include a phrase restricting the timely notice option to circumstances "* * * when time is of the essence." However, that limitation was struck from S. 1324 by a floor amendment which was publicly explained as necessary because, as part of the compromise" between proponents of this oversight legislation before us now and the President, they specifically agreed to drop this time is of the essence restriction from the bill. It was dropped in exchange for a commitment from President Bush to provide a letter spelling out written assurances as to how he intended to provide notice of covert action to Congress in a manner sensitive to our concerns about prior notice and timely notice. For that same reason, the time is of the essence, or, if you please, exigent circumstances, restriction was also purposely left out of the statutory language of this conference report.

The President kept his part of this agreement. The text of President Bush's letter, embodying the agreed-upon assurances, is printed in the statement of managers. On the other hand, the conferees who signed the conference report appear to be trying to renege on this gentleman's agreement through fictional legislative history revisions relegated to the statement of managers language I quoted earlier. They are trying to interpret the remaining statutory language on timely notice as though it still included language specifically rejected by an earlier vote in the other body and not resurrected in the bill language of this conference report.

How do those conferees attempt to justify this dubious exercise in revisionist legislative history making? They feebly suggest it is somehow necessary to indicate congressional rejection of a 1986 Justice Department memorandum. That memorandum concluded that the notice in a timely fashion language of existing law should be read to leave the President virtually unfettered discretion to choose the proper moment for notification under that provision.

There may be many persons who believe that virtually unfettered discretion is arguably a bit too expansive a formulation for the broadly ambiguous scope of the timely fashion provision. However, it is a vast, and unsupportable, leap to the other end of the spectrum to assert that this provision can only be invoked in exigent circumstances. Besides, this is unnecessary. As is obvious from the President's letter, if in some rare instance, notice to Congress of a covert action is withheld beyond a few days, he says that withholding will be based on his constitutional authorities. He clearly implies he will use those constitutional authorities instead of relying on any particular interpretation of the statutory provision.

This wholly unpersuasive, highly restrictive view asserted in the statement of managers is so plainly inconsistent with both the realities of the actual, existing legislative history of the language involved and with the spirit of the agreement with the President that it boggles the mind. To quote Lord Russell:

This is one of those views which are so absurd that only very learned men could possible adopt them.

Frankly, it is doubtful whether these remarks in the statement of managers have any validity at all as legislative history. However, if the President has any concerns that they might be read as restricting in the future the alternative of timely notice to only situations where time is of the essence, he would be perfectly justified in vetoing this authorization bill.

Finally, let me say something positive about this conference report. The conference agreed that a provision in the conferenced DOD bill for a 25-percent reduction in intelligence personnel was not justified by currently available information. After discussion with the Senate Armed Services Committee, where the proposal originated, we also determined that this provision does not require the initiation of five yearly cuts in next year's budget submissions, or in outyear plans.

The Intelligence Committees already had planned hearings on the structure and efficiency of DOD intelligence organizations. Thereafter, the committees themselves will consider the proper levels for intelligence manpower.

The President will sign this conference report, but because of my disappointment at the excess of congressional meddling in matters best left to the administration, I will vote "no."

Mr. BEILENSON. Mr. Speaker, I yield 10 minutes to the distinguished gentleman from New York [Mr. MCHUGH], our very valuable chairman of our Subcommittee on Legislation.

□ 1810

Mr. MCHUGH. Mr. Speaker, I rise in support of the conference report and urge my colleagues to support it. The report contains reasonable accommodations with the Senate on funding levels for those programs on which the two authorization bills differed, it retains or improves upon the nonbudget legislative provisions enacted by each House, and it deals with the troublesome issues of Cambodia and Angola in a manner which supports current diplomatic initiatives while sending clear signals that Congress wants our participation in these tragic civil wars phased out.

The conference report also contains important provisions that are designed to strengthen congressional oversight of intelligence activities, and I would like to take a few moments to discuss those provisions.

In recent weeks, an organization called the Christic Institute has con-

ducted an ill-advised and factually inaccurate lobbying campaign that has characterized these oversight provisions as granting the President broad new authority to conduct covert actions and as reducing the effectiveness of congressional oversight of such actions. The fact is that both the intent and effect of these provisions are precisely the opposite. These provisions would for the first time in statute impose the following restrictions or requirements:

First, a Presidential finding to authorize a covert action would have to be in writing, and no funds could be spent on a covert action until such a finding is signed by the President.

Second, a Presidential finding could not retroactively authorize a covert action which has already occurred.

Third, the President would have to determine that the covert action is necessary to support identifiable foreign policy objectives of the United States, and such detgermination would have to be set forth in the President's finding.

Fourth, a Presidential finding would have to specify all government agencies involved in the covert action and whether any third party will be involved.

Fifth, a Presidential finding could not authorize any action intended to influence United States political processes, public opinion, policies, or media.

Sixth, a Presidential finding could not authorize any action which violates the Constitution of the United States or any statutes of the United States.

In addition, these provisions define a covert action for the first time, thus eliminating some confusion as to what actions must be approved by the President and reported to the Congress, as well as insuring that the definition applies uniformly to all government agencies. They also restate and clarify the current procedure for notifying the Congress of covert actions. More specifically, they provide that, first, notice must generally be given to the Intelligence Committees prior to commencement of the covert action; second, prior notice may be given to a more limited leadership group only "in extraordinary circumstances affecting vital interests of the United States"; and third, notice prior to the initiation of a covert action may be dispensed with only "on rare occasions", and then notice must be given to the Intelligence Committees", and then notice must be given to the Intelligence Committees "in a timely fashion."

Let me now turn, Mr. Speaker, to the history of these provisions and try to put them in context.

As you may recall, the Iran-Contra scandal engendered considerable debate over the precise meaning of the statute enacted in 1980 governing congressional oversight. That statute provides that the President must generally give prior notice of covert actions to the House and Senate Intelligence Committees or, in extraordinary cases, to the eight-member leadership group—the so-called gang of eight. However, the law recognized that in some cases, left undefined in the statute, the President could withhold prior notice, and thereafter give notice "in a timely fashion." The legislative history underlying the 1980 statute makes clear that prior notice should be dispensed with only when the press of events requires action before Congress can be notified, and that notice must then be given soon thereafter.

In the Iran-Contra affair the President authorized and initiated a covert action without giving the Intelligence Committees or the gang of eight any notice whatsoever; no one in Congress learned of the policy until it was revealed in a foreign newspaper 10 months later. The Department of Justice thereafter issued a legal opinion concluding that the President had complied with the 1980 statute because the President had "virtually unfettered discretion" in deciding when to provide Congress with notice of a covert action.

The House and Senate Intelligence Committees responded to these events in 1988 by reporting bills which, among other things, would have permitted the President to dispense with prior notice only when time was of the essence, and would then have required notice not later than 48 hours after the President had authorized the covert action. The legislation passed the Senate by a vote of 71 to 19, but it never reached the House floor.

In addition to the foregoing provisions relating to notice of covert actions, the 1988 legislation contained provisions that reformulated the 1980 oversight statute and added valuable new procedures regulating Presidential authorization of covert actions. Those provisions, which are essentially incorporated in this conference report, were included in the intelligence authorization bill passed by the Senate last year. The House conferees, of whom I was one, declined to accept the Senate provisions last year because they did not include the notice provisions previously described. In their absence the House conferees believed that the Senate bill did not adequately address the failure of the President to give proper notice in the Iran-Contra case and the fundamentally wrong interpretation of the notice requirement contained in the subsequent legal opinion rendered by the Justice Department. The Senate bill simply restated the current law calling for notice "in a timely fashion." The committee report accompanying the Senate bill sought to deal with the notice problem by stating the Senate committee's belief that notice "in a timely fashion" meant a delay of not more than a few days.

This year, the House Intelligence Committee again did not include the oversight provisions in H.R. 5422. While a majority of the committee had previously supported a bill incorporating the 48-hour notice requirement—and presumably continues to do so—we recognized that the President would not sign such a bill. We therefore attempted to reach an accommodation with the White House. The chairman of the committee and I offered to terminate our efforts to legislate a 48-hour requirement if the President would agree to a statutory provision requiring that when prior notice is not given, notice would be provided within a few days. We also sought a statement from the President rejecting the Department of Justice "unfettered discretion" opinion. Regrettably, this compromise was rejected by the White House. However, the President did reaffirm in a letter to the chairman his intention to provide prior notice in almost all instances, to provide notice within a few days when prior notice is not given, and to rely entirely on his assertion of constitutional authority if he withheld notice for a longer period—a constitutional authority Congress has never conceded.

As we approached this year's conference with the Senate, we were again faced with the dilemma of whether to accept the Senate-passed oversight provisions, the substance of which the House Intelligence Committee had also reported in 1988, but which still did not include the strict notice provisions of the 1988 bill reported by our committee. We could have waited for another day in the hope that we could eventually convince the President to accept the statutory language we preferred. However, we made the judgment to accept the Senate provisions this year. Since we do not have the votes to override a Presidential veto of a bill containing the stronger notice requirements, the Senate provisions are the best we can get in statute. Moreover, the President's letter to Chairman BEILENSON, a copy of which is included in the statement of managers, sets forth a procedure for providing notice which is generally acceptable.

In accepting the Senate provisions, two points need special emphasis. First, as the conferees stress in the statement of managers, we categorically reject the 1986 legal opinion of the Justice Department which concluded that the 1980 statutory language requiring notice in a timely fashion gives the President virtually unfettered discretion to choose the right moment to notify Congress of a covert action. Second, the conferees clearly intend

that in those rare cases when the President withholds prior notice of a covert action, the President has an obligation to provide notice within a few days, the timeframe President Bush himself outlined in his letter to Chairman BEILENSON.

Finally, Mr. Speaker, I would note that the House conferees succeeded in strengthening the Senate oversight provisions in a number of important respects. Rather than cast the new requirements for a Presidential finding in terms of an affirmative authorization of covert actions, as the Senate bill did, the conference report states that the President may not authorize a covert action unless the requirements are met. One of the requirements added by this conference report is that the President determine and include in the finding that the covert action is necessary to support identifiable foreign policy objectives of the United States. The conference report also adds a provision including within the definition of a covert action a request by any department, agency, or entity of the United States to a foreign government or a private citizen to conduct a covert action on behalf of the United States. Finally, the conference report eliminates a provision in the Senate bill which noted an intent not to interfere with the power of the President to initiate intelligence activities in a manner consistent with his constitutional powers. As I indicated earlier, Mr. Speaker, the President claims an inherent constitutional right to withhold from Congress notice of a covert action for as long as he deems appropriate. Congress has never accepted this claim of constitutional prerogative, and the conferees eliminated reference to the President's constitutional powers contained in the Senate bill so as to avoid any implication that Congress might be conceding the constitutional prerogative claimed by the President.

Mr. Speaker, I urge adoption of the conference report.

Mr. HYDE. Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. SHUSTER], a member of the committee.

Mr. SHUSTER. Mr. Speaker, first let me emphasize the tremendous respect I have for the distinguished chairman, the gentleman from California [Mr. BEILENSON], and the gentleman from Illinois [Mr. HYDE], and express what a privilege it has been to serve with them on this committee, as well as with every member on both sides of the aisle. Indeed, the Committee on Intelligence in the House crafted what in my judgment was a very good bill. We brought a good bill to the floor. Unfortunately, there were some changes made to it. I have difficulty with the micromanaging, which has already been referred to, but I have even more difficulty with what I can only characterize as a rewriting of history, which is in the statement of managers which has come back in this conference report.

□ 1820

Let me emphasize that I agree with my good friend from New York, the previous speaker, who was very critical of the previous administration in not giving timely notice on Iran-Contra. There should have been timely notice. This was a breakdown, it was a mistake, a very serious mistake, and I agree completely with his criticism of that particular mistake.

But to suggest that because a mistake was made in that instance that it follows that the only reason a President may withhold notice of covert action is because of exigent circumstances, because of the timeliness of the event, the rapidity with which the event is unfolding is to rewrite history. For some to assert in the statement of managers 10 years later that it was the legislative intent back in 1980 when the legislation was written that the only reason a President could withhold notice to the Congress of covert action was because of the quick reaction that was necessary and the events unfolding too quickly to notify us simply is a grossly misleading statement of what that legislative history said at that time.

Let me be specific. Congressman Zablocki in the legislative history very clearly indicated that "there could be extraordinary circumstances" which could serve as a basis for the President not notifying us upon the commencement of a covert action.

Congressman ASPIN, who was a member of the Intelligence Committee at that time said,

> We had a chance in our bill here to make this very specific with regard to the timely notice and to clear up once and for all that matter. We could not clear it up because there were irrevocable differences as to what the Constitution gives the President. We could not in effect come to any agreement on that. So what we have done in this language is, in a sense, still leave it vague.

So for somebody to assert 10 years later that the legislative history back in 1980 very clearly spelled out precisely the only single reason which the President could use for withholding notification flies in the face of what that legislative history shows.

Let the record show that the legislative history on covert action notice does not intend that the prior notification could be withheld by the President only in these circumstances, but in other circumstances as well. And of course, the very specific example which we are all aware of is the situation in Iran when Americans were being hidden in the Canadian Embassy, and for a matter of several months this was a matter which the committee was not notified of, of our covert action to attempt to get those Americans, those American diplomats out of that Canadian Embassy. And indeed, the Canadians would not have cooperated with us had this information been disseminated to the Congress, they informed us, and in fact American lives were involved, and it is a very precise and very specific example of a very good reason and of circumstances in which the President had every right not to notify the Congress.

So I think the record should be clear on this. I thank the gentleman for yielding the time, and I shall vote against this report.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLARZ], a distinguished member of our committee.

Mr. SOLARZ. Mr. Speaker, I rise in support of the conference report.

Let me first of all pay tribute to the very distinguished chairman of the committee for the thoroughly professional manner in which he facilitated the passage of this bill, first through the committee, then on the floor, and then in conference. With his unfailing good will and good humor, he jollied all of us along, and issues that might have been controversial were worked out. Others were somehow or other resolved. I think he really deserves the gratitude of the entire House for the way in which he discharged his responsibilities.

I would also like, Mr. Speaker, to comment briefly on the provisions in the statement of managers concerning both Cambodia and Angola.

In the case of Cambodia, there is a statement to the effect that no assistance shall be provided to any Cambodian resistance organization that the President determines is engaged in tactical or strategic cooperative activities with the Khmer Rouge in their military operations. I think this provision is a very welcome addition to the legislation.

The whole purpose of our assistance program for the noncommunist resistance is to diminish the possibility that the Khmer Rouge could battle their way back to power in Phnom Penh, and it would, therefore, be literally unthinkable for us to provide assistance to any resistance movement which was in fact engaged in tactical or strategic cooperative activities with the Khmer Rouge in their military operations.

But what I want to emphasize, however, is the fact that the word "activities" in this paragraph clearly implied that what would be necessary to trigger a prohibition or suspension of any aid to the noncommunist resistance would have to be more than the isolated act of a single individual, or for that matter even of a unit acting against the professed policy of the leadership of that organization.

To the extent that there is any kind of a pattern of tactical or strategic cooperative activities with the Khmer Rouge in their military operations, this prohibition or restriction would clearly be triggered, but I do not believe it was the intention of the conferees to trigger the restriction if there is an isolated incident here or there which takes place in spite of the commands of the leadership of these movements that their followers not engage in any military activities with the Khmer Rouge. And I am pleased to say that we have received communications from the supreme commanders of both the ANS and the KPNLF indicating that they have in fact instructed their followers not to engage in any cooperative military activities with the Khmer Rouge.

Insofar as Angola is concerned, the statement of managers says that:

> Any lethal assistance to UNITA shall be suspended if the President certifies: that the Government of Angola has expressed a willingness to accept a reasonable ceasefire and political settlement and proposes a reasonable and specific timetable for internationally supervised free and fair multiparty elections in which UNITA would be free to participate.

The purpose of this provision was to try, by providing an incentive to the MPLA, to elicit from them a reasonable proposal for a cease-fire and political settlement and for a specific timetable for an internationally supervised free and fair multiparty election in which UNITA can participate. It does not obligate the MPLA to accept whatever proposal Mr. Savimbi puts forward. We certainly hope that the negotiations will lead to an agreement, but the purpose of this paragraph would be satisfied if the MPLA comes forward with what the President in his judgment determines is a proposal for a reasonable ceasefire and political settlement and a proposal for a reasonable and specific timetable for an internationally supervised free and fair multiparty election in which UNITA would be free to participate.

Insofar as the reference to an internationally supervised free and fair election is concerned, let me observe that last month Mr. Savimbi, the President of UNITA, said that free and fair elections should be "observed by reputable international organizations." UNITA also demanded last April in their call for a free and fair multiparty election that these elections should "be monitored by the international community to ensure fairness."

I think that what we are calling for here, on the assumption that we are not trying to be more Catholic than the Pope and are not calling for more than Mr. Savimbi himself has called for is that willingness on the part of the MPLA to permit international observers—whether they are from the OAU, or the United Nations, or the United States Congress, or the British Parliament, or human rights groups, or any other organizations—to come in to monitor the electoral process, the campaigning, the casting of the votes, the counting of the votes, in such a way that it gives everyone reasonable assurances that it will in fact be a free and fair election.

I do not believe this was calling for the Government of Angola to agree to permit some international agency to usurp Angolan Government sovereignty and to actually run the entire election, because that is not what Mr. Savimbi himself is calling for.

Let me just say in conclusion, Mr. Speaker, that my good friend, the gentleman from Illinois, has said that he was concerned that this amendment would encourage the Angolan Government to dig in their heels and that it might possibly, therefore, derail very delicate efforts now being conducted by the administration to get an agreement which will end this conflict. I want to say to my friend that we all agree that the only way to end this war is through a negotiated agreement, but I must say that in our view the purpose of this amendment is not to derail the negotiations but to enhance the prospects for their success. I believe it does that by giving a positive incentive to the MPLA to make the very concessions that the administration is asking them to make, namely, to state a willingness to have a free and fair election within a reasonable period of time, and to accept a reasonable cease-fire and political settlement.

If this is successful in getting them to make such an offer, it will clearly facilitate an agreement.

Mr. Savimbi himself told some of us a few weeks ago that the main obstacle to a settlement is getting the MPLA to put on the table a reasonable timetable for the election. This is what this amendment asks them to do. If they do not do it, the aid to Mr. Savimbi continues. If they do do it, then if the other conditions are met in the judgment of the President, the aid would be suspended. But under those circumstances, presumably, the parties would be able to reach an agreement, so I think this facilitates an agreement rather than obstructs it.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Speaker, I thank the gentleman, my distinguished colleague, the ranking member, for yielding me this time.

Mr. Speaker, I think that I am the only former CIA clandestine services officer in Congress. If there is another, they have done a better job than I of keeping their secret.

I think from that posture I can offer a somewhat unique perspective of the sensitivity of our intelligence secrets and the damage from divulging those secrets through the open political forum of the U.S. Congress. One thing is clear, the unauthorized disclosure of classified information, intentional or otherwise, has a very profoundly harmful effect on our Nation's ability to collect timely and accurate information necessary for our leader's decisionmaking, and that leader's decisionmaking has been particularly critical, whether we are talking about Iraq, Panama, or any event of the past year or any event we can reasonably anticipate for the future years.

I do not in any way wish to preach. I wish to underscore my concern. I think in the past week or two I have seen one, two, three, four articles talking about covert operations, things that probably under the national security act in Great Britain would be grounds for treachery if they had been read in the British press, 30 years ago, when I was in business.

Today now it seems that we talk about these things. I do not know why. This is not new to read these articles. Just last year I did something that got picked up by a number of people, a piece called Hush Up, Congress. It was stressing the same concern I had last year about leaks, about questions of clearances.

Again, I am not pointing fingers, but what I am saying is this: people who have not been trained in intelligence operations in the handling of sensitive information do not know how to handle the information, and they do not realize the consequences of abusing or misusing that information. There are consequences that go to our national security, for sure. There are consequences that go to our Nation's ability to do business overseas, to negotiate quietly, discreetly, and intelligently on behalf of our national goals.

Of course, there is the life question. There truly are lives involved, quite often, in intelligence operations, and the last thing anybody would want to do is, through a slip of the tongue, release information that would somehow yield somebody's life through not knowing what they were about.

The U.S. Congress I have been impressed in an area where there is an extraordinary accumulation of information of very sensitive nature. By definition, we have to have it. We have a selected intelligence committee that needs to have that information, but having that accumulation of sensitive information, we need extra precautions. We need extra clearance provisions, and we need certainly extra provisions for the discussion and handling of how we deal with this material.

I think that we have had some good proposals in the past to begin this question of how we can do better handling this sensitive information and making sure only those who need to

have it have it, and that they understand that when they have it, how they treat it.

I believe a question of a smaller, surer committee, I would call it, a better informed committee that is perhaps trained in some of the training that I have been privileged to have and others in the Intelligence Committee. I think a greater degree of nonpartisanship. I think the one-vote edge as they do in the other body; I think these are reasonable suggestions and thoughts that ought to be pursued, because I think we all want to do the best we can on behalf of the intelligence activities that this country funds and engages in for the benefit of our national security.

I know that intelligence activities are not always what they seem, and when I pick up one of the Nation's newspapers and see basically an activity outlined on its pages in an article that says, "The U.S. Government is debating in Congress whether it will do $30 million," or something else or whether it will deliver at a certain time schedule or something else, that is not a covert operation anymore. That never was a covert operation when it got to that point.

I think we have got an obligation in this institution to do a better job. I commend the chairman. I commend the ranking member for the steps they have taken to review this.

I am very concerned about it still, and I think it deserves our attention, and I am hopeful that you all understand, or that all the Members understand, that if we are going to ask the President to let us get into the micromanagement of the intelligence industry, we darn well better know that those here who are participating from Congress' side have got to know what they are going.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to comment briefly on the remarks of the preceding speaker.

I agree with him. I think the gentleman makes a very valid point, and I think all of us who are responsible for intelligence matters agree that Congress has an important responsibility in maintaining classified information secrets.

But I think it is important to put into perspective the fact that the executive branch, the members of which are larger, who have access to this classified information are often the ones who are responsible for these leaks. We have had testimony before our committee from executive branch officials including members of the agency that that is the case, that the executive branch is responsible for more leaks.

Second, I would say that it is important for the President himself to be cautious about these covert operations. We have had a big debate on the floor about Angola, but the Angola program was announced by President Reagan, and every time there is a vote coming up on our Intelligence Committee or in the Senate or on the floor, Mr. Savimbi appears and is on network television talking about the covert operation.

I think that the executive branch has a very large responsibility here, and that leaks are not the sole responsibility of the Congress.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I will use this minute to respond, because I think the gentlaman's remarks are very much on target.

The point with leaks is that we do not want to sit around here and point fingers and say, "Well, it is OK to have leaks, because they have leaks, too." The thing with leaks is you want to plug them up. My point that I was trying to make is not who is responsible for all the leaks; I am not pointing fingers.

What I am saying is, we can plug all the leaks.

□ 1840

The second point is, the most important way to manage intelligence is to know what we are doing. I am concerned that there are people here, well-intentioned, who just have not got a good enough background or enough understanding of the sensitivity of some of the material that comes through.

Mr. McHUGH. If the gentleman will continue to yield, I agree that the executive branch of the Government and the Congress both have responsibility. I simply need to emphasize that the leaks that are out there are not all congressional leaks.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I appreciate the gentleman yielding time to me. If the gentleman from Florida [Mr. Goss] would like to come to the podium, I would just like to point out that during the rule, I actually introduced into the RECORD four articles which I found reflected leaks of Congress. A close inspection of those articles reflects that they were about a conference between Members of the House and the Senate. Now, the executive branch was not a party to that conference. They may have access to the information, but quite frankly, in reading those articles, it certainly looked to me as if Members or staff were talking openly to the press about what had transpired in the Select Committee on Intelligence.

Therefore, it strikes me that all of this rhetoric back and forth is nice, but we really ought to be thinking about ways that we could remedy the situation. As the gentleman pointed out, we ought to start plugging the leaks. The gentleman from Illinois [Mr. HYDE] for years has been trying to form a joint committee between the House and the Senate to shrink the sizes of the committees, yet the House committee has grown by 50 percent in the last 6 years. He's also proposed to do security checks of Members and staff, and to ask the Members who are vested with the authority to serve on these committees to take an oath of secrecy.

Now, the gentleman from New York [Mr. McHUGH] is the chairman of the legislative committee, and I invite him to take a look at those proposals. It would seem they might help address what I believe to be an incredibly serious problem and defect in the U.S. Congress.

Mr. McHUGH. Mr. Speaker, if the gentleman will yield, if the gentleman is asking for a comment, I have not seen the articles the gentleman introduced during the debate on rules. I can only say that I agree there needs to be more sensitivity on the part of anyone dealing with classified information.

However, I need to point out, because the gentlemen on that side of the aisle tend always to focus on the leaks that allegedly come from Members of Congress, I am concerned that the executive branch is more responsible.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. McHUGH], if he wishes to finish his statement.

Mr. McHUGH. Mr. Speaker, I think I made my point. However, let me say it again, that we have heard from the executive branch in our committee that there are more leaks in the executive branch, and that is not an excuse for any congressional leaks, but when we talk about this problem, we need to see it in perpective. All the leaks that appear in the newspaper or media are not attributable to congressional leaks.

Mr. HYDE. Mr. Speaker, I agree completely. The executive leaks like a sieve, but so do we. How can we clean our own stable, and hope and pray the executive does the same? It seems to me we are very chary of lifting a finger to tighten security around here, and that is something we can do and have omitted doing.

Mr. HcHUGH. One of the articles which my friend from Louisiana gave me that he referred to in the rules debate relates and has a headline,

"Covert Lethal Aid to Angolan Rebels Is Curbed, Cease-Fire Would Suspend It."

Now, to the extent that that article is attributable to anybody in the congressional committees, I deplore it. However, would the gentleman agree with me that when this action was initiated during the last administration, members of the administration, including the President, made very public comments about the initiation of the covert action and about its implementation over a period of time?

Mr. HYDE. Absolutely, and there is such casual treatment of convert action by members of the executive and Members of this House that we become very overt.

However, confirming it from a member of the Permanent Select Committee on Intelligence is a corroboration that is not altogether helpful. However, we could go around in a circle for a long time. We both need to do something about it.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I want to associate myself with the remarks made earlier by the gentleman from New York [Mr. SOLARZ] with respect to the Angolan provision.

Mr. Speaker, I wish to register, in the strongest possible terms, my endorsement of the conference report provision on Angola, That provision follows quite closely the amendment which Congressman SOLARZ offered to the House intelligence bill on October 17 and which I wholeheartedly supported.

Mr. Speaker, while there has been some limited, recent advance in exploratory talks between the Angolan Government and UNITA, it is a very incomplete progress which falls far short of a major breakthrough. In terms of United States policy toward Angola, more needs to be done to eliminate all external arms flows to Angola and to bring even-handed pressures upon both sides to reach a cease-fire and a negotiated settlement involving free and fair elections.

The Angolan Government and UNITA have met, face-to-face, in four rounds of talks. Interestingly, the most important factor promoting these negotiations has not been United States aid to UNITA; rather, it has been that the Angolan Government and UNITA have lost much of their external military support in the last 2 years.

The Angolan Government has witnessed the withdrawal of three quarters of its Cuban forces; all will have departed by June 1991. In addition, Soviet military aid dropped from an estimated $1.4 billion in 1988 to $500 million in 1990.

UNITA has lost almost all of its South African aid, which up to April 1989 exceeded $200 million annually, more than three times the reported size of the United States program. Nor can UNITA rely any longer on South African forces to intervene directly in Angola on its behalf.

Despite these changes and some positive movement by both sides in the talks, the Angolan Government and UNITA are still mired in profound distrust and bitterness. They are still far from a political settlement.

The Angolan Government fears that UNITA, with the military backing of the administration, is not truly prepared to lay down its arms and reach a nonmilitary, negotiated settlement.

UNITA, for its part, fears that the Angolan Government, with continued Soviet military backing, is not truly serious about recognizing UNITA and agreeing to free and fair elections.

In the midst of this deadlock, the Angolan Government and UNITA each continue to cling to the vain hope that by bludgeoning the other side through one more round of fighting, it can improve its military position before compromising politically. Tragically, continued external military flows only feed this terrible dynamic.

Mr. Speaker, some dramatic step is required to push UNITA and the Angolan Government out of their deadlock. This war has gone on too long. Angola has experienced enough weapons, enough ammunition, enough senseless death and suffering. Famine created by war and drought has seriously worsened this year, to the point where almost 2 million Angolans will soon be at risk of starvation.

UNITA's President Savimbi has openly said that UNITA is prepared to cease fighting, if the Angolan Government recognizes UNITA and presents a reasonable timetable for multiparty elections. The Angolan Government has indicated it is willing to move in the direction demanded by UNITA, if it has a reasonable hope that UNITA will turn away from warfare. Fair enough. Let's force each party to live up to its commitments; the Angola provison in the conference report has that exact aim.

By adopting the Angola provision, we will test the true intentions of UNITA and the Angolan Government, while also testing the Soviet's openly expressed desire to cooperate with the United States in ending all external military flows to Angola.

If we do not adopt the Angola provision, more time will pass, more opportunities for United States-Soviet collaboration will pass by, and I fear that, this time next year, we will again find ourselves bemoaning the tragedy and intractability of the Angolan war. Let's do something today, by supporting the conference report on this bill.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska, a member of the committee [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, first I would like to associate myself with the reservations or concerns expressed by the ranking member, the distinguished gentleman from Illinois [Mr. HYDE] concerning Angola. I have many or all of those same concerns.

Second, I would like to continue the discussion on the improper handling of classified information initiated by our colleague from Florida [Mr. Goss]. I think he has made an important contribution here today through his comments. This Member is a former counterintelligence officer, as is the gentleman from Pennsylvania [Mr. SHUSTER], and I have long been concerned about the manner in which the member and staff of the Committee on Foreign Affairs, the Congress, and the Permanent Select Committee on Intelligence handle classified information.

I well recall how emphatic the chairman of the Intelligence Committee and its ranking member were earlier this year in their warnings against the release of classified information when the committee was discussing covert activities. Yet, we know that, unfortunately, classified information and discussion about it during the committee markup appeared in the news media. That I reiterate was despite as emphatic a warning and expression of concern by the chairman as I could imagine. I can only conclude that that information was either intentionally, or, in all probability unintentionally or inadvertently leaked by members of the committee or staff. My judgment is that it was an inadvertent leak. Our membership perhaps does not understand how we are manipulated by the news media in seeking such information. We have to resist that manipulation. That is particularly true of members of the Permanent Select Committee on Intelligence.

Therefore, I thank the gentleman from Louisiana [Mr. LIVINGSTON] for his contributing to the debate, and the ranking member, Mr. HYDE, and the gentleman from New York [Mr. MCHUGH] for making important points which together really ought to suggest to Members that we must take some reform action. Part of that reform is legislative, and part of it is a greater concentration or effort to recognize how one can manipulate a member or a number of members to inadvertently disclose classified information.

Mr. HYDE. Mr. Speaker, I thank the gentleman for his valuable contribution.

I yield the remaining 3 minutes to the gentleman from Indiana [Mr. BURTON], and as he approaches the podium, I would like to say to my friend, the gentleman from New York that I have a classified book of leaks I would be delighted to share with the gentleman whenever he has time.

Mr. BURTON of Indiana. Mr. Speaker, I approach this issue on Angola with a little bit of trepidation because I worked with the gentleman from New York [Mr. SOLARZ] in trying to craft an amendment which would protect UNITA and their rights toward getting free and fair elections in Angola. However, when the State Department opposed the amendment because they thought there were too many uncertainties regarding the amendment, I withdrew my support.

The reason I am concerned about it is on page 35 of the conference committee report. There still are some

problems with the process. If Members who are interested in this would look on page 35, it says:

The conferees further agree that any lethal assistance to UNITA shall be suspended if the President certifies that the Government of Angola has expressed a willingness to accept a reasonable cease-fire and political settlement, and proposes a reasonable and specific timetable for internationally supervised free and fair multi-party elections in which UNITA would be free to participate, and that the Soviet Union has indicated that it has ceased providing lethal assistance.

Now, while there are some safeguards on that language, I believe that there is a lot of wiggle room for the Communist MPLA to wiggle out of any kind of an agreement that would lead to a cease-fire and free and fair elections.

Furtheremore, I think the President is going to be under severe pressure to certify that these requirements have been met, and the President may, through pressure from my colleagues on that side of the aisle and the media, may succumb to that pressure and say that the conditions have been met, and that the lethal assistance we have been giving to UNITA should be at least temporarily suspended.

Therefore, for that reason, I think that this conference committee report should be rejected. We have been supporting Dr. Savimbi and UNITA for many, many years. It has been the policy of this Government to support UNITA and Dr. Savimbi until free and fair elections have been achieved.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Illinois.

Mr. HYDE. Does the gentleman remember when Mr. Gorbachev said that they were no longer sending weapons to Nicaragua, and yet we had evidence that for almost 2 years longer, weapons were continuing to be sent to Nicaragua? They would send them to Cuba, transship them down to Nicaragua?

Mr. BURTON of Indiana. The gentleman is absolutely correct, and the same thing could happen in Angola.

Therefore, I would just like to say to my colleagues that we have made a commitment to Dr. Savimbi and UNITA that until there are free and fair elections in Angola, I think this legislation could circumvent that commitment and lead to a further extension of that conflagration that is taking place over there. There are a lot of people dying because of famine. A lot of people are dying because of that war. We should be very clear and concise with any legislative action that we take regarding a suspension of support for Dr. Savimbi, until free and fair elections have not only been promised but guaranteed, with a definite timetable. This legislation does not do that.

□ 1850

Mr. BEILENSON. Mr. Speaker, in closing, I would like to again say that it has been an enormous privilege for me to work with the members of the House Intelligence Committee. They are an excellent group, an excellent bunch, Members on both sides of the aisle, especially if I may say so, my friend and great colleague, the gentleman from Illinois [Mr. HYDE], who is a real gentleman and a great help to me and to the entire committee, and for that matter a person who has contributed greatly to many portions of this bill, even though there are some portions, as the gentleman has rightly pointed out, that he himself is not all that fond of.

Mr. Speaker, we do believe that this is a good conference report and I urge Members to support it.

Mr. SYNAR. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. I yield to the gentleman from Oklahoma.

Mr. SYNAR. Mr. Speaker, I rise in support of the conference agreement.

I would only say to my colleagues, and especially to my Democratic colleagues, as to the references on Angola there is probably no Democratic Member of this body who has fought more for support of UNITA and in support of measures to help resolve that terrible conflict in Angola.

I do believe that the conference report is better than the Solarz amendment which came out of this body. I believe there are many areas in this and many safeguards which are superior to the Solarz amendment. I voted against the Solarz amendment, but I believe that this conference report is a valuable step forward.

I believe that Senator BOREN, who is the chairman of the Senate Intelligence Committee, was a major contributor in insuring that there is language that satisfies many of my concerns.

I will just point out that on page 36 that in each of these areas there is some very good language that says, "Intelligence has indicated, Intelligence has indicated." That is a term of art we need to remember. That is a very important insertion in this language. Because of that, I believe that we are actually better than what we started out with coming out of the House.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AVIATION SECURITY IMPROVEMENT ACT OF 1990

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5732) to promote and strengthen aviation security, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Aviation Security Improvement Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—AVIATION SECURITY

Sec. 101. Director of Intelligence and Security.
Sec. 102. Annual aviation security report; budget.
Sec. 103. Assistant Administrator for Civil Aviation Security.
Sec. 104. Federal Security Managers and Foreign Security Liaison Officers.
Sec. 105. Air carrier and airport security personnel.
Sec. 106. Assessment of threats to domestic airport security.
Sec. 107. Research and development.
Sec. 108. Deployment of explosive detection equipment.
Sec. 109. Threats to civil aviation; public notification.
Sec. 110. Airport construction guidelines.
Sec. 111. Intelligence.
Sec. 112. Screening of mail and cargo.

TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD

Sec. 201. International negotiations concerning aviation security.
Sec. 202. Coordinator for counterterrorism.
Sec. 203. Passenger manifest.
Sec. 204. Department of State notification of families of victims.
Sec. 205. Designation of State Department family liaison and toll-free family communications system.
Sec. 206. Disaster training for State Department personnel.
Sec. 207. Department of State responsibilities and procedures at international disaster site.
Sec. 208. Recovery and disposition of remains and personal effects.
Sec. 209. Assessment of Lockerbie experience.
Sec. 210. Official Department of State recognition.
Sec. 211. United States Government compensation for victims of terrorism.
Sec. 212. Overseas security electronic bulletin board.
Sec. 213. Antiterrorism assistance.
Sec. 214. Antiterrorism measures.
Sec. 215. Proposal for consideration by the international civil aviation organization.

SEC. 2. FINDINGS.

Congress finds that—

(1) the safety and security of passengers of United States air carriers against terrorist threats should be given the highest priority by the United States Government;

(2) the report of the President's Commission on Aviation Security and Terrorism, dated May 15, 1990, found that current aviation security systems are inadequate to provide such protection;

(3) the United States Government should immediately take steps to ensure fuller compliance with existing laws and regulations relating to aviation security;

(4) the United States Government should work through the International Civil Aviation Organization and directly with foreign governments to enhance aviation security of foreign carriers and at foreign airports;

(5) the United States Government should ensure that enhanced security measures are fully implemented by both United States and foreign air carriers;

(6) all nations belonging to the Summit Seven should promptly amend the Bonn Declaration to extend sanctions for all terrorist acts, including attacks against airports and air carrier ticket offices;

(7) the United States Government, in bilateral negotiations with foreign governments, should emphasize upgrading international aviation security objectives;

(8) the United States Government should have in place a mechanism by which the Government notifies the public, on a case-by-case basis and through the application of a uniform national standard, of certain credible threats to civil aviation security;

(9) the United States Government has a special obligation to United States victims of acts of terrorism directed against this Nation and should provide prompt assistance to the families of such victims and assure that fair and prompt compensation is provided to such victims and their families;

(10) the United States should work with other nations to treat as outlaws state sponsors of terrorism, isolating such sponsors politically, economically, and militarily;

(11) the United States must develop a clear understanding that state-sponsored terrorism threatens United States values and interests, and that active measures are needed to counter more effectively the terrorist threat; and

(12) the United States must have the national will to take every feasible action to prevent, counter, and respond to terrorist activities.

TITLE I—AVIATION SECURITY

SEC. 101. DIRECTOR OF INTELLIGENCE AND SECURITY.

(a) ESTABLISHMENT OF POSITION.—There is established in the Office of the Secretary of Transportation the position of Director of Intelligence and Security.

(b) POWERS AND DUTIES.—The Director of Intelligence and Security shall report directly to the Secretary of Transportation and shall have the following duties and powers:

(1) Receipt, assessment, and distribution of intelligence information relating to long-term transportation security.

(2) Development of policies, strategies, and plans for dealing with threats to transportation security.

(3) Other planning relating to transportation security, including coordination of countermeasures with appropriate Federal agencies.

(4) Serving as the primary liaison of the Secretary with the intelligence and law enforcement communities.

(5) Such other duties and powers as the Secretary may prescribe as necessary to ensure, to the extent possible, the security of the traveling public.

(c) CONFORMING AMENDMENT.—Section 106(g)(1) of title 49, United States Code, is amended by inserting after "312-314," the following "315-316 (except for the duties and powers vested in the Director of Intelligence and Security by or under section 101 of the Aviation Security Improvement Act of 1990),".

SEC. 102. ANNUAL AVIATION SECURITY REPORT; BUDGET.

(a) ANNUAL AVIATION SECURITY REPORT.—Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended by redesignating subsection (b), and any reference thereto, as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) TRANSPORTATION SECURITY.—

"(1) ANNUAL REPORT.—Not later than December 31 of calendar year 1991 and of each calendar year thereafter, the Secretary shall submit to Congress an annual report concerning transportation security, together with such recommendations as the Secretary considers appropriate. Such report shall be prepared in conjunction with the annual report of the Administrator under subsection (a) and shall not duplicate the information required by subsection (a) or section 1115(c) of this Act. Such annual report may, as necessary, be submitted in 2 parts with 1 part being classified in nature and 1 part being unclassified.

"(2) CONTENTS OF REPORT.—The annual report required by this subsection shall include—

"(A) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of such report;

"(B) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

"(C) recommendations for research, engineering, and development activities relating to transportation security, except research, engineering, and development activities relating to aviation security to the extent such activities are covered by the research plan required by section 312(d) of the Federal Aviation Act of 1958;

"(D) legislative and regulatory recommendations, if appropriate;

"(E) funding and staffing requirements of the Director of Intelligence and Security;

"(F) an assessment of funding and staffing requirements, and attainment of existing staffing goals, for carrying out security functions of the Federal Aviation Administration;

"(G) identification and evaluation of cooperative efforts with other Federal agencies;

"(H) an evaluation of cooperation with foreign transportation and security authorities;

"(I) the status of implementation of the recommendations of the President's Commission of Aviation Security and Terrorism and the reasons for any delays in implementation of such recommendations; and

"(J) an evaluation of deployment of explosive detection devices.".

(b) PASSENGER SCREENING REPORTS.—Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356(a)) is amended by striking "semiannual" each place it appears and inserting "annual".

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"SEC. 315. Screening of passengers in air transportation."

is amended by striking "(b)" and inserting "(c)" and by inserting after the item relating to subsection (a) the following:

"(b) Transportation security.".

(2) SECURITY ASSESSMENT REPORTS.—Section 1115(c) of such Act (49 U.S.C. App. 1515(c) is amended by inserting "(a)" after "section 315".

(d) ANNUAL BUDGET SUBMISSION.—The annual budget submission for the Department of Transportation shall include a specific request for the Office of the Director of Intelligence and Security. In determining the budget request for the Director, the Secretary shall take into consideration recommendations contained in the annual report submitted under section 315(b) of the Federal Aviation Act of 1958.

SEC. 103. ASSISTANT ADMINISTRATOR FOR CIVIL AVIATION SECURITY.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is amended by adding at the end the following new section:

"SEC. 318. ASSISTANT ADMINISTRATOR OF CIVIL AVIATION SECURITY.

"(a) ESTABLISHMENT OF POSITION.—There is established the position of Assistant Administrator for Civil Aviation Security.

"(b) AUTHORITY OF ADMINISTRATOR.—The Assistant Administrator shall report directly to the Administrator and shall be subject to the Administrator's direction and authority.

"(c) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall include—

"(1) day-to-day management of and operational guidance to Federal Aviation Administration field security resources, including Federal Security Managers;

"(2) enforcement of security-related requirements;

"(3) identification of research and development requirements of security-related activities;

"(4) inspections of security systems;

"(5) reporting to the Director of Intelligence and Security such information as may be necessary to permit the Director to fulfill assigned responsibilities;

"(6) assessment of threats to civil aviation; and

"(7) such other functions as the Administrator considers necessary and appropriate.

"(d) MEASURES TO STRENGTHEN AIR TRANSPORTATION SECURITY.—The Assistant Administrator shall review and, as necessary, develop measures to strengthen air transportation security, including—

"(1) measures to strengthen controls over checked baggage in air transportation, such as measures to ensure baggage reconciliation and inspection of items in baggage of passengers which could potentially contain explosive devices;

"(2) measures to strengthen control over individuals with access to aircraft;

"(3) measures to improve testing of security systems;

"(4) measures to ensure the use of best available x-ray equipment for air transportation security purposes; and

"(5) measures to strengthen preflight screening of passengers.".

SEC. 104. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 319. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

"(a) FEDERAL SECURITY MANAGERS.—

"(1) ESTABLISHMENT OF POSITION.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Federal Security Manager for each airport in the United States at which the Administrator determines that such a Manager is necessary to meet the needs of air transportation security and shall begin designating persons as such Managers and stationing such Managers at such airports. In carrying out the requirements of this section, the Administrator may assign the functions and responsibilities described in this section to existing Federal Aviation Administration field personnel and designate such personnel accordingly.

"(2) 1-YEAR STATIONING REQUIREMENT.—Not later than 1 year after the date of the enactment of this section, the Administrator shall have stationed a Federal Security Manager at each airport in the United States which is designated by the Department of Transportation as a category X airport.

"(3) RESPONSIBILITIES.—The responsibilities of a Federal Security Manager with respect to an airport shall include the following:

"(A) Receipt of intelligence information relating to aviation security.

"(B) Ensuring and assisting in the development of a comprehensive security plan for the airport—

"(i) which establishes responsibilities of each such air carrier and airport operator with respect to air transportation security at the airport; and

"(ii) which includes measures to be taken during periods of normal airport operations and during periods when there is a need for additional airport security, as determined by the Federal Security Manager, and identifies the persons responsible for carrying out such measures.

"(C) Oversight and enforcement of implementation by air carriers and airport operators of Federal security requirements, including the comprehensive plan developed pursuant to subparagraph (B).

"(D) Serving as the on-site coordinator of the response of the Federal Aviation Administration to terrorist incidents and threats at the airport.

"(E) Coordination of day-to-day Federal activities relating to aviation security at the airport.

"(F) Coordination with local law enforcement efforts relating to aviation security.

"(G) Coordination of activities with Federal Security Managers at other airports, as appropriate.

"(4) AUTHORITY OF ASSISTANT ADMINISTRATOR.—A Federal Security Manager shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(5) NONDUPLICATION OF FUNCTIONS.—When a Federal Security Manager is designated or stationed at an airport, the Civil Aviation Security Field Officer shall not be assigned security responsibilities at such airport.

"(b) FOREIGN SECURITY LIAISON OFFICERS.—

"(1) ESTABLISHMENT OF POSITION.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Administrator determines that such an Officer is necessary for air transportation security and, in coordination with the Secretary of State, shall begin assigning such Officers.

"(2) 2-YEAR REQUIREMENT.—Not later than 2 years after the date of the enactment of this section, the Administrator, in coordination with the Secretary of State, shall assign Foreign Security Liaison Officers for airports outside the United States where extraordinary security measures are in place. The Secretary of State shall give high priority to the stationing of such officers.

"(3) RESPONSIBILITIES.—A Foreign Security Liaison Officer shall be responsible (A) for serving as the liaison of the Assistant Administrator for Civil Aviation Security with foreign security authorities (including foreign governments and airport authorities) with respect to implementation of Federal security requirements at the airport, and (B) to the extent practicable, for performing the responsibilities set forth in subsection (a)(3).

"(4) AUTHORITY OF ASSISTANT ADMINISTRATOR.—A Foreign Security Liaison Officer shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(5) COORDINATION WITH CHIEF OF UNITED STATES DIPLOMATIC MISSION.—The activities of a Foreign Security Liaison Officer shall be coordinated with the chief of the United States diplomatic mission to which the Officer is assigned. All activities of a Foreign Security Liaison Officer pursuant to this subsection shall be consistent with the authorities of the Secretary of State and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 and section 207 of the Foreign Service Act of 1980.

"(c) LONG-TERM IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this section, the Administrator shall submit to Congress a plan to fully implement the requirements of this section. Such plan shall include a schedule for implementation and an assessment of personnel and funding needs.".

SEC. 105. AIR CARRIER AND AIRPORT SECURITY PERSONNEL.

(a) IN GENERAL.—Section 316 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357) is amended by adding at the end the following new subsections:

"(g) AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—

"(1) EMPLOYMENT INVESTIGATIONS.—

"(A) IN GENERAL.—In order to ensure the security of aircraft and their passengers, crew, and cargo, the Administrator shall issue regulations to require individuals employed in, and individuals applying for, positions described in subparagraph (B) to be subjected to such employment investigations, including criminal history record check, as the Administrator determines necessary to ensure air transportation security.

"(B) INDIVIDUALS SUBJECT TO EMPLOYMENT INVESTIGATIONS.—An individual shall be subject to an employment investigation under subparagraph (A) if such individual is employed in, or is applying for, a position in which such individual has unescorted access, or may authorize others to have unescorted access, to air carrier or foreign air carrier aircraft, or to secured areas (designated by the Administrator) of United States airports serving air carriers or foreign air carriers.

"(C) REQUIREMENTS OF AIR CARRIERS AND AIRPORT OPERATORS.—Any air carrier, foreign air carrier, or airport operator who employs an individual in a position described in subparagraph (B), or authorizes or contracts for the services of such individual, shall take such actions as may be necessary to ensure that any employment investigation required by the Administrator under subparagraph (A) is performed.

"(2) CRIMINAL HISTORY RECORDS CHECK.—

"(A) IN GENERAL.—If, as part of an employment investigation under paragraph (1)(A), the Administrator requires an identification and criminal history record check of an individual in a position described in paragraph (1)(B) to be conducted by the Attorney General, the Administrator (after consultation with the Attorney General) shall designate persons to obtain and transmit fingerprints to the Attorney General. The costs of any such check shall be paid by the employer of such individual. The Attorney General may for the purposes of this subsection make available the results of any such check to persons designated by the Administrator, after consultation with the Attorney General.

"(B) REGULATIONS.—For purposes of administering this subsection, the Administrator shall prescribe regulations to—

"(i) implement procedures for taking fingerprints; and

"(ii) establish requirements for use of information received from the Attorney General under this subsection in order to limit the dissemination of such information and ensure that such information is used solely for the purposes of this subsection.

"(C) CORRECTION OF CHECK INFORMATION.—An individual who, as part of an employment investigation under paragraph (1)(A), is subject to an identification and criminal history records check shall be provided a copy of any record received from the Attorney General and shall have the right to complete and correct the information contained in such check before any final employment decision is made on account of such check.

"(3) EMPLOYMENT RESTRICTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an air carrier, foreign air carrier, or airport operator shall not employ, or authorize or contract for the services of, any individual in a position described in paragraph (1)(B), if—

"(i) such individual has not been subject to an employment investigation required under paragraph (1)(A); or

"(ii) the results of such investigation establish that such individual in the 10-year period ending on the date of such investigation has been convicted in any jurisdiction of a crime set forth in section 902(b), (c), (h), (i), (j), (k), (l), (m), (n), (q), or (r); a crime set forth in section 32 of title 18, United States Code; murder; assault with intent to murder; espionage; sedition; treason; rape; kidnapping; unlawful possession, sale, distribution, or manufacture of an explosive or weapon; extortion; armed robbery; distribution of, or intent to distribute, a controlled substance; or conspiracy to commit any of the aforementioned criminal acts.

The Administrator may specify other factors which the Administrator determines to be sufficient to make an individual ineligible for employment in a position described in paragraph (1)(B).

"(B) EXCEPTION.—It shall not be a violation of subparagraph (A) for an air carrier, foreign air carrier, or airport operator to employ, or authorize or contract for employment of, an individual in a position described in paragraph (1)(B) who has not been subject to an employment investiga-

tion required by paragraph (1)(A), if the employment of such individual is carried out pursuant to a plan approved by the Administrator which provides alternate security arrangements.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as requiring investigations or record checks where such investigations or record checks are prohibited by applicable laws of a foreign government.

"(5) FEES AND CHARGES.—The Administrator and the Attorney General shall establish reasonable fees and charges to cover expenses incurred in carrying out this subsection. The amount of fees collected under this paragraph shall be credited to the accounts in the Treasury from which such expenses were incurred and shall be available to the Administrator and the Attorney General for paying expenses for which such fees are collected.

"(h) EMPLOYMENT STANDARDS.—Not later than 270 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the hiring, continued employment, and contracting of air carrier and, as appropriate, airport security personnel. Such standards shall include—

"(1) minimum training requirements for new employees;

"(2) retraining requirements;

"(3) minimum staffing levels;

"(4) minimum language skills; and

"(5) minimum education levels for employees, as appropriate.

"(i) HUMAN FACTORS.—The Administrator, in coordination with air carriers, airport operators, and other interested persons shall review issues relating to human performance in the aviation security system with the goal of maximizing such performance. Upon completion of the review, the Administrator shall recommend guidelines and prescribe appropriate changes to existing procedures to improve such performance.

"(j) TRAINING OF AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—Not later than 180 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the education and training of—

"(1) ground security coordinators;

"(2) security supervisory personnel; and

"(3) airline pilots as in-flight security coordinators.

Such standards shall include initial training, retraining, and continuing education requirements and methods by which the performance of ground security coordinators and security supervisory personnel shall be measured annually.

"(k) FOREIGN AIR CARRIER SECURITY PROGRAMS.—

"(1) CONTINUATION OF EXISTING APPROVAL REQUIREMENT.—The Administrator shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that foreign air carriers must adopt and use a security program approved by the Administrator.

"(2) LEVEL OF PROTECTION.—The Administrator may approve a security program of a foreign air carrier under the requirement referred to in paragraph (1) only if the Administrator finds that the security program provides passengers of the foreign air carrier with a similar level of protection as such passengers would receive under the security programs of air carriers serving the same airports. The Administrator shall require foreign air carriers to employ procedures equivalent to those required of air carriers serving the same airport if the Administrator determines that such procedures are necessary to afford a similar level of protection as is afforded passengers of the air carriers serving the same airport.

"(3) REVIEW OF EXISTING PROGRAMS.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall take such action as may be necessary to ensure that a security program of a foreign air carrier approved by the Administrator before such date of enactment meets the requirement of paragraph (2).

"(4) ANNUAL REPORT.—The Administrator shall submit to Congress as part of the annual report required by section 315(a) an assessment of the steps being taken, and the progress being made, in ensuring that foreign air carrier security programs for airports outside the United States—

"(A) at which the Administrator determines that a Foreign Security Liaison Officer is necessary for air transportation security, and

"(B) for which extraordinary security measures are in place,

are in compliance with this subsection.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading—

"Sec. 316. Air transportation security."

is amended by adding at the end thereof the following:

"(g) Air carrier and airport security personnel.

"(h) Employment standards.

"(i) Human factors.

"(j) Training of air carrier and airport security personnel.

"(k) Foreign air carrier security programs.".

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations implementing subsection (k)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1357), as inserted by subsection (a) of this section.

SEC. 106. ASSESSMENT OF THREATS TO DOMESTIC AIRPORT SECURITY.

(a) GENERAL ASSESSMENT.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly conduct an assessment of current and potential threats to the domestic air transportation system. Such assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against the domestic aviation system and the methods by which such individuals might carry out such acts.

(b) ANALYSIS AND MONITORING.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly determine and implement the most effective method for continually analyzing and monitoring security threats to the domestic air transportation system.

(c) ASSESSMENTS WITH RESPECT TO INDIVIDUAL AIRPORTS.—In coordination with the Federal Bureau of Investigation, the Administrator of the Federal Aviation Administration shall conduct periodic threat and vulnerability assessments with respect to the security of individual airports which are part of the domestic air transportation system. Each such assessment shall include consideration of—

(1) the adequacy of security procedures with respect to the handling and transport of checked baggage, cargo, and mail;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, cargo, and mail;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the United States Customs Service, the Immigration and Naturalization Service, the Federal Aviation Administration, air carriers, and of other law enforcement personnel.

(d) REPORTS TO CONGRESS.—The Administrator of the Federal Aviation Administration shall transmit to Congress for each of calendar years 1991 and 1992 an annual report on the progress being made and the problems occurring in implementation of this section, together with recommendations for improving domestic air transportation security.

(e) REMEDYING SECURITY DEFICIENCIES.—The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve domestic air transportation security by remedying any deficiencies in such security discovered as a result of the assessments, analyses, and monitoring conducted under this section.

(f) SURVEY.—In developing airport construction guidelines under subsection (d) of section 612 of the Federal Aviation Act of 1958, as added by section 110 of this Act, the Administrator shall take into consideration the results of the assessment conducted under subsection (a) of this section.

SEC. 107. RESEARCH AND DEVELOPMENT.

Section 316(d) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1351(d)) is amended by adding at the end the following new paragraphs:

"(3) PROGRAM TO ACCELERATE RESEARCH.—

"(A) IN GENERAL.—The Administrator shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation.

"(B) REVIEW OF THREATS.—Not later than 180 days after the date of the enactment of this paragraph, the Administrator shall complete an intensive review of threats to civil aviation, with particular focus on—

"(i) the explosive materials which present the most significant threat to civil aircraft;

"(ii) the minimum amounts, configurations, and types of explosive material which would reasonably be expected to cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;

"(iii) the minimum amounts, configurations, and types of explosive material which can cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;

"(iv) the amounts, configurations, and types of explosive material which can reliably be detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(v) the feasibility of employing various methods to minimize damage caused by explosive materials which cannot be reliably detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(vi) the ability to screen such different entities as passengers, carry-on baggage, checked baggage, mail, and cargo; and

"(vii) the technologies which might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the methods by which such technologies can be effectively countered.

"(C) USE OF RESULTS.—The results of such review shall be used by the Administrator in developing the focus and priorities of the program established under this paragraph.

"(D) DESIGN AND IMPLEMENTATION.—In designing and implementing the program established under this paragraph, the Administrator shall—

"(i) consult and coordinate with other Federal agencies conducting similar research;

"(ii) identify Federal agencies which would benefit from such research; and

"(iii) seek cost-sharing agreements with such Federal agencies.

"(4) PURPOSE.—It shall be the purpose of the program established under paragraph (3) to develop and have in place not later than 36 months after the date of the enactment of this paragraph such new equipment and procedures as are needed to meet the technological challenges presented by terrorism.

"(5) HUMAN FACTORS.—The program established under paragraph (3) shall include research and development of both technological improvements and ways to enhance human performance.

"(6) GRANTS AND COOPERATIVE AGREEMENTS.—Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants, to colleges, universities, and other appropriate research institutions and facilities with demonstrated ability to conduct research described in paragraph (3). Such grants shall be in such amounts, and subject to such terms and conditions, as the Administrator may prescribe. The Administrator may also enter into such cooperative agreements with such governmental entities as the Administrator considers appropriate.

"(7) REVIEW.—In administration of the program established under paragraph (3), the Administrator shall review and consider the annual reports of the Secretary of Transportation submitted to Congress on transportation security and intelligence.

"(8) SCIENTIFIC ADVISORY PANEL.—The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, for the purpose of reviewing, commenting on, and advising the Administrator on the progress of, and any necessary modifications to, the programs established under paragraph (3), including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

"(A) the development and testing of effective explosive-detection systems;

"(B) aircraft structure and experimentation to determine the type and minimum weights of explosives which an effective technology must be capable of detecting;

"(C) technologies involved in the minimization of airframe damage to aircraft from explosives; and

"(D) such other scientific and technical areas as are considered appropriate by the Administrator.

"(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Airport and Airway Trust Fund, after completion of the review required by paragraph (3)(B), such sums as may be necessary for the purpose of carrying out the grant program established by paragraph (6).".

SEC. 108. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 320. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

"(a) GENERAL RULE.—No deployment or purchase of any explosive detection equipment pursuant to section 108.7(b)(8) and 108.20 of title 14, Code of Federal Regulations, or any similar rule, shall be required after the date of the enactment of this section, unless the Administrator certifies that, based on the results of tests conducted pursuant to protocols developed in consultation with expert scientists from outside the Federal Aviation Administration, such equipment alone or as part of an integrated system can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft.

"(b) DEADLINE FOR COMPLETION OF TESTS.—The tests referred to be in subsection (a) shall completed not later than 18 months after the date of the enactment of this section.

"(c) LIMITED AUTHORITY FOR INTERIM DEPLOYMENT.—Before completion of the tests referred to in subsection (a), but in no event later than 18 months after the date of the enactment of this section, the Administrator may require the deployment of explosive detection equipment referred to in subsection (a) if the Administrator determines that such deployment shall significantly enhance aviation security. In making such determination, the Administrator shall take into consideration, but not be limited to, such factors as the ability of such equipment alone or as part of an integrated system to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives of a deployment decision made pursuant to this subsection.

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Administrator from purchasing or deploying explosive detection equipment referred to in subsection (a).".

SEC. 109. THREATS TO CIVIL AVIATION; PUBLIC NOTIFICATION.

(a) IN GENERAL.—Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 321. REPORTING OF THREATS TO CIVIL AVIATION.

"(a) IN GENERAL.—Pursuant to such guidelines as the Secretary of Transportation shall establish, an air carrier, airport operator, ticket agent, or individual employed by such an entity, receiving information, other than through a communication directed by the Federal Government, of a threat to civil aviation, shall promptly provide such information to the Secretary or the designee of the Secretary.

"(b) FLIGHT CANCELLATIONS.—In the event that a determination is made that a particular threat to civil aviation cannot be addressed in a manner adequate to ensure, to the extent feasible, the safety of the passengers and crew of a particular flight or series of flights, the Administrator shall order the cancellation of such flight or series of flights.

"(c) NOTIFICATION GUIDELINES.—

"(1) PUBLIC NOTIFICATION GUIDELINES.—Not later than 180 days after the date of the enactment of this section, the President shall develop guidelines for ensuring notification to the public of threats to civil aviation in appropriate cases.

"(2) FLIGHT AND CABIN CREW NOTIFICATION GUIDELINES.—Not later than 180 days after the date of the enactment of this section, the Administrator shall develop guidelines for ensuring notification of the flight and cabin crews of an air carrier flight of threats to the security of such flight in appropriate cases.

"(d) RESPONSIBILITIES.—The guidelines developed under subsection (c)(1) shall identify officials responsible for—

"(1) determining, on a case-by-case basis, if public notification of a threat is in the best interest of the United States and the traveling public;

"(2) ensuring that public notification, when considered appropriate, is made in a timely and effective manner, including the use of a toll-free telephone number; and

"(3) canceling the departure of a flight or series of flights under subsection (b).

"(e) CRITERIA.—The guidelines developed pursuant to subsection (c)(1) shall provide for the consideration of—

"(1) the specificity of the threat;

"(2) the credibility of intelligence information related to the threat;

"(3) the ability to effectively counter the threat;

"(4) the protection of intelligence information sources and methods;

"(5) cancellation, by an air carrier or the Administrator, of a flight or series of flights instead of public notification;

"(6) the ability of passengers and crew to take steps to reduce the risk to their safety as a result of any notification; and

"(7) such other factors as the Administrator considers appropriate.

"(f) SELECTIVE NOTIFICATION PROHIBITED.—In no event shall there be notification of a threat to civil aviation to only selective potential travelers unless such threat applies only to them.

"(g) DISTRIBUTION.—The guidelines developed pursuant to subsection (c) shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

"(h) ACCESS TO INFORMATION.—The Administrator, in cooperation with agencies involved in the collection, receipt, and analysis of intelligence information relating to aviation security, shall develop procedures to minimize the number of individuals having access to threat information. Any restrictions adopted pursuant to this subsection shall not diminish the ability of the Federal Government to effectively discharge its responsibilities relating to aviation security, including notification of the public and flight and cabin crews under subsection (c).".

(b) CONFORMING AMENDMENTS TO TABLE OF CONTENTS.—The portion of the table of con-

tents contained in the first section of the Federal Aviation Act of 1958 relating to title III of such Act is amended by inserting after the item relating to section 317 the following new items:

"Sec. 318. Assistant Administrator of Civil Aviation Security.
"(a) Establishment of position.
"(b) Authority of Administrator.
"(c) Responsibilities.
"(d) Measures to strengthen air transportation security.
"Sec. 319. Federal Security Managers and Foreign Security Liaison Officers.
"(a) Federal Security Managers.
"(b) Foreign Security Liaison Officers.
"(c) Long-term implementation plan.
"Sec. 320. Deployment of explosive detection equipment.
"Sec. 321. Reporting of threats to civil aviation.
"(a) In general.
"(b) Flight cancellations.
"(c) Notification guidelines.
"(d) Responsibilities.
"(e) Criteria.
"(f) Selective notification prohibited.
"(g) Distribution.
"(h) Access to information.".

SEC. 110. AIRPORT CONSTRUCTION GUIDELINES.

(a) IN GENERAL.—Section 612 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1432) is amended by adding at the end the following new subsection:

"(d) AIRPORT CONSTRUCTION GUIDELINES.—The Administrator, in consultation with airport authorities, air carriers, and such others as the Administrator considers appropriate, shall develop guidelines for airport design and construction to allow for maximum security enhancement.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 612. Airport operating certificates."

is amended by adding at the end thereof the following:

"(d) Airport construction guidelines.".

SEC. 111. INTELLIGENCE.

(a) INTERNATIONAL TERRORISM REPORTING.—Not later than 180 days after the date of the enactment of this Act, the heads of the agencies of the intelligence community shall promulgate policies and procedures to ensure that intelligence reports concerning international terrorism are made available, as appropriate, to other members of the intelligence community, the Department of Transportation, and the Federal Aviation Administration.

(b) STRATEGIC PLANNING.—The intelligence community shall consider placing greater emphasis on strategic intelligence efforts through the establishment of a unit for strategic planning concerning terrorism.

(c) CENTRAL INTELLIGENCE AGENCY LIAISON.—At the request of the Secretary of Transportation, the Director of Central Intelligence shall designate not less than one intelligence officer of the Central Intelligence Agency to serve in a senior staff position in the Office of the Secretary of the Department of Transportation.

(d) REVIEW OF MEMORANDUMS OF UNDERSTANDING.—Not later than 180 days after the date of the enactment of this Act, the intelligence community, the Department of Transportation, and the Federal Aviation Administration shall conduct a review of and, as appropriate, revise all memorandums of understanding and other written working agreements between the intelligence community and the Federal Aviation Administration.

(e) INTELLIGENCE COMMUNITY.—For purposes of this section, the term "intelligence community" means the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

SEC. 112. SCREENING OF MAIL AND CARGO.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine whether additional requirements should be imposed to enhance the security requirements for the transportation of mail and cargo by passenger aircraft.

(b) FACTORS.—In conducting the study under this section, the Administrator shall consider, among other things—

(1) the extent to which it is practicable to require for mail and cargo the same screening procedures as are required for checked baggage;
(2) constitutional limitations on the authority of the United States Government to screen mail;
(3) existing and reasonably anticipated explosive detection technologies capable of screening mail and cargo;
(4) the variation in threat presented by mail and cargo from various locations;
(5) the use of inspection procedures specific to mail and cargo;
(6) the protection, to the extent possible, of the privacy of the senders and recipients of mail;
(7) precise detection of explosive materials which can cause catastrophic damage to commercial aircraft; and
(8) the desirability of not unduly delaying the delivery of mail and cargo.

(c) CONSULTATION REQUIREMENT.—In conducting the study under this section, the Administrator shall consult with the Postmaster General, the Secretary of Defense, and other interested persons.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under this section, together with such legislative and administrative recommendations as the Administrator considers appropriate.

TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD

SEC. 201. INTERNATIONAL NEGOTIATIONS CONCERNING AVIATION SECURITY.

(a) UNITED STATES POLICY.—It is the policy of the United States—

(1) to seek bilateral agreements to achieve United States aviation security objectives with foreign governments;
(2) to continue to press vigorously for security improvements through the Foreign Airport Security Act and the foreign airport assessment program; and
(3) to continue to work through the International Civil Aviation Organization to improve aviation security internationally.

(b) NEGOTIATIONS FOR AVIATION SECURITY.—(1) The Department of State, in consultation with the Department of Transportation, shall be responsible for negotiating requisite aviation security agreements with foreign governments concerning the implementation of United States rules and regulations which affect the foreign operations of United States air carriers, foreign air carriers, and foreign international airports. The Secretary of State is directed to enter, expeditiously, into negotiations for bilateral and multilateral agreements—

(A) for enhanced aviation security objectives;
(B) to implement the Foreign Airport Security Act and the foreign airport assessment program to the fullest extent practicable; and
(C) to achieve improved availability of passenger manifest information.

(2) A principal objective of bilateral and multilateral negotiations with foreign governments and the International Civil Aviation Organization shall be improved availability of passenger manifest information.

SEC. 202. COORDINATOR FOR COUNTERTERRORISM.

The Coordinator for Counterterrorism shall be responsible for the coordination of international aviation security for the Department of State.

SEC. 203. PASSENGER MANIFEST.

(a) MANDATORY AVAILABILITY OF PASSENGER MANIFEST.—Section 410 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1380) is amended to read as follows:

"SEC. 410. PASSENGER MANIFEST.

"(a) REQUIREMENT.—Not later than 120 days after the date of the enactment of this section, the Secretary of Transportation shall require all United States air carriers to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State—

"(1) not later than 1 hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight; or
"(2) if it is not technologically feasible or reasonable to fulfill the requirement of this subsection within 1 hour, then as expeditiously as possible, but not later than 3 hours after such notification.

"(b) CONTENTS.—For purposes of this section, a passenger manifest should include the following information:

"(1) The full name of each passenger.
"(2) The passport number of each passenger, if required for travel.
"(3) The name and telephone number of a contact for each passenger.".

(b) IMPLEMENTATION.—In implementing the requirement pursuant to the amendment made by subsection (a) of this section, the Secretary of Transportation shall consider the necessity and feasibility of requiring United States carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to such requirement.

(c) FOREIGN AIR CARRIERS.—The Secretary of Transportation shall consider a requirement for foreign air carriers comparable to that imposed pursuant to the amendment made by subsection (a).

(d) INFORMATION FROM UNITED STATES PASSPORTS.—Notwithstanding any other provision of law, to the extent provided in ap-

propriation Acts, for each fiscal year not more than $5,000,000 in passport fees collected by the Department of State may be credited to a Department of State account. Amounts credited to such account shall be available only for the costs associated with the acquisition and production of machine-readable United States passports and visas and compatible reading equipment. Amounts credited to such account are authorized to remain available until expended.

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking the item relating to section 410 and inserting the following:

"Sec. 410. Passenger manifest.".

SEC. 204. DEPARTMENT OF STATE NOTIFICATION OF FAMILIES OF VICTIMS.

(a) DEPARTMENT OF STATE POLICY.—It is the policy of the Department of State pursuant to section 43 of the State Department Basic Authorities Act to directly and promptly notify the families of victims of aviation disasters abroad concerning citizens of the United States directly affected by such a disaster, including timely written notice. The Secretary of State shall ensure that such notification by the Department of State is carried out notwithstanding notification by any other person.

(b) DEPARTMENT OF STATE GUIDELINES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such regulations, guidelines, and circulars as are necessary to ensure that the policy under subsection (a) is fully implemented.

SEC. 205. DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON AND TOLL-FREE FAMILY COMMUNICATIONS SYSTEM.

(a) DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an aviation disaster directly involving United States citizens abroad, if possible, the Department of State will assign a specific individual, and an alternate, as the Department of State liaison for the family of each such citizen.

(b) TOLL-FREE COMMUNICATIONS SYSTEM.—In the establishment of the Department of State toll-free communications system to facilitate inquiries concerning the affect of any disaster abroad on United States citizens residing or traveling abroad, the Secretary of State shall ensure that a toll-free telephone number is reserved for the exclusive use of the families of citizens who have been determined to be directly involved in any such disaster.

SEC. 206. DISASTER TRAINING FOR STATE DEPARTMENT PERSONNEL.

(a) ADDITIONAL TRAINING.—The Secretary of State shall institute a supplemental program of training in disaster management for all consular officers.

(b) TRAINING IMPROVEMENTS.—

(1) In expanding the training program under subsection (a), the Secretary of State shall consult with death and bereavement counselors concerning the particular demands posed by aviation tragedies and terrorist activities.

(2) In providing such additional training under subsection (a) the Secretary of State shall consider supplementing the current training program through—

(A) providing specialized training to create a team of "disaster specialists" to deploy immediately in a crisis; or

(B) securing outside experts to be brought in during the initial phases to assist consular personnel.

SEC. 207. DEPARTMENT OF STATE RESPONSIBILITIES AND PROCEDURES AT INTERNATIONAL DISASTER SITE.

(a) DISPATCH OF SENIOR STATE DEPARTMENT OFFICIAL TO SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international disaster, particularly an aviation tragedy, directly involving significant numbers of United States citizens abroad not less than one senior officer from the Bureau of Consular Affairs of the Department of State shall be dispatched to the site of such disaster.

(b) CRITERIA FOR DEPARTMENT OF STATE STAFFING AT DISASTER SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate criteria for Department of State staffing of disaster sites abroad. Such criteria shall define responsibility for staffing decisions and shall consider the deployment of crisis teams under subsection (d). The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement criteria developed pursuant to this subsection.

(c) STATE DEPARTMENT OMBUDSMAN.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international aviation disaster involving significant numbers of United States citizens abroad not less than one officer or employee of the Department of State shall be dispatched to the disaster site to provide on-site assistance to families who may visit the site and to act as an ombudsman in matters involving the foreign local government authorities and social service agencies.

(d) CRISIS TEAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate procedures for the deployment of a "crisis team", which may include public affairs, forensic, and bereavement experts, to the site of any international disaster involving United States citizens abroad to augment in-country Embassy and consulate staff. The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement procedures developed pursuant to this subsection.

SEC. 208. RECOVERY AND DISPOSITION OF REMAINS AND PERSONAL EFFECTS.

It is the policy of the Department of State (pursuant to section 43 of the State Department Basic Authorities Act) to provide liaison with foreign governments and persons and with United States air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as the disposition of personal effects. The Secretary of State shall ensure that regulations and guidelines of the Department of State reflect such policy and that such assistance is rendered to the families of United States citizens who are killed in terrorist incidents and disasters abroad.

SEC. 209. ASSESSMENT OF LOCKERBIE EXPERIENCE.

(a) ASSESSMENT.—The Secretary of State shall compile an assessment of the Department of State response to the Pan American Airways Flight 103 aviation disaster over Lockerbie, Scotland, on December 21, 1988.

(b) GUIDELINES.—The Secretary of State shall establish, based on the assessment compiled under subsection (a) and other relevant factors, guidelines for future Department of State responses to comparable disasters and shall distribute such guidelines to all United States diplomatic and consular posts abroad.

SEC. 210. OFFICIAL DEPARTMENT OF STATE RECOGNITION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate guidelines for appropriate ceremonies or other official expressions of respect and support for the families of United States citizens who are killed through acts of terrorism abroad.

SEC. 211. UNITED STATES GOVERNMENT COMPENSATION FOR VICTIMS OF TERRORISM.

(a) COMPENSATION.—The President shall submit to the Congress, not later than one year after the date of the enactment of this Act, recommendations on whether or not legislation should be enacted to authorize the United States to provide monetary and tax relief as compensation to United States citizens who are victims of terrorism.

(b) BOARD.—The President may establish a board to develop criteria for compensation and to recommend changes to existing laws to establish a single comprehensive approach to victim compensation for terrorist acts.

(c) INCOME TAX BENEFIT FOR VICTIMS OF LOCKERBIE TERRORISM.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of any individual whose death was a direct result of the Pan American Airways Flight 103 terrorist disaster over Lockerbie, Scotland, on December 21, 1988, any tax imposed by subtitle A of the Internal Revenue Code of 1986 shall not apply—

(A) with respect to the taxable year which includes December 21, 1988, and (B) with respect to the prior taxable year.

(2) LIMITATION.—In no case may the tax benefit pursuant to paragraph (1) for any taxable year, for any individual, exceed an amount equal to 28 percent of the annual rate of basic pay at Level V of the Executive Schedule of the United States as of December 21, 1988.

SEC. 212. OVERSEAS SECURITY ELECTRONIC BULLETIN BOARD.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and regulations as may be necessary to establish, under the Bureau of Consular Affairs, an electronic bulletin board accessible to the general public. Such bulletin board shall contain all information, updated daily, which is available on the Overseas Security Electronic Bulletin Board of the Bureau of Diplomatic Security.

SEC. 213. ANTITERRORISM ASSISTANCE.

(a) AVIATION SECURITY.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $7,000,000 for fiscal year 1991 for aviation security assistance under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.), relating to antiterrorism assistance.

(b) TRAINING SERVICES.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa2) is amended in subsection (d) by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following new paragraphs:

"(1) Training services (including short term refresher training) provided pursuant to this chapter may be conducted outside the United States only if—

"(A) the training to be conducted outside the United States will be provided during a period of not more than 30 days;

"(B) such training relates to—

"(i) aviation security;

"(ii) crisis management;

"(iii) document screening techniques;

"(iv) facility security;

"(v) maritime security;

"(vi) VIP protection; or

"(vii) the handling of detector dogs, except that only short term refresher training may be provided under this clause; and

"(C) at least 15 days before such training is to begin, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in accordance with the procedures applicable to reprogramming notifications.

"(2) Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed 30 consecutive calendar days.

"(3)(A) Except as provided in subparagraph (B), employees of the Department of State shall not engage in the training of law enforcement personnel or the provision of services under this chapter.

"(B) Subparagraph (A) does not apply to training (including short term refresher training) or services provided to law enforcement personnel by employees of the Bureau of Diplomatic Security with regard to crisis management, facility security, or VIP protection.".

SEC. 214. ANTITERRORISM MEASURES.

(a) GUIDELINES FOR INTERNATIONAL AVIATION TRAVELERS.—For the purpose of notifying the public, the Secretary of State, in consultation with the Secretary of Transportation, shall develop and publish guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities. Notices concerning such guidelines shall be posted and prominently displayed domestically and abroad in international airports.

(b) DEVELOPMENT OF INTERNATIONAL STANDARDS.—The Secretary of State and the Secretary of Transportation in all appropriate fora, particularly talks and meetings related to international civil aviation, shall enter into negotiations with other nations for the establishment of international standards regarding guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities.

(c) PUBLICATION OF REWARDS FOR TERRORISM-RELATED INFORMATION.—For the purpose of notifying the public, the Secretary of State shall publish the availability of United States Government rewards for information on international terrorist-related activities, including rewards available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) and chapter 204 of title 18, United States Code. To the extent appropriate and feasible, notices making such publication shall be posted and prominently displayed domestically and abroad in international airports.

(d) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Transportation should take appropriate measures to utilize and train properly the officers and employees of other United States Government agencies who have functions at international airports in the United States and abroad in the detection of explosives and firearms which could be a threat to international civil aviation.

SEC. 215. PROPOSAL FOR CONSIDERATION BY THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Transportation, shall propose to the International Civil Aviation Organization the establishment of a comprehensive aviation security program which shall include (1) training for airport security personnel, (2) grants for security equipment acquisition for certain nations, and (3) expansion of the appropriate utilization of canine teams in the detection of explosive devices in all airport areas, including use in passenger screening areas and nonpublic baggage assembly and processing areas.

Mr. ANDERSON (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

Mr. HAMMERSCHMIDT. Reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from California, the chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Speaker, I rise in support of H.R. 5732, the Aviation Security Improvement Act of 1990. This bill has already passed the House unanimously under suspension, on October 1. The version before us, which passed the Senate unanimously yesterday, is substantially the same. The Secretary of Transportation has advised that he will recommend that the President sign the bill.

The Aviation Security Improvement Act is patterned on the recommendations of the President's Commission on Aviation Security and Terrorism, which was created at the urging and insistence of the families of the victims of Pan Am 103, the airliner destroyed by a terrorist bomb on December 21, 1988. This bill, like the Commission's report, is a lasting memorial to those innocent victims of terrorism, and to the determination and commitment of their loved ones.

The Commission made 64 concrete recommendations to improve United States and international aviation security. This bill will assure that most of those recommendations are carried out.

The bill strengthens and elevates security up and down the line, within the Department of Transportation, the Federal Aviation Administration, and at United States and foreign airports where U.S. airlines fly. It creates a new Director of Intelligence and Security directly responsible to the Secretary of Transportation and an Assistant Administrator for Civil Aviation Security directly responsible to the FAA Administrator. It would also position new Federal security managers in major airports here and abroad, to oversee airport and air carry security procedures.

The bill also establishes a process for notifying the public, under certain circumstances, of terrorist threats to aviation.

Mr. Speaker, this is a good bill, a strong bill and one that has the support of the families of the victims of Pan Am 103. It will help safeguard international civil aviation from future cowardly attacks on innocent passengers and crew members. It has passed the House and the Senate unanimously, and I strongly urge my colleagues to pass it once again, and send it to the President for signature.

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I rise in strong support of H.R. 5732, as amended, the Aviation Security Improvement Act of 1990.

We have been down a very long road since the tragic bombing of Pan Am 103 over Lockerbie, Scotland. For all of my colleagues who have worked so hard on ensuring the passage of this bill, I wish to express my sincere gratitude. As for the many family members who, in the wake of their personal losses and tremendous grief, remained diligent and worked so constructively to facilitate the passage of this bill, we not only express our sincere appreciation but also owe a debt of gratitude. I especially would like to thank my own constituent, Viki Cummock, who is here today in Washington as she has been so many times, to work with the executive branch, the McLaughlin Commission and the Congress to keep the process moving, she has made a tremendous mark on us all. Viki, we thank you. Citizen participation does work.

In Monday's edition of USA Today, a major article on aviation security said of the bill before us today, "Airport security will get much tighter if a bill working its way through Congress become law." The article goes on to state that, "Most important to passengers, everyone must be warned about terrorist or bomb threats" I fully agree with this analysis. The Aviation Security Act of 1990 will make a difference. It will change the prevailing business as usual attitude toward aviation security and I believe that this bill will result in the upgrading avia-

tion security and will enhance the protection of the traveling public.

There is one area in this bill which I would like specifically to address; that is the provision which would require foreign air carriers to implement higher security standards. In other words, the bill promotes a level playing field. During the course of negotiations with the Senate and with the executive branch on this bill, a number of provisions were modified in order to accommodate the concerns of various parties. The provision concerning security standards of foreign air carriers was modified at the request of the executive branch.

The language in H.R. 5732 now requires similar rather than the same level of security standards required of foreign air carriers serving U.S. routes. I am not entirely satisfied with this change but I want to make the record absolutely clear. The U.S. Congress fully expects the Department of Transportation to require enhanced security standards of foreign air carriers. We recognize that not all countries or airlines have the same level of technology or equipment or for that matter trained security personnel, but most do. We expect our allies to join with us to immediately enhance aviation security standards. When a country cannot for some reason, another provision of this bill which provides antiterrorism aviation security training and equipment can provide assistance to these foreign governments to assist in upgrading their security standard. The bottom line is that we expect foreign air carriers to implement upgraded security procedures which will provide the same level of protection to the traveling public.

Given the administration's assessment that there is currently a high threat of terrorism which includes civil aviation as a result of the crisis in the Persian Gulf, we should not accept any less than the highest security standards possible.

Saddam Hussein is actively working with his legions of terrorist surrogates actively planning terrorist attacks which may target airlines, airport, commercial establishment in Europe and the Middle East.

Support this bill unanimously. It will make a difference.

I would like to also include in the RECORD, the following communication from my constituent Viki Cummock.

Mr. Speaker, I would like to also submit a recent article written by Mrs. Cummock on the issue of the need to ratify the Montreal Protocol.

Dear Mr. Chairman: I would like you to submit the following statement on my behalf and that of my three small children, Christopher, Matthew and Ashley, who lost their father and husband John when Pan Am 103 exploded over Lockerbie, Scotland on December 21, 1988.

The passing of the 1990 Aviation Security legislation, providing better aviation security, for all Americans, is a tribute to the 259 passengers and crew members that perished aboard Pan Am ±103 and will be a part of their legacy.

I want to thank some key people who stood by our side and helped us to learn the Lockerbie lesson by analyzing what happened in terms of security before, during and after the bombing of Pan Am #103. They joined us in our goal to enhance aviation security and crisis management for all the 37 million American international air travelers.

My heartfelt thanks goes to Congressman Jim Oberstar, Chairman of the Aviation Subcommittee, and his staff members Caroline Gable, David Heymsfeld and David Traynham. For their tireless work on the President's Commission on Aviation Security and Terrorism and the various aviation subcommittee hearings not only on the bombing of Pan Am #103 but on international aviation security in general. It was their thorough analysis and vast expertise in aviation prompted much of this substantive legislation.

Also for all the support in the Senate passage of this badly needed legislation by Majority Leader Mitchell and Minority Leader Dole along with their staff members Bob Corolla and Jim Whittinghill; the Members of the President's Commission on Aviation Security and Terrorism, Secretary of Transportation Skinner and his staff Gaylen Reeser, Jeff Shane, Betty Monroe and Ken Quinn.

Most importantly to you Chairman Fascell and your staff member Toni Verstandig for caring enough not only about one of your Florida constituents but for all Americans who fly internationally. Your efforts that all the issues regarding the State Department's crisis management were heard, reviewed and addressed, by both the Committee on Foreign Affairs and the President's Commission on Aviation Security and Terrorism. It was your relentless support that prompted much of this legislation for better crisis management on the part of the airlines and the Department of State.

I applaud all our legislators efforts in allowing our American system of government to work for the people, by the people. You have allowed me and the other family members the privilege of playing a part in enhancing this country's aviation security system and aviation crisis management.

VIKI CUMMOCK.

INTERNATIONAL FLYERS' LIVES WORTH ONLY $75,000

(By Victoria Cummock)

There seems to be a major misconception among Americans international air passengers and crew members that if a plane goes down—for any reason—quick and adequate compensation will be made to the victims' families.

The sad truth of the matter is that compensation for international air disasters is limited by an outdated treaty ratified in 1929—The Warsaw Convention. American citizens killed or injured flying to or from the United States have just two choices: to accept $75,000 or to prove willful misconduct, on the part of the airline, (which involves an average of 7 to 10 years of costly and emotionally painful litigation.) Interestingly, if your family member died on a domestic flight, or if they died abroad any other form of public transportation (such as a bus or train), the burden of providing willful misconduct does not apply. Willful misconduct in international aviation has only been proven nine times in the past 60 years.

During the past five administrations, the U.S. Senate has been repeatedly asked to ratify the Montreal Protocol, with the Supplemental Compensation Plan, replacing the outdated Warsaw Convention. Specifically, the new treaty would require the airlines to immediately compensate victims $130,000 per incident, without having to prove fault on the part of the airline. Further, the Supplemental Compensation Plan would provide unlimited economic and non-economic compensation, depending on each victim's long-term financial loss, up to $500 million per plane per accident. If the offer of money damages is not adequate or swift enough, you still maintain your right to sue in court. The additional cost per ticket would be $2 to $3 per passenger.

So why haven't our legislators ratified the new treaty? Politics.

Although President Bush, the Department of Transportation, the President's Commission on Aviation Security and Terrorism, the General Accounting Office, all internatinal and domestic airlines, all air passenger groups, air victims groups and the American Bar Association support ratification, there is a very strong opposition by the Trial Lawyers Association. The Trial Lawyers' strategy is to make sure the Montreal Protocols do not go to the Senate floor for a vote during this congressional calendar.

The 101st Congress will adjourn during the next three to four weeks. If the Montreal Protocols are not put up for a vote, it is not clear when—if ever—this critically-needed new treaty will come into force. With the Mid East crisis, there is a very real and potentially deadly threat that exists to the 37 million air travelers flying to and from this country on American or foreign carriers (including those in the armed services flown on commercial passenger carriers to their bases overseas.) International air disasters will occur. Planes crash due to mechanical or structural reasons, pilot error, acts of God, or terrorist bombs. Planes are shot down by error or design, such as the KAL 007 flight.

On December 21, 1988, my husband, John, was in London on business. He boarded Pan Am flight 103 to New York, which exploded and killed all 270 passengers. I was left to raise alone and financially support three small children: Ashley, 2 years old; Matthew, 4 years, and Christopher, 6 years. It was then that I found out that John's life, and the lives of all those who perished, were valued only at $75,000 because of the outdated Warsaw Convention. None of the victims' families have received any compensation through the current American court system. Even more tragic are the KAL 007 victims' families still stuck in the court system after more than seven years of the appeal process. * * * States accidentally shot down that plane. It seems our lawmakers place a greater-than-$75,000-value on an Iranian life and are willing to go the extra mile to ensure that Iranian victims' families get swift and adequate compensation. There was no reason for the Trial Lawyers Association to get involved in the Iranian airbus disaster, so settlement was quick and adequate.

The ratification of the Montreal Protocols with Supplement Compensation Plan will not help the Pan Am 103 or the KAL 007 victims' families or any current international air disaster cases. We have been sentenced to endure the years of emotional and financial hardship based on current limits.

It is time for the U.S. Senate to act responsibly on behalf of Americans citizens who travel abroad by supporting the Montreal Protocols. Opportunity to guarantee certain, speedy and full compensation for future disasters is at hand; a change in the current system is long overdue.

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from Minnesota [Mr. OBERSTAR], the chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation, a gentleman with whom I had the pleasure to serve on the President's Commission on Aviation Security and Terrorism, along with other distinguished individuals.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it is ironic indeed that we operate under these constraints of time to conclude a measure of such monumental importance, but indeed again it is fitting that we do so in a reflection upon the work of the Presidential Commission and of the two committees, Foreign Affairs and Public Works, to have brought this bill so successfully through a very long and tortuous process, but we can indeed conclude it in this very perfunctory manner.

I do want to take this opportunity to express my appreciation to my colleague on the subcommittee, the gentleman from Pennsylvania [Mr. CLINGER] who has worked diligently and given enormous amounts of time and effort and thoughtful input to craft this bill as the fine piece of legislation it is.

In conclusion, Mr. Speaker, this is a monumental piece of legislation. It will move us forward to a real position of strong security for our fellow citizens traveling abroad.

I want to thank my colleague, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] who served with me on the Presidential Commission and whose diplomatic movement and thought and input helped make that Commission's work a fine and successful effort.

Mr. Speaker, the bill before us, H.R. 5732, the Aviation Security Improvement Act, and the President's Commission on Aviation Security and Terrorism which preceded it, would not have happened without the determination and dedication of the families of the victims of Pan Am 103. It has become my own personal commitment as well.

I considered it an honor to be designated by Speaker FOLEY to serve on the President's Commission because, as chairman of the Subcommittee on Aviation, I would be in a good position to take whatever legislative action the Commission might recommend.

My determination to put those recommendations into statute was formed by the Commission's finding that Pan Am 103 may have been preventable—if the FAA and Pan Am had adhered to the standards and practices in existence on December 21, 1988. It was solidified when we found it took FAA 9 months after the tragedy to correct the conditions which may have permitted the Nation's worst aviation terrorism act to happen. This legislation is necessary as a means to hold the agency accountable to the Congress and the American people for its performance.

With the support of the families of the victims of Pan Am 103, I have been able to guide this bill through subcommittee, full committee and the House floor, where it passed unanimously under suspension.

Following House passage, the House, Senate, and the administration, which has consistently opposed the bill, met in intensive sessions to reach agreement on a final product.

The bill before us today is substantially the same as that which passed the House on October 1, although it does contain certain changes negotiated out between the House, the Senate, and the administration.

In two important respects, however, it differs from the House intent. These were agreed to by the Senate, without the concurrence of the House, as the price of lifting the administration's opposition to it. There is no opportunity to amend the bill at this late date, but I want to make the House intent clear.

The first provision deals with foreign air carriers. The Commission, and the House, are concerned that other countries' airlines may not provide the same level of security as is required by the FAA. The Commission recommended, and the House bill requires, that those American passengers—and citizens of other countries—who fly to and from the United States on foreign air carriers should be afforded the same level of protection as is provided to those who fly on U.S. airlines.

The Senate, at the insistence of the administration, changed the provision to require that foreign carriers only provide a similar level of protection.

It is the intent of the House that passengers on foreign airlines—U.S. citizens as well as citizens of other countries—be afforded the highest level of protection attainable. In administering this provision, the FAA must not discriminate against those passengers who choose to fly other airlines. This interpretation of the legislation is fair to U.S. carriers, and fair to the passengers and crews whose lives may be at stake.

The second provision deals with technology to detect electronic explosive devices of the type which destroyed Pan Am 103. The Commission found that the technology FAA has selected for demonstration at several airports is currently incapable of detecting the very small amount of plastic explosive hidden in a radio cassette recorder aboard Pan Am 103, without causing an unacceptable number of false alarms. Yet the FAA has regulations in place permitting it to require the airlines to buy these machines, at about $1 million per copy. The Commission, and the House, believe that this equipment should work before the airlines are required to buy it. The House bill required that detection equipment pass certain tests prior to deployment. However, at the administration's insistence the Senate amended this provision to permit FAA to require deployment of this technology prior to testing.

Again, it is too late to revise this legislation. However, the emphatic intent of the House, in passing the provision as it stands, is that the FAA provide Congress ample notification prior to requiring airlines to purchase this equipment; and that whatever equipment is required, alone or as part of an integrated system, be able to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft.

This is no academic matter. Widespread deployment of an ineffective technology would delude the flying public into thinking they were safe. Once airlines have been required to invest heavily in one expensive technology, they will be reluctant to replace that technology, no matter how much improved a newer technology may be. And, flooding the market with one technology could well discourage the development of other technologies.

Following House passage, the bill will go to the President for signature. It will then be the administration's responsibility to carry it out, and to exert the fresh new spirit of vigilant enforcement demanded by the Commission and this bill. I want to commend Transportation Secretary Samuel K. Skinner and FAA Administrator James B. Busey for the steps they have already taken to implement the Commission's recommendations; and pledge my support for their work.

I also want to pledge this subcommittee chairman's intent to exercise vigorous oversight, and to hold them and their agencies accountable for implementing the bill.

I have one final note of tribute to pay, to the people of Lockerbie, Scotland, the small town which lost 11 of its own citizens when Pan Am 103 fell from the sky. The President's Commission on Aviation Security and Terrorism visited Lockerbie last February as part of our factfinding mission, following the route of the ill-fated plane from Frankfurt to London to its descent upon Lockerbie. The people of this small town rose to the height of heroism, hosting a mass of investigators and press corps, succoring the families of the victims, and tending their own community wounds.

I was deeply moved by the memorial they had erected to the victims, in a quiet garden setting. I was also touched by the way they collected, washed, tenderly folded and preserved the clothing, cameras and other possessions of the victims. Saddest of all were the children's toys and the Christmas gifts which fell on their community and across an 800-square-mile swath across Scotland. The people of Lockerbie stored the clothing, toys, and gifts, safe from the elements, arranged on shelves, ready to be claimed by relatives of the victims.

Rising from one of the world's most cowardly and infamous strikes at innocents, is the love and caring of the people of Lockerbie, who had heroism thrust upon them, and rose to the challenge.

Like the families of the victims of Pan Am 103, who have spent countless hours and their own resources in the quest to make the airways safer from terrorism, the people of Lockerbie deserve the tribute of the American people.

Mrs. COLLINS. Mr. Speaker, today's vote in support of improved aviation security is made even more critical in light of the current activities in other parts of the world. The assassins once again have started crawling out from under their rocks to receive their marching orders. Again we are hearing those same terrorist threats to victimize and murder Americans. We must not let them succeed.

While American troops are standing alert in the Middle East as a desert shield against the threat of Saddam Hussein and his supporters, we must act to construct yet another kind of shield against Saddam's emissaries of terror and all others whose aim is to coldly and horribly end the lives of innocent human beings. One year ago, my Government Operations Subcommittee, after many months of investigation, held a series of hearings on the terrorist bombing of Pan Am Flight 103 that took 270 lives. Our hearings took a critical look at American aviation security. During the investigation, and through 3 days of hearings, including two executive sessions, we were appalled as we became aware of significant security lapses in our system. The subcommittee concluded that American aviation security functions must be vastly upgraded throughout the aviation industry, and that the FAA's regulatory and oversight role is key to bringing this about. Our national security system must begin to meet the challenges that face us in today's world of sophisticated terrorist attacks.

We cannot afford to relax our efforts. I recall the testimony of one of our witnesses at the Pan Am 103 hearing. He said the terrorist only has to be lucky once to achieve his purpose, that is the destruction of an airliner in flight. He quoted a terrorist who said after the Brighton, England, bombing that almost killed Prime Minister Margaret Thatcher, "we only have to get lucky once. She has to be lucky every time."

We in the United States must stop relying on luck and build a security system that protects U.S. civil aviation. Saddam Hussein himself only 1 week before he ordered troops into Kuwait, bragged about how vulnerable Americans are to attack.

We realize that providing security for the flying public is a formidable task. Yet, we can and must initiate and vigorously enforce security measures that demonstrate a "zero" tolerance for security lapses. This is a shared responsibility with the airline industry, airport operators, and American and foreign governments.

It is true that the FAA has initiated a number of reforms in the wake of the Pan Am tragedy and the report by the President's Commission. But, unfortunately and sadly, these were reactive responses and while I commend Secretary Skinner and FAA Administrator James Busey for their actions thus far, I strongly believe it is important to support these changes and others in the law, so that we have done everything possible to make certain other families do not have to live with a tragedy such as happened on December 21, 1988, in the skies over Lockerbie, Scotland.

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Oklahoma [Mr. INHOFE] a member of our Subcommittee on Aviation of the Committee on Public Works and Transportation.

Mr. INHOFE. Mr. Speaker, I thank the gentleman for yielding to me.

First of all, let me say I rise in support of this bill; however, like any good bill, this could have been a better bill. We debated it at some length during the consideration in the Aviation Subcommittee as well as in the Committee on Public Works and Transportation on the provision of the death penalty in changing the current law to take away the election of either life imprisonment or the death penalty and making a mandatory death penalty.

It is my understanding that the Senate bill did not do that and did not address that.

I would like, of course, to serve notice that we will work on this in the future. There has always been a lot of discussion about Pan Am 103, but there is also TWA 847, where the great torture death of one of our Navy Seals took place.

I feel very strongly that we should have a mandatory death penalty, particularly at a time when we are living in an environment where Saddam Hussein has made the point that they are giving the death penalty to people even who are just harboring foreigners. So I think this is the very least that we can do to approach this, and perhaps have to do it the next session.

As I say, I rise in support of this bill. I think it would have been better had we been successful in getting the death penalty in.

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I appreciate the gentleman's concern, and in fact, supported his view in our committee.

Mr. Speaker, the bill before us now implements the recommendations of the President's Commission on Aviation Security and Terrorism. This Commission was established to investigate terrorism against airlines, particularly the destruction of Pan Am 103. Its mission was to make recommendations designed to prevent similar tragedies from happening again.

Together with former Secretary of Labor Ann McLaughlin, our Aviation Subcommittee chairman JIM OBERSTAR, Senators LAUTENBERG and D'AMATO, and other distinguished individuals, I was proud to serve on that Commission.

This Commission spent many months examining the events that precede the bombing of Pan Am 103. We examined the shortcomings of our aviation security system and ways to make it better. As a result of our efforts, several significant recommendations were made to improve aviation security. These recommendations are embodied in H.R. 5732, the bill before us now.

H.R. 5732, and its predecessor H.R. 5200, were fully considered by the Public Works and Transportation Committee and by the Foreign Affairs Committee. As a result of our efforts, the bill sets forth several new approaches to deal with the terrorist threat.

For example, the bill would require: The establishment of a new Director for Civil Aviation Security within DOT; the placement of Federal security managers at each high-risk airport; background investigators of airport and airline employees; expedited research on new technologies, procedures, and human factors to counter terrorism; new procedures to deal with bomb threats that would prohibit selective notification of such threats; and a study to consider the screening of personal mail.

As a member of the President's Commission on Aviation Security and Terrorism, I support this bill because it implements the Commission's recommendations. It is very similar to the bill that the House passed on October 1. It is back before us now because the Senate made a few changes when it passed that body on Tuesday. But those changes do not do any great violence to the House-passed version and should not deter us from passing this bill again and moving it to the President's desk so that he can sign it to law.

It should be noted that the families of the victims of the bombing of Pan Am 103 have worked long and hard to help get this legislation enacted into law. This bill is really a tribute to their hard work and a monument to their loved ones who died in that tragedy. Despite some initial problems, I believe the administration now supports this effort as well.

In short, H.R. 5732 enjoys widespread support and should help to improve the safety and security of air travelers. I urge its passage by the House.

Mr. BROOMFIELD. Mr. Speaker, I would like to commend the good work of Congressmen OBERSTAR and HAMMERSCHMIDT of the Public Works and Transportation Committee in crafting the Aviation Security Improvement Act of 1990. I also want to salute Chairman FASCELL for his leadership on this issue. In addition, special recognition must go to Senators LAUTENBERG and D'AMATO for their commitment to strengthened aviation security.

This legislation embodies the thoughtful recommendations of the President's Commission on Aviation Security, which was established following the Pan Am 103 disaster. Let me also mention that, without the constructive involvment of the families of the Pam Am 103 victims, we might not be considering this important legislation today.

This bill passed the House in early October and was amended in the Senate. Much progress has been made in addressing the administration's concerns about some of the

language in the original version of the legislation.

We have learned many lessons from the 1988 Lockerbie tragedy. We must profit from those lessons and ensure that a terrorist attack on U.S. aviation does not happen again. This bill is a tribute to those who died in that terrible incident. We can honor those who perished by ensuring that the provisions of this future law are fully and honestly complied with.

Unfortunately, terrorism is still with us, and U.S. aviation remains an attractive target for international terrorist operatives. Recent threats from Baghdad and reports of renewed Iraqi support of terrorists are grim reminders that we must maintain the strictest aviation security standards. U.S. airline passengers deserve no less.

I urge my colleagues to join me in supporting this improved legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HEFNER). Is there objection to the initial request of the gentleman from California [Mr. ANDERSON]?

There was no objection.

A motion to reconsider was laid on the table.

□ 1900

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to the bill just adopted.

The SPEAKER pro tempore (Mr. HEFNER). Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5803, DEPARTMENT OF DEFENSE APPROPRIATION, 1991

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, October 24, 1990, to file a conference report on the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4739, DEPARTMENT OF DEFENSE APPROPRIATION, 1991 AND AGAINST ITS CONSIDERATION

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 521 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 521

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 4739) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] pending which I yield myself such time as I may consume.

Mr. Speaker, the conference agreement on the fiscal year 1991 defense authorization, H.R. 4739, provides $288 billion for defense programs in the coming year, and reflects the amount agreed to in the budget resolution adopted earlier this month.

House Resolution 521 waives all points of order against the defense authorization conference report and against its consideration. It also provides that the conference report be considered as having been read.

As we urgently try to wrap up the business of this Congress, it is important that we expedite the procedures for consideration of legislation.

I urge my colleagues to support House Resolution 521.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this rule because it waives all points of order against consideration of this conference report and all points of order against the conference report itself.

This rule is hardly any different from the blanket waivers we have become accustomed to seeing around here lately, so much so in fact that I am wondering why we even make the pretense of having any kind of rule book around here at all. As I have said before, there is an operating principle around here which says there isn't a House rule we can't ignore, and there isn't a House precedent we can't overturn when the expedience of the moment so dictates.

The problem with these blanket waivers is simply the fact that they serve to cover up some kind of deficiency in the conference report or the process. By spreading the smokescreen wide enough, so the theory goes, specific problems can really be obscured.

My particular objection to this rule concerns the waiver of points of order against consideration of the conference report—and, specifically, the waiver of the 3-day layover rule. If there has ever been a time when that rule needs to be observed, surely it is right now.

Here we are confronted with a gigantic conference report on the defense authorization bill. This conference report added up to, I think, over 1,700 pages when it was stacked on my desk up in the Rules Committee. It weighed 14½ pounds, so you can imagine how tall the stack was. This conference report was prepared largely in secret. House Republican conferees were excluded from any meaningful participation in the process. And the Democratic conferees signed it before any number of issues had even been resolved. That just is not right.

The only thing serving to keep even a modest element of decency in the whole process was the administration's veto threat. But here we are, rushing it to the floor—all rules waived. There is absolutely no reason why the 3-day rule could not have been observed in this case. Does any Member honestly believe the House will have wrapped up its business for this session before Friday?

I think we are going to go up to the Rules Committee in a minute and probably adopt a CR which is going to carry us through next Saturday or Sunday or Monday or God knows when.

Mr. Speaker, it's this constant trashing of the process that has me and so many other Members concerned about the very future of this institution, the House of Representatives. Frankly, I am convinced that the relationship between the corruption of the congressional budget process and the Democrat leadership's trashing of the rules and precedents of the House is a lot more than coincidental; it is part and parcel of the whole thing.

So I cannot, in good conscience, ask the Members to support this rule.

At the very least, the 3-day layover rule should be kept intact for consideration of this particular conference report. Otherwise, by approving this rule in its present form, Members will merely become accessories to the ongoing debauchery of the rules and precedents of this House.

The rule really should be defeated.

Before I reserve the balance of my time, I do want to pay some tribute certainly to LES ASPIN, who is the chairman of the full committee, and BILL DICKINSON, because they certainly do yeoman work even though we may not agree with them at times.

They really do a good job, and we commend them for it.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. I thank the gentleman for yielding time to me.

Mr. Speaker, this conference report contains the authorization for the DOD portion of funding for the National Aerospace Plane Program.

The administration requested $158 million for fiscal year 1991, and the House authorized $158 million. The other body, however, authorized zero, and the conference agreed upon a paltry $119 million.

Mr. Speaker, I am pleased there is money for the National Aerospace Plane Program in this report. But, once again, I am not pleased at it level.

As I have said recently, on the occasion of this House's consideration of the VA, HUD, and independent agencies conference report, I feel that my support of the NASP Program is totally consistent with my fiscal conservatism. There is no one who more carefully watches the use of Federal dollars than myself.

NASP is a prudent, inexpensive investment in our country's aerospace future; it will have incredible economic payback to our country. It is vital if we are to remain the No. 1 aerospace power in the world. The completion of the NASP Program means simply the health or the demise of our Nation's aerospace industry.

Mr. Speaker, this Nation's aerospace industry is one of the few American industries which still exports products; it is an American industry that directly helps our balance of payments and is essential to our national economic well-being. If we are to remain a real power in this new, post-cold-war world, then we must assure that our aerospace industry remains healthy and predominant.

Mr. Speaker, the administration request for NASP was $158 million. In the shadow of a $254-billion defense budget, which contains an authorization of almost a billion for the MX missile program, this is a small figure and a small request. It is truly a small request when one contemplates what this country will reap from this prudent, inexpensive investment. From the small acorn of the NASP Program will grow technologies and vehicles that will revolutionize this Nation's civilian space activities and its defense capabilities.

Mr. Speaker, I am happy there is money for NASP in this bill. I would be much happier if the other body had seen fit to fund the program at the level requested. Let us commit ourselves to policies and funding that will not just get us beyond today's budget crunch but ensure America's prosperity and peace tomorrow.

□ 1910

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. DICKINSON], the ranking Republican of the Committee on Armed Services.

Mr. DICKINSON. Mr. Speaker, I am rising in opposition to the rule. I would hope that my rising in opposition might have some effect. It is not just a perfunctory gesture, because I genuinely feel that the minority is not being protected, that the Members of the House that are being called to vote on this conference report have not the vaguest idea of what is in the report. The members of the committee do not know what is in the report. The members of the Committee on Rules do not know what is in the report.

Mr. Speaker, the conference report that was filed yesterday that I hold in my hand is 1,679 pages long. It weighs 14 pounds, 11 ounces. It authorizes approximately 25 percent of the total Federal budget, and nobody knows for sure what is in it.

Despite the size and complexity of this conference report, the Committee on Rules was considering a rule within 2 hours after the conference report was filed. Nobody can read this thing. Nobody can know what is in there. But it was done.

The rule waives all points of order, as well as the 3-day layover period. It is very serious waiving the 3-day layover period, because the Members on either side of the aisle have no opportunity to study, to review, to examine what is in the conference report. I can tell the Members of the House for sure that there are many things that have been deleted that Members thought were in there, and there are many things in there that Members did not know were in there when we were going through the conference.

One of the main reasons was that the final conference between the House and Senate wound up at the midnight hour in a hideaway office of the chairman of the Senate Armed Services Committee with only three Members present; the ranking Republican, and the chairman of the Senate Armed Services Committee, and the chairman of the House Committee on Armed Services. This Member was not even advised that the meeting was being held. I had no imput, the minority of the House had no imput, into the final decision of such things as the B-2, SDI, C-17, base closures, and any number of things that affect each Member's district; that has a very significant impact.

As I said, Mr. Speaker, this rule waives all points of order, including the 3-day layover. So, we are considering a massive, approximately $300 billion conference report that resolves a number of issues that Republicans were not involved in and is considered under a rule that waives all points of order.

Members need at least 3 days to be able to study, digest, and have their staffs help examine the legislation to help find out what is in here and what is not in here because this conference report was only filed yesterday—yesterday.

Mr. Speaker, I cannot support a rule that denies Members their normal 3-day period to examine what is in here. I think it was a mistake. I realize that the majority party has the votes to do it, and we are just limping along as best we can as a minority. I think it is unconscionable that we would have to bring back to this House a conference report where we had no input into the final figures that funded the major programs. We have not had a chance to examine the 1,700 pages in here. The rule waives all points of order, and we are forced to vote on it tonight.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Alabama [Mr. DICKINSON] for yielding.

How much money are we spending here?

Mr. DICKINSON. Approximately $300 billion. That is how much we are spending, a fourth of the total Federal budget.

Mr. WALKER. Three hundred billion dollars, and the gentleman makes the point that it waives all points of order.

Mr. DICKINSON. All points of order.

Mr. WALKER. So that, in fact, some of that spending could be done in direct violation of the Budget Act. It could be done in direct violation of the rules of the House. It could be in direct violation of the law of the land, and all those points of order would be waived against consideration of this bill.

Is that right?

Mr. DICKINSON. Mr. Speaker, let me reply to the gentleman from Pennsylvania [Mr. WALKER] like this:

We were talking about the budget, which we have been wrestling with now for 2 weeks. One of the things that is very important in the budget is spending limitations and its enforcement. In the first budget resolution that we are talking about there were enforcement provisions. In the second budget bill, the enforcement limitations were not there. It simply said that they would be made subject to a point of order.

Now "subject to a point of order" in this body has become a joke, a joke. The members of the Committee on Rules should just use standard operating procedure. They waive the budget limitations, they waive scope, they

waive germaneness, any time it suits them because they have got more than a 2-to-1 majority. So to say it is subject to a point of order, is like saying nothing. If a majority wants it, they get it.

So, yes, I am saying $300 billion in this conference report is subject to none of the rules in the House because it has been waived by the Committee on Rules. I think it is a travesty.

Mr. WALKER. Mr. Speaker, would the gentleman further yield for just a moment?

Mr. DICKINSON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, the gentleman from Alabama [Mr. DICKINSON] I know has difficulty because this is a very lengthy conference report, and I know that I have not had a chance to study it in detail at this point, and it really does raise concerns when we waive all points of order.

Can the gentleman tell me if there are individual projects down in here for individual Members of Congress that might be regarded someplace as being pork barrel spending?

Mr. DICKINSON. Mr. Speaker, let me assure the gentleman from Pennsylvania [Mr. WALKER] that in these 1,679 pages there is enough pork in here to feed a continent. It is there. We do not have time to dig it out, but, believe me, it is there, and we just have to peel through. It is too late to go find out who is getting the pork, and here we are in the waning hours of this Congress when we are pushed by the appropriators, but we have to get this through. The appropriation bill rides on the heels of this, but in all fairness to the Members and in all fairness to the taxpayers of this country this is no way to handle 300 billion dollars worth of spending. Most of the people, I am sure, that are going to say, "Hey, it's fine, it's great, the majority wants it," are the same people that complain most lively on the waste of the spending in the defense budget.

Mr. WALKER. Mr. Speaker, will the gentleman yield just briefly?

Mr. DICKINSON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, that is the point I think we need to make, is I do not think any Member in good conscience can vote on the floor and say they know what is in this bill. In a lot of cases the Members were on the conference committee, and they certainly know more than most of us, but certainly, when I vote, it will be something where I have not had adequate time to study it, and I think we are likely to find for some weeks and months hence reports about what was down in this bill that will then embarrass the Congress and embarrass the country when we discover some of the spending, and really that kind of spending goes on because of the rule we are adopting here. That is not just a matter of the conference report. It is the rule we are adopting that allows that kind of thing to happen.

Mr. DICKINSON. Mr. Speaker, the same people that lament, and scream and yell the loudest about waste, fraud, and abuse in the military are the same people who are going to blindly approve an approximately 1,700-page report with ample pork for everybody without knowing what is in the bill.

□ 1920

Mr. McCURDY. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. Let me yield to my friend from Oklahoma.

Mr. McCURDY. I thank the gentleman for yielding.

To be perfectly frank, I am a little confused. Does the gentleman from Alabama [Mr. DICKINSON] contend that this is in violation of the Budget Act because it is over budget, or is he complaining that it is under budget? What is the point of order that we have here and what is the gentleman's complaint?

Mr. DICKINSON. Mr. Speaker, my complaint is that we have not had an opportunity to read, digest, appreciate, and assess what is in this report. I do not believe the gentleman from Oklahoma [Mr. McCURDY] has had a chance to read it. I have not had a chance to read it. My colleague over on the Rules Committee has not had a chance to read it. I am saying waiving the 3-day rule is bad.

Mr. McCURDY. Mr. Speaker, if the gentleman will yield further, the problem we have, of course, is the timeframe, if we are trying to reach adjournment on Friday.

Mr. DICKINSON. Come on, give me a break. Time? Time? God, we have had all the time we wanted.

Mr. McCURDY. Does the gentleman care to tell us how many staff members he has that sat through every hour of that conference that we did? The gentleman is the ranking member. He is there. The gentleman has staff. He knows the issues. Is the gentleman telling me his staff and he do not know what is in the conference report?

Mr. DICKINSON. Let me ask the gentleman, do you know what is in it?

Mr. McCURDY. I know.

Mr. DICKINSON. Does the gentleman know what is in it? Answer the question directly. Does the gentleman know what is in this conference report?

Mr. McCURDY. I know the basis of that bill.

Mr. DICKINSON. No, I am not asking "the basis."

Mr. McCURDY. The gentleman and I have argued on those bills.

Mr. DICKINSON. The gentleman comes out with a very snide comment, implying I do not know what is in here and the staff does not. Let the gentleman tell me directly on his honor, does he know what is in this bill?

Mr. McCURDY. Do I know the basis of the bill?

Mr. DICKINSON. Not the basis; what is in the bill.

Mr. McCURDY. Sure, we know what is in the bill. We sat through the conference with the gentleman.

Mr. DICKINSON. The gentleman was not in the conference when the final conference was closed, and he knows it.

Mr. McCURDY. I signed the conference report.

Mr. DICKINSON. The gentleman was not in the conference when the conference was closed, was he?

Mr. McCURDY. This midnight meeting the gentleman is referring to?

Mr. DICKINSON. In the hideaway over there on the Senate side. Was the gentleman there?

Mr. McCURDY. No. Was the gentleman from Alabama?

Mr. DICKINSON. No, I was not. I was not advised there was a meeting going on.

Mr. McCURDY. It is the gentleman's problem.

Mr. DICKINSON. I was not invited.

Mr. McCURDY. The bottom line is the problem of the gentleman from Alabama is he was not in on the four-man meeting, the Gang of Four.

Mr. DICKINSON. The gentleman from Oklahoma [Mr. McCURDY] was sitting in the same meeting with me when it was stated fully that we were not going to have the Big Four making decisions on everything, but that the panels themselves would make the deciions. Was the gentleman there then?

Mr. McCURDY. Yes.

Mr. DICKINSON. Did panels make the decision? Answer the question. Did one panel make one decision where there was a vote taken? One?

Mr. McCURDY. Well, sure, there were.

Mr. DICKINSON. Name one.

Mr. McCURDY. I was in the panel with the gentleman from Massachusetts [Mr. MAVROULES].

Mr. DICKINSON. Did they take a vote?

Mr. McCURDY. On which portion?

Mr. DICKINSON. Any portion.

Mr. McCURDY. Sure.

Mr. DICKINSON. Was one vote taken and did it ever come back to the conference committee to say, "This is what we did," and the conferees agreed, "OK, we know what they did, so we will sign off on it."

The gentleman knows darn well they did not. You did not take a vote in panel. We did not come back to the full committee. You did not know what the final product was.

Mr. McCURDY. Would the gentleman yield further?

Mr. DICKINSON. Well, if the gentleman will give me a straight answer.

Mr. McCURDY. I am trying to, if the gentleman would yield.

The whole issue, as far as we can tell, was when we sat in those panels, we had issues in contention, those areas that were not pre-conference, that there were major differences between the House and Senate. We literally had sheets and sheets of paper. I sat there with other members on a bipartisan basis. The gentleman from Connecticut [Mr. ROWLAND] and I argued both on Intelligence and Armed Services provisions. I personally argued on behalf of the C-17, which the gentleman supports. I argued on the LH.

Mr. DICKINSON. Reclaiming my time, I know about the argument. But when it came down to the decision, the gentleman never cast a vote. There was no vote taken in the committees. There was no vote taken in the full conference. We did not know what was decided, because three men sat together at the midnight hour on the Senate side and wrote up the final report.

Mr. MAVROULES. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am very pleased to yield to our distinguished colleague, the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Speaker, I just want the gentleman from Alabama [Mr. DICKINSON] to get this all off his chest. Let me respond to the question the gentleman put to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. DICKINSON. Please do. But before you do, let me ask the gentleman from Massachusetts [Mr. MAVROULES] a question: the gentleman was in the conference when we started. Was the gentleman there when it was stated that the Big Four would not be making all the major decisions, that the decisions would be made in panels?

Mr. MAVROULES. Let me respond.

Mr. DICKINSON. Is that true?

Mr. MAVROULES. No, let me respond.

Mr. DICKINSON. No, answer the question.

Mr. MAVROULES. Mr. Speaker, we are not in court. Let me see if I can clear the air for the gentleman.

Mr. DICKINSON. No, all it takes is a yes or no.

Mr. MAVROULES. Ask the question one more time.

Mr. DICKINSON. I say at the beginning of the conference, was it not stated by the chairman, when Senator NUNN was asked is the Big Four going to make the decisions, taking away from the conferees, or will the panels be able to make the decisions, and he said no, the Big Four, so-called, would not be making decisions, and the panels themselves will make the decisions?

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. I thank the gentleman for yielding.

Mr. Speaker, I want to respond for our subcommittee, on which the ranking member is the gentleman from Kentucky [Mr. HOPKINS], just to give the gentleman from Alabama [Mr. DICKINSON] an idea of how our part of it went.

We were only in disagreement I believe on probably one or two issues. Quite honestly, other members just simply did not show up to attend. I think we always have that problem.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, may I just preface this by saying I have no problem with what the Subcommittee on Investigations did. They had over 140 issues to resolve, and they resolved them. You did meet together and you worked out your problems.

Mr. MAVROULES. That is correct.

Mr. DICKINSON. That is not true in the Subcommittee on Seapower and Strategic and Critical Materials, and that is not true in procurement, and that is not true in many other areas. Your subcommittee did it, I know.

Mr. MAVROULES. The point is we had total cooperation of the gentleman from Kentucky [Mr. HOPKINS]. We had one disagreement. We took a vote. There were only three members there. He was the lone member on one side of the issue, and two of us took the other position. However, we were told to try to work these out in the subcommittees. I am in total agreement with the gentleman from Alabama [Mr. DICKINSON]. In our case I just want the gentleman to know there were only two major areas that we could not reach agreement on, and we had I believe 170 issues to contend with.

Mr. Speaker, I just want to set the record straight. Except for that one disagreement, where we took the vote, I do believe that the ranking member was in agreement with the committee report.

Mr. DICKINSON. I have no problem with that.

Mr. MAVROULES. I am answering the question as you put it.

Mr. DICKINSON. Mr. Speaker, I would ask the gentleman from Massachusetts [Mr. MAVROULES], did he really take a vote?

Mr. MAVROULES. Just on one issue.

Mr. McCURDY. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I am glad to yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Speaker, is it not the understanding of the gentleman from Massachusetts [Mr. MAVROULES], a senior member of the Committee on Armed Services, who has been in a number of conferences, that we never vote even in conference on the final product? What we do is we sign the conference report, which in effect is a vote, a majority of members signed the conference report, indicating they supported the final agreement?

Mr. MAVROULES. We did that.

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Speaker, I would like to make a point with regard to that. Obviously the irritation is running fairly high here, and I think with cause, on the minority side. The gentleman from Oklahoma [Mr. MCCURDY] indicated that there was no vote. Certainly it was indicated to the full conference that if the panels could not resolve their disputes, then those areas they could not resolve would be kicked up to the full conference for consideration and a vote. So that which was said the first day was not fulfilled the last day. That is No. 1.

No. 2, the gentleman said we were presented with a conference report to sign, and that stands like a vote. Let me just mention something, if I may. If the gentleman from Oklahoma [Mr. MCCURDY] was sitting in our shoes as a Republican, I think he would feel quite irritated.

No. 1, we read in the newspaper the conference was over. It was over. There was a press conference. "All issues resolved."

The report, however, was not filed. Changes continued to be made. As a matter of fact, various Republicans were approached by staff of the majority side saying, "We want your signature on this conference report." They said, "We don't know what is in the conference report." They said, "We want your signature. If you do not sign it, the language which we put in on your behest is going to be eliminated by staff, if you do not sign it."

That is heavy-handed. That creates irritation, and properly so.

Mr. McCURDY. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Oklahoma.

□ 1930

Mr. McCURDY. Just in response to the gentleman from New Jersey, I would concur with the gentleman from New Jersey. If that indeed was the fact, and if it actually did occur that the staff did that, that is not correct.

I think what we have today, in all honesty, even if we have the 3 days, I

will guarantee that I do not know any Member who is going to go and read every single page of that conference report. Many of us who concentrate on the Armed Services Committee, that have had experience in that area know the areas in disagreement. We worked to resolve those.

I do not like the idea of things being kicked up to the Big Four, quote-unquote, or the Big Three or Four or whoever either. However, this conference, in my opinion, worked better than previous conferences.

I recall, and would remind the gentleman from New Jersey, back in the early 1980's when we had some of the other senior Members in control and policy was very rarely ever discussed. It was "I will trade an MX for a B-1," and no one was talking about the threat. What this conference I think achieved was a clear decision to try to change the direction of our national security policy to one of addressing issues of conventional requirements, less emphasis on strategic, addressing shortfalls in the areas of lift, airlift, and sealift. Again, this committee voted for a pay raise for personnel in the military today to maintain the quality of the personnel. We made some difficult decisions to reduce the overall numbers in order to preserve the quality.

What I am confused about, and I say this in all sincerity, I am not sure what could be accomplished in the next 3 days. First of all, I do not believe there would be a consensus on this floor. I would just say I doubt seriously that if the gentleman's contention is that he is not satisfied with the agreement on the B-2 or that he is not satisfied with the agreement on SDI levels, that that is not going to be resolved in this body, that this body spoke, and I think the agreement that was reached is probably the best we could ever achieve considering the dynamics that we face today.

Mr. MAVROULES. Let me just reclaim my time for a moment. I would say to the gentleman from New Jersey [Mr. COURTER], and the gentleman from Alabama [Mr. DICKINSON], they make a very good point and we agree with them. We can understand the frustrations. But when we talk about pressures, let us talk about pressures from the Pentagon.

As a matter of fact, before the final version is going to hit the floor here in about 45 minutes, I want Members to remember that we have been deeply, deeply involved with the Pentagon to get their language into the bill. I can probably point out four or five areas where they have threatened to veto the bill unless we turned around.

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Speaker, that is a perfectly legitimate negotiation on the part of the administration. There is nothing untoward about that.

What is untoward, what is irritating is not what the gentleman said about the committee, but it is what happened during this conference. The administration saying we want that language, that policy standpoint and if we do not get it we may threaten a veto, there is nothing wrong in that and it happens every year.

Mr. MAVROULES. I am not saying that it is not legitimate. I am saying to the gentleman talking about pressure, I can understand the frustration, and I can pick out 40 things in this package that I do not care for. But we need a bill for the national security of our country, and that is what we have to determine when we take it up.

Mr. COURTER. If the gentleman will yield further, I want to congratulate him on running his panel in a democratic way, which is really not the case with regard to other panels. But what we are talking about here now is about the waiving of all points of order and the 3-day rule.

The conference was adjourned, de facto adjourned. When the conference language continued to be negotiated, written between staff with no Republican in the House of Representatives having a part in that, therefore, in order for us with some degree of confidence to vote in favor of the resolution we would like to have more than 20 hours to review it. It is 12 pounds.

Mr. MAVROULES. Just let me respond to the gentleman from New Jersey by saying it was my understanding that it was up until yesterday that the Pentagon agreed to some of the language on the major issues. I believe the gentleman knows the time constraint, we are trying to get out of here by this weekend. That might have played a key role also.

Again I thank the gentleman for yielding the time.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. DAVIS], a member of the Committee on Armed Services.

Mr. DAVIS. Mr. Speaker, I just want to say unfortunately probably the people who should be hearing the comments on behalf of the minority are not here on the floor. I am not one of those Members who complains, and I very seldom take the floor on an issue like this. But frankly, the Republicans were totally mistreated on this conference report.

I have been on the conference committee every single year since I have been on the Armed Services Committee, and the last couple of years have been a total disaster. When we sat down in conference on the first day, the chairman this year, who is the Senator from Georgia, told us, as the gentleman from Alabama on this side said, that no decision would be made by the Big Four, that all decisions would be made by the panels, and then the panels would come to the full conference committee for a vote.

Now I happened to be on the two committes that really have all of the money, strategic and conventional. And incidentally, the chairman of our committee, Mr. ASPIN, agreed with the chairman of the conference committee that we would do this in a democratic way, that we were not going to let the Big Four make the decisions, and that we would all have votes.

We never had one vote, not one vote in my panel that I am on, and I am on the two major panels. And that is why I am protesting this conference committee.

I do not have necessarily a lot of arguments with the content of the bill. But when you take all 15 minority members on that conference committee and totally mistreat them, and let them have nothing to do with the final say-so, that is not good government.

I happen to be the ranking member on another full committee that I serve on, as many of my colleagues have been, and on other conference committees, and we do it in a democratic manner. I do not mind getting beaten when I can vote on a particular issue, but if you do not have an opportunity to vote on anything, then certainly that is not doing justice to the democratic process, and we were, frankly, thoroughly mistreated in the final analysis when everything went up to the so-called Big Four, or there were only three there. The gentleman from Alabama [Mr. DICKINSON], who represents the Republican side, was left out. All of the decisions were made by three people, and all of the Republicans on this side had nothing to say about what was in that conference committee.

That is why I and the rest of us, all 15 Republicans did not sign that report. And I can tell you, I have an instance myself where in fact after the conference committee supposedly reached an agreement, and many of the Democrats if not all of the Democrats had signed the conference committee report, some people were called and asked what was in the conference committee report and told that now if you as Republicans will not sign that conference committee report, we are going to take something else out. Later on when we talk about the bill one of my colleagues from Michigan is going to give an example of how that happened.

That is the wrong way to run the Armed Services Committee. It is the wrong way to run a conference committee. I regret that I have to go along with my colleagues and get on the floor and chastise the chairman, Mr.

ASPIN, for the way he mistreated all of the Republicans.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I do not like opposing a rule, but I am going to do so because I oppose our defense spending in this country, and I would like to see us kill it and change it.

Very simply, it is because of this reason: I saw a young soldier interviewed last night in Saudi Arabia. He was driving a tank, and they asked him if his tank was prepared to deal with mustard gas, not nuclear weapons but mustard gas, and he said no, that unfortunately it was not, and they are concerned. They asked him if in the Army they had tanks prepared to deal with mustard gas, and he said yes they do. He was asked where are those tanks and he said they are in Europe. He was asked do you know why they are in Europe, and he said no, he did not know.

Ladies and gentlemen, we are still preparing to fight a cold war when we have got troops in a hot desert.

□ 1940

Our defense budget is ridiculously high. It is threatening the freedom of America. It is ruining our economy, threatening our freedom. For what? All our weapons systems are designed to encounter the Soviet Union in a nuclear battle.

Let us get off it. The Kremlin in Moscow is surrounded by James Bond now. They are bankrupt.

I want to say this: There are over $45 billion for a program ongoing for Milstar. There are multimegabucks for star wars. There is so much money in here and we are talking about raising taxes.

I think it has come to this point, ladies and gentlemen, and I know there are Members on this floor who are going to vote for this, and I am getting it from both sides saying, "TRAFICANT, you are always bashing on Congress." I will tell you, I am not going to stop now. Congress can stop this maddening pace of a defense buildup that is not needed, and Congress is not.

Congress is providing pork barrel through the barrel of a gun. One B-2 bomber will pay for an entire troop of our soldiers in Saudi Arabia for 1 whole year, one B-2 bomber.

We are now coming back with more appropriations for Saudi Arabia. Why did we not cut the B-2 program? What happened? What happened to the cuts in the House on star wars? Let me tell you what, in my opinion you cannot reconcile America's debt problem and budget deficit with this almost $300 billion defense budget, and anybody in this House who continues to sign on to that type of language and money, in opinion, right now is un-American.

I am off this hawk-and-dove stuff. This is absolute stupidity.

Mr. SOLOMON, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I say to the gentleman that I do not think the troops serving in Saudi Arabia would appreciate it.

Here is an article in the Washington Post which says seven soldiers and reservists refused to serve. Seven soldiers and reservists, some of whom have already been declared AWOL, participated in a demonstration in New York City on Saturday, during which they said they would refuse to serve in Operation Desert Shield.

There's a disgrace. Nobody drafted them into uniform. They donned the uniform of their country voluntarily—we have an All-Volunteer Armed Force. They ought to be discharged dishonorably and have their veterans' benefits taken away.

Even more disgraceful were the comments made at the same demonstration by former Attorney General Ramsay Clark. The former chief law enforcement official in the United States has this say:

> We're here because we have an imperial presidency as unrestrained as any military dictatorship that ever lived. . . . We're here because we have a paralyzed Congress.

That's just a disgrace. He ought to be ashamed of himself.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, this is quite a document we are bringing out here waiving all points of order. We do not know what is in it.

We are given to believe that not much of anybody knows what is in it. I was told that if I asked the question about what the points of order are we are waiving in it that no one could tell me that. I had a staff check with the parliamentarians who told me they have not had a chance to go through it, and they do not know when we waive all points of order here what that may be.

There are lots of interesting things in here. For instance, I find in the back of the document all kinds of names of people who are going to be a part of the law, people like BURTON and MCCONNELL and WISE and so on who are in here, some of whom have been crossed off, some of whom have not. I do not know whether the BURTON in here is the distinguished gentleman from Indiana or not or just who it is, but they are all back through the report here.

You get to a particular section of it and you find out here on page 331 in the back of the report is assistance to the 1990 World Series Torch Run and the 1990 Free Style World Championship, and we are transferring $100,000 of money to these two projects.

I mean, where was that authorized? How in the world are we coming up with that as a legitimate item?

If we get on back here in the report, it goes on for pages and pages and pages of particular places that we are taking care of, Little Rock, AR, Concord, CA, San Francisco, CA, Cape Henlopen, DE, White House, FL, another Florida, Fort Benning, GA, Georgia, Indiana, Hawaii, Kansas City, Maryland, Vermont, Utah, Virginia, Michigan, Washington. I mean, it goes on for page after page after page of things that were taken care of in this report, and we are waiving all points for order.

We have absolutely no idea what we might be doing in all of these various places. I am sure I have not had a chance to study all of that, and I am sure very few people on the floor have had a chance to study all of that.

I would suggest turning down this rule would be the responsible thing to do.

The Members ought to at least have and opportunity to understand what is in this bill before we vote on it.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me then respond just briefly. We do waive a variety of different points of order, and I think I should respond to my colleagues who have raised that issue. We waive scope in a number of instances to address the needs of the supplemental authorization in fiscal 1990 is one that has arisen out of the passage of the Senate and House bills relating to Operation Desert Shield.

Also added was a gold medal for General Matthew Ridgeway which also required some scope waivers, and as one can imagine in a document of this size, we had to waive germaneness in a number of areas.

I will give the Members a couple of examples: trade sanctions on Iraq was one; civilian pay exceptions was another; the M account question was a third; and there are others in the report that do waive germaneness.

Legislation on appropriation bills, the gentleman from Pennsylvania correctly mentioned a couple of the issues when he recited the different parts of our country geographically, Concord, CA, Naval Weapons Station, we sell 40 acres of Naval Weapons Station to the Bay Area Transit for fair market value. There is also another land swap at Eglin Air Force Base in Florida. There are other things that require waivers that are important to making the bill whole in a variety of different areas.

In terms of the Budget Act, the committee amendment is in excess of allocation of the budget authority and new entitlement authority provided in the budget resolution. This is primarily due to the military pay which is

raised 3.5 percent. That was necessary to deal with the Budget Act to make sure that those who were to receive adequate compensation for serving their country whether it be in Saudi Arabia or here in the United States receive such pay.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, let me say, lest it be misunderstood or misinterpreted, I think the Committee on Rules does a tremendous job.

Mr. BONIOR. I thank the gentleman.

Mr. DICKINSON. I really do not know how you do as much as you do except by waiving things that you do not have time to deal with. You deal with all subjects, and we come at you with a voluminous piece of material such as this, and I know in the waning hours of the Congress we all are very anxious to get out of here, and you are doing the best you can with what you have got.

I would hope that nothing I have said would impugn or seem to impugn the sincerity and dedication of the Committee on Rules.

But my ire and anger really has to do with the process of getting to the Committee on Rules and the shabby treatment we got at the hands of our chairman and the chairman on the Senate side and the ranking Republican over there.

But aside from that, I really feel sincerely that there was no reason to waive the 3-day rule, so that we could have an opportunity to study it, because 2 hours is not enough to study what is in here. We had no way to know what the final product was from it.

It is for that reason that I say that you erred in your decision, but I realize we have to get out of here.

Mr. BONIOR. I appreciate my colleague's comments, and I understand them. I sympathize with them. I guess I would say that in the waning days of a legislative session, trying to expedite the business of the country and leave, sometimes it is necessary to waive the 3-day rule. I understand the difficulty because of the particular size of this document and other arguments that have been raised.

I do believe, and correct me if I am wrong, that it was made available at noon of yesterday, so it has been approximately 20 hours to review it. That is what I am apprised by staff. That is not a lot of time, but it is oftentimes more than normal at this point in the legislative session.

I would just hope that my colleagues who have an interest in this piece of legislation, and I assume that is everyone, can avail themselves of this material and the staff that is available in the coming hours so they can cast an intelligent vote.

Mr. DICKINSON. If the gentleman will yield further, just to correct the record here, my staff tells me we got a Xerox copy, Xerox, and it is about 12 inches high, about an hour before the Committee on Rules. We did not see the bound copy or the compiled copy until we got to the floor today, so this is what we are having to deal with.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman has done a valuable service by telling us what some of the points of order are that might be contained in the rule. Does the gentleman have such a comprehensive list available that we could have at least put in the CONGRESSIONAL RECORD so that it would be available?

□ 1950

Mr. BONIOR. I do not know that we have a total list available, but we have some available. It is being put together.

Mr. WALKER. Mr. Speaker, I thank the gentleman. I think it would be useful to publish that if we could so all Members would know what it is that we ended up waiving as we receded with the rule.

Mr. BONIOR. I include the list previously referred to.

The list follows:

WAIVER OF RULES—FISCAL YEAR 1991 AUTHORIZATION CONFERENCE REPORT, H.R. 4739

Scope (clause 3 of Rule XXVIII).

The conferees, in resolving over 1,000 dollar and language differences in a manner that made the most sense, and, in certain circumstances to address critical problems that arose only after passage of the two bills, in several instances went out of scope. Some examples are:

Gold Medal for General Matthew Ridgway—the Senate bill called for a medal in honor of Gen. Ridgway, and the conferees, in cooperation with the Banking Committee agreed to the Senate provision but added medals in honor of veterans of Pearl Harbor and commemorating the 100th anniversary of Yosemite National Park.

Supplemental Authorization for Fiscal Year 1990—to address needs that have arisen since the passage of the Senate and House bills relating to Operation Desert Shield.

Germaneness (clause 4 of Rule XXVIII).

The Senate version of the bill included provisions which have implications broader than the provisions of the House passed Authorization bill, and within the jurisdiction of other committees. Examples of those types of provisions are:

M. Accounts—reforms of the "M" accounts are government wide and not restricted to the Department of Defense.

Civilian Pay Exceptions—allows the President to pay 800 critical federal employees an amount higher than the normal salary rate.

Trade Sanctions on Iraq—prohibition on imports and exports to Iraq.

Legislation Bearing Appropriations (clause 5(a) of Rule XXI).

The committee amendment carries an appropriation because it provides that the department may receive proceeds from land transfers and use those receipts to acquire replacement facilities. Examples of these provisions are:

Naval Weapons Station, Concord, CA—sell 40 acres of the Naval Weapons Station to the Bay Area Rapid Transit organization for fair market value (sec. 2823) (proceeds to 40 U.S.C. 485(h) account).

Eglin AFB, Florida—transfer at fair market value 3.5 acres to the City of Valparaiso (proceeds to 40 U.S.C. 485(h) account).

BUDGET ACT

The committee amendment is in excess of the allocation of Budget Authority and new entitlement authority provided in the Budget Resolutions. This is due primarily to the military pay raise of 4.1 percent, land improvements and transfers cited previously, as well as provisions offering transitional separation pay to involuntarily separated servicemen.

Three-Day Rule (clause 2(a) of rule XXVIII).

Conference was completed early Tuesday morning and we have been working around the clock to file the report and have it available as soon as possible.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I am a member of the committee, but frankly, it is awfully hard for me to wade through this document and figure out what it is we did. This is due to two things, both of which go to the desirability of defeating this rule.

The first is that, as has been discussed here thoroughly, we were not a party to many of the decisions that were made during the conference committee deliberations. The second reason is because, by waiving the time period which we ordinarily would have had to study the document, we are denied the opportunity to really understand all the ramifications of the conference report that comes before Members.

Mr. Speaker, I just opened the document at random and came to page 603 and find an item called "Fort Benjamine Harrison entomology facility," which was not in the House or Senate bill as far as I can tell, but it says,

The conferees direct that an entomology facility at Fort Benjamin Harrison, Indiana, be constructed with minor construction funds.

Mr. Speaker, this is the kind of thing pundits make fun of and include with other funny sounding projects that Congress authorizes and appropriates money for; and we do not know how to defend it because we do not understand anything about it, because we were not at the meetings and did not have time to read the report.

The other thing that bothers me in connection with the rule, is the fact

that the justification for denying the minority the right to participate in some of the conference deliberations was the fact that we opposed much of what was being discussed, that we would simply be disruptive being in a meeting and, therefore, we were not invited to a meeting. Yet, it seems to me fundamental that the minority or anyone who is duly elected to this body and duly appointed and duly voted on, on this floor, to be a member of a conference committee, ought to at least have the courtesy of being invited to meetings, whether they disagree or not. If they are in the minority and they are voted down, so be it.

However, they should not be denied the opportunity to participate simply because the majority perceived that they are in disagreement. Because of the unfairness associated with this and the lack of time to study the document, I urge my colleagues to vote no on the rule.

Mr. SOLOMON. Mr. Speaker, I yield my remaining 5 minutes to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I want to take this time, if I can, to speak in particular to my dear friends and colleagues and the staff of the Committee on Armed Services. I have been privileged to serve on the Committee on Armed Services since 1983. This might be an imperfect document, indeed it is. But it is not an imperfect document because of the lack of time and effort on the part of the staff and the members. It is a Herculean effort to reach any resolution on this complicated and contentious subject, no matter how we feel about the document.

It is an interesting document in some regards. There is one weapons system referred to in this document that construed from the House of Representatives, we have none of that weapons system, and we read the same section over in the other body, then we do have the weapons system. But that is an anecdotal, and we will get into that later on.

I do not want to complain about the process of this year except in regard to speaking to my dear friends who I have served so many years with on the Committee on Armed Services, about what is going to happen next year and in future Congresses.

In 1983 I came to the Committee on Armed Services and I was very proud to be on the committee because I was an escapee from the Committee on Interior and Insular Affairs. Twenty-four months of that 97th Congress, it was raw politics. Democrats against Republicans. In those days, in the House Committee on Armed Services there was none of that. There was spirited debate based on philosophy, based on weapons systems, based on the threat, and the like. There was no question of any member of the staff, did they belong to the Democrats or the Republicans. They belonged to the Committee on Armed Services, and the object of the exercise was, how do we spend the money budgeted in the interest of common defense?

I can remember guys that were my heroes, like Bill Nichols of Alabama, and Sam Stratton of New York, and Dan Daniel of Virginia, towers of integrity and strength, and yes, we still have Towers on that committee. But for the first time starting this year, and there is no denying it, and my colleagues know that on both sides of the aisle, that unfortunately, creeping into our debate and in the end, overwhelming it, is the question of Democrats versus Republicans.

It takes a lot away from service on the Committee on Armed Services when that kind of thing happens, and I am profoundly disappointed. My colleagues have talked about some of the things that went on during the conference. I can recall when I was in high school, and Mr. MURPHY pointing out that Congress goes to a conference committee and work out the differences. I used to say to myself, "Hey, how can you do that if you voted on one version of a bill in the House, how can you go to the conference and change your mind?" I found out, 20 years of politics and a person will learn to compromise. We have to talk back and forth.

I want to salute the people on our panel. We worked out a number of issues. Some we had to throw upstairs, it would be determined upstairs, and I found out upstairs fell right into the basement. The chairman told me here on the floor that there will be no meeting up there. I read the newspaper, that it had been resolved; that the conference had come to a conclusion. How proud I was. I just hoped that the next edition of the Washington Post could tell me what was agreed upon. Some Conference.

Members, if we are going to return the Committee on Armed Services to what it was, something that was focused on what is in the best interests of the defense of the country, and renew that pride in all Members, we will have to put the Democrat-Republican politics aside. It has no place in that room.

I would far prefer to have the old debate where my friend and colleague from California [Mr. DELLUMS] pounds me over the head, not on the basis of the fact that I am a Republican, but because we have different philosophies. I ask Members that for the country, I ask Members that for the institution, and I ask Members that for that pride we have in serving on the Committee on Armed Services, to let Members start next year anew. Leave politics to the conventions, have a ball between now and a week from Tuesday (election day), beat up on each other; say all the nasty things that can be said if you wish; trick everyone; I do not care, that is your business this political season. But when we come back in January, let Members try to pick up what remnants there were of nonpartisanship when it comes to this Nation's defense. This is a bad day for all Members when we have to put partisan politics above our commonality of interests.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous questions was ordered.

Mr. SPEAKER pro tempore (Mr. HUCKABY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 239, nays 161, not voting 32, as follows:

[Roll No. 516]

YEAS—239

Ackerman	Donnelly	Jones (NC)
Alexander	Dorgan (ND)	Jontz
Anderson	Durbin	Kanjorski
Andrews	Dwyer	Kaptur
Annunzio	Dymally	Kastenmeier
Applegate	Dyson	Kennedy
Aspin	Early	Kennelly
Atkins	Eckart	Kildee
AuCoin	Edwards (CA)	Kleczka
Barnard	Engel	Kolter
Bates	English	Kostmayer
Beilenson	Erdreich	LaFalce
Bennett	Espy	Lancaster
Berman	Evans	Lantos
Bevill	Fascell	Laughlin
Bilbray	Fazio	Leath (TX)
Boggs	Feighan	Lehman (CA)
Bonior	Flake	Lehman (FL)
Borski	Foglietta	Levin (MI)
Bosco	Ford (TN)	Levine (CA)
Boucher	Frank	Lewis (GA)
Boxer	Frost	Lipinski
Brennan	Gaydos	Lloyd
Brooks	Gejdenson	Long
Browder	Gephardt	Lowey (NY)
Brown (CA)	Geren	Luken, Thomas
Bruce	Gibbons	Manton
Bustamante	Glickman	Markey
Byron	Gonzalez	Martinez
Campbell (CO)	Gordon	Matsui
Cardin	Gray	Mavroules
Carper	Guarini	Mazzoli
Carr	Hall (OH)	McCloskey
Chapman	Hall (TX)	McCurdy
Clarke	Hamilton	McDermott
Clement	Harris	McHugh
Coleman (TX)	Hatcher	McMillen (MD)
Collins	Hayes (IL)	McNulty
Condit	Hayes (LA)	Mfume
Conyers	Hefner	Mineta
Cooper	Hertel	Mink
Costello	Hoagland	Moakley
Coyne	Hochbrueckner	Mollohan
Darden	Hoyer	Montgomery
de la Garza	Hubbard	Moody
DeFazio	Huckaby	Mrazek
Dellums	Hutto	Murphy
Derrick	Jenkins	Murtha
Dicks	Johnson (SD)	Nagle
Dingell	Johnston	Natcher
Dixon	Jones (GA)	Neal (MA)

Neal (NC)	Roe	Synar
Nelson	Rose	Tallon
Nowak	Rostenkowski	Tanner
Oakar	Rowland (GA)	Tauzin
Oberstar	Roybal	Taylor
Obey	Sabo	Thomas (GA)
Olin	Sangmeister	Torres
Ortiz	Sarpalius	Torricelli
Owens (NY)	Savage	Towns
Owens (UT)	Sawyer	Traxler
Pallone	Scheuer	Udall
Panetta	Schroeder	Unsoeld
Parker	Schumer	Vento
Patterson	Serrano	Visclosky
Payne (NJ)	Sharp	Volkmer
Payne (VA)	Sikorski	Walgren
Pease	Sisisky	Washington
Pelosi	Skaggs	Watkins
Penny	Skelton	Waxman
Perkins	Slattery	Weiss
Pickett	Slaughter (NY)	Wheat
Pickle	Smith (FL)	Whitten
Poshard	Smith (IA)	Williams
Price	Solarz	Wise
Quillen	Spratt	Wolpe
Rahall	Staggers	Wyden
Rangel	Stenholm	Yates
Ray	Studds	Yatron
Richardson	Swift	

NAYS—161

Archer	Gunderson	Rhodes
Armey	Hancock	Ridge
Baker	Hansen	Rinaldo
Ballenger	Hastert	Ritter
Bartlett	Hefley	Roberts
Barton	Henry	Robinson
Bateman	Herger	Rogers
Bentley	Hiler	Rohrabacher
Bereuter	Holloway	Ros-Lehtinen
Bilirakis	Hopkins	Roth
Bliley	Horton	Roukema
Boehlert	Hughes	Rowland (CT)
Broomfield	Hyde	Saiki
Brown (CO)	Inhofe	Saxton
Bryant	Ireland	Schaefer
Buechner	Jacobs	Schiff
Bunning	James	Schneider
Burton	Johnson (CT)	Schuette
Callahan	Kasich	Schulze
Campbell (CA)	Kolbe	Sensenbrenner
Chandler	Kyl	Shaw
Clinger	Lagomarsino	Shays
Coble	Leach (IA)	Shuster
Coleman (MO)	Lent	Skeen
Combest	Lewis (FL)	Slaughter (VA)
Conte	Lightfoot	Smith (NE)
Courter	Livingston	Smith (NJ)
Cox	Lowery (CA)	Smith (TX)
Craig	Machtley	Smith (VT)
Crane	Madigan	Smith, Denny (OR)
Dannemeyer	Martin (IL)	
Davis	Martin (NY)	Smith, Robert (NH)
DeLay	McCandless	
DeWine	McCrery	Smith, Robert (OR)
Dickinson	McDade	
Dornan (CA)	McEwen	Snowe
Douglas	McGrath	Solomon
Dreier	McMillan (NC)	Spence
Duncan	Meyers	Stangeland
Emerson	Miller (OH)	Stearns
Fawell	Miller (WA)	Stump
Fields	Moorhead	Sundquist
Fish	Morella	Tauke
Frenzel	Morrison (WA)	Thomas (CA)
Gallegly	Myers	Thomas (WY)
Gallo	Nielson	Traficant
Gekas	Oxley	Upton
Gillmor	Packard	Vucanovich
Gilman	Parris	Walker
Goodling	Pashayan	Weldon
Goss	Petri	Whittaker
Gradison	Porter	Wolf
Grandy	Pursell	Wylie
Grant	Ravenel	Young (FL)
Green	Regula	

NOT VOTING—32

Anthony	Ford (MI)	Marlenee
Clay	Gingrich	McColium
Coughlin	Hammerschmidt	Michel
Crockett	Hawkins	Miller (CA)
Downey	Houghton	Molinari
Edwards (OK)	Hunter	Morrison (CT)
Flippo	Lewis (CA)	Paxon
Russo	Stokes	Weber
Shumway	Valentine	Wilson
Stallings	Vander Jagt	Young (AK)
Stark	Walsh	

□ 2019

Mr. BATES changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2020

PERMISSION TO RECOMMIT CONFERENCE REPORT ON S. 566, AFFORDABLE HOUSING ACT, FOR THE PURPOSE OF RECONSIDERING TITLE X

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the conference report to accompany the Senate bill (S. 566) to authorize a new Housing Opportunities Partnerships Program to support State and local strategies for achieving more affordable housing; to increase home ownership; and for other purposes, be recommitted to conference for the purpose of reconsidering title X.

The SPEAKER pro tempore (Mr. HUCKABY). Is there objection to the request of the gentleman from Texas?

Mr. BARNARD. Mr. Speaker, reserving the right to object, I reserve the right to ask our distinguished chairman, the gentleman from Texas [Mr. GONZALEZ], if the purpose of recommiting this to conference is for the purpose of striking the Cohen provision of this housing bill.

Mr. GONZALEZ. Mr. Speaker, if the gentleman will yield, the gentleman from Georgia [Mr. BARNARD] is correct.

Mr. BARNARD. Also, Mr. Speaker, I would ask the chairman, does he contemplate that there will be any other changes in the housing conference bill other than this particular one?

Mr. GONZALEZ. Of course not. My unanimous-consent request is for that one specific item, title X.

Mr. BARNARD. Mr. Speaker, I want to compliment the gentleman from Texas [Mr. GONZALEZ] for making this decision. I think it is strictly in keeping with the majority decision of the Committee on Banking, Finance and Urban Affairs in this House, and I personally appreciate his consideration of this matter.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 4739, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. ASPIN. Mr. Speaker, pursuant to the provisions of the House Resolution 521, I call up the conference report on the bill (H.R. 4739) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 521, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, October 23, 1990.)

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. ASPIN] will be recognized for 30 minutes and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on H.R. 4739, the National Defense Authorization Act for fiscal year 1991. The conferees have agreed on a $288.3 billion defense authorization bill for the next fiscal year that, I believe, begins to move toward a new national security posture. In so doing, it steps up to a number of hard questions facing the military and makes sound judgments about defense spending priorities in view of existing fiscal constraints.

The bill begins to limit strategic programs in favor of conventional weaponry that is needed for the post-cold-war era, and I urge my colleagues to support the conference report. I would like to take just a few minutes to outline some of the more important features of the bill.

The bill was $19 billion less than the Bush administration requested, and the final figure of $288.3 billion is in conformity with the budget resolution. The House originally approved a bill with $283 billion in budget authority, and the Senate figure was the same as that adopted by the budget resolution.

STRATEGIC SYSTEMS—B-2 AND B-1B

The conferees struck a compromise on the B-2. The agreement does not authorize any new planes or provide advance procurement for planes next year. Instead, the conference agreement provides $2.35 billion for procurement for fiscal year 1991, which is expected to cover cost overruns on the production of the 15 planes already approved by Congress. In addition, research and development funding for the program was set at $1.75 billion. The conferees approved the Bush budget request for $134.1 million for modification of the B-1B Program.

ICBM MODERNIZATION

With respect to the rail garrison MX and Midgetman missiles, the conferees zeroed procurement funds for the rail garrison MX but established a $680 million pool for research and development on both rail garrison MX and Midgetman. The conference report also expresses the sense of Congress that no more than one mobile ICBM should be deployed.

SDI

The conferees approved $2.89 billion for SDI, the first time since fiscal year 1986 SDI funding has dropped below the $3 billion mark.

TRIDENT II (D-5) MISSILE

The conferees authorized the administration request for 52 D-5 missiles at a cost of $1.34 billion for fiscal year 1991. The administration requests of $192.6 million in advance procurement for 50 missiles in 1992 and $91.8 million for research and development were also approved.

ADVANCED CRUISE MISSILE

The administration's request for $365.9 million to buy 100 missiles in fiscal year 1991 was approved. As for advance procurement, the conferees approved $64.4 million for 100 missiles in fiscal year 1992. An additional $43 million for advance procurement may be released if the Secretary of Defense certifies the successful completion of operational testing and high-rate production readiness.

ASAT

The conferees agreed on $126 million in funding for Army kinetic energy antisatellite [ASAT] weapon.

SRAM-T

The conferees approved $35 million for the SRAM-T, a stand-off tactical nuclear weapon currently in development. This is a reduction of $83 million from the administration's request.

FLY BEFORE BUY

Consistent with the theme of ensuring the operational capability of programs before full-scale development, the conferees directed the continuation of various programs but prohibited full-scale development.

ATF

The conference agreement authorizes $963.9 million for the Advanced Tactical Fighter [ATF] Program but prohibits full-scale development. The conferees agreed that the Air Force must complete a mission effectiveness analysis before Congress considers full-scale development.

SCOUT/ATTACK HELICOPTER

The conference agreement authorizes $291 million, the amount identified by the Secretary of Defense in his major helicopter review, for advanced development, demonstration, and validation of a flying prototype aircraft that must fully demonstrate all essential systems of the Scout/Attach helicopter.

A-12

The conferees did not authorize any aircraft in fiscal year 1991 but did authorize $37.5 million in procurement for fiscal year 1991, $554.5 million for advance procurement and $18 million for spare parts.

R&D FOR THE FUTURE

The conferees emphasized basic research and development in a number of initiatives.

TECHNOLOGY BASE

The conference agreement sets research and development for technology base funding at $3.8 billion, a real increase of 2 percent over last year's level. The funds will go toward metal matrix composites, advanced ceramics, x ray lithography, supercomputing technology, and other projects.

NATIONAL AEROSPACE PLANE

The conference agreement approves $119 million for the National Aerospace Plane, the same amount provided in fiscal year 1991 by NASA.

JSTARS

The conference agreement fully funds the administation's request of $298.5 million to continue the flight-test program for JSTARS, and aircraft-mounted surveillance radar.

STRATEGIC LIFT CAPABILITY

The conferees authorized two C-17 aircraft and $400 million for procurement, $60 million for advance procurement and $80 million for initial spare parts. In light of Operation Desert Shield, the conferees also approved $35.9 million for much needed C-141 modifications. In the area of sealift, the conferees authorized $250 million for the establishment of a Fast Sealift Program to build and operate cargo vessels that incorporate essential military features.

GUARD AND RESERVE EQUIPMENT MODERNIZATION

The conferees agreed to a National Guard and Reserve package totaling $1.8 billion, including authorization for 12 MH-53 minesweeper helicopters, 4 C-130 aircraft, 24 UH-60 helicopters, and 36 OH-58D AHIP helicopters.

SEAPOWER—SSN-21

The conferees adopted the House position of authorizing $1.457 billion for one submarine in fiscal year 1991 and providing $649 million in long-lead procurement for two ships per year after fiscal year 1991.

TRIDENT SUBMARINE

The conferees accepted the House position and agreed to build the 18th submarine in fiscal year 1991 for $1.15 billion and to terminate the program after that.

MILITARY PERSONNEL

One of the central themes of the conference was to put a priority on taking care of the men and women who make up today's All Volunteer Force. Consistent with this approach, the conferees agreed to the House position of providing a 4.1-percent pay raise for all military personnel. In recognition of the fact that the size of our forces will shrink in the years ahead in response to a declining post-cold-war threat, the conferees authorized a generous package of benefits to assist those individuals who will have to be separated as the size of the force is reduced. Included in these benefits are increased separation pay, transition medical assistance, job assistance counseling, and educational benefits. Finally, the conferees approved various pays and benefits for those deployed in connection with Operation Desert Shield.

OPERATION AND MAINTENANCE

The conferees agreed to cut $900 million from reimbursements to the Department of Defense' revolving stock fund because of excess inventories. The conferees also reduced the administration budget request of $2.7 billion to pay foreign national civilians by $234 million and called for a 25-percent reduction in these costs by fiscal year 1992.

MILITARY CONSTRUCTION—DEFENSE BASE CLOSURE AND REALIGNMENT

The conference agreement supports the House sentiment that a fair process is required to close military bases. The biennial process agreed to by the conferees includes public and congressional review of the criteria employed by the Secretary of Defense to propose base closures and realignments, and will be used over 6-year period. An independent commission will evaluate the Secretary's proposals and will report its findings to the President. The President and the Congress will have opportunities to accept or reject the entirety of the Commission's recommendations.

CROTONE AIR BASE

The conference agreement prevents expenditure of funds to relocate military activities from Torrejon, Spain, to Crotone, Italy, until the Secretary of Defense certifies that the NATO foreign ministers have reevaluated the need for a fighter wing in the NATO southern region and found that continued construction at Crotone is justified.

ACQUISITION WORK FORCE

The conference adopted landmark legislation included in the House bill to create a powerful and professional Acquisition Corps within each military department.

ECONOMIC CONVERSION

As a part of the overall effort to ease the adverse impact on communities dependent on defense production industries as a result of shrinking defense budgets, the conference agreement provides a $200-million program for defense economic adjustment and conversion. The initiative would help identify, notify, and provide economic adjustment assistance and worker retraining assistance to areas hurt economically because of defense spending cuts.

Mr. Speaker, on balance this is a far-reaching and farsighted defense bill that represents a major step forward in the Armed Services Committees' efforts to develop a policy-driven authorization that provides for new defense strengths in a new era. I strongly urge its adoption by the House.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this really is a sad occasion for me. I mean that. It is an emotional time. I have been on the Committee on Armed Services for over 25 years. When I came on board, Mendel Rivers was chairman, and, after that, Eddie Hebert, and I enjoyed serving with them. I was in the minority, they were in the majority. That was fine. I was always treated with dignity, respect, and honor. I never had anything underhanded played behind my back; it was always straight out front. As my colleagues know, they got the votes, so they can do what they want to.

Mr. Speaker, we have come to the end of our deliberations in this congressional year for the armed services

bill, and, before I get into the merits or demerits of the conference report that we are dealing with, I would like to pause just a moment to pay respects to some of our colleagues who are leaving us now. It has been my pleasure to work with them for a number of years, and I mean that very much.

Mr. Speaker, I would like to take 1 minute to recognize the many fine contributions of three of our Republican members on the Committee on Armed Services as they depart the House. First is the gentleman from New Jersey [Mr. COURTER] who is leaving both the House and the Committee on Armed Services after having served with distinction for 12 years. This will be the last conference report in which he participates. The expertise he provided the committee and diligence with which he pursued his positions on issues served as an example to us all. He has been a stalwart for defense throughout his tenure, and we will sorely miss him. We wish him the very best, and thank him for his support and friendship over the years.

Second is the gentleman from Connecticut [Mr. ROWLAND] who came to Congress in 1985 at the ripe old age of 27. Notwithstanding his youth, he has been a force to reckon with on defense matters, as well as one of our committee's trusted agents on the House Permanent Select Committee on Intelligence. As all my colleagues know he is in a hotly contested race for Governor of Connecticut, and those of us on this side of the aisle, as well as many of his friends on the other side, want to wish he and Deborah good luck. We will miss him, his wise counsel and irrepressible wit. Here is hoping that within the next couple of weeks we will be referring to him as Governor-elect.

Last, but certainly not least, is our junior committee Republican, the gentleman from New Hampshire [Mr. SMITH]. He no sooner took his seat on the Committee on Armed Services at the begining of the year, than he was off campaigning for the Senate. However, he has been resolute in his support of this Member, and I hate to see him depart. We all wish him and Mary Jo the best. This is an atta-boy for him, and we sure wish him the best.

There are two other guys that I hate to see go on the other side of the aisle, as they have been a pleasure to work with. The gentleman from Texas [Mr. LEATH], who I consider a very close friend, and he is really going to make a hole in our committee when he leaves because he has been a stalwart; and the gentleman from Maine [Mr. BRENNAN], who, of course, is running for Governor of Maine, and we wish them all the best.

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, let me just commend the gentleman from Alabama [Mr. DICKINSON], and he has taken the words out of my mouth. He is absolutely right about the contribution that all five of these gentlemen have made to the Committee on Armed Services, and I want to second the comments of the gentleman in the well and tell him that on our side of the aisle we will miss all five of these people, two Democrats and three Republicans who have contributed an awful lot to the House Committee on Armed Services.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. ASPIN], and I mean this very sincerely. They will be sorely missed. They made a real contribution to the defense of this country. They have been a pleasure to work with and people on whom we can depend.

□ 2030

They were there when you needed them. They always, as far as I am concerned, were voting right. They will make a big hole.

But getting back to the issue at hand, Mr. Speaker, in working over 25 years, I was always in the minority; but we do not have a divided staff on the Committee on Armed Services. We have not been a partisan committee. As far as I know, we are the only committee in Congress that does not have a majority-minority staff.

Partisanship has no place to play in the defense of our country. Historically, so long a I have been on the committee, and I know going back even before that, it has not been a partisan committee.

Unfortunately, this is changing. We are seeing the impartiality erode away, to where we have now I think achieved the ultimate.

Mr. Speaker, never before that I can recall has any committee gone into conference where the ranking member was deliberately excluded from the wind-up session when the major decisions were made, when those toughest decisions dealing with the most important issues that could not be resolved by the full committee were worked on by the ranking member and the chairmen of the House and Senate. Never before have I heard of any committee in this Congress where the ranking Member of the House was intentionally and deliberately excluded from the deliberations.

Mr. Speaker, let me read just a little bit from Defense Daily, which is a well-known publication. This was published today.

In an attempt to avoid a Presidential veto, Senate Armed Services Committee Sam Nunn and ranking Republican John Warner and House Armed Services Committee Les Aspin late Monday—

And it was late, about midnight.

—Agreed to revise the language in FY '91 authorization conference on SDI, further defining what systems can be funded within the limited protection system, LPS, Senate and House staffers told the Defense Daily yesterday. The conference funded SDI at 2.89 billion, far less than the administration's request. The three Defense Committee leaders also agreed to disagree on how 4.1 billion in B-2 bomber funding should be spent. The House position is that the funding should be used to buy unfunded liability in the program, while the Senate position calls for the purchase of two more B-2's. Therefore, Secretary Donald Rice said recently that at least 1.4 billion will be needed to cover overruns.

Now, the point is that after we had been deliberating for over 1 week, almost 2 weeks, on the funding level of SDI, on whether or not to buy another B-2, and if so, to fund it at what level, on base closures, on any number of issues, the C-17, the A-12, all of these issues had not been resolved.

So I came to work on Tuesday morning, and my staff says, "Well, Congressman, the conference was settled last night."

I said, "What do you mean, settled last night?"

All these issues were settled by these three people, in a hideaway room in the basement of the Capitol, on the Senate side. I not only was not informed, I was intentionally left out.

Now, quoting further, and I don't know whether this is so or not, but when my chairman of the committee was asked by the press why I was excluded, he said:

Well, he understood, if the press is correct, he understood I was going to vote against the conference committee anyway. So to keep down controversy, I just shouldn't be included in the conference.

This is the sleaziest conduct and treatment of any ranking member I have ever heard of. I have dealt with SAM NUNN for years and JOHN WARNER for years. They have always been very forthright and honorable in their dealings with me.

I am just amazed at the treatment accorded to this Member. Not to me personally, but to the Republican Party, simply because they have got the votes.

But the joke is going to come around because it is on a lot of the Members over on the other side. There were a lot of Members who were very stringently, violently, vehemently opposed to the B-2. We had about $1.5 billion in the House version. In the conference they beefed up that number to $4.1 billion.

Are they going to buy any more B-2's? Our chairman has sold his members on the fact that no more, it is cut off. SAM NUNN, JOHN WARNER, Secretary Rice of the Air Force, say yes.

I talked to Secretary Cheney today. I said:

Dick, what does this mean? There is no language in here, because it was intentionally left vague so you could go back and claim to each house, we won, we won; two different directions.

I said, "Are you going to build any more B-2's or not?"

Secretary Cheney told me, and I would say to the gentleman from California [Mr. DELLUMS], "As far as I am concerned, there is no prohibition in here. We have got the money and we are going to build them."

So whether you are for it or against it, I am saying, somebody is being lied to. There is a whole lot going on in the back room, and this is no way to run a conference. This is no way to operate a $300 billion defense bill, in the back room, with three people at midnight.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman from Alabama [Mr. DICKINSON] is making an extremely significant point. The question of how we resolve the matter of the B-2 is important.

Mr. Speaker, it seems to me that in 1 hour in this conference report with Members taking 1 or 2 minutes we are not going to be able to deal with this question. I would ask unanimous consent that we proceed for 30 additional minutes, to be evenly divided between the gentleman from Alabama [Mr. DICKINSON] and the gentleman from Wisconsin [Mr. ASPIN], for the sole purpose of a colloquy and discussion on where we are with respect to the B-2.

Mr. Speaker, the gentleman from Alabama [Mr. DICKINSON] made a good point about how we ended up in this conference. I think the fact that there are several different versions of it needs to be clarified.

Mr. Speaker, I will be making further comments about this later.

The SPEAKER pro tempore (Mr. HUCKABY). Is there objection to the request of the gentleman from California [Mr. DELLUMS]?

There was no objection.

Mr. DICKINSON. Mr. Speaker, reclaiming my time, maybe we can get the truth out of this thing. We darn sure cannot do it in a midnight meeting in a back alley room over there on the Senate side when three people get together and start dealing cards, and nobody knows what is going on. We don't know what the SDI funding is, we don't know what the C-17 funding is, we don't know how the Commission is going to be set up on base closures. All of these things are done at the midnight hour under a cloak of secrecy.

What sort of way is that to run the Nation's business? What sort of honorable way is that to run the Nation's business?

Does the gentleman from Wisconsin [Mr. ASPIN] wish to respon to that? I thought not.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, the gentleman from Alabama [Mr. DICKINSON] said it is not personal. I would like to ask the gentleman a couple of questions.

The gentleman was elected back in 1964. He has been here 36 years. How long did it take the gentleman to get on the Committee on Armed Services?

Mr. DICKINSON. Two years.

Mr. DORNAN of California. Two years. The gentleman has been a member of the Committee on Armed Sevices a quarter of a century. How long did it take the gentleman to work his way up to ranking Republican?

Mr. DICKINSON. I have been ranking member for 8 years.

Mr. DORNAN of California. Since Bob Wilson left the gentleman has been ranking. Has the gentleman ever heard, in all of his years since we have had permanent committees in the Congress, over a century, of it not being a four-way deal at any conference to work out something that is a reasonable conference? Has the gentleman ever heard of it?

Mr. DICKINSON. I commented on that earlier. No, I have never received such treatment or heard of such treatment by anybody professing to be honorable, forthright, upstanding people with which we have to deal.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I just wanted to ask the gentleman from Alabama [Mr. DICKINSON], we negotiated in the panel the entire Base Closing Commission that we finally came to agreement on. My understanding was the staff of the gentleman got those as we got those. That was all done at the panel level.

Mr. DICKINSON. Has it been changed since the last meeting you had?

Mrs. SCHROEDER. The only change——

Mr. DICKINSON. Answer the question.

Mrs. SCHROEDER. The only change that came was from Senator WARNER wanting something in the language at Cheney's request, which I assumed Senator WARNER would clear with you.

□ 2040

Mr. DICKINSON. Was that after the meeting and after the panel met? Were there changes made then?

Mrs. SCHROEDER. That was one night ago, but he said he had cleared it.

Mr. DICKINSON. He had cleared it? I do not know who he had cleared it with.

Mrs. SCHROEDER. Members on his side of the aisle, I must say, and it was just language.

Mr. ASPIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, the House and Senate have joined in agreeing upon a Defense authorization bill for fiscal year 1991. This bill calls for expenditure of some $288 billion which is $19 billion less than the Bush administration originally requested for defense spending.

This reduction is both realistic and critical, and was agreed upon during the White House-congressional budget summit. It is realistic in the sense that it recognizes the present budget realities that confront our Nation, and critical in the sense that it acknowledges the present realities of the new post-cold war era. More importantly, the bill reduces our traditional emphasis on strategic weapons systems and addresses our needs to meet new crises such as that which exists in the Persian Gulf today.

Overall, the fiscal year 1991 Defense authorization bill is the solid result of bipartisan cooperation and the willingness to compromise. This bill deserves the support of the President, the Congress, and as such the American people. In this regard, this bill includes three new initiatives that merit discussion. These initiatives represent a congressional commitment toward negotiations on nuclear testing, steps toward a ban on the production of fissile material for weapons, and enactment of tough enforcement legislation to stem the proliferation of ballistic missile systems.

NUCLEAR TESTING

The House and the Senate have joined together for the first time to call for continued United States-Soviet negotiations to limit nuclear testing, leading to a comprehensive nuclear test ban agreement. Both Houses have acted separately to urge such negotiations in past years, including the House of Representatives' repeated call for a ban on nuclear tests above 1 kiloton, as long as the Soviets don't test above that level. But the two Houses have never acted together in the same vehicle to call for such negotiations.

This new-found cooperation between the House and the Senate calling for such negotiations at this time, is a landmark development. It highlights the congressional view that the United States and the Soviet Union should not only seek quantitative constraints on their respective nuclear arsenals, but qualitative constraints as well.

Qualitative constraints on nuclear testing would enhance the strategic stability between the two superpowers and complement strategic arms reductions by establishing limits on the future development of destabilizing nuclear weapons.

Our objective in approving this provision is to keep the pressure on both the United

States and the Soviet Union to resume negotiations on nuclear testing leading to the early achievement of a comprehensive test ban.

A prohibition on underground nuclear testing would not only constrain the development and deployment of new generations of nuclear arms, but would aid in curbing the proliferation of nuclear weapons technology as well.

The United States and the Soviet Union have recently made progress in the verification of nuclear testing limitation agreements that could aid in the verification of a United States-Soviet negotiated comprehensive test ban.

It is imperative that we build off the momentum of warming relations between the United States and the Soviet Union. We have tremendous opportunities before us to work together in this post cold war era: In the Persian Gulf, strategic and conventional negotiations, and in the area of nuclear testing.

Moreover, this provision makes clear, that as signatories to the Limited Test Ban Treaty, the Treaty on the Non-Proliferation of Nuclear Weapons and the Threshold Test Ban Treaty, the United States and the Soviet Union are legally bound to continue their negotiations with a view toward achieving a solution to the cessation of underground nuclear weapons tests and to continue the bilateral nuclear testing talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban.

It is time to get back on track and meet our international commitments in the area of arms control. And that means that it is time to resume negotiations with the Soviets to achieve an end to nuclear testing at the earliest possible date.

FISSILE MATERIAL

In the area of fissile material controls, the House and the Senate joined together to require the President to prepare a report that explores the onsite monitoring techniques, inspection arrangements, and national technical means that could be used by the United States to verify a United States-Soviet ban, leading to a global ban, on the production of fissile material—plutonium and highly enriched uranium—for weapons. The report must also include the verification arrangements that could be included in an agreement calling for the dismantlement of nuclear warheads and the end use or ultimate disposal of any plutonium or highly enriched uranium recovered from dismantled nuclear warheads.

In order to prepare the report, the President is required to establish a Technical Advisory Committee on the Verification of Fissile Material and Nuclear Warhead Controls. This Technical Advisory Committee shall consist of preeminent government and nongovernmental experts in the fields of radiation detection, nondestructive examination, nuclear safeguards, nuclear materials production, and nuclear warhead dismantlement. The committee must be established not later than December 31, 1990, and the report must be submitted to the Congress not later than April 30, 1991.

In this regard, it is our view that as it is more than likely that a production ban and warhead dismantlement will be part of future arms control agreements, the Congress urges him to establish with the Soviet Union a mutual technical working group that examines these issues.

The House and the Senate were also able to agree that the Secretary of Energy should use funds to carry out a program to develop and demonstrate the means for verifiable dismantlement of nuclear warheads.

Congressional action this year reflects a concerted attempt by the Congress to raise the profile of this issue on the superpower agenda. Progress in United States-Soviet and multilateral arms control negotiations, a changed security environment, a changing Soviet-Warsaw Pact relationship, as well as significant changes underway in the Soviet Union, have contributed to a resurgence of support for the concept of fissile material control in the Congress as well as in the arms control community. As we move into the 1990's and as the United States and the Soviet Union agree to deeper cuts in their strategic nuclear arsenals, a negotiated ban on the production of fissile material for weapons purposes becomes even more meaningful, highlighting and associated need for warhead dismantlement, including storage and monitoring of fissile material from such dismantled warheads.

Not only would a negotiated United States-Soviet ban on the production of fissile material for weapons purposes lay the groundwork for future verifiable arms control agreements that seek to destroy warheads, but it would increase the political pressure on nuclear weapon states to halt their own production and put their facilities under safeguards. Moreover, a United States-Soviet ban could result in other nonweapon states foregoing a move toward the production of fissile material for weapons purposes.

In hearings before the House Foreign Affairs Committee last year, several reasons emerged as to why a negotiated and verifiable ban on the production of fissile material for weapons purposes is timely. Namely, it became clear that the requirements for fissile material are likely to decrease as a result of past and future arms control negotiations and unilateral decisions to decrease weapon deployments and therefore a ban on production is a commonsense response to these developments. Moreover, efforts to extend the Treaty on the Non-Proliferation of Nuclear Weapons [NPT] in 1995 would be greatly enhanced if the United States and the Soviet Union acted to constrain their production of fissile material for weapons purposes by placing full-scope safeguards on their civilian facilities. This would remove one of the inequities between the nonnuclear and nuclear weapons states frequently cited as a criticism of the NPT.

A ban on the production of fissile material for weapons purposes would also contribute to the efficacy of warhead dismantlement and destruction procedures. Such procedures will more than likely be part of future arms control agreements—perhaps even a START I agreement. Moreover, the development of new technologies for enriching uranium and upgrading plutonium from reactor to weapons grade could be a dangerous development that could be averted by banning the production of fissile material for weapons purposes. It would be an easier task to control these technologies now, rather than after they are widely used.

It is time for both the United States and the Soviet Union to abandon their plans for continuing the production of plutonium for weapons purposes. With a half life of 24,000 years and 100,000 kilograms of plutonium in each of the United States and Soviet stockpiles of nuclear weapons, there is not need to continue production of this material.

The United States and the Soviet Union have been producing plutonium and HEU for weapons purposes—the ingredients for our nuclear bombs—since the 1940's. The United States ceased plutonium production for weapons purposes in 1988, primarily because of environmental concerns at our nuclear sites. As for HEU, the United States stopped production for weapons purposes in 1964. The Soviets announced in April 1989 that they planned to stop HEU production, they had already shut down one plutonium reactor, and would shut down two more plutonium reactors, reducing the number of reactors remaining open from 14 to 11. Since that time, the Soviets indicated that they would shut down another five reactors and at the U.N. General Assembly in 1989, Soviet Foreign Minister Shevardnadze announced that all military reactors would be shut down by the year 2000. As both sides have roughly 100,000 kilograms of plutonium and roughly 400,000 kilograms of HEU in their stockpile of nuclear weapons, both sides have an adequate deterrent stockpile of plutonium and HEU. HEU has a half-life of about 500 million years.

By negotiating a bilateral ban on the production of fissile material for weapons purposes, the United States could take advantage of its unilateral halt to plutonium production for weapons purposes by engaging the Soviets in a ban on their production as well.

In an environment of increasing budget cuts, such a ban could also make available needed funds for cleaning up our military reactor sites where tons of radioactive and chemical waste have poisoned our ground water, air and soil for much of the last 40 years of warhead production. Estimates of the cost savings from such a ban reveal an over $10 billion savings over the next 20 years.

Perhaps one of the most compelling reasons for addressing this issue now relates to the radically different relationship emerging between the United States and the Soviet Union. The Soviet Union is changing, the countries of Eastern Europe are changing and with those changes the overall threat has been significantly reduced. A new era of cooperation with our former adversaries should result in new arms control agreements that reflect the significantly reduced threat and impede the return to the arms races of the cold war era.

Following, or along with a ban on the production of fissile material for weapons purposes, the United States and the Soviet Union should discuss the technical details of warhead dismantlement. As in past agreements, the START agreement on the table in Geneva does not call for the dismantlement of a single warhead—for example the fissile material. Under the INF Treaty, and as currently envisioned by the proposed START agreement,

the nuclear warhead is removed and returned to the inventory of the respective country of ownership—the United States or the Soviet Union.

Reductions in the missiles and launchers are without question, important and necessary, but we could derive a further arms control benefits if we also dismantled the warheads and ensured that the fissile material is not used to make more warheads. Moreover, if the United States and the Soviet Union conclude a START agreement that calls for reductions only in delivery vehicles, we will potentially be freeing up significant numbers of warheads that will be available for use on other delivery vehicles or for remanufacture into other warheads. This becomes an even larger problem as we conclude deeper reduction agreements that could highlight a greater risk of breakout.

Furthermore, coupling START reduction with the withdrawal of nuclear artillery and tactical nuclear weapons from Europe and future negotiations on short-range nuclear forces, increases the amount of fissile material that will become available and therefore increases the need to manage it. Again, an agreed upon United States-Soviet method of storage and monitoring of warheads and fissile material would greatly reduce the chances of fissile material from old weapons being used in new weapons.

Verification of such a ban on the production of fissile material for weapons purposes is feasible through a combination of national technical means and onsite inspection. In fact, our 30 years experience with the International Atomic Energy Agency [IAEA] reveals a workable and credible system of safeguards.

The administration is missing an opportunity to take the high ground and enter into negotiations with the Soviet Union to ban the production of fissile material for weapons purposes—especially now, in the wake of our own current unilateral halt in plutonium production.

The administration's opposition to such a cutoff is a departure from its policy of embracing an encouraging changes underway in the Soviet Union and Eastern Europe in other areas. It is unfortunate and ironic that at a time when the United States is negotiating with the Soviet Union to reduce both side's strategic nuclear arsenals, reduce the conventional imbalance in Europe, destroy and eliminate both side's chemical weapons stocks, and verify nuclear tests, the United States remains intransient in the area of a fissile material production ban for weapons purposes. Why does the Bush administration take a different approach on this issue? Why the insistence on isolating this issue, especially when the benefits in terms of arms control, the environment, cost and cooperation, are so clear?

As a result of our efforts last year to reorder our priorities to reflect arms control and environmental concerns, the House last year voted to adopt the Wyden-Fascell amendment to urge United States-Soviet negotiations to ban the production of fissile material for weapons and to eliminate funding for the Strategic Isotope Separation [SIS] Plant in Idaho, which would have wasted at least a billion dollars for producing weapons grade plutonium that we do not need.

As a continuation of this effort, the Congress acted this year in the fiscal year 1991 Defense authorization bill, to keep a bilateral ban on the production of fissile material for weapons purposes on the superpower agenda and to decrease our nuclear weapons budget. The United States is not now producing fissile material for weapons purposes. The next step is for the administration to initiate discussions with the Soviet Union to ban such production on their part.

We will continue to keep the pressure on and look forward to working with the administration to bring about negotiations with the Soviet Union in this area as soon as possible.

MISSILE PROLIFERATION

Finally, the fiscal year 1991 Defense authorization bill recognizes the growing need to unilaterally strengthen the missile technology control regime [MTCR] which was designed by the United States in concert with the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan and announced on April 16, 1987. This regime represents a small but potentially important step in arms control as it seeks to control the growing spread and proliferation of ballistic missile systems and those technologies that are associated with the development of such systems.

In this regard, the fiscal year 1991 Defense authorization bill enacts tough and binding legislation that is designed to stem this latest and in my view, quite dangerous proliferation concern. This concern was evidenced during the Iran-Iraq war, and continues to be evidenced today, as United States troops and those of other nations are confronted with the threat that is posed to them by intermediate range ballistic missiles systems that have been deployed in occupied Kuwait by Iraq.

While many of these missile systems were purchased directly by Iraq from non-MTCR adherents, we do know that Iraq has also reconfigured these systems in such ways as to extend their ranges. We also know that Iraq has been actively seeking other associated technologies to develop indigenous Iraqi missile capabilities that will go beyond those that they currently deploy.

The fiscal year 1991 Defense authorization bill addresses Iraq's ability to obtain such capabilities, as well as those of other country's of concern through several provisions that restate the policy of the United States on this issue, and through its amendment of the Export Administration Act and the Arms Export Control Act. These amendments establish U.S. responsibilities for negotiations with other nations regarding restrictions on technology transfers and revises the requirements regarding the list of controlled goods and technologies.

In this regard, the fiscal year 1991 Defense Authorization Act further amends the Export Administration Act, as well as that of the Arms Export Control Act to establish, subject to specified waiver criteria and exceptions, sanctions on U.S. and foreign persons who knowingly export, transfer, or otherwise engage in the trade of certain MTCR-related items, conspire to or attempt to engage in such activities, or facilitate such activities. The bill also goes on to amend the Export Administration Act and the Arms Export Control Act to establish new licensing controls on MTCR items. In addition, the bill includes a provision that requires the President to submit a semiannual report on the international transfer of certain MTCR equipment and technology and that of aircraft that Secretary of State believes may be intended for the delivery of nuclear, biological, and chemical weapons.

It is my view that each of these initiatives will contribute to the ultimate success of the MTCR regime. It also remains my view that the enactment of these provisions allows the executive branch the authority to control any item on the MTCR annex. In addition, the enactment of these provisions permits the Secretary of Commerce—in consultation with the Secretaries of State and Defense, as well as other appropriate agencies—the unilateral ability to control goods and technologies that would provide a direct and immediate impact on the development of ballistic missile systems. These items would be limited to those that have not been included in the MTCR annex but which the United States is seeking to add to that list.

Mr. ASPIN. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of this bill and believe it provides the necessary authorities for DOD to conduct ongoing operations in Saudi Arabia and to provide for an appropriate level of modernization for our future force structure.

Mr. Speaker, the bill affirms our intent to reduce our military forces in the next 5 years. We have provided a 100,000 reduction to our active components to begin this process.

In order to ensure as smooth a drawn down as possible without devastating the quality of our all Volunteer Force, we have provided a comprehensive package of transition benefits to include separation pay, job assistance, and additional benefits under the GI bill.

The gentlewoman from Maryland [Mrs. BYRON], myself, and others on our committee have worked up a transition package for those persons pushed out of the military that we think has a lot of merit to it.

As an indication of the consensus of Congress on the future role of the Guard and Reserve, we have restored the 24,000 end strength cuts made to the Guard and Reserve in fiscal year 1990. As most of my colleagues know, I am vitally interested in our reserve components.

There is substantial Guard and Reserve equipment procurement included in this bill which Members will vote on tonight. So I will tell Members of our House in this bill is over $1,800,000,000 for additional equipment for the National Guard and Reserve. I would point out that a lot of this equipment for the Guard and Reserve will end up in the different States and in the armories in your hometown. In other words, you will get this equipment and

it will be coming to you, to your hometowns to boost and improve the National Guard and Reserve.

I am very disappointed that the Senate insisted on a reduction of full-time manning for the National Guard by wanting to put active duty personnel into your armories in your hometown. We did not win this one, but we did delay the implementation for 1 year. Maybe in that 1 year we can point out that this was a bad move. We do not need active duty personnel in hometown armories.

The Senate also did not agree with the House provision to make the Chief of the Army Reserve able to actually run the Army Reserve. The Chief of the Army Reserve now really does not have much power. It is run by the Chief of Staff of the Army. The weakest reserve we have is the Army Reserve. This provision was left out also, and I think this was a mistake.

Last but not least, Mr. Speaker, I am disappointed that the Senate could not go along with changing the law on the length of time that the President of the United States could call up Guard and reservists from the current total of 180 days to make it 360 days for Saudi Arabian operation. This would have provided flexibility to call up the combat elements of the Guard and Reserve. Fifty percent of the combat elements of the Army are now in the National Guard.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I am glad to yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding. If the gentleman from Mississippi will remember, on my motion to recommit it included that in my motion to recommit to extend the time to a full year instead of 6 months, but the gentleman voted against it. I do not understand that.

Mr. MONTGOMERY. If I did, I will have to go back and look at the RECORD. I do not ever recall voting much against the gentleman at all, quite frankly.

Mr. DICKINSON. The gentleman from Mississippi seldom does, but on my motion to recommit I said we will extend the time from 180 to 360 days, and I got no support on that side of the aisle.

Mr. MONTGOMERY. Let me wrap this up. My time is up. We need to get these Guard and Reserve personnel to active duty. For some reason the Secretary will not call them up.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I rise to engage the gentleman from Massachusetts [Mr. MAVROULES], chairman of the Investigations Subcommitteee of the House Armed Services Committee in a colloquy.

I would like to commend the distinguished chairman for his leadership and dedication that led to this Defense authorization bill before us today.

The Committee on Science, Space, and Technology has worked with the Armed Services Committee on several titles of this bill, particularly the title creating the Strategic Environmental Research Program.

This ambitious, timely provision of the bill authorizes a $200 million program for environmental research, much of which will be conducted jointly by the Department of Defense, the Department of Energy, and the Environmental Protection Agency. Sections 2902(h) and 2904(h) of the Strategic Environmental Research Program require the council and the advisory board, respectively, to submit annual reports to Congress.

Given the Science Committee's important oversight role with respect to Federal environmental research, does the chairman concur that the Committee on Science, Space, and Technology as well as the House Committees on Armed Services and Appropriations should receive these reports to Congress?

Mr. MAVROULES. If the gentleman will yield, yes, of course, those reports required under the Strategic Environmental Research Program will be submitted to several congressional committees including the Committee on Science, Space, and Technology.

Mr. ROE. Mr. Speaker, I am pleased to rise in strong support of the conference report on H.R. 4739, the Department of Defense [DOD] Authorization Act for fiscal year 1991. It has been a pleasure working with the Senate and House Armed Services Committees to reach agreements on several important sections that deal with technology transfer, manufacturing technologies, environmental research, science education, and technology to combat drug infiltration into the United States. I am very appreciative of the cooperation we have received from members and staff of the Armed Services Committees of both bodies. Their approach to this conference serves as a model of how committees can work together to achieve common objectives.

The committees have agreed to provide the Director of the Office of Science and Technology Policy [OSTP] with a $5 million authorization from the Department of Defense 1991 budget to create a critical technologies institute. We believe this institute will be instrumental in advancing the development of technologies critical to our long-term national growth and security. The institute will then serve as the principal advisory body to the Director and to the Federal Coordinating Council on Science, Engineering and Technology on those national issues related to science and engineering.

Improving our manufacturing technologies is a vital component of ensuring that U.S. industry can compete in the global marketplace. Improved manufacturing techniques are applicable to both the defense and commercial sectors. Thus we have agreed that the Department of Commerce will coordinate with the Department of Defense and the Department of Energy in the development and implementation of a national defense manufacturing technology plan. This plan will be authorized under title 10 of the United States Code. DOD will also be required to establish a national defense manufacturing technology project. As part of this project, the Department of Defense will require the military departments to conduct research related to manufacturing technology; promote computer-integrated manufacturing technology; enhance the use of concurrent engineering practices in the design and development of weapon systems; and promote manufacturing extension programs to assist small manufacturers. There is no doubt that this important Defense Department effort will have direct application to the commercial sector. Conversely, the Department of Commerce manufacturing and technology transfer programs, as established in the Omnibus Trade and Competitiveness Act, can make a major contribution to the modernization of manufacturing processes used by DOD and its contractors.

In technology transfer, the conference report enhances the Federal Government's role in assisting small business in the commercialization of technology developed by Federal R&D programs. Specifically, the Department of Commerce is authorized to use the State Technology Extension Program provisions of the Trade and Competitiveness Act of 1988 as a vehicle for transferring technology from defense laboratories to small business. In the same vein, we are requiring the Department of Energy to expedite the implementation of the National Competitiveness Technology Transfer Act of 1989.

Department of Energy contract modifications needed to allow Government-owned, contractor-operated laboratories to enter into cooperative R&D agreements with industry must be limited to only those provisions necessary to carry out the 1989 act. The Secretary of Energy is required to report back to Congress on these matters within a month.

The Science, Space, and Technology Committee and others are becoming increasingly concerned that the Nation's research on environmental problems does not meet current needs to protect the environment. To that end, we have agreed to add a new provision to the Defense Authorization Act to establish a Strategic Environmental

Research Program. The program will be administered by a newly created Joint Strategic Environmental Research Council, charged with the creation of a 5-year Strategic Environmental Research Program plan.

The program will support research at the Federal laboratories and at universities to address environmental issues directly relevant to DOD and DOE missions. Most importantly, to help ensure that the $200 million authorized in the title for environmental research are used effectively, the council will be required to coordinate its activities with those of existing research efforts at other Federal agencies. These agencies include the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, and also the Federal Coordinating Council for Science, Engineering, and Technology.

This new program will also permit environmental researchers, inside and outside the Government, to have unprecedented access to valuable environmental data collected by the Departments of Defense and of Energy. This new approach, to promote national security by enhancing the quality of the environment, will have a multitude of benefits.

In the area of science education, we strengthened the Department of Energy's education programs and made them consistent with the overall plan for education and human resources being developed by the Federal Coordinating Council for Science, Engineering, and Technology. Forty million dollars have been authorized for DOE science education programs, and their administration has been consolidated into the Office of Energy Research. Provisions and concepts have been included from H.R. 5615, the DOE Science Education Act introduced by Mrs. LLOYD. The provision will allow DOE to accept non-Federal funds for science education activities and to enter into partnership agreements with local education systems and with colleges and universities.

In sum, I believe those who have worked so cooperatively and so well on the conference report have produced an outstanding legislative product. We on the Science Committee are pleased to have been a part of the overall effort. I strongly urge support for the conference report.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I cannot honestly say this conference report is a good bill. It authorizes $4.1 billion for the B-2 bomber, which was approximately the after tax income of every single resident of my congressional district last year. And, it keeps alive numerous other cold war programs which should be turned into rubble like the Berlin Wall. The strong policy shift to a smaller and redirected military, which was made in the House-passed bill, was blunted and weakened in the conference. If asked whether this conference report reflects a defense policy I support, the answer is no.

Sadly, we, as members of Congress, do not have the luxury of withholding our votes from imperfect legislation. Rather, we must consider whether defeat of the defense authorization conference report will move the Pentagon closer to or farther from a rational defense policy. There is no doubt that, by passing the conference report, we stand a better chance of waking the Pentagon out of its cold war trance.

The bill does cut American troops in Europe by 50,000 and tells the administration in a dozen different ways that the post World War II occupation of Europe is over. The bill makes it clear that our allies have to pay much more to support our overseas troops presence. It tells the Pentagon to get to work on designing a system of dual basing which works. And the bill forces the NATO foreign ministers to rethink the new airbase at Crotone, Italy. And, it cuts back on numerous cold war weapons, like the SRAM-T.

The conference report does cut star wars to $2.89 billion, the lowest level in real terms since Ronald Reagan dreamed up this lame idea in 1983. Still, keep in mind that this sum would provide child care for over 700,000 kids, permitting their parents to keep jobs. I have no doubt that permitting 700,000 Americans to hold down jobs free from child care worries would do much more for American national security than throwing this money down the star wars rathole.

One area of clear success in the bill is base closure. We designed a base closure process which prevents Secretary Cheney from using the threat of base closures to expand his own political power and which avoids the sloppiness and secrecy of the last Commission. The bill provides that DOD issue criteria and a force structure plan. DOD will then select bases for closure or realignment based exclusively on the criteria and the force structure plan. Their recommendations become public and go to an independent Commission. The Commission reviews the work of DOD to ensure that the selections were made for legitimate reasons, and not because Dick Cheney wants to pick on Democratic Members of Congress. Both the President and the Congress can then disapprove the Commission's list, but only as an all-or-nothing proposition.

We all know that, as the size of the force goes down, bases will close. And, the longer we delay closures, the more it will cost and the more disruption it will cause. At the same time, the selection process must be fair, both in fact and in appearance. And, selections must be based on neutral criteria and solid facts.

The House passed bill contained major initiatives for quality of life. We had a major family housing improvements initiative. A barracks, initiative, and a child care center initiative. Because the appropriators moved their legislation before we moved ours, these efforts did not get funded in the appropriations bill. So, we dropped the authorizations. Nevertheless, the Department should get the message: barracks, family housing improvements, and child development centers will get funded. Put them in the budget request.

There is also a message in the projects funded. The administration requested $154 million in construction in Germany; we funded $8 million. The administration requested $83 million in construction in Korea; we funded $6 million. The administration requested $48 million in the United Kingdom; we funded zero. I think the pattern is clear. The message is that it is time to sharply reduce our overseas troop presence.

I will vote for this conference report not because it reflects a defense policy I support, but because it moves the Pentagon away from the antiquated and wasteful defense policy it has been supporting.

I must say there is one other thing that is important. The Senate chaired the conference this year; we did not chair it.

I really wince when I hear our chairman being attacked, because it was the Senate that called the meetings and set the tone. Next year we will chair them, but I think he is being unfairly attacked for things when the Senate was the main chair.

□ 2050

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response, I would say that the panels never reported back to the full conferees for confirmation by the full conference, and I think the gentlewoman would agree to that. Right?

Mrs. SCHROEDER. I did not hear the gentleman.

Mr. DICKINSON. The panels never reported back to all the conferees the product of their decisions. Is that correct?

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman form Colorado.

Mrs. SCHROEDER. I do not remember it ever reporting at any time back to the full conferees. This time it happened at the panel level.

Mr. DICKINSON. You just get together in the back room and decide these things.

Mrs. SCHROEDER. No. I am saying it never happened. It was the big four that used to get together before, and this time we decided at the panel level.

Mr. DICKINSON. We agreed there would be no big four this time, and you asked the question in conference, and you heard no big four this time, but they did it.

Mrs. SCHROEDER. No. They did not do it in ours. They did it at the panel level. That was my point. And the only changes were because of the administration.

Mr. DICKINSON. The big four shrunk to the big three.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Speaker, I rise in opposition to the conference report and to the blatantly undemocratic and partisan process which produced it.

The authorization bill described in this report delays and restricts critical strategic and conventional modernization programs. Its supporters will say that this is a rational approach as we better define the threats which are emerging from a changing world situation. But at a time when the Soviet Union continues to modernize its strategic forces, and when ballistic missile technology and weapons of mass destruction are rapidly proliferating throughout the Third World, it seriously underfunds and overly restricts our strategic defense initiative. Mr. Speaker, even when the threat and the necessary response to it are obvious, this bill does not measure up. If this is how we intend to respond to emerging threats, if this is our answer to hostile Third World nations with advanced technology weapons, if this is our vision for the future of our Nation's defense, then my response must be an emphatic "no."

Finally, Mr. Speaker, I want to express my most strenuous objections to the manner in which the conference itself was conducted. By its outright disregard for the rights of republican conferees to participate fully, this process has blatantly ignored the very foundations of our democratic system. At a time when profound changes are reshaping the world around us, we cannot afford to leave our response to these changes in the hands of only a few. As this bill clearly demonstrates, it is simply not a wise thing to do.

Mr. ASPIN. Mr. Speaker, may I inquire as to how much time each side has?

The SPEAKER pro tempore (Mr. HUCKABY). The gentleman from Wisconsin [Mr. ASPIN] has 38 minutes remaining, and the gentleman from Alabama [Mr. DICKINSON] has 29 minutes remaining. This is with the additional 15 minutes on each side because of the unanimous-consent request of the gentleman from California.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. LEATH].

PARLIAMENTARY INQUIRY

Mr. DELLUMS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DELLUMS. Mr. Speaker, the time that the Speaker announced, does that include the 15 minutes for the gentleman from Alabama and the 15 minutes for the gentleman from Wisconsin?

The SPEAKER pro tempore. The gentleman from California is correct, and so the entire debate was 45 minutes for the gentleman from Wisconsin [Mr. ASPIN] and 45 minutes for the gentleman from Alabama [Mr. DICKINSON].

Mr. DELLUMS. I thank the Chair.

Mr. LEATH of Texas. Mr. Speaker, I thank my friend, the gentleman from Wisconsin, for yielding me this time.

Mr. Speaker, since this will be the last defense conference I will have the opportunity to stand in this well on, I want to say that I do rise in strong support of it.

My dear friend, BILL DICKINSON from Alabama, who has been my friend for the 12 years that I have been here and a very close personal friend and colleague, BILL, thank you for the kind words that you said. I really and truly am sorry that this situation has developed, and I can tell the gentleman from the bottom of my heart that I do not think that our chairman intended for this type of situation.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. LEATH of Texas. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, could the gentleman tell me how it could happen accidentally? How could it be happening accidentally?

Mr. LEATH of Texas. I am just expressing my own feelings.

Mr. DICKINSON. How could it happen?

Mr. LEATH of Texas. I am sorry it has happened, because as far as I am concerned, as the gentlewoman from Colorado said, this is the best attempt to write a defense bill that I have ever seen in the 10 years that I have been on the committee. I want to commend the chairman for it. I want to commend all the Members for it. I want to commend the staff who have done an absolutely extraordinary job of trying to talk about policy, trying to talk about where we really need to spend limited resources we are going to have in the next few years, where we are talking about taking care of people, where we are talking about strengthening conventional forces, yet, at the same time, trying to be sensible about a strategic balance.

I think these things were well thought through this time for the first time in the 10 years that I have been here, and we have made a lot of progress.

I would hope that somewhere that we can get these procedural things that happened, and I am not going to take anybody's side, although I do not believe anything was intentional, I hope these things get worked out, because I think we have good leadership in this committee now. We have the strongest staff that we have ever had. We have a defense bill that I think is being well thought through that is going to take care of the men and women in our military services, and make this country strong.

I leave here knowing that it is going to be in good hands, and I thank all of my good friends for their many kindnesses in the 10 years that I have been on the committee.

I thank the chairman.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I was wondering if the chairman, the gentleman from Wisconsin [Mr. ASPIN], would engage at this moment in a brief colloquy.

Mr. Speaker, it is my understanding that section 1702(1)(1)(A) gives to the executive branch the authority to control any item on the internationally-agreed-to missile technology control regime annex for the purposes of inhibiting missile proliferation.

In addition, section 1702(1)(1)(B) gives the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of Defense, and other appropriate agency heads, the ability to control unilaterally goods and technology that would provide a direct and immediate impact on the development of missile delivery systems. These would be limited to items which have not been added to the MTCR annex, but which the United States is seeking to have added to that list, whether or not they have been rejected for inclusion on that list in the past. With regard to sanctions, no sanctions will apply to foreign persons for transfers involving items on the unilaterally controlled list.

This understanding is also reflected in the statement accompanying this bill of the distinguished chairman of the Foreign Affairs Committee.

Is this your understanding?

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I am happy to yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, yes. It is the intent of the conference that

goods and technology can be controlled under the circumstances you describe.

Mr. BERMAN. Mr. Speaker, I appreciate the clarification.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Speaker, I would like to take a moment to commend the gentleman form Wisconsin [Mr. ASPIN], our chairman, for his hard work and excellent leadership on bringing this bill to the floor.

I would say to the gentleman from Alabama, for whom I have the deepest respect, that I deeply regret this situation and the misunderstanding that has taken place, but I still think we have a good bill and one which ought to be approved overwhelmingly by the House.

Mr. Speaker, I believe that this bill meets a very strong need that we have in our U.S. military today in providing for additional tactical aircraft for the Guard and Reserve.

In Operation Desert Shield, Mr. Speaker, we had to use every single asset available at our disposal when we had to make this most massive airlift over to Saudi Arabia, and our forces responded and responded well. However, a congressional mandated study from 1982, shows that we are about 22 million ton-miles short, so this bill goes a long way toward bringing us additional aircraft capability.

I want to commend the chairman in recognizing this need and commend this bill to my colleagues as meeting the needs of future operations like Desert Shield.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I rise in support of the DOD conference report it provides for our Nation's security needs, yet adheres to the difficult budget constraints that we now face.

I am pleased that in this legislation we address the long-term needs of our Nation for scientists, mathematicians, and engineers, important to both our military and economic security, in the highly technological world of today and tomorrow.

Incorporated into this legislation is the Department of Energy Science Education Enhancement Act. The Subcommittee on Energy Research and Development, which I chair, held several hearings on the Department's existing science, mathematics, and engineering education programs as well as DOE's future plans in this area. A product of those hearings was H.R. 5615, the DOE Science Education Act, which was introduced with bipartisan support earlier this year. In fact, every member of the subcommittee and Science Committee chairman ROE signed on as original cosponsors.

Mr. Speaker, this is important legislation. As our Nation becomes more and more dependent on science and technology the greater our need for a strong, dependable scientific base. Enrollments in these disciplines are declining. It makes sense that as the largest user of scientists, mathematicians, and engineers, the Federal Government has a leadership role to play in expanding the talent pool and exciting students to pursue science, mathematics, and engineering fields.

Our national laboratories house some of the greatest minds in the country. These facilities are practically untapped in terms of their potential to educate future scientists and engineers. Each DOE laboratory has undertaken to expand on the DOE programs and each did so in response to the needs of its community or region. As a result, we have minority focused programs which are successful in reaching out to our African-American communities, to our Hispanic communities, and to our native American communities.

Some laboratory programs are focused on urban schools or rural schools where problems are vastly different. The search for future scientists cannot be limited to the middle and upper classes to fill the country's future needs. The best and the brightest must be developed and encouraged at every social and economic level, and in every segment of our society. Only in this way can we hope to provide for the future.

I am excited as we strive to bring the talent at our laboratories to the young Americans summer science camps program; I know this program will grow and spread through every State in the Nation and provide summer opportunities to students across the country. I am particularly proud of the retired scientists volunteer program which will match retired scientists, mathematicians, and engineers with the public schools in their communities to give teachers and students a clear picture of laboratory experiences and opportunities.

The DOE, through the DOE Science Education Act, now has a clearly stated mission to conduct these programs which can no longer be questioned. It is an important mission that the current Secretary of Energy embraces with enthusiasm. It is my sincere hope that this is only the beginning, that the DOE program will serve as a model for every Government agency served by research and development programs.

□ 2100

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY]

Mr. PENNY. Mr. Speaker, I had intended to vote no on the Defense authorization bill on budget grounds. However, I have reluctantly decided to vote yes because of policy considerations. While this bill will not be shutting down the B–2 bomber, it comes as close to canceling that program as I think we can expect this year. It reduces the appropriation for star wars below $3 billion. This bill all but cancels rail-base MX. This bill emphasizes the Guard and the Reserves. And this bill allows for fair treatment to Desert Shield personnel and transition assistance to others who are making the change from military to civilian life.

I am convinced that if we reject this conference agreement, we will only result with policies that end spending more and cancelling less. I still object to the add-back of $5 billion, and for that reason I will not support the appropriations bill if it comes in at that higher level. But, again, due to the policy considerations in this bill, I think it is worthy of our support.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. THOMAS A. LUKEN]

Mr. THOMAS A. LUKEN. Mr. Speaker, the majority conferees of the committee on Energy and Commerce believe it is of paramount importance that the administration not only provide adequate personnel to carry out required oversight at Federal facilities, including DOD and DOE facilities, but that the Federal agencies which have caused the pollution at these facilities are responsible for oversight costs to the same extent as private companies.

Massive pollution problems exist at federal facilities—the estimated cleanup bill for the Department of Energy alone is a staggering $150 billion. One hundred and sixteen Federal sites, mostly belonging to DOD or DOE, now comprise about 10 percent of the national priorities list [NPL] of the most polluted sites in need of cleanup in the United States.

The litany of pollution at Federal facilities is alarming. Through the country, at dozens of DOD sites—at the Picatinny Arsenal in New Jersey, the Joliet Army Ammunition Plant in Illinois, the McClellan Air Force Base in California, and others—ground water is contaminated with volatile organic compounds, explosive wastes, or heavy metals, such as lead, cadmium, chromium, and arsenic.

The problems are as bad or worse at DOE facilities, such as the Fernald plant in Ohio, where both the underlying aquifer and off-site ground water, including drinking water supplies, have been contaminated with uranium, millions of pounds of radioactive and mixed wastes are buried in leaking pits and radon-generating K–65 residues are stored in silos which are structurally so unsound that DOE hasn't even been able to sample and characterize their contents. Dangerous radioactive and hazardous wastes are

also kept at the Rocky Flats plant in Colorado, where toxic chemicals have polluted the aquifer. At DOE's Mound facility, also in Ohio, ground water contaminants have included radioactive tritium and volatile organics, again polluting drinking water supplies. At both Hanford in Washington and the Savannah River Plant in Georgia, ground water has been contaminated with radioactive materials at more than 400 times drinking water standards—and the list goes on and on.

Moreover, the Federal Government's largest polluted facilities are considerably bigger than a typical facility where the pollution was caused by private companies.

For instance, at Hanford alone there are almost 80 so-called operable units—one might less euphemistically call them environmental messes—many of which need as much work as an entire private party site. Yet EPA has only four people assigned to oversee DOE's cleanup work at all of Hanford.

Clearly, as at private party Superfund sites, rigorous EPA oversight is required to ensure that cleanups at these polluted DOD and DOE facilitei s are carried out safely and effectively. EPA's many responsibilities include negotiating interagency agreements, reviewing environmental sampling and work plans, determining appropriate cleanup remedies and providing critically needed technical expertise which the polluting agencies themselves often lack.

EPA must be given sufficient resources, both funding and personnel to oversee the cleanup of contaminated Federal sites. Under provisions of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 [CERCLA], EPA already has the clear authority to recover its oversight costs from Federal agencies.

Section 120 of CERCLA establishes the Federal agencies, including DOD and DOE, "shall be subject to, and comply with, this act in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under section 107." Section 107 provides for recovery of "all costs of remedial or removal action incurred by the U.S. Government" which includes EPA's oversight costs.

However, Department of Justice policy prevents EPA from exercising its statutory authority to recover these costs at Federal facilities. DOJ refuses to let EPA sue other Federal agencies, thwarting the fundamental intent of environmental laws, including CERCLA, that Federal agencies be treated the same as other polluters.

Without adequate personnel for oversight, EPA will increasingly be snowed under by work which must be completed before Federal facility cleanups can move forward. One likely outcome is costly delays in cleanup while pollution continues to spread through the environment.

Further, EPA's efforts to provide effective oversight could become a race between quantity and quality, with the citizens who live near these facilities as the ultimate losers.

These concerns are heightened by an anticipated growth in EPA's Federal facility workload. In future years there will almost certainly be additions of Federal sites to the NPL, including possible sites from among the 86 defense bases scheduled to close by October 1995, 8 of which are already on the NPL. And, significantly, DOE has only recently embarked on its own mammoth cleanup program, which will continue for decades and will require increased oversight by EPA.

The Office of Management and Budget has not been responsive in providing EPA with the personnel and finding needed for oversight of federal facility cleanups. This is a shortsighted approach which paves the way for delays in cleaning up polluted Federal sites.

For years, radioactive and hazardous substances have been mishandled and released into the environment while the Federal agencies responsible for the pollution fought vigorously against compliance with the environmental laws.

Now this same brand of recalcitrance threatens to stand in the way of making sure the EPA is able to adequately oversee the cleanups at these sites. We stress again that this situation must be righted and that DOD, DOE and other Federal agencies must pay for their oversight costs just as private parties do, ensuring that EPA is able to meet its obligations at Federal facilities and that cleanups will progress unimpeded by unnecessary oversight delays.

Mr. ASPIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, I arise with grave concern about the direction of section 365.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I would like to briefly discuss the reasons why the conferees agreed to drop the Senate provision requiring the Secretary of Defense to reimburse EPA for oversight expenses for cleanups at Department of Defense national priority list sites.

First, the provision was strongly opposed by the executive branch and the House Appropriations Committee because it violates the concept of funding each agency separately for the unique services they perform.

Second, there have been no recent hearings or reports on the adequacy of EPA oversight to DOD NPL sites, nor the need to transfer money to EPA to augment its oversight efforts.

Third, the House Armed Services Committee has closely monitored the development of a model interagency agreement between DOD and EPA governing the cleanup of DOD NPL sites. The record clearly shows that EPA signed a model agreement that did not provide for the reimbursement of EPA oversight expenses. In fact, we were concerned about the extent of additional requirements EPA sought to include in the model agreement and the capability of DOD and EPA to meet new obligations that exceeded those in the superfund law itself.

With nearly 100 NPL sites to cleanup, we remain seriously concerned about DOD's ability to recruit and retain qualified environmental personnel to administer contracts and perform the technical review to carry out these interagency agreements. It should be kept in mind that if EPA misses a deadline, it is too bad. But if DOD misses a deadline it could end up paying a stipulated penalty. Under the circumstances, the committee feels that DOD will have its hands full meeting its cleanup obligations without being asked to support EPA's requirements.

As chairman of the readiness subcommittee, I would also like to point out that the dollars being used for environmental cleanup come from the O&M accounts that support readiness, training, medical care, civilian pay, and quality of life programs. At the same time that O&M funding has experienced negative real growth over the past 2 years, environmental cleanup and compliance funding has doubled. In the process, the readiness subcommittee has increased funding $300 million above the President's budget requests. We have gone the extra mile to support DOD environmental programs and are fresh out of money to support other Federal agencies.

Call it what you will, EPA reimbursement boils down to a directed transfer of funds between agency appropriations and these transfers are within the jurisdiction of the appropriations committees. Accordingly, the House Appropriations Committee opposed this transfer because it buries the cost of EPA oversight in numerous Government programs, makes it difficult to track the actual cost of environmental cleanup activities, and complicates congressional oversight of EPA programs and personnel. The Appropriations Committee believes that if EPA needs more money for oversight, it should request it through the normal appropriations process.

In short, the conferees felt that the EPA reimbursement provision was, at best, premature in that there is no solid data to support it. Beyond that, there remain serious concerns that

such transfers would violate sound budget and appropriations procedures and impair congressional oversight of the agencies involved.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I have witnessed in the past few weeks as a member of the House Armed Services Committee and one of the minority conferees to the defense authorization bill, a textbook example of arrogance—the unbridled arrogance that comes from one powerful majority party controlling both bodies of this Congress.

This arrogance was recently demonstrated most clearly when the ranking minority member of the House Armed Services Committee, Mr. DICKINSON, was intentionally frozen out of the final negotiations with the House chairman and ranking Members of the Senate. As a result, the views of those of us on the minority were not represented.

While I have the utmost respect for my fellow colleagues on the committee on the other side of the aisle, I fear that this productive and beneficial bipartisan atmosphere has been gravely damaged by this one extremely counterproductive and arrogant act.

I find it ironic that the same majority party that has been so vocal lately on this floor and in the media presenting itself as the protector of fairness in budget negotiations chooses to ignore its own rhetoric when it comes to dealing with its minority colleagues. Where was the fairness in this conference process?

"Power tends to corrupt and absolute power corrupts absolutely."

I fear that the power that the majority has enjoyed has now caused that power to be abused and flaunted in the face of the minority and in the faces of the millions of constituents whose views we, the minority, represent.

Unfortunately, there is much more at stake here than bruised egos. This arrogant and flawed conference process has produced a flawed and ambiguous product. Instead of including the minority on the negotiations and, possibly, arriving at some real decisions on the tough issues, the so-called big three, chose to sidestep the tough issues. This conference report is riddled with ambiguous language on most of the real important programs, like the B-2 and SDI.

Can someone please clarify the outcome on the B-2 Program?

I am afraid that the conference language on the B-2 will be of little help. It is deliberately vague enough so that the opponents of the B-2 can claim credit for stopping production while, at the same time, the Senate chairman has been reported as saying that the B-2 production is alive and well. Which is it? Have we only postponed making the tought decisions? I can assure you that, if the minority had been allowed to participate, the B-2 decision would not have been left in limbo.

What about SDI? Besides the Almighty, who knows what direction future SDI programs will be allowed to take? I urge my colleagues to read the comments of Henry Cooper, director of the Strategic Defense Initiative Organization [SDIO], in this week's Defense News, on the tremendously negative impact of the restrictive conference language on SDI programs. The conference language would unwisely redirect SDI funding at a critical time. Had the minority been allowed to participate, the decision on SDI would not have been so restrictive.

In the end, Mr. Speaker, it all boils down to fairness and integrity of the committee process.

While the neighborhood bully may learn that his brute force or power will allow him to get his way, it is also true that what goes around comes around. This institution has traditionally been better than this. It should be. The people we represent demand that their views be represented, whether it be on the floor or in the smoke-filled rooms.

In a way, Mr. Speaker, I am glad to be able to disassociate myself with this conference report. Because the minority was excluded, the majority can claim full and complete credit, or rather, blame, for the fiasco. Speaking for myself, I want no part of it.

I urge my colleagues to vote against it.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. IRELAND].

Mr. IRELAND. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, this conference report, like most others I have seen, is the result of a good deal of horse trading, give and take, and compromise. It is not perfect by any stretch of the imagination, BUT it is the best we could do under very difficult circumstances.

There are some very positive aspects to the conference report, including important initiatives on long-range financial planning, accountability of expired accounts and the national strategy report I have been directly and personally involved in some of these provisions.

The conference report incorporates my ideas on how to force the Department of defense to submit the 5-year plan, now called the Multiyear Defense Program, as required by law. Last year, the department did not comply with the law. So the conference report puts some teeth in the law. The report also abolishes the M and merged surplus accounts—an objective I pursued all year—and replaces them with 5-year accounts where line item and fiscal year integrity must be maintained. It also mandates a comprehensive audit. The Department simply cannot be allowed to spend billions from an account that can't be audited. Thanks to provisions in this bill, that won't continue to happen.

These are all positive measures that will go a long way toward restoring accountability to the defense planning and budgeting process. However, in my judgement the conference report fails to make progress on some other key issues.

For example, the final agreement on the B-2 bomber represents the worst of both worlds. It gives the Air Force and Northrop all the R&D and procurement money included in the Senate-passed bill—$4.1 billion, but does not require them to build any more aircraft. To an airplane manufacturer, that is the perfect solution. We should call this provision the Contractor Nourishment Act of 1991.

I am also unhappy about the deep cuts in SDI.

Mr. Speaker, I am willing to overlook those shortcomings because of the greater good I see in this bill. And for that reason alone I will support the conference report.

□ 2110

Mr. ASPIN. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise in support of the conference report.

Although most of the debate about the conference report revolves around strategic programs, military personnel levels, and major procurement programs, I would like to say a few words about the environmental aspects of H.R. 4739.

As chairman of the environmental restoration panel of the House Armed Services Committee, I am pleased to report that the conference report significantly enhances the Department of Defense's ability to clean up its hazardous waste sites and address environmental compliance requirements. Equally important, H.R. 4739 greatly improves Congress' ability to exercise effective and responsible oversight of DOD environmental activities. I appreciate the hard work of the ranking member, Mr. HANSEN.

The conference report raises the amount authorized for the defense environmental restoration account to $1,063,000,000. This represents an increase of over $245 million above the President's request and nearly doubles DERA funding over the past 2 years. The panel worked hard to increase funding in committee and supported Mr. HOCHBRUECKNER's amendment to add additional funding during floor debate. Nevertheless, we know that

this funding level only represents a minimum sustainment level that will have to be maintained over the next 20 years to clean over 14,000 potential sites on 1,500 active military installations and over 7,000 potential sites on formerly owned DOD properties.

The conference report also contains provisions sponsored by myself and Mr. PICKETT to require DOD to expand its ability to identify environmental requirements at home and abroad and report to Congress on how they are being addressed in future budget requests. In addition, language proposed by Mr. HOCHBRUECKNER has been included that will focus more attention and provide more data regarding one of the most critical environmental challenges DOD faces—environmental personnel requirements. If DOD cannot recruit and retain qualified environmental personnel, it will not be able to meet its environmental requirements or be able to effectively utilize the increased funding Congress has provided.

The statement of managers language also addresses another serious concern that has been highlighted by the panel's ranking minority member, Mr. HANSEN, and Mr. LANCASTER. They have drafted language that requires the Secretary of Defense to report back to Congress on the impact of liability and the availability of bonding and insurance upon DOD's ability to secure the services of qualified environmental contractors. It is critical for Congress to fully understand the nature and extent of these contractor related problems because the availability of qualified environmental contractors may turn out to be a pacing item in DOD efforts to meet its cleanup and compliance requirements.

Although the environmental restoration panel cannot take credit for it, we fully support the establishment of Senator NUNN's Strategic Environmental Research and Development Program. This program is vital for two reasons. First, it addresses the current lack of funding and emphasis upon Department of Defense and Department of Energy environmental research and development efforts. Second, it provides the coordination and focus needed to harness DOD and DOE research and development efforts so that they are consistent with other Federal programs and those being pursued by the private and public sector. It is clear that additional money spent on enviromental R&D will substantially improve the quality and cost effectiveness of DOD cleanup and compliance efforts.

In sum, this conference report represents a very significant piece of environmental legislation that will materially improve the ability of the Department of Defense to make good on its commitment to be the Federal leader in environmental protection.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I rise in support of this legislation. To recapture M-accounts, that is about $40 billion of savings for the taxpayers that this particular conference got its hand on, that is something we ought to be glad about. I do not know of a single other such recapture. I am also proud and happy particularly about the $250 million for the needed Fast Sealift. But I really asked the chairman for the privilege of having this 1 minute to say to the gentleman from Alabama [Mr. DICKINSON], that the gentleman is greatly loved by the gentleman from Wisconsin [Mr. ASPIN] and by every member of the Armed Services Committee. If there is anything wrong about the conference, it is the process, not personalities. After all, we were not in charge. The Senate was in charge. They were in charge of every panel. They were in charge of it overall, so they are the ones who called the meetings.

I know the gentleman from Wisconsin [Mr. ASPIN] pretty well. We do not agree on everything, but one thing we do agree on, and that is the gentleman from Alabama [Mr. DICKINSON] is an outstanding U.S. Congressman. He is a great leader. The gentleman from Wisconsin [Mr. ASPIN] thinks highly of him, and I do, too. There is nothing the gentleman from Wisconsin [Mr. ASPIN] would do to hurt the feelings of the gentleman from Alabama [Mr. DICKINSON]. I think all of that is the result of the process, not the result of any personal feeling, and I hope all this will now be resolved.

Mr. MARTIN of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, although I know some people have labored hard and long on this bill, I must say, with regret and dismay, that I cannot support either the final product or the process by which it was achieved. As ranking Republican on the House Intelligence Committee, I was a conferee for part of the bill. However, I declined to sign the conference report.

Partly, this was because the conference accepted a Senate Armed Services requirement for a 25-percent cut in intelligence personnel, at 5 percent a year, beginning next year. The Senate insisted on this provision although they had held no hearings and conducted no serious study on the matter. On its face, the action borders on irresponsibility. Yet, House Armed Services conferees accepted it despite vigorous bipartisan opposition from the Intelligence Committee. They seemed unconcerned about what it would do to U.S. intelligence capabilities.

Additionally, I am deeply disturbed at the growth of pork politics in both the defense authorization and appropriation processes. I foresee that parochial congressional interests will absorb increasing percentages of declining defense spending. Apparently, we have come to value our own reelection more than we worry about damage to the taxpayer and the Nation—but this phenomenon is certainly not confined to defense legislation.

The House Armed Services Committee is skilled in the dispensing of personal prerequisites. In January, a member services team was formed—to attend to every member whim and district need, the better to ensure that required votes could be available. Thus, despite its many controversial provisions, this year the original bill easily was passed by the normally fractious committee and by the House as a whole. The supposedly bipartisan professional staff is instructed to shut out the tiny Republican component, who are treated like Republican mushrooms, from the very outset—that is kept in the dark and covered with fertilizer. Highhandedness became so routine that Mr. DICKINSON, the ranking committee Republican, was not even included in a final meeting, among Senators NUNN and WARNER and Congressman ASPIN, who between themselves resolved the most contentious conference issues.

On major, highly visible programs, the conference adds billions not requested by the Department of Defense. This does not even count the smaller pieces of pork, discreetly tucked in to benefit many of our 535 Members, which marble the defense budget. A few of the more objectionable parts of the bill, will maintain and greatly expand the pork pie. Base closures still will be subject to partisan political manipulation. Districts affected by defense cuts are to be compensated with $200 million in economic conversion funds for job search, relocation, training, community assistance et cetera. In the future, this formula could obligate billions, even tens of billions, of dollars. The more the defense budget is cut, the greater will be the portion of it assigned to economic conversion purposes, accelerating the downward spiral in procurement and other discretionary spending. Such a program should not be funded with defense dollars, and it ought to compete with other domestic priorities.

If authorizers and appropriators reject self-discipline despite the prolonged budget crisis, we invite executive branch action. When Mr. Nixon was President, Congress railed against his impoundment of appropriated funds. We deprived the President of this useful authority and so spending has a free rein, unless the President is willing to veto the whole bill.

Finally, one of the substantive portions of the bill that deeply troubles me is the treatment of our strategic needs. Even the House Armed Services Committee agrees that the Soviet nuclear modernization program, including their unilateral deployment of survivable and very expensive mobile missiles, continues with little change. There should be no question that strategic stability and strong deterrence of nuclear war must remain a top priority.

We could counter Soviet mobiles by deploying some of our own, by fielding strategic defenses, or by both means. I personally would favor strategic defenses, partly because they could serve other purposes as well, including eventual protection against the proliferating

arsenals of Third World countries. Yet we are eliminating U.S. mobile systems. We have also reduced and restricted SDI, and it is unlikely that defenses will be deployed. We have taken most of our budget cuts in the strategic area where, for whatever reasons, the U.S.S.R. appears determined to perpetuate a dominant force.

Is this thoughtful? Is it responsible? Again, I shudder for the future of the country and for the reputation of Congress. In this and other areas, I fear that its collective judgment does not equate to collective wisdom.

Mr. MARTIN of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Speaker. I am not a member of the Armed Services Committee, and thus have not sat in any of the hearings or markups. As I decide to vote on the various national defense issues, I rely on the advice of the experts in the field, including the President and members of the committee. Michigan is fortunate to have two members on Armed Services whose opinions I respect, one from each party I based my no vote against the House version of the Defense authorization bill on my informed assessment of national defense needs heading into the 1990's.

In my district is a dilapidated Army National Guard Armory, built at the turn of the century. I have personally inspected the building, and it would certainly not pass any fire inspection. I fact, I could see straight through the cracks in the structure. Congress recognized the need to replace this facility by authorizing and appropriating funds for a new building.

The Michigan National Guard is now attempting to find a suitable site for the new armory. Unfortunately, there is a small problem with the deed to the property. The National Guard cannot sell the old site to buy a new one without clear title to the property. Late last year, the National Guard asked me for assistance. I have worked on a bipartisan basis to correct this technical problem and it was included in the House passed Defense bill. Even the Michigan Department of Military Affairs, run by Democrat Governor Jim Blanchard, a former Member of this House, supports this legislative correction.

Now, late last week, the majority staff of the House Armed Services Committee told my office that they had receded from their own position in favor of this technical correction. They had the gall to tell my staff flat out that this is what happens to Members who vote against a bill that incorporates their little provisions. And they went on. If I could get Republican committee members to sign the conference report, they would put my provision back in before the report was filed.

What kind of policy making is that? Extortion? Blackmail? Let's face it, this three sentence release of reversionary interest just does not compare to SDI, Desert Shield, MX, troop deployment levels, or the B-2. My little provision would not cost the Government a nickel, and was told all along that it was no big deal.

But what kind of action is this? These actions have made politics more important than good policy. I cannot support that type of strong-arm tactics in the People's House. This simply a classic case of pork barrel politics, and it stinks.

To suggest that I vote against national security interests in favor of a project in my district is insulting. It is an outrage not only to me but to this entire House to demand that other committee members and I support a bill this thick because of a couple of lines it contains.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr McCURDY].

Mr. McCURDY. Mr. Speaker, I rise in strong support of the conference report on the DOD authorization bill.

I want to commend the chairman and the ranking member for their efforts throughout not only the committee deliberations on the bill, but also the conference as well.

Mr. Speaker, at no time during my 10 years in the Congress and in service on the Armed Service Committee have we had to deal with such a rapidly changing global environment, the threat changes before our very eyes. The Warsaw Pact no longer becomes a viable threat against U.S. national security interests in Europe.

□ 2120

And at the same time we see the development for many of us a confirmation of the threat in other parts of the world with the Iraqi invasion of Kuwait and a threat to many of the allied countries in the Persian Gulf.

Many of us have felt all along that we have neglected our conventional capability and some of the important elements of our lift capability to deal with those kinds of contingencies and threats. I believe this bill is an effort to move away from the cold war priorities developed during the Reagan administration and move to developing those kinds of capabilities for the threats that are more likely to occur in the future.

Also, Mr. Speaker, I believe that our efforts to protect research and development is a fundamental requirement to protecting the technology base of this country, because that research and development and that technology base is critical for our flexibility in the future and our ability to respond to these changing threats. And because of that I believe that this bill goes a long way in the right direction and I strongly support the adoption of the conference report.

Mr. ASPIN. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. I thank the gentleman.

Mr. Speaker, I thank the chairman for yielding this time to me.

Let me preface my remarks by saying, Mr. Speaker, that I came here 20 years ago from the Eighth Congressional District of California against the backdrop of the Vietman war.

I came here to be an advocate of peace, to challenge expanding military budgets and to fight to radically change the priorities of this country.

In those 20 years I have tried to work hard in this body and I worked my way up to third ranking Democrat on the House Armed Services Committee, and I have the privilege of chairing the Research and Development Subcommittee on that committee.

I must say that in the 20 years that I have been in this Congress, this year, as we debated the DOD authorization for fiscal 1991 in the Committee on Armed Services and on the floor of this Congress, for the first time we began to debate policy that we moved beyond simply being auctioneers where we debated whether we should have 5-percent, 10-percent, 2-percent real growth in the military budget. We actually started to debate what we really needed, and looked at policy and looked at policy options.

I thought that the bill that was produced by the Committee on Armed Services and the House of Representatives began to turn the corner in a world that is rapidly changing, in a world where the Berlin Wall fell, in a world where the cold war is over, in a world where we look to new options to the future.

But in my humble opinion it still did not go far enough. Although we significantly reduced the strategic defense initiative, in my humble opinion a great waste, we did say let us terminate the B-2 bomber at 15. We did finally say, although I believe we need no mobile missiles, in a world that needs to get beyond the insanity of nuclear weapons, that was not the consensus of this body. But we did prevail in saying let us not walk down the road toward two missile systems.

We said we did not need to build the SRAM-T missile because the cold war was over in Europe. We took an absurd bomb called the nuclear depth bomb, we took it out.

So now we come back with a conference report, and some of the things that we took out suddenly came back in the bill. But with those remarks I want to focus on the B-2 because we took a serious position on the B-2. We said—we spent $23 billion before the American people understood what the B-2 bomber was all about. And once the American people understood and

my colleagues understood in the House of Representatives, we said let us end it at 15, let us put this program to sleep.

Now, Mr. Speaker, we come back with the conference report where the House of Representatives conferees said that the additional money that were given in the conference would go only to pay for the 15 planes that were already obligated for, very clear and unequivocal. But then magically you turn the page and the Senate conferees said what they believe to be the end result, and it is fascinating the Senate language essentially gives the Air Force an incredible option. It says that you can take the $4.1 billion and you can take part of that money, $2.35 billion, we said take that money and pay for the 15 you are already obligated for. That makes sense.

But the Senate, the other body said no, you take that money and we will deobligate planes that we already had authorized, specifically planes 5 and 8, we will take the additional money, buy two new planes beyond the 15, and then somewhere down the road in the future we will reobligate money to pay for the 2 planes that we deobligated that we already authorized several years ago.

Mr. Speaker, the American people should be outraged at that. Mr. Speaker, that is an absurdity. You talk about a corruption of the process. What we are saying on this side in the House: Pay for the 15 planes you bought. But no, a game gets played, deobligated, reobligate, double obligation so you can purchase new planes, get further down the road.

Let us spend the balance of the time we have on this floor today to clarify for all time what we are going to do. Let me, before I conclude, say this: I feel so strongly about this, and I am sure my colleague from Ohio feels the same way, that if there is an effort on the part of the Pentagon and the Air Force to go beyond the 15 planes, we will go to court to file an injunction against them, to stop this madness.

Some kind of way you cannot come back with a conference report where one group of people see it one way and another group see it the other way.

I was on the strategic panel and we were working very hard. Suddenly it got quite vague at the end. Maybe when it got vague at the end we came up with this process, but it has to be clarified, Mr. Speaker.

We have got to end it.

Let us take the balance of our time to speak with each other so that we clarify, so that the House and the Senate are marching in the same direction.

Mr. MARTIN of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Speaker, I rise in opposition to this incredible charade.

I rise in strong opposition to both the substance of this bill and the way it has been completed.

Proponents of this measure claim it begins the process of limiting strategic programs in favor of conventional weaponry needed for the post-cold-war era. They say it is the right response to a fading Soviet threat.

Mr. Speaker, I would suggest those who believe the Soviet strategic threat is fading are living in a fantasy world of incredible dimension. The process which this measure begins is not a response to reality, but rather the beginning of unilateral strategic disarmament, in the face of continued Soviet modernization. The wall has come down, but the missiles are still aimed at America, with ever-increasing accuracy.

Mr. Speaker, the process by which this bill was derived is just as troubling as its content.

Mr. DICKINSON, the ranking minority member on the Armed Services Committee, was cut out of the final decisionmaking process, estentially denying all Republicans participation in the process.

As the ranking minority member on the House Committee on Veterans' Affairs, I appreciate the impact of bipartisan deliberations on measures brought before this body. The legislative work product of the House needs the participation of Members from both parties.

One party rule is not in the best interest of Congress, the American public, or our democratic form of representative government. I deeply cherish the opportunity for input from minority Members provided by my chairman on the Veterans' Affairs Committee and good friend, SONNY MONTGOMERY. His bipartisan approach results in legislation truly responding to the need of our Nation's veterans.

Mr. Speaker, the denial of bipartisan participation on this defense bill results in a legislative product which does not meet the needs of our national security interests. Passage of this measure under these conditions truly demeans the legislative heritage of this House.

Mr. Speaker, I urge a "no" vote.

Mr. MARTIN of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I rise in strong opposition to this conference report.

Mr. Speaker, as a conferee to the Department of Defense authorization, I rise in opposition to the conference report. I do so as the ranking Republican member of the Economic Development Subcommittee of the Public Works Committee.

This report contains $200 million for what is explained as "Economic Conversion." Of that $200 million, $50 million is dedicated for the Economic Development Administration [EDA]. This agency has not been authorized since 1982 and has been kept alive only through the appropriations process. I find it particularly galling that in a time of severe budget cutbacks, this Congress wishes to authorize this amount of money, from the Department of Defense budget, to an agency that the administration so adamantly opposes.

I support several aspects of the report, including the transfer of the Pentagon to the Department of Defense, yet I cannot support this report. In my statement during floor consideration of the Mavroules amendment—that authorized $200 million for economic conversion—I asked that each Member look at the facts and determine whether or not the Department of Defense can better spend $200 million. It has become painfully obvious, much to my dismay, that Congress cannot find a responsible way to spend that money. For that matter, Congress seems to have lost the will to spend the taxpayer's money responsibly. No wonder the American public is dismayed. This Member of Congress is also dismayed. It is time for fiscal restraint and responsible decisionmaking. Adoption of this amendment and this report is contrary to that end.

Mr. MARTIN of New York. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I want to talk a little bit about the B-2, but before I do I just want to take a little bit of time to reinforce what Mr. DICKINSON said.

I know I talked about the procedure under the rule. But I do have to say that in all due respect to the chairman of the committee, the Republican members of this committee, the Republican members of the conference committee, were treated shabbily. That is why all 15 of us did not sign the conference report. You will find that many members of the conference committee and many Members from our side of the aisle who will vote for the bill, probably, and if I would have had an opportunity to participate in the conference and vote on issues, might well have ended up at the same place you were.

But I would hope, Mr. Speaker, that next year we can have a better working relationship with the minority Members than we had this year. I think that is extremely important. For the first time, the Republican Members on our side are talking about separate staff, our own partisan staff. We have always gone the other way on the Armed Services Committee.

So I just issue that challenge to the chairman, that the next go around we would hope there would be a little more fairness.

Let me get on to the B-2. As I understand, we have not killed the B-2 program with the language that is in the conference report right now. As a matter of fact, the distinguished gentleman from California, the chairman of the Research and Development Subcommittee, Mr. DELLUMS, said that we in fact are saying we are going to stop at 15.

□ 2130

Mr. Speaker, the facts are that the Air Force has enough money with what we have got in this bill, $30.3 billion, to build 10 or 11 airplanes. They

do not have enough money to build 15 airplanes. But the decision as to whether or not we are going to proceed with the B-2 is not made in this conference committee. It will be made next year. We can at that time decide to kill the program or, if the Congress decides, we can go ahead with it. I think that is the important point.

Very frankly, we are not going to build 15 airplanes because there is not enough money to build 15. We are only going to build 10, maybe 11. But I think we need to understand we have not killed the B-2 program. That decision will be made at a later date.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from California.

Mr. DELLUMS. First of all, to the question of whether we actually terminate the program, the gentleman from Michigan [Mr. DAVIS] is correct. That was the House position. That was not the Senate position.

So, what we are attempting to negotiate was the second best position, and that is to not give them any money that would allow them to pay for any planes beyond the 15 that have already been authorized. The 15 that have been authorized.

Now the problem we have to deal with here is how to spend this money. The House position is that the additional money that was put in the bill should only pay for the 15. The Senate said, "We'll play a housekeeping game and accounting game, and we'll allow ourselves to go beyond the 15."

Mr. DAVIS. Reclaiming my time, Mr. Speaker, I think the most important point is that we have not made the decision yet whether we are going to kill the B-2.

Mr. DELLUMS. We need to understand what decision we made today.

Mr. ASPIN. Mr. Speaker, let me yield myself such time as I may consume here. Let me just explain the situation a little bit.

Mr. Speaker, the gentleman from California [Mr. DELLUMS] is absolutely right in what he said. Basically the two positions are:

First of all, that the House's position is that the money that we have given them, the Air Force, should be used to pay for the planes that we have already authorized.

Now what the Senate says is the Senate says they can authorize two more, but they hold out the possibility of authorizing two more and deobligating the previous planes, in particular, as the gentleman from California says, planes five and eight. Well, we do not care. That is still 15. By deobligating 2 and authorizing 2 more we are still only building 15.

So, the question is: Are we going to build 15 planes with this bill, with this money? The answer is yes.

The gentleman from Michigan [Mr. DAVIS] is also correct. We have not yet agreed to terminate the program. The bill that passed the House said we are going to fund 15 planes, and then we are going to terminate the program. The Senate did not agree to that. The language did not survive the conference.

So, Mr. Speaker, what we have done right here is consistent with building only 15 planes. It is also, of course, consistent with the decision next year to build more than 15 planes, and, as the gentleman from Michigan [Mr. DAVIS] said, we will fight that battle again next year.

Let me explain why we got to this position. We got to this position because over the years the Congress has authorized 15 operational planes of the B-2. But the program has also taken longer than expected. It has delays. It also has cost overruns. So what we have here is a 1-year pause in the program.

I say to my colleagues, "You can actually put money in for the procurement and not buy more than 15 planes. You can take another year to build because they are more than a year behind schedule. They're going to take at least another year to build the 15 planes. We will argue the issue next year as to whether we're going to buy more than 15 planes. What we have in this bill here is perfectly consistent with only buying 15 planes. It is also perfectly consistent with the decision next year by the Congress to build more than 15 planes."

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Speaker, I think the significant point here that I think some have missed though it would be normal, when we are talking about buying 132 planes, or 75 planes, it would have been normal in this authorization process to put additional planes, authorize the purchase of additional planes. That is not done under this deal. All this deal allows is the completion of basically 12 planes. The only thing that the Congress has authorized is 15 planes, and there is not enough money in here to build beyond 12 planes.

What is different about this, and why it is so significant, is they cannot spend any money on any long leads or anything else beyond 15 planes that have been authorized because what the Congress has agreed to in this deal is to not authorize any additional planes beyond the 15, which is exactly what we wanted.

Now it is true that next year we can come back and make a fight to say we ought to go beyond 15, but in this year, in this calendar year, the normal process would be for—look, the Pentagon came this year and said they wanted 5 additional planes. They then reduced it to two.

I say to my colleagues, "You know how many new authorized planes you have in this field? You have zero." And that is the significance of this deal, and, if the Pentagon attempts to go beyond this and to buy planes we have not authorized, we are going to court.

Mr. ASPIN. Mr. Speaker, let me just have a chance to finish this point, just to follow up on the point that the gentleman from Ohio [Mr. KASICH] was making.

In the conference report on page 99 I would just like to call all of my colleagues' attention to a table of Air Force aircraft procurement. It is a table on page 99 of the conference report with every major aircraft program except the B-2, and a specific quantity of aircraft is indicated. With the B-2 no aircraft are specifically authorized in fiscal year 1991.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield on that point?

Mr. ASPIN. Mr. Speaker, before I yield, let me ask how much time have I left.

The SPEAKER pro tempore (Mr. HUCKABY). The gentleman from Wisconsin [Mr. ASPIN] has 9 minutes remaining. The gentleman from New York [Mr. MARTIN] has 19 minutes remaining.

Mr. MARTIN of New York. Accordingly, Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I yield for just 5 seconds to the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I just want to make a point that what the gentleman from Wisconsin [Mr. ASPIN] was reading from was not from the law, but from report language. It does not have the value of law.

Mr. DORNAN of California. Mr. Speaker, reclaiming time, the Senate is having press conferences over there, a distinguished gentleman from Georgia known as the father of the B-2 who spent a lot of his time trying to kill the B-1. We have got four wings out there now with combat crews sitting in those planes armed with nuclear missiles just in case the Soviet Union goes psycho as it is unwinding. Now the B-1 is working. Let us come back to the B-2.

I have a question I want to ask, just one question. I have it on good authority since the gentleman from Alabama [Mr. DICKINSON] took the well and said that Mr. Cheney believes his defense lawyers will say, "Build them." I have it on good authority from someone who got it firsthand, secondhand coming from me, that the Pentagon

lawyers are going to say, "Build them," so here is my question:

I do not need any more time.

Quoting Karl Malden in the American Express commercial:

What will you do, Mr. Chairman? What will you do when they buy lead items for plane 16 and 17? What will you do?

The SPEAKER. The time of the gentleman form California [Mr. DORNAN] has expired.

The gentleman from New York [Mr. MARTIN] has 18 minutes remaining.

Mr. MARTIN of New York. Mr. Speaker, I yield 3 minutes to the gentlemen from California [Mr. HUNTER].

□ 2140

Mr. HUNTER. Mr. Speaker, I am going to vote against this conference report for a couple of reasons. First, let me speak to one of the substantive reasons in an area that is important to the gentleman from Arizona [Mr. KYL], but which I think should be important to all Members and appreciated by all of us in a way that we have not appreciated it. That is simply that I think the lesson of the last couple of years has been that in order to maintain the common defense for this country and to do our part in our alliances and preserve peace in the world, we are going to have to learn to stop missiles. I think that is the lesson that the Exocets that hit the *Sheffield* and the *Stark* over the last few years has given to us. I think it is a lesson that we have not yet learned.

The small amount of money that is allocated for the strategic defense initiative reflects the fact that we have not set four priorities correctly. This world is entering into what I think is an era of terrorists with high technology. Saddam Hussein is developing some nine species of missiles which have varying capabilities, but have the capability of doing great damage to the neighbors of that particular terrorist and to American forces who are currently set off from his own very substantial forces.

I think we made a real mistake in not moving forward on a good, decent number for the strategic defense initiative.

Let me tell Members on the other side why I am going to vote against the conference report. The reasons is I think the longstanding tradition of bipartisanship in the Committee on Armed Services is being destroyed, and this year has been destroyed by your failing to include the gentleman from Alabama [Mr. DICKINSON], our leader, in the final, very crucial meetings of the conference between ourselves and the other body.

This is a committee that I consider to be the most bipartisan of any committee in this House. I think it is that way for a good reason, because as Scoop Jackson said, "In foreign policy, the best politics is no politics."

That same policy should apply even more so to the defense policy that is created by the House Committee on Armed Services. That has not happended this year. I hope that we move back to the tradition of having a bipartisan House Committee on Armed Services. For that reason, I am going to vote against the conference report, and would urge all other Republicans to do the same.

Mr. Speaker, on that point I want to thank the two chairmen of my subcommittees, the gentleman from Florida [Mr. BENNETT] of Seapower, and the gentleman from California [Mr. DELLUMS] of R&D, for extending in my estimate all courtesies to the Republican members of their particular subcommittees. But I do think that in failing, Mr. Speaker, to include Mr. DICKINSON in those very important wrap-up meetings of the conference, we have split this committee.

Mr. MARTIN of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, just very briefly, I would like to say to the Members of the House that when I made the unanimous-consent request, my hope was we would engage in a cooperative discussion back and forth, across the center aisle, and that it would not get chopped up into speeches, but rather we would try in communicating with each other to clarify the RECORD to the maximum extent possible.

Mr. Speaker, that is our fiduciary responsibility as Members of the House, to try to explain as clearly as possible what we perceive to be the conference agreement as we understand it, bringing it back to our colleagues.

Mr. MARTIN of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do want to come over and talk to the gentleman from California [Mr. DELLUMS], because we have 30 minutes of debate here, 15 minutes on either side, and we can work this out. I know some people would be interested in such a colloquy.

Mr. Speaker, I yield 2 minutes to the gentleman form Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, I rise today in opposition to the conference report for the Department of Defense authorization for fiscal year 1991. A report, which in my opinion is ill conceived in so many ways. A report, which my Republican colleagues were not even allowed to participate in much of the shaping.

I have problems with many sections of this report and the process on which it was agreed upon. However, my biggest concerns lies with the unacceptable level of funding for SDI. The conferees agreed to fund SDI at $2.89 billion with no regard to the President's request of $4.65 billion.

The SDI program has made tremendous advancements just in the last couple of years and, is on the verge of some of the most exciting breakthroughs ever. Many technology spinoffs can be applied to our everyday life, and we are truly on the edge of being able to deploy a system in this decade. Yes, it can be done. The technology is in our grasp.

However, at the agreed level, our grasp will loosen and we may have to let go. SDI will be stuck in the R&D rut and that's just where the liberals of this Chamber want it. SDI will be greatly slowed and a defense against missile attack pushed into the future if ever.

I hope the day never comes when the Members of this Chamber have to explain to their constituents, that the missile a Saddam Hussein or another third world terrorist nation launched that destroyed a city could have been prevented.

Not only did the conferees gut SDI, but they decided to limit and micromanage the program so badly it will be destined to disappear into the black hole of congressional mismanagement. We can't even run our own House properly, how do the conferees expect Congress to run a complex program like SDI.

I continue to use the word conferees. However, I use the term very loosely. Throughout the entire conference, the Republican Members were cut out of the process and not allowed to participate in a meaningful way. The whole process was not honest, it was unfair and not the way this body should operate. The leaders that produced this report should be ashamed at the way it was handled.

I could go on and on with the many problems of this report, but in the interest of time I will conclude my remarks. I would just like to strongly urge the Members of this Chamber to reject the conference report, and send the message home that we do care about the security of this Nation and we do care about an open and honest process to arrive at decisions in this institution.

Mr. MARTIN of New York. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, let me just make clear to Members now that when we add the $4.1 billion that we are talking about on the B-2 to the cost of the current planes, I now want to announce to all Members in the chamber that the cost of these planes has now reached $1 billion apiece.

Now, look, somebody made the statement what happens if we try to go forward with 16 and 17? Well, we cannot go forward with 16 and 17, because we

do not have enough money in there to pay for any planes beyond number 12.

If the Pentagon wants to say that there are no plans in here for additional authorization of planes, and somehow they want to fool around in going forward and deobligating some planes and obligating other planes, fine. Then they will not get the 15, because I consider it to be a very bad act of the Pentagon to try to poison these waters.

The deal that has been agreed to under this authorization bill is to fund 12 planes. No more, because there is not enough money in there to fund them. It is 12 of the 15 that have been authorized. There has not been one single plane beyond 15 authorized, and in this defense authorization bill, we authorize none beyond 15.

Now, if the Secretary of Defense or the lawyers over in the Pentagon want to say that without us authorizing additional planes they want to go forward, fine; then we are just going to go to war here on the floor, and they will not get the 15 that we have agreed to give them at this point.

Look: we set up a fair and square deal. Next year, if you want to run back and try to put more than 15 in the bill, that is fine. That opportunity will exist. But at this point it does not exist.

If they want to go forward and do that, they are going to be in a court suit, there is no question about that. Then beyond that, they have poisoned the waters. Not just for this program, but they have poisoned the waters for a whole host of additional programs, including their A-12, running behind schedule and above cost, and a whole host of other programs.

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, I think the gentleman in the well is making a very important point. In response to the question of the gentleman from California [Mr. DORNAN], what would be our response if they just went ahead and started spending money on all these kinds of planes, even though they were not authorized, here is our response. Basically if they obligate planes consistent with deobligating others, we do not care, because that is still consistent with buying 15 planes. But if they start to buy more than 15 planes that we have committed, the original Dellums-Kasich amendment was to fully fund 15 operational planes. That meant we would have to continue to spend money on the B-2 for some years to come.

If they jack us around and start to play around with this thing, let me tell you what the next Dellums-Kasich amendment will be, and I am going to be on this amendment big time: that we cut off all B-2 money, and we do not care whether they get 15 operational planes or not or a lot of boxes with spare parts hanging around. We will go after all of the procurement money, we will go back in after all of the unobligated balances, and we will end up with no operational 15 planes at all. That is what is going to happen.

□ 2150

Mr. MARTIN of New York. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, and our distinguished chairman, and I am most anxious to include our distinguished vice chairman in on this, if "Sadist Insane" had not run amuck all over Kuwait and dumped children out of incubators, and ripped old people off of their dialysis machines, and raped, and plundered and burned, let us face it, the B-2 would be dead already, and you would have cut another $20 billion out of this program, and we would be hellbent for leather to return to the shutdown of our defenses as we did after World War I, after World War II and Korea and Vietnam, and we would be making the fifth mistake in 71 years following the pattern of what we did four times before. But "Sadist" has run amuck, and between now and whenever we get this place reorganized in middle or late February, who knows what this weird person will have done in the Persian Gulf, and the debate may be off and running again on the B-2. It may be salvaged by this megalomaniac, Sadist, because he certainly salvaged the defense budget at this point. The meat ax cuts are not there because it is still a dangerous world.

And this megalomaniac has his nerve gas, his poison gas, the most powerful nonnuclear explosive devices ever, and he has still got all sorts of disloyalist German and French scientists running all over the world, and they will start trying to help him again.

I spoke to an Air Force chief of staff. Granted, he did not last very long. But I said to him "we have come down from 103 airplanes to 75. Now you guys did not weigh in the Air Force to save the SR-71. I know you were running only 9 airplanes, and it was costing us about $350 million a year. But off the record, my general, how many B-2's would you really accept as a bottom minimum in a wing?" I said "General, what is the bottom line, logistics, simulators, training, what kind of a wing could you operate, because our chairman tells us that 15 is nice to step on the little Qadhafis of the world." And he said, "off the record, minimum, and even then it is prohibitively expensive, about 35.

They are not going to use 15, so let us build 17 and keep going.

Mr. ASPIN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, before I read from a GAO report regarding the B-2 bomber, I would just like to, in clarification, make the following comment: The reason why this gentleman supported terminating the program at 15 is because I could not terminate it at zero because it was in the classified category. We had spent $23 billion before the program became public.

It is still a plane flying around trying to find a mission. It is still a plane of exorbitant cost, and it is still a plane with dubious technology.

Having said that, I would like to read, Mr. Speaker, from a GAO report dated September 1990 regarding the B-2 bomber. Under the heading of observations it says:

> The Air Force plan appears to be needlessly complicated. Although the plan states that two aircraft would be "moved" from prior years to 1997, those aircraft have already been funded and are being built. The 10 aircraft in process will be the first 10 production aircraft. In effect, the plan artificially eliminates two aircraft authorized and funded in prior years and requests them again for authorization in fiscal year 1991 so that 1991 appropriations can be used to pay for them. Funding appropriated for these two aircraft in prior years will be used to pay for cost increases on the other eight aircraft in process. The plan's characterization of the two B-2s in the fiscal year 1991 budget request as new aircraft is, therefore, a misnomer." I underscore, "a misnomer. Funding appropriated in fiscal year 1991 could be approved directly to cover the increased costs of the 10 aircraft authorized and funded in fiscal years 1990 and before.

This is the investigative arm of the U.S. Congress, the GAO looking at how the Air Force handles its accounting with respect to the B-2, and it said that to suggest that the two aircraft in fiscal year 1992 are additional aircraft is a misnomer. As I said before, Mr. Speaker, and I repeat, we have a fiduciary responsibility to the American people above and beyond philosophy, ideology and politics. We have an economic responsibility to the American taxpayer, whether you support the B-2 or not and the Air Force, under our responsibility of oversight, should not be allowed to surreptiously engage in funding additional aircraft when our investigative body says this is not appropriate.

That is all this gentleman is trying to suggest, Mr. Speaker. I hope that this colloquy has clarified what the House position is with respect to the B-2 in this conference report for fiscal year 1991.

Mr. DICKINSON. Mr. Speaker, I yield 1 minute to the very distinguished gentleman from Virginia [Mr. BATEMAN], a member of the committee.

Mr. BATEMAN. Mr. Speaker, I thank my dear friend from Alabama for yielding that precious minute.

As this tumultuous session of Congress winds down, I would like to have more than a minute to talk about the processes by which this bill came to the floor. I would like to have the time to talk about the processes by which many other bills and conferees' reports have come to the floor.

In a minute I can only say to you, as disturbed as I am about the processes, and they are not proper, we are down to whether or not we enact a defense authorization bill. And when we come to the question of whether we shall have one or not have one, unless someone can tell me there is a strategy by which if this one is defeated we come up with another one which is better, then I have to say, as much as I am disturbed by the process, we need to enact this conferees' report.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. My fellow Members, there are a number of reasons why I too could vote against this bill, and I am glad that we are now clarifying the position and articulating the position on the B-2 bomber. I think it is very important.

But there is a lot more in this bill that we ought to be considering rather than all of the strategic weapons talk that has been taking place here this evening. Members are talking about the B-2, they are talking about Midgetman, they are talking about the MX missile and talking about the SDI.

There are two very, very important issues included in the bill approved by both sides, and let me just briefly touch upon them. But before I do, let me commend and congratulate the staff who have worked over 2 years in bringing forth a professional acquisition work force.

□ 2200

You remember the stories of $500 toilet seats and the $1,000 coffee pots? You remember those stories 4 or 5 years ago? Do you remember the amendments that were offered on the authorization bill on this floor back only 4 or 5 years ago?

We have eliminated most of that, and we are trying to put together an acquisition work force to professionalize the acquisition policies of the Pentagon, and it is working and accepted by the Pentagon.

There is another issue here, and if anyone in this House believes that when the real deep cuts come in defense and the defense areas that they are going to be immune from these cuts, they had better take a second look. They had better take it seriously. Every single district in this Nation is going to be hurt.

We have in this bill an economic conversion bill. I did not get an awful lot of help from this side of the aisle on that bill. Let me be up front with you. It is going to take care of the workers, for training, education and other purposes when it hits home, and it is going to hit home. It is going to professionalize the policies which we have. It is going to improve and try to do something for the unemployed that we are creating by the budget cutbacks.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the very distinguished and capable gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I rise to oppose this conference report. It has been said that with this bill we finally got a chance to debate the strategic issues of the day.

SDI was the largest individual program in the defense budget, but we did not debate SDI. In fact, we did not even discuss it in conference. It got traded out in a deal between three or four people in the dead of one night. From a request of $4.6 billion, it was reduced to $2.89 billion, and tied up in knots with restrictive language.

Opponents cheer that the world is changing, so we do not need SDI, they say. The world is changing all right, but the conclusion that we do not need SDI is wrong, dead wrong. The world is still a very dangerous place, as Saddam Hussein has shown.

Mr. Speaker, Iraq has missiles that can reach all of our deployed forces in the Persian Gulf region. Hussein has shown capability of delivering chemical warheads. Nuclear capability is just a matter of time. That is the point, Mr. Speaker, time.

The cuts in SDI funding will cost us at least 2 years in time according to the Director of SDIO, Hank Cooper.

To stop Saddam Hussein and to stop other like him, we must proceed with SDI now. If future American soldiers die because we failed to adequately fund SDI programs and we did not have it when we needed it, then their blood will be on the hands of this Congress. Think about it and vote no.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the very distinguished and capable, hard-working gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as this debate winds down, I want to pay special tribute personally to perhaps as good a friend as I have here in the Congress who will be leaving us, and that is the gentleman from Texas [Mr. LEATH]. I do not know of any Member that I have spent more time with either working in the MWR panel or other issues on the Committee on Armed Services, and believe me, he is going to be missed. Perhaps, looking down through this document that we have, we will be able to find a place for him and his considerable skills. Perhaps as a Presidential appointee to the Base Closure Commission.

I just wanted to point out that in case Members did not understand, that is to say the Members who were here when I made my comments earlier during the proceedings on the rule that I, too, was flabbergasted at the treatment of the ranking member who has served all of us very well on the Committee on Armed Services for many years. It is my hope that this kind of thing is not going to happen again. As I said before, the object of this exercise ought to be getting this bill behind us and getting on to a brave new world where we have mutual respect for each other and where our views and that of everyone here is represented and respected and while I think that the way the conference was run is something I would not want to go through again, I do want to point out that the panel on which I served with the gentlewoman from Colorado and the two Senators on the opposite side, Senator DIXON and Senator GORTON, I think we got a lot of good work done in a short period of time. We were miles away and resolved scores of issues.

I would like to point out that we had some concerns about what was referred to as dual basing, and we are going to have hearings on it. I think that is the way it ought to be done, as I said when our bill was before the House. The same is true with the flexible readiness coming from the other side, that is to say, the Senate.

I think we worked out some language that means that we are not bashing NATO but gives our equal and opposite members within that body the opportunity to set their priorities as far as infrastructure is concerned.

Again I want to thank the staff which worked so hard and long for all of us under extremely difficult circumstances, and unfortunately, for perhaps the first time, partisan political pressure.

Mr. ASPIN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I believe the House has prevailed in preventing authorization of new production planes in this conference report. This is a program out of control and it is a program on the ropes, but one whose knockout is becoming ever more expensive to the American people.

However, the administration and the Senate conferees continue to insist on writing a blank check to the Northrop Corp. for the continued production of a plane whose strategic rationale has disappeared, and whose entire history is, by all indications, a classic one of waste, fraud, and abuse in epic proportions. It is a

supreme tragedy that at a time when the American people are being told that further drastic cuts in domestic programs are on the horizon, this bill contains $2.35 billion dollars to cover procurement cost overruns in the B-2 program.

Should the Air Force have the temerity to willfully misinterpret the meaning of this conference report and attempt to seek a contract on any new planes, I and a coalition of Members of Congress are prepared to immediately seek injunctive relief. This will throw the entire matter before the Federal court where we are confident that any attempt to obligate appropriations without an authorization will be denied.

Further, if it appears that today's message fails to be clear enough, I predict we will be successful in obtaining an early and conclusive vote on the B-2 in the 102d Congress, attached to a vital piece of legislation. I further predict that any Air Force requests for reprogramming in the 102d Congress would be in serious jeopardy should there be an attempt to thwart the lack of authorization on new aircraft.

In any case, the American people deserve to have a thorough review of this program. It was born in the special access domain and survived several costly years without public examination. At a time when manned penetration bombers are an anachronism, it is now the single most expensive weapons program. Repeated congressional attempts to obtain specific cost information have been unsuccessful. As such, the B-2 program will undergo the most intensive scrutiny to date, as plans are now underway to initiate a comprehensive series of hearings in the House Armed Services Committee and its appropriate subcommittees early next year. When combined with the results of the investigative work of the House Energy and Commerce Committee and the Governmental Operations Committee, the American people will be afforded a more complete understanding of the program. Once that picture is complete they will overwhelmingly agree with the position of the House to terminate the B-2 with the 15 planes already authorized.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BYRON]

Mrs. BYRON. Mr. Speaker, we have talked a lot the last several hours about what is wrong with this bill, how bad a bill it is and what is wrong with the process. But this committee came out with our budget numbers early on. We came out with a big bill. It is heavy. But it has a lot of things in it that are good.

I think we recall at the beginning that a key strategy principle of the House on their defense bill was that we should invest in people, in our All-Volunteer Force, people over hardware. The gentleman from Virginia [Mr. BATEMAN] and I on the Personnel Subcommittee along with our committee have worked very hard to achieve that. We insisted that the Senate conferees accept that core premise, and I am delighted to report to this body this evening that we won.

A few examples of the House conference's position that are coming to the floor tonight that we can say we achieved, the 4.1-percent pay raise, and the Senate bill had 3.5. We can talk about title IV, title V, title VI, title VII, and, yes, part of title XI, the new one dealing with Operation Desert Shield and the personnel that are there. We included danger pay, housing benefits for those reservists that are recalled. The Senate had minimal things on those programs.

We have a very strong transition package for those who will be entering civilian life including separation pay.

I think this committee and this House should take credit for the things that they have done taking care of people, which are our most important issue and, therefore, I urge my colleagues to support this conference report.

Mr. DICKINSON. Mr. Speaker, I yield three-fourths of 1 minute to a very distinguished gentleman who is leaving us to become Governor of his State, we hope, the gentleman from Connecticut [Mr. ROWLAND].

Mr. ROWLAND of Connecticut. Mr. Speaker, I would just like to take this moment to, first, thank our ranking member, the gentleman from Alabama [Mr. DICKINSON], for his leadership and guidance over these last 4 years that I have been on the committee. I would also like to extend my thanks and appreciation to the chairman of the full committee and certainly my colleagues wo served on the Procurement Subcommittee and the Seapower Subcommittee. I also want to give a special word of thanks to the committee staff. I believe they still are the only bipartisan committee staff in the entire Congress. You all are truly professionals. You are a pleasure to work with, and you have all done fine work for the U.S. Congress and the American people. Thank you very much.

Mr. DICKINSON. Mr. Speaker, I yield such time as he may consume to the future Senator of his State, the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, this will be the last time I speak on a defense bill as a member of the House Armed Services Committee.

I wish it was under better circumstances, because I did enjoy my brief service on the committee.

It was particularly a pleasure to work with the gentleman from Alabama [Mr. DICKINSON], the ranking minority member of the panel. He was always helpful and always courteous, and he deserves better than the way he was treated.

I did not support this bill when it left the House and I do not intend to support it now coming back from conference. I was not a member of the conference committee so I was not privy to everything that went on. But it seems to me that Republicans have been excluded from the process. That is not right; that is not fair. In my 6 years in this body, I have seen the rights of Republican Members violated on numerous occasions. This is perhaps the most egregious incident.

I realize we are operating under tight time constraints, with adjournment fast approaching. But that should not give the majority Members of this body the right to trample upon Members of the minority. Besides process, I also oppose this legislation for numerous policy reasons.

There are certainly many provisions in this bill that are worthwhile, but this legislation fails the one important test it should pass. Will it protect our national security? I'm not sure. This bill is grossly irresponsible and dangerous. It does not develop a coherent rational defense policy, but instead takes a piece meal, pork-barrel approach to defense. Instead of making tough policy decisions about future national defense strategy, it nickels and dimes to death the Pentagon.

It was more concerned with funneling projects to Members' districts than making the difficult choices necessary to provide a strong national defense at a time of shrinking budget resources.

Mr. Speaker, I wish I could support this conference report, but for reasons of both process and policy, I simply cannot.

□ 2210

Mr. DICKINSON. Let me say in closing I am disappointed in the bill, but it is better than what came out of the House. My unhappiness and my remarks and anger is not being at the substance but has been at the process of how we got here.

I realize in any conference that is the nature of a conference. By its very nature, a conference is give and take. We have to go in with one opinion, they have another opinion, and we compromise. That is what conference is all about. That is what this conference is all about.

The portion I had occasion to work in we did just that. So, the final product was not all that bad. I would support it, normally. So, I am asking for a negative vote on this as a protest to the process by which we got here, and the shoddy manner that our side was given, not because of what is in the bill, because I have talked with the Secretary of Defense, I have talked to the Secretary of the Air Force, I have talked to others involved, and they will support it. They will not recommend a veto.

For that reason and that reason only, I will protest how we got here. I will ask all those who would enjoy with me in my way of thinking, to vote no on the conference report.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, a vote on this bill is not a political statement. A vote on this bill is dealing with the

security and national interests of our country. We are not here to be partisan. We are not here to say things did not go quite as right as I wanted them to go. We are here to see that our Nation is defended and is secure in the months and years ahead.

I rise in support of this Defense authorization conference report. It is a good bill. Sure, there are disappointments in it. We can speak of SDI. We can speak of B-2, though I am pleased that there is continued research and development and production money for that.

However, I say that this is a good bill because we put people first in this bill. We give them a 4.1-percent pay raise. We give them a strong transition package for those that are entering the civilian life as the result of what we are doing in cutting back on our expenditures. We have new strategies set forth in here, and Mr. Speaker, we are getting the Pentagon to study the concepts of dual basing, whereby our commitments to troops overseas would be met by rotating units from this country, keeping dependents at home, and thus reducing the costs abroad.

Concerning strategies, requiring the Secretary of Defense to submit to Congress a national military strategy report based on alternative strategic plans developed by the Chairman of the Joint Chiefs of Staff.

This orients, Mr. Speaker, the defense budget. It is less than the administration asked, and there is a reduction. The world conditions have changed. However, I say this is a good bill. With the money that we had allotted here on the budget resolution, I think we have done an excellent job. I commend our chairman and the subcommittee chairman. I commend our chairman, the gentleman from Wisconsin [Mr. ASPIN] and those who worked long and diligently on this staff, who did such a good job to put this together.

Mr. Speaker, this is not a political statement. This is a vote for the security of the United States.

Mr. WEISS. Mr. Speaker, I rise in opposition to the conference agreement on H.R. 4739, the Defense authorization for fiscal year 1991. Unlike the House-passed authorization bill, this agreement ignores global realities, our strategic needs, and our budget crisis.

To begin with, this conference agreement does not represent a compromise between the House and the Senate authorization levels. It authorizes the $288.3 billion approved by the Senate, ignoring the House-passed funding level. The conference agreement adds $5.3 billion to the House's measure, undermining the House Armed Services Committee's arduous efforts to reduce defense spending.

And, it does not reduce defense spending from last year. While the amount in the bill is $16.7 billion less than the amount authorized in fiscal year 1990, if the full $15 billion cost estimate of Desert Shield were to be included, the total defense spending for fiscal year 1991 would nearly equal last year's levels. This is not then, as the committee claims, a bill that moves us into the post-cold war era—instead, it keeps us in it.

The House version took an important first step toward meeting the new realities of the post-cold war world by significantly cuting spending, killing many programs designed for a bygone era. For example, the bill deleted almost half the research and development and procurement funds—over $7 billion—for six strategic weapons systems. It also terminated the production of other wasteful systems, such as SRAM-T, AMRAAM, and JSTARS.

This conference report, however, restores funds for many of these cold war relics as well as others killed in the Senate. Such spendthrift revivals include the B-2 bomber, the MILSTAR communications system, the national aerospace plane, the ADATS air defense missile, SRAM-T missile, the AMRAAM missile, and the JSTARS radar system.

In the case of the A-12 attack aircraft, the conferees went beyond mere revival. While the Senate deleted all procurement for the A-12 and the House authorized $350 million, the conferees approved nearly $600 million—that is, the conferees authorized $600 million more than the Senate and $250 million more than the House did. What nonsense.

The $5.3 billion increase from the House-passed authorization bill brings us up to the maximum level stipulated in the recently adopted budget resolution. This $5.3 billion represents over one-eighth of the target $40 billion deficit reduction for the next year. Its elimination could have been used to take the weight off our Nation's elderly, by eliminating 4 years of proposed cuts in Medicare or remove a burden off our Nation's poor, by eliminating all potential regressive taxes for 1 year, including the tax on gasoline and heating oil.

Secretary Cheney returned last week from his trip to the Soviet Union persuaded that a new era of superpower relations has begun. He commented that we no longer "consider the Soviets as adversaries." Let's pass a spending bill that reflects this new consideration. I urge by colleagues to oppose this conference agreement, which during a budget crisis, extravagantly spends on vestiges of a time past.

Mr. FOGLIETTA. Mr. Speaker, I rise in reluctant support of this bill. I vote for this bill because of what it accomplishes.

This is our first post-cold-war budget. For months, we have argued about how much to cut from defense. I believe this budget could have been lowered much further. However, it is a step toward true budget reductions and a real peace dividend.

We have also debated where to make these cuts. For 40 years, we have spent trillions of dollars to deter a Soviet conventional or nuclear attack. That threat has disappeared. The world has changed.

I am pround to say that this bill will buy no B-2 bombers. We haven't killed the program—yet. We will relive this battle next year. But mark my word, next year the cold warriors will lose and we will end this boondoggle—once and for all.

The bill also buys no MX missiles and it ends the administration's ridiculous two-missile program.

In stopping these unneeded strategic programs, we have focused our priorities on the threats of the 1990's—not the 1950's.

The world of the 1990's requires a rapid, flexible response to dangerous areas around the world—areas such as the Persian Gulf.

In order to meet that requirement, we must have aircraft carriers. When the Iraqi troops rolled into Kuwait, what was the American response? It was to send in aircraft carriers—the U.S.S. *Independence* and the U.S.S. *Saratoga*—immediately projecting United States power and protecting United States interests.

We must maintain a robust fleet of aircraft carriers. In order to balance that priority with our priority to save money, the Navy must continue to modernize its older carriers. That is the job of the Service Life Extension Program [SLEP] at the Philadelphia Navy Yard.

This program creates a virtually new carrier at about one-quarter the cost of new construction. According to Navy Secretary Garrett, the SLEP has been a "bargain for the taxpayer."

Thus far, three carriers in the fleet have had their SLEP modernizations and two of these, the *Independence* and the *Saratoga*, are in the Middle East. Two carriers are currently in SLEP.

This budget contains funding for the sixth SLEP: The U.S.S. *Kennedy*. I am very pleased with this action. We must preserve this cost-effective program.

Now let me tell you about what the bill does not accomplish.

It does not take politics out of the military base closure process. Earlier this year, the House passed a five-point plant for facilitating base closures. This plan would have accomplished our goal of closing bases based on strategy—not politics.

Unfortunately, I believe we lost sight of that goal in conference.

This is bad policy. We have the President appointing Commissioners to review the actions of another Presidential appointee. For all practical purposes, Congress closed itself out of the process. It is literally the fox guarding the chicken coop.

If the Defense Department wants to close bases based on politics—and not what the workers of that base accomplish for the defense of America—there is nothing to prevent that.

If the Secretary makes a glaring mistake, we must rely on a group of Presidential appointees to correct that mistake. Maybe they will, maybe they won't. But I think we should have a say in this process.

We have ducked the issue of oversight. I believe we should stand up and be counted; we should do what our people elected us to do: Make tough choices. Is that so wrong?

Should bases be closed?

Absolutely. But in a nonpartisan, nonpolitical way.

We had an opportunity here to prevent politically loaded base closings, Sadly, we lost that opportunity. We simply put a few legislative hurdles in front of a railroad car full of politically motivated base closures. This will not

prevent our constituents from being run over by a speeding train.

That is why, although I will vote for this bill, I cannot and will not support its base closure plan.

Mr. VENTO. Mr. Speaker, I rise in reluctant support of this Department of Defense conference agreement. There is much in this report which I don't favor. The House-passed version was, I believe, the more balanced approach in light of the conclusion to the cold war and events in the world.

Congress should have terminated some of the weapon systems that are now kept alive in this conference report including the SRAM-T missile, AMRAAM missile, JSTARS radar, and ATACMS tactical missile.

The B-2 Stealth I trust will be concluded when we revisit the program next year and the funds provided in this measure will be in fact the termination of the program, not for new B-2 aircraft.

Mr. Speaker, it is a disappointment that at the conclusion of this session we are again force fed these weapon systems by the Senate and demands from the President.

I feel strongly that we should not have yielded to the additional expenditure of $5 billion plus in expenditures over the House-passed measure and that the inclusion of all these weapon systems means that we will be procuring such weapons at higher unit costs than would otherwise be the case with more economic purchases. The weapon systems also continue to make disarmament decisions more difficult and ultimately are set aside or destroyed when agreements occur.

Mr. Speaker, Chairman LES ASPIN is in a tough position as he is enduring criticism from all sides tonight that he should be spared. We all want what we as groups or factions believe should be in the Department of Defense measure. Chairman ASPIN brought forth a measure that is a compromise given the political realities of the Senate and the President.

Mr. Speaker, I served on two small conferences of the Department of Defense conference, and we prevailed with the House position. First we resisted opening of the offshore oil areas without any consideration of the environmental impact. Second, the economic conversion program provisions regarding the impact on defense industry workers is established. This is a modest program start to respond to the impact of laid-off workers, a measure which has long been sought regarding numerous job losses that occur throughout our economy, in this instance focused on defense industry workers.

Further, good accommodations for soldiers, sailors, and military personnel that may be involuntarily released from the service are provided in this measure. Severence pay, extension of medical coverage, transition counseling, education, and other benefits—the importance of personnel, of people, is not lost in this measure. The increase in compensation of 4.1 percent is yet another demonstration of the importance of military personnel.

The environmental provisions of this measure are an important step. Military bases and lands are provided over $1 billion and $2.8 billion is provided for the environmental cleanup of Energy Department facilities—likely not enough but a significant step. The DOD cannot be left to gloss over these problems and the conference committee made certain that the questions were addressed today not tomorrow.

Finally I would commend the DOD conference on the 6-year new base closing provisions; hopefully we will continue to see progress regarding these policies. We need to close unneeded bases domestically and internationally.

Mr. BUSTAMANTE. Mr. Speaker, I rise in support of the conference report. Armed Services Committee chairman, Mr. ASPIN, and the conferees are to be commended for arriving at a compromise bill that represents a first step to rethinking U.S. defense requirements and force structure in a very different geopolitical world. The Soviet threat is fading, while threats from countries like Iraq are on the horizon.

The bill provides $288.3 billion in new spending authority for defense in fiscal year 1991, $19 billion less than the administration's request.

The conference agreement reduces end strength for active duty military personnel to 1,976,405—100,000 below last fiscal year's ceiling. The lower numbers will be achieved by allowing fewer personnel to enlist, offering early retirement for those eligible, and denying reenlistment to first-term recruits. No career enlisted personnel will be involuntarily separated during fiscal year 1991. The report does project a 25-percent force structure reduction by fiscal year 1995. In order to achieve the projected reduction, some career force separations will be necessary, however.

The agreement provides for an extensive benefit package to our servicemen and women involuntarily separated from military service. The benefit package includes:

Separation pay: Payment of separation pay calculated at 10 percent of annual base pay for each full year of service for involuntarily separated officer and enlisted personnel with 6 or more years of service who are not in their initial term of enlistment or period of obligated service;

Medical transition assistance: Medical coverage will be extended 60 days for involuntarily separated individuals with less than 6 years of service. Coverage will be extended 120 days for individuals involuntarily separated with 6 or more years of service. After that time, affected individuals will have the opportunity to buy into a conversion health policy from a private insurer. Costs of preexisting conditions would be covered by DOD.

Transition counseling: Every separating service member will receive comprehensive counseling and assistance concerning educational opportunities, job search and job placement, financial planning, and other forms of transition assistance.

The transition package also includes benefits to assist overseas personnel and provides for special housing arrangements, expanded commissary and exchange privileges, and Reserve and National Guard affiliation opportunities.

A pay raise of 3.5 percent is also recommended in the conference report. The amount agreed to is substantially less than the 4.1-percent raise proposed in the original House bill, H.R. 4739, but the compromise recognizes that pressing needs of a growing budget deficit and the escalating costs of Operation Desert Shield.

The conference bill establishes an independent commission for the purposes of reviewing and evaluating the Secretary of Defense's proposals for base closures and military realignments. The process will assure public and congressional review of the criteria used by the Secretary of Defense for closure and realignment proposals. The independent Commission will report its findings to the President, and both the President and the Congress will have opportunities to accept or reject the entirety of the Commission's recommendations. It is expected that the Defense Department will begin anew in selecting bases for closure with this process in mind. It is also expected that all bases, including those on Secretary Cheney's January base closure list, will be properly operated and maintained until the new base closure process results in a decision to close specific bases. This process worked well when Congress passed landmark base closure legislation in 1988. The process ensures fairness in the selection process, and it is a necessary confidence building measure to assure against partisan tampering in base closure proceedings.

Additionally, the bill provides $1.8 billion to purchase equipment for National Guard and Reserve Forces. Of particular note, the Guard and Reserve package contains an authorization for appropriations for the procurement of six C-26 aircraft, three each for the Army and Air National Guards, for mission support functions of the Army and Air Guard. This authorization is important to my district of San Antonio, home to Fairchild Industries which manufactures the C-26. On this provision of the bill, I wish to commend Chairman SONNY MONTGOMERY. Mr. MONTGOMERY has been a champion of our Guard and Reserve Forces and without his leadership, the needs of our backup forces would go vastly underfunded and undertrained. The Members are authorizing this amount in support of the total force concept which is designed to integrate active and reserve components in times of hostilities. This concept has been operative for the last 17 years, since the Nixon administration. However, this administration has chosen not to test the concept under the current conflict in the Persian Gulf. I join both Messrs. ASPIN and MONTGOMERY and Mrs. BYRON in urging Defense Secretary Cheney to test the total force policy so that we and the taxpayers of this country can observe and evaluate the effectiveness of its investment. This Nation has invested substantial resources in upgrading the caliber of Guard and Reserve Forces. According to a white paper issued by the House Armed Services Committee, Congress has provided in excess of $26 billion for the procurement of equipment for the National Guard and the Reserves since 1984. It is now time for us to determine if the level of commitment and support Congress has lent to Guard and Reserve Forces is well placed, and I urge Secretary of Defense Cheney to implement the total force policy as part of Operation Desert Shield.

One last item of note is section 922 of the bill which establishes a pilot program for com-

petition of depot maintenance workload in the Army and Air Force. Given contractions in the defense budget, it may be desirable to have air depot maintenance work competed on an interservice basis. This pilot program is designed to test the concept to determine possible cost savings. The Department of Defense is currently evaluating depot maintenance operations to determine how best to lower the overall cost while retaining essential operating capability. The Air Force is considering the possibility of reducing or perhaps removing all depot maintenance activity from one air logistics center. This pilot program will be able to give us some indication if the Air Force is capable of competing for the maintenance of aircraft belonging to the Army and Navy. A strong Air Logistics Command Program is important to the officers, enlisted personnel and civilian employees of Kelly Air Force Base in San Antonio, TX. We have a can-do attitude at Kelly, and we are confident that we can successfully compete for interservice air maintenance work.

Mr. Speaker, while I support this bill, I must admit it is not without its imperfections. Any compromise—which this bill is—is an imperfect solution. That is the dynamic of the political process. There are several programs for which I sought funding, but the conferees felt differently. This conference bill must be judged on its whole and not by its parts. If this conference report is looked at from a big-picture perspective, it is worthy of our support. Therefore, I urge my colleagues in supporting its adoption.

Mr. MAZZOLI. Mr. Speaker, I rise today to express my support for H.R. 4739, the Defense Department Authorization Conference Report for Fiscal Year 1991, and for the language in it which establishes a new base closure process.

I am pleased to report that this language effectively halts further proceedings under existing law, including proceeding pursuant to the Secretary of Defense's announcement this past January which included a base in my district—Naval Ordnance Station, Louisville [NOSL].

Mr. Speaker, the new base-closure provision in this conference report assures that future base closure decisions will be made in a much more fair, balanced, and public process than exists today under current law.

An eight-member independent base closure commission is established, which, in consultation with the General Accounting Office, will evaluate bases proposed for closure against a long-term military force structure plan, against specific criteria, and with public comment and involvement assured.

After this process produces a list of bases recommended for closure, then Congress will make the final decision on the list as a whole.

I believe that this process will go a long way toward insulating base closure decisions from partisan or political influence.

While there is no guarantee that Naval Ordnance Station, Louisville will never be closed, I feel that the new procedure established in this fiscal year 1991 Defense authorization bill represents assurance to the 2,400 civilian and military personnel, who today work at NOSL's Southside Drive complex, and to the Louisville-Jefferson County area, which derives over $160 million annually in economic benefits from NOSL activities—that it will never face closure for other than tested, evaluated and congressionally approved, military, economic, and budgetary factors.

The bad news—should it ever come—won't be politically or partisan motivated.

Mr. Speaker, I commend Chairman ASPIN, and Representatives SCHROEDER and BROWDER for having given me and the hard working men and women at Naval Ordnance Station, Louisville, their ears, their hearts, and their skills.

I urge all of my colleagues to support this conference report.

The SPEAKER pro tempore (Mr. HUCKABY). Without objection, the previous question is ordered.

MOTION TO RECOMMIT OFFERED BY MR. DICKINSON

Mr. DICKINSON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. DICKINSON. In its present form I am, Mr. Speaker.

The Clerk read as follows:

Mr. DICKINSON moves to recommit the conference report on the bill, H.R. 4739, to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DICKINSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 271, nays 156, not voting 5, as follows:

[Roll No. 517]

YEAS—271

Ackerman	Bilbray	Carr
Alexander	Bliley	Chapman
Anderson	Boehlert	Clarke
Andrews	Boggs	Clay
Annunzio	Bonior	Clement
Anthony	Borski	Coleman (MO)
Armey	Bosco	Coleman (TX)
Aspin	Boucher	Conyers
Atkins	Brennan	Cooper
AuCoin	Brooks	Costello
Barnard	Browder	Coughlin
Bartlett	Brown (CA)	Courter
Barton	Bruce	Coyne
Bateman	Buechner	Craig
Bates	Bustamante	Darden
Beilenson	Byron	de la Garza
Bennett	Callahan	Derrick
Bentley	Campbell (CO)	DeWine
Berman	Cardin	Dicks
Bevill	Carper	Dingell
Dixon	Kostmayer	Richardson
Donnelly	LaFalce	Ridge
Downey	Lancaster	Robinson
Duncan	Lantos	Roe
Durbin	Laughlin	Rose
Dwyer	Leath (TX)	Rostenkowski
Dymally	Lehman (CA)	Roukema
Dyson	Lehman (FL)	Rowland (CT)
Emerson	Lent	Rowland (GA)
Engel	Levin (MI)	Sabo
English	Levine (CA)	Saiki
Erdreich	Lipinski	Sangmeister
Espy	Lloyd	Sarpalius
Evans	Long	Schiff
Fascell	Luken, Thomas	Schneider
Fawell	Machtley	Schroeder
Fazio	Manton	Sharp
Fish	Markey	Sikorski
Flake	Marlenee	Sisisky
Flippo	Martinez	Skaggs
Foglietta	Matsui	Skeen
Ford (TN)	Mavroules	Skelton
Frank	Mazzoli	Slattery
Frost	McCloskey	Slaughter (NY)
Gaydos	McCurdy	Slaughter (VA)
Gejdenson	McDade	Smith (FL)
Gekas	McGrath	Smith (IA)
Gephardt	McHugh	Smith (NJ)
Geren	McMillan (NC)	Smith, Robert (OR)
Gibbons	McMillen (MD)	Snowe
Gillmor	McNulty	Solarz
Gilman	Meyers	Solomon
Glickman	Miller (WA)	Spratt
Gordon	Mineta	Staggers
Gray	Mink	Stallings
Guarini	Moakley	Stark
Gunderson	Molinari	Stenholm
Hall (OH)	Mollohan	Studds
Hall (TX)	Montgomery	Sundquist
Hamilton	Moody	Swift
Harris	Morella	Synar
Hastert	Mrazek	Tallon
Hatcher	Murphy	Tanner
Hayes (LA)	Murtha	Tauzin
Hefner	Nagle	Taylor
Hertel	Natcher	Thomas (GA)
Hiler	Neal (MA)	Thomas (WY)
Hoagland	Neal (NC)	Torres
Hochbrueckner	Nelson	Torricelli
Horton	Nowak	Udall
Houghton	Oakar	Valentine
Hoyer	Oberstar	Vento
Hubbard	Obey	Visclosky
Huckaby	Olin	Volkmer
Hutto	Ortiz	Vucanovich
Ireland	Oxley	Walgren
Jacobs	Panetta	Walsh
Jenkins	Parker	Watkins
Johnson (CT)	Parris	Weldon
Jones (GA)	Patterson	Wheat
Jones (NC)	Payne (VA)	Whittaker
Jontz	Penny	Whitten
Kanjorski	Perkins	Wilson
Kaptur	Pickett	Wise
Kasich	Pickle	Wolf
Kennedy	Poshard	Wolpe
Kennelly	Price	Wyden
Kildee	Quillen	Wylie
Kleczka	Rahall	Yatron
Kolbe	Ravenel	
Kolter	Ray	

NAYS—156

Applegate	Dannemeyer	Goss
Archer	Davis	Gradison
Baker	DeFazio	Grandy
Ballenger	DeLay	Grant
Bereuter	Dellums	Green
Bilirakis	Dickinson	Hammerschmidt
Boxer	Dorgan (ND)	Hancock
Broomfield	Dornan (CA)	Hansen
Brown (CO)	Douglas	Hayes (IL)
Bryant	Dreier	Hefley
Bunning	Early	Henry
Burton	Eckart	Herger
Campbell (CA)	Edwards (CA)	Holloway
Chandler	Edwards (OK)	Hopkins
Clinger	Feighan	Hughes
Coble	Fields	Hunter
Collins	Frenzel	Hyde
Combest	Gallegly	Inhofe
Condit	Gallo	James
Conte	Gingrich	Johnson (SD)
Cox	Gonzalez	Johnston
Crane	Goodling	Kastenmeier

Kyl	Paxon	Shuster
Lagomarsino	Payne (NJ)	Smith (NE)
Leach (IA)	Pease	Smith (TX)
Lewis (CA)	Pelosi	Smith (VT)
Lewis (FL)	Petri	Smith, Denny (OR)
Lewis (GA)	Porter	Smith, Robert (NH)
Lightfoot	Pursell	Spence
Livingston	Rangel	Stangeland
Lowery (CA)	Regula	Stearns
Lowey (NY)	Rhodes	Stokes
Madigan	Rinaldo	Stump
Martin (IL)	Ritter	Tauke
Martin (NY)	Roberts	Thomas (CA)
McCandless	Rogers	Towns
McCollum	Rohrabacher	Traficant
McCrery	Ros-Lehtinen	Traxler
McDermott	Roth	Unsoeld
McEwen	Roybal	Upton
Mfume	Russo	Vander Jagt
Michel	Savage	Walker
Miller (CA)	Sawyer	Washington
Miller (OH)	Saxton	Waxman
Moorhead	Schaefer	Weber
Morrison (WA)	Scheuer	Weiss
Myers	Schuette	Williams
Nielson	Schulze	Yates
Owens (NY)	Schumer	Young (AK)
Owens (UT)	Sensenbrenner	Young (FL)
Packard	Serrano	
Pallone	Shaw	
Pashayan	Shays	

NOT VOTING—5

Crockett	Hawkins	Shumway
Ford (MI)	Morrison (CT)	

□ 2234

Messrs. PEASE, STOKES, SAWYER, SCHUMER, LAGOMARSINO, and SCHEUER changed their vote from "yea" to "nay."

Messrs. LENT, WHITTAKER, LEHMAN of Florida, and GILLMOR changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASPIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 4739.

The SPEAKER pro tempore (Mr. BARNARD). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GRAY asked and was given permission to address the House for 1 minute.)

Mr. GRAY. Mr. Speaker, I wanted to share with the Members of the House the schedule for the rest of this evening and also the schedule for tomorrow. I see the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], present, and perhaps we could share that schedule with him and with all of our colleagues.

This evening we are bringing up next the continuing resolution. After the continuing resolution there will be no further votes. We will roll two suspensions until tomorrow and the crime instruction until tomorrow.

Because of working late tonight, it is our expectation that we will come in at 11 a.m. tomorrow.

Tomorrow we have a rule regarding the Speaker to declare a recess; we also have a rule facilitating consideration of the budget and appropriation legislation. Also, a motion to go to conference on H.R. 5769, Interior appropriations. Also, H.R. 5311, the District of Columbia appropriations conference report. Also, H.R. 5803, the Department of Defense appropriations conference report, which is subject to a rule.

Then H.R. 486, the Defense Production Act conference report, which is subject to a rule. There is also the possibility that there will be a housing conference report and, of course, a reconciliation conference report as soon as it may be ready.

HOUR OF MEETING ON TOMORROW

Mr. GRAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS WITH RESPECT TO ANY RECONCILIATION BILL, APPROPRIATION BILL, OR CONTINUING RESOLUTION FOR THE REMAINDER OF THE 101ST CONGRESS

Mr. GRAY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 682) waiving certain enrollment requirements with respect to any reconciliation bill, appropriation bill, or continuing resolution for the remainder of the 101st Congress.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, would the gentleman please explain what the length of this continuing resolution is?

Mr. GRAY. Mr. Speaker, if the gentlman will yield, if he is inquiring about the length of the continuing resolution that we are about to consider next, it is my understanding that it is for 3 days, which would take us to Saturday midnight.

□ 2240

Mr. DANNEMEYER. Mr. Speaker, further reserving the right to object, we need unanimous consent this evening in order to bring it up to carry us through Saturday midnight; is that correct?

Mr. GRAY. If the gentleman will yield, Mr. Speaker, I say, That is correct.

Mr. DANNEMEYER. Granting the unanimous consent to take it up would not preclude a roll call on the issue itself; would it?

The SPEAKER pro tempore (Mr. BARNARD). The Chair will state that this joint resolution permits a hand enrollment of the bill.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There is no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 682

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING OF ENROLLMENT OF CERTAIN MEASURES.

(a) WAIVER.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any reconciliation bill, appropriation bill, or continuing resolution of the One Hundred First Congress presented to the President after the enactment of this joint resolution.

(b) CERTIFICATION OF ENROLLMENT BY COMMITTEE ON HOUSE ADMINISTRATION.—The enrollment of any such bill or joint resolution shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment.

SEC. 2. SUBSEQUENT PREPARATION AND CERTIFICATION OF PRINTED ENROLLMENT.

(a) PREPARATION.—

(1) IN GENERAL.—If a reconciliation bill, appropriation bill, or continuing resolution is presented to the President in the form of a hand enrollment pursuant to the authority of section 1, then upon the enactment of that bill or joint resolution the Clerk of the House of Representatives shall prepare a printed enrollment of the bill or joint resolution as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply.

(2) TYPOGRAPHICAL CORRECTIONS.—A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style for printed laws, include corrections in indentation, type face, and type size and may include notations (in the margins or as otherwise appropriate) of obvious errors in spelling or punctuation in the hand enrollment.

(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a), after being certified by the Committee on House Administration of the House of Representatives to be a correct printing of the hand enrollment, shall be signed by the presiding officer of each House of Congress and transmitted to the President.

(c) CERTIFICATION BY PRESIDENT; PRESERVATION IN ARCHIVES.—Upon certification by the President that a printed enrollment transmitted pursuant to subsection (b) is a

correct printing of the hand enrollment, such printed enrollment shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment.

(d) PUBLICATION OF LAW.—In preparing the bill or joint resolution for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

SEC. 3. DEFINITIONS.

As used in this resolution:

(1) RECONCILIATION BILL.—The term "reconciliation bill" means a bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991.

(2) APPROPRIATION BILL.—The term "appropriation bill" means a general appropriation bill making appropriations for the fiscal year ending September 30, 1991.

(3) CONTINUING RESOLUTION.—The term "continuing resolution" means a joint resolution making continuing appropriations for the fiscal year 1991.

(4) HAND ENROLLMENT.—The term "hand enrollment" means the enrollment, as authorized by section 1, of a bill or joint resolution for presentment to the President in a form other than the printed form required by sections 106 and 107 of title 1, United States Code.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAKING IN ORDER CONSIDERATION OF HOUSE JOINT RESOLUTION 681, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it shall be in order to consider in the House the joint resolution (H.J. Res. 681) making further continuing appropriations for fiscal year 1991; that the joint resolution be debatable for not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority Member of the Committee on Appropriations; that all points of order against the joint resolution and against its consideration be waived; and that the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except on motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House, I call up the joint resolution (H.J. Res. 681) making further continuing appropriations for the fiscal year 1991, and for other purposes, and ask for its immediate consideration.

The Clerk read the joint resolution, as follows:

H.J. RES. 681

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1990 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basis Authorities Act of 1956;

The Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriations Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1990, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1990, or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That what an item is included in only one version of an Act as passed by both Houses as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990: *Provided,* That where an item is funded in applicable appropriations Acts for the fiscal year 1990 and not included in the version passed by the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

SEC. 102. Such amounts as may be necessary to continue existing programs and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1990, under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, for which provision was made in the following Acts: The Department of the Interior and Related Agencies Appropriations Act, 1990, and the Legislative Branch Appropriations Act, 1990.

SEC. 103. Such amounts as may be necessary to continue existing programs and activities, which were conducted in fiscal year 1990, for which provision was made in the Department of Defense Appropriations Act, 1990, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $265,369,000,000, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1991 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947. *Provided,* That no appropriation or funds made available or authority granted pursuant to this section shall be used for new production of items not funded for production in fiscal year 1990 or prior years, for the increase in production rates above those sustained with fiscal year 1990 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1990, except projects, activities, operations, or organizations relating to "Operation Desert Shield": *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section for procurement and research, development, test, and evaluation, shall be used to fund any program, project, activity, operation, or organization at a rate for operations in excess of the cur-

rent rate or the rate provided for in the budget estimates for fiscal year 1991, whichever is lower, during fiscal year 1991, except programs, projects, activities, operations, or organizations relating to "Operation Desert Shield".

SEC. 104. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary to continue the Aerostat Program of the United States Customs Service which was conducted in fiscal year 1990 at a rate of operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1990.

SEC. 105. Appropriations made by sections 101, 102, 103, and 104 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 106. No appropriation or funds made available or authority granted pursuant to sections 101, 102, 103, and 104 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1990.

SEC. 107. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1990, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 108. Unless otherwise provided in this joint resolution or in the applicable appropriatons Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 27, 1990, whichever first occurs.

SEC. 109. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 110. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 111. No provision in any appropriations Act for the fiscal year 1991 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 108(c) of this joint resolution.

SEC. 112. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 113. (a) Any order on sequestration for fiscal year 1991 issued before, on, or after the date of enactment of this joint resolution to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is suspended and no action shall be taken to implement any such order.

(b) Subsection (a) shall cease to be effective on the date set forth in section 108(c).

SEC. 114. EXTENSION OF TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.—Section 1 of Public Law 101-350 is amended by striking "October 24, 1990" and inserting "October 27, 1990".

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] is recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] is recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 681, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, the leadership has requested that I introduce a new continuing resolution extending that which expires at midnight tonight through midnight October 27.

House Joint Resolution 681 provides for the orderly continuation of the government, extends the debt limit, and suspends sequestration until midnight October 27. It is an extension of what is now in place.

Mr. Speaker, the national financial situation is not the fault of our Committee on Appropriations. Since 1945, the total of our bills has been $173 billion below the requests of Presidents, and, Mr. Speaker, we have done our work this year also.

Four bills have been cleared for the President: Commerce, Justice, and State, and the judiciary; energy and water development; rural development, Agriculture, and related agencies; and Treasury, Postal Service, and general Government.

Four conference reports have passed the House: Labor, HHS, and Education; military construction; Transportation and related agencies; VA, HUD, and independent agencies.

Two conference reports have been filed, Defense and the District of Columbia.

The foreign operations bill was passed by the Senate at 2:30 p.m. today and will go to conference soon. The Interior and related agencies bill passed the Senate earlier this evening, and the Legislative bill is under consideration in the Senate now.

Mr. Speaker, action on new matters that are funded in these bills has not yet started. I think it is important that we begin to get underway at fiscal year 1991 rates and terms and conditions.

On Monday, October 22, I introduced a resolution which would carry the 1991 bills at the new rates that goes until February 15, 1991. I would prefer that we be considering that resolution rather than a 3-day extension for reasons I do not detail here.

However, at the request of the leadership, I have followed their request and introduced House Joint Resolution 681, another short extension, as I have done four other times this year.

My first request was to go from October 1 to October 20, and it was reduced to October 5 at the request of the leadership.

My second request was to go from October 5 to October 20, and it was reduced to October 12 at the request of the leadership, and it was vetoed.

My third request was to go from October 5 to October 20, and it was reduced to October 19 by the Senate, and I moved to concur in the amendment at the request of the leadership.

My fourth request was to go from October 19 to October 27, and it was reduced to October 23 at the request of the leadership.

Mr. Speaker, in this whole process, 1 day was lost at a cost of $1.5 million.

Mr. Speaker, adoption of this resolution will keep the Government operating. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this temporary extension of the continuing resolution to Saturday, October 27. Once again, we are on the verge of a Government shutdown, and need to take action to avert it, and, while we are trying to finish our business, the CR will keep us here for a couple of more days.

The terms of this resolution are exactly the same as the terms of the two continuing resolutions that have been in effect since October 8. It keeps funding going at the lower of the House-passed level, the Senate-passed level, or last year. This suspends sequester during the terms of the CR, and it extends the temporary debt ceiling for that period of time.

Mr. Speaker, I feel strongly this is the proper way to proceed. It keeps things moving forward, and that is the direction in which we need to go, forward. Forward. Forward. Onward and upward. Ad astra per aspera, to the stars through hardship. Let us climb, and reach, and not give up until we have attained the pinnacle. Do not despair. The end is near, in sight.

I urge my colleagues to vote for the CR.

□ 2250

Mr. MARTIN of Illinois. Mr. Speaker, the House is tired, but I must say to the Members not just of the Committee on Appropriations, but to Members on both sides of the aisle, so is this country. It is tired of a fourth continuing resolution.

The only hardship we are talking about is on the people of this Nation. We should have no more continuing resolutions. We should be doing our job. This is absolutely ludicrous, to have redux of redux of return.

In ancient times, it was always easy to kill the messenger, but the message remained the same. We have not accomplished what we are supposed to do as Members of both of our parties in this Congress, and we should oppose this continuing resolution and get the job done.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, this comment is directed to the leadership of both parties in this House: What we Members are witnessing now is once again an effort on the part of those in this body who believe they can work out something to raise taxes on the American people. It is my opinion, and I think shared across this land, that the American people do not want an increase in taxes.

Mr. Speaker, I hope the message will come across sooner, rather than later, to cut it out. What we need to do is strike this down and send a message to our leadership that what we want is a continuing resolution through September 30 of next year at existing levels of spending, and give up this nonsense that we are going to increase the taxes on the American people.

We are not undertaxed; we are spending too much money. The way to stop the spending is just to vote no on this aberration before us now.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I say the Committee on Appropriations has held a total of appropriations bills $173 billion below Presidential requests since 1945, with your support. Further, may I say, that in the absence of this resolution, the whole Government would close down. We had that experience two continuing resolutions ago. It cost us $1½ million. It has not been paid, and I am waiting for a Presidential request before I take that up with the committee.

Mr. Speaker, if we do not do this tonight, we may be closed for a number of days.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, I agree that this continuing resolution should be voted down. It is day 24, and the American taxpayer is held hostage. What this continuing resolution does is simply give the people in charge more time to cook up a new tax increase for the American people. When will we get the message that the American people want spending reductions, and the continuing resolution is another way to keep the taxpayer hostage while taxes are raised in the future. Vote no on this CR.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I rise in strong support of the funding resolution.

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BARNARD). Pursuant to the order of the House earlier today, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONTE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 380, noes 45, not voting 7, as follows:

[Roll No. 518]

AYES—380

Ackerman	Bruce	Derrick
Alexander	Bryant	DeWine
Anderson	Buechner	Dickinson
Andrews	Bunning	Dicks
Annunzio	Bustamante	Dingell
Anthony	Callahan	Dixon
Applegate	Campbell (CA)	Donnelly
Archer	Campbell (CO)	Dorgan (ND)
Aspin	Cardin	Douglas
Atkins	Carr	Downey
AuCoin	Chandler	Duncan
Ballenger	Chapman	Durbin
Barnard	Clarke	Dwyer
Bateman	Clay	Dymally
Beilenson	Clement	Dyson
Bennett	Clinger	Early
Bentley	Coble	Eckart
Bereuter	Coleman (MO)	Edwards (CA)
Berman	Coleman (TX)	Edwards (OK)
Bevill	Collins	Emerson
Bilbray	Combest	Engel
Bilirakis	Condit	English
Bliley	Conte	Erdreich
Boehlert	Conyers	Espy
Boggs	Cooper	Evans
Bonior	Costello	Fascell
Borski	Courter	Fazio
Bosco	Cox	Feighan
Boucher	Coyne	Fish
Boxer	Craig	Flake
Brennan	Darden	Flippo
Brooks	Davis	Foglietta
Broomfield	de la Garza	Ford (MI)
Browder	DeFazio	Ford (TN)
Brown (CA)	Dellums	Frank
Frost	Luken, Thomas	Rowland (GA)
Gallegly	Machtley	Roybal
Gallo	Madigan	Russo
Gaydos	Manton	Sabo
Gejdenson	Markey	Saiki
Gekas	Martin (NY)	Sarpalius
Gephardt	Martinez	Savage
Geren	Matsui	Sawyer
Gibbons	Mavroules	Saxton
Gillmor	Mazzoli	Schaefer
Gilman	McCandless	Scheuer
Gingrich	McCloskey	Schiff
Glickman	McCollum	Schneider
Gonzalez	McCrery	Schroeder
Goodling	McCurdy	Schulze
Gordon	McDade	Schumer
Goss	McDermott	Serrano
Gradison	McEwen	Sharp
Grandy	McGrath	Shaw
Grant	McHugh	Shuster
Gray	McMillan (NC)	Sikorski
Green	McMillen (MD)	Sisisky
Guarini	McNulty	Skaggs
Gunderson	Meyers	Skeen
Hall (OH)	Mfume	Skelton
Hall (TX)	Michel	Slattery
Hamilton	Miller (CA)	Slaughter (NY)
Hansen	Miller (OH)	Slaughter (VA)
Harris	Miller (WA)	Smith (FL)
Hastert	Mineta	Smith (IA)
Hatcher	Mink	Smith (NE)
Hayes (IL)	Moakley	Smith (NJ)
Hayes (LA)	Molinari	Smith (TX)
Hefley	Mollohan	Smith (VT)
Hefner	Montgomery	Smith, Robert (OR)
Henry	Moody	Snowe
Herger	Moorhead	Solarz
Hertel	Morella	Solomon
Hiler	Morrison (WA)	Spence
Hoagland	Mrazek	Spratt
Hochbrueckner	Murphy	Staggers
Hopkins	Murtha	Stallings
Horton	Myers	Stangeland
Houghton	Nagle	Stark
Hoyer	Natcher	Stearns
Hubbard	Neal (MA)	Stenholm
Huckaby	Neal (NC)	Stokes
Hughes	Nelson	Studds
Hunter	Nielson	Sundquist
Hutto	Nowak	Swift
Hyde	Oakar	Synar
Ireland	Oberstar	Tallon
Jacobs	Obey	Tanner
James	Olin	Tauzin
Jenkins	Ortiz	Taylor
Johnson (CT)	Owens (NY)	Thomas (GA)
Johnson (SD)	Owens (UT)	Thomas (WY)
Johnston	Oxley	Torres
Jones (GA)	Pallone	Torricelli
Jones (NC)	Panetta	Towns
Jontz	Parris	Traficant
Kanjorski	Pashayan	Traxler
Kaptur	Patterson	Udall
Kasich	Paxon	Unsoeld
Kastenmeier	Payne (NJ)	Valentine
Kennedy	Payne (VA)	Vander Jagt
Kennelly	Pelosi	Vento
Kildee	Perkins	Visclosky
Kolbe	Pickett	Volkmer
Kolter	Pickle	Vucanovich
Kostmayer	Poshard	Walgren
Kyl	Price	Walker
LaFalce	Rahall	Walsh
Lagomarsino	Rangel	Washington
Lancaster	Ravenel	Watkins
Lantos	Ray	Weber
Laughlin	Regula	Weiss
Leach (IA)	Rhodes	Weldon
Leath (TX)	Richardson	Wheat
Lehman (CA)	Ridge	Whittaker
Lehman (FL)	Rinaldo	Whitten
Lent	Ritter	Williams
Levin (MI)	Roberts	Wilson
Levine (CA)	Roe	Wise
Lewis (CA)	Rogers	Wolf
Lewis (FL)	Rohrabacher	Wolpe
Lewis (GA)	Ros-Lehtinen	Wyden
Lipinski	Rose	Wylie
Lloyd	Rostenkowski	Yatron
Long	Roth	Young (AK)
Lowery (CA)	Roukema	Young (FL)
Lowey (NY)	Rowland (CT)	

NOES—45

Armey	Baker	Bartlett

Barton	Hammerschmidt	Quillen
Bates	Hancock	Robinson
Brown (CO)	Holloway	Sangmeister
Burton	Inhofe	Schuette
Byron	Lightfoot	Sensenbrenner
Carper	Livingston	Shays
Coughlin	Marlenee	Smith, Denny (OR)
Crane	Martin (IL)	Smith, Robert (NH)
Dannemeyer	Packard	Stump
DeLay	Parker	Tauke
Dornan (CA)	Pease	Thomas (CA)
Dreier	Penny	Upton
Fawell	Petri	
Fields	Porter	
Frenzel	Pursell	

NOT VOTING—7

Crockett	Morrison (CT)	Yates
Hawkins	Shumway	
Kleczka	Waxman	

□ 2312

The Clerk announced the following pairs:

On this vote:

Mr. Stallings for, with Mr. Michel against.

Mr. Stokes for, with Mr. Gingrich against.

Mr. Wilson for, with Mr. Lewis of California against.

Mr. Downey for, with Mr. Edwards of Oklahoma against.

Mr. Miller of California for, with Mr. Vander Jagt against.

Mr. Russo for, with Mr. Hunter against.

Mr. Stark for, with Mr. McCollum against.

Mr. HALL of Texas and Mr. STEARNS changed their votes from "no'" to "aye."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will postpone further proceedings on each motion to suspend the rules on which further proceedings were postponed on Tuesday, October 23, 1990, until tomorrow, Thursday, October 25, 1990.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 486, DEFENSE PRODUCTION ACT AMENDMENTS OF 1990 AND AGAINST ITS CONSIDERATION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-939) on the resolution (H. Res. 526) waiving certain points of order against consideration of the conference report on the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 5803, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991, AND AGAINST ITS CONSIDERATION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-942) on the resolution (H. Res. 529) waiving certain points of order against consideration of the conference report on the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN REQUIREMENTS OF HOUSE RULES AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS, CONFERENCE REPORTS, AMENDMENTS, AND MOTIONS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-940) on the resolution (H. Res. 527) waiving the requirement of clause 4(b), rule XI, against consideration of certain resolutions reported from the Committee on Rules, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING THE SPEAKER TO DECLARE RECESSES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-941) on the resolution (H. Res. 528) authorizing the Speaker to declare recesses, which was referred to the House Calendar and ordered to be printed.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON HOUSE ADMINISTRATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on House Administration:

COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC, October 24, 1990.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The Honorable Joe Kolter has resigned from his appointed position as chairman of the review panel established under Section 7 of House Resolution 558 (100th Congress), as made applicable to the 101st Congress by House Resolution 15, and pursuant to such resolutions, I have appointed the Honorable Martin Frost to serve as chairman of the review panel.

With every best wish, I am

Sincerely,

FRANK ANNUNZIO,
Chairman.

DISPLACED HOMEMAKER SELF-SUFFICIENCY ASSISTANCE ACT

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3069) to amend the Job Training Partnership Act to establish an employment training program for displaced homemakers, and for other purposes, with Senate amendments thereto, and concur therein.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Senate amendments: Page 15, line 23 and 24, strike out [each displaced homemaker] and insert "displaced homemakers".

Page 16, line 23, strike out "$50,000,000" and insert "$35,000,000".

The Speaker pro tempore. Is there objection to the request of the gentleman from California?

Mr. GOODLING. Mr. Speaker, reserving the right to object, I will not object. I have read the changes made by the other body, and I am in support of those actions.

However, for the benefit of Members not familiar with the changes, will the gentleman from California please explain these changes and the nature of his unanimous-consent request?

Mr. MARTINEZ. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. Further reserving the right to object, I am happy to yield to the gentleman from California.

Mr. MARTINEZ. Mr. Speaker, I will be glad to explain those changes.

There are really two changes. The first change makes a technical correction regarding data-collection requirements. The change allows the States to estimate the number of dependents of displaced homemakers as a whole rather than serving each and every displaced homemaker. It simply corrects an unintended incongruity in the data collection requirements.

The second change reduces the authorization of the appropriation for fiscal year 1991 from $50 million to $35 million. I have resisted that reduction to this point. However, in light of our current budget deficit, such a change now seems appropriate.

The unanimous-consent request I have made simply asks the House to concur in these changes.

Mr. GOODLING. Further reserving the right to object, I thank the gentleman for his comments. As I stated earlier, I support these changes.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to H.R. 3069, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNITY CENTER MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 357) to designate September 15, 1990 to October 15, 1990, as "Community Center Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to yield to my good friend and colleague, the gentleman from New York [Mr. GILMAN], to inasmuch as he is the chief sponsor of this joint resolution.

Mr. GILMAN. Mr. Speaker, as the chief sponsor of House Joint Resolution 636 it is my privilege to rise in support of Senate Joint Resolution 357 as amended, which designates the month of October 1991, as Community Center Month. I would like to thank the chairman of the Subcommittee on Census and Population, the gentleman from Ohio [Mr. SAWYER] and the distinguished vice chairman, the gentleman from Pennsylvania [Mr. RIDGE] for their assistance in bringing this resolution to the floor, and I commend my 230 colleagues for cosponsoring this important resolution.

Community centers provide cultural, social, and recreational facilities to a large segment of the American population. They are dedicated to preserving the well-being of our vital and vibrant communities across this great Nation.

Our Nation's community centers serve as a gathering place for all age groups as well as persons of all denominations. Community centers also offer a variety of intellectual, social, and recreational activities. They provide myriad programs for the elderly and disabled as well as for child care.

The first community centers came into prominence during the second half of the 19th century and became a haven for thousands of people fleeing oppression in Eastern Europe. Through the services rendered by community centers these new immigrants were given the tools and guidance necessary to assimilate into the American way of life.

Mr. Speaker, as our community centers enter their second century they have become large, complex facilities meeting specific needs of our communities. Whether it is providing health care related services like the Rockland Community Development Council in Rockland County, NY, or youth support and drug education programs like the bandwagon in Orange County, NY, community centers have responded to the ever changing needs of our society.

Accordingly, I invite my colleagues to join in recognizing the important contributions of our community centers by supporting this legislation.

□ 2320

Mr. RIDGE. Mr. Speaker, continuing my reservation, I yield to the chairman of the subcommittee, the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank my friend and colleague from Pennsylvania for this opportunity not only to recognize the importance of the joint resolution sponsored by the gentleman from New York, but to acknowledge his extraordinary effort to make sure that this resolution came before Members tonight. His singlehanded effort to make sure that the importance of this resolution was communicated to the largest number of his colleagues is exemplary of the work that goes into this kind of joint resolution, and a model for all the rest of our colleagues who seek similar recognition for other worthwhile endeavers and individuals in this Nation's daily lives.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BARNARD). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 357

Whereas Community Centers are large and complex cultural, social, and recreational institutions dedicated to preserving the well-being of a vital and vibrant segment of the United States;

Whereas there are Community Centers, branches, and camps serving a large clientele of people across the continent;

Whereas Community Centers feature programs and services for all age groups, from infants through the elderly, and for people with disabilities and special needs;

Whereas Community Centers serve as gathering places for peoples of all denominations and offer a rich and varied program of educational and cultural opportunities;

Whereas the first Community Centers came into being during second half of the nineteenth century to provide social, recreational, and intellectual activities for community members in the United States;

Whereas, as the nineteenth century progressed into the twentieth and the United States became a haven for hundreds of thousands of peoples fleeing the oppression and pogroms of Eastern Europe, Community Centers turned their energies and attention to the enormous task of acculturating the new immigrants, teaching them English and the meaning of United States citizenship;

Whereas after the influx diminished and Community Centers evolved once again into institutions dedicated to preserving good citizenship through educational, cultural, social, and recreational programs; and

Whereas, as Community Centers enter their second century of providing service, it is most fitting that we recognize their important contribution to the fabric of life in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 15, 1990 to October 15, 1990, is designated as "Community Center Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: Page 2, strike "September 15, 1990 to October 15, 1990," and inserting "October 1-31, 1991,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. SAWYER].

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. RIDGE. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "A joint resolution to designate October 1-31, 1991, as 'Community Center Month'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

STATUE OF LIBERTY DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 579) designating October 28, 1990, as Statue of Liberty Day, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to yield to the sponsor of this joint resolution, the gentelman from New York [Mr. HORTON], as well as other members of the New York delegation who wish to share a few thoughts with Members about this resolution. I yield to the

gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Speaker, I rise today in support of House Joint Resolution 579. This bill would designate Sunday, October 28, 1990 as Statue of Liberty Day.

I would like to pay special tribute to the chairman of the Subcommittee on Census and Population, TOM SAWYER, and the ranking minority member of the subcommittee, TOM RIDGE, for their crucial role in bringing this legislation to the floor.

The Statue of Liberty, properly known as "Liberty Enlightening the World," was given to the United States by the generous freedom-loving people of France as an expression of friendship and of the ideal of liberty shared by both peoples. Originally the brainchild of Edouard Rene Lefebvre de Laboulaye, a prominent 19th century French politician, legal scholar, and authority on America, the statue was constructed as a joint venture between France and the United States—with French citizens donating the funds to build the statue and Americans raising the funds to build the pedestal.

Designed by the French sculptor Frederic Auguste Bartholdi, the statue originally served as a symbol of the freindship between the people of the United States and France as well as a memorial to those who fought in the American Revolutionary War. Since its dedication on Liberty Island on October 28, 1886, Lady Liberty has become one of the most prominent symbols of this country.

During World War I, when the statue appeared on posters for war bonds—called liberty bonds—the statue became a powerful symbol of this Nation and its ideals of freedom and liberty. These bonds helped raise $15 billion and played an enormous role in financing the war.

The Statue of Liberty also has special meaning to the over 12 million immigrants whose first image of America was this majestic statue that overlooks Upper New York Bay and nearby Ellis Island, where these individuals took their first steps on American soil. For these freedom-loving individuals, the statue served as a strong, welcoming figure representing the promise of the opportunity in their new homeland. This sentiment was captured by the Great American poet Emma Lazarus in her poem "The New Colossus," which was inscribed on the interior wall of the pedestal in 1903.

Mr. Speaker, I insert the text of "The New Colossus" in the RECORD, as follows:

THE NEW COLOSSUS
(By Emma Lazarus)

Not like the brazen giant of Greek fame,
With conquering limbs a stride from land to land;
Here at our sea-washed, sunset gates shall stand
A mighty woman with a torch, whose flame
Is the imprisoned lightning, and her name
Mother of Exiles. From her beacon-hand
Glows world-wide welcome; her mild eyes command
The air-bridged harbor that twin cities frame.
"Keep, ancient lands, your storied pomp!" cries she
With silent lips. "Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me.
I lift my lamp beside the golden door!"

Today, over 2 million people from all over the world visit the Statue of Liberty each year. Its continuing popularity attests to the enduring principles that the statue represents. In light of the reverence in which the Statue of Liberty is held, I believe that designating October 28, 1990, as Statue of Liberty Day is a fitting and much belated tribute to a great lady. I urge my colleagues to support House Joint Resolution 579.

Mr. RIDGE. Mr. Speaker, continuing my reservation, I yield to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, I thank the gentleman for yielding, because the Statue of Liberty is in the congressional district which I am privileged to represent. This resolution is particularly significant to me, and I thank the distinguished dean of the New York delegation in the House of Representatives for sponsoring this resolution establishing the Statue of Liberty Day.

It is my hope that on this Statue of Liberty Day, which will be a day after the continuing resolution expires, nonetheless, the public will be able to continue to visit the Statue of Liberty, and that I may be in New York to celebrate the day myself. Let me also thank the distinguished ranking minority member and chairman of the subcommittee for bringing this resolution to the floor. The Statue of Liberty, as the dean of our delegation mentioned is, of course, an important symbol, the symbol which so many of our parents and grandparents who came into New York Harbor first saw as they emigrated to the United States during that great wave of immigration that happened in this country between 1876 and 1923, when a very tight immigration law clamped down.

That is another one we are about to address, the new immigration law, and I hope we will take a very responsible attitude toward that, remembering how much the immigrants who came through New York Harbor, and saluted the Statue of Liberty, have contributed to this country.

Again, I want to thank the distinguished gentleman from Pennsylvania and the gentleman from Ohio for bringing this resolution to the floor. I urge its adoption.

Mr. RIDGE. Mr. Speaker, continuing my reservation, I yield to my friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 579, which designates October 28, 1990, as Statue of Liberty Day and commend my good friend and colleague from the State of New York, Mr. HORTON, for introducing this legislation.

The Statue of Liberty symbolizes the essence of our Nation's welcome to millions of immigrants to a land of new freedom, hope, and promise. This resolution serves as an appropriate tribute to a magnificent monument—the Bacon*that has given inspiration to people of all faiths and origins throughout the world.

Mr. Speaker, I urge our colleague to join in supporting this important resolution.

Mr. RIDGE. Mr. Speaker, in a final continuance of this reservation, I yield to my chairman, the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I rise only briefly to thank the three gentleman from New York for taking their time at this late hour to come to the floor and to give due importance to the resolution they sponsored.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 579

Whereas the Statue of Liberty is a symbol of freedom and democracy throughout the world;

Whereas the Statue of Liberty was a gift to the United States by the freedom loving people of France;

Whereas the Statue of Liberty National Monument includes Ellis Island, the very soil where over 12,000,000 immigrants took their first steps on United States soil; and

Whereas the Statue of Liberty is one of the most heavily visited national monuments in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 28, 1990, is designated as "Statue of Liberty Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LITHUANIAN INDEPENDENCE DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 606) designating February 16, 1991, as Lithuanian Independence Day, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to recognize the work of the gentleman from Illinois [Mr. RUSSO], who is the chief sponsor of this joint resolution, and also to yield to the gentleman from New York [Mr. GILMAN], in support of the resolution.

□ 2230

Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 606, which designates February 16, 1991, as Lithuanian Independence Day. As an original cosponsor of this resolution I would like to thank my colleague, the gentleman from Illinois [Mr. RUSSO], for all his efforts on this legislation.

After centuries of foreign domination, the Lithuanian people proclaimed themselves as an independent state on February 16, 1918. Their state was based on the same democratic principles that we Americans value.

Recognized as a sovereign nation, Lithuania was admitted to the League of Nations and exchanged diplomatic representatives with other sovereign nations.

A respected member of the international community, Lithuania made great strides in social legislation; doubling the number of grammar schools in only 9 years, enacting a labor control law, and introducing the 8-hour day. In addition, Lithuania experienced a cultural revival in literature and music inspired by its national folklore.

Tragically, Lithuania's independence was short lived. During World War II, Lithuania maintained a posture of complete neutrality. This policy was readily ignored first by the Germans, and then by the Soviets. Through Communist coercion, the Lithuanians formed a new government sympathetic to the Soviet Union and eventually became a constituent republic of the U.S.S.R.

The United States has continually condemned the aggression and tyranny to which Baltic States have fallen victim. The United States has never acknowledged the incorporation of Lithuania into the Soviet Union. Now, more than ever, Americans must send a powerful message of our convictions concerning the freedom of the Lithuanian people. The events of this past summer served to further exemplify the courage and earnestness of the Lithuanian people as they continue their brave struggle for independence. This resolution is symbolic of our support for Lithuania's independence.

Accordingly, I urge my colleagues to join in supporting this important resolution.

Mr. RUSSO. Mr. Speaker, this past year has been filled with many highs and lows for the Baltic Republic of Lithuania. Last fall, the Lithuanian people watched the fall of the Berlin Wall with great anticipation, hoping that the fervor for democracy would spread to their own land. Lithuania first declared itself a sovereign state on February 16, 1918, and now 72 years later, it is still fighting for those basic rights that we Americans hold so dear.

On March 11 of this year, Lithuania declared itself independent of the Soviet Union, which had controlled the small nation for the past 50 years. For the first few days following this declaration, it appeared as if democracy and the right to self-rule were actually possible in Lithuania. At the end of March, however, foreign journalists and diplomats were ordered out of Lithuania. In mid-April, Gorbachev began to physically strangle Lithuania with a far-reaching economic blockade. With their free will no less dampened by the blockade, but their physical resources severely diminished, the Lithuanians agreed to a 100-day moratorium on the restoration of Lithuanian independence at the end of June. Following this moratorium the Soviets lifted the blockade. While talks between the Soviet and Baltic officials are stalled and the moratorium on the restoration of Lithuanian independence remains in effect, the Lithuanian people's dreams of self-determination and independence live on.

The Soviet Union may impose economic blockades and physically barricade Lithuania's Government buildings, but it cannot break the spirit of the Lithuanian people. On April 7 of this year, 300,000 nationalists who gathered in Vingis Park to hear President Landsbergis were not discouraged by a Soviet helicopter attempting to disrupt the speech and disburse the crowd. Instead the helicopter was shouted down by the deafening cry, "Lithuania is free. Lithuania is free." It is my hope that the reasons for which Mr. Gorbachev was chosen for the Nobel Peace Prize will continue to grow and that Lithuania will soon reap the benefits of this peace.

With the commemoration of February 16, 1991, as "Lithuanian Independence Day" we applaud the irrepressible Lithuanian people and encourage the Soviet Union not to turn back the clock and resort to the oppressive practices of the past, but to realize the dream of the Lithuanian people.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BARNARD). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 606

Whereas February 16, 1991, is the 73d anniversary of the declaration of independence of Lithuania;

Whereas on February 16, 1918, the Council of Lithuania, the sole representative of the Lithuanian people, in conformity with the recognized right to national self-determination, proclaimed the restoration of an independent and democratic Lithuania and ended all ties that formally subordianted Lithuania to other nations;

Whereas Lithuania was independent until 1940 when the Soviet Union took over the country;

Whereas the United States opposes tyanny and injustice in all forms and supports the cause of Lithuanian independence; and

Whereas the oppressed people currently living in Lithuania keep the flame of freedom forever burning in their hearts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 16, 1991, is designated as "Lithuanian Independence Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to celebrate such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YEAR OF THANKSGIVING FOR THE BLESSING OF LIBERTY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 369) designating 1991 as the Year of Thanksgiving for the Blessings of Liberty, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, the minority side has no objection to this joint resolution.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Ohio.

Mr. SAWYER. Mr. Speaker, I thank my colleague, the gentleman from Pennsylvania, for yielding to me.

I rise and pause only briefly to express the gratitude of this Chamber to the sponsor of this resolution, the gentleman from Missouri [Mr. GEPHARDT] for his efforts to bring it forth.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 369

Whereas the people of the United States have expressed gratitude by celebrating a national season of thanksgiving since the 17th century;

Whereas the War for Independence was won and the constitution written and adopted to secure the blessings of liberty for citizens;

Whereas after the first Congress drafted a Bill of Rights to be added to the Constitution, established a Federal judicial system, created departments of administration, and established the Government of the United States under the Constitution, it requested President Washington to issue a proclamation of national thanksgiving;

Whereas in the first Presidential proclamation, President Washington called on the people of the United States to acknowledge, by thanksgiving, the blessings of civil and religious liberty;

Whereas by December 15, 1791, three-quarters of the United States had ratified the proposed Bill of Rights;

Whereas 1991 is recognized as the official observance of the bicentennial of the ratification of the Bill of Rights; and

Whereas for 200 years the people of the United States have enjoyed the blessings of liberty under the Constitution and the Bill of Rights, embodied in the first 10 amendments of the Constitution: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled, That 1991 is designated as the "Year of Thanksgiving for the Blessings of Liberty", and the President is authorized and requested to issue a proclamation calling upon the Governors of the several States, the chief officials of local governments, and the people of the United States to observe the year with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REFUGEE DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 653) designating October 30, 1990, as Refugee Day, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I do so to acknowledge the work of the gentleman from Florida [Mr. FASCELL], who is the chief sponsor of this joint resolution.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 653, designating October 30, 1990, as Refugee Day. And I would like to take this opportunity to commend my good friend from Florida, the distinguished chairman of our Foreign Affairs Committee, Mr. FASCELL, for introducing this resolution.

It is with gratification that we in the United States view the recent positive changes in Eastern Europe and throughout the world. In particular, it is heartening to observe that democracy and the right to emigrate go hand in hand.

The history of the United States would not be complete without the many success stories of refugees who came to our shores. Further, these success stories continue today with the relaxation of Soviet and Eastern European emigration. While we are facing a minor crisis with the numbers of refugees leaving the Soviet Union, it is a situation we can rejoice in. After so many years of hard work, these people are finally free.

Mr. Speaker, unfortunately, in many parts of the world human beings are still forced to flee their homelands to escape serious threats to themselves and their families. Today, there are over 15 million refugees throughout the world, sometimes living in conditions so horrible that death is a commonplace event.

However, it is hoped that this resolution will bring attention to the plight of the refugees throughout the world, and I urge my colleagues to support this timely legislation.

Mr. BROOMFIELD. Mr. Speaker, this month marks the 10th anniversary of the signing of the Refugee Act, which established a compassionate and comprehensive U.S. response to the vast migrations of people fleeing persecution and seeking new opportunities for themselves and their families.

As a nation of immigrants, we have a deep understanding of and sympathy for the plight of those seeking refuge, and we have generously opened our doors to them. We recognize the energy, vitalilty and talent that refugees bring with them, and the benefits that can be derived from a multiethnic society.

The refugees who have entered the United States since the advent of the Refugee Act, and the refugees who have come to our shores before them have enriched our society in large and in small ways, and in every field of endeavor.

Mr. Speaker, House Joint Resolution 653 authorizes and requests the President to designate October 30, 1990, as Refugee Day to honor the refugees who have come to our shores seeking a new life free from persecution, and also to honor the Americans who opened their arms to welcome them.

I urge passage of this resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 653

Whereas in the past decade, the world refugee population has more than doubled from 7,300,000 to 15,000,000;

Whereas the decade-long Soviet occupation of Afghanistan has left 5,000,000 refugees and internally displaced people in Afghanistan, Pakistan, and Iran, constituting one third of the world's refugee population;

Whereas 4,000,000 refugees barely manage to survive at minimal levels on the African continent, and the current unrest in Liberia, southern Africa, and Ethiopia generates countless numbers of new refugees each day;

Whereas the political, social, and economic policies of the Socialist Republic of Vietnam continue to compel its citizens to flee the oppressive regime at any cost, and the plight of the Vietnamese boat people remains one of the most critical issues in the region;

Whereas the relentless efforts of the United States on behalf of Soviet citizens yearning to live in freedom and the recent liberalization of Soviet immigration policy has resulted in an unparalleled movement of people from the Soviet Union;

Whereas the Western Hemisphere continues to face challenges posed by refugee populations and the political, social, and economic repression in Cuba has led Cubans to seek freedom elsewhere by increasingly desperate means;

Whereas the United States has always played a leading role in refugee matters worldwide;

Whereas the origins of the United States as a land of refuge for those escaping religious persecution and the development of the United States as a nation of immigrants gives us a deep understanding of and sympathy for the plight of the 15,000,000 refugees in the world;

Whereas refugees who have come to the United States have made significant contributions to our country;

Whereas the United States consistently encourages other countries to expand efforts to help the needy population of refugees; and

Whereas the increased problems concerning the world refugee situation require the United States to continue its leadership in refugee affairs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 30, 1990, is designated as "Refugee Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

NATIONAL HUMANITIES WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 562) designating October 21 through 27, 1990, as National Humanities Week,

and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, the minority has no objection to this joint resolution.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Ohio.

Mr. SAWYER. Mr. Speaker, I thank my colleague, the gentleman from Pennsylvania, for yielding to me.

I pause only to acknowledge the work of my friend and colleague, the gentlewoman from Ohio [Ms. OAKAR], in bringing this joint resolution before us.

Ms. OAKAR. Mr. Speaker, I would like to take this opportunity to thank my dear friend and colleague from Ohio, the Honorable TOM SAWYER, for bringing this resolution to the floor today. As chair of the Subcommittee on Census and Population of the Committee on Post Office and Civil Service, one of the many responsibilities he has had this year is the formidable task of researching and reviewing census figures and documents. This subcommittee chairman is to be highly commended for a job well done.

Mr. Speaker, I was pleased to introduce, in conjunction with Congressman PAUL HENRY, House Joint Resolution 562, which designates October 21-October 27, 1990, as National Humanities Week.

This year marks the 25th anniversary of the National Endowment for the Humanities. It is only fitting that we recognize the contributions that this agency has made to our society. You may recall that Congress approved a similar resolution in February 1986, as National Humanities Week, in celebration of the Endowment's 20th anniversary.

Mr. Speaker, the Congress, in order to promote progress and scholarship in the arts and humanities in the United States, enacted the National Foundation on the Arts and Humanities Act of 1965. This act established the National Endowment for the Humanities as an independent, grantmaking agency of the Federal Government to support research, education, and public programs in the humanities. This act was the first to define the humanities to include the study of: history, philosophy; language, linguistics; literature; archeology; the history, theory, and criticism of the arts; comparative religion, and aspects of the social sciences that employ historical or philisophical approaches.

The National Endowment for the Humanities has been a successful funding mechanism for the humanities in America, and for the study, exhibition, and preservation of the humanities. It has been the impetus for many successful programs in our museums, the foundation for richly deserving programs in the educational communities, and the basis for a strong and solid understanding of humanities disciplines in the United States.

The humanities increase our understanding of past traditions and civilizations; they break down the barriers of isolation and allow individuals to communicate regardless of differences in race or gender. We, as an advanced society, must not forget that the Humanities Act as a key that unlocks our past and opens the door to our future.

By passing House Joint Resolution 562, we will acknowledge the importance of humanties. Again, Chairman SAWYER, thank you for bringing this resolution to the floor today.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 562

Whereas the study on the humanities increases the understanding of the great traditions of civilization and the intellectual heritage of individuals;

Whereas the identity of the population and the Nation is expressed through the humanities;

Whereas the humanities help to break down the barriers of isolation and allow individuals to talk to each other regardless of differences in race, gender, or family experience;

Whereas the humanities help communities: evaluate the bonds of history and place, console in sorrow, and experience joy, wonder, and laughter;

Whereas the State humanities have been a partnership between Federal, State, and local government entities, universities, colleges, businesses, teachers, scholars, and individuals;

Whereas designating a National Humanities Week brings together the public and private sectors to restate support of the humanities: How, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 21, through 27, 1990, is designated as "National Humanities Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DAY OF PRAYER FOR AMERICANS HELD HOSTAGE IN MIDDLE EAST

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 673) to designate November 2, 1990, as a national day of prayer for members of American military forces and American citizens stationed or held hostage in the Middle East, and for their families, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I do so simply to acknowledge the work of our colleague, the gentleman from California [Mr. HUNTER] who authored this most laudable joint resolution for our consideration, and I certainly urge our colleagues to support it.

Mr. DUNCAN. Mr. Speaker, I rise today in strong support of House Joint Resolution 673, a resolution I have introduced to designate Friday, November 2, 1990, a National Day of Prayer for the Mideast crisis and especially for our troops and their families.

I want to express my appreciation to subcommittee Chairman SAWYER for his help in bringing this measure to the floor, along with the ranking member, Mr. RIDGE.

Our Nation has set aside National Days of Prayer many times in the past when we have faced crises such as this one. The Continental Congress declared the first such day on July 20, 1775, as a day of fasting and prayer.

The first day of prayer after the United States was formed was held on December 18, 1777, following the adoption of the Declaration of Independence and the American victory at Saratoga.

The idea for having a day of prayer concerning the Middle East crisis came from Mrs. Dixie Carter in Lenior City, TN, who I saw when I was in Lenoir City several weeks ago. I commend her for her outstanding idea, and I am grateful to her for sharing it with me.

I also would like to thank my staff member, Jim Edwards, for all the work he did to help get this resolution passed by the House.

Our soldiers participating in Operation Desert Shield and their families have made great sacrifices. Everyone with a friend or loved one over there knows the uncertainty, anxiety, and danger of this Middle East situation.

Our Nation should devote itself to prayer on November 2 for a peaceful solution to this crisis. This is the least we can do on behalf of our troops and those people on both sides. I urge my colleagues to join me in supporting this important resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 673

Whereas the United States has responded decisively to the crisis in the Middle East created by the invasion and occupation of Kuwait by Iraqi military forces, the threat of Iraqi aggression against Saudi Arabia and other countries, and the unlawful hostage-taking by Iraqi military forces;

Whereas President Bush, in order to preserve international order and protect American interests and lives in the Middle East, has deployed American military forces to counter Iraqi aggression;

Whereas American civilian reservists called to active duty are making great personal sacrifices to serve in the Middle East

and, like other American military forces serving there, are at great personal risk;

Whereas those taken hostage by Iraqi military forces are in daily danger;

Whereas families of American military and civilian personnel serving in the Middle East face terrible anxiety;

Whereas a strong majority of Americans support the deployment of American military forces by President Bush in the Middle East, and all American hope that a just outcome may be reached in the Middle East without war;

Whereas Americans are willing to accept sacrifices resulting from the use of military force, fight armed aggression, defend national interests, and protect the lives and welfare of American citizens; and

Whereas Americans have traditionally recognized that military strength alone is not sufficient, and now should also trust in Providence, and remembering that, according to the Scriptures, "unless the Lord keeps the city, the watchman worketh but in vain": Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) it is the sense of the Congress that the President should declare November 2, 1990, a national day of prayer for members of American military forces and American citizens stationed or held hostage in the Middle East, and for their families;

(2) all Americans should pray for President Bush, his advisors, the leaders of American military forces in the Middle East, and the leaders of other countries which have deployed military forces of other countries which have deployed military forces in the Middle East to stop Iraqi aggression, that they retain the wisdom and courage to bring about a just resolution to the Middle East crisis;

(3) all Americans should pray for Iraqi President Hussein, his advisors, and the leaders of the Iraqi military forces, that they remove their military forces from Kuwait, release all hostages unharmed from their current captivity, resist further acts of aggression against other countries, meet the conditions of applicable United States resolutions, and act prudently in the furtherance of peace; and

(4) all Americans should observe such day in prayer and meditation at churches, in groups, and as individuals.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include thein extraneous material, on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 2340

THE CIVIL RIGHTS BILL OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. MFUME] is recognized for 60 minutes.

Mr. MFUME. Mr. Speaker, I take this time this evening in a rather somber and sober way to remind all of us of the action of the other body some 12 hours ago, when, in the other body of this great legislative branch of Government, there was a massive failure, and I am speaking specifically of the attempt of that body to override the veto of the President of the United States with regard to the Civil Rights Act of 1990. Many of us have different feelings about that bill today, which, incidentally, lost by 1 vote. Many of us have very strong feelings, however, I think, also about the issue of fairness, about the issue of civil rights protection under the law, about the issue of this President being only the second President this century to follow through on a veto of the civil rights bill and about where we are as a Nation as a result of that.

I want to talk a bit about the President's decision to veto.

Let me just say from the outset that the bill that was crafted and the two compromises that were meted out were not done so in some sort of loose or happenstance kind of fashion. It was done with a great deal of thought, a great deal of insight, with a great deal of input from over 150 organizations throughout this Nation who thought that they had to come together and coalesce under the umbrella of civil rights to fashion legislatively as best they could a response to the six Supreme Court decisions that were rendered from June through January of last year.

The civil rights community, working with the Members of the House and the other body, sat down well over 18 months ago and began the process of writing what was to become the Civil Rights Act of 1990. A great deal of thanks is due to the dedication of Senator KENNEDY and Congressman HAWKINS of California. They, through their respective committees, with a great deal of insight, working together with many of us who were cosponsors of that bill, put together something that specifically addressed the decisions of the Supreme Court in those six instances and put together something else that did not break new ground but moved us back to where we were in terms of civil rights prior to the judicial activism of the courts that began in January of last year.

That took place with a great deal of deliberate thought, as I have indicated, with a great sense of compassion and with a great desire to try to set and correct a number of wrongs by allowing people the basic right to challenge acts of discrimination and to afford unto themselves basic protections under the law that had been the case for many, many years in our country.

So when we get to the point where we are, where we have an actual bill that passes both Houses and has a conference report that is agreed upon, I think it is important to lay the foundation and to set the record straight that it was not a happenstance, that it occurred through tremendous amounts of deliberation, that it was a well-thought-out process and that it was a process that allowed for input.

So out of that we came out with the Civil Rights Act of 1990. The decision by this President to veto that I think brings with it a great amount of shame on the White House and a great amount of shame, unfortunately, on this President because, in my estimation, that decision was ill-conceived and the President was ill-advised.

That, perhaps, was the darkest day of his Presidency for many of us who had hoped and, quite frankly, had given President Bush the benefit of the doubt, believing as we did that we would do the right thing as it relates to equal opportunity and equal protection under the law for all Americans.

You may recall, Mr. Speaker, that we who worked on the conference report were preparing to bring a conference report to this floor after we had sat down and worked with representatives of the White House to allay their fears that this was not a quota bill. We worked day in and day out, and much of the language incorporated into the conference report was language offered up by the White House as language that they could and would accept.

So the conference report came to this body for a vote. But on that particular day there was a call, again, from the White House saying, "Maybe we still could not support it, and because of that we would appreciate it if you would take back the conference report and recommit it back to the conference committee."

There was a vote to do that. I voted against it. I thought it was the wrong thing to do.

Several compromises had been raised, and I did not understand this last-minute, 11th-hour maneuvering. But the motion to recommit succeeded. The bill went back to conference.

When we got back to the conference committee, we found out there were still some other things that the White House wanted in the particular bill.

While it was difficult for many us who worked on that to again be prepared to compromise, nonetheless we did just that. We did that out of a spirit of cooperation with this Presi-

dent and with the firm belief, based upon messages we had gotten from the administration that, "If you would just make these few more changes, I will sign the bill." That was last Thursday. Then last Friday there was another message indicating there was still some unreadiness on the part of the President, which brought about, I might add, a great deal of unreadiness on the part of some Members of this House.

We see now, the President decided, obviously, that he still did not like the bill. The White House wanted in the bill something that equated to customer preference, which harkens back to the days of Bull Connor, when customer preference in legislation and being codified meant that if you have an establishment and you happen to have women who are waiting on the customers and the customers prefer to have men, and technically you could discharge all of those women employees and they would have no means of redress, they could not file an action of discrimination against you.

So the customer preference and the concept of it simply was nonnegotiable and we were not prepared to accept it. And this idea, this erroneous idea that there is some alternative to the Civil Rights Act of 1990 that is fair and even-handed is nonsense because when you bring into this this idea of customer preference, it negates everything else that was done substantially and with a great deal of forethought in that particular bill.

So in many respects it is signaling, I think, to groups across this country that perhaps the good old days are back, the days that second-class citizenship for women and for those of us of African and Hispanic ancestry and Asian ancestry really are back, and those acts and days of discrimination would no longer be the exception, they in fact would be the rule.

The irony today is, as I stood on the floor of the other body trying to lobby Members of that body during the override vote to in fact vote to override, David Duke sat in the gallery, looking down also, in his own way, I am sure, signaling to Members on the floor of that body that they should vote to sustain it.

So I think the irony in that speaks for itself.

Let me take just a moment if I might, Mr. Speaker, to speak about the bill and what actually was in the bill, for those persons who perhaps do not know and for people around this country who are watching at this hour, many of whom, I think, are wondering why and how did this President follow through on such a devastating veto of a civil rights bill that was 18 months in the fashioning, that incorporated with it the participation of over 150 groups nationwide, that had a significant number of Republican supporters in the House and the Senate and a significant number of Democrats.

□ 2350

Mr. Speaker, let us talk about some of the changes from the original bill to the conference report that was eventually reported out of committee. Those changes did seven different things. They required that from here on out the plaintiff had to identify which specific employment practice or practices resulted in disparate impact; that is, those that affect women and minorities differently from other workers in most cases with only limited exceptions. We went back and wrote into the bill that it had to state more specifically which employment practices have to meet only the lower standard of bearing a "significant relationship to manifest business objectives of the employer." We went back at the insistence and the urging of the White House to add language that says, and I quote, "Nothing in the bill shall be construed, not only to require, but also to encourage, the adoption of quotas." We went back again at the urging in the fourth compromise of the original bill to specify that where an employer establishes that the same action would have, in fact, been taken in the absence of any discrimination, that the plaintiff could not be awarded damages at all. We changed the bill again at the behest of the White House to modify the provisions regarding from whom a title VII plaintiff can recover attorneys fees when the plaintiff successfully defends an original judgment from a later challenge by the third party. We made further changes to stipulate that none of the provisions in the bills disparate impact section would be intended to overrule existing cases involving comparable worth, and we stated further that it should provide and would provide a somewhat narrower definition of which nonparties to a court decree resolving an employment discrimination claim could not, in fact, challenge that decree.

So, we went back again at the urging of the administration in that conference committee, and I have to tell my colleagues there was not a great deal of willingness to do it, but we did it. We reversed and modified all those things and all that language which created some problem, and then we came up with this conference report that came finally on to this floor and was successful in its passage.

Let me just say that there was one significant difference between the conference agreement and the House-passed bill that was a part of the conference because it placed a cap on all employers on punitive damages of $150,000 or the amount of compensatory damages, an equitable monetary relief, whichever would be greater. The House-passed bill has provided this cap only for employers with fewer than 100 employees.

Now in addition to that it is important to point out as we talk about the Civil Rights Act of 1990 that on the day that it met its death here in Washington, DC, we sought to do a number of different things as related to Supreme Court decisions from January through June 1989. We went back and looked at the Patterson versus McLean Credit Union case that the court had ruled upon and dealt substantially with the issue of racial discrimination and private contracts. We went back and looked at Wards Cove Packing versus Atonio and dealt significantly with the problematic area of the burden of proof in disparate cases, and that was probably one of the hardest parts of the bill and one that still causes a great deal of anguish to people, but we muddled through it and tried to write it in such a way that the White House could embrace it. We looked at challenges to court decrees in clarifying the statute of limitations and showing that intentional discrimination would always be impermissible.

Then we got to the area of attorneys fees, where there was a great deal of speculation by some people that this was going to be somehow a windfall for attorneys. No one said that when it came time for the S&L bailout, which certainly was a windfall for attorneys, but all of a sudden, when you talk about civil rights, well, you know, this is an attorneys' boom fest. It is going to provide them with a great deal of money. How foolish can one be?

Mr. Speaker, the agreement includes a number of provisions clarifying the availability of awards for attorneys fees in title VII cases in response to a number of those Supreme Court cases. It specifically makes clear that the expertise and other litigation expenses are recoverable as part of the attorneys fees, provides that no consent decree settling a title VII claim may be entered unless the parties or their counsel attest to the fact that the court or attest to the court that the waiver of all substantial attorneys fees was not compelled as a condition of the settlement, and it provided that, when a title VII plaintiff successfully defends an original judgment against a later challenge by a third party, that the plaintiff is entitled to recover attorneys fees from the original defendant and/or the third party.

So, when we talk about the matter of attorneys fees as a reason not to vote for the civil rights bill, it simply did not and does not hold any water or any credibility.

Finally, let me get to the section that allegedly caused our President and caused his administration a great deal of anguish day in and day out. Even today, as his veto was being sus-

tained, the President referred to quotas, that that is why he could not embrace this bill. Oh, sure, he is for civil rights. He is for equal protection under the law. But he is concerned about quotas, and because this is a quota bill it was not the sort of thing that the American public could accept or embrace and, therefore, he grudgingly felt compelled to veto it.

Mr. Speaker, let me just go back to this matter of quotas again because it bears reflection, and it is, in fact, instructive. As my colleagues can see, it could not be a quota bill because it contains language suggested by the White House, and I am going to read the language once again that is a part of this bill that goes against this nonsense that it is a quota bill.

The revised agreement that we voted on and sent to the President of the United States stipulates, "that nothing in the amendments made by this Act shall be construed to require or to encourage an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin." Nothing.

So, Mr. Speaker, I defy this White House to come before the American public and prove that this is a quota bill when it bears the language of the advisers of the President of the United States that specifically says that nothing in the bill shall be construed to require or to encourage quotas. I think it is unfair, Mr. President, to say that to the people of this Nation and to expect that there would not be a response. It is unfair.

I sat in that conference committee day in and day out. I know what the objections of the White House were as it related to this notion of quotas. I recognized the great pain and anguish that Members of this House and Members of the other body felt in trying to craft this legislation in such a way that it would clearly not suggest that, and so I do not mind the President saying he is vetoing this because he does not like the bill. That might be true. But to say that he is vetoing it because it is a quota bill is utterly untrue.

I think it deserves an apology to the people of this Nation. The language that specifically prohibits it from being one is language that was crafted and offered up by the White House. It is part of the bill. Read the RECORD.

So, Mr. Speaker, we find ourselves now in a situation where we play the media game, and the shell game, and who is on first, and is it a quota bill, or is it not, and what happens to civil rights, and, if we do not have this, what is the alternative? The alternative is a step back into the dark ages because the alternative creates and brings in to bear this notion of customer preference.

□ 2400

We might as well go back to Bull Connor standing in the door of a restaurant with an ax handle in his hand because the customers of the store that he was protecting did not like the particular person because of their skin color or because of their gender or because of their religion.

Shame on you, Mr. President, and shame on those who have ill advised you.

This is not a quota bill. What you have is really not an alternative, and where we are is nowhere at this point as it relates to providing equal protection under the law for all of our citizens.

Statistical imbalance. That was one of the other things that we kept hearing about over and over again. "Well, you know, we would like to support the bill, ladies and gentlemen but, you know, there is this idea of 'statistical imbalance,' and unless you are able to correct that, we simply can't advise the President to support it. We will advise him to veto it. You have to address that."

So we did address it. The agreement that was brought to this body contains a provision that stipulates, at the urging of the White House, "The mere existence of statistical imbalance in an employer's work force on account of race, color, religion, sex, or national origin, is not alone sufficient to establish a prima facie case against disparate impact violation." Not sufficient. So it was dealt with.

Comparable work, another area that seemingly and allegedly provided a great deal of anguish, was dealt with. It is in the bill. Don't take my word for it, ladies and gentlmen, it is in the bill. So I take this podium tonight not to be self-righteous, not to come here and lambast deliberately and with malice this President or his administration, not to talk about the Republicans this and the Democrats that, but to argue vehemently and forcefully and from my heart about the anguish that has been created as a result of this, that cannot and will not be corrected this year. It may not be corrected in the convening of the 102d Congress. It is a dark, dark day on this Presidency. It is a darker day in our Nation, because it represents one small step backward for our Nation, and one giant step backward for mankind.

People around the world look at this citadel of democracy. They do not look to Europe, they do not look elsewhere; they look here first, and ask themselves what is the position of the United States on matters affecting basic democratic principles.

Today I think they look at us and perhaps wonder why is it, aside from all of this partisan bickering, which I think is sometimes healthy on this budget, aside from the ying and the yang, the give and the take that is part of the democratic institution, they wonder why and how is it possible that for women, for persons of African ancestry and Asian ancestry and Hispanic ancestry, that you, in fact, in this country could not bring about the creation of a civil rights act that had strong bipartisan support, that represents 18 months of work, and that was compromised with on seven different instances. They wonder why.

However, I do come, not just out of that sense of anguish and frustration, but I come also because I wanted to set the record straight, and to remind many at the White House and myself that we have lost a great opportunity today.

As I stood on the floor of the other body during the vote, in which the override failed by a count of one, I looked in the gallery at David Duke. He looked back at me. It was not a question of how far we had come as a nation, but for me the question was how far we still have yet to go.

So I would urge this President, who I still give the benefit of the doubt, to reconsider what I consider was ill advice; to look again, not at what is being offered as a compromise, but to look again at both this body and the other body, and to try working with the legislative branch of Government and the civil rights community to do the right thing. Anything short of that represents the loss of a tremendous opportunity.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 681. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

DISCOURSE ON POLITICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN. Mr. Speaker, I will not take a tenth of that time. Let me see if I can collapse that 60 minutes into 6, 7, or 8.

First of all, I want to compliment my good friend and colleague, the gentleman from the great State of Maryland [Mr. MFUME]. That was a very thoughtful oration he gave on the civil rights bill and why he so passionately supported it. He showed great respect to the President. I like his final words, that he gave him the benefit of the doubt.

This current President of ours is a good man, with a big heart, and, yes, he was to the manor born, but he

raised his beautiful intelligent daughter and handsome intelligent sons as regular folks, and he has got a great family. And Barbara has as high ratings as anybody has had on the distaff side of the White House, and they are going to stay up there, because she does not have to get down in the rough and tumble on the issues like this.

But I got up to ask people to stop worrying, the sky is not falling in. We are going to have an election in less than 2 weeks. Eleven days from tomorrow it is all over. The campaigning, most TV stations will stop taking commercials on the air. Some run a few on the eve of the election, but not in my State of California.

I want to tell you what the bad news is: Very few Americans treasure the vote the way they should. We will probably get a turnout because it is an off year. All that means is, there is no Presidential race going on. But there are still plenty of Governor races, Federal, Senators, and every seat for the House and every seat for all the lower houses throughout all the States. That is the big tragedy.

Now, the majority party is jumping up and down with glee thinking there is a big tide surging against my party, the grand old party. I don't believe it. They act like the homeless are going to go out in droves and vote Republicans out of office. The problem with the homeless is, they don't have an address. It is sad, but they don't vote.

They are talking about how the wild young youth, listen, all the wild young youth that are watching the Simpsons and partying and smoking a little pot, they don't vote. Mr. McGovern found that out 18 years ago.

The young people that do vote, that one opportunity, growth, an upward mobile society, President Reagan tended to get most of those, and so did George Bush 2 years ago next month.

There are two articles that I want to put in that show the sky is not falling in.

First of all, Mr. Speaker, I want to say something. I swear I am going to keep doing this until we end an unfair and misleading impression that we give to people who follow this House electronically by video.

Mr. Speaker, you know there are about 1 million people watchng. Mr. MFUME was not wasting his time pouring his heart out about why he wanted this civil rights bill, why he thought it was fair. A million people were watching him.

But during these special orders, no matter which party is up, the camera pans an empty Chamber.

I will get a call tonight in my office, if I go back there, or tomorrow they will call my staff. "Oh, I felt so embarrassed for Congressman DORNAN. There he was, speaking to the empty Chamber. Why don't the Members have courtesy to listen? Why do they all desert the House?"

They are all going home to get some much-needed rest. We go in at 10 o'clock. A few of them may be doing some last-minute stuff in their office. They have the floor on. They are watching.

But the main thing, Mr. Speaker, is one million people are watching. We are going to get this changed next January. I am going to circulate a letter and get it signed by about 219 colleagues, one more that half, and the Speaker, being a gentleman, will go back to the way we used to cover these Houses, until the good friend and great speaker, Tip O'Neill, got angry at NEWT GINGRICH or BOB WALKER or somebody and said, "Pan the House. Embarrass them. Make it look like nobody is listening."

Well 1 million people, from my friends in Orange County and Los Angeles. Just think, the coliseum, filled once, twice, three, four, five, six, seven, eight times, filled 10 times. Ten coliseums filled, and you are not a little ant out in the middle of the coliseum talking on a microphone with it echoing around that great bigstadium.

□ 0010

No, you are right there, close, as close as these six cameras on this floor can bring you into somebody's home, in a conversational tone. If you whisper they can hear you. If you yell like some of our Members, they can hear you, big audience out there.

Here is what I want to tell them.

Article 1, today, Ben Wattenberg, my favorite Democrat, because he writes fairly, and when he socks it to the party, when he socks it to the Republican Party particularly I listen because it's valuable advice, and I think the same goes for the Democrats.

Listen to this:

> Tromp, tromp, tromp. It is the sound of the American proletariat marching to trash the Gucci on the mall, chanting the Marseillaise of the middle class.

Then he give this little tune of that great French revolutionary sound that is now their national anthem:

> Pierce the Bubble, / Cease the Trouble, / Raise the Marginal Tax Rate on Those Earnings / Over $200,000 in Adjusted Gross Income.

Sarcasm well taken.

> Because of such passion, we are told that Republicans are losing ground. Luckily, at times like this we have Wattenberg's First Law of Politics for guidance: When everyone says it, doubt it.
>
> I go further: If Democrats make headway and concentrate on the reasons currently stated, they will cause further self-inflicted wounds. The reasons may be more important than the results.

This is a great column and I will put it in the RECORD. You can get it in your local papers that carry columnist Ben Wattenberg.

But listen to the close.

> Democrats have told us before that they have found the golden kazoo. Don't you know that the issue of (the gender gap), (nukes), (El Salvador), (the nuclear freeze), (abortion),

I heard the chairman of the great Democratic Party, Ron Brown, say on election night a year ago, his exact words, "Slam dunk, we have found our issue: Abortion." He said that on Ted Koppel's Night line, and then he was chastized by Jeff Greenfied who was sitting in for Ted, who said, "If you think that's the golden bullet, Mr. Chairman, maybe you had better look around. What about defending our country?"

Look at Saddam Hussein.

"What about the social issues and the economy?"

Then after abortion he mentioned Nicaragua, and all of this was supposed to sweep Democrats into office.

> Such tunnelitis allows Democrats to ignore the social issue, the one that has plagued them for 25 years. But crime, race, drugs, permissiveness and values—let alone big spending—cannot be finessed. Hortonized Democrats should have learned that in 1988.

What he is doing is taking the name, Willie Horton, and turning it into a verb, and saying it was the crime aspect of being Hortonized that hurt the Democrats in 1988.

When will they learn, he is telling his fellow Democrats.

> Democrats are whopping it up for The Civil Rights Act of 1990 described (accurately, in my judgment) as a "quota" bill. Mr. Bush vetoed it. The Democrats think they have him on the spot.

Maybe not.

One footnoote. I cannot believe that the gentleman from Maryland, Mr. MFUME, said that David Duke was in the gallery of the Senate, there to see if it would go up or down, and there to gloat if it would go up or down, and there to gloat if it went down, for all the wrong reasons. The man is a racist and an animal, and if he ever gets a thought to run for Congress I will go down and openly campaign for an independent, a Democrat in that beautiful State that beautiful State that I loved at our convention in August 1988, and I have been through there many times in my life. I will campaign for anybody. That man is not a Republican, except in his lower house identification in Louisiana.

Now here is the other column. I will put the Ben Wattenberg column in the RECORD. Here is the final column, and let me wrap it up so that all of this great staff can go home and get much needed shut-eye.

This is from the Wall Street Journal, and this is from a week ago, the Wall Street Journal, a week ago, and unfortunately a week has been lost. This is by John H. Fund, a great senior editorial writer for the Wall Street Journal. The title says "Give

'Em Hell, George, just Like Harry Did in '48."

Mr. Fund writes, "Few Presidents have been so ridiculed. He was called 'indecisive' and 'weak.' Even bipartisan support for his firm foreign policy couldn't prevent a sharp drop in his approval ratings."

That firm policy saved Greece, by the way, and Turkey from going Communist. And the Marshall plan, the firm part, to rescue Germany, and they called it the miracle of Germany, and their economy was rescued in no small part by their great Minister of Economic Affairs, Erhardt.

"Nonetheless, he and his party triumphed in the next election," that is in the 1948 election. "The classic political comeback. The President was Harry Truman, and his 1948 campaign against a 'do nothing Congress' holds some strong lessons today for George Bush and the GOP."

Now a footnote here. I understand all of our leadership, starting at the top, a great American, combat infantryman, BAR Browning automatic rifleman fighting his way across Europe, one of my favorites, BOB MICHEL, and NEWT GINGRICH, a scholar, and a professor, a Ph.D. of American history, and all of the rest of the team that have become close friends of mine over the years, DUNCAN HUNTER, who is a close friend, and VIN WEBER, and BILL MCCOLLUM, and all the way down the line, MICKEY EDWARDS, one of my classmates from the class of 1976, and with the great spirit of '76 they all went down and had a good session with the President tonight, and we are all coming together. All this fractionizing us into different little groups, it is disappearing. And they explained to the President that there may only be 50 votes on the minority side of the aisle for any tax raising package. The President will sign off because he feels he is trapped in the White House with a democratic majority in the Senate, strongly partisan under Mr. MITCHELL when they want to be, strongly partisan here, claiming all of this time that they are not partisan since May with the budget summit. But it is partisan, in the healthy normal way, as partisan as anybody ever was around here in the Democratic leadership. But then saying we are being unfair and partisan when they lay it on the line initially.

Now what is the President going to do? He does not have three weeks, as he was advised by the Wall Street Journal, but in about 2 or 3 days he is going to be free to travel across this country, and I think he is going to take this advice. Here it is. He says: "Others are taking a new look at those Democratic candidates who all this year have been canny enough to run against Washington and higher taxes."

The voters out there are going to say, "But how did this person vote? How has he voted the last 6 years, how has he voted the last 8 years, or the last 10 years or beyond, has he ever voted against tax increases, has he always voted himself a pay raise, and things will start to settle down. We have time.

Yet get this, it says, "If Democrats score even a psychological victory, they can peel away enough Republicans to start overriding Bush vetoes, leaving him a crippled President."

That is not going to happen. Those people that are aware, know that the one person who can control spending around here is a strong President, with a third here of his party and a third in the Senate. Otherwise we will go back to President Johnson's Great Society bankruptcy spending. If we have a crippled President, it would be the same thing as having a liberal spending Democrat in the White House, synced up with the Senate and the House. It is not going to happen. Remember, this is an election where people vote who understand politics. All of the Sunday soldiers, fair weather people, they only vote in presidential elections where there is a lot of media hype, and it is more exciting, but they slough off on their citizenship. So we are going to have an informed group of voters out there who are going to be tracking this through the last 10 years.

Now here is what John Fund of the Wall Street Journal recommend the President do. "It's time George Bush told the American people, enough is enough. I tried to be reasonable, I moderated my positions, and I got nothing in return from the Democratic Congress, except a flawed bill. Let's have a referendum on Congress's work product."

"In 1948, Truman was faced with a Republican Congress that had stymied his legislative programs. He went on the attack, practicing political jujitsu. First he built up the 'do nothing Congress' as the country's biggest problem."

Mr. Bush already has a great advantage there. Most of our citizens blame it on this Congress. Properly so.

The origins of Truman's successful campaign against Congress can be found in the advice of a key aid, and he is still a top lawyer and lobbyist around town, Clark Clifford. In a 43-page memorandum Clark Clifford, exnaval officer write in 1947, the year after the election this advice. His advice was: "Mr. President, the administration should select the issues upon which there will be conflict with the majority in Congress. It can assume it will get no major part of its own program approved."

In Bush's case, they even break you and make you eat your most solemn promise of the 1988 campaign, Read my lips; no new taxes, after Congress hammers on me that line.

□ 1220

Back to Truman, he says, "Its tactics must, therefore, be entirely different than if there were any real point to bargaining and compromise." We have seen enough of that, bargaining and compromise here. "Its recommendations," Clark Clifford continues to Harry Truman, "must be tailored for the voter, not for the Congressman. They must display a label which reads 'No compromise.' "

Mr. Bush is not going to have that option, because he did try to compromise since May. Truman began his attack on a Congress by challenging Republican leaders to pass his legislative program during a special session he called in July 1948. No comparison there. When the Congress refused to go along, he declared the battle lines had been drawn. The President can still do that. Whistlestop tour: Mr. Truman made 286 speeches and addressed 6 million.

If Mr. Bush went on the attack, really went on the attack, say, the last 9 days leading up to the election, on any night on TV, even if they cut him down to these rotten sound bites, he would reach 50 million, 60 million, 80 million people a night, particularly with all of the rerunning and talk show hosts regurgitating.

In his speeches, Truman said: "The special session had been the test for that worst 80th Congress and its Members had failed it." Do you think the President cannot say that the Members failed this year in trying to come to a reasonable budget process violating our own budget laws 62 times? Here is the key thing, he held no congressional leader up for congressional scorn. Mr. Bush does not have to attack Mr. FOLEY or Mr. GEPHARDT or Mr. MITCHELL or anybody by name. That is not his style anyway. He is the ultimate gentleman. One of our own Republicans embarrassed him in a speech up in New England this afternoon or this morning. How did he handle it? He just kept eating his breakfast and made a gracious gentlemanly remark about stop reminding everybody where we have differences. Mr. Bush is one terrific gentleman.

So here is what Harry Truman drove home relentlessly: "There is just one big issue," he said. "It is special interests against the people. You now have a special interest in Congress." He was doing that in June. Here is another one, closer to the eve of the election, October 11, today is October 24, so we have lost 13 days. But listen to this, and if I could talk directly to the President, Mr. Speaker, I would drive this Harry Truman line home: "Don't let anybody fool you. If they send a Republican Congress back there, it

won't be a bit different from the last 80th Congress." Please put in the words "Democrat," "liberal." "It will be run by exactly the same men."

These same men have been running it ever since I was in my first, or voted in my first election in pilot training by absentee ballot from Florida. It was 1954. That is the election when the departed Mr. Wright got elected, sworn in in January 1955. That is a lifetime ago, folks, 36 years ago. He says, "That will be the same one run by the same men. It will put us through exactly the same program." Got to reread Harry Truman's words and switch "Democrat" for "Republican." "Don't let anybody fool you," George Bush says. "If they send a liberal Democrat Congress back there, it won't be any different from the 101st Congress. It will be run by exactly the same men. It will put through exactly the same programs, bad, bad, give me a Republican Congress to deal with." Can you not hear it, Mr. Speaker, the President delivering it?

Truman, of course, scored an upset victory over Tom Dewey. He captured all of the most populous States, all those that were growing the most. Just think who has already finished growing. The census is over. California is going to pick up seven new seats, Texas is going to pick up three, Florida is going to pick up four. Who is losing congressional seats to the Sunbelt areas? New York is losing three; Pennsylvania, two; Michigan, two; Ohio, two; Illinois, two; Massachusetts, one. Who is gaining? Virginia, Georgia, and the Sunbelt States and Arizona, another Sunbelt State. He will do well; President Bush will do well in these States.

It says that Mr. Truman won all the same States that President Bush won against Michael Dukakis. Truman won those. He also swept the Republicans out of control of both the House and the Senate. You are not going to do that, Mr. Bush, because he worked on this strategy worked up by Clark Clifford for 1 year. He really started to pour it on in June. You do not have time to make 286 speeches. This is a more televised age. You can make a big dent in 8 or 9 good days.

By the way, the President tonight was giving good lines to our Republican leaders on how he is going to get tough out there on the stump, and I have been out there on the stump with him. I have seen him turn on the juice. It always shocks the press. "Where is the weak President? Where is the accommodator? Where is the lapdog?" All of a sudden they have got a torpedo bomber pilot on their hands, slamming one big Mark 80 48 torpedo into the hulls one after the other. We are going to have some fun here. I repeat, the sky is not falling in.

Here is Mr. Fund's closing in the Wall Street Journal: "There is still a 3-week Bush campaign against Congress and its attempts to raise taxes on every American could still pay political dividends." They have raised taxes on everybody, folks, and there will be about 50 Republicans joining just to get this process over with and get home for Thanksgiving and Christmas. Some of us want to go to the gulf and have Thanksgiving with the troops, and then we move into the 102d Congress.

Listen to this, "The country is seething with anger against officeholders, as evidenced by the widespread support for term limits." I have been for that for 14 years. I had a bill in, two bills in, one a House resolution, and one a House joint resolution in every Congress except the one Congress I was missing in 1983-84, of course, not there, but that would be six Congresses I have had 12 bills in to limit terms over the last 14 years.

"Normally, the risks in an anti-Congress campaign would lead cautious advisers to argue against it," Do not listen to those voices, Mr. President. Remember what Douglas MacArthur writes about his father Arthur; Douglas MacArthur said, "I can hear him now, my father said, 'Douglas, beware of councils of war. They usually breed timidity and defeatism.' " Do not listen to the timid defeatists, Mr. Bush. You charge ahead with that Harry Truman and give them hell, campaign, and Mr. Fund closes, "For all the current Bush political strategy is worth, it might as well have been designed by a double agent secretly on the payroll of the Democratic National Committee." That is right.

Throw away the playbook, Mr. Bush, as the great President, I believe you are; and you are historically, go back to Lee Atwater's battle plan of 1988, to engage them at every level, and show them the tough young torpedo pilot that was downed twice in the South Pacific and after 48 combat missions and losing your entire crew, went back for 10 more shots at the enemy. Think of those 10 combat missions in the South Pacific when you could have easily, after losing two aircraft, being shot down, one ditching, bailing out of another one, watching one of your young men, Johnny Delaney, go in in a chute, watching another young Yale graduate, and you had even yet to go to college, right out of high school, family friend, Ed White, only combat mission of his life, a deck officer, begged you to go on that mission, and you wondered if that was he in the parachute or he was the one that went down in the airplane.

You have been through hell, Mr. President. Now, like Harry Truman, give them hell. Those 10 combat missions, they were spread out over a lot longer than hell. Those 10 combat missions, they were spread out over a lot longer than 10 days, but each one was only a few hours. Wake up each morning, starting 10 days out, and say, "Mission No. 1, 2, 3, 4," and finish that 10th mission on the eve of the election, tell the American people why we have gridlock in government, tell them who has been chairing every single committee around here for 36 years.

I am 57 years old, five grown kids, the youngest is about to turn 30 in about another year. I have got eight grandchildren, and two of mine are not even married yet. I have got more to come yet. My entire life, and it has been under liberal Democratic control since I was 21 years old. Obvious that is a lifetime.

You are my hero, George Bush. Go out there. I do not care what happens in the next day or two. Whatever kind of a budget mess we come up with, the next Congresses are not bound to it in concrete. Just go out there, give them a Harry Truman speech, and see if we cannot hold our own in the off-year, and then we will all be girded for battle, and I think your popularity is already at a tremendous high for this point in anybody's career at 50 percent.

You had an artificial high because you were so resolute and decisive on the gulf crisis. We will come back next year, and your campaign begins in earnest the night after the election, so I look forward to, instead of doing 34 States for you, I look forward to doing 36 States for you. We are going to have one heck of a time, and you are going to have two great terms.

Just as I told Ronald Reagan, and he agreed with me, you are going to be a better President than Ronald Reagan, because you have his example on how to go over the head of Congress to the people. So one great Gipper President for 8 years, Ronald Reagan, you are going to go on to be a better President for 8 years. You are already off to a great start.

I am happy. I look forward to campaigning. We will be out of here by Sunday.

Give them hell, George.

Thank you, Mr. Speaker. Sorry I went longer than I promised you.

ULTIMATELY THE WINNER?

(By Ben Wattenberg)

Tromp, tromp, tromp. It is the sound of the American proletariat marching to trash the Gucci on the mall, chanting the Marseillaise of the middle class:

Pierce the Bubble,/Cease the Trouble,/Raise the Marginal Tax Rate on Those Earning/Over $200,000 in Adjusted Gross Income.

Because of such passion, we are told that Republicans are losing ground. Luckily, at times like this we have Wattenberg's First Law of Politics for guidance: When everyone says it, doubt it.

I go further: If Democrats make headway and concentrate on the reasons currently stated, they will cause further self-inflicted wounds. The reasons may be more important than the results.

The case for the alleged Republican nosedive includes these factors: President Bush's popularity is down, there is an anti-incumbent mood, Republicans favor the rich, people think America is on the "wrong track," and we're in a recession.

Ed Rollins, chairman of the National Republican Congressional Committee, says GOP campaign contributions are drying up and Republications will likely lose marginal races. It is, he says, "an abyss." (Abyss is as good as a mile.)

A few weeks ago it was said Republicans would hold their own in the congressional races. Now it is claimed that they may lose 10 House seats or, if the mob reaches Pappagello and Tiffany, perhaps 20.

(Ignored in the shuffle is the fact that the out party almost always gains seats in the off-year election, an average of 28.)

Will it happen? I don't know. Neither do the people who say they do. But what of the reasons offered? Recall the question of the French Revolution: Ou est le boeuf? Beefwise, the evidence is not there, either in theory or in fact.

In presidential years we are told that "presidents have no coattails." But now, when Mr. Bush's popularity dropped, it's said it will hurt congressional Republicans. Got it? The president has coattails only when he doesn't run.

Mr. Bush's popularity is down. He looked like President Palooka. But his rating fell from an artificial high related to Iraq. Mr. Bush's popularity is now where it was pre-Iraq, high by historical standards. The polls show the public thinks the budget mess is the fault of Congress. So who's to blame for "the wrong track"?

Anti-incumbency: It's there. But there are more Democratic incumbents than Republicans.

The recession: It has set a gestation record. The most recent data show it still hasn't arrived. Unemployment is still low.

So where's le boeuf? Author Kevin Phillips modestly claims discovery. Mr. Phillips now cites "extraordinary" data from a recent Times-Mirror/Gallup poll showing that 51 percent of the public links Republicans with "rich, powerful monied interests." That's up from 18 percent in 1987. Mr. Phillips modestly notes that it validates his rich-poor thesis.

It is extraordinary data. T-M has apologized for "an unfortunate error" The 1990 number is not 51 percent but 21 percent.

Still, Democrats are delirious. Tax the millionaires! It is a good and valid Democratic issue. The best. (But what do they have against Joe Montana and Magic Johnson?)

But in recent years, Democrats have shown tunnel vision on issues. One, alas, is all they can handle at a time. That hurts them.

Democrats have told us before that they have found the golden kazoo. Don't you know that the issue of (the gender gap), (nukes), (El Salvador), (the nuclear freeze), (abortion), (Nicaragua) will sweep Democrats into office?

Such tunnelitis allows Democrats to ignore the social issue, the one that has plagued them for 25 years. But crime, race, drugs, permissiveness and values—let alone bug spending—cannot be be finessed. Hortonized Democrats should have learned that in 1988.

Will they learn? Democrats are whopping it up for The Civil Rights Act of 1990 described (accurately, in my judgment) as a "quota" bill. Mr. Bush vetoed it. The Democrats think they have him on the spot.

Some spot. Who gains in 1992—the key year—when Democrats say they were for more laws for minorities and Republicans say they protected the middle class from quotas?

[From the Wall Street Journal, Oct. 17, 1990]

GIVE 'EM HELL, GEORGE, JUST LIKE HARRY DID IN '48

(By John H. Fund)

Few presidents have been so ridiculed. He was called "indecisive" and "weak." Even bipartisan support for his firm foreign policy couldn't prevent a sharp drop in his approval ratings. Nonetheless, he and his party triumphed in the next election—the classic political comeback. The president was Harry Truman, and his 1948 campaign against a "do-nothing Congress" holds some strong lessons today for George Bush and the GOP.

Until last month's disastrous budget agreement, Republicans were confident they could hold their House losses to single digits—not bad for the party in power in a midterm election—and even gain a couple of Senate seats. Now GOP strategists report their candidates in open House seats—the only competitive ones these days—are in a "free fall."

Their problem is that the most loyal Republican voters are under age 40, and their major issues are suspicion of big government and opposition to higher taxes. Now that George Bush is seen as having donned the other team's jersey, many are deciding not to vote. Others are taking a new look at those Democratic candidates who all this year have been canny enough to run against Washington and higher taxes.

But the GOP's problems this year are also George Bush's. If Democrats score even a psychological victory, they can peel away enough Republicans to start overriding Bush vetoes, leaving him a crippled president. In addition, state legislatures elected this year will redraw congressional districts for the next decade. If Democrats make major gains, the Republicans will be gerrymandered into continued minority status during any Bush second term.

President Bush has severely compromised his image as a tough negotiator who will stand up for the middle class and "just say no" to new taxes. He is left with only two choices—to again strike the best deal he can with the Democrats and suffer the economic and political consequences or to go on the offensive, just as he did when in similar political trouble in 1988.

"It's time George Bush told the American people, 'Enough is enough. I tried to be reasonable, I moderated my positions, and I got nothing in return from the Democratic Congress. Let's have a referendum on Congress's work product," says Republican consultant Doug Watts.

In 1948, Truman was faced with a Republican Congress that had stymied his legislative program. He went on the attack, practicing political jujitsu. First he built up the "do-nothing Congress" as the country's biggest problem, and then used his opposition's superior strength, or weight, to bring it down.

The origins of Truman's successful campaign against Congress can be found in the advice of a key aide, Clark Clifford. In a 43-page memo written in November 1947, Mr. Clifford urged the president to challenge Congress. "The Administration should select the issues upon which there will be conflict with the majority in Congress. It can assume it will get no major part of its own program approved. Its tactics must, therefore, be entirely different than if there were any real point to bargaining and compromise. Its recommendations . . . must be tailored for the *voter*, not the Congressman; they must display a label which reads 'no compromises.' "

Truman began his attack on Congress by challenging Republican leaders to pass his legislative program during a special session he called in July 1948. When they refused, he declared "the battle lines have been drawn," boarded a special train and began a massive "whistlestop" tour. In those pre-TV days he gave 286 speeches and addressed six million people.

In his speeches, Truman said the special session had been the "test for that worst 80th Congress" and its members had failed it. He realized that as an institution Congress could be attacked in far harsher terms than an individual could be. He held no congressional leader up for public scorn, thus ensuring he would still be able to work with the leaderghip. But he drove his message home relentlessly;

"There is just one big issue; it is special interests against the people. . . . You now have a special interest in Congress."—June 17, 1948, in Jefferson City, MO.

"Don't let anybody fool you. If they send a Republican Congress back there it won't be a bit different from the 80th Congress, it will be run by exactly the same men, it will put through exactly the same program."—Oct. 11, 1948, in Cincinnati, Ohio.

Truman scored an upset victory over Republican Tom Dewey by capturing the most populist states and also those that were growing the most—the same states that George Bush won against Michael Dukakis in 1988. But Truman also swept the Republicans out of control of both the House and Senate. He even helped his party win in states that voted for Tom Dewey—Democrats gained nine House seats in New York and 11 in Pennsylvania. Of course, such massive gains aren't possible today—challengers are now woefully underfunded and straight-party voting much less common.

Still, a three-week Bush campaign against Congress and its attempts to raise taxes on every American could pay political dividends. The country is seething with anger against officeholders, as evidenced by the widespread support for term limits. Normally, the risks in an anti-Congress campaign would lead cautious advisers to argue against it. But those risks no longer exist in the wake of the budget fiasco. For all the current Bush political strategy is worth, it might as well have been designed by a double agent secretly on the payroll of the Democratic National Committee.

H.R. 5905, THE PRESIDENT'S CIVIL RIGHTS ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 60 minutes.

Mr. MICHEL. Mr. Speaker, I have introduced the President's Civil Rights Act of 1990, H.R. 5905. Today I am including in the CONGRESSIONAL RECORD the bill, a section-by-section analysis of the bill, and a comparison of how the President's bill differs from the Kennedy-Hawkins bill.

Mr. Speaker, I believe this Congress could have passed a bill that the President would have signed if it did not insist on passing a quota bill. The President has been a willing negotiator during this process stating time and again his requirements for a bill. Democrats and Republicans worked on a bipartisan bill, the LaFalce-Michel substitute which was rejected by the Democrat majority.

On October 11, the House passed overwhelming my motion to instruct conferees on the civil rights bill. The instructions stated three requirements necessary for an acceptable civil rights bill: that it not be a quota bill; that it not be a lawyer relief bill; and that it not allow for unreasonable damage awards. None of those instructions were followed. Congress left the President no choice but to veto.

The President's bill addresses several problems with the Kennedy-Hawkins bill. The President's bill will not lead employers to institute de facto quota schemes in hiring and promoting decisions. The President's bill creates new equitable remedies for the victims of intentional discrimination, including sexual harassment, with a cap of $150,000 on monetary awards. Under Kennedy-Hawkins our courts would be clogged with new tort-style lawsuits with unlimited pain-and-suffering and punitive damage awards permitted.

There are, of course, significant similarities: both shift the burden of proof to the employer on the issue of business necessity in disparate impact cases; both create expanded protections against on-the-job racial discrimination; both expand the right to challenge discriminatory seniority systems; both hold the employer potentially liable if invidious discrimination was a motivating factor in an employment decision; and both extend the antidiscrimination prohibitions of title VII to Congress.

Mr. Speaker, here is civil rights the President will sign, here is civil rights legislation for all Americans.

The material follows:

H.R. 5905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that additional protections and remedies under Federal law are needed to deter unlawful discrimination.

(b) PURPOSE.—The purpose of this Act is to strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices that are defended as a measure of job performance, the practice must bear a significant relationship to successful performance of the job; or

"(B) in the case of other employment practices that are not defended as a measure of job performance, the practice must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards described in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The court may rely on as such evidence statistical reports, validation studies, expert testimony, performance evaluations, written records or notes related to the practice or decision, testimony of individuals with knowledge of the practice or decision involved, other evidence relevant to the employment decision, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(o) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact under this Title is established only when a complaining party demonstrates that a particular employment practice causes a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; provided, however, that if the elements of a decision-making process are not capable of separation for analysis, they may be analyzed as one employment practice, just as where the criteria are distinct and separate each must be identified with particularity; and provided further, that an unlawful employment practice shall nonetheless be established if the complaining party demonstrates the availability of an alternative employment practice, comparable in cost and equally effective in measuring job performance or achieving the respondent's legitimate employment goals, that will reduce the disparate impact, and the respondent refuses to adopt such alternative.

"(2) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE MOTIVATING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent demonstrates that it would have taken the same action in the absence of any discrimination. On a claim where a violation is proven under section 703(l) and the respondent demonstrates that it would have taken the same action in the absence of any discrimination, the court may grant declaratory relief, injunctive relief, attorney's fees and costs, and it shall not make an award under section 706(g)(3)".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Nothwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice specifically required by a litigated or consent judgment or order resolving a claim of employment discrimination under this title may not be challenged by a person who during the period of notice was an employee, former employee, or applicant who, prior to the entry of such judgment or order had actual notice of the proposed judgment or order in sufficient detail to apprise such person—

"(A) that such judgment or order would likely adversely affect the interests and legal rights of such person;

"(B) of any relief in the proposed judgment;

"(C) that a reasonable opportunity is available to challenge such judgment or order by a future date certain; and

"(D) that such person will likely be barred from challenging the proposed judgment or order after such date.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground

that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.".

SEC. 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended by adding at the end thereof the following sentence:

"For purposes of this section, an alleged unlawful employment practice occurs when a seniority system is adopted, when an individual becomes subject to a seniority system, or when a person aggrieved is injured by the application of a seniority system, or provision thereof, that is alleged to have been adopted for an intentionally discriminatory purpose, in violation of this title, whether or not that discriminatory purpose is apparent on the face of the seniority provisions.".

SEC. 8. PROVIDING FOR ADDITIONAL EQUITABLE RELIEF IN CERTAIN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (43 U.S.C. 2000e-5(g)) (as amended by Section 5) is further amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second and third sentences as paragraph (2);

(3) by designating the last sentence as paragraph (4); and

(4) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3) In fashioning remedies for unlawful intentional discrimination under this Title, the court may, in the exercise of its equitable discretion, require the respondent to pay the complaining party an amount not to exceed a total of $150,000.00, if the court finds—

"(A) that an additional equitable remedy beyond those otherwise available is needed to deter the respondent from engaging in such unlawful employment practices; and

"(B) that such an award is otherwise justified by the equities, is consistent with the purposes of this Title, and is in the public interest.".

Section 706 (42 U.S.C. 2000e-5) is further amended by adding at the end the following new subsection:

"(1) JUDICIAL DETERMINATION.—All issues in cases arising under this title shall be heard and determined by a judge, as specified in section 706(f); provided, however, that if the court determines that one or more of the claims presented may require relief under section 706(g)(3), and if the court holds that a jury trial with respect to issues of liability is constitutionally required on claims for such relief, then a jury may be empaneled to hear and determine such liability issues and no others.".

SEC. 9. ALLOWING THE AWARD OF EXPERT FEES.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended by inserting "(including expert fees)" after "attorney's fee,".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties".

SEC. 11. PROHIBITION AGAINST RACIAL DISCRIMINATION IN THE MAKING AND PERFORMANCE OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contract.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 12. NOTICE OF LIMITATIONS PERIOD.

Section 7(e) of the Age Discrimination in Employment Act of 1967 (19 U.S.C. 626(e)) is amended—

(1) by striking out paragraph (2);

(2) by striking our the paragraph designation in paragraph (1);

(3) by striking out "Sections 6 and " and inserting "Section"; and

(4) by adding at the end thereof the following: "If a charge filed with the Commission is dismissed or the Commission's proceedings are otherwise terminated by the Commission, the Commission shall so notify the individual referred to in subsection (d) and such individual may bring an action against the respondent named in the charge at any time after 60 days from the time the charge was timely filed until the expiration of 90 days after the receipt of the notice provided under this subsection.".

SEC. 13. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No Member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment;

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(2) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Act referred to in paragraph (2).

(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under the Americans with Disabilities Act of 1990 shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) PROPOSED REMEDIES AND PROCEDURES.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraphs (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (1), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Nothwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or the other law, the purposes of such title shall, subject to paragraph (2), apply in their entirety to the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act and title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The Chief official of each instrumentality of the congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: The Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16).

SEC. 14. CONSTRUCTION.

Nothing in the amendments made by this Act, or in any statute amended by this Act shall be construed so as to require, permit, or result in the adoption of implementation of hiring, promotion, compensation, or termination quotas by an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof), on the basis of race, color, religion, sex, or national origin.

SEC. 15. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 16. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

SEC. 17. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect upon enactment.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The legislation may be cited as the "Civil Rights Act of 1990."

SECTION 2. FINDINGS AND PURPOSE

The Congress finds that this legislation is necessary to provide additional protections and remedies against unlawful discrimination in employment. The purpose of this Act is to strengthen existing protections and remedies in order to deter discrimination more effectively and provide meaningful relief for victims of discrimination.

SECTION 3. DEFINITIONS

This section adds definitions to those already in Title VII. It defines a complaining party as the Equal Employment Opportunity Commission (EEOC), the Attorney General, or a person who may bring an action or proceeding under this title.

The definition of "demonstrates" requires that a party bear the burden of production and persuasion when the statute requires that he or she "demonstrate" a fact.

The term "required by business necessity' is meant to codify the meaning of business necessity as used in *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971), and other opinions of the Supreme Court.

The term "respondent" is clarified to include those entities listed in the bill.

SECTION 4. DISPARATE IMPACT CLAIMS

Under this Act, a complaining party makes out a prima facie case of disparate impact when he or she identified a particular employment practice and demonstrates that the practice has caused disparate impact because of race, color, religion, sex, or national origin. The burden of proof then shifts to the respondent to demonstrate that the practice is required by business necessity. It is then open to the complaining party to rebut that defense by demonstrating the availability of an alternative employment practice, comparable in cost and equally effective in measuring job performance or achieving the respondent's legitimate employment goals, that will reduce the disparate impact, and the respondent refuses to adopt such alternative.

In identifying the particular employment practice alleged to cause disparate impact, the plaintiff is not required to do the impossible in breaking down an employer's practices to the greatest conceivable degree. Courts will be permitted to hold, for example, that vesting complete hiring discretion in an individual guided only by unknown subjective standards constitutes a single particular employment practice susceptible to challenge.

It is therefore the specific intention of the proponents of this Act to reaffirm the sort of analysis employed on this issue in *Sledge* v. *J.P. Stevens & Co., 52 EPD para. 39, 537 (E.D.N.C. Nov. 30, 1989).* The court alluded to the difficulty of "delving into the workings of an employment decisionmaker's mind" and noted that the defendant's personnel officers reported having no idea of the basis on which they made their employment decisions. The court held that: "the identification by the plaintiffs of the uncontrolled, subjective discretion of defendant's employing officials as the source of the discrimination shown by plaintiff's statistics sufficed to satisfy the causation requirements of *Wards Cove.*" This Act contemplates that the use of such uncontrolled and unexplained discreation is properly treated as one employment practice and need not be divided by the plaintiff into discrete subparts.

If the elements of a decision-making process are demonstrated to be not capable of separation for analysis, therefore, they may be analyzed as one employment practice, just as where the criteria are distinct and separate each must be identified with particularity. See letter of Charles Fried to Senator Edward M. Kennedy, March 21, 1990 at 4 n.2.

It should also be noted that, assuming compliance with all other Title VII procedures, if a plaintiff can make a reasonable good faith allegation that the elements of a decision-making process are not capable of separation for analysis, as described above, he or she may file a complaint and commence discovery on that basis, although this does not affect the plaintiff's burden in making out his or her prima facie case.

Finally, this section provides that it is not a violation of this title for an employer to use a rule barring illegal drug use unless the rule is adopted or applied with an intent to discriminate on the basis of race, color, religion, sex, or national orgin.

SECTION 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES

Section 5 of the bill addresses the holding in *Price Waterhouse* v. *Hopkins*, 109 S. Ct. 1775 (1989), in which the Court ruled in favor of a woman who alleged that she had been denied partnership by her accounting firm on account of her sex. The Court there faced a case in which the plaintiff alleged that her gender had supplied part of the motivation for her rejection for partnership. The Court held that once she had established by direct evidence that sex played a substantial part in the decision, the employer could still defeat liability by showing that it would have reached the same decision had sex not been considered.

This provision allows the employer to be held liable if invidious discrimination was a motivating factor in causing the harm suffered by the complainant. Thus, such discrimination need not have been the sole cause of the final decision.

The provision also makes clear that if an employer establishes that it would have taken the same employment action absent consideration of race, sex, color, religion, or national origin, the complainant is not entitled to reinstatement, backpay, or additional monetary award. Courts may award other relief, including attorney's fees, consistently with the principles enunciated in other civil rights cases.

SECTION 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS

Under specified conditions, Section 6 of the bill would preclude certain challenges to employment practices specifically required by court orders or judgments entered in Title VII cases. This section would bar such challenges by any person who was an employee, former employee, or applicant for employment during the notice period and who, prior to the entry of the judgment or order, received notice of the judgment in sufficient detail to apprise that person that the judgment or order would likely affect that person's interests and legal rights, of the relief in the proposed judgment, that a reasonable opportunity was available to that person to challenge the judgment or order by a future date certain, and that the person would likely be barred from challenging the proposed judgment after that

date. The intent of this section is to protect valid decrees from subsequent attack by individuals who were fully apprised of their interest in litigation and given an opportunity to participate, but declined that opportunity.

This section, therefore, addresses the Supreme Court's decision in *Martin* v. *Wilks*, 109 S. Ct. 2180 (1989). That case arose in the context of a civil rights action, but it turned on principles of fairness and access to court that apply in every area. The Court held that white firefighters who had not been parties to a consent decree that mandated racial preferences could have their day in court to contend that the decree violated their civil rights. The Court rejected the so-called "collateral attack" doctrine, pursuant to which some lower courts had held that, once a decree was entered, it could not be challenged, even by individuals who had not been parties to the original lawsuit.

The section modifies the rule of *Martin* v. *Wilks* to the extent that it would preclude challenges by individuals who were not parties to the litigation that produced a decree if they were applicants or employees and had adequate actual notice and an adequate opportunity to assert their interests in the litigation prior to adoption of the decree. This rule strikes a balance between the interest in preserving the finality of judgments and the requirement of fundamental fairness that underlies our judicial system, in which individuals are traditionally guaranteed a meaningful opportunity to assert their interests in court before they are bound by judicial action.

This section will work in conjunction with a variety of doctrines that already exist to head off nonmeritorious challenges to decrees. The doctrines of law of the case, res judicata, and stare decisis will allow courts to deal with them summarily at little expense in time or money to the parties. In addition, the rules of joinder and the use of defendant class actions make it relatively easy for parties to ensure that affected people have their day in court in the original action. The threat of an award of attorney fees against the losing party who brings a frivolous suit is a further deterrent to such challenges.

The section states that it would not alter the rules governing intervention in federal courts. Nor would this section apply to parties to the action in which an order was entered, members of a class represented in an action, or members of a group on whose behalf relief was sought by the federal government.

The section would not preclude challenges to judgments based on allegations that the judgment was obtained through collusion, fraud, or lack of subject matter jurisdiction. These are grounds upon which judgments traditionally may be attacked.

SECTION 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS

Section 7 would overrule the holding in *Lorance* v. *AT&T Technologies, Inc.*, 109 S. Ct. 2261 (1989), in which female employees challenged a seniority system pursuant to Title VII, claiming that it was adopted with an intent to discriminate against women. Although the system was facially nondiscriminatory and treated all similarly situated employees alike, it produced demotions for the plaintiffs, who claimed that the employer had adopted the seniority system intentionally to alter their contract rights. The Supreme Court held that the claim was barred by Title VII's requirement that a charge must be filed within 180 days (or 300 days if the matter can be referred to a state ageny) after the alleged discrimination occurred.

The Court held that the time for plaintiffs to file their complaint began to run when the employer adopted the allegedly discriminatory seniority system, since it was the adoption of the system with a discriminatory purpose that allegedly violated their rights. According to the Court, that was the point at which plaintiffs suffered the dimunition in employment status about which they complained. The Court viewed this result as dictated by its prior cases holding that the statute of limitations begins to run when the act of discrimination occurs and not when its effects are felt.

The *Lorance* rule is contrary to the position taken by the Department of Justice and the EEOC. It would shield existing seniority systems from legitimate discrimination claims. The discriminatory reasons for adoption of a seniority system may become apparent only when the system is finally applied to affect the employment status of the employees that it covers. Moreover, such an application surely focuses the controversy between an employer and an employee more sharply and permits more precise litigation. In addition, a rule that limits challenges to the period immediately following adoption of a seniority system will promote unnecessary, as well as unfocused, litigation. Employees will be forced to challenge the system before it has provided any concrete impact or forever remain silent. Given such a choice, employees who might never suffer harm from the seniority system may be forced to choose to file a charge—an especially difficult choice since they may be understandably reluctant to initiate a lawsuit against an employer if they do not have to. And, finally, the *Lorance* rule will prevent employees who are hired more than 180 (or 300) days after adoption of a seniority system from ever challenging the adverse consequences of that system, regardless of how severe they may be. Such a rule fails to protect sufficiently the important interest in eliminating employment discrimination that is embodied in Title VII.

Likewise, a rule that an employee may sue only within 180 (or 300) days after becoming subject to a seniority system is unfair to both employers and employees. The rule fails to protect seniority systems from delayed challenge, since so long as employees are being hired someone will be able to sue. And, while this rule would give every employee a theoretical opportunity to challenge a discriminatory seniority system, it would do so, in most instances, before the employee's status had been adversely affected by the seniority system and, therefore, before the challenge was sufficiently focused and before it was clear that a challenge was necessary. Finally, most employees would be reluctant to begin their jobs by suing their employers.

This change in the law, therefore, is warranted. Indeed, it is necessary to safeguard the same principles upheld by the Supreme Court in *Martin* v. *Wilks, supra*, and discussed in the preceding section.

SECTION 8. PROVIDING FOR ADDITIONAL EQUITABLE RELIEF IN CERTAIN CASES OF INTENTIONAL DISCRIMINATION

This provision is designed to redress an anomaly in current law. Title VII currently prohibits intentional discrimination in the terms and conditions of employment, but provides inadequate remedies for certain unlawful employment practices, including sexual harassment in the workplace, which the Supreme Court has recognized as actionable under Title VII. See *Meritor Savings Bank, FSB* v. *Vinson*, 477 U.S. 57 (1986). Such harassment frequently will not be so intolerable that an employee subjected to it immediately leaves. In such circumstances, the only remedy the victim of harassment can obtain under Title VII's remedial scheme as currently drafted is declaratory and injunctive relief against continuation of the harassment.

Such a rule is plainly inequitable. It effectively tells employers that the only consequence of creating an environment so hostile to a woman employee that she is forced to sue to obtain relief is a directive to refrain in the future. Additional remedies for this situation are clearly appropriate and warranted.

At the same time, Title VII's existing framework, with its emphasis on conciliation and mediation, has served the country well as a tool for combatting discrimination during its 26-year history. It would be unwise to jettison it in favor of a tort-style approach including compensatory and punitive damages at a time when our tort system is widely recognized to be in crisis.

Section 8 strikes a reasonable balance between these concerns. It allows courts to award a remedy beyond declaratory and injunctive relief. This remedy consists of a monetary award not greater than a total of $150,000. Courts are authorized to make it available in the exercise of their equitable discretion only where an additional equitable remedy is needed to deter the respondent from engaging in such practices and where such an award is justified by the equities, is consistent with the purpose of Title VII, and is in the public interest.

This section allows a court to make a monetary award "not to exceed a total of $150,000." This language is intended to make clear that where there are several related incidents that could arguably be subdivided into distinct unlawful employment practices, or where different claims under Title VII are brought in the same lawsuit, the award that can be obtained under this section for all of them combined in limited to $150,000. Otherwise, plaintiffs and their lawyers will have incentives to spend resources on hair-splitting litigation over how many unlawful employment practices have occurred. $150,000 is a large enough amount to be an adequate and effective deterrent to the type of conduct sought to be prevented by this section. No good purpose would be served by encouraging lawyers to use their inventiveness to circumvent the limitation it imposes.

The additional remedy this section creates is available only for "intentional discrimination." Nobody has argued that Title VII's existing remedial scheme for disparate impact claims is inadequate. The availability of this remedy (and its limitation to claims based on intentional discrimination) would of course also apply to claims brought under the Amercians with Disabilities Act, on account of that Act's section 107, which incorporates section 706 of Title VII by reference.

As new subsection 706(*l*) makes clear, it is the intention of the Congress that both liability and remedies under section 706, including the new remedy this section creates, continue to be decided by a judge. Because of the equitable nature of the relief to be awarded, the courts should find this consistent with the Seventh Amendment. See *Local No. 391* v. *Terry*, 110 S. Ct. 1339 (1990); *Tull* v. *United States*, 107 S. Ct, 1831

(1987). This provision is important in maintaining to the greatest extent possible the current structure of Title VII's remedies provisions and preventing it from being replaced with a tort-like approach. Because the question of constitutionality is not entirely free from doubt, however subsection (*1*) also provides that should a court hold that a jury trial with respect to issues of liability is constitutionally required, it may empanel a jury to hear those issues and no others. This ensures that the additional relief this scheme makes available will not become a dead letter should a court find that the Seventh Amendment requires a jury trial on liability.

Finally, it should be noted that this provision is exclusively remedial. It is not intended to recognize or create any new causes of action under Title VII. Rather, it is merely intended to ensure that as to those unlawful employment practices that Title VII already prohibits, the remedial scheme it establishes is adequate and appropriate.

SECTION 9. CLARIFYING ATTORNEY'S FEES PROVISIONS

This section would authorize the recovery of expert witness fees by prevailing parties according to the same standards that govern awards of attorney fees pursuant to Title VII. Under existing law, expert witness fees may not be shifted pursuant to Title VII. See *Crawford Fiting Co.* v. *J.T. Gibbons, Inc.*, 482 U.S. 437 (1987).

SECTION 10. PROVIDING FOR INTEREST AND LENGTHENING FILING PERIOD IN ACTIONS AGAINST THE FEDERAL GOVERNMENT

This section provides that, where the Federal Government is a defendant found to be liable in an action brought under this Title, it is subject to paying the same interest to compensate for delay in payment as in cases involving nonpublic parties. The filing period in such actions is also lengthened.

SECTION 11. PROHIBITION AGAINST RACIAL DISCRIMINATION IN THE MAKING AND PERFORMANCE OF CONTRACTS

Section 11 would overrule *Patterson* v. *McLean Credit Union, 109 S. Ct. 2363 (1989).* In *Patterson,* an employee sued under 42 U.S.C. 1981, alleging that her employee had harassed her on the job, failed to promote her, and ultimately discharged her, all because of her race. The Court held that Section 1981 is limited by its terms to prohibiting discrimination in "mak[ing] and enforc[ing[contracts," and does not extend to "problems that may arise later from the conditions of continuing employment." *Patterson,* 109 S. Ct. 2372. Thus, the Court held, the statute prohibits discrimination—whether governmental or private—only in the formation of a contract and in the right of access to a legal process that will enforce established contract obligations without regard to race. While the plaintiff's allegation that she had been discriminatorily denied promotion might fall within the prohibition against discrimination in making contracts, her allegations of harassment on the job addressed only conditions of employment. And there was no allegation that she had been discriminatorily denied access to legal process to enforce her contract of employment.

The law as interpreted in *Patterson* leaves a significant gap in section 1981 coverage that should be filled. This provision would also remove any possible ambiguity for future cases by codifying the holding of *Runyon* v. *McCrary,* 427 U.S. 160 (1976), that section 1981 prohibits private, as well as governmental discrimination.

SECTION 12. NOTICE OF LIMITATIONS PERIOD

This section generally conforms procedures for filingcharges under the Age Discrimination in Employment Act with those used for other portions of Title VII. In particular, it provides that the EEOC shall notify individuals who have filed charges of the dismissal or completion of the Commission's proceedings with respect to those charges, and allows these individuals to file suit from 60 days after filing the charge until the expiration of 90 days after completion of these proceedings. This avoids the problems created by current law, which imposes a statute of limitations on the filing of suit regardless of whether the Commission has completed its action on an individual's charge.

SECTION 13. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH

This section would extend the anti-discrimination prohibitions of Title VII to all employees of Congress, while establishing a special remedial scheme that does not include a private right of action.

SECTION 14. CONSTRUCTION

This section states that neither this Act nor the laws it amends shall be construed to require, permit, or result in quotas on the basis of race, color, religion, sex, or national origin.

SECTION 15. SEVERABILITY

This section states that if a portion of this Act is found invalid, that finding will not affect the remainder of the Act.

SECTION 16. ALTERNATIVE MEANS OF DISPUTE RESOLUTION

This section would encourage the use of alternative means of dispute resolution in resolving disputes pursuant to the Act.

SECTION 17. EFFECTIVE DATE

This section specifies that the Act takes effect upon enactment.

DIFFERENCES OF PRESIDENT'S BILL FROM THE KENNEDY-HAWKINS BILL

I. The Administration bill and the congressional bill differ in the following major respects:

The congressional bill engages in a sweeping rewrite of nearly two decades of disparate impact jurisprudence. The bill rigs the rules of litigation against employers, leaving them little choice except to adopt quotas in order to avoid being dragged into litigation that they cannot expect to win even if they have done nothing wrong.

The Administration bill changes current law in one respect, noted below. Otherwise, it codifies the 1971 *Griggs* decision and other subsequent Supreme Court cases. It allows employers a fair chance to defend their legitimate employment practices.

The congressional bill closes the courts to some innocent victims of illegal consent decrees involving the use of quotas.

The Administration bill allows such victims access to the courts unless they have had notice and an opportunity to object to the consent decree.

The congressional bill creates a brand new tort-style scheme of remedies under Title VII, with unlimited pain-and-suffering awards, punitive damages, and jury trials.

The Administration bill creates new equitable remedies for the victims of sexual harassment, with monetary awards capped at $150,000.00.

The congressional bill contains unfair retroactivity provisions that would re-open decided cases so that new law could be applied to them.

The Administration bill lacks this unfair feature.

The congressional bill has several provisions that will discourage settlements and benefit attorneys more than victims of discrimination.

The Administration bill lacks these litigation-breeding provisions.

The congressional bill contains legally meaningless anti-quota language.

The Administration bill contains meaningful anti-quota language first suggested by Senator Dole on the floor of the Senate last July.

II. The two bills are similar in the following respects:

Both shift the burden of proof to the employer on the issue of business necessity in disparate impact cases.

Both create expanded protections against on-the-job racial discrimination by extending 42 U.S.C. 1981 to the performance as well as the making of contracts.

Both expand the right to challenge discriminatory seniority systems by providing that suit may be brought either when the discriminatory system is adopted or when it causes harm to the plaintiff.

Both have provisions ensuring that employers can be held liable if invidious discrimination was a motivating factor in an employment decision.

Both extend the anti-discrimination prohibitions of Title VII to Congress, while establishing a special remedial scheme that does not allow congressional employees to sue in the courts.

Both provide for plaintiffs in civil rights cases to receive expert witness fees under the same standards that apply to attorneys fees.

Both provide for the Federal government, when it is a defendant under title VII, to pay the same interest to compensate for delay in payment as in cases involving nonpublic parties. The filing period in such actions is also lengthened.

Both contain a provision encouraging the use of alternative dispute resolution mechanisms.

CONFERENCE REPORT ON H.R. 5803

Mr. MURTHA submitted the following conference report and statement on the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

CONFERENCE REPORT (H. REPT. 101-938)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5803) "making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 13, 18, 24, 26, 35, 41, 53, 64, 66, 67, 68, 71, 74, 77, 78, 86, 97, 101, 103, 104, 105, 106, 109, 110, 112, 113, 117, 119, 120, 121, 124, 125, 126, 139, 140, 143, 145, 149, 151, 152, 156, 161, 165, 167, 169, 171, 173, 176, 180, 181, 182, 183, 184, 186, 187, 188, 189, 192, 193, 194, 195, 196, 197, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 221, 225, 227, 229, 232, 237, 241, 244,

245, 246, 248, 250, 252, 254, 256, 261, 265, 268, 270, 272, 273, 275, 277, 283, 287, 294, 298, 304, 306, 308, 310, 313, 315, 317, 318, 334, 337, and 361.

That the House recede from its disagreement to the amendments of the Senate numbered 20, 28, 36, 38, 39, 40, 42, 44, 45, 47, 49, 51, 56, 57, 60, 63, 69, 72, 82, 84, 88, 91, 92, 93, 96, 98, 111, 116, 127, 134, 135, 136, 144, 146, 147, 148, 150, 153, 155, 157, 158, 159, 160, 162, 163, 164, 166, 168, 170, 172, 174, 175, 177, 185, 190, 191, 198, 199, 200, 223, 234, 235, 236, 243, 263, 279, 280, 289, 290, 291, 292, 295, 296, 297, 299, 300, 320, 339, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$23,869,226,000*; and the Senate agreed to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$19,065,967,000* ; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,897,502,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$19,738,372,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,363,300,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,645,000,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$336,400,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$686,800,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,379,500,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,098,400,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$21,515,694,000: Provided, That $273,000 shall be available only for the 1991 Capitol Fourth Project*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$23,161,647,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided further, That notwithstanding section 2805 of title 10, United States Code, of the funds appropriated herein, $2,000,000 shall be available only for a grant to the Cabot/Dedalo Museum Foundation. These funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the words "Navy operation and maintenance activities" named in said amendment insert: *naval forces*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,892,200,000: Provided, That of the funds appropriated in this paragraph, none may be used for the conversion of facilities maintenance, utilities, and motor transport functions at Cherry Point Marine Corps Air Station, North Carolina, to performance by private contractor under the procedures and requirements of OMB Circular A-76 until the General Accounting Office completes their audit and validates the decision*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$20,060,735,000*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,448,957,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment insert; *$561,300,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided, That of the funds appropriated by this paragraph, $200,000,000 shall be available until September 30, 1993, only to the Department of Defense Office of Economic Adjustment to assist state and local governments significantly impacted by reductions in defense industry employment or reductions in the number of Department of Defense military and civilian personnel residing in such states and communities*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

Strike out the word "equal" named in said amendment and insert in lieu thereof: *equitable*; and the Senate to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

After the words "Public Law 81-874", named in said amendment insert: *: Provided further, That of this $10,000,000, $886,000 shall be available only for the Killeen, Texas, Independent School District and $167,000 shall be available only for the Copperas Cove, Texas, Independent School District*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment insert: *: Provided further, That of the funds appropriated for the Special Operations Command, not less than $69,500,000 shall be transfered to the Operation and Maintenance appropriations of the Reserve Components for execution*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$909,100,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$998,000,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$84,800,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,065,900,000*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,980,400,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$2,247,200,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,400,000*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,096,182,000*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,218,422,000*; and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,172,021,000,*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,367,549,000*; and the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

After the words "per vehicle," named in said amendment strike out "and".; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, on line 8, delete all after "vehicles;" down to and including "only;" on line 9 on page 22 of the House of Representatives engrossed bill, H.R. 5803.; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,453,057,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of sum proposed by said amendment insert: *$7,810,452,000*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *, as follows: Ballistic Missile Programs, $1,540,001,000; Other Missile Programs, $2,935,256,000; Mark 48 ADCAP Torpedo, $350,291,000; Mark 50 Torpedo, $328,266,000; ASW Targets, $26,409,000; ASROC, $20,156,000; Modification of Torpedoes, $11,740,000; Quickstrike Mine, $16,096,000; Support Equipment and Logistics Support $88,360,000; Other Weapons, $202,146,000; Other Ordnance, $306,450,000; In all: $5,825,171,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,783,000,000: Provided, That the Secretary of Defense shall ensure the Secretary of the Navy considers all available options under applicable statutes and regulations in the development and promulgation of the acquisitions strategy for the SSN-21: Provided further, That the Secretary of the Navy shall compete the award for the next SSN-21 submarine: Provided further, That the Secretary of the Navy shall consider all applicable factors in making an award including the desirability of a competitive acquisition strategy for the entire SSN-21 program*; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *Aircraft carrier service life extension program, $405,000,000: Provided, That these funds are available only for advance procurement of material and other efforts associated with the industrial availability of the U.S.S. KENNEDY at the Philadelphia Naval Shipyard leading to the extension of the service life of the carrier;* and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$900,000,000: Provided, that $30,000,000 shall be available only for the purchase of one existing petroleum product tanker*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$10,160,804,000, which includes $100,000,000 for the DDG-51 destroyer program in addition to funds provided heretofore in this paragraph*; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

After the words "per vehicle" named in said amendment strike out ", and".; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, on line 5, delete all after "conversion);" down to and including "only" on line 7 on page 27 of the House of Representatives engrossed bill, H.R. 5803.; and the Senate agree to the same.

Amendment numbered 76:

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,627,160,000*; and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, on line 1, delete all after "layaway;" down to and including "only;" on line 3 on page 28 of the House of Representatives engrossed bill, H.R. 5803.; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$719,141,000*; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,541,455,000*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,813,532,000*; and the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

After the words "per vehicle;" named in said amendment strike out "and".; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, on line 23, delete all after "for;" down to and including "only;" on line 24 on page 29 of the House of Representatives engrossed bill, H.R. 5803.; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$7,503,356,000*; and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,463,700,000*; and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,354,646,000*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the sum named in said amendment insert: *$618,636,000*; and the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,607,379,000*; and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows: In lieu of the sum named in said amendment insert: *$5,480,000*; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,037,684,000*; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided further, That $15,000,000 shall be obligated for a Fast Sealift Technologies Development Program within 90 days after enactment of this Act: Provided further, That during fiscal year 1991, in modification and supersession of the provisions of section 2361 of title 10, United States Code, the Secretary of the Navy shall award contracts or grants to the following universities in the amounts specified, to be provided from funds available under this heading for the Navy Defense Research Sciences and Industrial Preparedness programs: University of Hawaii at Manoa, $6,000,000; University of Utah, $8,900,000: Provided further, That the contracts or grants awarded pursuant to the previous proviso are to be awarded in contravention of section 2361 (a) of title 10, United States Code: Provided futher, That, in awarding such contracts or grants, the provisions of sections 2304 and 2361 (b)(2) of title 10, United States Code, shall not apply to the contracts or grants covered by the preceding two provisos*; and the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,961,310,000*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,115,699,000*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115 and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows: In lieu of the sum named in said amendment insert: *$191,062,000*; and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118 and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That not less than $25,000,000 of the funds appropriated in this paragraph shall be available only for the Defense Advanced Research Projects Agency Initiative in Concurrent Engineering (DICE): Provided further, That of the funds appropriated in this paragraph, not less then $103,000,000 is available only for the Extended Range Interceptor (ERINT) missile; not less than $45,400,000 is available only for the Patriot system; and not less than $42,000,000 is available only for the joint research and development of the advanced development program for the Arrow antitactical ballistic missile program;* and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant to establish an Institute for Advanced Science and Technology at an institution of higher education which meets the criteria specified in Section 243 of the National Defense Authorization Act for fiscal year 1991: Provided further, That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant only for facilities and equipment supporting the Center for Technology and Applied Research at the University of Scranton* ; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That not less than $6,000,000 of the funds appropriated in this paragraph shall be made available as a grant to the Advanced Manufacturing Institute at the Stevens Institute of Technology*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided further, That of the funds appropriated for fiscal year 1991 under the heading "Research, Development, Test and Evaluation, Defense Agencies," $18,000,000 shall be obligated within 90 days after enactment of this Act for a facility to enable collaborative research and training for Department of Defense military medical personnel in trauma care, head, neck, and spinal injury, paralysis, and neuro-degenerative diseases: Provided further, That, in addition to the funds previously appropriated to the National Defense Stockpile Transaction Fund, notwithstanding the provisions of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), of funds provided under this heading which are available for the Defense Research Sciences Program, $10,000,000 is appropriated to the Fund to remain available until expended, for a grant to the South Carolina Research Authority pursuant to the purposes of sections 2 and 8 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a; 50 U.S.C. 98g) to construct, equip, and operate a prototype ferrochromium strategic materials processing facility.*

GENERAL PROVISION

SEC. 401. Funds appropriated in this title that are directed to be made available for a grant to, or contract with, a college or university for the performance of research and development or for construction of a research or other facility shall be made available for the purpose without regard to, and (to the extent necessary) in contravention of, section 2361 of title 10, United States Code, which is hereby modified and superseded to the extent necessary to make each such grant or award each such contract, and any such grant or contract shall be made without regard to any of the conditions specified in subsection (b) of that section or section 2304 of title 10, United States Code

And the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$237,720,000*; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$376,520,000*; and the Senate agree to the same.

Amendment number 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

NAVY STOCK FUND

For the Navy stock fund; $26,350,000; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,152,110,000*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$35,420,000*; and the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$159,100,000; for Procurement, $115,100,000 to remain available until September 30, 1993; for Research, development, test and evaluation, $5,300,000 to remain available until September 30, 1992, only for cryofracture; for retrograde, $13,200,000 to remain available until September 30, 1992; in all: $292,700,000*; and the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *For drug interdiction and counter-drug activities of the Department of Defense, $1,084,100,000; for transfer to appropriations available to the Department of Defense as follows: for Military Personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code, $105,500,000; for Operation and Maintenance, $585,600,000, of which $50,000,000 shall be available only for non-reimbursable support of Federal, State and local government agencies having counter-drug programs, and $1,000,000 shall be available only for the Civil Air Patrol; for Procurement, $345,300,000, of which not less than $52,000,000 shall be available only for drug interdiction equipment for the reserve components; for Research, Development, Test and Evaluation, $47,700,000: Provided, That funds appropriated by this paragraph shall be available for obligation for the same period and for the same purpose as the appropriation to which transferred and the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act: Provided further, That of the funds appropriated by this paragraph, not less than $28,000,000 shall be available only for operation and maintenance expenses for the southwest border land-based aerostat drug surveillance program, of which $14,000,000 shall be obligated not later than November 30, 1990: Provided further, That of the funds appropriated by this paragraph, $123,000,000 shall be available only for the National Foreign Intelligence Program*; and the Senate agree to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment, as follows:

After the words "Republic of Turkey" named in said amendment insert: *: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980* ; and the Senate agree to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of "March 31" named in subsections (c) and (e) of said amendment insert: *June 1*; and the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

In lieu of the sum proposed in said amendment insert: *$2,250,000,000*; and the Senate agree to the same.

Amendment numbered 178:

That the House recede from its disagreement to the amendment of the Senate numbered 178, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8016*

In lieu of "72,529" named in said amendment insert: *71,823*

In lieu of "48,932" named in said amendment insert: *48,692*; and the Senate agree to the same.

Amendment numbered 179:

That the House recede from its disagreement to the amendment of the Senate numbered 179, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of section number "8016" named in said amendment insert: *8016A*; and the Senate agree to the same.

Amendment numbered 220:

That the House recede from its disagreement to the amendment of the Senate numbered 220, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8035*; and the Senate agree to the same.

Amendment numbered 222:

That the House recede from its disagreement to the amendment of the Senate numbered 222, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8036*; and the Senate agree to the same.

Amendment numbered 224:

That the House recede from its disagreement to the amendment of the Senate numbered 224, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8037*; and the Senate agree to the same.

Amendment numbered 226:

That the House recede from its disagreement to the amendment of the Senate numbered 226, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8038*; and the Senate agree to the same.

Amendment numbered 228:

That the House recede from its disagreement to the amendment of the Senate numbered 228, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8039*; and the Senate agree to the same.

Amendment numbered 230:

That the House recede from its disagreement to the amendment of the Senate numbered 230, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8040*; and the Senate agree to the same.

Amendment numbered 231:

That the House recede from its disagreement to the amendment of the Senate numbered 231, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the section number named in said amendment insert: *8041*

After the words "manufactured outside the United States" named in said amendment insert: *: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes*; and the Senate agree to the same.

Amendment numbered 233:

That the House recede from its disagreement to the amendment of the Senate numbered 233, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8042*; and the Senate agree to the same.

Amendment numbered 238:

That the House recede from its disagreement to the amendment of the Senate numbered 238, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8043*; and the Senate agree to the same.

Amendment numbered 239:

That the House recede from its disagreement to the amendment of the Senate numbered 239, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8044. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service in excess of thirty days in any year, in the case of a patient nineteen years of age or older,

forty-five days in any year in the case of a patient under nineteen years of age, or one hundred and fifty days in any year in the case of inpatient mental health services provided as residential treatment care, or for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That these limitations do not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care: Provided further, That the Secretary of Defense (after consulting with the other administering Secretaries) may prescribe separate payment requirements (including deductibles, copayments, and catastrophic limits) for the provision of mental health services to persons covered by this provision or section 1086 of title 10, United States Code. The payment requirements may vary for different categories of covered beneficiaries, by type of mental health service provided, and based on the location of the covered beneficiaries: Provided further, That except in the case of an emergency, the Secretary of Defense shall require preadmission authorization before inpatient mental health services may be provided to persons covered by this provision or section 1086 of title 10, United States Code. In the case of the provision of emergency inpatient mental health services, approval for the continuation of such services shall be required within 72 hours after admission: Provided further, That not later than February 1, 1991, the Secretary of Defense shall submit to the Congress a plan to reduce the costs incurred by the Department of Defense to provide mental health services under the Civilian Health and Medical Program of the Uniformed Services. The plan shall include a legislative proposal to implement the recommendation of the Secretary: Provided further, That this provision shall take effect on February 15, 1991, and shall apply with respect to mental health services provided under section 1079 or 1086 of title 10, United States Code, on or after that date.

And the Senate agree to the same.

Amendment numbered 240:

That the House recede from its disagreement to the amendment of the Senate numbered 240, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8045*; and the Senate agree to the same.

Amendment numbered 242:

That the House recede from its disagreement to the amendment of the Senate numbered 242, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8046*; and the Senate agree to the same.

Amendment numbered 247:

That the House recede from its disagreement to the amendment of the Senate numbered 247, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *SEC. 8047. Notwithstanding any other provision of law, $300,000,000 of the funds appropriated or made available in this Act shall be transferred to the United States Coast Guard, of which $295,000,000 shall be transferred to "Operating Expenses" and $5,000,000 shall be transferred to "Acquisition, Construction, and Improvement" for Coast Guard family housing.*

And the Senate agree to the same.

Amendment numbered 249:

That the House recede from its disagreement to the amendment of the Senate numbered 249, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8048*; and the Senate agree to the same.

Amendment numbered 251:

That the House recede from its disagreement to the amendment of the Senate numbered 251, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8049*; and the Senate agree to the same.

Amendment numbered 253:

That the House recede from its disagreement to the amendment of the Senate numbered 253, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8050*; and the Senate agree to the same.

Amendment numbered 255:

That the House recede from its disagreement to the amendment of the Senate numbered 255, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided further, That not more than $1,305,000,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Defense*; and the Senate agree to the same.

Amendment numbered 257:

That the House recede from its disagreement to the amendment of the Senate numbered 257, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8051*; and the Senate agree to the same.

Amendment numbered 258:

That the House recede from its disagreement to the amendment of the Senate numbered 258, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

In lieu of the section number named in said amendment insert: *8052*; and the Senate agree to the same.

Amendment numbered 259:

That the House recede from its disagreement to the amendment of the Senate numbered 259, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

SEC. 8053. None of the funds available to the Department of Defense or Navy shall be obligated or expended to (1) implement Automatic Data Processing or Information Technology Facility consolidation plans, or (2) to make reductions or transfers in personnel end strengths, billets or missions that affect the Naval Regional Data Automation Center, the Enlisted Personnel Management Center, the Naval Reserve Personnel Center and related missions, functions, and commands until sixty days after the Secretary of Defense submits a report to the Committees on Appropriations of the House and Senate justifying any transfer, reductions, or consolidations in terms of (1) addressing the overall mission and operations staffing of all Naval Automatic Data Processing, Information Technology Facility, and Naval personnel functions for all active and reserve personnel commands and field activities and Automatic Data Processing commands and field activities; and (2) certifying that such reduction, transfer or consolidation plans or operations do not duplicate functions presently conducted; are cost effective from budgetary standpoint; will not adversely affect the mission, readiness and strategic considerations of the Navy and Naval Reserve; and will not adversely impact on the quality of life and economic benefits of the individual serviceperson or have an adverse economic impact on a geographic area.

And the Senate agree to the same.

Amendment numbered 260:

That the House recede from its disagreement to the amendment of the Senate numbered 260, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8054*; and the Senate agree to the same.

Amendment numbered 262:

That the House recede from its disagreement to the amendment of the Senate numbered 262, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8055*; and the Senate agree to the same.

Amendment numbered 264:

That the House recede from its disagreement to the amendment of the Senate numbered 264, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number "8049" named in said amendment insert: *8056*; and the Senate agree to the same.

Amendment numbered 266:

That the House recede from its disagreement to the amendment of the Senate numbered 266, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8057*; and the Senate agree to the same.

Amendment numbered 267:

That the House recede from its disagreement to the amendment of the Senate numbered 267, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8058*; and the Senate agree to the same.

Amendment numbered 269:

That the House recede from its disagreement to the amendment of the Senate numbered 269, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8059*; and the Senate agree to the same.

Amendment numbered 271:

That the House recede from its disagreement to the amendment of the Senate num-

bered 271, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8060*; and the Senate agree to the same.

Amendment numbered 274:

That the House recede from its disagreement to the amendment of the Senate numbered 274, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8061*; and the Senate agree to the same.

Amendment numbered 276:

That the House recede from its disagreement to the amendment of the Senate numbered 276, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8062*; and the Senate agree to the same.

Amendment numbered 278:

That the House recede from its disagreement to the amendment of the Senate numbered 278, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8063*; and the Senate agree to the same.

Amendment numbered 281:

That the House recede from its disagreement to the amendment of the Senate numbered 281, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of section number "8057" named in said amendment insert: *8064*

After the words "outpatient status" named in said amendment insert: *after April 1, 1991*; and the Senate agree to the same.

Amendment numbered 282:

That the House recede from its disagreement to the amendment of the Senate numbered 282, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8065*; and the Senate agree to the same.

Amendment numbered 284:

That the House recede from its disagreement to the amendment of the Senate numbered 284, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8066*; and the Senate agree to the same.

Amendment numbered 285:

That the House recede from its disagreement to the amendment of the Senate numbered 285, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8067*; and the Senate agree to the same.

Amendment numbered 286:

That the House recede from its disagreement to the amendment of the Senate numbered 286, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8068*; and the Senate agree to the same.

Amendment numbered 288:

That the House recede from its disagreement to the amendment of the Senate numbered 288, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8069*; and the Senate agree to the same.

Amendment numbered 293:

That the House recede from its disagreement to the amendment of the Senate numbered 293, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *and Under the heading, "Other Procurement, Navy, 1990/1992," $21,000,000; Under the heading, "Aircraft Procurement, Navy, 1990/1992," $10,600,000;* and the Senate agree to the same.

Amendment numbered 301:

That the House recede from its disagreement to the amendment of the Senate numbered 301, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *MHC coastal mine hunter program, $55,100,000; For craft, outfitting, post delivery, and ship special support equipment, $10,600,000*; and the Senate agree to the same.

Amendment numbered 302:

That the House recede from its disagreement to the amendment of the Senate numbered 302, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8070*; and the Senate agree to the same.

Amendment numbered 303:

That the House recede from its disagreement to the amendment of the Senate numbered 303, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8071. (a) Of the amounts available to the Department of Defense for fiscal year 1991, not less than $20,000,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

And the Senate agree to the same.

Amendment numbered 305:

That the House recede from its disagreement to the amendment of the Senate numbered 305, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8072. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Secretary shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

And the Senate agree to the same.

Amendment numbered 307:

That the House recede from its disagreement to the amendment of the Senate numbered 307, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8073*; and the Senate agree to the same.

Amendment numbered 309:

That the House recede from its disagreement to the amendment of the Senate numbered 309, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8074*; and the Senate agree to the same.

Amendment numbered 311:

That the House recede from its disagreement to the amendment of the Senate numbered 311, and agree to the same with an amendment, as follows:

In lieu of section number "8068" named in said amendment insert: *8075*; and the Senate agree to the same.

Amendment numbered 312:

That the House recede from its disagreement to the amendment of the Senate numbered 312, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8076*; and the Senate agree to the same.

Amendment numbered 314:

That the House recede from its disagreement to the amendment of the Senate numbered 314, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of section number "8070" named in said amendment insert: *8077*

After the words "that section applies."." named in said insert:

(d) The effects of subsections (b) and (c) as those subsections affect the criminal misdemeanor jurisdiction of tribal courts over non-member Indians shall have no effect after September 30, 1991.

And the Senate agree to the same.

Amendment numbered 316:

That the House recede from its disagreement to the amendment of the Senate numbered 316, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8078*; and the Senate agree to the same.

Amendment numbered 319:

That the House recede from its disagreement to the amendment of the Senate numbered 319, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8079*; and the Senate agreed to the same.

Amendment numbered 321:

That the House recede from its disagreement to the amendment of the Senate numbered 321, and agree to the same with an amendment amended as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of section number "8072" named in said amendment insert: *8080*; and the Senate agree to the same.

Amendment numbered 322:

That the House recede from its disagreement to the amendment of the Senate numbered 322, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment as follows:

In lieu of the section number named in said amendment insert: *8081*; and the Senate agree to the same.

Amendment numbered 323:

That the House recede from its disagreement to the amendment of the Senate numbered 323, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 8082. None of the funds appropriated in this Act shall be used to reduce the fiscal year 1991 2.5- or 5-ton truck maintenance workload at Letterkenny Army Depot as a direct result of either the proposed consolidation of truck maintenance or an increase in fiscal year 1991 truck maintenance at any other depot; neither shall funds be available for transfer of towed and self-propelled artillery maintenance from Letterkenny Army Depot.

And the Senate agree to the same.

Amendment numbered 324:

That the House recede from its disagreement to the amendment of the Senate numbered 324, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8083*; and the Senate agree to the same.

Amendment numbered 325:

That the House recede from its disagreement to the amendment of the Senate numbered 325, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8084*; and the Senate agree to the same.

Amendment numbered 326:

That the House recede from its disagreement to the amendment of the Senate numbered 326, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the section number named in said amendment insert: *8085*;

After the words "national security purposes" named in said amendment, strike out all the matter that follows, except the period.; and the Senate agree to the same.

Amendment numbered 327:

That the House recede from its disagreement to the amendment of the Senate numbered 327, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number "8078" named in said amendment insert: *8086*; and the Senate agree to the same.

Amendment numbered 328:

That the House recede from its disagreement to the amendment of the Senate numbered 328, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

SEC. 8087. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity: Provided, That this prohibition shall begin six months after the date of enactment of this Act for presently ongoing studies.

And the Senate agree to the same.

Amendment numbered 329:

That the House recede from its disagreement to the amendment of the Senate numbered 329, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8088*; and the Senate agree to the same.

Amendment numbered 330:

That the House recede from its disagreement to the amendment of the Senate numbered 330, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8089*; and the Senate agree to the same.

Amendment numbered 331:

That the House recede from its disagreement to the amendment of the Senate numbered 331, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8090*; and the Senate agree to the same.

Amendment numbered 332:

That the House recede from its disagreement to the amendment of the Senate numbered 332, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 8091. Notwithstanding any other provision of law, all authority of the Board of Regents of the Uniformed Services University of the Health Sciences is hereby transferred to the Secretary of Defense, and the Board hereafter shall be an advisory board to the Secretary of Defense.

And the Senate agree to the same.

Amendment numbered 333:

That the House recede from its disagreement to the amendment of the Senate numbered 333, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 8092. Notwithstanding any other provision of law, after June 1, 1991, where cost effective, all Department of Defense software shall be written in the programming language Ada, in the absence of special exemption by an official designated by the Secretary of Defense.

And the Senate agree to the same.

Amendment numbered 335:

That the House recede from its disagreement to the amendment of the Senate numbered 335, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of section number "8074" named in said amendment insert: *8093*; and the Senate agree to the same.

Amendment numbered 336:

That the House recede from its disagreement to the amendment of the Senate numbered 336, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8094*; and the Senate agree to the same.

Amendment numbered 338:

That the House recede from its disagreement to the amendment of the Senate numbered 338, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *8095*; and the Senate agree to the same.

Amendment numbered 340:

That the House recede from its disagreement to the amendment of the Senate numbered 340, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 8096. None of the funds appropriated by this Act shall be obligated to fund more than 95,000 permanent change of station moves of active military personnel ashore to Europe: Provided, That this limitation may be waived by the Secretary of Defense for national security considerations after notifying the Committees on Appropriations of the House of Representatives and the Senate.;

And the Senate agree to the same.

Amendment numbered 341:

That the House recede from its disagreement to the amendment of the Senate numbered 341, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 8097. None of the funds available to the Department of Defense shall be used for the training or utilization of psychologists in the prescription of drugs, except pursuant to the findings and recommendations of the Army Surgeon General's Blue Ribbon Panel as specified in its February and August 1990 meeting minutes; Provided, That this training will be performed at Walter Reed Army Medical Center.

And the Senate agree to the same.

Amendment numbered 342:

That the House recede from its disagreement to the amendment of the Senate numbered 342, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8098*; and the Senate agree to the same.

Amendment numbered 343:

That the House recede from its disagreement to the amendment of the Senate numbered 343, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

(TRANSFER OF FUNDS)

SEC. 8099. (a) From funds appropriated in this Act, such amounts as may be necessary, but not to exceed $5,000,000 shall be made available only for a project for the design and construction of a parliament building in the Solomon Islands, such project to be carried out so as to be completed not later than November 1993. Funds for such project shall be identified and made available to the Secretary of the Navy not later than 60 days after the date of enactment of this Act.

(b) Notwithstanding any other provision of law, from the funds appropriated in this Act, $5,000,000 to remain available until expended, shall be made available to the Secretary of the Army no later than 60 days after enactment of this Act, to be used by the Chief of Engineers only for the repair, improvement, and construction of port facilities and harbor improvements, including dredging, at the islands of Ofu and Ta'u in the Territory of American Samoa.

And the Senate agree to the same.

Amendment numbered 344:

That the House recede from its disagreement to the amendment of the Senate numbered 344, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of section number "8090" named in said amendment insert: *8100*; and the Senate agree to the same.

Amendment numbered 345:

That the House recede from its disagreement to the amendment of the Senate numbered 345, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8101*; and the Senate agree to the same.

Amendment numbered 346:

That the House recede from its disagreement to the amendment of the Senate numbered 346, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

(RESCISSIONS)

SEC. 8102. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

Aircraft procurement, Army, 1990/1992, $15,300,000;

Missile procurement, Army, 1990/1992, $171,846,000;

Procurement of weapons and tracked combat vehicles, Army, 1989/1991, $25,808,000;

Procurement of ammunition, Army, 1989/1991, $72,000,000;

Procurement of ammunition, Army, 1990/1992, $18,000,000;

Other procurement, Army, 1989/1991, $24,000,000;

Other procurement, Army, 1990/1992, $11,000,000;

Weapons procurement, Navy, 1990/1992, $88,205,000;

Other procurement, Navy, 1989/1991, $9,400,000;

Other procurement, Navy, 1990/1992, $7,500,000;

Procurement, Marine Corps, 1989/1991, $7,000,000;

Procurement, Marine Corps, 1990/1992, $62,300,000;

Aircraft procurement, Air Force, 1989/1991, $8,400,000;

Aircraft procurement, Air Force, 1990/1992, $43,900,000;

Missile procurement, Air Force, 1989/1991, $53,968,000;

Missile procurement, Air Force, 1990/1992, $162,613,000;

Other procurement, Air Force, 1989/1991, $1,800,000;

Other procurement, Air Force, 1990/1992, $15,000,000.

And the Senate agree to the same.

Amendment numbered 347:

That the House recede from its disagreement to the amendment of the Senate numbered 347, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8103*; and the Senate agree to the same.

Amendment numbered 348:

That the House recede from its disagreement to the amendment of the Senate numbered 348, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of section number "8094" named in said amendment insert: *8104*; and the Senate agree to the same.

Amendment numbered 349:

That the House recede from its disagreement to the amendment of the Senate numbered 349, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 8105. Contributions by Japan to the Support of United States Forces in Japan.

(a) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—After September 30, 1990, funds appropriated pursuant to an appropriation contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

(b) ANNUAL REDUCTION IN CEILING UNLESS SUPPORT FURNISHED.—Unless the President certifies to Congress before the end of each fiscal year that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all United States military personnel in Japan, excluding military personnel title costs, the end strength level for that fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year.

(c) SENSE OF CONGRESS.—It is the sense of Congress that all those countries that share the benefits of international security and stability should share in the responsibility for that stability and security commensurate with their national capabilities. The Congress also recognizes that Japan has made a substantial pledge of financial support to the effort to support the U.N. Security Council resolutions on Iraq. The Congress also recognizes that Japan has a greater economic capability to contribute to international security and stability than any other member of the international community and wishes to encourage Japan to contribute commensurate with that capability.

(d) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

(2) The President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs Congress of the waiver and the reasons for the waiver.

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

And the Senate agree to the same.

Amendment numbered 350:

That the House recede from its disagreement to the amendment of the Senate numbered 350, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment insert: *8106*; and the Senate agree to the same.

Amendment numbered 351:

That the House recede from its disagreement to the amendment of the Senate numbered 351, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8107*; and the Senate agree to the same.

Amendment numbered 352:

That the House recede from its disagreement to the amendment of the Senate numbered 352, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment, excluding "(Transfer of Funds)".

In lieu of the section number named in said amendment insert: *8108*; and the Senate agree to the same.

Amendment numbered 353:

That the House recede from its disagreement to the amendment of the Senate numbered 353, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8109. None of the funds available in this or any other Act shall be available for the preparation of further studies on the feasibility of removal and transportation of unitary chemcial weapons from the eight chemical storage sites within the continental United States. This prohibition does not apply to studies needed for environmental analyses required by the National Environmental Policy Act.

And the Senate agree to the same.

Amendment numbered 354:

That the House recede from its disagreement to the amendment of the Senate numbered 354, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of section number "8080" named in said amendment insert: *8110*; and the Senate agree to the same.

Amendment numbered 355:

That the House recede from its disagreement to the amendment of the Senate numbered 355, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8111. (a) The Classified Annex prepared by the Committee of Conference to accompany the conference report on the bill H.R. 5803 of the One Hundred First Congress and transmitted to the President shall have the force and effect of law as if enacted into law. (b) The Amounts specified in the Classified Annex are not in addition to the amounts appropriated by other provisions of this Act. (c) The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

And the Senate agree to the same.

Amendment numbered 356:

That the House recede from its disagreement to the amendment of the Senate numbered 356, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8112. Of the funds made available in this Act, not less than $7,475,000 shall be available for the Civil Air Patrol.

And the Senate agree to the same.

Amendment numbered 357:

That the House recede from its disagreement to the amendment of the Senate numbered 357, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number "8083" named in said amendment insert: *8113*; and the Senate agree to the same.

Amendment numbered 358:

That the House recede from its disagreement to the amendment of the Senate numbered 358, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8114. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the Air Force and Air Force Reserve WC-130 Weather Reconnaissance Squadrons, except for the purpose transferring the mission to the Air Force Reserve.

And the Senate agree to the same.

Amendment numbered 359:

That the House recede from its disagreement to the amendment of the Senate numbered 359, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8115*

In Subsection (b) of said amendment, after the word "submit" insert: *these studies as*; and the Senate agree to the same.

Amendment numbered 360:

That the House recede from its disagreement to the amendment of the Senate numbered 360, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8116*; and the Senate agree to the same.

Amendment numbered 362:

That the House recede from its disagreement to the amendment of the Senate numbered 362, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of section number "8088" named in said amendment insert: *8117*; and the Senate agree to the same.

Amendment numbered 363:

That the House recede from its disagreement to the amendment of the Senate numbered 363, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8118*; and the Senate agree to the same.

Amendment numbered 364:

That the House recede from its disagreement to the amendment of the Senate numbered 364, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8119*; and the Senate agree to the same.

Amendment numbered 365:

That the House recede from its disagreement to the amendment of the Senate numbered 365, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8120. (a) The Secretary of Defense shall establish a "Legacy Resource Management Program."

(b) The purposes of the program are as follows:

(1) to establish a strategy, plan and priority list for identifying and managing all significant biological, geophysical, cultural and historical resources existing on, or involving, all Department of Defense lands, facilities and property;

(2) to provide for the stewardship of all Department of Defense controlled or managed air, land and water resources;

(3) to protect significant biological systems and species, including but not limited to, those contained on the Federal endangered list and those which are candidates for that list;

(4) to establish a standard Department of Defense methodology for the collection, storage and retrieval of all biological, geophysical, cultural and historical resource information which, in the case of biological information, should be compatible with that used by state Natural Heritage Programs;

(5) to establish programs to protect, inventory and conserve the artifacts of Native American civilization, settler communities and others deemed to have historical, cultural or spiritual significance;

(6) to establish inventories of all scientifically significant biological, geophysical, cultural and historical assets on Department of Defense lands. In addition to the specific attributes of the asset, these inventories are to catalog their scientific and/or cultural significance, as well as their interrelationship to the surrounding environment, including the military mission carried out on the land upon which they reside;

(7) to establish programs for the restoration and rehabilitation of altered or degraded habitats;

(8) to establish educational, public access and recreation programs designed to increase public appreciation, awareness and support for these national environmental initiatives;

(9) to establish and coordinate by fiscal year 1993 with other Federal departments, agencies and entities a project to inventory, protect and conserve the physical and literary property and relics of the Department of Defense, in the United States and overseas, connected with the origins and development of the Cold War, which are not already being carried out by other capable institutions or programs.

(c) the "Legacy Resource Management Program" shall be established under the Office of the Deputy Assistant Secretary of Defense for Environment.

(d) The Deputy Assistant Secretary of Defense for Environment shall seek the participation of Department of Defense components in the implementation of the Legacy Resource Management Program.

(e) $10,000,000 appropriated for "Operation and Maintenance, Defense Agencies" shall be available only for the establishment and support of the Legacy Resource Management Program.

And the Senate agree to the same.

Amendment numbered 366:

That the House recede from its disagreement to the amendment of the Senate numbered 366, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8121*; and the Senate agree to the same.

Amendment numbered 367:

That the House recede from its disagreement to the amendment of the Senate numbered 367, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8122. None of the funds available in this Act may be used to support and maintain more than 261,855 United States military personnel permanently assigned ashore in Europe on September 30, 1991: Provided, That the President may waive up to 50,000 of this 261,855 ceiling if it is determined that national security interests require such action and the Committees on Appropriations of the House and Senate are notified.

And the Senate agree to the same.

Amendment numbered 368:

That the House recede from its disagreement to the amendment of the Senate numbered 368, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number "8094" named in said amendment insert: *8123*; and the Senate agree to the same.

Amendment numbered 369:

That the House recede from its disagreement to the amendment of the Senate numbered 369, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8124*; and the Senate agree to the same.

Amendment numbered 370:

That the House recede from its disagreement to the amendment of the Senate numbered 370, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8125*; and the Senate agree to the same.

Amendment numbered 371:

That the House recede from its disagreement to the amendment of the Senate numbered 371, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8126. None of the funds appropriated by this Act may be available for compensation of military or civilian personnel assigned to the Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in excess of the number of such personnel assigned to that Office as of September 30, 1990: Provided, That none of the funds provided by this Act may be available to locate the Special Operations Research, Development and Acquisition Center in the National Capital Region unless the Secretary of Defense certifies in writing to the Committees on Appropriations of the House of Representatives and Senate that such a move is required in the best interest of the government.

And the Senate agree to the same.

Amendment numbered 372:

That the House recede from its disagreement to the amendment of the Senate numbered 372, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8127. Of the funds appropriated in "Drug Interdiction and Counter-Drug Activities, Defense", $10,000,000 shall be available only for the National Drug Intelligence Center.

And the Senate agree to the same.

Amendment numbered 373:

That the House recede from its disagreement to the amendment of the Senate numbered 373, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *8128*; and the Senate agree to the same.

Amendment numbered 374:

That the House recede from its disagreement to the amendment of the Senate numbered 374, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8129. None of the funds available during fiscal year 1991 to the Department of Defense, any of its components, or any other Federal department, agency, or entity may be obligated or expended to complete an A-76 cost comparison study for the contracting out of firefighting or security guard functions at Indian Springs Air Force Auxiliary Field.

And the Senate agree to the same.

Amendment numbered 375:

That the House recede from its disagreement to the amendment of the Senate numbered 375, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment, excluding "(Transfer of Funds)".

In lieu of the section number named in said amendment insert: *8130*; and the Senate agree to the same.

Amendment numbered 376:

That the House recede from its disagreement to the amendment of the Senate numbered 376, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8131. (a) No later than 90 days after the date of the enactment of this Act the Secretary of Defense shall submit to Congress:

(1) a detailed accounting of the monetary and material contributions provided to the United States for the support of Operation Desert Shield, to the United Nations, its agencies and activities in support of its embargo against Iraq, and to other bilateral and multilateral operations and efforts to counter Iraqi aggression in the Persian Gulf region;

(2) a detailed accounting of the level of revenues from the sale of oil that continue to accrue to the countries of the Organization of Petroleum Exporting Countries (OPEC) since August 2, 1990.

(b) The accounting referred to in subsection (1) shall include, but not be limited to, contributions in cash, personnel, equipment and supplies. Non-cash contributions shall be valued according to criteria established by the Secretary of Defense.

(c) It is the sense of the Congress that contributions from other upper income and industrialized countries should be primarily in the form of monetary contributions rather than supplies, goods, or services.

And the Senate agree to the same.

Amendment numbered 377:

That the House recede from its disagreement to the amendment of the Senate numbered 377, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8132. During fiscal year 1991, in exercising the authority provided the President under section 673b of title 10, United States Code, to authorize the order to active duty of units and members of the Selected Reserve, the President may use that authority in the case of orders to active duty in support of operations in and around the Arabian Peninsula and Operation Desert Shield as if "180 days" were substituted for "90 days" in subsection (a) of that section and "180 additional days" were substituted for "90 additional days" in subsection (i) of that section: Provided, That this section applies only to Selected Reserve combat units.

And the Senate agree to the same.

Amendment numbered 378:

That the House recede from its disagreement to the amendment of the Senate numbered 378, and agree to the same with an amendment, as follows:

In lieu of section number "8099E" named in said amendment insert: *8133*; and the Senate agree to the same.

Amendment numbered 379:

That the House recede from its disagreement to the amendment of the Senate numbered 379, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8134*; and the Senate agree to the same.

Amendment numbered 380:

That the House recede from its disagreement to the amendment of the Senate numbered 380, and agree to the same with an amendment, as follows:

In lieu of section number "8099G" named in said amendment insert: *8135*

Strike out the word "Senate" named in said amendment and insert in lieu thereof: *Congress*; and the Senate agree to the same.

Amendment numbered 381:

That the House recede from its disagreement to the amendment of the Senate numbered 381, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8136*; and the Senate agree to the same.

Amendment numbered 382:

That the House recede from its disagreement to the amendment of the Senate numbered 382, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8137. The Secretary of the Interior is authorized to use such sums as are needed to erect in the Canaveral National Seashore a suitable bronze marker to commemorate the dedicated leadership of Congressman Bill Chappell in the establishment of the Canaveral National Seashore.

And the Senate agree to the same.

Amendment numbered 383:

That the House recede from its disagreement to the amendment of the Senate numbered 383, and agree to the same with an amendment, as follows:

Delete the center heading named in said amendment.

In lieu of the section number named in said amendment insert: *8138*; and the Senate agree to the same.

Amendment numbered 384:

That the House recede from its disagreement to the amendment of the Senate numbered 384, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8139. The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $3,625,000 to Shipco General, Inc., an Idaho corporation. The payment of such sum shall be in full satisfaction of any claim of Shipco General, Inc., against the United States arising out of the termination of a contract at Kirtland Air Force Base, New Mexico, for the rehabilitation of 155 housing units for Zia Park Housing (Contract No. F29650-82-C-0201).

It shall be unlawful for more than 10 percent of the sum made available by this section to be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section. Any person who violates this section shall be fined not more than $1,000.

SEC. 8140. The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $1,124,000 to John Barren, of Peckville, Pennsylvania, for damages incurred as a result of the failure of health care employees at the medical center of the Department of Veterans Affairs in Wilkes-Barre, Pennsylvania, to admit and treat him properly for a service-connected psychiatric condition. The payment of such sum shall be in full satisfaction of any claim against the United States arising out of the admission and treatment of John Barren described in this section: Provided, That no more than 10 percent of the sum appropriated pursuant to this section shall be paid to or received by any agent or attorney for services rendered in connection with the claim described in this section: Provided further, That any person who violates this section shall be fined not more than $1,000.

SEC. 8141. In addition to funds appropriated or otherwise made available in this Act, $165,000,000 is appropriated only for military personnel in title I, and $85,000,000 is appropriated only for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) in title II: Provided, That $165,000,000 shall be transferred to the appropriate military personnel appropriations provided in title I of this Act and $85,000,000 shall be transferred to the appropriate operation and maintenance appropriations provided in title II of this Act to be merged with and available for the same purposes and time period as the appropriations to which transferred: Provided further, That this transfer authority shall be in addition to any other transfer authority contained in this Act.

SEC. 8142. Funds appropriated by this Act for the Advanced Tactical Fighter program may be obligated for full-scale development without regard to obligational limitations with respect to that program prescribed in the National Defense Authorization Act for Fiscal Year 1991: Provided, That, notwithstanding any other provision of law, none of the unobligated balances or any other funds contained in the National Defense Stockpile Transaction Fund may be transferred or otherwise made available during fiscal year 1991 to the account established under section 2371(e) of title 10, United States Code.

And the Senate agree to the same.

Amendment numbered 385:

That the House recede from its disagreement to the amendment of the Senate numbered 385, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

TITLE IX

DESERT SHIELD SUPPLEMENTAL APPROPRIATIONS

(TRANSFER OF FUNDS)

For incremental costs of Operation Desert Shield $1,000,000,000 is appropriated for transfer from the Defense Cooperation Account, established under section 2608 of title 10, United States Code, to operation and maintenance appropriations of the Department of Defense only to reimburse incremental expenditures made for fuel, transportation, equipment maintenance and purchases from stock funds in support of Operation Desert Shield, to be merged with and to be available for the same purposes and the

same time period as the appropriation to which transferred: Provided, That the foregoing transfer authority shall be in addition to any other transfer authority contained in this Act.

And the Senate agree to the same.

J.P. MURTHA,
NORMAN D. DICKS,
CHARLES WILSON,
W.G. HEFNER,
LES AUCOIN,
MARTIN OLAV SABO,
JULIAN C. DIXON,
JAMIE L. WHITTEN,
JOSEPH M. MCDADE,
C.W. BILL YOUNG,
CLARENCE E. MILLER,
BOB LIVINGSTON,
SILVIO O. CONTE,
(Except amendments 81 and 108),
Managers on the Part of the House.

DANIEL K. INOUYE,
FRITZ HOLLINGS,
J. BENNETT JOHNSTON,
ROBERT C. BYRD,
PAT LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
TED STEVENS,
JAKE GARN,
JAMES A. MCCLURE,
ROBERT KASTEN, Jr.,
ALFONSE D'AMATO,
WARREN B. RUDMAN,
THAD COCHRAN,
ARLEN SPECTER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5803), making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the Department of Defense Appropriations Act, 1991, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 101-822 and Senate Report 101-521 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

TITLE I—MILITARY PERSONNEL

The conferees agree to the following amounts for the Military Personnel accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Active personnel:				
Army	24,295,600	23,959,991	23,863,803	23,869,226
Navy	19,363,100	19,149,527	19,044,785	19,065,967
Marine Corps	5,918,600	5,887,484	5,868,652	5,897,502
Air Force	20,046,600	19,915,200	19,617,100	19,738,372
Reserve personnel:				
Army	2,337,100	2,394,200	2,322,800	2,363,300
Navy	1,624,600	1,665,700	1,608,100	1,645,000
Marine Corps	336,400	340,800	325,500	336,400
Air Force	684,000	697,800	684,110	686,800
National Guard personnel:				
Army	3,358,700	3,428,800	3,331,900	3,379,500
Air Force	1,089,000	1,113,700	1,086,950	1,098,400
Total military personnel	79,053,700	78,553,202	77,753,700	78,080,467

STRENGTH REDUCTIONS

The conferees agree with the permanent change of station travel, strength reductions (except for the Marine Corps which was increased from 500 to 2,000), Army College Fund excess, and Reserve/Guard offset funding reductions as recommended by the House and the reduction in generals and flag officers and military personnel in supply activities funding reductions as recommended by the Senate. These savings should be attainable through reduced accessions and voluntary early outs. The conferees strongly believe that involuntary separations should not be necessary and should only be taken as a last resort to meet end strength ceilings. The conferees believe that the House recommended strength reductions are necessary to provide the Secretary of Defense with the maximum flexibility for Operation Desert Shield.

The conferees agreed to a House provision limiting to 95,000 permanent change of station moves of active duty personnel to Europe, but agreed to give the Secretary of Defense waiver authority for national security interests after he notifies the Appropriations Committees of the House and Senate.

A new general provision recommended by the House was ageed to by the conferees which prohibited the number of military and civilian medical and medical support personnel from being reduced below the average number on duty in fiscal year 1990. Under no circumstances should personnel reductions be allocated to medical or medical support personnel.

The conferees also agreed to a new general provision that reduces the European end strength ceiling by 50,000 to 261,855.

MILITARY PERSONNEL—ARMY

Amendment No. 1: Appropriates $23,869,226,000 instead of $23,959,991,000 as proposed by the House and $23,863,803,000 as proposed by the Senate.

The conference agerement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Clothing	−41,881	0	0
Permanent Change of Station Travel	−6,000	0	−6,000
Troop Strength Reduction	−219,600	−215,040	−219,600
Army College Fund Excess	−21,128	−21,128	−21,128
Reserve/Guard Offset	−47,000	0	−47,000
Military personnel in supply activities	0	−15,300	−15,300
Reductions in generals	0	−1,346	−1,346
Fiscal year 1990 actual manning	0	−178,983	−116,000
Total, military personnel, Army	−335,609	−431,797	−426,374

MILITARY PERSONNEL—NAVY

Amendment No. 2: Appropriates $19,065,967,000 instead of $19,149,527,000 as proposed by the House and $19,044,785,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Clothing	−41,853	0	0
Permanent Change of Station Travel	−3,000	0	−3,000
Troop Strength Reduction	−148,320	−144,272	−148,320
Reserve Offset	−20,400	0	−20,400
Military personnel in supply activities	0	−32,900	−32,900
Reductions in flag officers	0	−513	−513
Fiscal year 1990 actual manning	0	−140,630	−92,000
Total, military personnel, Navy	−213,573	−318,315	−297,133

MILITARY PERSONNEL—MARINE CORPS

Amendment No. 3: Appropriates $5,897,502,000 instead of $5,887,484,000 as proposed by the House and $5,868,652,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Clothing	−28,146	0	0
Troop Strength Reduction	−2,970	−23,051	−19,770
Military personnel in supply activities	0	−1,200	−1,200
Reductions in generals	0	−128	−128
Fiscal year 1990 actual manning	0	−25,569	0
Total, military personnel, Marine Corps	−31,116	−49,948	−21,098

MILITARY PERSONNEL—AIR FORCE

Amendent No. 4: Appropriates $19,738,372,000 instead of $19,915,200,000 as proposed by the House and $19,617,100,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Clothing	−24,575	0	0
Permanent Change of Station Travel	−4,000	0	−4,000
Troop Strength Reduction	−90,625	−152,220	−90,625
Reserve/Guard Offset	−12,200	0	−12,200
Military personnel in supply activities	0	−46,400	−46,400
Reductions in generals	0	−769	−769
250 Air Force colonels	0	−12,234	−12,234
Fiscal year 1990 actual manning	0	−217,877	−142,000
Total, military personnel, Air Force	−131,400	−429,500	−308,228

NATIONAL GUARD AND RESERVE FORCES

The conferees agree to provide $9,509,400,000 in Reserve personnel appropriations, $7,285,400,000 in operation and maintenance appropriations, and $2,604,761,000 in the National Guard and Reserve Equipment appropriation. In addition $212,900,000 is provided for Guard and Reserve Forces in "Drug Interdiction and Counter-Drug Activities, Defense." These funds support a Selected Reserve strength of 1,177,851, and AGR ceiling of 75,313, and a Technician floor of 71,823, broken out as follows:

RESERVE STRENGTHS—FISCAL YEAR 1991

	Budget	Conference	Conference versus budget
Selected Reserve:			
Army Reserve	309,200	319,063	9,863
Navy Reserve	149,700	154,354	4,654
Marine Corps Res	43,900	43,900	0
Air Force Reserve	85,200	85,591	391
Army National Gua	447,300	457,424	10,124
Air National Guar	116,300	117,519	1,219
Total	1,151,600	1,177,851	26,251
AGR/TARS:			
Army Reserve	13,344	13,707	363
Navy Reserve	22,997	23,565	568
Marine Corps Res	2,401	2,401	0
Air Force Reserv	655	655	0
Army Natl Guard	26,199	26,323	124
Air Natl Guard	8,468	8,662	194
Total	74,064	75,313	1,249

RESERVE STRENGTHS—FISCAL YEAR 1991—Continued

	Budget	Conference	Conference versus budget
Technicans:			
Army Reserve	8,429	8,529	100
Navy Reserve	10,217	10,316	99
Army Natl Gua	28,457	28,521	64
Air Natl Guar	24,161	24,457	296
Total	71,264	71,823	559

FORCE STRUCTURE

The conferees believe that during a period of decreasing Defense budgets, it makes sense to put more, not less, force structure into the reserve components. At a minimum, the current Guard and Reserve force structure should be retained. Accordingly, the conferees agree to include section 8085 which prohibits funds to reduce the end strength and force structure of the reserve components below the levels funded in this Act. Section 8085 allows the Secretary of Defense to waive this restriction on a case by case basis by certifying in writing that such a reduction is required for national security purposes.

The conferees agree to restore the following force structure and end strength reduced in fiscal years 1990 and 1991 by the Department:

Installation	Aircraft	Drillers	AGR's	Total SR	Pers	Technicians	O&M	Total
Force structure Air NG:								
Channel Is, Calif	C-130E 4	152	11	163	0	0		0
Kokee, HI FAC-P	Air Control Unit	90	0	90	$400	28		$400
March, Calif	OA-10A 6	44	7	51	500	28		500
Moffett, Calif	MH-60G 1	3	0	3	0	5		0
Andrews, MD	F-16A/B 6	65	4	69	500	20		500
Capitol, Ill	F-16A/B 6	65	4	69	500	20		500
Suffolk, NY	HC-130P 1	6	0	6	100	8		100
Nashville, TN	C-130H 8	265	22	287	2,400	67		2,400
Various	KC-135E 10	289	125	414	4,400	120		4,400
March, CA	RF-4C 6	46	0	46	600	0		600
Subtotal ANG		1,025	173	1,198	9,400	296	$27,600	37,000
AF Reserve:								
Petersen, Colo	C-130B 4	119	0	119	900	32	3,000	3,900
Duke, Fla	AC-130A 1	70	0	70	600	17	1,600	2,200
Portland, Ore	HC-130H 1	37	0	37	300	10	900	1,200
Carswell, TX	F-16A/B 6	151	0	151	900	35	2,300	3,200
Homestead, Fla	HH-3E 1	14	0	14	100	5	500	600
Subtotal AFR		391	0	391	2,800	99	8,300	11,100
Navy Reserve								
Various	P-3B 20	384	0	384	2,500	0	14,200	16,700
Various	End strength	2,480	0	2,480	2,400	0	0	2,400
S. Weymouth/Detroit		1,220	568	1,788	15,500	0	6,000	21,500
Subtotal NR		4,084	568	4,652	20,400	0	20,200	40,600
Army Reserve	End strength	9,500	363	9,863	26,200	100	23,000	49,200
Army National Gd	End strength	10,000	0	10,000	20,800	0	10,000	30,800
Total		25,000	1,104	26,104	79,600	495	89,100	168,700

The conferees direct the Department not to propose any force structure reductions in fiscal year 1992 solely for budgetary reasons.

WC-130 WEATHER RECONNAISSANCE MISSION

Section 8114 prohibits the Department from reducing or disestablishing the WC-130 Weather Reconnaissance Squadrons of the Air Force and Air Force Reserve, except to transfer the mission to the Air Force Reserve. See amendment no. 358 for additional details on this subject.

REPORT LANGUAGE

The conferees fully support the items on Overseas Missions, Call-up Authority, Technicians, and Reprogrammings as addressed by the House, and the items on Roundout, the Idaho Guard, and on creation of a Pacific Tanker Unit as addressed by the Senate.

The conferees agree that any other report language on issues concerning the reserve components addressed by the House and Senate in their respective reports, unless specifically amended in the conference report, remain of interest to the conferees and should be followed.

RESERVE PERSONNEL, ARMY

Amendment No. 5: Appropriates $2,363,300,000 instead of $2,394,200,000 as proposed by the House and $2,322,800,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Force structure		+26,200		+26,200
Transition overstrength		+30,900		
AGR substitution			−14,300	
All other items	2,337,100	2,337,100	2,337,100	2,337,100
Total	2,337,100	2,394,200	2,322,800	2,363,300

RESERVE PERSONNEL, NAVY

Amendment No. 6: Appropriates $1,645,000,000 instead of $1,665,700,000 as proposed by the House and $1,608,100,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Force structure		+20,400		+20,400
Transition overstrength		+20,700		
AGR substitution			−16,500	
All other items	1,624,600	1,624,600	1,624,600	1,624,600
Total	1,624,600	1,665,700	1,608,100	1,645,000

RESERVE PERSONNEL, MARINE CORPS

Amendment No. 7: Appropriates $336,400,000 instead of $340,800,000 as proposed by the House and $325,500,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Transition overstrength		+4,400		
AGR substitution			−10,900	
All other items	336,400	336,400	336,400	336,400
Total	336,400	340,800	325,500	336,400

RESERVE PERSONNEL, AIR FORCE

Amendment No. 8: Appropriates $686,800,000 instead of $697,800,000 as pro-

posed by the House and $684,110,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Force structure		+2,800	+1,000	+2,800
Transition overstrength		+11,000		
AGR substitution			−890	
All other items	684,000	684,000	684,000	684,000
Total	684,000	697,800	684,110	686,800

NATIONAL GUARD PERSONNEL, ARMY

Amendment No. 9: Appropriates $3,379,500,000 instead of $3,428,800,000 as proposed by the House and $3,331,900,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Force structure		+20,800		+20,800
Transition overstrength		+49,300		
AGR substitution			−26,800	
All other items	3,358,700	3,358,700	3,358,700	3,358,700
Total	3,358,700	3,428,800	3,331,900	3,379,500

NATIONAL GUARD PERSONNEL, AIR FORCE

Amendment No. 10: Appropriates $1,098,400,000 instead of $1,113,700,000 as proposed by the House and $1,086,950,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Force structure		+9,400	+6,400	+9,400
Transition overstrength		+15,300		
AGR substitution			−8,450	
All other items	1,089,000	1,089,000	1,089,000	1,089,000
Total	1,089,000	1,113,700	1,086,950	1,098,400

TITLE II—

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE ISSUES

The language and allocations set forth in House Report 101-822 and Senate Report 101-521 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

A summary of the conference agreement on items in conference is as follows:

	Budget	House	Senate	Conference
Army	23,562,900	21,549,271	21,664,190	21,515,694
Navy	24,531,600	23,775,605	23,199,796	23,161,647
Marine Corps	1,948,100	1,886,280	1,880,100	1,892,200
Air Force	22,048,900	20,602,532	20,064,092	20,060,735
Defense Agencies	8,663,100	8,516,144	8,148,163	8,448,957
Army Reserve	890,400	933,607	871,360	909,100
Navy Reserve	985,924	1,015,800	976,114	998,000
Marine Corps Reserve	86,100	86,400	83,180	84,800
Air Force Reserve	1,042,500	1,076,500	1,055,360	1,065,900
Army National Guard	1,988,500	2,049,241	1,960,360	1,980,400
Air National Guard	2,175,400	2,235,100	2,217,990	2,247,200
National Board for the Promotion of Rifle Practice, Army	5,600	5,000	5,600	5,000
Court of Military Appeals	5,600	5,000	5,500	5,400
Environmental Restoration, Defense	817,000	1,900,000	1,062,527	1,062,527
Humanitarian Assistance	13,000	15,000	13,000	15,000
Goodwill Games	0	0	0	0
Grand total, operation and maintenance	88,764,624	85,651,480	83,207,332	83,452,560

BUDGET JUSTIFICATION

The Senate report directed the Department to improve the justification material for the Operation and Maintenance appropriations. The House report included similar directions for the Special Operations Forces justification material. The conferees direct the Department to submit with the FY 1992 budget a discrete listing of the Operation and Maintenance appropriations, similar to those provided for the Procurement and RDT&E appropriations. In addition, the justification material is to include a complete description of any changes in the level of funding provided for each Sub-activity Group (SAG) by the FY 1991 Defense Appropriations Act. This description is to include distribution of reductions, such as civilian personnel, which are not distributed in this report. The Special Operations Forces command is to submit budget justification for FY 1992 funding requests in accordance with the directions in DoD manual 7110.1M, as adjusted by the changes above, for all appropriations.

Additional improvements to the Operation and Maintenance justification books directed by the Senate will be implemented in the first budget submission following the FY 1992 request. Further details regarding the structure of the activity groups and subactivity groups will be developed in subsequent discussions between the Department and the Committees on Appropriations of the House and Senate.

The conferees further agree that the DD 1414 for FY 1991 Operation and Maintenance appropriations will be prepared using the activity groups and sub-activity groups through which the budget was justified. The reprogramming threshold of $10,000,000 will be applied at the activity group level. The conferees reiterate guidance provided in the fiscal year 1990 Senate Report on the Department of Defense Appropriations Bill and the Statement of Managers on the fiscal year 1990 Defense Appropriations conference that the total amount of funding provided for those items specifically increased in this fiscal year 1991 report is to be spent only for the purposes appropriated unless an official reprogramming or rescission is approved by the Congressional Defense oversight committees.

In addition, the conferees agree that the DD COMP(M) 1002 report, which shows the status of obligations and expenditures for each Operation and Maintenance appropriation, will be prepared using the activity groups and sub-activity groups through which the budget was justified.

BURDENSHARING INITIATIVES

The House made several adjustments based on our allies sharing a greater portion of the overseas basing costs for U.S. troops. The conferees agree that this is an important initiative which must be pursued. To that end, the conferees direct that 75 percent of the real property maintenance reductions must be applied to overseas bases. In addition, the funding approved for payment of foreign national employees reflects a reduction of 25 percent from the current level of employment. Finally, the conferees direct that the reductions to base operations must be applied to the funding requested for overseas facilities. The conferees encourage the Department to examine additional initiatives which will shift more of the costs of stationing our troops overseas to host nations.

INAPPLICABLE INVENTORIES

For several years the Congressional Defense oversight committees have noted excess growth in inapplicable inventories. These increases in the quantities of spare parts which are of no use to the Department must be curtailed. Therefore, in addition to the decreases included in the operation and maintenance appropriations, the conferees agree to the House recommended reduction of $400,000,000 as directed in Sec. 8106. Due to the reductions already taken in the operation and maintenance appropriations, the conferees expect that the Sec. 8106 decrease will be applied primarily to Stock Fund appropriations contained in Title V. The conferees have also agreed to reduce Title V funding for acquisition of War Reserve materiel based on reduced requirements related to the improved situation in Europe. The conferees direct that none of these reductions shall further reduce any war reserve inventories depleted by Operation Desert Shield.

TRAVEL

The conferees agree with the language contained in the House Report 101-822 regarding excessive travel and have reduced the budget request for travel accordingly. It is the intent of the conferees that the reductions be applied in those areas noted in the House Report, such as multiple representatives at conferences, seminars and meetings, and travel to and from Europe. The conferees direct that the funding reductions do not affect mission-related travel of junior enlisted personnel.

DEPOT MAINTENANCE

The conferees agree to the following depot maintenance level for the DD 1414, Base for Reprogramming:

Army	$1,553,328,000
Navy	3,148,683,000
Marine Corps	92,494,000
Air Force	2,622,472,000

The conferees understand that once the Department decides the proper distribution of the reductions which affect more than one budget activity, the depot maintenance levels specified above may change. The Department is directed to obtain approval from the Committees on Appropriations of any such changes before preparation of the DD 1414, Base for Reprogramming Actions.

FOREIGN CURRENCY FLUCTUATION

The conferees agree to allow the Department to transfer excess stock fund cash to replenish the Foreign Currency Fluctuation transfer account. As directed in Sec. 8008, the Department shall use normal reprogramming procedures, including submission of DD 1415, in order to effect any requested transfers.

FINANCE AND ACCOUNTING OPERATIONS

The conferees note that the Department plans to consolidate finance and accounting

centers with the headquarters to be located in the National Capital Region (NCR). The conferees have been informed that the benefits of such a consolidation are to provide improved financial management and accounting services at a much lower cost to the Department. The conferees support these objectives, but reiterate the concern over the rising costs to operate and maintain commands within the NCR. The conferees do not object to the establishment of headquarters in the NCR provided there is no net increase in finance and accounting personnel over existing levels.

In addition, the conferees understand that by the end of fiscal year 1992, the Department expects to reduce personnel in the NCR by 10 percent when compared to existing levels. The Committees on Appropriations of the House and Senate are to be kept informed of progress in meeting these reductions and also on the savings achieved through consolidation efforts.

U.S. FLAG PASSENGER SHIPS

The Department is directed to consider the cost benefits of utilizing existing U.S. Flag Passenger Ships (which are offered by their owners) for troop transportation during routine troop rotation, and recreation and relaxation (R&R) operations.

MILITARY FAMILY SERVICES

The conferees agree with the House language that the Air Force make $3,000,000 available from funds provided only to continue the military family services project which Congress has approved since fiscal year 1989.

COMMISSARY OPERATIONS

The House recommended reductions for commissary operations were based on disapproving increased shelf stockage time, disapproving expanding operating hours, and including savings generated by the civilian personnel freeze. The Senate recommended reductions only included reductions resulting from disapproving of increased shelf stockage time and increased hours. The Senate recommended reduction for the civilian personnel freeze was included in the overall civilian personnel freeze reduction. Because the conferees are deeply concerned about the smooth operations of the commissary system during its consolidation into a defense agency, the specified commissary reductions are only for shelf stockage and increased hours. In addition, part of the fiscal year 1990 civilian personnel hiring freeze reduction includes the services' commissaries.

The conferees do not believe that commissaries should increase their hours or expand employee hours for shelf stockage. Instead, normal forty-hour operating times should be adjusted to best meet the schedules of commissary patrons such as occurs in the private sector. Stockage time should not need to be increased since hours will not be expanded. In addition, the Defense Commissary Agency should look at vendors performing shelf stockage as it has traditionally been done at some locations successfully in the past.

MWR ABUSES

The conferees were dismayed to learn of the morale, welfare, and recreation (MWR) abuses which surfaced this year. Because of these abuses, the conferees agree with the reduction recommended by the Senate.

However, the conferees want to emphasize the importance of the MWR program to our service members' well being. The conferees believe that the Department is truly committed to correcting the original abuses that did occur and ensuring that no abuses ever occur again.

The conferees direct the Office of the Secretary of Defense, with the assistance of the Air Force, to submit a report to the oversight committees not later than April 15, 1991, on the reforms that it has taken or intends to take to correct existing problems in the administration and budgeting of MWR programs. The Appropriations Committees will closely monitor this program in the future.

In addition, the conferees direct the General Accounting Office to complete a comprehensive review of MWR programs within the Department of Defense by July 15, 1991. This study should include reviewing cost efficient methods of consolidating MWR activities both within and across service lines.

MEDICAL PROGRAMS

FEDERAL NURSING SCHOOL

The conferees agree with the Senate report language on the feasibility plan for a federal nursing school. The conferees want to emphasize their interest in the Department considering cost effective alternatives to a Federal nursing school being established within the Uniformed Services University of the Health Sciences, including contracting with established non-DOD nursing schools. The conferees require that a report be submitted to the Appropriations Committees before any final action is taken on establishing a federal nursing school.

SEPARATE DEPARTMENTS OF PSYCHOLOGY, OPTOMETRY, AND SOCIAL WORK

The conferees agree with the Senate report language encouraging the Department of Defense to continue its effort to establish separate departments of psychology, optometry and social work at military medical treatment facilities. The conferees believe, however, that these departments should be established only at major medical facilities rather than universally as suggested by the Senate language. In addition, the conferees direct the Department to submit a report to the Appropriations Committees by March 15, 1991, on the success of the separate departments that have already been established.

NURSE ANESTHETISTS BONUS

The conferees agreed to remove a general provision that provided for the funding of bonuses for nurse anesthetists. This bonus has been authorized by the Armed Services Committees and the Department of Defense has and will continue to fund this bonus. Therefore, the conferees felt the provision was no longer necessary. The conferees will monitor this program to ensure that the Department continues to follow congressional intent.

CLINICAL PSYCHOLOGY

The conferees have agreed, without prejudice, not to provide $280,000 to begin a clinical psychology training program at the Uniformed Services University of the Health Sciences. The conferees further agree that this training program may be initiated by the leadership at USUHS from within available funds.

ENVIRONMENTAL

Since there are a large number of sites requiring environmental restoration and the various laws which require compliance, the conferees agree to restore the reductions made by the House for environmental programs in Operation and Maintenance, Army, and Operation and Maintenance, Air Force. The conferees direct that the Department of the Army transfer $5,000,000 of the restored funds to Operation and Maintenance, Army Reserve to help alleviate their backlog.

The conferees direct that the fiscal year 1992 budget contain sufficient funds to reduce the backlog for the reserve components as well as the services.

The conferees agree with House language concerning the National Defense Center for Environmental Excellence, Raritan Arsenal, Soil Decontamination Demonstration Program, Norwalk Defense Fuel Supply Point, and Rocky Mountain Arsenal, and with Senate language concerning Badger Ammunition Plant, and adequate competition for DOD site remediation of and the review by the Department of the applicable statutes relating to surety bonding and hazardous waste site clean-up efforts. Both the House and Senate addressed Hamilton Air Force Base and Umatilla Army Depot.

The conferees further agree to Senate language concerning the remediation projects identified for Kiska, Attu, Amchitka, Adak, Great Sitkin Islands, and Elson Lagoon, in Alaska.

MODEL PROGRAM

The Conference Report on the Defense Authorization bill contains a provision (Sec. 2926) establishing a model program to look at ways to expedite environmental restoration activities at two military installations that are closing pursuant to the Base Closure and Realignment Act of 1988 (P.L. 100-526). Under the provision, the contractor responsible for cleanup at one of the closing installations would be required to indemnify the government against all liabilities, claims, penalties, costs, and damages caused by the contractors' breach of any contract provisions, or as a result of any negligent or willful act or omission of the contractors' employees or subcontractors.

The conferees want to ensure that the bidders or proposers are qualified and prepared to provide meaningful indemnification for the site as a basis for awarding a contract. In assessing the indemnification offered, the Department shall review the financial qualifications of the contractor to meet the program's indemnification requirements, including assessing the assets and organizational structure of the contractor offering the indemnification. If the bidder or proposer is a subsidiary of another company, the Department shall take into account whether the indemnification is guaranteed by the parent corporation's full faith and credit, or whether the indemnification is solely the obligation of the bidder or proposer. Further, the conferees fully expect that the indemnification requirement will be fully studied before any such indemnification requirement is applied to contracts outside the model program.

OPERATION AND MAINTENANCE, ARMY

Amendment No. 11: Appropriates $21,515,694,000 instead of $21,549,271,000 as proposed by the House and $21,664,190,000 as proposed by the Senate, deletes House language making $594,815,000 subject to authorization and provides $273,000 for the Capitol Fourth celebration.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Operation and maintenance, Army	Budget	House	Senate	Conference
General Purpose Forces	8,743,180	8,212,280	8,628,804	8,099,904
Europe Forces		(−48,000)		(−48,000)
RPMA Europe & Pacific		(−324,000)		(−350,000)
Base Operations Europe		(−70,000)		(−70,000)
JCS Exercises		(−24,900)	(−28,000)	(−24,900)
Management Headquarters—CONUS		(−64,000)		(−64,000)
Office Automation			(−12,000)	(−12,000)
Maintenance and Logistic Support			(−68,196)	(−68,196)
Miscellaneous Corrections			(−6,180)	(−6,180)
Intelligence & Communications Program	1,675,284	1,658,046	1,611,720	1,594,482
Base Information Management		(−9,056)		(−9,056)
Centrally Managed Information		(−8,182)		(−8,182)
C3			(−40,000)	(−450,000)
European Telephone Enhancement			(−23,564)	(−23,564)
Central Supply & Maintenance	3,929,707	3,849,872	3,909,707	3,883,744
Maintenance Support Activities		(−18,000)		(−18,000)
Base Operations Support		(−4,835)		(−4,835)
Resale Commissaries		(−25,000)		(−3,128)
Subsistence In Kind		(−32,000)		0
Second Destination Transportation			(−20,000)	(−20,000)
Depot Maintenance	1,515,728	1,580,563	1,515,728	1,553,328
Excess Trucks		(−39,500)		(−39,500)
Equip Repair & Overhaul Contract—Mainz Depot		(−45,725)		(−22,900)
Depot Maintenance Backlog		(+150,060)		(+100,000)
Training & Other General Personnel Activities	3,549,273	3,409,973	3,409,273	3,399,273
Recruiting & Advertising		(−71,000)	(−40,000)	(−50,000)
Professional Development Education		(−10,200)		(−8,000)
Civilian Short/Long Term Training		(−4,500)		(−4,500)
Management Headquarters		(−8,600)		(−8,600)
Base Operations		(−45,000)		(−45,000)
Training & Education			(−100,000)	(−33,900)
Medical Programs	2,988,516	3,242,516	2,988,516	3,142,616
Reimbursement for Outpatient Care				
CHAMPUS		(+249,900)		(+150,000)
USUHS Transfer		(+4,100)		(+4,100)
Administration and Associated Activities	919,442	853,242	836,042	806,992
Department Headquarters Support		(−15,900)		(−15,900)
Guard/Reserve offset		(−41,300)		(−20,650)
Claims			(−10,000)	(−10,000)
Reproduction & Printing			(−35,000)	(−35,000)
Banking			(−15,000)	(−7,500)
Arroyo Center			(−23,400)	(−23,400)
Support to Other Nations	262,270	262,270	262,270	262,270
Civilian Manpower		−691,620	−450,900	−450,900
Troop Reduction		(−116,620)	(−74,600)	(−74,600)
FY 90 Personnel Freeze Savings		(−33,000)	(−251,200)	(−104,300)
Foreign National Employees		(−540,000)	(−125,100)	(−270,000)
SES Workyears		(−2,000)	(−2,000)	(−2,000)
Minor Construction		−43,116		0
A–76 Reviews		−83,000		−83,000
Travel		−196,700		−196,700
Retire Older Weapon Systems			−15,000	−15,000
Real Property Maintenance			−350,000	0
Base Operations Support		(−118,835)	−105,000	0
ADP Programs		−110,000	−542,070	−542,070
Classified Programs		−152,555	−11,200	−39,245
Currency Fluctuation			101,700	0
Stock Fund Operations Costs Adjustment			134,500	134,500
Stock Fund Offset	−20,500	−20,500	−20,500	−20,500
Inventory Management			−146,100	0
Environmental programs	(342,800)	−40,000		0
Base closure, MilCon		(−24,000)		0
Level of effort		(−16,000)		0
O&M Support Cost			−93,300	0
Acquisition Savings		−20,000		0
Stock Fund & Materiel Purchases		−216,000		−146,000
Household Goods Shipments		−18,000		0
Transit Lodging		−30,000		−30,000
Unliquidated Obligations		−25,000		−25,000
Ration Control		−4,000		−4,000
Total Package Fielding				60,000
POMCUS				
Chemical/Biological		120,000		120,000
Free Postal Mailing		11,000		11,000
Total Army	23,562,900	21,549,271	21,664,190	21,515,694

CAPITOL FOURTH

The conferees understand that the Department has in the past participated in the Capitol July 4th celebration. To continue the tradition of celebrating Independence Day at the Capitol, the conferees believe that the Army should work with the National Park Service and provide the support necessary for the celebration.

DEPOT MAINTENANCE

The conferees agree to provide an additional $100,000,000 to the Army to help eliminate its depot maintenance backlog. The conferees direct that none of this increase be used to restore the specific cuts made in the Central Supply and Maintenance budget activity.

OPERATION AND MAINTENANCE, NAVY

Amendment No. 12: Appropriates $23,161,647,000 instead of $23,775,605,000 as proposed by the House and $23,230,691,000 as proposed by the Senate.

Amendment No. 13: Restores House language which directs that facilities, activities and personnel levels at the Memphis Naval Complex in Millington, Tennessee, be maintained at fiscal year 1984 levels.

Amendment No. 14: Restores House language which provides $2,000,000 for a grant to the Cabot/Dedalo Museum Foundation and deletes House language making $516,609,000 subject to authorization.

Amendment No. 15: Amends the Senate language which provides $15,000,000 for the upgrade of port facilities in Israel in support of U.S. naval forces.

The conference agreement on items in conference is as follows:

	Budget	House	Senate	Conference
Operation and Maintenance, Navy				
Strategic Forces	1,806,102	1,806,102	1,806,102	1,806,102
General Purpose Forces	7,308,661	7,254,791	7,258,361	7,236,320
Fleet Operations Support		(−10,141)		(−10,141)

	Budget	House	Senate	Conference
Fleet Command & Staff		(−13,200)		(−13,200)
Base Operations		(−30,529)		(−15,000)
Excess Voyage Repairs			(−32,300)	(−16,000)
Hydrofoil patrol boats (PHM)			(−18,000)	(−18,000)
Ship Maintenance and Modernization	3,148,683	3,148,683	3,148,683	3,148,683
Intelligence & Communications Program	1,275,742	1,263,642	1,225,906	1,222,806
Leased Communications		(−9,000)	(−19,836)	(−19,836)
DDN Reviews Savings		(−3,100)		(−3,100)
C3			(−30,300)	(−30,000)
SeaLift	461,732	500,000	461,732	500,000
Central Supply and Maintenance	5,568,504	5,533,126	5,492,020	5,486,642
Command & Administration		(−21,800)		(−21,800)
Engineering & Support Activities		(−8,578)		(−8,578)
Commissary Operations		(−5,000)		0
Air-Launched weapons maintenance backlog			(−15,384)	(−15,384)
Other aviation systems maintenance			(−36,100)	(−36,100)
Transportation			(−25,000)	0
Training and Other General Personnel Activities	2,239,777	2,146,497	2,128,277	2,103,797
Recruiting & Advertising		(−36,000)	(−11,500)	(−36,000)
Professional Development Education		(−6,000)		(−4,000)
Other Training Support		(−33,000)		(−33,000)
Base Operations Support		(−13,000)		(−13,000)
Civilian Education Program		(−5,280)		(−5,280)
Training & Education			(−100,000)	(−44,700)
Medical Programs	2,030,228	2,651,228	2,030,228	2,230,228
CHAMPUS		(+621,000)		(+200,000)
Administration and Associated Activities	684,877	613,832	677,877	652,032
Departmental Headquarters		(−9,245)		(−9,245)
Manpower Management		(−14,600)		(−5,000)
General & Special Program Support		(−27,000		(−5,000)
Reserve offset		(−20,200)		(−10,100)
Banking			(−7,000)	(−3,500)
Support to Other Nations	7,294	7,294	7,294	7,294
ADP Management		−135,000	−283,373	−283,373
A–76 Reviews		−36,800		−36,800
Civilian Manpower		−302,081	−331,500	−322,081
Troop Reduction		(−76,081)	(−28,400)	(−76,081)
FY 90 Personnel Freeze Savings		(−85,000)	(−257,200)	(−105,000)
Foreign National Employees		(−138,000)	(−45,900)	(−138,000)
SES Workyears		(−3,000)		(−3,000)
Other O&M/Troop Reduction		−95,200	−65,200	−95,200
Minor Construction		−18,966		0
Travel		−82,132		−82,132
Stock Fund & Materiel Purchases		−342,600		−202,000
Retire Older Weapons Systems			−40,000	−40,000
Real Property Maintenance			−75,000	−75,000
Base Operations Support			−22,400	0
Inventory Management			−202,000	0
Increased use of Reserves			−49,000	−49,000
Stock fund operations costs adjustment			−22,300	−22,300
Currency Fluctuation			−75,300	0
Classified program		−65,811	−65,811	−68,971
Acquisition Savings		−18,000		0
Non-tactical Vehicles Operations		−10,000		0
Household Goods Shipments		−18,000		0
Early Ship Retirement		−25,000		0
Total, Navy	24,531,600	23,775,605	23,199,796	23,161,647

NAVAL SHIP DISMANTLING

The Navy will face substantial requirements for dismantling and disposal of inactive fleet vessels in the coming years. These include both conventional and nuclear surface ships as well as nuclear submarines. Therefore, the conferees direct the Navy to develop a comprehensive plan and schedule for the dismantlement and disposal of these ships.

The plan should evaluate the advantages and disadvantages of a range of options with a focus on disposition of material, salvage of equipment or components, and any hazardous waste generated by the dismantling process. The Navy should consider the capabilities of both naval shipyards and private industry in developing its plan. The conferees are also aware that this program is being reviewed by the General Accounting Office and expect the Navy to consider any findings and recommendations from this review.

The schedule included in the plan should include key events which would allow the conferees to assess the Navy's progress in meeting reasonable hull disposal numbers annually. This plan should be completed and provided to the House and Senate Committees on Appropriations no later than May 31, 1991.

OPERATION AND MAINTENANCE, MARINE CORPS

Amendment No. 16: Appropriates $1,892,200,000 instead of $1,886,280,000 as proposed by the House and $1,880,100,000 as proposed by the Senate, deletes House language making $54,980,000 subject to authorization and restores House language which prohibits the conversion of certain functions at Cherry Point Marine Corps Air Station from conversion to a private contractor until the decision of the A-76 review has been audited by the General Accounting Office.

The conference agreement on items in conference is as follows:

[In thousand of dollars]

	Budget	House	Senate	Conference
Operation and Maintenance, Marine Corps				
General Purpose Forces	1,054,644	1,054,644	1,054,644	1,054,644
Central Supply	495,729	493,729	495,729	495,729
Commissary Consolidation		(−2,000)		
Training & Other General Personnel Activities	279,254	261,584	267,754	271,254
Recruiting & Advertising		(−17,400)	(−8,000)	(−8,000)
Training & Education			(−3,500)	0
Administration & Associated Activities	118,473	118,473	118,473	118,473
Civilian Manpower		−23,150	−20,200	−22,400
Troop Reduction		(−1,750)		(−1,000)
FY 90 Personnel Freeze Savings		(−15,000)	(−20,200)	(−15,000)
Foreign National Employees		(−6,400)		(−6,400)
Inventory Management			−10,000	0
Real Property Maintenance			−15,200	0
O&M Support Cost			−11,100	−11,500
Acquisition Savings		−2,000		0
Spare Parts Purchases		−14,000		−14,000

[In thousand of dollars]

	Budget	House	Senate	Conference
Non-tactical Vehicles Operations		−3,000		
Total, Marine Corps	1,948,100	1,886,280	1,880,100	1,892,200

OPERATION AND MAINTENANCE, AIR FORCE

Amendment No. 17: Appropriates $20,060,735,000 instead of $20,977,532,000 as proposed by the House and $20,064,092,000 as proposed by the Senate, deletes House language making $587,753,000 subject to authorization, deletes House language making available $180,000,000 for Air Force Logistics Modernization System, and deletes Senate language which provides $43,000,000 for support of the Air National Guard and Air Force Reserve flying and air warning control units.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Operation and Maintenance, Air Force				
Strategic Forces	3,054,490	3,047,590	3,025,590	3,030,590
Management Headquarters		(−6,900)		(−6,900)
EC–130 Looking Glass			(−11,900)	
Minuteman II			(−17,000)	(−17,000)
General Purpose Forces	4,955,454	4,765,242	4,901,017	4,706,541
Other Command & Control		(−3,812)		(−3,812)
Base Operations		(−16,000)		0
Base Operations—Europe		(−26,000)		(−26,000)
Telecom & Comd Control Prog		(−25,000)		(−25,000)
USAFE TACS/Warrior Prep Center		(−8,400)		(−8,400)
RPMA—Europe & Pacific		(−111,000)		(−150,000)
AFOTEC			(−1,109)	(−1,109)
Counternarc prog for CINC initiatives			(−16,092)	(−16,092)
Flying hour costs			(−6,922)	(−6,922)
MWR			(−15,000)	(−15,000)
Dormitory Furnishings			(−18,736)	
Chemical/Biological Defense Program			(+3,422)	(+3,422)
Intelligence & Communications Programs	2,798,078	2,784,232	2,728,724	2,760,410
Base Operations Support		(−16,996)		(−16,996)
Aircraft service extension program			(−100,000)	(−100,000)
ADP maint, service, equipment			(−3,400)	
Exchangeable component repair			(−21,615)	(−21,615)
Deferred requirements			(−3,721)	(−3,721)
C–17A interim contractor support (ICS)			(−19,500)	(−19,500)
Printing & Reproduction			(−15,000)	(−15,000)
Audiovisual			(−1,492)	(−1,492)
NAC channel airlift			(−18,501)	
Supplies & Equipment			(−11,853)	
Depot Maintenance	2,622,472	2,605,572	2,622,472	2,622,472
Minuteman Weapon System		(−16,900)		
Administration and Associated Activities	598,333	521,623	578,218	529,938
Departmental Headquarters		(−14,000)		(−14,000)
Service-Wide Support		(−6,103)	(−4,980)	(−6,103)
Personnel Activities		(−10,307)		(−10,307)
Base Operating Support		(−7,000)		(−7,000)
Guard/Reserve offset		(−43,300)		(−21,650)
Contractor support			(−5,335)	(−5,335)
Departmental supplies & equipment			(−1,800)	
Banking			(−8,000)	(−4,000)
Support to Other Nations	11,541	11,541	11,541	11,541
Minor Construction		−31,567		0
Travel		−130,000		−130,000
A–76 Reviews		−24,000		−24,000
Civilian Manpower		−290,287	−396,100	−311,087
Troop Reduction		(−146,400)	(−125,600)	(−146,400)
FY 90 Personnel Freeze Savings		(−17,887)	(−237,200)	(−38,687)
Foreign National Employees		(−126,000)	(−33,300)	(−126,000)
Other O&M/Troop Reduction		−107,146	−80,000	−107,146
Electronic Combat Test Capability		−500		0
Classified Programs		−75,361	−18,386	−102,219
ADP Programs		−75,000	−427,182	−407,182
CALS		20,000		20,000
Corporate information management			(−427,182)	(−427,182)
Increased Use of Reserve Forces			−67,000	−67,000
Retire older Weapon Systems			−45,000	−45,000
Real Property Maintenance			−150,000	0
Base Operations Support		(−77,436)	−125,000	0
Inventory Management			−148,700	0
Other Communications		(−9,000)		(−9,000)
Service-Wide Activities		(−4,846)		(−4,846)
C3			(−65,532)	(−20,000)
Milstar			(−3,822)	(−3,822)
Airlift	1,289,501	1,289,501	1,283,848	1,287,165
Dormitory Furnishings			(−3,317)	0
Purchased communications			(−2,336)	(−2,336)
Training & Other General Personnel Activities	1,606,357	1,539,765	1,499,357	1,499,265
Recruiting & Advertising		(−14,100)	(−17,000)	(−17,000)
Other Professional Education		(−14,660)		(−14,660)
Civilian Training/Education Development		(−16,880)		(−16,880)
Training Support Activities		(−9,512)		(−9,512)
Base Operations Support		(−11,440)		(−11,440)
Training & Education			(−90,000)	(−37,600)
Medical Programs	2,215,537	2,215,537	2,215,537	2,365,537
CHAMPUS		(+375,000)		(+150,000)
Central Supply	2,897,137	2,846,190	2,687,256	2,695,063
Headquarters Command		(−2,516)		(−2,516)
Acquisition & Command Support		(−6,435)		(−6,435)
Commissary Operations		(−25,000)	(−14,799)	(−14,799)
Stock Fund Operations Cost			−103,400	−103,400
Foreign Currency Fluctuation			71,300	0
Environmental, Base closure, MilCon		−10,700		0
Stock Fund & Material Purchase		−248,700		−170,753
Household Goods Shipments		−18,000		0

[In thousands of dollars]

	Budget	House	Senate	Conference
Total, Air Force	22,048,900	20,602,532	20,064,092	20,060,735

F-16 CONVERSION

The Secretary of the Air Force announced on August 9, 1990, the decision to convert the 343rd Tactical Fighter Wing (TFW) at Eielson AFB from the A-10 aircraft to the F-16. The Air Force was able to expedite this changeover because of planned force structure changes in Europe and South Korea.

The budget request for 1991 did not include the additional costs for this conversion. The conferees direct that not more than $7,500,000 shall be available for minor construction, modification of facilities and the installation of specialized equipment to support the conversion of the 343rd TFW to the F-16.

AIRCRAFT SERVICE PERIOD ADJUSTMENTS (ASPA)

The conferees support the implementation of a reliability-centered maintenance program. The conferees direct that such a program, similar to that used by the Navy and Army, be permanently instituted by April 1, 1991, for all Air Force aircraft maintenance programs. The Air Force is directed to report, no later than September 1, 1991, on the manner in which it has implemented its ASPA program.

MAC CHANNEL AIRLIFT

The conferees believe that the Air Force should make every effort to move non-essential cargo by ground or sea transportation, rather than air, whenever possible. The conferees expect the Air Force to justify all future requests for MAC channel airlift with evidence that the maximum amount of non-essential cargo was shipped to either its first or second destination by sea or land, rather than air.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

Amendment No. 18: Restores the center heading "(Including transfer of funds)".

Amendment No. 19: Appropriates $8,448,957,000 instead of $8,516,144,000 as proposed by the House and $8,148,163,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
DLA	−24,000	−50,153	−20,500
A-76	(−5,000)	0	(−6,500)
Stockpile Operations	(−15,000)	(−33,153)	(−5,000)
ADP Maintenance	(−4,000)	0	(−4,000)
Finance center	0	(−17,000)	(−10,000)
Defense Mapping Agency	0	−25,000	0
Other Geophysical Activities	0	(−25,000)	0
DOD Dependents Education (DODDE)	+4,150	0	+4,150
Facility Upgrade/ Renovation	(−6,000)	0	(−6,000)
Impact Aid	(+10,000)	0	(+10,000)
Street Law Course	(+150)	0	(+150)
Defense Technology Security Assistance	−4,335	0	−4,335
HI-TRAC 90 Postponement	(−4,335)	0	(−4,335)
Joint Chiefs of Staff	−19,015	−18,325	−19,015
Facility Upgrade	(−690)	0	(−690)
Level of Effort	(−18,325)	(−18,325)	(−18,325)
Office, Economic Adjustment	+3,400	+3,400	+3,400
New Requirements	(+3,400)	(+3,400)	(+3,400)
Office, Secretary of Defense	0	+300	+300
Pediatric-EMS	0	(+300)	(+300)
Joint Recruiting/Advertising Program	−8,921	−9,000	−8,921
Level of Effort	(−8,921)	(−9,000)	(−8,921)
On-site Inspection Agency	−8,000	0	−8,000
Budget formulation	(−8,000)	0	(−8,000)
Uniformed Services University (USUHS)	−9,100	+280	−4,300
Level of Effort	(−5,000)	0	(−200)
Army Transfer	(−4,100)	0	(−4,100)
Clinical psychology	0	(+280)	0
U.S. Special Operations Forces	−71,400	−19,500	−11,400
Acquisition/Civilian Manpower	(−1,900)	0	(−1,900)
Guard/Reserve Offset	(−69,500)	0	0
SOF O&M	0	(−19,500)	(−9,500)
Washington Headquarters Service	−25,000	−12,503	−25,000
Pentagon Upgrade	(−12,503)	(−12,503)	(−12,503)
Level of Effort	(−12,497)	0	(−12,497)
Classified Programs	−66,835	−41,000	−46,086
Civilian Manpower	−41,000	−116,900	−78,600
Administrative ADP	−25,000	0	0
Inventory Management	0	−1,400	−700
Communications	−10,000	−10,000	−10,000
Training and Education	−2,000	−6,500	−6,500
Real Property Maintenance	−19,900	0	0
Acquisition	−20,000	0	0
Economic Assistance	+200,000	0	+200,000
Legacy Resource Management Program	0	+10,000	+10,000
Stock fund operations costs adjustments	0	−100,300	−100,300
All Other Items	8,663,100	8,663,100	8,663,100
Total	8,516,144	8,148,163	8,448,957

DEFENSE MAPPING AGENCY

The conferees agree to provide $594,178,000, the budget request, for the Defense Mapping Agency. While the conferees believe funding this year is important to maintain production capability, the conferees are concerned that private United States mapping firms are not sufficiently used by the Defense Mapping Agency and other military agencies. In light of the potential budget savings that can be achieved by contracting out to professional private mapping firms in fields that include, but are not limited to, cartography, photogrammetry and geodesy in both digital and classical format, the conferees direct the Defense Mapping Agency to report back to the Committees on Appropriations of the House of Representatives and the Senate on their efforts in this area by May 30, 1991.

The conferees also agree with Senate language that the Defense Mapping Agency is similar to several others which the Department manages through the defense industrial funds and recommends that the Department consider making the Defense Mapping Agency an industrially funded activity during the continuing defense management review.

Amendment No. 20: Inserts Senate language which provides that $35,000,000 may be available for the CINC initiative fund account.

SPECIAL OPERATIONS COMMAND

Amendment No. 21: Restores the House language which earmarks funds for the Special Operations Command. Instead of $501,300,000 as proposed by the House, the conferees agree to provide $561,300,000.

The conference agreement on the items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Budget Request	572,700	572,700	572,700
Acquisition/Civilian Manpower	−1,900		−1,900
Guard & Reserve Offset	−69,500	0	0
Plng & Rehearsal Sys/Foreign Int Def		−19,500	−19,500
Army Shortfall:			
JCS Exercises			1,800
Stock Fund Surcharge			3,000
Communications Support			2,000
SEAL Platoons/Boat Det Inventory			3,200
Total Operation and Maintenance	501,300	553,200	561,300

The conferees understand there is a significant shortfall in the Operation & Maintenance appropriation for Army and Navy special operations units. The conferees agree to provide $10,000,000 to fund the shortfalls in the accounts shown in the table.

Amendment No. 22: Restores and amends House language which provides $200,000,000 in economic assistance available until September 30, 1993, to the Department of Defense to assist State and local governments which are significantly impacted by reductions in defense industry employment or the reduced employment of direct Department of Defense military and civilian personnel residing in such communities. The conferees note that they have not approved bill language requiring transfers to the Department of Commerce and Department of Labor as proposed by the House.

The conferees agree that it is important to respond to the needs of the individuals, communities and States affected by economic hardship caused by Defense spending changes. The conferees note that since 1961 the Department of Defense has regarded economic adjustment as an appropriate and important mission. The conferees firmly reject suggestions by some within the current Administration that providing $200,000,000 in economic adjustment assistance is tantamount to raiding defense spending (budget function 050) to fund domestic programs and that to do so is in some fashion to have violated the recent budget summit agreement.

One of the Department of Defense's own publications, "25 Years of Civilian Reuse", published by the Office of Economic Adjustment states the Department's policy clearly:

"Economic adjustment assistance is often required to alleviate serious local impacts of certain Defense program changes. Impacts may result from major realignment actions that reduce local employment (base closures, reductions-in-force, and contract cutbacks). . . . Changes can impact on individuals and have secondary effects on area businesses, local governments and other elements of the local economy. . . . When a serious impact is unavoidable, the Department takes the lead in efforts to alleviate the problem."

The conferees direct the Department to submit a quarterly report detailing how much, where, and for what purpose this funding was utilized.

Amendment No. 23: Restores and amends House language which directs that any un-

distributed civilian personnel reduction be apportioned on an equitable basis to all defense agencies, the Office of the Secretary of Defense, and the Washington Headquarters Services.

Amendment No. 24: Restores House language which exempts Special Operations Command from being included in unspecified civilian personnel reductions.

Amendment No. 25: Restores House language which provides $10,000,000 for impact aid and earmarks aid for two Texas independent school districts.

Amendment No. 26: Restores House language which provides for the transfer of $912,000 to the Library of Congress.

Amendment No. 27: Deletes House language making a portion of the appropriation subject to authorization and inserts language which states that $69,500,000 of funds appropriated for the Special Operations Command shall be transferred to the Reserve Components for execution.

The conferees believe that the Special Operations Command and the Reserve Components should work together to develop the fiscal year 1992 budget request, but that the execution of funds should be accomplished by the Reserve Components. The conferees urge the Special Operations Command and the Chiefs and Directors of the Reserve Components to work out all legal and technical difficulties and enter into a Memorandum of Agreement satisfactory to all concerned.

Amendment No. 28: Adds Senate language providing $4,000,000 for the establishment of a Japanese American Museum.

JAPANESE AMERICAN MUSEUM

Consistent with the Senate bill, the conferees direct the Department of Defense to provide $4,000,000 for the establishment of the Japanese American Museum as a component of the proposed Japanese American Cultural Center in Ontario, OR. The Conferees recognize that the area in and around Ontario, OR, was classified as a free zone during World War II, and attracted as many as 5,000 Japanese Americans during and after the war. The Japanese American Museum will commemorate those American citizens who were denied the protection accorded all American citizens under the Bill of Rights, and were detained in internment camps in the Western United States for the duration of the war. In addition, the museum will recognize the important contributions that were made by those Japanese Americans who served in the United States military with great distinction in both the Pacific and European theaters of war.

The proposed Japanese American Cultural Center will be cost shared through a Federal/State/local arrangement. The Federal share will be utilized solely on the museum portion of the project. The conferees understand that the State and local share of the project is expected to be approximately $5,000,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

Amendment No. 29: Appropriates $909,100,000 instead of $933,607,000 as proposed by the House and $871,360,000 as proposed by the Senate and deletes House language making a portion of the appropriation subject to authorization.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Special Operations Forces		+19,800		
Recruiting/Advertising			−14,740	−7,370
Automatic Data Processing		−7,793		−4,241
Force Structure		+18,700		+23,000
Technician/Transition Overstrength		+5,000		
Environmental Programs		+3,000		
Army Continuing Education		+4,500		
Increased Missions				+9,461
Inventory Management			−4,300	−2,150
All other items	890,400	890,400	890,400	890,400
Total	890,400	933,607	871,360	909,100

OPERATION AND MAINTENANCE, NAVY RESERVE

Amendment No. 30: Appropriates $998,000,000 instead of $1,015,800,000 as proposed by the House and $976,114,000 as proposed by the Senate and deletes House language making a portion of the appropriation subject to authorization.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Special Operations Forces		+6,000		
Recruiting/Advertising			−3,010	−1,505
Automatic Data Processing		−4,000		
Force Structure		+20,200		+20,200
Transition Overstrength		+2,800		
Increased Missions			+4,400	+4,400
C-130T Spares/ Maintenance		+6,200		
General add		−1,324		−1,324
Inventory Management			−11,200	−9,695
All other items	985,924	985,924	985,924	985,924
Total	985,924	1,015,800	976,114	998,000

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

Amendment No. 31: Appropriates $84,800,000 instead of $86,400,000 as proposed by the House and $83,180,000 as proposed by the Senate and deletes House language making a portion of the appropriation subject to authorization.

The conference agreement on items addressed by either the House or Senate is as follows:

[H240C0-B

[In thousands of dollars]

	Budget	House	Senate	Conference
Recruiting/Advertising			−1,620	−750
Transition Overstrength		+300		
Inventory Management			−1,300	−550
All other items	86,100	86,100	86,100	86,100
Total	84,800	86,400	83,180	84,800

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

Amendment No. 32: Appropriates $1,065,900,000 instead of $1,076,500,000 as proposed by the House and $1,055,360,000 as proposed by the Senate and deletes House language making a portion of the appropriation subject to authorization.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Special Operations Forces		+20,000		
Recruiting/Advertising			−2,240	−1,285
Force Structure		+8,300		+8,300
Transition Overstrength		+5,700		
Increased Missions			+18,000	+18,000
Inventory Management			−2,900	−1,615
All other items	1,042,500	1,042,500	1,042,500	1,042,50
Total	1,042,500	1,076,500	1,055,360	1,065,900

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

Amendment No. 33: Appropriates $1,980,400,000 instead of $2,049,241,000 as proposed by the House and $1,960,360,000 as proposed by the Senate and deletes House language making a portion of the appropriation subject to authorization.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Special Operations Forces		+11,500		
Recruiting/Advertising			−10,040	−5,020
Force Structure		+22,600		+10,000
Transition Overstrength		+12,900		
Army Continuing Education		+5,000		
Equipment Maintenance/ Transportation		+5,000		
Automatic Data Processing		+4,241		+4,241
Inventory Management			−18,100	−17,321
All other items	1,988,500	1,988,500	1,988,500	1,988,500
Total	1,988,500	2,049,241	1,960,360	1,980,400

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

Amendment No. 34: Appropriates $2,247,200,000 instead of $2,235,100,000 as proposed by the House and $2,217,990,000 as proposed by the Senate and deletes House language making a portion of the appropriation subject to authorization.

The conference agreement on items addressed by either the House or Senate is as follows:

	Budget	House	Senate	Conference
Special Operations Forces		+12,200		
Recruiting/Advertising			−1,610	−805
Force Structure		+35,000		+27,600
Technician/Transition Overstrength		+12,500		
Increased Missions			+53,000	+49,405
Inventory Management			−8,800	−4,400
All other items	2,175,400	2,175,400	2,175,400	2,175,400
Total	2,175,400	2,235,100	2,217,990	2,247,200

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

Amendment No. 35: Appropriates $5,000,000 as proposed by the House instead of $5,600,000 as proposed by the Senate and restores House language which restores the words "not to exceed".

Amendment No. 36: Deletes House language making a portion of the appropriation subject to authorization.

COURT OF MILITARY APPEALS, DEFENSE

Amendment No. 37: Appropriates $5,400,000 instead of $5,000,000 as proposed

by the House and $5,500,000 as proposed by the Senate.

ENVIRONMENTAL RESTORATION, DEFENSE

Amendment No. 38: Appropriates $1,062,527,000 as proposed by the Senate instead of $1,900,000,000 as proposed by the House. While the conferees agree to the authorized level, they believe it to be well below what is required by the Department to alleviate the backlog of environmental cleanup at sites contaminated by past practices. The conferees strongly encourage the Department to submit a higher level in the fiscal year 1992 budget request.

Amendment No. 39: Deletes House language which would have provided that $854,000,000 should not become available for obligation before September 1, 1991, and deletes House language making a portion of the appropriation subject to authorization.

Amendment No. 40: Deletes House language which would have allowed the transfer of funds into this appropriation for the same purpose and same time period of this appropriation.

DEFENSE REUTILIZATION AND MATERIALS ORGANIZATION

The conferees agree on the need for a more accurate assessment of the costs and benefits associated with current hazardous waste disposal methods through the Defense Reutilization and Materials Organization (DRMO). A thorough review of current waste management processes as called for in the Senate report could lead to significant cost savings and is endorsed by the conferees.

GROUNDWATER CONTAMINATION REMEDIATION DEMONSTRATION PROJECT

The conferees direct that not less than $1,000,000 be made available for a groundwater contamination remediation demonstration project which employs a biological fluidized bed system containing granular activated carbon as the microbial support medium, microbial cultures with proven ability to degrade nitrates, chlorinated aromatic compounds, benzene, toluene, and xylene, as well as an advanced monitoring system to ensure optimal control of electron donor feeds.

THERMAL DESTRUCTION PYROLYSIS PROCESS

The conferees are concerned that a highly complex waste composed of RCRA regulated waste and radioactive waste has been and is currently being produced at our DOD installations in the United States. The complex nature of the treatment of this waste has prevented its effective treatment and disposal. This has resulted in extremely costly storage of these wastes until a suitable disposal technology has been identified. Therefore, the conferees direct that $1,500,000 be made available to demonstrate the use of a proven thermal destruction pyrolysis process which will destroy the RCRA portion of mixed waste. This process will, without causing radioactive releases to the environment, convert the mixed waste to radioactive waste only, thereby allowing existing technology to be utilized for the disposal of the remaining radioactive portion. This demonstration through the use of pilot plant system of the pyrolysis process, would be accomplished at a selected DOD facility. The result of this demonstration would be used to design, procure, and operate full scale facilities at selected waste sites to effect the treatment of these wastes and eliminate the continuing costly storage.

HUMANITARIAN ASSISTANCE

Amendment No. 41: Appropriates $15,000,000 as proposed by the House instead of $13,000,000 as proposed by the Senate.

Amendment No. 42: Deletes House language making a portion of the appropriation subject to authorization.

AUTOMATED DATA PROCESSING RESOURCES

The conferees agree to the following funding adjustments:

[In thousands of dollars]

Program	O&M	Procurement	Total
ARMY			
CIM reduction	−542,070		−542,070
Computer Maintence	−20,000		−20,000
Army Guard	4,241		4,241
Army Reserve	−4,241		−4,241
Worldwide Military Command and Control System		−5,000	−5,000
Automated Data Processing Equipment (P–1 line 110):			
AMC Info. Processing Eqpt		−5,468	−5,468
Financial Mgmt. Automation		−9,104	−9,104
EUCOM/PACOM ADP		−4,000	−4,000
CALS Info. Processing Eqpt.		−2,810	−2,810
Subtotal		−21,382	−21,382
Total Reduction, Army	−562,070	−26,382	−588,452
NAVY			
CIM reduction	−287,373		−287,373
Computer Maintenance	−25,000		−25,000
Industrial/Depot Maintenance Equipment (P–1 line 295):			
MIS for Air Engineering Centers		−6,409	−6,409
Military Sealift Command ADP		−1,033	−1,033
Engineering Data Management Information & Control System		−16,453	−16,453
Supervisor's Desk		−4,330	−4,330
Subtotal		−28,225	−28,225
Computer Acquisition Program (P–1 line 296):			
Stock Point ADP Replacement		−11,623	−11,623
Inventory Control Point Resolicitation		−14,549	−14,549
Navy Standard Technical Information System		−2,734	−2,734
Central Processing & Distribution		−1,112	−1,112
Navy Occupational Health Info. Mgmt. System		−1,443	−1,443
Triservice Micropharmacy & Food Service Systems		−505	−505
CAD/CAM		−2,500	−2,500
Station Information Mgmt. System		−5,322	−5,322
Central Processing Unit–II		−2,400	−2,400
Worldwide Military Command & Control System		−1,703	−1,730
Subtotal		−43,918	−43,918
Total Reduction, Navy	−312,373	−72,143	−384,516
AIR FORCE			
CIM reduction	−427,182		−427,182
CALS	20,000		20,000
Automated Data Processing Equipment (P–1 line 136):			
Personnel Concept–III		−29,106	−29,106
Requirements Data Bank		−2,946	−2,946
Clinical and Diagnostic Systems		−1,084	−1,084
Subtotal		−33,136	−33,136
Worldwide Military Command and Control System		−8,357	−8,357
Military Airlift Command Command and Control Sys		−7,000	−7,000
Base Level Data Automation		−10,852	−10,852
Asset Capitalization Program Depot Maintenance Management Information System		−37,000	−37,000
Total Reduction, Air Force	−407,182	−96,345	−503,527
DOD agencies			
CIM reduction	−118,336		−118,336
DLA Computer Maint	−4,000		−4,000
Mechanized Materiel Handling Systems		−4,000	−4,000
Worldwide Military Command and Control System		−2,602	−2,602
Automated Data Processing Equipment (P–1 line 17):			
Standard Automated Materiel Management System		−14,000	−14,000
Immediate Improvement Initiative		−6,500	−6,500
Cataloging Tool On-Line		−13,275	−13,275
Engineering Data Management Information and Control System		−33,775	−33,775
Subtotal		−40,377	−162,713
Total Reduction, Defense Agencies	−122,336		
CIM General Provision	1,000,000		1,000,000
CIM, Defense Agencies		22,963	22,963
Total reduction	−403,961	−212,284	−616,245

Corporate Information Management.—The conferees strongly endorse the Corporate Information Management (CIM) Initiative, a constructive effort undertaken by the Department of Defense to ensure the standardization, quality, and consistency of data from DOD's multiple administrative management information systems.

The conferees therefore agree to the Senate's approach for financing the CIM initiative. The conference agreement centralizes management of development, modernization, and procurement funds for CIM-related automated information systems in the Office of the Secretary of Defense (OSD) CIM program office. It also provides $1,000,000,000 of development and modernization operation and maintenance funding to the Secretary of Defense, and moves procurement funding for service proposed systems to the central CIM funding line in Procurement, Defense Agencies. While the overall service level of funding for automated data processing operation and maintenance and procurement has been reduced, the conferees emphasize that no specific service information system program has been terminated by this action.

The conferees agree that the DOD senior information resources management official shall allocate funding to individual automated information systems which meet or exceed the criteria established by the Comptroller for standard information systems and further the objectives of the CIM initiative. The conferees are aware that several current systems, among them, the Depot Maintenance Management Information System (DMMIS), Requirements Data Bank (RDB), and Cataloging Tool On-Line (CTOL) may be candidates for CIM funding. The conferees strongly urge the DOD senior information resources management official to expeditiously choose interim standard systems and allocate funds to minimize the impact of the transfer upon existing contractual obligations. The conferees direct DOD's senior information resources management official to submit a report to the Appropriations Committees of Congress by March 1, 1991 on the status and progress of the CIM initiative, to include program milestones, return-on-investment objectives, dates for selection of interim standard systems in each functional area, and anticipated investment costs associated with the development of interim standard systems or the integration of existing systems with the interim standard architecture. The conferees direct the services and defense agencies to submit future budget requests for medical, materiel management, logistics, and other CIM-related systems through the CIM program director for coordination and review.

Computer-aided Acquisition and Logistics Support Program.—The conferees fully support the Defense Department's computer-aided acquisition and logistics support (CALS) program and encourage the Department to accelerate its efforts to standardize

technical data. The conferees agree to the Senate's transfer of funds requested by the services for CALS-related systems to the central CIM funding line in Procurement, Defense Agencies. The conference agreement also directs the services and defense agencies to submit future funding requests for CALS-related systems through the OSD CALS coordinator. The Office of the Secretary of Defense (OSD) requested $95,000,000 in fiscal year 1991 to accelerate Navy initiatives to improve the development, maintenance, and dissemination of logistics, engineering, and design data. The conferees note that the justification provided by OSD for these funds does not adequately support the request to accelerate these projects, and therefore, within the CIM procurement funding line, the availability of the $95,000,000 provided in fiscal year 1991 for CALS programs is not restricted to funding of Navy projects. Before obligating any of these funds, the conferees direct OSD to review Army, Navy, Air Force, and defense agency CALS projects and programs to determine which projects and systems will be selected as CALS standards. The conferees direct OSD to notify the Committees on Appropriations and Armed Services of the results of the review, and provide the Committees with a revised acquisition plan for CALS that addresses the termination of duplicative CALS programs.

Medical automated information systems.—The conferees agree with the Senate's transfer of service medical system funding to the Office of the Secretary of Defense. The conference agreement transfers funding for the Navy's Central Processing and Distribution system, Occupational Health Information Management System, and Tri-service micropharmacy and food service systems from the Navy's computer acquisition program to the Corporate Information Management (CIM) funding line in Procurement, Defense Agencies. It also transfers funding for the Air Force Clinical and Diagnostic System from the Air Force automated data processing (ADP) equipment funding line to the CIM funding line. The conferees reiterate their request for a medical ADP architecture (plan) for the medical ADP modernization projects currently underway by February 1, 1991, and direct DOD to coordinate this plan through the CIM medical working group.

Logistics ADP Master Plan.—The conferees agree with the House language which required the Assistant Secretary of Defense for Production and Logistics to submit a master plan for DOD logistics computer modernization programs currently underway by February 1, 1991.

Computer Maintenance.—The conferees agree to the House reductions to ADP operation and maintenance funds for unnecessary growth in computer maintenance costs. Of the reductions listed in the automated data processing table, $20,000,000 in the Army, $25,000,000 in the Navy, and $4,000,000 in the Defense Logistics Agency are to be applied to computer maintenance costs.

Army Reductions.—The conference agreement includes the following reductions to Army ADP procurement funds: $5,468,000 from the Army Materiel Command due to lack of justification; $2,810,000 from the Army Materiel Command digital storage and retrieval engineering data system has been transferred to the CIM funding line; $4,000,000 has been reduced from EUCOM/PACOM ADP for anticipated force structure reductions; and funds for the Army Finance Center financial management automation project have been denied pending the outcome of DOD consolidation of the services' finance centers.

Navy Reductions.—(1) Industrial/Depot Maintenance Equipment: The conferees agree with the Senate's reductions to ADP funding in the industrial/depot maintenance account. However, the conferees have agreed to provide funding for the Navy regional data automation centers. (2) Computer Acquisition Program: The conferees agree to Senate reductions to the Navy Stock Point ADP Replacement, Inventory Control Point Resolicitation, Navy Standard Technical Information System, Central Processing and Distribution System, Occupational Health Information Management System, Tri-service micropharmacy and food service systems, and the Station Information Management System. The conferees also accepted the House reductions to CAD/CAM and the Central Processing Unit-II program. The conferees direct the Navy to separate the WWMCCS program from the computer acquisition program, and display the WWMCCS funding in a separate P-1 line in future budget requests to the Congress.

RESCOMMIS.—The conferees do not agree with the House proposed language to deny funds for expansion of the system. However, the DOD senior information resources management official should certify to the Appropriation Committees of Congress by February 1, 1991 that the RESCOMMIS acquisition strategy is cost-effective and meets CIM objectives.

Air Force Reductions.—The conferees accepted the Senate's reductions of the Clinical and Diagnostic system, Requirements Data Bank, and Personnel Concept III (PC-III). The conferees agree that further deployment of PC-III should be postponed pending the selection of a standard personnel management information system.

Military Airlift Command, Command and Control System.—The conference agreement reduces the Air Force request for information processing equipment for the MAC command and control system. The conferees note that software development problems have resulted in a schedule slip and increased development risk to the government. The conferees direct the Air Force to present this program to the Major Automated Information System Review Committee (MAISRC) for review as an item of special interest in fiscal year 1991.

Base Level Data Automation.—The conferees have denied funding for the Base Combat Ammunition System. The conferees do not support deployment of any automated data processing system which has not been reviewed by the Air Force or OSD MAISRC for compliance with DOD life cycle management principles.

Asset Capitalization Program.—As discussed above, the conferees agree the Depot Maintenance Management Information System (DMMIS) may be considered a candidate system for Corporate Information Management funding in Procurement, Defense Agencies.

AFLC.—The conferees do not agree to the House bill language concerning funding for the Air Force Logistics Command (AFLC) logistics modernization system (LMS). Instead, the conferees direct the DOD senior information resources management official to report to the Appropriations Committees of Congress on any change made to AFLC LMS funding in any appropriation or fund presented to the Congress in the fiscal year 1991 President's budget.

Ada.—The House proposed that after June 1, 1991, all Department of Defense software be written in the programming language Ada. The conferees agree to the House proposal, but have modified the bill language to include the phrase "where cost effective."

Composite Health Care System (CHCS).—The Senate proposed deferring further deployment of CHCS until full operational test and evaluation is completed at all six CHCS test sites. The conferees agree with the intent of the Senate provision to maintain discipline over the deployment of this high priority medical system, but believe that the Defense Department's MAISRC process can accomplish this objective without further legislation. The conferees direct the Office of the Secretary of Defense to notify the Committees on Appropriations prior to significant deployment decisions for the CHCS system.

TITLE III—PROCUREMENT

General Conference Issues

WORLDWIDE MILITARY COMMAND AND CONTROL SYSTEM (WWMCCS)

Funds were requested by each of the services for the World-Wide Military Command, Control, and Communications System. This program provides automated information management of forces and resources to the National Command Authority through the Joint Chiefs of Staff and military services.

[1205] The conferees reemphasize the concerns expressed in the Fiscal Year 1990 Defense Appropriations Conference Report regarding the WWMCCS program. Despite the high priority assigned this system by the Joint Chiefs of Staff, it appears that WWMCCS continues to be developed and deployed without a coherent management structure that captures both the joint aspects supporting National Command Authority requirements and the service-unique aspects supporting other command and control requirements. In addition, Defense Acquisition Board review of the 1989 WWMCCS program restructuring has been postponed pending the resolution of a contract bid protest.

The conferees note that substantial unobligated funds remain available as a result of the contract delay, and therefore, have made reductions without prejudice to the fiscal year 1991 WWMCCS requests. The conferees fully support the WWMCCS program, and believe that timely review is necessary to ensure that duplicative functions [1206] are not being developed separately by the military departments and that the interfaces between the joint program and the service programs are efficient. The conference agreement restores funding to the WWMCCS service and defense agency procurement appropriations, provided that no appropriated funds be obligated prior to the completion of the DAB review of the restructured WWMCCS program.

NAVSTAR GPS USER EQUIPMENT

The conferees recognize the valuable operational capability provided to U.S. forces by NAVSTAR GPS user equipment. However, due to recent testing results in five-channel sets, the Department of Defense has extended low rate initial production for an additional two years.

The House report recommended the deletion of all fiscal year 1991 funds due to operational testing delays, prior year unobligated balances, and deferral of full rate production. The Senate report recommended the deletion of fiscal year 1991 funding for five-

channel user sets. After further review of the NAVSTAR GPS user equipment program, and assurances from OSD officials that government risk has been minimized, the conference agreement provides the following fiscal year 1991 funding under low rates of initial production: $11,874,000 to Other Procurement, Army for procurement of one- and five-channel sets and $5,800,000 to Other Procurement, Navy. The conferees direct the Air Force to use unobligated prior year funds to procure five-channel sets at no more than the 35% option of low rate production.

ELECTRONIC WARFARE

The conferees are concerned with the direction and management of electronic warfare programs within the Department of Defense. The conferees endorse the proposal presented by the authorization committees' conference and have adjusted amounts for electronic warfare systems in the bill accordingly.

The conferees agree that funds from the new Defense Agencies procurement line item may not be used to allow the ALQ-135 system, the airborne self-protection jammer, the ALQ-184 pod, and a classified Air Force program to proceed beyond minimum essential production levels until the Director of Defense Operational Test and Evaluation has certified to the Congress that the program has been thoroughly tested and meets all operational criteria. In addition, the conferees direct that the programs involved may not use fiscal year 1991 funds to award production contracts until the Defense Acquisition Board has approved a coherent strategy for electronic warfare programs which incorporates overall policy direction from top management and supporting rationale for proceeding with the programs selected. The Congressional Defense Committees are to be advised in writing of the results of the Defense Acquisition Board decisions on electronic warfare programs before the release of funds from the Defense Agencies procurement account.

The conference agreement reflects the following adjustments to the budget request:

Procurement:	
F/A-18 (ASPJ)	−$75,000,000
AV-8B (ASPJ)	− 17,000,000
F-14D (ASPJ)	− 9,000,000
F-15E (ALQ-135)	−155,800,000
F-15 Mods (ALQ-135)	− 38,800,000
Common ECM (ALQ-184)	−125,900,000
Defense Agencies	+161,500,000
RDT&E:	
Navy (ASPJ)	+ 6,500,000
Air Force (ASPJ)	+15,000,000

C-20F TRANSPORT AIRCRAFT

The Congress has appropriated funds in fiscal years 1990 and 1991 to acquire C-20F transport aircraft for the Air Force, Army, National Guard, and Naval Reserve. The conferees understand the C-20F to be the Gulfstream G-IV aircraft, in various configurations. The conferees expect the Department to proceed to procure these aircraft expeditiously, consistent with the designation of the Gulfstream IV aircraft as the C-20F.

AUTOMATIC BUILDING MACHINES

The Conferees agree to provide $8,000,000 within Other Procurement, Army; $1,600,000 within Other Procurement, Navy; and $5,000,000 within Other Procurement, Air Force for the competitive procurement of automatic building machines which will provide a capability for the rapid assembly of temporary structures which can be quickly assembled and subsequently disassembled.

AIRCRAFT PROCUREMENT, ARMY

Amendment No. 43: Appropriates $1,096,182,000 for Aircraft Procurement, Army instead of $1,576,329,000 as proposed by the House and $853,366,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Aircraft Procurement, Army:				
RC-12H/K Recon Airplane (TIARA)	87,407	87,407	62,407	87,407
C-20 Aircraft				24,900
AH-64 Attack Helicopter (APACHE) (MYP)	104,226	81,300	104,226	91,326
UH-60 Blackhawk (MYP)	272,118	260,618	116,118	104,618
UH-60 Blackhawk (MYP) (AP-CY)	197,191	127,191	47,691	47,691
AH-64 MODS	85,687	54,500	78,587	47,400
CH-47 Cargo Helicopter (MODS) (MYP)	237,761	237,761	11,000	234,561
CH-47 Cargo Helicopter (MODS) (MYP) (AP-CY)	56,443	56,443		56,443
OH-58 MODS	24,695	24,695	20,495	20,495
UH-60 MODS	83,527	47,900	72,727	58,027
AHIP		200,000		
Armed AHIP	47,993	47,993	13,193	13,193
Tractor Heavy MODS	767		767	
Retirement of Obsolete Aircraft			−40,400	−40,400
Aircraft Survivability Equipment	107,890	100,890	107,890	100,890
Avionics Support Equipment	43,634	34,600	43,634	34,600

TOTAL PACKAGE FIELDING

The conferees understand that, with the implementation of the Packard Commission recommendations to streamline acquisition management structures, the fielding costs (initial spares, manuals, other support) for weapons systems are the responsibility of the project managers and, therefore, should be funded within the funds made available in this Act for the acquisition of the system.

The conferees have provided $60,000,000 to a consolidated line within Operation and Maintenance, Army to fund the fielding costs in fiscal year 1991. The Army shall report to the Committees on Appropriations as to which system and for what items these funds will be allocated.

The conferees further direct that the fiscal year 1992 budget reflect in the system procurement lines the full requirements for systems acquisition to include project management staff, delivery of equipment to units, and contractor logistics support required prior to full delivery of TMDE. This will provide the conferees, for the first time, full cost visibility for these major defense acquisitions.

GRISLY HUNTER

The conferees are aware of the need for and support the counternarcotics mission of the Grisly Hunter program. They also understand the special operations and low intensity conflict capabilities of the system. However, a number of reservations still remain concerning cost and the acquisition strategy. The conferees would consider a reprogramming once the Grisly Hunter program is restructured to assure both appropriations committees that the scope of the program and the acquisition strategy is consistent with mission requirements and is cost effective.

C-20 AIRCRAFT

The conference agreement includes $24,900,000 for the procurement of one C-20F aircraft for the U.S. Army Pacific Command. This aircraft will be located at headquarters USARPAC to support critical Army and CINCPAC requirements. The establishment of USARPAC in 1990 created the Army's largest geographical area of responsibility. The addition of this aircraft will permit the Commander, USARPAC, to meet both his direct command and representative missions.

AH-64 APACHE HELICOPTER

The conference agreement of $91,326,000 for the AH-64 Apache helicopter specifically denies the $12,900,000 budgeted for a trainer, based on late contract award.

UH-60 BLACK HAWK HELICOPTER

The conference agreement funds the 72 UH-60 Black Hawk aircraft included in the Army budget, 48 in the Aircraft Procurement, Army appropriation and 24 in the National Guard and Reserve Equipment appropriation. The conference agreement includes $7,800,000 for Command and Control Consoles on a separate line, instead of $5,000,000 as budgeted on the Black Hawk line. The conference agreement also includes a reduction from the budget of $6,500,000 based on contract savings.

The conferees agree that the uncertainty surrounding future Black Hawk procurement does not justify multiyear procurement as proposed by the House. However, the Army is invited to propose multiyear procurement in the fiscal year 1992 budget if a stable procurement profile can be demonstrated.

AH-64 APACHE MODIFICATIONS

The conference agreement denies $31,187,000 budgeted for air-to-air Stinger, as proposed by the House, and $7,100,000 for a trainer, as proposed by the Senate.

CH-47 CHINOOK MODIFICATIONS

The conference agreement funds the authorization minus the $3,200,000 reduction for the Navstar global positioning system which was proposed by the Senate.

UH-60 BLACK HAWK MODIFICATIONS

The conference agreement funds the budgeted modifications minus the $25,500,000 proposed for the procurement of flight data recorders.

Amendment No. 44: Deletes House provision which authorized procurement of AHIP Scout aircraft for the Army.

Amendment No. 45: Deletes House provision making a portion of the appropriation subject to authorization.

MISSILE PROCUREMENT, ARMY

Amendment No. 46: Appropriates $2,218,422,000 for Missile Procurement, Army, instead of $2,335,164,000 as proposed by the House and $2,103,231,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Missile Procurement, Army:				
Patriot (MYP)	883,152	828,752	704,952	736,352
Avenger (PED MT Stinger) (MYP)	97,391	91,982	97,391	91,982
Laser Hellfire System	123,279	103,279	106,279	106,279
Tow 2	219,465	202,839	175,497	175,497
Multple Launch Rocket System (MYP)	313,915	403,115	313,915	403,115

PATRIOT

The conference agreement on the Patriot missile reflects the House reduction of $54,400,000 and the Senate reduction of $92,400,000. The agreement does not include the House restriction on the obligation of funds for the Italian Patriot case.

AAWS-M

The Army's AAWS-M (Advanced Anti-Tank Weapon System—Medium) calls for production of test missiles to be delivered through 1991. Production would then stop for test and evaluation; assuming the design proved successful, production would then resume on the same production line after a hiatus of approximately two years. This is a rapid but prudent program, consistent with the principle of "fly before buy" upon which Congress has generally insisted.

The threat of hostilities in the Persian Gulf now creates a possible need for greatly accelerated AAWS-M deployment. Information obtained from the Army and the contractor suggests that, by continuing production without interruption and diverting some 1991 missiles to the Mideast, first unit equipment of AAWS-Ms could be achieved in the fall or winter of 1991. These weapons would be man-rated and desert qualified, but not Arctic or tropical qualified.

Such a procedure would only be feasible if initial testing proves entirely successful, with no significant component redesign required. Accordingly, the conferees direct the Army to submit a report, no later than March 1, 1991, on the feasibility, desirability, and cost of continuous AAWS-M production and initial Persian Gulf deployment in calendar year 1991.

The conferees emphasize that the AAWS-M program is already seeking to bring major breakthrough state-of-the-art technology on line as rapidly as normal procedures allow. If the Army recommends against this acceleration, this should in no sense be interpreted as a shortcoming or lack of confidence in the program.

TOW 2B

The conferees note that costs in the TOW 2B program have risen dramatically within the past year. As a result, it is difficult to predict how many missiles may be procured with the funding provided. Accordingly, the Department of the Army is authorized to buy as many TOW 2B missiles as possible with the funds provided in the conference agreement.

Amendment number 47: Deletes House language restricting a portion of the appropriation from obligation or expenditure until authorized by law.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

Amendment No. 48: Appropriates $2,172,021,000 for Procurement of Weapons and Tracked Combat Vehicles, Army, instead of $2,290,718,000 as proposed by the House and $1,895,552,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Procurement of W&TCV, Army:				
Bradley Fighting Vehicle Family (MYP) (AP-CY)	30,500	30,500	30,500	
M1 Abrams Tank Series (MYP)		808,500	747,324	747,324
M1 Abrams Tank Series (MYP) (AP-CY)		150,000		150,000
BFVS Series (MOD)	146,135	95,035	146,135	95,035
Howitzer, MED SP FT 155MM M109 SER(MOD)	206,827	180,900		180,900
M1 Abrams Tank (MOD)		80,137	144,137	80,137
M1 to M1A1 Upgrade Program		64,000		64,000
Production Base Support (TCV-WTCV)	83,166	83,166	20,566	51,866
Machine Gun, 5.56MM (SAW)	12,450	9,485	12,450	9,485
Grenade Launcher, Auto, 40MM, MK19-3				12,300
Personal Defense Weapon, 9MM	8,021	8,021		
VEH Rapid Fire WPN SYS-Bushmaster (MYP)	25,466	14,000	25,466	14,000
VEH Rapid Fire WPN SYS-Bushmaster (MYP) (AP-CY)	2,000		2,000	

BRADLEY FIGHTING VEHICLE

The conference agreement for the Bradley Fighting Vehicle includes funding at the budgeted level for 600 vehicles and deletes the rescission of prior year funding which was proposed by the House. With full funding now available to the program, the conferees expect the Army to buy out the remainder of its stated Bradley requirement. A total of 1200 vehicles is funded in fiscal years 1990 and 1991.

M1 TANK

The conference agreement provides $747,324,000, the amount which the Army estimated to be required to procure 162 M1A1 and 63 M1A2 tanks. The conferees are in agreement that M1A1 tanks only may be procured in fiscal year 1991. Since the cost of the M1A2 tank is considerably more than the M1A1, the Army should be able to procure more M1A1 tanks than the total tank budget of 225. The conferees encourage the Army to procure as many M1A1 tanks as possible with the available funds.

The conferees expect the Army to budget for procurement of M1A2 tanks in fiscal year 1992 if production is approved. Advance procurement is included in the conference agreement for this purpose. The conferees also expect the Army to budget for a M1 to M1A1 upgrade program in fiscal year 1992. Start-up funding for this purpose is also included in the conference agreement.

9MM HANDGUN

The conference agreement denies funding for the 9mm handgun without prejudice because of production and acceptance delays in the program. If fiscal year 1991 funding is required for acceptance testing, the program office, or any other justified requirement, the Army should submit a reprogramming for that purpose.

Amendment No. 49: Deletes House provision making a portion of the appropriation subject to authorization.

PROCUREMENT OF AMMUNITION, ARMY

Amendment No. 50: Appropriates $1,367,549,000 for Procurement of Ammunition, Army instead of $1,394,689,000 as proposed by the House and $1,040,459,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Procurement of Ammunition, Army:				
CTG, 5.56MM, ALL TYPES	52,047	52,047	28,447	52,047
CTG, 7.62MM, ALL TYPES	4,244	4,244	744	4,244
CTG, 30MM, ALL TYPES	9,455	9,455	5,155	5,155
CTG, Mortar, 60MM, 1/ 10 PRAC, M840		4,994		4,994
CTG, Mortar, 120MM, HE, XM934		11,762		11,762
CTG, Mortar, 120MM HE, XM933		12,577		12,577
CTG, Mortar, 120MM, Smoke, XM929		18,310		18,310
CTG, Mortar, 120MM, ILLUM XM930		2,865		2,865
CTG, Tank, 105MM, TP-T, M490A1	8,738	23,038	8,738	8,738
CTG, Tank, 105MM, DS-TP, M724A1	6,511	23,111		23,111
CTG, Tank 120MM, TP-T, M831	41,158	35,358	41,158	35,358
CTG, Artillery, 105MM, Blank, M395	5,740	4,140		
CTG, Artillery, 105MM, HERA M913	15,646	5,000	8,000	5,000
PROJ, Arty, 155MM, ADAM-S M731	36,928	36,928		36,928
PROJ, Arty, 155MM, BASEBURNER M864	118,514	118,514	30,000	118,514
PROJ, Arty, 155MM, HE M107		32,557		32,557
FUZE, Artillery, MECH-TIME, M577		10,700		10,700
FUZE, Artillery, MOUT		18,000		18,000
MINE, Clearing Charge, all types	1,589	1,589	19,789	19,789
AT-4 MULTI-PURPOSE WEAPON	16,642	16,642		16,642
Rocket, Hydra 70, SIG PRAC, M274	35,990	35,990	21,190	35,990
Demolition Munitions, all types	5,621	4,621	2,821	2,821
Simulators, all types	10,197	9,197	3,597	3,597
Nitroguanidine	28,789	29,889	28,789	29,889
Host nation support (AMMO)	18,621		18,621	
Classified Programs	140,004	129,602	140,004	129,602
Provision of Industrial Facilities	134,647	126,500	84,647	129,600
Layaway of Industrial Facilities	40,534	40,534	22,234	22,234

PROVISION OF INDUSTRIAL FACILITIES

The conference agreement for provison of industrial facilities restores funding for production facilities for the sensor fused weapon which were proposed in the budget but denied by the House. The conference agreement also deletes funding proposed by the House for the Indiana Army Ammunition Plant. The conferees agree that, within available funds, the Army shall include $13,000,000 for completion of design work for a full scale facility to manufacture HMX.

Amendment No. 51: Deletes House provision making a portion of the appropriation subject to authorization.

OTHER PROCUREMENT, ARMY

Amendment No. 52: Provides for the procurement of not to exceed six vehicles required for physical security at a cost of not to exceed $165,000 per vehicle as proposed

by the Senate and deletes the word "and" at the end of the amendment.

Amendment No. 53: Deletes the proposed Senate amendment. See Amendment No. 54.

Amendment No. 54: Provides for the procurement of no passenger motor vehicles instead of 168 as proposed by the House and 307 as proposed by the Senate.

Amendment No. 55: Appropriates $2,453,057,000 for Other Procurement, Army instead of $2,298,054,000 as proposed by the House and $2,117,812,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Other Procurement, Army:				
Semitrailer, Tank, 5000G		34,000		34,000
HI MOB Multi-Purp WHLD VEH (HMMWV) (MYP)	252,374	252,374	70,474	252,374
Truck, Tractor, Line Haul, M915A1		13,400		13,400
Passenger Carrying Vehicles	5,570		5,570	
General Purpose Vehicles	7,890		7,890	
Navstar User Equipment	29,383		6,174	11,874
EUCOM Command Centers	7,395			7,395
Southcom C3 Upgrade	1,056	1,056		
WWMCCS Information System (WIS)	20,882	20,882		15,882
Army Data Distribution System (ADDS)	22,184	15,984		8,000
Mobile Subscriber Equip (MSE)	29,257		14,257	29,257
Sincgars Family	311,325	295,925	311,325	295,925
EAC Communications	24,825	24,825		24,825
MOD of IN-SVC Equip (EAC COMM)	37,679	37,679		37,679
General Defense Intelligence Program (GDIP)	29,728	26,606	28,635	29,099
All Source Analysis Sys (ASAS) (TIARA)	59,338		11,838	33,338
Imagery Processing System (IPS) (TIARA)	8,625	1,025	8,625	1,025
Trojan (TIARA)	4,581		4,581	
Tractor Crash	2,136		2,136	
Night Vision Devices	62,185	52,185	62,185	52,185
Radiation Monitoring Systems	18,838	16,838	18,838	16,838
MOD of IN-SVC Equip (TAC SURV)	16,582	14,582	16,582	14,582
Corps/Theater ADP SVC CTR (CTASC)	13,177	8,177	9,677	9,677
Forward Entry Device (FED)	19,749	19,749		10,000
Manuever Control SYS (MCS)		8,500		6,000
Tactical Army CSS Computer Sys (TACCS)	15,733	15,733		6,733
Automated Data Processing Equip	64,763	42,310	45,495	43,381
First Destination Transportation (C-E)	41,484	38,084	41,484	38,084
Special Programs	139,662	50,000		68,662
Recon System, NBC	36,914	36,914	40,414	40,414
M-9 Armored Combat Earthmover (ACE)	59,852		15,952	
Regid Wall Shelter CMD Post Annex	11,381	9,381	11,381	9,381
SWA Petroleum Distribution System	56,156	10,656	56,156	32,856
Water Purif Unit Rev OS 3000 GPH	14,300		14,300	14,300
Combat Support Medical	60,320	55,320	60,320	55,320
Medical Support Equipment	72,428	67,428	72,428	72,428
Generators and Associated Equip	45,821	43,821	45,821	43,821
Truck, Fork Lift, DE, PT, RT, 4000 LB	18,152		18,152	
First Destination Trans (OPA-3)	10,758	9,958	10,758	9,958
Base Level Com'l Equipment	16,254	24,254	16,254	24,254
Ind/Depot Maint Equip	82,400	76,500	37,502	37,502
Reduction for Force Structure Adjustments		-78,700		

ALL SOURCE ANALYSIS SYSTEM (ASAS)

The conferees agree to provide $33,338,000 for the ASAS program instead of no funding as proposed by the House and $11,838,000 as proposed by the Senate. The funding level provided will enable the Army to maintain present efforts to conduct initial operational testing on the limited capability configuration ASAS.

The conferees are acutely aware of the past development problems experienced by ASAS and remain concerned about the substantial out year funding requirements associated with the program. Accordingly, the conferees designate ASAS as an item of congressional interest and will subject subsequent budget requests to continued scrutiny.

ARMY TACTICAL COMMAND AND CONTROL SYSTEM (ATCCS)

The Army Tactical Command and Control System consists of five separate command and control systems, which each have a unique function. The ATCCS program is designed to enhance coordination and control of the key battlefield functional areas of field artillery, tactical intelligence, combat service support, forward area air defense, and force maneuver control. These systems are linked by three separate communications systems. The Army estimates the acquisition cost for these systems at over $20,000,000,000.

The Senate report deleted all funding requested for fiscal year 1991, and directed the Army not to obligate any appropriated funds until the Defense Acquisition Board reviewed ATCCS and published an acquisition decision memorandum for the integrated ATCCS program. The House report did not contain such language. The conference agreement provides fiscal year 1991 funding for the ATCCS program, although the conferees have reduced funding for various components of the ATCCS program. The reductions are made without prejudice. The conference agreement also allows the Army to obligate prior year funds for these programs.

The conferees remain concerned with the Army's approach to developing and deploying ATCCS as an integrated system of systems. In June of 1990, the Army acquisition executive restructured one of the component command and control systems to emphasize light divisions. However, the other four command and control systems were not evaluated for similar changes at the same time, increasing the risk for additional changes in the future.

In addition, the General Accounting Office, in its report, "Oversight Needed to Assure Integration" (GAO/IMTEC-90-78), reported that the Army has not yet fully defined how the component systems will operate as a system of systems and that independent oversight would reduce the risk that the systems may not be able to be integrated as a total system without costly redesign and retrofitting. The conferees, therefore, direct the Army to revise its test and evaluation master plan for each ATCCS component system to include total system interoperability testing at each development and operational testing milestone.

The conferees recognize the considerable time and effort the Army has invested in developing the ATCCS program, and support the concept of an integrated automated battlefield. However, because of the complexity of the Army's plans, and the cost of the program, the conferees believe further development of the ATCCS program should be carefully monitored. Therefore, the conference agreement also directs the Army to present ATCCS, as a system of systems, to the Defense Acquisition Board for review is a major defense acquisition program no later than September 1, 1991.

TRUCK SERVICE LIFE EXTENSION PROGRAM

Amendment No. 56: Deletes House language which stipulated that none of the funds in Other Procurement, Army could be obligated for the Family of Medium Tactical Vehicles (FMTV) until the Army issued a solicitation for a truck Service Life Extension Program (SLEP).

The conferees, however, jointly agree that the Army shall comply with both the bill and report language of the House concerning the SLEP program. Specifically, the Army is directed not to obligate any funds for FMTV until a SLEP solicitation is issued. In addition, the Army is directed to (1) establish a program office under the jurisdiction of the Program Executive Officer for Combat Support, (2) use the results of the recent market survey to fashion a procurement strategy with the objective of producing SLEP trucks at no more than half the cost of a new FMTV, (3) take advantage of experience gained in other SLEP programs, (4) use $10,000,000 of available prior year funds to establish the program office, issue a solicitation, and conduct prototype testing, (5) provide the committees with the procurement strategy and program milestones no later than February 28, 1991. The conferees jointly agree that failure of the Army to comply with these directions will result in legislative action next year.

Amendment No. 57. Deletes House provision which earmarked funds for the Mobile Subscriber Equipment program.

AIRCRAFT PROCUREMENT, NAVY

Amendment No. 58: Appropriates $7,810,452,000 for Aircraft Procurement, Navy, instead of $8,306,229,000 as proposed by the House and $7,343,737,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Aircraft Procurement, Navy				
AV-8B (V/STOL) Harrier (MYP)	457,286	457,286	440,286	440,286

[In thousands of dollars]

	Budget	House	Senate	Conference
AV-8B (V/STOL) Harrier (MYP) (AP-CY)		40,000		40,000
F-14A/D/REMFG (Fighter) Tomcat	779,946	779,946	780,946	770,946
F/A-18 (Fighter) Hornet	1,894,123	1,525,223	1,309,523	1,450,000
F/A-18 (Fighter) Hornet (AP-CY)	150,832	110,832	96,032	110,832
CH/MH-53E (Helicopter) Super Stallion	376,915	25,000		
CH/MH-53E (Helicopter) Super Stallion (AP-CY)	57,845	32,845		32,845
V-22 Osprey (AP-CY)		165,000		165,000
SH-60B (ASW Helicopter) Seahawk (MYP)	104,077	119,577	104,077	119,577
E-2C (Early Warning) Hawkeye	350,914	340,914	350,914	350,914
HH-60H (AP-CY)		6,000		6,000
T-45TS (Trainer) Goshawk	261,000	261,000	91,400	113,200
A-3 Series	102	102		102
A-6 Series	84,093	184,093	84,093	99,093
F-18 Series	19,568	15,154	19,568	19,568
EP-3 Series	22,423	22,423		22,423
P-3 Series	248,191	248,191	173,735	179,883
E-2 Series	119,467	114,427	119,467	119,467
Common Avionics Changes	15,269	3,052	15,269	3,052
Spares and Repair Parts	1,288,542	1,180,553	1,126,116	1,131,953
Aircraft Industrial Facilities	36,034	36,034	30,034	36,034
Other Production Charges	33,592	30,592	33,592	30,592
Retirement of Obsolete Aircraft			−39,300	−39,300

AV-8B HARRIER

The conferees agree to provide $440,286,000 as proposed by the Senate. The reduction of $17,000,000 reflects deletion of the ASPJ funding as explained elsewhere in the report.

AV-8B HARRIER ADVANCE PROCUREMENT

The House recommended $40,000,000 for the AV-8B program for line shutdown, or advance procurement for new aircraft production or remanufacturing if the AV-8B program is to be continued. The conferees agree with the House direction that the funds be used for whichever approach is supported by the fiscal year 1992 President's budget request.

F-14D TOMCAT

The conferees agree to provide $770,946,000 for the F-14D program instead of $779,946,000 as proposed by the House and $780,946,000 as proposed by the Senate.

The budget request included $9,000,000 for ASPJ which has been deleted from this line and is addressed elsewhere in the report.

The conferees are aware of an unbudgeted requirement for fatigue testing for the F-14. The conferees believe sufficient funding is in the budget request to carry out any urgent testing requirements. Therefore, no additional funding is provided for fatigue testing.

F/A-18

The conferees agree to provide $1,450,000,000 for procurement of 48 F/A-18 aircraft. The total funding provided includes a reduction of $75,000,000, which deletes ASPJ funding as explained elsewhere in the report. The conferees further agree to provide $110,832,000 in advance procurement funding to support fiscal year 1992 procurement of 48 aircraft.

T-45 TRAINER SYSTEM

The conferees agree to provide $113,200,000 for T-45 nonrecurring and support costs. The conferees agree with the benefits of modifying the aircraft with a glass cockpit and encourage the Department of the Navy to submit an appropriate budget request in the future. No funding for a glass cockpit is included in the funding provided for fiscal year 1991.

A-6 MODIFICATIONS

The conferees agree to provide $99,093,000 for A-6 modifications, an increase of $15,000,000 to the budget request. The increase is provided only for procurement of a video tape recorder system to replace the existing system installed in A-6 aircraft.

SPARES

The conferees agree to provide $1,131,953,000 for procurement of spare parts. The conference agreement is a reduction of $156,589,000 from the budget request and includes F/A-18, CH/MH-53E, and A-12 reductions commensurate with aircraft quantity reductions. The conferees encourage the Navy to procure spare F/A-18 engines to the maximum extent possible to alleviate shortfalls.

WEAPONS PROCUREMENT, NAVY

Amendment No. 59: Appropriates $5,825,171,000 for Weapons Procurement, Navy by program and activity instead of $5,315,504,000 by program and activity proposed by the House and $5,892,242,000 in a lump sum as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Weapons Procurement, Navy:				
Tomahawk	808,733	658,733	662,500	658,733
Amraam	421,916	351,916	297,000	280,000
Harm	339,382	339,382	284,582	339,382
Standard Missiles	607,762	345,802	607,762	607,762
Ram	70,383		70,383	
Aerial Targets	142,421	149,700	167,421	149,700
Sidewinder Mods	7,076	7,076		
Phoenix Mods	3,809	3,809	76,809	63,809
Weapons Industrial Facilities	24,986	24,986	38,086	38,086
Fleet Satellite Communications (MYP)	249,599		249,599	249,599
Practice Bombs	38,039	28,739	32,739	32,739

MISSILE QUANTITIES

The conferees have included $241,086,000 for standoff land attack missiles and $369,697,000 for high-speed anti-radiation missiles ($339,382,000 in Navy funding and $30,315,000 in Air Force funding). The Navy is authorized to procure as many missiles as possible within available funding.

IMPROVED TACTICAL AIR LAUNCHED DECOY

The conferees recommend a total of $25,000,000 for the tactical air launched decoy/improved tactical air launched decoy program. This includes $17,000,000 in procurement and $8,000,000 in research and development funding. The conferees note that the Department of the Navy also received $25,000,000 in fiscal year 1990 for the TALD/ITALD program. To date, none of those funds have been obligated. In light of the continued development problems and the cloudy future of the Tacit Rainbow program, the conferees urge the Navy to proceed with TALD/ITALD with all deliberate speed.

The conferees have been advised that valuable time could be saved by treating the ITALD program as an engineering change proposal within the framework of the current Memorandum of Understanding and the existing contracts. In the interest of saving administrative time, the conferees encourage the Department of the Navy to explore the benefits of proceeding in this manner.

SHIPBUILDING AND CONVERSION, NAVY

Amendment No. 60: Appropriates $1,331,201,000 for TRIDENT ballistic missile submarine program as proposed by the Senate instead of $1,244,629,000 as proposed by the House.

Amendment No. 61: Appropriates $1,783,000,000 for SSN-21 attack submarine program instead of $2,106,500,000 as proposed by the House and $1,382,000,000 as proposed by the Senate and includes provisions regarding acquisition strategy.

Amendment No. 62: Appropriates $405,000,000 for the carrier service life extension program instead of $983,068,000 as proposed by the House and $113,068,000 as proposed by the Senate and restores the House provisions regarding the location of the industrial availability.

Amendment No. 63: Appropriates $959,800,000 for the LHD-1 amphibious assault ship program as proposed by the Senate instead of $933,800,000 as proposed by the House.

Amendment No. 64: Appropriates $204,000,000 for the MHC coastal mine hunter program as proposed by the House.

Amendment No. 65: Appropriates $900,000,000 for sealift ships instead of $1,500,000,000 as proposed by the House and $1,000,000,000 as proposed by the Senate and provides that $30,000,000 is available only for procurement of one tanker.

Amendment No. 66 and No. 67: Appropriates $409,800,000 for craft, outfitting and post delivery as proposed by the House instead of $465,400,000 as proposed by the Senate.

Amendment No. 68: Appropriates $5,800,000 for first destination transportation as proposed by the House.

Amendment No. 69: Deletes House proposed funding for Maritime Prepositioning, Ready Reserve Fleet and Ship Contract Reserve.

Amendment No. 70: Appropriates a total of $10,160,804,000 instead of $12,329,800,000 as proposed by the House and $9,313,672,000 as proposed by the Senate.

The conference agreement on the items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Shipbuilding and Conversion, Navy:				
Trident (Nuclear)	1,244,629	1,244,629	1,331,201	1,331,201
SSN-21	2,342,900	1,457,000	1,382,000	1,382,000
SSN-21 (AP-CY)	1,139,100	649,500		401,000
CV SLEP		963,068		401,000
CV SLEP (AP-CY)	113,068		113,068	
DDG-51 (MYP)	3,566,403	3,109,403	3,109,403	3,209,403
LHD-1 Amphibious Assault Ship (MYP)	959,800	933,800	959,800	959,800
MHC Mine Hunter Coastal	268,100	204,000		204,000
Service Craft	27,300	75,400	27,300	75,400
Sealift Ship		1,500,000	1,000,000	900,000
Maritime Prepo/ Ready Res FLT/ Ship Cont Res		900,000		
Outfitting	231,100	185,000	231,100	185,000

[In thousands of dollars]

	Budget	House	Senate	Conference
Post Delivery	154,500	139,000	154,500	139,000
Ship Special Support Equipment	36,300		36,300	

SHIP COST ADJUSTMENT

The conferees have included a general provision transferring funds among various accounts to finance anticipated and known prior year shipbuilding program cost increases. For the most part, the adjustments were proposed by the Department of the Navy. In addition to the Navy proposed adjustments, the conferees have provided $10,600,000 in the fiscal year 1990/1994 craft, outfitting, and post delivery account for completion of the special operations patrol boats which were originally funded in the fiscal year 1989 appropriations act.

The House included report language regarding the need for further ship cost adjustments above the amounts recommended in this bill, urging the Defense Department to forward proposals promptly. The conferees support the language of the House. However, the conferees believe the Navy should seek to offset these additional costs first by reconsidering planned changes to the affected programs, second by streamlining costs through other internal program adjustments, and third by identifying other ship programs with assets. All of the foregoing actions shall be taken to minimize funding required from non-shipbuilding programs. Only after these actions have been completed will the conferees consider providing additional funds for the affected programs.

Finally, the conferees are aware of disagreements between the Department of the Navy and the builder of two deep ocean survey ships, T-AGS 39 and T-AGS 40. The conferees have found that: these ships were procured under a firm fixed-price contract in 1985 at an amount substantially below the budget estimate; there was no provision in the contract for a share line whereby cost increases would have been split between the contractor and the Navy; and the final cost of the ships is higher than the contracted cost and the builder has sustained a large loss. Therefore, the conferees strongly encourage the Navy to work with the contractor to resolve their differences in such a way as to preserve the shipbuilding industrial base.

SSN-21 SEAWOLF

The conferees have included bill language addressing the SSN-21 Seawolf. The conferees agree with the Senate, which required the Secretary of the Navy to reexamine the Navy's acquisition strategy for the SSN-21 program due to planned program reductions.

The conferees have included language which directs the Secretary to compete the next SSN-21 submarine. In carrying out this competition the Secretary should consider the submarine industrial base and cost factors in determining the winner of the submarine competition. Further, the conferees want it to be clear that in determining the winner of the competition, the Secretary shall award the submarine in keeping with the best interest of national defense.

SSN-21 ADVANCE PROCUREMENT

The conferees agree to provide $401,000,000 for SSN-21 advance procurement. The amount provided includes $260,500,000 identified as a requirement by the Secretary of Defense when he reported on the Major Warship Review. An additional amount of $140,500,000 is provided for hull, mechanical and electrical items.

CV SERVICE LIFE EXTENSION PROGRAM

The conferees agree to provide $405,000,000 to finance efforts leading to the service life extension of the aircraft carrier USS KENNEDY. The conferees have included a provision in the bill specifying the funds are available only for efforts leading to an industrial availability to be accomplished at the Philadelphia Naval Shipyard.

DDG-51 DESTROYER

The conferees agree to provide $3,209,403,000 for procurement of four DDG-51 destroyers in fiscal year 1991 and $3,600,000 for advance procurement. The amount provided is $100,000,000 more than provided in either House or Senate bills and is based upon later information provided to the conferees.

Amendment No. 71: Earmarks not less than $23,000,000 from available funds within Shipbuilding and Conversion, Navy for procurement of 30 Advanced Video Processor units and associated display heads as proposed by the House.

Amendment No. 72: Deletes House provision making a portion of the appropriation subject to authorization.

OTHER PROCUREMENT, NAVY

Amendment No. 73: Provides for the procurement of not to exceed two vehicles required for physical security at a cost of not to exceed $165,000 per vehicle as proposed by the Senate and deletes the word "and" at the end of the amendment.

Amendment No. 74: Deletes the proposed Senate amendment. See amendment No. 75.

Amendment No. 75: Provides for the procurement of no passenger motor vehicles instead of 671 (645 for replacement) as proposed by the House and 646 (627 for replacement) as proposed by the Senate.

Amendment No. 76: Appropriates $5,627,160,000 for Other Procurement, Navy instead of $5,344,811,000 as proposed by the House and $5,811,675,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Other Procurement, Navy:				
Underway Replenishment Equipment	11,214	9,214	11,214	9,214
Strategic Platform Support Equipment	58,395	57,395	58,395	57,395
Surface IMA	9,380	7,780	9,380	7,780
Reduction, Reduced Forces		−76,600		
Reduction, Excess Reprogramming		−47,800		
AN/SPS-48	1,007	49,907	1,007	49,907
AN/Sys-()	4,849		4,849	
Submarine Acoustic Warfare System	27,384	25,584	27,384	25,584
SSTD	17,500		17,500	17,500
Submarine Advanced Combat System	228,966	228,966	85,026	85,026
An/SQR-18 Towed Array Sonar	13,716	23,716	13,716	23,716
ASW Operations Center	3,268	3,268		
Carrier ASW Module	13,343	4,043	13,343	4,043
AN/SLQ-32	92,522	85,822	92,522	85,822
Combat DF	13,100		13,100	13,100
Naval Intell Processing System	11,705	5,705	11,705	5,705
Link 16 Hardware	35,560	31,560	35,560	31,560
Navstar GPS Receivers	14,254			5,800
Strategic Platform Support Equipment	147,851	147,851	137,651	137,651
AN/SQQ—95		12,000		12,000
Tadix-B	20,689	15,689	20,689	15,689
Over the Horizon Radar	80,558	5,258		5,258
Reduction, Reduced Forces		−115,600		
Reduction, Excess Reprogramming		−72,100		
General Increase—Sonobuoys			87,000	30,000
Weapons Range Support Equipment	52,537	51,537	52,537	51,537
Tartar Support Equipment	19,508	13,708	19,508	13,708
Reduction, Reduced Forces		−34,400		
Reduction, Excess Reprogramming		−21,400		
Construction and Maintenance Equipment	7,505	9,105	7,505	7,505
Forklift Trucks	14,120	12,120	14,120	12,120
First Destination Transportation	58,000	55,400	58,000	55,400
Special Purpose Supply Systems	392,549	184,879	392,549	184,879
Education Support Equipment	7,888	5,688	7,888	5,688
Intelligence Support Equipment	45,349	40,733	45,349	41,733
Oceanographic Support Equipment		35,000		35,000
Physical Security Equipment	22,941	19,741	22,941	19,741
Industrial Depot Maintenance Equipment	348,231	348,231	301,906	320,006
Computer Acquisition Program	106,339	57,939	44,059	62,421
Spares and Repair Parts	521,678	521,678	513,678	521,678
Reduction, Reduced Forces		−29,800		
Reduction, Excess Reprogramming		−18,600		−18,600

CHAFF PRODUCTION BASE

The House directed that $30,000,000 of the Air Expendable Countermeasures program be appropriated for aircraft dispensed chaff production in fiscal year 1991. The House also prohibited the Navy from engaging in the off-shore purchase of this sensitive electronic warfare product.

The conferees agree with the House report language, however include waiver authority for the Secretary of the Navy, on a case by case basis, when adequate, cost effective domestic sources are not available. The Secretary of the Navy shall notify the Committees on Appropriations if such waiver authority is exercised and the justification for such waiver.

INDUSTRIAL/DEPOT MAINTENANCE EQUIPMENT

The Senate made reductions to the Navy's request for industrial/depot maintenance equipment for fiscal year 1991 due to significant amounts of unobligated balances, automated data processing requests which have not been reviewed for compliance with DOD life-cycle management principles, and the deferral of modernization projects scheduled at bases being reviewed for closure. The Senate noted that neither the Assistant Secretary of Defense for Production and Logistics, nor the OSD Comptroller reviewed this request prior to its submission in the budget. The House did not address this issue.

The industrial maintenance equipment line budgets for industrial equipment, automated data processing equipment and services, and minor construction (expansion) for the Navy's depot-level repair facilities, and the Military Sealift Command.

The conferees are concerned that no OSD level review of the industrial/depot maintenance equipment request took place prior to its submission in the Fiscal Year 1991 budget request. In addition, the conferees are aware that almost 50% of the industrial/depot maintenance equipment funding appropriated in fiscal year 1990 remains available for obligation. Therefore, the conferees accept the Senate reductions, and expect the Navy to use prior year unobligated funds to meet shipyard equipment requirements.

AUTOMATIC BUILDING MACHINES

Within Other Procurement, Navy, $1,600,000 is available for automatic building machines as proposed by the House.

Amendment No. 77: Earmarks $160,000,000 within Other Procurement, Navy for the procurement of sonobuoys as proposed by the House.

Amendment No. 78: Earmarks not less than $42,000,000 from available funds within Other Procurement, Navy for the procurement of 53 Advanced Video Processor units and associated display heads as proposed by the House.

PROCUREMENT, MARINE CORPS

Amendment No. 79: Provides for procurement of no passenger motor vehicles instead of 172 as proposed by the House and 194 as proposed by the Senate.

Amendment No. 80: Appropriates $719,141,000 for Procurement, Marine Corps instead of $726,637,000 as proposed by the House and $667,539,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Procurement, Marine Corps:				
5.56 MM, all types	30,859	30,859	29,859	29,859
40 MM, all types	25,558	25,558	24,258	24,258
120 MM Heat MP-T M830	16,037		16,037	10,000
155 MM M864 Proj Baseburner	6,161	6,161		6,161
M-1 A1 Main Battle Tank (MYP)			-80,300	
Tactical Air Oper Module (TAOM)	47,422	47,422	31,622	31,622
ADP Equipment	11,524	8,524	11,524	8,524
Commercial Passenger Vehicles	3,821	2,396	3,821	
Power Equipment Assorted	11,127	7,628	11,127	7,628
Productivity Investment	16,335	8,235	16,335	8,235
Shelter Family	15,254	12,254	15,254	15,254
Reduction to Engineering and Other Support			-10,000	
Spares and Repair Parts	70,402	50,000	70,402	50,000

M830 120MM TANK AMMUNITION

The conference agreement includes $10,000,000 for procurement of M830 120mm tank ammunition. It is the intention of the conferees that these funds be used to procure the configuration of this round which is currently in production and not the improved round, currently being tested, as proposed in the budget.

AIRCRAFT PROCUREMENT, AIR FORCE

Amendment No. 81: Appropriates $9,541,455,000 for Aircraft Procurement Air Force instead of $7,663,897,000 as proposed by the House and $10,277,853,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Aircraft Procurement, Air Force:				
B-2A	2,495,899		1,989,000	2,349,308
B-2A (AP-CY)	710,000		767,100	
F-15 D/E	1,201,021	1,473,971	1,699,771	1,543,971
F-16 C/D (MYP)	2,357,108	1,857,108	1,671,908	1,857,108
F-16 C/D (MYP) (AP-CY)	437,400	225,300	248,000	225,300
C-17	1,704,486	842,086	300,000	400,000
C-17 (AP-CY)	204,300	162,400		60,000
Tanker, Transport, Trainer System	185,155	149,055	162,555	155,805
B-1B	134,101	82,501	121,401	69,801
B-52	109,560	85,260	69,260	58,560
A-7	1,687		1,687	
A-10	41,620		41,620	
F/RF-4	31,553		25,953	
F-15	130,414	127,114	130,414	91,614
F-16	144,026	123,426	144,026	123,426
F-111	104,586	80,086	104,586	104,586
TR-1A	36,000	36,000	18,000	18,000
C-141	35,980	31,680	35,980	31,680
C-135	631,900	604,300	732,182	657,850
E-4	37,300	14,500	3,800	3,800
Classified Projects	74,914	66,114	74,914	66,114
Spares and Repair Parts	1,391,057	582,057	532,113	572,257
Common Age	386,627	234,928	386,627	325,386
War Consumables	41,292	21,870	41,292	41,292
Other Production Charges	491,474	390,951	491,474	426,807
Common ECM Equipment	164,720	38,820	164,720	38,820
Retirement of Obsolete Aircraft			-114,400	-114,400
Milstar Terminals			-500	

B-2

The conferees direct the Air Force to utilize the funds provided for B-2 aircraft procurement to most effectively control total program costs.

F-15E

The conferees understand the Department of Defense intends to purchase additional F-15Es with the proceeds from the sale of existing Air Force F-15 aircraft to Saudi Arabia. In addition, the administration is considering the sale of new F-15 aircraft to Saudi Arabia. These purchases should be sufficient to maintain the F-15 program until it can be addressed in fiscal year 1992. However, if the Department fails to purchase additional F-15s or the purchase is insufficient to carry the program through fiscal year 1991, then the Secretary of the Air Force is authorized to obligate up to $100,000,000 of the funds provided for F-15E procurement for long lead items to protect the F-15E vendor base.

TANKER, TRANSPORT, TRAINER SYSTEM

The conference agreement reflects reductions of $22,600,000 from contract savings and $6,750,000 from engineering change proposals.

C-137 AIRCRAFT

The conferees are concerned that the aging fleet of C-137 aircraft operated by the 89th Military Airlift Wing, some of which are more than 25 years old, are becoming increasingly expensive to operate and maintain and may pose safety problems. The Secretary of the Air Force is urged to review the condition of these aircraft carefully and to report to the Committees on Appropriations concerning the remaining useful service life of the aircraft and propose a plan which will accomplish the mission currently performed by the C-137 aircraft.

MODIFICATION OF INSERVICE AIRCRAFT

B-1B

Due to recent testing problems experienced in the computer and rocket motor of the SRAM II missile, the conferees deleted $51,600,000 from the request for SRAM II/B-1B integration. The remaining funds, $6,500,000, are for advance procurement of end-of-life computer chips for the program.

The Appropriations Committees have a long-standing policy of fully funding modification projects, and, as a rule, have not provided advance procurement for modifications. The conferees believe that a special set of circumstances in this case allows for a one time exception to that policy, but this action in no way should be construed as a precedent to permit more general application of advance procurement to modification programs.

The conferees also agree with the Senate bill to delete $12,700,000 requested for 1122 antenna modifications.

B-52

The conferees agree to the following reductions from the budget estimate:

	Amounts
Advanced cruise missile integration	-$11,700,000
ALQ-172 enhancement	-15,900,000
Conventional role modifications	-17,900,000
Enhanced ground egress	-5,500,000

C-135

The conference agreement makes the following adjustments to the budget request including an increase in funds to purchase a total of 30 KC-135R reengining kits:

	Amounts
High power transit set	-$22,600,000
Milstar command post upgrade	-5,000,000
NAVSTAR GPS	-19,000,000
Ground collision avoidance system	-7,700,000
Fuel savings advisory system	-16,500,000
KC-135R reengining (6 kits)	+96,750,000

SAFETY MODIFICATIONS

The Senate report included language which would modify existing reprogramming procedures for certain safety modifications. The House did not address the issue.

Although the conference agreement does not retain the Senate language, the conferees believe the issue has some merit. Accordingly, the conferees urge the Department to review the matter and be prepared to present a proposal to improve existing procedures in the context of the fiscal year 1992 budget submission.

SPARES AND REPAIR PARTS

The Committee of the Conference agrees to the following reductions from the budget request for spares and repair parts:

	Amounts
B-2	-$621,600,000
C-17	-135,700,000
F-16	-41,400,000
Modifications	-20,100,000

COMMON AIRCRAFT GROUND EQUIPMENT

The conference agreement includes the following adjustments to the budget request:

—$16,664,000 from ground powered generators, yielding $75,235,000 to be available only for the procurement of ground powered generators;

—$14,279,000 from noise suppressors;

—$14,398,000 from B-2 aircraft support;

—$17,400,000 from items under $2,000,000; and

+$1,500,000 for air conditioning carts.

The additional $1,500,000 provides for a minor modification to existing air conditioning carts. The conference agreement includes a general provision (section 8035) which prohibits modifications if the Service intends to retire the item modified within five years. Some of the air conditioning carts to be modified may be retired close to the five year window addressed in Section 8035. The conferees believe that due to the inexpensive nature of the modification and the anticipated short payback period the modification should be accomplished without dalay, even though some of the units to be modified may be close or technically within the five year window.

OTHER PRODUCTION CHARGES

The conference agreement reflects the following adjustments to other production charges:

	Amounts
NAVSTAR GPS	—$27,600,000
Tacit Rainbow	—29,300,000
GBU-15 Datalink	—18,000,000
Classified Activity	+12,322,000
Classified Activity	—2,089,000

Amendment number 82: Deletes House language restricting a portion of the appropriation from obligation or expenditure until authorized by law.

MISSILE PROCUREMENT, AIR FORCE

Amendment No. 83: Appropriates $5,813,532,000 for Missile Procurement, Air Force instead of $5,912,653,000 as proposed by the House and $6,243,922,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Missile Procurement, Air Force				
Peacekeeper, (M-X)	1,727,119	655,000	579,962	655,000
Missile replacement EQ-ballistic	23,988	23,988		13,388
Advanced cruise missile	365,869	313,769	365,869	365,869
Advanced cruise missile (AP-CY)	107,400	69,200	107,400	88,300
Tacit rainbow	227,441		59,500	
Amraam	893,382	463,382	568,000	535,298
Spares and repair parts	271,355	75,033	255,655	69,133
Space shuttle operations	15,128	15,128	23,128	23,128
Defense satellite comm system [MYP]	63,917		63,917	63,917
Space boosters (MYP)	208,580	206,980	208,580	206,980
Special programs	3,101,796	2,645,996	2,529,196	2,544,596
Special update programs	237,345	237,345	37,345	40,991
Classified programs	342,638	—120,900	117,638	—120,900

ADVANCED CRUISE MISSILE

The House report directed the Air Force to down select in 1991 to one producer for the advanced cruise missile and reduced the budget request accordingly. The Senate did not address this issue.

The conference agreement provides the budget request of $365,869,000 for 100 missiles. Also included is $88,300,000 for advance procurement of as many missiles as possible for fiscal year 1992. The Air Force is directed to make a down selection for the ACM in fiscal year 1992. The conference agreement does not retain the limitation in the House report which restricted the use of funds until a reliability certification had been submitted.

SPARES AND REPAIR PARTS

The conferees agree to the following reductions from spares and repair parts:

	Amounts
Advanced cruise missile	—$15,312,000
AMRAAM	—12,205,000
MX Rail Garrison	—158,686,000
Tacit Rainbow	—3,898,000
Classified program	—6,221,000
Minuteman II	—5,900,000

Amendment number 84: Deletes House language restricting a portion of the appropriation from obligation or expenditure until authorized by law.

OTHER PROCUREMENT, AIR FORCE

Amendment No. 85: Provides for procurement of not to exceed four vehicles required for physical security at a cost of not to exceed $165,000 per vehicle as proposed by the Senate and deletes the word "and" at the end of the amendment.

Amendment No. 86: Deletes the proposed Senate amendment. See amendment No. 87.

Amendment No. 87: Provides for procurement of no passenger motor vehicles instead of 451 (376 for replacement) as proposed by the House and 640 (456 for replacement) as proposed by the Senate.

Amendment No. 88: Inserts a comma as proposed by the Senate.

Amendment No. 89: Appropriates $7,503,356,000 for Other Procurement, Air Force instead of $7,835,903,000 as proposed by the House and $7,485,442,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Other procurement, Air Force				
20MM Training	38,507	38,507	25,627	38,507
30 MM Training	46,563	46,563	46,563	33,683
MK-82 INERT/BDU-50	23,906	23,906	15,906	23,906
BSU-49 Inflatable Retarder	19,318	19,318	14,518	14,518
Bomb Hard, Target 2000LB		12,300		12,300
Laser Bomb Guidance Kit	2,076	43,076	41,076	41,076
GBU-15	28,386	2,886	28,386	2,886
MK-84 Bomb-Empty	27,755	27,755	19,401	27,755
Special Programs	7,663	25,500	7,663	25,500
Sedan 4 Dr 4X2	1,254		1,254	
Station Wagon, 4X2	851		851	
Bus, 28 Passenger	1,985		1,985	
Bus, Intercity	2,251		2,251	
Bus, 44 Passenger	3,785		3,785	
Mobile Maint Unit	4,542	2,142	4,542	2,142
Spares and Repair Parts	2,636	2,536	2,636	2,536
Items less than $2,000,000	11,140	7,954	11,140	11,140
Air Traffic Ctrl/Land Sys (ATCALS)	11,196	31,196	11,196	31,196
Tactical Air Control Sys*Improve	232,027	232,027	157,027	157,027
Weather Observ/Forecast	49,696	44,496	45,196	45,196
Defense Support Program	66,756	46,756	66,756	62,756
Oth-B Radar		25,000		25,000
Sac Command and Control	68,374	58,174	64,174	64,174
Navstar GPS	3,863		3,863	
Tactical Ground Intercept Facility	9,576	6,076	9,576	6,076
Air base Operability	3,777		3,777	
Automatic Data Processing Equip	54,746	43,946	20,366	21,610
WWMCCS/Wis ADPE	18,357	10,000		10,000
Mac command and Control Support	22,139	22,139	7,832	15,139
Weapons Storage/Security	21,732		21,732	
Range Improvements	66,264	66,264	30,172	48,172
Base Level Data Auto Program	22,109	22,109	11,257	11,257
Telephone Exchange	70,882	65,882	70,882	65,882
Joint Tactical Comm Program	72,465	72,465		15,965
Milstar	178,014	178,014		
Spares and Repair Parts	139,839	114,439	109,377	109,377
Items Less Than $2,000,000	15,565	13,565	15,565	13,565
Comm-Electronics Class IV	18,871	18,871	18,119	18,119
Base/ALC Calibration Package	26,123	23,523	26,123	23,523
Items Less Than $2,000,000	39,222	34,820	39,222	34,820
Night Vision Goggles	6,554	4,354	6,554	4,354
Chemical/Biological DEF Prog	43,301	32,201	43,301	43,301
Asset Capitalization Program (ACP)	77,728	73,728	40,728	37,728
Items Less Than $2,000,000	15,883	13,883	15,883	13,883
Base Procured Equipment	38,485	41,485	38,485	41,485
Medical/Dental Equipment	84,246	69,000	84,246	84,246
Air base Operability	11,084	10,084	4,966	4,966
Pallet, Air Cargo, 108 "X88"	3,828		3,828	3,828
Tactical Shelter	3,840	3,840		1,900
Productivity Investments	14,069	14,069	5,354	5,618
Spares and Repair Parts	2,192	1,892	2,192	2,192
Intelligence Production Activity	81,566	78,423	79,737	79,566
Selected Activities	5,354,135	5,132,602	5,141,535	5,108,649
First Destination Transportation	25,093	23,093	25,093	23,093
Reduction for Force Structure Adjustments		—78,700		

DEFENSE SUPPORT PROGRAM (DSP)

The conferees agree to provide $62,756,000 for the Defense Support Program instead of $46,756,000 as proposed by the House and $66,756,000 as proposed by the Senate. The conferees note that the DSP ground system architecture is presently under review and recommends this reduction without prejudice.

ASSET CAPITALIZATION PROGRAM

The conference agreement provides $37,728,000 for the Asset Capitalization program in fiscal year 1991. The reduction from the budget request includes $37,000,000 to the Depot Maintenance Management Information System (DMMIS) program and $3,000,000 for force structure reductions.

NATIONAL GUARD AND RESERVE EQUIPMENT

Amendment No. 90: Appropriates $2,463,700,000 for National Guard and Reserve Equipment instead of $1,566,115,000 as proposed by the House and $2,499,469,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
National Guard and Reserve Equipment:				
Miscellaneous Equipment		25,000	75,000	40,000
High Mobility Multi-Purpose Wheeled VEH (MYP)			181,900	
CH-47 Modernization PGM			46,300	
Truck, 5-Ton	60,000	75,000		
Communications Electronics		30,000		30,000
Miscellaneous Equipment			75,000	25,000
C-130T Aircraft	48,000	48,000	162,000	180,000
C-20 Aircraft		24,900		30,000
MH-53 Mine sweepers			281,900	281,900
HH-60H Upgrade Kits	8,400	16,800	8,400	8,400
Lamps MK-1 ASW upgrade		49,500		49,500
AN-SQQ-T1 Trainers		16,000		10,000
AN/AQA-7B(V) 18/19 IPADS		70,000		70,000
Electronic Warfare Equipment		7,000		
Airborne Mine Countermeasure Equipment		6,300		
CH/MH-53E (Helicopter) Super Stallion		241,115		
Miscellaneous Equipment			50,000	25,000
KC-130T Aircraft	25,000	50,000	28,000	56,000
AH-1W Cobra Aircraft		79,000		79,000
Simulators and Trainers		500		
Miscellaneous Equipment	5,000	30,000	75,000	30,000
C-130 Aircraft	24,000	96,000	27,000	108,000
F-16 Modifications	10,000	25,000	10,000	10,000
C-130 Modifications	6,600	50,000	6,600	6,600
Air Reserve Spares		5,100		
Miscellaneous Equipment	15,000	20,000	75,000	20,000
Night Vision Devices		35,000		35,000
MLRS Launchers				60,000
CH-47 Helicopters			180,461	
CH-47 (AP-CY)			56,443	
Medium Tactical Trucks	25,000	35,000	25,000	25,000
Reengine program for 5-ton Trucks	8,800		8,800	
M577 Command Post Carriers	24,900	50,000	24,900	
M113 Armored Personnel Carrier			100,000	
UH-60B Helicopters			156,000	156,000
C-23 Aircraft		54,000	54,000	62,000
M113A2 to A3 Upgrade		10,000		
Family of M113 Vehicles				100,000
MLRS-BN (Support Package)		34,000		34,000
C-26 Aircraft		29,900		29,900
AHIP				200,000
External Fuel Tanks			5,000	
Communications Electronics		15,000		15,000
CTG, Tank, 105MM, DS-TP, M724			23,111	
CTG, Artillery, 155MM, ADAM-S, M731			36,928	
AT-4, Multi Purpose Weapon			16,642	
Prop Charge, 155MM Red Bag, M203			23,319	
C-130 Aircraft	48,000	48,000	324,000	324,000
C-26 Aircraft		25,600		25,600
F-16 Modifications	6,000	32,000	6,000	32,000
F-15 MSIP	39,000	54,200	39,000	39,000
Miscellaneous Equipment		15,000	50,000	15,000
Communications—Electronics		60,000		
Joint Tactical Comm PGM			72,465	56,500
Tactical Air Control System Improvements			75,000	75,000
Air Guard Spares		1,500		
MH-60 Helicopters			18,600	18,600

M-113 FAMILY OF ARMORED VEHICLES

The conference agreement includes $100,000,000 for the Army National Guard for the procurement of the M-113 family of armored vehicles. Within this total amount, the conferees expect the Director of the Army National Guard to procure vehicles based upon highest priority requirements for basic M-113 Armored Personnel Carriers, M-577 Command Post Carriers, and M-113 upgrades. It is the intention of the conferees to provide the Director of the Army National Guard needed flexibility to procure the mix of vehicles which support, to the maximum extent possible, the modernization of the Army Guard.

ARMY GUARD HELICOPTER FUEL TANKS

The conference agreement includes $5,000,000 under Miscellaneous Equipment, Army National Guard for the procurement of external auxiliary fuel tanks for UH-1 helicopters as proposed by the House. The Senate funded these items on a separate line.

ARMY HELICOPTER IMPROVEMENT PROGRAM

The conferees agree to provide $200,000,000 for the procurement of 36 AHIP's for the Army National Guard. In light of the uncertainties surrounding the duration of U.S. troop deployment in the Persian Gulf area and other needs of active Army components, the conferees clearly intend that these assets be assigned to the Army's active components if deemed necessary to support U.S. forces.

C-20 AIRCRAFT

The conferees agree to provide $30,000,000 for procurement of one cargo-door equipped C-20F medium lift aircraft. This aircraft will have a convertible interior design to accommodate high priority cargo, high density 26 passenger seating, or a mixture of both. The conferees agree that the aircraft will be sited at NAF Washington and replaces obsolete and already retired C-131 aircraft of VR-48.

AN/AQA-78(V)18/19 IPADS

The conferees agree to provide $70,000,000 to procure the IPADS system for the Navy Reserve. The conferees also agree that these funds can only be obligated if the IPADS technical and operational assessment proves successful. This program is an item of special interest and the funds should not be used for any other purpose without a prior approval reprogramming being submitted to the Committees on Appropriations.

C-23 SIMULATOR

The conferees agree to provide $62,000,000 for 10 C-23 aircraft, of which $8,000,000 is to procure a flight simulator. This simulator should be used to centralize and consolidate C-23 air crew training at the Mid-Atlantic Aerospace Complex Training and Education Center in West Virginia.

C-130T AIRCRAFT

The conferees agree to provide $180,000,000 for 6 C-130T aircraft for the Navy Reserve. Of this amount, $18,000,000 is for supply parts, intermediate and organizational support equipment, and other support. In addition, the conferees direct that the Navy Reserve utilize $2,000,000 of funds appropriated in Operation and Maintenance, Navy Reserve, for operational support of these aircraft.

The conferees also agree that interim contractor support for spares, technical assistance, and Government support equipment and contract supply support should be similar to that provided the C-9B aircraft.

PROCUREMENT, DEFENSE AGENCIES

Amendment No. 91: Provides for the procurement of not to exceed 4 vehicles required for physical security at a price of not to exceed $165,000 per vehicle, as proposed by the Senate.

Amendment No. 92: Provides for the procurement of 653 passenger motor vehicles as proposed by the Senate instead of 514 as proposed by the House.

Amendment No. 93: Provides that 650 passenger motor vehicles shall be for replacement only as proposed by the Senate instead of 458 as proposed by the House.

Amendment No. 94: Appropriates $2,354,646,000 instead of $2,074,542,000 as proposed by the House and $1,913,846,000 as proposed by the Senate.

The conference agreement of items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Procurement, Defense Agencies:				
Major Equipment, OSD/WHS	78,350	71,685	82,494	71,685
Corporate Information Management	145,000	145,000	163,819	167,963
Joint Simulation Office			75,000	60,000
Electronic Warfare				161,500
WWMCCS ADP Systems	7,602	7,602		5,000
Mechanized Materials Handling Sys	33,285	33,285	29,285	29,285
ADP Equipment	62,657	62,657	28,882	28,882
Items Less Than $2 Million	890		890	890
Major Equipment	213,900	153,600	132,400	153,600
MC-130H Combat Talon II	85,800	74,830	85,800	74,830
C-130 Modifications	96,300	79,100	107,600	90,400
Aircraft Support	55,300	55,300		55,300
Naval Special Warfare Equipment	20,500	18,450	20,500	18,450
Communication Equipment Modifications	44,900	40,410	25,260	25,260
Classified Programs	67,600		67,600	67,600
Small Arms and Weapons	1,300	1,300	6,500	6,500
Ranger Vehicle			2,500	2,500
Coastal Patrol Boat		65,000		65,000
Submarine Conversion			40,000	40,000
Classified Programs	576,689	797,696	576,689	761,374

UNMANNED AIR VEHICLES (UAV)

The conferees understand that the UAV Joint Project Office faces the loss of all its "Defense Agencies, Procurement" funds in fiscal year 1992 due to unwarranted OSD comptroller concerns about the appropriateness of maintaining a unique procurement funding line for the Joint Project Office. In establishing OSD managed research and development and procurement funding lines in fiscal year 1988 for the UAV Joint Project Office, the intent of Congress could not have been made more clear. All funds ap-

propriated for the UAV Joint Project Office shall remain under their administrative control for obligation and execution. Attempts to resource UAV programs in unique service budget accounts runs counter to congressional guidance and direction concerning the consolidation of all service UAV programs in the Joint Project Office. The conferees therefore direct that all funding for UAVs be maintained in the current Defense Agency accounts.

SPECIAL OPERATIONS COMMAND

Amendment No. 95: Restores the House language which earmarks funds for the Special Operations Command. The conferees agree to provide $618,636,000 instead $507,186,000 as proposed by the House.

The conference agreement on items addressed by either the House or Senate is as follwos:

[In thousands of dollars]

	Budget request	House	Senate	Conference
MC-130H Combat Talon II	85,800	74,830	85,800	74,830
C-130 Mods	96,300	79,100	107,600	90,400
EC-130E		(11,700)		(11,700)
HC-130 mods			(11,300)	(11,300)
Aircrew Training System	55,300	55,300	0	55,300
Navy Special Warfare Equipment	20,500	18,450	20,500	18,450
Communications Equip Mods	44,900	40,410	25,260	25,260
LST-5 radios			(1,200)	(1,200)
Classified Programs	67,600	0	67,600	67,600
4th Psyops Gp	10,700	0	0	0
Small Arms and Weapons	1,300	1,300	6,500	6,500
Ranger Vehicle			2,500	2,500
Coastal Patrol Boat		65,000	0	65,000
Submarine Conversion			40,000	40,000

C-130 modifications.—Of the amount provided ($90,400,000), $11,700,000 shall be available only for the EC-130E modifications proposed in the budget and $11,300,000 shall be available for the HC-130 tanker modifications.

Communications Equipment Modification.—Of the funds provided ($25,260,000), $1,200,000 is to be used for 65 LST-5 radios for the Rangers.

Patrol Boats.—The conferees understand that there have been difficulties regarding the patrol boat procurement. The conferees expect a more responsible program management of the patrol boat procurement especially since the conferees agree to provide $65,000,000 for five additional boats. Additionally, $10,600,000 is included in the Shipbuilding and Conversion, Navy, appropriation for completion of the special operations patrol boats which were funded in the fiscal year 1989 appropriations act.

Amendment No. 96: Deletes House provision making a portion of the appropriation subject to authorization.

DEFENSE PRODUCTION ACT PURCHASES

Amendment No. 97: Appropriates $50,000,000 for Defense Production Act Purchases as proposed by the House instead of $30,000,000 as proposed by the Senate. This appropriation provides for the purchase or commitment to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093).

Amendment No. 98: Deletes House language making this appropriation subject to authorization.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS (FFRDCS)

The conferees strongly support the Senate initiative to reduce exorbitant funding growth in the Defense Department's FFRDCs. The conferees further direct the Defense Department to include in its fiscal year 1992 budget request for each FFRDC not less than a ten percent reduction in total funding for each measured from the fiscal year 1991 appropriated level, financed in all appropriations. The conferees agree to the Senate funding recommendations for fiscal year 1991 with minor modifications.

ANIMAL EXPERIMENTS AT LOUISIANA STATE UNIVERSITY

The conferees agree to the House position and have included a provision (Sec. 8078) addressing the use of animals for experiments at Louisiana State University. Funds may be used to feed animals owned by the Army and the Department of Defense at the time of enactment of this Act. Funds shall not be used to purchase or feed any additional animals.

MILSTAR

Both the House and the Senate criticized the management of the MILSTAR program by DOD and recommended reductions to the total funding request. The conferees agreed that a valid requirement exists for a surviving and robust EHF communications system to support the varied national security functions of the federal government.

While in the past the MILSTAR program has suffered from unacceptable management and cost problems, the conferees believe that the program has now achieved significant improvements in managerial direction and cost containment. Moreover, the conferees believe that termination and development of a new system would eventually cost more than restructuring the MILSTAR program itself. Consequently, the conferees have reached the following conclusions. The Secretary of Defense is expected to ensure that the Air Force complies fully with the following mandatory direction.

The MILSTAR constellation shall consist of no more than six satellites in whatever orbit inclination is necessary to emphasize communications connectivity for tactical U.S. contingencies.

The terminal program shall be revised to accentuate tactical users. Immediate action shall be taken to develop and field a lower-cost, transportable tactical terminal which will enhance MILSTAR utility in contingency operations. Given the success of the Navy terminal program, the conferees believe that the Secretary may wish to place the Navy in charge of development and contract management of the low-cost terminal program.

When not in conflict with the above direction, the conferees believe that, when possible at minimal additional cost, every effort should be made to ensure that MILSTAR will be able to meet strategic nuclear communications connectivity requirements.

The conferees believe that the above guidance, which is directive in nature, will permit the deployment of a restructured MILSTAR system with a reduction of up to 30 percent in total life cycle costs. The conferees also direct that beginning in fiscal year 1992, the full cost of the MILSTAR system should be included as an unclassified part of the DOD budget. Finally, the conferees agree with the House criticism concerning the lack of a comprehensive Department of Defense satellite communications architecture. A clear and affordable plan should be submitted with the fiscal year 1992 budget request.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

Amendment No. 99: Appropriates $5,607,379,000 for Research, Development, Test and Evaluation, Army instead of $5,366,811,000 as proposed by the House and $5,299,793,000 as proposed by the Senate.

Amendment No. 100: Restores House language which provides funds for the Vectored Thrust Combat Agility Demonstrator flight test program and amends the amount specified from $10,000,000 to $5,480,000.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Research Development Test & Eval Army:				
Defense Research Sciences	179,490	179,490	171,490	175,490
Materials Technology	13,276	18,276	13,276	15,276
Electronic Survivability and Fuzing Technology	24,897	24,897	26,897	24,897
Missile Technology	27,153	27,153	32,153	32,153
Electronics and Electronic Devices	17,608	19,608	20,108	20,108
Night Vision Technology	19,285	19,285	20,285	19,285
Environmental Quality Technology	9,815	14,815	14,715	12,815
Non-System Training Device Technology	3,607	8,607	3,607	6,107
Computer and Software Technology	5,073	3,800	5,073	3,800

[In thousands of dollars]

	Budget	House	Senate	Conference
Logistics Technology	35,811	35,811	50,811	50,811
Medical Technology	96,902	100,902	109,402	109,402
Medical Advanced Technology	34,809	34,809	47,309	47,309
Aviation Advanced Technology	34,713	44,713	32,713	38,193
Weapons and Munitions Advanced Technology	33,471	41,471	29,671	29,671
AFAS Advanced Development			21,800	21,800
Combat Vehicle and Automotive Advanced Technology	176,761	165,000	63,729	143,761
Acquired Immune Deficiency Syndrome (AIDS) Research	22,558	32,558	44,558	44,558
Advanced Field Artillery System		12,800		
Armor Gun System		40,000		5,000
Anti-Satellite Weapon (ASAT)	207,782	100,000	158,082	126,000
Classified Programs	88,268	61,736	22,559	61,736
Joint Tactical Missile Defense Program	62,249		62,249	
Surface-to-Surface Missile Rocket System	47,175	23,587	24,908	24,908
Landmine Warfare and Barrier—ADV DEV	2,988	800	2,988	800
Identification-Friend-or-Foe—ADV DEV	1,013		1,013	
Forward Area Air Defense (FAAD) System		92,000		92,000
Aviation—ADV DEV	5,134	7,513	5,134	7,513
Weapons and Munitions—ADV DEV	18,566	18,566	7,211	7,211
Chemical Systems—ADV DEV	4,522		4,522	
Chemical/Biological Defense Equipment—ADV DEV	24,511	44,511	34,511	44,511
Army Helicopter Improvement Program	25,817	25,817		25,817
Light Armed Scout Helicopter	411,357	300,000	261,357	291,000
Landmine Warfare	34,684	19,684	34,684	27,184
M1A1 Development Program	46,337	46,337		31,000
Night Vision Systems—ENG DEV	17,726	19,726	17,726	19,726
Non-System Training Devices—ENG DEV	32,390	20,565	32,390	20,565
CCTT/SIMNET—Reserve Components			7,500	7,500
Air Defense Command, Control and Intell—ENG DEV	86,687	66,687	46,687	56,687
Joint Surveillance/Target Attack Radar System	45,833	38,233	35,633	35,633
Aviation—ENG DEV	19,376	20,863	19,376	20,863
Weapons and Munitions—ENG DEV	11,106	26,106	11,106	24,106
Chemical/Biological Defense Equipment—ENG DEV	57,291	57,291	67,291	57,291
Landmine Warfare/Barrier—ENG DEV	17,372	7,372	17,372	7,372
Fiber Optic Guided Missile—ENG DEV	99,062	99,000	99,062	99,062
Tractor Pull	35,149	55,149	45,149	55,149
Sense and Destroy Armament Missile—ENG DEV	105,507		105,507	105,507
Longbow—ENG DEV	159,057	145,000		

[In thousands of dollars]

	Budget	House	Senate	Conference
Longbow—Consolidated Program			171,514	195,514
Tractor Crash/Bail	2,495	1,000	2,495	1,000
Losat	72,872	72,872	30,872	30,872
ADV Field Artillery Tactical Data System	45,764	41,764	40,764	40,764
Combat Vehicle Improvement Programs	97,751	104,751	97,751	104,751
Maneuver Control System	25,541	10,500	25,541	17,000
Aircraft Modifications/Product Improvement Programs	60,457	50,457		
Missile/Air Defense Product Improvement Programs	40,817	31,796	40,817	31,796
Other Missile Product Improvement Programs	73,320	37,000	68,320	56,320
Tractor Rig	22,981	12,981	22,981	17,981
Tractor Card	7,378	17,378	7,378	17,378
TACIT Rainbow	105,258	75,000	102,700	102,700
Joint Tactical Communications Program (TRI-TAC)	6,074		6,074	3,000
TACJAM		20,000		20,000
Classified Programs	549,623	478,029	564,697	596,375
SATCOM Ground Environment	47,744	33,244	42,744	33,244
Classified Programs	30,513	29,257	30,513	30,513
Army Milstar Terminals			−16,000	
Army Kwajalein Atoll	180,033	170,033	180,033	180,033
Exploitation of Foreign Items	22,674	17,674	22,674	17,674
RPMA/Base Operations—RDT&E			390,736	
Real Property Maintenance Activities—RDT&E	222,764	179,744		184,744
Base Operations—RDT&E	204,360	204,360		204,360
Industrial Preparedness	26,708	36,708		31,708
Arroyo Center			22,850	22,850
Range Security		9,000		4,500

STINGRAY

The Department of Defense requested no funds for the initiation of full scale development of the STINGRAY system. However, the conferees are fully cognizant of the potential STINGRAY offers for dramatically improving the survivability and combat effectiveness of existing systems. Based on this potential contribution, the conferees urge the Army to consider a reprogramming request to enhance development of the STINGRAY system during fiscal year 1991.

LIGHT ASSAULT VEHICLE (LAV) AND THE SCOUT MISSION

The conferees do not agree to the House position. Further direction on this matter is contained in the classified report.

ENHANCEMENTS TO ARMORED SYSTEMS

The conferees note that the recent crisis in the Middle East increases concern over the possible requirement for nuclear biological chemical (NBC) protection and environmental control for existing and future armored systems. The conferees believe that there may be off-the-shelf NBC protection systems, or NBC protection systems under development for other weapons systems, which should be reviewed for use on the Bradley Fighting Vehicle (BFV) and other armored systems. The Army should review the requirement for NBC protection on armored systems and report to the Committees on Appropriations of the Senate and House of Representatives no later than June 15, 1991, on the Army's requirement and plans to meet it.

CHEMICAL/BIOLOGICAL DEFENSE

The conferees have provided an increase of $50,000,000 for Chemical/Biological Defense, which includes the following additional amounts:

	Amounts
602786 Logistics Technology	$15,000,000
602787 Medical Technology	7,500,000
603002 Medical Advanced Technology	7,500,000
603806 Chemical/Biological Defense Equipment	20,000,000
Total	50,000,000

WOOD MUNITIONS PACKAGING RESEARCH

The conferees agree to the House position making $750,000 available to continue research and development on coatings for wooden pallets and containers and state this is a special Congressional interest item.

MEDICAL TECHNOLOGY

The conferees agree to the Senate proposed funding for infectious disease research: $109,402,000, an increase of $12,500,000, of which $7,500,000 is only for chemical/biological defense research and development.

In taking this action, the conferees recognize the Navy's contribution to DOD infectious disease research and its ability to quickly address the needs of U.S. troops in Operation Desert Shield by establishing a forward facility in the theater. The conferees recommend that $4,000,000 of the increase for infectious disease research be used for this purpose. These funds are to be used to support the augmentation of the Navy's overseas laboratory programs.

The chemical/biological defense research and development increase of $7,500,000 includes $2,000,000 to be provided to the Navy to support the coordinated development of detection and diagnostic agents for such threats. Such coordinated programs should continue to be monitored by the Armed Services Biomedical Research and Evaluation Management Committee.

ADVANCED ROTORCRAFT

The conferees agree that of the $38,193,000 appropriated in the program element for aviation advanced technology, no more than $19,097,000 shall be obligated until the Office of the Secretary of Defense submits to Congress a specific time table, including obligation dates and programmatic milestones, for implementing the advanced rotorcraft vectored thrust combat agility demonstrator project.

ADVANCED FIELD ARTILLERY SYSTEM (AFAS)

The conferees agree to provide $21,800,000 for the AFAS advanced development, an increase of $18,000,000, as follows:

	Amounts
Liquid propellant	$5,790,000
Unicharge	2,125,000
AFAS ATTD	5,500,000
Demonstration/Armament	4,585,000
Total	18,000,000

The conferees have provided an additional $12,000,000 in Weapons and Munitions Technology and Advanced Electronic De-

vices Development for support of electrothermal gun technology.

ARMORED SYSTEMS MODERNIZATION

The conferees have provided $143,761,000 for combat vehicle and advanced technology. Of this amount, $63,729,000 is for development of chassis components such as propulsion, track, survivability and vetronics; $80,000,000 is for the development of a prototype common chassis, rather than $113,000,000 as proposed by the House and no funding as proposed by the Senate.

In approving funding for the common chassis, the conferees have not rejected the concerns expressed by the Senate regarding the lack of a demonstrable necessity of proceeding with the block III tank chassis at this time. The conferees have agreed to: 1) Emphasize development of the Advanced Field Artillery System (AFAS) within the ASM program; 2) continue current production of M-1 series tanks rather than terminating such production as proposed by the Department of Defense; and, 3) invest in improved ammunition and weapons such as the 120mm Rocket Assisted Kinetic Energy round, X-ROD, and Electro-Thermal/Chemical and Electro-Magnetic gun technologies. In light of these funding decisions, the conferees suggest that the Army and Department of defense ought to consider proceeding with a common chassis optimized for the AFAS instead of a chassis optimized for the block III tank.

Finally, within the funds provided, $10,000,000 is only for the Armor/Anti-Armor program as described in the House report.

ROCKET ASSISTED KINETIC ENERGY (RAKE) ROUND

The conferees agree to the House position which requires the Army to ensure full funding of 105mm RAKE development with its 1992 budget request. Additionally, the conferees support the Senate increase of $15,000,000 for the 120mm RAKE development program and requirements. Any increase in funding required for these initiatives shall not be at the expense of other ammunition enhancement activities.

ARMORED GUN SYSTEM

The conferees support the Army's desire to replace the aging M551 Sheridan with the development of an Armored Gun System (AGS) and provide $5,000,000 for this effort. The Army had informed the conferees that this funding is needed to further define operational requirements and resultant vehicle specifications for the Sheridan replacement.

While the conferees do not direct the procurement of the Marine Corps' LAV-105, the Army will have to show clear and convincing evidence that the LAV-105 is unable to fulfill the requirements for a Sheridan replacement before additional funding will be provided for the AGS. The conferees direct that all future studies and testing include the LAV-105 as a possible candidate AGS system.

FORWARD AREA AIR DEFENSE

The conferees agree with the House position on the Air Defense and Anti-Tank System (ADATS) and reiterate the House language directing that $47,000,000 of the funds appropriated shall not be obligated until the reporting requirements have been satisfied.

The conferees remain convinced, however, that there may be a need for a lower cost alternative to the ADATS. Congress is already funding a Marine Corps air defense program, the light armored air defense vehicle (LAV-AD), which will provide an armored vehicle with Stingers, Hydra 70 rockets, and a gun. The conferees direct the Army to review the LAV-AD program and report to the Committees on Appropriations of the Senate and House of Representatives before April 1, 1991, on the utility of such a system.

NIGHT VISION SYSTEMS—ENGINEERING DEVELOPMENT

The conferees support the House position. In the future this program shall be funded in the Special Operations Command budget.

ENVIRONMENTAL QUALITY TECHNOLOGY

The conferees agree to provide a total of $12,815,000 for environmental quality technology. Of this amount, $2,900,000 is only to assist the Natick Research, Development and Engineering Center for the development of biodegradable plastic using starch-based polymer technology to assist the Navy in the control of disposing of plastic wastes at sea and $100,000 is only to initiate safety, population risk, and environmental assessments of the White Sands missile range to demonstrate the safety and feasibility of the land recovery of unmanned reentry capsules from orbit.

KWAJALEIN ATOLL

The conferees agree to the Senate position fully funding the budget request and direct that $500,000 of the amount appropriated is only for projects to assist the Marshallese with their efforts to improve living conditions on Ebeye and Gugeeque Islands. The conferees further direct that $2,825,000 of the funds appropriated be used for range security.

MULTIPURPOSE INDIVIDUAL MUNITION (MPIM)

The conferees agree to provide $13,000,000 for the MPIM program. The conferees require certification by the Secretary of the Army that the alternative systems currently in procurement, under development or in the inventory cannot meet the "bunker busting" requirement.

LANDMINE WARFARE/BARRIER—ENGINEERING DEVELOPMENT

The conferees direct that none of the reductions made in the landmine warfare/barrier engineering development program element shall be taken against the Tactical Explosives System (TEXS) program.

LONGBOW—CONSOLIDATED PROGRAM

The conferees agree to the Senate position on consolidated funding for the Longbow Apache program and have provided a total $195,514,000 for this effort. The Longbow—Consolidated Program funding consolidates program elements #604816A and #203744A and reduces the total funding by $24,000,000. This reduction shall not be taken against amounts for aircraft modification.

TACJAM

The conferees agree to the House position and note that the funds were authorized for TACJAM in the "Classified Programs" line for Tactical Programs.

REAL PROPERTY MAINTENANCE

The conferees agree to provide a total $184,744,000 for Real Property Maintenance. Of this amount, $5,000,000 is only for the Soil Decontamination Demonstration Project as discussed in the House report. DD Form 1414 for the fiscal year 1991 RDT&E, Army appropriation shall show this as a special Congressional interest item, a decrease to which requires prior Congressional approval.

INDUSTRIAL PREPAREDNESS

The conferees direct that of the $31,708,000 provided, $3,200,000 shall be used only for developing and implementing the Rapid Acquisition of Spare Parts (RASP) program at the Letterkenny Army Depot as discussed in the House report. The conferees do not agree with the House position on the next generation welded banding machine and cast ductile 155mm cargo round.

The conferees further agree to the Senate earmark of the amount in the budget request for continuing an effort to enhance U.S. manufacturing base capabilities to produce precision optics for sights and visual equipment, as part of the weapons and tracked combat vehicle project in this program element, Funds as requested are available only for this purpose. DD Form 1414 for the fiscal year 1991 RDT&E, Army appropriation shall show this as a special congressional interest item, a decrease to which requires prior Congressional approval.

UNIVERSAL MODEM

The House deleted $14,500,000 in fiscal year 1991 and rescinded $17,000,000 appropriated in fiscal year 1990 for development of a Universal Modem. The Senate took no such action.

The conferees note that DOD has had problems in defining the requirement. In addition, our allies have been reluctant to agree to share the costs of system development or to formally agree to field the Universal Modem when developed. Despite DOD assurances, to date the only other country to execute a formal Memorandum of Understanding is the United Kingdom.

Solely because of the commitment made by the United Kingdom, the conferees agree that DOD should have one more year to straighten out this program. Consequently, the conferees agree to delete the fiscal year 1991 request of $14,500,000 but also agree not to rescind the $17,000,000 already appropriated in fiscal year 1990. However, the conferees stipulate that the fiscal year 1990 funds may not be obligated until the prior approval of the House and Senate Committees on Appropriations is obtained. Such approval will be contingent upon DOD completing its requirements definition process and executing additional formal cost sharing agreements with other interested allies.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

Amendment No. 101: Deletes Senate heading "(Transfer of Funds)".

Amendment No. 102: Appropriates $9,037,684,000 for Research, Development, Test and Evaulation, Navy instead of $8,954,950,000 as proposed by the House and $8,459,853,000 as proposed by the Senate.

Amendment No. 103: Restores language proposed by the House and stricken by the Senate which provides $1,000,000 as a grant for the National Center for Physical Acoustics.

Amendment No. 104: Restores language proposed by the House and stricken by the Senate which provides $24,000,000 to Competitive Technologies Incorporated for efforts associated with advanced shipbuilding design, materials, and manufacturing technologies.

Amendment No. 105: Restores language proposed by the House and stricken by the Senate which provides $10,000,000 for the Skipper Missile Enhancement Program.

Amendment No. 106: Restores language proposed by the House and stricken by the Senate which provides $71,000,000 for continued development of the Sea Lance weapon system.

Amendment No. 107: Includes Senate provision on Fast Sealift Technologies Development, deletes Senate provision on use of prior year funds for the V-22, and adds new Senate provision concerning Defense Research Sciences and Industrial Preparedness projects.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Research Development Test & Eval Navy:				
In-House Independent Laboratory Research	26,801	26,801	24,346	24,346
Defense Research Sciences	374,357	365,357	365,357	371,357
Surface Ship Technology	15,982	25,982	15,982	15,982
Aircraft Technology	24,403	24,403	22,003	22,003
Marine Corps Landing Force Technology	18,132	18,132	16,917	16,917
Materials		5,000		2,500
ASW Technology	114,677	129,677	114,677	125,000
Mine and Special Warfare Technology	17,926	25,926	17,926	22,926
Submarine Technology	16,701	21,701	16,701	16,701
Ocean and Atmospheric Support Technology	32,099	32,099	34,099	33,099
Aircraft Propulsion	10,134	10,134	7,162	7,162
Electric Drive	43,799		53,799	53,799
Marine Corps Advanced Technology Demonstration	15,254	15,254	5,076	5,076
Medical Development	16,966	24,966	22,966	23,966
Generic Logistics R&D Technology Demonstrations	14,040	14,040	27,640	27,640
Advanced Anti-Submarine Warfare Technology	16,351	26,351	16,351	16,351
Advanced Technology Transition	51,143	51,143	61,143	61,143
Tactical Space Operations	3,591	1,616	3,591	1,616
Trident II	91,822	91,822	70,757	70,757
Fleet Ballistic Missile System	32,929	32,929	23,129	23,129
SSBN Security Technology Program	43,131	43,131	51,566	43,131
Submarine Laser Communications		10,000		
Air Crew Systems Technology	9,816	13,466	9,816	13,466
Skipper Enhancements		10,000		10,000
Shipboard System Component Development		15,000		10,000
Submarine Arctic Warfare Support Equipment Program	2,892	4,892	2,892	3,892
Non-Acoustic Anti-Submarine Warfare (ASW)	22,884	22,884	14,000	14,000
Ship Development	18,864	7,564	4,729	4,729
Advanced Nuclear Power Systems	110,093	110,093	80,093	80,093
Marine Corps Assault Vehicles	42,591	42,591	26,417	34,504
Tactical Nuclear Development	14,485		8,685	8,685
Advanced Minor Caliber Gun System				5,500
Chalk Coral	31,129	36,929	31,129	36,929
Link Hazel	1,127	11,127	1,127	1,127
Retract Maple	165,505	251,505	165,505	226,505
Link Plumeria	12,924	4,806	12,924	4,806
Chalk Weed	36,493	1,827	3,870	1,827
Retract Elm	105,085	109,785	105,085	109,785
Special Processes	31,819	40,019	31,819	40,019
Lamps	21,627	24,627	21,627	24,627
P-3 Modernization Program	280,724	79,832	65,832	69,832
Acoustic Search Sensors	35,689	35,689	23,969	35,689
V-22A		238,000	38,000	238,000
V-22A (Prior Year Transfer)			(200,000)	
EW Development	146,689	140,289	146,514	146,514
AEGIS Combat System Engineering	91,819	91,819	46,930	91,819
Vertical Launch ASROC	30,000	30,000		15,000
Airborne Mine Countermeasures—Eng Dev		10,000		
Submarine Combat System	346,729	206,729	346,729	346,729
SSN-21 Developments	186,893	126,893	186,893	186,893
Ship Subsystem Development/Land Based Test Site	37,538	37,538	32,538	32,538
Naval Gunnery Improvements	16,765	6,623	16,765	16,765
Marine Corps Mine Countermeasures Systems—Eng Dev	31,025	30,025	7,078	18,552
Surface ASW System Improvement	122,609	152,609	99,995	137,607
Surface Warfare Training Devices	12,357	14,357	12,357	14,357
Marine Corps Command/Control/Communications Systems	13,822	13,822	11,822	11,822
Joint Standoff Weapon Systems	24,961	9,961	22,961	16,561
Fixed Distributed System—Eng	210,176	195,176	210,176	210,176
Marine Corps Ground Combat/Supporting Arms Systems	43,725	42,725	55,725	55,725
FEWSG Aircraft Competition		15,000		15,000
Improved Tactical Air Launched Decoy				8,000
Classified Programs	1,069,500	1,034,700	1,041,720	1,031,920
Warfare Support System	13,605	8,605	13,605	13,605
Satellite Communications	13,723	13,723	12,223	12,223
MILSTAR Satellite Communications System	4,591	4,591		
Classified Programs	713,654	712,154	713,654	713,654
Environmental Protection	11,560	16,560	11,560	11,560
Center for Naval Analyses	26,196	26,196	20,876	24,696
Industrial Preparedness	41,827	101,827	3,000	110,727
USN/USMC Mine Warfare			15,697	15,697
Test Ranges Base Operations/RPMA			−24,300	−20,000
Navy Laboratories Overhead			−19,300	−15,000

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $371,357,000, of which $6,000,000 is only for provision of strategic materials scientific laboratory equipment and for related activities for an ongoing project.

MEDICAL DEVELOPMENT

The conferees agree to provide $23,966,000, of which $6,000,000 is only for the Naval Medical Research and Development Command for continued support of the unrelated marrow donor program and at least $1,000,000 is for artificial blood research. Concerning bone marrow, the conferees agree to the House report language and direct the Navy to submit, not later than March 15, 1991, a detailed report to the President of the Senate and the Speaker of the House of Representatives, outlining specific activities to be supported by the total funding provided. The report should include at a minimum, information about: the number of volunteers to be tested with these funds; the projected ethnic and racial distribution of these volunteers; and a detailed description of all bone marrow-related activities by the Department of Defense, in addition to recruitment and typing, that are being financed with these funds and other funds provided for bone marrow-related efforts during fiscal years 1990 and 1991. The Navy should also provide a copy of this report to the National Institutes of Health. Finally, the conferees direct that the Navy title its volunteer recruitment and bone-marrow research program, the "C.W. Bill Young Marrow Donor Recruitment and Research Program".

ADVANCED MINOR CALIBER GUN SYSTEM

The Navy has developed and issued an operational requirement for an advanced minor caliber gun system to provide surface ships the capability to counter small, high speed, maneuverable, surface threats and low slow speed air threats from a stabilized platform in high seas. While the Navy's five

year plan calls for the research, development and procurement of a system to meet the operational requirement, the Navy is currently purchasing an interim system that is not capable of meeting the established operational requirements. The conferees have been advised that the advanced minor caliber gun system program can be readily accelerated without excessive concurrency. The conferees believe the Navy should take full advantage of this opportunity and expeditiously obtain this capability for the fleet. Accordingly, the conferees recommend that $5,500,000 in research, development, test and evaluation funds be provided to accelerate the advanced minor caliber gun mount program.

P-3 MODERNIZATION

The conferees agree to provide $69,832,000, which includes a reduction of $234,892,000 for the terminated P-7 program and a reallocation of $24,000,000 from the P-7 program for P-3 Update IV avionics development. The conferees have provided no funds for a P-3H or other upgrades/new program to replace the P-7 effort and agree to the House requirement for prior Congressional approval to initiate such programs.

SSN-21

The conferees agree to provide the full budget request in the Submarine Combat System and SSN-21 Developments programs. The conferees direct the Secretary of defense to ensure that not all of the appropriated SSN-21 research and development funds are released to the Navy until the concerns raised in the House report have been adequately addressed.

NAVAL GUNNERY IMPROVEMENTS

The conferees agree to provide the full budget request for the 16 inch gun improvement project. DD Form 1414 shall show this as a special Congressional interest item, a decrease to which requires prior approval.

SURFACE ASW SYSTEM IMPROVEMENTS

The conferees agree to provide $137,607,000, which includes reductions of $8,514,000 for a delay in contract award and $6,488,000 identified as excess to program requirements, and an increase of $30,000,000 proposed by the House only for the Enhanced Modular Signal Processor integration effort for the SQQ-89 basic system.

TROUND GUN

The conferees do not agree to the House language concerning the Tround Gun.

IMPROVED TACTICAL AIR LAUNCHED DECOY

The conferees agree to provide $8,000,000 for development and testing of an improved tactical air launched decoy, which is addressed in the Weapons Procurement, Navy section of this joint statement.

INDUSTRIAL PREPAREDNESS

The conferees agree to provide $110,727,000, which includes increases of $50,800,000 only for the purposes explained in the House report and $8,900,000 only for strategic materials research, facilities, equipment, and related activities for an ongoing project. The conferees also agree to the following Senate allocations within this program: $5,000,000 is available only for a Center of Excellence in Composites Manufacturing Technology; and $2,500,000 is available only for ongoing efforts to develop manufacturing technologies for the fabrication of propulsors for submarines and design and manufacturing of lightweight structures for ships and repair of valves and catapult launch systems for aircraft carriers. DD Form 1414 shall show these projects as special Congressional interest items, a decrease to which requires prior approval. The conferees further agree, as stated in the Armed Services conference report, that the program of integrated research and development of new base materials for shipbuilding funded here does not involve development of composite materials.

FLEET ELECTRONIC WARFARE SUPPORT AIRCRAFT

The conferees agree to provide $15,000,000 and agree to the House language requiring that the competition be conducted on the basis of the lowest life cycle cost to the government.

USN/USMC MINE WARFARE

The conferees agree to the Senate recommendations with respect to the Navy's Magic Lantern project and the Marine Corps' Airborne Mine Detection and Surveillance System. However, the conferees direct that the Office of the Secretary of Defense decide between the two systems, and that this choice be made and reported to Congress within 60 days of enactment of this Act. The Navy and Marine Corps are directed to take no actions which would prejudice continuation of either program until 30 days after the Secretary of Defense has provided his report on which program to terminate.

CENTER FOR NAVAL ANALYSES

The amount shown in the table above for the Center for Naval Analyses is increased by $1,500,000 to a total of $26,196,000, while the amount shown for Test Ranges Base Operations/RPMA is decreased by $1,500,000 to a total reduction of $21,500,000.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

Amendment No. 108: Appropriates $11,961,310,000 for Research, Development, Test and Evaluation, Air Force instead of $11,804,386,000 as proposed by the House and $11,575,574,000 as proposed by the Senate.

Amendment No. 109: Restores House language which provides $30,000,000 for the National Center for Manufacturing Sciences.

Amendment No. 110: Restores House language which provides $3,000,000 for research on coal based jet fuels.

Amendment No. 111: Deletes House language which directed that no funds for the Short Range Attack Missile—Tactical (SRAM-T) could be expended unless specifically authorized in law.

Amendment No. 112: Deletes Senate language which directed that funds could not be obligated or expended for any Strategic Relocatable Target Attack Project or any Earth Penetrating Weapons project under the Advanced Strategic Missile Systems program.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Research Development Test & Eval AF:				
Defense Research Sciences	193,158	203,458	192,158	195,158
Geophysics	36,457	36,457	35,757	35,757
Materials	60,847	65,847	60,847	63,000
Aerospace Flight Dynamics	67,378	67,378	62,613	62,613
Human Systems Technology	51,142	56,142	51,142	54,142
Aerospace Propulsion	62,583	65,583	62,583	65,583
Scientific Technical Information Program		−10,000		
Advanced Materials for Weapon Systems	15,042	18,042	15,042	15,042
Aerospace Propulsion Subsystems Integration	28,404	28,404	20,527	20,527
Aerospace Structures	19,135	19,135	18,635	18,635
Aerospace Propulsion and Power Technology	40,154	40,154	34,598	34,598
National Aero Space Plane Technology Program	158,000	163,000		163,000
Space and Missile Rocket Propulsion	12,568	12,568	10,316	10,316
Space Surveillance Technology	34,138		1,000	1,000
DSP Follow-on			15,000	
BSTS Advanced Development (Transfer from Other Account)			(137,000)	
B-2 Advanced Technology Bomber	1,566,692	1,566,692	1,750,692	1,750,692
Short Range Attack Missile II (SRAM II)—Eng Dev	156,882	70,882	156,882	156,882
ICBM Modernization	757,671	617,671	757,671	687,671
Small ICBM	(202,159)	(164,756)	(202,159)	
Rail Mobile MX	(548,049)	(445,452)	(548,049)	
Systems Survivability (Nuclear Effects)	8,839	8,839	4,926	4,926
Minuteman Squadrons	87,442	87,442	82,900	82,900
War Planning Automated Data Processing (ADP)—SAC	4,764	2,764	4,764	3,764
NCMC—TW/AA Systems	104,899	116,499	104,899	116,499
Over-The-Horizon Backscatter Radar	12,851	12,851		10,000
Ballistic Missile Early Warning System (BMEWS)	22,329	20,829	18,217	18,217
Spacetrack	15,527	5,522	30,527	25,522
Nudet Detection System	5,125	5,125	23,625	23,625
Milstar Satellite Communications System (AF Terminals)	24,425	24,425		
Milstar Alternative			20,000	
Advanced Warning System		260,000		210,000
B-1B Program		131,471		
Classified Programs	457,468	426,871	429,893	426,871

[In thousands of dollars]

	Budget	House	Senate	Conference
Advanced Tactical Fighter	763,923	763,923	870,364	763,923
Nuclear Weapons Support	2,838	2,300	2,838	2,300
Advanced Tactical Fighter FSD	283,441	200,000		200,000
Integrated EW/CNI Development	16,608	16,608	10,868	10,868
Aircraft Engine Component Improvement Program	93,561	93,561	81,000	91,047
EW Development	159,351	79,180	65,881	80,881
Submunitions	7,596		7,596	7,596
Wide-Area, Anti-Armor Munitions	23,879		23,879	23,879
Aeromedical Systems Development	7,499	6,200	7,499	6,200
Common Support Equipment Development	15,119	8,570	12,536	8,570
Life Support Systems	12,586	12,586	11,586	11,586
Computer Resources Management Technology	12,610	14,610	12,610	14,610
Joint Surveillance/Target Attack Radar System (JSTARS)	232,483	232,483	140,483	190,483
F–16 Squadrons	70,056	70,056	25,856	25,856
F–15E Squadrons	89,110	81,910	67,510	67,510
TR–1 Squadron	54,764	54,764	54,764	49,764
Follow-on Tactical Reconnaissance System	47,248	47,248	46,478	46,478
Tactical Air Control Systems	17,075	6,575	15,075	10,825
Airborne Warning and Control System (AWACS)	133,810	118,110	118,810	125,000
Classified Programs	750,901	764,309	778,901	777,609
Defense Satellite Communications System	16,484		16,484	16,484
Classified Programs	2,157,058	1,731,120	2,157,058	1,886,324
Space Test Program	51,524	45,951	51,524	51,524
Training Systems Development	41,220	39,200	39,220	39,200
Advanced Launch System	60,314	45,314	25,000	25,000
Weather Systems—Eng Dev	5,361	5,361	4,775	4,775
Range Improvement	100,928	72,928	78,828	78,828
Project Air Force	24,611	22,681	21,571	21,571
Ranch Hand II Epidemiology Study	1,524		1,524	1,524
Initial Operational Test and Evaluation	20,884	20,884	10,000	15,884
Development Planning	9,138	7,500	9,138	9,138
RDT&E Aircraft Support	61,793	56,793	54,249	54,249
RPMA/Base Operations—RDT&E			143,266	
Real Property Maintenance—RDT&E	92,383	84,440		81,544
Base Operations—RDT&E	61,722	61,722		61,722
Satellite Control Network	127,454	100,000	127,454	120,000
Space Boosters/Medium Launch Vehicles	234,297	214,297	191,807	210,907
Industrial Preparedness	72,133	112,133		112,133
Range Security		9,000		4,500
Commercial Space Launch Waivers		20,000		
Aerospace Corporation/FFRDC			−53,980	−53,980
MITRE—C(3)I/FFRDC			−55,560	−20,000
Lincoln Laboratory/FFRDC			−54,590	−20,000
Engineering Services Contracts		−30,000		

MARK XV

The House and Senate language on MARK XV is similar and the conferees agree to the direction contained in both reports. However, the conferees agree that the Senate reporting requirement concerning the intentions of individual NATO nations should be fulfilled by the Secretary of Defense rather than the Secretary of the Air Force.

RADIO UPGRADES

The conferees agree to the House position and state that the intention is not to hamper competition but to pursue cost savings and eliminate duplication of Navy and Air Force efforts. The conferees support the possibility of a competition for all equipment purchased.

RADAR WARNING RECEIVER/B–1B

The conferees agree with the Senate position with respect to funding and initiation of the radar warning receiver (RWR) project for the B–1B bomber. The conferees also agree to the House position with respect to side-by-side testing of candidate RWRs and direct the Air Force to conduct a side-by-side simulator testing of the ALR–56M and the ALR–62I receivers within available funds. The reporting requirements contained in the House report remain in effect with the exception that the conferees agree that the Air Force should not initiate any integration of any radar warning receiver in the B–1B during fiscal year 1991. Additionally, the Air Force should report to the Committees on Appropriations of the Senate and the House of Representatives on the cost of conducting such a test.

The conferees agree that this testing does not represent the initiation of a RWR program. The conferees only endorse this test to provide additional data which the Air Force may use to select the most appropriate RWR for the B–1B.

ADVANCED STRATEGIC MISSILE SYSTEMS

The conferees agree with the House report language and direct that none of the funds for this program shall be obligated or expended for any Strategic Relocatable Target Attack Project or any Earth (or other media) Penetrating Weapons Project. The conferees further agree that none of the funding reduction recommended for this program element be applied to high performance maneuvering re-entry vehicle development.

ADVANCED WARNING SYSTEM

The conferees agree to the House funding allocations within this program, albeit at a lower total amount. The conferees direct that each category be assessed a proportional share of the overall reduction. The Air Force must maintain its open competition strategy for all responsive bidders.

ADVANCED TACTICAL FIGHTER

The conferees agree with the House funding recommendations and report language permitting the Advanced Tactical Fighter to proceed into full scale development and have included bill language to accomplish this.

ARMAMENT/ORDNANCE DEVELOPMENT

The conferees agree with the House position that the Air Force has an extensive inventory of dedicated airfield attack munitions certified for use which could be product-improved to meet the airfield threat. If funds are needed for testing and qualification of these product improved munitions, the Air Force may exercise its existing reprogramming authority.

ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)

The conferees agree to provide a total of $18,116,000 for the AMRAAM R&D program and direct the Air Force use these funds only for needed additional testing of the basic missile. Any additional use of these funds to develop upgrades requires prior approval from Congress.

IMPROVED CAPABILITY FOR DEVELOPMENT TEST AND EVALUATION

TEST AND EVALULATION SUPPORT

RANGE IMPROVEMENTS

The conferees acknowledge the Armed Services Committees' conference commitment to the Eglin Air Force test center. The conferees also recognize the important contributions of all the Air Force test and evaluation facilities. Thus the conferees direct that no single installation be allocated a disproportionate share of any reduction made to any specific program element in these categories.

INDUSTRIAL PREPAREDNESS

The conferees agree to the House language and direction for Industrial Preparedness. With the funds appropriated for the National Center for Manufacturing Sciences, the Center shall assure a fair share of matching funds from non-federal sources for certain on-going projects. The conferees agree that $2,900,000 is available only for the Center of Excellence for Advanced Flexible Manufacturing Systems and it is a project of special Congressional interest and should appear as such on DD Form 1414, a decrease to which requires prior Congressional approval.

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $195,158,000 for Defense Research Sciences, on which $10,300,000 is only for the Seismic

Research project as discussed in the House report.

SPACETRACK

The conferees agree with the Senate position which directs that $15,000,000 be used only for an upgrade of the telescope and facilities of the Maui Optical Station. The conferees further agree to provide $4,000,000 for a battle management system.

ELECTRONIC WARFARE DEVELOPMENT

The conferees agree with the Senate recommendations and have provided an additional $15,000,000 for the Airborne Self-Protection Jammer.

JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM (JSTARS)

The conferees agree with the Senate's recommendations with respect to this program, except that the conferees have restored a $50,000,000 reduction made in anticipation of the Air Force receiving funds from the sale of a new aircraft previously acquired for the program. The conferees understand that the timing of the receipt of these funds is less certain than originally expected. The conferees also direct that the Air Force must receive prior approval, 30 days in advance of obligation, from the Committees on Appropriations and Armed Services of the Senate and House of Representatives for the use of any funds ultimately received from this sale.

The conferees are also concerned about the lack of timely and accurate information about the JSTARS program provided by the Air Force during the fiscal year 1991 budget review. The conferees expect that, in the future, the Air Force will exercise greater oversight and management attention in regards to this program.

SPACE BOOSTERS

The conferees agree to restore $15,000,000 to this program for the Space Launch Complex 6 project and do not agree to the Senate's proposed reduction of $4,100,000 to the small launch vehicle project. The Air Force also is directed to include in its fiscal year 1992 budget request sufficient funds for the Launch Complex 40 project to ensure that the Mars Observer program remains on its current schedule.

B-52 LIFE EXPECTANCY

The conferees urge the Air Force to provide the Committees on Appropriations of the Senate and House of Representatives a comprehensive overview of its plans for the B-52 bomber fleet. This overview should address requirements for B-52's, the numbers and kinds of capabilities planned for the future, useful military lifetime remaining, and options for upgrades, including reengining with modern fuel-efficient high-bypass ratio turbofan jet engines, for any B-52 aircraft which may remain in the active force structure beyond the year 2000. The overview also should address the affordability and cost effectiveness of any upgrade options and examine the pace and extent of decreasing B-52 survivability in both conventional and nuclear roles against improving threats in the future, and the impact of this decreasing survivability on the cost-effectiveness of any identified upgrade options.

COMMERCIAL SPACE LAUNCH WAIVERS

The conferees agree with the House position with the exception that the $20,000,000 requirement shall be funded from within available funds. The conferees agree that this project is a special Congressional interest item and should appear as such on DD Form 1414, a decrease to which requires prior Congressional approval.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

Amendment No. 113: Deletes Senate heading "Transfer of Funds".

Amendment No. 114: Appropriates $9,115,699,000 for Research, Development, Test and Evaluation, Defense Agencies instead of $8,566,697,000 as proposed by the House and $8,563,407,000 as proposed by the Senate.

SPECIAL OPERATIONS COMMAND

Amendment No. 115: Restores the House language which earmarks funds for the Special Operations Command. The conferees agree to provide $191,062,000 instead of $184,977,000 as proposed by the House.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Advanced Special Operations Research SOST	−9,400		−7,400
Force Enhancements-Active:			
CV–22	15,000		8,000
AC–130U	−3,000		−3,000
Psyops Adv Develop	−1,000		−1,000
ATS		−1,000	−1,000
MC–130H	−6,391	−7,000	−7,000
JASORS		−7,500	−5,000
M–POTS		−2,981	−2,981
Ammunition		3,930	3,930
M–13 craft		−200	−200
IDAS:			
Excess funds		−800	−800
Study Effort		−2,588	−2,588
3GST9 Evaluation		2,949	2,949

Interactive Defensive Avionics System.—The conferees urge SOCOM to reassess the IDAS effort, which essentially is a study activity. The conferees are not convinced that the IDAS study is justifiable.

JASORS.—The conferees direct the Office of the Assistant Secretary of Defense SO/LIC to provide an independent technical assessment of the JASORS program and to provide the results to the Committees on Appropriations of the House and Senate by April 1, 1991.

3GST9/Advanced Seal Delivery System.—The conferees agree with the Senate recommendations with respect to the 3GST9 submersible, and have agreed to add $2,949,000 to the $16,000,000 earmarked only for this activity. The additional funds are required to replace an equal amount of expiring fiscal year 1988 funds previously allocated for this project.

Amendment No. 116: Deletes House language concerning a facility for collaborative research and training of military personnel.

Amendment No. 117: Restores House language on miniature diagnostic proton accelerator research.

Amendment No. 118: Restores and amends House language to provide $25,000,000 for the DARPA Initiative in Concurrent Engineering, $103,000,000 for the Extended Range Interceptor (ERINT) missile, $45,400,000 for the Patriot system, and $42,000,000 for the Arrow joint research and advanced development program.

Amendment No. 119: Restores House language on establishment of a coal utilization center.

Amendment No. 120: Restores House language on establishment of a materials research center.

Amendment No. 121: Restores House language providing $7,000,000 for an Experimental Program to Stimulate Competitive Research.

Amendment No. 122: Restores and amends House language concerning an Institute for Advanced Science and Technology to conform to the National Defense Authorization Act for fiscal year 1991, and adds new language concerning a new center for technology and applied research.

Amendment No. 123: Restores and amends House language concerning the Stevens Institute to provide funding separately from the DARPA Initiative in Concurrent Engineering.

Amendment No. 124: Restores House language concerning the Liberty Science Center.

Amendment No. 125: Restores House language concerning Drake University.

Amendment No. 126: Restores House language concerning Loyola College.

Amendment No. 127: Deletes House provision which made a portion of the appropriation subject to authorization.

Amendment No. 128: Amends Senate language concerning a facility for collaborative research and training of military personnel, adds new language concerning the National Defense Stockpile Transaction Fund, and provides a general provision concerning university research projects.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Research Development Test & Eval Def AG:				
Defense Research Sciences	85,238	121,538	85,238	100,538
In-House Laboratory Independent Research	2,342	2,342	2,467	2,467
University Research Initiatives	98,681	158,181	98,681	174,181
DOD Graduate Fellowship Training		20,000		20,000
Engineering—Training Initiative		50,000		50,000
U.S. Japan Management Training			10,000	10,000
Strategic Technology	207,749	207,749	115,249	115,249
Tactical Technology	121,535	141,531	104,035	122,035
High Performance Computing		50,000	128,000	128,000
Integrated Command and Control Technology	37,553	137,553	67,053	112,053
Materials and Electronics Technology	43,096	143,096	69,096	156,096
Nuclear Monitoring	36,626	24,626	36,626	24,626
Pre-Competitive Technology Development		100,000		50,000

[In thousands of dollars]

	Budget	House	Senate	Conference
Transfer From Other Accounts			(50,000)	
Strategic Defense Initiative (SDI)	4,195,000	2,300,000	3,573,000	2,890,000
SDI-Surveillance, ACQ, Tracking & Kill Assess	(1,306,669)	(1,306,669)		
SDI-Directed Energy Weapons	(802,954)	(802,954)		
SDI-Kinetic Energy Weapons	(1,017,681)	(1,017,681)		
SDI-Systems and Battle Management	(674,056)	(674,056)		
SDI-Survivability, Lethality, & Key Spt Tech	(393,640)	(393,640)		
SDI-General Reduction		(−1,895,000)		
Theater Tactical Ballistic Missile, Defense		250,000		218,249
Miniature Diagnostic Proton Accelerator Research		2,000		2,000
Joint DOD-DOE Munitions Technology Development	8,522	8,522	20,000	18,000
Experimental Evaluation of Major Innovative Tech	179,397	175,397	158,357	139,357
Lightsat		20,000		35,000
Advanced Submarine Technology		75,000		75,000
Combat Vehicle Technology		10,000		
Microwave/Millimeter Wave Monolithic Integrated Circuit	86,657	106,657	86,657	106,657
Prototyping of Advanced Tech & Innovative Concepts	64,242	84,242	57,742	62,742
Computer Aided Logistics Support	13,779	15,779	13,779	15,779
Manufacturing Technology			170,000	50,000
Balanced Technology Initiative	209,187	140,187	162,687	162,687
Cooperative DOD/VA Medical Research		20,000		20,000
Consolidated DOD Software Initiative	12,661	22,661	12,661	22,661
Engineering Institute-FFRDC	34,572	34,572	31,172	34,572
Infrared Focal Plane Array	20,676	20,676	18,676	18,676
Advanced Special Operations Research, Dev and Acq	24,784		24,784	17,384
Non-Acoustic ASW			30,000	30,000
Joint Remotely Piloted Vehicles Program	82,099	92,099	67,099	92,099
General Support for SO/LIC			2,000	2,000
Force Enhancements-Active	182,368	184,977	160,230	173,678
Airborne Reconnaissance Support Program	179,900	154,900	179,900	23,000
Defense Reconnaissance Support Activities	45,821	30,821	45,821	33,821
Classified Programs	1,241,499	2,008,538	1,241,499	1,976,287
Integrated Diagnostics	7,520	7,520		4,000
NATO Research and Development	95,781		95,781	85,781
General Support for PA&E	2,524		2,524	2,524
Technical Support to USD(A)—Critical Technology	3,744	3,744	2,998	2,998
Critical Technology Institute			5,000	5,000
Rand National Defense Research Institute	20,918	18,000	17,338	17,338
Industrial Preparedness	10,912	20,912		10,912
Joint Wargamming Simulation Mgmt Office		25,000		15,000
Strategic Environmental Research Program			200,000	150,000
Research Projects		20,000		40,000
Environmental Center		5,000		5,000
Institute for Defense Analyses/FFRDC			−11,890	−11,890
Logistics Management Institute/FFRDC			−2,730	−2,730
Excimer Laser Technology		30,000		15,000
Hot Weather Testing (Desert Shield)		20,000		
Classified Program		21,000		10,000

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $100,538,000, of which $10,000,000 is only for strategic materials activities for an ongoing project, and $8,000,000 is only for laser verification as recommended in the House report.

UNIVERSITY RESEARCH INITIATIVES

The conferees agree to provide $174,181,000, which includes increases of $59,500,000 only for the purposes explained in the House report, and an additional $16,000,000 for other initiatives.

SUPERCONDUCTIVE MAGNETIC ENERGY STORAGE SYSTEM (SMES)

The conferees agree that research on SMES is an item of special Congressional interest and that no funds may be diverted from this program element without prior Congressional approval through established reprogramming procedures. The conferees encourage the Department of Defense to continue this high priority research.

JOINT REMOTELY PILOTED VEHICLES

The conferees agree to the House recommendations and to the Senate earmark of $1,300,000 only for the particular project addressed in the Senate report.

TACTICAL TECHNOLOGY

The conferees agree to provide $122,035,000, which includes $104,035,000 as recommended by the Senate and explained in its report. The conferees agree to provide an additional $15,000,000, of which not to exceed $15,000,000 is only for the DP-2 Vectored Thrust Technology Demonstration Project. These funds may not be diverted to other DARPA programs without the prior approval of Congress. Another $3,000,000 is added only for research and development on environmentally acceptable methods and technologies for demilitarization of solid rocket motors.

INTEGRATED COMMAND AND CONTROL TECHNOLOGY

The conferees agree to provide $112,053,000, which includes $75,000,000 only for high definition systems as explained in the House report.

MATERIALS AND ELECTRONICS TECHNOLOGY

The conferees agree to provide $156,096,000, which includes increases of $60,000,000 only for X-ray lithography, $26,000,000 only for metal matrix composites technology, $10,000,000 only for ceramic bearings, $10,000,000 only for infrared sensitive materials. $3,000,000 only for acoustic charge transport technology, $3,000,000 only for low observable paint, and $1,000,000 only for ceramic insertion.

STRATEGIC DEFENSE INITIATIVE

The conferees agree to delete the bill language recommended by the Senate, which provided certain allocations and limitations for the use of funds provided for the Strategic Defense Initiative, as contained in the Senate-passed version of the National Defense Authorization Act for Fiscal Year 1991. The Senate and House Committees on Armed Services modified these provisions in the National Defense Authorization Act for Fiscal Year 1991 and its accompanying conference report. The conferees urge the Secretary of Defense and the Director of the Strategic Defense Initiative Organization to comply with these requirements as modified.

SDI RED TEAM

The conferees agree to the House report language, except that the term "industry, academia" should be replaced with the term "JASONS".

TACTICAL BALLISTIC MISSILE DEFENSE

The conferees agree to provide $218,249,000 for a new, centrally-managed tactical ballistic missile defense research and development program under the auspices of the Office of the Secretary of Defense. The conferees understand that there are several candidate weapons systems and programs which may provide tactical and theater ballistic missile defense for U.S. armed forces and their allies. The conferees reserve judgment as to which systems and programs, including improvements to existing systems, represent the best solutions to meet this need. The conferees agree with the House position that the research and development efforts in this important area need to be accelerated, but that it is premature to designate any particular weapons system or program as the baseline for a U.S. tactical ballistic missile system. The conferees also agree that it is premature to recommend any specific firepower per unit volume of system requirement. The conferees do believe, however, that a U.S. tactical ballistic missile system with the necessary capabilities should be fielded as soon as technologically and fiscally feasible. The conferees further believe that the selection of this baseline should be based on a fair and impartial evaluation of the cost- and military-effectiveness, and technological capabilities, of the likely candidate weapons systems and programs. The conferees recommend bill language allocating funds as follows: (a)

$103,000,000 only for the Extended Range Interceptor (ERINT) project; (b) $45,400,000 only for the Patriot system; and (c) $42,000,000 only for the joint U.S.-Israel development program for the Arrow theater missile defense system.

The conferees intend that these allocations represent the minimum amount available for these efforts during fiscal year 1991. The conferees do not wish to preclude additional amounts being made available to these activities by the components of the Defense Department, including the Strategic Defense Initiative Organization. The conferees direct the Secretary of Defense to submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives no later than March 1, 1991, his plan for determining the requirements for a baseline U.S. tactical ballistic missile defense system, and for selecting this baseline in the manner discussed by the conferees, and for fielding a system. The conferees direct that this plan be funded fully in the fiscal years 1992-1997 Six Year Defense Program. The conferees also believe that this plan should include a full examination and inclusion, as appropriate, of the Navy and Air Force requirements for tactical ballistic missile defense systems and programs. The plan should outline how the Defense Department will integrate these services into the centrally-managed programs to address their requirements.

MINIATURE DIAGNOSTIC PROTON ACCELERATOR RESEARCH

The conferees agree to provide $2,000,000 only for continuation of competing vendor approaches.

EXPERIMENTAL EVALUATION OF MAJOR INNOVATIVE TECHNOLOGIES

The conferees agree to provide $139,357,000, which includes funding at the Senate recommended level with the exceptions of an additional $10,000,000 as proposed by the House for the joint armor/anti-armor program and a reduction of $29,000,000 associated with LIGHTSAT, as the conferees have funded LIGHTSAT in a separate funding line for $35,000,000.

ADVANCED SUBMARINE TECHNOLOGY

The conferees agree to provide $75,000,000 and believe that the findings related to acoustics and structures, the work in advanced materials directed to the application of non-metallic/thick-section composite structure to submarine pressure hulls, as well as the technology of magnetohydrodynamic propulsion, are of particular note. The conferees support their continued development.

PROTOTYPING OF ADVANCED TECHNOLOGY AND INNOVATIVE CONCEPTS

The conferees agree to provide $62,742,000, a reduction of $1,500,000 as proposed by the Senate for activities associated with the Pilot's Associate program. The conferees did not agree to the Senate reduction in unmanned underwater vehicle research. The conferees further agree that $4,000,000 of the funds in this program may be used to initiate the development of a fuel cell power system for unmanned undersea vehicles in conjunction with the DARPA Advanced Submarine Technology fuel cell technology contract.

STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM

The conferees agree to provide $150,000,000 and also to the requirements and earmark of funds in the Senate report.

RESEARCH PROJECTS

The conferees agree to provide $40,000,000, which includes $5,000,000 only for a Coal Utilization Center, $15,000,000 only for the Liberty Science Center, and $20,000,000 only for an Environmental and Molecular Sciences Laboratory. Concerning the coal utilization center, the conferees agree with the House language; however, the Department of Energy should subcontract with at least one university which possesses established analytical laboratories with associated combustion test facilities and demonstrated technical expertise in coal chemistry and coal conversion, as well as coal utilization and fuel research. Concerning the Environmental and Molecular Sciences Laboratory, the conferees note that it has tremendous promise in developing permanent solutions to long term environmental restoration and waste management problems. The EMSL will also foster improved understanding of basic molecular chemistry science that can have profound benefits for a wide range of environmental and other issues.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

Amendment No. 129: Appropriates $237,720,000 for Developmental Test and Evaluation, Defense instead of $229,767,000 as proposed by the House and $226,679,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Director of Test & Eval Defense:				
Test Instrumentation Development	185,899	112,000	107,959	112,000
Foreign Comparative Testing	42,591	29,878	22,878	29,878
Live Fire Testing		17,974		17,974
Development Test And Evaluation	119,610	69,915	95,842	77,868

TEST INSTRUMENTATION DEVELOPMENT

The conferees agree with the intent of the Senate report language emphasizing reduction of single service, low priority and duplicative projects. The conferees further agree that not more than half of the $23,370,000 provided only for Global Positioning System (GPS) range applications shall be obligated until the Director of Defense Research and Engineering certifies to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that the range GPS acquisition is mission and cost-effective and does not unnecessarily duplicate GPS developments elsewhere in the Department of Defense. The Director may fund the Air Combat Environment Test and Evaluation Facility within the total funds provided for the Test Instrumentation Development/Central Test and Evaluation Investment program.

TITLE V—REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

Amendment No. 130: Appropriates $376,520,000 instead of $407,000,000 as proposed by the House and $302,500,000 as proposed by the Senate and deletes House language making $104,500,000 subject to authorization.

NAVY STOCK FUND

Amendment No 131: Appropriates $26,350,000 instead of $37,200,000 as proposed by the House and no funding as proposed by the Senate and deletes House language making these funds subject to authorization.

AIR FORCE STOCK FUND

Amendment No. 132: Appropriates $1,152,110,000 instead of $1,039,900,000 as proposed by the House and $887,900,000 as proposed by the Senate and deletes House language making $152,000,000 subject to authorization.

DEFENSE STOCK FUND

Amendment No. 133: Appropriates $35,420,000 instead of $50,000,000 as proposed by the House and $2,355,000,000 as proposed by the Senate and deletes House language making the funds subject to authorization.

ARMY INDUSTRIAL FUND

Amendment No. 134: Appropriates $151,100,000 as proposed by the Senate instead of $75,500,000 as proposed by the House.

NAVY INDUSTRIAL FUND

Amendment No. 135: Appropriates $238,700,000 as proposed by the Senate instead of $119,350,000 as proposed by the House.

DEFENSE INDUSTRIAL FUND

Amendment No. 136: Appropriates $4,000,000 as proposed by the Senate instead of $2,000,000 as proposed by the House.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Revolving and management funds	Budget	House	Senate	Conference
Army Stock Fund:				
Inventory Build	407,000	407,000	302,500	376,520
War Reserve Stocks			(−104,500)	(−30,480)
Navy Stock Fund:				
Inventory Build	37,200	37,200	0	26,350
War Reserve Stocks			(−37,200)	(−10,850)
Air Force Stock Fund:				
Inventory Build	1,340,200	1,039,900	887,900	1,152,110
"M" Account Payback		(−79,300)	(−79,300)	(−79,300)
War Reserve Stocks			(−373,000)	(−108,790)
Foreign Military Sales		(−61,000)		

[In thousands of dollars]

Revolving and management funds	Budget	House	Senate	Conference
Aircraft Safety Level Requirements		(−160,000)		
Defense Stock Fund:				
Inventory Build	50,000	50,000	2,355,000	35,420
War Reserve Stocks		(50,000)	(−50,000)	(−14,850)
Fuel			(+2,355,000)	
Industrial Funds:				
Army Industrial Fund Operations	151,100	75,500	151,100	151,100
Navy Industrial Fund Operations	238,700	119,350	238,700	238,700
Defense Industrial Fund Operations	4,000	2,000	4,000	4,000
Total, revolving and management funds	2,228,200	1,730,950	3,939,200	1,984,200

INDUSTRIAL FUND MANAGEMENT

The conferees agree to appropriate the amounts requested for the Industrial Fund appropriations to recoup some of the operating losses sustained in prior years. Concern remains regarding the Department's inability to set rates which reflect the actual costs of services provided by the industrial type activities included in these funds. The conferees expect that the Department will devote greater efforts to developing the appropriate rates for these activities. The conferees will not favorably consider further requests for appropriated funds to replenish funds depleted by poor estimates of costs and revenues.

TITLE VI—OTHER DEPARTMENT OF DEFENSE APPROPRIATIONS

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

Amendment No. 137: Appropriates $292,700,000 for Chemical Agents and Munitions Destruction, Defense, instead of $289,700,000 as proposed by the House and $365,700,000 as proposed by the Senate and earmarks $5,300,000 for cryofracture research as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Chem Agents and Munitions Destruction, Def:				
Procurement	211,600	115,100	184,900	115,100
Operation & Maintenance	142,800	157,100	175,500	159,100
Retrograde		12,200		13,200

OPERATION AND MAINTENANCE

The conference agreement is the House funding level, with specific changes identified in the House report, plus the $2,000,000 included in the Senate bill for the establishment of an off-island leave program for active duty and Federal Government workers who are assigned to Johnston Island for at least a 12 month tour.

PROCUREMENT

The conference agreement is the House funding level, with specific changes identified in the House report.

RESEARCH AND DEVELOPMENT

The conferees jointly agree that the Department continue expeditiously with the cryofracture research and development effort. This effort shall include process and facility design work, as well as preliminary site and environmental work. The cryofracture work must be directed at those areas of uncertainty which have been identified by the experts who have examined this program. The goal of the cryofracture program is to complete the work concurrently with the completion of Operational Verification Testing at Johnston Island so as to be able to proceed with facility construction if that decision is made.

RETROGRADE

The conference agreement provides the Senate funding level for retrograde, $13,200,000. The Senate funded this program in the operation and maintenance section of the appropriation; the House and conference agreement fund it as a separate line.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

Amendment No. 138: Appropriates $1,084,100,000 instead of $1,009,410,000 as proposed by the House and $1,207,900,000 as proposed by the Senate.

The conferees agree that within the $1,084,100,000 provided for "Drug Interdiction and Counter-Drug Activities, Defense", the following programs should be funded: Over-the-horizon test bed, $6,000,000; PHM patrol hydrofoil vessels, $18,000,000; CINC initiatives, $16,100,000; Southern Command's automatic data processing; $13,200,000; fully fund the command, control, and communications upgrade, $1,100,000; Unmanned aerial vehicles (UAV), $5,000,000; spare parts for the Caribbean Basin radar network, $3,300,000; Unmanned aerial vehicles (UAV), $5,000,000; Pointer Short-Range Air Vehicle Program, $1,000,000; Contraband detection technology/Cargo containers, $25,000,000; and Defense Advanced Research Projects Agency (DARPA), $6,500,000. These programs were addressed in the reports of the House and Senate Appropriations Committees. The conferees also agree with the Senate report language on JTF-6 and House report language on armored wheeled vehicles, and C-130 airborne early warning aircraft.

Contraband detection technology/cargo containers.—The conferees support the Senate report language and provided $25,000,000. The conferees further agree with the House language requiring a comprehensive plan which should pursue the demonstration of the Neutron Generator and Fast Neutron Activation Analysis technology and the Neutron Elastic Scatter technology.

National Guard and Reserve Forces.—The conferees provide $105,500,000 for Personnel, $35,400,000 for Operation and Maintenance, and $52,000,000 for equipment. The conferees expect the Department to release these funds to the components in a timely manner. Only new programs need to be approved by the Office of the Secretary of Defense.

In providing funds for National Guard equipment, the conferees have provided the Chief of the National Guard Bureau with flexibility in selecting systems and allocating funds between components for the furtherance of the National Guard's drug interdiction mission.

Aerostats.—The conferees agree to bill language directing the Department of Defense to use not less than $28,000,000 of the funds appropriated to "Drug Interdiction and Counter-Drug Activities, Defense" for the operation and maintenance of southwest border land-based aerostats. Of this amount, $14,000,000 is to be obligated by November 30, 1990. This action was previously proposed in Section 8097 of the Senate version of H.R. 5803. This action acknowledges that these aerostats are under the operational control of the Department of Defense.

The conferees support the Senate report language regarding aerostats. The conferees believe that the aerostat program is a critical asset in the national drug surveillance and monitoring mission of the Department of Defense as well as in support of other Federal agency and local government efforts in the "war on drugs."

Intelligence and intelligence-related programs.—See the classified report for details on these adjustments.

Justification material.—The conferees agree that the Department should provide the same detail for drug interdiction programs that they provide for other like programs in other appropriations. See House language for further guidance.

Reprogramming.—The conferees agree that the reprogramming base for fiscal year 1991 will be at the title level. Once the Department has allocated the above listed programs and the changes proposed in the classified report, the Department should provide draft DD1414s at the title level to the Committees on Appropriations. The conferees remind the Department that for fiscal year 1992 and thereafter, the reprogramming base will be the appropriation account level.

TITLE VIII—GENERAL PROVISIONS

Amendment No. 139: Deletes center heading.

Amendment No. 140: Deletes center heading.

Amendment No. 141: Amends Senate language to exempt
Department of Defense foreign service national employees serving at United States diplomatic missions as well as foreign nationals from the Philippines and Turkey from the limitation which requires that pay raises for foreign nationals be no greater than the rate of increase given to host nation employees by the host nation government or the rate given to U.S. civilians.

Amendment No. 142: Amends Senate language to change the date by which the Secretary of Defense must submit reports on the Overseas Workload Program. This allows firms of any member nation of the North Atlantic Treaty Organization, or of any major non-NATO ally, to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department

of Defense. For purposes of this section, Israel is considered in the European theater.

The conferees expect the Secretary of Defense, in preparing the reports requested under the overseas workload provision (Sec. 8003), to address significant aspects of the DOD depot maintenance program which demonstrate the capabilities, deficiencies and potential for enhancement of the existing effort. The reports should be analytical and should update and expand upon the presentation provided to Congress two years ago. The reports should indicate the possible impact on current overseas workload activities of a prolonged U.S. deployment in the Middle East. Service requirements should be dealt with as appropriate. The conferees expect that bidding under the overseas workload program will be for work not otherwise performed in the United States.

Amendment No. 143: Deletes center heading.

Amendment No. 144: Amends section number.

Amendment No. 145: Deletes center heading.

Amendment No. 146: Amends section number.

Amendment No. 147: Inserts the word "or" as proposed by the Senate.

Amendment No. 148: Deletes House language which allows the Defense Department's Education System to expend more than 20 percent of their funds in the last two months of the fiscal year.

Amendment No. 149: Deletes center heading.

Amendment No. 150: Amends section number.

Amendment No. 151: Deletes Senate language which allows the procurement of articles and items grown, reprocessed, reused, or produced in the Philippines for use by the Commander-in-Chief, Pacific.

Environmental Standards.—The Secretary of Defense shall review the impact other nations' lower environmental standards have on the competitiveness of United States companies in defense procurement and shall report to the Committees on Appropriations of the Senate and the House of Representatives on his findings by July 1, 1991.

Amendment No. 152: Deletes center heading.

Amendment No. 153: Amends section number.

Amendment No. 154: Provides $2,250,000,000 as the ceiling on transfer authority available to the Department of Defense instead of $3,000,000,000 as proposed by the House and $1,500,000,000 as proposed by the Senate.

Amendment No. 155: Inserts Senate language which requires the Department to notify the Congress promptly of all transfers made pursuant to any other transfer authority provided in this Act.

Amendment No. 156: Deletes center heading.

Amendment No. 157: Amends section number.

Amendment No. 158: Inserts Senate language which allows transfers between working capital funds and the "Foreign Currency Fluctuations, Defense" account.

Amendment Nos. 159-160: Makes technical changes to reflect action taken in amendment no. 158.

Amendment No. 161: Deletes center heading.

Amendment No. 162: Amends section number.

Amendment Nos. 163-164: Makes technical changes in the wording of subsections (b) and (c) as proposed by the Senate.

The conferees agree to Senate report language dealing with the opportunities for the greater use of American coal at Defense facilities in the continental United States and at installations in Europe. The Department is directed to diligently pursue these coal opportunity priorities, specifically (1) to make a greater effort to bring about cost effective conversions to coal in CONUS facilities as previously recommended by the Department, and (2) to work with the United States coal industry and the municipal governments within the Kaiserslautern Military Community (KMC) to enhance the use of anthracite coal as the principal energy source. Consistent with language contained in last year's Act, the conferees emphasize that the use of United States anthracite coal on a cost-effective basis must be a considered option in any Request for Proposal released for KMC.

Amendment No. 165: Deletes center heading.

Amendment No. 166: Amends section number.

Amendment No. 167: Deletes center heading.

Amendment No. 168: Amends section number.

Amendment No. 169: Deletes center heading.

Amendment No. 170: Strikes House language and adds Senate language which provides the Secretary of Defense authority to adjust CHAMPUS allowable charges in accordance with economic index data similar to that used pursuant to title XVIII of the Social Security Act. If the adjustment is downward, it may be by no more than fifteen per centum.

Amendment No. 171: Deletes center heading.

Amendment No. 172: Amends section number.

Amendment No. 173: Deletes center heading.

Amendment No. 174: Amends section number.

Amendment No. 175: Inserts Senate language which lists the following programs approved for multiyear procurement: Line of Sight-Rear (Avenger)—Pedestal Mounted Stinger, Family of Medium Tactical Vehicles (FMTV), LCAC Landing Craft, LHD Amphibious Ship, MK-45 Gun Mount/MK-6 Ammo Hoist, NAVSTAR Global Positioning Satellite (GPS), and Defense Support Program Satellites 22 and 23.

Amendment No. 176: Deletes center heading.

Amendment No. 177: Amends section number.

Amendment No. 178: Restores and amends House language which places a floor of 71,823 on (civilian) military technicians and a ceiling of 48,692 on personnel in active Guard or Reserve status (AGR) for certain Reserve and Guard components. Technicians assigned to units of the Special Operations Command are included in the above technician floor.

Amendment No. 179: Restores House language which prohibits management of DOD on the basis of end strengths and requires that the 1992 budget not be based on end strength.

Amendment No. 180: Deletes Senate language which establishes a ceiling of 1,062,305 civilian workyears in the Department of Defense.

Amendment No. 181: Deletes center heading.

Amendment No. 182: Restores House language which requires that a technician in the administration and training of the Army Reserve must also be a member of the unit or in some cases the Selected Reserve.

Amendment No. 183: Deletes center heading.

Amendment No. 184: Amends section number.

Amendment No. 185: Inserts Senate language which makes permanent the provision which prohibits the purchase or use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon.

Amendment No. 186: Deletes center heading.

Amendment No. 187: Amends section number.

Amendment No. 188: Deletes center heading.

Amendment No. 189: Amends section number.

Amendment No. 190: Inserts a comma as proposed by the Senate.

Amendment No. 191: Provides $15,000,000 to the Office of Humanitarian Assistance for immediate emergency airlift assistance and is addressed in the classified report.

Amendment No. 192: Deletes center heading.

Amendment No. 193: Amends section number.

Amendment No. 194: Deletes center heading.

Amendment No. 195: Amends section number.

Amendment No. 196: Deletes center heading.

Amendment No. 197: Amends section number.

Amendment No. 198: Makes a technical change as proposed by the Senate for the Department of Defense Education Benefits Fund.

Amendment Nos. 199-200: Makes technical changes as proposed by the Senate to the Army College Fund.

Amendment No. 201: Deletes center heading.

Amendment No. 202: Amends section number.

Amendment No. 203: Deletes center heading.

Amendment No. 204: Amends section number.

Amendment No. 205: Restores House language which prohibits procurement of 120mm mortars and 120mm mortar ammunition manufactured outside the United States, except those items required for testing, evaluation, and type classification and the Army's Ninth Infantry Division (Motorized).

Amendment No. 206: Restores House language which restricts funds for Army communications-electronics depots unless civilian end strength is maintained above the fiscal year 1985 level.

Amendment No. 207: Deletes center heading.

Amendment No. 208: Amends section number.

Amendment No. 209: Deletes the word "(CHCS)."

Amendment No. 210: Deletes Senate language which prohibits further deployment of the Composite Health Care System until full operational test and evaluation has been completed at all six test sites.

Amendment No. 211: Deletes center heading.

Amendment No. 212: Amends section number.

Amendment No. 213: Deletes center heading.

Amendment No. 214: Amends section number.

Amendment No. 215: Deletes center heading.

Amendment No. 216: Amends section number.

Amendment No. 217: Deletes center heading.

Amendment No. 218: Amends section number.

Amendment No. 219: Restores House language which provides for the obligation of funds for facilities at the Army Engineer's Waterways Experiment station and prohibits funds for acquisition of supercomputers not manufactured in the United States.

Amendment No. 220: Inserts new section proposed by the Senate which prohibits the use of funds to perform modifications, other than safety modifications, on items of equipment which the Department of Defense plans to dispose of within five years.

Amendment No. 221: Deletes center heading.

Amendment No. 222: Amends section number.

Amendment No. 223: Deletes the word "however" as proposed by the Senate.

Amendment No. 224: Restores House language which places restrictions on the Reserve Component Automation System.

Amendment No. 225: Deletes center heading..

Amendment No. 226: Amends section number.

Amendment No. 227: Deletes center heading.

Amendment No. 228: Amends section number.

Amendment No. 229: Deletes center heading.

Amendment No. 230: Amends section number.

Amendment No. 231: Restores and amends House language to allow for a waiver by the Secretary of the service responsible to the prohibition on the purpose of certain welded shipboard anchor and mooring chain outside the United States.

Amendment No. 232: Deletes center heading.

Amendment No. 233: Amends section number.

Amendment Nos. 234-235: Makes technical changes as proposed by the Senate to the military technician/medical personnel reprogramming provision.

Amendment No. 236: Deletes House language which required transferred prior year funds for medical personnel and programs to be offset from within appropriations to which transferred.

Amendment No. 237: Deletes center heading.

Amendment No. 238: Amends section number.

Amendment No. 239: Amends Senate language which restricts CHAMPUS mental health benefits for eligible beneficiaries and requires preadmission authorization before services are provided except for emergencies.

Amendment No. 240: Inserts Senate language which requires that the Defense Mapping Agency be the primary action office for the purchase of LANDSAT or SPOT remote sensing data.

Amendment No. 241: Deletes center heading.

Amendment No. 242: Amends section number.

Amendment No. 243: Makes a technical correction as proposed by the Senate.

Amendment No. 244: Deletes Senate language which requires the Department to absorb pay raises from funds provided in this Act. House had identical language at amendment No. 312.

Amendment No. 245: Deletes Senate language which provided CHAMPUS reimbursement for active duty personnel since this provision was codified.

Amendment No. 246: Deletes center heading.

Amendment No. 247: Amends both House and Senate language which transfers $300,000,000 to the United States Coast Guard. This section earmarks $295,000,000 for "Operating Expenses" and $5,000,000 for "Acquisition, Construction, and Improvement" for Coast Guard family housing at Astoria, Oregon, and Seattle, Washington.

Amendment No. 248: Deletes Senate language which provides the Secretary of Defense the authority to use unobligated balances available in the National Defense Stockpile Transaction Fund to finance operational costs for the fund.

Amendment No. 249: Restores House language which requires 50 percent PAN Carbon Fibers to be procured from domestic sources by 1992.

Amendment No. 250: Deletes center heading.

Amendment No. 251: Amends section number.

Amendment No. 252: Deletes center heading.

Amendment No. 253: Amends section number.

Amendment No. 254: Restores House language which exempts the Reserve Components from the reduction on consulting services.

Amendment No. 255: Inserts and amends Senate language which places a ceiling of $1,305,000,000 on funds for the procurement of advisory or assistance services by the Department of Defense.

Amendment No. 256: Deletes center heading.

Amendment No. 257: Amends section number.

Amendment No. 258: Restores House language which addresses environmental restoration at Hamilton Air Force Base, California. The Senate included identical language at amendment no. 367.

Amendment No. 259: Restores and amends House language prohibiting certain Naval ADP and personnel actions until 60 days after the Defense Department submits a report under the requirements, terms and conditions specified in section 8053 and the House report (H.Rept. 101-822, page 253). The confereres direct the General Accounting Office to certify in writing that any Department of Defense or Navy report or plan is the most cost effective and meets the requirements, terms and conditions in section 8053 and the House report (H.Rept. 101-822, page 253). If the GAO certifies and the Committees on Appropriations agree that the plans or report are not the most cost effective and do not meet the requirements, terms and conditions specified above, it is the conferees' firm intent that the Department of Defense or Navy not proceed with any consolidations, transfers, or reductions impacting the commands, functions and activities specified in section 8053 or the House report until the GAO has submitted to the Committees on Appropriations their complete review comments on these Department of Defense or Navy reports or plans. These GAO review comments must address the requirements, terms and conditions specified in section 8053 and House report 101-822.

Amendment No. 260: Restores House language which prohibits procurement of second or third generation night vision intensifier tubes from foreign sources.

Amendment No. 261: Deletes center heading.

Amendment No. 262: Amends section number.

Amendment No. 263: Inserts a provision proposed by the Senate which prohibits the use of funds for an advanced radar warning receiver for the B-1B.

Amendment No. 264: Inserts Senate language which allows the Department of Defense to pay indemnification costs of environmental cleanup at Pease Air Force Base.

Amendment No. 265: Deletes center heading.

Amendment No. 266: Amends section number.

Amendment No. 267: Restores House language which ratifies and confirms all obligations incurred in anticipation of appropriations.

Amendment No. 268: Deletes center heading.

Amendment No. 269: Amends section number.

Amendment No. 270: Deletes center heading.

Amendment No. 271: Amends section number.

Amendment No. 272: Deletes Senate language which makes excess U.S. defense equipment available to NATO allies which are contiguous to Iraq and to major non-NATO allies on the southern and southeastern flank of NATO which do not receive financial assistance from any country in the Near East region.

Amendment No. 273: Deletes center heading.

Amendment No. 274: Amends section number.

Amendment No. 275: Deletes center heading.

Amendment No. 276: Amends section number.

Amendment No. 277: Deletes center heading.

Amendment No. 278: Amends section number.

Amendment No. 279: Deletes House language which allows naval aviation depots to compete for modification and manufacturing workloads. This section has been incorporated into section 8072 at amendment no. 305.

Amendment No. 280: Deletes House language which provided for the funding of bonuses for nurse anesthetists since this provision is authorized and the Department is paying such bonuses.

Amendment No. 281: Inserts Senate language which increases CHAMPUS deductible to $150 for individuals and $300 for families on April 1, 1991, and authorizes the Secretary of Defense to set higher deductibles to encourage enrollment in managed health care plans.

Amendment No. 282: Inserts Senate language which limits the number of civilian workyears that the Department of Defense may fund overseas.

Amendment No. 283: Deletes center heading.

Amendment No. 284: Amends section number.

Amendment No. 285: Inserts Senate language which governs Defense contractor

hiring in States with unemployment exceeding the national rate of unemployment.

Amendment No. 286: Inserts Senate language which refers to local procurement of malt and alcoholic beverages for United States military installations.

Amendment No. 287: Deletes center heading.

Amendment No. 288: Amends section number.

Amendment Nos. 289-290: Makes a technical change as proposed by the Senate.

Amendment No. 291: Includes language providing for the transfer of funds from the TRIDENT ballistic missile submarine program.

Amendment No. 292: Deletes House language providing for the transfer of funds from the MHC coastal mine hunter program.

Amendment No. 293: Restores matter stricken by the Senate and adds provision for transfer of funds from Other Procurement, Navy and Aircraft Procurement, Navy accounts.

Amendment No. 294: Restores the House language and deletes the Senate language inserted.

Amendment Nos. 295-297: Makes a technical change as proposed by the Senate.

Amendment No. 298: Restores the House language which transfers funds into the aircraft carrier service life extension program.

Amendment Nos. 299-300: Makes a technical change as proposed by the Senate.

Amendment No. 301: Includes language providing for the transfer of funds to the MHC coastal mine hunter program and adds a provision for the transfer of funds to the craft, outfitting, and post delivery program.

The conferees approve the following transfers:

	Amounts
Shipbuilding and Conversion, Navy 1984/1988:	
SSN-688 nuclear attack submarines	$23,800,000
Shipbuilding and Conversion, Navy 1985/1989:	
SSN-688 nuclear attack submarines	54,300,000
DDG-51 guided missile destroyer	41,700,000
Shipbuilding and Conversion, Navy 1986/1990:	
Coastal mine hunter	36,000,000
Shipbuilding and Conversion, Navy 1987/1991:	
CG-47 cruiser	−25,000,000
Strategic sealift	−9,539,000
Craft, outfitting and post delivery	−14,736,000
SSN-688 attack submarine	14,000,000
AOE fast combat support ship	13,300,000
AO conversion	3,600,000
T-AGOS ocean surveillance ship	2,700,000
Shipbuilding and Conversion, Navy 1988/1992:	
CG-47 crusier	−110,000,000
LHD-1 amphibious assault ship	−473,000
Craft, outfitting, and post delivery	−33,568,000
Shipbuilding and Conversion, Navy 1989/1993:	
Outfitting and Post Delivery	−11,344,000
MHC coastal mine hunter	1,000,000
AOE combat support ship	8,700,000
T-AGOS surveillance ship	6,700,000
Shipbuilding and Conversion, Navy 1990/1994:	
TRIDENT ballistic missile submarine	−99,000,000
Craft, outfitting post delivery and ship special support equipment	−36,740,000
Aircraft carrier service life extension	21,000,000
T-AGOS surveillance ship	28,800,000
AOE combat support ship	27,900,000
Oceanographic ship program	36,100,000
MHC coastal mine hunter	55,100,000
Craft, outfitting, and post delivery	10,600,000
Other Procurement, Navy 1990/1992:	
Ind. depot maint. equipment	−13,000,000
Spares and repair parts	−8,000,000
Other generators	−255,000
Other pumps	−577,000
Surface sonar windows and domes	−300,000
Single audio system	−794,000
TSEC/KYV-5 (ANDVT)	−5,278,000
TRI-TAC Crypto (TENLEY)	−1,852,000
Explosive ordnance disposal equip.	−2,388,000
Swimmer weapons system	−944,000
Construction and Maint. Equip.	−229,000
Automated material handling sys.	−683,000

Amendment No. 302: Inserts language proposed by the Senate which reduces funds available to the Department of Defense by $27,000,000 and directs the Secretary to allocate the reduction to reflect savings from the increased use of discount airfares.

Amendment No. 303: Inserts and amends Senate language which earmarks not less than $20,000,000 for the National Defense Science and Engineering Graduate Fellowships Program.

Amendment No. 304: Deletes center heading.

Amendment No. 305: Amends House and Senate language to allow the Secretary of Defense to acquire the modification, depot maintenance, or repair of aircraft, vehicles and vessels as well as the production of components and other Defense related articles, through competition between Department of Defense depot maintenance activities and private firms.

Amendment No. 306: Deletes center heading.

Amendment No. 307: Amends section number.

Amendment No. 308: Deletes center heading.

Amendment No. 309: Amends section number.

Amendment No. 310: Deletes center heading.

Amendment No. 311: Deletes House language and adds Senate language which increases authority to collect from third party payers of reasonable health care service costs.

Amendment No. 312: Restores House language which requires the Department of Defense to absorb pay raises within levels appropriated in this Act. Identical Senate language was included in amendment no. 244.

Amendment No. 313: Deletes Senate language which reduced permanent change of station costs of military personnel by $200,000,000.

Amendment No. 314: Inserts and amends Senate language concerning incentive payments authorized by section 304 of the Indian Financing Act of 1974.

Sections 8077(b) and (c) are included in the bill to address an emergency situation in Indian country that is the result of a recent holding of the Supreme Court in a case known as *Duro* v. *Reina*, No. 88-6546 (May 29, 1990). Reversing two hundred years of the exercise by tribes of criminal misdemeanor jurisdiction over all Indians residing on their reservations, the Court held that tribes had lost their inherent power to exercise criminal misdemeanor jurisdiction over Indians who commit criminal misdemeanors on tribal lands but are not members of the tribe upon whose reservation the misdemeanors were committed. In at least twenty states with substantial Indian populations, the Court's decision has created a jurisdictional void in which neither a tribe, a state, or the Federal government is exercising jurisdiction over crimes committed by non-tribal member Indians in Indian country.

Unless authority to exercise jurisdiction in Indian country is delegated to the states by the Federal government and assumed by the states, as has been done in eleven states pursuant to the provisions of Public Law 83-280, states do not have jurisdiction over crimes committed by or against Indians in Indian country. The Federal government exercises jurisdiction only over major crimes committed in Indian country when either the victim or the perpetrator of a crime is an Indian. Traditionally, tribes have exercised criminal misdemeanor jurisdiction over all Indians on their reservations.

With the Court's ruling in *Duro* v. *Reina*, this traditional pattern of jurisdiction has been altered, and unless the Congress acts to fill this jurisdictional void, those who identify themselves as Indian and are recognized under Federal law (18 U.S.C. 1153) as Indian, may come onto an Indian reservation, commit a criminal misdemeanor, and know that there is no governmental entity that has the jurisdiction to prosecute them for their criminal acts. Such is the situation across Indian country since the Court's ruling in May.

In an effort to assure that until Congress is able to enact comprehensive legislation addressing the conditions which have arisen in the aftermath of the Court's decision, law and order can be restored and preserved in Indian country, sections 8077(b) and (c) recognize and affirm the inherent power of tribes to exercise criminal misdemeanor jurisdiction over all Indians on their respective reservations. Such recognition is consistent with the plenary power over Indian affairs that is vested in the Congress under Article I, section 3, clause 8 of the United States Constitution, and with two hundred years of Federal law enacted by the Congress which recognizes the jurisdiction of tribal governments over Indians in Indian country.

This recognition is supported by Federal policy and practice which in many instances, established Indian reservations on which several tribes were to be settled under the governance of a single tribal government. Throughout the history of this country, the Congress has never questioned the power of tribal courts to exercise misdemeanor jurisdiction over non-tribal member Indians in the same manner that such courts exercise misdemeanor jurisdiction over tribal members. Instead, the Congress

has recognized that tribal governments afford a broad array of rights and privileges to non-tribal members. Non-tribal member Indians own property on Indian reservations, their children attend tribal schools, their families receive health care from tribal hospitals and clinics. Federally-administered programs and services are provided to Indian people because of their status as Indians, without regard to whether their tribal membership is the same as their reservation residence. The issue of who is an Indian for purposes of Federal law is well-settled as a function of two hundred years of Constitutional and case law and Federal statutes.

Section 8077(d) was added in conference to make clear that the effects of sections 8077(b) and (c) as those sections affect the criminal misdemeanor jurisdiction of tribal courts over non-member Indians shall have no effect after September 30, 1991, based upon the intent of the relevant committees of the Congress to work with the Indian nations, the Departments of Interior and Justice, and the states, to develop more comprehensive legislation within the coming year to clarify the intent of the Congress on the issue of tribal power to exercise criminal misdemeanor jurisdiction over Indians.

Amendment No. 315: Deletes center heading.

Amendment No. 316: Amends section number.

Amendment No. 317: Restores House language which allows funds for the care of animals covered under a Department of Defense contract with Louisiana State University Medical Center.

The conferees agree that payments allowed under this provision may be used to feed those animals covered by the contract and therefore owned by the Department of Defense at the time of enactment of this Act. Funds shall not be used to purchase or feed additional animals.

Amendment No. 318: Deletes center heading.

Amendment No. 319: Amends section number.

Amendment No. 320: Deletes House language which prohibits the procurement of air circuit breakers outside the United States since similar language has been included in the National Defense Authorization Act, 1991. The conferees expect that any waivers submitted in accordance with that Act shall also be provided the Committee on Appropriations.

Amendment No. 321: Restores House language which changes the management of "M" and Surplus Fund accounts.

Amendment No. 322: Restores House language which requires the Secretary of Defense to submit a complete review of installations selected for base closure or realignment.

Amendment No. 323: Restores and amends House language which prohibits the use of funds to transfer the artillery maintenance function or to reduce the 2.5- and 5-ton truck maintenance workload at Letterkenny Army Depot as a direct result of proposed consolidated maintenance or increase of truck maintenance workload at any other depot.

Amendment No. 324: Restores House language which limits the funds for relocation of an organization, activity, or function into or within the National Capital Region.

Amendment No. 325: Restores House language which allows the Department to purchase only two-thirds of the liquid gas requirements at Andersen Air Force Base from in-house sources.

Amendment No. 326: Restores House language which prohibits funds to reduce the end strength or force structure of the reserve components below that in the Act, and deletes House language which prohibits funds to reduce or disestablish the weather reconnaissance missions of the Air Force and Air Force Reserve except to transfer the mission to the Air Force Reserve. See amendment No. 358 for details on the WC-130 weather reconnaissance mission.

Amendment No. 327: Restores House language which provides authority to reservists and guardsmen to use military leave, annual leave, or other appropriate leave to provide assistance to civil authorities in law enforcement, the protection or savings of life or property, or the prevention of injury.

Amendment No. 328: Restores and amends House language which limits the amount of time available to perform A-76 cost studies. Last year, the conferees expressed their weariness over the length of time and exorbitant cost required to complete these studies. The conferees directed the Department to end lengthy studies. The Department chose not to follow this guidance. Therefore, this year the conferees have included a general provision that ends any ongoing A-76 cost study six months after the date of enactment of this Act if the study exceeds two years for a single-purpose function and four years for a multi-purpose function. In addition, the conferees agree with the monetary reductions recommended by the House. The conferees are extremely concerned with the Department's implementation of this program which should produce true monetary savings if performed correctly. Because of this concern, the conferees direct that the General Accounting Office review the Defense Department's implementation of the A-76 program and to report no later than July 31, 1991 on its results. In particular, the GAO study should look at why it has taken the Department so long to perform A-76 studies, list the companies that perform these studies and how much money these companies have made on each study they have performed. GAO also should provide recommendations on follow-up procedures which might be instituted to ensure that contracted out functions remain cost effective years after a function has been contracted out, and how the agreed upon time restraints can be constrained even more.

Amendment No. 329: Restores House language which prohibits the closing of a military treatment facility unless the Secretary of Defense notifies the Committees on Appropriations of the House and Senate.

Amendment No. 330: Restores House language which transfers $30,000,000 to the Department of Energy for the final decontamination and decommissioning of the Apollo Nuclear Fuel Facility.

Amendment No. 331: Restores House language which prohibits the use of American Forces Information Service funds for national or international political or psychological activities.

Amendment No. 332: Restores and amends House language which transfers all authority of the Board of Regents of the Uniformed Services University of the Health Sciences to the Secretary of Defense and makes the board advisory only. The conferees are in agreement with the Department of Defense that the Uniformed Services University has some serious management shortcomings. Since April, when the Department's Inspector General reported a number of deficiencies detailed in his April 11, 1990, report, the Department has shown its commitment to correct these problems. Because of this strong commitment, the conferees have agreed to the Department's request to continue funding the University's operations. The Secretary has assured the conferees that the school will be organizationally located under the management of the Assistant Secretary of Defense for Health Affairs. The Secretary has also assured the conferees that he will "make necessary changes, including changes in the school's leadership, to strengthen the management of the school." Operation and maintenance funding was only reduced $200,000 to close the school's public affairs office. In addition, the new leadership should consider phasing out other extraneous functions that a normal independent agency would have since these functions will now be performed by the Office of the Secretary of Defense. No funds may be reprogrammed to the school without prior approval of the four congressional oversight committees. The conferees will closely monitor the progress that the Assistant Secretary of Defense for Health Affairs makes in efficiently operating this school in the future.

Amendment No. 333: Restores and amends House language which requires that, after June 1, 1991, all DOD computer software shall be written in Ada programming language where it is cost effective to do so in absence of special exemption by an official designated by the Secretary of Defense.

Amendment No. 334: Deletes Senate language which permits the Secretary of Defense to transfer up to $50,000,000 of unobligated balances in the national defense stockpile transaction fund to the Defense Agencies RDT&E account for precompetitive technology development cooperative projects between the Defense Advanced Research Projects Agency and other entities.

Amendment No. 335: Inserts Senate language which provides the same authority to the Secretary of Defense to adjust wage rates for certain civilian health care occupations as authorized for the Secretary of Veterans Affairs.

Amendment No. 336: Inserts Senate language which directs the Department of Defense to develop energy conservation guidelines. The conferees require the Department to develop new energy conservation guidelines. The conservation and wise use of energy resources is critical to United States national security, particularly at this time of rapidly rising petroleum prices. The conferees expect the Department to demonstrate during this fiscal year, in its budget justification documents, that it is making significant progress in reducing its overall energy consumption.

Amendment No. 337: Deletes center heading.

Amendment No. 338: Amends section number.

Amendment No. 339: Amends House language by directing the President to acquire thirty-six million pounds of depleted uranium for the National Defense Stockpile over a period of ten years.

Amendment No. 340: Restores House language which limits the number of permanent change of station moves ashore to Europe of U.S. military personnel to 95,000 and adds language which provides waiver authority for Secretary of Defense for national security interests after notifying the Committees on Appropriations. The conferees agree that this provision is necessary to

contain the number of permanent change of station moves to Europe.

The conferees want to emphasize that the Department should work aggressively to continue reducing personnel levels in Europe and not backfill those positions that become vacant.

Amendment No. 341: Restores and amends House language which prohibits the training of psychologists to prescribe drugs except if performed in accordance with the findings and recommendations of the Army Surgeon General's Blue Ribbon Panel. This training will be at Walter Reed Army Medical Center.

Amendment No. 342: Restores House language which prohibits the reduction of medical or medical support military or civilian personnel below the level maintained and authorized for fiscal year 1990.

Amendment No. 343: Restores House language which provides funds for a parliamentary building in the Solomon Islands and adds language to provide funds for the repair, improvement, and construction of port facilities and harbor improvements, including dredging, at the islands of Ofu and Ta'u in the Territory of American Samoa.

Amendment No. 344: Restores House language which waives title 10 for the transfer of the USS Turner Joy to the Bremerton Historic Ships Association.

Amendment No. 345: Restores House language which directs that fiscal year 1989 V-22 funding be made available for obligation.

Amendment No. 346: Rescinds $789,140,000 of prior year funds instead of $1,557,059,000 as proposed by the House and no rescissions as proposed by the Senate. The conferees agree to rescind the funds as follows:

RESCISSIONS

	House	Senate	Conference
Aircraft Procurement, Army, 1990/1992:			
AHIP	1,600,000		
AH-64 Mods	6,100,000		6,100,000
ASE	9,200,000		9,200,000
Grisly Hunter	9,898,000		0
Total	26,798,000		15,300,000
Missile Procurement, Army, 1990/1992:			
ADATS	140,146,000		140,146,000
ADATS (Adv. Proc.)	31,700,000		31,700,000
PATRIOT	92,400,000		
Total	264,246,000		171,846,000
Procurement of Weapons and Tracked Combat Vehicles, Army, 1989/1991:			
M-1	45,808,000		25,808,000
Total	45,808,000		25,808,000
Procurement of Weapons and Tracked Combat Vehicles, Army, 1990/1992:			
BFVS Series Mod	15,000,000		0
BFVS	28,000,000		0
Total	43,000,000		0
Procurement of Ammunition, Army, 1989/1991:			
RDX Facility	72,000,000		72,000,000
Total	72,000,000		72,000,000
Procurement of Ammunition, Army, 1990/1992:			
GB-2 Chemical Projectile	18,000,000		18,000,000
Total	18,000,000		18,000,000

RESCISSIONS—Continued

	House	Senate	Conference
Other Procurement, Army, 1989/1991:			
SCOTT	24,100,000		24,100,000
Total	24,100,000		24,100,000
Other Procurement, Army, 1990/1992:			
Night Vision Devices	7,900,000		0
Installation of Mod Equipment	11,000,000		11,000,000
Total	18,900,000		11,000,000
Aircraft Procurement, Navy, 1989/1991:			
EC-130 Series	10,600,000		0
Total	10,600,000		0
Weapons Procurement, Navy, 1990/1992:			
RAM	88,205,000		88,205,000
Total	88,205,000		88,205,000
Other Procurement, Navy, 1989/1991:			
TSEC/KYV-5	9,400,000		9,400,000
Total	9,400,000		9,400,000
Other Procurement, Navy, 1990/1992:			
Other Pumps	1,800,000		1,800,000
Other Ship Trg. Equip	4,000,000		0
Navy Tactical Data System	20,300,000		0
TSEC/KY 711/72	4,000,000		0
CARTS & CADS	1,700,000		1,700,000
Ind. Depot Maint. Equip	13,000,000		0
Spares and Repair	12,000,000		4,000,000
Total	56,800,000		7,500,000
Procurement, Marine Corps, 1989/1991:			
Dragon	7,000,000		7,000,000
Total	7,000,000		7,000,000
Procurement, Marine Corps, 1990/1992:			
M-1 Tank (AP)	80,300,000		62,300,000
Total	80,300,000		62,300,000
Aircraft Procurement, Air Force, 1989/1991:			
F-15 (ALQ-135)	124,490,000		
F-15 Modifications (ALQ-135)	33,100,000		
A-7 Modifications	10,000,000		8,400,000
C-141 Modifications (AWLS)	6,600,000		
Total	174,190,000		8,400,000
Aircraft Procurement, Air Force, 1990/1992:			
F-15 (ALQ-135)	57,759,000		
Mods Installation	50,000,000		
B-52 Modifications	6,000,000		
A-7 Modifications	40,000,000		34,800,000
F-15 Modifications (ALQ-135)	40,100,000		
F-16 Modifications	4,700,000		4,700,000
C-141 Modifications (AWLS)	25,200,000		
Other Production Charges (GBU-15 DATA LINK)	4,400,000		4,400,000
Total	228,159,000		43,900,000
Missile Procurement, Air Force, 1989/1991:			
MX (IMU contract savings)	33,968,000		33,968,000
AMRAAM	40,000,000		20,000,000
Target Drones (QF-106)	2,200,000		
Total	76,168,000		53,968,000
Missile Procurement, Air Force, 1990/1992:			
Spares and Repair Parts (Minuteman II)	15,700,000		
Missile Replacement Equipment—Ballistic	16,700,000		
MX (MK-21)	50,000,000		50,000,000

RESCISSIONS—Continued

	House	Senate	Conference
MX (IMU contract savings)	59,663,000		59,663,000
MX Rail Garrison (Adv. Proc.)	52,606,000		48,650,000
QF-106	4,300,000		4,300,000
Total	198,969,000		162,613,000
Other Procurement, Air Force, 1989/1991:			
Mobility Equipment	1,800,000		1,800,000
Total	1,800,000		1,800,000
Other Procurement, Air Force, 1990/1992:			
Weather Observation/ Forecast	15,000,000		6,000,000
Weapons Storage Security	10,100,000		0
Spares and Repairs Parts	4,700,000		4,700,000
Night Vision Goggles	1,000,000		0
Chemical/Biological Defense	7,900,000		0
Bigeye	6,916,000		4,300,000
Total	45,616,000		15,000,000
Research, Development, Test and Evaluation, Army, 1990/1991:			
SATCOM Ground Environment	17,000,000		0
Total	17,000,000		0
Research, Development, Test and Evaluation, Defense Agencies, 1990/1991:			
Classified Program	50,000,000		0
Total	50,000,000		0
Grand Total	1,557,059,000		798,140,000

Amendment No. 347: Restores House language which prohibits obligation of funds for the Ground Wave Emergency Network (GWEN) program until certain requirements are fulfilled. The conferees direct the Air Force to report back to the Committees on Appropriations on the cost savings that would be attained should this program be terminated in fiscal year 1991. If the Air Force should decide to terminate the program, the requirement for the reports included in section 8103 of the conference agreement will no longer be necessary.

Amendment No. 348: Restores House language which establishes a National Commission on Defense and National Security.

Amendment No. 349: Restores and amends House language which calls on Japan to assume all costs, except military personnel costs, of United States forces in Japan or troop levels will be reduced.

Amendment No. 350: Restores House language which makes a reduction of $400,000,000 in inapplicable inventory.

Amendment No. 351: Inserts Senate language which prohibits the expenditure of funds by the Department of Defense to transport any additional chemical weapons to Johnston Atoll after the completion of the European retrograde program.

Amendment No. 352: Inserts Senate language which provides $1,000,000,000 for modernization and expansion of automated data processing systems for Corporate Information Management.

Amendment No. 353: Inserts and amends Senate language which restricts funds for preparation of studies to determine the feasibility of removal and transportation of chemical weapons stored in the continental United States.

Amendment No. 354: Inserts and makes permanent Senate language which estab-

lishes a petroleum stockpile in Israel as a wartime energy reserve for the United States.

Amendment No. 355: Inserts and amends Senate language which addresses classified appropriations. There is a Classified Annex to this Conference Report which is incorporated as part of this Act under section 8111. The Classified Annex and an accompanying classified report are available to the Senate and the House of Representatives during consideration of this Conference Report, and will be made available to the President at the time of presentment of this legislation.

Amendment No. 356: Inserts and amends Senate language which places a floor on funds to be provided to the Civil Air Patrol.

The conferees agree that the Department should make $7,475,000 available to the Civil Air Patrol from the following appropriations: Operation and Maintenance, $3,294,000; Aircraft Procurement, Air Force, $1,881,000; Other Procurement, Air Force $1,300,000; and Drug Interdiction and Counter-Drug Activities, $1,000,000.

The conferees also agree with House report language which requires a report addressing the feasibility of the Civil Air Patrol to assume more responsibility over their activities. In addition, the conferees agree that the Department of the Air Force and the Civil Air Patrol should prepare a joint request for fiscal year 1992 and should submit the special exhibit in the justification book requested by the House.

Amendment No. 357: Inserts Senate language which allows the use of Operation and Maintenance funds to operate the Inter-American Air Force Academy.

Amendment No. 358: Inserts and amends Senate language which prohibits the Department from reducing and disestablishing the WC-130 Weather Reconnaissance Missions of the Air Force and Air Force Reserve, except to transfer the mission to the Air Force Reserve.

The conferees are adamant that the Department of Defense continue to support the weather reconnaissance mission by providing sufficient manpower and airframes to be able to fly 1,600 hurricane reconnaissance hours and sufficient additional hours for aircrew proficiency training, to generate up to five sorties a day, and to cover the Atlantic, Caribbean, Gulf of Mexico, and Hawaii in accordance with the National Hurricane Operations Plan.

It is the expectation of the conferees that the Department of Defense has once and for all decided to continue operation of the weather reconnaissance mission in the Department of the Air Force and/or the Air Force Reserve and not to again propose its disestablishment or transfer to any other agency or entity.

The conferees believe that the "Joint Air Force and Air Force Reserve Plan to Transfer the WC-130 Weather Reconnaissance Mission to the Air Force Reserve" (The Plan), dated January 31, 1990, should be the minimum mission transferred to the Air Force Reserve. The conferees support the House position that the Air Force Reserve squadron should operate and be manned to support 10 PAA and 2 BAI aircraft. Sufficient funds should be obligated and expended to support The Plan, as amended.

The conferees reiterate the Senate report language which states the importance the Committee (and Congress) attaches to the weather reconnaissance mission and its direction that the Department fully support the mission. In addition, the conferees agree with the House report language requiring the Department (1) to provide a special exhibit in the Operation and Maintenance, Air Force Reserve justification book, and (2) to report back by March 15, 1991, on the Department's reevaluation of The Plan to provide for a stand alone squadron for the Air Force Reserve weather reconnaissance mission.

Amendment No. 359: Inserts and amend section proposed by the Senate providing for a study of allied cooperation enhancement.

Amendment No. 360: Inserts Senate language which makes funds available to transport United States beef to DOD commissaries in foreign countries.

Amendment No. 361: Deletes Senate provision which provided an additional $1,220,000,000 for CHAMPUS since $500,000,000 was added to the service's operation and maintenance accounts above the Department's request.

Amendment No. 362: Inserts Senate language which provides authority for businesses providing supplies and services to DOD to credit amounts subcontracted to qualified nonprofit agencies for the blind or other severely handicapped as part of their subcontracting goal pursuant to section 8(d) of the Small Business Act.

Amendment No. 363: Inserts Senate language which makes $1,500,000 available for the Kahoolawe Island Commission.

Amendment No. 364: Inserts Senate language which prohibits bombing training, gunnery training, or similar munitions delivery training at Kahoolawe Island.

Amendment No. 365: Inserts and amends Senate language which provides $10,000,000 to establish a Legacy Resource Management Program in accordance with existing authorization provided to the Secretary of Defense and consistent with the primary national security mission of the Department of Defense.

The conferees believe that the Legacy Program will provide a significant contribution to the overall environmental effort of the Department of Defense. The Secretary of Defense is correct in identifying the responsible stewardship of lands as a central concern of the Department. His call for DOD to become a Federal leader in natural resource management, training and conservation can be significantly advanced through the Legacy Program.

The conferees direct that the Legacy Program be managed centrally in the Office of the Deputy Assistant Secretary of Defense for Environment (ODASE) and that this office be ultimately accountable for its success. The conferees require that cooperation and coordination within and between DOD components and other appropriate entities is essential to the success of the Legacy Resource Management Program.

Amendment No. 366: Insert Senate language which requires the procurement of $2,400,000 of jewel bearings from the William Langer Jewel Bearing Plant.

Amendment No. 367: Deletes Senate language concerning the environmental restoration at Hamilton Air Force Base since it was addressed in amendment no. 258, and inserts language which provides that funds may only be used to support 261,855 United States military personnel permanently assigned ashore in Europe on September 30, 1991, and that 50,000 of this ceiling may be waived by the President.

Amendment No. 368: Inserts Senate language which encourages voluntary partnership with schools.

Amendment No. 369: Inserts Senate language which restricts funds to the United States Naval Academy until certain steps are taken on matters concerning the Academy and requires a report on corrective actions by June 1, 1991.

Amendment No. 370: Inserts Senate language which restricts funds for the space-based wide area surveillance project in the Air Force's space surveillance technology program element and for the Navy's program addressing the same requirements.

Amendment No. 371: Deletes Senate language which requires the Department of Defense to operate and maintain the Southwest border land-based aerostat drug surveillance program and which provides $27,000,000 for this purpose since this language has been included in the "Drug Interdiction and Counter-Drug Activities, Defense" appropriations, and inserts language which prohibits the use of funds which would increase the staffing level of the Office of ASD SO/LIC and also prohibits the relocation of the Special Operations Research, Development, and Acquisition Center to the National Capital Region.

Amendment No. 372: Deletes Senate language which specifies certain allocations and limitations on the use of funds for the SDI program and inserts language concerning the National Drug Intelligence Center. For further details, see the write-up on the SDI program in Research, Development, Test and Evaluation, Defense Agencies.

The House strongly endorsed the President's request to establish a National Drug Intelligence Center and provided funds for initial costs. The Senate did not address this issue.

The conferees agree that there is a critical need for such a center to act as an interface between the intelligence agencies of the Federal Government and the various law enforcement agencies. The conferees also agree that the Center should be located in Pennsylvania as a cost effective alternative to the very expensive real estate and support costs in the Washington, D.C. area.

The conferees, therefore, direct that the following steps be taken by the Secretary of Defense, the Director of Central Intelligence, and the Attorney General.

The Secretary of Defense shall be the executive agent for the NDIC and no later than June 1, 1991, shall establish such a center as a separately funded Defense Agency within the Department of Defense.

The NDIC will be established in accordance with the requirement defined by the Director of the Office of National Drug Control Policy and will provide executive branch priorities for domestic and foreign drug intelligence collection; strategic all-source and foreign drug intelligence analysis of drug trafficking; information sharing and coordinated systems development; liaison between intelligence and law enforcement agencies; and legal counsel. The Secretary, the DCI, and the Attorney General are directed to execute a formal Memorandum of Understanding clearly defining these responsibilities and specifying how the NDIC will interact with existing organizations within their jurisdictions.

The conferees agree to provide $10,000,000 solely for the NDIC as proposed by the House. The conferees further agree that the Secretary shall appoint the Director and Deputy Director of the NDIC with the full concurrence and approval of the Attorney General and DCI, respectively.

If a coherent and aggressive national drug policy is to be in place, the conferees agree

that the NDIC is a necessary element. To the extent that DOD and NFIP programs do not comply with this vision of improved management of counternarcotics intelligence production and law enforcement, the House and Senate Committees on Appropriations will be extremely reluctant to provide funds for conflicting programs.

Amendment No. 373: Inserts Senate language which allows the Army to use $3,100,000 in troop labor, equipment and supplies at Fort Sill to assist the Department of Interior to replace an earth dam.

Amendment No. 374: Inserts Senate language which prohibits funds to complete an A-76 study at Indian Springs Air Force Auxiliary Field.

Amendment No. 375: Inserts Senate language which allows transfer of funds for costs associated with Hurricane Hugo.

Amendment No. 376: Inserts and amends Senate language which requires the Secretary of Defense to submit a detailed report on contributions by other countries to support Operation Desert Shield.

The conferees recognize the dependency of both industrialized and non-industrialized countries on Middle East petroleum products and the long-term threat which Iraqi aggression against Kuwait poses to United States national security interests. As such, the conferees direct the Secretary of Defense, as part of his submission to the Congress under section 8131(a) to report in both classified and unclassified form on the following:

(1) The countries and financial institutions, both inside and outside of the United States, in which petroleum producing countries are depositing profits generated by the oil price rise following the August 2, 1990, invasion of Kuwait by Iraq, and the amount of those deposits.

(2) The extent to which petroleum producing countries may be using the profits generated by the recent oil price rise to acquire significant interests in industries generally considered to be part of the United States defense industrial base or the industrial base of other developed countries.

Amendment No. 377: Deletes Senate language which restricts funds for the export, or the licensing for export, of any item or technology to South Korea, and amends the provision to extend the 90 day call-up authority of Selected Reserve combat units to 180 days with an extension for 180 days.

The conferees applaud the Department of Defense for utilizing the authority of 10 United States Code 673b to call-up Selected Reserves for Operation Desert Shield, but believes that the call-up should extend to combat units as well. For the last several years, the Congress had been appropriating substantial funds over and above the Department's budget request for the reserve components. Operation Desert Shield appears to be an appropriate time to evaluate whether those additional funds have indeed improved readiness. Therefore, the conferees agree to include language which provides the President authority to call-up the Selected Reserve combat units in support of operations in and around the Arabian Peninsula and Operation Desert Shield for 180 days with an extension for an additional 180 days.

Amendment No. 378: Inserts Senate language which clarifies the definition of properties available for purchase from Federal agencies.

Amendment No. 379: Inserts Senate language which allows the use of Operation and Maintenance, Army funds for the environmental protection program at Fort Bragg, North Carolina.

Amendment No. 380: Inserts and amends Senate language expressing the sense of the Congress on the establishment of an international strike force to counter major international drug traffickers.

Amendment No. 381: Inserts Senate language which expresses the sense of the Congress that the President should negotiate within the Group of Seven to come up with agreements for international economic burdensharing and that reports should be submitted to Congress no later than August 1, 1991 and 1992 assessing the agreements with the Group of Seven.

Amendment No. 382: Deletes Senate language which sets a limit on the amount of funds to support an end strength level in Japan, and inserts language which authorizes the Secretary of the Interior to erect in the Canaveral National Seashore a suitable bronze marker to commemorate the dedicated leadership of Congressman Bill Chappell in the establishment of the Canaveral National Seashore.

Amendment No. 383: Inserts Senate language which permits use of $31,000,000 for the Assault Ballistic Rocket System.

Amendment No. 384: Inserts Senate language which provides funds to satisfy a claim of Shipco, Inc.; inserts language which provides authority to satisfy a claim for damages at a Veterans Affairs medical center; inserts language which provides $165,000,000 for military personnel pay and $85,000,000 for CHAMPUS payments; and inserts language which provides waivers on the ATF program and on the use of unobligated balances of the National Defense Stockpile Transaction Fund.

The conferees agree to add an additional $85,000,000 to the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) in addition to the $500,000,000 increase above the budget request that was agreed to in the operation and maintenance accounts to partially cover the projected CHAMPUS shortfall.

In addition, the conferees agree to increase the military personnel pay accounts by $165,000,000 to partially cover the shortfall caused by the difference between the funded 3.5 percent pay raise and the authorized 4.1 percent pay raise.

TITLE IX

Amendment No. 385: Deletes Senate's title IX on Defense Authorizations; and inserts a new title IX on Desert Shield Supplemental Appropriations.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1991 recommended by the Committee of Conference, with comparisons to the fiscal year 1990 amount, the 1991 budget estimates, and the House and Senate bills for 1991 follow:

	Amounts
New budget (obligational) authority, fiscal year 1990	$282,589,703,000
Budget estimates of new (obligational) authority, fiscal year 1991	287,282,674,000
House bill, fiscal year 1991	267,824,339,000
Senate bill, fiscal year 1991	268,377,975,000
Conference agreement, fiscal year 1991	268,188,076,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1990	−14,401,627,000
Budget estimates of new (obligational) authority, fiscal year 1991	−19,094,598,000
House bill, fiscal year 1991	+363,737,000
Senate bill, fiscal year 1991	−189,899,000

J.P. MURTHA,
NORMAN D. DICKS,
CHARLES WILSON,
W.G. HEFNER,
LES AUCOIN,
MARTIN OLAV SABO,
JULIAN C. DIXON,
JAMIE L. WHITTEN,
JOSEPH M. MCDADE,
C.W. BILL YOUNG,
CLARENCE E. MILLER,
BOB LIVINGSTON,
SILVIO O. CONTE,
(except amendments 81 and 108),
Managers on the Part of the House.

DANIEL K. INOUYE,
FRITZ HOLLINGS,
J. BENNETT JOHNSTON,
ROBERT C. BYRD,
PAT LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
TED STEVENS,
JAKE GARN,
JAMES A. MCCLURE,
ROBERT KASTEN, Jr.,
ALFONSE D'AMATO,
WARREN B. RUDMAN,
THAD COCHRAN,
ARLEN SPECTER,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 5311, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1991

Mr. DIXON submitted the following conference report and statement on the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-935)

The further committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenue of said District for the fiscal year ending September 30, 1991, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 9, 10, 14, 17, 20, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 55, 57, 58, 59, and 62.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 7, 11, 15, 18, 22, and 53, and agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$920,464,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$529,764,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided further, That the Hurt Home located at 3050 R Street, Northwest, in the District of Columbia, shall not be occupied by residential or day patients or used as a residential treatment facility until a final decision is rendered by the District of Columbia Court of Appeals in Speyer v. Barry, Appeal No. 88-958*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert *39,262*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 5, 6, 8, 13, 19, 51, 54, 56, 60, and 61.

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
LES AUCOIN,
BERNARD J. DWYER,
STENY H. HOYER,
JAMIE L. WHITTEN,
DEAN GALLO,
BILL GREEN,
RALPH REGULA,
Managers on the Part of the House.

BROCK ADAMS,
WYCHE FOWLER, Jr.,
BOB KERRY,
(with the exception of amendment 25),
ROBERT C. BYRD,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

FEDERAL FUNDS

DEPARTMENT OF ADMINISTRATIVE SERVICES

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which apporpriates a special Federal contribution of $1,000,000 to partially restore the department's budget to the fiscal year 1990 level. This department serves as the nerve center of the District government and provides essential government-wide services to all District agencies such as the Metropolitan Police Department which many times has had to wait as long as a year or more for the Department of Administrative Services to process police procurements because of a shortage of trained personnel caused by funding shortfalls. The appropriation of this $1,000,000 from the District treasury is accomplished in amendment numbered 11.

BOARD OF EDUCATION

Amendment No. 2: Appropriates $15,080,000 as a Federal contribution to the public school system as proposed by the Senate instead of $12,080,000 as proposed by the House. The increase of $3,000,000 above the House level is discussed in amendments numbered 3 and 5.

Amendment No. 3: Earmarks $2,000,000 for renovations to public school athletic and recreational grounds and facilities as proposed by the House instead of $1,000,000 as proposed by the Senate.

Amendment No. 4: Deletes word "and"as proposed by the Senate to accommodate amendment number 5.

Amendment No. 5. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *, $1,000,000 shall be for expansion of the early childhood program, $1,000,000 shall be for teacher pay raises, and $1,000,000 shall be for the Anacostia Project in Southeast Washington.*

FIRE DEPARTMENT

For a Federal contribution to the District of Columbia for the Fire Department, $1,141,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Public Schools.—The conference agreement earmarks $1,000,000 to expand the early childhood program, $1,000,000 for teacher pay raises, and $1,000,000 for the Anacostia Project in Southeast Washington instead of $1,000,000 to expand the early childhood program and $3,000,000 for teacher pay raises as proposed by the Senate. The reduction of $2,000,000 in the allocation for teacher pay raises is reallocated to amendment number 3 for renovations to public school athletic and recreational grounds and facilities ($1,000,000), and in amendment number 5 for the Anacostia Project ($1,000,000). Negotiations are under way on a new contract for teachers which will include pay raises that may exceed $30,000,000. While the conferees do not want to presuppose what those negotiations may conclude, they agree that the level of pay for the District's public school teachers is a priority and note that the Council of the District of Columbia has stated that it is committed to fully fund pay raises that are negotiated by the Board of Education . . .".

Fire Department.—The conference action also inserts a new heading for the Fire Department and appropriates $1,141,000 to fund the administrative assistants to eight Battalion Fire Chiefs in the Firefighting Division on a 24-hour basis, 365 days a year. According to reports received by the conferees, the Administrative Assistants (Aides) perform duties that are essential to the orderly and efficient operations of their respective battalions, and in addition, are an integral part of the fireground command structure.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *, of which $80,000 shall be available to the Social Services Division of the Superior Court of the District of Columbia for other youth screening and diversion programs.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $160,000 for the After School Kids Program as proposed by the House instead of $160,000 for the After School Kids Program, $860,000 for the Social Services Division and $400,000 for counsel for Child Abuse and Neglect Program fees as proposed by the Senate. The conference agreement also includes language that makes $80,000 (of the $160,000) available to the Social Services Division for youth screening and diversion programs other than the After School Kids Program. This language gives the Social Services Division sole discretion to determine the use of the $80,000 within its screening and diversion program. With respect to the balance of $80,000 for the After School Kids Program, the conferees believe that these funds should cover the costs for a minimum of 50 youth completing the program and that a process/impact evaluation of the program by an outside, independent evaluator or consultant certified by the National Institute for Corrections should be conducted at a cost not to exceed four percent of the appropriation. At a minimum, the evaluation should include the following:

(1) A profile of program participants such as conviction charge, prior record, educational level, family structure, etc.

(2) Frequency and type of contact with program participants.

(3) Type of problem areas for which the youths were referred.

(4) Extent to which program was implemented as planned.

(5) Measure of educational gains for each youth through use of standardized tests to assess gains in academic problem areas, school advisory grades, etc.

(6) Changes in self esteem based on pretest and posttest results.

(7) Adjustment of youths at school and at home based on such measures as school attendance, school behavior, completes assigned household chores, etc.

(8) Incidence of illicit drug use by youths during the program.

(9) Incidence of youths involvement with the criminal justice system and severity of the involvement.

(10) Any other factors relevant to process/impact evaluation.

The conferees request that the evaluation be performed in a timely manner and transmitted to the House and Senate Subcommit-

tees on District of Columbia Appropriations by May 30, 1991.

DEPARTMENT OF PUBLIC WORKS

Amendment No. 7: Deletes heading and Federal appropriation of $100,000 for the preparation of an environmental impact statement relating to the expansion of the Lorton landfill proposed by the House and stricken by the Senate. The conferees have been advised that action was taken on September 17, 1990 by elected officials of the jurisdiction where the Lorton landfill is located mandating that an environmental impact statement be prepared prior to proceeding with expansion of the landfill. The environmental impact statement is to be completed by March 1992 and will be paid for from dumping or "tipping" fees. The conferees were further advised that the environmental impact statement required by the local officials can be implemented and completed more quickly than one mandated by Congress. Amendments number 22 and 58 relate to the Lorton landfill expansion.

DEPARTMENT OF HUMAN SERVICES

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

DEPARTMENT OF HUMAN SERVICES

For a Federal contribution to the District of Columbia, $3,041,000, of which $350,000 shall be to develop a program for boarder babies and children of substance abusers, $500,000 shall be to develop a residential aftercare program for pregnant substance abusers, $1,500,000 shall be for outpatient aftercare for pregnant substance abusers and the general recovering addict population, $500,000 shall be for a program for early detection of breast and cervical cancer to be conducted by an independent organization or institution of national prominence, and $191,000 shall be for security fences and security lighting at the Oak Hill Juvenile Detention facility and security lighting at the Cedar Knoll Facility.

DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

For a Federal contribution to the District of Columbia Institute for Mental Health to provide professional mental health care to low-income, underinsured, and indigent children, adults, and families in the District of Columbia, $1,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Department of Human Services.—The conference agreement appropriates $3,041,000 as a Federal contribution to the Department of Human Services and $1,000,000 as a Federal contribution to the District of Columbia Institute for Mental Health instead of $2,850,000 as a Federal contribution for the Department of Human Services as proposed by the Senate. The allowance recommended by the conferees will provide (1) $350,000 to develop a program for boarder babies and children of substance abusers, (2) $500,000 to develop a residential aftercare program for pregnant substance abusers, (3) $1,500,000 for outpatient aftercare for pregnant substance abusers and the general recovering addict population and, (4) $500,000 for an early detection program for breast and cervical cancer as proposed by the Senate. The conference action also provides a Federal contribution of $191,000 for security fences and lighting at the Oak Hill and Cedar Knoll juvenile detention facilities. See amendment number 19 for the payment of these funds from the District Treasury.

D.C. Institute for Mental Health.—In addition, the conference action inserts a new heading for the District of Columbia Institute for Mental Health and provides a direct one-time appropriation of $1,000,000 to assist the Institute in providing low-cost professional mental health care to low-income, underinsured, and indigent children, adults and families in the District of Columbia. The conferees were advised that the greater part of the Institute's client population is severely disturbed and predominantly classified as indigent and working poor with combined family incomes of $10,000 or less and nearly 40 percent of the patient population being uninsured or underinsured. The conferees were further advised that with successful treatment, the Institute's clients often move from welfare and other forms of public assistance to gainful employment, increased educational achievement and greater self-sufficiency.

The conferees request a report by April 15, 1991, from the Institute concerning the use of these funds and the level of services provided to District residents.

CHILDREN'S NATIONAL MEDICAL CENTER

Amendment No. 9: Delegates language proposed by Senate which provided payment of this appropriation to the District of Columbia for subsequent payment to the Children's National Medical Center for a cost-shared National Child Protection Center. The conferees agree that the payment should be made directly to the Children's National Medical Center rather than through the District of Columbia government.

Amendment No. 10: Appropriates $3,000,000 as proposed by the House instead of $4,000,000 as proposed by the Senate for a direct Federal contribution to the Children's National Medical Center for a cost-shared center focused on child and substance abuse prevention, trauma emergency medical care, pediatric AIDS/HIV treatment, critical care in newborn, pediatric and adolescent patients, pediatric medical research and other related specialized programs. The center is estimated to cost $50,000,000 with most of the funds provided by private and other sources.

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 11: Appropriates $113,879,000 as proposed by the Senate instead of $115,279,000 as proposed by the House. The conference allowance of $113,879,000 reflects an increase of $1,000,000 above the House allowance after adjusting the House figure of $115,279,000 as printed in the bill to reflect two reductions made on the House floor in Federal funds but not reflected in the District funds approporiation. The increase of $1,000,000 above the revised House allowance will provide the Department of Administrative Services with a total budget of $27,253,000 as proposed by the Senate instead of $27,853,000 as proposed by the House. This department serves as the nerve center of the District and the conferees are concerned with what seems to be an effort by District officials to reduce the department's budget year after year—from $30,264,000 and 493 positions in fiscal year 1987 to $28,631,000 and 448 positions in fiscal year 1990 to $26,253,000 and 439 positions requested in the fiscal year 1991 budget. The conferees believe it is unreasonable to expect the department to operate properly without adequate resources. The conferees request quarterly reports from the department on its efforts to improve operations.

PUBLIC SAFETY AND JUSTICE

Amendment No. 12: Appropriates $920,464,000 instead of $919,323,000 as proposed by the House and $920,583,000 as proposed by the Senate.

Fire Department.—The conference agreement provides $103,043,000 instead of $101,902,000 as proposed by the House and the Senate. The increase of $1,141,000 is provided to fund the administrative assistants to the department's battalion chiefs on a three-shift basis to the extent possible for the fiscal year. The conferees have been advised that the administrative assistants are essential to the orderly and efficient operations of their respective battalions and are an integral part of the fireground command structure.

Metropolitan Police Department.—The conference agreement appropriates $257,242,000 which is $7,201,000 above the fiscal year 1990 appropriation. Language carried in last year's Act is continued this year to allow $17,630,000 of the Department's funds to remain available until expended. District officials are directed not to use these carryover funds to replace part of the base in the department's fiscal year 1992 budget. Nor is the department to absorb a disproportionate share of mandatory increases, such as pay costs, than other District agencies.

The situation with crime in the District has worsened, and in order to provide police officials with maximum flexibility in managing the department in its efforts in the war on crime, the conferees once again direct that the drug emergency funds of $17,630,000 shall be available exclusive to the department with the first priority given to the hiring of new police officers to bring the level up to the authorized strength of 5,133. If not expended for personal services, the funds may be used to purchase goods and services in the non-personal object classes including support and other materials as well as capital items.

The conferees request that quarterly reports be provided to the House and Senate Committees on Appropriations showing the amounts obtained and expended and the purposes, in detail, for which funds were obligated and expended.

A summary of the number of sworn officers authorized and funded for fiscal year 1969-1991 follows:

METROPOLITIAN POLICE DEPARTMENT—UNIFORMED (SWORN) POLICE OFFICERS

Fiscal year	Number authorized	Number funded
1969	4,100	3,341
1970	5,100	4,295
1971	5,100	5,013
1972	5,100	4,727
1973	5,100	4,974
1974	5,100	4,909
1975	4,750	4,700
1976	4,630	4,567
1977	4,470	4,333
1978	4,150	4,096
1979	4,120	4,120
1980	4,242	4,096
1981	4,025	3,880
1982	4,121	3,880
1983	3,958	3,880
1984	3,958	3,845
1985	3,958	3,845
1986	3,958	3,845
1987	3,958	3,855
1988	3,958	3,855
1989	4,133	4,055

METROPOLITIAN POLICE DEPARTMENT—UNIFORMED (SWORN) POLICE OFFICERS—Continued

Fiscal year	Number authorized	Number funded
1990	5,133	5,055
1991	5,133	5,055

District-wide contracting.—The conferees remain interested in the District's progress in fully implementing the District of Columbia Procurement Practices Act of 1985. Accordingly, the conferees request that the District provide quarterly reports on the following information regarding contracting by all agencies, boards, commissions, and entities, independent or otherwise that receive any funding, directly or indirectly, through this Act:

(1) progress in completing the regulations of the final four chapters of the Act;

(2) the number of dollar value of sole source contracts the District enters into;

(3) the number of dollar value of contracts being carried out with no written contract on file;

(4) the number of dollar value of contracts pending before the Department of Human Services which have been renewed outside of the competitive bidding process.

Superior Court.—The conference agreement provides $65,850,000 instead of $66,192,000 as proposed by the House and $67,110,000 as proposed by the Senate. The conference action reflects a technical adjustment transferring out eight court reporter positions and $342,000 to the Court System. The conferees have not approved the increase of $860,000 for the Social Services Division and the additional $400,000 for fees for counsel in child abuse and neglect cases proposed by the Senate. The conferees were advised that $2,966,000 is in the budget for the Guardianship and Protective Proceedings program which will not be fully operational in fiscal year 1991. As a result, possibly half of the budget may be unobligated and could be made available to other high priority programs such as the special probationary teams for child abuse cases.

D.C. Court System.—The conference action provides $22,600,000 as proposed by the Senate instead of $22,258,000 as proposed by the House and reflects a technical adjustment transferring in eight court reporter positions and $342,000 from the Superior Court.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that allows the Metropolitan Police Department to make small purchases up to $500,000 without going through any other District agency including the Department of Administrative Services. The limit for the department is presently $10,000 although the limit for some agencies is up to $1,000,000. The conferees agree that the increase in purchasing authority from $10,000 up to $500,000 will insure that the Metropolitan Police Department will be able to independently and expeditiously procure the goods and services it requires to fulfill its mission. The conferees further agree that the administrative requirements for the department's increased procurement authority of up to $500,000 be those presently governing procurements made under the small purchase authority so that no new or creative bureaucratic hurdles will be imposed on the department. The Department should view this increase in direct purchasing authority as a pilot or model that will be reviewed during next year's budget hearings to determine whether the Department's procurement situation has improved.

Amendment No. 14: Deletes language proposed by the Senate which would have made funds appropriated for the Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986 available until expended rather than available only during the fiscal year in which they are appropriated.

PUBLIC EDUCATION SYSTEM

Amendment No. 15: Appropriates $738,240,000 as proposed by the Senate instead of $735,240,000 as proposed by the House. The conference action reflects an increase of $4,600,000 above the House allowance after adjusting the House figure of $735,240,000 as printed in the bill to reflect the reduction of $1,600,000 made on the House floor in the allocation to the University of the District of Columbia but not reflected in the appropriation for "Public Education System". The increase of $4,600,000 above the revised House allowance will restore the $1,600,000 for the University of the District of Columbia as proposed by the Senate and will allocate the $3,000,000 in Federal funds appropriated under amendment number 2. The $3,000,000 will provide $1,000,000 for expansion of the Early Childhood Development Program as proposed by the Senate, $1,000,000 for teacher pay raises instead of $3,000,000 as proposed by the Senate, and $1,000,000 for the Anacostia Project in Southeast Washington which will focus on the improvement and extension of mathematics, science and technology for the District's public school system. This project is discussed under amendment number 16.

Amendment No. 16: Allocates $529,764,000 instead of $526,764,000 as proposed by the House and $530,764,000 as proposed by the Senate for the public schools of the District of Columbia. The increase of $3,000,000 above the House allowance will provide (1) an additional $1,000,000 as proposed by the Senate for expansion of the Early Childhood Development Program, (2) $1,000,000 for the Anacostia Project in Southeast Washington which is discussed later, and (3) $1,000,000 for the projected teacher pay raises instead of $3,000,000 as proposed by the Senate. Negotiations are under way on a new contract for teachers which will include pay raises that may exceed $30,000,000. While the conferees do not want to presuppose what those negotiations may conclude, they agree that the level of pay for the District's public school teachers is a priority and note that the Council of the District of Columbia has stated that it is "committed to fully fund pay raises that are negotiated by the Board of Education. . ."

Excessive administrative costs.—The conferees are deeply concerned at the pattern of spending in the District's public schools. It is not the case that the total amount per pupil being spent is low; in fact, it is among the highest in the Nation. The problem is that the funds are being misdirected with excessive funds going to administrative overhead and all too little going to the instruction of students. The conferees hope that the new administration will address the misdirection of resources.

Anacostia Project.—The conference agreement includes $1,000,000 for the development and implementation of the renewal of the Anacostia Project in Southeast Washington. In 1974, the District established Ballou High School in Southeast Washington as the mathematics and science school for the city. A renewal of this project will focus on school-based staff development, school analysis for accountability, a new curriculum integrating technology into the classroom with staff development and training in the most up-to-date teaching techniques and strategies (including Integrative Learning) which emphasizes preparing students for work, college and citizenship in the 21st century by focusing on science, mathematics and technology as well as values education and multicultural heritage and legacy.

According to many business and government leaders, the United States must develop bolder visions and provide more aggressive leadership in at least three areas: economic revitalization, educational reform and community renewal. This project is an attempt to address these national needs as well as those of minority students who along with women will represent over 85 percent of the new work force by the year 2000. Programs such as those being developed by the National Science Center Foundation (NSCF) are attempting to address these priorities. The NSCF believes that the Nation's educational failures center on two issues, one of which is a decline in student test scores in mathematics and science and the second is the current shortage of well prepared teachers in the fields of mathematics and science for the Nation's schools. The Foundation is developing a computer-based system in an effort to make an impact on the teaching of mathematics. According to NSCF, the use of these technologies not only benefits the teaching of these subjects but is necessary if we expect to overcome the current and projected shortage of qualified mathematics and science teachers.

The conferees are encouraged by these initiatives and direct that the $1,000,000 approved for this project be used to continue the planning and development of this urban demonstration model in mathematics, science and technology for the District in Southeast Washington. These funds are to be used to upgrade and expand the Ballou Mathematics and Science School and the Friendship Educational Center, which was recently renamed the Patricia Roberts Harris Educational Center, and for additional programs focused on mathematics, science and technology. Learning Logic computer laboratories are to be installed in these two schools to serve as urban demonstration sites for the Foundation's comprehensive computer-based mathematics program for all students in algebra through calculus. Model pilot programs will be established for (1) improving mathematics, science and computer learning opportunities for students in pre-kindergarten through high school including a Tech-Prep 2+2 Program; (2) extended day and year-round programs using computers with a mathematics and science focus; and (3) parent and community support programs.

Funds are also provided to begin a year-round, school-focused, research based staff development center dedicated to improving and upgrading the teaching of mathematics, science and technology in the District's public schools. This facility is to be located in the newly named Patricia Roberts Harris Educational Center and will provide for the strengthening of the relationship and collaboration of the District's public schools with the National Science Center Foundation, Howard University, the University of the District of Columbia, the Naval Re-

search Laboratory, and other agencies and organizations.

The conferees have been advised that the necessary first step toward the implementation of this project is to air condition the Ballou High School for a year-round mathematics and science program. Accordingly, the conferees direct that the necessary funds within the public schools capital outlay program be made available to air condition the Ballou High School and modernize and improve the necessary science laboratories at Ballou for the mathematics and science school.

The conferees request comprehensive biannual reports on the implementation and progress of the Anacostia Project. The reports are to be provided on May 1, 1991, and November 1, 1991, by the Board of Education to the House and Senate Subcommittees on District of Columbia Appropriations. A time line with goals and accomplishments should be included in the annual report.

ACCORD Program.—The ACCORD Program is a 5-year model demonstration project established to provide high school students with necessary skills to obtain entry level career employment. The program is a partnership between the business and civic communities, government agencies and the public schools with job opportunities provided in both the private and public sectors to students who receive training through seminars, on-the-job training, internships, and direct assistance from volunteer mentors. This program was first funded in fiscal year 1988 at a level of $800,000 of which $200,000 was contingent upon the receipt of $200,000 in private sector contributions for a total program level of $1,000,000.

The conferees request that detailed quarterly reports be provided within 20 days after the close of each quarter directly by the Board of Education to the House and Senate Subcommittees on District of Columbia Appropriations on the ACCORD Program setting out the progress made from the previous reporting period as well as a comparison of the program's goals and objectives with the accomplishments.

Options School.—The conferees have included $600,000 within the funds provided to the Board of Education for the Options School program. The program is an alternative full-day program for youths 12 to 15 who are functioning at least two years behind grade level and are drop-out risks. The students are given courses in basic skills, computers, science and technology. While in the program 86 percent of the students attended school 80 percent of the time, 37 percent had two or fewer absences, and 25 percent had perfect attendance. On standardized tests 65 percent progressed two grade levels in reading and math. Students can stay in the program for up to one year. This initiative has been a success by any measure, and the conferees encourage school officials to consider expanding its use.

The conferees request that the $180,000 increase above last year's level be used to supplement the base operations and to expand the Options School by adding such programs as a summer session, performing arts, and evaluation which may be used as a basis for national replication, and enhancement of the curriculum as well as other related program development.

Amendment No. 17: Allocates $22,000,000 as proposed by the House instead of $21,000,000 as proposed by the Senate for pay-as-you-go capital projects for the public schools. The conference action provides $2,000,000 as proposed by the House instead of $1,000,000 as proposed by the Senate for renovations to athletic and recreational grounds and facilities in the public school system.

Amendment No. 18: Allocates $76,913,000 as proposed by the Senate instead of $75,313,000 as proposed by the House for the University of the District of Columbia. The conference action restores the $1,600,000 reduction that resulted from a House floor amendment offered because $1,600,000 was proposed to be borrowed on the municipal bond market by the District government to be repaid from the District's local tax revenues to renovate the Carnegie Library to exhibit "The Dinner Party" art work. This amendment was adopted by the House even though there were no funds in the bill related to the art work. The artist subsequently withdrew her offer to donate the art work to the University.

HUMAN SUPPORT SERVICES

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$876,431,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $876,431,000 instead of $873,390,000 as proposed by the House and $876,240,000 as proposed by the Senate. The increase of $3,041,000 above the House allowance includes $350,000 as proposed by the Senate to evaluate program alternatives for addressing the District's boarder babies and children of substance abusers. These funds will enable the District to evaluate the few existing alternatives, select the most promising strategies amendable to local conditions, educate and train necessary personnel, and begin implementation. The conferees intend that the District explore with national and local organizations, such as the District of Columbia Institute for Mental Health which was recently awarded a Federal grant for this purpose, various ways to combat this growing problem. The conferees have also included $500,000 as proposed by the Senate for a program to establish residential aftercare for new mothers and their newborn infants in a drug-free environment until they are self-sufficient. In addition, the conference agreement includes $1,500,000 as proposed by the Senate to expand outpatient aftercare for pregnant and general population substance abusers. The need for such care is so great that existing programs are overwhelmed. Aftercare is essential if the recovered substance abuser is to maintain a drug-free lifestyle and not have a relapse.

In order to expedite the delivery of services, the conferees direct that each of these programs be handled through the issuance of contracts to groups providing the services.

The conference action also provides (1) $500,000 as proposed by the Senate for grants to nationally known independent public and private non-profit entities for the purpose of screening for breast and cervical cancer by conducting a physical examination, a mammography, and a pap smear for women who are not currently receiving such services under existing District programs, private insurance, or Federal health benefits programs; and (2) $191,000 for the Youth Services Administration for perimeter fencing and security lighting at the Oak Hill and Cedar Knoll juvenile detention facilities. See amendment number 20 for a further explanation on the use of this $191,000.

Federal funds appropriated to the District in amendment number 8 are appropriated from the District's treasury by this amendment.

Amendment No. 20: Restores language proposed by the House and stricken by the Senate earmarking not less than $191,000 of the Human Support Services appropriation for the Youth Services Administration for perimeter fencing and security lighting at the Oak Hill and Cedar Knoll juvenile detention facilities located in Laurel, Maryland. The conferees direct that these funds not be released for obligation by the department until a comprehensive plan for security improvements at Oak Hill and Cedar Knoll is transmitted to the House and Senate Subcommittees on District of Columbia Appropriations. The conferees reiterate their strong interest in the Oak Hill and Cedar Knoll facilities, especially in view of the continuing security problems. The conferees request that District officials prepare a long-term plan for resolving the outstanding security, program, staffing and other problems at the facilities and be prepared to testify during the fiscal year 1992 budget hearings on the steps the department will take to implement these plans.

Amendment No. 21: Restores language proposed by the House and stricken by the Senate which prohibits the use of the Hurt Home located at 3050 R Street, Northwest, as a treatment facility until final adjudication by the relevant courts and clarifies the proviso by citing the specific court case that was filed with the District of Columbia Court of Appeals on August 8, 1988 (*Speyer v. Barry*, Appeal No. 88-958). The conferees believe that this provision should not delay occupancy, which is scheduled for the summer of calendar year 1991, since the case should be decided soon.

The Hurt Home was purchased in 1987 and will become the city's first community-based residential center for emotionally disturbed children, youth and their families. The program is designed to serve 24 emotionally disturbed boys and girls, aged 8 to 12 years who are in need of 24 hour intensive therapeutic services in a residential setting. The facility is not intended for children and youth who present a likelihood of serious harm to others, or who have a primary diagnosis of mental retardation, developmental disability or substance abuse. Currently, more than 200 of these children are located in out-of-state treatment facilities in Colorado, Texas, Florida, and Georgia at an annual cost in excess of $24,000,000. The District government is currently renovating the facility at an estimated cost of $2.7 million which will cover work necessary to meet both programmatic and code requirements. Completion of the work is expected during the summer of 1991.

Nothing in this provision should be construed to prohibit the District from performing any activities not expressly prohibited by the order of the Superior Court of the District of Columbia dated June 23, 1988.

PUBLIC WORKS

Amendment No. 22: Deletes language proposed by the House and stricken by the Senate which would have allocated not less than $100,000 from the District treasury for an environmental impact statement for the

proposed expansion of the Lorton landfill. The conferees have been advised that action was taken on September 17, 1990, by elected officials of the jurisdiction where the Lorton landfill is located mandating that an environmental impact statement be prepared prior to proceeding with expansion of the landfill. The environmental impact statmented and completed more quickly than one mandated by Congress. Amendment numbers 7 and 58 relate to the Lorton landfill expansion.

CAPITAL OUTLAY

Amendment No. 23: Appropriates $324,322,000 as proposed by the House instead of $323,322,000 as proposed by the Senate. The increase of $1,000,000 above the Senate allowance is earmarked in amendment number 24 for the public school system.

Amendment No. 24: Provides $22,000,000 as proposed by the House instead of $21,000,000 as proposed by the Senate for pay-as-you-go maintenance improvements and emergency repairs to public school facilities. Included in the $22,000,000 allocation which will be financed from general fund operating revenues is $2,000,000 as proposed by the House instead of $1,000,000 as proposed by the Senate for renovations to public school athletic and recreational grounds and facilities.

GENERAL PROVISIONS

Amendment No. 25: Provides an employment ceiling for fiscal year 1991 of 39,262 as proposed by the Senate instead of 40,037 as proposed by the House and deletes language proposed by the Senate concerning solid waste disposal. The conferees agree that the employment ceiling of 39,262 for fiscal year 1991, which is same as the ceiling in the fiscal year 1990 Act, applies to all departments, agencies, activities, commissions and boards funded directly or indirectly through this appropriations Act. The conferees also agree that District officials are not to use this position ceiling to restrict the hiring of personnel by the Metropolitan Police Department, the Fire Department or the Department of Corrections since the approved fiscal year 1991 level of employment in those departments was not increased above the fiscal year 1990 level.

Amendment Nos. 226 through 50: Technical renumbering of sections to provide consecutive section numbers following conference action on amendment number 25 which deleted a new section 111 proposed by the Senate. With the new section 111 deleted, the section numbers revert to those in the House-passed bill.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 136. (a) IN GENERAL.—

(1) ATTORNEYS.—Section 906 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (section 1-610.6, D.C. Code) is amended—

(A) in subsection (a), by striking "Notwithstanding" and inserting "Except as provided in subsection (c) and notwithstanding"; and

(B) by adding at the end other following new subsection:

"(c) Subsections (a) and (b) shall not apply to any person applying for or accepting any position in the Excepted Service as an attorney, and such person shall be covered by the provisions of section 801(e).".

(2) EMPLOYEES OF BOARDS AND COMMISSIONS.—Section 202(3) of such Act (section 1-602.2, D.C. Code) is amended by inserting after the second sentence the following: "Individuals serving as employees of boards and commissions shall be covered by the provisions of section 801(e).".

(3) CONFORMING AMENDMENT.—D.C. Law 3-36 is amended—

(A) in section 4(a)(4) (section 9-603(a)(4), D.C. Code), by striking the colon at the end of the second sentence and all that follows and inserting a semicolon; and

(B) in section 11 (section 9-610, D.C. Code), by striking "titles V and XVII" and inserting "titles V and XVII and section 801(e)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Residency Preference Amendment Act of 1988.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action inserts language which extends the residency preference system to attorney positions and employees of all independent agencies, boards and commissions of the District of Columbia. The language proposed by the House and stricken by the Senate extended the residency preference system to attorney positions. The residency preference system for employees of the District government was enacted in Public Law 101-168 approved November 21, 1989 (103 Stat. 1276, 1277), and was intended to apply to all persons employed by the District government except those in the Excepted and Executive Services. However, attorney positions were excluded because they were exempt from the Comprehensive Merit Personnel Act which is the act that was amended by Public Law 101-168. In addition, the conferees learned that some independent agencies, boards, and commission likewise are not subject to the Comprehensive Merit Personnel Act and therefore not subject to the residency preference system. The conference action amends the House language as well as applicable sections and provisions of D.C. law and the D.C. Code to extend the residency preference system to all independent agencies, boards, and commission of the District of Columbia.

The conferees believe that all employment with the District government should be covered by the residency preference system with the exception of those individuals in the Excepted Services and Executive Service hired after December 31, 1979, who will continue to be required to live in the District of Columbia for the duration of their employment in the Excepted and Executive Services as required under current law.

These amendments are permanent law and as such continue beyond this fiscal year into perpetuity.

Amendment No. 52: Restores language proposed by the House and stricken by the Senate which prohibits the District of Columbia from using funds in this Act for salaries, expenses or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of D.C. Law 3-171 (sec. 1-113(d), D.C. Code).

Amendment No. 53: Deletes language proposed by the House and stricken by the Senate which would have reduced the Federal funds in this bill by 2 percent or $10,812,360. The conferees note that the total Federal funds recommended in this bill are within the revised 302(b) allocations in both budget authority and outlays.

The conferees further note that the Federal payment has remained at the same level of $430,500,000 for four years and is $14,000,000 below the fiscal year 1987 apprortation when it reached $444,500,000. The reduction of $14,000,000 reflects a 3.1 percent cut in nominal dollars and a loss of 22 percent in real dollars since fiscal year 1987. During the same period, the Federal payment has fallen from a total of 18.3 percent of the District's total operating budget to 13.3 percent in this Act.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 138. (a) The proviso under the heading "Public Works" in the Dire Emergency Supplemental Appropriation for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990, approved May 25, 1990 (Public Law 101-302; 104 Stat. 241), shall remain in effect until September 30, 1991.

(b) Chapter IX of title II of the Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990, approved May 25, 1990 (Public Law 101-302; 104 Stat. 241), is amended in the item relating to "Public Safety and Justice" by striking "current operating revenues collected during fiscal year 1991 and not from".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action extends to September 30, 1991, the effectiveness of a provision in Public Law 101-302 concerning the safety barriers on the Duke Ellington Memorial Bridge as proposed by the Senate and inserts langauge that amends a provision in Public Law 101-302 that allows the District government to repay $10,000,000 with proceeds of borrowed funds instead of from current operating revenues since the borrowings are from construction funds for the District's new Correctional Treatment Facility and were used to pay the Federal Bureau of Prisons and various state governments for housing District of Columbia code violators. The conferees do not condone this financing arrangement and call on District officials to avoid such requests in the future.

Amendment No. 55: Deletes language proposed by the Senate prohibiting the use of funds in this or any other Act for lobbying expenses related to District of Columbia Statehood or for "shadow representatives." Amendment numbers 52 and 55 both involve the same subject matter and the conferees agreed to accept amendment number 52 and delete amendment number 55.

Amendment No. 56: Reported in disagreement.

Amendment No. 57: Deletes langauge proposed by the Senate which would have exempted the Perinatal Abstinence Project located at 3551 Sixteenth Street, Northwest, from the requirement to obtain a certificate of occupancy.

Amendment No. 58: Deletes language proposed by the Senate that would have prohibited the use of any funds in this Act for

expansion of the Lorton sanitary landfill until completion of an environmental impact statement and agreement to a cost-sharing arrangement for payment of the study. The Senate language would have also imposed restrictions upon the transport of any output of the municipal waste system of the District. The conferees have been advised that action was taken on September 17, 1990, by the elected officials of the jurisdiction where the Lorton landfill is located mandating that an environmental impact statement be prepared prior to proceeding with expansion of the landfill. The environmental impact statement is to be completed by March 1992 and will be paid for from dumping or "tipping" fees. The conferees were further advised that the environmental impact statement required by the local officials can be implemented and completed more quickly than one mandated by Congress. Amendment numbers 7 and 22 relates to the Lorton landfill expansion.

Amendment No. 59: Deletes language proposed by the Senate which would have amended the District of Columbia Human Rights Act with respect to participation of persons in programs or activities involving juveniles under 18 years of age.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "143", insert "*140*".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action allows for the retirement of not to exceed 75 police officers currently on extended limited duty, where the prognosis for return to full police duty is not good, and states that their retirements are to be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement reform Act of 1979 (Public Law 96-122). This rate of disability retirements is used to determine whether to reduce the authorized Federal payment to the Police Officers and Firefighters' Retirement Fund. A number of officers are in a limited or light duty status or on extended sick leave. The police chief has stated that it is important to replace these individuals with able-bodied police officers who can perform on the street.

Prior to the enactment of subsection 145(a) of Public Law 96-122, there was concern that the District's retirement system was being abused with excessive disability retirements. In some years, disability retirements accounted for 99 percent of all police and fire retirements. In order to address the situation, the Congress approved subsection 145(a) as part of the District's Retirement Reform Act to provide some incentive to District managers to reduce the percentage of disability retirements. The conferees believe the District has responded favorably and has included this language which will allow these individuals to retire without reducing the authorized Federal payment to the retirement funds and will permit the Metropolitan Police Department to hire police officers, or civilians if the position is a civilian post, to fill the vacated positions. The conferees direct that these retirements, while exempt from the computation of the rate of disability retirements, be subject to all of the rules and regulations of the District's Board of Surgeons as well as the Policemen and Firement's Retirement and Relief Board and meet all of the criteria for retirement.

The language agreed to by the conferees requires the Mayor to engage an enrolled actuary to determine the financial effects of this change on the retirement fund and to comply fully with sections 142(d) and 144(d) of Public Law 96-122. The language also requires that if any of the 75 positions that may become vacant because of retirements under subsection (a) are filled, a civilian employee or an officer or member of the Metropolitan Police Department shall be hired to fill that position. The objective of this section is to ensure that the objectives of the Mayor and the Metropolitan Police Chief to hire more able-bodied officers for street duty are carried out.

Subsection (d) states that the limited duty policy of the Metropolitan Police Department shall be that in effect prior to July 8, 1990, unless ordered by the relevant court. The conferees have been concerned about past abuses of the department's limited duty policy and encourage the Department to use the authority granted by this provision to modify its recent practice and retire those who will not be returning to full duty.

In Special Order 80-20, issued April 2, 1980, which implements a settlement that resulted from earlier court action, the Chief of Police stated that "Female members who become pregnant shall be eligible for limited duty assignments in accordance with policy set forth in this order."

The order also states that "Assignments to limited duty shall be for a specific period of time, depending on the prognosis for return to full duty set forth by the Board of Surgeons physician." The conferees believe that these provisions are clear and should be adhered to until the matter is either negotiated by the parties or adjudicated by the court.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 141. Notwithstanding any other provision of law, the Task Force on Substance Abusing Pregnant Women and Infants Exposed to Maternal Substance Abuse During Pregnancy shall report no later than March 29, 1991.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action extends the reporting and termination date of the Task Force on Substance Abusing Pregnant Women and Infants Exposed to Maternal Substance Abuse During Pregnancy by four months to March 29, 1991, as proposed by the Senate. The Task Force was established in last year's appropriations Act and was to submit its report and terminate within one year after the date of enactment of the Act which was designed by the President on November 21, 1989.

Amendment No. 62: Deletes language proposed by the Senate which would have amended the District of Columbia Human Rights Act with respect to the participation of adult homosexual and bisexual persons in programs or activities involving juveniles under 18 years of age.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1991 recommended by the Committee of Conference, with comparisons to the fiscal year 1990 amount, the 1991 budget estimates, and the House and Senate bills for 1991 follow:

FEDERAL FUNDS	
New budget (obligational) authority, fiscal year 1990	$58,327,000
Budget estimates of new (obligational) authority, fiscal year 1991	$19,278,000
House bill, fiscal year 1991	$29,805,640
Senate bill, fiscal year 1991	$49,628,000
Conference agreement, fiscal year 1991	$49,700,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1990	−8,627,000
Budget estimates of new (obligational) authority, fiscal year 1991	+30,422,000
House bill, fiscal year 1991	+19,894,360
Senate bill, fiscal year 1991	+72,000
DISTRICT OF COLUMBIA FUNDS	
New budget (obligational) authority, fiscal year 1990	*$3,527,744,000*
Budget estimates of new (obligational) authority, fiscal year 1991	*3,818,652,000*
House bill, fiscal year 1991	*3,852,792,000*
Senate bill, fiscal year 1991	*3,861,502,000*
Conference agreement, fiscal year 1991	*3,862,574,000*
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1990	*+334,830,000*
Budget estimates of new (obligational) authority, fiscal year 1991	*+43,922,000*
House bill, fiscal year 1991	*+9,782,000*
Senate bill, fiscal year 1991	*+1,072,000*

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
LES AUCOIN,
BERNARD J. DWYER,
STENY H. HOYER,
JAMIE L. WHITTEN,
DEAN GALLO,
BILL GREEN,
RALPH REGULA,
Managers on the Part of the House.

BROCK ADAMS,
WYCHE FOWLER, Jr.,
BOB KERREY,
(with the exception of amendment 25),
ROBERT C. BYRD,
PETE V. DOMENICI,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 996, EXCELLENCE IN MATHEMATICS, SCIENCE, AND ENGINEERING EDUCATION ACT OF 1990

Mr. ROE submitted the following conference report and statement on the bill (H.R. 996) to establish the Congressional Scholarships for Sci-

ence, Mathematics, and Engineering, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-937)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 996), to establish the Congressional Scholarships for Science, Mathematics, and Engineering, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Excellence in Mathematics, Science and Engineering Education Act of 1990".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—FINDINGS AND OBJECTIVES
Sec. 101. Findings and objectives.
TITLE II—MATHEMATICS, SCIENCE AND TECHNOLOGY IMPROVEMENTS
PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION AMENDMENTS
Sec. 201. In-State apportionment.
Sec. 202. Elementary and secondary education programs.
Sec. 203. Higher education programs.
Sec. 204. National programs.
Sec. 205. Regional science and mathematics education consortiums.
Sec. 206. Federal administration.
PART B—INNOVATIVE TECHNOLOGIES
Sec. 221. Expanding the uses of innovative technologies for mathematics and science instruction.
PART C—SCIENCE-TECHNOLOGY CENTERS
Sec. 231. Science-technology centers.
PART D—GRANTS TO EDUCATIONAL AGENCIES FOR SYSTEMIC REFORM OF MATHEMATICS AND SCIENCE EDUCATION
Sec. 241. Systemic reform of mathematics and science.
PART E—TECHNICAL AMENDMENT
Sec. 251. Technical amendment.
Sec. 252. National Center for Education Statistics.
Sec. 253. Amendment of James Madison Memorial Fellowship Act.
TITLE III—HIGHER EDUCATION
PART A—GRADUATE FELLOWSHIPS AND TRAINEESHIPS
Sec. 301. Statement of purpose.
Sec. 302. Graduate fellowships.
Sec. 303. Graduate traineeships.
PART B—CENTERS OF EXCELLENCE
Sec. 311. Centers of Excellence of Undergraduate Teaching.
TITLE IV—WOMEN AND MINORITIES IN MATHEMATICS, SCIENCE AND ENGINEERING
Sec. 401. Statement of purpose.
Sec. 402. Distinguished visiting professors.
Sec. 403. Faculty awards for women and minorities.
Sec. 404. Alliances for minority participation.
TITLE V—EDUCATION COORDINATION AND DEPARTMENT OF ENERGY PROGRAMS
Sec. 501. Science education report.
Sec. 502. General education report.
Sec. 503. Department of Energy programs.
TITLE VI—SCIENCE SCHOLARSHIPS
PART A—NATIONAL SCIENCE SCHOLARS PROGRAM
Sec. 601. Purpose; appropriations authorized.
Sec. 602. Scholarships authorized.
Sec. 603. Selection of scholars.
Sec. 604. Eligibility of scholars.
Sec. 605. Scholarship amount.
Sec. 606. Summer employment opportunities for scholars.
PART B—ROBERT NOYCE SCHOLARSHIPS
Sec. 621. Robert Noyce scholarships.
PART C—NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY
Sec. 621. National Academy of Science, Space, and Technology.
PART D—ADDITIONAL PROVISIONS
Sec. 631. Effect of certain controlled substance and felony convictions.
Sec. 632. Report.
TITLE VII—GENERAL PROVISIONS AND AUTHORIZATION OF APPROPRIATIONS
PART A—AUTHORIZATION OF APPROPRIATIONS
Sec. 701. Authorization of appropriations.
PART B—DEFINITIONS
Sec. 711. Definitions.
PART C—MISCELLANEOUS PROVISIONS
Sec. 721. Student assistance general provisions.
Sec. 722. Public Law 81-874.
Sec. 723. Technical amendment.
PART D—EFFECTIVE DATE
Sec. 731. Effective date.

TITLE I—FINDINGS AND OBJECTIVES

SEC. 101. FINDINGS AND OBJECTIVES.

(a) FINDINGS.—The Congress finds that—

(1) science and mathematics are cornerstones of America's efforts to compete in the global marketplace and improve our standard of living and quality of life;

(2) international comparisons show American students are consistently behind their foreign counterparts in mathematics and science achievement;

(3) projections by the National Science Foundation estimate a shortage of 675,000 scientists and engineers by the year 2000;

(4) women and minorities are significantly underrepresented in the fields of mathematics, science and engineering;

(5) the achievement of universal scientific and mathematical literacy by all Americans is an essential goal of all efforts to strengthen American competitiveness;

(6) the achievement of scientific and mathematical literacy requires a strong, coordinated effort to strengthen the teaching of science and mathematics; and

(7) the Federal Government has a significant role in promoting the study of mathematics and science, by providing financial assistance to improve the general quality of programs for the study of mathematics and science, by acting as a source for information concerning successful projects and activities, by encouraging talented men and women to pursue scientific careers and by strengthening the mathematics and science educational opportunities available to women and minorities.

(b) NATIONAL OBJECTIVES.—The Congress declares that it shall be a national objective to—

(1) encourage American students to pursue careers in mathematics, science and engineering;

(2) improve the quality of teaching in mathematics and science made available to all Americans;

(3) have American students rank first in the world in mathematics and science;

(4) substantially increase the number of graduates with degrees in mathematics, science and engineering; and

(5) substantially increase the number of women and minorities pursuing careers in mathematics, science and engineering.

TITLE II—MATHEMATICS, SCIENCE AND TECHNOLOGY IMPROVEMENTS

PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION AMENDMENTS

SEC. 201. IN-STATE APPORTIONMENT.

Section 2005 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2985) is amended by adding at the end the following:

"(c) LIMITATION.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), any local educational agency that receives an allocation of less than $6,000 under subsection (a) shall, for the purpose of providing services under this part, form a consortium with at least 1 other local educational agency or institution of higher education receiving assistance under this section.

"(2) WAIVER.—The State educational agency shall waive the application of paragraph (1) in the case of any local educational agency that demonstrates that the amount of its allocation is sufficient to provide a program of sufficient size, scope, and quality to be effective. In granting waivers under the preceding sentence, the State educational agency shall—

"(A) give special consideration to local educational agencies serving rural areas; and

"(B) consider cash or in-kind contributions provided from State or local sources that may be combined with the local educational agency's allocation for the purpose of providing services under this part.".

SEC. 202. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

Section 2006 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2986) is amended—

(1) by redesignating subsection (d) as subsection (e);

(2) by inserting after subsection (c) the following new subsection:

"(d) PRIORITY FOR TEACHER TRAINING.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), in any fiscal year beginning after September 30, 1990 for which a local educational agency receives under this section an amount that is larger than the amount such agency received under this section for the fiscal year 1990, the excess of such amount over the amount received under this section for the fiscal year 1990 shall first be used to provide training for mathematics teachers and science teachers in elementary and middle schools.

"(2) WAIVER.—The Secretary may waive the application of paragraph (1) in the case of any local educational agency that demonstrates to the Secretary that mathematics

teachers and science teachers in the elementary and middle schools under the jurisdiction of such local educational agency will receive adequate training without using such excess amounts for such training."; and

(3) in subsection (e) (as redesignated by paragraph (1) of this subsection), by inserting after "this section" the following: ", or $20,000, whichever is greater,".

(b) Section 2005 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2985) is amended by inserting after "90 percent", "or the remainder after application of section 2006(e)."

SEC. 203. HIGHER EDUCATION PROGRAMS.

(a) Subsection (d) of section 2007 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2987) is amended by inserting after "this section" the following: ", or $20,000, whichever is greater,".

(b) Section 2007(b) of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2987) is amended by inserting after "95 percent", "or the remainder after application of subsection (d)."

SEC. 204. NATIONAL PROGRAMS.

Section 2012 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2992) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

"(d) NATIONAL CLEARINGHOUSE FOR SCIENCE, MATHEMATICS, AND TECHNOLOGY EDUCATION MATERIALS.—

"(1) CLEARINGHOUSE AUTHORIZED.—The Secretary, in consultation with the Director, may award a grant or contract to establish a National Clearinghouse for Mathematics and Science Education (hereinafter in this subsection referred to as the "Clearinghouse").

"(2) APPLICATION AND AWARD BASIS.—Each entity desiring to establish and operate the Clearinghouse authorized by this subsection shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. The grant or contract awarded pursuant to paragraph (1) shall be made on a competitive, merit basis.

"(3) DURATION.—The grant or contract awarded under this section shall be awarded for a period of 5 years and shall be reviewed by the Secretary no later than 30 months from the date the grant or contract is awarded.

"(4) USE OF FUNDS.—The grant awarded under this subsection shall be used to—

"(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary and secondary schools, including middle schools, (including, to the extent practicable, all materials and programs developed with Federal and non-Federal funds, such as instructional materials developed by the Department of Education, materials developed by State and national mathematics and science programs assisted under this part, and other instructional materials) for use by the regional consortiums established under subpart 2 of this part and by the general public;

"(B) compile information on all mathematics and science education programs administered by each Federal agency or department;

"(C) disseminate information, programs, and instructional materials to the public, dissemination networks, and the regional consortiums under subpart 2 of this part; and

"(D) coordinate with identifiable and existing data bases containing mathematics and science curriculum and instructional materials, including Federal and non-Federal data bases.

"(5) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department which develops mathematics or science education instructional material or programs, including the National Science Foundation, and the Department of Education, shall submit to the Clearinghouse copies of such material or programs.

"(6) PEER REVIEW.—The Secretary shall establish a peer review process to select the recipient of the award under this subsection.

"(7) STEERING COMMITTEE.—The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

"(8) APPLICATION OF COPYRIGHT LAWS.—Nothing in this subsection shall be construed to allow the use or copying, in any media, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the permission of the owner of the copyright is obtained. The Clearinghouse, in carrying out the provisions of this subsection, shall ensure compliance with the provisions of title 17 of the United States Code.

"(e) MODEL PROGRAMS FOR INSTRUCTION AND TRAINING IN THE USE OF COMPUTERS.—

"(1) GRANTS AUTHORIZED.—The Secretary may make grants to model programs for training and instruction in the use of computers as part of the mathematics and science curriculum of elementary and secondary schools to pay the Federal share of the cost of improving and expanding such programs.

"(2) FEDERAL SHARE.—(A) Except as provided in subparagraph (C), the Federal share of the cost of improving and expanding a model program under this subsection shall not exceed 50 percent of such cost.

"(B) Not less than 25 percent of the non-Federal share of the cost of improving and expanding a model program under this subsection shall be in cash.

"(C) The Secretary may waive the application of this paragraph in the case of any model program operated by a school that demonstrates an inability to obtain funds from non-Federal sources for the program.

"(3) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that demonstrate the ability to—

"(A) develop a program that can be applied nationally;

"(B) include a shared commitment from a combination of local parties, such as teachers, the business community, and local educational agencies;

"(C) provide teacher training programs in elementary and secondary schools, including middle schools, that are designed to improve the quality of mathematics and science instruction through the use of computers as an instructional tool;

"(D) integrate higher order analytical and problem-solving skills into mathematics and science curricula; and

"(E) provide interactive and manipulative application as part of the instructional delivery system.".

SEC. 205. REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIUMS.

(a) AMENDMENT TO TEXT.—Part A of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2981 et seq.) is amended—

(1) by inserting before section 2003 the following:

"Subpart 1—State Grants and National Programs";

and

(2) by inserting after section 2012 the following:

"Subpart 2—Regional Mathematics and Science Education Consortiums

"SEC. 2016. PROGRAM ESTABLISHED.

"(a) IN GENERAL.—

"(1) GRANTS AUTHORIZED.—The Secretary, in consultation with the Director, is authorized to award grants or contracts to eligible entities to establish and operate regional mathematics and science education consortia for the purpose of—

"(A) disseminating exemplary mathematics and science education instructional materials; and

"(B) providing technical assistance for the implementation of teaching methods and assessment tools for use by elementary and secondary school students, teachers and administrators.

"(2) NUMBER.—The Secretary shall, in accordance with the provisions of this section, award at least 1 grant or contract to an eligible entity in each region.

"(3) SPECIAL RULE.—In any fiscal year, if the amount appropriated pursuant to the authority of section 2023 is less than $4,500,000, then the Secretary may waive the provisions of paragraph (2) and award grants or contracts of sufficient size, scope and quality to carry out the provisions of this section.

"(b) GRANT TERM AND REVIEW.—Grants under this subpart shall be awarded for a period of not more than 5 years and shall be reviewed before the end of the 30-month period beginning on the date the grant is awarded. Grants shall be awarded before the end of the 12-month period beginning on the date of the enactment of an Act making appropriations to carry out the provisions of this subpart.

"(c) AMOUNT.—In making grants under this subpart, the Secretary shall assure that there is a relatively equal distribution of the funds made available among the regions, but the Secretary may award additional funds to a regional consortium on the basis of population and geographical conditions of the region being served.

"SEC. 2017. USE OF FUNDS.

"Funds provided under this subpart may be used by a regional consortium, under the direction of a regional board established pursuant to section 2019, to—

"(1) identify, adapt, disseminate, and implement mathematics and science education instruction materials, teaching methods, and assessment tools for use by elementary and secondary school students;

"(2) assist, train and provide technical assistance to classroom teachers, administrators, and other educators to identify, implement or adapt the instructional materials, teaching methods and assessment tools described in paragraph (1);

"(3) provide for the training of classroom teachers to enable such teachers to instruct other teachers, administrators, and educators in the use of the instructional materials, teaching methods and assessment tools described in paragraph (1) in the classroom;

"(4) work with classroom teachers in the identification and adaptation of such instructional materials, teaching methods, and assessment tools for use in classrooms within the region;

"(5) assist classroom teachers, where appropriate, in securing training to enhance

such teachers' subject knowledge and teaching skills in the areas of science and mathematics education;

"(6) when necessary, provide financial assistance to enable teachers and other educators to attend and participate in the activities of the regional consortium;

"(7) implement programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(8) help State and local educational agencies or consortia thereof assess the need for and the desirability of regional mathematics and science academies;

"(9) develop and disseminate early childhood education mathematics and science instructional materials;

"(10) develop intergenerational projects to train senior citizen volunteers in the implementation of interactive science processes and activities for use by elementary and secondary school students;

"(11) disseminate information regarding informal mathematics and science education activities and programs offered by Federal agencies and private or public agencies and institutions within the region;

"(12) provide technical assistance in order to maximize the effectiveness of such instructional materials and programs and fulfill the instructional goals of the recipients of such materials and programs;

"(13) collect data on activities assisted under this subpart in order to evaluate the effectiveness of the activities of the regional consortiums;

"(14) if feasible, maintain on-line computer networks with all regional consortiums and the National Clearinghouse for Science and Mathematics Education Materials established under section 2012(e);

"(15) assist local and State educators in identifying science equipment needs; and

"(16) coordinate activities carried out by the regional consortium with activities carried out by the appropriate regional education laboratory supported under section 405(d)(4)(A)(i) of the General Education Provisions Act.

"SEC. 2018. APPLICATION AND REVIEW.

"(a) IN GENERAL.—Each eligible entity desiring to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

"(1) demonstrate that the eligible entity has demonstrated expertise in the fields of mathematics and science education;

"(2) demonstrate that the eligible entity shall implement and disseminate mathematics and science education instructional materials, teaching methods, and assessment tools through a consortium of the region's mathematics and science education organizations and agencies;

"(3) demonstrate that the eligible entity shall carry out the functions of the regional consortium;

"(4) describe the activities for which assistance is sought;

"(5) demonstrate that the eligible entity shall implement and disseminate mathematics and science education instructional materials, teaching methods and assessment tools;

"(6) demonstrate that emphasis will be given to programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(7) describe steps to be taken to provide for the equitable participation of children and teachers from private elementary and secondary schools consistent with section 2010;

"(8) demonstrate that the business community in the region served by the regional consortium will play an integral role in designing and supporting the regional consortium's work;

"(9) demonstrate that the eligible entity will consider the resources of existing Star Schools consortia established pursuant to the Star Schools Program Assistance Act in carrying out the provisions of this part, where appropriate; and

"(10) assure that the entity will conduct its activities and supervise its personnel in a manner that effectively ensures compliance with the copyright laws of the United States.

"(b) APPROVAL OF APPLICATION.—

"(1) IN GENERAL.—The Secretary shall approve or disapprove applications submitted pursuant to subsection (a) in accordance with the criteria and procedures established under paragraph (2).

"(2) PROCEDURES AND CRITERIA.—The Secretary shall develop procedures and criteria designed to ensure that grants are awarded on the basis of merit as determined by the competitive peer review process described in paragraph (3).

"(3) NATIONAL PANEL.—(A) The Secretary, in consultation with the Director, shall establish a national panel, or to the extent necessary, panels, to submit to the Secretary recommendations for awards of grants under this subpart. The Secretary shall appoint the members of such panel or panels.

"(B) Each panel appointed as required by subparagraph (A) shall include participation, to the extent feasible, from each region.

"SEC. 2019. REGIONAL BOARDS.

"(a) IN GENERAL.—Each eligible entity receiving a grant or contract under this subpart shall establish a regional board to oversee the administration and establishment of program priorities for the regional consortium established by such eligible entity. Such regional board shall be broadly representative of the agencies and organizations participating in the regional consortium.

"(b) PROHIBITION ON USE OF FEDERAL FUNDS.—No Federal funds may be used for the establishment or operation of a regional board required by subsection (a).

"SEC. 2020. PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.

"(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section 2018 the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—For purposes of subsection (a), the Federal share—

"(1) for the first and second years in which an eligible entity receives assistance shall be 80 percent;

"(2) for the third such year shall be 75 percent;

"(3) for the fourth such year shall be 65 percent; and

"(4) for the fifth and each such succeeding year shall be 50 percent.

"(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of activities described in the application submitted pursuant to this section may be in cash or in kind, fairly evaluated.

"SEC. 2021. EVALUATION.

"(a) EVALUATION REQUIRED.—The Secretary, through the Office of Educational Research and Improvement, shall collect sufficient data on, and evaluate the effectiveness of, the activities of each regional consortium.

"(b) ASSESSMENT.—The evaluations described in paragraph (1) shall include an assessment of the effectiveness of the regional consortium in meeting the needs of the schools, teachers, administrators and students in the region.

"(c) REPORT.—At the end of each grant or contract period, the Secretary shall submit to Congress a report on the effectiveness of the programs conducted at each regional consortium.

"SEC. 2022. DEFINITIONS.

"For purposes of this subpart:

"(1) The term 'eligible entity' means—

"(A) a private nonprofit organization of demonstrated effectiveness;

"(B) an institution of higher education;

"(C) an elementary or secondary school;

"(D) a State or local educational agency;

"(E) a regional educational laboratory in consortium with the research and development center established under section 405(d)(4)(A) of the General Education Provisions Act; or

"(F) any combination of the entities described in subparagraphs (A) through (E);

with demonstrated expertise in mathematics and science education.

"(2) The term 'region' means a region of the United States served by a regional education laboratory that is supported by the Secretary pursuant to section 405(d)(4)(A)(i) of the General Education Provisions Act.

"(3) The term 'regional consortium' means each regional mathematics and science education consortium established pursuant to section 2016.

"SEC. 2023. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the provisions of this subpart $17,000,000 for the fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"PART C—GENERAL PROVISIONS".

(b) TECHNICAL AMENDMENTS.—

(1) CONFORMING AMENDMENTS.—Sections 2003(a), 2004(a)(1)(A), 2004(a)(1)(B), 2004(a)(5), 2004(b), 2005(a)(2)(A)(ii), 2006(a), 2006(b)(1), 2006(d)(2), 2007(a), 2007(d)(2), 2008(a), 2008(b)(2)(D), 2008(b)(3), 2008(b)(4)(A), 2009(a), 2009(b)(2), 2009(b)(3), 2009(c), 2010(a), 2010(b), 2011(a), and 2011(b) of the Dwight D. Eisenhower Mathematics and Science Education Act and the matter following section 2005(a)(2)(A)(ii) of such Act, are each amended by striking "part" and inserting "subpart".

(2) DEFINITIONS.—The heading of section 2013 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2993) is amended by striking "2013" and inserting "2031".

SEC. 206. FEDERAL ADMINISTRATION.

(a) REPORT ON SOURCES OF FEDERAL AID.—The Secretary shall, in consultation with the heads of other appropriate Federal agencies, prepare a report listing all sources of Federal aid for mathematics and science education.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required by paragraph (1) to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate not later than March 1, 1992. The Secretary shall also provide such report to each State educational agency and make such report available to the public.

PART B—INNOVATIVE TECHNOLOGIES

SEC. 221. EXPANDING THE USES OF INNOVATIVE TECHNOLOGIES FOR MATHEMATICS AND SCIENCE INSTRUCTION.

(a) COMPUTER TECHNOLOGIES.—

(1) PROGRAM AUTHORIZED.—The Director shall establish research programs on the use of computers and related technologies in basic mathematics, science, and technology instruction.

(2) ELIGIBLE APPLICANTS.—In carrying out the program under this subsection, the Director shall establish a merit review process to make awards on the basis of—

(A) the potential of the proposal to improve the effectiveness and productivity of basic mathematics and science education;

(B) the potential of the proposal to involve the classroom teacher in the design of the program and to provide teacher training for optimum effectiveness in the classroom; and

(C) the capability of the entity developing the innovative computer technology to provide broad and efficient dissemination of the technology to schools.

(3) USE OF AWARDS.—Funds awarded under this subsection may be used for—

(A) research and development of curriculum;

(B) development of computer software; and

(C) research and development of other promising technologies for educational applications as specified by the Director.

(b) DISTANCE LEARNING.—

(1) PROGRAM AUTHORIZED.—The Director shall establish programs to promote the use of interactive telecommunications linkages to provide mathematics and science education in the elementary and secondary classroom.

(2) ELIGIBLE APPLICANTS.—In carrying out the program under this subsection, the Director shall establish a merit review process to make awards to partnerships which may involve State educational agencies, local educational agencies, public television agencies, institutions of higher education, and other relevant entities, on the basis of—

(A) the potential of the proposal to improve the delivery of quality mathematics and science instruction to underserved rural and urban areas; and

(B) the potential of the proposal to provide teacher training programs for optimum effectiveness in the classroom.

(3) USE OF AWARDS.—Funds awarded under this subsection may be used for—

(A) the research and development of software and hardware technologies necessary to implement interstate and intrastate interactive linkages with several school districts;

(B) research on two-way audio and video interactive telecommunications and computer linkages designed to be used in conjunction with each other;

(C) research and development of curriculum;

(D) teacher training in the use of technologies developed under this section; and

(E) other appropriate telecommunications research projects that will improve mathematics and science education in underserved areas.

(c) SPECIAL RULE.—In carrying out the provisions of this section, the Director shall—

(1) pay particular attention to the needs of rural and urban areas which are underserved in fields of mathematics and science instruction or which have a high percentage of students receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

(2) give special consideration to proposals to extend or adapt for wider applications technologies, and associated educational materials, that the eligible applicant making the proposal has demonstrated to be effective in limited applications;

(3) ensure coordination between the National Science Foundation's programs for support of teacher training and programs developed under this section, with the objective of training teachers in the use of promising educational technologies; and

(4) consult, cooperate and coordinate with analogous programs and policies of other Federal agencies.

(d) MATCHING REQUIREMENT.—Awards shall be made under this section only to eligible applicants that will contribute resources, in cash or in kind, from non-Federal sources in an amount equal to 25 percent of the Federal award.

(e) COORDINATION.—The Director shall work with the Secretary to encourage use of technologies and educational materials developed under this section in Department of Education model programs established under section 2012 of the Dwight D. Eisenhower Mathematics and Science Education Act for instruction and training in the use of computers. In addition, the Director shall ensure that programs and activities developed under this section are reported to the Clearinghouse established under section 2012 of such Act for subsequent dissemination through the regional consortia established under subpart 2 of such Act.

(f) PLANNING ACTIVITIES.—The Office of Science and Technology Policy shall ensure that planning activities for education and human resource development and for high performance computing within the Federal Coordinating Council for Science, Engineering, and Technology include consideration of the use of national computer networks for educational purposes, including distance learning and dissemination of curricular materials.

PART C—SCIENCE-TECHNOLOGY CENTERS

SEC. 231. SCIENCE-TECHNOLOGY CENTERS.

(a) IN GENERAL.—

(1) AWARDS AUTHORIZED.—The Director is authorized to make awards to science-technology centers for—

(A) development of more effective, hands-on, interactive mathematics, science and technology programs and activities;

(B) replication or dissemination of effective programs and activities, giving special attention to the needs of female and minority children and economically disadvantaged areas; and

(C) development of new science-technology centers, including support for such centers to work with established science-technology centers to acquire proven educational programs.

(2) AWARD BASIS.—Funds awarded pursuant to this section shall be awarded on a competitive, merit review basis.

(3) CRITERIA.—Criteria for making awards under paragraph (1) may include—

(A) the potential for the educational program to have a significant impact on both formal and informal science education;

(B) the capability of the recipient institution to disseminate the material broadly;

(C) the extent of matching funds provided from non-Federal sources;

(D) the experience and qualifications of the staff of the recipient institution; and

(E) the overall excellence of the proposed program.

(b) SPECIAL CONSIDERATION.—In making awards pursuant to this section the Director shall give special consideration to programs designed primarily for elementary school-aged children.

(c) GEOGRAPHIC DISTRIBUTION.—In making awards pursuant to this section, the Director shall, to the extent practicable, ensure an equitable geographic distribution of such awards.

(d) USE OF CLEARINGHOUSE.—The Director shall report on such programs and activities developed under this section to the Clearinghouse established under section 2012 of the Dwight D. Eisenhower Mathematics and Science Education Act for subsequent dissemination through the regional consortia established under subpart 2 of such Act.

(e) AUTHORIZED ACTIVITIES.—Awards made under this section may be used for—

(1) scientific or technological exhibits developed for public display, either in a science-technology center or sponsored by a science-technology center but displayed in another facility;

(2) educational activities, such as curriculum development, teacher training programs, and student educational kits, developed for use by teachers for students; and

(3) other formal or informal science educational programs developed by science-technology centers.

(f) DEFINITIONS.—As used in this section—

(1) the term "informal science education" means those aspects of science education that occur outside the school classroom, usually voluntary, recreational, and interdisciplinary in nature, that are not directed by a specific curriculum;

(2) the term "science" means all physical, biological, and social sciences, mathematics, and engineering; and

(3) the term "science-technology center", which may include museums, planetariums, libraries and zoos, means a nonprofit institution open to the general public providing interactive exhibits, demonstrations, and informal science education designed to—

(A) further public understanding of science and technology; and

(B) illustrate how such science and technology interacts with society.

Such institutions may also be involved in formal educational activities.

PART D—GRANTS TO EDUCATIONAL AGENCIES FOR SYSTEMIC REFORM OF MATHEMATICS AND SCIENCE EDUCATION

SEC. 241. SYSTEMIC REFORM OF MATHEMATICS AND SCIENCE.

(a) IN GENERAL.—The Director, in consultation with the Secretary, is authorized to make awards to States or State educational agencies for projects that implement systemwide improvement in elementary or secondary school mathematics and science education.

(b) IMPROVEMENT COMPONENTS.—Each project for which an award is made pursuant to subsection (a) shall include the following components:

(1) increased student achievement in mathematics and science;

(2) improvements in organizational structure and decisionmaking;

(3) modifications in the provision and allocation of resources regarding mathematics and science instruction;

(4) improvement in the recruitment, retention and continuing professional development of teachers and other educators who instruct mathematics and science;

(5) improved mathematics and science curriculum content and learning goals; and

(6) use of other Federal funds including funds provided for the Dwight D. Eisenhower Mathematics and Science Education Act.

(c) SPECIAL RULE.—In making awards pursuant to subsection (a), the Director shall—

(1) to the extent practicable, ensure an equitable geographic distribution of such awards; and

(2) give priority to States or State educational agencies whose improvement plans place a strong emphasis on increasing the academic achievement of females and minority students in mathematics and science.

PART E—TECHNICAL AMENDMENT

SEC. 251. TECHNICAL AMENDMENT.

Section 14(f) of the National Science Foundation Act of 1950 is amended by inserting "or education" after "research".

SEC. 252. NATIONAL CENTER FOR EDUCATION STATISTICS.

Paragraph (4) of section 406(d) of the General Education Provisions Act (20 U.S.C. 1221e-1(d)) is amended by adding at the end the following:

"(G)(i) This paragraph shall not apply to—

"(I) the survey required by section 1303(c) of the Higher Education Amendments of 1986; or

"(II) to any longitudinal study concerning access, choice, persistence progress, or attainment in postsecondary education.

"(ii) Any person, except those sworn to observe the limitation of this subsection, who uses any data as described in clause (i) provided by the Center, in conjunction with any other information or technique (including de-encryption), to identify any individual student, teacher, administrator, or other person and who discloses, publishes, or uses for a purpose other than that for which it was collected, or who otherwise violates clause (i) or (ii) of subparagraph (A), shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(iii) No employee or staff member of the Center or of an institution of higher education may be found criminally liable under subparagraph (C), based on a violation of subparagraph (A) or clause (i), if such employee or staff member has taken reasonable precautions, consistent with the purpose of this section, to ensure the confidentiality of data made available to the public.

"(H) Nothing in this paragraph shall restrict the right of the Comptroller General of the United States to gain access to any reports or other records, including information identifying individuals, in the Center's possession; except that the same restrictions on disclosure that apply to the Center under subparagraphs (B) and (G) shall apply to the General Accounting Office.".

SEC. 253. AMENDMENT OF JAMES MADISON MEMORIAL FELLOWSHIP ACT.

Section 813(a)(4) of the James Madison Memorial Fellowship Act is amended by striking the second sentence thereof.

TITLE III—HIGHER EDUCATION

PART A—GRADUATE FELLOWSHIPS AND TRAINEESHIPS

SEC. 301. STATEMENT OF PURPOSE.

It is the purpose of this part to avert the substantial shortage of American scientists and engineers projected to occur over the next 15 years by significantly increasing the number of graduate fellowships awarded by the National Science Foundation and to institute a program of graduate traineeships.

SEC. 302. GRADUATE FELLOWSHIPS.

(a) IN GENERAL.—The Director is authorized to increase the number of graduate fellowships awarded by the Foundation, so that, in fiscal year 1993 and each fiscal year thereafter, at least 1,200 fellowships are awarded annually.

(b) SPECIAL RULE.—In awarding fellowships pursuant to subsection (a), the Director shall ensure that a substantially increasing number of fellowships shall be awarded to women and minorities in fiscal year 1991 and in each succeeding fiscal year through fiscal year 2000.

(c) GRADUATE FELLOWSHIPS.—Section 10 of the National Science Foundation Act of 1950 is amended in the second sentence by striking "or nationals" and inserting ", nationals or lawfully admitted permanent resident aliens".

SEC. 303. GRADUATE TRAINEESHIPS.

(a) IN GENERAL.—The Director is authorized to carry out a competitive, merit-based program of making awards to institutions of higher education to enable such institutions to conduct traineeship programs which encourage promising students, especially women and minorities, to continue their education and research in mathematics, science and engineering.

(b) SPECIAL RULE.—In making awards pursuant to subsection (a), the Director shall, to the extent practicable, ensure—

(1) an equitable geographic distribution of such grants;

(2) that institutions of higher education receiving such awards demonstrate experience in, and a commitment to, educating and graduating a significant number of women and minority students in mathematics, science and engineering; and

(3) that special consideration is given to institutions of higher education that have demonstrated progress and an ongoing commitment to upgrading their capabilities to perform high quality research, and are not among the institutions currently receiving a large number of students with National Science Foundation graduate fellowships.

PART B—CENTERS OF EXCELLENCE

SEC. 311. CENTERS OF EXCELLENCE OF UNDERGRADUATE TEACHING.

(a) ESTABLISHMENT.—The Director shall establish a program of making awards to encourage institutions of higher education to improve, and to give greater attention to, undergraduate instruction in science, mathematics and engineering. Awards under this section shall be made on a competitive, merit review basis to faculty with a record of excellence in teaching using the criteria described in subsection (c). Awards under this section shall be for a 3-year period, and the amount of each award shall be comparable to those under the Presidential Young Investigator program.

(b) USE OF FUNDS.—Awards made under this section shall be used to improve the quality of undergraduate instruction at the recipient institution. Awards made under this section may be used for such purposes as—

(1) development of innovative curriculum or teaching methods, including interdisciplinary courses and courses for nonscience majors;

(2) purchase of educational equipment for use by students and faculty;

(3) support for research and professional activities related to undergraduate education; and

(4) support of teaching fellows.

(c) CRITERIA.—Awards under this section shall be made on the basis of—

(1) the commitment of the institution to improve undergraduate education in science, mathematics and engineering and to assign appropriate importance to undergraduate instruction in determining faculty compensation and as a criterion for faculty promotion;

(2) the teaching ability and accomplishments of the faculty member applying for the award, including evidence that the applicant has remained current with research developments; and

(3) the impact that the award will have on improving the quality of undergraduate instruction.

(d) DESIGNATION.—Institutions receiving grants under this section shall be designated "Centers of Excellence for Undergraduate Teaching".

TITLE IV—WOMEN AND MINORITIES IN MATHEMATICS, SCIENCE AND ENGINEERING

SEC. 401. STATEMENT OF PURPOSE.

It is the purpose of this title to expand and enhance National Science Foundation program activities that are specifically focused on increasing the educational and professional participation of women and minorities in the fields of mathematics, science and engineering.

SEC. 402. DISTINGUISHED VISITING PROFESSORS.

The Director is authorized to make awards to institutions of higher education to enable such institutions to support distinguished women and minority faculty members in mathematics, science and engineering to enable such faculty members to serve as "Distinguished Visiting Professors" at academic institutions that do not have sufficient resources to attract and retain faculty members of such professional stature on a permanent basis.

SEC. 403. FACULTY AWARDS FOR WOMEN AND MINORITIES.

The Director is authorized to make awards to institutions of higher education, other than research universities, to enable such institutions to recruit and retain women and minority faculty members in the fields of mathematics, science and engineering, and to obtain equipment and facilities necessary for the research activities of such faculty members.

SEC. 404. ALLIANCES FOR MINORITY PARTICIPATION.

(a) IN GENERAL.—The Director is authorized to make awards to institutions of higher education to enable such institutions of higher education to establish or maintain alliances, partnerships, or other cooperative arrangements between institutions of higher education with predominately minority enrollments and institutions of higher education with high quality research programs in mathematics, science or engineering.

(b) SPECIAL RULE.—In making awards pursuant to this title, the Director shall, to the extent practicable, ensure—

(1) an equitable geographic distribution of such awards; and

(2) that institutions of higher education receiving such awards demonstrate experience in, and a commitment to, educating and graduating a significant number of women and minority students from programs in mathematics, science and engineering.

TITLE V—EDUCATION COORDINATION AND DEPARTMENT OF ENERGY PROGRAMS

SEC. 501. SCIENCE EDUCATION REPORT.

(a) REPORT REQUIRED.—The Director of the Office of Science and Technology Policy, through the Federal Coordinating Council on Science, Engineering, and Technology, shall prepare a report on science, mathematics, and engineering education to be submitted to Congress within 1 year after the date

of enactment of this Act. The report shall include—

(1) a description of current Federal science, mathematics, and engineering education programs at all education levels;

(2) any specific statutory changes necessary to further assist the agencies' mathematics and science education goals; and

(3) a strategic plan for an interagency program to enhance science, mathematics, and engineering education, including—

(A) a statement of program goals;

(B) a description of implementation steps required to achieve such goals;

(C) a strategy for taking advantage of the strengths of Federal research and development facilities related to science, mathematics, and engineering education;

(D) provisions for outreach to teachers and others with direct access to students;

(E) a system for evaluating program effectiveness, including criteria for evaluation;

(F) criteria and procedures to facilitate and expedite either the loan or transfer of title to surplus equipment to schools, school districts, and colleges and universities;

(G) recommendations on how to enhance exchange of employees among agencies to share expertise in mathematics and science education; and

(H) mechanisms to coordinate the activities of the agencies which will implement the plan.

(b) PREPARATION AND UPDATING.—Preparation of the plan required by subsection (a)(3) shall, at a minimum, include representatives of the Departments of Energy and Education, and the National Science Foundation. In subsequent years, the plan required by subsection (a)(3) shall be updated and submitted to Congress annually at the time of the President's budget request and shall include the funding levels in that budget for each agency to carry out each agency's portion of the plan.

SEC. 502. GENERAL EDUCATION REPORT.

The Department of Defense, the Department of Energy, the Department of Agriculture, the Department of Labor, the Department of Health and Human Services, the Department of Transportation, the Department of Justice, the National Aeronautics and Space Administration, the Environmental Protection Agency, and the Department of Commerce shall each prepare and submit to the Secretary of Education, within 9 months of the enactment of this Act, a report on all educational activities supported, excluding activities described in section 501. The Secretary shall compile this information and report to Congress within 1 year after the date of enactment of this Act. The report shall include—

(1) a summary of current education programs at all levels; and

(2) any specific statutory changes necessary to further assist the agencies' education goals.

SEC. 503. DEPARTMENT OF ENERGY PROGRAMS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Energy is authorized to—

(A) provide paid administrative leave for employees of the Department of Energy or its research and development facilities who volunteer to interact with schools, colleges, universities, teachers, or students for the purpose of science, mathematics, and engineering education;

(B) establish a volunteer talent pool of scientists, mathematicians, and engineers who have retired from the Department of Energy or its research and development facilities to—

(i) serve as "Scientists in Residence" at schools and school districts for the purpose of assisting teachers with activities such as experiments, lectures, or materials;

(ii) serve as requested, as a science counselor to students; and

(iii) otherwise assist science, mathematics, and engineering classes;

(C) establish a Young Americans' Summer Science Camp Program to provide secondary school students with a hands-on science experience as well as exposure to working scientists and career counseling; and

(D) establish a program for mathematics and science teachers, to provide such teachers serving large numbers of disadvantaged students with new strategies for mathematics and science instruction.

(2) SPECIAL RULE.—In carrying out the provisions of paragraph (1)(B) the Secretary of Energy, wherever possible acting through the Department's research and development facilities, shall identify and match schools and school districts with retired scientists, mathematicians, and engineers.

(b) FACILITIES; NON-FEDERAL FUNDS.—Education activities assisted under this section may be conducted through Department of Energy research and development facilities. The Secretary is authorized to accept non-Federal funds to finance education activities.

(c) LIMITATIONS.—

(1) NATIONAL DEFENSE PRODUCTION ACTIVITIES.—Nothing in this section shall apply to activities of the Department of Energy or its contractors that are funded as national defense production activities.

(2) SPECIAL RULE.—Nothing in this section shall be construed to affect mathematics, science, and engineering education programs administered through the Department of Energy other than the Office of Energy Research.

(d) TERMINATION PROVISION.—The provisions of this section shall not take effect if a substantially identical program is included in the National Defense Authorization Act for Fiscal Year 1991.

(e) DEFINITION.—For the purpose of this section, the term "research and development facilities" means, except as provided in subsection (c)(1), all Department of Energy single purpose and multipurpose National Laboratories and research and development facilities and programs, and any other facility or program operated by a contractor funded from the Office of Energy Research.

TITLE VI—SCIENCE SCHOLARSHIPS

PART A—NATIONAL SCIENCE SCHOLARS PROGRAM

SEC. 601. PURPOSE; APPROPRIATIONS AUTHORIZED.

(a) PURPOSE.—It is the purpose of this part—

(1) to establish a National Science Scholars Program to recognize student excellence and achievement in the physical, life, and computer sciences, mathematics, and engineering;

(2) to provide financial assistance to students under paragraph (1) to continue their postsecondary education in such fields of study at sustained high levels of performance;

(3) to contribute to strengthening the leadership of the United States in such fields;

(4) to strengthen the United States mathematics, science, and engineering base by offering opportunities to pursue postsecondary education in life, physical, and computer sciences, mathematics, and engineering;

(5) to encourage role models in scientific, mathematics, and engineering fields for young people;

(6) to strengthen the United States mathematics, scientific, and engineering potential by encouraging equal participation of women with men in mathematics, scientific, and engineering fields; and

(7) to attract talented students to teaching careers in mathematics and science in elementary and secondary schools.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education $4,500,000 for fiscal year 1991 for awards to National Science Scholars.

SEC. 602. SCHOLARSHIPS AUTHORIZED.

(a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this part, to carry out a program of awarding scholarships to students for the study of the physical, life, or computer sciences, mathematics, or engineering, who—

(1) are selected by the President;

(2) have demonstrated outstanding academic achievement in the physical, life, or computer sciences, mathematics, or engineering; and

(3) show promise of continued outstanding academic performance in such field of study.

(b) PERIOD OF AWARDS.—

(1) PERIOD OF INITIAL AWARD.—A student who satisfies the requirements of section 604(a) may receive a scholarship, for a period of 1 academic year, for the first year of undergraduate study at an institution of higher education.

(2) CONTINUATION AWARDS.—A student who satisfies the requirements of section 604(b) may receive additional scholarships, each awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study. A student may receive additional scholarships for not more than 3 academic years of undergraduate study, except that, in the case of a student who is enrolled in an undergraduate course of study that requires attendance for 5 academic years, the student may receive additional scholarships for not more than 4 academic years of undergraduate study.

(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this part may attend any institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965.

(d) NATIONAL SCIENCE SCHOLARS.—Students awarded scholarships under this part shall be known as "National Science Scholars".

SEC. 603. SELECTION OF SCHOLARS.

(a) SELECTION CRITERIA FOR INITIAL AWARDS.—

(1) SELECTION CRITERIA.—The Director of the National Science Foundation shall develop and submit to the Secretary proposed criteria to be used in the selection of National Science Scholars for initial year awards under section 602(b)(1). Such criteria shall provide for the selection of such scholars on the basis of potential to successfully complete a postsecondary program in the physical, life, or computer sciences, mathematics, or engineering, and on the basis of motivation to pursue a career in such fields. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities. The Director shall determine the proposed criteria for measuring the potential and motivation of nominees.

(2) PUBLICATION.—The Secretary and the Director shall agree to, and jointly publish in the Federal Register, appropriate selection criteria.

(b) SELECTION PROCESS FOR INITIAL AWARDS.—

(1) NOMINATING COMMITTEE.—Each State desiring to qualify its students for selection as a National Science Scholar shall establish a nominating committee. Such committee shall be appointed by the chief State school officer or by an existing grant agency or panel designated by such officer, and shall be approved by the Secretary. The nominating committee shall be a broad-based committee composed of educators, scientists, mathematicians, and engineers, who shall serve as volunteers without compensation.

(2) NOMINATIONS.—The nominating committee in each State shall submit to the President the nominations of at least four individuals from each congressional district in the State, at least half of whom are female. Such selections shall be ranked in order of priority.

(3) SELECTION.—The President, after consultation with the Secretary and the Director of the National Science Foundation, shall select two National Science Scholars for each academic year from each congressional district, at least one of whom shall be female.

(4) ANNOUNCEMENT AND AWARD OF SCHOLARSHIPS.—The selection process shall be completed, and the announcement of the selection of National Science Scholars shall be made by the President prior to January 1st of each fiscal year. The Secretary shall notify each Member of Congress of selections made from such Member's district and State before the public announcement by the President. Presentation of scholarships may be made in a public ceremony.

(5) CONGRESSIONAL DISTRICT.—For purposes of this subsection, the term "congressional district" includes the part or all of a State (within the meaning of section 1201(b) of the Higher Education Act of 1965) represented by a Member or Delegate of the House of Representatives, and includes the Commonwealth of the Northern Mariana Islands.

(c) CONTINUATION AWARDS.—The Secretary shall award additional scholarships under section 602(b)(2) to recipients of initial awards under section 602(b)(1) who the Secretary determines meet the requirements of section 604(b).

(d) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this part to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher education.

(e) SPECIAL RULE.—The Director and the Secretary shall encourage the support and assistance of civic groups, the business community, professional associations, institutions of higher education, and others in providing scholarship assistance to National Science Scholarship finalists.

SEC. 604. ELIGIBILITY OF SCHOLARS.

(a) REQUIREMENTS FOR INITIAL AWARD.—To be eligible to receive a scholarship under section 602(b)(1), a student shall—

(1) be scheduled to graduate from a public or private secondary school, or to obtain the equivalent of a certificate of graduation (as recognized by the State in which the student resides), during the school year in which the award is made;

(2) be a citizen or national of the United States or the entities set forth in section 603(b)(5), or be an alien lawfully admitted to the United States for permanent residence;

(3) have demonstrated outstanding academic achievement in secondary school in physical, life, or computer sciences, mathematics, or engineering;

(4) have been accepted for enrollment at an institution of higher education as a full-time undergraduate student (as determined by the institution); and

(5) have declared a major in 1 of the physical, life, or computer sciences, mathematics, or engineering, or provided a written statement to the State of his or her intent to major in 1 of these fields of study, if it is the policy of the institution at which the student has been accepted for enrollment that students not declare a major until a later point in their course of study.

(b) REQUIREMENTS FOR CONTINUATION AWARDS.—A student who has received a scholarship under section 602(b)(1) may receive a scholarship for a subsequent academic year of undergraduate education under section 602(b)(2) if the student—

(1) maintains a high level of academic achievement, as determined in accordance with the regulations of the Secretary;

(2) continues to major in, or provides a statement to the State as described in subsection (a)(5) of his or her continuing intent to major in, one of the physical, life, or computer sciences, mathematics, or engineering; and

(3) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

(c) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

(d) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this part shall be suspended in accordance with the regulations of the Secretary.

(e) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this part may be reinstated if the recipient seeks to reenter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

(f) NOTIFICATION OF SECONDARY SCHOOLS.—The Secretary shall notify all public and private secondary schools and all institutions of higher education in each State annually of the availability of scholarships under this part.

SEC. 605. SCHOLARSHIP AMOUNT.

(a) AMOUNT OF AWARD.—Except as provided in subsections (b) and (c), the amount of a scholarship awarded under this part for any academic year shall be $5,000.

(b) RELATION TO COST OF ATTENDANCE.—Notwithstanding subsection (a), the amount of a scholarship awarded under this part shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of the Higher Education Act of 1965. A scholarship awarded under this part shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(c) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—In the event that funds available in a fiscal year are insufficient to fully fund all awards under this part, the amount paid to each student shall be reduced proportionately.

SEC. 606. SUMMER EMPLOYMENT OPPORTUNITIES FOR SCHOLARS.

(a) PRIORITY FOR SUMMER EMPLOYMENT.—To the extent that they are otherwise qualified, students receiving scholarships under this part shall be given priority consideration for federally financed summer employment in federally funded research and development centers, that, to the maximum extent practicable, complements and reinforces the educational program of these students.

(b) FEDERAL AGENCY COOPERATION.—Federal agencies shall cooperate fully with the Secretary and participate actively in providing appropriate summer employment opportunities for such students.

PART B—ROBERT NOYCE SCHOLARSHIPS

SEC. 621. ROBERT NOYCE SCHOLARSHIPS.

(a) PROGRAM AUTHORIZED.—There is established a scholarship program for students in a baccalaureate degree program in physical, life, or computer sciences, mathematics, or engineering who are willing to commit themselves to teaching elementary or secondary school mathematics or science.

(b) PERIOD OF AWARDS.—

(1) PERIOD OF INITIAL AWARD.—A student who satisfies the requirements of subsection (g)(1) may receive a scholarship, for a period of 1 academic year of undergraduate study at an institution of higher education.

(2) CONTINUATION AWARDS.—

(A) FIRST CONTINUATION AWARD.—A student who satisfies the requirements of subsection (g)(2) may receive an additional scholarship, awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study.

(B) SECOND CONTINUATION AWARD.—An additional period of scholarship support, not to exceed 1 year, shall be available to recipients of scholarships under subsection (a) who have completed requirements for the baccalaureate degree but require additional education courses in order to obtain certification to teach.

(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this section may attend any institution of higher education.

(d) DESIGNATION.—The individuals awarded scholarships under subsection (a) shall be referred to as the "Robert Noyce Mathematics and Science Teacher Corps".

(e) SELECTION.—

(1) SELECTION PROCESS FOR INITIAL AWARDS.—

(A) SELECTION CRITERIA.—The Director shall develop and submit to the Secretary proposed application procedures and criteria to be used in the selection of nominees under this section. Such criteria shall provide for the selection of such nominees on the basis of academic merit and demonstrated accomplishment in physical, life, or computer science, mathematics, or engineering, and on the basis of motivation to pursue a career in science, mathematics, or engineering. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities.

(B) PUBLICATION.—The Secretary and the Director shall agree to, and jointly publish in the Federal Register, appropriate selection criteria.

(C) MERIT REVIEW PANEL.—Award recipients shall be nominated from among applicants

by a merit review panel composed of 8 individuals, 4 of whom shall be appointed by the Director and 4 of whom shall be appointed by the Secretary. Members of the panel shall not be employees of the United States and shall serve as volunteers without compensation. Nominees shall be selected on the basis of selection criteria, which shall be developed and published in accordance with subparagraphs (A) and (B). The panel shall rank the nominees in order of priority.

(D) AWARDING OF SCHOLARSHIPS.—The panel shall submit its nominees to the President, who shall, after consultation with the Director and the Secretary, award not more than 500 scholarships under subsection (a).

(2) CONTINUATION AWARDS.—The Secretary shall award additional scholarships to recipients of initial awards under this section who the Secretary determines meet the requirements of subsection (g)(2) or (b)(2)(B).

(f) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this section to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student unless the student is enrolled at an institution of higher education.

(g) ELIGIBILITY.—

(1) INITIAL ELIGIBILITY.—Only individuals who are—

(A) citizens or nationals of the United States, or who are aliens lawfully admitted to the United States for permanent residence;

(B) majoring in the physical, life, or computer sciences, mathematics, or engineering;

(C) in the last 2 years of a baccalaureate degree program; and

(D) enrolled in an institution of higher education as a full-time undergraduate student (as determined by the institution of higher education),

shall be eligible for awards under this section.

(2) REQUIREMENTS FOR FIRST CONTINUATION AWARDS.—A student who has received a scholarship under this section may receive a first continuation award under subsection (b)(2)(A) for a subsequent academic year of undergraduate education if the student—

(A) maintains a high level of academic achievement, as determined in accordance with the regulations of the Secretary;

(B) continues to major in one of the physical, life, or computer sciences, mathematics, or engineering; and

(C) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

(h) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

(i) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this section shall be suspended in accordance with the regulations of the Secretary.

(j) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this section could be reinstated if the recipient seeks to reenter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

(k) NOTIFICATION OF SCHOOLS.—The Secretary shall notify all institutions of higher education in the United States annually of the availability of scholarships under this section.

(l) SCHOLARSHIP AMOUNT.—

(1) AMOUNT OF AWARD.—Except as provided in paragraph (2), the amount of a scholarship awarded under this section for any academic year shall be $5,000.

(2) RELATION TO COST OF ATTENDANCE.—Notwithstanding paragraph (1), the amount of a scholarship awarded under this section shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of the Higher Education Act of 1965. A scholarship awarded under this section shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(m) SERVICE REQUIREMENT.—

(1) TEACHING OBLIGATION.—Each recipient of an award under this section shall, as a condition of the receipt of such award, agree to complete, within 6 years after graduation from the baccalaureate degree program for which the award was made or within 6 years after completion of the additional period of scholarship support, if applicable, at least 2 years of service as an elementary or secondary mathematics or science teacher for each year of scholarship support under this section, except that such requirement shall not exceed a total of 4 years. Service required under this paragraph shall be performed at a school receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.).

(2) REPAYMENT ALTERNATIVE.—As part of the agreement required under paragraph (1), each recipient shall agree, in the event of failure to complete the service obligation described in paragraph (1), to repay an amount equal to—

(A) the total amount of awards received by such individual under this section; plus

(B) the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

except that such payment shall be reduced, for each year of service that the individual has successfully completed, by a fraction equal to 1 divided by the number of years of service the student is obligated to perform. Such repayment shall be made within 1 year after the recipient has ceased to perform the service obligation described in paragraph (1).

(3) EXCEPTIONS.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or payment by an individual under this section in the same manner as is permitted under section 558 of the Higher Education Act of 1965 with respect to scholarships under subpart 1 of part D of title V of the Higher Education Act of 1965, except that pregnancy, child-rearing, or comparable family responsibilities shall also be grounds for deferral.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation, for transfer to the Department of Education, $2,500,000 for fiscal year 1991, $5,000,000 for fiscal year 1992, and $7,500,000 for fiscal year 1993, to carry out the provisions of this part.

PART C—NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY

SEC. 621. NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY.

(a) ESTABLISHMENT OF ACADEMY.—The Secretary shall establish a National Academy of Science, Space, and Technology for the instruction and preparation of selected individuals for service in a science, mathematics, or engineering related capacity in the employ of the United States or a United States corporation.

(b) ADVISORY BOARD.—

(1) MEMBERSHIP.—The Secretary, after consultation with the Director, shall appoint an Advisory Board for the Academy consisting of a broadly representative group of scientists, engineers, educators, and businessmen representing high-technology industries.

(2) FUNCTIONS.—The Advisory Board shall—

(A) develop criteria to be used in the selection of recipients of scholarships under this section;

(B) select scholarship recipients from among nominations received under subsection (e); and

(C) identify fields of science, mathematics, and engineering which will be given priority in awarding scholarships under this section.

In making determinations under subparagraph (C), the Advisory Board shall take into consideration requirements of government and industry for technical personnel in fields of science, mathematics, and engineering which are relevant to emerging industrial technologies of significant economic importance and in which shortages in the workforce of the United States are projected.

(c) SCHOLARSHIPS AUTHORIZED.—(1) The Academy shall establish a scholarship program for students to pursue the baccalaureate degree in fields of science, mathematics, or engineering who are willing to commit themselves to service described in subsection (n).

(2) A student who satisfies the requirements of subsection (h)(1) may receive a scholarship for a period of 1 academic year of undergraduate study at a Member Institute.

(3) A student who satisfies the requirements of subsection (h)(2) may receive additional scholarships, each awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study to a maximum of 3 awards.

(4) The individuals awarded scholarships under this section shall be referred to as the "Science, Space, and Technology Corps".

(5) An individual awarded a scholarship under this section may attend any institution of higher education that offers the baccalaureate degree in science, mathematics, or engineering. Such institutions shall be designated as Member Institutes of the Academy.

(d) NOMINATIONS FOR SCHOLARSHIP AWARDS.—Members and Delegates of the House of Representatives may each nominate 6 or more individuals, at least half of whom are female, for scholarships.

(e) SELECTION FOR INITIAL AWARDS.—(1) The Board shall develop criteria for selection of nominees under this section. Such criteria shall provide for the selection of such nominees on the basis of academic merit and motivation to pursue a career in science, mathematics, or engineering. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities.

(2) From among nominees received pursuant to subsection (d), the Board shall select for award of a scholarship one individual from each Congressional District.

(f) CONTINUATION AWARDS.—The Secretary shall award additional scholarships to recipients of initial awards under this section who the Secretary determines meet the requirements of subsection (h)(2).

(g) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this section to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student unless the student is enrolled at an institution of higher education.

(h) ELIGIBILITY.—

(1) INITIAL ELIGIBILITY.—Only individuals who are—

(A) citizens or nationals of the United States, or who are aliens lawfully admitted to the United States for permanent residence;

(B) majoring in the physical, life, or computer sciences, mathematics, or engineering, and

(C) enrolled in an institution of higher education as a full-time undergraduate student (as determined by the institution of higher education),

shall be eligible for awards under this section.

(2) REQUIREMENTS FOR CONTINUATION AWARDS.—A student who has received a scholarship under this section may receive a continuation award under subsection (f) for a subsequent academic year of undergraduate education if the student—

(A) maintains a high level of academic achievement, as determined in accordance with the regulations of the Secretary;

(B) continues to major in one of the physical, life, or computer sciences, mathematics, or engineering; and

(C) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

(i) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

(j) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this section shall be suspended in accordance with the regulations of the Secretary.

(k) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this section may be reinstated if the recipient seeks to reenter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

(l) NOTIFICATION OF SCHOOLS.—The Secretary shall notify all institutions of higher education in the United States annually of the availability of scholarships under this section.

(m) SCHOLARSHIP AMOUNT.—

(1) AMOUNT OF AWARD.—Except as provided in paragraphs (2) and (3), the amount of a scholarship awarded under this section for any academic year shall be $5,000.

(2) RELATION TO COST OF ATTENDANCE.—Notwithstanding paragraph (1), the amount of a scholarship awarded under this section shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of the Higher Education Act of 1965. A scholarship awarded under this section shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(3) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—In the event that funds available in a fiscal year are insufficient to fully fund all awards under this section, the amount paid to each student shall be reduced proportionately.

(n) SERVICE REQUIREMENT.—

(1) SCIENCE, SPACE, AND TECHNOLOGY SCHOLARSHIPS.—Each recipient of an award under this section shall, as a condition of the receipt of such award, agree to complete four years of—

(A) service in a physical, life, or computer science, mathematics, or engineering related capacity in the employ of the United States or any corporation or other entity, organized under the laws of the United States or of a State of the United States, at least 50 percent of which is owned by United States nationals, and which is engaged in scientific or engineering research or endeavor;

(B) postgraduate education in physical, life, or computer science, mathematics, or engineering at an institution of higher education; or

(C) a combination of service and education described under subparagraphs (A) and (B).

(2) REPAYMENT OBLIGATION.—As part of the agreement required under paragraph (1), each recipient shall agree, in the event of failure to complete the service obligation described in paragraph (1), to repay an amount equal to—

(A) the total amount of awards received by such individual under this section; plus

(B) the interest on such amounts which would be payable if at the time the amounts were received the amounts were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

Such repayment shall be made within 1 year after the recipient has ceased to perform the service obligation described in paragraph (1).

(3) EXCEPTIONS.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or payment by an individual under this section in the same manner as is permitted under section 558 of the Higher Education Act of 1965 with respect to scholarships under subpart 1 of part D of title V of the Higher Education Act of 1965, except that pregnancy, child-rearing, or comparable family responsibilities shall also be grounds for deferral.

(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,200,000 for fiscal year 1991.

PART D—ADDITIONAL PROVISIONS

SEC. 631. EFFECT OF CERTAIN CONTROLLED SUBSTANCE AND FELONY CONVICTIONS.

(a) GENERAL RULE.—Except as provided in subsection (b), or by a court under the authority of section 5301 of the Anti-Drug Abuse Act of 1988 (102 Stat. 4310), if any person is convicted under Federal or State law of the illegal use, possession, or distribution of a controlled substance (as such term is defined in the Controlled Substances Act), or of any crime which is a felony under Federal law or for an act which, if committed in a Federal jurisdiction, would be a felony under Federal law, and such crime was committed during a period in which such person received an award under this title, such person shall not be eligible to receive any further such awards, and shall be liable to the United States for the repayment, within 1 year after such conviction, of all amounts received pursuant to such awards, plus the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as of the time of such conviction, as determined by the Treasurer of the United States.

(b) EXEMPTION.—A person subject to the provisions of subsection (a) may be exempted from those provisions in whole or in part if—

(1) that person, within 90 days of a conviction described in subsection (a), petitions the Secretary of Education for a good cause exemption from subsection (a); and

(2) the Secretary of Education approves the petition.

SEC. 632. REPORT.

The National Science Foundation shall prepare and submit to the Congress no later than 1 year after the date of enactment of this Act a report examining current efforts to improve the quality of elementary and secondary mathematics and science education and career potential for the underprivileged through joint efforts of business, school districts, and institutions of higher education, and recommending ways the Federal Government may encourage such efforts. The report shall include, to the extent possible, a comprehensive list of existing efforts, an assessment of what factors have made some such efforts more successful than others, and a review of the extent to which such efforts have drawn on Federal programs.

TITLE VII—GENERAL PROVISIONS AND AUTHORIZATION OF APPROPRIATIONS

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

From the amounts authorized to be appropriated to the National Science Foundation pursuant to the National Science Foundation Authorization Act of 1988, there are authorized to be appropriated—

(1) in addition to any amount obligated in fiscal year 1990 for programs on applications of advanced technology within the Education and Human Resources Directorate—

(A) $10,000,000 for fiscal year 1991 to carry out the provisions of section 221, of which $5,000,000 shall be available to carry out the provisions of subsection (a) of such section and $5,000,000 shall be available to carry out the provisions of subsection (b) of such section;

(B) $11,000,000 for fiscal year 1992 to carry out the provisions of section 221, of which $5,500,000 shall be available to carry out the provisions of subsection (a) of such section and $5,500,000 shall be available to carry out the provisions of subsection (b) of such section; and

(C) $12,500,000 for fiscal year 1993 to carry out the provisions of section 221, of which $6,250,000 shall be available to carry out the provisions of subsection (a) of such section and $6,250,000 shall be available to carry out the provisions of subsection (b) of such section;

(2) in addition to any amounts obligated in fiscal year 1990 for informal science edu-

cation programs, $15,000,000 for fiscal year 1991, $17,000,000 for fiscal year 1992, and $19,400,000 for fiscal year 1993 to carry out the provisions of section 231;

(3) in addition to any amounts obligated in fiscal year 1990 for statewide education programs, $17,000,000 for fiscal year 1991, $19,400,000 for fiscal year 1992, and $22,100,000 for fiscal year 1993 to carry out the provisions of section 241;

(4) in addition to any amounts obligated in fiscal year 1990 for undergraduate education programs, $16,000,000 for fiscal year 1991, $18,200,000 for fiscal year 1992, and $20,700,000 for fiscal year 1993 to carry out the provisions of section 311;

(5) $37,900,000 for fiscal year 1991, $60,600,000 for fiscal year 1992, and $67,800,000 for fiscal year 1993 to support of graduate fellowships, including expansion of the number of graduate fellowships pursuant to the provisions of section 302;

(6) $10,000,000 for fiscal year 1991, $20,000,000 for fiscal year 1992, and $30,000,000 for fiscal year 1993 to carry out the provisions of section 303; and

(7) in addition to any amounts obligated in fiscal year 1990 for programs to increase participation by women and minorities in careers in science, mathematics and engineering, $17,000,000 for fiscal year 1991, $19,400,000 for fiscal year 1992, and $22,000,000 for fiscal year 1993 to carry out the provisions of title IV.

PART B—DEFINITIONS

SEC. 711. DEFINITIONS.

As used in this Act—

(1) the term "consortium", refers to a combination of school districts, colleges, universities, other formal or informal educational entities, State and local governments, professional organizations, community groups, businesses and industries, or any combination thereof;

(2) the term "Director", unless otherwise specified, shall refer to the Director of the National Science Foundation;

(3) the term "elementary school" has the same meaning given that term in section 1471(8) of the Elementary and Secondary Education Act of 1965;

(4) the term "Foundation" refers to the National Science Foundation;

(5) the term "institution of higher education" has the same meaning given that term in section 1201(a) of the Higher Education Act of 1965;

(6) the term "local educational agency" has the same meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965;

(7) the term "minorities" refers to members of those racial and ethnic groups underrepresented in mathematics, science and engineering, including American Indians, Black Americans, Hispanic Americans, Native Alaskans, or Native Pacific Islanders;

(8) the terms "scholarship" and "fellowship" refers to a financial award made to a student which enables a student to pursue a desired course of study at an institution of higher education;

(9) the term "secondary school" has the same meaning given that term in section 1471(21) of the Elementary and Secondary Education Act of 1965;

(10) the term "Secretary", unless otherwise specified, refers to the Secretary of the Department of Education;

(11) the term "State educational agency" has the same meaning given that term in section 1471(23) of the Elementary and Secondary Education Act of 1965; and

(12) the term "traineeship" means a form of financial support provided to an institution of higher education to—

(A) be used to provide stipends to graduate students selected by such institution; and

(B) help defray educational costs of educating such graduate students.

PART C—MISCELLANEOUS PROVISIONS

SEC. 721. STUDENT ASSISTANCE GENERAL PROVISIONS.

The Secretary shall extend until January 1, 1991 the public comment period on the proposed regulations modifying part 668 of title 34, Code of Federal Regulations, concerning clock and credit hour conversion.

SEC. 722. PUBLIC LAW 81-874.

(a) FEDERAL CONTRIBUTIONS.—Section 2 of Public Law 81-874 (20 U.S.C. 237) is amended—

(1) by redesignating the second subsection (d), as added by section 7(a) of Public Law 101-305, as subsection (e); and

(2) by adding a new subsection at the end thereof to read as follows:

"(f) Beginning with fiscal year 1991, any school district which (1) as demonstrated by written evidence from the United States Forest Service satisfactory to the Secretary, contains between 50,000 and 55,000 acres of land that has been acquired by the United States Forest Service between 1915 and 1990, and (2) serves a county chartered by State law in 1875, shall be deemed to have met the requirements of subsection 2(a)(1)(C).".

(b) PAYMENTS.—Section 5(e)(1)(D) of Public Law 81-874 (20 U.S.C. 240) (hereafter in this section referred to as the "Act") shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1990 but is an agency described in section 5(c)(2)(A)(iii) in fiscal year 1991, 1992, or 1993 as a result of families moving off base due to a landfill or health concern or an environmental hazard, or due to risk assessment, investigation, testing or remediation for such concern or hazard, and any such local educational agency shall be deemed to belong to the category described in section 5(c)(2)(A)(ii) for each of the fiscal years 1991, 1992, and 1993.

(c) SUNSET PROVISION.—The provisions of subsection (b) shall apply only during the period beginning on the date of enactment of this Act and ending on September 30, 1993.

(d) DISCRETIONARY ALLOCATIONS.—

(1) IN GENERAL.—Section 5(e)(1)(B) of Public Law 81-874 (20 U.S.C. 240(e)(1)(B)) is amended to read as follows:

"(B)(i) For any fiscal year beginning after September 30, 1990, the Secretary shall first allocate to any local educational agency that is, and in fiscal year 1987 would have been, described in subsection (c)(3)(A)(i) and that received a payment under section 3(b) for fiscal year 1987, an amount that is not less than the product of—

"(I) 100 percent of the per pupil amount paid to such agency under section 3(b) for fiscal year 1987; and

"(II) the number of children described in section 3(b) in average daily attendance in the fiscal year for which the determination under section 3(b) is made, not to exceed the number of such eligible children claimed by such agency in fiscal year 1987.

"(ii) If the amount appropriated for section 3(b) in any fiscal year exceeds the amount appropriated for such section for fiscal year 1990, the Secretary shall use such excess funds—

"(I) first, to allocate to any such agency, for such children that exceed the number of such eligible children claimed by the agency in fiscal year 1987, the amount described in subsection (c)(3)(B)(i)(I); and

"(II) second, to allocate remaining funds in accordance with subsection (c)(3)(B).".

(2) SPECIAL RULE.—Section 5(e) of Public Law 81-874 (20 U.S.C. 240(e)) is further amended by striking out paragraph (3).

SEC. 723. TECHNICAL AMENDMENT.

Section 312(5) of the Adult Education Act (20 U.S.C. 1201a(5)) is amended by inserting ", or to perform a service function for," after "direction of" the first place it appears.

PART D—EFFECTIVE DATE

SEC. 731. EFFECTIVE DATE.

The provisions of this Act shall take effect on October 1, 1990, or the date of enactment of this Act, whichever is later.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

And the Senate agree to the same.

ROBERT H. ROE,
GEORGE E. BROWN, Jr.,
DOUG WALGREN,
TIM VALENTINE,
DAVID E. PRICE,
ROBERT S. WALKER,
SHEREY BOEHLERT,
D. FRENCH SLAUGHTER, Jr.,
GUS HAWKINS,
WILLIAM D. FORD,
PAT WILLIAMS,
MAJOR R. OWENS,
TOM SAWYER,
BILL GOODLING,
TOM COLEMAN,
STEVE BARTLETT,

Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
CHRISTOPHER J. DODD,
ORRIN HATCH,
NANCY LANDON KASSEBAUM,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 996), and Act to establish the Congressional Scholarships for Science, Mathematics, and Engineering, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1A. Title: The House bill's title reads "An Act to establish the Congressional Scholarships for Science, Mathematics, and Engineering, and for other purposes." The

Senate amendment's title is a "A bill to promote excellence in American mathematics, science and engineering education; enhance the scientific and technical literacy of the American public; stimulate the profession development of scientists and engineers; increase the participation of women and minorities in careers in mathematics, science, and engineering; and for other purposes."

House recedes with the amendment to entitle the Act, "An Act to improve the quality of Mathematics, Science and Engineering Education in the United States and for other purposes."

1B. Short Title: The Senate amendment's short title is "Excellence in Mathematic, Science and Engineering Education Act of 1990." The House bill contains the short title, "Congressional Scholarship for Science, Mathematics and Engineering Act."

The House recedes.

2. Table of Contents. The Senate amendment but not the House bill has a table of contents.

House recedes with an amendment to change the table of contents to conform to the conference substitute.

3. Title I: Findings. The House bill contains a "Findings" section. The Senate amendment contains a similar "Findings" section, but the wording is different.

The House recedes with an amendment to include some items of the House bill's "Findings" section and delete some items from subsection (a) of the Senate "Findings" section.

4. National Objectives. The Senate amendment but not the House bill contains a "National Objectives" section.

The House recedes.

5. Purposes: The House bill not the Senate amendment contains a "Purposes" section.

The House recedes.

6. Declaration of Policy and Principles: Policy. The Senate amendment, but not the House bill, contains a "Policy" section.

The Senate recedes.

7. Declaration of Policy and Principles: Principles. The Senate amendment but not the House bill, has a "Principles" section.

The Senate recedes.

8. National Goal. The Senate amendment, but not the House bill, establishes a "National Goal" and designates the decade from 1990 to 1999 as the "Decade of Excellence in American Mathematics, Science and Engineering."

The Senate recedes.

9. Assessment and Achievement. The Senate amendment but not the House bill, requires the National Science Foundation, the Department of Education and Science Advisor to the President to set forth objectives, develop criteria for assessing national achievement, collect data, sponsor a survey in 1999 to determine and report comparative improvement of American students.

The Senate recedes.

10. Information Dissemination: The Senate amendment establishes a National Clearinghouse for Mathematics, Science and Technology Education, and authorizes $5 million for fiscal year 1991 and such sums through fiscal year 1995 for this activity.

The House recedes with an amendment to the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2985) to (1) establish a Clearinghouse; (2) require local education agencies which would receive an Eisenhower grant of less than $6000 to form consortia (requires the State education agency to waive the requirement under certain conditions); (3) place a priority in the Eisenhower Act on serving elementary and middle school teachers and allows the Secretary to waive the provision; (4) set a floor on the amount available for the state educational agencies or the administration of the local educational agencies' programs; and (5) set a floor on the amount available for the state educational agency for administration of the higher education programs; and (6) allow the Secretary to award grants for training and instruction in computers.

This legislation results from the efforts of a number of friends and admirers of Dwight D. Eisenhower who were all of the opinion that an Eisenhower National Education program would be a most fitting Centennial tribute to Dwight D. Eisenhower from a grateful nation for his world leadership.

The Dwight D. Eisenhower Society of Gettysburg started its program for the Centennial in 1987, and one of the cornerstones of its efforts was a national scholarship or educational program in the name of our 34th President. The Society submitted the first draft of educational/scholarship legislation in 1988. The Society stated, "claiming no pride of authorship, the thrust was to get a bill underway in the House and Senate that would eventually result in an Eisenhower Educational Program. The society worked with Senators Heinz, Specter and Kennedy and Congressman Goodling and their staffs, and, although admirable legislation originated from some of these Offices, it was not titled under the name of Dwight D. Eisenhower.

In 1988, on behalf of the Eisenhower Society, Congressman Goodling was able to have the existing Math and Science program changed to the Dwight D. Eisenhower Math and Science Teacher Training Act. With Congressman Sawyer, he was able to help guide the current amendments to the existing Dwight D. Eisenhower Math and Science program through the House of Representatives with emphasis on training and retraining of elementary and middle school teachers. These amendments are also in the name of the Eisenhower Society.

The Society is reminded that Eisenhower once quoted Aristotle on the paramount need of a nation to educate its youth: "Those who have meditated on the art of governing mankind have been convinced that the fate of empires depends upon the education of youth."

10A. The National Clearinghouse: Establishment. The Senate amendment requires the Secretary in consultation with the Director of the National Science Foundation to establish a Clearinghouse.

The House recedes with an amendment which amends the Eisenhower Act allowing the Secretary to establish a National Clearinghouse. The amendment also requires the Secretary to establish a peer review process in selecting the Clearinghouse and to appoint a Steering Committee to recommend policies and activities for the Clearinghouse.

10B. National Clearinghouse: Grant Period. The Senate amendment requires the grant or contract be awarded for a 5-year period and reviewed by the Secretary within 30 months of the grant.

The House recedes.

10C. National Clearinghouse: Use of Funds. The Senate amendment requires the Clearinghouse to maintain a permanent repository of mathematics, science and technology education instructional materials. The Senate amendment also requires that the Clearinghouse compile information.

The House recedes with an amendment urging collection of non-federally funded materials to the extent practicable, and requiring collection of information on all mathematics and science education programs administered by each Federal agency or department. The amendment also requires the inclusion of materials to be used for the regional consortia.

10D. National Clearinghouse; Coordination. The Senate amendment requires coordination with the data bases.

The House recedes.

10E. National Clearinghouse: Dissemination. The Senate amendment requires the Clearinghouse to disseminate instructional materials and programs.

The House recedes with an amendment including dissemination to the public, dissemination networks and the Regional Consortia (see 11).

The managers intend that materials from the National Diffusion Network be disseminated to the Clearinghouse and that coordination with existing dissemination networks will be a priority.

By "dissemination", the conferees intend that Clearinghouse would make available to the Regional Consortia, and through the consortia to the public, for inspection or display only, materials and programs in its repository. Nothing shall be construed to allow the use or copying in any media, or any material collected by the Clearinghouse, that is protected under the copyright laws of the United States unless the permission of the owner of the copyright is obtained. The dissemination system should include a means for users to request or order materials and programs in the repository or to request more information about the program from the publisher or developer, and to assure that the copyright holder has given permission for any use or copying.

The managers intend that the Clearinghouse shall employ, where feasible, both traditional and technologically advanced methods for storing and disseminating materials to the Regional Consortiums established in this legislation and to the public.

10F. National Clearinghouse: Programs and Materials. The Senate amendment requires Federal agencies to submit copies of educational materials to the Clearinghouse.

The House recedes.

10G. National Clearinghouse: Copyright Compliance. The Senate amendment requires compliance with the copyright laws.

The House recedes with an amendment adding additional copyright protection language.

Explicit copyright protection is particularly necessary to assure that the Clearinghouse and Consortia, which will be on the cutting edge of new information-management technologies, will strictly adhere to compliance with the copyright law. This means that the works of private authors funded in whole or in part by the United States or privately published works shall not be copied or disseminated without the permission of the copyright owners.

10H. National Clearinghouse: Application. The Senate amendment requires the applicants to submit an application to the Secretary.

The House recedes.

11. Regional Consortia: The Senate amendment establishes Regional Consortia.

The House recedes with an amendment to the Eisenhower Act to create Regional Consortia.

11A. Regional Consortia: Establishment. The Senate amendment would establish Regional Consortia for Science, Mathematics and Technology Education. The Senate

amendment requires consultation with the Director of the National Science Foundation in establishing the consortia and authorizes the Secretary to award grants or contracts.

The House recedes with an amendment striking the word "technology"; requiring that grants be awarded within 12 months of the date of enactment making appropriations available for these provisions; and requiring the Secretary to assure equal distribution of funds among the regions.

11B. Regional Consortia: Location. The Senate amendment allows the Secretary to waive the requirement that there be a consortium in each education region.

The House recedes.

11C. Regional Consortia: Use of Funds. The Senate amendment allows the Regional Consortia to use the funds for a variety of activities. The Senate amendment also requires the Consortia to work under the direction of the regional board.

The House recedes with an amendment adding some additional uses of funds to the Senate provision and adding coordination with the regional educational laboratories.

The managers expect the Regional Consortia to coordinate activities with the regional labs.

The conferees intend that federal funds may be used for materials development if such materials are commercially unavailable. Similar requirements are currently applicable to other elementary and secondary education programs, such as bilingual education, and family-school partnership programs.

11D. Regional Consortia: Application and Review. The Senate amendment requires each applicant to (1) demonstrate expertise in mathematics and science education, (2) demonstrate that the entity will disseminate instructional materials, teaching methods, and assessment tools, (3) demonstrate that the entity will emphasize programs to meet the needs of underserved groups of students, (4) demonstrate that the business community in the region served by the Regional Consortia will play an integral role; and (5) demonstrate that the applicant will consider the resources of the Star Schools consortia.

The House recedes with an amendment requiring, in addition to the Senate provisions, that each applicant (1) demonstrate that the entity shall implement and disseminate science, mathematics and technology materials, teaching methods, and assessment tools through consortium of the region's science and mathematics education organizations; (2) demonstrate that the applicant would carry out the function of a Regional Consortium at the direction of a regional board; and (3) describe the activities for which assistance is sought. The amendment also requires the applicant to demonstrate expertise in the fields of mathematics and science education, and requires a description of attempts to serve children and teachers from private schools.

11E. Regional Consortia: Approval of Application. The Senate amendment requires the Secretary, in consultation with the Director, to develop criteria and procedures to ensure that grants or contracts are awarded on a competitive, merit basis.

The House recedes with an amendment deleting consultation with the Director of the National Science Foundation.

11F. Regional Consortia: Approval of Application. The Senate amendment establishes a national panel or panels to review the recommendations made by each regional technical review panel to make final recommendations. The Senate amendment requires the Secretary to consult with the Director when establishing the panel to have ½ of the panel members appointed by the Secretary and the ½ appointed by the Director.

The House recedes with an amendment vesting all authority with the Secretary in establishing the panel but requiring consultation with the Director. The amendment also requires that the national review panel include participation, to the extent feasible, from each of the education regions.

The managers intend that the Director will recommend members of the science and engineering community to the Secretary for inclusion on the national review panel or panels. The managers also intend that the review panels include representation from educational practitioners in the regions, including: representatives of the teaching community, state and local educational agencies, private elementary and secondary schools, higher education, informal education, the science, engineering and mathematics community, business and groups that are underrepresented in, and underserved by, science, mathematics and technology education, such as women and minorities.

11G. Regional Consortia: Review Panels. The Senate amendment requires the Secretary, in consultation with the Director, to establish for each region, a panel which shall conduct the technical review of the applications received each year.

The Senate recedes.

11H. Regional Consortia: Regional Board. The Senate amendment requires that regional boards be established by the entity receiving the award and requires that the board be broadly representative of the agencies and organizations participating in the Regional Consortia.

The House recedes with an amendment requiring that no federal funds be used for establishment or operation of the regional board.

11I. Regional Consortia: Payments Federal Share. The Senate amendment establishes the federal share to be 90% for the first and second fiscal years, 75% for the third and fourth years, and 50% for the fifth year.

The House recedes with an amendment modifying the federal share to 80% in the first and second years, 75% for the third, 65% for the fourth year, and 50% for the fifth year.

11J. Regional Corsortia: Payments; Non-Federal Share. The Senate amendment allows the non-federal share to be in cash or in kind, fairly evaluated.

The House recedes.

11K. Regional Consortia: Assessment. The Senate amendment requires the Office of Educational Research and Improvement (OERI) to collect data and evaluate the effectiveness of the regional consortia.

The House recedes with an amendment to delete an assessment of student development as measured by achievement gains from the evaluation of this program.

11L. Amendment to General Education Provisions Act. The Senate amendment requires the Secretary to only award a grant or contract for a regional educational laboratory if such laboratory is to be located in the region of the Nation served by such laboratory.

The Senate recedes.

The conferees intend that a regional laboratory be located in the region it is to serve.

While the Senate recedes on this issue, the conferees also intend that this issue will be considered again during reauthorization of OERI during reauthorization in the next Congress. In the current grant competition, in the event a laboratory cannot be located within the region, the conferees intend that an entity be chosen to serve that area only if it has an established relationship with the area, and has served that area on an ongoing basis for several years.

11M. Definitions. The Senate amendment defines the terms "eligible entity," "region", and "Regional Consortium".

The House recedes.

11N. Authorization of Appropriations. The Senate amendment establishes the authorization at $19 million for FY 1991 and such sums as may be necessary for FY 1992, FY 1993, FY 1994, and FY 1995.

The House recedes with an amendment to authorize $17 million for FY 1991 with such sums as necessary for FY 1992 and FY 1993. The amendment also requires the Secretary, in consultation with the heads of other appropriate agencies, to prepare a report listing all sources of federal aid for mathematics and science education.

12. Technology and Learning Center. The Senate Amendment establishes a Technology and Learning Center to conduct and disseminate interdisciplinary research on the ways people learn and how technologies can be used to facilitate their learning.

The Senate recedes.

It is the understanding of the conferees that, in the new competition for the OERI Centers, the Centers will consider a number of overarching themes. The conferees expect one of the themes for the appropriate Centers, including those on learning, to recognize the impact of new technologies on learning. The conferees note the work of the Educational Technology Center created in 1988 and expect cooperation with this existing Center as well.

13. Innovative Technologies. The Senate amendment authorizes the Director of the National Science Foundation to award grants for Star Schools projects that provide statewide or multi-state telecommunications and computer technology, geared for mathematics and science education programs to underserved urban, rural or poverty areas.

The House recedes with an amendment changing the wording.

The conferees do not intend subsection Sec. 221 (A) to require any changes in the National Science Foundation's current educational technology programs. The subsection is designed to give NSF a statutory mandate to carry out its programs and to encourage its programs to expand in size.

The lists of possible uses of the funds in paragraphs 221(A)(3) and 221(B)(3) are not intended to be inclusive. NSF continues to be permitted to award funds for other purposes, including the establishment of inter- and intra-state computer networks.

Subsection 221(B) is designed to create a research program on distance learning technologies. The conferees do not intend for NSF to supply operational funding for school districts or any other entities. However, funds provided for the purposes listed in paragraph 221(B)(3) may include money to purchase and test the equipment or materials in a specific location.

The conferees anticipate that, in awarding funds under Section 221, NSF will continue its policy of awarding funds only to nonprofit entities. Such entities may be consortia that include for-profit participants.

The conferees also intend that NSF give special consideration to proposals for re-

search to adapt existing technology to new purposes, as stated in paragraph 221(C)(2). For example, software developed for one subject might be adapted to another subject area. Or, hardware developed for a different purpose might be adapted for distance or interactive learning.

14. Informal Mathematics, Science and Technology Education. The Senate amendment authorizes the Director of National Science Foundation to award grants to museums, planetariums or zoos for the purpose of disseminating and developing more effective hands-on, interactive activities, giving special priority to benefiting elementary school students.

The House recedes with an amendment striking the terms "museums, planetariums, libraries" and "zoos" and defining the remaining term "science-technology center" as a nonprofit institution which may include the above institutions as well as others open to the general public which provide exhibits, demonstrations and informal science education designed to illustrate science's place in society; replacing (a)(1)(B) "make . . . community" with "replication and/or dissemination of effective programs and activities;" and in (a)(1)(C) opening the program to new and developing science-technology centers.

In section 231, the conferees intend the term "New science-technology centers" to mean centers that have not yet opened or have just recently opened. The purpose of the Section 231(a)(1)(C) is to ensure that grants are awarded to science-technology centers that may now be excluded from NSF programs because the centers have not been in operation a sufficient amount of time. The conferees want to see more centers in operation throughout the nation.

15. Systemic reform. The Senate amendment, but not the House bill, authorizes the Driector of the National Science Foundation to award grants to local education agencies for the purpose of making systemwide improvements in math and science education and authorizes $19 million for this activity.

The House recedes with an amendment requiring the Director's consultation with the Secretary of Education, authorizing the award of grants to States and State education agencies but not to local educational agencies, requiring grant proposals to include the use of other Federal funds, reducing the authorization to $17 million, and requiring that the funds come from existing authority under NSF.

In those States in which members of the States board of education are elected (including election by the State legislature) or in which the chief state school officer is directly elected by the citizens, it is the intent of the conferees that the State education agency will be the primary recipient of this grant.

The conferees do not intend that the systemic reform section require any changes in the National Science Foundation program "Statewide Systemic Initiatives in Science, Mathematics and Engineering Education" as presented in solicitation OMB No. 3145-0058.

16. Technical Amendment. The Senate amendment has a technical amendment to the National Science Foundation Act.

The House recedes.

17. Centers of Excellence. The Senate amendment authorizes the Director of the National Science Foundation to award grants to institutions of higher education lacking strong mathematics, science and engineering departments for the purpose of strengthening their undergraduate teaching in these fields.

The House recedes with an amendment establishing that the grants are awarded to faculty with a record of excellence in teaching; defining possible uses of the grants as curriculum development, faculty training, educational equipment, support for research and professional activities, and support of teaching fellows; and establishing the following selection criteria: commitment of the institution to improve undergraduate education in the said fields, teaching ability and accomplishments of the applicant, and the impact of the grant on improving undergraduate instruction.

The conferees believe that technician training is critical to maintaining a highly skilled technical workforce in the United States, and share the concern that the Department of Education, National Science Foundation and other federal agencies may not be doing enough to strengthen and improve science and technology education in two-year colleges. The conferees agreed to assess technician training needs and to work together to seek solutions to any problems identified.

18. National Mathematics-Science Teacher Corps. The House bill contains a two-year scholarship program which awards scholarships to students enrolled in an undergraduate program in science, mathematics or engineering who are willing to commit to teach elementary or secondary science or mathematics. The Senate bill contains a similar program. The National Mathematics-Science Teacher Corps, which is based on the same criteria.

The Senate recedes to the House with an amendment to adopt as a new title the Robert Noyce Scholarship Program in Sec. 403 of S. 695 as passed by the House, as well as the National Science Scholars Program in Sec. 402 of S. 695 as passed by the Senate.

19. Teacher Corps: Eligibility. The House bill, but not the Senate amendment, limits eligibility to U.S. citizens or lawfully admitted citizens.

The Senate recedes with an amendment to adopt the eligibility requirements of the Robert Noyce Scholarships. (See 18.)

20. Teacher Corps: Selection Criteria. Both the House bill and the Senate amendment include criteria based on merit, and consideration to financial need and to minorities, women and disabled individuals, except that these considerations are permissive in the House bill. The House bill states that merit must be shown in mathematics, science and engineering.

The Senate recedes with an amendment to adopt the Robert Noyce Scholarship (see 18.) selection criteria, which includes academic merit, accomplishment in science, mathematics, and engineering, and motivation to pursue a career in one of these fields. In addition, consideration may be given to minorities and individuals with disabilities.

21. Teacher Corps: Amount of Award. In the Senate amendment, participants receive awards of $5000 per year, maximum two years per recipient. In the House bill, participants receive two-year awards of $7500 per year, maximum one award per recipient. Both bills allow recipients to receive funds for a third year if they have completed their undergraduate degree but need additional credits for certification.

The House recedes with an amendment to adopt the prodecure of award in the Robert Noyce Scholarship program (See 18.)

22. Teacher Corps: Maintaining Eligibility. The House bill, but not the Senate amendment, sets forth requirements for maintaining eligibility in the program.

The House recedes with an amendment to adopt the procedures of the Robert Noyce Scholarship Program (See 18.)

23. Teacher Corps; Service Requirement. Both the House bill and the Senate amendment require recipients to teach for two years, in a Chapter One School, for each year of financial support received under this act, except that the House bill, and not the Senate amendment, limits the number of years that recipients can be required to teach to four years.

The Senate recedes with an amendment to adopt the language of the conference agreement upon the Robert Noyce Scholarship program (See 18.)

24. Teacher Corps: Failure to Complete Service Obligation. Both the House bill and the Senate amendment describe the circumstances under which recipients would have to repay all or part of the award. The House bill, but not the Senate amendment, includes the additional circumstance "if the individual . . . declares intent not to fulfill the service obligation.

The Senate recedes with an amendment to adopt the language of the conference agreement upon the Robert Noyce Scholarship program. (See 18.)

25. Teacher Corps: Amount of Repayment. The Senate amendment authorizes the Director to determine the schedule for repayment and amount of interest. In the House bill, the U.S. Treasurer determines the amount of interest, according to the highest legal rate when the awards were received. The schedule of repay is determined by this act: funds must be repaid within one year after participant was disqualified from the program on a yearly schedule.

The Senate recedes with an amendment to adopt the language of the conference agreement upon the Robert Noyce Scholarship program. (See 18.)

26. Teacher Corps: Exceptions. The House bill, but not the Senate amendment, provides exceptions to the pay back provisions in the event of extreme hardship or bankruptcy.

The Senate recedes with an amendment to adopt the language of the conference agreement upon the Robert Noyce Scholarship program. (See 18.)

27. National Science Scholars Program. Both the House bill and the Senate amendment establish a National Science Scholars program. The Senate amendment amends the Higher Education Act while the House bill does not.

The Senate recedes with a series of amendments based on the National Science Scholars Program in Sec. 402 of S. 695 as passed by the House, but establishing this title in a separate title.

28. National Science Scholars Program: Purpose. The Senate amendment, but not the House bill, sets forth the purposes of this act.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

29. National Science Scholarship Program: Establishment. Both the Senate amendment and the House bill authorize the award of yearly scholarships to one male and one female from each congressional district for the study of science, mathematics and engineering.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

30. National Science Scholarship Program: Eligibility. The Senate amendment, but not the House bill, extends eligibility to the District of Columbia, Puerto Rico and the listed territories.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

31. National Science Scholarship Program: Special Consideration. The Senate amendment gives special consideration to disadvantaged and underrepresented groups in the science, mathematics and engineering professions.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

32. National Science Scholarship Programs: Disbursal of Scholarship Proceeds. The Senate amendment requires the Secretary to disburse awards to the institution on behalf of the recipient, rather than to the recipients themselves.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

33. National Science Scholarship Programs: National Science Scholars. The Senate amendment gives the titles of "National Science Scholarship Finalist" to recipients and nominees, respectively.

The Senate recedes with an amendment to adopt the National Science Scholars Program, (See 27.)

34. National Science Scholarship Program: Relation to Other Grants. Both the Senate amendment and the House bill limit the award to "students' cost of attendance."

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

35. National Science Scholarship Program: Financial. In the Senate amendment the award is considered income for the purpsoes of determining eligibility for student financial aid.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

36. National Science Scholarship Program: Special Rule. The Senate amendment encourages other entities to provide scholarship assistance to National Science Scholarship Finalists.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

37. National Science Scholarship Program: Announcement. Both the Senate amendment and the House bill require the Director to inform Members of Congress of award winners before the selections are made public.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

38. National Science Scholarship Program: Eligibility. In the Senate amendment, students are eligible who are: (1) U.S. citizens or lawfully admitted aliens, (2) high school seniors or recipients of graduate equivalency diploma, and (3) enrolled in or intend to apply to college. In the House bill, students are eligible who are (1) U.S. citizens or lawfully admitted aliens, and (2) high school seniors or graduates applying as a freshman to an undergraduate program.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

39. and 40. National Science Scholarship Programs: Maintaining Eligibility. Both the Senate amendment and the House bill require that in order to maintain eligibility, a student must be enrolled in an accredited institution; major in any field of science, mathematics or engineering; and carry a full academic workload, except in special cases.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

41. National Science Scholarship Program: Academic Standing. The Senate amendment requires recipients to maintain good academic standing as determined by the institution; the House bill requires the standard to be determined by the Director.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

42. National Science Scholarship Programs: Exceptions. The Senate amendment specifies pregnancy and family responsibilities as an additional exception under this part.

The Senate recedes with an amendment to adopt the National Science Scholars program. (See 27.)

43. National Science Scholarship Programs: Time Limit. The House bill limits each exception to two years, after which the recipient must reapply for an extension.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

44. National Science Scholarships Programs: Nature and Amount. The Senate amendment awards scholarships of up to $5000 per year for four years. The House bill awards scholarships equal to $5000 per year for four years.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

45. and 46. National Science Scholarship Programs; Increase. The House bill permits an increase in the amount of award to accommodate students completing four-year programs in less than four years.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

47. National Science Scholarship Programs: Insufficient Funds. The Senate amendment reduces the amount of each award in the event that funds are insufficient to award all recipients in a fiscal year.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

48. National Science Scholarship Programs: Excess Funds. The Senate amendment allows any excess funds to be awarded to National Science Scholarship Finalists.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

49. National Science Scholarship Programs: Nominating Committees. Both the House bill and the Senate amendment establish procedures for selecting award recipients, but the House bill and Senate amendment differ considerably in this respect.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

50. National Science Scholarship Programs: Notification. In the Senate amendment and in the House bill, the Secretary and the Director, respectively, must annually notify all secondary schools and institutions of higher education of the availability of scholarships under this act.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

51. National Science Scholarship Programs: Nomination. Both the Senate amendment and the House bill include as criteria for nomination and selection: the promise to complete a post-secondary program in mathematics, science and engineering; and the motivation to pursue a career in one of these fields.

The Senate amendment but not the House bill includes the criteria: outstanding academic achievement in the said fields; and promise of outstanding academic achievement.

The House bill but not the Senate amendment adds that consideration will be given to financial need and promoting participation of minorities and students with disabilities.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

52. National Science Scholarship Programs: Failure to Maintain Eligibility. The House bill but not the Senate amendment requires that a recipient who fails to maintain eligibility repay the United States with interest.

The House recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

53. National Science Scholarship Programs: Failure to Maintain Eligibility. The Senate amendment states that if a recipient fails to maintain eligibility, the Director shall determine whether he or she is eligible for further scholarships.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

54. National Science Scholarship Programs: Monitoring. The House bill but not the Senate amendment requires the Director to monitor the implementation of nominating committees; ensure that solicitation and selection of students, as well as the election of committees be carried out without discrimination.

The House recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

55. National Science Scholarship Programs: Summer Employment. In the Senate amendment recipients are given priority for federally financed summer employment in federally funded research and development centers.

The House recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

56. National Science Scholarship Programs: Federal Agency Compliance. The Senate amendment requires that Federal agencies play an active role in providing appropriate summer employment opportunities for recipients.

The House recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

57 and 58. National Science Scholarship Programs: Effective Date. The Senate amendment states that the effective date of the act is 10/1/90.

The Senate recedes with an amendment to adopt the National Science Scholars Program. (See 27.)

59A. Graduate Fellowships. The Senate amendment authorizes the Director of the National Science Foundation to increase the number of National Science Foundation Graduate Fellowships to 1200 per year, be-

ginning in 1993, emphasizing participation of women and minorities.

The House recedes.

59B. Graduate Traineeships. The Senate amendment authorizes the Director to award grants to institutions of higher education to conduct traineeships encouraging students to continue education and research in mathematics, science and engineering.

The House recedes with an amendment making clear the program is merit-based and changing special rules of Sec. 323(b) by striking "from traineeship programs" in paragraph (2); by replacing "historically . . . fellowships" with "demonstrated progress and an ongoing commitment to upgrading their capabilities to perform high quality research and are not among the institutions currently receiving a large number of student recipients of National Science Foundation Graduate Fellowships" in paragraph (3); and striking paragraph (4).

60. Title IV: Women and Minorities in Mathematics, Science and Engineering. The Senate amendment contains provisions for increasing minority and women participation in mathematics, science and engineering.

The House recedes.

61. Distinguished Visiting Professors. The Senate amendment authorizes the Director of the National Science Foundation to award fellowships to distinguished women and minority faculty members for the purpose of enabling them to visit institutions of higher education that lack the resources to attract such distinguished faculty on a long-term basis.

The House recedes.

62. Faculty Awards for Women and Minorities. The Senate amendment authorizes the Director to award grants to institutions of higher education for the purpose of recruiting and retaining women and minority faculty.

The House recedes.

63. Alliances for Minority Participation. The Senate amendment authorizes the Director to award grants to institutions of higher education for the purpose of establishing and maintaining partnerships between research institutions of higher education and those with predominately minority enrollment.

The House recedes.

64. Title V: Federal Laboratory Partnerships. The Senate amendment contains a title to encourage partnerships between federal laboratories and educational institutions by—

establishing an education office within each Federal mission officer to administer, oversee and disseminate information on education programs within the agency;

establishing within the agency two programs for awarding grants to institutions of higher education to enhance undergraduate and graduate education in critical academic areas;

establishing within each mission agency two programs to enhance mathematics and science knowledge of elementary and secondary school students and faculty;

provide training for agency employees in critical academic areas.

In addition, each Federal laboratory director is required to the maximum extent practicable, to enter into education partnerships with elementary and secondary schools and institutions of higher education to:

provide equipment and personnel support to schools;

establish research programs for students; and

establish mentorships with elementary and secondary school students.

The House recedes with an amendment changing the program to a Science Education Report which requires the Director of the Office of Science and Technology Policy, through the Federal Coordinating Council on Science, Engineering and Technology, to prepare a report on education in mathematics, science and technology. The amendment also requires the Secretary to compile a report on other education programs involving Federal agencies. Finally, the amendment authorizes several science, math and engineering education programs at the Department of Energy, which may be carried out by the Department's research and development facilities.

65. Two-Year Career Option. The House bill authorizes the Director of the National Science Foundation to establish a scholarship program for students pursuing higher education studies in science, mathematics or engineering fields in which there is a shortage.

The Senate recedes with an amendment making the program a 4-year scholarship program administered by a National Academy of Science, Space and Technology, established within the department, for the instruction and preparation of selected individuals for service in a science-, mathematics- or engineering-related capacity. The Academy's Advisory Board will develop criteria to be used in selecting scholarship recipients and identify the fields which will be given priority under this section. From nominations submitted by members of Congress, the board will select one scholarship recipient from each district.

66. Effect of Certain Controlled Substance and Felony Convictions. The House bill bars a convicted drug user or distributor from receiving any awards and requires that the student repay any awards received.

The Senate recedes.

67A. Department of Education Evaluation Programs. The Senate amendment contains a section requiring the Secretary to conduct evaluations of the programs, activities and responsibilities of the Secretary authorized under the Act and report the findings to Congress on September 30, 1995.

The Senate recedes.

67B. National Science Foundation Evaluation Program. The Senate amendment requires the Director to conduct evaluations of the programs, activities and responsibilities of the Director under this Act and report the findings to Congress on September 30, 1995.

The Senate recedes.

68. Definitions. The Senate amendment contains a "Definitions" section.

The House recedes with an amendment to adjust definitions included in the section to the form of the bill agreed to by the conferees.

69. Authorization of Appropriations. The House bill amends the National Science Foundation Authorization Act of 1988 by increasing the overall authorization for the National Science Foundation and then earmarking that increase for the three scholarship programs contained in the House bill. Authorization: $13 million in 1990; $26 million in 1991; $35.25 million in 1992 and $40.75 million in 1993.

The Senate amendment authorizes the National Science Scholars Program and the Math/Science Teacher Corps separately. For the National Science Scholars Program, the Senate amendment authorizes $6 million for 1991, and such sums in 1992 and 1993.

For the Math/Science Teacher Corps, the Senate amendment authorizes $44 million for four programs: Centers of Excellence (301), Math/Science Teacher Corps (302), Graduate Fellowships (321), and Graduate Traineeships (322). The overall authorization in the Senate amendment is $125 million, which, for all but the National Science Scholars program, is for 1991 and such sums to 1995.

The Senate recedes with an amendment authorizing funds for the programs under the Department of Education and those under the National Science Foundation separately, and changing the particular authorization levels for the programs included in the conference agreement.

70. National Science Foundation Report. The House bill requires the National Science Foundation to submit to Congress a report on the status of mathematics and science education and the career potential for the underpriviledged.

The Senate recedes.

ROBERT A. ROE,
GEORGE E. BROWN, Jr.,
DOUG WALGREN,
TIM VALENTINE,
DAVID E. PRICE,
ROBERT S. WALKER,
SHEREY BOEHLERT,
D. FRENCH SLAUGHTER, Jr.,
GUS HAWKINS,
WILLIAM D. FORD,
PAT WILLIAMS,
MAJOR R. OWENS,
TOM SAWYER,
BILL GOODLING,
TOM COLEMAN,
STEVE BARTLETT,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
CHRISTOPHER J., DODD,
ORRIN HATCH,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIDGE) to revise and extend their remarks and include extraneous material:)

Mr. GOODLING, for 60 minutes, on October 25.

Mr. EDWARDS of Oklahoma, for 60 minutes each day, on October 24, 25, 26, and 27.

Mr. WALKER, for 60 minutes, today.

Mr. DREIER of California, for 60 minutes, each day.

and November 1, 2, 3, 4, 5, and 6.

Mr. MICHEL, for 60 minutes, today.

Mr. LIVINGSTON, for 60 minutes, on October 25.

Mr. MOORHEAD, for 60 minutes each day, on October 25, 26, and 27.

(The following Members (at the request of Mr. MFUME) to revise and extend their remarks and include extraneous material:)

Mr. HOAGLAND, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.
Mr. MFUME, for 60 minutes, today.
Mr. OWENS of Utah, for 60 minutes, on October 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RIDGE) and to include extraneous matter:)
Mr. BROOMFIELD.
Ms. ROS-LEHTINEN.
Mr. HOLLOWAY.
Mr. PARRIS.
Mr. COX.
Mr. LAGOMARSINO.
Mr. DUNCAN.
Mrs. ROUKEMA.
Mr. HORTON, in one instance.
Mr. WELDON.
Mr. COUGHLIN.
Mr. DORNAN of California.
Mr. DOUGLAS, in two instances.
Mr. KYL, in two instances.
Mr. BEREUTER, in two instances.

(The following Members (at the request of Mr. MFUME) and to include extraneous matter:)
Mr. NEAL of Massachusetts.
Mr. MCMILLEN of Maryland.
Mr. FASCELL, in three instances.
Mr. WAXMAN.
Mr. ACKERMAN, in three instances.
Mr. HAMILTON.
Mr. STARK, in three instances.
Mr. TOWNS.
Mr. FRANK.
Mr. RICHARDSON.
Mr. HOYER.
Mr. SKELTON.
Mr. MRAZEK, in two instances.
Mr. LIPINSKI.
Mr. TORRES.
Mr. MATSUI.
Mr. CAMPBELL of Colorado.
Mr. DARDEN.
Mr. KILDEE.
Mr. ASPIN.
Mr. SOLARZ.
Mr. CLAY.
Mr. RAHALL.
Mr. UDALL.
Mr. JACOBS.
Mr. DYSON.
Mrs. COLLINS.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3237. An act to authorize the Secretary of the Treasury to sell certain silver proof coin sets; to the Committee on Banking and Finance.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2331. An act to amend title 39, United States Code, to designate as nonmailable matter solicitations for the purchase of goods or services, or solicitation for donations which could reasonably be construed as implying any Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes;

H.R. 5019. An act making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes; and

H.J. Res. 681. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H.R. 4111. An act to amend the Mining and Mineral Resources Research Institute Act of 1984, and for other purposes;

H.R. 4238. An act to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases;

H.R. 5144. An act to provide for the study of certain historical and cultural resources located in the city of Vancouver, WA, and for other purposes;

H.R. 5209. An act to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements, and for other purposes;

H.R. 5367. An act to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes;

H.R. 5749. An act to amend the act entitled "An act to Incorporate the American University," approved February 24, 1893, to clarify the relationship between the Board of Trustees of the American University and the General Board of Higher Education and Ministry of the United Methodist Church;

H.R. 5759. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such act to employee group health plans;

H.R. 5794. An act to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967;

H.J. Res. 214. Joint resolution designating the week of October 22 through October 28, 1990, as "Eating Disorders Awareness Week";

H.J. Res. 518. Joint resolution designating October 13, through 20, 1990, as "American Textile Industry Bicentennial Week";

H.J. Res. 519. Joint resolution designating August 29, 1990, as "National Sarcoidosis Awareness Day";

H.J. Res. 520. Joint resolution granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact;

H.J. Res. 566. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 19, 1990, as "National Military Families Recognition Day"; and

H.J.Res. 587. Joint resolution committing to the private sector the responsibility for support of the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes.

ADJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 30 minutes a.m.) under its previous order, the House adjourned until tomorrow, Thursday, October 25, 1990, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4098. A letter from the Under Secretary of Defense, transmitting a baseline deviation notice received from the Navy concerning the T45TS program, a Defense Enterprise Program, pursuant to 10 U.S.C. 2437; to the Committee on Armed Services, October 24, 1990.

4099. A letter from the Secretary of Health and Human Services, transmitting a report on State responses to the recommendations of the Task Force on Long-Term Health Care Policies, pursuant to 42 U.S.C. 1395b nt.; to the Committee on Energy and Commerce.

4100. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Federal Railroad Safety Act of 1970, and for other purposes; to the Committee on Energy and Commerce.

4101. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting a report entitled, "Senior Executive Service Pay Setting and Reassignments: Expectations vs. Reality"; to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5315. A bill to provide off-budget treatment for the Highway Trust Fund and the Airport and Airway Trust Fund, if such treatment is provided for the Social Security Trust Fund; with amendments (Rept. 101-934, Pt. 1). Ordered to be printed.

Mr. DIXON: Committee of conference. Conference report on H.R. 5311 (Rept. 101-935). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. Report on the subdivision among programs of budget allocation for fiscal year 1991 submitted pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. 101-936). Referred to the

Committee of the Whole House on the State of the Union.

Mr. ROE: Committee of Conference. Conference report on H.R. 996 (Rept. 101-937). Ordered to be printed.

Mr. MURTHA: Committee of Conference. Conference report on H.R. 5803 (Rept. 101-938). Ordered to be printed.

Mr. BEILENSON: Committee on Rules. House Resolution 526, a resolution waiving certain points of order against consideration of the conference report on the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes, and against its consideration (Rept. 101-939). Referred to the House Calendar.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 527, a resolution waiving the requirement of clause 4(b), Rule XI, against consideration of certain resolutions reported from the Committee on Rules, and for other purposes (Rept. 101-940). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 528, a resolution authorizing the Speaker to declare recesses (Rept. 101-941). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 529, a resolution waiving certain points of order against consideration of the conference report on the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, and against its consideration (Report No. 101-942). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRENNAN (for himself, Mr. LIPINSKI, Mrs. BOXER, Mr. FROST, Mr. HERTEL, Ms. PELOSI, and Mr. FOGLIETTA):

H.R. 5908. A bill to amend the Poison Prevention Packaging Act of 1970 to require samples of prescription drugs distributed to physicians and other prescribing practitioners to meet special packaging standards under such Act; to the Committee on Energy and Commerce.

By Mr. FASCELL (for himself and Mr. JONES of North Carolina):

H.R. 5909. A bill to establish the Florida Keys National Marine Sanctuary, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. GRANT:

H.R. 5910. A bill to prohibit the incineration of any hazardous material which has been transported in commerce; jointly to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. KOSTMAYER:

H.R. 5911. A bill to amend the Outdoor Recreation Act of 1963 to authorize the Secretary of the Interior to establish a registry of outstanding recreational and scenic river areas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEVINE of California:

H.R. 5912. A bill to amend the Internal Revenue Code of 1986 to reinstate the windfall profit tax on domestic crude oil, and for other purposes; to the Committee on Ways and Means.

By Mr. McMILLEN of Maryland:

H.R. 5913. A bill to exempt from the antitrust laws television broadcasting networks in connection with the broadcasting of the winter and summer Olympic games, and for other purposes; jointly to the Committees on the Judiciary and Energy and Commerce.

By Mr. MURTHA:

H.R. 5914. A bill to establish a task force to study and evaluate the taxation of real property by State and local governments, the effects of such taxation on certain taxpayers, and the feasibility of other policies designed to reduce the dependence of State and local governments on such taxation; to the Committee on Government Operations.

By Mr. MURTHA:

H.R. 5915. A bill to authorize the creation of the Energy Corporation of the Northeast and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporation and other financial assistance to such corporation; jointly, to the Committees on Energy and Commerce; Banking, Finance and Urban Affairs; and the Judiciary.

By Mr. TAUKE:

H.R. 5916. A bill to require the President of the United States to use the strategic petroleum reserve in the event of a domestic energy supply shortage, to amend the Energy Policy and Conservation Act and the Export Administration Act of 1979 to prohibit the exportation of refined petroleum products except under certain circumstances, and for other purposes; jointly, to the Committees on Energy and Commerce, Foreign Affairs, and the Judiciary.

By Mrs. COLLINS:

H.R. 5917. A bill to require the Secretary of Defense to increase outreach to small disadvantaged businesses that are potential contractors or subcontractors with the Department of Defense, through a variety of methods, and to require potential defense contractors to certify compliance with equal opportunity requirements, and for other purposes; jointly, to the Committees on Armed Services and Small Business.

By Mrs. COLLINS:

H.R. 5918. A bill to assist in the development of microenterprises and microenterprise lending; jointly, to the Committees on Ways and Means, Banking, Finance and Urban Affairs, Small Business, and Energy and Commerce.

By Mr. McEWEN:

H.R. 5919. A bill to require the Administrator of the Environmental Protection Agency to include with regulations issued by that agency a statement of the anticipated effects of the regulations on small business; jointly, to the Committees on Small Business and Merchant Marine and Fisheries.

By Mr. CONTE:

H.J. Res. 680. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; jointly, to the Committees on Appropriations and Ways and Means.

By Mr. WHITTEN:

H.J. Res. 681. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; jointly, to the Committees on Appropriations and Ways and Means.

By Mr. GRAY:

H.J. Res. 682. Joint resolution waiving certain enrollment requirements with respect to any reconciliation bill, appropriation bill, or continuing resolution for the remainder of the One Hundred First Congress; considered and passed.

By Mr. DELLUMS: (for himself, Mr. APPLEGATE, Mr. NEAL of Massachusetts, Mr. TORRES, Mr. VENTO, and Mr. KANJORSKI):

H.J. Res. 683. Joint resolution to designate the 10-year period beginning January 1, 1991, as the "National Decade of Historic Preservation"; to the Committee on Post Office and Civil Service.

By Ms. OAKAR:

H. Con. Res. 389. Concurrent resolution expressing the sense of the Congress that the President should prepare and submit a proposed national energy policy plan before December 31, 1990; to the Committee on Energy and Commerce.

By Mr. SOLARZ:

H. Con. Res. 390. Concurrent resolution expressing the sense of the Congress that the European Community should accept Turkey's application for membership in that organization at the next available opportunity; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

546. The SPEAKER presented a memorial of the Senate of the Commonwealth of Puerto Rico, relative to a plebiscite on the final political status of the people of Puerto Rico; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. McMILLEN of Maryland introduced a bill (H.R. 5920) for the relief of Presley Tantoco Santos; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 446: Mr. MORRISON of Washington, Mr. BATEMAN, Mrs. BOGGS, Mr. OLIN, Mr. MILLER of Ohio, and Mr. DURBIN.

H.R. 638: Mr. FEIGHAN.

H.R. 1501: Mr. IRELAND, Mr. MARLENEE, Mr. SKEEN, Mr. CRAIG, Mr. WALKER, Mr. LAGOMARSINO, Mr. DANNEMEYER, Mrs. SMITH of Nebraska, Mr. THOMAS of Wyoming, Mr. SHUMWAY, Mr. INHOFE, Mr. YOUNG of Alaska, Mr. SHUSTER, Mr. DAVIS, Mr. HUNTER, Mr. SCHAEFER, Mr. CALLAHAN, Mr. PASHAYAN, Mr. KYL, Mr. HERGER, Mr. RHODES, Mr. MORRISON of Washington, Mr. EDWARDS of Oklahoma, Mr. RITTER, Mr. NIELSON of Utah, Mr. MCCANDLESS, Mr. VANDER JAGT, Mr. DELAY, Mr. ARMEY, Mr. GALLEGLY, Mrs. VUCANOVICH, Mr. EMERSON, Mr. DUNCAN, Mr. HANCOCK, Mr. DENNY SMITH, Mr. DICKINSON, Mr. LIGHTFOOT, Mr. BURTON of Indiana, Mr. PACKARD, Mrs. BENTLEY, Mr. PARRIS, Mr. ROBERT F. SMITH, Mr. SMITH of New Hampshire, Mr. MOORHEAD, Mr. LEWIS of California, Mr. STUMP, Mr. BUNNING, Mr. BROOMFIELD, Mr. ROBINSON, Mr. STANGELAND, Mr. ROGERS, Mr. COLEMAN of Missouri, and Mr. COURTER.

H.R. 1676: Mr. PANETTA.

H.R. 3458: Mr. PANETTA, Mr. YATES, Mr. MARKEY, Mr. RAHALL, and Ms. KAPTUR.

H.R. 3752: Ms. SNOWE and Mr. PURSELL.

H.R. 4026: Mr. ENGLISH.

H.R. 4079: Mr. WALKER, Mr. SKEEN, and Mr. EMERSON.

H.R. 4193: Mr. LAGOMARSINO, Mr. KYL, and Mrs. MARTIN of Illinois.

H.R. 4258: Mr. SAXTON and Mr. JOHNSON of South Dakota.

H.R. 4492: Mr. JACOBS and Mr. KOLTER.

H.R. 4573: Mr. GRANDY.

H.R. 4604: Mr. MARKEY, Mr. DOWNEY, Mr. BURTON of Indiana, and Mr. BOSCO.

H.R. 4741: Mr. MURTHA and Mr. KILDEE.

H.R. 4840: Mrs. BOXER and Mr. RAHALL.

H.R. 4992: Mr. ENGEL.

H.R. 4993: Mr. SHAYS and Mr. SMITH of New Hampshire.

H.R. 5053: Ms. LONG and Mr. JOHNSTON of Florida.

H.R. 5190: Mrs. JOHNSON of Connecticut, Mr. MACHTLEY, and Mr. SERRANO.

H.R. 5306: Mr. DELLUMS, Mr. DYMALLY, Mrs. MORELLA, Mr. SLATTERY, and Mr. YATES.

H.R. 5336: Mr. DORNAN of California.

H.R. 5338: Mr. ENGEL.

H.R. 5362: Mr. LIVINGSTON.

H.R. 5377: Mr. OWENS of Utah and Mr. SUNDQUIST.

H.R. 5416: Mr. WISE.

H.R. 5455: Mr. VANDER JAGT, Mr. OBEY, Mr. SMITH of Florida, Mr. GEREN of Texas, Mr. DERRICK, Ms. SLAUGHTER of New York, Mr. LAGOMARSINO, Mr. NEAL of North Carolina, and Mr. WILSON.

H.R. 5480: Mr. BRUCE, Mr. FAZIO, Mr. ACKERMAN, and Mr. DELLUMS.

H.R. 5490: Mr. KOSTMAYER and Mr. ENGEL.

H.R. 5505: Mr. MOODY.

H.R. 5516: Mr. ERDREICH, Mr. KENNEDY, Mr. ENGLISH. Mr. CLINGER, Mr. SAXTON, Mr. LAGOMARSINO, Mr. SMITH of New Jersey, Mr. MURPHY, Mrs. SCHROEDER, Mr. COYNE, Mr. RAHALL, Ms. PELOSI, Mr. JONTZ, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. WALGREN, Mr. JONES of North Carolina, Mr. DURBIN, Mr. ROSE, Mr. SARPALIUS, Mr. FRANK, Mr. ROWLAND of Connecticut, Mrs. JOHNSON of Connecticut, Mr. DERRICK, Ms. SNOWE, Mr. BORSKI, and Mr. BATEMAN.

H.R. 5568: Mr. HERTEL.

H.R. 5589: Mr. ALEXANDER.

H.R. 5666: Mrs. COLLINS.

H.R. 5671: Mr. LANCASTER and Mr. FRANK.

H.R. 5750: Mr. SERRANO, Ms. LONG, Mr. CONYERS, Mr. LEHMAN of Florida, Mr. DELLUMS, Mr. MATSUI, and Mr. ACKERMAN.

H.R. 5777: Mr. SCHEUER.

H.R. 5805: Mrs. BYRON, Mr. ROE, Mr. FAUNTROY, Mr. STARK, Mr. FAZIO, Mr. GEJDENSON, Mr. FOGLIETTA, Mr. LANCASTER, and Mr. BEVILL.

H.R. 5859: Mr. WISE.

H.R. 5896: Mr. TRAFICANT, Mr. ROE, and Mr. MRAZEK.

H.J. Res. 87: Mr. WILSON.

H.J. Res. 432: Mr. DELAY.

H.J. Res. 606: Mr. ASPIN.

H.J. Res. 628: Mr. JONTZ.

H.J. Res. 640: Mr. VOLKMER, Mr. PALLONE, Mr. GRAY, Mr. WEISS, Mr. KASTENMEIER, Mr. MAZZOLI, Mr. ENGLISH, Mr. MCGRATH, Mr. LAFALCE, Mr. DE LA GARZA, Mr. MARTINEZ, Mr. VENTO, and Mr. WHEAT.

H.J. Res. 652: Mr. ACKERMAN, Mr. BURTON of Indiana, Mr. RIDGE, Mr. GILMAN, Mr. BATES, Mr. YOUNG of Alaska, Mr. VALENTINE, Mr. MORRISON of Washington, Mr. TOWNS, Mr. MARTINEZ, Mr. BORSKI, Mr. DICKS, Mr. MYERS of Indiana, Mr. MILLER of Washington, Mr. BILIRAKIS, Mr. YATRON, Mr. GUNDERSON, Mr. DUNCAN, Mr. DENNY SMITH, Mrs. JOHNSON of Connecticut, Mr. KOLTER, Mrs. BENTLEY, Mr. ATKINS, Mr. CLARKE, Mr. JONES of North Carolina, Mr. BLAZ, Mr. PAXON, Mr. SWIFT, Mr. FRENZEL, Mr. SAXTON, Mr. MCMILLEN of Maryland, Mr. ALEXANDER, Mr. MCDADE, Mrs. MINK, Mr. STENHOLM, Mr. SPRATT, Mr. LEWIS of California, and Mr. MCEWEN.

H.J. Res. 673: Mr. DWYER of New Jersey, Mr. ANNUNZIO, Mr. STUMP, Mr. SCHULZE, Mr. MILLER of Ohio, Mr. BROWDER, Mr. COLEMAN of Texas, Mr. VANDER JAGT, Mr. PASHAYAN, Mr. GRANT, Mr. DAVIS, Mr. HOUGHTON, Mr. JOHNSON of South Dakota, Mr. RAY, Mr. NEAL of North Carolina, Ms. LONG, Mr. HAYES of Louisiana, Mr. KOLBE, Mr. LEVIN of Michigan, Mr. RITTER, Mr. SAXTON, Mr. KILDEE, Mr. HUGHES, Mr. MOAKLEY, Mr. NOWAK, Mr. YATRON, Mr. OWENS of New York, Mr. MYERS of Indiana, Mr. CHANDLER, Mr. PURSELL, Mr. WHITTAKER, Mr. ARMEY, Mr. RINALDO, Mr. SHARP, Mr. SISISKY, Mr. STAGGERS, Mr. WYLIE, Mr. WHITTEN, Mr. HAMILTON, Mr. TORRES, Mr. HEFNER, Mr. JONES of Georgia, Mrs. BYRON, Mr. WALGREN, Mr. MARLENEE, Mr. VOLKMER, Mr. WILSON, and Ms. MOLINARI.

H.J. Res. 674: Mr. SCHUMER, Mr. GILMAN, Mr. LANTOS, Mr. STALLINGS, Mr. ANDERSON, and Mr. DEFAZIO.

H. Con. Res. 66: Mr. DEFAZIO.

H. Con. Res. 355: Mr. ECKART, Mr. DEFAZIO, Ms. SLAUGHTER of New York, Mr. STOKES, and Mr. OWENS of Utah.

H. Con. Res. 372: Ms. PELOSI, and Mr. MORRISON of Connecticut.

H. Res. 29: Mr. WILSON.

H. Res. 474: Ms. KAPTUR, Mr. SPENCE, Ms. LONG, Mr. LANCASTER, and Mr. HOCHBRUECKNER.

PETITIONS, ETC.

Under clause 1 of rule XXII,

252. The SPEAKER presented a petition of the Nitijela of the Marshall Islands, relative to Micronesia former employees of the trust territory government; which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

CONGRESSIONAL SALUTE TO MSGR. GEORGE G. HIGGINS AND JACK SHEINKMAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1990

Mr. ROE. Mr. Speaker, it is with great pride and admiration that I rise today in tribute to two outstanding Americans, Msgr. George G. Higgins and Jack Sheinkman, president of the Amalgamated Clothing & Textile Workers of America. Through their actions, these two individuals have contributed so much to the labor movement of our country and working people everywhere.

On November 15, 1990, the eighth annual Sol Stetin Award Dinner will be held in my Eighth Congressional District at the Westmount Country Club in West Paterson, NJ. This festive occasion will honor Monsignor Higgins and President Sheinkman who are this year's recipients of the prestigious Sol Stetin Award.

The dinner will benefit the Botto House, which was declared a national landmark in 1983. The Botto House played a major role as a haven for free speech and assembly during a stirring chapter of U.S. history, the 1913 Paterson silk strike. The 6-month strike involved more than 23,000 silk workers and is considered to be a milestone toward reform of the American workplace, eventually resulting in the acceptance of the 8-hour day, minimum wage standards, and other worker benefits now broadly enjoyed by Americans.

Mr. Speaker, Msgr. George G. Higgins of the Catholic University of America is one of the leading spokespersons for the Catholic Church in the United States on matters affecting labor. He is currently an adjunct lecturer at the department of theology at this fine university.

Monsignor Higgins was born in Chicago, IL, on January 21, 1916. He was educated at Catholic schools in the Chicago area, graduating from St. Mary of the Lake Seminary in Mundelein, IL, in 1939. Graduate study in economics and political science followed at the Catholic University of America, where he earned his Ph.D. in 1944. One of the proudest moments in his life came on May 18, 1940, when he was ordained a priest. He was subsequently named monsignor in October 1953, and domestic prelate in December 1959.

Mr Speaker, tonight we also honor Jack Sheinkman, president of the Amalgamated Clothing & Textile Workers Union, AFL-CIO, CLC. Jack was elected to the presidency of the union in June 1987, after serving as secretary-treasurer and cochief executive officer of the union since 1972. Prior to 1972, he served as a vice president of the union.

Jack began his union career as an organizer for the International Pulp, Sulphite & Paper Mill Workers before joining the Amalgamated Clothing Workers of America in 1953. At the ACTWU, he led the union in two historic labor struggles, the EPIC campaign on the Texas-Mexican border to bring social and economic justice to workers at the Farah manufacturing plants in El Paso and San Antonio, which took 22 months before its successful conclusion.

In addition, he led the struggle to permit unionization of the J.P. Stevens textile plants which had begun years earlier by the Textile Workers Union of America and which was continued by the ACTWU after the merger. His efforts culminated with contractual agreement being reached in 1980.

Jack is a vice president of the AFL-CIO and its industrial union department and chairman of its executive council committee on benefit funds. He also serves as vice president of the International Textile Garment & Leather Workers' Federation.

As part of his work on behalf of ACTWU members, Jack plays an active and leading role in a number of organizations working to achieve greater equality and justice in the workplace, promote civil liberties, defend workers' rights, improve collective bargaining and labor management relations. He is also involved in efforts to promote world peace and establish free trade unions and democratic institutions in other countries.

Mr. Speaker, it is indeed an honor to pay tribute to these two outstanding American citizens who have done so much to aid the working men and women of our great Nation. I salute Msgr. George G. Higgins and Jack Sheinkman, the 1990 recipients of the Sol Stetin Award.

INTERIM REPORT ON SUBCOMMITTEE INVESTIGATION AND SENSE OF CONGRESS RESOLUTION THAT THE PRESIDENT COMPLETE A NATIONAL ENERGY POLICY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Ms. OAKAR. Mr. Speaker, before the 101st Congress adjourns, I want to update the Members on a 2-year long inquiry of the Subcommittee on Economic Stabilization on energy security, and to place before this body a resolution that embodies my conclusion that the President should comply with the Energy Organization Act of 1977 by developing and announcing a national energy policy on or before December 31, 1990.

SUMMARY OF 1989 REPORT TO THE HOUSE

Last year at about this time, as chair of the Subcommittee on Economic Stabilization, I summarized the results of our seven public hearings as follows: "Our country faces serious problems with respect to our long-term energy security, and these problems could become critical unless action is taken without delay"—"Subcommittee Investigation Discovers Dangers to U.S. Energy Security That Call for Action Now," remarks on the House floor, CONGRESSIONAL RECORD, November 20, 1989, page H9424.

We concluded by imploring the President to publish a national energy policy without delay. We pointed out that "lead times are long in the energy field and the next 5 to 10 years are critical." Because of this time element, we concluded that: "Every passing month without an energy policy * * * cuts down the country's margin of safety in energy security; every passing season sees us forfeit export opportunities for energy techologies that this country should be developing; every passing year without direction in this vital field erodes the leadership capability of the United States in organizing responses to global energy and environmental problems."

SITUATION IN AUTUMN OF 1989

At the time of our first report, the situation was as follows:

The dependency of the U.S. economy of oil imports had grown from 28 percent in 1982 and 1983 to 38 percent in 1988, according to the Department of Energy's conservative net import method of calculation—or, about 43 percent according to the American Petroleum Institute's gross import method;

President Reagan had made a formal finding that the 1988 level of imports "threatens to impair the national security";

Oil imports were running about 42 percent of U.S. consumption—Department of Energy—for the first three-quarters of 1989, the fourth highest level in U.S. history;

The margin of safety for electricity generation stood only two points above minimum requirements for the Nation as a whole, and 2 points below minimum safety standards for the Atlantic Seaboard, from Florida to Quebec;

The administration did not have a national energy policy to address these problems, as mandated by statute in 1977. The administration was studying the matter, including a series of hearings that began on July 31, 1989.

SITUATION IN THE AUTUMN OF 1990

A year later the situation has changed for the worse:

Oil imports for the first 7 months of 1990 were running at 45 percent of U.S. consumption—Department of Energy, or 50 percent according to API, the second highest level in American history;

The Gas Research Institute estimates that the United States will be 60 percent dependent on foreign oil by the year 2000 and 65 percent by 2010;

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The pending Clean Air Act amendments, according to the Electric Power Research Institute and the North American Electric Reliability Council, hold the potential of driving the safety margin for electricity generation down to 3.6 percent below minimum standards for the entire Eastern United States by the mid-1990's, making a series of blackouts and brownouts almost inevitable;

Events in the Middle East removed 4.3 million barrels per day of oil from the world market;

Our subcommittee had conducted 11 public hearings on various aspects of energy security;

The administration still does not have an energy policy for addressing the problems of energy security, although the Energy Department, has now held 15 hearings around the country, and President Bush has had nearly 2 years since his election to ponder the gravity of these matters.

THE PRESIDENT'S DECADE OF INVOLVEMENT

It is pertinent to note that President Bush was also Vice President for 8 years under the administration that found oil imports at 38 percent constituted a threat to the national security. Does President Bush acknowledge any responsibility for that decision? Does he agree with it or disagree with it? Does he think that the present levels of oil imports impair the national security? Does he think that 60 or 65 percent dependency levels will be a threat to the national security and independence? If he believes there are problems, what does he think should be done to address them?

The answer is that the Congress and the public are totally in the dark because President Bush is not telling the American people what he thinks about energy security.

FURTHER DELAY PROMISED

Furthermore, spokespersons for the President have said that it will not be until sometime in April 1991 that the President will announce his energy policy or plan or strategy, or whatever he choses to call it.

GUIDANCE REQUIRED NOW

Mr. Speaker, I submit that it is unreasonable and dangerous for the President to wait another half year before Congress and the public can see an energy policy. In my opinion, this leisurely pace became unacceptable after the Reagan-Bush administration made a finding in, January 1989, that a 38.1- percent level of import dependence threatens to impair the national security.

MANDATE OF THE ENERGY DEPARTMENT ORGANIZATION ACT

In my opinion, Congress should express its opinion that further delay is even more unacceptable because of lessons taught by current events in the Middle East. Congress plainly mandated in the Energy Department Organization Act of 1977 that the President should establish an energy policy for the guidance of producers, industry, business, homeowners, consumers, environmentalists, and State and local governments, and that he update that policy every 2 years. That decision was made by a Congress consisting of both parties, and was made while a President of the other party was in the White House. It was not a partisan action; it was an institutional action.

LEGISLATION OF 1977 REFLECTS WISE DIVISION OF LABOR

The congressional decision of 1977 to place the responsibility on the President, in my judgment, reflects a proper division of labor between the legislative and executive branches.

The President, as chief executive officer, can call upon approximately 2 million employees, including 16,000 full-time employees of the Department of Energy, as well as the expertise of the Council of Economic Advisors, the Department of Transportation, and the Environmental Protection Agency to assist him in making energy policy. There is no comparable organizational mechanism in the Congress to coordinate the work of a dozen or more committees of the House and Senate having jurisdiction over various facets of energy policy, and to do so on a continuous basis. To make truly national decisions in the national interest, we must look to the President as the chief national executive.

In my opinion, those that say Congress should develop the national energy policy, are missing the point: Congress has already made a decision, in 1977, which I believe was wise, that the President should be responsible for formulating an overall national energy policy.

TASK IS DIFFICULT

Certainly, that task is not easy. But, if the President is not supposed to make difficult decisions, what is he supposed to do? Not only does the President have the resources to decide upon energy security policies, he also has a political advantage in doing so. In our system of government, the President represents all of the American people. In contrast, Members of Congress represents individual States and districts that may contain a preponderence of one kind of interest or another that they must take into account. The President alone is in a position to balance all the interests and resources concerned and to arrive at an energy policy in the national interest. He is also in the best position to focus attention and effort on the achievement of energy goals and programs.

CONGRESS IS WILLING TO HELP

I believe Congress has been offering to assist the President in this matter. For example, I feel that our extensive hearings have helped the cause by educating the public to the issues on which we must reach a national consensus. I have also made specific policy suggestions to the President by letter following the invasion of Kuwait. I would be glad to make additional suggestions, if consulted.

I would be glad to work in the future through subcommittees and committees on which I serve to evaluate, possibly improve, and implement recommendations that are a part of a national energy policy.

ENERGY INITIATIVES OF THE 101ST CONGRESS

In addition to our subcommittee's 11 hearings on energy security, I have taken some specific legislative initiatives in the energy security area. The Defense Production Act, which was drafted by my subcommittee and is close to passage, provides a number of measures to enhance energy security for the Nation's defense industrial base. In March of this year, I proposed a comprehensive program for increasing energy efficiency in residential buildings. A number of my recommendations were incorporated into this year's Housing bill (S. 566).

The House Energy Committee, under the able chairmanship of the gentleman from Michigan [Mr. DINGELL] and the Energy and Power Subcommittee under the equally able chairmanship of the gentleman from Indiana [Mr. SHARP] have made extremely important contributions to the Nation's energy security during this 100th Congress, including the legislation to increase the strategic petroleum reserve to 1 billion barrles.

CONGRESS CAN NOT DO THE JOB ALONE

But the press and the public should recognize that no single Member of Congress can do this job alone and no committee or group of committees can do this job. Leadership must come from a unified execuitve under strong direction of the President.

CURRENT EVENTS MAKE ENERGY POLICY IMPERATIVE

Events in the Middle East have underscored that the time of this fundamental issue of energy security has come. Finally, the issue seems to be on the cover of every magazine. Fortune magazine's special report of September 10, 1990, states: "This country is hostage to the unpredictable politics of a region that is a perpetual powder keg. What is needed now is a clearer vision of where we go from here * * * All those calls we keep hearing for an energy policy numb the ears, *but they are right*".

One unfortunate consequence of not having an energy policy is that vital energy decisions are being made piecemeal in other contexts that do not bring to light their full implications or interrrelationships. A prime example is the pending Clean Air Act, which is probably the most important energy policy statute of the decade. But, what thought has been given to energy security during consideration of this bill? Precious little, in my opinion. Does the legislation to restrict exploration for oil and gas in widely separated areas consider energy security? The budget agreement will make far-reaching decisions on excise and personal taxes that will undoubtedly influence the furture energy climate. Have the implications for energy security been considered? I think not.

To paraphrase President Lincoln, the occasion is piled high with difficulty, and we must rise to the occasion—the leisurely approach of the quiet past to energy policy is unequal to the stormy present and the perilous future.

THRUST OF THE RESOLUTION

The resolution I am introducing today calls upon the President to complete and submit to the Congress his national energy policy by December 31, 1990. This timing will permit Congress, industry, and the public to benefit from its guidance and to begin the essential processes of analysis and implementation.

For all of these reasons, I hope my colleagues will join in the sponsorship of the resolution, so that an immediate message can be sent to the White House on energy security: "Mr. President, get the job done."

H. CON RES. —

Whereas oil import levels in the United States reached 28 percent of total United States oil consumption in 1982 and 1983;

Whereas, when oil import levels in the United States reached 38 percent of total United States oil consumption in 1988,

President Reagan declared that such levels threatened to impair the national security;

Whereas oil import levels in the United States have now reached approximately 50 percent of total United States oil consumption;

Whereas oil import levels in the United States are expected to reach 60 percent of total United States oil consumption in 2000 and 65 percent of total United States oil consumption in 2010;

Whereas the current interruption in United States oil importation of 4.3 million barrels per day from Kuwait and Iraq dramatically illustrates the dangers of reliance on imported oil for the security and independence of the United States;

Whereas the current interruption in United States oil importation from Kuwait and Iraq is the 4th oil shock generated by events in the Middle East since 1956;

Whereas section 801 of the Department of Energy Organization Act requires the President to prepare and submit to the Congress a proposed National Energy Policy Plan every 2 years;

Whereas the President has not prepared and submitted to the Congress a proposed National Energy Policy Plan during the 21 months he has been in office;

Whereas the President can call upon the resources of the entire Federal Government, including the Department of Energy, to assist him in preparing a proposed National Energy Policy Plan;

Whereas, pursuant to section 801(a)(2) of the Department of Energy Organization Act, the Department of Energy has held 15 public hearings around the United States on the subject of the proposed National Energy Policy Plan;

Whereas the Department of Energy has indicated that a proposed National Energy Policy Plan will not be submitted to the Congress before April 1991; and

Whereas, particularly in view of the current Middle East crisis, the United States needs a proposed National Energy Policy Plan pursuant to which the Congress can address important energy issues, and Federal, State, and local governments (and nongovernmental entities, including consumers) can implement appropriate energy-related practices: Now, therefore, be it resolved

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should prepare and submit to the Congress a proposed National Energy Policy Plan under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) before December 31, 1990.

IN RECOGNITION OF YVONNE FLORANT MORRISON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. TOWNS. Mr. Speaker, it is with great pleasure that I rise to recognize an astounding woman, Ms. Yvonne Florant Morrison.

Ms. Morrison's desire to own and operate a successful business is heroic and should stand as a shining example of what is possible with determination and a belief in oneself. I join the Small Business Administration in their tribute to Ms. Morrison as the Minority Small Business Person of the Year for the New York region.

I ask that my colleagues join me in paying tribute to Ms. Morrison for her outstanding accomplishments and successes. I submit for your review the following article which was written by Rosalyn Retkwa and featured in the October 15, 1990, edition of Crain's Business magazine.

YVONNE FLORANT MORRISON

(By Rosalyn Retkwa)

In 1979, Yvonne Florant Morrison quit a "beautiful" job at American Express Co. after five years as a senior electronic data processing auditor.

The job with AmEx had its benefits, including international travel. But, Ms. Morrison recalls, "For a long time I was the only female in the audit department of about 50 people. I was training guys who were being promoted over me."

As an independent programming consultant, Ms. Morrison flourished. "I had an expertise in a type of programming widely used by banks and financial companies," she says. "And I got paid big bucks."

In 1983, she founded Stanley Computer Systems Inc., a Manhattan-based company specializing in systems design and programming. She now employs 50, and revenues have doubled annually over the last three years to an estimate $1.8 million.

In recognition of those successes, Ms. Morrison was recently singled out by the Smali Business Administration, which named her Minority Small Business Person of the Year for the New York region.

Government jobs comprise 95% of Ms. Morrison's business. Her first contract came from the New York City Housing Authority, which needed an independent third party to cross-check a computer system tracking available housing. She currently has 14 people working on a state-of-the-art micrographics project at the U.S. Army's Picatinny Arsenal in Dover, N.J.

Ms. Morrison began her career in nuclear physics, with a job at the Patterson Moos Research Lab in Jamaica, Queens. Concerns about handling radioactive materials during her childbearing years led her to switch to teaching mathematics.

In 1968, while studying for her doctorate in nuclear physics at Columbia University, she was recruited by International Business Machines Corp. to its systems degree division, where she spent six years.

On weekends, the SBA awardee, who also earned a master's degree in business administration from New York University, escapes to a country home in Vermont. Her three children, now in their 30s, all work for their mother's company.

A NEW KIND OF POLITICAL EXECUTION IN TIBET

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. DOUGLAS. Mr. Speaker, Members are well aware of the cruel occupation of Tibet by the Communist Chinese and the brutal suppression that for 30 years has plagued the people of that troubled land. What they may not know is that Chinese authorities have now descended to new levels of barbarity.

On September 28, 14 Tibetan nuns from the Gari Convent were arrested by Chinese police for demonstrating in the city of Lhasa. Fourteen other nuns were similarly seized when they attempted to join their sisters in protest. These courageous nuns were calling for freedom for their country and for, of all things, the cessation of forced blood donations by political prisoners. At first the latter may strike Members as a strange demand—untl they realize the savage policy that lies behind it.

To avoid further international outcry over illegal executions, Chinese authorities are apparently forcing political prisoners to make frequent blood donations to the Army. This practice, combined with near-starvation conditions in the prisons, condemns these innocent captives to a gradual, tortuous, yet apparently natural, death. These brave men and women are literally having their life slowly siphoned out of them.

To inform Members of this latest of human rights atrocities, I am placing in the CONGRESSIONAL RECORD a report I receive today from the Office of Tibet, a human rights monitoring group based in New York.

Hopefully greater awareness by the world community can force an end to this inhuman form of execution and 1 day permit the winds of freedom now sweeping the world to blow also across the board mountain uplands of Tibet.

NUNS DEMAND THE CESSATION OF BLOOD EXTRACTION

Carrying the banned Tibetan national flag, 14 nuns of Gari Convent stages a demonstration in Barkhor, Lhasa, on 28 September 1990, according to a grow of Nepalese tourists who came back to Kathmandu from Lhasa the nuns were immediately arrested. Fourteen additional nuns of the same convent were arrested on that day near Ramoche when they were on their way to join their fellow nuns at the Barkhor.

The source said that the nuns demanded freedom for Tibet and cessation of blood extraction from the Tibertan prisoners. The Nepalse tourists learned in Lhasa that the Chinese prison authorities had forced the Tibetan prisoners to donate blood for the Chinese Army. "Till now the Tibetan political prisoners, and only political prisoners, have been subjected three times to be blood extraction," the Tibetans told the Nepalese.

"Afraid of international outcry over execution of Tibetan prisoners, the Chinese have resorted to this practice in order to give them a slow and apparently natural death", the Nepalese had been told. The tourists had also been informed of the poor condition in prison and near starvation diet which combined with "so much blood extraction would definitely kill the prisoners."

The mood in Lhasa among the Tibetan people is that of fear and anxiety, said the Nepalese travelers. "We were told that the Chinese police have regular night arrests. People just disappear at nights."

"The Chinese have also stopped issuing travel permits to the Tibetans as they suspect that the Tibetans will go to Sarnath in Varanasi, India, to receive Kalachakra teachings from the Dalia Lama. What's more, they have stepped up restrictions on the movement of people with so many check points on the roads to Nepal that it is impossible for the Tibetans to escape."

Earlier, on 13 September 1990, some nuns demonstrated in Tsethang, Lhoka, Central Tibet, against the Chinese rule. The sources could not give more details on this event.

ATTLEBORO, MA, CHAMBER OF COMMERCE ANNOUNCES PERSON OF THE YEAR

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. FRANK. Mr. Speaker, I want to congratulate the chamber of commerce of the Attleboro, MA, area for its selection of William Donlevy as the 1990 Person of the Year.

The Attleboro Chamber is an excellent organization which makes a very significant contribution to the economic life of the Attleboro area. I have found the chamber and its executives and offices to be a valued source of information and advice on matters of affecting economy activity in the region. Executive Director Gerry Keane has been especially helpful.

It is typical of the good work that the chamber does that its leaders has selected William Donlevy for this award. As director of comprehensive social services, Mr. Donlevy has worked very hard, very creatively, and very ably to help immigrants realize the American dream. Personally and professionally Mr. Donley exemplifies the blend of effectiveness and compassion that is so important in our effort to live up to our national ideas.

The accompanying article from the Sun Chronicle, October 17, gives the full flavor of Mr. Donlevy's work, and I insert it here.

DONLEVY EMBRACED BY CHAMBER FOR HIS OUTREACH TO IMMIGRANTS

(By Henry Reiley)

ATTLEBORO—William Donlevy, director of Comprehensive Social Services of Attleboro for the past seven years, is the 1990 "Person of the Year" as selected by the Chamber of Commerce of the Attleboro Area.

Donlevy will be honored at the Chamber's annual banquet Oct. 25 at the Highland Country Club.

His efforts in the social services field have mostly helped immigrant families moving into the Attleboros—mostly Cambodians and Hispanics—move up the economic ladder of success.

Comprehensive Social Services of Attleboro has basically operated with a staff of one—Donlevy—since its incorporation in 1983. Prior to the establishment of CSSA as a private non-profit corporation, Donlevy had been active in teaching English as a second language in his home and assisting Cambodians and Hispanics who settle in Attleboro.

In the early 1980s, the city has a surge in its Cambodian population. Almost overnight, he says, more than 50 Cambodians were eager to learn English and at various times graced his home, which had served as a haven to the city's newcomers for a number of years.

At the time he was closing in on two decades of employment at the Marathon Co. where he had risen to production foreman. He explains;

"Essentially I had two full-time jobs. One for which I was paid and the other, volunteer and unpaid. A choice had to be made."

He said he felt strongly about wanting to turn his avocation into a full-time vocation.

"I opted for a second career—choosing the one that gave me the greatest satisfaction—helping families."

His wife of 13 years, the former Patti Martel, has supported his work. The couple has informally "adopted" several Cambodian children from a single-parent family or it could be said the Cambodians adopted Donlevy. The youngest of these today is 19 years old.

"Presently I need them more than they need me," says Donlevy, "They keep me motivated. They keep me focused and I see the light at the end of the tunnel."

The Donlevys had met at Marathon Co. where she still works. It was also at Marathon that Donlevy got his introduction to the social service field. He was asked to conduct an English class as a second language program for Spanish speaking employees. After a year the program was discontinued and Donlevy began holding classes in his home at night.

Before long others sought his help not only to speak English but also for assistance at reading and writing.

For five years, Donlevy worked from his home. He then worked with the Attleboro Area Center for Training to get classroom space and to raise support for the educational program.

As director of CSSA, Donlevy administered the Gateways program which provided interpreter and English as a second language to the Cambodian community. Funding for the program ended at the end of June 1989.

One of the programs for Gateways provided an interpreter for health issues seminars at the family planning center.

One of Donlevy's most recent efforts was assisting the Girl Scouts in establishing a troop in the Asian community which, in Attleboro, is mostly Cambodian. In four meetings, the interest has grown from three to 20.

Funding for the programs run by Donlevy have disappeared with the budget crunch. Fortunately, he says, CSSA receives rent-free space from the Attleboro Area Center for Training and a $400 a month stipend in support of its work. This summer CSSA opened a store that sells pens, pencils, dictionaries and other learning supplies. The store provides income of about $50 a month, says Donlevy.

What will happen after Jan. 1. Who knows? Donlevy is certain that the need will remain.

In the past seven years at CSSA, Donlevy has:

Provided services to 961 people.

Operated educational programs that has an 86 percent completion rate including a general educational equivalency program for Americans.

Assisted welfare recipients in obtaining employment.

Provided local employers with a cost-free educational program for under educated employees.

Donlevy was appointed head of the city's Fair Housing Commission and has assisted police, fire and school departments in solving various problems involving ethnic communities.

On learning of his selection as the chamber's 1990 Person of the Year, Donlevy said he was a little speechless and somewhat surprised by the honor which represents his ability to bring people together.

Donlevy says one of his greatest rewards occurs when a group of people of different cultures—people from Guatemala, Puerto Rico, Cambodia, Tanzania and the U.S.—can sit in one room and all laugh at the same joke, demonstrating their likenesses.

The Digest, the Chamber's monthly magazine, summed up his selection:

"Donlevy's record of community service has been achieved at considerable financial cost and personal sacrifice. He is most deserving of the honor of receiving the "Person of the Year Award."

SOUTHERN MARYLAND TRI-COUNTY COMMUNITY ACTION COMMITTEE CELEBRATES 25TH ANNIVERSARY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. DYSON. Mr. Speaker, I rise today to pay tribute to the men and women who have contributed to the success of the Southern Maryland Tri-County Community Action Committee which is celebrating its 25th anniversary on October 27, 1990.

Mr. Speaker, since its beginning in 1965, this agency has had nine executive directors: George Beschner, Charles Cain, Donald Curtis, George Shawell, William Welch, Duane Yoder, Jacque Lee, Terrance Conn, and its current executive director, Dana Jones. The programs which this fine agency has developed over the years continue under the direction of Mr. Jones. The Community Action Committee has filled an important gap and has provided hope and assistance for countless residents of southern Maryland.

I would like to share the background of this agency with my colleagues. I'm sure all of my colleagues join me as I congratulate the outstanding personnel who have contributed to 25 years of excellent service. I wish each and every man and woman who is associated with the southern Maryland Tri-County Community Action Committee the very best in their endeavors as they begin a new decade of service to their communities.

The Southern Maryland Tri-County Community Action Committee (S.M.T.C.C.A.C) was incorporated as a private non-profit corporation in 1965 under the laws of the State of Maryland. Three individuals all from Calvert County were the Agency's incorporations; Mr. Ray Shipley, Mr. Robert Hall, and Mr. George Higgs. In September of 1965, eighteen concerned individuals—six from Calvert County, six from Charles County, and six from St. Mary's County—were seated as the Agency's first Board of Directors.

In accordance with the provisions of the Economic Opportunity Act, a grant application was submitted. Approved funding provided for the hiring of the Agency's first employees; three administrative positions and nine community organization positions. Employees reported to their first day's duties on October 10, 1966.

After a few short months, two distinct programs emerged; Community Organization and Neighborhood Youth Corps. Eunice Washington and Thelma Adams were promoted to coordinate the programs respectively, and became the Agency's first program coordinators.

In 1967 with additional funding, two new programs and one demonstration project were developed. The new programs were Head Start (Rev. Heslop, Director), and

Emergency Food and Medical Services (Eunice Washington, Director). In an attempt to concentrate all services that were available and to test the impact of a concentrated effort, the Family Movement Independence (William Welch, Director) demonstration projects were developed. The concept and actualization of grass-root control of a housing developing corporation developed in the formation of HOUSE, Inc. The development of HOUSE, Inc. Provided a process that allowed poor people to develop housing opportunities for themselves and other poor people. This concept has been expanded to Calvert and St. Mary's Counties through PROUD, Inc., and SATAV, Inc. All three corporations have produced housing developments for poor people.

Due to the critical need for housing that was voiced by many families, a Housing Services Program (Michael McCauley, Director) was developed. Housing was and still is being voiced as a top priority need. Other programs such as Job Development and Placement (Julia Edgston, Director) and Minority Business Assistance (Earl Pickett, Director) were developed in the 1971-72 years.

The following programs have existed from 1981-1985. However, a few of them have had their title changed and a few are receiving different funding. Today SMTCCAC, Inc., is proud to have the opportunity to address the needs of fellow human beings through the following programs:

Administration—A staff of nine who is responsible for the overall Administration of the Agency and its programs. Provide for Personnel, Fiscal, Planning and Evaluation and Program Operations.

Nutrition Services/WIC—A staff of 10 provides supplemental foods to pregnant and post partum women, infants, and children up to 5 years old. Applicants must meet three eligibility criterias—be a resident of Charles or St. Mary's counties, meet 185 percent poverty guidelines and have a nutritional need.

Medical Transportation—A staff of eight provides state medical card holders with transportation to and from doctors offices and medical facilities locally and within the Baltimore-Washington Metropolitan Area.

Head Start—A staff of 67 plan and implement a comprehensive Pre-School Program that serves 440 children. The Components are Health, Education, Parent Involvement/ Social Services and Handicap Services. The program is designed to encourage physical, intellectual, educational and social development of disadvantaged children.

Emergency Advocacy Services Program (EASP)—A staff of one, coordinates and administers the distribution of commodity food, maintains and implements the Tri-County Fuel Fund, and provides information and referral services. EASP also assist in providing temporary shelter and homeless prevention to area rsesidents through CSBG, FEMA and Salvation Army Funds.

Senior Companion—A staff of three provides daily or regular scheduled visitation and personal services for elderly and handicapped persons. The program also provides meaningful services and income opportunities for men and women who are 60 years and older.

Energy Conversation Assistance Program (MEAP and WAP)—Maryland Energy Assistance Program—A staff of nine provides assistance to eligible households in applying for payment of primary heating supplies. Weatherization (WAP) provide limited (one time) Energy conservation repairs to homes occupied by low-income families. The program also operates the Home Maintenance and repair Program to assist elderly and handicapped home owners to maintain a safe and decent home.

Housing Services—A staff of 13 provides services to families seeking assistance and relief from their housing problems. Development, Rural Home Repair, Landlord Tenant Relations and Building Site Development.

SMALL BUSINESS KEY TO EUROPEAN RENEWAL

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. DOUGLAS. Mr. Speaker, I would like my colleagues to review the recent column by National Federation of Independent Business (NFIB) President and CEO John Sloan on the impact small business will have on economic renewal in Europe. I think members will find it interesting reading.

SMALL BUSINESS COULD BE KEY TO EUROPEAN RENEWAL

(by John Sloan)

"Bigger" * * * "extraordinarily large" * * * "unexpectedly strong" * * * "new generation."

Is this advertising for a new brand of detergent? The latest model automobile? A fashion rage? No, these are typical words and phrases found in today's headlines, reporting the unusual changes occurring in Europe.

Ever since the Berlin Wall toppled, we have been bombarded by an unending stream of hyperbole. Not only are some economists and journalists predicting a European renaissance, but they are already anticipating the decline of the American free enterprise system in its wake. One noted Washington-based economics columnist has suggested that the U.S. is rapidly headed for third place, behind Japan and Europe.

While it is fascinating to ponder the possibilities of a reunited Europe, there are a few things that should not be overlooked in the excitement. Not only are there differences in cultures and languages, but social policies and political ideologies will present major obstacles. As with any story, there is always at least one other side.

This is not to say that Europe lacks the potential to achieve greatness through unity. One only has to look at the resourses of the many nations involved to realize that once harnessed, vast economic power could be wielded.

But before we Americans sell our homes and enroll in foreign language classes, we should closely study the political, social and economic foundations of several major European nations, especially their labor policies.

Over the years, the Europeans, under heavy pressure from pro-labor forces, have saddled their business sectors with wage and benefit mandates. The liberal vacation policies, high minimum wages, unusually long periods of parental leave and government-run health systems just didn't work. Productivity remains low. Business growth is stagnant.

Small businesses in particular, which in the U.S. are generators of jobs and economimc opportunities, have been stifled in Europe because of the mandates. Since 1980, there has been virtually no entrepreneurial growth overseas.

National Federal of Independent Business economist William J. Dennis, in a recent report written for Eastern Europe, says that new small businesses are essential for growth and are the most important source of experiments through which an economy tests change. Just as scientists experiment in a laboratory he says entrepreneurs experiment in the marketplace.

But mandated benefits, Dennis notes, are destructive labor policies. "Though minimum wages and mandated benefits are well-intentioned, the practical effects of them are to close job opportunities, eliminate an employee's opportunity to grow with a new business and reduce the total number of economic experiments," he said.

Small-business activity, properly guided but no unencumbered by government mandates and regulations, could be the key to the economic transformation of Europe. We should urge our friends overseas to concentrate on creating an environment in which entrepreneurism can thrive, rather than being distracted by all the ballyhoo.

WHY WAR IS IGNOBLE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. JACOBS. Mr. Speaker, here's to consciousness raising.

WHY WAR IS IGNOBLE

(By Howard Morland)

Whenever young Americans depart for overseas battlefields, older men seem to envy them the adventure. On the eve of the Vietnam War, my college dean told me he was sorry he had not come under fire during his wartime service in the Pacific. He wanted to know how he might have responded to the test of combat. He assumed I would understand, and his regrets may have led me to later join the Air Force rather than seek a draft deferment.

Today, because of the crisis in the Mideast, a new generation of young people hears of the salutary effects of the battlefield from their Vietnam-era elders. In September, liberal essayist Roger Rosenblatt told a national television audience that he now wishes he had fought in Vietnam. He said that even though he "disapproved of our being in Vietnam," he feels "deep regret" that he never experienced the "dependent connection to one another" of soliders "thrown into an incomprehensible horrow." Watching him on the MacNeil/ Lehrer News-Hour sent me searching through my own Vietnam experiences for a clue to this curious longing for memories of combat.

My job in 1968 was to pilot C-141 transport planes of the type now hauling U.S. soldiers and gear to Saudi Arabia. Except for one close call when a battle-damaged Phantom jet crashed and exploded near my plane at Da Nang Air Base, I never came in harm's way. My own knowledge of combat comes from the stories soldiers told as I airlifted them from the battlefield zone. One night, on a flight from Cam Ranh Bay to California, a young veteran the age of today's tennis champion Pete Sampras sat between the pilot seats and told the flight crew about his year in Vietnam. He de-

scribed a photograph in his duffel bag, of an American GI holding the severed heads of two Viet Cong prisoners. The hapless prisoners were grabbed and beheaded as revenge for the death of an American, killed when another Viet Cong prisoner turned himself into a human bomb by detonating a concealed grenade in his own armpit. In the eerie darkness seven miles above the Pacific, our narrator described the sound a bullet made as it plowed through a friend's body two feet away. He thought it wise not to make close friends in combat. His homecoming plan: lock himself in the bathroom, sit on the john, smoke cigarettes and shake for several hours.

Pondering this survivor's tale, I entered the cargo bay and sat with the coffins of a dozen veterans who had undergone the ultimate combat experience. The young soldier on the flight deck may have embellished his war stories, I thought, but the boys in the boxes were testament to the truth. I was struck by how lonely one feels in the company of the dead.

Two years later in Thailand, a Thai veteran made a point of showing me snapshots of Vietnamese bodies stretched out in a row. He had helped kill them. A fresh haircut on the corpse closest to the camera caught my eye; I wondered if the man with the haircut had sensed it would be his last. My host seemed to invite me to explain the meaning of the carnage, but I was still young enough to believe people should live forever, and like the then young Mr. Rosenblatt, I saw no sufficient reason for that particular war.

'BLOODY SHREDS'

Combat is unique in the way it celebrates untimely death at the hand of fellow human beings. Mark Twain saw the horror in this, and, in a poem called "The War Prayer," wrote of a ghostly old man who disrupts a church service as the preacher delivers a patriotic war prayer. The old man offers his own grim version. "O Lord our God, Help us to tear their soldiers to bloody shreds with our shells . . . to drown the thunder of the guns with the shrieks of their wounded, writhing in pain . . . to lay waste their humble homes with a hurricane of fire". Persuaded that it could be considered sacrilegious, Twain had his poem published posthumously. In his bitter assessment, ". . . only dead men can tell the truth in this world." But his warning, when it appeared, was widely ignored.

War is like other human activities in that people who enjoy it the most will do it the best, and be chosen to run it. Obviously, not everyone enjoys it, but there is a common notion that all combatants should somehow love war, and benefit from it. The premise of the typical Hollywood action movie is that real men love each other most when locked in a deeply fraternal exercise designed to demonstrate how short life can be. If war is such an ennobling experience, why does it bring out the worst of people, not the best?

I have always believed that I might kill or die for a worthy enough cause. It's the way boys were raised in my native South, as in most other places, and for good reason. During much of history, a successful army was the most important institution a people could possess. A bad day on the battlefield meant extinction for a number of ancient civilizations. However, this country has never faced extinction in any of its wars. Our recent wars have all been exercises in foreign policy, and for such wars the worthiness of the cause must justify the slaughter. Are we convinced that the war now brewing in the Persian Gulf is worthy of the bloodshed it would entail?

In my view, no American should ever be required to kill or die simply as a test of manhood—particularly if that test involves some politician's perception of manhood. And certainly no American should die simply because as a nation our imagination is too poverty stricken to figure out how to live without cheap oil. For lethal force to have any legitimate role, we must strictly and dispassionately confine it to legitimate questions about international law and homeland defense. War is too brutal to be used as a rite of passage for a college dean, for an essayist, or even for a U.S. president.

I don't know why Roger Rosenblatt feels the way he feels, but I'm glad he didn't fight in Vietnam. I wish nobody had.

LIGHTHAWK'S IMPORTANT MISSION

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. RICHARDSON. Mr. Speaker, I would like to take this opportunity to acknowledge the important work of a constituent, Michael Stewartt of Santa Fe, NM. Michael is the founder and director of LightHawk, a nonprofit conservation organization based in Santa Fe. For the past 15 years LightHawk and its volunteer pilots have flown policymakers, Congressmen, journalists, businessmen, and others over our national forests to give these individuals a real look at the practices which often lead to the destruction of our national heritage.

Michael and LightHawk have been the subject of numerous articles and were recently featured in People magazine. Mr. Speaker, this organization is one of a kind. I encourage my colleagues to learn more about LightHawk's important mission and insert the People article into the RECORD for their review.

[From People Magazine, Oct. 15, 1990]

IN A RACE AGAINST TIME, MICHAEL STEWARTT TAKES WING ON AN AERIAL MISSION TO SAVE AMERICA'S VANISHING FORESTS

Soaring above Olympic National Forest in northwest Washington. Michael Stewartt dips the wings of his six-seater plane and swoops down to offer his passengers a better view. The vista below, however, is far from inspiring: The entire side of one mountain has been laid bare by loggers, leaving only occasional tree stumps, some as wide as 10 feet, where a thick growth of 500-year-old Douglas firs once stood. "Welcome to our national forest," yells Stewartt over the roar of the prop engine. "You know. Smokey Bear and all that." Shaking his head in disgust, he makes a pass over another patch of devastation where from 300 feet in the air, the felled trees look like spilled match sticks.

The flight is a typical one for Stewartt, 40, who for 15 years has used his skills as a pilot to further environmentalist causes. In 1979 he founded LightHawk, a small nonprofit conservation group based in Santa Fe, N.Mex. Today Lighthawk's 61 volunteer pilots around the country fly reporters, politicians and businessmen to environmental trouble spots and give them a bird's-eye view of the damage man has wrought. The idea is to educate and activate.

Many of those missions have been successful. Three years ago Lighthawk helped shut down a copper-smelting plant in Douglas, Ariz., after state officials saw its 900-foot-high smokestacks spewing tons of toxic sulfur dioxide into the air. Legislators are also heeding Stewartt's dire warnings. If passed by Congress, the Ancient Forest Act would limit the cutting of old-growth forests. "I've logged thousands of miles with Lighthawk, "says Colorado Sen. Tim Wirth, who sponsored a similar bill protecting the Tongass rain forest in Alaska. "Michael has helped me get to places where we've stopped a lot of clear-cutting. We couldn't have done it without him."

Stewartt insists that the battle over clear-cutting has just begun. With only 4 percent of the nation's virgin forest still standing, conservations and loggers are at odds over how to preserve the forests and still keep the sawmills running. Stewartt says he's sensitive to the loggers' plight but argues that old-growth trees should only be cut down for special purposes—like making musical instruments from the tight, ringed wood of spruce trees. "Either we protect a few forests now and get some support for people who have been in these jobs a long time, or we wait until all these forests are gone," he says. "Either way you slice it, they're still going to be out of work."

Stewart hasn't always been a man of such strong convictions. Born in Tucson to a dentist and a housewife, he enrolled at Standford but dropped out soon after. For the next two years, he traversed the country, living out of a backpack and occasionally panhandling to survive. In 1968 he attended college in Australia, only to drop out again and work odd jobs. When he returned to Tucson the following year, Stewartt decided to become a pilot, and got his license a year and a half later.

For a time Steward worked a variety of jobs to make ends meet: in 1975 he combined his interest in flying with his growing concern about the environment. He became particularly alarmed when he learned about plans to build a coal-powered energy plant on the Arizona-Utah border, less than 30 miles from Grand Canyon National Park. When conservation groups organized a press conference n Page. Ariz., Stewartt and five pilot buddies he had recruited loaded their planes with reporters. Afterward newspaper stories raised questions about the plant's controversial location, and the proposal was scrapped. The idea for Lighthawk was born.

But Stewartt couldn't get his fledgling idea off the ground. He approached conservation groups, for funding, but their response was less than enthusiastic. "I couldn't convey my vision with enough power to the people who could back it,' he recalls. Stewartt abandoned the idea until four years later, when a Wyoming rancher contributed $50,000 toward Lihthawk's first plane.

The organization, whose $500,000 annual budget comes from individual contributions and grants, works in tandem with such conservation groups as the Wildnerss Society on projects ranging from preservng fragile desert lands to teaching schoolchildren about clear-cutting. Lighthawk (P.O. box 8163, Santa Fe. N.Mex. 87504) has also taken is campaign to Central America Last June, after Stewartt flew several government ministers from Belize on a tour of that country's southern rain forests, the Belize

government set aside 100,000 acres as a nature preserve.

These days Stewartt has his sights set on changing American attitudes toward the national forests. "When people look at maps with the forests designated on them, they think, 'Thank goodness there's protected land out there.'" he says. "They don't realize these lands are being hammered down to nothing. "While the group's seven paid staffers and a handful of volunteers man the Santa Fe headquarters. Stewartt spends his time juggling the schedules of his pilots a diverse band of commercial fliers and even one ex-logger.

When he's not aloft, Stewartt lives frugally in a small, spartan house in Seattle. He drives a 10-year old Chrysler New Yorker, and his devotion to Lighthawk makes finding time for romance almost impossible. But for Stewartt, it's a compromise he is willing to make. "I put every ounce of my energy into this, and there are trade-offs to doing that. "he says,"But I've already got my love for the planet. I hope to hang on long enough to see the results. That's what keeps me going."—Andrew Abrahams, Stanley Young in Seattle.

THE GROWING GAP BETWEEN RICH AND POOR

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 24, 1990, into the CONGRESSIONAL RECORD:

THE GROWING GAP BETWEEN RICH AND POOR

For most of us, America means a chance to get ahead and to obtain a better life for ourselves and our families. But today the gap between the rich and the poor is widening rather than shrinking. In fact, the gap is the greatest since the Census Bureau began keeping these statistics in 1947.

This represents a sharp change from past trends. During the 1950s and 1960s, income disparities narrowed. However, income inequality began to increase modestly in the late 1970s, before rising dramatically in the 1980s. The view of the Reagan Administration was that if the highest income people prospered through tax cuts and other policy changes, they would save and invest more, thereby creating jobs and greater prosperity for all. We have been prosperous, but the prosperity has not been shared fairly.

During the 1980s, average family incomes increased, but the increases had little or no impact on those who were not already well off. Real family income for those ranking in the bottom three fifths in terms of income is below its 1979 level, while it is 30 percent higher for those in the top fifth. For the top five percent, average real incomes increased 45 percent, for the very richest, the top one percent, the increase was 75 percent.

CAUSES

Several factors helped widen the income gulf between Americans. First, as the "baby boom" generation reached adulthood, the supply of entry level workers surged. This increased the number of workers with low earnings and helped keep wages down. Second, many manufacturing jobs paying solid middle-class wages were lost to foreign competition in the 1980s. Third, while inccme from working stagnated in the 1980s, income from stock dividends and interest rose sharply. Such income is much more important to those already at the top of the income scale. Fourth, various federal programs aimed at assisting less well-off Americans were neglected during the 1980s. For example, the value of Aid to Families with Dependent Children benefits fell by 40 percent over the decade.

Changes in federal tax policy during the 1980s compounded the income gap. Income tax rates for the highest income people dropped sharply, while higher social security payroll taxes hit moderate-income persons. Although the share of federal taxes paid by the wealthy went up in recent years—a reflecton of the fact that their incomes went up sharply—the share of their income going to taxes actually declined. During the 1980s, the share of income paid in taxes by the poorest fifth of households increased by about 16 percent, while the share paid by the richest fifth fell by 6 percent. The tax burden for the extremely wealthy—the top one percent—dropped by 14 percent.

The gap between rich and poor families would have increased even more if greater numbers of women and teenagers had not gone to work. Many of the second and third earners who took jobs at low pay did so to maintain family living standards and to offset declining earnings of male workers.

CONSEQUENCES

The consequences of income inequality are significant for both families and society. Those losing ground place new demands on social services. As the incomes of the least well-off fail to keep pace with rising costs, we are seeing increases in serious problems such as homelessness and dependence on welfare programs even among those who are working. One especially serious problem is the increase in the number of Americans without health insurance. The cost of providing care to such patients has risen sharply over the past decade and will continue to strain both hospital and public welfare budgets.

We have always prided ourselves on offering opportunity to all. Yet the widening gap between rich and poor threatens to sharpen class divisions. If conscientious, hard-working people find that they nonetheless fall further and further behind, their willingness to work within the system will erode and their cynicism about the system will increase. That is not healthy in a democratic society.

POLICY CHANGES

While the ability of the federal government to reverse the trend toward growing income inequality is limited, several steps would be helpful.

In my view, the most important single step we can take is to reduce the federal budget deficit. The deficit has devoured national savings that should have been put to much better use. For one thing, it would decrease the government's interest expense, which transfers money from taxpayers to wealthy bondholders. More importantly, reducing the deficit will help create jobs, raise productivity, and boost wages as it helps to lower interest rates paid by Americans.

Since taxes will likely be raised to close the budget deficit, we must make sure that this is done fairly. Before taxes are raised on those families who have already seen their tax burdens go up, we should see to it that those at the very top shoulder their fair share.

Additionally, we must make sure that federal spending cuts do not fall disproportionately on important programs for lower income Americans, such as food stamps, housing subsidies, and Medicaid. We should be especially careful not to harm programs in areas such as education, which has traditionally been the route through which people of modest means could aspire to a better life. Important federal programs such as Head Start and student loans should be improved and strengthened.

It is time to come to grips with the increasing income gap between the rich and other Americans. One of the worst things that can happen in a democracy is for the public to gain the impression that the system is being run for a small number at the top.

PERSONAL EXPLANATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. ENGEL. Mr. Speaker, I recently missed a number of rollcall votes due to illness.

If I had been present, I would have voted aye on rollcall votes 393, 394, 395, 396, 397, 398, 400, 406, and 422.

If I had been present, I would have voted no on rollcall votes 399, 401, 402, 403, 404, and 405.

THE REBURIAL OF AMBASSADOR ALEXANDER ASBOTH

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. HORTON. Mr. Speaker, yesterday, the repatriated remains of Ambassador and Maj. Gen. Alexander Asboth were reburied in Arlington National Cemetery. The arrangements for repatriation were done with the cooperation of the State Department and Veterans Affairs Department under the leadership of Secretary Edward Derwinski.

I regret that my schedule did not allow me to attend the ceremony which honored a man who distinguished himself in business, military service, and as a diplomat. I understand, however, that a beautiful military funeral was held with speeches by Edward Derwinski, Secretary of Veterans Affairs; Guido Hose Maria Di Tella, Ambassador of Argentina; and my good friend, Mr. Istvan B. Gereben, executive secretary of the Coordinating Committee of Hungarian Organizations in North America.

While the reburial of Ambassador Asboth represented a solemn event, changes taking place in Hungary provide us with ample reason to celebrate. Freedom and democracy has triumphed over oppression and tyranny. Ambassador Asboth fought gallantly for justice in both his native Hungary and in his adopted country, the United States. He would undoubtedly be quite pleased with recent events in Eastern Europe and offer his support to the citizens in those countries.

The following is a short biography of Ambassador Alexander Asboth. Also included are the remarks of Istvan Gereben at the Arlington service and a special message sent by the President of the United States, George Herbert Walker Bush:

Alexander (Sándor) Asbóth was born on December 18, 1811 at Keszthely, in the Hungarian county of Zala. The descendent of an English family, which was granted nobility and the surname Nemeskér), Asbóth studied at the Engineering Academy of Selmecbánya. At the outbreak of the Revolutionary War of 1848 against the Hapsburg Empire, he joined the military in an engineer battalion. He participated in many battles and in the last months of the war joined General Klapka and Louis (Lajos) Kossuth, the Governor of the first Hungarian Republic. Two days before the Hungarian armies surrendered at Világos to the overwhelming might of the Austrian Hapsburgs and the Russian Romanovs, Asbóth was Kossuth's sole companion in the carriage that took the Hungarian revolutionary into exile. Asbóth accompanied Kossuth on a portion of his American tour, but having decided upon his arrival that he would become a citizen of the United States, he remained here when Kossuth and his few followers returned to Europe.

Asbóth worked as an architect and a mining engineer, and eventually founded a moderately successful foundry in New York. He also worked as an engineer on the New Your City Planning Commission and had a prominent role in planning Washington Heights and Central Park. He enlisted immediately upon the outbreak of the Civil War and moved to Missouri where he became General John C. Frémont's Chief of Staff. During the course of the war, he served as Brigadier General on the staffs of Generals Frémont, Hunter and Curtis. He distinguished himself in Arkansas and Missouri. After the end of the battle of Missouri, he was at first ordered to Columbus Kentucky, and then was entrusted with the command of the West Florida Department, headquartered at Fort Pickens. He was severely wounded at the battle of Marianna, Florida and had to resign from active service, with the rank of Major General.

After the Civil War, to reward him for his meritorious service, President Andrew Johnson appointed Asbóth U.S. Minister to Argentina and Paraguay. He was unable to take up his assignment in Buenos Aires until October 14, 1866, following extensive medical treatment to remove a bullet lodged in his face.

In spite of his severe wounds and illness, he attended to the duties of his office and rendered excellent service in the negotiations being carried on at the time in connection with the war with Paraguay.

He died on January 21, 1868 at the age of 57 and was buried in the English cemetery at Buenos Aires.

This deeply religious man was as much an American patriot in the latter part of his life as he had been a Hungarian one at the beginning. At one time, he expressed his attachment to his second homeland by saying, "It is in the free soil of North America in which I would wish to rest in eternal peace . . ." With the return of his remains to the United States, his above expressed wish will finally be honored.

EULOGY FOR MAJ. GEN. ALEXANDER ASBOTH

(By Istvan B. Gereben)

Hungary, Major General Alexander Asboth's native land, her people and the American-Hungarian community are filled with pride in recalling the life of this Hungarian Freedom Fighter, this General of the United States Army. His example: implementation of the principles of liberty in every day life, love of Hungary, commitment to the tenets of the United States, respect for God given rights of all human beings, give us inspiration, teaches us the difficult lesson of how to harbor two countries in one heart.

We bid farewell to his earthly remains today and dedicate ourselves to his spiritual heritage. We know that his soul joins us in this celebration of his memory, the freedom and the nations for which he fought and rejoices in the victory of his dreams: a free Hungary and a United States preserved in unity and equality.

The fact that today is the anniversary day of the Hungarian Revolution of 1956 reminds us that freedom is never won for ever. Freedom must be defended again and again by men like General Asboth, the doughboys, the GI.s of Normandy and Korea, the young kids of Budapest, the Vietnam Veterans, the soldiers of Desert Shield. By remembering this General of the Civil War we pay our respects to all of them.

Farewell General, rest in peace in the free soil of your adopted country. Your inheritance inspires us! We pray for your soul! Isten veled Tábornok úr! Nyugodj immár örök békében, fogadott hazád szabad földjében Isten közelében, mindannyiunk szívében!

THE WHITE HOUSE,
Washington, DC, October 23, 1990.

I am pleased to send warm greetings to all those gathered at Arlington National Cemetery to pay tribute to the memory of Ambassador Alexander Asboth.

This is a solemn occasion, but it is also a time to celebrate the legacy of an outstanding American—a patriotic man of great courage and conviction. Ambassador Asboth, like all heroic individuals, stood up for what he believed. He fought against oppression in Hungary, and after arriving in this country, he fought in the Civil War to help keep his newly adopted homeland united. Following the war he continued serve our country with distinction, acting as its Ambassador to Argentina. This chamption of freedom has earned a lasting place of honor in the history of three countries—the United States, Hungary, and Argentina—and his memory continues to unite us today.

I commend the Hungarian Freedom Fighters Federation U.S.A. for your efforts to bring home the remains of Ambassador Asboth. He would be grateful for your efforts, and he would be proud of the role you have played in helping to fulfill his dream of a free and democratic Hungary.

You have my best wishes for a memorable ceremony.

GEORGE BUSH.

HUNGARIAN'S QUEST FOR FREEDOM

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. COX. Mr. Speaker, 34 years ago today, Soviet tanks and troops rolled through the streets of Budapest and the Hungarian countryside, brutally suppressing the Hungarian people's attempts to throw off the shackles of communism. Fortunately, this movement has never been fully extinguished. Today, the collapse of the Iron Curtain and Hungary's first democratically elected government bear witness to the strength and perseverance of the Hungarian people in their quest for freedom and democracy.

The triumph of democracy over communism in Hungary has been a long time coming, and it should be recognized. In 1968, Hungary was one of the first Eastern-bloc countries significantly to loosen economic controls on private enterprises. Twenty-one years later, the first crack in the Iron Curtain appeared along the Hungarian-Austrian border, when Hungarian officials allowed thousands of East Germans to escape to the West, thus precipitating the collapse of the Berlin Wall.

Hungary was also one of the first Eastern European countries to dismantle its one-party Communist political apparatus and install a democratic multiparty system. In March and April 1990, free and fair parliamentary elections were held, and today the Hungarian people enjoy the fruits of representative government.

By instituting such reforms, Hungary has shown that it has embraced democracy and renounced Socialist rule. The United States should recognize this progress. I hope you will join me in sponsoring the following joint resolution.

H.J. RES. 679

Whereas, Hungary—during its history of more than a thousand years—has enriched Western culture; and

Whereas, Hungary has displayed courage in preserving its integrity and defending its independence from foreign powers, including Nazi occupying forces; and

Whereas, the Soviet Union, contrary to its international obligations, occupied Hungarian territory in 1947, annihilated Hungarian sovereignty and arrested Hungary's attempts to rejoin the free world; and

Whereas, the Hungarian Communist party seized power and created a one-party dictatorship by force in 1947-48—with active Soviet intervention—by falsifying election results, and by prosecuting and interning leading figures of democratic parties; and

Whereas, the Communist Party subverted Hungarian freedom through the use of fear and terror, the introduction of unprecedented measures of oppression, the taking of private property, and the denial of human rights—thus creating a Leninist-Stalinist dictatorship; and

Whereas, on October 23, 1956, the people of Hungary rose against this socialist dictatorship and illegal Soviet rule; and

Whereas, the revolution for freedom and independence was crushed by Soviet tanks in November 1956; and

Whereas, the military retaliation of the Soviet army and the collaborationist Kadar government murdered thousands of people, and caused 200,000 Hungarians to become refugees; and

Whereas, since 1968, economic reforms in Hungary have steadily opened greater freedom for private enterprise; and

Whereas, the beginning of the 1970s brought the rebirth of the Hungarian democratic opposition; and

Whereas, mass demonstrations on March 15 and June 16, 1989, jointly organized by different opposition groups, have clearly illustrated the solidarity of the Hungarian people against socialist rule; and

Whereas, the joint efforts of the different democratic opposition groups have forced the Hungarian Communist Party to end its monopoly of power and to inaugurate Round Table discussions, which led to a peaceful transition to democracy and the dismantling of one-party rule in 1989; and

Whereas, at the Round Table discussions, the Communist Party agreed to hold free parliamentary elections, to disband its armed militia, and to amend the Constitution to provide for a pluralist democracy; and

Whereas, the overwhelming opposition of democratic forces has effectively ended the Communist Party's attempts to perpetuate its hold on power, and has succeeded in eliminating socialist hegemony; and

Whereas, on March 25 and April 8, 1990, free and fair parliamentary elections were held in Hungary, creating an authentically representative democracy; and

Whereas, at the elections the opposition achieved a victory of over 90%, while the successor of the former Communist party did not even reach the margin necessary to obtain representation in the Parliament, becoming instead an insignificant and peripheral political factor; and

Whereas, by tearing down the Iron Curtain and by opening its boundaries to East German fugitives, Hungary has promoted the cause of freedom in other Eastern European countries; and

Whereas, Hungary reestablished diplomatic relations with the State of Israel and is assisting Soviet Jews emigrate to Israel; and

Whereas, the new Hungarian government has freed all political prisoners, and rehabilitated both the living and the dead victims of socialist injustice and repression; and

Whereas, the Council of Europe already has accepted the Republic on Hungary in its midst as a genuinely democratic country; and

Whereas, the new Hungarian government is fully committed to the ideals of the free market, is planning to reprivatize its economy, and is eager to join the institutions of the free world; and

Whereas, Hungary, in seeking to regain its sovereignity, has agreed with the Soviet Union on the withdrawal of Soviet troops from Hungarian territory, and has begun its withdrawal from the Warsaw pact: Now, therefore, be it

Resolved, That it is the sense of the United States Congress to recognize—

(1) that the Republic of Hungary has made the genuine and peaceful transition from an oppressive, authoritarian, one-party socialist dictatorship to Western democracy;

(2) that all political parties in the new, freely-elected Hungarian parliament are fully dedicated to the principles of human rights and free markets, and the government of the Republic of Hungary fully desires to integrate the country into the free world of nation; and

(3) that, based upon these findings, the United States Congress declares that upon the effectiveness of Hungary's withdrawal from the Warsaw Pact and the final withdrawal of Soviet troops from Hungarian territory, scheduled for June 1991, Hungary will have regained its freedom from outside domination and Soviet influence, and shall no longer be considered a socialist, one-party, non-market state, but a representative democracy.

CONGRATULATING NOBEL WINNER DR. MERTON H. MILLER

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mrs. COLLINS. Mr. Speaker, the Nobel Memorial Prize in Economic Science was awarded last week to three Americans, one of whom is Dr. Merton H. Miller. I would like to pay tribute to Dr. Miller, the Robert R. McCormick Distinguished Service Professor of Finance at the Graduate School of Business at the University of Chicago. Dr. Miller was honored for his pioneering work in the area of corporate finance.

The Chicago Mercantile Exchange, located in my congressional district, has been honored to have Dr. Miller as a public member of its board of governors since the beginning of this year. Dr. Miller has always been a staunch supporter of the benefits derived from futures and options in the world marketplace.

I hope you will join me in congratulating Prof. Merton Miller for the outstanding honor.

TRIBUTE TO MILDRED BAYER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Ms. KAPTUR. Mr. Speaker, I rise today to pay tribute to a remarkable woman from my district who embodied the words written by Emma Lazarus, the American poet, inscribed below the Statue of Liberty in New York's Harbor, "Give me your tired, your poor, Your huddled masses yearning to breathe free, The wretched refuse of your teeming shore, Send these, the homeless, tempest-tossed to me: I lift my lamp beside the golden door." Ms. Mildred Bayer's life was for our community, for our Nation, and for the world, a modern-day journey that represented the finest of America's heritage of service to others, to the Nation, and to our world.

In 1932, Mildred Bayer received a nursing degree from St. Vincent School of Nursing in Toledo, OH, after attending Bowling Green Normal School, Hillsdale College and the University of Toledo. She spent the next 28 years raising her children and working for her physician husband at this office.

In 1960, at the age of 52, when many people begin to think about retiring, Mildred was just beginning to blossom in her career. She was instrumental in founding of two medical clinics for migrant workers in Lucas County. She always reached out to the forgotten and powerless.

In 1967, Mildred helped develop, plan, and implement Mobile Meals of Toledo. Mobile Meals of Toledo serves the handicapped, the elderly, and the disabled members of my community by providing a door-to-door service of hot meals for those people who cannot cook for themselves. Mildred volunteered her services as its first coordinator, and later became chairman of the Mobile Meals Steering Committee and Task Force. Later, Mildred along with the Diocesan Council of Catholic Women created the Friendly Visitors Program for the aged and chronically ill. Also a member of the Toledo Education Association, Mildred was a moving force in passing legislation requiring nursing home operators to be licensed.

In 1970, Mildred extended her humane and missionary services to people in need of health care in Nigeria and India by founding and presiding over the Health Clinics International, operating 22 mobile health clinics in these remote developing nations.

The Mildred Bayer Health Clinic for the Homeless, one of her last initiatives started in the mid 1980's is located in Toledo and is a direct result of Mrs. Bayer's efforts to provide eye care and dental care for the homeless.

Mildred Bayer continued her efforts to work for the disadvantaged in our society by being a member of the St. Vincent School of Nursing Alumni Association, the League of St. Anthony Villa, the Altar and Rosary Society of Rosary Cathedral, the Pilot Club of Greater Toledo, and the Christian Life Community. Bayer was also a member of the Toledo Council of World Affairs and the general assembly of the National Council of International Health. She has also served the community as past president of the Little Flower Altar and Rosary Society, the Diocesan Council of Catholic Women, St. Anthony Orphanage League, the Ladies of Charity, and the Toledo Education Association for Aged and Chronically Ill. Mildred was also a charter member of both the St. Vincent Hospital and Medical Center Guild, and St. Joseph's Auxiliary of the Little Sisters of the Poor. She served as charter member and treasurer of the Ladies Auxiliary of the Academy of Medicine of Toledo and Lucas County and Migrant Chairman of the Diocesan Council of Catholic Nurses.

Because of Mildred's involvement in the Toledo community and desire to help others, she has received numerous awards, including induction into the Ohio Women's Hall of Fame in 1981, distinguished service award from the Association of International Physicians of Northwest Ohio, distinguished citizenship award from the International Institute of Greater Toledo in 1986, and outstanding service award in 1988.

Those in the Toledo area, especially her daughter Marguerite Foss, and her sons Carl and Charles Bayer, and our society at large will miss her greatly. Her name was synonymous with service to others. The significant contributions she has made to society are numerous and spectacular, and those contributions will keep the spirit of Ms. Bayer alive for future generations to emulate. Ms. Bayer

walked in the footsteps of Eleanor Roosevelt with the style and grace of a true philanthropist. Her work took giant steps to provide the medical care, eye care, dental care, shelter, and attention of those in our world who cannot speak for themselves. Our entire community mourns her loss. She was a remarkable and good woman, a fighter for justice, and a champion of difficult causes. I will miss her greatly, as will we all.

NEED SKILLED MANUFACTURING FORCE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. SKELTON. Mr. Speaker, earlier this month I received two letters that I would like to share with my colleagues. One was from Cas Williams, president of the Aerospace District Lodge 837 in Hazelwood, MO, an affiliate of the International Association of Machinists & Aerospace Workers, AFL-CIO. The second was from Charles H. Bofferding, president of the Seattle Professional Engineering Employees Association.

Both letters criticize the opposition that has developed in some parts of this country toward production of the B-2 bomber. Cas Williams warns against the cancelled before production philosophy prevalent in some quarters of Congress and its effect on the defense industrial base. Charles Bofferding describes many of the technological benefits that have already been derived from the development stage of the B-2 program and notes the further benefits that will result from the production phase. Both gentlemen make the point, as did Cas Williams, that this Nation needs a highly skilled manufacturing workforce if it hopes to compete on an international basis.

Mr. Speaker, I ask that the two letters of Cas Williams and Charles Bofferding be printed in the RECORD for the benefit of my colleagues and other interested readers.

INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, AEROSPACE DISTRICT LODGE 837.
Hazelwood, MO, October 23, 1990.

Hon. IKE SKELTON,
House Committee on Armed Services, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SKELTON: On more than one occasion you and your staff have hosted delegations of union leaders involved in producing weapons funded by your committee. Last year Peter Scribner spent over an hour with more than 15 of our local lodge presidents and stewards from Missouri and Illinois. Coming from East St. Louis, Pete is very sympathetic to the job situation out here. I am writing because our members are concerned about the cancellation of programs planned for production and the impact that will have on skilled aerospace production workers.

Even with improved American-Russian relations, the world is not safe. Every aircarft we build is now in the desert defending the world's energy supply. So, we don't think that the world's situation warrants dismantling our skilled aerospace production workforce. The Iraq invasion proves that America needs sophisticated aircraft; a new fighter, a new cargo plane and a new bomber as part of a rapid deployment force. The AFT is the new fighter, the C-17 is the new cargo plane and the B-2 is the new bomber. We support all of these.

Beyond the question of national security, is the economic and social health of our country. Even with the crisis in the Middle East, the aerospace industry is laying off production workers. In St. Louis we can see the end of the production line of planes we are now building. In southern California, some of the most skilled aerospace workers in the world are now driving cabs and stacking cans in supermarkets. What kind of future will there be for the aerospace workers and their families? And what about the kids, do we really want to commit the next generation to work in fast food chains flipping burgers?

We are most concerned about what is happening to the B-2. Over the last several weeks we have been in communication with other unions around the country who are engaged in the B-2 program. We believe that what is happening to the B-2 will have a negative effect on the production of other programs. The B-2 was in the development stage for almost 5 years. As such, it employed thousands of scientists, engineers and management personnel. Now that the plane is ready for production, some people in Congress want to stop the program. What's going to happen to the tens of thousands of brothers and sisters who have been waiting for the manufacturing jobs that was promised.

Today, there's a very dangerous idea going through Congress that it's okay to design something, but not okay to build it. American aerospace production workers have a lot of stake in the future of the B-2 bomber. If the B-2 is cancelled before production, it will set the example for all other programs still on the drawing board. There will be no production jobs for any of us if, "cancellation before production" becomes the trend. We will build a museum filled with prototypes, but no planes. Where would we be today if all of the planes now in the Middle East were still on the drawing boards? You can't send blueprints, drawings and paper airplanes to meet an aggressor.

We would like to add our voice on this issue. We will contact other members of the Armed Services Committee who are now in the conference. We want them to understand that a "Cancelled before production" philosophy will destroy America's defense industrial base and our ability to meet a military crisis.

You have always been a friend of the union workers of this country. Please understand that we are trying to protect our skilled production workers. We will join with production workers in other states to support production of the B-2 program in order to manufacture the number of planes originally ordered.

Respectfully submitted.

CASSELL WILLIAMS,
President,
Directing Business Representative.

SEATTLE PROFESSIONAL ENGINEERING EMPLOYEES ASSOCIATION,
Seattle, WA, October 1, 1990.

Hon. IKE SKELTON,
House Committee on Armed Services, 2134 Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE SKELTON: SPEEA, a union representing over 27,000 professional and technical workers across America, has been following the debate on the B-2 stealth bomber. We see that you are opposing the completion of the production phase of this program. It is our understanding that the House and Senate are now in conference. It is unfortunate that the fate of this program could be decided without vital information being considered. We believe that if the full technological ramifications of the B-2 were known by you, your position might very well be different.

The tremendous manufacturing technology implications the B-2 program has created is exceedingly important for America's competitive position in the 90's and beyond. This argument has not been raised. Our goal in this letter is to list some of the elements of that technology. We believe that this information will shed some new light on the potential of the B-2 program and outline the benefits to be derived from its completion through the production phase.

The list of companies that joined forces to produce the B-2 includes dozens of Fortune 500 companies and some 6,000 subcontractors in 46 states. The genius of American engineering was challenged as never before in responding to the requirements for stealth, range and payload on this bomber. This resulted in extraordinary design and manufacturing processes. American industry then collectively set out to produce an airplane ready for production without a prototype. A feat never before accomplished!

Everything about the B-2 is new. More than 800,000 component subsystems were integrated by a computer database management system that was developed specifically for this program.

The skin of this aircraft as well as much of its internal structure is made of newly developed composites.

Some 900 new materials and processes were created specifically for the B-2.

The new materials required new tools and manufacturing techniques, all of which had to be conceived and developed for the B-2.

High-speed machining of magnesium, aluminum and titanium parts, as well as the drilling of multi-material laminates, spawned the development of drilling equipment that automatically adjusts to changes in material hardness.

New techniques such as ion-gas "dusting" were developed for cleaning machined honeycombed parts, drastically reducing production time.

The B-2's reliance on composites required expediting their use. New techniques had to keep pace with the development of new materials, and each techniques became commonplace in the production process:

High-speed, ultrasonic knives were developed for cutting composites.

Simultaneous ink-jet marking and automatic tape laying equipment was developed to lay down and position 60 times more material than conventional systems.

Robotics were developed for drilling, inspection, fastening and coating of parts.

Like no other program in history, the integration of the thousands of components was accomplished through an elaborate network of computers that united in a common electronic database. This system allowed computer aided design (CAD) and computer aided manufacturing (CAM) to work together, thereby eliminating the language gap between them:

CAD-CAM permitted the B-2 assembly to be fabricated directly from an electronic database thereby eliminating master tooling

altogether. The production time for tools was cut by more than 80%.

Computer-driven optics used in tools alignment reduced inspection from weeks to hours.

Computer simulation and testing permitted all of the component parts to be cut directly from computer instructions dramatically reducing the potential for errors.

Engineers were able to unite wires, tubing and internal components in a "first fit" assembly. The normal "fit" problems due to engineering efforts were cut six times. Instead of the 40%-60% error rate for military aircraft, the new techniques produced a 97% first fit.

Thousands of testing hours took place: 24,000 hours of wind tunnel testing; 40,000 hours of avionics evaluation; 12,000 hours of flight simulation; 6,000 hours of control test evaluation; and 800,000+ hours of tests on component sub-systems.

To meet the Air Force specifications for this aircraft to fly 10,000 miles with one refueling meant a weight reduction of over a third of that of other military or commercial aircraft.

Weight reductions of this magnitude, if realized, in commercial airlines could result in tremendous savings on the cost of fuel.

Such manufacturing technology advances are monumental as to design and construction of future aircraft, automobiles and ships that will greatly benefit from the B-2 technology developments. The thousands of engineers and scientists involved in this program are proud of this showpiece of American competitiveness, know-how and inventiveness.

Industry has invested enormous sums of its own money to develop the B-2 manufacturing capability. The benefits of the design and development phase have been substantial, but there are still many lessons to be learned and significant advances to be gained from the full-scale fabrication and deployment phases ahead. America's commitment to technology should not be limited to design and engineering program phases alone. A highly skilled manufacturing base is essential to complete the technological picture. What value are great feats of engineering if we don't have a skilled workforce to turn the drawings into real hardware? It is only through extended use that newly developed materials can be demonstrated and proven to be safe for commercial use.

The cost argument implies grossly inflated savings through program cancellation. The $27 billion dollars that has already been spent is unavilable for other uses even if all the planes are cut. If the cost per copy argument is valid, the only solution is to buy an unlimited number of planes, thereby minimizing the cost per plane.

It is going to take a lot of education to convince America's policy makers that we need to maintain our commitment to technology. Those most affected by that commitment, the engineers, technical workers and skilled laborers are going to have to help in this process. Until now we have not been players in this game. As a consequence, we have been unable to protect ourselves from the effects of a declining technology base in America.

For the program to continue, it must overcome its present portrayal on the evening news as a costly misuse of technology which should be eliminated to raise money to solve the social problems of today. We believe that only through a continued commitment to technology can we ensure the national financial viability required to support the much needed social programs that play so prominently in the defense budget debate today. The media tends to lump technology and all defense programs in a single basket, which is now labeled "unneeded and wasteful."

It is unfortunate that the technological story of the B-2 was not made part of the public debate during the congressional hearings. It is not too late, however, to present this information during the conference. We believe that if the members consider the technological benefits for completing this program, the conferees will choose to produce the number of planes requested by the Administration.

We realize that time is running out to make an input and a difference in this critical debate. To address this problem, a delegation of union leaders came to Washington the week of September 17th and personally delivered letters to members of the Senate Armed Services Committee. On October 9th, another delegation of union presidents will be in Washington to talk with members of the House Armed Services Committees about the B-2. We will try to see as many members as we can to give them the message that as part of our continuing commitment to technology this program should be saved.

We look forward to a chance to make a difference in this debate by having our voices heard and our perspective understood. A meeting with you would be greatly appreciated.

Sincerely,

CHARLES H. BOFFERDING,
President.

TRIBUTE TO THE LATE ALTON E. BLAKLEY

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. ROGERS. Mr. Speaker, the Lord blesses our world by working through the good men and women he puts here. Such people are all around us. They may be our generous neighbors, people who love their families and raise fine children, businessmen of integrity, or the men and women working behind-the-scenes at church and at city hall.

My good friend Alton E. Blakley of Pulaski County, KY, was all these things, and more. Though we mourn his passing, we also know that he left his beloved adopted home town of Somerset a much better place, having lived, worked, and raised his family there for a quarter century.

In his time on this Earth, Alton Blakley distinguished himself in so many ways.

At Alton Blakley's automobile dealerships, you could always count on being treated fairly. His colleagues in the auto industry bestowed him with honors, naming him to the boards of the National Ford Dealer Council, and the Kentucky Automobile Dealers Association.

He was a pioneer bringing cable television to thousands in southern Kentucky. And in the cable industry, his colleagues in the business named him Kentucky Cable Televsion Leader of the Year.

He was a superb civic leader, serving and heading chambers of commerce, Rotary Clubs, the local YMCA, and the local chapter of the United Way, earning honors and accolades along the way.

I was privileged to learn from this outstanding man early in my career. When I was a youngster just out of law school, I admired and learned a great deal from Alton. We shared a common vision of creating jobs for our neighbors. So he and I and a few others joined together to found the Pulaski County Industrial Foundation, which has helped create hundreds of jobs and make Somerset a regional center for commerce.

We attended church together at First Baptist in Somerset. His gracious, selfless manner made him a friend to everyone. And during the past few years, his able service on several church committees helped a massive building program go without a hitch.

Alton was a man of strength and perseverance. If there was a way, he would find it. If there was a wrong, he would right it. And if there was a need, he would meet it.

I remember a story about a little 6-year-old girl who was dying of cancer. She was dependent on heavy medical equipment to keep her alive. Though she needed to travel from Somerset to Lexington, KY, virtually every week—a distance of 90 miles—her parents' car was not big enough to carry both their daughter and her life-support systems.

Alton Blakley found out about this little girl. And he donated a brand-new van from his dealership, so that she could get the treatment she needed.

The story has a sad ending. She died about a year later. But this one instance of Alton's generosity among thousands touched us all, and blessed a struggling couple with a few more months to spend with their little girl.

Indeed, I mourn the loss of a mentor and a friend. Pulaski County, KY, has lost a fine benefactor. But his lovely wife Myrtle Simpson Blakley, his son Alton, Jr., his daughters Cynthia Blakley McMeans and Cathy Blakley Bosson, his brothers Clendon, Norvan, and Arvis, his sisters Naomi Byrd, Iris Jeffers, and Sue Reid, and his four grandchildren have all lost a dear and loving husband, father, brother, and grandfather.

We are all fortunate to have come to know and love this wonderful gentleman, Alton Blakley. May God rest his soul. And may our memories of him inspire and comfort us in his passing.

TRIBUTE TO JOSEPH C. PARLAVECCHIO

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. PAYNE. Mr. Speaker, I invite my colleagues to join me today in honoring Joseph C. Parlavecchio, a New Jersey citizen who has demonstrated outstanding leadership and commitment to the Newark community, and is being recognized at reception in his honor.

On Sunday, October 28, the Committee of County Law Enforcement Officers will pay tribute to an individual whose achievements and

contributions have immeasurably benefited the Newark community.

Mr. Parlavecchio is prinicpal of Newark's Dayton Street School and presiding in his second term as president of the Essex County Board of Freeholders.

Mr. Parlavecchio began his service to his community in 1965 when he won appointment as an elementary school teacher in Newark. In 1971, he was promoted to vice principal, and later to principal. Mr. Parlavecchio's dedication to education extends to his participation as a member of the Essex County Council of School Administrators. He also currently serves as an executive board member of the Newark Principals' Association, and the City Administrators & Supervisors Association.

As an active county legislator Mr. Parlavecchio has participated in a variety of organizations in the Newark community for almost 30 years. His introduction to local policy began in 1961 when he became a member of the East Ward Young Democrats. He served as president of the East Ward Young Democrats from 1969 to 1973, and later served as vice president of the Essex County Young Democrats. He was eventually elected to Newark's East Ward County Committee as served as co-chairman from 1974–80.

In addition, Mr. Parlavecchio has devoted countless time and energy to health and environmental issues for the citizens of Essex County. He is a member of the Essex County Advisory Councils on Aging, Handicapped, and Mental Health and has assumed a leadership role in the development of policies for Essex County's solid waste management.

His generosity and unending devotion have brought inspiration to the Newark community and to all of those who have had the fortune to know him and his work. Such accomplishments set an example to all who aspire to the noble task of community service. Mr. Speaker, I know that all of my colleagues will join me in extending to Joseph C. Parlavecchio our sincere congratulations.

IN HONOR OF BRIG. GEN. WILLIAM D. BATES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. DORNAN of California. Mr. Speaker, I would like to honor a fellow Californian, Brig. Gen. William D. Bates, on the occasion of his retirement from the California Air National Guard [AG].

General Bates will retire on November 30, 1990 having reached the mandatory retirement age of 60 years young. Bill has given more than 42 years of dedicated and distinguished service to the United States of America and to the State of California. Part Choctaw Indian, he was born in Virgil, OK in 1930 and migrated with his family to the Golden State during the Oklahoma Dust Bowl making the final leg of the trek in a freight train.

He was raised by a series of relatives, foster homes and finally the McKinley Home for Boys. From this humble beginning, General Bates was determined to succeed. In December 1948, after graduation from high school, he enlisted in the U.S. Air Force. He was stationed in the United States, Japan and served in Korea. Upon honorable discharge from the Active Forces, he entered the AG as a staff sergeant.

Bill Bates worked hard and quickly was promoted to master sergeant. He earned his commission as second lieutenant in May 1955 in recognition of his demonstrated abilities and positive leadership potential. In the succeeding years, he held a number of responsible assignments including 5 years commanding the 146th Combat Support Group.

In 1961, Bill, then a captain, was called to Active duty in response to the Berlin crisis. In 1976, he was appointed to the California AG Headquarters and subsequently promoted to full colonel. He was promoted to his current rank in 1985.

During his full and rewarding career, General Bates held all the enlisted and commissioned ranks through brigadier general. This is indeed a significant accomplishment. This outstanding citizen/soldier has unselfishly given 42 years of faithful, dedicated service to the people of this great Nation. He has distinguished himself in every single endeavor he undertook and I am personally aware that he is widely admired and respected within the military profession.

Bill can be justifiably proud of his contributions to the defense of this Nation, his own successful career and his part in the many successes now enjoyed by the California AG. Mr. Speaker, let me reiterate, General Bates is an outstanding citizen/soldier, patriot and advocate for our American way of life. I commend him on a job well done and wish him good health, prosperity, and great happiness in his well-deserved retirement.

CONGRESSIONAL SALUTE TO MR. CHI CHI RODRIGUEZ

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. MATSUI. Mr. Speaker, today I rise to pay tribute to an outstanding individual named Chi Chi Rodriquez. My colleagues will instantly recognize him as a famous golfer, and though he is usually the recipient of accolades that honor his drives, chip shots and putts, I wish to call attention to a different kind of drive that Chi Chi Rodriguez possesses.

It is always something special when star athletes take the time to meet their fans, especially when those fans are disadvantaged children. At a time when American heroes seem to be in short supply, Chi Chi Rodriguez sets a shining example of humanitarianism. That shining example is located in Clearwater, FL, and is known as the Chi Chi Rodriguez Youth Foundation.

Chi Chi's foundation implements a unique concept by utilizing the game of golf as a conduit for teaching the game of life to troubled youngsters. Exposure to golf and the life that goes with it has proven to be good therapy. Headquartered at a municipal golf club, kids are bused there after school to be tutored, receive vocational training, and to play a little golf. The youngsters are given the opportunity to fix golf carts, work at the proshop, and even learn how to landscape a golf course. Studies have shown that children in the program have improved their classroom attendance records, conduct, and self-esteem. Their grades have improved, drug use plummeted, and scrapes with the law virtually disappeared.

The success enjoyed by the foundation is the result of Chi Chi's dedication to the children served by the program. Chi Chi raises hundreds of thousands of dollars for the foundation every year via the Chi Chi and the Bear Kids Klassic. More importantly than the money he raises, Chi Chi spends as much time as his schedule allows with the kids, giving them golf tips, hugs, and words of encouragement.

Mr. Speaker, Chi Chi Rodriguez exemplifies service before self—a creed to which we should all strive to emulate. I commend Chi Chi for his outstanding contribution and ask my colleagues to join me in saluting this true superstar.

RECOGNIZING 1990 AS THE CENTENNIAL CELEBRATION OF JEDNOTA, THE FIRST CATHOLIC SLOVAK UNION

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. LIPINSKI. Mr. Speaker, I rise today to recognize the centennial celebration of the founding of Jednota, the First Catholic Slovak Union, in 1890. Today the union has an international membership with 95,000 from the North American Continent. Jednota is the fraternal benefit system acting as a positive force for peace at home and international understanding abroad.

Chicago became the center of Slovakian immigrants as early as 1870. Their community provided quality craftspersons, skill laborers, dedicated coal miners and farmers to the Slate of Illinois. Today over 13,000 Slovak-Americans have helped to make Chicago a truly world class, international city. Nine Catholic churches and schools have been established where more than 17 priests and 50 nuns continue Slovakian religious traditions. In May of this year a series of events were held to celebrate the Centennial. A reception and banquet took place, and a Slovak cultural media display portrayed the 2000 year history of the Slovak peoples.

I would like to take this opportunity to congratulate the native Slovakian community of Chicago for their contribution to the growth and prosperity of our city. May our pride in maintaining Slovakian customs and traditions continue through the next century.

A WELL-EARNED BIRTHDAY CELEBRATION FOR THE UNITED NATIONS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. BROOMFIELD. Mr. Speaker, today the world celebrates the 45th anniversary of the United Nations.

Throughtful men and women have long sought an organization that would promote and preserve world peace. For 45 years, the United Nations has shown great promise as an institution that could fulfill that dream.

On occasion I have criticized the United Nations when it has not lived up to its promise, when it served to stress the differences that kept nations apart rather than the common interests that brought them together.

Yet in the past few years, and especially during the current crisis in the Persian Gulf, the United Nations has demonstrated that it is indeed capable of fulfilling its original charter, that it has a unique and important role to play in upholding international law and preserving world peace.

I congratulate the international civil servants who serve in this great organization, and hope that they will continue to work for greater understanding and cooperation among all the nations of the world.

HONORING THE 75TH ANNIVERSARY OF THE WEST COVINA LIBRARY

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. TORRES. Mr. Speaker, it is my pleasure today to pay tribute to one of the most successful service and educational legacies in the city of West Covina, CA—the West Covina Library as it celebrates its 75th anniversary. To celebrate this special milestone, the library will dedicate the week of November 5–11, 1990, as a week of special celebration in order to honor its staff members, the Friends of the Library, students, and the community of West Covina.

The West Covina Library was founded in 1915 with just 247 books. Presently, the library is now the regional headquarters for the country system and houses approximately 200,000 volumes. The reference section alone offers service to the business community on a myriad of subjects. It is also a government depository for thousands of State and Federal documents. The government section alone answers over 1 million reference questions in a single year.

The library is a well established and successful institution of community service that remains innovative in its methods. The library has made a significant impact on community, and more importantly, on your youth who are eager to learn and who depend on the quality of its service. The library has also been a leader in county efforts to improve the cognitive abilities of our public and youth.

Mr. Speaker, education is an extremely important subject to me. The West Covina Library plays an integral role of enhancing the educational of my constituents in the city of West Covina and surrounding communities. As we commend this fine public institution, let us also commend all those who serve our public library's throughout our great country.

It is with great honor and pride that I rise on the floor of the U.S. House of Representatives to recognize the West Covina Library on the occasion of its 75th anniversary. I ask my colleagues in the House to join me in extending their best wishes and congratulations to the staff, Friends of the Library, and the community of West Covina.

COMMENDING THE BASEBALL TEAM FROM CENTRAL HIGH SCHOOL OF KNOXVILLE

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. DUNCAN. Mr. Speaker, it is with great pride that I take the floor to commend the baseball team from Central High School of Knoxville who have captured the 1990 TSSAA—Tennessee Secondary School Athletic Association—State AAA baseball champions. The Central Bobcats won the championship by going undefeated with an astonishing record of 31–0, and the team has been ranked by USA Today as being one of the top 25 teams in America.

Certainly the players on the Central High School baseball team have made their fellow students, parents, teachers, and community proud of their accomplishments on the baseball field. I want to commend them for their many hours of hard work and their enthusiasm.

I would like to recognize head coach, Bud Bales, who is in his 12th year of coaching, as well as assistant coach, Jon Miller, for their dedication to the team.

The following team members are to be congratulated on winning the team's first State championship since 1973: Andy Bolton, Chris Burleson, Guy Crisp, Chris Freeman, Brad Fullington, Todd Helton, Finley Hicks, Danny Jones, Craig Kennedy, Lloyd Lay, Jason Metler, Todd Oaks, James Saylor, Scott Sutton, Bubba Trammell, Brent Walker, Brad Pilkay, Todd Newton, Darren McMillan, manager Patrick Asquith, scorekeeper Christy Payne, and statistician Angeleque Williams.

A TRIBUTE TO THE LATE PEDRO M. FRANCO

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. WAXMAN. Mr. Speaker, I ask you and my colleagues to join me in paying homage to the memory of the late Pedro M. Franco, who was also known as Pedro M. Robledo. Mr. Robledo lived in California, Arizona, and Texas for over half a century. He experienced personally the anguish caused by inconsistent and arbitrarily enforced immigration laws, yet he identified completely with his adopted country—the United States of America.

Mr. Pedro M. Robledo realized the central ideals of the American way of life. He sustained himself and his family through arduous work; he carried without complaint the burdens of taxation and voluntary community participation. He maintained a deep affiliation with his church. Above all, he loved and honored his dear wife, children, and grandchildren, and set for them a sterling example of honesty, decency, and compassion.

I ask that you and my colleagues in the House of Representatives commemorate the life of Pedro M. Franco, who was baptized Pedro M. Robledo. I further ask that we wish his widow improved health and that we wish all his progeny continued success.

NATION AWASH IN IMPORTED BEER

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. COUGHLIN. Mr. Speaker, I want to take this opportunity to express my concern about policies affecting beer imports and exports.

Information recently provided to me indicates that foreign beer producers currently enjoy a profoundly favorable trade regime. The access of American brewers to foreign markets has been limited by high tariffs, restrictive distribution practices and strong nationalistic tendencies.

For example, U.S. tariffs on a hypothetical case of imported beer valued at $10 and having a $2 shipping charge and a small insurance fee, come to $.135 per case. Foreign duties for a similarly valued case of American beer range from $.24 to $14.64 per case.

Let us take the example of Canada. Though the United States and Canada are parties to a free-trade agreement that will result in a gradual phasing out of high Canadian imports duties, the individual Canadian provinces still maintain restrictions on the sale of beer not brewed within their respective jurisdictions.

While nations of the European Economic Community impose no tariff on beer produced in other EEC countries, and while they enjoy a duty of $.135 on our hypothetical case of beer imported to the United States, they assess a 24-percent import duty on American beer. According to information provided to me, the result is that, for 1989, imports from the Netherlands alone to the United States were over one-and-a-half times the amount of all American beer exports. While we imported some 14 million cases of German beer in 1989, the Germans imported virtually no American beer. American exports to the United Kingdom were one-sixth the amount of beer imported from the United Kingdom.

In Mexico, beer from the United States is dutied at a rate of 20 percent. Mexican brewers, moreover, enjoy exclusive arrangements with major retail outlets there, a phenomenon that significantly restricts the sale of American beer. Last year, we imported some 15 times

more beer from Mexico than they imported from our Nation.

Australian exports to the United States have run as high as 25 times the amount of American beer sold in Australia. The People's Republic of China imposes a 120-percent tariff on American beer. The list goes on and on.

Mr. Speaker, the United States is currently engaged in trade negotiations affecting a broad range of commodities and services. I urge our trade negotiators, in the strongest possible terms, to level the playing field for American beer producers and marketers.

MOREAU HIGH SCHOOL CELEBRATES ITS 25TH ANNIVERSARY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. STARK. Mr. Speaker, this year Moreau High School in Alameda, CA, celebrates its 25th anniversary. I rise today to congratulate and to commend Moreau High School for 25 years of service to the young people of southern Alameda County, in California's Ninth Congressional District.

Moreau High School was founded in 1965 following discussions between the Most Rev. Floyd L. Begin, Bishop of Oakland at that time, and, Brother John Baptist Titzer, CSC, serving then as Provincial of the Southwest Province of the Brothers of Holy Cross. Named for Father Basil Moreau, founder of the congregation of the Holy Cross, the school began as a high school for young men.

While construction continued on the current Mission Boulevard site, the original freshman class of 103 held classes at neighboring St. Bede's school. Brother Fisher Iwasko, CSC, served as the first principal of Moreau. Although final construction of the entire campus facility would not be completed until the summer of 1967, the religious community moved into the third floor residence on August 20, 1966. The first classes were conducted in this building in September 1966.

Moreau High School remained a school for young men for the first 4 years of its existence and graduated its first class in June 1969. In the fall 1969, at the request of Bishop Begin, Moreau became co-ed and admitted 177 freshmen women.

The following examples illustrate how Moreau has grown since 1965:

Moreau High School annually serves nearly 1,200 young men and women from Hayward and the surrounding communities with a student population of 52 percent female and 48 percent male.

In 1984 and 1989, Moreau received Exemplary School awards from the U.S. Department of Education.

The formation of the Moreau High School Foundation establishes an organization that is fully committed to ensuring that Moreau remains a viable, growing institution throughout the 1990's and well into the next century.

After 25 years, Moreau is a school community with an alumni population of over 6,000.

Mr. Speaker, I would like to congratulate Moreau High School on its 25th anniversary and to commend Moreau for 25 years of dedicated service to the community.

TRIBUTE TO REVEREND NESBITT

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. WELDON. Mr. Speaker, it is with great respect that I rise today to commend Rev. John C. Nesbitt for his outstanding dedication to community service.

Through his career and leadership positions, Rev. Nesbitt has demonstrated a strong commitment to the community. Rev. Nesbitt has served as a dedicated Pastor to St. Mark's United Methodist Church in Broomall, PA for the past 12 years. Outside of the church, he has served several other organizations.

He has served on the Life Guidance Service Board of Directors for 6 years, the last 3 years as the chairman. He organized and presided as the first president of the Ecumenical Caring Coalition of Delaware County. In addition, he was able to help provide over 5,600 meals in 1989 to needy families in foreign nations through the founding of the Central Delaware County Emergency Food Center. He is active with the Rotary Club of Broomall, was a key component in the formation of the Marple Township Cooperative Ministeries, and served as member and past president of the Marple Newtown Clergy Association.

It is through each of these very important organizations that Rev. Nesbitt has demonstrated his true dedication to people. This includes those suffering from mental retardation and substance abuse, the homeless, as well as providing support for the individuals and families in his community who need assistance.

His accomplishments will be formally acknowledged by the Life Guidance Services, Inc. [LGS] at a Testimonial Dinner on October 25, 1990.

Mr. Speaker, I am proud to bring to the attention of Congress this fine citizen, who contributes his time and energy unselfishly.

MS. DATIN PADUKA RUBY LEE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. DYMALLY. Mr. Speaker, I ask my colleagues to join me in saluting Ms. Datin Paduka Ruby Lee, who has tirelessly served as secretary general of the Malaysian Red Crescent Society for the last 25 years. Ms. Lee first joined the Red Crescent Society in 1950, as chairperson of Fund-Raising for the Selangor Branch, and was later elected director of the same branch. By 1965, Ms. Lee was named secretary general of the entire Red Crescent Society.

In addition to her work with the Red Crescent Society, Ms. Lee has been active with a variety of other organizations since the early 1950's, including the National Association of Women's Institutes and the Malayan Social Welfare Council. Through these organizations, she encouraged the participation of rural women in community development and developed activities for the youth and handicapped. Under Ms. Lee's direction, the Red Crescent Society evolved from a first-aid oriented organization into a dynamic socioemergency movement providing voluntary aid, community health services, and emergency relief for accident victims. Ms. Lee updated training manuals, trained additional volunteers and restructured volunteer aid detachments to better cope with emergency situations.

Ms. Lee has also acted as an international advocate of humanitarian issues, representing her organization in a variety of regional and international conferences on issues of concern.

During the unparalleled crisis seen by the influx of over 75,000 Vietnamese boat people into Malaysia since 1975, Ms. Lee coordinated volunteers, set up the organizational structure for distribution of food, medical care, clothing, social programs and shelter for the refugees, preparing them for eventual resettlement.

The program has proven itself so effective that by the end of 1987, 90 percent of all Vietnamese graduates of a comprehensive education program had been accepted for resettlement.

For its well-run program for the Vietnamese boat people, the Red Crescent Society received the prestigious Nansen Medal from the United High Commissioner for Refugees in Geneva in 1977, and the Tun Razak Award for Outstanding Service to Humanity in 1982. Through her tireless efforts, Ms. Lee has found time to rear and nurture a family.

Ms. Paduka Ruby Lee is perfectionist in her work, home and everyday life. She has contributed a significant portion of her life to humanity, and her leadership is an inspiration to all of us. In recognition of her accomplishments, we salute Ms. Datin Paduka Ruby Lee for her outstanding accomplishments.

HUMAN RIGHTS ABUSES IN YUGOSLAVIA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. BROOMFIELD. Mr. Speaker, as many nations in Eastern Europe set sail on the rising tide of democracy, the Republic of Serbia and the Government of Yugoslavia stand out as clear violators of basic human liberties in Kosovo. We in this body must maintain our commitment to human rights everywhere, including Yugoslavia. We must not make exceptions to our national policy of standing up for those whose liberties are being denied.

As Members of an institution that regularly speaks out on human rights violations from El Salvador to South Africa and from China to the West Bank, we have had a definite impact on countries around the world. Our resolutions have improved conditions for many innocent victims of abuse.

The 1990 Amnesty International Report and the Department of State's Country Reports on Human Rights Practices for 1989 clearly support the claims made by the ethnic Albanian community in Kosovo that its members are being abused by the Government of the Republic of Serbia, and, in some cases, by security personnel from the Federal Government. The following is a quote from the Amnesty report:

At least 4,500 people were detained for political reasons during 1989, the great majority of them ethnic Albanians. Of these, some 1,700 were prisoners of conscience, of whom about 1,000 were imprisoned for up to 60 days for taking part in non-violent protest strikes in Kosovo Province in February. At least 27 people were killed and over 1,000 arrested during demonstrations in March, November and December by ethnic Albanians protesting against constitutional change. Political prisoners were often denied a fair trial and there were allegations that political detainees had been ill-treated during pre-trial detention. At least one person died in suspicious circumstances after being held for questioning by police. Ethnic Albanians who were arrested for political reasons in March and held in administrative detention reported that they were brutally beaten by prison staff. Conditions in some prisons where prisoners of conscience were detained were harsh. At least one person was sentenced to death and another was executed: both had been convicted of murder.

The European Economic Community is equally concerned about the human rights problems in Yugoslavia during a period of growing respect for human rights in Eastern Europe. The world was shocked to learn of the recent arrest and expulsion from Kosovo of an official delegation from the Helsinki Federation for Human Rights. The investigating team was looking into human rights conditions in Kosovo, and was attempting to gather facts and assess the situation there in light of Yugoslavia's request for membership in the EEC. The Community will not grant membership to a government with a poor human rights record.

In an effort to find the truth about Kosovo, Senator DOLE recently led a delegation to that province. Despite the efforts of the Government of the Republic of Serbia to keep the Dole group from visiting that troubled province, the Senator prevailed. Serbian and Federal police officers broke up the welcoming crowd of over 10,000 ethnic Albanians. Many were gassed and hurt including a nineteen-year-old American citizen, who was badly beaten and jailed by police when they saw his American passport. He was sentenced to 60 days in prison and was released only after U.S. congressional intervention. I suggest that my colleagues read the Senator's detailed comments regarding his visit on page S13488 of the September 20, 1990, CONGRESSIONAL RECORD.

There is an abundance of objective information concerning the human rights situation in Kosovo. While all of us must independently evaluate that data, I am convinced that there are serious problems in Kosovo and firmly believe that Congress should continue its commendable tradition of speaking out on human rights abuses around the world, to include Yugoslavia.

THE JOHN RICHARD HAYDEL POST OFFICE

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. HOLLOWAY. Mr. Speaker, it is with great pleasure and pride that I urge my colleagues today to join me in approving a new name for the Vacherie, LA Post Office in honor of a late, truly great American. I have recently introduced legislation which proposes to designate the Vacherie Post Office as the John Richard Haydel Post Office. Mr. Speaker, John Richard Haydel began his career with the U.S. Postal Service in 1934 before being formally commissioned as Vacherie Postmaster on September 27, 1940. Mr. Haydel served with great distinction as the Vacherie Postmaster. He served his country with honor and dedication in war and peace alike.

As a member of the U.S. Navy, among other awards Mr. Haydel received was the Asiatic Pacific Campaign Medal with a bronze star. Appointed in 1948 to the Selective Service Board of St. James Parish, LA, John Richard Haydel became its chairman in 1957. He served in that capacity until 1971.

Mr. Speaker, John Richard Haydel was selected in 1961 as a postmaster counselor for the Dallas region, which included the State of Texas and Louisiana. Six years later, Mr. Haydel received a superior accomplishment award in recognition of his contributions to economy, efficiency, and improved services.

John Richard Haydel retired January of 1981, having given 47 years of life to the Postal Service.

Mr. Speaker, Mr. Haydel's family, friends, and neighbors should—as I do—take pride in his life and service to his community, his State and our country. His accomplishments speak for themselves. He should serve as an example to us all. It is most fitting that the Vacherie, LA Post Office bear his name.

HONORING A TRUE AMERICAN

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. SCHEUER. Mr. Speaker, it is rare for the accomplishments of average citizens to make an impression on our lives. Mr. William Burke is one of these people. His is an perfect example of patriotism, respect, and honor of one who gives endlessly to his family and community.

Mr Burke is a 5-year veteran of the U.S. Marine Corps, and has been dutifully employed at the New York telephone company for the past 22 years. His 20-year community involvement includes the St. Andrews Ushers Society; a Father's Club member at Holy Cross High School, and numerous other activities.

Mr. Speaker, the main reason we honor Mr. Burke today is his recent action at St. Andrews Church in Flushing, NY. When a fellow parishoner collapsed, Mr. Burke rushed to his aid and administered CPR, thereby saving his life.

The Boy Scouts of America, Troop 589, which Mr. Burke has been involved with for the past 10 years, wil present him with the Boy Scouts of America Council Award of Merit. This is a highly prestigious award which is given because Mr. Burke typifies a way of life that Boy Scouts sum up as: "to serve others by helping to install values in young people and to prepare them to make ethnical choices during their lifetime in achieving their full potential".

Mr. Speaker, it is an honor and a pleasure to join William Burke's family, friends, and Troop 589 in saluting his dedication and accomplishment. I take this opportunity to thank William Burke for all that he's done for his family, his community, and his country. It is truly people like him that make America great.

A TRIBUTE TO NATIONAL WHEELCHAIR BASKETBALL IN SPRINGFIELD, MA

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. NEAL of Massachusetts. Mr. Speaker, it is with pride today that I pay tribute to an outstanding development in my district. Springfield, MA, is a city that has for many reasons been referred to as the "City of Firsts." In 1892, the sport of basketball was invented in Springfield, and it is in that spirit that I am proud to mention another first.

The Naismith Memorial Basketball Hall of Fame in Springfield will soon feature a permanent exhibit dedicated to the sport of wheelchair basketball. This will be the first exhibit of this type anywhere.

This exhibit will include numerous photographs of the great players and teams in wheelchair basketball, along with a list of rules and regulations of the sport. Included in the exhibit will be a plaque listing the members of the National Wheelchair Basketball Hall of Fame, a brief history of wheelchair basketball, and a display of medals won by competitors.

Mr. Speaker, several people have worked diligently to see that this wheelchair basketball exhibit will become a reality, and I would like to mention just a few of them. I would particularly like to thank Hall of Fame Curator Michael Brooslin, Hall of Fame Executive Director Joe O'Brien, NWBA Hall of Famer Saul Elger of Brooklyn, Cliff Crase, senior editor of Sports 'N Spokes magazine and member of the NWBA. The contributions of these people are greatly appreciated.

Wheelchair basketball is believed to have originated in 1946 in Veteran's Hospitals. By 1948, there were six teams in the United States. Today the game is enjoyed internationally and has grown popular for both men and women.

I think that the efforts of the people I mentioned and all the others who have helped organize National Wheelchair Basketball should be commended. These people have helped gain recognition for a sport that has helped prove that people in wheelchairs are capable

of doing many things—like enjoying recreation, competing with one another, and winning. This exhibit will illustrate that people in wheelchairs are not simply "handicapped," but that they are indeed, "handi-capable."

HONORING THE SANTA BARBARA AMATEUR RADIO CLUB FOR THEIR HELP IN THE PAINTED CAVE FIRE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. LAGOMARSINO. Mr. Speaker, I rise today to commend the Santa Barbara Amateur Radio Club in my district.

As you know, the Goleta-Santa Barbara area was recently devastated by the Painted Cave brush fire, which consumed over 500 structures, most of which were single family dwellings. One life was lost and many other individuals were injured as a result of this tragic event. Due to the extreme heat and overall precariousness of the situation, the central office handling 911 emergency communications had to be abandoned.

Using their system of short wave radio repeaters, the Santa Barbara Amateur Radio Club responded in a very timely manner. A network of radio linked communication was established allowing local emergency response agencies to continue in their efforts to save both life and property. The club was in full operation the day of the fire, providing cooperation and assistance to the U.S. Forest Service, Fire departments, and Santa Barbara City and County Police agencies.

Once again, as they have done throughout their 75-year history, radio amateurs responded to the call for help. On behalf of the residents of the 19th Congressional District of California and myself, I ask my colleagues to join me in offering sincere gratitude and respect.

POISON PREVENTION ACT

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. BRENNAN. Mr. Speaker, I am introducing legislation today that would expand protections against accidental household poisonings. About 5,000 people in the United States die from accidental poisonings every year. About 50 percent of these people are children under the age of 5. Medications, house plants, and cleaning products are the leading culprits.

In 1970, Congress attempted to prevent accidental poisonings through adoption of the Poison Prevention Act. This act requires pharmacists to ensure the prescription medications they dispense are contained by child-safety caps. The law has serious loopholes. It protects children, infants, and their parents from easily openable medication containers dispensed by pharmacists, but allows children continued and easy access to medications and physician samples dispensed by physicians, practitioners, and other providers.

Some 5,000 accidental deaths may not be a staggering statistic in light of the number of deaths and injuries resulting from other devastating diseases or behaviors in our society. But the fact that even one child is injured or dies under such preventable circumstances is unacceptable. It is particularly unacceptable when Congress acted 20 years ago to prevent all accidental poisonings caused by easy access to medications, not only those dispensed by pharmacists but also physicians' samples and similar products.

The legislation I am introducing today will close this dangerous loophole and ensure all household medications, regardless of their source, are contained with child-resistant packaging, unless a patient or physician requests otherwise.

I urge you to join me as a cosponsor of this bill, and to protect infants and children from the accidental, unnecessary, and preventable deaths and injuries caused by easy access to household medications.

REAUTHORIZATION OF HIGHER EDUCATION ACT: GOALS TO PURSUE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, professional colleges serve as a vital educational opportunity for many students for whom a traditional college education is not a viable option. As we look toward the end of the century we must not lose sight of our commitment to community education and we must set new goals for education. Interstate Business College in Fargo serves an important educational role for eastern North Dakota. Susan Jensen, president of this institution has contacted me with her ideas on how the Nation should keep it's commitment for excellence in education.

Susan Jensen's comments follows:

Mr. Speaker, as we prepare to reauthorize the Higher Education Act of 1965, I want to stress my deep conviction that we must continue to ensure that all students—regardless of their socio-economic status—have access to the kind of postsecondary education that best meets their needs, interests, and abilities.

If we close the door of educational opportunity, it is not just thousands of individuals who will suffer. Our nation's economic future is also at stake.

If the United States is to remain economically competitive in the 1990's and 21st century, we will need increasing numbers of skilled workers. Traditional four-year colleges will educate a segment of the work force. Yet only 50 percent of high school graduates go to college and only 42 percent of them get a college degree.

We cannot forget the rest of the American work force who may not go to college but may need some postsecondary education. They too will play an important role in our economic future.

When we reauthorize student financial aid programs, the legislation should recognize the diversity of postsecondary education options available to students. We should ensure that financial aid is neutral, not favoring one type of education over another.

As we take action to reduce student loan default rates, we must recognize the importance of student aid to individuals. We should not deny a student access to student aid because of the type of school he or she chooses to attend.

There is no doubt that default rates are too high and have become a very serious and costly problem. We must take tough, but fair, steps to fight fraud and abuse in student aid program and ensure that students pay back their loans.

One important reform would help students make informed consumer decisions about which school to attend. We should require all postsecondary institutions to provide information on the cost, educational requirements, chances of succeeding, and employment or continuing education possibilities experienced by their graduates.

We must also recognize that Department of Education regulations and reform measures sponsored by private career school organizations such as the National Association of Trade and Technical Schools and the Association of Independent Colleges and Schools are already helping to bring default rates down. While default rates must be reduced further, we must give these initiatives time to work.

A TRIBUTE TO ROY CRAWFORD

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. HOYER. Mr. Speaker, those of us who travel by car throughout this land are very aware of the scenic elements laced by the vast ribbons of Federal highways. The Eastern Federal Lands Highway Division of the Federal Highway Administration is responsible for the design and construction of many of the Nation's Federal roads in the Eastern States, including many roads accessing our national parks and national forests. Roy M. Crawford, chief, planning and coordination, for the Eastern Federal Lands Highway Division, has shown great leadership and engineering ability in all facets of planning, design, and construction of such roads. In managing highway improvements of the Baltimore-Washington and Suitland Parkways of the National Park Service, Roy has demonstrated a unique sensitivity in striking a balance between the preservation of the scenic beauty of the parkways and the safety on hundreds of thousands of motorists who use them daily.

Roy Crawford began his 41-year career with the Federal Highway Administration as an engineer technician on the Blue Ridge Parkway in 1948. He progressed to project engineer, transferred to the design office in Arlington in 1965, became the engineering coordinator in 1975, and was promoted to chief, planning and coordination, in 1977. Through this growth and experience, Roy has acquired a wealth of knowledge and history of scenic highways, financing and legislation, and has become legendary among the Federal Highway Administration's client agencies and State Departments of Transportation. His stamp is

obvious on those roadways he has helped bring to our use. He has been involved in all of the national parkways in the Eastern United States, and has been singlehandedly responsible for the success of the Forest Highway Program in 26 States.

In the position of chief, planning and coordination, Roy has worked with our client agencies to develop long-range Federal lands highway programs. The professional respect, admiration and confidence he has received from these agencies has provided the working platform to implement these programs. The qualities have set an outstanding example of public service. After this extensive and successful career with the Federal Highway Administration, Roy Crawford has decided to retire. His presence and leadership will be missed by all who have worked with him. We thank Roy for his 41 years of excellent service and the knowledge and dedication he has inspired in others.

HONORING COMMANDER HAROLD RAPKIN

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. SCHEUER. Mr. Speaker, at this time it is appropriate to pay tribute to Commander Harold Rapkin, past post commander of Pelham Parkway Post No. 769 of the Jewish War Veterans of America.

Harold Rapkin has been an active member of Post No. 769 since 1974, has served on various committees, was elected to junior vice-commander in 1975, senior vice commander in 1976, and commander in 1977. He has always served with pride, enthusiasm, and vigor.

As an innovative commander, he created innovative ways to expand and publicize the activities of the Pelham Parkway Post.

Mr. Speaker, Mr. Rapkin spurred action on issues important to seniors, helped fight antisemitism, has kept elected officials informed, and involved Post No. 769 in the community, and the community in Post No. 769.

Harold Rapkin is also a member of the Jewish Community Council, works with hospitalized veterans at Kingsbridge Hospital V.A. Medical Center, has organized the post and community to collect clothing and money for earthquake victims, and is an exceptionally conscientious member of the Pelham Parkway Block Association.

Mr. Speaker, Mr. Rapkin is the recipient of a number of awards, including Man of the Year of the Pelham Parkway Jewish Center in 1986, and within the Jewish War Veterans he was awarded the Abe Naddelman Award for Outstanding Service in 1981, the Murray Portnoy Memorial Award for untiring commitment to the high ideals of JWV in 1984, and Man of the Year in 1983.

Harold Rapkin has also been editor of the Post Newsette since 1980.

Mr. Speaker, this page covers only a fraction of Harold Rapkin's fine accomplishments. His is a life of dedication, commitment, and leadership. He has made the past, present and future of Post No. 769 better, has done stellar work for Jewish causes, and is an enormous community asset. It is an honor and a pleasure to salute him along with the members of Post No. 769 at his testimonial breakfast on October 28, 1990.

OVERRIDE THE CIVIL RIGHTS VETO

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. CLAY. Mr. Speaker, the President's veto of the Civil Rights Act is a dastardly deed which demonstrates this administration's abandonment of the basic principles of common decency and fair play. Our President repeatedly promised the American people that he supported a new civil rights law and the legislation enacted by this Congress is truly a bipartisan compromise that reflects the wide range of concerns expressed by citizens from all walks of life.

Since the beginning of our Nation's history, we have struggled to create a more equal society. But over the last decade, the pendulum of history has swung backward—and we have endured the unmaking of many of the civil rights improvements our society achieved in the 1960's and the 1970's. The need to enact additional legislation to preserve the integrity of these civil rights laws has been established. Conjecturing that the new civil rights legislation might present a problem of "quotas" is an entirely unsubstantiated charge that demonstrates the dearth of our President's waning commitment to genuine equality and justice for all. The veto of the Civil Rights Act was truly a victory for those who advocate America's return to its racist and sexist past.

Mr. Speaker, pervasive discrimination in employment based on race, sex, and skin color is the most destructive element in American society. It is more dangerous to our future and more stifling to our economic prosperity than high oil prices or the size of the national deficit. Discrimination destroys the spirit of society, it erodes the energy of our people, and depletes all hope for a brighter future. We cannot overestimate the tremendous value of preserving and protecting the basic civil rights of all citizens because in any analysis, the people are every nation's greatest resource.

I am outraged that President Bush has dared to veto what I believe is the most important legislation enacted by this session of Congress. The Civil Rights Act speaks to the principles of justice and equality which are the very foundations of our society. I urge my colleagues to correct the mistake our President has made and vote to override his veto of the Civil Rights Act of 1990.

TRIBUTE TO DR. FREEMAN CARY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. FASCELL. Mr. Speaker, although his great service to this Congress will never be forgotten, I feel it is appropriate to remind our colleagues of the service to Adm. Freeman Hamilton Cary, M.D. U.S.N. (retired), who dutifully and capably served as the attending physician to the U.S. Congress for 13 years. Throughout that time he was well regarded for providing the highest quality of health care, and for coupling that care with genuine symphathy and compassion for all 535 Members of Congress.

I was lucky enough to know Admiral Cary through the duration of his years as attending physician. I benefitted greatly from his wise medical counsel and from his warm friendship. By becoming an active participant in the lives of Members and their families, Dr. Cary helped to avert medical aliments and personal problems that he understood to accompany life on the Hill.

There is a little appreciation for the high degree of dedication that the job of attending physician requires; it is an unenviable responsiblity that Admiral Cary greeted each day with zeal and vigor. We can all attest to the fact that he never provided anything less than the best skill, enthusiam, and professionalism.

In light of recent events in Dr. Cary's life, it is especially timely that we recognize his exemplary contributions to the Congress. I know that I speak not only for myself when I say that Admiral Cary is a fine doctor and a man to whom we owe many thanks. I am sure that his many friends share with him the relief he and his family must feel now that the court has vindicated him.

HOUSE PASSAGE OF FEDERAL PAY REFORM LEGISLATION

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. PARRIS. Mr. Speaker, this House has overwhelmingly approved civil service pay reform legislation which is clearly the most far-reaching of its kind since congressional enactment of the Classification and Pay Act in 1853.

One of the most serious challenges facing this Nation now and in the future is the question of our ability to attract and retain the highest caliber of personnel as Federal employees to effectively manage critical Federal programs and the efficient delivery of Government services at the Federal level.

The realization of these goals is, to say the least, complicated by the fact that Federal employee wages currently lag behind private sector wages by an average of 30 percent. This pay differential is even further accentuat-

ed in high-cost metropolitan areas such as Washington, DC.

The simple reality of the matter is that the Federal Government is not competitive in the job market for the best and the brightest recruits, and is experiencing an out migration of many of qualified people it employs into the private sector.

The Federal pay reform legislation passed by this House as a part of the Fiscal 1991 Treasury/Postal Service Appropriations Conference Report represents the significant efforts of many individuals representing divergent ideologies, from the executive and legislative branches, and the private sector. One thing they all had in common, however, was a collective interest in ensuring the qualitative posture of our Government and the American taxpayers whom it serves. In that regard, their efforts were an unqualified success.

Under this legislation, great progress will be made toward closing the pay gap between the public and private sectors. The annual adjustment for fiscal year 1991 will be 4.1 percent, and for the following 2 years, Federal employees will receive a pay adjustment equal to the Employment Cost Index [ECI]. In fiscal year 1994, employees would receive an adjustment equal to the ECI minus 0.5 percent.

In addition to these guaranteed pay raises, this legislation provides for annual pay adjustments to bring Federal worker's salaries into close comparability with their private sector counterparts. Beginning in 1995, Federal employees will receive an annual pay correction equal to the employment cost index minus 0.5 percent, subject to the discretion of the President.

This long needed legislation would also provide locality pay adjustments so that workers in high-cost areas such as Washington, DC would be paid at levels comparable to those in that region. Specifically, 1994 would see localities with a public-private sector pay gap in the local market of 5 percent or more receiving 20 percent of that difference. In each of the succeeding 9 years, the gap will be closed by an additional 10 percent of the disparity. Finally, the President may grant an immediate increase of up to 8 percent in high-cost areas.

I am thrilled to see this Congress finally recognize the value of its Federal employees. This legislation is long overdue, and I am confident that we will witness tremendous beneficial changes in this country because of it. America needs this Federal pay reform, and I know that our economy, our productivity, and our national pride will all benefit from its enactment.

HONORING THE CONGREGATION MACHANE CHODOSH

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to a very special religious and spiritual center in Forest Hills, Queens County, NY, the Congregation Machane Chodosh. On November 19 the congregation will celebrate its 51st anniversary of religious and community service.

For over half a century the synagogue has influenced every facet of the lives of local Jews. Recently leaders of the congregation have been working with local police and law enforcement agencies in order to improve community safety. The congregation has also launched an outreach program to increase membership. This has included a concentration on helping Soviet Jews who have recently immigrated to the United States. Among the services offered are English classes and reintroduction of the Jewish religion to those whose beliefs have long been suppressed.

Hallowed, ancient traditions remain a major aspect of the synagogue, and there is a concerted effort to keep these rituals prominent in the community. Educational programs are conducted in Jewish law and customs, and modern Hebrew is taught to help serve this purpose. Because this is a religious center founded by survivors of the Holocaust and refugees from the tyrrany and persecution of Nazi Germany, the congregation feels a special affinity for survivors and victims of those unforgettably horrible events. The congregation held a community wide observance, attended by over 1,000 people, of the 50th anniversary of Kristallnacht, when Jewish homes and shops were vandalized and ransacked throughout Nazi Germany.

The congregation's interests have not been limited to local concerns. The synagogue has been very active in assisting Jews worldwide. The synagogue has, in recent years, donated an ambulance to Israel and funded the planting of over 20,000 trees in Israel.

There are a large number of individuals who have contributed to the great success of the congregation. This year's honorees are the Rabbi and Mrs. Manfred Gans, who are celebrating 40 years of dedicated service to the synagogue. They will be honored at a banquet at Terrace on the Park in Flushing Meadows. I should also mention Herbert Jaffe, the president of the synagogue, and Samuel Bloom, the chairman of the celebration, who have been leaders in making the synagogue such a successful religious center. Mr. Speaker, I would ask my colleagues in the House of Representatives to join me in paying tribute to the Congregation Machane Chodosh as they celebrate 51 years of service to the Forest Hills community.

TRIBUTE TO THIRD CONGRESSIONAL DISTRICT TASK FORCE ON SUBSTANCE ABUSE

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to the members of the Third Congressional District Task Force on Substance Abuse. It is especially fitting to recognize their efforts during Substance Abuse Prevention Week.

I began the task force earlier this year with the goal of visiting every school district in my congressional district. The task force meets with the superintendents, teachers, guidance counselors, and members of the Board of Education to discuss, in a nonconfrontational manner, the types of programs the schools utilize to combat substance abuse.

Mr. Speaker, I am pleased to report to you that I am encouraged by these meetings. Several schools have in place excellent programs to educate students on the effects of substance abuse. Many start at the earliest possible level in an attempt to instill in youngsters values and beliefs that will act as a defense against the temptations of substance abuse.

I would like to personally thank all of the task force members for their participation to date: Mr. Salvatore Ambrosino, executive director of the Family Service Association of Nassau County; Mr. George Andreozzi, assistant for special services, Smithtown Central School District; Ms. Joan Ayers, administrative director, The Place in Northport; Mr. John Cavallaro; commissioner, Suffolk County Department of Alcohol & Drug Abuse Services; Ms. Susan E. Eckert, my task force coordinator; Ms. Elaine Economopoulos, program director, Horizons Counseling Center in Smithtown; Ms. Rene Fiechter, associate executive director/counsel, EAC, Inc., The Human Service Agency in Mineola.

In addition, Mr. Speaker, I would like to thank Ms. Sandy Frisch, Suffolk Safe Homes Coalition in Nesconset; Brother Joseph Gallagher, program director, Pederson-Krag Center in Huntington Station; Mr. Bill Haskins, director, Daytop of Suffolk; Ms. Ilene Hertz of Dix Hills; Mr. Mark Howard, director of community relations, APPLE in Hauppauge; Rabbi Lawrence Kotok, North Country Reform Temple in Glen Cove; Mr. Logan Lewis, president, APPLE; Mr. Steven Liss, director of education, Nassau County Department of Drug & Alcohol Addiction; Mr. Will Lombardo, coordinator, EAP, BOCES 2 in Ronkonkoma; Mr. Christopher McLaughlin, assistant to the commissioner, Suffolk County Department of Alcohol & Drug Abuse; Ms. Jackie Morgan, assistant to the commissioner, Nassau County Department of Drug & Alcohol Addiction; Judge Peter Newman of Dix Hills; Mr. Wayne O'Connell, dirctor, Youth Services Division, Daytop in Huntington Station; Ms. Martha O'Leary, district social worker, Herricks High School in New Hyde Park; Ms. Laura Parisi, education and prevention coordinator, Huntington Drug & Alcohol Services.

Finally, I would like to thank Ms. Cindy Pierce-Lee, director of special children's services, SCOPE in Smithtown; Ms. Anthony Ruggi, senior treatment counselor, The Place; Mr. William Stewart, Family Service Association in Hempstead; Mr. Bill Tyman, Big Brothers and Big Sisters in Levittown; and Ms. Janet Walerstein, executive director, Child Care Council of Suffolk, Inc.

After meeting with every school district, my office will serve as a resource for available programs for students. We will be better able to know which programs have worked and which have not.

Mr. Speaker, these dedicated professionals have provided me with the opportunity to understand the enormity of the problem, as well as assist me in fighting back in a constructive way. I cannot thank them enough.

A TRIBUTE TO THE 100TH ANNIVERSARY OF ENGINE COMPANY 229

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. SOLARZ. Mr. Speaker, I take great pleasure in rising today to pay tribute to Engine Company 229 of the Greenpoint section of Brooklyn on the occasion of its 100th anniversary.

Engine Company 229's proud tradition of firefighting and protecting the lives and property of the residents of Brooklyn dates back to the 19th century. On Saturday, November 1, 1890, the engine company was organized as Engine Company 29 and a new firehouse was built on 246 Frost Street to house the company's horse drawn wagons. This was the first firehouse ever built for a paid fire department in Brooklyn.

On October 1, 1899, Brooklyn engine companies were designated new numbers and Engine Company 29 became Engine Company 129. Fourteen years later, on January 1, 1913, Brooklyn engine companies were again redesignated and Engine Company 129 became Engine Company 229.

On July 12, 1915, Engine Company 229 left its original quarters on Frost Street and moved to 75 Richardson Street with their motorized vehicles. This distinctive landmarked building has well served the brave firefighters of Engine 229 for 75 years as they have risked their lives to ensure the safety and security of the residents of Greenpoint and Williamsburg.

I am truly proud to be able to congratulate the former and current firefighters of Engine Company 229 on their 100th anniversary and to wish them continued success in their ongoing, long and dedicated tradition of fire protection, and community involvement.

GUS HAWKINS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. ANDERSON. Mr. Speaker, though there have already been many a tribute given to GUS HAWKINS, I would like to commend the following article to my colleagues' attention. I believe the article highlights the contributions GUS has made to our society through his tremendous dedication and devotion to education and labor causes. Though the road has often been difficult, his commitment to right wrongs and to see justice prevail has been matched by none. This House will sorely miss him, yet I smile to think of the shining example that he set for all, both for those here and for those still to come.

THE LONG HAUL OF REPRESENTATIVE GUS HAWKINS

(By Jacqueline Trescott)

Somehow Rep. Augustus Hawkins (D-Calif.) knew the last days of his 28 years in Congress would be marked by an executive slap. Months ago, the Bush administration promised to veto the Civil Rights Bill of 1990 if the version Hawkins cosponsored was sent to the White House. It happened Monday.

Bush issued his three-page veto message and Hawkins immediately issued his two-sentence reply. He had prepared it Thursday, two days before the bill went to the White House, and in his blunt, succinct fashion he called Bush the leader of "a national retreat from civil rights. . . . By relying on the same shopworn excuses and code words that were offered against every great piece of civil rights legislation, George Bush plays on the worst of America's fears, and the worst of America's prejudices."

Riding back to Capitol Hill the day of the veto, fresh from delivering a tough and, he insisted, cautiously optimistic view of the country's support of education, he was livid about the backsliding of civil rights.

"The latest wrinkle, and that is in Bush's bill, is a concept he calls customer preference," says Hawkins, Although the specific phrase has been eliminated from the alternative bill the White House sent to the Hill last weekend, Hawkins says the idea of a preference is simply an updated endorsement of bigotry. This provision would have allowed businesses to argue that they were responding to their clientele's wishes when charged with discrimination.

"That's how far we've drifted and fallen," said Hawkins, seeing the phantom of the no-blacks-allowed signs he saw on the road from Los Angeles to Sacramento on his way to the State Assembly 56 years ago. "This is the latest offer from the president as to what he wants in the civil rights bill. We are better off not passing it."

That's the tenor of Gus Hawkins' final days on Capitol Hill: He is disappointed but not defeated. At 83, he is the oldest member of Congress, and the senior black elected official in the country. He is the dean of the 23-member Congressional Black Caucus and the 45-member California delegation.

Now, his official portrait has been hung in the Rayburn Building, the ritual of testimonials has begun, but the work of Hawkins' other priorities—an omnibus education bill and a sweeping child-care bill—is unfinished. Plus, Gus and Elsie Hawkins haven't had time to decide whether to live in Washington or Los Angeles. "I thought I would be winding down," said Hawkins, as he shuttled down the hall, a list of conference committee meetings rustling in his hand.

Hawkins has been trading brickbats with presidents and their surrogates for most of his congressional career, but recently he has had to pitch harder. Consider this scene in the meeting room of the House Education and Labor Committee, Hawkins's domain for six years and the site of many of the barbs, victories and setbacks:

One morning last spring Hawkins listened to Education Secretary Lauro Cavazos defend Bush's education proposals and then chop up Chairman Hawkins's own alternative measure. Hawkins, resting his head on the back of a huge black leather chair, followed the prepared statement, not catching Cavazos's eye. He shifted, signaling enough was enough.

"You did excellent up to Page 10. Then you went off the deep end," Hawkins lectured, the tremor of a chortle edging through his husky voice. "You overstepped on partisanship. You attacked the committee. We did include four of the president's initiatives."

Ultimately, Hawkins incorporated the administration's wish to have a merit schools program, but he limited the incentive program to schools that help educationally disadvantaged children. The bill is currently in conference committee.

The Hawkins legacy is a catalogue of successes in civil rights, education and labor laws. He helped draft Title 7 of the Civil Rights Act of 1964, which created the Equal Employment Opportunity Commission, originally opposed by Robert Kennedy and Lyndon Johnson. He got a job training bill passed during the Carter administration, but he had to fight the president, most of his Cabinet and the Council of Economic Advisers. His landmark is the Humphrey-Hawkins employment bill in 1978, which was a long struggle and about which Hawkins now has strong second thoughts. He successfully organized an override when President Reagan vetoed the Civil Rights Restoration Act in 1988. And after almost a decade of inaction, and a presidential veto by Bush, a bill to raise the minimum wage was passed last year. Hawkins, who had altered his original goals for the bill, had to live with the results but called the "training wage" component—a sub-minimum wage for new workers—disgusting.

His decision to retire, announced in January, was partially born of frustration from seeing his ideas about the family, workers and schools become legislation but get butchered in the process.

"The whole problem today is implementation. The ordinary citizen can have more to do with that than I can," says Hawkins. This exasperation, tempered with a thick coat of political realism, ran through a discussion of his career earlier this year. "Plus the fact I have reached a certain age. I can't expect to be around another six or eight years. I can do my own thing in another way." There's also a twinkle of relief in taking leave from politics, because in the next breath he is lustfully describing tending the 65 rose bushes at his country home on Solomons Island, Md., and life aboard his 33-foot La Mia. "In Spanish it means 'mine'," he says, and there's the irony—the quest for control that's still elusive no matter how high your seniority or how right-sounding the subject.

In his mild way, Hawkins is still surprised that the game of politics took such a hold on him. "It isn't that I preferred from the very beginning to be in politics or even public office, but once having been elected I suppose it got into my system and I tried to make the best of it," he says, playing down his personal satisfaction, the exact opposite of how his allies describe his dedication to his causes.

"When I think of Gus Hawkins, I think of the congressman who is the real champion of poor kids in this country," says David Leiderman, executive director of the Child Welfare League of America. United Auto Workers President Own Bieber calls his record "monumental." "He has set the moral tone" on family and working-family issues, says William Lucy, international secretary-treasurer of the American Federation of State, County and Municipal Employees.

"He is not just someone who votes correctly but is someone who is always on the front lines on behalf of civil rights legislation, and he has been extraordinarily effective," says Ralph Neas, executive director of the Leadership Conference on Civil Rights.

Even his opposition acknowledges Hawkins's commitment. "Although we have had strong disagreements with Gus Hawkins about such things as more choice in education, more flexibility for school districts in

the use of federal funds, and more focus on results rather than regulation, we have never once doubted his enduring commitment to seeking the best for the disadvantaged and handicapped children of America," says Ted Sanders, the undersecretary of education.

Rep. George Miller (D-Calif.), whose father served with Hawkins in the California Assembly, has seen the disappointment building up over the years. "He believes the Congress has given up its commitment to working people, poor people and children. In 1981 he spoke out forcefully against reconciliation [cuts]. And when the committee was given its first reconciliation message under the budget, he said, 'You do it without me,'" says Miller, who still disagrees with his mentor over the funding mechanism for child care.

Hawkins says what counts are not the headlines, not a high profile—and he was conspicuously absent from all the network sound bites on the civil rights veto—and not the label. He is viewed as a stalwart liberal who receives a zero rating from the American Conservative Union—though they applaud his vote for the Stealth bomber—and a low cumulative rating of 19 from the U.S. Chamber of Commerce and a 95 percent from Americans for Democratic Action. What Hawkins is proud of is his trademark of gentlemanly communication and philosophical persistence. "You find out that results pay off in the long run, and it is better for the system itself," he says.

Of course, there's a downside to modesty. When the Hawkins-Stafford Act, renewal of major education programs, was passed in 1988, Hawkins wasn't recognized at the White House signing ceremony. He was clearly annoyed by the snub. Outraged, Democratic leaders organized their own signing party on the Hill. "In effect I did [feel angry], and you can't work on anything as hard as we did for a year or so and have someone else come and take the full credit. . . . In a sense I felt vionated. Yet I never try to hold grudges, and you find at some other time it works to your benefit. Later times we were able to override the president's veto, and I would say, 'That is going to pay you back, Mr. President.'"

COLOR & COMPROMISE

Before politics, Hawkins learned perseverance in a uniquely black American fashion. He is so fairskinned that he is often mistaken for white. Hawkins, whose grandfather was a white British explorer, is short with a firm, boxy physique, a pale pink complexion, with enough color to give a white mustach and slight lawn of white hair a shade of backdrop.

Yet the errors of others have haunted him to the point where he described himself as an "outcast." As a youth in Louisiana, Hawkins watched the streetcar conductor move the "blacks only" sign behind his seat so he ended up sitting in the white section. He was so embarrassed and angry he started walking, his exercise of choice today.

"In a very reactionary, segregated background, one often reacted in a very explosive manner. You had to really learn through patience," says Hawkins. To protect him and his two brothers and one sister, his father, Nyzana Hawkins, a pharmacist, moved the family from Shreveport to Los Angeles when Gus was 11.

As an adult he tried a disarming directness on this issue of color confusion. He tells the story of how a white woman on a bus in Los Angeles kept moving closer to him. "And then she said, 'You know, we sure are getting a lot of blacks in this neighborhood. I don't like sitting next to them because they smell.'" Hawkins said he asked if he smelled and she said no. He asked her what she would think if he told her he was black and she answered, "'I wouldn't believe you.'"

This predicament is not exclusively a white-to-black mistake but can happen with other blacks as well. A week after the Watts riots in 1965, the action that brought his congressional district into the nation's living rooms, Hawkins was walking through a playground when he thought a group of thugs was preparing to attack him. His companions set them straight. "I wasn't really thinking," he says, adding that he thinks the problems of mistaken identity is someone else's stupidity. "It is a mark of ignorance that [some people think] all blacks are black. Sometimes I educate."

Hawkins graduated from UCLA in 1931 with a degree in economics and worked as a soda jerk and a real estate agent before being elected to the California assembly in 1934. He spent 28 years there and was responsible for segregation-shattering housing legislation, had domestic workers included in the worker-compensation system and wrote the California Fair Employment Practices Act.

But an assembly seat did not guarantee isolation from racial insult. A colleague invited Hawkins to a Los Angeles club, then disinvited him because the club excluded blacks. Hawkins was insulted, angry and stayed home. Later he and his colleague successfully urged the club to rescind its practices, and the two worked together to overturn the law requiring a photo submission with the civil service examination. "You don't want to lose the contact," says Hawkins, emphasizing the practical over the painful.

In 1959 Hawkins missed becoming the speaker of the Assembly by two votes. Three years later he was elected to Congress, becoming the first black representative from a Western state. Despite his commitment to black people, still the heart of his constituency although his district will show a phenomenal growth in Latino population in the 1990 census, he hasn't traded on racial guilt or provocation. Says Rep. Julian Dixon (D-Calif.): "He has never focused on race only. That brings him a great degree of credibility. Gus is viewed as one who will accommodate reasonable requests. He doesn't bring bias if he believes there are legitimate concerns."

Being a skilled compromiser can also mean getting caught on a political merry-go-round. When President Bush's current education proposal came to the committee, Hawkins sat down with Rep. William Goodling (R-Pa.), trying to find the middle ground. "I said, Bill, I don't think he is doing anything worth a damn. However, I will try to work something out with you as long as it is new money. I sent that back to my Democrats and I didn't get a single one who wanted to do that. They said that's crazy. I had to agree with them," says Hawkins. "There I am in the embarrassing situation of trying to be bipartisan, trying to cooperate with the president, and I can't get the votes on my committee."

LANDMARKS & BOOMERANGS

In his office, dressed in the standard congressional uniform of blue shirt, blue tie and gray suit, Hawkins discusses how angry he is at the fate of his legislative babies.

Take the Equal Employment Opportunity Commission. "The EEOC is worthless," spits out Hawkins. "We stopped monitoring them and calling them before the committee." He has even stopped advising his constituents to file complaints with the agency. "It got embarrassing. People will tell us, 'We filed a complaint because you told us to, but no action'—it wasn't even investigated," says Hawkins. He says he was losing credibility.

Indeed, he could risk himself for giving a platform before his own committee to critics of his programs, "Clarence Thomas was terrible," he says of the former EEOC chairman. "Look, we made a judge out of him! He came, he took the heat, and he became a judge."

The clearest example of Hawkins's patience and frustration is the Humphrey-Hawkins Act, which called for a national policy of reducing unemployment and inflation. It all started at one of those ubiquitous Washington cocktail parties, which Hawkins praises as the source of several legislative pairings.

"I had introduced a jobs bill. [Sen. Hubert] Humphrey had introduced a planning bill. We got to chatting, and for some reason I don't know which one of us suggested, 'Well, look . . .'" recalls Hawkins. But when the two introduced their ideas for full employment, the labor unions, conservatives and the Carter Cabinet—with the exception of Labor Secretary Ray Marshall—lined up against them. Carter organized a group of economists to pressure the two legislators to drop phrases such as "the right to a job." Hawkins and Humphrey organized their own pressure groups. The turning point was enlisting the support of Catholic bishops. "Step by step we built up support that made it a moral issue, almost embarrassing when a so-called liberal administration such as the Carter administration opposes it," says Hawkins.

But he persevered. "The legislation was clearly symbolic. It stressed the importance of the government being ultimately responsible for the environment for meaningful work. When employment levels got to such a point, it was the government's responsibility to do something," says AFSCME's Bill Lucy. "His determination was inspiring to the other people who were in the fight. He never said the battle was over."

It took five years, and frankly the death of Humphrey, to get even a watered-down version of the legislation enacted. Hawkins got the pen from the president that time, and a picture for his wall.

But it isn't the glorious monument one would want. Hawkins has been angry that so much hasn't been implemented, and even issued a stinging report of alleged violations of the law.

"We live up to it in many ways," says Hawkins. "A lot of our difficulties have arisen because we haven't had vigorous growth in this country. All the anti-discrimination measures I have introduced fit in that category because the act itself calls for removal of discriminatory barriers. . . . The Federal Reserve Board does not comply because the act calls for allocating credit on the basis of stimulated growth."

And he leaves some clues to his own political longevity. "The difference between certain liberals and other people is that too many liberals are sprinters—fade out and become opportunists and then they become conservatives," he says. "I think it's the question of stamina. If you believe in something, you work a long time."

OLYMPIC TELEVISION BROADCASTING ACT

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, today I rise to introduce legislation that would require that any U.S. network or other type of video delivery system, negotiate with the U.S. Olympic Committee [USOC] for the right to broadcast future winter and summer Olympic games in the United States.

Mr. Speaker, the United States remains the only nation that does not provide direct funding to our Olympic athletes. In fact, through our television networks the American consumer not only is the major financial contributor to the production of the games, but financially supports the training of foreign athletes as well. Members of the committee may be interested to know that while ABC paid $309 million for the rights to the 1988 winter games, 95 percent of the total that the International Olympic Committee [IOC] raised from all the worldwide broadcasting rights, U.S. athletes only received a miniscule 2.5 percent of that amount. The rest of the funds went to the IOC, the Calgary Organizing Committee, and to the Olympic committees of other nations.

Despite the outstanding efforts of the USOC and generous contributions from the private sector, U.S. athletes lack the levels of financial support that athletes in other nations receive. The Steinbrenner report on the state of the Olympic movement found that 85 to 90 percent of U.S. amateur athletes are "struggling" financially." "The Olympic Television Broadcasting Act" would require that the U.S. television networks negotiate for the broadcasting rights to any future winter or summer Olympic games through the USOC, rather than the IOC. This would allow the USOC to take from the U.S. bid an amount they feel is adequate with which to improve the training of potential American Olympians.

The bill also would provide an antitrust exemption to the networks, cable programmers, and other video delivery systems to help reduce the cost of purchasing the broadcasting rights for the Olympics. According to a report published by the Brookings Institute, Western Europe, with a economy almost equal in size and with a population 25 percent larger than that of the United States, made a payment for the rights to the 1988 Calgary games, $28 million, that equaled only 9 percent of the total U.S. payment, $300 million.

Finally, the bill requires that during the televising of live Olympic events, the broadcaster may not interrupt live action with commercials. I am hoping to work with the USOC and other interested parties in developing more protections for consumers as we work to further perfect this legislation in the committee process.

"The Olympic Television Broadcasting Act" is legislation whose time has come. It is a necessary step toward ensuring that our athletes receive the best training possible, that U.S. television broadcasters no longer pay an inordinate amount for the rights to broadcasting the games.

A TRIBUTE TO MILLIE JEFFREY, ACTIVIST, FEMINIST, LABOR LEADER

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to a very special person, Millie Jeffrey. Millie is an institution, a dynamo, a doer, a friend. Among her many accomplishments are being the first head of the UAW women's bureau after World War II, marching from Selma to Montgomery for civil rights in the 1960's, and for the past 16 years serving as a member of the Board of Governors of Wayne State University in Detroit, MI.

Millie Jeffrey has helped shape Democratic Party political philosophy and thought for more than 30 years. No one has spoken more forcefully and courageously than she on a broad range of peace and social justice issues. She has been a particularly effective advocate on behalf of the continuing struggle of women for constitutionally protected equal rights.

A native of Alton, IA, Millie's political involvement started shortly after she graduated from the University of Minnesota and took a graduate degree from Bryn Mawr in the 1930's. She began organizing labor unions in dress and clothing factories in the Northeast and the South. During World War II she moved to Washington, DC where she worked as a labor consultant for the War Policy Board. It was there that she met Roy, Walter, and Victor Reuther and they soon put her great organizing skills to work for the UAW.

Millie is retiring from Wayne State's Board of Governors at the end of this year and is cutting back on some of her other official responsibilities, but even in retirement she will be keeping a schedule that would leave most of us breathless.

I applaud Millie Jeffrey for all she has done and all she has meant to so many of us whose lives she has touched and influenced. We in the Michigan Congressional delegation will continue to look to her for advice and guidance.

Mr. Speaker, I ask that a recent Detroit Free Press editorial tribute to Millie Jeffrey be printed in the CONGRESSIONAL RECORD.

[From the Detroit Free Press]

MILLIE JEFFREY: HER CARING HAS HELPED TO BUILD OUR COMMUNITY

Millie Jeffrey has had a variety of important portfolios over her long and active participation in the life of this community, but to list the jobs she held or the decisions she has helped influence is to miss much of what she has meant. In many ways, Millie Jeffrey has helped to define Detroit's sense of self in a way that is redemptive and hopeful.

Whether she was participating in a Democratic Party fight, sharpening the conscience of the United Auto Workers, helping to broaden the role of women in community life, raising money for all sorts of causes, or fussing over the future of Wayne State University, Ms. Jeffrey has projected an infectious idealism and an honest generosity of spirit. And while Millie Jeffrey may be retiring from the Wayne State Board of Governors and from some of her community responsibilities, she simply cannot retire from being Millie Jeffrey.

Ms. Jeffrey has always defined her progressive politics in a way that was inclusive and expansive. She has cared about people, and she has cared about justice and she has fought for both with passion and doggedness. The events of these past few days, which have honored her lifetime of contributions and acknowledged her retirement, must have been special for her. These events have also been special to a lot of the rest of us too, because we know how she and how much has meant.

Thanks for all you've done, Millie Jeffrey. But thanks too, even more for all you have been and are in the life of this community.

GUS HAWKINS: CHAMPION FOR AMERICA'S CHILDREN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. KILDEE. Mr. Speaker, there are many measurements we can use to determine quality of life. We can look at macroeconomic statistics such as gross national product, per capita incomes, or productivity growth rates. Or, we can look at the costs of basic necessities, that impact us on a daily basis, like health care, housing, food, and fuel.

But, the most enduring test of the quality of life in our society is not measured by impersonal, cold numbers, but by the welfare of our most precious human resource—our children. By this measure, our Nation has promoted the welfare of America's children by expanding and strengthening many successful cost effective education and nutrition programs. In the vanguard of these efforts, and championing virtually all of the legislative actions on behalf of children, has been our friend and colleague from California, GUS HAWKINS.

As the 101st Congress draws to a close this week, GUS HAWKINS completes 56 years of public service. As the chairman of the House Education and Labor Committee for the last 6 years, he has shepherded through the Congress landmark measures to improve the developmental, nutritional, and educational quality of life for millions of America's children.

In no cause has GUS been more successful than in the field of national education policy. His untiring efforts to increase the quality and funding sources for Head Start preschool education, developmental and nutritional programs resulted in enactment just this week of the Augustus F. Hawkins Human Services Reauthorization Act. Due to his determined efforts, there now is a statutory mandate to bring the services of this cost effective program to every eligible 3, 4, and 5 year old in the country by 1993.

Through his creative and energetic leadership, and his knack in bringing together many disparate points of view, GUS worked to strengthen and reauthorize virtually every elementary and secondary Federal education program. Overseeing implementation of the Augustus F. Hawkins-Robert T. Stafford School Improvement Amendments of 1988, during the 101st Congress, GUS HAWKINS

worked to increase the accountability of the over $4 billion basic skills education program, concentrating more assistance to schools in the most disadvantaged communities in the country, and increasing the ability for school districts to experiment with successful school improvement methods. He successfully advocated for increased investment for this essential program, helping to garner a cumulative 35 percent increase in funding over 2 years.

As author of the Carl D. Perkins Vocational Education and Applied Technology Amendments Act of 1990, GUS helped to reform and strengthen occupational education programs in schools throughout the country. Through this bill, and the recently completed action on the Dwight D. Eisenhower Mathematics and Science Education Amendments Act of 1990, which encourages greater emphasis on math and science instruction in our schools, we are providing students with the tools needed to increase achievement and enable our country to compete more effectively in the global marketplace.

As we reach the closing hours of the 101st Congress, GUS continues the fight for a quality education for all of America's children. Final negotiations are being completed on H.R. 5115, the Equity and Excellence in Education Act of 1990, which provides the programmatic framework for implementing the national education goals, and we have entered 11th hour efforts to legislate the first national child care legislation in 20 years.

TRIBUTE TO HARRY FRY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. ASPIN. Mr. Speaker, today I rise to pay tribute to Harry Fry, an outstanding citizen and business leader, who has greatly contributed to the economic development of Kenosha, WI.

Harry Fry is a doer and a visionary. If something needs to be done, he rolls up his sleeves and works to find solutions.

One clear example of Harry's dedication and determination came when Chrysler Motors shut down its assembly operation in Kenosha. A little more than 1 year ago, Chrysler closed it doors and took good paying jobs from more than 5,000 people. This was devastating to the community. Kenosha needed to work hard and fast to attract companies that could replace those jobs. Harry Fry did just that.

As president of the Kenosha Area Development Corp., and a vice president of Snap-On Tools Corp., Harry Fry knew the city needed a magnet. That is where the Great Lakes Composites Corp. [GLCC] enters the picture.

The Navy was working on establishing a national Center of Excellence for Composites Manufacturing Technology. Harry Fry knew this high-technology teaching factory would be a great catch for Kenosha. He realized it would help this community look forward, toward its industrial future, rather than backward, at its industrial past. He understood it would bring companies throughout the Nation to Kenosha to develop new, cost effective methods and processes for products made of composites—the materials of the 21st century. Harry was going to make the GLCC the magnet Kenosha needed to attract the Navy Composites Center to Kenosha.

Harry knew that if the community could pull it off, the composites center would attract solid, innovative companies to Kenosha as well as the jobs they would bring with them.

As the first chairman of GLCC, Harry Fry put a lot of volunteer time into helping coordinate the formation of the corporation and its proposals to run the Navy Center of Excellence.

The competition to run the Navy Center of Excellence was intense. But with Harry's leadership, the GLCC submitted the best proposal, an industrial-led effort. On April 6, 1990, the Navy chose the GLCC to run their national composites center.

This center is an important part of Kenosha's recovery. It will help diversify the area's industrial base and boost its economy. One company is already moving its manufacturing facilities to Kenosha County. A key reason for relocating is the new Composites Center.

Harry Fry is a man of vision and resolve. Our Nation needs more people like Harry, unselfish people who are willing to jump into the fray and find solutions to tough problems. I am honored to call Harry Fry my friend and to have this opportunity to recognize his contribution to Kenosha and the State of Wisconsin.

ROME STUDENTS LEARN IMPORTANCE OF FOREIGN LANGUAGE

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. DARDEN. Mr. Speaker, I often have spoken about the need for our students to learn a foreign language. The world is becoming more economically competitive and interdependent, and we must not assume that everyone else should speak English. I regret that I did not learn another language when I was a student, and I have tried to make up for that by learning Spanish during my service in Congress. But, it is easiest to learn another language when you are young. In Rome, GA, at Elm Street Elementary School, students are getting a head start on language learning through the initiative of their principal, Mrs. Carol Proud, and the efforts of their teacher, Mrs. Maria Russ, who is teaching Spanish to fourth-, fifth-, and sixth-graders. Following is Angela Turner's Rome News-Tribune article on this program and its encouraging prospects for our youth. Hopefully, other school systems will follow the example being set by those at Elm Street and give American students a better understanding of the world around them.

[From the Rome News-Tribune, Oct. 16, 1990]

ELM STREET ELEMENTARY STUDENTS LEARN SPANISH WITH NEW PROGRAM

(By Angela Turner)

To most elementary school students Spain is a really far-off country with a really far-out language.

However, to the fourth-, fifth-, and sixth-graders at Elm Street Elementary, Spanish now is a little closer to home—so to speak, and by way of learning to speak it.

Carol Proud, Elm Street's principal, had been considering the idea of teaching a foreign language for a few years. Now, according to Mrs. Proud, Elm Street is the only elementary school in the Rome School System that teaches a foreign language as an assigned part of its curriculum. According to the Floyd County School Systems, no foreign languages are taught on the elementary grade level.

The classes involve taking Spanish for six weeks, the language rotating with other "activity time" courses such as creative writing and health. There are no textbooks, so students keep folders filled with maps and handouts from class. They are taught Spanish four days a week, 30 minutes per day.

"I really believe we need to teach a foreign language in elementary school," Mrs. Proud said. "It's easier for the students because they don't realize it's difficult."

It also improves their English, she said, because it helps them to understand things like verb tense, placement in a sentence and descriptive words.

Mrs. Proud decided to implement the plan a year ago when she found a way to carry it out. She hired Maria Russ as a fifth-grade teacher. Mrs. Russ is a native of Cuba and fluent in Spanish.

The principal said she selected Spanish because of Mrs. Russ after looking for someone who spoke another language. "I went with the talent I had," she said, although the language could have as easily turned out to be Japanese or French.

"I really wish we could teach about four languages," Mrs. Proud said, pointing out that English is not the only language used in the United States. She believes it comes in handy for students to learn a foreign language early in life.

In addition, she said, there are several newly enrolled Hispanic children enrolled at Elm Street, as well as at many other Rome schools, and many speak little English.

According to the principal, the first step to learning a foreign language is to hear it and understand it. The second step is to learn to speak it—usually with nouns and then verbs. The last, she said, is learning to write it.

Mrs. Russ likes the idea of teaching Spanish along with her other duties. However, although she knew the language she was at first not sure of how to go about teaching it. Through friends in Kentucky, where her parents live and who teach Spanish in schools there, she got information on how to approach the task.

The six-week classes are designed to fit into the part of the curriculum where students come into contact with learning new and different things. Spanish class rotates not only with creative writing and health, but also with dramatic arts, art appreciation, the student newspaper and yearbook.

Fourth- and fifth-graders are required to take all those segments. Some sixth-graders are exempt because they participate in

band, which falls in the same class period and lasts the entire school year.

Mrs. Proud said that the six-week Spanish course is "a nice way to condense something down and make it comprehensive enough for them to really get something out of it." It's been very successful so far, she said.

According Mrs. Proud and Mrs. Russ, students are really interested in the language and are eagerly and enthusiastically learning. Mrs. Proud also said that students are learning to pronounce Spanish without their Southern accents and are speaking the words they learn with fluency.

Mrs. Proud attributes that success to Mrs. Russ and her background.

"She came to this country at age 5 from Cuba," Mrs. Proud explained. While Mrs. Russ now has no accent at all when speaking English, "the first two weeks she was in school she knew no English at all. Her mother said she came home every day and cried."

Mrs. Proud said she did a lot of studying before deciding to start the language program. She wanted to see how other countries handle teaching foreign languages and found that they began with younger students, sometimes even with first-graders.

The principal said she believes that such courses help American students appreciate their own heritage by understanding a different language and culture. She believes in what she calls "classical teaching"—having students become more social and more aware of national heritage so that they understand where they are from.

It is important, she said, to really understand other countries and the way other people think.

While looking into how other countries teach languages, Mrs. Proud said, she found that schools in Europe and Japan teach many languages, including Latin, Spanish, French and Greek, as well as English.

"I found in my research that if you learn one, it's very easy to translate into another," she said. "You might not be able to speak it as well—but you can kind of understand it when it is being spoken to you."

According to Mrs. Russ, in teaching Spanish in six-week chunks she faced the problem of not only wanting to put in as much as possible but also of having the students comprehend what they were getting.

She begins in the first two weeks by giving the class a map showing some of the Spanish-speaking countries—places like most of South America, Spain, Mexico and Cuba. She teaches the students about the flags, foods, customs and culture of those countries.

She always begins the class with a Spanish "Good morning and how are you?" and always ends with "See you tomorrow" in Spanish.

She then teaches Spanish words for colors, numbers one through 20, animal names, the months and days of the week.

In the first year's six-week segment, Mrs. Russ said, that's about all the students have a chance to learn. However, when those same students take Spanish again the next year, she will be adding more.

Not only does this give students a taste of knowing there is another language besides English, she said, but it is especially important now when so many Spanish-Speaking people are coming into the United States.

Mrs. Russ said the students appear very receptive and excited about learning something totally new. Like Mrs. Proud, Mrs. Russ was apprehensive at the beginning of the program, but both now agree that the first of the six-week sessions was a success.

"It turned out a lot better than I thought," Mrs. Russ said. "I didn't think the kids would be as interested, but they are. I mean they really liked it. And, I liked that."

One of the favorite things of the students, she said, is to hear her read a story in Spanish. They also enjoy it when she speaks in Spanish to a student in the class who already knows the language. They ask such questions as "What word was that? she said.

Todd Cooper and Chip Mitchell are fifth-graders who took the first six-week Spanish course. "I think it is different," said Todd, who is already looking forward to more Spanish next year.

"The fiesta is the best part," Chip said. The fiesta, or party, is put on for the students at the end of the six weeks. He, too, said he wants to learn more Spanish.

According to Mrs. Proud, "It's amazing that their minds are like sponges. They absorb everthing. . . .

"What is really rewarding, as far as an administrator or a teacher goes, is to see those little minds soak up all that knowledge and really understand what they're doing—and enjoy it."

LUMP-SUM PENSION OPTION

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. PARRIS. Mr. Speaker, while Congress continues its seemingly never-ending budget negotiations, millions of Federal employees must sit on their hands—their fate hanging in the balance. Many dedicated civil servants around our Nation are waiting to make a decision about their retirement contingent on what Congress does regarding the lump-sum pension option.

Already battle weary from the numerous threats of furloughs and layoffs, now many Federal employees cannot even make informed decisions regarding their retirement. Congress has threatened to eliminate the lump sum—suspend the lump sum—and to take away the window for those who would like to take the lump sum. There are plenty of folks out there who may have to change their retirement plans, and make decisions regarding the rest of their lives on a moments notice—subject to the whim of Congress. I must ask, is this fair? Is this any way to treat our Nation's civil servants. I think not.

And now, I am appalled to learn that language has been included in the budget which would allow our colleagues to retain the lump-sum option for themselves while doing away with it for other Federal employees. This is the most self-serving, unconscionable exploit I have witnessed in a long time.

I am aware that sacrifices have to be made, but if civil servants are going to have to give up a portion of their retirement benefits then Members of Congress should most certainly do the same.

TORAH DEDICATION AT HAVURAT YISRAEL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to Temple Havurat Yisrael of Forest Hills in Queens County, NY, on the presentation of a Torah scroll to the synagogue. The Torah is being presented to the synagogue by Ms. Sarah Hirschhorn in memory of her beloved parents Yehoshua and Frieda Hirschhorn. I commend Ms. Hirschhorn for her very meaningful and thoughtful contribution to her congregation. The acquisition of a Torah scroll is a joyous and moving occasion of which any congregation is abundantly proud. The Torah contains Jewish law and is the foundation upon which Jewish life rests. Each Torah is made by hand, and every word is studiously inscribed with loving care and acute precision.

Havurat Yisrael was founded in April 1981, and under the caring and dynamic leadership of Rabbi David L. Algaze, has had a significant impact on the Forest Hills Jewish community. The temple faithfully serves the community as a religious, social, educational, and charitable organization. With its emphasis on traditional Jewish workship, the synagogue attracts both the unaffiliated as well as the fully observant Jew, and makes a concerted effort to ensure that all members of the congregation fully understand the liturgy and appreciate the richness of the religious ceremony.

Education is the foundation of Havurat Yisrael, which offers a variety of courses that hold interest for people of all age groups. The synagogue believes that it is through the teaching of Jewish heritage that Jews unite as a people and a faith.

Havurat Yisrael is a vibrant and important part of the Forest Hills community. The synagogue has a profound impact on anyone and everyone that it touches, and I am proud that it is a part of the community that I represent and care for so deeply.

Again, Mr. Speaker, I ask all my colleagues to join me in extending warmest wishes and congratulations to the congregation of Havurat Yisrael. The presentation of a Torah scroll is a profoundly moving and heartwarming occasion. May there be dancing in the streets and much happiness to bless this very special occasion.

BENSONHURST WEST END COMMUNITY COUNCIL 30TH ANNIVERSARY DINNER-DANCE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. SOLARZ. Mr. Speaker, I take pleasure in rising today to pay tribute to the Bensonhurst West End Community Council on the magnificent occasion of their dinner-dance

celebrating 30 years of devoted services to the Bensonhurst community.

The Bensonhurst West End Community Council was created when the Bensonhurst community council, which operated between 14th Avenue and Bay Parkway, and the West End community council which operated between Bay Parkway and Ocean Parkway, merged to create an organization serving the entire Bensonhurst community. This group, made up of Bensonhurst residents and homeowners from all walks of life, carried on its predecessors' traditions of effective community service and became active in almost every issue affecting the Bensonhurst community.

The Bensonhurst West End Community Council has made enormous contributions to our community. The council was an effective force in expediting the construction of John Dewey High School at its present site. The council spearheaded a letter writing campaign to obtain funds for education during the 1975 budget crunch. The council sponsored the Bensonhurst West End Senior Citizen's Program and has bene responsible for improving conditions at the Marlboro Houses. The Council also took the lead in pushing for reasonable parking regulations in Bensonhurst, improved police protection near the Bay 50th Street subway, and it funded the successful 60th Precinct Safe Haven Program.

Although a complete list of all of the Bensonhurst West End Community Council's activities could go on, I would like to mention just one of their more recent achievements. In order to contribute to an atmosphere of greater racial harmony in Bensonhurst, the council involved over 20,000 Brooklyn students in Project Learn, an effort to involve our youth in the process of developing warm relations between all the many groups which make up our neighborhoods.

I would like to offer my congratulations to the council's honorees, Aileen Golden, Mike Greenman, and Sandy and Diane Zoccali. A special tribute is also due to Carmine Santa Maria whose work with the Bensonhurst West End Community Council has been a mainstay of Bensonhurst for many years. I wish them much success with their ongoing efforts to champion the needs of the Bensonhurst community.

THE INTRODUCTION OF THE ACT FOR MICRO-ENTERPRISE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mrs. COLLINS. Mr. Speaker, today I am introducing the Act for Micro-Enterprise. Let me give you an example of why I feel that this legislation is necessary.

Her name is Yolanda. This young woman and her young child were surviving in Chicago on welfare money. Yet, she wanted a better life and was willing to put forth the effort to work toward that goal. She observed that most people in her area went to a different part of town to buy meat and that she might do well to start a local meat distribution business. All she really needed was a refrigerator truck but that would require about $4,000. Yolanda was fortunate enough to come upon the Women's Self-Employment Program which offers very small business loans as well as some business training. She was eager to take advantage of their services but only if her welfare checks would continue, because she felt she could not rely on meat sales to pay all her bills in the first months of the business. When she learned that a loan for her business idea would knock her out of the welfare program, she considered it too risky and chose to simply remain on government aid.

There are people like Yolanda all over the country, trying to start a micro-enterprise, trying to become self-sufficient, trying to get ahead. But all over the country, many of these people cannot find those first few dollars to start their company. Many who do find the money are running into governmental brick walls which block their progress just as effec tively. Dedication and skill are in abundance. Unfortunately, it takes more than that to succeed in the face of obstacles and shortage of assistance.

Micro-enterprises are the very smallest of businesses, having five or fewer employees, at least one of whom owns it. Often, micro-enterprises have no employees beyond the owner-operator, which is the reason that self-employment is often an issue. It is frequently seen as a road out of the welfare system, although startup help is regularly needed.

The most common type of help that is needed is a loan. Micro-enterprise lenders have begun to appear in a handful of States, albeit with limited resources. They generally rely on funding from private donors and disburse those funds in loans of up to $5,000 to micro-enterprises. These micro-enterprise lending institutions are usually small nonprofit operations, although there are a few banks which have similar programs. Many of the lenders also offer or require varying degrees of business training, continuing technical assistance and other means of support to ensure the success of the venture. As a result, micro-enterprises have a high rate of growth and the loan repayment rate is about 95 percent.

Today, I am introducing the Act for Micro-Enterprise. The AME bill extends one hand to Americans who are striving to lift themselves out of poverty. With the other hand, AME shoots for alteration of Federal policies which impede self-employment and micro-enterprise. Specifically, these measures include:

First, distinguishing between business and personal assets under Aid to Families With Dependent Children, that is, welfare, so that business assets, including loans, are not counted toward the eligibility requirement asset limitations;

Second, excluding, for purposes of AFDC, income derived from a micro-enterprise Activity for one year, so that welfare aid continues for a 1-year transition period;

Third, allowing persons who are otherwise eligible to receive unemployment insurance payments to continue receiving such payments even though they are involved in a micro-enterprise;

Fourth, specifying that micro-enterprises and institutions assisting micro-enterprises are eligible to receive funding under the Urban Development Action Grant and Community Development Block Grant Programs;

Fifth, specifying that micro-enterprises and institutions assisting micro-enterprises are eligible to receive assistance through the Small Business Administration;

Sixth, specifying that micro-enterprise loans constitute a form of qualified thrift investment for purposes of certain financial institutions meeting qualified thrift requirements; and

Seventh, creating a Micro-Enterprise Technical and Operations Office, also known as a "me too", in each Federal banking agency such as the Federal Reserve and Federal Deposit Insurance Corporation to function as a micro-enterprise clearinghouse.

Mr. Speaker, these measures, taken together, would open many avenues for individuals to begin micro-enterprises and make it much easier for groups, organizations and lenders to help those individuals. In short, micro-enterprise is a good investment. It helps the economy as a whole, or local communities and, most importantly, Americans who have both needs and answers but insufficient resources. I encourage my colleagues to support this bill.

TAKING ACTION AGAINST MALNUTRITION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. BEREUTER. Mr. Speaker, on October 2, 1990, an editorial in the Omaha World-Herald summarized the commitments made at the World Summit on Children on September 30: reduction of malnutrition, disease, diarrhea, deaths in childbirth, unsafe water, and lack of education. The conclusion was that few things are more important than translating these verbal pledges by the leaders of 71 nations into action for children during this decade. "It's Worth Doing for the Kids" was the headline.

Having just considered the conference report on the 1990 farm bill yesterday, this Member would like to share the full text of that editorial with my colleagues. The Food for Peace—Public Law 480—Program, reauthorized and significantly updated in the farm bill, has been and will continue to be a major resource for the whole world in the fight against malnutrition in children. By our action in this bill, the U.S. Congress reaffirms its commitment to fighting life-threatening food shortages and malnutrition, especially among children. This streamlined Food for Peace Program should make a major contribution to achieving the World Summit's goal of cutting malnutrition among children in half by the year 2000.

The text of the editorial "It's Worth Doing for the Kids" from the Omaha World-Herald of October 2, 1990, follows:

IT'S WORTH DOING FOR THE KIDS

The 71 international leaders who gathered in New York City Sunday for the first World Summit for Children did a lot of talking. Translating their words into actions that can save the lives, health and futures

of millions of children world-wide may be difficult, but it is a goal worth striving for.

Last weekend about 80,000 children died. They died mainly from measles, tetanus, whooping cough, pneumonia or the dehydration caused by diarrhea—diseases for which simple, inexpensive treatments or preventives exist. But still they die, one every two seconds, 14 million under the age of 5 each year.

Part of the problem is money. United Nations experts have estimated that it would cost an extra $20 billion a year to implement the type of child-saving programs they want. Though individual treatments are relatively inexpensive—a 10-cent packet of salts can save a child from death by dehydration—the entire project is not. Massive amounts of vaccines and other medicines are needed, as well as vehicles to transport them and medical people to distribute them.

The poor and ignorant in many Third World nations need to be taught the benefits of medicine, sanitation and nutrition.

Despite all the words of concern expressed at the conference, none of the 71 leaders who attended pledged fresh money to meet the cost of achieving the summit's goals.

Part of the problem is not money but social and political considerations.

Overpopulation was cited as the root cause of much of the poverty, famine and disease that afflict so many children in the world. It is a circle of particular viciousness: High infant mortality rates and child deaths lead families to have more children, which contributes to poverty, food shortages and degradation of the environment, which in turn contribute to more child deaths.

The solution, as pointed out by the Population Crisis Committee and similar organizations, is better access to birth control information and devices in Third World countries and improved child health and nutrition.

President Vaclav Havel of Czechoslovakia and President Yoweri Kagta Museveni of Uganda argued that dictatorships and other oppressive governments, as well as wars and civil strife, contribute to children's problems.

In Ethiopia, for instance, famine has been widespread over the past decade, though food has generally been available. Civil war in that nation—as well as government inefficiency and logistical problems with food distribution—has contributed to the death toll from starvation.

The leaders participating in the summit pledged to work together to cut malnutrition among children in half by the year 2000, reduce the number of women dying in childbirth and provide clean water and primary education for all children. Few things are more important if the battle against ignorance and deprivation is ever to be won.

RECOGNIZING MRS. SUNDA M. GUINTA

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mrs. ROUKEMA. Mr. Speaker, I rise today to bring to the attention of my colleagues Mrs. Sunda M. Guinta, of Woodcliff Lake, NJ, who is to be honored on November 13, 1990, as Woman of the Year by the Ladies' Auxiliary Columbus Citizens Foundation. I can think of no more fitting tribute to Sunda, and certainly no one more worthy of this honor.

For the past 5 years, Sunda M. Guinta has served as the President of the Ladies' Auxiliary Columbus Citizens Foundation, one of our Nation's foremost and prestigious Italian-American foundations. Not only has the ladies' auxiliary earned an outstanding reputation on account of its efforts to perpetuate the richness and diversity of the Italian culture and heritage, it has also been recognized nationally as one of the country's leading philanthropic organizations.

Certainly much of the auxiliary's success in recent years is a direct function of its president, Sunda M. Guinta. Possessed of seemingly-limitless drive, dedication, versatility, creativity and talent, Sunda, through her leadership, has enabled the Ladies' Auxiliary to raise over $500,000 in 5 short years. The list of worthy causes to which this money has been distributed—representing all races, religions, and nationalties—is equally impressive.

The projects which Sunda has personally managed and championed are numerous, varied, and representative of her many facets and talents. From Project Boys Hope which provides a home environment for youngsters whose family situations have been tragically destroyed, to Project Communication which worked with singer Lionel Hampton to help the hearing-impaired hear the sound of sound and Project Children which worked to improve the lives of children in the leukemia treatment program at Mount Sinai hospital, the selfless efforts and countless hours Sunda has given to others are immeasurable.

I join the Ladies' Auxiliary of the Columbus Citizens Foundation in saluting Sunda M. Guinta's efforts and achievements over the last 5 years, and wish her continued success in every effort she makes in the years to come. Amid the oft-cited thousand points of light, Sunda M. Guinta represents one of the most brightly shining stars, and should serve as an inspiration to public service for all of us.

NOTCH BABIES

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. MRAZEK. Mr. Speaker, we are quickly coming to the conclusion of the 101st Congress. And as I speak right now, my colleagues are talking about fairness, about sacrifices, and about tightening our belts for the good of the Nation.

As we consider what is fair during these remaining days, we need to remember the notch babies. They have been tightening their belts for many years now and know how to make sacrifices.

Mr. Speaker, I say to my colleagues that the 101st Congress still has a chance to help those affected by the notch. Notch babies are not asking for a handout—they want nothing more than that to which they are entitled. Right now, a retiree born in 1917 who did the same work at the same pay rate for the exact number of years as a retiree born just 1 year before gets much less in Social Security. If we allow this to continue, then we certainly are not acting in the name of fairness.

The notch babies believe, as I do, that Congress has turned its back on them. They believe Congress is ignoring their plight as it has done since the issue was first introduced in the 98th Congress.

Mr. Speaker, the only thing they desire is for Congress to be fair to them. In these last days, I call on my colleagues to prove to the notch babies that Congress is not ignoring them and that Congress knows what constitutes fairness.

THE MINING CLAIM PATENT SCAM

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. RAHALL. Mr. Speaker, on Monday evening the other body conducted a heated debate over a provision in the Interior Department appropriation measure that would place a 1-year moratorium on the issuance of patents for mining claims by the Bureau of Land Management. I would note that this provision was passed by the House as part of our version of the appropriation bill.

I would like to commend the distinguished Senator from Arkansas, the Honorable DALE BUMPERS, for his work on behalf of this provision. The simple fact of the matter is that today, in 1990, we are still giving away valuable Federal lands for a mere $2.50 or $5 an acre under the guise of a mining law enacted in 1872. This is an outrage.

Many of us in the House recognize that this practice of issuing patents, which represent fee simple title, to mining claims for what can only be described as fast food hamburger prices simply must no longer continue. The gentleman from Ohio, RALPH REGULA, sponsored the patent moratorium provision during committee consideration of the appropriation bill, and he is to be commended. This gentleman from West Virginia has also incorporated provisions to eliminate the patent in my legislation to reform the Mining Law of 1872. For his part, the distinguished Senator from Arkansas championed this moratorium provision during committee consideration of the appropriation bill in the other body. On Monday evening, he single-handedly fought to preserve his amendment. However, by a 2-vote margin the amendment was stricken.

During Monday's debate, I noticed that those opposed to the Senator from Arkansas spent a good deal of time bashing a report on this subject conducted by the U.S. General Accounting Office. The report was conducted at the request of this gentleman from West Virginia, the chairman of the Subcommittee on Mining and Natural Resources.

I would also note that one of these good and distinguished Senators inserted into the RECORD an analysis of the GAO report by the American Mining Congress. Now I would submit, Mr. Speaker, that this organization by its very nature is hardly not unbiased in its views on the Mining Law of 1872. I would further note that the GAO could hardly have de-

fended itself the other night on the floor of the other body, the Comptroller General of the United States, of course, not able to rise and defend the work of his organization during the debate.

I am going to urge the members of the House Appropriation Committee to seek to maintain this most important provision during conference with the other body. And so that the ramifications of this issue can be clearly and unemotionally understood, at this point I am inserting into the RECORD the testimony of the GAO before a hearing conducted by my subcommittee on September 6, 1990. The GAO may speak for itself on this matter.

HARDROCK MINING ON FEDERAL LANDS

(Statement of James Duffus III, Director, Natural Resources Management Issues, Resources, Community, and Economic Development Division)

Mr. Chairman and Members of the Subcommittee, we are pleased to be here today to discuss our work to date on various issues relating to the Mining Law of 1872 and provide our views on certain provisions of H.R. 3866, the "Mineral Exploration and Development Act of 1990."

Over the last 4 years GAO has reported on several aspects of the Mining Law of 1872 and its administration and has made a number of recommendations to the Congress and the federal land-managing agencies.[1] We have reported that the existing annual work requirement no longer ensures that mining claims are developed and that some claims are being used for nonmining activities. In order to promote mineral development and ensure that claims are available to legitimate miners, we have recommended that the Congress require claim holders to pay the federal government an annual holding fee in lieu of the existing annual work requirement. We also have reported that the Department of the Interior's bonding policy has not ensured that mining operations on its lands are reclaimed and recommended that it require some form of financial guarantees to help ensure reclamation. In addition, because we found that the mining law's patent provision has permitted valuable federal lands to pass into private ownership for a fraction of their value, we have recommended that the Congress eliminate patenting. This would make the Mining Law of 1872 more consistent with current national natural resource policies and preserve the government's opportunity to obtain revenues for minerals extracted from its lands.

In our view, H.R. 3866 would accomplish the intent of our recommendations that we have made to the Congress. The bill's requirement for graduated diligent development expenditures or graduated payments in lieu of development should encourage timely development of mineral resources and discourage unauthorized activities on federal lands. The bill's requirement for financial guarantee covering all mining operations that will cause significant surface disturbance should ensure reclamation of land scarred by mining operations. In addition, recent action taken by Interior's Bureau of Land Management (BLM) indicates that it is at least partially adopting our recommendation to require financial guarantees to help ensure reclamation. Finally, the bill will eliminate the patent provision thereby preventing lands from passing out of federal ownership and keeping open the opportunity for the government to obtain revenues for minerals extracted from its lands.

BACKGROUND

The Mining Law of 1872 was enacted to promote the exploration and development of mineral resources of federal lands. These lands cover approximately 688 million acres, primarily in the western Unitd States. The principal federal land-managing agencies—Interior's BLM and the Department of Agriculture's Forest Service—manage about 270 million and 191 million acres, respectively. This represents about 67 percent of all federally owned lands. Each agency is responsible for the surface management of mining-related activities on its lands.

Under the mining law, U.S. citizens and businesses can freely prospect for hardrock minerals[2] and uncommon varieties of mineral materials[3] on federal lands not specifically closed or withdrawn from mining. They can file claims with BLM (for a fee of $10 each), giving them the right to use the land covered by a claim for mining-related activities and the right to sell the minerals extracted without any monetary compensation to the federal government. To preserve the rights to their claims, claim holders must certify that they have annually performed at least $100 worth of drilling, excavating, or other development-related work (often referred to as the act's "diligence" or "annual work" requirement) for each claim.

While the mining law does not clearly specify which types of surface activities are authorized and which are not, the Surface Resources Act of 1955 restricted those activities to prospecting, mining, or processing operations and "uses reasonably incident thereto." The act, however, left to the federal land-managing agencies the task of determining what activities are reasonably incidental to mining.

Once mining activities are completed on BLM and Forest Service lands, these agencies must ensure that mine operators reclaim the land. Finally, if specific requirements are met, the mining law allows claim holders to obtain fee simple title[4] to both the land and the mineral rights by patenting the claims, depending on the type of claims, for either $2.50 or $5.00 an acre—amounts closely approximating the fair market value of western grazing and farm land in 1872.

THE MINING LAW'S NOMINAL ANNUAL WORK REQUIREMENT IS NOT ACHIEVING ITS OBJECTIVE

The purpose of the $100 annual work requirement is to encourage mineral development. However, in March 1989 we reported that this requirement no longer accomplishes this objective because the amount of work required is too small to promote mineral development and the annual work requirement is difficult to enforce and is often not met. While no hard data exist, BLM and Forest Service officials estimate that over 80 percent of the 1.2 million claims considered "active" are not being explored.

Because the mining law makes it relatively easy and inexpensive for claim holders to file and preserve the rights to their claims, some of the claims not being actively explored, developed, or mined are being used for unauthorized residences, nonmining commercial operations, illegal activities, or speculative activities not related to legitimate mining. In August 1990 we reported that agency officials estimate that of the over 662,000 mining claims in 3 States—Arizona, California, and Nevada—about 1,600 have known or suspected unauthorized activities occurring on them.

Unauthorized activities create a variety of problems, including blocked access to public land by fences and gates; safety hazards to those using the land, such as threats of physical violence; environmental eyesores caused by abandoned vehicles, dumped garbage, and road construction; environmental contamination caused by the unsafe storage of hazardous wastes; investment scams that defraud the public; and increased costs to reclaim damaged land or acquire land from claim holders intent on profiting from holding out for monetary compensation from parties wishing to use the land for other purposes.

One hundred and eighteen years ago, the $100 annual work requirements represented a sizeable annual investment—the equivalent to about 25 days labor. Today, $100 represents a nominal yearly expense—about an average day's work. To develop a claim today, the Office of Technology Assessment estimates that an average annual expenditure of several thousand dollars per acre is needed.

In March 1989, we recommended that the Congress amend the mining law to require claim holders to pay the federal government an annual holding fee in place of the existing annual work requirement. And in August 1990, we recommended that this annual holding fee be graduated over time. Among other things, we believe that if implemented, our recommendation should reduce the number of invalid, inactive, and abandoned claims and reduce the number of unauthorized activities occurring on them. This would, in turn, promote mineral development by making these claims available to legitimate miners.

H.R. 3866's provisions doubling the size of claims to 40 acres and requiring diligent development expenditures ranging from $800 to $6,400 per claim each year and, after 5 years, the option of making graduated annual payments ranging from $800 to $3,200 per claim in lieu of diligent development, would meet the intent of our recommendations. The bill also contains requirements that should facilitate enforcement and help promote legitimate mineral development.

SOME DAMAGE CAUSED BY HARDROCK MINING HAS NOT BEEN RECLAIMED

Not only do unauthorized activities scar the land, mining operations, by their very nature, disturb it and, if left unreclaimed, create environmental and public safety hazards. In an April 1988 report, we estimate that, as a result of hardrock mining operations in 11 western states, over 280,000 acres relating to abandoned, suspended, or unauthorized operations on federal lands needed reclamation at an estimated cost of $284 million.

The Forest Service requires financial guarantees to cover reclamation costs wherever significant disturbance is likely to occur. As we reported in August 1987, this

[1] See attachment I for a listing of recent GAO reports and testimony.

[2] Hardrock minerals include gold, silver, lead, iron, and copper.

[3] The Surface Resources Act of 1955 removed mineral materials, often referred to as common variety minerals, such as sand, stone, gravel, cinders, and clay from the coverage under the Mining Law of 1872. However, when these materials have properties that give them special and distinct value, they are considered uncommon and are subject to the mining law.

[4] Fee simple title acquiring all rights and interests associated with a property.

requirement was working effectively to ensure reclamation. BLM's land protection program, however, has been far less demanding. Although BLM could, it rarely required financial guarantees or bonds to ensure reclamation of mining operations involving more than 5 acres and its regulations did not permit it to require financial guarantees for operations involving 5 or fewer acres unless the operator had been cited for noncompliance in the past. Because of the costs involved in reclaiming mining sites, and the Forest Service's success in using financial guarantees to ensure reclamation, we recommended that BLM adopt a bonding policy, similar to the Forest Service policy, which requires operators to post financial guarantees if their operations, regardless of size, are likely to cause significant land disturbance.

On August 14, 1990, BLM issued a revised policy requiring bonding of all mining operations involving more than 5 acres as well as for all operations utilizing cyanide and all operators with established records of noncompliance. BLM's revised policy goes a long way toward meeting the intent of our earlier recommendation. However, it does not require financial guarantees to cover reclamation costs for the vast majority of mining operations—those involving 5 or fewer acres. In 1988, these operations comprised over 80 percent of new mining operations.

We still believe that BLM should adopt a bonding policy requiring operators to post financial guarantees if their operations regardless of size, are likely to cause significant surface disturbance, and support the provision in H.R. 3866 mandating that Interior require such guarantees.

THE MINING LAW'S PATENT PROVISION IS NOT CONSISTENT WITH CURRENT NATIONAL NATURAL RESOURCES POLICIES

Over the years, several federal laws have established policies that call for the federal government to maintain ownership of public lands and obtain fair market value or adequate compensation for the resources it controls. However, in March 1989, we reported that through the mining law's patent provision, the government has sold about 3.2 million acres of land for $2.50 or $5.00 an acre. We reviewed 20 patents issued since 1970 for which the government received less than $4,500 but which in 1988 were estimated to be worth between $13.8 million and $47.9 million.

Moreover, when federal lands pass into private ownership through patenting, the federal government also loses forever the opportunity to obtain revenues from hardrock minerals extracted from these lands. BLM and the Forest Service estimate that roughly $4 billion of hardrock minerals were extracted from federal lands in 1988. Although the government has never collected revenues from the sale of these minerals as it does for fuel and common variety minerals, we question whether the government should be precluded from doing so in the future. We have recommended that the Congress amend the Mining Law of 1872 to eliminate the patenting of both hardrock minerals and the land required to mine them. This change would permit the land to remain under federal ownership and provide the government the opportunity to collect revenues for the minerals extracted.

The mining law's patenting provision also applies to uncommon varieties of mineral materials. Our ongoing work, being done for this subcommittee, has shown that 780 acres of mining claims within the scenic Oregon Dunes National Recreation Area have passed into private ownership for a small fraction of their estimated value because they contain an uncommon variety of sand covered by the mining law's patent provision. We believe that this is another example of how the patent provision of the mining law runs counter to other national natural resource policies and legislation relating to federal stewardship.

Less than a year ago, the claim holder acquired the land from the government for $1,950. The Forest Service believes that the presence of private lands within the recreation area will limit its ability to manage adjoining federal lands and that the activities which may occur will be inconsistent with the scenic and other values that contribute to the public's enjoyment of the area. Thus, it is attempting to reacquire the patented lands through a land exchange. Such an exchange will require agreement on the value of the patented land. Preliminary estimates are that the value of the land could range from about $350,000 to possibly as much as $12 million.

H.R. 3866 proposes to eliminate the patent provision of the Mining Law of 1872 thereby retaining public lands in federal ownership. In addition, this bill would remove uncommon varieties of mineral materials from the mining law. Thus, lands containing materials such as sand, stone, gravel, cinders, and clay could no longer be claimed under the mining law and these materials would be sold to the highest bidder under the Materials Act of 1947. These provisions are consistent with our recommendations intended to ensure that the mining law be amended to conform with current federal laws and policies that call for the federal government to maintain ownership of public lands and obtain fair market value or adequate compensation for the resources it controls.

In conclusion, while our work has identified a number of problems with the mining law and its administration, we believe that the provisions of H.R. 3866 address the intent of the actions we have recommended and would well serve the nation's natural resource policy interests.

Mr. Chairman, this concludes my statement. We would be pleased to respond to any questions you or members of the Subcommittee may have.

MERCEDES RODRIGUEZ, MS. WHEELCHAIR AMERICA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to recognize Mercedes Rodriguez, Ms. Wheelchair America.

MERCEDES RODRIGUEZ, MS. WHEELCHAIR AMERICA 90/91

Mercedes has been a resident of Miami, Florida for twenty-five years. In 1984, she was involved in an alcohol-related auto accident in which her fiancee was driving intoxicated. As a result, she is a quadriplegic. One year later, Mercedes went back to college and has since completed here B.A. and is presently working on her Master's Degree in community counseling at Florida International University. Her ultimate goal is to work with individuals and their families dealing with trauma. In addition to her academic achievements, Mercedes has been active in several organizations. She was Vice President of PLUS IV (Physically Limited University Students). Her ability to speak Spanish has enabled her to raise over $40,000.00 for the Miami Project to cure paralysis from Miami's Hispanic Community. She is an honorary member of the special population advisory board and is very committed to M.A.D.D. (Mothers Against Driving Drunk). She has costarred in a public service announcement.

In 1989 Mercedes not only competed and won the title Miss Wheelchair Florida 89, but was also honored by the other contestants as Miss Congeniality. As Miss Wheelchair Florida 89/90 she represented our sunshine state in The National 1990 Ms. Wheelchair America Program, and won the title of Ms. Wheelchiar America 90/91. For all her accomplishments and outstanding commitments to serving the community, Mercedes has received a number of recognition awards. She was honored by the Mayors of Dade County and the City of Miami, Florida International University, Mothers Against Driving Drunk, as well as having been nominated for The State Victory Award by Governor Bob Martinez. She has spoken to various high schools, universities, support groups, churches and civic organizations. She has also appeared on a number of television shows (both English and Spanish), magazines, newspapers and radio. Because of her commitment to what the Miss Wheelchair Florida Program truly represents, she has raised well over $3,000.00. She would like to see more corporate sponsorship, as well as, individual involvement.

As Ms. Wheelchair America, Mercedes intends to speak throughout the country about disability awareness. She would like to educate the general public, business community and our nation's law-makers. Her goal is to change the misperceptions regarding persons who are physically challenged. She is looking forward to being invited as a guest on national television, radio and magazines. Together we will make a difference.

THE INTRODUCTION OF THE SMALL AND DISADVANTAGED BUSINESS FAIR SHARE ACT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mrs. COLLINS. Mr. Speaker, today I am introducing the Small and Disadvantaged Business Fair Share Act. The 1980's were years of prosperity for Fortune 500 companies. The decade was especially generous to major defense contractors. But the 1980's were not so kind to America's minority-owned businesses.

Our country's small, disadvantaged businesses [SDB's] have always struggled to return a profit and grow. Incremental progress had been made in the 1970's as SDB's expanded into new, contemporary fields, beyond the low-skilled service professions to which they were once relegated.

However, the 1980's were a period of great regression for SDB's. They simply did not get their proportional share of the pie. The Reagan administration offered no encouragement and even erected new barriers to SDB participation in Federal Government contract-

ing and subcontracting. Some of these impediments included emphasis on long track records and imposition of bonding and capitalization requirements, all of which favored older, more established firms. By and large, SDB's were not given serious consideration as prime contractors. Of equal importance, the administration was diffident toward the systematic exclusion of SDB's from subcontracting under Federal contracts. The Reagan administration had a similarly dismal record on enforcement of our Nation's equal employment opportunity laws. All in all, the Reagan era contracting policy seemed to disdainfully thumb its nose at minorities, forgetting that people of African, Hispanic, Native-American and Asian ancestry are Americans, too.

To remedy these obvious inequities, Congress passed into law Public Law 98-661, section 1207, the Department of Defense set-aside program. It was believed that section 1207 would compel greater SDB participation in the largest slice of Federal contracting. But instead, the noncompliance with section 1207 merely showcased the problems.

With the exception of a scattered handful of conferences in the past year, the DOD has made virtually no effort to outreach to SDB's, as reflected by their repeated protestations that there were few if any qualified SDB's ready, willing and able to contract with it. The 5-percent goal for contracting with SDB's resulted in a paltry 2.3-percent performance, most of which contracts were for janitorial and kitchen services. Little if any direction was given to non-SDB contractors to subcontract with SDB's, in direct contravention of Public Law 95-507, section 211, which directs Federal contractors to subcontract with SDB's to the maximum extent practicable. The total absence of any monitoring mechanism or recordkeeping further underscored the lack of support for these programs.

Something must be done to salvage these programs and rectify the problems. We cannot afford to rest idly, relying on the administration to take the initiative, which it has refused for years.

Consequently, today I am introducing the Small and Disadvantaged Business Fair Share Act. It addresses the situation by imposing a set of signposts which give the DOD and its prime contractors better direction in satisfying its legal requirements. At the same time, it provides greater accountability which will make it easier for the Department and Congress to monitor the results of the section 1207 set-aside and the section 211 subcontracting directive.

The bill has seven components. First, the DOD is directed to improve its efforts in outreaching to potential SDB contractors through business organizations and direct contracts. This could involve databases, registers and local government SDB offices.

Second, non-SDB contractors would have to prepare plans for achieving their SDB subcontracting goals in accordance with the requirements of section 211. The plans would have to aim for "* * * spending 10 percent of the total amount of the contract on subcontracting with * * *" SDB's. Proof of having actually subcontracted with SDB's must be provided by the contractor and, if the contractor is not in compliance, it may not be awarded any other defense contracts and it must provide DOD with information concerning its outreach efforts, why it chose not to subcontract with specific SDB's and what it plans to do in the upcoming year to bring itself in compliance.

Third, the section 1207 set-aside goal is raised from 5 percent to 10 percent. In the mid-1980's, despite the height of the Reagan administration's influence, the House of Representatives voted in favor of the 1207 Program having a 10 percent goal. It is time for the House to do so again, and, this time, for the Senate to join us. In a country where, by conservative estimates, at least 25 percent of the population is composed of minorities, it is a pathetic illusion of equality to assert that a 5 percent set-aside will actually help so many millions of people.

Fourth, although it is common with large contracts for the contractor to subcontract with a number of firms, section 1207 presently sets an arbitrary limit. Currently, 50 percent of the contract must be performed by the SDB contractor who was awarded the contract. That is simply unfeasible under certain situations, and it can actually function as an impediment to an SDB being awarded especially large and complex contracts. So, my bill would allow, as an alternative to the "50 Percent Rule", a "75 Percent Rule": that it is an acceptable performance of the contract when 75 percent of it is attributable to the contracting-SDB OR other SDB's. Thus, as long as 75 percent of the contract is performed by SDB's, the "50 Percent Rule" is deemed to be met. This also has the benefit of inviting more minority-owned businesses into the Government contracting arena.

Fifth, the "nonmanufacturer rule" presently says that an SDB contractor cannot participate under the 1207 Program for a supply or distribution contract when the product involved is not manufactured by an SDB. But some products—such as photocopiers, trucks and televisions—have no SDB producers. Thus, my bill would waive the "nonmanufacturer rule" in these cases.

Sixth, it has been well established that the 1207 Program is prohibited from having any adverse effect on various programs benefiting small businesses. Nonetheless, my bill includes language to statutorily ensure that small businesses shall be affected by the 1207 Program neither in the number of contracts nor in their dollar value. Furthermore, it encourages the DOD to create new contracting opportunities for small businesses and SDB's by dividing large contracts into smaller ones and generally avoiding consolidation.

Finally, my bill calls for a subtle expansion of the application of Equal Employment Opportunity requirements. Presently, a contractor must certify that it is in compliance with EEO requirements once it has been awarded a contract. Thus, EEO is enforced within that one company. However, if 10 other companies had submitted bids, those are 10 other companies in which conformity with EEO requirements are not enforced. My bill would impose EEO compliance as a condition for eligibility to bid on a contract, not simply to be awarded a contract.

In short, this bill is designed for enforcement. We were serious about our commitment to these concerns when we wrote them into our laws. Now we must take steps to eliminate the obstacles which prevent them from being effective. The section 211, section 1207 and EEO programs each need bolstering. The SDB Fair Share Act will make them work effectively, as Congress originally intended.

Mr. Speaker, I encourage my colleagues to support this bill and lend their cosponsorship.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 25, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 26

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.
345 Cannon Building

MARCH 5

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to

review legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.
345 Cannon Building

SENATE—*Thursday, October 25, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Come unto me, all ye that labour and are heavy laden, and I will give you rest. Take my yoke upon you, and learn of me; for I am meek and lowly in heart: and ye shall find rest unto your souls. For my yoke is easy, and my burden is light.—Matthew 11:28-30.

Loving Lord, help Your weary servants to be responsive to this gracious invitation. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 25, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BRYAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

CONGRESSIONAL ACTIONS RELATING TO WAR POWERS

Mr. MITCHELL. Mr. President, during the past few months, many Senators from both sides of the aisle have rightfully stressed the need for Congress to be involved in decisions that might lead to war.

They have spoken of the need to ensure that Congress plays its proper constitutional role in the context of the deployment of American troops to the Persian Gulf. Several have reminded the President that, as our Founding Fathers clearly set forth in the Constitution, it is Congress, and Congress alone, that has the power to declare war.

Some Senators have expressed their concern at what they regard as the President's lack of meaningful consultation with the Congress, while conveying their hope that the President will follow the letter of both the law and the U.S. Constitution in matters pertaining to the use of force.

I commend and appreciate the active involvement of several Members of this body, including Senators PELL, ADAMS, COHEN, KENNEDY, MOYNIHAN, SANFORD, HATFIELD, and NUNN, in raising many important issues regarding Congress' role in the gulf crisis. These Senators have made clear that Congress must be a part of the grave decisions that could lead to war. As the law and the Constitution make clear, these Senators are right.

As the Congress approaches adjournment sine die, Speaker FOLEY and I will be taking several steps to facilitate the exercise of Congress' constitutional authorities with respect to war powers. We intend to ensure that the concurrent adjournment resolution provides that, in consultation with Mr. MICHEL and Senator DOLE, we will be able to recall the Congress to Washington as necessary.

We also have decided to ask Members of the joint bipartisan leadership and the leaders of the House and Senate committees of jurisdiction to make themselves available as a group for regular consultation with the President. After Congress adjourns, this group would be available for consultation on developments in the Persian Gulf region. Presidential consultation with Congress is required by law under certain circumstances. We believe that regular consultation is necessary and useful, particularly given recent developments in the Persian Gulf.

The Members designated to be available for consultation are as follows: Speaker FOLEY, Majority Leader MITCHELL, Majority Leader GEPHARDT, President pro tempore BYRD, House Republican Leader MICHEL, Senate Republican Leader DOLE, Congressman FASCELL, Senator PELL, Congressman BROOMFIELD, Senator HELMS, Congressman ASPIN, Senator NUNN, Congressman DICKINSON, Senator WARNER, Congressman BEILENSON, Senator BOREN, Congressman HYDE, and Senator COHEN.

I encourage the President to consult on a regular basis with this bipartisan group, even as I recognize that such a representative group cannot substitute for the whole of Congress.

I firmly believe that such consultation is in the interest of the President, and, more importantly, in the interest of our Nation.

For if the United States is to remain strong and united, it must act on the basis of consensus—shared commitment and shared responsibility. If the President fails to ensure this consensus, he risks weakening himself and weakening the Nation.

This we simply cannot afford.

I hope and trust that President Bush will follow the law and the Constitution in ensuring that Congress plays its rightful role in the weighty decisions that could lead to war.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I inquire of the Chair as to whether all of the leader time of the distinguished Republican leader has already been reserved?

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes.

SPEECH OF SENATOR WALLOP

Mr. SYMMS. Mr. President, I would like to call the attention of my colleagues and those staffs who may be listening to an address that I think was a very powerful address that was given to the Senate yesterday by the senior Senator from Wyoming [Mr. WALLOP], a member of the Senate Armed Services Committee. It was a very thoughtful and thought-provoking statement.

I urge my colleagues to refer to the CONGRESSIONAL RECORD for Wednesday, October 24, No. 147, to look on page S16589 where the entire speech which was delivered on the floor by Senator WALLOP yesterday is printed in the RECORD.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I urge my colleagues in both parties to read this very thoughtful speech because I think it bodes well for all of us; and if a decision is not made soon with respect to our policies in the gulf, that we can have a very muddled and indecisive picture of what a America's goals are in that region of the world, which can be so critical, so dangerous to the young men and women that we have deployed in that part of the world.

I urge my colleagues to read these remarks and scan through them. I think we can all be better informed by the thoughtful, thought-provoking message that Senator WALLOP gave yesterday.

Mr. President, I yield the floor.

If there is no other Senator seeking recognition, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MASS TRANSIT EQUITY ACT OF 1990

Mr. BUMPERS. Mr. President, last week I introduced the Mass Transit Equity Act. This bill seeks to put the cost of mass transit on a more equal footing with the cost of private transit in terms of Federal procurement and tax policy. If enacted, this bill would give commuters a greater incentive to use mass transit in getting to and from work. It should involve little, if any, cost to the Federal Treasury. And it would be a significant step in helping to reduce air pollution and conserve energy.

Briefly, my bill would erase a glaring inequity in both Federal procurement policy and in the regulations of the Internal Revenue Service. In both cases, under the current Federal philosophy, the free parking that employers may provide to their employees is treated as a fringe benefit. On the other hand, if an employer pays for an employee's mass transit costs, in almost every case that is counted as taxable income to the employee, and is not allowable as a fringe benefit on a Federal contract.

Mr. President, this discriminatory and unwise policy mindset of the Federal Government runs counter to the whole thrust of our current energy and environmental policy. It encourages people to drive to work rather than take mass transit. If anything, Federal tax and contracting policy should be tilting toward mass transit and away from driving, not the other way around.

My bill does not tilt in favor of mass transit, and it does nothing to discourage driving per se. The option of driving to work is in no way penalized by this bill. Rather, it simply removes the bias against mass transit that is embedded in Federal tax and contracting policy.

Specifically, my bill would modify current Federal contracting policy so that employers would have the option of offering their employees a choice in the form of their parking fringe benefit where it is offered. If an employer offers free parking to its employees, my bill would give the employer the flexibility to offer each employee, as an alternative to free parking, bus tokens, subway farecards, and other forms of inkind mass transit privileges.

For now, my bill would limit the mass transit costs payable by an employer for an employee to no more than the parking costs which the employer would otherwise offer the employee. At some point later on, we may want to consider lifting this restriction if further incentives to use mass transit are necessary, but for now this limit seems appropriate. It should also ensure that there is no net cost to the Federal Government. We also may want to consider making it mandatory for the employer to offer this choice.

My bill also directs that mass transit costs be treated in the same way for purposes of the Internal Revenue Code. At present, the code allows employers to provide up to $14.99 per month per employee for mass transit costs and still be treated as a fringe benefit for tax purposes. If $15 or more is provided, the entire amount is treated as taxable income to the employee. Sad to say, even this small amount of fairness in the Tax Code does not come from any desire to provide equity for mass transit in the Tax Code. It simply represents a de minimis fringe, a level of benefit that the IRS considers too small to check up on.

I sought to attach the Federal contracting part of this bill to the fiscal year 1991 defense authorization bill, since the Pentagon is the largest contracting agency in the Federal Government. While Pentagon opposition prevented the full adoption of this provision, a reduced-scope version was accepted. It would have given the Secretary of Defense the choice of adopting this approach on defense contracts if he believed it is in accord with generally accepted cost principles.

Sadly, the Pentagon told the two authorization committees that this would be very expensive to monitor and they were opposed to it. I have a hard time believing that this would be more difficult to monitor than the many other fringe benefits that the Pentagon must monitor already. While the amendment was, therefore, dropped in conference, I am glad that language was included in the conference report directing the Defense Department to report on how this might be implemented. However, this is not enough, and that is one more reason why I am introducing this bill. I would hope that Secretary Cheney at a minimum would consider implementing the change that my amendment would have directed him to make.

I know there is little chance that this bill will be brought up before this session of Congress is adjourned. My hope when I introduced this bill last week was to stimulate interest in and discussion of this and other concrete approaches to conserve energy, fight pollution, and give people more freedom of choice. I encourage my colleagues, and others, to review this legislation and to feel free to make any suggestions. This remains my hope today. I plan to resubmit this legislation early in the 102d Congress and would welcome additional ideas from my colleagues.

In particular, I hope that the Finance and Government Operations Committees will give this measure serious consideration. I hope they will hold a hearing and solicit ideas for further steps that would provide greater equity between public transit and driving. There may well be even greater incentives that we should be offering to coax people out of their cars and into mass transit.

In closing, Mr. President, I would like to point out that when I offered my amendment on this subject to the Defense authorization bill in early August, it was just a few days before Saddam Hussein invaded Kuwait. The approach I am outlining here made sense then, pre-Kuwait, and it makes even more sense today in a world of $40 per barrel oil and dangerous dependence upon foreign sources. If we are serious about conserving energy and fighting air pollution, we should adopt the approach embodied in this bill. I ask my fellow Senators for their support of this effort.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THIS BILL MAY BE REFERRED TO AS THE "MASS TRANSIT EQUITY ACT OF 1990".

SECTION 2. PAYMENT OF MASS TRANSIT COSTS OF EMPLOYEES UNDER CERTAIN GOVERNMENT CONTRACTS.

(a) IN GENERAL.—No later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall modify the Federal Acquisition Regulation to provide that mass

transit costs incurred by contractor employees in commuting to a place of performance of a contract for a procurement described under section 6(a) (2) or (3) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a) (2) or (3)) shall be treated in the same manner as parking costs of contractor employees are treated under such contract.

(b) MASS TRANSIT COSTS.—The mass transit costs referred to under subsection (a) shall include the cost of transit tokens, farecards, or other access devices for an employee commuting on mass transit.

(c) LIMITATION.—The mass transit costs payable to or for an employee under any contract described under subsection (a) may not exceed the parking costs which would be payable to or for an employee under such contract.

(d) TAX TREATMENT OF MASS TRANSIT COSTS.—The mass transit costs described under subsection (a) shall be treated in the same manner as parking costs described under subsection (a) for purposes of the Internal Revenue Code of 1986.

A TRIBUTE TO MISS HORTENSE WOODSON

Mr. THURMOND. Mr. President, I rise today to pay tribute to the memory of a great South Carolina lady, Miss Hortense Caroline Woodson, who passed away recently. Miss Woodson was a woman of character, compassion, and courage, and a beloved citizen of my native county of Edgefield. Her friendship and support over the years meant a great deal to me personally, and I will miss her greatly, as will all who knew her.

"Miss Hortense," as she was affectionately called, was a well-known figure in Edgefield County. She was a distinguished scholar and historian, and the author of a number of books on South Carolina history, all of which centered on Edgefield.

She was also active in community affairs. She was the president of the Edgefield County Historical Society for over 25 years and was a member of the Daughters of the Confederacy. She was, in fact, a true daughter of the Confederacy—her father, Rev. Tucker Everett Woodson, was a veteran of the Civil War.

Miss Woodson was a devoted lifelong member of Edgefield First Baptist Church. She served for a number of years as church clerk, and was also the clerk of the Edgefield Baptist Asociation. One of her historical works is a complete and annotated recounting of all of the inscriptions at the historical Edgefield Baptist Cemetery.

Miss Woodson was renowned for her wit and hospitality. She was always prepared to regale her many visitors with historical anecdotes and stories of life in Edgefield. Her extensive library and encyclopedic memory were valuable tools for genealogists, and she often entertained out-of-State visitors in search of their Edgefield roots.

Her love of animals was as well known as her love of company. Pine Terrace, her family home, was also home to her many cats, which had free run of the lovely old house.

Miss Hortense was one of those kind souls who never had a bad word to say of anyone. In spite of her gentleness, however, she was an extremely strong person. When her beloved home was destroyed in a fire in 1983, she was naturally devastated by the loss of her many cherished family heirlooms. However, she persevered in her work despite the loss of her valuable books and documents in the flames.

For her many contributions, Miss Woodson was awarded the Order of the Palmetto, South Carolina's highest honor, by Gov. Richard Riley in 1983. She was a woman of great intellect, generosity, and talent; a loyal friend; a devoted and conscientious citizen; and a true Christian. Edgefield was immeasurably enriched by her life, and her passing leaves a void which cannot be filled.

Nancy and I would like to extend our deepest sympathy to her family and many friends at this difficult time.

Mr. President, I ask unanimous consent that an article from the Edgefield Citizen News be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AUTHOR, SCHOLAR, HISTORIAN MISS HORTENSE WOODSON DIES

(By Bettis C. Rainsford, Publisher, the Citizen News)

Miss Hortense Caroline Woodson, a prominent local historian, died in Edgefield on Saturday afternoon, October 20, 1990, at the age of 94. She had been in declining health for several years and her death was not unexpected. She passed on quietly in her room at the Plantation House on the Town Square where she had lived for most of the past decade. Her devoted companion, Ms. Norma Parrish, was at her side.

Widely known for her precise and prolific researches into the history of Edgefield County, "Miss Hortense" was a much-beloved citizen of the County. She was perhaps best known for having been President of the Edgefield County Historical Society for over twenty-five years. She was the undisputed best source for anyone seeking historical or genealogical information on Edgefield County or Edgefield County families.

Miss Hortense was the daughter of the Rev. Tucker Everett Woodson and Agatha Abney Woodson. She was born in Edgefield on July 7, 1896. Her mother's family, the Abney family, was one of the oldest families in the Old Edgefield District. Her maternal grandfather, Colonel Joseph Abney (1824-1870), was one of Edgefield's most prominent leaders. A veteran of both the Mexican War and the War Between the States, he had been at various times a teacher, journalist (Editor of the Edgefield Advertiser), and lawyer. During the period between 1845 and 1865 few issues surfaced in the District in which Colonel Abney did not play an important role and on which he did not exercise his oratorical skills. As a result of severe War experiences Colonel Abney returned to Edgefield a man of broken health and died prematurely in 1870 at the age of forty-four.

Miss Woodson's mother, Mrs. Agatha Woodson, inherited much of the patriotic fervor of her famous father. She was one of the organizers of the Old 96 Chapter of the Daughters of the American Revolution and she later served as Regent; she was State Historian of the D.A.R.; she served as president of the Edgefield Chapter of the United Daughters of the Confederacy; she was the founder, in 1939, of the Edgefield County Historical Society.

Miss Woodson's father, a native of Virginia with deep and aristocratic roots in that state, was a veteran of the War Between the States. Thus, Miss Hortense was a "real" Daughter of the Confederacy (one whose own father, rather than grandfather or great-grandfather, actually fought in the War Between the States). Miss Hortense was the last such "real" daughter of the Edgefield Chapter of the United Daughters of the Confederacy.

She was a lifelong member of the Edgefield First Baptist Church, or the "Edgefield Village Baptist Church," as she preferred to call it. Deeply devoted to her church, she served for a number of years as clerk of the church and was also clerk of the Edgefield Baptist Association.

Miss Woodson was the author of a number of important works of history, all of which relate to the history of Edgefield County. Her first significant publication was "Publish Glad Tidings, A Pageant Depicting the History of the Edgefield Baptist Church From Its Organization in 1823." This pageant was published in 1945 by the Edgefield County Historical Society. "The Spirit of Edgefield," a much-beloved song sung at all occasions of the Edgefield County Historical Society, was written at least as early as 1948. This song expressed the love and nostaliga which she felt for Edgefield County and was perhaps the creation of which she was most proud. The words of this song are reproduced on the editorial page of this newspaper.

"Peter Ouzts I and his Descendants," a genealogical work on the Ouzts family, was Miss Woodson's next book, completed in 1949. In 1950, "Giant In The Land, A Biography of William Bullein Johnson, First President of the Southern Baptist Convention," was published by the Broadmore Press. In 1956 Miss Woodson continued her genealogical work with the publication of "Charles May and his Descendants," a genealogy of the May and allied families.

"The Edgefield Baptist Association," a history of the Association, further expanded Miss Woodson's published work on the history of the Baptist Churches of Edgefield County. This important book was published on the occassion of the 150th anniversary of the Edgefield Baptist Association and included valuable histories of all of the individual churches in the Association which were contributed by various church historians.

One of the best contributions which Miss Hortense made to the study of County history was the book which she co-authored in 1958 with Mrs. Mamie Norris Tillman, "Inscriptions from the Edgefield Village Baptist Cemetery." This thorough compilation of all of the inscriptions at this historic cemetery, complete with annotations, is an invaluable tool to anyone working on any facet of Edgefield County history. Miss Woodson later updated and expanded this volume, but the expanded version was never reprinted.

In 1960, on the centennial of South Carolina's Secession from the Union and the beginning of the War Between the States, she published "Come out, Brave Men of Edge-

field," a booklet which contained, as part I, "Headlines from the Edgefield Advertiser November 1860-1865," a treatise by Faye Christie, and as parts II and III, "Secession and its Aftermath" and "Troops from Edgefield in Confederate Service," both compiled by Miss Woodson.

Miss Woodson is also known to have completed an unpublished manuscript on the history of the Palatinate settlers who arrived in South Carolina in 1765 and who settled up on the banks of Long Cane, Cuffeetown and Mountain Creeks. Many Edgefield County families, including the Stroms, Dorns, and Timmermans, are descended from these early pioneers. This manuscript was presumably lost in a 1983 fire.

Miss Hortense lived for most of her life at "Pine Terrace," her mother's home at the corner of Lynch and Church Streets, near the bridge where Church Street crosses Academy Branch. Here she was just across from her beloved Village Cemetery where so many of the people she studied about were laid to rest. She was also just down the street from the Edgefield Village Baptist Church where her religious convictions were anchored.

Pine Terrace was integrally interwoven with her life and personality. It was a two story house dating from early in this century. It had been added to on several occasions. At the front were two massive columns which were from the old Addison house, formerly located on the hill behind the Baptist Church. The grounds at Pine Terrace contained huge old trees which formed a canopy over the formal gardens of boxwood, azaleas and camellias. These gardens had not been tended in many years, thus giving an overgrown and musty, but inviting, appearance to the exterior of the home.

Inside, the Woodson home was somewhat dark, but comfortable and amazingly cheerful. It was a veritable archives with books and records on every facet of Edgefield history. Hardly a subject could be brought up that Miss Hortense could not get up, shuffle into the adjoining room, rumble about, and re-emerge with a document which verified or answered the question at hand.

Each room contained a number of family relics which were especially dear to Miss Hortense. Perhaps the most significant possession in the house was the portrait of her grandfather, Colonel Joseph Abney, which hung over the fireplace in the entry hall. This impressive portrait was painted by Scarborough, the famous Southern protraitist of the early nineteenth century.

Her home was also known for the large number of cats which inhabited the place. In her gentle and infinitely patient way, she gave these cats free run of the house. They were as likely to be found on the top shelf of the bookcase, or curled up amidst the tea service, as to be in their proper place. Whatever she had in the house to eat, the cats were sure to have first choice. Visitors were often taken aback at having to share space with the cats but Miss Hortense's disarming and soothing manner soon set matters straight.

Perhaps one of the most familiar sights in front of Miss Hortense's house were the out-of-state cars, indicating that Miss Hortense was once again generously dispensing time and information to travelers from afar who were searching for their Edgefield roots. Generous and hospitable to a fault, she loved having visitors and was totally oblivious to those domestic conditions in her home which might have worried a more particular housekeeper, but which were completely unnoticed by this devoted academic. Unlike many her age, she was a night person and often kept visitors spellbound into the evening long after normal visiting hours. Visitors could see that she was obviously enjoying their company and the subjects which they were discussing, and thus often relented when she objected to their leaving.

Miss Hortense's health began to fail in the early 1980's and she went to live at the Plantation House on the Town Square where she was well cared for by her cousins W.W. and Sue Padgett Mims. Remarkably, with the regular meals which she got here, her health improved and she was able to enjoy a number of additional happy years.

At the fall meeting of the Edgefield County Historical Society in 1983, Miss Hortense was honored with A Testimonial Celebration In Observance of the 21st Year of her Presidency of the Edgefield County Historical Society. This auspicious occasion was held at the Edgefield First Baptist Church and was attended by many of Miss Hortense's admirers. The Honorable Joe F. Anderson, Jr., now Federal Judge, then Member of the South Carolina House of Representatives, presided.

Letters of congratulations were presented from the following persons or organizations: President Ronald Reagan, Senator Strom Thurmond, Congressman Butler Derrick, Governor Richard Riley, Senator Thomas Moore, Representative Joe F. Anderson, Jr., and Edgefield County Council, and the Towns of Edgefield, Johnston and Trenton, the South Carolina Press Association, the Daughters of the American Revolution, the United Daughters of the Confederacy, the American Legion Auxiliary, the Women's Christian Temperance Union, the First Baptist Church, the Edgefield Baptist Association, the South Carolina Baptist Convention, the Southern Baptist Convention, the Baptist Missionary Society, the Baptist Historical Society, the South Carolina Department of Archives and History, and the South Caroliniana Society.

On this occasion Governor Richard Riley conferred upon Miss Hortense the Order of the Palmetto, South Carolina's most distinguished award. Federal Judge Clyde H. Hamilton, Edgefield native, was on hand to congratulate Miss Woodson. United States Senator Strom Thurmond, Edgefield's Tenth Governor and its 7th United States Senator, made the principal testimonial address: "Hortense Woodson, My Distinguished Friend." Miss Hortense had worked in Senator Thurmond's office for a number of years and thus was especially close to the Senator. A reception in the Church Fellowship Hall followed the Testimonial Meeting.

This occasion was a great one for Miss Hortense and it capped off her most useful career with the acknowledgements which she so well deserved.

Year 1983 was not to be a totally happy year for her, however. On December 6th of that year she suffered a tragic loss when her beloved home Pine Terrace went up in flames, taking with it a large number of her most cherished books, records and other possessions which had been accumulated over several lifetimes. Only a few items were saved and these were taken up to the Plantation House. It is not known whether any of the papers or books survive today.

While many would have been totally devastated by this tragic loss, it was characteristic of Miss Hortense that, after a period of deep grieving, she accepted the loss and continued to find meaning in her life. She had faced tremendous personal difficulties during the course of her long life, and had long since learned to deal with things which she could not change. She was deeply devoted to her God and Savior and had developed a spiritual strength which amazed even her closest admirers and friends.

Moreover, she was almost totally good, never having a bad word to say, nor a bad thought to think, about anyone. She thought only of the positive in those she knew and refused to acknowledge the negative. She worked in the service of her Lord. In short, she was a pluperfect Christian if ever one existed.

During the last two years, Miss Hortense began to become increasingly feeble. This July, for the first time in memory, she was not able to come out for her annual birthday party which had become an important annual event for her many friends. The party was therefore held at the Plantation House and many friends were saddened to see her feeble condition.

Thus, few were surprised last weekend when word began to circulate that Miss Hortense had passed on. A brave soldier, a toiling worker, a devoted friend, Hortense Woodson may be gone to another world, but her Spirit of Edgefield shall forever sing in the hearts of all who knew her.

THE URUGUAY ROUND

Mr. BAUCUS. Mr. President, I strongly oppose Senate Resolution 342 now on the Senate Calendar.

THE FAST TRACK

Resolution 342 is aimed at repealing what is known as the fast track.

The fast track is an arrangement under which the Congress agrees to vote up or down on a trade agreement negotiated by the administration without offering amendments.

In return, the administration agrees to consult closely with the Congress on objectives and strategy in the negotiations. The administration also agrees to allow the congressional committees of jurisdiction to draft the implementing legislation for the agreement.

The fast track is a thoughtfully crafted balance that allows the administration to negotiate trade agreements while preserving the rights of Congress.

With the fast track in place, the United States has negotiated a number of important trade agreements, including the Tokyo round of GATT agreements and the United States-Canada Free-Trade Agreement. I am confident that the vast majority of Americans would concede that these agreements have served the national interest.

But there can be little doubt that those trade agreements would not have been approved or even negotiated were it not for the fast track.

The fast track procedure is unique, because the problems confronted in trade agreement negotiations are unique.

Unlike arms control treaties or other treaties, trade agreements require literally thousands of concessions in return for thousands of benefits.

Though the overall balance of concessions and benefits will presumably be very much in the U.S. interest, particular concessions may well adversely impact discrete economic sectors.

No other type of international treaty is likely to effect such a wide array of special interests.

If amendments were possible, Members doubtlessly feel pressure to offer amendments to protect these special interests. Some of them may well pass.

If they do pass, other nations would certainly follow suit and protect their special interests.

Soon the entire trade agreement would be pulled apart by special interest concerns.

We do not have to look far into history to see this pattern being played out. When the U.S. Congress piled special interest tariff upon special interest tariff in the Smoot-Hawley Act, our trading partners quickly followed suit. As a result, the world trading system was nearly destroyed.

The purpose of the fast track is not to exclude these special interest concerns from congressional consideration.

But it does force the Congress to recognize the catering to special interest concerns will unravel a trade agreement.

The cases of special interests are still considered, but the Congress is forced to balance them against the national interest.

Trade negotiator after trade negotiator in both Democratic and Republican administrations have argued that without the fast track it would be impossible to even negotiate trade agreements.

In the words of our current chief trade negotiator, Ambassador Carla Hills: "The fast track is crucial to any credibility as a negotiator."

Other nations would have no reason to even negotiate with the United States unless there was a reasonable chance that such an agreement would be approved by Congress.

Certainly, the prospect of a Senate fillibuster or congressional amendments to the implementing legislation, would be enough to raise doubts in our trading partners' minds as to whether U.S. commitments would ever be implemented.

In sum, Senators should be under no illusion: Passage of this resolution would terminate the Uruguay round and possibly all international trade negotiations.

The resolution is a back-door attempt to end the Uruguay round.

THE URUGUAY ROUND

Mr. President, the sponsors of this legislation argue that repealing the fast track is necessary to protect several U.S. industries, including the textile industry. But these Senators have lost sight of the bigger picture. The United States is now negotiating with 100 other nations to conclude a new GATT agreement to further open international markets.

The United States has a great deal to gain by negotiating trade agreements to open markets and limit subsidies. Generally speaking, the United States maintains the most open market in the world and extends very few subsidies. If other nations can be convinced to follow our lead, new opportunities will be opened for U.S. business. In the Uruguay round, the United States is negotiating to lower trade barriers to United States exports of services and agricultural products, establish new rules to protect United States intellectual property, and to lower tariffs worldwide.

The United States is the world's leading exporter of agricultural products and services and the leading producer of intellectual property. All of these U.S. industries are likely to benefit if trade barriers are lowered.

Further, more than 100 U.S. businesses have strongly endorsed eliminating all tariffs in their particular sector, including paper and forest products, heavy machinery, and others. Lowering tariffs could increase U.S. exports by billions of dollars per year.

In fact, a recent study by the Stern Group concluded that a successful GATT agreement could boost U.S. GNP by $300 billion over the next 10 years. On the other hand, it concluded that an unsuccessful GATT round could cost the U.S. $100 billion. In sum, the United States has a great deal to gain from international trade negotiations. But the sponsors of the resolution are willing to sacrifice those potential gains to be sure they can protect a few isolated sectors.

CONCLUSION

Of course, Senators have every right to reserve judgment on the outcome of the Uruguay round until the negotiations are completed. Every Senator has the right to expect that the administration will consult with him or her during the negotiations. Further, Senators should expect that the eventual implementing legislation for the Uruguay round will be written by the congressional committee of jurisdiction, not the administration. And despite the comments of this resolution's supporters, no trade agreement will be approved unless it is supported by the majority of Senators.

I did not come to the floor to defend every administration action taken during recent trade negotiations. I believe that Ambassador Hills has worked harder on congressional consultations than her predecessors. But consultations require more than just listening. At some point, Senators do have the right to expect that their advice be taken. And I can assure the administration that if Senators feel the administration is not holding up its end of the fast track, the Senate will terminate the procedure. If nothing else, I hope the introduction of this resolution underlines that point.

However, this resolution is premature at this point. As chairman of the Senate International Trade Subcommittee of the Finance Committee, I can assure my colleagues that we will take a hard look at any agreement reached in the Uruguay round. In fact, it is possible that I may ultimately choose to oppose such an agreement. But this resolution would effectively kill the negotiations now. Our trading partners would be put on notice that the U.S. Congress would not approve a trade agreement—no matter what provisions it contained. There is no reason for us to make a rash decision. It is premature to make a judgment on this trade agreement before it is even negotiated. The fast track is a carefully balanced compromise. It gives the administration the tools it needs to negotiate, while preserving congressional authority.

I understand that some of my colleagues believe that the fast track process is being abused by the administration. But we should remember that the fast track has worked extremely well in past years. Before "we throw the baby out with the bathwater," let's give the administration another chance to work with Congress on making the fast track work.

I urge my colleagues to reject this resolution.

SENATOR JESSE HELMS

Mr. ARMSTRONG. Mr. President, it warmed my heart recently to read a tribute to our colleague, JESSE HELMS, by one of America's most respected journalists, James J. Kilpatrick. Mr. Kilpatrick put into words something we all know to be true: "I have met only a few men in public life of whom it could be said: These are men of principle. Among that small number is JESSE HELMS of North Carolina. * * *"

Mr. Kilpatrick is right. JESSE HELMS is one of the greatest Senators ever to serve in this body. He is a man of intellect and creativity, a person of gentle manner and friendly personality. But he is first and foremost, a man of principle, conviction, and conscience.

He is one of the most effective Senators of all time precisely because he is recognized by his colleagues for his principled stands on issues.

Mr. President, I call attention of my colleagues to Mr. Kilpatrick's thoughtful article, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Winston-Salem Journal, Oct. 22, 1990]

NORTH CAROLINA'S ADMIRABLE "NO" MAN SHOULD BE RE-ELECTED TO THE SENATE

(By James J. Kilpatrick)

WASHINGTON.—In the course of 50 years of newspapering, I have met only a few men in public life of whom it could be said: These are men of principle. Among that small number is Jesse Helms of North Carolina, who is now locked in the fight of his political life.

You will understand that I am not talking of conservative political principle only. I counted the late Hubert Humphrey among those whom I most admired in public life, and Hubert never drew a conservative breath. His principles were liberal principles, and he lived them all day long.

By contrast, some putative conservatives have had no deep-rooted principles at all. The names of Richard Nixon and George Bush come immediately to mind. It would be no problem to name others, on both sides of the political aisle, who blow as the fickle wind blows. Pragmatists abound in public office. Men of principle are hard to come by.

I first met Jesse Helms in the late 1960s, when he was vice president and editorial director of WRAL-TV in Raleigh. We were about of an age (he turned 69 last week), and some of his broadcasts read like some of my columns.

A reporter has no friends in public life—at least, one is not supposed to have friends in public life—but subject to that stricture, Jesse is my kind of senator. I like the guy. I like the principles and values he represents. What principles? Helms stands by the constitutional principle that the first obligation of Congress is to make the nation secure. If Congress has any other fundamental obligation, beyond maintaining the courts, I cannot recall Helms mentioning it.

Thus, Helms generally, but not always, supports outlays for national defense—the Strategic Defense Initiative, for example, and the Army's kinetic-energy satellite. But in a series of votes in August he supported the closing of unneeded military bases and he voted against a higher pay raise for the armed forces than the president had requested.

A second principle, dear to the senator's heart, is rooted in a conviction that government must pay its bills. He hates debt.

In recent months, if I am not mistaken, he has voted against every appropriation bill that has come to the floor. His dedication to frugality—to the idea that the federal government should not spend money it doesn't have—often has left him lonesome on the floor. In September he was one of only six pinch-pennies to vote against the treasury-postal bill; in October he was one of only eight against the housing bill. Helms says the bills spend too much. It's an entirely plausible position.

Helms' values are the old values. He is a family man who will observe his 48th wedding anniversary on Oct 31. His moral values find expression in his work as deacon of his church.

Lately the senator has been much in the news as a kind of archvillain determined to censor the work of artists. That undeserved reputation merits a word of clarification. Helms once was a city editor; later he served as a commentator dishing out opinions on television.

No man with such a background could favor "censorship" as the word is generally understood. Helms' objection is to forcing the taxpayers to pay for offensive junk through grants of public funds.

His opposition to such grants has brought him unceasing ridicule from the hot-tub crowd, but Helms is on solid ground. He is fighting against the rot that threatens the very fabric of American life, and in this battle he is far closer to the people than his contemptuous critics would have you believe.

Don't let me leave an impression that Helms walks on water. His vote for the textile-protection bill was pure domestic politics.

In most areas, he defends the privacy of the individual and opposes the compulsions of the state, but his adamant stand against abortion violates that important concept. I wish his sense of Christian charity were more generous than it often seems to be.

Helms' opponent in November is Harvey Gantt of Charlotte, who stands on most issues exactly 180 degrees across the political circle.

If Gantt should win—the race reportedly is dead even—he would go to Washington as a senatorial rookie. Helms would rank 14th in seniority in the chamber, sixth in seniority among Republicans.

I hope North Carolinians send Jesse back to the Senate. The chamber needs members with strong convictions and the courage to vote them.

When Helms votes "no," he probably is wiser than the senators voting "yes."

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1991

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of H.R. 5399, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5399) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1991, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Nickles Amendment No. 3146, to prohibit the transfer of mailing funds between different Senator's offices.

(2) Ford Modified Amendment No. 3147 (to Amendment No. 3146), in the nature of a substitute.

AMENDMENT NO. 3147, AS MODIFIED TO AMENDMENT NO. 3146

Mr. FORD. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. Amendment No. 3147 is the pending business.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. What is the time agreement, Mr. President?

The ACTING PRESIDENT pro tempore. Ten minutes evenly divided.

Mr. STEVENS. Is there a fixed time for voting?

The ACTING PRESIDENT pro tempore. At the expiration of the 10 minutes.

Mr. STEVENS. Parliamentary inquiry. It was my understanding last evening as we left that the vote would occur precisely at 10:40; is that incorrect?

The ACTING PRESIDENT pro tempore. It is the understanding of the Chair, as the Parliamentarian informs the Chair, that the time for voting was to occur upon the expiration of the 10 minutes.

Mr. STEVENS. I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time on the amendment?

Mr. STEVENS. Mr. President, who has time?

Mr. FORD. Mr. President, I guess I have the time, since it is my amendment, at least half of the time. How much time do I have left?

The ACTING PRESIDENT pro tempore. The Senator controls 5 minutes.

Mr. FORD. I will yield as much of that 5 minutes as the Senator from Alaska would like to take. I would like to reserve a minute.

Mr. STEVENS. Mr. President, I ask for a minute from the Senator from Kentucky.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized for 1 minute.

Mr. STEVENS. I support the amendment of the Senator from Kentucky because I feel it preserves the ability of Senators to transfer mailing funds to Senators who may be in need of additional funds.

I understand that transfer of moneys to other Senators in times of floods, hurricanes, earthquakes, et certera for mailings have taken place. I do think there are times when there are special needs in a State that ought to be recognized by a flexibility in the rules.

On the other hand, the amendment of the Senator from Kentucky prohibits the transfer of funds from any Senator to a Senator in the last year of an election cycle. I think that is fair.

Mr. FORD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. FORD. Mr. President, I yield myself 2 minutes.

The Senator from Oklahoma has placed the Rules Committee in some-

what of an uncomfortable position, but if this amendment passes, I certainly will inform those Senators that need help from whence it came. As chairman of the Rules Committee, I must approve each request for transfer.

Mr. President, to my knowledge, the authority to transfer has not been abused. The policy on transfer would normally be handled in a Senate resolution, rather than a statute. Members know that the Senate sets official mail policy through a resolution. If the ranking member and I saw abuses in transfers, we would propose changes in the Senate policy to correct them. The adoption of a Senate policy in resolution form is how the mail reforms in the Senate got started in 1986.

My amendment would diminish the ability of Members to use mass mail as part of an active political campaign. Transfers during an election year could provide funds for extra mass mailings, but my amendment would eliminate that.

We are going to have quarterly reports on transfers. We open our books to the public and let them see what is going on. The amendment, to which I have proposed a second-degree amendment, does not just pick and choose. It rules them all out.

What if a Senator has a problem and needs some help and there is the authority to make that transfer? As the Senator from Alaska has said, then we have the ability to do it. And it is not abused.

Let me say this, Mr. President: The House Members will not be permitted to make transfers between Members, but remember, their funding permits three districtwide mailings at first-class postal rates, while most Senators will be permitted less than one statewide mailing at third-class, which is only 15 cents. If Senators had funds to permit three statewide mailings, transfers would not be needed. So I hope that my colleagues will support my amendment.

I yield the floor.

Mr. REID. Will the Senator yield to the Senator from Navada?

Mr. FORD. I yield whatever time I have left.

The ACTING PRESIDENT pro tempore. The Senator has 1 minute 40 seconds.

Mr. REID. Mr. President, I think that most of us argue that we should not allow electioneering with mail. But a total ban on transfers of mail allowances among Members goes to far. I believe, as has been stated by the Senator from Alaska and the Senator from Kentucky, that there are legitimate purposes that can be served by such transfers.

My main purpose for standing, however, is to indicate to the Senators that this vote has little to do with saving money.

The Rules Committee has been very frugal in allowing transfers. Last year Senate mail cost were less than the appropriation. I am confident that we will also save money this coming year. This is not a vote to save money. I think the purpose of the language the Senator from Oklahoma has offered was to prevent electioneering. That is what this amendment does. It pins it down to the year that the election takes place. I feel that is appropriate.

I reserve the remainder of the time for the Senator from Kentucky.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise in opposition to the Ford second-degree amendment. With respect to Senator FORD and Senator STEVENS, we cosponsored several amendments, along with Senator REID, where we have made some improvements, I think, on mail practices over the years. In many cases this legislative branch bill has been the vehicle for some of the changes—I think they are positive changes—the result of which is we see the cost of mail going down.

But this is an additional change, and I believe the underlying amendment the Nickles amendment, needs to be enacted if we are going to make significant real mail reform. My amendment prohibits the transfer of mail between one Senator to another Senator. Right now it is allowed. Right now it is not disclosed. I heard Senator FORD mention it will be disclosed. We are going to have an amendment later that has been geared to provide for disclosure transfers. Now no one knows except members of the Rules Committee what transfers are taking place.

I am not alleging any abuses have taken place, but it is open for question. We do not allow Senators to transfer their office accounts or their unused salaries accounts. We do not allow Senators to transfer their travel accounts. I do not think we should allow Senators to transfer their mail accounts.

Senator FORD has a second-degree amendment that says we are going to prohibit it for someone who is running for election, or reelection, I guess, in the year they are running, the calendar year, so it begins on January 1. So you could not transfer for 9 or 10 months, maybe most of that year.

Mr. FORD. About 11 months.

Mr. NICKLES. About 10 months in which you could not transfer. You could transfer for the preceding year. We allow rollover. A Senator can roll over unused funds for himself. We allowed that for 1 year.

I do not think we should allow Senators to say, "Wait a minute, I have not used mine, so I am going to transfer it to another colleague and allow those people to continue mailings." To me that leaves a big gap. Frankly, if it is used to its full extent, we will not save near as much money. If a lot of transfers are used—we have 40-some Senators who do not mail very much. Why should their saving, their frugalness, be transferred to someone else and have that be spent? I do not think we should.

Again, we made some giant steps in this bill toward saving. We adopted a couple of amendments last night that are going to save $114 million. I think that is positive progress. We reduced the growth of this spending from about 12.5 percent to 6.5 percent. I believe that is positive.

We can make certain substantial, significant reform if we prohibit the transfer of mail from one Senator to another. I do not think this is being done very much. I do not think most Senators really want it to happen. I think we can clarify it will not happen. We do what the House is doing in this case and prohibit the transfer amongst Members.

I reserve the remainder of my time.

Mr. STEVENS. Mr. President, is there any time remaining on this side?

The ACTING PRESIDENT pro tempore. The Senator has 38 seconds remaining.

Mr. NICKLES. Mr. President, how much do I have?

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma has 1 minute, 51 seconds; the Senator from Kentucky has only 38 seconds.

Mr. REID. Mr. President, I will suggest the absence of a quorum with the time not running.

Mr. STEVENS. Mr. President, I prefer to use the 38 seconds if the Senator from Kentucky will allow me to do so.

Mr. President, I think the amendment of the Senator from Oklahoma misses the point. The two of us who are chairman and ranking member of the Rules Committee control this very closely. There has been no abuse. I do not think anyone can point to abuse. If it is a Democrat who seeks transfer of money, Senator FORD reviews it first and I concur or object, and vice versa. It is, I think, probably one of the most well-monitored systems we have.

But the real point I want to make is the Senator from Oklahoma last night said the justification for reducing the amount of money from the budget request, the request of the committee, from $35,000,000 down to $30,000,000 is that transfer was available in the event it was needed. Now the next amendment eliminates the power to make the transfer. Mr. President, you cannot have it both ways.

The ACTING PRESIDENT pro tempore. The Chair will inform the Senator from Kentucky that all time allocated under his control has expired.

The Senator from Oklahoma [Mr. NICKLES] has 1 minute and 51 seconds under his control.

Mr. NICKLES. Mr. President, very briefly. I think if we want to have politics as usual, we want to see the situation continue where people are able to transfer mail amongst Members, we can vote for Senator FORD's amendment. If we want to enact further mail reform, I think this is significant mail reform. I think it is important. This is a big incumbent advantage.

Frankly, we heard a little talk last night about election reform, campaign reform. I first introduced this, my colleagues might remember, when we were debating campaign reform because I thought taxpayers' financing of mailings was one of the areas where we really needed to make significant reform. It is one of the big incumbent advantages. Obviously, the incumbent can transfer only unused mail to other Members. That is certainly an advantage that I think taxpayers do not need to pay for. The average amount of mail for the bill we are looking at for 1991 is $300 million. That is an average of $300,000 per Member. A smaller State, such as Alaska, is significantly less. A larger State would be in excess of $1 million. If Senators decided not to use that, I think they should have that opportunity.

Mr. FORD. Mr. President, if the Senator will yield, it is not $300 million; it is only $30 million.

Mr. NICKLES. I stand corrected. The $30 million we allocated last night equals about $300,000 per Member. On an average, if a Member is frugal and decides not to use that mail, I think that we should have that go to savings instead of having it be transferred to other Members.

Mr. President, I yield the remainder of my time and ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the Ford amendment No. 3147 to the Nickles amendment No. 3146. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. MITCHELL. I announce that the Senator from California [Mr. CRANSTON], the Senator from Georgia [Mr. NUNN], the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

I also announce that the Senator from Oklahoma [Mr. BOREN], is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Mississippi [Mr. COCHRAN], the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 51, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—42

Adams	Dodd	Murkowski
Akaka	Ford	Packwood
Bentsen	Fowler	Pell
Bingaman	Gore	Pryor
Breaux	Heflin	Reid
Bryan	Hollings	Riegle
Bumpers	Inouye	Sanford
Burdick	Johnston	Sarbanes
Burns	Kennedy	Sasser
Byrd	Leahy	Shelby
Conrad	Lieberman	Simon
Daschle	Mikulski	Simpson
DeConcini	Mitchell	Stevens
Dixon	Moynihan	Wirth

NAYS—51

Armstrong	Graham	Lugar
Baucus	Gramm	Mack
Biden	Grassley	McCain
Bond	Harkin	McClure
Bradley	Hatch	McConnell
Chafee	Heinz	Metzenbaum
Coats	Helms	Nickles
Cohen	Humphrey	Pressler
D'Amato	Jeffords	Robb
Danforth	Kassebaum	Roth
Dole	Kasten	Rudman
Domenici	Kerrey	Specter
Durenberger	Kerry	Symms
Exon	Kohl	Thurmond
Garn	Lautenberg	Wallop
Glenn	Levin	Warner
Gorton	Lott	Wilson

NOT VOTING—7

Boren	Cranston	Rockefeller
Boschwitz	Hatfield	
Cochran	Nunn	

So the amendment (No. 3147), as modified, was rejected.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, what is the timeframe now?

The ACTING PRESIDENT pro tempore. There is no time agreement with respect to the underlying Nickles amendment.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, while the Senators are here, I would like to take 2 minutes.

Last evening, we cut $5 million from the account that was approved by the committee for mailing on the basis of the assertion of the Senator from Oklahoma that transfers were available in the event that anyone needed money. The Senator from Kentucky and I, as chairman and the ranking member, have approved some transfers in the past. They have been few. They are available for any Senator who wants to look at that file. They have not been disclosed.

The Senator's amendment comes along for full disclosure every 6 months. We have no problem with that. There are occasions in a Senator's life when he needs additional mail funds for hurricanes or earthquakes. My State has a lot of the later.

The real point of after having reduced the amount of money available. We require now flexibility and trust in the Rules Committee. This amendment says do not trust the Rules Committee.

We come here to the floor to ask for this kind of money because we, as a committee, cannot act on our own money. Every one of you comes to our committee for moneys to run your committee and we review it and that is public knowledge as to how we handle it. The only reason we are here on this is because the Senate has said—and we believe it is right—that the Rules Committee should come to the floor of the Senate for approval of the money in the legislative process. This amendment will decrease the flexibility.

That last amendment should not have been defeated, by the way, I will say to my colleagues again, because it would have cutoff our right to transfer in an election year. There were some requests this year for transfers for people who are up for reelection. Some money was turned back. They did not accept the transfers. As a practical matter, transfers provide flexibility that is absolutely necessary.

The bill before you will give the ability to mail not more than 1 mailing per year per constituent. When I first came here, we mailed 12 newsletters alone. This also contains the money for response to mail that comes in that you reply to on a first-class basis. Newsletters are sent out on a presorted basis whether you know it or not. It is very inexpensive compared to answering the direct mail when answered individually with first-class postage.

Mr. President, a vote to approve this amendment is a vote no confidence in the Rules Committee. I hope the Senate understands that. No one has come to this floor and said this has been abused. No one has come to this floor and pointed to one example of any Senator having more money than was absolutely necessary in the transfer process. It is high time to stop this nonsense of getting publicity by trying to show that we do not trust ourselves.

I challenge the author of the amendment to prove one instance where the Senator from Kentucky, as chairman, and I, as ranking member, of the Rules Committee have approved one transfer that was wrong.

The premise here is that there have been transfers in the past that were wrong. I say to you, that is not the case. We are perfectly willing to have full disclosure of our actions. I have never asked that they be kept secret.

They just were never required to be filed. As I said, any Senator can find out the transfers that have been made in the past.

We are perfectly willing to put them on the record along with everything else. A Senator should have the right to come to the Rules Committee and say I need more money for mail for a particular reason and here is the reason. And we should have the authority to approve it from the moneys that were not spent by other Senators who have not mailed during that year.

Mr. SPECTER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

I think it will be useful to have a brief colloquy.

Mr. NICKLES. Can we have order?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

AMENDMENT NO. 3146

Mr. SPECTER. Mr. President, I think it would be useful to have a brief colloquy discussion with the Senator from Oklahoma who is a proponent of this amendment so there will be no misunderstanding about the last vote.

In voting against the amendment proposed by the distinguished Senator from Kentucky [Mr. FORD], the import was to reject an amendment to limit transfers during an election year to set the stage for a vote on a broader limitation which would prohibit transfers at any time.

I would ask the distinguished Senator from Oklahoma if that is an accurate statement of the relationship between the Ford amendment and the Nickles amendment?

Mr. NICKLES. Mr. President, in response to my friend, Senator SPECTER, from Pennsylvania, he is exactly right. The Ford amendment, which was just defeated, would have prohibited transfers for about 10 months, the 10 months in the calendar year the person was a candidate.

The underlying amendment, the Nickles amendment, would prohibit transfers, period. Senators would not be able to transfer their unused mail account to other Senators, just like right now, you cannot transfer your office accounts, you cannot transfer your travel accounts, or not able to transfer other accounts. We would not be able to transfer mail accounts if and when the underlying Nickles amendment is agreed to.

Mr. SPECTER. Mr. President, I thank my colleague for that explanation. This is illustrative of many of the votes which we cast in this body which are complicated because if you pick up the RECORD only on the vote on the Ford amendment and see people voting no against an amendment to prohibit transfer of mailing funds during an election year, you would think that those who voted no oppose the idea of prohibiting transfers. But the reason for that vote is so that we can move to the Nickles amendment which has a broader prohibition to prohibit transfers at any time. I just wanted to make that comment.

Mr. NICKLES. Will the Senator yield?

The Senator from Pennyslvania and other Senators have asked me for a rollcall vote on my amendment.

To further clarify, does the Senator request a rollcall?

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. GORE). Is there a sufficient second?

This is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have a question for the Senator from Kentucky or the Senator from Alaska; either one can respond.

It seems that the way we are going here with this legislative branch appropriations bill is that we are basically doing away with the need for the Rules Committee. Maybe what we should do is really do some microlegislating. Maybe what we should do in this bill is legislate parking spots; maybe we could legislate where the offices should be; maybe the Rules Committee is becoming unnecessary since we are doing such a good job of legislating on this bill.

Will the Senator from Kentucky respond to that?

Mr. FORD. Mr. President, that is a difficult question, but we try awfully hard to accommodate every Senator. I would say that my good friend from Alaska and I have worked together for 4 years. The Senator and I have never had a cross word. We have tried innovative ways, and we have done our best never to say no to a Senator when we get a request in the Rules Committee. What you are doing is you are taking away flexibility. You are worried more about the image in the newspaper tomorrow than how this institution works. That is exactly what it is.

So if you do not want the Rules Committee to do these things, it is a lot easier to say no than it is to try to say yes.

Everyone in this Chamber has written or asked the Rules Committee for something and for some help and for some flexibility during the time I have been on the committee.

So we started down this road of saving money. We have saved good money. But you wait now. Under these circumstances, if you have a catastrophe, if you have a flood of letters—I received over 20,000 letters in 1 day in my office. Unusual, but I had to answer them, and I was not prepared materially or financially to handle that. Wait until that happens to you, and you say, "I need a little extra postage; I want to write a letter to my constituents."

Right now in Pennsylvania you will be able to mail once to 85 percent of the residences in your State. You will not be able to send one letter to every constituent in your State eligible to vote. And we cut 5 percent off that last night. You voted for that. You got a 2-percent cut; then a 5-percent cut. So when you need more you will not be able to transfer. That is what you have done to your ability to answer your constituents and to communicate with them.

Well, there are a lot of things going on. Everybody comes to the Rules Committee wanting another parking space, wanting a little extra effort to get people into the parking garage. We try to accommodate. Those are little things that occur.

I want to tell you if you are going to legislate what we do, it will make it a lot easier; so I just say "jump on."

Mr. STEVENS. Mr. President, will the Senator yield for one point.

Mr. FORD. I will be glad to yield the floor.

Mr. STEVENS. I am not going to prolong this debate, Mr. President. Someone said yesterday that we have a train looking for a track. There is one coming here, too. The real problem with this process in my opinion is no one knows for sure what we are really spending. They do not know that in this bill is another item that says you cannot use nonappropriated funds to pay for official expenses. However, we did agree to hold off that ban for 1 year. But it now means that even if you wanted to supplement this account with your own personal funds in order to send one newsletter to every constituent, once a year, you could not use personal funds. After a year you cannot use campaign funds anymore to supplement official mailing expenses.

We are now seeing a group paint themselves into a corner and turn and face the wall, with this amendment. More money is spent on computers to send information to people who have computers than I spend in sending a letter to people who do not even have telephones, let alone a computer.

You are changing the Senate. Some of you come from States that have one Congressman who will be mailing six times more, and you will be coming in to see us and asking us to find some way to allow you to send out information on what the Senate is doing. We are going to have to tell you no, we cannot approve transfers any longer.

You are going to come to us and ask for permission to use your own money to supplement some of these allowances, and we are going to have to read the law to you. The law is right here in this bill albeit a years ban. No

unappropriated funds can be used for official expenses any longer.

Now, I do not know what the public thinks in those States that live by telecommunications, inexpensive use of telephone, along with communications like faxes and computers, but I know there are a lot of people sitting out in villages in my State who would like to know what is really going on, Mr. President.

It is just too bad. It is too bad once again that for the image—I blame the people sitting up there in the Press Gallery. You are the people who have picked up on this stuff and let people think this is saving money. The result of this will cost the public more money than will be saved because you are going to use more of those expensive computers, more faxes. Every time you send me a fax, it costs a lot more than what it would cost to send one letter.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I would like to add to what my friend has related. By the reduction yesterday we cannot even complete maintenance. We have reduced maintenance on what we now have. We cannot even have money to repair and to replace and to improve and to keep up maintenance. So when equipment goes down, you want some help, we will remind you of the amount of money that you reduced here that was available to try to maintain, must maintain, what goes on. So we keep nibbling.

I think the Senator from Alaska was absolutely correct, that we have painted ourselves into a corner and turned and faced the wall. I yield the floor.

Mr. REID. Mr. President, I would ask those Senators in this Chamber and those who are listening to vote no on this amendment. I think, as the two Senators who run the Rules Committee had indicated, that a no vote really is the responsible thing to do, to let this body function as it has; that is, to let the Rules Committee determine what we are doing and not micromanage the minute things that should not be in a legislative bill. By voting yes on this amendment, you are actually repudiating the Rules Committee, the chairman of the Rules Committee, and the ranking member.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I rise to commend the Senator from Oklahoma for the amendments he has offered. Last night he offered an excellent amendment on reducing the expenditures of the legislative branch by a percentage that actually would result still in a 6.2-percent increase. I was proud to be a cosponsor of that amendment and vote for it. I think we have to set an example.

I would also say that I hope the other body reduces its mailing expenditures because, as we talk about the legislative appropriations, with these huge mailing costs it is very hard to justify what we are asking the rest of the Government to do.

If we are asking other agencies and other Americans to make cuts, Congress should make cuts. Indeed, even under the amendments by the Senator from Oklahoma, there is still a 6.2-percent increase.

I think that there is a great deal of unfairness in the way the other body does their newsletters and the amount of money that is spent there without reporting. I wish we could get at that with this legislation. Apparently we cannot. But it is something that Congress must do at this period of budgetary difficulty.

I commend the Senator from Oklahoma for his leadership.

Mr. REID. Will the Senator yield for a question?

Mr. PRESSLER. Yes, I will yield.

Mr. REID. The Senators should be advised, and the Members watching, that the House has included full disclosure and other significant reforms in this bill. I think that there has been a lot of headway made during the past year in what the House is doing. I just wanted basically to correct the Senator from South Dakota's implication that there is no significant reform in the bill that is before this body in the other body's mail procedures.

Mr. PRESSLER. I thank my friend very much. I am glad to hear that there is reform, if, indeed, there is. But the last 2 years at least I have observed the House—being a Senator from a State that has one Member of the House, I have observed the House Members mailing far more than a Senator in those sorts of States.

Mr. REID. They are still going to do that. But there has been significant reform. They have the ability to mail six times what we mail. That is, we can mail about 0.67 letters per household each year is the average, and they are going to be able to do about six times that. But it is a tremendous improvement over what they have done in the past.

Mr. PRESSLER. Maybe that is a step forward. I hope they reform to the point that we are trying to reform here this morning.

Mr. REID. It cuts in half what they have been able to do in the past.

Mr. PRESSLER. But they still do six times as much as we do.

Mr. REID. That is right.

Mr. FORD. Mr. President, will the Senator from South Dakota yield for another question.

Mr. PRESSLER. Yes, I will.

Mr. FORD. How many newsletters did you send out last year?

Mr. PRESSLER. This past year I think one or two.

Mr. FORD. I understood——

Mr. PRESSLER. It is not the usual custom to address the President of the Senate.

Mr. FORD. I have. I asked the President if you would yield and you did yield.

I asked you. And you said how many?

Mr. PRESSLER. One, I believe.

Mr. FORD. One. I believe, Mr. President, that he was the newsletter king last year, and I compliment the Senator from South Dakota being able to mail out that many newsletters under the limited resources that he had.

Mr. PRESSLER. Mr. President, that is not true. I mailed I believe one newsletter this past year. But in any event, I very strongly support this reform. I think that we as Senators can do a better job. I think we do need to cut our legislative appropriation, and I thank the Senator from Oklahoma for his leadership.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank Senator PRESSLER for his statement and also support and cosponsorship of the amendment last night.

I might say to my friend and colleague from Kentucky, I personally avoided using anyone's name, anybody's amount of transfers, anybody's usage of mail. That has not come from this Senator.

I am not here to attack anybody. I am here to see if we cannot make some significant mail reform. I think one of the mail reforms that we should make would be to prohibit transfers.

I will also say that I remember a couple years ago I was approached by one of my colleagues on my side of the aisle who said, "Hey, I am out of mail and you do not mail very much. You have some unexpended mail. Could I have some of it?" That left me kind of in an awkward position.

I thought no, I really do not want to. I would like to say if I do not use that money, it would actually go toward reducing the deficit instead of having it be used by somebody else. So that is part of the purpose of this amendment.

I think it is a big incumbent advantage to be able to transfer mail to other incumbents, and it is done within parties. I do not think it should be done. The House—and I compliment Senator REID; he is right—the House is really starting to make some reforms. We are going to have disclosure. All of my colleagues know, Senator REID certainly, we have worked on this issue for years.

I have been pushing for disclosure in both Houses. It has helped a lot in the Senate. I am sure it will help a lot in the House. The House does not have transfer of most incumbents' mail. I

think that is positive. We should not have it, either.

We have asked for the yeas and nays on the amendment primarily, I think, because some people voted against the Ford amendment. They did not want any ambiguity. They wanted to make sure people were aware of the fact they are against transference. That is the reason why the yeas and nays are ordered.

Mr. HUMPHREY. Mr. President, the amendment by the Senator from Oklahoma makes eminently good sense. It would prevent one Senator from transferring part of his unspent mail allocation to another Member of the Senate. I think this is a good idea. In fact, in a letter I sent to the Rules Committee on May 16, 1990, I urged them to adopt a similar proposal.

In fiscal year 1990, the U.S. Senate spent $16.4 million on mail expenses, almost $7.3 million less than the appropriation. I am pleased that the reforms which the Senate had the uncommon good sense to adopt last year, have helped to curb the use of the mass mailing account as yet another method of promoting Member's self-aggrandizement.

I am outraged, however, that the Appropriations Committee had the audacity to report a $35.5 million mailing appropriation for fiscal year 1990—more than double what was actually spent in fiscal year 1990.

The argument for this increase is that some Members do not have enough money to send out more than one statewide mailing. Let me remind my colleagues that the mail funds were originally intended to provide money for Members to correspond with their constituents. It was not meant to allow each Member to become an independent publishing company.

While I will not seek a cut in this funding request, I believe that it is about time that we prevent these funds from being used as an election tool. Currently, there are six Members of this body who receive in excess of $1 million per year in mailing allocations. If they so wished, one of these Members could transfer just a portion of their money to another Member who is up for reelection and thus double or triple that Member's available funding. We need to avoid such abuses.

Senator FORD has a second degree amendment to the Nickles amendment which will also restrict transfers. Senators, however, should consider the Ford amendment carefully. What the Ford amendment would do is prevent transfers to a Member who is a candidate for public office during the period beginning January 1 of the calendar year prior to the election.

In my State, an individual does not have to file for public office until June 15 of a given year. Under the Ford amendment, a Senator from my State who intends to file for reelection, could wait until the very end of the filing date and would be allowed to expend his mail allocation for 9 months into the fiscal year. Clearly, a Member could spend his entire allocation plus a pile of mail money from other Members, and still avoid the Ford amendment.

Mr. President, Members do not need mail transfers to correspond with their constituents. The money we provide for them in their allocation is sufficient for that purpose. If there were a Member in this body who did not have enough money to respond to constituent letters, even though he had not sent out any newsletters or town meeting notices, I would gladly have given them some of my own unspent mail allocation. However, such a Member does not exist. The bald purpose of this money is to act as a reelection tool. I urge my colleagues to defeat the Ford amendment and support the underlying Nickles proposal.

Mr. NICKLES. Mr. President, I ask my friend and colleague from Nevada, the chairman of the subcommittee; it is my understanding this is the last amendment that we have on this bill. We have a couple of technical amendments that we have agreed upon.

I also understand there is a request for the yeas and nays on final passage. I hope we can wrap this up in short order.

Mr. REID. As soon as this next rollcall vote is completed, I think we can follow that up.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. REID. Yes, I am happy to yield.

Mr. STEVENS. I do not think we are going to wrap this bill up so quickly. I believe, if we are going to have a disclosure of mail accounts, we ought to have full disclosure of our telephone accounts, full disclosure of our fax accounts, full disclosure of our travel accounts, full disclosure of every single account.

I feel sort of like a person that has been standing in a room full of people, approached by the doctor, and asked to take off his clothes. I am perfectly willing to do that. We have done that all through this period, for those of us who use mail.

But now let us start looking at the cost of computers. Several of the people who have spoken against the position I have taken have insisted that their computers be modernized in this current term. The cost of those computers far exceeds the cost of mailing. The cost of faxes far exceeds the cost of mailing.

I think it is high time that the Senate realize that this luxury of publicity for beating the postal costs over the head has to come to an end.

So I would like to have time to draft amendments so the Rules Committee will fully disclose every time we authorize each Member of the Senate to spend each month.

I will have such an amendment.

Mr. REID. The Senator from Nevada retains his time. I suggest a way to avoid this would be to vote to defeat this amendment.

I think, as I have indicated before, the responsible vote is one to support the Rules Committee. Senators FORD and STEVENS have been responsible. There is not one indication by anyone during the debate of this bill that they have not lived up to their responsibility and done an outstanding job.

I suggest to the Senate a way to avoid this controversy is to vote to defeat the Nickles amendment.

Mr. NICKLES. Mr. President, I ask unanimmous consent that Senator WILSON be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from the Oklahoma.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. MITCHELL. I announce that the Senator from California [Mr. CRANSTON] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

I also announce that the Senator from Oklahoma [Mr. BOREN] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Wisconsin [Mr. COCHRAN], and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

The PRESIDING OFFICER (Mr. ADAMS). Are there any Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—50

Armstrong	Gramm	Mack
Biden	Grassley	McCain
Bond	Harkin	McConnell
Bradley	Heflin	Metzenbaum
Burns	Heinz	Nickles
Chafee	Helms	Packwood
Coats	Hollings	Pressler
Cohen	Humphrey	Riegle
D'Amato	Jeffords	Robb
Danforth	Kassebaum	Roth
Dole	Kasten	Rudman
Durenberger	Kerrey	Simpson
Exon	Kerry	Specter
Garn	Kohl	Thurmond
Glenn	Lautenberg	Warner
Gorton	Levin	Wilson
Graham	Lugar	

NAYS—44

Adams	Byrd	Gore
Akaka	Conrad	Hatch
Baucus	Daschle	Inouye
Bentsen	DeConcini	Johnston
Bingaman	Dixon	Kennedy
Breaux	Dodd	Leahy
Bryan	Domenici	Lieberman
Bumpers	Ford	Lott
Burdick	Fowler	McClure

Mikulski	Reid	Simon
Mitchell	Rockefeller	Stevens
Moynihan	Sanford	Symms
Murkowski	Sarbanes	Wallop
Pell	Sasser	Wirth
Pryor	Shelby	

NOT VOTING—6

Boren	Cochran	Hatfield
Boschwitz	Cranston	Nunn

So, the amendment (No. 3146) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I yield to the Senator from Pennsylvania.

AMENDMENT NO. 3159

(Purpose: To strike administrative provisions relative to the Architect of the Capitol)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. NICKLES, proposes an amendment numbered 3159.

On page 34, strike line 1 through line 6 on page 35.

Mr. REID. Mr. President, this amendment has been cleared on the other side. This amendment strikes certain administrative provisions relative to pay schedules for the Office of the Architect of the Capitol.

Mr. NICKLES. Mr. President, I am happy to cosponsor the amendment, and there is no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3159) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3160

Mr. STEVENS. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 3160.

At the end of this bill add the following:

SEC. . The Rules Committee shall quarterly publish the costs of all equipment, services, and expenses incurred by each Senator.

Mr. STEVENS. Mr. President, this is a full disclosure amendment and it will provide the Senate with some guidance next year for what expenses the Senate is incurring. Each office in the Senate spends more money on faxes sent to its office than it spends in reporting to constituents at home. We have gone through several generations of computers, faxes, and new equipment at substantial costs. And each year we reduce the ability to use the one mechanism that is supported by all the people of the country, the postal system, which is the most efficient, least expensive means of communicating with our constituents. So we are going more and more to electronic mail, to telecommunications mail, and to all of the costs of all of the equipment that is associated with it.

As I said before, the Senate has just turned down a plea for some flexibility. And in terms of this bill, although most Senators do not realize it, again I state to you what it says is you will not be able to use personal funds or political funds to supplement any moneys made available for official expenses; official expenses can be paid only from official accounts. We just do not happen to appropriate money to go to the radio and television studio for instance, so that could close. Most Senators do not realize that yet but that is the net result of the interpretation that I have been given by the attorneys who work with me on the Rules Committee.

Again I tell the Senate, having been literally driven into this corner and turned and facing the wall, I want you to read the fine print on the wall. The fine print on the wall says if you are going to destroy the ability of those of us who have used the Postal Service most inexpensively to communicate with our constituents, you are going to do exactly the same thing and disclose how much money you are using for telecommunications, how much money you are using for computers, how much money you are using for electronic mail.

I want the public to know who has been spending this money. It has not been those of us from the rural areas that have been using mail. It has been the heavy increased cost of telecommunications and technological equipment that has driven the cost of the Senate off the graph.

We have been very patient, Mr. President, but this Senator has lost patience with those who seek publicity but still come to us almost daily asking for new equipment, new technology, new services. I think it is time for us to disclose that fully. This amendment wil do that.

Mr. NICKLES. Mr. President, I wish to compliment my friend and colleague, the Senator from Alaska. I think the disclosure amendment that he has offered is a good amendment. I will note, at least in my opinion, I think we disclose almost all office expense right now biannually. I believe his amendment would do it quarterly and maybe in a more detailed response than what we do right now at the present time. So I certainly have no objection to the amendment. I compliment him for it.

Mr. STEVENS. I want to correct the Senator. We do not disclose in detail the amount we spend for each Senator. We do publish all of the moneys we spend for the Senate. They do not show who has replaced a 6-month-old computer with a new generation computer. They do not show who is using faxes and who is not.

I think it is high time that we told the public who is spending money. I predict that a lot of constituents are going to say, "Wait a minute. Wait a minute. You mean you are spending more money to have your staffs report to you what is going on here at home than you spend on telling me what you are doing there in Washington?" That is what this amendment means.

Mr. DASCHLE. Would the Senator from Alaska yield?

Mr. STEVENS. I am happy to yield.

Mr. DASCHLE. I have a question on disclosure that perhaps the Senator from Alaska, as the ranking member of the Rules Committee, can answer. Are we now required to disclose the amount of auxiliary funds that we receive to augment our accounts; that is, the funds that come from private sources, political sources, and all of the other sources we have available to us to augment our mail? Is that now required to be disclosed?

Mr. STEVENS. I say, Mr. President, to the Senator that it is my understanding it is. But the change here now is that in 1 year you will not be able to use those funds to supplement official funds in paying for official expenses.

Mr. DASCHLE. I understand that. I was just asking about the current practice, and your answer is that under current practice disclosure is required.

Mr. STEVENS. I believe that its correct. I think disclosure is required. My memory is that I am the only Senator who has used office funds to supplement and pay for the cost of mailing this past year. We are only able to send one mailing. My memory is we did not have enough money to pay for the one and I did supplement it from funds from my official account.

Mr. DASCHLE. I thank the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, as I understood the question of the Senator from South Dakota, these alternate means of sending mail—as I understand it, they are not directly disclosed. You might be able to pick them up, for example, in a FEC report, pick them up that way. But as far it being

listed in something that would be filed by the Senate, it is not disclosed.

Mr. DASCHLE. If the Senator will yield, that was my understanding as well. But it is also my understanding that this legislation would prohibit any of those sources from being used in the future. Is that correct?

Mr. REID. That is true.

Mr. DASCHLE. So reporting requirements relating to augmenting mailing would probably not be necessary.

Mr. REID. That is true.

The amendment offered by the Senator from Alaska is accepted on this side, based upon the long commitment the Senator from Alaska has had to making sure that this institution runs properly. We accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

So the amendment (No. 3160) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. The ranking member and chairman of the subcommittee would indicate to the Senate at this time that we have completed our work. We now are ready for third reading, if, in fact, there are no other amendments to be offered this is the time.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 3161

Mr. WIRTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH], for himself, Mr. HEINZ, Mr. DASCHLE, Mr. GORE, and Mr. GRAHAM, proposes an amendment numbered 3161.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following section:

SEC. . Notwithstanding any provision of this Act requiring that a percentage of the funds appropriated by this Act be withheld from obligation, no funds appropriated for the Library of Congress shall be withheld from obligation. The amounts required to be withheld from obligation from the appropriations for any other agency or activity funded by this Act shall not be increased as a result of the provision in the preceding sentence.

Mr. WIRTH. Mr. President, the purpose of this amendment is to be sure if we are going to cut this appropriation we are not cutting libraries across the country, and are not cutting programs for the blind.

Let me state that again. The purpose of this amendment is to assure we are not cutting libraries across the country, and we are not cutting programs for the blind.

What this amendment does is say the Library of Congress, in the appropriations bill as reported by the subcommittee, is held harmless and that we will not take the Library of Congress cuts out of other appropriations. We are just removing the Library of Congress from consideration of the 5-percent cut.

Why do we do that, Mr. President? Over the last 6 years the Library of Congress has increased its appropriation at less than half the rate of inflation. This at the time that there has been a knowledge explosion in the country and we are asking the Library of Congress to be the repository for this knowledge. There has been this knowledge explosion in the country and, as the distinguished Librarian of Congress, Mr. Billington has said, the Library of Congress is becoming more and more just a warehouse because that material cannot be sent out across the country.

What is the Library trying to do about this? The first thing the Library is trying to do is put on line all of its cataloguing information on computer so it is made accessible to the 50 State library systems around the country and the libraries everywhere, to be truly accessible in a modern sense. If we cut the budget in the mindless way suggested by the vote taken last night for the Library of Congress, what we are doing is effectively stopping the process of making available by computer, by modern techniques, the vast storage warehouse of information that is available across the street right over here.

Are we going to have the Library of Congress enter the modern day and age or not?

Mr. Billington has done an absolutely fantastic job of moving the Library and getting it to become a living rather than a passive institution. He is in the middle of that transition right now and unless we accept this amendment his ability to take these steps is going to be cut off.

Living institution: No. 1, Mr. President.

Second, the Library of Congress is absolutely crucial to the budget of every library in every city, in every State in this Nation. The Library of Congress cataloging system is incredibly expensive. Go to any big city library, any university library and ask them what it costs to put a book on the shelf and they will tell you those costs have gone up astronomically. It is very expensive to do this.

One of the major expenses which is absorbed by the Library of Congress, and so does not have to be absorbed by the Oklahoma City Library, by the Dallas Public Library, by the Miami Public Library, by the Denver Public Library, by the Sioux Falls Public Library—one of the costs they do not have to absorb is the very expensive and complicated cost of cataloging. That is done by the Library of Congress. That is an essential service to keep these libraries which are already under enormous pressure in operation.

So a second purpose relates to the whole question of cataloging. In effect, what this is, is a revenue-sharing program with our States and cities. It is absolutely imperative to do.

The third thing this amendment does, Mr. President, is to assure that programs for the blind are maintained. Since the 1930's, Mr. President, the Library of Congress has embarked upon a very successful outreach program for the visually impaired in the United States. That program installs in people's houses and makes available to them the instructions on how to use all kinds of material for cassettes, various kinds of tapes, and other braille material for the visually impaired.

The Library of Congress is the central repository in the country and the central means in the country by which visually impaired Americans are able to receive materials. That is becoming, as well, increasingly a process that is electronic in nature. The use of computers, the use of videotape, video cassettes in people's homes, and having those cassettes put in people's homes, is done by the Library of Congress.

Material is mailed—more than 21 million items—by the Library of Congress to the visually impaired in this country. So a repository of information is made available to the visually impaired. This is not a static institution. It is, using electronics, an increasingly alive institution for the visually impaired.

I do not believe there are many Members of the Senate who are interested in cutting off the programs for the visually impaired. That makes no sense at all as far as I can see, Mr. President.

Finally, I have heard every Member of the U.S. Senate talk about education. I have heard every person in this body talk about the crisis of education in the United States. It is said we are lagging behind the Japanese, our kids are spending more time in front of a television set than they are in a classroom, our kids are less able to read now than they were a generation ago. For the first time in our Nation's history we are graduating a generation of young people from high school who are less able to read and write than were their parents. We have never had that happen before. You have heard all the arguments and so have I. We

have heard that discussion made over and over again.

In terms of dealing with the educational crisis, we have a number of institutions that we ought to be serious about. We ought to be serious about Head Start programs. We ought to be serious about access to higher education. We ought to be serious about science and technology. We ought to be serious about getting people to understand the humanities. We ought to be serious about libraries. Libraries are one of the most important areas we have to take care, work on, and to try to move on this educational crisis.

Mr. President, that is a fourth reason for supporting the Wirth-Heinz-Daschle-Gore amendment.

It is imperative we realize how extraordinarily important these libraries are and how extraordinarily important is the Library of Congress across the street. We proudly send our constituents over there and they look at that building and they know there are Stradivarius violins there and they know there is music there and they know most of the Civil War pictures and a lot of the research for that phenomenal PBS series came out of the photographs and records of the Library of Congress. We all know that, and we are all proud of the Library doing that job.

Do we know this effort is underway to make this Library a living mechanism for the country? That is one thing Mr. Billington has done, among many others, that have been absolutely terrific. Getting this Library on line for cities and States all across the country is imperative. Make it a living institution, is reason No. 1 for voting for this amendment. The second is the cost-sharing/revenue-sharing cataloging approach to this, which is absolutely imperative. We have to do that as well. If we support the Library of Congress we are actually supporting an institution and taking requirements off of local libraries.

We are making the job of local libraries, which are already hard pressed, easier than it is today.

Third, Mr. President, is programs for the blind. Again, the outreach from the Library of Congress for visually impaired Americans is absolutely imperative, and the Wirth-Heinz-Daschle amendment does exactly that. Twenty-one million pieces of material are going out to the blind every year from the Library of Congress. It is imperative that we continue that program.

Fourth, Mr. President, it is absolutely imperative that we continue to take steps on the educational crisis that we have in the United States. That educational crisis must be addressed in a whole variety of ways, and we certainly cannot do it by mindlessly cutting the budget of one of the most grand, most important, institutions for education in the United States.

I hope, Mr. President, that our colleagues will support the Wirth-Heinz-Daschle amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Does the Senator from Tennessee seek recognition?

Mr. GORE. Yes, but I am patient, if the chairman of the subcommittee wishes to go ahead.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I will make only a brief statement in support of this amendment. First of all, with respect to the blind, I have had some personal experience in my family by virtue of my close relationship to my mother's sister, Mrs. Thelma Clark, who is blind and has been since she was 14. I know from her experiences how important the role of the Library of Congress is to blind men and women, boys and girls, all over the United States. Indeed, it does not make a lot of sense to hamstring those particular programs.

Second, I would like to speak to the point about information infrastructure. Last night, the Senate passed legislation, which I had introduced, and for which I have been arguing for more than a decade now, to create information superhighways in the United States, digital libraries so that in the future, in the not very distant future, just a few short years from now, schoolchildren will be able to come home in the afternoon and, instead of playing Nintendo, Super Mario Brothers III, they can plug into the Library of Congress and learn through pictures and text, skipping from subject to subject as the curiosity of the moment guides them to explore new worlds of knowledge.

The Library of Congress has been a pioneer in pointing the way toward these new possibilities. The legislation we passed last night will accelerate that process. It would make very little sense to accelerate that process, and at the same time, hamstring the Library of Congress, which has been a pioneer and has played such an important role.

I had the pleasure and privilege of working closely with the American Library Association, and librarians from all over the United States in drafting those parts of the information superhighway bill that relate to digital libraries and the information infrastructure.

As a member of the Rules Committee, I have worked closely with the Library of Congress on these topics.

We think of infrastructure as including roads and bridges, water lines, sewer lines, concrete, brick and mortar. But in the information revolution and in the information economy of the future, we need to expand our definition of infrastructure to think and act in terms of the information infrastructure needed for the United States to compete more effectively for the jobs of the future.

We are rightly proud in this institution, of the Library of Congress which, from the earliest days of our Republic, has stood for excellence in information-gathering, storage, retrieval, and dissemination.

As these particular functions become increasingly important to economic success in the world, we should be paying relatively more attention to them, not less. So I think this amendment is a good one to restore some of the damage done in the unwise amendment of last evening, and I support it very strongly.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I rise in support of the amendment of the Senator from Colorado, and the remarks that the Senator from Tennessee just made. There is really hardly any institution that I think is more important for the legislative body than the Library of Congress. As the Senator from Tennessee, I serve on the Rules Committee. The distinguished Senator from Kentucky is here. We have a little insight of just how important it is.

Every office, every Senator's office here knows, and if the Senator does not know, their legislative assistants can tell them, their legislative correspondents can tell them, or their administrative assistants can tell them, how much we rely on that Library of Congress.

What do we rely on it for? We rely on it for information, to disseminate information to our constituents, to help us argue our case on whatever it may be; any issue that is brought up on this floor, we can get information that is valid, that has substance to it, and is available usually in a very short period of time.

So this is a really vital organ of the whole Government in all respects, not just the legislative branch.

Let me mention something else. We have seen in the Eastern European countries, in the burgeoning democracies, tremendous change. We have seen the elections. We have witnessed and participated in supporting some of those. One of the things that these newly elected members of these parliaments, the democratic reform movements, talk about is information. Talk to a member of the Supreme Soviet, or talk to a member of the Assembly in Bulgaria, Romania, or the Parliament, and they will ask us, "Where do you get your information?" The only place

they have to go is to the executive branch of government that tells them you cannot have it, or this is the only way it is.

That is the difference here. This Library of Congress is the premier information center and looked at throughout the world for a model of what legislators, as well as other government officials, not to mention the public, needs to have for it to make good judgments, and have information to assimilate into their lifestyle, into their work, and into their political judgments or economic judgments.

It is a tribute to our Library of Congress, that they have had so many requests from newly emerging democracies, not to mention some of the ones that have been around for a long time in Western Europe and other countries, to come and demonstrate how you set up this type of research and information center.

For us to do this is not only cutting off our nose here in this body, but it is really setting back one of the best information and research availabilities this world has. I know that is a big statement, but it is true. There is nothing that matches the Library of Congress in its capabilities to retrieve information, to be able to put together information, and to disseminate it.

Libraries throughout this country, universities throughout this country and their libraries use this on a daily basis.

I hope my colleagues will not be so foolish as to not support the Wirth amendment. It is a tribute to this Government of ours; as critical as we all are of it, as much as we need to cut funds from someplace, this is one place that it would be literally a tragedy to make any reductions. We ought to be adding money to the Library of Congress. It is so important to the well-being of this democracy, the United States of America.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, first, I ask unanimous consent to be listed as an original cosponsor of the amendment of the Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, last night I voted for the 5-percent reduction amendment for the following reasons: One, I believe it is important for this institution to lead by example. We are asking the American people, we are asking other units of Government, to operate with a higher level of frugality or contribution toward the national welfare, the welfare of reducing the Federal budget deficit.

If we are going to make that request of others, I think it is important we indicate we are prepared to make that same request of ourselves.

Second, Mr. President, I believe it is also important that we indicate we are prepared to set some priorities. Not all things that we currently do, are of equal value, and when it is necessary to begin to reduce our commitments, we should be sensitive to those relative priorities.

Priorities are the matter of each individual's value system; what do you think is the most valuable, relatively, of the activities in which we are engaged, and how will you apply those standards when you make judgments, necessary judgments of entrenchment.

I believe the Library of Congress is a national priority. It is not by accident, Mr. President, that the two buildings, which in the original design of the Capitol center, dominated this center, were the Capitol Building itself and the Library itself. It was not until 50-some years ago that, for instance, the Supreme Court Building was constructed, and became a major addition to the governmental architecture of the Capitol Hill.

The significance of the two dominant buidings, then the Capitol and the Library of Congress, is the linkage that our forefathers saw between knowledge and democracy. It was Thomas Jefferson who said that a society that thinks that it can be both ignorant and free, hopes for what never was and never will be.

This close relationship between an informed public and decisions made on reason, and the strength of our democratic system, is one of the characteristics, one of the hallmarks of our American system of Government. We are now extending that concept, a concept that is so ingrained in our national history and culture, that we almost take it for granted, of the linkage between knowledge and democracy around our Nation, as has been indicated, through outreach to literally hundreds of State and local libraries, colleges, universities, and increasingly around the world.

It is not surprising that one of the first things the newly emerging democracies of central Europe and the struggles within the Soviet Union itself have asked for help with from the United States has been in establishing an institution similar to our Library of Congress. They, too, are recognizing the fact that you cannot have an ignorant democracy.

Third, Mr. President, as to why this is a national priority, I had the opportunity for 8 years to participate in preparing budgets for a State government. In those budgets we recognized the fact that, for instance, in a State university system not all units of the system could be evaluated on the same economic principles.

One area that was particularly appropriate for special recognition was the university library system. A percentage increase that might be appropriate for the rest of the university or for other units of State government, was typically clearly inadequate for a university library system. Why? Because the items they purchase—books and other audio-visual materials and equipment, the whole array of matter which now makes up a library—tend to have a cost-increase-per-unit and a volume increase in terms of the number of items that a fully comprehensive library must have access to, that substantially exceed the normal percentage increases required to maintain a consistent level of service in other areas of a university or other areas of a State government.

I would suggest the same economic analysis is applicable here. If we are going to have the Library of Congress continue to be the major repository of knowledge, not only in this Nation but in the world, it will require the special attention to its needs which the amendment of the Senator from Colorado would provide.

Therefore, Mr. President, I believe in demonstrating our leadership, demonstrating our willingness to accept as an institution, some of the consequences that we are about to impose on the rest of America, we should also be prepared to lead by our ability to understand and set priorities, and clearly the Library of Congress is a national priority.

I urge adoption of the amendment of the Senator from Colorado.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I associate myself with the remarks of the Senator from Florida. He made the case as well as anybody can for the need of this amendment. I certainly commend the Senator from Colorado for his leadership in calling this to the attention of the Senate at a very important time.

This is what happens when we cut across the board, as we did last night, without any discretion as to where the priorities in our funding ought to lie. We talked a good deal this morning about the importance of the Library of Congress and its role here in Washington.

I cannot emphasize enough the critical role it plays in rural America.

As the Senator from Colorado points out, the Library of Congress has become an invaluable service and an opportunity for those who are handicapped, who are visually impaired, and who experience other difficulties.

As much as we have emphasized the role and accomplishments of the Library what concerns me the most about these cuts is the damage they will do to the future of the Library and ability to provide services we have come to expect.

I am told that the Library of Congress will have to say no when Members of Congress and other organizations calls upon it to provide the services it has always provided.

I am told, for example, that the music division has 6 million uncataloged items, including manuscripts of Gershwin, Berlin, Copeland, and Hammerstein. These manuscripts and documents require careful attention in preparing them for study and use, and for a permanent place in our country's musical heritage.

The manuscript division of the Library is a virtual "Who's Who" of America, including the papers of most of our Founding Fathers. Included in the manuscript division are the works of 23 Presidents, most of the Justices of the Supreme Court, major literary figures, American scientists, and records and documents of groups such as the women's suffrage movements.

In the manuscript division is the rough draft of the Declaration of Independence in Jefferson's own hand, with changes made by Ben Franklin and John Adams. Among the Lincoln papers are manuscripts in Lincoln's own hand of the Gettysburg Address, the Emancipation Proclamation, and his first inaugural address.

Fortunately, the Presidential papers are processed and available on microfilm to the Nation. There are more than 13 million manuscripts, however, that need to be processed in order for researchers in American history to have access to this wealth of primary research material.

Included in the manuscript division of the Library of Congress are incredible documents of history that otherwise might not be accessible to researchers. Access to these papers will be very important in the future. Also, there are 40,000 18th and 19th century pamphlets that document American and British political, economic, cultural, and religious history in the Library's rare book collection. This collection is unrivaled for completeness, but its usefulness has not been fully realized simply because, once again, the pamphlets are not cataloged.

The Law Library is the largest law library in the world with the largest foreign legal collection ever gathered in one place. In our shrinking world, knowledge of the laws of the other nations is absolutely essential.

We talk so much on the floor about competitiveness. How can we be competitive, if we do not have access to the laws of other countries? In some cases, I think it is fair to say, the Library of Congress is the only service that provides these laws today.

Yet the Library, because of insufficient resources, has over 100,000 uncataloged legal materials in Arabic, Japanese, Hebrew, and other foreign languages. This means that this knowledge is simply not available to law firms, to businesses, to organizations, and even to the Congress.

The Library's motion picture collection is another example of this problem. It is a national collection of an art form created by Americans. From Edison's early movies to today's productions, these films document a part of America that are available nowhere else.

Recordings, including those of the first President to speak on radio, the first radio broadcasts of World War II, and the entertainment programs that were so important to many of us in our young lives are in the Library of Congress.

There are 2.6 million motion picture and sound recordings, including the voices and faces of Babe Ruth, Presidents Hoover, Roosevelt, and Kennedy, waiting to be processed and made available to the American people and scholars.

We watched recently an incredible PBS series about the Civil War. Those who may have watched it may not be aware that the remarkable photographs and prints were made available through the Library of Congress. The prints and photographs now available in the Library's collection document our pictorial history, but there are 12 million photographs and other graphic materials awaiting processing and not yet available for use. How much more impressive would that series have been had we access to all the collections, including the 12 million that are not available today?

Whether it is music, literature, broadcast journalism, or the broad range of services that the Library of Congress has provided in the past, it frankly will not be possible to take full advantage of the Library's tremendous resources, unless we make it adequately funded.

Having the full benefit of the Library's resources is what this amendment is all about. It is an opportunity for us to say, yes, we do appreciate and we support enthusiastically what the Library of Congress provides, and we want it to continue providing these services. We understand that the only way the Library will continue as this valuable resource is to provide it with the resources to do so.

I yield the floor.

Mr. FORD. Mr. President, let me thank the distinguished Senator from Colorado for this amendment. I want to associate myself with his remarks, those of the Senator from Florida [Mr. GRAHAM] and the Senator from South Dakota [Mr. DASCHLE].

The Senator from Florida and I have something in common. We have prepared budgets for our States and we have prepared budgets for education. We have prepared budgets for highways. We have prepared budgets in all facets of State government, which is basically Federal Government on a smaller scale.

One of the most important things that we do is how we help the education of our children. We disseminate information to our people, and it comes through the Library of Congress.

But I want to point out one other thing, Mr. President. There was a great deal of work done by those who have put the legislative appropriations bill together. They worked hard. They will be under the budget allowance. They took care of a broad range of areas.

Apparently my colleagues were not listening last evening when the distinguished senior Senator from West Virginia, the President pro tempore of this body, said do not use a broadax. If you have something in this budget that you do not like, go before the committee and reduce that item. But do not use a broadax.

We used the broadax last evening. What did we do? We placed the Library of Congress in the position of doing less for our people. As you heard, it is the most magnificent operation of its kind in the world. We reduced its ability to help our children, to help our local libraries, to work with our universities.

So you come out here and you stand in the glare of the cameras, you work and scheme and prepare so the votes will look one way back home.

That vote last night that cut 5-percent across the board has resulted in this. The Senators have worked on this budget and did a good job, but it is never good enough for some. Then when they have to come out here and look at the camera and worry about what is going to be written in the paper tomorrow, they cringe. Then they vote as it is perceived, and then come to us and say, "Isn't there some way you can work this out to help me?"

Well, "helping me" is not going to bother me too much next year. But helping students, helping people to learn and understand will bother me, and does bother me.

So I say to those who would come out here and just say cut it across the board, that is the best way to do it. See what you have done. See what you have done.

Oh, I will be ridiculed for trying to hold the line. The ranking member of the Rules Committee will be ridiculed for trying to hold the line, and help the institution, help the students, and help the people in our local communities; give the Library an opportunity to open its doors. It may be the only institution of higher learning a lot of high school graduates will ever be able to go to. Yet we used the broadax last night, and cut it across the board.

I hope those who voted for the 5-percent across-the-board cut last night when they come up here to vote on this amendment—because they are going to vote—will say, "I made a little mistake last night. I should not have voted the 5-percent across the board. I did not mean to cut the libraries. I did not mean to hurt the universities. I did not mean to hurt those in the local communities who want information. I did not mean to do that."

You had better look at the whole vote. This is one you had better be very serious about, and try to rectify part of the mistake that was made last night and let us help our people back home.

Mr. President, I ask unanimous consent that I may be recognized as one of the original cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I thank my distinguished friend from Colorado. He is doing what is right. I hope that our colleagues in this Chamber will help him, that they will recognize that he is doing what is right, and that they will support him in this effort.

Mr. NICKLES. Mr. President, I might ask first, has the Senator from Colorado asked for the yeas and nays on the amendment?

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment.

Mr. NICKLES. I rise in opposition to the amendment. I do not know whether or not I will prevail. I guess the Senator from Colorado will prevail because the Library of Congress is very popular. We have heard very eloquent statements from many of my colleagues. I think it also shows the dilemma of trying to make some budget cuts. It is not easy. A lot of the programs that we try to make some reductions in are very popular. The Library of Congress is very popular as well. I admit that. I admit it performs a very valuable service to our entire country, and I am pleased to see that progress.

I have also seen the Librarian of Congress outside saying, "Do not cut me." That is exactly what this amendment says—do not cut me. Cut someplace else, but do not cut the Library of Congress.

I do not know that the Library of Congress should be exempt from any cuts whatsoever. We happen to have appropriated several million more than the House did. Usually, we compromise between the two figures. I might ask my friend from Colorado, does this mean we cannot split the difference in the House and Senate figures? The Senate is several million dollars above the House. Is that going to be prohibited if the Senator's amendment is passed?

Mr. WIRTH. The conferees, obviously, can do what the conferees decide to do. But I say, Mr. President, that splitting the difference avoids the issue altogether. The question before us is, are we interested in investing in libraries in the country and supporting programs for the blind, and are we interested in supporting institutions crucial to the education of our young? It is not a matter of splitting the difference. It is a matter of doing the right thing.

Mr. NICKLES. Mr. President, I appreciate the Senator's acknowledgment that the conferees can do what they want to do. I was reading this and trying to interpret it. I am going to read this amendment. It says no funds will be cut from the Library of Congress. Again, I know the Library of Congress is a very popular program. I happen to like it. It is one of the better programs we have in the legislative bill. It is a pretty significant portion of the legislative branch bill. The total for this year is $284 milion. That is, guessing, about 12 percent of our total bill. So it is a pretty significant part of the bill. It has a $31 million increase over last year. That is a pretty significant increase, about 12.27 percent.

Actually, under the amendment we passed last night, we have the flexibility in conference to figure out where to make those cuts. I tell my friend, since he is an experienced Member from the House as well, the House had a 2-percent across-the-board cut. Senator REID introduced 2 percent last night that passed. We were between 2 and 5 percent.

I know my good friend from Nevada has very fond affection for the Library of Congress. I also know my good friend from Oregon, Senator HATFIELD, has very fond affection for the Library of Congress. The Library of Congress is going to come out quite well in Congress. They are going to outdo most of the other agencies, and maybe they should. I am not disputing that.

My point is that the conferees have flexibility in determining where, and to what degree, and how much those cuts would be. To have an amendment on the floor that says, regardless, do not cut the Library of Congress, I think is irresponsible. I am going to vote against it. I will probably be in the minority. I am not asking my colleagues to do anything, to make difficult votes or whatever, but it points out sometimes the difficulty of making tough votes or the difficulty of making spending reductions.

We have had a lot of amendments on the floor of the Senate to increase spending. We have not had very many calling for cuts. When you talk about cuts, people act as if the sky is falling. I am looking at these increases for the Library of Congress, and they are substantial. CRS, which does a very good job, increases by 15.1 percent over last year. They end up having a $6.9 million increase. Library salaries, they go up to $183 million. That is a $21.8 million increase over last year, 13.4 percent. I am assuming that the employees are not going to get a 13.5-percent increase, so I guess they are going to employ a lot more people. They have 4,600. Maybe they need more. I am not sure.

That is a big increase, 13.54 percent. The top rate of salaries increases to $23.1 million. That is a $3 million increase over last year, 15.3-percent increase. The furniture account for the Library increases up to $5 million. That is double what it was last year, a 94.7-percent increase over last year. I also looked at what it was in 1986. It was less than $1 million. It was five times as much in 1986. That is a big increase for the salary contract.

If you add it all together—and again I am not going to take any more time of the Senate—I think this is very clear, that the total funds for the Library of Congress increased by $31 million over last year. It increases about $4.6 million over the House level. It is a 12-percent increase over what we appropriated last year, a 12.2-percent increase over last year.

I do not think we should agree to the amendment and say "do not cut here, do not cut me, look elsewhere." I personally would think that we would have more latitude to make some reductions, if called upon, and maybe they are not called upon. I think we should be looking at every area, and not exempt any, when reviewing this bill in conference.

Mr. FORD. Mr. President, I will take 1 minute.

The distinguished Senator from Oklahoma says it so distinctly, "They may need this, I do not know." Well, when he says, "They may need this, I do not know," it indicates he has not looked at the budget. He just states that "they may need this, I do not know." Yet, he offered the amendment last evening that cut across the board 5 percent. And I understand that they offered to take this amendment by a voice vote, if we would not have a rollcall vote.

I do not know the difference in accepting it without a rollcall vote and being against it with a rollcall vote. So, Mr. President, I just hope that we do not just say what the difference is between this year and last year. Why was it down last year? The emphasis might have to be in another place this year. You alter budgets from year to year. You do not buy everything every year in the same category at the same level. So there are a lot of essential positions in this amendment. I hope we will not cut back the blind and the disabled and the Library of Congress in their ability to serve the country.

Mr. NICKLES. Mr. President, I made a couple of comments. I said I

would agree to a voice vote. I am still willing to.

I understand the Senator from Colorado wants a recorded vote.

I would be against it by a voice vote and on a recorded vote. I think the Senator from Colorado is going to win. I do not know why he needs a rollcall vote. My position does not change.

The Senator from Kentucky said the Senator from Oklahoma does not know, I do know something about the rate of growth of Federal spending in this program. I do know about the rate of growth in Federal spending altogether. It is climbing at an enormous rate, and at some point we have to say it is growing too much.

It just so happens this entire bill was increasing. The Senator from Nevada knows they were asking for a 24-percent increase in the Library of Congress and almost all the other functions. They requested a 24-percent increase. The Senator from Nevada and the Senator from Oklahoma said that is too much. We cut them back to 12 percent. That is still over twice the rate of inflation.

I look at the rate of growth, even in the Library of Congress, and I note that the rate of growth in this year's bill compared to the last several years is three, four times the rate of growth. Most years, as the Senator from Colorado mentioned, they have not been increasing very much since 1985 or 1986.

I will give an example. In 1986 the salaries were $138 million. Under this bill, the salaries are $183 million. That is a $45 million increase from 1991 back to 1986; $21.8 million is this year. Half of the growth is in this year. This is the largest growth rate we have ever seen in this function.

It is not just the Library of Congress. It is really almost the episode throughout this bill. Again, we have the flexibility to make some changes in conference. My guess is that the Library of Congress will be well protected, but do I not think we should say "no cuts in the Library of Congress" as this amendment would do.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, so everyone knows this is an increase. But let me tell you how much of of an increase. For those in your offices and those on this Senate floor recognize that this $30 million is 17 parts per million, 0.00017 of the total Federal budget.

The Library of Congress, as has been so well described here, is a national treasure. And we in this country have to recognize that the security of this Nation, the defense of this Nation rests on more than things that explode. A secure, strong Nation also depends on people being able to have books to read, to be able to gather and retain information. That is what the Library of Congress is all about.

The Library of Congress is much like our Constitution. It has grown with the times. The Library started out with just books, now it has all kind of things that have been described here earlier today and as I described last night.

Mr. President, there has been a description here that the Library of Congress might be just a warehouse, or become a warehouse. No one has to worry about the future because that is really what it is, to a certain extent, right now because we have 38 million items in the Library's collections that remain uncatalogued and inaccessible. The Library has this material stored in warehouses, in boxes, some of them getting wet, some of them exposed to more subtle damage. These are valuable treasures.

The Library of Congress should not be just a warehouse. It should be more than a place where we have 38 million items, including manuscripts of music, documents relating to history of this country and so forth that have not yet been catalogued.

There, of course, is a significant increase in the budget for the Library in this bill. Why? Because the Library of Congress has been functioning with a 10 percent vacancy rate; 10 percent of the people that should be working there are not working there. This vacancy rate results from sequesters and other underfunding over the last several years. I talked about this last night. We are just trying to keep the Library from losing more ground.

We and our staffs rely heavily on the Library of Congress in so many different ways, through the Congressional Research Service which has the ability to call upon information from all over the world.

This country is in a competitive struggle of worldwide scope. We are competing for knowledge all around the world. One of the places that we have been paramount has been in our information gathering through the Library of Congress.

For example, we now have through the work of the Senator from Alaska, a great effort being made to maintain information from the country of Japan. That has been directly as a result of the effort of the Senator from Alaska. We are trying to maintain information from Japan so that we can compete with Japan. We need to be able to do that.

Mr. President, let us talk about the facility itself, the Library of Congress, something that was completed in 1887 by you know who? By the Corps of Engineers. That beautiful building over there was built by the Corps of Engineers for a little over $6 million. They did it quickly. It is one of the finest examples of neoclassical architecture in this country if not in this world. And it contains a magnificent series of murals, mosaic, sculpture, decorations that contribute to its notable position among American buildings.

As far as I am concerned, I love this building that we are in now. But that Library of Congress certainly is comparable to what we have here and of course what we are talking about here in today's debate is not what they feel they need but what the subcommittee and the committee approve. We did cut back, as the Senator from Oklahoma indicated. We cut back trying to meet the demands during this complex budgetary time we now find ourselves.

I mentioned this last night but I want to repeat it. I will bet there are not many Senators who have taken the tour that Senator HATFIELD and I took through that Library of Congress.

They became so cramped for space during the past couple of decades that in a couple of great Halls they simply moved in desks, put in fake ceilings, and had work stations installed—well over 1,000 of them. So when they came to renovate that facility they found beautiful treasures on the floor and on the ceilings and, Mr. President, what they have done there is remarkable.

I took the tour as did Senator HATFIELD with the lead architect. We hear in America today, that we do not have people that can do work. We do not have artisans, we do not have craftsman anymore. The architect said that what has been done in this Library of Congress rebuts that notion. The finest craftsman, the finest artisans in the world are working on that beautiful building over there.

They restored those beautiful marble floors. Mr. President, they have restored those floors but at the same time modernized them. They have buried underneath that marble that you cannot see all kinds of electrical conduiting that contains all of the cables for computers. You cannot see how they have done it under that floor, but they have done it.

I just think that the Senator from Colorado should be applauded publicly for recognizing that we should at least maintain what the committee has done with this Library of Congress. I think that we must recognize this as the Library of Congress, the Library of the people of this country.

We are recommending, as I indicated, an increase that is very, very small. The Library of Congress, as I have indicated, has in the past years been underfunded. We talked, as the Senator from Oklahoma did, about the large increase. Of course, the increase is sizable because they have been working with a 10-percent vacancy rate. What we tried to do is fill those vacancies so they do not have 38 million pieces that deal with important parts of the histo-

ry of this country lost in some library or destroyed in some warehouse.

The most single pressing problem for the Library is the explosion of uncataloged items. The Library is the intellectual heritage of our Nation. During the time I have served in this Congress I have worked with two of the Librarians Dr. Daniel Boorstin, clearly one of the great scholars we have had in this century. He is a prolific author. I invite everyone to read "The Discovered," a masterpiece that Dr. Boorstin the Librarian of Congress wrote.

Dr. Billington presently is one of the foremost scholars in the world on the Soviet Union. He is a person who gave up his academic career to come here. Why? Because he has a job that I believe is the most important job a scholar can have in this country—to be the leader of the Library of Congress, the institution that all scholars must come to, that all scholars must draw information from.

So, I recognize that the Library of Congress is central to the intellectural heritage of our Nation. The Library's manuscript collection has no peer as I said last night. We have in the Library of Congress manuscripts from Hammerstein, Aaron Copeland, Liszt, and, as I indicated last night, I was over there and I handled and saw an original manuscript of Mozart, the same piece of paper, signed by the great master himself.

So I think that we send a message to our educationally starved society, a society that has in our country fewer physics teachers than we have school districts. I think we send a message to our society that we do believe that education is important when we support the Library.

Could we not at least recognize the importance of education in casting our votes here. We have built and nurtured this Library for nearly two centuries. It is a monument to the people's enlightenment, a dedication to knowledge and freedom.

I ask that this amendment be adopted because we cannot continue to ignore the need to protect priceless collections. To fail to preserve priceless collections and to fail to add to the knowledge base of this country because of lack of resources is not only shortsighted, I believe it reflects tragically on our values.

I urge the adoption of this amendment.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. DODD). The Senator from Alaska.

Mr. STEVENS. Mr. President, will the Senator from Colorado yield for a question?

Mr. WIRTH. The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, I want to ask the Senator from Colorado if the impact of this amendment is to immunize the Library of Congress only and does not shift the cost of that immunization over to the other facilities and agencies covered by this bill.

Mr. WIRTH. If the Senator will yield, first, it does immunize the Library of Congress. It takes them out from the budget cut of the amendment agreed to last night. However, it does not switch those budget cuts on to all of the other accounts in the appropriations bill.

If the Senator might yield further, the numbers on this, the total amount in the appropriations bill is $2,187,000,000. The Library of Congress account is $284 million. So, therefore, the 5 percent cut would come out only on the remainder, which is $1,903,000,000.

Mr. STEVENS. I thank the Senator. I still do not believe in across-the-board cuts. I voted against the across-the-board cut and this is a good example of why. But the unfortunate part of it is this will immunize the Library of Congress; it still will apply to the Office of Technology Assessment which is the shared staff of the House and the Senate. By virtue of having that shared staff, dealing with technological questions, we do not have people hired by the committees in either the House or the Senate on a redundant basis but rely upon the Office of Technology Assessment to do that job.

We are not cutting individual committee staffs 5 percent but we are cutting our shared staff where we save money, 5 percent, and it is unfortunate. I understand this also applies to the GAO.

All I am saying Mr. President, is that I wish there were some way to exempt the very vital facilites of the Congress that do provide the mechanisms for savings from the cut in the name of savings.

Mr. WIRTH. Will the Senator yield?

Mr. STEVENS. I yield the floor.

Mr. SIMPSON. Mr. President, our Library of Congress has been a valuable resource since the infancy of the Republic. It was to a large degree the brainchild and legacy of Thomas Jefferson, who donated his own private collection for the purpose of establishing such a national library.

The Library of Congress has to grow and expand to continue to do its job right—information multiplies and methods of collection and storing have to be modernized. It is not right to hold them to the same fiscal cutbacks to which the rest of Congress is rightfully subjected.

Already the Library of Congress has almost 500 fewer employees than they had 50 years ago. The amendment passed last night could mean a further reduction of 60 employees when the Library is on the verge of going on-line to all 50 States.

The Congressional Research Service staff would have to be reduced by approximately 40 employees—and those are people on whom all of us in Congress depend.

The Library remains the single most important central source for informatin—not just for Congress, but for the Nation. It sets the standard by which all other libraries are compared—in this country, and throughout the world. This has vital ramifications for our citizens' level of education and wareness, and indeed our ability to be successful in an evermore competitive global economy.

One of the reasons this incredible facility functions so smoothly is the work of the Librarian Jim Billington. He truly is a splendid man doing a splendid job—erudite, brilliant, warm, witty—truly a force for education and no less a force for peace—fluent in Russian—a scholar in so many fields. This is an individual and an institution that is working beautifully, and we should not jerk the supports out from under him.

Mr. HEINZ. Mr. President, I rise in support of the amendment offered by the Senator from Colorado [Mr. WIRTH], Senator DASCHLE, and myself and do so for a number of reasons. But I want to point out that there are really two issues we have to focus on and be clear about here. The first is that when we talk about the Library of Congress, there may be some people listening to this debate, particularly now that we are on television, on C-SPAN, that think that this is maybe something like Congress' own reading room or library. It is not.

The Library of Congress is literally the largest public library, not just in this country, but in the world. It is a remarkable institution. It is our Nation's repository of knowledge. It is a resource to all the other great libraries, and to all the community libraries in our towns and cities in Pennsylvania and Connecticut and California which our citizens use and support so strongly.

So the Library of Congress is a national institution. It is supported by the Congress because it was Congress' desire and belief, inspired by Thomas Jefferson, that the Congress should have institutional responsibility to make sure that the best products of the minds of the world—starting of course with the minds of Americans, but necessarily, and now more than ever necessarily, encompassing the wisdom, the thinking, the critical analysis, the humor, the satire, and the insights of men and women—should be maintained for not just our generation but for many to come.

And we are engaged today in an information explosion. You can see it when you go to the newsstand. Remember what you used to see at a

newsstand 20 years ago? You might find a couple of dozen weekly or monthly magazines. Today, you can hardly see all the magazines, no matter how they arrange them. And in specific fields, there is not one magazine on computers or one magazine on the latest kinds of aircraft or one magazine on microbiology, there are literally dozens of magazines, where 10 or 20 years ago, there might have been none. That is just one example. In this day and age when a little microchip can make billions of decisions in a second. It is just one example of the information explosion that a library, and especially a library with the mission of the Library of Congress, is charged with meeting.

The Library of Congress, in addition to being what we commonly think of as a library, a place for the preservation and dissemination of knowledge, has other functions—they have been mentioned by the Senator from Colorado—the Congressional Research Service, a team of experts to look into issues without any partisan bias; the Copyright Office, the agency that processes the rights of authors to the work sometimes of a lifetime, something right now that is badly backlogged; and, of course, a very important and literally irreplaceable undertaking, the books for the blind and the physically handicapped that the Library of Congress produces for approximately 5 percent of all the blind and physically handicapped readers. Those missions would be affected with a big cutback.

The second thing that I think is important to focus on with respect to the Library of Congress is why this exemption from the 5-percent cut is appropriate and necessary. It is necessary because we did put into the legislative appropriations an across-the-board cut. Where else do we have an across-the-board cut?

Well, the obvious answer, we have under the Gramm-Rudman-Hollings budget procedure a sequester that cuts every program irrespective of merit across the board. And we have all recognized, as one of the authors—I forget whether it was PHIL GRAMM or WARREN RUDMAN—said, that that idea, while a bad idea, was an idea whose time had come. What they meant, what the whole purpose of Gramm-Rudman has been is to say that unless Congress does its job on setting priorities within an overall spending ceiling, as we are supposed to do under the Budget Act and as we have been so frustrated in attempting to do this year, then a sword of Damocles will fall on every program, every activity, save a few programs, whether they are good, indifferent or bad, will all receive exactly the same kind of painful treatment.

As I said, that idea was described by its authors as a bad idea whose time had come. It is totally illogical. It is without any justification to cut every program by exactly the same amount. And in the case of the Library of Congress, what the Senator from Colorado and I and others, I trust, are attempting to do—and I hope we succeed—is to make the judgments that the framers of the Constitution and the public that we represent ask us to make in the public interest.

If the preservation and dissemination of knowledge is not an item that should be accorded the priority I and others on the floor at this moment believe is appropriate, then I will be very, very sadly mistaken.

I believe the public has a great concern for education. I believe the public understands in this increasingly global international environment, whether political, whether economic, whether biological, our understanding of economics, of politics, of the way the planet works is now more than ever inextricably linked, bound together by our ability to comprehend what we do to ourselves and to each other. And nowhere can that be more deeply or directly touched than by the very institutions that are in the forefront of gathering, collating, disseminating, and making available to a tremendously diverse series of audiences, the latest and most important products of the human mind as well as all that has gone before.

So I think this amendment is modest. It does not amount to a lot of money. I will be the first to say we are talking about, in total, not much more than $15 million out of in excess of a $1 trillion budget. It is hard to get enough zeroes between the decimal point and the number that this represents, it is so tiny. But just because it is small, just because some people may consider one-thousandth of 1 percent or one ten-thousandth of 1 percent of the budget insignificant, nonetheless this particular issue has significance to every school child, to every worker who wants to improve his or herself and to our country if it is to maintain what little lead it has left in knowledge and in its application.

I hope my colleagues will join with the Senator from Colorado and the Senator from South Dakota and myself in supporting this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, it is with some emotion and thought that I rise to speak in behalf of the Library of Congress. My father was a member on the Joint Committee of the Library 70 years ago and it was the first subcommittee in which I came to serve on when I came to the Congress 30 years ago.

I have admired the Library of Congress over the years, particularly when we realize that the real strength, the real wealth of our Nation, comes not from our machines of construction or our weapons of destruction, but our real strength and wealth is from our body of knowledge—as is the case of any Nation. That is why in history many of us recall Athens, with her Socrates and Plato and Aristotle and all her great thinkers who have given the world so much knowledge. But, we do not think of Sparta which gave us very little but memory of her military force.

It is knowledge that made Athens survive through history and it is knowledge which, can keep us in the position we are.

Then, too, the Library of Congress, is truly the library's library. It is not just a library. It is a library that libraries throughout the country, both private libraries and public libraries, refer to and from which they take their leads.

For these reasons I am very glad to support the amendment of the Senator from Colorado.

I ask my name be added as a cosponsor.

I trust the amendment will be agreed to.

The PRESIDING OFFICER. The Senator's name will be added as a cosponsor, without objection.

Mr. WIRTH. Mr. President, I ask unanimous consent as well that Senator SARBANES be added as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, the last time I remember a major frontal attack on the Library of Congress was in 1975. The distinguished occupant of the Chair and I were freshmen Members of the House of Representatives and at that time there was a new building right across the street from the Cannon Office Building. It was to be the Madison Library. That is what it is now, but it was a shell at that point. It had not been filled out.

An effort was made to make that into a Ford House Office Building. The distinguished occupant of the Chair will remember a number of us who got elected for the first time in 1975 organized ourselves into a bloc and went to the Speaker and said we did not want that to happen and in fact were going to hold that up. I remember that happened about February or March of 1975.

We were brandnew Members of the House of Representatives. But everybody in that group was, as I am, I believe, an unabashed respecter and lover of libraries. We did not think that the Library of Congress building ought to be turned into another office building for the House of Representatives.

Neither do I think, today, Mr. President, we ought to take this kind of

mindless attack on the Library of Congress, this institution that is increasingly important not only for the knowledge base in this country but increasingly for our ability to compete around the world.

I mentioned earlier four major themes, Mr. President: the technology of getting this information out from the Library of Congress to libraries all around the country; second, effectively a revenue-sharing program, which is what the Library of Congress does in doing all of this cataloging, saving tens of millions of dollars for libraries around the country; third, the programs for the visually impaired and other handicapped individuals; and fourth, education—the importance of this in the education of our young.

A fifth element which I forgot in the process of putting together my remarks quite hurriedly this morning was our ability to compete around the world. We have a vast repository of technical and other knowledge and the Library of Congress is now organizing itself, as well, to make available to U.S. firms, U.S. companies who are competing around the world, that technical knowledge and legal knowledge, that other knowledge base being made available to our firms, our companies, as they are in this worldwide competitive involvement that we are so familiar with.

The Library of Congress is becoming an increasingly important element for the competitiveness of U.S. business and the U.S. economy. That should not be left out of this debate, Mr. President.

Let me for the record make a couple of comments on some of the arguments that were made earlier. There was an argument made that the budget has gone up. For example, the copyright budget has gone up. That argument was made. Let me tell my colleagues about the copyright budget. The copyright budget that was referred to in the opposition to this amendment, the copyright budget argument was taking the wrong line out of the budget.

There are fees that come into the Library of Congress for copyrights and the fees coming into the Library of Congress had increased—not the copyright staff budget—the fees coming into the Library of Congress, and those go into the General Treasury.

The suggestion is made we ought to leave the future of the Library of Congress to that kind of accounting? I think not.

The argument that was made about the furniture account sounds good, if you say it fast enough, does it not, Mr. President? The furniture account—we conjure up in our minds the idea of people sitting in overstuffed leather chairs or whatever in this very expensive furniture. What was the furniture account? Why did that increase? Because the main old building of the Library of Congress has been totally refurbished and returned to its original Victorian splendor. The furniture in this has all been redone. So it goes back and serves the thousands and thousands of tourists who go to the Library of Congress every year, who we proudly send over from our offices, who come from around the country to see that wonderful main building and main reading room at the Library of Congress; furniture indeed that is a restoration of our heritage. We ought to be proud of it, and we ought to support it.

The Library of Congress budget is up this year, and it should be. Why? Because over the last 6 years we have seen this pattern of, again I would use the words, "deliberately mindless cuts" in the Library of Congress budget just at the time when we are putting all of these demands on the Library of Congress.

This is a reflection of the misplaced priorities of the last decade altogether. Just as we put all these demands on the Library of Congress we have been chopping their budget dramatically. The Library of Congress budget has lagged behind by a factor of 100 percent. It is half the rate of inflation over the last 6 years. The gap is getting wider and wider. Not only they cannot keep up with explosion of knowledge and materials but the need to increase their technical capability also makes that gap bigger and bigger.

Even with all these demands, Mr. President, there are 10 percent fewer employees at the Library of Congress than there were 6 years ago. Ten percent fewer people to do the technology transfer, to become more competitive in the world environment, to meet the needs of other libraries all around the country, in this kind of revenue-sharing program.

Finally, Mr. President, I will stop with a discussion of this final program to meet the needs of the handicapped. This program is called the National Library Service for the Blind and Handicapped. This has been going, as I pointed out earlier, since 1931 to serve blind adults. Its mission was expanded in 1952, to include children, and in 1962, to provide music materials. In 1966, the program was further broadened to allow individuals with physical impairments, such as paralysis, missing arms and hands, lack of muscle coordination, or prolonged weakness to benefit from the use of the Library's materials in recorded form.

The Library's program offers some 70 magazines and more than 50,000 books on disk and in braille. Included are such diverse publications as the U.S. News & World Report, National Geographic, Sports Illustrated, Jack and Jill, and so on; gothic and romantic novels, books on travel and history, religion, as well as classics, best sellers, mysteries, biographies and how-to books, bringing that wonderful world of knowledge, Mr. President, to those who are visually and otherwise handicapped. Impaired individuals in our society are being mainstreamed into this wonderful source of knowledge that is the Library of Congress.

Appropriate playback material is also available, free to readers through cooperating libraries. Readers with very limited mobility, not just the visually impaired, but readers with very limited mobility, may request a remote control unit. Hearing-impaired readers may be eligible for an auxiliary amplifier for use with headphones, and a cassette machine, designed primarily for elderly persons, the newest equipment distributed.

This is the Library of Congress, reaching out across the globe, Mr. President, and increasing our competitive position, reaching to the visually impaired, and other individuals in need being mainstreamed into the source of information in our society; reaching into every one of our States, into every community through the card cataloging program and others, and reaching into every school in the United States through its contribution education, reaching into every home to provide the knowledge base for such wonderful contributions to this country as "The Civil War," that was on 10 days ago.

Mr. President, this is a magnificent institution. This is a magnificent institution that needs to be nurtured; it needs to be cared for. It does not need the kind of attack that we have seen in this mindless 5-percent across-the-board vote that occurred last night.

Mr. President, I ask unanimous consent that other materials related to the mission of the Library of Congress be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS

For nearly two centuries the Library of Congress has responded to its ever-broadening mandate of service to the Nation, to the Congress, to all our people in local communities, and to the world at large. Founded to meet the information and knowledge needs of Congress, the Library today constitutes a central knowledge base unique in the world, sharing its varied resources with local libraries and helping local communities build their own knowledge base, with substantial savings for the entire country as a consequence. The sharing of resources and of services is a continuing concern of the Library as it realizes the vision of a "library without walls," transformed by technology—the electronic storage, selection, and transmission of information.

What are the programs by which the Library serves the Nation? By cataloging distribution, exchange of cataloging information and bibliographic data, and sharing of information resources the Library saves the Nation's libraries an estimated $350 million each year. Its scope includes books, serials,

maps, music, films, and special formats. "Online" computer access enhances its availability.

In addition, the Library provides reader services to the blind and physically handicapped, engages in its surplus book donation, sponsors the inter-library loan program, selectively acquires foreign-language materials, and conducts its program of traveling exhibits, bringing its resources to the people. Through its State Centers for the Book as well as the State Reference and Referral program the Library fosters reading and research throughout the Nation. The Library enters the 21st century with expanding emphasis on resource sharing and resource accessibility in its unending quest for knowledge and information to meet the diverse needs of the Nation in a changing world.

The Library of Congress Thomas Jefferson Building, completed in 1897, is one of the grandest architectural monuments of nineteenth century America. Its sculpture and murals reflect our cultural ancestry. It is one of the finest examples of neoclassical architecture in the country. The building, which was built for $6,300,000, contains a magnificent series of murals, mosaics, and sculptural decorations that contribute to its notable position among American buildings. The U.S. government called upon a representative number of American painters and sculptors to help decorate this great public monument. In all, nearly 50 American painters and sculptors are represented in the building.

A public opening of the building brought thousands to view it and one enthusiast wrote the then Librarian of Congress to say "Not before I stand before the judgment seat of God do I expect ever to see it transcended." The Main Reading Room which dominates the building is no doubt one of the grandest library rooms in history. It symbolizes in many ways what the Library of Congress really is: open to the public, hospitable to scholars, zealous in its preservation of the nation's heritage.

After World War Two the building suffered from increasing crowding by the collections and staff. In 1984, Congress appropriated to the Architect of the Capitol $81.5 million for the renovation and restoration of the Jefferson Building and the John Adams Building. Our distinguished ranking minority member of the Appropriations Committee who is also a member of the Joint Committee on the Library was in the forefront of this effort. In addition to removing fire hazards and bringing the building up to present day safety codes and installing appropriate wiring for sophisticated technology, the funds were to restore and renew the Library of Congress Thomas Jefferson Building. I am happy to report that this project has reached the conclusion of the Phase I work. The newly restored Main Reading Room will open this spring. Artisans have been at work cleaning and restoring the art work which had suffered from lack of air conditioning and resultant grime. The effect of the restorations that have been completed is stunning. Nowhere in this country will you see more ornate and decorative murals and mosaics. The Jefferson Building will now be a source of pride for generations to come.

THE NATIONAL VALUE OF THE LIBRARY OF CONGRESS

Generally acknowledged throughout the nation and the world as the premier library facility, the Library of Congress has traditionally served as a beacon for other libraries and research facilities. Through its numerous programs, exhibits, reknown staff and consulting scholars, and of course, its collections, the Library remains worthy of its reputation.

Exhibits and Programs

As any visitor to Washington, D.C. knows, the Library of Congress is always on the agenda. Besides its architectural beauty, the Library and its annexes house both permanent and temporary exhibits reflecting the range of subjects the Congress and the nation care about. In recent years, the Library has encouraged the sharing of these resources with the nation by sending them to libraries throughout the country. These traveling exhibits enable citizens, educators and students, historians and scholars to review the treasures of the Library in their own home town.

To supplement many of these exhibits, and in some cases, separate from them, the Library has instituted numerous educational programs for students and educators, and has published many generally available study aids and historical volumes. For example, *To make all Laws* has received national attention and can be found in many bookstores. The Educators Institute brought teachers and librarians to Washington to learn firsthand about the workings of national government. The Council of Scholars, the Congressional Research Service, the Law Library are but a few examples of the scholarly thinking being conducted at the Library. The Mary Pickford Theater and the National Film Registry serve as integral parts of the Library's contribution to the continuation of American Film.

Sharing Information

The Cataloging Distribution Service provides to libraries across the nation access to the Library's catoging data. Under Project Rollup, through computer links, some libraries throughout the nation have gained access to several data base providing information on legislative bill status, bibliographic data, and copyright. Interlibrary loans and surplus book donations are services enjoyed by almost every state in the union. The *Read More About It* project has become an integral part of many television productions and is widely recognized as a valuable resource for students and teachers, and a credit to the Library's desire to enhance literacy throughout the nation.

The Library of Congress: Informing the People

The Library of Congress is the world's largest, most diverse library, accessible to the American people and to the world. Its collections total more than 90 million items in 460 languages. Included among its vast resources are the basic manuscript collections of 23 Presidents of the United States, and the papers of thousands of other figures who have shaped history; map and atlases that have aided explorers and navigators in charting both the world and outer space; the earliest motion pictures and examples of recorded sound; as well as the latest data bases and software packages.

Here may be found larger Hispanic-American and Arab collections than exist in Latin America or the Arab world. Here may be found the largest Chinese, Japanese, Korean, Russian, and Polish collections anywhere outside of those countries. And here, as well, may be found the world's largest collections of maps, documentary photographs, sheet music, and movies.

These collections have long been open to public inspection and use. Furthermore, the Library of Congress has for many years prepared and disseminated a multiplicity of topical bibliographies, as well as catalog cards—now available in electronic formats—apprising readers of the books, serials, and other publications in its holdings. Similar user guides have been developed for other materials within the Library. And, increasingly, certain items from the Library's collections—letters, diaries, photographs, books, and even some artifacts—have been displayed in exhibits produced by Library staff and located in the Library's Capitol Hill buildings.

To avail oneself of the Library's collections and offerings, until recently it was necessary to come to the source—to visit the Library to gain access to its collections. A slight break in this pattern came when Library exhibits were sent on tours around the nation, and then to locations beyond our borders. Within the past decade or so, however, new technologies have made it possible to reproduce significant portions of special collections. In this regard, the Library worked very had to adapt optical disk technology to its needs in preservation of materials and serving public patrons.

Furthermore, this technology has now been applied in a new dissemination system—*American Memory*—for sharing important materials from special collections with people across the nation and around the world. What will be shared are instructive and inspirational facsimiles of the unique record of the American experience—inventing a self-governing constitutional system and making democracy work in a large, modern society. Using optical disk and other advanced technologies, *American Memory* will bring to local libraries and perhaps school rooms such collections as out-of-print and obscure works of local history and genealogy, American folk songs recorded in the years of the Great Depression and World War II, and turn-of-the-century motion pictures. Thus, for the century ahead, through new outreach technologies, the Library of Congress seeks to serve an expanded public in the best interests of the nation.

Statement on the Library of Congress

In ten years, at the beginning of the next century, the Library of Congress will celebrate its bicentenary. In the same legislation which provided for the establishment of the national capital at Washington, Congress authorized the sum of $500 "for the purchase of such books as may be necessary for the use of Congress—and for putting up a suitable apartment for containing them therein." In the intervening years, the Library has expanded its mission and collections to meet the needs not just of Congress, but of a growing nation as well. It is today a uniquely American institution, serving as a great national library and center of scholarship, the administrator of Copyright law in the United States, the sponsor of distinguished programs of cultural events, and, of course, in its original role as a primary resource for the members and committees of Congress.

As national library, the Library of Congress developed and continues to expand its own classification system, adopted by most academic and special libraries. Its printed cards and machine readable tapes are in demand throughout the United States and represent great savings in time and administrative costs to libraries throughout the nation. The National Union Catalog assists in identifying holdings of more than 1200

North American libraries in a wide range of collections. The National Library Service for the Blind and Physically Handicapped has opened the doors to great literature to the handicapped through books and magazines in braille, and on sound recordings—services which are provided at no cost to the readers.

The Library's collections, which approach 90,000,000 items, including nearly 22,000,000 books and 36,000,000 manuscripts in 60 languages, have become an international magnet for scholars. They constitute an incomparable treasure in which are also included newspapers and periodicals, music, prints and photographs, sound recordings, motion pictures and radio and television programs.

The Copyright Office catalogs and protects the works of the Nation's creative community, including authors, composers, artists and film makers.

Over the years, the Library has also acquired the reputation as center for artistic and literary endeavor. The Poet Laureate-Consultant in Poetry, a position established by Congress, is associated with the Library. Music programs in the Coolidge Auditorium have had an enthusiastic nationwide audience for decades. Aaron Copeland's *Appalachian Spring*, one of the masterpieces of American music, received its first performance in the Coolidge. The American Folklife Center has preserved and popularized the cultural history of the American people. The Mary Pickford Theater presents regular programs from the Library's incomparable film collections. Exhibits of prints, posters, music, maps, drawings, and even political cartoons are mounted periodically in the Library's exhibition areas and often travel to libraries and museums across the nation.

The Congressional Research Service provides expert, unbiased, and nonpartisan information and analysis to the members of Congress, their staff, and committees, fulfilling Thomas Jefferson's prophecy that "there is, in fact, no subject to which a Member of Congress may not have occasion to refer."

The Library of Congress has a special relationship with the Congress which far transcends the original intent of its founders to establish a small reference library for use of the legislators. Congress established the Library. It authorized construction of its three buildings on Capitol Hill, including the magnificent Jefferson Building, which has been described as an artistic monument to human intellectual endeavor. Its passage of the Copyright Act made it possible for the Library to develop the world's largest collections. The Library is, in a real sense, the creation of Congress, and a monument to the vision of generations of Senators and Representatives.

THOMAS H. NEALE,
CRS-Government Division.
OCTOBER 24, 1990.

What the Library of Congress Does for the Blind and Physically Handicapped

Librarian of Congress James H. Billington has appropriately portrayed the institution he heads as an important bridge "between the world's most powerful democratic legislature and the world's most ambitious national educational system." One of the significant ways in which the Library fulfills that mission is through its National Library Service for the Blind and Handicapped (NLS/BPH). NLS/BPH was initially established by an act of Congress in 1931 to serve blind adults. It's mission was expanded in 1952 to include children and in 1962 to provide music materials. In 1966, the program was further broadened to allow individuals with physical impairments such as paralysis, missing arms or hands, lack of muscle coordination, or prolonged weakness, to benefit from the use Library's materials in recorded form.

Today, through the NLS/BPH and its 160 regional and subregional libraries, the Library circulates more than 20 million items—books and magazines in braille, an one discs and cassettes—to almost a million people each year. It also provides catalogues describing the contents of more than 50,000 titles in the collections; these are available in print, braille and recorded form.

The Library of Congress free reading program offers some seventy magazines and more than 50,000 books on disc and in braille. Included are such diverse publications as *U.S. News and World Report, National Geographic, Consumer Reports, Good Housekeeping, Sports Illustrated, Jack and Jill* and many other popular magazines which are selected on the basis of demonstrated reader interest. Also among the NLS/BPH collection are Gothic and romantic novels, books on travel, history, and religion, as well as classics, bestsellers, mysteries, biographies, and how-to books.

Appropriate playback equipment is also available free to readers through cooperating libraries. Readers with very limited mobility may request a remote-control unit; hearing-impaired readers may be eligible for an auxiliary amplifier for use with headphones. A cassette machine designed primarily for elderly persons is the newest equipment distributed.

Among the numerous creative efforts of the NLS/BPH recently have been the development of programs for including blind children in preschool story hours in public libraries and enrolling more senior citizens in Talking-Book programs.

Mr. WIRTH. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, my only regret is we do not have an opportunity to look at the other institutions, specifically, the General Accounting Office and the Office of Technology Assistance. I am satisfied, however, that we have done good work today. I am confident that this amendment of the Senator from Colorado will be approved. I certainly hope so.

Mr. President, it is my understanding there is no more debate on this amendment.

At this time, I ask unanimous consent that the amendment that now is being debated be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3162

(Purpose: To eliminate the increase in pay rates for the Public Printer and the Deputy Public Printer)

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator FORD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. FORD, proposes an amendment numbered 3162.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 49, strike out lines 16 through 22.

Mr. REID. Mr. President, this language strikes language in changing the classification of the Public Printer and Deputy Public Printer. This has been cleared on both sides. I ask it be agreed to.

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 3162) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, on behalf of the majority leader, I ask unanimous consent that the vote on the Wirth—among others—amendment occur at 2:45 p.m. today; that no other amendments be in order; that upon disposition of the Wirth amendment, the Senate proceeded to vote without any intervening motion or debate on final passage of H.R. 5399, the legislative branch appropriations bill; that no motion to recommit be in order; and that no points of order be waived by this agreement.

I also ask unanimous consent that my name be included on the Wirth amendment as original cosponsor.

The PRESIDING OFFICER. Is there objection?

Mr. WIRTH. Reserving the right to object. If the distinguished chairman might yield for a question, and I will not object.

Is it my understanding we now move on to debate on another piece of legislation, and we will then come back to the overall appropriations bill that the distinguished chairman has been managing, and the minute we move to that we will vote on the Wirth amendment?

There will not be other intervening debate time or amendments; is that correct?

Mr. REID. The Senator from Colorado is correct. We will vote at 2:45 on the Wirth amendment. Immediately following that, we will vote on the final passage of the legislative branch appropriations.

Mr. WIRTH. I withdraw my objection.

Mr. President, if I might, I ask unanimous consent that the Senator from South Dakota and Senator STEVENS be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I also state for the record that the unanimous-consent request just propounded has been cleared by the ranking member, Senator NICKLES. I also explained it to Senator SIMPSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent the distinguished junior Senator from New Mexico [Mr. BINGAMAN] be added as original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 2830

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may proceed at any time to the consideration of the conference report to accompany S. 2830, the farm bill; and that time for debate on adoption of the conference report be limited to 90 minutes, equally divided and controlled between Senators LEAHY and LUGAR, or their designees; and that the majority leader, after consultation with the Republican leader, be permitted to set the vote on the farm bill conference report at a later time today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, it is my hope that we will shortly be able to begin the debate on the conference report on the farm bill. We will then interrupt it for the votes that have now been scheduled with respect to the legislative appropriations bill, and we will return to complete the debate on the farm bill.

By that time, I will, following consultation with the Republican leader, be prepared to announce the time for the vote on this, and then we will, upon completion of the debate on the farm bill conference report proceed to other conference reports which require action immediately. So I thank my colleagues for their cooperation. I now yield the floor.

While awaiting the arrival of the managers of the farm bill conference report, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I ask unanimous consent to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Washington is recognized.

Mr. ADAMS. I thank the Chair.

(The remarks of Mr. ADAMS pertaining to the introduction of S. 3245 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRODUCT LIABILITY REFORM ACT

Mr. HEINZ. Mr. President, I ask unanimous consent that I be added as a cosponsor of S. 1400, the product liability reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I rise as a cosponsor of S. 1400, the Product Liability Reform Act, to urge its prompt consideration by the Senate. As many of our colleagues know, this legislation establishes uniform Federal rules for several areas of product liability law. I support this measure because I believe that its enactment is an essential part of an overall strategy to restore America's international competitive position, a position which is essential to pertaining and creating jobs and improving the standard of living of every American.

America confronts an economic crossroads where the choice of direction is critical. Critical because America's ability to make a difference in the world—our ability to promote our ideals and values—is directly dependent on America's economic strength. And that strength is being sapped.

Reforming the product liability system is one of the actions this country must take to compete. It is not the only one. Other elements include reducing our budget deficit, increasing the U.S. savings rate, rebuilding our transportation system, strengthening education and retraining, incentives to encourage long-term investment, and a more aggressive defense of U.S. interests in international trade.

Mr. President, one of the basic functions of government is to provide a regulatory system that is fair and predictable. The current product liability system is neither. As a result, Americans are paying a steep price.

A study conducted by Baylor University found that the current liability system cost the State of Texas alone over $8 billion and 79,000 jobs in 1 year. Multiply those figures across the breadth of this country, and you begin to understand the macroeconomic impact of the current liability system on America's economy.

Manufacturers, whose survival depends on narrow margins and, consequently, close control of costs, are confronted with one great unknowable cost: Their liability for legal claims against them. That uncertainty forces many companies to settle rather than litigate. For example, Mr. President, let me for a moment focus on a case that affected a corporation in my home State of Pennsylvania.

On December 31, 1986, 97 people died and hundreds were injured in a tragic fire at the Dupont Plaza and Hotel in San Juan, Puerto Rico, which was deliberately set by three arsonists who were disgruntled hotel employee union members. The ensuing litigation involved 2,400 plaintiffs and 286 defendants. A Pennsylvania company was sued because plaintiffs alleged that the glass in an interior wall fractured and allowed the fire to spread. The glass was installed in 1962 precisely as specified by the architect in an exterior wall. Subsequent renovations enclosed the area. Moreover, the temperature of fire reached 2,500 degrees Fahrenheit, and glass melts at 1,800 degrees Fahrenheit. The judge refused to dismiss any party prior to trial. Settlements have totaled over $200 million and this company recently settled for 14 times the original product installation cost.

Liability costs continue to climb because of what some describe as a litigation explosion. In 1980, there were 9,118 product liability lawsuits pending in Federal district courts. By the end of 1988, the number of pending product liability cases had risen to 32,617, an increase of 3½ times in 8 years.

This uncertainty stifles the innovativeness of American companies and robs us of our ability to compete efficiently in the international marketplace. While the U.S. struggles to maintain its competitive edge in every industrial sector, the unpredictability of the current product liability system, coupled with the other factors I mentioned earlier, is eroding the future of our domestic industries. It is for this simple but powerful reason that this legislation is important.

Let me provide another example. A Pittsburgh based manufacturer of mining and industrial equipment was found liable for a defective product when a lumberjack was crushed by a falling branch from a redwood tree that weighed in excess of 4,000 pounds. The Plaintiff was wearing one of this company's hard hats designed in accord with national standards to

protect against 40 foot-pounds of force to the top of the head. The resulting legal costs to this company were in excess of $500,000 and the company was eventually found liable for $670,000 in damages.

Mr. President, I'm not minimizing the tragedy of this accident, but there is little that any human or manmade product could have done to prevent this unfortunate accident. The hard hat at issue cost $10. If you make the obviously false assumption that it costs nothing to produce one of these $10 hard hats, this company which sells 1,000,000 hard hats a year would have to produce and sell 117,000 hard hats, or 12 percent of its yearly output and probably all of its annual profit, just to recoup the costs of this one liability suit.

By the year 1992, our trading partners in the European Economic Community [EEC], adding to their other advantages in international commerce, plan to implement a directive creating uniform product liability laws. Currently, U.S. manufacturers, unlike their international competitors, face a chaotic patchwork of 50 different product liability laws which vary tremendously from State to State. The irony is apparent. There will be less uniformity between Pennsylvania and Ohio in the United States than between the sovereign nations of Italy and the United Kingdom.

In terms of our competitive position, foreign manufacturers do not face the unpredictability and expense of the product liability system in their home countries. According to the U.S. Department of Commerce, some U.S. manufacturers face liability costs 200 times greater than those of their foreign competitors. The effect of growing insurance premiums and increased litigation expenses is incorporated in every product made in this country for sale here or abroad. Not so with goods produced overseas. On average, foreign manufacturers spend 20 to 50 times less on product liability insurance than do U.S. manufacturers.

There is no better example of this then the U.S. aviation industry which is experiencing its most severe recession in industry history. In 1979, the U.S. domestic aviation industry produced and shipped over 17,000 aircraft. In 1987, it shipped only 1,085; a decrease of over 90 percent. The difference is not attributable to a decrease in demand, for German manufacturers have almost completely made up for the decrease in U.S. production. Rather, product liability now accounts for the single largest cost in the manufacture of a new piston engine aircraft. In 1986, the Piper Aircraft Co. of Florida paid $25 million in premiums for coverage in excess of $100 million for sales of less than 300 planes. In 1987, in an attempt to resurrect this once proud company, the new owner of Piper made the bold move of canceling their pricy liability insurance, setting aside a reserve for potential damages and hiring lawyers to fight to the finish any suit deemed unwarranted. In 1989, Piper Aircraft's sales approximated $125 million and their legal fees were a staggering $13 million, more than 10 percent of their sales revenue. And this, Mr. President, was a considerable savings.

But the costs to American business can also be measured in lost output. Mack Trucks of Allentown, PA, estimates that its engineers spend an average of 2,100 hours a year just on preparing depositions and testimony required for product liability litigation. Whereas their European and Japanese counterparts spend that time improving products.

The rise in product liability costs and the threat of litigation have forced many manufacturers to withdraw useful products from the market and to cancel the research and development of new, innovative and, at times, life-saving products. Merchants Corp. of America abandoned production of a new infant car seat design that it believed would be the highest quality unit available because of liability risk exposure. Union Carbide helped develop a suitcase-sized kidney dialysis unit for home use, but because of the risk of liability suits it sold the business to a foreign company. Even well established products are affected. Lederle Laboratories is now the sole U.S. Manufacturer of DPT vaccine for polio. Merck & Co. is the only producer of the combined measles, mumps and rubella vaccine. All others have left the field due to the threat of product liability lawsuits.

It is not just that product liability claims are difficult to estimate with certainty. These liability claims can have a substantial impact on the bottom line. Some will say that this is the cost of doing business and that American business can afford to suffer the economic consequences of misfortune. But, Mr. President, it seems obvious that it is ultimately not the corporations that pay this burden, but the consumer who has this cost passed down to them in the form of higher prices for goods, and the worker who loses his job.

Mr. President, people injured by defective products should have the right to seek redress and to be fairly and fully compensated. They will continue to do so under this legislation. But American manufacturers need a regulatory system designed to provide certainty and fairness in arriving at a decision.

The Product Liability Reform Act will remove a great deal of the uncertainty by establishing clear, stable and uniform rules on a few important issues that arise in product liability cases. Let me take a moment to explain some of the key provisions.

To decrease the number of unnecessary lawsuits, this legislation has an expedited settlement provision that will allow either party to offer to settle a lawsuit after it commences. Under this provision if the settlement is turned down and the jury award is not an improvement over the settlement offer, then the offeree must pay the offeror's legal expenses.

In the area of liability, S. 1400 will hold product sellers liable if their actions lack reasonable care in handling the product or if the seller's breach of an express warranty is the proximate cause of a claimant's harm. Under this legislation, a seller of a product will not be held liable for negligence of a manufacturer unless the manufacturer for legal or economic reasons cannot be held accountable.

The standard for proving a punitive damage claim is also revised. Under S. 1400, punitive damages may only be assessed if the claimant establishes by "clear and convincing evidence" that the manufacturer or product seller exhibited a conscious, flagrant indifference to the safety of persons who might be harmed by the product. The purpose of a punitive damage is to punish a manufacturer or product seller for outrageous conduct and deter such conduct in the future. It is in essence a quasi-criminal penalty that deserves a standard in between the normal civil standard of preponderance of the evidence and the criminal standard of beyond a reasonable doubt. This is a fair provision, and it recognizes the movement toward this standard at the State level where 22 States have adopted this standard.

Other provisions of this legislation include a 2-year limit on filing complaints upon discovery, a worker's compensation offset that allows a product liability award to be reduced by the amount of worker's compensation benefits, a defense for manufacturers against plaintiffs who are injured due to the influence of alcohol or any drug, and a provision limiting liability for noneconomic damages. Under this last provision damages will be awarded based on the percentage of fault for noneconomic damages, which are nonmonetary losses such as pain and suffering, inconvenience, mental suffering among others. This section addresses the inequitable application of the doctrine of joint and several liability that makes one defendant pay for the misconduct of another.

All courts in the United States, both State and Federal courts, will apply these rules. This legislation does not, and as a practical matter could not, establish a rule for every issue that may arise in a product liability case. But, it deals with some of the principal issues where uniformity is most needed.

Most important, this legislation will not deny injured consumers access to the courts in order to litigate their claims and receive appropriate compensation. It would, however, make a number of changes to a system where plaintiff and defense lawyers collect almost as much as injured persons do, where the most meritorious cases take nearly 5 years before the injured party is finally compensated, and where the cost to society as a whole is all but ignored. During its consideration of product liability reform, the Commerce Committee report cited a 1986 Rand Institute for Civil Justice study which showed that the annual overall transaction costs of the U.S. tort system actually exceed the compensation to plaintiffs. In 1985, Tort system transaction costs totaled $16 to $19 billion, whereas only $14 billion to $16 billion was paid in net compensation to victims. In addition, other independent studies showed that most cases took between 3 and 9 years to conclude. This is justice to neither plaintiff nor defendant, and the cost to workers, consumers, and America's competitiveness is severe and growing.

America can no longer afford—neither producers' or consumers—to ignore the truth. In the private sector, as in Government, we cannot fashion policy which is unjust and fiscally irresponsible. Nor can we sit by passively and watch our industries and jobs go overseas while consumer choices go down and prices up.

Establishing a Federal Product Liability standard is one of the steps America must take on the road back to economic competitiveness. Each step is an essential component of an overall strategy to regain our international competitive position. I am hopeful that we can pass a product liability bill that safeguards the rights of all Americans while better ensuring our economic future.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection is so ordered.

Mr. DASCHLE. I ask unanimous consent that I may speak as if in morning business for no more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 10 minutes.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, we are awaiting the arrival of the papers on the farm bill, the conference report. There is a time limitation. I have consulted with the distinguished ranking member and, accordingly, I ask unanimous consent that the time from 1:45 p.m. be charged against the time allotted in the previous order debate on the conference report on the farm bill.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Mr. President, may I take for granted that the remarks of the distinguished Senator from South Dakota will be coming from the majority side, the time being equally divided?

Mr. MITCHELL. Yes. I believe that would be fair.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE 1991 FARM BILL

Mr. DASCHLE. Mr. President, I know that time under the agreement for the farm bill conference report is limited. In order to expedite what I know will be a number of statements, perhaps prior to the time we officially begin on it I might take the floor to call attention to a number of concerns and a number of significant accomplishments in this conference report.

This is perhaps the most important legislation in the 101st Congress for rural America. It is one of the most comprehensive farm bills ever to be considered, covering commodity programs, grain quality, research, conservation, credit, rural development, trade, organic foods, nutrition, and even global warming.

The chairman of the Agriculture Committee, the Senator from Vermont, deserves our thanks and our commendation for a tremendous job in providing leadership throughout the last couple of years. We have made some very tough decisions, and I applaud him for his leadership and his ability to keep us unified and to keep us on track.

The ranking committee member, the Senator from Indiana, also deserved our commendation for a job well done. He knows I differ with him on a number of issues, but I have the highest respect for him and his conduct, and particularly his leadership, as we have confronted the difficult issues in the farm bill in the last year.

Many critics, including the Secretary of Agriculture, doubted that Congress would ever pass a farm bill this year. At times it seemed the critics were right. Chairman LEAHY persisted, and in the end the critics were proved wrong.

Because of his hard work, and dedication to principle, the bill makes significant advances in such areas as trade, nutrition, foreign food aid, conservation, wetlands protection, research, organic food labeling, sustainable agriculture, and global warming.

The bill offers several improvements in agriculture policy:

We start, in a small way, to make research activities more responsive to the needs of rural citizens and real-life farmers. The bill states purposes for research, including expanding opportunities in rural America; enhancing the quality of life for farmers, rural citizens, and the society as a whole; sustaining the economic viability of farm operations; and enhancing the environment and resource base. However, these purposes are far weaker than the priorities and the Senate bill, and I will have more to say about that later.

The bill also places more emphasis on research to develop new products, increases funds for sustainable agriculture, authorizes funds for research on the effects of global warming, and improves the coordination of Agriculture Department activities and educational efforts to deal with ground water contamination.

The bill also improves Government efforts to promote grain quality. I want to thank the junior Senator from Missouri, Senator "KIT" BOND, for his support and cooperation in this initiative to make grain quality a priority in the farm bill. The bill brings our grain quality laws up to date with the demands of the competitive global market. The bill establishes a framework for future improvements in grain standards, including consideration of the economic, or end-use, values of grain. The bill will improve the cleanliness of our grain and our competitiveness by precluding the blending of clean grain with contaminated grain. It also builds incentives for grain quality into farm programs.

The bill recognizes the restrictions of the 1985 farm bill that prevent farmers from adjusting their operations for conservation, environment, and market considerations. The bill gives farmers new flexibility to plant crops that make sense for the environment and for the market. It will reduce the strong incentives built into the 1985 farm bill that encourage farmers to use excessive amounts of fertilizers to boost production.

The bill improves the operation of conservation programs. It makes swampbuster more enforceable by establishing a graduated penalty system. From the farmer's standpoint, it makes swampbuster and other wetlands programs more workable. It protects wetlands and environmentally sensitive lands without making it impossible for farmers to operate their farms.

The bill resolves a long dispute between the Farmers Home Administration and the Fish and Wildlife Service over conservation easements on land sold or leased from FmHA's inventory. The bill reaches a reasonable, work-

able compromise between the interests of previous FmHA borrowers who have a claim to the land and the interests of the Nation in preserving wetlands.

The bill updates our agricultural trade programs. It establishes clear authorities among Federal agencies involved in food aid. It also requires USDA to develop a long-term strategy to expand overseas markets and states that it is the policy of the United States to increase exports of value-added agricultural products.

The bill also reauthorizes the wool and honey programs, which are important to people in South Dakota and the Upper Midwest; improves the Crop Insurance Program, promotes the export of value-added products, establishes a pilot program to base commodity programs on bushels instead of acres, recognizes the importance of agriculture to economic development on Indian reservations, and promotes a "Grown in the U.S.A." label for food products.

These positive aspects side, the conference report on the Food, Agriculture, Conservation, and Trade Act, coupled with the reconciliation bill, is worse than the original Senate farm bill, and therefore, I cannot support it.

I announce this decision reluctantly. It has been a long and very difficult process. I understand all the give and take that is required in an effort of this scope. But I must tell you in all honesty that the bill simply does not do the job it must to promote economic prosperity in agriculture over the next 5 years. I say that for several reasons.

First, it backs away from provisions of the Senate bill setting new priorities for research activities. Instead of the specific priorities in the Senate bill, the conference report lists vague purposes, and then gives them little or no force or effect.

It is unbelievable that some people in Congress and USDA are unwilling to accept the modest notion that taxpayers should have a say in how researchers spend taxpayer money. Furthermore, it should be noted that some in Congress and USDA are unwilling to say in law that the purposes for agricultural research ought to include strengthening the family farm system of agriculture, or protecting the environment and natural resources, or protecting ground and surface water from pollution.

Although, family farmers and taxpayers have lost this round, the fight for accountability in agricultural research is not over.

Second, Mr. President, I cannot support the farm bill conference report because it is terribly unfair. The conference report amounts to a slow economic death sentence for the Nation's family farmers. The structure of the bill permits the burden of the 25-percent cut in agriculture spending to be placed on smaller and midsized family farms, the basic building block of the rural economy, who already are struggling to stay in business.

An analysis by Oklahoma State University economist Daryll Ray shows that a farmer with a 350-acre wheat base and net income of almost $16,000 would see his income drop by more than $1,000 next year, and by almost $4,000 by 1995. A producer with a 1,000-acre base would lose almost $3,000 in the first year of the bill, and more than $11,000 in 1995.

Meanwhile, the wealthiest producers are virtually untouched. If wealthy farmers received the $50,000 payment limit under current law, they will continue to do so under the new farm bill. If a family farmer received less than the payment limit, that farmer is likely to receive even less under the new farm bill. Because of the way the farm bill is structured, it is this smaller farmer that will feel the bite of the budget cuts. As his payment acres are cut back under the triple base, the producer operating below the payment limit will receive less than under the current farm bill. But for producers operating at or above the payment limit, when their acres are cut back, they will not feel it because they will still be paid up to the $50,000 limit. Mr. President, that is not only unfair, it is a disgrace.

Changes are made that will impose some cuts on wealthier producers. A $250,000 limit is placed on all payments including deficiency payments, so-called Findley payments resulting from discretionary reductions in loan rates, and marketing loan benefits. Before, producers could receive up to $200,000 on the Findley payment, alone.

While I applaud this small step, it is not enough to overcome the structural unfairness of the conference report. The effect of the cuts on producers is not equal or proportionate. The producer on the lower end will feel these cuts more directly; whereas, the wealthy producer may not see the cuts at whatsover.

Economist Daryll Ray's analysis shows the impact of this disparity. The producer with the 1,000-acre wheat base would lose more than $42,000 in income over the 5 years of the farm bill, but a producer with a 1,500-acre base and the same yield would see no loss in farm income.

This structure of this conference report is so grossly unfair to be unconscionable. It is a preversion of our ideas of equity. This bill is not a safety net, it is a trap door.

This structural inequity would be reason enough to oppose the farm bill. But the conference report—under pressure from the administration—compounds the effect on midsized producers by escalating the progressive dismantling of the Farmers Home Administration.

The cut in direct FmHA loans will have a depressing effect on rural economies. These loans are critical for family farmers. Many banks will not participate in the guaranteed loan programs. Moreover, banks have used the guaranteed program to push borrowers into bankruptcy. Why should a bank stick with a borrower, when it can call in the loan, take the guarantee and walk away from the same borrower?

By cutting FmHA direct loans, after making virtually no changes in the payment limits, the conference reports tilts the balance in agriculture policy in favor of the largest, wealthiest producers. We are not preserving family farms, we are suffocating them in this bill.

It has long been a view of the administration—expressed from time to time by USDA economist—that the problem in American agriculture is too many producers. Even if one dismisses the report this year by the Congressional Budget Office that 500,000 producers will be forced from farming over the next 5 years if agriculture spending stays at 1990 levels, one cannot escape the fact that this bill will displace tens of thousands of family farmers.

Which farmers will suffer? One need only look at the conference report to see that smaller, midsize farmers will be the victims.

A 25-percent cut in farm income that falls disproportionately on smaller, midsized family farmers will set off a new round of bankruptcies and foreclosures in rural America. Instead of moderating the natural tendency toward consolidation and concentration in agricultural production, this bill will escalate it, at great cost to our rural communities, our environment, our resource base, and, most important, to our society.

Too often people in Washington forget that their decisions have consequences. I have called this farm bill the "S&L farm bill." Agriculture is just another victim of the savings and loan crisis, and the drain on the Treasury this scandal has caused. The $60 to $65 billion cost of the savings and loan bailout this year is almost equal to the cost of farm programs for the last 5 years. It is almost double the estimated cost of the programs over the next 5 years, after the budget cuts.

But under the structure of this farm bill, not only is agriculture the victim of the S&L crisis, but an important segment of agriculture, smaller and midsized family farmers, pay the greatest price—the loss of their farms.

These decisions do have consequences. They affect the lives of ordinary people in America. In this bill, the fruits of the past decade—the

greed and irresponsibility represented in the S&L crisis, and the erosion of the Federal commitment to rural life—are laid on the doorstep of rural America.

President John F. Kennedy said that when the word "crisis" is written in Chinese, it is composed of two characters—one for danger, other for opportunity. Faced with a time of crisis, we had the opportunity to restructure farm policy to promote fairness. With this bill, we failed to live up to that challenge, and wasted the opportunity.

Mr. President, I ask unanimous consent that an analysis of the bill by the National Farmers Union be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NFU ANALYSIS SHOWS FARMERS SINGLED OUT IN BUDGET CUTS

DENVER.—Deficit reduction schemes being worked out by Congress and the Bush Administration may cost the "average" taxpayer as much as $100 to $300 per year. But, in addition to tax hikes, farmers may end up contributing as much as $11,000 per year to budget savings, according to information received by the National Farmers Union.

The analysis, worked out by Oklahoma State University Economist Daryll Ray, shows that a farmer with a 350 acre wheat base and a net income of $15,787 would see that income drop over $1000 during the first year of the new farm bill when the implications of deficit reduction requirements are considered. In 1995 though, the income loss would be nearly $4000.

A producer with a 1000 acre wheat base would suffer even more, realizing a $2890 loss of income during the first year of the five-year bill, and an $11,050 income loss in 1995.

"I don't know how anybody who purports to represent farmers—be they in Congress, in the Administration, or in farm and commodity organizations—could support this farm bill," said the group's president, Leland Swenson. "It will absolutely devastate rural America, and these numbers clearly show the unfair share of budget cuts farmers would shoulder."

Data compiled from congressional Joint Taxation Committee statistics indicate that wage-earners with income of $25,000 per year would pay $50 more in taxes under the proposed House budget plan, and $240 more under the Senate proposal. For families with incomes of $65,000, taxes would increase by $220 and $282 respectively. Swenson said farmers would be hit by those added taxes. "But on top of that, you suffer the loss of program benefits that will translate into several thousand dollars in lost income, and that doesn't even include lower income resulting from inflated interest rates and energy costs."

NFU officials say the numbers illustrate that agriculture will take a disproportionate share of spending cuts mandated by federal budget limitations. "If the budget writers asked everybody to give up $11,000 in income to bring the deficit down, there would be a revolt. But, that's what they're asking a lot of farmers to do," said Swenson.

Meanwhile Ohio State University agricultural economists Luther Tweeten and Carl Zulauf have estimated that the spending cuts expected in the new farm bill could cut land values $50 to $100 per acre. NFU Vice-President for Legislative Services Mike Dunn says those losses would translate into a $21 to $42 billion decrease in farm assets, given U.S. crop acreage of approximately 421 million acres.

THE FISCAL YEAR 1991 BUDGET—THE WHIPSAW EFFECT OF HIGHER TAXES AND SPENDING CUTS ON AMERICAN AGRICULTURE

PART 1

General Tax Information

(Source: Knight-Ridder News Service, using data from the congressional Joint Taxation Committee)

INCOME TAX INCREASES

Sample incomes	House plan	Senate plan
Under $20,000/year	0	0
$25,000/year	$50	$140
$65,000/year	220	282
$90,000/year	330	[1]
$150,000/year	280	1,259
$250,000/year	10,031	5,118

[1] Data unavailable.

1. House plan raises the highest tax levels by 7.4%—just over half of the 14.4% cut in rates given the same taxpayers during the 1980's. The Senate plan relies instead on limiting itemized deductions for high-income taxpayers.

2. This does not include the gas tax provision still in the Senate plan, which would add 9.5 cents per gallon by 1992. A subcompact car owner, who gets 25 miles per gallon and drives 100 miles per week to and from work, would pay an extra $19.76 per year. A pickup truck owner, who gets 15 miles per gallon and drives 150 miles per week (remember, things are farther apart in rural areas) pays an additional $49.50 per year.

3. In lieu of the gas tax hike, the House plan would delay for one year tax bracket adjustments to account for inflation.

4. This also does not include other taxes which will affect rural areas very hard, e.g. telephone excise taxes, and impact markets for agricultural products, e.g. excise taxes on tobacco, beer, and wine.

5. The tax package total $148.3 billion in the House, and $142.1 billion in the Senate. That leaves about $350 billion to come from spending cuts to reach the five-year goal of $500 billion.

Conclusion: Farmers and ranchers are taxpayers, too, and will pay their share of the burden along with comparable wage-earners in other sectors. But, under other provisions of the budget reconciliation and farm bills, the agriculture budget is cut by nearly 25% over this same 5-year period.

PART 2

General Agriculture Spending Cuts Information

Supporters of the 1990 farm bill point to frozen support rates as one of the highlights of the bill. In fact, however, the agricultural budget will be reduced by nearly 25% between now and fiscal year 1995 ($13.6 billion in cuts out of a $55 billion baseline). Here are some of the major deficit reduction provisions in the farm/budget bill:

1. Triple base—The farm bill will make 15% of wheat, feed grain, cotton or rice program producers' crop bases ineligible for deficiency payments. They may grow anything except fruits and vegetables on those acres, at market prices. That virtually assures lower income for those producers, particularly if they are in an area of the country not suited to a variety of crops. It also means new entrants into other commodities, including some non-program crops, lowering other producers' market prices.

2. Average market price calculations—In fiscal years 1994 and 1995, deficiency payments will be calculated using the difference between the target price and a 12-month average market price. In 1991 only, wheat producers may choose this calculation in lieu of the 15% triple base, since most of the winter wheat crop was planted weeks ago. By using the full year instead of the traditional 5-month harvest period average, the calculated price goes up and deficiency payments go down. The government saves money directly out of producers pockets, without producers actually receiving any additional money from the marketplace.

3. "Service fees"—Producers of crops whose programs do not involve direct payments are not affected by the triple base or market price calculations. Instead, producers of sugar, peanuts, honey, tobacco, wool, mohair, and dairy products will have to pay a 1% service fee on the gross value of their commodities even as it pats itself on the back for making farm programs "market oriented"!

4. Loan origination fees—A new oilseed marketing loan program is created. But, producers using the program would be charged a 2% loan origination fee to offset the cost of the program.

5. Check-offs—The farm bill includes several research and promotion programs, funded out of producers' pockets with mandatory assessments.

Other items include funding shifts direct to guaranteed lending in FmHA and REA, user fees on APHIS inspections.

PART 3

Impact on Representative Wheat Farm

(Source: Daryll Ray, Economist, Oklahoma State University)

How do the combined effects of Part I and Part II impact producers of our food and fiber? Individual farmers should pencil it out for themselves, but take a look at what triple base and the 12-month average market price could mean for two representative wheat farms:

Subpart I—350-Acre Wheat Base

Yield = 34 bushels/acre.
Out-of-pocket costs = $75/acre.
Market price = $2.30/bushel.
Producer elects for 1991 to accept a 12-month average market price in lieu of 15% triple base.
Deficiency payment in 1990 = $17,363.50.
1990 income (market receipts plus payments minus out of pocket costs) = $15,785.
1991 income loss of $1,012 from 1990 (−6.41%).
1992 income loss of $3,035 from 1990 (−19.22%).
1993 income loss of $3,035 from 1990 (−19.22%).
1994 income loss of $3,868 from 1990 (−24.5%).
1995 income loss of $3,868 from 1990 (−24.5%).

Subpart II—1000-Acre Wheat Base

Yield = 34 bushels/acre.
Out-of-pocket costs = $70/acre.
Market price = $2.30/bushel.
Producer elects for 1991 to accept a 12-month average market price in lieu of 15% triple base.
Deficiency payment in 1990 = $49,098.

1990 income (market receipts plus payments minus out of pocket costs) = $50,100.

1991 income loss of $2,890 from 1990 (−5.77%).

1992 loss of $8,670 from 1990 payment (−17.31%).

1993 loss of $8,670 from 1990 payment (−17.31%).

1994 loss of $11,050 from 1990 payment (−22.06%).

1995 loss of $11,050 from 1990 payment (−22.06%).

Two Ohio State University economists, Luther Tweeten and Carl Zulauf, agree that the net result of 1990 legislation is likely to be lower farm income and lower land values. According to Zulauf, land prices could drop by $50–$100 per acre!

PART 4

Cumulative Effects

Subpart I—The 350-acre wheat farmer will lose no additional income taxes, along with other wage earners with incomes under $20,000. However, over the five year life of the farm bill, he will also suffer a total $14,818 in lost income! If 1990 support levels really were frozen, the producer would earn $78,925 in the next five years. Instead, his income will total $64,107.

Additional taxes	0
Lost farm income	$14,818
Total impact	14,818

Subpart II—The 1,000-acre wheat farmer will pay additional income taxes comparable to other wage earners with incomes around $50,000 (a burden of about $200). However, over the five year life of the farm bill, he will also suffer a total $42,330 in lost income! If 1990 support levels really were frozen, the producer would earn $250,500 in the next five years. Instead, his income will total $208,170.

Additional taxes	[1] $1,000
Lost farm income	42,330
Total impact	43,330

[1] Approximately over 5 years.

Subpart III—Daryll Ray has also analyzed a 1,500-acre wheat farmer. Assuming the same yield, out-of-pocket costs, and market prices as the 1,000 acre farm, Ray predicts 1990 deficiency payments of $50,000, and income of $51,455. This farmer would pay additional income taxes along the line of the 1,000-acre farmer and other wage earners. However, Ray projects *no* additional loss of income from participating in the wheat program.

Additional taxes	[1] $1,000
Lost farm income	0
Total impact	1,000

[1] Approximately over 5 years.

Conclusions:

1. The combined effects of new taxes and budget cuts in farm programs will take a disproportionate share of deficit reduction from agriculture.

2. Within agriculture, a disproportionate share of deficit reduction falls upon mid-sized commercial operations. The cuts discussed in Part II clearly favor producers whose operations are large enough to have reached the $50,000 payment limitation.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on S. 2830 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2830) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 22, 1990.)

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I yield 5 minutes to the distinguished Senator from Missouri.

Mr. BOND. Mr. President, I rise today in support of the farm bill, and I do so with deep thanks and sincere appreciation to our chairman, Senator LEAHY and ranking member, Senator LUGAR, who have exercised great leadership in bringing the conference bill to this point. I also commend the conferees in both bodies for bridging wide differences and adopting what I think is a good structure in this bipartisan bill.

In my opinion, the framework of the farm bill is sound, but with the budget situation the proposed cuts in the reconciliation bill are extremely shutsighted and puts us in the position where I think the impact on agriculture can be very, very disturbing.

Before we go into detail on the budget, however, let me just point out for my colleagues some of the provisions that I think are useful and very productive. First, I believe we have built on the framework of the 1985 farm bill which, by and large, the farmers of my State support. In the conservation titles we reauthorized the CRP and placed a greater emphasis on tree planting. The conservation title also provides much more flexibility in the swampbuster provisions, and CRP payments will no longer be subject to sequestration and thus not held hostage to budget negotiations again.

Also, I am pleased that improvements in grain quality are included, a measure on which the Senator from South Dakota and I worked for a long time, to ensure that we take steps toward improving American competitiveness in the world market. In specific, the bill requires the USDA to establish grain standards that will best meet the needs of the end users of the grain.

A third important provision is the creations of a marketing loan for oilseeds set at $5.02 per bushel starting in 1991. I believe an oilseed program is crucial for soybean farmers. I have been pushing this since the farm bill debate began.

This marketing loan will ensure that the United States can complete against the subsidies of the EC and that sufficient acreage will be planted to compete with the increased acreage of Brazil and Argentina. However, I am disappointed we could not retain the $5.50 level set in the Senate passed bill.

The fourth provision includes needed reforms in crop insurance, as adopted by the Senate per my amendment. Also, we now have a promotion program for soybeans, and planting flexibility to allow farmers to plant for the market is also included. This will encourage the production of crops now in high demand and also lead to the opportunity to develop new crops and to implement sound conservation practices in conformance with conservation compliance.

Unfortunately, the timing of this bill and the budget reconciliation agreement could not be worse for agriculture. I think the level of cuts imposed on agriculture put us at a severe disadvantage, as we go into the negotiations in the very final days of the General Agreement on Tariffs and Trade. This, in my opinion, is not the time to show our competitors with whom we are negotiating that we are ready to cut out 25 percent, or $13.6 billion, from agricultural support programs.

The Uruguay round of GATT negotiation has been going on for 4 years. Frankly, while the United States has pushed hard—and I commend the President for making agricultural trade policy a key point of that agreement—we have not had the progress we should in agriculture.

We have now in effect disarmed, and we have shown our weakness as we are going into the final phase of the negotiations. We did not secure an INF Treaty with the Soviet Union by withdrawing resources from Europe. We got that treaty negotiated when we showed we were willing to commit more resources. Weaknesses in the negotiation only convinces our competitors that we are not prepared to hold their feet to the fire.

Today the United States is locked in a similar struggle, but our goal this time is disarmament in agricultural trade wars. Unfortunately, we are disarming unilaterally.

I had an opportunity to talk with a number of Missouri farmers and farm leaders in the last several weeks. One farmer told me, as we discussed what is being proposed in the farm bill, "I

did not go into farming just to mow weeds on Government set-aside lands and run to my mailbox to see if my check has arrived." The impact of these cuts, I fear, will be to drive more and more farmers out of the program, where they will be planting without protection for a world market which remains heavily subsidized.

The budget cuts require that we have a successful GATT negotiation, if we are not to lose significant farm revenue as a result of the reduced supports.

Another Missouri farm leader told me, in arguing for the urgent necessity of successful GATT negotiations, "we have shown the other side our playing hand, and now we have no cards."

American farmers are competing with ever more limited protection against government-funded foreign subsidies and price supports, which are generating surpluses that are dumped on the world market. Without a GATT agreement, the American farmer will become a buffer for the rest of the world, and we could see U.S. prices even more volatile. If our competitors maintain high price supports and dump the subsidies, then our farmers will bear the burden. Thus, it will be our producers who will absorb the shock of market fluctuations, while at the same time it is our farmers who will lose markets to subsidized exports of the EC and other competitors.

European countries must make real cuts in subsidies in order to stop distorting world trade. With a GATT agreement, we could reduce CCC outlays dramatically in the future. In trying to reduce costs before we have an agreement, we may wind up paying much, much more in the years to come.

Only a few weeks remain before the most important trade negotiations in history are scheduled to end. This is a rare chance to establish a level playing field for agricultural trade. If the Uruguay round fails, the world's trading system could break apart into protectionist trading blocs. It is my understanding the Secretary of Agriculture will have some options, in the 1990 farm bill, to protect America's export markets and the American farmer. If we come away with a bad agreement or no agreement, Mr. President, there is no option. We must protect the American farmer.

I am optimistic that the Uruguay round will succeed, however, it will require a concerted effort by Congress, the administration, and the many nations who share our objective of fair agricultural trade.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I ask unanimous consent that I be yielded 8 minutes off the majority's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I rise today to oppose the conference report on the 1990 farm bill.

As a member of the Senate Agriculture Committee who has worked on this legislation for more than a year, I oppose this bill, with considerable regret.

BAUCUS PROVISIONS

There are good provisions in this bill. I authored or co-authored a number of those provisions. They include:

First, a provision to prohibit future dairy buyouts like the one that cost Montana cattlemen millions in 1986;

Second, an extension of the wool and sugar programs, over the objection of the administration;

Third, an extension of the Federal Crop Insurance Program—though with some unfortunate modifications; and

Fourth, an extension of critical trade programs, such as the Export Enhancement Program and the Targeted Export Assistance Program.

FARM INCOME

But I must oppose this bill because it simply does not do enough to protect farm income. Specifically, the bill—coupled with the budget reconciliation package—freezes target prices and drastically decreases the number of acres covered by the farm program.

When this legislation was before the Senate for initial floor consideration, I opposed it.

I explained to my colleagues that the Congressional Budget Office had just completed a study that concluded the bill we were considering would force 500,000 farmers out of business over the next 5 years. In other words, one out of every four farmers would be driven from the land.

But when the bill went to conference I hoped that improvements could be made.

Unfortunately, the bill came back from conference significantly worse than when it left.

I don't blame my colleagues on the conference committee for weakening the bill. They had no real choice.

They faced an administration determined to cut the farm program as a matter of principle.

They faced an administration that would prefer to spend billions on exotic weapons systems and forgiving billions in loans to Egypt rather than supporting American farmers.

They faced an administration that prefers to sit on its hands and preach free market principles instead of helping farmers make new sales.

But that does not change the reality that this bill is a disaster for family farmers.

The bill that went to conference would have devoted about $54 billion to the farm program over the next 5 years. The bill that came back—after the budget reconciliation legislation is factored in—devotes only $40 billion.

The bill that went to conference would have cut farm income by about 20 percent over 5 years. This bill could cut farm income by as much as 35 percent.

The bill that went to conference would have driven one out of every four farmers out of business. This bill could easily threaten one out of every three.

Mr. President, the Senate must take a hard look at what it is doing to American farmers.

In the last several years, farm program spending has fallen from over $24 billion per year to $10.6 billion—a 55-percent decrease. This bill cuts another $13 billion from the farm program over 5 years.

If the cuts are coupled with the erosion due to inflation, most farmers are likely to get about 20 percent of the benefits from the farm program in 1995 that they did in 1986.

The farm program is the fastest shrinking item in the Federal budget.

By passing this bill and the budget reconciliation legislation, we are accepting the administration's effort to balance the budget on the back of American family farmers.

The farm program is now only 1 percent of the Federal budget, but it was forced to contribute almost 4 percent of the budget cuts we have made this year.

MILLIONAIRE FARMERS

Mr. President, I believe the Senate is consenting to these draconian cuts because many of my colleagues don't understand the problems that farmers face.

There is a myth popular in this body that all farm program benefits go to millionaire farmers who can easily absorb cuts.

Nothing could be further from the truth.

Perhaps there are a few millionaire farmers out there somewhere. But let me tell you I don't see them on my trips back to Montana.

The average farmer in America is trying to support his family on an income of about $16,000—a few thousand dollars above the poverty line.

The average farmer is scraping to get by, and desperately needs every dollar he gets from the farm program to stay on the land.

THE FARM PROGRAM AS AN INVESTMENT

I urge my colleagues to keep in mind that the farm program is an investment.

Every nation in the developed world has seen the need to maintain a farm program to ensure a reliable source of food.

Japan and the European Community both spend two to three times as much as the United States on the farm program.

For example, the target price for wheat in the European Community is more than $7. In the United States it is $4 with further cuts expected.

The United States has been able to maintain the highest quality and most varied food supply in the world. U.S. consumers spend less of their income on food than consumers anywhere else in the world.

Consumers in Japan spend almost three times what American consumers spend on food. Europeans spend nearly twice as much.

And the United States is able to do all this by devoting less than 1 percent of its Federal budget to the farm program.

We spend about 2 percent of the total we will eventually spend on the savings and loan bailout on the farm program each year.

The average citizen spends about $42 each year supporting the farm program.

Isn't $42 a reasonable amount to invest in maintaining a reliable supply of high-quality, low-cost food?

CONCLUSION

Mr. President, I will vote against this conference report today.

In fact, I seriously considered attempting to filibuster this conference report.

However, I concluded that a filibuster would only result in there being no farm program at all next year.

This legislation—with all its weaknesses—is better than no farm program at all. At least, farmers will get some income protection, crop insurance will continue, and the wool and sugar programs will continue.

Without a filibuster, I realize that this legislation will become law.

But the struggle is not over.

I cannot stand idly by and watch rural America dry up. I cannot simply watch thousands of family farms disappear.

Next year, I intend to begin working with my colleagues to undo some of what we will do today.

Hopefully, next year we can make improvements in the farm program.

I am confident that my colleagues will eventually realize that the farm program is a reasonable and prudent investment for all Americans.

I urge all of my colleagues to vote against this bill to send a strong message that we will not balance the Federal budget on the back of family farmers.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I yield 5 minutes to the distinguished Senator from Montana.

(Applause in the Visitors' Galleries.)

The PRESIDING OFFICER. The Chair will ask the gallery to refrain from making noise.

The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I thank the managers of the bill and the ranking member of the Agriculture Committee for this courtesy, and I just want to go over a few points.

I come to the floor today with mixed emotions knowing that we do have a budget crisis on our hands—and that has almost filled all the newspapers across this country—and also knowing that we have to come up with some type of legislation that could somehow protect the very basis of our society.

This is not a farm bill. I do not know why we call it a farm bill. This is a consumers bill. About the third thing everybody does in this Nation every morning after they get out of bed is they eat and they continue to do it the rest of the day. You can take a look at me. I have not missed very many meals nor do I plan to. But this is a consumer bill. It guarantees this Nation that it will have a reliable source of food purchased in any quantity, processed in any way, readily available 24 hours a day, to any and all Americans.

That is the basic push for this. But this farm bill, if you want to call it a farm bill, you can call it a farm pill too bitter to swallow.

Now, I know what the committee has to go through. They have to represent many kinds of agriculture across many State lines and different zones. Agriculture in my State of Montana is not like the agriculture in North Carolina; I see my friend Senator HELMS, who has many, many years of experience on the Agriculture Committee. It is different than our ranking member Senator LUGAR, from Indiana. They face different challenges in their agriculture, as we do out in Montana. We are a semiarid country. So it is pretty difficult to come up with a farm bill, so to speak, that everybody has to be happy with.

I think that we can make some administrative adjustments in this bill should the GATT, the General Agreement on Tariffs and Trade, fall through and we end up on the short end of the stick. And so far, our horse traders that we have been sending have not treated us very good.

But what this does is this hurts us in semiarid areas because we do not have the flexibility of shifting to another crop. We are wheat and barley and some oats and we go in some years to some minor oil seeds. And this bill does give us the flexibility to do that. That is one good part of it.

As far as being an income provider, it is not, nor should it be. We would like to produce for the market. But then we find, when we get to the market, there are many people manipulating the market and those of us who are producers.

I am disappointed that the Department of Agriculture in this town has not shown any sign of being an advocate for the farmer. That is sort of disappointing on my part, because we have some people that are really in trouble. Let us face it, if you survive through the 1980's you are a pretty good farmer, you are a pretty good businessman, because we went through some pretty rough times.

I am an auctioneer. I have a sale Saturday in Arvada, WY. And as an auctioneer I will sell out another good friend. It is pretty tough to go out there and sell out a good friend when he has to sell. It is pretty hard to look him in the eye and say, there is everything that you held on to in the last 15 years and finally, whack, it is gone.

America has to learn that we are going to pay for this food one way or another. We can either pay for it in the grocery store that does not have enough of it and you will have to stand in line to buy it, or you are going to pay for it through a program administered by the Government and through the grocery store. We have to make that decision.

Society has made a commitment to agriculture, through farm programs, that we will help because we have to keep the people on the land that know how to make it produce. I would venture to say that there are not very many of us that could go out there on the average farm in the Midwest or the West and survive. You get on a farm and you starve plumb to death because you could not make it produce. You may have a degree in soil science and you still could not make it produce, because you do not know the land. That is a sad thing to say.

But right now we have people who think they can can produce. Just give them the tools, open the market, open it up, and they will make a living.

This is not a very good attempt. If you will look in this year's budget, and we talking about all kinds of cuts, there are no cuts in this budget. But there are real cuts in agriculture. I want everybody in the world to know that here are real cuts here. There are real cuts in defense.

On the basic commodity and the strength of the Nation, the only economic strength we have in this Nation is the renewable strength that is produced from the soil. It is the only new dollar this country produces, and that dollar spends seven times in a community

How many truck drivers do we have that haul food products, how many processors, how many ad agencies are running ads on bread? Think about this: in a loaf of bread you have more

invested in the wrapper than you have in wheat. And you do not think that society does not run on the backs of agriculture?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BURNS. I appreciate the time. I will be opposing this conference report.

Thank you, Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I yield myself such time as I may need on the side in favor of the conference report.

This is the final step in this Chamber's work on the 1990 farm bill.

As I said during last July's floor debate on the farm bill, in some ways, the name of the bill is a misnomer. It incorrectly implies that the legislation only concerns farmers.

It has a far broader impact.

True, it affects every farm family's budget and their decisions about which crops to plant, where to sell, and how much to borrow.

But each day, it also affects every man, woman, and child living in this country.

It affects each of us every time we sit down to eat or get dressed in the morning. It improves our balance of trade each time we export wheat, corn, or soybeans overseas.

It protects the water we drink and the wetlands our wildlife depends on. It protects the safety of our food supply from dangerous pesticides. It preserves the rural character of our States threatened by urban sprawl.

Yes, this bill affects farmers. But it also affects all of us, every day, by making sure domestic agriculture produces reasonably priced food for the Nation's dinner tables.

It is for these reasons that the bill has a name to reflect its broad scope: "The Food, Agriculture, Conservation and Trade Act of 1990."

The conference committee on the farm bill did more than just hammer our differences between the House and Senate versions of the farm bill. We also followed the congressional budget resolution and made our reconciliation budget cuts.

The cuts in agriculture are particularly painful. Between 1985 and 1990, $80 billion was spent on agriculture. During markup, we were able to reduce the projected costs to $54 billion over the next 5 years. To make matters worse, the budget resolution required us to cut an additional $13.4 billion, setting the new baseline for the next 5 years at $40.6 billion. In inflation-adjusted dollars, agriculture will spend less than half during the next 5 years than it did in the past 5.

The farm bill before us today does not contain any of the $13.4 billion in budget cuts. It has the original baseline of $54 billion; the $13.4 billion in cuts are part of the reconciliation bill. If the cuts were included in the farm bill and the reconciliation package fails, farmers would suffer budget cuts twice—once by $13.6 billion and a second time when sequestration occurs. While the programs are detailed in the farm bill and the cuts in reconciliation, the two should be read together to describe the whole.

Too often in Washington we deal in baselines, reconciliation and other budgetary terms. We sometimes forget that these cuts affect real people in real ways. These cuts will be painful for our farmers, they will hurt. But we made every effort to share the pain fairly. Each commodity will take its fair share of castor oil.

But let us remember why we made the cuts. The free-wheeling, spend-now-save-later, tax giveaway policies of the 1980's generated the huge unprecedented deficits. Supply side economics and laissez-faire regulation that generated the defense and the S&L scandals turned morning in America into a fiscal nightmare.

Unfortunately, the people who had the party did not pay the tab. They left that for the rest of us. Agriculture, nutrition, education, and many other programs had to be slashed. Real people are being asked to do with less.

We made the cuts we were asked to do. We did not use gimmicks or games. And during this time of the fiscal guillotine, we tried to make the cuts as fair as possible.

Even though all commodities were treated fairly with regard to one another, these budget cuts will be painful for the American farmer. They will mean a cut in real farm income, which will have a rippling effect throughout the rest of the rural economy. And they will mean tougher times in some parts of our Nation. The Agriculture Committee will monitor the effects of these cuts to determine if adjustments in the future are needed.

To help with these cuts, we tried to develop commodity programs to help the farmers through the rough times:

Stopping decline in target prices and loan rates;

Increasing planting flexibility through triple base program;

Establishing a new oilseeds income protection program;

Improving quality and cleanliness of U.S. grain; and

Limiting loan payments to very large farmers.

This farm bill also includes important consumer and food safety provisions. This bill will be recorded as one of the key environmental laws passed by this Congress. Key provisions include:

Continuing protection for fragile wetlands ("swampbuster");

Creating major new incentive program to help farmers prevent contamination of ground and surface water on 10 million acres;

Helping farmers use less pesticides;

Requiring farmers who are licensed to use hazardous chemicals to keep records of their use;

Protecting farmland from development by helping farmers stay in farming;

Helping farmers meet environmental laws;

Establishing the first-ever national standards for organically grown products;

Making the most important revision of national forestry laws in 14 years;

Saving TEFAP, an emergency nutrition program which reaches millions of Americans; and

Ridding nutrition programs of bureaucratic red tape without cutting benefits.

We also provided the most significant rural development aid package in nearly a decade and made major revisions in the Food for Peace Program—the most significant changes in 25 years.

Mr. President, this bill can be summed up in one sentence.

The 1990 farm bill is one of the most important environmental laws passed by this Congress and sets out the blueprint for farm policy that will take American agriculture into the 21st century.

Before I conclude, I must mention that the development of the Food, Agriculture, Trade, Conservation and Trade Act was an effort of the entire membership of the Committee on Agriculture, Nutrition, and Forestry. Let me take a few moments to mention the members on my side of the aisle—as I am sure that ranking member LUGAR will do for his side of the aisle.

Every step of the way though this long process of developing, writing, and debating the Food, Agriculture, Conservation and Trade Act of 1990, it has been a pleasure to work with the Senator from Indiana. His intelligence, his common sense, and his statesmanship have been evident every step of the way.

We have not agreed on every issue in the farm bill. That is as it should be. But even when we have disagreed, we have always disagreed agreeably.

Were it not for Senator LUGAR's leadership, we would be completing this farm bill on December 23, as we did 5 years ago, not on October 24, as we are today.

I want to especially thank my colleague from Arkansas, Senator PRYOR for his diligent help in bringing this conference together. Senator PRYOR's efforts on behalf of his cotton, rice, and soybean farmers are already legend in the Agriculture Committee. His efforts on their behalf in this bill add luster to that reputation. The programs for cotton and rice were refined in this bill, and the main component of those programs, the marketing

loan, remains intact. Soybean producers across the country will benefit from the higher support rates for their product that are contained in this bill as well as the new promotion program that Senator PRYOR helped bring through the Congress.

Senator PRYOR also authored a new provision governing the conduct of the appeals system for the Agricultural Stabilization and Conservation Service. That provision was praised by all conferees as being long overdue. It will help the farmer directly as he deals with a complex government bureaucracy. I look forward to the Senator continuing his leadership on this issue.

The Senator's support has been invaluable in this process. His friendship always welcome. I thank the Senator again, and I envy his constituents.

Senator BOREN has clearly left his mark on this legislation. As the chairman of the Subcommittee on Domestic and Foreign Marketing and Product Promotion he was instrumental in developing the most comprehensive reform of our Nation's agricultural trade laws in 25 years. His bill S. 2382 was the basis for this title. His strong support of the Export Enhancement Program insured the inclusion of the Export Enhancement Program in the trade title—a program which is critical to the wheat growers of Oklahoma. The legislation also restores the integrity of the GSM Program which has been under a cloud of suspicion since the Banco de Lavoro affair.

Even closer to home, he developed the haying and grazing rules and maintained the 0-92 program so important to Oklahoma wheat/stocker operators.

I would like to applaud Senator HEFLIN for being the primary author of the peanut title of the farm bill and playing a leading role in the negotiations on soybeans, cotton, and peanuts. Senator HEFLIN's leadership in formulating a rural development bill proved essential to the bill's passage.

I know Senator HEFLIN is particularly proud of the water title of the rural development bill which provides incentives for the rural electric cooperatives to invest in water and sewer facilities. This bill help more than 2,000 rural communities in the United States which presently fail to meet Federal clean water standards, provide safe drinking water and water disposal.

Senator CONRAD firmly established himself in the debate over the 1990 farm bill as one of the Senate's foremost advocates for agriculture and rural America. He worked tirelessly to fashion a better deal for American farmers with this farm bill, and he has left his mark on it.

His imprint can be seen in the fact that this bill, for the first time, enacts a support program for a broad range of oilseeds. He was the moving force behind the AARCC rural development bill, designed to find, develop, and market new products made from the renewable resources of American agriculture, and helped diversify and revitalize rural economies. He sought and won a more progressive and fair penalty system for swampbuster and sodbuster violations. He sought and won a 3-year payback of advance deficiencies for farmers who lost their crops to drought in 1988 and 1989. And he sought and won a more equitable calculation for deficiency payments of barley.

I congratulate him on his unflagging advocacy for rural America.

Senator FOWLER worked to maintain and improve the peanut program and worked on the Conservation and Forestry titles as chairman of the Conservation and Forestry Subcommittee. His efforts on behalf of Southern forestry and a more environmentally conscious State and private timber program can be seen throughout the forestry title.

Senator DASCHLE took the lead on several important parts of the Food, Agriculture, Conservation, and Trade Act of 1990.

RESEARCH

Under Senator DASCHLE's leadership, as chairman of the Subcommittee on Research and General Legislation, the research title of the farm bill starts to make our Federal research activities more responsive to the needs of rural America and real-life farmers. The farm bill continues our Government's commitment to agricultural research and education, while starting to move in new directions called for by the changing times. The bill establishes purposes for research-including expanding economic activities in rural America; enhancing the quality of life for farmers, rural citizens and the society as a whole; developing tne environmental and natural resource base; and sustaining the economic viability of farm operations. Under Senator DASCHLE's initiative, the bill also improves the coordination of USDA activities and educational efforts to deal with ground water contamination.

GRAIN QUALITY

Senator DASCHLE also took the lead on developing a title to promote grain quality. The bill brings our grain quality laws up to date with the demands of the competitive global market. The bill establishes a framework for future improvements in grain standards, including consideration of end-use values of grain. It also builds incentives for grain into quality Federal farm programs.

CONSERVATION

Senator DASCHLE also led the way in resolving a long dispute between Farmers Home Administration and the Fish and Wildlife Service over conservation easements on land sold or leased from FmHA's inventory. The bill reaches a reasonable, workable compromise between the interests of previous FmHA borrowers who have a claim to the land and the interest of the Nation in preserving wetlands.

Senator DASCHLE also was a leader in efforts to improve the crop insurance program, tighten payments limits, promote the export of value-added products, establish a pilot program to base commodity programs on bushels instead of acres, recognize the importance of agriculture to economic development of Indian reservations, and promote a "Grown in the U.S.A." label for food products.

Senator BAUCUS was particularly helpful in fighting against an administration effort to eliminate crop insurance and in writing a strong provision to extend the program. He was also instrumental in fighting against an administration plan to kill the wool and sugar programs. Thanks to his efforts, we were able to extend these two programs for the next 5 years. Senator BAUCUS also saw to it that the Targeted Export Assistance Program and the Export Enhancement Program were reauthorized.

Finally I want to mention the efforts of the Senator from Nebraska [Mr. KERREY] who throughout the process of writing a farm bill and as a conferee worked to ensure that we had an effective Farmer-Owned Reserve Program that would maintain our food security yet be more responsive to changing market conditions. In addition, Senator KERREY repeatedly defended the need for reasonable acreage reduction programs as objections were heard from the administration and elsewhere. In the same vein, he frequently made the larger case that our farm programs, when properly administered, serve the best interest of consumers, producers, and taxpayers.

He was a strong effective voice for agricultural producers throughout every hour of this very difficult conference. Although this is no one's ideal farm bill, it is a much better bill than it would have been had not BOB KERREY served on the conference.

I also want to express my deep admiration and gratitude for the incredible staff of the Senate Agriculture Committee. Without their dedication, intelligence and teamwork, we could have not have produced this bill. In my career in the Senate, I have never been served by such an outstanding staff. Throughout the committee consideration of this bill, floor debate and finally conference, the staff of the committee put in long hours to develop this historic document. In fact, I believe that most of the staff averaged 4 or less hours of sleep each night this past month. The committee, and indeed American agriculture, owes this staff a debt of gratitude for their work on this bill.

Mr. President, I have highlights of the bill. I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMODITIES

Planting flexibility: Requires a 15 percent triple base planting flexibility program for wheat, feed grains, cotton, and rice producers for the 1991-95 crops. Farmers would not receive payments on 15 percent of their crop acreage base but would be allowed to grow any crop, except fruits and vegetables.

Since winter wheat producers have already planted their 1991 crop, they will be allowed to choose either the triple base program provisions, or to have their deficiency payments calculated on a 12-month basis.

Allows an additional 10 percent planting flexibility tied to program crop base. Producer may plant up to 10 percent of program crop base to other crops and receive base protection. Deficiency payments are not available on program crops planted on "flexed" acres. Loan eligibility is extended to program crops planted under both flexibility options. The Secretary may provide additional flexibility to producers having trouble meeting conservation compliance requirements. Cross-compliance provisions are eliminated.

Acreage Reduction Programs: Maximum ARP programs established as follows: 20 percent maximum for wheat and feed grains; 25 percent maximum for cotton; 35 percent maximum for rice.

Secretary may establish a zero percent ARP. For feed grains, Secretary is given discretion to make ARP determinations of excess stocks on an individual feed grain basis.

Target Prices for 1991 through 1995 crops: Wheat—$4.00 per bushel.

Feed Grains, Corn—$2.75 per bushel; Grain Sorghum—$2.61 per bushel; Barley—$2.36 per bushel; Oats—$1.45 per bushel.

Cotton—$0.729 per pound.

Rice—$10.71 per hundredweight.

Deficiency payments for the 1994 through 1995 crops of wheat, feed grains, and rice will be computed on a 12-month (instead of 5-month) basis.

Price Support: Wheat and feed grains set at 85 percent of five-year moving average price with Secretarial discretion to drop the loan rate by up to 20 percent. A floor is also established.

The level for cotton and rice is the same as current law.

Cotton Marketing Loan consolidates plan A and plan B and current law and contains provisions authorizing adjustments in prevailing world market price in order to ensure competitiveness.

Sugar Provisions: 18 cent loan rate. Provides for minimum import level with a stand-by marketing quota program.

Dairy: Stops the decrease in dairy prices. Price is frozen at $10.10 per hundredweight. Requires Secretary to provide a report to Congress on a variety of program options by August 31, 1991. If governmental purchases exceed 7 billion pounds a further assessment will be implemented to limit government exposure. Establishes promotion program to make fluid milk products compete with other beverages.

Oilseeds Provisions: Nonrecourse marketing loan for oilseeds is established at following rates:

Loan rate for soybeans set at $5.02 per bushel with a 2% loan origination fee. Loan rate for sunflower seed, canola, flax and safflower set at comparable levels. Secretary authorized to establish programs for other oilseeds as Secretary deems necessary.

Bases and Yields Provisions: Producers eligible to receive deficiency payment for any program crop in any crop year may not use acreage planted or considered planted to any program crop or oilseed to increase crop acreage bases in subsequent years.

The calculation of farm program payment yields is unchanged. The Secretary shall allow producers to provide actual yield data to ASCS county committees.

Grain Quality: Grain standards: For the first time, establishes a framework for future changes in grain standards including economic value of grain.

Improves cleanliness of grain: provides authority to preclude blending clean grain with contaminated grain.

Builds incentives for quality into farm programs: Changes current commodity programs to provide further economic incentives to produce and clean market grain.

Other Provisions: Continues wool and honey programs with tighter payment limitations. Caps the amount of loan payments producers may receive at $75,000 per person. Revises and updates provisions concerning CCC sales price restrictions. Provisions concerning adjustments to support prices for quality, location, etc., are revised and updated. Provides for an assessment on Dairy, Sugar, Tobacco, Wool and Mohair, and Honey.

Pilot Bushel Based Program for Wheat and Feed Grains: Producers will be able to meet ARP requirements by limiting marketings instead of amount of acreage. Option to be offered to producers in 15 counties in each of 2 states starting in 1992.

Farmer Owned Reserve Program: Farmer Owned Reserve modified to provide for the more gradual accumulation and exit of wheat and feed grains into and from the reserve.

ENVIRONMENTAL AND CONSERVATION ISSUES

Wetlands Protection ("Swampbuster"): Extends 1985 farm bill protections from 60 to 80 million acres of fragile wetlands.

Also, for first time, farmers may protect and restore their wetlands by enrolling them in a reserve one million-acre program and selling the federal government a conservation easement.

Clean Water: Creates major new incentive program to help farmers prevent contamination of ground and surface water on 10 million acres of land. Also, for the first time, USDA must help farmers meet state and federal environmental standards.

Protection of Fragile Land: To reduce off-farm environmental threats and mitigate soil loss on adjacent lands, enrolls a total of 40 million acres by 1955 in a reserve program.

Includes new "Farms for the Future Program," allowing states to permanently protect farms from conversion to other uses.

Conservation Compliance: Improves the implementation of 1985 farm bill requirement that farmers meet conservation objectives to remain eligible for federal farm program benefits. Farmers must now implement plans to prevent soil erosion.

Recordkeeping for Dangerous Pesticide Use: To help monitor chemical use, requires farmers to keep records of hazardous pesticide use.

Global Warming: Authorizes the first effort to assess the threat of global climate change on Agriculture.

RESEARCH

Reduce Pesticide Use: Authorizes more than a ten-fold funding increase ($400 million over five years) for Sustainable Agriculture to help farmers use less chemicals.

New Priorities for Agricultural Research Facilities: For the first time, requires USDA to consider environment, nutrition, water quality, and competitiveness when awarding research grants.

New Initiatives in Agricultural Research: Increases authorization ($1.5 billion over five years) in competitive grants.

University Research: Increases formula funding for land grant colleges and 1890s institutions.

Facilities Review: Mandates a comprehensive evaluation of agricultural research facilities to review closure, consolidation, and reinvestment of existing facilities.

FORESTRY

First Time Forestry Title: The most significant revision of national forestry laws in 14 years. It establishes the first-ever public/private partnership to protect 25 million acres of private forestland. Through conservation easements and other incentives, protects forests for the future. The legislation targets 8 million private forest owners who manage 482 million acres of forest covered by an estimated 200 billion trees.

RURAL DEVELOPMENT

Provides Vital Services to Rural America: The most significant rural development aid package in nearly a decade:

Telecommunications—"Star Schools" and Med Link: Links small rural schools, via state-of-the-art telecommunications, to educational programs from more affluent, urban area. Schoolchildren in isolated areas will be able to learn advanced placement calculus or organic chemistry from experts all over the country.

Telecommunications also link big city hospitals with small rural hospitals that often do not have the resources to provide many services. For instance, a doctor at a clinic in a rural area can send moving images of a brain scan to a specialist at a hospital hundreds of miles away.

Jobs and Local Business Growth: Creates jobs and economic growth for small rural communities through local revolving funds (matched dollar for dollar by local banks) and business incubators.

Clean Water: Invests in rural quality of life by helping small communities provide safe drinking water and waste disposal. Currently, due to lack of funding, 2,000 rural communities in the U.S. are not in compliance with Federal water pollution requirements. This bill doubles funding for existing water and sewer programs, and for the first time invests in Rural Electric Cooperatives and agriculture cooperatives in water and sewer development.

TRADE

Food for Peace: Makes the most significant revision in our food aid and trade laws in 25 years.

"Food for Progress" Program: Gives the United States powerful new tools to help the emerging democracies. Gives the president authority to donate food and spend up to $40 million for agricultural necessities such as fertilizers and transportation.

Commercial Trade: To increase competitiveness abroad, requires USDA to develop long-term trade strategy to expand overseas markets.

ORGANIC CERTIFICATION

First Ever Organic Label: Sets first-ever national standard for "organically grown" products to help eliminate consumer confusion, provide food alternatives, and give farmers market incentives to use less chemicals.

NUTRITION

TEFAP Preserved After Threat of Termination: After its existence was threatened, the Temporary Emergency Food Assistance Program (TEFAP) has not only been preserved, but its funding authorization levels have been increased to up to $220 million per year, up from $120 million.

About 15 million people a month depend on TEFAP for surplus commodities (such as wheat, corn and butter) and nutrient-dense foods (such as peanut butter and canned meats). TEFAP serves a vital safety net to families who often must wait up to 30 days for food stamps, and for many elderly and rural residents who never apply for food stamps.

Cuts Program Cost Without Cutting Benefits: By cutting bureaucratic red tape, states are encouraged to switch over from the current costly program that uses paper coupons, to a one-step electronic transfer of program benefits. Currently, millions of coupons are produced, transported by armored trucks, mailed once a month to millions of households, only to be used once and destroyed. All of these steps would be eliminated under the new electronic program.

Enables Homeless Families to Receive Benefits: By cutting red tape, it is easier for homeless families to enroll in the food stamp program. Currently, only 18 percent of all homeless families receive benefits, but many agree that nearly all are eligible.

Soup kitchen programs, which feed millions of homeless Americans, will be expanded by increasing quantities of food donated to state-run soup kitchens.

Relieves Transportation Burden on Rural Participants: In many states, benefits must be collected up in state offices by participants each month. This bill requires benefits to be mailed in rural areas where recipients may have substantial transportation difficulties.

DAIRY SECTION OF FARM BILL

Mr. President: I would like to clarify a misstatement in the dairy section of the statement of managers accompanying the conference report on S. 2830. An inappropriate inclusion of language appeared describing Section 102, Milk Manufacturing Marketing Adjustment.

This section provides that one year after enactment of this legislation, no state shall provide for and no person shall collect a manufacturing allowance for the processing of milk greater than is permitted under a Federal program to establish a Grade A price for manufacturing butter, nonfat dry milk or cheese. It also provides for penalties for violation of this section.

The bill language accurately reflects the intent of the conferees. Unfortunately, the statement of managers does not. The managers' language prohibits a greater manufacturing allowance "unless the net return to producers exceeds the level of prices support which is provided for under the dairy price support program." It was the intent of Members of the Senate and the House during consideration of this issue, as well as the conferees during our deliberations, to insure that dairy producers receive the maximum benefit of the dairy price support program or surplus removal operation. This language does not reflect that intent. The managers' language also refers to "liquidated damages", not the "penalties" the conferees intended to address violations of this section.

P.L. 480—FOOD FOR PEACE PROGRAM

Mr. President, one of the most significant elements of the reform of the PL 480 food aid program contained in this legislation addresses the problem of bureaucratic gridlock which has plagued the program.

The current requirement that there be consensus in the multiagency Food Aid Subcommittee of the Development Coordination Committee (DCC) before any decisions can be made results in considerable delay, with seemingly endless debate.

With a requirement for consensus the result is that no one agency is in charge, no one agency can be held accountable by the Congress.

The very heart of the food aid reform in this bill is the streamlining of the bureaucracy, which makes designated government agencies responsible for clearly delineated programs. The delegations of authority in this bill are clear and unambiguous. The Secretary of Agriculture is responsible for implementation of the title I market development program, and the Administrator of AID is responsible for implementation of the title II emergency and private assistance programs, and the III grant programs.

Mr. President, the multiagency DCC can continue to meet. But at the end of the day, the responsibility to act will rest squarely with USDA and AID for their respective programs. We expect that USDA and AID will exercise the authorities given them in this legislation. I plan to exercise careful oversight to insure that this is the result.

FARM BILL NUTRITION PROGRAMS

Mr. President, it was a great disappointment to all of us that the final budget agreement between Congress and the White House did not permit the kind of expansion of nutrition programs that is needed in light of the continuing prevalence of hunger in America.

Senator Boschwitz and I introduced the Mickey Leland Memorial Domestic Hunger Relief Act early in this session, and that legislation had broad bipartisan support on our Committee.

I would like to point some of the more important provisions of the nutrition title of this legislation. Before I do that I would like to make some general comments.

This was the first major legislation on which I have had the opportunity to work with Representative Charles Hatcher. His wise and perceptive counsel, and his insights from the numerous hearings his subcommittee conducted, greatly enriched our deliberations. It was a pleasure to work again with Senators Harkin, Boschwitz, Lugar, Dole, Pryor and Kerrey and with Representatives de la Garza, Panetta and Emerson.

While Committee staff has been thanked elsewhere in my statement I wish to draw special attention to certain other staff that have been very helpful in this process. Two members of the Congressional Research Service have provided invaluable advice and guidance over the years on nutrition issues. I greatly appreciate the assistance and technical expertise of Joe Richardson and Jean Jones.

Also, Gary Endicott of Senate legislative counsel has handled the nutrition drafting over the years with great professional skill. Julia Isaacs, of the Congressional Budget Office, has diligently provided numerous cost estimates that have aided us in our work.

I am very pleased with the good working relationship that has developed with the Assistant Secretary for Food and Consumer Services, Catherine Bertini. She has provided Congress with forthright and constructive advice and I look forward to continuing to work with her in the future.

Also, I want to draw special attention to the Resources, Community and Economic Division of the General Accounting Office. Under the leadership of Gerald Killian they have provided superb research and analysis regarding a host of issues addressed in this and other legislation.

The final bill gives the Secretary ample time to develop regulations for electronic benefit transfer (EBT) system because of the number of issues involved. I strongly endorse the conversion from the use of food stamp coupons to an electronic benefit transfer system. EBT in the long run will greatly improve program operations and reduce program administrative costs. I want to point out that the Department should approve additional EBT projects in the interim—under existing statutory authority—before the new EBT regulations are issued.

USDA regulations regarding EBT should address both the technical issues and protections for recipients, including provisions for the training of recipients and accommodations for recipients who, because of physical or mental handicaps or for other reasons are unable to operate the EBT system effectively.

We do not intend for EBT to make food assistance unavailable to needy persons because of the very limitations that contributed to their need in the first place.

We are also concerned that households, in rural areas, not have to take the time and expense to travel to the store only to find that they cannot shop because the computer system is down and no back-up system is in place that is capable of handling problems in case of large-scale breakdowns. To the extent possible, the Department should minimize potential stigma by having EBT cards designed to appear as much like other bank or credit cards in use in the general population as possible.

This legislation encourages USDA and the states to develop voluntary EBT systems; if households are free to go back to receiving food stamps should they find the EBT system unworkable or stigmatizing, greater flexibility in system design would be in order.

Although the final legislation does not, as the House bill did, require EBT terminals to be operational in all lanes, the practical effect of the requirement that food stamp households receive service equal to that provided non-food stamp customers may be similar. It is more likely that equal service can be provided with fewer lanes equipped where a store has a large number of non-food stamp customers buying food through the same kind of electronic devices. This is yet another benefit of "piggy-backing" EBT onto existing commercial arrangements, which the conference report strongly advocated.

We feel very strongly that EBT should be set up as a step forward toward improved service to recipients, not a step backwards. No one wants this, or any other benefit delivery system, to be discriminatory.

The legislation clarifies and expands upon the Hunger Prevention Act's provision call-

ing for simplified procedures for claiming the excess medical deduction. The intent is that food stamp offices will take the best available information about when and how much medical costs will cut into households' ability to purchase food and provide a deduction accordingly. Households should not be required to submit verification or change reports of expenses that could, at least in general terms, have been anticipated.

Whether a particular cost was incurred just before or just after the end of a month or how early in a certification period a household incurred in expense that could be pro-rated, should not affect the amount of households' deductions. Nor should households facing real out-of-pocket costs be denied deductions because of uncertainties about how much insurance coverage will be available unless the coverage can be anticipated under the normal rules for anticipating income. Since the same state agencies generally administer the Medicaid and Food Stamp Programs, they should have ready access to the expertise needed to formulate effective estimates.

The provision on simplified resource determinations is intended to save paperwork for state agencies and households. Since it affects the excludability of resources, rather than the valuation of non-exempt resources, it will not be necessary for the state agency to determine the exact fair market value of a resource to determine that the resource is exempt. The program's resource rules are intended to deny eligibility to persons with other, readily available means of obtaining food. It serves no purpose to deny a household food stamps because of an asset whose disposition would not yield the household any significant amount of cash.

The legislation expands the list of employment and training programs whose enrollees may receive food stamps during periods when they are in classes at colleges or universities *if* they are otherwise eligible. The crucial issue is whether a qualified counselor or program administrator has determined that enrollment in a college or university is necessary to improve the student's employability, whether such a person has approved the course of study as an appropriate placement.

This determination may be made through the food stamp employment and training program (particularly if that program serves applicants) or through an entity funded by the state or local government, such as a community college. The bill refers to placements, but it is not intended to preclude circumstances where employment and training programs recognize self-placements. I want to emphasize, however, that these students would only be allowed to receive food stamps if they meet all income and resource rules.

The bill allows students participating in state, as opposed to federal, work-study programs to receive food stamps. The bill also moves toward a simpler and more realistic basis for determining what work-study wages and other student assistance will be counted as income. Students should be encouraged to work their way through school to the extent possible; households receiving work-study income would remain entitled to the earned income deduction of twenty percent of that income to compensate for whatever work expenses they may have.

Although the bill restructures the overissuance collection procedure to eliminate the current provision for giving households thirty days in which to elect how to repay overissuances, it is not intended to limit any households' due process rights. Households should be given clear, specific advance notice of any adverse actions that the State agency proposes to take and an opportunity for a hearing on whether those actions are appropriate. The State agency would give households found guilty of intentional program violations a notice that its allotment would be reduced, but if the household wished to have more than 20% of its allotment withheld, that request would be honored.

I would also like to point out that under this legislation, households eligible for food stamps whose food was destroyed in flood, fire, or other calamity would be entitled to food stamp allotments to replace that food. While current rules limit replacement allotments to the amount of individual household's allotment, this legislation provides for replacement allotments that could be as large as the maximum allotment for households of the size of the household suffering the loss.

In this way, elderly and disabled people who receive only $10 in food stamps and buy most of their food with cash would receive as much help replacing destroyed food as households losing a similar amount of food that are eligible for larger allotments. Although this provision would not apply to middle income households that are not eligible for food stamps, it would apply to disaster victims who are eligible for food stamps but had not previously applied to participate.

We were pleased to learn that the Department has amicably resolved most of the issues concerning the application of retrospective budgeting to certain kinds of payments. The terms agreed upon seem just, equitable, and in keeping with the purposes of the program to assist the hungry. This partial settlement, in the Jones case, reduced the urgency of adopting the House language on this issue. The conferees decided to take no position on those issues that remain subject to litigation.

The House bill contained very detailed requirements for protecting households from suffering severe hardships when their need increases, or their available income decreases, and retrospective budgeting would otherwise compel the household to wait two or three months for increased food stamps. Alhough we are all in great sympathy with households who lose their jobs, face sharply increased shelter costs, or suddenly have additional mouths to feed, the formulation in the House bill may in some respects have been too broad and in others too narrow.

Since we were aware that the Secretary has for some time had regulations on households suffering severe hardships, we elected to leave to the Secretary the determination of how they may need to be modified in light of the changes the Hunger Prevention Act made in the monthly reporting/retrospective budgeting system. The goal here, and for the Food Stamp Program generally, should be to ensure that households' allotments reasonably reflect their current needs. Indeed, I want to examine the need to terminate the monthly reporting/retrospective budgeting system and replace it with a system that focuses in all cases on current need for food assistance.

The provision on excluding vendor payments for transitional housing is intended to supplement, rather than supplant, the existing exclusions in the Act. It has long been Department policy that such vendor payment in states without separate shelter allowances would be completely excluded and that any amount by which the shelter allowance exceeded the shelter maximum would also not count as income.

By excluding half of the remaining vendor payments in states with separate shelter allowances, we do not mean to preclude further exclusions if, for example, some of the payment is for medical care or is a special or emergency vendor payment.

The legislation would exclude from consideration as income vendor payments that may not, under state law, be provided as cash. It is not our intent that the exclusion would apply only where these mandatory vendor payments are the only form of general assistance that the state provides. If some general assistance must be provided as vendor payments and some can be given as cash, the former would be excluded and the latter would be counted, unless subject to another exclusion.

It came to our attention that the Department was interpreting current law to forbid states from moving the mandatory notices of applicants' rights from the front of the application form to a tear-off form on the application.

While the Department is to be commended for its concern that households be fully informed of the importance of promptly filing applications, we felt it appropriate to allow states to place these notices on tear-offs or similar pages that prospective applicants can easily see without opening up the application forms.

The bill requires Food Stamp Programs operating on Indian reservations to move to staggered issuances. Although staggered issuances have been initiated most in urban areas, they may provide the greatest benefit for households in rural areas where there may be little competition among food stores and issuing food stamps at the same time every month may contribute to undersirable monthly fluctuations in prices. If handled correctly, staggered issuances may provide a solution. Obviously, households cannot live for forty days on allotments designed for thirty. Therefore, this legislation, like current law, provides for issuances providing benefits for each day during transition periods.

The legislation gives states the option not to combine first and second months' issuances for households not entitled to expedited service. We felt it important to retain the combined allotment procedure, however, for households in such dire need that they qualify for expedited service. A household under these circumstances may not be able to wait until the completion of the verification process for help buying food for its family. A first month's benefit that has been reduced by more than half through pro-rating rarely will be enough for these households.

The legislation includes several initiatives to explore ways of improving food stamp employment and training programs. It requires the Secretary to approve at least two states' applications to give volunteers priority in their employment and training programs. The Secretary can approve more states if the Secretary also conducts an evaluation of the results of these initiatives.

It authorizes the Secretary to conduct demonstration projects under which food stamp E&T would operate essentially under the same rules as the JOBS work training program for AFDC recipients. In most communities, JOBS will be larger than food stamp E&T; but running both programs under the JOBS rules we hope to achieve some administrative savings while taking

advantage of the needs assessment, placement, and other client service systems mechanisms already established under JOBS.

We do impose two explicit limitations on conformity: the Food Stamp Program does not have the funds to offer the extensive transitional services that JOBS provides to former recipients who have found employment, and we provide that no household should be required to receive its food stamps in a form other than coupons without its consent.

This would mean, among other things, that grant diversion projects could only take place with the consent of the household. A recent survey conducted by the Alabama welfare department found that a substantial majority of food stamp recipients preferred receiving benefits as coupons rather than cash. Coupons devoted exclusively to food have always been an integral part of the program, and we have been very reluctant to deny any household the right to receive its food assistance in that manner if it so desires.

This also should avoid equity concerns that would be raised by having two workers in similar jobs with similar wages receiving different benefit levels because one is enrolled in grant diversion and one obtained the job through other means.

The final legislation combines two commissions proposed in the House bill to study ways of improving consistency between various federal programs and reducing barriers to persons needing assistance. To a similar end, this legislation would authorize four demonstration projects under which certain AFDC benefit and eligibility rules are used in computing food stamp benefits for households in which all members receive AFDC. These projects are not intended to reduce food stamp benefits.

Under one option that can be used in designing these demonstration projects, households with earnings have their food stamp benefits computed using the AFDC earned income disregard rather than the food stamp earned income deduction. We recognize that the level of the AFDC earned income disregard provided to certain categories of AFDC households is smaller than the food stamp earned income deduction to which these households would otherwise be entitled.

In designing the demonstration projects, the Secretary would make appropriate adjustments to address this matter in order that these household categories not be subjected to benefit cuts. That is why the statutory language states that the AFDC earned income disregards would be used in lieu of the food stamp earned income deduction only "to the extent the Secretary determines [this is] consistent with the purposes of the demonstration projects required under this subsection."

As noted, reducing benefits for categories of households is not among the purposes of these projects. Because we wanted to achieve significant simplification without disadvantaging households, we purposely did not specify that these projects must be budget-neutral.

In each of these areas, we are determined that the search for consistency between benefit programs be pursued as a way of improving their ability to assist people in need; consistency should not be an end in itself to be pursued where it can only be achieved at the expense of the protective purposes of the programs.

The bill expands categorical eligibility to cover general assistance households. The Secretary is to establish standards for determining whether GA programs are appropriate to categorical treatment. The intent is not to require the GA program to have standards identical to those in the Food Stamp Program but rather to ensure that the GA program is indeed a need-tested benefit, not a general travelers' aid program assisting transients without regard to their incomes.

We are aware that there has been considerable litigation concerning the definition of the "head of household" in the food stamp program, with several courts siding with the Department and several finding that the Department's regulations exceeded its statutory authority. We have taken a middle ground. On the one hand, we believe that food stamp offices should be allowed to reject a household's assertion that someone is the head of the household if the designated head is not in fact performing the role of head of the household for other purposes.

On the other hand, we wish to ensure that the food stamp program not in any way interfere with existing lines of responsibility in a household and, above all, that innocent persons are not deprived of assistance because of the irresponsible actions of someone over whom they have no control. The final bill would allow food stamp offices to question households' designations of their heads, and to reject those designations where they are unfounded, except that an adult parent of children in the household could not be denied the right to serve as head of his or her household.

The bill also limits the number of times households may change their designation of whom is their head. This is an equitable procedure for ensuring that the household designates its most responsible member as head without limiting the substance of that choice through any arbitrary earnings standard.

The legislature calls for the secretary to undertake a review of his automation regulations. This review should encompass both issues of program efficiency and protections for recipients. Automated systems should be designed so that they improve, rather than detract from services provided to households. Automation should not be an occasion for reducing the quality of notices given to households, for making it more difficult for households and their representatives to have access to information that is currently maintained in case files, or for delaying action on applications, recertifications, or reported changes.

Households should retain the right to initiate the application process by signing and submitting a simple form to the food stamp office, and current procedures for out-of-office interviews and mailed applications should remain in full force. No automated system should terminate a household's benefits without being directed to do so by an appropriate eligibility worker: the Committee does not wish to hear more reports of computers terminating thousands of households in a month automatically when eligibility workers were unable to enter information from the households' timely monthly reports by the computer's deadline.

And, to prevent errors, where households are asked to sign computer print-outs of answers they have given during interviews, the household should be given adequate time to check the document for errors before signing and should be given a copy of whatever they signed so that they can recheck it later (if necessary with the help of friends or family members).

I also need to briefly mention an issue regarding clothing allowances. We understand that, for administrative simplicity, states make these back-to-school clothing allowances available to all low-income children of a certain age without requiring verification of the school or day-care center in which each particular child is enrolled. It was not our intent to require programs to change their operations in this or any other way to qualify for the exclusion provided here.

The legislation also contains a technical correction to ensure that applicants for, or recipients of, supplemental security income (SSI) are informed about food stamp benefits and can receive food stamp applications at social security offices even if they live in households with persons not seeking or receiving SSI. This right is currently afforded social security applicants—and more extensive rights are afforded SSI applicants and recipients who live in "pure" households.

The Department should continue to follow its regulatory policy regarding * * *. As with the other provisions for SSI and social security applicants and recipients, it would be irrelevant whether the person needed a food stamp application to apply to begin receiving benefits or to provide the information necessary for recertification.

One of the more important provisions in the nutrition title reflects a recommendation by the Department that there should no longer be authorization ceilings in the Food Stamp Program—and that changes be made in the statute to avoid periodic scares that food stamp benefits will be reduced either because the initial appropriation is insufficient to last through the year or because the food stamp authorization ceiling is too low.

The bill achieves both of these goals. First, it eliminates the authorization ceilings and authorizes the appropriation of whatever amounts are needed to pay full benefit entitlements throughout the year.

The only way a benefit reduction or termination would occur would be if Congress failed to provide a supplemental appropriation and the initial appropriation had been fully exhausted before the end of the fiscal year.

Second, the legislation eliminates the specter of a percentage reduction in benefits part way through the year. Under existing law, the Secretary is required to reduce benefits when he determines that funding requirements for the fiscal year will exceed the authorization ceiling for that year. The Secretary must send a letter to Congress on the 15th of every month stating whether percentage benefit reductions will be required.

The legislation now before us replaces this monthly letter to Congress with a new monthly letter in which the Secretary states whether a supplemental appropriation will be needed—rather than whether benefit reductions will have to be instituted.

Under the new approach, a supplemental would need to be enacted before the initial appropriation was used up. So long as it was, full benefits would continue to be paid. The Secretary would not issue instructions to states in the interim to reduce benefits, and this is the reason we changed the statute so that the Secretary's monthly letter would no longer report on whether benefit reductions might be required.

I believe this represents a substantial improvement in Food Stamp Program operations. On several occasions in the past, the Department has had to send directives to the states to prepare for benefits reduc-

tions. On these occasions, both the federal government and the states spent not insignificant sums preparing for the benefit reductions, and millions of recipients were subjected to fears that their food assistance would be cut. Yet on every occasion, Congress provided supplemental funding, and benefit reductions were avoided.

There is no reason to continue this "Perils of Pauline" aspect of the Food Stamp Program, under which federal and state agencies spend taxpayers' dollars preparing for benefit reductions that never occur and poor elderly people and needy families are badly frightened. The new legislation should assure that these problems do not recur.

In closing, Mr. President, I should note an important issue affecting our commodities programs. There has been a lot of concern expressed by the Administration about the number of reports USDA is required to write each year. I have a candidate for a report that should either be discontinued or revised so as to be useful to the Congress.

The "displacements" reports regarding the Temporary Emergency Food Assistance Program (TEFAP) which the Department provides to the Congress has never been useful. The reason is simple.

Under the TEFAP program needy families are given small bags of groceries to tide them over so they do not go hungry.

TEFAP is a vital safety net to take care of those in emergency need. Families can wait up to 30 days to get food stamps—TEFAP responds immediately and is a first line of defense against hunger.

When TEFAP was first started it provided surplus commodities—such as cheese, rice, butter, flour and powdered milk. However, some of these commodities are no longer in surplus.

The TEFAP program was changed to address these reductions in surpluses in the Hunger Prevention Act of 1988. USDA is now required to purchase high protein commodities to supplement the foods still in surplus butter, cornmeal and flour. A family can hardly live on a diet of butter, cornmeal and flour.

Some food companies and lobbylists have been concerned that needy families that received bags of commodities from TEFAP would not purchase those foods in the supermarket. These corporations, middlemen and brokers that bought and sold these commodities were worried that their total sales could be affected—i.e., "displaced"—on a national basis thus reducing their corporate profits.

They felt that federally donated commodities would "displace" the amounts that these poor families might buy in supermarkets. For this reason Congress required that USDA study this displacement effect regarding these Federally donated commodities.

These reports have never been useful to the Congress because they were too limited in scope. Thus, any given report might have indicated that these TEFAP federal efforts "displaced" commodity purchases even when total federal efforts resulted in increased purchases of the commodity in question.

For example, let us examine rice. A few years ago rice was distributed under TEFAP and needy families would receive a few pounds of rice a month. The Department attempted to estimate how many pounds were not purchased by those families since they received TEFAP rice.

However, on a national scale up to 20 million Americans are on food stamps each month, and millions of school children receive federal subsidies for school lunches. Also, federal money is used under several other feeding programs to buy food for low-income Americans.

Some of this huge increase in purchasing power—over $20 billion per year in recent years—was certainly devoted to the purchase of rice, or other commodities donated by TEFAP. Thus, when the reports indicated there was displacement there may not have been any true displacement at all—if USDA had taken into account all the USDA food programs.

Unless these reports are changed to look at the full picture they are a waste of time and should not be provided by the Department.

Mr. LEAHY. Mr. President, I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I yield 1 minute to myself.

Mr. President, I take this opportunity—because I would like to speak later about the bill—simply to commend the leadership of the chairman of our committee.

The Presiding Officer serves on that committee and played a distinguished role, both in the consideration of the bill as well as in the conference committee. He would join me, I am certain, in our collective tribute in a bipartisan way to our chairman. This has been a great experience of a full year of listening to people all over America who are producers, consumers, those who are dependent upon a strong farm economy in each of our States. We have listened to the people. We have produced, I believe, a remarkable document. It could not have occurred without the chairman's leadership, his good will, his humor, his persistence, and his generosity of giving praise to each member of the committee, and that was important.

So I wanted to break into the debate simply to say this so the record will show this at this point. I appreciate that leadership and the friendship of the chairman.

I yield to the distinguished former chairman of the committee, Senator HELMS. Senator HELMS produced a great bill upon which this one is built, and it is a real pleasure that he should be recognized at this moment.

The PRESIDING OFFICER. I advise the distinguished Senator from Indiana, under the previous order, we are voting at 2:45.

Mr. LUGAR. I will ask the Senator to condense his remarks.

Mr. HELMS. Mr. President, for the purpose of the record, a most unfortunate staff misunderstanding occurred during the farm bill conference in connection with section 1557, the reporting requirements relating to tobacco. This is part of the trade title.

The resulting language in the conference report is not the text that was agreed to by both sides of the issue about 1 a.m., October 15.

Mr. President, I have done my best to resolve this misunderstanding amicably and in good faith. I have even offered to agree to the language originally in the House bill.

However, others are not willing to work it out. In fact, staff members have been overheard discussing their hope that I will block enactment of this farm bill. They believe it will help my opponent in the election on November 6.

Mr. President, playing politics with this legislation saddens me. There is an obvious willingness to let 2 years of hard work go down the drain for politics, and to let the hard work and long hours be pushed aside in the hope it will help retire JESSE HELMS.

Mr. President, I will not be party to that.

If I thought it was necessary to block this farm bill in order to protect my farmers, I would. If I thought this disputed language would harm the livelihoods of my farmers, I would gladly take the heat.

However, Mr. President, I have consulted with many experts in this area and I am convinced that this language is so poorly written, and so onerous, that it will be impossible for the Secretary of Agriculture to administer or enforce it. Also it will be impossible for the exporters to comply with it. So what we have here is a political exercise in futility.

I would also note that there is doubt that the language of section 1557, as so poorly drafted, even requires exporters to file a report. I have at hand a letter from the U.S. Department of Justice stating that the penalty included in this bill "would not apply to the failure to file such a report. It would apply only if a company filed a false report."

So, Mr. President, in view of all this, I predict that section 1557 is so defective that it is nugatory, and will have to be corrected next year. The existing text, in effect, will fall of its own weight.

Consequently, I raised no objection to the expeditious consideration of the farm bill conference report. We will revisit tobacco export reporting next year.

Mr. President, I ask unanimous consent that the letter from the Department of Justice be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, October 24, 1990.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: This is in response to a request by Mark Eaton of your staff re-

garding language in the Farm Bill Conference Report. Specifically, we were asked to review the language of Section 1557(e) to determine whether failure to file tobacco reports would result in a violation of 18 U.S.C. § 1001.

The Criminal Division has advised that Title 18 U.S.C. § 1001 would not apply to the failure to file such a report. It would apply only if a company filed a false report. However, the Foreign Corrupt Practices Act may be of interest to you. Title 15 U.S.C. § 78 M(b)(2)(3) requires the maintenance of accurate records by corporations subject to the jurisdiction of the SEC and has a penalty provision.

I hope this information is helpful. Please contact me if I may be of further assistance.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

Mr. HELMS. In summary, Mr. President, with reference to comments made by my friend from Montana, Senator BURNS, I collect cartoons. One of my favorites, I will say to my friend from Indiana, is one portraying a bunch of fat cats sitting around a table beating their fist about how the farmers—the caption over the head of one of them said, "The farmers are living off the fat of the land." There is a little farmer standing over in the corner. He says, "It looks like to me the fat of the land are living off the farmers." That is about the size of it.

I thank the Senator for yielding, and I yield the floor.

Mr. DOLE. Mr. President, I would first like to commend the chairman and the ranking member, Senator LUGAR, for their leadership and tireless efforts in bringing the 1990 farm bill to its final stage. The bill that is before us today is the result of a delicate balance between budget-driven and policy-driven priorities. Surely no previous farm bill has been written under a budget climate such as today's, and farm State lawmakers have struggled throughout the year to piece together a package which meets our fiscal responsibility and yet meets the needs of American agriculture.

The new fiscal priorities this year are far different from those in 1985, yet we can all be proud of the good work that was done in that year. The policies which have guided the farm program over the past 5 years have proven themselves over the shortsighted and failed policies of the past. I am proud to say that I was directly involved in crafting that legislation, as it was a definite turning point toward responsible farm policy designed for the longrun well-being of all farmers.

By retaining the focus of the 1985 farm bill, we can continue those market-oriented successes which will be necessary for American agriculture in the 1990's and beyond. I do not accept the notion that we can raise loan rates and escalate income incentives without taking the United States out of the world market and moving toward supply-management schemes that are a slap in the face to the most efficient farmers in the world. We have been able to maintain at least a resemblance of the key provisions of 1985 intact in this bill, and that has allowed us to focus upon trimming the budget in a manner which minimizes the pain inflicted upon producers.

Mr. President, the Agriculture Committee was handed a set of budget instructions which included sizable cuts in comparison to most other committees. Those cuts are large, those cuts will cause pain, and those cuts led to some very tough decisions. Although those cuts have been highly contentious among farm-State lawmakers and the fiscal reckoning was not easy, I believe we are presenting the most painless of many options while still looking out for the long-term interests of farmers.

Amid the cries of the pain which these cuts will cause, I want to remind my colleagues that farmers are extremely concerned about interest rates and inflation as well. Probably more so than a lot of people in Washington who have yet to fully understand what irresponsible spending holds in store for agriculture. Knowing how rising interest rates affects a farmer's costs and knowing how inflation eats away at his bottom line, we owe it to them to get our fiscal house in order and pave the way for a vibrant farm economy.

When we started the farm bill process back in January, many of the speeches and earnest debate centered on two issues: Flexibility and simplicity.

There are numerous provisions for individual farmer flexibility within this bill. One program that I introduced and has received bipartisan support is the "top"—target option program. This type of flexibility and others incorporated in the bill provides farmers additional flexibility to better manage their farms in a way that they see fit.

At the same time, one thing that we have failed to do is to address the simplicity problem. The conferees report alone is 702 pages, and is accompanied by several thousand pages of report language. By comparison, the 1970 farm bill was only 27 pages.

This demonstrates the increased impact of outside interests involved in the formation of agricultural policy. But we cannot forget who are the principles for which we are writing this bill: The American farmer. If you ask any full-time farmer what his biggest single complaint or problem is, one would think the obvious answer would be commodity prices or the weather. But the vast majority will reply that it is the redtape and the enormous amount of paperwork at the ASCS Office that is associated with Government programs.

Although I applaud the environmentally sensitive direction of this bill, we must caution against allowing outside interests to control the destiny of agriculture and the American farmer. Nonfarmers with little knowledge of the day-to-day efforts of producers to protect our natural resources are too often pressing their agenda upon the people who feed them and the rest of the world. Farmers were the pioneer environmentalists, so let us keep their needs and their know-how in mind.

I do believe that the nutrition title is one of the most important titles in the farm bill. It reauthorizes and improves programs that are a vital part of our safety for the neediest members of our society. I do regret that the budget situation prevented us from making any significant changes in the Food Stamp Program's benefit and eligibility structure. However, the nutrition title does include important provisions that will help ease access for recipients and make the Food Stamp Program easier to administer and more closely coordinated with other public assistance programs.

It has been pointed out that none of the budget cuts associated with the reconciliation bill are incorporated into this bill. However, I remind my colleagues that the final writing of this report has been done hand in hand with the agriculture section of the reconciliation bill.

This is not a perfect bill. There are many troubling provisions which are a throwback to policies which have proven themselves ineffective. Loan rates have been raised; not as high as some Members wanted, but higher than others of us would have liked. There is a new dairy support price floor, a continuation of status quo sugar policy, and a host of other items which have used the farm bill as an election year vehicle.

But perhaps the biggest problem is the lack of equity in this bill. I realize that equity means different things to different people, and is measured in different ways. But the inequity between what "federally funded" commodities are contributing to deficit reduction and what "consumer funded" commodities are providing is obvious. Wheat, feed grains, cotton, and rice are bearing the lions share of the pain, although we have punished to the tune of 1 percent those producers of sugar, honey, and tobacco. And for peanut growers and wool and mohair growers, we have decided that they should retain a cost of production escalator which will increase their support price annually over the next 5 years.

Overall, we have seen many changes in the development of the 1990 farm bill. Many new issues have received center-stage attention throughout the process, and the result can be seen in a

bill marked with provisions which historically have not been viewed as farm issues. To a degree this is healthy, but it marks a definite power shift in regard to which groups impact farm policy, and that should concern any Member who represents a farm constituency.

We have also been driven by our budget more than any other time in our history. We have met that responsibility, and have ended up with a bill which has a little bit for everyone and is the best to be expected under circumstances which at times have been quite difficult.

Mr. KERREY. Mr. President, I rise in opposition to the conference report on the 1990 farm bill.

Before I outline the reasons why I believe this bill is bad for American farmers, consumers, and taxpayers, let me declare my admiration for the work done by the distinguished chairman of the Agriculture Committee, Senator LEAHY, and the ranking member, Senator LUGAR.

Their hard work and commitment to providing opportunity for our farmers and good nutrition for our families is not in dispute.

Let me also make clear at the outset that I believe the philosophy of the Bush administration toward agriculture is the chief cause of the dissatisfaction that many feel toward this legislation. The administration's philosophy—clearly stated and honestly held—is that the key to a healthy agriculture is greater efficiency that allows American farmers to sell food at a lower and lower price.

It should be made clear to American farmers that the budget deficit is not their principal culprit. Budget pressures are not the reason why agriculture is being singled out for a disproportionate cut. The reason why agriculture is being forced to take it on the chin is because of the philosophy of this administration—they simply do not believe in the need for Government involvement in agriculture.

I am a believer in the value of a farm program. Properly written and correctly administered, it can stabilize food prices for producers and consumers. It can protect and enlarge our soil and water resources. It can help the United States maintain its share of international markets.

Unlike the Bush administration—which apparently takes delight in the budget reductions that agriculture will swallow over the next 5 years—I believe in the economic and social value of the farm bill.

Before I offer my reasons for voting against this particular farm bill, it has become necessary to explain why I believe a good farm bill is an important part of America's economic strategy. This necessity is born of many factors: The declining number of representatives from farm States and/or districts; the absence of a strong rationale offered by the executive branch; the complexity of the program itself.

For those who are not immersed in the detail of farm policy, the price support programs can appear bewildering. They can appear to be a massive and unwarranted giveaway to a few large and already-wealthy farmers. In part this perception is encouraged by some who have abused the program. But more often it is encouraged by those who are hostile to the idea of Government involvement in agriculture—largely because this position serves their own self-interest.

Mr. President, for those Americans who want a healthy agriculture, thriving rural communities, and a dependable, affordable supply of food and who do not want an overregulated, oversubsidized farm sector, the work of putting together a 5-year farm bill rests upon several basic assumptions.

These assumptions guide the details of our policy. They also provide an answer to the most frequently asked question about our farm policies: What makes agriculture so unique and special that Federal Government involvement is warranted?

The first assumption is that the weather will be forever variable and unpredictable. No other manufacturing industry can be so devastated if it rains too much or too little. Those who want to eliminate the farm program need to answer this question first: Where are we going to get our food if we have consecutive droughts?

To illustrate, 1988 was a major drought year. Prior to 1988, the biggest concern of farm policymakers and taxpayers was the surplus problem created by stagnant markets and favorable weather. In fact, the primary objective of the 1985 farm bill was to clear out the huge surplus of commodities that was depressing prices. The Bush administration recently blamed this situation of the reign or error that it says was launched by the 1981 farm bill—choosing to ignore the crippling impact of a strong dollar and high interest rates on market demand.

The 1985 farm bill dramatically lowered loan rates in order to move this surplus into the market. A pact was made with farmers to protect farm income by maintaining target prices until the surplus inventories were reduced. Not surprisingly, record farm program costs were among the results, as was increased taxpayer impatience with our farm program.

Eventually, the surplus problem was resolved more by Mother Nature than Uncle Sam. In the spring of 1988, after the crop was planted, it became clear we were facing a dry year. Almost overnight the surplus problem disappeared, but another problem was evident: Fear that inventory levels were insufficient to satisfy consumer demand. Fortunately, consumers, including the livestock industry, were protected from calamity by the grain reserves.

According to a recent study by the university of Missouri, the American consumer saved $40 billion in 1988 because of our farm programs and the grain reserves they provided. Before American consumers follow the two-note siren song of "market oriented," I hope they will remember the lessons from 1988.

Thus, the reserve of grain owned by farmers and the Government serves as a buffer for the American consumer. It protects the consumer, not the farmer, against uncertainties in production.

Once the consumer gains this protection, the farmer is deserving of some safeguards as well, since a purposeful decision to carry a surplus for the benefit of consumers implies that prices are going to remain below a level that the market would otherwise dictate. The lower price resulting from a policy to ensure consumers' food security is what justifies, in my view, a role for Government and taxpayers in helping to maintain farm income through direct payments or similar forms of assistance.

The second assumption is more of an observaion: Agricultural commodities have an intrinsic value which make them unique among all commodities. There are many things we can do without, but we cannot survive without food.

We in the United States—particularly those 243 million of us who do not farm and the majority of us for whom adequate nutrition is not a problem—are at times obscenely complacent about our food production and distribution system. The progress of our industrial and information society is perhaps best measured by the decreasing amount of time required for most of us to secure the food that we need.

The most common measure of our nutritional wealth is the amount of disposable income needed to purchase food. A few generations ago, before technology increased our efficiency, gathering food was the most difficult human activity. Today, the price of food is typically influenced more by the marketing, packaging, and convenience we desire than by the cost of the raw ingredients inside.

Americans spend less than 12 percent of their disposable income for food. We spend fewer hours on the job to generate income for food than any nation on Earth. We spend fewer hours working to buy the food that nourishes us than we do to pay the taxes that eat us alive. In the manner I have described, our farm progrms help to ensure thats our food remains both bountiful and affordable.

The third assumption is Americans' preference for who produces our food.

Most of us believe that for economic, social, even spiritual reasons, the preferred food production unit is the family-operated farm or ranch. Our policy should not be hostile to those who choose to incorporate or who desire to be the largest in the world. Rather, it should recognize that for efficiency and stability, the family-operated farm or ranch is preferable.

Even with a steadily declining farm population America still has hundreds of thousands of farm units. Maintaining this situation—unique compared to other manufacturing industries where a small number of large businesses tend to dominate the market—requires special consideration. It requires a farm program.

Does the American farm family of the 1990's have to be a sound business operation to survive? Of course it does. I do not advocate a farm program that guarantees profit no matter how the farm is operated.

The fourth assumption is about the nature of our international competition. That competition has changed dramatically in the past 15 years. The most notable change is in the number of countries that have increased their capacity, through the use of subsidies or otherwise, to produce food for export. The most flagrant example of a subsidized effort is the common agriculture policy [CAP] employed by the European Community.

There are more than 11 million farms in the European Community of 320 million people. By comparison, there are 2 million farms in the United States with a population of 250 million. The CAP provides subsidies that are 2 to 4 times greater than ours. The EC's costly determination to compete for international market share while protecting its farm numbers is—in contrast to the United States—enormously popular at home. Make no mistake about this: The EC has the political will to continue the battle against the American farmer.

The fifth and final assumption is about our environment. Simply put, we cannot sustain our current lifestyles. On the farm and off we are devouring the very means of our existence: our top soil and our water. This is not simply a problem for farmers. It is a problem that must be addressed by urban and rural populations. Further, the United States must set the example for the rest of the world, particularly for developing nations where soil loss is the greatest.

Nearly 1 year ago, the Committee on Agriculture set out to develop farm policy that would guide American agriculture for the next 5 years. That effort began with high hopes, Mr. President—high hopes for providing farmers with increased planting flexibility, the means to be more responsive to market signals, the tools to farm in a more environmentally sensitive manner, and the ability to remain profitable as farmers emerged from the often painful and wrenching decade of the 1980's.

In April I was joined by my colleagues, Senators DASCHLE, CONRAD, HARKIN, and EXON, in introducing legislation that we believed accomplished those objectives. Our bill featured a return to the normal crop acreage system, or NCA, that farmers preferred in the late 1970's, and would have shed the rigid crop-specific base system that has stymied farmers' desire to rotate their crops and respond to market signals ever since the Reagan administration forced the crop-specific base system on agriculture a decade ago.

An essential component of our proposal was an attempt to equalize the relative support levels for all major commodities, by increasing the support rate for crops such as soybeans and oats, so that farmers, once granted additional flexibility under the NCA, could make their planting decisions based on market demand and the need to follow environmentally sound agronomic practices.

We envisioned a much simpler program than the one farmers struggle with today—a program that would leave more decisions about how to farm with producers, rather than their government. It was to be a program that would allow farmers to spend less time at the ASCS office standing in lines and filling out paperwork.

We estimated that the cost of this bill would be about $13 billion per year—just 1 percent of the total Federal budget. In a nation where consumers enjoy the most abundant and healthful supply of food in the world, and pay just 11 percent of their disposable income for that privilege—less than consumers anywhere else—we believed this additional cost was a modest price to pay to ensure our food security and to maintain within our social fabric more than 2 million family farms and the rural communities they support.

Throughout this farm bill process we on the Agriculture Committee knew, of course, that in the end whatever bill we approved would have to conform to the budget that Congress would enact. But agriculture was prepared to do its share. We were prepared to make the cuts necessary to ensure that agriculture did its part to achieve meaningful reductions in the annual Federal deficit.

That is why we reduced the cost of our bill, from $13 billion to $10.6 billion, as the process of writing the new farm bill and the budget continued through the summer. Had it not been for the work of certain members of the Budget Committee who understand the value of our farm programs, particularly the senior Senator from Nebraska, Senator EXON, we would not have been able to approve on the floor of the Senate even the modest farm bill that we passed in July.

But at each juncture along the way, budget pressures forced us to scale back our bill, to limit farmers' flexibility, to maintain uneven support levels for different commodities, to retain program complexities, and generally to prevent farmers from following their good senses as they do their work.

Agriculture was prepared to do its share for deficit reduction, Mr. President, and we did it. But unfortunately, in the past few weeks, agriculture has been called on to do much more—far more than its share.

Under the budget proposals that Congress has had under consideration this fall, our farm programs have been directed to save over $13 billion—a full 25 percent of projected spending on price support programs over the next 5 years. No other component of the Federal budget, and no other segment of our society has been asked to contribute so much.

Many programs within the Federal budget escaped this year's budget knife entirely, and others have been called upon to make only a token installment toward deficit reduciton. Agriculture, by contrast, has been asked to come up with a ballon payment. And unlike most ballon payments, this one does not really buy agricuture anything—not even budget peace for the next 5 years. There is no one who can promise agriculture today that, despite these draconian cuts, we will not be back next year, and the following year, and the year after that, to take still more out of agriculture's hide.

Some people say that at a time when other demands, such as eduction and health needs, require a larger share of the budget pie, we cannot afford farm programs. But for many of the residents of Rural America, ths farm bill is their education program, their housing program, and for some it's even their nutrition program. It is the means by which they will pay for their health care, and it will determine whether their nearby communities continue to anchor the local economy.

As I indicated at the outset, Mr. President, there is really no mystery as to why agriculture has taken it on the chin during this year's budget process. There is no secret as to why other parts of the budget, other programs and departments, fared much better than agriculture.

The simple fact is that, in the case of agriculture, the painful cuts we face happen to mesh very well with the Bush administration's policy with respect to eliminating Government role's in agriculture. The administration has not only failed to oppose the cuts in agriculture, it has cheered those cuts.

Last week I happened to see our Secretary of Agriculture interviewed on a morning news program. When asked why agricultural programs were not slashed even more during the budget process, he did not rise to the defense of agriculture or even attempt to explain the severity of the cuts facing agriculture. Instead, farmers' chief vioce within the administration volunteered that the administration had actually sought still greater farm spending reductions, but that special interests on Capitol Hill had prevented them from doing so.

Although the hit on agriculture is widely viewed as disproportional and unfair, I am pleased that those of us on the conference committee were able to structure the cuts in such a way that farmers were granted additional planting flexibility, including more freedom to pursue alternative crops. Farmers' resiliency and adaptability are among their chief trademarks, and I am hopeful that they will be able to use this new planting freedom to diversify and thereby minimize the potential impact of the decline in support levels—including a possible weakening of land values or rental rates.

There are other features of this bill that I am pleased with. For example, I believe we made important changes in the operation of the farmer-owned reserve [FOR] program that continue an effective reserve but yet allow that reserve—and the producers participating in the program—to be more responsive to market conditions. Under the revised for program, producers will be allowed to exit the reserve at any time. This is a fundamental change from current policy, which requires a producer to isolate grain in the reserve until prices reach the target price for the commodity—even if drought is ravaging the producer's crop in the field and the producer's own livestock feed needs are critical. Clearly, this change will enhance the producer's ability—rather than the Government's authority—to make marketing decisions, which I believe should be a general goal of our farm policy.

This bill includes other significant farm program changes that I have sought on behalf of Nebraska producers: First, it would allow a producer who needs greater planting flexibility in order to comply with a conservation plan to request from the County ASCS Committee that such additional flexibility be granted. Second, it would prevent innocent tenants from being made ineligible for our price support programs because of the failure of a landlord to undertake the message necessary to ensure a farm's compliance with a soil conservation plan.

Third, the bill provides the Secretary with important new authority to grant additional farm program payment eligibility to farm spouses who have been denied payments in their own name simply because they are married to a farmer who is already receiving payments. Fourth, farmers are ensured that they will receive interest payments on any generic commodity certificates that they are issued and forced to hold for a time before cash redemption is allowed, so that they are made whole when the Government decides to make payments in the form of certificates rather than cash.

Despite the several good features of this bill—including other commendable provisions in the conservation, trade, and research titles—and with all due respect for the hard work that many have put into this legislation, the fact that the real farm bill will be determined by the reconciliation process reduces today's vote on the farm bill conference report to little more than a formality. But it is an important vote nevertheless because it is made with the full expectation and the clear understanding that the cuts wrought by budget reconciliation will form the true basis for our farm policy over the next 5 years.

And that, Mr. President, is why I must oppose this farm bill.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1991

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Pursuant to the previous order, the hour of 2:45 having arrived, the question is on agreeing to the Wirth amendment, No. 3161, to the Legislative Branch Appropriations Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Georgia [Mr. NUNN] is necessarily absent.

I also announce that the Senator from Oklahoma [Mr. BOREN] is absent because of illness in family.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 22, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—73

Adams	Bradley	Byrd
Akaka	Breaux	Chafee
Baucus	Bryan	Cohen
Bentsen	Bumpers	Conrad
Biden	Burdick	Cranston
Bingaman	Burns	Daschle
DeConcini	Kassebaum	Pressler
Dixon	Kasten	Pryor
Dodd	Kennedy	Reid
Exon	Kerrey	Riegle
Ford	Kerry	Robb
Fowler	Kohl	Rockefeller
Garn	Lautenberg	Sanford
Glenn	Leahy	Sarbanes
Gore	Levin	Sasser
Gorton	Lieberman	Shelby
Graham	Lugar	Simon
Harkin	McCain	Simpson
Hatch	McClure	Specter
Heflin	Metzenbaum	Stevens
Heinz	Mikulski	Warner
Hollings	Mitchell	Wilson
Inouye	Moynihan	Wirth
Jeffords	Packwood	
Johnston	Pell	

NAYS—22

Armstrong	Gramm	Nickles
Bond	Grassley	Roth
Coats	Helms	Rudman
D'Amato	Humphrey	Symms
Danforth	Lott	Thurmond
Dole	Mack	Wallop
Domenici	McConnell	
Durenberger	Murkowski	

NOT VOTING—5

Boren	Cochran	Nunn
Boschwitz	Hatfield	

So the amendment (No. 3161) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BRYAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, we have left consideration of the legislative branch appropriations bill to the end. It's always controversial. This year's bill has been no exception. Especially given public dismay and anger at the budget mess, and the Congress, it is an especially inviting target for cuts, and makes for a good TV ad against an opponent at the end of a close campaign.

Mr. President, this bill complies with the constraints of the recently adopted budget agreement that calls for a $500 billion cut in the deficits over the next 5 years. It complies with the Budget Act. So, let us be clear, it is not a budget buster. In fact, the President requested close to $200 million more than is provided in the bill.

However, the Senator from Oklahoma offered an amendment to cut every account in this bill, across the board, by 5 percent. I would support a 5-percent cut or more in congressional operations. That is not what the Nickles amendment did. The amendment did much, much more. It cut funds for the GAO—the General Accounting Office, the watchdog auditor of the Congress. It cut funds for the Capitol Police. It cut funds for the Library of Congress. That is not the way some people, including the National Republican Senatorial Committee, are describing it, but that is what it does. I understand the NRSC has already distributed materials of this nature to its candidates, in fact—that they had done that even

before it was offered on the Senate floor.

Mr. President, I do not agree with every recommendation for the Congress in this bill. I agree we could cut 5 percent or even more from some of the accounts in this bill. But, that is not what the amendment by the Senator from Oklahoma would do. He would cut this bill by 5 percent across the board.

An across-the-board cut is indiscriminate. It would reduce spending for a range of agencies, not just the congressional accounts. Not just the franking account, where I supported the cuts suggested by the Senator from Oklahoma of over $11 million. Not just cuts in individual Member's expenses—which I would support—but cuts in accounts that serve the public interest.

For example, Mr. President, this bill includes funds for the General Accounting Office. The General Accounting Office is the Government watchdog on Government waste, fraud, and abuse. It is the guardian of the public interest. Its investigations and reports have highlighted overspending, wasteful spending, and has provided the Congress and the executive branch with recommendations on ways to stop it. If there is one thing the public is saying to us, it is to stop the waste.

I come from the business side, Mr. President, and if my business had been run as poorly as the Government, the last place I would have cut would be the auditors and accounting and management experts who could guide me back to a firm financial footing. We should not be cutting the GAO.

This bill provides funds for the Capitol Police. Mr. President, it is no secret that Washington, DC, is plagued by crime. Staff, tourists, and constituents here on legislative business must face the threat of assault and other crime on the very grounds of the U.S. Capitol. I do not support a cut in police funding.

The bill also includes funding for the maintenance of the building of the U.S. Capitol. Just a few days ago, a heavy rain hit Washington, DC, and water poured through the Capitol Dome, drenching the rotunda and its historic artwork. Mr. President, I do not think the American people want the U.S. Capitol to fall into disrepair. We need to plug the leaks in the Federal budget and we need to plug the leaks in the Capitol Dome and to maintain the rest of the buildings within the control of the Congress.

The bill also includes funding for the Congressional Budget Office, which is the only foil the people have to the Office of Management and Budget. Mr. President, the OMB has juggled the Nation's books before. The OMB has time after time worn rose-colored glasses when examining the Nation's economic and budget situation. It has told us the budget deficit was shrinking when it was growing. It has told us the economy was humming along when it's stumbling. Mr. President, CBO has helped give us and the public the cold, hard truth. That is what the people want and deserve.

The bill also includes funding for the Library of Congress—the Nation's library. Mr. President, the books are piling up, uncatalogued because of a shortage of staff. Researchers and students from around the country come to the Library of Congress to use its unique and extensive collection. The Library of Congress also supports libraries around the country and programs for the blind. We should not deprive them of those services. For that reason, I opposed the across-the-board cut and supported the amendment of Senator WIRTH to restore the Library's funding after the across-the-board cut was adopted.

Mr. President, while I opposed the scatter-shot approach of the 5 percent across-the-board cut, I did support Senator NICKLES' amendments to hold down spending by Members.

I supported amendments to reform and reduce mailings by individual Members of the Senate. Mr. President, we have enough money to answer our mail. There was no justification to increase the appropriation for mail from $23 million to $35 million, other than to accommodate the desire to finance unsolicited mailings.

I also supported amendments to prevent Senators from shifting unused mail funding to another Senator. Mr. President, if a Senator has unused mail money—because he or she has had less mail to answer, or because he or she has refrained from unsolicited mailings—the benefit of those savings should go to the taxpayer.

Mr. President, the legislative branch appropriations bill supports essential functions of Government that serve the public. I support passage of the bill.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the yeas and nays have not been ordered.

Mr. SYMMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Georgia [Mr. NUNN] is necessarily absent.

I also announce that the Senator from Oklahoma [Mr. BOREN] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 72, nays 24, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—72

Adams	Domenici	McConnell
Akaka	Durenberger	Mikulski
Baucus	Ford	Mitchell
Bentsen	Glenn	Moynihan
Bingaman	Gore	Murkowski
Bond	Gorton	Nickles
Bradley	Graham	Packwood
Breaux	Harkin	Pell
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Hollings	Riegle
Burns	Inouye	Robb
Byrd	Jeffords	Rockefeller
Chafee	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Cranston	Kerry	Shelby
D'Amato	Kohl	Simon
Danforth	Lautenberg	Simpson
Daschle	Leahy	Specter
DeConcini	Lieberman	Thurmond
Dodd	Lugar	Warner
Dole	McClure	Wirth

NAYS—24

Armstrong	Grassley	McCain
Biden	Hatch	Metzenbaum
Coats	Helms	Pressler
Dixon	Humphrey	Roth
Exon	Kasten	Stevens
Fowler	Levin	Symms
Garn	Lott	Wallop
Gramm	Mack	Wilson

NOT VOTING—4

Boren	Hatfield
Boschwitz	Nunn

So the bill (H.R. 5399), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I move that the Senate request a conference with the House, that the Senate insist on its amendments, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. REID, Ms. MIKULSKI, Mr. ADAMS, Mr. BYRD, Mr. NICKLES, Mr. STEVENS, and Mr. COCHRAN conferees on the part of the Senate.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MITCHELL. Mr. President, parliamentary inquiry. What is now the pending business?

The PRESIDING OFFICER. The question recurs on the conference report accompanying S. 2830.

UNANIMOUS CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, under the previous order, there had been 90 minutes of debate ordered on that conference report and, in accordance with the usual practice, the Chair has been allocating the time as between Democrats and Republicans.

It has so developed that virtually all of the time used so far has been used by opponents of the measure. In order to permit a fair statement of both points of view, I now ask unanimous consent that the time for debate on the conference report on the farm bill be extended for an additional 30 minutes immediately following the remaining 32 minutes, and that that time be allocated to the proponents of the measure under the control of Senators LEAHY and LUGAR.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that the vote on the farm bill conference report be set for 7:15 this evening, and I now ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time between 7 p.m. and 7:15 p.m. be used for debate on the conference report for the farm bill, to be equally divided, 7½ minutes each, under the control of Senator LEAHY and Senator LUGAR.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I yield 10 minutes to the distinguished Senator from Iowa.

Mr. GRASSLEY. I thank Senator LUGAR, and I do not think I am going to use my entire 10 minutes.

Mr. President, I rise today to voice my concerns about the conference report that we have before us on the farm bill.

There has been really, Mr. President, considerable confusion over which provisions are in the farm bill, and which are in the budget reconciliation package, because the $13.6 billion cuts that are really going to affect the pocketbooks of the farmers of America are in the reconciliation bill.

However, there are still significant changes that have also been made in the farm bill. The increased flexibility, or triple base, that has been attributed to this conference report is in reality in the budget reconciliation. The flexibility provided in this package is the same flexibility that has been available since the 1988 disaster bill was enacted; 0/25 is a one-way program that will do little to encourage farmers to improve crop rotations and to provide the mix of crop production that the markets are signaling that farmers want and need.

My views on flexibility were stated during the farm bill debate, so I do not want to repeat them over again. Without the freedom to choose what they plant, Mr. President, American farmers will continue to lose markets to foreign competition; 0/25 provides an opportunity for flexibility, but our farmers are immediately handicapped when they utilize this program because their safety net of deficiency payments is being removed.

A second major problem with the final version of the 1990 farm bill, is the change in how loan rates are established. The loan rate for corn will actually increase during the first 3 years of this 5-year authorization. Yes, I know that higher loan rates will reduce Government outlays in the form of deficiency payments, but more grain will be put under loan and that grain is apt to be forfeited back to the Government because the price does not rise.

So I think it is legitimate to remind everybody of corrections that were made earlier in the last decade to cover some problems created by higher loan rates.

Did not our experience in the late eighties with high loan rates and declining exports teach us a lession?

We were headed in the right direction, toward increasing market orientation in the farm programs. That was in the 1985 farm bill. I think we are regressing.

That bill signaled—meaning the 1985 act—to our competitors that we were going to grow crops to meet the world demand and were going to be participants in the international trade of agricultural commodities. The 1985 act created aggressive marketing programs that sent notice to our competitors that we were going to meet their unfair trade subsides head to head.

We inserted the authority for the Secretary to adjust our commodity programs to help us compete for international markets. This ability to adjust loan rates ensured that we did not set a floor on our commodities that could be readily undercut by our competitors, because, for sure, if we say to the rest of the world that we are going to produce any crop for *x* market price, and it is going to be held off because of Government loans, that is sending a signal to the rest of the world to just produce under that amount, and they will market before we market.

Contrary to the arguments expressed by some, this reduction in loan rates did not equal a reduction in market prices. In fact, as loan rates reached their low point at the end of the 1985 act we found market prices strong for a number of our program, as well as nonprogram, crops. We have seen our exports rise over 33 percent the past 5 years. I think we must continue this progress for the prosperity of agriculture.

While some would dispute the validity of the farm income figures put out by the USDA, there is very little argument that income has risen dramatically since the early 1980's. Loan rates have been a management tool for farmers to use to try to increase the percentage of their income which comes from the marketplace.

The oilseed marketing loan in this conference report is a step in the right direction. This new program will send a clear signal to our foreign competitors that the U.S. Government will no longer be in the business of storing grain, but is ready to compete for markets. Unfortunately, the market loan level has been dropped to $5.02, and that is far below a level at which soybeans will compete effectively with program crops, and it is well below the average price level for the last number of years.

Not all of the provisions in this conference report are negative. In fact, I commend the conference committee for their efforts in the areas of crop insurance, conservation, trade, and organic agriculture. But I do not believe this conference report on the 1990 farm bill will be good for the U.S. farmers or U.S. farm exports. I believe any effort by this body to cut deeply into the income of farmers, who feed us all, should be opposed.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. How much time does the Senator from North Dakota wish?

Mr. CONRAD. Five minutes.

Mr. LEAHY. Mr. President, I understand the Senator from North Dakota will be speaking in opposition. Will the time be charged against the time of the opposition?

The PRESIDING OFFICER. The time will be charged to the Senator who yields the time to speak.

Mr. LEAHY. How much time is now available, Mr. President?

The PRESIDING OFFICER. Approximately 19 minutes.

Mr. LEAHY. To the Senator from Vermont?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I yield 5 minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, first, I want to commend both the chairman and the ranking member for their prodigious efforts on behalf of this legislation over the entire year. I do not think many people fully understand the extraordinary effort that has gone into producing this legislation. I want to make clear that my criticisms of this bill do not in any way extend to them because they were forced, by the conclusions in the budget summit, to come back with massive cuts from what was done in the Senate Agriculture Committee.

The provisions of this farm bill, combined with the huge farm spending cuts envisioned in the Federal budget, will cut the heart out of the farm program in the United States, and cripple the rural economy.

The headlines in my State tell the story: "North Dakota farmers could lose millions," "Bill may bankrupt many," "Farm bill cuts will slash into North Dakota economy," and "Farm legislation is reason for worry." Those headlines are accurate.

The farmers in my State are still recovering from 2 years of crushing drought. Wheat prices have plummeted. And now, Congress gives them a farm bill that guarantees another wave of bankruptcies, foreclosures, and pain across the heartland.

I voted for the farm bill as it came out of the Senate Agriculture Committee. We worked hard on that bill. It was an improvement over current law, but it was the bare minimum we needed. I had hoped the conference committee would improve the bill; but the budget resolution has made that impossible.

This farm bill will push thousands of farmers out of business, ruin agricultural businesses, punish the rural economy, and increase rural poverty.

This bill has been trumpeted as the most environmentally conscious farm bill ever. That may be true, but its environmental benefits can only be realized if farmers stay in the farm program—and we give them little reason to do so. This bill encourages farmers to abandon the farm program and mine the soil, planting fence-row-to-fence-row to survive.

This farm bill, combined with the budget reconciliation package, will reduce support for agriculture by 25 percent in nominal dollars, and up to 45 percent in real terms by 1995. Agriculture takes a larger proportional cut than any other major Federal program, by far. Those cuts will translate into economic hardship for rural America.

The Congressional Budget Office forecast early this year that net farm income would drop by 21 percent if support levels were merely frozen in the 1990 farm bill. Moreover, that estimate was made before the rise in oil prices. Farm production expenses will rise by $2.8 billion per year if the price of oil averages just $30 per year. Farmers cannot pass on this energy price increase to consumers—it will come out of net income, because farmers are price takers, not price makers. High energy costs combined with the budget reconciliation reduction of 25 percent will devastate farm income.

In spite of USDA's insistent press releases about record farm income, the decade of the 1980's was the worst decade for farm income since record keeping began in 1910—lower even than the worst 10 years of the Great Depression.

While farm income has improved marginally in the past 2 years, the CBO analysis indicates a return to the 1980's farm recession by 1995. This bill will worsen the trend, further reducing farm income, further reducing farm land values, and driving more businesses and people from our rural communities. Rural banks and the Farm Credit System, a farmer-owned lending cooperative, will be put at risk.

As you know, I offered two solutions to this problem. First, I suggested changes to the farm legislation that would help farmers get more money out of the marketplace to make up for these dramatic cuts in Federal spending. Second, I tried to restore some of the cuts in farm spending through an amendment to the budget resolution itself. Neither suggestion was accepted.

Many of you supported the deep cuts in agriculture and, apparently, believe that agricultural stabilization programs are wrong. But let me remind you of something. The American consumer today enjoys a stable, safe reliable source of food at the lowest real consumer prices on the face of the planet. There are two reasons for that: American farmers are among the most efficient and productive in the world; and the American Government has a farm program that works.

The production of food depends on global weather conditions. Only careful planning and the deliberate management of food production, supply and surpluses can provide a buffer against the acts of God that determine the success or failure of crops around the globe.

Responsible governments have known that, and acted on it, since ancient times. Every major civilization in recorded history has had farm programs to provide for a stable, affordable supply of food—from the ancient Egyptians and Incas to modern day Europe and the United States.

We don't have to look far to see examples of what happens when governments do not support and nurture an active farm program to ensure food supplies and protect the land. We need only to look across the ocean to Africa, where millions have died in famine, and where good land turns daily to desert for lack of adequate farm programs.

We have pursued policies in this country that ensure not only adequate supplies, but surpluses of food, so that we can feed our own people and the world in good weather and bad. We have kept our domestic prices affordable. We have protected our land and conserved it. To turn away from these policies, or to weaken them, is folly.

Our competitors know that, and they're beginning to beat us at our own game. The European Community, in the space of just 15 years, has moved from the world's largest net importer to one of the world's largest exporters of food.

They subsidize their producers at levels far in excess of our own. They support soybeans at about $15 a bushel, compared to $4.50 here. They support durum wheat at about $10 a bushel, compared to less than $4 here. They provide similar subsidies for fruits and vegetables.

They have taken over export markets where the United States once ruled. In the process, they have built a thriving and profitable domestic food and fiber industry, providing not only food security, but economic opportunity, a strong agricultural infrastructure, and thousands of jobs.

Japan carries its food security to an extreme, supporting farmers at $25.50 per bushel to produce wheat—10 times the world market price. They do the same for rice. Japan, the European Community, and all our competitors in food-exporting nations know the importance of maintaining domestic food security, and supporting their own food industries. They pay the necessary price, both in government and consumer costs.

Many of you may not realize that for 3 of the past 4 years, world food production was below the level of consumption, primarily because of worldwide drought. The only reason that the world had an adequate supply of food was the huge reserve carried by the United States under the 1985 farm program.

Maintaining those food security reserves is costly. Reserve stocks depress prices and reduce income for farmers. In other words, farmers pay for consumer food security reserves by taking a lower price from the market.

At the same time, maintaining food reserves reduces consumer costs. A recent analysis of the effects of the large grain reserves carried by the United States into the 1988-89 drought found that the reserves will save consumers a total of $40 billion for the 5 years during and after the drought. Those consumer savings are equivalent to 80 percent of the cost of

the 1990 farm bill before the budget cuts.

During the farm bill debate, members from urban States put forth a great deal of propaganda. They would have you believe that a decrease in farm program supports will reduce consumer food costs. That's hogwash. Farm programs, and the food surpluses they allow us to maintain, keep consumer prices affordable and stable.

In fact, every study done of the effects of a totally free market in food production shows the result would be higher, more volatile prices. Grain prices rose in the face of the 1989 drought, but they didn't rise beyond reason, thanks to our reserves.

This farm bill invites corporate agriculture to take over an even larger share of American agriculture. It will destabilize and lower farm income, allowing only the very largest farmers and farm corporations to survive in the long run. Few family farmers can survive the vagaries of the weather and the income roller coaster that will result from this farm bill.

I'm not convinced that giant farming corporations will choose good public policy over profits. I'm not sure that corporate farms would be interested in a deliberate policy of keeping consumer prices affordable, or maintaining huge food security reserves that depress prices.

Family farmers are committed to preserving and nurturing their land to be passed on to the next generation. I am not convinced that when faced with a choice between long-term conservation goals and short-term profits, a huge farming corporation will choose to conserve. Our farm programs set aside millions of acres of fragile land each year for land, water, and wildlife conservation. I'm not sure giant corporate farms will be willing to participate in those programs.

And finally, this bill undermines our negotiators at the Uruguay round of the GATT talks. We have unilaterally given up our own support programs. Why should our competitors agree to any concessions, when we have made them on our own, winning nothing in return? With this bill, we give up our bargaining power, and our ability to shape a better deal for American agriculture on the world stage.

The economic impact of the unilateral and sharp reduction of farm programs in the United States will shift agricultural production, processing, transportation, and input industries away from the United States, costing tens of thousands of jobs in this country. Already in the 1980's, thousands of food industry jobs have been shifted from the United States to Europe. This bill will continue that trend.

This is a destructive farm bill that will do great damage to my State and to the Nation. It will harm the economy of rural America, it will harm the environment, and it will undermine our agricultural and food trade.

In summary, Mr. President, this final product, which is a marriage of the work that we did in the Senate bill, then overlaid by the requirements of budget reconciliation, has left us with a final product that is, in my judgment, badly deficient. I refer to the headlines in my State, which is the most agricultural State in the Nation, an editorial in a statewide newspaper entitled "Farm Legislation Is Reason to Worry." The first word of that editorial sums it all up. It says, simply, "Disaster. That's what the 1990 farm bill could be for North Dakota."

The next clipping I would refer my colleagues to is entitled: "Farm Bill Cuts Will Slash Into North Dakota's Economy." The first paragraph of that news article says:

> The budget-squeezed farm bill could cost North Dakota farmers millions of dollars in income next year, at a time when a bumper crop worldwide has pushed wheat prices to depression levels.

Later on in that article they quote from a man who is head of a major national farm organization. He says:

> This farm bill is guaranteed to drive farm income down and restrict farmers' access to affordable credit.

That from Randolph Nodland, the man who is president of the National Family Farm Coalition.

A third headline: "North Dakota Farmers Could Lose Millions. Bill May Bankrupt Many; 1,000-Acre Wheat Famer Loses $5,200 to Start."

I think those clippings pretty well sum up the reaction of those knowledgeable observers from my part of the country who have examined this legislation in conjunction with the reconciliation bill to follow and who understand that it is a disaster for our part of the country. It is a disaster, very frankly, for American agriculture.

The Congressional Budget Office, the nonpartisan office which oversees and analyzes the effects of congressional legislation, said that farm income in the next 5 years would be reduced 21 percent if no cuts were made in agriculture; a 21-percent reduction in net farm income over the next 5 years if no cuts were made in agriculture funding. But cuts have been made. Those cuts are disproportionate and unfair. Agriculture has been cut 25 percent in nominal terms, but in real terms over 40 percent.

What too few of our colleagues seem to understand is that agriculture's baseline, unlike other baselines, has no inflation in it because the target prices have been frozen for the next 5 years. In addition to that we have removed acreage from protection.

We have heard a lot of talk about other elements of the budget and about the cuts that they have been taking, but all of us know the cuts that are referred to with respect to other areas of the budget are cuts from projected increases. That is not true in agriculture. This chart that I have shows the trend in agriculture spending before and after the budget agreement.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CONRAD. Mr. President, I ask unanimous consent for an additional 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. In 1986 we were over $30 billion in farm spending. We will be below $10 billion in farm program spending by 1995.

We see on the next chart farm income taking the same steep slide.

Let me just conclude by quoting again from the editorial that I started with. It concludes:

> Our prediction: Farmers will get fed up with this program's falling income prospects, its increased complexity and environmental restrictions. Many will try to go without the program by 1995, but many will not be able to afford it. For them, it will be disaster.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, if the Senator would withhold.

Mr. President, I ask unanimous consent, assuming passage of the conference report, that I be authorized to sign the enrollment of S. 2830, the farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I ask for 5 minutes.

Mr. LEAHY. I yield 5 minutes to the Senator from Nebraska.

Mr. KERREY. Mr. President, let me explain why I cannot vote for the farm bill conference report. There are significant philosophical differences with the administration where I think most of the problem lies in this particular instance. I offer a considerable amount of praise for both the distinguished Senator from Vermont, the chairman of the Agriculture Committee and the distinguished ranking member, the Senator from Indiana [Mr. LUGAR].

One of the things I would like to do is to just take a few minutes this afternoon to make sure that my colleagues understand that the cuts in the farm program are not just budget driven. They are driven as much by philosophical preferences on the part of the administration. I heard the Secretary of Agriculture on the day after we finished the conference report, when asked the question on Financial News Network; why didn't you cut further? He said, "I would like to have cut further, but, frankly, special interest blocked my way."

It was clear from the meaning, from the administration's own philosophy, closely held, by the way—it is not that they made it clear, their philosophy simply produces food at lower and lower prices, greater and greater inefficiency that will serve the interest of hopefully increasing exports but would, in my judgment, be disadvantageous to the overall economy of the United States of America and rural communities.

Mr. President, I would like to touch on something that I think was also significant in the conference. The distinguished Senator from Indiana laid out, I think, clearly what our objectives ought to be in trying to produce this bill.

One was to try to maximize net farm income. I believe we have not accomplished that. That is the principal reason I vote against this bill. But there was another objective that the distinguished Senator from Indiana and the distinguished Senator from Vermont attempted to accomplish with their labors, and that is adequate nutrition for all Americans.

I call the attention of my colleagues to a moment in our conference, late in the evening, when the nutrition title came up. Unlike all the other titles where there was a considerable amount of debate and discussion over this and that, there was a period of silence almost. I think most of us understood what that was all about. At least the sense that I had was that we were inadequate; that what we were providing was probably inadequate to the task.

Though we came prepared to argue about net farm income and adequately display our arguments and to discuss what ought to be done, I think most of us had a sense there were children in America who were not going to fully develop because their nutritional needs were not going to be met, whose neurosystems were not going to be fully developed as a consequence of poor nutrition. Most of us had a sense that we were going to lose people as a result of just not getting there on nutrition.

I know it is late in the session; I know we are all going to be going home. One of the things that I fear today, as a citizen and as a Senator, is that we are losing human beings simply because we are providing an inadequate environment for them to grow to their full potential. I know there are honest differences of opinion on what we ought to do, how we ought to achieve it, how much government, how little government, how much local control, how much national control. I do not think anyone can argue, looking at the facts, we are losing human beings. We are just not doing all we could.

It is not as if we do not know what we should be doing. Study after study after study tells us, get there early enough, provide enough nutrition, provide adequate health care, and the individual has a chance to fully develop.

I must say, Mr. President, though I am voting against this farm bill as a consequence of, I think, its failure to provide the opportunity for net farm income; perhaps the greatest fear I have of all with this farm bill has to do with that little moment in our conference deliberations when it seems to me most of the conferees somewhere inside of them had the same sense as I, that we were missing an opportunity to provide nutritional requirements for individuals so they could fully develop in our county.

Again, I thank the Chair and I want to particularly thank, the long, hard, arduous work and exceptional performance on behalf of the chairman and the ranking member of our committee.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, how much time does the Senator from Iowa wish?

Mr. HARKIN. Just 5 minutes.

Mr. LEAHY. Mr. President, how much time do I have.

The PRESIDING OFFICER [Mr. FOWLER]. The Senator from Vermont has 8 minutes 15 seconds.

Mr. LEAHY. I yield 5 minutes of that to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I want to thank the Senator from Vermont for yielding me this time. I want to associate myself with the remarks just made by my colleague from my neighboring State of Nebraska. I also intended to speak on the hunger and nutrition aspects of this bill also since I chair the Subcommittee on the Agriculture Committee. He said it better than I could, and I do not need to repeat at length what he just said about the failures, I think, in this bill to address those issues adequately. I would also like to indicate my support for an agreement with the comments by Chairman LEAHY concerning the nutrition provisions of this bill.

I wanted to focus for a few minutes on why I cannot support this farm bill. But before I do, again I want to commend the distinguished chairman, Senator LEAHY, and the ranking member, Senator LUGAR, for all of their hard work through the year. It has been a long task in trying to hammer out a farm bill. It is never easy, especially in these times—with budget constraints, the GATT negotiations going on and all the other factors that affect the farm bill. I know they have done their best. They had to work under really terrible constraints and my hat is off to both of them for the fine job they did.

Quite frankly, there is a lot in this bill I can support. There are many good things in this bill. Again, for me the bottom line has always been, since I first came to Congress 16 years ago, income protection for farmers. Because all of the other issues that are involved, whether it is conservation programs, environmental concerns, rural development, or whatever, all hinge on adequate income for farmers. I believe that is where this bill really falls down. But there are a lot of other good provisions in it.

I want to mention a few provisions of the bill that I am especially proud to have been involved with.

I was an early, strong supporter of the oil seed marketing loan program and joined in introducing legislation containing the program last spring. I am pleased the program is in the conference bill, although I believe the loan rate is too low.

Water quality was one of the most important environmental topics in the debate on this year's farm bill. Discussions and debate on water quality too often pit agricultural production against water quality. But in Iowa we have experience with a better approach that helps to achieve both goals. I introduced legislation based largely on the Iowa pilot project, which was included in this bill, to establish an agricultural water quality incentive program. This program will encourage farmers to adopt practices that protect ground and surface water, with an emphasis on practices that enhance farm productivity and profitability through improved efficiency in the use of chemicals, fertilizers and other inputs.

I was also very pleased to see my efforts over several years culminate in the inclusion in this bill of provisions that I authored, along with Senator CONRAD, to establish a major new program for research, development and commercialization of new nonfood, nonfeed industrial, and commercial products made from agricultural commodities. The Senate had named my bill three times as a freestanding measure but the House would not go along. Now it is a part of their bill along with helpful additional provisions authorized by Senator CONRAD.

As I pointed out before, over 95 percent of all research funded by USD is done in production, how to produce more. Only about 5 percent is in how to make new crops and new products from those crops. This portion of the farm bill will begin to shift that research, doing more research on the new types of crops and new products from those crops. That is a good direction to take our research in this farm bill.

There are other elements in the bill that I was pleased were adopted: My amendments to reduce farm program

paperwork; to establish a pseudorables eradication program; to require a study of pricing milk on the basis of all components and not just on the fat component; and a program of grants for rehabilitation in assistive technology to help disabled farmers.

Again, I want to especially thank the chairman and ranking member for including this last amendment. This matter is near and dear to my heart. It is a program to help farmers who become disabled, who may lose a hand or be injured, but want to stay on the farm and work. With just a very modest amount of support from assistive technology, for example, a device or something like that, they can do so. I am reminded of the farmer from Iowa, Denny Theesfield, who came home from the Vietnam war as a paraplegic, but as he said to me, 'I can drive a tractor all day. I just can't get on and off the tractor." Through the Easter Seal Program in Iowa, they devised a lift for him so he can get on a tractor. So today Denny Theesfield is a full-time farmer. That is what is in this bill, a program to help farmers who are disabled so they can stay on the farm. I thank Senator LUGAR and Senator LEAHY for their efforts and cooperation on this program.

I am also pleased that the bill includes key provisions of the rural development bill that the Senate passed last year, including a measure that I introduced establishing a new program of loans through the Rural Electrification Administration for rural water and waste systems.

I am profoundly disappointed that the budget agreement did not allow funding for the Mickey Leland memorial hunger relief bill. We must remember that this is a bill involving food and agriculture policy. It is not only about farming. Insofar as it fails to address the hunger problem adequately, this bill falls short of the mark. I am hopeful that funding for that legislation can be found next year. This bill does contain provisions that I sponsored providing for donations of cheese and nonfat dry milk to the CSFP Program and expansion of the CSFP Program to include sites serving elderly recipients only. I also am pleased that the bill extends the TEFAP Program.

However, the key issue in any farm bill for this Senator is the effect it will have on farm income. Helping to achieve adequate levels of farm income has been the chief focus of my efforts in farm policy throughout my career in Congress. The experience of the past decade demonstrated very poignantly the devastating effect of low levels of farm income on farm families and rural communities. The memories of the human and economic tragedy that gripped rural America only a few years ago are imprinted vividly in my mind. I am greatly concerned that this bill sets the stage for a return to hard times for farm families and rural communities.

The average of net farm income in real dollars for the decade of the 1980's was the lowest of all the decades since compiling such records began early in this century. We must be careful not to overestimate the modest recovery in the farm sector since the depths of the farm crisis in the 1980's. A recent survey showed that 18 percent of Iowa farms are still considered financially stressed. And contrary to some assertions, farm income is not nearly at record levels if the figures are adjusted for inflation.

The importance of avoiding cuts to farm programs is underscored by projections of significant declines in farm income even if the programs are merely held at baseline levels, without adjusting them to account for inflation. The Congressional Budget Office's baseline projection for farm income released this spring indicated that in real dollars net cash farm income would decline by 29 percent, and net farm income by 21 percent, between 1988 and 1995.

Recent developments further threaten farm income. Increased fuel prices caused by events in the Middle East will increase operating costs. USDA estimates that a $5 increase in the per-barrel price of oil would cause annual farm production expenses to increase by $900 million. In addition, the prospects of world recession threaten to curtail the demand for agricultural commodities, thus reducing farm income.

Farm families and rural communities support reducing the Federal deficit, but they have already contributed dramatically to deficit reduction. Commodity program spending has fallen from a high of $25.8 billion in fiscal 1986 to an estimated $6.7 billion for fiscal 1990. CBO's most recent baseline estimate for fiscal 1991 shows commodity program spending at $8.5 billion. Farm program spending as a percentage of Federal outlays has also fallen sharply to well below 1 percent of the budget.

It is clear that this bill, in conjunction with the budget resolution, which I opposed, means less income for farmers. The bill thus, fails in my view on the key point of farm income. I was able to support the Senate bill, because I believed that it was about as good as we could get under the budget limitations. But with the budget resolution's severe cuts in agriculture, the farm bill no longer provides anywhere near what is needed in rural America.

The problem of reduced support to agriculture is an immediate problem for farm families and rural communities. Moreover, for the longer term it also amounts to unilateral disarmament in the ongoing GATT neogtiations. I do not see how we can hope to hold a strong position in the GATT talks, when the support to our farmers has been slashed.

These are some of the differences between the Senate bill and the conference report and budget reconciliation package. These differences highlight the ways in which support to our farm families will be cut under this bill and the budget reconciliation package:

Triple base: Although target prices stay the same, there is a back door cut in support through the use of the triple base. This is a straight cut in farm income. While it will provide flexibility, there are ways to do that without cutting farm income.

Loan rates: The Senate bill provided higher loan rates. For corn the Secretary would either set the marketing loan at $1.96 or put the loan rate at $1.57 and give the farmer an advance payment of 29 cents a bushel—total of $1.86—that is to be repaid 9 months after the beginning of the marketing year. The conference bill makes only minor adjustments to current law.

Soybean marketing loan: The Senate bill set the basic rate at $5.50 a bushel. The conference bill provides a loan rate of $5.02 with an origination fee of 2 percent, making the effective rate $4.92.

Targeted option payment program: The Senate bill allowed farmers to increase or decrease their ARP's and get an adjustment in the target price of 0.5 to 1.0 percent for each percent of increase or decrease in the ARP. The conference report makes this program only discretionary with the Secretary.

Oats target price: The Senate bill provided for increasing the target price from the current $1.45 a bushel to $1.85 by 1995. The conference report leaves the oats target price at the current level.

Deficiency payment calculation: The Senate bill provided for calculating them on the basis of average market price for 5 months. The conference bill would go to 12 months calculation for the 1994 crop year and after, which hurts my farmers in Iowa.

Projected deficiency payment protection: The Senate bill would require USDA to pay producers 20 percent of the difference between the final deficiency payment rate and the projected deficiency payment rate. The conference bill eliminates this provision.

Pilot bushel based program: The Senate bill provides for pilot program allowing farmers to agree to limit volume of production rather than limit acreage. The program was to be offered in 4 States, with 15 counties each. In the conference bill it is reduced to 2 States with 15 counties each.

Mr. President, another big disappointment is the knocking out of the important provision we had in the

Senate bill breaking the circle of poison. We worked for years on that. We hammered it out in the Senate. We finally passed a good provision to break this circle of poison where manufacturers ship pesticides banned in this country to other countries, where they are put on crops, and those crops are shipped back into the United States.

In the Senate, we addressed that problem. We would have stopped that. I am sorry to say the House had a weaker provision, and because of the negotiations with the House, and because of the intervention of Secretary of Agriculture Clayton Yeutter and the administration, that circle of poison provision we fought so strongly for has been dropped. I am really sorry to see that.

Lastly, Mr. President, I wish our Secretary of Agriculture would fight as hard for our farmers and our farm programs as have the Senator from Vermont and the Senator from Indiana. If we would have had a reasonable level of leadership, support and advocacy for farmers from the Secretary of Agriculture, we could have avoided such massive cuts and we would have a farm bill I think we could all support. It is unfortunate that the drastic cuts in the budget resolution that will be implemented through this farm bill and the budget reconcilation package have overshadowed the other significant accomplishments in the bill. But because of these massive and unwarranted cuts, I cannot support this bill.

I thank the Chair. I thank the distinguished Senator for yielding me this time.

NUTRITION TITLE OF 1990 FARM BILL

Mr. BOSCHWITZ. Mr. President, as the ranking minority member of the Nutrition Subcommittee, I have been a long-time supporter of the Federal nutrition programs. These programs provide vital nutritional assistance to millions of Americans each year.

The 1990 farm bill makes some important changes to protect the integrity of the Food Stamp Program. We've heard some disturbing reports lately about food stamp trafficking and the use of food stamps as a second currency. This bill provides for increased fines for this illegal activity. I firmly believe that we need to enact stiffer penalties to thwart these illegal activities which deprive those most in need of their food stamp benefits.

Another important section of this bill allows for the expansion of electronic benefit transfer [EBT] systems. Instead of receiving food stamp coupons, recipients would be able to access their benefits electronically at the point of sale. In areas where EBT has been used on an experimental basis, it has been well-received. It's also expected that EBT would reduce problems of trafficking in food stamp coupons.

Several measures to improve and strengthen the Commodity Supplemental Food Program [CSFP] were included in the bill. This program is similar to WIC except that a package of food, rather than vouchers, is provided to low-income women and children. The program also serves the elderly in a few areas of the country. I'm proud that we have two CSFP sites in Minnesota. The bill makes clear that, when funded, there can be CSFP sites that serve only the elderly. Finally, a minimum amount of cheese and nonfat dry milk will be made available to the program each year as long as cheese and nonfat dry milk are acquired by the Commodity Credit Corporation.

I've long believed that we should work to better coordinate and simplify assistance programs for low-income Americans. In the long run, this would benefit those administering the programs, caseworkers as well as recipients. Under this bill, a number of important steps are taken to better coordinate low-income assistance programs. I intend to keep working to achieve more conformity in these programs.

The bill allows States some additional flexibility in several areas in administering the Food Stamp Program. In particular, this bill resolves a problem for State agencies regarding monthly reporting and retrospective budgeting that resulted from the Hunger Prevention Act of 1988.

Finally, because of the budget crisis facing our Nation, many provisions of the Mickey Leland Memorial Domestic Hunger Relief Act were not included in the nutrition title. However, it's important to note that this title does extend several nutrition programs and makes some important, though modest, changes in them.

Mr. McCONNELL. Mr. President, this conference report represents the culmination of dozens of hearings with hundreds of witnesses and weeks of debate involving many difficult choices. I thank our chairman, Mr. LEAHY, and the ranking Republican, Mr. LUGAR, for their leadership of the committee. Senator LUGAR served as a solid and consistent rudder to the committee as we charted a course through the maze of policy options.

In addition to Senator LUGAR, Senators DOLE and COCHRAN worked faithfully as conference members to complete this piece of legislation. I also want to thank my three Republican colleagues and their staffs who worked so hard through the past 6 weeks of House and Senate negotiations.

Policymaking decisions in agriculture have never been simple or easy. In the Agricultural Act of 1933, farm programs as we know them were born. A unique system was established to limit commodity surpluses while protecting farm income. Since that day, Congress has been trying to legislate a balance in supply and demand—the very process our marketplace does and does much more efficiently.

During the second World War commodity surpluses which the price support programs were designed to reduce all but disappeared. Surpluses disappeared because of strong market demand not Federal policy and the result was relatively high farm prices. For a period of 10 years farm programs were noncontroversial and cost very little.

It was not until 1953 that the price support system was put to the test. American agriculture was changing rapidly and during the next two decades crop yields doubled. In addition, technology advanced and new machinery was created to allow farmers to do more work with less labor in a shorter period of time. Farm production increased significantly, driving farm prices down and Government costs up. Farmers began to rely more on the price support system than market prices for income.

In 1954, President Eisenhower made available Government-held surpluses to our Nation's needy and for famine relief in underdeveloped countries. While these donation programs provided great social benefit, they did not reduce growing commodity surpluses.

This was also a period of consolidation in agriculture when the number of farms in the United States dropped from 4.8 to 2.7 million. Even with fewer producers, surpluses continued to build. A new policy of stricter production controls was designed to limit the supply, drive prices artificially higher, and reduce the Government cost of farm programs. The policy fell short of its goals. Although the marketplace was offering a lesson the Government failed to learn the concept.

Prices will ultimately move down to a market clearing level to use the surpluses and prices will also go up limiting the demand to avoid shortages. No decade this century proves this theory any better than the 1970's. World events took center stage in agriculture. Exports of commodities, particularly grain, provided new demand and many prices soared to historically high levels, some of which have not been eclipsed to this day.

Also during the 1970's, farm legislation took on added dimensions. While efforts to include such issues as nutrition labeling failed, topics like jurisdiction over pesticide use, Federal cost sharing of soil conservation projects, and requiring cover crops on idled acres made it on the bill. Most notable in the farm legislation of 1973 was the title of the bill which the Senate Agriculture and Forestry Committee reported. It was called the "Agriculture and Consumer Protection Act of

1973." Legislation which for 40 years was basic farm policy now included much more. A changing constituency and a changing Congress realized that to maintain support for farm programs the bill must include new and expanded interests.

The mid 1970's were a good time for American agriculture, but like the good times in the late 1940's, big problems were waiting just around the corner. The high interest rates and ballooning inflation of the late 1970's brought devastation in the 1980's.

The farm bill of 1981 was being written just after the last car of the roller coaster was passing over the peak. You realize now that you are heading down, but you are not sure for how long and how far. Well, agriculture was in for a ride that would reach the lowest point in many decades. In fact this scary ride would last through the writing of the next farm bill in 1985.

A majority of my colleagues on the floor today can remember 5 years ago the often bitter and partisan debate surrounding the passage of the Food Security Act of 1985. In retrospect, the harshest critics of the 1985 bill must agree the financial picture for farming is much better today than it was 5 years ago. That is not to say the bill was perfect, because many farmers were forced out of business, but even with a perfect bill some farmers would have gone out of business. That is just not a fair judge of success.

As we approach the final passage of this conference report for yet another farm bill, it is appropriate to look back before we move forward. Despite the often heard story of the farmer who is plowing his field and must set his sights on a target ahead in order not to stray off line, I say the farmer must look back if for only a short time just to make sure the plow is still hitched to the tractor.

This is a good time to glance back to check on the plow. Good times and bad times are inevitable in agriculture and that must be accepted. A sound policy for agriculture remains the same today as it was 60 years ago. I would like to quote from the committee report which accompanied S. 2830, the Food, Agriculture, Conservation, and Trade Act of 1990:

> The ultimate purpose of these provisions are to ensure consumers an abundance of food and fiber at reasonable prices, to maintain the competitiveness of American farm products while providing a fair return to producers, and to conserve the natural resources which serve as the basis for all agricultural production.

I believe that buried deep within the 2,000 pages of this conference report you can still find that same purpose and one I will support. However, what troubles me most is how much deeper you must dig to find the ultimate goal. Mr. President, I fear, no, I am sure we are moving down a road that is more difficult to travel because of the potholes, nonnegotiable curves, toll booths, and other obstacles along the way.

Secretary Yeutter has stated that it will take 6 months to review the changes which we pass in this bill and develop a procedure to implement them at the producer level. Six months from now will be during the peak of the spring planting season. Wheat farmers in Kentucky have already sown their crop for next year without the benefit of knowing the program details. Fall tillage and fertilizer application decisions for corn and soybeans planting are being made now, but we are months away from knowing how program changes will be put into practice. County ASCS office personnel will be signing up participants early next year without knowing all of the rules.

Mr. President, we have completely forgotten that farmer's schedules are determined by Mother Nature, not Congress. We are hurting the very constituents we stand on this floor professing to help and that—I regret.

Today there are approximately 2 million farms in this Nation and the U.S. Department of Agriculture 100,000 employees are expected to interpret and carry out the legislation we write. Yes, I realize many of those employees do jobs other than farm programs, but I hope you see my point. We are progressively making participation in farm program more and more difficult because there is an increasing number of unnecessary laws and regulations by which these very hard working farmers must abide.

My distinguished colleagues, if there is one recurring theme in the letters and personal contacts I have with farmers in my state it is "cut out the redtape." Farmers must spend hours or even days in their county ASCS offices to file the required documents in order to participate in programs which are becoming less attractive.

We are beating the horse to death trying to get it through a small door in the barn to eat this high protein, perfectly balanced, nutritious feed which scientist have determined is good for horses. There will come a point when the horse refuses to take that beating forcing it to go into the barn and eat what we know is good for it. Instead the horse will stay outside and enjoy the green grass all around it. Not because the benefits of eating grass are greater, but the pain is less.

Mr. President, I will vote for this conference report not because I agree with all of the bill. In fact, I would like to see many of the pages removed, but I truly believe that buried deep within this monster of a bill is the heart of what is good agricultural policy.

A policy which allows farmers of this Nation to remain the most productive and competitive producers of food and fiber in the world. A policy which assures consumers of this country an abundance of affordable food which is the safest in the world today. A policy which protects and preserves our natural resources of which we are so blessed. Finally, a policy which provides a fair return to the men and women who have chose farming as their life's profession.

Mr. LUGAR. Mr. President, I yield to myself as much time as I may require.

Mr. President, I thank the distinguished Senator from Iowa for his generous comments about our leadership and about the portions of the bill that he appreciates, as well as his constructive criticism of those areas that he does not appreciate. But I stand here, Mr. President, as one who believes there ought to be a strong vote of support for S. 2830, the farm bill conference report. I make the point that I have heard the distinguished chairman of our committee make, but a point which needs to be reiterated as our colleagues begin to focus their final attention.

The farm bill, S. 2830, that is now before the Senate, is a bill which provides substantial benefits, income supports, conservation policies, and nutrition policies. It is a great conservation bill. I make that point, because I believe some Members in their comments may have shown a bit of confusion in believing that the farm bill and the reconciliation bill are one in the same. I think it is not overstating the difference to say that almost all those things which are good, are found in the farm bill, and most of the provisions causing the pain for agriculture are contained in the reconciliation bill.

Today we have the pleasure of voting for S. 2830. It would be a shame if Senators confused the two issues. In due course, I will support the reconciliation as a Senator, because I believe it is important for the country, but there are different issues there, and they deal with problems that some of our colleagues have pointed out, namely the estimated $13.6 billion of cuts. The cuts, if they pass, are to apply to the bill now before us. Therefore it is not logical to vote against this conference report on the basis of what is coming along, the next debate on reconciliation. So I hope Members will focus on the issue at hand, which I believe is an appropriate piece of farm legislation. I appreciate the comments that have been made by our colleagues on the Agriculture Committee, who have spoken in this debate, who have commended the leadership of the committee.

I have already paid tribute to my colleague and chairman, Senator PAT LEAHY, as well as to the other members of the committee. I do so, not

simply as a gesture of comity, but because we did have excellent debate. We were united in the committee, and I believe, in the Senate debate, on what is best for America. We had specific interest in what is best for agriculture in America, for farmers, for farm families, for all of the parts of the governmental apparatus in our States and counties that serve farmers.

I believe that the product of our labors has been a constructive one. I say that from several criteria. First of all, this bill focuses on our national heritage. We have thought a great deal in the Senate about conservation of soil and water resources, the basic ability of Americans to use these resources that God has given us, and to do well with them, to enrich them, and to enhance them for the future.

There is a very important focus in this farm bill upon the basic elements of agriculture, and the basic competitive elements that make it possible for the United States to be the low-cost producer in world trade. We have focused a great deal on world trade, on the very fact that our prosperity and the protection for growth in American agriculture depends upon our competitive abilities in foreign trade.

We have supported the GATT movement toward freer and fairer trade, because we believe that direction leads to greater exports. We have supported our U.S. Trade Representative and our Secretary of Agriculture, who was formerly the Trade Representative, in their attempts to make agriculture the central focus of the United States position in the Uruguay GATT round.

We have ahead of us, Mr. President, in the next few days of this year, a very decisive period for American agriculture and for world agriculture, because the United States has insisted upon the reduction of trade barriers, especially by the European Community. There has been great resistance to this. We must succeed, and if we do succeed, our exports will increase, and our farm income will increase. This farm bill gives the Secretary and the Trade Representative many tools to be effective in those last weeks and months of the negotiations, and in any further action that is required to enforce our claims to a proper share of the world marketplace. I stress this, Mr. President, because this is not a zero-sum game within the United States.

We are talking about billions of people in the world, many of them potential customers for our farm products. We have had good success in the past 5 years, in seeing increases in those markets, and increases in farm income that came from that expansion.

This industry, American agriculture, is a growth industry. That is not true of all American industries. Some are described as mature. Some are described sometimes as failing or ailing. That is not the case of American farming. We are the low-cost producer again and again. We need open markets. We need a world trading community receptive to those arguments and to those exports.

This bill, in my judgment, enhances that growth, and that growth potential, very substantially. The bill enhances our ability to feed fellow Americans in many ways. It provides food and fiber for all Americans. But mention has been made by some of our colleagues that it may not have done enough to help those Americans who are hungry, who have very special needs, because of poverty and dependence.

Mr. President, let me just say that the Chair has served on the committee, and has seen the debates that we have had, not only this year, but in prior years, as we have tried to expand the various feeding programs around this country, even in the face of budgetary difficulties, in 1988 and 1989, under the leadership of our chairman who had a very special interest in this area. We have passed agricultural legislation to help feed people who are poor. It was heavily and specifically targeted.

The occupant of the chair has been involved in the deliberations on this farm bill with very special emphasis on minority farmers in this country. That is an important part of the bill. In the midst of all of the hundreds of pages, often we lose sight of the humanitarian aspects, and the ways in which there has been an attempt by the committee to take a look at the needs of all Americans in agriculture, not only equal opportunity, but really potential provisions for success.

I think that is important, Mr. President. This bill used to be in the past perhaps, an emphasis on production, on specific persons who were ranchers, and who were farmers. That is still the case. We revere their service, and we look for their continuity. We tried to strengthen that focus with a very large safety net. We have also tried to look at Americans who are consumers of food, Americans who are hungry on occasion, Americans who have not had an opportunity to thrive in agriculture. That is an important element in our focus.

Mr. President, we have done a great deal, it seems to me, with regard to looking at farm income. I have listened with care to my colleagues, who I mentioned, feel we have not done enough. But I simply say, Mr. President, we have been through this argument many times in committee on the floor. However one takes a look at the last 2 years of farm income in this country, the bottom line is that American farms as a whole have done better. They have done better in terms of total sales, in terms of net income, in terms of exports to the world.

I submit that is not by chance, Mr. President. I believe the farm bill of 1985 set the stage for very substantial growth of farm income. The criticism will come that it was not evenly spread, that every farmer in every county in every State did not prosper. Indeed we know that is the case. We have dealt in the committee, as the Chair will recall, with disaster legislation—in 1988, covering many farm States, and ultimately, nearly every crop in our country. The Chair will recall in 1989, a disaster bill, that contained a substantial effort to help those States that had particular problems of drought.

Mr. President, we will be doing that again. The farm bill clearly gives signals that the committee will need to deal with those emergencies. They come.

But, Mr. President, let me just make the point again, whereas the last farm bill had a decrease in target prices throughout the 5 years of the bill and decreasing loan rates, this farm bill has the same target prices for the next 5 years. Farmers are guaranteed, as they begin planning this year, and in preparation of the 1991 crop year, that the target prices will remain the same for 5 years. The loan rate structure is more generous than the farm bill that this one will be replacing. If there was disagreement with loan rates, Senators would find the provisions in this bill to be more congenial, calling for higher support and a stronger safety net.

I suggest that if one is taking a look specifically at the income side, the prophecies we have heard today that almost inevitably farm income must fall throughout the land, are simply unsupported.

I appreciate that economic models that have used trend lines, have suggested that as one approaches 1993, 1994, 1995, following exactly the same trend, assuming nothing else happens in the world—no change in the weather, no change in exports, no famine, no pestilence, no civil disruptions, presuming the Soviet Union will have the same government for 5 years, and likewise Eastern Europe, presumably African conditions remain identical. Given the uncertainties I have just enumerated, how in the world can anyone take seriously such prophecies?

As a matter of fact, the predictions made for each of the last two farm bills, in terms of farm income and taxpayer expense, boh egregiously were off the mark for every single year. Members really ought to take with a great deal of skepticism, prophecies that are either too good or too bad. But the fact is, American farmers will determine their income and they will determine it on the basis of the expertise that they have in management—

taking a look at markets, taking a look at opportunities.

The triple base arrangement that comes out of the reconciliation bill, is not a part of this farm bill originally, but a part of the reconciliation. It can be looked at in two ways: it can be looked at as an $8 billion cut of support. That is approximately the amount, as I recall, that the Office of Management and Budget finally ascribed to it. But if we also looked at it as an opportunity, if you are a corn farmer in Indiana, my home State, you have an opportunty to plant soybeans without losing your farm base for corn, without losing your right to participate in the corn program. That was not realistic option for corn farmers in the past.

Why do we plant corn every year in Indiana? Because that is the Government program, that is where the supports were, that is where the target price was, the deficiency payments, the planting history, you had to have it all.

So on this floor, Mr. President, people ask, why did the Argentines take over our soybean market in the world? Why did Brazilians begin to export and take large chunks of our market? The reason is we were not producing soybeans. The market was there, but our Government program dictated the production of corn. That dictate is no longer as strong. As a matter of fact, there are strong signals to look to the market to produce for the market.

That leads me to my final comment about this bill; that is, the bill is good for our country as a whole. The American people have supported a generous farm bill in the past because they believe in American agriculture, and the security of food and fiber. Most Americans have a background in farming, a rural heritage in their families. They like the idea that a large part of America would be devoted to agriculture.

So there is support for this program, even though, perhaps, less than 2 to 3 percent of all Americans are, in fact, involved in farming. The question is often raised by skeptics:

Why would the other 95 or 96 or 97 percent of Americans wish to subsidize, hand over money to the other 2 or 3 percent, every year in such an endeavor as this? The reason is that we revere agriculture in this country, and I do not apologize for that. I come from a farm family, with a dad that went through Purdue and took an agriculture degree, who bought the land that I still manage.

As the Chair knows, we have 604 acres in my family. I grow corn, wheat, beans, livestock, and trees. Each of the things that we have been talking about in this bill are very meaningful to me, and to my family. I hope that will always be the case. So it is not an academic issue; it is an emotional one, and I admit that.

Mr. President, at some point we have to do things in American agriculture that strengthen, not only our family farms and our own families involved in agriculture, but, likewise, to be cognizant of the needs of our country.

In this particular case, our country has very severe budgetary problems. This does not come as news to the Chair, who has worked arduously in this reconciliation process, or to the Senator from Vermont or myself. We could see it coming along the trail throughout this year, and we knew that we would have to have a farm bill that fit within the general problems of the American people.

The American people call out for deficit reduction. They do not call out for a balanced budget this year, but for some control of this process. They realize interest rates are high, and one reason they are high is that the Federal Government is borrowing a lot of money, a lot more this year than last.

The American people have not demanded of American agriculture that we terminate farm programs. Quite to the contrary. This farm bill, even after reconciliation, will average over $8 billion a year. That is a substantial program.

The first program which I was involved in, as a Senator coming over here on to the Agriculture Committee in 1977, cost roughly $10 billion for a 4-year stretch, $2.5 billion a year. Mr. President, those were pretty good years, from 1977 to 1980. Some would say too good. We simply did not know what was going on. The sky was the limit in those days.

I just say that the correlation between skyrocketing land prices, and prices for everything, and the Federal outlays is rather dubious. If those were great years, one could argue that at $2.5 billion a year in this farm bill, we could really go over the top for sure. We are not arguing. We are arguing for a sensible safety net, the same target prices, even more generous loan rates, the basic structure that has been the program for some time.

We are arguing for more generous nutrition programs, more emphasis on conservation, and thoughtfulness about the safety of our water supplies, the groundwater supplies in the country. We are talking a lot about how we deal with wetlands, a no net loss of wetlands. In fact we strive for an enhancement of the ways in which the air, the fish in our streams, comingle with agriculture. Most good farmers want this to occur on their farms, as well as in their States, and the farm bill places a lot of emphasis on these issues. We are doing so, we believe, responsibly, within the constraints of a very difficult year for the American people. That is why I believe the American people will support this bill.

Individual Senators may feel that they must condemn it, because they feel that there are producers or consumers in their States who disagree about specific issues in those States.

I think every Senator understands that. We come to this body to take a look at all of America, and how we can do better in the world, but we also look to our constituents, and some are aggrieved. We understand that.

I hope that there will be an overwhelming majority in this body, Mr. President, who will understand that given all the diverse ways that we come to this floor and represent American agriculture, hundreds of different interests, by crop, by locality, by income stream, by our place in the world, that we have done, as a body, a remarkable job in compromising those things in which we could not have unanimity, and finding a lot of things on which we truly had total accord.

I am hopeful there will be a strong vote. I rise in support of the conference report and encourage, in the time we have now, and before the vote at 7:15, the Members to give careful consideration to the product we have presented.

I yield the floor.

Mr. COCHRAN. Mr. President, will the Senator yield 2 minutes?

Mr. LUGAR. I will yield whatever time is required to my colleague.

Mr. COCHRAN. Mr. President, I thank the Senator from Indiana for yielding. I want to commend him on his excellent statement and description of this legislation that is pending before the Senate now. I also wish to commend him and the distinguished Senator from Vermont for the exceptional leadership they have provided to the Committee on Agriculture, Nutrition, and Forestry, as we have worked to develop this legislation. I also commend their leadership as we negotiated with the House the differences that existed between the Senate and House-passed bill.

I think they have done an exceptionally good job in reconciling difference of opinions that exists within our committee, and with the other body, on certain provisions that we have in this legislation.

I am rising today, Mr. President, to urge the Senate to approve this farm bill. This legislation, in my opinion, reflects sound agriculture policy that will help provide consumers with a dependable, high-quality supply of food and fiber at reasonable prices. It will also contribute to the ability of American farmers to compete effectively in the global economy. Income support is provided for producers to help stabilize earnings and maintain protection against disasters that can occur in the marketplace.

This legislation is fiscally responsible and is supported by the administration.

The 1990 farm bill continues the market-oriented approach of the 1985 legislation by improving aggressive export assistance programs, increasing agricultural research and conservation efforts, and providing increased production flexibility.

A major goal of this farm legislation was to remove some of the rigidity of past programs to allow producers to increase efficiency in their farming operations. The flexibility provisions contained in this bill will promote management decisionmaking on the farm, decisionmaking that is based on sound economics and is environmentally sensitive. Market prices, rather than Government payments, will play a more important role in farm planning under this legislation.

Mr. President, for this and many other reasons, I urge all Senators to support the conference report, because it will ensure that our Nation will continue to have the safest and most reliable and most reasonably priced food and fiber in the world.

Mr. LEAHY. Mr. President, will the distinguished Senator from Indiana yield me 6 minutes?

Mr. LUGAR. I am happy to yield 6 minutes to the distinguished chairman of the committee.

Mr. LEAHY. Mr. President, I listen to this debate on the farm bill, and I am concerned that people may not fully realize what is in the farm bill.

I understand some of the pain some Members may feel in voting for this bill. There is pain here. It is not an easy bill to vote for, if you are dealing with programs that ultimately are going to be cut.

The vote today is for how the programs are handled. The vote in reconciliation for the actual outs, not here, but in reconciliation. The two bills read together contain the cuts. It will be difficult for some to tell their constituents that there is a $40 billion or $50 billion cut or 40 or 50 percent cut of the farm programs over the next 5 years.

We understand that. But, Mr. President, we cannot go back home on the weekends and give a speech about how we are in favor of cutting the budget, cutting the deficit and doing something to bring some fiscal sanity around here—just to give that speech to loud cheers and hoorahs on the weekend—and then to come back here during the week and say: We cannot vote for this package because it contains no real cuts. By the time we pass this and pass reconciliation, there are going to be some real cuts.

I think most people understand. They do not expect a Member of the Senate or Member of the House to come home and say, "I want to go back down there next week and dramatically increase the deficit." Or, "I want to go back there next week and dramatically increase spending," and so on.

Mr. President, now people have a chance to reduce the deficit. I suggest everybody across the country who listens to those wonderful speeches about how we are going to do something about the deficit call up and say, "Senator, how are you going to vote for the farm bill conference? It is going to be a step toward reducing that deficit."

This was not an easy bill to write. I do not know one single Republican or one single Democrat who voted for this bill with any great glee in their heart. Everyone I can name—from the distinguished Presiding Officer to the distinguished ranking member to myself to every other member of that committee—every one of us has had to stand up and cast some tough, painful votes in that Agriculture Committee during the last 2 years as we tried to write this 5-year farm bill.

Every Senator on the committee has cast some very difficult, politically difficult, politically hurtful votes. But we did it together to try to bring about a package that truly is part of deficit reduction.

And over and over again, the Senator from Indiana and I said: Much of this bill is going to have to be written in conference, because we do not have the final budget numbers. But we wanted every Senator to know that we needed to make cuts in conference to meet our budget obligations.

We all knew that. We went in those conferences. I remember one night we stayed in conference until 1 o'clock in the morning, out in the Mansfield Room. The Senator from Indiana, myself met with a number of other Senators, both on and off the conference, and with the Secretary of Agriculture and Members of the House. This was just one in a whole series of conference meetings we had, faced with the painful reality that we are now down to the difficult times and we are going to have to make the real cuts. We did the job we were asked to do.

All that weekend, around the clock, superb staffs on both committees worked and worked and worked and worked and put together what we had agreed on. Then on that Monday, we started again, first informal meetings early in the morning Monday, into a conference in the afternoon which went on into the evening hours, and I believe around 9 o'clock that night, the Senate adjourned for the day. And that conference continued down here in the LBJ Room. And then about midnight the House adjourned, but our conference continued. It continued at midnight, and 1 a.m., and 2 a.m., and at 3 a.m., until almost 4 a.m., when the leaders of that conference reached across the table and shook hands on the final package. It was a difficult package but it was a real package. It was real; no smoke and mirrors. Smoke and mirrors are easy to vote for; they are easy to talk about; they are easy to give speeches about. But we chose reality if we had done more of reality during the past 10 years, we would not have the deficit we have now. We are paying the price.

Mr. President, I am one Senator, and as a Vermonter, knowing my own State is going to feel these cuts, I step up here.

I ask the distinguished Senator for 5 additional minutes.

Mr. LUGAR. I yield 5 minutes.

The PRESIDING OFFICER. The Chair will state, in order to help the two leaders, the Senator from Indiana has 6 minutes remaining. The Senator from Vermont has 2 minutes remaining; 8 minutes total.

Mr. LEAHY. I ask 3 minutes from the distinguished Senator from Indiana and I take 2 of my own.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, we are all talking about real cuts in here. We also have some extraordinarily important farm programs to help farmers deal with the reduced amount of money left in the farm programs—programs which still totals billions of dollars—to use it in the best way to produce the food and fiber of this country.

We also have the Temporary Emergency Food Assistance Program. We made it permanent. Fifteen million Americans, hungry Americans, rely on TEFAP, for basic nutrition. Are we going to stand up here and vote against this bill and tell 15 million Americans: Go Hungry; we cannot help you?

Let us think for a moment. This bill reauthorizes the food stamp program for 18 million Americans, urban and rural, young and old. Are we going to tell those 18 million Americans: Sorry; we do not want to face up to the tough issues. We are going to vote against you, too?

Eighty percent of these benefits go to families with children. Do you want to tell the children: Sorry, goodbye; all gone?

One out of every five children in this country lives in poverty; one out of every five children in this country looking for hunger programs. Are you going to tell them: We cannot help you? From New York to California to Maine, Florida, Texas, Hawaii; every single State is involved.

What about the Commodity Supplemental Food Program? What about all these programs that we say we need? There is a lot in here. You want to just stand up and say: I voted against

the farm bill. It was tough; I am tough.

Well, I understand that there are parts of this country in which it is going to be unpopular. I have parts of the State of Vermont—in Franklin, Addison, Orleans, Caledonia, Washington, and Lamoille Counties—virtually every part of my State—where I am going to have to go home and say to my dairy farmers: You pay part of this price, too.

I am also going to be able to go and say to hungry people in the State of Vermont, just as we could in any other State: We utilized the resources we had to try to keep some kind of support for you, to try to keep—in the most wealthy powerful nation in the world—to try to keep you from going hungry.

I am proud as a U.S. Senator to stand up and vote for this package because I can say that we have done everything, we have gone the extra mile in protecting those who produce food and fiber in this country, within the resources we have to do that.

But we have also faced those who do not have a voice here. Most of these hungry people do not vote; most of these hungry people do not have somebody; they cannot hire a lobbyist. Most of them are not the ones who are going to call you or me or anybody else. They are fellow Americans.

And before somebody just finds a quick, east reason to vote against this bill, walk out from this Capitol just walk a few blocks and look at some of the hungry people who live nearby. They are the same hungry people you see in your hometown, wherever the Senator is from.

If we get out of here this weekend and we go home, ask yourself are you going to walk down the same streets in your hometown where most of those hungry people are and say, "I voted against the TEFAP Program and voted against your food stamp program, and I voted against the WIC Program. I voted against those programs," saying, "In this country that is able to produce a surplus of food, no, we do not have enough food for you."

I ask Senators to think about that when 7:15 comes today, and how they are going to vote.

Mr. LUGAR. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Three and one-half minutes.

Mr. LUGAR. Mr. President, I thank the distinguished chairman for a very moving statement and testimonial to his own idealism, which I share.

I simply add, in final summation of our arguments, that I agree with him that we have a strong bill of income, of support, and of humanitarian concern for all Americans and a special concern for the competitive ability for Americans to strive to succeed in this world.

I make the comment to those who are unhappy with the bill, that each one of us in our way hopes to do more.

But the decision before us this afternoon and this evening is whether we shall have a farm bill. These bills are not easily fashioned and there will not be another one this year. The failure to adopt those provisions that mean so much for the conservation and nutrition of America would be unfortunate. I am confident the Senate will give a strong vote of support to this bill because it is good legislation and because Senators, in a mature fashion, know how difficult it is to bring complex bills covering a 5-year span of our history to the floor and to final passage after a conference with the other body.

I make the point, Mr. President, that in due course we will adopt a budget and reconciliation, hopefully this week rather than some other time, but in due course. It will require changes in this farm bill. I hope, upon reflection, Senators will appreciate that we have done a good job, and, in fact, it is the very best we are going to be able to do this year, and that they will give strong support to those efforts.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? There is 1 minute, 40 seconds remaining.

Mr. LEAHY. I do not have any time remaining, do I?

The PRESIDING OFFICER. The Senator is correct. The chairman of the committee has used his time.

The Senator from Indiana controls 1 minute and 20 seconds.

Mr. EXON. Will the Senator from Indiana be good enough to yield to me?

Mr. LUGAR. I yield 1 minute to the Senator from Nebraska.

Mr. EXON. Mr. President, I am going to vote against the 1990 farm bill for the simple reason that it will be bad for American agriculture. I predict it will send farmers into another tailspin along the same magnitude they faced in the early part of this decade.

Some of my colleagues have already outlined at length the problems that exist with this farm bill. I will not belabor those details because it seems to me the problem is bigger than this one piece of legislation alone. I know the Agriculture Committee tried its best given the cards it was dealt. The fact is, they were not dealt very good cards to begin with and I would like to talk about that for a moment.

As my colleagues well know, I have been one of the Senate's harshest critics of the Gramm-Rudman law and the farm bill points up very graphically the problems with that law. I will not go into another long sermon on Gramm-Rudman. I think everyone here is familiar with it, but I don't think most people fully appreciate its impact.

Gramm-Rudman purports to make across-the-board cuts in Federal programs if we don't meet certain deficit reduction targets. "Across-the-board" has been repeated so many times most people have come to believe that misnomer. The fact is, Gramm-Rudman does not make across-the-board cuts. It holds harmless a big portion of the budget and focuses cuts on the rest.

And how does this affect the 1990 farm bill? Agriculture is one of those areas that gets a double whammy. And despite dramatic reductions in the last 5 years, agriculture is forced to make even more cuts. Gramm-Rudman undermines agriculture's position in budget negotiations and forces the Agriculture Committee to put forward a bill like the one we have before us today. Those of us who care a great deal about agriculture find our position undercut in budget negotiations even though agriculture has already made tremendous reductions.

Nebraska farmers will not fare well under this plan. I doubt that many across the Nation will. And for those reasons I simply cannot support the 1990 farm bill.

I thank the Chair and I thank my friend from Indiana.

Mr. KASTEN. Mr. President, I rise to express reluctant opposition to the conference report on S. 2830, the Food, Agriculture, Trade and Conservation Act of 1990.

No farm bill is easy. The many people in both houses of Congress who have worked hard this year to put this major piece of legislation together deserve much credit for seeing the bill through.

In many respects, the 1990 farm bill makes important progress toward important national policy objectives, particularly in the wetlands protection and water quality improvement areas.

For a Senator from Wisconsin, however, the most important part of any farm bill comes right at the front. And title I of this bill—the dairy title—was altered for the worse in conference. Because this dairy title perpetuates in another form the worst characteristic of current policy, I must oppose the conference report.

Mr. President, the dairy program in the 1985 farm bill responded to increases in the dairy surplus with price support cuts that impacted most heavily on the farm families of Wisconsin and other Midwestern States.

The program in this bill will respond to increases in surplus purchases with assessments when the surplus rises above 7 billion pounds—in addition to the assessments required by the reconciliation package.

Uniform assessments would make sense if increasing purchases were the

result of uniform production increases across the country. This has not been the case in the past, and will not be the case in the future.

I predict that the early 1990's will see a continuation of the pattern of the late 1980's—production will increase at much greater rates in Texas and on the west coast than in the rest of the country, and so will surplus purchases.

This will be no accident. Farmers on the west coast and Texas will be responding rationally to incentives that government policy has given them—higher guaranteed class I prices in Texas and a guaranteed market priced well above the cost of production on the west coast.

We need to change these incentives. Making farmers in Wisconsin, New England and elsewhere pay for the increased production they cause in the south and west is perverse and unfair.

This farm bill does suggest that Congress can find another way, and requires the administration to make suggestions. I am hopeful that we can find a way to end incentives for unneeded production, and make the dairy program truly serve dairy farmers in dairy States, not just a handful of processors selling to the Government program.

I am hopeful—but not optimistic. Past history suggests that stalemate within Congress and between Congress and the administration is more likely. The result is ever-rising assessments as far as the eye can see.

I oppose this farm bill with great reluctance, because in many respects it is a good bill. In the environmental area, it includes many of my ideas on wetlands protection and soil conservation.

It makes improvements in swampbuster, creates a wetlands reserve program, makes wetland easements attractive for farmers, and incorporates most of the Kasten amendment improving the implementation of conservation compliance.

This farm bill also gives grain farmers greater crop flexibility, and contains important provisions assuring that Great Lakes ports have a fighting chance to attract ocean-going U.S.-flag shipping service and compete for Public Law 480 cargoes.

The dairy title also contains many needed changes. It phases out the California make allowance and sets a deadline for milk marketing order reform. It also changes the calculation of the dairy surplus to a total solids basis, a change long advocated by many people in the Wisconsin dairy industry.

However, the resurrection of the idea that a dairy surplus produced by specific causes ought to be paid for by Wisconsin dairy farmers without addressing those causes is a serious mistake. Though I must oppose this conference report, I stand ready to work next year with other dairy State Senators to find a realistic and equitable way of helping our Nation's dairy farm families.

Mrs. KASSEBAUM. Mr. President, I want to make just a few brief remarks on the new farm bill and the agriculture provisions of the reconciliation bill that will follow. I know how much effort went into this legislation by all concerned. It was a difficult matter, made much more so by our need to reduce overall Federal spending.

Clearly, this new farm bill and reconciliation will reduce Federal spending for agriculture. This will affect farmers in my State and in nearly every other State. Provisions have been made to help ease the transition and that is helpful, but the bottom line is still less money for agriculture.

Given our current budget circumstances, this is a necessary step, and I will support this bill. However, I want to make note of the fact that we do not and cannot act in a vacuum. If we want our farmers to rely more on the market for their income and less on the Government, we absolutely must assume that there is a real market on which they can rely.

Right now, agriculture subsidies are a difficult topic in our negotiations on the General Agreement on Tariffs and Trade. It is essential that these talks produce real progress on ending market distortions that directly harm American agriculture. I am aware that the reconciliation bill has some provisions to address this problem. However, if the Europeans refuse to cut back their export subsidies and income supports, as we are doing here, then we will have to revisit this issue.

I believe American farmers can compete successfully in the world market so long as there is a level playing field. They cannot compete successfully in a rigged marketplace. I know that members of our Committee on Agriculture understand this and will be following this matter closely. I certainly shall.

Mr. PRESSLER. Mr. President, I wish to speak on the 1990 farm bill. In rural America, a disaster is about to happen. And Congress is to blame. Farmers and ranchers in the 1980's suffered from high interest rates, low commodity prices, and droughts that drove thousands of our agricultural producers from the land.

Those who remain to produce our food in the 1990's must have some assurance that they will be able to remain in business. I'm sorry to say that the 1990 farm bill does not provide that assurance, and I oppose this conference report, as I consistently opposed the Senate version of the farm bill and the Senate-passed budget which approved of the deep cuts we find in this final conference package.

So the conference package should surprise no one. Given the previous actions of the Senate Agriculture Committee and our Ag budget vote, we could expect nothing better. But I shall remain consistent and vote against this devastating blow to American agriculture generally and small farms specifically.

Mr. President, Americans spend less of their take-home pay on food than any other people in the world. The inexpensive, safe food supply our farmers and ranchers provide is largely unappreciated by urban consumers. This is why it was so difficult to formulate a farm bill which affords farmers and ranchers the higher target prices and loan rates they need to stay in business.

Earlier this year, before debate began on the farm bill, I reminded my colleagues of a Congressional Budget Office [CBO] report which stated that if target prices are frozen at 1990 levels for the next 5 years, more than 500,000 farmers and ranchers will be forced to leave their farms and ranches. Unfortunately, the 1990 farm bill freezes target prices at 1990 levels for the next 5 years.

Mr. President, several things have happened which make matters even worse for our food producers. Fuel prices have risen more than 20 percent recently, and Federal budget decisions have forced an additional 15 percent cut in the acres eligible for deficiency payments. Federal agricultural spending has decreased by more than 60 percent since 1986. Wheat prices are at their lowest levels in 20 years. This new farm bill offers inadequate assistance to farmers and ranchers in South Dakota.

While I object to this bill on the whole, I am pleased to see that it reauthorizes the honey program for another 5 years. I fought hard for the continuation of this program when we debated the 1990 farm bill in July.

Other positive provisions of the 1990 farm bill are undercut by its inadequate price support programs. Mr. President, if farmers and ranchers do not receive a fair price for their products, nothing else matters, because they will not be able to continue operating. I cannot in good conscience vote in favor of this 1990 farm bill conference report because it will devastate the incomes of farmers and ranchers in South Dakota.

Mr. HEFLIN. Mr. President, I commend the chairman of the committee, the senior Senator from Vermont [Mr. LEAHY] for his leadership, perseverance, patience, and for the manner in which he has presided over the development of the 1990 farm bill. I think the record will show that under the chairmanship of the distinguished Senator from Vermont, the committee held the most exhaustive and extensive set of hearings across the Nation that have ever been held or undertak-

en by the committee in the quest to develop a sound farm program within strict budgetary limitations.

Everyone that wanted to have a say with respect to any feature of the 1990 farm bill was given the full opportunity to make his or her contribution, and every amendment or suggestion which was propounded was the subject of careful and deliberate consideration.

I also commend the distinguished ranking minority member of the committee, the Senator from Indiana [Mr. LUGAR], for his personal leadership in helping to fashion this compromise. I know of no person who knows more about U.S. farm policy than does the senior Senator from Indiana.

This farm bill is not legislation of partisan design but, rather, of bipartisan cooperation. Since I have been in the Senate, I have never seen a group of Senators and Congressmen work in such an atmosphere of cooperation and bipartisanship of give and take. The members of the House and Senate Agriculture Committees have given their best efforts to forge a bill which will assure Americans of plentiful supplies of food and fiber at reasonable costs while at the same time it would be fair and equitable to farmers.

Mr. President, like the other members of the committee, I wanted to see greater price protection offered to our farmers. I would like to see a greater level of price protection afforded to this Nation's farmers. There are other changes that could have been made in the bill—changes which would benefit not only the farmers of my State of Alabama but which would benefit every agricultural producer in every part of our Nation.

But, Mr. President, I and the other members of the committee fully realize that we cannot make such changes and stay within the limitations of the Federal budget. The committee went to great lengths to fashion a farm bill that would not result in unacceptably large Federal outlays.

The 1990 farm bill conference report extends the present day peanut program for the next 5 years. The bill freezes target prices for all program crops and allows for up to 25 percent flexibility. I am particularly proud that rural development legislation was included in this year's farm bill.

There are aspects dealing with agriculture which will be in the reconciliation bill which I do not like, including what I would refer as a license tax to farm with various assessments, marketing assessments, loan origination fees, and other aspects.

In my judgment, the budget cuts have cut too severely into the agriculture programs.

But we have now before us the conference report on the 5-year farm bill. The reconciliation bill, which will have agricultural cuts, is a different bill, and I will direct some remarks toward the reconciliation as it applies to agriculture at the time that it is before the Senate.

Thank you, Mr. President.

Mr. BURDICK. Mr. President, I decided to vote for this bill because it is important to continue our farm programs; without them, it would be utter chaos. The 1990 farm bill continues Government support, but it puts agriculture on a pretty lean diet.

Commodity programs are the heart of the farm bill, and I'm glad target prices are not cut for wheat and other program crops. We are keeping wheat supports at $4 with a higher loan rate, but the new triple base concept will cut the total acreage farmers can be paid on.

Changes were made in Swampbuster that will make it easier for North Dakota farmers to comply with the program and better manage their farm resources. Our farmers will benefit from Government payments for wetlands enrolled in the new Wetland Reserve Program.

For the first time, the bill includes an oilseed marketing loan. Soybeans, sunflowers, and canola are important crops in North Dakota, and I expect this will encourage more farmers to plant oilseeds in the next 5 years.

This bill has several provisions to encourage rural development, although budget restraints have curbed some changes which would have made a real difference to rural America.

Conferees accepted the Senate's language supporting crop insurance, and we restored funding in the 1991 Ag appropriations bill, but I am concerned that the administration's continued opposition could threaten the future of this program. Farmers need some protection against disasters, and I will continue to work to see that they have a safety net.

Mr. DIXON. Mr. President, when Congress began its work to craft the 1990 farm bill, American agricuture was looking better than it had in many years. Grain prices were strong, our export markets were on the rebound, and net farm incomes were approaching record highs. Indeed, at the same time that our Nation's farm economy was strengthening, farm program costs dropped significantly—from $25.8 billion in 1986 to less than $8 billion in fiscal year 1990.

To the surprise of many, the 1985 farm bill basically got the job done. Although many of us sought to stem the tide of declining income protection, and to assure greater flexibility on which planting decisions could be based, it was generally accepted that the 1985 bill would provide the framework for the 1990 bill.

Regrettably, such is not the case. Following months and months of hearings, debate, conference negotiations, and reconciliation requirements, the final product is truly a bitter pill for America's farmers to swallow. The 1990 farm bill imposes a 25-percent reduction in program funding over the next 5 years. This translates into a cut of $13.6 billion—a cut that will substantially decrease the margin of protection afforded to our farmers. The end result is to add new layers of complexity to farm programs, while at the same time providing less of a safety net for American agriculture.

There are certainly provisions in this bill I support. There are many provisions that I truly believe are important and progressive steps for the future of our farmers and our agricultural economy. Furthermore, this legislation is consumer and environmentally sensitive, as it should be. In a fair and reasonable fashion, it protects wetlands and water quality, reduces soil erosion, establishes national standards for organic foods, and requires farmers to keep records of their restricted pesticide use.

I cannot help but believe, however, that this bill—a bill designed to set a course for our Nation's agricultural policies for the next 5 years—will have a tremendously adverse impact on the farmers and rural economy in Illinois and across the Nation.

While I would hope the 1990 farm bill creates new opportunities for our Nation's farmers, the more dangerous and likely result may be a return to the conditions that created the farm crisis of the early eighties. This bill will generate a very real cash and credit crunch for our Nation's farmers. Unfortunately, it guarantees a reduction in income for producers. It will depress the value of farmland and other agricultural assets. Additionally, it will impact rural businesses and devastate our rural economy.

Mr. President, I fully recognize that agriculture, as with all segments in the economy, must make its fair share contribution in reducing the Federal budget deficit. I also recognize that farmers, as do all citizens, benefit from a reduction or elimination of the Federal budget deficit. However, the farm sector is being required to absorb an extremely large portion of Federal spending cuts.

Changing the deficiency payment calculation for program crops from a 5- to a 12-month basis will mean substantial losses for corn and wheat-growers. While a triple-base acreage reduction plan will add a welcome element of flexibility to farm programs, the mandatory reduction in payments will mean a significant drop in net farm income for program crop producers. Ultimately, the costs to producers participating in the farm programs will be too high. Farmers not in the program are free to plant fence row to fence row, and are not constrained by the conservation and environmental

provisions of this bill. As we witnessed in the 1970's, this could very well lead to the reappearance of costly surpluses and deflated prices.

Relative to the soybean marketing loan, the imposition of an origination fee will substantialy reduce the benefit of the marketing program. Indeed, this program may be of very little use to growers unless the bottom falls out of the soybean market. Dairy farmers in my State will be exposed to substantial drops in net farm income, especially if national production exceeds targeted amounts. While it is not possible to quantify what the exact drop in net farm income will be in Illinois over the next 5 years, a reduction of no less than 10 percent and perhaps substantially more is not unrealistic.

Mr. President, these reductions in farm programs are taking place at a time when oil prices are dramatically increasing, thereby causing farm production input costs to skyrocket. Because agriculture operates on thin margins, all farmers will feel the resulting pinch. Especially hard hit, however, will be farmers who are only just now recovering from the agriculture crisis of the mid-1980's. I am also deeply concerned about the continued viability of many farmers whose loans have been restructured over the last several years.

It is important to note that we are requiring severe cuts from American agriculture at a time when there has been relatively little progress with the General Agreement on Tariffs and Trade [GATT]. We must remember there is no guarantee that cuts being made in U.S. farm programs will be matched by the European Community. As a result, American farmers could be exposed to the unpredictable shifts in international markets while European producers will be protected through generous government programs.

Mr. President, a $13.6 billion reduction in Government programs will do more than substantially weaken the "safety net" for American agriculture. It will also substantially impair the ability of farm programs to perform the vital function of stabilizing supply and demand for food and fiber. As a result, U.S. consumers, as well as farmers, will be exposed to boom and bust cycles which are endemic to agriculture.

Finally, the 1990 farm bill cuts will lessen the availability of agricultural credit. In part, this is because the legislation will reduce direct Farmers Home Administration loans by $1.6 billion over 5 years. Also contributing to this likely reduction of agricultural credit is the concern that cooperative and commercial lenders will have regarding the future of net farm income and the depreciation in agricultural land values.

Mr. President, for all the painstaking and tireless efforts that have gone into it, this bill falls far short of its mark. The majority of agricultural groups tell me they are reluctantly supporting the 1990 farm bill. When everthing is said and done, however, this bill fails to meet the most important test of all—it makes farm programs more complex, while providing less of a safety net for American agriculture. I do not believe this is a good bill for the farmers and rural economy of my State, nor of our Nation. Reluctantly, I must vote against this bill.

Mr. RIEGLE. Mr. President, I would like to make a few comments about the 1990 farm bill conference report. This farm bill puts agriculture in a better position to compete internationally, provides greater planting flexibility for farmers and begins to address the many of the environmental challenges facing farmers today.

If American agriculture is to maintain its dominant position in the world today, our farmers, and our trading partners needs clear signal that U.S. agriculture will be stable and responsive to world markets. This bill accomplishes that.

The bill also provides the flexibility essential to returning profitability to agriculture. I strongly support the provisions that allow farmers to plant nonprogram crops on what had previously been program acreage without penalty. The original Senate farm bill allowed the planting of any crop on program base acreage. I could not support that original provision because I felt Michigan's nonprogram fruit and vegetable growers would be placed at a disadvantage. However, I cosponsored an amendment with several of my colleagues that provided protection for Michigan's nonprogram producers which was accepted in the House-Senate conference. Flexibility with adequate safeguards for specialty crop growers is one of the most important aspects of this bill and should provide new opportunities to increase farm income.

This farm bill contains many new and positive environmental programs. As the public has become more sensitive to environmental concerns, agriculture has received its share of criticism in relation to wetlands destruction, nonpoint source pollution and the use of pesticides. I think the environmental provisions of this bill are very strong and will yield improvements in farming practices without unnecessarily tying the hands of farmers. Farmers have always been good stewards of the land and this bill will help encourage this tradition to continue.

While I support passage of this bill, I am concerned about the disproportionate, high level of cuts agriculture is being asked to take in the current budget crisis. These cuts will provide less protection for farm income and could hurt some of our smaller family farmers. Spending on agriculture programs has been consistently reduced over the last 5 years. Overall, this bill will be good for agriculture, but I will remain sensitive to any further attempts to cut agriculture income.

In summary, this farm bill is good for U.S. agriculture and good for Michigan. Agriculture has always been the solid base of Michigan's economy. I will continue to support efforts to improve Michigan's agriculture economy, and find new uses for our diverse farm products.

CHOICE OF INSURERS

Mr. HARKIN. Mr. President, it is my understanding that the bill under consideration will continue the requirement that Farm Credit System banks offer their borrowers a choice from at least two insurers where at least two insurers are available and have met the requirements of current law.

Am I correct in my understanding that the legislative language does not alter the requirement that system banks offer its borrowers at least two carriers under these conditions?

Mr. LEAHY. The Senator is correct. Current law has not been changed in this respect. System banks must offer at least two carriers to their borrowers if two or more carriers are available and meet the applicable requirements.

Mr. HARKIN. I thank the Chairman.

PEANUT PROGRAM

Mr. HEFLIN. Mr. President, the Senate farm bill contains several provisions which were designed to make the peanut program more market oriented, and to open the formulation of peanut program regulations up to all interested parties. While not all of these provisions were included in the language of the conference agreement, it is the hope and the intent of the Senate Agriculture Committee that the U.S. Department of Agriculture will administer the program in the spirit expressed in the Senate farm bill.

Specifically, we would hope that the Department of Agriculture would allow manufacturer/handlers to make up to two transfers of farmer stock peanuts to other handlers as described in the Senate Agriculture Committee report. Also, we expect the Secretary to allow extensions of the August 31 deadline for exports without the requirement for designation of the specific lots of peanuts affected. Again, this procedure is described in more detail in the Senate Agriculture Committee report on the farm bill.

Is it the understanding of the senior Senator from Vermont, the distinguished chairman of the Senate Agriculture Committee and the chairman of the conference, that this is correct?

Mr. LEAHY. Yes, the Senator is correct. I would hope that the peanut program would be operated in accordance with the spirit and intent of the Senate Agriculture Committee, which is to make the program more market oriented.

Mr. HEFLIN. Another provision of the Senate bill which was quite important was the requirement that the Secretary hold informal hearings before implementing the new law, and at least once per year afterward to receive public input on the peanut program. It was the feeling of those of us in the Senate who are interested in the peanut program that this would be a very important step in obtaining industrywide cooperation in support of a stronger program. Obviously, if certain sectors of the industry are excluded from the process of program implementation, the predictable response is to oppose the program. We are hopeful that the annual public hearings provided in the Senate bill would be a forum for uniting all of the peanut industry.

While the conference agreement did not require that annual hearings be held, it did say that the Secretary should comply with the Administrative Procedures Act in receiving comments on proposed regulations. Mr. President, the Secretary of Agriculture already has abundant authority to have annual hearings and to receive input from all interested parties on the administration of the peanut program. It should not be necessary to enact a law requiring that such hearings be held. We would hope that the Secretary of Agriculture would comply with the spirit of the Senate farm bill and conduct annual hearings, even though the law does not require him to do so.

Mr. President, I would like to ask the distinguished senior Senator from Vermont, the chairman of the Senate Agriculture Committee and the chairman of the conference, whether he agrees that annual hearings should be held on the implementation of the peanut program.

Mr. LEAHY. Yes, I agree that this would be very helpful to the implementation of an improved peanut program, and I would hope the Secretary of Agriculture would concur.

Mr. HEFLIN. I thank the Senator from Vermont for his assistance.

Mr. LEAHY. I am very pleased that I was able to be of assistance to the Senator from Alabama.

FORESTRY TITLE

Mr. HEFLIN. I wonder if I could ask the Senator from Vermont [Mr. LEAHY], the distinguished chairman of the Agriculture Committee, a question regarding the section of the farm bill calling for the establishment of the Southern Forest Regeneration Program?

Mr. LEAHY. Certainly.

Mr. HEFLIN. Is it the chairman's understanding that, in making a grant for the establishment of the Southern Forest Regeneration Center, the Secretary of Agriculture must give preference to a State that intends to establish the center at a land-grant university that operates a forestry program and forest regeneration research programs that use an interdisciplinary approach, and that are involved in southwide forest regeneration research?

Mr. LEAHY. The Senator from Alabama is correct.

Mr. HEFLIN. It is also the chairman's understanding that preference will be given to a land-grant university that employs research personnel with expertise in nursery seedling production, soil and tree nutrition, the impact of environmental stress on forest trees, forest vegetation management, and the impacts of competition on forest growth, and has an effective communication system that can link on a regional basis to conduct information exchange?

Mr. LEAHY. The Senator is correct.

Mr. HEFLIN. I thank the distinguished senior Senator from Vermont.

RURAL HEALTH INFRASTRUCTURE IMPROVEMENT

Mr. HEFLIN. Mr. President, I rise to enter into a colloquy with the distinguished chairman of the committee regarding the provision in the rural development section of the bill relating to "rural health infrastructure improvement." I am most pleased that the conference accepted this provision for I believe that it authorizes a project that can serve as a model for addressing some of the most serious needs facing rural America.

Mr. LEAHY. I want to join my good friend from Alabama in saying that I am also pleased that the provision is part of the bill before us today, and I want to commend him for his leadership in sponsoring it. I would ask my friend to explain briefly the thinking behind this important initiative.

Mr. HEFLIN. I thank the chairman. This project would demonstrate a unique grassroots approach to planning, organizing and coordinating community-based efforts to address the serious health-related problems that often limit the success of our rural development efforts, particularly in some of the poorest counties of States like Alabama.

The project involves a cooperative effort on the part of a Cooperative Extension System, such as the outstanding system operated by Auburn University, and a leading academic medical center, such as the one at the University of Alabama at Birmingham. In Alabama, these institutions have already been working together for some time in this area and have put in place county health councils in most of the rural counties. These councils will serve as the basis of the grassroots approach which we think can serve as a model for use in rural areas throughout the Nation.

Simply put, these two institutions would work closely with these county-based citizen's organizations to improve their capacity to plan and implement a systematic approach to addressing the complex, health-related needs of their communities. The project will not involve directly the delivery of health care services; the institutions will provide educational, informational and leadership development and training.

Mr. LEAHY. I want to thank my friend from Alabama for these observations. I agree with him that this project does, indeed, appear to be one that could demonstrate a model approach for employing the resources of land-grant institutions and academic medical centers to deal with the serious health problems facing the rural areas of the country. I am pleased to hear of the work that has already been done by the University of Alabama at Birmingham, and Auburn University. I hope that these fine institutions will be able, through the project authorized by this provision, to develop this unique approach to its fullest potential.

Mr. SPECTER. Mr. President, I am voting against the conference report on the 1990 farm bill just as I voted against the Senate's farm bill on July 27, 1990. It is my belief that this bill simply could be a better bill for our Nation's farmers, food handlers, distributors, and consumers.

I am voting "no" as a protest against excessive Federal spending on certain crops, lack of flexibility as economic incentives for farmers and provisions which I believe are against consumers' interest. Notwithstanding efforts to curtail excessive subsidies on particular commodities, this bill contains too much Federal support for commodities such as sugar and peanuts.

With the Nation's history of excessive farm supports, it is difficult to take immediate, significant steps to return to a market oriented farm economy. In my extensive travels through Pennsylvania discussing these issues with constituent farmers, I have heard forceful sentiment by the Pennsylvania agriculture community in favor of less Government intervention, and in favor of steps that would move agricultural trade toward a market economy. I believe our Nation's farmers need an agricultural trade market that has the economic flexibility to enhance conservation while ensuring market competitiveness in both the domestic and world markets. There is a great spirit among our farm community for free enterprise, individuality and productivity.

In my home State, agriculture is the No. 1 industry. Our Commonwealth's 56,500 farm families and its 1,500 food

processors provide a strong economic base. With a $3.2 billion annual harvest, Pennsylvania family farms generate $35 billion in economic activity each year. Although Pennsylvania ranks 16th in the country in the overall number of farms and 14th in the country for total farm marketing, it ranks only 34th in Government farm payments. This, I believe, indicates that Pennsylvania farmers are extremely diverse in their choice of commodities, and typically grow quality crops. Perhaps Pennsylvania should be a model for other State agricultural activities. On a comparative basis, Pennsylvania benefits from this farm bill much less than other States where sugar, or peanuts are subsidized or where there are extensive supports for products such as feed grains.

Although significant positive steps were made in the House-Senate conference with respect to marketing orders, I remain strongly opposed to the conference report's provisions which add extra protection for California produce—to the detriment of America's consumers and particularly injurious to the Delaware River Ports. The provisions that were contained in the Senate bill and retained by the conference committee add extra commodities to the existing marketing orders on imported products. As I expressed on the floor during the farm bill debate, these provisions establish discriminatory standards for imported fruit, which can be construed as a nontariff trade barrier. Senator HEINZ and I made extensive efforts to negotiate an equitable solution to the matter, but to no avail. We offered two amendments with Senator ROTH, Senator BIDEN, Senator BRADLEY, and Senator LAUTENBERG, but again to no avail in light of opposition by special commodity interests and the U.S. Department of Agriculture.

Subsequently, our efforts on the Senate floor were not in vain; during consideration of the bill during conference with the House, the conferees agreed to provisions which could make the situation more workable in the future. Specifically, the conferees agreed that the U.S. Trade Representative must concur with any proposed modification pertaining to regulations of existing marketing orders as they apply to imports as well as any proposed prohibition of imports. We have long felt that the international trade implications of proposals in this area needed to be weighed in making these policies. It is my belief that making USTR an equal partner with USDA can help facilitate that goal. I want to thank the conferees that were helpful with this matter.

The farm bill is a very complex piece of legislation because it represents a coalition of so many interests. Pennsylvania has a large agricultural community which has a vital stake in this bill. My work on the Agriculture Subcommittee on Appropriations keeps me in close and constant touch with these important issues. Mr. President, I believe it is fair to say that Pennsylvania does not receive equitable treatment under the agriculture programs.

Mr. President, in terms of the national interest, a much better bill can be enacted to limit excessive Federal spending and provide more equitable treatment for all our Nation's farmers.

Mr. NICKLES. Mr. President, reluctantly oppose the conference report on S. 2830, the 1990 farm bill.

When the Senate initially passed this legislation in July, I supported it because I believed it would continue a market-oriented approach to farm programs while providing both an income safety net and an aggressive export program. I also believed it would keep American agriculture from returning to the problems of the early 1980's: Sustained low commodity prices, falling land values, high interest rates, and skyrocketing farm program costs.

Now, Mr. President, barely 3 months after the Senate first passed S. 2830, so much has changed. Winter wheat producers in my State are having to sell their crop for more than $1 per bushel less than just 1 year ago. Diesel fuel costs are climbing through the roof, and farmers are being forced to plant a crop without knowing the specifics of the farm program they'll be facing. All of this combines to create a short-term outlook which is, in a word, dismal.

Similarly, Mr. President, the short-term outlook when the 1985 farm bill was enacted was at least as dismal as the situation we face today. At that time I was very concerned that the 1985 act was not a good deal for American agriculture. Fortunately, it fared much better than expected and actually helped to alleviate many of the problems in farm country. It was not the solution to agriculture's woes, but it was by and large successful.

As we vote today on the 1990 farm bill, I again find myself skeptical of the impact this legislation will have on American agriculture. As I previously stated, I will not support this conference report, Mr. President, and I would like to outline some of my specific concerns with the bill.

Mr. President, the new triple-based provision, agreed to for this legislation but technically included in the budget reconciliation bill, will impact Oklahoma wheat producers more drastically than producers of most other crops. For many winter wheat producers in western Oklahoma, the opportunities to plant other crops on their triple-base will be very limited. Although the bill does allow haying and grazing of such acreage, the variety alternate crops which can be planted will be tightly restricted by soil type and climate conditions.

I am also concerned that this bill does not do enough to remove the regulatory shackles from our farmers and ranchers, particularly in the area of wetlands protection. Earlier this year, Mr. President, I introduced legislation entitled the Common Sense Agricultural Wetlands Act of 1990 in response to the problems many Oklahoma farmers and ranchers were having with USDA wetlands regulation. My legislation is a reflection of my firm belief that restricting private land which is traditionally devoted to farming is not the best way to protect wetlands and that Federal and State efforts are better directed toward preserving and enhancing those areas with real environmental, wildlife and recreation potential.

Fortunately, Mr. President, the conferees on S. 2830 have included some provisions in this conference report which are drawn from my Common Senate Wetlands Act. It is my hope these provisions will give the Soil Conservation Service the flexibility needed to exempt nuisance wetlands from this restrictive law. I am wary, however, of how these changes will be implemented. I intend to closely monitor the implementation of these provisions, and if necessary, seek to amend them further in the future.

Finally, Mr. President, we all know that the most troublesome and far-reaching changes in farm policy for the next 5 years are the result of the budget negotiations. As a Senator who is greatly in favor of cutting government spending, I too believe we should do all we can to keep the costs of farm programs down.

The truth is, Mr. President, that the cost of Federal farm programs has been, and continues to be, on the decline. After a critical year of transition in 1986 when commodity programs cost the taxpayer an incredible $26 billion, the cost of farm programs has fallen more than 60 percent to $10.4 billion in 1989. Under this bill, agriculture spending will decrease an additional $13.6 billion over the next 5 years. I am disappointed that these cuts to farm programs are not, in this Senator's opinion, in proper proportion to cuts in other spending categories, many of which will receive significant increases over the next 5 years.

I sincerely hope, Mr. President, that the specific concerns I have discussed will not precipitate a disaster in rural America. While I intend to work toward addressing these concerns in the next Congress, I cannot support this legislation today. I thank the Chair.

Mr. SIMPSON. Mr. President, I rise in support of the farm bill conference report. This legislation takes a more market-oriented approach compared to previous farm bills. It seeks to maintain and expand the U.S. agricul-

tural market share in the world, and makes positive steps toward achieving a subsidy-free agricultural industry.

I realize there are quite a few people who may feel firmly that agriculture is being treated inequitably in this farm bill and in the budget deficit reduction plan. However, it is so important to remember that the reducing of subsidy levels is a goal that we have been working toward for many years. I do commend the fine members of the conference committee who spent many long hours debating how to equitably meet the reconciliation targets in farm programs and do the least amount of harm in the long-run. I believe this bill achieves that important balance.

I am very pleased that the conferees came to an accord which was fair to the wool and mohair industry, which is so important to my State and many others. The amendment I sponsored to the Senate version of this bill placed a payment limitation on the program, as was recommended by the administration. There had never been a cap on the program before. The conference report provides a graduated cap provision which the wool and mohair producers can live with and which provides for deficit reduction. This provision will ensure the survival of many small towns and rural areas, not only in Wyoming, but across this country. I am pleased to have been a part of the resolution of this issue.

The no-cost sugar program is maintained at an 18 cent support level for cane. Sugar beet producers will have a 21 cent support rate in the first year of this farm bill. The support bill will then be readjusted on an annual basis to ensure the competitiveness of refined sugar beets. A minimum import quota is also included. That provision will discourage overexpansion of sugar production and ensure stable market prices for producers. I was extremely encouraged by the conference committee's support for the sugar program.

I am also pleased to see that the conferees accepted my amendment to allow compensation to certain Wyoming farmers who suffered losses due to an inability to sufficiently irrigate their crops. The livelihoods of those farmers are at risk. This provision helps to keep the affected farmers afloat while a resolution of this matter is negotiated between the State of Wyoming and the Wind River Indian Reservation.

The production of honey is also most important to Wyoming. This farm bill includes a reasonable support price and a fiscally responsible payment cap.

I understand the very real frustration that wheat and feedgrain growers may be feeling with this bill. However, I do not believe that the future that these producers will face must be a bleak one. With the newly planned triple base program, wheat and feedgrain producers will have more flexibility than they have had in years. The farm bill provisions are intended to allow farmers to get more of their income from the marketplace than from Government support payments. I have great faith that Wyoming producers will use this new found freedom to their clear economic advantage.

Finally, I thank the able chairman of the committee, Senator LEAHY, and our fine ranking member, Senator LUGAR—both of whom have done an excellent job under the very toughest of circumstances.

The PRESIDING OFFICER. Does the Senator from Indiana yield back the remainder of his time?

Mr. LUGAR. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The vote on this measure will occur, under the previous order, at 7:15 this evening.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent for about 7 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Hearing none, the Senator is recognized for 7 minutes to speak as if in morning business.

CFTC-SEC

Mr. BOND. Mr. President, I appreciate the opportunity to take some of my colleagues' time to talk about a very important measure which, unfortunately, will not be coming to the Senate floor in this session.

Over the past several months, several of my colleagues and I have been attempting to put together a compromise proposal addressing the margin authority over stock-index futures, regulation of so-called hybrid instruments, an expansion of the exemptive authorities for the CFTC, as well as other intermarket issues. This is a very important, very critical issue for the futures markets, for the stock market, and for our financial institutions generally.

We embarked on this road late in July in an effort to break a nearly yearlong logjam holding up the CFTC reauthorization bill S. 1729. Over the past months, we have worked to bridge the gaps between the various viewpoints in this area, and, unfortunately, while we were able to come to what I believe is a very good and viable compromise, several Members have continued to resist our moving forward.

The issues involved in this debate are not simple. They are not direct, nor are they uncomplicated. But they are important. They involve the very fabric of our financial system, and I am not surprised that they are controversial.

Over a year ago, the Senate Agriculture Committee marked up and reported out the Futures Trading Practices Act, S. 1729, certainly the toughest futures industry reform package put together in many years, and several tough, new authorities—specific new industry service fees—were enacted over the opposition of the futures industry.

In general, the legislation is designed to expand the powers of the CFTC, both by providing additional resources as well as additional statutory authorities.

These include curbs on dual trading, increased penalties for traders, and tightened conflict of interest rules. In addition, exchanges will now be required to set up tamper-proof audit trails within 3 years.

It is a solid bill, a tough bill, and I strongly support it. For addition, I think the chairman, Senator LEAHY, and ranking member, Senator LUGAR deserve a great deal of credit for bringing it out.

Unfortunately the issues not addressed by the committee held up progress on S. 1729 since November. At that time my good friend, Senator GORTON, announced additional reforms to transfer jurisdiction of stock index futures from the CFTC to the SEC; granting the SEC margin-setting authority over stock index futures; and amending the exclusivity clause of the Commodity Exchange Act.

The result of the proposed Gorton amendment—which was announced during the Agriculture Committee markup but not offered, as Senator GORTON decided to wait for floor action—was that holds were placed on S. 1729 by those opposed to any changes in the CFTC's jurisdiction.

Farm groups were then mobilized, and a strong lobbying effort in opposition to the Gorton plan was begun. At the same time, Treasury Secretary Brady endorsed and aggressively lobbied for the Gorton proposal which reflected one of the urgent reforms called for in the Brady Commission report on the October 1987 crash. This went on for months, until it became apparent that the Gorton amendment did not have sufficient votes to pass. Holds were by the futures side were then lifted.

However, at that point, Treasury and its allies put holds on the bill in order to regroup and perhaps turn the tide back their way. This of course furthered delayed S. 1729, and ultimately what led us to where we are today.

My view throughout this entire process has been that the Gorton proposal targeted some critical deficiencies in the current regulatory scheme, but it went too far—in particular the provision to transfer regulatory powers over stock-index futures from the CFTC to the SEC.

Thus, I suggested, as did my friends from Connecticut and Pennsylvania Senators DODD and HEINZ, that a compromise be struck—don't touch jurisdiction over stock-index futures, but instead give the margin setting authority to our highest financial authority, the Federal Reserve Board. I felt this would address the volatility and liquidity questions raised by the Treasury, without placing a dual regulatory scheme on the futures exchanges which was the major concern stated by farm groups.

At this time I went to colleagues on the Banking and Agriculture Committee to see if a middle ground could be found. As the only Senator on both committees I have the distinct honor of having friends on all sides of this issue—and obviously my friends are right! At this point I joined Senators LEAHY, LUGAR, DODD, and HEINZ to attempt to develop an acceptable compromise.

It is this process that is playing out today.

Mr. President, I walked through this long story in order to impress upon those listening that this has been neither a lighthearted nor a last-minute scramble to subvert the process or ram something through.

Responsible Senators representing widely differing interests have attempted to address some very serious issues. Unfortunately, parochial concerns and nearly paranoid views of those outside the room—concerning jurisdiction, competition, and control—left us in the negotiations with very little room to maneuver.

However, we were able to come up with a compromise which I believe to be balanced, workable and responsible to the problems cited—which unfortunately is now being blocked by those on the outside who wrote the 1974 Act and now refuse to accept any changes to their handiwork.

The obstruction we now face is not the fault of Treasury. It is not the fault of the administration. There are some who will attempt to lay blame there. But that is not the case. This obstruction means Congress will not have an opportunity to address the extraordinarily important issue of margin oversight this year.

I do not say this lightly, but I believe that without some ultimate overseer that the lack of supervision and/or influence over the actions of the futures exchanges and clearinghouses means that we are begging for trouble when the next market break occurs.

Treasury Secretary Brady has said this change is crucial if we are to avoid a breakdown of the system. If world or national conditions cause another October 1987 or 1989—without Federal oversight of margins major institutions could fail.

Mr. President, one of the primary functions of margins is to protect the financial integrity of markets by reducing the risks—both to market participants and their creditors. Thus margins should be set at levels sufficient to protect all players: Brokers, clearinghouses, and other lenders from possible credit loses arising from changes in market prices. Under current law, the futures exchanges have the authority to set initial and maintenance margins for their market participants. They also control the so-called variation margin, which is the process of cashing out between clearinghouses and brokerage firms.

As such, margins are very important to the overall stability of a market—in particular if one or more key players should fail. This, of course, was a major concern of the 1987 crash—that failure of one or more brokerage houses or clearinghouses could have brought down the entire financial structure. Adequate margins are the first insurance against such occurrences, but adequate liquidity is the ultimate protection.

The primary difficulty many people have with this issue is that margins on the stock market appear very different—as to level; regulation, and collection—than margin on the futures market.

However, everyone should understand that in some respects their purposes are fundamentally the same whether we are discussing the margin on IBM stock, stock-index futures, pork bellies, potash or wheat—to assure that participants have committed adequate resources to cover their borrowings or to meet their contractual obligations should the markets move against them.

In addition, everyone must also understand that there is a very strong connection between margin on stocks and margins on stock-index futures. That is because it is crystal clear that the markets in stock options, stock-index futures, and stocks behave as a single market. They are inextricably linked by common participants, intermarket trading strategies and economic forces. And their payment systems are also closely interwoven.

This was brought home with a vengeance during the October 1987 crash when the danger of a default in a futures clearinghouse posed an extraordinary threat to some participants and through them to our entire financial system. Clearly a major disruption in one part of this linked market can do swift and sudden damage at the other end. And liquidity problems or defaults certainly can affect every other participant, whether they be direct or indirect players.

That is why I believe we must give the Federal Reserve Board the broadest possible authority to insure adequate liquidity and stability in these linked markets. And that is what the blocked compromise amendment would do.

Clearly the Fed is the only agency who has the ability to look across New York and Chicago markets to determine where the risks, and vulnerabilities are—and to take action accordingly.

Anything else is simply inadequate. The status quo has only avoided failure by luck and good fortune—for a market regulatory system that promotes the protection only of self interest of the regulated, rather than market wide interest is an accident waiting to happen.

Unfortunately, there are those on the other side who don't share this assessment. They believe that everything is rosy, the system is working, and not to worry.

Sounds a bit like Congress when those S&L warnings came in 1985–86.

And yet today some people argue that self-regulation is working; and that further oversight would only be an unwarranted intrusion.

Let us review a few facts. Over the past year hardly a week has gone by without a new revelation on the problems in the self-regulatory system. First the FBI sting; then a series of inactions by the National Futures Association; then the Stotler case—which only came to light after the SEC found the shady transaction.

In fact, Mr. President, the NFA's actions—or inactions—have been so flagrant that the Wall Street Journal wrote a long article last week describing at least five major cases with millions of dollors of fraudulent activities where the NFA has fallen down on the job. I ask unanimous consent the articles be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOND. But those who support the status quo continue to cling to the belief that no action is needed.

What outrages me about all this is that we are not talking about a minor jurisdictional spat that affects three bureaucrats and a carpool. What we are talking about is preserving and protecting the money of the investing public. These are the small investors, the families, the men and women who commit their savings to the growth of our economy through the market for equities and their derivatives.

These are the people who are victimized when a cozy regulatory scheme allows the head of an exchange, who is

also the head of a trading firm; who was also a vice chairman of the self-regulator [NFA] seemingly to ignore the basic rules; delay the day of reckoning and then escape leaving a trail of unpaid bills.

This is a system that protects the little guy?

Mr. President, the saddest part of all is that the bill that is being held up—along with our amendment—would at least give the CFTC and the Fed the tools to stop the majority of the abuses. And it would give all the investors, large and small, at least some comfort that they are receiving a fair deal in the market.

Unfortunately, not only does the other side not want the changes in our amendment—they also don't like the bill itself—because for the first time the CFTC might have some teeth; and might be in a position to police violations, instead of waiting for the FBI or the SEC to do their job for them.

Is it any wonder the exchanges have been blocking this bill—using any pretext available?

Mr. President, one of the arguments of opponents has been that margins are not important and don't need regulation; or, that the only reason we want to change them is to provide a competitive edge for similar products sold on stock exchanges.

It is these sorts of arguments that make me even more convinced we need the Fed involved.

The proposal we had drafted would have given Chairman Greenspan very broad authority—such as he has over the securities exchanges—in that it ensures that the futures exchange set margins at prudential levels; and more importantly, that the Fed has powers to step in during an emergency and force corrective action.

To those who would attempt to argue that we don't need this oversight, I commend a little study of the matter. Questions that should be asked are:

First, how are market participants protected when a clearinghouse can refuse payment to a brokerage firm during a crisis, and no one has the authority to do anything about it?

Second, how are market participants protected when the actions of one exchange acting on its information can dramatically raise margin levels in order to cover its interests—irrespective of the effect throughout the market?

Third, how do we answer the warning of the Brady Commission that inadequate margins could, in a major downturn, lead to a significant dysfunction such as failure in the system of a major player to meet their obligations?

I must confess that the more I dug into this in order to answer these questions, the more nervous and concerned I became. In fact, it is safe to say that my interest in acting on this effort is even stronger now than it was when we began.

That is why I take the floor today. I hope my colleagues understand that giving margin authority for stock-index futures to the Fed has nothing to do with jurisdiction or competition. Instead, it has everything to do with financial integrity, protection of investors, and stability.

So why won't this simple, straight forward, obviously necessary reform be passed this year?

Same reason it took 5 years to admit the S&L's were in trouble. Those with financial interest in the status quo care more about their own interests than the Nation's.

Perhaps this is a little harsh, but after 2 months of intransigence, obstruction, and unwillingness even to admit that the Federal Reserve might know something about prudentiality and financial stability, I cannot stand by silent any longer.

In fact, the only offer on margins that even fell into the category of remotely supportable by the Chicago futures exchanges was described as "frustrating the purposes of Federal oversight," "inadequate," and was "strongly opposed" by the Federal Reserve Board.

I think that in matters of this sort, the Fed's views are much more credible than any of those on the other side. Unfortunately, the Fed doesn't have anything but reputation on its side—and that has not proven to be enough in this case.

Mr. President, there are several other important issues that we attempted to work out these past months, and these issues do address competition and innovation.

The first is the "exclusivity" clause of the CEA which gives the CFTC exclusive jurisdiction over not only "pure", exchange-trade futures contracts, but also over so-called hybrid products involving elements of both futures and securities.

These hybrids are best described by an example, the index participants case. This product was developed by the Philadelphia options exchange, but after the SEC has approved it for trading, the futures exchanges sued charging that IP's were in fact a future and therefore by law could trade nowhere but on a futures exchange. The Seventh Circuit Court then decided that indeed the new product was a future.

The net effect of this is enforcement of the exclusivity clause? IP's are not trading on any exchange in the United States. Instead they, or something very close to them are trading abroad, in London and Toronto.

Thus, the net result of the futures exchange's lawsuit was not transfer of product to its rightful exchange and regulator—instead no investor, broker, dealer, or exchange in the United States is handling IP's. Now, is this the way we want our financial innovation and creativity handled?

I believe that some modification of the CEA's exclusivity clause is necessary and our proposal was designed to make it clear that:

The CEA exclusivity clause would continue to apply to financial products, including securities instruments currently permitted under the Johnson Shad accords, which are traded on a designated contract market and involve contracts of sale for future delivery. Thus all futures now traded as futures remain futures.

However, hybrid instruments with attributes of both securities and futures could be traded outside the purview of the CFTC if they are able to meet a series of tests. The key tests include:

First, the product is securities based;

Second, it does not involve a mutual executory obligation between parties;

Third, it is listed or traded on a national securities exchange or otherwise regulated by the SEC.

The practical effect of this proposal is that the IP's decision is reverse.

The final major provision in our package is an expansion of the CFTC's exemptive authorities. This provision would allow the CFTC to determine whether certain products—now used only by large institutional investors—should be allowed to trade outside the traditional futures regulatory system. This would primarily affect SWAP's, CD's, and the Brent Oil market.

And finally, we proposed that CFTC and SEC be directed to work in conjunction with the Treasury and the Federal Reserve to address critical intermarket issues including instituting a system of coordinated circuit breakers, enforcement, antifraud and cross margining.

Mr. President, overall, these provisions are reasonable and much needed. Elimination of costly litigation should allow all our exchanges the opportunity to remain innovative and internationally competitive.

We owe it to the American people—the people who invest their hard earned savings in the financial markets and provide the capital that has allowed this Nation to become the world's strongest economy—to move ahead with these reforms.

EXHIBIT 1

SLEEPY WATCHDOG: COMMODITIES ABUSES HAVE LONG CONTINUED DESPITE NFA SCRUTINY

(By Jeff Bailey)

CHICAGO.—Last May, officials at the National Futures Association spotted a problem at a commodities firm headed by Karsten "Cash" Mahlmann, the four-term chairman of the Chicago Board of Trade.

During a routine inspection of the financial statements of commodity funds operated by his Stotler Group Inc., they learned

that the old-line firm had borrowed $5.5 million of customers money for its own use. As a regulatory body authorized by Congress, NFA had the power to immediately order Mr. Mahlmann's firm to put the money back into the funds.

Instead, it simply sent Stotler a letter asking for an explanation. It took no other action, not even when it deemed Stotler's reply unacceptable. NFA officials later denied that these decisions had anything to do with Mr. Mahlmann's position as an NFA vice chairman.

Bankruptcy Court

In July, Stotler collapsed under the weight of financial problems. The emerging scandal over allegations of misappropriated customer funds stunned the commodities industry. Mr. Mahlmann resigned from his posts at the Board of Trade and NFA. Now, Stotler's customers are trying to get their money back in federal bankruptcy court in Chicago. The government's Commodities Futures Trading Commission has filed a complaint against Stotler.

The episode is one in a series of missteps by the NFA, an industry-run organization that talks of its ability to "assure high standards of professional and business conduct . . . and to protect the public interest" in commodities dealings. But an examination of the NFA's record reveals case after case of slow or slipshod enforcement, raising doubts about an industry group's ability to regulate effectively.

The NFA was established eight years ago as the front-line defense against ripoff artists who steal enormous sums of money from people by enticing them to trade commodities. Congress gave it the power to register everyone in the business who deals with the public and to audit retail brokers, pools of investment funds and trading advisers. It is industry-funded, but the CFTC oversees the NFA's regulation, just as the CFTC oversees the commodities exchanges' regulation of their members.

Repeated Failures

The NFA waited almost a year before looking into customer complaints of fraud at First Commodities Corp. of Boston. It ignored complaints about the 40% sales commissions being charged by International Trading Group Ltd., whose customers, the CFTC says lost $428 million. It didn't crack down swiftly on International Futures Strategists Inc., even though the NFA's computers showed that 86% of IFS's branch managers had been trained at other firms that were the targets of enforcement actions. It wasted time and resources by not coordinating its investigation into Murlas Commodities Inc. with the CFTC. And it didn't detect a multimillion-dollar scheme at Waters, Tan & Co. even though NFA investigators were combing through the company.

The result, critics charge, has been to encourage commodity shysters to set up boiler rooms and to prolong their shady activities. Such operations are often relentless in pursuing investors. According to papers filed in a civil suit in a state court in San Diego, for instance, ITG spent an average of $543.85 on come-ons to attract each customer.

The NFA's enforcement failures include the most visible customer-fraud cases in the commodities industry. In contrast, when the NFA cites its proudest enforcement actions, the top two it lists are those against Presidential Futures Inc., of Fort Lauderdale, Fla., and Great American Commodities Inc., of Miami. Both were relatively small firms almost unknown in the industry. They folded after the NFA filed complaints alleging sales abuses.

Confronted with its record, the NFA admits to problems. Robert K. Wilmouth, the group's president and chief executive officer, says consultants at Arthur Andersen & Co. recently reviewed the NFA's enforcement procedures and criticized it for being too cautious. He declines to discuss the Arthur Andersen report in detail.

Although Mr. Wilmouth says he plans to improve enforcement, he acknowledges disliking the role of tough cop. "We don't want to be a regulatory zealot out to nail everybody," says the 61-year-old executive, who is paid $300,000 a year. "We don't want to make mistakes."

Some believe that the NFA might be tougher if it weren't so intertwined with commodities-industries leaders. "The NFA is the insiders," says Constantine John Gekas, a commodities lawyer and former CFTC official who is suing the NFA in the Water Tan case. "Because of that, it's not an effective regulator."

The Stotler case spotlighted this issue because Mr. Mahlmann was both a vice chairman of the NFA and a member of its executive committee during the time his firm was failing. The NFA denies that it moved slowly because of his position, but one high NFA official concedes that Stotler's status as a respected firm—as opposed to a suspected boiler room—probably kept NFA staffers from moving quickly. With a call to the Board of Trade's compliance department, however, an NFA investigator might have learned that Stotler had been having capital-deficiency problems for months.

"We had no reason to question their integrity," says an NFA official who asks not to be named. "We were dealing with it on a lower priority." NFA officials looking at Stotler were busy on the IFS case, the official says, and Mr. Wilmouth wasn't informed. The official adds that Mr. Mahlmann didn't intercede on behalf of Stotler.

Mr. Mahlmann, who has on numerous occasions refused to discuss the Stotler affair, couldn't be reached for comment for this article. In an Aug. 1 letter to Board of Trade members, he said that although he was Stotler's chairman and largest share-holder, "I have had no day-to-day management responsibilities since early 1988." He added, "I simply was not a party to the financial decisions which are now being scrutinized by the exchange and the regulators."

The NFA is the creation of Leo Melamed, chairman of the Chicago Mercantile Exchange's executive committee and the industry's most powerful official. "It's Leo and the Board of Trade that get together" when the NFA faces major issues, Mr. Wilmouth says. Mr. Melamed declined to be interviewed for this article.

Mr. Wilmouth, himself a former Board of Trade president, denies that the NFA has been timid because of its close ties to the industry. He contends that the NFA has done an excellent job when all of its responsibilities are considered.

The NFA's enforcement problems have gone largely unnoticed in Washington even as other aspects of commodities regulation have come under scrutiny because of the federal criminal investigation of exchange trading pits here. The indictments of 47 traders at the Chicago Merc and Board of Trade led Congress to strengthen the CFTC and require exchanges to increase surveillance of their members.

The NFA gets its funding from a tax on trades—20 cents for each round-turn futures trade on a U.S. exchange. Enforcement takes up about two-thirds of its $28 million annual budget and occupies about two-thirds of its 337 employees. The NFA has a computer tracking system that Mr. Wilmouth says "can give you 200 names of individuals, and you can follow them around and see 99.9% of the problems in this industry.

But he acknowledges that the NFA spends relatively little time chasing the 200 or so people on its list of suspect characters. Despite its substantial resources and its legal power to review the records of any firm under its jurisdiction, the NFA has maintained its extremely cautious approach to enforcement. As a consequence, a lot of big fish have got away.

FIRST COMMODITIES

One whopper was First Commodities, which took in more than $600 million from investors. Mr. Wilmouth calls the case his deepest disappointment. "I wish we'd been able to move a little faster," he says.

Although more than a dozen salesmen at First Commodities were eventually convicted of fraud, the NFA waited almost a year before investigating customer complaints of deceptive claims and high-pressure sales tactics. "We logged them in [in 1983]," says Daniel Driscoll, NFA enforcement chief. "But we really didn't start devoting any resources until 1984."

As a result of the late start, the NFA wound up trailing behind other law-enforcement agencies. First Commodities eventually closed down after a federal criminal investigation began.

ITG

Despite its supposed watchdog role, the NFA believes that it shouldn't take action just because a firm charges outrageous commissions—even if the commissions, which may exceed 25%, almost guarantee that customers will lose money. "If a guy is willing to pay that, and he fully understands, I don't think it's our business to regulate it," Mr. Wilmouth says.

But commission abuse has sparked several scandals. More than 90% of the customers of International Trading Group, for instance, lost money. Between January 1984 and May 1989, their combined losses totaled $428 million, largely because they were charged commissions as high as 40%, according to the CFTC. ITG closed its doors last October after the CFTC finally sued it in federal court in Los Angeles, alleging high-pressure sales tactics.

The NFA, meanwhile, did nothing about the ITG commissions.

IFS

The NFA also had plenty of reason to keep a close eye on International Futures Strategists. An NFA investigation found in the regulatory body's own registration files that 60% of International Futures' salesmen and 86% of its branch managers were trained at firms that had been charged with sales or other abuses.

In 1988, IFS customers began complaining about high-pressure sales tactics, false claims of assured profits and misleading ads. "It's Time to Get Serious," one ad blared, "+120% Annualized Return."

The NFA did start an investigation but seemed ill-prepared for it. Unlike firms such as First Commodities, which ran a highly disciplined, almost-uniform sales program, IFS has been an ever-changing cast of characters, with each making his own pitch. The firm has filed more than 150 form 3-Rs,

used to add or drop a salesman or branch office, since Mandel "Manny" Green took over as president in May 1988, according to NFA files.

"That's why it took us so long to investigate," an NFA official says. When NFA officials finally took their case to a disciplinary panel made up of industry representatives in November 1989, they were told that they didn't have enough details and should go back into the field. Three more months passed before the NFA finally acted.

In March, nearly two years after getting the first customer gripes, the NFA lodged a complaint against IFS asking it to stop using allegedly misleading and high-pressure sales tactics and to start supervising its salesmen. Mr. Green blames his firm's troubles on a few "rotten apples" and won't discuss the case further. According to the NFA, IFS's registration was suspended Sept. 28 for failure to pay a reparation award to a disgruntled investor, effectively putting the firm out of business. Mr. Green couldn't be reached for comment on this latest development.

MURLAS

Six years elapsed between the initial complaints of account-churning at Murlas Commodities and its shutdown.

After getting customer complaints, the NFA launched its most intense investigation ever, with as many as 10 people working on the case at any one time. But all this turned out to be a waste of resources: Unbeknownst to the NFA, the CFTC also was investigating Murlas. The NFA case was put on hold when the CFTC filed an almost-identical complaint with a CFTC adminstrative law judge in Washington. Had they worked together on the case, it might have been resolved more quickly.

"We could be criticized for it taking as long as it did," Mr. Driscoll says.

WATERS TAN

The NFA's most spectacular enforcement failure involved Waters Tan, of Tempe, Ariz. While still dorm-mates at Arizona State University in 1982, John Waters and Dennis Tan raised several thousand dollars from people they knew and began trading futures. Right away, according to a deposition by Mr. Waters, they took a big loss and, afraid to tell their investors, they lied, said they were making big profits and brought in new investors. A Ponzi scheme that would grow to $7 million was born.

Messrs. Waters and Tan, though terrible traders, were great salesmen, losing money regularly in futures, they nevertheless attracted plenty of new money to pay out fictitious profits—and to live the good life; nice offices, cars, houses, a boat.

The NFA got a strong whiff of a problem in a visit to the Waters Tan branch in Newport Beach, Calif., in November 1986. The association says it found unregistered salesmen, customer orders not properly recorded, ads for a fictitious investment track record and for a New York office that didn't exist, and sales brochures promising annual rates of return as high as 57.9%. Worst of all, the NFA found that Waters Tan had taken customer money into its own account. By law, a so-called introducing broker such as Waters Tan must pass money directly to its clearing firm at the exchange.

After more than three months, the NFA finally followed up on its Newport Beach visit with a stern letter to Waters Tan demanding explanations for the infractions. Nobody from the NFA seemed to suspect the offenses indicated criminal behavior.

The NFA got a second chance, however. A former Waters Tan employee, angry over being fired, wrote to the NFA in May 1987 and warned that the firm was running illegal investment pools—later discovered to be the vehicles for the Ponzi scheme.

The NFA auditors went to Tempe and were assured the fired employee was just a crank. Again, the illegal pools went undetected. "The NFA, for whatever reason, never looked at the pooled accounts," says Martin Lieberman, a lawyer for Mr. Waters. "Anyone who looked into them would have put a stop of this right away."

The NFA's general counsel, Daniel J. Roth, says, "We pursued this case vigorously." He won't elaborate; the NFA is being sued in federal court in Phoenix by investors for failing to stop the fraud. After the June 1987 audit, Waters Tan hauled in another $2 million. Among the victims: John Stewart, a retired Pan Am pilot, says he put in $150,000.

The mascarade's high point came that Christmas at a Waters Tan party for 600 clients and prospects. A $2,000 ice sculpture of the firm's logo stood above a mountain of shrimp, and the hosts chose the perfect entertainment: impersonator Rich Little and his orchestra, flown in from Las Vegas for $45,000.

The party brought in one last surge of cash, but not enough. In February 1988, unable to keep the scheme afloat, the two men confessed to the Maricopa County prosecutor and pleaded guilty to criminal charges in Arizona state court. Dennis Tan then fled the country and is believed to be in his native Singapore; John Waters was released from an Arizona state prison under a work-furlough program last April.

Arizona officials received 227 letters from swindled investors recommending jail time for the pair, according to police records. Joey Nell Leonard of Scottsdale met the promoters in the fall of 1987 and invested $50,000, and Mr. Tan pursued her for more money right up until the end. "The week before the palatial offices . . . closed their doors forever, Dennis telephoned me three different days begging me to invest," she recalled in a letter included in a sentencing report prepared by Maricopa County officials.

Not until the month after their confessions did the NFA strip Messrs. Waters and Tan of their registrations.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 5257 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5257) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1991, and for the purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 22, 1990.)

The PRESIDING OFFICER. The Senator from Idaho.

Mr. HARKIN. Mr. President, if there is no further debate on the adoption of the conference report, I urge the adoption of the conference report.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask the manager to yield for a question.

Mr. HARKIN. I will be delighted to yield.

Mr. BINGAMAN. I wondered what the procedure is with regard to amendments in disagreement with the conference report; if that happens after adoption of the conference report?

Mr. HARKIN. Amendments in disagreement or amendments to be offered are not in order until we adopt the conference report. That is what the Senator is seeking to do, to get the report adopted. Then the Senator would be recognized, or any Senator would be recognized.

The PRESIDING OFFICER. Hearing no further discussion, the question occurs on agreeing to the conference report.

The conference report was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who seeks recognition? The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that there be a vitiating of the unanimous-consent order approving the conference report by unanimous consent. I further ask unanimous consent that the vote on the conference report, for which I will ask for the yeas and nays, be held immediately after any other vote, such as the vote on Senator BINGAMAN's prospective amendment, if a vote is ordered on that amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. I now ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN].

Mr. HARKIN. Mr. President, I am pleased to submit a conference report to the Senate on conference report to the Senate on the fiscal year 1991 appropriations for the Departments of Labor, Health and Human Service, Education, and related agencies.

The Members will recall that on October 12, the Senate passed H.R. 5257, after adding 8 amendments and rejecting 2. Last Thursday and Friday, October 18 and 19, we met in conference with our colleagues in the House and resolved all items. I am pleased to report that seven of the eight amendments added by the Senate to H.R. 5257 have been included in the conference agreement, as passed by the House.

The conference agreement provides $182,181,734,000 including $50,080,026,000 in discretionary spending. The conference agreement also includes $53,534,000,000 in outlays for discretionary programs, or $1 million below our 302(b) ceiling for discretionary outlays.

Mr. President, I will not take the time of the Senate to review the details of the conference agreement except to offer a few highlights:

For AIDS, the conference agreement includes $2,197,683,000, $647,352,000 more than last year. The conference agreement includes $221,000,000 for the Ryan White AIDS care bill. As the Members will recall, the Senate had included $600,000,000 for Ryan White over 2 years, with $159,000,000 available in fiscal year 1991. The House bill had included no funding for the AIDS care bill because at the time the House originally considered this item, the AIDS care bill was unauthorized. The conference agreement includes no fiscal year 1992 funding for the AIDS care bill.

For Alzheimer's research, the conference agreement includes $247,274,000 which is 67 percent more than last year. In other words, the conference agreement sustains the very significant initiative the Senate adopted in the fight against Alzheimer's. Mental health reserch was increased by $72,187,000 over last year's level, and $60,294,000 more than the President's request.

For all the several programs that relate to drug treatment and research, the conference agreement includes $2,855,800,000, which in total is more than the administration request for these several programs.

Immunization grants are increased $65,023,000 over the level requested by the President.

For the National Institutes of Health, the conference agreement is $378,659,000 over the administration request and $730,296,000 over last year.

For all the Department of Education, conference agreement includes $27,426,292,000 or $1,382,958,000 more than the administration request. Chapter 1 programs are increased $610,396,000 over the President's request, and Special Education and Rehabilitation Programs are $387,451,000 over the President's request.

Mr. President, this is the culmination of a long process which began in early February when we started our hearings. This year the committee held 20 separate hearings, including 6 days when we heard approximately 150 public witnesses. We had requests from all but one of our Senate colleagues, totaling well over 1,000 separate requests. The bill before us includes and protects to a very great extent all the special items of interest to Members of the Senate.

Mr. President, I believe we have brought back a very good agreement from the conference committee, which I believe deserves the full support of the Senate.

I would like to express my appreciation to Senator SPECTER, the ranking member of the subcommittee, for his support and counsel, which he has provided generously all year long. At this time I would like to yield to Senator SPECTER for any comments he may have.

Following Senator SPECTER's comments, I would be pleased to answer any questions the Members may have.

Mr. President, for the record, I just want to express my gratitude to the distinguished Senator from Pennsylvania [Mr. SPECTER] for all of the help, support, and counsel that he has given this Senator and his staff's hard work all through the year in putting together a very complicated, a very comprehensive bill that deals with what I have often referred to as the people programs of this country: labor programs, health, education, human services. The programs really define the type of society that we live in.

Senator SPECTER from Pennsylvania has just done a lot of work on this through the year. Again, I express my appreciation to him and his staff for working closely with us and putting together a bill that I think is truly bipartisan in nature and one which, under constrained conditions, meets the real needs of the people in this country.

Mr. President, there are 48 items in disagreement that the Senate now needs to adopt. All of these are noncontroversial and can be adopted, I hope, en bloc, to save the Senate time, with the exception of amendment No. 31 and amendments Nos. 163 and 164.

Mr. President, I ask unanimous consent that the Senate temporarily lay aside the amendments in disagreement, with the exception of amendments Nos. 31, 163, and 164; that the Senate proceed to the consideration of amendments Nos. 163 and 164, which are the amendments by Senator BINGAMAN, followed by consideration of amendment No. 31.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS IN DISAGREEMENT NOS. 163 AND 164

The PRESIDING OFFICER. The clerk will report the House amendments Nos. 163 and 164.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 163 and 164 and concur therein with an amendment as follows: In lieu of the matter inserted by said amendments, insert the following:

"In addition to these amounts, $5,000,000 shall be available for teaching standards activities, if authorized, which shall be awarded to the National Board for Professional Teaching Standards if such a grant is specifically authorized in law".

Mr. SPECTER. I thank the distinguished Senator from Iowa for his kind remarks. I reciprocally say it has been a pleasure to work with the distinguished Senator from Iowa [Mr. HARKIN]. I think we have produced a good bill and a good conference report. The great difficulty with this bill is that there is insufficient funds to handle all of the needs.

Mr. President, I join the distinguished Senator from Iowa, the chairman of the subcommittee, in supporting the conference report before us this afternoon. This agreement totals more than $182.1 billion and provides funding for a range of vital human services and education programs including: biomedical research, drug free schools and communities, substance abuse treatment, AIDS research, prevention and treatment, and low income home energy assistance, to name just a few. Although all of the programs contained in this bill are of great importance, I would like to highlight a few areas of particular concern to me and my home State.

CRACK BABIES

In this country of ours, Mr. President, a needy child should be afforded all of the assistance available to develop and lead a full and productive life. But because of the high incidence of substance abuse by pregnant women, some 375,000 infants are born drug exposed or HIV infected each year. The conference agreement provides $5.9 million to address the immediate, nonmedical needs of this defenseless population, and an additional $112.2 million for substance abuse treatment and prevention targeted to "at risk" populations, particularly pregnant women.

BIOMEDICAL RESEARCH

The health of the people of this Nation is of national concern. Ill health does not discriminate, it touches every segment of our people. To help confront these health needs, this

conference agreement includes $8.3 billion for biomedical research at the National Institutes of Health. The following are just a few examples of the research this bill will support.

ALZHEIMER'S RESEARCH

One of the major health issues confronting this country today, Mr. President, is Alzheimer's disease. This disease effects 10 percent of Americans over the age of 65, and nearly one out of every two persons over the age of 85. We must find a cure or a way to prevent this disease or our Nation will face an enormous health crisis in just a matter of years. To address this concern, the conference agreement includes $247.2 million, a 50-percent increase over the previous year's amount, for research to find the cause, cure and treatment for a disease that already afflicts 4 million Americans.

AIDS TREATMENT, PREVENTION, AND TREATMENT

Aids, a disease which was virtually unknown 11 years ago, is now at the forefront of every major health discussion. The conferees struggled long and hard to provide sufficient funding for the newly authorized Ryan White care bill. This agreement provides $87.8 million for emergency assistance to cities such as Philadelphia, New York, Miami, and San Francisco, where the incidence of aids has created a breach in our health care system in these major metropolitan areas. An amount of $132.6 million has also been included for comprehensive care and early intervention programs. These funds will lay the ground work for efficient and better balanced care for these patients. To continue the research and training efforts to prevent and cure this disease, the conference agreement includes $1.6 billion. Also included is $19.5 million to maintain the existing pediatric health care demonstrations to provide avenues of treatment for children and their families who have contracted this deadly virus.

LOW-INCOME ENERGY ASSISTANCE

Mr. President, it has been said that the measure of a great nation is how well it cares for its poor. Low-Income Home Energy Assistance is just one of the many programs contained in this agreement which helps address the needs of low-income individuals. By providing $1.4 billion for fiscal year 1991 and $200 million for an emergency contingency fund, this agreement will assist low-income households to maintain their homes through keeping energy and heat costs more manageable. Mr. President, 1.2 million Pennsylvania households rely heavily on this program. On the average for families receiving energy assistance in Philadelphia, the sum of the annual cost of basic utility service is nearly 40 percent of their total income. This program is a must if we are to continue to serve the basic needs of these families.

DRUG FREE SCHOOLS AND COMMUNITIES

There was a time, Mr. President, when the greatest challenge to this country's education system came from abroad. Unfortunately, we now find that system threatened from within by the insidious plague of drugs in our school yards. Some children begin their experimentation with drugs as young as 9 years old and by the age of 13 are frequent drug users. This agreement before us today contains $606.6 million, an increase of $67.4 million over last year's amount. These funds, which support a wide range of programs, will bring the Nation closer to the goals of a drug-free generation and a drug-free society.

SUBSTANCE ABUSE TREATMENT AND PREVENTION

Drug abuse in this country is on the rise in all segments of our population, Mr. President. In Philadelphia, from January to June 1989, 3,323 hospital emergency room admissions were attributed to cocaine abuse, up 52 percent over the same time period in 1987. This bill addresses this issue by providing $2.3 billion for substance abuse treatment and prevention.

LITERACY

If education supports the tree of freedom in this country, then literacy must be considered its taproot. Yet today, an estimated 23 million Americans are functionally illiterate. Over the course of the next decade, it is estimated that 21 million new entrants into the labor market will need literacy and basic skills training, if they are to have the opportunity to succeed in new jobs. The conference agreement includes $295 million for adult education and literacy training. As you know, Mr. President, I have cosponsored a number of bills to strengthen and mobilize efforts to combat the extensive problem of illiteracy.

Let us now turn to prison literacy. Of the approximately 1 million persons incarcerated in prisons, jails, and juvenile facilities, an estimated 80 percent lack a high school diploma and more than 75 percent are functionally illiterate. Through corrections education programs, States are endeavoring to provide these individuals with the basic skills they need to function in society. This agreement includes $1.9 million to develop correction education programs to serve as models for addressing this critical need.

Also included in this bill, Mr. President, is $1.9 million to establish and operate adult education programs to increase the literacy skills of commercial truck drivers. These skills are necessary, so that these truckers can successfully complete the requirements of the Commercial Motor Vehicle Safety Act of 1986.

MENTAL HEALTH

Finally, Mr. President, the conference agreement includes $458.6 million to support research into the cause and cures of mental illness. These disorders afflict 1 in 5 Americans at some point in their lifetime. The funds provided will enable us to build on the progress that has been made in this area in the past and offer promise to the millions of Americans for future cures.

In closing, Mr. President, I again express my thanks to Senator HARKIN and the other Senators on the subcommittee for their cooperation through this appropriations process.

Mr. President, I add a special note of regret that we were not able to provide more money for AIDS treatment, prevention services authorized by the Ryan White care bill. Senator HARKIN and I, as well as others, did everything we could, and we did provide as much money as we could possibly find for emergency assistance to the 16 heavily impacted cities around this country, including Philadelphia, PA.

I thank the Chair.

AMENDMENT NO. 3163

Mr. BINGAMAN. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate No. 163-164 with an amendment which I send to the desk for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], proposes an amendment numbered 3163 to the House amendment to the Senate amendments 163-164.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment follows:

Before the words "In addition to these amounts," insert the following: ": *Provided*, That of the amounts appropriated herein, $1,000,000 shall be available, to remain available until expended, for payment of the expenses incurred by the School Year Extension Study Commission if such a Commission is authorized by law, and $2,000,000 shall be available, if authorized by law, if necessary, to remain available until expended, for expenses to be incurred in the operation of an independent National Council on Educational Goals, or any similar panel, council, commission, or other entity whose function shall include monitoring progress toward achieving the national education goals for 2000 or publishing a report that describes such progress, if—

"(A) such entity has a majority of voting members who are neither Federal appointed or elected officials nor Governors of the States but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and educational excellence;

"(B) such entity has members appointed by the leadership of the National Governors' Association, the President, and the leadership of both Houses of Congress; and

"(C) all action of such entity is taken by a simple majority of the members attending a duly called and constituted meeting.".

Mr. BINGAMAN. Mr. President, I will take a few minutes to explain the amendment, and then I believe that the Senator from Nebraska wishes to speak also for a few minutes on behalf of the amendment.

This amendment is quite simple. It does two important things but one is not controversial. The controversial part of this, on which my colleagues need to focus, is that it earmarks $2 million which shall be available if authorized by law. This does not try to authorize a program in an appropriations bill but it earmarks some funds which will be available if authorized by law to remain available until expended for expenses to be incurred in the operation of an independent National Council on Educational goals, that such a council would have the function of monitoring progress toward achieving national education goals for the year 2000. It specifies in the amendment that the entity would have to have a majority of voting members who were neither Federal appointees, Federal appointed officials I should say, nor elected officials from the Federal Government or Governors.

Mr. President, let me recount a little bit of background information. There were goals set, as you and all my colleagues will recall. The President and the Governors met in Charlottesville a little over a year ago and set some national goals for the country to work toward in the area of education. I complimented them on that initiative, as did, I think, many people.

One of the things they concluded as part of that agreement, the Governors and the President together, was that we would have a national report card. That was in the compact they issued at the end of that conference in Charlottesville; we should have a national report card to report progress toward those goals and that should be issued each year so that people in the country—educators, teachers, parents, students, all of us—could know whether in fact we were making progress toward achieving those goals.

That brought up the obvious question of who was to issue this report card, who was to tell the American people whether or not progress was being made, and that is what this amendment is all about.

The Governors and the White House set up a panel when they met in Mobile earlier this summer. They set up a panel to issue a report card which is totally subject to the control of those who set the goals, and that is panelists made up of 10 members—6 elected Governors and 4 administration officials. The President has appointed his representatives. In addition, of course, to the Secretary of Education, Dr. Cavazos, the President appointed his Chief of Staff, John Sununu; the Budget Director, Richard Darman; and Roger Porter, his Domestic Policy Adviser.

One other thing was agreed to between the administration and the Governors when they set up this panel to monitor progress for national educational goals. They agreed that the rules of the panel would provide that any 3 members of that 10-member panel could veto any action by the panel. That simply means that the three Democratic Governors could veto any action by the panel, the three Republican Governors could veto any action, and of course any three of the four Presidential appointees could veto any action by the panel.

Simply stated, Mr. President, as one Senator, I have grave doubts that a panel made up only of administration officials and elected Governors can be counted upon to do an objective job of assessing progress toward national education goals as we proceed through the 1990's.

I also think it is the height of arrogance to think that the process of setting goals and then assessing progress toward goals could or should be accomplished in this country by a group of politicians with no representation from teachers, no representation from educators, no representation from the business community, many of whom have shown a real commitment to improving education in this country, and of course no parents, who also have demonstrated a significant commitment to improving education.

Mr. President, I received a letter just 2 days ago from the head of the National PTA indicating their support for the amendment which I am offering, stating very simply that the involvement of parents on the council and throughout the process of evaluating national goals is imperative. "We believe that the national report card comes closest in providing parents the opportunity for participation."

I believe the agreement is clearcut. The President and the Governors want to have a panel which is solely under their control. I and my sponsor, Senator KERREY, would like to see this panel be independent and have representation from some people who are not in fact in office or running for office.

If a majority of the panel wants to criticize the Governors for doing too little to move us toward accomplishment of these national goals, in my view the Governors should not have a veto power over that decision by the assessment panel.

If a majority wish to criticize the President or the administration or the Secretary of Education for lack of effort to reach these national goals, in my opinion, the panel should not have its action vetoed by administration appointees. Obviously, if they wish to criticize the Congress, they should be free to do that.

In short, the panel should be free to make an objective assessment of how they believe the country is doing at reaching these national goals.

The amendment I am offering tries to leave open that possibility. It does not authorize a more broad-based panel. We tried to get that done and, very frankly, we met with persistent and consistent opposition by the administration to any effort to authorize a more broadly based panel.

All we are doing in this amendment is to say that if such a panel is authorized in the future, then we believe there should be some funds set aside that could be used to pay the expenses of that panel. The panel we are proposing would operate by majority vote. A majority of the members of the panel, as I indicated earlier, would not be elected or appointed officials from the administration.

I have discussed this amendment with Governor Romer from Colorado, who is the chairman of the Governors panel, and I have assured him that the amendment is meant to build on what the Governors have done.

I want to reiterate that I am complimentary of the Governors and the President for taking the initiative in Charlottesville.

But before I conclude, Mr. President, I wish to say that working on this amendment in my view has been a very revealing experience for me. It has revealed at least to my satisfaction the absolute determination of this administration to keep this assessment panel closely under their control, to keep this administration in a position where it has an enormous voice in what that panel determines and an absolute veto over anything that the panel might say in the coming years.

Let me give you some specifics. When the majority leader and the Speaker of the House wrote to the Governors urging that the assessment panel be more broadly based—that happened this summer—the administration officials argued strongly against a more broadly based panel.

We had a hearing in the Education Subcommittee, which I am honored to sit on, and again the administration officials appeared and argued strongly against a more broadly based panel.

After we had included this exact amendment in this Labor-HHS appropriation bill by asking unanimous consent several days ago, the administration requested the distinguished Republican leader to object to that amendment being included, and he did.

When it was proposed by the Senator from Iowa in the conference with the House, word came from the White

House that if this amendment was included, the bill would be vetoed.

As I stated earlier, every effort we have made on the authorizing side to get a panel authorized which would have broader representation has been blocked and resisted strongly by this administration.

I ask you, Mr. President, why the administration is so concerned that his neatly devised assessment panel might be altered to add a teacher, to add a parent, to add an educator, or perhaps someone from the business community? What is wrong with having an independence panel?

I think the American people genuinely want to see the educational system of this country improved. I think we all want to see ourselves making progress for these goals and taking these goals seriously. But it is very hard to do that if there are grave doubts about the objectivity of the assessment process that is put in place to determine whether we are making progress or not.

It is hard to do. It is hard to have faith in this process that has been set up by the administration and the Governors if the President's staff is moving heaven and Earth to keep this assessment process tightly under their control.

I think we need to face the facts. The administration is coming dangerously close here to playing politics with the education of our children. They want to take the position that they are favoring education improvement but they do not want an assessment panel that is in the position to hold them or any other player in this process accountable for falling short in that effort.

I think this process of setting goals needs to be opened up. The process of assessing progress toward those goals needs to be opened up. This amendment will help to do that.

I urge my colleagues to support the amendment.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, I oppose the amendment for a number of reasons. First, it seems to me that at 5:23 on Thursday afternoon when we hope to finish a very extensive legislative schedule by the weekend, and we are considering a conference report accompanying an appropriations bill, this is not the place to engage in a protracted discussion on this subject. As the distinguished Senator from New Mexico has already stated, the issue was considered at length by the authorizing committee.

When the distinguished Senator from New Mexico [Mr. BINGAMAN], discussed the matter with me earlier, I sought a way to accommodate the objectives which he sought. I have since found that there is very strenuous objection to this amendment from a number of quarters, and the Senator from New Mexico has articulated them in the course of his presentation. So I shall not repeat them.

When he says that the legislation was "blocked and resisted" in the authorizing committee, I would respond that it was subject to the normal Senate authorizing committee processes. There is certainly not a bias to a President in the authorizing committee, which is composed of a majority of Democrats. There is no partisan plot here to subvert an open and objective determination.

When you take a look at the panel, which has been established by the President and the National Governors Association, it is a bipartisan panel consisting, in part, of the distinguished majority leader, Senator MITCHELL, and the distinguished Speaker of the House of Representatives, THOMAS FOLEY. No one would suggest they would be in league to subvert education goals or to knuckle under to the President of the United States.

We have had a considerable body of evidence for the past several weeks that Speaker FOLEY and Majority Leader MITCHELL do not take orders from the White House. We have a little matter under consideration called the budget now, which is some evidence of their independence. And it would seem to this Senator that there is ample room for independence here.

As on so many matters you might define the panel in somewhat different terms, but it is an issue which ought to be determined by the authorizing committee. There may be some time in the 102d Congress starting next January, which will be somewhat less precious than the time which we have remaining here tnis afternoon.

I have now spoken for 4 minutes on the subject, which is more than I would have preferred to consume.

I now call attention to the fact that we have the distinguished Senior Senator from Mississippi on the floor, who is a member of the authorizing committee, as well as the Appropriations Committee, as well as this subcommittee of the Appropriations Committee. I will not yield to him because that is not appropriate under the rules, but at this point I will yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Mississippi [Mr. COCHRAN].

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Pennsylvania for his excellent statement in describing some reasons for opposing this amendment. First of all, let me say this was a matter that was discussed in conference with the House. And in the context of determining whether or not certain programs that were reported to be funded in this bill were actually authorized for funding, this was one among several programs and projects that were included in the appropriations bill for which there was no authorization previously enacted.

So discussion ensued about how to deal with these projects and unauthorized programs. And what basically came out of that, was an agreement that no funds would be appropriated for unauthorized projects, that those the committee favorably was disposed to fund, may be included in this bill, with a proviso subject to authorization. Then we discussed whether or not that meant this calendar year, this next fiscal year.

Somehow during that discussion, one of the members of the conference committee suggested that the words "if necessary" should be put in there, because a question arose as to whether an authorization was really needed for this program.

Well, in fact I think it is. But there was a difference of opinion expressed. So what we are coming to hear is an insistence on the part of the distinguished Senator from New Mexico, that this project be singled out and funded, in spite of the fact that it is not authorized.

The authorization vehicle is the Excellence in Education Act. The Labor Committee, that has jurisdiction here in the Senate over education matters, has worked to bring forth a bill early on. The House has finally gotten around to enacting an Excellence in Education Act. Conferees were agreed on a conference report, and it will be before the Senate, we hope this evening, or maybe tomorrow, for approval.

One interesting aspect of that bill is that this program is not authorized in it. It was proposed to be included. The distinguished Senator from New Mexico is a respected member of that Education Subcommittee, and the full Committee on Labor and Human Resources, but it was not included in the bill.

So it would be a mistake, in my judgment—and I respectfully suggest this—to provide funding in this conference report, which has already been rejected on the other side of the Capitol. This was brought up as a separate item because of the discussion that occurred in the conference, and the House insisted that no funds be permitted for this project.

To be consistent, Mr. President, I think the Senate should reject the amendment of the Senator from New Mexico. As I understand the parliamentary situation—I have consulted with the Parliamentarian—if this

amendment is agreed to, this then takes the conference report back to the House, and they have to either concur in this amendment, or reject it once again.

I guess if they reject it once again, then it comes back here, and we have to concur in that decision, finally. The thing for us to do at this late hour in the session, is simply reject the amendment that is offered in disagreement by the Senator from New Mexico. This does not mean that the issue cannot be brought up again next year.

As a matter of fact, on the merits of this issue, Mr. President, let me just say the following: The President has every right in the world to establish an informal panel that includes administration officials and the Nation's Governors, to talk about any subject they want to discuss, to set any goals they want to pursue, to work toward achieving progress in any area they would like to work in.

This Congress does not have the right to come in and second-guess every panel or group that is assembled by the administration, working with the Nation's Governors, and urge the establishment of a competing panel to second-guess, or to supplement, or to otherwise try to compete with the President's panel.

I agree with the Senator from New Mexico, that education is an issue, and a problem that is much bigger than just elected officials such as Governors, and even the President. It takes everybody's hard work and ingenuity to move this country forward, to achieve goals that will benefit our children, and to make sure that we have a world-class education program. Parents, teachers, administrators, local elected officials, all are very much involved, and very much responsible. As a matter of fact, they are more responsible in many ways than the President is.

But trying to assert leadership in Charlottesville, at the meeting called there for the purpose of discussing the crisis in education and the problems, they decided it would be a good idea to set some goals. They do not have to have the approval and concurrence of the Congress. They do not have to have a panel established and funded at $2 million by the Congress to make sure they do it right.

Certainly, we do not have to try to respond in any kind of legislative way to that initiative on the part of the President and the Governors.

As a matter of fact, it is not just the White House that is opposing the creation, legislatively, of this competing panel and opposing the funding for it at a time when appropriated dollars are scarce, indeed, for education and all other purposes; it is the Governors who are equally opposed.

As a matter of fact, during our consideration in the Committee on Education and Human Resources, we got a letter from the two Governors who are taking such an active role in this panel, Roemer and Carroll Campbell. In a bipartisan spirit, they wrote a letter to the ranking Republican member of the committee, and I am sure to others as well. This is a copy of the letter to Senator HATCH. I will just read a portion of it. It says, regarding S. 3095:

> We oppose the creation of dual panels with similar charges in measuring progress toward national education goals. We recognize and appreciate Senator BINGAMAN's efforts to amend the bill to provide a visible and active role for Governors, and would like to work together to accommodate our mutual interests and concerns.

The fact is, in response to that entreaty and appeal, the committee did not include the competing panel in the authorization bill. It is not in the authorization bill that will be presented to the Senate at conference, authorizing education programs to be funded. And so to adopt an amendment in disagreement with the House over whether or not this program ought to qualify for $2 million in funding, I think, would be inappropriate, Mr. President, under the circumstances.

I hope if other Senators want to be heard on this, we can have a discussion on it. I do not see anyone wanting to talk about it on our side of the aisle. But it would be the intention of this Senator, unless other language could be worked out—and I hope we may explore that. By taking out some of the language and modifying this amendment, maybe we could agree to something over here; but not the way the amendment is drawn right now.

After everybody has had their say about it, it is my hope that we can make a motion to table the amendment offered by the Senator from New Mexico, and agree to a motion to table.

Mr. BINGAMAN. Mr. President, I know two of my colleagues are here and wish to speak on behalf of the amendment. Before they do, I just wanted to clarify a few points.

First, Mr. President, I want to clarify that it is my intention to move that the Senate concur in the House amendment to the Senate amendment No. 163-164, with an amendment, and my amendment would accomplish that. I would ask as a point of order if I have the necessary action to call for the yeas and nays on that motion?

Mr. COCHRAN. Mr. President, I did not understand the request. Could the Senator repeat his unanimous-consent request?

Mr. BINGAMAN. Mr. President, the point I was making was that I have moved that the Senate concur in the House amendment to the Senate amendment No. 163-164, with an amendment. That is my amendment. That is my understanding of the procedure that I am to follow in order to ensure that my amendment is considered as an amendment in disagreement. And that is the motion.

I can ask for the yeas and nays again on that motion. Perhaps that is the proper procedure.

Mr. SPECTER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, if the unanimous-consent request is not objected to, what will be the status of the first request for the yeas and nays by the Senator from New Mexico?

The PRESIDING OFFICER. The yeas and nays were ordered on the motion to concur, which was sent to the desk by the Senator from New Mexico. It was not, in that sense, an amendment that the yeas and nays were ordered on.

Let the RECORD show that the Senator from New Mexico misspoke in that sense. It was a motion to concur that was sent to the desk, and the yeas and nays were ordered.

Mr. SPECTER. Does that mean we will have two votes, by way of further parliamentary inquiry?

The PRESIDING OFFICER. At this point, the yeas and nays have been ordered on the motion to concur, with an amendment. So there will only be one rollcall vote.

The pending question, to clarify, is the motion to concur with an amendment. The yeas and nays have been ordered on that motion to concur.

Mr. BINGAMAN addressed the Chair.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, to clarify or eliminate the procedural problem, I ask unanimous consent that we have one vote, and that the vote be on my motion that the Senate concur in the House amendment to the Senate amendment No. 163-164, with an amendment, in the form that I sent to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, reserving the right to object, but in the nature of a parliamentary inquiry, does the form now adopted by the distinguished Senator from New Mexico raise the substance of the issue which he has argued?

The PRESIDING OFFICER. The amendment is part of the motion that has been the topic of discussion by the Senate thus far. Therefore, it does raise the substance of the points that the Senator from New Mexico is raising.

Mr. SPECTOR. I thank the Chair.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BINGAMAN. Mr. President, let me make a few obvious points, and I will yield so my colleagues can speak.

One of the first points made by the Senator from Pennsylvania was that this is not the right time to be raising this issue. My own view is that we have tried at virtually every stage of the legislative process to raise this issue, and there have been efforts by the administration to block us at each point.

So, we need to raise it here or else it will not be possible for Congress to deal with it before we adjourn this year, as we all hope we do.

Second, I point out that the substance issue of whether we should authorize a panel, not a competing panel, not a dual panel, but an enlarged panel to assess progress toward goals, was discussed in the authorizing committee, and we had a bipartisan vote in favor of doing that. And the legislation that I introduced to accomplish that authorizing of a broader based bipartisan panel, which would include the Governors, which would include representatives appointed by the President, administration officials, was something which was supported on a bipartisan basis out of our committee.

In the negotiations for the particular legislation which is winding its way through the Congress on an authorizing nature, this amendment was dropped. This amendment was not included. It is my view, not that we should try to authorize it here, and that is not what the amendment would do; my position is that we should here earmark some funds so that, if it is established in the future, there will be funds available to pay expenses. It would not be a competing panel, it would not be a dual panel, it would be a broadened panel, a panel that would include representatives of the teaching community, of education, a panel that would have some parents, some business people, and generally not strictly have elected and administration officials on it.

I think it is clear that we are not trying to interfere with what the Governors have done here. We are not trying to interfere with what the administration has done. We are trying very hard, though, to open up this process. We are nearly through the first year of the 1990's.

The President, when he spoke to us in the State of the Union Address, articulated six national education goals for the country to work toward in the 1990's. We were to accomplish these goals by the year 2000. We are nearly one-tenth of the way to the year 2000, and, to my knowledge, we have not yet made any significant effort to include those people who are in the trenches working to educate children in this country. They have not been included in the process.

This amendment is a very modest step at keeping open the possibility that they can be included in the future. That is what we are trying to do by the amendment. It is not a subversive block to undermine the administration's efforts. It is an effort to support what is positive that has occurred and, if possible, build on it so that these goals can be meaningful and so that we can see some progress toward accomplishing them.

I do fear that if we do not do something like this, if we do not keep open the possibility of putting some nonpoliticians on this panel in the future, I think the chance of gaining the confidence of the American people in this process is substantially lessened.

So, Mr. President, I again urge my colleagues to support the amendment.

I yield the floor so others may speak.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. KERREY] is recognized.

Mr. KERREY. Mr. President, I rise in support of the amendment of the Senator from New Mexico. I would like to speak first to the comments of the distinguished Senator from Mississippi. I have a great deal of respect for the Senator from Mississippi. We served together both on the Agriculture Committee and on the Appropriations Committee. I have seen him evaluate problems fairly and objectively and with a great deal of compassion for the subject at hand.

It seems to me that one of the things that our colleagues ought to consider in this matter is this is not just a question of a dual panel; it is a question of whether or not the legislative branch is going to be involved in the progress we are making toward the goals the President has set. On that point I am not prepared today, or do not choose today, to get into a big argument with the Governors or with the President over what they have done in setting those goals. I think it is important to point out that the process of the summit was one that was demanded by the Congress. Representative WILLIAMS, on the House side, particularly led this effort for years and years, and finally a summit was held.

But the original notion of the summit was a people's summit. The people were to get together to evaluate education in the United States of America. The people would evaluate what should be done, and they would make some recommendations about what the United States of America ought to be doing to advance toward whatever goals they set for themselves.

The reason this was to be a people's summit is that the United States of America is unique in many ways in the way that we govern our education system. We have 16,000 independent school boards in the United States of America; 16,000 school boards, 45 million children in those local schools every single day of the school year. It is not run from the top down. It is run from the bottom up. Therefore, the idea of the summit was based upon what we see every day in American schools. That is, it is local control and local judgments made by teachers, made by school board members, made by parents, made by taxpayers, made by community leaders as to what ought to be done.

There are a number of terrific examples in the Nation where there are some very exciting things coming from the ground up. In the State of Illinois, where the distinguished Senator from Illinois [Mr. SIMON] I know is very much familiar with that, in the city of Chicago they have instituted what I consider to be a program that is consistent with the challenge that the President laid out in Charlottesville, which is that American people are ready for radical change. They do not want business as usual. One school child in America drops out of school every 8 seconds.

All of us have looked at schools in America and are appalled by what we see. We see a significant percentage of students who are doing a terrific job. But, frankly, we see a growing percentage of American schoolchildren that are not getting the job done. They are either not graduating because they drop out or—one of the goals set by the President and Governors was set up to reduce the dropout rate down to 10 percent in the country—or if they do graduate from school, they are incapable of getting a job done either in the workplace or in postsecondary institutions.

I do not need to repeat what I am sure every single Senator in this body has been able to observe, and that is that there are all kinds of examples of where our schools are not getting the job done.

The summit, Mr. President, was supposed to be a people's summit. It did not turn out to be a people's summit. The President and the Governors thought it was a great idea, so the President called the summit in Charlottesville, and they all got together. Two of the Governors were charged with the responsibility of working with the Governors to come up with objectives. These two Governors came up with an objective, but before they could get the Governors to approve it, the President announced the objectives, and they got together to approve it after the fact.

We have not objected to that, because the point of the fact is they set six fairly good objectives. But if we are to get real progress in American education, Congress is going to have to be much more involved and not just be ex

officio voting members of this particular committee. If the Governors insist that we have two parallel committees, my preference is to abandon the one they suggested.

I agree with what the distinguished Senator from New Mexico said; this will be business as usual if we permit it to go. The White House has a passion to veto anything that the panel concludes. If it concludes something that particularly alters what the administration is trying to do, they can veto that. I do not say that with any deep-seated suspicion that it will occur. The fact of the matter is, the way it is empowered now, they can do that.

I urge my colleagues to consider that the panel that the distinguished Senator from New Mexico is trying to put together is not hostile to the President or the Governors. If it was, he would recommend that we abolish what we are doing. It is trying to set in place something that, in fact, reinforces this work and enables us, the people's Representatives, as well to have some input into this, because I guarantee to my colleagues that when this thing is put together, these Governors, the President, if they have an idea they are going to come to Congress and say, "Give us some money," they are going to come to Congress and say, "We have reached a conclusion; how about putting a little piece of legislation in for us to make this change."

I suggest to my colleagues that that is not apt to work. That is not apt to achieve the kind of radical progress that I hear the President wanting to make in education. I believe it was a remarkable accomplishment in Charlottesville to get the Governors together. I believe the people of the United States focused on six worthy objectives, and we have to continue to focus full participation on the part of Congress if we expect an honest evaluation of where we are, how are we doing toward achieving those goals, and, most importantly, to break out the numbers in some way so they are useful so we can act on them so we can do what the people at the local level in fact are trying to do.

I urge my colleagues to vote for this amendment. I believe, in fact, it will help us build locally based support for the kind of radical reform that I believe is needed in American education today.

Mrs. KASSEBAUM. Mr. President, I would like to respond just a moment to the Senator from Nebraska, because, without arguing the merits or not of the issue, I would just say what I believe is at stake here is the integrity of the process. I supported the legislation, the report card legislation as it is called, of the Senator from New Mexico when it was in committee. But it has not been authorized yet. It is my understanding it was not agreed to in the appropriations committee, but was added on to the conference report in a statement of the managers. May I ask if someone could clarify that.

Mr. BINGAMAN. Mr. President, let me just clarify my understanding of that and the managers could elaborate. The amendment is one that I had intended to offer when the Labor-HHS bill was first on the Senate floor and being considered. I had cleared that with the managers on both sides and I was advised that it was an acceptable amendment to the managers.

They inadvertently allowed the bill to go to third reading without the amendment being offered, although I was ready and willing to offer it had the opportunity be presented. And then, after that occurred, the manager, the Senator from Iowa, asked unanimous consent that it be added because there was no objection that had been stated at that time. That is how it was added.

And, of course, there was an objection made later by the distinguished Republican leader, and I consented to vitiate that unanimous-consent request because the question was raised as to whether it was something someone wanted to object to. But when I agreed to vitiate that unanimous-consent request, I stated at that time I would plan to offer it as an amendment in disagreement when the conference report came back.

Mrs. KASSEBAUM. Mr. President, what I find troubling is we always argue about legislating on appropriations and frequently we do it, but this clearly is something that is not even in the authorizing legislation now. And even though it was approved in committee, it was dropped out of the authorization. I find it just very troubling as far as a process in which we are trying to maintain some integrity.

I think that, as I say, the merits of it aside, it is the integrity of the process. I am greatly troubled by this, Mr. President.

Mr. SPECTER. Mr. President, by way of a very brief comment, and then I shall yield, the amendment was not objected to when it was first raised because of the lack of information as to the history and the strong objection by the administration. The amendment was offered and adopted in conference after some considerable discussion. It subsequently was stripped on the House floor on a point of order.

I wonder, Mr. President, if we might attempt to get a time agreement at this juncture. We are running late. I do not know if there are other speakers besides the distinguished Senator from Illinois.

Mr. SIMON. If I could be recognized for about 8 minutes.

Mr. COCHRAN. Mr. President, I think we waste more time trying to get a time agreement than if we proceed and let people say what they have to say. There are not many people around right now. And maybe if we try to get a time agreement other Senators will want to speak and we will take more time.

Mr. SPECTER. The Senator from Illinois requested 8 minutes.

Mr. SIMON. Mr. President, in that event, I will speak only 7 minutes.

Mr. President, first of all, what we are being asked here to do is not to authorize this, but just to have some money in the event it is authorized. The fundamental question is, is it needed? And there, I think, you have to look at where we are in our society today.

Every study I have seen, including one recently by a group of business leaders, says the United States has to do better in the field of education if we are going to compete with Japan and Taiwan and West Germany and other countries. Every study is in agreement on that.

The question is, Are we doing what we ought to be doing? Well, if you exclude the School Lunch Program, we spend 2 percent of our budget on education, and in 1949 we spent 9 percent of the budget on education.

I remember, when I was maybe in the fourth grade or something like that, reading that geography lesson that said the United States has a high standard of living because we have all these great natural resources in our country. And I believed it up until a few years ago when all of a sudden I realized that the countries that were moving ahead in growth in gross national product much more rapidly than we are, are countries with virtually no natural resources. But they have invested in their people. And that is what we have to do.

I note that my colleague from Mississippi, who is engaged in a very vigorous conversation over there, said a little bit ago, this is not the time for this amendment. I partially agree with my colleague from Mississippi. This is not the time. It should have been 5 years ago; it should have been 10 years ago. But it is not next year or a year from now or 10 years from now. Time is fleeting, and we ought to move.

This is not to negate this other panel, though, frankly, this is just pure public relations, the other panel, if I can be candid. You have three Democratic Governors, three Republican Governors, the Secretary of Education, Roger Porter from the White House, Richard Darman from the Budget Office, and John Sununu, the White House Chief of Staff.

If anyone thinks that group is going to spend a lot of time coming up with any kind of substantial answer, you are living in a dream world. This is to pretend like we are doing something.

Will the Bingaman proposal come up with a commission that is really going to do anything? I do not know, candid-

ly, but maybe they will. Maybe they will have a commission that will shake us up a little bit and we need to be shaken up. Up until this point, the summit meeting and everything that has happened is 99 percent public relations; very, very little substance. What we need is substance.

This committee that our colleague from New Mexico has suggested has the possibility of giving us substance. Frankly, if the President of the United States wants a summit meeting on education that really will do something in this country, then let us have him call Senator BINGAMAN and Senator KASSEBAUM and Senator COCHRAN and Senator SPECTER and, if he is really in a point of extremity, maybe even Senator SIMON, and come in and let us see if we cannot, in a bipartisan partisan way, move and get something done and really have a program and not just public relations.

I think we need something along this line. I commend my colleague from New Mexico. I am pleased that he is now on the education subcommittee, just as I am pleased that the new ranking member is Senator KASSEBAUM, who has taken the place of Senator STAFFORD, who did such a superb job. Senator KASSEBAUM is going to do the same, even though in this particular instance I differ with her on her conclusion.

I hope our colleague from New Mexico gets a resounding vote of support. It is not that he deserves it, it is that the Nation needs it. Anything that can shake us up a little bit and say to us: Are you going to do better in this field of education; are we going to see that everyone has a chance in our society? That is what it is all about. I hope we will approve the amendment of our colleague from New Mexico.

(Mr. BAUCUS assumed the chair).

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I do not know of any reason to belabor this any longer. I think everybody has had an opportunity to speak on the subject who is on the floor now and wants to speak. It would be my hope, if there is no one who seeks recognition, that we could entertain a motion to table in which I will move to table the motion of the Senator from New Mexico and ask for the yeas and nays. It would be my intention to do, that but if there are others who would like to speak on the subject I would be glad to withhold making that motion.

Mr. HARKIN. If the Senator will withhold for just a minute, I did want to say just a couple sentences.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Before doing that, however, in consultation with my distinguished colleague from Pennsylvania, the ranking member on the committee, I ask unanimous consent that the two rollcall votes previously ordered with respect to this conference report be voted in reserve order so that the vote with respect to the conference report will occur first.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I think the Senator from Mississippi is right. Everybody has had their say on it. I wanted to ask a question, if I could, of the Senator from New Mexico about the amendment.

As I understand the amendment, it provides for $1 million for a school year extension study commission and $2 million for an independent National Council on Educational Goals, if authorized. Is that correct?

Mr. BINGAMAN. Mr. President, I would respond the Senator from Iowa is right. The $1 million that is specified in the amendment is for a program that is being authorized in legislation this year. The $2 million is for a broad panel which has not been authorized this year but which I hope very much we can take action to see established in the next year or so.

Mr. HARKIN. I thank the Senator. If I might inquire further? Then, the amendment for the $2 million would be for the National Council on Educational Goals, if it is authorized. Has this national council been authorized yet?

Mr. BINGAMAN. No. Mr. President, I would respond to the Senator from Iowa that there has not been a national panel authorized yet, an independent national panel such as described in the amendment. I am focused on having an independent panel.

Mr. HARKIN. I further ask the Senator, then, the thrust of his amendment is to have a panel that—I will just quote from his amendment, "has a majority of voting members who are neither Federal appointed or elected officials nor Governors of the States but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and educational excellence."

Who would appoint those Members?

Mr. BINGAMAN. Mr. President, I indicate in the amendment that the members would be appointed by the leadership of the National Governors Association, by the President, and by the leadership of both Houses of Congress.

Mr. HARKIN. Really, then, as this Senator understands it, what the Senator from New Mexico is trying to do is ensure that the National Council on Educational Goals if established is established such that a majority of the voting members are, let us say common, ordinary folk. These are teachers, school board members, administrators—could it be parents? Could I ask the Senator, could it be parents who have been involved, let us say, in parent-teachers associations?

Mr. BINGAMAN. Mr. President, I would respond it definitely could be. The idea was to identify individuals who, by their experience and their commitment and the work that they have previously done, had developed a reputation for commitment and understanding of educational issues. Take some of those private citizens and put them on this type of panel so that they could be involved in ensuring that the panel was independent and ensuring that the product or the end result the panel came out with was not subject to question.

Mr. HARKIN. With that clarification of my questions, then, Mr. President, I support those goals. An objective knowledgeable assessment of where we are is critical for us as policy makers. I, too, would like to see that the members of the panel be comprised of teachers, school board members, school administrators, and I hope parents—parents who are involved with their children's education, who have been heavily involved in their school activities. I believe these are the type of people we need on the panel. I just wanted to get a clarification of exactly how this amendment was drafted, if that would include those types of individuals. With that assurance, then, I support the amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we have been advised that another Senator wishes to speak on the subject and is on his way to the Chamber. While he is en route, I will use the intervening moment or two to say that substantively there have been some interesting arguments advanced on behalf of the motion of the distinguished Senator from New Mexico. It is my view they would be most appropriately advanced next year during the authorization process.

Candidly, let me express a concern that we will have a straight party line vote and the motion of the distinguished Senator from New Mexico will be adopted, in which event this matter will go back to the House of Representatives. Conceivably then, the Senate may again face this issue, perhaps sometime next week.

In that event, this appropriations bill, providing funding for important programs, might not be passed.

One of the Senators on the floor, who shall remain unidentified, said there might be an additional amendment offered. But we really do face a very serious procedural issue here. There are only so many hours intervening between now and, I do not know what date to ascribe, the close of

the session. But if we send this back to the House we may well not get a bill.

Mr. COCHRAN. Will the Senator yield for just an observation?

Mr. SPECTER. I do not think it is necessary to yield since I relinquish the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. It was interesting to me when the Senator from Illinois observed that time if fleeting, I think he is mistaken, it is not fleeting at all. We are at a standstill here. We are trying to move to wrap up the consideration of this conference report which was really worked on very hard and intensely by the conferees to try to resolve differences between the two Houses. I am sorry we are at this point where we have to admit that here is one item that apparently cannot be resolved without a separate vote on whether or not a $2 million proposal has been authorized, or even whether the authorization is necessary. That is what is in the amendment.

The Senator from New Mexico has written in there that this money will be appropriated for this panel and the phrase "if necessary" is put in there to suggest that an authorization may not be necessary. So what that is going to do is hold up the funding of $2 million of the funds that will be appropriated by this bill for other education programs until some determination is made by lawyers, or whoever gets to make these decisions down at the Department of Education, about whether or not they have to allocate the money to this panel if this amendment is approved and finds its way into the final form of legislation. I hope for that and other reasons we mentioned this afternoon, the Senate will reject this amendment and will at the appropriate time when the motion to table is made, vote for the motion to table the motion the Senator from New Mexico.

The PRESIDING OFFICER. Is there further debate? The Senator from Utah.

Mr. HATCH. Mr. President, I have to rise in opposition, strong opposition, to the amendment of the Senator from New Mexico. I oppose it on its merits. I also oppose it because it is a direct circumvention of the authorization process.

First, I question the efficacy of the proposal. One year ago the President called the 50 State Governors together in an education summit which was held at Charlottesville, VA. The summit was indicative of the high priority being attached to education by the Bush administration, the National's Governors, Congress, and of course business leaders. I am especially pleased that the individual States have chosen to work together to assess the common needs in education in this country. They have made significant strides toward resolving key problems. In fact the Governors recently set up a panel to help determine the best means for assessing the progress of the Nation toward the goals outlined by the President and the Governors. I commend the Governors for this voluntary action.

This initiative has been taken by the single group of elected officials who are best acquainted with the comprehensive needs and resources of their States and who can best develop and coordinate a partnership approach to achieve educational excellence.

Today, we are being asked to vote on an amendment that basically rejects this voluntary action by establishing a Federal council. I suggest to my colleagues that if we expect the cooperation and support of our Nation's Governors, locally-elected school boards, and community leaders to improve public education, we ought not preempt their program before it is completely launched.

Additionally, much of our recent legislation, including the Carl Perkins Vocational/Applied Technology Act, has eliminated most national councils because many of these councils have been viewed as unnecessary and unsuccessful. Yet here, by this amendment, we would be establishing another national council that clearly duplicates a council already in existence.

I also question the purpose of establishing a Federal council. The Organic Act of the Department of Education, it was explicit that the Department of Education was not to exercise direction, supervision, or control over the curriculum, the program of instruction, or the selection of library books, textbooks, or other instructional materials. It makes little sense to me that we would authorize the Federal council to perform an assessment function when the Federal Government has no authority to act on its findings. Allowing the Governor's panel to work without any Federal interference, in my own opinion, will also alleviate the possibility that the Federal Government will overstep its mission.

Clearly, we do need Federal involvement in education, but we do not need Federal meddling or micromanagement. I support the national goals for education. I support the need for determining a way to assess our progress toward meeting those goals. However, I cannot support imposing the Federal bureaucracy into one more arena where States can and are taking the responsibility.

Last, but not least, in our conference on these matters, all of us agreed that we cannot do this legislation this year. Some of my colleagues on the other side, were disappointed but they agree. Now we are in the appropriations process trying to slip this in at the last minute.

Mr. President, this amendment deserves to be rejected if only for procedural reasons. The purpose for which the Senator from New Mexico is seeking funds is not authorized. The bill reported by the Labor and Human Resources Committee on September 26, but the Senate has not passed it. To the best of my knowledge, the House has taken no action; the House Education and Labor Committee has not taken action. Thus, it is clear to me, that neither body intends to pass this bill.

If we adopt this legislative strategy, we might as well require that all Federal departments set aside appropriated funds for unauthorized activities.

There is a lot of legislation still on the calendar for which we ought to provide funding. Why does this particular proposal deserve this special consideration? I just do not think it does. I am even more puzzled that this bill merits such consideration when the activity it seeks to fund is already being done. Even if it were not being done, it would still be procedurally unsound to do it this way. But it is already being done. Certainly there is no argument for urgency here. Not any.

There is more at stake here than this amendment. What we are arguing here is the integrity of the authorizing process. If we allow this type of amendment at the last minute in the appropriations process after it was considered in the conference committee between the House and Senate and rejected, then we will make a tremendous mistake.

I understand the sincerity of the distinguished Senator from New Mexico. He is a friend. I do not have any desire to hurt him or to hurt his ideas. But this is an idea that we have considered and we have rejected through the appropriate authorization process. It is inappropriate to come here at the last minute on this particular bill and try and put it in when we did consider it and rejected it. The White House is really concerned about this amendment and would not like it at this time especially since we already have a duplicative council in existence. We also have the Governors working with the White House to try and resolve these problems. The Governors do not want this duplicative council at this particular time. Maybe a few Governors do, but there is no way they can get the approval of all 50 Governors. I think all of this suggests we take some time and review this idea in the next Congress. If it has to be done lets' do it right, after giving the Governor's panel time to work.

Why cost the taxpayers another million dollars or more to do this at this time?

Mr. President, I do not want to take the time of the Senate. We are all tired. We have all been through this ad infinitum. It is time to make decisions. I certainly hope the distin-

guished Senator from New Mexico would withdraw this amendment. I certainly hope the manager of this bill would recognize the importance of allowing the authorizing committees the right to do their job.

I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I have been listening to the remarks of my colleague on the Labor and Human Resources Committee. I associate myself with the content and the tenor of his remarks. I think the both of us and others who have spoken here have said it is with reluctance we choose to oppose our colleague on this issue, both with the vehicle he has chosen, and with regard to its content. I think some of the people who have spoken in opposition to the amendment on this particular conference report, do not believe it should be on the conference report, but believe in the amendment. I think they supported it. I know my colleague from Kansas supported it in committee. She apparently believes, as the Senator from New Mexico does, that it is not appropriate for the Congress to be more involved at this stage in the setting of educational goals.

Mr. President, I am relatively new to the Senate's involvement at the policy authorizing level on education. This is only my second year on Labor and Human Resources. It is a very active committee. As the Senator from Utah indicated, the bill itself, which was the source of amendment, was marked up on Wednesday, October 26. It seems like every Wednesday we meet and mark up a lot of bills. I remember this one in particular, Mr. President, because I liked the idea when I saw it.

So I called the person for whom I have the utmost respect in this field, the former Governor of Minnesota, 20 years I think as a Republican Congressman from the First Congressional District of Minnesota, many of those years the ranking Republican on the Education Committee in the House of Representatives, Al Quie. I talked to him about the issue. obviously he, like other people, have acknowledged the importance of setting goals and reporting on the process of reaching those goals. But he also said that the role that the National Government should play in its various institutions is also very important. He applauded the President for his effort to work with the 50 Nation's Governors to set educational goals for the year 2000. The Governors then established a bipartisan panel to oversee the process of determining and developing appropriate measurements and reporting on the progress toward meeting those goals.

There is in place then, as I understand it, with the Governors and with the President, a process for determining what it is this national report card would also be designed to do.

I know that at a hearing that we had on this matter, the American Association of School Administrators raised questions about the notion of a national report card. The National PTA, PTSA raised questions. The National School Board Association raised questions about it and, or course, the administration has also expressed its concern over this particular legislation.

At bottom, I would guess the Senator's concern is to involve the Congress in the process of setting the Nation's goals in education. If we are going to be involved to some degree in the authorizing or appropriating process for some programs, whether they are in education or related, perhaps we ought to also be involved in the process of meeting those goals.

But it is exactly that, the formalizing of the congressional involvement with which Al Quie has a great deal of a problem. It is the formalizing of that involvement by Congress with which I have a great deal of a problem. I think I have a responsibility, as a Senator who represents what our Governor calls the education State, the State that has been the first in innovating and choice in education, and so forth. I have a personal responsibility to involve myself more deeply in the national role, and the national responsibility for improving the quality of education. But I recognize that that improvement is only going to start at the grassroots levels. To get me involved on some formal basis through the appointment of members of a committee, commission, and a report card process, from my experience in intergovernmental relations—and I have had a fair amount of it—I would say that better serve the interest of the special organizations, the school boards organizations, the teacher organizations.

These people kind of like the idea of having some kind of a commission, and then they will have their members on it, and somebody else's members. So I really think that there is a time for this amendment, there is a time for this legislation, there is a time for the concept that the Senator from New Mexico has set out in the amendment that is before us, but I would argue, not only from my own beliefs, but from those who have had much more experience than I in the intergovernmental aspects of setting national education policy, this is not the time for this amendment.

So I rise in opposition to the amendment and I, too, would join my expression of hopes that our colleague from New Mexico could withdraw his amendment on this particular vehicle.

Mr. President, I yield the floor.

Mr. BINGAMAN. Mr. President, I know the Senator from Mississippi indicated he wished to make a motion to table. If I could just have a couple of minutes to summarize the points I think need to be made, and then if there is no further debate, I see no reason why we could not proceed to a vote.

Mr. President, I want, first of all, to deal with the misperception, which I think has been created by some of the debate, that the amendment I am offering is an effort to increase the Federal control of this panel.

Nothing could be further from the truth. The panel that the Governors and the administration have set up today is totally under the thumb of this administration. By the rules of this panel that has been set up, any 3 members can veto any action the panel wants to take, and 4 of the 10 members are administration appointees, 3 from the White House. So Mr. Sununu can veto action; he and Mr. Darman and Mr. Porter can veto anything this panel wants to do.

Mr. President, my amendment tries to open up the process. It tries to ensure that the process in assessing progress toward goals, at least the possibility is there. We do not authorize a larger panel, but we earmark some funds in case we have a broader based panel in the next year or so, which I hope very much we can have.

By doing so, the amendment tries to provide a credible process. I personally do not believe the process and the mechanism now in place is going to prove credible to the American people when they ultimately come out with the report. I think you will see criticism after criticism made of that report, about its objectivity, because of the way it is constituted today. I hope we can change that and broaden it.

This amendment leaves open the possibility of a broader based panel that would include local people, that would include parents, that would include teachers, that would include people in the business community, and from the education community; that those people could have a role in this process.

If we cannot open the process, if we are going to keep it right under the thumb of the White House, as it has been and as it is today, I believe that the country will not be well served in trying to move toward improvements in education in the coming year.

I hope very much my colleagues will support the amendment, and that we can add it to the conference report.

I yield the floor.

Mr. COCHRAN. Mr. President, I move to table the motion of the Senator from New Mexico.

Mr. HATCH. If the Senator will withhold.

Mr. COCHRAN. I withhold the motion.

Mr. SPECTER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiry.

Mr. SPECTER. Is it established there will be two rollcall votes in succession, first on the conference report and, without any intervening time, we will vote on the motion which is about to be made?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I rise in opposition to the Bingaman amendment which, as I am sure everyone knows, was defeated on a point of order on Monday during the House's consideration of the Labor, HHS, Education appropriations conference report.

This amendment would make appropriations for two programs that have not yet been authorized by Congress—the National Council on Education Goals, also known as the "National Report Card," and the School Year Extension Study Commission. I have serious objections to this amendment, on both substantive and procedural grounds.

The amendment calls for $2 million for the National Report Card. Yet, the National Governors Association has already established the national education goals panel, of which I and Members of both the Senate and House leadership are members. This panel of Governors and officials from both the administration and Congress will assess the progress of our schools in achieving the educational objectives set forth by the Governors and the President at last year's education summit in Charlottesville. The NGA panel has begun its work, having conducted its first meeting earlier this month. To me, it doesn't make sense for Congress to create a rival board which will only duplicate the efforts already undertaken by the NGA panel.

I am also opposed to providing $1 million to fund the school-year extension study. This simply is not a Federal issue. State and local education authorities should be left to run their own schools since they know best the individual needs and conditions of their regions. Certainly, many individual schools and school districts have already put in place innovative programs to enhance the quality of education they can provide. In my home State of Kansas, for example, the New Stanley School in Kansas City has implemented an extensive program which, among other things, extends the school year from 180 days to 205 days and lengthens each school day for its students. This structure at the New Stanley School could prove to be a model for schools across Kansas and the rest of the Nation. I want to point out, however, that the New Stanley School's initiatives are not the result of a Federal mandate, but the product of the cooperative energies of the school, parents, and the private sector. I certainly hope that we in Congress do not interfere with this recipe for partnership.

I also want to make clear that I find this amendment to be a bad faith attempt to circumvent regular legislative channels. As all of my colleagues will recall, this language was added to the Senate version of the Labor, HHS appropriations bill after the bill's third reading and passage. This action was later vitiated.

Unfortunately, the provisions did not die. They were then added as an amendment in disagreement. On Monday, however, the House refused to accept this amendment on a point of order. Yet, here we are, debating still another version of this amendment. The 101st Congress has been in session for a long time. Many Members of this body have put in a considerable number of hours to try to shape a compromise to solve our national budget problems. And yet, we are now spending what precious little time we have left, debating an amendment which was brought up in the dead of night and would appropriate scarce Federal funds for programs which don't even exist. I, for one, believe that the Senate should be treated with a little more respect.

To me, the bottom line is that we cannot afford to divert badly needed financial resources to fund programs that we, quite frankly, do not need. If we truly want to improve our educational system, we should work with the States and localities, not against them. I urge my colleagues to oppose this amendment.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I move to table the motion of the Senator from New Mexico, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order the motion is laid aside. If there is no further debate, the question now occurs on the conference report to H.R. 5257.

Mr. BINGAMAN. Parliamentary inquiry: Do I understand that following the vote on the conference report, we immediately go to a vote on the motion by the Senator from Mississippi to table my motion?

The PRESIDING OFFICER. That is correct.

The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER (Mr. LEVINE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 82, nays 15, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—82

Adams	Fowler	Mikulski
Akaka	Glenn	Mitchell
Baucus	Gore	Moynihan
Bentsen	Gorton	Murkowski
Biden	Graham	Nunn
Bingaman	Gramm	Packwood
Bradley	Harkin	Pell
Breaux	Hatch	Pressler
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Hollings	Riegle
Burns	Inouye	Robb
Byrd	Jeffords	Rockefeller
Chafee	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kennedy	Sarbanes
Cranston	Kerrey	Sasser
D'Amato	Kerry	Shelby
Danforth	Kohl	Simon
Daschle	Lautenberg	Simpson
DeConcini	Leahy	Specter
Dixon	Levin	Stevens
Dodd	Lieberman	Thurmond
Dole	Lugar	Warner
Domenici	McCain	Wilson
Durenberger	McClure	Wirth
Exon	McConnell	
Ford	Metzenbaum	

NAYS—15

Armstrong	Grassley	Mack
Bond	Helms	Nickles
Coats	Humphrey	Roth
Conrad	Kasten	Symms
Garn	Lott	Wallop

NOT VOTING—3

Boren	Boschwitz	Hatfield

So the conference report was agreed to.

The PRESIDING OFFICER. The question occurs now on the motion to table the motion to concur in the House amendment to the Senate amendments No. 163 and 164 with a

further amendment offered by the Senator from New Mexico, amendment No. 3163.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 55, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—42

Armstrong	Grassley	Murkowski
Bond	Hatch	Nickles
Burns	Heinz	Packwood
Byrd	Helms	Pressler
Chafee	Humphrey	Roth
Coats	Jeffords	Rudman
Cochran	Kassebaum	Simpson
D'Amato	Kasten	Specter
Danforth	Lott	Stevens
Dole	Lugar	Symms
Durenberger	Mack	Thurmond
Garn	McCain	Wallop
Gorton	McClure	Warner
Gramm	McConnell	Wilson

NAYS—55

Adams	Exon	Metzenbaum
Akaka	Ford	Mikulski
Baucus	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Nunn
Bingaman	Graham	Pell
Bradley	Harkin	Pryor
Breaux	Heflin	Reid
Bryan	Hollings	Riegle
Bumpers	Inouye	Robb
Burdick	Johnston	Rockefeller
Cohen	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
Daschle	Kohl	Shelby
DeConcini	Lautenberg	Simon
Dixon	Leahy	Wirth
Dodd	Levin	
Domenici	Lieberman	

NOT VOTING—3

Boren	Boschwitz	Hatfield

So the motion was rejected.

The PRESIDING OFFICER. Is there further debate on the motion?

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. HARKIN. I move to reconsider the vote by which the conference report was adopted.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that in the consideration of the conference report to accompany H.R. 5158, the VA-HUD appropriations bill, there be a time limitation as follows: 40 minutes on adoption of the conference report and the disposition of all amendments in disagreement; that no amendments to the amendments in disagreement be in order except for the following which shall be included within the 40-minute time limitation: an amendment by Senator MIKULSKI for Senators CRANSTON, MACK, D'AMATO, and others to eliminate the cap on the sale of public housing; an amendment by Senator MIKULSKI for Senators METZENBAUM to require additional reporting and certification requirements by the RTC in connection with the failed S&L resolutions contracted for prior to the enactment date of FIRREA.

The PRESIDING OFFICER. Without objection the request is agreed to.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MITCHELL. Mr. President, under the previous order the vote was to occur on the farm bill conference report at 7:15 p.m. It was to be preceded by 15 minutes of debate divided equally between Senators LEAHY and LUGAR. The votes that have just occurred, as we all know now, have intruded upon that time. So I ask unanimous consent that there now be 15 minutes for debate on the farm bill conference report, equally divided between Senators LEAHY and LUGAR, and that, upon the yielding back of that 15 minutes, the vote occur on the farm bill conference report as previously scheduled.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

The PRESIDING OFFICER. The pending question is on the conference report to S. 2830.

The Chair recognizes Senator LUGAR.

Mr. LUGAR. Mr. President, I yield myself 4 minutes.

Mr. President, in our debate this afternoon, we emphasized a number of the strong virtues of the farm bill. They included a very solid income safety net for farmers. They also included nutrition programs for millions of Americans who are the beneficiaries of the hunger programs and the food stamp programs. We emphasized conservation measures environmental measures and the preservation of scarce resources, soil, and water we have in this country.

I want to be very specific, Mr. President, about some of the provisions of the farm bill that the Senators should note as they vote this evening. Included in the farm bill is a 10-million acre water quality initiative that pays farmers to adopt better environmental practices. Also included is a provision where farmers must keep detailed records of their application of restricted-use pesticides. This entire recordkeeping provision has improved very substantially the records kept or pesticide usage. One million acres of converted wetlands, must be restored to their original states. This is in keeping with the no net loss of wetlands, a very significant and necessary policy. This bill contains an organic food labeling provision to ensure that consumers who buy these products are getting truly organic products. We have increased funding for research to allow farmers to reduce pesticide use.

The bill authorizes $40 million for this purpose. We have extended the conservation reserve program. Currently the reserve contains 34 million acres. The bill requires at least 40 million acres to be enrolled in the program and allows environmentally sensitive areas to be eligible for the reserve—shelter belts, windbreaks, wellhead protection areas. The bill provides new and stronger financial incentives program for landowners to plant trees and by all accounts the strongest forestry provision ever in United States legislation.

These are important items in addition to the income security aspects. Let me say, Senators who voted for the farm bill originally, will find the conference report to be approximately identical. The cuts that have been made in the farm bill occur in the reconciliation bill, a different measure than the one we are voting on tonight. In my judgment, Senators should know that supporting this bill this evening are the American Beekeeping Federation, the American Farm Bureau Federation, the American Honey Producers Association, the American Sheep Industry Association, the American Soybean Association, the American Sugar Beet Growers, the National Cattlemen's Association, the National Corn Growers Association, the National Cotton Council, the National Council of Farmer Cooperatives, the National Grain and Feed Association, the National Pork Producers, the National Sunflower Association, the Northern Plains Safflower Growers Association, the Rice Millers Federation, the State Peanut Growers Asso-

ciations of Florida, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia, the U.S. Canola Association, the U.S. Rice Producers Legislative Group, and others. It is a broad gamut of U.S. agriculture that supports this bill.

It is a good conference report, Mr. President, I commend it to the Senate.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Mr. President, I want to concur in what the distinguished Senator from Indiana has said. This is an extremely important vote. If we vote aye we are voting not just for our farmers but voting for a great deal more in this country. It means, by voting aye, that we are preserving the essential, basic support system that provides stability to the farm economy.

A vote for this bill is a vote to keep America competitive in world trade at a time when we are losing our competitive edge. Many of our industries having lost it. The one bright shining light continues to be our farm exports. It is the one place where we actually have a surplus.

Without the incentives in this bill, the United States will lose more and more of our export markets. A vote for this bill is a vote for more flexibility and freedom for American farmers to plant for the market. It is a vote for fairness for farmers.

There is another area, Mr. President, that I hope all those Senators who are not from farm States might listen to. A vote for this bill is a vote to feed millions of hungry Americans. If there is no farm bill, then 15 million hungry Americans will not receive the emergency bags of food that they now receive every month. That is 15 million hungry Americans who do not hire lobbyists, do not give campaign contributions, do not come here to Washington to talk with us. They are part of our country, Mr. President, and if we vote no, we turn our backs on those 15 million hungry Americans.

If there is no farm bill, 18 million Americans dependent on the Food Stamp Program also go hungry. Two-thirds of the 18 million are children, the elderly, and the disabled. One out of every five children lives in poverty and hunger.

This is not a partisan issue. I have joined on the floor of this Senate every year since I have been here with the distinguished Republican leader on these nutrition programs. The distinguished ranking member of this committee has also joined with us on these. This is not a political issue. This is a moral issue in the wealthiest, most powerful nation on Earth. And a vote for this bill affirms our moral responsibility not only to our country but to the rest of the world.

If there is no farm bill, Mr. President, then the Food for Peace Program, a monument to giants in this Senate like Hubert Humphrey, and the source of 175 million bushels of food, is over. It ends. That is what a no vote means. A "no" vote means you are voting to stop Food for Peace.

A vote for this bill, is a vote for the environment. If there is no farm bill, the million acre wetlands reserve program in this bill will not exist any more.

A vote for this bill is a vote for budgetary responsibility.

If there is no farm bill, there is no savings in agriculture. Five years ago, we had a 5-year farm bill and spent $80 billion between 1985 and 1990. We are projected just over $40 billion. We have cut that in half. These are real savings.

This is our opportunity. We can vote for farmers. We can vote to feed the hungry. We can vote to protect the environment. We can also vote on a bill, Mr. President, that should make the Senate proud. It is not anything everybody wants. We cannot do that in a time when we have limits on our budget.

We do remember the hungry in this country in here. We do have the most environmentally progressive farm bill ever. And we do show the fiscal responsibility that Senator LUGAR and I promised our colleagues we would show. Mr. President, it would be a terrible mistake if the Senate voted no on this bill.

Finally, Mr. President, I also want to recognize the important role Senator HARKIN played in the debate and development of this bill. Senator HARKIN has been a tireless advocate, a fighter, for policies to promote better farm income and to assist rural communities. Again this year, Senator HARKIN was there to make the case that what we do here concerning farm programs has a profound effect on real people in rural America.

Senator HARKIN worked for various improvements in the commodity programs, including a new oilseeds loan program, better loan rates and target prices, the targeted option payment program and the pilot bushel-based program.

Water quality was one of the most important environmental topics in this year's farm bill debate. That debate tended to be couched in terms of agricultural production versus water quality. This bill contains a landmark water quality incentives program, authored by Senator HARKIN, which establishes common ground between these seemingly incompatible goals. This program will encourage farmers to adopt practices that protect ground and surface water, with an emphasis on practices that enhance farm productivity and profitability through improved efficiency in the use of chemicals, fertilizers and other inputs.

Senator HARKIN has led efforts to expand markets through increased research into alternative uses of farm commodities. He is the author, along with Senator CONRAD, of a major new program, which is a part of the conference report, for research, development and commercialization of new nonfood, nonfeed industrial and commercial products made from agricultural commodities.

Senator HARKIN also authored provisions to reduce farm program paperwork, to establish a pseudorabies eradication program, to require a study of pricing milk on the basis of all components rather than only fat and to establish a new program of grants for rehabilitation and assistive technology to help disabled farmers and agricultural workers return to their occupations.

The rural development title of the bill includes a measure authored by Senator HARKIN establishing a new program of loans through the Rural Electrification Administration for rural water and waste systems.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I yield 3 minutes to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I wanted to add my support to the statements of the Senator from Indiana [Mr. LUGAR] and the Senator from Vermont [Mr. LEAHY]. I have been on the Agriculture Committee longer than any other member on the Agriculture Committee. I have been involved in a number of farm bills. Farm bills are difficult to pass, particularly on the House side, and they are difficult to pass on the Senate side.

Those who represent urban States say this is my chance to vote "no", make it a conservative vote. Those who live in farm States think it may not spend enough, it is hooked up with food stamps, or there is some reason they cannot bring themselves to vote for it.

It just seems to me for all the reasons stated by both Senators, and many others, that may have been stated or contained in the conference report, it is not just a little bill that has a few subsidies in it for farmers. In fact, those have been sharply reduced. It is a bill that contains, I do not know how many titles this year; 24 titles. The 1985 farm bill had 18 titles. There are 24 separate areas of concern in this farm legislation.

I think some Members, when they think about agriculture think, "Oh, oh, there is another subsidy program, there is another 'giveaway' program." But this bill is filled with important

provisions that affect the lives of all Americans off or on the farm.

The Senator from Vermont just referred to one, food stamps, WIC Program, nutrition programs, school lunch programs, and they are part of the farm legislation.

But it is also very important for our farmers, whether we are dairy farmers in Wisconsin, whether we are wheat farmers in Kansas, whether we may be corn producers in Illinois, Indiana, or whether we may raise peanuts in South Carolina, or wherever we may come from, this bill will have an impact.

So I urge my colleagues, before they make a decision on this vote, to visit with our distinguished colleague, the Senator from Indiana [Mr. LUGAR], on this side, and the chairman of the committee, Senator LEAHY, on the Democratic side. If you have any doubt about what the bill contains, please give us the opportunity to explain it to you.

This is a very important bill. It is very important to the American farmer, the American consumer, and millions of others.

Mr. LEAHY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Vermont has 1 minute and 30 seconds.

Mr. LEAHY. Mr. President, before I close, I want to express my deep admiration and gratitude for the incredible staff of the Senate Agriculture Committee. Without their dedication, intelligence, and teamwork, we could not have completed this bill.

Mr. President, we are the wealthiest, most powerful Nation on Earth. It is essential to our national security that we feed ourselves and have food left over for export. It is also part of our moral responsibility to the hungry in this Nation that we can produce that food.

Mr. President, we cannot neglect that national security. We also cannot neglect that moral responsibility. I urge an aye vote, and I yield back any remaining time.

Mr. LUGAR. I yield back the time on our side.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCLURE (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Minnesota [Mr. BOSCHWITZ]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Oklahoma [Mr. BOREN] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 36, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—60

Adams	Gore	Mikulski
Akaka	Gorton	Mitchell
Armstrong	Graham	Murkowski
Bentsen	Gramm	Nunn
Bond	Hatch	Packwood
Breaux	Heflin	Pell
Burdick	Heinz	Pryor
Coats	Hollings	Riegle
Cochran	Inouye	Robb
Cranston	Jeffords	Rockefeller
D'Amato	Johnston	Sanford
Danforth	Kassebaum	Sarbanes
DeConcini	Kennedy	Sasser
Dole	Leahy	Shelby
Domenici	Levin	Simpson
Durenberger	Lott	Stevens
Ford	Lugar	Thurmond
Fowler	Mack	Wallop
Garn	McCain	Warner
Glenn	McConnell	Wilson

NAYS—36

Baucus	Dixon	Lieberman
Biden	Dodd	Metzenbaum
Bingaman	Exon	Moynihan
Bradley	Grassley	Nickles
Bryan	Harkin	Pressler
Bumpers	Helms	Reid
Burns	Humphrey	Roth
Byrd	Kasten	Rudman
Chafee	Kerrey	Simon
Cohen	Kerry	Specter
Conrad	Kohl	Symms
Daschle	Lautenberg	Wirth

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McClure, against

NOT VOTING—3

Boren	Boschwitz	Hatfield

So the conference report was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3163 TO HOUSE AMENDMENT TO SENATE AMENDMENT 163-164

The PRESIDING OFFICER. The pending question is the motion to concur in the House amendment, to Senate amendment 163-164, with a further amendment offered by the Senator from New Mexico, amendment No. 3163.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 3164 TO AMENDMENT NO. 3163

Mr. DOLE. I send a perfecting amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. HATCH, and Mr. THURMOND, proposes an amendment numbered 3164 to amendment No. 3163.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOLE. Mr. President, the amendment I am submitting for consideration is the Job Training and Basic Skills Act of 1989 that was reported by the Senate Labor and Human Resources Committee in September 1989, as subsequently modified by certain bipartisan changes which I understand were previously agreed to when floor action on this legislation was sought back in April.

In my opinion, this is a fair bill, it is a good bill, and it is a bill whose time is overdue.

The Job Training Partnership Act, enacted in 1982, has now completed more than 5 full program years, and has a distinguished record of placing disadvantaged individuals into permanent, unsubsidized jobs.

The programs provided under the JTPA are truly an investment in America's future for they help to take our unfortunate off the streets and off the public welfare rolls and to train them so that they have an opportunity to take care of themselves and to become productive members of our labor force and our society.

This could not be of more importance than it is today where the Federal budget deficit imposes greater constraints on our social programs, while at the same time the demand for trained and qualified workers continues to grow.

AMENDMENTS IMPROVE JTPA PROGRAM

The amendments to the JTPA which are embodied in this bill will better target program resources by revising eligibility requirements to help those who are truly needy—those who are impoverished—those who would otherwise have little hope of finding a job.

Significant barriers to employment recognized under the bill include the lack of basic skills, welfare dependency, homelessness, and a lack of a high school diploma.

In addition, Mr. President, the amendments will improve the scope and quality of programs available under the JTPA with the overall goal of enhancing the long-term job market success of program participants.

The amendments also work to promote the coordination of human resource policies and programs by estab-

lishing linkages with other successful organizations on a community and statewide basis.

Finally, the amendments will improve program accountability which has been a recognized and legitimate area of concern since JTPA programs got underway more than 5 years ago. The amendments revise program performance standards and procurement policies to ensure that goals are being met, rules are being followed and that funds are not being misspent.

JTPA IN KANSAS

Mr. President, while no program is perfect, the record shows that JTPA has been a big success.

I am extremely pleased with the effect that it has had and—with this legislation—will continue to have—in my State of Kansas.

I have a letter from Ray Siehndel, the Kansas Secretary of Human Resources, where he indicates the importance of passing this bill and in which he describes some of the ways in which JTPA has significantly improved the lives of a number of individuals. I ask unanimous consent that this letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

KANSAS DEPARTMENT OF HUMAN RESOURCES,
Topeka, KS, October 18, 1990.

Hon. BOB DOLE,
U.S. Senator,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DOLE: As the Secretary of the Kansas Department of Human Resources, I am requesting your support of Senate Bill 543.

I have attached only a few examples of the many Job Training Partnership Act (JTPA) "success stories" here in the great State of Kansas.

If you could take just a few minutes out of your terribly demanding busy schedule to read about these individuals who have accomplished so much and have overcome many obstacles due to the Job Training Partnership Act.

JTPA touches the lives of many citizens across Kansas from Leavenworth to Liberal and St. Francis to Pittsburg.

Hopefully after reading the attachments you will fully understand why we need your support of Senate Bill 543. Thanking you in advance for all your support regarding Senate Bill 543.

Sincerely,

RAY D. SIEHNDEL,
Secretary of Human Resources.

Roshelle—Roshelle started the JTPA program as a minority, single mother (with one child), receiving almost $400 a month in public assistance (AFDC and food stamps). Roshelle attended a nursing program using JTPA monies. Roshelle is now off of public assistance making $7.50 an hour at a local nursing home.

Debra—Debra, a single parent receiving AFDC, enrolled in an OJT component to receive training in the non-traditional occupation of machine operator. After successful completion of the OJT contract the participant was retained by the employer and is no longer on welfare and is providing total support for her family.

Denise—Denise was a minority, single mother (with two children), receiving AFDC, and whose job prior to JTPA training paid her $3.35 an hour. Denise attended a production training program for women (this is one of the SDA's special projects; it is a non-traditional training program designed to help women get production jobs, ordinarily given to men). Denise is now making $6.14 an hour.

Robert—Robert, a widower, single parent, receiving AFDC with severe back problems enrolled in an OJT component to receive training as an autobody parts person. Robert successfully completed the OJT contract and was retained by the employer. He is no longer on welfare and is providing total support for his family.

Brenda—When Brenda started in the JTPA program she was a single, minority, felon, welfare receipient (AFDC and food stamps), who had two children to support. The last job she had before she enrolled in JTPA paid $4.25. With JTPA funding, Brenda was able to attend a training program in computer accounting. Brenda is now off of welfare, and is employed making $7.45 an hour (annual salary of over $16,000 with benefits).

Lisa—Lisa an unwed mother with one small child was a long-term AFDC recipient. She obtained her RN degree through JTPA and has been working continuously since her graduation. Lisa is currently employed at $8.80 per hour.

Barbara—A single mother of four who came to JTPA with only four years of work history, primarily as a waitress. Barbara became a welfare recipient five years ago when her husband "walked out of the hospital after (she) gave birth to triplets, never to be seen again."

Barbara wanted to enter a training program in nursing. Barbara was enrolled in JTPA, which provided for her books, tuition, and fees, and a mileage allowance for commuting to school. In addition, JTPA provided regular counseling and a much-needed advocate when the school was suggesting that she quit when car problems and child care problems, along with a broken ankle and a run-away daughter, caused absenteeism and tardiness.

Barbara managed to always maintain good grades. She is now employed as a LPN at $11.50 per hour and is making plans to pursue a degree in nursing and become a nursing instructor.

Gene—Was featured in a newspaper article as "The Little Boy Who Couldn't—The Foster Son Who Could." Gene had been diagnosed early in life as brain damaged, needing life-long medical and living support. Gene already had the benefit of fourteen years of living with foster parents who refused to accept the notion that Gene was profoundly retarded. They provided him with support and encouragement while fighting battles for reassessments to get him the help he needed when he came to JTPA. It was one of these re-assessment struggles that brought Gene to us for employability assessment and planning. The focus of this assessment was to identify areas within the labor market in which Gene could succeed, and develop opportunities whereby Gene could experience this success in an actual work environment. Working closely with school officials, Social and Rehabilitation Services, and the foster family, those opportunities were developed initially with wages subsidized by JTPA. Gene has shown that he can successfully seek, obtain, and hold employment in the private sector. Gene has graduated from high school, and is now attending Community College.

Mr. DOLE. I would also like to summarize a couple of the examples described in this letter.

One case is of a single mother named Lisa who was a long-term AFDC recipient. Lisa obtained her RN degree through JTPA and has been working continuously since her graduation. Lisa is currently employed at $8.80 per hour.

Another example is of a single father named Robert who was also a long-term AFDC recipient. Robert enrolled in an on-the-job training program through JTPA with an autobody parts garage. Robert successfully completed the OJT contract and was retained by the employer. He is no longer on welfare and is providing total support for his family.

AMENDMENTS ARE NECESSARY TO ENSURE CONTINUED SUCCESS

Mr. President, these stories are just a few that are described in this letter and are typical of the results that have come with JTPA programs. It is for these reasons—these human reasons—that I am pleased to be able to offer this amendment which keeps JTPA alive and in tune with the needs of America's improverished and unemployed.

Based on the experiences we have had with JTPA, we all know what changes need to be made to make the act more effective and more responsive to America's less fortunate. These changes are embodied in this legislation which was voted out of the Labor Committee by a margin of 15 to 1 and which in my opinion should receive the overwhelming approval of the Senate.

Mr. President, this legislation has the complete support of the administration. We all know that the time for this legislation is not—not next Congress—but now.

We owe it to those who are calling out there for help to give them the assistance they need to improve their lives. We do not hurt ourselves by holding up this bill; we hurt others.

For these reasons, I hope that my colleagues on both sides of the aisle will vote with me to support this important bill.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, this is an important bill, one we have been trying to have come to the floor for months. I have to say, if the majority wants to use the appropriations bills as a vehicle for authorization legislation, then the minority side must insist, as well, that legislation that we have been trying to bring to the

Senate floor for months be considered at this time.

A number of us have promised the Secretary of Labor that we would do our best to pass the Job Training Partnership Act amendments. As far as I know, virtually every Senator agrees with the purpose of this bill.

The prime sponsors on this legislation are Senators SIMON, THURMOND, KENNEDY, and myself, and it is supported by many dedicated people and organizations that make up the JTPA system. It was the strong support of the Department of Labor, as I have said, the Secretary has called me on a number of occasions and said, "Do what you can to get this up and get it out."

I do not intend to take very long. I hope we can vote soon and pass this bill.

Now, let me just make a few comments about the content of this amendment. First and foremost, this amendment should be viewed as a "fine-tuning" of the Job Training Partnership Act. I think basically it has been agreed to by every Senator on the Labor and Human Resources Committee. It is deliberately designed to maintain the fundamental principles which guided the formulation of the JTPA in 1982.

This fine-tuning process is necessitated by the changes which have occurred between today and the early 1980's when JTPA was first enacted. Many of us played a very important role in that particular enactment.

Specifically, what I mean by this is that at the time JTPA was first designed, the Nation was experiencing double-digit unemployment. The JTPA was designed as a tool to effectively reduce high unemployment as quickly as possible.

Today, however, unemployment figures are much lower and have remained low over recent years. So, it is appropriate that we change the focus of the JTPA from a program meeting short-term employment problems to one that deals with the skills deficit. Structural unemployment is a growing problem and threatens to produce a drastic shortage of work-ready individuals.

This amendment, Mr. President, represents a calculated attempt to reach out and bring those individuals, who may otherwise be locked out of the labor force because of skills deficiencies, and bring them into the labor force.

The amendment would accomplish this in two ways. First, the funding formula would better target the dollars that go to the States and local communities to ensure that they reach those most in need of the services provided under JTPA programs.

The current formula is based primarily on unemployment; this bill would turn that funding formula into one that is based primarily on the relative number of economically disadvantaged persons residing in any local service delivery area.

Changing the funding formula from one based primarily on unemployment—a concept appropriate for the early 1980's—into one based primarily on need for services—a formula tailored to reach those most often structurally unemployed—is truly a means to address our skills deficit.

Second, Mr. President, the amendment would accomplish this targeting objective by ensuring that those who meet the eligibility criteria for services provided under JTPA are those most in need of those services.

This is accomplished in a relatively simple fashion by requiring that most individuals be both economically disadvantaged and face certain barriers that prevent them from obtaining employment on their own to qualify for services.

It is important to note, however, that at the same time this amendment would establish this eligibility criteria, the amendment also seeks to provide flexibility to the local areas by permitting them latitude to add to the categories specified in the amendment if, and when, it is justified.

Last, Mr. President, this amendment is structured to improve accountability under the JTPA programs. Language is included which will ensure appropriate oversight of programs operated under the JTPA.

Let me close by saying that this is a bipartisan legislative effort. For more than 1 year, Senators from both sides of the aisle in the Labor and Human Resources Committee worked together to forge a compromise on this legislation. This amendment represents the product of those long nights of negotiation. It is a good compromise package which deserves our support.

Mr. President, I must say that this legislation would not have been possible without the dedication of Secretary of Labor Elizabeth Dole and President Bush and I have to say in the early years, without the dedication of Vice President QUAYLE, who certainly played a pivotal role on the formulation of JTPA legislation. Their personal, direct involvement in the process of preparing this measure, and their leadership in preparing America's work force for the 21st century should not go unnoticed.

I urge my colleagues to support this amendment.

Mr. President, I ask unanimous consent that a letter from Secretary Dole written to the Republican leader and myself be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, October 25, 1990.

Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR BOB: I am writing to urge Senate action on S. 543, the "Job Training and Basic Skills Act of 1989." I believe this legislation, which would amend the Job Training Partnership Act (JTPA), would move toward achieving the bipartisan objective of making the successful JTPA program even better and more responsive to the labor market of the 1990s. The revised program would contribute to providing a future of opportunity for the most economically disadvantaged and least skilled Americans, which has been my top priority since becoming Secretary of Labor.

The bill was approved by the Senate Labor and Human Resources Committee in July 1989 but has yet to receive consideration on the Senate Floor. The House recently passed its version of the JTPA amendments, H.R. 2039, by a vote of 416–1. It is important that needed reforms to JTPA be enacted this year.

S. 543 incorporates the key provisions of S. 1300, the "Job Training Partnership Act Amendments of 1989," which is the Administration's proposal and was co-sponsored by Senator Hatch and Senator Thurmond. While the Administration does have a number of concerns about certain provisions in S. 543, we believe the bill represents an important step forward in advancing the employability of economically disadvantaged youth and adults. The Administration therefore supports Senate passage of S. 543.

We are particularly pleased that the bill incorporates the principles recommended by the JTPA Advisory Committee and reflected in the Administration's proposal, including:

Maintaining the public-private partnership and local flexibility that are the cornerstones of the current JTPA program; Targeting on youth and adults most at risk of failure in the job market; Enhancing program quality through individual assessments, service strategies, and addressing basic skills deficiencies; Strengthening program accountability by improving fiscal integrity, enhancing performance standards, and establishing achievement objectives for program participants; and Achieving a more comprehensive, coordinated human resource system.

I believe these principles are essential to enhancing the opportunities available to our most disadvantaged and improving the capabilities and productivity of our workforce.

As I previously indicated, the Administration does have concerns with certain provisions of the bill. Some of these concerns include: authorization levels which should be revised to direct any increases to youth programs, consistent with the Administration's FY 1991 budget request; the requirement that not less than 70 percent of adult participants must meet at least one specified barrier to employment in addition to being economically disadvantaged, which we believe is unduly restrictive and should be reduced to fifty percent; new categorical programs for displaced homemakers and to replicate successful training models, which we believe are unnecessary; service requirements for older individuals, which we believe hamper the flexibility of the local delivery system; elimination of the trigger tying the implementation of the Jobs for Employable Dependent Individuals (JEDI)

program to increases in appropriations for Title II-A programs; and a three-year 100 percent hold harmless provision for States in the new funding allocation formula, which we believe delays the effectiveness of the formula in allocating resources on the basis of each State's share of the eligible economically disadvantaged population. We will continue to work to address these concerns in conference.

I again wish to express my deep appreciation for the cooperation exhibited by all sides in working to enhance the JTPA program.

The Office of Management and Budget advises that there is no objection to the transmittal of this letter to the Congress from the standpoint of the Administration's program.

With my warmest regards.

Sincerely,

ELIZABETH DOLE.

Mr. HATCH. Mr. President, there is one small problem here. I have been asked by the chairman of the subcommittee if we could limit the applicability of the funding formula in this bill to through 1992 and then revert to current law. We considered that, but rejected that option because 26 States benefit from the formula and would be shortchanged if current law were resumed in 1993. I think we need to follow through with the implementation of this formula, which benefits the most States.

And, with that, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in strong support of the amendment offered by the distinguished minority leader, Senator DOLE. This amendment, with a few agreed-to changes by both sides of the aisle, is the same as S. 543, the Job Training Partnership Act legislation reported from the Labor Committee in September 1989. It has now been on the legislative calendar for over 1 year, awaiting action by the full Senate. Just a few weeks ago on September 17, 1990, the House of Representatives passed a separate job training partnership bill.

This amendment represents many months of negotiations by the Department of Labor, members of the Labor and Human Resources Committee, and other interested Senators. It is a truly bipartisan measure. In September of last year, the Labor and Human Resources Committee voted overwhelmingly by a vote of 15 to 1, to report S. 543, the Job Training and Basic Skills Act from committee. This amendment today encompasses the committee-reported bill and modifications that were made after extensive negotiations. In short, a great deal of work has gone into accommodating the concerns of many Senators.

The Department of Labor has indicated its strong desire to move a bill, the House of Representatives has already passed a bill, and now it it time for the Senate to act on S. 543. There is no reason why we should not go forward with an up-down vote on this amendment.

Mr. President, the committee-reported bill—with a few negotiated changes to address concerns from both sides of the aisle—is what is before this body today. I might also add that the amendment before the Senate includes the same formula for grants to the States which was in the committee-reported bill.

In addition, this legislation builds upon the existing Job Training Partnership Act in a number of ways. It would:

Target funds to areas with high concentrations of economically disadvantaged individuals;

Target services to those persons facing serious and multiple barriers to employment;

Enhance program quality through individual assessments and service strategies;

Increase program accountability, by enhancing performance standards and establishing achievement objectives for program participants;

Develop a more comprehensive, and well-coordinated human resource system; and

Continue the public-private partnership and local flexibility that make up the foundation of the current JTPA program.

Mr. President, the Job Training Partnership Act has served this Nation well during its 8 years of existence. The Federal Government and private industry have united to provide job training programs for unskilled and economically disadvantaged Americans. Through participation in the JTPA, a needy segment of our population has been able to enter the work force as productive citizens. We must continue to build upon and enhance this public and private sector venture. This amendment would do just that.

I urge the adoption of this amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, I rise in support of this amendment.

I have discussed this briefly with Senator HATCH and Senator DOLE. We will have to have an amendment for fiscal year 1993. For fiscal years 1991 and 1992, there is a 100-percent hold harmless feature that protects every State here. When we get into formulas, I have discovered that I have a few bruises to reflect this, and in changing things, you take some money away from some States, and give it to other States.

If we can pass this with a substantial shift in emphasis where there is 100-percent hold harmless for States and no State loses, the increment that is here, and it is in the bill that we have just passed, will go under the new process, under the new formula. That way, we have this emphasis that my colleague from Utah has just talked about.

On this bill, I chaired the subcommittee, and we have held many hearings, and I have spent many hours trying to work out formulas that will please 50 States. It is not easy.

But the basic thrust of this amendment offered by Senator DOLE is one that I have worked out very carefully with the Secretary of Labor, who I praised on this floor yesterday for her fine work. She has been a hands-on person. She and the Assistant Secretary, Bob Jones, have both been superb. They have wanted to do something that had to meet the weakness of the present JTPA bill.

The present weakness is, frankly we have been so result-oriented that we have the cream. We have been taking high school graduates. We have not been taking the dropouts, the hard to place. This shifts that emphasis.

So, I will support this. I will have a succeeding amendment that I hope we can agree on—and I had a brief conversation with Senator DOLE and Senator HATCH on this—that I hope we can agree on, that will knock out the year 1993. The first 2 years, 1991 and 1992, again, are hold harmless. When you start going into 1989, then you have problems with various States.

I hope we can avoid that at this point.

Let me also pay tribute to the chairman of the full committee, Senator KENNEDY, who has pioneered in this area. And let me pay tribute also to someone who has been in my State a great deal lately, and that is the Vice President of the United States; he has not been there exactly supporting PAUL SIMON these days. But he also had done a great deal of work on the JTPA, and I want to pay tribute to the Vice President for his work on this when he was a Member of the Senate.

Again, I am going to support this amendment.

I understand that technically—and my colleague from New Mexico may want to correct this—technically this is a substitute for the amendment offered by the Senator from New Mexico; is that correct, I ask my colleague from Utah?

Mr. HATCH. No, it is not a substitute. It is a perfecting amendment to his amendment.

Mr. SIMON. But, in fact, what we are doing is temporarily knocking out the amendment from my colleague from New Mexico; is that correct?

Mr. HATCH. That is correct.

Mr. SIMON. My colleague from New Mexico, I see him on the floor now, will also have an amendment to put his amendment back in. I am supporting the amendment offered by Senator DOLE, not that I want to knock out the amendment of the Senator from New Mexico, but I do favor the JTPA amendment, and I will have an amendment that I hope—I understand we have an agreement with the Senator from Utah.

I ask unanimous consent, if I could at this point, to modify the language. I think we are getting close to agreement, Mr. President.

Mr. HATCH. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, Mr. President, am I not correct that the amendment that is pending now is an amendment in the second degree?

Mr. HATCH. That is why I am modifying the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Reserving the right to object to the modification.

Mr. SIMON. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. SIMON. Is it not correct that if I or Senator HATCH or Senator HARKIN ask unanimous consent to modify his amendment that can be done if there is no objection?

The PRESIDING OFFICER. That is correct.

Mr. HATCH. Let me ask unanimous consent that my amendment be modified at the appropriate place in the bill by inserting, "Section 202 and section 252 no longer apply in fiscal year 1993 and each succeeding year thereafter."

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, I reserve the right to object.

Mr. HATCH. Parliamentary inquiry. Does that modification accomplish what the distinguished Senator from Illinois would like to accomplish, that is knock out the funding formula for fiscal year 1993 and each succeeding fiscal year thereafter?

The PRESIDING OFFICER. The Chair is unable to comment on the substantive impact of the proposed modification.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3164, AS MODIFIED

Mr. SIMON. Mr. President, I think we are in agreement. Senator HATCH has asked the amendment be modified in line with what I was talking about before.

Mr. HATCH. Mr. President, I urge adoption of my modification.

The PRESIDING OFFICER. The amendment may be modified.

The modification to amendment No. 3164 is as follows:

On page 128, at the end of subtitle I of the Dole amendment, insert the following:

"Notwithstanding any other provision of this subtitle, no formula shall be in effect after fiscal year 1992.".

Mr. HATCH. Mr. President, as far as I am concerned we can go to a vote. I recommend all of our colleagues vote for it. It is a bipartisan action. It will have to be revisited after 1992 and we will have to determine the formula then. That will probably be a good thing because if there should be changes in economic or social conditions by then, that will justify changing the formula at that time.

So I think I am safe in saying the distinguished Senator from Illinois and I are joining together to recommend this bill to all Senators and we hope all Senators vote for it.

Mr. HARKIN. There are a few specific points I would like to clarify with the author of this legislation in regard to provisions that may affect services to individuals with disabilities. First, I would appreciate my colleague's clarification of "long-term recipient" as the term appears in section 103(a)(10) of the bill. The definition of long-term recipient in this section includes those who have "applied for and received benefits offered pursuant to title XVI of the Social Security Act—relating to supplemental security income programs—and title II of such act—relating to Social Security disability insurance—for 36 months during the 60-month period immediately preceding application for programs offered under this title." It is my understanding that the intent here is to include the application period—the period between the time the individual first applies for SSI or SSDI benefits and the time he or she begins receiving benefits—in the 36-month requirement. Is my understanding correct?

Mr. SIMON. Yes, the Senator is correct. Because of the typically lengthy period of time an individual must wait for approval of these benefits, it seems appropriate to include that waiting period in the time required to be considered a long-term recipient. Being a long-term recipient is one of the factors that is considered in whether an individual is counted among the "hard to serve" under these amendments. Another factor is whether the individual has a disability. Given the combination of these factors, a large percentage of individuals with disabilities will automatically be included as hard-to-serve individuals. This means they may be counted for the 10 percent of funds the Private Industry Council may use for experimental programs. They will also be included in the determination of the incentive funds the Governor may award based on performance standards that include the extent of service to the hard to serve.

If I might also point out, as the Senator knows, under these amendments 65 percent of the adult participants in each service delivery area must be economically disadvantaged and meet one out of a list of characteristics. One of those characteristics is to be an individual with a disability. Having a disability is also one of the criteria that triggers eligibility for services under the title IIB Youth Opportunity Program in this bill. In addition, under these amendments, both adults and youths with disabilities may be considered a "family of one" for purposes of determining whether they are economically disadvantaged and thus eligible for services. These amendments should expand considerably the number of both adults and youths with disabilities who are served under JTPA.

One of the primary objectives of this bill is to increase services to population groups who have tremendous barriers to obtaining a job but have been neglected too often by JTPA programs. The new eligibility requirements for both adult and youth programs are intended to ensure that individuals with disabilities receive a high priority for service. Currently, some States do a good job now in serving individuals with disabilities, but overall the rate of service is too low—and in many States, the record of serving those with disabilities is very poor. In one State, for example, only 1 percent of adults served are persons with disabilities. In another State, only one-half of 1 percent of youth participants are youth with disabilities. I can assure the Senator that this bill is intended to turn those kinds of figures around.

Mr. HARKIN. I thank the Senator. I am pleased to note the clear statement that individuals with disabilities are one of the groups targeted for service under this bill. I would like to ask the Senator from Illinois a specific question regarding the development of the job training plan at the service delivery level. This amendment indicates that each service delivery area must have a job training plan that contains goals for training and placing displaced homemakers, older individuals, and other targeted populations. In addition, these plans must include descriptions of efforts to expand outreach to and awareness of opportunities for displaced homemakers, older

individuals, and other targeted populations. We know that one of the more significant factors in the level of service to individuals with disabilities is the presence or absence of specific plans to serve them in a given area. Is it correct that this provision requires the development of goals and a description of how they will be reached for individuals with disabilities.

Mr. SIMON. The local job training plan must include goals and objectives for JTPA Program activities in the service delivery area. These goals and objectives should be consistent with the national priorities for service that we have identified in the legislation. In addition, service delivery areas must develop goals for training and placing older individuals, displaced homemakers, and other targeted populations that they identify as local priorities. The development of specific plans to address outreach and other strategies to get services to underserved groups who are most in need of job training is an important tool to target services to those individuals. Given the bill's new eligibility requirements, service delivery areas will need to conduct this type of planning now more than ever. Certainly, it is my intent that this type of programming be done for individuals with disabilities, although it is not specifically required. In addition, the local job training plan must be available for review and comment by appropriate local educational and other public agencies as well as community-based organizations and the general public. It is my expectation that those who review and comment on the plan will include a variety of members of the disability community, including service providers, advocates, family members and individuals with disabilities themselves, who may make suggestions on how such plans may be improved and implemented.

Mr. HARKIN. If I may continue, I would like to ask the Senator about his understanding of the impact of performance standards on services to individuals with disabilities. We sometimes hear that SDA's and PIC's are reluctant to reach out to serve individuals with disabilities because they believe their ability to meet their required standards will be impaired. Is it the Senator's understanding that the current standards and the standards required under these amendments are not an impediment to getting individuals with disabilities included in the program?

Mr. SIMON. I am glad to have a chance to address this issue, because it is an area where I believe there may be some confusion at the local level. SDA's and PIC's must understand that their ability to meet standards will only be increased, not decreased, by the inclusion of individuals with disabilities in their programs. This happens in two ways. First, the performance measures issued by the Department of Labor are weighted to compensate for the areas where performance measures are more difficult to meet with these participants—such as follow-up weekly earnings. An SDA's performance standards may actually be lowered when the SDA increase the proportion of program participants who have disabilities. In addition, according to Department of Labor data, individuals with disabilities—along with older workers—are the saviors of the postprogram performance standards for many areas. What they are seeing is that these types of participants have a far better than average record of staying on the job once they are placed. We have to work harder to get this message across.

Mr. HARKIN. I assume that the requirement for a rehabilitation agency representative on every PIC may help in that regard. I would hope that at the State level, the inclusion of the State director of rehabilitation, and the inclusion of director of special education among the State agency representatives who may serve on the human resources investment council will prompt the development of State policies that target services for youth and adults with disabilities.

Mr. SIMON. As the Senator is aware the amendment replaces the State job training coordinating council [SJTCC] with a new State human resources investment council. The primary role of the new council will be to review and recommend to the Governor ways to coordinate the provision of services and the use of funds under five employment-related programs, including the Job Training Partnership Act, the Adult Education Act, the Carl D. Perkins Vocational Education Act, the Wagner-Peyser Act, and the Job Opportunities and Basic Skills Program of the Family Support Act.

In developing this proposal, the committee specifically and purposefully did not include within the purview of the human resources investment council those federally-funded programs that provide services solely to individuals with disabilities—specifically, the programs under the Rehabilitation Act and the Education of the Handicapped Act.

In deliberating on this matter, the committee reaffirmed a view long held by Congress—that persons with disabilities, particularly those with severe disabilities, have greater and more complex barriers to employment than the general population, and that program that serve people with disabilities must remain singularly focused on this segment of our population, and distinct from other employment-related programs.

America does have a manpower training problem. Our work force needs to be better prepared to respond to the challenges that lie ahead. This amendment is designed to address this broader, more generic concern. But Americans who have disabilities have a far more severe, and appreciably more unique, manpower training problem.

The solutions to this problem are not found in the Job Training Partnership Act, but in the special programs that Congress has enacted to provide services to people with disabilities.

In 1986 we learned from a Louis Harris and Associates study that two out of every three adults with a disability are unemployed. No other segment of our society experiences such a high rate of unemployment. These barriers to employment faced by people with disabilities can include discrimination, education and job-skill deficiencies, health concerns, transportation and communications barriers, and, among others, the absence of independent living or daily living skills.

If we are to be successful in our efforts to fully integrate people with disabilities into the mainstream of our society, we must strengthen the categorical programs that we in the Congress have created. We must also provide resources in sufficient amounts to reach as many people with disabilities as is possible. This important effort would be diluted if we were to allow the vocational rehabilitation service delivery system to be integrated in that of other employment-related programs.

That is why the committee has chosen not to include the Rehabilitation Act under the jurisdiction of the human resources investment council. To do so could have invited individuals within some States to attempt to redirect the resources of this important program away from its statutory purpose, and toward those individuals for whom a disability is not a primary barrier to employment.

Mr. HARKIN. I greatly appreciate, and concur with, the comments of the Senator from Illinois.

As chairman of the Senate Subcommittee on Disability Policy, I know firsthand of the great advocacy of the Senator for programs that serve people with disabilities, and I fully concur with the manner in which these programs have been addressed in, and protected by, this amendment.

It is vital that we in the Congress fully support the retention of separate programs to serve people with disabilities. We must not allow these programs to be folded into larger, less discrete, service delivery systems.

However, there is an important role the State human resources investment council can, and should, play in the employment of people with disabilities, particularly those individuals for

whom a disability is not the primary barrier to employment.

This role is addressed in this amendment, which calls for the statewide council to: "work cooperatively with the chief administrative officers of the State vocational rehabilitation agencies and State special education agencies to enhance employment and vocational education and training opportunities under applicable programs for persons with disabilities."

This role, this mandate, became even more important when the Congress gave final approval to the Americans with Disabilities Act. The ADA has suddenly and appropriately raised the expectations of millions of Americans with disabilities. With its enactment, if is imperative that our Nation's business, civic, and education leaders look at their programs, operations, curricula, and campuses to find ways to assist Americans with disabilities to fulfill the great promises of the Americans with Disabilities Act.

The forum provided by State human resources investment councils will provide an excellent opportunity for leaders in business, labor, education, and government, to focus on opening the doors of opportunity for millions of Americans with disabilities.

The State vocational rehabilitation directors and the State special education directors, as full members of the statewide councils, can play a vital role in assuring that issues affecting people with disabilities are fully and appropriately considered by the human resources investment councils.

SUMMARY OF LABOR COMMITTEE SUBSTITUTE TO S. 543 JOB TRAINING AND BASIC SKILLS ACT OF 1990

Mr. SIMON. Mr. President, as reported by the Senate Labor and Human Resources Committee, S. 543 makes significant changes in the Job Training Partnership Act [JTPA] that are designed to strengthen the act's services for economically disadvantaged adults and youth.

The Labor Committee's bipartisan substitute to S. 543 retains the public/private partnership that forms the basic delivery system for JTPA, and preserves the emphasis on program outcomes through the use of performance standards. The substitute to S. 543 addresses several issues raised after the Labor Committee reported S. 543 and improves on the reported bill in several respects. The substitute provides for additional local flexibility to provide services to high priority populations, tightens Federal and State oversight over JTPA procurements and expenditures, and sharpens JTPA's focus on the needs of older Americans. Overall, both S. 543 as reported by the Labor Committee and the bipartisan substitute amendment to S. 543 are intended to result in more focused and higher quality job training and employment services being provided to individuals who face serious and multiple barriers to employment.

Specifically, the bipartisan substitute to S. 543 separates services for adults and youth into two distinct programs, tailored to meet the needs of each group. To be eligible for services under title IIA, individuals must be economically disadvantaged adults age 22 or older, and at least 70 percent of these individuals must experience at least one barrier to employment in addition to low income. These additional barriers include: a basic skills deficiency, lack of a high school diploma, welfare dependency, unemployment exceeding 6 months, homelessness, a disability or a criminal record. As under current law, 10 percent of title IIA participants may have incomes above the poverty threshold, but only if they face at least one other barrier to employment.

The education, skill level, and service needs of each title IIA participant must be assessed, and a service strategy must be tailored individually for each participant. Education and skills training are required when deficiencies are identified through the individual assessment.

Services for youth are provided under a revised title IIB program. Economically disadvantaged 16- to 21-year-olds may participate if they have a barrier to employment in addition to low income. These barriers include a basic skills deficiency, a poor school record—for in-school youth—or lack of a high school diploma—for out-of-school youth—parenthood, homelessness, a disability, limited English proficiency, or a criminal record. At least half the youth participants under title IIB must be out-of-school youth. However, high school dropouts under the age of 18 must return to school or some alternative educational program in order to participate in JTPA.

Local service to delivery areas [SDA's] to have the option of including low income 14- to 15-year-olds and 22- to 24-year-olds under title IIB if appropriate. Up to 10 percent of title IIB enrollees may have incomes above the poverty threshold, but only if they face at least one other barrier to employment.

As in the adult program, youth participants must be individually assessed and a service strategy must be implemented that provides education and basic skills and occupational training whenever necessary. Youth programs must operate on a full-time year-round basis, although young people may join summer jobs programs in conjunction with some form of year-round training and if consistent with their individual service strategy. Services for youth must be coordinated with local educational agencies through formal agreements.

Attainment of basic and occupational skills is added as a performance measure for adult programs, and differences in serving in-school and out-of-school youth are recognized in the performance standards, in keeping with the bill's goal of targeting services on the most disadvantaged individuals. The bill also increases the ceiling from 15 to 20 percent on the share of local allocations that may be spent on supportive services, in recognition that more disadvantaged JTPA clients will have greater service needs.

The bipartisan substitute to S. 543 authorizes $1.223 billion for adult services under title IIA and $1.574 billion for youth services under title IIB fiscal year 1991. Such sums as necessary are authorized for subsequent years.

Of the funds appropriated for the new title IIA and title IIB, 9 percent must be set aside at the State level for the following activities: 3 percent for incentive grants to local service delivery areas; 2 percent for capacity building and technical assistance; and 4 percent for State administration. The existing 3 percent set-aside for services to older individuals is replaced with a requirement that at least 5 percent of participants under title IIA must be age 55 or older.

The bipartisan substitute to S. 543 creates a new title IIC establishing a State Innovation and Coordination Grant Program. Five percent of funds appropriated for title II are reserved for these grants, which are authorized for grants to States for coordinated projects designed to achieve comprehensive human resource goals. The Federal share of these grants is limited to 80 percent.

Among other significant amendments made by the bipartisan substitute to S. 543 is a change in the composition of the private industry council [PIC]. Business representatives continue to comprise the majority of PIC members, but organized labor and community-based organizations must comprise at least 15 percent of the membership. The bill also includes a new requirement that a representative of public assistance agencies be a member of the PIC.

The bipartisan substitute to S. 543 makes several changes in title IV of JTPA and authorizes funding for several new activities. Specifically, $10 million is authorized in fiscal year 1991 and such sums as necessary thereafter for the replication of successful model programs serving economically disadvantaged individuals or dislocated workers. Another $15 million is authorized in fiscal year 1991 and such sums thereafter for a new initiative for displaced homemakers.

A new Fair Chance Youth Opportunities Unlimited Program is created under title IV, providing grants to

high poverty communities to provide comprehensive services to low-income youth. A 50-percent matching share is required for these grants, and authorization levels are $50 million in fiscal year 1991, and such sums as necessary in following years.

S. 543 also establishes a new State human resource investment council to replace the existing State job training coordinating council. The new human resource council is authorized to review and coordinate activities under JTPA with the Wagner-Peyser Act, vocational education, adult education, and the new welfare JOBS Program. Governors are required to appoint members to this council as follows: 30 percent from private business and industry; 30 percent from organized labor and community-based organizations; 20 percent from State agencies; 20 percent from local governments, local educational agencies, local welfare and others including a representative of special education.

OLDER WORKERS PROVISIONS

Mr. SIMON. Mr. President, at this time, I would like to discuss in some detail the older worker provisions of the bipartisan amendment on JTPA considered today. I believe that the agreement we have reached will help to maintain and improve JTPA services to disadvantaged senior citizens who want to work but need assistance in entering or reentering the work force. These provisions were developed in close consultation with Senators KENNEDY, HATCH, THURMOND, PRYOR, HEINZ, and GRASSLEY, and I thank these Senators for their attention to these very important issues.

Under the existing JTPA adult training program, 3 percent of funds allocated for this program are reserved at the State level for serving older individuals. Last year, the Department of Labor recommended that this set-aside be eliminated. The Department's recommendation followed a similar recommendation of the Secretary of Labor's JTPA Advisory Committee that the 3-percent set-aside be terminated.

Mr. President, the efficiency and effectiveness of the existing 3-percent older worker State set-aside has been mixed at best. Six years after the enactment of JTPA, many States still lag behind in spending their allocations for service to senior citizens. In each year since JTPA's first year of operation, significant amounts of 3-percent older worker funds have remained unspent each year. While there has been some improvement in this regard, in the most recent program year for which we have data, States carried over $20 million in older workers funds that remained unspent from the previous year.

The bipartisan agreement that we reached shifts the responsibility for serving older individuals under title II of JTPA to the local service delivery areas [SDA's]. In general, local service delivery areas have a better record of spending their program funds promptly and spending a higher proportion of their allocations on direct training for participants. The amendment also institutes new reporting and accountability requirements to improve information on how well older Americans services are being served in this program.

Most importantly, the amendment would revise the local mandate for service to older Americans by requiring that 5 percent of an SDA's title IIA allocation be used for persons age 55 or older. The reservation of 5 percent of local funds for older individuals will ensure that the same amount of funds currently available under the 3 percent State set-aside continues to be available for services for older individuals. In addition, the amendment makes it clear that the 5-percent local set-aside is a floor for expenditures for older individuals. Some service delivery areas spend a greater share of their dollars for older workers, and we would expect that to continue.

In general, the underlying philosophy in developing this bill has been to minimize the set-aside of funds at the State level in order to maximize the resources available for training services at the local level. The decision to replace the 3-percent State program with a local mandate for service to older individuals was consistent with this overall approach. Moreover, our view is that a mandate to each of the 633 local delivery areas to address the employment and training needs of older individuals will work to expand, not limit, attention to the needs of this particular group. Currently, many SDA's operate few or no programs targeting older Americans.

The amendment also includes a number of other provisions designed to improve the quantity and quality of job training to older individuals under JTPA. These provisions include the following:

Each SDA is required to include in its job training plan a description of the types of services to be provided for older individuals, a description of its goals for serving older individuals, and its outreach efforts to older individuals.

Each SDA is required to give priority consideration in the selection of service providers for senior citizen training to organizations with a record of demonstrated effectiveness in providing employment and training services to older individuals. This will facilitate the continuation of existing successful training programs for older individuals and the utilization of the expertise of existing organizations, such as the Operation ABLE in Illinois, Arkansas, and other States.

Older individuals are recognized as a "hard to serve" population.

Organizations serving older workers are included in the definition of community-based organizations, thus providing an opportunity for representatives of aging organizations to be members of private industry councils under the amendment's requirement that 15 percent of private industry council members be representatives of community-based organizations or labor.

Mr. President, one purpose of the JTPA amendments is to stimulate coordination among JTPA and other Federal employment and training programs. The amendment, therefore, adds title V of the Older Americans Act—Community Service Employment for Older Americans—to the list of Federal programs that may be coordinated with JTPA adult training program and with the new State Innovation and Coordination Grants Program. The amendment also adds the State agency on aging to the list of State agencies that may be represented on the State Human Resource Investment Council established under the amendment to focus on coordination of human resource programs at the State level. We believe that older individuals will be well served by an approach that allows both JTPA and the title V program to benefit from the respective strengths of each program.

Mr. President, clearly, older workers are an important and expanding part of our work force both now and as we approach the year 2000. Over the next decade, as the number of entrants into the work force shrinks, and the average age of the American worker rises, older individuals will be increasingly important to our Nation's economy. Employers are increasingly tapping into the older available work force and recognize them as steady and reliable workers.

The bipartisan amendment goes a long way to ensure that JTPA is well-positioned to serve this crucial segment of our labor force for the jobs of tomorrow. I want to thank Senators PRYOR and HEINZ and GRASSLEY and their staffs, in particular, for their efforts in working with me and the other members of the Labor Committee to ensure that current services to older persons in JTPA are maintained and improved. I might add that these provisions are supported by such groups as the American Association for Retired Persons, the National Caucus and Center on Black Aged, and the National Urban League.

Mr. SIMON. Mr. President, today I rise in strong support of the Committee on Labor and Human Resources bipartisan amendment to JTPA, the Job Training and Basic Skills Act of 1990, my bill to revise the Job Training

Partnership Act [JTPA]. I want to thank Senator KENNEDY, along with Senators PELL and MIKULSKI for being original cosponsors of this bill. I also want to take this opportunity to thank ranking members of the committee, Senators HATCH and THURMOND, for their contributions in making this a strong bipartisan bill. Last July, the committee reported this bill by a vote of 15 to 1.

The amendment continues the bipartisan spirit that surrounded the enactment of JTPA in 1982. JTPA was constructed to create a new partnership between Government and industry, rather than a job training system controlled by Government alone. JTPA emphasizes private sector employment rather than subsidized public employment and holds program performance accountable to national standards for job training and placement.

Mr. President, over the past 7 years we have had time to carefully examine the effectiveness of JTPA. We have discovered that—despite the basic soundness of the JTPA model—comprehensive restructuring and reform is needed to ensure that extremely limited job training dollars are spent efficiently and effectively.

In real terms, JTPA has been one of the Federal programs hardest hit with lost purchasing power during the 1980's. In fiscal year 1990, we spent less than one-third of what this Nation spent 10 years ago on Comprehensive Employment and Training Act [CETA]; and 31 percent less than we spent on JTPA during its first year of operation.

The amendment seeks to maximize these scare Federal dollars by targeting and improving JTPA services. The amendment reflects many of the recommendations cited in the reports and testimony of the Department of Labor, the JTPA Advisory Committee, the General Accounting Office [GAO], and the Department of Labor's inspector general, as well as numerous other public, private, and nonprofit organizations. There is a wealth of information and research in this area, and I have attempted to incorporate this cumulative wisdom in this amendment.

Our overall goal is to revise and strengthen JTPA in order to reach those in our Nation who need help the most—those who are single mothers who are on welfare, youth who have dropped out of school and have turned to drugs or crime, older homemakers who are unexpectedly forced into the job market with few marketable skills, and those who have lost all hope of finding a decent job at decent wages. I am hopeful that with the passage of this amendment, we can create the most effective job training program in our Nation's history.

Mr. President, passage of this amendment will be especially timely in addressing the revolutionary changes occurring in the workplace. We live in an era when rapid technological change is dramatically altering the labor market. As we approach the turn of the century, 9 out of 10 new jobs will be in the service sector. These jobs will place new demands on its work force, requiring higher levels of basic and occupational skills than in the past. Twelve years of schooling are no longer a guarantee for adequate wages or performance in today's labor market.

In future years, those without higher levels of basic skills will be effectively disenfranchised from the labor force. Additionally, in this post-baby boom era, fewer people will be entering the labor force between now and the year 2000. In the next decade, Blacks, Hispanics and other minorities will account for 57 percent of labor force growth. If women are included, the minority and female share of work force growth rate will exceed 80 percent.

It is estimated that 36 million Americans have some form of disabling condition. Of this group, two-thirds are unemployed and two-thirds of this unemployed group are trying to find jobs. In 1988 only 23 percent of disabled men were employed full-time and only 13 percent of disabled women were working full-time. For Black Americans with disabilities the unemployment rate is 83 percent. Consider too, that at least 23 million Americans are functionally illiterate, while 24 million have some sort of learning disability. And these numbers are rising. These groups already face difficulties in the labor market. Opportunities will continue to disappear as the workplace becomes more complex and jobs require more problem-solving skills.

In my State of Illinois, between 1980 and the year 2000, the number of new entrants into the work force—ages 15 to 24—will drop by 25 percent, with a 35 percent drop in Cook County alone. Exacerbating the national problem of dwindling numbers of work force entrants, is that a large number of these new entrants lack a basic high school diploma. Ill-prepared for increasingly complex jobs, high school dropouts face a particularly bleak future in terms of job potential and job earnings. For the west side of Chicago, the dropout rate is reaching 60 percent. We must do all we can to keep these young people in school and offer them the basic and occupational skills they need for a future of productive work. Unemployment and welfare dependency is clearly an expensive alternative to providing sufficient basic skills and training for our Nation's youth and adults.

Mr. President, the JTPA Program is well positioned to help the Nation address these critical work force 2000 issues. However, the program must be revised to get a greater return from the Federal dollar. We must make greater efforts to identify those people who employers are least likely to hire without additional education and training, and then provide them with higher quality of training. The committee substitute will improve and strengthen the Federal job training system to meet these challenges by: First, focusing and services on those who face multiple barriers to employment; second, by ensuring that every JTPA client receives a comprehensive assessment of his or her needs and that both basic skills and job training are made available to those who need it; and third, by helping to ensure that JTPA participants not only obtain jobs, but keep them. The committee substitute will also strengthen program and fiscal accountability, and promote coordination between the JTPA program and other education and training related programs.

Mr. President, the amendment includes a number of technical and substantive changes to the bill reported out of Committee last July. This amendment improves the original bill and addresses several issues that have come to our attention since the bill was reported by the Labor Committee.

The following highlights a number of key provisions in this amendment:

AUTHORIZATION LEVELS

This amendment increases authorizations by $300 million for the adult and youth programs under JTPA for fiscal year 1991, and changes the allocation formula to revise the distribution of JTPA title II funds. JTPA now serves only 5 percent of the eligible poor population and additional funds are greatly needed to reach more of those who need job training. Currently, millions of young people across the country are unemployed and even more are in need of training, but are not reflected in available statistics. Moreover, while these amendments will significantly improve the quality and length of training provided to each recipient, it may also increase the cost of serving each JTPA participant.

Therefore, increased authorizations and appropriations are crucial to ensuring that we continue to serve at least the same number of persons currently participating in JTPA. I am pleased to note that the administration supports increased appropriations for the JTPA Program in fiscal year 1991, particularly to serve at-risk youth. I am working with the Appropriations Committee to see that these additional funds are approved.

TARGETING

Among the most important of the provisions of this amendment are new eligibility requirements for title II adult and youth programs to target in-

dividuals, who in addition to being low-income, face other very serious problems in gaining employment. A primary objective of the bill is to address the issue of creaming in the JTRA Program. The General Accounting Office, the Department of Labor's Office of Inpsector General, and most recently a study by the Economic Policy Institute, have concluded that JTPA too often serves higher proportions of high school graduates and others who might find employment on their own, while underserving high school dropouts, the disabled, long-term welfare recipients and others who comprise the hard core unemployed.

This amendment revises the eligibility rules for the adult program by requiring that 65 percent of eligible participants meet one of eight specific barriers to employment in addition to their poverty. These barriers include: a basic skills deficiency, the lack of a high school diploma, welfare dependency, unemployment exceeding 6 months, homelessness, a disability, limited English proficient, or a criminal record. In addition to the eight barriers, SDA's may specify one additional category that participants may meet in order to qualify within the 65 percent requirement.

In title IIB, 70 percent of all youth served under title II must meet a similar list of barriers including: a basic skills deficiency, or a lack of a high school diploma—for out-of-school youth—parenthood, homelessness, a disability, limited English proficiency, or a criminal record. Again, an SDA may specify one additional category that participants may meet in order to qualify within the 70 percent requirements. To further target hard-to-serve populations, this bill also requires that 50 percent participants in the youth program must be individuals who are out of school. We have included this requirement to reach, in particular, those youth who do not go on to post-secondary education, but often have a difficult time in the transition from school to work. Noncollege bound youth may be high school dropouts, or they may have completed high school, but too often they are not adequately prepared for work or college. The JTPA Program can help keep them from falling between the cracks and assist them in obtaining the additional education and training that they often need.

The amendment also includes my amendment to allow SDA's to provide funds to high schools to establish schoolwide projects in areas with high concentrations of poverty. This provision would target youth who are reading below grade level or face other barriers to employment, but it would not require each youth in a school to be income certified. Numerous JTPA service providers have testified that the burden of documentation can discourage participation in JTPA programs. While I strongly support the need to document poverty for eligibility for title II services, I also realize that in extreme situations, when poverty is pervasive in an area, it is more important to target the severely disadvantaged in a more reasonable manner. Schoolwide projects, such as the Boston Compact have proved highly successful for the youth targeted and for increasing business participation in our schools.

QUALITY OF SERVICES

In addition to creaming, the JTPA Program has been criticized for emphasizing short-term training and quick placements in order to meet program performance standards. The amendment maintains JTPA's unique feature of performance-based outcomes, but within this framework, it will improve program outcomes by emphasizing the provision of basic skills education essential to long-term employability and increased earning potential. It emphasizes the acquisition of basic and occupational skills and employment competencies as desirable performance outcomes that promote long-term employability. The amendment recognizes that program performance should also be judged by the length of time that a person stays employed in a job, not simply the fact that a person was hired.

The amendment includes a requirement that each participant in the adult and youth programs be assessed for education/basic skills levels and service needs, and that a service strategy be developed based on that assessment. To encourage and facilitate such assessments, we intend that the costs of assessments be considered training costs, rather than supportive service or administrative costs. I believe that the development of appropriate training strategies is closely related to careful assessment of the participants' educational and occupational skill levels. The amendment provides that basic skills education is an appropriate service to be provided by the JTPA Program. The amendment recognizes, however, that the JTPA Program cannot be the sole provider of these services to all JTPA clients, and anticipates that job training administrators will work with other educational providers in the community to ensure that basic educational services are made available to each JTPA participant who needs them.

Another major goal of this amendment is to improve services for disadvantaged youth—by providing for a comprehensive, consolidated, year-round basic skills and training program for youth most at-risk of chronic unemployment and welfare dependency. Some questions have been raised as to whether this amendment abolishes the current Title IIB Summer Youth Program. I would like to clarify that a SDA may continue to operate a Summer Jobs Program for youth. It would require, however, that those youth who participate in the Summer Job Program also be placed in a job or another educational or training activity after the summer ends, and that their participation in the summer program is consistent with the individual's service strategy.

Our intent is to ensure that these young people receive not just an income and work experience during the summer but also benefit from some continuing educational or training experience. In the 1986 JTPA amendments, I was able to include a provision mandating that the Summer Jobs Program include a remedial education component. It is now time to expand upon the success of that remediation component so that all youth served under title II have available to them a comprehensive array of educational and occupational skills training, and, at the service delivery area option, summer work experience.

Creating distinct adult and youth programs also will promote more effective and efficient delivery of services and permit greater specialization of services to meet the different employability and skill needs of youth and adults. The committee does not intend this consolidation to preclude local service providers from operating programs that serve both adults and youth under one contract with the SDA. It should not be necessary under these new provisions for service provides to submit separate proposals to continue to serve both adults and youth.

ACCOUNTABILITY

While this amendment seeks to significantly enhance program quality, it also seeks to enhance fiscal accountability in the job training system. The amendment responds to recommendations made and concerns raised by the Department of Labor's inspector general that greater cost accountability is needed to maintain the program's fiscal integrity and to minimize the potential for fraud and abuse. The inspector general has testified that there is no accountability for the Federal funds expended on JTPA and that the results of the inspector general's audit and investigative efforts increasingly disclose potentially abusive and fraudulent practices by JTPA grantees and contractors.

The amendment would tighten lax procurement and contracting procedures in JTPA by requiring Governors to establish procurement standards, which are to be certified by the Secretary, to ensure that all procurement standards are complied with by the States, SDA's and service providers. Procurements must be competitive, to the maximum extent possible. In addi-

tion, it would require all expenditures to be charged to appropriate cost categories—administrative, supportive service, or training. This requirement will allow Congress to better evaluate the results and success of JTPA and will promote greater fiscal accountability and responsibility within the program.

The bill adjusts existing limits on administrative and supportive service costs in recognition of the increased administrative requirements that will be imposed on SDA's due to new targeting and other program requirements. We recognize that increased administrative costs associated with more complex outreach, recruitment, coordination, and case management requirements also may be incurred by service providers.

COORDINATION

The amendment promotes cooperation and efficiency in service to similar disadvantaged populations, by encouraging coordination between the job training system, and other Federal human resource programs. At the local level, the bill encourages SDA's to establish cooperative arrangements with such programs as adult education, vocational education, the employment service, JOBS under the Family Support Act, food stamps, apprenticeship programs, and homeless assistance programs. The bill makes a distinction between such cooperative arrangements and formal, written agreements that would be required only between SDA's and appropriate school districts. We believe that the requirement that the service delivery area and appropriate schools work together in a more formal way will improve training and supportive services for at-risk youth who are still in school, and facilitate the early identification of dropouts who can benefit from job training programs. These formal agreements will address such issues as procedures for assessment, referral of in-school youth to the JTPA Program, and notification by schools to JTPA administrators when a student drops out of school.

To strengthen coordination at the State level, the bill renames the State Job Training Coordinating Council [SJTCC] the State Human Resource Investment Council and expands the oversight authority of the renamed council. The new State Human Resource Investment Council would have the authority to review and coordinate the provision of services and use of funds under JTPA with the Adult Education Act, the Carl D. Perkins Vocational Education Act, the Wagner-Peyser Act, and the JOBS Program of the Family Support Act. The council is also authorized to advise the Governor on the implementation and coordination of State and local performance standards and measures for these programs. While many State job training councils are already looking at the coordination of JTPA with other related programs, the language in it provides stronger statutory authority in this regard.

The committee believes that broadening the purview of the existing SJTCC will help to bring related, but fragmented, programs into more effective working relationships. The committee has not, however, replaced existing State advisory councils for the Federal adult and vocational education programs.

Coordination between human resource systems is further encouraged in this bill through the establishment of a new State Innovation and Coordination Grant, in a new title IIC 5-percent Federal set-aside. The new State Innovation and Coordination Grants replace the 8-percent set-aside for education coordination under title IIA in current law. The new 5-percent grants are intended to stimulate real and meaningful collaboration between the job training, employment, and education sectors at the State level, by requiring cooperative planning to achieve results in addressing important human resource problems in each State. By requiring this cooperative planning, job training, and education programs will be integrated in a way that has not taken place under the current 8-percent set-aside.

STATE SET-ASIDES

In revising JTPA's funding formulas, it modifies the current structure of set-asides for statewide activities. The bill provides that 9 percent of both title IIA and title IIB funds be reserved at the State level: 3 percent for incentive grants to SDA's based on program performance; 2 percent for capacity building and technical assistance; and 4 percent for State administration.

The 4-percent administration set-aside will increase slightly overall administrative funding and takes into consideration the long-standing concern of program administrators that more money be allowed for program administration. The committee modification allows the 17 smallest States to use up to 6 percent of their funds for administrative purposes, subject to approval by the Secretary of Labor, as long as this amount does not exceed the amount of administrative funds for the 18th smallest State. To the extent that these funds will be used to pay for data collection and other management activities, the increase in funding also is designed to enhance program quality.

The creation of the 2 percent capacity building and technical assistance set-aside reflects the documented need to support and encourage quality programs. Capacity-building activities may include: developing new service strategies through research and demonstration projects; replicating model programs; providing technical assistance to service providers; providing staff development and improving information systems; and improving dissemination of program information and methods.

The new 3-percent set-aside for State incentive awards reserves funds specifically to encourage service to special populations, and to encourage experimentation and innovation in serving hard-to-serve individuals. To further emphasize quality over cost in the evaluation of JTPA Programs, it requires that incentive payments to SDA's not be on the basis of cost standards. There is a strong consensus that doing so creates unintended incentives to minimize extensive and, therefore, more costly training for persons who need the most assistance.

One of the most carefully considered aspects of this bill is its provisions to replace the 3-percent set-aide for older workers with a requirement that at least 5 percent of the funds in the title IIA program in each SDA must be used to serve adults aged 55 or older. Mr. President, I have a separate statement discussing the older worker provisions of the bill that I will insert in the RECORD at the end of this statement.

NEW INITIATIVES

The bill authorizes several new programs to enhance program quality throughout the JTPA system, and to target populations with special barriers to employment. The first of these is the replication of successful programs within the JTPA system.

As Marion Wright Edelman, president of the Children's Defense Fund, testified before the Subcommittee on Employment and Productivity, "A focused replication effort within JTPA is long overdue. No business or corporation could survive without some way of field testing its products or services, incorporating the lessons learned and franchising the results throughout the firm. We need a similar mechanism." It authorizes a $10 million program for the replication of innovative and successful adult, youth, and dislocated worker employment and training models throughout the JTPA system. While the funding level authorized is modest, this program could have a large impact on the JTPA system by providing for the diffusion of successful models within and across States and improving the use of far larger sums available under title II.

Second, it includes an initiative that I have developed jointly with Senator LAUTENBERG to provide for the establishment of a network of regional training institutes to improve the caliber of Federal, State, and local employment and training systems. The Secretary of Labor's Advisory Committee on JTPA pointed out that Federal technical assistance and training re-

sponsibilities have been neglected and that there should be a new line item to "create and sustain a network of multiregional training institutes and institutional grants for a small group of colleges and universities." The amendment responds to this recommendation by authorizing funding for a small grant program aimed at enhancing the knowledge and skills of persons who are involved in the delivery of job training services.

Third, the amendment authorizes a $15 million initiative to stimulate the development of comprehensive and innovative approaches to delivering services to displaced homemakers who are economically disadvantaged. The bill's provisions are based on S. 1107, legislation I introduced last year. Our hearing on this bill indicated that the unique employment and training needs of displaced homemakers necessitate special approaches to meeting those needs. It authorizes the Secretary of Labor to award grants for the development of education, training, and employability programs specially designed for displaced homemakers, who in addition to skills training, often require counseling, confidence building, and other pretraining services that have rarely been provided under JTPA.

Finally, the amendment creates the Fair Chance Youth Opportunities Unlimited Program—a new, comprehensive challenge grant program designed to concentrate community resources on at-risk youth in high poverty urban and rural areas. It combines elements of a proposal described in the William T. Grant Foundation report, "The Forgotten Half: Pathways to Success for America's Youth and Young Families," and the Youth Opportunities Unlimited proposal advanced by the Department of Labor.

The Fair Chance Program would provide additional Federal resources to expand and intensify education and training opportunities for youth, particularly for young people who are not college-bound and for those who do not complete high school, in our Nation's most poverty stricken communities. This new initiative will assist local communities in integrating the variety of Federal, State, and local resources that can meet the multiple needs of disadvantaged youth in impoverished areas. Mr. President, the most recent documentation that 1 in 4 black young adults are in prison or are on probation or parole from prison gives us shocking evidence of the need to address this tragic situation. While the Fair Chance Program is designed to help disadvantaged youth—white and black alike—in low-income communities, clearly we as a nation must do better in providing real job opportunity and training to young black males, as well as to all other minorities.

Mr. President, the committee substitute includes numerous amendments accepted by the committee on behalf of a number of my colleagues. These include:

Senator KENNEDY's amendment to revise the Jobs for Employable Dependent Individuals [JEDI] Program in title V of JTPA to refocus this program on absent parents who are eligible for JTPA services. Bonuses would be paid to States based on amount of child support collected from such individuals served by title V.

Senator METZENBAUM's amendment to add a new title to JTPA for the training of women for nontraditional employment. This new title would provide incentives for States and SDA's to train and place women in nontraditional fields.

Senator KOHL's amendment to emphasize the needs of our Nation's youth and adult populations "at risk" of not graduating from high school, chronic unemployment, and welfare dependency. This amendment allows funds to be used for youth career guidance and for access to state-of-the-art vocational education. The Children-at-Risk Program in Wisconsin is a model one, bringing together the State and local resources necessary to make a difference in the employability of young people. I commend the Senator for his interest and contribution to this bill.

CONCLUSION

Mr. President, it is all too clear that new workers and the unemployed must be properly educated and trained to participate fully and productively in an increasingly high-tech economy. We must target our limited Federal funds on the truly disadvantaged, who have never entered the labor force and have no means to do so without the direct intervention of this program. The committee substitute to S. 543 reverses the JTPA incentive system to encourage, rather than discourage, local areas to train and educate hard-to-serve populations and provide a comprehensive array of services that have a lifelong impact in terms of improving one's income earning potential instead of a short-term impact in dead-end, minimum wage jobs.

The potential impact of job training was demonstrated in a recent Wall Street Journal article that told the remarkable story of Robert Penn—a 17-year-old high school dropout and gang member who was the "'brain' of Omaha's crack business." It described the incentives he had to get involved and remain in the drug trade, the violence of his lifestyle, and the terrible impact of drugs on him and his family.

Robert is one of thousands of American youth who grow up without hope, amid the devastation and violence of drugs. But Robert has been lucky enough to have been given a second chance at a productive life. Through the JTPA Program in Omaha, and the initiative of Ben Gray, a television producer in that city, Robert was placed in a job—a job that is teaching him to write copy, type, report, and operate technical aspects of television production. He is also enrolled in a GED program.

Robert is now earning one-tenth of what he was making on the street, but it's the first time he has earned money where he didn't have to "look over [his] shoulder." The boy who used to aspire to be a gangster now thinks he may want to become a television producer instead.

Creating stories like Robert's is what JTPA is all about. Robert may not be out of the woods yet, but for the first time he's been offered what every American youth deserves—a fair chance at a bright future, and an opportunity to pursue a legal career that will allow him to reach his fullest potential.

An opportunity to work gives people self-esteem, something we all need. People without self-esteem and hope cannot instill that in their children. After more than three decades of public life and working with people who have every variety of problems, I have learned that the great division is not between black and white, Anglo and Hispanic, Jew and gentile, or rich and poor. The great division is between those who have hope, and those who have given up. There is nothing like a job to raise self-esteem, to feel you are contributing to society and to your family. For too many in our society, hopelessness and joblessness are one and the same.

Mr. President, let me just add that education, and training for the poor and hard-core unemployed is not just good policy and a good long-term investment—it will also allow us to fight drug abuse in this country. Recent surveys by the National Institute on Drug Abuse on illicit drug use by a variety of age and demographic characteristics have provided some startling information. The highest use of drugs was not in urban areas or among youth, minorities, or dropouts—it was among the unemployed. Clearly, a Federal crime and antidrug strategy must include a focus on jobs and job training for the unemployed. When we discuss crime and drug control, we cannot forget that 90 percent of all prisoners are back on the street in less than 10 years.

Recently before my subcommittee, one witness testified that JTPA is "sometimes called the second chance system, sometimes called the last chance system." For too many Americans, it is the only chance that they will have to overcome the multiple barriers to jobs that will allow them to contribute to, rather than be dependent on, our society.

It must be our highest national commitment—the goal of all levels of government, business, education, and every community—to invest in our human capital and offer a job opportunity to all who want to work.

It is not just an issue of fairness and equity—it is an issue of economics and the long-term productivity and strength of our Nation. The national security of our Nation rests not in our military strength, but in our people—our human resources.

Mr. President, I look forward to the support of my colleagues here today in a continued bipartisan effort to build our Nation's human capital by strengthening Federal job training for poor and disadvantaged persons. I ask unanimous consent that this statement and the older worker statement be printed in the RECORD.

Mr. LEVIN. Mr. President; I am very disturbed by the process by which this amendment was brought up as an amendment to an amendment to the Labor-HHS appropriations bill. The reauthorization of the Job Training and Partnership Act is an important measure, which deserves more time for consideration than was offered tonight.

I will vote for this legislation based on the understanding that States will be held harmless in their level of funding for fiscal year 1991 and fiscal year 1992. States will not receive less money in those years than they did in fiscal year 1990 according to the supporters of this legislation. It is also represented that the funding allocation for fiscal year 1993 and beyond has yet to be determined and is not addressed in this bill. Any changes in the funding formulas which might adversely affect States such as Michigan can and will be debated at that time.

In addition, I will vote for this legislation with assurances that the changes made to the program as they affect the funding of activities for seniors have been arrived at after close consultation with organizations representing seniors. In particular, it is my understanding that the replacement of the 3-percent State set-aside with the reservation of 5 percent of local funds for older individuals will ensure that at least the same amount of funds currently available under the 3-percent State set-aside continues to be available for services for older individuals.

Mr. BINGAMAN. Mr. President, I support the Job Training Partnership Act and I commend the Senator from Illinois. If it becomes law, I know the Senator from Illinois has had great part in drafting the legislation and bringing it to this point, and if it becomes law I want to take my share of credit for having it enacted in this Congress.

But, Mr. President, I think my colleagues need to understand that part of what is going on here is that the amendment that we will be voting on strikes the Bingaman amendment. It strikes the language which I had offered to provide earmaking some funds in cases a broader based educational panel is established.

So while the debate here and discussion has been on the question of whether a Job Training Partnership Act is a good thing or is not, it is clear the reason why it was offered was to strike out the language of the amendment that we just voted against tabling.

Obviously I will support the legislation of the Senator from Illinois. I think it is important legislation. But I am just advising my colleagues that once this matter is disposed of, I feel obligated to once again offer my amendment to the confernece report, and I will do that.

Mr. SIMON. Will my colleague yield?

Mr. BINGAMAN. I will be glad to yield.

Mr. SIMON. I heartily concur in what my colleague is saying. My support in this clearly is not designed to vitiate his amendment because I spoke for it. I anticipate the Senator is going to be offering it again. My hope is that we would have the good sense to accept it by voice vote. We have already had a vote on it.

If we have to have another rollcall, we will have another rollcall. I do not see what is productive about doing that. But in any event, we ought to adopt this amendment offered by Senator DOLE as modified, with my amendment, and the Hatch amendment, and then we ought to immediately adopt the Bingaman amendment.

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the status of this bill is extremely complicated at this moment. There is no doubt about the desirability of adopting the Job Training Partnership Act for the reasons which have been articulated on this floor. It is a very desirable piece of legislation. I shall not repeat them here.

However, we are acting on a conference report. There had been ample time had the movers decided to put this measure on the Labor-Health and Human Services appropriations bill when it came up on the first occasion. It was not offered at that time. But it has come here this evening in response to the amendment offered by the distinguished Senator from New Mexico.

The concern which this Senator has, as one of the comanagers of this bill, is what is going to happen to the appropriations bill after adoption of the Job Training Partnership Act amendment?

This is a Thursday evening, October 25. We anticipate adjourning on Saturday.

I have just discussed the matter with my colleague from Utah, Senator HATCH, who expressed the possibility that this amendment, this job training partnership bill, may be accepted by the House or may have to go to conference.

So we do have a very complex situation procedurally. It is a good piece of legislation substantively and I am going to support it. But I do raise this issue so my colleagues will be aware of the rather precarious waters in which we are now very deeply immersed.

The PRESIDING OFFICER (Mr. BUMPERS). Is there further debate?

There being no further debate, the question is on agreeing to the amendment of the Senator from Kansas, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

I also announce that the Senator from Oklahoma [Mr. BOREN] is absent because of illness in family.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Oregon [Mr. HATFIELD] are necessary absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—95

Adams	Glenn	Metzenbaum
Akaka	Gore	Mikulski
Armstrong	Gorton	Mitchell
Baucus	Graham	Moynihan
Bentsen	Gramm	Murkowski
Bingaman	Grassley	Nickles
Bond	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Heflin	Pell
Bryan	Heinz	Pressler
Bumpers	Helms	Pryor
Burdick	Hollings	Reid
Burns	Humphrey	Riegle
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Rudman
Conrad	Kasten	Sanford
Cranston	Kennedy	Sarbanes
D'Amato	Kerrey	Sasser
Danforth	Kerry	Shelby
Daschle	Kohl	Simon
DeConcini	Lautenberg	Simpson
Dixon	Leahy	Specter
Dodd	Levin	Stevens
Dole	Lieberman	Symms
Domenici	Lott	Thurmond
Durenberger	Lugar	Wallop
Exon	Mack	Warner
Ford	McCain	Wilson
Fowler	McClure	Wirth
Garn	McConnell	

NAYS—1

Byrd

NOT VOTING—4

Biden	Boschwitz
Boren	Hatfield

So the amendment (No. 3164), as modified, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will Senators please take their seats.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I sought recognition at this time to explain my vote, and, to go beyond that, to express some concerns.

I supported the amendment that was offered by Mr. DOLE, but I voted against it. I supported the amendment that was offered by Mr. BINGAMAN, but I voted to table it.

My concern is this; and I do not say this with reference to Mr. DOLE or to Mr. BINGAMAN. I am concerned that we are abusing the appropriations process and doing it more and more. On Tuesday of last week, the Interior appropriations bill came over from the House with legislation on it dealing with the National Endowment for the Arts—a whole authorization bill dealing with the obscenity issue. We struck that legislation in the full Committee on Appropriations.

The purpose of the Byrd rule on reconciliation bills is to strike extraneous matter and we found, I believe it was 3 years ago, in implementing the Byrd rule, that there were well over 100, as I recall—over 200 extraneous provisions. Many of these were entire authorization bills put onto that reconciliation measure which comes to the Senate with a 20-hour limitation on it, with only 2 hours on a first-degree amendment, and 1 hour on a second-degree amendment. The purpose of the Byrd rule was to require the Senate to debate controversial, important, authorization measures, instead of having them folded into reconciliation bills. But when they are wrapped into a reconciliation bill, 10, 20, 50, 100, 200 legislative measures—Members vote on that reconciliation measure not knowing what is in the reconciliation measure. Important legislative bills from authorizing committees should be debated on this floor and be subject to amendments on this floor.

More and more and more we are hiding authorization bills in reconciliation measures. It is the purpose of the Byrd rule to prevent that.

I felt that we were perverting the legislative process by putting authorizing measures that create new programs into a reconciliation bill. And if we do not stop it, we might as well just have one reconciliation bill every year, disband all the authorizing committees, do away with the staffs, and just put everything into that one bill. We will not then have to debate for over 20 hours, pass that one bill, and go home for the year.

I just heard a Senator say that he had not thought of that. That is exactly what Senator BYRD thought of some years back. I do not want to see the legislative process perverted here. Yet, that is precisely what we are doing here when we attach authorizing measures to appropriations bills.

I do not want to see this appropriations bill die. Many hours are put into the hearings, long days over a period of many months, on appropriations bills, and now, more and more, they are becoming the vehicles for authorizing legislation riders that should be acted on by the authorizing committees.

With reference to the Interior appropriations bill, it was the House that attached an authorizing bill.

We are going to have to tighten up our rules somehow to stop this abuse. Again I do not say this with reference to the authors of the two amendments the Senate has just voted on, but the situation is getting out of hand. I think we have a responsibility as legislators to face up to it and to try to restrain ourselves, or at least to devise points of order that will put a stop to it.

I was just over on the House side about 2 hours ago. I was told over there that this is being discussed, that they are going to devise 60 vote points of order over in the House against legislative measures on appropriations bills.

In every appropriations bill that comes to the Senate, there is always some legislation. There will be a line or two here, a line or two there. That has always been the case. But more and more and more, the appropriations horse is becoming a rider to carry one, two, three, four, or more entire authorization bills. I do not want to see that continue to happen.

The authorizing committees have the responsibility of enacting or bringing to the floor their authorization bills. And I have seen in some instances, when we have been asked by an authorizing committee to put the authorization legislation on an appropriations bill. It is another symptom of what is wrong with the legislative process.

Senators are not able to spend their full time here doing the legislative work, because they are forced to be elsewhere doing other things.

There was a time when the jurisdiction over appropriation bills was taken away from the appropriations committees. The appropriations bill on rivers and harbors, for example, was given to the authorizing committee on Commerce. Other appropriations measures were fielded out to various other authorizing committees.

The result was that the Appropriations Committee in the House—and subsequently within a period of 3 or 4 years the same thing happened in the Senate—the Appropriations Committee was shorn of its jurisdiction over most appropriations bills. The Appropriations Committees in both Houses were left with only a half dozen little old bills, the District of Columbia appropriations bill, and a few other minor bills.

The rest of the appropriations bills were fielded out to the authorizing committees. This went on for several years. That is going to happen again one of these days. The only thing that will keep it from happening is that some of the authorizing committees, more and more, do not have the time to do the work they should do, and so they will not likely have the time to do the appropriations bills if that jurisdiction were sought to be taken away from the Appropriations Committees.

So, this is an abuse of the appropriations process. I do not want to see it continue, and I felt it my duty to take the floor at this time, not only to explain my vote, but more important, to call to the attention of my colleagues that we are going to kill this bill right here if this keeps on. It is going to die, if we continue playing games with this bill.

One side plays games, then the other side plays games. We just ought not do that. We are coming down to the last dying gasp of the session, I hope, and there is a logjam of appropriations conference reports. If we get into this kind of situation where we attach authorizing measures, we are going to kill those bills. We are going to bring on a Presidential veto of appropriations bills.

I know the history of the offering of the amendment by Mr. BINGAMAN. I do not blame Mr. BINGAMAN at all, because I understand his problem. He was inadvertently shut out of offering his amendment recently on the appropriations bill—through nobody's fault in particular, but through inadvertence. And then, as I understand it—legislation was offered in the conference on the appropriation bill when neither House had passed the legislation. So the conferees went beyond their authority and attached the legislation to a conference report on the appropriations bill.

That is the way I recall it. I may be in error on some minor point but, in any event, the House on a point of order then struck out that legislation on the appropriations bill. So Mr. BINGAMAN has sought tonight to get a vote on his amendment. He should have had a vote at the time that the

bill was before the Senate, and before it proceeded to third reading. His amendment, however, would have been legislation on an appropriation bill.

I am not attempting to cast any blame on Mr. BINGAMAN or on Mr. DOLE. Mr. BINGAMAN seeks to get a vote on his amendment, which he was denied a few days ago through inadvertence; there was no intention on the part of anybody, I am sure, to deny him the opportunity before the appropriations bill went to third reading some days ago. It was an oversight on the part of the managers, as I understand it.

But I view with growing concern the attachment of legislative measures to appropriations bills. I do not want to see this bill die. I do not want it to have to be included in a continuing resolution.

I do not intend to offend anybody, but if we continue along this path, some appropriations bills are going to be vetoed, or they are going to die and have to be folded into continuing resolutions, and there will be a reaction to the—I have to use the word—abuse of the appropriations process.

I hope that Senators will think about this matter and will restrain themselves in the offering of legislation to appropriations bills or to amendments in disagreement that come over to this body with conference reports. I thank the Chair.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I have the hugest respect for the President pro tempore, but he mentioned the National Endowment on the Arts. In this regard, I would like to ask a question, really.

My understanding has always been that if there is doubt on an Appropriations Committee's part as to the amount they adjudge, whether it should be more or less, or what it should be, but when it came to the substance of the bill, that is the responsibility of the authorizing committee. Otherwise, our authorizing committees would be completely irrelevant.

In this particular case, the authorizing committee, by a vote of 15 to 1, reported on the Senate floor the legislation, which we hoped would have guided the Appropriations Committee. It did not get through the floor because the majority leader was unable to schedule it.

But it got on the floor calendar, and in view of that, my question to the President pro tempore is, should that not have served as a guide to the Appropriations Committee on what it should do? I would agree, I emphasize, that the Appropriations Committee should not touch substance at all. I could not agree more. But once the decision is to be made to do it, should not the Appropriations Committee be guided by the authorizing committee?

Mr. BYRD. Depending on the circumstances, I would think. We have 29 members of the Appropriations Committee, and what we do in the Appropriations Committee has to be done by a majority vote. The distinguished Senator from Rhode Island, Mr. PELL, wrote a letter to me and urged me, I believe, to include that authorizing legislation in the appropriations bill.

Mr. PELL. That is correct.

Mr. BYRD. The House sent a bill over with their authorizing legislation on it. I did not feel that we ought to compound that situation by putting an authorizing bill on our bill here, our appropriations.

In the past, the State Department authorization bill has failed to be enacted on the floor. When I was majority leader, I held up the State authorization bill and would not call it up, for whatever reason at that time. So we appropriated the moneys. And we can appropriate the moneys, and we can authorize moneys, and appropriate moneys to carry out the authorizations in the appropriations bill, and we will have to do that; if authorizing measures are not brought to the floor and the authorization expires, if it is a State Department or whatever department, it has to continue its work, so we have to use other appropriations vehicles then to authorize the money.

What I am saying is, I would hope that the authorizing committees would do their work in time—and this is no criticism; I do not mean it to be—to get the authorizing measures to the floor so that the leadership can bring it up. I do not mean to point the finger at authorizing committees.

I am pointing the finger at all of us in saying that the appropriations process is being abused by using appropriation vehicles to carry authorizing bills and legislation on appropriations bills. Rule XVI allows a point of order to be raised. That is a majority point of order and the question of germaneness can be raised and the majority of the Senate proceed.

When I was the majority leader I brought about a precedent here which provided that if the House did not open the door with legislation on an appropriations bill, then a point of order would cause that legislation if offered on the Senate floor to fall so the question of germaneness cannot even be raised thus giving the Senate an opportunity by a majority vote to bring it in. I felt that if the House opened the door and attached legislation on an appropriations bill, the Senate should not be left without recourse if we raised a point of order here against a legislative amendment being offered on this floor when the House had put legislation on the appropriation bill. I felt that the Senate ought not be left legless, armless, and helpless against amendments that come over from the House that were legislative amendments. So I think the Senate has a right to amend those bills when they come over here as that one did on the interior with legislation dealing with obscenity. Authorizing the continuation of the N. N., if this House put it in, I think the Senate had perfect right to amend that bill. We have a right to establish our position.

But there is going to be a rebellion against use of the appropriations vehicles for authorization bills. The House is I think rightly so, although they have been a culprit in the manner I think they are going to proceed down that path requiring a 60-vote point of order. If legislation comes over from the Senate, they will raise a point of order over there and knock it out. I frankly hope they will. But I think we ought to knock theirs out, also.

Did the Senator have any other question?

Mr. PELL. Mr. President, I thank the Senator, the President pro tempore, and I agree with him, there should not be legislation on an appropriations bill. Otherwise we need not have the authorizing committees. But when the authorizing committee has reported the legislation weeks and months ahead and has been ready but we cannot get it scheduled by the majority leader to the floor, should the Appropriations Committee not be guided by the wishes and legislation of the authorizing committee?

Mr. BYRD. No. I do not agree with that, no more than the Senate ought necessarily be guided by that. The authorizing committee sends an authorizing bill to the floor.

Mr. PELL. Absolutely.

Mr. BYRD. Absolutely. I do not think it could be required by members of the Appropriations Committee if they are making a decision regarding an appropriation that reflects an authorization. There is no way to bind 29 Members to hew to the line any more than there is to bind 100 Members. We just do the best we can.

I hope that Members will accept my expressions here in the spirit in which I have offered them. We have very difficult conferences already and we should not have to have separate conferences on authorizing the bills. These slow us down in the conferences.

Again it is not the Senate alone that is responsible. Many times I have the House Members who come over here who want me to put their appropriations in an appropriations bill, in the appropriations bills after they have sent them over here and every subcommittee appropriations chairman here has the same experience—House Members wanting us to put their

amendments in. That is all right. I have no quarrel with that. But my concern is we are going down a path here which is going to result in vetoed appropriations bills, is going to result in a clipping of the wings of some committees, and I just urge us to look before we leap any further in this bill.

Mr. PELL. I thank the Senator and will not intrude on the Senate's time further.

I yield the floor.

The PRESIDING OFFICER (Mr. SARBANES). The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague, the distinguished chairman of the Appropriations Committee, for calling the Senate's attention to a most important matter and one which requires restraint on the part of Senators when these appropriations bills are under consideration by the Senate. And I hope that all Senators will heed the words of the Appropriations Committee chairman because the process we are following is necessarily lengthening and complicating the task before us.

We are now at a point I believe where we can complete action on this measure, the pending measure, in just a few minutes, and if that occurs as anticipated—I understand it has been worked out with the Senator from New Mexico—then I will be in a position to make an announcement with respect to the remainder of the evening, and I hope it will be there will be no more votes and we can proceed so Senators can proceed to leave. I am going to withhold that until we actually do get action on this bill and make certain no Senator requires rollcall.

I yield to allow the manager to complete this measure.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa, the manager of the bill.

Mr. HARKIN. Mr. President, I ask unanimous consent to vitiate the yeas and nays on the underlying Bingaman amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate?

The question now occurs on the Bingaman motion to concur with an amendment, as amended, to the House amendment to the Senate amendment No. 163, 164.

The motion was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from New Mexico. He has modified the amendment so it is acceptable. I think we resolved the difficulty that formerly existed. I thank him for it.

AMENDMENT NO. 31 IN DISAGREEMENT

The PRESIDING OFFICER. The clerk will state Amendment No. 31 in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$2,350,747,000".

AMENDMENT NO. 3165 TO AMENDMENT NO. 31 IN DISAGREEMENT

Mr. HARKIN. Mr. President, I move the Senate concur in the House amendment to the Senate amendment No. 31 with an amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 165.

Mr. HARKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the sum proposed, insert the following: "$1,360,747,000 of which $10,000,000 is provided for the Health Objectives 2000 Act, if authorized, of which $1,100,000 is for consultation and technical assistance to the States in planning for the implementation of the Year 2000 Health Objectives, including the development of uniform data systems and reporting networks: *Provided further,* That $8,900,000 shall be available for obligation on September 7, 1991, for planning grants to the States to assist in the implementation of the Year 2000 Health Objectives, and".

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, this is an amendment that provides for an outlay of $1.1 million for the Department of Health and Human Services. It is an appropriate measure to provide funds beginning September 7, 1991, for planning grants to the States to implement the health objectives here.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, on this side of the aisle we think this is a meritorious matter. We do have this much funding available and in light of what happened earlier this evening—and this bill has to go back to the House—we concur in what the distinguished chairman wants to accomplish here. Had there not been matters to go back to the House, I discussed this earlier with Senator HARKIN, then this amendment would not have been offered. But in light of the posture and merit of this amendment, we concur.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that the remaining amendments of the House to the amendments of the Senate in disagreement be considered and agreed to en bloc with the exception of amendment No. 14.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

The amendments of the House to the amendments of the Senate agreed to en bloc are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5257) entitled "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1991, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 9, 12, 15, 19, 25, 35, 55, 56, 57, 61, 76, 82, 91, 100, 102, 103, 111, 112, 118, 119, 133, 142, 144, 156, 169, 176, 181, 186, and 191 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

None of the funds in this Act shall be obligated to renovate or relocate the Job Corps center in Detroit, Michigan.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *and of which $12,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period October 1, 1991 through June 30, 1992, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended,*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$210,274,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$135,359,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$2,139,382,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: , *of which $4,129,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of nonacute care intermediate and long-term care facilities for AIDS patients, of which $1,000,000 shall be available until expended under section 1610(b) of the Public Health Service Act to make grants to be awarded competitively for the renovation or construction of tertiary perinatal facilities in those States whose infant mortality rate is significantly above the national average, and of which $226,000,000 shall be available for title XXVI of the Public Health Service Act: Provided, That the Secretary shall retain and distribute from the total provided for title XXVI of the Act such amounts as may be necessary to ensure the continuation of health care services through September 30, 1991 provided by grantees whose project periods extend through that date*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$19,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$1,766,324,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$1,158,650,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$153,272,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$632,272,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$556,864,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$492,795,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$260,159,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$249,092,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 50 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$40,768,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *and of which $5,000,000 shall be available for grants on a competitive basis for the construction, renovation, operation and maintenance of research facilities*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$2,029,138,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 71 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$14,031,394,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

ENERGY EMERGENCY CONTINGENCY FUND

For the purpose of establishing an "Energy Emergency Contingency Fund", in the United States Treasury to be available for grants to the fifty States, the District of Columbia, and Indian tribes and tribal organizations receiving direct funding in fiscal year 1991 under the Low-Income Home Energy Assistance Act of 1981, $200,000,000 which shall be available for obligation after January 15, 1991: Provided, That the national average retail price of home heating oil in any of the months December 1990, January 1991, or February 1991, as reported for Petroleum Marketing Monthly by the Energy Information Administration or the best available data from the Department of Energy on the last day of the month following such month, exceeds by 20 per centum or more the average of the national average retail price for home heating oil for the corresponding month as reported by the Department of Energy for 1986, 1987, 1988, and 1989: Provided further, That these funds shall be allotted to the fifty States and the District of Columbia in proportion to the consumption by low-income households in such jurisdiction (determined on the basis of the best data available at the time of allotment) of home heating oil: Provided further, That for allotment purposes only, home heating oil includes liquefied petroleum gas and kerosene: Provided further, That Indian tribes and tribal organizations shall receive the same per centum of the allotment of the State or States in which they are located as they receive from that State's (or those States') allotment for fiscal year 1991 under section 2604 of the Low-Income Home Energy Assistance Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $420,770,000, of which $240,000,000 shall be available for State cash and medical assistance.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 79 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Section 204(a)(1)(B) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking the period at the end thereof and inserting in its place the following: ", and funds appropriated for fiscal year 1991 under this section are reduced by $566,854,000.".

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking "$1,000,000,000" and inserting in its place "$2,000,000,000"; and

(2) by inserting "for each of fiscal years 1990 and 1991" after "paragraph (2)"; and

(3) by striking the period at the end thereof and inserting in its place the following: "and fiscal year 1991.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first sum proposed in said amendment, insert: *$438,300,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$86,450,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment insert: *$3,519,699,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

For carrying out the Child Care and Development Block Grant Act of 1990, $750,000,000 which shall become available for obligation on September 7, 1991: Provided, That these funds shall only become available upon enactment into law of authorizing legislation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill,

and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided, That of the total amount provided, $27,352,000 shall be transferred to the "Human Development Services" account for part B of title IV of the Act*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 95 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$6,378,231,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 96 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$6,350,158,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 110 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided further, That any school district that received a payment under section 5(b)(2) of the Act for fiscal year 1986, but which the Department of Education has determined to be ineligible for section 2 assistance due to a review of the original assessed value of the real property involved at the time of acquisition of the Federal property, shall be deemed eligible for payments under section 2 for fiscal year 1991 only*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 113 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert *$1,621,735,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 117 to the aforesaid bill, and concur there in with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *; $12,000,000 shall be for national program activities under section 2012 and $207,000,000 shall be for State grants under part A of title II of the Elementary and Secondary Education Act of 1965, as amended; $5,415,000 shall be for grants for schools and teachers under subpart 1 and $3,700,000 shall be for family-school partnerships under subpart 2 of part B of title III of Public Law 100-297*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *including not more than $4,000,000 for the subpart of not to exceed 400 fellowships under section 7043*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, the Stewart B. McKinney Homeless Assistance Act, and the Omnibus Trade and Competitiveness Act of 1988, $1,276,293,000 which shall become available for obligation on July 1, 1991, and shall remain available through September 30, 1992: Provided, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act $25,290,000 shall be for national programs under title IV, including $7,000,000 for research, $13,290,000 for demonstrations and $5,000,000 for data collection and $2,500,000 shall be for tribally controlled postsecondary vocational institutions under title III, part H: Provided further, That of the amounts made available under the Adult Education Act, $1,000,000 shall be available only for demonstration programs under section 372(d), $3,000,000 shall be for national programs under section 383, and $5,000,000 shall be for literacy clearinghouse activities under section 384; Provided further, That $2,000,000 of the total appropriated herein shall be for commercial driver literacy if authorized in law.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 139 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$6,879,475,000, which shall remain available until September 30, 1992, and*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 147 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$781,470,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 152 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided, That of the amounts provided herein, $700,000 shall be available for subpart 1 of part H of title XIII of the Education Amendments of 1980*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 155 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided further, That of the amounts provided herein, $1,000,000 shall be available to carry out a national science scholars program, if authorized in law*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 162 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$133,404,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 189 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 514. (a) Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Labor are hereby reduced by $9,000,000; salaries and expenses of the Department of Education are hereby reduced by $5,000,000; and salaries and expenses of the Department of Health and Human Services are hereby reduced by $50,000,000: Provided, That no trust fund limitation shall be reduced with the exception of the Social Security Administration, Limitation on Administrative Expenses, which is hereby reduced by $57,000,000.

(b) Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by 2.41 per centum.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 190 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 515. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, transfers if any, in the following accounts are a necessary (but secondary) result of significant policy changes: State Unemployment Insurance and Employment Service Operations; Low Income Home Energy Assistance; Interim Assistance to States for Legalization; and Human Development Services.

AMENDMENT NO. 14 IN DISAGREEMENT

The PRESIDING OFFICER. The clerk will report the——

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Parliamentary inquiry, Mr. President. Is it in order at this time to offer the modified amendment I worked out with the Senator from Utah and others involved to amendment No. 14? Is that the pending item?

The PRESIDING OFFICER. The Senator is correct. The clerk was about to report the pending amendment.

The clerk will report the pending amendment.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$2,914,246,000".

The PRESIDING OFFICER. It is in order for the Senator to offer an amendment.

AMENDMENT NO. 3166 TO AMENDMENT NO. 14 IN DISAGREEMENT

Mr. BINGAMAN. Mr. President, I move that the Senate concur in the House amendment to the Senate Amendment No. 14 with an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 3166.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the text of the House amendment, insert the following: ": *Provided*, That of the amounts appropriated under "School Improvement Programs" herein, $1,000,000 shall be available, to remain available until expended, for payment of the expenses incurred by the School Year Extension Study Commission if such a Commission is authorized by law, and of the amounts appropriated under "Education Research, Statistics, and Improvement" herein, $2,000,000 shall be available, if authorized in law, to remain available through fiscal year 1993, for expenses to be incurred in the operation of an independent National Council on Educational Goals, or any similar panel, council, commission, or other entity whose function shall include monitoring progress towards achieving the national education goals for 2000 or publishing a report that describes such progress, if—

(A) such entity has a majority of voting members who are neither Federal appointed or elected officials nor Governors of the states but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and education excellence;

(B) such entity has members appointed by the leadership of the National Governors' Association, the President, and the leadership of both Houses of Congress; and

(C) all action of such entity is taken by a simple majority of the members attending a duly called and constituted meeting."

Mr. BINGAMAN. Mr. President, this is the language that we have agreed to and is acceptable to all involved in this matter. I think it does accomplish the end which we had in mind. I very much appreciate the help of the Senator from Utah [Mr. HATCH], and the Senator from Kansas [Mrs. KASSEBAUM] and others who have worked on this. I urge my colleagues to support it.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. JEFFORDS. Mr. President, I was not present. I wonder if the Senator could explain what this amendment does.

Mr. BINGAMAN. Mr. President, in response to the question, this is the amendment that I offered before and the vote was not to table it, with some changes. We have specifically dropped out the words "if necessary," which were included in there, and we have also provided that the funds would remain available until expended up through fiscal year 1993.

Mr. JEFFORDS. Does this create the commission?

Mr. BINGAMAN. It does not create a commission. It earmarks funds if a commission is authorized.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BINGAMAN. Mr. President I thank the managers for their help.

I move to reconsider the vote by which the motion was agreed to.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, it has been called to my attention that a little earlier when I referred to the discussions that I understand are being carried on in the House with respect to points of order against legislative amendments by the Senate on appropriations bills, I referred to a 60-vote point of order in the House. What I meant was a supermajority. Obviously in the House, it would have to be more than a 60-vote point of order.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I just wanted to clarify. I believe the majority leader indicated there would be no more votes this evening. I wonder if we could confirm that.

I am advised that that is a correct statement. No more votes this evening. There will be a conference report on VA-HUD but I understand there will be no rollcall requested on that, and a 40-minute time agreement.

Mr. COHEN. If the minority leader will yield? Is it the minority leader's understanding that the defense appropriation conference report is going to be brought up this evening?

Mr. DOLE. I am not quite certain about that. They were talking about doing it in wrapup. It can be done otherwise, obviously, if the Senator has a concern.

Mr. COHEN. I do have a concern.

Mr. DOLE. We appreciate the Senator's concern.

LABOR/HHS/EDUCATION APPROPRIATIONS—CONFERENCE REPORT

Mr. HATFIELD. Mr. President, I rise to support passage of the conference report accompanying H.R. 5257, the Labor, Health and Human Services and Education Appropriations Act for fiscal year 1991 that is before the Senate today. I also would like to take this opportunity to commend the chairman of subcommittee, Senator HARKIN, and the ranking member, Senator SPECTER, for a job well done. This is a very difficult bill in any fiscal year, but given the funding constraints of this year's budget, the job has been more difficult than usual.

This bill encompasses funding for programs which in some way touches the lives of every man, woman, and child in this Nation. These programs offer hope for improving the quality of life to persons disheartened by disease, disadvantaged by poverty and illiteracy, and discouraged by impediments to obtaining quality education.

I would like to highlight some of these programs which are of particular interest to me. I personally requested that funding be increased for these programs, not only for the benefit of the people of Oregon, but for all the people of this country.

Mr. President, we have long since decided as a nation that we will not turn our backs upon workers and their families facing the hardship of unemployment. The people in my home State, Mr. President, are facing the prospect of such a hardship. The recent economic stagnation and the listing of the northern spotted owl as a threatened species is endangering jobs in Oregon. Much of the job loss will be concentrated in Oregon's rural communities, where 47.3 percent of all nonagricultural jobs are either directly or indirectly linked to the forest products industry. The bill before us today, includes $526,986,000 for quality training and other readjustment assistance to help reemploy dislocated workers. This amount to a 20-percent increase over the previous year's funding and will permit an additional 47,000 workers to be retrained. Vocational education programs funded at $1.2 billion will also assist in this effort. A portion of these funds have been directed to developing specialized training and demonstration programs in the Northwest as well as other regions of the country plagued by the threat of unemployment.

Another segment of our population troubled by unemployment and underemployment is the migrant and seasonal farmworker. A total of $70.3 million has been provided for programs to aid in producing stable, year-round employment for these workers, both in and outside of the agriculture industry. Also included is $51.7 million for migrant health care and $295 million for educational serviced for elementary and secondary, as well as college bound migrant students.

Mr. President, the incidence of homelessness is a growing problem for this Nation. Estimates of America's homeless population range from one-quarter of a million to three million people. According to the National Coalition for the Homeless, this population is increasing at a rate of 25 percent a year. Particularly disturbing are recent studies showing that homelessness has dramatically increased among families with children, who now make up approximately 40 percent of the homeless population. To address the needs for the homeless, $170 million has been included for job training, health care, mental health and substance abuse, community services and education programs for children and youth, as well as literacy training for adults.

Let us now turn to issues of health, Mr. President. The health of the people of this great country, is vital to its future and, therefore, must be protected. As long as our people are stricken by disease that we can prevent, or are constrained by disability that we can now reverse, then we are vulnerable and the health agenda of this country is unfinished. To help meet that challenge, this bill contains $8.3 billion for the National Institutes of Health, an increase of $730 million above the fiscal year 1990 appropriation. Let me just name a few areas where increases have been provided: an additional $89 million for cancer control, $16 million for the National Marrow Donor Program and $25 million for investigating a cure for arthritis. For programs effecting the most vulnerable of our population, the children, Mr. President, $7.2 million has been recommended for implementation of the second-year of the 5-year research plan for sudden infant death syndrome [SIDS], the leading cause of death in children under the age of 1.

To address the health needs of individuals and families residing in medically underserved rural areas, this bill includes $517 million, over $61 million more than last year. These funds will support a variety of rural health training and service programs, including 550 community health centers and 122 migrant health centers nationwide, half of which are serving rural areas. These centers provide health care services to nearly 6 million persons annually.

Mr. President, we are all aware that HIV infection continues to be a major public health problem confronting the United States. To combat this scourge and to provide a measure of hope to those afflicted with AIDS, funds totaling nearly $1.8 billion have been targeted for research, education, prevention, and services. Funding has grown from an appropriation of $5.5 million in 1981 to the nearly $108 billion in this year's bill. This dramatic increase in such a short time demonstrates the commitment on the part of the Congress to ridding the world of this devastating disease.

For Alzheimer's, a disease which is threatening a growing number of older Americans, the bill includes $247.2 million increase of nearly 50 percent over the amount currently being spent. According to the National Institute on Aging, an estimated 4 million persons now suffer from Alzheimer's and unless a cure or prevention is found, as many as 14 million Americans will be stricken by the middle of the next century. This doubling of funds is a wise investment, Mr. President, for if we can find a treatment that keeps even 10 percent of the patients out of nursing homes for year, this country will save $8.8 billion annually.

For other programs affecting the seniors of our country, the bill includes $1.3 billion, an increase of $70 million over amounts available last year. Included are funds for programs providing part-time last year. Included are funds for programs providing part-time work opportunities for unemployed low-income elderly, programs to assist communities in providing expanded services to the aged and meal services in both congregate and home settings. In addition, in-home services to frail older persons which helps the most vulnerable segment of the aging population avoid institutionalization also has been increased.

While we must meet the needs of the seniors in our population, we cannot neglect the needs of the young. The Head Start Program, which enables children from low-income families to develop and function at their highest potential is funded at $1.9 billion, over $400 million more than available in fiscal year 1990. This increase will serve up to 160,000 more children from disadvantaged families and will also provide much needed salary increases for Head Start teachers.

While I am encouraged by this country's renewed commitment to improve the education of its citizens, we can no longer afford the luxury of endless debate over how best to address problems in our education system and who is responsible for providing the necessary support. This is a national problem and it demands a national response. The funding for education programs contained in this bill will go a long way towards assisting States and local education agencies in meeting this challenge.

The Senate bill contains $27.4 billion for the Department of Education, an increase of $2.7 billion over the amount available in fiscal year 1990. I am proud to report that this bill contains the highest amount ever recommended—$6.2 billion—for chapter 1 compensatory education programs. This amount will provide approximately 5 million disadvantaged children the opportunity to attain the education levels of other children their age. Handicapped programs designed to provide a free, appropriate public education to all children with disabilities would be funded at $2.2 billion, enough to serve approximately 4.4 million children.

Mr. President, far too many students are leaving our schools without the basic math and science skills required to participate fully as workers and citizens. For the past several years I have been actively involved in efforts to increase the funding for the Eisenhower Math and Science Program as well as other education programs which focus on strengthening the economic competitiveness and national security of the United States. I am pleased, that at my urging, the bill before us today contains $213.7 million for the Eisenhower Math and Science Program, a 57 percent increase over the fiscal year 1990 appropriation. Also included, Mr. President is $4 million to establish a regional network of 10 consortiums to provide technical assistance to schools undergoing reform of their math and science education programs, and $1.9 million for the establishment of a National Clearinghouse for Science, Math, and Technical Educational Materials.

Mr. President, this country is still not producing enough individuals capable of functioning in an increasingly global society. To address this problem, this bill contains $4.8 million for start up cost for an elementary and secondary foreign language assistance program. This program will give students the opportunity to begin studies in critical languages in the early grades so that useful levels of proficiency may be obtained by the time of graduation.

To help make higher education more affordable to all students, the committee bill contains over $6.7 billion for student aid programs, an increase of over $625 million over previous year's funding levels. Within the total $5.3 billion has been included for the Pell Grant Program, which provides aid to financially needy undergraduate students. The amount recommended will provide a maximum grant of $2,400 to over 3 million students, the first increase in the maximum grant in 3 years. In addition, the Supplemental Educational Opportunity Grant Program is funded at $520 million, which will provide up to $4,000 in need-based aid to 650,000 undergraduates.

And last but not least, Mr. President, is funding for library services. These services assist local libraries in improving accessibility to all persons, and help eliminate barriers brought about by age or physical disability. Library funds also are used for research, resource sharing, and adult literacy programs. Included in this year's bill is $142.8 million, an increase of $6.2 million over fiscal year 1990 amounts.

Mr. President, there are many other programs in the bill which I have not highlighted that provide critical assistance to States and localities in training our workers, educating our children, and providing services to the disadvantaged. Together with the programs mentioned earlier, they represent the Federal Government's commitment to care for, and improve the quality of life, of our people, particularly the most vulnerable. Again, I commend both the chairman and ranking member for a job well done.

UNEMPLOYMENT INSURANCE SERVICE

Mr. SHELBY. Mr. President, I rise today to discuss a most important provision in H.R. 5257, the Labor, Health

and Human Service and Education appropriations bill for fiscal year 1991. It is my understanding that the conferees to this bill, in order to meet the committee's total spending limits, have applied a 2.41-percent across-the-board cut to all discretionary programs in that bill.

I appreciate the difficulties faced by the conference committee; however, I am concerned that the level of funds now provided for State employment and unemployment programs will seriously jeopardize services to unemployed workers during an economic downturn in the months ahead.

Unemployment is on the rise nationwide. In September, the Administration submitted an amended budget request for $90.7 million for unemployment insurance administration. Just last week Secretary of Labor Dole notified conferees that the estimated need for additional funds for unemployment insurance has risen to $174 million above that requested by the President, due to deterioration in the economic outlook. The conference committee added the additional $90.7 million requested by the President, but then took back $49 million through the 2.41 percent across-the-board cut. This means that the unemployment insurance program—that critical stabilizer of the economy during recession—begins the year with a shortfall of $133 million.

I would also add that the 2.41-percent across-the-board reduction seriously jeopardizes the Nation's Employment Service—the State-Federal program designed to put people back to work. So, the results of this appropriation bill are to jeopardize the critical safety net for unemployed workers and their families and then to partially gut the program that could put those unemployed workers back into jobs.

The Employment Service and the Unemployment Insurance Program are paid for by dedicated employer taxes. Year-after-year, we fail to appropriate sufficient funds from those dedicated revenues in the unemployment trust fund. And now, we apply across-the-board funding cuts to the very programs that stabilize local economies and keep Americans working and the American economy strong.

Mr. President, it is critical that spending which is directly related to changes in the economy, be increased without adverse effect on other programs. If the economy worsens, as many believe it will, unemployed workers could go to local offices for help, only to find a "closed" sign on the door. How can we tell workers that they are entitled to benefits when they are unemployed, if we do not provide a local office or staff to get those checks to them in a timely fashion?

Let me state once again that I appreciate the difficulties over this and many other issues faced by conference committee. I also appreciate the additional $41.7 million that the conferees were able to provide unemployment services. However, current shortfall is extremely serious, a shortfall that may have to be addressed with additional funds in the future.

RYAN WHITE AIDS CARE FUNDING

Mr. KENNEDY. Mr. President, I would like to take this opportunity to clarify with the chairman of the Labor/HHS Appropriations Subcommittee, the provisions for funding the Ryan White CARE Act in fiscal year 1991. As the Senator knows, a key feature of the CARE Act was to coordinate and expand existing service delivery systems in order to provide comprehensive and cost-effective care to individuals and families with HIV diseases. The bill provided a structure which was based on the availability of significantly more resources than have been appropriated for the coming fiscal year.

It is my concern that currently operating programs, such as the HRSA adult AIDS service demonstration projects upon which much of the Ryan White Act was modeled, be able, at a minimum, to maintain their current services in FY 91. It is my understanding that the currently operating HRSA Adult AIDS Service Demonstration Projects and the AIDS drug reimbursement program will continue to be funded at current levels within the framework of title II.

Mr. HARKIN. Yes, that is correct.

Mr. ADAMS. I would like to expand on the question asked by my friend from Massachusetts. I am also concerned that some States, such as Washington, may not receive the funds necessary to maintain all the programs which are currently operating within the State when State grant programs and categorical programs are merged. For example, besides the AZT program and the home care program run by the State of Washington, the Seattle-King County Department of Health operates an adult AIDS service demonstration project which is a national success story. This program has shown reductions in hospitalization and costs—and tremendously enhanced the quality of life for people living with AIDS. This program, and the others like it around the country, cannot afford to have the rug pulled out from under them just when they are truly operational.

It is my understanding, that the committee has therefore directed the Secretary to exercise his discretion in order to ensure that all currently operating adult AIDS service demonstration projects are held harmless by making this his top priority from funds set aside as special projects of a national significance. Ultimately, no State should receive less money than the aggregate total of funds that went into the State in fiscal year 1990. Is that correct?

Mr. HARKIN. Yes, that is correct. The committee's first priority is to see to it that the currently operating programs are maintained. In addition, the subcommittee hopes that these programs can also be expanded in order to maximize the available resources.

Mr. ADAMS. I thank the chairman.

Mr. KENNEDY. I would also like to clarify with the chairman that community health facilities which currently receive BHCDA grants for the provision of HIV early intervention and primary health care services will continue to receive funding as part of the $46 million made available for title III, part B, of the Ryan White Act?

Mr. HARKIN. Yes, the funds made available under title III, part B of the CARE bill are intended to support and expand these programs which are currently funded in 33 communities.

Mr. KENNEDY. I thank the chairman. Finally, I would like to inquire with the chairman about the dental services discussed in the subcommittee's conference report. The subcommittee has given direction that consideration is to be given providing funds to dental schools and dental programs that provide oral health services to persons with HIV diseases. It is my assumption that given the fact that these funds are set-aside within the context of the Ryan White Act, that special consideration be given to those who coordinate with the comprehensive service delivery systems established within the act. I therefore ask if it was consistent with the chairman's intent that dental programs that receive this funding coordinate with the HIV care consortia authorized in title II of the CARE Act and HIV planning councils authorized in title I.

Mr. HARKIN. Yes, that is certainly consistent with the subcommittee's intent.

Mr. KENNEDY. I thank the chairman.

FUND FOR INNOVATION IN EDUCATION

Mr. BUMPERS. The conference report on H.R. 5257 includes $27,813,000 for the Fund for Innovation in Education. The report encourages the Secretary of Education, out of the FIE appropriation, to fund a teacher training project. Am I correct in assuming that this teacher training project is the project described in the Senate report, which is intended to serve 25 school districts in the lower Mississippi Delta?

Mr. HARKIN. The Senator is correct.

Mr. BUMPERS. This teacher training project is modeled after a successful teacher training program that has been in operation for more than 20 years. In this program, teachers, administrators, and community members plan teacher training projects to suit

the particular educational needs in their districts and then draw on the volunteer efforts of distinguished college and university professors to implement their training programs.

Is it correct that the conferees agreed to the Senate-approved funding level for FIE, $28,500,000, and that the final appropriation is slightly lower because a modest across-the-board cut was applied to the entire bill? Did this level of funding, significantly above the fiscal year 1990 appropriation and fiscal year 1991 budget request of $18,939,000 and the House recommendation of $25,000,000, include $2,500,000 to support the lower Mississippi Delta teacher project?

Mr. HARKIN. The Senator is correct.

NATIONAL CANCER INSTITUTE

Mr. WIRTH. I. thank the Senator from Iowa for allowing me the opportunity to clarify my one remaining question about the conference agreement on the Labor, Health and Human Services and Education Appropriations bill. He has shown a depth of understanding and concern about addressing the many critical needs in these areas. I also wish to extend my gratitude for his continued assistance in trying to resolve the funding matters associated with National Cancer Institute construction grants, which would assist the University of Colorado Cancer Center in completing its construction.

Funds for cancer construction grants were authorized in fiscal year 1988 and fiscal year 1989, but never appropriated. While some funds were appropriated last year for extramural construction, I remain interested in and concerned about the level of funding in the conference agreement so that many of these meritorious projects are funded, especially those that were approved but not funded before 1990.

The Rocky Mountain region with its 6 million citizens was, until just recently, the largest region of the country, both geographically and by population, not served by a major regional cancer center. However, efforts to take full advantage of the Federal support that should be available have been stalled by a lack of funds to complete construction at the CU-Health Sciences Center.

My understanding is that the Senate version of H.R. 5257 and the conference agreement each included $5 million to upgrade and modernize extramural biomedical research facilities including cancer centers. Aside from the required 2.41-percent across-the-board cut in these programs, which lowers the final figure, is there any other impact on the figure for the conference agreement?

Mr. RIEGLE. I also want to express my appreciation for the work of the distinguished chairman in providing construction funds for cancer centers across the United States. Additional funding for modernization and upgrading of extramural facilities is extremely important for the State of Michigan, too. New technologies developed in extramural facilities has made it possible to successfully treat previously incurable cancers. The University of Michigan Cancer Center is one such facility that would benefit from these construction funds. As with my colleague from Colorado, I would also ask whether the conference agreement ensures $5 million in construction funds for these vital cancer centers?

Mr. HARKIN. I am pleased to inform my colleagues that other than the required across-the-board cut mandated by the recent budget agreement, the conference agreement funds the construction grants at the same level as does the Senate bill. It was our intent that priority for funding go to the projects that have been peer-reviewed and awarded grants—but not actually funded—prior to fiscal year 1990.

Mr. WIRTH. I appreciate the comments and clarification from the Senator from Iowa, who has the exceedingly difficult task of formulating a bill to disburse a finite amount of funds to a seemingly infinite number of valuable, necessary programs that assist the citizens of this Nation. I am pleased to give my support to passage of this legislation and comment the chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education for his outstanding work on this bill. By allocating funds to complete construction of CU's and other cancer centers, we will provide citizens with state-of-the-art cancer treatment, research, prevention and education on a par with other regions of the country—much-needed and appreciated by the people of Colorado.

Mr. RIEGLE. Mr. President, I want to thank the chairman once again. His comments are appreciated. I would also like to commend him for his efforts to develop this package.

THE CONFERENCE REPORT ON LABOR APPROPRIATIONS

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5257, the conference report on the Labor, Health and Human Services, Education, and related agencies appropriations bill and has found that the bill is under its 302(b) budget authority allocation by $0.6 billion and under its 302(b) outlay allocation by less than $50 million.

I compliment the distinguished manager of the bill, Senator HARKIN, and the distinguished ranking minority member of the Appropriations Subcommittee, Senator SPECTER, on all of their hard work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Labor, Health and Human Services, Education, and related agencies appropriations conference report and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5257—LABOR-HHS SUBCOMMITTEE—SPENDING TOTALS (CONFERENCE)

[In billions of dollars]

302(b) bill summary	Fiscal year 1991— Budget authority	Outlays
H.R. 5257, conference (new BA and outlays)	160.7	128.6
Enacted to date	17.1	47.7
Adjustment to conform mandatory programs to resolution assumptions	−4.2	.6
Scorekeeping adjustments	0	0
Bill total	173.7	176.9
Senate 302(b) allocation	174.3	176.9
Total difference	−.6	−(*)
Discretionary:		
Domestic discretionary spending	50.1	53.5
Domestic discretionary allocation	50.7	53.5
Domestic discretionary difference	−.6	−(*)
International discretionary spending	+(*)	+(*)
International discretionary allocation	+(*)	+(*)
International discretionary difference	−(*)	−(*)
Total discretionary spending	50.1	53.5
Total discretionary allocation	50.7	53.5
Total discretionary difference	−.6	−(*)
Mandatory spending	123.6	123.4
Mandatory allocation	123.6	123.4
Mandatory difference	0	0
Bill total above (+) or below (−):		
President's request	4.4	1.3
Senate-passed bill	−.6	−(*)
House-passed bill	−.2	−.4
House 302(b) allocation	−.6	−(*)
Baseline	3.7	.8

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION CONFERENCE REPORT

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report on the Labor, Health and Human Services, Education appropriations bill for fiscal year 1991. I commend the subcommittee chairman for his efforts in putting together this bill and bringing the conference report to the Senate floor. Many worthy programs compete for limited resources in this appropriations bill, and some very difficult choices in crafting this bill had to be made.

I appreciate the willingness of the subcommittee chairman to include funding for a number of programs I requested. The conference report includes $5.5 million for a Model Law Center for Social Justice at Seton Hall University in Newark, NJ, as authorized in Public Law 101-162; $5.5 million in funding for this program was included in the Senate version of the bill. No funding was included in the House version of the appropriations bill.

The center will serve as a national model of clinical legal education, and will have specialized clinics to serve the homeless, disabled, elderly and Hispanic populations. In addition to developing innovative teaching strategies, curriculum, and educational materials, the law center will help edu-

cate and train students for work in the public interest.

The bill includes $5.25 million for computer-based educational construction programs through the Secretary's Fund For Innovation in Education. I secured the authorization for this program in 1988 and am pleased that the bill would provide funds for the program for fiscal year 1991 as it did in fiscal years 1989 and 1990. The computer education program provides funds for projects that expand and strengthen computer education resources available in elementary and secondary schools. It is designed to increase opportunities for our young people to receive hands-on experience with computers and technology.

I am pleased that the conference report includes $7.8 million for lead screening, prevention, and outreach programs through the Centers for Disease Control. In line with language from the fiscal year 1990 appropriations bill which I requested, New Jersey has received a grant from the CDC for its lead poisoning program. I am pleased that the report accompanying the fiscal year 1991 appropriations bill highlights the problem of lead poisoning in New Jersey and am hopeful that New Jersey will receive additional funds in fiscal year 1992 to build on its program designed to combat this terrible health problem.

I am also pleased that the conference report provides $4.8 million for mental health prevention services demonstrations and sets aside at least $1 million for projects aimed at reducing the incidence of teenage suicide. I believe that the Federal Government needs to do more to combat the tragedy of youth suicide. That is why I secured an authorization for youth suicide prevention demonstration programs, and it is why I have pursued a set-aside for these demonstration projects for 2 years. In line with the authorization for youth suicide prevention and outreach programs, I hope and expect that ADMHA will use this $1 million to provide resources to community organizations that are working to prevent teenage suicide.

I am, however, extremely disappointed that the House conferees would not accept a provision included in the Senate version of the bill to provide $7.5 million for the Model Community Education Employment Centers Program authorized in the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. I secured the authorization for this new program, and was pleased that the Senate version of the appropriations bill included $7.5 million to fund model educational centers designed to assist low-income students in rural and urban areas in overcoming barriers to education and securing employment. The House bill did not include any funding for this program, and the conferees would not agree to fund the program in fiscal year 1991. I believe there is an urgent need to test the model established in this program, and I intend to vigorously pursue funding for this program again next year.

Mr. President, among the more difficult issues in this bill has been providing funding for the Ryan White AIDS Care Act, which is authorized at $880 million in fiscal year 1991. I was an original cosponsor of this law, which was approved in the Senate by an overwhelming vote of 95 to 4.

The law establishes a program for emergency relief for hospitals and community health centers in the areas hardest hit by the AIDS epidemic. It also assists all States in developing long-term, cost efficient programs for people and families with AIDS. Two urban areas in my State—Hudson County and Newark—qualify for emergency relief under the law.

There is a tremendous amount of interest in providing funds for the new program in this law. Newspapers nationwide have editorialized in support of funding. I have received letters from mayors and hospitals and community organizations in support of funding for the programs in the Ryan White AIDS Care Act.

In light of the strong support for the programs in this law, I was disappointed that the Labor-HHS Appropriations Subcommittee initially recommended $600 million in funding in fiscal year 1991 for programs authorized in the AIDS Care bill, but stipulated that $490 million of that money for newly authorized programs could not actually be spent until October 1, 1991, the first day of the 1992 fiscal year. Under the subcommitte-approved version of the bill, $110 million would have been available this year to support existing programs. No funds for the new programs in the law would have been provided.

In an effort to provide funding for new programs in the law in fiscal year 1991, I along with Senators ADAMS and D'AMATO offered an amendment when the full Senate Appropriations Committee considered this bill. Our amendment would have provided about $448 million for critically needed AIDS emergency relief and treatment programs and State AIDS programs in fiscal year 1991. It also would have included $490 million for States and selected urban areas deferred until October 1, 1991. Unfortunately, the amendment was defeated in the committee on a voice vote.

Although our amendment was not approved, an additional $49 million was provided during the full committee consideration of the bill for emergency AIDS relief to selected urban areas; $110 would still be available for State programs, and $441 million would have been deferred until October 1, 1991. I appreciated the assistance of the chairman of the Appropriations Committee in providing these additional resources.

During Senate debate on this appropriations bill, two efforts were made to take this funding away from the AIDS Care Act and the AIDS budget. Senator HELMS offered one amendment that would have eliminated the $441 million in deferred funding for the AIDS Care Act. Fortunately, a tabling motion I offered was approved and Senator HELMS' amendment was defeated. I offered another motion to table a second amendment offered by Senator HELMS that would have transferred $120 million out of the AIDS budget for fiscal year 1991. Fortunately, that amendment was defeated as well.

Because I fought long and hard for funding for the Ryan White AIDS Care Act, I was especially pleased that additional funding was provided for the programs in the law during the conference. I had urged the conferees on the appropriations bill to provide additional resources out of funding that was fenced in the House version of the bill for the Ryan White AIDS Care Act and other programs that were not authorized when the House considered the bill. I ask unanimous consent that a copy of a letter I sent to the conferees on this bill be inserted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 15, 1990.

Hon. WILLIAM H. NATCHER,
Committee on Appropriations, House of Represenatives, Washington, DC.

DEAR WILLIAM: We are writing to urge you to support the highest possible level of funding for the Ryan AIDS Care Act during the conference on the fiscal year 1991 Labor, Health and Human Services, Education Appropriations bill. The law is authorized at $880 million in fiscal year 1991.

As you know, the House version of the appropriations bill fences funding for the AIDS Care Act and a number of other programs that were not yet authorized when the bill was considered in the House. The Senate bill includes $110 million for current services under Title II of the law and $49 million in new funding for emergency relief grants under Title I of the law in fiscal year 1991. It also defers $441 million for Titles I and II of the law until October 1, 1991.

While we are pleased that the Senate bill includes $49 million in new funding in fiscal year 1991, we believe more funding is necessary to provide relief to health care systems from the AIDS epidemic. We hope you will support providing additional resources during the conference on the bill.

Congress recognized that our cities, counties, and states are in desperate need of emergency relief assistance when it approved the Ryan White Comprehensive AIDS Resources Emergency Act by an overwhelming majority. The Congress recognized that a public health disaster is impending in our hospitals and clinics where

health care providers are being pushed to the absolute limits as they struggle to provide services to ever-growing numbers of people with AIDS and HIV diseases. Sorely needed AIDS emergency relief and treatment funds should be provided now.

When Huricane Hugo struck South Carolina, we responded immediately with assistance to help devastated cities and counties recover from the damage.

When an earthquake rocked Northern California, we responded immediately with the assistance needed to rebuild roads and bridges.

When a drought threatened our farm states, we responded with assistance to avert a crisis in the agricultural community and to sustain the livelihood of our farmers.

Coping with the AIDS disaster should not be different. We must provide relief immediately to the areas where the AIDS epidemic is threatening public health systems and devastating entire communities. We must provide resources now to help our states, cities, counties, and health care providers develop long-term plans to combat the AIDS epidemic.

There are lives that are depending upon our ability to assist now. We hope that during the conference you will support providing additional resources for the Ryan White AIDS Care Act in fiscal year 1991.

Sincerely,

ALFONSE M. D'AMATO.
BROCK ADAMS.
FRANK R. LAUTENBERG.

Mr. LAUTENBERG. Mr. President, the conference report on this bill includes more than $220 million for the Ryan White AIDS Care Act; $88 million will be provided for emergency relief to the 16 hardest-hit metropolitan areas under title I of the bill; $88 million will be provided to the States for comprehensive AIDS programs through title II; and $45 million will be provided for early intervention programs. In addition, the bill sets aside $20 million for pediatric demonstration projects, including the National Pediatric AIDS Resource Center in New Jersey.

Providing this funding for AIDS care is an important step forward in the battle against this devastating disease. This funding would provide sorely needed relief to urban areas in New Jersey and nationwide. It will help provide care to patients, help to hospitals, nurses, and doctors, and enable us to take steps to prevent its further spread by bringing infected people into the health care system.

I am glad that we will be providing more than $220 million for the programs in the Ryan White AIDS Care Act in fiscal year 1991. While I wish we could have provided more, this $220 million represents an important step forward.

Mr. President, I urge my colleagues to approve the conference report on this bill without delay.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF VOTE

Mr. GRASSLEY. Mr. President, I have a unanimous-consent request that I cleared with Senator DOLE and Senator MITCHELL.

I ask unanimous consent that on rollcall 316—and it will not change the outcome of the rollcall—that I change my vote from "no" to "aye" on that motion. The reason for my doing it is it was a motion to table and I thought it was an up-or-down vote.

Mr. BYRD. Mr. President, there is no objection, the Senator having stated that the change would not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been corrected to reflect the above order.)

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Ms. MIKULSKI. Mr. President, I ask unanimous consent that Jack Bryant and Paul Brubaker may have unlimited floor privileges during the consideration of the conference report to H.R. 5158.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF VETERANS AFFAIRS, HOUSING AND URBAN DEVELPOMENT, SUNDRY INDEPENDENT AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATIONS ACT, FISCAL YEAR 1991—CONFERENCE REPORT

Ms. MIKULSKI. Mr. President, I submit a conference report to H.R. 5158, the VA-HUD and independent agencies appropriations for 1991, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the conference report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (HR 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 20, 1990.)

Ms. MIKULSKI. Mr. President, I now ask unanimous consent that the conference report to H.R. 5158 and the amendments of the House to the amendments of the Senate, with the exception of the amendments 18 and 120, be considered and agreed to en bloc, and that the motion to table the motion to reconsider be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

The amendments agreed to en bloc are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5158) entitled "An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 19, 23, 30, 37, 41, 47, 52, 54, 56, 58, 60, 63, 73, 78, 80, 83, 86, 95, 113, and 118 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of Health Professional Scholarship Program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,113,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with and amendment as follows:

In lieu of the matter proposed by said amendment, insert: : Provided, That funds shall be available, and authority granted, to enable the Secretary to enter into enhanced-use agreements under the terms and conditions of section 704 of S. 2100 (101st Cong., 2d sess. (1990)), as reported by the Senate Committee on Veterans Affairs, with respect to facilities located at the Department of Veterans Affairs Medical Center, Baltimore, Maryland (Loch Raven)

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $580,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1991 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100-86, 1987, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$2,1000,000,000: Provided, That of the funds made available under this heading, $150,000,000 shall not become available for obligation until September 20, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: Provided further, That the Secretary of Housing and Urban Development shall report to the Committees on Appropriations by February 1, 1991, as to whether or not funds provided under this heading are sufficient to satisfy 100 percent of the performance funding system for fiscal year 1991, unadjusted by unrealized or estimated savings*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter striken and inserted by said amendment, insert:

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $825,500,000, of which $396,000,000 shall be provided from the various funds of the Federal Housing Administration: Provided, That during fiscal year 1991, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,411 for public and Indian housing programs and an average field employment of at least 1,950 staff years for multifamily insured mortgage programs and activities.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Notwithstanding any other provision of law or other requirement, the City of Lebanon, in the Commonwealth of Pennsylvania, is authorized to retain any land disposition proceeds from the financially closed-out Southside Urban Renewal Project (R-635 (C)) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Lebanon shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

Notwithstanding any other provision of law or other requirement, the City of Lawrence, Massachusetts, is authorized to retain any land disposition proceeds or urban renewal grant fund that remain after the financial close out of the Theater Row Urban Renewal Project, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Lawrence shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

The Secretary of Housing and Urban Development shall cancel the indebtedness of the Eastern New Mexico Natural Gas Association, Inc., a non-profit organization, relating to the public facilities loan (project No. NM-29-FPL0025), dated June 1, 1967, under title II of the Housing Amendments of 1955. The Eastern New Mexico Natural Gas Association, Inc., is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Department of Housing and Urban Development shall not exceed: (1) 28 staff years for the Immediate Office of the Secretary/Under Secretary, (2) 18 staff years for the Deputy Under Secretary for Field Coordination, (3) 20 staff years for the Office of Public Affairs, (4) 28 staff years for the Office of Legislation and Congressional Relations, (5) 1,152 staff years for the Assistant Secretary for Housing—Federal Housing Commissioner, of which 25 staff years shall be for data management reform and preservation activities only, (6) 162 staff years for the Assistant Secretary for Public and Indian Housing, (7) 274 staff years for the Assistant Secretary for Community Planning and Development, (8) 162 staff years for the Assistant Secretary for Policy Development and Research, (9) 172 staff years for the Assistant Secretary for Fair Housing and Equal Opportunity, and (10) 224 staff years for the Office of General Counsel, of which not more than 15 staff years shall be for the Immediate Office of the General Counsel: Provided, That the Office of Drug-Free Neighborhoods shall be transferred from the Office of General Counsel to the Assistant Secretary for Public and Indian Housing and included within the staff years provided herein therefor: Provided further, That no funds may be used from any amounts provided in this or any other Act for details of employees from any organization in the Department of Housing and Urban Development to any organization included under the budget activity "Departmental Management".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 62 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Notwithstanding any other provision of law, regulation or other requirement, the Secretary shall not require any public housing agency or Indian housing authority to seek competitive bids for the procurement of any line of insurance when such public housing agency or Indian housing authority purchases such line of insurance from a nonprofit insurance entity, owned and controlled by public housing agencies or Indian housing authorities, and approved by the Secretary. In establishing standards for approval of such nonprofit insurance entities, the Secretary shall be assured that such entities have sufficient surplus capital to meet reasonably expected losses, reliable accounting systems, sound actuarial projections, and employees experienced in the insurance industry. The Secretary shall not place restrictions on the investment of funds of any such entity that is regulated by the insurance department of any State that describes the types of investments insurance companies licensed in such State may make. With regard to such entities that are not so regulated, the Secretary may establish investment guidelines that are comparable to State law regulating the investments of insurance companies.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 65 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

SALARIES AND EXPENSES

For use in establishing and paying the salaries and expenses of the Commission on National and Community Service under subtitle G of title I of the National and Community Service Act of 1990 (S. 1430, as passed by the Senate on October 16, 1990), $2,000,000.

PROGRAMS AND ACTIVITIES

For use in carrying out the programs, activities and initiatives under subtitles B through F of title I of the National and Community Service Act of 1990 (S. 1430, as passed by the Senate on October 16, 1990), $55,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That notwithstanding any other provision of law, the lease or purchase of a computer from funds appropriated under this paragraph, to support the regional acid deposition monitoring program, and the planning and site acquisition for a new EPA Center for Ecology Research and Training, shall be established in the Bay City, Michigan, vicinity: Provided further, That notwithstanding any other provision of law, from funds appropriated under this heading, the Administrator is authorized to make grants to "Federally recognized Indian tribes" on such terms and conditions as he deems appropriate for the development of multimedia environmental programs*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 76 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$40,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *: Provided, That none of the funds previously appropriated for the design and renovation of a Superfund laboratory at Edison, New Jersey to test and evaluate innovative technologies, except for those funds necessary for education outreach or permit applications, including design work essential to such applications, shall be spent in fiscal year 1991.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 82 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken inserted by said amendment, insert:

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,100,000,000, to remain available until expended, of which $2,047,800,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $16,500,000 shall be for making grants authorized under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; and $35,700,000 shall be for title V of the Water Quality Act of 1987, consisting of $15,700,000 for section 510 and $20,000,000 for section 513: Provided, That notwithstanding any other provision of law, the $15,700,000 for section 510 and all funds that have been or will be appropriated under section 510 or Public Law 98-386, as amended by Public Law 99-88, shall be used to construct an international sewage treatment plant and related facilities in San Diego to treat Tijuana wastewater, and to carry out all activities, including planning, design, right-of-way acquisition, and building, which are necessary to complete that construction: Provided further, That, notwithstanding section 602(b)(6) or 201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the construction of publicly owned treatment works as defined in section 212 of that Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 85 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 45 workyears for the Immediate Office of the Administrator, including 1 to support the Superfund program; (2) 52 workyears for the Office of Congressional and Legislative Affairs, including 2 to support the Superfund program; (3) 66 workyears for the Office of Communications and Public Affairs, including 3 to support the Superfund program; (4) 169 workyears for the Office of General Counsel, including 12 to support the Superfund program, 11 to support program management, 1 to support the Leaking Underground Storage Tank Trust Fund program, and 1 to support the implementation of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988; (5) 52 workyears for the Office of International Activities; (6) 35 workyears for the Office of Federal Activities; (7) 270 workyears for the Office of Policy, Planning, and Evaluation, including 13 to support the Superfund program and 1 to support the Leaking Underground Storage Tank Trust Fund program; (8) 1,368 workyears for the Office of Administration and Resources Management, including 263 to support the Superfund program, 9 to support the Leaking Underground Storage Tank Trust Fund program, and 13 to support the implementation of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

POINTS OF LIGHT FOUNDATION

For necessary expenses of the President in carrying out title III of the National and Community Service Act of 1990 (S. 1430, as passed by the Senate on October 16, 1990), relating to the Points of Light Foundation's promotion of local problem solving through voluntary community service, $5,000,000: Provided, That not later than 6 months after the date of enactment of this Act, the President shall prepare and submit to the appropriate committees of Congress a report describing the use of funds made available by this appropriation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 94 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$282,624,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken, and inserted by said amendment, insert:

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $6,334,132,000, to remain available until September 30, 1992, of which $1,209,732,000 shall be used only for the purpose of payment, to the Federal Financing Bank, for the Tracking and Data Relay Satellite System (TDRSS) loan: Provided, That such payment shall constitute settlement of all amounts owed on said loan: Provided further, That of the amounts provided herein for development and production of the advanced solid rocket motor (ASRM), $15,000,000 shall be available without fiscal year limitation for the competitive award of a contract to develop either (1) a second domestic source for the development and production of the ASRM carbon/carbon integral throat entrance (ITE) or (2) a second domestic source for the production of the ASRM carbon/carbon ITE unless the Administrator of NASA certifies to the Congress by February 1, 1991, that such application of funds is not the best interest of the United States space program on the basis of cost, added assurance of reliable supply, expanded technology base, and technical risk reduction.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *and, notwithstanding the limitations on the availability of funds appropriated under this hearing by this appropriations Act, an amount of $10,000,000 appropriated hereunder is to remain available without fiscal year limitation and is appropriated for the operation and maintenance of a new visitor center on the Lyndon B. Johnson Space Center to be constructed solely through the use of nonappropriated funds and for the provision of ancillary features such as roads, parking lots, utility services, and exhibits, and without regard to 31 USC 3302, such amount or portions thereof may be invested in securities of the United States Government and the interest earned thereon may be retained and used for the aforesaid purposes, except that these appropriated funds and interest earned thereon shall not be used to construct the new visitor center building nor for the payment, directly and indirectly, of principal or interest on any debt obligation incurred with respect to the new visitor center building, $497,900,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 102 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefore, as authorized by law (5 USC 5901-5902); awards, lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $200,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $2,211,900,000: Provided, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: Provided further, That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 105 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the National Aeronautics and Space Administration shall not exceed: (1) 48 staff years for the Office of the Administrator; (2) 184 staff years for the Headquarters Operations; (3) 44 staff years for the Office of Commercial

Programs; (4) 10 staff years for the Office of Explorations; (5) 40 staff years for the Office of General Counsel; (6) 189 staff years for Agency Management; (7) 75 staff years for the Office of External Relations; (8) 29 staff years for the Office of Legislative Affairs; (9) 229 staff years for the Office of Space Science and Applications; (10) 144 staff years for the Office of Aeronautics and Space Technology; (11) 482 staff years for the Office of Space Flight, including Level I and Level II activities for the Space Station; (12) 61 staff years for the Office of Space Operations; (13) 111 staff years for the Office of the Comptroller: Provided, That no funds may be used from amounts provided in this or any other Act for details of employees from any organization in the National Aeronautics and Space Administration to any organization included under the budget activity "Research and program management", except those details which involve developmental or critical short-term staffing assignments.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 108 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$1,694,200,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 112 to the aforesaid bill, and concur therein with an amendment as follows:

Insert language proposed by said amendment, amended to change the second dollar amount to: *$101,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$22,000,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 119 to the afforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 517. None of the funds appropriated in title II of this Act, or otherwise available to the Department of Housing and Urban Development, shall be used for first class travel of any Department official or employee unless required by medical necessity or on airplane flights longer than seven hours.

Resolved, That the House insist on its disagreement to the amendment of the Senate numbered 42 to the afore-said bill.

Ms. MIKULSKI. Mr. President, I further ask unanimous consent that the Senate recede from its amendment No. 42 and the motion to table and the motion to reconsider also be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 18 IN DISAGREEMENT

The PRESIDING OFFICER. The clerk will report the first amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $9,525,000,000, to remain available until expended: Provided, That of the new budget authority provided herein, $233,361,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $733,760,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,500,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 14371), including funds for the comprehensive testing, abatement, and risk assessment of lead, of which $5,000,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $1,073,202,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f), including project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987, of which $65,150,000 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $48,863,000 shall be for certificates to be used as replacement for units of public housing (including those for Indian families) lost through demolition or disposition; $811,898,000 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437(o)); $1,810,442,000 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended; up to $283,125,000 shall be available for section 8 assistance for property disposition; $440,600,000 shall be for loan management, of which $200,000,000 may be used for housing preservation assistance, incentives, and grants upon enactment into law of authorizing legislation; and any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: Provided further, That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 per centum of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): Provided further, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under secton 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: Provided further, That of the $9,525,000,000 provided herein, $35,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof, and, notwithstanding the language preceding the first proviso of this paragraph, $54,250,000 shall be used for special purpose grants in accordance with the terms and conditions specified for such grants in the committee of conference report and statement of managers (H. Rept. 101-900) accompanying this Act; Provided further, That, notwithstanding any other provision of law, of the funds available under the "Community development grants" appropriation in Public Law 101-144, as amended, for grants under section 106 of the Housing and Community Development Act of 1974, $14,000,000 may be made available under section 107 of such Act: Provided further, That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1991, shall be rescinded: Provided further, That 50 percentum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: Provided further, That notwithstanding the 20 per centum limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: Provided further, That, notwithstanding any other provision of law, not to exceed 750 units of public housing may be sold or transferred during fiscal year 1991: Provided further, That the paragraph under the Administrative Provisions head in title II of Public Law 101-144 (approved November 9, 1989) (103 Stat. 839, 852-854), setting aside amounts for indemnification with respect to all or parts of claims arising from lead-based paint testing or abatement, is hereby amended by striking out "1992" and inserting "1993".

Of the $9,525,000,000 provided under this head, $610,115,000 shall be used for capital advnaces for supportive housing for the elderly under section 202 of the Housing Act of 1959 (as amended by section 801 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph)), which provision, and other provisions of the bill cited in this paragraph and the three paragraphs that follow are deemed as enacted as of the enactment date of this Appropriations Act, of which $60,000,000 shall be for amendments for contracts for projects previously reserved under section 202 (as it existed before the date on which the bill was deemed enacted), including under section 801(d) of the bill, to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not convert under section

801(c)(1) of the bill to assistance under section 202 (as amended by section 801 of the bill), such amounts shall be transferred to the section 202 Direct Loan Account for obligation for such project; and such account shall be maintained as authorized under section 202(a)(4) of the Housing Act of 1959, as it existed before the date on which the bill was deemed enacted: Provided further, That to the extent that any funds remain after allocations under section 202(e), (as amended by section 801 of the bill), the Secretary shall make grants for retrofitting housing for the elderly in accordance with section 802 of the bill: Provided further, That the Secretary may transfer for use under this paragraph any funds reserved under section 202 (as it existed before the date on which the bill was deemed enacted) for which no loan has been executed and recorded, to which the Secretary applies section 202 (as amended by section 801 of the bill), as provided by section 801(c) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That at the election of a sponsor of a project under section 202 (as it existed before the date on which the bill was deemed enacted), the Secretary shall provide funding for amendments either under section 202 (as it existed before or after the date on which the bill was deemed enacted) or under section 801(c)(1), and any amount for amendments to be provided under section 202 (as it existed before the date on which the bill was deemed enacted) shall be transferred to the section 202 Direct Loan Account for obligation for such project: Provided further, That of the amounts available under this paragraph, up to $5,000,000 shall be available for contracts for technical assistance in accordance with section 202(k)(1) (as amended by section 801 of the bill).

Of the amounts made available under this head, $449,619,000 shall be used for project rental assistance for supportive housing for the elderly under section 202 of the Housing Act of 1959, as amended by section 801 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph), of which $186,000,000 shall be for amendments for contracts for projects for the elderly previously reserved under section 202 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not convert to assistance under section 202 (as amended by section 801 of the bill), such amount shall be for obligation for such project as authorized under section 8 of the United States Housing Act of 1937 (as it existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds previously reserved under section 8 of the United States Housing Act of 1937 for assistance for projects for the elderly under section 202 (as it existed before the date on which the bill was deemed enacted), for which no loan has been executed and recorded, to which the Secretary applies section 202 (as amended by section 801 of the bill) as provided by 801(c) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That following the election under section 801(c)(2) of a sponsor of a project under section 202 (as it existed before the date on which the bill was deemed enacted) as to whether the Secretary shall provide funding either under section 202, as it existed before or after the date on which the bill was deemed enacted, any theretofore reserved section 8 amounts that remain available shall be transferred and merged with any other amounts available under this paragraph, and made available for other supportive housing for the elderly under section 202 (as amended by the bill).

Of the $9,525,000,000 provided under this head, $121,709,000 shall be used for capital advances under section 811 of S. 566 (101st Cong., 2nd Sess.), the National Affordable Housing Act (the "bill" in this paragraph) for supportive housing for persons with disabilities (including 500 units for persons disabled as a result of infection with the human acquired immunodeficiency virus), of which $15,000,000 shall be for amendments for contracts for projects for the handicapped previously reserved under section 202(h) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not convert under section 811(m)(1) of the bill to assistance under section 811 of the bill, such amount shall be transferred to the section 202 Direct Loan account for obligation for such project; and such amount shall be maintained as authorized under section 202(a)(4) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds reserved under section 202 or 202(h) (as it existed before the date on which the bill was deemed enacted) for which no loan has been executed and recorded, to which the Secretary applies section 811 of the bill, as provided in section 811(m) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise made available under this paragraph: Provided further, That at the election of a sponsor of a project for housing for the handicapped under section 202 or 202(h) (as it existed before the date on which the bill was deemed enacted), the Secretary shall provide funding for amendments either under section 202 (as it existed before or after the date on which the bill was deemed enacted) or under section 811, and any amount for amendments to be provided under section 202 (as it existed before the date on which the bill was deemed enacted) shall be transferred to the section 202 Direct Loan account for obligation for such project: Provided further, That of the amounts available under this head, up to $5,000,000 shall be available for contracts for technical assistance in accordance with section 811(j)(1) of the bill.

Of the amounts provided under this head, $156,000,000 shall be used for project rental assistance for supportive housing under section 811 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph) for persons with disabilities (including 500 units of housing for persons disabled as a result of infection with the human acquired immunodeficiency virus), of which $52,000,000 shall be for amendments for contracts for projects previously reserved under section 202(h) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project for housing for the handicapped that does not convert to assistance under section 811 of the bill, such amount shall be for obligation for such project as authorized under section 8 of the United States Housing Act of 1937 and section 202(h) of the Housing Act of 1959 (as such sections existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds previously reserved under section 8 of the United States Housing Act of 1937 and section 202(h) of the Housing Act of 1959 for which no loan has been executed and recorded, to which the Secretary applies section 811 of the bill, as provided by 811(m) of the bill, and any funds so transferred shall be added to and merged with amounts otherwise available under this paragraph: Provided further, That following the election under section 811(m)(2) of a sponsor of a project for the handicapped under section 202 (as it existed before the date on which the bill was deemed enacted) as to whether the Secretary shall provide funding either under section 202, as it existed before or after the date on which the bill was deemed enacted, any theretofore reserved amounts under section 8 and section 202(h), (as such sections existed before the date on which the bill was deemed enacted) that remain shall be transferred and merged with any other amounts available for use under this paragraph, and made available for other housing under section 202, as amended by the bill.

AMENDMENT NO. 3167 TO AMENDMENT (NO. 18) IN DISAGREEMENT

Ms. MIKULSKI. Mr. President, I now move that the Senate concur in the House amendment to the Senate amendment numbered 18 with the following amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes an amendment numbered 3167.

"In the pending House amendment, strike the following proviso: 'Provided further, That, notwithstanding any other provision of law, not to exceed 750 units of public housing may be sold or transferred during fiscal year 1991:' "

Ms. MIKULSKI. Mr. President, I now urge adoption of the motion.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 120 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 518. None of the funds appropriated under title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000, unless the Secretary submits, in

writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

AMENDMENT NO. 3168 TO THE AMENDMENT NO. 120 IN DISAGREEMENT

Ms. MIKULSKI. Mr President, I move to concur in the House amendment to the Senate amendment No. 120, with the following amendment which I send to the desk.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes an amendment numbered 3168.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment insert:

SEC. 519. (a) The Resolution Trust Corporation ("Corporation") shall report to the Congress at least once a month on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section. The report shall describe, for each such agreement, the review that has been conducted and the action that has been taken, if any, to rescind or to restructure, modify, or renegotiate the agreement. In describing the action taken, the Corporation is not required to provide detailed information regarding an ongoing investigation or negotiation. The Corporation shall exercise any and all legal rights to restructure, modify, renegotiate or rescind such agreement, notwithstanding any other provision of law, where the savings would be realized.

(b) To expend any appropriated funds for the purpose of restructuring, modifying, or renegotiating the agreements described in subsection (a), the Corporation shall certify to the Congress, for each such agreement, the following:

(1) The Corporation has completed its review of the agreement, as required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act;

(2)(A) At the time of certification, in the opinion of the Corporation and based upon the information available to it, there is insufficient evidence or other indication of fraud, misrepresentation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for the rescission of the agreement; or

(B) At the time of certification, the Corporation finds that there may be sufficient evidence to provide a legal basis for the rescission of the assistance agreement, but the Corporation determines that it may be in the best interest of the Government to restructure, modify or renegotiate the assistance agreement; and

(3) The Corporation has or will promptly exercise any and all legal rights to modify, renegotiate, or restructure the agreement where savings would be realized by such actions.

Ms. MIKULSKI. Mr. President, I now urge adoption of this motion.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, I now ask unanimous consent that an errata sheet listing technical printing errors in the joint explanation of the managers accompanying the conference report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ERRATA SHEET TO CONFERENCE REPORT ON H.R. 5158 (H. REPT. 101-900)

Page 15, under the column heading "term" for the table entry "Certificates: P.H. Demolition/Disposition" should read "5" rather than "15"

Page 15, under the column heading "Budget authority", the entry "Total, All programs" should read "9,525,000,000" rather than "9,525,000"

Page 17, "+$30,000 for a water system study in Forest Heights, Illinois" should read "+$30,000 for a water system study in Ford Heights, Illinois"

Page 18, "+$660,000 for the Marabeau Apartments and Learning Center in New Orleans, Louisiana" should read "+$660,000 for the Mirabeau Apartments and Learning Center in New Orleans, Louisiana"

Page 18, "+$500,000 for the Conshohocken Urban Renweal Project in Pennsylvania" should read "+$500,000 for the Conshohocken Urban Renewal Project in Pennsylvania"

Page 23, "+$2,057,000 for 38 staff years in the Office of General Counsel" should read "−$2,057,000 for 38 staff years in the Office of General Counsel"

Page 24, fourth heading of table, "Coss Planning and Development" should read "Comm Planning and Development"

Page 25, first footnote of table, "CFD" should read "CPD"

Page 28, third paragraph, "Risk Rentention Act" should read "Risk Retention Act"

Page 31, "+$2,650,000 for a pollution prevention demonstration to reduce coke over emissions" should read "+$2,650,000 for a pollution prevention demonstration to reduce coke oven emissions"

Page 31, "+$1,000 for an experimental program to stimulate competitive research" should read "+$1,000,000 for an experimental program to stimulate competitive research"

Page 33, "+$5,033,000 from Hazardous Waste Management Financial Assistance grants" should read "−$5,033,000 from Hazardous Waste Management Financial Assistance grants"

Page 34, Amendment No. 75: fifth line of the bill language, "DPA" should read "EPA"

Ms. MIKULSKI. Mr. President, I am pleased to present to the Senate, the conference report on H.R. 5158, the 1991 VA, HUD, and independent agencies appropriations bill.

The conference report on H.R. 5158 provides $78 billion for the VA, HUD, and 22 independent agencies in the Federal Government, about $61 billion of which is discretionary.

This bill was one of the most difficult VA-HUD bills to put together in recent memory because the needs are so great and the dollars available so scarce. As a result, the conferees have done their very best, despite these limits, to develop a bill that is fair and balanced.

Not everyone with an interest in this legislation will be satisfied with its results. But looking at the limitations we faced due to our 302(b) allocation, I think most will agree that it is the best that could have been done given those circumstances.

DEPARTMENT OF VETERANS AFFAIRS

For America's 27 million veterans, the bill provides about $31.3 billion, $1.6 billion above last year, and about $250 million above the President's budget request.

Within the agreement is a record appropriation for VA medical care, over $12.3 billion, almost $900 million, or 8 percent, above last year. VA's general operating expenses would also receive an increase of $91 million above last year, with an appropriation of over $900 million.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The bill provides about $23.7 billion for HUD, an amount lower than either House- or Senate-passed bill, but made necessary due to a reduction in budget authority for the bill because of the budget summit agreement. The amount for HUD is still almost $8.8 billion more for HUD than last year due to the much larger number of section 8 contract renewals this year, almost 300,000 units.

The bill includes funds for 3,000 units of Indian housing, and 12,000 units of elderly and handicapped housing, both in response to the large number of Senators interested in these programs.

In addition, the bill includes $3.2 billion for the CDBG program, probably HUD's most popular, and certainly one of its most important, programs.

ENVIRONMENTAL PROTECTION AGENCY

For EPA, the bill provides about $6.1 billion, $437 million above the President's budget, and about 11 percent over last year, reflecting the growing recognition by Americans of the importance of environmental protection. Sewage treatment grants would receive $2.1 billion, $100 million above the House level and $500 million more than that requested by the President.

The Superfund program would get an increase of $86 million above last year, and $6 million above the House level—the highest level in the Superfund program's history.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Now, we turn to NASA. Under the final conference agreement, NASA will receive about $13.9 billion, an increase of $1.65 billion, or 13.5 percent, above last year's level.

I deeply regret that we could not do more for NASA, but believe that given our overall limits, this increase is a reasonable one.

Funds for the space station go up by over $300 million above the Senate-passed level, for a 1991 appropriation of $1.9 billion. While this is about $500 million less than the President requested, it is the best figure we could achieve due to our 302(b) allocation.

The bill provides a NASA appropriation of about $13.5 billion, $1.2 billion, or 10 percent, above 1990. The committee's recommendation would leave NASA with $1.6 billion less than that requested in the President's budget.

I am a strong supporter of the space program. In fact, the percentage of new outlays in the bill going to NASA has actually increased from under 30 percent last year to over 34 percent this year.

So it's not that we have not increased funds for space, it's simply that the increase NASA has requested is much larger than what the subcommittee has room for in its current allocation.

In providing funds for NASA, the committee's recommendation tries to preserve NASA's core program: the space shuttle; NASA's infrastructure at its field centers; and its basic research programs in aeronautics and science.

NATIONAL SCIENCE FOUNDATION

The conference report provides most of the increase requested for the National Science Foundation, for a total appropriation of over $2.3 billion. Unfortunately, we will have to reduce NSF by $40 million because of a last-minute scorekeeping change by the OMB that otherwise would have caused the bill to be over its domestic discretionary allocation. Let me explain. One of the NSF accounts which is used to pay exclusively for DOD logistical support activities in the Antarctic has previously been scored by CBO and the Budget Committees as "defense discretionary" spending.

Very late on Friday night, the OMB decided that this was not "defense discretionary" spending, forcing the House to reduce NSF by $40 million and NASA by $7.5 million to avoid having the conference report exceed its allocation for domestic discretionary spending. Without that adjustment, it is possible that under the new scorekeeping rules that resulted from the Budget Summit Agreement, OMB might well have determined that domestic discretionary appropriations exceeded their overall limits, forcing a sequester in all domestic discretionary programs.

Despite this last-minute adjustment, NSF still receives an increase of 11 percent over last year in this bill. While I wish that OMB would have seen it our way on this scoring issue, the foundation still receives an increase well above last year's appropriation.

CONCLUSION

This appropriations bill does not meet all of our wishes or needs. Given the limited funds we had to work with, however, I believe it is fair and responsible, and deserves the support of the Senate.

RECOGNITION OF DISTINGUISHED CAREER AND RETIREMENT OF ALBERT J. KLIMAN

Ms. MIKULSKI. Mr. President, as the Senate considers the conference report to H.R. 5158, the 1991 VA, HUD and Independent Agencies Appropriations Act, I rise today to call to my colleagues attention the distinguished career, and recent retirement, of one of the Federal Government's most dedicated and professional civil servants, and one of my constituents, Albert J. Kliman.

For the past 15 years, many Members of this body have come to know Al Kliman as the skillful Director of the Office of Budget at the U.S. Department of Housing and Urban Development. In that capacity, he has played a key role under six HUD Secretaries in developing virtually every program which has advanced the goal of expanding homeownership, increasing the supply of affordable housing, and reducing homelessness in America. One of the most significant programs which Mr. Kliman helped shape was the Community Development Block Grant Program, one of the most important Federal tools available to assist States, counties, and cities in fostering economic development and neighborhood revitalization.

Throughout his tenure at HUD, Al Kliman has provided expert and sound advice to the Department's Secretary, Under Secretary, and other senior managers. Also, he was an extremely effective liaison for the Department between the congressional Appropriations Committees, the Congressional Budget Office, the Office of Management and Budget, and other Federal agencies.

As a native Bostonian, Mr. Kliman distinguished himself by earning in 1955 his bachelor of arts degree, cum laude from Harvard University. In 1957, he began his Federal career by joining the Office of Budget and Finance in the Department of Agriculture. In 1960, he was awarded a fellowship to the Harvard Graduate School of Public Administration and in 1961 earned his master of public administration degree.

In 1966, Mr. Kliman came to HUD's Office of Budget. Through consistent professional growth and excellent performance, he advanced in 9 short years to the post of office director. Since 1975, he has served in that position.

Mr. Kliman's professional achievements and value have been widely recognized. The notable highlights are:

He is currently a member of the board of directors of the American Association for Budget and Program Analysis and received their Distinguished Service Award;

He has served on the board of directors of Public Financial Publications, Inc.;

He is a past chairman of the Budget Officers Conference, which is an organization for all Federal departmental budget officers; and

He has received the President's Meritorious and Distinguished Executive Award.

Mr. Kliman has been married to his wife, Phyllis for over 30 years. They have two grown children, Iris and Stuart. He is also active in a variety of voluntary organizations.

The Appropriations Subcommittee for VA, HUD, and Independent Agencies has an especially high regard for Al Kliman. We respect him for his uncanny ability to protect and strengthen the prerogatives and interests of the executive branch, while at the same time helping to provide the Appropriations Committee with the technical information necessary to help shape the annual VA-HUD appropriations bill. And we shall miss him.

We wish him the best of luck in his new endeavors, most notably as an associate of the Institute for Financial Management at the University of Maryland. We hope that he and his family enjoy many more years of happiness together. In addition, I hope that his dedication as a civil servant will serve as a model for other Federal employees who will follow in his footsteps.

THE NATIONAL SCIENCE FOUNDATION AND SMALL SCIENCE

Mr. GORE. Mr. President, I would like to take a few minutes to discuss with the distinguished chairman of the Appropriations Subcommittee the appropriations provided for the National Science Foundation in the Department of Veterans Affairs, HUD, and Independent Agencies appropriations bill. Although the National Science Foundation receives less than one-fifth of 1 percent of the total Federal budget and less than 3 percent of all Federal research funding, it is responsible for funding much of the most innovative, most important research being done in this country today.

Through its merit review process, NSF has consistently funded the best and the brightest scientists in the United States. As chairman of the Sci-

ence, Technology, and Space Subcommittee, I have chaired dozens of hearings on a wide range of topics, from global warming to semiconductor technology, and time and time again, in field after field, it seems that most of the real leaders in a field are being funded by NSF. I know this is also the case in many other committees that address scientific questions. Without the NSF, the Congress would have a much more difficult time solving the many complicated, technical problems that face us.

Both the Congress and the country rely on NSF-funded research. Unfortunately, too often the researchers doing this research are not getting the Federal support they need. I am afraid that because the NSF does not fund many large, high-profile programs and because its research grants are rather small and distributed throughout the country, it does not receive that much attention from the Congress and the public. NSF is a priority for many Members, but it is no one's top priority.

As a result, too often, high-profile science projects or public works projects in someone's district gets funded at the expense of research. This has been particularly true at NSF. For the last 5 years, funding for research at NSF has shown no growth in inflation-adjusted dollars. At the same time, laboratory equipment is becoming much more expensive and the research much more challenging.

Young scientists and students have been hit hardest by this lack of growth in NSF research funding. They are the ones whose grants are cut first. They are the ones who grow frustrated and leave research to pursue other careers.

Earlier this year, the Science Subcommittee held a hearing on the looming manpower crisis in science and engineering. Erich Bloch, former Director of the National Science Foundation, and others testified that by the year 2000 there will be a serious shortfall of scientists and engineers. Yet, the college students and graduate students who are currently pursuing careers in science and engineering are getting a different message. As chairman of the Science Subcommittee I have received dozens of letters and reports from the frontlines of American research. The reports are not encouraging; professors and research advisers are having more than two out of three research grants turned down. They are spending more and more time writing and reviewing grant proposals, and less and less time doing real science. University research careers are becoming less and less attractive. Is it any wonder that students are seeing the writing on the wall, and leaving science for other careers?

Worse yet, university researchers are having to do "safe" science, which will yield predictable results. They cannot risk the chance of trying a new, adventurous experiment that might not work, because such a failure would make funding even more difficult to get. Unfortunately, progress in science requires that scientists try and fail; safe science is helpful, but the real progress in science comes from revolutionary leaps in scientific understanding resulting from new, risky, untried approaches.

We cannot let this go on. NSF is responsible for maintaining the fountain of new ideas coming out of our research labs, yet NSF does not have the money needed to do this. That is why I am glad that Senator MIKULSKI, Senator GARN, and their colleagues on the Appropriations Committee have worked hard to provide new money for NSF's research and related expenses account. This year, the President's fiscal year 1991 budget request included a 13.3-percent increase for research. The Senate voted to provide most of this request, $1,745 million out of the $1,809 million requested. That would have been a 9-percent increase, the first real increase for NSF's research budget in years.

In conference, the House and Senate decided to trim the research account another $10.5 million. This still would have provided critically needed funding for new initiatives in such areas as global change research, supercomputing, computer networking, and biotechnology. In these fields and others, researchers are using new types of instrumentation and procedures to make new discoveries—and that requires new money.

Unfortunately, after everything have been agreed to and the conference report had been written, the Office of Management and Budget [OMB] came in and objected to the way that funding for logistical support for the NSF's Antarctic Program was scored. I will not go into the details, but the end result was that NSF's research budget was cut another $40 million. Suddenly, in a couple days, more than half of the after-inflation increase provided for research at NSF had disappeared. Half of the new money above the baseline for new science had vanished. This is a tragedy.

I know that the distinguished Senator from Maryland shares my concerns, but I am afraid that she was left no choice by OMB's last-minute decision.

Ms. MIKULSKI. The Senator from Tennessee is correct. By ruling that defense dollars could not be used to pay for the Navy's logistical support of the Antarctic Program, OMB really forced the Appropriations Committee to cut NSF's research funding. Suddenly, we had to find another $75 million in outlays and there were very few places to find that kind of money. This is certainly not what I would have preferred. Like the distinguished Senator from Tennessee, I feel strongly that NSF's research budget is one of the best investments the Federal Government can make in science and technology so as to strengthen America's competitiveness. Even though my subcommittee was working within a very tight allocation, and we had to address important needs at HUD, EPA, NASA, and elsewhere, we managed to provide for a 9-percent increase in the Senate bill. I considered that a minimum level.

I am as frustrated as the Senator from Tennessee with the last-minute cuts forced upon the Appropriations Committee by OMB's actions. While there is really no way to restore these cuts this year, the Senator from Tennessee and others can be assured that I will be back next year, working hard to find additional funding for university researchers who rely upon NSF grants. Next year's budget will be at least as tight as this year's, but I think we need new money for NSF. Each year we rely more and more upon the science and technology being produced by American researchers. But it is unrealistic to expect more and more, while providing less and less.

Mr. GORE. I thank the Senator from Maryland for her commitment to science and technology and for the hundreds of hours of hard work she has done on this complex and difficult bill.

SPACE STATION OPTIONS

Mr. GORE. Mr. President, like the distinguished chairman of the Appropriations Subcommittee, I am disappointed in the fact that the 302(b) allocation to the Department of Veterans Affairs, HUD, and Independent Agencies did not permit the 40-percent increase requested in funding for the Space Station program in fiscal year 1991. In spite of this, the Senator from Maryland deserves a great deal of credit for her efforts during the recent budget negotiations to secure additional funds for the subcommittee. That work has resulted in an increase in funding for the space station by almost 9 percent over last year.

NASA has said that the current configuration of the space station cannot be accomplished at a funding level of $1.9 billion in fiscal year 1991. As a result, the conferees on the VA-HUD bill directed NASA to develop a revised space station design and assembly sequence and report back to the Congress in 90 days. I agree with the need and urgency for such a report, and the guidance with the VA-HUD conference report provides on this redesign effort. It is consistent with efforts by both the Commerce, Science, and Transportation Committee and the Appropriations Committees to ensure continued progress on this program.

However, Senator MIKULSKI, as I read the conference report, I want to know if it is intended to impose upon NASA a specific space station design as the outcome of this 90-day study.

Ms. MIKULSKI. It is not our intent to impose a specific redesign on NASA. Rather, our primary concern is keep the Space Station Program alive within the funding parameters outlined by the statement of the managers, which is consistent with the distinguished Senator from Tennessee's own view on this matter. Priority must continue to be given to an early materials science capability that permits the United States to remain competitive in the emerging technology.

Mr. GORE. I thank the distinguished Senator from Maryland for that clarification. I value the leadership she has provided on this bill, and I look forward to working with her on this and other issues of importance to our subcommittees in the coming months. Both the Science, Technology, and Space Subcommittee, in its capacity as the authorizing subcommittee, and the VA-HUD Appropriations Subcommittee must share the responsibility in this body for shaping the future of the space station.

Ms. MIKULSKI. I thank the Senator. As he knows, I look forward to working with him and the other members of the Commerce Committee as we attempt to define a space station which can be developed within the limitations imposed on domestic discretionary spending by the 5-year budget agreement.

Ms. MIKULSKI. Mr. President, that now concludes my portion of moving the bill.

I turn now to my ranking minority, who has been a most able colleague and a strong advocate of science and technology, and yield him such time as he might consume.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Utah, the ranking member of the subcommittee.

Mr. GARN. I thank the Senator for her kind comments.

I suggest it might be more appropriate, I am aware the distinguished Senator from Ohio has some remarks on the amendment that was adopted in his behalf. I suggest that he might go ahead and offer his remarks. Mine are to the entire bill.

If the Senator from Ohio would like to make his comments at this time?

Ms. MIKULSKI. I would like to now yield 10 minutes to the distinguished Senator from Ohio, who has made an invaluable contribution in perfecting this bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio for 10 minutes.

Mr. METZENBAUM. Mr. President, I thank the distinguished Senator from Maryland.

May I ask whether or not the amendment of the Senator from Ohio has been submitted and adopted?

Ms. MIKULSKI. The Senator's amendment on the RTC reporting has been adopted.

Mr. METZENBAUM. Let me, then, persuade you why it should have been adopted.

Let me provide the background on this amendment and explain why it is so important.

Toward the end of 1988, the Federal Savings and Loan Insurance Corporation [FSLIC] entered into over 90 deals that, now, we all know were absolutely terrible deals for the American taxpayer.

In the last few weeks of 1988, Senator RIEGLE and I strongly urged Secretary Brady not to continue making those deals. Unfortunately, he refused to stop them.

Since then, we have tried repeatedly to get the administration to do something about the 1988 deals.

First, in August 1989, the Congress passed the FIRREA legislation—the Financial Institutions Reform, Recovery, and Enforcement Act. In that bill, we mandated a comprehensive review of the 1988 deals and we mandated that all legal rights be exercised to renegotiate the giveaway terms the Government had agreed to.

With the FIRREA bill, I hoped that the Government would finally act to protect the American taxpayer, but I was wrong. The only thing the administration has done is to continually assure us that something will be done. But nothing has been done. Nothing. Time has run out. The time for action is long past. The Resolution Trust Corporation must stop promising and talking. It is time for decisive and aggressive action against these outrageously profitable 1988 deals.

I decided if the RTC was not going to use its in-House attorneys or outside counsel to renegotiate the 1988 deals, maybe private law firms would be willing to do it for the Government on a contingency basis. The Nation's most prestigious firms responded with enthusiasm. They said they would represent the Government, and be compensated only if they saved the Government money. But our Government still took no action.

It soon became obvious that some of these deals could be and should be renegotiated. Some of them were bad deals. We had well intentioned, but less capable Government employees negotiating with some of the most able attorneys and accountants and some of the most sophisticated businessmen in the country. The Government was shortchanged. The American taxpayer is being called upon to foot the bill.

My subcommittee in the Judiciary Committee conducted oversight hearings on just one of the deals, the Bluebonnet deal purchased by Mr. James Fail. We found numerous grounds, including misrepresentation, for simply rescinding the deal. We found, and reported to State insurance commissioners, transactions that appear to violate State insurance laws. In short, we got a good look into the many serious problems with the 1988 deals. But we saw only the tip of the iceberg, only one of the many bad deals made in the closing days and months of 1988.

What has the RTC done—study the problem. The fact that they have taken no action is inexcusable! Just as bad, though, is the fact that their efforts to date have been to simply work within the existing contracts instead of aggressively looking for legal grounds to rescind or renegotiate the deals.

Is the Government asleep? Is the Government so timid that it cannot represent the best interests of the American taxpayer?

Let us be clear about what the RTC is doing and why it is not acceptable. The RTC is exercising those legal rights of the Government that are spelled out in the contracts that make up the 1988 deals. They are looking to the terms of the 1988 deals to see what can now be done to save money.

I want to repeat that. To save money, they are relying on the terms of the very contracts that have been so totally discredited.

Why has the RTC not exercising any of the Government's legal rights, which occur outside the contract terms, to renegotiate or even rescind a 1988 deal? The RTC ought to use every opportunity to save money that is now being wasted on these 1988 deals. The Government should exercise any and all legal rights to rescind or to renegotiate, modify or restructure the 1988 deals.

The amendment I have offered will require the RTC to exercise all legal rights, including those outside the language of the 1988 deals, where the exercise of those rights would realize savings for the Government. With this amendment, we will finally bring the total force of the law to the benefit of the American people. Finally, we will challenge these giveaway 1988 deals.

In addition, this amendment would require the RTC to report to the Congress regularly about the actions they have taken on the 1988 deals. If they have taken no action, they will have to report that.

The report will describe, for each of the 1988 deals, the review that has been conducted and the action taken, if any, to rescind or to restructure, modify, or renegotiate the deals. These are actions the RTC would take in the exercise of the Government's legal rights which arise outside the contracts of the 1988 deals. The report would also include actions taken in the

exercise of legal rights which arise within the contracts.

In reporting on the actions taken, the RTC would include information such as the number of transactions completed or under negotiation, the amount of money spent to rescind, or to restructure, modify, or renegotiate the deals, and the estimated savings from the action taken including:

First, renegotiation of assistance agreements;

Record, prepayment of promissory notes;

Third, writedown of covered assets to fair market value;

Fourth, purchase of covered assets;

Fifth, buyout of smaller transactions;

Sixth, recapture of additional sharing of tax benefits; or

Seventh, any other action taken.

With these reports, the agencies will have to take seriously our insistence that they move quickly and take action to challenge the 1988 deals.

The amendment will also require the agencies to certify to the Congress, for each of the 1988 deals, that they have completed a review of the deal; that a determination has been made as to whether there is a legal basis to rescind the deal; and that the RTC has or will promptly exercise all legal rights to modify, renegotiate, or restructure the deals where savings would be realized.

By requiring this kind of certification, the amendment will better insure that the RTC is doing everything possible to save the taxpayer money.

The amendment does not require the agencies to take any particular action. It only requires them to determine whether certain legal grounds are available to challenge the 1988 deals.

I am pleased that the amendment has been accepted, and I want to say publicly that the Senator from Maryland has been 100 percent cooperative. She has recognized the problem that exists. We have worked with her and her staff. She has understood the concern that we have for the taxpayers of this country, and it has been a privilege and a pleasure to have the opportunity to work with her.

In that connection, I say to my friend from Utah that he, too, has understood the problem and he has been in touch with, as has the Senator from Maryland, the RTC and those who speak for the Government. Together, we have been able to put this amendment into the law and in doing so I believe that we will be saving the taxpayers of this country not alone hundreds of dollars, or hundreds of thousands but possibly billions of dollars. It has been a privilege and opportunity to work with her, and I thank the Senator for her cooperation.

Ms. MIKULSKI. I thank the Senator from Ohio for his kind remarks and appreciate his work on the bill.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the conference agreement on the fiscal year 1991 VA, HUD, and Independent Agencies appropriations bill reflects a delicate balance between a widely varied panoply of differing priorities within the constraints of a grossly inadequate budget allocation.

Considering the enormous demand for housing assistance, veterans benefits, environmental protection, and investment in science, space, and technology development, I consider the conference agreement a remarkable achievement. But never has the placement of deck chairs been more judicious as the Titanic disaster of our failure to reform the Federal budget sails headlong to its doom.

The fundamental problem is our inability, our unwillingness, to confront the looming budgetary crisis, and the tough choices that need to be made now.

I have served on the Committee on Appropriations for over 10 years, and I have learned that the one guiding principal of the annual appropriations process is that we address program needs and funding, "one year at a time." I have also learned that each succeeding year seems more difficult and constrained than the one preceding it.

Yet, as I review the implications of the non-defense domestic discretionary funding "cap" established by the summit agreement and adopted by this Congress to cover the next 5 fiscal years, I can't help but be alarmed. These programs, in aggregate are to increase no more than the rate of inflation during this period. I am here to say that this goal cannot be achieved.

Our failure to keep multiyear budgetary implications in mind while we try to get by the difficult choices confronting us in only the first year is a sure recipe for disaster. Only if we as politicians, and our constituents are willing to forgo the services and investments that they have come to expect, and demand, can we hope to keep from grossly exceeding these expenditure targets. Only if we are prepared to make slashing reductions in current levels of available services and investment can we hope to come close.

And nothing I say to my colleagues, nothing in the conference agreement before us gives me any indication that we are willing to affirmatively address this problem and change course. In fact, as we steam directly toward the inevitable collision with budgetary reality, we seem intent to add more fuel to the engines propelling us onward.

Let me cite a few examples. No doubt, everyone in this chamber is aware of the concern over the lack of adequate and affordable housing for lower-income American families. Almost all of us have made speeches about the growing problem of the homeless in our country, and a number of us have attributed much of this problem to the dramatic reductions in appropriations for HUD housing programs in the past decade. The standard line is that back in 1980, HUD subsidized housing appropriations of new budget authority exceeded $30 billion, and now they are less than a third of that amount.

That is the line. The truth, however, is that in fiscal year 1991 the Department of Housing and Urban Development will actually expend more than $23 billion, almost twice the 1990 outlay level. For low-income housing alone, HUD actually expended slightly less than $5.5 billion in fiscal year 1980, and the level of budget outlays has grown each year since, and is estimated to exceed $17.5 billion this fiscal year. More than a three-fold increase.

Ten years ago, when I became chairman of the HUD appropriations subcommittee, I adopted as a goal that we annually fund an additional 100,000 units of low-income subsidized housing. This annual "increment" of additional units policy has been maintained for the past decade. Today, HUD has almost 1,000,000 more housing units under Federal subsidy than it did 10 years ago.

Inflation, and the cumulative cost of keeping an ever increasing number of units of housing under Federal subsidy have more than tripled the annual budget outlays. So despite the rhetoric and speeches, we have not cut our commitment to Federal housing programs, we have greatly expanded it. And because housing subsidy arrangements are by their nature long-term, we will continue to incur substantial increases in budget outlay levels over the next decade no matter what we do this fiscal year.

What did the conference committtee do to grapple with this menacing threat to holding budget expenditures over the next 5 years to within only inflationary adjustments?

Did we turn off the pipeline of new public housing construction? Units, when under construction will incur additional outlays, and upon completion will require annual operating subsidies and accrue future repair and improvement budgetary needs. The answer is no. Moreover, because new public housing takes so long to construct, we authorized the largest number in years: 10,000 new units at a cost of $734 million, comfortable in the thought that the budget outlays flowing from our actions this year wouldn't show up for a couple years, and operating subsidies and modernization costs sometime thereafter.

But these new units will be built, and the $734 million will be added to our outlay totals. Furthermore, the annual per unit operating subsidy for public housing which ran about $650 in 1980, has doubled to more than $1,300 in 1990 and now totals $2,100,000,000 nationwide. Add to this growing bill the cost of rehabilitation and modernization of public housing units, a need which was almost non-existent ten years ago now has grown into a $2,500,000,000 annual requirement.

Each new subsidized housing unit added to the existing inventory, adds one additional increment of cost not in the budget summit "baseline." And we have recommended almost 100,000 new units in this conference agreement. All this means that over the next 5 years, the subcommittee will have to find about $5 billion in outlays not in the baseline, and therefore this amount will have to be cut from other current Federal programs.

This brings me to another very troublesome aspect of programs within the subcommittee's jurisdiction: Veterans medical care. While I concede that in some measure, policies that I recommended in the past are now leading to problems as in the case of adding incremental subsidized housing units, this cannot be said about our mindless zeal in providing medical assistance to persons who at one point in their lives served in the Armed Forces.

Let there be no mistake about what I am saying: to those who have been wounded or injured or are sick as a direct result of military service, there is no greater obligation of this country than to provide the best possible medical care. Unfortunately, this commitment has been turned on its head, so that eligibility for medical services from the VA is more a function of current income than of past service to the Nation. And those who truly deserve the finest medical care possible often find themselves crowded out by those who are seeking a welfare benefit not otherwise available to others.

At one of our hearings in this past year, I asked the secretary of the new Veterans Department, in the medical care area, what percentage of those receiving medical care had service-connected disabilities. I was shocked and surprised to find out that his answer was about 16 percent. However, it would probably be more than that because there are some who come in for other reasons who have service-connected disabilities but do not report them. So there is a little error in that. Maybe it is as high as 20 percent. But the point of it is, as a veteran myself I have said what an obligation we have to those who have been injured or are sick as a result of their military service, but I have not been off active duty for 30 years. I am in better health and 30 pounds lighter than I was when I got off active duty.

My Government does not owe me anything for my military service. I incurred no hardship, no problem as a result of that. So why are we funding this massive veterans medical care program for 84 percent of the people who had no service-connected disabilities. Would it not make more sense to do a better job for the 16 percent to whom we do have an obligation?

This obviously is an old gripe of mine and I readily concede my bias. But my objections are renewed and amplified in the context of the budget summit agreement which will impose yet greater restraints on the Department of Veterans Affairs' ability to serve the needs of those currently eligible, further eroding its capacity to adequately serve those for whom it was established and originally intended.

Over the next 5 years the Congressional Budget Office estimates that to maintain current service levels of VA medical care, an annual adjustment increase of 4.1 percent will have to be appropriated from the fiscal year 1991 base. But anyone who pays for medical insurance or has recently paid for medical services knows this is far less than the true rate, that medical costs are increasing. This is also true for the world's largest single medical system: the Department of Veterans Affairs.

In fiscal year 1980, it cost the taxpayers $208.65 to provide care for a veteran occupying a surgical bed in a VA hospital. By fiscal year 1985, it rose to $378.73, then to $711.14 in fiscal year 1990. Almost triple the cost per patient served, in only 10 years. In fiscal year 1991, the annual increase is estimated to rise another 13.6 percent to $807.59—not the 4.1 percent used by CBO in its Federal-wide inflation adjustment. And the VA is widely credited with its efforts to hold down the cost of prescription drugs, along with criticism that it still doesn't spend enough to assure adequate care.

Yet while we despair about how to hold the rate of medical expenditures within such a grossly inadequate annual adjustment, we must also recognize the aging demographic profile of our Nation's veterans population, and the corresponding increase in eligibility and demand. And more distressingly, we plunge on creating new categories of eligibility and authorizing the construction of new medical facilities. This year alone, the Department is scheduled to newly activate or expand 14 outpatient clinics, and is preparing to activate 1 new hospital.

Moreover, seven new nursing homes will be activated totalling 660 additional beds. In fiscal year 1980, a nursing home bed cost $75.39 per day to serve. By fiscal year 1985, that cost rose to $111.94, and by fiscal year 1990, $149.44, In fiscal year 1991, the projected inflationary increase for nursing home care of 6.5 percent again significantly exceeds the 4.1 percent used in the baseline. Unlike the recent decline in surgical bed use, nursing home care demand is increasing as the eligible veterans population ages and expands: in fiscal 1980, the average daily census of occupied nursing care beds was almost 8,000; by 1985 that number rose to 9,600; and to 11,661 in fiscal year 1990. The combination of additional capacity and increasing per bed cost more than doubles the budgetary requirement for this activity over that allowed by the budget agreement baseline constraining overall funding levels for discretionary spending.

That shortfall will steadily widen each year, for the next 5 years.

Another major portion of the appropriations in this bill is for the Environmental Protection Agency. Since 1980 EPA funding has steadily increased from $3.8 billion to $5.5 billion in fiscal year 1990. In the measure before us, the fiscal year 1991 recommendation totals $6.1 billion, an 11 percent increase. In fact, the largest percentage increase for a major function in the bill is the 26 percent provided for the EPA Abatement, Control and Compliance account, vastly outstripping the 13 percent for NASA and the 11 percent increase for the National Science Foundation.

In addition, over the next 5 years, there is every indication that the demand for even larger annual increases for EPA will grow. For example, the growing concerns over global climate change, the reauthorization of the Clean Air Act, and last year's reauthorization of the Clean Water Act each project greater funding needs than current levels. We also have programs like the Superfund which did not even exist 10 years ago, and now requires an appropriation of $1.6 billion. Here again, with a growing list of identified priority cleanup sites, we can expect demand for program growth to accelerate in the next 5 years. Where is the funding going to come for these activities when overall spending is capped at current levels?

I should also note that even though we have increased budget authority for EPA by 11 percent over fiscal year 1990, conservative estimates earlier this year indicate that the agency will carry into fiscal year 1991, an obligated, but unexpended, balance of $7.9 billion. This means that large amounts of additional outlays will be incurred over the next few years, from prior year appropriations, and will be totally beyond our control. All that we will be able to do, will be to drastically cut new authority to conform to the multiyear expenditure limitations.

This brings me to my greatest concern: Our Nation's desperate need to invest in science, space, and technolo-

gy. I have decried for years our failure in adequately funding these activities in the National Science Foundation and in NASA.

I am a politician, and I understand why so many of my colleagues find it difficult to allocate scarce budgetary resources to these long-term investments when there is such a broad array of attractive alternatives which can be immediately delivered to our constituents. But there has to be a limit to such shortsighted and cynical political manipulation when we are confronted not only with incredible economic and technological competition in the world, and by our own domestic budgetary crisis.

I am afraid, however, that our appetite for these political ploys and temporarily beneficial posturing has in fact, become greater and more voracious. Sure, our rhetoric now includes references to how we must confront the hard decisions, but they simply are not matched by our deeds. Not only have we zealously tried to satisfy the demands for current consumption, but we have done it in a way that virtually locks in higher expenditure levels which cannot be accommodated within the 5-year budgetary limitations.

As we are annually confronted with this ever-growing mismatch between our expectations and our available spending resources, it is clear to me that the long-term investments for the future in science, space, and technology will be the first to suffer.

This was illustrated this year when the Senate subcommittee had to grapple with a very constrained budget allocation. In recommending our bill, where did we cut to achieve the $1.3 billion outlay reduction from the President's budget? NASA and NSF. Fortunately, in conference with the House, our allocation was increased by $300 million in outlays, so we were able to keep programs such as the Space Station alive for another year, but we also tried to keep all the other programs in NASA alive, even though we know that there is no way that we can sustain all of them over the next 5 years unless significantly more funding is made available. We just refused to say "no."

But our willingness to make hard decisions in NASA only delays the day of reckoning, especially since in other portions of the bill we have virtually guaranteed massive outlay increases which cannot be met within the budget baseline. This 1-year-at-a-time temporizing will only make that collision with reality all the more devastating, and tragically its first casualties will be science, space, and technology investment.

I had intended to offer an amendment. I preferred not to do that at this late hour, but simply to talk about the problems that I see. It is becoming very clear to me that few in this Congress want to rock the boat and support an effort to shift the course of current spending, however modest.

But the House in passing the bill on Saturday unilaterally without consulting Senator MIKULSKI or myself amended the conference report one more time. But they did cut $40 million from the National Science Foundation, and $7.5 million from NASA to solve a budget scorekeeping dispute with OMB. This was in addition to reductions previously taken in the same accounts to fix an error in how the original conference agreement was tentatively scored.

So we have two further examples of how we will likely react when we discover a budgetary problem next year and each year thereafter. Do we cut special projects added by Congress? No. Do we curb increases in housing programs that are in excess of what is authorized? No. Do we revisit increases in VA medical care or new VA facility construction projects? No. Do we moderate the increases provided EPA over last year in the President's request? No. We do not.

Even through I have few illusions about the likelihood that such shift in course would be adopted, I believe that the Senate should be placed on notice as to the implications to this conference report for our Nation's future. I think each of us should think long and hard on this matter since we in our Nation will be forced to live with the consequences for many years to come.

I would like to say in conclusion, Mr. President, that this statement on the problems I see in this budget are certainly not directed at the distinguished chairman from Maryland. As I said in my opening statement, putting this conference agreement together was a remarkable achievement. She did a masterful job under the constraints that I have talked about.

We were not given an adequate budget allocation to begin with. We have this propensity to jump on the future and take any savings we need out of that while letting the other programs roll. So it was a difficult process. She did as good a job as it is possible to do.

But on the other hand, I think we need to recognize as I found out over the last 10 years, and the current chairman of the subcommittee is finding out each year she is chairman, it gets harder every single year. That is the major point I wanted to make by taking the time of the Senate this late at night.

While we talk about economy, we have been in the middle of this budget crisis. Here we are later than we have ever been since World War II. We are telling the American people that we are going to save $500 billion over the next 5 years. I do not believe that. It simply is not going to happen.

This is just one example I have outlined this evening about 1 subcommittee out of 13 where we simply under the outlines we are going to adopt, hopefully by Saturday night, and close this Congress down for this year, there is no way, it will be impossible for this fine chairman, or any other one, to come up with a reasonable budget next year, or the year after, because we have far more within this budget——

The PRESIDING OFFICER. The Chair informs the Senator from Utah that the time allocated to him under the unanimous-consent agreement has expired.

Mr. GARN. I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. I want to simply again point out that next year will be much harder for the distinguished Senator from Maryland than this year. We will be back on the floor with the budget that is patched together not having sufficient money or having made the decisions because of the constraints to meet all of the things that we have authorized.

I hope the Senate will be aware of that. I hope we will start looking more carefully at our priorities and more realistically so we can meet the budget constraints that we talk about on this floor every day.

I thank the Chair. I thank the distinguished chairperson from Maryland, Ms. MIKULSKI. Thank you.

Mr. KERRY. Mr. President, I was the only member of the Senate Banking Committee to be recorded as voting against the Resolution Trust Corporation Funding Act, and I rise at this time to explain my opposition and to urge my colleagues to vote against this bill when it comes to the floor.

Mr. President, the administration is requesting $57 billion for continuation of the savings and loan bailout. That is nearly six times the entire Federal drug budget. It is nearly twice the budget for the Department of Veterans Affairs. It is $17 billion more than the total of deficit reduction in the recently passed Federal budget resolution for next year. It is by any accounting an extraordinary amount of money.

The basic question is simple: Has the administration justified this extraordinary request. The answer is: No—it has not. The last time Secretary Brady discussed the issue before the Banking Committee was May 23. At that time he estimated that the RTC would need additional funding for the RTC, and he estimated the amount to be somewhere between $39 and $82 billion. That seems like a fairly large spread to me, but nonetheless that is what the Secretary told the committee.

Secretary Brady explained that the administration's original projections had underestimated the extent of losses in the individual savings and loans. That, of course, shouldn't come as any surprise—the administration has continued to revise upward their estimates of what this bailout is going to cost. From the unhappy days of Danny Wall to today, the administration's estimate of the cost has risen from $15 billion to over $130 billion.

What disturbs me is that since his May testimony, Secretary Brady has been invited by the committee to testify on several occasions in order that he have the opportunity to justify and request that the administration might make.

But the Secretary has not come before the committee.

He did, however, send Under Secretary Glauber on September 26 to discuss the legislative proposals concerning immediate assessment flexibility to the FDIC. I think the Under Secretary's testimony is illuminating by virtue of the fact that it is so vague.

Let me read a few passages from the testimony in which the Under Secretary responded to questions from my colleagues:

On the question of working capital:

When asked if he agreed with Chairman Seidman's $60 billion figure for working capital, the Under Secretary replied,

On working capital I must tell you that is a harder figure to hit. It depends on the pace at which the FDIC will be able to sell or the RTC will be able to sell assets.

Chairman Seidman I think has on several occasions raised his estimate on working capital assets. And I will tell you that is something that we continue to study.

On the question of the 1988 deals:

We believe that Chairman Seidman should have the resources to renegotiate those deals. We have supported an indefinite appropriation to give him those resources.

On the question of RTC funding for case resolutions:

What is essential is that the money be available to the RTC so that it does not run dry. What is really needed, specifically, is loss funds and we have said that, if you chose $20 billion of loss funds, that would be sufficient to let the RTC run through April.

Obviously, another alternative at the other end of the spectrum is the permanent definite appropriation. Either of those will work for the RTC or anything in between.

What we need is money. And we very much hope that Congress will step up and provide that money before it goes.

Mr. President, maybe I'm missing something, but I don't see a lot of specificity in this testimony. The administration is essentially asking for a blank check—they just want the Congress to fill in the amount—$57 billion.

But why is it that Mr. Glauber is asking for this money?

Why did the Secretary of the Treasury refuse to take the short trip up Pennsylvania Avenue to explain in detail to the American people what the administration plans to do with $57 billion of their hard earned tax dollars. We are supposed to control the purse strings. We are constantly being told Congress has to be more hard headed, tough minded, and more businesslike in how we spend the taxpayers' money. I ask you, Mr. President, what investor would put a nickel into a venture so vaguely described and documented. I'll tell you—the answer is none. No one would make that kind of judgment and neither should we nor the American people. This is absurd.

The Secretary did send a letter to the committee on October 10—at the 11th hour. In that letter, Secretary Brady complained that unless Congress acted quickly, "RTC case resolutions will viritually cease within the next two months." Instead of justifying his request, the Secretary chose to hold a gun at the head of the Congress.

I think Congress and the American people deserve a fuller explanation. We need a detailed explanation as to why these funds are needed. I want to know, for example, how many thrifts Secretary Brady believes are going to fail. I want to know the type and amount of seller financing contemplated and how much it will add to the cost of the bailout.

I don't see the answers anywhere in this two-page letter.

Given the administration's history on calculating the cost of the bailout, we need to know what economic calculations were used to calculate this request. I want to know, for example, the fair market value of assets expected to be placed under receivership by quarter for the fiscal year 1991. I want to know the details of the OTS' "Open Thrift Assistance Plan," an approach that failed under the leadership of Danny Wall, but one which Mr. Seidman and Mr. Ryan believe should be resussitated.

I don't see the answers anywhere in the letter.

We need to know how the last $50 billion was spent and where in that process we made mistakes. I want to know, for example, in light of the recent setbacks, what are the future plans of the board and the RTC concerning the disposition of assets by open bidding auctions. I want to know whether the staffing level of the inspector general's office is adequate to perform its role as the RTC watchdog.

The Secretary has not addressed this issue in his October 10 letter.

We need to know why the FDIC expects to spend $500 million in payments to private law firms this year. It has been reported that more than 800 law firms are on the FDIC payroll working to handle the morass of litigation produced by failed financial institutions. The question is do we know if this is the most cost-effective method for handling this problem?

This is a legitimate question that the Secretary hasn't addressed it in his October 10 letter.

We need to know what the RTC plans to do to prevent a buyer who was in someway responsible for the collapse of a particular institution from buying a property or asset from the Corporation. I asked the RTC to lay out their policy to me on this issue in writing. Their response was that "We have drafted a policy which would bar certain individuals from buying RTC assets but it is not yet in its final form." That is not satisfactory. We are a year into this process, the Government is spending billions of dollars on the cleanup and RTC is still selling property to the same crooks and swindlers who were responsible for this mess in the first place.

While we are on the subject of fraud, I also want to know how much of this money is going to be used to refinance the infamous 1988 deals. Chairman Seidman has indicated that an upfront expenditure of $18 to $20 billion would enable the Federal Government to save $3 to $4 billion over the term of these contracts. But Chairman Seidman also indicated that these deals were being scrutinized for possible fraud.

I am joining Senator METZENBAUM and other colleagues in a request that where there is evidence that any of the parties negotiated in bad faith, misrepresented the facts, or subsequently reneged on their commitments, the deals should be reopened. Do we want to proceed with refinancing before we even know if these deals are sound? We need to have the answer to this question.

Mr. President, these are all legitimate questions. They all bear on the bailout process. They all bear on the cost of the bailout. They all bear on the final cost to the taxpayer.

Finally, we have a right to know why the administration waited until the chaotic end of the congressional session to make this request.

I know that President Bush and other members of the administration have been preoccupied with the Persian Gulf crisis and with the budget negotiations. But I firmly believe that the savings and loan crisis is just as important. After all, it is costing the United States $32 million a day to maintain our forces in the Middle East, but it is costing nearly $148 million for the S&L bailout.

Mr. President, we have a process in Congress for authorization of money. We also have the responsibility for oversight of how money has been spent. Secretary Brady knows that process because he has been a U.S. Senator. He knows that as a U.S. Sen-

ator it is irresponsible to authorize funds unless we know how the money has been spent, is being spent, and will be spent.

I worry that the Secretary is unwilling to come appear before either the Senate or House to justify the administration's request because he does not believe he can justify that request, except in the most general fashion.

We need to do better than that: $57 billion is just too much money not to have accountability. The taxpayers—the average wage earner who is footing the bill for this fiasco, deserves better. And we have a responsibility to insist on it.

Mr. President, I opposed the Senate approval of $57 billion for the RTC. I believe the House Banking Committee, which acted yesterday, has taken a much more prudent course by approving only $10 billion, still an enormous sum of money. It is my understanding that the House Banking Committee has vowed not to approve any more money until Mr. Brady appears before the committee, but that the $10 billion will allow the RTC to operate through the end of this year.

I have said repeatedly that we must accelerate the pace of the bailout—I do not want to delay the cleanup of this mess. But neither will I vote to approve a single dime of taxpayer money until I am certain of how that money is going to be spent. I believe the House Banking Committee has offered a workable compromise and I urge my colleagues to adopt a similar approach in the Senate.

LOS ANGELES COUNTY MUNICIPAL WASTEWATER

Mr. GARN. Mr. President, the conference agreement adopts a provision inserted by the Senate in amendment number 86 which requires that the Administrator of EPA issue a final decision, by November 30, 1990, on a waiver application of the Sanitation Districts of Los Angeles County regarding a discharge permit for municipal wastewater.

At the time of Senate action I was assured that this wasn't controversial and merely required expeditious action by EPA on a matter which had been dragging on for too long in the bureaucracy. I have subsequently learned that I had been misinformed.

Although the original permit application was submitted in 1979, numerous changes in the application and in the actual discharge operations have occurred over the years. In fact, I am now informed that the pending application was filed in 1988, and that the administrative record, upon which the Administrator of EPA is called upon to make a final decision, was closed only 3 months ago.

In addition, this matter appears to be highly controversial, with a wide divergence of views on complex technical issues.

Mr. President, had this matter been more accurately portrayed to me, I certainly would have recommended that alterations which would have expressly extended or eliminated the date included in the amendment, to provide normal review and consideration of the issues raised in the July administrative record. I believe, however, that even without such changes in the wording of the amendment, it is clear that the Administrator is still bound by the basic administrative statutory requirement to act on the application in a fair and reasonable manner, including adequately reviewing the record prior to issuance of a final decision. If such a review is impossible by November 30, then I believe the Administrator should report to the appropriate committees of the Congress and the affected parties why it cannot be complied with, and indicate when such a final decision can be rendered through expeditious, but administratively sound procedural review.

I hope that taking this fair interpretation of the intent of this legislative directive, the Administrator of EPA can bring this matter to the most expeditious and reasonable conclusion possible.

Mr. MACK. Mr. President, it is vital that the Senate agree to the motion to strike the limit on sales of public housing to tenants in this conference report.

For too long, our Federal housing policies have been characterized by grandiose expectations but dismal results. In many cases, these unintended results were produced by disincentives to self-sufficiency embodied in those policies.

Recently, Congress and the administration have made substantial changes in the approach we use toward housing the Nation's poor. These changes hold promise, although I continue to prefer less emphasis on bricks and mortar, and more emphasis on helping people.

One of the most significant of the policies reflecting this new approach is the sale of public housing units to tenants. The ability of families to own their homes has the undeniable effect on public housing tenants of retrieving their dignity and producing self-sufficiency. Communities where ownership of public housing has been transferred to tenants have displayed a remarkable reinvigoration which has led to more jobs, less drug use, and less crime.

In the conference report on VA-HUD which we just received, however, there is a provision which could stifle the implementation of this transfer. This mysterious provision, which was not in either the House or Senate appropriation bill, set a limit of 750 on the number of transfers of ownership that could occur in 1991.

There are four projects in my own State of Florida which are poised to take advantage of this new policy of tenant sales. Around the country, nearly 6,000 units are ready or in the planning process of transfer. To place a tiny, artificial cap of 750 units would shatter the hopes and aspirations of thousands of families nationwide who want to take control of their lives by owning their own homes.

Again, I urge the Senate to remove this artificial, and in my view, harmful limit on tenant ownership. Mr. President, I ask unanimous consent that the text of an article on this matter that appeared in a recent issue of Jet magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Jet magazine, Oct. 22, 1990]

BLACK TENANT ORGANIZER BUYS PUBLIC HOUSING PROJECT WITH A $1 BILL

Twenty-four years ago, a 24-year-old mother of five children moved into a DeeCee public housing project as a final "survivor" base. Ambitious Kimi Gray refused to accept the poor conditions and began to organize tenants, develop education and job referral programs, and advocate "working together." Her struggle lifted the energetic mother as the nation's most publicised low-income housing tenant.

Recently, Mrs. Gray presented HUD Secretary Jack Kemp a dollar bill, and as President of the Kenilworth-Parkside Resident Management Corporation, she and fellow tenants became owners of the 132-unit public housing project, marking the first purchase of such federal property.

The transfer represented a landmark event in the development and evolution of the nation's housing and social programs. In 40 years, financial experts predict that the one changeover will result in government savings of $26 million.

"Your perseverance and the steadfast resolution of the residents have made the sale possible," declared HUD Secretary Jack Kemp during the ceremonies. "This sale creates additional hope and opportunity because it creates greater dignity, more jobs, reduces crime and can help reinvigorate our urban community."

Eventually 332 more units will be phased-in to home ownership when modernization is completed. Under a Kemp-Fauntroy amendment to the 1987 Housing Act, resident councils could earn the right to manage their own developments and after three years of successful management, they could buy the developments. Currently 100 resident groups nationwide manage their public housing programs.

As the original champion, Kimi Gray inspired millions of public housing residents. Her programs were duplicated in many cities. She became a force to be reckoned with in a crime plagued area.

Said HUD Secretary Kemp, "This is a milestone in the Bush Administration's plan to help low income families achieve home ownership and property." Kimi Gray and her supporters deserved and got the first homes for their families.

VETERANS PROGRAMS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veter-

ans' Affairs, I note my strong support for the provisions of the conference report on H.R. 5158, the VA, HUD, and Independent Agencies Appropriations Act, fiscal year 1991, relating to veterans programs.

On June 12, 1990, I wrote to the distinguished chairman of the VA-HUD Appropriations Subcommittee, Ms. MIKULSKI, to explain in detail some of the highest priority funding needs for veterans' programs and to urge adequate appropriations for these needs. Senator MIKULSKI, working within the extreme limitations of her subcommittee's budget allocation as it existed prior to Senate passage of the bill on October 3, did her best, I am certain, to make adequate provision for veterans programs.

Nevertheless, Mr. President, there was a clear need to make improvements in the Senate-passed bill. Thus, on October 9, 1990, as the Senate prepared for conference with the House, I again wrote to Senator MIKULSKI to urge her and the other conferees to provide additional funding for VA's medical care, general operating expenses, and medical and miscellaneous operating expenses accounts and for the new U.S. Court of Veterans Appeals. Senator MIKULSKI was most responsive and has brought back a very good agreement from the conference. The conference report contains, in the case of each of the accounts that I have noted, the levels that I urged in my October 9 letter.

I especially am pleased that this conference report contains several specific items that I advocated. It includes $5 million above the President's request for treatment of post-traumatic stress disorder [PTSD], including establishment of new PTSD clinical treatment teams and new inpatient PTSD units. The conference report also includes, as I urged, $1 million above the President's request for readjustment counseling for Vietnam-era veterans.

It includes $15.7 million to fund special pay for nurses under a bill I co-authored that Congress enacted on August 15, 1990, as Public Law 101-366. That law provides essential authority to improve VA's ability to recruit and retain nurses. I am pleased to note that the conference report also provides $40 million for equally vital legislation I have coauthored that would authorize special pay for VA physicians and dentists. I am doing all that I can to ensure that Congress enacts this legislation before the end of the session.

I am very pleased that the conference report provides $12.31 billion for VA's medical care account, sufficient funds for a staffing level of 194,638 full-time equivalent employees. I consider this level of funding and staffing to be vital for the well-being of the VA medical care system, which has faced severe cutbacks over the last several years.

I am pleased to note that the conference report provides $1 million for a study of the health effects of exposure to agent orange. The Senate report—S. Report 101-474, page 211—makes clear that this report is to be carried out as specified in legislation I coauthored with Senators DASCHLE and KERRY that the Senate has passed twice—first in S. 1153 on August 3, 1989, and then in title VIII of S. 13 on October 3, 1989—and a very similar bill authored by Representative LANE EVANS that the House just passed on October 15. The legislation is pending before the Senate as part of our omnibus veterans legislation, S. 2100, and I sincerely hope that these provisions finally are enacted this session, in accordance with the clear will of both Houses of Congress.

The conference report also funds VA's general operating expenses at the House level, rather than the smaller amount provided in the Senate bill. This will allow needed increases in staffing to support vocational rehabilitation and loan-guaranty functions in VA regional offices. It also will provide funding for continued development and implementation of the new loan-guaranty computer system, which actually will save money in the long run.

The $7,481,000 included for the new U.S. Court of Veterans Appeals is, as I recommended, consistent with the court's most recent estimate of its fiscal year 1991 needs, as set forth in an October 4, 1990, letter from chief Judge Frank Q. Nebeker to Senator MIKULSKI. This will be the first year of full operation for the court, and I am pleased that the court will have the funding it believes is necessary to carry out its important responsibilities.

Finally, I add a special note of thanks to the distinguished chairman of the Appropriations Subcommittee for recognizing in the Senate report (S. Rept. 101-474, page 29) the urgent need for a replacement hospital in Palo Alto, CA, following the October 17, 1989, Loma Prieta earthquake. The earthquake caused severe damage to this VA medical center, which is one of the jewels of the VA system. As that report notes, no funding for this project is required in the current fiscal year, but the Appropriations Committee expects—as I expect and urge—that VA's fiscal year 1992 budget request will include the funds necessary to rebuild the Palo Alto facility.

Mr. President, again I thank and congratulate the distinguished subcommittee chairman and express my gratitude to the subcommittee's ranking minority member, Mr. GARN, for his contributions to this effort and his cooperative spirit. I also am grateful for the continuing helpfulness and cooperation of subcommittee staff members Carolyn Apostolou and Kevin Kelly.

Mr. President, I ask unanimous consent that a copy of my October 9, 1990, letter to Senator MIKULSKI be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. BARBARA MIKULSKI,
Chairman, Subcommittee on VA, HUD, and Independent Agencies, Committee on Appropriations,
U.S. Senate, Washington, DC.

DEAR BARBARA: I am writing, as Chairman of the Veterans' Affairs Committee, in connection with your upcoming conference on H.R. 5158, the FY 1991 VA, HUD, and Independent Agencies Appropriations Act. I wish to urge that you give every consideration to accepting the House-passed level in the following three VA accounts—Medical Care, Medical Administration and Miscellaneous Operating Expenses (MAMOE), and General Operating Expenses (GOE). I also urge that you agree to an adequate level of funding, as discussed below, for the U.S. Court of Veterans Appeals.

At the outset, I note the very difficult position your Subcommittee was placed in as a consequence of the very restrictive 302(b) allocation you received. My recommendations regarding conference action are in no way meant to denigrate the job your Subcommittee did in the Senate under very difficult conditions. However, now that budget resolution for FY 1991 has been agreed to, I understand that your Subcommittee's allocation may be substantially increased, making it possible for you to provide more adequately for the accounts I have noted.

With regard to the VA Medical Care account, the House-passed funding level of $12.31 million is vital if VA is to continue to fulfill its mission of furnishing quality health care to eligible veterans. As noted in my June 12, 1990, letter to you, there are many areas that require special attention at this point and the real needs go well beyond the House level. First, I urge that you seek to include in the conference agreement an add-on (as supported in the President's budget, though not in his appropriation request, for the Medical Care account) for legislation reforming the basic-pay system for VA nurses and the special-pay program for VA physicians and dentists. There must be funding available for pay reforms necessary to recruit and retain adequate numbers of well-qualified nurses, physicians, and dentists. VA has been operating at a distinct disadvantage in the health-care personnel marketplace for a number of years, and our Committee and our counterpart in the House have developed measures to enable VA to become more competitive with respect to both nurses (Public Law 101-366) and physicians and dentists (H.R. 4557 as passed by the House on May 1, 1990, and S. 2100 as reported by the Committee on Veterans' Affairs on July 19, 1990). Without adequate funding, these new pay programs would have to be utilized at the expense of funding for direct patient care.

With respect to funding for the treatment of veterans suffering from PTSD, I was gratified that your Committee provided $5 million in additional funding for PTSD treatment as well as a $1 million add-on for the Readjustment Counseling Service (RCS). As you know, I believe that an additional $6 million is needed for PTSD treat-

ment. Thus, I urge that you do all you can to include in the explanatory statement accompanying the conference report an earmarking of $11 million for PTSD care, as well as the $1 million for the RCS.

Another critical area needing funding under the Medical Care account is the medical-equipment backlog. If VA is to provide quality medical care in a safe environment, this backlog must be reduced and the Department must aggressively replace outdated and worn-out items.

The House level for the MAMOE account—adjusted to take into account the $11,500,000 for which the Senate bill provides funding through other accounts—is necessary if the VHS&RA leadership under the direction of Dr. Holsinger, the new Chief Medical Director, is to exercise the management and oversight of the system that is so critical at this juncture when VHS&RA is facing such great demands on its limited resources. Among other things, the overall quality assurance program within VHS&RA and the new total quality management effort must have strong Central Office support and direction, which in turn requires MAMOE funding. Also, as you know, the House provided funding for the Secretary's Commission on the Future Structure of Veterans Health Care, an activity that is necessary for future planning efforts.

Moving to the House-passed funding level in the GOE account is also of great importance if VA it to meet its obligations to veterans and their dependents and survivors in the area of benefits. Any reduction below the House level will be translated into less timely and effective processing of claims for benefits and will impact on VA's ongoing efforts to administer its home loan guaranty program in a more efficient and cost-effective manner.

Finally, with reference to the U.S. Court of Veterans Appeals, it is essential that the Court be given sufficient funding to be a fully functioning entity in FY 1991. I realize that the Court's expenditures over the first two years of its existence have been somewhat unpredictable and that your Subcommittee was concerned about the budget needs projected by the Court for FY 1991. However, Chief Judge Nebeker's October 4, 1990, letter to you, which he shared with me, addresses those concerns in detail and I urge that the conferees on H.R. 5158 provide for the court the $7,481,000 that the Chief Judge identified as needed.

Barbara, I appreciate your consideration of various issues—such as the survey and evaluation of scientific evidence relating to exposure to dioxin and the need for a replacement facility in Palo Alto—in the Committee report accompanying H.R. 5158 of the matters raised in this letter. I look forward to continuing to work with you on matters of importance to our nation's veterans.

With warm regards,
Cordially,

ALAN CRANSTON,
Chairman

Ms. MIKULSKI. Mr. President, as I get ready to yield back my time, I would like to thank my ranking minority member for his insights and input in this bill. I think we do have a good bill in which we have met our commitment to veterans, worked hard to clean up the environment, housed the poor, got our emergency services to take a risk-based approach to it, and did the kind of research necessary to help keep America competitive.

So, Mr. President, in conclusion, let me thank my own staff, Kevin Kelly, and others who have helped me organize this legislation, to the ranking minority staff for his cooperation and collegiality, Stephen Kohashi, and also to our own colleague, Senator BYRD, who gave us 302(b), though less than what we needed was certainly more than what we had.

So in conclusion, Mr. President, let me thank all who helped make this bill possible. I now yield the remainder of my time.

The PRESIDING OFFICER. All time has expired. All measures connected with the conference report have been disposed with.

The Chair would like to take the liberty of commending and congratulating the able and distinguished colleague from Maryland for the very skillful handling of the measure.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. EXON. Mr. President, I ask unanimous consent that there be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,049th day that Terry Anderson has been held captive in Lebanon.

CONFERENCE REPORT TO S. 2830, THE 1990 FARM BILL

Mr. CHAFEE. Mr. President, I would like to say a few words about the conference report now before us. In July, I voted to approve the farm bill because my amendment to phase out the honey price support program, the lone successful amendment to the Senate bill, was included in the legislation and I had a vested interest in seeing that my amendment went to conference. However, the bill before us continues not only the honey program, but many other flawed subsidies. I therefore will not be supporting this bill.

The members of the Agriculture Committee have worked hard to reach an agreement on this measure. They have adopted some good provisions, such as the payment limitations. But this bill doesn't make enough changes in our farm programs; it does not go far enough.

Farm program reform could make real fiscal strides, and is long overdue. Right now, our farm system makes little sense. We pay farmers to produce crops—whether we need them or not—and then end up storing the commodities or giving them away while Americans buy artificially high-priced and imported foods. It is truly an expensive circle: the more the Government pays, the more farmers produce, the more we put in storage, the higher our food costs, and so on.

It is a payment- not market-oriented system. For example, farmers plant certain crops only because they can get a Government payment for it—not because the market wants it—and we end up with large stockpiles of unwanted commodities that we can't sell and have to give away.

There are other flaws in the system. One example, as I stated during the farm bill debate in July, is the fact that 30 percent of the billions of dollars in annual Federal subsidies goes to the 4 percent of farmers, whose net worth is nearly $850,000. That is absurd. Another set of flaws is found in the peanut, sugar, tobacco, wool and mohair, and honey programs, all of which are costly and unnecessary.

It will benefit everyone to wean farmers off of a flawed, subsidy-oriented system and get them onto a market-oriented system. Congress has staved off reform attempts for years, but the imminent budget crisis and the deficit have forced the adoption of some much-needed changes.

I recognize that this bill does not stand alone, but is expected to be complemented by the agriculture provisions in the reconciliation package. The conference report represents the structure of the farm program for the next 5 years, while the reconciliation measure presents the real cuts. Under reconciliation, farm programs will be cut in the 1991-95 period by about $13 billion, which is about 25 percent of the $55 billion previously authorized by the Senate bill. By introducing a so-called triple-base program, the reconciliation bill will be a big step forward in terms of helping farmers adjust to market, rather than artificial government, forces. That change will be a welcome breath of fresh air, and I intend to support the reconciliation package.

But the reconciliation bill is not what we are considering. We are considering the bill that sets the framework of the farm programs. In my view, this bill may freeze support levels and limit payments, but it does not make some basic, much-needed changes in our overall farm system.

One example of a needed change is the honey program. As my colleagues

remember, during Senate debate on S. 2830, I successfully offered an amendment to phase out the costly honey price support program by 1995. I felt then and I feel now that the honey program is neither necessary or cost-effective. It effectively serves no other purpose than to subsidize the honey production of 2,100 beekeepers.

This program, established originally to ensure an adequate supply of bees for crop pollination, now subsidizes honey production. It has done so at considerable cost to the consumer and little benefit to the farmer. The General Accounting Office clearly pointed out in 1985 and 1990 that the program has shifted 180 degrees to honey production, and that without the program, bees will not disappear. Yet even though the justification for this program has withered, the costs have grown. Since 1980, large honey forfeitures and overly generous honey loans have cost the Government hundreds of millions of dollars.

As I saw it, the solution is not to fix the honey program, but to eliminate it. In 1985, the Senate voted overwhelmingly in favor of an amendment to phase it out altogether. This year—not once, but twice—the Senate again voted convincingly to reject reform in favor of elimination. The problem of the deficit only emphasizes that ending this program makes sense.

Thus, I am extremely disappointed to find that under this bill, the honey program will remain in existence, virtually unchanged. Adopted by the conferees was the House honey language, which freezes the honey support at 53.8 cents—the 1990 level—for each of the 1991-95 crop years. That freeze is of little comfort to me, since the 1985 bill had provided for yearly decreases in honey support levels. Likewise, the Federal payment and loan forfeiture limitations of $200,000 to $125,000 per person—I repeat, limits of thousands of dollars per person—are of little comfort.

I understand that the reconciliation bill will impose across-the-board loan origination fees on a series of programs, including honey. But elimination of the honey program would have generated an equal—or greater—amount of savings over the next 5 years and would have phased out the entire honey program. That is what we should have done. Clearly, that step will have to wait.

The farm bill conference report also does not touch the peanut program; the sugar program; the wool and mohair program. These programs should be reformed or eliminated.

In sum, Mr. President, my colleagues on the Agriculture Committee deserve real credit for their hard work. Indeed, there are provisions that I very much support: the environmental provisions, and the food stamp and nutrition provisions. But overall, this bill is not the real step forward in terms of making our farm programs and policies more sensible. I therefore cannot support it.

CONSIDERATION OF THE 1990 FARM BILL CONFERENCE REPORT

Mr. DURENBERGER. Mr. President, I rise today to offer a few comments on the pending 1990 farm bill conference report.

First of all, I want to thank the members of the Senate and House Agricultural Committee for the hundreds of hours they have invested in fashioning this legislation. In particular, I want to express personal thanks to the Senate and House conferees who spent the many hours reconciling the differences between the House and Senate bills. Having just completed a similar marathon conference on the Clean Air Act, I can identify with the demands and sacrifices that a major legislative conference requires. The 1990 farm bill not only make significant changes in existing commodity, conservation and nutrition programs, but also includes a new Organic Food Labeling and expanded Rural Development and Forestry titles.

Second, I want to comment on the pervasive confusion which many farmers have regarding where the controversial cuts in agricultural program cuts occur. A number of Minnesota farmers and several general farm organizations have contacted me to urge me to vote against the farm bill conference report because they have mistakenly assumed that it cuts $13 billion from agricultural programs over the next 5 years. The bill before us does not include the highly controversial triple-base program or the various assessments levied on various commodity programs. These provisions occur in the budget reconciliation package and it is wrong to attribute these provisions to the 1990 farm bill.

What the 1990 farm bill does include are major and long-overdue revisions of the Nation's forestry and food for peace programs. It preserves and improves the conservation programs that protect our Nation's fragile soils and preserve our precious dwindling wetland resource.

At this time, I ask unanimous consent to introduce into the RECORD a copy of an editorial on the 1990 farm bill which appeared in this morning's Star Tribune.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOME GAIN OUT OF FARM BILL PAIN

Work on a new five-year farm bill has been overshadowed by a giant uncertainty—the federal budget deficit and whatever cuts in farm spending would be required to help shrink it. That uncertainty is now over, and farmers can breath a sigh of relief: Farm spending has been reined in from the crisis levels of the mid-1980s, but their safety net emerged intact. Better yet, in return for lost subsidies, farmers will gain valuable new freedom to grow crops that satisfy customers' demands rather than bureaucrats' formulas.

The compromise achieved last week by a House-Senate conference committee claims to save some $13 billion over the nearly $55 billion the separate House and Senate bills had proposed to spend over the next five years. That's altogether reasonable. The farm economy has recovered from the crisis of the early '80s; income and exports have rebounded. Although higher oil prices could drive up costs next year, farmers are in good shape to ply their trade with less federal aid.

The compromise could have saved money in damaging ways that would undercut the competitiveness so essential to exports, the prime outlet for American productivity. Instead, the conference committee achieved savings by denying income subsidies for 15 percent of a farm's eligible acres. In return, farmers will be able to grow other crops, without subsidies, on those acres.

For example, farmers may grow soybeans on 15 percent of their corn acreage; other farmers may experiment with canola, a low-cholesterol oilseed in growing demand by food processors. Not only will farmers gain new income opportunities by serving consumer demand, but rural communities will benefit because that acreage is being planted rather than sitting idle, which would cut sales of seed, fertilizer, fuel and other supplies.

While the compromise preserves and expands sound environmental protections introduced in the 1985 farm bill, it unfortunately backs away from some of its pricing flexibility. The compromise also requires farmers to idle some productive acres, which penalizes farm income and invites foreign producers to plant more. Antiquated protectionist programs that punish consumers and ignore free-trade rules—as for sugar—emerged almost unscathed. And the new planting flexibility options are cross-eyed complicated.

But farmers should welcome one complication: the hard choice of what to plant on their subsidy-free 15 percent. What crops will the forces of supply, demand and weather prove to be the most lucrative at harvest time? For farmers who have been asking only whether the return on corn or wheat subsidies is greater, that's an invigorating question.

Mr. DURENBERGER. I believe that one of the brightest aspects of this bill is the significant increase in agricultural research funding. The bill before us directs USDA to reallocate a greater share of its research effort from one that invests 95 percent of its effort on increasing productivity of basic commodity crops to a much greater effort to develop new nonfood and nonfeed uses for agricultural products. It also authorizes a tenfold increase—$400 million over 5 years—to support sustainable agriculture and $20 million a year to support extension efforts to help farmers implement integrated management systems.

During my 12 years in the U.S. Senate, I have always believed that the best way to rejuvenate rural economies and rural commodities would be to find a way to use our sur-

plus agricultural capacity to solve some of our Nation's urban problems. For over a decade, I have tried to convince my colleagues of the environmental benefits of oxygenated fuels such as ethanol. Ethanol production has increased many-fold during my tenure as a Senator and it is expected that implementation of the Clean Air Act will double the utilization of ethanol and corn that produces it.

In a similar manner, there are a number of other emerging technologies which promise to convert agricultural production into new industrial and energy uses. This farm bill contains provisions which will encourage additional research and facilitate the transfer of that technology from agricultural research centers into the commercial sector.

However, my support of this legislation is conditioned to a large degree on the assumption that the ongoing GATT negotiations will result in a positive outcome for American agriculture. Recent reports of the European Community's [EC] growing resistance to making significant cuts in the level of their agricultural subsidies trouble me. If the EC refuses to make significant reduction in agricultural subsidies, and the Federal Government chooses not to mitigate the damage from EC's subsidies, American farmers and rural communities could suffer catastrophic losses.

The worst nightmare that I could envision is the sequence of events where U.S. exports are displaced by aggressive EC dumping of agricultural exports which then causes carry-over stocks of U.S. commodities to pile up. In response to the growing level of surplus stocks, the Federal Government might subsequently require a larger set-aside that would further reduce farm subsidies. This chain of events would cause another farm exodus and rural financial crisis similar to the one we went through in the 1980's. Such a scenario would be ruinous for rural America. It is my understanding that the administration has indicated that it will not let this chain of events occur. I will hold them to that obligation.

Finally, as a member of the Senate Finance Committee, I will also do what is necessary to ensure that American farmers get a fair deal out of the current round of GATT negotiations. American farmers generally have a huge competitive edge over their European and Asian rim counterparts. I am growing impatient with persisting protectionist and predatory agricultural policies which displace the natural flow of agricultural trade and impeded U.S. agricultural exports. Therefore, I will be closely monitoring the GATT negotiations during the next 6 weeks and will carefully scrutinize the GATT recommendation when it comes before the Senate Finance Committee. Should the results of the GATT negotiation result in a conclusion which threatens American agriculture, it will be imperative that Congress revisit the farm bill and make the necessary adjustment to protect the livelihood of American farmers and rural communities.

THE NEED FOR AN INTERNATIONAL CRIMINAL COURT

Mr. SPECTER. Mr. President, on October 19, 1990, the Senate approved amendment No. 3068 to the fiscal year 1991 foreign operations bill calling for the creation of an International Criminal Court. Regrettably, time and the press of floor business precluded my making more extensive remarks. I am now including those remarks for the record.

First and foremost, I wish to recognize the great contribution made by Congressman JIM LEACH, Congressman BOB KASTENMEIER and their staffs on behalf of this legislation regarding the creation of an international criminal court. Their efforts in the House of Representatives have served as inspiration for this Senator to continue ahead in the unchartered waters surrounding this issue. Their House Concurrent Resolution 66, which they introduced on March 2, 1989, served as a source of reassurance to my past resolutions and in my crafting of amendment No. 3068.

During congressional hearings in September, Congressman LEACH's persistent questioning elicited positive remarks from Secretary of State Baker and Under Secretary of State Kimmitt regarding the need for an international criminal court. Secretary of State Baker stated his belief that the suggestion to establish such a court is a good one and wondered "why that's not something that had been looked at before, if indeed, it hasn't been."

Under Secretary Kimmitt noted the complexity of establishing an international criminal court, but concluded that "the time is probably riper than ever to look closely at it." Congressman KASTENMEIER, in turn, worked diligently with me to craft revised language to ensure passage. I am most grateful to both men for their vision, tenacity, and support.

In 1989, the U.N. General Assembly declared the period of the 1990's as the Decade of International Law. The declaration could not be more fitting. While the world is witness to the dramatic actions of the world of nations in forging new political treaties and alliances and cooperative economic agreements, there is a more cautious, but deliberate movement to define unambiguously international crimes and to establish an effective, just and uniform means of enforcement, particularly an international criminal court. It is this latter effort upon which amendment 3068 focuses.

Modern international criminal law can be said to have commenced in 1815 at the Congress of Vienna with efforts to abolish slavery. Since then 317 international instruments on substantive international criminal law have been agreed to covering international crimes such as aggression, war crimes, crimes against humanity, apartheid, torture, piracy on board commercial vessels, aircraft hijacking, kidnaping of diplomats and other internationally protected persons, taking of civilian hostages and environmental damages to name a few. Many countries are seriously being affected by the crimes listed above, but disputes on jurisdiction and enforcement are hindering the cause of justice. While extradition agreements have served to overcome some areas of dispute, other mechanisms for effective enforcement are still needed in order to deal with crimes such as transnational drug trafficking.

Colombia is a vivid case in point. Extraditions to the United States have had some positive effect on traffickers. But, these same extraditions represent a serious political problem for the leadership of Colombia. Thus, in his August 7, 1990, inauguration address, President Cesar Gaviria Trujillo vowed to "explore the possibility of creating an international or regional criminal jurisdiction to fight narcotrafficking and other related crimes that surpass international borders."

In the past year alone, the movement toward the development of an international criminal court has been marked by significant milestones.

On November 20, 1989, the U.N. General Assembly referred the proposal to establish an international criminal court with jurisdiction over international drug trafficking to the International Law Commission for review and comment for the 45th session of the United Nations. In July 1990, the International Law Commission reported that there was broad agreement in principle on the desirability of establishing a permanent international criminal court to be brought into relationship with the United Nations system. There were different views expressed as to the structure and scope of jurisdiction of such a court.

On May 10, 1990, I convened a group of 13 international criminal law scholars, joined by Congressmen LEACH and KASTENMEIR and U.S. Government officials, in a 1-day symposium to address the need and a model for an international criminal court. Armed with the results of this symposium, a special committee of experts organized by the International Institute of Higher Studies in Criminal Sciences under the auspicies of the Italian Ministry of Justice and in cooperation

with the United Nations Crime Prevention and Criminal Justice Branch held a symposium in Siracusa, Italy. The Institute urged establishment of the court, drafted a model statute for such a court and presented its recommendations to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders which met in August.

When the 45th U.N. General Assembly deliberates on the recommendations of the International Law Commission and these other fora, what will be the position of the United States? In the past, that position has been marked by cautious pessimism. The time has come to view the idea in a more positive and serious vein. Based upon my converstions with senior officials in the Department of State, I am now hopeful that there will be a cooperative and constructive effort in the preparation of the report called for in the legislation. In generating a comprehensive review of the need to establish an international criminal court and determine the feasibility of and relationship to our Federal judiciary, the United States will be well positioned to more fully respond to proposals emanating from the United Nations. More importantly, it will be in a position of leadership by example in extending the rule of law to international crimes.

FARM BILL CONFERENCE

Mr. JEFFORDS. Mr. President, first I want to commend my senior Senator, Senator LEAHY. He has toiled tirelessly under extremely difficult budget constraints to obtain a concensus.

I would like to take this opportunity to comment on parts of the 1990 farm bill conference report. I will support passage of the conference report. I believe that agriculture will face some very difficult times in the next few years. This bill represents both a challenge and opportunity for the farm community to gain a greater control over their own destiny in the future. It may be their only option.

In this regard I would specifically like to address my remarks to the dairy title. These provisions are extremely important to the dairy farmers in my State of Vermont. Our State provides 50 percent of the fluid milk consumed in the Boston metropolitan region. The dairy industry in Vermont makes a major economic contribution to the State and at the same time it provides consumers with a steady supply of wholesome milk and milk products at reasonable prices.

This can largely be attributed to the productivity, efficiency and cooperativeness of our farmers, handlers and distribution system. The productivity of our dairy farmers in Vermont and the Northeast can best be illustrated by two key factors—pounds of milk sold per worker and pounds of milk sold per cow. In the past 5 years data drawn from actual farm records show a steady increase of pounds of milk produced per worker increasing from 494,243 pounds sold per worker in 1985, to 532,468 pounds in 1989, an increase of 7.7 percent over 5 difficult years. At the same time the pounds of milk sold per cow increased from 15,318 in 1985 to 16,431 in 1989, an increase of 7.3 percent. This is indicative of the importance of the dairy industry to the Northeast. Nationwide the dairy industry is one of the most productive, if not the most productive in the Nation.

Nationally dairy products account for about 13 percent of total cash receipts from all farm commodities. In 1988 cash receipts from dairy products totaled $17.7 billion. It is a vital industry. We must exercise extreme care in designing its future.

Given that background, it is important to examine the dairy title and assess its impact on the dairy industry over the next 5 years. As we look at the dairy title and the budget pressures that currently exist, it is clear that the constraints it will place on the dairy industry will be severe. Without basic changes it will not provide the income security it has over the years. Already we have seen across-the-board assessments for all dairy farmers. Over the next 5 years, as a result of deficit-reduction package agreement, these assessments will grow and grow—unless the warnings in this bill are heeded.

The dairy title calls for the development of a milk inventory management program by August 1, 1991, by the Secretary of Agriculture. At that time Congress will review and act on the Secretary's recommendations. It is in this context that I would like to focus my thoughts on the future direction of the dairy industry. It is clear that the $10.10 support price currently in the bill provides a below minimum floor for dairy farmers. The blend prices received by farmers have been dropping steadily in the past 2 months. Yet, milk surpluses are starting to build. The budget constraints, combined with potentially large dairy product surpluses, do not bode well for the dairy industry over the months ahead. The surpluses of old will not be tolerated. Also, since the surpluses are largely butter, the sympathetic response to cheese and nonfat milk transfers to nutrition programs is gone.

Therefore, I believe it is time for the industry to take a serious look at how the dairy programs may be structured in the future in order to get out of this budget box and to ensure that dairy farmers have greater control over their destiny.

It is time to consider how the dairy industry could operate its own supply management program. Certainly it could be done much more effectively then it is being done now, and with much less harm to the economic well being of dairy farmers and consumers. The challenge is to design and to operate a program that can be run by the dairy industry and not subject to continued cuts in the funds available for CCC purchases and the continued prospect of facing higher and higher assessments each year. This is not the solution for a sound dairy policy. In addition, as noted below, changes in world markets and GATT will further undermine the present program.

It has been suggested that a system could be established by the industry to purchase, export, and to sell directly to domestic nutrition programs all surplus milk at a clearing price. Such a system could be operated in conjunction with the Federal milk marketing orders currently in place. It could also be administered largely by the dairy industry, making it free from the vagaries of the budget process, and GATT. The dairy industry needs to think seriously over this type of approach in the months ahead.

There are creative opportunities available. For example, as of the 1985 farm bill, when I was a member of the House Agriculture Dairy and Poultry Subcommittee, we devised a program that reduced the number of dairy cows by the Dairy Termination Program that reduced production levels. Although this program worked well, it was met with resistance from beef producers. In view of that opposition, in the Senate last summer, I obtained passage of an amendment that would allow for the export of live dairy cattle and young stock. Thus the impact would only be positive on the beef industry.

I believe there are significant opportunities to export dairy cattle to the Eastern European countries and the Soviet Union to help them improve their herds. This program would be largely paid for by the dairy farmers. The dairy title in the conference report does not preclude the Secretary of Agriculture from doing this. I urge that the Secretary give strong consideration to this program as an opportunity to rectify the increasing surplus. This would give the industry time to adjust to acceptance of control of the program without the pressures created by a large surplus. Also it would be an excellent one time gesture of good will to Eastern Europe and the Soviet Union.

I would also like to comment on the importance of continuing to support our Federal Milk Marketing Order [FMMO] system. The FMMO is extremely important to the dairy industry. This system forms the basis for the establishment and maintenance of orderly marketing conditions within

each region of the country. It provides reasonable prices for farmers, and at the same time protects the interest of consumers by providing a steady low price supply of milk. Many individuals may believe that the Federal dairy support program is the main underpinning of dairy policy, however, the Federal Milk Marketing Order Program is the fundamental system that provides regional stability for the production of fluid milk. It provides dependable and secure markets for farmers and steady supplies to consumers. Over the years this system has served the farmer, handler and consumer well. The entire FMMO system is operated and paid for by the dairy industry. It is important to maintain it. We have worked hard in the Northeast to build and maintain strong fluid markets. I want to ensure that these markets are maintained. Although I do believe that the current Minnesota-Wisconsin Pricing Services needs to be overhauled, the regional FMMO's must be kept effective in their structure and support. This is especially true if we want the dairy industry to assume control of its own destiny as outlined above.

I would also like to comment on the importance of the dairy industry to move away from incentives to produce more butterfat, and toward greater emphasis on protein in production. The market for butter is a declining one. We should be breeding cattle to have higher protein production levels. We should be looking for incentives to do this. I worked with Senator HARKIN on an amendment to the dairy title that set into motion a study, followed by Federal hearings, to establish a multiple component pricing system that would emphasize the importance of protein production. I am pleased to see that it remains in the conference report.

Last, I would like to comment on the GATT talks now nearing completion. They have enormous implications for agriculture. We have to recognize that we can't isolate ourselves, We must pursue foreign markets aggressively, and at the same time produce milk at a competitive price. Conditions have changed, and the dairy program of the future has to reflect these changing conditions. This is another compelling reason why the industry must sever itself from dependency on the failing price support system.

I will be watching the implementation of the dairy title very, very closely. I do not believe that the current support price system, coupled with the present budget constraints and assessments, will be an effective support program. The industry must seriously consider the overhaul of the program and to take control of it themselves.

Finally, I would like to briefly comment on conservation provisions of the conference report. I believe we have made some very positive steps forward in soil conservation, wetlands protection and encouraging greater emphasis on developing sustainable agricultural farming systems. All of these are important steps forward, and I applaud the committee for approving these important provisions.

THIS FARM BILL—IS A GOOD ONE

Mr. PELL. Mr. President, earlier this year I opposed Senate passage of the farm bill. I said then that it moved in the right directions on a number of issues—including some important environmental and conservation initiatives—but it remained far too costly because of subsidies.

The managers of the farm bill earned our thanks for their hard work to make this measure more environmentally responsible. I particularly appreciate the work of the senior Senator from Vermont [Mr. LEAHY] and applaud his pesticide export reform and organic food production initiatives.

It came as no surprise to my colleagues or my constituents that I voted against passage of the Senate's farm bill. Although it contained some good and innovative measures, it remained far too outdated and too costly in a time when we should be tightening our belts.

The conference report, however, improves upon the version that I opposed. It makes substantial cuts in program spending—most of which will come from reductions in direct payments to producers.

Unlike the earlier version, it also contains a title to fund a variety of essential nutrition programs, including the Temporary Emergency Food Assistance Program, and cuts costs without cutting benefits.

It also retains some of the excellent environmental and conservation measures that were highlights of the earlier version. I was particularly pleased to see consumer-oriented portions survive the conference.

These portions incorporate provisions of the Organic Foods Production Act, which Senator LEAHY introduced and I cosponsored. These provisions create a USDA "organically produced" label for products meeting strict production standards.

This is not a perfect bill, but it is a remarkable improvement over past farm bills. I am voting for it as an example of what I hope will be a trend toward restraint and responsibility in our agricultural programs.

CONFERENCE REPORT ON S. 2830

Mr. KOHL. Mr. President, when the Senate voted on the 1990 farm bill in July, I supported it. I supported it not because it was especially good for farmers, but because it could have been worse.

Well, Mr. President, I guess I was right. It could have been worse. And now it is. As a result, I now find that I cannot support the conference report.

That is not to say that this legislation is without merit. It has many redeeming features—several of which I worked very hard to see adopted. One of the most important of these is the bill's cargo preference provisions, which will allow Great Lakes ports to continue to ship Public Law 480 cargo and will encourage reflagging of foreign flags in the Great Lakes. This is a terribly important provision for our Wisconsin ports.

This bill will also eliminate California's ability to establish a higher make allowance than is allowed under the Federal milk marketing order system. Since California's milk allowance has benefited California dairy farmers at the expense of dairy farmers in my home State of Wisconsin, this is a very important provision for Wisconsin dairy farmers.

There are also several pieces of legislation that I have cosponsored and supported that have been included in this bill—among them, measures to strengthen the sustainable agriculture research and education program, to create a national organic certification program, and to provide additional technical and financial assistance to rural towns and counties for business, telecommunications and infrastructure development.

And I am pleased with many of the conservation provisions in this bill—such as the expansion and extension of the Conservation Reserve Program and the creation of a new 10-million-acre water quality incentives program. And I am pleased with the forestry provisions—provisions that will encourage tree planting and will help protect 25 million acres of private forest land.

Yet, Mr. President, let's not kid ourselves here today. There has been a lot of discussion as to what is or is not in this conference report. Any my colleagues who have said that the $13 billion in farm program cuts that will be required under budget reconciliation are not actually included in this bill are absolutely right.

But, Mr. President, this bill will contain those cuts in the very near future. And we know how those cuts will be made. So we are kidding ourselves to say that this vote is not a vote about the level and type of those cuts. It is.

I will admit to having voted for the Senate budget reconciliation package, and, in doing so, to have supported a $13 billion reduction in farm program spending. But I did so, reluctantly, and only after I voted for every amendment that would have reduced the

level of those cuts. Unfortunately, those amendments were defeated. We got to $13 billion in spending cuts in agriculture because the President made it very clear that he would not accept a budget deal that did not include a significant reduction in farm program spending. So, if Congress was going to get a budget deal—which I think every American believes we need to have—then Congress had little choice but to go along with the President's demand for savings in agriculture.

Yet Congress did have a choice about the way those cuts were made. The farm bill before us reflects the choices the conferees made. I would not have made them and I cannot support them.

I cannot accept a dairy program that will require a 5-cent assessment per hundredweight in 1991 and an 11-cent assessment in 1992 through 1995, as this farm bill will do. I cannot accept a program that will tax Wisconsin dairy farmers more than $120 million over the next 5 years. And I cannot accept a dairy program that does not provide for an effective supply management program to balance the dairy program in those years when CCC dairy purchases become excessive.

Nor can I accept asking for this level of savings out of the dairy program when there are many better ways of finding savings in agriculture. We could have created additional savings by tightening current payment limitations. We could have created additional savings by targeting program benefits to small and medium sized family farms. We could have created additional savings by eliminating so-called double subsidies for certain western farmers. Instead, we chose to require significant savings out of a program that has already reduced its cost by 70 percent over the past 5 years.

Mr. President, I am quite sure that next year Congress will debate whether or not to implement a supply management program for dairy farmers rather than to continue the assessments required under this bill. I will argue for such a supply management program. And I am hopeful that we will be able to enact a supply management program next year rather than allow the continuation of the assessments called for in this bill.

I am also quite sure, Mr. President, that there will be many others in this body who will urge over the next year or two for changes in this bill. And I hope that there will be changes made to this bill. I hope that we can correct the direction that this bill has taken and move, once again, toward policies that will provide more equity and less pain to America's family farmers in the years ahead.

INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT S. 1783

Mr. GORTON. Mr. President, I would like to ask my good friend the Senator from Arizona [Mr. MCCAIN] if he would yield for the purpose of a brief colloquy.

Mr. MCCAIN. I will gladly yield to my friend the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, as a member of the Select Committee on Indian Affairs I have followed the issue of child protection in Indian country with a great deal of interest. I would like to recognize the leadership of Senator MCCAIN, the vice chairman of the committee in conducting many hours of hearings on this very tragic problem. I was pleased to note that the House Committee on the Interior also held hearings on this subject including several field hearings one of which was held in Seattle. At that hearing the House Interior Committee received testimony from both tribal representatives and the State of Washington, including the State attorney general. I am very pleased that we are again able to consider S. 1783, the Indian Child Protection and Family Violence Prevention Act. I would like to ask my good friend from Arizona for some clarification regarding certain provisions of the amended version of S. 1783. In S. 1783 the definition of child abuse differs from existing Federal and State definitions of child abuse. Will this difference create confusion for the Federal, tribal, or State agencies which are required to apply this definition?

Mr. MCCAIN. No, I do not believe that this definition will create confusion for agencies responsible for child protection in Indian country. The definition for child abuse contained in S. 1783 applies to certain persons working on Indian reservations who have a professional obligation to report instances of child abuse to the appropriate authorities for investigation. The intent is to apply a very broad definition of child abuse so that mandated reports of child abuse can be made to the responsible agency. The definition is crafted in a way to facilitate the initial report of an allegation of child abuse to the responsible agency. This definition will be limited to the initial report of allegations of child abuse to the responsible agency. Once the report has been received the agency will apply appropriate statutory definitions of child abuse and neglect for purposes of investigation and further child welfare proceedings. The definition of child abuse in S. 1783 will not supersede or conflict with existing statutory definitions of child abuse under State or tribal law. State or tribal agencies will still apply existing statutes and statutory definitions in child welfare proceedings. This bill was crafted with great care to ensure that it did not infringe upon questions of jurisdiction or create confusion regarding the application of tribal or State law.

Mr. GORTON. Mr. President, the State of Washington has embarked on an ambitious effort to develop compacts with the Indian tribes within the State of Washington which touch upon a variety of issues shared by both parties. This effort has been very successful in providing increased coordination and cooperation between the State of Washington and the Indian tribes. I would like to inquire of my friend from Arizona, Mr. MCCAIN, would S. 1783 have an adverse impact on the compacts between the State of Washington and the Indian tribes?

Mr. MCCAIN. I would like to assure my good friend from Washington that there is nothing in S. 1783 that would adversely impact the successful operation of the tribal-State compacts in the State of Washington. In fact, many of the provisions of S. 1783 are designed to improve the coordination between Federal, State, and tribal agencies in addressing issues of child protection. S. 1783 would provide much needed resources to Indian tribes for the development of protocols for the investigation of allegations of child abuse and neglect. These resources could be used to increase cooperative training efforts between Federal, tribal, and State agencies on issues of child abuse and neglect. Both the House and Senate committees have been very concerned over the lack of coordination among the various service providers on Indian reservations. This lack of coordination among various tribal, State, and Federal agencies in addressing the issue of child abuse and neglect has resulted in many problems for Indian communities. S. 1783 is intended to increase coordination and cooperation among the various agencies operating on Indian reservations. I believe that S. 1783 will fully complement the efforts of the State of Washington to develop and implement compacts with the Indian tribes in Washington.

Mr. GORTON. Mr. President, if my good friend would indulge one last clarification on S. 1783. In 1978, the Congress addressed the issue of Indian child welfare by enacting the Indian Child Welfare Act. The Indian Child Welfare Act was intended to address the growing problems of the placement of Indian children outside the Indian tribe with non-Indian families. This issue continues to be of great concern to many Indian tribes, including many tribes in the State of Washington. Will S. 1783 impact the continued operation of the protections established in the Indian Child Welfare Act?

Mr. McCAIN. I would like to assure my good friend that S. 1783 will not adversely impact the protections for Indian children established under the Indian Child Welfare Act. The Select Committee on Indian Affairs and the House Interior Committee were very careful to ensure that the provisions of S. 1783 will operate in conjunction with the protections established in the Indian Child Welfare Act. My distinguished colleague correctly points out that the Congress enacted the Indian Child Welfare Act as a first step toward preserving and protecting Indian families. S. 1783 is an important additional step in the Federal Government's responsibility toward Indian tribes and Indian families by mandating the reporting of child abuse and neglect. In 1978, Indian families were being broken apart in child welfare proceedings by the application of non-Indian, culturally indifferent standards of health and welfare. These standards formed the basis for the termination of parental rights of many Indian parents. Nothing in this act is intended to affect the substantial progress that has been made under the Indian Child Welfare Act to preserve and protect the Indian family.

Mr. GORTON. I thank the Senator from Arizona.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:56 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 369. Joint resolution designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty."

The message also announced that the House has passed the joint resolution (S.J. Res. 357) to designate September 15, 1990, to October 15, 1990, as "Community Center Month"; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3069) to amend the Job Training Partnership Act to establish an employment training program for displaced homemakers, and for other purposes.

The message also announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 562. Joint resolution designating October 21 through 27, 1990, as "National Humanities Week";

H.J. Res. 579. Joint resolution designating October 28, 1990, as "Statue of Liberty Day";

H.J. Res. 606. Joint resolution designating February 16, 1991, as "Lithuanian Independence Day";

H.J. Res. 653. Joint resolution designating October 30, 1990, as "Refugee Day"; and

H.J. Res. 673. Joint resolution to designate November 2, 1990, as a national day of prayer for members of the American military forces and American citizens stationed or held hostage in the Middle East, and for their families.

At 2:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House of the bill (S. 605) to authorize appropriations for the Consumer Product Safety Commission, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5112) to amend the Public Health Service Act to extend certain programs for health care services in the home.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. YATES, Mr. MURTHA, Mr. DICKS, Mr. AUCOIN, Mr. BEVILL, Mr. ATKINS, Mr. WHITTEN, Mr. REGULA, Mr. MCDADE, Mr. LOWERY of California, and Mr. CONTE as managers of the conference on the part of the House.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 3:12 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 5275. An act to amend the Congressional Award Board to temporarily extend the Congressional Award Board, and to otherwise revise such Act;

H.R. 5482. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds; and

H.J. Res. 669. Joint resolution to salute and congratulate the people of Poland as the commemorate the two-hundredth anniversary of the adoption of the Polish Constitution on May 3, 1991.

At 6:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 566) to authorize a new Housing Opportunities Partnerships Program to support State and local strategies for achieving more affordable housing; to increase homeownerships; and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5269) to control crime; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House.

From the Committee on the Judiciary, for consideration of the House bill, except title XXIII and sections 2805 and 2806, and the Senate amendment, except sections 1312(f), 1902, 1913, and 3711, and modifications committed to conference: Mr. BROOKS, Mr. KASTENMEIER, Mr. EDWARDS of California, Mr. CONYERS, Mr. HUGHES, Mr. SCHUMER, Mr. MCCOLLUM, Mr. GEKAS, Mr. HYDE, and Mr. DEWINE.

From the Committee on Agriculture, for consideration of title XXIX of the Senate amendment, and modifications committed to conference: Mr. HATCHER, Mr. PANETTA, Mr. GLICKMAN, Mr. STAGGERS, Mr. Espy, Mr. SARPALIUS, Mr. EMERSON, Mr. LEWIS of Florida, Mr. HERGER, and Mr. COLEMAN of Missouri.

From the Committee on Armed Services, for consideration of section 102 of the House bill, and modifications committed to conference: Mr. ASPIN, Mrs. SCHROEDER, Mr. MONTGOM-

ERY, Mr. DICKINSON, and Mr. MARTIN of New York.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title XXI and section 2716 of the House bill, and titles V and XXXX of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. ANNUNZIO, Mr. HUBBARD, Mr. BARNARD, Mr. LAFALCE, Ms. OAKAR, Mr. WYLIE, Mr. DREIER of California, Mr. PARRIS, and Mr. HILER.

From the Committee on Education and Labor, for consideration of titles VI and XXVI and sections 1103, 1401-1402, 1406, 2012, 2014, and 2216 of the House bill, and titles XIII and XXVIII and sections 731, 803, and 901-903 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. MURPHY, Mr. KILDEE, Mr. MARTINEZ, Mrs. LOWEY of New York, Mrs. UNSOELD, Mr. GOODLING, Mr. COLEMAN of Missouri, Mr. PETRI, and Mr. TAUKE.

From the Committee on Energy and Commerce, for consideration of titles III, VIII, IX through XI, XXX, and XXXI and sections 403, 405, 406, 409, 410, 2012, 2203, 2205, 2208, 2213, 2214, 2217, 2222, and 2224 of the House bill, and titles VIII, XXXVI, and XXXVIII and sections 1904(b), 1905(b), 1906-1908, 2101, 2203, 2407, 3704(1), 3905, 3909-3910, and 3913-3914 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. SCHEUER, Mr. WAXMAN, Mr. MARKEY, Mr. SWIFT, Mr. WYDEN, Mr. LENT, Mr. MADIGAN, Mr. WHITTAKER, and Mr. RINALDO: Except that, Mr. BLILEY is appointed in lieu of Mr. RINALDO for consideration of title XXX of the House bill.

From the Committee on Foreign Affairs, for consideration of titles X and XXVII of the House bill, and modifications committed to conference: Mr. FASCELL, Mr. SMITH of Florida, Mr. FEIGHAN, Mr. ACKERMAN, Mr. JOHNSTON of Florida, Mr. MCCLOSKEY, Mr. BROOMFIELD, Mr. GILMAN, Mrs. MEYERS of Kansas, and Mr. GOSS.

From the Committee on Government Operations, for consideration of section 102 of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS, Mr. ENGLISH, Mr. HORTON, and Mr. MCCANDLESS.

From the Committee on Merchant Marine and Fisheries, for consideration of sections 2803 and 2804 of the House bill, and the Senate amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, Mr. TAUZIN, Mr. DAVIS, and Mr. YOUNG of Alaska.

From the Committee on Public Works and Transportation, for consideration of section 2802 of the House bill, and modifications committed to conference: Mr. ANDERSON, Mr. ROE, Mr. OBERSTAR, Mr. HAMMERSCHMIDT, and Mr. CLINGER.

From the Committee on Ways and Means, for consideration of title XXIII and sections 2805 and 2806 of the House bill, and section 1312(f), 1902, 1913, 3711 of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, and Mr. ARCHER.

From the Committee on Ways and Means, for consideration of sections 402, 501, 805, 1911, 2902, 3311, and 4351 of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. RANGEL, Mr. STARK, Mr. JACOBS, Mr. FLIPPO, Mr. ARCHER, Mr. VANDER JAGT, Mr. CRANE, and Mr. FRENZEL.

At 10:31 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2287. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 153. A concurrent resolution to acknowledge the 100th anniversary of the tragedy at Wounded Knee Creek, State of South Dakota, December 29, 1890, wherein soldiers of the United States Army 7th Cavalry killed and wounded approximately 350-375 Indian men, women, and children of Chief Big Foot's band of the Minneconjou Sioux, and to recognize the Year of Reconciliation declared by the State of South Dakota between the citizens of the State and the member bands of the Great Sioux Nation.

The message further announced that the House has passed the bill (S. 2936) to amend the Hazardous Materials Transportation Act to authorized appropriations for fiscal year 1990, 1991, and 1992, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House insists upon its disagreement to all amendments of the Senate to the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DIXON, Mr. NATCHER, Mr. STOKES, Mr. AUCOIN, Mr. DWYER of New Jersey, Mr. HOYER, Mr. WHITTEN, Mr. GALLO, Mr. GREEN of New York, Mr. REGULA, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5399) making appropriations for the legislative branch for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. FAZIO, Mr. YATES, Mr. OBEY, Mr. MURTHA, Mr. TRAXLER, Mrs. BOGGS, Mr. WHITTE, Mr. LEWIS of California, Mr. CONTE, Mr. MYERS of Indiana, and Mr. PORTER as managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 996) to establish the Congressional Scholarships for Science, Mathematics, and Engineering, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3911) to amend title 5 of the United States Code to increase the allowance for services of attendants.

MEASURES REFERRED

The following joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 562. Joint resolution designating October 21 through 27, 1990, as "National Humanities Week"; to the Committee on the Judiciary.

H.J. Res. 579. Joint resolution designating October 28, 1990, as "Statue of Liberty Day"; to the Committee on the Judiciary.

H.J. Res. 606. Joint resolution designating February 16, 1991, as "Lithuanian Independence Day"; to the Committee on the Judiciary.

H.J. Res. 653. Joint resolution designating October 30, 1990, as "Refugee Day"; to the Committee on the Judiciary.

H.J. Res. 673. Joint resolution to designate November 2, 1990, as a national day of prayer for members of the American military forces and American citizens stationed or held hostage in the Middle East, and for their families; to the Committee on the Judiciary.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 25, 1990, he had presented to the President of the United States the following enrolled bills:

S. 3032. An act to designate the planned Department of Veterans Affairs Medical Center in Honolulu, Hawaii as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center";

S. 3043. An act for the relief of Nebraska Aluminum Castings, Inc.; and

S. 3216. An act to designate the Department of Veterans Affairs Medical Center in Charleston, South Carolina, as the "Ralph H. Johnson Department of Veterans Affairs Medical Center".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Special Report entitled "Civil Contempt in the District of Columbia Courts" (Rept. No. 101-554).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 3084. A bill to provide for the settlement of water rights claims of the Fallon Paiute-Shoshone Indian Tribe, and for other purposes (Rept. No. 101-555).

By Mr. BURDICK, from the Committee on Environment and Public Works:

Report to accompany the bill (S. 2879) to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes (Rept. No. 101-556).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment:

H.R. 4983. A bill to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DECONCINI:

S. 3244. A bill to improve the Government's debt collection and credit management practices, to implement certain recommendations of the President's Private Sector Survey on Cost Control, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ADAMS:

S. 3245. A bill to amend the Older Americans Act to provide congregate nutrition services and intergenerational activities in elementary and secondary facilities, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER:

S. 3246. A bill to authorize States to regulate the treatment, disposal, and other disposition of solid waste; to the Committee on Environment and Public Works.

By Mr. HEINZ:

S. 3247. A bill to temporarily suspend the duty on certain lead fuel test assemblies; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. DECONCINI, Mr. MITCHELL, Mr. GRAHAM, Mr. AKAKA, Mr. THURMOND, Mr. SPECTER, and Mr. JEFFORDS):

S. 3248. A bill to amend the Soldier's and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by such Act and to make technical amendments; to amend title 38, United States Code, to clarify veterans' reemployment rights and to improve veterans' rights to reinstatement of health insurance, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GARN (for Mr. STEVENS) (for himself, Mr. MURKOWSKI, Mr. LUGAR, Mr. BURNS, Mr. ADAMS, Mr. HOLLINGS, Mr. COCHRAN, Mr. INOUYE, Mr. AKAKA, Mr. MCCLURE, Mr. GORTON, Mr. BOSCHWITZ, Mr. JEFFORDS, Mr. KASTEN, Mr. DURENBERGER, Mr. SHELBY, Mr. JOHNSTON, Mr. WARNER, Mr. D'AMATO, Mr. BAUCUS, Mr. REID, Mr. BOND, Mr. SYMMS, Mr. BYRD, Mr. CHAFEE, Mr. DOMENICI, Mr. DOLE, Mr. MACK, Mr. HATCH, Mr. WILSON, Mr. THURMOND, Mr. HELMS, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. ROBB, Mr. DODD, Mr. DIXON, Mr. COATS, Mr. WALLOP, Mr. ROTH, Mr. NUNN, Mr. LAUTENBERG, Mr. HEFLIN, Mr. RIEGLE, Mr. ARMSTRONG, Mr. GRAHAM, Mr. COHEN, Mr. DANFORTH, Mr. LOTT, Mr. MCCAIN, Mr. SANFORD, Mr. MCCONNELL, Mr. GLENN, and Mr. GORE):

S. Res. 343. Resolution expressing the sense of the Senate regarding the 50th Anniversary of the Alaska Highway in 1992, entitled "Rendezvous 92"; considered and agreed to.

By Mr. EXON (for Mr. MITCHELL) (for himself and Mr. DOLE):

S. Res. 344. Resolution to direct the Senate Legal Counsel to represent Senator Alan Cranston and Senator Pete Wilson in the case of Carnessale v. Cranston and Wilson; considered and agreed to.

By Mr. CRANSTON (for himself and Mr. MURKOWSKI):

S. Con. Res. 155. Concurrent resolution expressing the congratulations of Congress to the People of New Zealand on their Sesquicentennial Year; to the Committee on Foreign Relations.

By Mr. EXON (for Mr. BOREN):

S. Con. Res. 156. Concurrent resolution making corrections in the enrollment of S. 2834, to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities for the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI:

S. 3244. A bill to improve the Government's debt collection and credit management practices, to implement certain recommendations of the President's private sector survey on cost control, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL CREDIT MANAGEMENT AND DEBT COLLECTION IMPROVEMENT ACT

● Mr. DECONCINI. Mr. President, I rise today to introduce the Federal Credit Management and Debt Collection Act of 1990. This legislation is a comprehensive revision of the Debt Collection Act of 1982. Mr. President, the President's fiscal year 1991 budget estimates that the nontax delinquent debt owed to the U.S. Government increased from $32 billion in 1988 to $40 billion in 1989. The legislation I am introducing today establishes a system whereby the Government is provided the necessary structure and Government agencies are provided the necessary incentives to collect the tremendous amount of money they are owed. It established a specific nontax debt collection target for the Government as a whole as well as targets for individual agencies and departments.

The bill also creates the position of Under Secretary of the Treasury for Debt Collection and Credit Management. The Under Secretary would be the principal adviser to the President with respect to credit management and debt collection policy. He or she would collaborate with the Secretary of the Treasury to establish individual agency debt collection targets and report to Congress on the progress of these efforts. This would centralize the debt collection efforts of the Government within one Government agency and would facilitate the coordination of these efforts.

A unique aspect of this legislation is the built-in incentive it gives to agencies to collect outstanding debt. The bill establishes debt collection targets for agencies. Those agencies that exceed their debt collection targets would be allowed to retain 15 percent of the excess amount collected, while those that fail to meet their targets would be penalized by a reduction in their annual appropriations by 15 percent of the shortfall of their goal.

This bill will help the Government make a concerted effort at collecting long overdue obligations to the U.S. Government. Successful implementation of the legislation will result in the establishment of wise business practices for the Government to follow and reduce the outstanding debt owed to the Government.

This is a tough but fair piece of legislation. At a time when our Government has a crippling Federal deficit and is seeking ways to bring additional revenue into the Treasury, it is essential that the Government make all reasonable attempts to collect what will soon amount to $40 billion in outstanding delinquent nontax debt. This legislation will put some muscle into Government debt collection practices and allow the Government to make a major dent in the nontax side of our red ink ledger.

Mr. President, I hope the Senate will give serious consideration to this important debt collection and credit management bill. It is truly a bill whose time has come. Our country can no longer afford to leave such huge amounts of debt uncollected.

I urge my colleagues to seriously consider cosponsoring this legislation

and ask unanimous consent that the full text of the bill be printed in the RECORD at the end of my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Credit Management and Debt Collection Improvements Act of 1990".

CREDIT MANAGEMENT AND DEBT COLLECTION

SEC. 2. Title 31, United States Code, is amended by inserting after chapter 35 the following new chapter:

"CHAPTER 36—CREDIT MANAGEMENT AND FEDERAL DEBT COLLECTION

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"3601. Purpose.
"3602. Definitions.
"3603. Appointment of Under Secretary of the Treasury for Debt Collection and Credit Management.
"3604. Functions of the Under Secretary.

"SUBCHAPTER II—CREDIT EXTENSION AND ADMINISTRATION

"3611. Subsidy statement.
"3612. Interest rates.
"3613. Loan origination and application fees.
"3614. Withholding of funds.
"3615. Prior default by applicant.
"3616. Default and acceleration clauses.
"3617. Notice to applicant.
"3618. Study on private sector participation.
"3619. Regulations and financial contract.

"SUBCHAPTER III—DEBT MANAGEMENT

"3621. Delinquency and default standards.
"3622. Audit of credit programs.
"3623. Regulation deadline.
"3624. Collection targets.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 3601. Purpose

"In order to strengthen the overall credit management and debt collection of the Federal Government, provide central direction to, and coordination of, Federal credit management and debt collection activities by consolidating such activities within a single organizational structure, and provide for the production of adequate, accurate, timely, and consistent financial data for the use of the executive branch and the Congress in the financing, management, and evaluation of Federal programs, this chapter establishes in the Department of the Treasury an Under Secretary of the Treasury for Debt Collection and Credit Management.

"§ 3602. Definitions

"As used in this chapter:

"(1) The term 'executive agency' has the meaning given to the term 'agency' in section 552(e) of title 5.

"(2) The term 'obligation' means any note, bond, debenture, or other evidence of indebtedness, but does not include Federal Reserve notes or stock evidencing an ownership interest on the issuing executive agency.

"(3) The term 'direct loan' means a disbursement of funds by an executive agency (not in exchange for goods or services) under a contract that requires the repayment of such funds with or without interest. Such term shall also include an obligation guaranteed by an executive agency and purchased by the Federal Financing Bank.

"(4) The term 'subsidy' means, with respect to a direct loan, the difference between—

"(A) the costs (including interest) which would have been incurred by a borrower to obtain the loan from private sources, minus

"(B) the costs (including interest) which were incurred by the borrower to obtain the loan from the Government.

"(5) The term 'debt' means an amount of money or property that has been determined by an appropriate official of an executive agency to be owed to the United States by any person, organization, or entity except another agency.

"(6) The term 'loan guarantee' means contingent liability of an executive agency. A guaranteed loan is—

"(A) any agreement in which an executive agency pledges to pay part or all of the amount due to a lender or holder in the event of default by the borrower; or

"(B) a direct Federal loan that an executive agency sold under a guarantee or agreement to repurchase.

"(7) The term 'credit extension' means that portion of the credit management cycle involving review and approval of requests for short-term or long-term credit.

"(8) The term 'financial contract' means any agreement or contract made by an executive agency, the primary purpose or results of which is to make private credit available, or available on more favorable terms than in the absence of the contract, to a non-Federal entity by indirectly or directly assuming the risk involved. Such term includes financial contracts such as an agreement to pay all or part of the principal or interest on the debt obligation of a non-Federal entity (debt service payments), financial lease agreements for assets and project financing, and repayment arrangements.

"(9) The term 'creditworthy' means a favorable determination entitling an applicant to receive credit, which is based on—

"(A) the perceived ability and willingness of the borrower to repay the debt and the lending organization's level of acceptable risk; and

"(B) the consideration of other Federal obligations that could jeopardize, or be jeopardized by, the new debt under consideration.

"(10) The term 'receivables' means amounts owed to Government upon completion of the acts giving rise to claims, and includes amounts such as amounts due for taxes, loans, sales of goods and services, fines, penalties, forfeitures, interest, overpayments, fees, duties, rents, royalties, claims, damages, audit disallowances, and travel advances.

"(11) The term 'account servicing' means that portion of the credit management cycle dealing with monitoring the status of accounts of indebtedness, maintaining records of current debts, billing of amounts due, collecting amounts due, collecting past amounts, handling debtor correspondence, performing followup functions, and providing accurate reporting of debt portfolios.

"(12) The term 'debt collection' means that portion of the credit management cycle dealing with recovery of amounts due after routine followup fails, and includes the assessment of the debtor's ability to pay, the exploration of possible alternative arrangements to increase the debtor's ability to pay, and other efforts to secure payment.

"(13) The term 'delinquency' means the status of any account which is 30 days past due.

"(14) The term 'default' means the failure to meet any obligation or term of a credit, grant, or contract agreement that causes the lender to accelerate demand on the borrower because of the severity of the borrower's breach of the agreement, and for purposes of this chapter, default occurs—

"(A) in the case of a direct loan, when the account is past due over 180 days; and

"(B) in the case of guaranteed loan, when the Government repurchases the loan.

"(15) The term 'reschedule' means to establish new terms and conditions to facilitate repayment of a debt.

"(16) The term 'referral for litigation' means—

"(A) referral to the Attorney General for appropriate legal proceedings; or

"(B) in any case in which an executive agency has statutory authority to bring legal actions without referral to the Attorney General, referral to the organization within the executive agency that is responsible for litigation.

"(17) The term 'credit report' means any written or documented oral communication of information provided by a commercial or consumer credit reporting agency dealing with the creditworthiness or financial reliability fo an applicant or debtor.

"(18) The term 'Under Secretary' means the Under Secretary of the Treasury for Debt Collection and Credit Management appointed under section 3603 of this title.

"(19) The term 'agency head' means, with respect to an executive agency, the chief executive of the agency.

"(20) The term 'function' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

"§ 3603. Appointment of Under Secretary of the Treasury for Debt Collection and Credit Management

"There shall be in the Department of the Treasury an Under Secretary of the Treasury for Debt Collection and Credit Management, who shall be appointed by the President, by and with the consent of the Senate.

"§ 3604. Functions of the Under Secretary

"(a) The Under Secretary shall—

"(1) be the principal advisor to the President with respect to Federal credit management and debt collection policy;

"(2) provide leadership, central direction, guidance, and monitoring of the executive agencies in credit management and debt collection and related financial reporting;

"(3) prepare and transmit to the Congress and the Comptroller General, within one year after the date of enactment of this chapter and in consultation with agency heads, comprehensive debt collection and credit management plans which comply with subsection (b) of this section;

"(4) review executive agency credit management and debt collection plans and policies in order to assure that—

"(A) such plans and policies are—

"(i) consistent with the overall objectives, structure, and information requirements of comprehensive debt collection and credit management plans prepared under paragraph (3) of this subsection; and

"(ii) applied uniformly across agencies to assure parity and consistency; and

"(B) in the case of any project for the development of new or improved financial management systems, such project does not duplicate efforts by other agencies;

"(5) ensure that the President and the Congress are kept fully and currently informed of the Federal Government's—

"(A) financial position and results of its operations;

"(B) financial management condition; and

"(C) requirements for financial resources to correct deficiencies and improve the effectiveness of accounting sytems, financial systems, and systems of internal controls;

"(6) identify and establish financial management objectives and information requirements in order to define the data requirements of standards established by the Comptroller General for the use by all executive agencies in the development and operation of their financial management systems;

"(7) require each executive agency to submit comprehensive records describing in detail debt status and collection efforts, by program, project, or activity;

"(8) provide an annual summary of the activities conducted under this chapter to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives, describing the progress made in improving debt collection and credit management, and recommending such changes in Federal law for the purpose of improving debt collection and credit management as the Under Secretary considers appropriate; and

"(9) promulgate such regulations as may be necessary to carry out this chapter.

"(b) The comprehensive debt collection and credit management plans required under paragraph (3) of subsection (a), shall at a minimum—

"(1) Establish credit management and debt collection practices, procedures, and regulations that implement and comply with this chapter and chapter 37 of this title, regulations of the Under Secretary, and all other relevant laws, regulations, rulings, and guidance;

"(2) define and assign debt collection and credit management responsibilities for each executive agency;

"(3) establish employee performance appraisal standards and bonus award programs that take into account employee contributions to improving the operation of credit management and debt collection programs;

"(4) establish accounting practices and procedures and automated management information systems to enable each executive agency to produce accurate financial reports on those programs that generate receivables, including reports such as operating statements, statements of financial position, and cash flow statements; and

"(5) require annual evaluations of credit management and debt collection operations and systems in order to identify areas in which such operations and systems could be improved and to initiate actions to correct any problems identified through such evaluations.

"(c) Within 60 days after receiving a plan under paragraph (3) of subsection (a), the Comptroller General shall prepare and transmit to the Congress a report which contains the analysis and comments of the Comptroller General with repect to the plan and the progress being made by executive agencies to strengthen credit management and debt collection.

"SUBCHAPTER II—CREDIT EXTENSION AND ADMINISTRATION

"§ 3611. Subsidy statement

"Any proposal by an executive agency for legislation to enact new credit programs or to amend existing credit programs shall contain an explicit statement of any subsidies in the direct or guaranteed loan program with which such proposal is concerned.

"§ 3612. Interest rates

"Interest rates in all new direct loan programs shall be related to market rates for comparable private sector loan programs, and the interest rates in such direct loan programs shall be adjusted annually to reflect changes in comparable private sector rates.

"§ 3613. Loan origination and application fees

"Loan origination and application fees shall be assessed on all loan or loan guarantee programs to defray administrative costs and costs of defaulted loans.

"§ 3614. Withholding of funds

"No executive or legislative agency shall directly or indirectly make available to any person any funds of the United States if the agency has notice that such person is delinquent in the payment of a debt owed the United States unless such person demonstrates that the debt is no longer delinquent or that arrangement satisfactory to the United States have been made for the repayment of such debt.

"§ 3615. Prior default by applicant

"Federal loan or loan guarantee funds may not be made available to any applicant who defaults on a Federal loan or loan guarantee made after the date of enactment of this chapter, unless—

"(1) the new loan or loan guarantee is necessary to protect the Government's interests;

"(2) the debt in default was discharged under Federal bankruptcy laws; or

"(3) the default has been cured.

"§ 3616. Default and acceleration clauses

"Loan and loan guarantee contract shall contain default and acceleration clauses. Default clauses shall provide for interest from the date of default and at the greater of the interest rate due under the existing loan or loan guarantee contract or the rate prescribed by the Secretary of the Treasury under section 3717 of this title. Acceleration clauses shall provide that upon default the entire remaining principal balance shall be due and subject to collection at that time.

"§ 3617. Notice to applicant

"Each applicant for any extension of credit shall be provided a written notice specifying Federal debt collection policies and practices. Each such applicant shall be required to certify that such applicant has read and understands such policies and practices.

"§ 3618. Study on private sector participation

"The President shall provide for the conduct of a study to determine which existing Federal direct loan programs could be carried out, in whole or in part, by private lending institutions as direct loans without Government guarantees. Within one year after the date of enactment of this chapter, the President shall transmit to the Congress a report which describes the results of such study and contains such recommendations as the President considers appropriate, including recommendations for legislation.

"§ 3619. Regulations and financial contract

"(a)(1)(A) The Secretary of the Treasury shall establish Federal credit management policies and promulgate regulations implementing this subchapter. Such policies and regulations shall apply to—

"(i) direct loans, loan guarantees, loan insurance, financial contracts designed to support borrowing, and debts arising from contracts, grants, and other administrative arrangements; and

"(ii) all executive agencies and Government corporations unless specifically exempted from Federal control by other statutory authority.

"(B) The Secretary of the Treasury shall include in regulations promulgated under this paragraph regulations with respect to—

"(i) all credit practices necessary to make Federal credit practices substantially conform to the best established credit practices of the private sector;

"(ii) credit analysis of borrowers (including determinations with respect to creditworthiness, financial responsibility, financial statements, identification of collateral, and ability to repay);

"(iii) prescreening procedures including the use of credit reports and records from the same or other executive agencies to identify applicants who are delinquent or in default on debt contracted under other Federal programs, projects, or activities;

"(iv) program eligibility;

"(v) alternative sources of credit;

"(vi) use of taxpayer identification numbers;

"(vii) establishment of regular repayment schedules;

"(viii) account servicing practices (including adequate recordkeeping and documentation, account review and loss estimates, followup procedures on deliquent accounts, and automation of loan servicing activities);

"(ix) debt accounting and reporting systems;

"(x) interest, penalties, and administrative costs;

"(xi) administrative offset;

"(xii) use of collection agencies;

"(xiii) referral for litigation;

"(xiv) calling guarantees;

"(xv) controlling and foreclosing on collateral;

"(xvi) Federal employee salary offset;

"(xvii) income tax refund offset;

"(xviii) rescheduling;

"(xix) write off and closeout procedures;

"(xx) portfolio sales;

"(xxi) management review; and

"(xxii) improvement plans.

"(2) Regulations promulgated under paragraph (1) of this subsection shall not apply to debt arising under the Internal Revenue Code of 1986, the Social Security Act, the tariff laws of the United States, or to debts owned by State or local governments.

"(b) The Secretary of The Treasury shall prescribe minimum requirements for contracts for all loans or loan guarantees governed by this chapter.

"SUBCHAPTER III—DEBT MANAGEMENT

"§ 3621. Delinquency and default standards

"Within one year after the date of enactment of this chapter, each executive agency operating credit programs shall—

"(1) develop delinquency and default rate standards for each loan and loan guarantee program; and

"(2) transmit a report to the Congress specifying such standards.

"§ 3622. Audit of credit programs

"(a) Within two years after the date of enactment of this chapter, the Comptroller General shall audit the credit management and debt collection systems and operating policies of each executive agency which administers credit programs.

"(b) Each audit conducted under subsection (a) shall determine whether the executive agency has complied with the requirements of this chapter, the requirements of subchapters I and II of chapter 37 of this title, and the related requirements of the Comptroller General, the Attorney General, and the Secretary of the Treasury. Copies of the audit report of each audit shall be provided to the Congress, the Under Secretary, and the agency head. With respect to any weaknesses disclosed by the audit, the agency head, within 60 days after receiving the audit report, shall furnish the Congress with an explanation of the reasons for such weaknesses and a plan of appropriate action to correct such weaknesses.

"§ 3623. Regulation deadline

"Within one year of the date of enactment of this chapter, each executive agency operating credit programs shall have promulgated all final executive agency regulations required by this chapter and subchapters I and II of chapter 37 of this title.

"§ 3624. Collection targets

"(a) The total amount of delinquent debts owed to executive agencies (other than debts arising under the Internal Revenue Code of 1986) shall be reduced by not less than $20,000,000,000 during the period beginning on October 1, 1991, and ending on September 30, 1994. For purposes of this section, the total amount of such debts shall be the total amount of such debts identified by the Comptroller General as of September 30, 1990.

"(b) The Secretary of the Treasury, after consulting with each agency head and receiving the proposals of each agency head for debt collection targets, shall develop and specifically establish debt collection targets for each fiscal year for each executive agency debt collection program. Such targets shall be established in conjunction with the provisions of the comprehensive debt collection credit management plans established pursuant to section 3604(a)(3) of this title and shall be designed to implement subsection (a).

"(c) To the extent that any debt collection targets established by the Secretary of the Treasury under subsection (b) of this section for an executive agency for a fiscal year are exceeded by such agency, 15 percent of the amount by which such agency exceeds the targets for such fiscal year shall be made available to the executive agency as additional program funding for the particular program or activities involved in the debt collection activity. The balance of the delinquent debts collected under this section shall be returned to the Treasury of the United States and shall be used to reduce the public debt.

"(d) To the extent that any debt collection targets established by the Secretary of the Treasury under subsection (b) of this section for an executive agency for a fiscal year are not met by such executive agency, the amounts that were appropriated for the programs or activities at the executive agency failing to meet such targets shall be reduced by an amount equal to 15 percent of the difference between the amount collected by the executive agency toward its debt collection target and the actual debt collection target established by the Secretary of the Treasury under subsection (b) of this section.

"(e) The Secretary of the Treasury shall promulgate regulations which prescribe standards for use by executive agencies in developing proposals for debt collection targets. Such standards shall require executive agencies to consider, for each program or activity, such factors as—

"(1) the characteristics of the debts and debtors involved;

"(2) the historical experience of the agency, other government agencies, and the private sector in the collection of similar types of debt;

"(3) the rates of delinquency and default;

"(4) planned improvements in the agency's debt collection programs; and

"(5) such other factors as the Secretary of the Treasury considers appropriate.

"(f) Officers and employees of executive agencies responsible for the management of debt collection programs shall be held accountable (as part of the performance standards to be established under section 3604 of this title) for establishing and periodically reviewing and revising procedures and targets that comply with the requirements of this section and the regulations of the Secretary of the Treasury.

"(g) Any reductions to executive agency appropriations under this section shall be reported in detail to the Congress by the Secretary of the Treasury and shall be included in detail in all budget justifications presented by the executive agency to the Congress.".

USE OF CREDIT BUREAUS

SEC. 3. Section 3711(f) of title 31, United States Code, is amended by—

(1) striking out "may" after "legislative agency" in paragraph (1) and inserting in lieu thereof "shall"; and

(2) striking out "may" after "system" in subparagraph (A) of such paragraph and inserting in lieu thereof "shall."

DEBT COLLECTION CONTRACTORS

SEC. 4. Section 3718(a) of title 31, United States Code, is amended by—

(1) inserting "to augment agency collection efforts" after "appropriate";

(2) striking out "may" after "head of the agency" and inserting in lieu thereof "shall";

(3) striking out "; and" at the end of paragraph (1);

(4) striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and"; and

(5) inserting after paragraph (2) the following new paragraph:

(3) the person will submit to the agency status reports on the success of such person in collecting such debts at least once every six months.".

ROUTINE ADJUSTMENTS OF PAY

SEC. 5. Section 5514(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(5) This subsection does not apply to intragency deductions for routine administrative overpayments which are the result of clerical or administrative overpayments which are the result of clerical or administrative error or delays in the processing of pay documents, and which are rarely controversial or disputed. With respect to these routine adjustments of pay, the agency should afford the individual reasonable opportunity to dispute the deduction. Such opportunity need not be provided prior to making the deduction.

"(6) No claim may be collected under the authority of paragraph (1) of this subsection at any time after 10 years after the claim first accrues.".

INTERNAL REVENUE SERVICE INFORMATION

SEC. 6. Section 6103(m)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by inserting before the period a comma and "or other statutory authorities granting agencies independent claims collection authority"; and

(2) by striking out "the Secretary may" and inserting in lieu thereof "the Secretary shall".

DEBT COLLECTION REPORTS IN THE BUDGET PROCESS

SEC. 7. (a) Section 3719 of title 31, United States Code, is amended—

(1) by striking out "the Director of the Office of Management and Budget" in subsection (a) and inserting in lieu thereof "the Under Secretary of the Treasury for Debt Collection and Loan Management";

(2) by striking out "Director" each place it appears in subsections (a) and (b) and inserting in lieu thereof "Under Secretary";

(3) by striking out "and the Secretary at least once each year" in subsection (a) and inserting in lieu thereof "in accordance with regulations issued by the Under Secretary under section 3603 of this title";

(4) by striking out "and" at the end of subsection (a)(1)(E);

(5) by inserting "and" after the semicolon in subsection (a)(1)(F);

(6) by inserting after subparagraph (A)(1)(F) the following new subparagraph.

"(G) the agency's progress in implementing chapters 36 and 37 of this title, and the agency's monetary and programmatic goals for improving collections and reducing delinquencies and writeoffs;"; and

(7) by striking out "and shall report annually to Congress on the management of debt collection activities by the head of each agency" in subsection (b) and inserting in lieu thereof "and shall prepare (for inclusion in the budget submissions required by section 1105 of this title) a detailed statement of the Under Secretary's evaluation of each agency's implementation of its debt collection and loan management responsibilities for each debt collection and credit program administered by the agency".

(b) Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(26) a separate statement for each agency and program contains the information specified in section 3719(b) of this title.".

SELLING DEBTS OWED TO THE GOVERNMENT

SEC. 8. Section 3711 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) The head of each agency shall investigate the feasibility and cost effectiveness of selling the debts which that agency is responsible for collecting (either before or after they become delinquent or in default), using competitive procedures, and shall establish procedures to facilitate such sales when it would be to the Government's advantage to do so.

"(2) Whenever feasible, sales of debt under this subsection shall be for cash and without recourse, repurchase, or other guaranty or warranty agreement by the Government.".

TIME LIMITATIONS FOR BRINGING LEGAL ACTIONS ON DEBTS OWED THE UNITED STATES

SEC. 9. Section 2415 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) No provision of State law that would set an earlier deadline for filing suit shall apply to a suit filed for collection of a debt owed to the United States.".

DEFINITION OF DEBT AND CLAIM

SEC. 10. Section 3701(b) of title 31, United States Code, is amended to read as follows:

"(b) In subchapter II of this chapter, the terms 'debt' and 'claim' mean any amount owed to the Government, except that such term does not include any amounts owed by one agency to another agency, and except as otherwise provided by law.".●

By Mr. ADAMS:

S. 3245. A bill to amend the Older Americans Act of 1965 to provide congregate nutrition services and intergenerational activities in elementary and secondary school facilities, and for other purposes; to the Committee on Labor and Human Resources.

SCHOOL-BASED MEALS FOR OLDER INDIVIDUALS AND INTERGENERATIONAL PROGRAMS ACT

Mr. ADAMS. Mr. President, in September, I had the chance to visit a special program that provides hot and nutritious meals to the elderly in and around Seattle. The program is known as SPICE—School Programs Involving Community Elders. It is unique among nutrition programs for senior citizens because each of SPICE's eight nutrition sites are located in a local public school. I was so impressed with what I saw and know about SPICE that I want to see the concept of SPICE used throughout the country. Therefore, I rise today to introduce legislation that would amend the Older Americans Act to provide grants to States specifically for this purpose. As you will see, the benefits of the School-Based Meals for Older Individuals and Intergenerational Programs Act of 1990 would go way beyond the meals provided.

In brief, the legislation I am introducing today will serve two key purposes. First, it will help bring seniors and kids together—so both benefit—and will make fuller use of our public schools and their many facilities. And second, it would provide a way to ensure expanded nutrition services for the elderly.

The facts are clear: senior nutrition services are essential for many older Americans and the need today far exceeds yesterday's need, much less tomorrow's needs. Additionally, opening up schools to older Americans will provide valuable intergenerational opportunities and will be very helpful in generating more much-needed public support for our public education system. As one who benefited directly from a sound public education system, I am deeply distressed by the scope of the problems plaguing our schools and our disadvantaged youth. I believe programs like SPICE can be part of an answer to some of these problems.

Earlier this summer, when I accepted the chairmanship of the Subcommittee on Aging of the Senate Labor and Human Resources Committee, which is responsible for the Federal Older Americans Act, I stated that one of my top priorities would be to seek ways to link older and younger Americans together; to make more of our efforts truly intergenerational.

Therefore, it was exciting to me to find that one of the most innovative and effective ways to do just that is in my own backyard—so to speak—right in Seattle. I want to submit for the RECORD a list of activities occurring at SPICE locations in my State, and I ask unanimous consent that it be printed in the RECORD at the end of my remarks. The list is broad, but I would like to mention just a few examples. At Wilson/Pacific Indian Heritage School, SPICE participants volunteer to accompany special education students to swimming classes and physical therapy sessions. Seniors also help feed disabled students. Whittier Elementary SPICE participants take part in a program called "Reading With a Friend," where seniors are teamed with readers in the library each week for tutoring sessions. Also at Whittier, SPICE sponsors holiday shopping parties for the entire school. Each student chooses a gift for their family or themselves. The gifts are donated by Whittier SPICE seniors. Afterward, seniors serve the children cookies and punch, and give a special reading of "The Night Before Christmas." Students also sing carols for the seniors. These are just a few examples of intergenerational programming and the potential is truly exciting.

Throughout my visit to SPICE, I was deeply touched by the rewards reaped by young and old who are involved in the SPICE Program. By providing important nutrition services to older Americans in our public schools, we create the opportunity for good interaction between young and old. Most senior nutrition sites are located in other settings—not in our schools. Since 1974, SPICE has demonstrated the value of bringing youngsters, from kindergarten to high school, together with our older citizens.

It seems to me that one of the most disappointing and distressing developments in our society has been the increasing segregation of our older citizens from our younger citizens. We all know this is the product of various changes in our society that have had a dramatic effect on the traditional notion of large extended families whose members live close to each other.

As we agonize with the many difficulties facing so many of our young citizens today—from not having a mother and father in the same household, to inadequate funding for educational opportunities, to the plague of drugs—we know that the lack of meaningful role models and adult guidance is a significant contributing factor to our youth's problems. Simply put, if kids don't have positive ongoing experiences with parents, grandparents, and other adults, something significant will be missing from their lives and may well lead to serious difficulties. On the other side of the coin, as adults, we benefit from interactions with kids of all ages.

Federal support to encourage the nationwide development of programs modeled after SPICE is a wise investment. Now, more than ever before, we must utilize the resources available to us as effectively as possible as we struggle to provide important services to our Nation's elderly and youth. With that, I conclude my remarks. I hope to have your support for this bill.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SPICE: A BLENDING OF GENERATIONS

TUTORING AND SPECIAL ASSISTANCE

Seniors from SPICE Centers volunteer as tutors and help as teacher assistants. One participant has worked as an aide to the same teacher for more than ten years.

A pilot Reading With a Friend program, which was started by the Librarian at Whittier last year grew into a model program. This innovative approach teams seniors with readers in the library each week, and has been a success with students. A similar program has been developed by Stevens.

At Wilson/Pacific, seniors have volunteered to accompany special education students to swimming classes, and regular physical thereapy sessions. Seniors also help feed disabled students.

Seniors help in the library at Whittier.

Seniors from SPICE have helped prepare and serve lunches to students at Dunlap as well as serving as lunchroom cashier.

Several handicapped students serve food to seniors at Wilson/Pacific SPICE.

A senior from SPICE has assisted the school nurse at Stevens for more than five years.

LEARNING TOGETHER

At Nathan Hale, seniors and drama students produced a video tape of plays they created together. This special project was sponsored by a grant obtained through the Seattle-King County Division on Aging.

Horizon students interviewed ten seniors at Dunlap.

Adams SPICE shared a special program on the history of the theater in Washington State. The children took part in the program, and afterward drew pictures and wrote thank you notes.

One classroom worked together on a SPICE quilt at Adams.

Seniors at Hale SPICE made a birthday cake for pre-schoolers.

This year, Dunlap Seniors are making song books for the music teacher.

Whittier SPICE seniors helped staple, paste and assemble material to be used in classes by one of the Whittier teachers.

Dunlap SPICE made a video tape for students of the schools's Nutcracker ballet production.

Lafayette students brought Easter favors for seniors at Madison.

Fourth graders at Whittier made Easter Bunny decorations for the seniors' lunchroom tables.

Dunlap seniors made valentines for the kindergartners last year.

Seniors at Wilson/Pacific made corsages for each special education student to wear at their school dance.

Whittier SPICE donated a larger American flag to the school.

FEAST program students from Nathan Hale have provided fresh-baked treats for many occasions, and also sells pies, fruitcakes, and other items to SPICE.

Fourth graders at Whittier made Thanksgiving decorations and cups of candies for the SPICE Holiday Luncheon.

Hale seniors helped the library make books.

Seniors at Dunlap gave valentine candies to each student.

Wilson/Pacific SPICE made Halloween bags for each special education student.

Seniors from Dunlap designed the main school display case, using the theme, "Getting to Know You and Me."

Many participants from Wilson/Pacific helped the school put on its Very Special Art Festival, and one senior built display panels with materials which were donated by SPICE.

Madison seniors contributed to the school's Multi-Ethnic Cookbook, which was organized by the home economics class.

Seniors at Dunlap helped students celebrate Chinese New Year by making a dragon with scales bearing the name of each student, faculty member, and SPICE participant. The center also made a display of traditional Chinese items for students.

PUBLICIZING SCHOOL AND SPICE EVENTS

Schools and SPICE Programs publicize events of mutual interest, such as open houses, carnivals, assemblies, and other occasions.

Each week, SPICE Centers submit press releases to local newspapers, to publicize events of interest to the community. In addition to letting the public know about SPICE services, these articles help the community understand the special opportunities SPICE participants have to work in schools. Many school volunteers have been recruited through these contacts.

School PTA's have helped families learn about SPICE through their newsletters.

Wilson/Pacific created a bulletin board to honor SPICE participants who help the school.

SHARING EVENTS

Teachers and students visit SPICE bazaars and bake sales. At most schools, classes come to bazaars one at a time throughout the day. Stervens and Dunlap SPICE Centers have also offered special Children's Sales for students.

Whittier SPICE sponsors holiday "Shopping Parties" for the entire school. Each student chooses a gift for their family or themselves. The gifts are donated by Whittier seniors. Afterwards, seniors serve the children cookies and punch, and give a special reading of The Night Before Christmas. Students also sing carols for the seniors.

Seniors from SPICE attend school assemblies and other productions, including plays, Open Houses. In return, SPICE Centers invite students to share many of their events, like the popular monthly Birthday Parties.

Groups of students entertain hundreds of seniors at SPICE each year. Some examples: choral group performances, sing-alongs, holiday programs, special productions of plays, Halloween costume parades, and school band concerts.

Hale SPICE hosts a Staff Appreciation potluck for kitchen and custodial staff.

Piano students from Hale have played for the seniors in their social center there.

SPICE Santas visit classrooms at many schools.

Principals help judge the annual SPICE Spelling Bee. Seniors throughout the city compete for top honors.

A husband and wife team from Whittier SPICE gave a farewell party for the school's *Special Help* class. The party included magic acts treats.

Seniors and Kindergartners at Dunlap shared a special *Kids Place* program featuring a puppet show by the Seattle Public Library.

Twelve seniors from Stevens visited Martin Luther King School to attend a student performance there.

SPICE seniors regularly participate in the District's annual Volunteer Reception.

Following a film on Martin Luther King at Adams SPICE, three minority teachers joined hands with seniors and led them in singing "We Shall Overcome." This was described by many as a very moving event.

Four seniors accompanied 90 children form Whittier on a field trip to the Pacific Science Center.

FUND RAISING EVENTS AND ACTIVITIES

SPICE Programs have helped schools and their PTAs raise funds. Some have also helped with campaigns to collect newspapers, soup labels and other drives.

SPICE seniors help their schools' food drives for the needy.

McClure seniors helped eighth grade students sell candy to raise money for a field trip to the Ashland Shakespeare Festival.

Whittier SPICE helped their PTA sell chocolate Easter eggs.

At Madison, seniors helped the school sell chocolate santas to fund a trip to San Francisco for Seventh grade students.

Eight seniors from the Whittier Sewing Circle crocheted tree ornaments (skates) for all the children at Whittier.

At Adams, seniors and students worked together to raise money for the national Statue of Liberty Fund.

Wilson/Pacific SPICE donated an afghan to help the school raise money for music instruments.

SHARING RESOURCES

One of the main advantages of the SPICE Program is the saving in costs through use of facilities. Other kinds of sharing include joint use of tools and equipment. For instance, Dunlap SPICE shares its printer with teachers there.

Although most SPICE Programs eat lunch after the students, SPICE shares the lunchroom at Whittier with *Head Start.*

BY MR. WARNER:

S. 3246. A bill to authorize States to regulate the treatment, disposal, and other disposition of solid waste; to the Committee on Environment and Public Works.

STATES SOLID WASTE REGULATORY AUTHORITY ACT

● Mr. WARNER. Mr. President, I rise today to introduce the States Solid Waste Regulatory Authority Act affecting the interstate transportation of solid waste.

Mr. President, last month I voted in favor of an amendment by my colleague of Indiana, Senator COATS, to regulate interstate shipments of solid waste for purposes of disposal and treatment. The Coats amendment to the D.C. appropriations bill passed by a vote of 68 to 31. At that time, I expressed my concerns about the practice of interstate solid waste disposal and my intention to introduce legislation that further provides States with the authority to regulate the flow of out-of-State trash. In my view, this legislation is needed to assure that States develop comprehensive plans to manage wastes generated within her borders.

Mr. President, citizens are waging a tough, uphill battle to protect their neighborhoods from being used as dumping grounds for the more than 12 million tons of solid waste that crossed State lines in 1989 for disposal. In some cases, this waste is being shipped hundreds of miles from distances as far away as New York to New Mexico, Connecticut to Ohio, and New Jersey to Alabama. Virginia alone receives solid wastes from four States—the District of Columbia, New Jersey, New York and Pennsylvania. The District of Columbia for example, disposes of virtually all of its solid waste—estimated at 700,000 tons per year—at a regional landfill on federally owned land at Lorton, VA.

Waste shipments are occurring and expected to increase in large part because this country is running out of landfill space. Some States, such as New York and New Jersey, are experienceing a temporary shortage of disposal capacity. With the U.S. Environmental Protection Agency [EPA] estimating that 73 percent of our Nation's solid waste is landfilled and further, that half of all landfills existing in 1989 are expected to close by 1994, it quickly becomes clear why citizens are anxious to address this problem.

Mr. President, Americans must begin to shift from relying on landfilling as the principal means of waste management to initiatives to encourage waste reduction and recycling. States have a duty and obligation to their citizens to plan for and manage the capacity of solid wastes generated within their borders. Some States are doing a better job than others of managing their waste through programs such as recycling. Virginia State law requires all localities to recycle 25 percent of its solid waste by 1995. However, this goal may be seriously undermined by the State's inability to control solid waste imports.

Mr. President, States that plan responsibly for the future to provide adequate waste disposal capacity should not bear the burden of treating and disposing of waste generated by States that do not. However, States and local governments that have tried to achieve this goal by banning out-of-State trash have had their efforts frustrated by the courts. In City of Philadelphia versus New Jersey, the Supreme Court struck down as unconstitutional, under the commerce clause, a New Jersey law banning out-

of-State waste.[1] The Court found that New Jersey could not discriminate against articles of commerce from outside the State absent some reason to treat them differently.[2]

This decision and those following it have not discouraged many States and local jurisdictions from regulating interstate waste disposal. According to the National Solid Waste Management Association, 33 States have considered ways to restrict the transportation of out-of-State trash. Because State efforts to regulate waste imports are ongoing, litigation is expected to continue until States are given the authroity to refuse out-of-State waste shipments.

For this reason, I believe that Congress has a responsibility to provide States with the necessary incentives to manage their own wastes. To achieve this objective, Congress must exercise its constitutional authority to grant states the right to ban solid waste imports. Only with this authority will States have the power they need to manage wastes within their borders.

My bill does just that. Initially, it allows States to set higher fees for out-of-State trash and allows them to enter into agreements with one or more States, if they so choose, to collectively manage solid wastes. Moreover, it gives States with approved or effective solid waste management plans the authority to ban waste imports. States will continue to have primary responsibility for providing solid waste treatment and disposal capacity that meets the needs of its citizens.

Specifically, my bill would delegate congressional authority to States to impose progressively higher fees on the disposal and treatment of imported solid wastes beginning in 1991. Enactment of the fee would be left to the discretion of the State. Moreover, States would be authorized to double the fee each year, over a 5-year period, starting with a 50-percent increase over the fee imposed by the State on December 31, 1990, or later, if the State receiving the solid waste determines that a higher baseline amount is more appropriate.

Once 5 years have passed and a State has an approved or effective solid waste management plan, States may refuse solid waste imports or set a different fee structure, as allowed by State legislation. Such legislation may provide for setting different fees for wastes generated out of State. Five years is a reasonable amount of time within which a State could plan, finance and begin construction of new and expanded treatment or disposal facilities, including those intended for recycling and resource recovery and to enter into agreements with other States to plan for regional treatment and disposal facilities.

To further assure that States act to provide adequate waste disposal capacity for its residents, my bill allows States to charge fees equal to that of the transporting state. Conversely, to encourage partnerships between States and the private sector to build and operate recycling and resources recovery facilities, my bill would also allow States to enact legislation providing lower fees for solid wastes intended for these purposes. States would not be discouraged from exporting solid wastes destined for recycling, resource recovery and waste-to-energy facilities.

While my bill does not specify how the fees should be used, it is my hope that States will use the additional resources to manage their waste programs, in furtherance of waste reduction objectives. These fees will have the added effect of ensuring that all States, particularly those which have traditionally relied on waste exports as a primary means of disposal, to begin planning to provide disposal capacity and waste reduction programs for solid wastes generated in-State.

My bill would also strengthen existing State solid waste management plan requirements of RCRA, which were first mandated in 1976. It requires States to develop a 10-year plan that will ensure adequate treatment and disposal capacity for all solid wastes generated within the State, with an emphasis on reducing waste at the source to mitigate the need for landfills. Under the bill, EPA would be required to review a plan within six months or receipt. The plan would automatically become effective if EPA fails to act within that time period.

Based on current trends and information, EPA projects that only 20 to 28 percent of solid waste will be recovered annually by 1995. States must redirect their efforts to develop comprehensive programs that seek to maximize the use of technically feasible waste management alternatives, such as recycling and resource recovery. However, waste-to-energy facilities must not impede the objective of source reduction. Wastes nevertheless requiring disposal may first be treated to minimize any harmful constituents.

The cornerstone of the plan will be the public's acceptance of the need for alternative waste management practices. To this end, I share the view of my friend and colleague from Rhode Island, Senator CHAFEE, of the importance of educating the public, including children and students, on the benefits and opportunities of participating in source reduction and recycling programs. Habits are not easy to change, but through the involvement of citizens, businesses, Government and other sectors of the community, States will be able to develop sound waste management plans that address the needs of the State.

Finally, my bill clarifies a State's right to negotiate agreements with with one or more States to collectively manage solid wastes by constructing and operating regional waste treatment and disposal facilities, including waste reduction and recycling facilities, if they determine that such an approach is in the best interest of their State. These agreements would be reviewed by the Congress, as required by the compact clause of the Constitution, unless States choose to codify provisions of the agreements into State law. Similar provisions already exist in the Clean Water Act and the Clean Air Act.

Mr. President, solid waste management is a problem facing all Americans. States and local governments are on the front lines of defense to develop meaningful strategies to take care of their own trash and to protect the health and environment of its residents. My bill will help them in this effort by delegating congressional authority to States to ban or discourage the practice of interstate waste disposal with approved or effective solid waste management plans.

Mr. President, I ask unanimous consent that the text of my bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "States Solid Waste Regulatory Authority Act".

SEC. 2. AUTHORITY TO REGULATE SOLID WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4011. REGULATION OF DISPOSAL OF SOLID WASTE.

"(a) AUTHORIZATION.—Subject to limitations described in this section, each State is authorized to enact and enforce laws regulating the treatment, disposal and other disposition of solid waste within such State.

"(b) LAWS REGULATING TREATMENT AND DISPOSAL.—

"(1) FEES.—

"(A) Subject to the limitations described in this paragraph (1), each State is authorized to enact and enforce laws imposing and collecting fees in connection with the treatment, disposal, or other disposition within such State of solid waste generated in another State.

"(B) Beginning in calendar year 1991, any increase in a fee described in subparagraph (A) of this paragraph (1) shall not exceed an amount which is equal to the base amount multiplied by the applicable percentage for such calendar year.

"(C) The applicable percentage for calendar years, beginning with calendar year 1991, shall be determined in accordance with the following table:

[1] 437 U.S. 617 (1978).
[2] Id. at 626–627.

"In calendar year:	The applicable percentage is:
"1991	50
"1992	100
"1993	150
"1994	200
"1995 and thereafter	(1)

[1] (Such amount as the receiving State may determine).

"(D) For purposes of this paragraph (1), the term 'base amount' means the fee imposed by the State on December 31, 1990, or if no fee was imposed on December 31, 1990, the fee first imposed by the State after such date.

"(E) In the case of any State that imposes a fee after December 31, 1990, the table in subparagraph (c) shall be applied—

"(i) by substituting the first calendar year beginning after the calendar year in which such fee is imposed for 1991;

"(ii) by substituting the second calendar year beginning after the calendar year in which such fee is imposed for 1992;

"(iii) by substituting the third calendar year beginning after the calendar year in which such fee is imposed for 1993; and

"(iv) by substituting the fourth calendar year beginning after the calendar year in which such fee is imposed for 1994.

"(F) Notwithstanding any other provision of this section, at any time the fee of a State transporting solid waste to a receiving State for the treatment, disposal, or other disposition of such solid waste exceeds that of the receiving State, such receiving State may collect from such transporting State a fee equal to that of the transporting State.

"(2) BANS ON SOLID WASTE IMPORTATION.—Each State is authorized to enact and enforce laws imposing a ban on the importation of solid waste if—

"(A) the 5-year period beginning on the date of enactment of this paragraph has expired; and

"(B) the State has an approved or effective solid waste management plan meeting all of the requirements of section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943).

"(3) COMPACTS; AGREEMENTS.—Any two or more States are authorized to negotiate an agreement or compact, not in conflict with a Federal law or treaty, for the purpose of providing for the treatment, disposal or other disposition of solid waste, but no such agreement or compact shall take effect until it has been approved by Congress.

"(c) DEFINITION.—As used in this section, the term 'solid waste' shall have the same meaning as that provided in section 1004(27) of this Act, but such term shall not include hazardous waste as referred to under subtitle C.

SEC. 3. STATE SOLID WASTE MANAGEMENT PLANS.

(a) AMENDMENT.—Section 4003(a) of the Solid Waste Disposal Act (42 U.S.C. 6943(a)(6)) is amended by deleting paragraph (6) and inserting in lieu thereof the following:

"(6) The plan shall provide that the State, directly or through regional or local planning units as may be established under section 4002(a)(1), shall (A) identify the amount of solid wastes by waste type that are reasonably expected to be generated within the State or accepted from another State during the 10-year period following the date of the enactment of the States Solid Waste Regulatory Authority Act, (B) identify the amount of solid waste to be reduced during such 10-year period through source reduction, recycling and resource recovery, and (C) establish a process to assure the availability of solid waste treatment, storage and disposal facilities, including recycling facilities, permitted pursuant to section 4010 of this Act, including resource recovery and recycling facilities with adequate capacity to manage all such solid wastes in an environmentally sound manner.

"(7) When identifying the amount of solid waste management capacity necessary to manage the solid waste identified in paragraph (6), the State shall take into account solid waste management compacts in effect on the date of enactment of the State's Solid Waste Regulatory Authority Act that exist within the State and one or more States.

"(8) The plan shall require laws, regulations, and ordinances for development of new and expanded solid waste management facilities necessary to provide the capacity requirements in paragraph (6), including the establishment of a process for the siting of such facilities and a schedule for the approval and construction of such facilities. To the extent any capacity is provided outside the planning unit, the State shall act to ensure such capacity is available and is identified in the plan. The plan shall reserve to the State authority to take such actions on behalf of a regional or local planning unit, including compacts with other States if appropriate, to assure the availability of such capacity when such planning unit has failed in a timely way to provide adequate capacity for waste volumes identified by a State, regional, or local plan established pursuant to paragraph (6) of this subsection.

"(9) Each such plan shall describe solid waste management practices and programs, based on the State's environmental and economic conditions, that promote source reduction and recycling. Such programs shall include public education campaigns and the plan's description of such programs shall include, but not be limited to, the following areas:

"(A) coordination among State and local officials, including public education officials;

"(B) course curriculum development for primary and secondary schools regarding the benefits of and opportunities to participate in source reduction and recycling programs; and

"(C) projects to inform all members of the public and private sectors, including government agencies, institutions, the industrial and business communities, and consumers, of the benefits of and opportunities to participate in source reduction and recycling programs.

"(10) The plan shall identify existing State and regional markets for recyclable materials and actions that the State will take to promote and develop recycling markets.

"(11) The plan shall provide for a program requiring all solid waste management facilities to register with the State and that only registered facilities may manage solid waste identified in the plan. Such registration shall at a minimum, include the name and address of the owner and operator of the facility; the address of the solid waste management facility; the type of solid waste management used at the facility; and the amounts by waste type and source of waste to be managed at the facility.

"(12) The plan shall provide for technical and financial assistance to local communities to meet the requirement of the plan.

"(13) The plan shall specify the conditions under which the State will authorize a person to accept solid waste from other States, for purposes of solid waste management other than transportation, and ensure that such waste is managed in accordance with the plan and that acceptance of such waste will not impede the ability of the State of final destination to manage solid waste generated within its borders.".

(2) Section 4003 of the Solid Waste Disposal Act is amended by deleting subsection (d) and inserting in lieu thereof the following:

"(d) WASTE-TO-ENERGY FACILITIES.—It is the intention of this Act and the planning process developed pursuant to this Act that determinations regarding the need for or size of waste-to-energy facilities for solid waste management shall not in any way interfere with the achievement, to the maximum extent possible, of the objectives and policies of this Act.

"(e) ADDITIONAL PLAN PROVISIONS.—Any State plan submitted under this subtitle shall include provisions to carry out each of the following unless the State demonstrates, to the satisfaction of the Administrator, that the inclusion of such a provision is not practicable:

"(1) A policy which would require the State and political subdivisions of the State to procure products made with recyclable materials.

"(2) A program to encourage composting of yard waste, agricultural waste, and other waste streams as appropriate.

"(3) A system for curbside pickup of source-separated materials or separation at recycling facilities, or both.

"(4) A policy requiring—

"(A) that recyclable materials in solid waste from residences, commercial establishments, and office buildings be separated, to the maximum extent economically practicable, prior to treatment or disposal in solid waste management facilities. Recyclable materials to be considered in the State plan shall include but not be limited to corrugated cardboard, office paper and paper products, newspaper, glass, plastic materials and products, ferrous and nonferrous, and metals, yard waste, beverage containers; and

"(B) the imposition of a surcharge on tipping fees for any solid waste from commercial establishments or office buildings that (i) is delivered to a landfill, waste-to-energy facility or waste treatment facility and (ii) is not source-separated.".

(b) AMENDMENT.—Section 4006 of the Solid Waste Disposal Act (42 U.S.C. 6946) is amended by adding at the end thereof the following:

"(d) SUBMISSION OF PLANS.—Not later than 6 months after the date of enactment of the States Solid Waste Regulatory Authority Act, each State shall, after consultation with interested parties, and local governments, submit to the Administrator for approval a plan that complies with the requirements of section 4003(a) of this Act.

"(e) FAILURE OF THE ADMINISTRATOR TO ACT ON A STATE PLAN.—If the Administrator fails to approve or disapprove a plan within 6 months after a State plan has been submitted for approval, the State plan as submitted shall become effective at the expiration of 6 months after the date on which such plan was submitted. The plan shall remain in effect as submitted and subject to review by the Administrator and revision in accordance with section 4007(a).".●

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. DECONCINI, Mr. MITCHELL, Mr.

GRAHAM, Mr. AKAKA, Mr. THURMOND, Mr. SPECTER, and Mr. JEFFORDS):

S. 3248. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by such Act and to make technical amendments; to amend title 38 United States Code, to clarify veterans reemployment rights and to improve veterans' rights to reinstatement of health insurance, and for other purposes; to the Committee on Veterans' Affairs.

SOLDIER'S AND SAILORS' CIVIL RELIEF ACT OF 1990

● Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to introduce S. 3248, the proposed Soldiers' and Sailors' Civil Relief Act Amendments of 1990. I am pleased to note that I am joined by the committee's ranking minority member, Senator MURKOWSKI, and by committee members Messrs. DECONCINI, MITCHELL, GRAHAM, AKAKA, THURMOND, SPECTER, and JEFFORDS. This bill would modify and make technical amendments to the Soldiers' and Sailors' Civil Relief Act of 1940 [SSCRA] (50 U.S.C. app. 510, et seq.) and the Veterans' Readjustment Rights [VRR] law, which is codified in chapter 43 of title 38, United States Code.

The SSCRA was enacted by Congress in 1940 to protect individuals called to active duty. It is intended in large part to promote the national defense by suspending enforcement of civil liabilities of service members in order to enable them to devote their entire energies to the defense needs of the Nation. For example, the act provides for forbearance and reduced interest on certain obligations incurred prior to service and restricts default judgments against service members and rental evictions of service members and their dependents.

Reservists called to active duty also are concerned about having jobs when they return to civilian life—preferably their old jobs—and not losing seniority and other employment benefits because of their absence while serving their country. Under the VRR law, individuals who leave other than temporary civilian jobs in order to enter active duty in the Armed Forces, voluntarily or involuntarily, are entitled to return to those jobs after an honorable discharge or release from service if they apply for reemployment within 90 days after separation from active duty. For purposes of rights and benefits based upon length of service, the employee also is entitled to be treated as though he or she had never left. Thus, the returning veteran steps back on the seniority escalator at the point he or she would have occupied without the interruption for military service.

The bill I am introducing today is identical in most respects to H.R. 5814, which was introduced in the House of Representatives by my good friend and the chairman of the House Veterans' Affairs Committee, Representative MONTGOMERY, on October 11 and passed by the House on October 15. This measure addresses concerns raised in a September 12, 1990, joint hearing of the Senate and House Committees on Veterans' Affairs. Chairman MONTGOMERY and I—together with the two committees' ranking minority members Mr. MURKOWSKI and Mr. STUMP, have agreed to seek only those changes to the SSCRA and VRR necessary to address the application of these laws in connection with Operation Desert Shield. During the next Congress, the two committees plan to carry out a more comprehensive review of these laws.

The differences between the House-passed bill and the measure I am introducing today reflect our continuing joint effort to develop this legislation.

SUMMARY OF PROVISIONS

Mr. President, this bill contains five substantive provisions that would:

First, increase from $150 to $1,200 the maximum rental amount for which an eviction of a servicemember's family from their residence shall be stayed under the SSCRA.

Second, expand authority under the SSCRA for automatic extension of powers-of-attorney that otherwise would have expired after August 2, 1990, executed by a servicemember who is missing in action.

Third, provide that the professional liability insurance for physicians, other health care professionals, and members of other professions who are called to active duty would be suspended upon written request to the insurance carrier for the period of the individual's active duty.

Fourth, provide, under both VRR and SSCRA, for reinstatement of health insurance, without waiting periods or exclusion of coverage for preexisting conditions, for a service member or for the service member and his or her family.

Fifth, clarify existing reemployment rights for reservists called to active duty for periods of 90 days or longer.

BACKGROUND

Mr. President, in response to the mobilization of over 46,000 members of National Guard and other Selected Reserve units for Operation Desert Shield, the Senate and the House Veterans' Affairs Committees held a joint hearing, on September 12, 1990, to assess the adequacy of protections provided by the Soldiers' and Sailors' Civil Relief Act of 1940 [SSCRA] and the veterans' reemployment rights [VRR] law. Witnesses included representatives from the Departments of Veterans Affairs, Defense, and Labor; veterans service organizations; and institutions and trade associations in the financial and housing industries.

INCREASE IN RENTAL CAP ON EVICTION PROTECTION

Section 2 of the bill would amend section 300 of the SSCRA, which protects service members and their families against eviction from rental homes. Under current law, this protection applies only in cases in which the rent is not more than $150 a month. This ceiling clearly is unrealistically low, considering the rent that even a family of three or four must pay for a modest apartment or house—especially in high-cost areas, such as my own State of California, which has a large number of the Nation's military and Reserve members.

The Department of Housing and Urban Development [HUD] compiles annual data on current rent levels in the United States for standard-quality rental housing. According to HUD, these levels reflect estimated rentals for privately owned, decent, safe, nonluxury housing. The most recent compilation includes rents of $1,144 per month for a 3-bedroom home and $1,281 for a 4-bedroom home in the San Francisco metropolitan area; $1,087 for a 3-bedroom home and $1,217 for a 4-bedroom home in Boston; and $1,042 for a 3-bedroom home and $1,164 for a 4-bedroom home on Long Island. These data were printed in volume 55 of the Federal Register on October 1, 1990 (pages 40044-40117).

This provision would amend section 300 of the act to increase the maximum rental amount from $150 to $1,200 for purposes of staying eviction proceedings.

PROFESSIONAL LIABILITY INSURANCE

Mr. President, one critical issue addressed at the September 12 hearing was the effect of a callup on the professional liability insurance of a reservist called to active duty who is a physician or other health care professional. As a result of changes in the malpractice insurance industry, there has been a shift toward claims-made policies, which provide coverage for claims filed during the period of coverage, rather than in connection with actions or injuries that occur during the coverage. Thus, to ensure that they are covered for claims made while on active duty, reservists must continue paying malpractice insurance premiums after being called to active duty. In some medical specialties, the malpractice insurance premiums could far exceed the reservist's military pay and allowances during the period of active service.

Section 4 of the bill, which is derived from draft legislation proposed by the Department of Defense, would require a professional liability insurance carrier, if requested by a health-care professional who is a reservist called to active duty, to suspend coverage under a claims-made policy during the indi-

vidual's period of service. Under a claims-made policy, the individual is protected against liability for claims presented during the period of coverage, regardless of when the events giving rise to the alleged liability occurred. The insurance company could not require premium payments during the period of suspension and would be required either to refund any prepayments or, if the servicemember chooses, to apply any such prepayments to coverage after reinstatement. After the individual's release from active duty, the insurance carrier would also be required to reinstate coverage on the date the servicemember submits a written request, if such a request is submitted within 30 days after release. This provision also would prohibit discriminatory rate increases and would stay civil and administrative actions for damages brought against the servicemember by holding such claims in abeyance until after the individual leaves active duty.

These provisions would also apply to certain other professions and occupations for which individuals obtain professional liability insurance.

POWERS OF ATTORNEY

Section 701 of the SSCRA provided for an extension of powers of attorney executed by servicemembers who later are missing in action. Section 3 of the bill would amend this provision, which currently applies only to powers of attorney executed during the Vietnam era, to cover powers of attorney that expire after August 2, 1990.

REEMPLOYMENT RIGHTS

Mr. President, when I visited the Middle East in August, many servicemembers with whom I met expressed concerns about how their active duty might affect their ability to regain their jobs after military service. They wanted clarification of how much time they had to apply for their reemployment upon release from active duty, and how long after their return were they protected from discharge without cause. Currently, section 2024(g) of title 38 is clear that reservists ordered to active duty for not more than 90 days would have 31 days to apply for reemployment and that they would be given 6 months of protection upon return, but those rights are in doubt should there be an extension of the reservists' active duty for more than 90 days. To address this concern, section 6 of the bill would amend the VRR law to clarify that all reservists called to active duty under section 673(b) of title 10 would have 31 days after their service to apply for reemployment and 6 months of job protection upon returning to work.

HEALTH INSURANCE PROTECTION

Mr. President, section 5 of the bill addresses concerns regarding the reacquisition of health insurance coverage for reservists called to active duty and their families. This section of the bill would amend section 703 of SSCRA and section 2021(b) of title 38, a VRR provision, to provide for health insurance reinstatement for servicemembers and their families—with no waiting period or exclusion of coverage for preexisting conditions—in cases in which coverage would have been provided if the servicemember had not been called to active duty. Our bill would provide the same reinstatement rights under SSCRA for returning reservists—and their families—who, as self-employed persons, were covered by health insurance prior to being called to active duty in connection with Operation Desert Shield, as would be available for those who are being restored to their employer-offered health insurance under veterans reemployment rights law.

CONCLUSION

Mr. President, the Soldiers' and Sailors' Civil Relief Act of 1940 and the veterans' readjustment rights law are intended to protect individuals called to active duty and their families. The bill we are introducing today is intended to ensure that those protections reflect current law and economic realities. The committee will look very closely at these two important laws during the next Congress when we have more time to investigate and deliberate the issues we have encountered in this preliminary review.

Mr. President, I ask unanimous consent that the text of the bill appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soldiers' and Sailors' Civil Relief Act Amendments of 1990".

SEC. 2. EVICTION AND DISTRESS DURING MILITARY SERVICE.

(a) INCREASED MAXIMUM RENTAL AMOUNT FOR APPLICABILITY OF STAY.—Section 300 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 530) is amended—

(1) by redesignating subsections (1), (2), (3), and (4) as subsections (a), (b), (c), and (d), respectively;

(2) in subsection (c), as so redesignated, by striking out "subsection (1)" and inserting in lieu thereof "subsection (a)"; and

(3) in subsection (a), as so redesignated, by striking out "$150" and inserting in lieu thereof "$1,200".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to actions for eviction or distress commenced on or after August 1, 1990.

SEC. 3. EXTENSION OF POWER OF ATTORNEY PROTECTION.

Subsection (c) of section 701 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 591) is amended to read as follows:

"(c) This section applies to the following powers of attorney executed by persons in military service:

"(1) A power of attorney that is executed during the Vietnam Era (as defined in section 101(2)(9) of title 38, United States Code).

"(2) A power of attorney that expires by its terms after August 2, 1990.".

SEC. 4. PROFESSIONAL LIABILITY PROTECTION FOR CERTAIN PERSONS ORDERED TO ACTIVE DUTY IN THE ARMED FORCES.

Article VII of the Soldiers' and Sailors' Civil Relief Act (50 U.S.C. App. 590 et seq.), is amended by adding at the end the following:

"SEC. 702. (a) This section applies to a person who—

"(1) after August 1, 1990, is ordered to active duty (other than for training) in the Armed Forces pursuant to section 672 (a) or (g), 673, 673b, 674, 675, or 688 of title 10, United States Code, or who is ordered to active duty under section 672(d) of such title during a period when members are on active duty pursuant to any of the preceding sections; and

"(2) immediately before receiving the order to active duty—

"(A) was engaged in the furnishing of—

"(i) health-care services; or

"(ii) other services determined by the Secretary of Defense to be professional services; and

"(B) had in effect a professional liability insurance policy that does not continue to cover claims filed with respect to such person during the period of the person's active duty unless the premiums are paid for such coverage for such period.

"(b)(1) Coverage of a person referred to in subsection (a) by a professional liability insurance policy shall be suspended in accordance with this subsection upon receipt of the written request of such person by the insurance carrier.

"(2) A professional liability insurance carrier—

"(A) may not require that premiums be paid by or on behalf of a person for any professional liability insurance coverage suspended pursuant to paragraph (1); and

"(B) shall refund any amount paid for coverage for the period of such suspension or, upon the election of such person, apply such amount for the payment of any premium becoming due upon the reinstatement of such coverage.

"(3) A professional liability insurance carrier shall have no liability with respect to any claim that is based on professional conduct (including any failure to take any action in a professional capacity) of a person that occurs during a period of suspension of such person's professional liability insurance under this subsection.

"(c)(1) Professional liability insurance coverage suspended in the case of any person pursuant to subsection (b) shall be reinstated by the insurance carrier on the date on which such person transmits to the insurance carrier a written request for reinstatement.

"(2) The request of a person for reinstatment shall be effective only if the person transmits the request to the insurance carrier within 30 days after the date on which the person is released from active duty.

"(3) The minimum period for which professional liability insurance coverage shall be reinstated for a person under this subsection may not be less than the balance of the period for which coverage would have con-

tinued under the insurance policy if the coverage had not been suspended.

"(d) An insurance carrier may not increase the amount of the premium charged for professional liability insurance coverage of any person for the minimum period of the reinstatement of such coverage required under subsection (c)(3) above the amount chargeable for such coverage for such period before the suspension, except to the extent of any general increase in the premium amounts charged by that carrier for the same professional liability coverage for persons similarly covered by such insurance during the period of the suspension.

"(e) This section does not—

"(1) require a suspension of professional liability insurance coverage for any person who is not a person referred to in subsection (a) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

"(2) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

"(f)(1) A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a person whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed until the end of the period of the suspension if—

"(A) the action was commenced during such period;

"(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

"(C) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability of such person.

"(2) Whenever a civil or administrative action for damages is stayed under paragraph (1) in the case of any person, such action shall be deemed to have been filed on the date on which the professional liability insurance coverage of such person is reinstated under subsection (c).

"(g) In the case of a civil or administrative action for which a stay could have been granted under subsection (f) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

"(h) If a person whose professional liability insurance coverage is suspended under subsection (b) dies during the period of the suspension—

"(1) the requirement for the grant or continuance of a stay in any civil or administrative action against such person under subsection (f)(1) shall terminate on the date of the death of such person; and

"(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased person in the same manner and to the same extent as such carrier would be liable if the person had died while covered by such insurance but before the claim was filed.

"(i) In this section:

"(1) The term 'Armed Forces' has the meaning given the term 'armed forces' in section 101(4) of title 10, United States Code.

"(2) The term 'active duty' has the meaning given that term in seciton 101(22) of title 10, United States Code.

"(3) The term 'profession' includes occupation.

"(4) The term 'professional' includes occupational.".

SEC. 5. HEALTH INSURANCE REINSTATEMENT UPON REEMPLOYMENT.

(a) AMENDMENT TO TITLE 38.—Paragraph (1) of section 2021(b) of title 38, United States Code, is amended—

(1) by inserting "(A)" after "(b)(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) In the case of employer-offered health insurance, no exclusion or waiting period may be imposed in connection with coverage of a health or physical condition of a person entitled to participate in such insurance under subparagraph (A) of this paragraph, or a health or physical condition of any individual who is covered by such insurance by reason of the coverage of such person, if—

"(i) the condition arose before or during such person's period of training or service;

"(ii) no exclusion of waiting period would have been imposed for the condition during a period of coverage resulting from participation by such person in the insurance; and

"(iii) the condition of such person has not been determined by the Secretary to be service-connected.".

"(b) AMENDMENT TO SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 590 et seq.), as amended by section 4, is further amended by adding at the end the following:

"SEC. 703. (a) A person who, by reason of military service referred to in section 702(a)(1) of this Act, is entitled to the rights and benefits of this Act shall also be entitled upon release from such military duty to reinstatement of any health insurance which (1) was in effect on the day before such service commenced, and (2) was terminated effective on a date during the period of such service.

"(b) No exclusion or waiting period may be imposed in connection with reinstatement of health insurance coverage of a health or physical condition of a person under subsection (a) of this section, or a health or physical condition of any individual who is covered by such insurance by reason of the coverage of such person, if—

"(1) the condition arose before or during such person's period of training or service;

"(2) no exclusion or waiting period would have been imposed for the condition during a period of coverage resulting from participation by such person in the insurance; and

"(3) the condition of such person has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

"(c) Subsection (a) does not apply in the case of employer-offered insurance benefits in which a person referred to in such subsection is entitled to participate pursuant to the provisions of chapter 43 of title 38, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of August 1, 1990.

SEC. 6. CLARIFICATION OF TITLE 38 REEMPLOYMENT RIGHTS COVERAGE FOR RESERVISTS.

(a) IN GENERAL.—Section 2024(g) of title 38, United States Code, is amended—

(1) by striking out "active duty for not more than 90 days" and inserting in lieu thereof "active duty (other than for training)"; and

(2) by inserting before the period at the end the following: ", including any period of extension of active duty under section 673b of title 10".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any member of a reserve component of the Armed Forces of the United States who is ordered to active duty (other than for training) under section 673b of title 10, United States Code, on or after August 1, 1990.

SEC. 7. TECHNICAL AMENDMENTS.

(a) SOLDIERS' AND SAILORS' CIVIL RELIEF ACT.—The Soldiers' and Sailors' Civil Relief Act of 1940 is further amended as follows:

(1) Section 101 (50 U.S.C. App. 511) is amended—

(A) in paragraph (1), by inserting "the Air Force," after "the Marine Corps,"; and

(B) in paragraph (2), by striking out "shall include" and all that follows through "discharge" and inserting in lieu thereof "means, in the case of any person, the period beginning on the date on which the person enters active service and ending on the date of the person's release from active service".

(2) Section 102 (50 U.S.C. App. 512) is amended by striking out ", including the Philippine Islands while under the sovereignity of the United States,".

(3) Section 103(4) (50 U.S.C. 513(4)) is amended by striking out "after the date of the enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942".

(4) Section 105 (50 U.S.C. App. 515) is amended—

(A) by striking out "The Secretary of War and the Secretary of the Navy" and all that follows through "to insure" in the first sentence and inserting in lieu thereof "The Secretary of Defense and the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy, shall ensure"; and

(B) by striking out "the Secretary of War and the Secretary of the Navy" in the second sentence and inserting in lieu thereof "the Secretary of Defense and the Secretary of Transportation".

(5) Section 106 (50 U.S.C. App. 516) is amended—

(A) by striking out "Selective Training and Service Act of 1940, as amended," and inserting in lieu thereof "Military Selective Service Act";

(B) by striking out "the Enlisted Reserve Corps" and inserting in lieu thereof "a reserve component of the Armed Forces of the United States"; and

(C) by striking out "he reports for such service" and inserting in lieu thereof "such member reports for military service or the date on which the order is revoked, whichever is earlier".

(6) Section 205 (50 U.S.C. App. 525) is amended by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942".

(7) Section 206 (50 U.S.C. App. 526) is amended—

(A) by striking out "his entry" and inserting in lieu thereof "the entry of such person"; and

(B) by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942".

(8) Subsection (d) of section 300 (50 U.S.C. 530), as redesignated by section 2(a)(1), is

amended by striking out "Secretary of War," and all that follows through "as the case may be" and inserting in lieu thereof "Secretary of Defense or Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy,".

(9) Section 302(3) (50 U.S.C. App. 532(3)) is amended by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942,".

(10) Section 400(a) (50 U.S.C. App. 540(a)) is amended by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942,".

(11) Section 401 (50 U.S.C. App. 541) is amended—

(A) by striking out "Administrator of Veterans' Affairs" and inserting in the lieu thereof "Secretary of Veterans Affairs"; and

(B) by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Secretary".

(12) Section 402 (50 U.S.C. App. 542) is amended—

(A) in the first sentence, by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in the second sentence, by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary".

(13) Section 403 (50 U.S.C. App. 543) is amended—

(A) in the first sentence, by striking out "Administrator of Veterans' Affair" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in the second sentence, by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary".

(14) Section 404 (50 U.S.C. App. 544) is amended by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Secretary of Veterans Affairs".

(15) Section 405 (50 U.S.C. App. 545) is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

(16) Section 407 (50 U.S.C. App. 547) is amended—

(A) in the first sentence, by striking out "Administrator of Veterans' Affair" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in the second sentence, by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary".

(17) Section 408 (50 U.S.C. App. 548) is amended—

(A) in paragraph (1)—

(i) by striking out "prior to the enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942" and inserting in lieu thereof "before October 6, 1942,"; and

(ii) by striking out "prior to the date of enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942" and inserting in lieu thereof "before October 6, 1942,"; and

(B) in paragraph (2)—

(i) by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(ii) by striking out the date of enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942" and inserting in lieu thereof "before October 6, 1942".

(18) Section 504(3) (50 U.S.C. App. 564(3)) is amended by striking out "within six months after the effective date of this Act, or".

(19) Section 506(2) (50 U.S.C. App. 566(2)) is amended—

(A) by striking out "within six months after the effective date of this Act, or"; and

(B) by striking out "General Land Office" and inserting in lieu thereof "Bureau of Land Management".

(20) Section 510(2) (50 U.S.C. App. 570(2)) is amended by striking out "prior to the effective date of this Act" and inserting in lieu thereof "before October 17, 1940".

(21) Section 514 (50 U.S.C. App. 574) is amended—

(A) by striking out "orders: *Provided*, That nothing" and inserting "orders. Nothing"; and

(B) by striking out "the use thereof:" and all that follows through "has been paid" and insert in lieu thereof "the use thereof, but shall not include a license, fee, or excise required by the State or territory, possession, or District of Columbia of which the person is a resident or in which the person is domiciled if such license, fee, or excise has been paid".

(22) Section 600 (50 U.S.C. App. 580) is amended by striking out "the date of the approval of this Act" and inserting in lieu thereof "October 17, 1940,".

(23) Section 601 (50 U.S.C. App. 581) is amended—

(A) in paragraph (1), by striking out "Chief of the Bureau of Navigation of the Navy Department" and inserting in lieu thereof "Chief of Naval Personnel"; and

(B) in paragraph (3)—

(i) by striking out "Department of War or the Navy" and inserting in lieu thereof "Department of Defense"; and

(ii) by striking out "jurisdiction: *Provided*, That no" and inserting in lieu thereof "jurisdiction. No".

(24) Section 604 (50 U.S.C. App. 584) is amended—

(A) by striking out "1945: *Provided*, That" and inserting in lieu thereof "1945, except that"; and

(B) by striking out "thereafter: *Provided further*, That whenever" and inserting in lieu thereof "thereafter. Whenever".

(b) TITLE 38.—(1) Section 2024(a) of title 38, United States Code, is amended by striking out "provided for in this section" and inserting in lieu thereof "provided for in this chapter".

(2) The amendment made by paragraph (1) shall take effect as of December 3, 1974.●

ADDITIONAL COSPONSORS

S. 1661

At the request of Mr. PRYOR, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expense.

S. 2843

At the request of Mr. DURENBERGER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2843, a bill to amend title XIX of the Social Security Act to clarify that States may use a more liberal methodology in determining income and resource eligibility under medicaid for certain medically needy individuals.

S. 3227

At the request of Mr. BREAUX, the name of the Senator for Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 3227, a bill to redesignate the Vacherie Post Office located at 2747 Highway 20 in Vacherie, LA, as the John Richard Haydel Post Office.

SENATE JOINT RESOLUTION 347

At the request of Mr. BURNS, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Delaware [Mr. ROTH], and the Senator from Ohio (Mr. GLENN) were added as cosponsors of Senate Joint Resolution 347, a joint resolution designating April 7 through 13, 1991, as "National County Government Week."

SENATE JOINT RESOLUTION 381

At the request of Mr. BURNS, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Montana [Mr. BAUCUS], the Senator from Louisiana [Mr. BREAUX], the Senator from Washington [Mr. ADAMS], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Delaware [Mr. BIDEN], the Senator from Kentucky [Mr. FORD], the Senator from Colorado [Mr. WIRTH], the Senator from Ohio [Mr. GLENN], the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. GARN], the Senator from North Dakota [Mr. CONRAD], the Senator from Massachusetts [Mr. KERRY], the Senator from Wyoming [Mr. WALLOP], the Senator from Nevada [Mr. REID], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Utah [Mr. HATCH], the Senator from Texas [Mr. GRAMM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Tennessee [Mr. GORE], the Senator from Florida [Mr. GRAHAM], the Senator from Arkansas [Mr. BUMPERS], the Senator from West Virginia [Mr. BYRD], the Senator from Alabama [Mr. SHELBY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Nebraska [Mr. EXON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Idaho [Mr. MCCLURE], the Senator from Connecticut [Mr. DODD], the Senator from North Carolina [Mr. SANFORD], the Senator from Oklahoma [Mr. NICKLES], the Senator from South Dakota [Mr. DASCHLE], the Senator from Arizona [Mr. MCCAIN], the Senator from California (Mr. WILSON], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Joint Resolution 381, a joint resolution to designate November 2, 1990, as a national day of prayer for members of American military forces and American citizens stationed or held hostage in the Middle East, and for their families.

SENATE CONCURRENT RESOLUTION 104

At the request of Mr. BIDEN, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor

of the Senate Concurrent Resolution 104, a concurrent resolution expressing the concern of the Congress regarding the Birmingham Six, and calling on the British Government to reopen their case.

SENATE CONCURRENT RESOLUTION 153

At the request of Mr. INOUYE, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Concurrent Resolution 153, a concurrent resolution to acknowledge the 100th anniversary of the tragedy at Wounded Knee Creek, State of South Dakota, December 29, 1890, wherein soldiers of the U.S. Army, 7th Cavalry, killed and wounded approximately 350 to 375 Indian men, women and children of Chief Big Foot's band of the Minneconjou Sioux, and to recognize the Year of Reconciliation declared by the State of South Dakota between the citizens of the State and the member bands of the Great Sioux Nation.

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Utah [Mr. HATCH], the Senator from California [Mr. WILSON], the Senator from Maine [Mr. COHEN], and the Senator from Montana [Mr. BURNS] were added as cosponsors of Senate Resolution 296, a resolution to express the sense-of-the-Senate support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 342

At the request of Mr. LOTT, his name was withdrawn as a cosponsor of Senate Resolution 342, a resolution to change the fast track procedure applicable to an implementing bill for the Uruguay round.

SENATE CONCURRENT RESOLUTION 155—CONGRATULATING THE PEOPLE OF NEW ZEALAND ON THE SESQUICENTENNIAL YEAR

Mr. CRANSTON submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 155

Whereas the people of New Zealand are this year commemorating the sesquicentennial of the Treaty of Waitangi, an agreement between the Maori people and British Crown which is modern New Zealand's principal founding document;

Whereas in 1839, one year after the conclusion of the Treaty of Waitangi, the United States appointed Mr. James Clendon to serve as Consul to New Zealand, the first United States diplomatic representative to that country;

Whereas the bilateral relationship established in 1839 has been developed and nurtured by successive administrations in the United States and New Zealand and has been characterized by steady growth in commercial, cultural, and academic contacts between the two countries;

Whereas the United States and New Zealand are friends, with shared history, culture, and values, and a common belief in the fundamental concepts underlying the democratic process;

Whereas the United States and New Zealand have fought together in four wars during this century in defense of common values and beliefs, including two world wars and the conflicts in Korea and Vietnam; and

Whereas the United States and New Zealand continue to have a wide range of common interests and commitments, including respect for human rights, democracy, and the rule of law; growth and liberalization of international trade through the current round of negotiations under the General Agreement on Tariffs and Trade; and regional and international cooperation on issues such as economic development and environmental protection: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That during the sesquicentennial of the Treaty of Waitangi and the 151st anniversary of U.S.-New Zealand relations, the Congress hereby—

Offers its congratulations to the Government and the people of New Zealand;

Pays tribute to the U.S.-New Zealand relationship, which has been characterized by shared history, culture, values, and beliefs; and

Looks forward to the continued growth and development U.S.-New Zealand relations on issues of mutual interest, such as trade and the environment.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President and requests that he further transmit such copy to the Government of New Zealand.

Mr. CRANSTON. Mr. President, this year is the sesquicentennial of New Zealand's principal founding document, the Treaty of Waitangi. It is also the 151st anniversary of United States-New Zealand relations.

For this reason, Senator Murkowski and I are introducing this Senate concurrent resolution, "Expressing the Congratulations of Congress to the People of New Zealand on their Sesquicentennial Year." With this resolution we also pay tribute to our deep, and long lasting, relationship with New Zealand.

Since 1839, successive administrations in the United States and New Zealand have shared a wide range of interests and commitments, including respect for human rights, democracy, and the rule of law.

The United States and New Zealand fought together in four wars during this century in defense of common values and beliefs, including in Korea and Vietnam. Many remember the bravery of the "Kiwi" troops. We can look forward to continued growth and development of American-New Zealand relations as we work toward liberalization of international trade and cooperation on environmental. protection.

The Treaty of Waitangi was signed on February 6, 1840, by Lieutenant Governor Captain William Hobson and local Maori chiefs. As with many such documents, it becomes the subject of much future controversy as the Maoris were probably as unclear as the Manhattan Indians in their fabled sale to the Dutch concerning what was being sacrificed on their part. In neither case, none of the parties could foresee what the future held. Therefore, for both, the settlers and the natives, the Treaty of Waitangi represents the beginning of the modern New Zealand state.

Important national elections are about to be held in New Zealand. After the elections, I hope that whatever party forms a new government an effort will be made by both the United States and New Zealand to further improve our relations. This resolution signals Congress desire for better cooperation on the range of issues, trade, environment, and security, which concern us.

I urge adoption of this resolution.

SENATE CONCURRENT RESOLUTION 156—RELATING TO INTELLIGENCE APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. EXON (for Mr. BOREN) submitted the following resolution; which was considered and agreed to:

S. CON. RES. 156

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 2834) to authorize appropriations of fiscal year 1991 for intelligence and intelligence-related activities for the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 17(b) of the National Security Agency Act of 1959, as proposed to be added by section 503, strike out "Appropriations Committees" and insert in lieu thereof "Committees on Appropriations".

(2) In section 504(a), strike out "(1) by inserting" and all that follows through

"SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES" and insert in lieu thereof the following:

(1) by inserting after the chapter heading the follwing:

"Subchapter	Sec.
"I. General Matters	421
II. Intelligence Commercial Activities	431

"SUBCHAPTER I—GENERAL MATTERS"; and

(2) by adding at the end the following:

"SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES"

(3) In subchapter II of chapter 21 of title 10, United States Code, as proposed to be added by section 504(a)—

(A) in the table of sections before section 431—

(i) in the item relating to section 436, strike our ", internal oversight, and legal review"; and

(ii) strike out the item relating to section 438;

(B) insert a section designation known as a "twist" at the beginning of the heading of each of sections 431 through 437;

(C) strike out the period at the end of the heading of each of those sections;

(D) in section 431(c)—

(i) strike out "As used in this" and insert in lieu thereof "In this"; and

(ii) capitalize the first word of each of paragraphs (1) and (2);

(E) in section 432(b)(2), strike out "of this subchapter" and insert in lieu thereof "of this title";

(F) in section 433(b)(1), insert "of this title" after "section 431";

(G) in section 436(3), strike out "subsection 433(b)" and insert in lieu thereof "section 433(b) of this title"; and

(H) in section 437—

(i) revise the second word of the section heading to make the initial letter lower case;

(ii) strike out "of this subchapter" in subsections (a) and (c)(3) and insert in lieu thereof "of this title";

(iii) strike out "subsection 433(b) of this subchapter" in subsection (c)(1) and insert in lieu thereof "section 433(b) of this title"; and

(iv) strike out "As used in this" in subsection (d) and insert in lieu thereof "In this".

(4) Insert closing quotation marks and a period at the end of section 437(d) of title 10, United States Code, as proposed to be added by section 504(a).

SENATE RESOLUTION 343—RELATIVE TO THE ALASKA HIGHWAY

Mr. GARN (for Mr. STEVENS, for himself, Mr. MURKOWSKI, Mr. LUGAR, Mr. BURNS, Mr. ADAMS, Mr. HOLLINGS, Mr. COCHRAN, Mr. INOUYE, Mr. AKAKA, Mr. MCCLURE, Mr. GORTON, Mr. BOSCHWITZ, Mr. JEFFORDS, Mr. KASTEN, Mr. DURENBERGER, Mr. SHELBY, Mr. JOHNSTON, Mr. WARNER, Mr. D'AMATO, Mr. BAUCUS, Mr. REID, Mr. BOND, Mr. SYMMS, Mr. BYRD, Mr. CHAFEE, Mr. DOMENICI, Mr. DOLE, Mr. MACK, Mr. HATCH, Mr. WILSON, Mr. THURMOND, Mr. HELMS, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. ROBB, Mr. DODD, Mr. DIXON, Mr. COATS, Mr. WALLOP, Mr. ROTH, Mr. NUNN, Mr. LAUTENBERG, Mr. HEFLIN, Mr. RIEGLE, Mr. ARMSTRONG, Mr. GRAHAM, Mr. COHEN, Mr. DANFORTH, Mr. LOTT, Mr. MCCAIN, Mr. SANFORD, Mr. MCCONNELL, Mr. GLENN, and Mr. GORE) submitted the following resolution; which was considered and agreed to:

S. RES. 343

Expressing the Sense of the Senate regarding the 50th anniversary of the Alaska Highway in 1992, entitled "Rendezvous 92."

Whereas the Alaska Highway is the first and only landlink to Alaska—a state ⅙ the size of the United States; and

Whereas in April of 1941, the War Department of the United States rejected the idea of constructing a highway to Alaska as having *no* military value; and

Whereas only six months later, in December of 1941, the Japanese bombed Pearl Harbor and the War Department's decision was reversed; and

Whereas the building of this important roadway is the culmination of a historic bilateral agreement between Canada and the United States; and

Whereas the Corps of Engineers built this 1,520 mile highway in eight months; and

Whereas the sacrifices of the men and women who built the Alaska Highway should not go unrecognized; and

Whereas many labored under harsh conditions and some lost their lives; and

Whereas this passage, then named the Alaska-Canada Military Highway of ALCAN, played a critical role during WWII in providing a communications network, moving wartime equipment and providing an alternative route to the existing hazardous maritime shipping; and

Whereas the Japanese occupied the Alaskan islands of Attu and Kiska; and

Whereas the troops which mobilized across this route played a significant role in driving the Japanese from American soil; and

Whereas the ALCAN played a major role in the defense of our nation that should be remembered; and

Whereas after WWII ended this highway played a critical role for civilian purposes; and

Whereas the Alaska Highway provided the long awaited means of transportation to thousands of new residents of the Territory of Alaska; and

Whereas the ALCAN was the dominant form of transportation for food and building materials and aided in the populating of Alaska; and

Whereas the Alaska Highway aided Alaska in its efforts toward statehood; and

Whereas the Alaska Highway is important to the tourism and future development of Alaska; and

Whereas over 100,000 people drive this highway annually: Now, therefore, be it

Resolved, That the United States Senate recognizes the important part the Alaska Highway played in the defense of our nation and the settling of the beautiful state of Alaska, and recognizes its place in the present and the ever important role this highway will inevitably play in our future. The historical significance of this passageway into our westernmost state must not go unrecognized. Furthermore, this highway should be maintained in a condition that encourages people throughout the nation to travel this historic route north to the future where they will experience the wonder and majesty of the last frontier.

SENATE RESOLUTION 344—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. EXON (for Mr. MITCHELL) (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 344

Whereas, in the case of *Carnessale v. Cranston and Wilson*, Case No. 90-5245-HLH(E), pending in the United States District Court for the Central District of California, the plaintiff has asserted a claim against Senator Alan Cranston and Senator Pete Wilson;

Whereas, pursuant to section 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1) (1988), the Senate may direct its counsel to defend the members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it *Resolved*, That the Senate Legal Counsel is directed to represent Senator Alan Cranston and Senator Pete Wilson in the case of *Carnessale v. Cranston and Wilson*.

AMENDMENTS SUBMITTED

LEGISLATIVE BRANCH APPROPRIATIONS ACT FISCAL YEAR 1991

REID (AND NICKLES) AMENDMENT NO. 3159

Mr. REID (for himself and Mr. NICKLES) proposed an amendment to the bill (H.R. 5399) making appropriations for the legislative branch for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 34, strike line 1 through line 6 on page 35.

STEVENS AMENDMENT NO. 3160

Mr. STEVENS proposed an amendment to the bill H.R. 5399, supra, as follows:

At the end of the bill add the following:

SEC. . The Rules Committee shall quarterly publish the costs of all equipment, services, and expenses incurred by each Senator.

WIRTH AMENDMENT NO. 3161

Mr. WIRTH (for himself, Mr. HEINZ, Mr. DASCHLE, Mr. GORE, Mr. GRAHAM, Mr. SARBANES, Mr. DECONCINI, Mr. FORD, Mr. REID, Mr. CONRAD, Mr. STEVENS, Mr. BINGAMAN, and Mr. PELL) proposed an amendment to the bill H.R. 5399, supra, as follows: .

At the appropriate place add the following section:

SEC. . Notwithstanding any provision of this Act, requiring that a percentage of the funds appropriated by this Act be withheld from obligation, no funds appropriated for the Library of Congress shall be withheld from obligation. The amounts required to be withheld from obligation from the appropriations for any other agency or activity funded by this Act shall not be increased as a result of the provision in the preceding sentence.

FORD AMENDMENT NO. 3162

Mr. REID (for Mr. FORD) proposed an amendment to the bill H.R. 5399, supra, as follows:

On page 49, strike out lines 16 through 22.

DEPARTMENTS OF LABOR AND HEALTH AND HUMAN SERVICES AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

BINGAMAN AMENDMENT NO. 3163

Mr. BINGAMAN made a motion that the Senate agree to the amendment of the House to the amendment of the Senate numbered 163-164 to the bill (H.R. 5257) making appropriations for the Departments of Labor, Health and Human Services, and Edu-

cation, and related agencies, for the fiscal year ending September 30, 1991, and for other purposes, as follows:

Before the words "In addition to these amounts," insert the following: ": *Provided*, That of the amounts appropriated herein, $1,000,000 shall be available, to remain available until expended, for payment of the expenses incurred by the School Year Extension Study Commission if such a Commission is authorized by law, and $2,000,000 shall be available, if authorized in law, if necessary, to remain available until expended, for expenses to be incurred in the operation of an independent National Council on Educational Goals, or any similar panel, council, commission, or other entity whose function shall include monitoring progress towards achieving the national education goals for 2000 or publishing a report that describes such progress, if—

"(A) such entity has a majority of voting members who are neither Federal appointed or elected officials nor Governors of the States but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and educational excellence;

"(B) such entity has members appointed by the leadership of the National Governors' Association, the President, and the leadership of both Houses of Congress; and

"(C) all action of such entity is taken by a simple majority of the members attending a duly called and constituted meeting.".

DOLE (AND OTHERS) AMENDMENT NO. 3164

Mr. DOLE (for himself, Mr. HATCH, Mr. THURMOND, and Mr. ROBB) proposed an amendment to amendment No. 3163 proposed by Mr. BINGAMAN to the amendment of the House to the amendment of the Senate numbered 163-164 to the bill H.R. 5257, supra, as follows:

Strike all after *"Provided"* and insert the following:

TITLE .—JOB TRAINING PARTNERSHIP ACT AMENDMENTS

SECTION . SHORT TITLE.

This Act may be cited as the "Job Training and Basic Skills Act of 1990".

Subtitle I—Adult and Youth Employment and Training Programs Amendments

SEC. . STATEMENT OF PURPOSE.

Section 2 of the Job Training Partnership Act (hereinafter referred to as the "Act") is amended to read as follows:

"SEC. 2. It is the purpose of this Act to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training that will result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependency, thereby improving the quality of the workforce and enhancing the productivity and competitiveness of the Nation.".

SEC. . AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR ADULT AND YOUTH PROGRAMS.—Section 3(a)(1) of the Act is amended by—

(1) inserting "(A)" after the paragraph designation;

(2) striking "There" and inserting in lieu thereof "Except as provided in subparagraph (B), there";

(3) striking the words "part B" and inserting "parts B, H, I and J"; and

(4) inserting the following new subparagraph:

"(B) There are authorized to be appropriated $1,223,000,000 for fiscal year 1990 to carry out the provisions of part A of title II.".

(b) AUTHORIZATION FOR YOUTH PROGRAMS.—(1) Section 3(b) of the Act is amended to read as follows:

"(b) There are authorized to be appropriated $1,574,000,000 for fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year to carry out the provisions of part B of title II.".

(2) Section 3(d) of the Act is amended by—

(A) inserting "(1)" after the subsection designation; and

(B) inserting the following new paragraphs after paragraph (1) (as redesignated in subparagraph (A):

"(2) There are authorized to be appropriated $10,000,000 for fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year to carry out the provisions of part H of title IV.

"(3) There are authorized to be appropriated $25,000,000 for fiscal year 1990, $50,000,000 for fiscal years 1991, and such sums as may be necessary for each succeeding fiscal year to carry out the provisions of part I of title IV.

"(4) There are authorized to be appropriated $15,000,000 for fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year to carry out the provisions of part J of title IV.".

(c) TITLE V.—Section 3(e) of the Act is amended by—

(1) striking "(1) Subject to paragraph (2), there" and inserting "There" after the subsection designation; and

(2) striking paragraphs (2) and (3).

SEC. DEFINITIONS.

(a) IN GENERAL.—Section 4 of the Act is amended—

(1) by amending paragraph (3) to read as follows:

"(3) The term 'basic skills deficient' means reading or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion referenced test.".

(2) in paragraph (5) by inserting "Association of Farmworkers Opportunity Programs, literacy organizations, agencies or organizations serving older individuals," after "United Way of America,";

(3) in paragraph (8)(B)(i) by striking "level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting in lieu thereof "income guidelines promulgated each year by the Secretary of Health and Human Services";

(4) in paragraph (8)(D) by inserting "subsections (a) and (c) of" after "under"; and

(5) in paragraph (8)(F) by striking "adult handicapped individual" and inserting "individual with a disability (adult or youth) or displaced homemaker";

(6) in paragraph (10) by striking "Handicapped individual" and inserting "individual with a disability";

(7) in paragraph (22) by striking "Trust Territory of the Pacific Islands" and inserting in lieu thereof "Freely Associated States and the Republic of Palau";

(8) in paragraph (24) by—

(A) inserting "drug and alcohol abuse counseling and referral, individual and family counseling," after "health care,"; and

(B) striking "materials for the handicapped," and inserting "materials for individuals with disabilities, job coaches,";

(9) by striking paragraph (29) and inserting in lieu thereof the following:

"(29) The term 'displaced homemaker' means an individual who has been providing unpaid services to family members in the home and who—

"(A) has been dependent either—

"(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601-618), or

"(ii) on the income of another family member but is no longer supported by that income, and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment."; and

(10) by adding the following new paragraphs after paragraph (29):

"(30) The term 'family' means two or more persons living in a single residence who are included in one of the following categories:

"(A) a husband, wife, and their dependent children;

"(B) a parent and dependent children; or

"(C) a husband and wife.

"(31) The term 'long term recipient' means an individual who has—

"(A) received cash payments made pursuant to part A of title IV of the Social Security Act (relating to the aid to families with dependent children program);

"(B) received general welfare assistance to Indians, as provided pursuant to the Act of November 2, 1921 (25 U.S.C. 13), commonly referred to as the Snyder Act;

"(C) received cash assistance and medical assistance for refugees made available pursuant to section 412(e) of the Immigration and Nationality Act; or

"(D) applied for and received benefits offered pursuant to title XVI of the Social Security Act (relating to supplemental security income programs) and title II of such Act (relating to Social Security Disability Insurance);

for 36 months during the 60-month period immediately preceding application for programs offered under this title.

"(32) The term 'educational agency' means—

"(A) a public local school authority having administrative control of elementary, middle or secondary schools or providing adult education;

"(B) a public or private institution which provides alternative middle or high school education;

"(C) any public education institution or agency having administrative control of secondary or post-secondary vocational education programs;

"(D) any institution legally authorized to provide post-secondary education; or

"(E) any post-secondary educational institution operated by or on behalf of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934.

"(33) The term 'school dropout' means an individual who is no longer attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(34) The term 'JOBS' means the Job Opportunities and Basic Skills Training Pro-

gram authorized under part F of title IV of the Social Security Act.

"(35) The term 'hard-to-serve individuals' means individuals who meet at least 2 of the following criteria:

"(A) long-term recipient,

"(B) school dropout,

"(C) unemployed for 6 months or longer,

"(D) individual with a disability,

"(E) offender,

"(F) displaced homemaker,

"(G) homeless, or

"(H) older individual.".

(b) CONFORMING AMENDMENTS.—Section 423(1) of the Act is amended by striking "handicapped individual" and inserting "individual with a disability";

SEC. —. PRIVATE INDUSTRY COUNCILS.

(a) COMPOSITION AMENDMENTS.—(1) Section 102(a) of the Act is amended—

(A) by striking "and" at the end of paragraph (1); and

(B) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) representatives of organized labor, and representatives of community-based organizations, who shall constitute not less than 15 percent of the membership of the council; and

"(3) representatives of each of the following:

"(A) educational agencies (representative of all educational agencies in the service delivery area):

"(B) vocational rehabilitation agencies;

"(C) public assistance agencies;

"(D) economic development agencies; and

"(E) the public employment service.".

(2) Section 102(c)(2) of the Act is amended to read as follows:

"(2) Education representatives on the council shall be selected from among individuals nominated by regional or local educational agencies, vocational education institutions, institutions of higher education (including entities offering adult education) or general organizations of such schools and institutions within the service delivery area.".

(3) Section 102(c)(3) of the Act is amended to read as follows:

"(3) The labor representatives on the council shall be selected from individuals recommended by recognized State and local labor organizations. If the State or local labor organization cannot adequately meet the labor representation on the private industry council then individual workers may be included on the council to complete the labor representation.

"(4) The remaining members of the council shall include additional representatives from all sectors represented on the council and from individuals recommended by interested organizations.".

(b) EFFECTIVE DATE.—No private industry council shall be considered to be in violation of the amendments made by subsection (a) of this section until 3 years after the date of enactment of this Act.

SEC. —. JOB TRAINING PLAN.

(a) IN GENERAL.—Section 104(a) of the Act is amended by inserting "under title II" after "appropriated".

(b) CONTENTS.—Section 104(b) of the Act is amended to read as follows:

"(b) Each job training plan for the programs conducted for adults under part A of title II and for youth under part B of title II shall contain—

"(1) identification of the entity or entities which will administer the program and be the grant recipient of funds from the State;

"(2) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of the service delivery program with other programs and service providers in the labor market area, including—

"(A) assessments of needs and problems in the labor market that form the basis for program planning;

"(B) provisions for ensuring access by program participants in the service delivery area to skills training and employment opportunities throughout the entire labor market; and

"(C) coordination or joint implementation of job development, placement, and other employer outreach activities;

"(3) a description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan;

"(4) a description of cooperative arrangements designed to enhance the provision of services, including—

"(A) agreements with educational agencies;

"(B) arrangements with other education, training and employment programs serving the disadvantaged which are authorized by Federal law; and

"(C) efforts to ensure the effective delivery of services to participants in coordination with local welfare agencies, other local agencies, community-based organizations, volunteer groups, business and labor organizations, and other training, education, employment, and social service programs;

"(5) goals and objectives for the programs, including—

"(A) a description of how the program will continue to the economic self-sufficiency of participants, and the productivity of the local area and the Nation; and

"(B) performance goals established in accordance with standards prescribed under section 106;

"(6) goals for the training and placement of older individuals, displaced homemakers and other targeted populations, and a description of efforts to be undertaken to accomplish such goals, including—

"(A) efforts to expand outreach to older individuals, displaced homemakers, and other targeted populations who may be eligible for services under this Act.

"(B) efforts to expand awareness of training and placement opportunities for older individuals, displaced homemakers, and other targeted populations, and

"(C) types of services to be provided to address the special needs of older individuals, and other targeted populations;

"(7) adult and youth budgets for two program years and any proposed expenditures for the succeeding two program years, in such detail as is determined necessary by the entity selected to prepare this portion of the plan pursuant to section 103(b)(1)(B) and to meet the requirements of section 108;

"(8) procedures for identifying and selecting participants, and procedures for determining eligibility and methods used to verify eligibility;

"(9) a description of—

"(A) the assessment process that will identify each participant's skill levels and service needs;

"(B) the competency levels to be achieved by participants as a result of program participation;

"(C) a description of the services to be provided, including the estimated duration of service and the estimated training cost per participant; and

"(D) the procedures for evaluating the progress of participants in achieving competencies;

"(10) procedures, consistent with section 107, for selecting service providers which take into account past performance in job training, basic skills training, or related activities, fiscal accountability, and ability to meet performance standards, and the ability to provide services that can lead to achievement of competency standards for participants with identified deficiencies;

"(11) fiscal control (including procurement, monitoring and management information systems requirements), and accounting, audit and debt collection procedures, consistent with the provisions of section 164, to assure the proper disbursal of, and accounting for, funds received under title II; and

"(12) procedures for the preparation and submission of an annual report to the Governor which shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants;

"(C) the extent to which applicable performance standards are met;

"(D) the extent to which the service delivery area has met its goals for the training and placement of older individuals, displaced homemakers and others targeted populations; and

"(E) a description of the number of older individuals, displaced homemakers and other targeted individuals trained and placed in unsubsidized employment, the socioeconomic characteristics of such older individuals, displaced homemakers and other targeted populations participating in the program, and wage and placement outcomes, including the extent to which such older individuals were placed in part-time employment, and the type of training received.".

SEC. . REVIEW AND APPROVAL OF PLAN.

Section 105(a)(1)(B)(ii) of the Act is amended by inserting "community based organizations," after "appropriate".

SEC. . PERFORMANCE STANDARDS.

"(a) PERFORMANCE STANDARDS.—Section 106(a)(2) of the Act is amended to read as follows:

"(2) the criteria for measuring the basic return on the investment shall include indicators of longterm economic self-sufficiency as measured by increased educational attainment and occupational skills, increased employment and earnings, and reduction in welfare dependency.".

"(b) MEASUREMENT OF PERFORMANCE STANDARDS.—Section 106(b) of the Act is amended to read as follows:

"(b)(1) In order to determine whether the basic measures specified in subsection (a) are achieved for programs under parts A and B of title II, the Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, shall prescribe performance standards.

"(2) The standards for adult programs under part A of title II shall be based on appropriate factors which may include—

"(A) placement in unsubsidized employment,

"(B) retention for more than 6 months in unsubsidized employment,

"(C) the increase in earnings, including hourly wages,

"(D) the attainment of basic skills and workplace competencies required to ensure continued employability in the local labor market, the acquisition of a high school di-

ploma or a general equivalency diploma, and

"(E) the reduction in welfare payments.

"(3) In addition to the appropriate utilization of the factors described in paragraph (2), the standards for youth programs under part B of title II shall include—

"(A) attainment of employment competencies,

"(B) elementary, secondary, and postsecondary school completion or the equivalent thereof, and

"(C) enrollment in other training programs, apprenticeships or postsecondary education, or enlistment in the Armed Forces.

The Secretary may prescribe variations in the standards set forth in this paragraph to reflect the differences between in-school and out-of-school programs.

"(4) The private industry council, in consultation with the educational agencies, community-based organizations and the private sector, shall determine the levels for youth and adult competency standards based on such factors as entry skill levels and other hiring requirements.

"(5) The standards shall include provisions governing—

"(A) the base period prior to program participation that will be used;

"(B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payment reductions; and

"(C) cost effective methods for obtaining such data as is necessary to carry out this subsection, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures.

"(6) The Secretary shall prescribe performance standards relating gross program expenditures to various performance measures.

"(7) From funds available pursuant to the provisions of sections 202(d)(2)(C)) and 252(s)(2)(C), each Governor shall award incentive funds to service delivery areas conducting programs under title II for achieving performance standards (except for standards relating to costs) based on factors designated by the Secretary, which shall include—

"(A) the extent to which hard-to-serve individuals and target groups are successfully served, and

"(B) the quality of service, such as the type or intensity of service provided.

"(c)(1) The Secretary shall prescribe performance standards for programs under title III based on participant placement and retention in unsubsidized employment.

"(2) Any performance standard that may be prescribed under paragraph (1) of this subsection for programs under title III shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).

"(d) Each Governor shall prescribe, within parameters established by the Secretary, variations in the standards issued under subsections (b) and (c) based upon specific economic, geographic, and demographic factors in the State and in service delivery areas and substate areas within the State, the characteristics of the population to be served, the demonstrated difficulties in serving the population, and the type of services to be provided.

"(e) The Governor may prescribe performance standards for programs under title II and III in addition to those standards established by the Secretary under subsections (b) and (c).

"(f) The Secretary shall prescribe performance standards for programs under Part A, B and J of title IV.

"(g) The Secretary shall prescribe a system for adjustment in performance standards for target populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964, and May 7, 1975, offenders, and displaced homemakers, taking into account their special circumstances.

"(h)(l) The Secretary may modify the performance standards under this section not more often than once every two program years and such modifications shall not be retroactive.

"(2) Notwithstanding paragraph (1), the Secretary may modify standards relating to programs under part B of title IV each program year.

"(3) The Secretary shall prepare and submit a report to the Congress containing any modifications established under paragraphs (1) and (2), and the reasons for such modifications.

"(i) The National Commission on Employment Policy shall—

"(1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (d),

"(2) evaluate the usefulness of such standards as measures of desired performance, and

"(3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served in service delivery areas, what services are provided, and the costs of such services in service delivery areas.

"(j)(l) The Governor shall provide technical assistance to service delivery areas and substate areas within the State which do not meet performance standards. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated service providers or make such other changes as the Governor deems necessary to improve performance. The Governor may also select an alternative entity to administer the program for the service delivery area or substate area.

"(2) The alternate administrative entity may be a newly formed private industry council or any agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area or substate area.

"(3) No change may be made under this subsection without an opportunity for a hearing before a hearing officer.

"(4) The decision of the Governor may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.".

SEC. . SELECTION OF SERVICE PROVIDERS.

Section 107 of the Act is amended by adding at the end thereof the following new subsections:

"(e) The selection of service providers shall be made on a competitive basis to the maximum extent possible, and shall include at a minimum—

"(1) a determination of the ability of the service provider to meet program design specifications established by the administrative entity that take into account the purpose of the Act and the goals established by the Governor in the Coordination and Special Services Plan; and

"(2) documentation of compliance with procurement standards established by the Governor pursuant to section 164, including the reasons for selection.

"(f) In the selection of service providers to serve older individuals, displaced homemakers, and other targeted populations, the service delivery area shall give priority to those national, State and local agencies and organizations that have a record of demonstrated effectiveness in providing training and employment services to such older individuals, displaced homemakers and other targeted populations.".

SEC. . LIMITATION ON CERTAIN COSTS.

"(a) LIMITATION ON CERTAIN COSTS.—Section 108(a) of the Act is amended to read as follows:

"(a) IN GENERAL.—(1) Except as provided in section 141(d)(3), funds expended for allowable activities under this Act shall be charged to appropriate cost categories.

"(2) For programs under this Act, administration does not include the cost of activities directly related to the provision of services to eligible individuals.".

"(b) SPECIAL RULE.—Section 108(b) of the Act is amended to read as follows:

"(b)(1) Of the funds available to a service delivery area for any fiscal year under parts A and B of title II—

"(A) not more than 20 percent shall be expended for administration; and

"(B) not more than 40 percent shall be expended for administration and costs specified in paragraph (2).

"(2) For purposes of paragraph (1)(B), the costs specified in this paragraph are—

"(A) 50 percent of work experience expenditures under part A of title II;

"(B) 50 percent of work experience expenditures under part B of title II that are used to provide work experience in excess of 250 hours for a participant during nonsummer months;

"(C) supportive services; and

"(D) needs-based payments and performance-based incentives to participants.

"(3) For purposes of paragraph (1), each service delivery area shall ensure that for all services provided to participants through contracts, grants, or other agreements with a service provider, such contract, grant, or agreement shall include, where appropriate, proportionate amounts necessary for administrative costs and supportive services.".

(c) EXPENDITURES.—Section 108(c) of the Act is amended—

(1) in paragraph (1) by inserting "(1)(B)" after "(b)";

(2) in paragraph (2) by inserting "(1)(B)" after "(b)" the first time it appears; and

(3) in paragraph (3) by—

(A) inserting "(1)(B)" after "(b)" the first time it appears; and

(B) striking "(a)" and inserting "(b)(1)(A)".

SEC. —. SERVICE DELIVERY AREA TRANSFER AND AGREEMENT.

(a) IN GENERAL.—Part A of title I of the Act is amended by adding the following new sections at the end thereof:

"SERVICE DELIVERY AREA TRANSFER AND AGREEMENT

"SEC. 109. (a) Any service delivery area may enter into an agreement with another service delivery area to share the cost of educating, training, and placing individuals participating in programs assisted under this Act, including the provision of supportive services. Such agreement shall be approved by an individual representing each private industry council providing guidance to the service delivery area.

"(b) Each service delivery area entering into a service delivery area agreement pursuant to this section shall be credited under the appropriate performance standards.

"REALLOTMENT

"SEC. 110. (a) The Secretary is authorized to reallot among States any amounts allotted parts A and B of title II to the extent that the Secretary determines that the State or one of the State's service delivery areas will not be able to spend such amounts within a reasonable period of time.

"(b)(1) The Secretary shall provide 30 days advance notice to the Governor and to the general public of any reallotment. During such period comments may be submitted to the Secretary.

"(2) After considering any comments submitted during such period, the Secretary shall notify the Governor of any decision to reallot funds, and shall publish such decision in the Federal Register.

"(3) In realloting any funds the Secretary shall give priority to States and service delivery areas which have satisfactorily spent the previous fiscal year's allotment and which have experienced high rates of unemployment for an extended perod of time.

"REALLOTMENT OF FUNDS TO INCREASE THE AMOUNT AVAILABLE FOR STATE ADMINISTRATION

"SEC. 111. (a) The Governor of the seventeen States, receiving the smallest total allotments pursuant to sections 202(d)(2)(A) and 252(d)(2)(A), as determined by the Secretary, may request authority from the Secretary to expend funds allotted under sections 202(c)(1), 202(d)(2)(B), 202(d)(2)(C), 252(c)(1), 252(d)(2)(B), 252(d)(2)(C), for the purposes described in sections 202(d)(2)(A) and 202(d)(2)(A). The Secretary may grant authority for the Governor to expend, for such purposes, any amount not in excess of six-ninths of the total amount allotted to the State pursuant to sections 202(d) and 252(d), if such amount does not exceed the amount allotted to the State receiving the eighteenth smallest total allotment pursuant to sections 202(d)(2)(A) and 252(d)(2)(A).

"(b) A request made by a Governor pursuant to subsection (a) shall be submitted with the Governor's coordination and special services plan, or modification thereof, containing such information as the Secretary may reasonably require, and shall include at a minimum—

"(1) the additional amount requested for expenditure for the purposes described in sections 202(d)(2)(A) and 252(d)(2)(A),

"(2) the justification for the additional amount requested, and

"(3) an identification of the source of the funds to be reallotted.

"(c) In the event the additional funds requested by the Governor are to be reallotted from the funds allotted to service delivery areas pursuant to sections 202(c)(1) and 252(c)(1), the allotment available to each service delivery area within the State shall be ratably reduced. In making such reduction, the requirements of sections 202(c)(3)(A) and 252(c)(3)(A) shall remain applicable.".

(b) TECHNICAL AMENDMENT.—The table of contents of the Act is amended by adding after "Sec. 108. Limitation on certain costs." the following:

"Sec. 109. Service delivery area transfer and agreement.
"Sec. 110. Reallotment.
"Sec. 111. Reallotment of funds to increase the amount available for State administration.".

SEC. —. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b) of the Act is amended by—

(1) amending paragraph (1) by inserting the following new sentence after the first sentence: "The plan shall also include criteria for coordinating activities under this Act with programs and services provided by State and local agencies on aging, and programs operated under title V of the Older Americans Act.";

(2) amending paragraph (2) to read as follows:

"(2) The plan shall describe the measures taken by the State to ensure coordination and avoid duplication of programs between the State agencies administering the JOBS program and programs under title II in the planning and delivery of services. The plan shall describe the procedures developed by the State to ensure that the State JOBS plan is consistent with the coordination criteria specified in the plan and shall identify the procedures developed to provide for the review of the JOBS plan by the State Job Training Coordinating Council.";

(3) redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively;

(4) inserting the following new paragraph after paragraph (2):

"(3) The plan shall describe the projected use of resources, including oversight of program performance, program administration, program financial management, capacity building, priorities and criteria for State incentive grants, and performance goals for State supported programs. The description of capacity building shall include the Governor's plans for research and demonstration projects, technical assistance for service delivery areas and service providers, interstate technical assistance and training arrangements, and other coordinated technical assistance arrangements for service delivery areas and service providers pursuant to the direction of the Secretary."; and

(5) amending paragraph (4) (as redesignated in paragraph (2)) by—

(A) striking "and" at the end of subparagraph (A);

(B) striking the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon and "and"; and

(C) inserting at the end thereof the following new subparagraph (C):

"(C) services to older workers, including plans for facilitating the provision of services across service delivery areas within the State, as provided in section 104(b)(2).".

(b) COORDINATION AND SPECIAL SERVICES ACTIVITIES.—Section 121(c) is amended—

(1) in paragraph (7) by inserting after the paragraph designation the following: "coordination of activities relating to part A of title II with";

(2) by striking "and" at the end of paragraph (9);

(3) by striking the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and "and"; and

(4) by inserting the following new paragraph at the end thereof:

"(11) initiatives undertaken pursuant to the State innovation and coordination program set forth in part C of title II".

SEC. —REPEALERS.

(a) IN GENERAL.—Sections 123 and 124 of the Act are repealed.

(b) Redesignation.—Sections 125, 126, and 127 of the Act are redesignated as sections 123, 124, and 125, respectively.

(c) TECHNICAL AMENDMENT.—The table of contents relating to part B of title I is amended by—

(1) striking the items relating to sections 123 and 124; and

(2) redesignating the items relating to sections 125, 126, and 127 as the items relating to sections 123, 124, and 125, respectively.

SEC. —GENERAL PROGRAM REQUIREMENTS

(a) IN GENERAL.—Section 141(d)(3) of the Act is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) inserting the following new subparagraph:

"(B) Tuition charges for training or education provided by an institution of higher education or postsecondary instituiton which are not more than the charges for such training or education made available to the general public do not require a breakdown of cost components.".

(b) LIMITATION.—Section 141(g) of the Act is amended by—

(1) inserting "(1) after the subsection designation; and

(2) inserting the following new paragraph (2):

"(2) On-the-job training authorized under the Act shall be limited in duration to a period not in excess of that generally required for acquisition of skills needed for the position within a particular occupation, but in no event shall exceed 6 months unless the total number of hours of such training is less than 500 hours. In making this determination, consideration shall be given to recognized reference material (such as the Dictionary of Occupational Titles), the content of the participant's training, and the participant's service strategy.".

(c) PROGRAM INCOME.—Section 141 of the Act is further amended by—

(1) striking subsection (m); and

(2) redesignating subsections (n), (o), and (p) as subsection (m), (n), and (o), respectively.

(d) PUBLIC SERVICE EMPLOYMENT.—Section 141(o) of the Act (as amended by subsection (c)(2)) is further amended by striking "part B of this title or part A of".

SEC. . FISCAL CONTROLS; SANCTIONS.

(a) PROCUREMENT.—Section 164(a) of the Act is amended to read as follows:

"(a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. Such procedures shall ensure that all financial transactions are conducted and records maintained in accordance with generally accepted accounting principles.

"(2) The Governor shall prescribe and implement procurement standards to ensure fiscal accountability and prevent fraud and abuse in programs administered under this Act. Such standards shall, at a minimum, include provisions to ensure that, for States, substate areas, and service delivery areas—

"(A) procurements shall be conducted in a manner providing full and open competition;

'(B) the use of sole source procurements shall be minimized to the extent practicable, but in every case shall be justified;

"(C) procurements shall include an analysis of the reasonableness of costs and prices;

"(D) procurements shall not provide excess program income (for nonprofit and governmental entities) or excess profit (for private for profit entities), and that appropriate factors shall be utilized in determining whether such income or profit is excessive, such as—

"(i) the complexity of the work to be performed;

"(ii) the risk borne by the contractor; and

"(iii) market conditions in the surrounding geographical area;

"(E) procurements shall clearly specify deliverables and the basis for payment;

"(F) written procedures shall be established for procurement transactions;

"(G) no grantee, contractor, subgrantee or subcontractor shall engage in any conflict of interest, actual or apparent, in the selection, award and administration of a contract or grant under this Act; and

"(H) all grantees and subgrantees shall conduct oversight to ensure compliance with procurement standards.

"(3) The Governor shall annually conduct on-site monitoring of each service delivery area and substate area within the State to ensure compliance with the procurement standards established pursuant to paragraph (2).

"(4) If the Governor determines that a service delivery area or substate area is not in compliance with the procurement standards established pursuant to paragraph (2), the Governor shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsections (c) and (e) in the event of failure to take the required corrective action.

"(5) The Governor shall submit to the Secretary the procurement standards established pursuant to paragraph (2), and shall annually certify to the Secretary that—

"(A) the State's procurement standards fully satisfy the requirements contained in paragraph (2);

"(B) the State has monitored substate areas and service delivery areas to ensure compliance with the procurement standards established pursuant to paragraph (2); and

"(C) the State has taken appropriate action to secure compliance pursuant to paragraph (4).

"(6) The Secretary shall annually review the procurement standards established pursuant to paragraph (2) and shall annually notify the appropriate Committees of the Congress whether the requirements contained in paragraph (5) have been satisfied.

"(7) If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsection (g) in the event of failure of the Governor to take the required corrective action.

"(8)(A) The Secretary, in consultation with the Inspector General, shall review the implementation of the provisions of this subsection and submit a report to the Congress, not later than October 1, 1992, evaluating the effectiveness of such provisions in ensuring fiscal accountability and containing such recommendations as the Secretary deems appropriate.

"(A) The Secretary shall provide for an independent study examining the amount of program income received by service providers pursuant to this Act and the use of such income, and shall submit the study, accompanied by such recommendations as the Secretary deems appropriate, to the Congress not later than November 1, 1992.".

(b) PROGRAM INCOME.—Section 164 of the Act is further amended by—

(1) redesignating subsections (b), (c), (d), (e), (f), (g), and (h), as subsections (c), (d), (e), (f), (g), (h), and (i), respectively; and

(2) inserting the following new subsection after subsection (a):

"(b)(1) Income under any program administered by a public or private nonprofit entity only is such income is used to continue to carry out such program, and may be used for such purposes notwithstanding the expiration of financial assistance for such program.

"(2) Income subject to the requirements of paragraph (1) shall include—

"(A) receipts from goods or services provided as a result of activity funded under the Act; and

"(B) funds provided to a service provider under the Act which are in excess of the costs associated with the services provided.

"(3) For the purposes of this subsection, each public or private nonprofit entity receiving financial assistance under this Act shall maintain records sufficient to determine the amount of income received and the purposes for which such income is expended.".

SEC. . REPORTS, RECORDKEEPING, AND INVESTIGATIONS.

(a) IN GENERAL.—Section 165(c) of the Act is amended by—

(1) striking ", and" at the end of paragraph (1), and inserting in lieu thereof a semicolon;

(2) striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(3) inserting the following new paragraph:

"(3) monitor the performance of service providers in complying with the terms of grants, contracts, or other agreements made pursuant to this Act.".

"(b) RETENTION OF RECORDS.—Section 165 of the Act is further amended by inserting at the end thereof the following new subsection:

"(d) The Governor shall ensure that procedures are developed for retention of all records pertinent to all grants and agreements under this Act, including financial, statistical, property and participant records and supporting documentation. For funds allotted to a State for any program year, records must be retained for 2 years following the date on which the annual expenditure report containing the final expenditures charged to such program year's allotment is submitted to the Secretary. Records for nonexpendable property shall be retained for a period of 3 years after final disposition of the property.".

SEC. . ESTABLISHMENT OF ADULT OPPORTUNITY PROGRAM.

(A) IN GENERAL.—Part A of title II of the Act is amended to read as follows:

"PART A—ADULT OPPORTUNITY PROGRAM

"STATEMENT OF PURPOSE

"SEC. 201. It is the purpose of this part to establish programs to prepare adults for participation in the labor force by increasing occupational and educational skills resulting in improved long-term employability, increased employment and earnings, and reduced welfare dependency.

"ALLOTMENT

"SEC. 202. (a) Not more than one quarter of one percent of the amount appropriated pursuant to section 3(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau and the Commonwealth of the Northern Mariana Islands.

"(b) Of the amount available to carry out the provisions of this part that remains after the allotment is made under subsection (a), the Secretary shall reserve not more than 5 percent to carry out part C of this title.

"(c)(1) After determining the amounts to be allotted under subsections (a) and (b), 91 percent of the remainder shall be allotted by the Secretary to the States for allocation to service delivery areas within each State. Each State shall allocate such funds to the service delivery areas in such amounts as determined by the Secretary pursuant to paragraph (2). The remaining 9 percent shall be allotted in accordance with subsection (d).

"(2) Subject to the provisions of paragraph (3), of the amounts allotted to service delivery areas under this subsection for each fiscal year—

"(A) 50 percent shall be allotted on the basis of the relative number of economically disadvantaged adults within each service delivery area as compared to the total number of economically disadvantaged adults in all service delivery areas in all States:

"(B) 25 percent shall be allotted on the basis of the relative concentration of economically disadvantaged adults within each service delivery area as compared to the total concentration of economically disadvantaged adults in all service delivery areas in all States; and

"(C) 25 percent shall be allotted on the basis of the relative number of unemployed individuals who reside in each service delivery area as compared to the total number of unemployed individuals in all service delivery areas in all States.

"(3)(A) No service delivery area shall be allocated less than 90 percent, or more than 115 percent, of its allocation percentage under this part for the fiscal year preceding the fiscal year for which the determination is made. If the amounts appropriated pursuant to section 3(a) are not sufficient to provide an amount equal to at least 90 percent of such allocation percentages to each such area, the amounts allocated to each area shall be ratably reduced.

"(B)(i) Except as otherwise provided in this subparagraph, the allocation percentage for a service delivery area is the percentage which the service delivery area received of the total amount allocated under this part for such fiscal year to all service delivery areas in all States.

"(ii) The allocation percentage for fiscal year 1991 shall be the percentage of funds allocated for adult programs under title II to the service delivery area during the preceding fiscal year.

"(C) Notwithstanding subparagraph (A), the total allocation under this subsection for all service delivery areas within any one State for each fiscal year shall not be less than one-quarter of 1 percent of the total amounts available for allotment under this subsection for such fiscal year.

"(D) The private industry council in each service delivery area may reserve not more than 10 percent of the funds received under this part for experimental programming for hard-to-serve individuals. The Comptroller General shall conduct a study to review and assess such experimental programs and post program results and shall submit the findings to the appropriate committees of Congress before September 30, 1994.

"(4)(A) For the purposes of this section—

"(i) the term 'economically disadvantaged adult' means an adult who is aged 22 through 72, and who has, or is a member of a family which has, received a total family income which, in relation to family size, was not in excess of the higher of (I) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services, or (II) 70 percent of the lower living standard income level; and

"(ii) the term 'concentration' means the number of economically disadvantaged adults in excess of 10 percent of the adult population in the service delivery area.

"(B) for the purposes of subparagraph (A), and to the extent practical, the Secretary shall exclude college students and members of the Armed Forces from the number of economically disadvantaged individuals.

"(d)(1) Subject to the provisions of section 453(e)(5), the remainder available for allotment under this part shall be allotted to the States for the activities described in paragraph (2). The allotment to each State shall be based upon the relative amount of funds available to all service delivery areas within such State under subsection (c) as compared to the total amount of funds available to all service delivery areas in all States under subsection (c).

"(2) Of the allotment available to each State for each fiscal year under paragraph (1)—

"(A) four-ninths shall be available for overall administration, management, and auditing activities relating to programs under this title and for activities under sections 121 and 122 of the Act;

"(B) two-ninths shall be available for technical assistance in developing the overall capability of the job training system within the State, including the development and training of State and local service delivery area staff, service provider staff, the development of information and exemplary program activities, and the conduct of research and other activities designed to improve the level, degree, and goals of programs conducted under this Act; and

"(C) three-ninths shall be available to provide incentive grants authorized under section 106(b)(7).

"(e)(1) For fiscal years 1991 and 1992, the total of the amounts allotted to any State under subsections (c) and (d) and available to such State under subsection (b) shall not be less than 100 percent of the amount allotted to such State to carry out adults programs under title II in fiscal year 1989.

"(2) The Secretary shall ratably adjust the amounts allotted under subsections (c) and (d) and available under subsection (b) to carry out the requirements of paragraph (1). In making such adjustments, the requirements of subsection (c)(3)(A) shall remain applicable.

"ELIGIBILITY FOR SERVICES

"SEC. 203. (a)(1) An individual shall be eligible to participate in the program under this part only if such individual is—

"(A) 22 years of age or older; and

"(B) economically disadvantaged.

"(2) Not less than 65 percent of the participants in a program under this part in each service delivery area shall be individuals who, in addition to meeting the requirements of paragraph (1), are included in one or more of the following categories:

"(A) basic skills deficient;

"(B) school dropout;

"(C) recipients of aid to families with dependent children who either meet the requirements of section 403(1)(2)(B) of the Social Security Act or have been provided an employability plan in accordance section 482(b) of the Social Security Act;

"(D) individual with a disability;

"(E) homeless, as defined by subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act;

"(F) unemployed for the previous 6 months or longer,

"(G) offender;

"(H) limited English proficient; and

"(I) a category established pursuant to subsection (b).

"(3) Not more than 10 percent of all participants in programs assisted under this part in each service delivery area may be individuals who are not economically disadvantaged is such individuals are age 22 or older and experience 1 or more barriers to employment. Such barriers may include, but are not limited to, the categories described in paragraph (2), or categories such as, displaced homemakers, older workers, veterans, alcoholics or addicts.

"(4) Not less than 5 percent of the funds available under this part to each service delivery area shall be expended to provide services to eligible individuals ages 55 or older. In addition, each service delivery area shall make special efforts to meet the goals identified in the job training plan pursuant to section 104(b)(6) relating to the number of older individuals to be served.

"(b) A service delivery area conducting a program under this part may add one category of individuals who face serious barriers to employment to the categories of eligible individuals specified in subsection (a)(2) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the Governor approves the request submitted pursuant to paragraph (1) and transmits the request to the Secretary; and

"(3) the Secretary approves the request submitted pursuant to paragraph (2).

"(c) A service delivery area may transfer not more than 10 percent of the funds provided under this part to part B of this title for youth programs if a description of such transfer is included in the job training plan pursuant to section 104 and the Governor approves the transfer pursuant to section 105.

"PROGRAM DESIGN

"SEC. 204. (a) PROGRAM DESIGN.—The program assisted under this part shall include—

"(1) an assessment of each participant's skill levels and service needs, including such factors as basic skills, occupational skills, prior work experience, and supportive service needs, provided that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program, such as the JOBS program;

"(2) development of service strategies which shall identify the employment goal, the appropriate achievement objectives, and the appropriate sequence of services for participants taking into account the assessments conducted pursuant to paragraph (1);

"(3) a review of each participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be made available to a participant where the assessment and the service strategy indicate such services are appropriate:

"(A) basic skills training; and

"(B) occupational skills training.

"(b) ADDITIONAL SERVICES.—Subject to the limitations contained in subsection (c), services which may be made available to each participant under this part may include, but are not limited to—

"(1) outreach to make individuals aware of, and encourage the use of, employment and training services;

"(2) literacy and bilingual training:

"(3) on-the-job training;

"(4) education-to-work transition activities;

"(5) work experience;

"(6) vocational exploration;

"(7) pre-apprenticeship programs;

"(8) attainment of certificates of high school equivalence;

"(9) skill upgrading and retraining;

"(10) on-site industry specific training programs supportive of industrial and economic development;

"(11) programs which combine workplace training with related instruction;

"(12) enterpreneurial training;

"(13) programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment;

"(14) training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment and personnel to train workers in occupations for which demand exceeds supply;

"(15) supportive services;

"(16) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training;

"(17) coordinated programs with other Federal employment-related activities;

"(18) counseling;

"(19) job search skills training and assistance;

"(20) job clubs;

"(21) provision of occupational and labor market information;

"(22) specialized surveys not available through other labor market information sources;

"(23) programs to develop work habits and other services to individuals to help them obtain and retain employment;

"(24) development of job openings;

"(25) disseminating information on program activities to employers;

"(26) need-based payments;

"(27) case management services;

"(28) job placement; and

"(29) post-program follow-up services.

"(c)(1) Basic skills training authorized under this part shall, where appropriate, have a workplace context and be integrated with occupational skills training.

"(2)(A) Except as provided in subparagraph (B), job search, job search skills training, job clubs, and work experience authorized under this part shall be accompanied by other services designed to increase a participant's basic education or occupational skills.

"(B) The program under this part may provide job search, job search skills training and job clubs activities to a participant without the additional services described in subparagraph (A) only if—

"(i) the participant's assessment and service strategy indicate that the additional services are not appropriate; and

"(ii) the activities are not available to the participant through the employment service or other public agencies.

"(3) Needs-based payments authorized under this part shall be limited to payments necessary for participation in the program under this part in accordance with a locally developed formula or procedure.

"(4) Counseling and supportive services authorized under this part may be provided to a participant for a period up to one year after the participant's completion of the program.

"(5) The service strategy developed pursuant to section 204(a)(2) shall not be considered a contract.

"COOPERATIVE ARRANGEMENTS

"SEC. 205. (a) In conducting the program under this part, the service delivery area shall establish appropriate cooperative arrangements with other programs authorized under Federal law. Such programs shall include, where feasible, programs authorized by—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational Education Act;

"(3) the Wagner-Peyser Act;

"(4) part F of title IV of the Social Security Act;

"(5) the employment program established pursuant to section 6(d) of the Food Stamp Act of 1977;

"(6) the National Apprenticeship Act;

"(7) the Rehabilitation Act of 1973;

"(8) title V of the Older Americans Act of 1965;

"(9) chapter 2 of title II of the Trade Act of 1974; and

"(10) the Stewart B. McKinney Homeless Assistance Act.

"(b) In addition to the cooperative arrangements required under subsection (a), each service delivery area receiving financial assistance under this part shall establish other appropriate cooperative arrangements to enhance the provision of services under this part. Such cooperative arrangements may be established with local educational agencies, local service agencies, public housing agencies, community-based organizations, literacy organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development, and social service programs.

"STUDIES RELATING TO PLACEMENT AND TARGET POPULATIONS

"SEC. 206. (a) The Comptroller General of the United States shall conduct a study to determine how many and what percentage of adults assisted under this part remain employed for at least 9 months after receiving assistance under this part. The Comptroller General shall submit the findings to the appropriate committees of Congress within 3 years of the date of enactment of this Act.

"(b) Not later than December 30, 1993, the Secretary of Labor shall report to Congress regarding the extent to which older individuals and displaced homemakers are served under this Act, the socioeconomic characteristics of older individuals and displaced homemakers who are program participants, the effectiveness of the services received, and wage and placement outcomes, including the extent to which older individuals are placed in part-time employment.".

(b) TECHNICAL AMENDMENT.—(1) The part heading relating to part A of title II is amended to read as follows:

"PART A—ADULT OPPORTUNITY PROGRAM"

(2) The table of contents relating to part A of title II of the Act is amended to read as follows:

"Sec. 201. Statement of purpose.
"Sec. 202. Allotment.
"Sec. 203. Eligibility for services.
"Sec. 204. Program design.
"Sec. 205. Cooperative arrangements.
"Sec. 206. Studies relating to placement and target populations.".

SEC. —. ESTABLISHMENT OF YOUTH OPPORTUNITY PROGRAM.

(a) IN GENERAL.—Part B of title II of the Act is amended to read as follows:

"PART B—YOUTH OPPORTUNITY PROGRAM

"STATEMENT OF PURPOSE

"SEC. 251. The purpose of the programs assisted under this part is to—

"(1) improve the long-term employability of youth;

"(2) enhance the educational and occupational skills of youth;

"(3) encourage school completion or enrollment in alternative school programs;

"(4) increase the employment and earnings of youth;

"(5) reduce welfare dependency; and

"(6) assist youth in addressing problems which impair their ability to make successful transitions from school to work, apprenticeship, the military or postsecondary education and training.

"ALLOTMENT

"SEC. 252. (a) Not more than one-quarter of one percent of the amount appropriated pursuant to section 3(b) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands.

"(b) Of the amount available to carry out the provisions of this part that remains after the allotment is made under subsection (a), the Secretary shall reserve not more than 5 percent to carry out part C of this title.

"(c)(1) After determining the amounts to be allotted under subsections (a) and (b), 91 percent of the remainder shall be allotted by the Secretary to the States for allocation to service delivery areas within each State. Each State shall allocate such funds to the service delivery areas in such amounts as determined by the Secretary pursuant to paragraph (2). The remaining 9 percent shall be allotted in accordance with subsection (d).

"(2) Subject to the provisions of paragraph (3), of the amounts allotted to service delivery areas under this subsection for each fiscal year—

"(A) 50 percent shall be allotted on the basis of the relative number of economically disadvantaged youth within each service delivery area as compared to the total number of economically disadvantaged youth in all service delivery areas in all States;

"(B) 25 percent shall be allotted on the basis of the relative concentration of the economically disadvantaged youth within each service delivery area as compared to the total concentration of economically disadvantaged youth in all service delivery areas in all States; and

"(C) 25 percent shall be allotted on the basis of the relative number of unemployed individuals who reside in each service delivery area compared to the total number of unemployed individuals in all service delivery areas in all States.

"(3)(A) No service delivery area shall be allocated an amount equal to less than 90 percent, or more than 115 percent, of its allocation percentage for the preceding fiscal year for which the determination is made. If the amounts appropriated pursuant to section 3(b) of the Act are not sufficient to provide an amount equal to at least 90 percent of such allocation percentages to each such area, the amounts allocated to each area shall be ratably reduced.

"(B)(i) Except as otherwise provided in this subparagraph, the allocation percentage for a service delivery area for a fiscal year is the percentage which the service delivery area received of the total amount allocated under this part for such fiscal year to all service delivery areas in all States.

"(ii) The allocation percentage for fiscal year 1991 is the percent of the funds allocated for youth programs (as determined by the Secretary) under title II to the service delivery area during the preceding fiscal year.

"(C) Notwithstanding subparagraph (A), the total allocation for all service delivery areas within any one State for any fiscal year shall not be less than one-quarter of one percent of the total amounts available for allotment under subsection (c) for such fiscal year.

"(D) The private industry council in each service delivery area may reserve not more than 10 percent of the funds received under this part for experimental programming for groups with special needs and other hard-to-serve individuals. The Comptroller General shall conduct a study to review and assess such experimental programs and post program results and shall submit the findings to the appropriate committees of Congress before September 30, 1994.

"(4)(A) For the purposes of this section—

"(i) the term 'economically disadvantaged youth' means an individual who is aged 16 through 21 and who has, or is a member of a family which has, received a total family income which, in relation to family size, was not in excess of the higher of (I) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services or (II) 70 percent of the lower living standard income level;

"(ii) the term 'concentration' means the number which represents the number of economically disadvantaged youth in excess of 10 percent of the youth population in the service delivery area.

"(B) For the purposes of subparagraph (A), and to the extent practical, the Secretary shall exclude college students and members of the Armed Forces from the number of economically disadvantaged youth.

"(d)(1) Subject to the provisions of section 453(e)(5), the remainder available for allotment under this part shall be allotted to the States for the activities described in paragraph (2). The allotment to each State shall be based upon the relative amount of funds available to service delivery areas within such State under subsection (c) as compared to the total amount of funds available to all service delivery areas in all States under subsection (c).

"(2) Of the allotment available to each State for each fiscal year under paragraph (1)—

"(A) four-ninths shall be available for overall administration, management, and auditing activities relating to programs under this title and for activities under sections 121 and 122 of the Act;

"(B) two-ninths shall be available for technical assistance in developing the overall capability of the job training system within the State, including the development and training of State and local service delivery area staff, service provider staff, the development of information and exemplary program activities, and the conduct of research and other activities designed to improve the level degree, and goals of programs conducted under this Act; and

"(C) three-ninths shall be available to provide incentive grants authorized under section 106(b)(7).

"(e)(1) For fiscal years 1991 and 1992, the total of the amounts allotted to any State under subsections (c) and (d) and available to such State under subsection (b) shall not be less than 100 percent of the amount allotted to such State to carry out youth program under title II in fiscal year 1989.

"(2) The Secretary shall ratably adjust the amounts allotted under subsections (c) and (d) and available under subsection (b) to carry out the requirements of paragraph (1). In making such adjustments, the requirements of subsection (c)(3)(A) shall remain applicable.

"ELIGIBILITY FOR SERVICES

"SEC. 253. (a)(1) An individual who is in school shall be eligible to participate in the program under this part only if such individual is—

"(A) aged 16 through 21; and

"(B) economically disadvantaged or receiving a free lunch under the National School Lunch Act.

"(2) Not less than 70 percent of the in-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of paragraph (1), are included in one or more of the following categories:

"(A) basic skills deficient;

"(B) educational attainment that is one for more grade levels below the grade level appropriate for the individual's age;

"(C) pregnant or parenting;

"(D) exhibiting pattern of disruptive behavior or disciplinary problems;

"(E) homeless, as defined by subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act;

"(F) individual with a disability;

"(G) limited English proficient;

"(H) offender; and

"(I) a category established pursuant to subsection (d).

"(3) An individual who is out of school shall be eligible to participate in the program under this part only if such individual is—

"(A) aged 16 through 21; and

"(B) economically disadvantaged.

"(4) Not less than 70 percent of the out-of-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of paragraph (3), are included in one or more of the following categories:

"(A) basic skills deficient;

"(B) school dropout, subject to the conditions described in section 253(c);

"(C) pregnant or parenting;

"(D) homeless, as defined by subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act;

"(E) individual with a disability;

"(F) limited-English proficient;

"(G) offender; and

"(H) a category established pursuant to subsection (d).

"(5)(A) Not more than 10 percent of all participants in the programs assisted under this part in each service delivery area may be individuals who do not meet the requirements of paragraph (1)(B) or (3)(B) if such individuals are aged 16 through 21 and experience 1 or more barriers to employment. Such barriers may include, but are not limited to, the categories in paragraph (2) or (4), or categories such as individuals who are alcoholics or addicts.

"(B) In addition to the individuals described in subparagraph (A), an individual who does not meet the requirements of paragraph (1)(B) may participate in the program assisted under this part if such individual is included in one of the categories described in paragraph (2) and is enrolled in a public school—

"(i) which is located in a poverty area;

"(ii) served by a local educational agency which is eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

"(iii) in which not less than 70 percent of the students enrolled are included in the categories described in paragraph (2); and

"(iv) which conducts a program pursuant to a cooperative arrangement which meets the requirements of section 255(d).

"(C) For the purposes of clause (i) of subparagraph (B) the term 'poverty area' means an urban census tract or a nonmetropolitan county with poverty rate of 30 percent or more as determined by the Bureau of the Census.

"(6) Not less than 50 percent of the participants in the program assisted under this part in each service delivery area shall be out-of-school individuals who meet the requirements of paragraph (3), (4) or (5).

"(b) A service delivery area conducting a program under this part may add one category of youth who face serious barriers to employment to the categories of eligible individuals specified in subsection (a)(2) and one category to the categories of eligible individuals specified in subsection (a)(4) if—

"("(1) the service delivery area submits a request to the Governor identifying the additional categories of individuals and justifying the inclusion of such category;

"(2) the Governor approves the request submitted pursuant to paragraph (1) and transmits the request to the Secretary; and

"(3) the Secretary approves the request submitted pursuant to paragraph (2).

"(c) Eligible individuals aged 14 or 15, or aged 22 through 24, shall, if appropriate, and set forth in the job training plan, be eligible for youth programs under this part.

"(d) In order to participate in a program assisted under this part, an individual who is under the age of 18 and a school dropout shall—

"(1) re-enroll in and attend school;

"(2) enroll in and attend an alternative high school;

"(3) enroll in and attend an alternative course of study approved by the local educational agency and the service delivery area or private industry council;

"(4) enroll in and attend a high school equivalency program; or

"(5) enroll in and attend a community-based learning center with programs designed to result in the attainment of a GED or a high school diploma.

"(e) A service delivery area may transfer not more than 10 percent of the funds provided under this part to part A of this title for adult programs if a description of such transfer is included in the job training plan pursuant to section 104 and the Governor approves the transfer pursuant to section 105.

"PROGRAM DESIGN

"SEC. 254. (a) The program under this part shall be conducted on a year-round basis.

"(b) The program under this part shall include—

"(1) an assessment of each participant's skill levels and service needs, including such factors as basic skills, occupational skills, prior work experience, and supportive service needs, provided that a new assessement of a participant is not required where the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program, such as the JOBS program.

"(2) development of service strategies which shall identify achievement objectives, appropriate employment goals, and the appropriate sequence of service for participants taking into account the assessments conducted pursuant to paragraph (1);

"(3) a review of each participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be available to a participant where the assessment and service strategy indicate such services are appropriate:

"(A) basic skills training;

"(B) occupational skills training;

"(C) pre-employment and work maturity skills training;

"(D) work experience combined with skills training; and

"(E) supportive services.

"(c) Subject to the provisions of subsection (d), services which may be made available to participants under this part may include, but need not be limited to—

"(2) outreach;

"(2) tutoring;

"(3) study skills training;

"(4) instruction for high school completion or certicate of high school equivalancy;

"(5) services provided by alternative high schools;

"(6) mentoring;

"(7) individual and group counseling;

"(8) drug and alcohol abuse counseling and referral;

"(9) cash incentives and bonuses based on participant's attendance and performance in the program;

"(10) compensation in the form of work experience wages;

"(11) services encouraging parental, spousal and other significant adult involvement in the participant's program;

"(12) on-the-job training;

"(13) limited internships in the private sector;

"(14) school-to-work transition services;

"(15) school-to-post secondary education transition services;

"(16) school-to-apprenticeship transition services;

"(17) training or education that is combined with meaningful and constructive community and youth service opportunities in public agencies, non-profit agencies or other appropriate agencies, institutions and organizations;

"(18) job search, job search skills training and job clubs;

"(19) needs-based payments;

"(20) career exploration; and

"(21) state of the art vocational education.

"(d)(1) In developing service strategies and designing services for the program under this part, the service delivery area and private industry council shall take into consideration exemplary program strategies and practices.

"(2) Pre-employment and work maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase a participant's basic or occupational skills. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(3) Work experience, job search, job search skills training, and job clubs activities authorized by this part shall be accompanied by additional services designed to increase a participant's basic education or occupational skills. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(4) Needs-based payments authorized under this part shall be limited to payments necessary to participate in the program in accordance with a locally developed formula or procedure.

"(5) Counseling and supportive services authorized under this part may be provided to a participant for a period of up to one year after the participant's completion of the program.

"(6) The service strategy developed pursuant to section 254(b)(2) shall not be considered a contract.

"(e)(1) In addition to the services described under subsections (b), (c), and (d), service delivery areas may elect to use funds available under this part to conduct a summer jobs program component consistent with the following limitations:

"(A) the participating youth's service strategy indicates such summer work experience is appropriate; and

"(B) the summer work experience is accompanied by additional education or training in a year-round program.

"(2) The additional education or training provided for in subparagraph (B) may be provided by—

"(A) the year-round program under this part;

"(B) the Jobs Corps;

"(C) the JOBS program;

"(D) alternative or secondary schools; or

"(E) other education and training programs.

"COOPERATIVE ARRANGEMENTS

"SEC. 255. (a) FORMAL AGREEMENTS.—In conducting a program under ths part, service delivery areas shall establish cooperative agreements with the appropriate educational agencies responsible for service to participants. Such cooperative arrangements shall include—

"(1) formal agreements with educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of assessment of in-school youth to be used by the educational agency; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by educational agencies to out-of-school youth; and

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems and needs, including, where appropriate, interim assessment results.

"(b) COOPERATIVE ARRANGEMENTS.—In conducting the program under this part, the service delivery area shall establish appropriate cooperative arrangements with other education and training programs authorized under Federal law. Such programs shall include, where feasible, programs authorized by—

"(1) part B of title IV of this Act (the Job Corps);

"(2) parts A through D of chapter 1 of the Elementary and Secondary Education Act of 1965;

"(3) the Carl D. Perkins Vocational Education Act;

"(4) the Education of the Handicapped Act;

"(5) the Wagner-Peyser Act;

"(6) part F of title IV of the Social Security Act (JOBS);

"(7) the Rehabilitation Act of 1973;

"(8) the Food Stamp Act;

"(9) the National Apprenticeship Act; and

"(10) the Stewart B. McKinney Homeless Assistance Act.

"(c) OTHER APPROPRIATE ARRANGEMENTS.—In addition to the cooperative arrangements required under subsections (a) and (b), service delivery areas shall establish other appropriate arrangements to enhance the provision of services under this part. Such arrangements may be established with State and local service agencies, public housing agencies, community-based organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under part A of title II.

"(d) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—In conducting a program serving individuals specified in section 253(a)(5)(B), the service delivery area shall establish a cooperative arrangement with the appropriate educational agency which shall, in addition to the other requirements of this section, include—

"(1) a description of how the program will supplement the educational program of the school;

"(2) identification of measurable goals to be achieved by the program and provision for assessing the extent to which such goals are met;

"(3) a description of how the program will use resources provided under this part and resources provided under other educational programs to achieve the goals identified in paragraph (2);

"(4) a description of the number of individuals to be served; and

"(5) assurances that the resources provided under this part shall be used to supplement and not supplant existing programs.".

(b) TECHNICAL AMENDMENT.—(1) The part heading relating to part B of title II is amended to read as follows:

"PART B—YOUTH OPPORTUNITY PROGRAM"

(2) The table of contents relating to part B of title II of the Act is amended to read as follows:

"Sec. 251. Statement of purpose.
"Sec. 252. Allotment.
"Sec. 253. Eligibility of services.
"Sec. 254. Program design.
"Sec. 255. Cooperative arrangements.".

SEC. . INNOVATION AND COORDINATION GRANTS.

(a) IN GENERAL.—Title II of the Act is amended by adding the following new part C at the end thereof:

"PART C—STATE INNOVATION AND COORDINATION GRANTS

"STATEMENT OF PURPOSE

"SEC. 261. It is the purpose of this part to increase the State capacity to develop comprehensive and coordinated education, training, and employment goals and strategies for at risk youth and adults, including but not limited to youth and adults at risk of not graduating from high school, chronic unemployment or welfare dependency.

"PROGRAM AUTHORIZED

"SEC. 262. (a) IN GENERAL.—(1) The Secretary is authorized to make grants to States to pay the Federal share of the cost of activities described in the State innovation and coordination plan submitted pursuant to section 264.

"(2) The Secretary may award grants for a period of 1 year. Such grant may be renewed for the 2 succeeding fiscal years if the Secretary determines that the conditions of the grant have been met during the previous fiscal year.

"(b) AWARDS BASIS.—Upon approval of the State innovation and coordination plan, the Secretary shall award grants on the basis of the relative amount of funds available to service delivery areas within the State under parts A and B of title II as compared to the amount of funds available to all service delivery areas in all States under parts A and B of title II.

"(c) REALLOTMENT.—In any fiscal year in which an amount of funds available under this part remains available due to a Sate or States not receiving approval of a State innovation and coordination plan, the amount available shall be reallotted as determined by the Secretary to States on the basis of the quality of the State innovation and coordination plan submitted pursuant to section 264.

"USE OF FUNDS

"SEC. 263. (a) IN GENERAL.—The States may use funds provided under this part to—

"(1) establish statewide policies and action strategies to address critical human resource development goals for at-risk populations;

"(2) encourage the use of cooperative and innovative arrangements between various State education, employment, welfare, and social service agencies to address the multifaceted problems of at-risk youth and adults, including but not limited to youth and adults at risk of not graduating from high school, chronic unemployment or welfare dependency.

"(3) encourage innovations in program implementation that promote the comprehensive and coordinated delivery of education, training, and employment services for at risk youth and adults, including but not limited to older individuals, and youth and adults at risk of not graduating from high school, chronic unemployment or welfare dependency; and

"(4) facilitate the development of public-private collaboration to assure private sector employment and continued learning opportunities for economically disadvantaged youth and adults, including older individuals.

"(b) AUTHORIZATION.—The Secretary is authorized to use the sums available pursuant to sections 202(b) and 252(b) to make grants to States under this part.

"(c) LIMITATION ON FEDERAL SHARE.—Of the Federal share of funds available to a State under this part in each fiscal year—

"(1) not more than 15 percent shall be expended on administrative activities.

"(2) not more than 35 percent shall be expended on—

"(A) strategic planning, coordination and other activities designed to facilitate the coordination of services provided under this Act with education and other human resource programs,

"(B) improving management information systems,

"(C) strengthening the overall infrastructure of the State employment and training programs; and

"(D) State policy development regarding long-term education and training services for youth and adults most in need of such services under this Act, and

"(3) not less than 50 percent shall be expended on training education, and employment services.

"STATE INNOVATION AND COORDINATION PLAN

"SEC. 264. (a) All States shall be eligible to apply for grants under this part. Each State desiring a grant under this part shall submit a State innovation and coordination plan to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary reasonably requires. Each State innovation and coordination plan shall—

"(1) describe the human resource goals to be achieved by the State and explain how such goals complement or are distinct from the goals of existing programs. Such goals may include—

"(A) reducing the school dropout rate;

"(B) raising the achievement levels of youth;

"(C) reducing illiteracy;

"(D) reducing welfare rates; and

"(E) guaranteeing a job with decent wages, through agreements with private employers, to every individual completing an education and job training program;

"(2) describe specific activities designed to achieve the goals set forth in paragraph (1), including activities such as statewide school-based comprehensive dropout prevention activities, school-to-work services, apprenticeship services, postsecondary education transition services, or statewide integrated services to offenders;

"(3) identify measurable interim benchmarks toward achieving the goals described in paragraph (1);

"(4) describe how the activities and services of eligible participants will be provided through cooperative arrangements with State and local education and employment agencies, welfare agencies or administrative entities in service delivery areas;

"(5) describe how the activities and services to achieve the goals set forth in paragraph (1) will be coordinated with other Federal programs, such as—

"(A) the Carl D. Perkins Vocational Education Act;

"(B) the Adult Education Act;

"(C) the Wagner-Peyser Act;

"(D) the Family Support Act; and

"(E) title V of the Older American Act of 1965; and

"(6) describe the State and the local public and private resources to be committed to achieving the goals identified in paragraph (1).

"(b) JOINT SUBMISSION OF PLAN.—(1) The plan submitted pursuant to subsection (a) shall be jointly prepared and submitted to the Governor by the administrator of—

"(A) the State agency responsible for administering this Act;

"(B) the State agency responsible for administering the JOBS program; and

"(C) the State agency responsible for public education and instruction.

"(2) The plan submitted pursuant to subsection (a) shall include assurances by the administrators of each of the agencies described in paragraph (1) that such plan will result in a coordinated system of job training services.

"(3) The Governor may require additional State agencies to participate in the preparation and submission of the plan submitted pursuant to subsection (a).

"(c) PLAN SUBMITTED IN DISAGREEMENT.—If 90 days after the date designated by the Secretary for submission of the plan submitted pursuant to subsection (a), the Governor and the administrators of the agencies described in subsection (b)(1) are not in agreement on the submission of the plan, the Governor may submit a plan pursuant to subsection (a). A plan submitted pursuant to paragraph (1) shall be accompanied by any dissenting or additional comments supplied by each of the agencies described in section 264(b)(1).

"REVIEW AND APPROVAL OF STATE INNOVATION AND COORDINATION PLAN

"SEC. 265. The Secretary shall review and approve State innovation and coordination plans for the purposes of awarding grants under this part, taking into consideration—

"(1) the extent to which goals, services strategies and accountability mechanisms will address the problems identified;

"(2) the extent of the resources to be committed from other State and local public and private sources;

"(3) evidence of a commitment to the project by the Governor, the chief executives of State education agencies. State welfare agencies, agencies administering this Act, other State agencies, and representatives of local communities, including local elected officials, private industry councils, schools, welfare agencies and community-based groups as appropriate;

"(4) specific plans for coordinating programs funded under this Act, with other education, employment and training programs, JOBS, the local employment service, and other human resource development programs; and

"(5) the amount of funds which will be used for administrative costs and the extent to which such expenditures will contribute to administrative efficiencies and service improvement.

"PAYMENTS; FEDERAL SHARE

"SEC. 266. (a) PAYMENTS.—The Secretary shall pay to each State the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—(1) The Federal share shall be 80 percent.

"(2) The portion of the costs of the program conducted pursuant to this part which is not paid by a grant received under this part shall not be paid from any Federal funds.

"PROGRAM REVIEW AND OVERSIGHT

"SEC. 267. (a) IN GENERAL.—The Secretary is authorized to monitor the progress of all recipients of State Innovation and Coordination Grants.

"(b) OVERSIGHT.—The State Job Training Coordinating Council shall be responsible for overseeing the activities of the State in the performance of activities conducted pursuant to the provisions of this part.

"REPORTS

"SEC. 268. (a) IN GENERAL.—The Secretary shall establish requirements for State reporting on the progress made in accomplishing the goals specified in each State's innovation and coordination plan.

"(b) RECORDS.—Each State receiving a grant under this part shall keep records that are sufficient to permit the preparation of reports on the progress made in achieving the goals of the State as set forth in section 264(a)(1). The State Job Training Coordinating Council shall semiannually report to the Secretary on the progress made in achieving such goals.".

(b) TECHNICAL AMENDMENT.—The table of contents in title II of the Act is amended by adding the following after section 255:

"PART C—STATE INNOVATION AND COORDINATION GRANTS

"Sec. 261. Statement of purpose.
"Sec. 262. Program authorized.
"Sec. 263. Use of funds.
"Sec. 264. State innovation and coordination plan.
"Sec. 265. Review and approval of State innovation and coordination plan.
"Sec. 266. Payments; Federal share.
"Sec. 267. Program review and oversight.
"Sec. 268. Reports.".

SEC. . EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

Section 314(f) of the Act is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) inserting the following new paragraph after paragraph (1):

"(2) An eligible dislocated worker participating in training (except for on-the-job training) pursuant to this title shall be deemed to be in training with the approval of the State agency for purposes of section 3304(a)(8) of the Internal Revenue Code of 1986.".

SEC. . NATIVE AMERICAN PROGRAMS.

(a) IN GENERAL.—Section 401 of the Act is amended—

(1) in subsection (a), by inserting "American Samoan," after "Alaskan Native,";

(2) in subsection (b)(2), by inserting "and to American Samoans residing in the United States" after "descent";

(3) in subsection (c)(1)(B)—

(A) by inserting "and American Samoans residing in the United States" after "natives"; and

(B) by inserting "and State agencies" after "organizations";

(4) in subsection (e)—

(A) by inserting "and American Samoan" after "Native American"; and

(B) by adding at the end thereof the following new sentence: "Such procedures and machinery shall include—

"(1) the designation by the Secretary of a single organizational unit which shall have the principal responsibility for the development, coordination, and oversight of all policies (except audit, procurement and debt collection policies) under which the Secretary regulates or influences the operation of Native American programs under this section; and

"(2) a special effort to recruit Indians, Native Alaskans, American Samoans and Native Hawaiians for employment in the or-

ganizational unit identified in paragraph (1)"; and

(5) in subsection (h) by—

(A) inserting "and American Samoans" after "Native Americans"; and

(B) inserting "and American Samoan" after "Native American".

(b) ADVISORY COUNCIL.—Section 401(h) (as amended in subsection (a)) of the Act is further amended by—

(1) striking "representatives of Indians and other Native Americans" and inserting in lieu thereof the following:" "the Advisory Council on Native American Job Training Programs"; and

(2) inserting at the end thereof the following new paragraph:

"(3)(A) The Secretary shall establish an Advisory Council on Native American Job Training Programs (hereafter in this section referred to as the 'Council') which shall consist of not less than 15 Indians, Native Alaskans, American Samoans, or Native Hawaiians appointed by the Secretary from among individuals nominated by Indian tribes or Indian, Native Alaskan, American Samoan, or Native Hawaiian organizations. The Council's membership shall represent diverse geographic areas and include representatives of tribal governments and of non-reservation Native American organizations.

"(B) The Council shall be chaired by an Indian, Native Alaskan, or Native Hawaiian Council member elected by a majority of the Council's membership and shall meet not less than twice each Program Year. Each Council member may serve for a term of 2 years, and may be reappointed.

"(C) The Council shall—

"(i) solicit the views of a wide variety of tribes and Native American and American Samoan groups, including those operating employment and training programs funded under this section, on issues affecting the operation and administration of such programs;

"(ii) advise the Secretary with respect to all matters concerning the implementation of programs under this section and other programs providing services to Native American youth and adults under this Act;

"(iii) advise the Secretary in the design of all aspects of the system of performance standards developed under this section;

"(iv) advise the Secretary with respect to services obtained by the Department through contracts or arrangements with non-Federal agencies or entities which involve the provision of technical assistance to, or evaluation of, the program authorized by this section;

"(v) assess the effectiveness of Native American job training programs and make recommendations with respect to the improvement of such programs;

"(vi) advise the Secretary with regard to the recruitment of, identification of, and selection criteria for, candidates for the position of chief of the organizational unit described in subsection (e)(1) whenever a vacancy in such position occurs; and

"(vii) submit a report to the Congress no later than January 1 of each year on the progress of Native American job training programs and recommendations for improving their effectiveness.

"(D) From amounts appropriated to carry out the provisions of this section, the Secretary shall make available to the Council such sums as may be necessary to carry out the functions of the Council.".

(c) RESERVATION.—Section 401(j) is amended to read as follows:

"(j)(1) For the purposes of carrying out this section, the Secretary shall reserve, from funds available for this title (other than part B) for any fiscal year, an amount not less than 3.1 percent of the total amount of funds appropriated to carry out the provisions of parts A and B of title II of this Act for such fiscal year.

"(2) Of the amounts reserved under paragraph (1), 18 percent shall be provided to section 401 entities which were eligible for direct funding under part B of title II (the Summer Youth Employment and Training Programs) immediately prior to the enactment of this Act. Such entities shall use such funds to operate special programs for economically disadvantaged Native American youth between the ages of 14 and 21.".

SEC. . MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

Section 402(f) of the Act is amended to read as follows:

"(f) For the purposes of carrying out the provisions of this section, the Secretary shall reserve, from funds available for this title (other than part B) for any fiscal year, an amount not less than 2.76 percent of the total amount of funds appropriated to carry out the provisions of parts A and B of title II of this Act for such fiscal year.".

SEC. . JOB CORPS.

Section 427(a)(2) of the Act is amended—

(1) by striking "10 percent" and inserting in lieu thereof "20 percent"; and

(2) by striking the period at the end thereof and inserting in lieu thereof the following: ", provided that the Secretary shall not reduce the number of residential participants in Job Corps programs under this part during any program year below the number of residential participants during program year 1989, in order to increase the number of individuals who are nonresidential participants in the Job Corps.".

SEC. . NATIONAL ACTIVITIES.

(a) IN GENERAL.—Part D of title IV of the Act is amended to read as follows:

"PART D—NATIONAL ACTIVITIES

"NATIONAL PARTNERSHIP AND SPECIAL TRAINING PROGRAMS

"SEC. 451. (a) STATEMENT OF PURPOSE.—It is the purpose of this section to—

"(1) improve access to employment and training opportunities for those with special needs,

"(2) help alleviate skill shortages and enhance the competitiveness of the labor force,

"(3) meet special training needs that are best addressed on a multistate or industry-wide basis, and

"(4) encourage the participation and support of all segments of society to further the goals of this Act.

"(b) PROGRAM AUTHORIZED.—The Secretary is authorized to establish a system of special grant programs that are most appropriately administered at the national level.

"(c) PROGRAMS.—Programs that are most appropriately administered at the national level include—

"(1) partnership programs with national organizations with special expertise in developing, organizing, and administering employment and training programs at the national, State, and local level, such as industry and labor associations, public interest groups, and community-based organizations representative of groups that encounter special difficulties in the labor market, and other organizations with special knowledge or capabilities in education and training;

"(2) programs that—

"(A) address industry-wide skill shortages,

"(B) meet training needs that are best addressed on a multistate basis, and

"(C) further the goals of increasing the competitiveness of the United States labor force; and

"(3) programs which require technical expertise available at the national level to serve specialized needs of particular client groups, including at-risk youth, offenders, individuals of limited English language proficiency, individuals with disabilities, women, immigrants, single parents, substance abusers, displaced homemakers, youth, older workers, veterans, individuals who lack education credentials, public assistance recipients, and other individuals whom the Secretary determines require special assistance.

"RESEARCH, DEMONSTRATION, AND EVALUATION

"SEC. 452. (a) IN GENERAL.—To assist the Nation in expanding work opportunities and ensuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of training and employment research, utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems. The program under this section may include studies concerning—

"(1) the development or improvement of Federal, State, local, and privately supported employment and training programs;

"(2) labor market processes and outcomes, including improving workplace literacy;

"(3) policies and programs to reduce unemployment and the relationships thereof with price stability and other national goals;

"(4) productivity of labor,

"(5) improved means of using projections of labor supply and demand, including occupational and skill requirements and areas of labor shortages at the national and subnational levels;

"(6) methods of improving the wages and employment opportunities of low-skilled disadvantaged and dislocated workers, and workers with obsolete skills;

"(7) addressing the needs of at-risk populations, such as youth, homeless individuals, and other dependent populations, older workers, and other groups with multiple barriers to employment;

"(8) developing information on immigration, international trade and competition, technological change and labor shortages; and

"(9) easing the transition from school to work, from transfer payment receipt to self-sufficiency, from one job to another, and from work to retirement.

"(b) PILOTS AND DEMONSTRATIONS.—(1) The Secretary shall establish a program of pilot and demonstration programs, through grants or contracts, for the purpose of developing and improving techniques and demonstrating the effectiveness of specialized methods in addressing employment and training problems. These programs may include projects in such areas as—

"(A) school-to-work transition,

"(B) new methods of imparting literacy skills and basic education,

"(C) new training techniques (including projects undertaken with the private sector),

"(D) methods to eliminate artificial barriers to employment,

"(E) approaches that foster participation of groups which encounter special problems in the labor market (such as displaced

homemakers, teen parents, welfare recipients, and older individuals),

"(F) processes that demonstrate effective methods for alleviating the adverse effects of dislocation and plant closings on workers and their communities, and

"(G) cooperative ventures among business, industry, labor, trade associations or national organizations to develop new and cost-effective approaches to improving workforce literacy.

"(2) Demonstration projects shall include a formal, rigorous evaluation component.

"(3) No pilot project under this subsection shall be financially assisted under this Act for a period of more than 3 years.

"(c) EVALUATION.—(1) The Secretary shall provide for the continuing evaluation of programs conducted under this Act, including the cost effectiveness of the program in achieving the purposes of this Act. The Secretary may also conduct evaluations of other federally funded employment-related activities including programs administered under—

"(A) the Wagner-Peyser Act,

"(B) the National Apprenticeship Act,

"(C) the Older Americans Act,

"(D) chapter 2 of title II of the Trade Act of 1974, and

"(E) the Unemployment Insurance program under the Social Security Act.

Evaluations conducted pursuant to this paragraph shall utilize sound statistical methods and techniques of the behavioral and social sciences, including random assignment methodologies when feasible. Such studies may include cost-benefit analysis of programs, their impact on communities and participants, the extent to which programs meet the needs of various demographic groups, and the effectiveness of the delivery systems used by various programs. The Secretary shall evaluate the effectiveness of programs authorized under this Act with respect to the statutory goals, the performance standards established by the Secretary, and the extent to which such programs enhance the employment and earnings of participants, reduce income support costs, and improve the employment competencies of participants in comparison to comparable persons who did not participate in such programs, and to the extent feasible, increase total employment over what total employment would have been in the absence of such programs.

"(2) The Secretary shall evaluate the impact of title II programs as amended by the Job Training and Basic Skills Act of 1989 on participant employment, earnings, and welfare dependency in multiple sites using the random assignment of individuals to groups receiving services under programs authorized under the Job Training and Basic Skills Act of 1989 or to groups not receiving such services.

"(d) ALLOCATION STUDY.—(1) The Secretary shall, directly or by contract, provide for a study of the effectiveness of the allocation formulas set forth in sections 202 and 252 in equitably allocating funds under title II among service delivery areas.

"(2) The study conducted pursuant to paragraph (1) shall include—

"(A) an examination of alternative factors, such as public assistance data, which could be used as a basis for allocating funds under title II; and

"(B) a review of methods that could be used to update more frequently the data used in determining whether an individual is economically disadvantaged.

"(3) The Secretary shall transmit the findings and recommendations of the study conducted pursuant to paragraph (1) to the Congress by October 1, 1993.

"TRAINING AND TECHNICAL ASSISTANCE

"SEC. 453. (a) IN GENERAL.—The Secretary shall develop and publish a strategic, multiyear national plan for the development and expansion of the capacity of the employment and training system to achieve the goals and objectives provided for under this Act. Such plan shall take into consideration projected investments by the Federal Government, States, and service delivery areas of funds provided under this Act for research, demonstration, pilot projects, evaluation, technical assistance, and training.

"(b) TRAINING.—The Secretary shall provide, directly or through grants, contracts, or other arrangements, appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel including job skills teachers. The Secretary shall provide appropriate technical assistance, including activities related to the development and attainment of performance goals, to programs assisted under this Act, and to other employment related programs administered by the Department of Labor, as the Secretary deems appropriate. Such training and technical assistance may utilize the training and technical assistance capabilities existing at the State and service delivery area level.

"(c) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide staff training and technical assistance services to States or service delivery areas in order to improve their staff training and technical assistance capabilities.

"(d) DISSEMINATION.—The Secretary shall disseminate materials and information gained from exemplary program experience and from research and demonstration activities which may be of use in the innovation or improvement of other programs conducted pursuant to this Act or to related programs conducted under other employment related legislation administered by the Department of Labor.

"(e) TRAINING INSTITUTES.—(1) The Secretary shall, before July 1, 1992, establish a network of regional training institutes, in order to strengthen the caliber of services provided through the various Federal, State, and local employment and training systems. To initiate and maintain the network, the Secretary shall, on a competitive basis, award grants or contracts to colleges and universities, private nonprofit organizations, community-based organizations or other organizations with specialized employment and training knowledge and expertise to establish not more than 5 regional training institutes. Each such regional training institute shall—

"(A) provide appropriate training, technical assistance, professional development, and other activities which will—

"(i) enhance the skills, knowledge, and expertise, of the personnel who staff employment and training delivery systems, including service providers, and

"(ii) improve the quality of services provided through this Act and other Federal employment and training programs;

"(B) prepare and disseminate training curricula and materials for employment and training professionals and support staff which focus on enhancing staff competencies and professionalism;

"(C) disseminate innovative and successful models, materials, methods, and program information to foster professional growth among managers, service delivery providers, and administrators involved in the delivery of employment and training services;

"(D) act as a clearinghouse to regularly identify, develop, and disseminate innovative materials which enhance the knowledge and quality of performance of employment and training personnel;

"(E) facilitate effective communications and coordination among employment and training personnel;

"(F) establish an institute advisory committee which shall be broadly representative of the employment and training systems and which shall assist in—

"(i) establishing institute priorities,

"(ii) evaluating institute performance, and

"(iii) enhancing the effectiveness and efficiency of institute operations.

"(2) The regional training institutes established pursuant to paragraph (1) may charge appropriate tuition or fees to offset the costs of various institute training, materials acquisition, or other training-related costs.

"(3) The Secretary shall provide guidance, technical assistance, and direction to the regional training institute network to ensure that regional training institutes respond to employment and training staff needs, furnish high quality training and materials, meet program objectives without duplication, and encourage the use of the latest technologies for training and program management.

"(4) The Secretary shall consult with the Secretary of Education, as needed, to coordinate the activities of the regional network of training institutes with other relevant institutes, centers, laboratories, or clearinghouses.

"(5) The Secretary shall reserve 5 percent of the amounts allotted to the States under sections 202(d)(2)(B) and 252(d)(2)(B) of this Act to carry out the provisions of this subsection.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part D of title IV of the Act is amended to read as follows:

"PART D—NATIONAL ACTIVITIES

"Sec. 451. National partnership and special training programs.

"Sec. 452. Research, demonstration, and evaluation.

"Sec. 453. Training and technical assistance.".

SEC. . COOPERATIVE LABOR MARKET INFORMATION PROGRAM.

Section 462 of the Act is amended by inserting at the end thereof the following new subsection:

"(g)(1) The Secretary is authorized to engage in research, demonstration, or other activities, including those which might be carried out by States, designed to determine the feasibility of various methods of organizing and making accessible nationwide, information on the quarterly earnings for all individuals for whom such information is collected by the State.

"(2) The Secretary shall report to Congress concerning the costs and benefits of establishing and maintaining a national longitudinal data base utilizing unemployment insurance wage records. Such report shall also address the feasibility of establishing appropriate safeguards for maintaining the confidentiality of information and privacy of individuals.".

SEC. . NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

Section 464(a)(1) of the Act is amended by striking "not more than $5,000,000" and inserting "$6,000,000".

SEC. . REPLICATION OF SUCCESSFUL PROGRAMS.

(a) IN GENERAL.—Title IV of the Act is amended by adding at the end thereof the following new part:

"PART H—REPLICATION OF SUCCESSFUL PROGRAMS

"REPLICATION OF SUCCESSFUL PROGRAMS

"SEC. 485. (a) REPLICATION PROGRAM AUTHORIZED.—The Secretary shall, in consultation with the expert review panel appointed pursuant to subsection (b), make grants to national or regional public or private nonprofit organizations which meet the requirements of this section for the provision of technical assistance, and to State and service delivery areas for costs associated with the development and operation of model programs approved by the Secretary in accordance with the provisions of this section.

"(b) REVIEW PANEL.—(1) The Secretary shall appoint a review panel of recognized experts in the operation and evaluation of employment and training programs for economically disadvantaged youth and adults, and dislocated workers. Such panel shall select and designate model programs pursuant to the provisions of this section. The review panel shall meet at least once each year to carry out the responsibilities described in this section. No member of such panel shall have a direct financial interest in or affiliation with a potential recipient of funds under the program authorized by this section.

"(2) The review panel shall select and designate model programs and make recommendations to the Secretary regarding those programs the review panel deems likely to be successful in improving the employment prospects of economically disadvantaged youth and adults, and dislocated workers, and which are replicable on a large scale. In selecting such programs the review panel shall consider—

"(A) the size and scope of the program;

"(B) the length of time the program has been operating;

"(C) the nature and reliability of measurable outcomes for the program;

"(D) the capacity of the sponsoring national or regional organization to provide the technical assistance necessary for States and local communities to replicate the program; and

"(E) the likelihood the program will be successful in diverse economic, geographic, and cultural environments.

"(c) SPECIAL CONSIDERATION.—The review panel shall give special consideration to programs that have the demonstrated ability to integrate or coordinate services through collaborative efforts with other service providers in the areas of basic skills instruction, occupational, and pre-employment and work maturity training programs.

"(D) CRITERIA FOR MODEL PROGRAMS.—The review panel shall consider any program for designation as a model program if such program—

"(1) is designed to improve the employment prospects of economically disadvantaged youth and adults, and dislocated workers;

"(2) is sponsored or operated by a national or regional public or private nonprofit organization with the capacity to provide the technical assistance necessary to enable States and local communities to implement the program;

"(3) has demonstrated reasonable evidence of success, as reflected in measurable outcomes related to stated program goals and objectives; and

"(4) has operated on a scale sufficient to demonstrate that the program has the potential to be replicated across a wide range of sites and successfully serve large numbers of economically disadvantaged youth and adults, and dislocated workers.

"(e) APPLICATIONS.—Each public or private nonprofit organization, State, or service delivery area desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) describe the activities and services for which assistance is sought; and

"(2) contain such information and assurances as the Secretary may require to ensure compliance with the provisions of this part.

"(f) GRANT LIMITATIONS.—(1) In any 3-year period the Secretary shall not approve grants for the same replication activities in more than 10 States or communities. During such 3-year period, the results of such limited replication efforts shall be carefully evaluated and examined by the review panel, which shall submit recommendations to the Secretary regarding the advisability of replicating the model program in more than 10 States or communities or for longer than 3 years. On the basis of such recommendations, the Secretary shall have authority to replicate such programs in more than 10 communities or for longer than 3 years.

"(2) The Secretary may, upon recommendation of the review panel, waive the limitation set forth in paragraph (1) if immediate replication efforts on a larger scale is warranted by extensive evaluation of the program prior to its designation as a model program pursuant to the provisions of this paragraph.

"(g) RECORDS.—The review panel shall prepare a report on the model programs the review panel has selected for replication, including a justification of such selections. Such report shall be submitted to the appropriate committees of Congress within one year of the date of enactment of this Act and each year thereafter.".

(b) TECHNICAL AMENDMENT.—The table of contents in title IV of the Act is amended by adding the following after section 481:

"PART H—REPLICATION OF SUCCESSFUL PROGRAMS

"Sec. 485. Replication of successful programs.".

SEC. . FAIR CHANCE YOUTH OPPORTUNITIES UNLIMITED PROGRAM.

(a) IN GENERAL.—Title IV of the Act is amended by adding at the end thereof the following new part:

"PART I—FAIR CHANCE YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"STATEMENT OF PURPOSE

"SEC. 491. The purposes of the Fair Chance Youth Opportunities Unlimited program include—

"(1) enabling communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community; and

"(2) facilitating the coordination of comprehensive services to serve youth in such communities.

"PROGRAM AUTHORIZED

"SEC. 492. (a) PROGRAM ESTABLISHED.—The Secretary is authorized to establish a national program of Youth Opportunities Unlimited grants to pay the Federal share of providing comprehensive services to youth living in high poverty areas in the Nation's cities and rural areas.

"(b) AWARDS.—(1) The Secretary may only award grants under this part to the service delivery area (on behalf of the participating community) in which the target area is located, or to the grantee designated under section 401 if the target area is located on an Indian reservation or Alaskan native village.

"(2) The Secretary may award not more than 25 grants in the first fiscal year that the program assisted under this part is authorized, and may award not more than a total of 40 grants over the first 5 fiscal years that the program assisted under this part is authorized.

"(3) The Secretary shall award at least 1, but not more than 3, grants over the first 5 fiscal years that the program assisted under this part is authorized among grantees designated under section 401 representing Indian reservations and Alaskan native villages.

"(c) GRANT TERM.—(1) Grants awarded under this part shall be for a 1-year period and are renewable for each of the 2 succeeding fiscal years if the Secretary determines the grant recipient complied with conditions of the grant during the previous fiscal year.

"(2) The Secretary may extend the renewal period set forth in paragraph (1) for an additional 2 fiscal years upon reapplication.

"(d) AWARD CRITERIA.—In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the goals to be achieved, the likelihood of the project's successful implementation, and the extent of community support. The Secretary shall give priority to participating communities with the highest rates of poverty.

"DEFINITIONS

"SEC. 493. For the purposes of this part—

"(1) The term 'participating community' means the city in a Metropolitan Statistical Area, the contiguous nonmetropolitan counties in a rural area, or an Indian reservation or Alaskan native village, that includes the target area for the Fair Chance Youth Opportunities Unlimited Program.

"(2) The term 'poverty area' means an urban census tract, a nonmetropolitan county, an Indian reservation, or an Alaskan native village, with a poverty rate of 30 percent or more as determined by the Bureau of the Census.

"(3) The term 'target area' means a poverty area or set of contiguous poverty areas that will be the focus of the program in each participating community.

"APPLICATION

"SEC. 494. (a) ELIGIBILITY.—Participating communities which have the highest concentrations of poverty, as determined by the Secretary based on the latest Census estimates, shall be eligible to apply for a Youth Opportunities Unlimited grant.

"(b) APPLICATION.—Each participating community desiring a grant under this part shall, through the individuals sets for in subsection (c), submit an application to the Secretary at such time in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) include a comprehensive plan for the Fair Chance Youth Opportunities Unlimited initiative designed to achieve identifiable goals for youth in the target area;

"(2) set forth measurable program goals which may include increasing—

"(A) the proportion of youths completing high school,

"(B) the proportion of youths entering into community colleges or other advanced training programs, or

"(C) the proportion of youths placed in jobs;

"(3) include supporting goals for the target area such as increasing security and safety, or reducing the number of drug-related arrests;

"(4) provide assurances that the conditions set forth in section 495 will be met;

"(5) ensure that all youth in the target areas have access to a coordinated and comprehensive range of education and training opportunities which serve the broadest range of youth interests and needs and simultaneously mobilizes the diverse range of education and training providers in the participating community;

"(6) demonstrate how the participating community will make use of the resources, expertise, and commitment of institutions of higher education, educational agencies, and vocational and technical schools and institutes;

"(7) demonstrate how the participating community will make use of the resources, expertise, and commitment of such programs and service providers as—

"(A) community-based organizations providing vocational skills, literacy skills, remedial education, and general equivalency preparation, including those serving youth with limited English proficiency;

"(B) youth conservation and human service corps;

"(C) Job Corps centers;

"(D) apprenticeship programs; and

"(E) other projects and programs funded under this Act;

"(8) include an estimate of the expected number of youth in the target area to be served;

"(9) include a description of the resources available in the participating community from private, local government, State and Federal sources which will be used to achieve the goals of the program;

"(10) include an estimate of funds required to ensure access to appropriate education, training, and support services for all youth in the target area who seek such opportunities; and

"(11) provide evidence of support for accomplishing the stated goals of the participating community from—

"(A) local elected officials,

"(B) the local school board,

"(C) applicable private industry council,

"(D) local community leaders,

"(E) business,

"(F) labor organizations, and

"(G) other appropriate organizations.

"(c) APPLICATION LIMITATION.—The application for funds for a participating community may only be submitted to the Secretary by—

"(1) the mayor of a city in a Metropolitan Statistical Area, after the Governor of the State in which such city is located has had an opportunity to comment on the application;

"(2) the Governor of the State in which the contiguous nonmetropolitan counties in a rural area are located; or

"(3) the grantee designated under section 401 for an Indian reservation or Alaskan native village.

"GRANT AGREEMENT

"SEC. 495. Each service delivery area (on behalf of the participating community) receiving a grant under this part shall enter into an agreement with the Secretary. Each such agreement shall—

"(1) designate a target area that will be the focus of the demonstration project which shall have a population of not more than 25,000;

"(2) contain assurances that funds provided under this part will be used to support education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(A) nonresidential learning centers,

"(B) alternative schools,

"(C) combined summer remediation, work experience and work readiness training, and school-to-work / apprenticeship / post-secondary education programs,

"(D) teen parent programs,

"(E) special programs run by community colleges,

"(F) youth centers,

"(G) initiatives aimed at increasing rural student enrollment in post-secondary institutions,

"(H) public-private collaborations to assure private sector employment and continued learning opportunities for youth; and

"(I) initiatives that combine community and youth service opportunities with education and training activities.

"(3) provide that only youth who are aged 14 through 21 and reside in the target area shall be eligible to participate in the program;

"(4) contain assurances that the local educational agency and any other educational agency which operates secondary schools in the target area shall provide such activities and resources as are necessary to achieve the educational goals specified in the application;

"(5) contain assurances that the participating community will provide such activities and local resources as are necessary to achieve the goals specified in the application;

"(6) provide that the participating community will carry out special efforts to establish coordination with Federal, State, or local programs that serve the target population; and

"(7) provide assurances that funds provided under this part will be used only to pay the Federal share of the costs of programs and services not otherwise available in the target area and will supplement, and not supplant, funding from other local, State, and Federal sources available to youth in the target area.

"PAYMENTS; FEDERAL SHARE

"SEC. 496. (a) PAYMENTS.—The Secretary shall pay to each participating community the Federal share of the costs of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share for each fiscal year a participating community receives assistance under this Act shall be 50 percent.

"(c) LIMITATION.—Each participating community may provide not more than 25 percent of its share from Federal sources other than funds received pursuant to this part.

"REPORTING

"SEC. 497. The Secretary is authorized to establish such reporting procedures as necessary to carry out the purposes of this part.

"FEDERAL RESPONSIBILITIES

"SEC. 498. (a) IN GENERAL.—The Secretary shall provide assistance to participating communities in the implementation of this project in participating communities. The Secretary may reserve not more than 5 percent of the amount appropriated under this part to carry out the provisions of this paragraph.

"(b) INDEPENDENT EVALUATION.—The Secretary shall provide for a thorough, independent evaluation of the Fair Chance Youth Opportunities Unlimited program to assess the outcomes of youth participating in such programs. Evaluation measures may include—

"(1) enrollment, retention, and completion rates;

"(2) high school graduation rates;

"(3) avoidance of anti-social behavior and self-destructive behavior;

"(4) subsequent employment;

"(5) continued pursuit of advanced education and training;

"(6) admission into four-year colleges and universities; or

"(7) admission into the Armed Forces, and similar measures.

"(c) REPORT.—The Secretary shall develop a report detailing the results of the independent evaluation and submit such report to the President and the Congress no later than December 31, 1994, along with an analysis of expenditures made, results achieved, and problems in the operations and coordination of programs funded under this part. Such report should summarize findings concerning—

"(1) the extent to which current programs are sufficient in number, variety, and quality to meet demand; and

"(2) the feasibility of extending access to comprehensive education, training and support services and programs required under this part to all areas of the nation, including possible approaches to the incremental extension of such access over time.".

(b) TECHNICAL AMENDMENT.—The table of contents of the Act is amended by adding the following after section 485:

"PART I—FAIR CHANCE YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"Sec. 491. Statement of purpose.
"Sec. 492. Program authorized.
"Sec. 493. Definitions.
"Sec. 494. Application.
"Sec. 495. Grant agreement.
"Sec. 496. Payments; Federal share.
"Sec. 497. Reporting.
"Sec. 498. Federal responsibilities.".

SEC. . JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS.

(a) IN GENERAL.—Title V of the Act is amended to read as follows:

"SEC. 501. STATEMENT OF PURPOSE.

"It is the purpose of this title to provide incentives to reduce welfare dependency, promote self-sufficiency, increase child support payments, and increase employment and earnings by providing to each participating State a bonus for providing job training to absent parents of children receiving aid to families with dependent children, who subsequent to such training pay child support for their children, and to blind or disabled individuals receiving supplemental security income under title XVI of the Social Security Act, who subsequent to such training are successfully placed in and retain employment.

"SEC. 502. ELIGIBILITY FOR INCENTIVE BONUSES.

"An individual shall be eligible to be counted for the purpose of the title if—

"(1) the individual—

"(A) is an absent parent of any child receiving aid to families with dependent children under title IV of the Social Security Act at the time such individual was determined eligible to participate in activities provided under this Act;

"(B) has participated in education, training or other activities (including the Job Corps) provided under this Act; and

"(C) pays child supprt for the child or children specified in subparagraph (A) following termination from activities provided under this Act; or

"(2) the individual—

"(A) is blind or disabled;

"(B) was receiving benefits pursuant to title XVI of the Social Security Act (relating to supplemental security income) at the time such individual was determined eligible to participate in activities under this Act;

"(C) has participated in education, training or other activities (including the Job Corps) provided under this Act; and

"(D) earns from employment a wage or income.

"SEC. 503. AMOUNT OF INCENTIVE BONUS.

"The amount of the incentive bonus paid to each State shall be—

"(1) an amount equal to the amount of child support paid by each individual eligible pursuant to section 502(1) for up to 2 years after such individual's termination from activities provided under this Act; plus

"(2) an amount equal to the reduction in the Federal contribution to the amounts received under title XVI of the Social Security Act by each individual eligible pursuant to section 502(2) for up to 2 years after such individual's termination from activities provided under this Act.

"SEC. 504. NOTICE AND APPLICATION.

"(a) NOTICE OF INTENT TO PARTICIPATE.—Any State seeking to participate in the incentive bonus program established under this title shall notify the Secretary of its intent to do so not later than 30 days before the beginning of its first program year of participation.

"(b) APPLICATION.—Any State seeking to receive an incentive bonus under this title shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in order to ensure compliance with this title. Each application shall contain, at a minimum—

"(1) a list of the eligible individuals in the State who satisfied the requirements of section 502 during the program year;

"(2) the amount of the incentive bonus attributable to each eligible individual and due the State pursuant to section 503; and

"(3) certification that documentation is available to verify the eligibility of participants and the amount of the incentive bonus claimed by the State.

"(c) NOTICE OF APPROVAL OR DENIAL.—The Secretary shall promptly inform a State after receipt of the application as to whether or not its application has been approved.

"SEC. 505. PAYMENTS.

"(a) IN GENERAL.—For each program year for which funds are appropriated to carry out this title, the Secretary shall pay to each participating State the amount that State is eligible to receive under this title.

"(b) RATABLE REDUCTIONS.—If the amount so appropriated is not sufficient to pay each State the amount each State is eligible to receive, the Secretary shall ratably reduce the amount paid to each State.

"(c) RATABLE INCREASES.—If any additional amount is made available for carrying out this tide for any program year after the application of subsection (b), such additional amount shall be allocated among the States by increasing such payments in the same manner as they were reduced, except that no such State shall be paid an amount which exceeds the amount which it is eligible to receive under this title.

"SEC. 506. USE OF INCENTIVE BONUS FUNDS.

"(a) IN GENERAL.—(1)(A) during any program year, the Governor may use an amount not to exceed 15 percent of the State's total bonus payments for administrative costs incurred under this title, including data and information collection and compilation, recordkeeping, or the preparation of applications for incentive bonuses.

"(B) The amount of incentive bonus payments which remain after the deduction of administrative expenses under subparagraph (A) shall be distributed to service delivery areas and Job Corps centers within the State in accordance with an agreement between the Governor and representatives of such areas and centers. Such agreement shall reflect an equitable method of distribution which is based on the degree to which the efforts of such area or center contributed to the State's qualification for an incentive bonus payment under this title.

"(2) A maximum of 10 percent of the amounts received under this title in any program year by each service delivery area and Job Corps center may be used for the administrative costs of establishing and maintaining systems necessary for operation of programs under this title, including incentive payments described in subsection (b), technical assistance, data and information collection and compilation, management information systems, post-program followup activities, and research and evaluation activities. The balance of funds not so expended shall be used by each service delivery area for activities described in sections 204 and 254, and by each Job Corps center for activities authorized under part B of title IV.

"(b) INCENTIVE PAYMENTS TO SERVICE PROVIDERS.—Each service delivery area or Job Corps center may make incentive payments to service providers, including participating State and local agencies, and community-based organizations, that demonstrate effectiveness in delivering employment and training services to individuals such as those described in section 502.

"(c) APPLICATION OF SECTION RELATING TO ADMINISTRATIVE ADJUDICATIONS.—Section 166 of this Act, relating to administrative adjudication, shall apply to the distribution of incentive bonus payments under this section.

"SEC. 507. INFORMATION AND DATA COLLECTION.

"(a) TECHNICAL ASSISTANCE.—In order to facilitate the collection exchange, and compilation of data and information required by this title, the Secretary is authorized to provide technical assistance to the States. Such assistance may include cost-effective methods for using State and Federal records to which the Secretary has lawful access.

"(b) JOINT REGULATIONS.—The Secretary and the Secretary of Health and Human Services, jointly shall issue regulations regarding the sharing, among public agencies participating in the programs under this title, of the data and information necessary to fulfill the requirements of this title. Such regulations shall ensure—

"(1) the availability of information necessary to verify the eligibility of participants and the amount of the incentive bonus payable; and

"(2) the maintenance of confidentiality of the information so shared in accordance with Federal and State privacy laws.

"SEC. 508. EVALUATION AND REPORT.

"(a) EVALUATION.—The Secretary shall conduct or provide for an evaluation of the incentive bonus program authorized under this title. The Secretary shall consider—

"(1) whether the program results in increased service under this Act to absent parents of children receiving aid to families with dependent children under part A of title IV of the Social Security Act and to recipients of supplemental security income under title XVI of the Social Security Act;

"(2) whether the program results in increased child support payments;

"(3) whether the program is administratively feasible and cost effective;

"(4) whether the services provided to other eligible participants under part A of title II are affected by the implementation and operation of the incentive bonus program; and

"(5) such other factors as the Secretary deems appropriate.

"(b) REPORT TO CONGRESS.—Not later than January 1, 1997, the Secretary shall report to the Congress on the effectiveness of the incentive bonus program authorized under this title. Such report shall include an analysis of the costs of such program and the results of such activities.

"SEC. 509. IMPLEMENTING REGULATIONS.

"The Secretary shall promulgate regulations implementing this title not later than June 1, 1991.".

(b) TECHNICAL AMENDMENT.—The table of contents of the Act is further amended by striking the items relating to sections 501 through 511, and inserting the following:

"Sec. 501. Statement of purpose.
"Sec. 502. Eligibility for incentive bonuses.
"Sec. 503. Amount of incentive bonus.
"Sec. 504. Notice and application.
"Sec. 505. Payments.
"Sec. 506. Use of incentive bonus funds.
"Sec. 507. Information and data collection.
"Sec. 508. Evaluation and report.
"Sec. 509. Implementing regulations.".

SEC. . EFFECTIVE DATE; TRANSITION PROVISIONS.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect on July 1, 1991.

(b) PERFORMANCE STANDARDS.—The Secretary of Labor shall issue revised performance standards pursuant to the amendments contained in section 107 as soon as the Secretary determines sufficient data are available, but no later than July 1, 1993.

(c) GUIDANCE.—(1) The Secretary shall provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A and B of title II of the Job Training Partnership Act, as amended by this title.

(2) The guidance provided pursuant to paragraph (1), while maintaining program integrity, shall—

(A) limit the documentation burden to the minimum necessary to adequately verify eligibility, and

(B) ensure, to the extent practicable, that the documentation requirements shall not discourage the participation of eligible individuals.

(3) The guidance described in paragraph (1) shall be provided not later than July 1, 1991.

(d) RULES AND PROCEDURES.—The Secretary of Labor may establish such rules and procedures as may be necessary to provide for an orderly transition to and implementation of the amendments made by this title.

Subtitle II—State Human Resource Council

SEC. . ESTABLISHMENT OF STATE HUMAN RESOURCE INVESTMENT COUNCILS.

(a) COUNCIL ESTABLISHED.—Each State receiving assistance under an applicable program shall establish a State human resource investment council (hereafter in this title referred to as the "State council") to—

(1) review the provisions of services and the use of funds and resources under applicable programs and advise the Governor on methods of coordinating such provision of services and use of funds and resources consistent with the provisions of the applicable programs;

(2) advise the Governor on the development and implementation of State and local standards and measures relating to applicable programs and coordination of such standards and measures; and

(3) work cooperatively with the directors of the designated State units administering the State vocational rehabilitation programs and the directors of the special education units of the State education agencies to enhance employment and vocational education and training opportunities under applicable programs for persons with disabilities.

(b) COMPOSITION.—Each State council established as required by subsection (a) shall consist of the following members appointed by the Governor—

(1) not less than 30 percent shall be appointed from representatives of business and industry (including agriculture, where appropriate), including individuals who are represenatives of business and industry on private industry councils within the State esablished under section 102 of the Job Training Partnership Act;

(2) not less than 30 percent shall be appointed from representatives of organized labor and representatives of organized labor and representatives of community-based organizations in the State;

(3) not less than 20 percent shall consist of—

(A) the chief administrative officer from each of the State agencies primarily responsible for administration of an applicable program;

(B) other members appointed from representatives of the State legislature and State agencies and organizations, such as the State educational agency, the State vocational education board, the State board of education (if not otherwise represented), the State public assistance agency, the State employment security agency, the special education unit of the State education agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, the State agency on aging, the State veteran's affairs agency (or its equivalent), State career guidance and counseling organizations, and any other agencies the Governor determines to have a direct interest in the utilization of human resources within the State; and

(C) the chief administrative officer(s) of the designated State unit(s) which administer(s) the State vocational rehabilitation program as authorized under title I of the Rehabilitation Act; and

(4) not more than 20 percent shall be appointed from—

(A) representatives of units of general local government or consortia of such units, appointed from nominations made by the chief elected officials of such units or consortia;

(B) representatives of local educational agencies and postsecondary institutions, which appointments shall be equitably distributed between such agencies and such institutions and shall be made from nominations made by local educational agencies and postsecondary institutions, respectively;

(C) representatives of local welfare agencies; and

(D) individuals who have special knowledge and qualifications with respect to the special education and career development needs of individuals who are members of special populations, women, and minorities, including one individual who is a representative of special education.

(c) BUDGET.—Each State council shall prepare a budget for itself and submit the budget to the Governor for approval.

(d) SERVICES.—Each State council may obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out the State Council's functions under this Act and under any applicable program.

(e) CERTIFICATION.—Each State receiving financial assistance under an applicable program shall certify to the Secretary of Labor the establishment and membership of a State Council at least 90 days before the beginning of each period of 2 program years for which a job training plan is submitted under the Job Training Partnership Act.

SEC. . DEFINITION.

For purposes of this title, the term "applicable program" means any program under any of the following provisions of law:

(1) The Adult Education Act.

(2) The Carl D. Perkins Vocational Education Act.

(3) The Job Training Partnership Act.

(4) The Wagner-Peyser Act.

(5) Subtitle F of title IV of the Social Security Act (JOBS), to the extent provided under section 483 of such Act.

SEC. . DUTIES OF STATE COUNCIL WITH RESPECT TO APPLICABLE PROGRAMS.

(a) DUTIES UNDER THE JOB TRAINING PARTNERSHIP ACT.—Section 122 of the Act is amended—

(1) in the section heading by striking "STATE JOB TRAINING COORDINATING COUNCIL" and inserting in lieu thereof "STATE HUMAN RESOURCE INVESTMENT COUNCIL.";

(2) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) Any State which desires to receive financial assistance under this Act shall establish a State human resource investment council as required by section 201(a) of the Job Training and Basic Skills Act of 1989 and shall require such council to act as a State job training coordinating council. Funding for the duties of the council under this Act shall be provided pursuant to sections 202(d)(2)(A) and 252(d)(2)(A).".

(B) by striking paragraphs (2), (3), and (4) and redesignating paragraphs (5), (6), and (7) as paragraphs (2), (3), and (4), respectively;

(C) in paragraph (2) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council";

(D) in paragraph (3) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council, in carrying out its duties under this Act,"; and

(E) in paragraph (4) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council relative to carrying out its duties under this Act".

(b) DUTIES UNDER THE WAGNER-PEYSER ACT.—The Wagner-Peyser Act (29 U.S.C. 49) is amended—

(1) by redesignating section 15 as section 16; and

(2) by inserting after section 14 of the following new section:

"SEC. 15. The State human resource investment council established under section 201(a) of the Job Training and Basic Skills Act of 1989 shall review the provision of services and the use of funds and resources under this Act and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational Education Act;

"(3) the Job Training Partnership Act; and

"(4) part F of title IV of the Social Security Act (JOBS), to the extent provided under section 483 of such Act.".

(3) in subsection (b) of section 8 by striking "State job training coordinating council" and inserting "State human resource investment council"; and

(4) in subsection (a) of section 11 by striking "State job training coordinating council" and inserting "State human resource investment council".

SEC. . EFFECTIVE DATE.

The amendments made by this title shall take effect on July 1, 1991.

SEC. . CONFORMING AND TECHNICAL AMENDMENTS.

(a) CONFORMING AMENDMENTS.—The Job Training Partnership Act is amended—

(1) in section 122(b)(2) by striking "section 202(a)" and inserting "sections 202(c) and 252(c)";

(2) in section 123(a) (as redesignated in section 112(b)) by striking "section 204(b)(4)" and inserting "sections 202(d)(2)(A) and 252(d)(2)(A)";

(3) in section 141(k) by striking "section 205(d)(3)(B)" and inserting "and 453";

(5) in section 433(c)(1) by striking "455" and inserting "453";

(6) in section 463(a)(3) by striking "125" and inserting "123";

(7) in section 464(a)(3) by striking "125" and inserting "123";

(8) in section 481(a) by striking "203(a)(1)" and inserting "203";

(9) by striking "State job training coordinating council" each place such term appears and inserting "State human resource investment council"; and

(10) in the table of contents by striking the item relating to section 122 and inserting "State human resource investment council.".

(b) REPEALERS.—Sections 161(c) and 181 of the Job Training Partnership Act are repealed.

Subtitle III—Nontraditional Employment for Women

SEC. —. SHORT TITLE.

This title may be cited as the "Nontraditional Employment for Women Act".

SEC. —. FINDINGS.

The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of those families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act;

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the workforce may have special needs in obtaining training and placement in occupations providing economic security.

SEC. —. STATEMENT OF PURPOSE.

The purposes of this title are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl D. Perkins Vocational Education Act to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

SEC. —. DEFINITIONS.

Section 4 of the Act (as amended in section 103(a)) is further amended by adding at the end thereof the following new paragraph:

"(36) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work.".

SEC. —. SERVICE DELIVERY AREA JOB TRAINING PLAN.

Section 104(b) of the Act (as amended in section 105(b)) is further amended—

(1) by redesignating paragraphs (6), (7), (9), (9), (10), (11), and (12) as paragraphs (7), (8), (9), (10) (11), (12), and (13), respectively.

(2) by inserting after paragraph (5) the following new paragraph:

"(6) goals for—

"(A) the training of women in nontraditional employment; and

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

and a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities;"; and

(3) in paragraph (13) (as redesignated in paragraph (1) above) by—

(A) redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) inserting after subparagraph (C) the following new subparagraphs:

"(D) the extent to which the service delivery area has met its goals for the training and training-related placement of women in nontraditional employment and apprenticeships;

"(E) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the participant's age;

"(iv) the participant's race; and

"(v) information on retention of the participant in nontraditional employment.".

SEC. —. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b) of the Act (as amended in section 111(a)) is further amended by—

(1) redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) The plan shall include goals for—

"(A) the training of women in nontraditional employment through funds available under this Act, the Carl D. Perkins Vocational Education Act, and other sources of Federal and State support;

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

"(C) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities; and

"(D) a description of efforts to coordinate activities provided pursuant to this Act and the Carl D. Perkins Vocational Education Act to train and place women in nontraditional employment.".

(b) SPECIAL PROGRAMS.—Section 121(c) of the Act (as amended in section 111(b)) is further amended by—

(1) redesignating paragraphs (10) and (11) as paragraphs (11) and (12), respectively; and

(2) inserting after paragraph (9) the following new paragraph:

"(10) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment;".

SEC. —. STATE JOB TRAINING COORDINATING COUNCIL.

"Section 122(b) of the Act is amended by—

(1) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (9), (10), (11), and (12), respectively; and

(2) inserting after paragraph (4) the following new paragraphs:

"(5) review the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(13) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(6) prepare a summary of the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(13) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(7) review the activities of the Governor to train, place, and retain women in nontraditional employment, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(8) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational Education Act, obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;".

SEC. —. USE OF FUNDS.

Section 204(b) of the Act (as amended in section 116(a)) is further amended by—

(1) redesignating paragraphs (24), (25), (26), (27), (28), and (29) as paragraphs (25), (26), (27), (28), (29), and (30), respectively; and

(2) inserting after paragraph (23) the following new paragraph:

"(24) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment.".

SEC. —. DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Part D of title IV of the Act (as amended in section 123(a)) is further amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAMS

SEC. 454. (a)(1) From funds available under this part for each of the fiscal years 1991, 1992, and 1993, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) The Secretary may award no more than 6 grants in each fiscal year.

"(b) In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between this Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under this Act;

"(3) the extent to which the initiatives proposed by a State supplement or build upon existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of such State's demonstration training programs.

"(c)(1) Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontraditional employment.

"(2) Each State receiving financial assistance pursuant to subsection (c)(1)(A) may only award grants to—

"(A) community based organizations,

"(B) educational institutions, or

"(C) other service providers,

that have demonstrated success in occupational skills training.

"(3) Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) Each State receiving financial assistance pursuant to subsection (c)(1)(B) or (c)(1)(C) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds under subsection (c)(1)(A).

"(d) In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs,

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment, or

"(3) provide technical assistance to service providers.

"(e) The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the demonstration programs' effectiveness in—

"(1) preparing women for nontraditional employment, and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part D of title IV of the Act (as amended in section 123(b)) is further amended by inserting the following after the item relating to section 453:

"Sec. 454. Demonstration programs.".

SEC. —. REPORT AND RECOMMENDATIONS.

(a) REPORT.—The Secretary of Labor shall report to the Congress within 5 years of the date of enactment of this title on—

(1) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(2) the effectiveness of the demonstration programs established by section 454 of the Job Training Partnership Act in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration program authorized by section 454 of the Job Training Partnership Act.

(b) RECOMMENDATIONS.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 454 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

SEC. —. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on July 1, 1991.

SEC. —. SPECIAL RULE.

(a) IN GENERAL.—Nothing in this title shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(b) DISCRIMINATION PROHIBITED.—Nothing in this title shall be construed to require, sanction or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under the Job Training Partnership Act because of race, color, religion, sex, national origin, age, handicap, political affiliation or belief. Failure to meet the purposes of this title shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

HARKIN AMENDMENT NO. 3165

Mr. HARKIN made a motion that the Senate agree to the amendment of the House to the amendment of the Senate numbered 31 to the bill H.R. 5257, supra, as follows:

In lieu of the sum proposed, insert the following: "$1,360,747,000 of which $10,000,000 is provided for the Health Objectives 2000 Act, if authorized, of which $1,100,000 is for consultation and technical assistance to the States in planning for the implementation of the Year 2000 Health Objectives, including the development of uniform data systems and reporting networks: *Provided further*, That $8,900,000 shall be available for obligation on September 7, 1991, for planning grants to the States to assist in the implementation of the Year 2000 Health Objectives, and".

BINGAMAN AMENDMENT NO. 3166

Mr. BINGAMAN made a motion that the Senate agree to the amendment of the House to the amendment of the Senate numbered 31 to the bill H.R. 5257, supra, as follows:

At the end of the text of the House amendment, insert the following: ": *Provided*, That of the amounts appropriated under 'School Improvement Programs' herein, $1,000,000 shall be available, to remain available until expended, for payment of the expenses incurred by the School Year Extension Study Commission if such a Commission is authorized by law, and of the amounts appropriated under 'Education Research, Statistics, and Improvement' herein, $2,000,000 shall be available, if authorized in law, to remain available through fiscal year 1993, for expenses to be incurred in the operation of an independent National Council on Educational Goals, or any similar panel, council, commission, or other entity whose function shall include monitoring progress towards achieving the national education goals for 2000 or publishing a report that describes such progress, if—

"(A) such entity has a majority of voting members who are neither Federal appointed or elected officials nor Governors of the States but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and educational excellence;

"(B) such entity has members appointed by the leadership of the National Governors' Association, the President, and the leadership of both Houses of Congress; and

"(C) all action of such entity is taken by a simple majority of the members attending a duly called and constituted meeting.".

DEPARTMENTS OF VETERANS AFFAIRS, AND HOUSING AND URBAN DEVELOPMENT, AND SUNDRY INDEPENDENT AGENCIES, COMMISSIONS, AND OFFICES APPROPRIATIONS ACT, FISCAL YEAR 1991

MIKULSKI AMENDMENT NO. 3167

Ms. MIKULSKI made a motion that the Senate agree to the amendment of the House to the amendment of the Senate numbered 18 to the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, as follows:

"In the pending House amendment, strike the following proviso: *'Provided further*, That, notwithstanding any other provision of law, not to exceed 750 units of public housing may be sold or transferred during fiscal year 1991:' "

MIKULSKI AMENDMENT NO. 3168

Ms. MIKULSKI made a motion that the Senate agree to the amendment of the House to the amendment of the Senate numbered 120 to the bill H.R. 5158, supra, as follows:

At the end of the amendment insert:

SEC. 519. (a) The Resolution Trust Corporation ("Corporation") shall report to the Congress at least once a month on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section. The report shall describe, for each such agreement, the review that has been conducted and the action that has been taken, if any, to rescind or to restructure, modify, or renegotiate the agreement. In describing the action taken, the Corporation is not required to provide detailed information regarding an ongoing investigation or negotiation. The Corporation shall exercise any and all legal rights to restructure, modify, renegotiate or rescind such agreement, notwithstanding any other provision of law, where the savings would be realized.

(b) To expend any appropriated funds for the purpose of restructuring, modifying, or renegotiating the agreements described in subsection (a), the Corporation shall certify to the Congress, for each such agreement, the following:

(1) The Corporation has completed its review of the agreement, as required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act;

(2)(A) At the time of certification, in the opinion of the Corporation and based upon

the information available to it, there is insufficient evidence or other indication of fraud, misrepresentation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for the rescission of the agreement; or

(B) At the time of certification, the Corporation finds that there may be sufficient evidence to provide a legal basis for the rescission of the assistance agreement, but the Corporation determines that it may be in the best interest of the Government to restructure, modify or renegotiate the assistance agreement; and

(3) The Corporation has or will promptly exercise any and all legal rights to modify, renegotiate, or restructure the agreement where savings would be realized by such actions.

ADMINISTRATIVE DISPUTES RESOLUTION ACT

LEVIN AMENDMENT NO. 3169

Mr. EXON (for Mr. LEVIN) proposed an amendment to the bill (H.R. 2497) to authorize and encourage Federal agencies to use mediation, conciliation, arbitration, and other techniques for the informal resolution of disputes, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Dispute Resolution Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) administrative procedure, as embodied in chapter 5 of title 5, United States Code, and other statutes, is intended to offer a prompt, expert, and inexpensive means of resolving disputes as an alternative to litigation in the Federal courts;

(2) administrative proceedings have become increasingly formal, costly, and lengthy resulting in unnecessary expenditures of time and in a decreased likelihood of achieving consensual resolution of disputes;

(3) alternative means of dispute resolution have been used in the private sector for many years and, in appropriate circumstances, have yielded decisions that are faster, less expensive, and less contentious;

(4) such alternative means can lead to more creative, efficient, and sensible outcomes;

(5) such alternative means may be used advantageously in a wide variety of administrative programs;

(6) explicit authorization of the use of well-tested dispute resolution techniques will eliminate ambiguity of agency authority under existing law;

(7) Federal agencies may not only receive the benefit of techniques that were developed in the private sector, but may also take the lead in the further development and refinement of such techniques; and

(8) the availability of a wide range of dispute resolution procedures, and an increased understanding of the most effective use of such procedures, will enhance the operation of the Government and better serve the public.

SEC. 3. PROMOTION OF ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

(a) PROMULGATION OF AGENCY POLICY.—Each agency shall adopt a policy that addresses the use of alternative means of dispute resolution and case management. In developing such a policy, each agency shall—

(1) consult with the Administrative Conference of the United States and the Federal Mediation and Conciliation Service; and

(2) examine alternative means of resolving disputes in connection with—

(A) formal and informal adjudications;

(B) rulemakings;

(C) enforcement actions;

(D) issuing and revoking licenses or permits;

(E) contract administration;

(F) litigation brought by or against the agency; and

(G) other agency actions.

(b) DISPUTE RESOLUTION SPECIALISTS.—The head of each agency shall designate a senior official to be the dispute resolution specialist of the agency. Such official shall be responsible for the implementation of—

(1) the provisions of this Act and the amendments made by this Act; and

(2) the agency policy developed under subsection (a).

(c) TRAINING.—Each agency shall provide for training on a regular basis for the dispute resolution specialist of the agency and other employees involved in implementing the policy of the agency developed under subsection (a). Such training should encompass the theory and practice of negotiation, mediation, arbitration, or related techniques. The dispute resolution specialist shall periodically recommend to the agency head agency employees who would benefit from similar training.

(d) PROCEDURES FOR GRANTS AND CONTRACTS.—

(1) Each agency shall review each of its standard agreements for contracts, grants, and other assistance and shall determine whether to amend any such standard agreements to authorize and encourage the use of alternative means of dispute resolution.

(2)(A) Within 1 year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended, as necessary, to carry out this Act and the amendments made by this Act.

(B) For purposes of this section, the term "Federal Acquisition Regulation" means the single system of Government-wide procurement regulation referred to in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)).

SEC. 4. ADMINISTRATIVE PROCEDURES.

(a) ADMINISTRATIVE HEARINGS.—Section 556(c) of title 5, United States Code, is amended—

(1) in paragraph (6) by inserting before the semicolon at the end thereof the following: "or by the use of alternative means of dispute resolution as provided in subchapter IV of this chapter"; and

(2) by redesignating paragraphs (7) through (9) as paragraphs (9) through (11), respectively, and inserting after paragraph (6) the following new paragraphs:

"(7) inform the parties as to the availability of one or more alternative means of dispute resolution, and encourage use of such methods;

"(8) require the attendance at any conference held pursuant to paragraph (6) of at least one representative of each party who has authority to negotiate concerning resolution of issues in controversy;".

(b) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"§ 581. Definitions

"For the purposes of this subchapter, the term—

"(1) 'agency' has the same meaning as in section 551(1) of this title;

"(2) 'administrative program' includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter;

"(3) 'alternative means of dispute resolution' means any procedure that is used in lieu of an adjudication as defined in section 551(7) of this title, to resolve issues in controversy, including but not limited to, settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, or any combination thereof;

"(4) 'award' means any decision by an arbitrator resolving the issues in controversy;

"(5) 'dispute resolution communication' means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participants; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

"(6) 'dispute resolution proceeding' means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

"(7) 'in confidence' means, with respect to information, that the information is provided—

"(A) with the expressed intent of the source that it not be disclosed; or

"(B) under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

"(8) 'issue in controversy' means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement between the agency and persons who would be substantially affected by the decision but shall not extend to matters specified under the provisions of sections 2302 and 7121(c) of title 5;

"(9) 'neutral' means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy;

"(10) 'party' means—

"(A) for a proceeding with named parties, the same as in section 551(3) of this title; and

"(B) for a proceeding without named parties, a person who will be significantly affected by the decision in the proceeding and who participates in the proceeding;

"(11) 'person' has the same meaning as in section 551(2) of this title; and

"(12) 'roster' means a list of persons qualified to provide services as neutrals.

"§ 582. General authority

"(a) An agency may use a dispute resolution proceeding for the resolution of an issue in controversy that relates to an administrative program, if the parties agree to such proceeding.

"(b) An agency shall consider not using a dispute resolution proceeding if—

"(1) a definitive or authoritative resolution of the matter is required for precedential value, and such a proceeding is not likely to be accepted generally as an authoritative precedent;

"(2) the matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and such a proceeding would not likely serve to develop a recommended policy for the agency;

"(3) maintaining established policies is of special importance, so that variations among individual decisions are not increased and such a proceeding would not likely reach consistent results among individual decisions;

"(4) the matter significantly affects persons or organizations who are not parties to the proceeding;

"(5) a full public record of the proceeding is important, and a dispute resolution proceeding cannot provide such a record; and

"(6) the agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a dispute resolution proceeding would interfere with the agency's fulfilling that requirement.

"(c) Alternative means of dispute resolution authorized under this subchapter are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques.

"§ 583. Neutrals

"(a) A neutral may be a permanent or temporary officer or employee of the Federal Government or any other individual who is acceptable to the parties to a dispute resolution proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

"(b) A neutral who serves as a conciliator, facilitator, or mediator serves at the will of the parties.

"(c) In consultation with the Federal Mediation and Conciliation Service, other appropriate Federal agencies, and professional organizations experienced in matters concerning dispute resolution, the Administrative Conference of the United States shall—

"(1) establish standards for neutrals (including experience, training, affiliations, diligence, actual or potential conflicts of interest, and other qualifications) to which agencies may refer;

"(2) maintain a roster of individuals who meet such standards and are otherwise qualified to act as neutrals, which shall be made available upon request:

"(3) enter into contracts for the services of neutrals that may be used by agencies on an elective basis in dispute resolution proceedings; and

"(4) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis.

"(d) An agency may use the services of one or more employees of other agencies to serve as neutrals in dispute resolution proceedings. The agencies may enter into an interagency agreement that provides for the reimbursement by the user agency or the parties of the full or partial cost of the services of such an employee.

"(e) Any agency may enter into a contract with any person on a roster established under subsection (c)(2) or a roster maintained by other public or private organizations, or individual for services as a neutral, or for training in connection with alternative means of dispute resolution. The parties in a dispute resolution proceeding shall agree on compensation for the neutral that is fair and reasonable to the Government.

"§ 584. Confidentiality

"(a) Except as provided in subsections (d) and (e), a neutral in a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any dispute resolution communication or any communication provided in confidence to the neutral, unless—

"(1) all parties to the dispute resolution proceeding and the neutral consent in writing, and, if the dispute resolution communication was provided by a nonparty participant, that participant also consents in writing;

"(2) the dispute resolution communication has already been made public;

"(3) the dispute resolution communication is required by statute to be made public, but a neutral should make such communication public only if no other person is reasonably available to disclose the communication; or

"(4) a court determines that such testimony or disclosure is necessary to—

"(A) prevent a manifest injustice;

"(B) help establish a violation of law; or

"(C) prevent harm to the public health or safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

"(b) A party to a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any dispute resolution communication, unless—

"(1) the communication was prepared by the party seeking disclosure;

"(2) all parties to the dispute resolution proceeding consent in writing;

"(3) the dispute resolution communication has already been made public;

"(4) the dispute resolution communication is required by statute to be made public;

"(5) a court determines that such testimony or disclosure is necessary to—

"(A) prevent a manifest injustice;

"(B) help establish a violation of law; or

"(C) prevent harm to the public health and safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential;

"(6) the dispute resolution communication is relevant to determining the existence or meaning of an agreement or award that resulted from the dispute resolution proceeding or to the enforcement of such an agreement or award; or

"(7) the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding.

"(c) Any dispute resolution communication that is disclosed in violation of subsection (a) or (b), shall not be admissible in any proceeding relating to the issues in controversy with respect to which the communication was made.

"(d) The parties may agree to alternative confidential procedures for disclosures by a neutral. Upon such agreement the parties shall inform the neutral before the commencement of the dispute resolution proceeding of any modifications to the provisions of subsection (a) that will govern the confidentiality of the dispute resolution proceeding. If the parties do not so inform the neutral, subsection (a) shall apply.

"(e) If a demand for disclosure, by way of discovery request or other legal process, is made upon a neutral regarding a dispute resolution communication, the neutral shall make reasonable efforts to notify the parties and any affected nonparty participants of the demand. Any party or affected nonparty participant who receives such notice and within 15 calendar days does not offer to defend a refusal of the neutral to disclose the requested information shall have waived any objection to such disclosure.

"(f) Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a dispute resolution proceeding.

"(g) Subsections (a) and (b) shall have no effect on the information and data that are necessary to document an agreement reached or order issued pursuant to a dispute resolution proceeding.

"(h) Subsections (a) and (b) shall not prevent the gathering of information for research or educational purposes, in cooperation with other agencies, governmental entities, or dispute resolution programs, so long as the parties and the specific issues in controversy are not identifiable.

"(i) Subsections (a) and (b) shall not prevent use of a dispute resolution communication to resolve a dispute between the neutral in a dispute resolution proceeding and a party to or participant in such proceeding, so long as such dispute resolution communication is disclosed only to the extent necessary to resolve such dispute.

"(j) This section shall not be considered a statute specifically exempting disclosure under section 552(b)(3) of this title.

"§ 585. Authorization of arbitration

"(a)(1) Arbitration may be used as an alternative means of dispute resolution whenever all parties consent. Consent may be obtained either before or after an issue in controversy has arisen. A party may agree to—

"(A) submit only certain issues in controversy to arbitration; or

"(B) arbitration on the condition that the award must be within a range of possible outcomes.

"(2) Any arbitration agreement that sets forth the subject matter submitted to the arbitrator shall be in writing.

"(3) An agency may not require any person to consent to arbitration as a condition of entering into a contract or obtaining a benefit.

"(b) An officer or employee of an agency may offer to use arbitration for the resolution of issues in controversy, if such officer or employee—

"(1) has authority to enter into a settlement concerning the matter; or

"(2) is otherwise specifically authorized by the agency to consent to the use of arbitration.

"§ 586. Enforcement of arbitration agreements

"An agreement to arbitrate a matter to which this subchapter applies is enforceable pursuant to section 4 of title 9, and no action brought to enforce such an agreement shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"§ 587. Arbitrators

"(a) The parties to an arbitration proceeding shall be entitled to participate in the selection of the arbitrator.

"(b) The arbitrator shall be a neutral who meets the criteria of section 583 of this title.

"§ 588. Authority of the arbitrator

"An arbitrator to whom a dispute is referred under this subchapter may—

"(1) regulate the course of and conduct arbitral hearings;

"(2) administer oaths and affirmations;

"(3) compel the attendance of witnesses and production of evidence at the hearing under the provisions of section 7 of title 9 only to the extent the agency involved is otherwise authorized by law to do so; and

"(4) make awards.

"§ 589. Arbitration proceedings

"(a) The arbitrator shall set a time and place for the hearing on the dispute and shall notify the parties not less than 5 days before the hearing.

"(b) Any party wishing a record of the hearing shall—

"(1) be responsible for the preparation of such record;

"(2) notify the other parties and the arbitrator of the preparation of such record;

"(3) furnish copies to all identified parties and the arbitrator; and

"(4) pay all costs for such record, unless the parties agree otherwise or the arbitrator determines that the costs should be apportioned.

"(c)(1) The parties to the arbitration are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

"(2) The arbitrator may, with the consent of the parties, conduct all or part of the hearing by telephone, television, computer, or other electronic means, if each party has an opportunity to participate.

"(3) The hearing shall be conducted expeditiously and in an informal manner.

"(4) The arbitrator may receive any oral or documentary evidence, except that irrelevant, immaterial, unduly repetitious, or privileged evidence may be excluded by the arbitrator.

"(5) The arbitrator shall interpret and apply relevant statutory and regulatory requirements, legal precedents, and policy directives.

"(d) No interested person shall make or knowingly cause to be made to the arbitrator an unauthorized ex parte communication relevant to the merits of the proceeding, unless the parties agree otherwise. If a communication is made in violation of this subsection, the arbitrator shall ensure that a memorandum of the communication is prepared and made a part of the record, and that an opportunity for rebuttal is allowed. Upon receipt of a communication made in violation of this subsection, the arbitrator may, to the extent consistent with the interests of justice and the policies underlying this subchapter, require the offending party to show cause why the claim of such party should not be resolved against such party as a result of the improper conduct.

"(e) The arbitrator shall make the award within 30 days after the close of the hearing, or the date of the filing of any briefs authorized by the arbitrator, whichever date is later, unless—

"(1) the parties agree to some other time limit; or

"(2) the agency provides by rule for some other time limit.

"§ 590. Arbitration awards

"(a)(1) Unless the agency provides otherwise by rule, the award in an arbitration proceeding under this subchapter shall include a brief, informal discussion of the factual and legal basis for the award, but formal findings of fact or conclusions of law shall not be required.

"(2) The prevailing parties shall file the award with all relevant agencies, along with proof of service on all parties.

"(b) The award in an arbitration proceeding shall become final 30 days after it is served on all parties. Any agency that is a party to the proceeding may extend this 30-day period for an additional 30-day period by serving a notice of such extension on all other parties before the end of the first 30-day period.

"(c) The head of any agency that is a party to an arbitration proceeding conducted under this subchapter is authorized to terminate the arbitration proceeding or vacate any award issued pursuant to the proceeding before the award becomes final by serving on all other parties a written notice to that effect, in which case the award shall be null and void. Notice shall be provided to all parties to the arbitration proceeding of any request by a party, nonparty participant or other person that the agency head terminate the arbitration proceeding or vacate the award. An employee or agent engaged in the performance of investigative or prosecuting functions for an agency may not, in that or a factually related case, advise in a decision under this subsection to terminate an arbitration proceeding or to vacate an arbitral award, except as witness or counsel in public proceedings.

"(d) A final award is binding on the parties to the arbitration proceeding, and may be enforced pursuant to sections 9 through 13 of title 9. No action brought to enforce such an award shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"(e) An award entered under this subchapter in an arbitration proceeding may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding. Such an award also may not be used as precedent or otherwise be considered in any factually unrelated proceeding, whether conducted under this subchapter, by an agency, or in a court, or in any other arbitration proceeding.

"(f) An arbitral award that is vacated under subsection (c) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the award was made.

"(g) If an agency head vacates an award under subsection (c), a party to the arbitration (other than the United States) may within 30 days of such action petition the agency head for an award of attorney fees and expenses (as defined in section 504(b)(1)(A) of this title) incurred in connection with the arbitration proceeding. The agency head shall award the petitioning party those fees and expenses that would not have been incurred in the absence of such arbitration proceeding, unless the agency head or his or her designee finds that special circumstances make such an award unjust. The procedures for reviewing applications for awards shall, where appropriate, be consistent with those set forth in subsection (a) (2) and (3) of section 504 of this title. Such fees and expenses shall be paid from the funds of the agency that vacated the award.

"§ 591. Judicial Review

"(a) Notwithstanding any other provision of law, any person adversely affected or aggrieved by an award made in an arbitration proceeding conducted under this subchapter may bring an action for review of such award only pursuant to the provisions of sections 9 through 13 of title 9.

"(b)(1) A decision by an agency to use or not to use a dispute resolution proceeding under this subchapter shall be committed to the discretion of the agency and shall not be subject to judicial review, except that arbitration shall be subject to judicial review under section 10(b) of title 9.

"(2) A decision by the head of an agency under section 590 to terminate an arbitration proceeding or vacate an arbitral award shall be committed to the discretion of the agency and shall not be subject to judicial review.

"§ 592. Compilation of information

"The Chairman of the Administrative Conference of the United States shall compile and maintain data on the use of alternative means of dispute resolution in conducting agency proceedings. Agencies shall, upon the request of the Chairman of the Administrative Conference of the United States, supply such information as is required to enable the Chairman to comply with this section.

§ 593. Support services

"For the purposes of this subchapter, an agency may use (with or without reimbursement) the services and facilities of other Federal agencies, public and private organizations and agencies, and individuals, with the consent of such agencies, organizations, and individuals. An agency may accept voluntary and uncompensated services for purposes of this subchapter without regard to the provisions of section 1342 of title 31.".

(c) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION ON THE ADMINISTRATIVE PROCESS

"581. Definitions.
"582. General authority.
"583. Neutrals.
"584. Confidentiality.
"585. Authorization of arbitration.
"586. Enforcement of arbitration agreements.
"587. Arbitrators.
"588. Authority of the arbitrator.
"589. Arbitration proceedings.
"590. Arbitration awards.
"591. Judicial review.
"592. Compilation of information.
"593. Support services.".

SEC. 5. JUDICIAL REVIEW OF ARBITRATION AWARDS.

Section 10 of title 9, United States Code, is amended—

(1) by redesignating subsections (a) through (e) as paragraphs (1) through (5), respectively;

(2) by striking out "In either" and inserting in lieu thereof "(a) In any"; and

(3) by adding at the end thereof the following:

"(b) The United States district court for the district wherein an award was made that was issued pursuant to section 590 of title 5 may make an order vacating the award upon the application of a person, other than a party to the arbitration, who is adversely affected or aggrieved by the award, if the use of arbitration or the award is clearly inconsistent with the factors set forth in section 582 of title 5.".

SEC. 6. GOVERNMENT CONTRACT CLAIMS.

(a) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 606) is amended by adding at the end the following new subsections:

"(d) Notwithstanding any other provision of this Act, a contractor and a contracting officer may use any alternative means of dispute resolution under subchapter IV of chapter 5 of title 5, United States Code, or other mutually agreeable procedures, for resolving claims. In a case in which such alternative means of dispute resolution or other mutually agreeable procedures are used, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his or her knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. All provisions of subchapter IV of chapter 5 of title 5, United States Code, shall apply to such alternative means of dispute resolution.

"(e) The authority of agencies to engage in alternative means of dispute resolution proceedings under subsection (d) shall cease to be effective on October 1, 1995, except that such authority shall continue in effect with respect to then pending dispute resolution proceedings which, in the judgment of the agencies that are parties to such proceedings, require such continuation, until such proceedings terminate.".

(b) JUDICIAL REVIEW OF ARBITRAL AWARDS.—Section 8(g) of the Contract Disputes Act of 1978 (41 U.S.C. 607(g)) is amended by adding at the end the following new paragraph:

"(3) An award by an arbitrator under this Act shall be reviewed pursuant to sections 9 through 13 of title 9, United States Code, except that the court may set aside or limit any awards that are found to violate limitations imposed by Federal statute.".

SEC. 7. FEDERAL MEDIATION AND CONCILIATION SERVICE.

Section 203 of the Labor Management Relations Act, 1947 (29 U.S.C. 173) is amended by adding at the end the following new subsection:

"(f) The Service may make its services available to Federal agencies to aid in the resolution of disputes under the provisions of subchapter IV of chapter 5 of title 5, United States Code. Functions performed by the Service may include assisting parties to disputes related to administrative programs, training persons in skills and procedures employed in alternative means of dispute resolution, and furnishing officers and employees of the service to act as neutrals. Only officers and employees who are qualified in accordance with section 583 of title 5, United States Code, may be assigned to act as neutrals. The Service shall consult with the Administrative Conference of the United States and other agencies in maintaining rosters of neutrals and arbitrators, and to adopt such procedures and rules as are necessary to carry out the services authorized in this subsection.".

SEC. 8. GOVERNMENT TORT AND OTHER CLAIMS.

"(a) FEDERAL TORT CLAIMS.—Section 2672 of title 28, United States Code, is amended by adding at the end of the first paragraph the following: "Notwithstanding the proviso contained in the preceding sentence, any award, compromise, or settlement may be effected without the prior written approval of the Attorney General or his or her designee, to the extent that the Attorney General delegates to the head of the agency the authority to make such award, compromise, or settlement. Such delegations may not exceed the authority delegated by the Attorney General to the United States attorneys to settle claims for money damages against the United States. Each Federal agency may use arbitration, or other alternative means of dispute resolution under the provisions of subchapter IV of chapter 5 of title 5, to settle any tort claim against the United States, to the extent of the agency's authority to award, compromise, or settle such claim without the prior written approval of the Attorney General or his or her designee."

"(b) CLAIMS OF THE GOVERNMENT.—Section 3711(a)(2) of title 31, United States Code, is amended by striking out "$20,000 (excluding interest)" and inserting in lieu thereof "$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe.".

(a) REPRESENTATION OF PARTIES.—Each agency, in developing a policy on the use of alternative means of dispute resolution under this Act, shall develop a policy with regard to the representation by persons other than attorneys of parties in alternative dispute resolution proceedings and shall identify any of its administrative programs with numerous claims or disputes before the agency and determine—

(1) the extent to which individuals are represented or assisted by attorneys or by persons who are not attorneys; and

(2) whether the subject areas of the applicable proceedings or the procedures are so complex or specialized that only attorneys may adequately provide such representation or assistance.

(b) REPRESENTATION AND ASSISTANCE BY NONATTORNEYS.—A person who is not an attorney may provide representation or assistance to any individual in a claim or dispute with an agency, if—

(1) such claim or dispute concerns an administrative program identified under subsection (a);

(2) such agency determines that the proceeding or procedure does not necessitate representation or assistance by an attorney under subsection (a)(2); and

(3) such person meets any requirement of the agency to provide representation or assistance in such a claim or dispute.

(c) DISQUALIFICATION OF REPRESENTATION OR ASSISTANCE.—Any agency that adopts regulations under subchapter IV of chapter 5 of title 5, United States Code, to permit representation or assistance by persons who are not attorneys shall review the rules of practice before such agency to—

(1) ensure that any rules pertaining to disqualification of attorneys from practicing before the agency shall also apply, as appropriate to other persons who provide representation or assistance; and

(2) establish effective agency procedures for enforcing such rules of practice and for receiving complaints from affected persons.

SEC. 10. DEFINITIONS.

As used in this Act, the terms "agency", "administrative program", and "alternative means of dispute resolution" have the meanings given such terms in section 581 of title 5, United States Code, as added by section 4(b) of this Act.

SEC. 11. SUNSET PROVISION.

The authority of agencies to use dispute resolution proceedings under this Act and the amendments made by this Act shall terminate on October 1, 1995, except that such authority shall continue in effect with respect to then pending proceedings which, in the judgment of the agencies that are parties to the dispute resolution proceedings, require such continuation, until such proceedings terminate.

NATIONAL BONE MARROW DONOR REGISTRY

KENNEDY AMENDMENT NO. 3170

Mr. EXON (for Mr. KENNEDY) proposed an amendment to the bill (S. 2946) to amend the Public Health Service Act to revise and extend the program establishing the National Bone Marrow Donor Registry, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Transplant Amendments Act of 1990".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—NATIONAL BONE MARROW DONOR REGISTRY

Sec. 101. Establishment of a National Bone Marrow Donor Registry.
Sec. 102. Savings provisions.

TITLE II—ORGAN TRANSPLANTS

Sec. 201. Assistance for organ procurement organizations.
Sec. 202. Organ procurement and transplantation network.
Sec. 203. Policy standards and guidelines.
Sec. 204. General provisions respecting grants and contracts.
Sec. 205. Administration.
Sec. 206. Report.
Sec. 207. Study by General Accounting Office.
Sec. 208. Effective date.

TITLE III—IMMUNOSUPPRESSIVE DRUG THERAPY

Sec. 301. Block grants.

TITLE IV—FELLOWSHIPS

Sec. 401. James Madison Memorial Scholarships.

TITLE V—SEVERABILITY

Sec. 501. Severability.

TITLE I—NATIONAL BONE MARROW DONOR REGISTRY

SEC. 101. ESTABLISHMENT OF A NATIONAL BONE MARROW DONOR REGISTRY.

(a) REGISTRY.—Title III of the Public Health Service Act (42 U.S.C. 301 et seq.) is amended—

(1) by redesignating parts I, J, and K as parts J, K, and L, respectively; and

(2) by inserting after section 377 (as added by section 207 of this Act) the following new part:

"PART I—NATIONAL BONE MARROW DONOR REGISTRY

"SEC. 379. NATIONAL REGISTRY.

"(a) ESTABLISHMENT.—The Secretary shall be contract establish and maintain a National Bone Marrow Donor Registry (referred to in this part as the 'Registry') that meets the requirements of this section. The Registry shall be under the general supervision of the Secretary, and under the direction of a board of directors that shall include representatives of marrow donor centers, marrow transplant centers, persons with expertise in the social science, and the general public.

"(b) FUNCTIONS.—The Registry shall—

"(1) establish a system for finding marrow donors suitably matched to unrelated recipients for bone marrow transplantation;

"(2) establish a system for patient advocacy, separate from mechanisms for donor advocacy, that directly assists patients, their families, and their physicians in the search for an unrelated marrow donor;

"(3) increase the representation of individuals from racial and ethnic minority groups in the pool of potential donors for the Registry in order to enable an individual in a minority group, to the extent practicable, to have a comparable chance of finding a suitable unrelated donor as would an individual not in a minority group;

"(4) provide information to physicians, other health care professionals, and the public regarding bone marrow transplantation;

"(5) recruit potential bone marrow donors;

"(6) collect, analyze, and publish data concerning bone marrow donation and transplantation; and

"(7) support studies and demonstration projects for the purpose of increasing the number of individuals, especially minorities, who are willing to be marrow donors.

"(c) CRITERIA, STANDARDS, AND PROCEDURES.—Not later than 180 days after the date of enactment of this part, the Secretary shall establish and enforce, for entities participating in the program, including the Registry, individual marrow donor centers, marrow donor registries, marrow collection centers, and marrow transplant centers—

"(1) quality standards and standards for tissue typing, obtaining the informed consent of donors, and providing patient advocacy;

"(2) donor selection criteria, based on established medical criteria, to protect both the donor and the recipient and to prevent the transmission of potentially harmful infectious diseases such as the viruses that cause hepatitis and the etiologic agent for Acquired Immune Deficiency Syndrome;

"(3) procedures to ensure the proper collection and transportation of the marrow;

"(4) standards that require the provision of information to patients, their families, and their physicians at the start of the search process concerning—

"(A) the resources available through the Registry;

"(B) all other marrow donor registries meeting the standards described in this paragraph; and

"(C) in the case of the Registry—

"(i) the comparative costs of all charges by marrow transplant centers incurred by patients prior to transplantation; and

"(ii) the success rates of individual marrow transplant centers;

"(5) standards that—

"(A) require the establishment of a system of strict confidentiality of records relating to be identity, address, HLA type, and managing marrow donor center for marrow donors and potential marrow donors; and

"(B) prescribed the purposes for which the records described in subparagraph (A) may be disclosed, and the circumstances and extent of the disclosure; and

"(6) in the case of a marrow donor center or marrow donor registry participating in the program, procedures to ensure the establishment of a method for integrating donor files, searches, and general procedures of the center or registry with the Registry.

"(d) COMMENT PROCEDURES.—The Secretary shall establish and provide information to the public on procedures, which may include establishment of a policy advisory committee, under which the Secretary shall receive and consider comments from interested persons relating to the manner in which the Registry is carrying out the duties of the Registry under subsection (b) and complying with the criteria, standards, and procedures described in subsection (c).

"(e) CONSULTATION.—The Secretary shall consult with the board of directors of the Registry and the bone marrow donor program of the Department of the Navy in developing policies affecting the Registry.

"(f) APPLICATION.—To be eligible to enter into a contract under this section, an entity shall submit to the Secretary and obtain approval of an application at such time, in such manner, and containing such information as the Secretary shall by regulation prescribe.

"(g) ELIGIBLITY.—Entities eligible to receive a contract under this section shall include private nonprofit entities.

"(h) RECORDS.—

"(1) RECORDKEEPING.—Each recipient of a contract or subcontract under subsection (a) shall keep such records as the Secretary shall prescribe, including records that fully disclose the amount and disposition by the recipient of the proceeds of the contract, the total cost of the undertaking in connection with which the contract was made, and the amount of the portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States shall have access to any books, documents, papers, and records of the recipient of a contract of subcontract entered into under this section that are pertinent to the contract, for the purpose of conducting audits and examinations.

"(i) PENALTIES FOR DISCLOSURE.—Any person who discloses the content of any record referred to in subsection (c)(5)(A) without the prior written consent of the donor or potential donor with respect to whom the record is maintained, or in violation of the standards described in subsection (c)(5)(B), shall be imprisioned for not more than 2 years or fined in accordance with title 18, United States Code, or both.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1991 and such sums as may be necessary for each of fiscal years 1992 and 1993.

"SEC. 379A. STUDY BY THE GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study that evaluates—

"(1) the costs and benefits of the search process for an unrelated bone marrow donor among different marrow donor registries;

"(2) the extent to which marrow donor registries protect donor confidentiality;

"(3) the relationship between the Registry, individual marrow donor centers, and other marrow donor registries;

"(4) the effectiveness and appropriateness of policies and procedures of marrow donor centers, marrow transplant centers, and marrow donor registries, including—

"(A) the process of donor recruitment, including the policy of asking each donor whether the donor would want to donate more than one time;

"(B) the maintenance and updating of donor files; and

"(C) the policy of initially typing donors for A/B antigens only instead of initially typing for both A/B and D/R antigens;

"(5) the ability of the marrow donor registries to incorporate changes in medical research and clinical practice; and

"(6) the costs associated with tissue typing.

"(b) REPORT.—Not later than 1 year after the date of enactment of this part, the Comptroller General shall complete the study required under subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the findings made by the study and recommendations for legislative reform.".

(b) CONFORMNG AMENDMENT.—Section 373 of the Act (42 U.S.C. 274a) is amended—

(1) in the section heading, by striking "and Bone Marrow Registry";

(2) by striking "(a)"; and

(3) by striking out subsection (b).

SEC. 102. SAVINGS PROVISIONS.

(a) IN GENERAL.—This title, and the amendments made by this title, shall not affect any legal document, including any order, regulation, grant, or contract, in effect on the date of enactment of this Act, or any administrative proceeding or lawsuit pending on the date, that relates to the bone marrow registry established under section 373(b) of the Public Health Service Act (as it existed before the amendment made by section 101(b) of this Act).

(b) CONTINUED EFFECT.—A legal document described in subsection (a) or an order issued in a lawsuit described in subsection (a) shall continue in effect until modified, terminated, or revoked.

(c) PROCEEDINGS.—In any administrative proceeding or lawsuit described in subsection (a), parties shall take appeals, and officials shall hold proceedings and render judgments, in the same manner and with the same effect as if this title had not been enacted.

TITLE II—ORGAN TRANSPLANTS

SEC. 201. ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS.

(a) SECTION HEADING.—Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended in the section heading by striking "assistance for".

(b) AUTHORITY REGARDING CERTAIN GRANTS.—

(1) SPECIAL PROJECTS.—Section 371(a)(3) of the Act (42 U.S.C. 273(a)(3)) is amended by striking "may make grants for special projects" and inserting the following: "may make grants to, and enter into contracts with, qualified organ procurement organizations described in subsection (b) and other

nonprofit private entities for the purpose of carrying out special projects".

(2) CONSIDERATIONS IN MAKING CERTAIN GRANTS.—Section 371(a) of the Act (42 U.S.C. 273(a)) is amended by striking paragraph (4).

(c) SERVICE AREA OF QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (E) of section 371(b)(1) of the Act (42 U.S.C. 273(b)(1)(E)) is amended to read as follows:

"(E) has a defined service area that is of sufficient size to assure maximum effectiveness in the procurement and equitable distribution of organs, and that either includes an entire metropolitan statistical area (as specified by the Director of the Office of Management and Budget) or does not include any part of the area.".

(2) CONFORMING AMENDMENT.—Section 402(c)(3) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607; 42 U.S.C. 273 note) is repealed.

(d) EFFECTIVENESS REGARDING NUMBER OF ORGANS PROCURED.—Section 371(b) of the Public Health Service Act (42 U.S.C. 273(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register a notice of proposed rulemaking to establish criteria for determining whether an entity meets the requirement established in paragraph (1)(E).

"(B) Not later than 1 year after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register a final rule to establish the criteria described in subparagraph (A).".

(e) TECHNICAL CORRECTION REGARDING PUBLIC LAW 100-607.—Section 402(c)(2) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607; 102 Stat. 3115) is amended by inserting "at the end" after "the comma".

SEC. 202. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) MINIMUM QUALIFICATIONS OF CONTRACTOR.—Section 372(b)(1) of the Public Health Service Act (42 U.S.C. 274(b)(1)) is amended—

(1) in subparagraph (A), by striking "which is not engaged in any activity unrelated to organ procurement" and inserting "that has an expertise in organ procurement and transplantation"; and

(2) in subparagraph (B), to read as follows:

"(B) have a board of directors—

"(i) that includes representatives of organ procurement organizations (including organizations that have received grants under section 371), transplant centers, voluntary health associations, and the general public; and

"(ii) that shall establish an executive committee and other committees, whose chairpersons shall be selected to ensure continuity of leadership for the board.".

(b) RESPONSIBILITIES OF NETWORK.—Section 372(b)(2) of the Act (42 U.S.C. 274(b)(2)) is amended—

(1) in subparagraph (D)—

(A) by inserting "nationwide" after "organizations in the"; and

(B) by inserting "equitably among transplant patients" after "organs";

(2) by striking "and" at the end of subparagraph (I);

(3) by striking the period at the end of subparagraph (J) and inserting ", and"; and

(4) by adding at the end of the following new subparagraphs:

"(K) work actively to increase the supply of donated organs.

"(L) submit to the Secretary an annual report containing information on the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network.".

(c) TECHNICAL CORRECTION.—Section 372(b)(2)(F) of the Act (42 U.S.C. 274(b)(2)(F)) is amended by striking "compatability" and inserting "compatibility".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on December 31, 1990.

SEC. 203. GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS.

Section 374 of the Public Health Service Act (42 U.S.C. 274(b) is amended—

(1) in subsection (a), by striking "No grant" and all that follows through "373" the first place that the term appears and inserting the following: "No grant may be made under this part";

(2) in subsection (b)—

(A) by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(B) by striking "section 371" in paragraph (1) (as so redesignated) and inserting "section 371(a)(1)";

(C) by striking "paragraphs (2) and (3) of section 371(a)" in the first sentence of paragraph (2) (as redesignated), and inserting "section 371(a)(2)"; and

(D) by adding at the end the following new paragraph:

"(3) Grants or contracts under section 371(a)(3) may be made for not more than 3 years."; and

(3) in subsection (c)—

(A) by inserting "or contract" after "grant" in the first sentence of paragraph (1);

(B) by inserting "and contracts" after "grants" each place the term appears in the second sentence of paragraph (1); and

(C) by inserting "or contract" after "grant" each place the term appears in subparagraphs (A) and (B) of paragraph (2).

SEC. 204. ADMINISTRATIVE.

(a) IDENTIFIABLE ADMINISTRATIVE UNIT.—Section 375 of the Public Health Service Act (42 U.S.C. 274c) is amended in the matter preceding paragraph (1) by striking ", during fiscal years 1985 through 1990,".

(b) STRIKING OF EXPIRED REQUIREMENT REGARDING CERTAIN REPORTS.—Section 375 of the Act (42 U.S.C. 274c) is amended—

(1) in paragraph (3), by adding "receiving funds under section 371"; and

(2) in paragraph (4), to read as follows:

"(4) provide information—

"(i) to patients, their families, and their physicians about transplantation; and

"(ii) to patients and their families about the resources available nationally and in each State, and the comparative costs and patient outcomes at each transplant center affiliated with the organ procedure and transplantation network, in order to assist the patients and families with the costs associated with transplantation.".

SEC. 205. REPORT.

Section 376 of the Public Health Service Act (42 U.S.C. 274d) is amended in the first sentence by striking "The Secretary" and all that follows through "publish" and inserting "Not later than February 10 of 1991 and of each second year thereafter, the Secretary shall publish, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate,".

SEC. 206. STUDY BY GENERAL ACCOUNTING OFFICE AND AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by adding at the end the following new sections:

"SEC. 377. STUDY BY GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining—

"(1) the extent to which the procurement and allocation of organs have been equitable, efficient, and effective.

"(2) the problems encountered in the procurement and allocation; and

"(3) the effect of State required-request laws.

"(b) REPORT.—Not later than January 7, 1992, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Rerpresentatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

"SEC. 378. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part, there are authorized to be appropriated $8,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended by striking subsection (c).

SEC. 207. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall become effective on October 1, 1990, or on the date of the enactment of this Act, whichever occurs later.

TITLE III—SERVERABILITY

SEC. 301. SERVERABILITY.

If any provision of this Act, amendment made by this Act, or application of the provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions or amendments to any person or circumstance shall not be affected.

NATIVE AMERICAN GRAVE PROTECTION AND REPATRIATION ACT

FORD AMENDMENT NO. 3171

Mr. EXON (for Mr. FORD) proposed an amendment to the bill (H.R. 5237) to provide for the protection of Native American graves, and for other purposes, as follows:

On page 3, line 8, beginning with "and", strike out all through "Institution" on line 10 and insert in lieu thereof a period and the following: "Such term does not include the Smithsonian Institution."

On page 3, line 25, beginning with the second comma, strike out all through "agency" on line 26 and insert in lieu thereof a period and the following: "Such term does not include the Smithsonian Institution or any other Federal agency".

McCAIN AMENDMENT NO. 3172

Mr. GARN (for Mr. McCAIN) proposed an amendment to the bill H.R. 5237, supra, as follows:

On page 3, strike lines 19 through 21 and insert in lieu thereof the following:

(7) "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 3, line 12, immediately before the period insert a comma and the following: "including lands selected by but not yet conveyed to Alaska Native Corporations and groups organized pursuant to the Alaska Native Claims Settlement Act of 1971".

On page 5, strike out lines 15 through 17 and reletter the succeeding paragraph accordingly.

On page 6, line 19, strike out "judgement" and insert in lieu thereof "judgment".

On page 8, line 16, immediately before the period insert a comma and the following: "and, in the case of lands that have been selected by an Alaska Native Corporation or group organized pursuant to the Alaska Native Claims Settlement Act of 1971, the appropriate corporation or group".

On page 8, line 22, beginning with "The", strike out all through the period on line 24 and insert in lieu thereof the following: "Following the notification under this subsection, and upon certification by the Secretary of the department or head of any agency or instrumentality of the United States or the appropriate Indian tribe or Native Hawaiian organization that notification has been received, the activity may resume after 30 days of such certification.".

On page 19, strike out lines 20 and 21 and insert in lieu thereof the following:

(3) Upon request of any affected party, reviewing and making findings related to—

On page 20, between lines 17 and 18, insert the following and reletter succeeding subsections accordingly;

(d) Any recordings and findings made by the review committee pursuant to this Act relating to the identity or cultural affiliation of any cultural items and the return of such items may be admissible in any action brought under section 15 of this Act.

On page 25, after line 8, add the following:

SEC. 15. ENFORCEMENT.

The United States district courts shall have jurisdiction over any action brought by any person alleging a violation of this Act and shall have the authority to issue such orders as may be necessary to enforce the provisions of this Act.

INDIAN ARTS AND CRAFTS ACT

INOUYE AMENDMENT NO. 3173

Mr. EXON (for Mr. INOUYE) proposed an amendment to the bill (H.R. 2006) to expand the powers of the Indian Arts and Crafts Board, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—INDIAN ARTS AND CRAFTS

SEC. 101. SHORT TITLE.

This title may be cited as the "Indian Arts and Crafts Act of 1990".

SEC. 102. POWERS OF INDIAN ARTS AND CRAFTS BOARD.

Section 2 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305a) is amended—

(1) in the first sentence—

(A) by striking "the Board" and inserting "the Secretary of the Interior through the Board"; and

(B) by striking "the Indian wards of the Government" and inserting "Indian individuals";

(2) by amending clause (g) to read as follows:

"(g)(1) to create for the Board, or for an individual Indian or Indian tribe or Indian arts and crafts organization, trademarks of genuineness and quality for Indian products and the products of an individual Indian or particular Indian tribe or Indian arts, and crafts organization; (2) to establish standards and regulations for the use of Government-owned trademarks by corporations, association, or individuals, and to charge for such use under such licenses; (3) to register any such trademark owned by the Government in the United States Patent and Trademark Office without charge and assign it and the goodwill associated with it to an individual Indian or Indian tribe without charge; and (4) to pursue or defend in the courts any appeal or proceeding with respect to any final determination of that office;"; and

(3) by adding at the end the following new sentence: "For the purposes of this section, the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.".

SEC. 103. REFERRAL FOR CRIMINAL AND CIVIL VIOLATIONS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) is amended by adding at the end of the following:

"SEC. 5. (a) The Board may receive complaints of violations of section 1159 of title 18, United States Code, and refer compliants of such violations to the Federal Bureau of Investigation for appropriate investigation. After reviewing the investigation report, the Board may recommend to the Attorney General of the United States that criminal proceedings be instituted under that section.

"(b) The Board may recommend that the Secretary of the Interior refer the matter to the Attorney General for civil action under section 6.".

SEC. 104. CRIMINAL PENALTY FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

(a) IN GENERAL.—Section 1159 of title 18, United States Code, is amended to read as follows:

"§ 1159. Misrepresentation of Indian produced goods and products

"(a) It is unlawful to offer or display for sale or sell any good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States.

"(b) Whoever knowingly violates subsection (a) shall—

"(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and

"(2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000.

"(c) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or Indian arts and crafts organization' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior.

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'Indian arts and crafts marketing organization composed of members of Indian tribes.

"(d) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

(b) CONFORMING AMENDMENT.—The item relating to section 1159 in the table of sections for chapter 53 of title 18, United States Code, is amended to read as follows:

"1159. Misrepresentation of Indian produced goods and products.".

SEC. 105. CAUSE OF ACTION FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) (as amended by section 3) is further amended by adding at the end of the following:

"SEC. 6. (a) A person specified in subsection (c) may, in a civil action in a court of competent jurisdiction, bring an action against a person who offers or displays for sale or sells a good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States, to—

"(1) obtain injunctive or other equitable relief; and

"(2) recover the greater of—

"(A) treble damages; or

"(B) in the case of each aggrieved individual Indian, Indian tribe, or Indian arts and crafts organization, not less than $1,000 for each day on which the offer or display for sale or sale continues.

"(b) In addition to the relief specified in subsection (a), the court may award punitive damages and the costs of suit and a resonable attorney's fee.

"(c)(1) A civil action under subsection (a) may be commenced—

"(A) by the Attorney General of the United States upon request of the Secretary of the Interior on behalf of an Indian who is a member of an Indian tribe or on behalf of an Indian tribe or Indian arts and crafts organization; or

"(B) by by an Indian tribe on behalf of itself, and Indian who is a member of the tribe, or on behalf of an Indian arts and crafts organization.

"(2) Any amount recovered pursuant to this section shall be paid to the individual Indian, Indian tribe, or Indian arts and crafts organization, except that—

"(A) in the case of paragraph (1)(A), the Attorney General may deduct from the amount recovered the amount for the costs of suit and reasonable attorney's fees awarded pursuant to subsection (b) and deposit the amount of such costs and fees as a reimbursement credited to appropriations currently available to the Attorney General at the time of receipt of the amount recovered; and

"(B) in the case of paragraph (1)(B), the amount recovered for the costs of suit and reasonable attorney's fees pursuant to subsection (b) may be deducted from the total amount awarded under subsection (a)(2).

"(d) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe; or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or Indian arts and crafts organization' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislative or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(e) In the event that any provision of this secion is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

SEC. 106. PENALTY FOR COUNTERFEITING INDIAN ARTS AND CRAFTS BOARD TRADEMARK.

Section 1158 of title 18, United States Code, is amended by striking "be fined not more than $500 or imprisoned not more than six months, or both; and" and inserting "(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and (2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000; and (3)".

SEC. 107. CERTIFICATION OF INDIAN ARTISANS.

For the purposes of section 1159 of title 18, United States Code, and section 6 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) an Indian tribe may not impose a fee in certifying an individual as an Indian artisan. For the purposes of this section, the term "Indian tribe" has the same meaning given such term in section 1159(c)(3) of title 18, United States Code.

TITLE II—TECHNICAL AND CLARIFYING AMENDMENTS

SEC. 201. SHORT TITLE.

The title may be cited as the "Indian Self-Determinaion and Education Assistance Act Amendments of 1990".

SEC. 202. AMENDMENTS TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

The Indian Self-Determination and Education Assistance Act is amended as follows:

(1) In section 4(h) of such Act (25 U.S.C. 450b(h)), delete "in existence on the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988".

(2) In section 4(j) of such Act (25 U.S.C. 450(j)), delete "contract entered" each place it appears and insert in lieu thereof "contract (or grant or cooperative agreement utilized under section 9 of this Act) entered".

(3) In section 5(d) of such Act (25 U.S.C. 450c(d)), delete the word "Any" and insert in lieu thereof "Except as provided in section 8 or 106(a)(3) of this Act," and before the period insert the words "through the respective Secretary".

SEC. 203. AMENDMENTS TO THE INDIAN SELF-DETERMINATION ACT.

(a) Section 106 of the Indian Self-Determination Act (25 U.S.C. 450j-1(e)) is amended by deleting "1988" and inserting in lieu thereof "1992".

(b) In section 102(d) of such Act (25 U.S.C. 450f(d)), immediately after "investigations,", insert "or for purposes of section 2679, title 28, United States Code, with respect to claims by any such person, on or after the date of the enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1990, for personal injury, including death, resulting from the operation of an emergency motor vehicle,".

(c) Section 105(c)(1)(B) of such Act (25 U.S.C. 450j(c)(1)(B)) is amended to read as follows:

"(B) for a definite or an indefinite term, as requested by the tribe (or, to the extent not limited by tribal resolution, by the tribal organization), in the case of a mature contract.".

(d) Section 105(d) of such Act (25 U.S.C. 450j(d)) is amended to read as follows:

"(d)(1) Beginning in fiscal year 1990, upon the election of a tribal organization, the Secretary shall use the calendar year as the basis for any contracts or agreements under this Act, unless the Secretary and the Indian tribe or tribal organization agree on a different period.

"(2) The Secretary shall, on or before April 1 of each year beginning in 1992, submit a report to the Congress on the amounts of any additional obligation authority needed to implement this subsection in the next following fiscal year.".

(e) In paragraphs (2) and (3) of section 105(f) of such Act (25 U.S.C. 450j(f) (2) and (3)), insert "or real" immediately after "personal" each place it appears in such paragraphs.

(f) In section 107(c) of such Act (25 U.S.C. 450k(c)), immediately after "authorized", insert the following: ", with the participation of Indian tribes and tribal organizations,".

(g)(1) In section 301(a)(3) of the Indian Self-Determination Act (25 U.S.C. 450h(a)(3)), delete "reservation boundaries" and insert in lieu thereof "Indian country (as defined in chapter 53 of title 18, United States (Code)".

(2) The amendment made by paragraph (1) shall not alter or otherwise modify or affect existing prohibitions or limitations on the Secretary's authority to acquire lands in trust.

TITLE III—AMENDMENTS TO OTHER ACTS

SEC. 301. AMENDMENTS TO OTHER ACTS.

(a) AMENDMENT TO INDIAN LAND CONSOLIDATION ACT.—Section 207(a) of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by deleting "No undivided interest in any tract of trust or restricted land within a tribe's reservation or otherwise subject to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe" and inserting in lieu thereof the following: "No undivided interest held by a member or nonmember Indian in any tract of trust land or restricted land within a tribe's reservation or outside of a reservation and subject to such tribe's jurisdiction shall descend by instestacy or devise but shall escheat to the reservation's recognized tribal government, or if outside of a reservation, to the recognized tribal government possessing jurisdiction over the land".

(b) AMENDMENT TO ACT OF NOVEMBER 8, 1988.—In section 1 of the Act entitled "An Act to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes", approved November 8, 1988 (102 Stat. 3327), insert "and attached narrative metes and bounds description" immediately after "map" each time it appears.

(c) AMENDMENT TO THE ACT OF MARCH 29, 1956.—The second sentence of subsection (a) of the Act entitled "An Act to authorize the execution of mortgages and deeds of trust on individual Indian trust or restricted land", approved March 29, 1956 (25 U.S.C. 483a), is amended by inserting immediately before "State" the following: "tribe which has jurisdiction over such land or, in the case where no tribal foreclosure law exists, in accordance with the laws of the".

SEC. 302. AMENDMENT TO THE ACT OF JUNE 24, 1938.

Section 1 of the Act of June 24, 1938 (25 U.S.C. 162a) is amended by designating the existing text thereof as subsection (a), and by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding subsection (a), the Secretary of the Interior, at the request of any Indian tribe, in the case of trust funds of such tribe, or any individual Indian, in the case of trust funds of such individual, is authorized to invest such funds, or any part thereof, in guaranteed or public debt obligations of the United States or in a mutual fund, otherwise known as an open-ended diversified investment management company if—

"(A) the portfolio of such mutual fund consists entirely of public-debt obligations of the United States, or bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, or a combination thereof;

"(B) the trust funds to be invested exceed $50,000;

"(C) the mutual fund is registered by the Securities and Exchange Commission; and

"(D) the Secretary is satisfied with respect to the security and protection provided by the mutual fund against loss of the principal of such trust funds.

"(2) The Secretary, as a condition to complying with a request pursuant to paragraph (1) of this subsection, is authorized to require such tribe or individual Indian, as the case may be, to enter into an agreement with the Secretary for the purpose of relieving the United States of any liability in connection with the interest, or amount thereof, payable in connection with such trust funds so invested during the period of that investment.

"(3) Investments pursuant to paragraph (1) of this subsection shall be deemed to be the same as cash or a bank deposit for purposes of section 5 of the Act of September 21, 1959 (25 U.S.C. 955).".

SEC. 303. AMENDMENT TO INDIAN FINANCING ACT OF 1974.

(a) Section 101 of the Indian Financing Act of 1974 (25 U.S.C. 1461) is amended—

(1) by deleting "money markets," and inserting in lieu thereof the following: "money markets, or to supplement funds form private lenders, including loans guaranteed by the Secretary pursuant to section 201 of this Act,". and

(2) by inserting immediately before the period at the end of the third sentence a comma and the following: "or, in the discretion of the Secretary of the Interior, as a contribution to the Indian Loan Guaranty and Insurance Fund authorized by section 217 of this Act, or for the payment of interest subsidies authorized by section 301 of this Act".

(b) Section 204 of the Indian Financing Act of 1974 (25 US.C. 1484) is amended—

(1) by deleting in the first sentence the word "prior"; and

(2) by deleting in the second sentence "shall review" and inserting in lieu thereof "may review".

SEC. 304. EXEMPTION.

Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended by—

(1) inserting immediately after "lands" a comma and the following: "and income up to $4,000 per annum derived therefrom,"; and

(2) inserting immediately after "resource" the following: "or income".

TITLE IV—PUBLIC HEALTH SERVICE ACT

SEC. 401. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Section 338J(a) of subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254s) is amended to read as follows:

"(a) Subject to the availability of funds appropriated under the authority of subsection (d), the Secretary shall provide funds to Kamehameha Schools/Bishop Estate for the purpose of providing scholarship assistance to students who—

"(1) meet the requirements of section 38A(b), and

"(2) are Native Hawaiians.".

TITLE V—BOARD OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

SEC. 501. GENERAL POWERS OF BOARD OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) INTEREST AND INVESTMENT INCOME.—Section 1507 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4414) is amended by adding at the end the following new subsection:

"(c) INTEREST AND INVESTMENTS.—Interest and earnings on amounts received by the Institute pursuant to section 1531 invested under subsection (a)(12) shall be the property of the Institute and may be expended to carry out this title. The Board shall be held to a reasonable and prudent standard of care, given such information and circumstances as existed when the decision is made, in decisions involving investment of funds under subsection (a)(12).".

(b) INSURANCE.—Section 1507(a)(11) of such Act (20 U.S.C. 4414(a)(11)) is amended to read as follows:

"(11) to the extent not already provided by law, to obtain insurance to cover all activities of the Institute, including coverage relating to property and liability, or make other provisions against losses.".

SEC. 502. ESTABLISHMENTS WITHIN THE INSTITUTE.

Section 1510(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4417(b)) is amended—

(1) in paragraph (2), by striking subparagraph (A) and redesignating subparagraphs (B) through (I) as subparagraphs (A) through (H), respectively;

(2) by striking "and" at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting "; and"; and

(4) by inserting after paragraph (2) the following:

"(3) a Museum of American Indian and Alaska Native Arts, which shall be under the direction of the President of the Institute.".

SEC. 503. TRANSFER OF FUNCTIONS.

Section 1514 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4421) is amended—

(1) by striking subsections (d), (e), and (f); and

(2) by adding at the end the following new subsection (d):

"(d) FORGIVENESS OF AMOUNTS OWED; HOLD HARMLESS.—(1) Subject to paragraph (2)—

"(A) the Institute shall be responsible for all obligations of the Institute incurred after June 2, 1988, and

"(B) the Secretary shall be responsible for all obligations of the Institute incurred on or before June 2, 1988, including those which accrued by reason of any statutory, contractual, or other reason prior to June 2, 1988, which became payable within two years of June 2, 1988.

"(2) With respect to all programs of the Federal government, in whatever form or from whatever source derived, the Institute shall only be held responsible for actions and requirements, either administrative, regulatory, or statutory in nature, for events which occurred after July 1, 1988, including the submission of reports, audits, and other required information. The United States may not seek any monetary damage or repayment for the commission of events, or omission to comply with either administrative or regulatory requirements, for any action which occurred prior to June 2, 1988.".

SEC. 504. COMPLIANCE WITH OTHER ACTS.

Section 1517 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4424) is amended by adding at the end the following:

"(c) OTHER FEDERAL ASSISTANCE.—Funds received by the institute pursuant to this Act shall not be regarded as Federal money for purposes of meeting any matching requirements for any Federal grant, contract or cooperative agreement.".

SEC. 505. ENDOWMENT PROGRAMS.

Section 1518 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4425) is amended to read as follows:

"SEC. 1518. ENDOWMENT PROGRAMS.

"(a) PROGRAM ENHANCEMENT ENDOWMENT.—

"(1)(A) From the total amount appropriated for this subsection pursuant to section 1531(a), funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

"(B) The President of the Institute shall provide—

"(i) for the deposit into the trust fund referred to in subparagraph (A)—

"(I) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

"(II) any earnings on the funds deposited under this paragraph; or

"(ii) for the reservation for the sole use of the Institute for any noncash, in-kind contributions of real or personal property, which property may at any time be converted to cash, which shall be deposited as a capital contribution into the trust fund referred to in subparagraph (A).

"(C) If at any time the Institute withdraws any capital contribution (as described in subparagraph (B)(i)) made by the Institute to the trust fund referred to in subparagraph (A) or puts any property (as described in subparagraph (B)(ii)) to a use which is not for the sole benefit of the Institute, an amount equal to the value of the Federal contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

"(2) Interest deposited into the trust fund pursuant to paragraph (1)(B)(ii) may be periodically withdrawn and used, at the direction of the Board or its designee, to defray any expense associated with the operation of the Institute, including the expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

"(3) For the purpose of complying with the contribution requirement of paragraph (1)(B), the Institute may use funds or in-kind contributions of real or personal property fairly valued which are made available from any private or tribal source, including interest earned by the funds invested under this subsection. In-kind contributions shall be other than fully depreciable property or property which is designated for addition to the permanent collection of the Museum and shall be valued according to the procedures established for such purpose by the Secretary of the Treasury. For purposes of this paragraph, all contributions, including in-kind and real estate, which are on-hand as of the date of enactment of this Act and which have been received after June 2, 1988, but which have not been included in computations under this provision shall be eligible for matching with Federal funds appropriated in any fiscal year.

"(4) Amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount of funds or the

value of the in-kind contributions which the Institute demonstrates have been placed within the control of, or irrevocably committed to the use of, the Institute as a capital contribution of the Institute in accordance with this subsection.

"(b) CAPITAL IMPROVEMENT ENDOWMENT.—

"(1) In adddition to the trust fund established under subsection (a), funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution from the amount reserved for this subsection pursuant to section 1531(a) for the purpose of establishing a separate special endowment for capital improvement, (hereafter in this subsection referred to as the 'capital endowment fund') to pay expenses associated with site selection and preparation, site planning and architectural design and planning, new construction, materials and equipment procurement, renovation, alteration, repair, and other building and expansion costs of the Institute.

"(2) The President of the Institute shall provide for the deposit into the capital endowment fund of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution and any earnings on amounts in the capital endowment fund.

"(3) Funds deposited by the Institute as a match for Federal contributions under paragraph (5) shall remain in the capital endowment fund for a period of not less than two years. If at any time the Institute withdraws any capital contribution to the capital endowment fund before the funds have been deposited for this two-year period, an equal amount of the Federal contribution shall be withdrawn from the capital endowment fund and returned to the Treasury as miscellaneous receipts. At the end of the two-year period, the entire principal and interest of the funds deposited for this period, including the Federal matching portion, shall accrue, without reservation, to the Institute and may be withdrawn, in whole or in part, to defray expenses associated with capital acquisition and improvement of the Institute referred to in paragraph (1).

"(4) For the purpose of complying with the contribution requirement of paragraph (2), the Institute may use funds which are available from any private or tribal source.

"(5) Subject to paragraph (3), amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of the Institute in accordance with this subsection.

"(c) GENERAL ADMINISTRATIVE PROVISIONS.—(1) Funds in the trust funds described in subsections (a) and (b) shall be invested at a rate not less than that generally available for similar funds deposited at the same banking institution for the same period or periods of time.

"(2) No part of the net earnings of the trust funds established under this section shall inure to the benefit of any private person.

"(3) The President of the Institute shall provide for such other provision governing the trust funds established under this section as may be necessary to protect the financial interest of the United States and to promote the purpose of this title as agreed to by the Secretary of the Treasury and the Board or its designee, including recordkeeping procedures for the investment of funds received under the trust fund established under subsection (b) and such other recordkeeping procedures for the expenditure of accumulated interest for the trust fund under subsection (a) as will allow the Secretary of the Treasury to audit and monitor activities under this section.".

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

Section 1531(a) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4451(a)) is amended by adding at the end the following new paragraphs:

"(4) Funds appropriated under this subsection for the fiscal year 1992 and for each succeeding fiscal year shall be transferred by the Secretary of the Treasury through the most expeditious method available with the Institute being designated as its own certifying agency.

"(5) Funds are authorized to be appropriated for programs for more than one fiscal year. For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriations Act for any fiscal year to carry out this Act may, subject to the appropriation, become available for obligations on July 1 of that fiscal year.".

NATIONAL CAPITAL TRANSPORTATION AMENDMENTS ACT

HEINZ (AND OTHERS) AMENDMENT NO. 3174

Mr. WARNER (for Mr. HEINZ, for himself, Mr. SARBANES, Ms. MIKULSKI, Mr. WARNER, and Mr. ROBB) proposed an amendment to the bill (S. 612) to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Capital Transportation Amendments of 1990".

SEC. 2. AMENDMENT TO NATIONAL CAPITAL TRANSPORTATION ACT OF 1969

Effective upon enactment, the National Capital Transportation Act of 1969 (Public Law 91-143; 83 Stat. 320) is amended by adding at the end thereof the following new section:

"AUTHORIZATIOIN OF ADDITIONAL FEDERAL CONTRIBUTIONS FOR CONSTRUCTION

"Sec. 17 (a) The Secretary of Transportation is authorized to make grants to the Transit Authority, in addition the contributions authorized by sections 3 and 14, for the purpose of financing in part the cost of construction of the Adopted Regional System.

"(b) Federal grants under subsection (a) for the Adopted Regional System shall be subject to the following limitations and conditions:

"(1) The work for which such grants are authorized shall be subject to the provisions of the Compact and shall be for projects included in the Adopted Regional System.

"(2) the aggregate amount of such Federal grants made during any fiscal year shall be matched by the local participating governments by payment of capital contributions of not less than 60 percent of the amount of such Federal grants and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

"(3) Such grants shall be subject to terms and conditions that the Secretary may deem appropriate for constructing the Adopted Regional System in a cost-effective manner which maximizes the rate at which appropriate funds can be utilized to complete all segments for which funds have been authorized.

"(c) In addition to funds authorized under section 14, there is authorized to be appropriated to the Secretary of Transportation for the purpose of making grants to complete the Adopted Regional System as provided in subsection (a) an aggregate amount not to exceed $1,300,000,000 to be available in increments over 8 fiscal years beginning in fiscal year 1992, or until expended.

"(d) Amounts appropriated pursuant to the authorization under subsection (c)—

"(1) shall remain available until expended; and

"(2) shall be in addition to, and not in lieu of, amounts available to the Transit Authority under the Urban Mass Transportation Act of 1964, as amended, and section 103(e)(4) of title 23, United States Code.".

SEC. 3. COMPLETION OF THE ADOPTED REGIONAL SYSTEM.

The Congress recognizes the importance of a mass transportation system to serve the capital of the United States and reaffirms its commitment to the construction of the full 103-mile Adopted Regional Metrorail System in a continuing partnership of the Federal, State, and local governments in the metropolitan Washington region. It is the intent of Congress to ensure continued Federal funding to complete the full Metrorail system. Those portions of the full system remaining to be completed include in the District of Columbia and the State of Maryland, the Green Line between the Anacostia and Branch Avenue Stations; in the District of Columbia, the Green Line between the U Street-Cardozo and Fort Totten Stations; in the State of Maryland, the Red Line between the Wheaton and Glenmont Stations; and in the Commonwealth of Virginia, the Yellow Line between the Van Dorn Street and Franconia-Springfield Stations.

SEC. 4. PROHIBITION ON USE OF HIGHWAY TRUST FUND.

Notwithstanding this Act, any amendment made by this Act, or any other law, no moneys shall be appropriated from the Highway Trust Fund for the purpose of making grants pursuant to section 17(a) of the National Capital Transportation Act of 1969.

SEC. 5. BUY AMERICAN PROVISION.

(a) REPORT TO CONGRESS.—The Washington Metropolitan Area Transit Authority shall report to Congress (1) on contracts which the Transit Authority enters into with foreign entities with respect to its rail system in fiscal years 1991 and 1992 and which are subject to the Buy American provisions of the Surface Transportation and Assistance Act of 1982 or the Surface Transportation and Uniform Relocation Assistance Act of 1987, and (2) on the number of such contracts which meet the requirements of such provisions but which are determined by the United States Trade Representative

to be in violation of the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If the Secretary of Transportation determines that any person intentionally affixes a label bearing a "made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract with the Washington Metropolitan Area Transit Authority for its rail system for a period of not less than 3 years and not more than 5 years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

SEC. 6. RESTRICTIONS ON CONTRACT AWARDS.

No foreign government shall be eligible to receive a contract with the Washington Metropolitan Area Transit Authority for its rail system if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which result in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

CONVEYANCE OF A PARCEL OF LAND

INOUYE AMENDMENT NO. 3175

Mr. EXON (for Mr. INOUYE) proposed an amendment to the bill (H.R. 3703) to authorize the Rumsey Indian Rancheria to convey a certain parcel of land, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—RUMSEY INDIAN RANCHERIA

SECTION 101. FINDINGS.

The Congress finds that—

(1) the Rumsey Indian Rancheria, a part of the Wintun Tribe of Indians, is a federally recognized Indian tribe, located in Rumsey, California, where eighty-three and thirty-nine hundredths acres of land are held in trust for the Rancheria by the United States;

(2) in February, 1987, fee simple title to property located at lot 23, Sierra Meadows subdivision, unit 5A, Washoe County, Nevada, commonly known as 978 O'Callahan Street, Sparks, Nevada, was transferred to the Rancheria which it presently holds under the name Wintun Indian Tribe;

(3) such property is located approximately one hundred twenty-five miles from the Rancheria trust land base in California, and ownership of such land, which is in a residential area, provides no significant benefit for the tribal members;

(4) the most beneficial use of such land is to sell it at its present market value and to utilize the proceeds for the improvement of the tribe's economic and social welfare; and

(5) section 2116 of the Revised Statutes (25 U.S.C. 177) prohibits the conveyance of any lands owned by Indian tribes without the consent of Congress.

SEC. 102. CONVEYANCE OF LAND.

(a) AUTHORITY.—Notwithstanding section 2116 of the Revised Statutes (25 U.S.C. 177), Rumsey Indian Rancheria is authorized to convey that land known as lot 23, Sierra Meadows subdivision, unit 5A, Washoe County, Nevada, commonly known as 978 O'Callahan Street, Sparks, Nevada, to any bona fide purchaser for value.

(b) PROCEEDS.—Proceeds from the conveyance of land pursuant to subsection (a) may be used only for the economic development and social welfare of the Rumsey Indian Rancheria.

TITLE II—MILLE LACS INDIAN RESERVATION LEASE

SEC. 201. MILLE LACS INDIAN RESERVATION LEASE TO MINNESOTA STATE HISTORICAL SOCIETY.

The first section of the Act of August 9, 1955 (25 U.S.C. 415), is amended by inserting "the Mille Lacs Indian Reservation with respect to a lease between an entity established by the Mille Lacs Band of Chippewa Indians and the Minnesota Historical Society," after "the Navajo Reservation,".

TITLE III—INDIAN FOREST AND WOODLANDS

SEC. 301. SHORT TITLE.

This title may be cited as the "National Indian Forest Resources Management Act".

SEC. 302. FINDINGS.

The Congress finds and declares that—

(1) the forest lands of Indians are among their most valuable resources and Indian forest lands—

(A) encompass more than 15,990,00 acres, including more than 5,700,000 acres of commercial forest land and 8,700,000 acres of woodland,

(B) are a perpetually renewable and manageable resource,

(C) provide economic benefits, including income, employment, and subsistence, and

(D) provide natural benefits, including ecological, cultural, and esthetic values;

(2) the United States has a trust responsibility toward Indian forest lands;

(3) existing Federal laws do not sufficiently assure the adequate and necessary trust management of Indian forest lands;

(4) the Federal investment in, and the management of, Indian forest land is significantly below the level of investment in, and management of, National Forest Service forest land, Bureau of Land Management forest land, or private forest land;

(5) tribal governments make substantial contributions to the overall management of Indian forest land; and

(6) there is a serious threat to Indian forest lands arising from trespass and unauthorized harvesting of Indian forest land resources.

SEC. 303. PURPOSES.

The purposes of this title are to—

(1) allow the Secretary of the Interior to take part in the management of Indian forest lands, with the participation of the lands' beneficial owners, in a manner consistent with the Secretary's trust responsibility and with the objectives of the beneficial owners;

(2) clarify the authority of the Secretary to make deductions from the proceeds of sale of Indian forest products, assure the use of such deductions on the reservation from which they are derived solely for use in forest land management activities, and assure that no other deductions shall be collected;

(3) increase the number of professional Indian foresters and related staff in forestry programs on Indian forest land; and

(4) provide for the authorization of necessary appropriations to carry out this title for the protection, conservation, utilization, management, and enhancement of Indian forest lands.

SEC. 304. DEFINITIONS.

For the purposes of this title, the term—

(1) "Alaska Native" means Native as defined in section 3(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1604);

(2) "forest" means an ecosystem of at least one acre in size, including timberland and woodland, which—

(A) is characterized by a more or less dense and extensive tree cover,

(B) contains, or once contained, at least ten percent tree crown cover, and

(C) is not developed or planned for exclusive nonforest use;

(3) "Indian forest land" means Indian lands, including commercial and non-commercial timberland and woodland, that are considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover, regardless whether a formal inspection and land classification action has been taken;

(4) "forest land management activities" means all activities performed in the management of Indian forest lands, including—

(A) all aspects of program administration and executive direction such as—

(i) development and maintenance of policy and operational procedures, program oversight, and evaluation,

(ii) securing of legal assistance and handling of legal matters,

(iii) budget, finance, and personnel management, and

(iv) development and maintenance of necessary data bases and program reports;

(B) all aspects of the development, preparation and revision of forest inventory and management plans, including aerial photography, mapping, field management inventories and re-inventories, inventory analysis, growth studies, allowable annual cut calculations, environmental assessment, and forest history, consistent with and reflective of tribal integrated resource management plans;

(C) forest land development, including forestation, thinning, tree improvement activities, and the use of silvicultural treatments to restore or increase growth and yield to the full productive capacity of the forest environment;

(D) protection against losses from wildfire, including acquisition and maintenance of fire fighting equipment and fire detection systems, construction of firebreaks, hazard reduction, prescribed burning, and the development of cooperative wildfire management agreements;

(E) protection against insects and disease, including—

(i) all aspects of detection and evaluation,

(ii) preparation of project proposals containing project description, environmental assessments and statements, and cost-benefit analyses necessary to secure funding,

(iii) field suppression operations, and

(iv) reporting;

(F) assessment of damage caused by forest trespass, infestation or fire, including field examination and survey, damage appraisal, investigation assistance, and report, demand letter, and testimony preparation;

(G) all aspects of the preparation, administration, and supervision of timber sale contracts, paid and free use permits, and other Indian forest product harvest sale documents including—

(i) cruising, product marking, silvicultural prescription, appraisal and harvest supervision,

(ii) forest product marketing assistance, including evaluation of marketing and development opportunities related to Indian forest products and consultation and advice to tribes, tribal and Indian enterprises on maximization of return on forest products,

(iii) archeological, historical, environmental and other land management reviews, clearances, and analyses,

(iv) advertising, executing, and supervising contracts,

(v) marking and scaling of timber, and

(vi) collecting, recording and distributing receipts from sales;

(H) provision of financial assistance for the education of Indians enrolled in accredited programs of postsecondary and postgraduate forestry and forestry-related fields of study, including the provision of scholarships, internships, relocation assistance, and other forms of assistance to cover educational expenses;

(I) participation in the development and implementation of tribal integrated resource management plans, including activities to coordinate current and future multiple uses of Indian forest lands;

(J) improvement and maintenance of extended season primary and secondary Indian forest land road systems; and

(K) research activities to improve the basis for determining appropriate management measures to apply to Indian forest lands;

(5) "forest management plan" means the principal document, approved by the Secretary, reflecting and consistent with a tribal integrated resource management plan, which provides for the regulation of the detailed, multiple-use operation of Indian forest land by methods assuring that such lands remain in a continuously productive state while meeting the objectives of the tribe and which shall include—

(A) standards setting forth the funding and staffing requirements necessary to carry out each management plan, with a report of current forestry funding and staffing levels; and

(B) standards providing quantitative criteria to evaluate performance against the objectives set forth in the plan;

(6) "forest product" means—

(A) timber,

(B) a timber product, including lumber, lath, crating, ties, bolts, logs, pulpwood, fuelwood, posts, poles and split products,

(C) bark,

(D) Christmas trees, stays, branches, firewood, berries, mosses, pinyon nuts, roots, acorns, syrups, wild rice, and herbs,

(E) other marketable material, and

(F) gravel which is extracted from, and utilized on, Indian forest lands;

(7) "forest resources" means all the benefits derived from Indian forest lands, including forest products, soil productivity, water, fisheries, wildlife, recreation, and aesthetic or other traditional values of Indian forest lands;

(8) "forest trespass" means the act of illegally removing forest products from, or illegally damaging forest products on, forest lands;

(9) "Indian" means a member of an Indian tribe;

(10) "Indian land" means land title to which is held by—

(A) the United States in trust for an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally recognized Indian tribe, or an Indian tribe, or

(B) an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally recognized tribe, or an Indian tribe subject to a restriction by the United States against alienation;

(11) "Indian tribe" or "tribe" means any Indian tribe, band, nation, Pueblo or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and shall mean, where appropriate, the recognized tribal government of such tribe's reservation;

(12) "reservation" includes Indian reservations established pursuant to treaties, Acts of Congress or Executive orders, public domain Indian allotments, and former Indian reservations in Oklahoma;

(13) "Secretary" means the Secretary of the Interior;

(14) "sustained yield" means the yield of forest products that a forest can produce continuously at a given intensity of management; and

(15) "tribal integrated resource management plan" means a document, approved by an Indian tribe and the Secretary, which provides coordination for the comprehensive management of such tribe's natural resources.

SEC. 305. MANAGEMENT OF INDIAN FOREST LAND.

(a) MANAGEMENT ACTIVITIES.—The Secretary shall undertake forest land management activities on Indian forest land, either directly or through contracts, cooperative agreements, or grants under the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

(b) MANAGEMENT OBJECTIVES.—Indian forest land management activities undertaken by the Secretary shall be designed to achieve the following objectives—

(1) the development, maintenance, and enhancement of Indian forest land in a perpetually productive state in accordance with the principles of sustained yield and with the standards and objectives set forth in forest management plans by providing effective management and protection through the application of sound silvicultural and economic principles to—

(A) the harvesting of forest products,

(B) forestation,

(C) timber stand improvement, and

(D) other forestry practices;

(2) the regulation of Indian forest lands through the development and implementation, with the full and active consultation and participation of the appropriate Indian tribe, of forest management plans which are supported by written tribal objectives and forest marketing programs;

(3) the regulation of Indian forest lands in a manner that will ensure the use of good method and order in harvesting so as to make possible, on a sustained yield basis, continuous productivity and a perpetual forest business;

(4) the development of Indian forest lands and associated value-added industries by Indians and Indian tribes to promote self-sustaining communities, so that Indians may receive from their Indian forest land not only stumpage value, but also the benefit of all the labor and profit that such Indian forest land is capable of yielding;

(5) the retention of Indian forest land in its natural state when an Indian tribe determines that the recreational, cultural, aesthetic, or traditional values of the Indian forest land represents the highest and best use of the land;

(6) the management and protection of forest resources to retain the beneficial effects to Indian forest lands of regulating water run-off and minimizing soil erosion; and

(7) the maintenance and improvement of timber productivity, grazing, wildlife, fisheries, recreation, aesthetic, cultural and other traditional values.

SEC. 306. FOREST MANAGEMENT DEDUCTION.

(a) WITHHOLDING OF DEDUCTION.—Pursuant to the authority of section 1 of the Act of February 14, 1920 (41 Stat. 415; 25 U.S.C. 413), the Secretary shall withhold a reasonable deduction from the gross proceeds of sales of forest products harvested from Indian forest land under a timber sale contract, permit, or other harvest sale document, which has been approved by the Secretary, to cover in whole or part the cost of managing and protecting such Indian forest land.

(b) AMOUNT OF DEDUCTION.—Deductions made pursuant to subsection (a) shall not exceed the lesser amount of—

(1) 10 percent of gross proceeds, or

(2) the percentage of gross proceeds collected on the date of enactment of this title as forest management deductions by the Secretary on such sales of Indian forest products,

unless the appropriate Indian tribe consents to an increase in the deductions.

(c) USE OF DEDUCTION.—The full amount of any deduction collected by the Secretary shall be expended according to an approved expenditure plan, approved by the Secretary and the appropriate Indian tribe, for the performance of forest land management activities on the reservation from which such deductions are collected and shall be made available to the tribe, upon its request, by contract or agreement for the performance of such activities.

(d) LIMITATIONS.—(1) Forest management deductions withheld pursuant to this section shall not be available to—

(A) cover the costs that are paid from funds appropriated specifically for fire suppression or pest control, or

(B) otherwise offset Federal appropriations for meeting the Federal trust responsibility for management of Indian forest lands.

(2) No other forest management deductions derived from Indian forest lands shall be collected to be covered into the general funds of the United States Treasury.

SEC. 307. FOREST TRESPASS.

(a) CIVIL PENALTIES; REGULATIONS.—Not later than 18 months from the date of enactment of this title, the Secretary shall issue regulations that—

(1) establish civil penalties for the commission of forest trespass which provide for—

(A) collection of the value of the products illegally removed plus a penalty of double their value,

(B) collection of the costs associated with damage to the Indian forest land caused by the act of trespass, and

(C) collection of the costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports, witness expenses, demand letters, court costs, and attorney fees;

(2) designate responsibility with the Department of the Interior for the detection and investigation of forest trespass; and

(3) set forth responsibilities and procedures for the assessment and collection of civil penalties.

(b) TREATMENT OF PROCEEDS.—The proceeds of civil penalties collected under this section shall be treated as proceeds from the sale of forest products from the Indian forest lands upon which such trespass occurred.

(c) CONCURRENT JURISDICTION.—Indian tribes which adopt the regulations promulgated by the Secretary pursuant to subsection (a) shall have concurrent civil jurisdiction to enforce the provisions of this section and the regulation promulgated thereunder. The Bureau of Indian Affairs and other agencies of the Federal Government shall, at the request of the tribe, defer to tribal prosecutions of forest trespass cases. Tribal court judgments regarding forest trespass shall be entitled to full faith and credit in Federal and State courts to the same extent as a Federal court judgment obtained under this section.

SEC. 308. DIRECT PAYMENT OF FOREST PRODUCTS RECEIPTS.

(a) REGULATIONS.—Notwithstanding any other law, the Secretary shall, within 1 year from the date of enactment of this title, promulgate regulations providing for the payment of the receipts from the sale of Indian forest products as provided in this section.

(b) PAYMENT INTO A BANK DEPOSITORY.—Upon the request of an Indian tribe, the Secretary shall provide that the purchaser of the forest products of such tribe, which are harvested under a timber sale contract, permit or other harvest sale document which has been approved by the Secretary, shall make prompt direct payments of the gross proceeds of sales of such forest products, less any amounts segregated as forest management deductions pursuant to section 306, into a bank depository account designated by such Indian tribe.

SEC. 309. SECRETARIAL RECOGNITION OF TRIBAL LAWS.

Subject to the Secretary's responsibilities as reflected in sections 302(2) and 303(1) and unless otherwise prohibited by Federal statutory law, the Secretary shall comply with tribal laws pertaining to Indian forest lands, including laws regulating the environment or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian forest lands. Such cooperation shall include—

(1) assistance in the enforcement of such laws;

(2) provision of notice of such laws to persons or entities undertaking activities on Indian forest lands; and

(3) upon the request of an Indian tribe, the appearance in tribal forums.

SEC. 310. INDIAN FOREST LAND ASSISTANCE ACCOUNT.

(a) ESTABLISHMENT.—At the request of an Indian tribe, the Secretary may establish a special Indian forest land assistance account within the tribe's trust fund account to fund the Indian forest land management activities of such tribe.

(b) DEPOSITS AND EXPENDITURES.—(1) The Secretary may deposit into the Indian forest land assistance account established pursuant to subsection (a) any funds received by the Secretary or in the Secretary's possession from—

(A) non-Federal sources, if such funds are related to activities on or for the Indian forest lands of such tribe's reservation,

(B) donations and contributions,

(C) unobligated forestry appropriations for the benefit of such Indian tribe, and

(D) user fees or other funds transferred under Federal interagency agreements if otherwise authorized by Federal law and, if such funds are related to activities on or for the Indian forest lands of such tribe's reservation.

Funds deposited in such account shall be for the purpose of conducting forest land management activities on the Indian forest lands of such tribe.

(2) Funds in the Indian forest land assistance account and any interest or other income earned thereon shall remain available until expended and shall not be available to otherwise offset Federal appropriations for meeting the Federal responsibility for management of Indian forest lands.

(c) AUDITS.—At the request of an Indian tribe or upon the Secretary's own volition, the Secretary may conduct audits of the Indian forest land assistance account and shall publish the results of such audit.

SEC. 311. TRIBAL FORESTRY PROGRAMS.

(a) ESTABLISHMENT.—The Secretary shall establish within the Bureau of Indian Affairs a program to provide financial support to forestry programs established by an Indian tribe.

(b) SUPPORT ALLOCATION FORMULA; CRITERIA.—(1) The Secretary, with the participation of Indian tribes with Indian forest lands, shall establish, and promulgate by regulations, a formula—

(A) for the determination of Indian tribes eligible for such support,

(B) for the provision of levels of assistance for the forestry programs of such tribes, and

(C) the allocation of base support funds to such tribes under the program established pursuant to subsection (a).

(2) The formula established pursuant to this subsection shall provide funding necessary to support—

(A) one professional forester, including fringe benefits and support costs, for each eligible tribe, and

(B) one additional professional forester or forest technician, including fringe benefits and support costs, for each level of assistance for which an eligible Indian tribe qualifies.

(3) In any fiscal year that appropriations are not sufficient to fully fund tribal forestry programs at each level of assistance under the formula required to be established in this section, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

SEC. 312. ASSESSMENT OF INDIAN FOREST LAND AND MANAGEMENT PROGRAMS.

(a) INITIAL ASSESSMENT.—(1) Within 1 year after the date of enactment of this title, the Secretary, in consultation with affected Indian tribes, shall enter into a contract with a non-Federal entity knowledgeable in forest management practices on Federal and private lands to conduct an independent assessment of Indian forest lands and Indian forest land management practices.

(2) Such assessment shall be national in scope and shall include—

(A) an in-depth analysis of management practices on, and the level of funding for, specific Indian forest land compared with similar Federal and private forest lands,

(B) a survey of the condition of Indian forest lands, including health and productivity levels,

(C) an evaluation of the staffing patterns of forestry organizations of the Bureau of Indian Affairs and of Indian tribes,

(D) an evaluation of procedures employed in timber sales administration, including preparation, field supervision, and accountability for proceeds,

(E) an analysis of the potential for reducing or eliminating relevant administrative procedures, rules and policies of the Bureau of Indian Affairs consistent with the Federal trust responsibility,

(F) a comprehensive review of the adequacy of Indian forest land management plans, including their compatibility with applicable tribal integrated resource management plans and their ability to meet tribal needs and priorities,

(G) an evaluation of the feasibility and desirability of establishing minimum standards against which the adequacy of the forestry programs of the Bureau of Indian Affairs in fulfilling its trust responsibility to Indian tribes can be measured, and

(H) a recommendation of any reforms and increased funding levels necessary to bring Indian forest land management programs to a state-of-the-art condition.

(3) Such assessment shall include specific examples and comparisons from each of the regions of the United States where Indian forest lands are located.

(4) The initial assessment required by this subsection shall be completed no later than 36 months following the date of enactment of this title. Upon completion, the assessment shall be submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Select Committee on Indian Affairs of the United States Senate and shall be made available to Indian tribes.

(b) PERIODIC ASSESSMENTS.—On each 10-year anniversary of the date of enactment of this title, the Secretary shall provide for an independent assessment of Indian forest lands and Indian forest land management practices under the criteria established in subsection (a) which shall include analyses measured against findings in previous assessments.

(c) STATUS REPORT TO CONGRESS.—The Secretary shall submit, within 1 year of the first full fiscal year after the date of enactment of this title and within 6 months of the end of each succeeding fiscal year, a report to Committee on Interior and Insular Affairs of the United States House of Representatives, the Select Committee on Indian Affairs of the United States Senate, and to the affected Indian tribes a report on the status of Indian forest lands with respect to standards, goals and objectives set forth in approved forest management plans for each Indian tribe with Indian forest lands. The report shall identify the amount of Indian forest land in need of forestation or other silviculture treatment and the quantity of timber available for sale, offered for sale, and sold for each Indian tribe.

(d) ASSISTANCE FROM SECRETARY OF AGRICULTURE.—The Secretary of Agriculture, through the Forest Service, is authorized to provide, upon the request of the Secretary of the Interior, on a nonreimbursable basis, technical assistance in the conduct of such research and evaluation activities as may be necessary for the completion of any reports or assessments required by this title.

SEC. 313. ALASKA NATIVE TECHNICAL ASSISTANCE PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the village and regional

corporations established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), shall establish a program of technical assistance for such corporations to promote the sustained yield management of their forest resources. Such technical assistance shall also be available to promote local processing and other value-added activities with such forest resources.

(b) INDIAN SELF-DETERMINATION ACT.—The technical assistance to be provided by the Secretary pursuant to subsection (a) shall be made available through contracts, grants or agreements entered into in accordance with, and made available to entities eligible for, such contracts, grants, or agreements under the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

SEC. 314. ESTABLISHMENT OF INDIAN AND ALASKA NATIVE FORESTRY EDUCATION ASSISTANCE.

(a) FORESTER INTERN PROGRAM.—(1) Notwithstanding the provisions of title 5 of the United States Code governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau of Indian Affairs at least 20 forester intern positions for Indian and Alaska Native students.

(2) For purposes of this subsection, the term "forester intern" means an Indian or Alaska Native who—

(A) is acquiring necessary academic qualifications to become a forester or a professional trained in forestry-related fields, and

(B) is appointed to one of the positions established under paragraph (1).

(3) The Secretary shall pay all costs for tuition, books, fees and living expenses incurred by a forester intern while attending an approved post-secondary or graduate school in a full-time forestry-related curriculum.

(4) A forester intern shall be required to enter into an obligated service agreement to serve as a professional forester or other forestry-related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise for 2 years for each year of education for which the Secretary pays the intern's educational costs under paragraph (3) of this subsection.

(5) A forester intern shall be required to report for service with the Bureau of Indian Affairs during any break in attendance at school of more than 3 weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement.

(b) COOPERATIVE EDUCATION PROGRAM.—(1) The Secretary shall maintain, through the Bureau of Indian Affairs, a cooperative education program for the purpose of recruiting promising Indian and Alaska Native students who are enrolled in secondary schools, tribally-controlled community colleges, and other post-secondary or graduate schools for employment as a professional forester or other forestry-related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise.

(2) The cooperative educational program that is to be maintained under paragraph (1) shall be modeled on and shall have essentially the same features of the program operated on the date of enactment of this title pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) Under the cooperative agreement program that is to be maintained under paragraph (1), the Secretary shall pay all costs for tuition, books, and fees of an Indian or Alaska Native student who—

(A) is enrolled in a course of study at an education institution with which the Secretary has entered into a cooperative agreement, and

(B) is interested in a career with the Bureau of Indian Affairs, an Indian tribe or a tribal enterprise in the management of Indian forest land.

(4) Financial need shall not be a requirement to receive assistance under the cooperative agreement program that is to be maintained under this subsection.

(5) A recipient of assistance under the cooperative education program that is to be maintained under this subsection shall be required to enter into an obligated service agreement to serve as a professional forester or other forestry-related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise for one year for each year for which the Secretary pays the recipient's educational costs pursuant to paragraph (3).

(c) SCHOLARSHIP PROGRAM.—(1) The Secretary is authorized to grant forestry scholarships to Indians and Alaska Natives enrolled in accredited programs for post-secondary and graduate forestry and forestry-related programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipient's forestry or forestry-related course of study, with

(A) the Bureau of Indian Affairs;

(B) a forestry program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination Act (25 U.S.C. 450 et seq.);

(C) an Indian enterprise engaged in a forestry or forestry-related business; or

(D) an Indian tribe's forestry-related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited post-secondary or graduate institution.

(d) FORESTRY EDUCATION OUTREACH.—The Secretary shall conduct, through the Bureau of Indian Affairs, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, a forestry education outreach program for Indian and Alaska Native youth to explain and stimulate interest in all aspects of Indian forest land management and careers in forestry.

(e) ADEQUACY OF PROGRAMS.—The Secretary shall administer the programs described in this section until a sufficient number of Indians and Alaska Natives are trained to ensure that there is an adequate number of qualified, professional Indian foresters to manage the Bureau of Indian Affairs forestry programs and forestry programs maintained by or for Indian tribes.

SEC. 315. POSTGRADUATION RECRUITMENT, EDUCATION AND TRAINING PROGRAMS.

(a) POSTGRADUATION RECRUITMENT.—The Secretary shall establish and maintain a program to attract Indian and Alaska Native professional foresters and forester technicians who have already graduated from their course of post-secondary or graduate education for employment in either the Bureau of Indian Affairs forestry programs or, subject to the approval of the tribe, in tribal forestry programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian and Alaska Native professional foresters or forestry technicians in exchange for the Secretary's assumption of the employee's outstanding student loans. The period of employment shall be determined by the amount of the loan that is assumed.

(b) POSTGRADUATE INTERGOVERNMENTAL INTERNSHIPS.—For the purposes of training, skill development and orientation of Indian, Alaska Native, and Federal forestry personnel, and the enhancement of tribal and Bureau of Indian Affairs forestry programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal, Indian, and Alaska Native forestry personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau of Indian Affairs, Alaska Native, and Indian forestry employees in the forestry-related programs of other agencies of the Department of the Interior, and

(B) provide for the internship of forestry personnel from other Department of the Interior agencies within the Bureau of Indian Affairs and, with the consent of the tribe, within tribal forestry programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau of Indian Affairs and, with the consent of the tribe, within a tribal forestry program of other forestry personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian and Alaska Native forestry employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

(c) CONTINUING EDUCATION AND TRAINING.—The Secretary shall maintain a program within the Division of Forestry of the Bureau of Indian Affairs for the ongoing education and training of Bureau of Indian Affairs, Alaska Native, and Indian forestry personnel. Such program shall provide for—

(1) orientation training for Bureau of Indian Affairs forestry personnel in tribal-Federal relations and responsibilities;

(2) continuing technical forestry education for Bureau of Indian Affairs, Alaska Native, and tribal forestry personnel; and

(3) developmental training of Indian and Alaska Native personnel in forest land based enterprises and marketing.

SEC. 316. COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS.—(1) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary is authorized to negotiate and enter into cooperative agreements with Indian tribes to—

(A) engage in cooperative manpower and job training and development programs,

(B) to develop and publish cooperative environmental education and natural resource planning materials, and

(C) to perform land and facility improvements, including forestry and other natural resources protection, fire protection, reforestation, timber stand improvement, debris

removal, and other activities related to land and natural resource management.

The Secretary may enter into such agreements when the Secretary determines the public interest will be benefited.

(2) In such cooperative agreements, the Secretary is authorized to advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities or equipment without regard to the provisions of section 3324, title 31, United States Code, relating to the advance of public moneys.

(b) SUPERVISION.—In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for purposes of section 2671 through 2680 of title 28, United States Code, and section 8101 through 8193 of title 5, United States Code.

(c) SAVINGS CLAUSE.—Nothing in this title shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

SEC. 317. OBLIGATED SERVICE; BREACH OF CONTRACT.

(a) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) BREACH OF CONTRACT; REPAYMENT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, prorated for the amount of time of obligated service performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

SEC. 318. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

SEC. 319. REGULATIONS.

Except as otherwise provided by this title, the Secretary is directed to promulgate final regulations for the implementation of the title within eighteen months from the date of its enactment. All regulations promulgated pursuant to this title shall be developed by the Secretary with the participation of the affected Indian tribes.

SEC. 320. SEVERABILITY.

If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this title shall not be affected thereby.

SEC. 321. TRUST RESPONSIBILITY.

Nothing in this title shall be construed to diminish or expand the trust responsibility of the United States toward Indian forest lands, or any legal obligation or remedy resulting therefrom.

TITLE IV—INDIAN CHILD PROTECTION

SEC. 401. SHORT TITLE.

This title may be cited as the "Indian Child Protection and Family Violence Prevention Act".

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress, after careful review of the problem of child abuse on Indian reservations and the historical and special relationship of the Federal Government with Indian people,

(1) finds that—

(A) incidents of abuse of children on Indian reservations are grossly underreported;

(B) such underreporting is often a result of the lack of a mandatory Federal reporting law;

(C) multiple incidents of sexual abuse of children on Indian reservations have been perpetrated by persons employed or funded by the Federal Government;

(D) Federal Government investigations of the background of Federal employees who care for, or teach, Indian children are often deficient;

(E) funds spent by the United States on Indian reservations or otherwise spent for the benefit of Indians who are victims of child abuse or family violence are inadequate to meet the growing needs for mental health treatment and counseling for victims of child abuse or family violence and their families; and

(F) there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe; and

(2) declares that two major goals of the United States are to—

(A) identify the scope of incidents of abuse of children and family violence in Indian country and to reduce such incidents; and

(B) provide funds for mental health treatment for Indian victims of child abuse and family violence on Indian reservations.

(b) PURPOSE.—The purposes of this title are to—

(1) require that reports of abused Indian children are made to the appropriate authorities in an effort to prevent further abuse;

(2) establish a reliable data base for statistical purposes and to authorize a study to determine the need for a central registry for reported incidents of abuse;

(3) authorize such other actions as are necessary to ensure effective child protection in Indian country;

(4) establish the Indian Child Abuse Prevention and Treatment Grant Program to provide funds for the establishment on Indian reservations of treatment programs for victims of child sexual abuse;

(5) provide for technical assistance and training related to the investigation and treatment of cases of child abuse and neglect;

(6) establish Indian Child Resource and Family Services Centers in each Bureau of Indian Affairs Area Office which will consist of multi-disciplinary teams of personnel with experience and training in the prevention, identification, investigation, and treatment of child abuse and neglect;

(7) provide for the treatment and prevention of incidents of family violence;

(8) establish tribally operated programs to protect Indian children and reduce the incidents of family violence in Indian country; and

(9) authorize other actions necessary to ensure effective child protection on Indian reservations.

SEC. 403. DEFINITIONS.

For the purposes of this title, the term—

(1) "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(2) "child" means an individual who—

(A) is not married, and

(B) has not attained 18 years of age;

(3) "child abuse" includes but is not limited to—

(A) any case in which—

(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

(4) "child neglect" includes but is not limited to, negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;

(5) "family violence" means any act, or threatened act, of violence, including any forceful detention of an individual, which—

(A) results, or threatens to result, in physical or mental injury, and

(B) is committed by an individual against another individual—

(i) to whom such person is, or was, related by blood or marriage or otherwise legally related, or

(ii) with whom such person is, or was, residing;

(6) "Indian" means any individual who is a member of an Indian tribe;

(7) "Indian child" has the meaning given to such term by section 4(4) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(4));

(8) "Indian country" has the meaning given to such term by section 1151 of title 18, United States Code;

(9) "Indian reservation" means any Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, or lands held by incorporated Native groups, regional corporations, or village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(10) "Indian tribe" and "tribal organization" have the respective meanings given to each of such terms under section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b);

(11) "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization of an Indian tribe, and

(B) one or more Indian tribes or tribal organizations of one or more other Indian tribes;

(12) "local child protective services agency" means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country;

(13) "local law enforcement agency" means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an in-

stance of alleged child abuse within the portion of Indian country involved;

(14) "persons responsible for a child's welfare" means any person who has legal or other recognized duty for the care and safety of a child, including—

(A) any employee or volunteer of a children's residential facility, and

(B) any person providing out-of-home care, education, or services to children;

(15) "related assistance"—

(A) includes counseling and self-help services to abusers, victims, and dependents in family violence situations (which shall include counseling of all family members to the extent feasible) and referrals for appropriate health-care services (including alcohol and drug abuse treatment), and

(B) may include food, clothing, child care, transportation, and emergency services for victims of family violence and their dependents;

(16) "Secretary" means the Secretary of the Interior;

(17) "shelter" means the provision of temporary refuge and related assistance in compliance with applicable Federal and tribal laws and regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence or their dependents; and

(18) "Service" means the Indian Health Service of the Department of Health and Human Services.

SEC. 404. REPORTING PROCEDURES.

(a) REPORT TO LOCAL LAW ENFORCEMENT AGENCY.—(1) Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1169. Reporting of child abuse

"(a) Any person who—

"(1) is a—

"(A) physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,

"(B) teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, or bus driver employed by any tribal, Federal, public or private school,

"(C) administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,

"(D) child day care worker, headstart teacher, public assistance worker, worker in a group home or residential day care facility, or social worker,

"(E) psychiatrist, psychologist, or psychological assistant,

"(F) licensed or unlicensed marriage, family, or child counselor,

"(G) person employed in the mental health profession, or

"(H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders;

"(2) knows, or has reasonable suspicion, that—

"(A) a child was abused in Indian country, or

"(B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and

"(3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency,

shall be fined not more than $5,000 or imprisoned for not more than 6 months or both.

"(b) Any person who—

"(1) supervises, or has authority over, a person described in subsection (a)(1), and

"(2) inhibits or prevents that person from making the report described in subsection (a),

shall be fined not more than $5,000 or imprisoned for not more than 6 months or both.

"(c) For purposes of this section, the term—

"(1) 'abuse' includes—

"(A) any case in which—

"(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

"(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

"(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

"(2) 'child' means an individual who—

"(A) is not married, and

"(B) has not attained 18 years of age;

"(3) 'local child protective services agency' means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country; and

"(4) 'local law enforcement agency' means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved.

"(d) Any person making a report described in subsection (a) which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making that report.".

(2) The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1169. Reporting of child abuse.".

(b) NOTIFICATION OF CHILD ABUSE REPORTS.—(1) When a local law enforcement agency or local child protective services agency receives an initial report from any person of—

(A) the abuse of a child in Indian country, or

(B) actions which would reasonably be expected to result in abuse of a child in Indian country, the receiving agency shall immediately notify appropriate officials of the other agency of such report and shall also submit, when prepared, a copy of the written report required under subsection (c) to such agency.

(2) Where a report of abuse involves an Indian child or where the alleged abuser is an Indian and where a preliminary inquiry indicates a criminal violation has occurred, the local law enforcement agency, if other than the Federal Bureau of Investigation, shall immediately report such occurrence to the Federal Bureau of Investigation.

(c) WRITTEN REPORT OF CHILD ABUSE.—(1) Within 36 hours after receiving an initial report described in subsection (b), the receiving agency shall prepare a written report which shall include, if available—

(A) the name, address, age, and sex of the child that is the subject of the report;

(B) the grade and the school in which the child is currently enrolled;

(C) the name and address of the child's parents or other person responsible for the child's care;

(D) the name and address of the alleged offender;

(E) the name and address of the person who made the report to the agency;

(F) a brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected abuse of the child or the child's siblings and the suspected date of the abuse; and

(G) any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse.

(2)(A) Any local law enforcement agency or local child protective services agency that receives a report alleging abuse described in section 503(3) shall immediately initiate an investigation of such allegation and shall take immediate, appropriate steps to secure the safety and well-being of the child or children involved.

(B) Upon completion of the investigation of any report of alleged abuse that is made to a local law enforcement agency or local child protective services agency, such agency shall prepare a final written report on such allegation.

(d) CONFIDENTIALITY OF INFORMANT.—The identity of any person making a report described in subsection (b)(1) shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of an Indian tribe, a State or the Federal Government who needs to know the information in the performance of such employee's duties.

SEC. 405. CENTRAL REGISTRY.

(a) PREPARATION OF STUDY.—The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General of the United States, is hereby authorized and directed to prepare a written study on the feasibility of, and need for, the establishment of a Central Register for reports or information on the abuse of children in Indian country.

(b) CONTENT OF STUDY.—The study conducted pursuant to subsection (a) shall include, but shall not be limited to—

(1) the need for, and purpose of, a Central Register;

(2) the examination of due process implication of the maintenance of such a register;

(3) the extension of access to information contained in the register;

(4) the need and process for expunging information from the register;

(5) the types, and duration of maintenance, of information in the register; and

(6) the classes of persons who should be covered by such register.

(c) The Secretary shall complete the study conducted pursuant to this section and shall submit such study, together with recommendations and draft legislation to implement such recommendations, to the Congress within 180 days after the date of enactment of this title.

SEC. 406. CONFIDENTIALITY.

Pursuant to section 552a of title 5, United States Code, the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal Government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian tribe, any State, or the Federal

Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal governments shall be treated the same as other Federal Government entities.

SEC. 407. WAIVER OF PARENTAL CONSENT.

(a) EXAMINATIONS AND INTERVIEWS.—Photographs, x-rays, medical examinations, psychological examinations, and interviews of an Indian child alleged to have been subject to abuse in Indian country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse.

(b) INTERVIEWS BY LAW ENFORCEMENT AND CHILD PROTECTIVE SERVICES OFFICIALS.—In any case in which officials of the local law enforcement agency or local child protective services agency have reason to believe that an Indian child has been subject to abuse in Indian country, the officials of those agencies shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

(c) PROTECTION OF CHILD.—Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advise, or under the guidance, of a local multidisciplinary team established pursuant to section 411 or, in the absence of a local team, a multidisciplinary team established pursuant to section 410.

(d) COURT ORDERS.—Upon a finding of reasonable suspicion that an Indian child has been the subject of abuse in Indian country, a Federal magistrate or United States District Court may issue an order enforcing any provision of this section.

SEC. 408. CHARACTER INVESTIGATIONS.

(a) BY SECRETARY OF THE INTERIOR AND THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary and the Secretary of Health and Human Services shall—

(1) compile a list of all authorized positions within their respective departments the duties and responsibilities of which involve regular contact with, or control over, Indian children,

(2) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by the respective Secretary in a position listed pursuant to paragraph (1), and

(3) prescribe by regulations minimum standards of character that each of such individuals must meet to be appointed to such positions.

(b) CRIMINAL RECORDS.—The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsection (a) have been found guilty of, or entered a plea of nolo contendere or guilty to, any offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons.

(c) INVESTIGATIONS BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Each Indian tribe or tribal organization that receives funds under the Indian Self-Determination and Education Assistance Act or the Tribally Controlled Schools Act of 1988 shall—

(1) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by such tribe or tribal organization in a position that involves regular contact with, or control over, Indian children, and

(2) employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under subsection (a), as the Indian tribe or tribal organization shall establish.

SEC. 409. INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Health and Human Services, acting through the Service and in cooperation with the Bureau, shall establish an Indian Child Abuse Treatment Grant Program that provides grants to any Indian tribe or intertribal consortium for the establishment on Indian reservations of treatment programs for Indians who have been victims of child sexual abuse.

(b) GRANT APPLICATIONS.—(1) Any Indian tribe or intertribal consortium may submit to the Secretary of Health and Human Services an application for a grant under subsection (a).

(2) Any application submitted under paragraph (1)—

(A) shall be in such form as the Secretary of Health and Human Services may prescribe;

(B) shall be submitted to such Secretary on or before the date designated by such Secretary; and

(C) shall specify—

(i) the nature of the program proposed by the applicant,

(ii) the data and information on which the program is based,

(iii) the extent to which the program plans to use or incorporate existing services available on the reservation, and

(iv) the specific treatment concepts to be used under the program.

(c) MAXIMUM GRANT AMOUNT.—The maximum amount of any grant awarded under subsection (a) shall not exceed $500,000.

(d) GRANT ADMINISTRATION AND FINAL REPORT.—Each recipient of a grant awarded under subsection (a) shall—

(1) furnish the Secretary of Health and Human Services with such information as such Secretary may require to—

(A) evaluate the program for which the grant is made, and

(B) ensure that the grant funds are expended for the purposes for which the grant was made, and

(2) submit to such Secretary at the close of the term of the grant a final report which shall include such information as the Secretary may require.

(e) there is hereby authorized to be appropriated to carry out the provisions of this section $10,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 410. INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.

(a) ESTABLISHMENT.—The Secretary shall establish within each area office of the Bureau an Indian Child Resource and Family Services Center.

(b) MEMORANDUM OF AGREEMENT.—The Secretary and the Secretary of Health and Human Services shall enter into a Memorandum of Agreement which provides for the staffing of the Centers established under this section.

(c) CENTER STAFFING.—Each Center established under subsection (a) shall be staffed by a multidisciplinary team of personnel with experience and training in prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect.

(d) CENTER RESPONSIBILITIES AND FUNCTIONS.—Each Center established under subsection (a) shall—

(1) provide advice, technical assistance, and consultation to Indian tribes, tribal organizations, and inter-tribal consortia upon request;

(2) provide training to appropriate personnel of Indian tribes, tribal organizations, the Bureau and the Service on the identification and investigation of cases of family violence, child abuse, and child neglect and, to the extent practicable, coordinate with institutions of higher education, including tribally controlled community colleges, to offer college-level credit to interested trainees;

(3) develop training materials on the prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect for distribution to Indian tribes and to tribal organizations;

(4) develop recommendations to assist Federal and tribal personnel to respond to cases of family violence, child abuse, and child neglect; and

(5) develop policies and procedures for each agency office of the Bureau and service unit of the Service within the area which, to the extent feasible, comply with tribal laws pertaining to cases of family violence, child abuse, and child neglect, including any criminal laws, and which provide for maximum cooperation with the enforcement of such laws.

(e) MULTIDISCIPLINARY TEAM PERSONNEL.—Each multidisciplinary team established under this section shall include, but is not limited to, personnel with a background in—

(1) law enforcement,

(2) child protective services,

(3) juvenile counseling and adolescent mental health, and

(4) domestic violence.

(f) CENTER ADVISORY BOARD.—The Secretary, in consultation with the Secretary of Health and Human Services, shall establish, for each Indian Child Resource and Family Services Center, an advisory board to advise and assist such Center in carrying out its activities under this Act. Each advisory board shall consist of 7 members appointed by the Secretary from Indian tribes and human service providers served by an area office of the Bureau. Members shall serve without compensation, but may be reimbursed for travel and other expenses while carrying out the duties of the board. The advisory board shall assist the Center in coordinating programs, identifying training materials, and developing policies and procedures relating to family violence, child abuse, and child neglect.

(g) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT TO CENTERS.—Indian Child Resource and Family Services Centers established under subsection (a) shall be subject to the provisions of the Indian Self-Determination Act. If a Center is located in an area office of the Bureau which serves more than one Indian tribe, any application to enter into a contract to operate the Center pursuant to such Act must have the consent of each of the other tribes to be served under the contract, except that, in the Juneau Area, only the consent of such tribes or tribal consortia that are engaged in contracting of Indian Child Protection and Family Violence Prevention programs pursuant to such Act shall be required. This section shall not preclude the designation of an existing child resource and family services center operated by a tribe or tribal or-

ganization as a Center if all of the tribes to be served by the Center agree to such designation.

(h) APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $3,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 411. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish within the Bureau an Indian Child Protection and Family Violence Prevention Program to provide financial assistance to any Indian tribe, tribal organization, or inter-tribal consortium for the development of an Indian Child Protection and Family Violence Prevention program.

(b) INDIAN SELF-DETERMINATION ACT AGREEMENTS.—The Secretary is authorized to enter into agreements with Indian tribes, tribal organizations, or inter-tribal consortia pursuant to the Indian Self-Determination Act for the establishment of Indian Child Protection and Family Violence Prevention programs on Indian reservations.

(c) INVESTIGATION AND TREATMENT AND PREVENTION OF CHILD ABUSE AND FAMILY VIOLENCE.—An Indian tribe operating an Indian Child Protection and Family Violence Prevention program established under this section shall designate the agency or officials which shall be responsible—

(1) for the investigation of reported cases of child abuse and child neglect; and

(2) for the treatment and prevention of incidents of family violence; and

(3) for the provision of immediate shelter and related assistance for victims of family violence and their dependents.

(d) PROGRAM RESPONSIBILITIES AND FUNCTIONS.—Funds provided pursuant to this section may be used for—

(1) the establishment of a child protective services program which may include—

(A) the employment of child protective services staff to investigate cases of child abuse and child neglect,

(B) training programs for child protective services personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of child abuse and child neglect, and

(C) purchase of equipment to assist in the investigation of cases of child abuse and child neglect;

(2) the establishment of a family violence prevention and treatment program which may include—

(A) the employment of family violence prevention and treatment staff to respond to incidents of family violence,

(B) the provision of immediate shelter and related assistance for victims of family violence and their dependents,

(C) training programs for family violence prevention and treatment personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of family violence; and

(D) construction or renovation of facilities for the establishment of family violence shelters;

(3) the development and implementation of a multidisciplinary child abuse investigation and prosecution program which may—

(A) coordinate child abuse prevention, investigation, prosecution, treatment, and counseling services,

(B) develop protocols among related agencies to ensure that investigations of child abuse cases, to the extent practicable, minimize the trauma to the child victim, and

(C) provide for the coordination and cooperation of law enforcement agencies, courts of competent jurisdiction, and other tribal, Federal, and State agencies through intergovernmental or interagency agreements that define and specify each party's responsibilities;

(4) the development of tribal child protection codes and regulations;

(5) the establishment of training programs for—

(A) professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, investigation, and treatment of family violence, child abuse, and child neglect,

(B) instruction in methods of protecting children from abuse and neglect for persons responsible for the welfare of Indian children, including parents of, and persons who work with, Indian children, or

(C) educational, identification, prevention and treatment services for child abuse and child neglect in cooperation with preschool, elementary and secondary schools, or tribally controlled community colleges (within the meaning of section 2 of the Tribally Controlled Community College Act of 1978 (25 U.S.C. 1801));

(6) other community education efforts for tribal members (including school children) regarding issues of family violence, child abuse, and child neglect; and

(7) such other innovative and culturally relevant programs and projects as the Secretary may approve, including programs and projects for—

(A) parental awareness and self-help,

(B) prevention and treatment of alcohol and drug-related family violence, child abuse, and child neglect, or

(C) home health visitor programs,

that show promise of successfully preventing and treating cases of family violence, child abuse, and child neglect.

(f) SECRETARIAL REGULATIONS; BASE SUPPORT FUNDING.—(1) The Secretary, with the participation of Indian tribes, shall establish, and promulgate by regulations, a formula which establishes base support funding for Indian Child Protection and Family Violence Prevention programs.

(2) In the development of regulations for base support funding for such programs, the Secretary shall develop, in consultation with Indian tribes, appropriate caseload standards and staffing requirements which are comparable to standards developed by the National Association of Social Work, the Child Welfare League of America and other professional associations in the field of social work and child welfare. Each level of funding assistance shall correspond to the staffing requirements established by the Secretary pursuant to this section.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) projected service population of the program;

(B) projected service area of the program;

(C) projected number of cases per month; and

(D) special circumstances warranting additional program resources, such as high incidence of child sexual abuse, high incidence of violent crimes against women, or the existence of a significant victim population within the community.

(4) The formula established pursuant to this subsection shall provide funding necessary to support—

(A) one child protective services or family violence caseworker, including fringe benefits and support costs, for each tribe; and

(B) an additional child protective services and family violence caseworker, including fringe benefits and support costs, for each level of assistance for which an Indian tribe qualifies.

(5) In any fiscal year that appropriations are not sufficient to fully fund Indian Child Protection and Family Violence Prevention programs at each level of assistance under the formula required to be established in this subsection, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

(g) MAINTENANCE OF EFFORT.—Services provided under contracts made under this section shall supplement, not supplant, services from any other funds available for the same general purposes, including, but not limited to—

(1) treatment, including, but not limited to—

(A) individual counseling,

(B) group counseling, and

(C) family counseling;

(2) social services and case management;

(3) training available to Indian tribes, tribal agencies, and Indian organizations regarding the identification, investigation, prevention, and treatment of family violence, child abuse, and child neglect; and

(4) law enforcement services, including investigations and prosecutions.

(h) CONTRACT EVALUATION AND ANNUAL REPORT.—Each recipient of funds awarded pursuant to subsection (a) shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the award is made, and

(B) ensure that funds are expended for the purposes for which the award was made; and

(2) submit to the Secretary at the end of each fiscal year an annual report which shall include such information as the Secretary may require.

(i) APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $30,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 412. REPORT.

On or before March 1, 1991, and March 1 of each calendar year thereafter, the Secretary shall submit to the Congress a report involving the administration of this title during the calendar year preceding the calendar year in which such report is submitted.

TITLE V—INDIAN HEALTH CARE

SEC. 501. SHORT TITLE.

This title may be cited as the "Indian Health Care Amendments of 1990".

SEC. 502. REFERENCES.

Except as may otherwise be specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

SEC. 503. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.

(a) PURPOSES.—The purposes of this section are to—

(1) authorize and direct the Indian Health Service to develop a comprehensive mental health prevention and treatment program;

(2) provide direction and guidance relating to mental illness and dysfunctional and self-destructive behavior, including child abuse

and family violence, to those Federal, tribal, State, and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement, and judicial services;

(3) assist Indian tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior;

(4) provide authority and opportunities for Indian tribes to develop and implement, and coordinate with, community-based mental health programs which include identification, prevention, education, referral, and treatment services, including through multidisciplinary resource teams;

(5) ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to mental health services to which all such citizens have access; and

(6) modify or supplement existing programs and authorities in the areas identified in paragraph (2).

(b) AMENDMENT.—Title II of the Act is amended by adding at the end thereof the following new section:

"SEC. 209. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.

"(a) NATIONAL PLAN FOR INDIAN MENTAL HEALTH SERVICES.—(1) Not later than 120 days after the date of enactment of this section, the Secretary, acting through the Service, shall develop and publish in the Federal Register a final national plan for Indian Mental Health Services. The plan shall include—

"(A) an assessment of the scope of the problem of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians, including—

"(i) the number of Indians served by the Service who are directly or indirectly affected by such illness or behavior, and

"(ii) an estimate of the financial and human cost attributable to such illness or behavior;

"(B) an assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior; and

"(C) an estimate of the additional funding needed by the Service to meet its responsibilities under the plan.

"(2) The Secretary shall submit a copy of the national plan to the Congress.

"(c) MEMORANDUM OF AGREEMENT.—Not later than 180 days after the date of enactment of this section, the Secretary and the Secretary of the Interior shall develop and enter into a memorandum of agreement under which the Secretaries shall, among other things—

"(1) determine and define the scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians;

"(2) make an assessment of the existing Federal, tribal, State, local, and private services, resources, and programs available to provide mental health services for Indians;

"(3) make an initial determination of the unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1);

"(4)(A) ensure that Indians, as citizens of the United States and of the States in which they reside, have access to mental health services to which all citizens have access;

"(B) determine the right of Indians to participate in, and receive the benefit of, such services; and

"(C) take actions necessary to protect the exercise of such right;

"(5) delineate the responsibilities of the Bureau of Indian Affairs and the Service, including mental health identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and service unit levels to address the problems identified in paragraph (1);

"(6) provide a strategy for the comprehensive coordination of the mental health services provided by the Bureau of Indian Affairs and the Service to meet the needs identified pursuant to paragraph (1), including—

"(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and the various tribes (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986) with the mental health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually-diagnosed individuals requiring mental health and substance abuse treatment; and

"(B) ensuring that Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services;

"(7) direct appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and service unit levels, to cooperate fully with tribal requests made pursuant to subsection (d); and

"(8) provide for an annual review of such agreement by the two Secretaries.

"(d) COMMUNITY MENTAL HEALTH PLAN.—(1) The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a community mental health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat mental illness or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members.

"(2) In furtherance of a plan established pursuant to paragraph (1) and at the request of a tribe, the appropriate agency, service unit, or other officials of the Bureau of Indian Affairs and the Service shall cooperate with, and provide technical assistance to, the tribe in the development of such plan. Upon the establishment of such a plan and at the request of the tribe, such officials, as directed by the memorandum of agreement developed pursuant to subsection (c), shall cooperate with the tribe in the implementation of such plan.

"(3) Two or more Indian tribes may form a coalition for the adoption of resolutions and the establishment and development of a joint community mental health plan under this subsection.

"(4) The Secretary, acting through the Service, may make grants to Indian tribes adopting a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community mental health plan and to provide administrative support in the implementation of such plan.

"(5) There is hereby authorized to be appropriated $500,000 for fiscal year 1991 and $1,000,000 for fiscal year 1992 to carry out this subsection.

"(e) MENTAL HEALTH TRAINING AND COMMUNITY EDUCATION PROGRAMS.—(1) The Secretary and the Secretary of the Interior, in consultation with representatives of Indian tribes, shall conduct a study and compile a list, of the types of staff positions specified in paragraph (2) whose qualifications include, or should include, training in the identification, prevention, education, referral, or treatment of mental illness or dysfunctional and self-destructive behavior.

"(2) The positions referred to in paragraph (1) are—

"(A) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

"(i) elementary and secondary education;

"(ii) social services and family and child welfare;

"(iii) law enforcement and judicial services; and

"(iv) alcohol and substance abuse;

"(B) staff positions with the Service; and

"(C) staff positions similar to those identified in subparagraphs (A) and (B) established and maintained by Indian tribes, including positions established in contracts entered into under the Indian Self-Determination Act.

"(3)(A) The appropriate Secretary shall provide training criteria appropriate to each type of position identified in paragraph (2)(A) and ensure that appropriate training has been, or will be, provided to any individual in any such position. With respect to any such individual in a position identified pursuant to paragraph (2)(C), the respective Secretaries shall provide appropriate training to, or provide funds to an Indian tribe for the training of, such individual. In the case of positions funded under a contract entered into under the Indian Self-Determination Act, the appropriate Secretary shall ensure that such training costs are included in the contract, if necessary.

"(B) Funds authorized to be appropriated pursuant to this subsection may be used to provide training authorized by this paragraph for community education programs described in paragraph (5) if a plan adopted pursuant to subsection (d) identifies individuals or employment categories, other than those identified pursuant to paragraph (1), for which such training or community education is deemed necessary or desirable.

"(4) Position-specific training criteria described in paragraph (3) shall be culturally relevant to Indians and Indian tribes and shall ensure that appropriate information regarding traditional Indian healing and treatment practices is provided.

"(5) The Service shall develop and implement or, upon the request of an Indian tribe, assist such tribe to develop and implement, a program of community education on mental illness and dysfunctional and self-destructive behavior for individuals, as determined in a plan adopted pursuant to subsection (d). In carrying out this paragraph, the Service shall provide, upon the request of an Indian tribe, technical assistance to the Indian tribe to obtain or develop community education and training materials on the identification, prevention, referral, and treatment of mental illness and dysfunctional and self-destructive behavior.

"(6) There is hereby authorized to be appropriated—

"(A) $500,000 for fiscal year 1991 to carry out this subsection, of which $100,000 shall be allocated for community education under paragraph (5); and

"(B) $5,000,000 for fiscal year 1992 to carry out this subsection, of which

$1,200,000 shall be allocated for community education under paragraph (5).

"(f) STAFFING.—(1) Within 90 days after the date of enactment of this section, the Secretary shall develop a plan under which the Service will increase the health care staff providing mental health services by at least 500 positions within five years after the date of enactment of this section, with at least 200 of such positions devoted to child, adolescent, and family services. Such additional staff shall be primarily assigned to the service unit level for services which shall include outpatient, emergency, aftercare and follow-up, and prevention and education services.

"(2) The plan developed under paragraph (1) shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) popularly known as the "Snyder Act").

"(g) STAFF RECRUITMENT AND RETENTION.—(1) The Secretary shall provide for the recruitment of the additional personnel required by subsection (f) and the retention of all Service personnel providing mental health services. In carrying out this subsection, the Secretary shall give priority to practitioners providing mental health services to children and adolescents with mental health problems.

"(2) In carrying out paragraph (1), the Secretary shall develop a program providing for—

"(A) the payment of bonuses (which shall not be more favorable than those provided for under sections 116 and 117) for service in hardship posts;

"(B) the repayment of loans (for which the provisions of repayment contracts shall not be more favorable than the repayment contracts under section 108) for health professions education as a recruitment incentive; and

"(C) a system of postgraduate rotations as a retention incentive.

"(3) This subsection shall be carried out in coordination with the recruitment and retention programs under title I.

"(4) There are authorized to be appropriated $1,200,000 for the fiscal year 1992 to carrying out this subsection.

"(h) MENTAL HEALTH TECHNICIAN PROGRAM.—(1) Under the authority of the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Secretary shall establish and maintain a Mental Health Technician program within the Service which—

"(A) provides for the training of Indians as mental health technicians; and

"(B) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

"(2) In carrying out paragraph (1)(A), the Secretary shall provide high standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

"(3) The Secretary shall supervise and evaluate the mental health technicians in the training program.

"(4) The Secretary shall ensure that the program established pursuant to this subsection involves the utilization and promotion of the traditional Indian health care and treatment practices of the Indian tribes to be served.

"(5) For purposes of providing the training required under this subsection, there are authorized to be appropriated $1,000,000 for the fiscal year 1992, which shall remain available until expended.

"(i) MENTAL HEALTH RESEARCH.—(1) The Secretary, acting through the Service and in consultation with the National Institute of Mental Health, shall enter into contracts with, or make grants to, appropriate institutions for the conduct of research on the incidence and prevalence of mental disorders among Indians on Indian reservations and in urban areas. Research priorities under this subsection shall include—

"(A) the inter-relationship and inter-dependence of mental disorders with alcoholism, suicide, homicides, accidents, and the incidence of family violence, and

"(B) the development of models of prevention techniques.

The effect of the inter-relationships and interdependencies referred to in subparagraph (A) on children, and the development of prevention techniques under subparagraph (B) applicable to children, shall be emphasized.

"(2) For purposes of carrying out this subsection, there are authorized to be appropriated $2,000,000 for the fiscal year 1992, which shall remain available until expended.

"(j) FACILITIES ASSESSMENT.—(1) Within one year after the date of enactment of this section, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, under-utilized service hospital beds into psychiatric units to meet such need.

"(2) There are authorized to be appropriated $500,000 for the fiscal year 1992 to make the assessment required by this subsection.

"(k) ANNUAL REPORT.—The Service shall develop methods for analyzing and evaluating the overall status of mental health programs and services for Indians and shall submit to the Congress an annual report on the mental health status of Indians which shall describe the progress being made to address mental health problems of Indian communities.

"(l) MENTAL HEALTH DEMONSTRATION GRANT PROGRAM.—(1) The Secretary, acting through the Service, is authorized to make grants to Indian tribes and inter-tribal consortia to pay 75 percent of the cost of planning, developing, and implementing programs to deliver innovative community-based mental health services to Indians. The 25 percent tribal share of such cost may be provided in cash or through the provision of property or services.

"(2) The Secretary may award a grant for a project under paragraph (1) to an Indian tribe or inter-tribal consortium which meets the following criteria:

"(A) The project will address significant unmet mental health needs among Indians.

"(B) The project will serve a significant number of Indians.

"(C) The project has the potential to deliver services in an efficient and effective manner.

"(D) The tribe or consortium has the administrative and financial capability to administer the project.

"(E) The project will deliver services in a manner consistent with traditional Indian healing and treatment practices.

"(F) The project is coordinated with, and avoids duplication of, existing services.

"(3) For purposes of this subsection, the Secretary shall, in evaluating applications for grants for projects to be operated under any contract entered into with the Service under the Indian Self-Determination Act, use the same criteria that the Secretary uses in evaluating any other application for such a grant.

"(4) The Secretary may only award one grant under this subsection with respect to a service area until the Secretary has awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria specified in paragraph (2).

"(5) Not later than 180 days after the close of the term of the last grant awarded pursuant to this subsection, the Secretary shall submit to the Congress a report evaluating the effectiveness of the innovative community-based projects demonstrated pursuant to this subsection. Such report shall include findings and recommendations, if any, relating to the reorganization of the programs of the Service for delivery of mental health services to Indians.

"(6) There is authorized to be appropriated $2,000,000 for fiscal year 1991 and $3,000,000 for fiscal year 1992 to carry out the purposes of this subsection. Grants made pursuant to this subsection may be expended over a period of three years and no grant may exceed $1,000,000 for the fiscal years involved.".

SEC. 504. HEALTH CARE DELIVERY DEMONSTRATION PROJECTS.

Title III of the Act is amended by adding at the end thereof the following new section 307:

"SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

"(a) HEALTH CARE DELIVERY DEMONSTRATION PROJECTS.—The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services through health facilities to Indians.

"(b) USE OF FUNDS.—The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

"(1) waive any leasing prohibition;

"(2) permit carryover of funds appropriated for the provision of health care services;

"(3) permit the use of non-Service Federal funds and non-Federal funds;

"(4) permit the use of funds or property donated from any source for project purposes; and

"(5) provide for the reversion of donated real or personal property to the donor.

"(c) CRITERIA.—(1) Within 180 days after the date of enactment of this section, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and publish in the Federal Register criteria for the review and approval of applications submitted under this section. The Secretary may enter into a contract or award a grant under this section for projects which meet the following criteria:

"(A) There is a need for a new facility or the reorientation of an existing facility.

"(B) A significant number of Indians, including those with low health status, will be served by the project.

"(C) The project has the potential to address the health needs of Indians in an innovative manner.

"(D) The project has the potential to deliver services in an efficient and effective manner.

"(E) The project is economically viable.

"(F) The Indian tribe or tribal organization has the administrative and financial capability to administer the project.

"(G) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

"(2) The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and to advise the Secretary regarding such applications using the criteria developed pursuant to paragraph (1).

"(3)(A) The Secretary shall enter into contracts or award grants under this section for a demonstration project in each of the following service units which meets the criteria specified in paragraph (1):

"(i) Cass Lake, Minnesota.

"(ii) Clinton, Oklahoma.

"(iii) Harlem, Montana.

"(iv) Mescalero, New Mexico.

"(v) Owyhee, Nevada.

"(vi) Parker, Arizona.

"(vii) Schurz, Nevada.

"(viii) Winnebago, Nebraska.

"(ix) Ft. Yuma, California.

"(B) After entering into contracts or awarding grants in accordance with subparagraph (A), and taking into account contracts entered into and grants awarded under such subparagraph, the Secretary may only enter into one contract or award one grant under this subsection with respect to a service area until the Secretary has entered into contracts or awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria developed under paragraph (1).

"(c) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(d) SERVICE TO INELIGIBLE PERSONS.—The authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in service facilities to non-Service health care practitioners as provided in section 713 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

"(e) EQUITABLE TREATMENT.—For purposes of subsection (c)(1)(A), the Secretary shall, in evaluating facilities operated under any contract entered into with the Service under the Indian Self-Determination Act, use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

"(f) EQUITABLE INTEGRATION OF FACILITIES.—The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service under the Indian Self-Determination Act, are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

"(g) REPORT TO CONGRESS.—Within 90 days after the end of the period set out in subsection (a), the Secretary shall prepare and submit to Congress a report, together with legislative recommendations, on the findings and conclusions derived from the demonstration projects.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for fiscal years 1991 and 1992 for the purpose of carrying out this section, which are authorized to remain available until expended.".

SEC. 505. HEALTH CARE SERVICES FOR URBAN INDIANS.

(a) HEALTH PROMOTION AND DISEASE PREVENTION.—Section 503 of title V (25 U.S.C. 1653) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, health promotion and disease prevention services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section.

"(2) There is authorized to be appropriated $1,000,000 for fiscal year 1992 to carry out this subsection.".

(b) IMMUNIZATION.—Section 503 of title V, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(d)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section.

"(2) In making any grant to carry out this subsection, the Secretary shall take into consideration—

"(A) the size of the urban Indian population to be served;

"(B) the immunization levels of the urban Indian population, particularly the immunization levels of infants, children, and the elderly;

"(C) the utilization by the urban Indians of alternative resources from State and local governments for no-cost or low-cost immunization services to the general population; and

"(D) the capability of the urban Indian organization to carry out services pursuant to this subsection.

"(3) For purposes of this subsection, the term 'immunization services' means services to provide without charge immunizations against vaccine-preventable diseases.

"(4) There are authorized to be appropriated $1,000,000 for fiscal year 1992 to carry out this subsection.".

(c) MENTAL HEALTH SERVICES.—Section 503 of title V, as amended by subsections (a) and (b), is further amended by adding at the end the following new subsection:

"(e)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, mental health services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section.

"(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the mental health needs of the urban Indian population concerned, the mental health services and other related resources available to that population, the barriers to obtaining those services and resources, and the needs that are unmet by such services and resources.

"(3) Grants may be made under this subsection—

"(A) to prepare assessments required under paragraph (2);

"(B) to provide outreach, educational, and referral services to urban Indians regarding the availability of direct mental health services, to educate urban Indians about mental health issues and services, and effect coordination with existing mental health providers in order to improve services to urban Indians;

"(C) to provide outpatient mental health services to urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment; and

"(D) to develop innovative mental health service delivery models which incorporate Indian cultural support systems and resources.

"(4) There is authorized to be appropriated $500,000 for fiscal year 1991 and $2,000,000 for fiscal year 1992 to carry out this subsection.".

(d) PREVENTION AND TREATMENT OF CHILD ABUSE.—Section 503 of title V, as amended by subsections (a), (b), and (c), is further amended by adding at the end the following new subsection:

"(f)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, services for urban Indians through grants to urban Indian organizations administering contracts entered into pursuant to this section to prevent and treat child abuse (including sexual abuse) among urban Indians.

"(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

"(3) Grants may be made under this subsection—

"(A) to prepare assessments required under paragraph (2);

"(B) for the development of prevention, training, and education programs for urban Indian populations, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection; and

"(C) to provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse).

"(4) In making grants to carry out this subsection, the Secretary shall take into consideration—

"(A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

"(B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and

"(C) the assessment required under paragraph (2).

"(5) There is authorized to be appropriated $500,000 for fiscal year 1991 and $2,000,000 for fiscal year 1992 to carry out this subsection.".

SEC. 506. FACILITIES ASSESSMENT.

(a) SURVEY.—The Secretary shall conduct a survey of all facilities used by contractors under title V of the Indian Health Care Improvement Act and shall submit a report to the Congress on such survey not later than one year after the date of enactment of this Act. The report shall, at a minimum, contain the following information for each location:

(1) The extent to which the facility meets safety and building codes and, if direct care is provided, the extent of compliance with Joint Commission for Accreditation of Health Care Organizations (JCAHO) standards.

(2) The extent to which improvements, expansion, or relocation is necessary to meet program requirements, provide adequate services, or achieve building code compliance.

(3) Any lease restriction that would hamper accomplishment of needed improvement, expansion, or relocation.

(4) The term of the lease, if appropriate, the age of the structure, and the structure's life expectancy with and without improvement.

(5) An assessment of the deficiencies of the facility.

(b) REPORT.—The report shall contain general recommendations for addressing the deficiencies of facilities in which programs funded under title V of the Indian Health Care Improvement Act are located and shall propose specific policies for accomplishing those recommendations.

(c) MINOR RENOVATIONS.—Title V, as amended by section 301, is further amended by adding at the end the following new section:

"SEC. 509. FACILITIES RENOVATION.

"The Secretary may make funds available to contractors under this title for minor renovations to facilities, including leased facilities, to assist such contractors in meeting or maintaining the Joint Commission for Accreditation of Health Care Organizations (JCAHO) standards. There is authorized to be appropriated $1,000,000 for fiscal year 1992 to carry out this section.".

SEC. 507. REPORTS.

Section 507 of title V (25 U.S.C. 1657) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary, acting through the Service, shall submit a report to the Congress not later than March 31, 1992, evaluating—

"(A) the health status of urban Indians;

"(B) the services provided to Indians through this title;

"(C) areas of unmet needs in urban areas served under this title; and

"(D) areas of unmet needs in urban areas not served under this title.

"(2) In preparing the report under paragraph (1), the Secretary shall consult with urban Indian health providers and may contract with a national organization representing urban Indian health concerns to conduct any aspect of the report.

"(3) The Secretary and the Secretary of the Interior shall—

"(A) assess the status of the welfare of urban Indian children, including the volume of child protection cases, the prevalence of child sexual abuse, and the extent of urban Indian coordination with tribal authorities with respect to child sexual abuse; and

"(B) submit a report on the assessment required under subparagraph (A), together with recommended legislation to improve Indian child protection in urban Indian populations, to the Congress no later than March 31, 1992.".

SEC. 508. URBAN HEALTH PROGRAMS BRANCH.

Title V is further amended by adding at the end the following new section:

"SEC. 511. URBAN HEALTH PROGRAMS BRANCH.

"(a) ESTABLISHMENT.—There is hereby established within the Service a Branch of Urban Health Programs which shall be responsible for carrying out the provisions of this title.

"(b) STAFF, SERVICES, AND EQUIPMENT.—The Secretary shall appoint such employees to work in the branch, including a program director, and shall provide such services and equipment, as may be necessary for it to carry out its responsibilities. The Secretary shall also analyze the need to provide at least one urban health program analyst for each area office of the Indian Health Service and shall submit his findings to the Congress as a part of the Department's fiscal year 1993 budget request.".

SEC. 509. ALASKA RESIDENTIAL YOUTH TREATMENT CENTER.

(a) AMENDMENT.—Section 4227(b) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2474(b)) is amended by adding at the end thereof the following:

"(3) Notwithstanding any other provision of this subtitle, the Secretary may, from amounts allocated to the Alaska area from funds appropriated pursuant to this section, make funds available to the Tanana Chiefs Conference, Incorporated, for the purpose of maintaining a residential youth treatment facility in Fairbanks, Alaska.".

(b) LEASE OF FACILITIES.—The Secretary of Health and Human Services, acting under sections 4209(c) and 4227(b) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act, may—

(1) without regard to section 4209(c)(2) of that Act, lease from the Tanana Chiefs Conference facilities that are located in Fairbanks, Alaska, and that the Tanana Chiefs Conference has leased from another entity, and

(2) if the Secretary enters into a lease under paragraph (1) for at least 40 years, renovate the facilities to the extent needed.

(c) SELF-DETERMINATION CONTRACTS FOR STAFFING AND OPERATION.—The Secretary of Health and Human Services, acting under section 102 of the Indian Self-Determination and Education Assistance Act, may contract with the Tanana Chiefs Conference to staff and operate the facilities leased under subsection (b), without a request of an Indian tribe, and without regard to the definition and proviso in section 4(l) of that Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, October 25, 1990, at 9:30 a.m. to hold a hearing on the subject: Price and supply of heating fuels and gasoline.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. EXON. Mr. President, I ask unanimous consent that the Subcommittee on Conservation and Forestry of the Senate Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, October 25, 1990 at 2 p.m. to hear testimony on the North Carolina Wilderness Act of 1990 (S. 3200) and the Illinois Wilderness Act of 1990 (S. 2948).

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TREASURY-POSTAL APPROPRIATIONS BILL

● Mr. SASSER. Mr. President, the Senate Budget Committee has examined, H.R. 5241, the Treasury, Postal Service, and General Government appropriations bill and has found that the bill is under its 302(b) budget authority allocation by less than $4 million and under its 302(b) outlay allocation by less than $1 million

I compliment the distinguished manager of the bill, Senator DECONCINI, and the distinguished ranking member of the Treasury Subcommittee, Senator DOMINICI on all of their hard work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Treasury, Postal Service, and General Government appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

The table follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5241—TREASURY-POSTAL SUBCOMMITTEE—SPENDING TOTALS (CONFERENCE)

[Fiscal year 1991 in billions of dollars]

302(b) bill summary	Budget authority	Outlays
H.R. 5241, Conference (new BA and outlays)	20.7	17.3
Enacted to date	0.0	2.6
Adjustment to conform mandatory programs to resolution assumptions	−0.1	−0.1
Scorekeeping adjustments	0.0	0.0
Bill total	20.6	19.8
Senate 302(b) allocation	20.6	19.8
Total Difference	−(*)	−(*)
Domestic discretionary spending	11.5	10.3
Domestic discretionary allocation	11.5	10.3
Domestic discretionary difference	−(*)	−(*)
Mandatory spending	9.2	9.5
Mandatory allocation	9.2	9.5
Mandatory difference	0.0	0.0
Bill total above (+) or below (−):		
President's request	+(*)	−0.1
Senate-passed bill	−0.2	−(*)
House-passed bill	−(*)	+(*)
House 302(b) allocation	−(*)	−(*)
Baseline	1.2	0.1

CUT TAXES ON MIDDLE-INCOME FAMILIES

● Mr. KASTEN. Mr. President, I call to the attention of the Senate an article that appeared in the most recent

issue of Business Week on reducing payroll taxes of working Americans.

Earlier this month, Senator DANIEL P. MOYNIHAN and I brought forward legislation that would have reduced the accumulated Federal tax bias against working families. Our legislation would have cut payroll taxes for two-earner couples up to $1,500 by 1996 and provided an important stimulus to our sluggish economy.

And while our proposal was defeated on a procedural motion, we demonstrated that a clear majority of the U.S. Senate believes that we ought to stop subsidizing the rest of the budget with the Social Security surpluses—and start returning those funds to the workers and small businesses who earned it.

I believe that cutting the payroll tax is the most important step we can take to jump start the economy—and reverse the new tax burdens on working families that will be imposed by the budget summit agreement.

Two years ago, former Congressman Jack Kemp, Republican of New York, and I were the first to propose rolling back payroll taxes on middle-income families. I think it is an idea whose time has come. And it should be our number one legislative priority in the next session of Congress.

I ask that the article be printed in the RECORD.

The article follows:

[From Business Week, Oct. 29, 1990]

THE REAL DEFICIT DEBATE? IT'S ALREADY OVER

(By Howard Gleckman)

Life in Washington follows a few simple rules. One is this: Whenever Congress and the President are faced with a truly big decision, they'll try to duck it. Instead, they will fixate on a matter with great symbolic meaning but no real-world consequences.

Take the tax debate. For a while, it looked as if Democrats and Republicans were going to slug it out over the fundamental issue of who should pay for government. But the politicians are expending most of their energy on a much smaller piece of the fairness debate: the infamous "bubble," an 11th-hour curiosity of the Tax Reform Act of 1986 that imposes a higher marginal rate on the well-off than the truly rich.

Democrats, who have been trying to make fairness an issue for a decade, sense a good thing here. The Republican Party has had great success when the question is to tax or not to tax. But when the issue becomes who pays, the debate is squarely on Democratic turf. So, belatedly, GOP lawmakers have jumped in with their own cries of tax justice for the middle class.

Empty coffers. But when Congress and President Bush had a real opportunity to tackle the question of fairness, they took a powder. Their chance came on Oct. 10, when the Senate belatedly took up a proposal offered by Senator Daniel P. Moynihan (D-N.Y.) to give millions of working Americans a cut in the Social Security payroll tax.

When Moynihan raised it nearly a year ago, the issue was the talk of Washington. His argument is simple: On paper, the Social Security trust fund is piling up surpluses to finance the baby boomers' retirement, beginning in 2010. But it doesn't really work that way. Instead, the government is spending the extra money—about $70 billion this year—to finance its deficit. When the bills come due next century, there will be nothing in the coffers but dusty IOUs.

Moynihan said, let's end the fiction and cut the regressive payroll taxes by $100 billion over five years. A working stiff would get a nice tax break—about $300 a year for someone earning $26,000—and the Democrats would help erase their image as the party that never met a tax it didn't like.

Of course, the deficit would rise unless the revenue was made up with other tax increases or spending cuts. That's just the point. Agree with him or not, Moynihan would have forced Congress and the President to end the phony accounting, face up to the real fiscal deficit, and decide who should be taxed to fund the government's current spending. It was a golden opportunity for Democrats to remake the tax system into one that's fairer to the middle class—and for Republicans to force spending cuts and do their bit for Joe Six-Pack.

The Moynihan plan wasn't perfect. For one thing, it failed to address the potential bankruptcy of the retirement system in the early 21st century. But it wasn't this deficiency that killed Moynihan's proposal. Instead, it died on a technicality. The plan violated budget rules, said a suddenly punctilious Senate, which has waived that law scores of times in the past for far more parochial legislation.

Most Democrats voted with Senator Moynihan. But some, including Majority Leader George J. Mitchell (Me.), tax reformer Bill Bradley (N.J.), and archliberal Edward M. Kennedy (Mass.), voted to block the bill from coming to a vote. Mitchell feared that the proposal's passage would torpedo the delicate budget negotiations. Liberals worried that a big tax cut would lead to new budget reductions for their cherished social programs.

Furrier friends. Still, Democrats didn't abandon the middle class completely. In the House, they decided to exempt furs costing less than $10,000 from a new 10 percent luxury tax. Fur industry lobbyists had argued that the original proposal to tax coats costing more than $5,000 would keep middle-income people out of the mink market.

Most Republicans also opposed Moynihan, although some, including conservatives Robert W. Kasten Jr. (Wis.) and Trent Lott (Miss.), supported the New Yorker. President Bush, who points to Capitol Hill and says, "the buck stops there," quietly worked to kill the Moynihan measure. The GOP will fight to the end for "growth-oriented" tax breaks that benefit mainly the wealthy, but it showed little stomach for a fight on behalf of its newfound middle-class constituents."

Senator Moynihan says he will offer the proposal again next year, but there's no reason to believe it will do any better. After all, when given the choice of addressing a fundamental question or just talking about it, Congress and the President will go for the gab every time.●

LIGHT BUTTER STANDARDS

● Mr. KASTEN. Mr. President, I rise today to address the provisions related to light butter in the Nutrition Labeling and Education Act, H.R. 3562.

I strongly urge the Secretary of Health and Human Services, when directing the Food and Drug Administration to promulgate a standard of identity for light butter, to consider all aspects of the product. In addition to considering the content of fat, calories and other nutrients of butter, the Secretary should also consider whether the product retains the appropriate characteristics of butter—specifically shelf life, and functionality in cooking, frying and baking.

The State of Minnesota has a standard of identity for light butter. It specifies a fat content of 52 percent which is a one-third reduction of fat, calories and cholesterol. It also permits the use of optional safe and suitable ingredients that improve texture, extends shelf life, and assures nutritional equivalency with butter. The States of Wisconsin and New York are also considering this standard.

Products with less than the 52 percent figure lose their ability to act like the 80 percent milkfat butter product and therefore should be precluded from using the nomenclature butter. Rather, these products should be referred to as light or reduced fat dairy spreads.

Mr. President, I introduced legislation to create a 52 percent milkfat standard for light butter earlier this year, S. 2284. This bill was supported by the American Butter Institute, Land O' Lakes, the National Milk Producers Federation, and the Wisconsin Dairy Products Association. I urge the Food and Drug Administration to look closely at my legislation when creating a standard of identity for light butter.●

THE ANTARCTIC PROTECTION ACT OF 1990

● Mr. KERRY. Mr. President, I am pleased that late last night the Senate unanimously passed the House companion measure to a bill I introduced earlier this year, which offers protection to the environment in Antarctica well into the next century. S. 2575 the Antarctica Protection Act of 1990, places a long term moratorium on mineral resource activities in the Antarctic and urges the Secretary of State to negotiate such a long-term prohibition at the upcoming Special Consultative meeting opening in Santiago, Chile, in November.

Mr. President, the Antarctic plays an important and unique role in our global ecosystem. Ninety percent of the earth's ice and 70 percent of the Earth's water are found there. It is an integral part of the Earth's climate system.

The Antarctic supports large populations of marine life from krill and plankton to whales, seals and sea birds. It holds untold answers to the

Earth's evolution and the world's future climate.

Today scientists have just begun to understand the vital role the continent of Antarctica plays in regulating the Earth's temperature. Antarctica provides science with an as yet unsullied vantage point from which to monitor our changing planet. Much of Antarctica remains today as it has for millions of years—barren and bountiful, a massive ice cap encases all but 2 percent of the continent, while the surrounding ocean brims with life.

Development in the Antarctic is a new environmental concern. Many scientists believe that development is likely to cause ice caps to melt, which would not only cause sea levels to rise, but would also reduce the ocean's absorption capacity for carbon dioxide. Currently oceans take up one-third to one-half of the world's carbon dioxide emissions which we know to be one of the main greenhouse gases. This change could add significantly to global climate change.

In recent year, demand for access and use of resources in Antarctica has grown. As uses grow, so has the potential for environmental degradation. Oil spills and water pollution from toxic chemicals, raw sewage and solid wastes have already been reported in this environmentally sensitive area.

Currently the United States and other nations face major policy decisions surrounding the development of the Antarctic. Traditionally, Antarctica has remained peaceful because it has had few things to fight over. However, several countries are now interested in development. Development of oil and minerals, tourism, fisheries, and increased research, all which have lead to the debate of environmental protection versus inappropriate development.

Oil and mineral development first became a concern in the early 1970's, when we faced an oil crisis worldwide. Consequently member nations of the Antarctic Treaty, recognizing the need to address the question of future development, came together to hammer out new rules governing oil and mineral exploration. This resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities known as CRAMRA. CRAMRA was agreed upon by the 20 treaty nations in 1988. The purpose of the agreement was to protect Antarctica from the dangerous environmental effects of oil and mineral development. However, the international agreement instead of protecting the Antarctic from mineral resource development, established a framework under which mining and drilling could take place in the most unspoiled environment on earth.

In my view, Mr. President, the agreement falls far short of its goal. Some have called the agreement a "road map to development." France and Australia have already withdrawn their support from the agreement, and several other nations such as New Zealand and Italy are currently considering doing so soon. The United States Government would be wise to follow suit, particularly since the United States Senate recently passed a resolution introduced by Senator GORE, which urges the President to put aside the existing CRAMRA and negotiate a new comprehensive protective agreement. Under the Antarctic Treaty system, all agreements must be unanimous.

The purpose of my legislation is to ensure that mineral resource activities do not occur in the Antarctic. Last month the Senate Foreign Relations Committee unanimously passed the bill I introduced which established a permanent prohibition on all mineral resource activities in Antarctica. Let me reiterate—unanimously passed the bill with a permanent ban. Mr. President, the House Foreign Affairs Committee took similar action a few weeks ago on a bill introduced by my colleague from Massachusetts, Representative SILVIO CONTE. And both committees took this action despite strong opposition from the Bush administration. The vote could not be more clear—the congressional committees responsible for foreign policy issues unanimously voted for a permanent ban on mineral resource activities in Antarctica.

However, the State Department, speaking on behalf of the President, threatened a veto of the legislation which overwhelmingly passed the Senate Foreign Relations Committee—exhibiting what I consider to be an unfortunate view toward the fragility of Antarctica. Parenthetically, I might add the Foreign Relations Committee has the authority to approve all international treaties.

The State Department, working on behalf of the President, exhorted us not to tie their hands in Chile next month. We were told that the administration wanted to leave their options open for the future in Antarctica and for potential technological breakthroughs in oil and gas development. Well, Mr. President, I have witnessed why this administration enjoys leaving options open in the future when it comes to mineral resource activities. Let's look at the facts. The administration continues to exercise the option to open the Arctic National Wildlife Refuge in Alaska for oil development; and for many years President Reagan has opted to recommend drilling for oil and gas on Georges Bank, Massachusetts' prime fishing grounds and whale watching area; and, in the most recent budget proposal, the President opted to offer tax incentives to the oil industry for new oil and gas exploration and development. It is fairly obvious what the administration means by keeping their "options" open when it comes to Antarctica.

My aim, Mr. President, has been to work for the most protective legislative initiative I could in order to set a tone of Antarctic protection at the upcoming meeting in Chile. Working for weeks, finally, we have developed legislation which, although it does not require a permanent ban, does insist upon a long-term moratorium on mineral resource activities. Speaking as the framer of this new initiative, my message could not be more clear. America's negotiators must develop a comprehensive approach toward the protection of Antarctica and must lead the consultative treaty participants in establishing a minimal long-term moratorium on mineral activities of at least 100 years.

The pressures of the situation in the Persian Gulf adds significantly to the quest to find more oil and gas worldwide. Shortsighted fixes such as opening up Antarctica for prospecting of mineral resources does not offer meaningful long-term solutions. And this legislation is designed to prevent such myopic thinking.

This legislation will provide the needed protection for Antarctica. It provides an indefinite ban, expected to be at least 100 years or more, on all mineral exploration and development in Antarctica by U.S. entities, and it directs the Secretary of State to urge other nations to take the same position. It also recommends that the Secretary of State ask other nations to adopt an international accord which grants Antarctica special status as an international wilderness park, dedicated to science designed to provide wilderness protection through international cooperation and scientific research.

Mr. President, in April, Senator GORE and I and other Senators hosted an interparliamentary conference on the environment. Over 150 parliamentarians representing 36 nations attended. I chaired the water resource committee in which we discussed the future of the Antarctic. Capt. Jacque Cousteau, who has dedicated significant time and effort to preserving the Antarctic, helped lead the discussion in our working group. We all agreed that in order to protect the Antarctic, we must first extend the current moratorium on exploration and exploitation of mineral and energy resources until we are able to negotiate an ongoing prohibition in mineral mining activities among the Antarctica Treaty nations. We also agreed that we must grant Antarctica special protective status as a land of science treaty reserve, and international wilderness area.

In closing, Mr. President, I want to thank the Alliance for Antarctica which is made up of 13 groups inter-

ested in preserving and protecting Antarctica's future for generations to come. They have worked hard on this legislative initiative, and others which will provide environmental protection for this unique area.

I want to thank my colleagues for supporting this legislation, which will send the right message worldwide, that the Antarctic is a unique environmental resource of global significance, and it must be protected from harmful development. For the Antarctic, the future is now, and we have the ability and the responsibility to guarantee that it will be a future in which its currently unblemished environment is preserved. I am delighted that the Senate has voted unanimously to preserve the purity of the unique Antarctic environment for the foreseeable future.●

ELECTRIC VEHICLE TECHNOLOGY DEVELOPMENT AND DEMONSTRATION ACT OF 1990

● Mr. ROCKEFELLER. Mr. President, I am very glad that the Senate is considering my bill to establish a new program to promote electric vehicles. My amendment setting up this program was approved by the Energy Committee earlier this year as part of other legislation.

I have long advocated a vigorous program to develop alternative fuel vehicles to help reduce our dependence on imported oil, clean up our air, and help our economy. This is why I authored the Alternative Motor Fuels Act of 1988, which provides incentives for production of motor vehicles that can run on such fuels as methanol, ethanol, and natural gas.

In the last few months, we have had a dramatic demonstration of the mortal threat of energy dependence to our national security. The need for action to reduce our energy dependence is more obvious and urgent than ever. The enormous gasoline appetite of our transportation sector is one of the main causes of our dependence. Electric vehicles and other alternative fuel vehicles must be a key element in any serious strategy to regain our energy independence.

This program builds on and complements other Federal research on electric vehicle technology, but the new departure here is to focus on getting electric vehicles on the road. The legislation contemplates selection of manufacturers on a competitive basis to participate in a demonstration program. Incentives are designed to drive down the cost of electric vehicles to be cost competitive with conventional vehicles. However, the program is one of cost sharing with the private sector. Limited government support will go hand in hand with commitment from manufacturers and consumers so that the program will be oriented toward the realities of the marketplace.

The program will provide the on-the-road experience with electric vehicles that is needed to lower costs and familiarize consumers with the technology. In this way, we can overcome the impediments to wider use of electric vehicles. With a jump start from this program, the goal is to reap the great potential of electric vehicles—reduced dependence on imported oil, increased domestic economic development, and superclean vehicles to help clean up our air.

Finally, I would like to commend Congressman GEORGE BROWN, who has authored similar legislation in the House and who has provided superb leadership on this as on so many other issues. I also commend Senator MCCLURE, Senator WIRTH, and the many others of my Senate colleagues who have helped lead the way on this important legislation.●

SECURITIES ACTS AMENDMENTS OF 1990—CONFERENCE REPORT

Mr. EXON. Madam President, I submit a report of the committee of conference on H.R. 1396 and ask for its immediate consideration.

The PRESIDING OFFICER (Ms. MIKULSKI). The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1396) to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 23, 1990.)

Mr. DODD. Madam President, I rise in support of the conference report on H.R. 1396, the Securities Acts Amendments of 1990. This legislation addresses the funding needs of the Securities and Exchange Commission by authorizing appropriations in the amount of $178 million for fiscal year 1990 and $212.6 million for fiscal year 1991. In addition, the legislation gives the SEC greater authority to coordinate international enforcement efforts to combat securities fraud. The legislation also improves the flow of information to mutual fund shareholders by closing a gap in the Shareholder Communications Act. Finally, the legislation updates and improves the Trust Indenture Act, which regulates the issuance of debt securities and the protection of bondholders.

As I said when the legislation passed the Senate last year, this is not a high profile bill. This is not the kind of legislation on which we receive hundreds of letters. It simply represents good government. It passed the Banking Committee without opposition last September, and it passed the Senate by unanimous consent November 16 of last year. The House acted on the bill earlier this month. Conferees have spent the time since then working out differences.

The legislation is based in large part on three bills I introduced with the ranking minority member of the Securities Subcommittee, Senator HEINZ, at the beginning of this Congress: S. 646, the International Securities Enforcement Cooperation Act; S. 649, the Shareholder Communications Improvement Act; and S. 651, the Trust Indenture Reform Act.

The provisions of the act related to international securities enforcement are especially necessary in this era of global securities trading. Time and again, the SEC has been forced to pursue insider trading and other illegal activity beyond the U.S. borders. Foreign secrecy and other blocking laws have made the SEC's task extremely difficult.

Protections for American investors will have little meaning, if fraud can be committed with impunity through offshore transactions. SEC Chairman Breeden and his predecessors, John Shad and David Ruder, have worked diligently to remedy this problem, and they effectively have pursued agreements with other governments to share information and assist in cross-border securities enforcement investigations. This legislation contains important measures to facilitate those international cooperative efforts.

The legislation also amends the Shareholder Communications Act and closes a gap in the law, in order to improve the flow of information to mutual fund shareholders. There are now about 30 million mutual fund shareholders, according to the SEC, and about 10 percent of those shareholders leave their stock at a bank or broker-dealer in nominee name. This legislation will ensure that all of these shareholders have the benefit of SEC requirements that proxy and other material be sent directly to them.

The legislation contains a comprehensive revision of the Trust Indenture Act of 1939, in order to modernize the statute and make it more workable under current market conditions and industry practice. It contains important protections for bondholders by ensuring that bondholders receive the protection of the statute, regardless of the language of the trust indenture document. It eliminates useless boiler-

plate, and it should reduce costs for issuers and reduce demands on the SEC as well.

Finally, the legislation authorizes appropriations for the SEC in the amounts of $178 million for 1990 and $212.6 million for 1991. These amounts permit modest increases in the SEC staff assigned to enforcement, market regulation, the supervision of investment companies, and the review of disclosure documents. The SEC is a small, but effective, agency, with critical responsibility for the integrity of the capital formation process in this country. The funding the legislation provides for this important agency is a small price to pay for strong, fair securities markets in which investors can place their savings with confidence.

Madam President, the conference committee dropped a provision contained in the Senate bill that I believed, and continue to believe, is essential to the continued effectiveness of the SEC. The provision would have given the SEC authority to set the compensation of its own employees similar to the authority Congress gave other financial regulators under the Financial Institutions Reform, Recovery and Enforcement Act.

The SEC has one of the highest turnover rates in Government. Half of its attorneys leave after 3 years. The salaries of first year SEC lawyers are 40 percent of those paid to first year associates at premier law firms. And, now that other financial regulators are authorized to set their own pay scales, the SEC stands to lose high quality staff not only to the private sector, but to the other financial regulators as well.

Salaries of supervisory attorneys and senior officials at Federal banking agencies, including the Federal Reserve and the National Credit Union Association, may exceed the amounts paid to SEC employees in similar positions by almost 70 percent. It is not surprising that, after the Federal Reserve instituted pay reforms during the past year, its turnover rate has dropped to only 3 percent, while the turnover rate at the SEC is more than 14 percent. Based on the historical turnover rate at the SEC, it is expected that by 1995 there will be an 85 percent turnover of all staff at the SEC, and a 90 percent turnover for its attorneys.

The legislation passed by the Senate would have given the SEC authority to establish the compensation of its staff and would have directed the SEC to seek to maintain comparability with the Federal bank regulatory agencies. Unfortunately, House conferees rejected the provision, noting that, while the Federal banking regulators are self-funded, the SEC is funded through appropriations.

In my view, this is a difference without a distinction. Notwithstanding the different structure used to fund the SEC, the SEC is more than self-funded. Year after year, the fees paid to the SEC for the filing of registration statements and other corporate disclosure documents, as well as fees paid for transactions on the securities exchanges and NASDAQ, more than pay the cost of running the agency. In 1989, fee revenue totaled $214 million—50 percent more than the $143 million appropriated for the agency. The SEC projects fees of $235 million for 1990 and $250 million for 1991. Year after year, the SEC generates for the Government millions of dollars in excess fees over its appropriations.

In addition, SEC enforcement cases yielded hundreds of millions of dollars in civil and criminal fines, which are paid into the U.S. Treasury, as well as hundreds of millions of dollars in disgorgement of wrongful gains, which are distributed to investors.

I intend to return to the issue of SEC funding and compensation authority next year. This agency is simply too important to risk losing its best, most hard-working officials to other agencies and to the private sector. We must ensure that salaries are comparable to the other financial regulators and that, overall, the agency receives the funding it needs to be an effective watchdog over the Nation's securities markets.

Finally, let me note two other provisions dropped from the Senate bill in conference. One was an amendment to the Public Utility Holding Company Act by Senators FORD and MCCONNELL to address an issue in the State of Kentucky; another was an amendment to PUHCA by Senators LEAHY and JEFFORDS to address an issue in the State of Vermont.

These Senators worked diligently with the SEC, with consumer groups and with other Senators in order to address concerns raised by their proposals. They significantly modified each proposal, and they succeeded in developing measures that passed the Senate by unanimous consent last November. However, House conferees were unwilling to accept the measures, and we were forced to drop them from the final conference report. There simply was not enough time to work with the House in developing amendments acceptable to House conferees.

I believe PUHCA serves a highly useful purpose, but the statute presents problems in certain areas where its specific language may not be up to date with the current environment. I deeply appreciate the forbearance of my colleagues, Senators FORD, MCCONNELL, LEAHY, and JEFFORDS, who, when it became clear the House would not accept the provisions added by their amendments, agreed to permit adoption of the conference report without the amendments they worked so hard to develop. If we can find a way to address these issues in the next Congress, I would like to do so.

At this time, I would like to thank a number of individuals for their hard work on this legislation. Senator HEINZ, who is the ranking minority member of the Securities Subcommittee and a cosponsor of the legislation, worked diligently in the hearings and in the markup of the bill. Passage of this measure means that the Securities Subcommittee essentially has cleaned house for the year. When the President signs this legislation, all of the measures Senator HEINZ and I introduced in March 1989 will have become law. I have been extremely fortunate in having such a hard-working partner in JOHN HEINZ, without whom our legislative success would not have been possible.

Let me also thank the chairman of the Banking Committee, Senator RIEGLE, who has been extremely supportive and involved in all of the securities legislation developed by the subcommittee during this Congress. I would note that he chaired the Securities Subcommittee in the last Congress, and he has been a strong advocate for a well-funded and effective SEC.

Finally, let me thank our House colleagues, Chairman DINGELL of the Energy and Commerce Committee and Chairman MARKEY of the Subcommittee on Telecommunications and Finance, for all of their work on securities legislation during the past Congress. And let me thank Chairman FORD of the Post Office and Civil Service Committee for his work in the conference. Although I was not able to persuade him to support my position on SEC pay authority, he gave it a great deal of thought, and I appreciate the time he spent working with me and others.

Mr. RIEGLE. Madam President, I am especially pleased to speak in favor of the securities acts amendments. At the beginning of this Congress, I stated that high on my agenda for the Senate Banking Committee this year was the passage of critical securities legislation. Last week, the President signed into the law the Market Reform Act and the Securities Law Enforcement Remedies Act and Penny Stock Reform Act. We finish this year's securities agenda with the legislation before us today, the securities acts amendments.

The securities acts amendments has four titles—each of which was originally a separate bill. The first title provides authorization for appropriation for the Securities and Exchange Commission. The SEC, which has played a central role in protecting the integrity of the Nation's securities markets, has seen the number and magnitude of the tasks faced by it

grow dramatically without a commensurate increase in resources.

The authorization given the SEC in this bill is intended to provide the SEC with the resources needed to regulate the Nation's securities markets. Without these resources, the SEC's enforcement staff will be unable to maintain its current pace of enforcement actions while it, at the same time, devotes resources sufficient to its recent crackdown on penny stock fraud and manipulation.

The Senate version of this bill granted the SEC authority to fix the compensation of SEC employees, without regard to the provisions of title 5 of the United States Code, which governs the classification and pay rates of Government employees. The Federal banking, thrift, and credit union regulators currently have this authority.

I am disappointed that the final legislation does not contain this important provision. I believe that restriction on salary at the SEC have adversely affected the agency's ability to recruit and retain staff in critical professional areas. In order to effectively regulate the securities markets, the SEC requires the skills of attorneys, accountants, compliance examiners, and computer specialists. Lifting Federal paycaps would enable the SEC to compete for these professionals against both the private sector and the other Federal financial regulators that are not subject to these pay restrictions.

While we were unable to remove the paycaps from the SEC in this legislation, I will continue to work to see that these pay restrictions are eliminated. Further, I believe that the SEC, which is a "profit center" for the Government, should be "self-funded" like the Federal banking agencies. I refer to the SEC as a profit center because it produces substantial net revenue through registration, transactional, and other filing fees that it collects and deposits in the U.S. Treasury. Since 1983, the fees generated by the SEC have exceeded its annual appropriation—and we expect this trend to continue.

Making the SEC a self-funded agency, or at a minimum, removing the Federal paycap restrictions from the SEC, will allow the SEC to effectively compete for the best talent available. We will work toward this goal in the next Congress.

Title II of the securities acts amendments contains the International Securities Enforcement Cooperation Act which addresses the problem of international securities fraud by giving the SEC additional authority to improve coordination of international enforcement efforts.

The Shareholder Communications Improvement Act, title III of this legislation, would extend to investment company security holders the benefits of shareholder communications rules. This bill closes gaps in current law with respect to providing information to such shareholders.

Title IV of the bill contains the Trust Indenture Reform Act. In the 50 years since its enactment, the Trust Indenture Act has not been amended in any important respect. During the same period, the public market for debt securities has undergone significant changes. This legislation streamlines and modernizes the law applicable to the public issuance of debt securities.

I want to commend Senator DODD, chairman of the Securities Subcommittee, and Senator HEINZ, ranking Republican on that subcommittee, for their excellent work on the securities acts amendments, and the other securities bills passed this Congress.

I also want to take this opportunity to thank the staff, both Democratic and Republican, that have worked so hard to improve the securities laws. Specifically, I want to compliment Marti Cochran, staff director of the Securities Subcommittee, Michael Stein, financial policy analyst, and Brad Belt, Republican counsel on that subcommittee, who have done such an outstanding job this Congress. In addition, I want to thank Sharon Heaton for her superb contribution, as well as Ira Paull, both who have worked tirelessly and effectively and who were instrumental in efforts relating to this year's securities legislation. Pat Lawler, chief economist on the Banking Committee, has also played an essential and valuable role in this year's securities legislation. I thank all these staff members and say that I appreciate their fine work.

Mr. GARN. Madam President, I rise today in support of passage of the Securities Acts Amendments of 1990. This important package of securities legislation is comprised of authorization for the Securities and Exchange Commission [SEC] for the fiscal years 1991 and 1992, the International Securities Enforcement Cooperation Act of 1990, the Trust Indenture Reform Act of 1990, amendments to the Shareholder Communications Act, and new authority for the SEC to lease its own office space. These measures were first passed as a package (S. 1712) by the Senate a year ago, and were recently acted on by the House.

I will not dwell upon the substantive merits of each of these separate measures. The committee report accompanying this legislation and the floor statements made during Senate passage provide compelling evidence of the need for each of these bills. If anything, the passage of time since the Senate last considered S. 1712 has further bolstered the necessity of enacting this legislation. For example, within the past 2 weeks Congress has given the SEC additional enforcement and market oversight responsibilities which serve to substantially increase its need for adequate budgetary resources. In addition, in the international arena, the SEC has been able to negotiate additional memoranda of understanding with foreign securities authorities which are dependent upon the provisions of the International Securities Enforcement Cooperation Act.

I would also comment upon an authority which is not in this bill, but unfortunately was required to be dropped in conference at the insistence of the House conferees. The Senate passed version of this legislation had empowered the SEC to set the salaries of its own employees. They would no longer have been subject to civil service pay caps. This was done to put the SEC on par with the other financial service regulators, which were exempted in FIRREA from civil service pay caps. The wisdom of the Senate's approach has been born out. The other financial regulators offer significantly higher salaries for comparable positions across the board. For example, the general counsel or an associate director position at the FDIC pays over $140,000 per year, while the same positions at the SEC pay only $83,000. Not surprisingly, the SEC now has the highest turnover rate of any of the financial regulators. We can ill afford to have the agency responsible for overseeing our Nation's capital markets losing its best and brightest not only to the private sector but also to other agencies of Government. I hope that we can address this imbalance at the earliest opportunity in the next Congress.

In the interim, I would note that we have authorized the SEC to lease its own office space and exempted the agency from rigid GSA space restrictions. The SEC has estimated that this provision could save the Federal Government nearly a million dollars a year. In any event, I expect that the SEC will use this authority to provide physical working facilities and conditions for its employees commensurate with the private sector and other financial regulators.

Madam President, our action on these bills follows on the heals of recent passage of the Market Reform Act of 1990, the Securities Law Enforcement Remedies Act of 1990, and the Penny Stock Reform Act of 1990. In the aggregate these measures, along with those we are acting upon today, represent the most sweeping and significant revisions to the Federal securities laws in at least the past decade. They are important steps in enhancing investor protection and the fair and efficient functioning of our Nation's securities markets. Equally important, they reflect a recognition of the importance of maintaining the

competitive position of our financial markets and institutions in the global marketplace.

Senators DODD and HEINZ, as the chairman and ranking member of the securities subcommittee, are to be congratulated and commended for their sponsorship and strong leadership in securing passage of legislation that will help to ensure that our Nation's securities markets remain a vital national resource. They and their staffs have worked closely together and form a formidable team. I would also commend the chairman of the Banking Committee, Senator RIEGLE, for his staunch support of these legislative initiatives. Prior to his assuming the chairmanship of the full committee, Senator RIEGLE was the chairman of the Securities Subcommittee and I know that he has taken a strong personal interest in these issues.

As the 101st Congress draws to a close, Mr. President, I also think it is appropriate to note the contributions of the staff in shepherding these important bills through the legislative process. Their diligent efforts and professional guidance have been invaluable to the committee and the members. In particular, Ray Natter, the minority general counsel, Marti Cochran and Brad Belt, majority and minority counsels to the Securities Subcommittee, and Ira Paull, Michael Stein, Sharon Heaton, Pat Lawler of the Banking Committee Staff have each contributed enormously to ensuring passage of this legislation. They are the ones who put together our hearings, obtained witnesses, made sure all sides were heard and all issues ventilated, negotiated with interested parties, and assured that the legislative product was technically correct. The Banking Committee had a full agenda during the 101st Congress, not the least of which was addressing the problems in the S&L industry, and to nonetheless pass securities legislation of this quantity and quality is a testament to each of these individuals' ability and perserverance.

I would also like to thank the Chairman of the SEC, Richard Breeden, and his very able and talented staff for their invaluable contributions and initiative with respect to each of the securities bills we have passed in this Congress. Even with respect to legislation initially by the Commission, Chairman Breeden and his staff demonstrated a willingness to work with committee staff and revise the legislation to accommodate the concerns of members and other interested parties. The SEC has long enjoyed a good working relationship with this committee and I certainly hope that will continue to be true in the future.

Mr. HEINZ. Madam President, it is my pleasure to join Senator DODD, the chairman of the Securities Subcommittee, in support of the conference report on the Securities Acts Amendments of 1990. This legislation marks the successful completion of the Securities Subcommittee's legislative agenda in the 101st Congress.

This legislation not only contains the budget authorization of the Securities and Exchange Commission for fiscal years 1990 and 1991, but also three important measures introduced by Senator DODD and I at the start of this Congress, specifically the Securities Acts Amendments of 1990 include:

The International Securities Enforcement Cooperation Act (S. 646);

The Shareholder Communications Act (S. 649); and

The Trust Indenture Reform Act (S. 651).

The International Securities Enforcement Cooperation Act enhances the ability of the SEC to solidify relationships with other securities agencies around the world. During the 1980's, the SEC has forged strong alliances with their counterparts responsible for policing international securities markets. This legislation will foster greater cooperation among nations by facilitating the exchange of confidential information needed to combat international securities fraud. It will also enable the SEC to protect our markets by keeping those who violated the securities laws of other nations from plying their illegal trade in the United States.

The Shareholders Communications Act Completes the pipeline first constructed in 1985 to facilitate communications between corporations and their owners. Under these provisions, investors in mutual funds will be assured access to reports, proxy materials and other disclosures required under the Federal securities laws. Individual investors are increasing their participation in the securities markets through mutual fund investments. These provisions help to closely link public companies with individual investors who are so important to our securities markets.

The Trust Indenture Reform Act modernizes The Trust Indenture Act of 1939 to reflect the many changes over the past 50 years in the way debt securities are issued to the public. These measures not only streamline disclosures but also enhance the protections of those who invest in corporate debt securities.

Madam President, in contrast to the Market Reform Act and the Securities Enforcement Remedies and Penny Stock Reform Act, both of which were recently signed by the President, the securities acts amendments do not attract a great deal of public attention. Yet, they are important measures needed to ensure that our Federal securities laws keep pace with rapidly changing markets.

The Securities Subcommittee, under the leadership of Senator DODD, with the strong support of Senator RIEGLE, the chairman of the banking committee, and Senator GARN, the ranking member, has worked diligently throughout this Congress to adopt legislation to help assure that our securities markets remain the strongest, safest, and most efficient in the world. As the ranking member of the Securities Subcommittee, it was my privilege to work with them and my colleagues on the Securities Subcommittee to achieve a strong record of success.

The PRESIDING OFFICER. Is the Senator requesting that the conference report be agreed to?

Mr. EXON. I urge that the conference report be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. EXON. Madam President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMEMORATING THE 50TH ANNIVERSARY OF THE ALASKA HIGHWAY

Mr. GARN. Madam President, for Mr. STEVENS, Mr. MURKOWSKI, Mr. LUGAR, Mr. BURNS, Mr. ADAMS, Mr. HOLLINGS, Mr. COCHRAN, Mr. INOUYE, Mr. AKAKA, Mr. MCCLURE, Mr. GORTON, Mr. BOSCHWITZ, Mr. JEFFORDS, Mr. KASTEN, Mr. DURENBERGER, Mr. SHELBY, Mr. JOHNSTON, Mr. WARNER, Mr. D'AMATO, Mr. BAUCUS, Mr. REID, Mr. BOND, Mr. SYMMS, Mr. BYRD, Mr. CHAFEE, Mr. DOMENICI, Mr. DOLE, Mr. MACK, Mr. HATCH, Mr. WILSON, Mr. THURMOND, Mr. HELMS, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. ROBB, Mr. DODD, Mr. DIXON, Mr. COATS, Mr. WALLOP, Mr. ROTH, Mr. NUNN, Mr. LAUTENBERG, Mr. HEFLIN, Mr. RIEGLE, Mr. ARMSTRONG, Mr. GRAHAM, Mr. COHEN, Mr. DANFORTH, Mr. LOTT, Mr. MCCAIN, Mr. SANFORD, Mr. MCCONNELL, Mr. GLENN, and Mr. GORE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 343) expressing the Sense of the Senate regarding the 50th anniversary of the Alaska Highway in 1992, entitled "Rendezvous 92."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Madam President, I come before the Senate today to ask consideration of a very important resolution. Across the State of Alaska,

preparations are underway to commemorate the 50th anniversary of the Alaska Highway in 1992. This celebration, entitled "Rendezvous 92," promises to be a major tourist event for the State of Alaska, and an important event for the Nation.

In April 1941, the War Department of the United States of America rejected the idea of constructing a highway to Alaska on the grounds that it had no military value. With the bombing of Pearl Harbor in December 1941, the situation facing our Nation was greatly different.

After 8 long months, under difficult and treacherous conditions, the Alaska-Canada Military Highway, stretching over 1,500 miles, was complete. The sacrifices of the brave men and women of the Corps of Engineers who built this passageway should not go unrecognized. Some lost their lives.

The Alcan provided an invaluable land route for moving wartime equipment and a communications network which enabled the United States to end the Japanese occupation of the Alaskan Islands of Attu and Kiska. The battle in the Aleutians during World War II was an important one and the role of the Alcan in the United States' success is undisputed.

After the war ended the Alcan was critical to the settling of Alaska and the battle for statehood. Many people travel this highway annually—some travel this historical route to our northermost State as visitors, others as future residents. Whatever the reason, the Alaska Highway continues to play a critical role in our future and I encourage my colleagues in the Senate to work with Alaska to maintain this road in a condition that encourages Americans to travel this historical route north to the last frontier.

The PRESIDING OFFICER. Without objection, the resolution and its preamble are agreed to.

The resolution (S. Res. 343), with its preamble, is as follows:

S. RES. 343

Whereas, the Alaska Highway is the first and only landlink to Alaska—a state one-fifth the size of the United States; and

Whereas, in April of 1941, the War Department of the United States rejected the idea of constructing a highway to Alaska as having no military value; and

Whereas, only six months later, in December of 1941, the Japanese bombed Pearl Harbor and the War Department's decision was reversed; and

Whereas, the building of this important roadway is the culmination of a historic bilateral agreement between Canada and the United States; and

Whereas, the Corps Engineers built this 1,520 mile highway in eight months; and

Whereas, the sacrifices of the men and women who built the Alaska Highway should not go unrecognized; and

Whereas, many labored under harsh conditions and some lost their lives; and

Whereas, this passage, then named the Alaska-Canada Military Highway or ALCAN, played a critical role during WWII in providing a communications network, moving wartime equipment and providing an alternative route to the existing hazardous maritime shipping; and

Whereas, the Japanese occupied the American islands of Attu and Kiska; and

Whereas, the troops which mobilized across this route played a significant role in driving the Japanese from American soil; and

Whereas, the ALCAN played a major role in the defense of our nation that should be remembered; and

Whereas, after WWII ended this highway played a critical role for civilian purposes; and

Whereas, the Alaska Highway provided the long awaited means of transportation to thousands of new residents of the Territory of Alaska; and

Whereas, the ALCAN was the dominant form of transportation for food and building materials and aided in the populating of Alaska; and

Whereas, the Alaska Highway aided Alaska in its efforts toward statehood; and

Whereas, the Alaska Highway is important to the tourism and future development of Alaska; and

Whereas, over 100,000 people drive this highway annually: Now, therefore, be it

Resolved, That the United States Senate recognizes the important part of the Alaska Highway played in the defense of our nation and the settling of the beautiful State of Alaska, and recognizes its place in the present and the ever important role this highway will inevitably play in our future. The historical significance of this passageway into our westernmost state must not go unrecognized. Furthermore, this highway should be maintained in a condition that encourages people throughout the nation to travel this historic route north to the future where they will experience the wonder and majesty of the last frontier.

Mr. GARN. Madam President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REFUGEE DAY AND HIGH SCHOOL RESERVE OFFICER TRAINING CORPS RECOGNITION DAY

Mr. EXON. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 375, to designate October 30, 1990, as "National Refugee Day," and Senate Joint Resolution 384, to designate May 17, 1991, as "High School Reserve Officer Training Recognition Day," and that the Senate proceed to their consideration en bloc; that the joint resolutions be deemed read for the third time, passed, that the motion to reconsider be laid on the table and that the preambles, where indicated, be deemed agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolutions were passed, as follows:

S.J. RES. 375

Whereas in the past decade the world refugee population has more than doubled from 7,300,000 to 15,000,000;

Whereas the United States has always played a leading role in refugee matters worldwide;

Whereas the origins of the United States as a land of refugee for those escaping persecution and the development of the United States as a nation of immigrants gives the country a deep understanding of and sympathy for the plight of the 15,000,000 refugees in the world;

Whereas refugees who have come to the United States have made significant contributions to the country;

Whereas the United States consistently encourages other countries to expand effort to help the needy population of refugees;

Whereas the current world refugee situation requires that the United States continue to be a leader in refugee affairs: Now, therefore, be it

Resolved by the Senate and House of Representatives, of the United States of America in Congress assembled, That—

(1) October 30, 1990, is designated as "Refugee Day"; and

(2) The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

S.J. RES. 384

Whereas in 1916 the Congress authorized the establishment of high school divisions of the Reserve Officer Training Corps;

Whereas hundreds of high schools across the United States, and United States operated high schools abroad, offer High School Reserve Officer Training Corps programs of the various military services;

Whereas High School Reserve Officer Training Corps programs have provided a valuable and unique learning opportunity for hundreds of thousands of high school students for almost four generations;

Whereas the programs of instruction for High School Reserve Officer Training Corps units concentrate on the development of desirable traits in its participants, including good citizenship, leadership, teamwork, individual initiative, and pride and respect for the United States, its flag, laws, and Constitution;

Whereas the School Reserve Officer Training Corps programs, being highly successful in developing desirable traits in its participants, have made a valuable contribution to the United States and to the education of the youth of our Nation;

Whereas it is appropriate to acknowledge and honor the contribution of the High School Reserve Officer Training Corps, and its cadets and instructors, both past and present; and

Whereas May 17, 1991, marks the seventy-fifth anniversary of the authorization of the High School Reserve Officer Training Corps: Now, therefore, be it

Resolved by the Senate and House of Representatives, of the United States of America in Congress assembled, That May 17, 1991, is hereby designated as "High School Reserve Officer Training Corps Recognition Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

HIGH SCHOOL RESERVE OFFICER TRAINING CORPS RECOGNITION DAY

Mr. DOMENICI. Madam President, I rise tonight in support of Senate Joint Resolution 384 designating May 17, 1991, as "High School Reserve Officer Training Corps Recognition Day." The high school division of the Reserve Officer Training Corps was first established when President Woodrow Wilson signed the National Defense Act on June 3, 1916.

In commemorating the 75th anniversary of this program, commonly referred to as the Junior Reserve Officer Training Corps [JROTC], we acknowledge that it has grown to approximately 1,500 units, involving over 250,000 young cadets.

Not only are these units located across the United States, but also in Department of Defense schools in the Caribbean, the Pacific, Asia, and in Europe.

The JROTC Program offers hundreds of thousands of young men and women a valuable learning experience. Young high school students are given the opportunity to participate in vocational or academic JROTC programs while earning credit toward graduation.

The program enables those involved to serve their schools and communities, while learning the importance of leadership, teamwork, academic excellence, physical fitness, and self confidence. In my own State of New Mexico, there is 18 JROTC programs. Many communities that do not already have established units have expressed interest in incorporating the JROTC Program into their local high school curriculum.

New Mexico certainly recognizes the value of this program to the educational system as a whole. One of the most detailed studies on the benefits of the JROTC Program was conducted by the public school system in Albuquerque.

The results were not surprising. JROTC cadets were found to have higher graduation rates and fewer disciplinary problems. The study also concluded that the family type atmosphere of the JROTC provides individualized attention, tutoring and counseling, while the awards and promotion systems help encourage academic progress.

Madam President, the JROTC Program opens many doors for American's young citizens. Nearly a quarter million dedicated high school students are at the heart of the program's success. Their hard work and achievements, as well as those of their instructors and past participants, deserve our full support and recognition. I ask my colleagues in the Senate to support the final passage of this worthwhile legislation.

CORRECTING THE ENROLLMENT OF S. 2834

Mr. EXON. Madam President, on behalf of Senator BOREN, I send to the desk a concurrent resolution and ask for its immediate consideration, that the concurrent resolution be agreed to, and that the motion to reconsider be laid upon the table, and that any explanatory statement by Senator BOREN be placed in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 156) was agreed to as follows:

S. CON. RES. 156

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 2834) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities for the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, the Secretary of the Senate shall make the following correcions:

(1) In section 17(b) of the National Security Agency Act of 1959, as proporsed to be added by section 503, strike out "Appropriations Committees" and insert in lieu thereof "Committees on Appropriations".

(2) In section 504(a), strike out "(1) by inserting" and all that follows through "SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES" and insert in lieu thereof the following:

(1) by inserting after the chapter heading the following:

"Subchapter	Sec.
"I. General Matters	421
II. Intelligence Commercial Activities	431

"SUBCHAPTER I—GENERAL MATTERS";

and

(2) by adding at the end the following:

"SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES"

(3) In subchapter II of chapter 21 of title 10, United States Code, as proposed to be added by section 504(a)—

(A) in the table of sections before section 431—

(i) in the item relating to section 436, strike out ", internal oversight, and legal review"; and

(ii) strike out the item relating to section 438;

(B) insert a section designation known as a "twist" at the beginning of the heading of each of sections 431 through 437;

(C) strike out the period at the end of the heading of each of those sections;

(D) in section 431(c)—

(i) strike out "As used in this" and insert in lieu thereof "In this"; and

(ii) capitalize the first word of each of paragraphs (1) and (2);

(E) in section 432(b)(2), strike out "of this subchapter" and insert in lieu thereof "of this title";

(F) in section 433(b)(1), insert "of this title" after "section 431";

(G) in section 436(3), strike out "subsection 433(b)" and insert in lieu thereof "section 433(b) of this title"; and

(H) in section 437—

(i) revise the second word of the section heading to make the initial letter lower case;

(ii) strike out "of this subchapter" in subsectins (a) and (c)(3) and insert in lieu thereof "of this title";

(iii) strike out "subsection 433(b) of this subchapter" in subsection (c)(1) and insert in lieu thereof "section 433(b) of this title"; and

(iv) strike out "As used in this" in subsection (d) and insert in lieu thereof "In this".

(4) Insert closing quotation marks and a period at the end of section 437(d) of title 10, United States Code, as proposed to be added by section 504(a).

TECHNICAL CORRECTIONS TO THE ENROLLMENT OF S. 2834

Mr. BOREN. Madam President, subsequent to the Senate's agreement last evening to the conference report on S. 2834, to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities for the U.S. Government, for the intelligence community staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, the legislative counsel for the House of Representatives noted several technical deficiencies in the conference bill.

To correct these deficiencies, I am offering this Senate Concurrent Resolution 156 instructing the Secretary of the Senate to make the technical corrections necessary in the enrollment of the bill, S. 2834.

Mr. EXON. Madam President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. EXON. Madam President, on behalf of the majority leader and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on representation by the Senate legal counsel and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 344) to direct the Senate Legal Counsel to represent Senator ALAN CRANSTON and Senator PETE WILSON in the case of Carnessale v. Cranston and Wilson.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceded to consider the resolution.

Mr. MITCHELL. Madam President, a plaintiff has named Senator ALAN CRANSTON and Senator PETE WILSON as defendants in a lawsuit filed in the U.S. District Court for the Central District of California. The complaint contains allegations relating to the

Senate's voting at the conclusion of the impeachment trial of former District Judge Harry Claiborne in 1986. The actions described in the complaint are determinations that the Constitution commits solely to the Senate and may not be called into question in the courts.

This resolution will authorize the Senate legal counsel to represent Senators CRANSTON and WILSON in this case and to seek dismissal of the complaint.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are agreed to.

The resolution (S. Res. 344) with its preamble, is as follows:

S. RES. 344

Whereas, in the case of Carnessale v. Cranston and Wilson, Case No. 90-5245-HLH(E), pending in the United States District Court for the Central District of California, the plaintiff has asserted a claim against Senator Alan Cranston and Senator Pete Wilson;

Whereas, pursuant to section 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1) (1988), the Senate may direct its counsel to defend the Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Alan Cranston and Senator Pete Wilson in the case of Carnessale v. Cranston and Wilson.

Mr. EXON. Madam President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADMINISTRATIVE DISPUTE RESOLUTION ACT—TECHNICAL CORRECTIONS

Mr. EXON. Madam President, I ask unanimous consent that the Senate vitiate the third reading of H.R. 2497 and that a substitute amendment that I send to the desk be adopted; that H.R. 2497 be read a third time and passed; and that the motion for reconsideration be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Dispute Resolution Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) administrative procedure, as embodied in chapter 5 of title 5, United States Code, and other statutes, is intended to offer a prompt, expert, and inexpensive means of resolving disputes as an alternative to litigation in the Federal courts;

(2) administrative proceedings have become increasingly formal, costly, and lengthy resulting in unnecessary expenditures of time and in a decreased likelihood of achieving consensual resolution of disputes;

(3) alternative means of dispute resolution have been used in the private sector for many years and, in appropriate circumstances, have yielded decisions that are faster, less expensive, and less contentious;

(4) such alternative means can lead to more creative, efficient, and sensible outcomes;

(5) such alternative means may be used advantageously in a wide variety of administrative programs;

(6) explicit authorization of the use of well-tested dispute resolution techniques will eliminate ambiguity of agency authority under existing law;

(7) Federal agencies may not only receive the benefit of techniques that were developed in the private sector, but may also take the lead in the further development and refinement of such techniques; and

(8) the availability of a wide range of dispute resolution procedures, and an increased understanding of the most effective use of such procedures, will enhance the operation of the Government and better serve the public.

SEC. 3. PROMOTION OF ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

(a) PROMULGATION OF AGENCY POLICY.—Each agency shall adopt a policy that addresses the use of alternative means of dispute resolution and case management. In developing such a policy, each agency shall—

(1) consult with the Administrative Conference of the United States and the Federal Mediation and Conciliation Service; and

(2) examine alternative means of resolving disputes in connection with—

(A) formal and informal adjudications;

(B) rulemakings;

(C) enforcement actions;

(D) issuing and revoking licenses or permits;

(E) contract administration;

(F) litigation brought by or against the agency; and

(G) other agency actions.

(b) DISPUTE RESOLUTION SPECIALISTS.—The head of each agency shall designate a senior official to be the dispute resolution specialist of the agency. Such official shall be responsible for the implementation of—

(1) the provisions of this Act and the amendments made by this Act; and

(2) the agency policy developed under subsection (a).

(c) TRAINING.—Each agency shall provide for training on a regular basis for the dispute resolution specialist of the agency and other employees involved in implementing the policy of the agency developed under subsection (a). Such training should encompass the theory and practice of negotiation, mediation, arbitration, or related techniques. The dispute resolution specialist shall periodically recommend to the agency head agency employees who would benefit from similar training.

(d) PROCEDURES FOR GRANTS AND CONTRACTS.—

(1) Each agency shall review each of its standard agreements for contracts, grants, and other assistance and shall determine whether to amend any such standard agreements to authorize and encourage the use of alternative means of dispute resolution.

(2)(A) Within 1 year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended, as necessary, to carry out this Act and the amendments made by this Act.

(B) For purposes of this section, the term "Federal Acquisition Regulation" means the single system of Government-wide procurement regulation referred to in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)).

SEC. 4. ADMINISTRATIVE PROCEDURES.

(a) ADMINISTRATIVE HEARINGS.—Section 556(c) of title 5, United States Code, is amended—

(1) in paragraph (6) by inserting before the semicolon at the end thereof the following: "or by the use of alternative means of dispute resolution as provided in subchapter IV of this chapter"; and

(2) by redesignating paragraphs (7) through (9) as paragraphs (9) through (11), respectively, and inserting after paragraph (6) the following new paragraphs:

"(7) inform the parties as to the availability of one or more alternative means of dispute resolution, and encourage use of such methods;

"(8) require the attendance at any conference held pursuant to paragraph (6) of at least one representative of each party who has authority to negotiate concerning resolution of issues in controversy;".

(b) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"§ 581. Definitions

"For the purposes of this subchapter, the term—

"(1) 'agency' has the same meaning as in section 551(1) of this title;

"(2) 'administrative program' includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter;

"(3) 'alternative means of dispute resolution' means any procedure that is used in lieu of an adjudication as defined in section 551(7) of this title, to resolve issues in controversy, including but not limited to, settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, or any combination thereof;

"(4) 'award' means any decision by an arbitrator resolving the issues in controversy;

"(5) 'dispute resolution communication' means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participants; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

"(6) 'dispute resolution proceeding' means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

"(7) 'in confidence' means, with respect to information, that the information is provided—

"(A) with the expressed intent of the source that it not be disclosed; or

"(B) under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

"(8) 'issue in controversy' means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement be-

tween the agency and persons who would be substantially affected by the decision but shall not extend to matters specified under the provisions of sections 2302 and 7121(c) of title 5;

"(9) 'neutral' means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy;

"(10) 'party' means—

"(A) for a proceeding with named parties, the same as in section 551(3) of this title; and

"(B) for a proceeding without named parties, a person who will be significantly affected by the decision in the proceeding and who participates in the proceeding;

"(11) 'person' has the same meaning as in section 551(2) of this title; and

"(12) 'roster' means a list of persons qualified to provide services as neutrals.

"§ 582. General authority

"(a) An agency may use a dispute resolution proceeding for the resolution of an issue in controversy that relates to an administrative program, if the parties agree to such proceeding.

"(b) An agency shall consider not using a dispute resolution proceeding if—

"(1) a definitive or authoritative resolution of the matter is required for precedential value, and such a proceeding is not likely to be accepted generally as an authoritative precedent;

"(2) the matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and such a proceeding would not likely serve to develop a recommended policy for the agency;

"(3) maintaining established policies is of special importance, so that variations among individual decisions are not increased and such a proceeding would not likely reach consistent results among individual decisions;

"(4) the matter significantly affects persons or organizations who are not parties to the proceeding;

"(5) a full public record of the proceeding is important, and a dispute resolution proceeding cannot provide such a record; and

"(6) the agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a dispute resolution proceeding would enterfere with the agency's fulfilling that requirement.

"(c) Alternative means of dispute resolution authorized under this subchapter are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques.

"§ 583. Neutrals

"(a) A neutral may be a permanent or temporary officer or employee of the Federal Government or any other individual who is acceptable to the parties to a dispute resolution proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

"(b) A neutral who serves as a conciliator, facilitator, or mediator serves at the will of the parties.

"(c) In consultation with the Federal Mediation and Conciliation Service, other appropriate Federal agencies, and professional organizations experienced in matters concerning dispute resolution, the Administrative Conference of the United States shall—

"(1) establish standards for neutrals (including experience, training, affiliations, diligence, actual or potential conflicts of interest, and other qualifications) to which agencies may refer;

"(2) maintain a roster of individuals who meet such standards and are otherwise qualified to act as neutrals, which shall be made available upon request;

"(3) enter into contracts for the services of neutrals that may be used by agencies on an elective basis in dispute resolution proceedings; and

"(4) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis.

"(d) An agency may use the services of one or more employees of other agencies to serve as neutrals in dispute resolution proceedings. The agencies may enter into an interagency agreement that provides for the reimbursement by the user agency or the parties of the full or partial cost of the services of such an employee.

"(e) Any agency may enter into a contract with any person on a roster established under subsection (c)(2) or a roster maintained by other public or private organizations, or individual for services as a neutral, or for training in connection with alternative means of dispute resolution. The parties in a dispute resolution proceeding shall agree on compensation for the neutral that is fair and reasonable to the Government.

"§ 584. Confidentiality

"(a) Except as provided in subsections (d) and (e), a neutral in a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any dispute resolution communication or any communication provided in confidence to the neutral, unless—

"(1) all parties to the dispute resolution proceeding and the neutral consent in writing, and, if the dispute resolution communication was provided by a nonparty participant, that participant also consents in writing;

"(2) the dispute resolution communication has already been made public;

"(3) the dispute resolution communication is required by statute to be made public, but a neutral should make such communication public only if no other person is reasonably available to disclose the communication; or

"(4) a court determines that such testimony or disclosure is necessary to—

"(A) prevent a manifest injustice;

"(B) help establish a violation of law; or

"(C) prevent harm to the public health or safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

"(b) A party to a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any dispute resolution communication, unless—

"(1) the communication was prepared by the party seeking disclosure;

"(2) all parties to the dispute resolution proceeding consent in writing;

"(3) the dispute resolution communication has already been made public;

"(4) the dispute resolution communication is required by statute to be made public;

"(5) a court determines that such testimony or disclosure is necessary to—

"(A) prevent a manifest injustice;

"(B) help establish a violation of law; or

"(C) prevent harm to the public health and safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential;

"(6) the dispute resolution communication is relevant to determining the existence or meaning of an agreement or award that resulted from the dispute resolution proceeding or to the enforcement of such an agreement or award; or

(7) the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding.

"(c) Any dispute resolution communication that is disclosed in violation of subsection (a) or (b), shall not be admissible in any proceeding relating to the issues in controversy with respect to which the communication was made.

"(d) The parties may agree to alternative confidential procedures for disclosures by a neutral. Upon such agreement the parties shall inform the neutral before the commencement of the dispute resolution proceeding of any modifications to the provisions of subsection (a) that will govern the confidentiality of the dispute resolution proceeding. If the parties do not so inform the neutral, subsection (a) shall apply.

"(e) If a demand for disclosure, by way of discovery request or other legal process, is made upon a neutral regarding a dispute resolution communication, the neutral shall make reasonable efforts to notify the parties and any affected nonparty participants of the demand. Any party or affected nonparty participant who receives such notice and within 15 calendar days does not offer to defend a refusal of the neutral to disclose the requested information shall have waived any objection to such disclosure.

"(f) Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a dispute resolution proceeding.

"(g) Subsections (a) and (b) shall have no effect on the information and data that are necessary to document an agreement reached or order issued pursuant to a dispute resolution proceeding.

"(h) Subsections (a) and (b) shall not prevent the gathering of information for research or educational purposes, in cooperation with other agencies, governmental entities, or dispute resolution programs, so long as the parties and the specific issues in controversy are not identifable.

"(i) Subsections (a) and (b) shall not prevent use of a dispute resolution communication to resolve a dispute between the neutral in a dispute resolution proceeding and a party to or participant in such proceeding, so long as such dispute resolution communication is disclosed only to the extent necessary to resolve such dispute.

"(j) This section shall not be considered a statute specifically exempting disclosure under section 552(b)(3) of this title.

"§ 585. Authorization of arbitration

"(a)(1) Arbitration may be used as an alternative means of dispute resolution whenever all parties consent. Consent may be obtained either before or after an issue in controversy has arisen. A party may agree to—

"(A) submit only certain issues in controversy to arbitration; or

"(B) arbitration on the condition that the award must be within a range of possible outcomes.

"(2) Any arbitration agreement that sets forth the subject matter submitted to the arbitrator shall be in writing.

"(3) An agency may not require any person to consent to arbitration as a condition of entering into a contract or obtaining a benefit.

"(b) An officer or employee of an agency may offer to use arbitration for the resolution of issues in controversy, if such officer or employee—

"(1) has authority to enter into a settlement concerning the matter; or

"(2) is otherwise specifically authorized by the agency to consent to the use of arbitration.

"§ 586. Enforcement of arbitration agreements

"An agreement to arbitrate a matter to which this subchapter applies is enforceable pursuant to section 4 of title 9, and no action brought to enforce such an agreement shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"§ 587. Arbitrators

"(a) The parties to an arbitration proceeding shall be entitled to participate in the selection of the arbitrator.

"(b) The arbitrator shall be a neutral who meets the criteria of section 583 of this title.

"§ 588. Authority of the arbitrator

"An arbitrator to whom a dispute is referred under this subchapter may—

"(1) regulate the course of and conduct arbitral hearings;

"(2) administer oaths and affirmations;

"(3) compel the attendance of witnesses and production of evidence at the hearing under the provisions of section 7 of title 9 only to the extent the agency involved is otherwise authorized by law to do so; and

"(4) make awards.

"§ 589. Arbitration proceedings

"(a) The arbitrator shall set a time and place for the hearing on the dispute and shall notify the parties not less than 5 days before the hearing.

"(b) Any party wishing a record of the hearing shall—

"(1) be responsible for the preparation of such record;

"(2) notify the other parties and the arbitrator of the preparation of such record;

"(3) furnish copies to all identified parties and the arbitrator; and

"(4) pay all costs for such record, unless the parties agree otherwise or the arbitrator determines that the costs should be apportioned.

"(c)(1) The parties to the arbitration are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

"(2) The arbitrator may, with the consent of the parties, conduct all or part of the hearing by telephone, television, computer, or other electronic means, if each party has an opportunity to participate.

"(3) The hearing shall be conducted expeditiously and in an informal manner.

"(4) The arbitrator may receive any oral or documentary evidence, except that irrelevant, immaterial, unduly repetitious, or privileged evidence may be excluded by the arbitrator.

"(5) The arbitrator shall interpret and apply relevant statutory and regulatory requirements, legal precedents, and policy directives.

"(d) No interested person shall make or knowingly cause to be made to the arbitrator an unauthorized ex parte communication relevant to the merits of the proceeding, unless the parties agree otherwise. If a communication is made in violation of this subsection, the arbitrator shall ensure that a memorandum of the communication is prepared and made a part of the record, and that an opportunity for rebuttal is allowed. Upon receipt of a communication made in violation of this subsection, the arbitrator may, to the extent consistent with the interests of justice and the policies underlying this subchapter, require the offending party to show cause why the claim of such party should not be resolved against such party as a result of the improper conduct.

"(e) The arbitrator shall make the award within 30 days after the close of the hearing, or the date of the filing of any briefs authorized by the arbitrator, whichever date is later, unless—

"(1) the parties agree to some other time limit; or

"(2) the agency provides by rule for some other time limit.

"§ 590. Arbitration awards

"(a)(1) Unless the agency provides otherwise by rule, the award in an arbitration proceeding under this subchapter shall include a brief, informal discussion of the factual and legal basis for the award, but formal findings of fact or conclusions of law shall not be required.

"(2) The prevailing parties shall file the award with all relevant agencies, along with proof of service on all parties.

"(b) The award in an arbitration proceeding shall become final 30 days after it is served on all parties. Any agency that is a party to the proceeding may extend this 30-day period for an additional 30-day period by serving a notice of such extension on all other parties before the end of the first 30-day period.

"(c) The head of any agency that is a party to an arbitration proceeding conducted under this subchapter is authorized to terminate the arbitration proceeding or vacate any award issued pursuant to the proceeding before the award becomes final by serving on all other parties a written notice to that effect, in which case the award shall be null and void. Notice shall be provided to all parties to the arbitration proceeding of any request by a party, nonparty participant or other person that the agency head terminate the arbitration proceeding or vacate the award. An employee or agent engaged in the performance of investigative or prosecuting functions for an agency may not, in that or a factually related case, advise in a decision under this subsection to terminate an arbitration proceeding or to vacate an arbitral award, except as witness or counsel in public proceedings.

"(d) A final award is binding on the parties to the arbitration proceeding, and may be enforced pursuant to sections 9 through 13 of title 9. No action brought to enforce such an award shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"(e) An award entered under this subchapter in an arbitration proceeding may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding. Such an award also may not be used as precedent or otherwise be considered in any factually unrelated proceeding, whether conducted under this subchapter, by an agency, or in a court, or in any other arbitration proceeding.

"(f) An arbitral award that is vacated under subsection (c) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the award was made.

"(g) If an agency head vacates an award under subsection (c), a party to the arbitration (other than the United States) may within 30 days of such action petition the agency head for an award of attorney fees and expenses (as defined in section 504(b)(1)(A) of this title) incurred in connection with the arbitration proceeding. The agency head shall award the petitioning party those fees and expenses that would not have been incurred in the absence of such arbitration proceeding, unless the agency head or his or her designee finds that special circumstances make such an award unjust. The procedures for reviewing applications for awards shall, where appropriate, be consistent with those set forth in subsection (a)(2) and (3) of section 504 of this title. Such fees and expenses shall be paid from the funds of the agency that vacated the award.

"§ 591. Judicial Review

"(a) Notwithstanding any other provision of law, any person adversely affected or aggrieved by an award made in an arbitration proceeding conducted under this subchapter may bring an action for review of such award only pursuant to the provisions of sections 9 through 13 of title 9.

"(b)(1) A decision by an agency to use or not to use a dispute resolution proceeding under this subchapter shall be committed to the discretion of the agency and shall not be subject to judicial review, except that arbitration shall be subject to judicial review under section 10(b) of title 9.

"(2) A decision by the head of an agency under section 590 to terminate an arbitration proceeding or vacate an arbitral award shall be committed to the discretion of the agency and shall not be subject to judicial review.

"§ 592. Compilation of information

"The Chairman of the Administrative Conference of the United States shall compile and maintain data on the use of alternative means of dispute resolution in conducting agency proceedings. Agencies shall, upon the request of the Chairman of the Administrative Conference of the United States, supply such information as is required to enable the Chairman to comply with this section.

"§ 593. Support services

"For the purposes of this subchapter, an agency may use (with or without reimbursement) the services and facilities of other Federal agencies, public and private organizations and agencies, and individuals, with the consent of such agencies, organizations, and individuals. An agency may accept voluntary and uncompensated services for purposes of this subchapter without regard to the provisions of section 1342 of title 31.".

(c) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"581. Definitions.
"582. General authority.
"583. Neutrals.

"584. Confidentiality.
"585. Authorization of arbitration.
"586. Enforcement of arbitration agreements.
"587. Arbitrators.
"588. Authority of the arbitrator.
"589. Arbitration proceedings.
"590. Arbitration awards.
"591. Judicial review.
"592. Compilation of information.
"593. Support services.".

SEC. 5. JUDICIAL REVIEW OF ARBITRATION AWARDS.

Section 10 of title 9, United States Code, is amended—

(1) by redesignating subsections (a) through (e) as paragraphs (1) through (5), respectively;

(2) by striking out "In either" and inserting in lieu thereof "(a) In any"; and

(3) by adding at the end thereof the following:

"(b) The United States district court for the district wherein an award was made that was issued pursuant to section 590 of title 5 may make an order vacating the award upon the application of a person, other than a party to the arbitration, who is adversely affected or aggrieved by the award, if the use of arbitration or the award is clearly inconsistent with the factors set forth in section 582 of title 5.".

SEC. 6. GOVERNMENT CONTRACT CLAIMS.

(a) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 606) is amended by adding at the end the following new subsections:

"(d) Notwithstanding any other provision of this Act, a contractor and a contracting officer may use any alternative means of dispute resolution under subchapter IV of chapter 5 of title 5, United States Code, or other mutually agreeable procedures, for resolving claims. In a case in which such alternative means of dispute resolution or other mutually agreeable procedures are used, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his or her knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. All provisions of subchapter IV of chapter 5 of title 5, United States Code, shall apply to such alternative means of dispute resolution.

"(e) The authority of agencies to engage in alternative means of dispute resolution proceedings under subsection (d) shall cease to be effective on October 1, 1995, except that such authority shall continue in effect with respect to then pending dispute resolution proceedings which, in the judgment of the agencies that are parties to such proceedings, require such continuation, until such proceedings terminate.".

(b) JUDICIAL REVIEW OF ARBITRAL AWARDS.—Section 8(g) of the Contract Disputes Act of 1978 (41 U.S.C. 607(g)) is amended by adding at the end the following new paragraph:

"(3) An award by an arbitrator under this Act shall be reviewed pursuant to sections 9 through 13 of title 9, United States Code, except that the court may set aside or limit any awards that is found to violate limitations imposed by Federal statute.".

SEC. 7. FEDERAL MEDIATION AND CONCILIATION SERVICE.

Section 203 of the Labor Management Relations Act, 1947 (29 U.S.C. 173) is amended by adding at the end the following new subsection:

"(f) The Service may make its services available to Federal agencies to aid in the resolution of disputes under the provisions of subchapter IV of chapter 5 of title 5, United States Code. Functions performed by the Service may include assistaing parties to disputes related to administrative programs, training persons in skills and procedures employed in alternative means of dispute resolution, and furnishing officers and employees of the service to act as neutrals. Only officers and employees who are qualified in accordance with section 583 of title 5, United States Code, may be assigned to act as neutrals. The Service shall consult with the Administrative Conference of the United States and other agencies in maintaining rosters of neutrals and arbitrators, and to adopt such procedures and rules as are necessary to carry out the services authorized in this subsection.".

SEC. 8. GOVERNMENT TORT AND OTHER CLAIMS.

(a) FEDERAL TORT CLAIMS.—Section 2672 of title 28, United States Code, is amended by addding at the end of the first paragraph the following: "Notwithstanding the proviso contained in the preceding sentence, any award, compromise, or settlement may be effected without the prior written approval of the Attorney General or his or her designee, to the extent that the Attorney General delegates to the head of the agency the authority to make such award, compromise, or settlement. Such delegations may not exceed the authority delegated by the Attorney General to the United States attorneys to settle claims for money damages against the United States. Each Federal agency may use arbitration, or other alternative means of dispute resolution under the provisions of subchapter IV of chapter 5 of title 5, to settle any tort claim against the United States, to the extent of the agency's authority to award, compromise, or settle such claim without the prior written approval of the Attorney General or his or her designee.

(b) CLAIMS OF THE GOVERNMENT.—Section 3711(a)(2) of title 31, United States Code, is amended by striking out "$20,000 (excluding interest)" and inserting in lieu thereof "$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe.

SEC. 9. USE OF NONATTORNEYS.

(a) REPRESENTATION OF PARTIES.—Each agency, in developing a policy on the use of alternative means of dispute resolution under this Act, shall develop a policy with regard to the representation by persons other than attorneys of parties in alternative dispute resolution proceedings and shall identify any of its administrative programs with numerous claims or disputes before the agency and determine—

(1) the extent to which individuals are represented or assisted by attorneys or by persons who are not attorneys; and

(2) whether the subject areas of the applicable proceedings or the procedures are so complex or specialized that only attorneys may adequately provide such representation or assistance.

(b) REPRESENTATION AND ASSISTANCE BY NONATTORNEYS.—A person who is not an attorney may provide representation or assistance to any individual in a claim or dispute with an agency, if—

(1) such claim or dispute concerns an administrative program identified under subsection (a);

(2) such agency determines that the proceeding or procedure does not necessitate representation or assistance by an attorney under subsection (a)(2); and

(3) such person meets any requirement of the agency to provide representation or assistance in such a claim or dispute.

(c) DISQUALIFICATION OF REPRESENTATION OR ASSISTANCE.—Any agency that adopts regulations under subchapter IV of chapter 5 of title 5, United States Code, to permit representation or assistance by persons who are not attorneys shall review the rules of practice before such agency to—

(1) ensure that any rules pertaining to disqualification of attorneys from practicing before the agency shall also apply, as appropriate to other persons who provide representation or assistance; and

(2) establish effective agency procedures for enforcing such rules of practice and for receiving complaints from affected persons.

SEC. 10. DEFINITIONS.

As used in this Act, the terms "agency", "administrative program", and "alternative means of dispute resolution" have the meanings given such terms in section 581 of title 5, United States Code, as added by section 4(b) of this Act.

SEC. 11. SUNSET PROVISION.

The authority of agencies to use dispute resolution proceedings under this Act and the amendments made by this Act shall terminate on October 1, 1995, except that such authority shall continue in effect with respect to then pending proceedings which, in the judgment of the agencies that are parties to the dispute resolution proceedings, require such continuation, until such proceedings terminate.

Mr. LEVIN. Madam President, yesterday the Senate passed by unanimous consent H.R. 2497, the Administrative Dispute Resolution Act. We substituted the language of S. 971, as reported and amended on the floor, for the text of H.R. 2497 as it was passed by the House.

However, because a different document was used for purposes of referencing the pages and lines for the floor amendments than the document that was used for Senate consideration, there has been some confusion about the final version that was passed. Therefore, Mr. President, we have decided to reopen the Senate's consideration of H.R. 2497 and offered a substitute amendment which incorporates the various floor amendments we passed earlier. This will enable us to send to the enrolling clerk one complete document that contains the amendment language in the appropriate places. This is merely a technical procedure to provide clear guidance to the Senate's enrolling clerk and the House.

Mr. EXON. Madam President, I ask unanimous consent that the bill, as amended, be printed in the RECORD in full following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2497), as amended, was passed as follows:

Resolved, That the bill from the House of Representatives (H.R. 2497) entitled "An Act to authorize and encourage Federal agencies to use mediation, conciliation, arbi-

tration, and other techniques for the prompt and informal resolution of disputes, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Dispute Resolution Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) administrative procedure, as embodied in chapter 5 of title 5, United States Code, and other statutes, is intended to offer a prompt, expert, and inexpensive means of resolving disputes as an alternative to litigation in the Federal courts;

(2) administrative proceedings have become increasingly formal, costly, and lengthy resulting in unnecessary expenditures of time and in a decreased likelihood of achieving consensual resolution of disputes;

(3) alternative means of dispute resolution have been used in the private sector for many years and, in appropriate circumstances, have yielded decisions that are faster, less expensive, and less contentious;

(4) such alternative means can lead to more creative, efficient, and sensible outcomes;

(5) such alternative means may be used advantageously in a wide variety of administrative programs;

(6) explicit authorization of the use of well-tested dispute resolution techniques will eliminate ambiguity of agency authority under existing law;

(7) Federal agencies may not only receive the benefit of techniques that were developed in the private sector, but may also take the lead in the further development and refinement of such techniques; and

(8) the availability of a wide range of dispute resolution procedures, and an increased understanding of the most effective use of such procedures, will enhance the operation of the Government and better serve the public.

SEC. 3. PROMOTION OF ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

(a) PROMULGATION OF AGENCY POLICY.—Each agency shall adopt a policy that addresses the use of alternative means of dispute resolution and case management. In developing such a policy, each agency shall—

(1) consult with the Administrative Conference of the United States and the Federal Mediation and Conciliation Service; and

(2) examine alternative means of resolving disputes in connection with—

(A) formal and informal adjudications;

(B) rulemakings;

(C) enforcement actions;

(D) issuing and revoking licenses or permits;

(E) contract administration;

(F) litigation brought by or against the agency; and

(G) other agency actions.

(b) DISPUTE RESOLUTION SPECIALISTS.—The head of each agency shall designate a senior official to be the dispute resolution specialist of the agency. Such official shall be responsible for the implementation of—

(1) the provisions of this Act and the amendments made by this Act; and

(2) the agency policy developed under subsection (a).

(c) TRAINING.—Each agency shall provide for training on a regular basis for the dispute resolution specialist of the agency and other employees involved in implementing the policy of the agency developed under subsection (a). Such training should encompass the theory and practice of negotiation, mediation, arbitration, or related techniques. The dispute resolution specialist shall periodically recommend to the agency head agency employees who would benefit from similar training.

(d) PROCEDURES FOR GRANTS AND CONTRACTS.—

(1) Each agency shall review each of its standard agreements for contracts, grants, and other assistance and shall determine whether to amend any such standard agreements to authorize and encourage the use of alternative means of dispute resolution.

(2)(A) Within 1 year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended, as necessary, to carry out this Act and the amendments made by this Act.

(B) For purposes of this section, the term "Federal Acquisition Regulation" means the single system of Government-wide procurement regulation referred to in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)).

SEC. 4. ADMINISTRATIVE PROCEDURES.

(a) ADMINISTRATIVE HEARINGS.—Section 556(c) of title 5, United States Code, is amended—

(1) in paragraph (6) by inserting before the semicolon at the end thereof the following: "or by the use of alternative means of dispute resolution as provided in subchapter IV of this chapter"; and

(2) by redesignating paragraphs (7) through (9) as paragraphs (9) through (11), respectively, and inserting after paragraph (6) the following new paragraphs:

"(7) inform the parties as to the availability of one or more alternative means of dispute resolution, and encourage use of such methods;

"(8) require the attendance at any conference held pursuant to paragraph (6) of at least one representative of each party who has authority to negotiate concerning resolution of issues in controversy;".

(b) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"§ 581. Definitions

"For the purposes of this subchapter, the term—

"(1) 'agency' has the same meaning as in section 551(1) of this title;

"(2) 'administrative program' includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter;

"(3) 'alternative means of dispute resolution' means any procedure that is used, in lieu of an adjudication as defined in section 551(7) of this title, to resolve issues in controversy, including but not limited to, settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, or any combination thereof;

"(4) 'award' means any decision by an arbitrator resolving the issues in controversy;

"(5) 'dispute resolution communication' means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participants; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

"(6) 'dispute resolution proceeding' means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

"(7) 'in confidence' means, with respect to information, that the information is provided—

"(A) with the expressed intent of the source that it not be disclosed; or

"(B) under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

"(8) 'issue in controversy' means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement between the agency and persons who would be substantially affected by the decision but shall not extend to matters specified under the provisions of sections 2302 and 7121(c) of title 5;

"(9) 'neutral' means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy;

"(10) 'party' means—

"(A) for a proceeding with named parties, the same as in section 551(3) of this title; and

"(B) for a proceeding without named parties, a person who will be significantly affected by the decision in the proceeding and who participates in the proceeding;

"(11) 'person' has the same meaning as in section 551(2) of this title; and

"(12) 'roster' means a list of persons qualified to provide services as neutrals.

"§ 582. General authority

"(a) An agency may use a dispute resolution proceeding for the resolution of an issue in controversy that relates to an administrative program, if the parties agree to such proceeding.

"(b) An agency shall consider not using a dispute resolution proceeding if—

"(1) a definitive or authoritative resolution of the matter is required for precedential value, and such a proceeding is not likely to be accepted generally as an authoritative precedent;

"(2) the matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and such a proceeding would not likely serve to develop a recommended policy for the agency;

"(3) maintaining established policies is of special importance, so that variations among individual decisions are not increased and such a proceeding would not likely reach consistent results among individual decisions;

"(4) the matter significantly affects persons or organizations who are not parties to the proceeding;

"(5) a full public record of the proceeding is important, and a dispute resolution proceeding cannot provide such a record; and

"(6) the agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a dispute resolution proceeding would interfere

with the agency's fulfilling that requirement.

"(c) Alternative means of dispute resolution authorized under this subchapter are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques.

"§ 583. Neutrals

"(a) A neutral may be a permanent or temporary officer or employee of the Federal Government or any other individual who is acceptable to the parties to a dispute resolution proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

"(b) A neutral who serves as a conciliator, facilitator, or mediator serves at the will of the parties.

"(c) In consultation with the Federal Mediation and Conciliation Service, other appropriate Federal agencies, and professional organizations experienced in matters concerning dispute resolution, the Administrative Conference of the United States shall—

"(1) establish standards for neutrals (including experience, training, affiliations, diligence, actual or potential conflicts of interest, and other qualifications) to which agencies may refer;

"(2) maintain a roster of individuals who meet such standards and are otherwise qualified to act as neutrals, which shall be made available upon request;

"(3) enter into contracts for the services of neutrals that may be used by agencies on an elective basis in dispute resolution proceedings; and

"(4) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis.

"(d) An agency may use the services of one or more employees of other agencies to serve as neutrals in dispute resolution proceedings. The agencies may enter into an interagency agreement that provides for the reimbursement by the user agency or the parties of the full or partial cost of the services of such an employee.

"(e) Any agency may enter into a contract with any person on a roster established under subsection (c)(2) or a roster maintained by other public or private organizations, or individual for services as a neutral, or for training in connection with alternative means of dispute resolution. The parties in a dispute resolution proceeding shall agree on compensation for the neutral that is fair and reasonable to the Government.

"§ 584. Confidentiality

"(a) Except as provided in subsections (d) and (e), a neutral in a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any dispute resolution communication or any communication provided in confidence to the neutral, unless—

"(1) all parties to the dispute resolution proceeding and the neutral consent in writing, and, if the dispute resolution communication was provided by a nonparty participant, that participant also consents in writing;

"(2) the dispute resolution communication has already been made public;

"(3) the dispute resolution communication is required by statute to be made public, but a neutral should make such communication public only if no other person is reasonably available to disclose the communication; or

"(4) a court determines that such testimony or disclosure is necessary to—

"(A) prevent a manifest injustice;

"(B) help establish a violation of law; or

"(C) prevent harm to the public health or safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

"(b) A party to a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any dispute resolution communication, unless—

"(1) the communication was prepared by the party seeking disclosure;

"(2) all parties to the dispute resolution proceeding consent in writing;

"(3) the dispute resolution communication has already been made public;

"(4) the dispute resolution communication is required by statute to be made public;

"(5) a court determines that such testimony or disclosure is necessary to—

"(A) prevent a manifest injustice;

"(B) help establish a violation of law; or

"(C) prevent harm to the public health and safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential;

"(6) the dispute resolution communication is relevant to determining the existence or meaning of an agreement or award that resulted from the dispute resolution proceeding or to the enforcement of such an agreement or award; or

(7) the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding.

"(c) Any dispute resolution communication that is disclosed in violation of subsection (a) or (b), shall not be admissible in any proceeding relating to the issues in controversy with respect to which the communication was made.

"(d) The parties may agree to alternative confidential procedures for disclosures by a neutral. Upon such agreement the parties shall inform the neutral before the commencement of the dispute resolution proceeding of any modifications to the provisions of subsection (a) that will govern the confidentiality of the dispute resolution proceeding. If the parties do not so inform the neutral, subsection (a) shall apply.

"(e) If a demand for disclosure, by way of discovery request or other legal process, is made upon a neutral regarding a dispute resolution communication, the neutral shall make reasonable efforts to notify the parties and any affected nonparty participants of the demand. Any party or affected nonparty participant who receives such notice and within 15 calendar days does not offer to defend a refusal of the neutral to disclose the requested information shall have waived any objection to such disclosure.

"(f) Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a dispute resolution proceeding.

"(g) Subsections (a) and (b) shall have no effect on the information and data that are necessary to document an agreement reached or order issued pursuant to a dispute resolution proceeding.

"(h) Subsections (a) and (b) shall not prevent the gathering of information for research or educational purposes, in cooperation with other agencies, governmental entities, or dispute resolution programs, so long as the parties and the specific issues in controversy are not identifiable.

"(i) Subsections (a) and (b) shall not prevent use of a dispute resolution communication to resolve a dispute between the neutral in a dispute resolution proceeding and a party to or participant in such proceeding, so long as such dispute resolution communication is disclosed only to the extent necessary to resolve such dispute.

"(j) This section shall not be considered a statute specifically exempting disclosure under section 552(b)(3) of this title.

"§ 585. Authorization of arbitration

"(a)(1) Arbitration may be used as an alternative means of dispute resolution whenever all parties consent. Consent may be obtained either before or after an issue in controversy has arisen. A party may agree to—

"(A) submit only certain issues in controversy to arbitration; or

"(B) arbitration on the condition that the award must be within a range of possible outcomes.

"(2) Any arbitration agreement that sets forth the subject matter submitted to the arbitrator shall be in writing.

"(3) An agency may not require any person to consent to arbitration as a condition of entering into a contract or obtaining a benefit.

"(b) An officer or employee of an agency may offer to use arbitration for the resolution of issues in controversy, if such officer or employee—

"(1) has authority to enter into a settlement concerning the matter; or

"(2) is otherwise specifically authorized by the agency to consent to the use of arbitration.

"§ 586. Enforcement of arbitration agreements

"An agreement to arbitrate a matter to which this subchapter applies is enforceable pursuant to section 4 of title 9, and no action brought to enforce such an agreement shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"§ 587. Arbitrators

"(a) The parties to an arbitration proceeding shall be entitled to participate in the selection of the arbitrator.

"(b) The arbitrator shall be a neutral who meets the criteria of section 583 of this title.

"§ 588. Authority of the arbitrator

"An arbitrator to whom a dispute is referred under this subchapter may—

"(1) regulate the course of and conduct arbitral hearings;

"(2) administer oaths and affirmations;

"(3) compel the attendance of witnesses and production of evidence at the hearing under the provisions of section 7 of title 9 only to the extent the agency involved is otherwise authorized by law to do so; and

"(4) make awards.

"§ 589. Arbitration proceedings

"(a) The arbitrator shall set a time and place for the hearing on the dispute and shall notify the parties not less than 5 days before the hearing.

"(b) Any party wishing a record of the hearing shall—

"(1) be responsible for the preparation of such record;

"(2) notify the other parties and the arbitrator of the preparation of such record;

"(3) furnish copies to all identified parties and the arbitrator; and

"(4) pay all costs for such record, unless the parties agree otherwise or the arbitrator determines that the costs should be apportioned.

"(c)(1) The parties to the arbitration are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

"(2) The arbitrator may, with the consent of the parties, conduct all or part of the hearing by telephone, television, computer, or other electronic means, if each party has an opportunity to participate.

"(3) The hearing shall be conducted expeditiously and in an informal manner.

"(4) The arbitrator may receive any oral or documentary evidence, except that irrelevant, immaterial, unduly repetitious, or privileged evidence may be excluded by the arbitrator.

"(5) The arbitrator shall interpret and apply relevant statutory and regulatory requirements, legal precedents, and policy directives.

"(d) No interested person shall make or knowingly cause to be made to the arbitrator an unauthorized ex parte communication relevant to the merits of the proceeding, unless the parties agree otherwise. If a communication is made in violation of this subsection, the arbitrator shall ensure that a memorandum of the communication is prepared and made a part of the record, and that an opportunity for rebuttal is allowed. Upon receipt of a communication made in violation of this subsection, the arbitrator may, to the extent consistent with the interests of justice and the policies underlying this subchapter, require the offending party to show cause why the claim of such party should not be resolved against such party as a result of the improper conduct.

"(e) The arbitrator shall make the award within 30 days after the close of the hearing, or the date of the filing of any briefs authorized by the arbitrator, whichever date is later, unless—

"(1) the parties agree to some other time limit; or

"(2) the agency provides by rule for some other time limit.

"§ 590. Arbitration awards

"(a)(1) Unless the agency provides otherwise by rule, the award in an arbitration proceeding under this subchapter shall include a brief, informal discussion of the factual and legal basis for the award, but formal findings of fact or conclusions of law shall not be required.

"(2) The prevailing parties shall file the award with all relevant agencies, along with proof of service on all parties.

"(b) The award in an arbitration proceeding shall become final 30 days after it is served on all parties. Any agency that is a party to the proceeding may extend this 30-day period for an additional 30-day period by serving a notice of such extension on all other parties before the end of the first 30-day period.

"(c) The head of any agency that is a party to an arbitration proceeding conducted under this subchapter is authorized to terminate the arbitration proceeding or vacate any award issued pursuant to the proceeding before the award becomes final by serving on all other parties a written notice to that effect, in which case the award shall be null and void. Notice shall be provided to all parties to the arbitration proceeding of any request by a party, nonparty participant or other person that the agency head terminate the arbitration proceeding or vacate the award. An employee or agent engaged in the performance of investigative or prosecuting functions for an agency may not, in that or a factually related case, advise in a decision under this subsection to terminate an arbitration proceeding or to vacate an arbitral award, except as witness or counsel in public proceedings.

"(d) A final award is binding on the parties to the arbitration proceeding, and may be enforced pursuant to sections 9 through 13 of title 9. No action brought to enforce such an award shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"(e) An award entered under this subchapter in an arbitration proceeding may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding. Such an award also may not be used as precedent or otherwise be considered in any factually unrelated proceeding, whether conducted under this subchapter, by an agency, or in a court, or in any other arbitration proceeding.

"(f) An arbitral award that is vacated under subsection (c) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the award was made.

"(g) If an agency vacates an award under subsection (c), a party to the arbitration (other than the United States) may within 30 days of such action petition the agency head for an award of attorneys fees and expenses (as defined in section 504(b)(1)(A) of this title) incurred in connection with the arbitration proceeding. The agency head shall award the petitioning party those fees and expenses that would not have been incurred in the absence of such arbitration proceeding, unless the agency head or his or her designee finds that special circumstances make such an award injust. The procedures for reviewing applications for awards shall, where appropriate, be consistent with those set forth in subsection (a) (2) and (3) of section 504 of this title. Such fees and expenses shall be paid from the funds of the agency that vacated the award.

"§ 591. Judicial Review

"(a) Notwithstanding any other provision of law, any person adversely affected or aggrieved by an award made in an arbitration proceeding conducted under this subchapter may bring an action for review of such award only pursuant to the provisions of sections 9 through 13 of title 9.

"(b)(1) A decision by an agency to use or not to use a dispute resolution proceeding under this subchapter shall be committed to the discretion of the agency and shall not be subject to judicial review, except that arbitration shall be subject to judicial review under section 10(b) of title 9.

"(2) A decision by the head of an agency under section 590 to terminate an arbitration proceeding or vacate an arbitral award shall be committed to the discretion of the agency and shall not be subject to judicial review.

"§ 592. Compilation of information

"The Chairman of the Administrative Conference of the United States shall compile and maintain data on the use of alternative means of dispute resolution in conducting agency proceedings. Agencies shall, upon the request of the Chairman of the Administrative Conference of the United States, supply such information as is required to enable the Chairman to comply with this section.

"§ 593. Support services

"For the purposes of this subchapter, an agency may use (with or without reimbursement) the services and facilities of other Federal agencies, public and private organizations and agencies, and individuals, with the consent of such agencies, organizations, and individuals. An agency may accept voluntary and uncompensated services for purposes of this subchapter without regard to the provisions of section 1342 of title 31.".

(c) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"581. Definitions.
"582. General authority.
"583. Neutrals.
"584. Confidentiality.
"585. Authorization of arbitration.
"586. Enforcement of arbitration agreements.
"587. Arbitrators.
"588. Authority of the arbitrator.
"589. Arbitration proceedings.
"590. Arbitration awards.
"591. Judicial review.
"592. Compilation of information.
"593. Support services.".

SEC. 5. JUDICIAL REVIEW OF ARBITRATION AWARDS.

Section 10 of title 9, United States Code, is amended—

(1) by redesignating subsections (a) through (e) as paragraphs (1) through (5), respectively;

(2) by striking out "In either" and inserting in lieu thereof "(a) In any"; and

(3) by adding at the end thereof the following:

"(b) The United States district court for the district wherein an award was made that was issued pursuant to section 590 of title 5 may make an order vacating the award upon the application of a person, other than a party to the arbitration, who is adversely affected or aggrieved by the award, if the use of arbitration or the award is clearly inconsistent with the factors set forth in section 582 of title 5.".

SEC. 6. GOVERNMENT CONTRACT CLAIMS.

(a) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 606) is amended by adding at the end the following new subsections:

"(d) Notwithstanding any other provision of this Act, a contractor and a contracting officer may use any alternative means of dispute resolution under subchapter IV of chapter 5 of title 5, United States Code, or other mutually agreeable procedures, for resolving claims. In a case in which such alternative means of dispute resolution or other mutually agreeable procedures are used, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his or her knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. All provisions of subchapter IV of chapter 5

of title 5, United States Code, shall apply to such alternative means of dispute resolution.

"(e) The authority of agencies to engage in alternative means of dispute resolution proceedings under subsection (d) shall cease to be effective on October 1, 1995, except that such authority shall continue in effect with respect to then pending dispute resolution proceedings which, in the judgment of the agencies that are parties to such proceedings, require such continuation, until such proceedings terminate.".

(b) JUDICIAL REVIEW OF ARBITRAL AWARDS.—Section 8(g) of the Contract Disputes Act of 1978 (41 U.S.C. 607(g)) is amended by adding at the end the following new paragraph:

"(3) An award by an arbitrator under this Act shall be reviewed pursuant to sections 9 through 13 of title 9, United States Code, except that the court may set aside or limit any award that is found to violate limitations imposed by Federal statute.".

SEC. 7. FEDERAL MEDIATION AND CONCILIATION SERVICE.

Section 203 of the Labor Management Relations Act, 1947 (29 U.S.C. 173) is amended by adding at the end the following new subsection:

"(f) The Service may make its services available to Federal agencies to aid in the resolution of disputes under the provisions of subchapter IV of chapter 5 of title 5, United States Code. Functions performed by the Service may include assisting parties to disputes related to administrative programs, training persons in skills and procedures employed in alternative means of dispute resolution, and furnishing officers and employees of the Service to act as neutrals. Only officers and employees who are qualified in accordance with section 583 of title 5, United States Code, may be assigned to act as neutrals. The Service shall consult with the Administrative Conference of the United States and other agencies in maintaining rosters of neutrals and arbitrators, and to adopt such procedures and rules as are necessary to carry out the services authorized in this subsection.".

SEC. 8. GOVERNMENT TORT—AND OTHER CLAIMS.

(a) FEDERAL TORT CLAIMS.—Section 2672 of title 28, United States Code, is amended by adding at the end of the first paragraph the following: "Notwithstanding the proviso contained in the preceding sentence, any award, compromise, or settlement may be effected without the prior written approval of the Attorney General or his or her designee, to the extent that the Attorney General delegates to the head of the agency the authority to make such award, compromise, or settlement. Such delegations may not exceed the authority delegated by the Attorney General to the United States attorneys to settle claims for money damages against the United States. Each Federal agency may use arbitration, or other alternative means of dispute resolution under the provisions of subchapter IV of chapter 5 of title 5, to settle any tort claim against the United States, to the extent of the agency's authority to award, compromise, or settle such claim without the prior written approval of the Attorney General or his or her designee..

(b) CLAIMS OF THE GOVERNMENT.—Section 3711(a)(2) of title 31, United States Code, is amended by striking out "$20,000 (excluding interest)" and inserting in lieu thereof "$100,000 (excluding interest) or such higher amount as they Attorney General may from time to time prescribe.

SEC. 9. USE OF NONATTORNEYS.

(a) REPRESENTATION OF PARTIES.—Each agency, in developing a policy on the use of alternative means of dispute resolution under this Act, shall develop a policy with regard to the representation by persons other than attorneys of parties in alternative dispute resolution proceedings and shall identify any of its administrative programs with numerous claims or disputes before the agency and determine—

(1) the extent to which individuals are represented or assisted by attorneys or by persons who are not attorneys; and

(2) whether the subject areas of the applicable proceedings or the procedures are so complex or specialized that only attorneys may adequately provide such representation or assistance.

(b) REPRESENTATION AND ASSISTANCE BY NONATTORNEYS.—A person who is not an attorney may provide representation or assistance to any individual in a claim or dispute with an agency, if—

(1) such claim or dispute concerns an administrative program identified under subsection (a);

(2) such agency determines that the proceeding or procedure does not necessitate representation or assistance by an attorney under subsection (a)(2); and

(3) such person meets any requirement of the agency to provide representation or assistance in such a claim or dispute.

(c) DISQUALIFICATION OF REPRESENTATION OR ASSISTANCE.—Any agency that adopts regulations under subchapter IV of chapter 5 of title 5, United States Code, to permit representation or assistance by persons who are not attorneys shall review the rules of practice before such agency to—

(1) ensure that any rules pertaining to disqualification of attorneys from practicing before the agency shall also apply, as appropriate, to other persons who provide representation or assistance; and

(2) establish effective agency procedures for enforcing such rules of practice and for receiving complaints from affected persons.

SEC. 10. DEFINITIONS.

As used in this Act, the terms "agency", "administrative program", and "alternative means of dispute resolution" have the meanings given such terms in section 581 of title 5, United States Code, as added by section 4(b) of this Act.

SEC. 11. SUNSET PROVISION.

The authority of agencies to use dispute resolution proceedings under this Act and the amendments made by this Act shall terminate on October 1, 1995, except that such authority shall continue in effect with respect to then pending proceedings which, in the judgment of the agencies that are parties to the dispute resolution proceedings, require such continuation, until such proceedings terminate.

J. KENNETH ROBINSON POSTAL BUILDING AND ARTHUR WATKINS POST OFFICE BUILDING

Mr. EXON. Madam President, I ask unanimous consent that the Governmental Affairs Committee be discharged en bloc from further consideration of the following: H.R. 4721, designating the J. Kenneth Robinson Postal Building in Virginia; H.R. 5409, designating the Arthur Watkins Post Office Building in Utah; that the Senate proceed en bloc to their immediate consideration; that the bills be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bills (H.R. 4721 and H.R. 5409) were passed.

BACA LOCATION NO. 1 LAND ACQUISITION AND STUDY ACT

Mr. EXON. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 999, S. 2521, a bill to exchange certain lands in the State of New Mexico.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2521) to exchange certain lands in the State of New Mexico, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baca Location No. 1 Land Acquisition and Study Act of 1990".

SEC. 2 PURPOSES AND DEFINITIONS.

(a) PURPOSES.—The purposes of this Act are to—

(1) authorize the Secretary to acquire by purchase certain lands in the State of New Mexico to be added to the Santa Fe National Forest;

(2) compensate Dunigan Enterprises for costs incurred as a result of certain Federal actions; and

(3) provide for a study to determine possible Federal protection of certain lands in New Mexico known as "BACA Location No. 1".

(b) As used in this Act, the term—

(1) "Baca Location No. 1" means the land owned by Dunigan Enterprises located in the Jemez Mountains west of Los Alamos, New Mexico, in Sandoval and Rio Arriba counties and consisting of approximately 100,000 acres, as generally depicted on the map entitled "1510—Santa Fe NF—S. 2521 Cochiti Land Exchange Act" and dated October, 1990;

(2) "Dunigan Enterprises" means Dunigan Enterprises, Inc., a Texas corporation, and BL&C Co. and BL&C Co. No. 2, Texas Partnerships; and

(3) "Secretary" means the Secretary of Agriculture.

SEC. 3. ACQUISITION

(a) IN GENERAL.—The Secretary is authorized to acquire by purchase with donated or appropriated funds the lands described in subsection (b). Upon acquiring the lands, the Secretary shall include them within the Santa Fe National Forest and shall administer them accordingly.

(b) DESCRIPTION OF LANDS TO BE ACQUIRED.—The lands to be acquired pursuant to subsection (a) consist of two parcels totaling approximately 36 acres, and are more specifically described as follows:

(1) Parcel 1.—Beginning at Mile Point No. 11 on the south boundary of Baca Location No. 1; thence westerly along the south boundary of Baca Location No. 1 to its intersection with the constructed centerline of Forest Development Road 133; thence on a continuation of the south boundary of Baca Location No. 1, 33 feet; thence on an approximate bearing of N. 26° E., about 720 feet as scaled from the Forest Service's topographic map of the area, to the south boundary of the easement for New Mexico State Highway No. 4; thence in an easterly direction along the State Highway easement to its intersection with the south boundary of Baca Location No. 1; thence westerly along the south boundary of Baca Location No. 1 to the point of beginning, being Mile Point No. 11, containing approximately 27 acres, and subject to confirmation by formal survey and acceptable legal description and record acreage.

(2) Parcel 2.—Beginning at Mile Point No. 10 on the south boundary of Baca Location No. 1; thence in a westerly direction along the south boundary of Baca Location No. 1, 423 feet to a point on the west side of the East Fork of the Rio Jemez; thence N. 38° E., 660 feet; thence N. 86° E., 170 feet; thence S. 70° E., 364 feet to the south boundary of Baca Location No. 1 to the point of beginning, being Mile Point No. 10, containing approximately 9 acres, and subject to confirmation by formal survey and acceptable legal description and record acreage.

SEC. 4. COMPENSATION.

(a) IN GENERAL.—The Secretary of the Treasury is authorized and directed, subject to the provisions of subsection (b), to pay a direct payment to Dunigan Enterprises not to exceed $1,633,527 out of any money in the Treasury not otherwise appropriated to compensate Dunigan Enterprises for costs incurred as a result of certain Federal actions involving a land exchange between the United States and Dunigan Enterprises in 1966.

(b) CERTIFICATION.—(1) The Secretary of the Treasury may make the payment described in subsection (a), only after the Secretary, acting through the Inspector General of the United States Department of Agriculture certifies that—

(A) the sum accurately reflects the damages incurred by Dunigan Enterprises resulting from the 1966 land exchange in New Mexico between the United States and Dunigan Enterprises;

(B) Dunigan Enterprises has executed a release of all claims relating to the real property known as the "Cochiti Properties", approximately 2,456.14 acres as described in the quitclaim deed to the Baca Land and Cattle Company, et al., on September 25, 1966, as recorded in Volume 21, pages 361-363 of the Sandoval County, New Mexico records; and

(C) Dunigan Enterprises has executed with the Department of Justice an appropriate joint stipulation for entry of an order of dismissal, with prejudice, of the pending litigation between Dunigan Enterprises and the United States, entitled Dunigan Enterprises, Inc. et al. v. United States, No. 506-88L, United States Claim Court.

(2)(A) In making the verification pursuant to paragraph (1), the Secretary shall consider costs incurred by Dunigan Enterprises as a result of the 1966 land exchange between the United States and Dunigan Enterprises, including but not limited to foregone proceeds on sales contracts, and reasonable expenses for travel, telephone calls, legal services and other miscellaneous costs.

(B) If the Secretary determines pursuant to the certification requirement required in paragraph (1) that Dunigan Enterprises has incurred damages of less than $1,633,527, then Dunigan Enterprises shall be paid such lesser amount pursuant to subsection (a).

SEC. 5. LAND OWNERSHIP ADJUSTMENT STUDY.

(a) IN GENERAL.—(1) The Secretary is authorized and directed to conduct a study of Baca Location No. 1 to address—

(A) the scenic, geologic, recreational, timber, mineral, grazing, and other multiple use attributes of Baca Location No. 1; and

(B) options for Federal acquisition of Baca Location No. 1, in whole or part, by purchase, donation, exchange, or otherwise, including the estimated cost of each option.

(2) The Secretary shall complete the study within 2 full fiscal years after the date funds are made available for the study.

(b) COOPERATION.—(1) The Secretary shall prepare the study required by subsection (a) in cooperation with the owner of Baca Location No. 1, interested Indian tribes, the National Park Service, the United States Fish and Wildlife Service, and other interested parties.

(2) This Act shall not be construed to authorize entry upon Baca Location No. 1 by any person without the express permission of the landowner, and the Secretary shall make prior arrangements with the landowner for satisfactory access to Baca Location No. 1 for the purposes of the study.

(c) TRANSMITTAL OF STUDY.—Upon the completion of the study referred to in subsection (a), the Secretary shall transmit the results of such study, along with any legislative recommendations to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and Agriculture of the United States House of Representatives.

SEC. 6. TECHNICAL CORRECTION.

Section 110(a)(2) of the San Juan Basin Wilderness Protection Act of 1984, Public Law 98-603 (98 Stat. 3159) is hereby amended to read as follows:

"(2) The real property referred to in paragraph (1) is located in Lake Sumner State Park, in the State of New Mexico, and is more particularly described as follows:

" all portions of sections 28 and 33 in Township 5 North, Range 24, East, with an elevation of more than 4,208 feet above sea level. The acreage and legal description of such real property shall be determined by the Secretary, after consultation with Sumner Lake Corporation.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time and passed.

The title was amended so as to read: "A bill to authorize the Secretary of Agriculture, to acquire and study certain lands in the State of New Mexico, and for other purposes".

The PRESIDING OFFICER. Are there amendments to the committee substitute? If not, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read a third time.

Mr. EXON. Madam President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 4630, the House companion bill; that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 2521, as amended, be substituted in lieu thereof; that the bill be read a third time and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4630), as amended, was passed.

Mr. EXON. Madam President, I ask unanimous consent that S. 2521 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPUTER ABUSE AMENDMENTS ACT

Mr. EXON. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1006, S. 2476, a bill to clarify and expand legal prohibitions against computer abuse.

The PRESIDING OFFICER. (Mr. SARBANES). The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2476) to amend title 18 of the United States Code to clarify and expand legal prohibitions against compute abuse.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Abuse Amendments Act of 1990".

SEC. 2. AMENDMENTS TO THE COMPUTER FRAUD AND ABUSE ACT.

(a) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(b) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(c) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(d) REPORTING REQUIREMENTS.—Section 1030 of title 18 United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under section 1030(a)(5) of title 18, United States Code.".

(e) DEFINITION.—Section 1030(e)(1) of title 18 United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(f) PROHIBITION.—Section 1030(a)(3) of title 18 United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

Mr. LEAHY. Mr. President, innovations in computer technology are continuing at a rapid rate as we move into the high-tech age. Advances in computer technology create new opportunities for improving America's economic future, but they also create new opportunities for abuse by those who seek to undermine our computer systems. The maintenance of the security and integrity of computer systems has become increasingly critical to interstate and foreign commerce, communications, education, science, technology and national security.

In response to changes in computer technology and the threat posed by new techniques for creating and transmitting malicious programs and codes, Senators HUMPHREY and KOHL joined me in introducing S. 2476, a bill to amend the Criminal Code against computer abuse. As unanimously reported by the Judiciary Committee, this legislation would clarify and strengthen the criminal laws against the intentional transmission of destructive computer programs or codes and would provide a civil remedy for certain forms of computer crime.

This legislation is the product of 2 years of work by the Subcommittee on Technology and the Law. It deals with new technologies and newly discovered forms of computer abuse. Press accounts have focused attention on the alarming number of new techniques—computer viruses, worms and Trojan horses—that can secretly enter computers. Their names belie their insidious nature. Hidden programs can destroy or alter data, or, as we saw with the Internet worm of November 1988, they can hopelessly clog computer networks.

The subcommittee held a hearing on May 15, 1989, to explore the threat to computers and the information stored in them posed by new forms of computer abuse, such as computer viruses and worms. We heard testimony from FBI Director William Sessions, who stressed the seriousness of the threat posed by computer viruses and other techniques. He also testified that the Bureau was actively pursuing computer crime and keeping pace with the changes in the technology.

The subcommittee also heard testimony from Dr. Clifford Stoll, an astrophysicist at the Harvard-Smithsonian Center for Astrophysics. Dr. Stoll described the crucial importance of computers and computer networks for advanced scientific research. He testified that many researchers were prevented from using their computers for two days as a result of a computer worm that was introduced onto the Internet computer network in November 1988. While managing the computer system at the Lawrence Berkeley Laboratory, Dr. Stoll caught a West German spy using computer networks to try to gain access to military information. Misuse of computers, whether it is by a spy probing for military secrets or by a destructive computer virus or worm released onto a computer network, threatens the work of all computer users.

As a prosecutor for more than 8 years in Vermont, I learned that the best deterrent to crime was the threat of swift apprehension, conviction and punishment. Whether the offense is murder, drunk driving or computer crime, we need clear laws to bring offenders to justice. Trespassing, breaking and entering, and stealing are against the law. They have always been against the law because they are contrary to the values and principles that society holds dear. That has not changed and will not change.

In crafting this legislation we also have been mindful of the need to encourage legitimate experimentation and the free flow of information. As witnesses testified in both the computer virus hearings and the subcommittee's March 16, 1988 hearing on information and competitiveness, the open exchange of information is crucial to scientific development and the growth of new industries. We cannot unduly inhibit that inquisitive 13-year-old who, if left to experiment today, may, tomorrow, develop the telecommunications or computer technology to lead the United States into the 21st century. He or she represents our future and our best hope to remain a technologically competitive nation.

Mr. President, this bill clarifies the intent standards, the actions prohibited and the jurisdiction of the current Computer Fraud and Abuse Act [CFAA], title 18 U.S.C. section 1030. Under the current statute, prosecution of computer abuse crimes must be predicated upon the violator's gaining unauthorized access to the affected Federal interest computers. However, computer abusers have developed an arsenal of new techniques which result in the replication and transmission of destructive programs or codes that inflict damage upon remote computers to which the violator never gained access in the commonly understood sense of that term. The Judiciary

Committee's report, No. 101-544, is the definitive legislative history on S. 2476. As the report notes, the new subsection of the CFAA created by this act places the focus on harmful intent and resultant harm, rather than on the technical concept of computer access.

S. 2476 makes it a felony intentionally to cause harm to a computer or the information stored in it by transmitting a computer program or code—including computer viruses—without the knowledge and authorization of the person responsible for the computer attacked. This is broader than existing law, which prohibits "intentionally access[ing] a Federal interest computer without authorization," if that causes damage.

This legislation recognizes that some computer incidents are not malicious—or even intentional—and they are treated differently. The act creates a parallel misdemeanor offense for knowingly transmitting a computer program with reckless disregard of a substantial and unjustifiable risk that the transmission will cause harm. The standard for recklessness is taken from the Model Penal Code.

The act creates a new, civil remedy for those harmed by violations of the CFAA. This would boost the deterrence of the statute by allowing aggrieved individuals to obtain relief.

The act also expands the jurisdiction of the CFAA. S. 2476 would cover all computers involved in interstate commerce, not just Federal interest computers, as the current law does. This is appropriate because of the interstate nature of computer networks. American society is increasingly dependent on computer networks that span State and national boundaries. The potential for abuse of computer networks knows no boundaries. The act addresses this threat by expanding the jurisdiction of the CFAA to the full extent of the powers of Congress under the commerce clause of the U.S. Constitution, article I, section 8.

Mr. President, it is important to update the CFAA to stay abreast of rapid changes in computer technology and computer abuse techniques. The Computer Abuse Amendments Act of 1990 has been drafted and revised on the basis of careful review of issues raised in the Subcommittee on Technology and the Law's hearings, and with the benefit of consultation with computer experts. The Judiciary Committee unanimously reported S. 2476. At the hearing of the Subcommittee on Technology and the Law on July 31, 1990, Deputy Assistant Attorney General Mark Richard testified that "S. 2476 provides a useful improvement over and clarification of, the scope of existing law." The bill has been broadly supported by a bipartisan effort in the Senate and by the computer industry and computer users. I urge my colleagues to join us in supporting this measure.

In closing, I would like to thank the following Judiciary Committee staff members for their fine work in getting this legislation to the point of Senate passage this year: George Smith and Tracy Carnes on Senator HUMPHREY's staff; and Jon Leibowitz on Senator KOHL's staff. Finally, I would like to thank my own staff on this legislation: Katie Miller and my chief counsel, Ann Harkins. They have truly been the indispensable people on this legislation and I commend them both.

Mr. HUMPHREY. Mr. President, I join Senator Leahy in urging the Senate to enact S. 2476, the Computer Abuse Amendments Act of 1990.

This bill reflects a bipartisan effort by the members of the Subcommittee on Technology and the Law to identify shortcomings in existing Federal law governing computer abuse crimes and to frame legislation to rectify those problems. After thorough hearings, consultation with representatives of the computer industry, the Justice Department, and other concerned groups, and extensive legislative revision, we have developed a bill which will significantly strengthen and clarify Federal computer crime legislation. The bill was unanimously approved by the Senate Judiciary Committee, and is ready for enactment by the Senate.

S. 2476 deals with an issue of great practical importance for Americans in all walks of life—the computer systems which have become an indispensable tool for business, science, medicine, Government, and countless other activities at home and in the workplace.

The national and international computer networks which allot the rapid exchange of information and ideas provide one of the great benefits of modern computer technology. But they also provide a window of vulnerability that can be exploited by those who seek to abuse and undermine our computer systems.

Over the past few years, incidents of serious computer abuse have increased markedly. These incidents range from the reckless experiments of some irresponsible computer mischief-makers to the systematic efforts of foreign agents to penetrate and exploit sensitive military databases. Computer abusers have developed a complex arsenal of new techniques, including computer viruses and worms, which result in the replication and retransmission of harmful programs and codes to wreak havoc in computers throughout the country. Unless these activities are deterred and controlled, computer sabotage could one day result in major damage to one of our financial institutions, medical information networks, or Government information systems.

In light of these problems, we must enhance our efforts to maintain the security and integrity of our interdependent computer systems and networks. Criminal computer abuse represents a significant threat to the Nation's commerce and security.

A comprehensive solution to this problem cannot be achieved through legislation, but must come from the development and implementation of more effective computer security systems and technology. But in the meantime, we need to update our computer crime laws to help deter and punish the ever-changing variety of computer abuse crimes.

S. 2476 does just that. This bill amends the Computer Fraud and Abuse Act [CFAA] to keep that legislation abreast of changing computer techniques and technology. For example, the crimes covered by the CFAA are tied to the element of "unauthorized access" to a "Federal interest computer." But experience has taught us that some of the most far-reaching forms of computer damage can be caused without gaining personal access to the affected computers. For example, a destructive computer virus can be transmitted—either through electronics means or by the physical transfer of an infected disc—to a remote computer system even though the originator of the virus never gained personal access to that system. S. 2476 closes this potential loophole in existing law.

The bill also clarifies and expands the protection of computers provided by existing law. Whereas the CFAA's coverage was limited to "Federal interest computers" as defined in that act, S. 2476 makes it clear that any computer used in interstate commerce or communications is protected against criminal computer abuse. The bill also clarifies the kinds of computer harm which are covered by the CFAA.

The bill also creates a new misdemeanor violation for less serious, but still significant, forms of computer abuse. This provision should help deter forms of computer abuse which would not be appropriate to prosecute as felonies.

Finally, S. 2476 authorizes a civil cause of action allowing recovery for economic damages or loss caused by felony violations of the CFAA. Given the Government's limited capacity to pursue all computer crime cases, the existence of this limited civil remedy will serve to enhance deterrence in this critical area. The definitive legislative history on S. 2476 is the Judiciary Committee's Report No. 101-544.

In sum, S. 2476 significantly improves our Federal computer crime laws. I urge all my colleagues to help enact this important bipartisan legislation.

The PRESIDING OFFICER. Are there amendments to the pending substitute? If not, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. Without objection, the bill is considered read a third time and passed.

So the bill (S. 2476), as amended, was passed.

Mr. EXON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSPLANT AMENDMENTS ACT OF 1990

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 984, S. 2946, the National Bone Marrow Donor Registry Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2946) to amend the Public Health Service Act to revise and extend the program establishing the National Bone Marrow Donor Registry, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Transplant Amendments Act of 1990".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—NATIONAL BONE MARROW DONOR REGISTRY
Sec. 101. Establishment of a National Bone Marrow Donor Registry.
Sec. 102. Savings provisions.
TITLE II—ORGAN TRANSPLANTS
Sec. 201. Assistance for organ procurement organizations.
Sec. 202. Organ procurement and transplantation network.
Sec. 203. Policy standards and guidelines.
Sec. 204. General provisions respecting grants and contracts.
Sec. 205. Administration.
Sec. 206. Report.
Sec. 207. Study by General Accounting Office.
Sec. 208. Effective date.
TITLE III—IMMUNOSUPPRESSIVE DRUG THERAPY
Sec. 301. Block grants.

TITLE I—NATIONAL BONE MARROW DONOR REGISTRY

SEC. 101. ESTABLISHMENT OF A NATIONAL BONE MARROW DONOR REGISTRY.

(a) REGISTRY.—Title III of the Public Health Service Act (42 U.S.C. 301 et seq.) is amended—

(1) by redesignating parts I, J, and K as parts J, K, and L, respectively; and

(2) by inserting after section 377 (as added by section 207 of this Act) the following new part:

"PART I—NATIONAL BONE MARROW DONOR REGISTRY

"SEC. 379. NATIONAL REGISTRY.

"(a) ESTABLISHMENT.—The Secretary shall by contract establish and maintain a National Bone Marrow Donor Registry (referred to in this part as the 'Registry') that meets the requirements of this section. The Registry shall be under the general supervision of the Secretary, and under the direction of a board of directors that shall include representatives of donor centers, transplant centers, persons with expertise in the social science, and the general public.

"(b) FUNCTIONS.—The Registry shall—

"(1) establish a system for finding marrow donors suitably matched to unrelated recipients for bone marrow transplantation;

"(2) establish a system for patient advocacy, separate from mechanisms for donor advocacy, that directly assists patients, their families, and their physicians in the search for an unrelated marrow donor;

"(3) ensure that the pool of potential donors that form the Registry is ethnically diverse so that an individual in a minority group has a comparable chance of finding a suitable unrelated donor as an individual not in a minority group;

"(4) provide information to physicians, other health care professionals, and the public regarding bone marrow transplantation;

"(5) recruit potential bone marrow donors;

"(6) collect, analyze, and publish data concerning bone marrow donation and transplantation; and

"(7) support studies and demonstration projects for the purpose of increasing the number of individuals, especially minorities, who are willing to be marrow donors.

"(c) CRITERIA, STANDARDS, AND PROCEDURES.—Not later than 180 days after the date of enactment of this part, the Secretary shall establish and enforce, for entities participating in the program, including the Registry, individual donor centers, donor registries, marrow collection centers, and marrow transplant centers—

"(1) quality standards and standards for tissue typing, obtaining the informed consent of donors, and providing patient advocacy;

"(2) donor selection criteria, based on established medical criteria, to protect both the donor and the recipient and to prevent the transmission of potentially harmful infectious diseases such as the viruses that cause hepatitis and the etiologic agent for Acquired Immune Deficiency Syndrome;

"(3) procedures to ensure the proper collection and transportation of the marrow;

"(4) standards that require the provision of information to patients, their families, and their physicians at the start of the search process concerning—

"(A) the resources available through the Registry;

"(B) all marrow donor registries meeting the standards described in this paragraph; and

"(C) in the case of the Registry—

"(i) the comparative costs of all charges incurred by patients prior to transplantation; and

"(ii) the success rates of individual marrow transplant centers; and

"(5) standards that—

"(A) require the establishment of a system of strict confidentiality of records relating to the identity, address, HLA type, and managing donor center for marrow donors and potential marrow donors; and

"(B) prescribe the purposes for which the records described in subparagraph (A) may be disclosed, and the circumstances and extent of the disclosure.

"(d) COMMENT PROCEDURES.—The Secretary shall establish and provide information to the public on procedures, which may include establishment of a policy advisory committee, under which the Secretary shall receive and consider comments from interested persons relating to the manner in which the Registry is carrying out the duties of the Registry under subsection (b) and complying with the criteria, standards, and procedures described in subsection (c).

"(e) CONSULTATION.—The Secretary shall consult with the board of directors of the Registry and the bone marrow donor program of the Department of the Navy in developing policies affecting the Registry.

"(f) APPLICATION.—To be eligible to enter into a contract under this section, an entity shall submit to the Secretary and obtain approval of an application at such time, in such manner, and containing such information as the Secretary shall by regulation prescribe.

"(g) ELIGIBILITY.—Entities eligible to receive a contract under this section shall include private nonprofit entities.

"(h) RECORDS.—

"(1) RECORDKEEPING.—Each recipient of a contract under subsection (a) shall keep such records as the Secretary shall prescribe, including records that fully disclose the amount and disposition by the recipient of the proceeds of the contract, the total cost of the undertaking in connection with which the contract was made, and the amount of the portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States shall have access to any books, documents, papers, and records of the recipient of a contract entered into under this section that are pertinent to the contract, for the purpose of conducting audits and examinations.

"(i) PENALTIES FOR DISCLOSURE.—Any person who discloses the content of any record referred to in subsection (c)(5)(A) without the prior written consent of the donor or potential donor with respect to whom the record is maintained, or in violation of the standards described in subsection (c)(5)(B), shall be fined not more than $50,000 or imprisoned not more than 2 years, or both.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $17,000,000 for fiscal year 1991 and such sums as may be necessary for each of fiscal years 1992 and 1993.

"SEC. 379A. STUDY BY THE GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study that evaluates—

"(1) the costs and benefits of the search process for an unrelated bone marrow donor among donor registries;

"(2) the extent to which donor registries protect donor confidentiality;

"(3) the relationship between the Registry established under this part and individual donor centers;

"(4) the effectiveness and appropriateness of policies and procedures of donor centers, transplant centers, and donor registries, including—

"(A) the process of donor recruitment, including the policy of asking each donor whether the donor would want to donate more than one time;

"(B) the maintenance and updating of donor files; and

"(C) the policy of initially typing donors for A/B antigens only instead of initially typing for both A/B and D/R antigens;

"(5) the ability of the donor registries to adopt changes in medical understanding and practice; and

"(6) the costs associated with tissue typing.

"(b) REPORT.—Not later than 1 year after the date of enactment of this part, the Comptroller General shall complete the study required under subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the findings made by the study and recommendations for legislative reform.".

(b) CONFORMING AMENDMENT.—Section 373 of the Act (42 U.S.C. 274a) is amended—

(1) in the section heading, by striking "and Bone Marrow Registry";

(2) by striking "(a)"; and

(3) by striking out subsection (b).

SEC. 102. SAVINGS PROVISIONS.

(a) IN GENERAL.—This title, and the amendments made by this title, shall not affect any legal document, including any order, regulation, grant, or contract, in effect on the date of enactment of this Act, or any administrative proceeding or lawsuit pending on the date, that relates to the bone marrow registry established under section 373(b) of the Public Health Service Act (as it existed before the amendment made by section 101(b) of this Act).

(b) CONTINUED EFFECT.—A legal document described in subsection (a) or an order issued in a lawsuit described in subsection (a) shall continue in effect until modified, terminated, or revoked.

(c) PROCEEDINGS.—In any administrative proceeding or lawsuit described in subsection (a), parties shall take appeals, and officials shall hold proceedings and render judgments, in the same manner and with the same effect as if this title had not been enacted.

TITLE II—ORGAN TRANSPLANTS

SEC. 201. ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS.

(a) SECTION HEADING.—Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended in the section heading by striking "assistance for".

(b) AUTHORITY REGARDING CERTAIN GRANTS.—

(1) SPECIAL PROJECTS.—Section 371(a)(3) of the Act (42 U.S.C. 273(a)(3)) is amended by striking "may make grants for special projects" and inserting the following: "may make grants to, and enter into contracts with, qualified organ procurement organizations described in subsection (b) and other nonprofit private entities for the purpose of carrying out special projects".

(2) CONSIDERATIONS IN MAKING CERTAIN GRANTS.—Section 371(a) of the Act (42 U.S.C. 273(a)) is amended by striking paragraph (4).

(c) SERVICE AREA OF QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (E) of section 371(b)(1) of the Act (42 U.S.C. 273(b)(1)(E)) is amended to read as follows:

"(E) has a defined service area that is of sufficient size to assure maximum effectiveness in the procurement and equitable distribution of organs, and that either includes an entire standard metropolitan statistical area (as specified by the Director of the Office of Management and Budget) or does not include any part of the area,".

(2) CONFORMING AMENDMENT.—Section 402(c)(3) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607; 42 U.S.C. 273 note) is repealed.

(d) EFFECTIVENESS REGARDING NUMBER OF ORGANS PROCURED.—Section 371(b) of the Public Health Service Act (42 U.S.C. 273(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) Not later than 180 days after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register a notice of proposed rulemaking to establish criteria for determining whether an entity meets the requirement established in paragraph (1)(E).".

(e) TECHNICAL CORRECTION REGARDING PUBLIC LAW 100-607.—Section 402(c)(2) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607; 102 Stat. 3115) is amended by inserting "at the end" after "the comma".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 371(c) of the Public Health Service Act (42 U.S.C. 273(c)) is amended by striking "1988 through 1990" and inserting "1991 through 1995".

SEC. 202. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) MINIMUM QUALIFICATIONS OF CONTRACTOR.—Section 372(b)(1) of the Public Health Service Act (42 U.S.C. 274(b)(1)) is amended—

(1) in subparagraph (A), by striking "which is not engaged in any activity unrelated to organ procurement" and inserting "that has an expertise in organ procurement and transplantation"; and

(2) in subparagraph (B), to read as follows:

"(B) have a board of directors—

"(i) that includes representatives of organ procurement organizations (including organizations that have received grants under section 371), transplant centers, voluntary health associations, and the general public; and

"(ii) that shall establish an executive committee and other committees, whose chairpersons shall be selected to ensure continuity of leadership for the board.".

(b) RESPONSIBILITIES OF NETWORK.—Section 372(b)(2) of the Act (42 U.S.C. 274(b)(2)) is amended—

(1) in subparagraph (D)—

(A) by inserting "nationwide" after "organizations in the"; and

(B) by inserting "equitably among transplant patients" after "organs";

(2) by striking "and" at the end of subparagraph (I);

(3) by striking the period at the end of subparagraph (J) and inserting ", and"; and

(4) by adding at the end the following new subparagraph:

"(K) work actively to increase the supply of donated organs.".

(c) TECHNICAL CORRECTION.—Section 372(b)(2)(F) of the Act (42 U.S.C. 274(b)(2)(F)) is amended by striking "compatability" and inserting "compatibility".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on December 31, 1990.

SEC. 203. GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS.

Section 374 of the Public Health Service Act (42 U.S.C. 274b) is amended—

(1) in subsection (a), by striking "No grant" and all that follows through "373" the first place that the term appears and inserting the following: "No grant may be made under this part";

(2) in subsection (b)—

(A) by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(B) by striking "section 371" in paragraph (1) (as so redesignated) and inserting "section 371(a)(1)";

(C) by striking "paragraphs (2) and (3) of section 371(a)" in the first sentence of paragraph (2) (as so redesignated), and inserting "section 371(a)(2)"; and

(D) by adding at the end the following new paragraph:

"(3) Grants or contracts under section 371(a)(3) may be made for not more than 3 years."; and

(3) in subsection (c)—

(A) by inserting "or contract" after "grant" in the first sentence of paragraph (1);

(B) by inserting "and contracts" after "grants" each place the term appears in the second sentence of paragraph (1); and

(C) by inserting "or contract" after "grant" each place the term appears in subparagraphs (A) and (B) of paragraph (2).

SEC. 204. ADMINISTRATION.

(a) IDENTIFIABLE ADMINISTRATIVE UNIT.—Section 375 of the Public Health Service Act (42 U.S.C. 274c) is amended in the matter preceding paragraph (1) by striking "1990," and inserting "1995,".

(b) STRIKING OF EXPIRED REQUIREMENT REGARDING CERTAIN REPORTS.—Section 375 of the Act (42 U.S.C. 274c) is amended—

(1) in paragraph (3), by striking "receiving funds under section 371"; and

(2) in paragraph (4), to read as follows:

"(4) provide information—

"(i) to patients, their families, and their physicians about transplantation; and

"(ii) to patients and their families about the resources available nationally and in each State, and the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network, in order to assist the patients and families with the costs associated with transplantation.".

SEC. 205. REPORT.

Section 376 of the Public Health Service Act (42 U.S.C. 274d) is amended—

(1) in the first sentence, by striking "The Secretary" and all that follows through "report on" and inserting "The Secretary shall prepare a report each fiscal year on"; and

(2) by adding at the end the following new sentence: "The biennial report shall be submitted to the Secretary each fiscal year for inclusion in the biennial report required by section 403.".

SEC. 206. STUDY BY GENERAL ACCOUNTING OFFICE.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amend-

ed by adding at the end the following new section:

"SEC. 377. STUDY BY GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining—

"(1) the extent to which the procurement and allocation of organs have been equitable, efficient, and effective;

"(2) the problems encountered in the procurement and allocation; and

"(3) the effect of State required-request laws.

"(b) REPORT.—Not later than January 7, 1992, and January 7, 1994, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.".

SEC. 207. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall become effective on October 1, 1990, or on the date of the enactment of this Act, whichever occurs later.

TITLE III—IMMUNOSUPPRESSIVE DRUG THERAPY

SEC. 301. BLOCK GRANTS.

Section 1932 of the Public Health Service Act (42 U.S.C. 300y-22) is amended by striking "1988 through 1990" and inserting "1991 through 1995".

TITLE IV—SEVERABILITY

SEC. 401. SEVERABILITY.

If any provision of this Act, amendment made by this Act, or application of the provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions or amendments to any person or circumstance shall not be affected.

AMENDMENT NO. 3170

(Purpose: To make a substitute amendment)

Mr. EXON. Mr. President, I send a substitute amendment to the desk on behalf of Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. Exon], for Mr. KENNEDY, proposes an amendment numbered 3170.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Transplant Amendments Act of 1990".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—NATIONAL BONE MARROW DONOR REGISTRY
Sec. 101. Establishment of a National Bone Marrow Donor Registry.
Sec. 102. Savings provisions.
TITLE II—ORGAN TRANSPLANTS
Sec. 201. Assistance for organ procurement organizations.
Sec. 202. Organ procurement and transplantation network.
Sec. 203. Policy standards and guidelines.
Sec. 204. General provisions respecting grants and contracts.
Sec. 205. Administration.
Sec. 206. Report.
Sec. 207. Study by General Accounting Office.
Sec. 208. Effective date.
TITLE III—IMMUNOSUPPRESSIVE DRUG THERAPY
Sec. 301. Block grants.
TITLE IV—FELLOWSHIPS
Sec. 401. James Madison Memorial Scholarships.
TITLE V—SEVERABILITY
Sec. 501. Severability.

TITLE I—NATIONAL BONE MARROW DONOR REGISTRY

SEC. 101. ESTABLISHMENT OF A NATIONAL BONE MARROW DONOR REGISTRY.

(a) REGISTRY.—Title III of the Public Health Service Act (42 U.S.C. 301 et seq.) is amended—

(1) by redesignating parts I, J, and K as parts J, K, and L, respectively; and

(2) by inserting after section 377 (as added by section 207 of this Act) the following new part:

"PART I—NATIONAL BONE MARROW DONOR REGISTRY

"SEC. 379. NATIONAL REGISTRY.

"(a) ESTABLISHMENT.—The Secretary shall be contract establish and maintain a National Bone Marrow Donor Registry (referred to in this part as the 'Registry') that meets the requirements of this section. The Registry shall be under the general supervision of the Secretary, and under the direction of a board of directors that shall include representatives of marrow donor centers, marrow transplant centers, persons with expertise in the social science, and the general public.

"(b) FUNCTIONS.—The Registry shall—

"(1) establish a system for finding marrow donors suitably matched to unrelated recipients for bone marrow transplantation;

"(2) establish a system for patient advocacy, separate from mechanisms for donor advocacy, that directly assists patients, their families, and their physicians in the search for an unrelated marrow donor;

"(3) increase the representation of individuals from racial and ethnic minority groups in the pool of potential donors for the Registry in order to enable an individual in a minority group, to the extent practicable, to have a comparable chance of finding a suitable unrelated donor as would an individual not in a minority group;

"(4) provide information to physicians, other health care professionals, and the public regarding bone marrow transplantation;

"(5) recruit potential bone marrow donors;

"(6) collect, analyze, and publish data concerning bone marrow donation and transplantation; and

"(7) support studies and demonstration projects for the purpose of increasing the number of individuals, especially minorities, who are willing to be marrow donors.

"(c) CRITERIA, STANDARDS, AND PROCEDURES.—Not later than 180 days after the date of enactment of this part, the Secretary shall establish and enforce, for entities participating in the program, including the Registry, individual marrow donor centers, marrow donor registries, marrow collection centers, and marrow transplant centers—

"(1) quality standards and standards for tissue typing, obtaining the informed consent of donors, and providing patient advocacy;

"(2) donor selection criteria, based on established medical criteria, to protect both the donor and the recipient and to prevent the transmission of potentially harmful infectious diseases such as the viruses that cause hepatitis and the etiologic agent for Acquired Immune Deficiency Syndrome;

"(3) procedures to ensure the proper collection and transportation of the marrow;

"(4) standards that require the provision of information to patients, their families, and their physicians at the start of the search process concerning—

"(A) the resources available through the Registry;

"(B) all other marrow donor registries meeting the standards described in this paragraph; and

"(C) in the case of the Registry—

"(i) the comparative costs of all charges by marrow transplant centers incurred by patients prior to transplantation; and

"(ii) the success rates of individual marrow transplant centers;

"(5) standards that—

"(A) require the establishment of a system of strict confidentiality of records relating to the identity, address, HLA type, and managing marrow donor center for marrow donors and potential marrow donors; and

"(B) prescribe the purposes for which the records described in subparagraph (A) may be disclosed, and the circumstances and extent of the disclosure; and

"(6) in the case of a marrow donor center or marrow donor registry participating in the program, procedures to ensure the establishment of a method for integrating donor files, searches, and general procedures of the center or registry with the Registry.

"(d) COMMENT PROCEDURES.—The Secretary shall establish and provide information to the public on procedures, which may include establishment of a policy advisory committee, under which the Secretary shall receive and consider comments from interested persons relating to the manner in which the Registry is carrying out the duties of the Registry under subsection (b) and complying with the criteria, standards, and procedures described in subsection (c).

"(e) CONSULTATION.—The Secretary shall consult with the board of directors of the Registry and the bone marrow donor program of the Department of the Navy in developing policies affecting the Registry.

"(f) APPLICATION.—To be eligible to enter into a contract under this section, an entity shall submit to the Secretary and obtain approval of an application at such time, in such manner, and containing such information as the Secretary shall by regulation prescribe.

"(g) ELIGIBILITY.—Entities eligible to receive a contract under this section shall include private nonprofit entities.

"(h) RECORDS.—

"(1) RECORDKEEPING.—Each recipient of a contract or subcontract under subsection (a) shall keep such records as the Secretary shall prescribe, including records that fully disclose the amount and disposition by the recipient of the proceeds of the contract, the total cost of the undertaking in connection with which the contract was made, and the amount of the portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the

United States shall have access to any books, documents, papers, and records of the recipient of a contract or subcontract entered into under this section that are pertinent to the contract, for the purpose of conducting audits and examinations.

"(i) PENALTIES FOR DISCLOSURE.—Any person who discloses the content of any record referred to in subsection (c)(5)(A) without the prior written consent of the donor or potential donor with respect to whom the record is maintained, or in violation of the standards described in subsection (c)(5)(B), shall be imprisoned for not more than 2 years or fined in accordance with title 18, United States Code, or both.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1991 and such sums as may be necessary for each of fiscal years 1992 and 1993.

"SEC. 379A. STUDY BY THE GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study that evaluates—

"(1) the costs and benefits of the search process for an unrelated bone marrow donor among different marrow donor registries;

"(2) the extent to which marrow donor registries protect donor confidentiality;

"(3) the relationship between the Registry, individual marrow donor centers, and other marrow donor registries;

"(4) the effectiveness and appropriateness of policies and procedures of marrow donor centers, marrow transplant centers, and marrow donor registries, including—

"(A) the process of donor recruitment, including the policy of asking each donor whether the donor would want to donate more than one time;

"(B) the maintenance and updating of donor files; and

"(C) the policy of initially typing donors for A/B antigens only instead of initially typing for both A/B and D/R antigens;

"(5) the ability of the marrow donor registries to incorporate changes in medical research and clinical practice; and

"(6) the costs associated with tissue typing.

"(b) REPORT.—Not later than 1 year after the date of enactment of this part, the Comptroller General shall complete the study required under subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the findings made by the study and recommendations for legislative reform.".

(b) CONFORMING AMENDMENT.—Section 373 of the Act (42 U.S.C. 274a) is amended—

(1) in the section heading, by striking "and Bone Marrow Registry";

(2) by striking "(a)"; and

(3) by striking out subsection (b).

SEC. 102. SAVINGS PROVISIONS.

(a) IN GENERAL.—This title, and the amendments made by this title, shall not affect any legal document, including any order, regulation, grant, or contract, in effect on the date of enactment of this Act, or any administrative proceeding or lawsuit pending on the date, that relates to the bone marrow registry established under section 373(b) of the Public Health Service Act (as it existed before the amendment made by section 101(b) of this Act).

(b) CONTINUED EFFECT.—A legal document described in subsection (a) or an order issued in a lawsuit described in subsection (a) shall continue in effect until modified, terminated, or revoked.

(c) PROCEEDINGS.—In any administrative proceeding or lawsuit described in subsection (a), parties shall take appeals, and officials shall hold proceedings and render judgments, in the same manner and with the same effect as if this title had not been enacted.

TITLE II—ORGAN TRANSPLANTS

SEC. 201. ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS.

(a) SECTION HEADING.—Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended in the section heading by striking "assistance for".

(b) AUTHORITY REGARDING CERTAIN GRANTS.—

(1) SPECIAL PROJECTS.—Section 371(a)(3) of the Act (42 U.S.C. 273(a)(3)) is amended by striking "may make grants for special projects" and inserting the following: "may make grants to, and enter into contracts with, qualified organ procurement organizations described in subsection (b) and other nonprofit private entities for the purpose of carrying out special projects".

(2) CONSIDERATIONS IN MAKING CERTAIN GRANTS.—Section 371(a) of the Act (42 U.S.C. 273(a)) is amended by striking paragraph (4).

(c) SERVICE AREA OF QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (E) of section 371(b)(1) of the Act (42 U.S.C. 273(b)(1)(E)) is amended to read as follows:

"(E) has a defined service area that is of sufficient size to assure maximum effectiveness in the procurement and equitable distribution of organs, and that either includes an entire metropolitan statistical area (as specified by the Director of the Office of Management and Budget) or does not include any part of the area,".

(2) CONFORMING AMENDMENT.—Section 402(c)(3) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607; 42 U.S.C. 273 note) is repealed.

(d) EFFECTIVENESS REGARDING NUMBER OF ORGANS PROCURED.—Section 371(b) of the Public Health Service Act (42 U.S.C. 273(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register a notice of proposed rulemaking to establish criteria for determining whether an entity meets the requirement established in paragraph (1)(E).

"(B) Not later than 1 year after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register a final rule to establish the criteria described in subparagraph (A).".

(e) TECHNICAL CORRECTION REGARDING PUBLIC LAW 100-607.—Section 402(c)(2) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607; 102 Stat. 3115) is amended by inserting "at the end" after "the comma".

SEC. 202. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) MINIMUM QUALIFICATIONS OF CONTRACTOR.—Section 372(b)(1) of the Public Health Service Act (42 U.S.C. 274(b)(1)) is amended—

(1) in subparagraph (A), by striking "which is not engaged in any activity unrelated to organ procurement" and inserting "that has an expertise in organ procurement and transplantation"; and

(2) in subparagraph (B), to read as follows:

"(B) have a board of directors—

"(i) that includes representatives of organ procurement organizations (including organizations that have received grants under section 371), transplant centers, voluntary health associations, and the general public; and

"(ii) that shall establish an executive committee and other committees, whose chairpersons shall be selected to ensure continuity of leadership for the board.".

(b) RESPONSIBILITIES OF NETWORK.—Section 372(b)(2) of the Act (42 U.S.C. 274(b)(2)) is amended—

(1) in subparagraph (D)—

(A) by inserting "nationwide" after "organizations in the"; and

(B) by inserting "equitably among transplant patients" after "organs";

(2) by striking "and" at the end of subparagraph (I);

(3) by striking the period at the end of subparagraph (J) and inserting ", and"; and

(4) by adding at the end the following new subparagraphs:

"(K) work actively to increase the supply of donated organs.

"(L) submit to the Secretary an annual report containing information on the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network.".

(c) TECHNICAL CORRECTION.—Section 372(b)(2)(F) of the Act (42 U.S.C. 274(b)(2)(F)) is amended by striking "compatability" and inserting "compatibility".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on December 31, 1990.

SEC. 203. GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS.

Section 374 of the Public Health Service Act (42 U.S.C. 274(b) is amended—

(1) in subsection (a), by striking "No grant" and all that follows through "373" the first place that the term appears and inserting the following: "No grant may be made under this part";

(2) in subsection (b)—

(A) by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(B) by striking "section 371" in paragraph (1) (as so redesignated) and inserting "section 371(a)(1)";

(C) by striking "paragraphs (2) and (3) of section 371(a)" in the first sentence of paragraph (2) (as so redesignated), and inserting "section 371(a)(2)"; and

(D) by adding at the end the following new paragraph:

"(3) Grants or contracts under section 371(a)(3) may be made for not more than 3 years."; and

(3) in subsection (c)—

(A) by inserting "or contract" after "grant" in the first sentence of paragraph (1);

(B) by inserting "and contracts" after "grants" each place the term appears in the second sentence of paragraph (1); and

(C) by inserting "or contract" after "grant" each place the term appears in subparagraphs (A) and (B) of paragraph (2).

SEC. 204. ADMINISTRATION.

(a) IDENTIFIABLE ADMINISTRATIVE UNIT.—Section 375 of the Public Health Service Act (42 U.S.C. 274c) is amended in the matter

preceding paragraph (1) by striking ", during fiscal years 1985 through 1990,".

(b) STRIKING OF EXPIRED REQUIREMENT REGARDING CERTAIN REPORTS.—Section 375 of the Act (42 U.S.C. 274c) is amended—

(1) in paragraph (3), by striking "receiving funds under section 371"; and

(2) in paragraph (4), to read as follows:

"(4) provide information—

"(i) to patients, their families, and their physicians about transplantation; and

"(ii) to patients and their families about the resources available nationally and in each State, and the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network, in order to assist the patients and families with the costs associated with transplantation.".

SEC. 205. REPORT.

Section 376 of the Public Health Service Act (42 U.S.C. 274d) is amended in the first sentence by striking "The Secretary" and all that follows through "publish" and inserting "Not later than February 10 of 1991 and of each second year thereafter, the Secretary shall publish, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate,".

SEC. 206. STUDY BY GENERAL ACCOUNTING OFFICE AND AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by adding at the end the following new sections:

"SEC. 377. STUDY BY GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining—

"(1) the extent to which the procurement and allocation of organs have been equitable, efficient, and effective.

"(2) the problems encountered in the procurement and allocation; and

"(3) the effect of State required-request laws.

"(b) REPORT.—Not later than January 7, 1992, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

"SEC. 378. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part, there are authorized to be appropriated $8,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended by striking subsection (c).

SEC. 207. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall become effective on October 1, 1990, or on the date of the enactment of this Act, whichever occurs later.

TITLE III—SEVERABILITY

SEC. 301. SEVERABILITY.

If any provision of this Act, amendment made by this Act, or application of the provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions or amendments to any person or circumstance shall not be affected.

Mr. KENNEDY. Mr. President, S. 2946 reauthorizes the National Registry of Voluntary Bone Marrow Donors and the Organ Transplant Program.

For people suffering from leukemia, aplastic anemia, and related diseases, a bone marrow transplant can mean the difference between life and death. In contrast to matching blood types, finding a suitable donor for a bone marrow transplant is much more difficult. The first place to look is in the patient's own family. If no suitable donor is found, the only other hope is to find a compatible donor from the public at large. Until recently, that task had been virtually impossible. But now registries exist where patients can look for possible donors among numbers of individuals large enough to provide a more realistic possibility of finding a match.

The Health Omnibus Program Extension Act of 1988 required the Secretary of the Department of Health and Human Services to establish a National Registry of volunteer bone marrow donors. This registry is currently being administered through a contract by the National Heart, Lung, and Blood Institute. Private independent registries also provide assistance in linking patients with potential donors.

Title I of this legislation reauthorizes the National Registry and makes important improvements in this system. The legislation specifies several functions that the National Registry must carry out, including patient advocacy, donor recruitment, and donor confidentiality. The National Registry would be required to provide information to all patients at the start of the search process concerning resources available through the National Registry and the comparative costs of all charges incurred by patients from transplant centers prior to transplantation. In addition, all marrow donor registries participating in the national program must meet standards established by the Secretary.

Research has shown that an individual has a greater chance of finding a suitable unrelated match within the same race or ethnic group. In order to ensure that the registry is ethnically diverse, so that members of minority groups also have a realistic chance of finding a suitable donor, the bill requires the National Registry to place a special emphasis on minority recruitment.

Until now, most of the donors added to the National Registry have come through public campaigns conducted by individuals faced with life-threatening illnesses and their families. This program owes much to families such as the Atlases, the Johnsons, and the Davises for building the National Registry to its current level of 210,000 potential donors.

This spring, Congress passed a supplemental appropriations bill that included $6 million to recruit and type donors. This appropriation will increase the number of donors significantly; but funding must be further increased in the short term in order to reach a level at which most patients can find a match. This bill would authorize $15 million for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993 for carrying out the functions of the Registry.

With these changes in place, we will take a significant step toward ensuring that the medical miracle of bone marrow transplantation is available to all those who need it.

This legislation will also give us the opportunity to make needed improvements in the National Organ Transplant Program, to ensure that this essential proposal does its lifesaving work more effectively.

In the 8 years since Jamie Fiske of Massachusetts focused the attention of the Nation on this issue, substantial progress has been made in finding suitable donors for the large number of citizens who need organ transplants in order to survive. Jamie's father appealed to the national convention of the American Academy of Pediatrics for a liver to save the life of his daughter, and his impassioned plea was broadcast across the country, touching the hearts of Americans everywhere.

As attention focused on the plight of other desperately ill children and adults, Americans became aware of the full scope of the organ transplant problem. In response, Congress enacted the National Organ Transplantation Act, which President Reagan signed into law in 1984, and which established a national organ matching and referral network.

Results came slowly at first; 2 years after the law's enactment, there was still no national network in place. Today the system is up and running, and we have made substantial progress in improving the organ transplant system. However, problems still exist. The number of organ donors has reached a plateau; the national focus of the referral system needs to be strengthened; and performance standards for organ procurement organizations must be developed.

Included in title II of this bill are provisions that expand the special grants program to increase the number of organ donors. Other private nonprofit entities, in addition to organ procurement organizations, are included. The national focus of the Organ Procurement and Transplantation Network is given emphasis.

The definition of a service area for an organ procurement organization is clarified; the Secretary is required to identify the criteria used in determining whether an organ procurement or-

ganization meets the service area requirement. The bill also directs the General Accounting Office to submit a report on the system of organ procurement and allocation and to make recommendations to improve the current system.

I would like to acknowledge the efforts of several of my colleagues on these issues. Senator HATCH has been a long-time supporter of these programs. Senator GORE was an original cosponsor of legislation establishing the National Organ Transplant Program and the National Bone Marrow Registry. Senator MIKULSKI offered the original amendment that established the National Registry. Finally, I would like to thank Senator METZENBAUM for his contributions to this legislation concerning minority recruitment for the National Registry.

Passage of this bill will greatly enhance the support for bone marrow and organ transplantation in the United States and improve health care for many needy Americans. I urge all of my colleagues to approve this bill.

Mr. GORE. Mr. President, 6 years ago this week we sent the President the first national organ transplant law. We listened to the concerns of families and the ideas of transplant professionals and we responded with our hearts and our minds.

This and subsequent laws established a national transplant policy, crafted to make more organs available for transplantation and to insure that they were distributed fairly and equitably to patients. To implement these goals we established the Organ Procurement and Transplantation Network, the National Bone Marrow Donor Registry, standards for organ procurement organizations, and a requirement that hospitals make next-of-kin aware of the option of organ donation.

For tens of thousands of Americans these programs are a matter of life or death. But they are important to all Americans, because they are also a test of our ability to deliver high-tech, big-ticket health care items.

Today, after a year of careful oversight, we bring before the Senate a package of changes to ensure the future success of these programs—not only to save lives but to demonstrate that at a time of runaway health care costs, millions of uninsured citizens, and ill-conceived calls for the rationing of health care services, we can indeed afford transplantation.

Mr. President, our review of these programs was thorough and complete. We held hearings. We examined studies done by the inspector general, the Office of Technology Assessment, Abt Associates, Inc., on behalf of the Department of Health and Human Services, and an internal review by the Organ Procurement and Transplantation Network. There were countless conversations and meetings.

I had hoped to find that the program had been an unqualified success. Much has indeed gone right but, unfortunately, there was more left to do than I had hoped.

The program started out well. Despite the endless footdragging of the Reagan administration from 1983 through 1986 during a time of enormous public attention to this issue, we still managed to achieve record growth in the number of transplants performed.

But since 1986, as the public's attention has been drawn to other matters, and we have had to rely more heavily on the system we have put in place, growth has steadily slowed and threatens to stop altogether.

Unfortunately, while there are many reasons for this, none is more frustrating or disheartening than the miserable job the President and his administration are doing to implement the laws we have enacted.

This is nothing new. The Reagan administration was almost legendary for its failure to carry out this law. But the Bush administration has ushered in a new era of do-nothing health policy. Having failed to provide any focal point for the management of the transplant program, the administration has left it to be torn apart by competing bureaucracies.

Three different Department of Health and Human Services' agencies have grabbed for the helm. The Division of Organ Transplantation in the Health Resources and Services Administration, the one agency in the Department actually charged by the Secretary to oversee the transplant program, often appears to be the one agency with the least influence over transplant policy. Annually denied much of its congressionally appropriated operating budget, it is consistently outmaneuvered by the Health Care Financing Administration and the office of the Assistant Secretary for Planning and Evaluation.

Eight months ago, HCFA and the office of the Assistant Secretary for Planning and Evaluation—over the objections of the Division of Organ Transplantation—pushed through regulations striking down virtually all of the policies of the Network, claiming that all policies must first be reviewed and receive formal approval by the Secretary. This action, which went well beyond what the law allowed or envisioned, has left a policy vacuum that is inexcusable.

As a result, despite 6 years of laws putting in place a mandatory system on which the public could depend, suddenly critical questions—who is next on the transplant waiting list; what standards must a hospital meet before doing a procedure as complex as an organ transplant—are now voluntary. This is a clear and disturbing departure from what is required under the transplant law.

The administration claims it struck down the Network policies because it could do a better job. But why didn't it have new policies ready to go, and why do they still have no policies 8 months later with no end in sight? They have no answer. In at least one instance local organ sharing practices have changed without the approval of the national network.

Mr. President, this situation must be straightened out. There should only be one game plan, the one Congress set. The Department of Health and Human Services must be held accountable for its mismanagement of these programs. We have a new President, a new administration, but old excuses. I'm pleased that the committee report sets a deadline of no later than 120 days after the date of enactment for the Secretary to have his policies in place.

I wish we could do more; I wish the deadline could be set in statute. But the problem is Mr. President, we can't set a deadline for the administration to complete work on a matter the law says they shouldn't even be working on—because we intended that the Board of the Network and not some bureaucrat would settle questions as consequential as who receives a scarce organ and who does not.

Nonetheless, we must have mandatory Network policies in place as soon as possible, including, at a minimum, standards to increase organ donation, to assure that donated organs are distributed equitably among transplant patients according to established medical criteria, and to set minimum criteria that hospitals must meet before starting a transplant program.

The President and his administration are also missing in action when it comes to the other half of the Nation's transplant program, the National Bone Marrow Donor Registry.

His fiscal year 1991 budget ignored the pleas for help from thousands of people struggling to stay alive, from families who refuse to lose hope, and from legislators who recognize a critical need that must be met. His budget sought no additional funds for donor recruitment or tissue typing, forcing patient families to pay the bill.

This President is very fond of his "points of light." The National Marrow Donor Program is my nomination for one of the brightest points of light—more than 200,000 Americans willing to make a significant sacrifice to save the life of someone they have never met, a program supported largely by privately raised dollars, millions of privately raised dollars. But for this program to really work, to really serve all Americans, it needs more. The

President has said no. I really can't understand that.

Fortunately, there are many here in Congress who have said yes, who have stepped forward to help. I'm indeed honored to have worked with them, including Senators KENNEDY, HATCH, and MIKULSKI on this side and Congressmen WAXMAN, MADIGAN, FAZIO, and BILL YOUND in the other body, to respond to the challenge provided by this rapidly growing program.

I hope the Senate will join us in sending a message to the White House that it's time for them to change their tune on transplant policy and join the thousands of Americans who volunteer not only their time and money, but actually a part of themselves to help others.

Mr. HATCH. Mr. President, this bill reauthorizes the Organ Transplantation Act, which has contributed significantly to our Nation's effort to increase the availability of organs and bone marrow for transplantation.

My commitment to organ and bone marrow transplantation dates back to my years as chairman of the Labor and Human Resources Committee. At that time, individuals were publicly making dramatic pleas to find an organ donor because they had no other options. The National Organ Transplant Act has given families an option.

Today, there is a transplant system in place that affords individuals with more equitable access to available organs. There is a single source of data on organ donors, transplant candidates, and transplant recipients. The number of donors has increased by 71 percent since 1984.

Strides have also been made in the area of bone marrow transplantation. In 1984, I learned about an infant boy, T.J., and his battle for life in a children's hospital in Utah. He could not overcome an infection because of a severe immune deficiency. It was feared that the infection would spread. We made arrangements for T.J. to be transferred to a hospital in Texas where a bone marrow transplant could be done. At that time, bone marrow transplantation was considered highly experimental and was only done in a few hospitals.

T.J.'s father donated bone marrow for his infant son. The transplant stimulated T.J.'s body to start growing and produce disease-fighting cells. Today, thanks to the bone marrow transplant, T.J. is a healthy 6-year-old who is doing very well.

Things have improved in the past 6 years. Bone marrow transplantation is done much more frequently. Public and private registries have been developed to find potential donors when there isn't a matched related donor. The National Marrow Donor Program [NMDP] has only been in existence for three years. Yet, it now has a pool of over 200,000 potential donors. Despite the strides that this program has made, I am concerned that the federally supported Registry is not doing enough to meet the needs of patients and families.

Currently, no system exists by which different pools of donors can be quickly and effectively searched. This legislation would call for the coordination of the NMDP with other registries. This bill would require the integration of donor files so that a person accessing one registry for a marrow match would have access to the entire system. In addition, the bill would require the NMDP to establish a system for patient advocacy to assist patients and their families, as well as health care providers when searching for a suitable match.

This legislation would also require the NMDP to ensure an ethnically diverse pool of donors since there is a greater chance of finding a match from donors of the same ethnic group. Currently, minorities are seriously under-represented in the donor pool.

This legislation would also make some important changes to the Organ Transplant Program. In addition to extending this act for 5 years, grants for special projects to increase organ donations would be extended to nonprofit entities that are currently limited to organ procurement organizations. These diverse groups could offer input on ways to increase organ donations.

Mr. President, these changes will strengthen both of these programs. However, I still have some fundamental concerns that I have expressed before regarding the way organ transplantation is regulated in this country. Since I originally authored the National Organ Transplantation Act of 1984, a number of changes have been made to that law as well as other Federal laws. These changes, in the opinion of many individuals, may make the current system unconstitutional, expose those individuals involved in regulating the system to antitrust liability, and at times fail to consider and address the needs of organ transplant patients.

Federal law currently delegates the authority to regulate organ transplantation to a private sector entity known as the Organ Procurement and Transplantation Network [OPTN]. The current OPTN is the United Network for Organ Sharing [UNOS]. UNOS has been granted the authority to issue guidelines on who receives and who performs organ transplants. These guidelines have the force of law. In addition, UNOS can, and does, require patients to pay a fee to that organization before becoming eligible for an organ transplant, and hospitals must compensate UNOS for the privilege of performing organ transplants.

UNOS is clearly not part of the Federal Government, and the members of UNOS are not members of the executive branch. Their only link to Federal Government is through a contract. The UNOS board members are self-appointed and not accountable to either Congress or the President.

I have argued on a number of occasions that granting regulatory power to a private sector entity is unconstitutional. I believe it violates both the constitutionally based "nondelegation doctrine" and the appointments clause of the Constitution. We all agree that Congress has broad authority to delegate, but there are limits on this authority. For example, it is settled law that Congress may not delegate executive authority to itself. Both the legislative veto in *Immigration and Naturalization Service* v. *Chadha,* 462 U.S. 919 (1983) and congressional exercise of regulatory power in *Bowsher* v. *Synar,* 478 U.S. 714 (1986) have been declared unconstitutional by the Supreme Court.

Congress also is prohibited from delegating its legislative authority to a nongovernmental entity. In *Schechter Poultry Corp.* v. *United States,* 295 U.S. 495 (1935), trade unions submitted codes of conduct to the President for him to approve or disapprove. If approved, the codes became binding on everyone in that industry. The courts struck down this delegation saying:

> But would it be seriously contended that Congress could delegate its legislative authority to trade or industrial associations or groups so as to empower them to enact the laws they deem to be wise and beneficent for the rehabilitation and expansion of their trade or industry?
>
> The answer is obvious. Such a delegation of legislative authority is unknown to our law and is utterly inconsistent with the constitutional prerogatives and duties of Congress.

Despite the fact that the Court has not since used Schechter to strike down another law, Schechter is still good law. Schechter has not been overruled and continues to be cited. Most recently, in *Mitretta* v. *United States,* 109 S.Ct. 647 (1989), the court said it is "constitutionally sufficient if Congress clearly delineates the general policy, the public agency which is to apply it, and the boundaries of this delegated authority." Id. at 655 citing *American Power & Light Co.* v. *SEC,* 329 U.S. 90 (1946). The Court went on to note the Schechter still stands for the principle that Congress may not "delegate regulatory power to private individuals." Id. at 655, fn. 7.

In 1980, Justice Stevens cited Schechter for this principle in *Industrial Union* v. *American Petroleum Institute,* 448 U.S. 607 (1980). In 1974, Justice Marshall quoted K. Davis' Administrative Law treatise in *F.P.C.* v. *New England Power Co.,* 415 U.S. 352,

354 (1974), stating: "The Schechter case involves excessive delegation of the kind that Congress is not likely again to make. * * *."

The current regulatory system for organ transplantation is indistinguishable from Schechter since they both clearly delegate regulatory power to private individuals. If anything, the current regulatory scheme for organ transplantation is a more insidious violation of the Constitution because here, unlike Schechter, the statute envisions guidelines to take effect without any affirmative action by the executive branch of our Government.

Not only does this regulatory scheme now appear to violate the nondelegation doctrine, but it appears to violate the appointments clause of the Constitution. I put this question to Attorney General Thornburgh last year, and in his response he stated:

The provision relating to certain guidelines issued by private organizations in each of these bills either raise or could be interpreted to raise a difficult constitutional question. Congress may not, consistent with the Constitution, vest legislative or executive authority in persons not appointed as officers of the United States in conformity with the Appointments Clause of the Constitution, Article II, Section 2, Clause 2. *See Buckley* v. *Valeo*, 424 U.S. 1, 126, 138-41 (1976) ("[A]ny appointee exercising significant authority pursuant to the laws of the United States is an 'officer of the United States,' and must, therefore, be appointed in the manner prescribed by section two, Cl. 2, of that article.") Accordingly, a bill that purported to give a private organization a direct integral role in decision-making processes undertaken pursuant to the laws of the United States would raise serious constitutional questions.

If found unconstitutional, a severability clause has been added to this bill to assist in correcting this potential deficiency without ending the entire program.

The second problem with the current approach to regulating organ transplantation is that the individuals involved may be exposed to significant liability. The Federal statutes which have created this scheme do not expressly provide immunity from antitrust liability for the individuals involved. There is not expressed immunity because it has never been either our expressed or implied intent that the OPTN be exempt from the antitrust laws. As my colleagues know, the Supreme Court has been reluctant to imply antitrust immunity even where, unlike here, it may have been contemplated.

The Supreme Court has said that implied antitrust immunity can be justified only by a convincing demonstration of conflict between the antitrust laws and the regulatory system at issue. *National Gerimedical Hospital and Gerontology Center* v. *Blue Cross of Kansas City*, 452 U.S. 378 (1981). In other words, the offending individuals would have to show that they could not have accomplished the statutorily mandated task without violating antitrust laws. It is certainly arguable, Mr. President, that the goals of Public Law 99-509 and subsequent legislation could be achieved without violating Federal and State antitrust laws or any other Federal, State, or local law.

Mr. President, there are additional concerns which have been raised by patients and their families expressing concern about how the system is treating them. Rightly or wrongly, some individuals feel discriminated against, and others feel that the system is unresponsive to their needs.

In some cases, their concerns may be justified. The inspector general at the Department of Health and Human Services recently released a study finding that blacks spend almost twice as long as whites on waiting lists for kidneys and that such differences cannot be justified by blood type, age, immunology, and location factors. In addition, I have received a number of reports from patients and their families indicating that patients with disabilities are frequently not considered for organ transplants because of their disability. These concerns need to be addressed.

I know many of my colleagues share these concerns. I also know that all of my colleagues share my desire to have an efficient, responsive organ transplant system in this country. I hope by raising these issues that they can be addressed and resolved. In any event, we need to reauthorize these important programs. I urge all Senators to support this measure.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3170) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the bill is deemed read a third time and passed.

So the bill (S. 2946) as amended, was passed, as follows:

Be it enacted by the Seante and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Transplant Amendments Act of 1990".

SEC. 2. TABLE OF CONTENTS.

Sec. 1.Short title.
Sec. 2. Table of contents.

TITLE I—NATIONAL BONE MARROW DONOR REGISTRY

Sec. 101. Establishments of a National Bone Marrow Donor Registry.
Sec. 102. Savings provisions.

TITLE II—ORGAN TRANSPLANTS

Sec. 201. Assistance for organ procurement organizations.
Sec. 202. Organ procurement and transplantation network.
Sec. 203. Policy standards and guidelines.
Sec. 204. General provisions respecting grants and contracts.
Sec. 205. Administration.
Sec. 206. Report.
Sec. 207. Study by General Accounting Office.
Sec. 208. Effective date.

TITLE III—IMMUNOSUPPRESSIVE DRUG THERAPY

Sec. 301. Block grants

TITLE IV—FELLOWSHIPS

Sec. 401. James Madison Memorial Scholarships.

TITLE V—SEVERABILITY

Sec. 501. Severability.

TITLE I—NATIONAL BONE MARROW DONOR REGISTRY

SEC. 101. ESTABLISHMENT OF A NATIONAL BONE MARROW DONOR REGISTRY.

(a) REGISTRY.—Title III of the Public Health Service Act (42 U.S.C. 301 et seq.) is amended—

(1) by redesignating parts I, J, and K as parts J, K, and L, respectively; and

(2) by inserting after section 377 (as added by section 207 of this Act) the following new part:

"PART I—NATIONAL BONE MARROW DONOR REGISTRY

"SEC. 379. NATIONAL REGISTRY.

"(a) ESTABLISHMENT.—The Secretary shall by contract establish and maintain a National Bone Marrow Donor Registry (referred to in this part as the 'Registry') that meets the requirements of this section. The Registry shall be under the general supervision of the Secretary, and under the direction of a board of directors that shall include representatives of marrow donor centers, marrow transplant centers, persons with expertise in the social science, and the general public.

"(b) FUNCTIONS.—The Registry shall—

"(1) establish a system for finding marrow donors suitably matched to unrelated recipients for bone marrow transplantation;

"(2) establish a system for patient advocacy, separate from mechanisms for donor advocacy, that directly assists patients, their families, and their physicians in the search for an unrelated marrow donor;

"(3) increase the representation of individuals from racial and ethnic minority groups in the pool of potential donors for the Registry in order to enable an individual in a minority group, to the extent practicable, to have a comparable chance of finding a suitable unrelated donor as would an individual not in a minority group;

"(4) provide information to physicians, other health care professionals, and the public regarding bone marrow transplantation;

"(5) recruit potential bone marrow donors;

"(6) collect, analyze, and publish data concerning bone marrow donation and transplantation; and

"(7) support studies and demonstration projects for the purpose of increasing the

number of individuals, especially minorities, who are willing to be marrow donors.

"(c) CRITERIA, STANDARDS, AND PROCEDURES.—Not later than 180 days after the date of enactment of this part, the Secretary shall establish and enforce, for entities participating in the program, including the Registry, individual marrow donor centers, marrow donor registries, marrow collection centers, and marrow transplant centers—

"(1) quality standards and standards for tissue typing, obtaining the informed consent of donors, and providing patient advocacy;

"(2) donor selection criteria, based on established medical criteria, to protect both the donor and the recipient and to prevent the transmission of potentially harmful infectious diseases such as the viruses that cause hepatitis and the etiologic agent for Acquired Immune Deficiency Syndrome;

"(3) procedures to ensure the proper collection and transportation of the marrow;

"(4) standards that require the provision of information to patients, their families, and their physicians at the start of the search process concerning—

"(A) the resources available through the Registry;

"(B) all other marrow donor registries meeting the standards described in this paragraph; and

"(C) in the case of the Registry—

"(i) the comparative costs of all charges by marrow transplant centers incurred by patients prior to transplantation; and

"(ii) the sucess rates of individual marrow transplant centers;

"(5) standards that —

"(A) require the establishment of a system of strict confidentiality of records relating to the identity, address, HLA, type, and managing marrow donor center for marrow donors and potential marrow donors; and

"(B) prescribe the purposes for which the records described in subparagraph (A) may be disclosed, and the circumstances and extent of the disclosure; and

"(6) in the case of a marrow donor center or marrow donor registry participating in the program, procedures to ensure the establishment of a method for integrating donor files, searches, and general procedures of the center of registry with the Registry.

"(d) COMMENT PROCEDURES.—The Secretary shall establish and provide information to the public on procedures, which may include establishment of a policy advisory committee, under which the Secretary shall receive and consider comments from interested persons relating to the manner in which the Registry is carrying out the duties of the Registry under subsection (b) and complying with the criteria, standards, and procedures described in subsection (c).

"(e) CONSULTATION.—The Secretary shall consult with the board of directors of the Registry and the bone marrow donor program of the Department of the Navy in developing policies affecting the Registry.

"(f) APPLICATION.—To be eligible to enter into a contract under this section, an entity shall submit to the Secretary and obtain approval of an application at such time, in such manner, and containing such information as the Secretary shall by regulation prescribe.

"(g) ELIGIBILITY.—Entities eligible to receive a contract under this section shall include private nonprofit entities.

"(h) RECORDS.—

"(1) RECORDKEEPING.—Each recipient of a contract or subcontract under subsection (a) shall keep such records as the Secretary shall prescribe, including records that fully disclose the amount and disposition by the recipient of the proceeds of the contract, the total cost of the undertaking in connection with which the contract was made, and the amount of the portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States shall have access to any books, documents, papers, and records of the recipient of a contract or subcontract entered into under this section that are pertinent to the contract, for the purpose of conducting audits and examinations.

"(i) PENALTIES FOR DISCLOSURE.—Any person who discloses the content of any record referred to in subsection (c)(5)(A) without the prior written consent of the donor or potential donor with respect to whom the record is maintained, or in violation of the standards described in subsection (c)(5)(B), shall be imprisoned for not more than 2 years or fined in accordance with title 18, United States Code, or both.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1991 and such sums as may be necessary for each of fiscal years 1992 and 1993.

"SEC. 379A. STUDY BY THE GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study that evaluates—

"(1) the costs and benefits of the search process for an unrelated bone marrow donor among different marrow donor registries;

"(2) the extent to which marrow donor registries protect donor confidentiality;

"(3) the relationship between the Registry, individual marrow donor centers, and other marrow donor registries;

"(4) the effectiveness and appropriateness of policies and procedures of marrow donor centers, marrow transplant centers, and marrow donor registries, including—

"(A) the process of donor recruitment, including the policy of asking each donor whether the donor would want to donate more than one time;

"(B) the maintenance and updating of donor files; and

"(C) the policy of initially typing donors for A/B antigens only instead of initially typing for both A/B and D/R antigens;

"(5) the ability of the marrow donor registries to incorporate changes in medical research and clinical practice; and

"(6) the costs associated with tissue typing.

"(b) REPORT.—Not later than 1 year after the date of enactment of this part, the Comptroller General shall complete the study required under subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the findings made by the study and recommendations for legislative reform.".

(b) CONFORMING AMENDMENT.—Section 373 of the Act (42 U.S.C. 274a) is amended—

(1) in the section heading, by striking "and Bone Marrow Registry";

(2) by striking "(a)"; and

(3) by striking out subsection (b).

SEC. 102. SAVINGS PROVISIONS.

(a) IN GENERAL.—This title, and the amendments made by this title, shall not affect any legal document, including any order, regulation, grant, or contract, in effect on the date of enactment of this Act, or any administrative proceeding or lawsuit pending on the date, that relates to the bone marrow registry established under section 373(b) of the Public Health Service Act (as it existed before the amendment made by section 101(b) of this Act).

(b) CONTINUED EFFECT.—A legal document described in subsection (a) or an order issued in a lawsuit described in subsection (a) or an order issued in a lawsuit described in subsection (a) shall continue in effect until modified, terminated, or revoked.

(c) PROCEEDINGS.—In any administrative proceeding or lawsuit described in subsection (a), parties shall take appeals, and officials shall hold proceedings and render judgments, in the same manner and with the same effect as if this title had not been enacted.

TITLE II—ORGAN TRANSPLANTS

SEC. 201. ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS.

(a) SECTION HEADING.—Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended in the section heading by striking "assistance for".

(b) AUTHORITY REGARDING CERTAIN GRANTS.—

(1) SPECIAL PROJECTS.—Section 371(a)(3) of the Act (42 U.S.C. 273(a)(3)) is amended by striking "may make grants for special projects" and inserting the following: "may make grants to, and enter into contracts with, qualified organ procurement organizations described in subsection (b) and other nonprofit private entities for the purpose of carrying out special projects".

(2) CONSIDERATIONS IN MAKING CERTAIN GRANTS.—Section 371(a) of the Act (42 U.S.C. 273(a)) is amended by striking paragraph (4).

(c) SERVICE AREA OF QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (E) of section 371(b)(1) of the Act (42 U.S.C. 273(b)(1)(E)) is amended to read as follows:

"(E) has a defined service area that is of sufficient size to assure maximum effectiveness in the procurement and equitable distribution of organs, and that either includes an entire metropolitan statistical area (as specified by the Director of the Office of Management and Budget) or does not include any part of the area.".

(2) CONFORMING AMENDMENT.—Section 402(c)(3) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607; 42 U.S.C. 273 note) is repealed.

(d) EFFECTIVENESS REGARDING NUMBER OF ORGANS PROCURED.—Section 371(b) of the Public Health Service Act (42 U.S.C. 273(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register a notice of proposed rulemaking to establish criteria for determining whether an entity meets the requirement established in paragraph (1)(E).

"(B) Not later than 1 year after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register a final rule to establish the criteria described in subparagraph (A).".

(e) TECHNICAL CORRECTION REGARDING PUBLIC LAW 100-607.—Section 402(c)(2) of the Health Omnibus Programs Extension of

1988 (Public Law 100-607; 102 Stat. 3115) is amended by inserting "at the end" after "the comma".

SEC. 202. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(1)(a) MINIMUM QUALIFICATIONS OF CONTRACTOR.—Section 372(b)(1) of the Public Health Service Act (42 U.S.C. 274(b)(1)) is amended—

(1) in subparagraph (A), by striking "which is not engaged in any activity unrelated to organ procurement" and inserting "that has an expertise in organ procurement and transplantation"; and

(2) in subparagraph (B), to read as follows:

"(B) have a board of directors—

"(i) that includes representatives of organ procurement organizations (including organizations that have received grants under section 371), transplant centers, voluntary health associations, and the general public; and

"(ii) that shall establish an executive committee and other committees, whose chairpersons shall be selected to ensure continuity of leadership for the board.".

(b) RESPONSIBILITIES OF NETWORK.—Section 372(b)(2) of the Act (42 U.S.C. 274(b)(2)) is amended—

(1) in subparagraph (D)—

(A) by inserting "nationwide" after "organizations in the"; and

(B) by inserting "equitably among transplant patients" after "organs";

(2) by striking "and" at the end of subparagraph (1);

(3) by striking the period at the end of subparagraph (J) and inserting ", and"; and

(4) by adding at the end the following new subparagraphs:

"(K) work actively to increase the supply of donated organs.

"(L) submit to the Secretary an annual report containing information on the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network.".

(c) TECHNICAL CORRECTION.—Section 372(b)(2)(F) of the Act (42 U.S.C. 274(b)(2)(F)) is amended by striking "compatability" and inserting "compatibility".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on December 31, 1990.

SEC. 203. GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS.

Section 374 of the Public Health Service Act (42 U.S.C. 274(b) is amended—

(1) in subsection (a), by striking "No grant" and all the follows through "373" the first place that the term appears and inserting the following: "No grant may be made under this part";

(2) in subsection (b)—

(A) by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(B) by striking "section 371" in paragraph (1) (as so redesignated) and inserting "section 371(a)(1)";

(C) by striking "paragraphs (2) and (3) of section 371(a)" in the first sentence of paragraph (2) (as so redesignated), and inserting "section 371(a)(2)"; and

(D) by adding at the end the following new paragraph:

"(3) Grants or contracts under section 371(a)(3) may be made for more than 3 years."; and

(3) in subsection (c)—

(A) by inserting "or contract" after "grant" in the first sentence of paragraph (1);

(B) by inserting "and contracts" after "grants" each place the term appears in the second sentence of paragraph (1); and

(C) by inserting "or contract" after "grant" each place the term appears in subparagraphs (A) and (B) of paragraph (2).

SEC. 204. ADMINISTRATION.

(a) IDENTIFIABLE ADMINISTRATIVE UNIT.—Section 375 of the Public Health Service Act (42 U.S.C. 274c) is amended in the matter preceding paragraph (1) by striking ", during fiscal years 1985 through 1990,".

(b) STRIKING OF EXPIRED REQUIREMENT REGARDING CERTAIN REPORTS.—Section 375 of the Act (42 U.S.C. 274c) is amended—

(1) in paragraph (3), by striking "receiving funds under section 371"; and

(2) in paragraph (4), to read as follows:

"(4) provide information—

"(i) to patients, their families, and their physicians about transplantation; and

"(ii) to patients and their families about the resources available nationally and in each State, and the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network, in order to assist the patients and families with the costs associated with transplantation.".

SEC. 205. REPORT

Section 376 of the Public Health Service Act (42 U.S.C. 274d) is amended in the first sentence by striking "The Secretary" and all that follows through "publish" and inserting "Not later than February 10 of 1991 and of each second year thereafter, the Secretary shall publish, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate,".

SEC. 206. STUDY BY GENERAL ACCOUNTING OFFICE AND AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by adding at the end the following new sections:

"SEC. 377. STUDY BY GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining—

"(1) the extent to which the procurement and allocation of organs have been equitable, efficient, and effective;

"(2) the problems encountered in the procurement and allocation; and

"(3) the effect of State required-request laws.

"(b) REPORT.—Not later than January 7, 1992, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

"SEC. 378. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part, there are authorized to be appropriated $8,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended by striking subsection (c).

SEC. 207. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall become effective on October 1, 1990, or on the date of the enactment of this Act, whichever occurs later.

TITLE III—SEVERABILITY

SEC. 301. SEVERABILITY.

If any provision of this Act, amendment made by this Act, or application of the provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions or amendments to any person or circumstance shall not be affected.

Mr. EXON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIVE AMERICAN GRAVE PROTECTION AND REPATRIATION ACT

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5237, the Native American Grave Protection and Repatriation Act which is now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill to provide for the protection of Native American graves, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3171

(Purpose: To amend certain definitions)

Mr. EXON. Mr. President, I send an amendment to the desk on behalf of Mr. FORD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. FORD, proposes an amendment numbered 3171.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 8, beginning with "and", strike out all through "Institution" on line 10 and insert in lieu thereof a period and the following: "Such term does not include the Smithsonian Institution".

On page 3, line 25, beginning with the second comma, strike out all through "agency" on line 26 and insert in lieu thereof a period and the following: "Such term does not include the Smithsonian Institution or any other Federal agency".

The PRESIDING OFFICER. If there be no further debate, the ques-

tion is on agreeing to the amendment of the Senator from Kentucky.

So amendment (No. 3171) was agreed to.

AMENDMENT NO. 3172

Purpose: to make certain amendments to the bill.

Mr. GARN. Mr. President, I send an amendment to the desk on behalf, of Mr. McCAIN and for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN], for Mr. McCAIN, proposes an amendment numbered 3172.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike out lines 19 through 21 and insert in lieu thereof the following:

(7) "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 3, line 12, immediately before the period insert a comma and the following: "including lands selected by but not yet conveyed to Alaska Native Corporations and groups organized pursuant to the Alaska Native Claims Settlement Act of 1971".

On page 5, strike out line 15 through 17 and reletter the succeeding paragraph accordingly.

On page 6, line 19, strike out "judgement" and insert in lieu thereof "judgment".

On page 8, line 16, immediately before the period insert a comma and the following: "and, in the case of lands that have been selected by an Alaska Native Corporation or group organized pursuant to the Alaska Native Claims Settlement Act of 1971, the appropriate corporation or group".

On page 8, line 22, beginning with "The", strike out all through the period on line 24 and insert in lieu thereof the following: "Following the notification under this subsection, and upon certification by the Secretary of the department or the head of any agency or instrumentality of the United States or the appropriate Indian tribe or Native Hawaiian organization that notification has been received, the activity may resume after 30 days of such certification.".

On page 19, strike out line 20 and 21 and insert in lieu thereof the following:

(3) upon the request of any affected party, reviewing and making findings related to—

On page 20, between lines 17 and 18, insert the following and reletter succeeding subsections accordingly:

(d) Any records and findings made by the review committee pursuant to this Act relating to the identity or cultural affiliation of any cultural items and the return of such items may be admissible in any action brought under section 15 of this act.

On page 25, after line 8, add the following:

SEC. 15. ENFORCEMENT.

The United States district courts shall have jurisdiction over any action brought by any person alleging a violation of this Act and shall have the authority to issue such orders as may be necessary to enforce the provisions of this Act.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 3172) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5237) was read the third time and passed.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE INDIAN ARTS AND CRAFTS ACT OF 1989

Mr. EXON. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of H.R. 2006, a bill to expand the powers of the Indian Arts and Craft Board and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2006) to expand the powers of the Indian Arts and Crafts Board, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3173

(Purpose: To provide a substitute for the bill)

Mr. EXON. Mr. President, on behalf of Senator INOUYE, I send an amendment in the nature of a substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. INOUYE, proposes an amendment in the nature of a substitute numbered 3173.

The PRESIDING OFFICER. Without objection, further reading of the amendment will be dispensed with.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—INDIAN ARTS AND CRAFTS

SEC. 101. SHORT TITLE.

This title may be cited as the "Indian Arts and Crafts Act of 1990".

SEC. 102. POWERS OF INDIAN ARTS AND CRAFTS BOARD.

Section 2 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305a) is amended—

(1) in the first sentence—

(A) by striking "the Board" and inserting "the Secretary of the Interior through the Board"; and

(B) by striking "the Indian wards of the Government" and inserting "Indian individuals";

(2) by amending clause (g) to read as follows:

"(g)(1) to create for the Board, or for an individual Indian or Indian tribe or Indian arts and crafts organization, trademarks of genuineness and quality for Indian products and the products of an individual Indian or particular Indian tribe or Indian arts and crafts organization; (2) to establish standards and regulations for the use of Government-owned trademarks by corporations, associations, or individuals, and to charge for such use under such licenses; (3) to register any such trademark owned by the Government in the United States Patent and Trademark Office without charge and assign it and the goodwill associated with it to an individual Indian or Indian tribe without charge; and (4) to pursue or defend in the courts any appeal or proceeding with respect to any final determination of that office;"; and

(3) by adding at the end the following new sentence: "For the purposes of this section, the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.".

SEC. 103. REFERRAL FOR CRIMINAL AND CIVIL VIOLATIONS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) is amended by adding at the end of the following:

"SEC. 5. (a) The Board may receive complaints of violations of section 1159 of title 18, United States Code, and refer compliants of such violations to the Federal Bureau of Investigation for appropriate investigation. After reviewing the investigation report, the Board may recommend to the Attorney General of the United States that criminal proceedings be instituted under that section.

"(b) The Board may recommend that the Secretary of the Interior refer the matter to the Attorney General for civil action under section 6.".

SEC. 104. CRIMINAL PENALTY FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

(a) IN GENERAL.—Section 1159 of title 18, United States Code, is amended to read as follows:

"§ 1159. Misrepresentation of Indian produced goods and products

"(a) It is unlawful to offer or display for sale or sell any good, with or without a Government trademark, in a manner that false-

ly suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States.

"(b) Whoever knowingly violates subsection (a) shall—

"(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and

"(2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000.

"(c) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or Indian arts and crafts organization' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(d) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

(b) CONFORMING AMENDMENT.—The item relating to section 1159 in the table of sections for chapter 53 of title 18, United States Code, is amended to read as follows:

"1159. Misrepresentation of Indian produced goods and products.".

"SEC. 105. CAUSE OF ACTION FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) (as amended by section 3) is further amended by adding at the end of the following:

"SEC. 6. (a) A person specified in subsection (c) may, in a civil action in a court of competent jurisdiction, bring an action against a person who offers or displays for sale or sells a good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States, to—

"(1) obtain injunctive or other equitable relief; and

"(2) recover the greater of—

"(A) treble damages; or

"(B) in the case of each aggrieved individual Indian, Indian tribe, or Indian arts and crafts organization, not less than $1,000 for each day on which the offer or display for sale or sale continues.

"(b) In addition to the relief specified in subsection (a), the court may award punitive damages and the costs of suit and a reasonable attorney's fee.

"(c)(1) A civil action under subsection (a) may be commenced—

"(A) by the Attorney General of the United States upon request of the Secretary of the Interior on behalf of an Indian who is a member of an Indian tribe or on behalf of an Indian tribe or Indian arts and crafts organization; or

"(B) by an Indian tribe on behalf of itself, and Indian who is a member of the tribe, or on behalf of an Indian arts and crafts organization.

"(2) Any amount recovered pursuant to this section shall be paid to the individual Indian, Indian tribe, or Indian arts and crafts organization, except that—

"(A) in the case of paragraph (1)(A), the Attorney General may deduct from the amount recovered the amount for the costs of suit and reasonable attorney's fees awarded pursuant to subsection (b) and deposit the amount of such costs and fees as a reimbursement credited to appropriations currently available to the Attorney General at the time of receipt of the amount recovered; and

"(B) in the case of paragraph (1)(B), the amount recovered for the costs of suit and reasonable attorney's fees pursuant to subsection (b) may be deducted from the total amount awarded under subsection (a)(2).

"(d) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe; or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or Indian arts and crafts organization' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(e) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

SEC. 106. PENALTY FOR COUNTERFEITING INDIAN ARTS AND CRAFTS BOARD TRADEMARK.

Section 1158 of title 18, United States Code, is amended by striking "be fined not more than $500 or imprisoned not more than six months, or both; and" and inserting "(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and (2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000; and (3)".

SEC. 107. CERTIFICATION OF INDIAN ARTISANS.

For the purposes of section 1159 of title 18, United States Code, and section 6 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) an Indian tribe may not impose a fee in certifying an individual as an Indian artisan. For the purposes of this section, the term "Indian tribe" has the same meaning given such term in section 1159(c)(3) of title 18, United States Code.

TITLE II—TECHNICAL AND CLARIFYING AMENDMENTS

SEC. 201. SHORT TITLE.

The title may be cited as the "Indian Self-Determination and Education Assistance Act Amendments of 1990".

SEC. 202. AMENDMENTS TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

The Indian Self-Determination and Education Assistance Act is amended as follows:

(1) In section 4(h) of such Act (25 U.S.C. 450b(h)), delete "in existence on the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988".

(2) In section 4(j) of such Act (25 U.S.C. 450(j)), delete "contract entered" each place it appears and insert in lieu thereof "contract (or grant or cooperative agreement utilized under section 9 of this Act) entered".

(3) In section 5(d) of such Act (25 U.S.C. 450c(d)), delete the word "Any" and insert in lieu thereof "Except as provided in section 8 or 106(a)(3) of this Act," and before the period insert the words "through the respective Secretary".

SEC. 203. AMENDMENTS TO THE INDIAN SELF-DETERMINATION ACT.

(a) Section 106 of the Indian Self-Determination Act (25 U.S.C. 450j-1(e)) is amended by deleting "1988" and inserting in lieu thereof "1992".

(b) In section 102(d) of such Act (25 U.S.C. 450f(d)), immediately after "investigations,", insert "or for purposes of section 2679, title 28, United States Code, with respect to claims by any such person, on or after the date of the enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1990, for personal injury, including death, resulting from the operation of an emergency motor vehicle,".

(c) Section 105(c)(1)(B) of such Act (25 U.S.C. 450j(c)(1)(B)) is amended to read as follows:

"(B) for a definite or an indefinite term, as requested by the tribe (or, to the extent not limited by tribal resolution, by the tribal organization), in the case of a mature contract.".

(d) Section 105(d) of such Act (25 U.S.C. 450j(d)) is amended to read as follows:

"(d)(1) Beginning in fiscal year 1990, upon the election of a tribal organization, the Secretary shall use the calendar year as the basis for any contracts or agreements under this Act, unless the Secretary and the Indian tribe or tribal organization agree on a different period.

"(2) The Secretary shall, on or before April 1 of each year beginning in 1992, submit a report to the Congress on the amounts of any additional obligation authority needed to implement this subsection in the next following fiscal year.".

(e) In paragraphs (2) and (3) of section 105(f) of such Act (25 U.S.C. 450j(f) (2) and (3)), insert "or real" immediately after "personal" each place it appears in such paragraphs.

(f) In section 107(c) of such Act (25 U.S.C. 450k(c)), immediately after "authorized", insert the following: ", with the participation of Indian tribes and tribal organizations,".

(g)(1) In section 301(a)(3) of the Indian Self-Determination Act (25 U.S.C. 450h(a)(3)), delete "reservation boundaries" and insert in lieu thereof "Indian country (as defined in chapter 53 of title 18, United States (Code)".

(2) The amendment made by paragraph (1) shall not alter or otherwise modify or affect existing prohibitions or limitations on the Secretary's authority to acquire lands in trust.

TITLE III—AMENDMENTS TO OTHER ACTS

SEC. 301. AMENDMENTS TO OTHER ACTS.

(a) AMENDMENT TO INDIAN LAND CONSOLIDATION ACT.—Section 207(a) of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by deleting "No undivided interest in any tract of trust or restricted land within a tribe's reservation or otherwise subject to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe" and inserting in lieu thereof the following: "No undivided interest held by a member or nonmember Indian in any tract of trust land or restricted land within a tribe's reservation or outside of a reservation and subject to such tribe's jurisdiction shall descend by intestacy or devise but shall escheat to the reservation's recognized tribal government, or if outside of a reservation, to the recognized tribal government possessing jurisdiction over the land".

(b) AMENDMENT TO ACT OF NOVEMBER 8, 1988.—In section 1 of the Act entitled "An Act to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes", approved November 8, 1988 (102 Stat. 3327), insert "and attached narrative metes and bounds description" immediately after "map" each time it appears.

(c) AMENDMENT TO THE ACT OF MARCH 29, 1956.—The second sentence of subsection (a) of the Act entitled "An Act to authorize the execution of mortgages and deeds of trust on individual Indian trust or restricted land", approved March 29, 1956 (25 U.S.C. 483a), is amended by inserting immediately before "State" the following: "tribe which has jurisdiction over such land or, in the case where no tribal foreclosure law exists, in accordance with the laws of the".

SEC. 302. AMENDMENT TO THE ACT OF JUNE 24, 1938.

Section 1 of the Act of June 24, 1938 (25 U.S.C. 162a) is amended by designating the existing text thereof as subsection (a), and by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding subsection (a), the Secretary of the Interior, at the request of any Indian tribe, in the case of trust funds of such tribe, or any individual Indian, in the case of trust funds of such individual, is authorized to invest such funds, or any part thereof, in guaranteed or public debt obligations of the United States or in a mutual fund, otherwise known as an open-ended diversified investment management company if—

"(A) the portfolio of such mutual fund consists entirely of public-debt obligations of the United States, or bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, or a combination thereof;

"(B) the trust funds to be invested exceed $50,000;

"(C) the mutual fund is registered by the Securities and Exchange Commission; and

"(D) the Secretary is satisfied with respect to the security and protection provided by the mutual fund against loss of the principal of such trust funds.

"(2) The Secretary, as a condition to complying with a request pursuant to paragraph (1) of this subsection, is authorized to require such tribe or individual Indian, as the case may be, to enter into an agreement with the Secretary for the purpose of relieving the United States of any liability in connection with the interest, or amount thereof, payable in connection with such trust funds so invested during the period of that investment.

"(3) Investments pursuant to paragraph (1) of this subsection shall be deemed to be the same as cash or a bank deposit for purposes of section 5 of the Act of September 21, 1959 (25 U.S.C. 955).".

SEC. 303. AMENDMENT TO INDIAN FINANCING ACT OF 1974.

(a) Section 101 of the Indian Financing Act of 1974 (25 U.S.C. 1461) is amended—

(1) by deleting "money markets," and inserting in lieu thereof the following: "money markets, or to supplement funds from private lenders, including loans guaranteed by the Secretary pursuant to section 201 of this Act,"; and

(2) by inserting immediately before the period at the end of the third sentence a comma and the following: "or, in the discretion of the Secretary of the Interior, as a contribution to the Indian Loan Guaranty and Insurance Fund authorized by section 217 of this Act, or for the payment of interest subsidies authorized by section 301 of this Act".

(b) Section 204 of the Indian Financing Act of 1974 (25 US.C. 1484) is amended—

(1) by deleting in the first sentence the word "prior"; and

(2) by deleting in the second sentence "shall review" and inserting in lieu thereof "may review".

SEC. 304. EXEMPTION.

Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended by—

(1) inserting immediately after "lands" a comma and the following: "and income up to $4,000 per annum derived therefrom,"; and

(2) inserting immediately after "resource" the following: "or income".

TITLE IV—PUBLIC HEALTH SERVICE ACT

SEC. 401. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Section 338J(a) of subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254s) is amended to read as follows:

"(a) Subject to the availability of funds appropriated under the authority of subsection (d), the Secretary shall provide funds to Kamehameha Schools/Bishop Estate for the purpose of providing scholarship assistance to students who—

"(1) meet the requirements of section 338A(b), and

"(2) are Native Hawaiians.".

TITLE V—BOARD OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

SEC. 501. GENERAL POWERS OF BOARD OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) INTEREST AND INVESTMENT INCOME.—Section 1507 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4414) is amended by adding at the end the following new subsection:

"(c) INTEREST AND INVESTMENTS.—Interest and earnings on amounts received by the Institute pursuant to section 1531 invested under subsection (a)(12) shall be the property of the Institute and may be expended to carry out this title. The Board shall be held to a reasonable and prudent standard of care, given such information and circumstances as existed when the decision is made, in decisions involving investment of funds under subsection (a)(12).".

(b) INSURANCE.—Section 1507(a)(11) of such Act (20 U.S.C. 4414(a)(11)) is amended to read as follows:

"(11) to the extent not already provided by law, to obtain insurance to cover all activities of the Institute, including coverage relating to property and liability, or make other provisions against losses.".

SEC. 502. ESTABLISHMENTS WITHIN THE INSTITUTE.

Section 1510(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4417(b)) is amended—

(1) in paragraph (2), by striking subparagraph (A) and redesignating subparagraphs (B) through (I) as subparagraphs (A) through (H), respectively;

(2) by striking "and" at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting "; and"; and

(4) by inserting after paragraph (2) the following:

"(3) a Museum of American Indian and Alaska Native Arts, which shall be under the direction of the President of the Institute.".

SEC. 503. TRANSFER OF FUNCTIONS.

Section 1514 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4421) is amended—

(1) by striking subsections (d), (e), and (f); and

(2) by adding at the end the following new subsection (d):

"(d) FORGIVENESS OF AMOUNTS OWED; HOLD HARMLESS.—(1) Subject to paragraph (2)—

"(A) the Institute shall be responsible for all obligations of the Institute incurred after June 2, 1988, and

"(B) the Secretary shall be responsible for all obligations of the Institue incurred on or before June 2, 1988, including those which accrued by reason of any statutory, contractual, or other reason prior to June 2, 1988, which became payable within two years of June 2, 1988.

"(2) With respect to all programs of the Federal government, in whatever form or from whatever source derived, the Institute shall only be held responsible for actions and requirements, either administrative, regulatory, or statutory in nature, for events which occurred after July 1, 1988, including the submission of reports, audits, and other required information. The United

States may not seek any monetary damage or repayment for the commission of events, or omission to comply with either administrative or regulatory requirements, for any action which occurred prior to June 2, 1988.".

SEC. 504. COMPLIANCE WITH OTHER ACTS.

Section 1517 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4424) is amended by adding at the end the following:

"(c) OTHER FEDERAL ASSISTANCE.—Funds received by the institute pursuant to this Act shall not be regarded as Federal money for purposes of meeting any matching requirements for any Federal grant, contract or cooperative agreement.".

SEC. 505. ENDOWMENT PROGRAMS.

Section 1518 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4425) is amended to read as follows:

"SEC. 1518. ENDOWMENT PROGRAMS.

"(a) PROGRAM ENHANCEMENT ENDOWMENT.—

"(1)(A) From the total amount appropriated for this subsection pursuant to section 1531(a), funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

"(B) The President of the Institute shall provide—

"(i) for the deposit into the trust fund referred to in subparagraph (A)—

"(I) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

"(II) any earnings on the funds deposited under this paragraph; or

"(ii) for the reservation for the sole use of the Institute for any noncash, in-kind contributions of real or personal property, which property may at any time be converted to cash, which shall be deposited as a capital contribution into the trust fund referred to in subparagraph (A).

"(C) If at any time the Institute withdraws any capital contribution (as described in subparagraph (B)(i)) made by the Institute to the trust fund referred to in subparagraph (A) or puts any property (as described in subparagraph (B)(ii)) to a use which is not for the sole benefit of the Institute, an amount equal to the value of the Federal contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

"(2) Interest deposited into the trust fund pursuant to paragraph (1)(B)(ii) may be periodically withdrawn and used, at the direction of the Board or its designee, to defray any expense associated with the operation of the Institute, including the expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

"(3) For the purpose of complying with the contribution requirement of paragraph (1)(B), the Institute may use funds or in-kind contributions of real or personal property fairly valued which are made available from any private or tribal source, including interest earned by the funds invested under this subsection. In-kind contributions shall be other than fully depreciable property or property which is designated for addition to the permanent collection of the Museum and shall be valued according to the procedures established for such purpose by the Secretary of the Treasury. For purposes of this paragraph, all contributions, including in-kind and real estate, which are on-hand as of the date of enactment of this Act and which have been received after June 2, 1988, but which have not been included in computations under this provision shall be eligible for matching with Federal funds appropriated in any fiscal year.

"(4) Amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount of funds or the value of the in-kind contributions which the Institute demonstrates have been placed within the control of, or irrevocably committed to the use of, the Institute as a capital contribution of the Institute in accordance with this subsection.

"(b) CAPITAL IMPROVEMENT ENDOWMENT.—

"(1) In adddition to the trust fund established under subsection (a), funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution from the amount reserved for this subsection pursuant to section 1531(a) for the purpose of establishing a separate special endowment for capital improvement (hereafter in this subsection referred to as the 'capital endowment fund'), to pay expenses associated with site selection and preparation, site planning and architectural design and planning, new construction, materials and equipment procurement, renovation, alteration, repair, and other building and expansion costs of the Institute.

"(2) The President of the Institute shall provide for the deposit into the capital endowment fund of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution and any earnings on amounts in the capital endowment fund.

"(3) Funds deposited by the Institute as a match for Federal contributions under paragraph (5) shall remain in the capital endowment fund for a period of not less than two years. If at any time the Institute withdraws any capital contribution to the capital endowment fund before the funds have been deposited for this two-year period, an equal amount of the Federal contribution shall be withdrawn from the capital endowment fund and returned to the Treasury as miscellaneous receipts. At the end of the two-year period, the entire principal and interest of the funds deposited for this period, including the Federal matching portion, shall accrue, without reservation, to the Institute and may be withdrawn, in whole or in part, to defray expenses associated with capital acquisition and improvement of the Institute referred to in paragraph (1).

"(4) For the purpose of complying with the contribution requirement of paragraph (2), the Institute may use funds which are available from any private or tribal source.

"(5) Subject to paragraph (3), amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of the Institute in accordance with this subsection.

"(c) GENERAL ADMINISTRATIVE PROVISIONS.—(1) Funds in the trust funds described in subsections (a) and (b) shall be invested at a rate not less than that generally available for similar funds deposited at the same banking institution for the same period or periods of time.

"(2) No part of the net earnings of the trust funds established under this section shall inure to the benefit of any private person.

"(3) The President of the Institute shall provide for such other provision governing the trust funds established under this section as may be necessary to protect the financial interest of the United States and to promote the purpose of this title as agreed to by the Secretary of the Treasury and the Board or its designee, including recordkeeping procedures for the investment of funds received under the trust fund established under subsection (b) and such other recordkeeping procedures for the expenditure of accumulated interest for the trust fund under subsection (a) as will allow the Secretary of the Treasury to audit and monitor activities under this section.".

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

Section 1531(a) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4451(a)) is amended by adding at the end the following new paragraphs:

"(4) Funds appropriated under this subsection for the fiscal year 1992 and for each succeeding fiscal year shall be transferred by the Secretary of the Treasury through the most expeditious method available with the Institute being designated as its own certifying agency.

"(5) Funds are authorized to be appropriated for programs for more than one fiscal year. For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriations Act for any fiscal year to carry out this Act may, subject to the appropriation, become available for obligations on July 1 of that fiscal year.".

Mr. EXON. Mr. President, on behalf of Senator INOUYE I ask unanimous consent a section-by-section analysis be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF H.R. 2006 AS AMENDED

TITLE I—INDIAN ARTS AND CRAFTS

Section 101. Short Title.

Section 101 cites the title as the "Indian Arts and Crafts Act of 1989."

Section 102. Powers of Indian Arts and Crafts Board

Section 102 amends the 1935 Act to promote the development of Indian arts and crafts by expanding the powers of the Indian Arts and Crafts Board to include registration of trademarks by the Government without charge, and to assign them to individual Indians or tribes, again without charge.

Section 103. Referral for Criminal and Civil Violations

Section 103 adds a new section 5 to the 1935 Act establishing the Arts and Crafts Board. Subsection (a) of this new section authorizes the Board to refer complaints to the FBI for investigation. It further authorizes the Board, on the basis of such investigation, to recommend to the Attorney General that criminal proceedings under that section be instituted.

Section 104. Criminal Penalty for Misrepresentation of Indian Produced Goods and Products

Subsection (b) of the new section also authorizes the Board to recommend that the Secretary of the Interior refer the matter to the Attorney General for civil action under section 6 of the Act.

Section 104(a) amends section 1159 of title 18, United States Code, which establishes existing penalties for criminal misrepresentation of any item as an Indian product when that product is not Indian made. Section 1159, as amended, includes four subsections.

Subsection (a) of section 1159, as amended, merely restates existing law making it a crime to misrepresent a product as Indian-produced.

Subsection (b) of section 1159, as amended, expands the criminal penalties by increasing the fines and prison terms for the first and subsequent violations. Pursuant to a suggestion from the Department of Commerce, the criminal penalties provided for in the bill as introduced, were increased by the subcommittee amendment to make them more consistent with penalties for comparable offenses under existing law.

Subsection (c) of section 1159, as amended, defines the terms "Indian," "Indian product," "Indian tribe," and "Indian arts and crafts organization" for purposes of the section. Several members of Congress, who have state recognized but not Federally recognized Indian tribes in their districts, objected to the definition of Indian tribe, on the grounds that it did not include state recognized tribes. Because such tribes were not "Indian tribes" within the meaning of the bill, artisans in those tribes who represented their goods as Indian made would arguably be in violation of the Act. To avoid this problem, the definition of Indian tribe was revised to include state recognized tribes.

Subsection (d) of section 1159, as amended, adds a severability clause.

Section 104(b) is a conforming amendment to the table of sections for chapter 53 of title 18.

Section 105. Cause of Action for Misrepresentation of Indian Produced Goods and Products

Section 105 adds a new section 6 to the 1934 Act, establishing the Indian Arts and Crafts Board, as follows:

Subsection (a) of the new section 6 adds new civil penalties for misrepresentation that may be sought by a tribe, Indian or Indian arts and crafts organization to obtain injunctive or other equitable relief and damages including treble damages.

Subsection (b) of the new section 6 provides that, in addition to the relief as defined in subsection (a), the plaintiff may be awarded punitive damages and the cost of the suit as well as reasonable attorney's fees.

Subsection (c)(1) establishes that a civil action may be commenced under subsection (a) in the following situations: (A) by the Attorney General of the United States upon the request of the Secretary of the Interior on behalf on an Indian, an Indian tribe or an Indian arts and crafts organization; (B) by an Indian tribe on behalf of itself or a tribal member, or on behalf of an Indian arts and crafts organization.

Subsection (c)(2) provides that in such cases any amount recovered pursuant to this section shall be paid to the prevailing plaintiff after the cost of the suit and attorney's fees are reimbursed to the Attorney General. In cases where the Indian tribe files on behalf of itself, the amount recovered for the cost of the suit and attorney's fees may be deducted from the total amount awarded under subsection (a)(2)(c).

Subsection (d)(1) defines the term "Indian" to be any individual who is a member of an Indian tribe; or any individual who is certified by the tribe as an Indian artisan.

Subsection (d)(2) defines the term "Indian product" and "product of a particular Indian tribe or tribal organization."

Subsection (d)(3) defines the term "Indian tribe" to mean any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized by a state government or the United States as eligible for special services because of the status of its members as Indians.

Subsection (d)(4) defines the term "Indian arts and crafts organization" to mean a marketing organization composed of members of Indian tribes.

Subsection (e) adds a severability clause.

Section 106. Penalty for Counterfeiting Indian Arts and Crafts Board Trademark

Section 106 expands the existing criminal penalties for counterfeiting an Indian Arts and Crafts Board trademark as established under section 1158 of title 18, United States Code, by raising the maximum fines and terms of imprisonment for first and subsequent violations.

Section 107. Certification of Indian Artisans

Section 107 authorizes Indian tribes, as defined by the Act, to certify individuals as Indian artisans who would not otherwise qualify as members of the tribe.

TITLE II—TECHNICAL AND CLARIFYING AMENDMENTS

Section 201. Amendments to Indian Self-Determination and Education Assistance Act

Section 201(1) clarifies that a tribal organization's right to request that its contract be considered mature applies to all past and future contracts, and is not limited to contracts in effect on the date of enactment of the 1988 amendments. The clause deleted by this subsection has led to confusion regarding the process for designating as "mature" those contracts that are awarded for the first time after the 1988 amendments.

Section 201(2) clarifies that the benefits accorded tribes elsewhere in the Act relating to contracts (such as funding amounts, prohibited funding reductions, savings, carryover, etc.) apply equally to grants and cooperative agreements which, under section 9, may be utilized in lieu of a contract when mutually agreed to by the tribal organization and the Secretary.

Section 201(3) makes a correction to the 1975 Act that was overlooked during the 1988 amendments. Under those amendments, Section 106(a)(3) authorizes tribes to retain savings of unexpended funds to be used for specific purposes and section 8 authorizes tribes to carry over unexpended funds into the next fiscal year. However, in making these changes, Congress did not show these new provisions as exceptions to section 5(d) of the Act, which is a general requirement that unexpended funds be returned to the Treasury. This amendment will make those exceptions part of section 5(d).

Section 202. Amendments to the Indian Self-Determination Act

Section 202(a) amends section 106 of the Act by extending to fiscal year 1992 the time under which tribes and tribal organizations are exempt from liability for theoretical or actual under-recoveries and over-recoveries of indirect costs. This will allow an additional period for the tribes and the agrencies to resolve outstanding issues.

Section 202(b) amends Section 102(d) of the Act which reflects a comprehensive effort by Congress to make the Federal Tort Claims Act applicable to all medically-related liabilities arising out of the administration by tribal contractors of Federal medical programs. Despite the congressional intent to comprehensively cover this entire area in subsection (d), the Public Health Service has taken the position that only health services delivered in connection with the operation of ambulances or other emergency medical motor vehicles are within the scope of the Federal Tort Claims Act. The amendment addresses this issue by expressly making the Federal Tort Claims Act also applicable to the actual operation of vehicles.

Section 202(c) corrects an oversight in the 1988 amendment which suggests that despite a tribal organization's desire otherwise, a contract declared to be "mature" must always be for an indefinite term, and may never have a termination date. This oversight yields the peculiar result of not permitting a mature contract to ever end unless the special retrocession procedures set forth in section 109 of the Act are triggered.

Congress intended to expand the range of options available to tribes through the more liberalized "mature" designation, not to restrict those options, and the section as presently written is defective. The amendment makes clear that a mature contract can be for either a fixed term or for an indefinite term, with the choice to be made by the affected tribe or tribal organization. The amendment also makes clear that a tribal organization, as in all instances, is limited by any applicable restrictions contained in a tribal resolution when requesting mature contract status. For instance, if a tribe has only granted a tribal organization authority to contract for five years, the tribal organization cannot request as a term of a mature contract a provision which would result in a contract lasting longer than five years.

Section 202(d) corrects current law which "defaults" to the calendar year as the funding period for self-determination contracts, beginning with fiscal year 1990. That is, unless a tribe or tribal organization affirmatively selects a different funding period *and* the Secretary agrees to it, all contracts and agreements are automatically converted to the calendar year.

Although the current law reflects the desires of many tribes and will typically improve financial management, many tribal contractors do not want to convert to the calendar year in 1990. This includes many school contractors who hope that Congress will enable schools to convert to a July-June period by making the necessary one-time additional funds available in fiscal year 1991. Under the current law, these contractors are required to obtain concurrence from the appropriate Secretary to maintain the status quo. Similarly, any contractor wishing to move to any funding period other than the calendar year (or the government's fiscal year) must first obtain the Secretary's concurrence.

Moving from the government's fiscal year to the calendar year (or to any other contract period) necessarily has one-time funding implications for the transition year (the year in which conversion to the new con-

tract period is effected). In the case of conversion from the fiscal to the calendar year, funds for one additional quarter must be appropriated (as was done for fiscal year 1990). If any other contract period is agreed upon, one-time additional appropriations would be needed for two or three extra quarters in the transition year. Yet, existing law requires the BIA and IHS to only report the amount of the additional funding needed for contract conversion in fiscal year 1989. In fiscal year 1990, a one-time appropriation was made available to convert all contracts to a calendar year basis. Some contractors wish to retain a fiscal year basis of funding, or in the case of school contractors, to convert to a July-June period, and some contractors are unaware that their contracts will be automatically converted to a calendar year basis. Accordingly, section 2(d) provides the flexibility for a tribal contractor and the Secretary to agree upon a different basis of funding, subject to the availability of appropriations to effect a conversion from a calendar year basis of funding.

Existing law does not provide a mechanism for exercising calendar year contracting rights after 1990, where a contractor decides to stay with fiscal year contracting for the time being. Nor does it require the Secretary to report on the additional funding needed for contract conversions effeced after fiscal year 1989. The proposed amendment corrects these technical deficiencies.

Section 202(e) clarifies that Congress, in enacting the 1988 amendments, understood that the Secretary of the Interior and the Secretary of Health and Human Services had statutory authority to convey real property to an Indian tribe or tribal organization. Although the Secretary of the Interior agrees that such authority exists (25 U.S.C. 443a), officials within the Department of Health and Human Services have raised the question of whether their authority goes so far. It if does not, DHHS would have to make an interagency transfer to Interior, so Interior could then convey the property to a tribe. The amendment clarifies that both Secretaries have the authority to convey real property to an Indian tribe or tribal organization under the circumstances addressed in subsection (f)(2) and (f)(3).

Section 202(f) conforms with the 1988 amendments in which Congress made clear in subsection (b) that the Secretary was to formulate appropriate regulations to implement the Act, as amended, "with the participation of Indian tribes." Subsection (c) of section 107, which deals with future amendments to such regulations, was not similarly amended. Obviously, it is equally important that Indian tribes participate in the development of future amendments. The proposed amendment clarifies the intent of the Congress on this issue.

TITLE III—AMENDMENTS TO OTHER ACTS

Section 301. Amendments to other Acts

Section 301(a) amends the Indian Land Consolidation Act to make clear that lands within a reservation or other trust lands outside of reservations subject to the escheat provision of the Act, escheat to the recognized tribal government of the particular reservation, or to the tribal government that has jurisdiction over the off-reservation lands, and not to a different tribal government. For example, if a member of the Quinault Indian Nation who owns land within the Lummi Indian Reservation that is subject to the escheat provision of the Indian Land Consolidation Act, dies intestate, his land would escheat to the Lummi Indian Tribe and not the Quinault Indian Nation.

Section 301(b) clarifies the Quinault Indian Nation Land Act of 1988 so that both the map and its attachments make up the Quinault Indian Reservation boundary description. The referenced map and attached metes and bounds description appears in printed record of the hearing on S. 2772, which was enacted as P.L 100-638; see, S. Hrg. 100-927, at 134-135.

Section 301(c) amends 25 U.S.C. 483, a law enacted in 1956 that authorized Indian owners of land held in trust or restricted status by the Unites States to mortgage the land with the approval of the Secretary of the Interior. In 1984 Congress amended 25 U.S.C. 483 to allow foreclosed land purchased by an Indian or an Indian tribe to remain in trust status. Under the 1956 version of section 483, Indian land foreclosed upon was required to lose its trust status. Adherence to *state* foreclosure law was mandated. Unfortunately the 1984 perfecting amendment to 25 U.S.C. 483 only partially cured the problem: it protected the trust status of foreclosed lands when the purchaser was Indian, but it did not authorize application of *tribal* foreclosure law on Indian trust land.

Increasingly, Indian tribes seek to advance economic independence and self-government through tribal credit loan programs benefitting Indians and Indian businesses. In order for loan programs to operate efficiently, foreclosure must be an option. Many tribes, therefore, are in the process of adopting tribal foreclosure ordinances. This amendment will ensure that tribes are able to enforce foreclosure laws not only on Indian fee lands but on Indian trust lands.

Section 302. Amendment to the Act of June 24, 1938

Section 302 amends section 1 of the 1938 Act by adding a new subsection (b):

The new section (b)(1) authorizes the Secretary, at the request of an Indian tribe or individual Indian, to invest trust funds in debt obligations issued or guaranteed by the United States, or in a mutual fund registered with the Securities and Exchange Commission, provided that the trust funds to be invested exceed $50,000, the guarantee is to both principal and interest, and the Secretary is satisfied with the protection against loss of the principal of such funds.

The new section (b)(2) authorizes the Secretary to require the tribe or individual Indian to relieve the United States of liability in connection with interest income during the time the funds are invested under the authority of section (b)(2). The Committee intends that any management fees associated with investment in a mutual fund as authorized by this subsection will be the responsibility of the tribe or individual Indian requesting such investment.

The new section (b)(3) clarifies that the tax exempt status of income from trust funds will continue if this option is exercised.

Section 303. Amendment to the Indian Financing Act of 1974

Section 303(a) amends section 101 of the Act to authorize the Secretary to use Revolving Loan Fund monies: (a) in loans to Indians who are also receiving a bank loan, (b) as a contribution to the Loan Guarantee Fund or (c) as interest subsidy payments.

Section 303(b) amends section 204 of the Act to eliminate the word "prior" and to make the Secretary's review of application for certain purposes discretionary rather than mandatory. This is intended to give the Secretary the flexibility necessary to reorganize the Loan Guarantee program along the lines of the Preferred Lenders Program of the Small Business Administration.

Section 304. Exemption

Section 304 amends section 8 of the Indian Judgment Fund Distribution Act to exempt income of up to $4,000 a year derived from individual trust or restricted lands from consideration as a resource or income in determining eligibility for assistance under the Social Security Act or any other Federal or Federally assisted program.

TITLE IV—PUBIC HEALTH SERVICE ACT

Section 401. Amendment to Public Health Service Act

Section 401 amends the Public Health Service Act to provide that funds for scholarships for Native Hawaiians may be provided to Kamehameha Schools/Bishop Estate by means other than a contract.

TITLE V—BOARD OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

Section 501. General Powers of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development

Section 501(a) amends section 1507 of the Act to clarify that interest on earnings of funds invested by the Institute may be used by the Institute to carry out its purposes, providing the Board of Trustees uses reasonable and prudent standards of care in exercising their fiduciary responsibilities.

Section 501(b) amends 1507(a)(11) to expand the authority of the Institute to purchase property and liability insurance.

Section 502. Establishments within the Institute

Section 502 amends 1510(b) of the Act to clarify that the President of the Institute shall give direction to the Museum of American Indian and Alaska Native Arts.

Section 503. Transfer of Functions

Section 503 adds a new subsection to section 1514 of the Act to clarify that the Institute is responsible only for any requirements or actions that occurred after the transfer of the Institute from the United States Department of the Interior to the new Board of Trustees in June 1988 and provides that the Institute is held harmless from any prior obligations or actions, the responsibility for which remains with the Department of the Interior, Bureau of Indian Affairs.

Section 504. Compliance with other Acts

Section 504 adds a new subsection (c) to section 1517 of the Act to clarify that funds received by the Institute through its regular appropriation will not be considered Federal funds for purposes of matching requirements of other laws.

Section 505. Endowment Programs

Section 505 splits the existing endowment program of section 1518 into two parts: a program enhancement endowment and a capital improvement endowment. In addition, this section clarifies that in-kind contributions may count toward matching requirements, that interest earned from endowment funds may be used as part of the non-Federal match, and that the Federal share of the principal of the construction endowment may be removed and used without penalty.

Section 506. Authorization of Appropriations

Section 506 amends section 1531(a) of the Act by providing for expeditious transfer of appropriated funds to the Institute by the Secretary of the Treasury and by authorizing forward funding.

Mr. McCAIN. Mr. President, I rise today to express my strong support for H.R. 2006, the Indian Arts and Crafts Act of 1990. H.R. 2006 is a companion bill to S. 917 a bill I introduced to expand the powers of the Indian Arts and Crafts Board and to address the growing problems of counterfeit imports of Indian arts and crafts. I would like to express my deep appreciation to Congressman KYL for his strong leadership in the House on this very important legislation. I would also like to thank my good friend, Senator INOUYE, for his support and dedication on the issue. I would also like to express my appreciation to all of my colleagues in the Senate who have supported this very important legislation.

I believe H.R. 2006 will serve to protect native American arts and crafts from the growing threat of counterfeit imports and cheap imitations which are flooding the marketplace for genuine native American artwork. I believe this legislation will provide greater assurances to the consumers of Indian arts and crafts that the goods they purchase are in fact authentic. It would also ensure that legitimate Indian artisans are not unfairly penalized by counterfeits and imitations which are misrepresented as being authentic.

Many Indian artisans depend on the sale of their works as their sole source of income or as a supplement to food stamps or AFDC. In a 1985 Commerce Department report, it is estimated that nearly 10 to 20 percent of sales of Indian handicrafts are in fact imported counterfeits. In the marketplace, these counterfeits routinely undersell genuine Indian arts and crafts. H.R. 2006 will provide increased protections to Indian artisans across the country and instill a greater confidence in purchases of Indian arts and crafts by consumers. It would strengthen the criminal penalties for misrepresentation of Indian artwork and would provide civil remedies for Indian artisans and others to obtain compensation from those who participate in the misrepresentation of Indian-produced goods. I would urge my colleagues to support this badly needed legislation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 3173) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—H.R. 4739

Mr. EXON. Mr. President, I ask unanimous consent that when the Senate considers the conference report on H.R. 4739, the Defense authorization bill, it be considered under the following time limitation: 90 minutes for debate divided as follows—20 minutes for Senator GLENN; 70 minutes equally divided between Senators NUNN and WARNER or their designees; that when all time is used or yielded back, the Senate proceed to vote, without any intervening action, on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar items Nos. 927, 928, 951 and 952, en bloc; that any amendment reported by the committee be deemed agreed to; that the bills and joint resolutions be deemed to have been read for the third time and passed; and that the preambles to the joint resolutions be agreed to; and that the motions to reconsider the above actions en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent that each of the items just passed by the Senate appear separately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL OF BILL S. 1301 TO THE COURT OF CLAIMS

The resolution (S. Res. 332) to refer S. 1301, entitled "For the relief of Hoar Construction, Inc., of Birmingham, AL, to settle certain claims filed against the Small Business Administration" to the chief judge of the United States Claims Court for a report thereon, was considered, and agreed to; as follows:

S. RES. 332

Resolved, That the bill S. 1301, entitled "For the relief of Hoar Construction, Inc., of Birmingham, Alabama, to settle certain claims filed against the Small Business Administration" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due to the claimant from the United States.

RELIEF OF BEULAH C. SHIFFLETT

The bill (H.R. 3791) for the relief of Beulah C. Shifflett, was considered, ordered to a third reading, read the third time, and passed.

RELIEF OF MRS. JOAN R. DARONCO

The Senate proceeded to consider the bill (H.R. 3134) for the relief of Mrs. Joan R. Daronco, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

S. 297

SECTION 1. CREDITABLE CIVILIAN SERVICE.

(a) TIME OF CREDITABLE CIVILIAN SERVICE.—For the purposes of the entitlement of Joan Daronco, the widow of Judge Richard Daronco (a deceased judge of the United States District Court for the Southern District of New York), to benefits under section 376 of title 28, United States Code, Richard Daronco shall be deemed—

(1) to have completed eighteen months of creditable civilian service as a judicial official prior to his death on May 21, 1988, in addition to any other creditable civilian service, computed in accordance with subsection (k) of that section, he may have had;

(2) to have actually made the salary deductions as provided by subsection (b) of that section for those eighteen months; and

(3) to have received the salary paid to Federal district court judges for the eighteen month period ending on the date of his death.

(b) EFFECTIVE DATE.—Subject to section 6, this section shall be effective as of May 21, 1988.

SEC. 2 LUMP SUM PAYMENT.

(a) APPROPRIATION OF LUMP SUM PAYMENT.—Subject to section 4, the Secretary of the Treasury shall pay to Joan Daronco, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount determined pursuant to paragraph (1) of section 3 less the amount determined pursuant to paragraph (2) of section 3. If the amount determined pursuant to this subsection is less than zero, the Secretary shall withhold any monthly annuity Joan

Daronco may be entitled to under this Act until such deficit is eliminated.

(b) PAYMENT INTO FUND.—The Secretary of the Treasury shall pay into the Judicial Survivors' Annuity Fund, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount determined pursuant to paragraph (2) of section 3.

(c) LIMITATION OF ATTORNEYS' AND AGENTS' FEES.—It shall be unlawful for an amount of more than 10 per centum of the amount determined pursuant to paragraph (1) of section 3 to be paid to or received by any attorney or agent for any service rendered in connection with the benefits provided by this Act. Any individual who is found guilty of a violation of this subsection shall be fined not more than $1,000.

SEC. 3. DETERMINATION OF AMOUNT OF PAYMENT.

The Director of the Administrative Office of the United States Courts shall determine each of the following:

(1) AMOUNT OF ANNUITIES.—The amount equal to the total amount of annuities Joan Daronco would have received under section 1(a) for the period beginning on the effective date of section 1 and ending on the last day of the month which follows the month which this Act takes effect.

(2) AMOUNT OF SALARY DEDUCTIONS.—The amount equal to the sum of—

(A) the total of salary deductions, as provided by section 376(b) of title 28, United States Code that could have been deducted and withheld from the salary Judge Richard Daronco is deemed to have received under section 1(a)(3) had such deductions and withholdings been made for eighteen months prior to his death on May 21, 1988; and

(B) the amount of interest, computed at 3 per centum per annum compounded on December 31 of each year, that would accrue on the amount determined pursuant to subparagraph (A) of this paragraph.

SEC. 4. APPLICATION FOR ANNUITIES.

The lump sum payment, and any annuity, Joan Daronco is entitled to be paid pursuant to section 2(a) shall be paid only if she files an application for such payment to the Director of the Administrative Office within one year after the date of enactment of this Act.

SEC. 5. OTHER BENEFITS.

Benefits under this Act shall be paid notwithstanding Joan Daronco's eligibility or receipt of other Federal, State, or local benefits.

SEC. 6. EFFECTIVE DATE.

This Act shall be effective on the date the application referred to in section 4 is filed.

The committee amendment was ordered to be engrossed and the bill was read the third time, and passed.

CONSIDERATION OF SPOUSAL ABUSE AS EVIDENCE AT CUSTODY PROCEEDINGS

The concurrent resolution (H. Con. Res. 172) expressing the sense of the Congress that, for purposes of determining child custody, credible evidence of physical abuse of one's spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse, was considered, and agreed to.

The preamble was agreed to.

CALENDAR NOS. 863 AND 875 INDEFINITELY POSTPONED

Mr. EXON. Mr. President, I ask unanimous consent that the Calendar items Nos. 863 and 875 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CAPITAL TRANSPORTATION AMENDMENTS ACT OF 1990

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 766, S. 612, the Washington Metrorail bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 612) to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail system.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Capital Transportation Amendments Act of 1990".

SEC. 2. AMENDMENT TO NATIONAL CAPITAL TRANSPORTATION ACT OF 1969.

Effective October 1, 1990, the National Capital Transportation Act of 1969 (Public Law 91-143; 83 Stat. 320) is amended by adding at the end thereof the following new section: "AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTIONS FOR CONSTRUCTION

"SEC. 17. (a) The Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized by sections 3 and 14, for the purpose of financing in part the cost of construction of the Adopted Regional System.

"(b) Federal grants under subsection (a) for the Adopted Regional System shall be subject to the following limitations and conditions:

"(1) The work for which such grants are authorized shall be subject to the provisions of the Compact and shall be for projects included in the Adopted Regional System.

"(2) The aggregate amount of such Federal grants made during any fiscal year shall be matched by the local participating governments by payment of capital contributions for such year in a total amount that is not less than 25 percent of the amount of such Federal grants and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or revenues available in cash, or new capital.

"(3) Such grants shall be subject to terms and conditions that the Secretary may deem appropriate for constructing the Adopted Regional System in a cost-effective manner.

"(c) In addition to funds authorized under section 14, there is authorized to be appropriated to the Secretary of Transportation for the purpose of making grants to complete the Adopted Regional System as provided in subsection (a) an aggregate amount not to exceed $2,160,000,000, with such amounts to be made available in increments for 11 fiscal years, or until expended, beginning in fiscal year 1991.

"(d) Amounts appropriated pursuant to the authorization under subsection (c)—

"(1) shall remain available until expended; and

"(2) shall be in addition to, and not in lieu of, amounts available to the Transit Authority under the Urban Mass Transportation Act of 1964 and section 103(e)(4) of title 23, United States Code.".

SEC. 3. PROHIBITION OF USE OF HIGHWAY TRUST FUND.

Notwithstanding this Act, any amendment made by this Act, or any other law, no moneys shall be appropriated from the Highway Trust Fund for the purpose of making grants pursuant to section 17(c) of the National Capital Transportation Act of 1969.

SEC. 4. BUY-AMERICAN PROVISION.

(a) REPORT TO CONGRESS.—The Washington Metropolitan Area Transit Authority shall report to Congress (1) on contracts which the Transit Authority enters into with foreign entities with respect to its rail system in fiscal years 1991 and 1992 and which are subject to the Buy American provisions of the Surface Transportation and Assistance Act of 1982 or the Surface Transportation and Uniform Relocation Assistance Act of 1987, and (2) on the number of such contracts which meet the requirements of such provisions but which are determined by the United States Trade Representatives to be in violation of the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If the Secretary of Transportation determines that any person intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract with the Washington Metropolitan Area Transit Authority for its rail system for a period of not less than 3 years and not more than 5 years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

SEC. 5. RESTRICTIONS ON CONTRACT AWARDS.

No foreign government shall be eligible to receive a contract with the Washington Metropolitan Area Transit Authority for its rail system if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which result in identifiable harm to United States businesses, as identified by the President pursuant to section 305(b)(1)(A) of the Trade Agreements Act of 1979.

AMENDMENT NO. 3174

(Purpose: To provide a substitute for the bill)

Mr. WARNER. Mr. President, I send a substitute amendment to the desk on behalf of Senator HEINZ, SENATOR SAR-

BANES, Senator MIKULSKI, Senator ROBB, and myself.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia, [Mr. WARNER], for Mr. HEINZ (for himself, Mr. SARBANES, Ms. MIKULSKI, Mr. WARNER, and Mr. ROBB), proposes an amendment numbered 3174.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Capital Transportation Amendments of 1990".

SEC. 2. AMENDMENT TO NATIONAL CAPITAL TRANSPORTATION ACT OF 1969

Effective upon enactment, the National Capital Transportation Act of 1969 (Public Law 91-143; 83 Stat. 320) is amended by adding at the end thereof the following new section:

"AUTHORIZATIOIN OF ADDITIONAL FEDERAL CONTRIBUTIONS FOR CONSTRUCTION

"Sec. 17 (a) The Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized by sections 3 and 14, for the purpose of financing in part the cost of construction of the Adopted Regional System.

"(b) Federal grants under subsection (a) for the Adopted Regional System shall be subject to the following limitations and conditions:

"(1) The work for which such grants are authorized shall be subject to the provisions of the Compact and shall be for projects included in the Adopted Regional System.

"(2) the aggregate amount of such Federal grants made during any fiscal year shall be matched by the local participating governments by payment of capital contributions of not less than 60 percent of the amount of such Federal grants and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

"(3) Such gants shall be subject to terms and conditions that the Secretary may deem appropriate for constructing the Adopted Regional System in a cost-effective manner which maximizes the rate at which appropriate funds can be utilized to complete all segments for which funds have been authorized.

"(c) In addition to funds authorized under section 14, there is authorized to be appropriated to the Secretary of Transportation for the purpose of making grants to complete the Adopted Regional System as provided in subsection (a) an aggregate amount not to exceed $1,300,000,000 to be available in increments over 8 fiscal years beginning in fiscal year 1992, or until expended.

"(d) Amounts appropriated pursuant to the authorization under subsection (c)—

"(1) shall remain available until expended; and

"(2) shall be in addition to, and not in lieu of, amounts avilable to the Transit Authority under the Urban Mass Transportation Act of 1964, as amended, and section 103(e)(4) of title 23, United States Code.".

SEC. 3. COMPLETION OF THE ADOPTED REGIONAL SYSTEM.

The Congress recognizes the importance of a mass transportation system to serve the capital of the United States and reaffirms its commitment to the construction of the full 103-mile Adopted Regional Metrorail System in a continuing partnership of the Federal, State, and local governments in the metropolitan Washington region. It is the intent of Congress to ensure continued Federal funding to complete the full Metrorail system. Those portions of the full system remaining to be completed include in the District of Columbia and the State of Maryland, the Green Line between the Anacostia and Branch Avenue Stations; in the District of Columbia, the Green Line between the U Street-Cardozo and Fort Totten Stations; in the State of Maryland, the Red Line between the Wheaton and Glenmont Stations; and in the Commonwealth of Virginia, the Yellow Line between the Van Dorn Street and Franconia-Springfield Stations.

SEC. 4. PROHIBITION ON USE OF HIGHWAY TRUST FUND.

Notwithstanding this Act, any amendment made by this Act, or any other law, no moneys shall be appropriated from the Highway Trust Fund for the purpose of making grants pursuant to section 17(a) of the National Capital Transportation Act of 1969.

SEC. 5. BUY AMERICAN PROVISION.

(a) REPORT TO CONGRESS.—The Washington Metropolitan Area Transit Authority shall report to Congress (1) on contracts which the Transit Authority enters into with foreign entities with respect to its rail system in fiscal years 1991 and 1992 and which are subject to the Buy American provisions of the Surface Transportation and Assistance Act of 1982 or the Surface Transportation and Uniform Relocation Assistance Act of 1987, and (2) on the number of such contracts which meet the requirements of such provisions but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If the Secretary of Transportation determines that any person intentionally affixes a label bearing a "made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract with the Washington Metropolitan Area Transit Authority for its rail system for a period of not less than 3 years and not more than 5 years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

SEC. 6. RESTRICTIONS ON CONTRACT AWARDS.

No foreign government shall be eligible to receive a contract with the Washington Metropolitan Area Transit Authority for its rail system if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which result in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

Mr. HEINZ. Mr. President, this amendment reflects about 6 months of negotiations among myself, the D.C. area congressional delegation and the administration. All involved, including Senators SARBANES, MIKULSKI, WARNER and ROBB, Congressmen HOYER, PARRIS, and WOLF and U.S. Secretary of Transportation Sam Skinner deserve Medals of Honor for their determination in working this out. The amendment also includes Governmental Affairs Committee-approved amendments regarding prohibition on use of highway funds, buy-American provisions, and restrictions of foreign contract awards.

I would like to take a short moment to describe to the Senate the issues involved and how we got to this important juncture.

As reported by the Governmental Affairs Committee, this legislation faced a very uncertain future. Its original authorization of $2.1 billion in Federal funds, matched by only 20 percent in non-Federal funds, to complete the Washington area's rail system raised very basic questions of fairness.

Federal support for mass transit is important for the mobility of millions of working Americans, the elderly, the poor, and our children. It ought to be a viable component of our strategy to achieve our clean air goals—reducing ozone and CO_2 emissions in and around our largest urban areas.

Notwithstanding this critical need for Federal support of mass transit, S. 612 provided special treatment for one transit agency—the Washington Metropolitan Area Transit Agency [WMATA]. While WMATA asked for a new deal for it alone, every other transit system has been asked to play 52-card pickup from a different deck of cards—a deck of cards that recognizes an era of tight budget constraints.

During the course of the hearing on this legislation, three main issues were debated.

The first was the size of the non-Federal match. While every other local transit system is paying ever increasing non-Federal matches of projects (as high as 50 percent or more), S. 612 authorized the non-Federal match for WMATA at 20 percent.

The second was the creation of a separate authorization. Every other local transit system's capital funding is paid out of the Mass Transit Trust Fund. S. 612 continued WMATA's source of funding from general revenues.

The third was the length of the authorization. While every other Federal transit program is authorized every 5 years, WMATA would have received 11.

WMATA's system is one of the best in the world. As the transit system for

the Nation's Capital that is as it should be. WMATA serves above all the Federal Government, so there is a compelling Federal interest in its completion.

At the same time, it needs to be recognized that the present budget circumstances are far different than 10 years ago when WMATA received its original authorization.

The non-Federal match authorized in S. 612 was far too low and in no way reflected current budget circumstances.

The amendment which I am offering corrects these problems. It shortens the authorization to 8 years. It authorizes $1.3 billion, roughly half the original funds authorized. And it raises the non-Federal contribution from 20 percent to 37.5 percent.

It is the kind of compromise that both sides had to swallow hard to accept and it deserves the Senate's support.

Mr. WARNER. Mr. President, I am pleased to join my colleagues from across the Potomac, the Senators from Maryland, Senators SARBANES and MIKULSKI, and my own Virginia partner, Senator ROBB, in supporting this legislation to authorize the completion of the full Metrorail system.

The Federal commitment to the Metrorail construction program has spanned some 25 years and 6 administrations, and has been bipartisan. Ever since President Kennedy first called the plan for Metro "both sound and necessary," presidents of both parties have sought Federal funds to support the Metrorail construction program.

Similarly, Members of both Houses of Congress of both parties, and representing constituencies across this great Nation, have underscored time and again the need for sustaining the Federal commitment to completion of Metrorail—America's subway.

The House approved companion legislation to complete the Metro system by the overwhelming majority of 260-to-150. The vote was bipartisan and reflected support from every region of this country.

The Metrorail system is the product of more than 30 years of discussion, planning, and construction. Extraordinary efforts from citizens and local elected officials alike helped shape the adopted regional plan for a 103-mile rapid transit system to relieve traffic congestion and its attendant pollution, and to improve the physical character, environmental quality, economic growth and well-being of the National Capital Region.

As early as 1960, Congress recognized in the National Capital Transportation Act "* * * that an improved transportation system of the National Capital Region is essential to the continued growth and effective performance of the functions of the Government of the United States, for the welfare of the District of Columbia, for the orderly growth and development of the National Capital Region, and for the preservation of the beauty and dignity of the Nation's Capital. * * *"

In correspondence to Congress in 1963, then-President Kennedy said that any such "* * * * improved transportation system must include a major rapid transit system. The alternatives would be steadily worsening congestion with what all that congestion means in losses in time and money, or an enlarged highway and freeway system program entailing additional expense, major disruptions of persons and businesses, and substantial impairment of the appearance and attractiveness of the city.

The political consensus forged among the eight local governments in Maryland, Virginia, and the District of Columbia to support a coherent and orderly plan for construction of such a rapid transit system has remained intact. This local jurisdictional compact formed a partnership with the Federal Government to advance a cost-shared construction program—a partnership that has now built 70 miles of Metrorail. Recognized by the American Public Transit Association as the outstanding transit system in North America, Metrorail has proven itself a safe, reliable and clean system. With ridership exceeding a half a million daily, it now is second only to New York MTA in ridership.

In creating the Washington Metropolitan Area Transit Authority to construct a rapid rail system for the Nation, Congress explicitly recognized the greater Federal concern for a transportation system in the National Capital Region which would serve the 400,000 Federal employees in this area, the citizens of the National Capital Region, and the 19 million tourists that visit America's seat of government each year. Just as Washington is not any other American city, Metro has not been and should not be treated as any other transit system. Further, having been under construction for over 20 years, Metrorail is not a new start; therefore new start systems across the country should not be required to compete with it.

The Federal-local partnership that has yielded this fine system must be sustained to fully realize the dreams of those pioneering and visionary planners some 30 years ago. With the agreement and support of Congress and the Urban Mass Transit administration, the remaining funds in Metro's current authorization known as "Stark-Harris," will permit the authority to bring 89.5 miles into full-revenue service by the end of 1993.

The adopted regional system, however, provides for a 103-mile system. This will require adoption of new authorizing legislation. One of the great champions of Metro has been former Senator Charles Mathias of Maryland. During the 1979 floor debate on the Stark-Harris legislation, Senator Mathias said "It would * * * be a tragic breach of promise were the Federal Government to renege * * * on its share of the Metrorail dream for those not yet served by the system." And indeed, that is the sentiment today of hundreds of thousands of residents throughout the region, many of whom reside in the most transit-dependent neighborhoods which have long been the targets for improved access to mass transit.

For residents of Prince Georges County, MD, along the outer Green Line, those living in the District's urban core along the inner Green Line, and yet others who must compete with traffic gridlock in Glenmont along the Red Line or Springfield-Franconia on the Yellow Line—for all these residents who have waited patiently for so long to receive Metrorail service, we must keep our promise. Each of the 8 jurisdictions in the regional compact have dutifully paid their share of construction funds over the last 20 years to ensure that those segments planned for their areas would indeed be built. In addition, the jurisdictions in this region today contribute over $300 million annually in operating funds.

I urge the Senate to unanimously support this legislation so that we may underscore our commitment to the Federal-local partnership necessary to complete the entire Metrorail system. It is our responsibility to fulfill the hopes and promises of those visionaries who conceived and now have nearly completed this landmark rapid transit system. We owe this to millions of future riders that will enjoy enhanced access to Government offices, businesses, family, friends, and the many fine attractions of the National Capital Area.

Thank you, Mr. President.

Ms. MIKULSKI. I am happy that we have voted today to complete the Washington area's Metrorail system. We voted to build a framework for the future, and we voted to bring some of the Washington area's poorest neighborhoods into that framework.

The Metro agreement shows three things: congressional effectiveness when we work together; leadership; and an understanding of the future needs of Maryland and the District of Columbia.

We are only 10 years from the year 2000, and I want to be sure that we get our community and our country ready for this new millenium. A new economy is being born in this area, and I know that because of what we will be able to do with Metro; we will be able to create great jobs and make sure that people can get to those jobs.

By authorizing $1.3 billion to fund construction for the next 8 years, we will make Metro a system for everyone in the Washington area.

Over 20 years ago, the Federal Government made a commitment to build Metro—all 103 miles of it.

Low-income and minority residents of Anacostia, Shaw, Northeast Washington and Prince Georges County have been waiting patiently for us to keep that commitment. They are the residents most dependent on mass transit.

Thanks to a bipartisan, bicameral effort of a group of legislators I like to call the Potomac Pals, we are keeping our commitment to them.

I have to take a moment to thank my colleague from Pennsylvania, JOHN HEINZ. SENATOR HEINZ demonstrated what real leadership is all about when he brought us together and forced us to work with each other until we gave a little bit—until we became flexible and accomplished our objectives.

I have to also mention the role that Representative HOYER played on the other side, working to get this authorization through the House, and my good friend, Senator SARBANES, who carried the load in this body.

As an appropriator, my role is to make certain that this agreement gets funded—and I will be working from my seat on the Transportation Subcommittee in the years to come, to make sure that happens.

Metrorail is one of our region's great success stories. Under the able leadership of Carmen Turner, we have a well-run subway system that carries people on more than half a million trips every day.

It is important and appropriate that the Federal Government keep this commitment because it is the Federal work force that benefits most from Metro.

Thousands more Federal workers will ride the rails every day, thanks to this vote.

Completing Metro will also provide an alternative to the automobile for a larger number of Maryland, Virginia and D.C. residents. It will decrease traffic congestion, air and noise pollution in the suburbs and the city.

Metro works, it is well managed and is a model for the Nation to follow. This model is displayed daily to the millions of tourists that ride Metro to visit our Nation's monuments and museums.

I am proud that with this vote, we have come closer to writing the final chapter of this success story. Let us keep our commitment to this area, our Nation's Capital. Let us finish Metrorail.

Mr. SARBANES. Mr. President, I rise today in support of this substitute legislation to reauthorize the National Capital Transportation Act. Although the substitute we have before us and which I have joined in sponsoring is not the bill I would prefer to see, it does keep the construction of Metrorail going for another 8 years. This bill is a compromise—hard fought on all sides, I might add—but I support it because it renews the Federal commitment to completion of this very important transportation system for our Nation's Capital.

In March of 1989, I introduced with my colleagues from Virginia and Maryland, Senators JOHN WARNER and CHARLES ROBB, and Senator BARBARA MIKULSKI, as well as our friend from Tennessee, Senator JIM SASSER, the original version of this bill. I want to express my gratitude to Senator GLENN and Senator SASSER for moving that bill through the Senate Governmental Affairs Committee.

The current Federal authorization for Metrorail construction, Public Law 96-184, referred to as Stark-Harris, provides funding sufficient only to complete 89.5 miles of the 103 mile adopted regional system. This legislation before us now will assist in fulfilling Congress' vision of completing the full 103-mile system and reaffirms the Federal commitment to serving the vital transportation needs of the Nation's Capital with its large Federal work force, 17 million visitors annually from across the Nation and around the world, and residents of the region.

This legislation authorizes a $1.3 billion Federal share of the construction costs. The participating local jurisdictions will provide a matching share of 37.5 percent of the total cost. I want to point out that this is a significant change from the Federal/local cost sharing established in the Stark-Harris legislation. At that time it was recognized that the participating local jurisdictions would meet the remainder of the capital costs and establish a "stable and reliable" funding source to meet operating expenses. The jurisdictions in this region have always met their commitment to provide subsidies to meet Metro's operating costs, as well as the local share of construction costs, and will continue to do so.

Since its inception, construction of the Metrorail system has proceeded with the understanding among the participating jurisdictions and the Federal Government that the entire system would be built. Many jurisdictions in the region have contributed to the construction of the system which is operating today in the expectation that lines in their area would be completed. This understanding has formed the basis for a unique Federal/State/Local partnership, enabling Metrorail to be constructed crossing through many local subdivisions, states, the District of Columbia, and on parcels of Federal land. Congress has demonstrated its support time and again with the active bipartisan support of Members from geographic regions across the country.

Metrorail is a shining example of what a Federal/State/Local partnership can achieve. While ridership is exceeding all projections, and by every conceivable indicator Metrorail is an outstanding success, much remains to be done. Gridlock still threatens our roadways today as the planners' growth forecasts become a reality, and many of the most transit-dependent neighborhoods continue to wait patiently for Metrorail's long-promised arrival.

We need to pass this amended version of the Metro reauthorization bill and get on with the construction of this vital transportation system. I urge all Senators to join in passing this bill.

Mr. WARNER. Mr. President, I would like to acknowledge the Presiding Officer tonight, the senior Senator from Maryland, together with the congressional delegations of Maryland, Virginia and the District of Columbia have worked many years for this moment. This marks the first step toward what we believe will become the completion of the 103-mile system.

I wish to acknowledge special appreciation to the President, who agreed to this new formula; the Secretary of Transportation, Mr. Skinner and his associates and to many others. We today recognize Mrs. Turner, for her long participation in this, and the many people who have worked to make this possible. This is a landmark moment in the history of this important system.

We also wish to thank our colleague from Delaware, Mr. ROTH, for certain cooperation he accorded the Chair and the Senator from Virginia tonight.

I now urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3174) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. WARNER. Parliamentary inquiry. Had we completed the procedure on that? Had the Chair the opportunity to act on the bill?

The PRESIDING OFFICER. The bill has been advanced to third reading at this stage.

Mr. EXON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 1463, the House companion; that all after the enacting clause be stricken; that the text of S. 612, as amended, be substituted in lieu thereof; that the bill be read for a third time and passed; that the motion to reconsider be tabled, and that S. 612 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, the aforegoing request is so ordered.

So the bill (H.R. 1463), as amended, was passed.

Mr. WARNER. Mr. President, parliamentary inquiry. Is a motion to reconsider now in order?

The PRESIDING OFFICER. Yes, it is.

Mr. WARNER. The Senator from Virginia moves to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONVEYANCE OF A CERTAIN PARCEL OF LAND

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 3703, a bill to authorize the Rumsey Indian Rancheria to convey a certain parcel of land and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3703), to authorize the Rumsey Indian Rancheria to convey a certain parcel of land.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3175

Mr. EXON. Mr. President, I send a substitute amendment to the desk on behalf of Senator INOUYE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the substitute amendment.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. INOUYE, proposes an amendment numbered 3175.

Mr. EXON. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. INOUYE. Mr. President, I am pleased to bring before the Senate an amendment in the nature of a substitute to H.R. 3703, a bill to authorize the Rumsey Indian Rancheria to convey a certain parcel of land. In addition, to resolving an issue of longstanding concern to the Rumsey Rancheria and the community of Sparks, NV, this amendment also addresses a longstanding lease issue for the Mille Lacs Band of Chippewa in Minnesota by authorizing a land lease with the Minnesota Historical Society. Other provisions of the amendment incorporate matters related to Indian health, the prevention of the abuse of Indian children and the proper management of Indian forest resources. All of these matters have previously been considered and adopted by the Senate and are noncontroversial and are incorporated herein to expedite House consideration of minor amendments proposed on behalf of the Senate. They are of vital importance to our Indian and native citizens and I urge all of my colleagues to support the substitute amendment to H.R. 3703.

I ask unanimous consent that a section by section analysis be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

TITLE I—AUTHORIZING THE RUMSEY INDIAN RANCHERIA TO CONVEY A CERTAIN PARCEL OF LAND

The Rumsey Indian Rancheria is authorized to sell the property located in Sparks, Nevada to any bona fide purchaser for current market value. Proceeds from the sale of such land may be used only for the economic development and social welfare of the Rumsey Indian Rancheria.

Section 101.—Section 101 contains congressional affirmation that the Rumsey Indian Rancheria is a part of the federally recognized Wintun Tribe of Indians, located in Rumsey, California. In February of 1987, fee simple title to a single family dwelling is located in Sparks, Nevada, approximately 125 miles from the Rancheria. The most beneficial use of the land is to sell it and use the proceeds for tribal programs. The conveyance of any lands owned by Indian tribes are prohibited without the consent of Congress (25 U.S.C. 177).

Section 102.—The Rumsey Indian Rancheria is authorized to sell the property located in Sparks, Nevada, to any bona fide purchaser for current market value. Proceeds from the sale of such land may be used only for the economic development and social welfare of the Rumsey Indian Rancheria.

TITLE II—TO AUTHORIZE THE LEASE OF LANDS ON THE MILLE LACS INDIAN RESERVATION FOR A TERM NOT TO EXCEED 99 YEARS

Section 201.—Amends the Act of August 9, 1955 (25 U.S.C. 415), as amended, to authorize a 99 year lease between an entity of the Mille Lacs Band of Chippewa Indians and the Minnesota Historical Society with regard to restricted lands within the Mille Lacs Reservation.

TITLE III—INDIAN FOREST AND WOODLANDS

Section 301.—Section 301 provides that the Act may be cited as the "National Indian Forest Resources Management Act."

Section 302.—Section 302 sets forth a series of congressional findings which include a description of Indian forest resources, Indian forest management activities of the Federal and tribal governments, and a statement of the trust responsibility of the United States.

Section 303.—Section 303 states the purposes of the legislation which include meeting the Federal trust responsibility, defining tribal contributions, improving tribal participation in forest management and authorizing necessary appropriations.

Section 304.—Section 304 provides definitions for principal terms used in the legislation.

Forest Management and Administration

Section 305.—Subsection (a) provides that the Secretary of the Interior shall undertake forest land management activities on Indian forest lands, either directly or pursuant to the Indian Self-Determination Act.

Subsection (b) sets forth specific objectives which are to guide Federal and tribal management of Indian forest lands and provides for sustained yield and multiple use management based on Federal and tribal plans as approved by the Secretary. Subsection (b)(2) requires that there be full and active consultation and participation of an Indian tribe in the development of a forest management plan for that tribe.

Section 306.—Subsection (a) provides that the Secretary, pursuant to section 413 of title 25 U.S.C., shall withhold a reasonable deduction from the gross proceeds from the sale of Indian forest products to cover, in whole or in part, the cost of managing and protecting Indian forest lands.

Subsection (b) provides that any such deduction shall not exceed the lesser amount of 10 percent of such gross proceeds or in the percentage of gross proceeds currently being collected by the Secretary on such sales.

Subsection (c) provides that any such deduction shall be expended according to a plan approved by the Secretary and the appropriate tribe for the performance of forest land management activities on the reservation of such tribe and shall be made available to such tribe, upon its request, for the performance of such activities.

Subsection (d) provides that such deduction shall not be available to cover costs that are paid from appropriated funds for fire suppression or pest control or to otherwise offset or supplant Federal appropriations to carry out the Federal trust responsibility. It also provides that no other forest management deductions may be collected from such sales for deposit in the Federal treasury.

Section 307.—Subsection (a) provides that the Secretary, within 18 months of enactment, shall issue regulations establishing civil penalties for trespass on Indian forest lands which provide for the collection of the value of forest products wrongfully removed plus a penalty of double their value, of the costs associated with damages to the forest lands from such trespass, and of the costs associated with enforcement of the regulation; designating responsibility within the Department of the Interior for detecting

and investigating such trespass; and setting forth responsibilities and procedures for assessment and collection of such penalties.

Subsection (b) provides that proceeds from the collection of trespass penalties shall be treated as proceeds from the sale of forest products from Indian forest lands.

Subsection (c) provides that Indian tribes which adopt, as tribal law, the regulations promulgated by the Secretary under this section shall have concurrent civil jurisdiction to enforce such regulations and that the Bureau of Indian Affairs and other agencies of the Federal government shall, at the request of the tribe, defer to tribal court judgments regarding such trespass shall be entitled to full faith and credit in Federal and State courts to the same extent as Federal court judgments.

Section 308.—Subsection (a) provides that the Secretary, within 1 year of enactment, shall promulgate regulations for the direct payment of the receipts from the sale of Indian forest products.

Subsection (b) provides that the Secretary, upon the request of the appropriate tribe, shall direct the purchaser of the forest products of such tribe to make direct, prompt payment of the gross proceeds of such sales, less any deductions pursuant to section 306, into a bank depository account designated by such tribe.

Section 309.—Subsection 309 provides that the Secretary, subject to the trust responsibility and unless otherwise prohibited by Federal statutory law, shall comply with tribal laws pertaining to tribal forest lands and shall cooperate with the tribe in the enforcement of such laws, including assistance in enforcement of such laws, provision of notice to persons or entities undertaking activities on Indian forest lands and, upon request of the tribe, appearance by Department personnel in tribal forums.

Section 310.—Subsection (a) provides that the Secretary, at the request of an Indian tribe, may establish an Indian forest land assistance account to fund Indian forest management activities authorized by this Act.

Subsection (b) provides that the Secretary may deposit such account certain funds available to, or in the possession of, the Secretary for the purpose of conducting forest land management activities for the requesting tribe and such funds, including earned income, shall remain available until expended and may not be used to offset any other Federal appropriations to meet the Federal responsibility for the management of Indian forest lands.

Subsection (c) provides for the audit of the account established by this section.

Section 311.—Subsection (a) provides that the Secretary, acting through the Bureau of Indian Affairs, shall establish a program to provide financial support to tribal forestry programs.

Subsection (b), paragraph (1), requires the Secretary to establish a formula for the provision of such financial support to tribes, including a determination of tribes eligible for such assistance and the allocation of base support funds for each such tribe.

Paragraph (2) provides that the formula established under paragraph (1) shall support one professional forester for each eligible tribe and one additional forester or forest technician for each level of assistance for which such tribe qualifies.

Paragraph (3) provides that, in any year in which appropriated funds are not sufficient to fully fund all tribes at each level of assistance, available funds will be evenly divided among tribes qualifying for that level of assistance.

Section 312.—Subsection (a), paragraph (1), provides that the Secretary, within 1 year of enactment, shall contract with a non-Federal entity to conduct an independent assessment of Indian forest lands and Indian forest land management activities.

Paragraph (2) provides that such assessment shall be national in scope and further establishes the methods and goals of such assessment.

Paragraph (3) provides that the assessment must include specific examples and comparisons from each region of the United States where Indian forest lands are located.

Paragraph (4) provides that the assessment must be completed within 3 years of enactment and that it shall be submitted to the Congress and made available to the tribes.

Subsection (b) provides that a similar independent assessment shall be done every 10 years.

Subsection (c) requires the Secretary to submit an annual report to the Congress on the status of Indian forest lands.

Subsection (d) authorizes the Secretary of Agriculture, through the Forest Service and upon request of the Secretary of the Interior, to provide technical assistance with respect to assessments and reports required by this Act.

Section 313.—Subsection (a) provides that the Secretary shall establish a program to provide technical assistance to Alaska Native regional and village corporations to promote the sustained yield management of their forest resources and to promote local processing and other value-added activities with respect to such resources.

Subsection (b) provides that such technical assistance program shall be subject to contracting, grants or cooperative agreements under the Indian Self-Determination Act.

Indian and Alaska Native forestry education assistance programs

Section 314.—Section 314, subsection (a) authorizes the Secretary to establish a forester intern program in the Bureau of Indian Affairs for at least 20 Indian or Alaska Native forester interns. The cost of tuition, books, fees and living expenses for such intern while attending a post-secondary or graduate school in forestry would be paid by the Secretary. The intern would have to enter into an obligated service agreement to provide service for 2 years for every year of education and to report for service with the BIA during any break in attendance at school of more than three weeks.

Subsection (b) provides for the establishment by the Secretary, through the BIA, of a cooperative education program for the recruitment of Indian and Alaska Native students as professional foresters or other forestry-related professionals for employment with the BIA, an Indian tribe, or a tribal forest enterprise. The Secretary would pay the financial costs for students who are enrolled in institutions with which the Secretary has entered a cooperative agreement. The student would have to enter into an obligated service agreement for one year of service for each year of financial support.

Subsection (c) provides that the Secretary may grant scholarships for Indians and Alaska Natives enrolled in accredited forestry education programs. The students would have to enter into an obligated service agreement for one year of service for each year of support.

Subsection (d) provides that the Secretary, through the BIA, shall establish a forestry education outreach program for Indians and Alaska Natives to explain and stimulate interest in Indian forest land management and forestry careers.

Subsection (e) provides that the Secretary shall administer the programs established in this section until a sufficient pool of trained Indians and Alaska Natives to meet the forestry needs of the BIA and the tribes is developed.

Section 315.—Section 315 authorizes the Secretary to establish post-graduate training, continuing education and recruitment programs to encourage Indians and Alaska Natives to become employed in Federal or tribal forestry management activities on Indian forest lands and to increase the proficiency level of personnel employed in tribal and Federal forestry programs.

Section 316.—Section 316 authorizes the Secretary to enter into cooperative agreements with Indian tribes to provide for manpower and job training and development programs to promote Indian management of Indian forest lands.

Section 317.—Section (a) provides that the Secretary, through the adoption of regulations, shall implement the provisions of the title relating to fulfilling obligated service agreements by providing or developing the necessary job opportunities. It provides that where an employment opportunity is not reasonably made available, the service obligation shall no longer be effective.

Section (b) provides that the Secretary shall require a repayment of amounts made available under this title with appropriate interest for failure of a recipient of financial assistance to fulfill an obligated service agreement.

Authorization of appropriations

Section 318.—Section 318 provides authority for the appropriation of such sums as may be necessary to carry out the various provisions of the bill.

Miscellaneous

Section 319.—Section 319 directs the Secretary, with the participation of affected tribes, to promulgate regulations to implement the provisions of the bill within 18 months of enactment.

Section 320.—Section 20 provides that, if any provision of the legislation, or application of any provision to a person, is found to be invalid, the remainder of the Act shall remain effective.

Section 321.—Section 321 provides that nothing in this Act is intended to diminish or expand the trust responsibility of the United States toward Indian forest lands or any legal obligation or remedy resulting therefrom.

TITLE IV—INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT

Section 401.—Provides that the Act may be cited as the "Indian Child Protection and Family Violence Prevention Act."

Section 402.—Subsection (a) contains congressional findings and declarations relating to the incidence and underreporting of child abuse on Indian reservations and the need to identify the scope of such incidents and to provide prevention and treatment services.

Subsection (b) sets out the various purposes and goals of the legislation with respect to the identification, prevention and

treatment of child abuse and family violence on Indian reservations.

Section 403.—Contains definitions of various terms used in the Act.

Section 404.—Subsection (a), paragraph (1), of section 404 of the bill amends chapter 53 of title 18, United States Code, by adding at the end thereof a new section which provides as follows:

Subsection (a) of the new section provides that any persons who are employed in certain named capacities, including physicians, teachers, social workers, psychiatrists, law enforcement officials, and others who know or have reason to believe that a child has been abused in Indian country or that actions are being taken, or are going to be taken, which might result in such abuse and who fails to immediately report such abuse or actions to a local law enforcement agency or local child protective services agency shall be subject to a fine of not more than $5,000 or imprisoned for 6 months or both.

Subsection (b) of the new section provides that any person who supervises or has authority over a person identified in subsection (a) and who inhibits or prevents such person from making a report required in subsection (a) shall be subject to the same penalties.

Subsection (c) defines the terms "abuse," "child," "local child protective services agency," and "local law enforcement agency" as used in the new section.

Subsection (d) of the new section provides that any person described in subsection (a) who makes a report of child abuse in good faith shall be immune from criminal and civil liability for making the report.

Paragraph (2) of subsection 404(a) of the bill further amends chapter 53 of title 18, United States Code, by adding the new section to the table of contents for that chapter.

Subsection (b), paragraph (1), of section 404 of the bill provides that, whenever a local law enforcement agency or local child protective services agency receives a report about child abuse or child abuse actions, such agency shall immediately notify appropriate officials of the other agency and shall also prepare the written report required by subsection (c).

Paragraph (2) provides that, where a report of child abuse involves an Indian child or where the alleged abuser is an Indian and the occurrence of a crime is indicated, the local law enforcement agency, if other than the FBI, shall immediately notify the FBI of such occurrence.

Subsection (c), paragraph (1), provides that within 36 hours after receiving a child abuse report described in subsection (b), the agency initially receiving the report shall prepare a written report and sets out the information which must be included in the report.

Paragraph (b) provides that any law enforcement agency or child protective services agency that receives a report as defined in section 3 shall immediately initiate an investigation of the allegation and shall take immediate steps to secure the safety and well-being of the child or children involved. It also provides that, upon completion of an investigation of a child abuse report, the investigating agency shall prepare a final written report on such allegation.

Subsection (d) provides that the identity of a person making a report pursuant to subsection (b)(1) shall not be disclosed, without the consent of such person, to anyone other than a court of competent jurisdiction of tribal, state, or Federal employees who have a need to know in carrying out their duties.

Section 405.—Subsection (a) provides that the Secretary of the Interior in consultation with the Secretary of Health and Human Services and the Attorney General, shall conduct a study of the need for, and feasibility of, a central register for reports or information on child abuse in Indian country.

Subsection (b) sets out the matter and issues which should be dealt with in the study conducted pursuant to subsection (a).

Subsection (c) provides that the Secretary shall complete the study and submit such study, together with recommendations and draft legislation, to the Congress within 180 days of enactment of this Act.

Section 406.—Section 406 provides that, subject to certain existing Federal Laws, any tribal, state or Federal agency investigating or treating incidents of child abuse may provide information and records to other tribal, state or Federal agencies having a need for such information or records in order to carry out their duties. Tribes are to be treated as Federal governmental entities for purposes of this section.

Section 407.—Subsection (a) provides that photographs, x-rays, medical and psychological examinations, and interviews of a child shall be allowed, without parental consent, if local child abuse protective services or local law enforcement officials have reason to believe that the child had been subject to abuse.

Subsection (b) provides that officials of a local child protective services agency or local law enforcement agency may interview a child, without the consent of the parent, guardian or legal custodian, if there is reason to believe the child has been abused.

Subsection (c) provides that examination and interviews of children who may have been the subject of abuse shall be conducted under circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advice or guidance of a multidisciplinary team established under section 410 or 411 of this Act.

Subsection (d) provides that, upon a finding of reasonable suspicion that a child has been the subject of abuse, a Federal magistrate of U.S. District Court judge may issue an order enforcing the section.

Section 408.—Subsection (a) provides that the Secretary of the Interior and the Secretary of Health and Human Services shall compile a list of authorized positions within their respective Departments the duties of which involve regular contact with, or control over, Indian children and shall conduct an investigation of the character of any person employed, or being considered for employment, in such positions. It also provides that such Secretaries shall prescribe minimum standards of character for individuals to be appointed to such positions.

Subsection (b) provides that minimum standards of character to be prescribed under subsection (a) shall ensure that no individual who has been convicted of, or entered a plea of guilty or nolo contendere to, any crime of violence, sexual crime, or crime against persons.

Subsection (d) requires that Indian tribes receiving funds under the Indian Self-investigations of the character of persons employed, or being considered for employment in a position that involves regular contact with, or control over, Indian children and, in employing such individuals, shall apply minimum standards of character no less stringent than those prescribed under subsection (a).

Section 409.—Subsection (a) provides that the Secretary of Health and Human Services, through the Indian Health Service, shall establish an Indian Child Abuse Treatment Grant Program to make grants to Indian tribes for the treatment of Indians who have been the victims of child sexual abuse.

Subsection (b) provides that tribes may submit applications to the Secretary for such grants and prescribes the form and content required in such applications.

Subsection (c) provides that the maximum amount of any grant under this section shall be $500,000.

Subsection (d) requires each grant recipient to provide the Secretary with certain program information and to submit a final report to the Secretary at the close of the grant term.

Subsection (e) authorizes the appropriation of $10,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

Section 410.—Subsection (a) provides that the Secretary of the Interior shall establish an Indian Child Resource and Family Services Center in each area office of the Bureau of Indian Affairs.

Subsection (b) provides that the Secretary of the Interior and the Secretary of Health and Human Services shall enter into a memorandum of agreement for the staffing of such centers.

Subsection (c) provides that each such center shall be staffed by a multidisciplinary team of personnel having the necessary experience relating to incidents of family violence, child abuse, and child neglect.

Subsection (d) provides that such center shall provide advice and assistance to Indian tribes and tribal organizations upon request, provide training to appropriate personnel of the Bureau of Indian Affairs, the Indian Health Service and tribes relevant to child abuse and neglect and family violence, develop training materials, and develop policies and procedures for each BIA agency and IHS service unit relating to child abuse and neglect and family violence.

Subsection (e) provides that multidisciplinary teams established under this section shall include personnel with backgrounds in law enforcement, child protection services, juvenile counseling and adolescent mental health, and domestic violence.

Subsection (f) provides that the Secretary, in consultation with the Secretary of Health and Human Services, shall provide for the creation of a Center advisory board for each Indian Child Resources and Family Services Center, to be composed of 7 members appointed by the Secretary from Indian tribes and human service providers, to advise and assist such Center in carrying out its activities. Members are to serve without compensation, but may be reimbursed for actual expenses.

Subsection (g) Provides that the Centers shall be subject to contracting under terms of the Indian Self-Determination Act. It provides that any contract under that Act to operate the Center must be consented to by all the Indian tribes in that area, except that, in the case of the Juneau BIA area, only the consent of those tribes contracting programs under section 511 need to be obtained. It also provides that existing centers operated by a tribe or tribal organization can serve as the Center under this subsection if all the tribes consent.

Subsection (h) authorizes the appropriation of $3,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

Section 411.—Subsection (a) provides that the Secretary shall establish an Indian Child Protection and Family Violence Prevention program in the Bureau of Indian Affairs to provide financial assistance to tribes and tribal organizations for the development of such an Indian Child Protection and Family Violence Prevention program for their reservations.

Subsection (b) provides that the Secretary is authorized to enter into an agreement under the Indian Self-Determination Act for the establishment of such program on the reservation.

Subsection (c) provides that operating a program under this section shall designate the agency or officials responsible for the investigation of reported cases of child abuse and child neglect, for the treatment and prevention of incidents of family violence, and for the provision of immediate shelter and related assistance for victims of family violence. The Committee wishes to make clear that this subsection is not intended to alter the existing powers and responsibilities for the investigation of crimes in Indian country which may involve child abuse or neglect. The provision in intended, first, to recognize the existing right of an Indian tribe to deal with these matters within its jurisdiction and, second, to ensure that there is either a law enforcement or social agency which has been designated as having the responsibility to act with respect to cases of alleged child abuse and neglect and cases of family violence.

Subsection (d) provides that Fund authorized under this section can be used to establish child protective services programs and family violence prevention and treatment programs, develop and implement multidisciplinary child abuse investigation and prosecution program, develop tribal child protection codes and regulations, establish training programs and other community education efforts, and such other innovative and culturally relevant programs and projects as the Secretary might approve.

Subsection (f) paragraph (1), provides that the Secretary, working with Indian tribes, shall establish a formula to develop base support funding of a program under this section for each Indian tribe.

Paragraph (2) provides that the Secretary, in establishing the base support formula, shall develop appropriate caseload standards and staffing requirements which are comparable to those developed by the National Association of Social Work, the Child Welfare League of America and other similar professional groups. It provides that each level of funding assistance shall correspond to the staffing requirements established by the Secretary under this section.

Paragraph (3) sets out factors to be considered by the Secretary in the development of the base support funding formula.

Paragraph (4) provides that the formula established under this subsection shall support one child protective services or family violence caseworker for each tribe and an additional worker for each level of assistance for which such tribe qualifies.

Paragraph (5) provides that, in any fiscal year that appropriations are not sufficient to fully fund the program at each level of assistance under the formula, available funds for each level shall be evenly divided among tribes qualifying for such level.

Subsection (g) provides that service provided under this section shall supplement, not supplant, services from any other funds available for the same general purposes.

Subsection (h) provides that each recipient of funds awarded pursuant to subsection (a) shall provide the Secretary with information necessary to evaluate and monitor the program funded and shall submit a report to the Secretary at the end of each fiscal year.

Subsection (i) authorizes the appropriation of $30,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of the section.

Section 412.—Provides that on or before March 1, 1991, and March 1 of each calendar year thereafter, the Secretary shall submit a report to the Congress on the administration of this Act in the preceding calendar year.

TITLE V—INDIAN HEALTH CARE

Section 501.—Cites the short title as the "Indian Health Care Amendments of 1990."

Section 502.—Provides for the amendment of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

Section 503.—Declares the purposes of this act to be to authorize and direct the Indian Health Service to establish a comprehensive mental health prevention and treatment program and to authorize Indian tribes to develop and implement community based mental health programs.

The Secretary is directed to develop and publish a comprehensive national plan for Indian Mental Health Services. The Secretary is also authorized and directed to enter into a memorandum of agreement with the Secretary of the Interior to provide for the coordination of services between the Indian Health Service and the Bureau of Indian Affairs. Indian tribes are authorized to develop and implement community mental health plans in cooperation with the Indian Health Service. The Secretary is authorized to provide grants and technical assistance to tribes for the development of such plans. The Secretary is authorized in cooperation with the tribes, to study and evaluate the need for trained mental health personnel and to increase the health care staff of the IHS by at least 500 positions to meet the needs identified in the study and evaluation. Provisions are included for special incentives to assist in the recruitment and retention of mental health services staff. The Secretary is also authorized and directed to establish a mental health technician program.

The Secretary is authorized in consultation with the National Institute of Mental Health, to enter into contracts for the conduct of research on the incidence and prevalence of mental disorders among Indians. The Secretary is also directed to conduct a study on the need for in-patient mental health facilities to serve Indians. A community-based mental health demonstration project is authorized for a period of three years. Appropriations are authorized for fiscal years 1991 and 1992.

Section 504.—Establishes a health care delivery demonstration project to test alternative means of delivering health care and services through health facilities to Indians. The Secretary is authorized to provide for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services with all or a portion of the necessary funds being derived from non-federal sources. Specific criteria are included to guide the Secretary's selection and approval of demonstration projects with specific provisions for those Indian Health Service facilities which are scheduled for closure. Such sums as may be necessary for the demonstration are authorized to be appropriated.

Section 505.—Section 503 of Title V of the Indian Health Care Improvement Act is amended by adding the following new subsection:

(c)(1) The Secretary, acting through the IHS, shall facilitate access to or provide health promotion and disease prevention services through grants with urban Indian organizations funded under this section.

(2) There are authorized to be appropriated $100,000 for fiscal year 1992 for the purpose of carrying out this section.

(b) Section 503, as amended by subsection (a) is further amended by adding the following new subsection:

(d)(1) The Secretary, acting through the IHS, shall facilitate access to or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section. In making grants to carry out this subsection, the Secretary of Health and Human Services shall take into consideration the:

(A) Size of the urban Indian population;

(B) Immunization levels of patient population;

(C) Available alternate resources; and

(D) Capability of the organization.

(3) There is authorized to be appropriated $1,000,000 for fiscal year 1992, for the purpose of carrying out this subsection.

(c) Section 503, as amended by subsections (a) and (b), is further amended by adding the following new subsection:

"(e)(1) The Secretary, acting through the IHS, shall facilitate access to, or provide mental health services to urban Indians through grants made to urban Indian organizations contracted under this section. The Secretary, may make such grants—

"(A) To conduct mental health needs assessments of urban Indian communities, to assess the mental health needs in the community, the available resources and to develop and implement plans to improve health delivery;

"(B) To provide outreach, education, and referral services to urban Indian populations regarding available direct services, educating the community about mental health issues and services, and coordination to improve health services;

"(C) To provide outpatient mental health services including identification, assessment, therapeutic treatment, case management, support groups, family treatment, and other treatment; and

"(D) To develop innovative mental health service delivery methods which incorporate cultural support systems and resources.

"(2) There is authorized to be appropriated $500,000 for fiscal year 1991, $2,000,000 for fiscal year 1992, for the purpose of carrying out this subsection.".

(d) Section 503, as amended by subsections (a), (b), and (c) is further amended by adding the following new subsection:

(f)(1) The Secretary, acting through the IHS, shall facilitate access to or provide grants to urban Indian organizations contracting under this section to prevent and treat child abuse (including sexual abuse) in urban Indian communities. Funds may be made available:

(A) To conduct a needs assessment;

(B) For the development of prevention, training, and education programs targeted at urban Indian communities, to include: child education, parent education, provider training, education on reporting requirements, and prevention campaigns.

(C) To provide direct outpatient treatment services to child victims of sexual

abuse, adult survivors of child sexual abuse, families of child victims, and perpetrators of child abuse (including sexual abuse) in urban Indian communities.

(2) In making grants to carry out this subsection the Secretary shall take into consideration:

(A) The urban Indian organization must demonstrate support from the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act;

(B) The urban Indian organization must demonstrate the capability and expertise to address the complex problem of child sexual abuse in its community; and

(C) A needs assessment, submitted by the urban Indian organization before requesting funding under this subsection, which documents the prevalence of child abuse in the Indian community and the proposed services which do not duplicate existing services and which are approved by the IHS.

(3) There are authorized to be appropriated $500,000 for fiscal year 1991, and $2,000,000 for fiscal year 1992, to carry out this subsection.

Section 506.—The Secretary shall conduct a survey of all facilities used by contractors under this title and shall submit a report to the Congress on such survey 1 year after the date of enactment of this Act. The report shall contain, at a minimum, the following for each location:

(1) The extent to which the facility meets safety and building codes and, if direct care is provided, the extent of compliance with Joint Commission for Accreditation of Health Care Organizations (JCAHO) standards;

(2) The extent to which improvements, expansion, or relocation is necessary to meet program requirements, provide adequate services, or achieve building code compliance;

(3) Any lease restrictions that would hamper accomplishment of needed improvement, expansion or relocation;

(4) The term of the lease, if appropriate, the age of the building, and the building's life expectancy with or without improvement; and

(5) Site specific overall assessments.

The report shall include recommendations for addressing the deficiencies of facilities and shall propose program policies for accomplishing those recommendations. The Secretary may make funds available to contractors under this title for minor renovations to facilities, including leased facilities, to assist such contractors in meeting JCAHO standards.

Section 507.—Section 507 of title V is amended by adding at the end the following new subsection:

(d)(1) The Secretary, acting through the IHS, shall submit to Congress no later than March 31, 1992, a report evaluating the health status of the urban Indian population, the utilization of health services by urban Indians through this title; and areas of unmet need, including urban areas not serviced pursuant to this Act.

(2) In preparing this report, the Secretary shall consult with urban Indian health providers and may contract with a national organization representing urban Indian health concerns to conduct any aspect of the preparation of the report.

(3) The Secretary of Health and Human Services and the Secretary of Interior shall report to Congress no later than March 31, 1992 their assessment of the status of Indian child welfare in urban Indian communities, including information on the volume of child protection cases, the prevalence of child sexual abuse, the extent of urban coordination with tribal authorities, and their recommendations to improve Indian child protection in urban communities.

Section 508.—Title V is amended by adding at the end the following new section 511:

(a) A Branch of Urban Health Programs shall be established within the IHS and shall be responsible for carrying out the provisions of this title.

(b) The Secretary shall appoint such employees to work in the Branch, including a Program Director, and shall provide services and equipment needed to carry out its responsibilities. The Secretary shall also analyze the need to provide at least one urban health program analyst in each IHS area office and shall submit such findings as a part of the IHS fiscal year 1993 Budget request.

Section 509.—The Secretary is authorized to establish a residential youth treatment facility in Fairbanks, Alaska.

Mr. McCAIN. Mr. President, I rise today to again express my strong support for S. 1783, the Indian Child Protection and Family Violence Prevention Act. I am pleased that S. 1783, the Indian Child Protection and Family Violence Act is being considered by the Senate as part of the consideration of H.R. 3703, relating to the Rumsey Indian Reservation.

I would like to express my deep appreciation to all of my colleagues in the Senate who have supported this very important legislation. First, I would like to thank my good friend and the chairman of the Select Committee on Indian Affairs, Senator INOUYE for his strong leadership and dedication to the protection of Indian children and families.

I would also like to recognize the hard work and support of my colleagues on the Indian Affairs Committee to these issues, Senators CONRAD, BURDICK, MURKOWSKI, DECONCINI, COCHRAN, REID and DASCHLE. I would like to thank Senators DOMENICI, HATCH, and BAUCUS for their great interest in these very difficult issues.

Finally, I would like to recognize the contributions from my colleagues in the House in improving this legislation and in particular I would like to express my deep thanks to Congressman UDALL for his strong leadership in this area. I would also like to thank my good friend and the chairman of the Republican Task Force on Indian Affairs, JAY RHODES for his deep interest in the protection of Indian children. I recognize the many contributions made by Congressmen YOUNG, RICHARDSON, MCDERMOTT, and FALEOMAVAEGA in conducting several hearings on the issues of family violence and child abuse and neglect in Indian country.

Mr. President, I believe S. 1783, the Indian Child Protection and Family Violence Prevention Act marks a great first step in addressing the need for effective protection for Indian children and families. The committees of the House and Senate have examined the issue of child abuse and neglect in Indian country over the last 2 years. S. 1783 is the culmination of hours of hearings conducted here in Washington and in locations across the country.

I have listened to representatives of Indian tribes across the country express their frustration, their anger, and their outrage over the failures of the Federal Government to adequately protect Indian children from sexual abuse. I share this sense of frustration and outrage. I have seen communities struggle and strive together to develop support programs for the victims of child sexual abuse with minimal Federal support for their efforts. Unfortunately, the Federal funds for these programs often last only a few short months and when these funds run out the victims and the community are left to fend for themselves. On some reservations an entire generation of children will grow up in the shadow of child sexual abuse and its associated symptoms. On one Indian reservation one out of every four children has been the victim of child sexual abuse. On another reservation a victim of child sexual abuse is waiting for the juvenile detention facility because there are no other available placements, while the perpetrator walks the streets. On yet another reservation a tribal leader uses his own home as a foster shelter because there are no other facilities. Each story tells the same alarming tale of victims of child sexual abuse who are not protected, not treated, who cannot receive counseling because there are no resources available.

It is my hope that this legislation will help to alleviate some of the pain and suffering felt by thousands of Indian children and families who have been touched by these very tragic problems.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 3175) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 3703), as amended, was passed.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIVE AMERICAN GRAVE PROTECTION AND REPATRIATION ACT

Mr. EXON. Mr. President, I ask unanimous consent that all action taken with respect to H.R. 5237 be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, if I may, I will be able to resolve that tomorrow. But I have had contact from several national museums in connection with that particular legislation. Perhaps we can get that resolved.

I thank the Chair. I thank you for your courtesy.

ORDERS FOR TOMORROW

Mr. EXON. Mr. President, I ask unanimous consent that when the Senate recesses tonight, it stand in recess until 9:30 a.m., Friday, October 26; that following the prayer, the Journal of proceedings be deemed approved to date; that following the time for the two leaders, there be a period for morning business not to extend beyond 10 a.m. with Senators permitted to speak therein for up to 5 minutes each; that at 10 a.m. the Senate proceed to the consideration of the defense appropriations conference report, H.R. 5803; and that upon completion of the conference report, the Senate proceed to the consideration of the defense authorization conference report, H.R. 4739.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. EXON. It is the opinion of the majority leader's representative that it is the intention to follow the consideration of these two conference reports with consideration of the transportation appropriations conference report.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, if I could get the attention of the distinguished Senator from Nebraska, the Senate has entered into a unanimous-consent request relating to the conference report on H.R. 4739, the defense authorization bill. It was determined that there would be 90 minutes for debate divided as follows: 20 minutes for Senator GLENN, 70 minutes for Senators WARNER and NUNN, to be equally divided.

I ask unanimous consent that an additional 15 minutes be granted under this order to the Senator from Maine [Mr. COHEN].

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. I thank the Chair. I thank my colleagues.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. EXON. Mr. President, evidently there is no further business for today.

I ask unanimous consent that the Senate now stand in recess until 9:30 a.m. in the morning.

There being no objection, the Senate, at 10:52 p.m., recessed until tomorrow, Friday, October 26, 1990, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 25, 1990:

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARACH AND IMPROVEMENT FOR TERMS EXPIRING SEPTEMBER 30, 1993:

JACK RAYMOND REED, OF MISSISSIPPI, VICE FRANCES MATHEWS, TERM EXPIRED.

JUNE SCOBEE RODGERS, OF ARIZONA, VICE CAROL PENDAS WHITTEN, TERM EXPIRED.

NATIONAL SCIENCE FOUNDATION

MARYE ANNE FOX, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1996, VICE KAREN J. LINDSTEDT-SIVA, TERM EXPIRED.

NATIONAL RAILROAD PASSENGER CORPORATION

CARL W. VOGT, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL RAILROAD PASSENGER CORPORATION FOR A TERM OF 4 YEARS, VICE DARRELL M. TRENT, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER IDENTIFIED WITH THE ASTERISK IS ALSO RECOMMENDED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATE GENERAL

To be lieutenant colonel

DENNIS E. BROWER, xxx-xx-xx...

MEDICAL SERVICE CORPS

To be lieutenant colonel

COLBERT L. FLANERY, JR., xxx-xx-xx...

ARMY

To be major

LARRY D. HENDERSON, xxx-xx-xxxx

MEDICAL SERVICE CORPS

to be major

* KARL E. FREIDL, xxx-xx-xx...

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICE IDENTIFIED WITH AN ASTERISK IS ALSO NOMINATED FOR APPINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL SERVICE CORPS

to be lieutenant colonel

PATRICK J. FARANCE, JR., xxx-xx-xx...
* GREGORY B. KNUDSON, xxx-xx-xx...

ARMY

To be Lieutenant colonel

GARY W. BANKER, xxx-xx-xx...
JOSEPH R. EDWARDS, xxx-xx-xx...
KENNETH S. MCGRAW, xxx...
PAUL E. VIOLETTE, xxx-xx-xx...

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

to be lieutenant colonel

LARRY J. GODFREY, xxx-xx-xx...
JOHN R. TICEHURST, xxx-xx-xx...

MEDICAL CORPS

to be major

FRANK P. CIAMPI, xxx-xx-xx...
CORNELIUS C. MAHER III, xxx-xx-xx...
DAN S. MALLADA, xxx-xx-xxxx
JON A. PROCTOR, xxx-xx-xx...
LEO D. TUCKER, II, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 624, TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

to be major

JIMMIE W. RIGGINS, xxx-xx-xx...
EDWARD R. WANAT, II, xxx-xx-xx...
ERIC R. HELANDER, xxx-xx-xx...
BARBARA C. MOLINA, xxx-xx-xx...
WARREN L. WHITLOCK, xxx-xx-xxxx

ARMY

to be major

JEFFREY S. CAIRNS, xxx-xx-xx...

HOUSE OF REPRESENTATIVES—*Thursday, October 25, 1990*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, gracious God, not only to ask for Your mercy or to petition You for our needs, but also to listen to Your word to us. We know the demands of the present day and we pray for the will and the determination to meet those demands. As we move so quickly to pour out our petitions to You, O God, and to make our requests known, may we also use the time to listen to Your still small voice, to hear Your quiet word, to be strengthened to do what is right, to meet our responsibilities, and thus be the people You would have us be. Bless us, each one, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Florida [Ms. ROS-LEHTINEN] please come forward and lead the House in the Pledge of Allegiance?

Ms. ROS-LEHTINEN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced the Senate having proceeded to reconsider the bill (S. 2104) entitled "An act to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved, that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3310. An act to authorize appropriations for activities of the National Telecommunications and Information Administration for fiscal years 1990 and 1991;

H.R. 3562. An act to amend the Federal Food, Drug, and Cosmetic Act to prescribe nutrition labeling for foods, and for other purposes;

H.R. 3911. An act to amend title 5 of the United States Code to increase the allowance for services of attendants;

H.R. 3977. An act to protect and conserve the continent of Antarctica, and for other purposes;

H.R. 5113. An act to amend the Public Health Service Act to revise and extend the program for the prevention and control of injuries;

H.R. 5140. An act to amend the Elementary and Secondary Education Act of 1965 to improve secondary school programs for basic skills improvement and dropout prevention and reentry, and for other purposes; and

H.R. 5769. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 987) "An act to amend the Alaska National Interest Lands Conservation Act, to designate certain lands in the Tongass National Forest as wilderness, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5769) "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes," and request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. BUMPERS, Mr. HOLLINGS, Mr. REID, Mr. MCCLURE, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. RUDMAN, Mr. NICKLES, and Mr. DOMENICI, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 620. An act for the relief of Leroy W. Shebal of North Pole, Alaska;

S. 854. An act to amend the Federal Food, Drug, and Cosmetic Act to revitalize the Food and Drug Administration, and for other purposes;

S. 1067. An act to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing;

S. 1829. An act to amend the Controlled Substances Act to further restrict the use of steroids and human growth hormones; and

S. 2287. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

APPOINTMENT OF CONFEREES ON H.R. 5769, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. YATES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees, and without objection, reserves the right to appoint additional conferees: Messrs. YATES, MURTHA, DICKS, AUCOIN, BEVILL, ATKINS, WHITTEN, REGULA, MCDADE, LOWERY of California, and CONTE.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive 10 1-minute speech requests from each side of the aisle.

A DARK DAY IN AMERICAN CIVIL RIGHTS HISTORY

(Mr. GRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY. Yesterday, Mr. Speaker, with David Duke smiling in the gallery, 34 U.S. Senators sustained George Bush's veto of the Civil Rights Act.

The veto sent a message to the African-American female soldiers, and Hispanic soldiers we see each day in the news, sitting in trucks armed with antitank missiles out in the Saudi Arabian Desert.

The message was simple, that when they get back from standing up for freedom in Saudi Arabia, they will have to fight again here at home, even

when it comes to equal opportunity for a job.

When the President and 34 Senators stand with a former leader of the Ku Klux Klan, freedom and dignity take a back seat.

Mr. Speaker, yesterday was a dark day in American civil rights history.

DEMOCRATS MORE CONCERNED ABOUT POLITICS THAN CIVIL RIGHTS

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, let me just say to our distinguished friend, the Democratic whip, the President has sent up a civil rights bill, a civil rights bill that does provide for civil rights, but it does not have quotas. It does provide for enforcement, but it does not make trial lawyers richer at the expense of jobs. It is a bill the President would like to have voted on today by the House. He is prepared to sign a civil rights bill. He wants a civil rights bill brought to the floor.

The Democratic leadership today can have a signable, enforceable civil rights bill, if they are more concerned about civil rights than they are about politics.

CONGRESSIONAL MEMBERS AND STAFF RALLY TO SAVE LIVES

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, every one associated with this institution should take great pride at the tremendous turnout yesterday of Members, staff, lobbyists, reporters, and visitors to sign up to save a life by volunteering to become potential bone marrow donors.

The response to our appeal for donors was so great that in a little over 5 hours, we exceeded the laboratory capacity assigned to our drive by the National Marrow Donor Program.

I want to congratulate and thank the 1,000 volunteers who turned out yesterday to take the quick, simple, and free blood test required to join the 215,000 Americans who are now a part of the national registry.

Also, I want to thank the 750 other staff members and visitors who arrived at the donor recruitment sites after we had exceeded our lab capacity. I have the names and addresses of all those who were turned away and I will be sending you a notice just as soon as we schedule a followup donor recruitment day, hopefully as early as next week.

Mr. Speaker, the second chance at life for the more than 9,000 Americans who will die of leukemia and 60 other blood cancers without a marrow transplant is what makes the National Marrow Donor Program today's modern medical miracle. The enthusiasm we witnessed yesterday here in the Capitol is the same type of excitement this program has generated throughout our Nation. It is symbolic of the great American spirit in which the people of our Nation come to the assistance of their neighbors in need.

POTENTIAL BAILOUT OF THE NUCLEAR INDUSTRY

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, for the last 2 days I have called out in dismay about the potential bailout of the nuclear industry in the amount of nearly $30 billion of liability, both for cleanup and money owed to the Department of Energy.

Well, I would like to tell the Members that we have good news and bad news. The good news is that the House negotiators successfully keep this out of the reconciliation bill, and this turkey will not be seen in the 101st Congress; but the bad news is that this bill, like the Phoenix of old is arising out of its ashes again.

The chairman of the Energy and Commerce Committee has agreed to have hearings on this in the next session of Congress.

This is a bailout similar to the savings and loan, where 60 percent of us, this Member included, were not here when the savings and loan industry was deregulated. We are here when they are trying to escape or let the nuclear industry escape their liability to the taxpayers, $10 billion that was paid by the taxpayers for nuclear material that was shipped to them and $20 billion in cleanup costs that are mandated by law.

Mr. Speaker, I think we have got to watch it. We have got to continue to monitor it, and I urge the chairman of the Energy and Commerce Committee to bury this turkey maybe in the Nevada Desert where we do not want a nuclear waste dump, but we are willing to take this bill and bury it deep in the earth.

□ 1110

GAO SAYS CURTAILING WASTE COULD SAVE $180 BILLION ANNUALLY

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, this enormous 25 pound document should be a symbol to Congress. This is a working conference agenda for only one bill. I found over 50 copies of these waiting for the trash collector in the basement of the Rayburn Building, 39 copies were still packed in the printer's boxes—never even opened.

This kind of waste, found right in our own backyard, is repeated on a regular basis in practically every arm of Government. Let us stop pretending that every Government program is sacrosanct, and cannot be touched. The truth is we have got waste so deep we cannot see straight any longer.

The General Accounting Office tells us the Government could save $180 billion annually by curtailing waste. Let us shake loose at least a few of those dollars, and give the taxpayer a break. No one is going to miss a few less copies of this monstrosity, and maybe we can save a few trees in the process.

THE WARSAW PACT IS DEAD: IT'S TIME TO CUT NATO BUDGET

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the President vetoed the civil rights bill while minority soldiers are putting their lives on the line in the gulf in a disproportionate quota.

Now he wants more troops in the gulf. I oppose more troops in the gulf. The taxpayers of America are fed up with paying for protection of this world.

Ladies and gentlemen, this President is providing the biggest amount of pork barrel in American history right down through the barrel of a gun. And I say this: Any President who will raise taxes on mom and dad and yet increase our NATO account, $170 billion a year, is out of touch with reality.

The Warsaw Pact is dead, it is over, it is time to have a budget that takes care of America first.

We do not need any more new taxes, we need some common sense.

The Warsaw Pact is dead. It is time to cut the NATO account at least 50 percent.

MR. SPEAKER, SAY IT ISN'T SO

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, say it isn't so.

We are about to be asked to vote on the largest tax increase in the history of this country, and we have heard all the rhetoric from the Democratic side about fairness for our American taxpayers.

Yet what do we read in the national press in here in the closed hallways of

this institution? We hear that these same leaders, talking about fairness, have stuck in billions of dollars of targeted giveaways for the wealthiest individuals and corporations in this country. And they have done it all anonymously.

The same Members in this institution who talked about fairness are now going to give their wealthy friends and corporations billions of dollars of tax breaks in the largest tax increase bill in the history of America.

It is wrong; Mr. Speaker, please say it isn't so.

DEMOCRATS WOULD DO A BETTER JOB DEALING WITH THE ECONOMY AND WITH TAXES

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, it appears the budget nightmare is almost over and we can go home.

In the minds of voters, the issue will not just be tax fairness or deficit reduction, it will be whether the U.S. Government can function, whether we can govern, whether we can rid ourselves of this paralysis.

Mr. Speaker, as a Democrat, I am proud that my party has found its soul; and that is tax fairness, tax equity, protection of the middle class.

After all those meetings and seminars and critical articles and self-flagellation, the Democrats have found out what we have stood for for years, and that is: tax fairness.

No matter what our Republican colleagues can rant and rave about, here are the latest figures from the American people. Wall Street Journal, their favorite newspaper, a poll today:

> Democrats would do a better job dealing with the economy. Democrats would do a better job dealing with taxes. Republicans by an overwhelming margin are seen as the party of the wealthy.

BIG OIL BUSINESS EQUALS BIG PROFITS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, it is curious to read that the price of oil on the New York Mercantile Exchange is falling. I say curious because this price decrease is little more than a bit of ink on a piece of paper as far as I am concerned and the American consumers are concerned.

It is just ink on paper, Mr. Speaker, because there has been no similar reduction in prices at the pump. In Massachusetts this past week, the price of gasoline went up by an average of 2 cents per gallon.

Strangely enough, during the same period the price of oil had fallen by $4 per barrel. Since that time, the price of oil has fallen another $8, yet the price at the pump has not budged one penny. Oh yes, it has budged up.

As you can see, it is easy to make a big profit in the big oil business. When prices of oil rise, they really rise for the consumer, but when the price of oil drops, the prices of gas and home heating oil go up.

This abuse of the American consumer is unfair and we should not sit here and allow it. A windfall profits tax will keep the oil barons honest. We have had it before, Mr. Speaker, and when the windfall profits tax was in effect, it generated $79 billion in gross revenues.

Let's act like Robin Hood, Mr. Speaker. Take from the rich oil barons and give to the poor American consumer. It is the least we can do because we know big oil will not give Joe Sixpack a break in Albany, NY.

THE DEMOCRATIC PROPOSAL FOR SURCHARGE ON MILLIONAIRES IS NOT DEAD, JUST WOUNDED

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, great ideas never die, and it is for this reason that I come not to mourn or to bury the Democratic proposal for a surcharge on millionaires; I come to praise this great step toward fairness and justice in taxation.

The Republicans have not yet murdered this magnificent concept; they have merely wounded it. The surcharge will return.

Mr. Speaker, most American taxpayers do not know it, but last week $57 billion for the savings-and-loan bailout was appropriated by the other body, the Senate, on a voice vote.

What revenue is there available to cover this $57 billion? The surcharge on millionaires is the perfect revenue producer to pay for the S&L swindle.

Mostly, the rich enjoyed the S&L orgy, so the rich should pay. The millionaires were at the party, they should pay the bill.

This is an arrangement that would represent true tax fairness, true tax justice.

Instead of adding another $2,000 to the tax bill of the middle class, let the millionaires pay for the savings-and-loan swindle.

The surcharge is an idea whose time has come. The surcharge on millionaires is an idea that is wounded now but it will never die.

REPUBLICANS WANT FAIRNESS TOO

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I think it is generally appropriate to refrain from partisan remarks, but for weeks now the Democratic Party has held the budget process hostage to a vision of what they call fairness; "soak the rich. We won't accept the plan that doesn't sock it to the millionaires, because it is a matter of fairness."

Mr. Speaker, Republicans want fairness too. This morning on the front page of the Washington Post, the Democrats told us just exactly what fairness means to them. It means getting the most political advantage from their rhetoric and then cutting a deal. To quote, "Democrats quickly pulled the package together yesterday morning after concluding that the issue had already brought them significant political and substantive gains."

"We've got a lot of winnings on the table."

Selling out principles once they think they have scored enough political points demeans the Democratic Party.

Ramming through a package that taxes middle America is not fair either. Fortunately, Americans know what fairness is.

CLOUDS GATHERING ON THE HORIZON IN THE PERSIAN GULF

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the President is entitled to the broad support he currently enjoys for what he has done thus far in the Persian Gulf. He has internationalized the effort to keep Saddam Hussein from further marauding and adventuring in that area. He has made this a defensive effort to keep that brigand at bay.

But, Mr. Speaker, I see clouds gathering on the horizon. I see a series of articles which has been published in our major newspapers, counseling the President to strike at Saddam Hussein now.

I have heard and read in the newspaper about the possibility that a larger troop deployment of U.S. men and women will be sent to the Middle East, which seems to suggest war is immiment.

I hope and pray, Mr. Speaker, that is not the case. I certainly believe that the American people support the President to this point, a defensive action, internationally spread.

I do not think that support would go further to an offensive action unless it is clearly provoked during an attack

on a U.S. person or an attack across the line.

I counsel trying every diplomatic effort to settle the Persian Gulf dispute before the United States goes on the offensive in that area.

□ 1120

CONGRESS HAS HURT SMALL BUSINESS THIS YEAR

(Mr. JAMES asked and was given permission to address the House for 1 minute.)

Mr. JAMES. Mr. Speaker, if small business owners were keeping a checklist of the votes taken in 1990 which helped or hurt their small business, I am afraid they would have a long list in the hurt column. We in Congress and in the administration are planning for a White House conference on small business in 1994, and I fear that those small business owners are taking notes this year. We are going to have a tough time explaining ourselves when they come a-callin' in a few years. I suggest that we take a long look at some of the antigrowth bills and heavy spending responses that we have taken in Congress.

Mr. Speaker, the National Federation of Independent Businesses, NFIB, which represents small business across the Nation, claims this is one of the toughest years on record for small business insofar as bills that this Congress has passed.

Once we have examined this sorry record, I suggest that we make a New Year's resolution to do a small business impact statement on the legislation that we have introduced. Let us see if we cannot turn this body around and begin to make sensible policy decisions.

I honestly believe that Congress wants to be for small business and free enterprise. The first step is to critically examine what we are doing up here and how it affects the people. Then we can move forward.

SIMPLE WAYS TO BALANCE THE BUDGET

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, why oh why do Republicans, Democrats and the White House continue to cast the blame on the working guy, the elderly, the veterans, the children, the women, the sick? Why do they blame them for the deficit incurred in this country, for the deficit perpetrated on the people of this country by the very blamers? Why are the very rich protected? They are the beneficiaries of what is sinking America.

Mr. Speaker, what we need and what has not be looked at is in five areas. One of them is taxing foreign corporations who paid only one-quarter of 1 percent on $8 trillion worth of sales in the last 10 years. Get the tax cheaters who cheat the American Government every year. Cut foreign aid in half, and get down to finding out where all the waste, abuse and fraud is in this country.

Mr. Speaker, that will cough up about $600 billion in 5 years, and we do not have to inflict any tax on the little guy, and we do not have to cut any of the health benefits for the elderly and the veterans of this country. And if we get a new trade policy, who knows what will happen? We may come up with another trillion dollars.

Mr. Speaker, these seem so simple, but they are things that ought to be looked at.

JOBS GROWTH AND COMPETITIVE ACT OF 1990 ENCOURAGES CAPITAL FORMATION

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, in order for a person to go to work, one must first build a factory or purchase a piece of equipment at an average cost of $128,000 per job in America. That capital has to be first assembled. Nations that encourage that formation of capital do prosper. Those that tax it and discourage it fail.

In 1981, out of our eight major competitors the United States was No. 1 in encouraging capital formation, we drew jobs from around the world.

Listen to this: Between 1981 and 1989 there were 32 million jobs created on this planet. Twenty-three of the thirty-two were created in one country, the United States of America. However, in 1982, 1984, and 1986, we increased the cost of capital formation. We have increased it 90 percent, to the point that in the last 2 years there has been a discouragement, and in the last 3 months capital is flowing out of America.

Mr. Speaker, tomorrow, along with the gentleman from Oklahoma [Mr. EDWARDS] and others, nine of us are introducing a bill called the Jobs Growth and Competitive Act of 1990. It is essential that we encourage capital formation when we come back, and all the rhetoric dies down, and the smoke blows away. We have to encourage jobs to stay in America, or we are going to have a very, very severe recession because of what this Congress has done to our country.

WANTED: ONE VOTE FOR CIVIL RIGHTS

(Mr. WASHINGTON asked and was given permission to address the House and to revise and extend his remarks.)

Mr. WASHINGTON. To coin our previous President, "There he goes again, protecting the wealthy people."

I am going to put this number up on the screen while I am talking for the 45 seconds that I have left, and I am going to tell my colleagues what this number is for.

The President did not protect Joe Sixpack when he vetoed the civil rights bill because Joe Sixpack does not own the factory that discriminates against women and minorities. He protected Sam Walton, the richest man in America.

We need one vote. It is not over until it is over. Call this number: 202-224-6542. That is the number of one Member of the U.S. Senate who can and should change his vote. When he does, we will be able to pass a civil rights bill.

Here is the number, and I say to my colleagues, "You can make a difference. Make the phone calls now. It isn't over until the fat lady sings, and I haven't heard her."

WHAT ABOUT THE CIVIL RIGHTS OF THE MINORITY PARTY?

(Mr. HANCOCK asked and was given permission to address the House for 1 minute.)

Mr. HANCOCK. Mr. Speaker, it is interesting that Democrats in this great House of people are taking potshots at the President because he vetoes a civil rights quota bill. What about the civil rights of the minority party in Congress? What about the Democrats not allowing the Republicans their no-tax-increase budget package to be debated in Congress? Let us talk about the civil rights of 100 million disenfranchised Americans when their elected Representatives are gagged by the Democrats in the Congress.

Mr. Speaker, I am gagging on the arbitrary arrogance of the Democratic leadership in this House of the people.

THE VISIT OF DAVID DUKE

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, we had a visitor on Capitol Hill yesterday. A visitor with a message. This person's visit kind of reminded of the old joke, guess who's coming to dinner. Well, David Duke came to dinner yesterday.

Mr. Duke came to observe and lend his support for the defeat of the Senate override of the Presidential veto of the Civil Rights Act of 1990. You know, it was as if the President's veto was not a clear enough message.

Now, we have David Duke in the living flesh to deliver the message.

Duke proclaimed in a press conference on the hallowed grounds of the U.S. Capitol that he was here representing a new civil rights movement in this country—the white civil right's movement. He told us that we should consider him in the same light as other civil rights leaders that have gone before him. I will tell you one thing, the day that I liken David Duke to Martin Luther King will be the day that I give up all hope for this country.

Mr. Speaker, the President has suffered from many harsh words over the last few days. I personally think that he is deserving of many more. Bush and his arrogant advisers have in large part created the David Duke monster—they have certainly created an atmosphere in which David Duke's message becomes more and more acceptable. The President could not have hired a more effective lobbyist in opposition to the Civil Rights Act.

It is high time that those of us who believe in true democracy wake up and let it be known that we must end this madness. I certainly hope that President Bush wakes up.

Well, if nothing else is noteworthy, at least Duke is on time—on time, that is, for a meeting of his old friends this Sunday on the Capitol steps.

TAXPAYERS' NIGHTMARE ABOUT TO BEGIN

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, a few minutes ago the gentleman from New Mexico [Mr. RICHARDSON] declared that the budget nightmare is about over. Well, I have news for him. The taxpayers' nightmare is about to begin because the tax increase bill that is going to be rammed through this Congress within the next couple of days will raise taxes on the middle class.

Mr. Speaker, the adage that this is a tax-the-rich bill just will not work because there are not that many rich people to raise the revenue we are talking about, and we all know that poor people do not have the money to be taxed, so that leaves the middle income people to pick up the tab.

What is really a shame is that it is all unnecessary because, if Congress had just held the Federal growth rate of spending to 4 percent a year for each of the next 5 years, we could balance the budget without raising taxes on anyone. This tax increase merely will pay for continued congressional spending rather than reducing the Federal budget deficit.

ANNOUNCEMENTS BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). That concludes the 1-minutes. There have been 10 on each side, according to the announcement made by the Speaker earlier.

In addition, the Chair would remind Members that they should refrain from referring to telephone numbers of Members of the other body.

PARLIAMENTARY INQUIRY

Mr. DORNAN of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DORNAN of California. Mr. Speaker, will Members be allowed to do 1-minutes at the end of this exciting day?

The SPEAKER pro tempore. The gentleman from California is correct.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 528 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 528

Resolved, That upon the adoption of this resolution the Speaker is authorized to declare recesses at any time through the legislative day of October 27, 1990, subject to the call of the Chair.

□ 1130

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, I yield the customary 30 minutes for the purpose of debate only to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 528 authorizes the Speaker to declare recesses subject to the call of the Chair at any time through the legislative day of October 27, 1990.

Mr. Speaker, this Saturday, October 27, the Federal Government runs out of money again unless we enact the pending appropriations bill and the budget reconciliation agreement. Between today and Saturday we still have a great deal to do. The House needs the flexibility which this resolution will provide.

This is a simple, straightforward resolution and I urge its adoption.

Mr. QUILLEN. I thank the gentleman for yielding, and yield myself such time as I may consume.

Mr. Speaker, as we come close to the end the session it is necessary for the Speaker to have authority to call recesses.

We have worked through several Saturdays and Sundays, and even though I feel some recesses are unnecessary, most recesses are justified.

Mr. Speaker, I have no objection to this rule. I have no requests for time. I urge the adoption of the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WAIVING REQUIREMENTS OF HOUSE RULES FOR CONSIDERATION OF CERTAIN RESOLUTIONS, CONFERENCE REPORTS, AMENDMENTS, AND MOTIONS

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 527 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 527

Resolved, That the requirement of clause 4(b), rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is hereby waived with respect to any resolution reported from that committee on or before the legislative day of October 27, 1990, to provide for the consideration or disposition of: (1) a bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991, an amendment thereto, or a conference report thereon; (2) a joint resolution making continuing appropriations for the fiscal year 1991, an amendment thereto, or a conference report thereon; (3) a bill to extend the temporary increase in the public debt limit, an amendment thereto, or conference report thereon; or (4) a conference report and amendments reported for conference in disagreement on any general appropriations bill.

SEC. 2. Notwithstanding the provisions of clause 2 of rule XXVIII, it shall be in order at any time through the legislative day of October 27, 1990 to consider conference reports and amendments reported from conference in disagreement on any general appropriation bill on the same day reported or any day thereafter if copies of the conference report and accompanying statement, together with the text of any amendment reported from conference in disagreement, have been available to Members for at least two hours before the beginning of such consideration. Any said conference report, amendments in disagreement, and motions to dispose of amendments in disagreement printed in the joint statement of the managers shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield the customary 30 minutes for the purposes of debate only to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, the 101st Congress is nearing the end of its work. However, before we adjourn in the next few days, we still have numerous important fiscal measures to consider.

To facilitate their consideration, House Resolution 527 waives the two-thirds requirement in clause 4(b) of rule XI against any resolution, reported from the Rules Committee on or before the legislative day of October 27, providing for consideration or disposition of a reconciliation measure, a joint resolution making continuing appropriations, a bill to extend the temporary increase in the public debt limit, or amendments to or conference reports on such measures. The two-thirds requirement is also waived against any such resolution providing for consideration or disposition of a conference report and amendments reported from conference in disagreement on any general appropriations bill.

Mr. Speaker, this rule merely extends through Saturday the two-thirds waiver under which the House has been operating for the last several days. It permits the House for the next 3 days, by majority vote, to consider a rule on these fiscal matters the same day that it is reported from the Rules Committee.

In addition the rule also makes it in order, through the legislative day of October 27, clause 2 of rule XXVIII notwithstanding, to consider conference reports and amendments reported from conference in disagreement on any general appropriation bill if copies of the conference report, the accompanying statement, and the text of any amendment reported in disagreement, are available for 2 hours before consideration. The requirement that conference reports be printed in the CONGRESSIONAL RECORD and lay over 3 days is waived against appropriation conference reports.

Finally, the rule provides that the conference reports, amendments in disagreement and motions to dispose of amendments in disagreement in the joint statement of managers will be considered as read.

Mr. Speaker, we are all working hard to complete the business of this session. I urge my colleagues to adopt this rule so the House can expeditiously consider by majority vote its remaining fiscal matters.

Mr. QUILLEN. Mr. Speaker, I thank the gentlewoman for yielding and I yield myself such times as I may consume.

Mr. Speaker, the gentlewoman from New York [Ms. SLAUGHTER] has ably explained the provisions of the rule, and I see nothing wrong with the rule. If the Democrats do not work with the Republicans and give us ample notice, then there is a problem. But I have been assured that that would not take place.

As we near the end of the Congress, legislation reported to the House may need to move promptly. In my 28 years here, in the closing days this has always been an appropriate procedure, and I see nothing wrong with it today. It is a limited agreement that applies only, as the gentlewoman from New York [Ms. SLAUGHTER] said, to specified issues.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to this rule. We found out last night on the floor what happens when you waive the two-thirds requirement and bring massive bills to the floor. You find out that there is stuff buried down in them that no one knows what is there and we have no idea what the nature of the legislation is. In many cases it is legislation where a handful of people have sat in a room and made decisions that then we are supposed to ratify without ever seeing.

The defense bill last night, everyone who voted for the defense bill last night voted to ratify the decisions of three people, two from the other body and one from this body, who made the final determinations, and no one was exactly certain what it was they decided to do.

We did it without reading the bill, because no one had a chance to see the bill before it came to the floor.

Now, what we are deciding to do here in this room, just so Members understand, is we are deciding to do the same thing on reconciliation. Reconciliation is going to be a massive package. As I understand it, the deal still has not been made. We have heard a lot of talk about the parameters of that deal, but they still have reduced nothing to writing. So when they finally get to that moment when they have determined how many taxes will be raised, who they will go on, how many special interest groups will get the breaks that they have been ardently seeking out in Gucci Gulch, and when we get to all of those things, then they will reduce it to writing and they will rush it to the floor, and under this rule we will not be able to stop it, nor will we be able to see it.

I have got real concerns about that. I understand, for instance, that some of the language that is buried down in the reconciliation bill right now may be things that some of us would have some trouble with. For example, it has been reported, and no one has seen the papers yet, of course, but it has been reported that one of the decisions made by the people in reconciliation has been to eliminate the lump sum retirement benefit for all Federal employees as a cost-saving measure. But not all Federal employees. One group is specifically exempted, Members of Congress get to keep their lump sum retirement benefit, down in the bill, buried down in the language.

□ 1140

Now are we going to be able to find some of these things to see whether or not they stayed in or whether nor not they were taken out? Maybe not, because under this rule they will bring the whole big package, all several hundred pages of it, to the floor. No one will have read it, no one will know exactly what is in it, and yet we will be asked to approve it sight unseen.

I would suggest that when we are talking about raising gas taxes, raising income taxes, raising taxes on insurance, raising taxes across the board, that it might be a good idea to take a look at what it is in the bill before we approve it.

I would suggest that maybe if what we are going to do is increase the health insurance tax on workers across the board, and raise it to high new limits and so on that will impact middle class families across this country, we ought to be able to see it.

I would suggest that when we are going to reduce the Medicare benefits in this country by maybe as much as $40 billion or more, that maybe we ought to take a look at how they are doing that before we vote on it.

But under this rule we may not get that chance. This rule will say that we can bring it to the floor, waive the rules of the House and consider it without very much in the way of observation.

I think that is a shame, and I would ask that we turn down the rule.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I might disagree with the gentleman on the details of our tax package. I think it is a good package, I think it is generally equitable and progressive and does protect the Medicare recipients.

But I would join with what the gentleman just said a moment ago about this incredible thing I read in the paper yesterday, where somehow Members of Congress who are retiring will be able to get their lump sum payments. But with rare exception, no other Federal employee who does so after this coming November has that opportunity. I would join the gentle-

man. I am told that as of this morning, that the conferees on that part of the reconciliation bill have not finally made up their minds, and I hope that maybe our dialog and perhaps other Members' statements will have some effect on it.

I think that would be absolutely outrageous. I think that would be an uncalled-for perk that I think is indefensible, and I join with the gentleman.

Mr. WALKER. Well, I thank the gentleman, and that is my point. I regard that as outrageous.

My problem is that I am not certain that we will know all of the outrages that are in this bill. We happened to find out about that one, and having found out about it, having exposed it to the light of day, now evidently there are some reconsiderations about keeping it in there.

But if we have a bill on the floor that is hundreds of pages thick, and we are not certain what is in it, we will have no idea what the outrages are. I would venture to guess that for a week or two after this, after the bill is passed, if in fact it passes the House, we will have newspaper stories about all of the special tax benefits that were put into the bill that benefit one side or one company, that we will have a whole host of stories about the individual little items that people got as perks in the bill, that we had no idea about.

I do not think that is a way to legislate, and I thank the gentleman for yielding.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5, rule I, further proceedings on this resolution will be postponed until the conclusion of consideration of the next resolution reported from the Committee on Rules.

The point of no quorum is considered withdrawn.

WAIVING POINTS OF ORDER AGAINST CONSIDERATION OF CONFERENCE REPORT ON H.R. 5803, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 529 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 529

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I many consume.

Mr. Speaker, the conference agreement on the fiscal year 1991 Defense appropriations bill, H.R. 5803, provides $268 billion for Defense Department programs in the coming year. Together with the military construction budget and the Department of Energy nuclear weapons allocations, the total would be $288 billion, the amount agreed to in the budget resolution adopted earlier this month.

House Resolution 529 waives all points of order against the defense authorization conference report and against its consideration. It also provides that the conference report be considered as having been read.

As we urgently try to wrap up the business of this Congress, it is important that we expedite the procedures for consideration of legislation.

I urge my colleagues to support House Resolution 529.

Mr. Speaker, I would like to commend the gentleman from Pennsylvania [Mr. MURTHA] for his fine work on this legislation.

The cold war has ended. The United States has won.

This defense bill begins to refocus our priorities toward real security by beefing up our conventional forces, cutting wasteful star wars spending, and increasing the burden shared by our allies.

I want to thank the conferees for including my amendment on Japan. It requires Japan to pay all costs for the 50,000 U.S. troops stationed there, except for salaries. If, at end of this fiscal year, Japan has not agreed to do so, 5,000 troops would be brought home.

Mr. Speaker, the message sent by this amendment is loud and clear. We are through carrying Japan's economy on the backs of American taxpayers.

Whether it's opening their markets to the United States trade, ending tax subsidies to Japanese corporations, or getting Japan to pay its share of the defense burden—we must be tougher.

After this amendment was first adopted by an overwhelming margin, Japan pledged an additional $3 billion to the Persian Gulf effort against Iraq.

When you are tough, you get results.

All of our allies must do more. Their economies are strong. They can afford it.

When we return next year, it is my hope we can go even further in making our allies pay their fair share of the defense burden.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I wish to compliment the gentleman on his efforts concerning Japan. I was in Japan with a delegation in August, shortly after the Iraqi invasion, and we brought very forcefully to the members of the Japanese Diet the importance of them sharing in the burden.

They did, after we were there, come up with a second, stronger version of help and assistance.

But there is a second aspect to assistance in the Persian Gulf, and it is not just money or financial aid or assistance, it is sharing the risk as well, and that is why I think it is important that that country as well as other countries, and many have, of course, as the gentleman knows, sent troops and people there in harm's way along with ours to be of assistance.

□ 1150

I think that the message should come through to Japan that they just cannot buy their way into this, that they must share the burden and share the risk with their people and with their troops as well.

Mr. BONIOR. Mr. Speaker, I thank my colleague for his comments.

I would just like to briefly respond. That is a very important issue, the whole question of burden sharing either financially or with troops, and the latter question is a very significant one but a very difficult one.

I do not want to lead my colleagues on to believing that is, indeed, an easy question for us to resolve. I have some very serious concerns about the Japanese sending troops into that region of the world, into the Mideast.

There are discussions, as you know, in the Diet and the Prime Minister is

advocating a peaceful contingency, noncombative in nature. I think that discussion needs to be dwelt upon, thought about. I do not think we need to be rushing into making decisions over their participation or the German's participation in a military way, because that, indeed, is a fundamental change over what has happened over the last 45 years.

Clearly the area that both of these nations can be of help in is obviously economically because of their strong economies. So as we continue to debate this issue and believe it will be an issue on the front burner, the type of burden sharing that is going to be required or asked, I would hope my colleagues would keep in mind the most serious nature of that discussion as I am sure they will, because it is a fundamental, very fundamental, question in this new world order, and we have got to understand the ramifications on both sides of it in terms of their posture as world powers and in light of their past and in light of their recent past in moves toward democracy and other values that we have embraced as a country for so long.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Let me say that although I have some reservations about the rule and how it brings the bill to the floor, I strongly support the defense appropriations bill that will be shortly coming to the floor. And I want to take the time just to commend the gentleman from Michigan, because he certainly has been a leader in this effort to try to get our allies to share the burden.

His amendment, which would require Japan to pay the costs for United States service personnel stationed in that country, is extraordinarily timely. It was adopted in the House by a vote of 370 to 53, and, believe me, that vote immediately caught the attention of Tokyo.

Within hours, the Government of Japan got off the dime and committed $2 billion to the costs of Operation Desert Shield. And they should commit more money than that. They can afford to.

As the Members know, the Constitution of Japan—which was written under the guidance of Gen. Douglas MacArthur—prohibits Japan from maintaining armed forces. That prohibition should continue to be obeyed. And Japan's neighbors in the East Asia region desire that prohibition to be obeyed.

But Japan does devote 1 percent of its gross national product to efforts of self-defense. Every nation acknowledges Japan's right to maintain a modest self-defense force. And that's why it is so important for Japan to contribute to Operation Desert Shield and to the maintenance of United States forces in Japan. Because those operations support Japan's legitimate self-defense needs.

His amendment on Japan paying their fair share for our troops stationed there was an excellent amendment, and as the gentleman knows, I helped lead the fight for his amendment on this side of the aisle. I am the Republican representative to the political wing of NATO, the North Atlantic Assembly, where we have been fighting for years to try to get our NATO allies to share their fair burden of the expense of defending Europe.

The gentleman deserves to be commended for his efforts in this direction. His was a very timely amendment, and I am so pleased the conferees kept his amendment in the bill, because it sets the stage for future burden-sharing efforts that we can push.

There is going to be a NATO assembly in Europe, I think, on November 26, where we are going to drive home the point and use the gentleman's amendment as an example of what we have to do today to share the burden of the defense of the free world.

I commend the gentleman.

Mr. BONIOR. Mr. Speaker, I thank my colleague for his compliment and his remarks, and I thank him for his strong support as we have worked this through.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, also, want to commend the gentleman from Michigan for his help in the Desert Shield Operation. His beliefs are mine, and I appreciate what he is doing.

Mr. Speaker, I would like to commend the chairman and the ranking Republican member of the Appropriations Subcommittee on Defense, the gentleman from Pennsylvania [Mr. MURTHA] and the gentleman from Pennsylvania [Mr. MCDADE] for their leadership in producing this conference report. Setting the appropriate amounts for defense spending is difficult during the best of times, and this year the situation is even more difficult because of budget constraints.

We are coming close to what I hope is the end of this Congress. In order to finish the work that needs to be done in the next couple of days, it is necessary to move more quickly than would otherwise be the case.

This rule enables the House to move promptly to the consideration of the defense appropriation conference report. The gentleman from Michigan [Mr. BONIOR] has fully explained the provisions of this rule, and I will not repeat that.

Mr. Speaker, I support this rule so that the House may get down to business and act on the defense appropriation conference report.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to clause 5, rule I, and the Chair's prior announcement, the Chair will now put the question on agreeing to the resolution on which further proceedings were postponed earlier today and then on the two motions to suspend the rules on which further proceedings were postponed on Tuesday, October 23.

Votes will be taken in the following order:

House Resolution 527;

Conference report on S. 605; and

Senate amendment to H.R. 5112.

WAIVING REQUIREMENTS OF HOUSE RULES FOR CONSIDERATION OF CERTAIN RESOLUTIONS, CONFERENCE REPORTS, AMENDMENTS AND MOTIONS

The SPEAKER pro tempore. The unfinished business is the vote de novo on House Resolution 527.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 255, nays 161, not voting 16, as follows:

[Roll No. 519]

YEAS—255

Ackerman	Atkins	Bevill
Alexander	AuCoin	Bilbray
Anderson	Barnard	Boggs
Andrews	Bateman	Bonior
Annunzio	Bates	Borski
Anthony	Beilenson	Bosco
Applegate	Bennett	Boucher
Aspin	Berman	Boxer

Brooks
Browder
Brown (CA)
Bruce
Bryant
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clement
Coleman (TX)
Collins
Combest
Condit
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Gray
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Parris
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ray
Richardson
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Washington
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—161

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Conte
Coughlin
Courter
Cox
Craig
Dannemeyer
Davis
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gillmor
Gilman
Gingrich
Goss
Gradison
Grandy
Grant
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Packard
Pashayan
Paxon
Petri
Porter
Pursell
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Saiki
Saxton
Schaefer
Schiff
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Stump
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wolf
Wylie
Young (FL)

NOT VOTING—16

Brennan
Bustamante
Crane
Ford (MI)
Ford (TN)
Frank
Goodling
Kasich
Matsui
Mfume
Morrison (CT)
Neal (NC)
Nelson
Rowland (CT)
Smith (VT)
Young (AK)

□ 1217

The Clerk announced the following pair:

On this vote:

Mr. Nelson of Florida for, with Mr. Crane against.

Messrs. GREEN, MICHEL, HORTON, LOWERY of California, BLILEY, and WYLIE changed their vote from "yea" to "nay."

Mr. CONDIT changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair had postponed further proceedings.

CONFERENCE REPORT ON S. 605, CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 1990

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the conference report on the Senate bill, S. 605.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALGREN] that the House suspend the rules and agree to the conference report on the bill, S. 605, on which the yeas and nays are ordered.

This will be a 5-minute vote, and it will be followed by another 5-minute vote.

The vote was taken by electronic device, and there were—yeas 375, nays 41, not voting 16, as follows:

[Roll No. 520]

YEAS—375

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brooks
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Crane
Crockett
Darden
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Douglas
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd

Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—41

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Broomfield
Burton
Callahan
Combest
Cox
Craig
Dannemeyer
DeLay
Dornan (CA)
Dreier
Duncan
Fields
Frenzel
Hall (TX)
Hammerschmidt
Hancock
Hansen
Henry
Holloway
Livingston
Marlenee
McCurdy
Nielson
Penny
Pickett
Roberts
Sarpalius
Shumway
Skelton
Smith (TX)
Smith, Denny (OR)
Stenholm
Stump
Vander Jagt
Weber

NOT VOTING—16

Brennan
Bustamante
DeFazio
Dymally
Frank
Goodling
Hawkins
Johnson (CT)
Kennelly
Matsui
Morrison (CT)
Neal (NC)
Nelson
Rowland (CT)
Serrano
Smith (VT)

□ 1230

Messrs. McCURDY, ARMEY, SKELTON, COX, and SARPALIUS changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1230

HOME HEALTH CARE AND ALZHEIMER'S DISEASE AMENDMENTS OF 1990

The SPEAKER pro tempore (Mr. MCNULTY). The unfinished business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 5112.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 5112, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 1, not voting 14, as follows:

[Roll No. 521]

YEAS—417

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Davis
de la Garza
DeLay
Dellums
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frenzel
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—1

Penny

NOT VOTING—14

Brennan
Bustamante
DeFazio
Derrick
Dymally
Frank
Frost
Goodling
Grant
Matsui
Mollohan
Morrison (CT)
Rowland (CT)
Smith (VT)

□ 1238

Mr. COX changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NELSON of Florida, Mr. Speaker, had I been present for rollcall No. 520, I would have voted "aye."

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3030, CLEAN AIR ACT AMENDMENTS OF 1990

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight, October 25, 1990, to file a conference report on the bill (H.R. 3030) to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

□ 1240

Mr. McCOLLUM. Reserving the right to object, Mr. Speaker, I would just ask, without objecting at this point, has this been cleared with the minority?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, the answer to that question is no, it has not.

But I have tried to talk to the gentleman from New York [Mr. LENT] about it. He has agreed with me that we will move this bill and the statement of the managers just as rapidly as we can. No games are played. Our purpose is simply to get authority to file by midnight.

Mr. McCOLLUM. I understand the gentleman's request.

On that basis, Mr. Speaker, I withdraw any reservation of objection.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Michigan?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2569, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. BROOKS. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 5269) to control crime, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS].

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McCOLLUM moves that the Managers on the part of the House at the conference on the disagreeing vote of the two Houses on H.R. 5269, be instructed to insist on all of the House language contained in Title II, Title XIII, and Section 2204.

The SPEAKER pro tempore. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes, and the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I understand the gentleman wants to insist on title II, title XIII?

Mr. McCOLLUM. That is correct, and section 2204.

I will be glad to explain to the chairman what is in there.

Mr. BROOKS. I hope the record will reflect that.

Mr. McCOLLUM. Mr. Speaker, 3 weeks ago tomorrow we passed a major crime bill on the floor of the House. It contained a number of key provisions that were major changes in the way law enforcement is allowed to conduct its business and gain prosecutions and sentences in very serious offender cases, including some major drug dealings in this country.

I, among a number of Members, have been disappointed that it has taken to this point in time to get conferees appointed. But we have reached that point now, and we have approximately 3 days in which to work a conference and to come up with a bill between us and the other body.

My motion to instruct today is to instruct our conferees, in going into what will be a very short conference, to abide by the wishes of this body with respect in particular to three of the provisions that are in this particular bill that we passed on the floor 3 weeks ago tomorrow.

The first one is title II, and that is the title that contains the procedural reforms to the death penalty. That will put back in place what we have had missing at the Federal level for a long time, and that is procedures to allow the death penalty to be given in appropriate cases to those who have received a sentence, or who have been convicted, I should say, for certain Federal crimes ranging all the way from assassination of the President, to killing of a prison guard. It is long overdue. We need to do it.

Title II also contains the President's death penalty for drug kingpins. That is what we passed on the floor of the House, again about 3 weeks ago. That would provide in cases where you are trafficking in very large quantities of narcotics, and as a matter of fact, twice the amount necessary for life imprisonment, that a court can give the death penalty. I think it is exceedingly important that we reinforce today the wishes of this body as we go into this conference on both of those death penalty provisions that are contained, and are indeed what title II is all about.

We also have in this motion to instruct a request that our conferees insist on and stick with the habeas corpus reform language that we put into this legislation. We are talking now about the Powell committee report, the Hyde amendment, the reform that is necessary for us to undergo if we are going to stop the endless appeals that go on and on when prisoners from State court convictions find themselves able to stall out their death sentence by going into Federal court in the habeas corpus context and raising what are known as collateral issues. They can then say hey, even though my appeal went all the way up through the U.S. Supreme Court from a direct appeal of the conviction and sentence, and everything was okay, I still have a problem. My rights here were violated, my rights there were violated.

Most of us know it is long overdue for us to put some restraints on this process, keeping due process, keeping fairness in the process, but put some restraints, some time restraints, some logical restraints so that these appeals do not go on endlessly.

So the motion to instruct goes to that provision specifically as well that we passed.

Last, but not least, our motion to instruct conferees goes to the issue of what we call the modification of the exclusionary rule, good faith exception for warrantless searches. As my colleague may remember, we passed this provision overwhelmingly on the floor of the House. It involves the case in which a police officer stops someone, for example, in an automobile, and they discover through the normal process that there are drugs in the vehicle. Very frequently today in our system of justice, under those circumstances, the court will throw that evidence out on a technicality, even though the police officer in good faith thought he was complying with all of

the constitutional requirements and protections against illegal searches and seizures. The courts have issued this evidentiary rule that, because it is so tightly wound and because it is so tightly written we are not allowed to get in this evidence, and literally hundreds if not thousands of cases every year in the courts of this Nation are thrown out because of this technicality.

Now we do not propose abolishing the exclusionary rule. We have simply proposed in what we passed 3 weeks ago a modification consistent with what is laid down as an exception to or a modification to searches where you have a search warrant. We do not see why that same modification for good faith should not be present in csaes where there are no search warrants, where police officers are out there in good faith making a search and seizure of this evidence, and it ought to come in, and it ought to be allowed to come into evidence, to get the convictions, particularly in these drug cases.

So all my motion to instruct conferees does today is to say that in the limited time they have to work that we should abide by the House position on the restoration of the Federal death penalty, on the death penalty for drug kingpins, on habeas corpus reform to stop these endless appeals, death row inmates on and on, and modifications of the exclusionsary rule so that evidence can come in on good faith exceptions to that rule, to allow convictions in cases of search and seizure.

That is all it consists of.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, as Members are all well aware, the House undertook vigorous, free and open debate on H.R. 5269, the Comprehensive Crime Control Act, when it was in the Committee of the Whole earlier this month.

The subjects included in the motion to instruct were among the most contentious, hard-fought issues during that debate. I can assure the Members that the conferees will give due consideration to the position of the House during our conference with the Senate.

Accordingly, I do accept this motion.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the distinguished gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I appreciate the position my chairman has taken. My only comment would be that I am not sure that such instructions necessarily assist the House conferees in terms of a resolution on the crime bill, because there are differences in these areas with the Senate. It may make it somewhat more difficult for us, and we should understand that by assuming the instruction should be abided by, that it will make the role of the conferees more difficult, even though I agree with the chairman that in the final analysis it is appropriate to accept the instructions.

□ 1250

Mr. BROOKS. Mr. Speaker, I want to thank the gentleman for his remarks and for his solid report of thoughtful judicially oriented changes in the crime bill and regret the necessity of moving this forward in this fashion.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I understand what my distinguished chairman is saying, and I respect him, and I am not going to oppose what my chairman has indicated, but I agree with my colleague, the gentleman from Wisconsin.

One of the reasons why we have such problems trying to resolve the differences is that we have loaded this baby up with so much excess, so many patently unconstitutional provisions, so many provisions that are mean-spirited, for instance, one of the provisions dealing with successive petitions, and where we are going to review habeas corpus is if a man is on death row about to be executed and the prosecution concedes that he is there and the sentence was based upon perjured testimony, there is nothing we can do about it; the 6-month statute of limitations has run. That is not only patently, in my judgment, unconstitutional, it is mean-spirited, and it goes right to the heart of a process that is 500 years old.

As our distinguished chairman knows, that basically represents the one vehicle we have to try to give individuals due process in this country. I will take a back seat to nobody when it comes to trying to develop tough sanctions against the criminal element of this country. Over the last 10 years, I have been privileged to chair the Subcommittee on Crime. I have written about 42 major new crime initiatives to try to provide law enforcement with new tools. I spent 10 years in the trenches trying criminal cases. I will not take a back seat to anybody.

But, you know, what was passing on this floor was what sounded tough, not really what was tough, what sounded tough, and we passed it if it sounded tough whether it was fair or whether it was constitutional, we passed it.

We voted this thing up with so much excess, and we have so much in here to try to strip out with all the land mines that we face, and now we are just going to reinforce it.

So what the gentleman from Florida wants to do is insist upon the language that came out of the House on three key provisions.

I can tell you, ladies and gentlemen, we could sit here for the next 25 years, and if you insist upon what we passed which was patently unconstitutional and got nowhere. I happen to regret what happened, because I have 11 titles in the crime bill that my colleague, the gentleman from Florida, and I worked on for almost 2 years. All but one title was totally noncontroversial, provisions dealing with steroids and provisions dealing with forfeiture, tightening provisions on organized crime.

There was not one word said on this floor in debate about those 11 titles with the exception of the death penalty, frankly because the excess came in the controversial areas that the gentleman from Florida now wants to reinforce that we should support in conference.

While I understand why my chairman feels as he does, all I am telling you is that you just make a very, very difficult process impossible.

Mr. McCOLLUM. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think it is unfortunate that the gentleman from New Jersey [Mr. HUGHES] is unhappy that we want the House conferees to stick by the bill the House passed. I know the gentleman is upset, especially on habeas corpus, but I would just remind the House that a rule which the gentleman supported, the gentleman from New Jersey, which refused to permit us to present the alternate habeas corpus language which is endorsed by all of the attorneys general of the United States and the National Association of States Attorneys and was the product of the Powell Commission headed by former Supreme Court Justice Powell, that rule that forbade us to even present our habeas corpus amendment was overturned 166 ayes and 258 nays. I think the will of the House was expressed then.

Later on after heated and extended debate, the Powell Commission habeas corpus version to which the gentleman from New Jersey takes extreme exception passed this body by 258 votes to 146. So I think the House has spoken on that issue twice rather overwhelmingly, and I would think that the conferees would have an obligation, which I think the chairman recognizes, to stick up for the House position on this very contentious issue.

As to perjured testimony, the gentleman has the victim of perjured testimony sentenced to capital punishment already strapped in the electric chair, but he forget something. We are talking about competent counsel in this whole bill. We want defendants to

have competent counsel. I should think a competent counsel would understand that the Governor has the power to commute, the power to extend clemency in an appropriate case.

When you have had a direct appeal, when you have had a collateral appeal in the State courts, when you have had a Federal collateral appeal through the Federal courts including the Supreme Court, there ought to be some finality to the end of this process.

My amendment, provides that finality.

In the unlikely and rare but conceivable situation where perjured testimony is discovered to have convicted an accused or to have led to his death sentence, then you go to the Governor and you ask for commutation of the sentence.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I find it interesting that the gentleman from Illinois places so much emphasis upon competent counsel, because it is the gentleman's process that has the so-called opt-in-or-opt-out provision which denies competent counsel in those areas to those States that refuse to take advantage of the reforms. They proceed under the old process. So here we have a fundamental process under the process of the gentleman from Illinois that his procedure would have two rules for a basic fundamental process called habeas corpus in this country. It is going to be a process that says to the rich in this country that can afford counsel, "You will get competent counsel," but for the poor in that State that decides not to opt into the new procedures, they do not get competent counsel.

What kind of a process is that where even in the same general region we are going to have two different processes for habeas corpus, one for the rich and one for the poor?

Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, again, I would remind my friend from New Jersey that the Supreme Court of the United States has mandated competent counsel in every capital case, and so if the defendant has not been represented competently that is grounds for reversal. That is by Supreme Court mandate.

Furthermore, I do not know why the gentleman thinks only the Federal courts can set standards for competent counsel. The States have that capability very, very well.

Under my habeas corpus process, you get new counsel when you commence the collateral appeal, and they must be competent, although the State has the power and the authority to determine the standards of competency, something I think they are qualified to do.

But under our amendment a new counsel is mandated who can more easily criticize the incompetency of the trial counsel, something that trial counsel would be loath to do, criticize himself.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the chairman of the Crime Subcommittee, the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, the gentleman well knows that 60 percent, up to 60 percent, of the capital cases in this country are reversed, often after 10 or 12 years.

□ 1300

Most of the time it is because of incompetent counsel, so we have not done a very good job. We wrote standards in the Drug Act of 1988.

Mr. HYDE. Mr. Speaker, reclaiming my time, if the cases are reversed, we have done a good jbo.

The problem is in providing competent counsel, and I would suggest that gentlemen like yourself experienced criminal counsel, when they leave Congress could defend the poor. That would be fine. That would help solve the problem providing competent counsel. However, the system works, there are reversals.

Mr. HUGHES. If the gentleman will continue to yield, the problem is that the States do not want to be told to provide competent counsel. But Members be fair.

Mr. HYDE. The Supreme Court has told them that. When the gentleman says that I would deny them competent counsel, the gentleman is misstating my position.

Mr. McCOLLUM. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, the motion carries with it an instruction to stick with the House position on capital punishment on the death penalty. The statistics are clear, the American people, by a substantial margin, I repeat, approve of a death penalty that is applied at the hands of a jury, in the brutal, tragic type of killings we read about every single day. There is no question about that.

The American people feel that it is a question of justice, and a question of remedy, and a question of punishment. But in a proper case, the most serious types of cases, the heinous type of cases, that the death penalty ought to be an option for a jury to apply.

Therefore, we have been struggling for a generation, ever since the first day I came to this Congress, to establish a Federal guideline, a Federal system for the application of a death penalty. We have received resistance every step of the way. We have received resistance every step of the way. We have received resistance even in those kinds of cases of drive-by killings. Am I making those up, or did we have some just a few days ago in this very community? In California, in New York, drive-by killings are innocent bystanders where the option of a death penalty has been removed by the process here which we are trying to reestablish.

The jury should have a right to determine whether or not a death penalty ought to be applicable in those kinds of cases. How about bank robbers? Should we allow a bank robber or a group of bank robbers who, when they kill a teller or an innocent bystander, or a policeman rushing to the scene, to say, "I didn't intend to kill," and therefore be out of the purview of the possible death penalty? Or should we go back to the time-honored system which says that when bank robbers or any thugs of that nature who take a life, even though they cannot be said to intentionally have killed this person or that person, that they should be subject to the death penalty. That is what we are about here. We are trying to fill gigantic loopholes in the Federal justice system on a Federal law that everyone acknowledges exists, but some are reluctant to fill, while many Members are eager to fill.

The other thing that is not well understood by those opponents of the death penalty is that it is a protection for our citizenry. It is a deterrent. It is something that gives second thoughts to someone who would kill. That has been proven dramatically, particularly in a California decision where a justice of that court, a judge of that court took pains to outline several cases where, when the defendant was questioned why did he or she not pull the trigger for the ultimate killing, their response was, almost unanimously in the cases outlined, "I was afraid that I might face the death penalty," and that kept them from that ultimate pulling of the trigger, and that could have taken a life. So it does act as a deterrent for assassination of the President, for treason, for espionage, for all those things that threaten to take our society apart. We ought to have the countervailing weapon at our disposal to allow the jury to impose the death penalty in the proper cases.

In that regard, we have said many times, capital punishment, the death penalty is a mandate for the cop on the street and the citizen on the street.

Mr. McCOLLUM. Mr. Speaker, I yield 3 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, I thank the gentleman for yielding time

to me. Three weeks ago we passed the crime bill, and interestingly enough in that 3 weeks, conferees were not appointed, have not been meeting, and have not been discussing the crime bill. These conferees on the House and Senate Committees on the Judiciary are not involved in the budget negotiations. For the most part, they do not serve on any of the committees that are involved in the financial resolution that we are working on here on taxes and spending.

There is no excuse for why they have not been at it the last three weekends, dealing with the crime bill. We are now down to 3 days, supposedly, in this session, and I think it is important to remind the conferees that the House should work its will on my amendment on the exclusionary rule. When the committee had the matter of exclusionary rule before it, it voted 22 to 14 to put in place a codification of what is already the law from the U.S. Supreme Court, namely that if we seize evidence with a search warrant and it is not 100 percent technically correct, the evidence will still be admitted in the court.

What the House did was say if we do not have a search warrant, and thousands of searches every week are warrantless searches, but it was done in good faith, we will also allow that evidence into court.

I am fearful that if the motion to instruct fails, the House conferees will sell Members out because they come from the very committee that voted against my amendment by a 22 to 14 vote.

When we work our will on the floor of the House in a democracy, one would think a 265 to 157 vote is the will of the House. It was not a close vote. The arguments were made. We have heard them. We ought to go forward with the Senate conferees and explain why it is they feel so strongly about technicalities that are tripping up our police who make good faith mistakes, should not stand in the way of good valid evidence coming into our courtrooms.

I certainly hope that those conferees on the Democratic side will not treat this in their usual way, which is pro forma, does not mean anything. We will go in, shoot someone in the back in conference, and say, "We tried." I hope they will fight for this, because it is an important change in the law, and it is one the House has spoken loudly and clearly on.

Mr. Speaker, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume. I just would like to point out, and I am really ready to close if we have no more speakers, although I do not know if the chairman has any speakers on his side, but I would like to point out that the amendments that were adopted on the floor of the House that are incorporated in this motion to instruct were adopted by margins of 271 to 159, 295 to 133, 285 to 146, 265 to 157. Those are very wide margins.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. DEWINE].

Mr. DEWINE. Mr. Speaker, I thank the gentleman for yielding me this time. These are issues that this House has looked at time and time again. They overwhelmingly have spoken, and I think also the American people are overwhelmingly in favor of these particular items, whether we are talking about changing the exclusionary rule or the death penalty.

I would like to talk just a moment, if I could, about the exclusionary rule. It also comes as a shock to the general public when we explain to them that a criminal has gone free because of a technicality, because the police made a mistake in gathering the evidence. Not that they have gone free because they are innocent, not that they have gone free because witnesses have come in and said that person did not do it, or the evidence failed, they have gone free because the prosecutor could not bring the evidence into court because of a technicality.

So, who gets punished? Not the police officer. The person who gets punished for making the mistake is the general public, and we have this criminal back out on the street to commit the crime that he or she has been charged with again and again. What we are saying in these instructions is simply this: There should be a good faith exception to the eclusionary rule in both warrant cases where there is a search warrant, but also in warrantless cases, as well. Quite frankly, there seems to me to be very little different between the two. There is no real justification for making an exception.

So, what we are asking by this vote, one of those things we are asking in these instructions is to follow the will of the House, follow the will of the American people, and provide for a good faith exception to the exclusionary rule, and an objective good faith exception, so if a police officer, acting in good faith, makes a mistake, makes a technical violation, that evidence will not be excluded from the jury, that it will not be taken away from the jury, but the jury will have the right to hear and see that particular evidence.

Certainly, justice is served by this, and certainly the safety of the American people is served, as well.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

I would remind everyone we are in the process of voting on a motion to instruct. The issue on the motion to instruct conferees is on the crime bill.

□ 1310

It is the titles dealing with the death penalty, the death penalty for drug kingpins, the habeas corpus reforms; we will limit the endless appeals of those who are death row inmates, and on the House-adopted provisions on the good faith exception to the exclusionary rule, all of which were adopted in the House by overwhelming margins about three weeks ago when we considered this bill.

Mr. Speaker, I urge my colleagues to vote aye on the motion to instruct our conferees.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of this motion to instruct conferees on the crime bill on the death penalty provisions, the exclusionary rule and habeas corpus provisions all added by Republican-spsonsored amendments on the House floor.

I supported and voted for all these amendment. All passed by large margins—and all are strongly supported by the American people.

Mr. Speaker, I have long supported all of these measures not only at the Federal level but during my years of service on the Senate Judiciary Committee in the California State Senate.

The people are sick and tired of criminals beating the rap because of technicalities. They are sick and tired of appeal after appeal, after appeal putting off imposition of the death penalty.

And, Mr. Speaker, they certainly are sick and tired of not having effective death penalty laws at the Federal level.

Our conferees should insist on the House position on all these matters. These instructions should help them to do so.

But, Mr. Speaker, it seems to me that another instruction we should give our conferees is that there must in fact be a conference. I am very much afraid that the conference will not meet or if it does meet, not conclude its business.

That would, of course, mean there would be no action on these important issues.

Mr. McCOLLUM. Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCOLLUM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 291, nays 123, not voting 18, as follows:

[Roll No. 522]

YEAS—291

Andrews	Gekas	Montgomery
Annunzio	Geren	Moorhead
Anthony	Gibbons	Morrison (WA)
Applegate	Gillmor	Mrazek
Archer	Gilman	Murphy
Armey	Gingrich	Murtha
Aspin	Goodling	Myers
Baker	Gordon	Natcher
Ballenger	Goss	Neal (NC)
Barnard	Gradison	Nelson
Bartlett	Grandy	Nielson
Barton	Grant	Nowak
Bateman	Guarini	Oakar
Bates	Gunderson	Olin
Bennett	Hall (OH)	Ortiz
Bentley	Hall (TX)	Oxley
Bereuter	Hammerschmidt	Packard
Bevill	Hancock	Pallone
Bilbray	Hansen	Parker
Bilirakis	Harris	Parris
Bliley	Hastert	Pashayan
Boehlert	Hatcher	Patterson
Borski	Hayes (LA)	Paxon
Bosco	Hefley	Payne (VA)
Brooks	Hefner	Petri
Broomfield	Henry	Pickett
Browder	Herger	Pickle
Brown (CA)	Hiler	Porter
Brown (CO)	Hochbrueckner	Poshard
Bruce	Holloway	Pursell
Bryant	Hopkins	Quillen
Buechner	Horton	Ravenel
Bunning	Houghton	Ray
Burton	Hubbard	Regula
Byron	Huckaby	Rhodes
Callahan	Hutto	Richardson
Campbell (CO)	Hyde	Rinaldo
Carr	Inhofe	Ritter
Chandler	Ireland	Roberts
Chapman	James	Robinson
Clarke	Jenkins	Roe
Clement	Johnson (CT)	Rogers
Clinger	Johnson (SD)	Rohrabacher
Coble	Jones (GA)	Ros-Lehtinen
Coleman (MO)	Jones (NC)	Rostenkowski
Combest	Jontz	Roth
Condit	Kanjorski	Roukema
Cooper	Kaptur	Rowland (GA)
Costello	Kasich	Roybal
Coughlin	Kolbe	Russo
Courter	Kolter	Saiki
Cox	Kyl	Sangmeister
Craig	Lagomarsino	Sarpalius
Crane	Lancaster	Saxton
Dannemeyer	Lantos	Schaefer
Darden	Laughlin	Schiff
Davis	Leach (IA)	Schneider
de la Garza	Leath (TX)	Schuette
DeLay	Lent	Schulze
Derrick	Lewis (CA)	Sensenbrenner
DeWine	Lewis (FL)	Shaw
Dickinson	Lightfoot	Shays
Dingell	Lipinski	Shumway
Donnelly	Livingston	Shuster
Dornan (CA)	Lloyd	Sisisky
Douglas	Long	Skeen
Downey	Lowery (CA)	Skelton
Dreier	Machtley	Slattery
Duncan	Madigan	Slaughter (VA)
Durbin	Manton	Smith (FL)
Dwyer	Martin (IL)	Smith (IA)
Dyson	Martin (NY)	Smith (NE)
Early	Martinez	Smith (TX)
Eckart	Mavroules	Smith, Denny (OR)
Edwards (OK)	Mazzoli	
Emerson	McCandless	Smith, Robert (NH)
English	McCollum	
Erdreich	McCrery	Smith, Robert (OR)
Espy	McCurdy	
Fascell	McDade	Snowe
Fawell	McEwen	Solomon
Fields	McMillan (NC)	Spence
Fish	Meyers	Spratt
Frenzel	Michel	Stallings
Frost	Miller (OH)	Stangeland
Gallegly	Miller (WA)	Stearns
Gallo	Moakley	Stenholm
Gaydos	Molinari	Stump
Sundquist	Traficant	Weber
Tallon	Traxler	Weldon
Tanner	Upton	Whittaker
Tauzin	Valentine	Whitten
Taylor	Vander Jagt	Wilson
Thomas (CA)	Volkmer	Wyden
Thomas (GA)	Vucanovich	Wylie
Thomas (WY)	Walker	Yatron
Torres	Walsh	Young (AK)
Torricelli	Watkins	Young (FL)

NAYS—123

Ackerman	Hertel	Pelosi
Anderson	Hoagland	Penny
Atkins	Hoyer	Perkins
AuCoin	Hughes	Price
Beilenson	Jacobs	Rahall
Berman	Johnston	Rangel
Boggs	Kastenmeier	Rose
Bonior	Kennedy	Sabo
Boucher	Kennelly	Savage
Boxer	Kildee	Sawyer
Campbell (CA)	Kleczka	Scheuer
Cardin	Kostmayer	Schroeder
Carper	LaFalce	Schumer
Clay	Lehman (FL)	Serrano
Coleman (TX)	Levin (MI)	Sharp
Collins	Levine (CA)	Sikorski
Conte	Lewis (GA)	Skaggs
Conyers	Lowey (NY)	Slaughter (NY)
Coyne	Luken, Thomas	Smith (NJ)
Dellums	Markey	Solarz
Dicks	McCloskey	Staggers
Dixon	McDermott	Stark
Dorgan (ND)	McHugh	Stokes
Dymally	McMillen (MD)	Studds
Edwards (CA)	McNulty	Swift
Engel	Mfume	Synar
Evans	Miller (CA)	Tauke
Fazio	Mineta	Towns
Feighan	Mink	Udall
Flake	Mollohan	Unsoeld
Foglietta	Moody	Vento
Ford (TN)	Morella	Visclosky
Gejdenson	Nagle	Walgren
Gephardt	Neal (MA)	Washington
Glickman	Oberstar	Waxman
Gonzalez	Obey	Weiss
Gray	Owens (NY)	Wheat
Green	Owens (UT)	Williams
Hamilton	Panetta	Wise
Hawkins	Payne (NJ)	Wolpe
Hayes (IL)	Pease	Yates

NOT VOTING—18

Alexander	Ford (MI)	McGrath
Brennan	Frank	Morrison (CT)
Bustamante	Hunter	Ridge
Crockett	Lehman (CA)	Rowland (CT)
DeFazio	Marlenee	Smith (VT)
Flippo	Matsui	Wolf

□ 1332

Messrs. ROSE, McDERMOTT, HOYER, McMILLEN of Maryland, OWENS of Utah, MOODY, WALGREN, and JACOBS changed their vote from "yea" to "nay."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GEKAS. Mr. Speaker, may I ask if the next order of business is the appointment of conferees?

The SPEAKER. The gentleman from Pennsylvania is correct.

Mr. GEKAS. For the crime bill?

The SPEAKER. The next order of business is the appointment of conferees on H.R. 5269, the Comprehensive Crime Control Act.

The SPEAKER. The Chair appoints the following conferees on H.R. 5269, Comprehensive Crime Control Act, and without objection, reserves the authority to appoint additional conferees and specify the provisions in the additional appointments:

From the Committee on the Judiciary, for consideration of the House bill (except title XXIII and sections 2805 and 2806), and the Senate amendment (except sections 1312(f), 1902, 1913, and 3711), and modifications committed to conference: Messrs. BROOKS, KASTENMEIER, EDWARDS of California, CONYERS, HUGHES, SCHUMER, MCCOLLUM, GEKAS, HYDE, and DEWINE.

From the Committee on Agriculture, for consideration of title XXIX of the Senate amendment, and modifications committed to conference: Messrs. HATCHER, PANETTA, GLICKMAN, STAGGERS, ESPY, SARPALIUS, EMERSON, LEWIS of Florida, HERGER, and COLEMAN of Missouri.

From the Committee on Armed Services, for consideration of section 102 of the House bill, and modifications committed to conference: Mr. ASPIN, Mrs. SCHROEDER, and Messrs. MONTGOMERY, DICKINSON, and MARTIN of New York.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title XXI and section 2716 of the House bill, and titles V and XXX of the Senate amendment, and modifications committed to conference: Messrs. GONZALEZ, ANNUNZIO, HUBBARD, BARNARD, and LAFALCE, Ms. Oakar, and Messrs. WYLIE, DREIER of California, PARRIS, and HILER.

From the Committee on Education and Labor, for consideration of titles VI and XXVI and sections 1103, 1401-02, 1406, 2012, 2014, and 2216 of the House bill, and titles XIII and XXVIII and sections 731, 803, and 901-03 of the Senate amendment, and modifications committed to conference: Messrs. FORD of Michigan, MURPHY, KILDEE, and MARTINEZ, Mrs. LOWEY of New York, Mrs. UNSOELD, and Messrs. GOODLING, COLEMAN of Missouri, PETRI, and TAUKE.

From the Committee on Energy and Commerce, for consideration of titles III, VIII, IX through XI, XXX, and XXXI and sections 403, 405, 406, 409, 410, 2012, 2203, 2205, 2208, 2213, 2214, 2217, 2222, and 2224 of the House bill, and titles VIII, XXXVI and XXXVIII and sections 1904(b), 1905(b), 1906-08, 2101, 2203, 2407, 3704(1), 3905, 3909-10, and 3913-14 of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, SCHEUER, WAXMAN, MARKEY, SWIFT, WYDEN, LENT, MADIGAN, WHITTAKER, and RINALDO.

Except that, Mr. BLILEY is appointed in lieu of Mr. RINALDO for consideration of title XXX of the House bill.

From the Committee on Foreign Affairs, for consideration of titles X and XXVII of the House bill, and modifications committed to conference: Messrs. FASCELL, SMITH of Florida, FEIGHAN, ACKERMAN, JOHNSTON of Florida, MCCLOSKEY, BROOMFIELD, and GILMAN, Mrs. MEYERS of Kansas, and Mr. GOSS.

From the Committee on Government Operations, for consideration of section 102 of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS, and Messrs. ENGLISH, HORTON, and MCCANDLESS.

From the Committee on Merchant Marine and Fisheries, for consideration of sections 2803 and 2804 of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, TAUZIN, DAVIS, and YOUNG of Alaska.

From the Committee on Public Works and Transportation, for consideration of section 2802 of the House bill, and modifications committed to conference: Messrs. ANDERSON, ROE, OBERSTAR, HAMMERSCHMIDT, and CLINGER.

From the Committee on Ways and Means, for consideration of title XXIII and sections 2805 and 2806 of the House bill, and section 1312(f), 1902, 1913, 3711 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, and ARCHER.

From the Committee on Ways and Means, for consideration of sections 402, 501, 805, 1911, 2902, 3311, and 4351 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, RANGEL, STARK, JACOBS, FLIPPO, ARCHER, VANDER JAGT, CRANE, and FRENZEL.

There was no objection.

CONFERENCE REPORT ON H.R. 5803, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991

Mr. MURTHA. Mr. Speaker, pursuant to House Resolution 529, I call up the conference report on the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

□ 1340

The Clerk read the title of the bill.

The SPEAKER pro tempore. (Mr. MCNULTY). Pursuant to House Resolution 529, the conference report is considered as having been read.

(For conference report—see proceedings of the House on Wednesday, October 24, 1990.)

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

GENERAL LEAVE

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report on H.R. 5803.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, we bring before the House the Defense Appropriations Conference Report for fiscal year 1991. The bill shows restraint. It is a lean bill. Budget authority provided for the defense in this bill represents the sixth consecutive year of annual decline in spending for the Defense Department.

The conference report recommends a total of $268.1 billion in new budget authority. The figure is $19.1 billion below the budget request, and $14.4 billion below the fiscal year 1990 level.

These spending levels do not include the funds for the nuclear weapons program of the Department of Energy, for military construction. Those activities are funded in separate appropriations bills.

Included in this bill is appropriation authority to transfer $1 billion from the defense gift account to cover the costs incurred in Operation Desert Shield.

I want to compliment the members on the subcommittee who did such an outstanding job on the conference agreement. Of course, the gentleman from Pennsylvania [Mr. MCDADE] has done a great job in crafting this legislation. The gentleman from Washington [Mr. DICKS] has done yeoman work on strategic programs and the gentleman from Florida [Mr. YOUNG] for his efforts on bone marrow research.

I want to thank Senator INOUYE and Senator STEVENS, the chairman and ranking minority of the Senate Defense Appropriations Subcommittee, for their hard and industrious work in the conference.

I believe that the House position was adequately protected in all important programs.

I will be brief in my remarks today. Details on the committee's recommendations are in the conference report.

The bill before you is a lean bill. It is an austere bill.

The budget authority provided for defense in this bill represents the sixth consecutive annual decline in spending for defense when measured in constant dollars.

This bill shows restraint while still providing funding for vital defense programs.

The recommended funding level in this bill complies with the allocation for defense approved in the recent economic summit and budget resolution, and the 302(b) allocation for defense.

IMPACT OF HISTORIC CHANGES

Mr. Chairman, when the conference report for the fiscal year 1990 was on the floor of the House last year, the Berlin Wall was still standing. The dramatic events in Europe and the decline of the economy of the Soviet Union have had two major impacts on the decisions we made in developing this legislation.

First, we were able to make significant reductions in the requested level of spending. As I mentioned, this legislation represents a reduction of $19.2 billion from the budget request.

Second, we were able to make significant reductions in the force structure of the Defense Department.

The troop level funded in this bill is 78,600 below the fiscal year 1990 level.

Just in the military personnel and operation and maintenance accounts, the 5-year savings from this lower troop level is $15 billion.

WELFARE OF THE TROOPS

The conferees have taken a number of steps to assure that the health, welfare, and morale of the troops stays at the high levels of recent years. Some important recommendations in that area are: Agreement to provide a 4.1-percent pay raise for our men and women in uniform; and increased funding by $585 million above the budget request for the CHAMPUS Program to help pay for the increased medical costs facing our servicemen, their families, and military retirees.

Although the conference report recommends a reduced force structure, the Defense Department will be able to attain this force structure through attrition. Thus, those who want to remain in the All Volunteer Force will be able to do so. This is an important contribution to maintaining morale.

It is vitally important that the important improvements of the past decade, in the morale and quality of our servicemen and servicewomen be maintained.

OPERATION AND MAINTENANCE

Mr. Speaker, the conferees funded all essential programs within the important operations and maintenance account. However, we were able to make important savings in this account.

In the area of burdensharing, certain countries will increase their contribution to cover the costs borne by the stationing of American forces abroad in their defense. This will

result in savings of $1 billion in fiscal year 1991.

This bill makes significant savings in the area of cutting back on excess inventories of the Defense Department. Projected savings from this action are estimated at almost $1 billion.

CHANGES IN PROCUREMENT AND R&D

Mr. Speaker, the conferees scaled back a number of programs in procurement and research and development. These reductions reflect budgetary realities, adjustments made by authorizing committees, changing defense priorities, and reduced force structure.

Some of the major reductions were made in the following programs: B-2 bomber, SDI, SSN-21 submarine, DDG-51 destroyer, F-16 tactical fighter aircraft, and the FA-18 tactical fighter aircraft.

However, the conferees also made a number of additions in programs to reflect the new defense requirement of a rapidly changing world. These additions included increases for sealift, equipment for the National Guard and Reserve, V-22 Osprey aircraft, and an antitactical ballistic missile.

The last program I mentioned, the antitactical ballistic missile, is in R&D and will prove valuable for threats posed by countries like Iraq.

The conferees have provided a total of $950 million in fiscal year 1991 for the entire Milstar Satellite and Terminal Program, excluding Navy terminals. By restructuring the program, the lifecycle costs will be reduced by 30 percent and $250 million can be saved in fiscal year 1991 alone. In addition, the conferees directed certain changes which will emphasize tactical rather than strategic uses.

The changed funding priorities in these various programs in procurement and research and development will bring a scaled back force structure, a more mobile and deployable force structure, a well-trained, well-equipped force structure, and a Defense Department ready to meet the challenges of the 1990's.

CONCLUSION

The conferees recommendations shift the priorities of America's defense from one of concentration on central Europe to one of enhanced capability to carry out missions in regional conflicts when the vital national security interests of the United States are threatened.

As we have seen in the past decade—in Libya, Grenada, Panama, Liberia, and the Persian Gulf—it is these types of conflicts that are most likely to occur and thus we must tailor our defense capabilities to conduct these missions.

Mr. Speaker, this conference report complies with the defense spending total set in the economic summit and subsequently adopted by the Congress in the budget resolution.

This conference report funds and addresses the items which were important to House Members.

This conference report provides continued peace through continued strength.

I recommended support for this important legislation.

Mr. Speaker, I want to comment specifically about the gentleman from Florida [Mr. YOUNG]. As we consider the conference report on the defense appropriations bill, I want to bring to the attention of the Members that funds are included for an important medical program that saves lives.

Every day in our Nation, this program, established through the tireless efforts of the gentleman from Florida [Mr. YOUNG], saves the life of a child or adult with leukemia or any one of more than 60 fatal blood disorders. They are receiving a second chance for life through a bone marrow transplant from an unrelated donor, a stranger willing to give the living gift of life.

The key to finding matched donors for these patients, who otherwise would die without a transplant, is a computerized registry of volunteers who have had their marrow typed with the hope that some day they will be able to offer the living gift of life to another person in need of life.

Six years ago the gentleman from Florida [Mr. YOUNG] learned of the need for a national marrow donor registry to find donors for the more than 9,000 Americans who could be cured of fatal blood diseases with a marrow transplant. He learned of this need the hard way by watching a beautiful little 10-year-old girl die of leukemia. She died because she had no matched sibling to donate marrow and because an unrelated donor could not be found.

One day after visiting this little girl, knowing there was no hope for her recovery, BILL's wife challenged him to do something so children and adults with these diseases no longer had to die. As is typical of my colleague on the Committee on Appropriations, he returned to Washington intent on solving the problem.

His first inquiry went to the National Institutes of Health where he was told that unrelated marrow transplantation was too experimental and that NIH was not interested in his idea of a computerized registry of marrow donors. In his search for a home for the national marrow donor registry, he questioned extensively Department of Defense health care officials when they appeared before our subcommittees.

From his line of questioning, he found great interest within the Navy which had begun a small marrow transplantation research program. With $2.1 million appropriated to the Navy at his request by our subcommittee, the National Marrow Donor Program was given birth in early 1987. The program reached its first milestone on December 16, 1987 when the first transplant was completed with a donor from the national registry.

BILL YOUNG continued to diligently support the program with an additional $2.5 million in funding for the Navy in 1988 and through his second subcommittee assignment, the Health and Human Services Subcommittee, he supplemented that with $1.5 million directing that these funds be used to transfer oversight of the program to the National Institutes of Health.

The Navy, however, would still maintain a major role in the recruitment of donors and in the research and development of revolutionary new techniques to more efficiently, expedientl, and accurately type marrow donors.

Full scale oversight of the national registry began in 1989 with the appropriation of an additional $5.7 million by the Health Subcommittee for administration of the program. It was in early 1989, that a second major milestone was reached when the 100th unrelated marrow transplant was completed.

In less than 2 years, the donor rolls of the program, were growing and the number of successful matches were increasing, but BILL YOUNG still believed more could be done. He repeatedly told anyone who would listen that the national registry had to grow larger and faster to find matched donors for every patient in need of a transplant. The biggest impediment to its growth, he pointed out, was the $75 per person cost of the blood test for volunteers.

The burden of raising funds for these tests was falling upon the shoulders of the families of the sick and dying. BILL YOUNG told me that needed to be changed. He said the Federal Government should assume a major responsibility for this national effort.

Throughout the appropriations hearing cycle on the 1991 Defense and Health and Human Services appropriations bills, he never missed an opportunity to build the record and his case for Federal support for the tissue typing of volunteers. On a number of occasions, he approached me for help in finding an appropriate legislative vehicle to provide these funds.

The first opportunity presented itself in April of this year when the House considered a dire emergency supplemental appropriations bill. He made his case to the full Appropriations Committee where he was today by the chairman to withhold his amendment until a later time. BILL YOUNG agreed to withdraw it, but continued to build support until April 3, when his amendment to provide $6 million to the Navy for recruitment and testing of volunteers was unani-

mously approved by the House. This amendment would enable the National Marrow Donor Program to add more then 50,000 volunteers to the donor rolls.

These supplemental funds were also to be used by Navy medical personnel to undertake a parallel effort initiated in February by BILL through a letter to President Bush. His suggestion to the Commander in Chief was that the Navy should oversee the development and implementation of a nationwide donor recruitment program for military and civilian members of the Department of Defense and their families. This is a program that has been strongly endorsed by our subcommittee and is one which will provide access to a large number of volunteers. It will also help to significantly increase minority representation within the registry, currently one of the greatest problems facing the national program.

After long delays, the supplemental appropriations bill was signed into law May 25 by President Bush and before the ink was even dry on this legislation, BILL YOUNG was working to find a source for additional donor recruitment and testing funds. With Iraq's invasion of Kuwait in August, BILL brought to the committee's attention the serious threat Iraq's arsenal of chemical and biological weapons posed to our troops deployed in Saudi Arabia. Information he developed during our hearings revealed that the active chemical agents in these weapons attack the bone marrow of exposed troops. Marrow transplantation is the preferred treatment for this condition.

With this new information, the committee included $9 million in the supplemental appropriation bill for Operation Desert Shield. These funds, again, were designated for use by the National Marrow Donor Program for the recruitment and testing of volunteers and for the Navy's ongoing research and development programs.

The committee's support, through these two supplemental appropriations bills, has enabled the Navy to expedite its development of new marrow typing technology that will make it available for widescale use years ahead of schedule. In fact, the Navy research is progressing at a rate that will bring this technology on line sometime next year.

In addition to undertaking a one man campaign to educate our colleagues in Congress about the National Marrow Donor Program and the miraculous hope provided by the process of marrow transplantation, BILL YOUNG also took the lead in developing a major pilot donor recruitment project in his Eighth Congressional District of Florida, which encompasses much of the Tampa Bay area. Through a district wide mailing, he informed his constituents of the opportunities available to sign up to save a life by volunteering for the National Marrow Donor Program. He also personally contacted more than 20 corporations, businesses, and organizations in his district asking him to join him in this donor recruitment campaign by educating their employees about its importance and by being willing to cover the costs of the testing fees.

The Home Shopping Network, a major corporate employer in his district, launched the corporate campaign in May as 450 employees turned out to be tested and join the registry. The campaign throughout BILL'S district continues as more then 5,000 people in his district alone have agreed to become potential marrow donors.

Through these types of efforts, the National Marrow Donor Program, whose goal just 1 year ago was to have a typed registry of 100,000 by year's end, now has 215,000 volunteers with more than 2 months left in the year. Just this week, BILL organized and supported a donor recruitment drive here on Capitol Hill that added 1,000 donors to the registry. More than 700 donors were put on a waiting list for a followup drive next week when additional laboratory capacity becomes available.

Clearly BILL is driven by his desire to save lives through the expansion and improvement of the national program. Nothing better illustrates his commitment and dedication than his work of last week in which he simultaneously worked on two appropriations conference committees, meeting on opposite sides of the same Capitol hallway. His work resulted in the appropriation of an additional $16 million for the National Marrow Donor Program through the National Institutes of Health, including $8 million for the testing and recruitment of volunteers, and the appropriation of $6 million in this legislation to enable the Navy to begin full-scale, nationwide recruitment within the defense community.

So impressed were the chairman and ranking Republican members of the Senate Subcommittee on Defense with BILL'S commitment, dedication, and leadership in the cause, that early last Saturday morning they recommended to me and the conferees that in this bill we direct the Navy to name its program the C.W. BILL YOUNG Marrow Donor Recruitment and Research Program. I readily agreed, as did all of the conferees because there can be no greater honor or recognition of BILL YOUNG'S efforts.

Still, he refuses to take satisfaction in knowing that his efforts of the past 5 years have brought to life many who would have had no hope of finding a donor without the national registry. In the last 2 weeks he organized a meeting with the Congressional Black Caucus to solicit their advice and help in reaching the black community. He continues to work with the Congressional Hispanic Caucus to find inroads into the Hispanic community. And he is assisting a number of our colleagues in organizing drives in their home districts.

Mr. Speaker, unrestrained enthusiasm and interest in the National Marrow Donor Program is spreading throughout our Nation and I want to make my colleagues aware of just where the spark for this program came from. BILL speaks with great pride about the program and whenever he has the opportunity he identifies as heros many of his colleagues, Navy personnel, and the dedicated staff and board of directors of the National Marrow Donor Program.

In my mind, there is one hero who stands head and shoulders above all others in this effort. That hero is our colleague BILL YOUNG for whom so many owe their hopes, their futures, and their lives.

This program has been expanded tremendously through the work of the gentleman from Florida [Mr. YOUNG]. I just want to compliment Mr. YOUNG and his wife, as well as Admiral Zumwalt and all the other people who have been so involved in this program.

I also want to mention the gentleman from Oregon [Mr. AUCOIN] and the gentleman from Louisiana [Mr. LIVINGSTON], who have done so much to establish a red team effort involved in the SDI Program.

Mr. Speaker, I reserve the balance of my time.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this conference report. I wish to begin my remarks by expressing the deep gratitude that all Members feel to the distinguished gentleman from Pennsylvania [Mr. MURTHA] for the way in which he conducted all of the hearings and represented the House positions in the conference, permitting all sides to be heard, and reaching decisions on over 1,000 amendments which were in disagreement. The gentleman did a superb job, as did all of the subcommittee and our professional staff. We worked long hours for months to get to this point.

Mr. Speaker, the bill is supported by the administration. The President and the Secretary of Defense have indicated their agreement with it. It is within the budget resolution that was adopted by the Congress. The final keynote for me, Mr. Speaker, is Members on both sides of the aisle, conferees on both sides of the aisle, on both sides of the Capitol, unanimously support this bill. I know of no substantial opposition to it, and I do not hesitate to urge its adoption.

Mr. Speaker, I rise in strong support of this conference report and urge its adoption.

Mr. Speaker, we bring before you today a defense appropriations conference report which is the result of many weeks and months of work, on both sides of the Capitol. When we went to conference last Thursday, on this, the largest and perhaps most contentious of all appropriations bills, the conferees were confronted with well over a thousand items in disagreement between the two Chambers.

Yet here we are today, having worked out these problems, having produced a sound bill which is supported by the administration, and which enjoys the unanimous support of the conferees on both sides of the aisle here in the House.

There are few committees in the House, Mr. Speaker, which feature the diversity we have on defense appropriations but again, here we are with a work product supported by all our members.

This speaks well of the bill, certainly, and also to the contributions and commitment of all our conferees. And its a tribute to the leadership and skill of the conference chairman, the senior Senator from Hawaii, Senator INOUYE; our chairman, my friend and colleague from Pennsylvania, JACK MURTHA; and my colleague from Alaska, Senator STEVENS.

I've been on a lot of conference committees in my 28 years here. Mr. Speaker, but none has been handled with the dispatch and businesslike manner of this one. My thanks and congratulations to all involved.

Regarding the conference agreement—in light of the rather spirited discussion last evening about this year's defense bill, I don't want to reopen all those arguments.

For the benefit of the membership, though, I'd note a few benchmarks.

This conference report is within the funding allocations for defense set in the budget agreement. As a result, this bill comes in $19 billion less than the President's budget, and $14 billion less than last year's appropriation.

We adhere to the major strategic funding decisions—on SDI, the B-2, MX, and ICBM modernization—reached in the authorization conference, decisions ratified by the House last night when we passed the Armed Services conference report.

The Secretary of Defense has made it clear that excessive troop cuts, of 80,000 or more, would draw a veto. In this bill, we reduce active duty troop strength by 78,600. While this amount is double that amount originally proposed by the DOD, we have been advised that this level is acceptable and manageable.

This year, and in years ahead, we will be making rather sizable troop reductions. No question about that. But we need to keep a quality force.

We've done our best to see that this happens. In this bill we provide for a pay raise of 4.1 percent for both military and DOD civilians. Quality of life programs, always a high priority for our subcommittee, have fared well. For example, we've fully funded all medical programs for our service members and their families, and in fact we've added nearly $600 million—585—over the budget for the CHAMPUS Health Care Program.

With respect to weapons procurement and research, we've tracked the authorization conference on important conventional programs such as the C-17 airlifter, the M-1 tank, and the V-22 osprey.

And once again, our conference has identified sealift as a key requirement. We recommend the addition of $900 million over the budget for the construction and acquisition of sealift vessels.

Mr. Speaker, there's no way I can summarize all the decisions taken in the conference agreement. Suffice it to say that in this most difficult year, truly a watershed and transition period for our Nation and its security policies, we've done our best to bring forth a bill which meets the very real challenges confronting us today while setting the stage for a dramatic shift in our future military posture.

This year we begin the long and difficult process of shaping a smaller leaner military. A force that retains the quality edge over any potential adversary. And a military posture that's less oriented on Europe and instead is shifting to meet the more unpredictable threats facing us in the 1990's.

In my view, this conference report is a good start in these directions. We've written a sound product, on a bipartisan basis. I recommend that we give this our strong approval.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I support the work of the conferees on the fiscal year 1991 Defense appropriations bill with the exceptions I have noted on the conference report.

The results of this conference signal a real turning point in the direction of our national security and defense needs.

Just 5 years ago, our minority leader BOB MICHEL, the chairman and ranking member of the Defense Appropriations Subcommittee, JOHN MURTHA and JOE MCDADE, and I accompanied Speaker Tip O'Neill on the first official delegation to meet the new Soviet General Secretary Mikhail Gorbachev. East-West relations were at an all time low. Yet, Gorbachev gave us indications that he wanted to make things better.

Five years later, some might argue that things really are not better, but they sure are different. The Berlin Wall is down, the Soviet Empire is in the throes of dissolution, Europe and Asia continue to imperil our standard of living, and we have troops in harm's way in the Saudi desert. Defense budgets have been declining at a steady negative 2 percent in real terms for the last 5 fiscal years, and this year's drop is 5 percent.

In the last 5 years we have reduced the defense bill by more than $60 billion in 1991 dollars. The defense bill this year was initially proposed to be $325 billion, so we are nearly $40 billion lower than that number. Yet, with all that said, the Defense Subcommittee, following the direction of this House, has fashioned an appropriation that recognizes the changes in the world and the new threats that face our troops.

This bill makes force structure cuts of about 78,000 active duty personnel; funds readiness at slightly reduced levels; keeps our R&D funds at adequate levels; while directing focus on regional conflicts; and the bill slows procurement, while beefing up our Reserve and National Guard forces by $2 billion above the request.

More than that, the bill contains a number of allocations of defense money to other vital national priorities: $300 million for our Coast Guard; $1 billion for drug interdiction, including $28 million for the operation of aerostats previously operated by the Customs Service; and $200 million for economic adjustment assistance as well as $1.1 billion for environmental cleanup at military bases.

These are the adjustments to the realities of the easing of East-West tensions. There will be more to come—$170 billion of reductions over the next 5 years and possibly more.

The Appropriations Committee will continue to look hard into the defense budget for programs that are focused on the old cold war scenarios. We will be refocusing our dollars on the new threats and challenges with an eye to obtaining further savings. This bill is a good start in meeting such a challenge.

So, I want to recognize the thoughtful work that Chairman MURTHA, the ranking member, JOE MCDADE and the other managers on the part of the House who fashioned this conference report and urge that we support it.

Mr. MURTHA. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. I thank the gentleman for yielding to me.

Mr. Speaker, I would like to enter into a brief colloquy with the gentleman from Pennsylvania [Mr. MURTHA].

The Department of Defense would like five logistic centers in the Air Force and all Army depots, to enter into competition among themselves and with the private sector for portions of their depot maintenance workloads.

The House and Senate Committees on Armed Services believe this would adversely affect the civilian work force at those depots. Consequently, conference report on the Defense Authorization Act for fiscal year 1991 prohibited such competition, but would have allowed a 1-year pilot program on one air logistic center and one Army depot.

Unfortunately, however, the conference report on the Defense Appropria-

tion Act contains a provision that would allow the Department of Defense to compete depot maintenance workload among the Army, Air Force depots, and the private sector.

We believe that the reduction in defense contracts would foster low bidding that would jeopardize the core of the workload at the Army depots and the Air Force logistic centers.

Mr. Speaker, I just wanted to call this to the attention of the gentleman from Pennsylvania [Mr. MURTHA] and ask what his opinion is and what he thought about it.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. RAY. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. I appreciate the gentleman bringing this to my attention. I have talked to the gentleman from Pennsylvania [Mr. MCDADE] about it, and we are certainly going to work with the gentleman and try to work this out.

Mr. RAY. Mr. Speaker, this language, if I might just say, deals with competition between Department of Defense depot maintenance activities and private firms. The language in section 8072 seems to make this an open-ended competition. However, we have included language in section 922 of the DOD authorization bill which mandates a 1-year test program at one Army depot and one Air Force logistic center.

Mr. Speaker, I just wanted to put that in the RECORD and ask if the gentleman from Pennsylvania [Mr. MURTHA] would keep the House Committee on Armed Services abreast on this.

Mr. MURTHA. Absolutely.

Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

MR. SPRATT. Mr. Speaker, I rise to engage in a brief colloquy with the chairman of the Subcommittee on Defense Appropriations on the status of the system known as the SRAM-T.

In the defense authorization conference report which we passed last night, the statement of managers limited research and development funding for the SRAM-T to $35 million for fiscal year 1991.

I know the chairman of the committee shares my concerns about this particular program. I think it would be appropriate if in light of the fact that the authorization bill itself does not fully fund this program, and in fact we only put up $35 million out of $118 million requested, that we put a caveat in the RECORD of the passage of this conference report to the effect that the Air Force should be cautious about spending the money, because I think a challenge to the appropriation and the authorization will be forthcoming next year.

In fact, I would like to urge that we urge the Air Force to seriously consider this program, the SRAM-T, as a candidate for reprogramming when the bill for Desert Shield comes over in a supplemental appropriations request.

Mr. MURTHA. Will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, I appreciate the advice of the gentleman from South Carolina [Mr. SPRATT]. As the gentleman knows, the House side tried to reduce the level, and we agree that it could be reduced, but the Senate prevailed in this particular case.

□ 1350

Mr. MCDADE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MURTHA. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I want to compliment the chairman and the ranking member and our staff. We have one of the outstanding staffs on the Hill on the Defense Appropriation Subcommittee. They deserve a great deal of credit for the hundreds and hundreds of hours they put in in helping to fashion this bill and making significant recommendations for cuts in this budget, and they do a good job at it.

I think that this is an excellent bill; it is well balanced. I think it is worthy of the support of the House of Representatives, and I urge my colleagues to support it.

Mr. MURTHA. Mr. Speaker, I want to say to the House that NORM DICKS did a brilliant job in working on the strategic programs this year, and the country is indebted to him for his work.

Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I appreciate the gentleman yielding the time, and I want to compliment the gentleman from Pennsylvania, our chairman, and the other gentleman from Pennsylvania, the ranking Republican on the subcommittee. I think we have an excellent subcommittee, and again this year the subcommittee brings to the House an excellent appropriation bill. I rise in strong support of it and I urge my colleagues to give it strong support today.

I appreciate the work of the staff and the Members on both sides of the aisle in fashioning this product.

Mr. MURTHA. Mr. Speaker, I thank the gentleman from Oregon for his brilliant work to establish a red team on the SDI Program and also the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. RAY. Mr. Speaker, I want to express my concern about two Senate environmental provisions that are contained in the conference report on H.R. 5803, the Defense Appropriations Act for Fiscal Year 1991.

The first provision would require the Air Force to hold harmless and indemnify the State of New Hampshire, its political subdivisions and lenders, agents and employees against all legal actions and costs associated with contamination resulting from past activities at Pease Air Force Base. Pease Air Force Base has been slated for closure in fiscal year 1991, and there have been strong political pressures to transfer this land for other purposes as soon as possible. The problem is that Pease is also a DOD national priority list site that must be cleaned up in accordance with the Superfund law. Superfund requirements are very stringent and clear in the case of transferring contaminated Federal land. The intent of the law is to make sure that contaminated or potentially contaminated land is not transferred before all the health risks are known and addressed.

According to the proponents of this provision, adhering to the spirit, if not the letter, of the law at Pease would work an economic hardship on the community. Efforts are underway to try to carve out uncontaminated portions of the NPL site and to lease other portions that would be subject to long-term remediation. This provision would ensure that the risks entailed in these expedited actions would remain clearly upon the Government and the Air Force.

The provision would also require the Air Force to indemnify parties using and developing parcels that have been transferred or leased if the parties were subsequently included in EPA litigation against the Air Force over the pace and responsiveness of cleanup efforts. But the primary objective of this provision is to satisfy the concerns of lenders so that they would be willing to provide the loans for development and use of these land parcels.

I can appreciate the concerns of the State of New Hampshire and the communities involved about Superfund requirements. I empathize with the communities about the amount of time and the regulatory red tape required to perform a Superfund cleanup. And I am fully aware of the time and difficulty involved in changing a major environmental law like Superfund.

But it is the law, and efforts to modify or circumvent its spirit and letter should be carefully reviewed by the committees of jurisdiction. This provision, if enacted, would have the effect of exposing the Department of Defense to untold liability that would otherwise be the responsibility of the party to whom the land is transferred. The committee with jurisdiction over the Superfund law [CERCLA], as well as those with oversight of the agency bearing liability exposure, ought to be given the chance to review such major changes in the law. Moreover, this provision will become a precedent that other States will seek to apply at other DOD base closure NPL sites.

I also have a problem with the approach being proposed. It seems to me that there is no environmental problem too complicated or

difficult that cannot be solved by the Government indemnifying someone. In my opinion, indemnification should be a remedy of last resort, not the path of least resistance.

I also have some concerns about carving out parts of DOD NPL sites for transfer or leasing prior to the completion of the cleanup. If a DOD facility is an NPL site, it stands to reason that significant contamination problems exist and extreme care should be taken in the transfer or lease of such property. An error in this regard is not just a matter of money, it could threaten human health.

The second Senate provision requires the Secretary of Defense to establish a Legacy Resource Management Program. The purpose of the program is to assist DOD in identifying and managing selected, significant, biological, geophysical, and cultural resources on DOD-controlled land within the United States.

Although this program may have some merit, the provision is ambiguous as presently drafted. No hearings were held on this program and the Armed Services Committee was not aware of it before its inclusion in the Senate bill. It seems certain to have a significant impact of DOD operation and the management of military installations, but there is no way to determine the true nature and extent of this impact at this time. In addition, it is difficult to say if these new requirements are consistent with existing environmental and conservation requirements. Finally, the Senate report language imposes requirements associated with base closure that may not be consistent with the new congressional base closure process.

If this provision were offered as freestanding legislation in the House, I suspect that it would be referred to several different committees having jurisdiction over DOD, environmental, and conservation matters. Clearly, the committees of jurisdiction should have the opportunity to hold hearings and consider the program within the context of existing statutory requirements.

Both of these provisions represent permanent and significant legislation in an appropriation act. No hearings were held on either of them by the Appropriations Committee or committees of jurisdiction. Both provisions involve major policy issues with significant implications on future defense activities and budgets.

For these reasons, if the rule for consideration of this conference report would have provided for it, I would have raised points of order against these provisions.

I remain seriously concerned about the enactment of major Senate legislation as part of the Defense appropriations bill and will work closely with the Rules Committee in the future to see that similar provisions are subject to points of order under the rules of the House.

In the meantime, I intend to do my utmost to minimize the potential adverse impact of the two Senate provisions upon the environmental activities of the Department of Defense through careful oversight and consideration of appropriate legislative remedies.

Mr. MILLER of Ohio. Mr. Speaker, I rise in support of the conference report for the fiscal year 1991 Department of Defense appropriations bill.

This legislation comes at a time of historic change. We have witnessed the realignment of the European political order. Just as the Berlin wall has been torn down, so have the premises upon which post-World War II U.S. policy has been based. At the same time, we have been remined by events in the Middle East that the United States will continue to face challenges and that some things do not change: The United States remains a world power with global interests. Defending those interests and deterring threats to our Nation will continue to require capable Armed Forces.

The conference report reflects a responsible balance between beginning the process of coming to grips with the changes in the international environment and maintaining a strong defense.

As a member of the Defense Appropriations Subcommittee, I am proud of the fact that for 6 straight years we have brought to the House a bill that is smaller than the year before. Over this period, Defense spending has declined by 23 percent.

I also want to bring to the attention of the House a provision in the conference report requiring the Department of Defense to provide a detailed accounting to Congress of the contributions from foreign nations for Operation Desert Shield. While this information will be helpful, I am concerned that more will be required of Congress and the administration to ensure that these nations live up to commitments made to the United States.

To date we have received a little more than $750 million from other nations in support of Operation Desert Shield. This is but a small portion of the $9 billion that has been pledged.

The importance of these contributions should not be underestimated. Americans are being asked to serve thousands of miles from home in one of the most hostile environments imaginable for a cause that benefits other nations just as much as the United States. The American people will be unwilling to sustain this commitment if other nations are perceived as shirking from their share of the responsibility.

In my view, empty pledges of financial support do a great disservice to this common cause. We need more than lipservice from our allies. We are placing countless American lives on the line by our presence in the Persian Gulf. Standing up to aggression is an international responsibility which the United States should not be expected to bear alone. The American people will not accept it nor should Congress. We must do whatever is necessary to ensure that those nations who stand to benefit from the United States presence in Saudi Arabia live up to their commitments—both financially and militarily.

Given the changes in Europe, events in the Middle East and a uncertain budget, it has been a long and difficult year. I commend Chairman MURTHA, JOE MCDADE, and the other members of the Defense Appropriations Subcommittee for working so well together. I urge my colleagues to support this conference report.

Mr. GEPHARDT. Mr. Speaker, I would like to commend the chairman for his work on the conference report for H.R. 5308, Defense appropriations for fiscal year 1991. This conference agreement provides $50 million in grant authority for the Defense Advanced Research Projects Agency [DARPA] to fund precompetitive technology development through existing U.S. consortiums in support of the critical manufacturing technology industries. It also provides funds for the cooperative development and demonstration of advanced manufacturing technologies through the Department of Defense MANTECH Program.

Although not subject to a specific matching requirement in this agreement, it is my understanding that the industrial participants in these efforts will contribute a fair share as well.

The National Center for Manufacturing Sciences [NCMS] is the major consortium participating in both the DARPA and MANTECH cooperative initiatives. Their progress and contribution in the identification, development and transfer of critical technologies has formed the basis for the authorities provided.

The implementation of their programs in a timely manner will send a signal to industry on the importance and urgency of these efforts. I look forward to working with the chairman to express the intent of Congress with regard to this issue, ensuring that the DARPA and MANTECH funds for the NCMS provided in this agreement be obligated and outlayed by February 1, 1991.

Mr. RAY. Mr. Speaker, Due to some miscommunication and the difficult circumstances we find ourselves in trying to wrap up business, I was not able to testify on this rule last evening.

If I had testified, I would have opposed the waiver of points of order on three Senate amendments to the conference report on H.R. 5803, the Defense Appropriations Act for fiscal year 1991.

The first provision would allow the Secretary of Defense to compete workload at Army and Air Force depot maintenance activities with the private sector. This is a matter of great concern to those having depots in their districts and for the past 3 years, the Defense Authorization Act has contained restrictions on such competition.

A second provision requires the indemnification by the Air Force of the State of New Hampshire, its political subdivisions, lenders, employees, and agents for any environmental damages and legal costs associated with the expedited transfer and leasing of land at Pease Air Force Base. Pease Air Force Base is slated for closure in 1991 and the future use of land is complicated by the fact there is substantial environmental contamination on the base. In fact, the contamination is severe enough to have the base listed on the Environmental Protection Agency's national priority list. I have serious concerns whether the expedited transfer and leasing of parcels of land at Pease is consistent with the Superfund law and am uncomfortable with the Air Force assuming the entire risk for potential problems arising from these unprecedented transactions.

The third provision established a major DOD environmental and conservation initiative called the Legacy Resource Management Program. No hearings were held on this provision and I am not sure exactly what impact it will

have on DOD operation and management of military installations, but I fear that it will be substantial. In addition, it is difficult to say if these new requirements are consistent with existing environmental and conservation laws.

All of these Senate provisions represent permanent and significant legislation in an appropriation act and two are not germane to the House bill. If the rule would have allowed for it, I would have raised points of order against these Senate provisions.

I remain seriously concerned about the enactment of major Senate legislation on the Defense appropriations bill and look forward to working closely with the Rules Committee next year to see that similar provisions will be subject to points of order under the rules of the House.

Mr. FAZIO. Mr. Speaker, I rise to express my support for the conference report on H.R. 5803 and to compliment Chairman MURTHA and the members of the subcommittee for their hard work and diligence in bringing this bill to the floor. In addition, I think the staff of the subcommittee deserves a great deal of credit for the many hours of meetings and fine tuning that were needed to put this bill together.

I also applaud Chairman MURTHA and the members of the subcommittee, most notably Mr. YOUNG of Florida, for their efforts in providing $6 million for the Navy for the purposes of bone marrow testing.

The Nation's bone marrow registry has grown significantly in recent years. For example, in 1988, only 18,000 potential bone marrow donors were listed on the registry. Today, that figure has grown to over 215,000 potential donors. The $6 million included in this bill for the Navy's bone marrow program will enable the Department of Defense to test its personnel. This funding and the subsequent testing of servicemen and servicewomen, coupled with an additional $8 million provided in the Labor-Health and Human Service-Education appropriations bill for the National Marrow Donor Program, will continue to expand the number and ethnic diversity of potential bone marrow donors.

Mr. Speaker, I also would like to thank the chairman and the members of the subcommittee for their assistance in addressing the many complicated problems associated with the cleanup of Hamilton Air Force Base, California. The conference report funds the continuation of the cleanup of this facility, and is a major step forward toward an ultimate resolution to this matter.

I do have one reservation, Mr. Speaker about a particular provision of this conference report related to current contracting out procedures in the Department of Defense [DOD]. Section 8072 of the conference report permit DOD to contract with the private sector for overhaul and repair work currently performed at DOD depot maintenance installations. Unlike current contracting out procedures, which are conducted within the parameters of OMB Circular A-76, section 8072 would open up a Pandora's box in the contracting out area. There would be virtually no guidelines governing public-private competition for workload at DOD's depot maintenance facilities.

My greatest concern is that without a fair and equitable contracting out process, workload could be shifted from DOD installations to the private sector without any guarantee that such a shift will be cost effective or an improvement over keeping the activities at DOD facilities. Consequently, DOD could lose many of its current inhouse capabilities and expertise in the depot maintenance area that are essential to keeping the military up and running.

In the conference report on the fiscal year 1991 Defense authorization bill, there is a provision which I think approaches the issue of achieving efficiencies within depot maintenance activities on a more reasonable basis. The authorization provision, section 922 of the conference report on H.R. 4739, establishes a pilot program for competition of depot maintenance workload in the Army and Air Force. This 1-year pilot program will be limited to one Air Force logistics center and one Army depot, and would also include a Navy aviation depot. Section 922 would permit each of the designated installations to complete against each other, as well as private sector contractors, for workload. However, the workload to be competed for in the pilot program would be chosen from the functions already contracted out to the private sector. In this way, DOD can compare the abilities of the depots of the Army, Navy and Air Force with each other and with the private sector. In addition, this pilot program could be a prelude to the broader DOD initiative to consolidate and streamline all of its depot maintenance activities. However, in the pilot program, no current workload of any of the depots would be reduced.

Mr. Speaker, I believe DOD would be wise to adhere to section 922 of the authorization bill, which should take precedence over section 8072 of the appropriations bill. We need to ensure fairness and equity in the way the Government contracts for commercial services. More importantly, we must ensure that Government employees, who may provide better and more cost-effective services in a given situation, are not forsaken simply by DOD's adherence to a privatization doctrine.

Aside from this one provision, Mr. Speaker, I believe this conference report is a fair and balanced bill. I urge my colleagues to support it.

Mr. HUGHES. Mr. Speaker, I rise in strong opposition to H.R. 5803, the Defense appropriations conference report. I believe a fairer title, heeding the warnings of the late President Eisenhower, would be the military-industrial complex welfare bill of 1990.

President Eisenhower, in his farewell speech, warned us against the two great failings in this bill. On the one hand, he warned about the powerful influence of the Defense Establishment on our Government, and on the other he stated, "We cannot mortgage the material assets of our grandchildren without risking the loss of their political and spiritual heritage."

We lost sight of those warnings during the last decade. We gave in to dire predictions of Soviet military dominance, even as the Soviet economy was falling to its knees, and mortgaged our children's future. I would not be so angry if it were not for the fact that the money that we spent on defense was squandered.

Instead of lining America's defenses, our tax dollars lined contractors' and lobbyists' pockets. For example, we are now the proud owners of 100 B-1 bombers at $100 million a plane. After spending over $10 billion, the Air Force now realizes they will never work as promised, even though we will spent $76 million this year alone making safety modifications that would not be needed if we had tested the plane properly to begin with.

Having learned from that lesson, this spending bill proposes something at least eight times better. Instead of buying a $100 million bomber without testing it, we are buying one for over $800 million a plane without testing it. What's more, we're buying it from a company that has repeatedly defrauded the Government, and, according to the Air Force's own investigation, is mismanaging the project and cannot even offer a reliable cost estimate.

The conference agreement waives restrictions in the original House appropriation for buying the SRAM-T missile, a tactical nuclear weapon for NATO forces, which the House authorization canceled. In addition, this bill funds a new, problem-plagued SRAM-II missile for the B-1, to replace the SRAM-A, which isn't safe.

Let's get this straight, we're buying the SRAM-II, which doesn't work, to replace the SRAM-A, which we already bought but isn't safe. Both of these missiles were designed for the B-1, which doesn't work, so that we can pay to protect Western European countries from a Warsaw Pact military alliance, which doesn't exist. To make doubly sure that the democratization of Eastern Europe and German unification aren't an elaborate, Communist plot to convince us to lower our guard, we're also buying the SRAM-T. Of course, keep in mind that we are buying the SRAM-II, which doesn't work, for the B-1, which doesn't work either, at the same time that we're buying the B-2 to replace the B-1.

Mr. Speaker, let's be glad the cold war is over, because this bill sounds more like a comedy routine than a defense policy. This bill does not cut one, not one, cold war weapons system. Instead of setting priorities and choosing the weapons we will need most in the next century, this bill continues to waste our defense dollars by buying a little of everything. As a result, we end up with inefficient production, the cost per weapon goes up, and we get the least bang for the buck.

Mr. Speaker, this House passed a sensible defense authorization bill—maybe the only one this decade. It cut defense spending by $5 billion more than this bill, it cut funding for the SRAM-T, it had a fly-before-you-buy approach to funding the advanced tactical fighter, and it was a responsible bill. The appropriations conference report before us has enough pork in it to be the farm bill. This bill isn't about national defense, it's a welfare program for arms dealers and their lobbyists. We don't need it, we shouldn't tolerate it, and I urge my colleagues to vote against it.

Mr. RAY. Mr. Speaker, I would like to take just a moment more to elucidate the points I was making in my colloquy with Mr. MURTHA on section 8072 of the Defense Appropriations Act for Fiscal Year 1991. This section allows the Secretary of Defense to compete portions of Army and Air Force depot mainte-

nance workload among the depots and with the private sector.

This provision could significantly impact the depot maintenance workload and civilian work force at the following Army and Air Force activities:

Anniston Army Depot, Anniston, AL.
Corpus Christi Army Depot, Corpus Christi, TX.
Crane Army Ammunition Plant, Crane, IN.
Fort Wingate Army Depot, Gallup, NM.
Letterkenny Army Depot, Letterkenny, PA.
Lexington-Blue Grass Army Depot, Lexington, KY.
McAlester Army Ammunition Plant, McAlester, OK.
New Cumberland Army Depot, Harrisburg, PA.
Pueblo Army Depot, Pueblo, CO.
Red River Army Depot, Texarkana, TX.
Rock Island Arsenal, Rock Island, IL.
Sacramento Army Depot, Sacramento, CA.
Savanna Army Depot, Savanna, IL.
Seneca Army Depot, Romulus, NY.
Sharpe Army Depot, Stockton, CA.
Sierra Army Depot, Herlong, CA.
Tobyhanna Army Depot, Tobyhanna, PA.
Tooele Army Depot, Tooele, UT.
Umatilla Army Depot, Umatilla, OR.
Watervliet Arsenal, Watervliet, NY.
Ogden Air Logistics Center, Hill Air Force Base, UT.
Oklahoma City Air Logistics Center, Tinker Air Force Base, OK.
Sacramento Air Logistics Center, McClellan Air Force Base, CA.
San Antonio Air Logistics Center, Kelly Air Force Base, TX.
Warner Robins Air Logistics Center, Robins Air Force Base, GA.

Section 8072, however, conflicts with section 922 of the Defense Authorization Act for Fiscal Year 1991 which restricts such competition to a pilot program involving one Army depot and one Air Force logistics center.

The House and Senate Armed Services Committees adopted this more restrictive approach to workload competition because of concerns that unrestricted competition could jeopardize the viability of the Army and Air Force depot systems and the skilled civilian work force. This increased competition would be coming at a time in which the Army and Air Force depots are facing a great deal of uncertainty due to major cuts in the defense budget. For example, proposed consolidations and workload reduction resulting from force structure reductions, will result in Army and Air Force civilian work force reductions at maintenance installations by about 45,000 and 8,000, respectively, between fiscal years 1991 and 1994.

The Army and Air Force depot maintenance activities are an indispensable factor in maintaining the readiness and mobilization capabilities of our military forces. Recent events in the Persian Gulf underscore the critical importance of a viable in-house depot maintenance infrastructure to support the early deployment and sustainment of military units and equipment to meet global contingencies. Increased dependence upon the private sector as a result of unrestricted competition could permanently erode the ability of Army and Air Force depot maintenance activities to respond effectively to such contingencies in the future.

The House Armed Services Committee was also concerned that differences between systems at Army and Air Force maintenance facilities make meaningful comparisons among these facilities and the private sector difficult. General Accounting Office reviews of recent Navy depot maintenance competitions point out the difficulties of such comparison.

Another problem complicating meaningful comparisons with the private sector is the fact that funds for modernizing industrial plant equipment at Army and Air Force depot maintenance activities has not been adequate to keep pace with improvements in manufacturing and maintenance processes. Increased contracting out of workload will reduce the incentive to provide sufficient funding to allow in-house depot maintenance activities to develop state-of-the-art industrial capabilities. Such modernization is essential to the future viability of the Army and Air Force depot systems.

The House Armed Services Committee also found that a substantial amount of Army and Air Force depot maintenance workload is already contracted out. For example, about 35 percent of workload at the air logistics centers is currently being contracted out.

Nevertheless, the Armed Services Committees are willing to support a limited pilot program to explore the effects of increased workload competition at Army and Air Force depot maintenance activities. The critical aspect of this approach is to ensure that the pace and scope of increased competition does not jeopardize the integrity of the Army and Air Force depot system and provides a level playing field for such comparisons.

Mr. SHARP. Mr. Speaker, I rise in support of this conference report to amend and extend the Defense Production Act. The Defense Production Act is important. Originally passed in 1950, it was modified in 1975 in the Energy Policy and Conservation Act to include energy programs and projects. This authority allows the Department of Energy to assist in obtaining supplies of critical materials and essential equipment for projects which will maximize domestic energy supplies. The Congress restated this intent in 1980 in the Energy Security Act.

In 1982, when President Reagan vetoed a bill providing authority for emergency oil price and allocation controls, he argued that the Defense Production Act gave him enough authority to deal with energy emergencies. Let us not allow this authority to lapse.

The DPA authority has only been used occasionally to deal with energy related problems but, when used, it has proved invaluable. For example, it was used to ensure that equipment bound for the giant Prudhoe Bay oil fields was available in a timely manner so that it could be shipped in by water during the brief summer thaw, avoiding a year's delay in development of that important resource.

The DPA authority could be used to assure the availability of key replacement parts for essential equipment related to oil refining or transportation. The DPA could be used to assist in repairing a refinery that experienced a fire or other capacity-reducing accident if that refinery provided critical petroleum products such as military jet fuel or distillate to heat homes. Since refining capacity is currently very tight this could be important in the coming weeks.

If this authority is allowed to lapse, it will mean that the Nation will be less prepared to meet energy supply needs. In view of the events since August in the Middle East, the possibility of energy shortages is a distinct possibility during the next several months. As with most legislation, it has compromises with which I do not agree, but on the balance it is an acceptable compromise. More importantly, the authority in the DPA may be essential in the next several months. Congress and the President cannot afford to allow it to lapse.

Without the DPA, the President can only act to set material and equipment priorities by using less effective authority in the Selective Service Act. That act has problems because it contains the type of one-House veto that was ruled unconstitutional in the Chada decision. It is possible that the one-House veto provision would make the entire relevant section of that act unconstitutional.

This is not the time to debate nuances of how to respond to energy emergencies. We may have one before the debate can be properly framed. This is the time to ensure that the President has sufficient authority. The Defense Production Act contains such authority. I urge the House to pass it and the President to sign it into law.

Mr. MURTHA. Mr. Speaker, I have no requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

EXPRESSION OF APPRECIATION TO MEMBERS OF DEFENSE APPROPRIATION SUBCOMMITTEE

(Mr. MURTHA asked and was given permission to address the House for 1 minute.)

Mr. MURTHA. Mr. Speaker, since our bill is done, I want to continue to express my appreciation to the members on the subcommittee on which I serve.

I see the dean of the House sitting here, the gentleman from Mississippi [Mr. WHITTEN], and of course he is an invaluable Member of this House of Representatives. His service in the House goes back to 1941 and on defense matters since 1943. During that time nobody has contributed more to the careful spending of the Government money than JAMIE WHITTEN. In this particular case he watches our bill very carefully, being a member of our subcommittee, and has done a brilliant job in helping us to fashion a bill that actually reduces the amount of money and changes the direction of the Defense Department.

Since the Berlin Wall came down, and it is so important for all of us to

understand this, the strategic and nuclear programs have been reduced substantially, and the manpower and conventional systems have been increased substantially so the direction has been changed.

Every year we look at the bill depending on the world situation. I see the gentleman from Florida [Mr. BENNETT] sitting in the front row. He is probably the foremost expert in the world on seapower in the country today, and we all believe that seapower is so important to this great country. We added $900 million in this bill for seapower, and of course we take his lead from the authorization committee in taking care of seapower.

So I appreciate the work of all of the Members.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank my chairman for yielding. Since we have just this short period of time, I would like our colleagues to know that this subcommittee's product that we have just passed here in the House was done very efficiently and very effectively dealing with thousands, literally thousands of line items. I want to say that every member of the subcommittee and every member of the conference from both sides of the aisle were not only permitted to be part of the decisions, but were encouraged to be part of the decisions by the strong leadership of JACK MURTHA and JOE MCDADE. This is truly a good-government, bipartisan piece of legislation. There was never any attempt to keep any Member from the decision-making process.

I think that bodes very well for this House, and I think it is a good example for all of us to follow. I just want to say how proud I am of JACK MURTHA and JOE MCDADE for their strong leadership, and excellent members that we serve with on this subcommittee.

Mr. MURTHA. I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Mississippi, the dean of the House.

Mr. WHITTEN. Mr. Speaker, may I say I appreciate the reference to my service. But I want to compliment the gentleman from Pennsylvania and the members of the subcommittee, and to point out how valuable it is to the country for the committee to work out their bill in committee as against doing it on the floor. I think it is a perfect illustration of people understanding each other, getting the job done, and I think American people appreciate it.

Mr. MURTHA. I thank the gentleman.

CONFERENCE REPORT ON H.R. 486, DEFENSE PRODUCTION ACT AMENDMENTS OF 1990

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 526 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 526

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that I yield myself such time as I may use.

Mr. Speaker, House Resolution 526 is the rule providing for consideration of the conference report on H.R. 486, the Defense Production Act Amendment of 1990.

The rule waives all points of order against the conference report and its consideration, and it also provides that the conference report shall be considered as having been read when called up for consideration. These two provisions will enable the House to consider this conference report expeditiously.

Mr. Speaker, the conference report on H.R. 486, for which the Rules Committee has recommended this rule, is legislation designed to preserve and strengthen the capacity of our domestic industries to produce the materials and services needed for our national defense. It extends the authorization of the Defense Production Act for 3 years, and it gives the President specific authority to act to decrease the dependency of our industrial base on foreign sources. It also provides for the securing of fair and equal treatment for U.S. financial institutions operating overseas.

Mr. Speaker, the Defense Production Act is an important part of our national security strategy. Its authorization expired on October 20, so the legislation before us is urgently needed, most immediately to ensure that our troops in the Persian Gulf receive the equipment and supplies they need to sustain Operation Desert Shield. I urge the adoption of House Resolution 526, so that the House can proceed to consideration of H.R. 486.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Massachusetts, the able chairman of the House Rules Committee, has explained the provisions of the rule.

However, I would like to bring to the attention of the Members of the House a letter written by Secretary of Defense Cheney to the Speaker yesterday. Copies first became available about the time of the Rules Committee meeting.

Secretary Cheney notes that this conference report contains a number of provisions that are not acceptable and which the administration opposes. He concludes by stating that he would prefer to obtain a simple extension of Defense Production Act authorities. Our former colleague, Dick Cheney, is doing an outstanding job as Secretary of Defense, and I think this House should make every effort to give him the tools he feels he needs to do the job properly.

This rule will permit consideration of the conference report on the Defense Production Act amendments with the customary 1 hour of debate. I will support this rule so that the House can move promptly to debate the merits of this conference report.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The PRESIDENT pro tempore (Mr. MCNULTY). Without objection, the previous question is ordered on the resolution.

There is no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

INTRODUCTION OF LEGISLATION RELATED TO NATIONAL SECURITY AND ENERGY SECURITY

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, yesterday I put in the House a concurrent resolution related to national security and energy security.

Mr. Speaker, I would just like the House to know that if anyone would like to cosponsor the resolution, basically what the resolution says is that we need a national energy policy, that we have become very, very oil dependent and energy dependent as a nation.

In 1980, for example, we were 25-percent oil dependent. Today we are 50-percent dependent, and by the year 2000 we will be 60-percent oil dependent.

The fact is that we have in this country a number of natural resources that we are not tapping, that we are not exploring, resources such as shale

oil, coal, solar energy, et cetera, and we really feel that it is in our national interest which really relates to the bill that will soon be coming up.

It is in our national interest to, in fact, have a national energy policy. As a matter of fact, the law demands that, the law that we passed in 1977. I recall 1977 was my first year in Congress, and I recall that that was one of the first bills that meant something to me, that we mandated that the President address Congress and dictate to us his national energy policy.

Every President since then has given us information related to it, but it has been extraordinarily sparse in the last decade or so.

The Energy Department that we work very closely with, in fact, in the next bill, we are going to see that we have added some energy security issues related to the Defense Production act that will reform the act, and we think they are important reforms.

The Energy Department has indicated they might like to, and we think they should, come up with a policy before the end of this year, that it is in our national interest to do that. The President has said that he will tell the American people of a national energy policy in April or so.

We think we cannot wait that long. I do not know if the American people realize, beyond the consumption of oil, that we will be in a form of blackout on the east and west coasts because of the electrical shortages if we do not address this problem.

We have in the Ohio-Pennsylvania area alone 270 years of coal that certainly can contribute to our energy needs. We need to develop more areas such as clean-coal technology so that we can keep those mines open and we can be forward looking, not backward looking, and take the sulfur out of that coal which we can do. It is the same kind of coal that they have in Eastern Europe, China, and so on, and perhaps sell our technology to other areas.

We are working on that. We have had 13 hearings in the Economic Stabilization Subcommittee, and I have been pleased that the gentleman from California [Mr. SHUMWAY] has been our minority leader and has always attempted to be present along with Democrats and Republicans on both sides during those energy hearings, and I think the record of those hearings will show that where there is a will there is a way, and we can do it. The American way is to make us less dependent on foreign sources for our energy needs.

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Ms. OAKAR. I am happy to yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Speaker, I hear the gentlewoman from Ohio calling for a national energy policy. I can only second the remarks she has made.

She mentioned 1977 when we both came to Congress together and the efforts that we made to have that administration and each successive administration enunciate a national energy policy. We were successful, as the gentlewoman will recall, in the later part of the 1970's in finally passing through this Congress the National Synthetic Fuels Corporation.

At that time we had commitments and a great deal of interest from foreign governments, from the private sector, and from our Government toward developing a national synthetic fuels policy in this country. That was to use our domestic resources in order to help free our reliance upon expensive and unreliable foreign oil.

Unfortunately after President Jimmy Carter signed that bill into law in 1980, we had the advent of Reaganomics. We had a Republican philosophy come in at that time that much rather would have left the development of a national energy policy to private market forces.

So under Reaganomics, we saw the withdrawal of a Federal commitment toward development of a national energy policy and more of a reliance upon the private market forces.

At that time with capital being as high as it was, the private market forces could not invest more of their capital into the development of Synthetic Fuels Corporation or any other type of national energy policy. So it was, let the record show, this Congress, or rather the Congress of 1980, along with Jimmy Carter, our President at that time, who signed into law the first major effort toward development of a national energy policy based upon our own domestic resources.

It was the Republican administration and the successive 8 years thereafter that dismantled that Synthetic Fuels Corporation.

I will agree there were problems with the management of the Board, mismanagement, rather, and other inherent problems with that Synthetic Fuels Corporation, but, nevertheless, it was a start toward the development of a national energy policy.

As the gentlewoman has said, now, this administration plans on formulating such, and I look forward to President Bush in the start of the next Congress enunciating to the country and to this Congress his ideas for a national energy policy.

Ms. OAKAR. Mr. Speaker, I call up the conference report on the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 526, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House on Wednesday, October 24, 1990.)

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Defense Production Act [DPA] has become more familiar since the Iraqi invasion of Kuwait. During such emergencies, under the authority of DPA, Defense contracts go to the head of the line so that U.S. Forces in the field can be sustained in combat or threatened combat. During peacetime, the production base to respond to these emergencies must be maintained and modernized, and the materials products, and services that allow accelerated production must be assured. That is what DPA is all about.

This statute has been the cornerstone of industrial preparedness since 1950. The last time the statute was substantively amended was in 1984, and considerable modernization of its structure and content was needed. My Subcommittee on Economic Stabilization has worked for 4 years on revitalizing the DPA to meet wartime and peacetime needs of the Defense industrial base.

The resulting bill, H.R. 486, passed the Banking Committee on a bipartisan vote of 39 to 8, and passed the House by an overwhelming and also bipartisan vote of 295 to 119.

Conference with the Senate was convened on Monday, October 22, and agreed in less than 15 minutes that the combined bill which is embodied in this conference report should be approved, especially in light of the situation in the Middle East. House Resolution 526, approved by the Rules Committee last evening, brings the conference report before the House, and I thank the Rules Committee for its prompt consideration of this matter.

The approval of this conference report and the continuation and revitalization of the Defense Production Act are of the utmost urgency. American forces are in the field. Examples of the weapons and equipment being accelerated under the authorities of this act are as follows:

Chemical protective clothing and decontamination kits.

Patriot air defense missiles and missile containers.

Armored personnel carriers.

Night vision goggles.

Electronic countermeasure pods.

Battle-hardened computers.

In addition, the House modernized DPA by giving the President explicit authority to set items aside for domestic production if he finds they are critical for national security. Testimony and a series of prestigious reports make clear that such authority is vital to give our Government the legal tools to counter growing dependencies, growing dependency of this country on foreign sources for defense production.

The House also contributed a modernization of the links between the availability of energy and Defense production.

The conference also provided for modernization of the Defense information system, so that foreign dependencies can be identified and surge production during mobilization can be effectively managed. This was based upon the strong recommendation of the General Accounting Office, which reported in 1989, that the present information system was ad hoc and could not perform these functions.

The bill also contains a title strengthening efforts to secure fair and equal treatment for U.S. financial institutions.

The bill contained in the conference report has the support of business and labor groups, and I urge that the House approve the report at this time.

□ 1410

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume, and rise in strong support of the conference report on H.R. 486. The Defense Production Act is an important part of our defense industrial base policy. The act has been continuously reauthorized since 1950, and allows the President to use financial incentives to expand domestic capacity of critical defense materials and its components. The act also allows the President to require priority performance of contracts which have been determined to be necessary for the national defense. As the distinguished chairman of the subcommittee mentioned, the gentlewoman from Ohio [Ms. OAKAR], the Defense Production Act is being used right now to aid United States operations in Saudi Arabia.

I have received from the Department of Commerce a summation of four areas where the act is being used to procure items necessary to our troops in the Middle East which I will insert at the end of my remarks. If we fail to reauthorize the Defense Production Act by this year, civilian contractors will be subject to civil liabilities from other contractors because they did what their Government asked them to do by putting defense contracts first in priority.

Moreover, if we fail to reauthorize the Defense Production Act, we raise the possibility of putting our troops at risk because they will not have the proper equipment they need. To not reauthorize, before the Congress adjourns, I believe would be a disservice to our men and women in uniform over in Saudi Arabia.

The conference report will reauthorize the Defense Production Act until September 30, 1993. However, for the first time since 1984 the Committee on Banking, Finance and Urban Affairs has adopted some very significant amendments to the Defense Production Act in this reauthorization.

I would like to review some of those if I may, to reemphasize them. The heart of this conference report addresses the issue of erosion of our defense industrial base. It is an issue that should be of serious concern to the Congress, both the Senate and the House Committees on Banking having held numerous hearings on this issue. These are just a few of the facts to be revealed from these hearings. Nearly two-thirds of the Department of Defense suppliers have left the defense business since 1982. The committee has heard that 80,000 defense firms have left this industry. With respect to foreign dependence, the Department of Defense joined with strategic commanders, reviewed 13 major frontline weapons systems and found foreign dependencies in 8 of these, and severe problems in 6.

Finally, former Secretary of Defense Frank Carlucci stated that when we become dependent on foreign suppliers in one area, we run enormous risks of falling behind and becoming dependent in other areas as well.

The conference report addresses directly the problems of foreign dependence. Let me add that this is not intended to be foreign bashing, rather as I stated in my own views of the report on the House-passed version of H.R. 486, this bill is a positive step to boost the industrial domestic base in productive measure to keep critical supply sources available and under domestic ownership. I think we have worked out a very good compromise, Mr. Speaker.

I would like to thank the chairman of the Committee on Banking, Finance and Urban Affairs for his leadership in helping bring this issue to the floor today. I would also commend the gentlewoman from Ohio [Ms. OAKAR] who has worked especially hard and tirelessly to work on this important bill, and to bring a compromise to the floor that I think we can all support.

Mr. Speaker, I reserve the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. TORRES], a distinguished member of the committee who has really played a very important role in this whole area.

Mr. TORRES. Mr. Speaker, I rise in strong support of the conference report on H.R. 486, the Defense Production Act Amendments. This legislation is critical to maintaining and enhancing our Nation's defense industrial base and mobilization capability. We have reached a sound compromise with the Senate on the provisions and have produced a strong bill that my colleagues should support.

An important element of this conference report is that it gives explicit authority to set aside for domestic production parts, components, and systems and are determined to be critical to the national security. We must begin to reduce the growing dependency of the United States on foreign sources of critical defense items and materials.

Furthermore, with our troops involved in the Middle East, this legislation is vital to providing them with necessary materials such as chemical protective clothing, patriot air defense missiles, and armored personnel carriers.

□ 1420

So I want to commend the gentlewoman from Ohio [Ms. OAKAR] who is the chairman of the subcommittee, for her leadership and her hard work on this bill.

I would also like to commend the minority representative on the subcommittee, the gentleman from Ohio [Mr. WYLIE] for his excellent work.

There have been extensive deliberations on this legislation which have led to this strong product. Again, I want to urge my colleagues in every aspect to adopt this conference report. It is critical. It is critical for this country. It is critical for its defense, and its industrial base.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to mention another very important new provision which will become law upon the signing of this legislation which was in the jurisdiction of the House Banking Committee. It is referred to in here as title IV, which came from the Senate, but on which we receded to the Senate provision.

It involves fair trade in financial services. This section directs the Secretary of the Treasury to make a determination, based on the most recent national treatment study if other countries are not granting U.S. financial service companies national treatment. The Secretary does not have to make this determination if it would be contrary to our national economic interests; but once the Secretary has made the determination, banking and securities regulators may deny applications from firms of that other country, but the Secretary of the Treasury must be consulted when taking this kind of action.

I like to think that this provision is a little like walking softly and carrying a big stick.

I support our continuing GATT negotiations to open up trade markets, but at the very least if this cannot be accomplished then we ought to reserve the right to ourselves not to accord national treatment to those countries which discriminate against us with reference to foreign trade.

So I thought, Mr. Speaker, it was appropriate to mention that section which is, as I say, a Banking Committee section. I do think the Senate added a good provision there. I support it, and I wanted to make reference to it.

Ms. OAKAR. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. NEAL], a Member who has attended practically every hearing and has made this one of his major interests. He is a wonderful member of the subcommittee and I wanted especially to pay tribute to his conscientiousness and his contribution to this bill.

Mr. NEAL of Masschusetts. Mr. Speaker, I rise in support of the conference report.

I want to thank the committee chairman, the gentleman from Texas [Mr. GONZALEZ] for the kindness he demonstrated in naming me a conferee in my freshman term.

I also want to acknowledge the good work of the gentlewoman from Ohio [Ms. OAKAR] who I think has distinguished herself with her dedication to this purpose.

The gentleman from Ohio [Mr. WYLIE] has been more than kind to me since I have been on the Banking Committee as well, and I want to acknowledge that.

We have witnessed the sure but steady erosion of America's industrial position across the globe and I think this legislation goes a long way toward addressing that issue. It provides the necessary flexibility for the President to make a determination of what our priorities ought to be and insuring that those who are participating in Operation Desert Shield and other American initiatives have the necessary equipment and parts to make sure that not only is American security protected, but just as importantly that our world position is not compromised.

We tend to look at the end product of defense as being a weapons system or a tank or something of that sort. I think we tend to forget the enormous complexity of the issue as it is assembled.

In this particular instance, I think that this legislation, the Defense Production Act, goes a long way toward specifically addressing America's needs.

It is ironic that as we address this issue on the floor of the House today that the one component of Operation Desert Shield that is remarkably successful at this juncture is the inability of Saddam Hussein to produce the parts that are necessary to keep his war machine productive.

I think as we are engaged in that initiative far from American shores, I think that we want to note the irony on this particular occasion.

I also believe that the complexity of this issue, despite the fact that it will expire in 1993, the complexity of this issue is going to have to be continued to be addressed over the many years in Congress. I think there are a host of issues that arose that we did not have the time to speak specifically to, but nonetheless they are equally important.

This legislation, however, in and of itself, goes a long way toward meeting the future needs of this subcommittee.

It has been one of the most refreshing experiences I think I have had as a new Member of Congress to be able to participate directly, and that could not happen without the tolerance of the chairman of that subcommittee. The gentlewoman from Ohio [Ms. OAKAR] has been more than kind to me since I have been a Member, so I want once again to thank her for her kindness.

Mr. Speaker, I hope this legislation will generate very little controversy, because frankly, I do not think it should.

Ms. OAKAR. Mr. Speaker, I thank the gentleman for his kind remarks.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI], another very distinguished Member and a fine contributor to the work of this subcommittee.

Mr. KANJORSKI. Mr. Speaker, as we close down the curtain on the 101st Congress, second session, it has been a distinct pleasure to have had the opportunity to serve on the subcommittee which the gentlewoman from Ohio chairs. Although some of us who are on the Banking, Finance and Urban Affairs Committee have not had the most pleasing 2 years of our lives because of the S&L disaster and other problems, the one light of our life has been the effective operation of this very important subcommittee.

I think we have seen the example of what courageous leadership of a subcommittee in this Congress can do. We have had that outstanding leadership from the gentlewoman from Ohio [Ms. OAKAR]. We have had great participation in a bipolitical way from the other side of the aisle. We appreciate that, and now we come to the culmination today of what I think is an outstanding bill that not only addresses the immediate needs for the American defense posture of the future, but is the light that will shine to cause us to re-evaluate the future needs of America vis-a-vis the confrontation that has ceased to exist between the East and the West and the significant change for American preparedness in a defense posture.

Mr. Speaker, I want to compliment the charming gentlewoman from Ohio and the ranking member, the gentleman from Ohio, for a job well done.

I join my colleague, the gentleman from Massachusetts [Mr. NEAL] in saying that the 2 years' experience we have had has been more than pleasurable. Indeed, it has been an honor to serve on the subcommittee and see this outstanding work in these final hours come to good fruition. So my extended congratulations to the gentlewoman from Ohio [Ms. OAKAR] and the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, since we have a little time here, again I would like to yield myself such time as I may consume.

I would like to note other provisions in this bill which I regard as important.

I would acknowledge the kind remarks of the gentleman from Pennsylvania and say what a pleasure it has been to work with him on this subject in the Banking Committee as well.

Mr. Speaker, a top to bottom review of our defense industrial base in the form of a study is authorized by this bill. The President is also authorized to use the Defense Production Act authority to assist in the maintenance of the establishment of defense domestic production of critical items and technology.

□ 1430

The bill also authorizes and urges the President to use his guarantee and loan authority under the Defense Production Act to aid small businesses.

There are also important energy provisions in this bill, and one of those which I strongly support calls upon the Energy Department to conduct a study on new or reusable sources of energy for supporting our defense industrial base. I think that this is crucial in light of events in the Middle East.

Also, as requested by the Energy Department, this bill would make it easier for the Department of Energy to hire temporary employees from the private sector to advise them during the current energy crisis.

All in all, Mr. Speaker, we have a good package here. Again I would urge a unanimous vote in favor of the conference report and reserve the balance of my time.

USE OF TITLE I AUTHORITY UNDER THE DEFENSE PRODUCTION ACT IN SUPPORT OF OPERATION DESERT SHIELD

Missile shipping containers: The military services do not have enough containers to ship tactical missiles to U.S. forces in the Mid-East. The container manufacturer is experiencing a shortage of materials needed for their fabrication. Commerce is using its Title I priorities and allocations authority under the DPA to require five suppliers to expedite deliveries of these materials.

Radio and amplifier systems for satellite communications: Expedited deliveries of special satellite communications systems, including amplifiers to boost signal strength, are required by the Air Force. Commerce is using its Title I priorities and allocations authority under the DPA to direct the manufacturer to surge production and to divert deliveries to meet Air Force requirements.

Tempested laptop computers for battlefield use: Tempested laptop computers for communications that can withstand the harsh desert environment are urgently required. Commerce is using its Title I priorities and allocations authority under the DPA to surge production of these computers and to divert deliveries to meet the most urgent military requirements.

Defense electronic countermeasure pods for Navy and USAF aircraft. Added countermeasure capability is required for both Navy and Air Force aircraft deployed to the Mid-East. There is a shortage of materials needed to make the modifications. Commerce is using its Title I priorities and allocations authority under the DPA to surge production of these materials by suppliers and to provide the pod manufacturer with additional production equipment needed to increase output.

Ms. OAKAR. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. GONZALEZ], the distinguished chairman of the full committee, who has been so supportive of the work that we have done on the subcommittee.

Mr. GONZALEZ. Mr. Speaker, I rise in strong support of the conference report on H.R. 486, the Defense Production Act.

I think the speakers before me have adequately described the salient, the more important features of this legislation. Actually this has been in the works for 2 years, maybe longer, and I wanted to congratulate the chairman of the subcommittee, the gentlewoman from Ohio [Ms. OAKAR], for her magnificent leadership, and also the gentleman from Ohio [Mr. WYLIE] who has always manifested tremendous leadership as the ranking minority member of the committee and, in this case, the subcommittee as well.

I think there is one aspect that perhaps has not been mentioned that is contained in this conference report that was appended to by the subcommittee. It has to do with the fair treatment or fair financial practices portion or what we call in financial jargon national treatment.

So that our financial institutions in their dealings on financial securities and other matters relating to procurement and the like will be treated fairly and in a manner that is in conformity with the national treatment our country gives foreign entities.

So I urge the utmost support for this very good conference report and the bill which it accompanies.

Ms. OAKAR. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO], my classmate and someone who has been very, very interested in this whole issue of defense production offset provisions related to the bill, and which are in the bill, I might add.

Mr. VENTO. Mr. Speaker, I rise in support of the conference report to H.R. 486, the Defense Production Act of 1990.

The importance of this legislation has perhaps been underscored by recent events in the Persian Gulf where today some 250,000 American soldiers are stationed. America must always be prepared before we send our men and women to risk their lives abroad. We must make sure that the essential equipment, materials, and supplies necessary to carry out our policies are in place.

The conference report recognizes that the President needs flexibility with respect to domestic sourcing of critical systems and supplies. Indeed, I would have preferred a stronger emphasis on domestic sourcing since it is really untenable to think that some critical weapons components cannot be made in America. If it's critical, it ought to be made here.

One area which I have been especially interested in is the subject of offset agreements and memoranda of understanding between the Department of Defense and foreign governments with respect to the purchase of defense related equipment. The conference report retains the sronger House-passed provisions and reaffirms support for the reporting requirements on offsets under section 309 of the act. We will never know how vulnerable we are to foreign sourcing if we don't have accurate annual reports on the subject of offsets.

Section 125 of this conference report reaffirms that it is the responsibility of the Department of Commerce to provide this essential information on an annual basis.

I congratulate the chairwoman of the Banking Subcommittee on Economic Stabilization [Ms. OAKER] for her persistence in steering this legislation through many long and difficult months and I urge the adoption of the conference report.

Mr. WYLIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume. I just wanted to make a few remarks since we have the leisure of extending our time a little bit here awaiting another conference report.

Mr. Speaker, to assist in modernizing the Defense Production Act, my colleagues have been very generous with their comments to me, but to assist us in making sure that we updated this Defense Production Act in the best manner possible, our subcommittee convened a blue-ribbon defense production advisory group and this group met at various times during a number of weeks, and it was composed of very high-ranking former military and civilian officials, one of whom was the very distinguished Assistant Secretary Costello, who was the first one who said that we had to modernize this bill on behalf of the Pentagon, before our committee, and now he is in private life. He came back as a civilian to give us his expertise.

I also want to thank the Department of Energy for their contribution. We put in all the amendments that the Department of Energy asked us to, plus we added some that our committee, through its hearings, decided were very important for our own energy security needs.

I want to thank the individuals from Government and private industry who were so generous with their time because this is really a very, very critical bill for our own national security.

I also want to thank the labor community, the variety of leaders who appeared before our committee.

It was interesting to me that the CEO's and presidents of labor unions thought enough of this issue to come personally before the committee.

We met for many consecutive weeks with this distinguished group and their expertise was invaluable in revitalizing the Defense Production Act.

In particular, the suggestions of this group were helpful in crafting provisions relating to defense information, set-asides for domestic procurement and evaluation of defense industrial base policies.

So, Mr. Speaker, we owe these public-spirited individuals our thanks for their valuable advise, and that experience is very, very important.

I also wanted to comment on the provision that the Senate put in relating to financial institutions, and so forth.

We are seeing an emerging Europe, and for those of us who had the opportunity to go to Poland and Czechoslovakia and other countries, one of the things they asked us to loan our expertise about, believe it or not, was banking. They have had, under Communist dictatorship, central banks. Of course, our own institutions want to become part of an emerging market.

So one of the provisions that the Senate wanted us to add to the overall bill—and as you know, they have different rules over there than we do—but we felt that it was important that all financial institutions and service firms receive fair treatment abroad.

We want them to have the same standards for us that we have for them.

So we felt that it was very, very important to do this.

□ 1440

One area that I thought was very important is the area of the production of chemical weapons in section

112 of the conference report. It prohibits the use of DPA authority for the production of chemical weapons, but this prohibition does not apply to the provision of material for the protection of personnel, such as protective clothing, masks, and antidotes, and we think this is an important provision, and we also have an important provision with respect to memorandums of understanding. We feel that in providing the authority to negotiate changes in MOU's that we intend for such consultations to be undertaken, if necessary, to assure availability of critical components and critical technology items essential for the execution of the national security strategy of the United States in peacetime, during graduated mobilization.

So, to supplement the legislative history I would like to share with my colleagues that we are not only attempting to protect America's industrial base so that we have the base to produce our own equipment in a time of emergency, but we have added in energy security authority so that the Defense Department, the President of the United States and others, can mobilize in a time of emergency in the most expeditious manner.

Mr. Speaker, I have no further requests for time. I simply would like to close by thanking our very invaluable staff that has put in many, many long hours on this. Both former staff members of mine and current staff members have played a very important, vital role.

Mr. ANNUNZIO. Mr. Speaker, I rise in support of the conference report on H.R. 486, the Defense Production Act, and in particular to the Fair Trade in Financial Services Act of 1990 contained in the report. While I would have preferred a much stronger fair trade in financial services portion, it is a step in the right direction.

I am not a protectionist, nor do I have any problems with foreign banks competing in the United States.

In the International Banking Act of 1978, the United States legislated a policy of unconditional national treatment. Foreign banks were essentially allowed to do what U.S. banks can do in the United States.

However, this treatment is not always returned by foreign countries. As chairman of the Financial Institutions Subcommittee, I held field hearings on just this topic last May in Chicago. At those hearings we learned that because we have been so open to foreign banks, they now control 25 percent of the banking assets in the United States. They are undercutting our banks and channeling cheap funds from their subsidized, cartel-like home markets.

We also learned that many Far Eastern countries limit the number of foreign banks which can enter and compete in their markets. Many foreign governments subsidize and assist their banks in international competition and many foreign consumers are exploited by their domestic banks.

It is clear that the United States has gotten the short end of the stick in international banking policy. We have allowed foreign banks to enter the United States and compete at will, while many foreign countries have not allowed U.S. banks to enter and compete in their markets. Our door is open while their doors remain shut.

That is why I feel that this bill does not go far enough. We must make it clear to the rest of the world that the United States will not tolerate discrimination against our banks.

The Fair Trade in Financial Services Act provides that we will allow foreign banks equal access and competitive opportunities in our markets provided that they offer similar treatment for us in their markets.

It does not automatically sanction or punish those countries that discriminate against foreign banks. It gives discretion to the Treasury Department to negotiate with, and if necessary, impose sanctions on, those countries which discriminate against our banks.

It sends the message that we are tired of overlooking unfair financial services trading practices. If that message is not received overseas, Congress will have to consider whether stronger legislation is necessary.

I urge the House to agree to the conference report on this legislation.

Mr. MARKEY. Mr. Speaker, I rise in support of the conference report on H.R. 486, the Defense Production Act Amendments of 1990. In particular, I would like to speak briefly to title IV of that act, the Fair Trade in Financial Services Act. Title IV seeks to promote national treatment for U.S. financial services firms by identifying those countries that deny U.S. firms full de facto national treatment. The principle of national treatment is critical to obtaining for our institutions nondiscriminatory treatment abroad, just as our laws and practices provide foreign firms nondiscriminatory treatment here. Unfortunately, adherence to the letter and not the spirit of the national treatment principle can result in facially equal treatment that is at odds with actual practice. And that is what this act seeks to remedy, by granting to Federal regulatory agencies such as the Securities and Exchange Commission the discretion to deny persons of nations failing to accord national treatment to U.S. firms access to our markets.

I commend the author of these provisions, my colleague Chairman RIEGLE, as well as Chairman GONZALEZ, for their leadership in this area. And I thank them for the spirit of cooperation with which they dealt with concerns that I and my fellow Energy and Commerce conferees voiced. I fully support the aims of this important legislation. I further believe that we need to develop a more comprehensive picture of global interdependence, and in particular of U.S. reliance on foreign capital to fund our Government debt and finance our industry. The study is to be conducted by the Secretary of the Treasury, in consultation with the Securities and Exchange Commission and the Federal Reserve Board, and its inclusion in the bill was an important component in gaining my support for this legislation. A sophisticated understanding of the interdependencies between the U.S. financial markets and those of other nations and of the consequences of those interdependencies is essential, in my mind, to the formulation and conduct of effective and sensible policy in this area.

This legislation comes at an interesting time. It is a period of unprecedented global linkage. The world's financial and capital markets are intertwined, with both eruptions and surges in one market being echoed serially throughout each. Many of these linkages are positive and represent an evolution toward a unified world marketplace that enhances capital formation and enlarges opportunity. Yet to the extent that such linkage signals dependency—on foreign capital to finance our Government debt, for example—we must be aware of and be prepared to deal with the consequences of such interconnections.

We are also entering a period of global economic deceleration, with the brakes being applied simultaneously throughout the world. Global linkage compounds the effects of a slowdown, further sapping strength from each interdependent market in turn. The recent troubles in Japan are illustrative. The nine month slide of stock values, the steady rise in interest rates, the decline in a real estate market once thought unidirectional, and bankers' efforts to comply with new international capital standards are likely to have significant effects on the American financial services sector and on the U.S. economy more generally. These problems in Tokyo can have profound impact here. For example, as Japanese interest rates rose in recent months, Japanese investors began to reduce their United States holdings. And as these holdings declined, so did the value of our dollar. A lower dollar overseas fuels inflationary pressure here, thus making the job of conducting an effective monetary policy much more difficult. In addition, the most recent auction of Treasury issues was lackluster at best, due in part to extremely limited interest on the part of the Japanese. This adds further upward pressure to interest rates here. Finally, the problems experienced by Japanese banks—resulting in part from the real estate and stock market slumps—now many have a substantial impact on their willingness to be, as James Grant recently noted in an article in the "American Banker," the marginal lender to the world. The result will be less capital available to United States companies whose business Japanese banks had aggressively courted in the past.

It is clearly critical that we get a grasp on the dimensions of this sort of interdependence, the consequences of such interdependence, and any policy ramifications that flow from it. Financial market activities conducted overseas by both foreigners and Americans, such as currency, futures, and stock trading, real estate investment activity, and other similar activities all have an impact on U.S. markets and our financial services sector. National treatment for our financial services companies is critical to their ability to compete as well as to the financial prowess of the United States. An indepth understanding of our global interdependence can help complete the picture drawn by the Treasury's national treatment investigations and guide our hand in striking the correct balance between aggressively securing national treatment for our firms

and deference to broader economic considerations.

I would also like to address several issues pertaining to other provisions in the bill. Section 137 of the Senate bill contained a provision which would have required the CIA and FBI to submit a report to Congress within one year and every four years thereafter on: First, whether there is credible evidence of a coordinated strategy by one or more foreign countries or companies to acquire U.S. firms involved in critical technologies, and second, whether there are industrial espionage activities directed by foreign governments against private U.S. firms aimed at obtaining commercial secrets related to critical technologies.

This provision was dropped in conference due to concerns over the appropriateness of requesting the intelligence community to address the difficult policy concerns surrounding the issue of foreign investment in the United States. I was particularly concerned that the proposed report would be seen as an authorization for an increased intelligence community role in economic espionage and counterespionage. Given the fact that Congress has had little opportunity to sort through the policy implications of affording the CIA and the FBI with an increased responsibility in these areas, I believe it would be premature to direct these agencies to begin preparing such a report at this time.

At the same time, I share the concerns of the sponsors of this provision that insufficient attention is being given by the administration to some of the larger policy questions raised by foreign acquisition of U.S. firms involved in critical technologies. I was therefore pleased that the conferees agreed that in lieu of the proposed intelligence study, the committee chairmen would ask the General Accounting Office to review matters relating to the activities of the Committee on Foreign Investment in the United States in carrying out its responsibilities under section 721 of the Defense Production Act.

Finally, the conference report also contains provisions which grant a tightly drawn and very narrowly focused waiver of 18 U.S.C. 208, the criminal conflict of interest statute. This waiver represents a substantial improvement over the provisions of the House bill, which would have granted a broad waiver of several criminal conflict of interest statutes and ethics provisions.

The conference compromise provides a temporary waiver of 18 U.S.C. 208 for up to 50 special government employees—25 of which are earmarked for the Energy Department. It requires the President to submit a written certification of the need for the waiver, it requires the agency which employs the individual to file a report on any of the individual's activities which otherwise would have violated the conflict of interest statute, and it requires the individual to vouch for the completeness and accuracy of the report. Finally, the waiver does not extend to the negotiation or execution of Government contracts.

I believe that the narrowly drawn waiver provided for in the conference language will allow DOE to obtain the services of individuals from the private sector whose special expertise may be needed in the event of an energy emergency arising from the crisis in the Middle East during the next few months, when Congress will have the opportunity to more fully review the need for such waiver authority. As the statement of the managers indicates, DOE has requested this waiver authority without providing a specific justification for it. I would fully expect the Department to provide a more detailed assessment of the need for such waiver authority next year.

Again, I would like to commend the gentleman from Texas [Mr. GONZALEZ] for his leadership in crafting the conference agreements which addressed the concerns that the gentleman from Michigan [Mr. DINGELL] and my other colleagues from the Energy and Commerce Committee had expressed. I urge my colleagues to support the conference report.

Ms. OAKAR. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

CONFERENCE REPORT ON S. 566, CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 522 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 522

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 566) to authorize a new Housing Opportunities Partnerships program to support State and local strategies for achieving more affordable housing; and to increase homeownership; and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 522 waives all points of order against the conference report to S. 566, the National Affordable Housing Act of 1990, and against its consideration. The rule further provides that the conference report is to be considered as having been read when called up for consideration.

Mr. Speaker, the National Affordable Housing Act extends and revises assisted housing programs, community development block grant programs, the Urban Development Grant Program, and FMHA's rural housing programs. It is the first major revision and expansion of the Nation's housing laws in a decade.

Mr. Speaker, the conference report contains a new House-passed program, the national housing trust fund, which provides assistance to first-time homebuyers for downpayments and closing costs with a buy-down of interest rates to 6 percent. The conference report also adopts the administration's Hope Homeownership Program, which includes the House-passed modifications designed to address the problem of vacant public housing units and provisions combining housing and support services for the elderly and the disabled.

Also included is a reauthorization of most federally subsidized housing and community development programs administered by HUD and FMHA. Finally, the conference report reauthorizes the Stewart B. McKinney Homeless Assistance Act.

Mr. Speaker, this conference report represents a renewed commitment on the part of the Federal Government to the housing needs of the American people. It marks the end of a decade of assault on our Nation's housing programs that has left us with a dwindling stock of housing units, increased numbers of Americans homeless on the Nation's streets, and many more on waiting lists for subsidized housing.

Mr. Speaker, this is urgently needed legislation. I urge adoption of this rule and passage of this conference report.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Texas [Mr. FROST] has explained the provisions of the rule, and I am very happy that the coinage section of this bill has been taken out. There is no controversy any more. We know that it is important to pass the National Affordable Housing Act, and, Mr. Speaker, I urge adoption of the rule so that we can get down to business and pass the conference report.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume, and I would yield to the gentleman from Texas [Mr. GONZALEZ], the chairman of the committee, if he wishes to add anything.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I just wanted to take this opportunity to thank the gentleman from Texas [Mr. FROST] and all the members of the Committee on Rules for their cooperation.

Mr. FROST. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. GONZALEZ. Mr. Speaker, pursuant to the provisions of House Resolution 522, I call up the conference report on the Senate bill (S. 566) to authorize a new Housing Opportunities Partnerships Program to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, October 25, 1990.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this act is the first major comprehensive housing legislation, plus community development legislation, that the Congress has considered in more than a decade. It contains a number of new programs that provide an array of approaches, provides housing finance to low-income and elderly families, and it provides homeownership opportunities for first-time home buyers. These problems represent major contributions by both bodies of the Congress and, certainly, by Secretary Jack Kemp of HUD.

Maybe I should have said this first, but with the advent of a new President; that is, President George Bush, the atmosphere changed. We have a President that is sympathetic to housing needs, and in his budget message in January he incorporated one full chapter on housing, which was the first time that had happened in I forget how long. And then Secretary Kemp followed through.

Let me say briefly that my experience has been, in the near 30 years that I have been here, that it is always some event that is unforeseen, unexpected, but happens to turn out to be the key turning point in the advent of bringing forth any substantive legislation.

□ 1450

In this case I want to point out to my very distinguished and very able and very much respected ranking minority member of the full committee, the gentleman from Ohio [Mr. WYLIE], who early recognized my deep and abiding and sustained concern with housing. I worked for public housing in my district years ago. I came to the Congress and was assigned to the Subcommittee on Housing when I first came here, and have remained on it for almost 30 years.

The gentleman from Ohio [Mr. WYLIE], recognizing that, told me, "The President is high in his respect for you. I know how you feel about housing. Would you be willing to meet with the President and Secretary Kemp?" I said, "Of course."

On February 21, we met at the White House. There the President committed, and Secretary Kemp, following his commitment agreed to a commitment, to a housing authorization, and, so far as was possible, incorporating their new ideas, some of which perhaps there was unanimity among the majority on.

I duly reported to the majority members of the committee, because I am just one member and was not in a position to commit anything. The members were very understanding. From then on it has been a question of working out under stress and under budgetary exigency the best available approaches to once again according a response to the average American, both individual as well as family, from the poorest to the middle income and higher middle income, and moderate income and low income, an opportunity for decent, safe housing.

As a result of that, is this bill. But I must credit where credit is due, and that is the gentleman from Ohio [Mr. WYLIE], who had the insight, who had the willingness, and did arrange that meeting; the President, who is sympathetic, and the Secretary of HUD, who, being young, energetic, and efficient, has produced what we have here presented to the House.

Mr. Speaker, I will not enlarge, because I think that I will include in my prepared text the salient portions of this. There are two things though: one, in the conference with the Senate, which had much less of a scope in comprehensiveness, the Senate had produced a version that Senator CRANSTON in the Senate had been working on for several years. He had been in the forefront as long ago as 4 years ago in developing an approach. He gathered some academicians.

I joined from the House side in this group. We had field hearings, and we had hearings in Washington. As a result, the Senate had some provisions.

But in seeking those provisions, we on the House side, at least I personally, objected. We were for the first time faced with the possibility of a chaotic situation inasmuch as the public housing delivery system in the management, administration, and production of public housing, after 44 years, was in danger of being folded into a new and untried program, which I in effect felt was endangering a chaotic situation.

Fortunately, the House prevailed. We reconciled our other matters that were in the conference reconciliation process. Again I want to express my profoundest gratitude to those members on the committee.

For instance, on the majority side we had great intellect. We have been very blessed on the Banking Committee with having members who are not only energetic, but they are very able, very capable. They have great competency. Some have developed expertise in the case of homelessness; some have developed expertise in the case that will affect thousands, in fact I would say more than 100,000 families, threatened with losing their low and moderate rental dwellings because of the so-called recapture provisions in some of the programs that have been instituted some 25 years ago. I would like to commend the gentleman from Massachusetts [Mr. FRANK]; and the gentlewoman from Ohio [Ms. OAKAR], with her provisions having to do with other rental housing situations, all reflecting the burgeoning needs that arise from our country.

We had those that specialized in rural housing. I must also give credit to the staff, which has been outstanding, very dedicated, and for whom I do not have sufficient words with which to express my gratitude.

Mr. Speaker, this act is the first major comprehensive housing legislation that the Congress has considered in more than a decade. it contains a number of new programs that provide an array of approaches for providing housing assistance to low income and elderly families and for providing homeownership opportunities for first-time home buyers. These programs represent major contributions by both bodies of the Congress and by HUD Secretary Kemp. The development of these several approaches represents years of study, numerous hearings, and intensive consultation with the executive branch both during the evolution of the bills in each body and in the course of resolving the conference report.

More significantly, this conference report represents a reaffirmation of the appropriate role of the Federal Government in meeting its obligations to all its citizens. The traditional

role began with efforts to eliminate slums and to build decent, safe, and sanitary housing in its place. Today, housing quality indicators show that slums have largely been reduced. Yet there remains a substantial shortage of affordable housing units for not just the low- and very-low-income families, but even for families somewhat above those income levels. We see these facts everyday and cannot ignore them. There is an unquestionable need to add new units to increase the supply of affordable housing through new housing production. Over the past 10 years, the need for new production has been ignored and it is past time to reverse this direction.

We also provide for tenant based assistance to be used where there already exists and adequate supply of decent, safe and sanitary housing, but which is beyond the income reach of families. In addition, the conference report retains the traditional low income public housing development program that creates additional units of housing targeted to very low income families. Public housing development is an important part of this reaffirmation.

I want to thank my friend and distinguished colleague, Mr. CHALMERS WYLIE, for his full cooperation throughout this process. Mr. WYLIE was with me at the meeting with President Bush at the beginning of this process where a commitment to passing housing legislation was agreed upon. I also want to recognize the great contributions of the ranking member of the House Subcommittee, Mrs. ROUKEMA. She has worked hard and closely with us throughout this process. I want to express my appreciation at the tireless efforts of Secretary Kemp. At my initial meeting with him, he expressed a willingness for bipartisan legislation—the first time such a willingness had been expressed in years. Secretary Kemp was involved throughout the process and we had numerous discussions on various aspects of the legislation, and were able to accommodate most of his concerns.

There were several controversial issues that the conference committee was faced with, including the long term economic soundness of the Federal Housing Administration's [FHA] Mutual Mortgage Insurance [MMI] fund for single family homeownership and the preservation of the stock of HUD assisted housing for current and future low-income families which could be lost if the owners simply prepaid their Federal loans. I believe it is a testament to the willingness of all parties involved to conduct themselves in a spirit of cooperation and comity, that allowed us to reach resolution of these issues and produce a truly bipartisan bill.

Specifically, the conference report contains within 10 titles a 2 year authorization of housing and community development programs of $27.5 billion for 1991 and $29.9 billion for 1992. It includes a major house initiative, the national homeownership trust, which will provide interest rate buydowns and downpayment assistance to first-time homebuyers. The conference report also contains the administration's chief initiative—the hope programs for homeownership—for which Secretary Kemp has so tirelessly advocated. In addition, it contains the major Senate initiative [HOP] renamed as "HOME." This program offers localities the flexibility and resources to develop individualized housing programs to serve their local needs. In adopting this Senate program, two major house initiatives have been incorporated into home: the community housing partnership, championed by Congressman KENNEDY, a valued member of the Housing Subcommittee, which utilizes nonprofits in producing affordable housing; and the rental production program, developed by Congressman SCHUMER and the Housing Subcommittee, which provides resources to expand the supply of affordable housing.

The process of trying to reach agreement on "HOME" generated a controversial discussion on the future of public housing development and other existing programs. In conference, I fought hard against the termination of the public housing development program which was included in the Senate bill in order for it to be folded in HOME. Public housing development has been proven an effective vehicle for the production of affordable housing for very-low-income families and the idea of terminating it was entirely unacceptable. I am pleased to relate that the conference report retains public housing development as a separate program. We did agree to incorporate into the HOME program several other programs, which the Senate bill terminated in order to fold into HOME. During conference, the administration expressed concerns about the Senate language on program terminations. After careful negotiations, we agreed to substitute the term "repeal" to allay the administration's concerns, so that any recaptured or repaid funds are rescinded after fiscal year 1992.

Other major accomplishments of this bill include:

Coming to an acceptable resolution of the difficult issue of preservation and prepayment. Under the conference agreement, owners are fairly compensated while sufficient incentives are offered that will maintain the stock of affordable housing. This agreement will preserve the units for low income use into the future and provide protection for any tenants who may be displaced if there are not sufficient incentives to preserve the property's low income use restrictions. I want to recognize the hard work of Mr. FRANK and Mr. KENNEDY on thiswho, with the cooperation of Mr. BARTLETT from the minority, developed this satisfactory compromise. In addition, thanks to the persistence of Ms. PELOSI, for the first time there are funds available to assist nonprofits in acquiring properties that would otherwise be lost due to prepayment.

I also want to recognize the contributions of Mr. VENTO and Mr. RIDGE on their bipartisan efforts to ensure the long term solvency of the FHA MMI fund. An accord on FHA reform was reached that phases in over 5 years and ensures the long term financial soundness of the fund while maintaining the program's accessibility to first-time homebuyers. While more equity from the homebuyer is required to prevent defaults, the up-front cash required from the homebuyer remains affordable.

Ms. OAKAR's contributions on the issue of manufactured housing brought about a resolution that will allow time for further study and investigation before major changes are implemented.

Improvements in rural housing programs are contained in the conference report. These include targeting funds to underserved rural areas, including the Colonias—which Mr. COLEMAN has advocated for—and one area that Mr. ESPY and Mr. EMERSON have worked particularly hard for—the lower Mississippi Delta region. It also includes an initiative that provides much needed housing for rural migrant farmworkers and rural homeless.

The conference report provides significant improvements in programs serving elderly and disabled persons which integrate housing and supportive services.

Other necessary reauthorizations and improvements in existing programs are also contained in this bill.

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT

	Fiscal year 1991 House	Fiscal year 1991 Senate	Fiscal year 1992 Senate	Fiscal year 1993 Senate	Fiscal year 1991 conference	Fiscal year 1992 conference
A. HOMEOWNERSHIP PROGRAMS						
National Housing Trust Fund	500,000,000				250,000,000	521,000,000
HOME Demo	20,000,000					
Second Mortgage Assistance	20,000,000				(1)	(1)
Subtotal	540,000,000	0	0	0	250,000,000	521,500,000
HOPE Homeownership Programs:						
I. Public/Indian Housing	136,000,000	96,000,000	260,000,000	400,000,000	68,000,000	380,000,000
II. Multifamily Units	102,000,000	72,000,000	195,000,000	300,000,000	51,000,000	280,000,000
III. Single Family Homes	72,000,000	72,000,000	195,000,000	300,000,000	36,000,000	195,000,000
Subtotal	310,000,000	240,000,000	650,000,000	1,000,000,000	155,000,000	855,000,000
FHA Credit Limitation	(76,791,000,000)				(76,791,000,000)	(79,818000,000)
FNMA MBS Limitation	(84,982,040,000)				(84,982,000,0000	(88,296,000,000)
Homeownership total	850,000,000	240,000,000	650,000,000	1,000,000,000	405,000,000	1,376,500,000

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT—Continued

	Fiscal year 1991 House	Fiscal year 1991 Senate	Fiscal year 1992 Senate	Fiscal year 1993 Senate	Fiscal year 1991 conference	Fiscal year 1992 conference
B. ASSISTED HOUSING						
Rental Housing Production Program	300,000,000				[2]	[3]
Community Housing Partnership:						
A. Organizational Grants	14,000,000				[1]	[1]
B. Partnership Grants	286,000,000				[1]	[1]
Subtotal	300,000,000				[3]	[3]
Housing Opportunities Partnership (HOP)		2,000,000,000	2,500,000,000	3,000,000,000	1,000,000,000	2,086,000,000
HOP Development Grants		(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)
Assisted Housing Total	600,000,000	2,000,000,000	2,500,000,000	3,000,000,000	1,000,000,000	2,086,000,000
C. PRESERVATION						
Nonprofit Transfer Grants	250,000,000					
Sec. 8/Displaced Persons Assistance/Incentive	200,000,000					
Preservation Fund		412,500,000	858,000,000	892,320,000	425,000,000	858,000,000
Preservation Total	450,000,000	412,500,000	858,000,000	892,000,000	425,000,000	858,000,000
D. 1937 HOUSING ACT PROGRAMS						
Public Housing Grants	514,122,000				514,100,000	574,500,000
P.H. Obsolete Projects		(92,000,000)	(96,000,000)	(100,000,000)		
Indian	224,000,000	233,700,000	243,088,000	252,770,000	228,000,000	237,800,000
CIAP	2,000,000,000	2,217,000,000	2,306,000,000	2,398,400,000	2,150,000,000	2,242,500,000
Lead-Based Paint Abatement	100,000,000					
Sec. 21 P.H. Transition	(3,000,000)				(3,000,000)	
Sec. 8/202	1,200,000,000				1,200,000,000	
Sec. 8/Certificates	1,874,880,000	1,138,800,000	1,129,190,000	1,057,935,000	1,880,000,000	1,960,800,000
Sec. 8/Vouchers	1,104,840,000	1,124,323,000	1,114,686,000			
Sec. 8/P.H. Replacements		108,750,000	113,100,000	117,624,000	79,100,000	82,500,000
Sec. 8/Property Disposition	523,720,000	324,570,000	343,759,000	357,510,000	420,000,000	438,100,000
Sec. 8/Loan Management	179,430,000	149,400,000	155,376,000	160,000,000	160,000,000	166,900,000
Sec. 8/Expiring Contracts	(7,735,000,000)				(7,735,000,000)	(7,100,000,000)
Sec. 8/Contract Amendments	(1,620,473,000)				(1,620,500,000)	(1,690,200,000)
P.H. Lease Adjust./Amend	(207,227,000)				(207,300,000)	(216,100,000)
Subtotal	6,616,152,000	5,277,060,000	5,414,836,000	5,458,925,000	6,631,200,000	5,703,100,000
Pub. Hsng. Operating Subsidies	2,145,780,000	1,865,000,000	1,940,100,000	2,017,200,000	2,000,000,000	2,086,000,000
Pub. Hsng. Resident Mgmt	(5,000,000)	(2,500,000)	(2,500,000)	(2,500,000)	(5,000,000)	(5,000,000)
P.H. Early Child Dev. Grants	(15,000,000)				(15,000,000)	(15,700,000)
Indian P.H. Early Child Dev. Grants	(5,000,000)				(5,000,000)	(5,200,000)
Pub. Hsng. Drug Elimination Grants	150,000,000	150,000,000	156,000,000	162,240,000	160,000,000	166,900,000
Assisted Hsng Drug Elimination Grants	10,000,000					
P.H. Youth Sports Prog	[4]				[4]	[4]
P.H. Perinatal Demo	[5]				[6]	[6]
Sec. 8 Foster Care	[5]				35,000,000	35,000,000
Rental Rehabilitation Grants	133,000,000				[1]	[1]
Housing Counseling	3,584,000	0	0	0	3,600,000	3,700,000
Emergency Housing Counseling	6,700,000				6,700,000	7,000,000
Prepurchase Counseling	350,000				350,000	365,000
Flexible Subsidy		50,000,000	52,000,000	54,080,000	50,000,000	52,200,000
Nehemiah	100,000,000	0	0	0	[1]	[1]
Elderly Home Repair Program	[5]				[1]	[1]
REACH	[5]				[1]	[1]
Hope for Vacant Public Housing	250,000,000				(105,000,000)	(220,000,000)
1937 Act Reauthorization Total	9,415,566,000	7,342,060,000	7,562,936,000	7,692,445,000	8,886,850,000	8,054,265,000
E. RURAL HOUSING						
Aggregate Insurance Authority	2,091,200,000	2,160,000,000	2,246,400,000	2,336,256,000	2,125,800,000	2,127,150,000
Sec. 502 Homeownership Loans	1,325,000,000	1,457,465,000	1,515,764,000	1,576,394,000	1,391,300,000	1,451,100,000
Sec. 504 Improvement Loans	12,000,000	11,715,000	12,184,000	12,671,000	11,900,000	12,400,000
Sec. 514 Farm Labor Loans	12,000,000	11,870,000	12,344,000	12,839,000	12,000,000	12,500,000
Sec. 515 Multifamily Loans	740,200,000	677,840,000	704,954,000	733,152,000	709,000,000	739,500,000
Sec. 523 Mutual/Self-help Loans	1,000,000	520,000	540,000	562,000	800,000	800,000
Sec. 524 Site Loans	1,000,000	590,000	614,000	638,000	800,000	850,000
Subtotal	2,091,200,000	2,160,000,000	2,246,400,000	2,336,256,000	2,125,800,000	2,217,150,000
Rural Housing Support Programs:						
Sec. 504 Improvement Grants	18,000,000	19,000,000	19,760,000	20,550,000	20,200,000	21,100,000
Sec. 509(c) Construction Defects Grants	1,000,000	520,000	540,000	562,000	550,000	600,000
Sec. 511 Adequate Farm Loans		[5]			[5]	[5]
Sec. 516 Farm Labor Grants	21,296,000	20,340,000	21,154,000	22,000,000	20,900,000	21,700,000
Sec. 523(f) Grants	8,979,000	14,340,000	14,914,000	15,510,000	13,400,000	13,900,000
Sec. 533 Preservation Grants	29,906,000	25,800,000	26,832,000	27,906,000	29,600,000	30,800,000
Security Grants					1,000,000	1,100,000
Subtotal	79,181,000	80,000,000	83,200,000	86,528,000	85,650,000	89,200,000
Rental Assistance Payments (RAP)	400,000,000	395,000,000	410,800,000	427,232,000	397,000,000	414,100,000
Rural Prepayments/Supp. RAP	5,200,000				5,200,000	5,500,000
Underserved Areas (Proj. Prep.)		10,000,000	10,400,000	10,816,000	5,000,000	5,300,000
Migrant Homeless Program	10,000,000				10,000,000	10,500,000
Rural Housing Total	2,585,581,000	2,645,000,000	2,750,800,000	2,860,832,000	2,628,650,000	2,741,750,000
F. SPECIAL NEEDS HOUSING						
HOPE for Elderly Independence:						
Sec. 8 Certificates/Vouchers	34,000,000	(1,500 Vouchers)			34,000,000	35,500,000
Services	10,000,000	10,000,000			10,000,000	10,400,000
Subtotal	44,000,000	10,000,000	0	0	44,000,000	45,900,000
Homeless Prevention for Persons / AIDS:						
A. AIDS Housing Info./Coordination	3,000,000					
B. Supportive Housing	8,000,000					
C. Sec. 8 Certificates	53,000,000					
D. Sec. 8 SRO	18,000,000					
E. Community Residences	68,000,000					

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT—Continued

	Fiscal year 1991 House	Fiscal year 1991 Senate	Fiscal year 1992 Senate	Fiscal year 1993 Senate	Fiscal year 1991 conference	Fiscal year 1992 conference
AIDS Program					75,000,000	156,500,000
Subtotal	150,000,000	0	0	0	75,000,000	156,500,000
Sec. 202 Elderly	714,237,000	628,000,000	659,000,000	685,360,000	714,200,000	659,000,000
Sec. 202 Rental Assistance	(1,200,000,000)	(346,000,000)	(353,000,000)	(377,520,000)	(1,200,000,000)	363,000,000
Supportive Housing/Disabled Advances		258,000,000	271,000,000	281,840,000		271,000,000
Rental Assistance/Disabled		234,000,000	246,000,000	255,840,000		246,000,000
Congregate Services Program	6,002,000					(7)
Revised Congregate Services	11,244,000					(7)
Project Retrofit		50,000,000	52,000,000	54,080,000	25,000,000	26,100,000
Subtotal	731,483,000	1,170,000,000	1,228,000,000	1,277,120,000	739,200,000	1,565,100,000
Special Needs Total	925,483,000	1,180,000,000	1,228,000,000	1,277,120,000	858,200,000	1,767,500,000
G. COMMUNITY DEVELOPMENT						
Community Development Block Grants (CDBG)	3,241,700,000	3,031,700,000	3,154,100,000	3,279,400,000	3,137,000,000	3,272,000,000
CDBG Work Study Program	(3,000,000)				(3,000,000)	(3,000,000)
Historically Black Colleges	(4,500,000)				(6,500,000)	(6,500,000)
Insular Areas	(7,000,000)				(7,000,000)	(7,000,000)
Integrated Database System	(500,000)				(500,000)	
Database	(10,000,000)					
Section 108 Loan Guarantees	(300,000,000)	(160,000,000)	(160,000,000)	(160,000,000)	(300,000,000)	(300,000,000)
Urban Homesteading Program	36,000,000	0	0	0	(1)	(1)
Urban Homesteading/RTC Bulk	36,000,000				(1)	(1)
Urban Homesteading/RTC Holding Costs	6,500,000				(1)	(1)
Neighborhood Reinvestment Corp	50,000,000	28,000,000	28,000,000	28,000,000	35,000,000	36,500,000
Neighborhood Development Demo	2,000,000	2,000,000	2,000,000	2,000,000	(2,000,000)	(2,000,000)
Community Development Total	3,372,200,000	3,061,700,000	3,184,100,000	3,309,400,000	3,172,000,000	3,308,500,000
H. REGULATORY/MISCELLANEOUS PROGRAMS						
Fair Housing Initiatives Program (FHIP)	6,000,000	6,000,000	6,258,000	6,527,000	6,000,000	6,300,000
HUD Research & Development	21,243,000	21,200,000	22,100,000	23,000,000	21,200,000	22,100,000
National Institute of Building Sciences	512,000				512,000	534,000
Energy Efficiency Demo	2,000,000					
Low-Income Conservation/Energy Eff	(5)				(1)	(1)
Rehabilitation of In-Rem Properties	30,000,000				(1)	(1)
HOPE for Family Self-sufficiency	(25,000,000)				(25,000,000)	(25,000,000)
Family Investment Centers	25,000,000				25,000,000	26,100,000
Project Independence		50,000,000	52,000,000	54,080,000	(6)	(6)
Public Housing Gateway		40,000,000	50,000,000	50,000,000		
Advanced Building Consortium		500,000	500,000		(8)	(8)
Regulatory/Misc. Programs Total	84,755,000	117,700,000	130,858,000	133,607,000	52,712,000	55,034,000
Housing Bill Total	18,283,585,000	16,998,960,000	18,864,694,000	20,165,724,000	17,428,412,000	20,247,499,000
MC KINNEY FUNDING						
Emergency Shelter Grants	131,000,000				125,000,000	138,000,000
Supportive Housing Demonstration Program	150,000,000				125,000,000	150,000,000
Supplemental Assistance (SAFAH) Program	30,000,000				30,000,000	30,000,000
Senate McKinney Block Grant		220,000,000	228,800,000	237,952,000		
Sec. 8 Assistance for SROs	80,000,000	78,694,000	81,842,000	85,115,000	79,000,000	82,400,000
Shelter Plus Care Program:						
II. Rental Housing Assistance	(5)	160,800,000	167,213,000	173,400,000	80,400,000	167,200,000
III. SROs		49,571,000	54,193,000	56,144,000	24,800,000	54,200,000
IV. Sec. 202	(5)	35,835,000	37,233,000	38,573,000	18,000,000	37,200,000
White House Homeless Conference		6,000,000				
Security Deposit Demo	(5)					
McKinney Total	391,000,000	550,900,000	569,281,000	591,184,000	482,200,000	659,000,000
Housing Bill with McKinney Provisions	18,674,585,000	17,549,860,000	19,433,975,000	20,756,908,000	17,910,612,000	20,906,549,000,
SUBSIDIZED HOUSING ADDITIONS						
Sec. 8/Expiring Contracts	7,735,000,000	7,735,000,000	7,100,000,000		7,735,000,000	7,100,000,000
Sec. 8/Contract Amendments	1,620,473,000	1,620,473,000	1,690,153,000		1,620,500,000	1,690,200,000
P.H. Lease Adjust./Amend	207,227,000	207,227,000	216,138,000		207,300,000	216,100,000
Subsidized Housing Additions Total	9,562,700,000	9,562,700,000	9,006,291,000		9,562,800,000	9,006,300,000
Housing Bill with McKinney and additions	28,237,285,000	27,112,560,000	28,440,266,000		27,473,412,000	29,912,849,000

[1] Home/. [2] Home/10 percent. [3] Home/ 15 percent. [4] 5 percent/drug elim. [5] Such sums [6] Fam. Invest. Ctr. [7] Retrofit. [8] NIBS.

Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the conference report. This conference report represents a major redirection in Federal housing policy to meet the basic needs of housing for low-income persons. This bill is an example of what people of good will and dedication can accomplish working together without rancor or hangup regarding personal agendas.

Mr. Speaker, the gentleman from Texas [Mr. GONZALEZ] was very generous in his remarks, and they are certainly very much appreciated. Many times, time and circumstance make good chemistry. The gentleman referred to a meeting we had in the White House.

Back in February, I had the distinct pleasure of traveling back to Washington with President Bush after a visit to my district. During the flight I discussed with the President how we have a great opportunity to get a housing bill this year. Soon after the plane ride, I got a call from the President saying that he wanted to see Chairman GONZALES and me along with Secretary Kemp. The result of that meeting was that the President said he wanted to be able to sign a housing bill into law. The President sent a bill to Congress which outlined his goals and those of Secretary Kemp. More than that, it reflected the President's commitment to meeting the basic housing needs of those who can least afford it. I remember the President saying it is pretty hard to talk to someone about jobs and job opportunities if they do not have a place to live. And, I could see the sparkle in Chairman GONZALES's eyes when the

President said he was willing to work with us to produce a bipartisan housing bill. The result of that is we are here today.

This conference reported bill is truly a result of bipartisan cooperation that followed that February meeting and goes more than 90 percent of the way toward meeting the President's goals as announced in his legislation which he called HOPE [Homeownership and Opportunity for People Everywhere]. And I know that housing is the first love of our chairman, Mr. GONZALES, and I want to pay tribute to the exemplary, bull-doggish leadership of HENRY GONZALEZ whose unrelenting commitment to housing, willingness to listen to the concerns of other Members and to those of the administration were essential to bringing this process to a successful conclusion. MARGE ROUKEMA, the ranking member of the Housing Subcommittee, worked hard on this legislation and was instrumental in the development of the final conference agreement as were JOHN HILER, TOM RIDGE, and STEVE BARTLETT. Senators CRANSTON and D'AMATO displayed extraordinary knowledge of housing programs and were instrumental in the formulation of the many new housing strategies included in our conference report which came from a comprehensive review of national housing policy which they initiated 3 years ago. The final and most important ingredient in the successful completion of our conference goes to Secretary Jack Kemp. The strong leadership of Secretary Kemp has been a very positive force in the development of this legislation. For the first time in many years, we have an activist HUD Secretary advancing a broad legislative program and enthusiastically involving himself in the process of working for its enactment.

□ 1500

Mr. Speaker, back in February I realized that the ingredients were there for the Congress, working in cooperation with the administration, and a receptive chairman and committee members to coalesce into this bill today, the National Affordable Housing Act. It is a logical step after all of those meetings.

The bill highlights are that it provides for a 2-year authorization, and authorizes new spending and funding levels of $27.5 billion for fiscal year 1991, $29.9 billion for fiscal year 1992, and $7.7 billion of that is for funding or for renewing expiring section 8 subsidies. The timing is a little bad given the budget problem, but it is something we have to do in order to renew the contracts for some 290,000 low-income individuals. There is an aggregate increase of approximately $3.3 billion over current levels.

The President's HOPE Program I mentioned, and he got 90 percent of that.

I would suggest that the conference agreement makes a lot of necessary reforms in the FHA's mutual mortgage insurance fund. The issue of prepayment was very contentious, and I would like to thank the gentleman from Texas [Mr. BARTLETT], the gentleman from Massachusetts [Mr. FRANK], and Senator SARBANES and Senator D'AMATO for coming to an agreement in that regard.

The gentleman from New York [Mr. SCHUMER] was able to get at least part of his Rental Housing Protection Program, as was Mr. KENNEDY able to get a part of his Community Housing Partnership Program.

All in all, as I say, the conference is the result of cooperative efforts, and it would enhance section 202 programs which provide necessary supportive services for the frail elderly.

FHA

In June of this year, Secretary Kemp reported to Congress that the FHA's mutual mortgage insurance fund was losing money at an alarming rate and would be insolvent in 6 or 7 years. The administration presented to Congress a comprehensive legislation solution to guarantee the long-term safety and soundness of FHA. The Senate adopted the administration's recommendations, while the House adopted a far different approach.

The conference agreement represents a compromise between these proposals. However, it also upholds four principles for FHA reform that have been stressed by the administration and are essential for the administration's support of this bill.

First, it would achieve the minimum adequate levels of capital of 1.25 percent within 2 years and 2 percent by the end of the 1990's that were recommended in the Price Waterhouse actuarial study of the FHA. Second, it imposes insurance premiums that reflect the risk of default, with higher premiums for loans with lower downpayments. Third, it requires minimum equity contributions by borrowers to protect both them and the insurance funds from excessive default risk. Finally, this compromise keeps the focus of FHA on low- and moderate-income home buyers by maintaining the current maximum loan limits and low downpayment loans.

This plan will build the reserves in the FHA fund while at the same time reducing default rates in the FHA program from the current 11.6 percent to under 11 percent. Further, it brings in the revenues necessary to meet the Banking Committee's reconciliation targets.

I want to stress one part of this compromise that was critical to the administration's support: The risk-based premium. Borrowers who have loan-to-value [LTV] ratios of 90 percent or more—those who have traditionally posed the highest risk of default to the fund—will pay an additional 0.5 percent annual premium for a period of years that varies with the size of the LTV. Those with an LTV of 90 percent or less will not pay the risk-based premium. Were every borrower to pay a higher premium, we would be risking the process of adverse selection, as buyers with higher downpayments would find private mortgage insurance more attractive, and the FHA fund will on average have to bear greater risk of default and loss.

HOPE

The administration's HOPE Program is a far-reaching initiative to empower low-income families through self-sufficiency and homeownership of public housing, multifamily properties, and single family homes. The conference agreement addresses many of the concerns the administration had about the original House and Senate passed versions of the housing bill. The final agreement provides funds for HOPE homeownership grants for planning activities, including the development of resident management corporations, and for implementation, including rehabilitation and postsale subsidies to help ensure project success. In addition, it continues as a free-standing program the section 5(h) public housing homeownership program.

The HOPE authorization funding level of $155 million for fiscal year 1991 provides $68 million for HOPE I, $51 million for HOPE II, and $36 million for HOPE III.

These funding levels represent modest startup funding levels, equal to one-half of what the conferees intended for a funding level of $310 million in fiscal year 1991—HOPE I, $136 million; HOPE II, $102 million; and HOPE III, $72 million. The main reason for one-half funding in fiscal year 1991 was that the conferees felt that the authorization conference would end too late for full fiscal year 1991 implementation and appropriations action.

For fiscal year 1992, the conferees expected full implementation of HOPE and intended to provide one-stop shopping for HOPE homeownership opportunities for low income public housing, other HUD and non-HUD multifamily properties, and single-family properties. Funding levels for full implementation of HOPE require $855 million in fiscal year 1992—$380 million for HOPE I; $195 million for HOPE II; and $195 million for HOPE III.

These funding levels represent the funding levels required for combining limited postsale subsidies, rehab, and planning costs. In comparison to what would have been spent under the ex-

isting structure for HOPE I public housing, the only "increase" funding is for planning. Otherwise, rehab and operating expenses represent the levels of funding that would have been used under CIAP and public housing operating subsidies.

Truly, public housing homeownership under HOPE I, other multifamily homeownership under HOPE II, and single family homeownership under HOPE III represent a watershed in national housing policy. For the first time, future expenditures on public housing and other properties will be reduced or eliminated. The true gain for America is the turnaround in self respect and dignity provided to otherwise welfare-trapped recipients of a system without self-sufficiency incentives.

Another HOPE initiative included in this package is a new Family Self-Sufficiency Program—formerly called HOPE for Family Self-Sufficiency, which is designed to tie housing voucher and certificate assistance with supportive services to help those living in assisted housing move up and out of dependency and into the economic mainstream. I am pleased that the conference agreement reflects the administration's concerns about how the program should be structured in order to achieve maximum success.

The authorization of the Family Self-Sufficiency Program represents a revolutionary new direction in housing policy. For the first time, recipients will enter into a contract requiring them to honestly pursue self-sufficiency in return for housing assistance. PHA's will be required to participate in the program after a 2-year period, assuming appropriate services are available. Instead of providing low-income housing assistance regardless of tenants' willingness to achieve self-sufficiency, we will be expecting able-bodied recipients to complete their educations, be trained, and work.

This new system will eliminate the disincentive for work by disregarding a families earned income increases above pre-program levels up to 50 percent of median income and save this otherwise taxed portion of increased income in an escrow account for use by the family after achieving self-sufficiency.

The conference agreement also authorizes HOPE for elderly independence to combine vouchers and certificates with supportive services to assist the frail elderly, and shelter plus care, which provides housing assistance matched with supportive services for homeless individuals who are mentally ill or have alcohol or drug-abuse problems.

I regret, however, that the conferees failed to accept the administration's housing opportunity zones proposal which was included in the House passed bill. This initiative would have provided Federal incentives, on a demonstration basis, to localities that took positive steps to eliminate regulatory barriers to affordable housing for low-income families.

HOME INVESTMENT PARTNERSHIP PROGRAM AND ASSISTED HOUSING

The new HOME Block Grant Program included in S. 566 is designed to support State and local efforts to expand both the supply and the affordability of rental housing for low-income families. I believe that the final HOME Program eases—but does not eliminate entirely—some of the concerns on this side of the aisle and in the administration about an undue emphasis on new rental construction.

Generally speaking, the final compromise restricts the use and extent of Federal funding for new construction to areas of serious need and where States and local communities are willing to invest a good measure of their resources for new construction activities. Other activities by States, localities and nonprofits in support of affordable housing, such as tenant-based assistance, which is the most cost-efficient and timely method of providing housing assistance to very low-income families, are eligible activities under HOME. These activities are subject to lower local matching requirements than is new construction. The higher match for new construction will help ensure that local communities make a substantial commitment of local resources to the long-term housing needs of low-income residents. In all cases, any assistance that is provided under HOME must be targeted primarily to very low-income families.

Mr. Speaker, despite the improvements that were made in conference, S. 566 still is too heavily weighted to new construction. Historically, Federal housing production programs have been particularly subject to waste, fraud, and abuse, and project-based new construction is the least efficient method targeting housing assistance to the poor. Unfortunately, the HOME Program contains a set aside 10 percent of total funds in 1991 and 15 percent in 1992 for a program that is exclusively earmarked for rental housing production. Only if these funds are not used for new construction activities for a 2-year period would they be reallocated to other forms of housing assistance, including tenant-based assistance. In addition, other HOME funds, including those set aside for partnerships with community based nonprofits, may be used for new construction. Outside of the HOME Program, S. 566 also authorizes the development of more than 14,000 new units of public housing over the next 2 years.

The administration still contends that the resources in this bill could frankly be more efficiently targeted to those most in need.

PRESERVATION

Mr. Chairman, S. 566 provides a permanent solution to the problems arising from the prepayment of HUD assisted or insured mortages. The bill contains far reaching tenant protections to give the maximum possible guarantee that no project resident will become homeless as a result of a mortgage prepayment. The preservation strategy contained in this bill also retains the provisions contained in the House-passed bill that allow owners to pay their mortgages with a minimum of restrictions.

In addition to its tenant protection provisions, the final agreement on prepayment contains two other features that are of particular interest to the administration, and were essential to administration support of the package. First, in the event of a notice of intent to prepay, the bill provides a right of first refusal for resident groups and nonprofits who wish to purchase the property for homeownership. This feature supports the administration's goal of empowerment of low-income facilities. At the same time, owners who have no interest in maintaining the properties as low income and wish to sell will be able to receive full fair market value, so their property rights will not be reduced.

The administration had initially expressed deep concerns about provisions of the conference agreement that would have been offered incentives to private owners that were too generous and could have resulted in excessive benefits to building owners that would have been paid for by low-income residents and taxpayers. In addition, the administration opposed the provision of an unnecessary special construction program to replace units lost to prepayments. The conferees worked with HUD and Secretary Kemp up until the time the conference report was filed to address those concerns. The final agreement eliminates the replacement provision and guarantees a fair and reasonable rate of return for owners who remain as owners and agree to continue low-income use of the properties, but also establishes the value of properties through an appraisal system that will prevent inappropriate financial windfalls. This final agreement addresses the administration's cost concerns and the revised preservation program has the administration's support.

HOUSING ASSISTANCE PROGRAMS

Mr. Speaker, I am pleased that this final agreement continues the so-called "shopping incentive" for current voucher holders, and that it extends the voucher program, albeit at levels that don't fully reflect the success of that program in meeting the needs of poor families for affordable housing. However, the administration remains concerned by the provisions

of S. 566 that weaken current statutory preferences for voucher and certificate assistance, thus diverting housing assistance away from the 4 million families with the most critical needs: those who pay more than 50 percent of their income for rent, live in substandard housing, or are homeless. Because the bill reverses existing targeting requirements, fewer of these worst case needs will be served in 1991 than in 1990, even though more units of public housing and section 8 voucher and certificate assistance are authorized.

Mr. Speaker, this bill also authorizes funds sufficient to renew section 8 contracts expiring in 1991 and 1992. This substantial commitment of resources was requested by the administration and will help ensure that under no conditions will section 8 assistance be interrupted and that no family will lose its home as a result of contract expirations.

SUPPORTIVE HOUSING AND SERVICES FOR THE ELDERLY

The conference report reauthorizes the successful section 202 program for the elderly, at the House funding level of $714.2 million in fiscal year 1991. In fiscal year 1992, the conference report authorizes a restructured section 202 program with a new funding system. Funding would be provided through a combination of interest-free capital advances and project rental assistance. Development costs would be based on local construction costs rather than mortgage limits and fair market rents, which have created serious delays in the current program. I am pleased to see that the conference report does not contain the 5 percent matching requirement which was provided in the Senate bill. Instead, the conference report improves upon existing law by raising the borrower contribution from $10,000 to $25,000. This borrower contribution can be in the form of cash, an irrevocable letter of credit, value of land, or real or personal property. Unlike the matching requirement from the Senate bill, this borrower contribution will be returned to the borrower after 3 years from the date of the successful project completion.

The conference report also includes the administration's HOPE for Elderly Independence Program. This innovative demonstration program provides funding for services, linked to appropriate housing, so that the elderly who need assistance in dressing or eating or other basic activities can continue to live in their own apartments and not have to move to nursing homes to receive these services.

The conference report permits the cost of service coordinators in housing for the elderly and in the revised Congregate Housing Services Program [CHSP]. The Congregate Housing Services Program, however, is not intended for all federally assisted housing projects. The revised CHSP is intended to be implemented in those elderly housing projects that have a significant number of frail residents that provide a range of supportive services for those eligible frail elderly. The conference report provisions recognize the critical role that service coordinators provide to frail residents in federally assisted housing. Without timely intervention, many of these frail residents would be at risk of more costly institutional care. The conference report provides that the cost associated with the employment of a service coordinator shall be an eligible project expense. Given the increased frailty of residents in federally assisted housing, the conferees recognize the need for general approval of service coordinators in those buildings; however, it is intended that the function of service coordinators will provide assistance primarily to those residents of the building who are frail. A coordinator would not necessarily have to be attached to one particular project but could provide services for the frail elderly in several assisted projects where frail elderly reside in order to ensure such services help as many frail persons as possible in a cost-effective manner.

Mr. Speaker, all of these supportive housing and services provisions represents a paramount shift in Federal policy for the frail elderly, by recognizing the need for services to help these people remain independent and avoid institutionalization.

PUBLIC HOUSING

S. 566 also authorizes a major change in our method of funding modernization of the Nation's 11,000 public housing projects. It calls for funding modernization by formula, rather than funding a public housing authority's work at a particular project or projects. This change in the modernization program will provide for orderly and predictable annual funding to PHA's to allow them to plan and execute needed repairs and replacements at their housing projects in a timely fashion. The modernization formula issue was the source of considerable give and take between the conferees and the administration, and this final agreement assures that PHA's will receive continuing, even levels of funding for modernization purposes. I am concerned, however, that the final provisions do not fully address the administration's concern that we do not unduly reward troubled PHA's that are most likely to waste or mismanage Federal funds.

COMMUNITY DEVELOPMENT AND HOMELESS PROGRAMS

As approved by the conferees, S. 566 would increase funding for housing and economic development activities under the Community Development Block Grant [CDBG] Program to $3.1 billion in 1991 and $3.27 billion in 1992. In addition, the bill contains a significant program change in CDBG that reflects an administration recommendation. The bill increases the percentage of CDBG program activities that must be targeted to benefit low- and moderate-income people from 60 percent to 70 percent—a level that the large majority of entitlement communities and States already meet. I agreed with the administration that, in a time of limited resources, Federal funds should be more effectively targeted to those activities that benefit most those who have the greatest need of assistance. Accordingly, I offered an amendment that was included in the House bill that would have increased the targeting requirement to 75 percent. The conferees compromised at the 70-percent figure, which represents an improvement over current law.

S. 566 also reauthorizes current McKinney Homeless Assitance Act programs, which the administration supports. In addition, the bill provides that, beginning in 1993, homeless assistance programs may be subject to a block grant. The administration has opposed a block grant for homeless programs, in part because it does not current and complete data on which to based a block grant formula that provides the bulk of the assistance to communities with the greatest need. The implementation of a block grant is deferred until 1990 census data can be evaluated and a formula legislatively enacted.

I would add that HUD has expressed serious concerns about a formula funding provision contained in S. 566. I am satisfied, however, that the compromise agreement enables us to assess the 1990 census data and, based upon the findings and recommendations of the Secretary, determine the feasibility of a block grant approach. We will want to work with HUD over the next few years to evaluate the effectiveness of a block grant in meeting the funding needs of the homeless and, if formula funding is appropriate ensure that whatever formula is finally developed that it addresses the Department's concerns and meets the needs of the homeless in a responsible way.

In addition, as I mentioned earlier, the conference agreement authorizes for funding beginning this year the administration's shelter plus care initiative, which will couple long-term housing assistance and supportive services for the homeless who are chronically mentally ill, or suffering from problems related to alcohol or drug abuse. These individuals in particular are not well served by current McKinney Act programs that are designed to assist those who are temporarily homeless.

S. 566 is not a perfect bill. It is not the bill I would have written. But it

does represent a serious effort at compromise involving the House, the Senate and the administration. It presents us with our first opportunity in more than a decade to pass a bipartisan housing bill. I urge its adoption.

RURAL HOUSING

In crafting this legislation, we also have been mindful of our responsibility for helping meet the housing needs of rural America under programs administered by the Farmers Home Administration [FmHA]. We therefore have made a number of modifications to make the programs more responsive to the needs of low-income residents of small towns and rural areas. These include measures to target funds to underserved rural areas in greatest need, building on a targeting program initiated administratively by FmHA.

Potentially the most far-reaching change, however, is represented by the new program initiated in this bill to establish a program of guaranteed loans for single-family home ownership by low- and moderate-income residents of rural areas where there is an insufficient amount of mortgage financing available from other sources. This builds on the experience which FmHA has gained in administering guarantees of loans made by private lenders in farm ownership and operation, business and industry, water and waste, and essential community facilities.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, DC, October 25, 1990.

Hon. CHALMERS P. WYLIE,
Ranking Minority Member, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. WYLIE: As final action nears on the National Affordable Housing Act, I want to express my appreciation for the changes that were made by the conferees in support of the "Global Compromise." Adoption of these provisions, which reflected strongly held positions of the Administration, contributed significantly to approval by the conferees of a bipartisan bill that on balance the Administration could support.

HOPE

Our mutual effort made significant improvements in the original Senate offer on the Administration's HOPE initiative. These improvements will help to ensure that the HOPE Grants program to provide planning and implementation grants in support of low-income homeownership of public housing, multifamily properties and single family homes can be operated successfully.

In addition, I am pleased that the conferees accepted proposed changes in the Family Self-Sufficiency (Operation Bootstrap) program. This final agreement reflects the Administration's original intent for the program and will help to ensure that it will provide genuine opportunities for the selfsufficiency of low income families who live in assisted housing.

The conferees included two other HOPE initiatives designed to encourage self-sufficiency, Shelter Plus Care and HOPE for Elderly Independence. I am disappointed, however, that the conferees failed to adopt the Administration's Housing Opportunity Zones proposal, which was designed to test the effectiveness of Federal Government incentives for localities to reduce regulatory and other barriers to affordable housing.

HOME INVESTMENT PARTNERSHIP

The conference agreement upholds certain principles that the Administration had identified since the Senate's original consideration of the housing bill: that new construction should be limited to communities with a clearly demonstrated need and which are willing to invest a good measure of their resources in new construction activities, and that tenant-based assistance and other alternatives to new construction should be subject to a lower matching requirement than new construction.

I appreciate the fact that the Global Compromise ensures that tenant-based assistance will not be restricted under the HOME program. In addition, I am pleased that the conferees have limited the amount of funding set aside for new construction under the HOME rental housing production program, and have subjected that program to the same matching requirement as new construction in other HOME activities. I am grateful to Senator Sarbanes for offering this breakthrough compromise on the new construction match. As part of the Global Compromise, the conferees have also eliminated an incentive allocation pot that would have been used in part for new construction. Unfortunately, the conferees failed to adopt the Administration's recommendation on the targeting requirements of HOME and retained the requirement that 90 percent of funds go to families with incomes at or below 60 percent of median income, rather than 90 percent at 50 percent of below, as under the original Senate HOP proposal.

In addition, there must be no mistaking the fact that the Administration is still very concerned about the continued emphasis, albeit reduced, on new housing production activities contained in the bill. The Administration believes that the restrictions on construction which it recommend and which were adopted were the bare minimum necessary to make the bill acceptable.

FHA

The compromise to restore the safety and soundness of the Federal Housing Administration's (FHA) Mutual Mortgage Insurance Fund (MMI) meets the Administration's four objectives for FHA reform by achieving minimum adequate levels of capital; implementing a system of risk-related insurance premiums; requiring minimum equity contributions by FHA borrowers; and maintaining the emphasis of the program on low- and moderate-income homebuyers. By providing adequate levels of capital and reducing default rates in the single-family insurance program, we will be ensuring the availability of FHA for future generations of families seeking to achieve homeownership.

LOW INCOME HOUSING PRESERVATION

The final compromise on the preservation and prepayment issue reflects certain Administration concerns, including: protecting project residents from potential displacement because of a mortgage prepayment: emphasizing alternative preservation strategies that provide opportunities for empowerment and homeownership; and honoring contracts entered into by the Federal government with project owners.

I remain concerned that the incentives offered to private owners do not fully test the owners' willingness to maintain their properties as low-income. As a result, these incentives are too generous, and will result in excessive benefits that over the long term will be paid for by taxpayers and low-income residents. Although the final agreement is significantly less expensive to the government over the long term than the initial conference agreement, it still exceeds the cost of the House-passed by more than $1 billion and the Senate bill by almost $7 billion. Nevertheless, thanks to the leadership and cooperation of Senators D'Amato and Sarbanes, and Congressmen Bartlett and Frank, the Administration was able to resolve several objections to the preservation program, which included reducing an owner's rate of return from 10 percent to 8 percent and eliminating the new construction replacement program.

HOUSING ASSISTANCE PROGRAMS

The conference agreement reflects the Global Compromise agreement that the "shopping incentive" for current housing voucher recipients should be maintained. In addition, a potentially costly entitlement program for families at risk of foster care has been eliminated. The Administration is concerned, however, that the final agreement reflects a serious relaxation of long-standing provisions that target Section 8 and public housing assistance to very-low income families. In addition, changes in the bill that unnecessarily increase fair market rent levels further dilute the effectiveness of funds provided for assisted housing.

We are pleased that the conferees have adopted the Administration's proposal to fund public housing modernization through formula grants. While the Administration had sought more extensive incentives for poorly run PHAs to improve their management performance, we hope that those contained in the bill will overcome lingering concerns that the allocation formula would excessively benefit troubled PHAs with records of poor management.

CONCLUSION

Taken as a whole, S. 566 is the product of bipartisan compromise. It allows for the development of new housing strategies that stress empowerment and homeownership for the poor. It institutes necessary reforms to make the FHA fund financially safe and actuarially sound. it provides and approach to resolving the problems of prepayment, and it provides communities the opportunity to plan for the implement housing strategies, including the use of tenant-based assistance. I congratulate you for your leadership in the development of this landmark legislation, and, on behalf of the administration, I am pleased to support the bill's immediate passage.

Very sincerely yours,

JACK KEMP,
Secretary.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding the time and congratulate him and the gentleman from Ohio [Mr. WYLIE] for their intense work and working as a team. I think the country thought that this was a House divided at times, but in this bill that was not true. I also want to congratulate the ranking members, including the gentlewoman from New Jersey [Mrs. ROUKEMA] for doing such

a great job, and the administration for realizing that we needed a housing bill.

Safe and decent housing for all Americans ought to be our goal, and this bill promotes affordable housing for first-time buyers. It promotes hope for home ownership for moderate-income people, and the HOME Program supports State and local strategies for achieving more affordable housing and increased home ownership.

In addition, this bill has community development block grant money in it that is very important for our areas throughout the country, including my own hometown of Cleveland, OH.

The bill has the McKinney homeless assistance moneys as well, and that is so important.

It addresses the issue of new production, which is very important to older areas like Cleveland, OH, which has some of the oldest housing stock in the Nation. In order to stabilize many inner city neighborhoods, we need to build new homes, homes that are attractive to moderate income buyers.

The conferees also addressed the problems of FHA, and while I have some skepticism about parts of it, it was a compromise in order to get a housing bill.

I would also like to thank the chairman and my colleagues for supporting my amendments promoting energy efficiency in housing which were included in the housing bill. One organization's research revealed that we can help more than 2 million households with their housing affordability problems if we had mortgage policies that gave a proper credit to energy-efficient homes. We could qualify it to 250,000 more families to buy their first home. If we reduced energy bills by 25 percent in existing rental housing, we could help almost 2 million families afford to stay in their homes. I think this provision is important. It paves the way for our country to be energy-independent, and to do a better job in terms of promoting energy efficiency. It is a new outlook, but I was delighted that my colleagues embraced the concept.

Additionally, my amendments concerning section 202 housing for the elderly and the handicapped, home repairs for the elderly, and an amendment on appraisal services were included in the bill.

Mr. Speaker, I know that Members have individual problems with one or two provisions in the bill, but this is really a monumental bill, in my judgment. I think it is the first time since I have been here in over 14 years that we have had new and creative ideas and maintained programs that work. I want to pay tribute to the leadership of the gentleman from Texas [Mr. GONZALEZ], the gentleman from Ohio [Mr. WYLIE], and others

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding me the time. Let me, first of all, commend my colleagues who have worked so hard on this, especially Chairman GONZALEZ, the ranking member of the Subcommittee on Housing and Community Development, the gentlewoman from New Jersey [Mrs. ROUKEMA], and the gentleman from Ohio [Mr. WYLIE], our ranking member of the committee.

Mr. Speaker, I rise in support, somewhat with mixed emotions of the conference report of S. 566, the National Affordable Housing Act of 1990. I especially commend the chairman and ranking members for their positive contributions. After months and years of hard work, the respective Housing Subcommittees have brought this measure, the National Affordable Housing Act, to fruition. Despite my reservations on the direction we chose to take on reforming the Federal Housing Administration's single family insurance fund, this bill is a solid measure that will provide affordable housing opportunities to many who need safe and affordable housing.

As agreed to in the House-Senate conference, S. 566 provides $57.4 billion of budget authority for 2 fiscal years, 1991 and 1992, providing for housing, community development and homeless programs. This includes over $18 billion to renew expiring low-income housing contracts, a significant commitment, yet necessary part of our Federal housing commitment.

We also reached an agreement on preserving our low-income housing stock with viable options and incentives for owners to maintain the housing as affordable, for tenants to purchase, for nonprofits to acquire or for State agencies to become involved if applicable. It appears that this agreement successfully balances the needs of tenants who stand to lose their homes and the needs of owners who own properties that are eligible to prepay the mortgages.

I am very disappointed in the final FHA agreement which will place undue burdens on potential homebuyers by effectively locking tens of thousands out of the range of being eligible to purchase their own homes. In addition to increasing the cash up-front on a $100,000 house by almost $1,300, the conferees agreed to adding an annual risk-based premium and maintaining an up-front premium that is 90 basis points above the House-passed up-front premium. Although I understand the need to compromise and even to move from the House FHA position in order to effect a compromise, this is a slippery slope for a Federal insurance premium designed to assist first-time and lower downpayment homebuyers in purchasing a home. Placing a significant barrier in their path, paying for poor administration of the FHA program of the 1980's by new FHA homebuyers in the future.

I am pleased that the bill includes three of my initiatives within the new HOME Program: the REACH Program for the disposition for federally owned foreclosed properties, the low-income housing conservation and efficiency grants program and the "In Rem" Program for homeless prevention. These are good options for States and local governments to choose and their inclusion is a positive addition to the HOME block grant initiative.

Also included in the conference agreement are specific provisions I wrote to expand the successful Congregate Housing Services Program and provisions to reauthorize the housing provisions of the McKinney Homeless Assistance Act and the Neighborhood Housing Services Program. We will be carrying over this agreement to our conference on H.R. 3789, the comprehensive McKinney Act, when that is considered later this week.

Mr. Speaker, a chain is only as strong as its weakest link and the FHA agreement means that we have inserted a weak link in the chain of Federal commitment to housing. The Federal housing chain has been very weak in recent years as is easily demonstrated by the increasing gap between the growing housing needs and illusive housing affordability. Hopefully, this new chain, the National Affordable Housing Act of 1990, will pull us through until we have the knowledge and the will to provide more strength to our national housing policies and laws.

Mr. WYLIE. Mr. Speaker, I yield 6 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA], a member of the Subcommittee on Housing and Community Development.

Mrs. ROUKEMA. Mr. Speaker, I rise today as the ranking member of the Housing Subcommittee to express my strong support for S. 566, the Cranston-Gonzalez National Affordable Housing Act.

Mr. Speaker, throughout the entire process of the formulation of this legislation, which began back in February, there has been a concerted effort to boost the importance of housing issues and to achieve a bill. As one of the leaders in this effort I specifically want to congratulate and compliment the chairman of the committee, Mr. GONZALEZ, for his total dedication and commitment to housing legislation. It is certainly fitting that this bill honors his efforts by carrying his name.

I also want to commend our ranking member, Mr. WYLIE, for his strong effort to achieve this bipartisan bill.

And, finally, I especially desire to commend HUD Secretary Jack Kemp for his assistance in reaching a truly bipartisan bill which embodies a number of innovative initiatives.

S. 566 represents the most significant change in the direction of national housing policy since 1974. These changes legitimately represent new horizons for housing. It also represents the first housing conference report that the Banking Committee has been able to bring to the House since 1987.

S. 566 reverses a period of retrenchment in Federal housing policy and is the product of a climate of comity and commitment on the part of HUD, this House and the other body, majority and minority, to bring a good housing bill to the floor—one which the President can accept.

The legislation before us establishes a clear direction for national housing policy and introduces several promising housing initiatives.

I have said several times to other groups that what we need from the private sector is a Henry Ford of housing, an Arthur Levitt for the 1990's. We need someone who can mass produce quality starter homes at prices new families can afford.

But, I also recognize that part of the need to address the issue of providing safe, decent and affordable housing must be the ongoing responsibility and commitment of the Federal, State, and local government.

Should there be a Federal commitment? For this Member of Congress, the answer is clearly "yes" there must be a firm Federal commitment to housing.

But let me emphasize that this does not mean we should simply return to the past. One reason we have seen such a dramatic decline in Federal housing dollars during the last several years is that many of the old programs just did not work, and they were too expensive. The retrenchment was necessary to provide these new horizons.

S. 566 takes up this challenge with the HOME concept included in titles I and II.

NEW HOUSING APPROACH—HOME

The HOME initiative is intended to provide new innovations and new directions in housing policy which would result in magnified benefits. It would streamline housing assistance and maximize State and local flexibility. As a block grant, this type of assistance would promote home ownership or improve rental assistance by providing States and localities with money to acquire, construct, or rehabilitate real property. All funds would be contingent upon a comparable match from the local entities. Its greatest merit, however, is that it gives wide latitude to meet local needs whether by means of new construction, rehabilitation or rental assistance tailored to local requirements.

The HOME approach begins to move us away from narrow, inflexible, categorical housing programs which, by their very nature, cannot respond adequately to local housing requirements, which vary greatly from region to region. The HOME Program recognizes that what is needed in one section of the country may not be a priority in another, and it encourages local experimentation and innovation which are the genius of our Federal system.

This concept was developed through the efforts of the chairman and ranking member of the Housing Subcommittee of the other body and should provide a bold new approach to meeting the housing needs of our citizens. An approach I wholeheartedly support.

In addition to the important HOME initiative, one of the cornerstones of this legislation is the emphasis we placed on the principle of home ownership for all. This concept is embodied in title III of the new bill, Secretary Kemp's HOPE proposals.

Our bill also provides new incentives for coordinating housing opportunities with economic and training initiatives which will promote economic independence and self-sufficiency. The HOPE for Family Self-Sufficiency Program, while providing housing, will create new opportunities for families in the area of job training and counseling, education, and child care.

We also dealt with the very critical problem of preservation and prepayment and we did manage to adopt a very workable and fair bipartisan solution which recognizes the rights of the owners to be fairly compensated for their property. It also provides numerous protections for the tenants so that they may continue to live in their existing homes or be provided an alternative dwelling. I believe Mr. BARTLETT and Mr. FRANK deserve commendation for working out this most difficult issue.

In this report we included several additional reform measures aimed at addressing the recently uncovered scandals involving our Public Housing Administration as well as the potential insolvency of the FHA.

Clearly no program is more important to the average American who is a potential homeowner than the assistance which the FHA can provide. Consequently, this was certifiably the most contentious issue to be reconciled by the conference.

In 1989, 600,000 mortgage loans were made under FHA. The average loan amount was $70,000, which indicates that a lot of low- and medium-income wage earners realized the American dream. Nevertheless, in 1989 FHA experienced close to 90,000 defaults and foreclosures. This figure has caused the FHA to lose an average of $340 million per year. At that rate, the FHA insurance fund will be broke in just a few years.

HUD studied this problem and concluded that drastic action must be taken in order to reverse this trend and to prevent yet another taxpayer bailout of a Federal insurance fund.

We on the committee worked very hard to seek the best possible approach to make the FHA actuarially sound and at the same time limit the negative impact any reform would have on potential homebuyers. Alternatives to meet the capital and soundness requirements, determined by the administration in the least amount of time, were considered but we were not able to offer a counterproposal to that offered by our colleagues, Mr. VENTO and Mr. RIDGE.

The compromise included in this conference report represents a midpoint between the administration requirements, which were included in the Senate bill, and that of the House bill. The compromise meets the administration's principles and ensures that the FHA insurance fund maintains actuarial soundness and capital adequacy. The provision gradually reduces the percentage of upfront premium that may be financed and does adopt a risk-based premium structure.

Mr. Speaker, I believe this compromise will help reform the FHA program and will help prevent another potential Federal insurance fund bailout. Not all the participants in this debate are totally happy with the outcome. But I believe we have a good compromise which should be supported.

LEAD PAINT

Finally, I want to again bring to the attention of my colleagues the very important issue of lead-based paint abatement.

On April 1, HUD, in accordance with previous legislation and amendments to the McKinney Act, and direction from the Appropriations Committee, published its long-awaited guidelines relating to the testing and abatement of lead-based paint in our national public housing stock.

My colleagues know that I have been especially interested in this problem for some time, and I am cautiously optimistic that we have finally moved toward a more realistic approach to the issues related to lead-based paint.

The problem of lead paint is pervasive. The effects of lead poisoning are devastating and well documented. And substantial evidence has emerged over the last year indicating that many of the current abatement efforts around the country are being performed poorly and that abatement done improperly can do more harm than good. We now know that improper removal leads to the creation of lead dust which is then inhaled or ingested by

39-059 O—92-48 (Pt. 23)

children which further increases their risk of exposure.

In short, we are enduring a national tragedy, and something must be done now to address this problem. The time for foot-dragging and buck-passing is over. The law is clear and the Federal Government must act.

For the past 2 years, the Department of Housing and Urban Development [HUD] has been developing regulations which include detailed standards and guidelines for testing and abatement of lead-based paint.

No one wants unsafe abatement to continue. But it does not have to. As far as I am concerned, we know how to clean up lead paint safely and effectively. It is being done in some parts of the country. What we needed was the issuance of the standards and guidelines so that everyone will do it safely. Now that this has been accomplished, it becomes the responsibility of the Congress to provide the funding necessary to carry out the program.

I recognize that the anticipated cost of this program will be expensive. In testimony before our Housing Committee we received cost estimates ranging from $350 million to $600 million needed in fiscal year 1991 alone. Beyond that, the total cost will be unknown until the testing program is complete.

Congress will have to directly appropriate these funds through the traditional HUD modernizations programs. Our Housing Committee recognizes this problem and did authorize an increase in modernization funds for the abatement. And, I was glad to see that the Appropriations Committee increased the budget for public housing modernization by $800 million to help cover the cost of lead paint abatement.

The lives and future well-being of our children cannot be measured in terms of cost to HUD or the Federal Government. We can pay now or pay later but we will pay.

In sum, the renewed commitment to housing embodied in this conference report addresses the plight of both the low-income renter and the first-time homebuyer. This housing bill is a step in the right direction. It represents new horizons for housing and an appropriate new beginning for the decade of the 1990's. There is a crying need across the land, and, together, we must answer the call.

Mr. Speaker, I urge support for this conference report.

□ 1510

Mr. WYLIE. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the conference agreement on S. 566, the Cranston-Gonzalez National Affordable Housing Act, and ask permission to revise and extend my remarks.

Mr. Speaker, this conference agreement deserves your support. It is the product of hours of bipartisan work and compromise. From the introduction of the first bill through subcommittee and full committee markup, through floor action and final efforts to fashion an acceptable compromise, a spirit of comity and determination to forge a plan for all Americans guided the parties involved.

In large part, this very successful effort is due to the leadership and thorough knowledge of the subject matter on the part of the committee and subcommittee chairman, the distinguished gentleman from Texas, [Mr. GONZALEZ]. This Member is most appreciative of the chairman's thoughtful and scrupulously fair treatment of all Members. This Member offers his most sincere congratulations to the chairman on his efforts.

Congratulations and sincere commendations are also in order for the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA] and for the distinguished gentleman from Ohio [Mr. WYLIE], the ranking member of the committee. Congratulations are also due to the able deliberations and negotiations of the members of the conference committee, who worked long hours to merge the often diverse provisions of both bills into this fine initiative we have before us today. A special note of appreciation to Mr. Bill Warfield of the minority staff for his extraordinary assistance to this Member, and finally, and most importantly, Mrs. Wrexie Agan, on this Member's staff for her truly outstanding assistance on the Indian housing legislation.

And finally, this Member wishes to extend his thanks and admiration to the Secretary of Housing and Urban Development, our former colleague, Jack Kemp, who has demonstrated his dedication to not only expanding home ownership opportunities and providing shelter for all Americans, but to removing the dirty cloud that hung over his agency and tainted all of its programs. Without his honest and aboveboard leadership, this exciting new direction for Federal housing programs simply could not have happended.

We now have the opportunity to send this remarkable bill to the White House, and along with it a message—to at least 240,000 low-income and homeless families who are at this time not receiving any assistance, we are saying that we care, and we can help. To the 2 million families that are estimated to be on the waiting lists for public housing and rental assistance, we are saying that there is more hope today than there has been for the past decade. To the thousands of American Indian and Alaska Native families who have no homes, we are demonstrating, concretely, that we are not ignoring our obligations to assist. To migrant farmworkers, we are saying that we will try to recognize their special needs by setting up a new rental housing program for them.

Yes, this bill falls short of meeting all the housing needs across the country, but in this crisis year, it is nothing short of miraculous that we have found the will to protect, expand and enhance the Federal investment in affordable housing.

Mr. Speaker, of great importance to this Member are the provisions included in this agreement to address the grave conditions in housing for Indian people. For the first time, this Member believes that we've addressed the special needs of housing on the country's reservations and in Indian areas in a largely comprehensive manner. While work remains to be done in this arena, we have laid a strong foundation for improving Indian housing. In the process of doing so, the Federal Government has afforded tribes some special tools that will help them address the rampant homelessness and despair that characterize too many of their reservations.

This Member wishes to extend a special sincere thanks to the committee members and the conference committee members, including Members from the other body, who agreed to the several Indian housing proposals that were taken from H.R. 4614, the Indian Housing Improvement Act, introduced by this Member.

In particular, the increase in authorized new construction of Indian housing is especially appreciated, as is the approval of the authorization for a one-time use of CIAP funds for modernization and rehabilitation of Indian housing units. Additionally, changes to the McKinney Homeless Act will make Indian tribes eligible applicants for the emergency shelter grants program, the supportive housing demonstration program, and section 8 assistance for single room occupany.

The agreement also includes an amendment to FmHA programs that would prevent alienation of Indian trust lands in the event of a default on an FmHA loan, and authorizes Indian housing authorities to undertake child care services.

Finally, it allows the Secretary of HUD to waive any matching requirements in Indian housing programs, and provides a new authority for the use of Federal funds for matching funds. Together these provisions undoubtedly constitute the most significant Indian housing legislation in a great many years.

Mr. Speaker, also included in the agreement are several critical provisions to address the unique challenges of providing affordable housing in rural areas. In particular, this Member

is especially pleased that his amendment to increase the population limits for communities eligible for FmHA programs from 20,000 to 25,000 was approved. This was necessary because some decidedly rural communities, with a distinct lack of mortgage credit, will experience a population increase as a result of the 1990 census. To lose eligibility for FmHA programs could be devastating to the stability of housing assistance in those areas, and the modest increase in the population limits seemed to be the most equitable way to prevent the financing difficulties that such a statistical shift could cause.

In addition, this Member is most pleased with all the new initiatives contained herein to see that the agreement makes permanent an FmHA program to guarantee single family housing loans up to 90 percent of the loan. These guarantees, long sought by this Member, are to be available to rural borrowers whose incomes do not exceed the area median income.

This is a big step in the right direction. Since 1986, this Member has sponsored legislation to guarantee home loans for borrowers whose incomes do not exceed 115 percent of the area median. While this Member would prefer to see the new guarantee program extended to such borrowers, it is certainly an improvement over the terms of the demonstration adopted in 1987, which provided loan guarantees for borrowers whose incomes did not exceed 80 percent of the area median.

Finally, the agreement contains language to prohibit FmHA from refusing to make or insure loans on housing that is in remote or highly rural areas. The provision directs the Secretary to consider the actual costs of land and buildings as adequate security for section 502 loans, and establishes a new grant program to make up the difference between the appraised value and the costs of the land and building. This important provision should ease the credit crunch for many rural families living in isolated rural areas, and this Member is pleased to see it adopted.

Mr. Speaker, the measure before us reaffirms the Federal Government's ongoing commitment to house Americans in rural and small town America, to help house our poor and indigent, to encourage those striving to move from shelters, and to assist those who finally climb up on the ownership ladder. This Member enthusiastically supports the Cranston-Gonzalez National Affordable Housing Act, and urges his colleagues to do the same.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield further, I wanted to mention and also thank the gentlewoman from New Jersey [Mrs. ROUKEMA], the ranking minority member on the full committee and the minority leader on the Subcommittee on Housing and Community Development, because her contributions have been great, and I think I speak for all of the membership on both sides of the committee.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I rise in strong support of this conference report.

Mr. Speaker, I want to thank the chairman, the gentleman from Texas [Mr. GONZALEZ], for this time, and I want to thank him for his leadership on this issue. I want to express my appreciation and gratitude to the gentleman from Ohio [Mr. WYLIE], the gentlewoman from New Jersey [Mrs. ROUKEMA], as well, to our friends at HUD, and a couple of years ago, I would not have said our friends at HUD, but they deserve some credit on this as well, and to the members of our staff, committee staff, subcommittee staff, and to our personal staff, especially to Susan Frank, who helps me on these issues.

For the first time in my lifetime in recent years, we have seen the incidence of homelessness rising, and we have seen the incidence of home ownership falling. We are not just talking about among a population where the people might be mentally ill, and we are not just talking about those people who have substance-abuse problems. We are talking about families, particularly women with young children.

The cause for that for the most part, is that the income of these families has not kept up with the price of housing. They do not have enough money for rent, much less for a downpayment to buy a place. The result is we have tens of thousands of people in our country, families, who do not have a place or a roof over their heads today.

One bill is not going to solve all of those problems. This bill does not do that, but what this legislation does, is to signal a new willingness, a determination on the part of the Congress, Democrats and Republicans, and on the part of an administration, a new administration, to address what is a growing problem.

While what we have here is a commitment on the part of the Federal Government to dedicate some additional resources, but to also call on State and local governments to call on nonprofit organizations, finally, to call on the private sector, to be full partners with those of us here in the Congress.

The three issues that I had the opportunity to work the most on with regard to this bill, I will just briefly mention, and those are drugs in public housing, preserving existing affordable housing to continue for that purpose, and with regard to self-sufficiency, promoting self-sufficiency for those people who live in dependency, who live in public housing, so that they may have the opportunity to become trained, to get an education, get assistance in getting a job and becoming self-sufficient. I am especially proud of those efforts.

I thank each of those people who worked with me and this committee on those causes.

Mr. ROYBAL. Mr. Speaker, as the chairman of the Select Committee on Aging I am very concerned about the housing needs of the elderly. The housing bill before us today has made significant improvements in the Federal policy toward housing for the elderly, especially the frail elderly. Both Congress and the administration recognize the need to link housing and services in order to keep the elderly independent and in their homes, postponing costly institutional care.

I have one concern in the section which refers to service coordinators. I drafted a bill which included the need for a service coordinator, the chairman of the Banking Subcommittee on Housing and Community Development agreed with me on the need for service providers and introduced that concept in his housing package. The Senate leadership also included the much needed service provider in their bill, and the administration has been very supportive of the idea, and has begun work on implementation of service providers in elderly housing. As you can see, there is across-the-board understanding of the support for the much needed service providers in federally assisted elderly housing.

The need for a service provider, as outlined in several hearings held by the Select Committee on Aging, at which Secretary Kemp testified, has been clearly established. Housing managers, who are trained as building managers not people managers, are now being expected to care for the increasingly old and frail elderly, in the old section 202 housing the average age of elderly in these buildings is 80 years of age and above. We need to provide services, mainly by linking up elderly housing with existing social services for the elderly, especially those programs in the Older Americans Act, so that these elderly can remain safe and independent.

It is my understanding that the conference report recognizes the critical role that service coordinators provide to frail residents in federally assisted housing and that general approval of the service coordinators in those buildings is assured, with the intent that the function of service coordinators will provide assistance primarily to those residents of the building who are frail, not intended for buildings which are principally frail, which is nonexistent in independent housing. It is further understood that a coordinator would not necessarily have to be attached to one particular project but will provide services to those most in need in a cost-effective fashion.

The administration is currently working on a plan for the provision of service coordinators and I strongly applaud the Secretary's com-

mitment to improving the lives of the elderly in federally assisted housing.

I will work to clarify the need for service coordinators in elderly housing, with the understanding that they focus on the needs of the frail elderly.

□ 1520

Mr. GONZALEZ. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, I rise in strong support of the conference report. I add my congratulations to Chairman GONZALEZ and Mr. WYLIE of the minority for their strong leadership. Chairman GONZALEZ in particular, has been a champion. And I congratulate my fellow conferees for their hard work in bringing this conference report to fruition. It marks the most important new housing legislation since 1974, when Congress enacted the community development block grant and section 8 programs.

This bill could not come at a better time. In the last 10 years our national government has all but abandoned its obligation to provide affordable housing to poor and working families. HUD's budget has been cut by 77 percent back in 1980 and we assisted 330,000 underprivileged families. Today, we help barely 80,000.

And what resulted from these cutbacks? A bitter harvest of misery. Two to three million are now homeless. At least 9 million other Americans pay as much as 50, 60, even 70 percent of their income in rent. Their desperate search for shelter forces painful choices. Choices between shelter and food for a child's empty stomach. Choices between a home and the schooling our kids must have to climb out of poverty. Choices that should be forced upon no one in a wealthy, generous nation.

This legislation marks an end to the politics of neglect and a return to policies of concern. Mindful of the mistakes and excesses of the past, it reasserts this Government's duty to provide every American with a decent place to live.

The centerpiece of the bill is the new home program. The program will provide grants to State and local governments, private investors, and local nonprofits to build, renovate and preserve affordable housing.

Within the home program is the Community Housing Partnership. The Partnership is a promising innovation in a time of tight budgets. For the first time, Federal funds will be set aside solely for local nonprofits to build and renovate housing.

Over the last 10 years, nonprofits have proven that they are worthy of our help. As the Federal Government and private developers reduced their commitment to housing, nonprofits took up the challenge. Operating only on sweat and shoestring budgets, they have built over 150,000 units of affordable housing in the last few years.

The Community Housing Partnership taps the vast potential of these hardy groups. In the process, the costs to the taxpayer of affordable housing are reduced in several ways. First, Federal dollars will be leveraged by State, local and private contributions. Second, speculative profits are eliminated. For-profit builders, contractors, engineers, and architects may be paid a fair price for their services, but no one will get a windfall by real estate speculation. Third, the housing is intended to remain affordable in perpetuity, so we will not face the crisis of future conversions to upscale condos and co-ops. Finally, the housing is paid for up front to reduce the financing costs that drive up rents over the long run.

The nonprofit sector cannot possibly bear the burden of solving the housing crisis on its own. It can, however, play a greater part. The Community Housing Partnership is a cost-effective way to help nonprofits fulfill their great potential to be partners in developing decent housing for working families.

Mr. Speaker, I must also mention the tremendous achievement in preserving HUD-subsidized housing subject to prepayment. As you know, over 330,000 units of affordable housing are at risk of being converted to upscale condos and high-priced rentals. Through the hard work of Chairman GONZALEZ, Congressman FRANK, and others, we have succeeded in crafting a solution to the prepayment crisis that balances the legitimate interests of tenants, owners, and the Federal Government's heavy investment in these properties.

The National Affordable Housing Act goes a long way to producing the new housing we desperately need, and preserving the housing we have already built. I urge my colleagues to support this bipartisan conference report.

Mr. Speaker, again I want to thank the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ] for the strong leadership that he has provided, and I would like to take this opportunity to again thank the gentleman from Ohio [Mr. WYLIE] as well.

Mr. WYLIE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Speaker, I, too, would like to add my congratulations to the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], the gentleman from Ohio [Mr. WYLIE], and especially the gentlewoman from New Jersey [Mrs. ROUKEMA], who I know worked very hard on this bill, because I am a member of the committee. Also to the staff, I would like to add by gratitude to the HUD staff, with which I thought did an outstanding job.

I ask my colleagues to support this very progressive housing bill, but it is also a historic occasion for the people of Hawaii, because this bill will renew the Federal commitment to help the native Hawaiian people live on their homestead lands. An unintentional side effect of our civil rights laws has made them ineligible for Federal assistance. The conference report we consider today will correct that injustice.

It is tragic that for all these years, native Hawaiians who want to live on their homelands have been denied access to the funds available to every other native American group in this country. In Hawaii, land costs are astronomically high but the 18,000 native Hawaiians on waiting lists already own the land. What they need is the infrastructure—like roads, water and sewage systems, and other utilities. They also need the seed capital to finance and build the homes. This bill can provide both.

Native Hawaiians will be eligible to seek part of the $15 million in community development block grant funds given annually to Hawaii. They can also qualify for elderly and handicapped housing programs, and they will be eligible for multifamily mortgage assistance. For those unfortunate homeless individuals, this bill will provide funds to build and operate shelters.

I ask my colleagues to support this historic bill.

Mr. Speaker, I thank all my colleagues on the committee who have worked so hard to include this very important amendment.

Mr. WYLIE. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I rise to express my strong support for the conference report that accompanies S. 566, the Cranston-Gonzalez National Affordable Housing Act.

That this measure is before us at all today is, in no small part, due to the unswerving and tireless commmitment of both the distinguished chairman and the distinguished ranking member of the full committee, Mr. GONZALEZ and Mr. WYLIE. They have together fostered a spirit of bipartisanship and goodwill that has guided us through an arduous and sometimes difficult course.

I would also like to extend a special note of congratulations and commendation to a friend and former colleague, Secretary Jack Kemp. To his credit, the Secretary has been involved and active, standing ready at every turn to move this process forward. His commitment of time and energy has made our shared goals a reality—a revitalized and vigorous national housing policy.

With that said, I wish to focus my colleagues on several provisions in this conference report that merit particular attention.

First, the report incorporates, based on the Community Enterprise Revitalization Act legislation that I authored and that was included in the House bill, several important changes to the section 108 Loan Guarantee Program.

Working to expand this vital program by making, for the first time, many small cities and rural communities eligible for section 108 financing, these changes will enable many more communities to undertake the critical development and infrastructure projects they so desperately need. I wish to thank again the chairman and members of the committee for their strong support of these programmatic changes, support which stands, in my mind, as a reaffirmation of the Federal Government's own commitment to local efforts to assist persons of low and moderate income.

In addition, I am pleased to see included in the report the central provisions of legislation that I introduced, along with my colleague, the gentleman from Pennsylvania [Mr. McDADE] that will open the door to the dream of homeownership for many rural families. The Ridge-McDade Rural Housing Improvement Act will increase home financing opportunities by extending to rural areas currently underserved by other mortgage financing sources Federal loan guarantees to purchase or construct homes.

I would like to touch upon too a provision in this report that attempts to rein in the ongoing practices of some FHA mortgage lenders of charging excessive and discriminatory fees and costs to those FHA borrowers seeking small-balance mortgage loans.

These practices pose a rather difficult problem that is met by no easy solution. For while some lenders' pricing practices are clearly discriminatory, lacking of any reasonable economic justification, other, more responsible lenders provide for a differentiation in pricing that is more consistent with the economic realities of undertaking to originate loans of varying balances.

The compromise reached in this conference report sets out, as a general rule, a policy that calls for uniform pricing for all FHA borrowers, regardless of loan size, while allowing, as an exception to that rule, a small variation in pricing where the factors of the marketplace conspire to necessitate a need for such a variation. I believe this compromise will protect consumers from those lenders engaged in the more egregious practices while still ensuring the availability of mortgage credit in those areas where economies dictate a need for some slight variation in pricing.

Let me turn for a moment to the compromise FHA reform proposal in the report. The basic fact of the matter is that restoring FHA to financial stability required that we ask of all home buyers, many of them first-time home buyers, to put up more up-front cash at closing. Those of us committed to housing, like myself, take no delight that these reforms may mean, for some, a delay in the realization of that American dream of homeownership.

At the same time, it pains me to see a family that has worked so hard for that first home to lose that home through default. This destroys the very fabric of our neighborhoods. It would be equally distressing if we failed to take responsible action now, when we know FHA is in trouble, and perhaps risk the program for future generations.

The compromise that I offered in conference embodies, I believe, the central tenants of FHA reform that this House endorsed in overwhelmingly passing the original Vento-Ridge proposal. It restores FHA to actuarial soundness, it will keep home buyers in their homes by reducing their risk of default, it imposes and achieves tough capital standards and it will ensure FHA's future solvency.

Importantly, this compromise attains these goals in a way that significantly reduces the up-front costs potential home buyers would have had to face had the Senate FHA provisions become law. In keeping up-front costs down we have done as much as was within our power to minimize the negative impact on the home buyer. It is not a perfect compromise, but it is a good one.

Finally, I am very pleased that this report accedes to the Senate provisions in S. 566 providing for changes to the McKinney Act Homeless Assistance Program that will convert the present HUD-administered categorical programs to a more equitable community development block grant formula allocation system. The Senate provisions are virtually identical to legislation that I and the ranking member of the Housing Subcommittee, Mrs. ROUKEMA, have long championed.

The institution of a block grant allocation, which finds almost unanimous support among the providers of homeless assistance, will give a much needed flexibility, self-determination, and certainty of funding to those seeking to meet the individual needs of their communities that the fragmented and inflexible categorical programs currently in place ill afford.

Mr. Speaker, there are many additional provisions in this conference report worthy of comment that time simply does not permit me to address. Yet in closing, let me commend this report to my colleagues as a testament to good housing policy, sound public policy, an achievement deserving of this body's strong support.

□ 1530

Mr. GONZALEZ. Mr. Speaker, I yield one-half minute to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of this conference report, known as the Cranston-Gonzalez Housing Act.

I want to thank the chairman. I want to thank the gentleman from Ohio [Mr. WYLIE] and the other members of the committee, and also the staff, for clearing up title VI of the bill which adopts a comprehensive long-term solution to the problem resulting from the prepayment of mortgages.

I certainly want to thank the chairman and the other members for working this out.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Speaker, I rise today in support of S. 566, the Cranston-Gonzalez National Affordable Housing Act of 1990. I believe this bill marks an important turning point for Federal housing policy. Working together we have made the commitment to work with State and local governments, nonprofits, and the private sector to solve the serious problems of affordable housing in the United States. I want especially to commend Chairman GONZALEZ, Mr. WYLIE, and Mrs. ROUKEMA and their staffs for making this day possible. It is a great achievement.

S. 566 reauthorizes public and Indian housing programs, programs serving the elderly and disabled, rural housing and the CDBG grant program. In addition, it contains a number of new initiatives including the National Housing Trust Fund, which will provide assistance to first-time homebuyers for downpayments or subsidized interest rates, and the HOPE Program, designed by Secretary Kemp, to spur home ownership among residents of public housing and other multifamily dwellings by providing tenants with financial assistance to buy their units.

But I believe the most important new initiative is one mainly developed in the Senate called HOME. The HOME Program provides an array of housing assistance including new construction subsidies and rehabilitation funds to be used by State and local governments and nonprofits. Participating States and localities will be required to develop a housing strategy, but they will be able to select and adopt appropriate means for increasing the supply of affordable housing in their area.

I think this flexible approach is the right one at this time. When the Federal Government retreated in the 1980's from its commitment to affordable housing, States and cities, includ-

ing many in North Carolina, developed new programs and strategies. The only hindrance to the success of many of them was a lack of funds. As the mayor of Chapel Hill commented at one hearing: "The problem is, now that we know this works, we don't have the resources to replicate it." Through HOME, I believe the Federal Government can play a constructive role in letting these proven programs flourish and be replicated.

I am especially pleased that included under HOME, as an eligible model program, is an idea I pushed through the House as a demonstration program, called "soft seconds." "Soft seconds" are low cost mortgages that are used to cover part of a house's acquisition price and have helped many low- and moderate-income people achieve home ownership in North Carolina and other areas. "Soft second" mortgages are usually about 30 percent of the cost of the home, and payment and interest on these mortgages are deferred for 5 years. The mortgage is usually held by a local government or a nonprofit agency.

The success of this financing technique was apparent at a field hearing I convened in Raleigh in January 1990. In Chapel Hill, "soft seconds" financing has helped launch the Tandler project which has allowed families with incomes between $17,000 and $25,000 to achieve home ownership. In Raleigh, "soft seconds" were the cornerstones of a development that helped families with incomes of $20,000 per year or 60 percent of our area's median income to become homeowners.

I believe this program will help leverage Federal resources and help ensure that we get more housing for each Federal dollar. It is exactly the role the Federal Government should play if we are to tap successfully into the energies of local organizations that, in the wake of Federal retreat from housing, developed innovative and successful housing programs. HOME and the "soft seconds" program appropriately recognize that as the Federal Government begins to take its fair share of responsibility for housing in this country, it should complement not supersede the activity going on in our States, cities, and towns.

Another amendment which was accepted by the conferees was one I offered, along with Mr. SCHUMER of New York, to expand and improve the reverse mortgage program currently being run by the Federal Government. The program allows senior citizens to receive payments, secured by the equity in their home, to meet monthly expenses. This responds to the position many elderly homeowners find themselves in: "house-rich" but "cash-poor."

Currently, the Federal Government's program includes only 2,500 mortgages; the conference report expands it to 25,000. The small number of mortgages has hindered the full effectiveness of the demonstration because most lenders that are interested in participating cannot.

In North Carolina, for example, we only have 1 lender with 50 mortgages. This means that in major cities like Raleigh, Greensboro, and Charlotte, there is not a single lender available to make these loans. And this is true across the country. And even for the lenders who get 50, it is simply too small a number to justify staffing and administrative expenses. In fact, nearly two-fifths of the original mortgage companies and banks chosen by HUD have dropped out, leaving many States without this program.

But the amendment does more than just expand the program. It offers some additional consumer protections for reverse mortgage borrowers. Most importantly, it gives borrowers using the Federal program the opportunity to conserve part of the equity in their home. This gives senior citizens the ability to remain in their house but still preserve money for long-term care needs or simply to leave to their children. The cash payments senior citizens receive would only be based on that part of the home's value they choose not to conserve, so the Federal Government's liability is not increased in any way by this amendment.

The amendment also clarifies a number of areas left uncertain by the original provisions. First, it clarifies that any financial institution participating in the program must offer to the homeowner a full range of reverse mortgage options. These options are usually line of credit, tenure, term, or some combination of these. It also allows borrowers to switch options during the course of the mortgage. And it adds clarifying disclosures on the potential liability for and the potential cost to the borrower.

The conference report also includes a provision I offered during the House Banking Committee's consideration of this bill regarding the payoff of FHA-insured mortgages. Under my amendment, consumers will be informed at the time of loan closing, and on an annual basis, that they must meet certain requirements if they are to avoid additional interest charges beyond the date of payoff.

This problem was brought to my attention by some constituents. They complained they had been charged interest for an entire month even when they had paid off their loan much earlier in the month. For instance, one of the cases involved a consumer making an extra interest payment of over $500. It is my hope that this amendment will end consumers having to face additional charges when they pay off their loan.

The conference report also includes a provision I added during the House Banking Committee's consideration of this legislation which gives public housing authorities more flexibility in implementing current "federal preference" regulations for public housing. Currently, public housing authorities are allowed to make available only 10 percent of their slots to families without a Federal preference. The bill will raise that exemption to 30 percent, giving our public housing authorities the flexibility that they almost universally say that they need.

Federal preferences give priority to those who pay more than 50 percent of their income for rent, who are involuntarily displaced, or who are living in substandard housing. And indeed, persons in such desperate circumstances should be given priority and still would be under my amendment.

But the case for an absolute priority is not as strong as it may at first appear. For what is at stake is not only redressing the plights of individual families, but making public housing developments work as communities—to ensure a certain mix of residents that provides stability and viability to the project as a whole. If we apply Federal preferences too rigidly, we may fail to achieve this mix. In hearings held by this subcommittee both in North Carolina and in Washington, public housing authority directors and their representatives have convinced me that they do indeed need more flexibility and that the current 10-percent limit needs to be raised.

All slots would, of course, still be filled with persons fitting the income eligibility requirements for public housing. But 30 percent of the slots could be filled apart from the strict Federal preference requirements.

I also think that the strictness of the rules is ultimately unfair. There are many people on waiting lists, who are still eligible for assistance and still needy and deserving, and because they don't quite fit the "federal preferences" criteria, they have relatively little chance of getting off the list. It seems to me a balance must be struck between their legitimate needs and those with a Federal preference. My amendment still gives more weight to Federal preferences overall but it does so in a way that is more fair to all those who need housing assistance and that meets the needs of the public housing development as a community.

The conference report also makes permanent increases in the ceiling for FHA mortgage insurance. This is a vitally important provision, ensuring the availability of FHA insurance to families of modest income in high-cost

areas, and I commend the committee leadership for its inclusion.

I am also pleased to see resolution of the issue surrounding the preservation of low income housing. The conference report properly balances the rights of tenants and owners. I am pleased that the conference report contains many ideas, that were developed by TOM CARPER, LIZ PATTERSON, PETER HOAGLAND, and myself, during House consideration of this issue. In particular, S. 566 contains our additions regarding right of first refusal for nonprofits when owners signal their intent to prepay, strengthened tenant protections, and stronger sanctions against owners who do not maintain their property. I especially want to salute BARNEY FRANK and STEVE BARTLETT for their tireless efforts in this area.

Beginning the 1990's, we have new challenges and new opportunities in the housing area. I look forward to continuing to work to find creative and innovative housing programs which effectively leverage Federal dollars to end the plight of homelessness in this country, reverse the decline in homeownership opportunities, and make rental housing more affordable. At the same time, we know many critical tasks remain in the implementation of these proposals. Our committee must now focus our energies in working with Secretary Kemp and HUD to make sure these new resources and opportunities are effectively utilized.

Mr. SCHUMER. Well, Mr. Speaker, and my colleagues, we have finally done it. This is the most extensive Housing bill ever and the first real omnibus bill in a decade.

I want to congratulate the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ] for his perseverance, and the ranking member, the gentleman from Ohio [Mr. WYLIE] for his ideas, cooperation and dedication.

This is really a new day and it is also something different in housing policy, as well as bipartisan, for the first time in a decade.

There are programs in this bill that I do not particularly like that might have been proposed by the Secretary or the other side. There are programs here that I like that they do not like, but what we have decided is none of us have a monopoly on knowledge, that housing policy has gone down the drain in the last decade and we ought to try some new ideas, some that we think might work, some that others think might and then try from there to rebuild and solve so many of these housing problems that have been unmet throughout the eighties.

I want to highlight three elements in the bill in which I was extensively involved. The new production program will help fill a major void in Federal housing efforts, the lack of new production assistance, 10 percent to the HOME funds in 1991, 15 in 1992; the AIDS Opportunity Act, a program crafted by my colleague, the gentleman from Washington [Mr. MCDERMOTT], the gentlewoman from California [Ms. PELOSI], and I; the first Federal housing efforts specifically aimed at people living with AIDS.

Finally, the Family Unification Program. That is a program that says if you are going to split a family apart because they do not have adequate housing, give them the housing, because the family is such a vital resource that we can afford the few thousand dollars a year to keep families together.

Now, all of these things together, these three programs and many others that were worked on here, do represent a new day in housing, a day of bipartisanship, a day when we feel we need more dollars and we need new ideas. You put all that together and I think this is a proud day for the housing community and a proud day for the Congress.

Mr. WYLIE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I want to compliment the gentleman who was just in the well for his bipartisan help in drafting this legislation and for his kind remarks.

I was asked by another Member here if there is any money for new construction for public housing and what about the 202 Elderly Housing Program?

I would say that the chairman, the gentleman from Texas [Mr. GONZALEZ] was very successful in providing an authorization for public housing new construction. This program was reauthorized for an additional 2-year period, for some 14,000 new units.

The conference agreement also includes several important provisions which will enhance the section 202 Program and provide necessary improvements in supportive services to care for the frail elderly.

The gentlewoman from New Jersey [Mrs. ROUKEMA] was responsible for some of those amendments, as was the gentlewoman from Ohio [Ms. OAKAR].

Particularly the conference report reforms the existing congregate housing program by introducing a cost-sharing feature which should expand coverage for these vital programs. The restructured program also permits retrofit activities to allow the frail elderly to continue to reside in housing for the elderly without having to move into a more institutional setting. I believe these program enhancements to our special needs housing programs for the elderly will provide greater flexibility and expand the scope of the programs in a very positive manner.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in strong support of this legislation.

This housing legislation is indeed landmark legislation that sets a new direction for housing policies for the United States for the 1990's. It is based on empowering people to control their own lives.

The legislation is based on three pillars, home ownership, freedom of choice, and community revitalization.

This bill accomplishes much in many respects, but perhaps the greatest achievement is the forging of a permanent solution to the prepayment-preservation puzzle that has been baffling Congress for the past 4 years.

The bill carefully balances rights of owners who, pursuant to their contract with the Government, may pay off their 40-year loan after 20 years, and the rights of tenants who are concerned about the effect of such payments on the continuation of low income stock. The act has as its basic premise that no owner will be required to remain in the program, or to sell the project to an owner who continues low-income use, unless he or she receives fair market compensation, either through the receipt of market rents when rental is continued, or the receipt of highest and best use fair market value if the project is sold. This is the very essence of the amendment that I cosponsored with Congressman BARNARD that was adopted by the Banking Committee. Thus, the bill honors both the Government's moral and legal commitments under its contractual obligation with the owners. Had the bill provided less than fair market value to the owners, then certainly the courts would have made the Government assume that obligation. The law is clear; the Government cannot abrogate its contracts with private parties just to save money, and that is what we would have been doing here had we shortchanged the owner.

Mr. Speaker, the legislation is not perfect. I think it is well to take note of that. While it does set us in the direction for the housing policies of the 1990's, there are few throwback programs in this bill to the programs of the 1970's. There are too many categorical programs. It is more expensive than it really needs to be; but with the budget agreement, all discretionary expenditures under this program will be required to complete new programs versus old programs, so the budget implications would be the same.

The preservation section in title VIII turned out to be more complicated than was necessary, but it will work.

Taking the three areas of the bill one at a time, Mr. Speaker, the housing policies of the 1990's, first, homeownership, empowering individuals and families at all income levels to purchase a home. Through the HOPE Program, as proposed by Secretary

Kemp, we empower public housing residents and tenants to purchase their own units and to manage their own units through resident management.

□ 1540

The same goes for tenants in preservation units who can buy their own units. The National Home Ownership Trust proposed by Chairman GONZALEZ provides first-time home buyers with the opportunity to purchase a home. The FHA compromise preserves both the solvency of FHA and indeed provides first-time home buyers with that opportunity to purchase their own home.

Mr. Speaker, second, freedom of choice: This bill at its heart, in rental units, empowers tenants to make their own decisions on where they want to live. The preservation section, perhaps the most contentious of all, the bottom line is that every tenant who is income-eligible in existing 236's or 229(d)(3)'s will be able to continue to receive income supplement and assistance from the Federal Government. Likewise, every owner who owns that property, private only, will be able to pay off that mortgage and sell the unit if he wants to or keep it in the low-income housing pool, his choice.

I want to thank Mr. BARNARD, who is my partner on the Banking Committee in providing legislation that from the Banking Committee and the House version came the essence of this legislation, and also the others involved: Mr. CARPER, Mr. PRICE, Mrs. PATTERSON, Mr. HOAGLAND, Mr. WYLIE, and the assistance and the fairness of Chairman GONZALEZ on that legislation.

The legislation also includes Shelter Plus Care to permit people who are living on the streets to be able to move out of the streets and out of shelters into a decent life.

Bootstrap, where public housing residents will be able to move out of welfare into work and into private housing, the public housing reforms that we have been working on for a decade to permit public housing residents to apply for and get on the waiting lists for section 8, to permit residents to get a job to be able to move up into that job and permit residents to manage their own units.

Last, community revitalization: The Senate added a great deal to this bill with the HOPE Program, by providing a block grant program for housing opportunities in our cities in which cities can take money and convert that money, using their own match, convert that money to provide additional housing opportunities in their own cities to match Community Development Block Grants by adding a homeownership component of Community Development Block Grant.

Since 1983 the committee has attempted, and finally succeeded, in putting in a block grant for the repair of public housing so that public housing authorities in cities for the first time can make their own decisions on how to and how best to repair and modernize public housing.

The bill is not perfect. It is too large. It has a few too many categoricals. But this legislation is landmark legislation. This legislation sets the tone, gives us the direction for the new world of housing policies for the 1990's.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. HILER].

Mr. HILER. I thank the gentleman for yielding.

Mr. Speaker, first I would like to compliment the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], and the ranking member on the subcommittee, the gentleman from Ohio [Mr. WYLIE], and the ranking member of the subcommittee, the gentlewoman from New Jersey, [Mrs. ROUKEMA], for their tremendous job in helping to craft what is really a very far-reaching piece of legislation that I think will have a very dramatic impact on housing policy into the decade of the 1990's.

I think there is one area of the bill that I am a little bit disappointed did not go as far as I would have liked; that is, in the area of manufactured housing construction standards.

I do believe, with the commission authorized in this conference report, we can have a serious attempt at trying to look at the challenges that confront that type of housing product because I really believe manufactured housing is one of the most important aspects of the solution to housing our people in affordable housing.

This bill will undoubtedly be found to have some pitfalls along the way. But this does not end our work on the housing committee and the Banking Committee for the rest of the decade of the 1990's, but I think we have a new base to operate from, a base that will help to provide for empowerment to our people, that will provide more meaningful reform for public housing authorities and will help all people to try to achieve the universal goal in this country of homeownership so that we can have people housed in the way they want to be housed, in safe and affordable, decent housing.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume, 2½ minutes, to engage the chairman, the distinguished gentleman from Texas, in a colloquy to establish legislative intent.

I was asked by HUD to do this.

I ask Chairman GONZALEZ: The House bill originally contained a provision that would have provided that up to 25 percent of the units of public housing projects other than scattered site could be occupied by families with incomes between 50 and 80 percent of area median income. The conferees agreed to this provision with an amendment that changed the 25 percent to 15 percent.

However, in the process of drafting the amendment the provision appears to have been accidentally broadened to apply to section 8 assisted housing as well as to public housing, which is not something we contemplated I do not believe in the original House-passed bill.

Does the chairman agree with me that this is indeed a drafting error, and that this action was not contemplated in the original House bill and was not the agreement of the conferees?

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Speaker, I do agree with the gentleman from Ohio, it was never intended that this provision would apply to the section 8 program. In fact, in addition to that, the intent of the conferees to extend this new public housing low-income targeting provision to the section 8 program was not and is not the intent.

Mr. WYLIE. Would the chairman therefore agree that since this provision is in error, the Secretary of HUD would not be required to implement the revised targeting requirement for the section 8 program?

Mr. GONZALEZ. That is my understanding, and I agree with the gentleman.

Mr. WYLIE. Mr. Speaker, in reviewing section 336 of the conference report, we are introducing changes to require the HUD Secretary to conduct auctions of certain subsidized mortgages, and in the process the language states that a mortgagee that assigns a loan to HUD must provide certain types of information to the Secretary and other bidders. As I understand it, it is the conferees' intent that the Secretary should adopt rules to implement this process that would only require the mortgagee to submit data that is available in the normal course of business—which is not the case with both tenant characteristics and Federal subsidy levels and durations. Mortgagees do not have this information and cannot readily collect it. Rather, the HUD Secretary already maintains this data or can easily obtain it. So it is the actual intent of this provision I would think that the bidders should look to HUD to supply those items.

Mr. Speaker, would the gentleman elucidate on that?

Mr. GONZALEZ. The gentleman's understanding is certainly correct.

HUD has the capability to maintain the data, and that is where the responsibility should be. So the gentleman's understanding is correct.

Mr. WYLIE. I thank the gentleman for his clarification.

Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise today in strong support of S. 566, the National Affordable Housing Act of 1990.

Mr. Speaker, I congratulate the hard-working team that has labored over this comprehensive housing legislation throughout the 101st Congress. The chairman of both the Committee on Banking, Finance and Urban Affairs and its Subcommittee on Housing and Community Development, the wise and distinguished gentleman from Texas, the Honorable HENRY GONZALES, has invested an enormous amount of time and effort crafting, negotiating, and perfecting the legislation which is before us today. I congratulate the gentleman on his herculean effort.

The ranking minority member of the full committee, my good and dear friend, the gentleman from Ohio, the Honorable CHALMERS WYLIE, has faithfully worked with the chairman and all members of the committee in developing a package meriting the full support of this body. I congratulate the gentleman and the ranking member of the Subcommittee on Housing and Community Development, the gracious and eminent gentlewoman from New Jersey, the Honorable MARGE ROUKEMA, on the product of their devoted efforts.

Mr. Speaker, the conferees on this legislation performed difficult and admirable work in reconciling the differences between the House and Senate versions of the National Affordable Housing Act of 1990. In devising a resolution of the nettlesome problem of low-income housing mortgage prepayment, for example, the conferees have struck a fair balance between the rights of owners and the needs of low income tenants.

I would like to pay a special tribute to the committee on conference for including in the legislation a provision incorporating my SPORT Act of 1990.

The SPORT [Special Program of Recreational Training] Act of 1990 is designed to provide recreational and cultural opportunities for young residents of public housing. The SPORT Act authorizes a program within the U.S. Department of Housing and Urban Development to provide grants for organized sports and cultural activities benefitting the youthful residents of public housing.

This measure will provide America with an effective weapon in our war on drugs. The organized activities for young people promoted by this bill will help break the cycle of boredom and despair that often characterizes public housing developments. This bill will empower young people to get high on sports instead of drugs.

The bill has received widespread support from youth sports organizations such as the Young Mens Christian Association and the National Parks and Recreation Association. Under the bill, public housing authorities, units of State and local government and nonprofit organizations will be eligible to apply for grants of up to $125,000 to fund an array of recreational, cultural, and sporting activities. Such activities include, but are not limited to: development of recreational facilities; acquisition of sports equipment; and organization of youth sports leagues. The activities must primarily benefit youths residing in public housing.

The SPORT grants program will replace a similar program administered by HUD prior to enactment of the HUD Reform Act of 1989. When Congress passed the Reform Act last November, it eliminated the Secretary's Discretionary Fund, the source of funding and authority for HUD's sports program.

The SPORT program will bring the Federal Government, localities and nonprofit organizations together in a partnership to fight one of the great menaces of our age—the scourge of drug dependency. I am proud to have sponsored this legislation, which will provide a wealth of opportunities for our communities and our young people.

The SPORT program will be financed from appropriations for Drug Elimination Grants for Low-Income Housing. Applicants will be required to provide matching funds, including in-kind contributions, representing 50 percent of the Federal commitment.

Mr. Speaker, I once again applaud the Members of the House Committee on Banking, Finance and Urban Affairs and urge my colleagues to vote "aye."

Mr. WYLIE. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want to compliment the gentleman from Massachusetts [Mr. CONTE] for calling attention to the Youth Sports in Public Housing provision in the bill. I was proud to be the author of the amendment on behalf of Mr. CONTE who introduced the bill H.R. 4711, the Youth Sports in Public Housing Act which was referred to our committee and is included in the conference report.

Mr. CONTE. I thank the gentleman.

Mr. Speaker, I filed the bill that was included in the omnibus housing bill. I worked closely with Jack Kemp on this proposal. Of course, my colleagues know my affiliation with sports.

I always say that when you keep a kid busy, keep him out of trouble, get him out there in a good environment playing basketball, baseball, hockey, football, and other sports, you are going to keep him out of trouble. When he goes home at night, he will be tired and exhausted, and that way you will keep that kid out of trouble.

I feel very strongly about this approach.

□ 1550

The SPEAKER pro tempore (Mr. MCNULTY). All time of the gentleman from Ohio [Mr. WYLIE] has expired. The gentleman from Texas [Mr. GONZALEZ] has 7½ minutes remaining.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to remind the gentleman from Massachusetts [Mr. CONTE] that he and I were sort of colleagues on the baseball team, he for the Republicans, I for the Democrats, and he referred to his great affection for sports. I just want to remind him that, when I played for the Democrats, we whipped the Republicans more often than they whipped us.

Mr. CONTE. Mr. Speaker, I will have to take issue. I coached for 25 years. I have 17 wins, 7 defeats, and 1 tie called because of midnight, and that was the night that I think the gentleman from Texas [Mr. GONZALEZ] was pitching.

Mr. GONZALEZ. Mr. Speaker, we will correct the record because that is not quite accurate.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Speaker, I rise today in support of S. 566, the Omnibus Housing Authorization Act of 1990. Chairman GONZALEZ has done a commendable job in both protecting and reauthorizing public and Indian housing programs, rural housing programs, the CDGB Block Grant Program, and regulatory programs. Public housing today serves over 3.5 million people in 1.4 million units. This legislation goes a long way to provide incentives to make Federal housing assistance transitional and not an end unto itself. I am particularly pleased with provisions of this legislation which would ensure a greater income mix of persons living in public housing; provide services and training for public housing residents and increased drug elimination grants to protect residents of public housing.

I am particularly proud of a creative new program included in this legislation which would create new opportunities for transitional housing and a means by which families may progress from public housing into the private housing market. Through this amendment which I furthered, four public

housing authorities will participate in a program to arrange for land write downs and tax credits to construct private housing, 25 percent of which will be designated for low income families at a ceiling rent level. As the family income level rises, income earned beyond that required by the ceiling rent level would be placed into a savings account that could be used for a downpayment on a home, for education, or for entering the private housing market. Participants in this program enter into a voluntary agreement to participate in remedial education, job training, and family and budgetary counseling. Continued participation of families in this program would be contingent upon them remaining drug and crime free.

A provision authored by Mr. BARTLETT and myself to rechannel single-family homes in bulk from within the RTC for sale to lower income families is evidence of bipartisan cooperation in the formulation of this bill.

Another program which holds great potential is the rental housing production program. I am grateful to have had an opportunity to work with my colleagues Mr. FRANK, Mr. SCHUMER, and Chairman GONZALEZ in targeting this program to the people most in need. I believe that rental housing is an important component of providing a broad range of housing alternatives and the Home Grant Program allows us to meet an urgent housing need.

I believe this is a historic and innovative piece of housing legislation. I support this housing initiative which funds housing programs at $27.5 billion for fiscal year 1991 and $29.9 billion for fiscal year 1992. After 10 years of neglect and retreat, this legislation offers an intelligent and extremely balanced approach to address our Nation's housing needs. This measure is all encompassing in its depth of programs to provide for housing assistance and marks a move forward in providing safe, decent, and affordable housing needed by more than 11 million American households. It is my hope that the passage of this legislation will be a first step toward meeting the long-term housing needs of this country.

The goals of this legislation are quite laudable because it will strengthen the fabric of our Nation by providing housing. The Housing Act of 1949 stated that the objective of that act was to provide a "decent home and a suitable living environment for every American family." This bill helps us to achieve these goals through new, innovative programs. These programs have now been expanded through provisions of this act to include partnerships with private organizations and non-profits and mandated planning by State and local governments to determine what their housing needs are and to project what funds are needed to adequately address those needs.

With a foundation of an educated, healthy, and housed population, we can develop and sustain the economic prosperity we so desperately desire. To allow increasing numbers of people to exist on the brink of homelessness, when adequate resources exist, shows a lack of resolve to ensure the survival of the American family in this country. At this time, I believe that it is incumbent upon us as legislators to honor the promises we have made in the past and to put teeth into the guarantees we are making for the future. This legislation is laudable for the changes that it has made to provide housing assistance for the elderly, the disabled, and persons suffering from AIDS.

Mr. Speaker, this legislation addresses some complex issues. Provisions of this bill have found a way to resolve the potential loss of affordable housing for over 350,000 households and managed to find a way to ensure the solvency of the Federal Housing Administration so that lower income home owners will be able to obtain needed Government assistance for years to come. I support this legislation which will provide an additional 360,000 units of affordable housing because it is a quantum leap in the right direction and I urge its passage.

Mr. LAGOMARSINO. Mr. Speaker, I understand that. I know the gentleman from Ohio [Mr. WYLIE] was a strong supporter of the concept.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. ERDREICH], a member of the Committee on Banking, Finance and Urban Affairs and the subcommittee which had a big part in forging this bill, particularly with reference to rural related programs.

Mr. ERDREICH. Mr. Speaker, I rise to thank the chairman of the Banking Committee, Mr. GONZALEZ, for his efforts in bringing the housing authorization programs to this point, and to support the conference agreement. It is the result of a long process and will ensure the continuation of a number of vitally needed housing programs.

The agreement authorizes the use of ECHO housing units for senior and handicapped citizens under the section 202 and FHA housing programs a proposal I authorized in our committee ECHO housing units offer to our senior and handicapped individuals a housing arrangement that gives them independent living, yet is in close proximity to family members. I am pleased that the agreement included this proposal as a demonstration project and also makes the units eligible for FHA insurance.

ECHO housing units are freestanding, barrier free housing units that can be installed and removed adjacent to an existing single-family residence for use by a senior or handicapped family member. Should the individual's condition change the unit can be removed so that it can be provided to another family in need.

The inclusion of this option will allow many seniors to continue to live separate from the families, yet be close to family caretakers. ECHO units give elderly resident privacy and a sense of independence. For many they will help delay costly institutional care and for many others it may eliminate the need for institutional care altogether.

I urge my colleagues to support this conference agreement.

□ 1600

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the conference report. I think the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE] have distinguished themselves in the 101st Congress, both in housing and the savings and loan ripoff.

I would say that because of you, maybe Americans will not have to sleep on steel grates. I also commend the gentlewoman from Ohio [Ms. OAKAR], the gentleman from Pennsylvania [Mr. RIDGE], and the gentlewoman from New Jersey [Mrs. ROUKEMA]. Because of them, this is a great bill, the best bill to come out of Congress.

I was glad I had included an expansion of my Home Counseling Assistance Act. Now we have to give a 45-day delinquency notice. Any mortgage covered by Uncle Sam can be worked out according to nonprofit grants. These agencies can come in and intervene and help work out the mortgage problems and save the family home. The Washington Post said it was working.

I feel good about one thing in Congress. Let me say this: The conferees did not accept the Traficant interest rate buy-down program for community development corporations in economically depressed areas. I did not make a big issue out of it this time. I think the banks should be making loans to improve the lot of economically depressed communities. Congress does not have the money to give grants to do that, but Congress could leverage it by giving interest rate buy-downs for such projects. I believe that should be an initiative of the next Congress which I would like to ask for, if I return.

Mr. Speaker, I would like to have a brief colloquy with the gentleman from Texas [Mr. GONZALEZ]: Would the gentleman consider having a hearing on that as a freestanding bill that would provide some housing opportunities and economic development op-

portunities in economically depressed communities?

Mr. GONZALEZ. That is our intent, if, God willing, we get reelected, if we are back next Congress. We will have a hearing.

Mr. TRAFICANT. Mr. Speaker, I would like to also commend the staff and the gentleman from Ohio [Mr. WYLIE]. I want their support on this project, if I am back next year. It is good policy. We do not have the money to make these big grants and do it all, but we could leverage the private sector by buying down interest rates. I want your help.

Mr. WYLIE. Mr. Speaker, I yield myself 30 seconds.

I would say to the gentleman from Ohio [Mr. TRAFICANT] that I was one of those who supported his proposal. It sounds like a good Republican response to the housing needs in our society. Unfortunately, the people in the other body did not see it our way, and they were adamant in their opposition. We finally had to drop it.

Mr. Speaker, I would suggest that we do have an outstanding conference report which deserves the support of all Members in this body.

Mr. GONZALEZ. Mr Speaker, there are Members who have contributed so much, some who were on the committee for over 10 years, some who left and still contributed, who are demanding to speak, and that demand is so great that I am going to ask unanimous consent that the time allotted be extended 10 minutes, 5 minutes on each side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I rise in support of the conference agreement, and I would like to congratulate the chairman, the rankng member and the other members of the conference committee for their outstanding work in resolving some very difficult issues on this piece of legislation. I am particularly pleased that the conferees were able to reach a constructive solution on the mortgage prepayment issue which turned out to be fair both to property owners and to tenants.

In my own district, Mr. Speaker, there are 26 HUD-supported buildings which were vulnerable to prepayment before this agreement was reached. As many as 2,500 people, nearly half of them senior citizens, could have been evicted from their apartments. Because of this conference agreement, most of these properties should be preserved as affordable housing, as they should be.

In the years since these HUD-supported mortgages were first offered, Los Angeles rents and real estate prices have skyrocketed beyond any reasonable proportion. They have simply increased almost beyond belief. Today they are among the highest in the Nation.

In my district, which covers a narrow, 20-mile-long stretch of urban coastline, housing costs have become astronomical. Most of these apartments are concentrated in the community of Venice, which is among the most economically and ethnically diverse areas in Los Angeles. In the last 20 years Venice has undergone substantial gentrification, and consequently housing costs there have skyrocketed. Many people who have lived in Venice their entire lives could no longer afford to live there were it not for this HUD-sponsored program. They would also not be able to find affordable housing anywhere near there, and, were they to be evicted, they could not afford housing anywhere in the area because of high rents and property values.

So, Mr. Speaker, this conference report should go a very long way to solving this very difficult problem in my own community.

I want to compliment and thank the conferees for moving in this direction, and I urge my colleagues to support this agreement.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of this conference report, and I want to commend the gentleman from Texas [Mr. GONZALEZ], the gentleman from Ohio [Mr. WYLIE], the gentlewoman from New Jersey [Mrs. ROUKEMA], and all the other conferees, and of course Secretary of Housing Jack Kemp.

Mr. Speaker, this is a good bill, and it is worthy of our support. However it would be a better bill and worthy of even more support if it had contained a provision I introduced years ago allowing first-time home buyers to use their IRA's for down payments on their first home. That proposal has been sponsored and supported by such people as Michael Dukakis, President Bush, Jack Kemp, Senator CRANSTON, Senator D'AMATO, the gentlewoman from New Jersey [Mrs. ROUKEMA], and I suspect a big majority of the Members of this House. I am only sorry, for reasons known to us, that it could not be included in this legislation.

However, Mr. Speaker, as I say, this is a good bill. Perhaps we can do something about the IRA provision next year.

Mr. WYLIE. Mr. Speaker, will the gentleman yield.

Mr. LAGOMARSINO. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from California [Mr. LAGOMARSINO] for calling attention to that, and that was in the administration's original bill, as the gentleman knows. I think it is a good concept, I approve of it, and, as I say, I am glad the gentleman from California called attention to it.

Mr. Speaker, the problem we had was a jurisdictional one. If we had included that in our housing bill coming out of the Committee on Banking, Finance and Urban Affairs, it would have had to be jointly referred to the Committee on Ways and Means, and the Committee on Ways and Means has a lot of hay down, and we were just afraid that might hold up consideration of this housing bill.

So, that is the reason it was dropped.

Mr. Speaker, might I inquire how much time is left?

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Ohio [Mr. WYLIE] has 2½ minutes remaining, and the gentleman from Texas [Mr. GONZALEZ] has 5 minutes remaining.

Mr. WYLIE. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas [Mr. GONZALEZ].

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] has 7½ minutes remaining.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I rise in support of the conference report. This legislation not only represents a much needed overhaul of Federal housing programs, it also signals, for the first time in years, a reemergence of housing as a national priority. In that regard, it takes a giant leap forward in responding to a number of very important shelter needs in this country. However, I must express my strong reservations about the FHA reforms included in the conference report. While I fully support taking immediate action to restore FHA to a sound financial basis, I believe that the final provisions go far beyond what is necessary to fix the ailing fund, and could wind up penalizing those working-class families whom the program was intended to help.

I would have preferred to see a fix more along the lines of the Vento-Ridge amendment, which I cosponsored and which this body overwhelmingly approved. At a time when the first-time homebuyer index has dropped 30 percent, I believe that we could have assured the long-term solvency of FHA with a much more compassionate solution than we have before us today. Last year, in my own State of Nevada, nearly 50 percent of the Home purchases were made possible by FHA. The program is one of this country's greatest housing success stories. And so, if this legislation becomes law, I would hope that the committee would carefully monitor the

fund's health and the impact of these reforms with an eye toward keeping the program workable for as many aspiring first-time buyers as possible.

Mr. Speaker, I do support this bill. I wish we would keep an eye on this program, and hopefully modify it as time goes on.

Mr. Speaker, I would like to congratulate the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE] for a job well done.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentlewoman from South Carolina [Mrs. PATTERSON], a member of the Committee and of the Subcommittee on Housing and Community Development.

Mrs. PATTERSON. Mr. Speaker, I want to commend the chairman of the committee, Mr. GONZALEZ, for bringing this legislation before the House today. I also want to praise the ranking minority member of the full committee, Mr. WYLIE, and the ranking minority member of the subcommittee, Mrs. ROUKEMA, for their work on this bill.

Mr. Speaker, housing is one requirement of life that cuts across all levels of society. Young families trying to buy that first home, and homeless individuals searching for shelter for the night, are finding that a decade of neglect has pushed their goals out of reach. This bill is a step toward addressing the housing needs of society in a reasonable and balanced approach.

I want to call my colleagues' attention to a few of the provisions of this bill. First, this bill contains a solution to the prepayment provision that has troubled our committee for several years. This complex issue involved competing claims of tenants and owners. Both sides had valid concerns and both sides demonstrated a willingness to compromise that brought us to this stage. Our solution is not perfect, but it should ensure that both sides have their rights protected and that we do not suffer the wholesale loss of the low-income housing stock.

I also want to call attention to the continued authorization of the reverse mortgage program. This program is a creative solution to the needs of some elderly in this Nation. It allows them to use the value of their homes under carefully controlled circumstances in a way that can be very beneficial and allow them to maintain their independence.

In conclusion, I want to again commend the chairman. He has worked long and hard to ensure the availability of housing for all Americans, and it has been a pleasure to work with him.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Ohio [Ms. KAPTUR], who was a member for quite a number of years of the subcommittee and the committee, and then abandoned us to go to the prestigious and powerful Committee on Appropriations.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Texas [Mr. GONZALEZ] and want to congratulate him for the best housing bill in a decade, and also congratulate the ranking minority member, the gentleman from Ohio [Mr. WYLIE] and to the gentlewoman from New Jersey [Mrs. ROUKEMA] on the subcommittee.

I just wanted to stand and commend all of these Members for doing a great job, especially in helping first-time home buyers achieve home ownership for the first time. Of course, one of the toughest hurdles that these families face is getting enough money up for a downpayment. I am particularly pleased that the major purpose of the act includes as number one helping people to save up money for a downpayment.

Mr. Speaker, I was very pleased to see that the provisions that were incorporated in the bill do include downpayment assistance to first-time homebuyers as a key objective, assuring the safety and soundness of the program, to encourage people to put a minimum of equity in the home that they purchase.

Finally, the demonstration program that the national trust initiates should be flexible and minimize the cost to the Federal Government, perhaps by developing programs on a sliding scale.

Ms. OAKAR. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I want to compliment the gentleman from Texas [Mr. GONZALEZ] for this very important act.

I wish to compliment Ms. KAPTUR for her work. I would like the record to show and make special mention of the important discussions that occurred in the House committee that resulted in the downpayment incentives for first time homebuyers being included in this legislation.

The gentlelady from Ohio [Ms. KAPTUR] had authored the Home Ownership Made Easier Act designed to assist working people to be able to afford their first home, and to help people receiving Federal housing assistance to achieve economic self-sufficiency. I would like to suggest that even though the original provision itself was modified somewhat, the principals and objectives of the Kaptur provision are incorporated as part of the Housing and Community Development Act of 1990 in subtitle A: the National Housing Trust Demonstration.

These are: First, downpayment assistance to first time homebuyers must be a key objective of subtitle A; second, to ensure the safety and soundness of the program, a homebuyer should be expected to place a minimum of equity on his or her house—a minimum 5-percent standard would not be unreasonable; third, the demonstration programs that the National Trust initiates should be flexible and at the same time minimize the cost to the Federal Government while providing assistance, perhaps on a sliding scale, to families and individuals based on their need.

In this day and age, thousands of working individuals cannot obtain safe and affordable housing because they cannot overcome the difficult obstacle of accumulating an adequate downpayment for a first home. If the spirit of the Kaptur provision is adapted, it will place the American dream of home ownership within the grasp of these families. I also ask unanimous consent to revise and extend my remarks by including the original text of the Kaptur provision now referenced in subtitle B. The following is the text of the subtitle whole guidelines we wish HUD to follow:

SUBTITLE B—OTHER HOMEOWNERSHIP DEMONSTRATION PROGRAMS

PART 1—HOMEOWNERSHIP MADE EASIER DEMONSTRATION

SEC. 121. DEFINITIONS.

For purposes of this part—

(1) The term "buyer contribution" means the sum of the total amount of funds deposited by an eligible buyer in a HOME savings certificate account in any calendar year and any interest earned under section 125(b) during the year on such amount.

(2) The term "depository institution" means a financial institution in the business of accepting time deposits insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(3) The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years, but has during such years worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such assistance or income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this part; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(4)(A) The term "eligible buyer" means a purchaser of a single-family residence—

(i) who has not, individually or jointly with 1 or more other persons, had any present ownership interest in a principal or secondary residence at any time during—

(I) the 3-year period ending on the date of the establishment of a HOME savings certificate account by the eligible buyer; and

(II) during the period beginning on the date of the establishment of such account and ending at the time of the use of amounts in the account for the purchase of a principal residence under this part; and

(ii) whose qualifying income did not exceed 120 percent of the State median gross income during the period beginning on the 1st day of the calendar year preceding the year in which the buyer established a certificate account and ending on the date the purchase by the buyer of a residence with assistance under this part.

(B) Such term may not be construed to exclude from consideration as a eligible buyer—

(i) any individual who is a displaced homemaker, on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(ii) any individual who is a single parent, on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(5) The terms "HOME savings certificate account" and "certificate account" means a time deposit account established under this part with a depository institution by an eligible buyer, into which buyer contributions are deposited.

(6) The term "matching contribution certificate" means a certificate issued by the Secretary under this part that represents, for any year, the total amount of the funds to be made available to an eligible buyer by the Secretary for purchase of a residence under this part.

(7) The term "qualifying income" means the annual family income of an eligible buyer, with adjustments for family size, and areas of high or low housing costs (in relation to the medium income for the area).

(8) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody or

(ii) is pregnant.

(9) The term "State median gross income" means the annual medium gross income, as determined by the secretary, for the State in which an eligible buyer resides, with adjustments for family size, and States with high or low housing costs (in relation to the median gross income in the State).

SEC. 122. MATCHING CONTRIBUTIONS FOR HOME-OWNERSHIP DOWNPAYMENTS.

(a) AUTHORITY.—To provide funds to eligible buyers for use in connection with the purchase of principal residences, the Secretary may issue matching contribution certificates under this part to eligible buyers that have established a HOME savings certificate account, and subject to subsection (e) and amounts provided in appropriations Acts may make commitments to issue matching contribution certificates before the date of their issuance.

(b) ISSUANCE OF MATCHING CONTRIBUTION CERTIFICATES.—A matching contribution certificate shall be issued annually for each year for which an eligible buyer may receive such certificates under this part. Matching contribution certificates may be redeemed under section 124 only in connection with the purchase of a principal residence by an eligible buyer under this part.

(c) AMOUNT OF CONTRIBUTIONS.—

(1) MATCHING CONTRIBUTION CERTIFICATE.—Subject to the limitations of this section and section 124, the amount of a matching contribution certificate shall be a multiple of the buyer contribution to the certificate amount as determined by the ratio of the qualifying income of the eligible buyer to the State median gross income, expressed as a percentage, in accordance with the following table:

Qualifying income expressed as percentage of State median gross income	Government matching amount per $1 buyer contribution to certificate account
50 percent or less	$4.00
51-80 percent	$3.00
81-100 percent	$2.00
101-120 percent	$1.00
Over 120 percent	$0.00

(2) MAXIMUM BUYER CONTRIBUTION MATCHED.—The amount of a buyer contribution eligible for Government matching amounts (in the form of a matching contribution certificate) under paragraph (1) shall not exceed 5 percent of the qualifying income of the eligible buyer. Notwithstanding the preceding sentence, during the 12-month period beginning on the date that regulations implementing this part take effect the eligible portion of a buyer contribution shall not exceed 15 percent of the qualifying income, and during the 12-month period beginning on the day after the expiration of the initial 12-month period under this paragraph the eligible portion of a buyer contribution shall not exceed 10 percent of the qualifying income.

(3) TOTAL MAXIMUM MATCHING CONTRIBUTION.—Notwithstanding paragraph (2), the sum of the amounts of the matching contribution certificates issued under this part for any eligible buyer may not exceed the amount equal to 40 percent of the average State median income for the years for which such certificates are issued.

(d) INCOME INELIGIBILITY.—If, for any year during which an eligible buyer establishes a HOME savings certificate account or thereafter, the qualifying income of an eligible buyer exceeds 120 percent of the State median gross income, the eligible buyer may not receive a matching contribution certificate for such year. Loss of eligibility for matching contribution certificates under this paragraph shall not affect the ability of any eligible buyer to redeem any matching contribution certificates properly issued to the buyer, subject to the provisions of this part.

(e) COMMITMENTS.—

(1) IN GENERAL.—The Secretary shall provide for entering into commitments to issue matching contribution certificates upon such terms as the Secretary shall by regulation prescribe, subject to the requirements of this subsection.

(2) RESERVATION FOR LOW-INCOME ELIGIBLE BUYERS.—Subject only to the absence of eligible buyers under this subsection, in each fiscal year the Secretary shall reserve 20 percent of the amounts provided in appropriation Acts for the year for commitments to issue matching contributions certificates for eligible buyers whose qualifying income does not exceed 80 percent of the State median gross income. The Secretary shall make commitments to issue certificates with amounts reserved under this paragraph for the 9-month period beginning on the first day of each fiscal year.

(3) REMAINING AMOUNTS.—Subject to the eligibility under this part, for any amounts not reserved under paragraph (2), and for any amounts not committed under paragraph (2) after the expiration of the 9-month period under such paragraph, the Secretary shall enter into commitments to issue matching contribution certificates without regard to the income limitations under paragraph (2).

SEC. 123. USE OF MATCHING CONTRIBUTION CERTIFICATES.

(a) USE.—Matching contribution certificates may be redeemed by or on behalf of an eligible buyer only to provide for the payment of the downpayment, closing costs, and any other expenses due at the time of closing and incurred in connection with the purchase of a principal residence.

(b) LOAN-TO-VALUE RATIO.—Amounts received from the redemption of any matching contribution certificates may be expended only in connection with the purchase of a residence for which the sum of the principal obligation incurred under the mortgage (including such initial service charges, appraisal, inspection, and other fees, as the Secretary shall determine), the amounts received from redeemed certificates, and the amount secured by any subordinated lien, does not exceed 95 percent of the lesser of (A) the purchase price of the residence, or (B) the appraised value of the residence at the time of closing, with respect to such mortgage.

(c) REQUIRED USE OF CONTRIBUTIONS OF BUYER.—Amounts from the redemption of matching contribution certificate may only be provided under section 124 and used under this section if the eligible buyer uses, for the purchase of a principal residence, an amount from the HOME savings certificate account equal to the buyer contributions necessary (in the year for which each certificate was issued) for issuance of the certificates in the amount in which the certificates were issued.

SEC. 124. REDEMPTION OF MATCHING CONTRIBUTION CERTIFICATES.

(a) PERIOD OF REDEMPTION.—A matching contribution certificate shall be eligible for redemption at any time before the expiration of the 7-year period beginning on the date on which the eligible buyer established the certificate account for which such certificate was issued. Any certificate issued to the eligible buyer that is not redeemed within the period shall be null and void.

(b) LIQUIDATION.—To redeem a matching contribution certificate the eligible buyer to whom such certificate was issued shall, at the time of the purchase of a principal residence by or on behalf of an eligible buyer, request liquidation of the certificate in the form and manner that the Secretary shall by regulation determine.

(c) REDUCTION.—The amount provided to an eligible buyer for a matching contribution certificate upon redemption of the certificate shall be reduced—

(1) if the certificate is redeemed within the 12-month period beginning on the date of the establishment of the certificate account, to 25 percent of the amount of the certificate as issued under section 122; and

(2) if the certificate is redeemed after the expiration of the 12-month period beginning on the date of the establishment of the certificate account but before the expiration of the 3-year period beginning on such date, to 50 percent of the amount of the certificate as issued under section 122.

SEC. 125. ADMINISTRATION OF HOME SAVINGS CERTIFICATE ACCOUNTS.

(a) REPORTING OF TRANSACTIONS.—The Secretary shall by regulation require depository institutions holding HOME savings certificate accounts to provide the following information:

(1) ESTABLISHMENT.—Notice of the establishment of certificate accounts by eligible buyers.

(2) TRANSACTIONS.—Periodic reports of transactions regarding certificate accounts and balances in certificate accounts.

(b) INTEREST.—A HOME savings certificate account established under this part shall provide for the payment of interest, in an amount determined by the depository institution in which the account is established, on amounts deposited by an eligible buyer in the certificate account.

(c) RESTRICTION OF WITHDRAWALS.—If an eligible buyer makes any withdrawal from a HOME savings certificate account other than for obtaining the amounts in the account for use in the purchase of a principal residence, any matching contribution certificates issued in connection with the certificate account shall be null and void. The Secretary may establish exceptions to the restriction under this subsection to the extent that the exceptions are consistent with the purposes of this part.

SEC. 126. REPAYMENT OF FUNDS RECEIVED FROM MATCHING CONTRIBUTION CERTIFICATES.

(a) REQUIREMENT OF REPAYMENT.—An eligible buyer who has redeemed or caused to be redeemed any matching contribution certificate under section 124 shall repay the Secretary under this section for the amount of certificates redeemed.

(b) SECURITY.—At the time of redemption of any matching contribution certificate, the eligible buyer shall execute in favor of and cause to be delivered to the Secretary or his designee a promissory note and mortgage, deed of trust, or other appropriate instrument by which an interest in real property is rendered subject to a lien under the applicable laws of the jurisdiction in which the residence to be purchased is located, in an amount equal to the value of certificates redeemed. The lien of such mortgage, deed of trust, or other instrument shall be subordinate to the lien of the first mortgage that secures advances on, or the unpaid purchase price of, the residence, but shall be superior to all other liens and encumbrances, except as the Secretary may provide by regulation.

(c) TERM.—An eligible buyer shall repay the Secretary under this section by payments of substantially equal monthly installments of principal and interest during a term equal to the term of the first mortgage secured by the residence purchased using the proceeds of matching contribution certificates.

(d) INTEREST.—The Secretary may charge interest on amounts to be repaid under this section at a rate of—

(1) 3 percent per annum, in the case of an eligible buyer whose qualifying income is equal to or less than 80 percent of State median gross income at the time the eligible buyer redeems the matching contribution certificate; and

(2) 9 percent per annum, in the case of an eligible buyer whose qualifying income exceeds 80 percent of State median gross income at the time the eligible buyer redeems the certificate.

(e) SALE OF RESIDENCE.—If the eligible buyer sells or otherwise disposes of the residence purchased with any funds from matching contributions certificates redeemed under this part before full repayment under this section is made, any amounts that have not been repaid shall become immediately due and payable.

(f) SERVICING OF REPAYMENTS.—The Secretary may provide for servicing of repayments under this section as the Secretary considers appropriate, including servicing by private loan servicers.

SEC. 127. SALE OF MORTGAGES.

(a) IN GENERAL.—The Secretary may, without limitation, sell any mortgages or interests securing repayment of amounts advanced upon redemption of matching contribution certificates and the servicing relating to such mortgages and interests.

(b) CONSULTATION AND AGREEMENTS.—With respect to the purchase of any mortgages or interests securing repayment of amounts advanced upon redemption of matching contribution certificates, the Secretary shall consult with, and may enter into agreements with, any agencies and entities involved in the secondary mortgage market.

SEC. 128. GEOGRAPHIC DISTRIBUTION.

In carrying out the Homeownership Made Easier Demonstration Program under this part, the Secretary shall ensure, to the extent sufficient amounts are provided in appropriations Acts under section 131, that the program is carried out in each region relating to a regional office of the Department of Housing and Urban Development.

SEC. 129. REPORTS.

(a) ANNUAL REPORT.—For each year for which the Secretary provides matching contributions certificates under this part, the Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act (42 U.S.C. 3536) information regarding the operation of the Homeownership Made Easier Demonstration Program under this part, including the extent of participation in the program and the amount of assistance provided under the program.

(b) FINAL REPORT.—The Secretary shall submit to the Congress, not later than the expiration of the 90-day period beginning on the termination date in section 132, a report summarizing the activities of the demonstration program under this part and analyzing the effectiveness of the program in promoting and facilitating homeownership.

SEC. 130. REGULATIONS.

The Secretary may issue any regulations necessary to carry out this part. The Secretary shall issue regulations to implement this part before the expiration of the 180-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990.

SEC. 131. COMMITMENTS TO PROVIDE MATCHING CONTRIBUTION CERTIFICATES AND AUTHORIZATION OF APPROPRIATIONS.

(a) COMMITMENTS.—The authority of the Secretary to enter into commitments to issue matching contribution certificates under this part shall be effective for any fiscal year to such extent or in such amounts as are or have been provided in appropriations Acts for such fiscal year.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this part $20,000,000 for fiscal year 1991.

SEC. 132. TERMINATION.

The Secretary may not issue any matching contribution certificates to any eligible buyer who establishes a HOME savings certificate account after September 30, 1991.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise today in support of this conference report on the omnibus housing authorization. It includes provisions which are vitally important to our ability to respond to pressing housing needs around the Nation. Especially in these difficult budgetary times, I feel that the conferees did a very constructive job in putting together a workable conference report. I commend all of them, and particularly Chairman GONZALEZ and ranking minority member WYLIE for their work and diligence in bringing this legislation to this point. I would also like to give special recognition to the hard work of my colleague from New York, Congressman CHUCK SCHUMER, for his help in ensuring that this bill will be an effective piece of legislation particularly as it relates to New York.

In addition to the many very positive provisions in this legislation, I would like to personally thank the conferees for retaining a provision which I authored and which is vitally important to Westchester County, NY. My amendment—which is included in this final package—directs the Department of Housing and Urban Development to calculate and utilize a median income figure for Westchester County, NY, separate and apart from the balance of the New York City metropolitan statistical area.

I want my colleagues here in the House to understand how important this provision is to Westchester County. On a per capita basis, Westchester has the highest homeless rate in New York State. We also have very high real estate costs which make it extremely difficult to respond to the homeless problem and to the need for affordable housing generally. By including Westchester in the median income calculation for New York City, a figure which realistically would be in excess of $44,000 has instead been $36,900. The limitations which that imposes on federally assisted housing in Westchester have effectively precluded any use at all of Federal programs to address the critical housing needs in our county. Simply put, those limitations have made it uneconomic to develop federally assisted housing in Westchester. Not surprisingly, housing developers have not participated in any significant way in Federal programs to help respond to the serious housing needs of our county.

This legislation will change that. Under the provision which I authored, HUD will calculate a new median income limit for Westchester which will at long last make Federal housing programs work in our county. It is good news for our county. I appreciate the cooperation of all of the Members who have been involved in achieving this important change.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I speak today in strong support of the conference agreement for S. 566, the Cranston-Gonzalez National Affordable

Housing Act of 1990. I would like to commend my distinguished colleague from Texas, Chairman GONZALEZ, for his diligent and thoughtful work on this housing legislation, and particularly for being open to the housing proposals introduced by other Members. In addition, as chairman of the Subcommittee on Housing and Consumer Interests of the Select Committee on Aging, I would like to express my sincere appreciation for his efforts in behalf of older Americans. Mr. GONZALEZ has truly listened and reponded to the housing needs of older adults and that is evident in this legislation.

I urge my colleagues to support S. 566 because it strikes a balance between the tremendous and diverse housing needs of the American people and the fiscal responsibility that is so needed in our Federal Government today. Mr. GONZALEZ has accommodated new programs promoted by the administration and has addressed the concerns of middle-income taxpayers, yet this legislation does not stray from our commitment to assisting persons most in need of housing, including the elderly.

The bill's 2-year authorization of $27.5 billion for fiscal year 1991 and $29.9 billion for fiscal year 1992 includes programs to assist first-time home buyers; an array of housing assistance approaches ranging from tenant-based subsidies to new construction; provisions to address the serious problems of subsidy contract expiration and mortgage prepayment; public and Indian housing; section 202 housing for the elderly and handicapped; rural housing; and funding for the McKinney Act programs. This authorization will fund current programs and an estimated 360,000 additional units of affordable housing of many types. It also attempts to resolve the fiscal problems of the Federal Housing Administration mortgage insurance program.

Mr. Speaker, this is all very commendable, but we should not forget that it is estimated that there are 9 to 10 million low-income households who qualify for some form of housing assistance, but are not getting it. There are some 2 million eligible elderly households receiving no assistance. These facts make it even more imperative that we pass this bill and provide what is feasible at this time. The Cranston-Gonzalez National Affordable Housing Act begins to reverse the 80-percent reduction in Federal housing programs that we have witnessed during the last 10 years.

I will not go into great detail about the numerous excellent programs that this legislation contains, but I would like to mention several items in S. 566, that are of particular importance to our Nation's older citizens, including several bills that I wrote.

For years we have neglected the interrelationship between housing, human services, and long-term care. I am very pleased to say that this legislation finally recognizes housing assistance with supportive services to help people live independently as a necessary and effective approach for the future. This bill includes a number of programs designed to prevent unnecessary institutionalization and improve the quality of life for older residents of federally assisted housing.

Included in S. 566, are provisions that I introduced as the Congregate Housing Services Act, H.R. 4595, which expand and improve the very successful Congregate Housing Servcies Program [CHSP] and create a matching program with the States and local entities. The purpose of this legislation is to enable older adults to age with dignity in their homes by providing them with supportive services. This legislation, which was offered as an amendment to the housing bill by my colleague and a leading advocate for congregate services, BRUCE VENTO, will help prevent premature and unnecessary institutionalization of older residents of federally assisted housing and save valuable Medicare and Medicaid funds.

Mr. Speaker, I know first hand how effective CHSP services can be. I am proud to have the Orange Grove Center in Chattanooga, TN, serving about 80 older and mentally disabled adults living in 202 housing. The CHSP model has enabled many individuals to avoid institutionalization, and by using this program we can save about $6,000 per year per person—compared to nursing home care. The need for congregate services is tremendous. There are 1.52 million older persons over the age of 65 in federally assisted housing, and of this population, 365,000 persons experience some form of frailty. We conservatively estimate that 43,000 persons have difficulties with three or more activities of daily living and are at great risk of institutionalization. These individuals must be helped immediately with supportive services.

My legislation, which will provide a range of services including nutritious meals, transportation, personal care, chore services, and case management, has been incorporated into the bill with several other programs designed to create more supportive environments for older and disabled residents. Also very important to older residents is the retrofit program which provides grants for capital costs to make facility improvements, such as congregate spaces and accessibility features. The bill includes $25 million in fiscal year 1991 and $26 million in fiscal year 1992 for the new congregate services and retrofit programs. This funding level is very disappointing considering that the Senate originally funded the retrofit program itself at $50 million, and the House had provided $11.2 million for the congregate program in addition to the $6 million for current CHSP sites. Nonetheless, this is a start, and a commitment to the concept of supportive environments and services linked with housing. It is appropriate that current CHSP sites will be given priority for funds.

Several other provisions in this legislation will assist older and disabled residents. In the future, section 202 housing projects will be allowed to utilize some of their operating and reserve funds to pay for service coordinators and up to 15 percent of the cost of supportive services. Chairman ROYBAL of the Aging Committee is a strong proponent of this approach, which will be helpful to both seniors and 202 managers. Finally, Secretary Kemp's demonstration to link vouchers with services for the elderly was included in the bill. This will serve those elderly who are not living in a federally assisted project, but who do receive housing vouchers; their need for services is great, as well.

Another provision included in the Affordable Housing Act is legislation that I introduced to help older homeowners, the Reverse Mortgage Insurance for Older Americans Act, H.R. 3912, which expands the number of HUD insured reverse mortgages for older adults from 2,500 to 25,000 mortgages. Older Americans are estimated to have over 600 billion dollars' worth of equity tied up in homeownership. With declining incomes in later life, many older adults find themselves house-rich but cash-poor.

This legislation allows older homeowners to convert the equity in their homes into cash which can be used to pay living and health care expenses. In addition, this provision adds important consumer protections to the existing HUD program. I would like to thank my distinguished colleagues on the Housing Subcommittee, Mr. PRICE and Mr. SCHUMER, for their assistance in including this bill in H.R. 1180, and Senator GRAHAM for his work to include reverse mortgages in the Senate version of S. 566.

Mr. Speaker, I would also like to mention legislation of which I was an original cosponsor, the Home Repairs for Older and Disabled Homeowners Act, which was introduced by my good friend and a distinguished Banking Committee member, MARY ROSE OAKAR. This legislation is modeled on a successful HUD demonstration program of the early 1980's, which provided home repairs and modifications for low-income, older and disabled homeowners. This program also prevents premature institutionalization and preserves the dignity of older persons who wish to remain in their homes as they age. I am very enthusiastic about

the fact that this program has been included as a model grant program under the HOME section of S. 566. It will provide the much needed funding for emergency and preventive repairs, security-related repairs, repairs to enhance accessibility, and weatherization repairs. Many low income older Americans and disabled persons, who are fortunate enough to own their homes, simply cannot afford to make critical repairs to keep their houses safe and in reasonable shape for future owners. This program will help in this regard.

Mr. Speaker, I am also pleased that S. 566 authorizes more than 15,000 units of 202 housing for the elderly and handicapped for fiscal year 1992. Although the fiscal year 1991 authorization for section 202 is only about 8,000 units, I am pleased that the housing appropriations bill for fiscal year 1991 provides for 12,000 units. The increase in the authorizing bill for 1992 and the increase in the appropriations bill for 1991 reflect the provisions in the Cranston-Gonzalez Act which change the nature of the 202 program from construction loans and supporting section 8 subsidies to capital advances and project rental assistance. This change in the way we calculate budget authority for the 202 program is long overdue.

The section 202 program is the primary Federal financing mechanism for constructing subsidized rental housing for older and disabled individuals. It has served as a model in many ways for an effective partnership between the Federal Government and the nonprofit private sector. Unfortunately, it has suffered cuts in funding of more than 50 percent during the last 10 years.

More than 200,000 units have been built under the 202 program since 1959, but waiting lists are growing as our population ages. For every one unit that becomes available, there are eight seniors waiting to move in. Frankly, we need to build more than 20,000 units each year to keep up with the growing demand. If we fail to increase construction of 202 housing units, low-income older adults will not live long enough to move from waiting lists into 202 housing—this would be tragic.

In conclusion, I want to again congratulate Chairman GONZALEZ, and also thank all of those individuals who were so helpful in the development of the bills that I wrote, which have been included in S. 566. A great deal of credit must go Don Redfoot and George Gaberlavage of the American Association of Retired Persons [AARP] for their commitment to innovative programs to serve the elderly. Also, I sincerely appreciate the input of Elaine Anderson of the Public Housing Agency of Saint Paul, MN and Jay Lane of the Manchester, NH, Housing Authority. Special thanks are due Kirsten Johnson of Mr. VENTO's staff for her excellent work and commitment to services for seniors, and Paul Feldman of Mr. PRICE's staff for his work on the reverse mortgage legislation.

I urge my colleagues to vote favorably on passage of the conference report on S. 566.

□ 1610

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DREIER], a most hard-working member of the committee and subcommittee.

Mr. DREIER of California. Mr. Speaker, the distinguished chairman of the full committee and ranking member know that I have the highest regard for them and I appreciate the work that they have put into this bill. But my staff and I have spent some time looking through the conference report, and what I am about to say will make me about as popular as a polecat at a garden party. I have decided to oppose the conference report.

The reason, Mr. Speaker, is that I have concluded that while many people have worked very diligently on this bill, with the exception of the discretionary fund which the Secretary of Housing and Urban Development has himself knocked out, not the Congress but Secretary Kemp, this package continues the kinds of programs which created the reprehensible corruption and abuse during the decade of the 1980's

One of the other things that concerned me is an amendment which I had incorporated in the bill, the joint venture for affordable housing concept of having local government play a role in dealing with this issue of attaining affordable housing was knocked out in conference.

There are literally a litany of about seven or eight other reasons. It is dramatically over budget. I am concerned that it perpetuates this business-as-usual package which we have seen going ahead in this Congess for the past several years.

For that reason I have chosen to oppose this conference report.

Mr. GONZALEZ. Mr. Speaker, I yield myself our remaining time.

Mr. Speaker, I want to assure the gentleman from California [Mr. DREIER] that it is obvious that had it not been within the budget, and had it not been within the restrictions that our budgetary exigencies demand, we would not be here on a bipartisan basis to begin with.

But nevertheless, I would like to close out by again thanking the staff that has worked so diligently on both the majority and minority side, Mr. Frank DeStefano, the staff director, and his very able and dedicated staff, and staff counsel, Ms. Danna Fisher, and of course on the other side Mr. Joe Ventrone, and his assistant, and Vince, as I call him, Morelli who has been very hard-working with the gentlewoman from New Jersey [Mrs. ROUKEMA] and her staff, and Bill Warfield.

Mr. DREIER of California. Specifically, Mr. Speaker, as I pointed out, every program that was the subject of waste, fraud, and abuse is reauthorized in this conference report—that is, except one; and that program, the discretionary fund, was disbanded by Secretary Kemp, not the Congress. In fact, this conference report includes costly new construction programs that will ensure that developers will continue to stand ahead of the poor in the housing assistance line.

Second, this conference report provides PHA's with $2 billion for public housing operating subsidies. In the House bill, we asked the PHA to invest $25 million of that to provide job training, remedial education and other services to help public housing tenants to achieve economic independence and self-sufficiency. But the PHA's don't want to lose any clients, so they convinced the conferees to drop the self-sufficiency provisions with respect to public housing tenants.

Third, the FHA reforms will do nothing to stem the rising tide of red ink in the mutual mortgage insurance fund. It is unrealistic to believe that FHA can regain its solvency with a continuous claims rate of 10 percent.

Fourth, even though the Housing Subcommittee, the full Banking Committee, and the whole House voted for badly needed reforms to the manufactured housing code, the conference committee was stacked and the House position was abandoned.

Fifth, the conferees deleted a provision to create the joint venture for affordable housing, which would have worked with local communities to encourage the streamlining of regulations that add as much as 25 percent to the cost of housing.

Sixth, of the approximately 4.8 million households that will receive direct housing assistance, only half are below the official poverty line. The income limit for a family of four to be eligible to receive Federal housing assistance is as high as $30,000. Meanwhile, about 5 million families below the poverty line will be left out in the cold.

Finally, Mr. Speaker, three provisions in the conference report—section 554(d), section 515, and section 522(i) (2) and (4) are obvious violations of the budget act. Not only will they increase spending in housing programs without an appropriations act, but they will increase spending in other Federal benefit programs, such as AFDC, food stamps, and Medicaid. But thanks to the Rules Committee, these budget violations are not subject to a point of order.

Mr. Speaker, this is a business-as-usual housing bill which is out of step with the needs of the poor and the taxpayers' desire for responsible Government, and I urge opposition to the legislation.

Mr. MCMILLEN of Maryland. Mr. Speaker, today I rise in support of the Omnibus Housing Act. I do so however, with the knowledge that an important provision of the bill, which Senator RICHARD BRYAN, Representative

CHARLES SCHUMER, and myself crafted, was dropped.

This provision of the bill would have prohibited the sale of lobby debt. For those unfamiliar with this concept, lobby debt is the debt of a bank or thrift, or of an affiliate, which is sold in the lobbies of branches to unsuspecting investors who are often led to believe that the debt is federally insured. The classic example of lobby debt abuse involved Lincoln Savings. In that situation Charles Keating sold millions in worthless junk bonds to Lincoln depositors who believed they were insured by the U.S. Government. They were not, and hundreds of small investors lost their hard-earned life savings.

The Federal Deposit Insurance Corporation [FDIC], the Securities and Exchange Commission [SEC], and the Office of Thrift Supervision [OTS] have all called for an end to the practice of lobby debt. For this and other reasons I am obviously deeply disappointed that our prohibition on lobby debt was dropped by the conferees. But let me assure my colleagues that next year I will once again introduce legislation to end this abused practice.

Mr. KLECZKA. Mr. Speaker, as a member of the Banking Committee, I rise today in strong support of the conference report on the Cranston-Gonzalez National Affordable Housing Act.

While this conference report, like all compromises, does not contain all the excellent housing and community development provisions approved by the House on August 1, it will greatly improve two vital areas of American society. The conference agreement authorizes $27.5 billion for housing and community development programs in fiscal year 1991 and $29.9 billion in fiscal year 1992.

This legislation is the House and Senate's best effort to reverse the shameful trend of housing neglect and HUD corruption in the 1980's and to begin the new decade with adequate funding for existing housing and community development programs and support for some new concepts to shelter America's neediest.

Of the new programs, I particularly support the National Housing Trust Fund, designed by our distinguished Housing Subcommittee chairman, the Honorable HENRY B. GONZALEZ. The National Housing Trust Fund will promote affordable housing by providing assistance to first-time home buyers for downpayments and a buy-down of interest rates to the 6-percent level. This program would be limited to first-time home buyers who have incomes up to 95 percent of the area median income.

Other innovative new housing programs are the HOME Program and the HOPE Homeownership Program. The HOME Program will help fund State and local strategies for achieving more affordable housing and increasing homeownership. The HOPE Program would promote homeownership among low-income individuals living in public housing, multifamily units and single-family homes by providing tenants with planning and financial assistance to purchase their units.

The conference report retains the provision I proposed improving public disclosure and monitoring of the performance of Federal Housing Administration-approved lenders who make federally insured home mortgage loans. This provision would require an annual, publicly available report of information on loans, defaults, and foreclosures broken down by lender and census tract.

The data provided will assist HUD and interested members of the public, including nonprofit housing advocates, in monitoring FHA lenders' performance and assisting them in lowering their default and foreclosure rates by improving their underwriting abilities and working more productively with delinquent borrowers.

Mr. Speaker, I would like to commend Chairman GONZALEZ for producing such a fine package to restore housing in America. I urge my colleagues to vote for this important conference report.

Mr. LEHMAN of California. Mr. Speaker, I rise in support of this housing legislation. As a member of the Housing Subcommittee, I share the commitment of many of my colleagues to promote affordable housing in this country. We face a significant housing shortage caused not only by the threat of prepayment but also by a lack of support for housing as a budget priority during the last decade. This neglect is coming back to haunt us.

This housing legislation reflects the changing tide in Congress. For the first time in years, we are taking steps to protect those least protected—the homeless, public housing tenants, and first-time home buyers. This measure also reveals a renewed obligation to increasing the housing stock through new construction and rehabilitation. Most importantly, it prevents a serious loss in available affordable housing by offering a balanced and well-considered proposal protecting against the prepayment of privately owned low-income housing.

I want to commend the chairman of the House Banking Committee for his dedication in getting this measure passed. This housing bill is just the first step in revitalizing the American dream for affordable housing.

Mr. CAMPBELL of Colorado. Mr. Speaker, like most essential and ambitious domestic spending bills fashioned in this time of budgetary constraint, the conference report on S. 566, the omnibus housing authorization bill, is not a perfect piece of legislation. Despite the number of excellent programs contained in this conference report, we simply do not have the resources to tackle the widespread problems of homelessness and home ownership affordability that are afflicting both rural and urban America.

Nonetheless, the conference report on S. 566 does an excellent job of taking these limited resources and putting them to work for low-income Americans. The HOME Investment Partnership Program and the new National Homeownership Trust should help provide housing opportunities for thousands of families. The rural housing provisions in this measure improve and expand upon existing FmHA programs, and a new specially targeted rental housing program will help to ease the squalid housing conditions faced by many migrant farmworkers.

Despite these worthwhile programs, I remain concerned about the conference report's treatment of the brewing crisis in the FHA's Mutual Mortgage Insurance Fund [MMIF], and I feel compelled to express my reservation regarding the FHA reform language contained in this conference report.

As I'm sure my colleagues are aware, the MMIF is solvent, but is incurring losses of up to $200 million a year. During the formulation of the Omnibus Housing measure, two proposals emerged to address this problem: the administration proposal, which would have eliminated hundreds of thousands of families from participating in the FHA program through increased up-front costs, and the Vento-Ridge proposal, adopted by the House by a 418-to-2 vote.

The Vento-Ridge proposal would have brought the MMIF Fund into actuarial soundness while remaining true to the original purpose of the program: to assist low-income families in purchasing a home. Unlike the administration proposal, the Vento-Ridge alternative would not exclude hundreds of thousands of families from the program, and would shore up the faltering MMIF insurance fund by returning the FHA to a pay-as-you-go program.

Despite the overwhelming support in the House for the Vento-Ridge FHA reform proposal, the administration refused to support a housing measure that contained this language. Unfortunately, the compromise that was ultimately reached between the House and the administration regarding FHA reform is seriously flawed. The compromise language would significantly increase up-front costs for many middle-income families, effectively eliminating their dream of homeownership. The imposition of annual risk-based premiums on FHA borrowers will further eliminate thousands of families from the program.

With credit difficult to obtain for many families, and the lack of a downpayment the biggest hurdle to homeownership in this country, I cannot understand why the administration is so insistent on erecting further barriers to homeownership for middle-income families. Although I will support the conference report on S. 566, I am deeply concerned about the effect that the FHA reform compromise language will have on families struggling to purchase their first home, and I hope that we can revisit this issue in the near future.

Ms. PELOSI. Mr. Speaker, I rise today in support of the conference report on S. 566, the National Affordable Housing Act.

I would like to commend Chairman GONZALEZ for his excellent work in developing and marshalling through the legislative process this significant housing bill before us today. Chairman GONZALEZ' commitment to increasing housing opportunities for all Americans is unparalleled here in Congress. The Chairman's personal dedication to improving the lives of low- and moderate-income Americans can be seen in this bill, which is an important step toward fulfilling the mandate of the Housing Act of 1949—to provide a decent home and a suitable living environment for every American family.

As a member of the Housing Subcommittee, I would like to express my thanks to Chairman GONZALEZ for his assistance on several of my proposals. I would also like to commend and to thank the Housing Subcommittee staff for their dedication, their hardwork and their willingness to assist in resolving problems. John Valencia, Danna Fischer, and Nancy Libson

have all been extremely helpful. The staff director of the Housing Subcommittee, Frank DeStefano, has done an outstanding job staffing this bill from its development through its many compromises. Without much hard work, this bill would not be where it is today.

The National Affordable Housing Act contains several provisions of particular importance to the people of San Francisco, which I represent, including a permanent solution to the prepayment crisis, the establishment of a housing program for people with AIDS, and the establishment of a demonstration program for the provision of perinatal services in public housing.

The prepayment of HUD subsidized mortgages has been the largest single threat to the stock of affordable housing in recent years. Without congressional action, over 310,000 families across the Nation would be facing the looming threat of homelessness. This issue is a complex and emotional one, pitting the needs of low- and moderate-income Americans against the contract rights of property owners.

The solution contained in the conference report is a delicate compromise. I am pleased to note that in addition to providing incentives for owners who wish to maintain their property as affordable, the prepayment solution in this bill includes a $200 million pool of funds available for use by community-based nonprofit groups to help in the acquisition of threatened properties.

This pool of funds was taken from H.R. 1057, the low income Housing Preservation Act, introduced jointly by Congressman DON EDWARDS and me. The best way to ensure the continued affordability of the threatened properties is to promote their sale and transfer to groups committed to maintaining long-term affordability. Given the high cost nature of some of the properties, community-based nonprofit groups and State and local housing agencies may need assistance in raising the funds to acquire them. The funds from this acquisition pool will be of substantial assistance in leveraging other funds.

While, unfortunately, the conferees were unable to agree on a prepayment solution which would protect all of the threatened properties, the solution in this conference report protects the vast majority of them. S. 566 establishes a fair return for owners and mandates that where owners get the fair return, the property will be affordable for its remaining useful life for both present and future tenants, even if the property is sold. The tenants in properties threatened by prepayment can now rest more assured that they will continue to have affordable housing.

The conference report on S. 566 also contains the provisions of H.R. 3423, the AIDS Housing Opportunities Act, which I introduced with Representatives JIM MCDERMOTT and CHUCK SCHUMER. AIDS is an epidemic which has created a clearly established need for a special response. Responding to the AIDS epidemic requires us to go beyond the business as usual mentality in all areas, be it health care delivery, research, or housing.

There is a growing crisis of homelessness among people with AIDS. A 46-city survey by the partnership for the homeless estimates that there are already at least 30,000 people with AIDS and their dependents who are homeless.

Establishing a new housing program in not something which I take lightly, especially in these days of a massive Federal budget deficit. The AIDS housing provisions are not only right for humanitarian reasons, but they are also right for fiscal reasons. The American Hospital Association supports AIDS housing because frequently hospitals are unable to discharge people with AIDS as they have no place to go. In one public hospital 30 percent of the people with AIDS could otherwise be discharged. It costs roughly $850 a day for inpatient care for one AIDS patient in San Francisco. At the same time, it can cost as little as $40 a day for a person with AIDS in an independent living environment.

People with AIDS who are able to live in residential alternatives, like other ill people who are able to retain some degree of independence, stay more productive, more active and healthier. In San Francisco, we have several successful models of housing programs for people with AIDS, including the Peter Claver House run by Catholic Charities and Shanti Housing run by the Shanti Project. The success of these programs illustrates the benefits of residential alternatives. The projects do an excellent job with limited resources, but they cannot keep up with the growing need.

I am proud of the AIDS housing provisions in S. 566, which are designed to address the special housing needs of people with AIDS and related illnesses at several levels. The provisions would authorize programs to prevent homelessness; provide short-term housing with supportive services for homeless people with AIDS, and provide permanent housing. These programs would enhance the quality of life for persons with AIDS and at the same time provide residential alternatives that reduce the cost of institutional care, thus lessening the cost burden of this tragic disease.

The conference report on S. 556 also contains the provisions of my bill, H.R. 3557, the Public Housing One-Stop Perinatal Services Act of 1989, designed to address the national tragedy of our ever-increasing infant mortality rates. One simple step we can take to combat infant mortality is to ensure that women in public housing have access to necessary services. Many services currently funded by the Federal and State Government to assist women who are pregnant go unutilized because women are unaware of them and do not know where to go to receive help.

The conference report requires the Secretary of HUD to establish up to 10 demonstration programs in which HUD would provide and maintain space for the provision of perinatal services. Services that could be offered include: referral services and Medicaid assistance, nutritional counseling, dispersal of WIC vouchers, weight measurements, and blood testing.

S. 566 is an important concrete step in the development of a national housing policy. S. 566 is also an important signal that our national priorities are changing, as they must. In housing, it signals the end of the 1980's the "me-decade," which saw the virtual dismantling of our national housing programs. The administration during the 1980's ignored a very real and growing need for affordable housing, and now we are struggling to house people who are homeless as a direct result of this callous attitude. The National Affordable Housing Act is a step, but not an endpoint in ensuring access to safe, decent, affordable housing. I urge my colleagues to support this conference report.

Mr. GONZALEZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5311, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1991

Mr. DIXON. Mr. Speaker, I call up the conference report on the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 527, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, October 18, 1990.)

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. GALLO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the further conference report on the bill, H.R. 5311, and on the amendments in disagreement, and that I be permitted to include tabulations summarizing the conference agreement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we bring to you today the further conference report on the fiscal year 1991 District of Columbia Appropriations Act.

This is basically the bill as passed the House on July 26, 1990.

There are no major language changes—the language is basically identical to the language in the bill as it left the House.

The Senate added $9.7 million which is within the 302(b) allocation. We have a statement from the Budget Committee stating that ". . . the conference report with amendments in disagreement to accompany H.R. 5311, as filed in the House, is within the appropriate 302(b) subdivision of discretionary budget authority and credit authority."

The additional funds are for programs for public safety and those less fortunate: $3 million for boarder babies and aftercare for pregnant drug addicts as well as the general addict population; $1 million for the District of Columbia Institute for Mental Health; $500 thousand for an early detection program for breast and cervical cancer for women; $3 million for Early Childhood Development, teacher pay raises, and a science and technology school in Anacostia; $1.1 million for the Fire Department; and $1 million for the Department of Administrative Services.

Mr. Speaker, this conference report mirrors the bill as it left the House by a vote of 241 to 178 on July 26th, except for the add ons I just mentioned.

Members should keep in mind that this bill is $8.6 million below last year's. How many other bills can make that claim? I would venture very few, if any.

This bill includes funding for our young people in the public school system.

It includes funds for the Metropolitan Police Department, the court system and the city's public hospital.

It funds programs for the elderly and those not able to care for themselves.

I will be the first to agree it is not a perfect conference report; but it is one that Members who supported the bill on July 26 of this year should support now.

Mr. Speaker, I urge Members to vote for the adoption of this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. GALLO. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 5311, the 1991 appropriation of the District of Columbia.

When we talk about this issue, keep in mind that more than 80 percent of the spending in this conference report is local tax money—not Federal funds.

As the ranking member on the House D.C. Appropriations Subcommittee, who controls the time on this side of the aisle during this debate, I made every effort to allow for a free and open dialog during our meeting on Saturday.

That dialog was, in many ways, similar to earlier debates in this House.

I feel that we provided all of the members with an opportunity to be heard fully and without restriction, under the rule of this House. As we take up this report once again today, it is important to put the overall bill into perspective.

We must recognize that this legislation does a great many things.

It provides critical funding for the District of Columbia.

The Federal share of that money is within the 302B allocation, and meets the targets set for spending under the budget agreement, and further, it is below the OMB/CBO baseline.

It calls for $8 million less in Federal funds than the bill that was signed into law last year.

And, it is one of only two appropriations bills that calls for Federal spending levels below those of last year.

For all of these reasons, I want to assure my colleagues, who are concerned about the level of funding that this bill is not a budget buster.

I want to assure my colleagues that this bill does not reopen the question of prison funding, which was resolved in last year's bill.

I have heard from a number of my colleagues who want to support amendment No. 56, offered in the Senate by the Gentleman from Texas [Mr. GRAMM].

The Senator's amendment establishes greater penalties for the use of a firearm during the commission of a violent crime or one involving drug trafficking.

It also requires a mandatory 10-year sentence for distributing illegal drugs to minors or using minors to distribute illegal drugs.

There are many people who believe that passage of this tough anticrime legislation will help to end the terrible violence that is ripping the D.C. communities apart.

Because that is an area where we still have disagreement between the House and Senate, the Gramm amendment will be brought up after we complete action on this conference report.

Let me repeat for those Members in their offices—we will have an opportunity to fully debate the Gramm amendment, but not until after we adopt this report.

There are several other areas of disagreement, and under the rules of the House, those will also be taken up upon completion of this conference report.

Right now, we are dealing with those portions of the D.C. appropriations bill where there is agreement between the House and the Senate.

We have agreed in this conference report to continue the fight to end violence by increasing the number of police officers on the streets of our Nation's Capital.

We have also agreed to take interim steps to cap the overall number of D.C. employees in areas other than law enforcement.

Protection of the public safety is a major priority in this bill.

And, as I have said, we will take up the question of additional criminal penalties in a separate motion that follows action on the conference report.

This bill also recognizes the importance of another critical priority for the District of Columbia—looking to the future of the children who must be healthy and well-educated in order to reach their full potential as adults.

This bill gives increased attention to the needs of pregnant women who are drug abusers, and for their children.

This bill contains funds for after-school recreation to get the children off the streets.

This bill increases the commitment to those children whose parents are hooked on drugs.

We must break the cycle of addiction to break the cycle of violence and death among the District's young people.

This bill also provides increased training in math, science, and computer skills.

It funds a program to identify at-risk students for intensified educational opportunities at a time in their lives when they are young enough to benefit from such help.

These are just a few of the positive programs contained in this conference report.

Saturday's vote on this report was, in many ways, a vote of frustration.

We saw frustration with the current District leadership.

We saw a general frustration with our own Federal budget process.

Today we must look to the future.

A new leadership group for the District of Columbia will take office this January.

We should not tie their hands by further delaying action on this conference report.

In closing, Mr. Speaker, let's talk about what this bill is not.

It is not a referendum on the Armstrong amendment. We had that vote on Thursday, October 11.

It is not a referendum of the D.C. government. We already did that on Saturday.

And finally, Mr. Speaker, this is not a referendum on abortion.

Everyone in this House is recorded on the abortion question, and there is not doubt about where we all stand on that one.

This is a vote for a new day in our Nation's Capital.

This is a chance to start over and to get it right.

Today at this 11th hour, we need to get on with the business of Government and pass this conference report.

□ 1620

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, I rise today in support of H.R. 5311, the conference report on the District of Columbia appropriations for fiscal year 1991, and I urge my colleagues to vote for it as well.

Many Members have told me that their votes against the bill on Saturday reflected their concern over the funding level. I do not know why or how, but an impression was created that the funding level was too high and that the bill was over its 302b allocation. Not only is the bill within its 302b allocation but it is $8.6 million below last year's bill.

Other Members have told me that they voted against the bill to express their displeasure with the unfortunate events concerning the District and its Mayor over the past year. Those matters have been properly dealt with by the criminal justice system and by the electorate. Mayor Barry was tried in a court of law and judged by a jury of his peers; the voters have chosen candidates who they believe will set a new course for the District, and they will have a new Mayor next year. Are we going to tell the hardworking taxpayers of the District that it doesn't matter that they have addressed the District's problems according to the laws of this Republic, that they will have to suffer delays in receiving funding for education, health care, drug treatment and fire and police protection because we want to have our say? No, I do not believe we should go down that path. The people of the District have fulfilled their responsibility, we on the Appropriations Committee have done our work, and now it behooves us to support this conference report so that, whichever candidate for Mayor is elected, the new District administration will be able to do its work next year.

I hope we can rectify Saturday's confusion and pass the conference report.

Mr. GALLO. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker and Members, I will not take the full 3 minutes.

Mr. Sepaker, I simply want to point out that there is an increased amount of money in this bill for the schools.

I am on this committee basically as a volunteer, because I think this is the Capital of the United States, and we ought to make an effort to make it a shining example of what a great city can be. Many people visit here, and their only experience with the United States is what they see in Washington, DC.

Some 84,000 children depend on us in part to ensure that they have opportunity, and the failure to meet the needs of education in this city will be enormous social cost in the years to come. For that reason, I think the school part of this bill is excellent in terms of providing additional funds.

There are a lot of weaknesses in the system. They have duplicate administration, but we are going to have a new Mayor. We are going to have a new administrator. Hopefully a lot can be done. It is such a great challenge.

One of the problems here is that the Mayor and the City Council control the budget, but, nevertheless, there are a lot of good, strong points in here.

I have been a critic of the school system, but I want to help it as much as possible. One of the reasons I am trying to encourage people is because there are groups like Parents United, the District Committee on Public Education, lawyers and unaffiliated citizens who have recognized the severity of the situation and have become active on behalf of these children, these students. It is their future. They deserve much credit for what they are doing to help the students of the District, and they deserve our support.

I think we have tried to do that in this bill. It is certainly the right thing to do.

Mr. GALLO. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, notwithstanding the lateness of the hour and the session, a packed Legislative Calendar and the fact that we just on Saturday voted against this conference report, notwithstanding the fact that this faces an absolutely certain Presidential veto, the bill is back, and today we vote again on this failed District of Columbia appropriations conference report.

□ 1630

This legislation is being brought back to the House with no change in language after being handily defeated 211 to 185 last Saturday, primarily because it reversed current law and would provide taxpayer-financed abortion on demand.

If Members are confused, and perhaps even annoyed about voting on the identical legislation defeated, please affix blame where it belongs. The gentleman from California [Mr. DIXON] and the gentleman from New Jersey [Mr. GALLO] have been up front and gentlemen throughout the process. It is obvious that some in the Democratic leadership have concluded that if enough arms are twisted, the outcome of the measure will be different.

Pressure is the game, not persuasion. Mr. Speaker, no wonder some poeple are losing faith in the Congress. Seeing this august body up close and on the inside for the last 10 years as a Member, I can no longer say I blame them. Of course, there is much that is fine and good and honorable on both sides of the aisle. Today's tactics do not reflect well on that tradition.

It is clear, Mr. Speaker, when left to their consciences, the propensity of a majority of Members in this Chamber is to vote prolife, to protect the innocent, the weak, the vulnerable. When left to voting their convictions, there continues to be a majority in the House of Representatives in favor of defending helpless unborn children from the brutality of abortionists. When left to voting their convictions to save the throwaways of society, the unborn, I am proud to say that Members have consistently said no to using taxpayers' funds for this purpose.

On three separate rollcall votes this year, Mr. Speaker, the House has reasserted its belief that unborn children are worthy of respect and protection. But today's vote is shaping up more as an effort to twist arms to get people to fall into line. No wonder a growing number of Americans are being turned off by the process.

Mr. Speaker, I urge Members to stand up for principle, conviction, and do what they truly believe to be right on this matter. I urge Members to reject political expediency and pressure. I urge Members to defeat this conference report.

The SPEAKER pro tempore (Mr. MCNULTY). The chair would advise the gentleman from New Jersey [Mr. GALLO] that the gentleman from Ohio used 2 of his 3 minutes, and the gentleman from New Jersey has been credited with an additional minute.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, today we are being asked to vote again on a conference report that just last Saturday was defeated by a vote of 211 to 185. While some Members may have voted against the bill for other reasons, it is apparent that the principal objection by most Members was the fact that it would reverse current law and permit funding of abortion-on-demand. We are being forced to vote on this report again, and proponents of abortion are hoping to garner enough support even though the President has made it clear that he will veto the District of Columbia bill if the current law language is not maintained. Thus, a House reversal of its original intent will only cause delays for funding to the District for the many purposes contained in the bill other than for funding of abortion-on-demand. Mr. Speaker, the fact that cosmetic language on the books prior to 1988 allowed abortions for any reason was substantiated by a former District of Columbia Budget Director, Elizabeth Reveal. According to the Philadelphia Inquirer, she "confirmed that the District's government ha[d] a

policy of funding abortion-on-demand and [did] not attempt to determine the circumstances of the pregnancy."

Public funds—be their source Federal or local—should not be used for such a policy. Before restrictions were imposed on the District, abortion was being used as a method of birth control. For example, the District of Columbia Government reported that in 1988, approximately 21,000 abortions were performed in the Nation's Capital—55 percent of which were repeat abortions. In 1986, 19 percent of women who underwent abortions reported having had two or more previous abortions. Moreover, the Alan Guttmacher Institute, a research affiliate of Planned Parenthood, reported in July 1989, that the District's abortion rate in 1988—the last year that abortion-on-demand was taxpayer-funded—was triple that of any State in the Nation. This conference report, if passed in its present form, would once again return the District to a center for abortion-on-demand. Mr. Speaker, I don't think that most Americans who think of themselves as proabortion, support abortion-on-demand for any reason at any time, including abortion for sex selection; abortion as a form of birth control and repeat birth control; or abortion for convenience sake.

It is essential that every American understands that there is a difference between being proabortion in some circumstances and voting to lock in abortion-on-demand in all circumstances. I urge my colleagues to join me in opposing the use of congressionally appropriated funds to finance abortion-on-demand by voting "no" on the conference report on District of Columbia appropriations.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume to address the gentlewoman's comments.

The public funds that she refers to in the bill are the District of Columbia's local funds. They are funds that the District government has raised through their own tax process. The most recent Supreme Court decision has indicated that local jurisdictions, that is, States, have the right to determine what they do with their public funds. I would hold that the District would have that right. It is a nonissue.

There is no disagreement in the conference report as it relates to abortion. The language in the House-passed bill is identical to the language in the Senate bill as it relates to abortions. The Dornan amendment on this measure was defeated by a vote of 206 to 219 on August 2, 1989.

Mr. GALLO. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I deliberately asked that this poster be put in front of me. The words on it are from the Old Testament. They are written by the Jewish king and poet, young David, the shepherd boy who slew Goliath against incredible odds, and fathered a man whose name is synonymous with wisdom. David, of course, being the father of Solomon. As Moses' face is represented in marble base relief before me, as is the great Rabbi Maimonides, a wall of all saints and popes over here, every man or woman of conscience over the years has recognized when life begins.

In defense of innocent human life and in defense of my own language, the Dornan words in the District of Columbia appropriations bill, "to defend innocent life," I have four exhibits, A through D. Exhibit A is this picture of a child inside the womb and the words, from David's psalm are:

Truly you have formed my inmost being, you knit me in my mother's womb. I give you thanks that I am fearfully, wonderfully made. Wonderful are your works.

That is from Psalm 139, verses 13 to 14.

I come to this well unashamedly as a product from my parents and my culture, my religion also, but my religion is irrespective of natural law and God's law, but I do represent Judeo-Christian ethical standards when I say that is a life in the womb.

Exhibit B, and I am not trying to be cute pulling something out of a hat. This is not a rabbit. This is a little white seal. We protect these seals. The late Leo Ryan had a bill I got on in my freshman year to protect these little creatures. No soul, but beautiful and cute. Not as cute as an alligator, which was endangered and protected in the same period, but certainly, more able to conceptualize than a small darter. But nevertheless, no soul.

Exhibit C, and the most important, is this little doctor's anthropomorphic model, one of nine, that a gynecologist and an obstetrician uses when he explains the 9 months of pegnancy. This was given to me by an Ob-Gyn doctor. It is the third model of the series of nine. This is the third month, when the heart has been beating since day 18 to 21, and brain waves have been there since day 40. It sucks its thumb and can feel pain. The only wrong with this in relation to this debate is the tip of the skin is pinkish. It should be brownish, to indicate the black children that are killed in their mother's womb, more than are allowed to be born.

My final exhibit, the current issue of Life magazine, Exhibit D, a pro-life ad for Chrysler automobiles. I see my good friend and colleague, Senator CRANSTON, is visiting from the other body. Look at this, ALAN. It says the air bags saved two lives, the mother, Susan Reed and her little child, Michael Joseph, who happened to be in her womb at the time the air bag saved both their lives. That is the centerfold. Notice the staples of the current Life magazine.

Exhibits A, B, C, and D look at Fergie's little baby, Eugenie. Please, defend life and keep the Dornan language.

ONE DODGE AIR BAG: TWO LIVES SAVED

It happened on June 11th 1990 at 7:00 a.m.

Susan Reed was on her way to work when a drunk driver crashed into Susan's 1990 Dodge Spirit.

Both cars were totally destroyed. But Mrs. Reed was wearing her lap/shoulder belt, and the Dodge Spirit was equipped with a driver's air bag. It worked. It saved her life. And it saved another life. Her baby's.

Susan was seven-and-a-half months pregnant at the time of the accident. And we're glad she had the Dodge air bag, because on August 5th she gave birth to a 9-pound 6-ounce healthy baby boy named Michael Joseph.

We wish them both well.

The SPEAKER pro tempore. Members are reminded to address their comments to the Chair.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume. In the last comments by the gentleman from California, which were to keep the Dornan language in, there is no controversy between the House and Senate on this issue. The abortion language in both bills says that Federal funds cannot be used for abortions except to save the life of the mother, or in cases of rape or incest. It allows the District, as every other State, to make their own decision. There is no Dornan language in this bill. The Dornan language was defeated in August 1989 as it relates to this bill.

What we have here is an attempt by some to raise an issue that is not in controversy or even an issue in this conference.

Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. MOLLOHAN].

□ 1640

Mr. MOLLOHAN. Mr. Speaker, I thank the distinguished chairman of the committee for giving me this time.

Mr. Speaker, the chairman makes the point that there is no controversy in the bill between the House and the Senate versions. The controversy is really between current law which provides only for the use of Federal funds for performing abortions in the District in the case of saving the life of the mother and provisions that were contained in this bill which would allow for abortion upon demand, spending Government funds for that.

Mr. Speaker, in my 2 minutes I simply want to remind my colleagues of two points regarding our reconsideration of this conference report here this afternoon. First, this is the exact conference report that the House rejected just 5 days ago. None of the issues have changed. The District's dramatically high and repeat abortion

rate has not changed since Saturday. Our constitutional responsibility to appropriate all of the District's funds has not changed since Saturday.

Most importantly, Mr. Speaker, our duty as lawmakers to protect the youngest members of our human family, America's next generation of artists and dancers and teachers and shop owners and yes, even Congressmen and women, that has not changed since Saturday, either.

My second point, Mr. Speaker, is that a vote to defeat this conference report entails a message to the American people that we respect their deeply held beliefs enough, that we will not force them to finance what they and I, in fact, consider to be the taking of innocent human life.

Mr. Speaker, I strongly urge my colleagues to speak louder this time, to vote no again on this repeat D.C. appropriations conference report, and in so doing to vote no again on Government funding for abortion on demand.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a vote against this conference report is a vote against the July 1989 ruling of the Supreme Court in Webster versus Reproductive Health Services. That case states that local jurisdictions, in that case, States have the right to promulgate reasonable rules as they relate to abortions.

It is true that the District of Columbia is not a State, it is a district, and it, in fact, has promulgated the rules concerning abortions.

So a vote against this bill is a vote not in support of anything, but against the ruling of the Supreme Court in the Webster case which I would hope the people of this body would abide by.

Mr. GALLO. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, this is a double handicap. All the Republicans are at a conference discussing the new tax package, so there are no Republicans except we brave few here. Three minutes to talk about the ultimate questions of life and death and abortion are hardly adequate, but those are the constraints we work under.

I would just say to the gentleman from California [Mr. DIXON] and the Reverend FAUNTROY there, that abortion stops a beating heart. You can talk about home rule all you want, and it is wonderful, but if you have a choice between home rule and saving human lives, to me the choice is easy. I would prefer to save human life.

We have an unbridgeable gap. It is unbridgeable, because we disagree on who owns a human being. Does God own a human being? Are we made in his image and likeness, or does somebody else own and exercise dominion over human beings?

Slavery was the exercise of dominion over human beings by other human beings. Chattel, merchandise, to be sold and bought, that was the vice, the fatal vice of slavery.

Do you know who the first pro-choicer was, the progenitor? Stephen Douglas.

He said, "I am personally opposed to slavery, but I wouldn't lift a finger to stop it in those states where it exists." That was the first pro-choicer. Government has no right to interfere—not much, it does not. Government exists to protect the weak from the strong.

Nobody should be killed in the dark. An innocent human life that is being exterminated cries out for light. It cries out for attention.

Arthur Miller's great story, "Death Of A Salesman," has his wife saying to her ne'er-do-well children, "Attention must be paid. A man shouldn't be permitted to drop in his grave like an animal. He is a human being. Attention must be paid."

John Donne, the great poet said, "Every man's death diminishes me, because I am involved in mankind."

It is a public matter when innocent life is going to be killed. When they kill me, I want it to be on the corner of State and Madison, not in a dark alley or in somebody's bedroom.

We are talking about a civil right, the first civil right. Whom do we include within the circle of those society will exercise responsibility for?

I just want to say this. Animals take care of their young more than some humans. I saw a film on television where a crocodile scooped up her young gently in her pouch and took them down to the river. They treat their children better than many humans. A human life is precious. It is a matter for society to express concern. It is our concern, and as long as we have the authority under the Constitution to pass laws to protect lives, lives of little poor children in the District of Columbia, we say to poor women, "Get your own house. Get a job. Get vocational training. Fight for those things. I'll tell you what we'll give you, a free abortion. That's what we will give you."

Vote no on this bill.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished Member of this House, the gentleman from Illinois, makes several points, but he does not address the issue in this bill.

The Supreme Court in Roe versus Wade says that abortions are appropriate under certain circumstances.

The most recent Supreme Court decision, *Webster* versus *Reproductive Health Services*, makes clear that States, local jurisdictions, can promulgate reasonable rules concerning abortions.

The issue here is not philosophically about abortions, about whether there should or should not be abortions. The Supreme Court has passed on that issue. The issue in this bill is whether the District of Columbia should be allowed to use their own moneys, moneys that they raise, to pay for abortions for women who cannot afford to pay. The buzz word is public moneys, but it is their own public moneys, not our public moneys or Federal public moneys. And the issue is whether they should be allowed, as every State is allowed, to promulgate rules concerning the use of their public moneys for abortion procedures.

Any woman in the District of Columbia can receive an abortion as long as it can be paid for. Many poor people in this District who want to exercise that right cannot pay the cost. As a matter of policy, the Government here has decided under certain circumstances to extend that right, that health care, to that particular woman so that she can have the same health care as every woman in this District who can afford to pay for that health care, whether it be an abortion or some other medical procedure.

So the issue is not whether we should or should not allow abortions. The Supreme Court has ruled on that issue. The issue is whether we will give the people of this District the same dignity and the same right that we give every State.

Mr. Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I would like to clear away the smoke that filled the air here on the House floor this afternoon and tell you what this vote is not about.

□ 1650

It is not about HENRY HYDE or BOB DORNAN'S private view or belief as to when life begins or what their belief is on abortion or any other individual's.

The House has already settled the abortion issue in this bill. Each one of us, as Members of this House, has had a chance to vote on the Dornan amendment and amendments like the Dornan amendment which would deny, in some cases, abortions for poor women who are impregnated by a rapist or by incest.

And if you are pro-choice or if you are anti-choice, by those votes you have made, my friend, you have made your point. You have established your position.

The issue has been settled because when the smoke cleared on those earlier debates on those amendments, this House worked its will and passed this bill by a vote of 241 to 178.

So let Mr. HYDE and Mr. DORNAN and Mr. SMITH speak today on their

issue, their issue, until they run out of air. The fact remains the abortion issue is settled with regard to this bill. Every Member's position is known, and now the question, now the question is a variation on the same issue and the same question that overwhelmingly passed this House on July 26, whether or not Washington, DC, will have any budget at all. That is the question.

Let me tell you something else, my friends, that this issue is not about: This vote is not about this man. This vote is not about Marion Barry; Marion Barry is history. His administration is history. His government is history.

Two weeks from now this city is going to vote for a new mayor, either Sharon Pratt Dixon or Maurice Turner.

Both of these candidates are dedicated to reforming this city's government; both of them ran because they were as disgusted with Mayor Marion Barry as we are and the voters in this city are.

Both of them made a solemn promise, not to the Congress but to the taxpayers of this city, that they were going to clean house in the District building, and they will, either one of them who gets elected will.

So what then is the issue? The issue is this city's, this Capital City's future, not its past.

As a matter of fact, when you vote for this conference report, you will be voting for a Federal payment that has been dropped to 13.5 percent of its total budget. That is the lowest percentage in a quarter of a percentage, in 25 years.

But the funds that are in this bill are for things like law enforcement, so that the streets of this city, this Capital City, can be safe again for local residents and for your constituents and mine when they come to visit their Capital and to see this magnificent place.

The issue is financing Children's Hospital. How many of you who voted against this bill on Saturday have actually gone to Children's Hospital and seen the dire need that exists out there? This bill funds a model pediatric AIDS clinic, a program for HIV-positive kids, kids some of whom were born with HIV-positive readings.

This is desperately needed at Children's Hosptial in a town that has been hit by an AIDS epidemic.

The issue is fighting drugs. This bill finances drug-fighting programs, a number of which but one of which I would like to mention, and that is a program called Not On My Block. It is a heck of a program.

It is a major voluntary initiative to improve the quality of life and the physical environment of the capital city. Block by block in this city, they are empowering residents and private businesses and religious and civic organizations to join efforts and to combat drugs in the habitat, the urban habitat that spawns drugs.

So, my friends, those are the issues in this bill we address.

Now, some of you may be saying, "Well, Mr. AuCoin, that is real special. But this conference report spends too much money."

Let me disabuse my colleagues of any notion that this is a budget-busting bill. Listen to this. You owe it to the residents of this city to listen to this: First, this funding level is within the allocation under the budget resolution.

Second, the funding in this conference report is actually below, below the level of spending in the District of Columbia last year. And three, these dollars are a payment in lieu of taxes to a city that cannot collect property taxes on its largest industry like other cities can, and you and I know why that is: It is because the Federal Government is the largest industry in this city and the city cannot tax the Federal Government.

So the Federal payment in this bill is not a handout, it is not a bailout, it is a legal promise, a legal promise to the residents of this city, payment in lieu of taxes.

I ask my colleagues today to dismiss discursive red-herring arguments on the floor and instead face up to that promise that is in the statute, that is in the law; live up to that promise, vote for self-government.

Do we not believe in that? In Eastern Europe as well as in our own country?

Do not put the Mayor of this city, whoever it may be, in handcuffs.

Let the new city government restore honor, dignity, and good government to America's Capital City, and vote for this conference report.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. Holloway].

Mr. HOLLOWAY. Mr. Speaker, I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. I thank my friend for yielding.

Mr. Speaker, I just want to correct the record. This is not a settled issue. It is the only reason we are here, that it is not a settled issue. The President has said he will veto this bill unless the language is reversed and current law is put back into the bill.

Mr. DORNAN was precluded by the House rules from offering his language as it is in existing law. So we have not had a vote this year on this particular language. We had a vote on final passage of the House D.C. appropriations bill, we had a vote on the conference report that went down, but we have been unable to get to the language specifically.

By voting this conference report down, we would ask then that the conferees put the Dornan language back in.

Mr. HOLLOWAY. Mr. Speaker, I rise really in anger over the fact that 211 of us Members of Congress voted against this bill last Saturday and we have come back again to the floor today with the very same language in it. I do not know whether they think they are going to wear us out and send us home or not, but this issue is important enough that we hope to have more than 211 votes today to show them.

Mr. Speaker, this conference report is completely unacceptable because it seeks to reverse current law and restore Government funding of abortion-on-demand.

The current law banning abortion-on-demand is having some positive effects. That is the basic thing I want to get across. Taxpayer-funded abortions in the District have declined from over 3,000 in 1988 to 1 in fiscal year 1989. Further, the repeat abortion rate declined by 5 percent, while the overall number of abortions declined by 8.5 percent.

According to statistics published last year in USA Today, in 1988, the last year that abortion-on-demand was taxpayer-funded, the District abortion rate was triple that of any State in the Nation.

This conference report would revive weak language which was on the books prior to 1988 and which has never prevented a single tax-funded abortion.

Finally, of all the ridiculous arguments which are used to justify legal abortion and the public funding of abortion, the most bizarre is the notion that abortion reduces infant mortality. Abortion is infant mortality. As the Reverend Jesse Jackson so clearly stated in 1977 in an open letter to Congress supporting the Hyde Amendment: "As a matter of conscience, I must oppose the use of Federal funds for a policy of killing infants."

I believe his words are equally true today.

Mr. DIXON. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. Fazio].

Mr. FAZIO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am absolutely convinced that people's memories are faulty here. There has been an assertion that somehow the House has not been on record in opposition to the Dornan amendment.

August 2, 1989 this Congress, at that time the Dornan amendment was defeated 219 to 206. That is this Congress, the 101st Congress. We are on record, and I think the record should be very clear.

This is the first time that this issue is really going to be tested in this particular year, but not in this Congress.

□ 1700

That is not the issue, and I hope that people will support the committee's proposal and put off the really red herring that was brought to the floor just several days ago.

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume. I will be short.

Mr. Speaker, I have kind of asked my colleagues to review what we are dealing with here. The Washington, D.C. budget does not do anything for them back home, but it certainly has a great impact as to our Nation's Capital.

I know that there are issues that divide us, but certainly we should be able to come together when we are dealing with the education of the young people of Washington, DC, the crime rate, which is not acceptable to any of us, where we have put additional police on the streets. The overall thought that this is going to be held hostage again is one that disturbs me.

So, when we have this vote, I would ask my colleagues to approve this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. DIXON. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I rise in opposition to the conference report, not because of a lack of fondness for the District of Columbia, but because of a fondness for the children that could be killed in this fashion.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, opposing the District of Columbia appropriation on the grounds of abortion is vindictive and discriminatory. Let me explain.

The expenditure of Federal funds for abortion in the District of Columbia is guided by a decision of this House last year on the amendment of the gentlewoman from California [Mrs. BOXER] and restricted only to the cases of rape, incest, and the life of the mother, but because of a budgetary quirk, all of the local revenue raised by the District of Columbia government comes through this appropriation, whether it is sales tax or income tax.

The battle here then is over the expenditure of local funds by the District of Columbia and how it should be expended when it comes to abortion.

I would tell those in the Chamber that there are over 15 States across this Nation which use their own State funds to fund local abortions under their own State standards, and included within those States is the State of California. Yet none of the opponents of the D.C. appropriation have taken the floor to attack these other States. What is the difference between a California abortion and a District of Columbia abortion? There is only one difference I can see. The fact is that the residents of the District of Columbia are by and large poor, black, and muted in our political system.

Mr. Speaker, I will believe the fervor and dedication of those who speak against abortion on this floor when the gentleman from California [Mr. DORNAN], with his stuffed seal and his plastic fetus key chain, asks that the first Federal dollar be denied to his home State of California for the same practice he contends in the District of Columbia, and the same President who vetoed the 1990 civil rights bill should consider that singling out the District of Columbia with its majority black population to fight the abortion battle is promoting a pattern of political behavior which does no honor to the party of Abraham Lincoln.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, trying to save black babies is hardly racial discrimination.

Mr. DURBIN. Mr. Speaker, when the gentleman from Illinois [Mr. HYDE] tries to save black babies in California and Illinois, I think his credibility will be better.

Mr. HYDE. Mr. Speaker, I certainly have tried in Illinois, and the gentleman from Illinois [Mr. DURBIN] ought to know it.

Mr. GALLO. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, as the gentleman from Illinois [Mr. DUBRIN] knows so well, there is no way in our legislative vehicles that we can reach the funding of abortion in most of the States of this country. The fact of the matter is that we do have jurisdiction over funds in the District of Columbia, and where we have jurisdiction we certainly have a responsibility, as the gentleman from Illinois [Mr. HYDE], my good friend, pointed out so well, to save life, and that is what this entire debate is all about. If there is an instance where we can save the life of an innocent human being, we ought to grab that opportunity and seek to save those lives.

Mr. GALLO. Mr. Speaker, I yield back the balance of my time.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

My colleagues, just let me point out that this bill, this conference report, is $8.6 million below last year's funding level. It is within its 302(b) allocation in both budget authority and outlays. It is not a budget buster in any sense of the imagination.

I think the gentleman from Oregon [Mr. AUCOIN] appropriately and properly addressed the issue of the image of the District, that a vote against this bill is not a vote against Mayor Barry or anything that has happened in that administration. It is a vote against a new administration that is coming in. It is a vote against funds for public schools. It is a vote against increased funding for police and patrol cars. It is a vote against programs that protect drug-addicted babies. It is a vote against health care delivery.

The abortion issue that is a nonissue in this report is a very volatile and very sensitive issue in our entire country. Everyone has a right to make their own decisions. We have a right to establish Federal policy as it relates to Federal moneys, and, although I disagree, we have narrowly prescribed the use of Federal funds. But for the gentleman from Illinois [Mr. HYDE] or the gentleman from California [Mr. DORNAN], because their personal philosophy is against abortion, which I respect, to tell the citizens of the District who cannot in many cases pay for their own health care delivery, that when their city council, their local government, makes a decision that allows them to have funding for abortion, because these gentlemen do not believe in it, is wrong. It is wrong to do that. It should be established as a national policy. These are black men and women in this District who have made that decision through their elected representatives, and to tell them that there is a greater need than their own local decisionmaking is wrong. And it is contrary to the decision by the Supreme Court in the Webster case.

Mr. WEISS. Mr. Speaker, I rise in strong support of the conference report on H.R. 5311, the District of Columbia Appropriations for fiscal year 1991. I urge that we take this opportunity to reverse the mean-spirited policies that condemn a woman to the trauma of bringing an unwanted child into the world, or to a back alley abortionist, simply because she does not have enough money for a safe abortion.

This conference report takes a step toward reversing this policy as it does not prohibit the District of Columbia from using Federal funds to perform abortions in the case of rape and incest. It also does not limit the District in the use of local tax revenues for abortions.

Every woman—not just the more affluent woman—should be allowed to make her own decision about a pregnancy, especially when it is the result of violence and assault. Our Constitution was not designed to guarantee rights only to those who could afford them. Yet, antiabortion amendments attached to a variety of Federal health care programs and benefits packages have all but eliminated the choice of a safe abortion to millions of American women who could not otherwise afford them. Clearly, these restrictions have a disproportionate impact on poor and minority women.

Abortion providers in the District of Columbia have witnessed firsthand the gross discriminatory effect of funding restrictions. Clin-

ics have been inundated with women in need of subsidized abortion services. Rosann Wisman, executive director of Planned Parenthood of Metropolitan Washington, testified before a joint Senate-House hearing that the lack of public funding for abortions in the District has resulted in the denial of these services for homeless women, drug addicts, alcoholics, and AIDS victims, among others.

But beyond denying a fundamental right to a population of American citizens who are in most cases incapable of fighting back, prohibiting the District of Columbia from using its local tax revenue for abortions prohibits a jurisdiction of this Nation from employing its own funds for which it sees fit.

Before the enactment of restrictions on local funding, the District of Columbia policy committed a certain percentage of the funds it raised independently of the Federal Government to poor women seeking abortion. The District was not alone in this policy. Eight States, including my home state of New York, use local tax revenues to pay for Medicaid abortions. All jurisdictions are in full compliance with existing Federal restrictions, and each has made its decision and developed its Medicaid Program in accordance with local preferences and circumstances.

The District of Columbia should not be treated differently. To do so is to violate prerogatives of the District government set forth in the District of Columbia Self-Government Act enacted by Congress in 1973. This is an unwarranted and indefensible Federal intrusion both into the local affairs of our Capital City and into the private lives of American citizens.

The District of Columbia deserves to be reimbursed for the responsibilities it assumes and for the revenue losses and costs associated with its role as the Nation's Capital. This is the intention of the appropriations bill being considered today. I urge my collegues to vote for this conference report and discontinue restrictive policies that threaten the health of poor women in the District.

Mrs. MORELLA. Mr. Speaker, I rise to strongly urge my colleagues in the House to support this legislation.

I am very concerned, because we talk a great deal here in this Chamber about the importance of child care and education, but our good intentions are not always translated into action.

All too often, we allow ourselves to be sidetracked by emotion, at the expense of the very real needs of the most helpless among us—our own offspring.

In the District of Columbia, those needs are very special—and in many cases, very acute—and they cannot be ignored.

This bill recognizes that a quality education begins with a healthy childhood.

The conference report contains an additional $1.5 million for outpatient care to help the victims of drug abuse.

The particular focus of this program is to target pregnant women who are substance abusers, so that they have a fighting chance to deliver healthy babies.

The report then takes the next important step, by supporting programs designed to provide followup care for these children, once they are born.

This bill provides seed money for afterschool programs to provide productive alternatives for young people who would otherwise spend their time on the streets.

This innovative approach is made possible by the voluntary efforts of local college students, but this bill supports those efforts in a significant way.

This conference report also contains funding to improve the quality of education in the District of Columbia, and—literally—to lay a new foundation for the future.

Earlier this year, a specially appointed Committee on Public Education, comprised of business leaders who volunteered their time to assess the physical condition of the D.C. schools, found $150 million in urgent maintenance needs—windows broken, roofs leaking, and aging heating systems that detract from the educational process and threaten the safety of students, in some cases.

This conference report contains a modest amount of $10 million—matched with local funds—as the first installment toward this critical challenge—rebuilding the schools that are falling apart.

These are important issues, Mr. Speaker, which are addressed in this conference report.

It is a conference report—I might add—that is within the budget targets.

If you approve this conference report today, you can say that you have supported significant improvements in the quality of life for countless young people in the District of Columbia who will not survive to be productive members of the community without the helping hand being provided here today.

I ask my colleagues to support this bill.

Your vote will make a difference.

Mr. DIXON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. MCNULTY). Is the gentleman opposed to the conference report?

Mr. CONTE. I am opposed to the conference report, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. CONTE moves to recommit the Conference Report on H.R. 5311 to the Committee on Conference with the following instructions to the Managers on the part of the House: That the House agree to the amendment of the Senate numbered 58 as it relates to the I-95 sanitary landfill, and disagree to the amendment as it relates to municipal waste transport under the proviso.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SMITH of New Jersey. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 195, nays 211, not voting 26, as follows:

[Roll No. 523]

YEAS—195

Ackerman	Gejdenson	Oakar
Alexander	Gekas	Obey
Anderson	Gephardt	Olin
Andrews	Geren	Owens (NY)
Anthony	Gibbons	Owens (UT)
Aspin	Gilman	Pallone
Atkins	Glickman	Panetta
AuCoin	Gonzalez	Patterson
Bates	Gordon	Payne (NJ)
Beilenson	Gradison	Payne (VA)
Bennett	Gray	Pease
Berman	Green	Pelosi
Bilbray	Harris	Pickle
Boehlert	Hatcher	Price
Bosco	Hawkins	Rangel
Boucher	Hayes (IL)	Regula
Boxer	Horton	Richardson
Brooks	Houghton	Ridge
Browder	Hoyer	Rose
Brown (CA)	Hubbard	Roukema
Campbell (CA)	Hughes	Roybal
Campbell (CO)	Jacobs	Sabo
Cardin	Johnson (CT)	Saiki
Carper	Johnston	Savage
Chandler	Jones (GA)	Sawyer
Clarke	Jones (NC)	Schiff
Clay	Jontz	Schneider
Clement	Kastenmeier	Schroeder
Coleman (TX)	Kennedy	Schumer
Collins	Kennelly	Serrano
Condit	Kleczka	Sharp
Conyers	Kolbe	Shays
Cooper	Kostmayer	Sikorski
Coughlin	Lancaster	Sisisky
Courter	Lantos	Skaggs
Coyne	Leath (TX)	Slaughter (NY)
Crockett	Lehman (CA)	Smith (FL)
Darden	Lehman (FL)	Smith (IA)
DeFazio	Levin (MI)	Snowe
Dellums	Levine (CA)	Solarz
Derrick	Lewis (GA)	Spratt
Dicks	Long	Stark
Dingell	Lowey (NY)	Stokes
Dixon	Luken, Thomas	Studds
Dorgan (ND)	Machtley	Swift
Downey	Markey	Synar
Durbin	Martin (IL)	Tanner
Dwyer	Martinez	Thomas (GA)
Dymally	McCloskey	Torres
Eckart	McDermott	Towns
Edwards (CA)	McMillen (MD)	Traficant
Engel	McNulty	Udall
Erdreich	Meyers	Unsoeld
Espy	Mfume	Valentine
Evans	Miller (CA)	Vento
Fascell	Miller (WA)	Visclosky
Fawell	Mineta	Waxman
Fazio	Mink	Weiss
Flake	Molinari	Wheat
Flippo	Morella	Williams
Foglietta	Morrison (WA)	Wilson
Ford (TN)	Mrazek	Wise
Frenzel	Nagle	Wolpe
Frost	Neal (NC)	Wyden
Gallo	Nelson	Yates

NAYS—211

Annunzio	Barnard	Bevill
Applegate	Bartlett	Bilirakis
Archer	Barton	Bliley
Armey	Bateman	Boggs
Baker	Bentley	Bonior
Ballenger	Bereuter	Borski

Broomfield	Hutto	Ray
Brown (CO)	Hyde	Rhodes
Bruce	Inhofe	Rinaldo
Buechner	Ireland	Ritter
Bunning	James	Roberts
Burton	Jenkins	Robinson
Byron	Johnson (SD)	Roe
Callahan	Kanjorski	Rogers
Chapman	Kaptur	Rohrabacher
Clinger	Kasich	Ros-Lehtinen
Coble	Kildee	Rostenkowski
Coleman (MO)	Kolter	Roth
Combest	Kyl	Rowland (GA)
Conte	LaFalce	Russo
Costello	Lagomarsino	Sangmeister
Cox	Laughlin	Sarpalius
Craig	Leach (IA)	Saxton
Crane	Lent	Schaefer
Dannemeyer	Lewis (CA)	Schulze
Davis	Lewis (FL)	Sensenbrenner
de la Garza	Lightfoot	Shaw
DeLay	Lipinski	Shumway
DeWine	Livingston	Shuster
Dickinson	Lloyd	Skeen
Dornan (CA)	Lowery (CA)	Skelton
Douglas	Madigan	Slattery
Dreier	Marlenee	Slaughter (VA)
Duncan	Martin (NY)	Smith (NE)
Dyson	Mavroules	Smith (NJ)
Early	Mazzoli	Smith (TX)
Edwards (OK)	McCandless	Smith, Robert (NH)
Emerson	McCollum	
English	McCrery	Smith, Robert (OR)
Fields	McCurdy	
Fish	McDade	Solomon
Gallegly	McEwen	Spence
Gaydos	McHugh	Staggers
Gillmor	McMillan (NC)	Stallings
Gingrich	Michel	Stangeland
Goodling	Miller (OH)	Stearns
Goss	Moakley	Stenholm
Grandy	Mollohan	Stump
Grant	Montgomery	Sundquist
Guarini	Moorhead	Tallon
Gunderson	Murphy	Tauke
Hall (OH)	Myers	Taylor
Hall (TX)	Natcher	Thomas (CA)
Hamilton	Neal (MA)	Thomas (WY)
Hammerschmidt	Nielson	Traxler
Hancock	Nowak	Upton
Hansen	Oberstar	Vander Jagt
Hastert	Ortiz	Volkmer
Hayes (LA)	Oxley	Vucanovich
Hefley	Packard	Walker
Hefner	Parker	Walsh
Henry	Parris	Watkins
Herger	Paxon	Weber
Hertel	Penny	Weldon
Hiler	Perkins	Whittaker
Hoagland	Petri	Whitten
Hochbrueckner	Porter	Wolf
Holloway	Poshard	Wylie
Hopkins	Pursell	Yatron
Huckaby	Quillen	Young (AK)
Hunter	Ravenel	Young (FL)

NOT VOTING—26

Brennan	Matsui	Scheuer
Bryant	McGrath	Schuette
Bustamante	Moody	Smith (VT)
Carr	Morrison (CT)	Smith, Denny (OR)
Donnelly	Murtha	
Feighan	Pashayan	Tauzin
Ford (MI)	Pickett	Torricelli
Frank	Rahall	Walgren
Manton	Rowland (CT)	Washington

□ 1732

The Clerk announced the following parts:

On the vote:

Mr. Carr for, with Mr. Rahall against.

Mr. Scheuer for, with Mr. Denny Smith of Oregon against.

Mr. Matsui for, with Mr. McGrath against.

Mr. Smith of Vermont for, with Mr. Pashayan against.

Messrs. BEVILL, GUARINI, and McHUGH changed their vote from "yea" to "nay."

So the conference report was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5311

Mr. DIXON. Mr. Speaker, I move to insist on the disagreement to all Senate amendments to the bill, H.R. 5311, and request a further conference with the Senate thereon.

The SPEAKER. The question is on the motion offered by the gentleman from California.

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Messrs. DIXON; NATCHER; STOKES; AUCOIN; DWYER of New Jersey; HOYER; WHITTEN; GALLO; GREEN of New York; REGULA; and CONTE.

There was no objection.

MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4090. An act to authorize the establishment of the Glorieta National Battlefield in the State of New Mexico, and for other purposes;

H.R. 5004. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the wild and scenic rivers system;

H.R. 5433. An act to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Conservation Commission of West Virginia, and for other purposes; and

H.R. 5872. An act to amend title I of the Employee Retirement Income Security Act of 1974 to require qualifying employer securities to include interest in publicly traded partnerships.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5399. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 2628) entitled "An Act to amend the Public Health Service Act to reauthorize certain National Institute of Mental Health grants and to improve provisions concerning the State comprehensive mental health service plan, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the joint resolution (S.J. Res. 206) entitled "Joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons."

The message also announced that the Senate agrees to the amendments of the House to the joint resolution (S.J. Res. 302) entitled "Joint resolution providing for the reappointment of Anne L. Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution."

The message also announced that the Senate agrees to the amendments of the House to the joint resolution (S.J. Res. 318) entitled "Joint resolution providing for the appointment of Ira Michael Heyman of California as a citizen regent of the Board of Regents of the Smithsonian Institution."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5399) "An Act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. REID, Ms. MIKULSKI, Mr. ADAMS, Mr. BYRD, Mr. NICKLES, Mr. STEVENS, and Mr. COCHRAN, to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 5399, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1991

Mr. FAZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5399) making appropriations for the legislative branch for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Messrs. FAZIO; YATES; OBEY; MURTHA; and TRAXLER; Mrs. BOGGS; and Messrs. WHITTEN; LEWIS of California; CONTE; MYERS of Indiana; and PORTER.

There was no objection.

LEGISTATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I ask for this time in order to ask the distinguished majority leader information about the schedule for the rest of the day and for tomorrow.

For that purpose, I yield to my good friend, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there will be no more votes this evening. We will meet at 10 o'clock tomorrow morning, and obviously one of the two major pieces of business for this session is to have the reconciliation conference report. We hope that that conference report will be in front of us tomorrow afternoon. We hope about 2 o'clock, in that area.

We will have other suspensions that will come on the floor at 10:00 in the morning, and we hope, again, that the reconciliation bill could be voted on between, say, 1 and 3 o'clock tomorrow afternoon.

In addition, the clean air conference may be ready tomorrow. However, it may be Saturday before the clean air conference is completed.

We have a number of conference reports that are still to be considered on appropriations. We finished Defense. District of Columbia, we have just had some action on. We will have to have further action. In conference is foreign operations and Interior, and we have passed the legislative bill. It is pending in the Senate. We will have to have a conference on that. Apparently it is in conference, and we will try to get it finished as well.

□ 1740

If we get those pieces of business done, we are largely finished. Immigration, as well, has to be processed. That is about it.

Mr. GINGRICH. If I might ask the majority leader, is there any indication we might be able to get a crime bill through before the sine die?

Mr. GEPHARDT. It is my understanding the bill went to conference today and they are working on it. It may be possible.

Mr. GINGRICH. All Members are well aware of the difficulty of scheduling the last couple of days of any session; would it be your assessment that the House will be in fairly late tomorrow?

Mr. GEPHARDT. My guess would be we would be in late tomorrow. My guess would be we will be here on Saturday, and my great hope, and I know it is the Speaker's hope as well, and I am sure it is every Member's hope, is that we can finish on Saturday night.

Mr. GINGRICH. I sense a bipartisan willingness to not be here on Sunday.

Let me simply ask one other thing, one of my colleagues asked over here, what time tomorrow? We go in at 10. What time do we expect votes to begin?

Mr. GEPHARDT. We would have suspensions first. I would say around noon, Members can expect to have votes.

Mr. GINGRICH. I thank the majority leader.

CONFERENCE REPORT ON H.R. 996, EXCELLENCE IN MATHEMATICS, SCIENCE, AND ENGINEERING EDUCATION ACT OF 1990

Mr. ROE. Mr. Speaker, I call up the conference report on the bill (H.R. 996) to establish the Congessional Scholarships for Science, Mathematics, and Engineering, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. WALKER. Mr. Speaker, reserving the right to object, I rise in support of the conference report in the Excellence in Mathematics, Science and Engineering Act of 1990 to accompany H.R. 996. I congratulate the chairman of the Committee on Science, Space and Technology, the gentleman from New Jersey [Mr. ROE] for his efforts on this report, and for those have worked tirelessly on the legislation, including the gentleman from Pennsylvania [Mr. WALGREN] who then chaired the Subcommittee on Science, Research and Technology, the gentleman from New York [Mr. BOEHLERT] and the gentleman from Virginia [Mr. SLAUGHTER] who developed the science scholarships for undergraduates who are committing to a career in science. I would also like to thank our colleagues on the Committee on Education and Labor for their support and energy in completing the bill.

This legislation does represent a major investment in America's future. The science and math education scholarships and support programs contained in this bill will help to attract and train new scientists and educators which this Nation must have to meet strong challenges for world leadership.

Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from New Jersey, chairman of the Committee on Science, Space, and Technology [Mr. ROE].

Mr. ROE. Mr. Speaker, the conference agreement on H.R. 996, the Excellence in Mathematics, Science, and Engineering Act, represents an important step for American education. This agreement addresses serious shortcomings in science and math education in the United States, and also makes provisions to help us avoid the predicted prospect of alarming shortages of scientists and engineers in the coming decades. This is truly where the solution to America's competitiveness problems must begin.

The conference agreement on H.R. 996 is the product of the excellent cooperation and hard work of both the Education and Labor, and the Science, Space, and Technology Committees. I want to thank the chairman of the Education and Labor Committee, Representative AUGUSTUS HAWKINS, the ranking Republican member of the committee, Mr. GOODLING, and the other members involved in this effort for their diligent work to achieve an agreement. I also want to recognize the efforts of Mr. WALKER, the ranking Republican member of the Science, Space, and Technology Committee, and applaud the contributions of Mr. VALENTINE and Mr. BOEHLERT, the chairman and ranking Republican member, respectively, of the Science, Research and Technology Subcommittee.

Mr. Speaker, strong national capability in science and math skills, and a steady stream of scientists and engineers into the Nation's work force are fundamental for competing in the global marketplace. They ensure our ability to advance research and development, make productivity leaps, create the new wealth, and generally improve the quality of life for all citizens.

I believe that every component of this education agreement is both necessary and practical. I also believe that the spirit of this legislation is compelling. Herein lies a commitment to excellence and a concern for the long-term prosperity of this Nation.

This agreement includes a number of provisions that were initiated by individual members of the Science, Research and Technology Subcommittee. These provisions are specifically related to the National Science Foundation [NSF] programs and strongly enhance the breadth and perspective of this bill. There are several undergraduate scholarship initiatives included. The concept of scholarships for a male and a female student from each congressional district originated with Mr. WALGREN; scholarships to provide more teachers with strong science and math backgrounds were proposed by Mr. BOEHLERT; and the Science, Space, and Technology Scholarships to launch more students on careers in science and engineering were the collective work of Mr. TRAFICANT and Mr. SLAUGHTER. Mr. BROWN should be singled out for his leadership on improving informal science education and on upgrading undergraduate instruction in science and engineering. Mr. PRICE and Mr. BUECHNER introduced important provisions to strengthen development of new education technologies for science, math and technology instruction. Finally, I want to acknowledge the contribution of Mrs. LLOYD, whose provisions in the bill will mobilize the tremendous scientific resources of the Department of Energy to strengthen science education.

Mr. Speaker, Winston Churchill once said that the best investment any country can make is to put milk into babies. He was pointing out that, since the strength and vitality of a nation are strongly tied to the genius and energy of its people, any nation's future well-being will depend on the investment made in its children. Nurture of the young, of course, involves more than providing adequate food, clothing, and shelter. We must also provide children with education and training of sufficient quality to enable each child to achieve his or her full potential.

I do not need to point out that the dismal performance of American students in science and math reflects a general failure in meeting fully our obligation to educate young people to meet the challenges of a world in which science and technology play an increasingly prominent role. Numerous studies and international comparisons of student-performance over the past several years powerfully suggest a decline in the quality and effectiveness of science and math instruction in this country.

Shortcomings in science and math education have contributed to the growing consensus that an overhaul of the entire U.S. education system is required. The need for reform of the totality of America's educational machinery was highlighted by the efforts of the President and the State Governors to establish national education goals. The delineation of these goals indicates that the nature of the problem has been identified and that the time for action has arrived.

The policies and programs contained in the conference agreement on H.R. 996 will contribute directly toward reversing the decline in the effectiveness of U.S. science education. The agreement authorizes specific programs for both the National Science Foundation and the Department of Education, the two agencies with primary responsibility for science education. Collectively, the authorized programs authorized address all aspects of science, math and engineering education from elementary and secondary through the graduate school level.

The legislation would mandate the development of new instructional materials and techniques for elementary and secondary school students that are based on application of computer and telecommunications technologies. It would provide the means to disseminate successful educational materials through a national clearinghouse and regional consortiums of educational agencies, universities, schools and nonprofit organizations. To complement this objective, there is a particular provision for teacher training in the effective use of computers and other new educational materials. Beyond support for research and development on specific education projects and general dissemination activities, the conference agreement authorizes NSF to undertake programs, in cooperation with the State education agencies, universities and the private sector, to institute statewide improvements in the delivery of science and math instruction. Only through such structural changes is lasting reform possible.

The three prestigious undergraduate scholarship programs established by the conference agreement—the National Science Scholarships, the Robert Noyce Scholarships, and the Science, Space, and Technology Scholarships are designed to attract more students to careers in science and engineering. The importance of science and engineering to the country will gain visibility.

The Robert Noyce Scholarships specifically address the problem of attracting qualified individuals to the teaching of science and math at the elementary and secondary school level. Acceptance of the scholarship requires each winner to teach science or math at the K-12 level for 4 years after graduation.

At the collegiate level, there is an initiative to improve the quality of undergraduate instruction in science and engineering by recognizing outstanding faculty contributions to undergraduate teaching and by providing support for those individuals to expand their efforts to improve undergraduate instruction at their institutions. In addition, programs such as special visiting professorships for women and minorities, and special collaborations between research universities and institutions with large minority enrollments will help attract more women and minority students to careers in science and engineering.

Finally, the conference agreement authorizes an expansion of the NSF Graduate Fellowship Program and establishment of a new graduate traineeship program to help increase the number of students preparing for careers in science and engineering research. Here again, special attention will be focused on providing increased support for women and minority students.

Mr. Speaker, the conference agreement on H.R. 996 is a comprehensive proposal to improve science, math and engineering education and to attract more students to careers in these fields. The bill does not represent the final solution, partly because we still have far to go in this endeavor, but more importantly because there are no end-stops or finishlines when you strive for excellence—there are only continuums. I urge my colleagues to support the conference agreement on H.R. 996.

Mr. WALKER. Mr. Speaker, further reserving my right to object, I yield to the gentleman from Pennsylvania, a member of the Committee on Education and Labor who contributed so vitally to this bill [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, first of all, I would like to take this opportunity to announce that since I am No. 15 on the list for special orders along with the gentleman from Illinois [Mr. HAYES], as well as the gentleman from Michigan [Mr. FORD], we will take our special order tomorrow during some of the lull time to honor our chairman, the gentleman from California [Mr. HAWKINS].

Mr. Speaker, I rise in support of this legislation. One of the parts that the Committee on Education and Labor added is the Eisenhower amendments, and in this bill, the bill requires that funds be focused first on training teachers in the elementary grades. We did this because a National Science Teachers Association study found that some 50,000 elementary school teachers had never had a college course in science. Of course, the elementary years are critical in developing children's interest in math and science.

These amendments and the Federal support through this program should help to train teachers in these necessary skills.

Mr. Speaker, I rise in support of the conference report to H.R. 996, the Excellence in Mathematics, Science, and Engineering Education Act of 1990. The conference report contains provisions that are under the jurisdiction of both the Education and Labor Committee and the Science, Space, and Technology Committee and contains provisions from the House passed H.R. 996, the House passed H.R. 4982, the Dwight D. Eisenhower Mathematics and Science Education Act, and the Senate amendment.

These provisions will help to increase educational services to our Nation's students. The bill is divided into four major subject areas: First, amendments to the Eisenhower Mathematics and Science Teacher Training Act, second, the National Science Scholars Program, as proposed by the President, third, amendments to several National Science Foundation programs, and fourth, amendments to the Department of Energy math and science education programs.

As to the Eisenhower amendments, the bill requires that funds be focused first on training teachers in the elementary grades. A National Science Teachers Association survey found that some 50,000 elementary school teachers had never had a college course in science. The elementary years are critical in developing children's interest in math and science. These amendments and the Federal support through this program should help to train teachers in the necessary skills.

The Eisenhower amendments also require school districts receiving less than $6,000 to work in consortium with other districts and we included a waiver of this requirement for rural districts. The amendments allow the Secretary of Education to carry out model programs for training and instruction in the use of computers and allow the Secretary to establish a Na-

tional Clearinghouse for Science, Mathematics, and Technology Education, which would be a repository of educational materials and programs. Finally, the Eisenhower amendments authorize funds for the Secretary of Education to establish regional science, mathematics, and technology education consortia in order to disseminate exemplary instructional materials in mathematics and science and to provide technical assistance and training to elementary and secondary schools.

The bill also includes the National Science Scholars Program proposed by the President and two other smaller scholarship programs to encourage students to major in the sciences. The National Science Scholars will provide merit based scholarships to scientifically inclined high school students for college costs. The awards are for $5,000 per year for up to 4 years.

And, finally, the bill includes authority for the Secretary of Energy to engage in certain mathematics and science education activities.

Again, Mr. Speaker, I rise in support of this conference agreement. The President has recognized the need to improve the quality of math and science education in this country. I was pleased that he announced as one of his goals for education that "U.S. students will be first in the world in mathematics and science achievement." I believe this bill is a good step in making that goal a reality.

Mr. WALKER. Mr. Speaker, further reserving my right to object, I would like to highlight a couple of provisions in the bill which were introduced by members of the minority, which I think are important contributions.

In light of the justifiably overriding concern with illegal drug use in our country today, I would like to highlight the language offered by the gentleman from Missouri [Mr. BUECHNER] that sets an example of dropping scholarship recipients who are convicted of a drug offense or other felony while in the program. In such cases there are punitive payback penalties.

Also, in H.R. 996, is something which I regard as extremely important, and that is we made it fiscally responsible. All of the new programs and programs and initiatives to be run by the National Science Foundation came out of existing budget authority.

Mr. Speaker, continuing my reservation of objection, I yield to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I rise in strong support of this legislation. As chairman of the Subcommittee on Energy, I have held numerous hearings on this subject. This does allow Members to make available the expertise in our National Laboratory, which is a national treasure, to further expand science and math education.

It is a good bill. I urge my colleagues to support it.

This is important legislation. As our Nation becomes more dependent on science and technology the greater our need for a strong, dependable scientific base. I am pleased that the Congress supports expanding the talent pool and exciting students to pursue science, mathematics, and engineering fields.

We must search nationwide for our future scientists. We cannot be limited to the middle and upper classes to fill the country's future needs. The best and the brightest must be developed and encouraged at every social and economic level and in every segment of our society. Only in this way can we hope to provide for the future.

It is my sincere hope that this is only the beginning, that we will continue to expand the Government's participation in science, mathematics, and engineering education programs.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I rise today in support of the conference report on H.R. 996 and would like to thank my colleagues from both the Education and Labor Committee and the Committee on Science, Space, and Technology for their efforts on this very important education package.

Members of both Houses should pay attention to this conference report because it is one of the clearest signs we have had lately that this Congress is moving steadily to advance a national priority that is absolutely critical to the future of this Nation. I firmly believe it is impossible to understate the importance of this effort.

I am sure there is no one in this Congress who is unaware of the avalanche of reports that have been issued in the past decade warning that the United States is in real danger of losing its global edge in basic scientific research, research and development, and, importantly, in the achievement levels of American students in this arena. This warning is real, and we cannot afford not to heed it.

At the core of this problem and its solution is the teaching profession. We need a meaningful and sustained effort to encourage talented candidates to enter math and science teaching and then we need to provide those teachers with the support and the tools they need to do the best job possible. Where's the payoff? Good teachers engage students and greatly increase the odds that those students will pursue science or math as a discipline and a career. In short, a good teacher can produce a medical researcher, an advanced materials engineer, a designer of environmental technology, or another devoted and talented teacher. In the absence of good teachers, none of this is possible.

This conference report includes legislation that I sponsored through the Education and Labor Committee that will help build and strengthen that important infrastructure. The Dwight D. Eisenhower Mathematics and Science Education Amendments Act which is title II of this proposal will provide both new and current teachers with the tools and the resources they need to keep their knowledge and their teaching methods at state-of-the-art levels.

The Dwight D. Eisenhower Math and Science Program is the primary vehicle for math and science programming at the elementary and secondary level. The great majority of its resources are concentrated at the local level, where individual communities can decide what teachers need, and then design the kind of programs that meet those needs. This program is an excellent example of how a Federal program can help define a program, outline goals and outcomes, provide resources and then leave the design and implementation to individual communities.

There are also two larger additions to the Eisenhower statute.

The first would give the Secretary the authority to initiate a competition to establish a National Clearinghouse for Science, Mathematics, and Technology Education Materials. This would give us something we are sorely missing, a permanent repository of science, math, and technology education instructional materials. Information on curriculum and model instructional materials would be available to anyone seeking ways to improve the content and delivery of math, science, or technology education in their communities. Only in this way can we move away from the typical hit and miss approach which is the standard today.

The second new authority would direct the Secretary to carry out a merit-based competitive grant program to establish and operate regional math and science consortiums that would bring state-of-the-art science and math instructional material within easy reach of our Nation's classroom teachers. Under this proposal teachers would be involved in selecting the curriculum that is appropriate for them and their classrooms. They would then learn how to teach the new science and math courses and eventually teach their peers in the use of the new materials. A strong emphasis would be placed on collaboration between all those groups with a stake in this effort: Teachers, parents, business community, State education agencies, and others. The regional consortiums would be selected through an open competition using a peer review process. The regional consortiums would maintain a close relationship with the National Clearinghouse. This provision will require a meaningful local match and only $15 million in Federal funds.

Mr. Speaker, I want to again thank my chairman, AUGUSTUS HAWKINS, for his leadership in developing this conference report and the distinguished chairman of the Science, Space, and Technology Committee BOB ROE.

On the staff level, special thanks to Diane Stark and Jo-Marie St. Martin for their many efforts on behalf of this legislation.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I, too, rise in strong support of the conference report and take this time to express my appreciation to the chairman of the committee, the gentleman from Pennsylvania [Mr. WALKER], and others who worked long and diligently in connection with this endeavor.

Mr. Speaker, the 21st century will present new challenges in science, mathematics, and engineering that might far exceed any that we have known in recorded history. The need for highly skilled scientists, mathematicians, and engineers to meet these challenges will increase dramatically. This bill will assure that the United States maintains its preeminence in science and technology by providing the methods and resources to attract and train tomorrow's scientists, mathematicians, and engineers. It also provides the means to encourage and support women and minorities, groups that are highly underrepresented in these career fields. The conference agreement on H.R. 996 is truly the result of a bipartisan effort. I want to thank Chairman ROE for his efforts in supporting this bill throughout the entire process. I want to thank Mr. WALKER, the ranking Republican member of the Committee on Science, Space, and Technology, for his support and contributions, also. Chairman HAWKINS and Mr. GOODLING, the ranking Republican member, from the Committee on Education and Labor made major contributions to portions of this legislation.

The conference agreement establishes three programs of undergraduate scholarships to attract more students to studies in science, mathematics, and engineering. In addition to providing education support to the individual recipients, the scholarships are intended to be prized awards, having high visibility throughout the Nation to encourage role models in science for young people.

The National Science Scholars Program, which is based largely on a legislative initiative due to Mr. WALGREN, comprises 4-year scholarships for graduating high school students for undergraduate study in science, math, and engineering. The Robert Noyce scholarships, which originated with a separate bill introduced by Mr. BOEHLERT, are for the final 2 years of undergraduate instruction for students willing to commit to careers as science teachers, and the 4-year science, space, technology scholarships, which grew out of proposals of Mr. TRAFICANT and Mr. SLAUGHTER, require a commitment to a career as a practicing scientist or engineer.

All scholarship winners, who will receive $5,000 per year, are selected competitively on the basis of academic merit and motivation to pursue science, math, or engineering studies. The National Science Scholarship Program is structured to involve scientists, engineers and educators at the State level in identifying nominees for scholarships. Two candidates from each congressional district, at least one of whom must be a female, will be selected. The Science, Space, and Technology Scholarship Program, administered by the National Science, Space and Technology Academy within the Department of Education, will select one student from each congressional district from nominations from Members of Congress. The Robert Noyce panel of scientists, engineers and educators will select 500 awards from nationwide applications.

Mr. Speaker, other provisions of the conference agreement authorize the establishment of research programs for use of computers and related technologies in basic mathematics, science, and technology instruction. Awards may be used for research and development of curriculum, development of computer software, and other promising technologies. My colleagues, Mr. PRICE and Mr. BUECHNER, are to be congratulated for their efforts to focus their activities toward adult literacy in technical fields and instruction at the elementary and secondary school levels, respectively. Also, due to the efforts of Mr. BROWN, the bill includes provisions to expand the effectiveness of informal science education at science-technology centers through support for dissemination of effective programs and materials and support for development of new centers.

One other provision I would like to highlight, which was also championed by Mr. BROWN, is an NSF Program of Awards to encourage institutions of higher education to improve, and to give greater attention to, undergraduate instruction in science, mathematics, and engineering. These awards are to be used for development of innovative curriculum or teaching methods, educational equipment for use by students and faculty, and support of teaching fellows. Institutions receiving these awards are designated "centers of excellence for undergraduate teaching."

Mr. Speaker, let me emphasize that advances in science, mathematics, and engineering are being made at breakneck speed. If we as a nation fall behind, it will be almost impossible to catch up. This legislation will guarantee that we continue to set the pace and maintain the lead in areas that are so critical for the well-being of the entire Nation. I fully support this legislation and urge all my colleagues to do likewise.

Mr. WALKER. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Virginia [Mr. SLAUGHTER].

Mr. SLAUGHTER of Virginia. Mr. Speaker, I rise to support the conference report.

Mr. WALKER. Mr. Speaker, further reserving my right to object, I yield to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I want to rise to commend the vice chairman of this committee, the gentleman from Pennsylvania [Mr. WALKER], and the chairman of this committee, the gentleman from New Jersey [Mr. ROE].

I had a freestanding bill to create a National Academy of Science, Space, and Technology. It would have a building just like Annapolis, West Point, Academy for Peace. We could not afford that.

Our committee did come out and create a National Academy of Science, Space, and Technology in a scholarship program whereby Members will nominate their brightest young students, and 500 of them will be selected per year, at least 1 from each district. They get a $5,000 scholarship at the end of the 4 years. Our brightest young minds have to give their time back to the Government. This is a great program. I had over 100 cosponsors. I thank every cosponsor, and I ask this committee in the future to look toward an academy that would be standing just like war academies and military academies, in an Academy for Peace.

I commend the chairman and vice chairman.

Mr. WALKER. Mr. Speaker, continuing my reservation of objection, the gentleman from Pennsylvania [Mr. GOODLING] reminds me that the President's science scholarship initiative is included in this bill. Therefore, I am sure that the administration will look favorably on the bill.

Mr. PRICE. Mr. Speaker, I rise today to support the conference report on H.R. 996, the Excellence in Mathematics, Science, and Engineering Act of 1990. I want to commend my colleagues on the House Science, Space, and Technology Committee, especially Chairman ROE, Congressman VALENTINE, Congressman WALGREN, and Congressman BOEHLERT, for their tireless efforts on behalf of improving math and science education in this country.

The bill before us is critical because too many of our young people today are entering the workforce without the skills necessary to adapt to the changing demands of the modern workplace. Most of the new jobs being created across the country demand higher levels of scientific, mathematical, and technical skills than ever before. The problem is especially acute in the South where the gap is widening between low education skills of new workers and advancing skill requirements of the workplace. Shortages of educated and skilled workers threaten the competitiveness of southern business and industry.

H.R. 996 responds to these problems in a number of practical, thoughtful ways. The bill establishes a 4-year scholarship program for students majoring in math, engineering, and life, physical, or computer sciences. Awardees must commit to employment as a scientist or engineer for 4 years, or attend graduate school. There is also a 2-year scholarship program for students in their last 2 years of college who commit to teach math or science in elementary or secondary schools, to work as a scientist or engineer, or to attend graduate school for 2 years.

The bill also directs the National Science Foundation [NSF] to increase the number of graduate school fellowships, expand efforts to increase participation by women and minorities in the sciences, and develop hands-on exhibits for science-technology centers.

I am particularly pleased to see included a grant program, administered by NSF, that will expand the use of innovative technologies in the teaching of science and math. These grants will be used to develop curricula, com-

puter software, or other promising technologies that can improve the effectiveness of basic mathematics and science education. This program was originally included in a bill that I introduced, H.R. 3122, the Science and Technological Literacy Act. These NSF grants should ensure that our students have the best materials and technologies available for their education, and I believe they will encourage better performance by all our Nation's young people in science and math.

I was also pleased to see the recognition on the part of House and Senate members working on this bill that we need to improve our programs of advanced technician training in 2-year colleges. I look forward to continuing to work on this issue in the next Congress.

In all, I believe this bill is a good start for ensuring that citizens have the skills to take advantage of expanding economic opportunities. I urge my colleagues to support this legislation and look forward to working with them to continue to improve the competitiveness of the American work force.

Mr. WALGREN. Mr. Speaker, it is indeed gratifying today to support H.R. 996, the Excellence in Mathematics, Science, and Engineering Education Act, before us today. H.R. 996 includes as title IV, my bill to create two annual college scholarships of at least $5,000 each for one male and one female from every congressional district to study science, math, or engineering.

I want to express my appreciation to Congressmen HAWKINS and GOODLING of the Education and Labor Committee and Congressmen ROE and WALKER of the Science Committee for working together to reach the agreements reflected in the bills before us today. This bill is also similar to that proposed by President Bush.

Under the bill, two individuals would be selected and nominated by a broad-based panel in each State composed of educators, scientists, mathematicians, and engineers. The final selection of the students—to be known as National Science Scholars—would be made by the President, after consultation with the Secretary of Education and the Director of the National Science Foundation. To be eligible, students must have demonstrated outstanding academic achievement in the physical, life, or computer sciences, mathematics, or engineering and show promise of continued outstanding performance. In addition, consideration may be given to financial need and to promoting participation of minorities, women, and the disabled.

The National Science Scholars Program will take a big step toward addressing the science, math, and engineering gap facing our Nation today. The statistics on how our students are outcompeted by foreign students are almost shopworn. Fewer students are choosing to study science and math. Japan, with half our population, is graduating almost as many engineers as the United States. American 13-year-olds score last in math when compared to students in five other countries. Our best high school chemistry and physics students scored near the bottom in a 13-country comparison.

This scholarship program, because of its broad geographic distribution, can be a highly visible and prestigious magnet, attracting students to these fields. It can provide role models, especially for young women and minorities who are now under-represented in science and math. The program can symbolize our national stake in improving our science and math base.

Again, I want to thank my colleagues for recognizing the science and math gap and for creating this avenue of opportunity for the many promising American young people out there whom I know can help get this country back on the road to competitiveness.

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of this conference agreement. This bill addresses what is arguably the most serious problem facing our Nation—the poor performance of our Nation's students in mathematics and science.

This year has seen a lot of posturing about this issue—professions of commitment, lists of goals. But with this bill, we will actually be taking the first concrete steps toward improving math and science education in this country. Next year, we will work to see that the agencies and the Appropriations Committee follow through on these ambitious plans.

The bill attacks the problem from a number of directions—better dissemination of successful math and science programs, increased funding of technology development and science museums, an innovative new award to focus attention on undergraduate teaching, new grants to encourage statewide rethinking about science and math education, and increased graduate fellowships. These are all important initiatives that build on past successes.

But the provision I'm most pleased to see here is the creation of new scholarships to encourage students to teach. I urge the National Science Foundation and Department of Education to work together to give this program the prominence it needs to be a success.

I have stated the reasons for this scholarship many times since I first introduced the proposal last year. It all comes down to this: The greatest factor in determining the quality of education is the quality of our teachers. When we look back on our own educations, it's the great teachers we remember—their inspiration—not the textbooks or buildings or machines.

Today, too few of our top students are going into teaching, even though we need them more than ever. When our best math and science students think of teaching, they're told they're crazy—how can they afford it? Where's the prestige?

This scholarship will finally create a targeted incentive to entice these students into teaching. And this infusion of fresh talent will help revitalize our classrooms and improve our students' performance.

We'll have to do more than this, of course. But we will at last have demonstrated that the Federal Government really does care about teaching. And who knows how many students will have their interest in science and math kindled and their understanding improved because of these scholarship winners.

I urge support of the conference report.

Mr. GOODLING. Mr. Speaker, I rise in support of the Educational Equity and Excellence Act of 1990. This bill is the culmination of months of work and the agreements reached between the House and Senate regarding H.R. 5115 as passed by the House on July 20, 1990, and S. 695 as passed by the Senate on February 7, 1990.

For years the Federal role in education has been one of supplementary support to State and local efforts for access to education for special populations of students. While keeping those themes central to the Federal focus, in this bill, we expand our role by embracing the goal of quality in education for all students. Access to quality is our new commitment.

As you may know, President Bush declared his intention to become the Education President. One of his first steps toward that goal was to design a package of Federal education programs, which I enjoyed the responsibility of introducing and attempting to move through the House. This past January during the State of the Union Address, the President outlined goals for education that he hopes we can achieve by the year 2000. This bill before you today embraces the President's goals and outlines the steps we in Congress should take in order to achieve those national education goals.

As the President has placed education as a national priority, this bill lays the foundation for the first steps we must take in order to reach the goals outlined by the President. These goals renew our commitment to education by giving us deadlines to fulfill our hopes for the future.

PRESIDENT'S EDUCATION PACKAGE

First, the bill incorporates most of the provisions of H.R. 1675, the President's education package. The centerpiece of the President's programs. the Presidential Schools of Distinction, formerly the Merit Schools, rewards schools that have improved their students' educational performance, maintained a safe environment, and shown progress in reducing the number of students who drop out of school. We have targeted the program funds to schools that qualify for assistance under the Federal chapter I program, schools that are, by definition, in more financial need. By so doing, we have also corrected a deficiency in the chapter I program by recognizing and rewarding those chapter I schools which are improving. We have also included the additional endowment for the historically black colleges and universities, the National Science Scholars, the Excellence in Education program, and nontraditional routes to teacher certification and licensure.

LITERACY

In order to achieve the goal that every adult American be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship, we have included provisions for enhancing the Federal effort in literacy. These provisions are designed to enhance the literacy efforts currently established in States, to provide additional assistance for literacy programs within States, and to coordinate the Federal programs.

TEACHER RECRUITMENT AND RETENTION

In order to enhance the teaching force, the bill also includes provisions for recruitment of teachers and retraining the teaching force. The amendments include authority for local level teacher training and recruitment through

partnerships of local school districts with colleges.

OTHER AMENDMENTS

The bill also includes two other provisions proposed by Mr. SMITH and Mr. BARTLETT, which will provide incentives for innovative approaches to educating our Nation's students. These two programs will give local school districts the flexibility to design programs that best meet the needs of all students in the district.

Again, Mr. Speaker, I rise in support of the Educational Equity and Excellence Act of 1990. I ask my colleagues to join me in support.

Mr. SLAUGHTER of Virginia. Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 996, the Excellence in Math, Science, and Engineering Education Act of 1990. I commend Chairman ROE, Representative, WALKER, and members of the House Committee on Science, Space, and Technology for their leadership and efforts to craft a comprehensive science education proposal.

There is no doubt that the future of our Nation is dependent upon the quality of education received by today's students. Their achievements and contributions to society, particularly in the fields of science and related technologies, will reflect the training and skills they received at the undergraduate and graduate levels of education. It is disconcerting then, to realize that fewer and fewer students are pursuing degrees in science or mathematics. The potential shortage of capable scientists poses serious concern for the productivity and competitiveness of the United States. This impending shortage, and concern for the availability of higher education for interested students, has guided the formulation of H.R. 996.

In this regard, I am particularly pleased that my proposal for an undergraduate scholarship program based on demonstrated merit, H.R. 1217, has been included in the Excellence in Math, Science, and Engineering Education Act of 1990. The students under this program, in return for educational assistance, will contribute to U.S. corporations or the U.S. Government the skills they obtained during college. The goal of this requirement is to meet the immediate demand for scientists and engineers.

I should also note that the conferees agreed to increase the number of graduate fellowships awarded by the National Science Foundation. It is my hope that those students who receive undergraduate scholarships in science and mathematics will elect to continue their education and be eligible for graduate assistance through the Foundation. The streamlining of such a process would be to the benefit of our technology base.

I urge my collealgues to support adoption of the conference report on H.R. 996.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore (Mr. MCNULTY). Without objection, the conference report is considered as having been read.

There was no objection.

(For conference report and statement, see proceedings of the House of Wednesday, October 24, 1990, at page 33808).

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. ROE] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

□ 1750

Mr ROE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report on H.R. 996, just agreed to.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, FISCAL YEAR 1991

Mr. ROE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2287) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I rise in support of the legislation. We were able to enact an authorization bill this year, something that we were unable to do last year. I think that is an important step. I do not think that we should let another year go by without a NASA bill.

This one has some very important policy options in it that I personally think are quite important, including a Loan Services Purchase Act that was authored by our colleague, the gentleman from California [Mr. PACKARD].

Mr. Speaker, I am very pleased to have this bill moving forward.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I rise in support of this bill, but before I go further, I want to pay my particularly high regards to the gentleman from Florida [Mr. NELSON] who as we know is planning on getting a little sunshine down in his great State of Florida. I want to compliment the gentleman for an extraordinarily good job that he has done over the years, particularly in the space program. Being an astronaut himself, I do not know whether he is young enough to retain that. Maybe a senior citizen astronaut might not be a bad idea. I do not want to visit that on the gentleman from Florida.

But I say to the gentleman from Florida [Mr. NELSON], we are highly pleased with the great leadership he has extended, his patience, his perservance that he has extended not only on this legislation, but in his career here in the Congress. The gentleman has been truly a great leader and has added a dimension to the space program that really did not exist before.

Whether Congressman WALKER, Congressman ROE, or Congressman SENSENBRENNER will have the opportunity to take a flight in one of the shuttles, which would be one of our great desires, the gentleman has eclipsed us on that. On behalf of the committee and the Members of the House, I want to wish the gentleman the very best in his future and all the work he intends to do.

Mr. Speaker, I rise in support of the bill S. 2287, the National Aeronautics and Space Administration Authorization Act of 1991. I am pleased with the compromise that this legislation represents. I am confident that it provides sensible and realistic long-term direction for our Nation's civilian space and aeronautics program.

I want to thank all of the distinguished members of our committee who participated in developing this initiative, especially the gentleman from Pennsylvania [Mr. WALKER], ranking Republican member of the committee. I also want to thank the gentleman from Florida [Mr. NELSON], chairman of the Subcommittee on Space Science and Applications, the gentleman from Wisconsin [Mr. SENSENBRENNER], ranking Republican member of that subcommittee. I would also recognize the efforts of the gentleman from New Jersey [Mr. TORRICELLI], chairman of the Subcommittee on Transportation, Aviation and Materials, and the gentleman from Florida [Mr. LEWIS], ranking Republican member of that subcommittee.

I want to commend our counterparts in the other body for the fine level of cooperation in reaching this agreement. I want to thank Senator HOLLINGS, chairman of the Committee on Commerce, Science, and Transportation, Senator DANFORTH, ranking Republican of that committee, and Senator GORE, chairman of the Subcommittee on Science, Technology

and Space, and also Senator PRESSLER ranking Republican member of that subcommittee. I look forward to working with them in the future.

I want to take a moment to explain the process which has brought us to this point.

On September 28, 1990 the House passed H.R. 5649, the NASA Multiyear Authorization Act of 1990. That bill was the culmination of many hours of hearings held by the Committee on Science, Space, and Technology. The other body has been working on a counterpart piece of legislation, S. 2287.

Over the past several weeks, we have worked diligently with the other body to develop agreement on a wide variety of important issues and differences between the two bills. I believe that we have reached an equitable compromise that preserves the essential elements of the House bill and accommodates the position of the other body in areas where we have tended to diverge.

Mr. Speaker, S. 2287 as amended by the other body contains the text of the agreed upon compromise. I would like to include for the RECORD a detailed explanation of the bill and a spread sheet showing the funding levels we have agreed upon.

With your permission I will highlight the major areas included in the bill.

S. 2287 authorizes funding for fiscal year 1991. Although the House bill H.R. 5649 had provided 3 years of funding for all NASA programs, we will need to further review and adjust future year budget requirements in view of the current budget situation.

The bill authorizes a total of $13.893 billion in new budget authority which includes a full program authorization for the CRAF/Cassini probes and relies on previous legislation for the space station funding. This amount represents an increase of 22 percent over last year's funding level.

The legislation provides strong support for our Nation's space science program and funds the new start of the earth observing system that will study the environmental problems that may affect our planet.

S. 2287 supports the development of advanced space transportation systems such as the national aerospace plane, heavy lift vehicles, and the advanced launch system, as well as funding for shuttle structural spares and production support, and for safety improvements essential to shuttle operation.

The bill also addresses the commercial space transportation sector and establishes policy for the procurement of commercial launch services and use of the shuttle. It also provides funding for beginning a program to develop new technologies that can benefit the commercial expendable launch vehicle industry by allowing commercial providers to lower costs and become more competitive.

The legislation provides funding to continue studies for an expanded human exploration program for the Moon and Mars. Although the current budget environment does not permit the aggressive program requested by the President, there is little doubt that these will be important goals in our future space effort.

The bill calls on the space council to conduct a study on international cooperation in planetary exploration.

The bill expresses the view of Congress that space-related activities should be conducted in a manner that does not increase space debris and that the United States should engage other spacefaring nations to develop an agreement on the reduction of space debris.

Finally, the bill calls on the space council to establish a users advisory group that will ensure that the interests of industries and other non-Federal entities are adequately represented.

Mr. Speaker, more concisely, this is a visionary piece of legislation that designates congressional priorities, establishes funding requirements, and develops policy guidelines.

This bill is a strong step forward to unify congressional perspective on our Nation's space program and to establish the role of Congress in setting direction for NASA in long range space policy.

Mr. Speaker, America's civilian space program represents over three decades of achievement and leadership for this Nation. I am proud of what we have accomplished in space. This bill will help us continue on that positive and productive path and I urge speedy passage.

EXPLANATION OF S. 2287

The provisions of S. 2287 as agreed to by the House represent a compromise between H.R. 5649, the National Aeronautics and Space Administration Act of 1990, as passed by the House on September 28, 1990, and the Senate counterpart legislation. An explanation of specific actions taken in developing this compromise is as follows.

Sec. 101. Findings—the bill incorporates the findings contained in the House bill.

Sec. 102 Policy—The bill incorporates the policy contained in the House bill.

Sec. 103(a)(1)(A) Space Station—The bill limits previous spending authority to the President's request. The bill also incorporates the general authorization contained in the House bill for the conduct of a flight test for the solar dynamic power program.

The bill does not contain the multi-year authorization for the Station contained in the House bill. The Committee remains committed to the need for multi-year funding for the Station, however, where it can be shown that such an approach can lead to cost savings and program efficiency. The Committee will reconsider multi-year funding for the Station upon satisfactory completion of the Preliminary Design review and the presentation to the Committee of a stable and credible program.

Sec. 103(a)(1)(B) Space Transportation Capability Development—The bill provides $723.4 million and incorporates the Senate reduction of $50 million from the Orbital Meneuvering Vehicle program due to its termination and the House provision of $53.9 million for Advanced Transportation Technology. The bill also incorporates the House language specifying $10 million for heavy lift vehicle studies including consideration of commercially developed variants.

This bill does not contain funding for fiscal years 1992 and 1993 for this or the following programs as provided in the House bill. However, it is the position of the Committee that multi-year authorizations can be a significant factor in cost control and program stability and it is the intention of the Committee to continue to provide multi-year funding in the House version of the NASA authorization bill.

The Committee directs NASA to terminate the Orbital Maneuvering Vehicle program in a manner that preserves essential engineering data and plans and hardware to enable the restart of an OMV type program at some future date.

Sec. 103(a)(1)(C) Physics and Astronomy—The bill provides $985 million, the President's request.

Sec. 103(a)(1)(D) Life Sciences—The bill provides $168.4 million and includes $5 million for payload development for the Lifesat program and $400 thousand for space food processing studies and bioregenerative life support modeling assessments, both of which provisions constitute a compromise from the language contained in the House bill.

Sec. 103(a)(1)(E) Planetary Exploration—The bill provides $337.2 million reflecting the House authorization level. This amount does not include funding for the CRAF/Cassini mission which is authorized separately.

Sec. 103(a)(1)(F) Earth Sciences—The bill retains the form of the House bill in specifying the budget line items for Space Applications. The bill authorizes $542.5 million for Earth Sciences and includes $5 million for a remote sensing technology demonstration program as provided in the House bill, a $10 million augmentation for the Total Ozone Mapping Spectrometer as provided in the Senate bill, and a $3 million augmentation for Earth Science Data directories and remote sensing data conversion as provided in the Senate bill. The bill also provides for the use of $132 million in budgetary authority previously provided in P.L. 100-685 for the Earth Observing System Platform.

The advanced sensor technology demonstration program is intended to define the research and development role for NASA envisioned in the Land Remote Sensing Commercialization Act of 1984 and it will contribute to the National plan for remote sensing for the post Landsat 6 era.

Sec. 103(a)(1)(G) Material Processing in Space—The bill authorizes $97.3 million as provided in both House and Senate bills.

Sec. 103(a)(1)(H) Communications—The bill authorizes $52.8 million as provided in both the House and Senate bills. The bill also contains the House provision specifying $2 million for an experimenter program for the ACTS satellite.

Sec. 103(a)(1)(I) Information Systems—The bill authorizes $36.8 million as provided in both the House and Senate bills.

Sec. 103(a)(1)(J) Technology Utilization—The bill authorizes $24.4 million as provided in both the House and Senate bills.

Sec. 103(a)(1)(K) Commercial Use of Space—The bill authorizes $76.6 million as provided in both the House and Senate bills.

Sec. 103(a)(1)(L) Aeronautical Research and Technology—The bill authorizes $537 million and includes the addition of $25 million for a subsonic transport aircraft technology program and $15 million for a high speed computing program. NASA may identify offsets on a discretionary basis within this account to provide these funds.

Sec. 103(a)(1)(M) Transatmospheric Research and Technology—The bill authorizes $119 million as provided in both the House and Senate bills.

Sec. 103(a)(1)(N) Space Research and Technology—The bill authorizes $412.9 million and provides for $5 million included in the House bill for a propulsion technology program to include research and development benefiting the commercial expendable launch vehicle industry, and also includes a reduction of $88 million as contained in the

Senate bill for hardward related components of the Exploration Technology program directly related to the Human Exploration Initiative.

The bill also contains the House provision setting aside at least 10% of appropriated funds for the Exploration Technology program for university contracts and grants.

Sec. 103(a)(1)(O) Exploration Mission Studies—The bill authorizes $21 million, a reduction of $16 million below both the House and Senate bills. The bill also contains language limiting the authorization to studies carried out by NASA. This limitation is not intended to terminate any existing contracts or preclude NASA from entering into the normal task order contracts required to conduct in house studies.

The bill also contains a provision from the House bill requiring the Administrator to submit a report setting forth the goals for academic participation and enhancement of the educational infrastructure with regard to the Human Exploration Initiative.

Sec. 103(a)(1)(P) Safety Reliability and Quality Assurance—The bill authorizes $33 million as provided in both the House and Senate bills.

Sec. 103(a)(1)(Q) Tracking and Data Advanced Systems—The bill authorizes $20 million as provided in both the House and Senate bills.

Sec. 103(a)(1)(R) University Space Science and Technology Academic Program—The bill authorizes $50.1 million as provided in both the House and Senate bills.

Sec. 103(a)(1)(S) Comet Rendezvous Asteroid Flyby/Cassini—The bill authorizes $1,600 million over the full term of the program as provided in the House bill.

Sec. 103(a)(2)(A) Shuttle Production and Operational Capability—The bill authorizes $1,364 million as provided in the House bill and includes an increase of $35 million for Shuttle Structural spares and augmentation of Shuttle production support and a general reduction of $18 million. The bill also includes language which identifies $45 million for carrying out the safety modifications recommended by the Aerospace Safety Advisory Committee and for such other elements of an Assured Shuttle Availability program as the Administrator considers necessary.

While the Committee does not intend to micromanage, the safety modifications contained in Table 1 of the 1989 Aerospace Safety Advisory Panel report are deemed to constitute a reasonable and representative set of required elements of an Assured Shuttle Availability program together with others the Administrator considers necessary. The report required by this section should address the safety enhancements that are planned with the scope of the Assured Shuttle Availability program and any significant modifications, such as those referenced in the ASAP report, that are not planned including reasons thereof.

Sec. 103(a)(2)(B) Shuttle Transportation Operations—The bill contains the form of the House bill in identifying separate budget line items for Space Shuttle Operations and Expendable Launch Vehicle Operations. The bill authorizes $2,831.4 million for Shuttle Operations as provided in the House bill and includes a reduction of $58 million related to hardware procurements for unassigned Shuttle flights of opportunity. The bill also includes $4 million for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988, as provided in the House bill.

Sec. 103(a)(2)(C) Expendable Launch Vehicle Operations—The bill authorizes $229.2 million as provided by both the House and Senate bills.

Sec. 103(a)(2)(D) Space and Ground Network, Communications, and Data Systems—The bill authorizes $868.8 million as provided in both the House and Senate bills.

The Committee recognizes that the requirements for the TDRSS F-8 satellite as included in the budget request, will be affected by the overall pace of other major programs such as the Space Station. The Committee urges NASA to accelerate the procurement of the Advanced TDRSS satellite block.

Sec. 103(a)(2)(E) Tracking and Data Relay Satellite System—The bill authorizes $1,209.732 million for reducing the debt to the Federal Financing Bank as provided in both the House and Senate bills.

Sec. 103(a)(3) Construction of Facilities—The bill authorizes a total of $497.9 million as provided in both the House and Senate bills. The bill provides authority for land acquisition for the Advanced Solid Rocket Motor Facility as provided in the House bill.

Sec. 103(a)(4) Research and Program Management—The bill authorizes $2,252.9 million as provided in both the House and Senate bills.

Sec. 103(a)(5) Inspector General—The bill authorizes $11 million as provided in both the House and Senate bills.

Sec. 103(b) Limitations —The bill contains certain limitations on the use of authorized funds as provided in both the House and Senate bills.

Sec. 104 Construction of Facilities Reprogramming—The bill contains authority to reprogram funds for construction of facilities as provided in both the House and Senate bills.

Sec. 105 Special Reprogramming Authority for Construction of Facilities—The bill contains special reprogramming authority for construction of facilities as provided in both the House and Senate bills.

Sec. 106 Consideration by Committees—The bill contains certain limitations on use of authorized funds unless considered by the Committees as provided in both the House and Senate bills.

Sec. 107 Amendments to the National Aeronautics and Space Act—The bill amends the NASA act to include language specific to the commercial use of space and use of commercially provided services as provided in the House bill.

Sec. 108 National Space Council Authorization—The bill authorizes $1.363 million for the Space Council as provided in both the House and Senate bills. The bill also contains authority for official reception and representation expenses as provided in the House bill.

The bill also contains a provision expressing the sense of Congress that the Space Council should establish guidelines, and policy recommendations regarding ELV launches in which a Federal agency assumes substantial responsibility. The Committees seek a clear resolution and implementing actions for licensing of this class ELV launches.

Sec. 109 Geographical Distribution—The bill includes a provision regarding the geographical distribution of funds provided in both the House and Senate bills.

Sec. 110 Buy American—The bill contains a provision regarding the award of contracts to domestic firms as provided in the House bill.

Notwithstanding the elimination of the reporting requirement contained in the House bill, the Committee directs NASA to submit to the House Committee on Science, Space and Technology a report on contracts entered into in fiscal years 1990 and 1991 which are affected by this section.

Sec. 111 Advanced Solid Rocket Motor—The bill contains a provision requiring the submittal of certain reports on the cost, performance and schedule for the ASRM.

Sec. 112 Space Shuttle Use Policy—The bill includes a section setting forth policy for the use of the Space Shuttle that was contained in the House bill.

Sec. 113 Life Sciences Strategic Plan—The bill includes a section requiring the development of a strategic plan for developing a knowledge base for life sciences that was contained in the House bill.

Sec. 114 Study on International Cooperation in Planetary Exploration—The bill includes a section requiring the Space Council to carry out a study on international cooperation in planetary exploration that was contained in the House bill.

The Committee recognizes that the full implementation of this study may be dependent on the development of mission scenarios as contained in the President's request. In the event that a severe budgetary shortfall occurs, the Committee would recognize that some slip in schedule for funding related elements of the study may be necessary.

The committee expects that the report will contain proposals for joint missions with responsibility breakdowns by nation. However the Committee does not intend that diplomatically sensitive positions regarding negotiating tactics for obtaining acceptance from other nations be compromised by public disclosure.

Sec. 115. Office of Space Commerce—The bill authorizes $.487 million for the Department of Commerce Office of Space Commerce which was provided in the House bill. The bill also requires the Secretary of Commerce to report to the Congress on an annual basis on the activities of the Office of Space Commerce including planned programs and expenditures.

Sec. 116 National Aero-Space Plane Program—The bill contains a section setting forth policy, funding, and technical goals for the National Aero-Space Plane program.

In including this section, the Committee believes that research into technology development and validation of the NASP is vital if the United States is to maintain preeminence in military and commercial aeronautics into the next century. New and advanced materials being developed for the NASP have numerous applications in the military and the civilian aviation industry as well as in other industries utilizing high temperature technologies.

Sec. 117 Commercial Space Launch Act Amendments—The bill authorizes $4.517 million for the Department of Transportation's Office of Commercial Space Transportation as provided in both the House and Senate bill. The bill also identifies $.250 million for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988 as provided in the House bill. Finally the bill contains Congressional Findings, a Congressional Statement of Purpose, and statement of General Responsibilities of the Secretary relative to private sector launch facilities as provided in the House bill.

Sec. 118 Space Debris—The bill includes a section containing the substance of the House provision outlining the sense of Con-

gress on the goals of U.S. policy on space debris.

Sec. 119 Support for Space Shuttle Orbiter Production Line—The bill includes a section authorizing use of funds from the Space Shuttle replacement orbiter appropriation for the acquisition of Shuttle structural spares as provided in the House bill.

Sec. 120 Industrial Applications Centers—The bill includes a section which provides for the retention of client income without deductions from appropriated funds for Industrial Applications Centers as contained in the House bill.

Sec. 121 Users' Advisory Group—The bill includes a section establishing a users advisory group for the Space Council as provided in the House bill.

The intent of this section is to serve as guidance for the establishment of an advisory committee that can provide insight and expertise representative of the private sector including commercial, scientific, and industrial interests. It is not the intent to duplicate or conflict with other groups the Council may elect to establish. It is also the intent that this advisory group remain an active source of input for the Council and meet at least once a year with the Chairman of the Council, one or more members of the Council, or some representative of the Council as appropriate.

Sec. 122 Scientific Balloon Launch Site—The bill contains a section authorizing the Administrator to purchase land in New Mexico for a balloon launch site as provided in the House bill.

Sec. 123 Peaceful Uses of Space Station—The bill contains a section setting forth the policy that the Station may be used only for for peaceful purposes as provided in the Senate bill.

Sec. 124 Small Business Innovation Research Program—The bill contains a section authorizing the Administrator to use up to 5% of SBIR funds for program management and promotional activities as provided in the Senate bill.

Sec. 125 Propulsion Strategic Assessment—The bill contains a section requiring a report on the requirements, benefits, technological feasibility, and roles of propulsion systems for the future space program.

Sec. 126 National Civil Remote Sensing Advisory Committee—The bill contains a requirement for the Director of the Office of Science and Technology Policy to submit a report on the advisability of establishing a National Civil Remote Sensing Advisory Committee.

Title II Launch Services Purchase—The bill contains the substance of the Launch Service Purchase act contained in the House bill.

In adopting this section, the Committee intends to ask for a detailed audit of the long term and short term costs of conducting suborbital launches as a Government activity as opposed to commercial launch services. The Committee will reexamine the need for additional legislation relative to this class of launchers based on this review.

The requirements for a case by case determination under section 204(b) is intended to ensure that the flight assignment process is consistent with the policy contained in this section. The Committee would entertain determinations which cover series of like satellites that meet the requirements of the exceptions set forth in this section.

Finally, the report required under Sec. 206(b) is intended to address, as a minimum, the factors enumerated in 206(b)(1) through (5). The Administrator may also include other considerations he deems appropriate.

In adopting this amendment, the House and Senate agreed to delete section 118 of the House bill which requires a management review of the organizational and institutional preparedness of NASA to carry out major new initiatives in science and human exploration. While the Committee endorses the need for such a management review, the specific requirements for this study will be better defined after the report now being carried out by a special 'blue ribbon' panel. At such time, the Committee intends to reexamine the need for an external review.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION BUDGET SUMMARY

[Dollar amounts in millions]

	Fiscal year 1990 appropriation	Fiscal year 1991 authorization				
		President's request	House authorization	Senate authorization	Compromise	Notes
Research and Development	$5,246.0	$7,074.0	$		$	
Space Station	1,749.6	2,451.0	[2,780.5]	$2,381.0	[$2,451.0]	1
Space Transportation Capability Development	562.4	773.4	773.4	673.4	723.4	2
Space Lab	95.6	130.7				
Upper Stages	84.6	91.3				
Engineering & Technical Base	181.6	218.5				
Payload Operations and Supplement Facility	66.7	122.5				
Advanced Programs	33.6	53.2				
Tethered Satellite System	24.0	17.9				
Orbital Maneuvering Vehicle	76.3	85.4	(−40.0)	(−50.0)	(−50.0)	
Advanced Transportation Technology	0.0	53.9		(−50.0)		
Space Science and Applications	2,003.9	2,481.6				
Physics and Astronomy	861.4	985.0	985.0	985.0	985.0	3
Hubble Space Telescope Dev.	81.8					
Gamma Ray Observatory Dev.	35.1					
Advanced X-Ray Astrophysics Facility	44.0	113.0				
Global Geospace Science	67.2	98.5				
Payload and Instrument Dev.	90.7	97.2				
Shuttle/Space Lab Payload Mission	81.2	89.1				
Space Station Integrated Planning	5.0	15.0				
Explorer Development	91.8	100.8				
Mission Operation & Data Analysis	202.4	293.9				
Research and Analysis	109.5	122.5				
Suborbital Program	52.7	55.0				
Life Sciences	106.3	163.0	174.0	163.0	168.4	4
Human Space Flight and System Engineer	40.7	71.0	(+10.0)		(+5.0)	
Space Biological Sciences	21.2	32.0				
Research and Analysis	44.4	60.0	(+1.0)		(+0.4)	
Planetary Exploration	391.7	485.2	337.2	455.2	337.2	5
			(485.2)			
Galileo Development	17.1					
Ulysses Development	14.3	3.3				
Comet Rendezvous Asteroid/Cassini	29.5	148.0	(148.0)			
Mars Observer	98.9	68.9		(−15.0)		
Mars Balloon Relay Exp.	4.4	2.0				
Mission Operations and Data Analysis	156.9	173.5				
Research and Analysis	70.6	89.5		(−15.0)		
Earth Sciences	439.3	661.5	529.5	679.5	542.5	6
			(661.5)			
Earth Observing System		103.0		(+5.0)		
EOS–A Platform	(74.0)	132.0	[132.0]		[132.0]	7
Earth Probes		25.0		(+10.0)	(+10.0)	
Scatterometer	13.6	3.7				
Upper Atmosphere Research Satellite	64.2	66.0				
Ocean Topography Exp.	80.8	68.0				
Payload & Instrument Devision	76.1	49.7				
Missions Operations and Data Analysis	23.9	30.4				
Research & Analysis	180.7	183.7		(+3.0)	(+3.0)	
Space Applications	205.2	186.9	(186.9)	186.9	(186.9)	
Materials Processing	99.0	97.3	97.3	(97.3)	97.3	8
Space Communications	78.0	52.8	52.8	(52.8)	52.8	9
Information Systems	28.2	36.8	36.8	(36.8)	36.8	10
Commercial Programs	56.5	101.0				
Technology Utilization	23.7	24.4	24.4	24.4	24.4	11
Commercial Use of Space	32.8	76.6	76.6	76.6	76.6	12

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION BUDGET SUMMARY—Continued

[Dollar amounts in millions]

	Fiscal year 1990 appropriation	Fiscal year 1991 authorization				
		President's request	House authorization	Senate authorization	Compromise	Notes
Aeronautical Research and Technology	449.7	512.0	542.0	512.0	[1] 537.0	13
Transatmospheric Res. and Technology (NASP)	59.0	119.0	119.0	119.0	119.0	14
Space Research and Technology	285.9	495.9	490.9	407.9	412.9	15
Research and Technology Base	125.0	125.7				
In-Space Flight Experiments	10.2	19.8				
Civil Space Technology Initiative	123.8	171.0	(+5.0)		(+5.0)	
Exploration Technology	26.9	179.4	(−10.0)	(−88.0)	(−88.0)	
Exploration Mission Studies	(15.0)	37.0	37.0	37.0	[2] 21.0	16
Safety, Reliability & Quality Assurance	22.6	33.0	33.0	33.0	33.0	17
Tracking and Data Advanced Systems	19.4	20.0	20.0	20.0	20.0	18
Academic Programs	37.0	50.1	50.1	50.1	50.1	19
Comet Rendezvous Asteroid/Cassini	(29.5)	(148.0)	1,600.0		1,600.0	20
Space Flight, Control and Data Communication	4,555.7	5,289.4				
General Reduction				−100.0		
Shuttle Production and Capital Division	1,119.5	1,302.0	1,364.0	1,302.0	1,364.0	21
Orbiter Operational Capability	218.6	213.6	(+35.0)		(+35.0)	
Propulsion Systems	641.6	822.9				
Launch and Mission Support	259.3	265.5				
Assured Shuttle Availability			(+45.0)		(+45.0)	
(General Reduction)			(+18.0)		(−18.0)	
Space Shuttle Operations	2,494.2	2,889.4	2,831.4	(2,889.4)	2,831.4	22
			(−58.0)		(−58.0)	
Flight Operations	758.8	815.6				
Flight Hardware	1,205.2	1,467.2				
Launch and Landing Operations	530.2	606.6				
Expendable Launch Vehicles	141.8	229.2	229.2	(229.2)	229.2	23
<Space Transportation Operations>	<2,636.0>	<3,118.6>	(3,060.6)	3,118.6	(3,060.6)	
Space and Ground Networks, Communication	975.2	868.8	868.8	868.8	868.8	24
Space Network	530.7	331.2				
Ground Network	233.6	267.8				
Communication & Data Systems	210.9	269.8				
Construction of facilities	437.2	497.9	497.9	497.9	497.9	25
Research and program management	2,049.2	2,252.9	2,252.9	2,252.9	2,252.9	26
Inspector general	8.7	11.0	11.0	11.0	11.0	27
Total	12,296.9	15,125.2	13,994.2	14,755.2	13,892.6	28

[1] (+25.0).
[2] (−16.0).

NOTES TO ACCOMPANY SPREAD SHEET FOR S. 2287

1. The bill authorizes the use of budget authority previously provided in P.L. 100-685 not to exceed the President's revised request for F.Y. 1991.

2. The bill incorporates the Senate reduction of $50 million for the Orbital Maneuvering Vehicle due to its planned termination.

3. The bill incorporates the funding level provided in both the House and Senate bill.

4. The bill provides $5 million for the development of payloads for the Lifesat program and $400 thousand for space food processing and bioregenerative modeling assessments.

5. The bill incorporates the House approach in authorizing the CRAF/Cassini as a separate line item. This results in a transfer of $148 million in F.Y. 91 funding for CRAF/Cassini from this line item.

6. The bill incorporates the House provision identifying $5 million for an advanced sensor technology demonstration program, the Senate provision of a $10 million augmentation for the Total Ozone Mapping Spectrometer, and the Senate provision of a $3 million augmentation for data directories and data analysis.

7. The bill authorizes the use of $132 million for the Earth Observing System platform from budget authority provided in P.L. 100-685.

8. The bill incorporates the funding level provided in both House and Senate bills.

9. The bill incorporates the funding level provided in both House and Senate bills.

10. The bill incorporates the funding level provided in both House and Senate bills.

11. The bill incorporates the funding level provided in both House and Senate bills.

12. The bill incorporates the funding level provided in both House and Senate bills.

13. The bill provides for the requested level of funding ($512 million plus augmentations of $25 million and $15 million for the Subsonic Transport Technology program and the High Speed Performance Computing Initiative respectively, to be offset by a $15 million general reduction to be applied at NASA's discretion.

14. The bill incorporates the funding level provided in both House and Senate bills.

15. The bill incorporates the House provision of $5 million for a propulsion technology program and the Senate reduction of $88 million from the Exploration Technology program.

16. The bill reduces funding for external Mission Exploration studies.

17. The bill incorporates the funding level provided in both the House and Senate bills.

18. The bill incorporates the funding level provided in both the House and Senate bills.

19. The bill incorporates the funding level provided in both the House and Senate bills.

20. The bill incorporates the House provision authorizing full funding for the CRAF/Cassini program.

21. The bill incorporates the House provision augmenting Shuttle Structural spares and Shuttle production support, the House provision of an Assured Shuttle Availability program, and the House general reduction.

22. The bill incorporates the House reduction of funding for unassigned Shuttle flights of opportunity.

23. The bill incorporates the funding level provided in both the House and Senate bills.

24. The bill incorporates the funding level provided in both the House and Senate bills.

25. The bill incorporates the funding level provided in both the House and Senate bills.

26. The bill incorporates the funding level provided in both the House and Senate bills.

27. The bill incorporates the funding level provided in both the House and Senate bills.

28. The bill provides $13,892.6 million in new budget authority (including $1,600 million for the CRAF/Cassini program). This is equivalent to a reduction of $102 million from the President's request.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of this legislation. I think it is an accomplishment of this Congress that we have passed a NASA authorization bill.

While this bill does not contain the amounts that many of us would have liked for the full program of NASA, it is a realistic funding authorization and it matches the amounts of money that were contained in the appropriations bill which this House passed earlier on.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman from New Jersey [Mr. ROE] relative to the efforts of our departing colleague, the gentleman from Florida [Mr. NELSON]. It has been a true pleasure to work with him as the ranking Republican member on the Space Subcommittee during this Congress. I wish him well in whatever his future endeavors are. The country is better for his efforts during the last 12 years of his service in the Congress of the United States.

Mr. Speaker, I rise in support of S. 2287 and urge my colleagues to vote in favor of it. This NASA authorization bill deserves bipartisan support.

S. 2287 represents a compromise between H.R. 5649, the NASA authorization bill this body overwhelmingly adopted on September 28, and the Senate counterpart legislation. As

such, it does not contain all of the provisions the House has strongly endorsed, such as multiyear authorizations and full funding of the administration's request. However, S. 2287 does provide much needed policy guidance to NASA during this important period in our Nation's space program. The bill also contains provisions designed to strengthen Congress' oversight capabilities. These provisions will serve to ensure that the taxpayers' money is spent as effectively as possible to achieve the space goals Congress has adopted.

Finally, S. 2287 includes important provisions to facilitate and promote the growth of a commercial space industry. The potential for private exploitation of outer space is enormous, and we will all benefit from the economic payback accruing from it.

Congress has already passed the fiscal year 1991 appropriations bill for NASA, which ultimately cut the administration's request by approximately 8 percent. Many of the program reductions included in S. 2287 merely reflect the funding decisions made in that appropriations measure. Therefore, S. 2287 authorizes at least the level of funding already appropriated for fiscal year 1991. While these funding reductions do deliver a setback to the ambitious long-term goals of NASA, such funding constraints are virtually unavoidable in the current fiscal environment. The funding cuts imposed by Congress in fiscal year 1991, as well as the protracted deliberations on the entire Federal budget, should shed light on the level of funding NASA can realistically expect in subsequent years. It is my hope that in preparing its fiscal year 1992 budget request, and future requests, for that matter, NASA will submit realistic, achievable budgets to Congress.

In the recent past, the House Science Committee has been a strong proponent of multiyear authorizations for the space station and other large, expensive projects. The House proposal for a multiyear authorization did not prevail this year, but we have not abandoned the concept. As a result of fiscal year 1991 budget cuts, a redesign of the station is anticipated. Preliminary design review of the station is also scheduled to be completed in fiscal year 1991. Hopefully, an achievable and affordable space station will emerge from this process. If NASA succeeds in this task, the House should recommit itself to multiyear authorizations in fiscal year 1992 so that the Congress can do its share to provide stability to the International Space Station Program.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I, too, would like to add my commendation for the service of the gentleman from Florida [Mr. NELSON] in the Congress.

I had the pleasure of serving as the ranking Republican on the gentleman's subcommittee for a number of years. It was a true joy to work with the gentleman from Florida [Mr. NELSON]. He is someone deeply committed to the future of this country, deeply committed to the fact that this country not only needs a technology future, but a moral future. It was a great privilege to work with the gentleman and see all those things come together in a way that I think made a true difference for our country.

Mr. Speaker, I yield to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Speaker, I thank the gentleman for yielding to me, and I thank the gentleman from Pennsylvania [Mr. WALKER] for the cooperation that we had for the four years that I had the privilege of being chairman, and to the gentleman from Wisconsin [Mr. SENSENBRENNER] for the last 2 years that I was privileged to be chairman.

I think we forged a bipartisan arrangement in which we showed that we could work and agree, particularly on a subject that was as important as this, that did not necessarily call for partisanship, such as the Nation's space program does, so it has been a privilege.

I want to say to my chairman of the full committee what a pleasure it has been working with him. He brought a whole new dimension of leadership to this committee and was able with his broad experience in other fields to get the message of this Nation's space program out to Members of Congress who had not had an introduction into that arena; so I am quite grateful to the gentleman.

May I say that in the bill that we will pass today and send tonight to the President for his signature, it is the beginning of a new decade in which we will see this Nation's space program continue to flourish. We have come through some rough times over the last decade and there will be tough times in the future, but I believe in the course of our lifetimes we will see humans from planet Earth very likely in an international mission, humans on the planet Mars.

□ 1800

And we will see an excitement that will continue to generate, that will reflect the character of our people, and that is that basically we are explorers and adventurers by nature.

So I thank the gentleman for this opportunity to say a few words, and I thank you for the privilege. I thank the people of Florida for the privilege of having served in the Congress of the United States for the last 12 years.

Mr. Speaker, I would like to insert some additional comments specifically about the bill.

Mr. Speaker, I would like to comment on some of the specific provisions of 1991 NASA authorization bill.

In addition to providing for a 22 percent increase in NASA funding, the bill also:

Provides full funding for the International Space Station Program, the CRAF/CASSINI missions and for the National Aerospace Plane Program.

It includes a policy for the procurement of commercial launch services and shuttle services. It provides funds to develop new technologies for decreasing commercial launch costs and increasing the competitiveness of the commercial expendable launch vehicle industry. This bill also ensures that the shuttle and ELV's will be used to meet national needs in the most appropriate manner.

The National Space Council is directed by this bill to issue a study on international cooperation in planetary exploration. The bill also includes a statement of congressional policy to reduce the threat of orbital debris and to work with other spacefaring nations toward the reduction of orbital debris.

It also provides for continued study of the technologies and skills that will be required to send a human to Mars. Furthermore, it provides for a new start for the earth observing system.

I believe this is a solid piece of legislation that offers significant policy directives to NASA, and thus our national commitment to space.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. I thank the gentleman for yielding.

Mr. Speaker, I too would like to lend my remarks and congratulations to the gentleman from Florida [Mr. NELSON] for the leadership he has given.

I have served on this committee for the past 6 years and in all of those years served on the Space Subcommittee with the gentleman from Florida [Mr. NELSON]. It has been a real pleasure. His leadership has led us through the *Challenger* accident of a few years ago, reestablished NASA and our space program to where it is today.

I want to thank him very much.

I also want to lend my strong suport to this authorization bill, and I appreciate the chairman of the full committee and the ranking member as well as the chairman of the subcommittee and the ranking member of the subcommittee for putting together a very, very good NASA authorization bill. It does have title II in it, which I think is the beginning of an absolutely important move toward commercialization and privatization of our space program. It is a move that I think will lead us in the future into a whole new realm of space exploration, coupling the efforts of the Federal Government and their funding with that of the private sector and their funding. I think it will open up avenues we simply have not had available to us.

I think this is only the beginning of that process.

Mr. Speaker, I deeply appreciate the work that I have been able to enjoy, the working relationships that I have been able to enjoy with the men and women on this committee.

I want to thank them and give my full support to the conference report.

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. I thank the gentleman for yielding.

Mr. Speaker, it is a pleasure to serve on the Science, Space and Technology Committee under the leadership of Chairman ROE. But tonight I would just like to extend my remarks along with everyone else to my friend, the gentleman from Florida, BILL NELSON. I have had the opportunity to serve with him on the Space Applications Subcommittee. Prior to that he and I served in the statehouse in Florida together. I hate to see him leave the Congress. I think we are going to miss him. I say, "We will miss you, BILL. You have done a fine job for the space program, for the space effort of the United States."

With that, Mr. Speaker, I certainly support S. 2287.

Mr. Speaker, I rise in strong support of the NASA authorization legislation before the House. The chairman of the committee has given an excellent explanation of the bill's contents, which was drafted with input from the House and agreed to by members of the authorizing committees in both Houses. I want to amplify several points contained in this legislation.

The legislation is crafted with a vision of the future and addresses many of the challenges facing our Space and Aeronautics Programs. One of these challenges is the competition from the international community. Currently, the United States aerospace programs lead the world.

The best evidence of that is the positive balance of trade in the aerospace industry was above $18 billion for 1989. This is larger than any other segment of the business community and is a direct result of the products of the high-risk long-term research program in aeronautics at NASA. The legislation before us will continue both the funding and the policies that will allow the excellent research to continue.

I congratulate the chairman, Mr. ROE and the ranking member, Mr. WALKER, for their strong interest in NASA policy and for their leadership in forging this legislation.

The most visible, and one of the most valuable programs in aeronautics research is the national aerospace plane [NASP]. This bill supports full funding for NASP, $119 million for fiscal year 1991.

The legislation contains the relevant text of H.R. 2441 which I introduced, which establishes the parameters of the National Aerospace Plane Program. Specifically, it mandates that the Administrator of NASA and the Secretary of Defense continue to pursue, on a high-priority basis, a joint research program, with the goal of developing and flying NASP by 1997.

The bill mandates the development of a joint management plan which is to include goals, major tasks, anticipated schedules, organizational structure, funding profiles, details of the respective responsibilities of the Secretary and the Administrator, and resource procurement strategies.

The Science Committee has been a strong supporter of NASP. Report language passed earlier this year stated:

The committee strongly supports the national aerospace plane research program. The major technological benefit of NASP, following flight validation of the X-30, will most likely be as a follow-on to the space shuttle. The committee believes that there will be other technological benefits from the developments in materials, propulsion, cryogenic fuels and others.

The committee wishes to emphasize the potential for civil applications, including a single-stage-to-orbit launch vehicle and a civil hypersonic transport. Accordingly, the committee requested that the Administrator conduct a study of the potential civil benefits that could result from the NASP Research Program. The committee requests the results of the study within 180 days of enactment of this act.

I agree completely with this policy. A similar provision was recently adopted for military applications.

The legislation contains funding for several other programs that I have made sure the priority levels within the agency are high enough to ensure successful results. The first such program is the Wind Tunnel Revitalization Program which is necessary if we are to maintain our place as the world's leader in this technology. This is one of the most vital portions of the aeronautics research effort and currently, NASA leads the world in advanced wind tunnel technology. However, some of the wind tunnels are over 45 years old and are in need of upgrading the 5-year program began in fiscal year 1990. One of the most important tunnels is the 12-foot pressure tunnel. On October 19, 1990 NASA announced a $28 million contract for work on the project, which will total $100 million in costs by completion in 1994.

This is only one of many wind tunnels that needs restoring. I am pleased that the budget before us contains adequate funding for this program.

An area in which I have been very involved is aircraft safety research. Public Law 100-591, which I authored, mandates that FAA and NASA coordinate their research programs to prevent overlap and to ensure that the agencies utilize the results of the research. The Science Committee stated its support for this effort.

The committee has recommended in the past that NASA increase its cooperative efforts with the FAA and is pleased to see this as a major effort in the fiscal year 1991 budget proposal. The areas chosen for emphasis between NASA and FAA include severe weather, human factors and airworthiness, among other things. The committee strongly supports this effort and urges NASA to increase efforts in aging aircraft research, nondestructive evaluation and other areas that will prevent aviation accidents from occurring.

NASA is the only agency conducting the vital long-term, high-risk studies, and the United States technology advantages will quickly be eroded without this important effort.

Finally, the NASA legislation provides funding for aging aircraft studies which include research into technologies to detect defects before they lead to catastrophic aircraft failure.

The efforts of the chairman, Mr. ROE, and the ranking member, Mr. WALKER, have led to the compromise legislation before us. I want to express my appreciation and to thank them for their success.

I also want to thank the many staff who have also worked long and hard on this legislation. They include John Doyle, Bill Smith, Dave Clement, and Barry Beringer with the Science Committee and Steve Palmer and Louis Whitsett with the Senate Commerce Committee.

I urge my colleagues to support this good bill.

Mr. MINETA. Mr. Speaker, I rise today in strong support of the conference agreement on the NASA's authorization for fiscal year 1991, and I congratulate Mr. ROE on his hard work on moving this legislation.

Mr. Speaker, space exploration has served as a vehicle for investment in technology, bolstered our economy, enhanced our world competitiveness, and improved our national security.

This conference agreement proposes adequate funding levels for the programs that will be vital to our space infrastructure.

Primary among these programs are the Space Station Freedom Program, advanced space transportation systems such as the national aerospace plane, heavy lift vehicles, and the advanced launch system.

But this conference agreement goes further. The conference agreement also provides policy directives that will guide our space program into the next century.

For example, the conference agreement directs NASA to formulate a strategic plan for life sciences. This plan will be critical to gain a better understanding of the demands of an expanded human exploration initiative.

The agreement states that it will be a policy of the United States to have an advanced space suit for space station Freedom. An advanced, high-pressure suit is an indispensable prerequisite to an operational space station.

The conference agreement also directs the National Space Council to establish a users' advisory group composed of non-Federal representatives to meet with and provide input to the Council.

Mr. Speaker, it is our duty as drafters of the Nation's space policy to establish a realistic plan that has the support of the American people.

This agreement will bring us a step closer to accomplishing this goal and I strongly believe that we can afford nothing less.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I would just say that the only disappointment in this bill is the fact that we did not get the multiyear funding. The Space Station Freedom, the national aerospace plane, and a number of other major projects being done by NASA really do need the long-term commitment of multiyear funding. I am hopeful that our colleagues on the Senate side one of these days will see the wisdom of that position and that Chairman ROE and I will be able to persuade them that that is the direction in which this program needs to go as we move ahead.

But for now this is a good bill, one that deserves the support of our colleagues.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act of 1990".

TITLE I—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATIONS

SEC. 101. FINDINGS.

The Congress finds that—

(1) over the next decade, the United States aeronautics and space program will be directed toward major national priorities of understanding, preserving, and enhancing our global environment, hypersonic transportation, human exploration, and emerging technology commercialization;

(2) the United States aeronautics and space program is supported by an overwhelming majority of the American people;

(3) the United States aeronautics and space program genuinely reflects our Nation's pioneer heritage and demonstrates our quest for leadership, economic growth, and human understanding;

(4) the United States space program is based on a solid record of achievement and continues to promote the objective of international cooperation in the exploration of the planets and the universe;

(5) the United States aeronautics and space program generates critical technology breakthroughs that benefit our economy through new products and processes that significantly improve our standard of living;

(6) the United States aeronautics and space program excites the imagination of every generation and can stimulate the youth of our Nation toward the pursuit of excellence in the fields of science, engineering, and mathematics;

(7) the United States aeronautics and space program contributes to the Nation's technological competitive advantage;

(8) the United States aeronautics and space program requires a sustained commitment of financial and human resources as a share of the Nation's Gross National Product;

(9) the United States space transportation system will depend upon a robust fleet of space shuttle orbiters and expendable and reusable launch vehicles and services;

(10) the United States space program will be advanced with an assured funding stream for the development of a permanently manned space station with research, experimentation, observation, servicing, manufacturing, and staging capabilities for lunar and Mars missions;

(11) the United States aeronautics program has been a key factor in maintaining preeminence in aviation over many decades;

(12) the United States needs to maintain a strong program with respect to transatmospheric research and technology by developing and demonstrating National Aero-Space Plane technology by a mid-decade date certain;

(13) the National Aeronautics and Space Administration is primarily responsible for formulating and implementing policy that supports and encourages civil aeronautics and space activities in the United States; and

(14) commercial activities of the private sector will substantially and increasingly contribute to the strength of both the United States space program and the national economy.

SEC. 102. POLICY.

It is declared to be national policy that the United States should—

(1) rededicate itself to the goal of leadership in critical areas of space science, space exploration, and space commercialization;

(2) increase its commitment of budgetary resources for the space program to reverse the dramatic decline in real spending for such program since the achievements of the Apollo moon program;

(3) ensure that the long-range environmental impact of all activities carried out under this title are fully understood and considered;

(4) promote and support efforts to advance scientific understanding by conducting or otherwise providing for research on environmental problems, including global change, ozone depletion, acid precipitation, deforestation, and smog;

(5) forge a robust national space program that maintains a healthy balance between manned and unmanned space activities and recognizes the mutually reinforcing benefits of both;

(6) maintain an active fleet of space shuttle orbiters, including an adequate provision of structural spare parts, and evolve the orbiter design to improve safety and performance, and reduce operational costs;

(7) sustain a mixed fleet by utilizing commercial expendable launch vehicle services to the fullest extent practicable;

(8) support an aggressive program of research and development designed to enhance the United States preeminence in launch vehicles;

(9) continue and complete on schedule the development and deployment of a permanently manned, fully capable, space station;

(10) develop an advanced, high pressure space suit to support extravehicular activity that will be required for Space Station Freedom when Assembly Complete is reached;

(11) establish a dual capability for logistics and resupply of the space station utilizing the space shuttle and expendable launch vehicles, including commercial services if available;

(12) continue to seek opportunities for international cooperation in space and fully support international cooperative agreements;

(13) maintain an aggressive program of aeronautical research and technology development designed to enhance the United States preminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system;

(14) conduct a program of technology maturation, including flight demonstration in 1997, to prove the feasibility of an air-breathing, hypersonic aerospace plane capable of single-stage-to-orbit operation and hypersonic cruise in the atmosphere;

(15) seek innovative technologies that will make possible advanced human exploration initiatives, such as the establishment of a lunar base and the succeeding mission to Mars, and provide high yield technology advancements for the national economy; and

(16) enhance the human resources of the Nation and the quality of education.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the National Aeronautics and Space Administration the following amounts:

(1) For "research and development", for the following programs:

(A) United States International Space Station Freedom:

(i) Notwithstanding section 201(a)(1)(A) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, not more than $2,451,000,000 shall be made available for fiscal year 1991.

(ii) Such sums as are necessary from funds authorized for the United States International Space Station Freedom shall be used to initiate a flight test of the solar dynamic power program. By May 1, 1991, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the implementation plan for the conduct of a flight test of the solar dynamic power program.

(B) Space transportation capability development, $723,400,000 for fiscal year 1991. Of such funds, $10,000,000 shall be used only for supporting heavy-lift launch vehicle studies, which shall include study of commercially developed variants as well as other appropriate concepts, rather than studying Shuttle-derived heavy-lift launch vehicles alone.

(C) Physics and astronomy, $985,000,000 for fiscal year 1991.

(D) Life sciences, $168,400,000 for fiscal year 1991. Of the amounts authorized for such purposes, by this or any other Act, for fiscal year 1991—

(i) $5,000,000 shall be used for the development of payloads for the Lifesat program; and

(ii) not less than $400,000 shall be used for space food processing studies and bioregenerative modeling assessments.

(E) Planetary exploration, $337,200,000 for fiscal year 1991.

(F) Earth sciences:

(i) $542,500,000 for fiscal year 1991, of which $5,000,000 shall be made available for the conduct of an advanced sensor technology demonstration program, $35,000,000 shall be made available for Earth Probes, including the development of the Total Ozone Mapping Spectrometer, and $44,300,000 shall be made available for Modeling and Data Analysis, including the development of Earth Science Data Directories and remote sensing data conversion.

(ii) Notwithstanding section 201(a)(1)(A) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, not more than $132,000,000 may be made available for the Earth Observing System Platform for fiscal year 1991.

(G) Materials processing in space, $97,300,000 for fiscal year 1991.

(H) Communications, $52,800,000 for fiscal year 1991, including not more than $2,000,000 for experimenter ground stations for the Advanced Communications Technology Satellite, but only if the experimenter receiving funds obtains at least an equal amount of funds from sources other than the National Aeronautics and Space Administration.

(I) Information systems, $36,800,000 for fiscal year 1991.

(J) Technology utilization, $24,400,000 for fiscal year 1991.

(K) Commercial use of space, $76,600,000 for fiscal year 1991.

(L) Aeronautical research and technology, $537,000,000 for fiscal year 1991.

(M) Transatmospheric research and technology, $119,000,000 for fiscal year 1991.

(N) Space research and technology, $412,900,000 for fiscal year 1991. Of the amounts authorized for the Exploration Technology program, by this or any other Act, for fiscal year 1991, at least 10 percent shall be for university contracts and grants.

(O) Exploration mission studies, $21,000,000 for fiscal year 1991, which is authorized for studies conducted by the National Aeronautics and Space Administration. The Administrator shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, by March 15, 1991, a report setting forth the goals for academic participation and enhancement of the educational infrastructure with regard to the human exploration initiative.

(P) Safety, reliability, and quality assurance, $33,000,000 for fiscal year 1991.

(Q) Tracking and data advanced systems, $20,000,000 for fiscal year 1991.

(R) University Space Science and Technology Academic Program, $50,100,000 for fiscal year 1991.

(S) Comet Rendezvous Asteroid Flyby/Cassini mission, not to exceed $1,600,000,000, for development, launch, and 30 days of operations thereof, to remain available until expended, of which—

(i) $490,000,000 shall be available for obligation after October 1, 1989;

(ii) an additional $370,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a preliminary design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(iii) an additional $640,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a critical design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate; and

(iv) an additional $100,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a spacecraft integration and systems test to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

A cost containment plan shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by January 31, 1991, and updated on July 31 and January 31 of each succeeding year until such funds are expended.

(2) For "space flight, control, and data communications", for the following programs:

(A) Shuttle production and operational capability, $1,364,000,000 for fiscal year 1991. Of such funds, $45,000,000 shall be used only for carrying out the safety modifications recommended by the Aerospace Safety Advisory Panel and for such other safety related elements of an Assured Shuttle Availability Program as the Administrator considers necessary. By September 30, 1991, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a full report on the completion of planned safety enhancements.

(B) Shuttle transportation operations, $2,831,400,000 for fiscal year 1991, of which $4,000,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988.

(C) Expendable launch vehicle services, $229,200,000 for fiscal year 1991.

(D) Space and ground network, communications, and data systems, $868,800,000 for fiscal year 1991.

(E) Tracking and data relay satellite system, $1,209,732,000 for fiscal year 1991, which shall be used only for the purpose of reducing all outstanding debt to the Federal Financing Bank.

(3) For "construction of facilities" for fiscal year 1991 as follows:

(A) Construction of Neutral Buoyancy Laboratory, Johnson Space Center, $15,000,000.

(B) Construction of Space Station Processing Facility, Kennedy Space Center, $25,000,000.

(C) Construction of Addition for Flight Training and Operations, Johnson Space Center, $12,000,000.

(D) Rehabilitation of Mission Control Center Power and Control Systems, Johnson Space Center, $8,500,000.

(E) Construction of Transporter/Canister Facility, Kennedy Space Center, $5,500,000.

(F) Construction of Processing Control Center, Kennedy Space Center, $9,400,000.

(G) Replacement of Heating, Ventilating, and Air Conditioning System, Hypergolic Maintenance Facility, Kennedy Space Center, $2,100,000.

(H) Replacement of Operations and Checkout Building, West Cooling Tower, Kennedy Space Center, $1,000,000.

(I) Restoration of Heavy Equipment Area, Kennedy Space Center, $900,000.

(J) Upgrade of Orbiter Processing Facility High Bay Heating, Ventilating, and Air Conditioning System, Kennedy Space Center, $3,300,000.

(K) Upgrade of Yundum International Airport to Full Transoceanic Abort Landing Site, Banjul, The Gambia, $3,400,000.

(L) Repair of Condensate System, Main Manufacturing Building, Michoud Assembly Facility, $900,000.

(M) Construction of Project Engineering Facility, Marshall Space Flight Center, $17,000,000.

(N) Restoration of Information and Electronic Systems Laboratory, Marshall Space Flight Center, $4,000,000.

(O) Rehabilitation of Hydrogen Transfer Facility, Stennis Space Center, $2,700,000.

(P) Restoration of Space Shuttle Main Engine Test Complex "A", Stennis Space Center, $2,800,000.

(Q) Construction of Advanced Solid Rocket Motor Program Facilities, including land acquisition, various locations, $92,000,000.

(R) Construction of Addition to Site Electrical Substation, Johnson Space Center, $11,000,000.

(S) Addition to Administration and Engineering Building, Stennis Space Center, $3,800,000.

(T) Construction of Earth Observing System Data Information System Facility, Goddard Space Flight Center, $8,000,000.

(U) Construction of Detector Development Laboratory, Goddard Space Flight Center, $3,100,000.

(V) Replacement of Chillers, Central Heating/Refrigeration Plant, Goddard Space Flight Center, $4,000,000.

(W) Replacement/Modernization of Electrical Power Feeders, Goddard Space Flight Center, $1,500,000.

(X) Construction of Observational Instruments Laboratory, Jet Propulsion Laboratory, $14,000,000.

(Y) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $13,200,000.

(Z) Restoration of Utilities, Wallops Flight Facility, $5,200,000.

(AA) Modifications to the High Pressure Air System, Langley Research Center, $12,000,000.

(BB) Modifications to Upgrade the 30 x 60-Foot Wind Tunnel, Langley Research Center, $4,000,000.

(CC) Repairs to the Tunnel Shell, Unitary Plan Wind Tunnel, Langley Research Center, $2,700,000.

(DD) Rehabilitation of Central Air System, Lewis Research Center, $7,900,000.

(EE) Rehabilitation of Propulsion Systems Laboratory, Lewis Research Center, $6,000,000.

(FF) Construction of Liquid Hydrogen Structural Test Facility, Dryden Flight Research Facility, $18,800,000.

(GG) Rehabilitation and Modification of the Electrical Distribution System, Dryden Flight Research Facility, $4,000,000.

(HH) Construction of Addition for Light-Alloy Research Laboratory, Langley Research Center, $4,600,000.

(II) Construction of Space Experiments Laboratory, Lewis Research Center, $7,100,000.

(JJ) Refurbishment of Electric Power Laboratory, Lewis Research Center, $8,900,000.

(KK) Construction of 34-Meter Multifrequency Antenna at Goldstone, CA, Jet Propulsion Laboratory, $13,200,000.

(LL) Rehabilitation of 70-Meter Antenna Drive Gear Boxes in Australia, Spain, and Goldstone, CA, Jet Propulsion Laboratory, $4,400,000.

(MM) Repair of facilities at various locations, not to exceed $1,000,000 per project, $30,000,000.

(NN) Rehabilitation and modification of facilities at various locations, not to exceed $1,000,000 per project, $34,000,000.

(OO) Minor construction of new facilities and additions to existing facilities at various locations, not to exceed $750,000 per project, $11,000,000.

(PP) Environmental compliance and restoration, $32,000,000.

(QQ) Facility planning and design not otherwise provided for, $28,000,000.

(4) For "research and program management", for fiscal year 1991, $2,252,900,000.

(5) For "Inspector General", $11,000,000 for fiscal year 1991.

(b) LIMITATIONS.—(1)(A) Notwithstanding paragraph (4), appropriations authorized under this section for "research and development" and "space flight, control, and data communications" may be used—

(i) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Ad-

ministration for the performance of research and development contracts; and

(ii) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities.

Title to facilities described in clause (ii) shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant.

(B) None of the funds appropriated for "research and development" and "space flight, control, and data communications" pursuant to this title may be used in accordance with this paragraph for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000, unless the Administrator has notified the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, of the nature, location, and estimated cost of such facility.

(2) Any amount appropriated pursuant to this title for "research and development", for "space flight, control and data communications", or for "construction of facilities" may remain available until expended. Any amount appropriated pursuant to this title for "research and program management" for maintenance and operation of facilities, and for other services, shall remain available through the next fiscal year after the fiscal year for which such amount is appropriated.

(3) Appropriations made pursuant to subsection (a)(4) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and his determination shall be final and conclusive upon the accounting officers of the Government.

(4)(A) Funds appropriated pursuant to subsection (a)(1), (2), and (4) may be used for the construction of new facilities and additions to, or repair, rehabilitation, or modification of existing facilities, but only if the cost of each such project, including collateral equipment, does not exceed $200,000.

(B) Funds appropriated pursuant to subsection (a)(1) and (2) may be used for unforeseen programmatic facility project needs, but only if the cost of each such project, including collateral equipment, does not exceed $750,000.

(C) Funds appropriated pursuant to subsection (a)(4) may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, but only if the cost of each project, including collateral equipment, does not exceed $500,000.

SEC. 104. CONSTRUCTION OF FACILITIES REPROGRAMMING.

Authorization is hereby granted whereby any of the amounts prescribed in section 103(a)(3)(A) through (QQ)—

(1) may be varied upward 10 percent, in the discretion of the Administrator or the Administrator's designee, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the circumstances of such, may be varied upward 25 percent to meet unusual cost variations. The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of amounts specified in section 103(a)(3)(A) through (QQ).

SEC. 105. SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of 1 percent of the funds appropriated pursuant to section 103(a)(1) or (2) to the "construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 103(a)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost, and the reasons therefor.

SEC. 106. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this title—

(1) no amount appropriated pursuant to this title may be used for any program deleted by the Congress from requests as originally made to either the Committee on Science, Space, and Technology of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate;

(2) no amount appropriated pursuant to this title may be used for any program in excess of the amount actually authorized for that particular program by section 103(a)(1), (2), and (4); and

(3) no amount appropriated pursuant to this title may be used for any program which has not been presented to either such committee, unless a period of 30 days has passed after the receipt by each such committee of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 107. AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958.

Section 203(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(a)) is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) adding at the end the following new paragraphs:

"(4) seek and encourage, to the maximum extent possible, the fullest commercial use of space; and

"(5) encourage and provide for Federal Government use of commercially provided space services and hardware, consistent with the requirements of the Federal Government.".

SEC. 108. NATIONAL SPACE COUNCIL AUTHORIZATION.

(a) There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,363,000 for fiscal year 1991, of which not more than $1,000 shall be available for official reception and representation expenses. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

(b) It is the sense of Congress that the National Space Council should, by October 1, 1991, establish guidelines and policy recommendations, including the need for licensing, for the conduct of expendable launch vehicle operations in which a Federal agency assumes substantial responsibility for public safety, indemnification, and administrative oversight.

SEC. 109. GEOGRAPHICAL DISTRIBUTION.

The Administrator shall distribute research and development funds geographically in order to provide the broadest practicable participation in the programs of the National Aeronautics and Space Administration.

SEC. 110. BUY AMERICAN.

(a) GENERAL RULE.—The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) EXCEPTIONS.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States;

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this title; and

(2) solicitations for bids are issued after the date of enactment of this Act.

SEC. 111. ADVANCED SOLID ROCKET MOTOR.

The Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the following:

(1) A report on the projected cost to complete the design, development, and qualification of the Advanced Solid Rocket Motor. The first report shall be submitted by March 1, 1991, and thereafter with the National Aeronautics and Space Administration's annual budget request.

(2) An annual report on the projected unit cost of the flight motors.

(3) An annual report on the increase in space shuttle payload capability provided by the Advanced Solid Rocket Motor. The report shall include the original baseline payload capability, adjustments to that baseline capability, and the projected payload capability.

(4) An assessment by the National Research Council by July 1, 1991, of the quality assurance and testing program that will ensure the achievement of safety and reliability for the Advanced Solid Rocket Motor.

SEC. 112. SPACE SHUTTLE USE POLICY.

(a)(1) It shall be the policy of the United States to use the Space Shuttle for purposes that (i) require the presence of man, (ii) require the unique capabilities of the Space Shuttle or (iii) when other compelling circumstances exist.

(2) The term "compelling circumstances" includes, but is not limited to, occasions when the Administrator determines, in consultation with the Secretary of Defense and the Secretary of State, that important national security or foreign policy interests would be served by a Shuttle launch.

(3) The policy stated in subsection (a)(1) shall not preclude the use of available cargo space, on a Space Shuttle mission otherwise consistent with the policy described under subsection (a)(1), for the purpose of carrying secondary payloads (as defined by the Administrator) that do not require the presence of man if such payloads are consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(b) The Administrator shall, within six months after the date of enactment of this Act, submit a report to the Congress setting forth a plan for the implementation of the policy described in subsection (a)(1). Such plan shall include—

(1) details of the implementation plan;

(2) a list of purposes that meet such policy;

(3) a proposed schedule for the implementation of such policy;

(4) an estimate of the costs to the United States of implementing such policy; and

(5) a process for informing the Congress in a timely and regular manner of how the plan is being implemented.

(c) At least annually, the Administrator shall submit to the Congress a report certifying that the payloads scheduled to be launched on the space shuttle for the next four years are consistent with the policy set forth in subsection (a)(1). For each payload scheduled to be launched from the space shuttle, which do not require the presence of man, the Administrator shall, in the certified report to Congress, state the specific circumstances which justified the use of the space shuttle. If, during the period between scheduled reports to the Congress, any additions are made to the list of certified payloads intended to be launched from the Shuttle, the Administrator shall inform the Congress of the additions and the reasons therefor within 45 days of the change.

(d) The report described in subsection (c) shall also include those National Aeronautics and Space Administration payloads designed solely to fly on the space shuttle which have begun the phase C/D of its development cycle.

SEC. 113. LIFE SCIENCES STRATEGIC PLAN.

(a) FINDINGS.—The Congress finds that—

(1) the current knowledge base in life sciences is not compatible with the National Aeronautics and Space Administration's current objectives in space, and the National Aeronautics and Space Administration lacks an adequate strategic plan to acquire a knowledge base;

(2) it is critical to the success of manned missions in space, be they commercial operations of microgravity laboratories or manned missions to Mars, that a realistic appraisal of the influences of the space environment on biological systems is completed and appropriate protective countermeasures developed;

(3) the space station is rapidly approaching design maturity without a corresponding development of the physiological and other human factors knowledge base necessary for long-term manned operations in space; and

(4) space station laboratory hardware specifications are being fixed before fully establishing the objectives and requirements for life sciences research.

(b) STRATEGIC PLAN.—The Administration shall—

(1) review currently proposed manned space flight missions in order to—

(A) identify the physiological and other human factors knowledge base necessary to determine the human capacity to adapt to and perform effectively in the space environment according to mission requirements, including identifying which life sciences parameters must be measured and which technologies, processes, and procedures must be developed; and

(B) develop a schedule indicating when specific components of information, technologies, processes, or procedures identified under subparagraph (A) will need to be acquired or developed in order to verify that human adaptability requirements of manned space flight missions can be achieved;

(2) develop a strategy plan for life sciences research and technology development sufficient to accomplish the life sciences knowledge base acquisition schedule developed under paragraph (1)(B), including—

(A) a crew certification plan setting acceptable crew conditioning standards for Extended Duration Orbiter operations and verifying countermeasures sufficient to meet those standards before actual Extended Duration Orbiter operations; and

(B) a life sciences implementation plan for the design and development of the space station, to be provided as part of the Preliminary Design Review for the space station, and to include crew adaptability standards; and

(3) verify the physiological and technical feasibility of the life sciences implementation plan developed under paragraph (2)(B), as part of the Critical Design Review for the space station.

SEC. 114. STUDY ON INTERNATIONAL COOPERATION IN PLANETARY EXPLORATION.

(a) FINDINGS.—The Congress finds that—

(1) the President on July 20, 1989, established the long-range goal of establishing a lunar base, followed by manned exploration of Mars in the early twenty-first century;

(2) the United States and the Soviet Union, in cooperation with other countries, are currently planning further unmanned missions to the Moon and to Mars with the possible goal of landing a human on Mars;

(3) a series of international missions to expand human presence beyond Earth orbit would further a spirit of, and follow through on the commitment made in, the 1987 agreement between the Soviet Union and the United States for space cooperation, as well as the successful cooperative agreements the United States has pursued with over one hundred countries since its inception, including the agreement with Japan, Canada, and the European countries for Space Station Freedom;

(4) international manned missions beyond Earth orbit could further encourage a cooperative approach in world affairs unrelated to activities in space;

(5) international manned missions beyond Earth orbit could save the individual nations involved tens of billions of dollars over national missions; and

(6) a multilateral effort for manned missions to establish a lunar colony, a Mars mission, and any other missions that have the goal of establishing human presence beyond Earth's orbit and possibly landing a human on Mars would lead to greater understanding of our universe and greater sensitivity to our own planet.

(b) STUDY.—The National Space Council shall conduct a study on International Cooperation in Planetary Exploration (hereafter in this section referred to as the "study").

(c) PURPOSE OF STUDY.—The purpose of the study is—

(1) to develop an inventory of technologies and intentions of all national space agencies with regard to lunar and planetary exploration, both manned and unmanned;

(2) to seek ways, through direct communication with appropriate officials of other nations or otherwise, to enhance the planning and exchange of information and data among the United States, the Soviet Union, European countries, Canada, Japan, and other interested countries with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

(3) to prepare a detailed proposal that most efficiently uses the resources of the national space agencies in cooperative endeavors to establish human presence beyond Earth orbit;

(4) to develop priority goals that accomplish unmet needs that could not be achieved by any individual country;

(5) to explore the possibilities of international unmanned probes to the Moon and Mars, and the possibilities for international manned missions beyond Earth's orbit; and

(6) to devise strategies for such cooperation that would prevent the unwanted transfer of technology.

In developing the inventory under paragraph (1), and in preparing the detailed proposal under paragraph (3), consideration shall be given to the potential contributions of commercial providers of space goods and services.

(d) REPORT.—The National Space Council shall, within one year after the date of the enactment of this Act, prepare and submit to Congress a report—

(1) outlining a preliminary strategy for cooperation among the United States, the Soviet Union, European countries, Canada, Japan, and other interested countries, based on their respective national strengths, with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

(2) including a conceptual design of a possible international manned mission, in coordination with the preliminary strategy referred to in paragraph (1), with target dates and a breakdown of responsibilities by nation;

(3) containing an inventory of planned and anticipated missions, manned and unmanned, that are being considered by national space agencies and commercial providers of space goods and services; and

(4) containing an inventory of space exploration technologies that either—

(A) are not immediately available in the United States but are available from other nations; or

(B) are available in the United States but are available from other nations in equal or superior form.

SEC. 115. OFFICE OF SPACE COMMERCE.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce for the Office of Space Commerce, $487,000 for fiscal year 1991.

(b) REPORT TO CONGRESS.—Commencing in fiscal year 1992, and every fiscal year thereafter, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report of the activities of the Office of Space Commerce, including planned programs and expenditures.

SEC. 116. NATIONAL AERO-SPACE PLANE PROGRAM.

(a) NATIONAL AERO-SPACE PLANE PROGRAM.—The Secretary of Defense (hereafter in this section referred to as the "Secretary") and the Administrator shall jointly pursue on a high priority basis a National Aero-Space Plane program whose objective shall be the development and demonstration, by 1997, of a primarily air breathing single-stage-to-orbit and long range hypersonic cruise research flight vehicle. The program shall be a research program, and to the extent practicable technological information developed shall be transferred to the military and to the domestic civil aviation and other private industries.

(b) MANAGEMENT PLAN.—

(1) The Secretary and the Adminstrator shall jointly develop a management plan for the program established under subsection (a), which shall include goals, major tasks, anticipated schedules, organizational structure, funding profiles, details of the respective responsibilities of the Secretary and the Administrator, and resource procurement strategies.

(2) The management plan developed pursuant to paragraph (1) shall be submitted to the Congress within 120 days after the date of enactment of this Act.

SEC. 117. COMMERCIAL SPACE LAUNCH ACT AMENDMENTS.

(a) AUTHORIZATION.—Section 24 of the Commercial Space Launch Act (49 U.S.C. App. 2623) is amended by adding at the end thereof the following: "There are authorized to be appropriated to the Secretary to carry out this Act $4,517,000 for fiscal year 1991, of which $250,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988.".

(b) ACQUISITION BY STATE GOVERNMENTS.—Section 15(a) of the Commercial Space Launch Act (49 U.S.C. App. 2614(a)) is amended by inserting "and State governments" after "by the private sector".

(c) CONGRESSIONAL FINDINGS.—Section 2 of the Commercial Space Launch Act (49 U.S.C. App. 2601) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs;

"(8) space transportation, including the establishment and operation of launch sites and complementary facilities, the provision of launch services, the establishment of support facilities, and the provision of support services, is an important element of the Nation's transportation system, and in connection with the commerce of the United States there is a need to develop a strong space transportation infrastructure with significant private sector involvement; and

"(9) the participation of State governments in encouraging and facilitating private sector involvement in space-related activity, particularly through the establishment of space transportation-related infrastructure, including launch sites, complementary facilities, and launch site support facilities, is in the national interest and is of significant public benefit.".

(d) CONGRESSIONAL STATEMENT OF PURPOSE.—Section 3 of the Commercial Space Launch Act (49 U.S.C. App. 2602) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new paragraph:

"(4) to facilitate the strengthening and expansion of the United States space transportation infrastructure, including the enhancement of United States launch sites, as well as launch site support facilities, with Federal, State, and private sector involvement, to support the full range of United States space-related activities.".

(e) GENERAL RESPONSIBILITIES OF SECRETARY.—Section 5(a) of the Commercial Space Launch Act (49 U.S.C. App. 2604(a)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and";

(3) by adding at the end the following new paragraph:

"(3) work to facilitate private sector involvement in commercial space transportation activity, and to promote public-private partnerships involving the Federal Government, State governments, and the private sector to build, expand, modernize, or operate space launch infrastructure.".

SEC. 118. SPACE DEBRIS.

(a) FINDINGS.—The Congress finds that—

(1) if space users fail to act soon to reduce their contribution to debris in space, orbital debris could severely restrict the use of some orbits within a decade;

(2) the lack of adequate data on the orbital distribution and size of debris will continue to hamper efforts to reduce the threat that debris poses to spacecraft; and

(3) existing international treaties and agreements are inadequate for minimizing the generation of orbital debris or controlling its effects.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the goal of United States policy should be that—

(1) the space related activities of the United States should be conducted in a manner that does not increase the amount of orbital space debris; and

(2) the United States should engage other spacefaring Nations to develop an agreement on the conduct of space activities that ensures that the amount of orbital space debris is not increased.

SEC. 119. SUPPORT FOR SPACE SHUTTLE ORBITER PRODUCTION LINE.

The Administrator is authorized to expend excess funds appropriated for orbiter production under section 101(g) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" (100 Stat. 3341-242) to maintain the space shuttle orbiter production line and related production lines of orbiter subcontractors.

SEC. 120. INDUSTRIAL APPLICATION CENTERS.

In any agreement entered into by the National Aeronautics and Space Administration for an Industrial Application Center, the center shall be allowed to retain all client income without any deductions from appropriated funds received or to be received by that center.

SEC. 121. USERS' ADVISORY GROUP.

(a) ESTABLISHMENT.—(1) The National Space Council shall establish a Users' Advisory Group composed of non-Federal representatives of industries and other persons involved in aeronautical and space activities.

(2) The Vice President shall name a chairman of the Users' Advisory Group.

(3) The National Space Council shall from time to time, but not less than once a year, meet with the Users' Advisory Group.

(4) The function of the Users' Advisory Group shall be to ensure that the interests of industries and other non-Federal entities involved in space activities, including in particular commercial entities, are adequately represented in the National Space Council.

(5) The Users' Advisory Group may be assisted by personnel detailed to the National Space Council.

(b) EXEMPTION.—The Users' Advisory Group shall not be subject to section 14(a)(2) of the Federal Advisory Committee Act.

SEC. 122. SCIENTIFIC BALLOON LAUNCH SITE.

The Administrator may purchase approximately 8 acres within section 16, Township 3 North, Range 26 East, N.M.P.M., De Baca County, New Mexico, to use as a balloon launching facility.

SEC. 123. PEACEFUL USES OF SPACE STATION.

No civil space station authorized under section 103(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 124. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

The Administrator may utilize up to 5 percent of the funds provided for the Small Business Innovation Research Program for program management and promotional activities.

SEC. 125. PROPULSION STRATEGIC ASSESSMENT.

By July 1, 1991, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment by the National Research Council of the requirements, benefits, technological feasibility, and roles of Earth-to-orbit propulsion system options that could be developed in support of the national space program including the assembly and operation of the Space Station and potential space activities beyond the year 2000.

SEC. 126. NATIONAL CIVIL REMOTE-SENSING ADVISORY COMMITTEE.

Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall report to the Congress on the advisability of establishing a permanent National Civil Remote-Sensing Advisory Committee. The report should address concerns related to national security, conflict of interest, and duplication of existing authorities. In preparing the report, the Director shall assess the effectiveness of a National Civil Remote-Sensing Advisory Committee comprised of interested private-sector persons (including remote-sensing data users, data vendors, technology developers, system operators, information management and telecommunications specialists, and social scientists) which would—

(1) provide advice and policy recommendations to the President, the President's Science Advisor, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and relevant committees of the Congress on the development of a national civil remote-sensing policy that would be responsive to both user needs and global developments, in terms of—

(A) coordinating land, oceanic, and atmospheric remote-sensing systems, including ground stations;

(B) coordinating research and development, applications, and commercial remote-sensing activities;

(C) fostering effective integration of satellite, aerial, and in situ data; and

(D) assessing current institutional arrangements for the management, exploitation, and sharing of both real-time and archived data;

(2) provide recommendations on the conduct of cooperative test and applications demonstration projects designed to manage environmental pollution and the use of natural resources; and

(3) coordinate with the United States Global Change Research Program on issues of mutual concern.

SEC. 127. DEFINITION.

For purposes of this title, the term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

TITLE II—LAUNCH SERVICES PURCHASE

SEC. 201. SHORT TITLE.

This title may be cited as the "Launch Services Purchase Act of 1990".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the United States commercial launch industry is technically capable of providing reliable and cost efficient access to space and is an essential component of national efforts to assure access to space for Government and commercial users;

(2) the Federal Government should encourage, facilitate, and promote the United States commercial launch industry, including the development and enhancement of commercial launch facilities, in order to ensure United States economic preeminence in space;

(3) the interests of the United States will be served if the commercial launch industry is competitive in the international marketplace;

(4) commercial vehicles are effective means to challenge foreign competition;

(5) the use by the Federal Government of performance specifically in lieu of detailed specifications relating to vehicle design, construction, and operation will facilitate the efficient operation of the United States commercial launch industry;

(6) the procurement of commercial launch services in a commercially reasonable manner permits a reduced level of Federal Government regulation and oversight and economies of scale which may result in significant cost savings to the commercial launch industry and to the United States.

(7) it is the general policy of the Federal Government to purchase needed goods and services, including launch services, from the private sector to the fullest extent feasible; and

(8) predictable access to National Aeronautics and Space Administration launch markets would encourage continuing United States private sector investment in space and related activities.

SEC. 203. DEFINITIONS.

For the purposes of this title—

(1) the term "commercial provider" means any person providing launch services, but does not include the Federal Government;

(2) the term "launch services" means activities involved in the preparation of a launch vehicle and its payload for space transport and the conduct of transporting a payload;

(3) the term "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space; and

(4) the term "payload" means an object which a person undertakes to place in outer space by means of a launch vehicle, and includes subcomponents of the launch vehicle specifically designed or adapted for that object.

SEC. 204. REQUIREMENT TO PROCURE COMMERCIAL LAUNCH SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the National Aeronautics and Space Administration shall purchase launch services for its primary payloads from commercial providers whenever such services are required in the course of its activities.

(b) EXCEPTIONS.—The National Aeronautics and Space Administration shall not be required to purchase launch services as provided in subsection (a) if, on a case by case basis the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle;

(2) cost effective commercial launch services to meet specific mission requirements are not reasonably available and would not be available when required;

(3) the use of commercial launch services poses an unacceptable risk of loss of a unique scientific opportunity; or

(4) the payload serves national security or foreign policy purposes.

Upon any such determination, the Administrator shall, within 30 days, notify in writing the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the determination and its rationale.

(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION LAUNCH VEHICLES.—Launch vehicles shall be acquired or owned by the National Aeronautics and Space Administration only—

(1) as required under circumstances described in subsection (b); or

(2) by the National Aeronautics and Space Administration for conducting research and development on, and testing of, launch technology.

(d) PHASE-IN PERIOD.—Subsections (a) and (c) shall not apply to launch services and launch vehicles purchased by the National Aeronautics and Space Administration before the date of enactment of this Act.

(e) HISTORICAL PURPOSES.—This title shall not be interpreted to prohibit the National Aeronautics and Space Administration from acquiring, owning, or maintaining launch vehicles solely for historical display purposes.

SEC. 205. PURCHASE OF LAUNCH SERVICES.

(a) FULL AND OPEN COMPETITION.—(1) Contracts to provide launch services to the National Aeronautics and Space Administration under section 204 shall be awarded on the basis of full, fair, and open competition, consistent with section 2304 of title 10, United States Code, and section 311 of the National Aeronautics and Space Act of 1958.

(2) The National Aeronautics and Space Administration shall limit its requirements for submission of cost or pricing data in support of a bid or proposal to that data which is reasonably required to protect the interests of the United States.

(b) SPECIFICATION SYSTEMS.—Reasonable performance specifications, not detailed Government design or construction specifications, shall be used to the maximum extent feasible to define requirements for a commercial provider bidding to provide launch services. This subsection shall not preclude the National Aeronautics and Space Administration from requiring compliance with applicable safety standards.

SEC. 206. OTHER ACTIVITIES OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—Commercial payloads may not be accepted for launch as primary payloads on the space shuttle unless the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle; or

(2) launching of the payload on the space shuttle is important for either national security or foreign policy purposes.

(b) REPORT.—By March 15, 1991, the Administrator, in consultation with the Office of Federal Procurement Policy, shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report outlining the minimal requirements for documentation and other administrative data needed to procure launch services in a commercially reasonable manner, including—

(1) the need for data to integrate a payload with a launch vehicle;

(2) the need for data to carry out mission-specific modifications to the launch vehicle;

(3) the need for notification to the National Aeronautics and Space Administration of changes, delays, or difficulties in the construction or preparation of a launch vehicle that may affect the delivery of its payload to its destination at the time and under the conditions provided for under the contract between the United States and its contractors;

(4) the need for data to protect public health and safety; and

(5) the need for cost or pricing data for the fulfillment of a contract.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on S. 2287, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 358, FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file the conference report on the Senate bill (S. 358) to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ACKNOWLEDGING THE 100TH ANNIVERSARY OF THE TRAGEDY AT WOUNDED KNEE CREEK, SD

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 153) to acknowledge the 100th anniversary of the tragedy at Wounded Knee Creek, SD, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro temore. Is there objection to the request of the gentleman from South Dakota?

Mr. RHODES. Mr. Speaker, reserving the right to object, I yield to the gentleman from South Dakota to explain the measure before us.

Mr. JOHNSON of South Dakota. Mr. Speaker, Senate Concurrent Resolution 153 is identical to House Concurrent Resolution 386, a resolution I introduced which acknowledges the 100th anniversary of the tragedy at Wounded Knee Creek in my state of South Dakota.

On December 29, 1890, soldiers of the Army's 7th Cavalry killed and wounded 350 to 375 people consisting of Indian men, women, and children of Chief Big Foot's Band of Minneconjou Sioux.

This long overdue measure comes during South Dakota's Year of Reconciliation between the Indian and non-Indian communities. No money is spent by this measure which appropriately expresses regret for the Army's actions and which pledges support for the Wounded Knee Survivor's Associaton's efforts to have a Wounded Knee Memorial site designated as an historic site or national monument.

On October 9th, Attorney General Thornburgh said, "By finally admitting a wrong, a nation does not destroy its integrity, but rather reinforces the sincerity of its commitment to the Constitution, and hence to its people. * * *" The Attorney General made that statement in connection with reparations paid to Japanese Americans who were interred in camps during World War II. If that statement was true a few weeks ago, then it is certainly applicable today to the cost-free resolution.

Mr. Speaker, I would like to thank my colleagues on the Interior Committee, for their help in providing for the expeditious review of this measure: Chairman UDALL, Mr. MILLER, Mr. RHODES, and Mr. YOUNG. I would also like to acknowledge the efforts of the Senate Select Committee on Indian Affairs for providing a hearing on this matter on September 25.

Mr. RHODES. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 153

Whereas, in order to promote racial harmony and cultural understanding, the Governor of the State of South Dakota has declared that 1990 is a Year of Reconciliation between the citizens of the State of South Dakota and the member bands of the Great Sioux Nation;

Whereas the Sioux people who are descendants of the victims and survivors of the Wounded Knee Massacre have been striving to reconcile and, in a culturally appropriate manner, to bring to an end their 100 years of grieving for the tragedy of December 29, 1890;

Whereas historians regard the 1890 Wounded Knee Massacre as the last armed conflict between Indian warriors and the United States Cavalry which brought to a close an era in the history of this country commonly referred to as the Indian wars period characterized by an official government policy of forcibly removing the Indian tribes and bands from the path of westward expansion and settlement through placement on reservations;

Whereas this era of government policy has been replaced by a more enlightened policy of Indian self-determination and respect for human rights characterized by a recognition of the valuable contribution of Indian cultures, traditions, and values to the history and fabric of American society;

Whereas, on September 25, 1990, hearings were conducted in the United States Senate by the Select Committee on Indian Affairs regarding the historical circumstances surrounding the Wounded Knee Massacre and to receive testimony regarding a proposed Wounded Knee Memorial and the need to designate the area an historic site or national monument in order to properly preserve and maintain the terrain; and

Whereas it is proper and timely for the Congress of the United States of America to acknowledge, on the occasion of the impending one hundredth anniversary of the event, the historic significance of the Massacre at Wounded Knee Creek, to express its deep regret to the Sioux people and in particular to the descendants of the victims and survivors for this terrible tragedy, and to support the reconciliation efforts of the State of South Dakota and the Wounded Knee Survivors Association: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Congress, on the occasion of the one hundredth anniversary of the Wounded Knee Massacre of December 29, 1890, hereby acknowledges the historical significance of this event as the last armed conflict of the Indian wars period resulting in the tragic death and injury of approximately 350–375 Indian men, women, and children of Chief Big Foot's band of Minneconjou Sioux and hereby expresses its deep regret on behalf of the United States to the descendants of the victims and survivors and their respective tribal communities;

(2) the Congress also hereby recognizes and commends the efforts of reconciliation initiated by the State of South Dakota and the Wounded Knee Survivors Association and expresses its support for the establishment of a suitable and appropriate Memorial to those who were so tragically slain at Wounded Knee which could inform the American public of the historic significance of the events at Wounded Knee and accurately portray the herioc and courageous campaign waged by the Sioux people to pre-

serve and protect their lands and their way of life during this period; and

(3) the Congress hereby expresses its commitment to acknowledge and learn from our history, including the Wounded Knee Massacre, in order to provide a proper foundation for building an ever more humane, enlightened, and just society for the future.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

LINDY CLAIBORNE BOGGS CONGRESSIONAL WOMEN'S READING ROOM

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the resolution (H. Res. 525) designating the room numbered H-235 in the House of Representatives wing of the Capitol as the "Lindy Claiborne Boggs Congressional Women's Reading Room," and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not plan to object, I take this reservation to ask our distinguished chairman, the gentleman from California, Mr. ANDERSON, to explain his request.

Mr. Speaker, I yield to the gentleman from California.

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Speaker, it is with mixed emotions that I rise today. While it is with great pleasure that I support naming room H-235 in the Capitol as the "Lindy Claiborne Boggs Congressional Women's Reading Room," it also means that LINDY is retiring from service to the House.

LINDY has been a friend for many years. Her grace, charm, and strength have added greatly to the House. LINDY has been an ideal role model for the youth of today, balancing the difficult demands of raising a family while pursuing an active and fulfilling career.

Before serving in Congress, LINDY served as president of the Women's National Democratic Club and the co-chairman for the inaugural balls for Presidents Kennedy and Johnson. LINDY was elected to Congress in a special election in 1973 to fill the seat that had been held by her husband, Thomas Hale Boggs, the majority leader of the House who died in a plane crash in Alaska in 1972.

During her years of service to the House and the people of Louisiana, LINDY BOGGS has worked to advance a diversity of issues including equal rights for women, navigation projects for the gulf region, housing programs, and public health.

Everyone who has ever had the pleasure of meeting LINDY has fallen under her captivating charm. LINDY'S retirement is a true loss to this House, and I know that a great many of us are going to miss her very much. I wish LINDY the very best on her retirement from Congress.

After today's legislative business there will be a 60-minute special order for Members who desire to pay tribute to LINDY for her many contributions to the House.

It is with great pleasure that I urge my colleagues to adopt House Resolution 525, and name room H-235 as the "Lindy Claiborne Boggs Congressional Women's Reading Room."

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, you know, LINDY BOGGS has had a long and distinguished career in this House. Although she was elected in 1973, her many years of public service began long years before, when she first arrived in Washington in 1940 with her newly elected husband Hale Boggs. And as we recall, he rose to become majority leader of the House before his untimely death in 1972.

Then voters in New Orleans elected LINDY to carry on the Boggs tradition in the House.

From the day she was elected to this body, she worked tirelessly and effectively for her constituents and for the Nation. LINDY has served this body with tremendous dedication and integrity, and we will all miss her special grace and charm when she retires at the end of this Congress.

□ 1810

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Further reserving the right to object, I yield to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT] for yielding, and I just want to say how proud I am this day to stand here and talk about this.

First of all, this room could not be more perfect. This room was one of the very few parts of the Capitol that survived the fire of 1814. This room goes way, way back in history.

Mr. Speaker, since this room was given to the Congresswomen, my colleagues would not believe the numbers of different names it has had. Listen to this; this tells us how this body has been a little uncomfortable with Congresswomen and how they fit in. It was first called the Suite for Congressional Ladies. Then they decided it would sound better as the Retiring Room for Women Members, and then they decided to call it the Congressional Ladies Lounge, and then they thought, no, they would call it the Ladies Retiring Room, and finally, in 1971, they called it the Congresswoman's Suite.

Mr. Speaker, as my colleagues can tell, we had a lot of trouble, but now we have no problems because naming this suite of rooms after LINDY BOGGS is absolutely perfect because she has been a model for every Congresswoman here, so is it not wonderful that we finally found a good name, and a good role model, and someone who cares about history, and the whole 9 yards, and it all comes together, and I could not be more excited about it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentlewoman from Colorado [Mrs. SCHROEDER] for her bit of history and her contribution.

Mr. Speaker, further reserving my right to object, I yield to the distinguished gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Speaker, I thank the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for yielding.

Mr. Speaker, let me say, as the original sponsor of the bill, that the gentlewoman from Colorado [Mrs. SCHROEDER] approached me a few days ago with this unique idea of a way to pay a lasting tribute to this extraordinary Louisianan. I would just like to inform my colleagues that we did not get the dear colleague letter out until 24 hours ago telling them of this, and there are 167 cosponsors of this legislation in 24 hours. What an outpouring of love to a super great lady!

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving my right to object, I yield to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for yielding to me, and, as one of the very proud original cosponsors to this legislation, I just want to comment on how appropriate it is that we are dedicating this room to LINDY BOGGS.

Mr. Speaker, she is retiring as one of the truly great female Members of this body. She helped establish this room as the Congressional Ladies Reading Room in the first place many years ago. I recall that when it opened, and I think that it is a great and fitting tribute to a truly wonderful lady

about whom I will have a lot more to say in just a few minutes when we have a special order for her.

Mr. Speaker, I invite all the Members who are here and listening to participate in this special order.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving my right to object, I yield to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I thank the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for yielding.

Mr. Speaker, I merely want to say that it is a very honorable thing to do for a very honorable lady.

Mr. Speaker, I do not think she was on the floor yesterday after our bill passed. I think she left. I want to repeat what I said then.

My father was one who never said anything bad about anyone, but he also had trouble showing his love for people outwardly. But I knew a lot about LINDY BOGGS before I ever got to Congress because, if I heard it once, I must have heard it a hundred times at home, that here is an outstanding lady, and it was always LINDY BOGGS that he was talking about. Unfortunately mother had passed on long before he started making all of those admirable comments about LINDY, but nevertheless I give my commendation and also that of my late father.

Mr. BOSCO. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving my right to object, I yield to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Speaker, as chairman of the subcommittee of the Committee on Public Works and Transportation that names buildings, and rooms, and spaces and things, I can testify that we get a lot more requests than we can honor. But I cannot think of any more appropriate and fitting name for the women's reading room than this one.

LINDY is loved and admired by all of her colleagues. We all share, I think, the same high degree of affection for her, and it will be very nice to know each time us men pass by that room and each time the ladies read in it that it is named after a truly great colleague of ours.

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I want to thank the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for yielding and thank all of my colleagues for bringing this legislation before us to name the women's reading room, which was the former Speaker's rooms, after someone who is a living legacy and has been since I have been here, LINDY BOGGS. I do not know of anyone who has more of a sense of history, has been more dedicated to the people of this country and to this Nation than LINDY and her late great husband, Hale, and I think her children, Barbara, Cokie, and Tommie, are certainly proof positive of the kind of mother she has been and is, one of a kind, and the people of her district in New Orleans, who have repeatedly brought her back to us, can be proud of her, as we all are, and she has been indeed one of the finest legislators of this institution.

Mr. Speaker, LINDY knows an awful lot and has been such a credit to this institution during the celebration of our centennial and bicentennial activities, and I think more than anyone she deserves a place to be revered and honored. I look forward to doing more things for LINDY in the sense that we recognize that the memory of her presence is so important as a guiding light to all of us.

So, Mr. Speaker, I am delighted to join in with the gentlewoman from Colorado [Mrs. SCHROEDER] and all the women; PAT was one of the people who, I think, wanted to put forward this gesture, and I am privileged to have had the honor of serving with LINDY and look forward to our continued friendship.

Ms. SNOWE. Mr. Speaker, I rise today in support of legislation designating H-235 in the Capitol, "The LINDY CLAIBORNE BOGGS Congressional Women's Reading Room."

The House will lose one of its most loved and respected Members this year with the retirement of LINDY BOGGS. It is only fitting that this historic room be named in honor of LINDY whose love of history and this institution can only be second to her love for her late husband and family.

As cochair of the Congressional Caucus for Women's Issues, I am especially pleased to be an original cosponsor of this legislation. H-235, a room of great historical significance in the Capitol, has served as a meeting place and reading room for the Congresswomen since 1962. LINDY'S legacy of leadership and grace will live forever in this beautiful, historic room.

As a founding member of the Congressional Caucus for Women's Issues, LINDY has been a leader in the cause to advance equal rights for women, including sponsorship of legislation to guarantee women equal access to credit, provide scholarships and fellowships to women in science, mathematics, and education; and provide assistance for victims of rape and domestic violence.

LINDY is the first woman to serve in the U.S. House of Representatives from the State of Louisiana and the first woman to chair a major political convention. She has truly been an inspiration to women and girls across the country.

LINDY has earned the affection and respect of all who have known her during her 50-year association with this institution. Her commitment to this institution is commendable. Her work, grace, and friendship will never be forgotten.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 525

Whereas Congresswoman Lindy Claiborne Boggs has served in the House of Representatives for the past 17 years with great honor and distinction and has earned the affection and respect of all who have known her during her 50-year association with this great institution;

Whereas Congresswoman Boggs, in 1973, became the first woman to serve in the House of Representatives from Louisiana and, in 1976, as the Chair of the Democratic National Convention, became the first woman to chair a major political convention;

Whereas Congresswoman Boggs has worked tirelessly to advance the cause of equal rights for women, including sponsorship of legislation to guarantee women equal access to credit, ensure women business owners access to small business loans and Federal contracts, provide scholarships and fellowships to women in science, mathematics, and education, and provide assistance for victims of rape and domestic violence;

Whereas Congresswoman Boggs has worked to preserve the history of both the House of Representatives and the Nation as Chair of the Commission of the United States House of Representatives Bicentenary and as a member of the Commission on the Bicentennial of the United States Constitution;

Whereas the room numbered H-235 in the House of Representatives wing of the Capitol is a room of great historical significance in that it was the office of former House Speakers Henry Clay and James Knox Polk, the only House Speaker to become President, and the room in which former President and Congressman John Quincy Adams died;

Whereas the room numbered H-235 has served as a meeting place and reading room for Congresswomen since 1962 and contains the photographs of all present and former Congresswomen; and

Whereas the naming of the room numbered H-235 in honor of Congresswoman Boggs would serve as a testament to her unparalleled public service: Now, therefore, be it

Resolved, That, the room numbered H-235 in the House of Representatives wing of the Capitol shall be known and designated as the "Lindy Claiborne Boggs Congressional Women's Reading Room".

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMMERSCHMIDT. Mr. Speaker, I know that many Members did not realize that this resolution was going to be called up on short notice, so I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 525.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

TROPICAL FORESTRY INITIATIVE ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs and the Committee on Agriculture be discharged from further consideration of the bill (H.R. 2065) to provide for studies and planning activities for improvement of tropical forest management, including forest management of insular areas and jurisdictions and public lands of the United States, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I ask the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA], No. 1, there seems to be a little bit of confusion as to exactly which bill we are taking up. Is the bill the gentleman is presenting on that has a title or not?

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield.

Mr. LAGOMARSINO. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, the bill is H.R. 2065 with an amendment offered by myself.

□ 1820

It does not have a title.

Mr. LAGOMARSINO. It does not have a title relating to a service extension program?

Mr. DE LA GARZA. This is the one that is titled, "Tropical Forestry Initiatives."

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I support the tropical forest bill, and I commend the primary author of the legislation, the gentleman from Minnesota [Mr. VENTO]. I am a cosponsor of the legislation as well. I commend the chairman of the full Committee on Agriculture [Mr. DE LA GARZA] for bringing it up.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I introduced H.R. 2065, the Tropical Forestry Initiative Act, to address the global tropical deforestation crisis. This is a bipartisan bill with Mr. LAGOMARSINO, Mr. MARLENEE, and Mr. VOLKMER as cosponsors. I appreciate their willingness to lend their support to this initiative.

I particularly want to thank Chairman DE LA GARZA of the Agriculture Committee for taking the lead in bringing this bill to the floor of the House today. I also appreciate the support Chairmen FASCELL and GEJDENSON of the Foreign Affairs Committee have given this proposal. Without their support we would not be prepared to act today. It has taken good cooperation between three House committees to bring this measure to the floor.

Mr. Speaker, we have a global crisis. Each year 27 million acres of tropical forests, an area the size of Pennsylvania, are logged, burned, and converted to nonforest uses. Not only do tropical forests contain an estimated 50 percent of the world's plant and animal species, but scientists predict that 2.5 million species in these forests have not even been discovered and may never be discovered if the rapid rate of tropical deforestation continues. It is quite likely that this tremendous loss of rain forests and dependent species is lessening the world's biological diversity, is contributing to global climate change, and is preventing new medicines, foods, and other forest products from benefiting the peoples of the world. The National Forest Service [NFS], as the world's largest forestry organization, needs to play a leading role in helping to find the means and knowledge to save tropical forests. With its outstanding research branch, the Forest Service has an important capacity to respond and can make a significant difference.

To learn more about what the National Forest Service's role could be, in January 1989, I led a field inspection to Puerto Rico to visit the Forest Service's Institute of Tropical Forestry and the Caribbean National Forest, our Nation's only tropical rain forest. H.R. 2065 is a product of this visit. It would increase the Forest Service's role by strengthening its Tropical Forestry Research Program in the following ways:

First, it would give the Forest Service a congressional mandate to conduct research that focuses on methods to slow or reverse tropical deforestation. No such mandate exists today.

Second, it would give the Forest Service's Institute of Tropical Forestry in Puerto Rico and its Institute of Pacific Islands Forestry in Hawaii a congressional mandate to expand their current programs to include research on recreation and tourism, alternative economic uses of tropical forests that sustain them as forests including the development of new products, and the effects of tropical deforestation on biological diversity and global climate change.

Third, the bill would direct the Institutes to share their knowledge and findings with other countries and, very importantly, to assist researchers and natural resource managers throughout the rain forest nations on a global basis.

Fourth, it would direct the Forest Service to manage the Caribbean National Forest as a model of tropical forest management with a special international outreach program.

Fifth, it gives the Forest Service authority to provide technical assistance to tropical countries.

In this session of Congress, many bills have been introduced that address different aspects of the global tropical deforestation crisis. H.R. 2065, however, is unique, in that it is the only bill that deals directly with a hands on means of addressing the urgent need for more research and training of land managers worldwide to solve the crisis. We don't have all the answers we need, and only research can fill this vacuum, but better information and knowledge, however, is only one important part of the answer. Equally important is the application, the implementation and the dissemination of such know how to the countries that must, in the final analysis, shape the land use policy and practices that will decide the future of tropical rain forests.

The national forest service has done extraordinary work in tropical forestry. Dr. Frank Wadsworth has worked for the National Forest Service for over 50 years, much of that time in Puerto Rico's Caribbean National Forest at the institute of tropical forestry. He is a living American treasure in my judgment. Also to be commended is Dr. Ariel Lugo, the director of the institute, who is expanding the institute's role in solving the tropical deforestation crisis. The National Forest Service with Dr. Wadsworth and Dr. Lugo's leadership has established a core of knowledge and professionals who are leaders in the study of tropical rain forests. In fact, the library of tropical forestry at the institute is the most complete in the Western Hemisphere.

Mr. Speaker, they well deserve the new tasks and recognition that this measure and this new policy would garner for these distinguished scientists and the National Forest Service. Congress could do no better than to enlarge the success of the institutes of tropical forestry that we have by unleashing them and elevating them in status so that they can work on one of the most significant, emerging environmental problems of our time. Congratulations to my fellow Members today and to the National Forest Service.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I would like to point out that I am the author of H.R. 3420, the international and South Pacific forestry bill. I would hope perhaps in the next session we will be able to address that in the three committees to which it has been assigned.

I want to say that I think the bill before us is very important. We hear a

lot of talk about tropical forests. We spend a lot of time telling other nations what they should do with their tropical forests. Here is a chance for us to do something with our own tropical forests, and to lead at least part way by example, as well as by persuasion.

Further reserving the right to object, I yield to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman from Minnesota [Mr. VENTO] has adequately explained the legislation. It takes from several bills that have been introduced by myself and the gentleman from California [Mr. LAGOMARSINO] and others, and incorporates it into a short version. I would appreciate the support of Members.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows.

H.R. 2065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tropical Forestry Initiative Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Approximately 27,000,000 acres of the world's old growth tropical forests are lost each year and that this deforestation has become a global crisis adversely affecting the peoples of all nations.

(2) This loss of tropical forests is reducing the world's biodiversity, hindering the development of foods, medicines, and other products that would benefit humankind and contributing to atmospheric pollution and global climate change.

(3) The Institute of Tropical Forestry in Puerto Rico has a 50 year history of research on tropical forests that has been of benefit to those involved in managing tropical forests.

(4) The Caribbean National Forest in Puerto Rico is the Nation's only tropical national forest, has been designated a Biosphere Reserve by the UNESCO Man and Biosphere Program, and has great potential to serve as a model for quality tropical forest management.

(5) If redirected and expanded, Forest Service programs could form the basis for increasing the United States' knowledge and assistance capability to improve tropical forest protection and management globally.

(b) PURPOSE.—The purpose of this Act is to enhance the Nation's program to assist in better management of the world's tropical forests.

SEC. 3. TROPICAL FORESTRY RESEARCH.

(a) FOCUS.—The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") in cooperation with the Secretary of the Interior shall conduct a program that focuses on methods to slow or reverse tropical deforestation through a research program directed toward those objectives set forth in subsection (d).

(b) MEMORANDUM OF UNDERSTANDING.—The Secretary and the Secretary of the Interior shall enter into a memorandum of understanding setting forth the methods and procedures by which the Secretary of the Interior will assist and supplement the resources of the Secretary to accomplish the purposes of this Act. Such memorandum shall include specific agreements related to management of tropical forests on insular possessions and public lands of the United States.

(c) BUDGET.—The President's proposed budget to Congress for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year shall specifically identify funds to be spent on Forest Service tropical forestry research to implement the provisions of this Act.

(d) INSTITUTE OF TROPICAL FORESTRY.—The Secretary is authorized and directed to administer an Institute of Tropical Forestry in Puerto Rico. This Institute shall—

(1) conduct long-term research that includes, but is not limited to, the designation and management of wilderness areas, national parks, recreation areas, and other suitable units that protect tropical forests; the relationship between the atmosphere and tropical forests; threatened and endangered species; recreation and tourism; economic uses of tropical forests that sustain them as forests including the development of new products; techniques that monitor the health and productivity of tropical forests; tropical forest regeneration and restoration; the effects of tropical deforestation on biodiversity, global climate, wildlife, soils, water, and the prosperity of developing countries; and

(2) provide assistance as appropriate that includes, but is not limited to, technology transfer from the products and findings of the research described in paragraph (1) of this subsection, training foreign researchers and natural resource managers, cooperating with other forestry research institutions in the tropics, promoting research and investigations by others at the Institute of Tropical Forestry and the Caribbean National Forest and, in cooperation with the Caribbean National Forest, sharing research, technical, managerial, and administrative expertise with others.

(e) CARIBBEAN NATIONAL FOREST.—(1) The Secretary is authorized and directed to manage the Caribbean National Forest (also known as the Luquillo Experimental Forest) as a model of quality tropical forest management (in accordance with subsection (d)) for use in international outreach, study, training, and research.

(2) The Secretary shall construct, within 5 years after the date of enactment of this Act, the necessary facilities in the Caribbean National Forest for training and education to accomplish the purposes of this Act.

SEC. 4. APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DE LA GARZA: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tropical Forestry Initiative Act".

SEC. 2. FINDINGS AND PURPOSE—(a) FINDINGS. The Congress finds the following:

(1) Approximately 27,000,000 acres of the world's tropical forests are lost each year and that this deforestation has become a global crisis adversely affecting the peoples of all nations.

(2) This loss of tropical forests is reducing the world's biological diversity, is hindering the development of foods, medicines, and other products that could benefit humankind and is contributing to atmospheric pollution and global climate change.

(3) The Forest Service's Institute of Tropical Forestry in Puerto Rico has a 50 year history of research on tropical forests that has been of benefit to those involved in managing tropical forests.

(4) The Caribbean National Forest in Puerto Rico, the Nation's only tropical national forest, has been designated a Biosphere Reserve by the UNESCO Man and Biosphere Program, and has great potential to serve as a model for quality tropical forest management.

(5) The Forest Service's Institute of Pacific Islands Forestry in Hawaii has a 30-year history of research on tropical forestry that has benefitted all American-affiliated islands of the Pacific Ocean.

(6) Forest Service programs could aid in improving tropical forest protection and management globally.

(b) PURPOSE—The purpose of this Act is to enhance Forest Service activities to promote better management of the world's tropical forests.

SEC. 3 TROPICAL FORESTRY PROGRAMS

(a) IN GENERAL—The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary", acting through the Chief of the Forest Service, and in consultation with the Secretary of the Interior, shall conduct a program to slow or reverse tropical deforestation.

(b) MEMORANDUM OF UNDERSTANDING—The Secretary and the Secretary of the Interior shall enter into a memorandum of understanding setting forth the specific methods and procedures by which the Secretary of the Interior will assist and supplement the resources of the Secretary to accomplish the purposes of this Act.

(c) INSTITUTE OF TROPICAL FORESTRY—The Secretary is authorized and directed to administer an Institute of Tropical Forestry in Puerto Rico. This Institute shall—

(1) conduct long-term studies that include, but are not limited to, the designation and management of wilderness areas, national parks, recreation areas, and other suitable units that protect tropical forests; the relationship between the atmosphere and tropical forests; threatened and endangered species; recreation and tourism; economic uses of tropical forests that sustain them as forests including the development of new products; techniques that monitor the health and productivity of tropical forests; tropical forest regeneration and restoration; the effects of tropical deforestation on biological diversity, global climate, wildlife, soils, water, and the prosperity of developing countries; agroforestry; and

(2) provide assistance, as appropriate, that includes, but is not limited to, technology transfer from the products and findings of the research described in paragraph (1) of

this subsection, training foreign researchers and natural resource managers, cooperating with other forestry research institutions in the tropics, promoting research and investigations by others at the Institute of Tropical Forestry and the Caribbean National Forest, sharing research, technical, managerial, and administrative expertise with other countries.

(d) CARIBBEAN NATIONAL FOREST—(1) The Secretary is authorized and directed to manage the Caribbean National Forest (also known as the Luquillo Experimental Forest) as a model for proper tropical forest management for use in international outreach, study, training, and research.

(2) The Secretary shall construct, within 5 years after the date of enactment of this Act, the necessary facilities in the Caribbean National Forest for training and education to accomplish the purpose of this Act.

(e) INSTITUTE OF PACIFIC ISLANDS FORESTRY—The Secretary is authorized and directed to administer an Institute of Pacific Islands Forestry in Hawaii. This Institute shall—

(1) conduct long-term studies that include, but are not limited to methods for slowing or reversing tropical deforestation on the islands of the Pacific Ocean; global atmospheric and climatic change which shall include the installation of a monitoring system on Pacific islands to monitor such change; the maintenance and protection of native wildlife populations on Pacific islands; and economic uses of forests on Pacific islands that sustain them as forests; and

(2) conduct an international outreach program that includes, but is not limited to, sharing the products and findings of the research described in paragraph (1) of this subsection with other countries throughout the tropics.

(f) ASSISTANCE—In furtherance of this Act, the Secretary may provide international assistance without reimbursement including, but not limited to, technology, training, information, equipment and facilities. Such assistance shall not be provided to any country ineligible for assistance under Part I of the Foreign Assistance Act of 1961, as amended.

SEC. 4. CONSULTATION.

In order to assure a consistent and coordinated foreign policy and foreign assistance activities, as implemented by the Secretary of State, the Secretary of Agriculture shall consult and collaborate with the Secretary of State and with the Administrator of the Agency for International Development in carrying out activities in other countries.

SEC. 5. APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore (Mr. MCNULTY) (during the reading). Without objection, the amendment in the nature of a substitute is considered as read and will be printed in the RECORD.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. DE LA GARZA].

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ATTENDANT ALLOWANCE ADJUSTMENT ACT

Mr. MURPHY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3911) to amend title 5 of the United States Code to increase the allowance for services of attendants, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Attendant Allowance Adjustment Act".

SEC. 2. INCREASE IN AMOUNT.

Subsection (a) of section 8111 of title 5, United States Code is amended by striking out "$500" and inserting in lieu thereof "$1,500".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall take effect October 1, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. GOODLING. Mr. Speaker, reserving the right to object, I will not object, but I take this time to yield to the gentleman from Pennsylvania [Mr. MURPHY] for any comments he might like to make at this time on the legislation.

Mr. MURPHY. I thank the gentleman for yielding.

Mr. Speaker, I am sure the gentleman from Pennsylvania [Mr. GOODLING] concurs in the Senate amendment. We passed this bill unanimously in the House a couple of weeks ago. The Senate merely made technical corrections. It provides proper compensation for 225 severely handicapped Federal workers who have been injured on the job.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the Senate amendments to H.R. 3911.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT OF 1990

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2936) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1990, 1991, and 1992, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Sentate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WHITTAKER. Mr. Speaker, reserving the right to object, while I will not object, I take this reservation for the purpose of asking the gentleman from Ohio [Mr. THOMAS A. LUKEN] to explain the amendment to this bill.

Mr. THOMAS A. LUKEN. Mr. Speaker, if the gentleman will yield, the legislation which we are considering today relates to a subject which affects each and every American. All of us are aware of the disasters and near disasters caused by the deadly chemicals which are regularly carried by truck, train, and airplane, through every State and city in our country. Today, it is conservatively estimated that 500,000 movements of hazardous materials occur each day, with over 4 billion tons moving each year. The simple fact of the matter is that the potential for a Bhopal-on-wheels accident is ever-present on our Nation's streets, railroads, and airways.

Last year, there were over 6,000 haz mat accidents. Over 165 persons were injured and 17 were killed in these tragic accidents. These accidents caused damages of more than $21 million. But while hazardous materials transportation is increasing year in and year out, our laws have not kept pace with these developments.

Fifteen years have passed since the passage of the Hazardous Materials Transportation Act. Since that time, no major revisions to the original legislation have been enacted. In fact, authorizations for the act expired at the end of fiscal year 1986 and no congressional action has been taken to even reauthorize these important programs since such time. Congressional committees have been talking about revising the Haz Mat Act for the last 8 years, but until now no one has been able to break the stalemate. Today we have an historic opportunity to break the deadlock and enact a comprehensive bill to improve the laws which govern how hazardous materials are transported.

Last October, I introduced the Uniform Safety Amendments Act of 1990 to amend the outdated Hazardous Materials Transportation Act. This comprehensive bill was the product of

many years of work and investigation. Many members of our subcommittee participated in drafting this needed bill. Our ranking minority member, Mr. WHITTAKER, was a partner in crafting this major piece of legislation. Many members of our subcommittee and or committee, including Chairman DINGELL, are cosponsors of the bill. All of our members have worked diligently to consider and address these critical issues.

Committees of jurisdiction have held many hearings and investigations during the past few years on the subject of haz mat transportation. Last year, our subcommittee heard from a wide variety of interests during our extensive hearings. Witnesses included State and local representatives, emergency responders—such as firefighters and State police—railroads, truckers, labor organizations, environmentalists, chemical companies, and various representatives of Federal agencies. While many different points of view were stated, there was a broad consensus that the current law needs to be revised and that our bill represents a major step in the right direction.

Our full committee voted unanimously in March in favor of our bill. Last summer, the Public Works Committee also reported our bill with some changes. We have since been working diligently to reach a compromise with our colleagues from Public Works. I am pleased to report that the amended bill we are considering today represents the joint efforts of both committees.

This bill will take the regulation and enforcement of hazardous materials out of the Dark Ages:

This bill increases civil and criminal penalties for violations of haz mat regulations.

This bill requires safety permits for motor carriers who transport ultrahazardous materials, such as explosives, poison gases, and radioactive materials.

Our bill prohibits the use of substandard railroad tank cars like those involved in the Miamisburg, OH accident.

This bill provides for uniform Federal, State, and local laws in certain technical areas, thus ensuring the safe and efficient transportation of hazardous materials throughout the country.

This bill establishes a new training program for emergency responders, like firefighters and law enforcement personnel, so that they are better able to effectively respond to haz mat accidents.

This bill requires the Department of Transportation to implement a broad-based registration program for persons involved in haz mat transportation.

This bill provides emergency responders with better information about how and where hazardous materials are transported and the risks of various commodities.

This bill provides a mechanism for States to designate haz mat highway routes, in partnership with the Federal government.

This bill provides more Federal inspectors for all transportation modes to enforce Federal haz mat laws and regulations.

In short, this is an excellent bill. It is a needed bill. It combines the best work of both committees to address compelling problems which affect the public's safety and welfare.

I appreciate the efforts of Chairman DINGELL, Mr. LENT, Mr. WHITTAKER, and all the members of our committee who have cosponsored and supported our original bill. I also commend our colleagues from the Public Works Committee, and particularly Chairmen ANDERSON and MINETA, and Mr. HAMMERSCHMIDT and Mr. SHUSTER, who have worked hand in hand with us to bring this compromise bill to the floor. There are many, many other individual Members who have worked long and hard on various aspects of this legislation. Unfortunately, there is not adequate time to commend all of these Members for their critical contributions to the process and the bill before us.

I urge my colleagues to support this comprehensive hazardous materials transportation bill and reserve the balance of my time

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I rise in support of the bill that would amend the Hazardous Materials Transportation Act. The bill deals with some major issues regarding the transportation of hazardous materials. First, it addresses the need for planning and training at the State level for emergency response personnel. This need has been repeatedly pointed out during the hearing process over the last several years. The bill specifically provides funds for State grants for emergency response personnel training and for assisting States in planning for such response.

In the bill, the Secretary of Transportation is directed to issue routing standards which states are required to adhere to in designating specific routes by which hazardous materials may be transported.

Other provisions provide for increased clarification of the Federal-State roles in the regulatory process and for a way to establish uniformfiling requirements for State registration programs.

At this time, I would like to congradtulate NORM MINETA, chair, Surface Transportation Subcommittee; BUD SHUSTER, ranking member of the subcommittee; DOUG APPLEGATE; and JOHN PAUL HAMMERSCHMIDT, ranking member of the full committee; for all their hard work on this issue of vital importance.

I would also like to thank my colleagues on the Energy and Commerce Committee for their cooperation.

I urge my colleagues in the House to support this legislation.

□ 1830

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of the amendment to S. 2936.

Mr. Speaker, I rise in support of this amendment to S. 2936, the Hazardous Materials Transportation Uniform Safety Act. This legislation is intended to enhance safety in the movement of hazardous materials in the transportation industry.

I want to thank Chairman ANDERSON, Chairman MINETA, and Mr. SHUSTER of the Public Works and Transportation Committee for their hard work and aggressive pursuit of this important safety bill. In addition, I want to thank the leadership of the energy and commerce committee—Chairman DINGELL, Mr. LENT, Chairman LUKEN, and Mr. WHITTAKER—for their commitment and cooperation in putting together the amendment we have before us.

A very sincere thank you must also be extended to the many organizations and individuals who have worked for improvements to the hazardous materials transportation act over the course of the last several years. They offered excellent guidance to the committee on ways to improve this legislation. Because of their efforts, this measure has a broad base of support among States, localities, shippers, carriers, and safety groups.

Mr. Chairman, this bill will provide a strong framework for uniform regulation in critical areas such as classification, marking, and handling of hazardous materials.

A key provision in the bill will direct the Secretary of Transportation to issue standards for the State designation of highway routes. This will ensure that overall safety in hazardous materials transportation is served through consideration of factors such as population density, types of highways, and emergency response capabilities, while care is taken to avoid circuitous routing and unnecessary conflict among States.

In hearings before the Public Works and Transportation Committee, Members heard strong support for additional Federal assistance to States and localities for emergency response planning and training. This legislation will provide grants to States for both planning and training. Grant funding will be provided through registration fees imposed on both shippers and transporters of hazardous materials, ensuring that no group is singled out to shoulder the cost of emergency response assistance.

This measure will also ensure that steps are taken to find practical and

effective ways to improve the identification of hazardous materials in a transportation emergency.

This is a comprehensive bill to provide emergency response assistance to States, improve hazardous materials regulation, and protect public safety. I encourage my colleagues to support this important measure.

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in support of the House amendment. The Committee on Public Works and Transportation has been working on this legislation for 4 years. It represents a careful compromise reached by the Committee on Public Works and Transportation, the Committee on Energy and Commerce, and the Senate Committee on Commerce, Science and Transportation. I wish to thank my colleagues on the Public Works Committee and the other committees for their cooperation, hard work and support.

The amendment has strong support from all of the groups that will be affected; those groups include State associations, labor, shippers, and carriers. This is the first time in a decade that we have been able to garner this broad-based support for amendments to the Hazardous Materials Transportation Act.

The House amendment to S. 2936 tackles some long-standing issues dealing with the transportation of hazardous materials. The major development is the inclusion of a proposal to fund state grants for emergency response personnel training and to help the States plan for such response.

Over the last 7 or 8 years, we have heard time and time again of the need for such training and planning. I would call the program contained in our substitute a great beginning. It complements the other existing programs and funnels the money directly to the States via a grant program operated by the Department of Transportation in coordination with other agencies, and provides for Federal coordination of training programs and for the development of those programs.

The measure before you also directs the Secretary of Transportation to issue highway routing standards for the transportation of hazardous materials and requires that the States designate specific routes in accordance with those standards.

The substitute also provides for better delineation of Federal and State roles in the regulatory process, and for a mechanism to establish uniform filing requirements for any State registration mandates which are similar to Federal requirements.

Finally, our substitute amendment addresses a matter which deeply concerns me and about which there has been much controversy: The establishment of a central reporting system and computerized telecommunications data center. Although the concept has equally avid supporters and opponents, more information is needed for us to make a sound decision on whether or not to support the establishment of such a system.

Section 25 of the measure provides for a study and report that will provide the needed information in order that Congress can make a sound decision.

Mr. Speaker, I would like to commend and thank others including the gentlewoman from Illinois [Mrs. COLLINS, Mr. SHUSTER, Mr. BUECHNER, Mr. HAMMERSCHMIDT, Mr. LUKEN, and Mr. APPLEGATE for their part in bringing this legislation to this point.

I hope my colleagues will share my enthusiasm for the House amendment to S. 2936 and join me in voting "aye."

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I would like to express my appreciation and gratitude for the hard work of the gentleman from California [Mr. MINETA], chairman of our Surface Transportation Subcommittee, and the full committee chairman, the gentleman from Ohio [Mr. LUKEN], and the Committee on Energy and Commerce, the gentlemen from the minority side who have helped to put together a very important improvement in the hazardous materials transportation area.

This bill includes several important provisions having to do with compliance by Federal contractors, making sure its training requirements apply to Federal employees, and generally taking some important steps to make sure that we are looking to Federal agencies to deal with their responsibilities under this legislation.

There is one area, however, which we were not able to resolve in this particular bill having to do with responsibilities of the Federal agencies themselves to comply with the requirements of the legislation. I have had discussions with the gentleman from California, Mr. MINETA, our subcommittee chairman, about our ability to address this unresolved question during the next Congress, should we be fortunate enough to be back here, and I wondered if the gentleman from Kansas would further yield to the gentleman from California [Mr. MINETA] so that we might have a brief exchange addressed to the question of this Federal agency compliance issue in the next Congress.

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I am happy to yield to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I appreciate the gentleman yielding. I am more than pleased to work with the gentleman from Colorado on this issue. I know that this is a concern that he has. This is something that we ought to look at in the 102d Congress.

I will work with the gentleman, whether it be hearings, or legislation, or whatever we might need in the 102d Congress to look at this issue.

Mrs. COLLINS. Mr. Speaker, will the gentleman yield?

Mr. WHITTAKER. Further reserving the right to object, I yield to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Speaker, I thank the gentleman so much, and I would like to commend the chairmen of all of the committees and subcommittees who have worked on this piece of legislation.

Mr. Speaker, last year the number of accidents, spills and leaks involving hazardous materials increased, as it had the year before, and the year before that. In Chicago, the city that has suffered the most Hazmat accidents in this decade, there were rail spills of phosphoric acid and potash in residential areas. Outside of Chicago and elsewhere in Illinois, the State with the highest number and rate of rail accidents involving Hazmat in recent years, incidents included:

The leak of 180 gallons of an herbicide in a motel parking lot;

A two railcar spill of 500 gallons of sulphuric/feric acid and 100,000 pounds of ammonium nitrate causing the evacuation of hundreds;

A propane truck explosion at a Coca-Cola bottling plant, causing the evacuation of 200 employees;

The leak of morphaline from a truck on Interstate 94, causing 200 residents to be evacuated, on a day hot enough to make morphaline explode; and,

The spill of 6,900 gallons of toxic xylene from a tanker followed by a spill of methyl ethyl keytone at the same location a month later.

One could continue describing horror stories ranging from Montana—where, in February 1988, explosions of hydrogen peroxide and other chemicals caused injuries, evacuations, $3 million in damage, and great hardship—to right here, where the beltway is occasionally bottlenecked due to chemical accidents and infernos. The problem of Hazmat transportation safety has become national in scope and staggering in severity.

Worse yet is the immense threat—and distinct possibility—of a major catastrophe resulting from a severe accident or spill of certain hazardous materials. Very dangerous materials are regularly transported through many of our most densely populated cities.

All it would take for a monumental disaster to result is one high-speed collision between a drunk-driver and one railcar filled with highly toxic or nuclear wastes. Most likely, property loss would cost tens of millions of dollars, the environmental costs would be long term and severe, and the death toll would be in the hundreds. As the volume of hazardous materials being transported through our communities continues to rise, catastrophes like this are inevitable—unless we take significant precautions to prevent them—Today.

For many years, I have led the campaign for increased safety in the transportation of hazardous materials and improved emergency response to Hazmat accidents and spills. In the middle-1980's, through the Government Operations Subcommittee on Government Activities and Transportation, which I chair, I began a series of hearings on Hazmat safety and Federal regulation in this area. Ever since, I have followed this issue and have been a consistent advocate for a greater Federal role in it. For example, in July 1986, I held an oversight hearing focusing on the Department of Transportation's continuing inactivity concerning training for Hazmat handlers and loaders. In February of this year I held a hearing which probed into the DOT's continued absence of regulation, in general, and the shortcomings of the Federal Railroad Administration, in particular.

At the onset of the 101st Congress, I reintroduced two bills on these concerns, H.R. 53 and H.R. 136. In June of this year, together with Congressman BUECHNER, I introduced the Comprehensive Hazardous Materials Transportation Safety Act, to enhance public safety. This bill updates my previous legislation on the issue and incorporates a number of new ideas, drawing from a variety of sources. I am pleased to note that most of my proposals were incorporated within—and framed the issues of—S. 2936, which we are now considering.

Among the many provisions which I am pleased to find in this bill are:

First, grants to local governments for planning of Hazmat response techniques and training of emergency response teams with tight standards geared toward accident prevention;

Second, an increase in the number of inspectors; ties Hazmat into Superfund, OSHA, and EPA programs;

Third, a mandate that the safest routes for transport be chosen so as to avoid densely populated and other high-risk areas;

Fourth, establishment of a registration system for all those involved in Hazmat;

Fifth, linkage of Hazmat safety and response to Superfund, EPA, 'OSHA, and FEMA;

Sixth, a prohibition against the use of railroad tank cars built before 1971 unless they meet safety and design requirements, especially those pertaining to air brake standards; and

Seventh, commission of a rail tank car design study.

Once again, Mr. Speaker, the safe transportation of hazardous materials and effective emergency response programs are in everyone's best interests. The bipartisan nature of the efforts on this issue capture the essence of this issue's importance and the need to pass this legislation today. We cannot afford the risks of putting this issue off for a future Congress.

GENERAL LEAVE

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, this is a landmark piece of legislation which has unexpectedly come to fruition. Even a few days ago, almost none of the Members involved would have predicted that this bill to overhaul and update the Federal laws governing the transportation of hazardous materials would have been finalized on a consensus basis. The fact that we do have such a consensus is a tribute to the good faith negotiation and compromises by the members of the Public Works Committee, the Energy and Commerce Committee, and the Senate Commerce Committee. I specifically want to recognize the efforts of Mr. MINETA, Mr. LUKEN, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. DINGELL, Mr. LENT, and also Senator DANFORTH and Senator HOLLINGS. Without their diligent efforts, and the efforts of a very wide range of industry and transportation groups, we would not have achieved a final bill at all.

All Americans have a direct interest in the safe and efficient transportation of hazardous materials. Many items absolutely essential to our modern economy and its industries cannot be manufactured without the use of certain hazardous materials. So the challenge is to transport these commodities where they are needed, when they are needed, in a safe and efficient manner. The need for hazardous materials is clear. But it is equally clear that the American public, as well as our industries, our transportation sector, and our emergency response personnel and firefighting units, deserve a standard of safety second to none.

To reach that goal, this bill uses elements from all three pieces of recent legislation—the Senate bill, the Energy and Commerce version of H.R. 3520, and the Public Works version of H.R. 3520—to reauthorize and revamp the hazardous materials transportation laws administered by the Department of Transportation. It includes key improvements in the procedures for working out disputes between jurisdictions, new mechanisms for training to improve the emergency response capabilities of State and local authorities, directives for the Department of Transportation to evaluate and scrutinize the safety of transportation for certain highly radioactive materials, and a comprehensive evaluation of tracking systems as a means of improving the in-transit identification of hazardous materials shipments.

These are but a few of the many improvements made by this bill. The DOT programs governed by the Hazardous Materials Transportation Act have not been reauthorized since the last reauthorization measure expired in 1986. And this is clearly the most comprehensive revision and modernization of the Hazardous Materials Transportation Act since its enactment in the early 1970's. For these reasons alone, I would be especially proud of this legislation in any year. But I am particularly pleased by the opportunity for the House to consider this bill, because it comes at the very close of my career in the Congress, and it represents one of the most constructive bipartisan efforts at sound public policy that I have seen in my years here. I cannot praise too highly all Members involved in this process, House and Senate. And I also want to commend the various industry groups, ranging from State and local governments, to the trucking and railroad industries, the major shippers of hazardous materials such as the chemical industry, the emergency preparedness personnel and firefighters, and the Department of Transportation. All have had a critical constructive role in contributing to making this legislative package a sound one. We simply could not have done it without a spirit of good-faith cooperation all around.

I again want to thank all of my colleagues on the committees involved in this effort, and particularly Chairman LUKEN, my opposite number on the Transportation and Hazardous Materials Subcommittee, for an impressive effort. I strongly support the Luken-Mineta compromise, and I urge its approval by the House.

Mr. Speaker, there is currently pending before the Supreme Court, on a petition for certiorari, CSX versus Public Utilities Commission of Ohio. This case concerns preemption of State and local hazardous materials laws. The issue before the Court is

whether the preemption provision of the Federal Railroad Safety Act, section 205, encompasses hazardous materials. The case originated with the passage by the State of Ohio of the Ohio Hazardous Materials Transportation Act. That act authorized the Ohio PUC to adopt and enforce Federal hazardous materials regulations. Both the U.S. District Court for the Southern District of Ohio and the U.S. Court of Appeals for the Sixth Circuit held that the Ohio act was preempted by section 205 of the Federal Railroad Safety Act and that, as a result, Ohio could not enforce hazardous materials laws pertaining to the transportation of hazardous materials. Am I correct in understanding that the amended preemption provisions in this bill do not affect the pending litigation?

Mr. THOMAS A. LUKEN. The gentleman will yield, your understanding is correct. Nothing in this bill affects in any way the scope of section 205 of the Federal Railroad Safety Act. The amendments made by section 4 of this bill to section 105(a) of the Hazardous Materials Transportation Act, and by section 13 to section 112 of the act, do not address whether preemption of state hazardous materials laws pertaining to the railroad industry is addressed by section 205 of the Federal Railroad Safety Act.

Mr. WHITTAKER. Under section 205 of the Federal Railroad Safety Act, if FRA has promulgated regulations in an area, the States cannot adopt regulations in that subject area except to the extent they are necessary to reduce local safety hazards. In the litigation pending before the Supreme Court, the Sixth Circuit ruled that section 205 encompasses hazardous materials, so that if DOT has promulgated regulations in a subject area pertaining to hazardous materials, the States cannot. The preemption sections of this bill, then, do not affect that ruling and do not address the scope of section 205?

Mr. THOMAS A LUKEN. Mr. Speaker, the gentleman is correct. The preemption provisions of this bill, sections 4 and 13, do not address that issue.

Mr. LENT. I want to commend the leadership and members of both House committees of jurisdiction, especially Mr. MINETA, Mr. HAMMERSCHMIDT, and Mr. SHUSTER of the Public Works Committee, and Chairman DINGELL, subcommittee chairman LUKEN, and ranking subcommittee member WHITTAKER on the Energy and Commerce Committee. Each had a key role in fashioning this very constructive bipartisan legislation to modernize and improve our Federal laws governing the transportation of hazardous materials.

This legislation closes a gap in the reauthorization of the Hazardous Materials Transportation Act Programs administered by the Department of Transportation—programs that have not been reauthorized since 1986. More importantly, this bill represents a comprehensive overhaul of the HMTA, with the addition of key new elements.

Among these is a comprehensive system of registration of hazardous materials carriers and shippers, a program of meaningful training for emergency response personnel, and improved guidelines and procedures for resolving disputes among various State and local jurisdictions. There are also measures addressed to improvements in tank car safety, to stronger penalties for violations of the HMTA, and a reauthorization of State rail safety inspection programs. On all counts, this is a constructive bipartisan bill which has gathered nearly universal support from affected public-sector and private-sector interests. The Luken-Mineta compromise we are considering today has also been approved by the leadership of the Senate Commerce Committee, who have played a very constructive role in the effort to update our hazardous materials transportation laws.

Finally, Mr. Speaker, I want to associate myself with the colloquy between subcommittee Chairman LUKEN and ranking member WHITTAKER on the meaning and interpretation of section 31, which addresses the legal relationship between the Hazardous Materials Transportation Act, as amended by this bill, on the one hand, and the Federal Railroad Safety Act of 1970, on the other. I particularly want to emphasize that this bill does not alter the legal status quo (including the recent decision by the United States Court of Appeals for the sixth circuit) regarding the interaction of these two transportation statutes.

In sum, Mr. Speaker, I strongly urge the adoption of the Luken-Mineta compromise, and I look forward to its enactment into law as a key element in the ongoing national effort to improve the safety of hazardous materials transportation.

□ 1840

Mr. WHITTAKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Hazardous Materials Transportation Safety Improvement Act of 1990".

DEFINITIONS

SEC. 2. Section 103 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1802) is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (3), (5), (6), and (7) (and any reference thereto) as paragraphs (7), (8), (9), and (10), respectively; and

(3) by inserting immediately after paragraph (2) the following new paragraphs:

"(3) 'imminent hazard' means the existence of a condition which presents a substantial likelihood that death, serious illness, severe personal injury, or substantial adverse effect to health, property, or the environment may occur before the reasonably foreseeable completion date of an administrative hearing or other formal proceeding initiated to abate the risk of such harm;

"(4) 'Indian tribe' shall have the meaning given that term under section 4 of the Indian Self-Determination and Education Act (25 U.S.C. 450b);

"(5) 'motor carrier' means a motor common carrier, a motor contract carrier, or a motor private carrier as those terms are defined in section 10102 of title 49, United States Code;

"(6) 'person' means an individual, firm, copartnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, government, Indian tribe, or agency or instrumentality of any government when it offers hazardous materials for transportation in commerce or transports hazardous materials in furtherance of a commercial enterprise, but does not include the United States Postal Service and, for the purposes of sections 110 and 111 of this title, any agency or instrumentality of the Federal Government;".

REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS

SEC. 3. Section 105 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1804) is amended to read as follows:

"REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS

"SEC. 105. (a) GENERAL.—(1) Except as provided in subsection (c), the Secretary shall issue, in accordance with the provisions of section 553 of title 5, United States Code, including an opportunity for informal oral presentation, regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce.

"(2) The regulations issued under this subsection shall be applicable to any person who transports, or causes to be transported or shipped, a hazardous material, or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person as qualified for use in the transportation in commerce of certain hazardous materials.

"(3) Regulations issued under this subsection shall govern any aspect of hazardous materials transportation safety which the Secretary determines necessary or appropriate.

"(b) HIGHWAY ROUTING OF HAZARDOUS MATERIALS.—(1) Except as provided in subsection (c), not later than 1 year after the date of enactment of the Hazardous Materials Transportation Safety Improvement Act of 1990, the Secretary shall issue standards for the designation of highway routes over which hazardous materials may be transported in commerce by motor carriers. Following issuance of such standards, no State, political subdivision of a State, Indian tribe, or Federal agency shall designate highway routes for the transportation of hazardous materials, except in accordance with those standards.

"(2) Highway routing standards issued by the Secretary under paragraph (1) shall include the following requirements:

"(A) Highway route designations shall enhance overall public safety in the jurisdiction of the authority designating the route and in other jurisdictions directly affected by the designation.

"(B) Each State, political subdivision of a State, Indian tribe, or Federal agency seeking to designate a highway route for the

transportation of hazardous materials shall consult with each jurisdiction directly affected by the designation and offer an opportunity for public comment.

"(C) No such route designation by a State, political subdivision of a State, Indian tribe, or Federal agency may be executed unless (i) it is agreed to by each State, Indian tribe, or Federal agency directly affected by the designation, or (ii) any dispute over the route designation arising from the failure of such an affected State, Indian tribe, or Federal agency to agree to that designation is resolved in favor of the designating State, Indian tribe, or Federal agency under paragraph (5) of this subsection.

"(D) Such route designations shall not unreasonably burden commerce.

"(E) The route designation process provided in this subsection, including the participation of affected jurisdictions, shall be completed in a timely manner.

"(3) Standards issued by the Secretary under paragraph (1) shall provide for consideration of factors such as—

"(A) population density;

"(B) type of highways;

"(C) type and quantities of hazardous materials;

"(D) emergency response capabilities;

"(E) consultation with affected parties;

"(F) exposure and other risk factors;

"(G) terrain considerations;

"(H) continuity of routes;

"(I) alternative routes;

"(J) effects on commerce; and

"(K) such other factors as the Secretary considers appropriate.

"(4) States shall be responsibile for determining, in accordance with requirements established by the Secretary, that the highway route designations of their political subdivisions are in accordance with this subsection.

"(5)(A) If a State (on its behalf or on behalf of one of its political subdivisions), Indian tribe, or Federal agency is unable to obtain the agreement of any adjacent State, Indian tribe, or Federal agency to a highway route designation in accordance with this subsection, after attempting to resolve the dispute directly with such adjacent State, Indian tribe, or Federal agency, the State, Indian tribe or Federal agency seeking designation may petition the Secretary to resolve the dispute. This paragraph does not apply to disputes between political subdivisions within a State.

"(B) The Secretary shall, within 18 months after the date of enactment of the Hazardous Materials Transportation Safety Improvement Act of 1990, issue regulations for resolving disputes between or among States, Indian tribes, and Federal agencies under this paragraph.

"(C) The Secretary shall resolve a dispute under this paragraph within 1 year after the date the Secretary receives the petition for resolution of such dispute.

"(D) Where any State, Indian tribe, or Federal agency is seeking a highway route designation, the regulations issued under subparagraph (B) shall provide for a finding in favor of such State, Indian tribe, or Federal agency if that designation is in accordance with the standards issued under paragraph (1) of this subsection and the highway route in dispute will provide the greatest level of highway safety without unreasonably burdening commerce.

"(c) RECONSIDERATION NOT REQUIRED.—Nothing in this section is intended to require reconsideration of existing highway routing regulations or standards related to transportation of radioactive materials.

"(d) JUDICIAL REVIEW.—(1) Except as provided in paragraph (2), route designations and dispute resolution decisions rendered under subsection (b) shall not be subject to judicial review in any civil or criminal proceeding to enforce a route designation.

"(2) Any State or Indian tribe that is a party to a proceeding under subsection (b)(5) and that is adversely affected by a decision rendered in such proceeding may, at any time before the expiration of 60 days after that decision becomes final, file a petition for judicial review with the appropriate district court of the United States.

"(e) LIST OF ROUTE DESIGNATIONS.—The Secretary shall periodically update and publish a list of currently effective hazardous materials highway route designations.

"(f) INTERNATIONAL UNIFORMITY.—(1) Subject to guidance and direction from the Secretary of State, the Secretary shall participate in international forums that establish or recommend mandatory standards and requirements for the transportation of hazardous materials in international commerce.

"(2) The Secretary may consult with interested agencies to assure that, to the extent practicable, regulations issued by the Secretary pursuant to this section shall be consistent with standards adopted by international bodies applicable to the transportation of hazardous materials. Nothing in this subsection shall require the Secretary to issue a standard identical to a standard adopted by an international body, if the Secretary determines the standard to be unnecessary or unsafe, nor shall the Secretary be prohibited from establishing safety requirements that are more stringent than those included in a standard adopted by an international body, if the Secretary determines that such requirements are necessary in the public interest.

"(g) DISCLOSURE.—(1) Each person who offers for transportation in commerce a hazardous material that is subject to the shipping paper requirements of the Secretary shall provide the carrier, or maintain on the vehicle if a private motor carrier, a shipping paper that, at a minimum, discloses in a manner prescribed by the Secretary, the following:

"(A) a description of the hazardous material including the proper shipping name;

"(B) the hazard class of the hazardous material;

"(C) the identification number (UN/NA) of the material;

"(D) immediate first action emergency response information or a means for appropriate reference to such information which must be immediately available; and

"(E) a telephone number for the purpose of obtaining more specific handling and mitigation information concerning the hazardous material at any time during its transportation.

"(2) Any person who transports a hazardous material in commerce shall, in the event of an incident involving such material, immediately disclose to appropriate emergency response authorities, upon their request, information on the hazardous material being transported.

"(h) UNLAWFUL REPRESENTATION.—No person shall, by marking or otherwise, represent that—

"(1) a container or package for the transportation of hazardous materials is safe, certified, or in compliance with the requirements of this title unless it meets the requirements of all applicable regulations issued under this title; or

"(2) a hazardous material is present in a package, container, motor vehicle, rail freight car, aircraft, or vessel, if the hazardous material is not present.

"(i) UNLAWFUL TAMPERING.—No person shall unlawfully alter, remove, deface, destroy, or otherwise tamper with—

"(1) any marking, label, placard, or description on a document required by this title or a regulation issued under this title; or

"(2) any package, container, motor vehicle, rail freight car, aircraft, or vessel used for the transportation of hazardous materials.

"(j) RETENTION OF MARKINGS AND PLACARDS.—Not later than 6 months after the date of enactment of this subsection, the Secretary of Labor, in consultation with the Secretary of Transportation and the Secretary of the Treasury, shall issue under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) standards requiring any employer who receives a package, container, motor vehicle, rail freight car, aircraft, or vessel which contains a hazardous material and which is required to be marked, placarded, or labeled in accordance with regulations issued under this Act to retain the markings, placards, and labels, and any other information as may be required by such regulations on the package, container, motor vehicle, rail freight car, aircraft, or vessel, until the hazardous materials have been removed therefrom.".

HAZARDOUS MATERIALS TRANSPORTATION SAFETY PERMITS

SEC. 4. Section 106 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1805) is amended by adding at the end the following subsection:

"(d) PERMITTING.—(1) Effective 1 year after the date of enactment of this subsection, no motor carrier may transport or cause to be transported in commerce, in a quantity established by the Secretary, any class A or B explosives, any hazardous material which has been designated by the Secretary as extremely toxic by inhalation, or any highway route controlled quantity of radioactive materials as defined by the Secretary, unless the carrier obtains and possesses a valid safety permit issued by the Secretary authorizing the carrier to engage in such transportation. Each person who offers for transportation in commerce a hazardous material to which this subsection applies may only offer such material to a carrier presenting a valid safety permit.

"(2) The Secretary shall issue a safety permit to each carrier required under paragraph (1) to possess a permit if the carrier submits a complete application and meets all other requirements of the regulations issued by the Secretary under paragraph (4), including a certification that the carrier has identified all hazardous material regulations of the Secretary applicable to the carrier's operations and is in full compliance therewith and with the Federal Motor Carrier Safety regulations contained in subchapter B of chapter III of title 49, Code of Federal Regulations.

"(3) Any safety permit issued under this subsection may, after notice and an opportunity for a hearing, be amended, suspended, or revoked by the Secretary in accordance with procedures established under paragraph (4) whenever the Secretary determines that a carrier has failed to comply with a requirement of this title or any regulation issued under this title. In cases of imminent hazard, the Secretary may amend or

suspend a safety permit immediately without the opportunity for a hearing.

"(4) The Secretary shall, by regulation, establish—

"(A) to which hazardous materials and in what quantities this subsection applies;

"(B) standards of compliance required to be met for issuance of a safety permit;

"(C) application procedures, including form, content, and filing fees;

"(D) standards for determining the duration, terms, conditions, or limitations of a safety permit;

"(E) procedures for the amendment, suspension, or revocation of a safety permit; and

"(F) any other procedures the Secretary considers appropriate to implement this subsection.

"(5) Not later than 12 months after the date of enactment of this subsection, the Secretary shall initiate a rulemaking proceeding to determine which additional materials, if any, should be included among the materials specified in paragraph (1), for which motor carrier safety permits are required because of their high degree of risk when transported. Such proceeding shall take into consideration factors including toxicity, inhalation hazard, and evacuation distances required, as well as the potential for multiple deaths or injuries or significant environmental hazards, in the event of an accident. Such proceeding shall be completed within 24 months after such date of enactment. The Secretary shall, within 3 months after completion of such proceeding, issue a rule specifying the materials, if any, which shall be included among those materials whose carriage requires a safety permit in order to protect the public interest.

"(6) The Secretary shall conduct a rulemaking proceeding and, within 12 months after the date of enactment of this subsection, shall issue regulations requiring safe operations by persons who transport or cause to be transported by rail, air, or water in commerce any class A or B explosives, any hazardous material which has been designated by the Secretary as extremely toxic by inhalation, any radioactive material in such quantity as established by the Secretary, or any other hazardous material the Secretary determines should be subject to such regulations because of its high degree of risk when transported. Such proceeding shall take into consideration factors including toxicity, inhalation hazard, and evacuation distances required, as well as the potential for multiple deaths or injuries or significant environmental hazards, in the event of an accident.".

ELIMINATION OF PUBLICATION REQUIREMENT FOR RENEWAL OF EXEMPTIONS

SEC. 5. Section 107(a) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1806(a)) is amended by inserting immediately before the period in the fourth sentence the following: "except that such publication shall not be required in the case of a renewal involving only an extension of the time during which the exemption is in effect".

DEFINITION OF RADIOACTIVE MATERIALS

SEC. 6. Section 108(b) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1807(b)) is amended by striking the second sentence and inserting in lieu thereof the following: "The term does not include any material which the Secretary determines is of such low order of radioactivity that when transported does not pose a significant hazard to health or safety.".

PURPOSE OF REVIEW OF HAZARDOUS MATERIALS TRANSPORTATION

SEC. 7. Section 109(d)(1)(C) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1808(d)(1)(C)) is amended by striking "recommend" and inserting in lieu thereof "take".

PENALTIES

SEC. 8. (a) CIVIL PENALTIES.—Section 110(a)(1) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1809(a)(1)) is amended—

(1) by striking "(except an employee who acts without knowledge)";

(2) by striking "knowingly" each place it appears;

(3) by striking "title or of a" and inserting in lieu thereof "title, or an order or";

(4) by inserting "order or" immediately after "violation of any" each place it appears; and

(5) by striking "$10,000" each place it appears and inserting in lieu thereof "$25,000 and not less than $250".

(b) CRIMINAL PENALTIES.—Subsection (b) of section 110 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1809) is amended to read as follows:

"(b) CRIMINAL.—A person who knowingly violates section 105(f) of this title or willfully violates a provision of this title or an order or regulation issued under this title shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.".

CONFORMING AMENDMENT

SEC. 9. Section 111(b) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1810(b)) is amended by striking the second sentence.

TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS

SEC. 10. The Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) is amended by redesignating section 115 as section 119, by striking section 116, and by inserting immediately after section 114 the following new section:

"TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS

"SEC. 115. (a) RAILROAD TRANSPORTATION STUDY.—The Secretary, in consultation with the Department of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the railroad transportation industry, and shippers of high-level radioactive waste and spent nuclear fuel, shall undertake a study comparing the safety of using trains operated exclusively for transporting high-level radioactive waste and spend nuclear fuel (in this section referred to as "dedicated trains") with the safety of using alternative methods of rail transportation. The Secretary shall report the results of the study to Congress not later than one year after the date of enactment of this section.

"(b) SAFE RAIL TRANSPORT OF CERTAIN RADIOACTIVE MATERIALS.—Within 24 months after the date of enactment of this section, taking into consideration the findings of the study conducted pursuant to subsection (a), the Secretary shall amend existing regulations as the Secretary deems appropriate to provide for the safe transportation by rail of high-level radioactive waste and spent nuclear fuel by various methods of rail transportation, including by dedicated train.

"(c) MODE AND ROUTE STUDY.—The Secretary shall, within 12 months after the date of enactment of this section, undertake a study to determine which factors, if any, should be taken into consideration by shippers and carriers in order to select routes and modes which, in combination, would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel. Such study shall include notice and opportunity for public comment, and shall include but not be limited to assessing the degree to which various factors, including population densities, types and conditions of modal infrastructures (such as highways, railbeds, and waterways), quantities of high-level radioactive waste and spent nuclear fuel, emergency response capabilities, exposure and other risk factors, terrain considerations, continuity of routes, available alternative routes, and environmental impact factors, affect the overall public safety of such shipments.

"(d) DEFINITIONS.—As used in this section, the term—

"(1) 'high-level radioactive waste' has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)); and

"(2) 'spent nuclear fuel' has the meaning given such term in section 2(23) fo the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).".

EMERGENCY RESPONSE PLANNING AND TRAINING GRANTS

SEC. 11. The Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.), as amended by this Act, is further amended by inserting immediately after section 115 the following new section:

"EMERGENCY RESPONSE PLANNING AND TRAINING GRANTS

"SEC. 116. (a) AUTHORITY TO MAKE GRANTS.—(1) The Secretary shall make grants beginning not later than 1 year after the date of enactment of this section to States and Indian tribes to enhance planning for responding to emergencies involving transportation of hazardous materials and for training public sector personnel used for such response.

"(2) The Secretary may not make a grant to a State or Indian tribe under this section unless such State or Indian tribe agrees that the aggregate expenditure of funds of the State or Indian tribe, exclusive of Federal funds, for training public sector personnel to respond to accidents and incidents involving the transportation of hazardous materials will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years preceding the date of the enactment of this section.

"(3) At least 75 percent of amounts *appropriated* for making grants to States under this section shall be allocated by States to political subdivisions of the State.

"(b) GRANT USE PLAN.—(1) In addition to any other requirements established by the Secretary for applications for grants under this section, an applicant for a grant under this section shall submit to the Secretary a detailed plan for the effective and coordinated use of such grant that describes—

"(A) activities to be carried out with the grant; and

"(B) the justification for and objectives of those activities.

"(2) A grant use plan submitted under this subsection shall—

"(A) include a description of the training and planning objectives to be accomplished with such grant;

"(B) foster and promote to the maximum extent possible regional cooperation, regional emergency response teams, and regional approaches to handling hazardous materi-

als, including the linking of response capabilities and emergency response planning between communities and their neighbors; and

"(C) eliminate duplication of existing efforts and provide for coordination of activities carried out with the grant with other emergency response activities conducted by Federal, State, tribal, regional, and local governmental and non-governmental entities.

"(c) ADMINISTRATION OF PROJECTS.—Not later than 1 year after the date of enactment of this section, the Secretary shall issue regulations establishing requirements for the administration of projects to be carried out with grants under this section. Such regulations shall require that such projects shall be administered, in whole or in part—

"(1) by State or tribal emergency response commissions established pursuant to section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001);

"(2) by local emergency planning committees established pursuant to that section; or

"(3) by a State or tribal agency or regional coordinating entity to be designated by the Governor of a State or Chief Executive Officer of an Indian tribe.

"(d) USE OF GRANTS.—Amounts received in the form of a grant under this section shall be used for—

"(1) surveying the routes over which hazardous materials are transported and the characteristics of that transportation;

"(2) analyzing hazards associated with that transportation;

"(3) defining specific response functions and roles of agencies and personnel of the grantee for those emergencies;

"(4) developing a long-term strategy to assure that governmental resources, and training for those resources, will be available to implement emergency response functions defined pursuant to paragraph (3);

"(5) improving and exercising hazardous materials transportation emergency response plans;

"(6) developing procedures for notifying, evacuating, and sheltering the public in the event of a hazardous materials transportation emergency;

"(7) paying for training and costs associated with training courses and materials; or

"(8) increasing the capability of the grantee to train personnel and plan for and respond to emergencies involving transportation of hazardous materials.

"(e) REQUIREMENTS TO PROMOTE EFFECTIVE USE OF TRAINING AND PLANNING FUNDS.—(1) As a condition of receiving a grant under this section for carrying out training of personnel, a State, political subdivision of a State, or Indian tribe shall certify in writing to the Secretary that the grant will be used to train a wide variety of emergency response personnel, including police, emergency medical technicians, and fire and rescue service personnel.

"(2) Training of personnel conducted with grant monies authorized under this section shall be carried out in accordance with—

"(A) training requirements of section 305(a) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11005(a)); and

"(B) occupational safety and health standards issued by the Administrator of the Environmental Protection Agency or issued by the Secretary of Labor, including but not limited to the standards set forth in part 1910 of title 29, Code of Federal Regulations, and consensus standards of the National Fire Protection Association; or

"(C) other training standards or courses issued, approved, or recommended by the Secretary, the Administrator of the Environmental Protection Agency, the Director of the Federal Emergency Management Agency, the Nuclear Regulatory Commission, the Secretary of Labor, the Secretary of Energy, the Secretary of Health and Human Services, the Federal Radiological Preparedness Coordinating Committee (for radioactive materials), or the National Response Team established under *section* 300.32 of title 40, Code of Federal Regulations.

"(3) The Secretary shall allocate funds made available for grants under this section for a fiscal year among States and Indian tribes which are eligible to receive such grants in such fiscal year based upon the needs of such States and Indian tribes for emergency response planning and training. In determining such needs, the Secretary shall consider the number and type of facilities affecting hazardous materials transportation in the State or on the lands of the Indian tribe, the types and amounts of hazardous materials transported in the State or on the lands of the Indian tribe, and also whether or not the State or Indian tribe assesses and collects fees on the transportation of hazardous materials, whether or not such fees are used solely to carry out purposes related to the transportation of hazardous materials, whether or not regional or cooperative response efforts have been coordinated, and such other factors as the Secretary determines are appropriate to carry out the objectives of this subsection.

"(f) ADOPTION OF FEDERAL STANDARDS AND COMPLIANCE WITH EMERGENCY PLANNING REQUIREMENTS BY STATES OR INDIAN TRIBES.—The Secretary may only make a grant to a State or Indian tribe under this section in a fiscal year if the State or Indian tribe is complying with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 1101 and 1103), including compliance with and enforcement of such sections with respect to accidents and incidents involving the transportation of hazardous materials.

"(g) FEDERAL SHARE.—By a grant under this section, the Secretary shall reimburse any State or Indian tribe an amount not to exceed 80 percent of the cost incurred by such State or Indian tribe in the fiscal year for carrying out the activities for which the grant is made. The funds of the State or Indian tribes which are required to be expended under subsection (a)(2) shall not be considered to be part of the non-Federal share.".

ASSISTANCE TO STATE, TRIBAL, AND LOCAL GOVERNMENTS

SEC. 12. The Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.), as amended by this Act, is further amended by inserting immediately after section 116 the following new section:

"ASSISTANCE TO STATE, TRIBAL, AND LOCAL GOVERNMENTS

"SEC. 117. As appropriate, in cooperation with the Director of the Federal Emergency Management Agency and the Administrator of the Environmental Protection Agency, the Secretary shall—

"(1) provide technical assistance to State, tribal, regional, and local governments to encourage effective and efficient emergency responses to accidents involving the transportation of hazardous materials, including assistance in the development and use of regional response teams;

"(2) develop, collect, and disseminate information concerning methods of responding to such accidents and training programs for responding to such accidents;

"(3) provide technical and financial assistance for regional planning in, and studies of, methods of improving coordinated and effective responses to such accidents;

"(4) provide technical guidance and support to assist State, tribal, regional, and local governments in enforcing regulations issued pursuant to this *title;*

"(5) provide other technical and policy assistance to State, tribal, regional, and local government entities before or during the formulation of regulations affecting hazardous materials transportation safety and before or during the formulation of routing schemes; and

"(6) provide other forms of technical, policy, and financial assistance to State, tribal, regional, and local government entities that would promote hazardous materials transportation safety.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. Section 119 of the Hazardous Materials Transportation Act, as so redesignated by section 10, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 119. (a) IN GENERAL.—There is authorized to be appropriated for carrying out the provisions of this title other than section 116 not to exceed $10,600,000 for the fiscal year ending September 30, 1990, $12,000,000 for the fiscal year ending September 30, 1991, and $14,000,000 for the fiscal year ending September 30, 1992.

"(b) EMERGENCY RESPONSE PLANNING AND TRAINING GRANTS.—There is authorized to be appropriated for carrying out the provisions of section 116 not to exceed $10,000,000 for the fiscal year ending September 30, 1991, and $25,000,000 for the fiscal year ending September 30, 1992.".

ADDITIONAL SAFETY INSPECTORS

SEC. 14. (a) IN GENERAL.—The Secretary of Transportation, in fiscal year 1991, shall employ and maintain thereafter an additional 30 *hazardous materials* safety inspectors above the number of safety inspectors authorized for fiscal year 1990, in the aggregate, for the Federal Railroad Administration, the Federal Highway Administration, and the Research and Special Programs Administration. The Secretary shall take such action as may be necessary to assure that the activities of 10 such additional inspectors focus on promoting safety in the transportation of radioactive materials, as defined by the Secretary. These activities shall include, but not be limited to—

(1) the inspection at the point of origin of every shipment of high-level radioactive waste or nuclear spent fuel, as those terms are defined in section 115 of the Hazardous Materials Transportation Act, as added by section 10 of this Act; and

(2) the inspection, to the maximum extent practicable, of shipments of radioactive materials that are not high-level radioactive waste or nuclear spent fuel.

(b) COOPERATION.—In carrying out their duties, the 10 additional inspectors authorized by this section to focus on promoting safety in the transportation of radioactive materials shall, to the maximum extent possible, cooperate with safety inspectors of the Nuclear Regulatory Commission and ap-

propriate State and local government officials.

(c) ALLOCATION OF INSPECTORS OF RADIOACTIVE MATERIALS.—Of the 10 additional inspectors authorized by subsection (a) to focus on promoting safety in the transportation of radioactive materials—

(1) not less than 1 shall be allocated to the Research and Special Programs Administration;

(2) not less than 3 shall be allocated to the Federal Railroad Administration;

(3) not less than 3 shall be allocated to the Federal Highway Administration; and

(4) the remainder shall be allocated, at the discretion of the Secretary, among the agencies referred to in paragraphs (1), (2), and (3).

(d) ALLOCATION OF OTHER SAFETY INSPECTORS.—The 20 additional inspectors authorized by subsection (a) not referred to in subsection (c) shall be allocated, at the discretion of the Secretary, among the agencies referred to in paragraphs (1), (2), and (3).

STUDY OF IDENTIFICATION OF HAZARDOUS MATERIALS IN TRANSIT

SEC. 15. (a) STUDY.—The Secretary of Transportation, in consultation with representatives of the transportation industry, transportation labor organizations, equipment manufacturers, police and fire protection organizations, shippers, and appropriate international organizations, shall undertake a study of the present system of identifying hazardous materials and means to improve such identification while in transit. The study shall address the following issues:

(1) The effectiveness of the present system of identifying hazardous materials while in transit including—

(A) the estimated frequency of improper identification and the *estimated* frequency of missing identification;

(B) the causes of improper or missing identification; and

(C) training and enforcement measures designed to ensure proper identification and the effectiveness of such measures.

(2) Modifications or alternatives to improve the present system of identifying hazardous materials while in transit.

(3) The costs associated with the present system and each of the modifications or alternatives *studied.*

(b) REPORT.—The Secretary of Transportation shall report the results of the study under subsection (a) to Congress within 1 year after the date of enactment of this Act.

MOTOR CARRIER SAFETY RATINGS

SEC. 16. (a) AMENDMENT.—The Hazardous Materials Transportation Act (49 App. 1801 et seq.), as amended by this Act, is further amended by inserting immediately after section 117 the following new section:

"UNSATISFACTORY SAFETY RATINGS

"SEC. 118. (a) PROHIBITION ON TRANSPORTATION.—Effective January 1, 1991, if a motor carrier receives a safety rating from the Secretary which is unsatisfactory, such motor carrier shall have 45 days to take such action as may be necessary to improve such safety rating to conditional or satisfactory. After the last day of such 45-day period, if such motor carrier has not received a safety rating from the Secretary which is conditional or satisfactory, such motor carrier shall not operate a commercial motor vehicle (as defined in section 204(1) of the Motor Carrier Safety Act of 1984)—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver,

until such motor carrier has received such a safety rating from the Secretary.

"(b) REVIEW OF RATING.—If a motor carrier who has received an unsatisfactory safety rating from the Secretary requests the Secretary to review the conditions and other factors which resulted in such motor carrier receiving the unsatisfactory safety rating, the Secretary shall conduct such review within 30 days after the date of such request.

"(c) PROHIBITION ON FEDERAL AGENCY USE.—No Federal agency may use a motor carrier who has an unsatisfactory safety rating from the Secretary—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver.".

(b) PUBLIC AVAILABILITY OF SAFETY RATINGS.—Not later than one year after the date of enactment of this Act, the Secretary, in consultation with the Interstate Commerce Commission, shall issue a final rule amending the Federal motor carrier safety regulations contained in subchapter of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to periodically update, the safety ratings of motor carriers, which have been assigned unsatisfactory safety ratings by the Secretary.

RULEMAKING ON REGISTRATION

SEC. 17. Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding concerning the need to establish annual or other registration requirements for persons or any class or category of persons who transport, ship, or cause to be transported or shipped in commerce hazardous materials, who store in transit hazardous materials, or who manufacture, fabricate, mark, maintain, recondition, repair, or test packages or containers which are represented, marked, certified, or sold for use in the transportation in commerce of hazardous materials. Such rulemaking shall take into consideration the feasibility of registration as a means of promoting compliance with the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) or any order or regulation issued under that Act, targeting enforcement efforts, and identifying areas of high risk, including consideration of alternatives to registration, the costs of administering a registration program, and mechanisms for the recovery of such costs. Any final rule issued under this subsection shall be issued not later than 30 months following the date of enactment of this Act.

STATE PARTICIPATION IN INVESTIGATIONS AND SURVEILLANCE

SEC. 18. (a) AMENDMENT OF SECTION 206(a) OF FRSA.—Section 206(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(a)) is amended—

(1) by inserting "related to railroad safety" immediately after "standard prescribed";

(2) by striking "under this title" the first place it appears;

(3) by striking "established under this title" in paragraph (2); and

(4) by striking "prescribed by the Secretary under Section 202(a) of this title" and inserting in lieu thereof "relating to railroad safety prescribed by the Secretary".

(b) AMENDMENT OF SECTION 206(b) OF FRSA.—Section 206(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(b)) is amended by striking "prescribed by him under section 202(a) of this title" and inserting in lieu thereof "relating to railroad safety prescribed by the Secretary".

(c) AMENDMENT OF SECTION 206(f) OF FRSA.—Section 206(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(f)) is amended by striking "under this title".

(d) AMENDMENT TO SECTION 206 OF FRSA.—Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) is amended by adding at the end the following new subsection:

"(h)(1) The Secretary, by regulation, shall establish and carry out a program for the purpose of imposing on railroads, and collecting, fees related to State participation.

"(2) Such fees shall be established based on such factors, among other relevant factors, as revenue ton-miles, track miles, passenger miles, revenues, other relevant factors, or any combination thereof. In no case shall the aggregate surcharges imposed for any one fiscal year exceed $5,000,000.

"(3) The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

"(4) Fees collected by the Secretary shall be retained by the Secretary and maintained in a separate fund and used by the Secretary for making payments to the States to assist such States in carrying out safety programs in accordance with subsection (d). Moneys in such fund shall be available to the Secretary for each fiscal year hereafter until expended by the Secretary in accordance with this section.

"(5) The Secretary shall promulgate regulations under this subsection prior to the expiration of the 60-day period immediately following the date of its enactment.".

(e) AMENDMENT OF SECTION 207(a)(1) OF FRSA.—Section 207(a)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436(a)(1)) is amended—

(1) by striking "under section 209 of this title" with respect"; and

(2) by striking "issued under this title or under any law transferred by section 6(e)(1), (e)(2), or (e)(6)(A) of the Department of Transportation Act".

(f) AMENDMENT OF SECTION 210(a) OF FRSA.—Section 210(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439(a)) is amended by striking "this title or to enforce rules, regulations, orders, or standards established under this title" and inserting in lieu thereof "or to enforce rules, regulations, orders, or standards relating to railroad safety".

SHIPPER RESPONSIBILITY STUDY

SEC. 19. Within 3 months after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on—

(1) the safety benefits of providing that if a person causes a hazardous material to be transported in bulk in commerce by a motor carrier which has an unsatisfactory safety rating issued by the Secretary, or by a motor carrier which has a conditional rating and which has not received a satisfactory safety rating during the previous 12 months, such person shall be liable for at least 50 percent of the costs, damages, and attorneys' fees assessed against the motor carrier

for any hazardous material incident involving such transportation;

(2) such other systems as the Secretary may determine would assure responsible actions by a person who causes the transportation of a hazardous material in bulk in commerce; and

(3) the safety benefits of providing that the liability of the person or persons who caused such a shipment cannot be transferred by indemnification, hold harmless agreements, or similar agreements, except that such person or persons may obtain insurance covering such liability.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMAS A. LUKEN

Mr. THOMAS A. LUKEN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. THOMAS A. LUKEN: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Hazardous Materials Transportation Uniform Safety Act of 1990".

(b) REFERENCE.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Hazardous Materials Transportation Act.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Federal regulations governing transportation of hazardous materials.
Sec. 5. Representation and tampering.
Sec. 6. Disclosure.
Sec. 7. Handling of hazardous materials.
Sec. 8. Hazardous materials transportation registration; motor carrier safety permits.
Sec. 9. Exemptions.
Sec. 10. Definition of certain materials.
Sec. 11. Secretary's powers.
Sec. 12. Penalties.
Sec. 13. Relationship to other laws.
Sec. 14. Funding.
Sec. 15. Transportation of certain highly radioactive materials.
Sec. 16. Inspectors.
Sec. 17. Public sector training and planning.
Sec. 18. Hazmat employee training grant program.
Sec. 19. Railroad tank cars.
Sec. 20. Application of Federal, State, and local law to Federal contractors.
Sec. 21. Railroad tank car study.
Sec. 22. Uniformity of State motor carrier registration and permitting forms and procedures.
Sec. 23. Financial responsibility.
Sec. 24. Federally leased commercial motor vehicles.
Sec. 25. Improvements to hazardous materials identification systems.
Sec. 26. Continually monitored telephone systems.
Sec. 27. Shipper responsibility report.
Sec. 28. State participation in investigations and surveillance.
Sec. 29. Retention of markings and placards.
Sec. 30. Relationship to Federal Railroad Safety Act of 1970.
Sec. 31. Effective date.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Department of Transportation estimates that approximately 4 billion tons of regulated hazardous materials are transported each year and that approximately 500,000 movements of hazardous materials occur each day,

(2) accidents involving the release of hazardous materials are a serious threat to public health and safety,

(3) many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable,

(6) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of adequately trained State and local emergency response personnel is required,

(7) the Office of Technology Assessment has estimated that approximately 1,500,000 emergency response personnel need better basic or advanced training for responding to the unintentional release of hazardous materials at fixed facilities and in transportation, and

(8) the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner.

SEC. 3. DEFINITIONS.

(a) DEFINITIONS.—Section 103 (49 U.S.C. App. 1802) is amended to read as follows:

"SEC. 103. DEFINITIONS.

"For purposes of this title, the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) COMMERCE.—The term 'commerce' means trade, traffic, commerce, or transportation within the jurisdiction of the United States (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

"(3) DIRECTOR.—The term 'Director' means the Director of the Federal Emergency Management Agency.

"(4) HAZARDOUS MATERIAL.—The term 'hazardous material' means a substance or material designated by the Secretary under section 104.

"(5) HAZMAT EMPLOYEE.—The term 'hazmat employee' means an individual who is employed by a hazmat employer and who in the course of the individual's employment directly affects hazardous materials transportation safety as determined by the Secretary by regulation. Such term includes an owner-operator of a motor vehicle which transports in commerce hazardous materials. Such term includes, at a minimum, an individual who is employed by a hazmat employer and who in the course of the individual's employment—

"(A) loads, unloads, or handles hazardous materials;

"(B) reconditions or tests containers, drums, and packages represented for use in the transportation of hazardous materials;

"(C) prepares hazardous materials for transportation;

"(D) is responsible for the safety of the transportation of hazardous materials; or

"(E) operates a vehicle used to transport hazardous materials.

"(6) HAZMAT EMPLOYER.—The term 'hazmat employer' means a person—

"(A)(i) who transports in commerce hazardous materials,

"(ii) who causes to be transported or shipped in commerce hazardous materials, or

"(iii) who reconditions or tests containers, drums, and packages represented for use in the transportation of hazardous materials; and

"(B) who utilizes 1 or more of its employees in connection with such activity.

Such term includes an owner-operator of a motor vehicle which transports in commerce hazardous materials. Such term includes any department, agency, or instrumentality of the United States, a State, a political subdivision of a State, or an Indian tribe engaged in an activity described in subparagraph (A)(i), (A)(ii), or (A)(iii).

"(7) IMMINENT HAZARD.—The term 'imminent hazard' means the existence of a condition which presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion of an administrative hearing or other formal proceeding initiated to abate the risks of those effects.

"(8) INDIAN TRIBE.—The term 'Indian tribe' shall have the meaning given that term under section 4 of the Indian Self-Determination and Education Act (25 U.S.C. 450b).

"(9) MOTOR CARRIER.—The term 'motor carrier' means a motor common carrier, motor contract carrier, motor private carrier, and freight forwarder as those terms are defined in section 10102 of title 49, United States Code.

"(10) NATIONAL RESPONSE TEAM.—The term 'National Response Team' means the national response team established pursuant to the National Contingency Plan as established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"(11) PERSON.—The term 'person' means an individual, firm, copartnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, or government, Indian tribe, or agency or instrumentality of any government or Indian tribe when it offers hazardous materials for transportation in commerce or transports hazardous materials in furtherance of a commercial enterprise, but such term does not include (A) the United States Postal Service, or (B) for the purposes of sections 110 and 111 of this title, any agency or instrumentality of the Federal Government.

"(12) PUBLIC SECTOR EMPLOYEE.—The term 'public sector employee' means an individual who is employed by a State or a political subdivision thereof or an Indian tribe and

who in the course of the individual's employment has responsibilities relating to responding to accidents and incidents involving the transportation of hazardous materials. Such term includes, at a minimum, a person employed by a State or political subdivision thereof or an Indian tribe as a firefighter or law enforcement officer. Such term also includes a person who volunteers to serve as a firefighter for a State or political subdivision thereof or an Indian tribe.

"(13) SECRETARY.—The term 'Secretary' means the Secretary of Transportation or the Secretary's delegate.

"(14) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, or any other territory or possession of the United States designated by the Secretary; except that as used in section 121, relating to uniformity of State registration and permitting forms and procedures, such term means a State of the United States and the District of Columbia.

"(15) TRANSPORTS OR TRANSPORTATION.—The term 'transports' or 'transportation' means any movement of property by any mode, and any loading, unloading, or storage incidental thereto.

"(16) UNITED STATES.—The term 'United States' means all of the States.".

(b) CONFORMING AMENDMENT.—Section 111(b) (49 U.S.C. App. 1810(b)) is amended by striking the second sentence.

SEC. 4. FEDERAL REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS.

Section 105 (49 U.S.C. App. 1804) is amended to read as follows:

"SEC. 105. REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS.

"(a) GENERAL.—

"(1) ISSUANCE.—The Secretary shall issue regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. The regulations issued under this section shall govern any aspect of hazardous materials transportation safety which the Secretary deems necessary or appropriate.

"(2) PROCEDURES.—Regulations issued under paragraph (1) shall be issued in accordance with section 553 of title 5, United States Code, including an opportunity for informal oral presentation.

"(3) APPLICABILITY.—Regulations issued under paragraph (1) shall be applicable to any person who transports, ships, causes to be transported or shipped, or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person as qualified for use in the transportation in commerce of hazardous materials.

"(4) PREEMPTION.—

"(A) GENERAL RULE.—Except as provided in subsection (b) and unless otherwise authorized by Federal law, any law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or an Indian tribe, which concerns a subject listed in subparagraph (B) and which is not substantively the same as any provision of this Act or any regulation under such provision which concerns such subject, is preempted.

"(B) COVERED SUBJECTS.—The subjects referred to in subparagraph (A) are the following:

"(i) The designation, description, and classification of hazardous materials.

"(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials.

"(iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents.

"(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials.

"(v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

"(C) LIMITATION ON FINES AND PENALTIES.—If a State or political subdivision or Indian tribe assesses any fine or penalty determined by the Secretary to be appropriate for a violation concerning a subject listed in subparagraph (B), no additional fine or penalty may be assessed for such violation by any other authority.

"(5) STATE LAWS WHICH ARE SUBSTANTIVELY THE SAME AS FEDERAL LAW.—

"(A) CONTINUATION.—If the Secretary issues under this section before, on, or after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, a regulation, rule, or standard concerning any subject set forth in paragraph (4), a State, political subdivision of a State, or Indian tribe may only establish, maintain, and enforce a law, regulation, rule, standard, or order concerning such subject which is substantively the same as any provision of this Act or any regulation, rule, or order issued under such provision.

"(B) EFFECTIVE DATE OF FEDERAL PREEMPTION.—The Secretary shall determine and publish in the Federal Register the effective date of paragraph (1) with respect to any regulation, rule, or standard described in subparagraph (A) and which is issued after such date of enactment by the Secretary; except that such effective date may not be earlier than the 90th day following the date of such issuance and may not be later than the last day of the 2-year period beginning on the date of such issuance.

"(b) HIGHWAY ROUTING.—

"(1) STATE AUTHORITY.—Subject to paragraphs (4) and (5), each State and Indian tribe may establish, maintain, and enforce (A) specific highway routes over which hazardous materials may and may not be transported by motor vehicles in the area which is subject to the jurisdiction of such State or Indian tribe, and (B) limitations and requirements with respect to highway routing.

"(2) ISSUANCE OF FEDERAL STANDARDS.—Not later than 18 months after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary, in consultation with the States, shall establish by regulation standards for States and Indian tribes to use in establishing, maintaining, and enforcing (A) specific highway routes over which hazardous materials may and may not be transported by motor vehicles, and (B) limitations and requirements with respect to highway routing.

"(3) CONTENTS OF STANDARDS.—The Federal standards established pursuant to paragraph (2) shall include the following:

"(A) ENHANCEMENT OF PUBLIC SAFETY.—A requirement that highway routing designations, limitations, and requirements established, maintained, and enforced by a State or Indian tribe shall enhance public safety (i) in the area subject to the jurisdiction of the State or Indian tribe, and (ii) in areas of the United States not subject to such jurisdiction which are directly affected by such designations, limitations, and requirements.

"(B) PUBLIC PARTICIPATION.—Minimum procedural requirements for ensuring public participation in the establishment by a State or Indian tribe of highway routing designations, limitations, and requirements.

"(C) CONSULTATION WITH OTHER GOVERNMENTS.—A requirement that, in establishing highway routing designations, limitations, and requirements, the State or Indian tribe shall consult with appropriate State, local, and tribal officials having jurisdiction over areas of the United States not subject to the jurisdiction of the establishing State or Indian tribe and affected industries.

"(D) THROUGH ROUTING.—A requirement that highway routing designations, limitations, and requirements established, maintained, and enforced by a State or Indian tribe shall assure through highway routing for the transportation of hazardous materials between adjacent areas.

"(E) AGREEMENT OF OTHER STATES; BURDEN ON COMMERCE.—A requirement that a highway routing designation, limitation, or requirement which affects the transportation of hazardous materials in another State or Indian tribe may only be established, maintained, and enforced by a State or Indian tribe if (i) it is agreed to by the other State or Indian tribe within a reasonable period or has been approved by the Secretary under paragraph (5), and (ii) does not unreasonably burden commerce.

"(F) TIMELINESS.—A requirement that the establishment of highway routing designations, limitations, and requirements by a State or Indian tribe shall be completed in a timely manner.

"(G) REASONABLE ROUTES TO TERMINALS.—A requirement that highway routing designations, limitations, and requirements established, maintained, and enforced by a State or Indian tribe shall provide reasonable routes for motor vehicles transporting hazardous materials to reach terminals, facilities for food, fuel, repairs, and rest, and points for the loading and unloading of hazardous materials.

"(H) STATE RESPONSIBILITY FOR LOCAL COMPLIANCE.—A requirement that the State shall be responsible (i) for ensuring that political subdivisions of the State comply with the Federal standards in establishing, maintaining, and enforcing highway routing designations, limitations, and requirements, and (ii) for resolving disputes between or among such political subdivisions.

"(I) FACTORS TO CONSIDER.—A requirement that, in establishing, maintaining, and enforcing highway routing designations, limitations, and requirements, a State or Indian tribe consider—

"(i) population density,

"(ii) type of highways,

"(iii) type and quantities of hazardous materials,

"(iv) emergency response capabilities,

"(v) results of consultations with affected persons,

"(vi) exposure and other risk factors,

"(vii) terrain considerations,

"(viii) continuity of routes,

"(ix) alternative routes,

"(x) effects on commerce,

"(xi) delays in transportation, and

"(xii) such other factors as the Secretary considers appropriate

"(4) PREEMPTION.—

"(A) GENERAL RULE.—Except as otherwise provided in this paragraph, after the last

day of the 2-year period beginning on the date of the issuance of the regulations establishing the Federal standards pursuant to paragraph (2), no State or Indian tribe may establish, maintain, or enforce—

"(i) any highway route designation over which hazardous materials may or may not be transported by motor vehicles, or

"(ii) any limitation or requirement with respect to such routing,

unless such designation, limitation, or requirement is made in accordance with the procedural requirements of the Federal standards and complies with the substantive requirements of the Federal standards.

"(B) GRANDFATHER CLAUSE.—Designations, limitations, and requirements established before the date of issuance referred to in subparagraph (A) do not have to be in accordance with procedural requirements of the Federal standards established pursuant to paragraphs (3)(B), (3)(C), and (3)(F).

"(C) LIMITATION WITH RESPECT TO CONSIDERATION OF FACTORS.—Nothing in this subsection shall be construed as requiring a State or Indian tribe to comply with paragraph (3)(I) with respect to designations, limitations, and requirements established before the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990.

"(D) CONTINUATION OF EFFECTIVENESS DURING DISPUTE RESOLUTION.—The Secretary may permit a highway route designation or limitation or requirement of a State or Indian tribe to continue in effect pending the resolution of a dispute under paragraph (5) relating to such designation, limitation, or requirement.

"(5) DISPUTE RESOLUTION.—

"(A) PETITION OF SECRETARY.—If a dispute over a matter relating to through highway routing or a dispute relating to agreement with a proposed highway route designation, limitation, or requirement arises between or among States, political subdivisions of different States, or Indian tribes, 1 or more of such States or Indian tribes may petition the Secretary to resolve the dispute.

"(B) PROCEDURE.—The Secretary shall, within 18 months of the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, issue regulations for resolving disputes under this paragraph.

"(C) TIME PERIOD.—The Secretary shall resolve a dispute under this paragraph within 1 year after the date the Secretary receives the petition for resolution of such dispute.

"(D) STANDARD.—Resolution of a dispute under this paragraph shall provide the greatest level of highway safety without unreasonably burdening commerce and shall ensure compliance with the Federal standards established pursuant to paragraph (2).

"(E) LIMITATION ON JUDICIAL REVIEW.—After a petition is filed under this paragraph to resolve a dispute, no court action may be brought with respect to the subject matter of such dispute until a final decision of the Secretary is issued under this paragraph or the last day of the 1-year period beginning on the day the Secretary receives such petition, whichever occurs first.

"(F) JUDICIAL REVIEW.—Any State or Indian tribe which is adversely affected by a decision of the Secretary under this paragraph may, at any time before the 90th day following the date such decision becomes final, bring an action for judicial review in an appropriate district court of the United States.

"(6) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection and the regulations issued under this subsection shall be construed as superseding or otherwise affecting application of section 127 of title 23, United States Code, relating to vehicle weight limitations, or section 411 or 416 of the Surface Transportation Assistance Act of 1982, relating to vehicle length and vehicle width limitations, respectively.

"(7) LIMITATION ON APPLICABILITY.—

"(A) PLACARDED MOTOR VEHICLES.—Subject to subparagraph (B), this subsection only applies to a motor vehicle if the vehicle is transporting in commerce a hazardous material for which placarding of the vehicle is required in accordance with the regulations issued under this title.

"(B) AUTHORITY TO EXTEND APPLICABILITY.—The Secretary may, by regulation, extend application of this subsection or any Federal standard established pursuant to paragraph (2)—

"(i) to any use of a vehicle described in subparagraph (A) to provide transportation in commerce of any hazardous material; and

"(ii) to any motor vehicle used to transport in commerce hazardous materials.

"(8) EXISTING REGULATIONS RELATING TO RADIOACTIVE MATERIALS.—Nothing in this subsection shall be construed to require the Secretary to amend, modify, or reissue regulations issued by the Department of Transportation before the date of the enactment of this paragraph and in effect on such date with respect to highway route designations over which radioactive materials may and may not be transported by motor vehicles and limitations and requirements with respect to such routing.

"(9) LIMITATION ON AUTHORITY OF SECRETARY.—The Secretary may not assign any specific weight to be given by the States and Indian tribes in considering factors pursuant to paragraph (3)(I).

"(c) LIST OF ROUTE DESIGNATIONS.—The Secretary, in coordination with the States, shall periodically update and publish a list of currently effective hazardous materials highway route designations.

"(d) INTERNATIONAL UNIFORMITY.—

"(1) DOT PARTICIPATION IN INTERNATIONAL FORUMS.—Subject to guidance and direction from the Secretary of State, the Secretary shall participate in international forums that establish or recommend mandatory standards and requirements for the transportation of hazardous materials in international commerce.

"(2) CONSULTATION.—The Secretary may consult with interested agencies to assure that, to the extent practicable, regulations issued by the Secretary pursuant to this section shall be consistent with standards adopted by international bodies applicable to the transportation of hazardous materials. Nothing in this subsection shall require the Secretary to issue a standard identical to a standard adopted by an international body, if the Secretary determines the standard to be unnecessary or unsafe, nor shall the Secretary be prohibited from establishing safety requirements that are more stringent than those included in a standard adopted by an international body, if the Secretary determines that such requirements are necessary in the public interest.".

SEC. 5. REPRESENTATION AND TAMPERING.

Section 105 (49 U.S.C. App. 1804), as amended by section 4, is amended by adding at the end the following new subsections:

"(e) UNLAWFUL REPRESENTATION.—No person shall, by marking or otherwise, represent that—

"(1) a container or package for the transportation of hazardous materials is safe, certified, or in compliance with the requirements of this title unless it meets the requirements of all applicable regulations issued under this title; or

"(2) a hazardous material is present in a package, container, motor vehicle, rail freight car, aircraft, or vessel, if the hazardous material is not present.

"(f) UNLAWFUL TAMPERING.—No person shall unlawfully alter, remove, deface, destroy, or otherwise tamper with—

"(1) any marking, label, placard, or description on a document required by this title or a regulation issued under this title; or

"(2) any package, container, motor vehicle, rail freight car, aircraft, or vessel used for the transportation of hazardous materials.

SEC. 6. DISCLOSURE.

Section 105 (49 U.S.C. App. 1804), as amended by section 5, is amended by adding at the end the following new subsection:

"(g) DISCLOSURE.—

"(1) MAINTENANCE OF SHIPPING PAPER.—Each person who offers for transportation in commerce a hazardous material that is subject to the shipping paper requirements of the Secretary shall provide the carrier who is providing such transportation any shipping paper that makes the disclosure established by the Secretary under paragraph (2) for the carrier to maintain on the vehicle to be used to provide such transportation. If the person offering such material for transportation is also a private motor carrier, such person shall maintain such shipping paper on the vehicle.

"(2) CONSIDERATIONS AND CONTENTS.—In carrying out paragraph (1), the Secretary shall consider and may require the following:

"(A) a description of the hazardous material, including the proper shipping name of the material,

"(B) the hazard class of the hazardous material,

"(C) the identification number (UN/NA) of the material,

"(D) immediate first action emergency response information or a means for appropriate reference to such information which must be immediately available, and

"(E) a telephone number for the purpose of obtaining more specific handling and mitigation information concerning the hazardous material at any time during its transportation.

"(3) SPECIFICATION OF LOCATION.—The shipping paper referred to in paragraph (1) shall be kept in a location, to be specified by the Secretary, in the motor vehicle, train, vessel, aircraft, or facility until the hazardous material is no longer in transportation or the documents have been made available to a representative of a Federal, State, or local government agency responding to an accident or incident involving the motor vehicle, train, vessel, aircraft, or facility.

"(4) DISCLOSURE TO EMERGENCY RESPONSE AUTHORITIES.—Any person who transports a hazardous material in commerce shall, in the event of an incident involving such material, immediately disclose to appropriate emergency response authorities, upon their request, information on the hazardous material being transported.".

SEC. 7. HANDLING OF HAZARDOUS MATERIALS.

Section 106 (49 U.S.C. App. 1805) is amended—

(1) by redesignating subsections (b) and (c), and any reference thereto, as subsections (e) and (f), respectively;

(2) in subsection (e), as so redesignated, by striking "(b)" and inserting "(c)"; and

(3) by inserting after subsection (a) the following new subsection:

"(b) TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION.—

"(1) FEDERAL REQUIREMENTS.—Within 18 months after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary shall issue, by regulation, requirements for training to be given by all hazmat employers to their hazmat employees regarding the safe loading, unloading, handling, storing, and transporting of hazardous materials and emergency preparedness for responding to accidents or incidents involving the transportation of hazardous materials.

"(2) DIFFERENT TRAINING REQUIREMENTS.—The regulations issued under paragraph (1) may provide for different training for different classes or categories of hazardous materials and hazmat employees.

"(3) COORDINATION OF EMERGENCY RESPONSE TRAINING REGULATIONS.—In consultation with the Administrator and the Secretary of Labor, the Secretary shall take such actions as may be necessary to ensure that the training requirements established under this subsection do not conflict with the requirements of the regulations issued by the Occupational Safety and Health Administration of the Department of Labor relating to hazardous waste operations and emergency response contained in part 1910 of title 29 of the Code of Federal Regulations (and amendments thereto) and the regulations issued by the Environmental Protection Agency relating to worker protection standards for hazardous waste operations contained in part 311 of title 40 of such Code (and amendments thereto). For purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), no action taken by the Secretary pursuant to this section shall be deemed to be an exercise of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

"(4) COMMENCEMENT OF TRAINING.—Within 6 months after the date on which the Secretary issues regulations under this subsection, each hazmat employer shall have commenced training of its hazmat employees in accordance with the requirements established by such regulations.

"(5) COMPLETION OF TRAINING.—Regulations issued under this subsection shall establish the date by which training of hazmat employees shall be completed in order to comply with requirements established by such regulations. Such date shall be within a reasonable period of time after (A) 6 months following the date of the issuance of such regulations, or (B) in the case of an individual employed as a hazmat employee after such 6-month period, the date on which the individual is to begin carrying out a duty of a hazmat employee.

"(6) CERTIFICATION.—After completion of training of its hazmat employees in accordance with the requirements established under this subsection, each hazmat employer shall certify, with such appropriate documentation as may be required by regulation by the Secretary, that the employer's hazmat employees have received training and have been tested on appropriate transportation areas of responsibility, including one or more of the following areas:

"(A) Recognition and understanding of the Department of Transportation hazardous materials classification system.

"(B) Use and limitations of the Department of Transportation hazardous materials placarding, labeling, and marking systems.

"(C) General handling procedures, loading and unloading techniques, and strategies to reduce the probability of release or damage during or incidental to transportation of hazardous materials.

"(D) Health, safety, and risk factors associated with hazardous materials and their transportation.

"(E) Appropriate emergency response and communication procedures for dealing with accidents and incidents involving hazardous materials transportation.

"(F) Use of the Department of Transportation Emergency Response Guidebook and recognition of its limitations or use of equivalent documents and recognition of the limitations of such documents.

"(G) Applicable hazardous materials transportation regulations.

"(H) Personal protection techniques.

"(I) Preparation of shipping documents for transportation of hazardous materials.

"(7) APPLICABILITY OF INFORMATION MANAGEMENT REQUIREMENTS.—Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy) shall not apply to activities of the Secretary under this subsection.".

SEC. 8. HAZARDOUS MATERIALS TRANSPORTATION REGISTRATION; MOTOR CARRIER SAFETY PERMITS.

Section 106 (49 U.S.C. App. 1805), as amended by section 7, is amended by inserting after subsection (b) the following new subsections:

"(c) REGISTRATION.—

"(1) MANDATORY FILINGS.—Each person who carries out one or more of the following activities shall file with the Secretary a registration statement in accordance with the provisions of this subsection:

"(A) Transporting or causing to be transported or shipped in commerce highway-route controlled quantities of radioactive materials, more than 25 kilograms of class A or class B explosives in a motor vehicle, rail car, or transport container, or more than 1 liter per package of a hazardous material which has been designated by the Secretary as extremely toxic by inhalation.

"(B) Transporting or causing to be transported or shipped in commerce a hazardous material in a bulk package, container, or tank as defined by the Secretary if the package, container, or tank has a capacity of 3,500 or more gallons or more than 468 cubic feet.

"(C) Transporting or causing to be transported or shipped in commerce a shipment of 5,000 pounds or more of a class of a hazardous material for which placarding of a vehicle, rail car, or freight container is required in accordance with the regulations issued under this title.

"(2) COOPERATION OF EPA.—The Administrator shall assist the Secretary in carrying out this subsection by furnishing the Secretary with such information as the Secretary may request in order to carry out the objectives of this section.

"(3) DISCRETIONARY FILINGS.—The Secretary may require each person who carries out one or more of the following activities to file a registration statement with the Secretary in accordance with the provisions of this subsection:

"(A) Transporting or causing to be transported or shipped in commerce hazardous materials and who is not required to file a registration statement under paragraph (1).

"(B) Manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing packages or containers which are represented, marked, certified, or sold by such person for use in the transportation in commerce of hazardous materials designated by the Secretary.

"(4) REQUIREMENT.—No person required to file a registration statement by or under this subsection may transport or cause to be transported or shipped hazardous materials, or manufacture, fabricate, mark, maintain, recondition, repair, or test packages or containers for use in the transportation of hazardous materials, unless such person has on file a registration statement in accordance with this subsection.

"(5) FILING DEADLINES.—

"(A) INITIAL FILINGS.—Each person who is required to file a registration statement by or under this subsection shall file an initial registration statement by March 31, 1992. The Secretary may extend such date to September 30, 1992, with respect to the requirements of paragraph (1).

"(B) RENEWALS.—Subject to the provisions of this subsection, each person who is required to file a registration statement by or under this section shall renew such registration statement periodically in accordance with regulations issued by the Secretary, but no less frequently than every 5 years and no more frequently than annually.

"(6) AMENDMENTS.—The Secretary shall by regulation determine when and under what circumstances a registration statement filed under this subsection with the Secretary must be amended and the procedures to be followed in amending such statement.

"(7) CONTENTS.—A registration statement under this subsection shall be in such form and contain such information as the Secretary may require by regulation. The Secretary may utilize existing forms of the Department of Transportation and the Environmental Protection Agency in carrying out this subsection. At a minimum, such statement shall include—

"(A) the registrant's name and principal place of business;

"(B) a description of each activity the registrant carries out for which filing of a registration statement is required by or under this section; and

"(C) the State or States in which such person carries out each such activity.

"(8) LIMITATION ON NUMBER OF FILINGS.—A person who carries out more than one activity for which filing of a registration statement is required by or under this subsection only needs to file one registration statement in order to comply with this subsection.

"(9) STREAMLINED PROCESS.—The Secretary may take such action as may be necessary to streamline and simplify the registration process under this subsection and to minimize with respect to a person who is required to file a registration statement under this subsection the number of applications, documents, and other information which such person is required to file with the Department of Transportation under this title and any other laws of the United States.

"(10) DISCLOSURE.—The Secretary shall make a registration statement filed under this subsection available for inspection by any person, for a fee to be established by the Secretary; except that nothing in this sentence shall be considered to require the release of any information described in section 552(f) of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

"(11) FEES.—The Secretary may establish, assess, and collect such fees from persons required to file registration statements by

or under this subsection as may be necessary to cover the costs of the Department of Transportation in processing such registration statements.

"(12) PROOF OF REGISTRATION AND PAYMENT OF FEES.—The Secretary may issue regulations requiring a person required to file a registration statement by or under this subsection to maintain proof of the filing of such statement and the payment of any fees assessed under this subsection and section 117(h).

"(13) APPLICABILITY OF INFORMATION MANAGEMENT REQUIREMENTS.—Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy) shall not apply to activities of the Secretary under this subsection.

"(14) NONAPPLICABILITY TO EMPLOYEES.—Notwithstanding any other provisions of this subsection, an employee of a hazmat employer is not required to file a registration statement by or under this section.

"(15) EXEMPTION OF GOVERNMENT AGENCIES AND EMPLOYEES.—Agencies of the Federal Government, agencies of States, and agencies of political subdivisions of States, and employees of such agencies with respect to their official duties do not have to file registration statements under this subsection.

"(d) MOTOR CARRIER SAFETY PERMITS.—

"(1) REQUIREMENT.—Except as provided in this subsection, a motor carrier may transport or cause to be transported by motor vehicle in commerce a hazardous material only if the motor carrier holds a safety permit issued by the Secretary under this section authorizing the transportation and keeps a copy of such permit, or other proof establishing the existence of such permit, in the motor vehicle used to provide such transportation.

"(2) ISSUANCE.—Except as provided in this subsection, the Secretary shall issue a safety permit to a motor carrier authorizing that carrier to transport or cause to be transported by motor vehicle in commerce a hazardous material if the Secretary finds that the carrier is fit, willing, and able—

"(A) to provide the transportation to be authorized by the permit;

"(B) to comply with this title and the regulations issued by the Secretary to carry out this title; and

"(C) to comply with any applicable Federal motor carrier safety laws and regulations and any applicable Federal minimum financial responsibility laws and regulations.

"(3) SHIPPER'S RESPONSIBILITY.—Each person who offers a hazardous material for motor vehicle transportation in commerce may offer that material to a motor carrier only if the carrier has a safety permit issued under this subsection authorizing such transportation.

"(4) AMENDMENT, SUSPENSION, AND REVOCATION.—A safety permit issued to a motor carrier under this subsection may, after notice and an opportunity for hearing, be amended, suspended, or revoked by the Secretary in accordance with procedures established under paragraph (6) whenever the Secretary determines that such carrier has failed to comply with a requirement of this title, any regulation issued under this title, any applicable Federal motor carrier safety law or regulation, or any applicable Federal minimum financial responsibility law or regulation. If the Secretary determines that an imminent hazard exists, the Secretary may amend, suspend, or revoke the safety permit before scheduling a hearing thereon.

"(5) COVERED TRANSPORTATION.—The Secretary shall establish by regulation the hazardous materials and quantities thereof to which this subsection applies; except that this section shall apply, at a minimum, to all transportation by a motor carrier of a class A or B explosive, a liquefied natural gas, a hazardous material which has been designated by the Secretary as extremely toxic by inhalation, on a highway route controlled quantity of radioactive materials as defined by the Secretary.

"(6) PROCEDURES.—The Secretary shall establish by regulation—

"(A) application procedures, including form, content, and fees necessary to recover the full costs of administering this subsection;

"(B) standards for determining the duration, terms, conditions, or limitations of a safety permit;

"(C) procedures for the amendment, suspension, or revocation of a safety permit issued under this section; and

"(D) any other procedures the Secretary deems appropriate to implement this subsection.

"(7) APPLICATION.—A motor carrier shall file an application with the Secretary for a safety permit to provide transportation under this subsection. The Secretary may approve any part of the application or deny the application. The application shall—

"(A) be under oath; and

"(B) contain such information as the Secretary may require by regulation.

"(8) CONDITIONS.—A motor carrier may provide transportation under a safety permit issued under this subsection only if the carrier complies with such conditions as the Secretary finds are required to protect public safety.".

(b) SAFETY PERMITS.—Section 106(d) of the Hazardous Materials Transportation Act, relating to motor carrier safety permits, shall take effect 2 years after the date of the enactment of this Act; except that the Secretary shall issue regulations necessary to carry out such section not later than 1 year after such date of enactment.

(c) REPEAL OF EXISTING PROGRAM.—Subsections (e) and (f) of section 106 of the Hazardous Materials Transportation Act (49 U.S.C. 1805), as redesignated by section 7 of this Act, are repealed effective March 31, 1992.

SEC. 9. EXEMPTIONS.

Section 107(a) (49 U.S.C. App. 1806(a)) is amended by striking "or renewal" in the fourth sentence.

SEC. 10. DEFINITION OF CERTAIN MATERIALS.

The second sentence of section 108(b) (49 U.S.C. App. 1807(b)) is amended to read as follows: "The term does not include any material which the Secretary determines is of such low order of radioactivity that when transported does not pose a significant hazard to health or safety.".

SEC. 11. SECRETARY'S POWERS.

Section 109(d)(1)(C) (49 U.S.C. App. 1808(d)(1)(C)) is amended by striking "recommend" and inserting "take".

SEC. 12. PENALTIES.

(a) CIVIL PENALTIES.—Section 110(a) (49 App. U.S.C. 1809(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(except an employee who acts without knowledge)" in the first sentence;

(B) by striking "title or of a" in the first sentence and inserting "title, an order, or";

(C) by inserting "order or" after "violation of any" in each of the second and third sentences; and

(D) by striking "$10,000" in each of the second and third sentences and inserting "$25,000 and not less than $250"; and

(2) by adding at the end the following:

"(3) ACTING KNOWINGLY.—For purposes of this section, a person shall be considered to have acted knowingly if—

"(A) such person has actual knowledge of the facts giving rise to the violation, or

"(B) a reasonable person acting in the circumstances and exercising due care would have such knowledge.".

(b) CRIMINAL PENALTIES.—Subsection (b) of section 110 (49 App. U.S.C. 1809) is amended to read as follows:

"(b) CRIMINAL.—A person who knowingly violates section 105(f) of this title or willfully violates a provision of this title or an order or regulation issued under this title shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.".

SEC. 13. RELATIONSHIP TO OTHER LAWS.

Section 112 (49 U.S.C. App. 1811) is amended to read as follows:

"SEC. 112. RELATIONSHIP TO OTHER LAWS.

"(a) IN GENERAL.—Except as provided in subsection (d) and unless otherwise authorized by Federal law, any requirement of a State or political subdivision thereof or Indian tribe is preempted if—

"(1) compliance with both the State or political subdivision or Indian tribe requirement and any requirement of this title or of a regulation issued under this title is not possible,

"(2) the State or political subdivision or Indian tribe requirement as applied or enforced creates an obstacle to the accomplishment and execution of this title or the regulations issued under this title, or

"(3) it is preempted under section 105(a)(4) or section 105(b).

"(b) FEES.—A State or political subdivision thereof or Indian tribe may not levy any fee in connection with the transportation of hazardous materials that is not equitable and not used for purposes related to the transportation of hazardous materials, including enforcement and the planning, development, and maintenance of a capability for emergency response.

"(c) DETERMINATION OF PREEMPTION.—

"(1) ADMINISTRATIVE DETERMINATION.—Any person, including a State or political subdivision thereof or Indian tribe, directly affected by any requirement of a State or political subdivision or Indian tribe, may apply to the Secretary, in accordance with regulations prescribed by the Secretary, for a determination of whether that requirement is preempted by section 105(a)(4) or 105(b) or subsection (a). The Secretary shall publish notice of the application in the Federal Register. Once the Secretary has published such notice, no applicant for such determination by the Secretary may seek relief with respect to the same or substantially the same issue in any court until the Secretary has taken final action on the application or until 180 days after filing of the application, whichever occurs first. The Secretary, in consultation with States, political subdivisions, and Indian tribes, shall issue regulations which set forth procedures for carrying out this paragraph.

"(2) JUDICIAL DETERMINATION.—Nothing in subsection (a) prohibits a State or political subdivision thereof or Indian tribe, or any other person directly affected by any requirement of a State or political subdivision thereof or Indian tribe, from seeking a determination of preemption in any court of

competent jurisdiction in lieu of applying to the Secretary under paragraph (1).

"(d) WAIVER OF PREEMPTION.—Any State or political subdivision or Indian tribe may apply to the Secretary for a waiver of preemption with respect to any requirement that the State or political subdivision or Indian tribe acknowledges to be preempted by section 105(a)(4) or 105(b) or subsection (a). The Secretary, in accordance with procedures prescribed by regulation, may waive preemption with respect to such requirement upon a determination that such requirement—

"(1) affords an equal or greater level of protection to the public than is afforded by the requirements of this title or regulations issued under this title, and

"(2) does not unreasonably burden commerce.

"(e) JUDICIAL REVIEW.—A party to a proceeding under subsection (c) or (d) may seek review by the appropriate district court of the United States of a decision of the Secretary under such proceeding only by filing a petition with such court within 60 days after such decision becomes final.

"(f) OTHER FEDERAL LAWS.—This title shall not apply to pipelines which are subject to regulation under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.), to pipelines which are subject to regulation under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001 et seq.), or to any matter which is subject to the Federal postal laws or regulations under this title or under title 18 or title 39 of the United States Code.".

SEC. 14. FUNDING.

Section 115 (49 U.S.C. App. 1812) is amended to read as follows:

"SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated for carrying out this title (other than sections 117 and 121) not to exceed $13,000,000 for fiscal year 1991, $16,000,000 for fiscal year 1992, and $18,000,000 for fiscal year 1993.

"(b) CREDITS.—The Secretary may credit to any appropriation to carry out this title funds received from States, Indian tribes, or other public authorities and private entities for expenses incurred by the Secretary in providing training to such States, public authorities, and private entities.".

SEC. 15. TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS.

Section 116 (49 U.S.C. App. 1813) is amended to read as follows:

"SEC. 116. TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS.

"(a) RAILROAD TRANSPORTATION STUDY.—The Secretary, in consultation with the Department of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the railroad transportation industry and shippers of high-level radioactive waste and spent nuclear fuel, shall undertake a study comparing the safety of using trains operated exclusively for transporting high-level radioactive waste and spent nuclear fuel (hereinafter in this section referred to as 'dedicated trains') with the safety of using other methods of rail transportation for such purposes. The Secretary shall report the results of the study to Congress not later than one year after the date of enactment of this section.

"(b) SAFE RAIL TRANSPORT OF CERTAIN RADIOACTIVE MATERIALS.—Within 24 months after the date of enactment of this section, taking into consideration the findings of the study conducted pursuant to subsection (a), the Secretary shall amend existing regulations as the Secretary deems appropriate to provide for the safe transportation by rail of high-level radioactive waste and spent nuclear fuel by various methods of rail transportation, including by dedicated train.

"(c) MODE AND ROUTE STUDY.—The Secretary shall, within 12 months after the date of enactment of this section, undertake a study to determine which factors, if any, should be taken into consideration by shippers and carriers in order to select routes and modes which, in combination, would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel. Such study shall include notice and opportunity for public comment, and shall include assessing the degree to which various factors, including population densities, types and conditions of modal infrastructures (such as highways, railbeds, and waterways), quantities of high-level radioactive waste and spent nuclear fuel, emergency response capabilities, exposure and other risk factors, terrain considerations, continuity of routes, available alternative routes, environmental impact factors, affect the overall public safety of such shipments.

"(d) INSPECTIONS OF VEHICLES TRANSPORTING HIGHWAY ROUTE CONTROLLED QUANTITY RADIOACTIVE MATERIALS.—

"(1) REQUIREMENT.—Not later than one year after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary shall require by regulation that, before each use of a motor vehicle to transport in commerce any highway route controlled quantity radioactive material, such vehicle shall be inspected and certified to be in compliance with this title and applicable Federal motor carrier safety laws and regulations.

"(2) USE OF FEDERAL AND STATE INSPECTORS.—The Secretary may require that inspections under this subsection be carried out by duly authorized inspectors of the United States or in accordance with appropriate State procedures.

"(3) SELF-CERTIFICATION.—The Secretary may permit a person who transports or causes to be transported or shipped any highway route controlled quantity radioactive material to inspect the motor vehicle to be used to provide such transportation and to certify that the motor vehicle is in compliance with this title. The inspector qualification requirements for individuals performing inspections of motor vehicles issued by the Secretary shall apply to individuals conducting inspections under this paragraph.".

SEC. 16. INSPECTORS.

(a) IN GENERAL.—The Secretary of Transportation, in fiscal year 1991, shall employ and maintain thereafter an additional 30 hazardous materials safety inspectors above the number of safety inspectors authorized for fiscal year 1990, in the aggregate, for the Federal Railroad Administration, the Federal Highway Administration, and the Research and Special Programs Administration. The Secretary shall take such action as may be necessary to assure that the activities of 10 such additional inspectors focus on promoting safety in the transportation of radioactive materials, as defined by the Secretary. Such activities shall include—

(1) the inspection at the point of origin of shipments of high-level radioactive waste or nuclear spent fuel, as those terms are defined in section 116 of the Hazardous Materials Transportation Act, as added by section 15 of this Act; and

(2) the inspection, to the maximum extent practicable, of shipments of radioactive materials that are not high-level radioactive waste or nuclear spent fuel.

(b) COOPERATION.—In carrying out their duties, the 10 additional inspectors authorized by this section to focus on promoting safety in the transportation of radioactive materials shall, to the maximum extent possible, cooperate with safety inspectors of the Nuclear Regulatory Commission and appropriate State and local government officials.

(c) ALLOCATION OF INSPECTORS OF RADIOACTIVE MATERIALS.—Of the 10 additional inspectors authorized by subsection (a) to focus on promoting safety in the transportation of radioactive materials—

(1) not less than 1 shall be allocated to the Research and Special Programs Administration;

(2) not less than 3 shall be allocated to the Federal Railroad Administration;

(3) not less than 3 shall be allocated to the Federal Highway Administration; and

(4) the remainder shall be allocated, at the discretion of the Secretary, among the agencies referred to in paragraphs (1), (2), and (3).

(d) ALLOCATION OF OTHER SAFETY INSPECTORS.—The 20 additional inspectors authorized by subsection (a) not referred to in subsection (c) shall be allocated, at the discretion of the Secretary, among the agencies referred to in paragraphs (1), (2), and (3).

(e) DEFINITIONS.—As used in this section—

(1) HIGH-LEVEL RADIOACTIVE WASTE.—The term "high-level radioactive waste" has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)).

(2) SPENT NUCLEAR FUEL.—The term "spent nuclear fuel" has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).

SEC. 17. PUBLIC SECTOR TRAINING AND PLANNING.

The Act (49 U.S.C. App. 1801-1813) is amended by adding at the end the following new section:

"SEC. 117A. PUBLIC SECTOR TRAINING AND PLANNING.

"(a) PLANNING GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall make grants to States—

"(A) for developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986, including determination of flow patterns of hazardous materials within a State and between a State and another State; and

"(B) for determining the need for regional hazardous materials emergency response teams.

"(2) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to a State under this subsection in a fiscal year unless such State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years.

"(3) FUNDING OF PLANNING BY LOCAL EMERGENCY PLANNING COMMITTEES.—The Secretary may not make a grant to a State under this subsection in a fiscal year unless such State agrees to make available not less than 75 percent of the funds granted to the State under this subsection in the fiscal year to

local emergency planning committees established pursuant to section 301(c) of the Emergency Planning and Community Right-To-Know Act of 1986 by the State emergency response commission. Such funds shall be made available to the local committees for developing emergency plans under such Act.

"(b) TRAINING GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall make grants to States and Indian tribes for training public sector employees to respond to accidents and incidents involving hazardous materials.

"(2) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to a State or Indian tribe under this subsection in a fiscal year unless the State or Indian tribe certifies that the aggregate expenditure of funds of the State or Indian tribe, exclusive of Federal funds, for training public sector employees to respond to accidents and incidents involving hazardous materials will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years.

"(3) FUNDING OF TRAINING BY POLITICAL SUBDIVISIONS.—The Secretary may not make a grant to a State under this subsection in a fiscal year unless such State agrees to make available at least 75 percent of the funds granted to the State under this subsection in the fiscal year for the purposes of training public sector employees employed or used by the political subdivisions.

"(4) USE OF TRAINING COURSES.—The Secretary may only make a grant to a State or Indian tribe under this subsection in a fiscal year if the State or Indian tribe enters into an agreement with the Secretary to use in such fiscal year—

"(A) a course or courses developed or identified under subsection (g); or

"(B) other courses which the Secretary determines are consistent with the objectives of this section;

for training public sector employees to respond to accidents and incidents involving hazardous materials.

"(5) USE OF TRAINING FUNDS.—Funds granted to a State or Indian tribe for training public sector employees under this subsection may be used to pay tuition costs of such employees for such training, travel expenses of such employees to and from the training facility, room and board of such employees while they are at the training facility, and travel expenses of persons who are to provide such training.

"(6) TRAINING BY OTHERS.—Funds granted to a State or Indian tribe for training public sector employees under this subsection—

"(A) may be used by the State or a political subdivision thereof or the Indian tribe to provide such training; or

"(B) may be used to enter into an agreement, approved by the Secretary, to authorize a person (including a department, agency, or instrumentality of a State or political subdivision thereof or an Indian tribe) to provide such training—

"(i) if the agreement allows the Secretary and the State or Indian tribe to conduct random examinations, inspections, and audits of such training without prior notification; and

"(ii) if the State or Indian tribe conducts at least annually 1 on-site observation of such training.

"(7) ALLOCATION OF TRAINING FUNDS.—The Secretary shall allocate funds made available for grants under this subsection for a fiscal year among States and Indian tribes which are eligible to receive such grants in such fiscal year based upon the needs of such States and Indian tribes for emergency response training. In determining such needs, the Secretary shall consider the number of hazardous materials facilities in the State or on lands under the jurisdiction of the Indian tribe, the types and amounts of hazardous materials transported in the State or on such lands, whether or not the State or Indian tribe assesses and collects fees on the transportation of hazardous materials, whether or not such fees are used solely to carry out purposes related to the transportation of hazardous materials, and such other factors as the Secretary determines are appropriate to carry out the objectives of this subsection.

"(c) ADOPTION OF FEDERAL STANDARDS AND COMPLIANCE WITH EMERGENCY PLANNING REQUIREMENTS.—The Secretary may only make a grant to a State under this section in a fiscal year if the State certifies that the State is complying with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986, including compliance with such sections with respect to accidents and incidents involving the transportation of hazardous materials.

"(d) FEDERAL SHARE.—By a grant under this section, the Secretary shall reimburse any State or Indian tribe an amount not to exceed 80 percent of the cost incurred by the State or Indian tribe in the fiscal year for carrying out the activities for which the grant is made. The funds of the State or Indian tribe which are required to be expended under subsections (a)(2) and (b)(2) shall not be considered to be part of the non-Federal share.

"(e) APPLICATIONS.—A State or Indian tribe interested in receiving a grant under this section shall submit an application to the Secretary for such grant. Such applications shall be submitted at such times and contain such information as the Secretary may require by regulation to carry out the objectives of this subsection.

"(f) DELEGATION OF AUTHORITY.—For the purpose of minimizing administrative costs and for coordinating Federal grant programs for emergency response training and planning, the Secretary may delegate to the Director, Chairman of the Nuclear Regulatory Commission, Administrator, Secretary of Labor, Secretary of Energy, and Director of the National Institute of Environmental Health Sciences of the Department of Health and Human Services one or more of the following functions:

"(1) Authority to receive applications for grants under this section.

"(2) Authority to review applications for technical compliance with this section.

"(3) Authority to review applications for the purpose of making recommendation on approval or disapproval of such applications.

"(4) Any other ministerial function associated with the grant programs under this section.

"(g) TRAINING CURRICULUM.—

"(1) CURRICULUM COMMITTEE.—Not later than 24 months after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary, in coordination with the Director, Chairman of the Nuclear Regulatory Commission, Administrator, Secretary of Labor, Secretary of Energy, Secretary of Health and Human Services, and Director of the National Institute of Environmental Health Sciences and using the existing coordinating mechanisms of the National Response Team and, for radioactive materials, the Federal Radiological Preparedness Coordinating Committee, shall develop and update periodically a curriculum which consists of a list of courses necessary to train public sector emergency response and preparedness teams.

"(2) MANDATORY CURRICULUM RECOMMENDATIONS.—The curriculum to be developed under this subsection shall include—

"(A) a recommended course of study—

"(i) for training public sector employees to respond to accidents and incidents involving the transportation of hazardous materials,

"(ii) for planning such responses;

"(B) recommended basic courses and minimum numbers of hours of instruction necessary for public sector employees to be able—

"(i) to respond safely and efficiently to accidents and incidents involving the transportation of hazardous materials, and

"(ii) to plan for such responses; and

"(C) appropriate emergency response training and planning programs for public sector employees developed under other Federal grant programs, including those developed with grants made under section 126 of the Superfund Amendments and Reauthorization Act of 1986.

"(3) OPTIONAL CURRICULUM RECOMMENDATIONS.—The curriculum to be developed under this subsection may include recommendations concerning materials appropriate for use in the recommended courses described in paragraph (2)(B).

"(4) COMPLIANCE WITH OSHA AND EPA REGULATIONS AND NFPA STANDARDS.—The recommended courses described in paragraph (2)(B) shall provide such training to public sector employees as may be necessary to comply—

"(A) with the regulations issued by the Occupational Safety and Health Administration of the Department of Labor relating to hazardous waste operations and emergency response contained in part 1910 of title 29 of the Code of Federal Regulations, and any amendments thereto;

"(B) with the regulations issued by the Environmental Protection Agency relating to worker protection standards for hazardous waste operations contained in part 311 of title 40 of the Code of Federal Regulations, and any amendments thereto; and

"(C) with standards issued by the National Fire Protection Association, relating to emergency response training, including standards 471 and 472.

"(5) CONSULTATION REQUIREMENT.—In developing the curriculum under this subsection, the Secretary shall consult the regional response teams established pursuant to the National Contingency Plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, representatives of commissions established pursuant to section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001), persons (including governmental entities) who provide training for responding to accidents and incidents involving the transportation of hazardous materials, and representatives of persons who respond to such accidents and incidents.

"(6) DISSEMINATION.—The Director, in conjunction with the National Response Team, shall disseminate the curriculum developed under this section and any amendments thereto to the regional response teams established pursuant to the National Contingency Plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and to all committees and commis-

sions established pursuant to section 301 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001).

"(7) MONITORING AND TECHNICAL ASSISTANCE.—

"(A) MONITORING.—The Director, in coordination with the Secretary, Administrator, Secretary of Energy, and Director of the National Institute of Environmental Health Sciences, shall monitor public sector emergency response training and planning for accidents and incidents involving hazardous materials.

"(B) TECHNICAL ASSISTANCE.—Taking into account the results of monitoring under subparagraph (A), the Secretary, Director, Administrator, Secretary of Energy, and Director of the National Institute of Environmental Health Sciences shall each provide technical assistance to States and political subdivisions thereof and Indian tribes for carrying out emergency response training and planning for accidents and incidents involving hazardous materials and shall coordinate the provision of such technical assistance using the existing coordinating mechanisms of the national response team and, for radioactive materials, the Federal Radiological Preparedness Coordinating Committee.

"(8) PUBLICATION OF LIST OF TRAINING PROGRAMS.—The Secretary, in conjunction with the national response team, may publish a list of programs for training public sector employees to respond to accidents and incidents involving the transportation of hazardous materials which utilize one or more of the courses developed under this subsection.

"(9) MINIMIZATION OF DUPLICATION OF EFFORT.—The Secretary, Director, Chairman of the Nuclear Regulatory Commission, Administrator, Secretary of Labor, Secretary of Energy, and the Director of the National Institute of Environmental Health Sciences, in conjunction with the heads of other Federal departments, agencies, and instrumentalities, shall review periodically all emergency response and preparedness training programs of the Federal department, agency, or instrumentality which such person heads for the purpose of minimizing duplication of effort and expense of such departments, agencies, and instrumentalities in carrying out such training programs and shall take such actions, including coordination of training programs, as may be necessary to minimize such duplication of effort and expense.

"(h) FEES FOR TRAINING AND PLANNING.—

"(1) ESTABLISHMENT AND COLLECTION.—Not later than [September 30, 1992,] the Secretary shall establish and assess by regulation and collect an annual fee from each person who is required by or under section 106 to file a registration statement.

"(2) FACTORS FOR DETERMINING AMOUNT OF FEES.—Subject to paragraph (3), the amount of annual fees to be collected under this subsection shall be determined by the Secretary based on 1 or more of the following factors:

"(A) The gross revenues from transportation of hazardous materials.

"(B) The types of hazardous materials transported or caused to be transported.

"(C) The quantities of hazardous material transported or caused to be transported.

"(D) The number of shipments of hazardous materials.

"(E) The number of activities which the person carries out and for which filing of a registration statement is required by or under section 106.

"(F) The threat to property, persons, and the environment from an accident or incident involving the hazardous materials transported or caused to be transported.

"(G) The percentage of gross revenues which are derived from the transportation of hazardous materials.

"(H) The amount of funds which are to be made available to carry out this section and section 118.

"(I) Such other factors as the Secretary considers appropriate.

"(3) LIMITATIONS ON FEE AMOUNTS.—

"(A) MAXIMUM AND MINIMUM AMOUNT.—Subject to subparagraph (B), the amount of a fee which may be collected from a person under this section in a year may not be less than $250 and may not exceed $5,000.

"(B) ADJUSTMENTS.—The Secretary shall adjust the amount of fees being collected from persons under this section to reflect any unspent balances in the account established under paragraph (6); except that nothing in this subsection shall be construed as requiring the Secretary to refund any fees collected under this subsection.

"(4) TREATMENT OF FEES.—Fees collected under this subsection shall be in addition to any fees which the Secretary may collect under section 106.

"(5) TRANSFER TO SECRETARY OF TREASURY.—The Secretary shall transfer to the Secretary of the Treasury amounts collected under this subsection for deposit in the account established under paragraph (6).

"(6) USE OF AMOUNTS.—

"(A) ESTABLISHMENT OF ACCOUNT.—The Secretary of the Treasury shall establish in the Treasury an account into which the Secretary of the Treasury shall deposit amounts transferred by the Secretary of Transportation under paragraph (5).

"(B) PURPOSES.—Amounts in the account established under subparagraph (A) shall be available, without further appropriation—

"(i) for making grants under this section and section 118,

"(ii) for monitoring and providing technical assistance under subsection (g)(7), and

"(iii) for paying the administrative costs of carrying out this section and section 118, but not to exceed 10 percent of the amounts made available from the account in any fiscal year.

"(i) FUNDING.—

"(1) PLANNING GRANTS.—There shall be available to the Secretary for carrying out subsection (a), from amounts in the account established pursuant to subsection (h), $5,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(2) TRAINING GRANTS.—There shall be available to the Secretary for carrying out subsection (b), from amounts in the account established pursuant to subsection (h), $7,800,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(3) CURRICULUM.—

"(A) FROM GENERAL REVENUES.—There is authorized to be appropriated to the Secretary to carry out subsection (g) (other than paragraph (7)) $1,000,000 per fiscal year for each of fiscal years 1991 and 1992.

"(B) FROM FEE ACCOUNT.—There shall be available to the Secretary to carry out subsection (g) (other than paragraph (7)), from amounts in the account established pursuant to subsection (h), $1,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(C) TRANSFERS.—The Secretary may transfer from amounts made available under this paragraph such amounts as may be necessary to the Director to carry out subsection (g)(6), relating to dissemination of the curriculum.

"(4) MONITORING AND TECHNICAL ASSISTANCE.—There shall be available for carrying out subsection (g)(7), from amounts in the account established pursuant to subsection (h)—

"(A) to each of the Secretary, Director, Administrator, and Secretary of Energy $750,000; and

"(B) to the Director of the National Institute of Environmental Health Sciences $200,000;

per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(5) AVAILABILITY.—Funds made available pursuant to this subsection shall remain available until expended.".

SEC. 18. HAZMAT EMPLOYEE TRAINING GRANT PROGRAM.

The Act (49 U.S.C. App. 1801-1813), as amended by section 17 of this Act, is further amended by adding at the end the following new section:

"SEC. 118. HAZMAT EMPLOYEE TRAINING GRANT PROGRAM.

"(a) GRANT PURPOSES.—Grants for training and education of hazmat employees regarding the safe loading, unloading, handling, storage, and transportation of hazardous materials and emergency preparedness for responding to accidents or incidents involving the transportation of hazardous materials in order to meet the requirements issued under section 106(b) may be made under this section.

"(b) ADMINISTRATION.—Grants under this section shall be administered by the National Institute of Environmental Health Sciences in consultation with the Secretary, the Administrator, and the Secretary of Labor.

"(c) GRANT RECIPIENTS.—Grants under this section shall be awarded to nonprofit organizations which demonstrate expertise in implementing and operating training and education programs for hazmat employees and demonstrate the ability to reach and involve in training programs target populations of hazmat employees.

"(d) FUNDING.—There shall be available to the Director of the National Institute of Environmental Health Sciences to carry out this section, from amounts in the account established pursuant to section 117(h), $250,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.".

SEC. 19. RAILROAD TANK CARS.

The Act (49 U.S.C. App. 1801 et seq.), as amended by section 18 of this Act, is further amended by adding at the end the following new section:

"SEC. 119. RAILROAD TANK CARS.

"(a) PROHIBITIONS FOR CERTAIN MATERIALS.—No railroad tank car constructed before January 1, 1971, may be used for the transportation in commerce of any class A or B explosives, any hazardous material which has been designated by the Secretary as toxic by inhalation, or any other hazardous material the Secretary determines should be subject to such requirement, unless the air brake equipment support attachments of such tank car at a minimum comply with the standards for attachments set forth in part 179.100-16 and part 179.200-19 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(b) APPLICABILITY TO OTHER MATERIALS.—No railroad tank car constructed before January 1, 1971, may be used for the transportation in commerce of any hazardous mate-

rial after July 1, 1991, unless the air brake equipment support attachments of such tank car comply with the standards for attachments set forth in part 179.100-16 and part 179.200-19 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.".

SEC. 20. APPLICATION OF FEDERAL, STATE, AND LOCAL LAW TO FEDERAL CONTRACTORS.

The Act (49 U.S.C. App. 1801-1813), as amended by section 19 of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 120. APPLICATION OF FEDERAL, STATE, AND LOCAL LAW TO FEDERAL CONTRACTORS.

"Any person who, under contract with any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal government, transports, or causes to be transported or shipped, a hazardous material or manufacturers, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person as qualified for use in the transportation of hazardous materials shall be subject to and comply with all provisions of this title, all orders and regulations issued under this title, and all other substantive and procedural requirements of Federal, State, and local governments and Indian tribes (except any such requirements that have been preempted by this title or any other Federal law), in the same manner and to the same extent as any person engaged in such activities that are in or affect commerce is subject to such provisions, orders, regulations, and requirements.".

SEC. 21. RAILROAD TANK CAR STUDY.

(a) STUDY.—The Secretary of Transportation shall enter into a contract with an appropriate disinterested expert body for a study of—

(1) the railroad tank car design process, including specifications development, design approval, repair process approval, repair accountability, and the process by which designs and repairs are presented, weighted, and evaluated, and

(2) railroad tank car design criteria, including whether headshields should be installed on all tank cars which carry hazardous materials.

In carrying out the study described in paragraph (1), such expert body shall also make recommendations as to whether public safety considerations require greater control by and input from the Secretary with respect to the railroad tank car design process, especially in the early stages, and such other recommendations as such expert body considers appropriate.

(b) REPORT.—The Secretary of Transportation shall report the results of such study and such recommendations to the Congress within 1 year after the date of enactment of this Act.

SEC. 22. UNIFORMITY OF STATE MOTOR CARRIER REGISTRATION AND PERMITTING FORMS AND PROCEDURES.

The Act (49 U.S.C. App. 1801-1813), as amended by section 20 of this Act, is further amended by adding at the end the following new section:

"SEC. 121. UNIFORMITY OF STATE MOTOR CARRIER REGISTRATION AND PERMITTING FORMS AND PROCEDURES.

"(a) WORKING GROUP.—As soon as practicable after the date of the enactment of this section, the Secretary shall establish a working group comprised of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, and the National Conference of State Legislatures, for the purpose of—

"(1) establishing uniform forms and procedures for States that register persons who transport, cause to be transported, or ship a hazardous material, by motor vehicle; and

"(2) determining whether or not to limit the filing of any State registration forms and collection of fees therefor to the State in which a person resides or has its principal place of business.

"(b) CONSULTATION REQUIREMENT.—The working group established under this section shall consult with persons who are subject to the registration requirements described in subsection (a) in establishing uniform forms and procedures and making the determination described in subsection (a).

"(c) REPORT.—The working group established under this section shall transmit a final report to the Secretary and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 36 months after the date of the enactment of this section. The final report shall contain a detailed statement of the findings and conclusions of the working group, together with its joint recommendations concerning the matters referred to in subsection (a).

"(d) REGULATIONS.—

"(1) GENERAL RULE.—Subject to the provisions of this subsection, the Secretary shall issue regulations implementing those recommendations contained in the report transmitted to the Secretary under subsection (c) with which the Secretary agrees.

"(2) DEADLINE.—Regulations required to be issued by this subsection shall be issued by the later of the following dates:

"(A) The last day of the 3-year period beginning on the date the organizations referred to in subsection (a) transmit their final joint report to the Secretary.

"(B) The last day of the 90-day period beginning on the date on which 26 or more States adopt all of such recommendations.

"(3) NO LIMIT OF AMOUNT OF FEES.—Regulations issued under this section shall not define or limit the amounts of any fees which may be imposed or collected by any State.

"(e) UNIFORMITY.—A regulation issued pursuant to this section shall take effect 1 year after the date of its issuance; except that the Secretary may extend such 1-year period for an additional 1-year period for good cause. After the effective date of such regulation, no State shall establish, maintain, or enforce any requirement which relates to the subject matter of such regulation unless such requirement is the same as such regulation.

"(f) IMPLEMENTATION EFFICIENCY.—The Secretary, in consultation with the working group established under this section, shall develop a procedure to eliminate any differences in State implementation of regulations issued pursuant to this section.

"(g) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The working group established under this section shall not be subject to the Federal Advisory Committee Act.

"(h) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated for carrying out this section $400,000 per fiscal year for each of fiscal years 1991, 1992, and 1993. Such sums shall remain available until expended.".

SEC. 23. FINANCIAL RESPONSIBILITY.

Section 30(b)(2) of the Motor Carrier Act of 1980 (49 U.S.C. 10927 note) is amended to read as follows:

"(2) HAZARDOUS MATERIALS TRANSPORTATION.—

"(A) GENERAL RULE.—Except as provided in subparagraphs (B) and (C), the minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce—

"(i) hazardous substances (as defined by the Administrator of the Environmental Protection Agency) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons,

"(ii) in bulk class A explosives, poison gas, liquefied gas, or compressed gas, or

"(iii) large quantities of radioactive materials,

shall not be less than $5,000,000.

"(B) PHASE-IN REDUCTION.—The Secretary, by regulation, may reduce the $5,000,000 amount under subparagraph (A) (but not to an amount less than $1,000,000) for any class of vehicles or operations for the 3½-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

"(C) TERRITORY REDUCTION.—The Secretary, by regulation, may reduce the $5,000,000 amount under subparagraph (A) (but not to an amount less than $1,000,000) for transportation described in subparagraph (A) in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands if the chief executive officer of such territory requests the reduction and if the reduction will not adversely affect public safety, will prevent a serious disruption in transportation service, and insurance at the $5,000,000 level is not readily available.".

SEC. 24. FEDERALLY LEASED COMMERCIAL MOTOR VEHICLES.

Section 210 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2509) is amended by adding at the end the following new subsection:

"(g) FEDERALLY LEASED COMMERCIAL MOTOR VEHICLES.—Any State which receives Federal financial assistance under section 402 of the Surface Transportation Assistance Act of 1982 in a fiscal year may apply and enforce in such fiscal year any regulations pertaining to commercial motor vehicle safety adopted by such State with respect to commercial motor vehicles and operators leased to the United States.".

SEC. 25. IMPROVEMENTS TO HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS.

(a) RULEMAKING PROCEEDING.—

(1) INITIATION.—In order to develop methods of improving the current system of identifying hazardous materials being transported in vehicles for safeguarding the health and safety of persons responding to emergencies involving such hazardous materials and the public and to facilitate the review and reporting process required by subsection (d), the Secretary of Transportation shall initiate a rulemaking proceeding not later than 30 days after the date of the enactment of this Act.

(2) PRIMARY PURPOSES.—The primary purposes of the rulemaking proceeding initiated under this subsection are—

(A) to determine methods of improving the current system of placarding vehicles transporting hazardous materials; and

(B) to determine methods for establishing and operating a central reporting system and computerized telecommunications data center described in subsection (b)(1).

(3) METHODS OF IMPROVING PLACARDING SYSTEM.—The methods of improving the current system of placarding to be considered under the rulemaking proceeding initiated under this subsection shall include methods to make such placards more visible, methods to reduce the number of improper and missing placards, alternative methods of marking vehicles for the purpose of identifying the hazardous materials being transported, methods of modifying the composition of placards in order to ensure their resistance to flammability, methods of improving the coding system used with respect to such placards, identification of appropriate emergency response procedures through symbols on placards, and whether or not telephone numbers of any continually monitored telephone systems which are established under the Hazardous Materials Transportation Act are displayed on vehicles transporting hazardous materials.

(4) COMPLETION OF RULEMAKING PROCEEDING WITH RESPECT TO REPORTING SYSTEM AND DATA CENTER.—Not later than 19 months after the date of the enactment of this Act, the Secretary of Transportation shall complete the rulemaking proceeding initiated with respect to the central reporting system and computerized telecommunications data center described in subsection (b).

(5) FINAL RULE WITH RESPECT TO PLACARDING.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Transportation shall issue a final rule relating to improving the current system for placarding vehicles transporting hazardous materials.

(b) CENTRAL REPORTING SYSTEM AND COMPUTERIZED TELECOMMUNICATIONS DATA CENTER STUDY.—

(1) ARRANGEMENTS WITH NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the feasibility and necessity of establishing and operating a central reporting system and computerized telecommunications data center that is capable of receiving, storing, and retrieving data concerning all daily shipments of hazardous materials, that can identify hazardous materials being transported by any mode of transportation, and that can provide information to facilitate responses to accidents and incidents involving the transportation of hazardous materials.

(2) CONSULTATION AND REPORT.—In entering into any arrangements with the National Academy of Sciences for conducting the study under this section, the Secretary of Transportation shall request the National Academy of Sciences—

(A) to consult with the Department of Transportation, the Department of Health and Human Services, the Environmental Protection Agency, the Federal Emergency Management Agency, and the Occupational Safety and Health Administration, shippers and carriers of hazardous materials, manufacturers of computerized telecommunications systems, State and local emergency preparedness organizations (including law enforcement and firefighting organizations), and appropriate international organizations in conducting such study; and

(B) to submit, not later than 19 months after the date of the enactment of this Act, to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Energy and Commerce and Public Works and Transportation of the House of Representatives a report on the results of such study.

Such report shall include recommendations of the National Academy of Sciences with respect to establishment and operation of a central reporting system and computerized telecommunications data center described in paragraph (1).

(3) AUTHORIZATION OF APPROPRIATION.—In addition to amounts authorized under section 115 of the Hazardous Materials Transportation Act, there is authorized to be appropriated to the Secretary of Transportation to carry out this subsection $350,000.

(c) ADDITIONAL PURPOSES OF RULEMAKING PROCEEDING AND STUDY.—Additional purposes of the rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center described in subsection (b) and the study conducted under subsection (b) are—

(1) to determine whether such a system and center should be established and operated by the United States Government or by a private entity, either on its own initiative or under contract with the United States;

(2) to determine, on an annualized basis, the estimated cost for establishing, operating, and maintaining such a system and center and for carrier and shipper compliance with such a system;

(3) to determine methods for financing the cost of establishing, operating, and maintaining such a system and center;

(4) to determine projected safety benefits of establishing and operating such a system and center;

(5) to determine whether or not shippers, carriers, and handlers of hazardous materials, in addition to law enforcement officials and persons responsible for responding to emergencies involving hazardous materials, should have access to such system for obtaining information concerning shipments of hazardous materials and technical and other information and advice with respect to such emergencies;

(6) to determine methods for ensuring the security of the information and data stored in such a system;

(7) to determine types of hazardous materials and types of shipments for which information and data should be stored in such a system;

(8) to determine the degree of liability of the operator of such a system and center for providing incorrect, false, or misleading information;

(9) to determine deadlines by which shippers, carriers, and handlers of hazardous materials should be required to submit information to the operator of such a system and center and minimum standards relating to the form and contents of such information;

(10) to determine measures (including the imposition of civil and criminal penalties) for ensuring compliance with the deadlines and standards referred to in paragraph (9); and

(11) to determine methods for accessing such a system through mobile satellite service or other technologies having the capability to provide 2-way voice, data, or facsimile services.

(d) REVIEW AND REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 25 months after the date of the enactment of this Act, the Secretary of Transportation shall review the report of the National Academy of Sciences submitted under subsection (b) and the results of rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center and shall prepare and submit to Congress a report summarizing the report of the National Academy of Sciences and the results of such rulemaking proceeding, together with the Secretary's recommendations concerning the establishment and operation of such a system and center and the Secretary's recommendations concerning implementation of the recommendations contained in the report of the National Academy of Sciences.

(2) WEIGHT TO BE GIVEN TO RECOMMENDATIONS OF NAS.—In conducting the review and preparing the report under this subsection, the Secretary shall give substantial weight to the recommendations contained in the report of the National Academy of Sciences submitted under subsection (b).

(3) INCLUSION OF REASONS FOR NOT FOLLOWING RECOMMENDATIONS.—If the Secretary does not include in the report prepared for submission to Congress under this subsection a recommendation for implementation of a recommendation contained in the report of the National Academy of Sciences submitted under subsection (b), the Secretary shall include in the report to Congress under this subsection the Secretary's reasons for not recommending implementation of the recommendation of the National Academy of Sciences.

SEC. 26. CONTINUALLY MONITORED TELEPHONE SYSTEMS.

(a) RULEMAKING PROCEEDING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding on the feasibility, necessity, and safety benefits of requiring carriers involved in the hazardous materials transportation industry to establish continually monitored telephone systems equipped to provide emergency response information and assistance with respect to accidents and incidents involving hazardous materials. Additional objectives of such proceeding shall be to determine which hazardous materials, if any, should be covered by such a requirement and which segments of such industry (including persons who own and operate motor vehicles, trains, vessels, aircraft, and in-transit storage facilities) should be covered by such a requirement.

(b) COMPLETION OF PROCEEDING.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Transportation shall complete the proceeding under this section and may issue a final rule relating to establishment of continually monitored telephone systems described in subsection (a).

SEC. 27. SHIPPER RESPONSIBILITY REPORT.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on—

(1) the safety benefits of a law which provides that if a person causes a hazardous material to be transported in bulk in commerce by a motor carrier, which is involved in a hazardous material incident and which has an unsatisfactory safety rating issued by the Secretary or which has a conditional safety rating issued by the Secretary which

has been in effect for a period of more than 12 months, such person shall be liable for at least 50 percent of the costs, damages, and attorney's fees assessed against the motor carrier for any hazardous material incident involving such transportation;

(2) such other systems as the Secretary of Transportation may determine would assure responsible actions by a person who causes the transportation of hazardous material in bulk in commerce; and

(3) the safety benefits of a law which provides that the liability of the person or persons who caused such a shipment of hazardous materials may not be transferred by indemnification, hold harmless, or similar agreements.

SEC. 28. STATE PARTICIPATION IN INVESTIGATIONS AND SURVEILLANCE.

(a) AMENDMENT OF SECTION 206(a) OF FRSA.—Section 206(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(a)) is amended—

(1) by inserting "related to railroad safety" after "standard prescribed";

(2) by striking "under this title" the first place it appears;

(3) by striking "established under this title" in paragraph (2); and

(4) by striking "prescribed by the Secretary under section 202(a) of this title" and inserting "relating to railroad safety prescribed by the Secretary".

(b) AMENDMENT OF SECTION 206(b) OF FRSA.—Section 206(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(b)) is amended by striking "prescribed by him under section 202(a) of this title" and inserting "relating to railroad safety prescribed by the Secretary".

(c) AMENDMENT OF SECTION 206(f) OF FRSA.—Section 206(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(f)) is amended by striking "under this title".

(d) AMENDMENT TO SECTION 206 OF FRSA.—Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) is amended by adding at the end the following:

"(h) There is authorized to be appropriated for carrying out this section $5,000,000 per fiscal year for each of fiscal years 1991, 1992, and 1993.".

(e) AMENDMENT OF SECTION 207(a)(1) OF FRSA.—Section 207(a)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436(a)(1)) is amended—

(1) by striking "under section 209 of this title with respect"; and

(2) by striking "issued under this title or under any law transferred by section 6(e)(1), (e)(2), or (e)(6)(A) of the Department of Transportation Act".

(f) AMENDMENT OF SECTION 210(a) OF FRSA.—Section 210(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439(a)) is amended by striking "this title or to enforce rules, regulations, orders, or standards established under this title" and inserting "or to enforce rules, regulations, orders, or standards relating to railroad safety".

SEC. 29. RETENTION OF MARKINGS AND PLACARDS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Labor, in consultation with the Secretary of Transportation and the Secretary of the Treasury, shall issue under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) standards requiring any employer who receives a package, container, motor vehicle, rail freight car, aircraft, or vessel which contains a hazardous material and which is required to be marked, placarded, or labeled in accordance with regulations issued under the Hazardous Materials Transportation Act to retain the markings, placards, and labels, and any other information as may be required by such regulations on the package, container, motor vehicle, rail freight car, aircraft, or vessel, until the hazardous materials have been removed therefrom.

SEC. 30. RELATIONSHIP TO FEDERAL RAILROAD SAFETY ACT OF 1970.

Nothing in this Act, including the amendments made by this Act, shall be construed to alter, amend, modify, or otherwise affect the scope of section 205 of the Federal Railroad Safety Act of 1970.

SEC. 31. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in this Act, this Act (including the amendments made by this Act) shall take effect on the date of the enactment of this Act.

(b) CONTINUATION OF EXISTING REGULATIONS.—Any regulation or ruling issued before the date of the enactment of this Act pursuant to the Hazardous Materials Transportation Act and any authority granted under such a regulation shall continue in effect according to its terms until repealed, terminated, amended, or modified by the Secretary of Transportation or a court of competent jurisdiction.

Mr. THOMAS A. LUKEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO CORRECT ENROLLMENT OF S. 2936, HAZARDOUS MATERIALS TRANSPORTATION UNIFORM SAFETY ACT OF 1990

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that the Clerk enroll by hand the Senate bill, S. 2936, as amended, which was just considered, and that in the engrossment of the bill, the Clerk be authorized to correct section numbers, punctuation, and cross-references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in considering this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3789, McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1990 AND AGAINST ITS CONSIDERATION

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 101-946) on the resolution (H. Res. 530) waiving certain points of order against consideration of the conference report on the bill (H.R. 3789) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 358, FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990, AND AGAINST ITS CONSIDERATION

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 101-947) on the resolution (H. Res. 531) waiving certain points of order against consideration of the conference report on the bill (S. 358) to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4653, EXPORT FACILITATION ACT OF 1990

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 101-948) on the resolution (H. Res. 532) waiving certain points of order against consideration of the conference report on the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 101-949) on the resolution (H. Res. 533) waiving the requirement of clause 4(b), rule XI, against consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING THE SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND THE RULES

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 101-950) on the resolution (H. Res. 534) authorizing the Speaker to entertain motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

THE WEST TAMPA WORLD SERIES

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous material.)

Mr. GIBBONS. Mr. Speaker, I can only say to the gentleman from Georgia that he knows full well that that civil rights bill that was vetoed had prohibitions in it against quotas.

Mr. Speaker, I want to say this is a time of high tension. We have all been working hard, but one thing Americans can be grateful for, there was a great baseball season this year. It was particularly great for the people of Tampa, because the managers of the two teams are from Tampa, they are friends.

You know, it is just a wonderful feeling to see the spirit in that part of Tampa that produces these great leaders.

Mr. Speaker, in many respects, this year's Autumn Classic was also the Tampa Classic. The World Series was a showcase for the managing skills of two of Tampa's finest, Lou Piniella of the Reds and Tony LaRussa of the Athletics.

Both men are products of West Tampa. They lived blocks apart, and played together as youngsters. A pairing of World Series managers reared in the same neighborhood would seem to be coincidental, but for Tampa it was merely inevitable.

Lou and Tony were weaned on baseball in Tampa, a city that has bred many stars of the game. We seem to have our share of managers, though—the legendary Al Lopez, who guided two championship clubs of the 1950's, was born, raised and still lives in Tampa. Al, according to Tom McEwen, the renowned and gifted sports editor of the Tampa Tribune, has taken to calling the contest the West Tampa World Series.

La Gaceta, Tampa's venerable 68-year-old Spanish language newspaper, found and published a photograph of West Tampa's American Legion Post 248 baseball team when they played in the Colt League World Series in 1960. That championship team, in addition to Piniella and LaRussa, included Coach Lingo Rodriguez, Joe Nicoletto, Cokey Jefferson, Dick Whiteside, Fred Hagan, Albert De La Torres, Paul Ferlita, Victor Hoffman, Sergio Vega, Leon Stephens, Bob Jordan, Gary Burkholder, Mac Farrington, Larry Mitchell, and Manager Frank Cossota. Lou is in the back row, smiling raffishly, while Tony kneels in front, looking serious. They learned baseball together, and now they've shared their gifts with the Nation.

On behalf of the citizens of Tampa, I congratulate these championship managers and look forward to the day when they can manage a World Series in their home State.

Mr. Speaker, I include in the RECORD the text of an article by Tom McEwen that appeared in the October 13 edition of the Tampa Tribune.

TAMPA EMBRACES SERIES MANAGERS—LONGTIME FRIENDS TONY LARUSSA AND LOU PINIELLA TO MEET FOR BASEBALL'S ULTIMATE PRIZE

(By Tom McEwen)

TAMPA.—It was childhood friend and teen-age teammate Tony LaRussa who made the pitch that started Lou Piniella thinking about leaving the New York Yankees' broadcasting booth to return to managing.

Starting Tuesday, LaRussa, of the American League champion Oakland Athletics, and Piniella, of the National League champion Cincinnati Reds, will manage against each other in the 1990 World Series, fondly called "The West Tampa World Series" by the idol of them both, Al Lopez.

Lopez, like LaRussa and Piniella a Tampa native of Latin bloodlines, managed the 1954 Cleveland Indians and the 1959 Chicago White Sox in the World Series, when LaRussa and Piniella were growing up in West Tampa admiring Lopez and competing as teammates on the American Legion Post 248 club and other youth teams.

They were friends. Their parents were friends. But at the college level they went their separate ways, as they would in baseball. Now they will be in opposite dugouts of the World Series.

"Can you believe it?" an excited Piniella said by telephone Saturday morning from Cincinnati, 11 hours after pinch-hitter Luis Quinones drove home the tie-breaking run to beat Pittsburgh 2-1 and clinch the pennant. "Two kids from West Tampa both managing in a World Series. Hah! It's not unbelievable, it's impossible.

"On top of that, it was Tony, as I said last year when I was working a game at Oakland, that said I didn't belong in the booth, I was too good a manager not to be working at it."

Piniella turned down three offers, then took Marge Schott's offer to manage the Reds.

LaRussa was born in Ybor City, like Lopez, but moved to West Tampa with his parents as a child. Piniella was born and reared in West Tampa. The LaRussa and Piniella homesteads were blocks apart. As kids they played baseball at MacFarlane Park, as did Lopez many years before.

"I am so happy," said Lopez, 82. "These are two good kids from West Tampa who, like me, came out of nowhere to get to the World Series. It is wonderful for Tampa, for Ybor City, for West Tampa. I have known them as kids, knew both parents well. Still do.

"Tony has done a great job at Oakland. I mean, he took that Dave Stewart (pitcher) nobody wanted and look at him. He'll be hard to beat. But, Lou has that bullpen. If he's ahead in the seventh, eighth or ninth innings, he could win it.

"I'm neutral. You know that. I've already won because these kids are where they are. Only thing is, in Tampa we have to stop tearing down ballparks like Lopez Field and Cuscaden Park. We need to build new ones, not tear them down."

LaRussa's parents and Lou Piniella Sr., with good friend Gil Granda, are going to Cincinnati on Monday, the day before the Series opener at Riverfront Stadium.

"Wasn't that exciting," the elder Piniella said Saturday of Friday night's game he and his wife watched on television. "Well, I mean I watched it all. My wife couldn't take it. About 11 p.m. she got up and went out and walked up and down the street, sticking her head in now and then to find out what was happening."

"I couldn't take it," Margaret Piniella said. "I just couldn't. I thought it would never end. Now they want me to go to Cincinnati to see the games. Not on your life. Not for all the money. I'll stay here and watch it and walk when I get nervous.

"Lou called me this morning. I was in the shower. The phone rang and rang and I said if it is important, they'll call back. But it kept ringing. I got out, wet. It was Lou. My Lou. I am so proud of him."

"We're putting Tampa on the map, aren't we?" said Lou Sr. "I mean with Lou and Tony in the Series. On the map. Lot of people going up to Cincinnati. I am and my friend Gil. And the guys at Clemente's Bar on Armenia and the Arena twins have some tickets. I don't know if we can beat Oakland. We'll try. . . . Yeah we will. We got the pitching."

"That Tony (LaRussa) is a good manager, too," Margaret said. "I mean they're strong. They were strong and then they go get that (Harold) Baines, (Willie) McGee and (Willie) Randolph. But, we go wire-to-wire to win the National League championship. That's not bad."

But it was Lopez who came up with a special idea.

"That Luis Quinones that got the hit that put Piniella's team in the Series, we ought to make him an honorary citizen of West Tampa.

INTRODUCTION OF THE FALSE FIREARMS DEALER IDENTIFICATION PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, as if it is not bad enough that we continue to have firearms manufacturers, importers, and dealers selling assault weapons, silencers, conversion kits, and similar tools of crime and violence, we now have agents of violence further

undermining the efforts of police and the Congress by selling false identification as a Federally Licensed Firearms Dealer to any dope dealer or psychopath willing to pay $5.

A mail order firm in Arkansas now offers professional ID kits which can be completed with a photo ID "in the privacy of your own home." In addition to false identification cards as a sheriff, police officer, special investigator, or for the "Federal Internal Bureau," the firm will prepare an ID as a "Federally Licensed Firearms Dealer" which reads:

The person identified by this card is authorized under license granted by the Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms to lawfully conduct transactions involving firearms and ammunition.

This useful piece of identification is for sale to the same upstanding citizens that find a need for other items offered by the company, such as "How to Make Disposable Silencers"; "Home Made Sub-Machine Gun Plans"; and the "Anarchist Cookbook" with chapters on "home preparation of weapons, electronics, drugs and explosives."

Although it would be illegal for someone to attempt to use this ID to purchase a firearm, the Department of Treasury's Bureau of Alcohol, Tobacco, and Firearms has advised me that it is their opinion that the sale of the ID kit itself is not illegal. The sole purpose of such a false ID is to deceive a firearms dealer. Isn't it easy enough now to buy a gun, without further providing an excuse to the firearms dealer that the purchaser presented official ID. "How was I to know it was false?"

The Government has to act responsibly to avert crime and violence, rather than lurch from crisis to crisis. Although this is one small step in limiting the availability of guns to criminals, we can not fail to continue to disrupt efforts by these agents of violence to confuse and undermine the limited firearms controls we do have.

Therefore, today I am introducing legislation which will clearly make it illegal to sell, make or possess a document designed for the purposes of identifying a person as being legally authorized to deal in firearms. The legislation will create a penalty of $25,000 and/or 5 years in prison. Who could oppose such a simple bill? Only those who can not legally obtain identification to buy a firearm, I suppose.

ORDER OF BUSINESS

Mr. HUCKABY. Mr. Speaker, I ask unanimous consent to be recognized at this time for 1 hour under Special Orders of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I would state that we are having a special order for the gentleman from California [Mr. SHUMWAY], and the time for the gentleman from California [Mr. DORNAN] has been reserved. He is in the Cloakroom.

Mr. Speaker, I ask unanimous consent that immediately following this special order we take up the special order for the gentleman from California [Mr. SHUMWAY].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California [Mr. MOORHEAD]?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that my special order will follow the special order of Mr. HUCKABY.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

TRIBUTE TO THE HONORABLE LINDY BOGGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. HUCKABY] is recognized for 60 minutes.

Mr. HUCKABY. Mr. Speaker, it is an honor, it is a privilege for me to pay tribute today and to say goodbye to one of the most distinguished, one of the most well-liked and one of the most respected Members of the House of Representatives, LINDY BOGGS.

LINDY BOGGS, the name has a magical ring. The connotation is one of excellence, one of the highest standards.

I first heard the Boggs name in Louisiana some 40 years ago. I was a youngster listening to what I thought at the time was, late at night, to the radio. This was before the days of TV. LINDY's late husband, Hale, was engaged in a cliff-hanger race for Governor of Louisiana with the father of one of my playmates. Well, Bob Kennon happened to narrowly nose out Hale Boggs for Governor of Louisiana. Of course, Hale later came to be majority leader here in the House, and years later, in 1976, I had received the Democratic nomination to Congress. I was having a fundraiser that fall in Monroe, LA. The doorbell rang, and much to our surprise, there was LINDY BOGGS; LINDY BOGGS the lady who always does so much more, so much more than everyone expects of her.

She is the first female from Louisiana to serve in the House, and is currently the dean of the Louisiana delegation. Her many years of involvement on Capitol Hill have given her a national prominence few Members here ever attain. She was the first woman to chair the Democratic National Convention. She was a board member of the American Revolution Bicentennial Administration, and chaired the joint Senate-House Arrangements Committee for the 1976 congressional celebrations. In 1987, LINDY was chosen to preside over the special congressional ceremony in Philadelphia honoring the 200th anniversary of our Constitution.

It could be said that LINDY BOGGS is a female Will Rogers. She has never met a person she did not like, and the converse also applies. It would be hard to find someone who has met LINDY BOGGS and does not like her.

But her likeable, low-key style does not deter her from her legislative prowess. She is always a formidable foe and seldom has she lost on issues on which she has taken an open stance. I might say that as late as 24 hours ago LINDY BOGGS was still lobbying me on the floor of the House of Representatives to vote her particular way on a certain issue.

I personally hate to see LINDY go, particularly at a time when the image of Congress is not as good as we would hope it to be. We need persons of her caliber in the Congress, a person to whom our young people can look up.

LINDY, we are going to miss you. Your district, the State of Louisiana, and the Nation, certainly will feel a void upon your retirement.

But let me in closing just say thanks, thanks for always being there, thanks for being LINDY. We love you, and we shall miss you.

Mr. Speaker, I yield to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I appreciate the gentleman yielding.

I congratulate him for taking out this special order.

I have come here with mixed feelings, because after the last 13 years of working with the gentlewoman, I really hate to stand here and say bon voyage, but we will be working together closely, I know, in the years to come.

The gentleman mentioned that he knew the Boggs family in passing as he grew up in Louisiana politics, and I, too, grew up in the city of New Orleans, and the Boggs family, Hale and LINDY and their children, were institutions in Louisiana politics.

I did not ever have the privilege of knowing Hale, but I met LINDY when I was campaigning in my own election, and she was campaigning for my opponent, and I won.

I came to Congress, and since coming here, our votes have not always been along the same path, but our friendship, our ability to work together, our undying unity in representing Louisiana has never been severed, and it has been a great honor and privilege to me, for me, to have

known and to have worked with LINDY as long as I have. I hope that that relationship will go on for a very long time.

The late Speaker of this august body, the Honorable Mr. Joseph Cannon, once wrote, and he used the word "men," and I will have to say that when I quote him, I will extend it to mean men and women.

□ 1850

The House of Representatives * * * is the most peculiar assemblage in the world, and only a man who has had long experience there can fully know its idiosyncracies. It is true, we engage in fierce combat, we are often intense partisans, sometimes we are unfair, not infrequently unjust, brutal at times, and yet I venture to say that, taken as a whole, the House is sound at heart; nowhere else will you find such a ready appreciation of merit and character. In few gatherings of equal size is there so little jealousy and envy. * * * The men who have led the House, whose names have become a splendid tradition to their successors, have gained prominence not through luck or mere accident. They have had ability, at least in some degree; but more than that, they have had character.

Mr. Speaker, that splendid tradition to which Speaker Cannon referred will have one more name when the curtain finally closes on this 101st Congress, CORINNE CLAIBORNE BOGGS.

For 13 years, LINDY and I have served side by side. As representatives from adjoining districts, we have shared many of the same concerns and fought many of the same battles. In the process, I have developed almost indescribable feelings of warmth and respect toward this most wonderful lady.

The bonds of friendship I feel toward LINDY have been forged not so much from temporary political alliances, although clearly, that's a part of it. They are not the bonds formed when one meets a political opposite who can argue and convince with such passionate eloquence, though that too contributed to my high regard for her.

No, Mr. Speaker, the esteem in which I hold LINDY springs from our both—indeed all of us here tonight—being involved in this great experiment in democracy. We are the players, Mr. Speaker. We have decided that sitting back in a comfortable job in the private sector, carping about the actions of others, is not for us. We have chosen to dedicate ourselves toward improving our country in the best way we can.

That is the foundation of my relationship to LINDY in all its diverse parts. It is the respect rooted in the hundreds of late night and early morning sessions within these halls. It is the bond created while walking together to the floor of this Chamber so that we could cast our votes on issues vital to our constituents and to our country. It is the friendship borne out of each driving frantically to National Airport to catch the last flight to New Orleans and then sharing a laugh on the trip down. In short, LINDY and I have a friendship and a respect that can only come from two people who have shared the burdens and the victories that result from a life in the United States Congress.

This Chamber will remember LINDY BOGGS for her unswerving dedication to the just goals of the American society. Her constituents will remember LINDY as a tireless guardian of their interests. I will remember LINDY as a friend, a peer, and an equal upon whom I could always call, no matter what the circumstance or time of day.

Mr. Speaker, in the same spirit as the old soldier who kept as his credo, "Duty, honor, country," LINDY BOGGS will stand as a beacon for generations of future lawmakers, her beliefs, salutary; her achievements, lasting; her stamp on this institution, indelible.

I think it is also important, and appropriate, to note that her success as a Congresswoman is more than matched by her success as a mother. Each of her children have risen to the pinnacle of their professions in or akin to her own political surrounding.

In a few short days, Mr. Speaker, we will formally adjourn the 101st Congress. A few short weeks after that, we will begin anew the slow and cumbersome and wholly human endeavor that is American democracy. Our forefathers created in this institution an ongoing dynamic. We each contribute to it; we are each, in turn, a part of it.

Mr. Speaker, 129 years ago, Abraham Lincoln spoke of this Nation's "bonds of affection * * * the mystic chords * * * [and] the better angels of our nature." These, said Lincoln, guide us down the outstretched path that lies before us. Lincoln believed—and he was not alone here; statesmen and politicians since de Tocqueville have noted this—that the American democracy works so well because of the people who run it.

Mr. Lincoln is correct. And though the names and faces within these walls will change, the guiding spirit of this Chamber will not. It is the spirit of magnanimity. It is the spirit of selflessness. It is the spirit of optimism and hope.

In short, Mr. Speaker, it is the spirit of the Honorable CORINNE CLAIBORNE BOGGS.

Mr. HUCKABY. Mr. Speaker, I yield to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding and permitting me to say a few words about our colleague from Louisiana who we have had the great privilege of serving with.

When we work around here, it is hectic, and the pace is, at times, very demanding. To have someone with grace and style and caring in a very warm way, to be a part of that activity, and be an important part of that activity, makes all our work here a little bit easier, I think.

In my years of service here and in the legislature, I cannot think of many people who it has been a pleasure for me to serve with more than LINDY BOGGS. She is there when we need her. She cares about this institution in a very, very special way. Her work on the historical understanding of our institution and of this institution that we serve in will go down in history as something that we can all be very, very proud of.

She is a dear friend to so many Members. I think probably everybody here who has had a fundraiser knows that they can always count on LINDY being there in the evening. That may sound simple and easy, but after a long, hard day's work here, then taking the time to do that is, I think, a very special and a very decent and wonderful thing to do, and she has taken the time to do it because she loves people.

I think I just want to conclude by saying that in 1984 when our candidate for President, Walter Mondale, was looking for a running mate, LINDY's name was thrown about. I was hoping with all my heart that the gentlewoman would be picked. We had a lot of good candidates, but deep down I felt quite frankly the gentlewoman would have been the best.

I want to wish the gentlewoman from Louisiana all the best in her endeavors in the future. I know the gentlewoman will be a part of this great institution and our Government, and we will miss the gentlewoman. However, I am sure we will see a lot of her. Thank you for gracing Members with your presence, with your expertise, with your quality of legislation, and for being a part of this institution.

Mr. HUCKABY. Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise to pay tribute to one of our most distinguished colleagues, the Hon. LINDY BOGGS of Louisiana, and to join with our colleagues in letting her know how much she shall be missed by all of us.

Mr. Speaker, I was also pleased to support House Resolution 525, a resolution designating room H-235 in the U.S. Capitol Building as the "Lindy Claiborne Boggs Congressional Women's Reading Room."

LINDY CLAIBORNE BOGGS has been a household word in our Nation's Capitol for nearly a half a century. As the charming wife of our late colleague, Hale Boggs, she earned a reputation as one of the most gracious of all congressional spouses. I understand that an invitation to the Boggs home was considered one of the most sought after social treats on Capitol Hill. For nearly 30 years, LINDY BOGGS was a

helpmate to her husband, and joined with him in his political forays and in helping to formulate the legislation that affects all our lives.

Mr. Speaker, when we tragically lost Congressman Boggs in 1972, his widow LINDY was the logical choice to step into his vacant seat. The voters of New Orleans agreed overwhelmingly, and returned her to us in every election since.

Here in the House, LINDY BOGGS has been the personification of the gentlelady who always put the welfare of her constituents and the Nation above all else.

LINDY became especially noted as a highly competent member of our House Appropriations Committee. She also is known for her exemplary work as a member of the House Select Committee on Children, Youth, and Families.

LINDY BOGGS will be longed remembered for many firsts: She was the first woman Representative from the State of Louisiana. She was the first woman to preside at a Democratic National Convention, which she brilliantly did in 1976. As an avid student and fan of American history, she helped lead our Nation as a board member of the American Revolution Bicentennial Administration. When the time came, in 1987, to celebrate our 200th anniversary of the American Constitution, Congresswoman BOGGS was the logical choice to preside over the special congressional ceremonies in Philadelphia commemorating that landmark event.

LINDY and Hale were the parents of three fine children, all of whom made a mark on our society in their own right: Thomas Hale Boggs, Jr., is a noted Washington lobbyist; Cokie Roberts is a noted political commentator with National Public Radio and on the ABC television network; and the late Barbara Sigmund, until her tragic passing a few weeks ago, was the dynamic mayor of Princeton, NJ.

Mr. Speaker, while we certainly understand LINDY BOGGS' decision to leave us to spend more time with her family, we all agree that her loss will be keenly felt. It will be difficult to realize that Louisiana's Second Congressional District will not be represented by a member of the Boggs family in the Congress for the first time since before World War II.

We join in wishing LINDY BOGGS the best of health and happiness in all of her endeavors.

The renaming of this Capitol Hill room in her honor is but a small recognition of the dynamic impact she had upon this Chamber for the past half century.

□ 1900

Mr. HUCKABY. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES of Louisiana. Mr. Speaker, I thank the gentleman for yielding to me and I thank him for taking this special order.

Mr. Speaker, I suppose that I should have seen this announcement of retiring coming. The first telltale signs last year were the food fights that began to start in the Rayburn Cafeteria, and then of course during the State of the Union when she was trying to set on the lap of the Joint Chiefs of Staff. These were the kind of things that were dead giveaways that a change was taking place.

In this body where absolutely nothing is reverent, something is an exception to that rule. As we sit here this afternoon amplifying those of our critics who wish to poke fun at us, we have the capacity to poke fun at ourselves; but now and again an extraordinary thing occurs.

When I left the announcement of the retirement of the gentlewoman from Louisiana [Mrs. BOGGS] in New Orleans, I was escorted in the back of a police car. In order to make light of going away from an event that I was most distressed at, the idea that an institution can retire, I began a conversation with the sheriff's deputy. He leaned over in the back and he said, "I'll tell you something. I'll tell you my favorite story. I took her back one time from a big event in New Orleans. We had to rush to the airport. We had plenty of time. It was important that she get back and make a vote, but there had been a terrible wreck near the airport. So the cars were lined up everywhere. I got on neutral ground. I got around part of a plane that had moved off the runway and they had taken down part of a gate trying to get to it and move it and make repairs. So I went up to the sheriff's deputy there and I said, "Look, I've got Mrs. BOGGS. She has to make an important vote. Can I cut across the fence that is down, take her directly across the runway?"

He said, "Look, it's OK with me if it's OK with you."

So I take her over there and I got back later that evening. Finally that night checking in at the late watch, there was a message for me to call the sheriff. So I called the sheriff and he tells me that Mrs. BOGGS had telephoned him from Washington and wanted to inform the sheriff that if there was damage to the tires, she was going to pay for them, because she understood that it was the policy of the sheriff's office that when there was damage to a vehicle, the deputy had to pay it himself, and she wanted to make sure that he was not assessed for that repair.

He said, "Isn't that extraordinary?"

And the fact is, it is most extraordinary. It is why even in a place of Congress bashing, it is virtually impossible to look at five decades of public service and not to confront as a Member of this body the thing that you never had the courage to say yourself.

The fact of the matter is, to those people who ask you on so many occasions, "I don't understand why you do it. I don't understand why you serve." The fact of the matter is that you do it because someday you hope that when you walk through these doors for the last time, there will be those people somewhere who appreciate the efforts that were made. Long after anyone remembers or forgets what votes were taken, they will in fact remember the manner in which they were taken, the manner in which the arguments were delivered and the kind of people who voted. By that test, the five decades of public service given to the Nation by CORRINE CLAIBORNE BOGGS, who came here with her husband in December 1940, is virtually unparalleled.

The room that is being named after her most appropriately is a reading room, because if you look at her biography you will see the simple explanation that she is a teacher.

I point out to you that it is grammatically correct. It does not say a former teacher, because in the time in which she served here and in the time in which her late husband served here, she taught us all what it was like to live up to the term Congressman. She taught us all what a half century of public service without one day of regret could look like.

At this moment when we are confronted by our critics, we have in the back of our minds an image of something very special, and we have for them the answer. There are in fact those who live up to the public trust and to whom it cannot be diminished. That is the definition of the lady from Louisiana.

Once again, I thank the gentleman from Louisiana [Mr. HUCKABY] for making it possible for me to make these remarks.

Mr. HUCKABY. Mr. Speaker, I thank the gentleman for his outstanding comments.

Mr. Speaker, I yield to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Speaker, I thank my colleague for yielding to me, and I thank him for having this special order this evening.

Mr. Speaker, as Billy Joel said in one of his songs, "All the good lines have been taken." But there cannot be enough good things said about LINDY BOGGS.

I came to this body about 2½ years ago, and if you will remember, I ran in a special election to replace a guy shorter than I am, Buddy Roemer. Since nobody expected Buddy Roemer to win the race for Governor and then nobody expected me to win the election to replace him, the Republicans

in the House had failed to save a committee seat for the eventual winner of that special election, me.

So when I got to the House, I was informed by BOB MICHEL and others that we had a little problem. There were no committee seats available for me.

They said, "But don't worry. We'll try to work it out."

That was before I knew, of course, that Republicans cannot do a whole lot on the floor of the House by themselves.

Sure enough, after a few days of continually asking BOB LIVINGSTON, BOB MICHEL, and TRENT LOTT and others, "When do I get a committee seat?" LINDY BOGGS comes up to me on the floor of the House, puts her arm around me and says, "Darling, I understand you need a little help getting a committee seat."

I said, "Yes Ma'am. It would appear so."

She said, "Darling, I will be happy to help you and I will intervene with the Speaker, if that is all right with you."

"Yes, Ma'am, that will be fine with me."

It was not many days after that, I got word back that something was in the works and I should have a committee seat soon, and sure enough, by a special order of the House there was a seat created on the Budget Committee that I was able to fill.

That was the beginning of my very special relationship with the wonderful lady, LINDY BOGGS.

Just before coming on to the floor this evening, I was on the telephone with a reporter from back home, trying to fill him in on some details in the reconciliation package. And if you would like any details, see me after this—that is a joke.

I was talking to the reporter about the reconciliation package. At the conclusion of our conversation, he said, "Well, why are you still on the floor of the House?"

I said, "Well, I'm waiting here for a special order to commend LINDY BOGGS on her service to the House of Representatives."

□ 1910

And he said, "LINDY BOGGS, isn't she very liberal? Isn't she one of the most liberal members of the Louisiana delegation in the House?" I said, "Well, I will leave the political characterization to you members of the media."

But is she liberal? Yes. She is quite liberal with her kindness, she is liberal in her caring, she is perhaps most liberal with her grace.

And no person, no Member of the House, conservative, moderate or liberal, ever deserved more the accolades that he would receive than LINDY BOGGS deserves the accolades she will receive this evening on the floor of the House of Representatives.

So, to Mrs. BOGGS, my colleague, "Thank you for making the 2½ years I have been here far, far better than it would have been without you, and thank you for your years of dedicated service to this House and to your country."

Mr. HUCKABY. Mr. Speaker, I yield to the gentlewoman from California, [Ms. PELOSI].

Ms. PELOSI. I thank the gentleman for yielding.

Mr. Speaker, again I want to thank the gentleman for taking out this special special order so that we can sing the praises of our dear colleague, LINDY BOGGS.

Being a Member of Congress is a very special privilege indeed, but never so much as on an occasion such as this when we can rise and sing the praises of our colleague LINDY BOGGS, someone so gracious, so distinguished, so beautiful in every way. In a House divided on issues, I know we are of one mind on the subject of LINDY BOGGS.

LINDY has been a civilizing influence on the House. She has been our very best possible role model.

I will always remember your words of wisdom and I know we have all been the beneficiaries of LINDY's words of wisdom. But when I first met LINDY years ago, before I was a Member of the Congress, she said, "Darling, know thy power." I think of that every day.

Another time, when we were deeply involved in a big fight over here over one thing or another, long ago forgotten, LINDY called me back and said, "You know, this isn't the last fight you will have here." So we immediately altered our behavior.

Then the last one that I will quote, although I could go on endlessly as we all could about LINDY's advice, that is, on elections, how they are conducted, past allegiances and animosities. LINDY reminds us that every election should be held in the present tense.

It is good to keep that in mind in this election for some of us as well.

There are few who possess the dignity, compassion and endurance of LINDY BOGGS.

A woman of great accomplishment in her congressional career, LINDY has distinguished herself in her service in this body by uniting diverse coalitions through her calm powers of persuasion. We have all been victims or beneficiaries of her calm powers of persuasion. The people of the Second District of Louisiana are fully aware of the contributions LINDY BOGGS has made to her constituency and to the issues that were important to the livelihood of her district. She has averaged, keeping in mind that every election is fought in the present tense, she has averaged 90 percent in her reelection campaigns.

I am proud to be able to say that I am a colleague of LINDY BOGGS and that I am a friend of LINDY BOGGS. Others have talked about her family, which as we all know comes first with LINDY, but she has made us all feel part of her extended family. And for that, that is an unmatched privilege in this House and on this Earth.

Thank you very much, LINDY BOGGS. We will miss you greatly.

Mr. HUCKABY. Mr. Speaker, I yield to the gentlewoman from Maryland, [Mrs. BENTLEY].

Mrs. BENTLEY. I want to thank the gentleman from Louisiana for yielding and also to commend him for taking this special time to honor a very great lady.

Mr. Speaker, Chairman DAVID OBEY, who is involved in a conference session, asked me to express his kind and warm feelings to LINDY tonight and to apologize for his not being able to be here.

Mr. Speaker, so many words of praise have been spoken on this floor over the last several days about our well-beloved, highly respected colleague LINDY BOGGS, that I—as a writer and former editor—find myself threatened by the possibility of being overly repetitious in praising her.

Hopefully, since I have known LINDY so long, I might contribute something tonight in commenting on the loss—to us all—of not having a Boggs in the House.

I came to Washington some 40 years ago—and oh my colleagues—you think we have politics now and that we are politicians. It was a time of giants in the land—Carl Vincent and Sam Rayburn, to name two whose names will be familiar in this House. And in the Senate, Hill and Sparkman, Taft and Russell.

A young Hale Boggs was coming along at that time in the great southern tradition of public service. The best and the brightest were sent to serve their country in Washington. Hale was beguiling, persuasive, a tough and fair adversary—whose word, like that of any high stakes gambler and most good politicians are gamblers. His word was his bond.

I got to know him first as a newspaper reporter covering maritime and transportation issues on the Hill. He served those industries well, as well as being House majority leader. Almost at every event dealing with shipping, one could meet Leader Boggs and his lovely wife because they knew the importance of this industry to the strength of the United States of America.

And then he was gone, so quickly, so prematurely, so tragically. Louisiana, the Congress, and the Nation, however, were fortunate that his widow, LINDY, was out of yet another southern tradition—the strong, heroic women who carry on with dignity and grace no matter the burden, no matter the loss. The southern spirit, looking

always to the sky, the horizon, a better future—for all.

So she built her career, her life and future in Washington bringing to the sometime tedious job of legislating a certain grace and constant charm—and a strength of character which has brought us all to the floor tonight—both parties—to tell her that not only will we miss her in the Congress, but that her leaving diminishes the institution. And she leaves her good name on the Ladies' Reading Room.

LINDY, it has been our pleasure—our privilege—and now, our loss. Godspeed.

Mr. HUCKABY. Mr. Speaker, I yield to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I would like to paraphrase something that was said by MO UDALL, and that is that everything that has been said about LINDY BOGGS has already been said but not everyone has said it.

I can tell you that many times we use the phrase "the gentleman" from whatever State, and we do it out of habit most of the time, out of tradition, and sometimes, I guess, we do not even really mean it.

But when people talk about "the gentlelady from Louisiana," that is what gentle and gentileness really means. That is what we truly mean when we use the word "lady." And that is the grace and the charm she has brought to this body. There is not a discussion, not an outburst, not a disorderly House, that when someone says "the gentlelady from Louisiana," that you do not find a calm coming over this particular House.

And when you think of all of the things that she has accomplished: What a wife, to be able to stand tall in the shadows of one of the Nation's most outstanding leaders; what a mother, to be supportive of her husband and still raise a family where all of her children have felt the need to be dedicated and to serve the public; what a Member, who knows that she could walk with Speakers from Tip O'Neill and Wright and enjoy in her laurels, and yet have every new Member know that they could come to her with their problems and she would be able to spend as much time as it would take to solve them; and what a friend, who was able to befriend me and my wife Alma, to let us know what New Orleans was really all about.

So for those who have not been, please go to Bourbon Street. And if the gentlelady from Louisiana will open up the doors of her mansion to you, then you would truly find out, not what New Orleans is all about, but what America should be all about; how people who hold high public office would come in there and give her all the admiration and respect that she deserves, and a black uneducated, something to eat or drink, will be coming in and asking for "Miss LINDY."

□ 1920

What a change to see people that have and people who do not have, white and black, Protestant and Catholic, Jewish and gentile. They somehow believe that her home belonged to everybody on Bourbon Street.

I do not know how much we will miss LINDY because she has given us a new spirit, and I know one thing for this gentleman from New York, that whenever I recognize any gentlelady, I will be thinking of our House lady, LINDY BOGGS.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman from New York [Mr. RANGEL].

Mr. Speaker, I yield to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, not to be repetitious, but, as an Alaskan, we have a great fondness for LINDY BOGGS because everyone knows that she lost her beloved husband in Alaska with my predecessor, and that is when I really gained a great deal of admiration and respect for LINDY. She was a lady and a friend of mine through those trying times.

Mr. Speaker, she has been to my State numerous times. Alaska loves LINDY as I do. We have a center up there named the Boggs-Begich Center in one of our parks looking out over the glacier.

I can only say this, that she is probably as well recognized in our State as I am, and she is thought of with the greatest respect and admiration by Alaska. The Boggs name will not only always be there because of Hale, but because of LINDY. They recognize her work, her dedication and the dignity she brought to this House, and they truly, through myself, wish her Godspeed and good luck, and whatever endeavor she seeks to do, she will be an asset to that as she has been an asset to this House, and we love you, LINDY.

Mr. TAUZIN. Mr. Speaker, I yield to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I want to thank the gentleman from Louisiana [Mr. HUCKABY] for reserving this time for us to pay tribute to our colleague and friend, LINDY BOGGS, who is retiring following a distinguished career in the Congress. The Second Congressional District of Louisiana and our Nation will long remember LINDY as an outstanding individual and committed public servant.

Mr. Speaker, when I first came to Congress more than 20 years ago, two of the first persons to extend the hand of welcome and friendship to me were Hale Boggs and his wife, LINDY. This hand of friendship was also extended to my wife, Jay. It was then that we also came to also know their children, Tom, Barbara, and Cokie.

The Boggs were a warm family and real friends. Hale used to take particular delight in counseling with young Members like myself. I can recall many conversations with him. He was particularly proud of his record on civil rights and the leadership role he played in the passage of the 1964 Civil Rights Act as a southern Congressman.

Hale was one of the greatest orators I have ever heard. When he spoke in this House, he commanded rapt attention. All of us were numbed by his untimely demise after becoming majority leader of the House. We had looked forward to someday serving under his speakership.

When LINDY succeeded Hale in the House, it was a natural. They did everything together, so it was easy for all of us to accept LINDY as Hale's successor. In fact, we all were proud to see this beautiful, charming, intelligent lady who personified and embodied what being a lady was all about, become a Member of Congress.

LINDY has done the Boggs name proud in this institution. Few people who have served in this body have been awarded the love and respect that is held for her. Moreover, few Members have been able to affect legislation on the floor of the House in the manner LINDY has been able to do. She has been one of the most sought after Members to speak on legislation where her influence has been important to passage of a bill. I can vividly recall how her speech in favor of funding for the Select Committee on Assassinations which I chaired was the deciding speech for many Members on whether to fund the committee's work.

More than that, however, I will miss the Boggs-Stokes and the Stokes-Boggs amendments on appropriation bills where LINDY and I jointly sponsored so many amendments on minorities and women.

Mr. Speaker, LINDY was dedicated to equal opportunity, equal pay, and justice for minorities and women. No one can ask a witness in a hearing about their employment practices toward women and minorities more gently than she can. But at the same time, no one can be more persistent in getting the truth out than she can.

New Orleans and the State of Louisiana have benefited greatly from LINDY's service in Congress and from her work on the Appropriations Committee. She has been fiercely devoted to her constituents.

Mr. Speaker, in closing, I want to thank LINDY for the great job she did as Chairman of the Commission on the Bicentenary of the U.S. House of Representatives. In particular, I want to thank her for providing the now

much sought after book entitled, "Black Americans in Congress, 1870-1989." LINDY has done so much that I would like to thank her for, but mostly I want to thank her for just being LINDY. Few people in history will leave the indelible mark on this House that she and her distinguished husband have left. Together, they enable us to celebrate 45 years of service from the Boggs family in the U.S. House of Representatives. The Boggs name will forever remain one of the priceless assets in the history of this institution.

Mr. Speaker, I want to again thank my colleagues for the opportunity to participate in this special order. I extend my best wishes to LINDY and her family, and I thank her for her friendship over the years.

Mr. TAUZIN. Mr. Speaker, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, it has already been said that all of the wonderful things about LINDY BOGGS have already been said, and I was not going to come over here, but I noticed on my TV that, after each person spoke, they got a hug, so I just came over for one of those famous LINDY BOGGS hugs that makes you feel so damn good when you are feeling so bad.

Mr. Speaker, it is a sad day for me to think about LINDY BOGGS' retirement from the House.

It is hard to believe that someone my size would lean on someone her size so very often, and I am sure that sometimes so heavily, but she provides great counsel. She provides great counsel to especially someone that sometimes is as volcanic as I can be from time to time.

Mr. Speaker, when things were going bad in the Select Committee on Children, Youth and Families, where she has been a stalwart of that committee, when I am losing my temper and losing my way, I think at the same time a note has been passed to me from LINDY, and it is always sort of the same message: "You know there will be other days. Just slow it all down here a few rpm's, and you'll get through this one."

Mr. Speaker, that has been a wonderful gift because I think she has taught me that there are many ways to achieve goals and that it is very unlikely in this place to take home the entire basket of goods. You have to come back, and you have to be diligent, and you have to work over, and over, and over again.

In our shared work on behalf of children in this country she has been there diligently every year, time and time again, on behalf of children who died to see that future children do not die. She talks about prevention because she knows that we can do better as a nation. She knows that so many more children are capable of success than are given the opportunity for success. She has pounded time and time again in that Appropriations Committee for money for the most vulnerable of our society, and, when you listen to all of the nice things that are said about her, and about her personality, and her temperament and her understanding, you would wonder why the other 400 Members of Congress wander around screaming, and bellowing, and pointing fingers when she is so successful that obviously there is a formula here for success, and we ought to think about that in moments when we strike out at one another. There is usually a Boggs formula for suggesting that this can be worked out, that success can be had.

□ 1930

She has made the Select Committee on Children, Youth, and Family, the success that it is. Not only because of her participation, and she has probably attended more hearings than any other member of the committee, but because she has followed up on what she has learned, what she has observed. She has followed up in the Committee on Appropriations by asking for help for those children and those families at risk.

It is a wonderful experience, as CHARLIE RANGEL has pointed out, to be in New Orleans with LINDY BOGGS. It takes a long time to walk a block in New Orleans with LINDY BOGGS, because she knows everyone, or everyone knows her, or think they do, and the time she spends with each person is unbelievable. While most of us think we are in such a hurry and we have to get to the next place, LINDY just talks and deals and is concerned with each individual.

That same attention, that same understanding, is shown when you walk through a child care center with her, when you walk through a foster care home, when you talk to the children and to the parents and to the foster parents. She has time for all of them.

I sometimes have kind of dreaded when LINDY would come to a select committee, because I knew that she thought, out of courtesy, each witness was entitled to a question and to have their thoughts explored and to have their testimony taken apart; that they came all this way to give us the benefit of their knowledge, their thoughts and their viewpoints, whether she agreed or disagreed with them, and she thought it was a matter of courtesy that a question be extended to them.

Like that walk down the long block in New Orleans, it can make a hearing go a long time.

What we found out was those witnesses would come back and help us. They would extend another hand to our select committee. They would come to another hearing, because of that courtesy, because of that interest shown to them.

It has been a wonderful, wonderful relationship to serve in this House with her, to serve on the same committee with her, to watch her successes on behalf of others, always on behalf of others.

I have to say quickly on behalf of the staff of the select committee, nobody has treated them better, nobody shown them the kindness or given them the time, as LINDY BOGGS. We all know how hard our staff has worked, but the one who has been in their office later at night saying bring it over, let's talk about the hearing tomorrow, has been LINDY BOGGS. The staff has appreciated it, because they have spent a lot of hours, but LINDY has always, always recognized that, and extended that kindness.

Now it is time for a hug, LINDY.

Mr. HUCKABY. Mr. Speaker, I yield to the gentleman from Washington [Mr. FOLEY], the Speaker of the House.

Mr. FOLEY. Mr. Speaker, I come to the floor tonight with a sense of regret, because this is kind of a legislative version of a farewell party, and the farewell to LINDY BOGGS is a terrible blow and a sad event for all of us.

LINDY is a member of one of America's few, but terribly important, political families of the first rank. She and Hale Boggs together have served for half a century in this body, and their children have made great contributions to public service, in communications, in law, and all of them have had distinguished careers as well.

I served with Hale Boggs, who would have been the Speaker of this House, had not a tragic accident interrupted that brilliant career.

When LINDY came to succeed him, all who knew her knew that she was going to have a wonderful career in the House of Representatives, sad though the occasion of that career, being the death of Hale. But I don't think any of us really knew how great a career she was going to have or what a tremendous contribution she would make.

In every way that she has served here, she has served with grace, intelligence, commitment and effectiveness, with friendship and warmth, and in a way that reflects for all of us the finest traditions of the House of Representatives and the finest traditions of the great Boggs family, a contribution to the State of Louisiana and to the United States.

I have said that in 25 years I have never regretted a Member leaving more than I regret LINDY BOGGS leaving this institution. You could always count on her, not for a sure Democratic vote, though she has, I must tell those on the Republican side, one of

the best of all records in that regard, but you could always count on her principles. There was never any case where the right thing was not going to be done by LINDY BOGGS.

Just as Hale made so many courageous decisions in his life and career, at a time when they were difficult, dangerous, and threatening to any Member's political future, and made them cheerfully and openly and courageously, LINDY, in her time, every day, made a statement of commitment and concern and effectiveness in this House of Representatives, that is as impressive a record as that of anybody I know.

I will think many things about her service and her efforts over the years, and one of them, of course, has been, as GEORGE MILLER just described, her tremendous contribution to children and youth, to the rights of women, all of those things that mark her career. But I will think in a special way of her commitment to the Constitution and of her service as the Chair of the Bicentennial Constitutional Commission of the House, and what her concern about the Constitution reflected in her actions in this body.

If there was one way that I think you could quickly engage her attention and her concern in this last bicentennial year, it was on any issue which reflected constitutional values or our constitutional tradition. She believed in it passionately, she defended it fiercely, and she stood by it constantly.

All of us take an oath when we become Members of this body. It is an oath that arose out of the great struggle between our two communities in the mid-19th century, but it is an oath that all Members from every part of the country take willingly, and with great, I think, personal emotion and commitment, to defend the Constitution of the United States against all enemies, foreign and domestic; to bear true faith and allegiance to the same; and to take this oath without mental reservation or purpose of evasion, and to faithfully discharge the duties of the office on which we are about to enter, so help us God.

Of all the Members I have known, of all whom I have served with, no one has fulfilled that oath better or served it more honorably, or retired from this body with a greater record of service and commitment, and, I hope she understands, gratitude, than does the lady from Louisiana, no finer lady in this body, no finer Member in this body, than LINDY BOGGS.

We are going to miss you every day, LINDY. God bless you.

Mr. HUCKABY. Mr. Speaker, I yield to the gentleman from West Virginia [Mr. MOLLOHAN].

□ 1940

Mr. MOLLOHAN. Mr. Speaker, there are many good people in this institution, and I have many friends here, but I truly cannot think of any person more deserving of this House's gratitude and recognition than LINDY BOGGS.

When asked to characterize LINDY BOGGS, the Member of Congress, one doesn't know whether to lead with her intelligence and political effectiveness or with the grace and fundamental courtesy that she brings to the job. I think perhaps it is the rare combination of these two traits that has defined LINDY BOGGS as a unique presence in the House of Representatives, in the city of Washington, and, indeed, in national politics.

I was appointed to the Appropriations Committee in 1986, and I have had the pleasure and the extreme good fortune to sit next to Congresswoman BOGGS on the VA-HUD Subcommittee for the last 4½ years. You could not ask for a better seating assignment. LINDY let me borrow generously from her years of experience in the occasionally Byzantine world of the appropriations process. She frequently suggested when I should hold them and didn't hesitate to suggest when it was time to fold them. She made my midsession jump to the committee much smoother—and, of course, much more pleasant—than it otherwise might have been.

It was more pleasant and afforded an opportunity for me to continue a friendship with the Boggs family which began when my father and Hale Boggs served together as friends in this body many years ago. The better I know this lovely woman the more I appreciate the reasons why she is universally held in such high regard. She enhances mightily the reputation of this body. She will leave a void—it will not be filled—it could not be filled.

That combination of intellect, grace, character, consideration, and effectiveness is too perfectly combined in LINDY to ever be repeated.

In light of the last several weeks, one might be excused for suspecting that there is nothing on which the House of Representatives agrees, but I feel safe in speaking for all of my colleagues in the House, in addition to the whole Mollohan family, in wishing LINDY Godspeed and tremendous fortune. The House will be diminished by her departure.

Thank you, LINDY.

Mr. CONTE. Mr. Speaker, at the end of the 101st Congress, this body will lose the services of one of the most beloved Members to have ever served in the House of Representatives. For nearly two decades, the gentlewoman from Louisiana, the Honorable LINDY BOGGS, has served her district and her Nation with distinction and honor.

LINDY BOGGS represents all that is good and decent and honorable about this great institution. Her unfailing warmth and graciousness have softened the edges of many sharp and hostile debates in this House. When tempers flare and patience wears thin, LINDY reminds us, through her gentle disposition and courteous manner, that business can be conducted in this Chamber with civility.

It is difficult to imagine the U.S. House of Representatives without LINDY BOGGS. Throughout her nine terms as the Representative of Louisiana's Second District, LINDY'S hand has been extended in friendship to all Members with whom she has served. We have all been touched by her hospitality and charm, and her retirement will leave a great void in this Hall and in the hearts of her colleagues.

When Members of Congress assembled in Philadelphia in 1987 to reenact the Constitutional Convention, LINDY BOGGS was selected to assume the role of George Washington. LINDY was perfect for the role. Like Washington, she has served her country with distinction and has been rewarded with the respect and admiration of all who know her.

Mr. Speaker, all of us have been, at one time or another, bewitched by the charms of the gentlelady from Louisiana. But we have also been humbled by her extraordinary courage and strength. Mrs. BOGGS has endured extreme personal tragedy with composure and bravery. When her late husband, the majority leader of this great body and the heir-apparent to its speakership, the great and Honorable Hale Boggs, disappeared in the vast expanse of Alaska, LINDY responded to the enormous loss by redoubling her efforts on behalf of the poor, the sick, and the disadvantaged. In 1972, she was elected to the congressional seat held by her husband for the previous 30 years, and she has used that seat to advance the very worthiest of causes ever since.

More recently, LINDY suffered the tragic loss of a child to illness. No experience in life is more grievous and painful than the loss of one's beloved child. Yet LINDY has borne her loss with remarkable courage. I join my colleagues in expressing my most sincere sympathy to my beloved friend in this time of deepest sorrow.

Mr. Speaker, the career of LINDY BOGGS, the belle of Brunswick Plantation, has been marked by a series of "firsts". LINDY was the first woman from Louisiana to serve in the House of Representatives. She was the first woman to chair the Democratic National Convention. And, of course, she is number one in all of our hearts.

Mr. Speaker, I join with my fellow members of the Appropriations Committee, all Members of this side of the aisle and all of my colleagues in the House of Representatives in congratulating LINDY BOGGS on her years of faithful service to this Nation and conveying my best wishes to LINDY for a happy and wonderful retirement.

Mr. BEVILL. Mr. Speaker, I rise to pay tribute to one of the finest Members of Congress I've ever had the honor to serve with. It has been a real pleasure to serve with LINDY BOGGS who will be retiring at the end of the 101st Congress.

LINDY is a great lady and a great friend. She has been a most outstanding member of my energy and water development appropriations panel. And, we are certainly going to miss her sound advice and her active role in meeting our energy and water needs.

As you know, LINDY has been in Washington for 50 years. She came here with her husband, the late Hale Boggs, and she succeeded him as U.S. Representative from Louisiana's Second District. For 18 years, LINDY has worked hard for her constituents and for the Nation. She has set a very fine example as a strong, effective and gracious leader.

The people of New Orleans and southern Louisiana will certainly miss her representation since she has done so much to improve flood control and navigation on the Lower Mississippi.

She has been a very strong advocate for this region and she gets this done.

LINDY will go down in history for the role she played as chairman of the very historical observance of the bicentennial of the Congress. And, she presided over the celebration in Philadelphia to commemorate the Great Compromise of the Constitutional Convention.

She's just the best at everything she does and I know she's going to be very, very busy in her retirement.

LINDY, we're certainly going to miss you and I wish you all the best. .

Mrs. COLLINS. I stand here today with mixed emotions to say so-long to my friend and colleague, LINDY BOGGS. I am sad to see her go, but as I look back on the 17 years we have spent as Members, my heart is warmed by the thoughts of our friendship.

LINDY and I share a common tragic and surreal similar history. We both won special elections in 1973 to fill the seats vacated by the deaths of our husbands who were sitting Members. LINDY was sworn in 3 months before I was. During our years in the House we have formed a special bond. We have worked together, laughed and cried together, swapped stories and child-raising tips and watched a lot of history unfold before our eyes.

I think the most striking thing about CORINNE CLAIBORNE BOGGS is that she is the consummate southern gentlelady. She has style, class, and grace; ever gracious, she has a warm smile and kind word for everyone. You can't even twist the arms of her adoring staff to say anything but the kindest things about her and how it has been to work with her.

LINDY is a family person and has endeavored to juggle her life and busy schedule to accommodate the devotion she feels for her family with her high sense of civic duty and responsibility. It's not easy to be a parent and serve in the House. Speaking from experience, I know that it is especially tough to be a single parent, even if your children are grown. My heart went out to LINDY these past few weeks as her daughter, the late Barbara Sigmund, suffered the final stages of cancer. LINDY was devastated by her daughter's distress and while she went out of her way to be with her family, I am sure she was also concerned that the needs of her constituents and our Nation not be ignored.

LINDY BOGGS is a woman of means who never forgot or ignored the plight of those who were less fortunate. Take a stroll through her district in New Orleans and the warmth she exudes is returned by her constituents several times over. As a member of the Appropriations Committee and the House Select Committee on Children, Youth and Families, she has used her seat in Congress and on these committees to serve the needs of the Second District of Louisiana. A commanding and persistent advocate for programs and efforts to combat poverty, infant mortality, child abuse and teen pregnancy, she would appear before any committee, address any interest group, and take on any Member in an effort to bring positive change to the lives and well-being of her constituents.

I will miss my colleague, the gentlelady from Louisiana. But my friend, LINDY—whether she's back home in New Orleans or here in Washington—will always be just a phone call away. And I hope she forgives me for calling on her for advice or to share yet another anecdote about being a woman in the House of Representatives.

My dear, LINDY I wish you the best that retirement has to offer: more time with your family, more time for yourself, and more time for friends who will always be glad to hear from you.

Mr. WEISS. Mr. Speaker, I rise in honor of Representative LINDY BOGGS who will be retiring this year. The House will dearly miss LINDY, one of its most beloved and respected Members. She has earned the affection and esteem of all who have known her during her 50-year association with this institution.

During Hale Boggs' 30 years in Congress, LINDY contributed to this institution as skilled congressional wife with her incomparable grace and charisma. In 1972, when Hale tragically disappeared in a plane over Alaska, Louisiana's second district elected LINDY to his seat. Since then, she has served Congress with honor and distinction, earning a Capitol Hill reputation in her own right.

Although LINDY was the second in her family to serve in the House, her résumé is filled with firsts. Among others, she was the first woman from Louisiana to serve in the U.S. Congress and in 1976, became the first woman to chair the Democratic National Convention.

"The longer you stay here," she once commented, "the more aware of inequities you become." And, she has fought against inequities throughout her tenure in Congress. She has championed such issues as civil service pay equity, domestic violence and easing credit access for women. In 1983, she led efforts to shift the emphasis in the Appropriations Committee's $4 billion jobs bill away from construction work and toward jobs traditionally performed by women.

In addition to working for a better tomorrow, LINDY has worked to preserve the memory of the past. An American history buff, she was a board member of the American Revolution Bicentennial Administration and chaired the joint Senate-House arrangements committee for the 1976 congressional celebrations. In 1987, she was chosen by her colleagues to preside over the special congressional ceremony in Philadelphia honoring the 200th anniversary of the Constitution. She also served as Chair of the Commission of the U.S. House of Representatives' Bicentenary.

In recognition of LINDY's tireless efforts to advance equal rights for women and her dedication to preserving the history of this institution, the Members of the Louisiana delegation and the women Members of Congress introduced a resolution to honor LINDY by renaming H-235 in the Capitol, "The Lindy Claiborne Boggs Congressional Women's Reading Room" I am proud to have co-sponsored this resolution to honor our special friend and colleague.

The House of Representatives was blessed with LINDY BOGGS' kindness and talent for 17 years. She has said that this is the end of just one chapter in her service to the public. She will continue to work on projects like the bicentennial, to which she has already given much time. Whatever she does, I know she will do it with the same flair and good will she demonstrated in Congress. Knowing that she will never be replaced here, I salute her and I wish her well in her future endeavors.

In many ways she has been an "angel" among us and I am proud to have had the opportunity to serve in the House with her.

Mr. LAFALCE. Mr. Speaker, her character, her humanity, her strength—these are the traits that all who have worked with LINDY BOGGS in the House will sorely miss.

But rather than a retirement salute to LINDY BOGGS, I would like to talk about her continuing legacy. With her able help, I obtained passage of the Women's Business Ownership Act of 1988. She has been a tireless fighter for the rights of women and the provisions in that law giving women equal access to commercial credit, are part of a lifelong dedication to promoting business ownership for women.

In many ways LINDY BOGGS was the general leading a growing army of women entrepreneurs. By the year 2000 the Bureau of Labor Statistics expects that half of all small businesses in the United States will be owned by women. That is her legislative legacy.

LINDY and I also introduced the Women's Business Procurement Assistance Act, H.R. 2947, last year. This legislation is designed to promote greater access to Federal procurement opportunities for women-owned businesses by requiring Federal agency-wide numerical goals for both prime contracting and subcontracting.

This Congress is almost over—long past its expected time—and one Congress was obviously not enough to move this legislation either alone, or as part of the Economic Equity Act sponsored by the Women's Caucus.

LINDY BOGGS decided to put family obligations ahead of running once more for office, and opted to retire in order to spend time with her ailing daughter, the late Barbara Boggs Sigmund.

I want to honor LINDY and her years of service to this House with a pledge. Next year I expect to receive the recommendations of the Women's Business Ownership Council. I pledge that I will not leave this report in a dusty corner, but will follow the recommendations with appropriate legislation. Because LINDY has always been a fighter for women

entrepreneurs, I want her to be assured that the fight will go on.

I know I speak for all my colleagues when I say LINDY BOGGS will be missed in this House.

Mr. DINGELL. Mr. Speaker, LINDY BOGGS came to Congress as the result of the tragic death of her husband, Hale Boggs, with whom I had the pleasure of serving in this chamber for a number of years. Hale was a good colleague and friend—and a great legislator for that matter.

But—I know that greatness runs with the Boggs family, because LINDY has become one of the greats of this institution. I knew LINDY long before she became a member of this August body. But—you know—it didn't change her personality one bit. She continues to retain that grace and courtly charm that accompanies her wherever she travels. LINDY always has that special ingredient to turn an almost abominable situation into a tolerable one. Always upbeat in times of despair.

But LINDY's pleasant disposition doesn't mean she was ever a pushover. Not LINDY. Not that tough Louisianian.

In a very short period of time, LINDY was able to find the political common denominator that some of us never can find—that "all politics is local" and never forget the interests of your constituents. She watches out for her New Orleans constituency—like a hawk. From her well-earned perch on the House Appropriations Committee, she brings home big wins for her hometown folks.

LINDY and I share a common avocation—the study and love of history. Her participation as a board member of the American Revolution Bicentennial Administration and her chairmanship of the joint House-Senate arrangements committee for the 1976 congressional celebrations won her the honor of presiding over the special congressional ceremony in Philadelphia honoring the 200th anniversary of the U.S. Constitution.

I can say with great conviction: LINDY BOGGS has earned her place in the history of this institution. As the first female from Louisiana to serve in the U.S. House of Representatives, she has set a brilliant example of statesmanship and success. Furthermore, she was the first female to chair the Democratic National Convention back in 1976.

Yes, we all will miss LINDY BOGGS in this chamber. And we bid her farewell, not with a sense of sadness, but instead with the rejoice that she will be remembered as a first among equals.

All of us in this chamber know—so very well—that LINDY will continue to spread her wit, her charm and her wisdom in whatever endeavor she pursues.

We shall miss her.

Mr. HORTON. Mr. Speaker, I rise today to pay tribute to our retiring colleague, who has served this House with distinction for the past 18 years; a woman who is respected, admired, and loved by her colleagues in this body, I of course, speak of the Hon. LINDY BOGGS. Having been reared and educated in Louisiana, I feel a special kinship with the gentlelady from New Orleans.

In 1973, LINDY came to this body as the successor to her husband, the late Representative Hale Boggs, who served this body for 27 years. Clearly, the first woman elected to the House from the great state of Louisiana learned much during her years as a Congressional spouse, as she quickly distinguished herself as a thoughtful and able Member in her own right.

For the past 18 years LINDY has served the people of Louisiana's second district well. As a member of the Appropriations Committee, she has been successful in obtaining funds for projects of vital importance to her constituents in New Orleans as well as the rest of Louisiana. Specifically, she has worked on improving the navigability of the Mississippi River, developing housing programs, and establishing equitable energy assistance programs. LINDY has also ably represented women's interests during her years in Congress. She has been a long-time proponent of directing Federal funds appropriated for job programs toward industries that extensively employ women.

Perhaps nothing attests to LINDY's rapid rise than the fact that in 1976, just 3 years after being elected to the House, her first elected position, she was chosen to chair the Democratic National Convention. What makes this honor even more striking, is the fact that she was the first woman to be so honored.

In 1987, this body also demonstrated its admiration and respect for LINDY, when it elected her to present the keynote address at the special congressional ceremony honoring the 200th anniversary of the Constitution. A dozen years earlier, LINDY was selected to be the chairman of the joint House-Senate committee that organized the bicentennial congressional celebrations.

The Second Congressional District of Louisiana will have a difficult time replacing LINDY BOGGS. I want to express my earnest appreciation and admiration for her years of service in this body. Her retirement is a loss for this body, for Louisiana and for the Nation. She will be missed.

Ms. OAKAR. Mr. Speaker, I stand here this evening to say goodbye to another old friend. Last night, we bid our farewells to LINDY BOGGS and tonight we pay tribute to the gentleman from California, NORM SHUMWAY.

I have had the pleasure of serving with NORM SHUMWAY on the Banking, Finance and Urban Affairs and Aging Committees. He is the ranking Republican on the Subcommittee on Economic Stabilization, which I Chair, and, although we have often disagreed on policy, I have the utmost respect for his integrity and abilities. He made significant contributions on the Defense Production Act which passed this chamber this afternoon.

NORM SHUMWAY is a man of his word. * * *An attribute that counts for everything in this body. During his first campaign for Congress, NORM promised that he would only serve six terms, if he were fortunate enough to be returned to office. He was returned to office and now NORM SHUMWAY is keeping his word.

NORM SHUMWAY is a devoted husband and a loving father to 6 children. A commuter marriage is never easy under the best of circumstances, but when your home and your job are on opposite coasts, it is extremely difficut. But, with his lovely wife Luana, the SHUMWAYS have raised a magnificent family and their rock solid marriage has endured wonderfully.

NORM, you are a fine and decent man. You are also my friend, and believe me when I say that I will miss you.

Mr. GREEN of New York. Mr. Speaker, I rise today to pay tribute to my good friend and distinguished colleague on the House Appropriations Committee, LINDY BOGGS who at the close of the 101st Congress is retiring after serving for 17 years.

I should like to thank our colleague, Mr. JERRY HUCKABY, also of Louisiana, for sponsoring tonight's Special Order in LINDY's honor.

LINDY has set a number of precedents in the political realm. She was the first woman to be elected to the House from Louisiana, and the first woman to chair the Democratic National Committee. From those actions, as well as her caring nature, LINDY has gained the deserved respect and admiration of all of those who have had the pleasure of working with her in this body.

At this time, I should like to offer LINDY my very best upon her retirement. I know that our colleagues join me in thanking her for her dedication to the State of Louisiana as well as the Nation as a whole.

Mr. ROYBAL. Mr. Speaker, I rise to honor our longtime friend and colleague, Congresswoman LINDY BOGGS of Louisiana, who is retiring at the end of this session.

I have known LINDY for many years before she became a Member of Congress. Upon the sudden and tragic death of her husband in 1972, Mrs. BOGGS overcame her bereavement to assume her husband's seat and embarked upon her own remarkable House career. As a fellow member of the Appropriations Committee, I have known her as a dedicated stateswoman who works quietly and efficiently behind the scenes to accomplish her goals.

As an early and steadfast supporter of civil rights, Mrs. BOGGS showed the courage and sense of fairness which has marked her tenure in Congress. As the first woman ever elected to Congress from the State of Louisiana, Mrs. BOGGS has been active on issues as diverse as the restoration of New Orleans' historic streetcars to the search for adequate housing for all Americans. I have seen her unwavering support of quality care for the aging, and seen her fight for funding to keep the Military Medical College in Bethesda alive.

Mr. Speaker, in my many years as a member of the Appropriations Committee, I have come to admire and respect Mrs. Boggs as a champion of those who have not enjoyed the success and opportunities which many of us have had. The gentlewoman from Louisiana will be sorely missed, but her memories will be fondly cherished. I look forward to working with her in her many other endeavors and wish her nothing but success for the future.

Mr. ANNUNZIO. Mr. Speaker, I rise to join my colleagues in the House of Representatives in paying tribute to Congresswomen LINDY BOGGS, who has ably represented the people of the Second Congressional District of Louisiana during the last 18 years. Her tireless efforts on behalf of her constituents, and

on behalf of all the citizens of this Nation, are most worthy of recognition.

I have had the privilege of serving with LINDY BOGGS on the House Administration Committee during the 94th Congress, as well as on the Banking, Financing, and Urban Affairs Committee, during the 93d and 94th Congress.

LINDY is a loyal and dedicated Member of the House of Representatives. She reflects credit on the House through her outstanding work. Her selfless efforts on behalf of her constituents and the State of Louisiana have complemented and expanded the distinguished service of her late husband, as LINDY conscientiously, aggressively, and with great distinction, carried the banner of the proud political tradition of her late husband, Majority Leader Hale Boggs, with whom I also had the honor to work in the House of Representatives.

LINDY BOGGS has compiled a fine record of achievement as a member of the House Appropriations Committee and the Select Committee on Children, Youth, and Families, and she has served with dedication as the chairperson for the 1976 Democratic National Convention.

LINDY is a fine legislator who has gained both the affection and admiration of her colleagues in the House of Representatives. She will surely be missed by those of us who have had the pleasure of working with her and knowing her in the Congress of the United States.

I extend to LINDY BOGGS my best wishes for continuing success in all of her future endeavors as well as a healthy and happy retirement.

Mr. STARK. Mr. Speaker, in early 1973, when my congressional career was beginning and we still had Richard Nixon to kick around, I won a seat on the powerful old Banking and Currency Committee. Next to that seat at committee hearings I found another new Member but one not unfamiliar with national politics and the ways of Washington.

LINDY BOGGS had recently won a special election to the seat formerly held by her late husband, Hale. The majority leader, tragically, had been killed in an Alaskan aircraft accident while he campaigned for Democrat Nick Begich in October 1972, a few days after campaigning for me in California.

Eventually, LINDY and I both moved on from Banking and Currency—she to Appropriations, I to Ways and Means—but whatever successes we each have had can be traced to those formative years served at the foot of Wright Patman's Committee.

Seriously, those early years, in retrospect, were exciting and important ones. Having a respected and knowledgeable colleague to turn to was a wonderful experience and one that I recall with fondness. LINDY has been the sort of Member who helps make this institution function well without looking for national recognition for her labors. We will miss her continuing contributions to this place but I think we all recognize that she has earned the right to move on to other things.

I think it is true that one can tell the strength of the tree by the worth of its fruit. LINDY's family, sadly recently diminished by the death of her daughter, has enjoyed great success and this, as much as anything else, stands as witness to the greatness of our departing colleague. We will miss her but we know the best is yet to come.

Mr. RINALDO. Mr. Speaker, when the 101st Congress adjourns, a number of Members will leave this Chamber for the last time. One of our colleagues who will not be returning is LINDY BOGGS who has served in the House with distinction and dedication for the past 18 years.

LINDY came to the House under tragic circumstances succeeding her husband, Hale, who had served the people of Louisiana for 27 years prior to a plane crash in Alaska which took his life in 1972. LINDY quickly earned the respect and admiration of her colleagues, many of whom already knew her well.

LINDY has represented her constituents effectively, and I know they will miss her service in the House as all of us here will. She has been a friend to all of us on both sides of the aisle, and I am pleased to join my colleagues today in commending her for her outstanding service and in wishing her the best of everything in the years ahead.

LINDY leaves with a record she can be proud of, and I am proud to call her my friend.

Mr. ROE. Mr. Speaker, it is with a great deal of sadness in my heart that I rise today to join my colleagues in bidding farewell to our colleague and dear friend, the Honorable LINDY BOGGS from the great state of Louisiana.

I have had the privilege of working with LINDY BOGGS for the past 17 years and I can truthfully say that her retirement from this body will leave a vacuum that will be most difficult, if not impossible, to fill.

There is no question that LINDY BOGGS is one of the most popular Members of the House of Representatives. At a recent party in her honor, the spacious House Ways and Means Committee hearing room was packed to the rafters with this Nation's top elected officials, leaders of industry and many other notables who lined up to pay homage to this very gracious and caring lady.

If there is one word to describe LINDY BOGGS it is class. And this lady is the true definition of that word. The grace, warmth, and hospitality she has shown to all of us in our dealings with her will be sorely missed in the years to come. No matter how tough or testy the issue we dealt with, LINDY'S southern charm always managed to add an air of kindness that helped bring about resolutions to what appeared to be impossible situations.

But I must add that woe was the person who misunderstood LINDY'S wonderful southern charm for weakness. When it came to fighting for the interests of her constituents there is not a tougher, more effective Member of this body than LINDY BOGGS. As a Member of the House Appropriations Committee she has seen to it that the needs of her beloved Second Congressional District of Louisiana have never been neglected.

I say with great pride that my relationship with LINDY BOGGS goes far beyond the day-to-day professional duties we share as Members of Congress. LINDY'S beautiful daughter Barbara, who tragically passed away a few weeks ago, was one of my dear friends. As the mayor of Princeton, NJ, and in her heroic battle with cancer, Barbara displayed the same professionalism and gracious spirit that we associate with her mother. There never was any question whose daughter she was.

And as that terrible disease progressed, LINDY BOGGS made a decision that surprised some, but not those who have been blessed with her friendship. At the height of her popularity and power, LINDY BOGGS decided to leave Congress to be at Barbara's side. Nothing more exemplifies LINDY BOGG'S life than that most selfless act.

LINDY, to simply say we will miss you seems so inadequate. The House of Representatives is truly losing its "First Lady." If there is one thing I can say to you as you leave us, it is that I am most proud to call you my friend.

Mr. CRANE. Mr. Speaker, it was with genuine sadness that we received the word that LINDY BOGGS was retiring from the U.S. House of Representatives at the conclusion of the 101st Congress.

She will be missed as the fine legislator that she is. But she also will be missed as the smiling, gracious lady she has always been.

Her departure marks a point of sadness for this body because of the loss of one who has contributed so much, even as her arrival marked a moment of sadness as we were then reminded she was replacing her late husband, House Majority Leader Hale Boggs, who disappeared in a plane in Alaska 18 years ago this month.

We have had the good fortune of working closely with LINDY as a fellow member of the Commission on the Bicentennial of the U.S. Constitution. As with her work here in the House, she contributed greatly in her efforts for the Bicentennial Commission.

LINDY has given service to her community as well as her country. As a young lady she taught English and history in her native State of Louisiana. She was actively involved in a number of civic and political activities before 1973 when she became the first woman elected to Congress from Louisiana.

Because of her current assignment to the House Appropriations Committee, she is best known for her work on that panel. But prior to the able handling of her duties on that committee, LINDY gained a well-deserved reputation as a hard-working, contributing member of the Banking Committee and the House Administration Committee.

LINDY BOGGS has turned in an outstanding performance for her country as a Member of this House of Representatives. She will be missed as a Member, as the ever-gracious lady, and as a friend.

Mr. GALLO. Mr. Speaker, during these last days of the 101st Congress, it is important that we not forget to pause for a while to acknowledge the contributions of one of our Members who is retiring—the Honorable LINDY BOGGS who has served the 2d District of Louisiana since 1973.

For 17 years, LINDY BOGGS has provided invaluable service to her constituents and to the Nation as a whole. Mrs. BOGGS came to us from a long tradition of public service. Her husband, Hale, served in the House for 27 years and was appointed by his colleagues as majority leader.

In fact, the entire Boggs family has been long-committed to public service.

For those of us from New Jersey, we are grateful to have known her daughter, Barbara Boggs Sigmund, who served as the mayor of Princeton, and we share in LINDY'S recent loss of this brave, respected woman.

Although I have only had the pleasure of serving in Congress with Mrs. BOGGS for 6 years, I count myself among the many Members who admire her courage, effectiveness, caring, and compassion. Quite simply, Mrs. BOGGS will always be remembered as one of our best. She has made us all proud of this institution and of public service.

So, I join with my colleagues today in saluting Mrs. BOGGS, to wish her well in her retirement and to let her know how much we will all miss her.

Mr. LEHMAN of Florida. Mr. Speaker, it is with both sorrow and pleasure that I rise to pay tribute to our colleague, LINDY BOGGS, as the time for her retirement from this House approaches. Sorrow comes with the knowledge that this place will be decidedly lacking in charm—even dull—without her, but it is a pleasure to praise her.

LINDY BOGGS and I both became Members of the House in 1973. Her qualifications and experience were impressive even then, but she has gone from strength to strength and my admiration for her has grown with each passing year. Her effectiveness in representing her constituents is legendary—former Speaker Tip O'Neill has said that no one could tell LINDY BOGGS "no". But she handles her work and her life with rare grace and is one of those unusual people that other people always want to be around. Her consistently sunny nature, even in the face of tragic losses, lifts everyone's spirits.

LINDY BOGGS could have—perhaps should have—been President. But the gentlewoman from Louisiana has been a national treasure during her years in the House of Representatives. Her departure as a Member will be deeply felt; we can only hope that she will continue to provide us with her wise, gracious, and compassionate counsel and to bring to us the special joy that only LINDY BOGGS can bring.

Mrs. VUCANOVICH. Mr. Speaker, it is an honor for me to add my words of affection for LINDY BOGGS on her retirement from the House of Representatives after 17 years of distinguished service.

Recently a special order was held for one other very special lady who is also retiring after 16 years in the House. We will miss both VIRGINIA SMITH and LINDY BOGGS more than they will ever know.

LINDY is such a gracious lady. Because of her charm and gentle manner someone might think that she can't be strong or hold her own in this male-dominated arena. Nothing could be further from the truth. Her effectiveness is truly demonstrated as a mailed fist in a velvet glove.

All of our hearts have gone out to LINDY in these past few months during her daughter's illness. From one mother to another my heart aches for LINDY.

LINDY'S kindness and graciousness will be long remembered here in this House of Representatives. We will all miss her.

Mrs. SNOWE. Mr. Speaker, this is a difficult special order for me and for many of us to do. For when LINDY BOGGS retires from this House, she takes with her a piece of this institution and a piece of our hearts.

And for the women Members of Congress, it means the departure of one of, as CONNIE MORELLA said this morning, one of our sisters.

Oliver Wendell Homes, Jr., once described what he thought was the best service that we could do for our country and for ourselves. He said it was,

To see so far as one may, and to feel the great forces that are behind every detail . . .

To hammer out as compact and solid a piece of work as one can, to try to make it first rate, and to leave it unadvertised.

To me, that describes perfectly LINDY'S career here in Washington. It describes her work as a founding member of our Congressional Caucus for Women's Issues—her work on the Women's Economic Equity Act, and the Women's Business Ownership Act—her work for women in science, mathematics and education—and her work in assisting victims of rape and domestic violence.

But I also want to salute LINDY'S work on behalf of the institution of the House of Representatives, work that goes beyond politics, even the specific issues of the day. I remember a fascinating book that LINDY was responsible for producing. It was a volume with brief biographies on all the women who had ever served in the U.S. Congress, House and Senate.

I think she'd agree that the book, reflecting how many of us there have been, was far too slim a volume.

But the book gives a very real sense of the people who have been here before us, their contributions and backgrounds, and a sense of continuity in the ongoing American experiment in democracy. When we eventually update that book, the career of LINDY BOGGS will be one of the single most distinguished and admirable in it.

On a personal note, I am grateful to LINDY for the ways in which she has made the vibrancy and traditions of the House of Representatives come alive for me. Amidst all the clamor of serving here, she has made the experience that much more enriching.

And to all those who choose to be cynical about the people who serve in Congress, I challenge them to reflect upon LINDY BOGGS and remain so.

Mr. Speaker, I think many of us could take individual 60 minute special orders to describe our thoughts and emotions upon LINDY'S retirement. But I will end here for the moment, and leave LINDY with the words of the poet Byron:

"Fare thee well! and if forever,
Still forever, fare thee well."

Ms. OAKAR. Mr. Speaker, how do you say goodbye to a friend? You can't. My dear good friend, LINDY BOGGS, is bidding this Chamber farewell after 17 years of distinguished service. With all due respect to my sisters in Congress, we shall not see the likes of her again.

As a woman, she is a role model. LINDY was a loyal and loving wife, a wonderful mother to Tom, Barbara, and Cokie, a loving grandmother and an outstanding public servant.

During her time in the House, LINDY amassed a wonderful list of "firsts":

She was the first woman to serve in the U.S. House of Representatives from Louisiana: Elected in 1973 to fill the seat of her late husband, House Majority Leader Hale Boggs.

In 1976, as chair of the Democratic National Convention, she was the first woman to chair a major political convention.

She was the first woman to serve as a regent of the Smithsonian Institution.

She was the first woman to receive the Tulane University Distinguished and Outstanding Alumni Award.

And she was the first woman to receive the Congressional Award of the Veterans of Foreign Wars.

I can say, without fear of serious contradiction, that LINDY BOGGS, singlehandedly, did more than anyone else to heighten our country's embrace of American history through her extraordinary service during the American Bicentennial. She served as chair of the Joint Committee on Bicentennial Arrangement, served on the board of the American Revolution Bicentennial Administration and chaired the Commission on the Bicentenary of the U.S. House of Representatives. She is also a member of the Commission on the Bicentennial of the U.S. Constitution.

LINDY BOGGS is the embodiment of everything good about public service. The people of her congressional district in New Orleans have been blessed to have a Boggs representing their interests in Washington for the last 50 years. Would that we all were so fortunate. One of LINDY'S many passions—and one that I share—is the goal of affordable housing for all Americans. We are not there yet. But although LINDY will be gone, her spirit will guide us as we endeavor to realize her dream. To be sure, it was through her determination we have seen accomplishments in the revitalization of neighborhoods and decent housing for senior citizens.

LINDY and her husband Hale were proud standard bearers for the Civil Rights and Voting Rights Acts—at a time when it was not at all popular to embrace equal rights for women and minorities. How tragic that, on the eve of her departure from Congress, she is to be denied seeing a continuation of her civil rights advocacy because of an administration which is more attuned to special interests than to equality for women and minorities. Hopefully, this body will demonstrate the courage that LINDY BOGGS has shown and override the Presidential veto of the Civil Rights Act of 1990.

LINDY BOGGS may be leaving behind these temporary halls. But her style and her grace and her respect from her colleagues will remain. And her sterling record of accomplishment and outstanding public service for her constituents and all of the people of America will live on forever. I am so proud to call LINDY BOGGS my colleague and my friend.

Mrs. LLOYD. Mr. Speaker, I rise today to pay tribute to my dear friend from Louisiana, the Honorable LINDY BOGGS. I have had the privilege of serving with LINDY since I was elected to Congress in 1974. She is an outstanding Member of Congress and a dear friend.

LINDY is gracious, warm, and kind. She is principled, reasonable, and generous. She

treats others as she would want to be treated if she were in their shoes. She believes in the idea of nation as family, in equal rights for all people, and she is a strong and consistent supporter of policies that advance these beliefs. It is a great testimony to her principles and to her career that those running for her seat have pledged to be a Representative just like her. I think that this will be an impossible task. The combination of her endearing nature and her tenacity, adherence to principle, and strong work ethic is, indeed, a unique gift. It has served her and the Second District of Louisiana well.

LINDY is one of the most effective Members of Congress. I remember that Speaker O'Neill used to joke that when Members wanted something from him, they would send LINDY to ask, because they knew he couldn't refuse her anything. It has been a pleasure watching her career on the prestigious Appropriations Committee, where she has taken care of her district and done an outstanding job for America. Her excellent work on the Select Committee on Children, Youth, and families is but another testimony to her commitment to the people of this country. Black, white, young, old, rich, poor—everyone is important to LINDY.

Her integrity, accessibility, responsiveness, energy and efficiency are a model for us all. She has set a standard that many Members of Congress aspire to. We will all miss her terribly.

LINDY, we love you.

Mr. FASCELL. Mr. Speaker, it is with mixed feelings that I join our colleagues in bidding farewell to our friend and colleague, LINDY BOGGS, as she prepares to retire at the end of this session. As pleased as I am to celebrate the completion of her nearly two decades in this House, I am saddened that she will not be with us when we reconvene in January.

When she succeeded her husband, the Honorable Hale Boggs, after his death in 1972, she had the task of filling some formidable shoes. And fill them she did. She immediately became a respected and effective leader in her own right.

LINDY juggled the demanding responsibilities of congressional wife, mother, and teacher. Her interests as both a teacher and student of history have served her country well during her 18 years in public office. She presided over both the joint House-Senate Committee for the Bicentennial celebration and the ceremony commemorating the 200th anniversary of the Constitution. Both of these were milestones in the history of this Nation and the Congress, and LINDY provided outstanding leadership for these historical events.

She has the distinction of being the first Louisiana woman to sit in the House of Representatives. In doing so, she has acquired a well-deserved reputation for being an effective lawmaker. LINDY has been a leader in the struggle for civil rights, particularly the promotion of economic equality for women. She has many accomplishments to her credit, and she and her family can be justifiably proud of her contribution.

I join every other Member in saluting LINDY BOGGS. By excelling in so many different ways, she has profoundly affected the lives of her constituents, her colleagues, and her family. She is in every respect a gentle and caring person. LINDY, you will truly be missed, and Jeanne-Marie joins me in wishing you the best in your retirement.

Mr. APPLEGATE. Mr. Speaker, occasionally, in the history of the U.S. House of Representatives, there have been Members of this august institution who have brought to this place a special grace and charm that is always to be treasured and appreciated. Since I first came to the House in 1977, the one colleague who always comes to mind as representing these qualities is a friend of every Member, the gentle lady from New Orleans, the Honorable LINDY BOGGS.

It is with a certain sadness that I bid a fond farewell and best wishes to someone who has endured difficult times throughout her years but who has consistently bounced back from it all. Carrying on the remarkable legacy of the Boggs family and their representation of New Orleans in this Chamber for nearly a half century, let me just say that never have a people of one region been as ably represented in Congress as have the people of the "Crescent City" along the banks and bayous of the mighty Mississippi.

Picking up from the illustrious service of her late husband, the Honorable HALE BOGGS, the lovely and charming, kind and eloquent lady from Louisiana has brought so much more to this House than she has ever taken away from it for herself. I have always enjoyed these years working with her, during a time when many troubling matters have sorely tested the limits of our great Republic. Given the current difficulties that confront us today, I would probably suggest that the able and effective Member from the Second Congressional District of Louisiana stick around for a while and help to lead us through these trying and difficult times.

It comes as no surprise that LINDY BOGGS made the decision to leave the House primarily due to family considerations. When it comes to family, LINDY has to be one of the proudest matriarchs of our Nation. Her three children have been very much a part of her political legend, from the conversant and lively Cokie who graces the airwaves, to the highly skilled practitioner, Thomas, who knows Washington in a way that would make his father proud. Most of all, for beloved Barbara, who epitomized the true meaning of personal courage and who enlivened politics with a measure of "spunk" that is rare and which characterized the basis of the Boggs family's attitude and approach to life in general.

From Pointe Coupee Parish to the Potomac, Lindy has added so much to our Nation and she has given so much to our world. We will miss you here in the Congress, but we will never forget you and what you brought to this special place—a place that will always mean so much more to me for the years you have given to it, and for the good times and pleasant thoughts that you leave with each and every one of us. Best wishes and God bless you.

Mr. MOAKLEY. Mr. Speaker, I am here tonight suffering from a bad case of mixed emotions. On the one hand, I couldn't be happier than to be here celebrating the enduring gifts that LINDY BOGGS has so generously given the House of Representatives. But on the other hand, as LINDY prepares to return to New Orleans after a half-century career in the House and in Washington, I am struck by a profound sense of what we are losing, collectively as Members of the House and personally as dear friends and colleagues.

We all know well the outlines of LINDY's career on the Hill; her arrival as a congressional spouse in pre-World War II Washington. We know that her husband Hale was the kind of man legends are made of. We know well Hale's rapid rise through the House's Democratic leadership and the indelible mark his devotion to detail left on New Orleans and the entire State of Louisiana. We know that LINDY was his chief political advisor, mentor, and strategist. We know LINDY's and Hale's commitment to those in society so often without a voice—the poor, the homeless, the sick and the young. Hale's devotion to his party and to the ideals of democratic government led him to Alaska in the fall of 1972 to campaign for a young up-and-coming Member of the House, Nick Begich. After a round of campaign appearances, the plane carrying Nick and Hale was lost in those dark Alaskan skies 18 years ago, almost to the day.

LINDY's career in this House as a Member began within a few months of Hale's death. She was certainly no stranger to the House, indeed, most Members considered her to be family. LINDY quickly established her own reputation for excellence, attentiveness, astuteness and hard work using Hale's career in public policy as her blueprint. In the next 17 years of service to this body, LINDY left an indelible imprimatur on the city of New Orleans and the State of Louisiana. Whether it be in the strides made in the area of public housing, in development and enhancement of the port of New Orleans, in the construction of major levees on the Mississippi, or in the development of major hurricane protection devices, Louisiana's infrastructure is vastly enhanced as a consequence of LINDY's service.

On other national issues, LINDY's contributions are numerous and enduring. Her efforts in making educational opportunities available to all, regardless of race, sex or age are legendary. Her efforts at improving and expanding our national Head Start Program are tremendously significant. Her efforts at banking reform, credit access, extending opportunities in small business to women and minorities, environmental enhancement, technology development and an unending list of other accomplishments qualify her for immediate induction in the House's Hall of Fame.

On a personal note, Evelyn and I will greatly miss LINDY's daily presence in our lives. Her warmth, sincerity, gentility, and graciousness have defined the concept of southern charm for those of us not fortunate enough to hail from "River City". LINDY's voice speaking on behalf of this Nation's and this world's unrepresented masses, will continue to echo through this Chamber long after she has left, much as Hale's voice is still heard booming through its nooks and crannies today. LINDY's testament to this body is the example she has shown us in so many ways on each day of the 17 years she has been here. Her trademark of good works, good legislation and here sure-

footed knowledge of the lay of the land stands this Chamber and this entire House in good sted and will be a model for future Members from future generations. I join with my colleagues in wishing LINDY only the best and look forward to seeing a good deal of her in her retirement years.

Mr. MAZZOLI. Mr. Speaker, I rise today to pay tribute—and say farewell—to a colleague and friend, Representative LINDY BOGGS, of Louisiana, who is retiring from Congress after this session.

Lindy has served in the Congress for 17 years as the Representative of Louisiana's Second District, which includes one of the most exotic and romantic districts in the Nation: The French Quarter. She, as we all know, succeeded—as the first female ever from the State of Louisiana—her late husband, Hale, in the seat she now leaves.

Hale, the majority leader when I first entered this body, was a talented and greatly accomplished legislator and politician. He came to Louisville to campaign for me in 1970, my first race for the House, and I have always felt his visit was indispensable to my victory.

I won, Mr. Speaker, by the landslide total of 211 votes. So it's not stretching things to say I wouldn't be here today except for the Boggs magic, a magic which LINDY carries most nobly every day of her life.

Despite the tragic nature of her entry into this House, this one-time high school teacher, was well-equipped to meet the challenges public service presents. She and Hale were an attractive, popular, political joint venture, and she learned a lot by working with Hale over the years, and she possesses instinctual skills for legislating.

As a member of the House Appropriations Committee and as ranking member of its Subcommittee on Energy and Water Development, LINDY has advocated the concerns of her district and of the Nation.

In her 17 years in Congress, LINDY never lost her appetite for learning, especially American History. In 1976, she chaired the joint Senate-House Arrangements Committee for the 1976 Congressional Bicentennial Celebrations. And, in 1987, LINDY presided over the special congressional ceremony in Philadelphia honoring the 200th anniversary of the writing of our Nation's Constitution.

Mr. Speaker, LINDY BOGGS could have kept her seat but she wanted to retire at the end of this Congress to spend time with her eldest daughter, Barbara Sigmund, the mayor of Princeton, NJ, who until recently, was suffering from cancer. Though, tragically, Barbara died recently, LINDY'S plans were fixed, and she leaves this body. LINDY leaves this body the lesser for her legislative skills and parliamentary prowess but much, much more for her decency as a person, for her charm, friendliness, wit, manners, smile, grace, and elegance.

Mr. Speaker, LINDY will be deeply missed by all of us. I join all my colleagues in wishing her the very best of health and much happiness in the years ahead.

Mr. MYERS of Indiana. Mr. Speaker, since 1977 it has been my privilege and a distinct honor to serve on the Energy and Water Appropriations Subcommittee with that gentlelady from Louisiana, LINDY BOGGS.

As I reflect on our years of service together and our personal friendship, I can truly say LINDY represents what is best about the traditions of our country and she represents what is best about the Congress.

With grace and dignity, with assurance and purpose, she has served the Nation as few have done and has made a mark that few can hope to achieve.

Her political achievements are well documented and the history of her talented family is well known. The Nation and particularly the Second District of Louisiana have been blessed in such a positive way by her leadership and abiding care.

As I think about LINDY, it is not her voting record or political achievements that come to mind, rather, it is her strength of personality and her loving and gracious manner that I will always remember. Whatever the concern of the moment, be it a debate on the House floor or in committee, whether a specific bill impacts her district or not, whether the issue is partisan or not, LINDY always has had that peace of mind, that gentleness of spirit.

She literally has radiated a warmth that has endeared her to her colleagues and because of that, her counsel has always been welcome, her company always appreciated.

I know LINDY to be a person of great faith. God has blessed her with a radiance that has shown on her family, her constituents and on all of us in the House of Representatives.

To LINDY, my wife, Carol, joins me to offer our best wishes on the occasion of her retirement and to thank her for her friendship for so many years.

Mr. RAHALL. Mr. Speaker, I rise today in tribute to one of our most respected and well-loved Members, LINDY BOGGS of Louisiana. Her 17 years of service in the House of Representatives represent a fine tradition of service, yet stand on their own as a career full of achievement for the good of our Nation. Congresswoman BOGGS succeeded her husband, majority leader Hale Boggs, in 1973, and while she carried on the high quality of leadership and integrity associated with the name Boggs, she also distinguished herself as an individual worthy of the highest praise.

Congresswoman BOGGS has been a key member of the House Committee on Appropriations, serving on the Energy and Water Development, Legislative, and VA, HUD, and Independent Agencies Subcommittees. As a Member from a State which relies on many programs under the jurisdiction of these subcommittees, I know how effective Mrs. BOGGS has been in reaching those in her district and throughout America who are most in need of our help. Her understanding of the key issues, and willingness to play an active role in reaching solutions on these issues has earned her a spot as one of this body's most esteemed and endearing Members.

I have had the pleasure of working closely with LINDY as a legislator, as well as our work together as commander and vice-commander of the Congressional Squadron of the Congressional Air Force Civil Air Patrol. I am continually impressed with her dedication, insight, and thoughtfulness as a colleague, and I am sorry to see her leave. Mr. Speaker, it has been my pleasure and honor to have the opportunity to share this floor with LINDY BOGGS, and I can honestly and sincerely say that there is always the need for more Members like her, for more than being a legislator, she is a warm, gracious, "first lady" of this House.

LINDY BOGGS, in all the years she has graced this Chamber, has not spent that time strictly becoming a Member whose integrity is above reproach, and an able, quietly articulate lawmaker, who is held in highest esteem by her colleagues. She spent these past 17 years as a working mother.

The formidable task of raising her children alone, without her husband Hale, was a piece of cake for LINDY. Defending an initiative in committee or on this floor was no more daunting to her than her children's school activities or the PTA. Without turning a hair, this quiet and refined southern lady raised three active children, at the same time taking good care of her constituency. We have all met, at one time or another, her son Tom, a local attorney, her daughter Cokie Roberts, as well-informed and articulate as her mother, and a broadcast journalist seen on major network news programs, and of course, the beautiful, accomplished Barbara known for her interest and concern for communities and the people who live in them.

As a beloved mayor, daughter, and wife, Barbara was known for her fighting spirit in her work, and in her life. She was a colorful campaigner for her mom, for herself, and for the people she served. She inspired us all in her struggle against cancer, cheered us all with her color-coordinated eyepatches, and finally she taught us how to die every bit as well as she taught us to live—by good and gracious example. She was her mother's daughter.

We know how you must miss her LINDY. So will all the people of Princeton, NJ, to whom she gave her best, and so will every one who ever met her and called her friend.

And so dear LINDY, as you leave to get on with what I am sure will be yet another challenging and interesting career, may God bless you and keep you safe.

Ms. MOLINARI. Mr. Speaker, I am honored to be part of an elite, privileged group in Congress—and no to the Democrats, I don't mean Republicans—I derive a source of personal and political satisfaction from being a colleague and, I hope, a friend to LINDY BOGGS.

My path crossed LINDY'S long before we ever met. My father, while visiting then-Congressman John Murphy, met Hale Boggs shortly before his disappearance. As a young political mascot, I recall vividly the admiration and awe that this great man evoked in my not-easily impressed father and wondered what made this man such a giant.

A generation later, I caught a glimpse of LINDY in her daughter Barbara Boggs Sigmund. Barbara and I worked through the women's campaign fund toward guaranteeing women an equal, even voice in governing our future. Barbara surely had a gift for leadership and for friendship. And no matter how many times I met her, in a multitude of circumstances, I could never quite figure out what made her so courageous, so independent, such a giant.

And then I met LINDY and it all came together. LINDY BOGGS makes all around her

giants with her strength and her compassion and her convictions. She is a determined legislator and a determined fighter.

She is a symbol of all that is wonderful in a woman. She captures an essence unique to some women and therefore has become the quintessential role model of what today's woman should be. Of what yesterday's women had hoped for—and she is the symbol for tomorrow's women if our Nation should move in this positive direction.

Mr. BENNETT. Mr. Speaker, It is an honor for me to participate in this tribute to LINDY BOGGS, the honored Congress lady from Louisiana. I do not believe that anyone in Congress has more friends here than LINDY BOGGS. This is primarily because of her genuine interest in the concerns of all Congressmen for the things they are trying to do for the betterment of our country, and her concerns for our personal welfare, individually, as well. Perhaps her personal concerns may grow out of the ability she has shown to rise over the tragedies of her life, the dramatic death of her statesman husband, Hale Boggs, and the recent death of her beloved daughter.

A few years back, I lost my own son and there was no one in Congress who more thoughtfully, and helpfully, expressed personal support than did she. She has also participated in the little victories and the big ones in the lives of others, and in her own life, always in a humble, strong and inspiring manner.

We will all certainly miss you, LINDY, and we wish you every happiness as you return to your beloved New Orleans.

Mr. DYSON. Mr. Speaker, I rise today to pay tribute to one of the Nation's most distinguished public servants, the Honorable CORINNE C. "LINDY" BOGGS. As you know, LINDY will be retiring at the end of this session, after representing the Second Congressional District of Louisiana for 17 years. My colleagues are no doubt aware of LINDY's brilliant career. I would like briefly to recall a few of her many achievements on this momentous occasion.

LINDY BOGGS first came to Washington in 1940, when her husband, Hale Boggs, was elected to the U.S. House of Representatives. His career was marked by courageous support for the civil rights legislation of 1965 and 1968, at extreme personal and political risk. There is no question that LINDY BOGGS played a crucial role in her husband's decision to support the civil rights movement, and she has continued to be a staunch supporter of civil rights.

When her husband's plane tragically disappeared in Alaska in 1972, LINDY was naturally his successor. She was considered one of the most knowledgeable of congressional spouses, and had proven her political mettle by managing her husband's campaigns in New Orleans and by chairing the 1976 Democratic National Convention, becoming the first woman to do so. Her experience and wit earned her consideration as a possible Vice Presidential candidate in 1984.

In addition to her national leadership role, LINDY has tirelessly championed the causes of her constituents. She has spared no effort assisting in local projects, such as building levees in Algiers and Jefferson Parish, securing Navy contracts for the Avondale Shipyard, and getting $33 million for the restoration of New Orleans' streetcars.

Mr. Speaker, LINDY BOGGS has served her constituents and her country well as the U.S. Representative from the Second District of Louisina. Her dedication, her patriotism, and her vitality will be greatly missed in this body. I commend her and send my best wishes with her in her future endeavors.

Mr. OWENS of Utah. Mr. Speaker, I am very pleased to participate in this tribute on behalf of the distinguished gentlewoman from Louisiana, LINDY BOGGS. LINDY and I first met in 1973 in our first terms in Congress, and have been fast friends ever since. At that time, LINDY had just won election to the seat held by her late husband, HALE BOGGS, the majority leader of the House. She soon transcended those tragic circumstances to become one of the most outstanding members of the House over the past two decades.

LINDY's career is full of firsts—the first woman to serve Louisiana in the United States House of Representatives and the first woman to chair the Democratic National Convention, just to name a few. She has become a champion of carefully chosen women's issues, including pay equity, credit access, and efforts to curb domestic violence.

LINDY has been able to meet the challenges facing New Orleans, and Louisiana, as a member of the House Appropriations Committee, and the Select Committee on Children, Youth and Families. She has been invaluable to her district, successfully sponsoring legislation which gave States with high unemployment rates priority in receiving refunds from oil companies, which deepened the Mississippi River for navigation, and which forgave New Orleans' $1.6 million debt for housing projects.

LINDY's passion for our American heritage led her to serve as the Speaker's Representative on the Commission of the Bicentennial of the U.S. Constitution, as chairman of the House Bicentenary Commission, and chairman of the Joint Committee on Congressional Bicentennial Arrangements.

We will miss this great and gracious Member of the House. I am honored to have served with her.

Mr. PANETTA. Mr. Speaker, I want to join my colleagues in paying tribute to LINDY BOGGS on her retirement.

To me, LINDY is a symbol of the House of Representatives. There are several reasons. First, she has been one of the hardest working and accomplished Members of this body since she came here in 1973. Second, she has been a part of the institution for more than 40 years. As my colleagues know, she succeeded her husband, Majority Leader Hale Boggs, who died in a plane crash. During his longtime service in the House, she was very much involved in his work and was well acquainted with the people and workings of the House. That is in addition to her own 17-year career here.

In addition, no Member has been more dedicated to preserving the history of this institution as the people's House than LINDY. As chair of the Joint Committee on Congressional Bicentennial Arrangements, she made an enormous contribution to the American people's understanding of the House and the entire Congress.

Finally, the only way this body, or any other legislative body, can accomplish anything is for Members to work together. No one gets along better with her colleagues than does LINDY BOGGS. With her, getting along and working together is not a skill, it just comes naturally; I don't think she could act any other way if she tried.

Of course, we all know LINDY'S family, and she has been blessed with wonderful children. She has suffered tragedy as well; she is still going through the pain of her daughter Barbara's recent death. We all pray that only happy times are ahead for her.

Mr. Speaker, we will miss LINDY, and the House as an institution will miss her. But those who will miss her most are her constituents and the Nation. We wish her well.

Mr. DE LA GARZA. Mr. Speaker, today I would like to say a few words about one of my very good friends who is retiring from the House of Representatives at the end of this 101st Congress. I feel proud and privileged to have had the opportunity to serve here with Congresswoman LINDY BOGGS for the past 17 years.

Before that, it was my honor to work in Congress with her late husband, House Majority Leader Hale Boggs. While Hale was representing his congressional district with distinction, LINDY was also taking a leadership role in Washington. For instance, she chaired the Inaugural Ball Committees for Presidents John F. Kennedy and Lyndon B. Johnson.

In 1973, after Hale perished in a tragic aircraft accident, LINDY BOGGS became the first woman from Louisiana ever elected to Congress. Only 3 years later, she became the first woman to chair the Democratic National Convention. In the House, she has been a guiding light on the Appropriations Committee. My respect for this great lady knows no bounds and I want to say what a pleasure and an honor it has been to work with her.

The people of Louisiana have been most fortunate in being so ably served by Mr. and Mrs. Hale Boggs. So has the Nation.

Mr. WHITTEN. Mr. Speaker, LINDY BOGGS leaves a wonderful record. I believe all Members will agree that in the history of the Congress, no Member has left a better one, and she has made this record by hard work and made it look easy. The benefits to her section, including her city of New Orleans, and to my own, the lower Mississippi, have and will continue to have a lasting impact on development.

LINDY'S husband, Hale Boggs, my close friend, had a fine record, and was on his way to becoming Speaker when he met his untimely death while accommodating a colleague and friend.

I am sure that his record was most helpful in her first race to succeed him—and in her initial start in the Congress, though we must not forget how bleak the future appeared when she was sworn in to succeed her late husband, Hale, on the 20th day of March 1973.

Possessed of a fine and successful family, LINDY has had their help, but it is she who de-

serves the credit for her accomplishments, which would fill a book.

Able, conscientious, energetic, and successful, LINDY has made it all look easy.

Congress and the country will miss her contributions and I personally will miss her friendship.

GENERAL LEAVE

Mr. HUCKABY. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore (Mr. MCNULTY). The time of the gentleman from Louisiana [Mr. HUCKABY] has expired.

TRIBUTE TO THE HONORABLE LINDY BOGGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 60 minutes.

Mr. LIVINGSTON. Mr. Speaker, it is my honor and privilege to continue the special order that was begun by my colleague from Louisiana [Mr. HUCKABY].

At this time I am pleased to yield to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman from Louisiana for yielding. I also thank his colleague and my colleague, the gentleman from Louisiana [Mr. HUCKABY], also for having this special order, kind of a double special order, and we appreciate it because it is a very special lady who is being honored tonight.

Indeed, when the 101st Congress adjourns, if it ever does, we will lose a very special colleague and a woman I consider a very special friend, LINDY BOGGS. And it is very appropriate that we rise here tonight as friends and colleagues to offer tribute to her and thanks for her 17 years of inspired service to this body.

I have had the pleasure of serving with LINDY on the Executive Committee of the Congressional Caucus for Women's Issues where she has certainly been a strong supporter of women's rights. In fact, she has provided experience, a sense of history and a vision for the future.

She has improved the lives of women in this country, and among her many accomplishments LINDY has promoted pay equity, health equity for women, worked to end domestic violence, also considered families and children, and guaranteed credit access for women and minorities.

LINDY has personally paved the way down numerous paths of leadership so that other women could follow. She has been a perfect role model. She was the first woman to serve in the United States House of Representatives from the State of Louisiana, the first woman chair of the Democratic National Convention, the first woman to serve as a Regent of the Smithsonian Institution, the first woman to receive the Tulane University Distinguished and Outstanding Alumnae Award, and the first to receive the Congressional Award of the Veterans of Foreign Wars.

We are also proud of the fact that she chaired the Congressional Bicentennial Commission on the Constitution.

LINDY has not only opened doors for women, she has also been an important advocate of civil rights, education and the environment. She has helped to launch the Head Start Program. She has been a leading congressional voice for the Close-Up Foundation, which is a special program that brings high school students to Washington. She has worked to preserve natural resources such as the Jean La Fitte National Park for the public's enjoyment.

You know, Mr. Speaker, there is a case in law from 1872 known as Bradwell versus State where a woman wanted to be accepted at the bar, and she was denied that opportunity in the courts. And the person who wrote that decision was a Justice Brady. And Justice Brady said in that decision, "the natural and proper demitity of women unfits them for certain professions of civil life. The paramount destiny of women is as wife and mother. This is the law of the Creator."

That is a tough law to buck, and indeed that was quoted by Sandy Day O'Connor when she became the first woman on the Supreme Court.

But here is a person who has been an extraordinary wife, and many of my colleagues have alluded to her late husband, Hale Boggs, and the service he has given to his country. She has been an extraordinary mother, and she has had three wonderful children, Cokie Roberts whom we all know, Tommy Boggs, and the beautiful, late Barbara Boggs whose memory we will cherish, and who has always been an inspiration.

She also has a legacy of grandchildren. I know there is one granddaughter that I know, Rebecca, whom I submit some day will probably hold this position here in this hallowed Chamber.

So she has done all of that, but she has also pointed out that Justice Brady was wrong, because a woman can do great things in civil life, and indeed she has done that.

I must also say that it was a while ago, LINDY, when we read in the newspaper that some seer, I suppose, came up with the list of the 10 most polite people in the country, and I was like No. 9 on that particular list, and I was very surprised, and I thought, "Now, does this list have any credibility," until I saw LINDY BOGGS way up on the top of that list.

□ 1950

I thought that was really nice, what wonderful company, because as it was stated, she is the woman with the velvet glove who really knows how to achieve her objective and certainly can teach us a great deal.

I hope that she will not only be in Louisiana but that she will also look to Montgomery County, MD, which I represent, as her home. I hope that those of us in Congress will see a lot of her around here, because she will know that she has done so much in terms of a lasting impression.

Finally, I think Shakespeare probably said it very well when he described her by saying, "Those about her, from her shall learn the perfect ways of honor."

We wish you well. We thank you for what you have done for us.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentlewoman for her statement.

Mr. Speaker, I might say that the gentleman from Ohio [Mr. MILLER] was here and had a prior commitment that he had to run away to, but he asked me to extend his best wishes to Mrs. BOGGS. He has a statement for the RECORD which I am introducing at this time.

Mr. MILLER of Ohio. Mr. Speaker, I am pleased to join with my friends in the House to pay appropriate tribute to one of the most gracious individuals to have ever served in this Chamber—LINDY BOGGS. At the close of the 101st Session of Congress, LINDY will be retiring. Her charm and legislative skills will be deeply missed.

Since March 1973, she has ably represented the good people of the Second Congressional District of Louisiana. She succeeded her husband, Hale Boggs, who had served in this Chamber for 27 years. LINDY carried on the proud Boggs tradition, becoming the first woman from Louisiana to serve in the House of Representatives.

I have had the privilege to serve on the House Appropriations with LINDY for some time. In that capacity, I have witnessed her keen legislative skills and her sincere dedication to the pursuit of sound legislation and policy. By profession, LINDY is a teacher, an educator. And we've all learned some valuable lessons from her. I, for one, give her straight "A's" for persistence, consistency, and leadership for both her district and the Nation.

When the discussion in this Chamber turns toward effective Members and shining examples of true legislators, it is little wonder that LINDY BOGGS is among those first mentioned. You will be missed by your friends in this Chamber. But we wish you the very best upon retirement and urge you to return to visit with us whenever possible.

Mr. LIVINGSTON. Mr. Speaker, I yield to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I thank the two gentlemen, the gentleman from Louisiana [Mr. HUCKABY] and the gentleman from Louisiana [Mr. LIVINGSTON], for taking this special order tonight so that we may have an opportunity to honor one of the most outstanding Members of Congress, LINDY BOGGS. LINDY BOGGS is without a doubt one of the most outstanding Members of this Congress, but not only that, she is one of the most gracious, warmest, kindest, sweetest individuals I think that we have known. She is a friend of all of us.

It is wonderful just to be in LINDY BOGGS' presence, and I think we all feel good about being in her presence. I have had that wonderful opportunity for 12 years now, and really hate to see her leave this body.

But not only that, she is a very effective legislator. She knows the issues, and she is the envy of many of us, because she has such a wonderful background. She is a historian and served so wonderfully well when we had the bicentennial celebrations just in the last few years.

I remember in particular a couple of times when I was with LINDY BOGGS that were very memorable to me. One was maybe 2½ years ago in the 100th Congress when I was chairman of the Coast Guard and Navigation Subcommittee, and we went to her home city of New Orleans to see the Coast Guard facilities there, to visit them and to see the Coast Guard cutters, the vessels that were being built for the Coast Guard. But not only was she a wonderful hostess, it was very evident to me and the others that she really knows her district in the New Orleans area. That has already been pointed out by many here.

She is so well respected and loved by all of her constituents as well, and then, too, I remember not too long ago when LINDY spoke at the weekly prayer breakfast here in the House, and it was very good to hear her tell about her Christian life. It was very evident that she has a very strong faith in God that has carried her through good times as well as bad times. She has that deep and abiding faith that passes all understanding.

LINDY, we are really going to miss you very much. We want to congratulate you on your years of service and your career in the Congress of the United States. May God richly bless you in your retirement. Get some rest from this place.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for his statement.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I feel so fortunate to have had the privilege of serving in the House of Representatives with a great person Mrs. LINDY BOGGS who embodies the very best of what public service should be.

LINDY BOGGS is a remarkable blend of integrity, compassion, humor, courage, and generosity.

She has distinguished herself in her role as a member of Congress, achieving success as a legislator and working tirelessly in behalf of her constituents. Here in Congress, where tempers sometimes flare and angry words sometimes fly, LINDY BOGGS has stood out as a model of decorum. Her warmth and graciousness have won her many friends on both sides of the aisle.

The achievements of Mrs. BOGGS' family are legendary. Her husband was well-respected for his work here in Congress, and all of her children have excelled in their endeavors.

Recently, Mrs. BOGGS faced the tragic loss of her daughter, Barbara Boggs Sigmund. I was one of Barbara's many friends and admirers from the days when we served together as county officials freeholders in my home State of New Jersey. She was active in the New Jersey Association of County Officials and was enormously popular as mayor of Princeton. Barbara, like her mother, had tremendous magnetism and a great capacity to give of herself. We in New Jersey were blessed to have the benefit of her talents and her boundless energy.

Barbara will be greatly missed, but she has left an indelible mark on our State of New Jersey.

Mr. Speaker, let me just join in thanking LINDY BOGGS for being such a wonderful colleague and friend. I wish her the very best as she leaves Congress and goes on to new challenges in her life.

Mr. LIVINGSTON. Mr. Speaker, at this time I am pleased to yield to the outstanding Member from central Louisiana, the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Speaker, I thank the gentleman for yielding.

I appreciate the opportunity to come here and pay tribute to truly a great lady.

Mr. Speaker, I guess if we ever had to pick a truly southern lady to be a great example for us in the South, well, LINDY would definitely be the first one that I would think of. She has all the qualifications. No. 1, she came from a family, a plantation family, who grew sugarcane. I think that would be one of the great qualities. She grew up on the Mississippi River, or very close to it, in the Atchafalaya Split, so I think that would definitely qualify for it, but we all know what really qualifies her would be her true greatness and her true charm that she has.

I cannot rise and truly pay tribute to her because I do not know that we can.

I want to back up from that and say a few words. Of course, I never ran for political office before I ran for Congress, and I was a business person. I got all of these little mailouts that told me how bad LINDY was and how bad she voted with us sometimes with business. When I came here I really did not know what to expect. I really did not know what I was going to be looking at or what type lady.

But it does not take but one day to learn what a lady LINDY is. When I go around my district today and talk, no matter who it is, there is not enough that I can say to pay tribute to this distinguished colleague that she is of mine. But she helps all of us.

I think we have probably the best delegation in this whole House for working together, and LINDY exemplifies that if anyone ever could.

Going to her with a problem, of course, being a junior Member and being on the minority side, we have many problems, but LINDY has always come through, and she has always been so supportive to us.

I think, first of all, the Second District of Louisiana will miss her the most. But we as Louisianans will miss you. I think the whole American political system will miss you when you leave here at the end of the 101st Congress.

So I just want to end and say that I serve here on the Hill, and everywhere I go, LINDY is there. She has the energy of a person of 21 years of age. Late in the evening when we have all gone and none of us want to be going to some of these events, LINDY is always there.

I just rise to say that the thoughts that I had before I was elected have changed in a hurry. It has been my great honor to serve with you. And we are going to miss you.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for his statement. At this time I yield to the gentleman from Kentucky [Mr. MAZZOLI].

□ 2000

Mr. MAZZOLI. Mr. Speaker, I thank my friends from Louisiana, Mr. LIVINGSTON and Mr. HUCKABY, for taking out this Special Order.

LINDY, a moment ago our colleague from California [Mr. MILLER] said that he came here because he loves you and because he wants a hug. Well, I have a third reason. I came here because I love you, because I want that legendary hug, and also because awaiting me at home is a balky washing machine which I am very fearful about coming near. So in some respects, I am somewhat protecting myself by being here.

We do all join in paying tribute to a great lady and a great Member of Con-

gress. Those Members, and some of our earlier speakers have spoken about being in New Orleans with LINDY, as I have been, and very recently, in fact this year in 1990. One of the most beautiful areas in the entire world and certainly in our America, and one of the most graceful and one of the most charming areas in New Orleans is the beautiful Garden District and wonderful French Quarter. It is therefore, Mr. Speaker, entirely fitting that one of the most beautiful and one of the most charming and one of the most graceful people I have ever known, and I think that we have ever known, serves that beautiful community right here in the halls of Congress. That person is our friend, LINDY BOGGS.

I do not want to go into the sad part of LINDY's life because she has endured, as our colleague said, the gentleman from Louisiana [Mr. HOLLOWAY] said, with grace and inestimable charm, in the loss first of Hale, her husband, and then recently of Barbara, the sister of Tommy and Cokie, respectively.

However, I would like to say that, really, as LINDY and I talked many times, I probably would not be here in the House of Representatives were it not for Hale, and because Hale and LINDY are a joint venture, always have been, present tense, are a joint venture, I would not be here if it were not for you, LINDY.

Of course, you remember back to when I campaigned in 1970 in the city of Louisville. Hale came down. This unknown person RON MAZZOLI, nobody gave him a chance. Hale was in there for part of that day and did his best for me, and then we went through that long agonizing count and recount. I won by the landslide total of 211 votes. 211 votes. At least 210 of those votes I owe to Hale.

Once again, because of that joint venture, I really believe my career here actually began in part because of your intervention. And while we know Hale lost his life, and the Speaker of the House and the gentleman from Washington said his clear opportunity to become Speaker of the House, because he campaigned for my friend Nick Begich in Alaska. It is fair to say Hale lost his life for those of us in the House of Representatives, and you gave up, willingly and voluntarily, your political life, and decided not to run again for reelection in order to take care of Barbara, who was experiencing the early onslaught of her terminal illness. That was an act of magnanimity on your part that you were willing to pay because you are a mother and a wonderful person. But in a sense Hale gave his life, as you have given yours, in the service of this Chamber.

Let me just lastly say, LINDY, that as others have said, you have that remarkable combination, I think that was said a moment ago by the gentleman from West Virginia, that you are a remarkable amalgam and a remarkable combination. You have great legislative experience, as our Speaker has said, great parliamentary experience. I have seen you presiding in the Chamber many times and the very wonderful, calming influence you have on this House. Your mellow voice brings order better than the strike of the gavel, but to that legislative and parliamentary skill you bring what is matchless, what no one of us possesses, though some of us have legislative skills and some have parliamentary skills. You bring that wonderful courtesy, those gracious manners, that wonderful wit, this beautiful smile, that beautiful face, that wonderful ability to say good morning, hello, goodbye. The wonderful amenities in the workaday world we sometimes forget. LINDY, as you leave this Chamber, you will leave it with not only a legislative record of high order, but you will leave it in the rarest way with the true love and affection of both sides of this body. We love you and we will miss you.

Mr. LIVINGSTON. Madam Speaker, Next is the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I, too, want to join in and make a few brief remarks about our distinguished colleague, LINDY BOGGS. There have been many experiences that we have all had with LINDY. I remember one of the issues I got involved with when I first came to the Congress is the plight, as our friend from Mississippi [Mr. MONTGOMERY] said, the plight of those classified as prisoners of war and missing in action in Southeast Asia. Mrs. BOGGS and I have had the opportunity on a number of occasions to talk about the similarity between the situation that she faced when she lost Hale, and he was missing, and obviously was never found. That gave her the ability to relate closely to those families of the nearly 2,000 people still classified as missing in action in Southeast Asia.

She appeared on my television program that I send out to southern California, and talked about something that not many of our colleagues have mentioned here, and that is this tremendous 5-year program recognizing the bicentennial of the U.S. Constitution and the Congress, the 5-year celebration which was a very important one. I will never forget July 16, 1987 when we as a Congress had the opportunity to go to Philadelphia, to mark the bicentennial of the Connecticut Compromise, the great compromise which established a bicameral legislature. Mrs. BOGGS played an integral role in that.

She has been very gracious to Republicans and Democrats. I have twice had the opportunity to visit her beautiful home in New Orleans, and had the occasion, as my colleague from California [Mr. MILLER] said earlier, to very slowly walk up Bourbon Street, because everyone wanted to come and speak to Mrs. BOGGS. We first went to New Orleans with the United States-Mexico Interparliamentary Conference, and Mrs. BOGGS very generously opened her home to the entire delegation, which excitedly came to New Orleans from Mexico. Then, of course, when I mentioned her friendship to Republicans, in August of 1988 she had a spectacular, full house crowd during the Republican National Convention. That demonstrated the fact that she clearly does have a very great respect for the two-party system in this country. I have appreciated the warmth and kindness that she has shown. When I think about what I will miss most, I will probably miss most the opportunity that I regularly have to walk into the Speaker's Lobby and to see LINDY sitting with her lovely sister, Cokie, and I will say that I want to join in as my friend from California [Mr. MILLER] did by saying that one of the reasons I really wanted to stand up here is that I wanted once again a hug, this farewell hug from LINDY BOGGS.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for his remarks, and now yield to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR. Mr. Speaker, I thank the gentleman for yielding.

There have been a lot of things said about Mrs. BOGGS tonight. One of the things that has not been said is that there are, at a time when there is a bit of public disdain for elected office holders, that there are two States that take very great pride in the fact that Mrs. BOGGS is theirs. The community of Boggsdale in Harrison County, just north of where the gentleman from Tennessee, Mr. COOPER's mother-in-law lives, there is the community of Boggsdale and the home of Hale Boggs, who before he left to go back to Louisiana to become the respected Congressman that he was.

As a child, I can remember being very proud of the fact that Congressman BOGGS' aunts lived two doors down from me, Mamie and Erma Hale, and even though I did not know what a Congressman was, I thought it was very important that their aunt at least stayed in Bay City.

Now that I do know better, and the people of Mississippi know better, I thought it very touching that so many editorials were written bemoaning the loss of our sixth Congressman, LINDY BOGGS. About the time that Mrs. BOGGS announced that she would not be returning to Congress, it was the beginning of the summer here, and of course being fortunate enough to go back and forth, I get to catch two

springtimes. I get the spring in Mississippi, the azaleas and then the magnolias, and then the spring here about two months later. Inevitably, the magnolias disappear in Mississippi, to be replaced by the ones here. Yet, sadly, one by one they disappear here. I recall just about the time that Mrs. BOGGS announced her decision to retire, seeing what I thought was the last magnolia in Washington, DC. The first thing that came to my mind was LINDY BOGGS. If there is a message in that, it is that, hopefully, there will be other seasons, and hopefully other magnolias. Certainly the last magnolia of this season is LINDY BOGGS.

□ 2010

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman. Since he has reminded us all of the great southern charm associated with the gentlewoman, I have to say that my own mother-in-law and all her family grew up with LINDY BOGGS in Pointe Coupee Parish in Louisiana. None of them could be more southern belles than LINDY and my in-laws. We are proud of all of them.

Mr. Speaker, I yield to my friend, the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I thank my colleague, the gentleman from Louisiana, for yielding to me.

LINDY, I am just thrilled at having the opportunity to serve in this great body, and because of my work on the Appropriations Committee having a chance to get to know you so well and so personally.

It is indeed kind of a shame that we in this body just too seldom have an opportunity really to share what we think about one another.

This is an occasion on which many a friend has expressed deep feelings about their work and their love for you. I have come to just add a bit to that, LINDY, for I must tell you that in all my years in public affairs I have never known a woman quite like you. It is rare in public life to find a lady who has such deep love and affection reflected in her every activity. The strength, the inner strength you show, the class, I might say, make you, LINDY, my dear, among the most precious of my friends in my experience in this lifetime.

When you leave this place, others are going to come along and they will try to imitate you, but I can tell you, LINDY, that they are just not going to make the grade because you are never in our hearts and in our lives going to be replaced.

Some people have suggested that tears will pass from many an eye as you leave the House. I hope that those tears do not become stains on someone's carpet place, but rather fall as crystals to be hung around your neck and in your heart, for we will never forget what you have been to us since we have been here and been privileged to be touched by your life.

LINDY, God made you such a beautiful woman, but not very many people could have carried it off as you have. You will live in the hearts and lives of those who remain in the House, but let me share with you my feeling that as the poet says, "A thing of beauty is a joy forever."

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for his comments.

I yield to the other gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise this evening with great pleasure to pay tribute to our gracious colleague from New Orleans, LINDY BOGGS.

Before I speak of how much LINDY BOGGS will be missed by everyone in this Chamber when she retires at the conclusion of this Congress, let me thank another fine colleague from Louisiana—Mr. HUCKABY—for requesting this tribute for Mrs. BOGGS.

Unyielding in her respect for this institution and generous to everyone she represented in this House, LINDY BOGGS will always be remembered as perhaps the finest ambassador the people of New Orleans have ever sent to Washington.

The spirit and grace of Mrs. BOGGS knew no bounds—even under the most difficult of circumstances.

The tragic loss of her husband—Majority Leader Hale Boggs—in 1972, would have crippled many a lesser individual. But not LINDY BOGGS.

So, too, the unsuccessful battle waged against cancer by her daughter—Princeton Mayor Barbara Boggs Sigmund.

Throughout it all, LINDY remained loyal and focused on her larger family: the people of New Orleans.

Since succeeding her husband in this House in 1973, the voice of LINDY BOGGS rose up in this Chamber on countless occasions when she saw a threat to the greatness of our American heritage or to the promise of our future.

LINDY BOGGS has worked tirelessly to protect the civil rights of all Americans.

She has devoted great energies to improving the lives of our children—from bettering food programs to bolstering education.

And she has held the deepest interest in the promise of this Chamber, which is the root of our great democracy.

For all this, and very much more, LINDY BOGGS has endeared herself to her constituents, and to everyone who has had the privilege of knowing and working with her throughout her public service career.

When she retires from the House at the end of the year, LINDY BOGGS will leave a legacy not easily followed, and certainly never replaced.

I am proud to join with my colleagues in thanking LINDY BOGGS for her grace and her wit and her substantive dedication to the best public policies.

I will miss her greatly in this Chamber, as a neighbor in the Rayburn Building, as our ambassador from New Orleans, and as the very intelligent, gracious and beautiful grandmother of Rebecca Roberts, a former intern in my office.

Mr. LIVINGSTON. Mr. Speaker, I am pleased to yield to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I come here to join all of us LINDY BOGGS fan club this evening to say how much fun we have had serving with you, LINDY, and what a pleasure it has been to be one of your colleagues, as a member of the Appropriations Committee for the several years that you have served on that committee.

You have added a great spice to my life in sharing with me some of the gems of history that through your representation on the Bicentennial Committee was made available to me. So many times we have talked you have introduced me to various historians who have unlocked some of the mysteries of our history.

One that I recall was the first printing of the Constitution, a page that is not known to most persons because it is not seen. It is the first resolution of the First Congress of the United States that because of your introduction to me of Dr. Smock we discovered. I still want to have it printed and distributed to everyone so they will have it someday. Maybe we can work that out.

I never shall forget, I am not sure exactly whether it is your great-great grandfather, is it, or great grandfather that was the first territorial governor of Arkansas, Governor Claiborne, who brings us closer together, as once Arkansas was a part of the large territory of Louisiana. On the occasion of the sesquicentennial of the State of Arkansas you presented our State with a plate that was once the Governor's that is now a part of our antiquities in the State of Arkansas.

All of these things I shall remember, but none more than a personal friendship we have shared over the years. I expect that I feel as close to the Boggs family as I do to any family in Washington, because when I first came here my friend, the late Hale Boggs took me under his wings and helped me retire a political debt that was as large as the Capitol dome itself, and in my second year appointed me to one of the first whip organizations, which

grew and grew into a very effective organization that we know here today.

I thank you for all the times you have helped me when I served as chief deputy whip, to whip some of our Members that I alone could not have accomplished.

It has indeed been a wonderful time that we have shared together, and we have been soulmates during these 20-odd years. When the political passions of the South seemed to have swept people off their feet in our region of the country, your knowledge of the Constitution and your understanding of the principles upon which our great Nation was built has provided me with a guiding light that I have often followed that has served me well.

I think that leadership has served our Nation well. LINDY, you have graced this institution with a charm that all have recognized this evening which only the presence of a southern lady could provide in an oftentimes boisterous, difficult and cantankerous organization like the House of Representatives.

I am sorry to see you leave, for all of these reasons, but I will feel very close to you always, LINDY, and I hope to see you often as you continue to serve this Nation, I am sure, in many other and varied ways.

We love you so much. We wish you well and Godspeed. Please visit us often here because it will not be the same without you.

Mr. LIVINGSTON. Mr. Speaker, I yield to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. I thank the gentleman from New Orleans for implementing this special order in honor of LINDY BOGGS of the Second District of Louisiana. I have had the privilege, as many of our colleagues have here today, of serving with Hale and LINDY.

DAVID DREIER mentioned a few minutes ago about the MIA issue. Hale Boggs is classified as missing in action. This was the time when young wives of the Vietnam conflict were losing their husbands, classified as missing. Beside LINDY's own sadness, she took on working with the League of Families of the missing-in-action, talking to those young wives and spouses, trying to help them in this troubled time when she was also having that experience.

As mentioned by my colleague, GENE TAYLOR, Hale's father and family are from Mississippi. There is a Boggs community, I believe it is between Bay St. Louis and Gulfport, MS. LINDY points that out to me at different times that the Boggses are from the Mississippi coast.

Mr. Speaker, I say without hesitation that LINDY BOGGS is probably the most popular Member of Congress, including both the House and the Senate.

As mentioned, she is very, very capable in her work serving on the Committee on Appropriations.

On her subcommittee they handled the veterans funding to fund our VA facilities, hospitals, compensation, and pension.

LINDY BOGGS has never voted against a veterans bill. She has been right there to see that they get the proper funding for these veterans who need help such as LINDY BOGGS has given.

Let me close by saying I am certainly going to miss, next year, not having LINDY walk down the center aisle and saying so much what we say in the South, "Honey, it is so good to see you today."

Thank you, LINDY, for making this building a better place to live.

Mr. LIVINGSTON. I yield to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Dear LINDY, I am going to miss you. I have just been serving in the House for about 2 years, and I do not know you as well as some of my other colleagues who have spoken about you tonight, but these 2 years have been very, very special.

When I go back to my district, I hear all this criticism of the Congress of the United States, and I must tell you that I am proud to serve in a Congress of the United States. I am proud to have the opportunity, and I feel it is a great privilege to be part of this body.

Every time I come to this floor and I look at you and I look at this body and I say, "Is it really me? Am I really part of the Congress of the United States?" It is because of people such as you who have made this place so very special for all of us and for me in particular.

Your intelligence, your warmth, your love, your graciousness is what has made this very special.

I am proud to have served with you on the Congressional Caucus for Women's Issues, and we have fought together. We have fought a lot of fights. We fought for civil rights, we fought for the family medical leave bill. We fought for child care, we fought for health care. Yes, let us hope we finally get a mammography covered in Medicare.

We are going to continue to fight together with you, LINDY, because we are not going to let you retire so easily.

I just want you to know that every time I go to the Lindy Boggs Reading Room, I will be thinking about you and I hope you will come back because I do not know how we are going to do without your advice, your counsel, your warmth and your love.

You taught us so much. You taught me so much in these last 2 years.

How can I ever forget your courage and your strength and your smile in the face of adversity?

It is easy to smile when life is going well, but how hard it is to smile when things are kind of rough.

You have taught us that great lesson, LINDY.

I hope that I will be able to do you proud, I hope to continue to serve in your great tradition.

May God continue to be good to you and may you continue to give us the love and your advice as we serve our country.

Thank you so much, LINDY, for being you.

Mr. LIVINGSTON. Mr. Speaker, I am delighted to yield now to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. I thank my friend, the gentleman from Louisiana, for calling this special order to pay tribute to the great lady of the House of Representatives, LINDY BOGGS.

For those who are watching this special order, they are probably somewhat amazed at all the attention being paid to someone who is not a household name across America.

LINDY has not spent any time or effort in self-promotion or gaining a national name or reputation.

We here in the House know her and love her, but the Nation as a whole has largely been denied that privilege.

My constituents, when they come to this House or watch C-SPAN on television, ask me, especially in the days when Claude Pepper was here, "Oh, point out Senator Pepper."

Others have their own gimmick or their own knack or their own way of appealing for the national attention.

LINDY has largely avoided that. She has just been what she is, a beautiful, intelligent, caring, loving person.

She has in her own right been so strong in all these areas as to give politics and politicians a good name even in the time when our profession is held in low regard by so many Americans.

I hope that those who are watching tonight realize that these are not the ritual tributes so often handed out to departing colleagues. The tributes tonight that we are paying her are for a half-century of dedicated public service on her own part, her husband's part, her family's part, and her political roots which stretch farther back than that.

My colleague, BILL ALEXANDER, pointed out that an ancestor of hers used to be Governor of the Arkansas Territory. That same ancestor was one of the very first Congressmen from the State of Tennessee, William Charles Cole Clayborn, who went on to be many great things, including head of a great family in New Orleans and CORINNE CLAYBORN BOGGS traces her ancestry back to that early Congressman from Tennessee, who gave our President, then President Thomas Jefferson, a few key votes when he

needed them, and went on to become the Governor of the Louisiana Territory.

I cannot think of anyone in this House who is more popular than LINDY BOGGS except perhaps the Chaplain of this institution, but certainly no Member is more popular than she is. We have seen Members come here tonight from their offices and from their homes to pay tribute to her not out of a sense of duty but spontaneously. Members from both sides of the aisle, Members like myself who have never served on a committee with LINDY. I am not from the same State she is. I am not from a neighboring State, but folks who have nonetheless felt the warmth and personal magnetism she has demonstrated.

How do you analyze it? We all know she has a very caring way about her, almost a motherly way. She makes all of us, even the least among us, feel important and worthwhile. She has that remarkable talent of being genuine in all circumstances. I know of no enemies that she has. But she is a lot more than just being a nice lady; she is one capable lady who has always known how to get the job done for her constituents back home.

I marvel at her talent that knows instinctively and intuitively how to handle all situations with grace, with charm and with dignity.

If you were to analyze it more closely, you might say she had the ability to look ahead, beyond, through tangles and thickets almost kind of like a chess grand master. But she makes it so easy and so natural that it has got to be something more than that.

□ 2030

I do not know whether you call it legerdemain or what, but LINDY BOGGS knows instinctively how to get things done. She is, as has been noted, probably the best ambassador that the city of New Orleans and the State of Louisiana have ever had. Mr. Speaker, so many people have been made welcome in that city and in her home when she has opened up, not just the front door, the living room and the parlor, but from the basement to the attic.

I feel, as many of my colleagues feel, that this is an end of an era. There is no other Member of this House with the greatness of LINDY BOGGS. She has held up the highest standards, a standard that almost seems to us sometimes to be too good to be true. But in holding up that high standard she has spread goodness and truth throughout this body and throughout this Nation.

Mr. Speaker, I thank the gentleman from Louisiana [Mr. LIVINGSTON] for yielding this time to me.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman from Tennessee [Mr. COOPER] for his great comments.

I am pleased to yield at this time to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I thank the gentleman from Louisiana [Mr. LIVINGSTON] for yielding and for taking this time to express our appreciation to LINDY BOGGS. If we were to take a vote of the House and ask who is the Lady of the House, immediately it would be LINDY BOGGS. Or we would say, "Who is the queen of all the legislators on this side?" And they would say, "Why that's LINDY BOGGS from Louisiana."

Mr. Speaker, it would be a pleasant and a quick answer because that is how we automatically think about and evaluate LINDY BOGGS.

I think my life has been twice blessed in the sense that, when I first came to Congress in late 1963, Hale Boggs was then the majority whip, and my wife and I were privileged many times to go out and visit their home off Wisconsin Avenue in Bethesda, way out there, and attend some of the functions that these two individuals, Hale and LINDY, held for the people of Washington. It would be a mixed crowd, a large crowd, an interesting crowd of individuals, of legislators, or Washington people, and you always had a wonderful time because you had a microcosm of Washington in action and Congress in action, and these two people have blessed our lives here by visiting with, and entertaining, and giving leadership to people here in Washington and in the Congress.

Therefore, since I have known Hale, I must say to my colleagues that we ought to pause to remember that LINDY was an equal partner. Hale Boggs came from the Deep South, a strong young leader, taking positions in civil rights and voting rights at a time when it was not always easy for the South, but he gave that kind of leadership, and that is why he was put into a position of leadership, and he indeed served this House and this Nation well. We have missed him but we were proud of our service with him.

And then of course we became acquainted with LINDY, and because of her background she knew every Member of the House, every Member of the Senate, and knew everybody who helped this body function. When the opportunity came for her to step into Hale's shoes, she could do it with smoothness, grace, and effectiveness; and she has done it, not only because of her election, but because of her background.

Let me tell my colleagues a little story. LINDY told this to us one evening, and I have always remembered it. Way back there in the early days, I believe it was President Hoover and some of his group were coming into Louisiana, and the people of Louisiana in that area wanted to do something special to entertain them and make them feel welcome, and so they came to the lovely home of LINDY BOGGS' parents, and made big plans for a great evening. They also called in LINDY's nurse and housekeeper, Hannah, and said, "Now, when it's time for us to eat, you come in, and you bow with some politeness and with some poise, you say, 'Dinner is served,' " and she said, yes, she understood that, but they rehearsed her several times.

So, they went to their party, and they had one refreshment after another refreshment, and it was late. Hanna came in and would say, "Dinner is served," but nobody would respond. After about 30 minutes or an hour of it she became exasperated. She knew the dinner was getting cold, and she knew something had to be done, and finally she came in with some kind fo a little instrument on which she made a good noise of clanging, and she said, "Dinner is served and, more than that, supper is ready, and you all come and get it." And you know that stopped all the talk, and immediately that little statement became an order, and all those people, including President Hoover and their group, sat down, and they ate.

Mr. Speaker, LINDY grew up in an atmosphere of southern warmth and culture where people knew each other, and it made no difference in a lot of respects whether you were black and white, or whether you were rich or poor. You did value people and their friendship and what it meant, so she grew up in an atmosphere where she knew people, and she knew her region of the country. She was a lady of culture—a graduate of Sophia Newcomb—and a former school teacher.

So, LINDY, we are proud of you as the Lady of the House. If I were to say, "What do I remember about LINDY," it would not just be her coming to the 88th Club and rendering "Alouette" with 20 verses or more, although that was lovely. I would say one thing comes to my mind: grace. Not just amazing grace, but grace, culture, and warmness. That is just apparent to you with that soft voice of yours, with that ladylike statement of facts, that request for consideration. You get more done for your district and your city than all of us squabbling and fighting about something to get a little crumb. That is because of the great respect we have for you.

So, to you and your family, I say that we should all be proud of you, and I know your family are intensely proud of you. What family in America has had more people from their own family who have been so outstanding: Your wonderful daughter from Princeton, whom you just lost, who apparently was a saint, with leadership so strong that, when you read it, you

almost think of it as a TV melodrama about her effectiveness. And your own son here is an eminent lawyer, maybe one of the strongest lawyers in this whole city, and Cokie Roberts is a national figure all of us recognize. You have a lot to be proud of. You and Hale raised a wonderful family.

I ask, "Don't we all ask ourselves sometimes, when we come to the end of our service here, have we done something to be remembered? Through your legislative talents, and your contributions, and through your family, which is carrying on, you certainly have done that. We love you.

Mr. LIVINGSTON. Mr. Speaker, I am pleased to recognize the last speaker, reserving only to myself the last 30 seconds. I yield now to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I appreciate the chance to be here because I have had the opportunity to know LINDY BOGGS in a way that most of the people in this Chamber never have, because I was her constituent. When I was growing up and I had the privilege to attend Tulane Law School, LINDY, of course, was the Representative of that area, and I was beginning to think at that time about formulating my own political views, and I remember the respect and admiration that the people I lived around had for their Representatives in Congress. I could not go anywhere without hearing the BOGGS name, and always mentioned in the deepest reverence and respect. That had a great impression upon me during those years.

□ 2040

Then I went back to West Virginia. We had some mutual friends in North Carolina, and we would occasionally talk. I would always be hearing about LINDY BOGGS and all she meant and who she was.

One day I had the chance to meet her, right after I had been elected to Congress. I go in the Cloakroom, and there is this person that I have been hearing about so much, and she is just fighting her way to the counter with everyone else to get a hotdog, only LINDY does not have to fight her way. The people just part. And there she was.

So I had that chance, as I say, as a constituent, and now I am glad to have the definite privilege as a Member. Because what LINDY has brought I think to a group who is somewhat fractious, and recently even more so, she has brought an incredible civility that this body really needs and really requires. So that is one of the greatest impacts I think that LINDY has had.

LINDY is two things: First, she is an excellent politician, and I say that in the finest sense of the word, because she never fails to know exactly what it is that is on your mind. "How is your mending going?" Or, "Bob, how is your project going?"

That, of course, is always appreciated. But she is also an incredibly attentive person, asking equally, "Bob, how is the baby doing?" And that means a lot, too.

I would just like to say, as LINDY closes out this phase of her career, she is I think the embodiment of what the House is about and what this institution is about. I just hope that as she leaves, and of course, she will never leave, but that she becomes, as she has been the ambassador for New Orleans and the ambassador for the State of Louisiana, that she will always be the ambassador for this House, because we need that representation and we look forward to it.

Mr. LIVINGSTON. Mr. Speaker, I am very, very pleased to close out this special order. I likewise as a former constituent at one time or another of the gentlewoman from Louisiana, and also as a current colleague and also as a good friend, am pleased that we could take this time and have all of our colleagues who came before us speak about what a truly fine lady she is.

She is the queen of the Louisiana delegation. I would be remiss if I did not add that I have been instructed by the Clerk of the House, her godson, Donn Anderson, and all of the staff of the House of Representatives, to express their love and attention for LINDY BOGGS. They have come to know her throughout their careers, and they have told me that that is a must before I close out these proceedings.

I would like to close these proceedings with the last line of the gentleman from Texas, RON COLEMAN: "What a lady."

AIDS DEATHS SURPASS VIETNAM AND KOREA CASUALTIES COMBINED

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I take no joy in coming to the floor and announcing something that is historical and absolutely horrific. The figures are in for up through September 30 on people who have contracted AIDS, a full manifestation of the HIV virus tearing apart their body in many opportunistic ways. The death toll for AIDS, which is very low, 10 to 20 percent low, is in through September 30. So everything I am going to tell you, add 25 more days to it.

In the United States 149,498 people have contracted AIDS, a very low figure, and 92,401 have died; 92,401.

Killed in combat deaths in Korea, 33,629; killed in combat deaths in Vietnam, 58,157. Combine Korea and Vietnam and you get 91,787.

Mr. Speaker, more people have now died of AIDS in the United States of America, most of them young, including 1,374 totally innocent children, more have died, probably way over 100,000, than our two most recent wars.

AIDS is truly tearing this country apart, and the only demonstrations we see are people demanding that more money be spent on them than breast cancer for women, which is still a higher death toll.

TRIBUTE TO THE HONORABLE NORMAN D. SHUMWAY

The SPEAKER pro tempore (Mr. MCNULTY). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, it is an honor to take my special order tonight and share it with my Republican colleagues from the State of California. We are the largest Republican delegation in the House, and obviously also the largest majority delegation, 27 Democrats, 18 Republicans, and we are losing 1 of our most valuable Members through retirement. NORM SHUMWAY, from one of the most beautiful areas of the United States, the northern part of California, is leaving.

Since I am one of the more loquacious members of our delegation, I am going tonight to yield to my colleagues early, and just try and synthesize my feeling about NORM into as few words as possible.

Sometimes with a loquacious person there is more impact in brevity.

NORM, when I think of him, I think of someone that is a family man; a deeply religious man; someone of strong principle and conviction; and someone who is as solid as a rock. I think of a person who has a rudder in life that is set toward a goal of eternal reward that he works for, in making sure that the world is a better place for his children and his grandchildren, a better place than he found it.

I am going to miss him a lot. He always has a winning smile. He is someone you can depend on, not only to a solid person on all the fiscal issues, and heaven knows we need fiscal sanity around here. Not only someone who understands totally what the words in the Preamble to our Constitution mean, to provide for the common defense, but someone who on issues that involve values, family, the culture war we are going through, is someone who takes his responsibility as a husband and a father as seriously as any role that he has taken in serving the great Golden State in its elected chambers there in Sacramento.

Certainly in the dozen years he has spent here, his voice has been strong, to not break faith with our parents and our grandparents and all the generations that came before us, to fight to leave a better—now the fight seems to be just to leave as good a country—as was given to us by our older loved ones, but to try to make it a better place.

I just hope that NORM is not going to retire from the public scene. I for one look forward to seeing him in his volunteer time at every convention that our great Republican Party has in California, to make sure that the values that NORM fought for here are the values that remain entrenched in our party as our party attempts, after being shut out of control for a generation, to regain a role of leadership in the State, with a Governor to follow in the great footsteps of George Deukmejian and Ronald Reagan.

NORM, we are going to miss you, but we look forward to seeing you after the election at our convention next year. Keep fighting for our party. Boy, it has been great being your friend.

Mr. Speaker, I will yield to my colleagues by seniority. I yield to our great dean, the powerhouse behind all of those wonderful delegations that you have hosted for, what is it, 20 or 30 years. CARLOS, it is yours.

Mr. MOORHEAD. Mr. Speaker, what America needs and is looking for is strong moral leaders. I think that anyone that knows NORM SHUMWAY knows that in NORM we have had a strong moral leader. He is the man in our delegation that has always held us straight, a man who we look to as Mr. Ethics. If anyone in this country wants to find the strength of the Congress, they will look to people like NORMAN SHUMWAY, who does not violate his basic rules of moral integrity in any way, shape or form, from the wearing of his special under garments, to his kind thoughts and words of encouragement, to his friends, and to those people who are working to make America a better place. To his family, where he has seven children and a lovely, lovely wife, Luana, a family America can look up to.

□ 2050

I know that it is always hard to see a friend leave, somebody that you have been with for 12 long years. It is difficult to see them go away. But I know that NORM will come back to us.

During the years that he has been in Congress he has been a strong strength on the Banking, Finance and Urban Affairs Committee. And with all of the difficulties that that committee and the industries they regulate has gone through, NORM has been a person that you could go to to get wise counsel, wise advice, and wise direction.

You know, in 1981 our State of California was reapportioned, and NORM was kind of moved. He comes from the city of Stockton down in the valley. They gave NORM a district that includes the mountain counties of California where the chief gathering place in each community is the saloon in that town, where you have usually a poker game or more going in the back room. And people said when NORM took over that area that whereas the former Congressman had been able to campaign all of the bars and wherever they might be, NORM would have a great difficulty in ever carrying those areas because he would not drink a drop. He does not drink alcohol, he does not smoke, and his habits are absolutely pure. And there was great question about whether he could ever do anything with these miners up there.

But you know, he has been so committed to the people in those counties, and has taken such good care of them that no one would dare even try to take those people away from him. They hold him up as a true leader, as a person that is a man of the people, someone that holds their ethics extremely high, and NORM has swept away any opposition that he might have in that area, and has carried it overwhelmingly in the years since.

We have a lot of tough issues in Congress. Many of us feel that we have to have a much stronger fiscal policy, that America has gone down the way of borrowing and working against the future, taking away from our children. NORM has felt very strongly that way, and I know that when I have been able to look up at that board, and NORM was taking a stand, no one in Congress is going to take any risks in following his leadership, because he so strongly believes in America and what America should stand for, and when you see that he has taken a position you know that it is good for America and something that will be good for all of us.

NORM, I am going to miss you. You have become a good friend, one of the people that I totally enjoy talking to and being with. We are going to miss you and Luana after you have left, and you are leaving a big hole when you go on. But we know wherever you go, whether you go to China or to some other place, we know you have a commitment to your church, to your God, and to your people, and we know that whatever you do you are going to be doing things to make America a better place, and the world a better place, and that people will be far better off with your presence than they ever would have been without you.

Mr. DORNAN of California. Mr. Speaker, I might point out to our dean that he is not much with the champagne, but he is one heck of a dancer, ballroom dancing. And if he goes to China, the goddess of Liberty will be back up in Tiananmen Square within a year.

Mr. Speaker, I yield to our distinguished colleague whose district is adjoining mine on the northern boundary in Orange County, WILLIAM DANNEMEYER.

Mr. DANNEMEYER. I thank the gentleman for yielding.

I have been listening to members of our delegation talk about our colleague, NORM SHUMWAY. At a time like this, it is sometimes difficult to know how to express yourself, there is so much that comes to mind.

When I look at people who the world would say have met success in life, there is always a question as to what quality they possess that caused them to reach that level of what the world calls success. I think NORM SHUMWAY is one of those people that exhibits that quality in spades, and that is he is possessed of a servient attitude. I did not say subservient, I said servient attitude. That is, NORM SHUMWAY has the ability to look outside himself, and to help other people with the problems they have. Because he has that characteristic, and does it so sincerely, and so effectively, I think he has been successful in public life.

It is that quality I think that has served him well in making a success of his marriage, six children in his family and seven grandchildren and more on the way. His wife, Luana, has been a strong family presence, and it is a value system that NORM covets, protects, nurtures, and supports.

From his personal political standpoint I know that these qualities of which we speak are one of the reasons that Governor Reagan selected him or encouraged him to serve on the board of supervisors in his home area of Stockton. Then in 1978 he, like a lot of us, was influenced by what Ronald Reagan did as Governor of California, and came to do as President of this country, to change the direction of America. NORM SHUMWAY brought that conviction. He is by definition a political conservative, and when you analyze his voting record by the National Taxpayers Union, among others, you will find that the people of this country are looking for leadership and watching out how we spend taxpayer money, and NORM SHUMWAY is there. He has enjoyed the support of the top 10 in the analysis of the National Taxpayers Union in terms of how he spends other people's money during his 12 years in the House.

I think he has exhibited leadership in issues that the people of this Nation want to support: English as the language of America, term limitations for Members of Congress. I know he is a man of consistency. For instance, he says that Members should serve no

more than six 2-year terms, and it is with interest I note that having served six 2-year terms NORM SHUMWAY is retiring.

I think also those of us who are here, members of the delegation, when we wander in for a vote on the floor we sometimes have not had all of the time we would like to have to read how we should vote, and NORM SHUMWAY, I can tell you, is one of my sentinels. When I am uncertain I look up on that board and see how NORM voted, and it tells me something of what is the right vote to cast on an issue.

I can only say that it has been a pleasure to work with you, NORM, to serve with you, to watch your rock integrity of which you are possessed, and you are a credit to your religion, you are a credit to the area from California that sent you here, and I know that in future years as you continue to serve your country, your church and your God, that that service will be blessed richly by our Creator in Heaven.

I thank the gentleman for yielding.

Mr. DORNAN of California. Shame on you, Mr. DANNEMEYER, for giving away one of our better secrets around here. But it is nicely put, that NORM is the sentinel, the ultimate compliment, that when that vote is going up on the board, we look up and see how one of our colleagues we respect voted.

Mr. Speaker, President Jimmy Carter's mid-term election was a great year for the Grand Old Party, and seven Members came with NORM to our delegation alone I think of our 38 new Republicans in that class, and then we picked up on my birthday, April 3, 1979, another one, eight Members of that class, and it is down to five. Most left voluntarily. NORM takes it down to four. But I am going to introduce my colleagues to this tribute to NORM by that class of 1978.

Another great Member of that class is BILL THOMAS of the beautiful Bakersfield area of our State.

Mr. THOMAS of California. Mr. Speaker, I thank my colleague for yielding, and that is correct. I did not know NORM SHUMWAY before we were both candidates for Congress in 1978. NORM at that time, as has been said, was a supervisor from San Joaquin County in the northern portion of the valley.

□ 2100

Shortly after the election, we began to gather as freshmen. There were a number of seminars put on by the University of California and others in which the would-be freshmen got together to begin their orientation to become Members in the 96th Congress, and as is always the case, as you meet someone and begin to work with them, you try to draw a mental picture of that person, and then you are constantly correcting it over the years in which you have a relationship with them.

You have heard my colleagues describe NORM SHUMWAY. I guess that the shorthand phrase which sums it all up is that he is one of the original straight shooters. What you see is what you get, and at no time have I ever in the 12 years of my relationship with NORM SHUMWAY ever heard him brag or heard him boast.

But what I have done over the 12 years in my working with him in terms of the legislative process in traveling, he and Luana, on a number of legislative missions, is to be constantly amazed at the depth and breadth and talent of this person. So I want to spend my time just giving you a couple of examples.

No, NORM, I will not talk about the time that you and Luana were so tired that you could not get any sleep and you finally submitted to taking a sleeping pill and that sleeping pill hit that pristine body that had never even seen caffeine, and what happened, I will not talk about that particular moment.

I have a lot of them. The moment I want to share with you to indicate the kind of depth and breadth of this individual who would never brag, never boast, never talk about his talents, we were on a boat, a small ship, and there were a group of young Japanese professionals, men and women, and they were leaning over the rail looking out at the shore, and they were talking to each other hurriedly obviously in Japanese. NORM SHUMWAY walked up behind them and began talking to them in Japanese, and one of the young women turned around. Obviously they turned around to greet whoever was speaking to them. And one of the young women began to laugh almost hysterically. She could not control herself. So when she finally was able to calm down, I went over to her, and I said, "What were you laughing at?" And she said in English to me, "Never in my life has this ever happened to me," and I said, "Well, you know, OK, what was it?" "This person walked up behind us and began speaking to us in Japanese, and my mental image was of a fellow countryperson. His Japanese was perfect. It was impeccable. I could not believe someone who was not Japanese could speak Japanese that way."

I did not know NORM could speak Japanese, not just speak Japanese, but speak it so that someone whose native tongue would compliment them in terms of his ability to speak that language, and on and on with examples that I could provide with the amazing depth, breadth, and talent of this person.

Now, Luana, as most of us know, in terms of NORM's wife, my wife Sharon and Luana hit it off pretty early and had a good, growing relationship. Our colleague from Orange County, the gentleman from California [Mr. DANNEMEYER], talked about the attitude of wanting to serve others. One more example of this family in terms of the way they look at the world, we were out on another occasion, and I had an overcoat on. I was unlucky enough to catch the button on a chair and it ripped the button. Here we are together in a public place, and it was a pretty horrendous 90-degree rip on the coat. Luana sits down, calls me over, lifts up her dress, cuts a piece of her slip and uses it as a backing to sew the botton back in place in a job more professional than I had ever seen before, and then we went about our business. She did it as though this was something that, you know, that would go on and on.

I was amazed that, first of all, she would understand the problem that I had, but not only understand it, not say, "See you later," and "Come by, we will work on it." There, at that instant, regardless of what was going on around us, to solve my problem, and that is NORM, and that is Luana.

Those are the kind of people that make up this House of Representatives. We do not often see them in the full breadth of their involvement in this life either with their families, with their social or religious activities, but one of the joys that I have had in the 12 years that I have served with NORM is that since it would never come out of his mouth in terms of a boast or a brag, I have been able to be with them in different contexts in which just being with them has allowed me to better know and understand the depth and breadth of this individual.

We, of course, in the California delegation are going to miss him. This body is going to miss him. But, more importantly, given the kind of trials and tribulations we are going to be facing in the 1990's, this country is going to miss him.

NORM, thank you for being with us.

Mr. DORNAN of California. OK, we have established he might be a Japanese spy, one. If you lose a button, his wife will show more than a little ankle; she will even cut up her slip for you. We have established that he had a pristine body, and this Congress drove him to drugs. I do not know, let us hear from somebody else.

That was just a one-shot deal, right, NORM, with that sleeping pill? That is what I thought. Did you get a good sleep?

We go again to another great member of that great class of 1978, a gentleman who has risen to the No. 3 position in our party, the gentleman from California [Mr. LEWIS]. He is one of our leaders and another one of those people in that class that has

made its mark on this Congress in 12 quick years and has left a good legacy.

Mr. LEWIS of California. I thank the gentleman for yielding and for taking this time and sharing it with us as we attempt to begin to communicate just a bit of our experience and our feelings about our colleague, NORM SHUMWAY.

NORM, I came down here because I wanted to look at you rather than stand in front of you to try to express just a few of my own feelings about my work with you and your service to not just the Nation's Congress but to your family and your State and, indeed, the country.

Well, in Sacramento I remember often looking up at one of the great buildings there, and there is inscribed on the facing that line, "Bring me men to match my mountains," and if there is a quest that I would share with you it is a love for public affairs, and if public affairs is to have strength, impact, and meaning, then very much of that will be determined by the quality of people who come to serve, and the best of service involves those people who are willing to be volunteers.

In a classic sense, NORM SHUMWAY, you are a volunteer. You did not come here to presume that you would change the entire world, but you knew that a person who was willing to work hard for his values, that which you believe is important for the future of the country and reflect those values along with the support of your family, that you could make a difference in the direction of the country. A volunteer tries to do that. You whack away one day at a time.

Indeed, with thousands and thousands of individuals like you, points of light, you have not just made a difference, you have had a tremendous impact upon our delegation.

There are within the California delegation not one but a number of Members who will be seeking that sentinel that BOB referred to who, indeed, will be desperate, I think for months to come for new counsel, because even though you will remain as a friend and come back from time to time, you are not going to be here during those hours of real pressure.

I have often talked with the gentleman from California [Mr. PACKARD] about his reaction and our mutually viewing the reaction of others, a great man, who has made a great difference in the work of our delegation and the House.

NORM, sometimes when I have had a great week, when things have just gone fantastically well, you know, you actually win one on the floor for our party, actually you think you affect something in terms of direction in a subcommittee, I say somewhat lightly that I go home and go out in the backyard where there is a swimming pool and I walk across the pool, you know, and I get wet every time. If there is a Member in the House who might make it across without getting wet, I think you probably come as close to it as I know.

I will never forget the many of the experiences we have had together trying to impact public affairs. I will never forget the startling experience for me when we did travel to Japan together, and I had that same startling response to your facility and understanding and sensitivity to a great country in a shrinking world, another aspect of NORM SHUMWAY that you do not find out about unless there is an accident that allows you to have new insight into that special part of your life.

I think my colleagues should know about another very brief experience that says almost everything about NORM SHUMWAY. Norm had announced that he was thinking about retiring from the Congress, and I called him in hopes that there might be a chance, and just might be a chance, to impact his decision.

□ 2110

NORM very briefly told me what he had in mind. I cannot even begin to try for a moment longer, for here is a human being who has his priorities straight. There is more than just being in politics and the ego glow of this place to this human being.

His wife and his family have other things to do in this life and other contributions to make. There is not any doubt that if there is a weakness in the Congress, it is that so many Members lose our way because we lose our sense of priority. Luana and NORM have made a massive contribution to the quality of our delegation. The direction they have given each Member in our own special ways will not easily be forgotten.

NORM, I thank you for the years you have given Members. I look forward to a long-lasting relationship and friendship. God bless you and all of yours.

Mr. DORNAN of California. Mr. Speaker, I will break a California pattern to recognize the distinguished colleague from the State of Ohio [Mr. WYLIE], who has served for years with the gentleman from California [Mr. SHUMWAY] on his committee assignments here. We were just discussing the other day that the gentleman from Ohio [Mr. WYLIE] has been here 24 years now.

Mr. WYLIE. In my 24th year, yes, sir.

Mr. DORNAN of California. I am pleased to yield to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, it is my pleasure, and I compliment the gentleman from California [Mr. DORNAN] for taking this special order for a very good friend, the gentleman from California [Mr. SHUMWAY]. I want to thank NORM SHUMWAY for his distinguished career in Congress and wish him well in his new future.

NORM, as I have said, has been a distinguished colleague and good friend. My wife Marjorie and I had the pleasure of getting to know NORM and his wife well when we served as official representatives of the U.S. delegation to the meetings with the European Parliament several years ago. What a pleasure it was to get to know these 2 fine people in a social way. As importantly, NORM has served on the Committee on Banking, Finance and Urban Affairs with me since 1978. He is now the third ranking Republican on the Committee on Banking, Finance and Urban Affairs, and one of our most thoughtful and conscientious Members.

He also served as the ranking member of the Subcommittee on Economic Stabilization. He has always been fair and balanced in his approach to every issue that has come before our committee. Today, for example, we approved the Defense Production Act. While I know NORM was not particularly enamored with the bill, he worked quietly behind the scenes, as he frequently does to make any parts of the bill more acceptable, so that it could be accepted by the administration. We appreciate that leadership role.

NORM has been a strong supporter of greater flexibility, and I use the word "flexibility" advisably, for the banking industry so that they can compete more effectively internationally, as he says. He is a strong believer that by diversifying the risks of our banks they can, in fact, become safer and sounder.

He was a solid voice on many important competitive issues, and I will tell Members he will certainly be missed. He is also an adamant believer in free trade, and played a role for the Committee on Banking, Finance and Urban Affairs in crafting the Banking Committee parts of the trade bill in 1988. I think his views were indeed ahead of his time and ahead of ours.

The U.S. economy is increasingly interdependent on other nations. I hope that he will continue to write and speak out thoughtfully on these issues as he has in the past.

I also would note that NORM speaks Japanese fluently, and I am sure the gentleman from California [Mr. DORNAN] knows that. I certainly think he would make a great ambassador to that country, if he is so inclined to accept such a position.

One more important thing about NORM, term limits are the talk of the country now, as we all know. I learned from NORM that when he first ran for Congress someone asked him how long would he like to serve if he were elected, and he said, "Well, I don't know. I

think 12 years would be about enough." He is one of those fellows who sort of keeps his word and he kept his promise, and he is now at the end of his 12th year. That is unfortunate for the Members because we wish that we could retain his experience and his expertise, and his knowledge gained from the 12 years experience on the Committee on Banking, Finance and Urban Affairs. We could use it well, I know, in future Congresses.

Marjorie and I want to wish NORM and his family well. He is a devoted father of 6, so we know that he will be kept very busy indeed.

Bidding goodbye to him, I know, is not pleasant, but we know that he will always be missed by this institution, and we know that he will have happiness in the days ahead. At least we think he will.

Mr. DORNAN of California. Mr. Speaker, I honestly had never thought about our colleague and pal here as Ambassador SHUMWAY, but my reaction to that is ah-so. Yes, I like the sound of that, Ambassador NORMAN SHUMWAY.

Now, it is a pleasure to introduce a gentleman who joined the Congress in 1982 and represents one of those beautiful areas of the State. The State is so big that we should not just pick out one little part of it, but Presidents of the United States retire there. I think they spend more time in this gentleman's district than they do in their own home States of Michigan or wherever else they might have come from. I am talking about the beautiful area of Palm Springs, in one area of the gentleman from California's district [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Speaker, I thank the gentleman from California [Mr. DORNAN] for taking out this special order to talk about our colleague, NORM SHUMWAY.

It is somewhat distressing for me to be here tonight because I have held NORM SHUMWAY up as kind of a person to look at, particularly as mentioned before, when we want a little reflection on the integrity of the voting process, we are always looking up there at NORM SHUMWAY, and we know that vote represents not political expediency, but what the character of the gentleman considers to be the right way to go, and the right vote on the subject in question.

NORM, being from Stockton, as was said before, served on the board of supervisors at the time that I was also serving on the Board of Supervisors in Riverside County. For those Members who have never served on the board of supervisors, believe me, that is where the action is. That is where all the Federal programs end, and the Board of Supervisors pick up the pieces and find a way to finance it.

So I think that maybe a little bit of the initiative on the part of NORM for desiring to come to this great City was to see what happens at the other end of that chain when we get at the other end, being supervisors, having to put these programs into effect.

When we talk in terms of NORM, we think of common sense. We think of straightforwardness, and we can use all kinds of other words, but it is the integrity of the individual which NORM best represents that I think one could sum up his character and position relative to the House of Representatives.

Gail, my wife, and he and Luana had the pleasure of being guests of the Japanese Liberal Democratic Party for a period of 10 days in which he continued to razzle-dazzle in a very unassuming way, the group that was with us in our travels, as well as the seminars, with his fluent Japanese in the outlying areas. We would sit down, and there would be interpreters on top of interpreters, and NORM was immediately our delegate leader with other people, other Members of the House on both sides of the aisle. We all have to reminisce a little bit tonight, NORM, we were out in agricultural country, and I mention that because irrespective of feelings in Palm Springs, what it is or is not, the number one activity in my district is agriculture as it is in the area up in Stockton. We were out looking at bushes and oranges that were growing on the side of the hill, and we came down and sat in the real nice surroundings, and having dinner, and all of a sudden the interpreters began doing their thing. NORM was very unassuming. He just took it all in. Luana over here and my wife Gail over here. They were talking through their interpreters.

□ 2120

Finally, it became time for our delegation to recognize and to accept the invitation of those who were entertaining us, and NORM in a very unassuming way got up and in perfect Japanese, these people just melted away on both sides of the table, having not known that NORM was a bilingual person in the sense that he was.

I think that speaks a lot for the man, because too many of us, I am afraid, like to maybe brag about what we have in the way of personal characteristics or learning curves, or however you wish to put it.

I am somewhat distressed, NORM, that you have chosen to move on.

Any time we have a person of your quality here in the House of Representatives, it is a quesiton of, gee, who is going to follow and how do we fill that kind of a void.

Gale and I want to wish you and Luana the best in whatever you decide to do. If you are looking for a sponsor for the Japanese ambassadorship, I am certainly willing to sign a "Dear Colleague" letter. Is that the way we start it?

Anyway, NORM, happy journey to you and Luana.

Mr. DORNAN of California. Mr. Speaker, we jumped out of order in seniority the way we have been elected here. This gentleman, another man with a winning smile all the time and an absolute optimist, I never realized there was pessimistic side to our colleague, the gentleman from California [Mr. DREIER], but I see in the record that he has leave to address the House on October 30, 31, November 1, 2, 3, 4, 5 and 6. I hope he does not turn out to be correct that we are going to be in right up to election eve, but we are already breaking Guiness records here.

I skipped to Al and the class of eighty-two. There is another great member of that class who is going to speak to us in a moment here, the gentleman from California [Mr. PACKARD] but I want to go back to that class of eighty. This was a special class. It came right after NORM's class of seven and then eight, with a special election, but the class of eighty, some of them are proud to say, "You bet, we came in on Ronald Reagan's coattails." But four of the five did it really the hard way. One of them, the gentleman from California [Mr. LOWERY] is going to submit some written material later on NORM, but BILL LOWERY took the 28-year seat of a great Member ranking on the Armed Services Committee, Bob Wilson; but four of the other five of that class are Aces, I call them, because they all shot somebody down to get here.

The one—well, it was kind of a tie between DUNCAN HUNTER and DAVID DREIER, who surprised the Nation the most. DUNCAN knocked off an 18-year chairman of the Communications Committee; but DAVE had run, at 25 years of age, against a well-liked Member and then got him at age 27, two years later in 1980.

It is a pleasure to have the gentleman from California [Mr. DREIER] here to speak up, and I yield to the gentleman.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding to me, and thank him for taking out this special order. I have the honor of serving on the Banking Committee with NORM SHUMWAY. We have had many great experiences together, Mr. Speaker. He has provided me with a great deal of leadership and clearly, if I continue on the Banking Committee, I will miss the leadership that NORM has provided. We have had many challenges, anguishing over this savings and loan crisis, which is something that is not terribly popular to discuss now, and a wide range of issues that relate to the delivery of financial services, and right down the line NORM SHUMWAY has always been a man of

principle. He is a guy who I have always been able to count on. I will greatly miss that.

I have had a number of interesting experiences with NORMAN, but I want to make clear, and I do not know if this has been said earlier, but the reason we are here this evening talking about NORM's retirement is simply because of the fact that he is one of the few politicians who has maintained the commitment that was made when he first ran for the Congress. When he ran for the Congress in 1978, he told his constituents that he was going to serve six terms in the Congress and he would retire after 12 years.

Right now in our State of California there are two initiatives on the ballot in which the American people are calling out for term limitation. It passed in Oklahoma recently. There are many people who want to see terms limited.

NORM in 1978 made the decision he was going to limit that. I know he had considered running again, because he wants to make sure that he has a very able, capable, and like-minded successor, which he certainly does have in John Doolittle, who will succeed him, but NORM did make that decision, even though I know he sort of wavered on it for a while, not to run after his 12 years, and I admire him for that because, as I said, there are many people around who are calling for the limitations of terms and NORM was very prescient in that he saw in 1978 that 12 years is the proper amount of time for people to serve, and now they are modeling initiatives on ballots around the country after the model that NORM set back in 1978.

A couple of people alluded earlier to the fact that there have been experiences that people have had with Luana and NORM, and frankly many of those experiences have taken place during something that we do not now like to talk about a lot, and that is congressional travel. It certainly is one of the most criticized things. In fact, in 35 minutes, Prime Time Live is going to be doing a special about some congressional travel which is taking place; but frankly, that trip that is going to be reported this evening is the exception, because I have traveled with NORM SHUMWAY. We had an opportunity last year to go to seven countries in sub-Saharan Africa. I was very impressed at the way that NORM SHUMWAY did his homework. We had consistent meetings, one right after another, with government leaders in these different countries, and clearly sub-Saharan Africa is a very important part of the world. The strategic reserves that exist there, minerals and all, are very important and, of course, the geographic location of that spot in the world is important.

NORM had a great deal of preparation for the trip and represented this country extraordinarily well when he was there.

He and I had a number of experiences. I remember very well he had a favorite Sports Illustrated magazine which he circulated throughout the trip, and of which he often reminded me. I appreciated that very much.

He was able to maintain his seriousness when it was important, but also he has a terrific sense of humor.

One of our colleagues earlier referred to the fact that NORM is not a braggart. He is not at all. He is a very impressive human being who has a tremendous grasp of issues.

I will miss him very much, because his efforts here have been so great on a lot of issues.

The dean of our delegation, the gentleman from California [Mr. MOORHEAD] referred to the fact that you could look up on the board and see NORM SHUMWAY'S red light, almost always voting no against higher taxes, more government. He is one of the few people in this Congress, actually I will say that if the U.S. Congress had over the 12-year period succeeded in having votes go the way NORM SHUMWAY has directed them over that 12-year period, I am convinced that we would not be in session at this moment. We would not be anguishing over this budget package. There would be no talk at all about increasing taxes.

So what I would say is that the best message I could give is the United States of America in this Congress desperately needs more NORM SHUMWAYS. We will all miss him greatly.

Mr. DORNAN of California. Mr. Speaker, I was supposed to go with the gentleman on that trip to Africa. I remember I had to work with the homeless that week and I was not able to go. That issue was the wrap-up issue of the Super Bowl, Luana. That was the end of the football season that year.

Now, to come back to the class of 1980, which was five. The class of eighty-two was a unique class, because AL MCCANDLESS, who just spoke, and one of the members of that class; the other one left after 4 years to run for the Senate, Mr. Zschau, but the member of that class who rocked the Nation and set a historical precedent that has only happened twice in 100 years, I do not know the third one, but one of them was JOE SKEEN of New Mexico, our colleague who won a write-in vote. A write-in vote in New Mexico is outstanding, but a write-in vote in one of the most populous districts in the State of California against a Republican primary winner is outstanding. It would take a great mayor or a medical doctor or a dentist with enough children and grandchildren, 8 and 23, that is 31 precincts covered right there, the great mayor of Carlsbad by the Sea, RON PACKARD, class of eighty-two, and I yield to the gentleman.

□ 2130

Mr. PACKARD. Mr. Speaker, this is difficult for me because I have developed such love and a relationship with NORM SHUMWAY and his wife Luana that is is not easy. Frankly, only once, maybe twice, in a lifetime does someone come into your life other than your own personal family that really influences the way you think, the way you act, the way you live.

NORM SHUMWAY has come into my life in the last 8 years since I have been here. I did not know him before. I cannot express to him or to you the impact he has had on my life. I am a better man and I think I am a better legislator.

I am more dedicated to this country and to all that it represents because of NORM SHUMWAY. I have a deep, deep sense of gratitude to him, not only for the man that he is but for what he has done for me.

What amazes me tonight is how many of my colleagues look up at that board—and I thought I was really the only one that looked, who would look up and see his light and have it influence the way I vote. I try to vote my conscience, I truly do. I believe I do most of the time. But on occasion it is difficult; you will see where maybe 400 of your colleagues will vote one way and only 10 or 15 will be up there voting the other way. My conscience tells me I need to be with those 10 or 15. And that is hard, that is terribly hard.

Then I look over, and there was NORM, and that would give me the courage to do what I knew I should do and ultimately would do.

And I appreciate that more than I can tell you.

BILL THOMAS and others have spoken of his fluency in Japanese. No one has mentioned, however, that he has for the last 3, 4, maybe 5 years been taking Spanish, some of those classes with me. Early morning Spanish here, 3 days a week, to further improve his capability and his worth in this life.

He is a man who constantly is looking for ways to become a better person, to become more useful in this life. His commitment to church, his commitment to home, his commitment to community and country simply cannot be questioned. His commitment to honesty, integrity, and principle are without peer.

I think if he is to be known for anything, it is his deep commitment to principle, to integrity, to honesty. His quiet, independent judgment has profoundly influenced not only my life and my work but that of most of us here. He is a man without guile, he is a

man of dignity, he never compromises with principle. He is a friend to all of us.

I do not think he has an enemy, that I am aware of.

He is a simple man, he prays daily in his home with his family. He loves his wife and his wife only. He teaches Sunday school almost every Sunday morning. He loves his Heavenly Father. He loves his fellow man. He loves his country.

He has served all of those very, very well.

If ever there was an argument against limiting terms, I believe that it would be a LINDY BOGGS that we honored before this hour, a BILL FRENZEL that I hope we will honor, and a NORM SHUMWAY that cries out against limiting of terms simply because a NORM SHUMWAY just cannot serve too long in a place like this.

If he served the rest of his life here, it would not be long enough, because this country, this world needs to have the service of men with integrity and honesty and commitment that NORM SHUMWAY has.

I have always believed that service is the most sublime work that man can be engaged in. I do not think there is anything that a person could do that is more sublime and more God-like than service to his fellow man.

NORM has spent a lifetime doing that. He started out in the community as a member of the board of supervisors and then served here for the last 12 years. He is a man I would like to emulate, I would like to follow.

I have followed him for 8 years. I will miss the opportunity to see him on a daily basis and follow his footsteps.

I hope I can measure in some small way to the integrity that his colleagues and I admire in him, that I might be able to bring honor to him and our friendship and the friendship that Luana and my wife have for them.

Together I hope we can measure up as he has measured up.

NORM, you are a great American, you are a great man and a dear friend, and I thank you for our friendship.

Mr. DORNAN of California. Thank you, RON.

NORM, we may not give you a permanent excuse slip to leave this great deliberative body because when I came here 2 years ahead of you I put in a term limitation bill for 12 years. This is my 12th year. Why am I not leaving? Because I had a forced break in service due to reapportionment after 6 years. I came back in the class of 1984, all alone in that class. This is the sixth year. So I make a promise right here in the well for the umpteenth time. When I am here on my 12th year in my second go-around, I am going to leave. But it also means that after 2 years, if your are not Ambassador to Japan or a missionary in China or something that is really involving you and Luana, come on back for another stretch of 12. We may need you, buddy.

I am going to save for last WALLY HERGER, who has the great Second District, his district is just like NORM's, beautiful, argiculture, timber.

I am going to let WALLY anchor that, but let me go first to the great State of Utah. I had meant to mix up, break up these Californians and introduce HOWARD NIELSON a couple of minutes ago. But like NORM, HOWARD, a great colleague and friend and the all-time champ grandfather in this House—I think it is 28 and counting—and correct me when I introduce you, HOWARD—but a great friend of NORM's, made his mark here in 8 years and is moving on.

It took me 2 years to catch up with him. He came in that good class of 1982 with RON PACKARD. A good pal, HOWARD NIELSON.

Is it 28 grandchildren?

Mr. NIELSON of Utah. It is.

Mr. DORNAN of California. And counting.

Mr. NIELSON of Utah. And counting—29 in December.

Actually, RON PACKARD and I were sitting at lunch one day and someone commented we had more than 50 grandchildren between us. And that is correct. I suspect he will edge me out since he is several years younger and his family is younger, so I do not expect to always have that record. He will stay here long enough to pass me.

I first met NORM SHUMWAY when I came here. I was very impressed with him. I think the comments that RON PACKARD made about service were very, very important.

NORM started, as has been mentioned before, as a missionary young man in Japan for over 3 years, almost 4 years. He learned the language, the customs and the people so well that he has retained that all the way through. He speaks fluent Japanese. He has led groups over there. He has had groups come over here from the Japanese Diet and he can speak their language and understands them very well.

When my own son was ready to go to a mission in Japan, he went to see NORM SHUMWAY to get acquainted with him and ask him a little about it. NORM was willing to give him some time.

Then, when my son returned, he was also willing to give him some time to discuss their common experience.

He is very good and willing to give of his time.

I have had people come back here with the possibility of running for my seat or other seats in the State of Utah. Mr. SHUMWAY has taken time out of his busy schedule to meet with them and to discuss the problems with them. He has supported them and I appreciate that very much.

I am told that he has a great bonsai collection. I think that is remarkable. You should see the tape of "Karate Kid III" which I have. I am really impressed with the bonsais. I would like to see your collection some time.

My second trip that I took here—and this was not at taxpayers' expense, it was at the expense of a local group—was to South Africa. NORM SHUMWAY led that group, he and Luana took care of our every need, and they were very good.

□ 2140

He handled himself well. He represented the delegation very well. He was fair, let everyone have a turn to say what they wanted to say. I have been on other trips where the senior member has not done that. The senior member has done all the talking, and the junior members are sort of there along for the ride. Not so with NORM.

In fact, if I had a thought with him, it is that he was too willing to let the others take the stage.

He has sent four of his children, I understand, on missions for the Church of Jesus Christ of Latter-day Saints, to which he belongs, to which he is devoted.

He has served as a county supervisor. He has served here, as I mentioned, 12 years. He has nine grandchildren, and again he is much younger than I, and he may well have more grandchildren than I.

He is the only Member in the Congress who speaks Japanese. As I say, he is invaluable when we have delegations from Japan that come.

I understand he loves racketball and is one of the best racketball players in the Congress. He is more adept at that than he is at raking leaves from the roof of his house. But he is very good at racketball. We understand he likes all racket sports, tennis and hand ball, all the various sports. He is very good at it.

His wife, Luana, has been especially nice to my wife. My wife does not drive, and Luana has taken her many times to women's clubs events with no thought of the fact that she had to go 8 miles out of her way to pick her up and take her, and she has been very, very kind, and I am sure my wife shares with me this tribute to the two. They are inseparable. They are a great couple. We would all do well to emulate their marriage relationship and the relationship they have with their fellow beings throughout the country, and it is a great pleasure to participate in this.

I appreciate your taking out this time, and, like NORM, I am retiring. I have a better excuse than NORM. I am 66. I think that is the time people

should retire, after 65, and turn it over to younger people.

I also said I would serve four terms, more or less, and I have kept that pledge, but I do think that there comes a time when one should, having given service, move on and let others take their place. I do not think it was ever intended to be a lifetime work, and so I admire the decision he has made. He was in a position where it was difficult for him to leave because he was third ranking in Banking, and with a couple more terms he might have been second or third, first ranking, on that committee, depending on what happened with retirement and other things. So, he had more to give up than I.

But like the others have said, he is a leader. We call him the head shed. That is his private story. We just have a little group of LDS members of this conference, and he is their leader. I do not know who would get to replace him. HERGER and HANSEN are trying to lobby for that right now.

But he has been our leader. He has been the one that has kept our group together. He is the one who has sternly warned us that we are getting out of line when he thinks we have even alleged it. But we have liked it, and we have enjoyed him very much, and I appreciate very much my chance to serve with him.

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman from Utah [Mr. NIELSON] for participating with his California brothers here, and he was not on the floor when I gave NORM a commission to not leave party politics. You know that your particular Christian faith has had great respect for native Americans, first Americans, and the thing that I admire most about American Indians is the elders were always respected. The young braves would do nothing without counseling with the elders, and I never met a Congressman that knew more about races all over this country without being assigned to one of the congressional committees that you, HOWARD NEILSON, and I hope that I can say to you what I said to NORM, "Keep the GOP alive in the great State of Utah, and use those memory banks of yours to keep making sure that the best men and women run that have that family orientation that all of you have."

So, I said I was saving WALLY HERGER for the anchor man here. Again, his Second District adjoins NORM SHUMWAY'S beautiful district, and, WALLY, it is a pleasure. You said something to me the other day, I do not think you—well, maybe you were aware what a compliment it was. You said, "You know, BOB, you would make a heck of a Mormon." And I appreciate that, and you recall that I said back to you, yes, because the focus, in addition to God, is family.

So, we close with a great family man to honor another family man, WALLY.

Mr. HERGER. Mr. Speaker and my esteemed colleague, the gentleman from California [Mr. DORNAN], I appreciate your taking out the time, and I have great mixed feelings as I stand here, very sad feelings as I think of a colleague who I have known of for the last 12 years, have known very closely as a close friend for the last 8 years, and, as I think of you leaving us here in the Congress, not leaving us as a great American, as a great citizen, as a great leader, as I know you will continue to be, but at least leaving us as a colleague, but I also have great joy in my heart and great happiness as I think back over these last 12 years that I have known, again either known personally or known of NORM SHUMWAY, and it goes back to 1978, that great time when a number of us became active in political circles. NORM, you were already active. You were already on a board of supervisors. I was just beginning my political involvement, working on a congressional campaign of someone else's in a district that adjoined the district that you would very soon come to represent. It was a time that in California there was the tax revolt, the Proposition 13 days, a time which really is not that much different, perhaps, than the day that many of us were feeling we were being taxed too much, and really we are not getting our dollar's worth, and it was at that time that I became involved and became aware of your campaign, and many of us who come to Congress, it is not easy for any of us to be elected and ultimately serve here, and most of us come, as I said, running for an open seat, but you, NORM, you ran for a seat against an incumbent who had served for 22 years, was the majority whip here in the Congress, to do what would seem to be the impossible task, running under a platform of fiscal responsibility and of integrity that you exemplify, as all of those who have spoken before me have mentioned so ably. You have the highest degree of integrity that I have ever known in any other person. You exemplified that, you ran, and you won.

I had a very good friend who was working on your campaign. I did not know you personally then, and this friend told me of you and of Luana, your wife, and of your family, and of, not only the fact that you looked so great out on the campaign trail, but the real you was every bit as great, if not greater, the family person you are, the man of God, the man who cares about others, the man who is willing to sacrifice of himself and of his own time to make our country a better country than it is or the great country that it should continue to be.

Well, you ran and won. Two years later I ran in 1980 for the State legislature, was elected, and then in 1982 during a reapportionment time, we came to represent two counties together, me in the State legislature of California, and you in the Congress. We had the County of Sierra and the County of Nevada, the great mother lode area, and I will never forget the time when I first came to know you well. It was on the campaign trail. It was up in beautiful Grass Valley, the hard rock mining area, and what a great experience that was, to see of your great enthusiasm and the hard work that you exemplified, and our friendship began.

□ 2150

Then, 4 years later, in 1986, the congressional district that I was part of, that had joined you, our Congressman, Gene Chappie, chose to retire. I was representing almost half of that district.

The decision had to be made by me and my wife and our family whether or not I would run for that seat. I had very mixed feelings about running for Congress. I lived in an area where I was a 30-minute drive from my district and my home, a third generation resident of northern California, to the State capital in Sacramento.

I had to decide whether to exchange that for a 3,000-mile commute back to Washington, DC, on red eyes that I knew you would take on Sunday evening and Saturday evening sometimes.

Many of my friends came to me and personally counseled, "Wally, don't do this. You have a great family. We hear all these horrible things about what happens to members who come back to Washington, how their families many times break up. We think enough of you where we don't think you should do that to your family."

I remember coming to you and asking you, "NORM, what do you think? You have a family of six, a very close family. I was wondering what do you think now, after having served some 8 years."

I will never forget your counsel, and it really is because of your counsel why I chose to run for Congress, because I was really leaning against doing that.

You said, "WALLY, my experience is and my personal feeling is if you have a rocky marriage to begin with, it is not going to get any better when you get back here. But if you have a close family, it will remain close. Ours has. There is no greater opportunity that I can think of than that of serving in the Congress of the United States, of serving our country, and the experience that it is and the opportunities that you will have to implement the ideals that we believe in. I would urge you to run."

So I did. He said, "Many will urge you to run," and I had many who were urging me to run as well, "and many will say well, we will help you," and they helped me to a degree. They helped me with what they could, but NORM SHUMWAY didn't just help me a little bit, he didn't just morally say, "Yes, I am behind you." NORM SHUMWAY got out and helped me physically.

NORM SHUMWAY sent a letter into my district to all residents, all my constituents, urging them to support me. Already in the primary he did that. Then he helped me raise the money that you have to raise to communicate with some 600,000 people who live in your district, who you are not able to personally meet.

He not only helped me personally, but he wrote to all his contributors and urged them to help me.

I never had anyone who has ever had their own supporters besides themselves help me to the degree that NORM SHUMWAY'S supporters helped me, who did not know me, but helped me merely because of their knowledge and their friendship with NORM SHUMWAY.

Then I came back to Washington. Boy, it was quite a different place, after having lived three generations, again my children were the fourth generation living on our ranch in northern California, to come back here to the East.

But NORM and Luana personally allowed me to stay in their home. As I came back to go to the schools, the campaign schools we go to back here, NORM would help direct me around. He loaned me his car. He went over the trials and tribulations of living back here.

I ran, and I was elected, and then came back here.

Then, of course, the big challenge is developing and acquiring that staff that you need to help answer those some 20,000 or more pieces of mail that we receive every year and everything that goes on. NORM allowed me to use his office and to work out of it, to use his phone. He even allowed some of his key staff to work with me, Chris Seeger, his trusted administrative assistant for 12 years, helped me, and even helped me to find my chief of staff, who has been so loyal to me for these 4 years I have been here, John Maghill.

So our relationship developed.

There is something so very interesting that I have noted, as each of the speakers has come up before me, that have stated that I thought it was just me that used to do this. I thought it was only me who would come here, and as we would come to the back of the room, and so many would look up on the board that would light up behind us with everyone's name and a green light before those voting aye and a red light before those that are voting no.

I thought it was just me that would always look right up here to SHUMWAY, how is NORM SHUMWAY voting? Because I would know, as many have stated before me, that perhaps I might not always have the courage on some of these pieces of legislation that would be filled with pork barrel excessive spending, that would always have these patriotic titles to them, "Catastrophic Health Care," for example, that many of us would be afraid that when we go back home that maybe they wouldn't understand why it is you could vote against something like catastrophic health insurance, which NORM SHUMWAY voted against.

But I always knew that that was the right vote. That NORM, regardless of how patriotic the title might be, that whether or not it was the fiscally prudent thing to be doing, that is the way NORM SHUMWAY would be voting.

NORM, I will tell you, I cannot believe that there is another person here more than I who will miss that coming here and looking up and not seeing SHUMWAY'S name up there and how to vote.

Well, I hope I have learned something over the last 4 years. I hope I can continue that trend, NORM. That I can always think now, how would NORM vote, and cast my vote the way that I know is right for northern California, for our districts that are so similar, our timber districts, our beautiful Sierra Nevada Mountain districts, our rich agricultural districts of the Sacramento Valley, to know how we should vote that would be in the best interest for them.

I want you to know, as long as I am here, I will always think how would NORM SHUMWAY vote under these circumstances.

NORM, I want to thank you. I want to end with this. We have a leader in our church, a deceased leader in our Church of Jesus Christ of Latter-day Saints, a Mormon, of which both of us belong, David O. McKay, that once said all the success in the world cannot compensate for failure at home.

Truly you, anyone who has risen to the position of a Member of Congress, one of only some 10,200 people ever in the history of our Nation to hold this position, has certainly achieved about as great a success that anyone could achieve.

But what is more important, I know of no one who has greater success at home than you do. Your wife, Luana, of 30 years, your six children, four sons, and each of those four sons became Eagle Scouts and were honored just this last year, your entire family, for that great distinction. The great leaders, your sons who have gone on missions, just as you did, serving now just 2 years instead of the 4 or 5 that you served when you went. Again, a great example.

So, NORM, I thank you, as I know the citizens of northern California who you represented so very ably for 12 years, and the citizens of this Nation, we thank you for always voting right. We thank you for the example you are, not only here on the floor of the House of Representatives of the United States of America, but the example you have given as a member of your church, of serving your God, of serving your family, of serving your district, of serving your Nation. I just hope we can all follow that great example.

NORM, I will always be more grateful to you and Luana and your family, as Pam will be, than we could ever begin to tell you. But from the bottom of our hearts, thank you for all you have done for us.

Mr. DORNAN of California. Thank you, WALLY. Thank you, Mr. HERGER, for a very special tribute, WALLY.

We had another star of the class of 1980, one of those four aces I talked about that replaced the very numbers from the other party, just come in the Chamber.

□ 2200

Mr. DORNAN of California. Mr. Speaker, NORM, I guess we discovered something here tonight. I thought all of these Members were looking up at the wall because of these 23 great lawgivers with the bas-relief medallions, and I thought people were looking up there for inspiration to George Mason, the great Virginia lawmaker who would have been President if he had not been in later years when the country looked to a different time, or the words of Daniel Webster about leaving something worthy behind, and all that time they were checking your light up there to follow your lead. So I hope you did not lead anybody astray. I doubt it, because I used to check your lights too occasionally.

Now I would like to not only go to a new anchorman after WALLY, Mr. DUNCAN HUNTER, one of my best pals around here. Could I ask unanimous consent, Mr. Speaker, to turn this special order over to you, DUNCAN, and you can anchor it, and close it, and adjourn the House, God bless you. DUNCAN, will you do all of that?

Mr. HUNTER. I am happy to do it.

Mr. DORNAN of California. NORM, sayanora, buddy. It has really been a pleasure. I know we are going to see a lot of you. Keep coming back to us, use those floor privileges and inspire us with the light within you since we will not have your guiding torch up there on the wall.

Mr. HUNTER. I thank my great friend and great conservative for yielding this time for me to talk about another great conservative. I do not have

prepared remarks, but I think it is appropriate that maybe I speak without them because I think NORM SHUMWAY has been such an inspiration to all of us that our feelings about him come from within, and come spontaneously, and because of our great comradeship with him over the years that I have been here.

In my family we do a lot of outdoor travel, and a lot of hiking, and hunting and fishing. I have two little boys. Sam is 7 years old and Dunc is 13, and NORM has seen them grow up as I have brought them out occasionally onto the House floor. We have a saying in the Hunter family that Hunters never are lost. We are sometimes temporarily without landmarks when we are out in the woods. But I can say that I have never seen NORM SHUMWAY without a landmark, and he has that great compass, that great ability to know what is right, and NORM SHUMWAY defines for me what a true conservative should be.

He has a wonderful wisdom, and he has a great feeling about the two pillars of conservatism. One I think is the idea of freedom, the idea that people can do privately much better by exercising their private prerogatives than by government mandating what they should do in the course of their lives. And the idea that this country is great because of what free men have been allowed to do for themselves. I think that thread of individual freedom goes through the entire array of conservative values with respect to the domestic issues in this country. The idea that an individual, if he is a small businessman, keeps a few tax dollars in his pocket, and because of that he goes out, and he maybe buys a couple of extra pieces of equipment, and maybe hires a couple more people, and those people end up paying taxes into the Federal Government, and because of that freedom that has been given to him he contributes to an expanding economy, rather than an economy that is driven by government programs and government employment.

The idea I think of NORM SHUMWAY's conservatism is based on a second pillar, and that is the idea that this Nation must be strong, that the world is very dangerous, and despite the two great oceans that separate us from a lot of problems, the way we achieve peace is through strength. If you look at NORM SHUMWAY's votes, as our compass, and as our anchor over the years, you will never see a vote on a defense issue that is cast for weakness, that is cast away from the idea that America has to be strong, and that if we maybe make a mistake, and maybe we have made mistakes over the years, maybe we have not put precisely the right amount of dollars into defense spending, but if we make a mistake, maybe we should err on the side of strength.

So NORM SHUMWAY is a conservative pillar, and he will continue to be a conservative pillar, and a compass for all of us, including us Hunters who are sometimes temporarily without landmarks, for years to come.

You know, NORM SHUMWAY has a quite wisdom. You can walk out on the House floor, and I have many times, and we will go over to each other, and we will ask our colleagues and our comrades whether this is a good vote, what is involved in it, and sometimes we listen to a speech of great length, or we will read through documentation that is very voluminous, but you can do away with all of that if you just go over and ask NORM SHUMWAY what he thinks of a particular bill or a particular vote, and with just a couple of words, a couple of quiet words, NORM SHUMWAY will go to the heart of a matter, and he will go to the philosophy of the matter and the policy, and he will lay it out in such a way that I can make a decision.

That I think is the strength of NORM SHUMWAY. It is advice that is given with absolute integrity, with absolute selflessness.

And you know, NORM's handshake is better than the biggest, thickest, most lawyer-attended contract ever written. And NORM SHUMWAY has a great trademark, and he has left I think a lesson for all of us in the California delegation, and indeed in the entire Congress, and that is that your word has to be as good as your bond in this body if you are going to endure, and make your mark and mean something. And he means something, and he has endured, and he has made a great mark.

My little boys come out on this floor quite often. Little Dunc sat on my lap when I was sworn in in 1981. In fact, he sat on my lap until he jumped up and grabbed DAVE DREIER's tie, and he almost strangled DAVE while he was being sworn in by our then-Speaker, Tip O'Neill. My boys come on the floor, and I take Sam, age 7, and Dunc, now age 13, I take them around to meet the Members of the delegation, and to watch the proceedings, and I look at Members of this House of Representatives, and I think the House of Representatives is the people's House, I think it represents some of the best of our country and some of the worst of our country, quite frankly. And when I think of my little boys, and the model that I would like them to follow, to grow into good men and good American citizens, I think of NORM SHUMWAY. I think of that quiet strength, that character, that great intellect.

Also I think lastly that sense of responsibility. I think NORM acts and always has acted with a wonderful sense of responsibility to America. I think that is the inspiration that makes leaders enter the political world and go through all of the problems in this political arena where you take so many slings and arrows. It is a sense of responsibility to the country and a sense that maybe you can contribute if you have the opportunity. NORM has that sense of responsibility, and I think that above all, that characteristic is what I would like to instill most in my two boys, Dunc and Sam.

So NORM, Godspeed. You have left a great impression on my life, and I think the lives of all of the Members of the California delegation, and all of the Members of this House of Representatives.

Mr. LAGOMARSINO. Mr. Speaker, I rise this evening to praise a good friend and California colleague, NORM SHUMWAY, who will soon retire from his seat in Congress. It truly has been a pleasure to serve with NORM SHUMWAY on many issues affecting both the State of California and the Nation as a whole.

Back in 1978, NORM SHUMWAY answered the call of public service. Since that time, meeting the needs of the people who have supported him through six consecutive terms has always been job one. From the majestic tops of John Muir's "Range of Light," the Sierra Nevada Mountains, to the fertile plains of California's Central Valley, one need not venture far to encounter the impact that NORM SHUMWAY has had on improving the way of life in the 14th Congressional District. In virtually every community, NORM SHUMWAY is known as a man of the people. At the same time, the constitutional principles upon which this Nation was founded have remained clear in his mind as sensitive issues regarding the well being of our country have come under the consideration of this body.

NORM, while your physical presence and immediate friendship will be missed, your legacy of integrity and stability amidst change, will echo through the halls of this institution for many years to come. Please accept my warm thanks and sincere desire for God's blessing to you and your family. My wife Norma and I will miss you and your charming wife Luana.

Mr. LOWERY of California. Mr. Speaker, I am pleased to take a few moments amid the rush to adjournment to bid goodbye to my good friend and colleague NORM SHUMWAY and his lovely wife Luana. The California delegation will be the poorer for their leaving, but the State will be the richer for their return.

Someone said, "Leadership is the special quality which enables people * * * to stand up and pull the rest of us over the horizon." When I arrived in Congress in 1981, I was fortunate enough to join NORM on the Banking Committee, where he is now the third ranking Republican. NORM helped to pull me over the horizon—to learn the ropes and I will always be grateful for that assistance.

He is a true conservative with the courage of his convictions. He has been a general in the fight to build the Auburn Dam and to make English the official language of the country. And he has been dedicated to family values.

Both Shumways were active in the California State Society and Luana was a leading force in Congressional Families for Drug Free Youth.

Katie and I will miss NORM and Luana Shumway and we wish them the best of luck and happiness in their well earned retirement.

Mr. LENT. Mr. Speaker, it is with mixed emotions that I rise today to offer a few words to our colleague, the Honorable NORMAN SHUMWAY, in recognition of his years of service to the people of the 14th District of the State of California, and in a much greater sense, to all the people of the United States.

I've known NORM SHUMWAY since he came to Congress in 1978, and joined the Committee on Merchant Marine and Fisheries. During the time we have served together on this committee, there have been many major pieces of legislation that have been enacted into law that Mr. SHUMWAY had a major role in shaping. We have worked together on many initiatives to promote the American maritime industry and it has been a pleasure to watch him bring to the debate a sense of realism and fiscal responsibility that has been refreshing to hear.

He has also worked diligently with our colleagues to assure that the Coastal Zone Management Act, which is so important for our coastal states, is implemented in a way to recognize both the environmental values which are cherished by all of us as well as the need for responsible government action and activity to provide a balanced use of all our resources.

As many of our colleagues may know, NORM SHUMWAY is a former bishop and missionary to Japan from the Church of Jesus Christ of Latterday Saints. During the time that he did his missionary service in Japan he came to know and love the people there in a way that only someone who has devoted his heart and sole to an effort could. He is one of the few Members of this House who speaks fluent Japanese.

I would like to relay an anecdote told about a trip that the Merchant Marine Committee took to Japan several years ago to investigate their shipbuilding industry to see if we could bring back to Congress some wisdom in an effort to provide legislative support for the American shipbuilding industry. During this trip, the congressional delegation met with the Shipbuilders Council of Japan for an extended meeting to discuss United States-Japanese shipbuilding interests. The meeting was set up by the Japanese officials and they insisted that the discussions be held in each country's native language employing a translator for both sides. To conclude this several hour meeting, both sides chose one spokesman to summarize the discussions. After the Japanese official completed his concluding remarks, and a translator dutifully translated those remarks into English, NORM SHUMWAY spoke on behalf of the American delegation. Without batting an eye, NORM SHUMWAY proceeded to convey the views of the American delegation to the Japanese officials in fluent Japanese.

I am told by the Members who were sitting around the table that for the first 30 seconds or so the Japanese officials were eying one another wondering if in their prior comments in Japanese, they had said something that they might not want the American delegation to understand. It must have been a delightful scene to watch this American Congressman conversing with the Japanese officials in their native tongue. Maybe, if NORM SHUMWAY has a minute this evening he might wish to tell the House of Representatives what he told the Japanese shipbuilding delegation.

Mr. Speaker, it is difficult for us when we recognize one of our own for his service to this House. We want to wish NORM SHUMWAY all the best and I know he will be looking forward to the relief from the torturous activities we have all been living through here in the last several weeks. Being a Member of the House of Representatives may be a thrill for some people, but the Members with families certainly pay a dear price for their service to this institution. I know that NORM SHUMWAY will relish the opportunity to spend time with his wife and family and enjoy a new life free from the rigors of the service as a Member of Congress.

I would like to close these comments with some words that I think are particularly appropriate as we send NORM SHUMWAY off to search for his new horizons:

May the road rise to meet you.
May the wind be always at your back.
May the sun shine warm upon your face, the rains fall soft upon your fields, and until we meet again,
May God hold you in the palm of His hand.

Mr. DAVIS. Mr. Speaker, I am pleased that this special order has been held to honor a distinguished Member of this House and a colleague of mine on the Merchant Marine and Fisheries Committee.

NORM SHUMWAY will be a greatly missed Member of this body and will be missed even more on our committee. His low-key style and knowledge of the issues and procedures have made working with him a real pleasure. As the ranking member of the Oceanography Subcommittee for the last three Congresses, he has championed the minority views of the committee as no other could on a variety of important legislation.

NORM has always stuck to his guns when he knew he was right. Even those on the other side of debates cannot help but praise his honesty, integrity, and knowledge of the issues at hand.

Throughout his congressional career, NORM has represented his constituents well. His efforts to reduce the size and scope of the Federal Government have not been in vain. While we do not yet have one, his support for a constitutional amendment on a balanced budget has been unwavering and strong.

I realize that the decision to retire from this body was not an easy one, but I am sure that his family will enjoy spending more time with him, and he will enjoy more time with his wife, children, and grandchildren.

It is a shame that this body will be losing a number of our greatest statesmen, including NORM SHUMWAY at the end of this session. I know NORM is one Member who will be greatly missed in this House in the years to come.

I wish NORM the best of luck in his future endeavors outside this body and thank him for his many contributions.

Mr. FIELDS. Mr. Speaker, I am pleased to join with my colleagues in this special order to commemorate the extraordinary legislative career of my friend and colleague from California, the Honorable NORMAN D. SHUMWAY.

For the past 10 years, I have had the distinct pleasure of serving with NORM on the House Merchant Marine and Fisheries Committee. During that time, I have always admired his knowledge of the issues, tireless commitment to his principles, and unwavering integrity.

The 14th District of California has indeed been fortunate to have such a superb legislator and man represent them in the U.S. Congress.

There are a number of legislative issues we have worked together on, including the landmark Oil Pollution Act of 1990, the Abandoned Shipwreck Act of 1988, and efforts to allow the timely development of our offshore Outer Continental Shelf resources.

Unlike many of his colleagues in the California delegation, NORM SHUMWAY has had the vision and courage to come forward to forcefully say that our Nation cannot begin to meet its energy needs without developing our OCS.

As the ranking minority member of the Oceanography Subcommittee, NORM has worked tirelessly to ensure that our coastal and ocean protection laws are balanced and fair.

As the Representative of the 14th District, he has committed himself to the construction of a multipurpose dam for the American River Basin. While the Auburn Dam project has not yet become a reality, upon its completion it will provide badly needed flood control, power, water, recreational opportunities, and environmental enhancement for millions of Californians. Without NORM SHUMWAY, this vital project would likely have been dismissed a long time ago.

While these are just a few of the legislative issues NORM SHUMWAY has worked on during his distinguished 12 years in the Congress, in each instance, his contribution, insights, and advice have been invaluable.

In this age of turmoil and staggering Federal deficits, this institution can ill afford to lose Members like NORM SHUMWAY.

Nevertheless, I recognize that there comes a time for each of us to end our congressional careers. I would, therefore, like to wish NORM and his wife, Luana, much success and happiness in the days ahead.

Again, I thank my colleagues for sponsoring this special order for my friend, NORMAN D. SHUMWAY.

Mr. HUTTO. Mr. Speaker, I am pleased to rise today on this special order to pay tribute to NORM SHUMWAY our esteemed colleague from California who is retiring at the end of the 101st Congress. NORM and I came to the Congress at the same time when we entered the 96th Congress class in January 1979. Since that time it has been a pleasure for Nancy and me to know NORM and his wife, Luana and to share a friendship with them during these last 12 years. NORM and I have served on the Merchant Marine and Fisheries Committee and he has been a valuable member in this subject area for a long time and we will surely miss his presence on the committee. There have been some occasions when I have had the opportunity to be with NORM on visits to Coast Guard facilities and to work on trying to improve this outstanding service which is charged with so many mis-

sions, not the least of which is that of interdicting drugs. Also, NORM and I and two other Members of Congress went to Central America about 5 or 6 years ago to find out firsthand what is going on in that troubled part of the world. We were able to visit with officials in El Salvador, Nicaragua and Costa Rica. It was obvious that NORM SHUMWAY was a well-versed Member of Congress with a wide range of interest. He has served his district and the Nation well over the last decade or so and we will surely miss him. NORM, God bless you and your family in your retirement and all your future endeavors.

Mr. COUGHLIN. Mr. Speaker, it is with no small measure of sadness that I note our collegue from California's 14th Congressional District, NORM SHUMWAY, will be leaving the House at the end of the 101st Congress.

NORMAN DAVID SHUMWAY was born in Phoenix, AZ, but moved soon after his birth to Stockton, CA. After graduating from Stockton High School in 1952, NORM attended Stockton College and obtained an associate of arts degree. He then traveled to the Orient, where he served as a missionary for the Church of Jesus Christ of Latter-day Saints in Japan, perfecting his knowledge of the Japanese language. He returned to the United States and received a bachelor of science degree in political science from the University of Utah in 1960, and went on to earn a juris doctor degree from Hastings College of the Law 3 years later.

NORM returned to Stockton following his legal education and soon became a partner in a law firm there. He also served as a bishop of his church. It was not long before he caught the eye of one Ronald Reagan, then Governor of California, who appointed him to the San Joaquin County Board of Supervisors in 1974. He was elected to the board later that year, and he was reelected in 1976. In 1977, he became vice chairman of the board, and he ascended to the chairmanship in 1978.

In 1978, NORM cast his eyes toward Washington. He was elected to the U.S. House of Representatives in that year, and has been reelected in every election since. He currently serves on the House Committee on Banking, Finance and Urban Affairs and the House Committee on Merchant Marine and Fisheries, and is the vice chairman of the former's Subcommittee on Economic Stabilization and the latter's Subcommittee on Oceanography and Great Lakes. In addition to other panels of these committees, NORM also serves on the House Select Committee on Aging.

NORM's shoes will be hard to fill when he leaves this body. Few Members, for example, have perfected such an especially vicious paddleball serve. Though some have tried, not many Members have been able to rival NORM's extensive collection of newspaper clippings. And NORM has never shirked from racing across town to help a friend in need, without regard for his own life or, for that matter, those of his fellow motorists.

But seriously, Mr. Speaker, as one who has had the privilege of serving with our colleague from California for 12 years, I want to offer him my very best wishes for the future. NORM is a class act, and we will miss him.

Mr. HANSEN. Mr. Speaker, I think it is very fitting and appropriate that today we are taking a moment to honor a colleague from California, NORMAN SHUMWAY, who has served 12 years in this body. Ten years ago, when I came to this body as a freshman, he talked to a group of us, and gave me a very positive first impression of this fine man. He talked about his family and I was very impressed with the good family values which he cherished. He and his wife, Luana, have a fine family—all are grown and live away from home now except their youngest daughter.

I was impressed that NORM and I had a number of things in common. He graduated from the same university that I did, the University of Utah, and his brother, Ted, is a prosecutor in St. George, UT, which is in the First Congressional District which I represent. And, we are of the same religious faith.

Norm serves on important committees, and has made a tremendous contribution to the people of America and the people of California. I think no one would argue with me on the statement that if everyone in Congress had voted the way NORM SHUMWAY had during the last 12 years, we would not have the fiscal mess we are facing today. He is a conservative voter, but one with an open heart and mind to the truly needy of the world.

Norm has sponsored many important pieces of legislation and one that I hope will come to pass is that English will be the official language of the U.S.A.

As I mentioned earlier, I happen to be the same religious faith as Mr. SHUMWAY and he is the leader of those of us who are L.D.S. He is referred to as the leader of our priesthood caucus and we have enjoyed many hours debating the principles we believe in as they pertain to the Constitution and the direction we feel America should go. From time to time, NORM has written epistles to us chastizing the frailties of members of our group and given wise council on how things should be handled and I have often wondered where the Geneses of these wise epistles came from and will miss getting them on a regular basis.

If anyone on this floor wants to receive a certain amount of humility, all one has to do is challenge NORM to a game of tennis or racketball. Even at his advanced age, he is able to handle most challengers well.

From time to time he is called upon to be the judge of conservative arguments, and has generally come down on the side of the gentleman from Utah rather than the gentleman from California.

Many of us have also found that NORM is tremendously generous with his assets and has been very generous to many of us in our campaign efforts. NORM will of course be missed in this body. His moral values, his dedication to the Constitution, his good humor and his legislative ability.

NORM and Luana are a great standard as a mainstream American family, but he is far from the common man. He has excelled in many fields, but due to his own modesty, he never brags about his acomplishments. With his talent and ability there is no question that he will be very successful in whatever endeavor he chooses and we shall all miss him and wish him the best.

Mr. GALLEGLY. Mr. Speaker, I an honored to have this opportunity to pay tribute to a distinguished Member of the House of Representatives—my good friend and fellow Californian, NORM SHUMWAY.

NORM began his illustrious career in public service at the local level as a member of the San Joaquin County Board of Supervisors. In 1978, he was elected to his first term in the U.S. House of Representatives. The voters of California's 14th District quickly learned what a dedicated and hard-working Representative they had in NORM SHUMWAY, and they subsequently reelected him to each succeeding term by overwhelming margins.

Throughout his 12 years in Congress, NORM accomplished and contributed much. He has managed to successfully balance the needs and interests of his district—such as attaining critically needed physicians for the Sierra Valley Hospital in Loyalton, deepening the Port of Stockton ship channel, and reestablishing a search and rescue Coast Guard station at Lake Tahoe—with the needs of the Nation. His appointments to the Banking, Finance and Urban Affairs Committee, the Merchant Marine and Fisheries Committee, and the Select Aging Committee provided the foundation for many far-reaching and significant achievements.

His accomplishments on behalf of our environment speak for themselves. Of particular interest to all of us who treasure the beauty of our California natural resources, NORM spearheaded the effort to protect Mono Lake by introducing legislation to establish Mono Lake National Monument, placing it under the protection of the National Park Service. Additionally, he obtained land and water conservation fund money to acquire environmentally sensitive parcels of land in the Tahoe Basin, along the Pacific Crest Trail.

NORM has fought for the American taxpayer with the introduction of legislation to restore tax treatment of IRAs that were eliminated by the Tax Reform Act of 1986.

NORM SHUMWAY'S achievements, contributions, and commitment to the voters of the 14th District of California, his friendship and cooperation with his colleagues in the California delegation, and his unyielding dedication to the values and principles of a free and democratic society will always be fondly remembered.

Mr. Speaker, there is no Member in the House that I have more respect for. I know I speak for all of us in wishing NORM SHUMWAY good luck, and God speed. He will be missed.

GENERAL LEAVE

Mr. DORNAN of California. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days within which to revise and extend their remarks and include therein extraneous material on this special order.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON S. 566, CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT

Mr. GONZALEZ submitted the following conference report and statement on the Senate bill (S. 566) to authorize a new Housing Opportunities Partnerships program to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes:

CONFERENCE REPORT (H. REPT. 101-943)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 566) to authorize a new Housing Opportunities Partnerships program to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Cranston-Gonzalez National Affordable Housing Act".

(b) TABLE OF CONTENTS.—

Section 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS AND POLICIES

Sec. 101. The national housing goal.
Sec. 102. Objective of national housing policy.
Sec. 103. Purposes of the Cranston-Gonzalez National Affordable Housing Act.
Sec. 104. Definitions.
Sec. 105. State and local housing strategies.
Sec. 106. Certification.
Sec. 107. Citizen participation.
Sec. 108. Compliance.
Sec. 109. Energy efficiency standards.
Sec. 110. Capacity study.
Sec. 111. Protection of State and local authority.

TITLE II—INVESTMENT IN AFFORDABLE HOUSING

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Purposes.
Sec. 204. Coordinated Federal support for housing strategies.
Sec. 205. Authorization.
Sec. 206. Notice.

Subtitle A—HOME Investment Partnerships

Sec. 211. Authority.
Sec. 212. Eligible uses of investment.
Sec. 213. Development of model programs.
Sec. 214. Income targeting.
Sec. 215. Qualification as affordable housing.
Sec. 216. Participation by States and local governments.
Sec. 217. Allocation of resources.
Sec. 218. HOME investment trust funds.
Sec. 219. Repayment of investment.
Sec. 220. Matching requirements.
Sec. 221. Private-public partnership.
Sec. 222. Distribution of assistance.
Sec. 223. Penalties for misuse of funds.
Sec. 224. Limitation on jurisdictions under court order.
Sec. 225. Tenant and participant protections.
Sec. 226. Monitoring of compliance.

Subtitle B—Community Housing Partnership

Sec. 231. Set-Aside for community housing development organizations.
Sec. 232. Project-specific assistance to community housing development organizations.
Sec. 233. Housing education and organizational support.
Sec. 234. Other requirements.

Subtitle C—Other Support for State and Local Housing Strategies

Sec. 241. Authority.
Sec. 242. Priorities for capacity development.
Sec. 243. Conditions of contracts.
Sec. 244. Research in housing affordability.
Sec. 245. REACH: Asset recycling information dissemination.

Subtitle D—Specified Model Programs

Sec. 251. General authority.
Sec. 252. Rental housing production.
Sec. 253. Rental rehabilitation.
Sec. 254. Rehabilitation loans.
Sec. 255. Sweat equity model program.
Sec. 256. Home repair services grants for older and disabled homeowners.
Sec. 257. Low-income housing conservation and efficiency grant programs.
Sec. 258. Second mortgage assistance for first-time homebuyers.
Sec. 259. Rehabilitation of State and local government in rem properties.

Subtitle E—Mortgage Credit Enhancement

Sec. 271. Report on credit enhancement.

Subtitle F—General Provisions

Sec. 281. Equal opportunity.
Sec. 282. Nondiscrimination.
Sec. 283. Annual audits and accountability.
Sec. 284. Uniform recordkeeping and reports to the Congress.
Sec. 285. Citizen participation.
Sec. 286. Labor.
Sec. 287. Interstate agreements.
Sec. 288. Environmental review.
Sec. 289. Termination of existing housing programs.

TITLE III—HOMEOWNERSHIP

Subtitle A—National Homeownership Trust Demonstration

Sec. 301. Short title.
Sec. 302. National Homeownership Trust.
Sec. 303. Assistance for first-time homebuyers.
Sec. 304. National Homeownership Trust Fund.
Sec. 305. Definitions.
Sec. 306. Regulations.
Sec. 307. Report.
Sec. 308. Authorization of appropriations.
Sec. 309. Transition.
Sec. 310. Termination.

Subtitle B—FHA and Secondary Mortgage Market

Sec. 321. Limitation on FHA insurance authority.
Sec. 322. Appraisal services.
Sec. 323. Increase in mortgage limit.
Sec. 324. Mortgagor equity.
Sec. 325. Mortgage insurance premiums.
Sec. 326. Limitation on secondary residences.
Sec. 327. Mortgage counseling for delinquent mortgagors.
Sec. 328. Delegation of processing.
Sec. 329. Disclosure regarding interest due upon mortgage prepayment.
Sec. 330. Accountability of mortgage lenders.
Sec. 331. Mutual Mortgage Insurance Fund distributions.
Sec. 332. Actuarial soundness of Mutual Mortgage Insurance Fund.
Sec. 333. Insurance of mortgages on property in Virgin Islands.
Sec. 334. Home equity conversion mortgage insurance demonstration.
Sec. 335. Information regarding early defaults on FHA-insured loans.
Sec. 336. Auction of multifamily mortgages.
Sec. 337. Disapproval of regulations regarding property disposition.
Sec. 338. Report regarding foreclosed properties.
Sec. 339. Limitation on GNMA guarantees of mortgage-backed securities.
Sec. 340. Increase in loan limits for property improvement loan insurance.

Subtitle C—Effective Date

Sec. 351. Effective date.

TITLE IV—HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE PROGRAMS

Sec. 401. Short title.

Subtitle A—HOPE for Public and Indian Housing Homeownership

Sec. 411. HOPE for public and Indian housing homeownership.
Sec. 412. Amendment to section 18 regarding demolition and disposition of public housing.
Sec. 413. Related amendments to section 8.
Sec. 414. Related CIAP amendment.
Sec. 415. Limitation on section 20 resident management financial assistance.
Sec. 416. Extension of section 21 homeownership program and provision of technical and other assistance.
Sec. 417. Amendment to section 5(h).
Sec. 418. Implementation.
Sec. 419. Applicability to Indian public housing.

Subtitle B—HOPE for Homeownership of Multifamily Units

Sec. 421. Program authority.
Sec. 422. Planning grants.
Sec. 423. Implementation grants.
Sec. 424. Homeownership program requirements.
Sec. 425. Other program requirements.
Sec. 426. Definitions.
Sec. 427. Exemption.
Sec. 428. Limitation on selection criteria.
Sec. 429. Amendment to National Housing Act.
Sec. 430. Implementation.
Sec. 431. Annual report.

Subtitle C—HOPE for Homeownership of Single Family Homes

Sec. 441. Program authority.
Sec. 442. Planning grants.
Sec. 443. Implementation grants.
Sec. 444. Homeownership program requirements.
Sec. 445. Other program requirements.
Sec. 446. Definitions.
Sec. 447. Limitation on selection criteria.
Sec. 448. Implementation.

TITLE V—HOUSING ASSISTANCE

Subtitle A—Public and Indian Housing

Sec. 501. Preference rules.
Sec. 502. Reform of public housing management.
Sec. 503. Eviction and termination procedures.

Sec. 504. Lease requirements regarding termination of tenancy in public housing.
Sec. 505. Notice to post office regarding eviction for criminal activity.
Sec. 506. Public housing assistance for foster care children.
Sec. 507. Public housing operating subsidies.
Sec. 508. Cooling degree day adjustment under performance funding system.
Sec. 509. Formula allocation of modernization funding.
Sec. 510. Reduction of vacancies in public housing units.
Sec. 511. Income eligibility for public housing.
Sec. 512. Scattered-site public housing disposition proceeds.
Sec. 513. Replacement housing.
Sec. 514. Public housing resident management.
Sec. 515. Public housing family investment centers.
Sec. 516. Eligibility of Indian mutual help housing for comprehensive improvement assistance.
Sec. 517. Public housing early childhood development grants.
Sec. 518. Indian public housing early childhood development demonstration program.
Sec. 519. Public housing rent waiver for police officers.
Sec. 520. Public housing youth sports programs.
Sec. 521. Public housing one-stop perinatal services demonstration.
Sec. 522. Public housing mixed income new communities strategy demonstration.
Sec. 523. Energy efficiency demonstration.
Sec. 524. Study of public housing funding system.
Sec. 525. Study of prospective payment system for public housing.
Sec. 526. GAO study of alternatives in public housing development.
Sec. 527. Applicability.

Subtitle B—Low-Income Rental Assistance

Sec. 541. Designation of certificate and voucher programs.
Sec. 542. Drug-related rent adjustments.
Sec. 543. Tenant rent contributions under tenant-based certificate program.
Sec. 544. Opt-outs.
Sec. 545. Preference rules.
Sec. 546. Tenant protections.
Sec. 547. Revisions to project-based certificate program.
Sec. 548. Section 8 assistance for PHA-owned units.
Sec. 549. Definitions of participating jurisdiction and drug-related criminal activity.
Sec. 550. Revisions to voucher program.
Sec. 551. Portability of certificates and vouchers.
Sec. 552. Renewal of expiring contracts.
Sec. 553. Assistance to promote family unification.
Sec. 554. Family self-sufficiency.
Sec. 555. Income eligibility for tenancy in new construction units.
Sec. 556. Distribution of section 8 certificates.
Sec. 557. Settlement agreement regarding certain section 8 assistance.
Sec. 558. GAO study regarding fair market rent calculation.
Sec. 559. Study of section 8 utilization rates.
Sec. 560. Report on residual receipts accounts in section 8 and section 202 housing.
Sec. 561. Feasibility study regarding Indian tribe eligibility for voucher program.

Subtitle C—General Provisions and Other Assistance Programs

Sec. 571. Low-income housing authorization.
Sec. 572. Low-income term.
Sec. 573. Definitions under United States Housing Act of 1937.
Sec. 574. Effect of foster care children in determining family composition and size.
Sec. 575. Exemption from housing development grant construction commencement requirements.
Sec. 576. Consultation regarding foster care children in development of housing assistance plan.
Sec. 577. Housing counseling.
Sec. 578. Flexible subsidy program.
Sec. 579. Streamlined property disposition requirements for unsubsidized multifamily housing projects.
Sec. 580. Multifamily housing disposition partnership.
Sec. 581. Public and assisted housing drug elimination.
Sec. 582. Study of private nonprofit initiatives.
Sec. 583. Extension of capital assessment study.

TITLE VI—PRESERVATION OF AFFORDABLE RENTAL HOUSING

Subtitle A—Prepayment of Mortgages Insured Under National Housing Act

Sec. 601. Prepayment of mortgages.
Sec. 602. Related National Housing Act amendments.
Sec. 603. Related United States Housing Act of 1937 amendments.
Sec. 604. Transition provisions.
Sec. 605. Effective date.

Subtitle B—Other Preservation Provisions

Sec. 611. Section 236 rental assistance.
Sec. 612. Management and preservation of federally assisted housing.
Sec. 613. Assistance to prevent prepayment under State mortgage programs.

TITLE VII—RURAL HOUSING

Sec. 701. Program authorizations.
Sec. 702. Effect of foster care children in determination of family composition and size.
Sec. 703. Escrow accounts.
Sec. 704. Remote rural areas.
Sec. 705. Section 502 deferred mortgage demonstration.
Sec. 706. Rural housing loan guarantees.
Sec. 707. Foreclosure procedures.
Sec. 708. Disposition of interests on Indian trust land.
Sec. 709. Housing in underserved areas.
Sec. 710. Rural housing inventory.
Sec. 711. Rights of appeal.
Sec. 712. Section 515 loans.
Sec. 713. Set-aside of rural rental housing funds.
Sec. 714. Housing for rural homeless and migrant farmworkers.
Sec. 715. Rural area classification.
Sec. 716. Assistance to reduce rent overburden.
Sec. 717. Housing preservation grants.
Sec. 718. Reciprocity in approval of housing subdivisions among Federal agencies.
Sec. 719. Rural housing technical amendments.

TITLE VIII—HOUSING FOR PERSONS WITH SPECIAL NEEDS

Subtitle A—Supportive Housing for the Elderly

Sec. 801. Supportive housing for the elderly.
Sec. 802. Revised congregate housing services program.
Sec. 803. HOPE for elderly independence.
Sec. 804. Use of Resolution Trust Corporation eligible properties for section 202 housing.
Sec. 805. Centralized applications for section 202 housing.
Sec. 806. Elder cottage housing units.
Sec. 807. Notice of rejection.
Sec. 808. Service coordinators as eligible project cost in section 202 projects.

Subtitle B—Supportive Housing for Persons With Disabilities

Sec. 811. Supportive housing for persons with disabilities.

Subtitle C—Supportive Housing for the Homeless

PART 1—REVISED MCKINNEY ACT

Sec. 821. Amendment to McKinney Act.
Sec. 822. Definition of "homeless person".
Sec. 823. Transitional rule.
Sec. 824. Conforming amendment.
Sec. 825. Strategy to eliminate unfit transient facilities.

Part 2—Amendments to Current Program

Sec. 831. Comprehensive homeless assistance plan.
Sec. 832. Emergency shelter grants program.
Sec. 833. Supportive housing demonstration program.
Sec. 834. Supplemental assistance for facilities to assist the homeless.
Sec. 835. Section 8 assistance for single room occupancy dwellings.
Sec. 836. Housing affordability strategy requirement.
Sec. 837. Shelter plus care.

PART 3—EFFECTIVE DATE

Sec. 841. Effective date.

Subtitle D—Housing Opportunities for Persons With AIDS

Sec. 851. Short title.
Sec. 852. Purpose.
Sec. 853. Definitions.
Sec. 854. General authority.
Sec. 855. Eligible activities.
Sec. 856. Responsibilities of grantees.
Sec. 857. Grants for AIDS housing information and coordination services.
Sec. 858. AIDS short-term supported housing and services.
Sec. 859. Short-term rental assistance.
Sec. 860. Single room occupancy dwellings.
Sec. 861. Grants for community residences and services.
Sec. 862. Report.
Sec. 863. Authorization of appropriations.

TITLE IX—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

Sec. 901. Community development authorizations.
Sec. 902. Targeting community development block grant assistance.
Sec. 903. Community development city and county classifications.
Sec. 904. Allocation formula in cases of annexation.
Sec. 905. Housing affordability strategy requirement.

Sec. 906. Protection of individuals engaging in nonviolent civil rights demonstrations.
Sec. 907. CDBG eligible activities.
Sec. 908. Public services.
Sec. 909. Authority to provide lump-sum payments to revolving loan funds.
Sec. 910. Community development loan guarantees.
Sec. 911. Hawaiian home lands.
Sec. 912. Prohibition of discrimination on basis of religion under CDBG program.
Sec. 913. Technical corrections regarding CDBG for Indian tribes.
Sec. 914. Urban homesteading.
Sec. 915. Neighborhood development demonstration.
Sec. 916. CDBG assistance for United States-Mexico border region.
Sec. 917. Neighborhood reinvestment corporation.
Sec. 918. Use of urban renewal land disposition proceeds and certain other community development and public facility funds.
Sec. 919. Study regarding availability of housing proximate to places of employment.
Sec. 920. Allocation of funds under title I of the Housing and Community Development Act of 1974.
Sec. 921. Study on turning drug zones into opportunity zones.
Sec. 922. Community development plans.

Subtitle B—Disaster Relief

Sec. 931. Section 8 certificates and vouchers.
Sec. 932. Moderate rehabilitation.
Sec. 933. Community development.
Sec. 934. Rural housing.

Subtitle C—Regulatory Programs

Sec. 941. Mortgage servicing transfer disclosure.
Sec. 942. Mortgage escrow accounts.
Sec. 943. National Commission on Manufactured Housing.
Sec. 944. Energy assessment report.
Sec. 945. 5-year energy efficiency plan.
Sec. 946. Uniform mortgage financing plan for energy efficiency.
Sec. 947. Report on seismic safety property standards.

Subtitle D—Miscellaneous Programs

Sec. 951. HUD research and development.
Sec. 952. National Institute of Building Sciences.
Sec. 953. Fair housing initiatives program.
Sec. 954. Collection and maintenance of data regarding programs under HUD.
Sec. 955. Exemption from Davis-Bacon Act requirements of volunteers under housing programs.
Sec. 956. Eligibility under first-time homebuyer programs.
Sec. 957. Maximum annual limitation on rent increases resulting from employment.
Sec. 958. Preferences for Native Hawaiians on Hawaiian homelands under HUD programs.
Sec. 959. Waiver of matching funds requirements in Indian housing programs.
Sec. 960. Study of pension fund financing of housing.
Sec. 961. Energy efficiency demonstration.

TITLE X—EXPEDITED FUNDS AVAILABILITY

Sec. 1001. Amendments to Expedited Funds Availability Act.

TITLE I—GENERAL PROVISIONS AND POLICIES

SEC. 101. THE NATIONAL HOUSING GOAL.

The Congress affirms the national goal that every American family be able to afford a decent home in a suitable environment.

SEC. 102. OBJECTIVE OF NATIONAL HOUSING POLICY.

The objective of national housing policy shall be to reaffirm the long-established national commitment to decent, safe, and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions able—

(1) to ensure that every resident of the United States has access to decent shelter or assistance in avoiding homelessness;

(2) to increase the Nation's supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities;

(3) to improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis;

(4) to help make neighborhoods safe and livable;

(5) to expand opportunities for homeownership;

(6) to provide every American community with a reliable, readily available supply of mortgage finance at the lowest possible interest rates; and

(7) to encourage tenant empowerment and reduce generational poverty in federally assisted and public housing by improving the means by which self-sufficiency may be achieved.

SEC. 103. PURPOSES OF THE CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.

The purposes of this Act are—

(1) to help families not owning a home to save for a down payment for the purchase of a home;

(2) to retain wherever feasible as housing affordable to low-income families those dwelling units produced for such purpose with Federal assistance;

(3) to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of housing affordable to low-income and moderate-income families;

(4) to expand and improve Federal rental assistance for very low-income families; and

(5) to increase the supply of supportive housing, which combines structural features and services needed to enable persons with special needs to live with dignity and independence.

SEC. 104. DEFINITIONS.

As used in this title and in title II:

(1) The term "unit of general local government" means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in accordance with section 216(2) of this Act; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

(2) The term "State" means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) The term "jurisdiction" means a State or unit of general local government.

(4) The term "participating jurisdiction" means any State or unit of general local government that has been so designated in accordance with section 216 of this Act.

(5) The term "nonprofit organization" means any private, nonprofit organization (including a State or locally chartered, nonprofit organization) that—

(A) is organized under State or local laws,

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual,

(C) complies with standards of financial accountability acceptable to the Secretary, and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

(6) The term "community housing development organization" means a nonprofit organization as defined in paragraph (5), that—

(A) has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons;

(B) maintains, through significant representation on the organization's governing board and otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries with regard to decisions on the design, siting, development, and management of affordable housing;

(C) has a demonstrated capacity for carrying out activities assisted under this Act; and

(D) has a history of serving the local community or communities within which housing to be assisted under this Act is to be located.

(7) The term "government-sponsored mortgage finance corporations" means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation.

(8) The term "housing" includes manufactured housing and manufactured housing lots.

(9) The term "very low-income families" means low-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(10) The term "low-income families" means families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(11) The term "families" has the same meaning given that term by section 3 of the United States Housing Act of 1937.

(12) The term "security" has the same meaning as in section 2 of the Securities Act of 1933.

(13) The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(14) The term "first-time homebuyer" means an individual and his or her spouse who have not owned a home during the 3-year period prior to purchase of a home with assistance under title II, except that—

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(15) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(16) The term "Secretary" means the Secretary of Housing and Urban Development, unless otherwise specified in this Act.

(17) The term "substantial rehabilitation" means the rehabilitation of residential property at an average cost in excess of $25,000 per dwelling unit.

(18) The term "public housing agency" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(19) The term "metropolitan city" has the meaning given the term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)).

(20) The term "urban county" has the meaning given the term in section 102(a)(6) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)).

(21) The term "certification" means a written assertion, based on supporting evidence, which shall be kept available for inspection by the Secretary, the Inspector General and the public, which assertion shall be deemed to be accurate for purposes of this Act, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

(23) The term "to demonstrate to the Secretary" means to submit to the Secretary a written assertion together with supporting evidence that, in the determination of the Secretary, supports the accuracy of the assertion.

SEC. 105. STATE AND LOCAL HOUSING STRATEGIES.

(a) IN GENERAL.—The Secretary shall provide assistance directly to a jurisdiction only if—

(1) the jurisdiction submits to the Secretary a comprehensive housing affordability strategy (hereafter in this section referred to as the "housing strategy");

(2) the jurisdiction submits annual updates of the housing strategy; and

(3) the housing strategy, and any annual update of such strategy, is approved by the Secretary.

The Secretary shall establish such dates and manner for the submission and approval of housing strategies under this section that the Secretary determines will facilitate orderly program management by jurisdictions and provide for timely investment or other use of funds made available under title II of this Act and other programs requiring submission of a housing strategy. If the Secretary finds there is good cause, the Secretary may provide reasonable extensions of any deadlines for submission of a jurisdiction's housing strategy.

(b) CONTENTS.—A housing strategy submitted under this section shall be in a form that the Secretary determines to be appropriate for the assistance the jurisdiction may be provided and shall—

(1) describe the jurisdiction's estimated housing needs projected for the ensuing 5-year period, and the jurisdiction's need for assistance for very low-income,low-income, and moderate-income families, specifying such needs for different types of tenure and for different categories of residents, such as very low-income, low-income, and moderate-income families, the elderly, single persons, large families, residents of nonmetropolitan areas, families who are participating in an organized program to achieve economic independence and self-sufficiency, persons with acquired immunodeficiency syndrome, and other categories of persons residing in or expected to reside in the jurisdiction that the Secretary determines to be appropriate;

(2) describe the nature and extent of homelessness within the jurisdiction, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, and a description of the jurisdiction's strategy for (A) helping low-income families avoid becoming homeless; (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and (C) helping homeless persons make the transition to permanent housing and independent living;

(3) describe the significant characteristics of the jurisdiction's housing market, indicating how those characteristics will influence the use of funds made available for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units;

(4) explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment, and describe the jurisdiction's strategy to remove or ameliorate negative effects, if any, of such policies;

(5) explain the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the jurisdiction will carry out its housing strategy, assessing the strengths and gaps in that delivery system and describing what the jurisdiction will do to overcome those gaps;

(6) indicate resources from private and non-Federal public sources that are reasonably expected to be made available to carry out the purposes of this Act, explaining how funds made available will leverage those additional resources and identifying, where the jurisdiction deems it appropriate, publicly owned land or property located within the jurisdiction that may be utilized to carry out the purposes of this Act;

(7) set forth the jurisdiction's plan for investment or other use of housing funds made available under title II of this Act, the United States Housing Act of 1937, the Housing and Community Development Act of 1974, and the Stewart B. McKinney Homeless Assistance Act, during the ensuing year or such longer period as the Secretary determines to be appropriate, indicating the general priorities for allocating investment geographically within the jurisdiction and among different activities and housing needs;

(8) describe the means of cooperation and coordination among the State and any units of general local government in the development, submission, and implementation of their housing strategies;

(9) in the case of a unit of local government, describe the number of public housing units in the jurisdiction, the physical condition of such units, the restoration and revitalization needs of public housing projects within the jurisdiction, the public housing agency's strategy for improving the management and operation of such public housing, and the public housing agency's strategy for improving the living environment of low- and very-low-income families residing in public housing;

(10) in the case of a State, describe the strategy to coordinate the Low-Income Tax Credit with development of housing, including public housing, that is affordable to very low-income and low-income families;

(11) describe the jurisdiction's activities to encourage public housing residents to become more involved in management and participate in homeownership;

(12) describe the standards and procedures according to which the jurisdiction will monitor activities authorized under this Act and ensure long-term compliance with the provisions of this Act;

(13) include a certification that the jurisdiction will affirmatively further fair housing;

(14) include a certification that the jurisdiction is in compliance with a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 (to the extent that such a plan applies to the jurisdiction); and

(15) include the number of families to whom the jurisdiction will provide affordable housing as defined in section 215 using funds made available.

The Secretary may provide for the submission of abbreviated housing strategies by jurisdictions that are not otherwise expected to be participating jurisdictions under title II of this Act. Such an abbreviated housing strategy shall be appropriate to the types and amounts of assistance the jurisdiction is to receive as determined by the Secretary.

(c) APPROVAL.—

(1) IN GENERAL.—The Secretary shall review the housing strategy upon receipt. Not later than 60 days after receipt by the Secretary, the housing strategy shall be approved unless the Secretary determines before that date that (A) the housing strategy is inconsistent with the purposes of this Act, or (B) the information described in subsection (b) has not been provided in a substantially complete manner. For the purpose of the preceding sentence, the adoption or continuation of a public policy identified pursuant to subsection (b)(4) shall not be a basis for the Secretary's disapproval of a housing strategy. During the 18-month period following enactment of this Act, the Secretary may

extend the review period to not longer than 90 days.

(2) ACTIONS IN CASE OF DISAPPROVAL.—If the Secretary disapproves the housing strategy, the Secretary shall immediately notify the jurisdiction of such disapproval. Not later than 15 days after the Secretary's disapproval, the Secretary shall inform the jurisdiction in writing of (A) the reasons for disapproval, and (B) actions that the jurisdiction could take to meet the criteria for approval. If the Secretary fails to inform the jurisdiction of the reasons for disapproval within such 15-day period, the housing strategy shall be deemed to have been approved.

(3) AMENDMENTS AND RESUBMISSION.—The Secretary shall, for a period of not less than 45 days following the date of first disapproval, permit amendments to, or the resubmission of, any housing strategy that is disapproved. The Secretary shall approve or disapprove a housing strategy not less than 30 days after receipt of such amendments or resubmission.

(d) COORDINATION OF STATE AND LOCAL HOUSING STRATEGIES.—The Secretary may establish such requirements as the Secretary deems appropriate to encourage coordination between and among the housing strategies of a State and any participating jurisdictions within the State, except that a unit of general local government shall not be required to have elements of its housing strategy approved by the State.

(e) CONSULTATION WITH SOCIAL SERVICE AGENCIES.—When preparing a housing strategy for submission under this section, a jurisdiction shall make reasonable efforts to confer with appropriate social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies.

(f) BARRIER REMOVAL.—Not later than 4 months after completion of the final report of the Secretary's Advisory Commission on Regulatory Barriers to Affordable Housing, the Secretary shall submit to the Congress a written report outlining the Secretary's recommendations for legislative and administrative actions to facilitate the removal or modification of excessive, duplicative, or unnecessary regulations or other requirements of Federal, State, or local governments that (1) inflate the costs of or otherwise inhibit the construction, rehabilitation, or management of housing, particularly housing that otherwise could be affordable to low-income and moderate-income families, or (2) contribute to economic or racial discrimination.

SEC. 106. CERTIFICATION.

The Secretary shall, by regulation or otherwise, as deemed by the Secretary to be appropriate, require any application for housing assistance under title II of this Act, assistance under the Housing and Community Development Act of 1974, or assistance under the Stewart B. McKinney Homeless Assistance Act, to contain or be accompanied by a certification by an appropriate State or local public official that the proposed housing activities are consistent with the housing strategy of the jurisdiction to be served.

SEC. 107. CITIZEN PARTICIPATION.

(a) IN GENERAL.—Before submitting a housing strategy under this section, a jurisdiction shall—

(1) make available to its citizens, public agencies, and other interested parties information concerning the amount of assistance the jurisdiction expects to receive and the range of investment or other uses of such assistance that the jurisdiction may undertake;

(2) publish a proposed housing strategy in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on the proposed housing strategy;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any uses of any assistance the jurisdiction may have received during the preceding 5 years.

(b) NOTICE AND COMMENT.—Before submitting any performance report or substantial amendment to a housing strategy under this section, a participating jurisdiction shall provide citizens with reasonable notice of, and opportunity to comment on, such performance report or substantial amendment prior to its submission.

(c) CONSIDERATION OF COMMENTS.—A participating jurisdiction shall consider any comments or views of citizens in preparing a final housing strategy, amendment to a housing strategy or performance report for submission. A summary of such comments or views shall be attached when a housing strategy, amendment to a housing strategy or performance report is submitted. The submitted housing strategy, amendment, or report shall be made available to the public.

(d) REGULATIONS.—The Secretary shall by regulation establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to housing strategies or performance reports.

SEC. 108. COMPLIANCE.

(a) PERFORMANCE REPORTS.—

(1) IN GENERAL.—Each participating jurisdiction shall annually review and report, in a form acceptable to the Secretary, on the progress it has made in carrying out its housing strategy, which report shall include an evaluation of the jurisdiction's progress in meeting its goal established in section 105(b)(15) of this Act, and information on the number and types of households served, including the number of very low-income, low-income, and moderate-income persons served and the racial and ethnic status of persons served that will be assisted with funds made available.

(2) SUBMISSION.—The Secretary shall (A) establish dates for submission of reports under this subsection, and (B) review such reports and make such recommendations as the Secretary deems appropriate to carry out the purposes of this Act.

(3) FAILURE TO REPORT.—If a jurisdiction fails to submit a report satisfactory to the Secretary in a timely manner, assistance to the jurisdiction under title II of this Act or the other programs referred to in section 106 may be—

(A) suspended until a report satisfactory to the Secretary is submitted; or

(B) withdrawn and reallocated if the Secretary finds, after notice and opportunity for a hearing, that the jurisdiction will not submit a satisfactory report.

(b) PERFORMANCE REVIEW BY SECRETARY.—

(1) IN GENERAL.—The Secretary shall ensure that activities of each jurisdiction required to submit a housing strategy under section 105 are reviewed not less frequently than annually. Such review shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development and shall include an assessment of the jurisdiction's—

(A) management of funds made available under programs administered by the Secretary;

(B) compliance with its housing strategy;

(C) accuracy in the preparation of performance reports under subsection (a); and

(D) efforts to ensure that housing assisted under programs administered by the Secretary are in compliance with contractual agreements and the requirements of law.

(2) REPORT BY THE SECRETARY.—The Secretary shall report on the performance review in writing. The Secretary shall give the jurisdiction not less than 30 days to review and comment on the report. After taking into consideration the comments of the jurisdiction, the Secretary may revise the report and shall make the jurisdiction's comments and the report, with any revisions, readily available to the public within 30 days after receipt of the jurisdiction's comments.

(c) REVIEW BY COURTS.—The adequacy of information submitted under section 105(b)(4) shall not be reviewable by any Federal, State, or other court. Review of a housing strategy by any Federal, State, or other court shall be limited to determining whether the process of development and the content of the strategy are in substantial compliance with the requirements of this Act. During the pendency of any action challenging the adequacy of a housing strategy or the action of the Secretary in approving a strategy, the court shall not have the authority to enjoin activities taken by the jurisdiction to implement an approved housing strategy. Any housing assisted during the pendency of such action shall not be subject to any order of the court resulting from such action.

SEC. 109. ENERGY EFFICIENCY STANDARDS.

The Secretary of Housing and Urban Development shall, not later than one year after the date of enactment of this Act, promulgate energy efficiency standards for new construction of public and assisted housing and single-family and multifamily residential housing (other than manufactured homes) subject to mortgages under the National Housing Act. Such standards shall meet or exceed the provisions of the most recent edition of the Model Energy Code of the Council of American Building Officials and shall be cost-effective with respect to construction and operating costs. In developing such standards the Secretary shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies and building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretary.

SEC. 110. CAPACITY STUDY.

(a) IN GENERAL.—The Secretary shall ensure that the Department of Housing and Urban Development has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities, and to implement the provisions of this Act, including the ability of the Department to carry out the multifamily mortgage insurance program.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to the Committee on Banking,

Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department's plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

SEC. 111. PROTECTION OF STATE AND LOCAL AUTHORITY.

Notwithstanding any other provision of this title or title II, the Secretary shall not establish any criteria for allocating or denying funds made available under programs administered by the Secretary based on the adoption, continuation, or discontinuation by a jurisdiction of any public policy, regulation, or law that is (1) adopted, continued, or discontinued in accordance with the jurisdiction's duly established authority, and (2) not in violation of any Federal law.

TITLE II—INVESTMENT IN AFFORDABLE HOUSING

SEC. 201. SHORT TITLE.

This title may be cited as the "HOME Investment Partnerships Act".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the Nation has not made adequate progress toward the goal of national housing policy, as set out in the Housing Act of 1949 and reaffirmed in the Housing and Urban Development Act of 1968, which would provide decent, safe, sanitary, and affordable living environments for all Americans;

(2) the supply of affordable rental housing is diminishing;

(3) the Tax Reform Act of 1986 removed major tax incentives for the production of affordable rental housing;

(4) the living environments of an increasing number of Americans have deteriorated over the past several years as a result of reductions in Federal assistance to low-income and moderate-income families;

(5) many Americans face the possibility of homelessness unless Federal, State, and local governments work together with the private sector to develop and rehabilitate the housing stock of the Nation to provide decent, safe, sanitary, and affordable housing for very low-income and low-income families;

(6) reliable Federal leadership is needed to achieve an adequate supply of affordable housing for all Americans;

(7) to achieve the goal of national housing policy, there is a need to strengthen nationwide a cost-effective community-based housing partnership designed to—

(A) expand the supply of rental housing that is affordable to very low-income and low-income families,

(B) improve homeownership opportunities for low-income families,

(C) carry out comprehensive housing strategies tailored to local housing market conditions, and

(D) protect the Federal, State, and local investment in low-income housing to ensure affordability of the housing for the remaining useful life of the property;

(8) direct assistance to expand the supply of affordable rental housing should be provided in a way that is more cost-effective and targeted than tax incentives;

(9) much of the Nation's housing system works very well and provides a strong base on which national housing policy should build;

(10) an increasing number of States and local governments have been successful in producing cost-effective low-income and moderate-income housing by working in partnership with the private sector, including nonprofit community development corporations, community action agencies, neighborhood housing services corporations, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and other tenant organizations;

(11) during the 1980's, nonprofit community housing development organizations, despite severe obstacles caused by inadequate funding, have played an increasingly important role in the production and rehabilitation of affordable housing in communities across the Nation;

(12) additional financial resources and technical skills must be made available in local communities if the Nation is to mobilize the capacity of the private sector, including nonprofit community housing development organizations, to provide a more adequate supply of decent, safe, and sanitary housing that is affordable to very low-income, low-income, and moderate-income families and meets the need for large family units and other additional units that are available to very low-income families receiving rental assistance payments from Federal, State, and local governments; and

(13) the long-term success of efforts to provide more affordable housing depends upon tenants and homeowners being fiscally responsible and able managers.

SEC. 203. PURPOSES.

The purposes of this title are—

(1) to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income Americans;

(2) to mobilize and strengthen the abilities of States and units of general local government throughout the United States to design and implement strategies for achieving an adequate supply of decent, safe, sanitary, and affordable housing;

(3) to provide participating jurisdictions, on a coordinated basis, with the various forms of Federal housing assistance, including capital investment, mortgage insurance, rental assistance, and other Federal assistance, needed—

(A) to expand the supply of decent, safe, sanitary, and affordable housing;

(B) to make new construction, rehabilitation, substantial rehabilitation, and acquisition of such housing feasible; and

(C) to promote the development of partnerships among the Federal Government, States and units of general local government, private industry, and nonprofit organizations able to utilize effectively all available resources to provide more of such housing;

(4) to make housing more affordable for very low-income and low-income families through the use of tenant-based rental assistance;

(5) to develop and refine, on an ongoing basis, a selection of model programs incorporating the most effective methods for providing decent, safe, sanitary, and affordable housing, and accelerate the application of such methods where appropriate throughout the United States to achieve the prudent and efficient use of funds made available under this title;

(6) to expand the capacity of nonprofit community housing development organizations to develop and manage decent, safe, sanitary, and affordable housing;

(7) to ensure that Federal investment produces housing stock that is available and affordable to low-income families for the property's remaining useful life, is appropriate to the neighborhood surroundings, and, wherever appropriate, is mixed income housing;

(8) to increase the investment of private capital and the use of private sector resources in the provision of decent, safe, sanitary, and affordable housing;

(9) to allocate Federal funds for investment in affordable housing among participating jurisdictions by formula allocation;

(10) to leverage those funds insofar as practicable with State and local matching contributions and private investment;

(11) to establish for each participating jurisdiction a HOME Investment Trust Fund with a line of credit for investment in affordable housing, with repayments back to its HOME Investment Trust Fund being made available for reinvestment by the jurisdiction;

(12) to provide credit enhancement for affordable housing by utilizing the capacities of existing agencies and mortgage finance institutions when most efficient and supplementing their activities when appropriate; and

(13) to assist very low-income and low-income families to obtain the skills and knowledge necessary to become responsible homeowners and tenants.

SEC. 204. COORDINATED FEDERAL SUPPORT FOR HOUSING STRATEGIES.

The Secretary shall make assistance under this title available to participating jurisdictions, through the Office of the Assistant Secretary for Housing-FHA Commissioner of the Department of Housing and Urban Development, to the maximum extent practicable, in coordination with mortgage insurance, rental assistance, and other housing assistance appropriate to the efficient and timely completion of activities under this title.

SEC. 205. AUTHORIZATION.

There are authorized to be appropriated to carry out this title $1,000,000,000 for fiscal year 1991, and $2,086,000,000 for fiscal year 1992, of which—

(1) not more than $14,000,000 for fiscal year 1991, and $14,000,000 for fiscal year 1992, shall be for community housing partnership activities authorized under section 233; and

(2) not more than $11,000,000 for fiscal year 1991, and $11,000,000 for fiscal year 1992, shall be for activities in support of State and local housing strategies authorized under subtitle C.

SEC. 206. NOTICE.

The Secretary shall issue regulations to implement the provisions of this title after notice and an opportunity for comment pursuant to section 553 of title 5, United States Code. Such regulations shall become effective not later than 180 days after the date of enactment of this Act.

Subtitle A—HOME Investment Partnerships

SEC. 211. AUTHORITY.

The Secretary is authorized to make funds available to participating jurisdictions for investment to increase the number of families served with decent, safe, sanitary, and affordable housing and expand the long-term supply of affordable housing in accordance with provisions of this subtitle.

SEC. 212. ELIGIBLE USES OF INVESTMENT.

(a) HOUSING USES.—

(1) IN GENERAL.—Funds made available under this subtitle may be used by participating jurisdictions to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction,

reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations, and to provide tenant-based rental assistance.

(2) PREFERENCE TO REHABILITATION.—A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that—

(A) such rehabilitation is not the most cost effective way to meet the jurisdiction's need to expand the supply of affordable housing; and

(B) the jurisdiction's housing needs cannot be met through rehabilitation of the available stock.

The Secretary shall not restrict a participating jurisdiction's choice of rehabilitation, substantial rehabilitation, new construction, reconstruction, acquisition, or other eligible housing use unless such restriction is explicitly authorized under paragraph (3) of this subsection or under section 223(2).

(3) CONDITIONS FOR NEW CONSTRUCTION.—

(A) IN GENERAL.—Funds made available under this subtitle may be used (at the discretion of a participating jurisdiction) for new construction of housing only if the housing is to serve a local market area that, in the determination of the Secretary has—

(i) an inadequate supply of housing at rentals below the fair market rent established for the area under section 8 of the United States Housing Act of 1937, and

(ii) a severe shortage of substandard residential structures in the jurisdiction that are suitable for rehabilitation as affordable rental housing.

(B) ESTABLISHMENT OF CRITERIA.—The Secretary shall publish—

(i) objective criteria for determining whether a jurisdiction's housing supply is sufficiently inadequate to permit new construction pursuant to subparagraph (A), and

(ii) a list of jurisdictions that in the determination of the Secretary meet those criteria.

The Secretary shall give reasonable opportunity for jurisdictions not designated on the published list to demonstrate, on the basis of additional information, that they meet the criteria. Such criteria shall permit new construction by not fewer than 30 percent of the jurisdictions receiving an allocation under section 216(1). Such criteria shall include objective data on housing market conditions such as low vacancy rates, low turnover of units with rents below fair market rents, and a high proportion of substandard housing.

(C) NEIGHBORHOOD REVITALIZATION.—Notwithstanding subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of affordable housing if the participating jurisdiction certifies that—

(i) the program of construction is needed to facilitate a neighborhood revitalization program that emphasizes rehabilitation of substandard housing for rental or homeownership opportunities by low-income and moderate-income families in an area designated by the jurisdiction;

(ii) the housing is located in a low- or moderate-income neighborhood, as defined in section 10(j)(13) of the Federal Home Loan Bank Act;

(iii) the number of units to be constructed with assistance under this subtitle does not exceed 20 percent of the total number of units in the neighborhood revitalization program that are assisted with funds under this subtitle; and

(iv) the housing is to be produced by a community housing development organization, as defined in section 104(6), or a public agency.

(D) APPLICABILITY.—Clause (iii) of subparagraph (C) shall not apply if the jurisdiction certifies that—

(i) the housing is to be located in a severely distressed area with large tracts of vacant land and abandoned buildings,

(ii) the housing is to be located in an area with an inadequate supply of existing housing that can economically be rehabilitated to meet identified housing needs, or

(iii) the new construction is required to accomplish the neighborhood revitalization program.

(E) SPECIAL NEEDS HOUSING.—Notwithstanding subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of—

(i) affordable housing for large families;

(ii) affordable housing for persons with disabilities;

(iii) single room occupancy housing; and

(iv) other categories of affordable housing for persons with special needs that the Secretary may designate;

if the participating jurisdiction certifies on the basis of objective data in its annual housing strategy that a high priority need for such housing exists in the jurisdiction, and that there is not a supply of vacant, habitable, public housing units in excess of normal vacancies resulting from turnovers that could meet the specified need.

(4) TENANT-BASED RENTAL ASSISTANCE.—

(A) IN GENERAL.—A participating jurisdiction may use funds provided under this subtitle for tenant-based rental assistance only if—

(i) the jurisdiction certifies that the use of funds under this subtitle for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided to persons from the waiting lists eligible for section 8 assistance in accordance with the applicable preferences.

(B) FAIR SHARE NOT AFFECTED.—A jurisdiction's section 8 fair share allocation shall be unaffected by the use of assistance under this title.

(C) 24-MONTH CONTRACTS.—Rental assistance contracts made available with assistance under this title shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) USE OF SECTION 8 ASSISTANCE.—In any case where assistance under section 8 of the United States Housing Act of 1937 becomes available to a participating jurisdiction, recipients of rental assistance under this title shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this title. A rental assistance program under this title shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and standards regarding the reasonableness of the rent.

(b) INVESTMENTS.—Participating jurisdictions shall have discretion to invest funds made available under this subtitle as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this title. Each participating jurisdiction shall have the right to establish the terms of assistance.

(c) PROHIBITED USES.—Funds made available under this subtitle may not be used to—

(1) defray any administrative cost of a participating jurisdiction,

(2) provide tenant-based rental assistance for the special purposes of the existing section 8 program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of housing owned or held by the Secretary, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 8 of the United States Housing Act of 1937,

(3) provide non-Federal matching contributions required under any other Federal program,

(4) provide assistance authorized under section 9 of the United States Housing Act of 1937,

(5) carry out activities authorized under section 14 of the Housing Act of 1937, or

(6) provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(d) COST LIMITS.—

(1) IN GENERAL.—The Secretary shall establish limits on the amount of funds under this subtitle that may be invested on a per unit basis. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms, and shall reflect the actual cost of new construction, reconstruction, or rehabilitation of housing that meets applicable State and local housing and building codes and the cost of land, including necessary site improvements. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

(2) CRITERIA.—In calculating per unit limits, the Secretary shall take into account that assistance under this title is intended to—

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions;

(C) facilitate mixed-income housing; and

(D) reflect the costs associated with meeting the special needs of tenants or homeowners that the housing is designed to serve.

(3) CONSULTATION.—In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(e) CERTIFICATION OF COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

SEC. 213. DEVELOPMENT OF MODEL PROGRAMS.

(a) IN GENERAL.—The Secretary shall—

(1) in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropri-

ate parties, develop, test, evaluate, refine, and, as necessary, replace a selection of model programs designed to carry out the purposes of this title;

(2) make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;

(3) assure, insofar as is feasible, the availability of an appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;

(4) negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;

(5) provide detailed information on model programs as requested by participating jurisdictions, private financial institutions, developers, nonprofit organizations, and other interested parties; and

(6) encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this subtitle through third-party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this title.

(b) ADOPTION OF PROGRAMS.—Except as provided in section 223(2), each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

(c) SUBTITLE D PROGRAMS.—The selection of model programs to be made available for adoption or adaptation shall include programs meeting the criteria set forth in subtitle D.

SEC. 214. INCOME TARGETING.

Each participating jurisdiction shall invest funds made available under this subtitle within each fiscal year so that—

(1) with respect to rental assistance and rental units—

(A) not less than 90 percent of such funds are invested with respect to dwelling units that are occupied by families whose incomes do not exceed 60 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, (except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction cost or fair market rent, or unusually high or low family income) at the time of occupancy or at the time funds are invested, whichever is later, and

(B) the remainder of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families (other than families described in subparagraph (A)) at the time of occupancy or at the time funds are invested, whichever is later;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families at the time of occupancy or at the time funds are invested, whichever is later; and

(3) all such funds are invested with respect to housing that qualifies as affordable housing under section 215.

SEC. 215. QUALIFICATION AS AFFORDABLE HOUSING.

(a) RENTAL HOUSING.—

(1) QUALIFICATION.—Housing that is for rental shall qualify as affordable housing under this title only if the housing—

(A) bears rents not greater than the lesser of (i) the existing fair market rent for comparable units in the area as established by the Secretary under section 8 of the United States Housing Act of 1937, or (ii) a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes;

(B) has not less than 20 percent of the units (i) occupied by very low-income families who pay as a contribution toward rent (excluding any Federal or State rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by the Secretary, or (ii) occupied by very low-income families and bearing rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986;

(C) is occupied only by households that qualify as low-income families;

(D) is not refused for leasing to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such voucher or certificate of eligibility;

(E) will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act; and

(F) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

(2) ADJUSTMENT OF QUALIFYING RENT.—The Secretary may adjust the qualifying rent established for a project under subparagraph (A) of paragraph (1), only if the Secretary finds that such adjustment is necessary to support the continued financial viability of the project and only by such amount as the Secretary determines is necessary to maintain continued financial viability of the project.

(3) INCREASES IN TENANT INCOME.—Housing shall qualify as affordable housing despite a temporary noncompliance with subparagraph (B) or (C) of paragraph (1) if such noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to the Secretary are being taken to ensure that all vacancies are filled in accordance with paragraph (1) until such noncompliance is corrected. Tenants who no longer qualify as low-income families shall pay as rent not less than 30 percent of the family's adjusted monthly income, as recertified annually.

(4) MIXED-INCOME PROJECT.—Housing that accounts for less than 100 percent of the dwelling units in a project shall qualify as affordable housing if such housing meets the criteria of this section.

(5) MIXED-USE PROJECT.—Housing in a project that is designed in part for uses other than residential use shall qualify as affordable housing if such housing meets the criteria of this section.

(6) HOMEOWNERSHIP.—Housing that is for homeownership shall qualify as affordable housing under this title only if the housing—

(1) has an initial purchase price that does not exceed 95 percent of the median purchase price for the area, as determined by the Secretary with such adjustments for differences in structure, including whether the housing is single-family or multifamily, and for new and old housing as the Secretary determines to be appropriate;

(2) is the principal residence of an owner whose family qualifies as a low-income family at the time of purchase;

(3) is made available for initial purchase only to first-time homebuyers;

(4) is made available for subsequent purchase only—

(A) to persons who meet the qualifications specified under paragraph (2), and

(B) at a price consistent with guidelines that are established by the participating jurisdiction and determined by the Secretary to be appropriate—

(i) to provide the owner with a fair return on investment, including any improvements, and

(ii) to ensure that the housing will remain affordable to a reasonable range of low income homebuyers; and

(5) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

SEC. 216. PARTICIPATION BY STATES AND LOCAL GOVERNMENTS.

The Secretary shall designate a State or unit of general local government to be a participating jurisdiction when it complies with procedures that the Secretary shall establish by regulation, which procedures shall only provide for the following:

(1) ALLOCATION.—Not later than 20 days after funds to carry out this subtitle become available (or, during the first year after enactment of this Act, not later than 20 days after (A) funds to carry out this subtitle are provided in an appropriations Act, or (B) regulations to implement this subtitle are promulgated, whichever is later), the Secretary shall allocate funds in accordance with section 217 and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a jurisdiction is not already a participating jurisdiction, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become a participating jurisdiction.

(2) CONSORTIA.—A consortium of geographically contiguous units of general local government shall be deemed to be a unit of general local government for purposes of this title if the Secretary determines that the consortium—

(A) has sufficient authority and administrative capability to carry out the purposes of this title on behalf of its member jurisdictions, and

(B) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of housing problems within the State or States.

(3) ELIGIBILITY.—(A) A jurisdiction receiving a formula allocation under section 217 shall be eligible to become a participating jurisdiction if its formula allocation is $750,000 or greater, or if the Secretary finds that—

(i) the jurisdiction has a local housing authority and has demonstrated a capacity to carry out provisions of this subtitle, and

(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and $750,000, or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of this subtitle.

(B) If a jurisdiction has met the requirements of subparagraph (A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under section 217(a)(1) and the amount made available to the jurisdiction under subparagraph (A)(ii).

(4) NOTIFICATION.—If an eligible jurisdiction notifies the Secretary in writing, not later than 30 days after receiving notification under paragraph (1), of its intention to become a participating jurisdiction, the Secretary shall reserve an amount equal to the jurisdiction's allocation (plus any reallocations for which the jurisdiction is eligible under section 217(d)(1)) pending the jurisdiction's designation as a participating jurisdiction. The Secretary shall reallocate, in accordance with paragraph (6) of this section, any funds reserved under the previous sentence if the Secretary determines that the jurisdiction will not meet the requirements for designation as a participating jurisdiction within a reasonable period of time.

(5) SUBMISSION OF STRATEGY.—Not later than 90 days after providing notification under paragraph (4), an eligible jurisdiction shall submit to the Secretary a comprehensive housing affordability strategy in accordance with section 105.

(6) REALLOCATION.—If the Secretary determines that a jurisdiction has failed to meet the requirements of the previous 3 paragraphs or if the Secretary, after providing for amendments and resubmissions in accordance with section 105(c)(3), disapproves the jurisdiction's comprehensive housing affordability strategy, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

(A) STATE.—If a State has failed to meet the requirements, the Secretary shall—

(i) make any funds reserved for the State available by direct reallocation among applications submitted by units of general local government within the State or consortia that include units of general local government within the State, insofar as approvable applications meeting the selection criteria under section 217(c) are received within 12 months after the funds become available for the direct reallocation, and

(ii) reallocate the remainder by formula in accordance with section 217(b).

(B) LOCAL.—If a unit of general local government has failed to meet the requirements and is located in a State that is a participating jurisdiction, the Secretary shall reallocate to the State any funds reserved for the locality, with preference going to the provision of affordable housing within the locality.

(C) DIRECT REALLOCATION.—If a unit of general local government has failed to meet the requirements and is located in a State that is not a participating jurisdiction, the Secretary shall—

(i) make any funds reserved for the locality available for use within the State by direct reallocation among units of general local government and community housing development organizations, insofar as approvable applications meeting the selection criteria under section 217(c) are received within 12 months after the funds become available for the direct reallocation with priority going to applications for affordable housing within the locality, and

(ii) reallocate the remainder in accordance with section 217(b).

(D) CERTAIN JURISDICTIONS DEEMED TO BE PARTICIPATING JURISDICTIONS.—If a State or unit of general local government is meeting the requirements of paragraphs (3), (4), and (5), it shall be deemed to be a participating jurisdiction for purposes of reallocation under this paragraph.

(7) DESIGNATION.—The Secretary shall designate an eligible jurisdiction to be a participating jurisdiction as soon as its comprehensive housing affordability strategy is approved in accordance with section 105.

(8) CONTINUOUS DESIGNATION.—Once a State or unit of general local government is designated a participating jurisdiction, it shall remain a participating jurisdiction for subsequent fiscal years, except as provided in paragraph (9). The provisions of paragraphs (3) through (6) shall not apply to participating jurisdictions.

(9) REVOCATION.—The Secretary may revoke a jurisdiction's designation as a participating jurisdiction if—

(A) the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this title, or

(B) the jurisdiction's allocation falls below $750,000 for 3 consecutive years, below $625,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of $500,000 or more in any 1 year.

If a jurisdiction's designation as a participating jurisdiction is revoked, any remaining line of credit in the jurisdiction's HOME Investment Trust Fund established under section 218 shall be reallocated in accordance with paragraph (6) of this section.

SEC. 217. ALLOCATION OF RESOURCES.

(a) IN GENERAL.—

(1) STATES AND UNITS OF GENERAL LOCAL GOVERNMENT.—After reserving amounts for Indian tribes as required by paragraph (2) of this subsection, the Secretary shall allocate funds approved in an appropriations Act to carry out this title by formula as provided in subsection (b). Of the funds made available under the preceding sentence, the Secretary shall initially allocate 60 percent among units of general local government and 40 percent among States.

(2) INDIAN ALLOCATION.—For each fiscal year, of the amount approved in an appropriations Act to carry out this title, the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.

(b) FORMULA ALLOCATION.—

(1) IN GENERAL.—

(A) RENTAL HOUSING PRODUCTION FORMULA.—(i) Of the funds made available under subsection (a)(1), the Secretary shall designate 10 percent in fiscal year 1991, and 15 percent in fiscal year 1992, for use only to produce affordable rental housing through new construction or substantial rehabilitation. Such funds shall be initially allocated by formula among jurisdictions that, according to the determination of the Secretary under section 212(a)(3)(B), have a housing supply sufficiently inadequate to permit new construction. The allocation among States shall reflect each State's share of the need in areas that meet the criteria established by the Secretary under section 212(a)(3)(B). Such formula shall reflect each eligible jurisdiction's share of the total need among all eligible jurisdictions for rental housing production as identified by objective measures of inadequate housing supply, including low vacancy rates, low turnover of units with rents below fair market rents, a high proportion of substandard housing, and other measures that the Secretary determines are appropriate under section 212(a)(3)(B). In no case may a jurisdiction's total allocation under this subparagraph and subparagraph (B) exceed the amount the jurisdiction would have received if its allocation were made under subparagraph (B) alone.

(ii) Any amounts made available under clause (i) that are not committed for new construction or substantial rehabilitation within a period ending 12 months after they are deposited in a jurisdiction's HOME Investment Trust Fund shall remain available only for such purposes during a subsequent 12-month period, after which they shall be available for other eligible uses in accordance with section 212 for an additional period of not to exceed 12 months.

(B) BASIC FORMULA.—The Secretary shall establish in regulation an allocation formula that reflects each jurisdiction's share of total need among eligible jurisdiction for an increased supply of affordable housing for very low-income and low-income families of different size, as identified by objective measures of inadequate housing supply, substandard housing, the number of low-income families in housing likely to be in need of rehabilitation, the costs of producing housing, poverty, and the relative fiscal incapacity of the jurisdiction to carry out housing activities eligible under section 212 without Federal assistance. Allocation among units of general local government shall take into account the housing needs of metropolitan cities, urban counties, and approved consortia of units of general local government.

(C) SOURCE OF DATA.—The data to be used for formula allocation of funds within a fiscal year shall be data obtained from a standard source that are available to the Secretary 90 days prior to the beginning of that fiscal year.

(D) USE OF BASIC FORMULA.—Except as provided in subparagraph (A), the basic formula established under subparagraph (B) shall be used for all formula allocations and reallocations provided for in this subtitle.

(E) WEIGHTS.—When allocation is made among States, the Secretary shall apply the formulas in subparagraph (B) giving 20 percent weight to measures of need for the

whole State and 80 percent weight to measures of need among units of general local government that are not receiving an allocation under section 216(1).

(F) ADJUSTMENTS.—In developing the basic formula in subparagraph (B), the Secretary shall (i) avoid the allocation of an excessively large share of amounts made available under this subtitle to any one State or unit of general local government, and (ii) take into account the need for a geographic distribution of amounts made available under this subtitle that appropriately reflects the housing need in each region of the Nation. If a jurisdiction receives an allocation under subparagraph (A), the Secretary shall make such adjustments in the jurisdiction's allocation under the formula in subparagraph (B) as may be necessary to ensure that the combined effect of the formulas in subparagraphs (A) and (B) does not reduce the allocation of any jurisdiction below the allocation it would receive if allocations were made according to the formula under subparagraph (B) alone.

(G) CONSULTATION.—The Secretary shall develop the formulas in subparagraphs (A) and (B) in ongoing consultation with (i) the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate, (ii) the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and (iii) organizations representing States and units of general local government. Not less than 60 days prior to publishing a formula for comment, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a copy of the formula the Secretary intends to propose.

(2) MINIMUM STATE ALLOCATION.—

(A) IN GENERAL.—If the formula, when applied to funds approved under this section in appropriations Acts for a fiscal year, would allocate less than $3,000,000 to any State, the allocation for such State shall be $3,000,000, and the increase shall be deducted pro rata from the allocations of other States.

(B) INCREASED MINIMUM ALLOCATION.—If no unit of general local government within a State receives an allocation under paragraph (3), the State's allocation shall be increased by $500,000. Priority for use of such increased allocation shall go to the provision of affordable housing within the boundaries of metropolitan cities, urban counties, and approved consortia within the State, based on the need for such funds. The increased allocation to a State under the preceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government in all States, except that such pro rata deduction shall not reduce the allocation of any unit of general local government below $500,000.

(3) MINIMUM LOCAL ALLOCATION.—The Secretary shall allocate funds available for formula allocation to units of general local government that, as of the end of the previous fiscal year, qualified as metropolitan cities, urban counties, and consortia approved by the Secretary in accordance with section 216(2) so that, when all such funds are initially allocated by formula, only those jurisdictions that are allocated an amount of $500,000 or greater shall receive an allocation. Prior to announcing initial allocations, the Secretary shall successively recalculate the allocations to jurisdictions under this subsection so that the maximum number of such jurisdictions can receive initial allocations.

(c) CRITERIA FOR DIRECT REALLOCATION.—The Secretary shall establish objective criteria for making direct reallocations to any participating jurisdiction and other eligible entities. A jurisdiction shall be eligible for a direct reallocation under this subsection only if the jurisdiction, in a form acceptable to the Secretary, submits an application that demonstrates to the satisfaction of the Secretary that the jurisdiction is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and appropriate participating jurisdictions within the State to develop, coordinate, and implement housing strategies under this title. The Secretary shall by regulation establish objective selection criteria for such direct reallocations, which criteria shall take into account—

(1) the applicant's demonstrated commitment to expand the supply of affordable rental housing, including units developed by public housing agencies, as indicated by the additional number of units of affordable housing made available through production or rehabilitation within the previous 2 years, making adjustment for regional variations in construction and rehabilitation costs and giving special consideration to the number of additional units made available under this title through production or rehabilitation, including units developed by public housing agencies, in relation to the amounts made available under this program;

(2) the applicant's actions that—

(A) direct funds made available under this subtitle to benefit very low-income families, with a range of incomes, in amounts that exceed the income targeting requirements of section 214, with extra consideration given for activities that expand the supply of affordable housing for very low-income families whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary;

(B) apply the tenant selection preference categories applicable under section 8 of the United States Housing Act of 1937 to the selection of tenants for housing assisted under this subtitle;

(C) provide matching resources in excess of funds required under section 220; and

(D) stimulate a high degree of investment and participation in development by the private sector, including nonprofit organizations; and

(3) the degree to which the applicant is pursuing policies that—

(A) make existing housing more affordable;

(B) remove or ameliorate any negative effects that public policies identified by the applicant pursuant to section 105(b)(4) may have on the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction;

(C) preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment;

(D) increase the supply of housing that is affordable to very low-income and low-income persons, particularly in areas that are accessible to expanding job opportunities; and

(E) remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities.

(d) REALLOCATIONS.—

(1) IN GENERAL.—The Secretary shall make any reallocations periodically throughout each fiscal year so as to ensure that all funds to be reallocated are made available to eligible jurisdictions as soon as possible, consistent with orderly program administration. Jurisdictions eligible for such reallocations shall include participating jurisdictions and jurisdictions meeting the requirements of paragraphs (3), (4), and (5) of section 216.

(2) COMMITMENTS.—The Secretary shall establish procedures according to which participating jurisdictions may make commitments to invest funds made available under this section. Such procedures shall provide for appropriate stages of commitment of funds to a project from initial reservation through binding commitment. Notwithstanding any other provision of this title, funds that the Secretary determines are needed to fulfill binding commitments shall not be available for reallocation.

(3) LIMITATION.—Unless otherwise specified in this subtitle, any reallocation of funds from a State shall be made only among all participating States, and any reallocation of funds from units of general local government shall be made only among all participating units of general local government.

SEC. 218. HOME INVESTMENT TRUST FUNDS.

(a) ESTABLISHMENT.—The Secretary shall establish for each participating jurisdiction a HOME Investment Trust Fund, which shall be an account (or accounts as provided in section 219(c)) for use solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this subtitle.

(b) LINE OF CREDIT.—The Secretary shall establish a line of credit in the HOME Investment Trust Fund of each participating jurisdiction, which line of credit shall include—

(1) funds allocated or reallocated to the participating jurisdiction under section 217, and

(2) any payment or repayment made pursuant to section 219.

(c) REDUCTIONS.—A participating jurisdiction's line of credit shall be reduced by—

(1) funds drawn from the HOME Investment Trust Fund by the participating jurisdiction,

(2) funds expiring under subsection (g), and

(3) any penalties assessed by the Secretary under section 224.

(d) CERTIFICATION.—A participating jurisdiction may draw funds from its HOME Investment Trust Fund, but not to exceed the remaining line of credit, only after providing certification that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with all requirements of this title. When such certification is received, the Secretary shall immediately disburse such funds in accordance with the form of the assistance determined by the participating jurisdiction.

(e) INVESTMENT WITHIN 15 DAYS.—The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's HOME Investment Trust Fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.

(f) NO INTEREST OR FEES.—The Secretary shall not charge any interest or levy any other fee with regard to funds in a HOME Investment Trust Fund.

(g) EXPIRATION OF RIGHT TO DRAW FUNDS.—Except as provided in section 217(b)(1)(A)(ii), if any funds becoming

available to a participating jurisdiction under this title are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the expiring amount and shall reallocate the funds by formula in accordance with section 217(d).

(h) ADMINISTRATIVE PROVISION.—The Secretary shall keep each participating jurisdiction informed of the status of its HOME Investment Trust Fund, including the status of amounts under various stages of commitment.

SEC. 219. REPAYMENT OF INVESTMENT.

(a) IN GENERAL.—Any repayment of funds drawn from a jurisdiction's HOME Investment Trust Fund, and any payment of interest or other return on the investment of such funds, shall be deposited in such jurisdiction's HOME Investment Trust Fund, except that, if the jurisdiction is not a participating jurisdiction when such payment or repayment is made, the amount of such payment or repayment shall be reallocated in accordance with section 217(d).

(b) ASSURANCE OF REPAYMENT.—Each participating jurisdiction shall enter into an agreement with the Secretary ensuring that funds invested in affordable housing under this subtitle are repayable when the housing no longer qualifies as affordable housing. Any repayment under the previous sentence shall be for deposit in the HOME Investment Trust Fund of the jurisdiction making the investment; except that if such jurisdiction is not a participating jurisdiction when such repayment is made, the amount of such repayment shall be reallocated in accordance with section 217(d).

(c) AVAILABILITY.—The Secretary shall take such actions as are necessary to ensure that any repayments deposited in a HOME Investment Trust Fund in accordance with this section shall be immediately available to the participating jurisdiction for investment subject to the provisions of this subtitle that apply to funds that are allocated under section 217. Actions authorized under the preceding sentence may include authorizing the establishment for a participating jurisdiction of a HOME Investment Trust Fund account outside of the Federal Government that, under arrangements satisfactory to the Secretary, shall be used solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this title. Such accounts shall be established in such a manner that repayments are not receipts or collections of the Federal Government.

SEC. 220. MATCHING REQUIREMENTS.

(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to affordable housing assisted under this title that total, throughout a fiscal year, not less than—

(1) 25 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to rental assistance and housing rehabilitation;

(2) 33 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to substantial rehabilitation; and

(3) 50 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to new construction.

Such contributions shall be in addition to any amounts made available under section 216(3)(A)(ii).

(b) RECOGNITION.—

(1) IN GENERAL.—A contribution shall be recognized for purposes of subsection (a) only if it—

(A) is made with respect to housing that qualifies as affordable housing under section 215; or

(B) is made with respect to any portion of a project not less than 50 percent of the units of which qualify as affordable housing under section 215.

(2) ADMINISTRATIVE EXPENSES.—Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of funds provided for investment under this title.

(c) FORM.—Such contributions may be in the form of—

(1) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(2) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, which may include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(3) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that achieves affordability of housing assisted under this title;

(4) the value of land or other real property as appraised according to procedures acceptable to the Secretary; and

(5) the value of investment in on-site and off-site infrastructure directly required for affordable housing assisted under this title.

(d) REDUCTION OF REQUIREMENT.—If a jurisdiction demonstrates to the satisfaction of the Secretary that a reduction of the matching requirement specified in subsection (a) is necessary to permit the jurisdiction to carry out the purposes of this title, the Secretary may reduce the matching requirement during a period not to exceed 3 years after the jurisdiction is first designated as a participating jurisdiction. Such reduction shall be not more than 75 percent in the first year, not more than 50 percent in the second year, and not more than 25 percent in the third year.

SEC. 221. PRIVATE-PUBLIC PARTNERSHIP.

Each participating jurisdiction shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in the implementation of the jurisdiction's housing strategy, including participation in the financing, development, rehabilitation and management of affordable housing. Nothing in the previous sentence shall preclude public housing authorities from fully participating in the implementation of a jurisdiction's housing strategy.

SEC. 222. DISTRIBUTION OF ASSISTANCE.

(a) LOCAL.—Each participating jurisdiction shall, insofar as is feasible, distribute assistance under this subtitle geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in the jurisdiction's approved housing strategy.

(b) STATE.—Participating States shall be responsible for distributing assistance throughout the State according to the State's assessment of the geographical distribution of the housing need within the State, as identified in the State's approved housing strategy. Participating States shall distribute assistance to rural areas in amounts that take into account the nonmetropolitan share of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's housing strategy approved under section 105 of this Act. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

SEC. 223. PENALTIES FOR MISUSE OF FUNDS.

If the Secretary finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply substantially with any provision of this subtitle and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the amount of any expenditures that were not in accordance with the requirements of this title, and the Secretary may—

(1) prevent withdrawals from the participating jurisdiction's HOME Investment Trust Fund for activities affected by such failure to comply;

(2) restrict the participating jurisdiction's activities under this title to activities that conform to one or more model programs made available under section 213; or

(3) remove the participating jurisdiction from participation in allocations or reallocations of funds made available under this subtitle.

SEC. 224. LIMITATION ON JURISDICTIONS UNDER COURT ORDER.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary shall ensure that funds provided under this subtitle are not employed to carry out housing remedies or to pay fines, penalties, or costs associated with an action in which—

(1) a participating jurisdiction has been adjudicated, by a Federal, State, or local court, to be in violation of title VI of the Civil Rights Act of 1964, the Fair Housing Act, or any other Federal, State, or local law promoting fair housing or prohibiting discrimination, or

(2) a settlement has been entered into in any case where claims of such violations have been asserted against a participating jurisdiction, except to the extent permitted by subsection (b).

(b) REMEDIAL USE OF FUNDS PERMITTED.—In the case of settlement described in subsection (a)(2), a jurisdiction may use funds provided under this Act to carry out housing remedies with eligible activities.

SEC. 225. TENANT AND PARTICIPANT PROTECTIONS.

(a) LEASE.—The lease between a tenant and an owner of affordable housing assisted under this title for rental shall be for not less than one year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

(b) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by

the owner's service upon the tenant of a written notice specifying the grounds for the action.

(c) MAINTENANCE AND REPLACEMENT.—The owner of rental housing assisted under this title shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

(d) TENANT SELECTION.—The owner of rental housing assisted under this title shall adopt written tenant selection policies and criteria that—

(1) are consistent with the purpose of providing housing for very low-income and low-income families,

(2) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease,

(3) give reasonable consideration to the housing needs of families that would have a preference under section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)), and

(4) provide for (A) the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and (B) for the prompt notification in writing of any rejected applicant of the grounds for any rejection.

SEC. 226. MONITORING OF COMPLIANCE.

(a) ENFORCEABLE AGREEMENTS.—Each participating jurisdiction, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this title. Such measures shall provide for (1) enforcement of the provisions of this title by the jurisdiction or by the intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) PERIODIC MONITORING.—Each participating jurisdiction, not less frequently than annually, shall review the activities of owners of affordable housing assisted under this title for rental to assess compliance with the requirements of this title. Such review shall include on-site inspection to determine compliance with housing codes and other applicable regulations. The results of each review shall be included in the jurisdiction's performance report submitted to the Secretary under section 108(a) and made available to the public.

(c) SPECIAL PROCEDURES FOR CERTAIN PROJECTS.—In the case of small-scale or scattered site housing, the Secretary may provide for such streamlined procedures for achieving the purposes of this section as the Secretary determines to be appropriate.

Subtitle B—Community Housing Partnership

SEC. 231. SET-ASIDE FOR COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

(a) IN GENERAL.—For a period of 18 months after funds under subtitle A are made available to a jurisdiction, the jurisdiction shall reserve not less than 15 percent of such funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are capable or can reasonably be expected to become capable of carrying out elements of the jurisdiction's housing strategy and to encourage such community housing development organizations to do so. A participating jurisdiction is authorized to enter into contracts with community housing development organizations to carry out this section.

(b) RECAPTURE AND REUSE.—If any funds reserved under subsection (a) remain uninvested for a period of 18 months, then the Secretary shall deduct such funds from the line of credit in the participating jurisdiction's HOME Investment Trust Fund and make such funds available by direct reallocation (1) to other participating jurisdictions for affordable housing developed, sponsored or owned by community housing development organizations, or (2) to nonprofit intermediary organizations to carry out activities that develop the capacity of community housing development organizations consistent with section 233, with preference to community housing development organizations serving the jurisdiction from which the funds were recaptured.

(c) DIRECT REALLOCATION CRITERIA.—Insofar as practicable, direct reallocations under this section shall be made according to the selection criteria established under section 217(c).

SEC. 232. PROJECT-SPECIFIC ASSISTANCE TO COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

(a) IN GENERAL.—Amounts reserved under section 231 may be used for activities eligible under section 212 and, in amounts not to exceed 10 percent of the amounts so reserved, for other activities specified under this section.

(b) PROJECT-SPECIFIC TECHNICAL ASSISTANCE AND SITE CONTROL LOANS.—

(1) IN GENERAL.—Amounts reserved under the previous section may be used to provide technical assistance and site control loans to community housing development organizations in the early stages of site development for an eligible project. Such loans shall not exceed amounts that the jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (2).

(2) ALLOWABLE EXPENSES.—A loan under this subsection may be provided to cover project expenses necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, site control and title clearance.

(3) REPAYMENT.—A community housing development organization that receives a loan under this subsection shall repay the loan to the participating jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(c) PROJECT-SPECIFIC SEED MONEY LOANS.—

(1) IN GENERAL.—Amounts reserved under the previous section may be used to provide loans to community housing development organizations to cover preconstruction project costs that the jurisdiction determines to be customary and reasonable, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies and legal fees.

(2) ELIGIBLE SPONSORS.—A loan under this subsection may be provided only to a community housing development organization that has, with respect to the project concerned, site control, a preliminary financial commitment, and a capable development team.

(3) REPAYMENT.—A community housing development organization that receives a loan under this subsection shall repay the loan to the jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

SEC. 233. HOUSING EDUCATION AND ORGANIZATIONAL SUPPORT.

(a) IN GENERAL.—The Secretary is authorized to provide education and organizational support assistance, in conjunction with other assistance made available under this subtitle—

(1) to facilitate the education of low-income homeowners and tenants; and

(2) to promote the ability of community housing development organizations to maintain, rehabilitate and construct housing for low-income and moderate-income families in conformance with the requirements of this title.

(b) ELIGIBLE ACTIVITIES.—Assistance under this section may be used only for the following eligible activities:

(1) ORGANIZATIONAL SUPPORT.—Organizational support assistance may be made available to community housing development organizations to cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and members of the community housing development organization.

(2) HOUSING EDUCATION.—Housing education assistance may be made available to community housing development organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under other provisions of this title.

(3) PROGRAM-WIDE SUPPORT OF NONPROFIT DEVELOPMENT AND MANAGEMENT.—Technical assistance, training, and continuing support may be made available to eligible community housing development organizations for managing and conserving properties developed under this title.

(4) BENEVOLENT LOAN FUNDS.—Technical assistance may be made available to increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income homebuyers.

(5) COMMUNITY DEVELOPMENT BANKS AND CREDIT UNIONS.—Technical assistance may be made available to establish privately owned, local community development banks and credit unions to finance affordable housing.

(c) DELIVERY OF ASSISTANCE.—The Secretary shall provide this assistance only through contract—

(1) with a nonprofit intermediary organization that, in the determination of the Secretary—

(A) customarily provides, in more than one community, services related to the provision of decent housing that is affordable to low-income and moderate-income persons or the revitalization of deteriorating neighborhoods;

(B) has demonstrated experience in providing a range of assistance (such as financing, technical assistance, construction and property management assistance, capacity building and training) to community housing development organizations or similar

organizations that engage in community revitalization;

(C) has demonstrated the ability to provide technical assistance and training for community-based developers of affordable housing; and

(D) has described the uses to which such assistance will be put and the intended beneficiaries of the assistance; or

(2) with another organization, if a participating jurisdiction demonstrates that the organization is qualified to carry out eligible activities and that the jurisdiction would not be served in a timely manner by intermediaries specified under paragraph (1).

Contracts under paragraph (2) shall be for activities specified in an application from the participating jurisdiction, which application shall include a certification that the activities are necessary to the effective implementation of the participating jurisdiction's housing strategy.

(d) LIMITATIONS.—Contracts under this section with any one contractor for a fiscal year may not—

(1) exceed 20 percent of the amount appropriated for this section for such fiscal year; or

(2) provide more than 20 percent of the operating budget (which shall not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

(e) SINGLE-STATE CONTRACTORS.—Not less than 40 percent of the funds made available for this section in an appropriations Act in any fiscal year shall be made available for eligible contractors that have worked primarily in one State.

SEC. 234. OTHER REQUIREMENTS.

(a) TENANT PARTICIPATION PLAN.—A community housing development organization that receives assistance under this subtitle shall provide a plan for and follow a program of tenant participation in management decisions and shall adhere to a fair lease and grievance procedure approved by the participating jurisdiction.

(b) LIMITATION ON ASSISTANCE.—A community housing development organization may not receive assistance under this title for any fiscal year in an amount that, together with other Federal assistance, provides more than 50 percent of the organization's total operating budget in the fiscal year.

(c) ADJUSTMENTS OF OTHER ASSISTANCE.—The Secretary shall take account of assistance provided to a project under this subtitle when adjusting other assistance to be provided to the project as required by section 102(d) of the Department of Housing and Urban Development Reform Act of 1989.

Subtitle C—Other Support for State and Local Housing Strategies

SEC. 241. AUTHORITY.

The Secretary shall, insofar as is feasible through contract with eligible organizations, develop the capacity of participating jurisdictions, State and local housing finance agencies, nonprofit organizations and for-profit corporations, working in partnership, to identify and meet needs for an increased supply of decent, affordable housing.

SEC. 242. PRIORITIES FOR CAPACITY DEVELOPMENT.

To carry out section 241, the Secretary shall provide assistance under this subtitle to—

(1) facilitate the exchange of information that would help participating jurisdictions carry out the purposes of this title, including information on program design, housing finance, land use controls, and building construction techniques;

(2) improve the ability of States and units of general local government to design and implement comprehensive housing affordability strategies, particularly those States and units of general local government that are relatively inexperienced in the development of affordable housing;

(3) encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of this title;

(4) improve the ability of States and units of general local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing; and

(5) facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance and demonstration projects.

SEC. 243. CONDITIONS OF CONTRACTS.

(a) ELIGIBLE ORGANIZATIONS.—The Secretary shall carry out this subtitle insofar as is practicable through contract with—

(1) a participating jurisdiction or agency thereof;

(2) a public purpose organization established pursuant to State or local legislation and responsible to the chief elected official of a participating jurisdiction;

(3) an agency or authority established by two or more participating jurisdictions to carry out activities consistent with the purposes of this title;

(4) a national or regional nonprofit organization that has a membership comprised predominantly of entities or officials of entities that qualify under paragraph (1), (2), or (3); or

(5) a professional and technical services company or firm that has demonstrated capacity to provide services under this subtitle.

(b) CONTRACT TERMS.—Contracts under this subtitle shall be for not more than 3 years and shall provide not more than 20 percent of the operating budget of the contracting organization in any one year. Within any fiscal year, contracts with any one organization may not be entered into for a total of more than 20 percent of the funds appropriated under this subtitle in that fiscal year.

SEC. 244. RESEARCH IN HOUSING AFFORDABILITY.

The Secretary is authorized to support, through contracts with eligible organizations and otherwise, such research and to publish such reports as will assist in the achievement of the purposes of this title. Activities authorized by the previous sentence may include an ongoing analysis of the impact of public policies at the Federal, State, and local levels, both individually and in the aggregate, on the incentives to expand and maintain the supply of energy-efficient affordable housing in the United States, particularly in areas with severe problems of housing affordability. For purposes of this section, agencies of the United States, government-sponsored mortgage finance corporations, and qualified research organizations shall be included as eligible organizations in addition to eligible organizations specified under section 243.

SEC. 245. REACH: ASSET RECYCLING INFORMATION DISSEMINATION.

(a) IN GENERAL.—The Secretary shall make available upon request by any participating jurisdiction a list of eligible properties that are located within the jurisdiction and that are owned or controlled by the Department of Housing and Urban Development to facilitate the purchase, development, or rehabilitation of such properties with assistance made available under this title.

(b) ELIGIBLE PROPERTIES.—An eligible property under this section shall—

(1) be an unoccupied single-family or multifamily dwelling, such that acquisition and rehabilitation of the dwelling would not result in the displacement of any residents of the dwelling; and

(2) have an appraised value that does not exceed (A) in the case of a 1- to 4-family dwelling, 95 percent of the median purchase price for the area for such dwellings, as determined by the Secretary, or (B) in the case of a dwelling with more than 4 units, the applicable maximum dollar amount limitation under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) for elevator-type structures.

Subtitle D—Specified Model Programs

SEC. 251. GENERAL AUTHORITY.

Among the alternative model programs that the Secretary shall make available for use by participating jurisdictions under the provisions of section 213 shall be model programs specified in this subtitle. The Secretary shall keep these specified model programs under review and submit to Congress such recommendations for change as the Secretary determines to be appropriate.

SEC. 252. RENTAL HOUSING PRODUCTION.

(a) REPAYABLE ADVANCES.—

(1) IN GENERAL.—The Secretary shall make available a model program under which repayable advances may be made to public and private project sponsors in constructing, acquiring, or substantially rehabilitating projects to be used as affordable rental housing, including limited equity cooperatives and mutual housing.

(2) MAXIMUM AMOUNT OF ADVANCE.—An advance under this model program shall not exceed 50 percent of the total costs associated with the construction, acquisition, or substantial rehabilitation of the project, as determined by the participating jurisdiction.

(3) TERMS OF REPAYMENT.—

(A) INTEREST PAYMENTS.—

(i) IN GENERAL.—Under the model program, advances shall be repaid with interest calculated at a rate of not more than 3 percent per year, as determined by the participating jurisdiction to be appropriate. Interest shall begin to accrue 1 year after the completion of the construction, acquisition, or substantial rehabilitation of the project and shall be payable in annual installments.

(ii) EXCEPTION.—Interest and any accrued interest shall be payable only from the surplus cash flow of the project, after a minimum return on equity determined by the participating jurisdiction to be appropriate. As used in the previous sentence, the term "surplus cash flow" means the cash flow of the project after the payment of all amounts due under the first mortgage, operating expenses, and required replacement reserves, as determined by the participating jurisdiction.

(B) ADDITIONAL INTEREST PAYMENTS.—Under the model program, for any year in which the sum of the surplus cash flow of a project and the return on equity exceeds all interest payments due under subparagraph (A), 50 percent of the excess surplus cash flow shall be paid to the participating jurisdiction's HOME Investment Trust Fund as additional interest.

(C) PRINCIPAL AND UNPAID INTEREST.—The principal amount of an advance under the model program, and any interest remaining unpaid pursuant to subparagraph (A)(ii) shall be repayable when the housing no longer qualifies as affordable housing in accordance with section 219(b).

(b) SELECTION GUIDELINES.—

(1) IN GENERAL.—The Secretary shall establish guidelines for the selection of projects by participating jurisdictions for assistance under the model program. Such guidelines shall be designed to select projects in areas and for markets demonstrating the greatest need for the production of affordable rental housing.

(2) SPECIFIC REQUIREMENTS.—The selection guidelines may include—

(A) the extent of the shortage of rental housing in the area that is available to low-income families;

(B) the extent large families with children will be served by the project;

(C) the extent to which the project provides congregate facilities and has available supportive services that will permit elderly or handicapped residents who become frail and are in need of assistance in living to continue to reside in the project;

(D) the extent of very low-income and low-income occupancy in excess of the income targeting requirements in section 214;

(E) the extent of the project sponsor's commitment of equity to the project (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(F) the extent of the project sponsor's commitment of equity to the project in comparison to the value of all public assistance for the project, including assistance under this title, other Federal assistance and financing, and State and local government contributions (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(G) the extent of non-Federal public or private assistance to the project;

(H) the extent to which the project provides supportive services for persons with disabilities; and

(I) any other factor determined by the Secretary to be appropriate.

(c) GUIDELINES.—The Secretary shall publish guidelines for the model program under this section not later than 180 days after enactment of this Act.

SEC. 253. RENTAL REHABILITATION.

(a) IN GENERAL.—The Secretary shall make available a model program to support the rehabilitation of privately owned rental housing located in neighborhoods where the median income does not exceed 80 percent of the area median as determined by the Secretary and where rents can reasonably be expected not to change materially over an extended period of time.

(b) AMOUNT OF SUBSIDY.—The amount of the rehabilitation subsidy shall be moderate and shall generally not exceed 50 percent of the total costs associated with the rehabilitation of the housing.

(c) ADDITIONAL RESTRICTIONS.—The guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 17(c) of the United States Housing Act of 1937.

SEC. 254. REHABILITATION LOANS.

(a) IN GENERAL.—The Secretary shall make available a model program to provide direct loans to finance the rehabilitation of low and moderate income single family and multifamily residential properties.

(b) CONDITION OF LOANS.—The Secretary shall establish terms and conditions to ensure that such loans are acceptable risks, taking into consideration the need for rehabilitation, the security for the loan and the ability of the borrower to repay the loan. The Secretary may establish the interest rate for loans under the model program, which shall include special interest rates for loans to borrowers with incomes below 80 percent of the area median income.

(c) ADDITIONAL RESTRICTIONS.—Guidelines for the model program may require that the property—

(1) be located in an area that contains a substantial number of dwellings in need of rehabilitation;

(2) the property is residential and owner-occupied; and

(3) the property is in need of rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation of such property is consistent with a local plan for rehabilitation or code enforcement.

Additional guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 312 of the Housing Act of 1964.

SEC. 255. SWEAT EQUITY MODEL PROGRAM.

(a) IN GENERAL.—The Secretary shall make available a model program to provide grants to public and private nonprofit organizations and community housing development organizations to provide technical and supervisory assistance to low-income and very low-income families, including the homeless, in acquiring, rehabilitating, and constructing housing by the self-help housing method.

(b) REHABILITATION OF PROPERTIES.—The program shall target for rehabilitation properties which have been acquired by the Federal, State, or local governments.

(c) HOMEOWNERSHIP OPPORTUNITIES THROUGH SWEAT EQUITY.—

(1) The program shall utilize the skilled or unskilled labor of eligible families in exchange for acquisition of the property.

(2) Training shall be provided to eligible families in building and home maintenance skills.

(d) RENTAL OPPORTUNITIES THROUGH SWEAT EQUITY.—(1) The program shall include rental opportunities for eligible families which will help expand the stock of affordable housing which is most appropriate for the target group.

(2) The use of the tenant's skilled or unskilled labor shall be encouraged in lieu of or as a supplement to rent payments by the tenant.

(e) DEFINITION.—The term "self-help housing" means the same as in section 523 of the Housing Act of 1949.

(f) ADDITIONAL RESTRICTIONS.—The guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 523 of the Housing Act of 1949.

SEC. 256. HOME REPAIR SERVICES GRANTS FOR OLDER AND DISABLED HOMEOWNERS.

(a) IN GENERAL.—The Secretary shall make available a model program to provide home repair services for older homeowners and disabled homeowners, including such services as the examination of homes, repair services, and follow-up to ensure the continued effectiveness of the repairs provided.

(b) ELIGIBLE RECIPIENTS.—Home repair services shall be provided to homeowners who—

(1) own and reside in the dwellings for which services are provided;

(2) are older or disabled; and

(3) are members of low-income families.

(c) PERMITTED RESTRICTIONS.—Guidelines for the model program shall require that—

(1) assisted dwelling units be the primary residence of the homeowner for whom services are provided;

(2) preferences be provided for (A) very low-income families, and (B) individuals with intense need characterized by noneconomic factors such as physical and mental disabilities, language barriers, and cultural, social, or geographical isolation caused by racial or ethnic status that restricts the ability of an individual to perform normal daily tasks or that threatens the capacity of the individual to live independently;

(3) any fees charged be based on the income of the individual receiving the home repair services.

SEC. 257. LOW-INCOME HOUSING CONSERVATION AND EFFICIENCY GRANT PROGRAMS.

(a) IN GENERAL.—The Secretary shall make available a model program to provide safe, energy-efficient affordable housing for low-income persons.

(b) ACTIVITIES.—The model program shall provide for—

(1) identification of housing that is—

(A) owned and occupied by low-income families who have received, are currently receiving, or are scheduled to receive assistance under the weatherization assistance for low-income persons program under part A of title IV of the Energy Conservation and Production Act (or a comparable Federal or State program);

(B) in danger of becoming uninhabitable within a 5-year period because of structural weaknesses or problems; and

(C) not sufficiently sound to permit energy conservation improvements without other repair or rehabilitation measures to protect such energy investments;

(2) repairs that will significantly prolong the habitability of units identified under paragraph (1), including roofing, electrical, plumbing, furnace, and foundation repairs or replacement that will prolong the use of the unit as a safe and energy-efficient residence for low-income persons; and

(3) reasonable steps to ensure that any units so repaired will remain occupied by persons or families eligible for assistance under this title.

SEC. 258. SECOND MORTGAGE ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—The Secretary shall make available a model program under which units of general local government provide loans (secured by second mortgages) with deferred payment of interest and principal to first-time homebuyers.

(b) HOMEOWNERSHIP COUNSELING.—The program under this section shall provide for homeownership counseling to first-time homebuyers assisted, which shall include—

(1) counseling before and after purchase of the property;

(2) assisting first-time homebuyers in identifying the most suitable and affordable properties;

(3) providing homebuyers with financial management assistance;

(4) assisting homebuyers in understanding mortgage transactions and home sales contracts; and

(5) assisting homebuyers with eliminating any credit problems that may prevent the homebuyers from purchasing the property.

(c) ELIGIBILITY REQUIREMENTS.—Deferred payment loans secured by second mortgages

may be provided under the model program under this section if—

(1) the homebuyer assisted is a first-time homebuyer;

(2) the property secured by the second mortgage is a single-family residence and is the principal residence of the homebuyer; and

(3) the principal obligation of the deferred payment loan secured by a second mortgage does not exceed 30 percent of the acquisition price of the residence to the homebuyer.

(d) PAYMENT TERMS.

(1) PERIOD OF DEFERRAL.—The payment of any principal and interest on a loan under this section shall be deferred for not less than the 5-year period beginning on the date of the acquisition of the residence by the homebuyer.

(2) INTEREST RATE.—The interest rate on the unpaid balance of a loan under this section shall be at least 4 percent.

(3) REPAYMENT PERIOD.—A deferred payment loan secured by a second mortgage shall be repayable over the 15-year period beginning at the end of the deferral period.

(e) SECURITY.—A deferred payment loan assisted with amount provided under a grant under this section shall be secured by a lien on the property involved, which lien shall be subordinate to the first mortgage on the property.

SEC. 259. REHABILITATION OF STATE AND LOCAL GOVERNMENT IN REM PROPERTIES.

(a) IN GENERAL.—The Secretary shall make available a model program under which States and units of general local government may convert in rem properties to provide affordable permanent housing for the homeless by leasing such properties to nonprofit organizations and permitting such organizations to rehabilitate the properties.

(b) TARGET.—The program shall target vacant properties for rehabilitation by nonprofit organizations.

Subtitle E—Mortgage Credit Enhancement

SEC. 271. REPORT ON CREDIT ENHANCEMENT.

(a) IN GENERAL.—The Comptroller General of the United States shall carry out a study of ways in which financing for affordable housing may be made available to assist in the most efficient implementation of comprehensive housing affordability strategies of participating jurisdictions. In conducting the study, the Comptroller General shall draw upon the expertise of such representatives of State and local government, State and local housing finance agencies, agencies of the United States, government-sponsored mortgage finance corporations, for-profit and nonprofit housing developers, private financial institutions, and sources of long-term mortgage investment, as the Comptroller General determines to be appropriate.

(b) REPORT.—Not later than one year after the enactment of this Act, the Comptroller General shall submit to the Congress and the Secretary a report containing any recommendations for legislative or administrative actions needed to improve the availability of mortgage finance for affordable housing. The report shall include, but need not be limited to, an assessment of—

(1) the need for the Department of Housing and Urban Development or other agencies of the United States to provide partial credit enhancement to make financing for affordable housing available efficiently and at the lowest possible cost; and

(2) alternative ways in which—

(A) the Department could provide any needed credit enhancement on a one-stop basis for participating jurisdictions, in coordination with other forms of assistance under this subtitle;

(B) the Department or other agencies of the Federal Government could assist government-sponsored mortgage finance corporations in the financing of mortgages on affordable housing through the development of mortgage-backed securities that are more standardized and readily traded in the capital markets;

(C) the capacities of existing agencies of the United States could be used to provide mortgage finance more efficiently for affordable housing through government-sponsored mortgage finance corporations; and

(D) the interests of the Federal Government could be protected and any risks of loss could be minimized through requirements for fees, mortgage insurance, risk-sharing, secure collateral, and guarantees by other parties, and through standards relating to minimum capital and prior experience with underwriting, origination and servicing.

Subtitle F—General Provisions

SEC. 281. EQUAL OPPORTUNITY.

(a) SOLICITATION OF CONTRACTS.—Each participating jurisdiction shall prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program within each such jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts, entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction.

(b) REPORT TO CONGRESS.—Before the end of the 180-day period beginning on the date the first allocation of funds is made under section 217, the Secretary shall submit to the Congress a report containing a description of the actions taken by each participating jurisdiction pursuant to subsection (a) and such recommendations for administrative and legislative action as the Secretary may determine to be appropriate to carry out the purposes of such subsection.

SEC. 282. NONDISCRIMINATION.

No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

SEC. 283. ANNUAL AUDITS AND ACCOUNTABILITY.

(a) INDEPENDENT AUDITS.—The Secretary, except as provided in paragraph (b)(1), shall contract annually with an independent accounting firm to provide for a full financial audit of the records of the HOME Investment Partnerships program for each fiscal year. Funds available for departmental administration may be used to provide for such audits. Each audit shall be performed as soon as practicable after the close of the fiscal year and in accordance with generally accepted Government auditing standards approved by the Comptroller General of the United States (hereinafter referred to as the "Comptroller General"), and shall be consistent with the requirements of sections 9105 and 9106 of title 31, United States Code. The Secretary shall promptly submit the report of the independent accounting firm to the Congress, consistent with the requirements of section 9106 of title 31, United States Code, and such report shall be published. The requirement for an audit under this section shall be in lieu of the requirement for an audit by the Comptroller General under section 9105(a) of title 31, United States Code.

(b) AUDITS BY THE COMPTROLLER GENERAL.—

(1) AUDITS OF THE HOME INVESTMENT PARTNERSHIPS PROGRAM.—The Comptroller General, when the Comptroller General deems it to be appropriate or when requested by the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Banking, Finance and Urban Affairs of the House of Representatives, shall conduct a full financial audit of the records of the HOME Investment Partnerships program for any fiscal year. The initiation of an audit for a fiscal year under the previous sentence shall obviate the requirement for an audit by an independent accounting firm under paragraph (a) for that fiscal year. The report of the Comptroller General shall be submitted promptly to the Secretary and the Congress and shall be published.

(2) AUDITS OF RECIPIENTS.—The financial transactions of participating jurisdictions and of other recipients of funds provided under this title may, insofar as they relate to funds provided under this title, be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

SEC. 284. UNIFORM RECORDKEEPING AND REPORTS TO THE CONGRESS.

(a) UNIFORM REQUIREMENTS.—The Secretary shall develop and establish uniform recordkeeping, performance reporting, and auditing requirements for use by participating jurisdictions.

(b) REPORT TO THE CONGRESS.—Not later than 120 days after the end of each fiscal year, the Secretary shall make an annual report to the Congress that summarizes and assesses the results of reports provided under this section. Such report shall include a description of actions taken by each participating jurisdiction pursuant to section 281(a) and such recommendations for administrative and legislative action as may be appropriate to carry out the purposes of such section.

SEC. 285. CITIZEN PARTICIPATION.

The Secretary shall ensure that each participating jurisdiction, and each jurisdiction seeking to become a participating jurisdiction, complies with the requirements of section 107 of this Act.

SEC. 286. LABOR.

(a) IN GENERAL.—Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined

by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a—276a-5), shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) WAIVER.—Subsection (a) shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work.

SEC. 287. INTERSTATE AGREEMENTS.

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this title as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

SEC. 288. ENVIRONMENTAL REVIEW.

(a) IN GENERAL.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to participating jurisdictions under this title who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, at least 15 days prior to such approval and prior to any commitment of funds to such projects the participating jurisdiction has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary,

(2) be executed by the chief executive officer or other officer of the recipient of assistance under this title qualified under regulations of the Secretary,

(3) specify that the recipient of assistance under this title has fully carried out its responsibilities as described under subsection (a), and

(4) specify that the certifying officer (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a), and (B) is authorized and consents on behalf of the participating jurisdiction and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(d) ASSISTANCE TO A STATE.—In the case of assistance to States, the State shall perform those actions of the Secretary described in subsection (b) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such subsection.

SEC. 289. TERMINATION OF EXISTING HOUSING PROGRAMS.

(a) IN GENERAL.—Except with respect to projects and programs for which binding commitments have been entered into prior to October 1, 1991, no new grants or loans shall be made after October 1, 1991, under—

(1) section 17 of the United States Housing Act of 1937;

(2) section 312 of the Housing Act of 1964;

(3) title VI of the Housing and Community Development Act of 1987;

(4) section 8(e)(2) of the United States Housing Act of 1937, except for funds allocated under such section for single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act; and

(5) section 810 of the Housing and Community Development Act of 1974.

(b) REPEALS.—

(1) IN GENERAL.—Except as provided in paragraph (2), effective on October 1, 1991, the provisions of law referred to in subsection (a) are repealed.

(2) NO EFFECT ON SRO PROGRAM.—The provision of law referred to in subsection (a)(4) shall remain in effect with respect to single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act.

(c) DISPOSITION OF REPAYMENTS.—Any amounts received on or after October 1, 1991, as repayments or recaptures in connection with the programs referred to in subsection (a) and any other amounts for such programs that remain or become unobligated on or after such date, shall be paid into the general fund of the Treasury.

TITLE III—HOMEOWNERSHIP

Subtitle A—National Homeownership Trust Demonstration

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "National Homeownership Trust Act".

SEC. 302. NATIONAL HOMEOWNERSHIP TRUST.

(a) ESTABLISHMENT.—There is established the National Homeownership Trust, which shall be in the Department of Housing and Urban Development and shall provide assistance to first-time homebuyers in accordance with this subtitle.

(b) BOARD OF DIRECTORS.—The Trust shall be governed by a Board of Directors, which shall be composed of—

(1) the Secretary of Housing and Urban Development, who shall be the chairperson of the Board;

(2) the Secretary of the Treasury;

(3) the chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

(4) the chairperson of the Federal Housing Finance Board;

(5) the chairperson of the Board of Directors of the Federal National Mortgage Association;

(6) the chairperson of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

(7) 1 individual representing consumer interests, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

(c) POWERS OF TRUST.—The Trust shall have the same powers as the powers given the Government National Mortgage Association in section 309(a) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(a)).

(d) TRAVEL AND PER DIEM.—Members of the Board of Directors shall receive no additional compensation by reason of service on the Board, but shall be allowed travel expenses, including per diem in lieu of subsistence, as provided for employees of the Federal Government or in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code, as appropriate.

(e) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Board of Directors may appoint an executive director of the Trust and fix the compensation of the executive director, which shall be paid from amounts in the National Homeownership Trust Fund.

(2) STAFF.—Subject to such rules as the Board of Directors may prescribe, the Trust may appoint and hire such staff and provide for offices as may be necessary to carry out its duties. The Trust may fix the compensation of the staff, which shall be paid from amounts in the National Homeownership Trust Fund.

SEC. 303. ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—The Trust shall provide assistance payments for first-time homebuyers (including homebuyers buying shares in limited equity cooperatives) in the following manners:

(1) INTEREST RATE BUYDOWNS.—Assistance payments so that the rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent.

(2) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments (including closing costs and other costs payable at the time of closing) on mortgages for such homebuyers.

(b) ELIGIBILITY REQUIREMENTS.—Assistance payments under this subtitle may be made only to homebuyers and for mortgages meeting the following requirements:

(1) FIRST-TIME HOMEBUYER.—The homebuyer is an individual who—

(A) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance payments are made under this subtitle;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A); or

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse while married, meets the requirements of subparagraph (A).

(2) MAXIMUM INCOME OF HOMEBUYER.—The aggregate annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the

application of the homebuyer for assistance under this subtitle, does not exceed—

(A) 95 percent of the median income for a family of 4 persons (adjusted by family size) in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas); or

(B) 115 percent of such median income (adjusted by family size) in the case of an area that is subject to a high cost area mortgage limit under title II of the National Housing Act.

The Board of Directors shall provide for certification of such income for purposes of initial eligibility for assistance payments under this subtitle and shall provide for recertification of homebuyers (and families of homebuyers) so assisted not less than every 2 years thereafter.

(3) CERTIFICATION.—The homebuyer (and spouse, where applicable) shall certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied because the annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer is insufficient.

(4) PRINCIPAL RESIDENCE.—The property securing the mortgage is a single-family residence or unit in a cooperative and is the principal residence of the homebuyer.

(5) MAXIMUM MORTGAGE AMOUNT.—The principal obligation of the mortgage does not exceed the principal amount that could be insured with respect to the property under the National Housing Act.

(6) MAXIMUM INTEREST RATE.—The interest payable on the mortgage is established at a fixed rate that does not exceed a maximum rate of interest established by the Trust taking into consideration prevailing interest rates on similar mortgages.

(7) RESPONSIBLE MORTGAGEE.—The mortgage has been made to, and is held by, a mortgagee that is federally insured or that is otherwise approved by the Trust as responsible and able to service the mortgage properly.

(8) MINIMUM DOWNPAYMENT.—For a first-time homebuyer to receive downpayment assistance under subsection (a)(2), the homebuyer shall have paid not less than 1 percent of the cost of acquisition of the property (excluding any mortgage insurance premium paid at the time the mortgage is insured), as such cost is estimated by the Board of Directors.

(c) TERMS OF ASSISTANCE.—

(1) SECURITY.—Assistance payments under this subtitle shall be secured by a lien on the property involved. The lien shall be subordinate to all mortgages existing on the property on the date on which the first assistance payment is made.

(2) REPAYMENT UPON SALE.—Assistance payments under this subtitle shall be repayable from the net proceeds of the sale, without interest, upon the sale of the property for which the assistance payments are made. If the sale results in no net proceeds or the net proceeds are insufficient to repay the amount of the assistance payments in full, the Board of Directors shall release the lien to the extent that the debt secured by the lien remains unpaid.

(3) REPAYMENT UPON INCREASED INCOME.—If the aggregate annual income of the homebuyer (and family of the homebuyer) assisted under this subtitle exceeds the applicable maximum income allowable under subsection (b)(2) for any 2-year period after such assistance is provided, the Board of Directors may provide for the repayment, on a monthly basis, of all or a portion of such assistance payments, based on the amount of assistance provided and the income of the homebuyer (and family of the homebuyer).

(4) REPAYMENT IF PROPERTY CEASES TO BE PRINCIPAL RESIDENCE.—If the property for which assistance payments are made ceases to be the principal residence of the first-time homebuyer (or the family of the homebuyer), the Board of Directors may provide for the repayment of all or a portion of the assistance payments.

(5) AVAILABLE ASSISTANCE.—The Trust may make assistance payments under paragraphs (1) and (2) of subsection (a) with respect to a single mortgage of an eligible homebuyer.

(d) ALLOCATION FORMULA.—Amounts available in any fiscal year for assistance under this subtitle shall be allocated for homebuyers in each State on the basis of the need of eligible first-time homebuyers in each State for such assistance in comparison with the need of eligible first-time homebuyers for such assistance among all States.

SEC. 304. NATIONAL HOMEOWNERSHIP TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the National Homeownership Trust Fund.

(b) ASSETS.—The Fund shall consist of—

(1) any amount approved in appropriation Acts under section 308 for purposes of carrying out this subtitle;

(2) any amount received by the Trust as repayment for payments made under this subtitle; and

(3) any amount received by the Trust under subsection (d).

(c) USE OF AMOUNTS.—The Fund shall, to the extent approved in appropriations Acts, be available to the Trust for purposes of carrying out this subtitle.

(d) INVESTMENT OF EXCESS AMOUNTS.—Any amounts in the Fund determined by the Trust to be in excess of the amounts currently required to carry out the provisions of this subtitle shall be invested by the Trust in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(e) DEMONSTRATION PROGRAMS.—Using not more than $20,000,000 of any amounts appropriated for the Fund under section 308 in fiscal year 1991, the Secretary shall carry out demonstration programs for combining housing activities and economic development activities, as follows:

(1) In Milwaukee, Wisconsin, in an amount not to exceed $4,200,000, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood.

(2) In Washington, District of Columbia, in an amount not to exceed $10,000,000, for nonprofit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low- and moderate-income families and to the extent of and subject to engage in neighborhood-based economic development activities.

(3) In Philadelphia, Pennsylvania, in an amount not to exceed $1,000,000, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of technical assistance to neighborhood community development corporations.

(4) In other areas, as the Secretary may determine.

SEC. 305. DEFINITIONS.

For purposes of this subtitle:

(1) BOARD OF DIRECTORS.—The term "Board of Directors" or "Board" means the Board of Directors of the National Homeownership Trust under section 302(b).

(2) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) FUND.—The term "Fund" means the National Homeownership Trust Fund established in section 304.

(4) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(5) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) TRUST.—The term "Trust" means the National Homeownership Trust established in section 302.

SEC. 306. REGULATIONS.

The Board of Directors shall issue any regulations necessary to carry out this subtitle.

SEC. 307. REPORT.

The Board of Directors shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the termination of the Trust under section 310, a report containing a description of the activities of the Trust and an analysis of the effectiveness of the Trust in assisting first-time homebuyers.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $250,000,000 for fiscal year 1991 and $521,500,000 for fiscal year 1992. Any amount appropriated under this section shall be deposited in the Fund and remain available until expended, subject to the provisions of section 309.

SEC. 309. TRANSITION.

(a) AUTHORITY OF SECRETARY.—Upon the termination of the Trust as provided in section 310, the Secretary of Housing and Urban Development shall exercise any authority of the Board of Directors and the Trust in accordance with the provisions of this subtitle as may be necessary to provide for the conclusion of the outstanding affairs of the Trust.

(b) APPLICABILITY OF TRUST PROVISIONS.—Any assistance under this subtitle shall, after termination of the Trust, be subject to the provisions of this subtitle that would have applied to such assistance if the termination had not occurred.

(c) CERTIFICATION OF FUND TO TREASURY.—Upon a determination by the Secretary of Housing and Urban Development that the National Homeownership Trust Fund is no longer necessary, the Secretary shall certify any amounts remaining in the Fund to the Secretary of the Treasury and the Secretary of the Treasury shall deposit into the general

fund of the Treasury as miscellaneous receipts any amounts remaining in the Fund.

SEC. 310. TERMINATION.

The Trust shall terminate on September 30, 1993.

Subtitle B—FHA and Secondary Mortgage Market

SEC. 321. LIMITATION ON FHA INSURANCE AUTHORITY.

Section 531(b) of the National Housing Act (12 U.S.C. 1735f-9(b)) is amended to read as follows:

"(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $76,791,000,000 during fiscal year 1991 and $79,818,000,000 during fiscal year 1992.".

SEC. 322. APPRAISAL SERVICES.

Section 202(e) of the National Housing Act (12 U.S.C. 1708(e)) is amended by adding at the end the following new paragraphs:

"(3) DIRECT ENDORSEMENT PROGRAM.—

"(A) Any mortgagee that is authorized by the Secretary to process mortgages as a direct endorsement mortgagee (pursuant to the single-family home mortgage direct endorsement program established by the Secretary) may contract with an appraiser chosen at the discretion of the mortgagee for the performance of appraisals in connection with such mortgages. Such appraisers may include appraisal companies organized as corporations, partnerships, or sole proprietorships.

"(B) Any appraisal conducted pursuant to subparagraph (A) shall be conducted by an individual who complies with the qualifications or standards for appraisers established by the Secretary pursuant to section 202(e) of the National Housing Act.

"(C) In conducting an appraisal, such individual may utilize the assistance of others, who shall be under the direct supervision of the individual responsible for the appraisal. The individual responsible for the appraisal shall personally approve and sign any appraisal report.

"(4) FEE PANEL APPRAISERS.—

"(A) Any individual who is an employee of an appraisal company (including any company organized as a corporation, partnership, or sole proprietorship) and who meets the qualifications or standards for appraisers and inclusion on appraiser fee panels established by the Secretary, shall be eligible for assignment to conduct appraisals for mortgages under this title in the same manner and on the same basis as other approved appraisers.

"(B) With respect to any employee of an appraisal company described in subparagraph (A) who is offered an appraisal assignment in connection with a mortgage under this title, the person utilizing the appraiser may contract directly with the appraisal company employing the appraiser for the furnishing of the appraisal services.".

SEC. 323. INCREASE IN MORTGAGE LIMIT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "150 percent (185 percent until October 31, 1990) of the dollar amount specified" and inserting the following: "185 percent of the dollar amount specified".

SEC. 324. MORTGAGOR EQUITY.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by adding at the end the following new undesignated paragraph:

"Notwithstanding any other provision of this paragraph, a mortgage may not involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, the term 'appraised value' means the amount set forth in the written statement required under section 226, or a similar amount determined by the Secretary if section 226 does not apply.".

SEC. 325. MORTGAGE INSURANCE PREMIUMS.

(a) PREMIUMS.—Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking the last sentence; and

(3) by adding at the end the following new paragraph:

"(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling and executed on or after October 1, 1994, that is an obligation of the Mutual Mortgage Insurance Fund, shall be subject to the following requirements:

"(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount equal to 2.25 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph.

"(B) In addition to the premium under subparagraph (A), the Secretary shall establish and collect annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments) for the following periods:

"(i) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

"(ii) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause shall be in an amount equal to 0.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).".

(b) TRANSITION PROVISIONS.—Notwithstanding section 203(c) of the National Housing Act (as amended by subsection (a)), mortgage insurance premiums on mortgages executed during fiscal years 1991 through 1994 and that are obligations of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(1) 1991 AND 1992.—For mortgages executed during fiscal years 1991 and 1992 (but after the date of the effectiveness of regulations issued under subsection (c)), the Secretary shall establish and collect the following premiums:

(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount equal to 3.80 percent of the amount of the original insured principal obligation of the mortgage.

(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is—

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 5 years of the mortgage term;

(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 8 years of the mortgage term; and

(iii) greater than 95 percent of such value, for the first 10 years of the mortgage term.

(2) 1993 AND 1994.—For mortgages executed during fiscal years 1993 and 1994, the Secretary shall establish and collect the following premiums:

(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount equal to 3.00 percent of the amount of the original insured principal obligation of the mortgage.

(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A) that is—

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 7 years of the mortgage term;

(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 12 years of the mortgage term; and

(iii) greater than 95 percent of such value, for the first 30 years of the mortgage term.

(3) REFUNDS.—With respect to any mortgage subject to premiums under this subsection, the Secretary shall refund all of the unearned premium charges paid on a mortgage pursuant to paragraph (1)(A) or (2)(A) upon payment in full of the principal obligation of the mortgage prior to the maturity date.

(c) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

SEC. 326. LIMITATION ON SECONDARY RESIDENCES.

(a) LIMITATION ON SECONDARY RESIDENCES.—Section 203(g)(1) of the National Housing Act (12 U.S.C. 1709(g)(1)) is amended by in-

serting after the period at the end the following new sentence: "In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued after the expiration of the 60-day period beginning on the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgages signs the appraisal report for the property after the expiration of the 60-day period beginning on the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments.

(c) TRANSITION PROVISIONS.—Any mortgage insurance provided under title II of the National Housing Act before the expiration of the 60-day period beginning on the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions of section 203(g)(1) of the National Housing Act, as such provisions existed before the date of the enactment of this Act.

SEC. 327. MORTGAGE COUNSELING FOR DELINQUENT MORTGAGORS.

Section 203(r) of the National Housing Act (12 U.S.C. 1709(r)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under this section 203 (12 U.S.C. 1709), using the Fund to pay for such counseling.".

SEC. 328. DELEGATION OF PROCESSING.

(a) AUTHORITY.—Not later than the expiration of the 60-day period beginning on the date of enactment this Act, the Secretary of Housing and Urban Development shall implement a system of mortgage insurance for mortgages insured under section 207, 221, 223, 232, or 241 of the National Housing Act that delegates processing functions to selected approved mortgagees. Under such system, the Secretary shall retain the authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute a firm commitment.

(b) FULL INSURANCE PROGRAM.—Notwithstanding subsection (a), the Secretary shall maintain a viable system for full insurance programs under such Act under which all processing functions are performed by officers and employees of the Department of Housing and Urban Development.

SEC. 329. DISCLOSURE REGARDING INTEREST DUE UPON MORTGAGE PREPAYMENT.

Section 203 of the National Housing Act (12 U.S.C. 1709), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(s)(1) Each mortgagee (or servicer) with respect to a mortgage under this section shall provide each mortgagor of such mortgagee (or servicer) written notice, not less than annually, containing a statement of the amount outstanding for prepayment of the principal amount of the mortgage and describing any requirements the mortgagor must fulfill to prevent the accrual of any interest on such principal amount after the date of any prepayment. This paragraph shall apply to any insured mortgage outstanding on or after the expiration of the 90-day period beginning on the date of effectiveness of final regulations implementing this paragraph.

"(2) Each mortgagee (or servicer) with respect to a mortgage under this section shall, at or before closing with respect to any such mortgage, provide the mortgagor with written notice (in such form as the Secretary shall prescribe, by regulation, before the expiration of the 90-day period beginning upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act) describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after the expiration of the period under paragraph (1).".

SEC. 330. ACCOUNTABILITY OF MORTGAGE LENDERS.

(a) LIMITATION ON TIERED PRICING PRACTICES.—Section 203 of the National Housing Act (12 U.S.C. 1709), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(t)(1) No mortgagee may make or hold mortgages insured under this section if the customary lending practices of the mortgagee, as determined by the Secretary pursuant to section 539, provide for a variation in mortgage charge rates that exceeds 2 percent for insured mortgages made by the mortgagee on dwellings located within an area. The Secretary shall ensure that any permissible variations in the mortgage charge rates of any mortgagee are based only on actual variations in fees or costs to the mortgagee to make the loan.

"(2) For purposes of this subsection—

"(A) the term 'area' shall have the meaning given the term under subsection (b)(2);

"(B) the term 'mortgage charges' includes the interest rate, discount points, loan origination fee, and any other amount charged to a mortgagor with respect to an insured mortgage; and

"(C) the term 'mortgage charge rate' means the amount of mortgage charges for an insured mortgage expressed as a percentage of the initial principal amount of the mortgage.".

(b) SANCTIONS OF MORTGAGEES.—Title V of the National Housing Act (12 U.S.C. 1701 et seq.) is amended by adding at the end the following new section:

"EXAMINATIONS AND SANCTIONS FOR CERTAIN VIOLATIONS

"SEC. 539. (a) EXAMINATIONS AND SANCTIONS.—

"(1) In connection with any examination of a mortgagee approved by the Secretary pursuant to this Act, the Secretary shall assess the performance of the mortgagee in meeting the requirements of sections 203(t), 223(a)(7)(B), and 535. Where the Secretary determines that a mortgagee is not in compliance with these requirements, the Secretary shall refer the matter to the Mortgagee Review Board for investigation and appropriate action.

"(2) Not later than 180 days after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall by notice establish a procedure under which (A) any person may file a request that the Secretary determine whether a mortgagee is in compliance with sections 203(t), 223(a)(7)(B), and 535, (B) the Secretary shall inform the person of the disposition of the request, and (C) the Secretary shall publish in the Federal Register the disposition of any case referred by the Secretary to the Mortgagee Review Board. Such procedures shall be established by regulation under section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

"(3) The Secretary shall submit to Congress, not less than annually, a report regarding any actions taken to carry out this section. The report shall include a list of all requests filed pursuant to paragraph (2) and any action taken pursuant to such requests."

"(b) MONITORING AND REVIEW.—The Secretary shall continually monitor and undertake a thorough review of the implementation of this section to assess the impact of the section on the lending practices of mortgagees and the availability of mortgages insured under this Act. The Secretary shall monitor the availability of credit, the number and type of lenders participating in the program, whether there is any change in the composition or practices of such lenders and any other factors the Secretary considers appropriate. The Secretary shall submit to the Congress findings detailing the results of such monitoring and review not later than 18 months after the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 331. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(e) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

SEC. 332. ACTUARIAL SOUNDNESS OF MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsections:

"(f)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this subsection and maintains such ratio thereafter, subject to paragraph (2).

"(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after the date of the enactment of this subsection, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

"(3) Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

"(4) For purposes of this subsection:

"(A) The term 'capital' means the economic net worth of the Mutual Mortgage Insur-

ance Fund, as determined by the Secretary under the annual audit required under section 538.

"(B) The term 'capital ratio' means the ratio of capital to unamortized insurance-in-force.

"(C) The term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

"(D) The term 'unamortized insurance-in-force' means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

"(g) The Secretary shall provide for an independent actuarial study of the Mutual Mortgage Insurance Fund to be conducted annually and shall report annually to the Congress regarding the financial status of the Fund.

"(h)(1) If, pursuant to the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (g), the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals under paragraph (2), the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 203(c) or section 325(b) of the Cranston-Gonzalez National Affordable Housing Act. Upon determining that a premium change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Any such premium change shall not take effect before the expiration of the 90-day period beginning upon such notification.

"(2) The operational goals referred to in paragraph (1) shall be—

"(A) maintaining an adequate capital ratio;

"(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit;

"(C) minimizing the risk to the Fund and to homeowners from homeowner default; and

"(D) avoiding adverse selection.".

SEC. 333. INSURANCE OF MORTGAGES ON PROPERTY IN VIRGIN ISLANDS.

Section 214 of the National Housing Act (12 U.S.C. 1715d) is amended—

(1) in the first sentence, by striking "Alaska, Guam, or Hawaii," and inserting "Alaska, Guam, Hawaii, or the Virgin Islands,";

(2) by striking "Alaska or in Guam or Hawaii" each place it appears and inserting "Alaska, Guam, Hawaii, or the Virgin Islands";

(3) by inserting ", the Virgin Islands," after "Government of Guam" each place it appears; and

(4) by striking the section heading and inserting the following:

"INSURANCE OF MORTGAGES ON PROPERTY IN ALASKA, GUAM, HAWAII, AND THE VIRGIN ISLANDS".

SEC. 334. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) LIMITATION ON INSURANCE AUTHORITY AND MAXIMUM AMOUNT INSURED.—

(1) NUMBER OF MORTGAGES INSURED.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking the second sentence and inserting the following: "The total number of mortgages insured under this section may not exceed 25,000.".

(2) TERMINATION DATE.—The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(b) TYPES OF LOANS.—Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

"(A) based upon a line of credit;

"(B) on a monthly basis over a term specified by the mortgagor;

"(C) on a monthly basis over a term specified by the mortgagor and based upon a line of credit;

"(D) on a monthly basis over the tenure of the mortgagor;

"(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

"(F) on any other basis that the Secretary considers appropriate; and

"(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that in the case of a fixed rate mortgage, the Secretary may, by regulation, limit such convertibility.".

(c) LIMITATION ON LIABILITY OF MORTGAGOR.—Section 255(d)(7) of the National Housing Act (12 U.S.C. 1715z-20(d)(7)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor to be subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or".

(d) DISCLOSURES BY MORTGAGEE REGARDING LIABILITY OF MORTGAGOR.—Section 255(e) of the National Housing Act (12 U.S.C. 1715z-20(e)) is amended—

(1) in paragraph (2)—

(A) by inserting after "statement" the following: "informing the homeowner that the liability of the homeowner under the mortgage is limited and"; and

(B) by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) prior to loan closing, a statement of the projected total cost of the mortgage to the homeowner based on the projected total future loan balance (such cost expressed as a single average annual interest rate for at least 2 different appreciation rates for the term of the mortgage) for not less than 2 projected loan terms, as the Secretary shall determine, which shall include—

"(A) the cost for a short-term mortgage; and

"(B) the cost for a loan term equaling the actuarial life expectancy of the mortgagor.".

SEC. 335. INFORMATION REGARDING EARLY DEFAULTS ON FHA-INSURED LOANS.

(a) IN GENERAL.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 539 (as added by this Act) the following new section:

"INFORMATION REGARDING EARLY DEFAULTS AND FORECLOSURES ON INSURED MORTGAGES

"SEC. 540. (a) IN GENERAL.—The Secretary of Housing and Urban Development shall collect and maintain information regarding early defaults on mortgages as provided under this section. The Secretary shall make such information available for public inspection upon request. Information shall be collected quarterly with respect to each applicable collection period (as such term is defined in subsection (c)) and shall be available for inspection not more than 30 days after the conclusion of the calendar quarter relating to each such period. Information shall first be made available under this section for the applicable collection period relating to the first calendar quarter ending more than 180 days after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

"(b) CONTENTS.—

"(1) MORTGAGE LENDER ANALYSIS.—Information collected under this section shall include, for each lender originating mortgages during the applicable collection period that are insured pursuant to section 203 and secured by property in a designated census tract, the following information with respect to such mortgages:

"(A) The name of the lender and the number of each designated census tract in which the lender originated 1 or more such mortgages during the applicable collection period.

"(B) The total number of such mortgages originated by such lender during the applicable collection period in each designated census tract and the number of mortgages originated each year in each designated census tract.

"(C) The total number of defaults and foreclosures on such mortgages during the applicable collection period in each designated census tract and the number of defaults and foreclosures in each designated census tract in each year of the period.

"(D) For each designated census tract, the percentage of such lender's total insured mortgages originated during each year of the applicable collection period (with respect to properties within such census tract) on which defaults or foreclosures have occurred during the applicable collection period.

"(E) The total of all such originations, defaults, and foreclosures on insured mortgages originated by such lender during the applicable collection period for all designated census tracts and the percentage of the total number of such lender's insured mortgage originations on which defaults or foreclosures have occurred during the applicable collection period.

"(2) OTHER INFORMATION.—Information collected under this section shall also include the following:

"(A) For each lender referred to under paragraph (1), the total number of insured mortgages originated by the lender secured by properties not located in a designated census tract, the total number of defaults and foreclosures on such mortgages, and the percentage of such mortgages originated on which defaults or foreclosures occurred during the applicable collection period.

"(B) For each designated census tract, the total number of mortgages originated during the applicable collection period that are insured pursuant to section 203, the number of defaults and foreclosures occurring on such mortgages during such period, and the percentage of the total insured mortgage originations during the period on which defaults or foreclosures occurred.

"(c) ANNUAL REPORTS.—The Secretary shall submit to the Congress annually a report containing the information collected and

maintained under subsection (b) for the relevant year.

"(d) DEFINITIONS.—For purposes of this section:

"(1) APPLICABLE COLLECTION PERIOD.—The term 'applicable collection period' means the 5-year period ending on the last day of the calendar quarter for which information under this section is collected.

"(2) DESIGNATED CENSUS TRACT.—The term 'designated census tract' means a census tract located within a metropolitan statistical area, as defined pursuant to regulations issued by the Secretary of Commerce.".

(b) AVAILABILITY OF INFORMATION DURING TRANSITION.—During the period beginning on the date of the enactment of this Act and ending on the date of the initial availability of information under section 540 of the National Housing Act (as added by subsection (a)), the Secretary of Housing and Urban Development shall make publicly available all reports regarding Default/Claim Rates per Regional Office for Fiscal Year 1990 Endorsements that are produced by the Department of Housing and Urban Development during such period.

SEC. 336. AUCTION OF MULTIFAMILY MORTGAGES.

Section 221(g)(4) of the National Housing Act (12 U.S.C. 1715l(g)(4)) is amended by adding after subparagraph (B) the following new subparagraph:

"(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the credit instrument under subparagraph (A) in exchange for receipt of debentures, the Secretary shall arrange for the sale of the beneficial interests in the mortgage loan through an auction and sale of the (I) mortgage loans, or (II) participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary (in this subparagraph referred to as 'participation certificates'). The Secretary shall arrange the auction and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price shall also include the right to a subsidy payment described in clause (iii).

"(ii)(I) The Secretary shall conduct a public auction to determine the lowest interest rate necessary to accomplish a sale of the beneficial interests in the original credit instrument and mortgage securing the credit instrument.

"(II) A mortgagee who elects to assign a mortgage shall provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument, which shall include the principal mortgage balance, original stated interest rate, service fees, real estate and tenant characteristics, the level and duration of applicable Federal subsidies, and any other information determined by the Secretary to be appropriate. The Secretary shall also provide information regarding the status of the property with respect to the provisions of the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act with respect to eligibility to prepay the mortgage, a statement of whether the owner has filed a notice of intent to prepay or a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, and the details with respect to incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act in lieu of exercising prepayment rights.

"(III) The Secretary shall, upon receipt of the information in subclause (II), promptly advertise for an auction and publish such mortgage descriptions in advance of the auction. The Secretary may conduct the auction at any time during the 6-month period beginning upon receipt of the information in subclause (II) but under no circumstances may the Secretary conduct an auction before 2 months after receiving the mortgagee's written notice of intent to assign its mortgage to the Secretary.

"(IV) In any auction under this subparagraph, the Secretary shall accept the lowest interest rate bid for purchase that the Secretary determines to be acceptable. The Secretary shall cause the accepted bid to be published in the Federal Register. Settlement for the sale of the credit instrument and the mortgage securing the credit instrument shall occur not later than 30 business days after the date winning bidders are selected in the auction, unless the Secretary determines that extraordinary circumstances require an extension (not to exceed 60 days) of the period.

"(V) If no bids are received, the bids that are received are not acceptable to the Secretary, or settlement does not occur within the period under subclause (IV), the mortgagee shall retain all rights (including the right to interest, at a rate to be determined by the Secretary, for the period covering any actions taken under this subparagraph) under this section to assign the mortgage loan to the Secretary.

"(iii) As part of the auction process, the Secretary shall agree to provide a monthly interest subsidy payment from the General Insurance Fund to the purchaser under the auction of the original credit instrument or the mortgage securing the credit instrument (and any subsequent holders or assigns who are approved mortgagees). The subsidy payment shall be paid on the first day of each month in an amount equal to the difference between the stated interest due on the mortgage loan and the lowest interest rate necessary to accomplish a sale of the mortgage loan or participation certificates (less the servicing fee, if appropriate) for the then unpaid principal balance plus accrued interest at a rate determined by the Secretary. Each interest subsidy payment shall be treated by the holder of the mortgage as interest paid on the mortgage. The interest subsidy payment shall be provided until the earlier of—

"(I) the maturity date of the loan;

"(II) prepayment of the mortgage loan in accordance with the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, where applicable; or

"(III) default and full payment of insurance benefits on the mortgage loan by the Federal Housing Administration.

"(iv) The Secretary shall require that the mortgage loans or participation certificates presented for assignment are auctioned as whole loans with servicing rights released and also are auctioned with servicing rights retained by the current servicer.

"(v) To the extent practicable, the Secretary shall encourage State housing finance agencies, nonprofit organizations, and organizations representing the tenants of the property securing the mortgage, or a qualified mortgagee participating in a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act to participate in the auction.

"(vi) The Secretary shall implement the requirements imposed by this subparagraph within 30 days from the date of enactment of this subparagraph and not be subject to the requirement of prior issuance of regulations in the Federal Register. The Secretary shall issue regulations implementing this section within 6 months of the enactment of this subparagraph.

"(vii) Nothing in this subparagraph shall diminish or impair the low income use restrictions applicable to the project under the original regulatory agreement or the revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, if any, or other agreements for the provision of Federal assistance to the housing or its tenants.

"(viii) This subparagraph shall not apply after September 30, 1995. Not later than January 31 of each year (beginning in 1992), the Secretary shall submit to the Congress a report including statements of the number of mortgages auctioned and sold and their value, the amount of subsidies committed to the program under this subparagraph, the ability of the Secretary to coordinate the program with the incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, and the costs and benefits derived from the program for the Federal Government.".

SEC. 337. DISAPPROVAL OF REGULATIONS REGARDING PROPERTY DISPOSITION.

Section 291.1(c)(2) and section 291.100(b)(1) and (2) of the rule of the Department of Housing and Urban Development entitled "Disposition of HUD-Acquired Single Family Property" and published in the Federal Register of January 11, 1990 (55 Fed. Reg. 1161 et seq.) is hereby disapproved. The Secretary of Housing and Urban Development may not publish a final rule containing or based on such provision and may not otherwise implement such provision of such rule.

SEC. 338. REPORT REGARDING FORECLOSED PROPERTIES.

(a) IN GENERAL.—Before the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report containing a description of the strategy and action plan developed to assist in the disposition of foreclosed properties in the stock of the Department of Housing and Urban Development, paying particular attention to any properties that have been in the Department inventory for more than 12 months. The Secretary shall solicit recommendations from State and local governments, nonprofit organizations, housing finance authorities, and community housing development organizations in preparing the report.

(b) CONTENTS.—

(1) The report shall include information on the efforts of local governments, nonprofit organizations, housing finance authorities, and community housing development organizations to work with eligible families to purchase these homes and suggestions for mechanisms to facilitate the efforts. The report shall also include recommendations for (A) evaluating the rehabilitation costs of the properties necessary to achieve the minimum standards, (B) developing innovative approaches for involving non-Federal entities in the sale and rehabilitation of the properties and (C) providing the means to make the older stock habitable and available.

(2) The report shall also include proposals directed toward very-low income, low-income and moderate-income first-time homebuyers and the assistance that may be provided to such homebuyers to foster purchase.

SEC. 339. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $84,982,000,000 during fiscal year 1991 and $88,296,000,000 during fiscal year 1992.".

SEC. 340. INCREASE IN LOAN LIMITS FOR PROPERTY IMPROVEMENT LOAN INSURANCE.

(a) STUDY.—The Secretary of Housing and Urban Development shall conduct a study regarding the need for increasing the loan limits under section 2(b) of the National Housing Act for insurable property improvement loans and the effects of such an increase. The Secretary shall submit a report to the Congress not later than 6 months after the date of the enactment of this Act regarding the findings and conclusions of the study.

(b) MAXIMUM LOAN AMOUNTS.—

(1) IN GENERAL.—Section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

"(A)(i) $25,000 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing single-family structures; and

"(ii) $17,500 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing manufactured homes;"; and

(B) in subparagraph (B), by striking "$43,750 or an average amount of $8,750 per family unit ($50,000 and $10,000, respectively, where financing the installation of a solar energy system is involved)" and inserting "$60,000 or an average amount of $12,000 per family unit".

(2) APPLICABILITY.—The amendements made by this subsection shall apply to loans executed on or after June 1, 1991.

(c) LOAN TERM.—Section 2(b)(3) of the National Housing Act (12 U.S.C. 1703(b)(3)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A)(i) twenty years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing single-family structure; and

"(ii) fifteen years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing manufactured home;"; and

(2) in subparagraph (B), by striking "fifteen years" and inserting "twenty years".

Subtitle C—Effective Date

SEC. 351. EFFECTIVE DATE.

If the Omnibus Budget Reconciliation Act of 1990 is enacted before the enactment of this Act, the provisions of sections 323, 324, 324, 331, 332, 334(a), and 336 (of this Act) and the amendments made by such sections shall not take effect. This section shall apply notwithstanding any provision relating to effective date or applicability contained in such sections.

TITLE IV—HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE PROGRAMS

SEC. 401. SHORT TITLE.

This title may be cited as the "Homeownership and Opportunity Through HOPE Act".

Subtitle A—HOPE for Public and Indian Housing Homeownership

SEC. 411. HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.

The United States Housing Act of 1937 is amended by adding at the end the following new title:

"TITLE III—HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP

"SEC. 301. PROGRAM AUTHORITY.

"(a) IN GENERAL.—The Secretary is authorized to make—

"(1) planning grants to help applicants to develop homeownership programs in accordance with this title; and

"(2) implementation grants to carry out homeownership programs in accordance with this title.

"(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this title, the Secretary may reserve authority to provide assistance under section 8 of this Act to the extent necessary to provide replacement housing and rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this title $68,000,000 for fiscal year 1991 and $380,000,000 for fiscal year 1992. Any amount appropriated pursuant to this subsection shall remain available until expended.

"SEC. 302. PLANNING GRANTS.

"(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this title. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

"(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

"(1) development of resident management corporations and resident councils;

"(2) training and technical assistance for applicants related to development of a specific homeownership program;

"(3) studies of the feasibility of a homeownership program;

"(4) preliminary architectural and engineering work;

"(5) tenant and homebuyer counseling and training;

"(6) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;

"(7) development of security plans; and

"(8) preparation of an application for an implementation grant under this title.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of the Cranston-Gonzalez National Affordable Housing Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the extent of tenant interest in the development of a homeownership program for the project;

"(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the project for homeownership;

"(4) national geographic diversity among projects for which applicants are selected to receive assistance; and

"(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this title in an effective and efficient manner.

"SEC. 303. IMPLEMENTATION GRANTS.

"(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this title.

"(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership) that meet the requirements under this subtitle, including the following activities:

"(1) Architectural and engineering work.

"(2) Implementation of the homeownership program, including acquisition of the public housing project (not including scattered site single family housing of a public housing agency) from a public housing agency for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this title.

"(3) Rehabilitation of any public housing project covered by the homeownership pro-

gram, in accordance with standards established by the Secretary.

"(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

"(5) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 302 for such activities.

"(6) Counseling and training of homebuyers and homeowners under the homeownership program.

"(7) Relocation of tenants who elect to move.

"(8) Any necessary temporary relocation of tenants during rehabilitation.

"(9) Funding of operating expenses and replacement reserves of the project covered by the homeownership program, except that the amount of assistance for operating expenses shall not exceed the amount the project would have received if it had continued to receive such assistance under section 9, with adjustments comparable to those that would have been made under section 9.

"(10) Implementation of a replacement housing plan.

"(11) Legal fees.

"(12) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

"(13) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

"(c) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 25 percent of the grant amount made available under this section, excluding any amounts provided for post-sale operating expenses, shall be provided from non-Federal sources to carry out the homeownership program.

"(2) FORM.—Such contributions may be in the form of—

"(A) cash contributions from non-Federal resources, which may not include Federal tax expenditures or funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

"(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

"(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

"(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

"(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

"(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

"(d) APPLICATION.—

"(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) if applicable, an application for assistance under section 8 of this Act, which shall specify the proposed uses of such assistance and the period during which the assistance will be needed;

"(C) a description of the qualifications and experience of the applicant in providing housing for low-income families;

"(D) a description of the proposed homeownership program, consistent with section 304 and the other requirements of this title, which shall specify the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 304(b);

"(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

"(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

"(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, where applicable, by a resident council or other entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

"(H) if the applicant is not a public housing agency, the proposed sales price, if any, the basis for such price determination, and terms to the applicant;

"(I) the estimated sales prices, if any, and terms to eligible families;

"(J) any proposed restrictions on the resale of units under a homeownership program;

"(K) identification and description of the entity that will operate and manage the property;

"(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of the Cranston-Gonzalez National Affordable Housing Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

"(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

"(2) the feasibility of the homeownership program;

"(3) the extent to which current tenants and other eligible families will be able to afford the purchase;

"(4) the quality and viability of the proposed homeownership program, including the viability of the economic self-sufficiency plan;

"(5) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program;

"(6) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act;

"(7) national geographic diversity among housing for which applicants are selected to receive assistance; and

"(8) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

"(f) LOCATION WITHIN PARTICIPATING JURISDICTIONS.—The Secretary may approve applications for grants under this title only for public housing projects located within the boundaries of jurisdictions—

"(1) which are participating jurisdictions under title III of the Cranston-Gonzalez National Affordable Housing Act; or

"(2) on behalf of which the agency responsible for affordable housing has submitted a housing strategy or plan.

"(g) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for replacement housing and for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

"SEC. 304. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

"(a) IN GENERAL.—A homeownership program under this title shall provide for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

"(b) AFFORDABILITY.—A homeownership program under this title shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property from the public housing agency if the applicant is not a public housing agency, and for sales to eligible families, such that an eligible family shall not be re-

quired to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

"(c) PLAN.—A homeownership program under this title shall provide, and include a plan, for—

"(1) identifying and selecting eligible families to participate in the homeownership program;

"(2) providing relocation assistance to families who elect to move;

"(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the project;

"(4) providing ongoing training and counseling for homebuyers and homeowners; and

"(5) replacing units in eligible projects covered by a homeownership program.

"(d) ACQUISITION AND REHABILITATION LIMITATIONS.—Acquisition or rehabilitation of public housing projects under a homeownership program under this title may not consist of acquisition or rehabilitation of less than the whole public housing project (not including scattered site single family housing of a public housing agency) in a project consisting of more than 1 building. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

"(e) FINANCING.—

"(1) IN GENERAL.—The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

"(2) PROHIBITION AGAINST PLEDGES.—Property transferred under this title shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

"(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

"(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

"(C) any debt obligation can be serviced from project income, including operating assistance; and

"(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this title.

"(3) OPPORTUNITY TO CURE.—Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

"(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

"(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

"(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purposes of this title.

"(g) REPLACEMENT PLAN.—Public housing projects shall not be transferred under this title unless the Secretary has entered into a binding agreement with the local public housing agency to make available to such agency Federal funding assistance to provide an additional decent, safe, sanitary, and affordable dwelling unit as a replacement for each unit in a public housing project to be transferred. Such replacement housing may consist of—

"(1) the development of new public housing units by the public housing agency in accordance with section 5;

"(2) the rehabilitation of vacant public housing units by the public housing agency in accordance with section 14(n)(1);

"(3) the use of 5-year, tenant-based rental assistance under section 8(b)(2) and section 8(o)(9);

"(4) the use of a State or local program that is comparable to any of the Federal programs referred to in subparagraphs (A) through (C) as to housing standards, eligibility, and contribution to rent, and provides a term of assistance of not less than 5 years;

"(5) where the applicant is a resident management corporation, resident council, or cooperative association, the acquisition of nonpublicly owned housing units, which the applicant shall operate as rental housing comparable to public housing as to term of assistance, housing standards, eligibility, and contribution to rent; or

"(6) any combination of such methods.

"(h) PROTECTION OF NON-PURCHASING FAMILIES.—

"(1) IN GENERAL.—No tenant residing in a dwelling unit in a public housing project on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this title.

"(2) REPLACEMENT ASSISTANCE.—If the tenant decides not to purchase a unit, or is not qualified to do so, the recipient shall, during the term of any operating assistance under the implementation grant, permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with section 3(a) of this Act or, if an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency shall, to the extent approved in appropriations Acts, offer such tenant (A) a unit in another public housing project, or (B) section 8 assistance for use in other housing.

"(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

"(4) OTHER RIGHTS.—Tenants renting a unit in a project transferred under this title shall have all rights provided to tenants of public housing under this Act.

"SEC. 305. OTHER PROGRAM REQUIREMENTS.

"(a) SALE BY PUBLIC HOUSING AGENCY TO APPLICANT OR OTHER ENTITY REQUIRED.—Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant, the public housing agency shall transfer the project to such other applicant, in accordance with the approved homeownership program.

"(b) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

"(c) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this title, subject to the provisions of this title.

"(d) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of a public housing project under this section, or the purchase of a unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(e) OPERATING SUBSIDIES.—Operating subsidies under section 9 of this Act shall not be available with respect to a public housing project after the date of its sale by the public housing agency.

"(f) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

"(g) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

"(1) IN GENERAL.—

"(A) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

"(B) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

"(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

"(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

"(A) the contribution to equity paid by the family;

"(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

"(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

"(3) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

"(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

"(h) THIRD PARTY RIGHTS.—The requirements under this title regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(i) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of $250,000 from amounts made available under sections 302 and 303 may be used for economic development activities under sections 302(b)(6) and 303(b)(9) for any project.

"(j) TIMELY HOMEOWNERSHIP.—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are consistent with the public housing program and that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(k) CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS AND RESIDENT COUNCILS.—To be eligible to receive a grant under section 303, a resident management corporation or resident council shall demonstrate to the Secretary its ability to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by arranging for management by a qualified management entity.

"(l) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

"(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this title (and any proceeds from financing obtained in accordance with subsection (b) or sales under subsections (f) and (g)(4)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

"(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

"(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

"SEC. 306. DEFINITIONS.

"For purposes of this title:

"(1) The term 'applicant' means the following entities that may represent the tenants of the project:

"(A) A public housing agency (including an Indian housing authority).

"(B) A resident management corporation, established in accordance with requirements of the Secretary under section 20.

"(C) A resident council.

"(D) A cooperative association.

"(E) A public or private nonprofit organization.

"(F) A public body, including an agency or instrumentality thereof.

"(2) The term 'eligible family' means—

"(A) a family or individual who is a tenant in the public or Indian housing project on the date the Secretary approves an implementation grant;

"(B) a low-income family; or

"(C) a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-low income families assisted under any mortgage insurance program administered by either Secretary).

"(3) The term 'homeownership program' means a program for homeownership meeting the requirements under this title.

"(4) The term 'recipient' means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this title.

"(5) The term 'resident council' means any incorporated nonprofit organization or association that—

"(A) is representative of the tenants of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the tenants of the housing.

"SEC. 307. RELATIONSHIP TO OTHER HOMEOWNERSHIP OPPORTUNITIES.

"The program authorized under this title shall be in addition to any other public housing homeownership and management opportunities, including opportunities under section 5(h) and title II of this Act.

"SEC. 308. LIMITATION ON SELECTION CRITERIA.

"In establishing criteria for selecting applicants to receive assistance under this title, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

"SEC. 309. ANNUAL REPORT

The Secretary shall annually submit to the Congress a report setting forth—

"(1) the number, type, and cost of public housing units sold pursuant to this title;

"(2) the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this title;

"(3) the amount and type of financial assistance provided under and in conjunction with this title;

"(4) the amount of financial assistance provided under this title that was needed to ensure continued affordability and meet future maintenance and repair costs; and

"(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.".

SEC. 412. AMENDMENT TO SECTION 18 REGARDING DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

(a) OPPORTUNITY TO PURCHASE.—Section 18(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(1)) is amended by striking "disposition" and inserting the following: "disposition, and the tenant councils, resident management corporation, and tenant cooperative, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application,".

(b) APPLICABILITY.—Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended by adding at the end the following new subsection:

"(e) The provisions of this section shall not apply to the disposition of a public housing project in accordance with an approved homeownership program under title III of this Act.".

SEC. 413. RELATED AMENDMENTS TO SECTION 8.

(a) ELIGIBILITY.—The first sentence of section 8(o)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)) is amended by—

(1) striking "or"; and

(2) inserting the following before the period: ", or

"(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act".

(b) REPLACEMENT HOUSING.—

(1) CERTIFICATES.—Section 8(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)) is amended by adding at the end the following new paragraph:

"(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this subsection shall be for a term of not more than 60 months.".

(2) VOUCHERS.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

"(9) The Secretary is authorized to enter into contracts with public housing agencies to provide rental vouchers for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this paragraph shall be for a term of not more than 60 months.".

SEC. 414. RELATED CIAP AMENDMENT.

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is amended by adding at the end the following subsection:

"(n) LIMITATION.—The Secretary shall not make assistance under this section available with respect to a property transferred under title III.".

SEC. 415. LIMITATION ON SECTION 20 RESIDENT MANAGEMENT FINANCIAL ASSISTANCE.

Section 20(f) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION REGARDING ASSISTANCE UNDER HOPE GRANT PROGRAM.—The Secretary may not provide financial assistance under this subsection to any resident management corporation or resident council with respect to which assistance for the development or formation of such entity is provided under title III.".

SEC. 416. EXTENSION OF SECTION 21 HOMEOWNERSHIP PROGRAM AND PROVISION OF TECHNICAL AND OTHER ASSISTANCE.

Section 21(a) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)) is amended—

(1) by striking subparagraph (B) of paragraph (2) and inserting the following new subparagraph:

"(B) The Secretary may provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, by contract or otherwise, training, technical assistance, and educational assistance as the Secretary determines to be necessary to promote homeownership opportunities under this section.";

(2) in paragraph (2)(C), by striking "September 30, 1990." and inserting the following: "the effective date of the regulations implementing title III of this Act. The Secretary may not provide financial assistance under subparagraph (B), after such effective date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of such Act."; and

(3) in paragraph (3)(C), by striking "September 30, 1990." and inserting the following: "the effective date of the regulations implementing title III of this Act. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such effective date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of such title.".

SEC. 417. AMENDMENT TO SECTION 5(h).

(a) IN GENERAL.—Section 5(h) of the United States Housing Act of 1937 (42 U.S.C. 1437c(h)) is amended by adding at the end the following: "Any such sale shall be subject to the restrictions contained in section 304(g).".

(a) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply to applications submitted under section 5(h) of the United States Housing Act of 1937 prior to October 1, 1990.

SEC. 418. IMPLEMENTATION.

Not later than the expiration of the 180-day period beginning on the date that funds authorized under title III of the United States Housing Act of 1937 first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

SEC. 418. APPLICABILITY TO INDIAN PUBLIC HOUSING.

In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subtitle shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that nothing in this title affects the program under section 202 of such Act.

Subtitle B—HOPE for Homeownership of Multifamily Units

SEC. 421. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized to make—

(1) planning grants to enable applicants to develop homeownership programs; and

(2) implementation grants to enable applicants to carry out homeownership programs.

(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this subtitle, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this subtitle $51,000,000 for fiscal year 1991 and $280,000,000 for fiscal year 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 422. PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) preliminary architectural and engineering work;

(5) tenant and homebuyer counseling and training;

(6) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(7) development of security plans; and

(8) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the property;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the property for homeownership;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by

this subtitle in an effective and efficient manner.

SEC. 423. IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this subtitle.

(3) Rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of the assistance provided under this section.

(5) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 322 for such activities.

(6) Counseling and training of homebuyers and homeowners under the homeownership program.

(7) Relocation of tenants who elect to move.

(8) Any necessary temporary relocation of tenants during rehabilitation.

(9) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners of the property covered by the homeownership program and economic development of the neighborhood.

(10) Funding of operating expenses and replacement reserves of the property covered by the homeownership program.

(11) Legal fees.

(12) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(13) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) MATCHING FUNDING.—

(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 33 percent of the grant amounts made available under this section, excluding any amounts provided for post-sale operating expense, shall be provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 8 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing low-income housing;

(D) a description of the proposed homeownership program, consistent with section 324 and the other requirements of this subtitle, specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating the program will comply with the affordability requirements under section 324(b);

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) the proposed sales price, the basis for such price determination, and terms to an entity, if any, that will purchase the property for resale to eligible families;

(I) the proposed sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the feasibility of the homeownership program;

(3) the extent of tenant interest in the development of a homeownership program for the property;

(4) the potential for developing an affordable homeownership program and the suitability of the property for homeownership;

(5) national geographic diversity among housing for which applicants are selected to receive assistance;

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units; and

(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by the subtitle in an effective and efficient manner.

(e) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

SEC. 424. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) IN GENERAL.—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) PLAN.—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the property; and

(4) providing ongoing training and counseling for homebuyers and homeowners.

(d) ACQUISITION AND REHABILITATION LIMITATION.—Acquisition or rehabilitation of a property under a homeownership program under this subtitle may not consist of acquisition or rehabilitation of less than all of the units in the property. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) FINANCING.—

(1) IN GENERAL.—The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

(2) PROHIBITION AGAINST PLEDGES.—Property transferred under this subtitle shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this subtitle.

(3) OPPORTUNITY TO CURE.—Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

(g) PROTECTION OF NONPURCHASING FAMILIES.—

(1) IN GENERAL.—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(2) RENTAL ASSISTANCE.—If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant in that or another property.

(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

SEC. 425. OTHER PROGRAM REQUIREMENTS.

(a) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

(b) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(c) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(d) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(1) IN GENERAL.—

(A) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(e) THIRD PARTY RIGHTS.—The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(f) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of $250,000 from amounts made available under sections 422 and 423 may be used for economic development activities under sections 422(b)(6) and 423(b)(9) for any project.

(g) TIMELY HOMEOWNERSHIP.—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income fami-

lies. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(h) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (c) and (d)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(i) CERTAIN ENTITIES NOT ELIGIBLE.—Any entity that assumes, as determined by the Secretary, a mortgage covering eligible property in connection with the acquisition of the property from an owner under this section must comply with any low-income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

SEC. 426. DEFINITIONS.

For purposes of this subtitle:

(1) The term "applicant" means the following entities that may represent the tenants of the housing:

(A) A resident management corporation established in accordance with the requirements of the Secretary under section 20 of the United States Housing Act of 1937.

(B) A resident council.

(C) A cooperative association.

(D) A public or private nonprofit organization.

(E) A public body (including an agency or instrumentality thereof).

(F) A public housing agency (including an Indian housing authority).

(2) The term "eligible family" means a family or individual—

(A) who is a tenant of the eligible property on the date the Secretary approves an implementation grant; or

(B) whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) The term "eligible property" means a multifamily rental property, containing 5 or more units, that is—

(A) owned or held by the Secretary;

(B) financed by a loan or mortgage held by the Secretary or insured by the Secretary;

(C) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or

(D) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, or a State or local government.

(4) The term "homeownership program" means a program for homeownership under this subtitle.

(5) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(6) The term "low-income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term "recipient" means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(9) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(10) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 427. EXEMPTION.

Eligible property covered by a homeownership program approved under this subtitle shall not be subject to—

(1) the Low-Income Housing Preservation and Resident Homeownership Act of 1990, or

(2) the requirements of section 203 of the Housing and Community Development Amendments of 1978 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

SEC. 428. LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

SEC. 429. AMENDMENT TO NATIONAL HOUSING ACT.

Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by inserting after "Housing Act of 1961," the following: "or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity Through HOPE Act,".

SEC. 430. IMPLEMENTATION.

Not later than the expiration of the 180-day period beginning on the date that funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

SEC. 431. ANNUAL REPORT.

The Secretary shall annually submit to the Congress a report setting forth—

(1) the number, type and cost of eligible properties transferred pursuant to this subtitle;

(2) the income, race, gender, children and other characteristics of families participating (or not participating) in homeownership programs funded under this subtitle;

(3) the amount and type of financial assistance provided under and in conjunction with this subtitle;

(4) the amount of financial assistance provided under this subtitle that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

Subtitle C—HOPE for Homeownership of Single Family Homes

SEC. 441. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized to make—

(1) planning grants to help applicants develop homeownership programs in accordance with this subtitle; and

(2) implementation grants to enable applicants to carry out homeownership programs in accordance with this subtitle.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this subtitle $36,000,000 for fiscal year 1991, and $195,000,000 for fiscal year 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 442. PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) identifying eligible properties;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of specific homeownership programs;

(4) preliminary architectural and engineering work;

(5) homebuyer counseling and training;

(6) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(7) development of security plans; and

(8) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible properties likely to be involved, and a description of the composition of the potential homebuyers and residents of the

areas in which such eligible properties are located, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of interest in the development of a homeownership program;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the availability and suitability of eligible properties in the applicable geographic area with respect to the application;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

SEC. 443. IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (which may include programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the property for the purpose of transferring ownership to eligible families in accordance with a homeownership program meeting the requirements of this subtitle.

(3) Rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(5) Counseling and training of homebuyers and homeowners under the homeownership program.

(6) Relocation of eligible families who elect to move.

(7) Any necessary temporary relocation of homebuyers during rehabilitation.

(8) Legal fees.

(9) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(10) Economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program.

(c) MATCHING FUNDING.—

(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 33 percent of the grant amounts under this section are provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(E) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) a description of the qualifications and experience of the applicant in providing low-income housing;

(C) a description of the proposed homeownership program, consistent with section 444 and the other requirements of this subtitle specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 444(b);

(D) an identification and description of the properties to be acquired under the homeownership program and a description of the composition of potential eligible families, including family size and income;

(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(F) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the project, where applicable, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(G) the proposed sales prices for the properties, the basis for such price determinations, and terms to an entity, if any, that will purchase that property for resale to eligible families;

(H) the proposed sales prices, if any, and terms to eligible families;

(I) identification and description of the entity that will operate and manage the property;

(J) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this subtitle, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the qualifications and experience of the applicant and the quality of any related ongoing program of the applicant;

(2) the feasibility of the homeownership program;

(3) the quality and viability of the proposed homeownership program;

(4) the extent to which suitable eligible property is available for use under the program in the area to be served, and the extent to which the types of property expected to be covered by the proposed homeownership program are federally owned;

(5) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act;

(6) national geographic diversity among housing for which applicants are selected to receive assistance; and

(7) the extent to which a sufficient supply of affordable rental housing of the type assisted under this subtitle exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved.

SEC. 444. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) IN GENERAL.—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership)

and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) ELIGIBLE PROPERTY.—A property may not participate in a homeownership program under this subtitle unless all tenants or occupants of the property (at the time of the application for the implementation grant covering the property is filed with the Secretary) participate in the homeownership program.

(d) PLAN.—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move; and

(3) ensuring continued affordability of the property to homebuyers and homeowners.

(e) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

SEC. 445. OTHER PROGRAM REQUIREMENTS.

(a) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(b) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—Any entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(c) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(1) IN GENERAL.—

(A) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(d) THIRD PARTY RIGHTS.—The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(e) PROTECTION OF NONPURCHASING FAMILIES.—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(h) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (b) and (c)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

SEC. 446. DEFINITIONS.

For purposes of this subtitle:

(1) The term "applicant" means a private nonprofit organization, cooperative association, or a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term "displaced homemaker" has the same meaning as in section 104.

(3) The term "eligible family" means a family or individual who—

(A) has an income that does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families; and

(B) is a first-time homebuyer.

(4) The term "eligible property" means a single family property, containing no more than four units, that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, a State or local government (including any in rem property), or a public housing agency or an Indian housing authority (including scattered site single family properties, and properties held by institutions within the jurisdiction of the Resolution Trust Corporation).

(5) The term "first-time homebuyer" has the same meaning as in section 104.

(6) The term "homeownership program" means a program for homeownership under this subtitle.

(7) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(8) The term "low-income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(9) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(10) The term "recipient" means an applicant approved to receive a grant under this subtitle or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

SEC. 447. LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

SEC. 448. IMPLEMENTATION.

Not later than the expiration of the 180-day period beginning on the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

TITLE V—HOUSING ASSISTANCE

Subtitle A—Public and Indian Housing

SEC. 501. PREFERENCE RULES.

Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended to read as follows:

"(A) except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this subparagraph would result in excessive delays in meeting the housing need of such families, the establishment of tenant selection criteria which—

"(i) for not less than 70 percent of the units that are made available for occupancy in a given fiscal year, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this Act;

"(ii) for any remaining units to be made available for occupancy, give preference in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (V) achieving other objectives of national housing policy as affirmed by Congress;

"(iii) prohibit any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist); and

"(iv) are designed to ensure that, to the maximum extent feasible, the projects of an agency will include families with a broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems.".

SEC. 502. REFORM OF PUBLIC HOUSING MANAGEMENT.

(a) PERFORMANCE INDICATORS FOR PUBLIC HOUSING AGENCIES.—Section 6(j) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)) is amended to read as follows:

"(j)(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies. The indicators shall be established by rule under section 553 of title 5, United States Code. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies in all major areas of management operations. The Secretary shall, in particular, use the following indicators:

"(A) The number and percentage of vacancies within an agency's inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies.

"(B) The amount and percentage of funds obligated to the public housing agency under section 14 of this Act which remain unexpended after 3 years.

"(C) The percentage of rents uncollected.

"(D) The energy consumption (with appropriate adjustments to reflect different regions and unit sizes).

"(E) The average period of time that an agency requires to repair and turn-around vacant units.

"(F) The proportion of maintenance work orders outstanding, including any progress that an agency has made during the preceding 3 years to reduce the period of time required to complete maintenance work orders.

"(G) The percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments, if any, for large and small agencies).

"(H) Any other factors as the Secretary deems appropriate.

"(2)(A)(i) The Secretary shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate. The Secretary shall also designate, by rule under section 553 of title 5, United States Code, agencies that are troubled with respect to the program under section 14.

"(ii) The Secretary may also, in consultation with national organizations representing public housing agencies and public officials (as the Secretary determines appropriate), identify and commend public housing agencies that meet the performance standards established under paragraph (1) in an exemplary manner.

"(iii) The Secretary shall establish procedures for public housing agencies to appeal designation as a troubled agency (including designation as a troubled agency for purposes of the program under section 14), to petition for removal of such designation, and to appeal any refusal to remove such designation.

"(B) The Secretary shall seek to enter into an agreement with each troubled public housing agency setting forth—

"(i) targets for improving performance as measured by the performance indicators specified under paragraph (1) and other requirements within a specified period of time;

"(ii) strategies for meeting such targets, including a description of the technical assistance that the Secretary will make available to the agency; and

"(iii) incentives or sanctions for effective implementation of such strategies, which may include any constraints on the use of funds that the Secretary determines are appropriate.

The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

"(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary may—

"(i) solicit competitive proposals from other public housing agencies and private housing management agents in the eventuality that these agents may be needed for managing all, or part, of the housing administered by a public housing agency;

"(ii) petition for the appointment of a receiver (which may be another public housing agency or a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection; and

"(iii) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents for managing all, or part of, such housing.

"(B) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

"(C) The appointment of a receiver pursuant to this subsection may be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the public housing agency will thereafter be operated in accordance with the covenants and conditions to which the public housing agency is subject.

"(4) The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report that—

"(A) identifies the public housing agencies that have been designated as troubled under paragraph (2);

"(B) describes the grounds on which such public housing agencies were designated as troubled and continue to be so designated;

"(C) describes the agreements that have been entered into with such agencies under such paragraph;

"(D) describes the status of progress under such agreements;

"(E) describes any action that has been taken in accordance with paragraph (3); and

"(F) describes the status of any public housing agency designated as troubled with respect to the program under section 14 and specifies the amount of assistance the agency received under section 14 and any credits accumulated by the agency under section 14(k)(5)(D).".

(b) REPORT ON TRAINING AND CERTIFICATION STANDARDS.—The Secretary shall submit to the Congress, not later than 12 months after the date of the enactment of this Act, a report regarding the feasibility and effectiveness of establishing uniform standards for training and certification of executive directors and other officers and members of local, regional, and State public housing agencies.

(c) PROJECT-BASED ACCOUNTING SYSTEMS.—

(1) IN GENERAL.—Section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)) is amended—

(A) in subparagraph (C) by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) except in the case of agencies not receiving operating assistance under section 9, the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) for each project or operating cost center (as determined by the Secretary), which collections and costs shall be made available to the general public and submitted to the appropriate local public official (as determined by the Secretary); except that the Secretary may permit agencies owning or operating less than 250 units to comply with the requirements of this subparagraph by accounting on an agency-wide basis.".

(2) IMPLEMENTATION.—The Secretary of Housing and Urban Development shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish guidelines and timetables appropriate to implement the amendment made by paragraph (1)(C), taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with requirements established by such amendment not later than January 1, 1993.

(c) REPORT.—

(1) IN GENERAL.—Within 180 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report on the operation and efficiency of the Buffalo Municipal Housing Authority using, among other criteria, the performance indicators under section 6(j)(1) of the United States Housing Act of 1937 (as amended by this section), and giving special attention to such Authority's desegregation program and to the vacancy rate.

(2) SPECIFIC RECOMMENDATIONS.—For purposes of the report required by paragraph (1), the Secretary may specifically determine whether to—

(A) petition for the appointment of a receiver for the Buffalo Municipal Housing Authority under the provisions of section 6(j)(3) of the United States Housing Act of 1937 (as amended by this section); or

(B) reduce operating subsidies for such Authority under the provisions of section 9 of the United States Housing Act of 1937.

SEC. 503. EVICTION AND TERMINATION PROCEDURES.

(a) GRIEVANCE PROCEDURE.—Section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) is amended by striking the matter after the period at the end of paragraph (6) and inserting the following:

"For any grievance concerning an eviction or termination of tenancy that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the public housing agency or any drug-related criminal activity on or near such premises, the agency may (A) establish an expedited grievance procedure as the Secretary shall provide by rule under section 553 of title 5, United States Code, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process (which the Secretary shall establish by rule under section 553 of title 5, United States Code). Such elements of due process shall not include a requirement that the tenant be provided an opportunity to examine relevant documents within the possession of the public housing agency. The agency shall provide to the tenant a reasonable opportunity, prior to hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.".

(b) LEASES.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by inserting after paragraph (5), the following new paragraph:

"(6) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue, and publish in the Federal Register for comment, proposed rules implementing the amendments made by this section not later than the expiration of the 60-day period beginning on the date of the enactment of this Act and shall issue final rules implementing the amendments not later than the expiration of the 180-day period beginning on the date of the enactment of this Act.

(d) APPLICABILITY.—Any exclusion of grievances by a public housing agency pursuant to a determination or waiver by the Secretary (under section 6(k) of the United States Housing Act of 1937, as such section existed before the date of the enactment of this Act) that a jurisdiction requires a hearing in court providing the basic elements of due process shall be effective after the date of the enactment of this Act only to the extent that the exclusion complies with the amendments made by this section, except that any such waiver provided before the date of the enactment of this Act shall remain in effect until the earlier of the effective date of the final rules implementing the amendments made by this section or 180 days after the date of the enactment.

SEC. 504. LEASE REQUIREMENTS REGARDING TERMINATION OF TENANCY IN PUBLIC HOUSING.

Section 6(l)(5) of the Housing Act of 1937 (42 U.S.C. 1437d(l)(5)) is amended to read as follows:

"(5) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or near such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy; and".

SEC. 505. NOTICE TO POST OFFICE REGARDING EVICTION FOR CRIMINAL ACTIVITY.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by adding at the end the following subsection:

"(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.".

SEC. 506. PUBLIC HOUSING ASSISTANCE FOR FOSTER CARE CHILDREN.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(o) Subject to the preference rules specified in subsection (c)(4)(A), in providing housing in low-income housing projects, each public housing agency may coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to—

"(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

"(A) in the imminent placement of a child in foster care; or

"(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

"(2) youth, upon discharge from foster care, in cases in which return to the family

or extended family or adoption is not available.".

SEC. 507. PUBLIC HOUSING OPERATING SUBSIDIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 9(c) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended to read as follows:

"(c) There are authorized to be appropriated for purposes of providing annual contributions under this section $2,000,000,000 for fiscal year 1991 and $2,086,000,000 in fiscal year 1992.".

(b) SERVICES AND COORDINATORS AS ELIGIBLE COST.—Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after the paragraph designation;

(B) in the second sentence, by redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(C) by adding at the end the following new subparagraph:

"(B) Annual contributions under this section to any public housing agency for any project with a sufficient number residents who are frail elderly or persons with disabilities may be used, with respect to such project, for (i) the cost of a management staff member to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to residents of the project who are frail elderly or persons with disabilities to enable such residents to live independently and prevent placement in nursing homes or institutions; and (ii) expenses for the provision of services for such residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services, except that not more than 15 percent of the cost of the provision of such services may be provided under this section. For purposes of this subparagraph, the term 'frail elderly' shall have the meaning given the term under section 202(d) of the Housing Act of 1959, except that such term does not include any person receiving assistance provided under the Congregate Housing Services Act of 1978, and the term 'persons with disabilities' shall have the meaning given the term under section 811 of the Cranston-Gonzalez National Affordable Housing Act)"; and

(2) in paragraph (3), by inserting before the first comma the following: "(except for payments under paragraph (1)(B))".

SEC. 508. COOLING DEGREE DAY ADJUSTMENT UNDER PERFORMANCE FUNDING SYSTEM.

In determining the Performance Funding System utility subsidy for public housing agencies pursuant to section 9 of the United States Housing Act of 1937, the Secretary of Housing and Urban Development shall include a cooling degree day adjustment factor. The method by which a cooling degree day adjustment factor is included shall be identical to the method by which the heating degree day adjustment factor is included.

SEC. 509. FORMULA ALLOCATION OF MODERNIZATION FUNDING.

(a) FORMULA ALLOCATION TO AGENCIES WITH 500 OR MORE UNITS.—

(1) IN GENERAL.—Section 14(k) of the United States Housing Act of 1937 (42 U.S.C. 1437l(k)) is amended to read as follows:

"(k)(1) From amounts approved in appropriation Acts for grants under this section for fiscal year 1992 and each fiscal year thereafter, and to the extent provided by such Acts, the Secretary shall reserve not more than $75,000,000 (including unused amounts reserved during previous fiscal years), which shall be available for modernization needs resulting from natural and other disasters and from emergencies. Amounts provided for emergencies shall be repaid by public housing agencies from future allocations of assistance under paragraph (2), where available.

"(2)(A) After determining the amounts to be reserved under paragraphs (1) and (5)(D)(iv), the Secretary shall allocate the amount remaining pursuant to a formula contained in a regulation prescribed by the Secretary, which shall be designed to measure the relative needs of public housing agencies. The formula shall take into account amounts previously made available by the Secretary for modernization under this section and for major reconstruction of obsolete projects, to the extent determined appropriate by the Secretary.

"(B) The Secretary shall allocate half of the amount allocated under this paragraph based on the relative backlog needs of public housing agencies, determined—

"(i) for individual public housing agencies with 500 or more units and for the aggregate of agencies with fewer than 500 units, where the data are statistically reliable, on the basis of the most recently available, statistically reliable data regarding the (I) backlog of needed repairs and replacements of existing physical systems in public housing projects, (II) items that must be added to projects to meet the modernization standards of the Secretary (referred to in subsection (e)(1)(A)(ii)(I)) and State and local codes, and (III) items that are necessary or highly desirable for the long-term viability of a project; or

"(ii) for individual public housing agencies with 500 or more units, where such data are not statistically reliable, on the basis of estimates of the categories of backlog specified in clause (i) using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding—

"(I) the average number of bedrooms in the units in a project;

"(II) the proportion of units in a project available for occupancy by very large families;

"(III) the extent to which units for families are in high-rise elevator projects;

"(IV) the age of the projects;

"(V) in the case of a large agency, as determined by the Secretary, the number of units with 2 or more bedrooms;

"(VI) the cost of rehabilitating property in the area;

"(VII) for family projects, the extent of population decline in the unit of general local government determined on the basis of the 1970 and 1980 censuses; and

"(VIII) any other factors the Secretary determines are appropriate.

The Secretary may not establish or amend any criteria regarding the backlog needs of public housing agencies under this subparagraph, except by rule as provided under section 553 of title 5, United States Code.

"(C) The Secretary shall allocate the other half of the amount allocated under this paragraph based on the relative accrued needs of public housing agencies for the categories of need specified in subparagraphs (B)(i)(I) and (II), determined—

"(i) for individual public housing agencies with 500 or more units and for the aggregate of agencies with fewer than 500 units, where the data are statistically reliable, on the basis of the needs that are estimated to have accrued since the date of the last objective measurement of backlog needs under subparagraph (B); or

"(ii) for individual public housing agencies with 500 or more units, where the estimates under clause (i) are not statistically reliable, on the basis of estimates of accrued need using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding—

"(I) the average number of bedrooms of the units in a project;

"(II) the proportion of units in a project available for occupancy by very large families;

"(III) the age of the projects;

"(IV) the extent to which the buildings in projects of an agency average fewer than 5 units;

"(V) the cost of rehabilitating property in the area;

"(VI) the total number of units of each agency that owns or operates 500 or more units; and

"(VII) any other factors the Secretary determines are appropriate.

The Secretary may not establish or amend any criteria regarding the accrual needs of public housing agencies under this subparagraph, except by rule as provided under section 553 of title 5, United States Code.

"(D)(i) In determining how many units an agency owns or operates and the relative modernization needs of agencies, the Secretary shall count each existing unit under the annual contributions contract, except that an existing unit under the turnkey III and the mutual help programs may be counted as less than one unit, to take into account the responsibility of families for the costs of certain maintenance and repair. For purposes of this section, an agency that qualifies to receive a formula grant under paragraph (4) may elect to continue to qualify to receive a formula grant if it owns or operates at least 400 public housing units.

"(ii) Where an existing unit under a contract is demolished or disposed of, the Secretary shall not adjust the amount the agency receives under the formula unless more than one percent of the units are affected on a cumulative basis. Where more than one percent of the units are demolished or disposed of, the Secretary shall reduce the formula amount for the agency over a 3-year period to reflect removal of the units from the contract.

"(iii) The Secretary shall determine whether the data under subparagraphs (B) and (C) are statistically reliable.

"(3) The amount determined under the formula for agencies with fewer than 500 units shall be allocated in accordance with subsection (d).

"(4) The amount determined under the formula for each agency that owns or operates 500 or more units shall be allocated to each qualifying agency in accordance with subsection (e).

"(5)(A) With respect to any agency that is designated as a troubled agency with respect to the program under this section upon the initial designation of such troubled agencies under section 6(j)(2)(A)(i), the Secretary shall limit the total amount of funding under this section for the agency for fiscal year 1992 and any fiscal year thereafter, if

the agency remains designated as a troubled agency, to the sum of—

"(i) the average of the amount that the troubled agency received for modernization activities under this section and for major reconstruction of obsolete projects for each of fiscal years 1989, 1990, and 1991, which average shall be adjusted to take into account changes in the cost of rehabilitating property; plus

"(ii) 25 percent of the difference between the amount determined under clause (i) and the amount that would be allocated to the agency in such fiscal year if the agency were not designated as a troubled agency.

"(B) In any fiscal year the Secretary may, pursuant to the request of a troubled agency, increase the amount allocated to the agency under subparagraph (A) to an amount not exceeding the amount that would be allocated to the agency in such fiscal year if the agency were not a troubled agency. An increase under this subparagraph shall be based on the agency's progress toward meeting the performance indicators under section 6(j)(1). The Secretary shall render a decision in writing on each such request not later than 75 days after receipt of the request and any necessary supporting documentation.

"(C) For any fiscal year, any amounts that would have been allocated to an agency under the formula under paragraph (2) that are not allocated to the agency because the agency receives the amount provided under subparagraph (A) of this paragraph, shall be allocated in such year pursuant to the formula to other agencies with 500 or more units.

"(D) The Secretary shall carry out a credit system under this subparagraph to provide agencies that receive allocations under subparagraph (A) with additional assistance under this section after the agency is determined not to be a troubled agency, to compensate for amounts not received because of the troubled agency designation. The credit system shall be subject to the following requirements:

"(i) Any agency that receives assistance pursuant to subparagraph (A) for any fiscal year shall receive credits for the difference between the amount that the agency would have been allocated in such year if it were not designated a troubled agency and the amount allocated for the agency for such year under subparagraph (A).

"(ii) An agency may not receive credits under this subparagraph for more than 3 consecutive fiscal years.

"(iii) After a 3-year period during which an agency has accrued credits, the credits accrued by the agency shall be—

"(I) decreased by 10 percent of the total credits accumulated if the designation as a troubled agency is not removed before the conclusion of the first fiscal year after such 3-year period of accrual of credits;

"(II) decreased by an additional 20 percent of the original total accumulated credits if the designation as a troubled agency is not removed before the conclusion of the second fiscal year after such 3-year accrual period;

"(III) decreased by an additional 30 percent of the original total accumulated credits if the designation as a troubled agency is not removed before the conclusion of the third fiscal year after such 3-year accrual period; and

"(IV) eliminated if the designation as a troubled agency is not removed before the conclusion of the fourth fiscal year after such 3-year accrual period.

"(iv) After a determination by the Secretary that an agency is not a troubled agency, the Secretary shall provide the agency with amounts made available under this clause in accordance with the amount of credits accumulated by the agency (subject to the reductions under clause (iii)). Such amounts shall be provided in addition to the amounts allocated to the agency pursuant to the formula under paragraph (2). In each fiscal year, the Secretary shall reserve from amounts available for allocation under paragraph (2)(A) the amount necessary to provide assistance pursuant to such credits, except that the reserved amount may not exceed 5 percent of the total amount available for allocation under such paragraph.

"(v) In making payments for accrued credits in accordance with clause (iv), the Secretary may take into account the ability of the agency to expeditiously expend amounts received for credits.

"(E) The Secretary shall, by regulation, establish special rules for limiting the amount of assistance provided under this section to agencies that become troubled after the date of the initial designation of troubled agencies under section 6(j)(2)(A)(i). The rules may provide for a credit system based on the system established under this paragraph.

"(6) Any amounts (A) allocated under paragraph (4) that become available for reallocation because an agency does not qualify to receive all or a part of its formula allocation due to failure to comply with the requirements of this section (other than because of designation as a troubled agency), and (B) recaptured by the Secretary for good cause, shall (subject to approval in appropriations Acts) be reallocated by the Secretary in the next fiscal year to other housing agencies that own or operate 500 or more units, based on their relative needs. The relative needs of agencies shall be measured by the formula established pursuant to paragraph (2)(A).

"(7) A public housing agency may appeal the amount of its allocation determined under the formula on the basis of unique circumstances or on the basis that the objectively measurable data regarding the agency, community, and project characteristics used for determining the formula amount were not correct.

"(8) Amounts allocated to a public housing agency under paragraph (3) or (4) may be used for any eligible activity in accordance with this section, notwithstanding that the allocation amount is determined by allocating half based on relative backlog needs and half based on relative accrued needs of agencies.".

(2) CONFORMING AMENDMENTS.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is amended—

(A) in subsection (e)(3)(A), by striking the second sentence; and

(B) in subsection (h)—

(i) in the matter preceding paragraph (1), by inserting after "subsection (b)" the following: "to a public housing agency that owns or operates fewer than 500 public housing dwelling units"; and

(ii) in paragraph (2), by striking "or (e)".

(b) REMOVAL OF CERTAIN REQUIREMENTS FOR AGENCIES WITH FEWER THAN 500 UNITS.—Section 14(d)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437l(d)(4)) is amended—

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking the semicolon at the end of subparagraph (B) and inserting a period; and

(3) by striking subparagraphs (C), (D), and (E).

(c) LIMITATION OF SPECIAL PURPOSE MODERNIZATION TO AGENCIES WITH FEWER THAN 500 UNITS.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is amended—

(1) in subsection (f)(2)(B), by striking "and to meet special purpose needs described in section 14(i)(1)(D)"; and

(2) in the first sentence of subsection (i)(1), by striking "In addition" and all that follows through the third comma and inserting the following: "In addition to assistance made available under subsection (b) to a public housing agency that owns or operates fewer than 500 public housing dwelling units, the Secretary may, without regard to the requirements of subsection (c), (d), (f), (g), or (h),".

(d) SPECIAL PURPOSE MANAGEMENT MODERNIZATION FOR AGENCIES WITH FEWER THAN 500 UNITS.—Section 14(i)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437l(i)(1)) is amended—

(1) in subparagraph (C), by striking "or" at the end;

(2) in subparagraph (D)(ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) management improvement needs which (i) would not otherwise be eligible for assistance under this section, and (ii) pertain to any low-income housing project other than a project assisted under section 8.".

(e) ESTABLISHMENT OF 250-UNIT THRESHOLD BEGINNING IN FISCAL YEAR 1993.—

(1) IN GENERAL.—Effective October 1, 1992, section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l), as amended by this section, is further amended by striking "500" and inserting "250" in each of the following places:

(A) The first sentence of subsection (d).

(B) In subsection (e), the first sentence of each of paragraphs (1), (3)(A), (4)(A) and (4)(C).

(C) Subsections (f)(1) and (f)(2).

(D) Subsection (h).

(E) The first sentence of subsection (i)(1).

(F) In subsection (k), in paragraphs (2)(B)(i), (2)(B)(ii), (2)(C)(i), (2)(C)(ii), (3), (4), (5)(B), and (6).

(G) Subsection (l)(2).

(2) EXCEPTION.—Effective October 1, 1992, section 14(k)(2)(D)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437l(k)(2)(D)(i)) , as amended by this section, is further amended by striking "400" and inserting "200".

(f) TRANSITION.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(o) Any amount that the Secretary has obligated to a public housing agency under this section other than pursuant to the program established under subsection (e), shall be used for the purposes for which such amount was provided, or for purposes consistent with an action plan submitted by the agency under subsection (e) and approved by the Secretary, as the agency determines to be appropriate.".

(g) SECTION HEADING.—The section heading of section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is amended to read as follows:

"PUBLIC AND INDIAN HOUSING MODERNIZATION".

(h) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall implement the amendments made by this section by rule under section 553 of title 5, United States Code. The Secretary shall consult with the Congress, public housing agencies, and professional organizations representing public housing agencies before publishing a proposed rule pursuant to such section. The proposed rule shall be published not later than the expiration of the 120-day period beginning on the date of the enactment of this Act.

(2) ALLOCATION FORMULA.—The Secretary of Housing and Urban Development shall establish the allocation formula under section 14(k)(2)(A) of the United States Housing Act of 1937, as amended by subsection (a) of this section, by rule under section 553 of title 5, United States Code. In publishing a proposed rule regarding the formula pursuant to such section 553, the Secretary shall describe—

(A) the analytic basis for the formula;

(B) the weight assigned to the various criteria contained in the formula pursuant to such section 14(k)(2);

(C) deductions from the formula share for amounts received for modernization activities under section 14 and major reconstruction of obsolete projects; and

(D) any other information the Secretary determines is appropriate.

(3) ALTERNATIVE FORMULAS.—When publishing the proposed rule required under paragraph (2), the Secretary of Housing and Urban Development may, at the discretion of the Secretary, publish alternative formulas, identifying the weights assigned to the various criteria under the formulas, and explaining the differences in operation and objectives of the alternative formulas.

(i) REPORTS TO CONGRESS.—

(1) INDEPENDENT EVALUATION—The Secretary of Housing and Urban Development shall enter into a contract providing for the independent evaluation of the modernization program authorized under section 14 of the United States Housing Act of 1937, as amended by this section, and shall submit to the Congress a report on the results of the evaluation within 3 years after the initial allocation of assistance by formula under such section 14.

(2) MODIFICATIONS.—The Secretary shall submit a report to Congress, within 2 years after the date of enactment of this Act, recommending any changes to such section 14 that the Secretary determines are appropriate to take into account the relative needs of public housing agencies for assistance to carry out lead-based paint testing and abatement activities. The Secretary shall not adopt any changes to the formula for this purpose except by law.

SEC. 510. REDUCTION OF VACANCIES IN PUBLIC HOUSING UNITS.

(a) IN GENERAL.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(p)(1) The Secretary shall require any public housing agency that has a vacancy rate among dwelling units owned or operated by the agency that exceeds twice the average vacancy rate among all agencies or that is designated as a troubled agency under section 6(j), to participate in the vacancy reduction program under this subsection.

"(2) Each public housing agency participating in the program under this subsection shall develop and submit to the Secretary a vacancy reduction plan regarding vacancies in units owned or operated by the agency. The plan shall include statements (A) identifying vacant dwelling units administered by the agency and explaining the reasons for the vacancies, (B) describing the actions to be taken by the agency during the following 5 years to eliminate the vacancies, (C) identifying any impediments that will prevent elimination of the vacancies within the 5-year period, (D) identifying any vacant units subject to modernization, reconstruction, demolition, and disposition activities that have been funded or approved, (E) identifying any vacant dwelling units that are eligible for comprehensive modernization, major reconstruction, demolition, or disposition but have not been funded or approved for such activities and are not likely to be funded or approved for at least 3 years and estimating the amount of assistance necessary to complete the modernization, major reconstruction, demolition, or disposition of such units, (F) identifying any vacant units not identified under subparagraphs (E) and (F) and describing any appropriate activities relating to elimination of the vacancies in such units and estimating the amount of assistance necessary to carry out the activities, and (G) setting forth an agenda for implementation of management improvements (including, as appropriate, improvements recommended by the assessment team pursuant to paragraph (3)(C)) during the first fiscal year beginning after submission of the plan and including an estimate of the amount of assistance necessary to implement the improvements.

"(3)(A) In cooperation with each agency participating in the program under this subsection, the Secretary shall provide for onsite assessment of the vacancy situation of the agency by a team of knowledgeable observers. The assessment team shall include representatives of the Department of Housing and Urban Development and an equal number of independent experts knowledgeable with respect to vacancy problems and management issues relating to public housing, who shall be selected by the Secretary. The assessment team shall assess the vacancy situation of the agency to determine the causes of the vacancies, including any management deficiencies or modernization activities.

"(B) The assessment team shall also examine indicators of the management performance of the agency relating to vacancy, which shall include consideration of the performance of the agency as measured by the indicators under subparagraphs (A) and (E) of section 6(j)(1).

"(C) The assessment team shall submit to the agency and the Secretary written recommendations for management improvements to eliminate or alleviate management deficiencies, and may assist the agency in preparing the vacancy reduction plan under paragraph (2), including determining appropriate actions to eliminate vacancies.

"(4) The Secretary shall, to the extent approved in appropriations Acts, provide assistance under this subsection to public housing agencies submitting vacancy reduction plans for reasonable costs of—

"(A) implementing management improvements;

"(B) rehabilitating vacant dwelling units identified in the statement under paragraph (2); and

"(C) carrying out vacancy reduction activities described in the statement under paragraph (2).

"(5) Of any amounts available for allocation under this section to large public housing agencies pursuant to subsection (k)(2), not more than $105,000,000 shall be available in fiscal year 1991 and not more than $220,000,000 shall be available in fiscal year 1992 for carrying out this subsection.".

SEC. 511. INCOME ELIGIBILITY FOR PUBLIC HOUSING.

Section 16(b) of the United States Housing Act of 1937 (42 U.S.C. 1437n(b)) is amended—

(1) by striking "(b) Not" and inserting "(b)(1) Not";

(2) by striking "5 per centum" and inserting "15 percent"; and

(3) by adding at the end the following new paragraph:

"(2) Not more than 25 percent of the dwelling units in any project of any agency shall be available for occupancy by low-income families other than very low-income families. The limitation shall not apply in the case of any project in which, before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, such low-income families occupy more than 25 percent of the dwelling units.".

SEC. 512. SCATTERED-SITE PUBLIC HOUSING DISPOSITION PROCEEDS.

(a) IN GENERAL.—Section 18(a)(2)(B)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437p(a)(2)(B)(i)) is amended by inserting before the first comma the following: ", which, in the case of scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition".

(b) APPLICABILITY.—The amendment made by this section shall apply to any scattered-site public housing project or portion of such project disposed of after the date of the enactment of this Act.

SEC. 513. REPLACEMENT HOUSING.

(a) DEMONSTRATION PROGRAM.—

(1) AUTHORITY.—The Secretary of Housing and Urban Development (in this subsection referred to as the "Secretary") shall carry out a program to demonstrate the effectiveness of replacing public housing dwelling units eligible for demolition or disposition with 5-year certificate assistance provided under section 8 of the United States Housing Act of 1937.

(2) SCOPE.—The Secretary shall carry out the demonstration only with respect to public housing dwelling units owned or operated by the public housing authority for the City of Saint Louis, in the State of Missouri, that before the termination of the demonstration program under this subsection are approved for demolition or disposition.

(3) REQUIREMENTS.—

(A) SECTION 8 ASSISTANCE.—Notwithstanding the provisions of section 18(b)(3)(A) of the United States Housing Act of 1937, under the demonstration program the Secretary may approve the demolition or disposition of public housing dwelling units and provide assistance for replacement of each such dwelling unit through the use of assistance under section 8 of such Act in the form of a 5-year certificate under such section 8(b).

(B) TENANT-BASED ASSISTANCE.—Notwithstanding the provisions of section 18(b)(3)(B) of the United States Housing Act of 1937, the 5-year section 8 assistance provided under this section may be tenant-based if such public housing authority shows, to the satisfaction of the Secretary, that an adequate supply of private rental

housing affordable to low-income families is available in the market area for the 5-year period (at rents at or below the fair market rental for the area).

(C) APPLICABILITY OF OTHER SECTION 18 PROVISIONS.—Except as provided under subparagraphs (A) and (B), the provisions of section 18 of the United States Housing Act of 1937 shall apply to any public housing dwelling units demolished or disposed under the demonstration under this subsection.

(4) TERMINATION.—The demonstration program under this subsection shall terminate at the end of September 30, 1992.

(b) BUDGET REQUEST.—Section 18(c)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437p(c)(2)) is amended by inserting after the period at the end the following: "As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall submit to the Congress a report—

"(A) outlining the commitments the Secretary entered into during the preceding year to fund plans approved under subsection (b)(3); and

"(B) specifying, by fiscal year, the budget authority required to carry out the commitments specified in subparagraph (A).".

(c) REPEALER.—Section 18(c)(3) of the United States Housing Act of 1937 (42 U.S.C 1437p(c)(3)) is repealed.

SEC. 514. PUBLIC HOUSING RESIDENT MANAGEMENT.

Section 20(f)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)(3)) is amended to read as follows:

"(3) FUNDING.—Of amounts made available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than $5,000,000 for each of fiscal years 1991 and 1992.".

SEC. 515. PUBLIC HOUSING FAMILY INVESTMENT CENTERS.

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"FAMILY INVESTMENT CENTERS

"SEC. 22. (a) PURPOSE.—The purpose of this section is to provide families living in public housing with better access to educational and employment opportunities to achieve self-sufficiency and independence by—

"(1) developing facilities in or near public housing for training and support services;

"(2) mobilizing public and private resources to expand and improve the delivery of such services;

"(3) providing funding for such essential training and support services that cannot otherwise be funded; and

"(4) improving the capacity of management to assess the training and service needs of families with children, coordinate the provision of training and services that meet such needs, and ensure the longterm provision of such training and services.

"(b) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary may make grants to public housing agencies to adapt public housing to help families living in the public housing gain better access to educational and job opportunities to achieve self-sufficiency and independence. Assistance under this section may be made available only to public housing agencies that demonstrate to the satisfaction of the Secretary that supportive services (as such term is defined under subsection (j) will be made available. Facilities assisted under this section shall be in or near the premises of public housing.

"(2) SUPPLEMENTAL GRANT SET-ASIDE.—The Secretary may reserve not more than 5 percent of the amounts available in each fiscal year under this section to supplement grants awarded to public housing agencies under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

"(c) USE OF AMOUNTS.—Amounts received from a grant under this section may only be used for—

"(1) the renovation, conversion, or combination of vacant dwelling units in a public housing project to create common areas to accommodate the provision of supportive services;

"(2) the renovation of existing common areas in a public housing project to accommodate the provision of supportive services;

"(3) the renovation of facilities located near the premises of 1 or more public housing projects to accommodate the provision of supportive services;

"(4) the provision of not more than 15 percent of the cost of any supportive services (which may be provided directly to eligible residents by the public housing agency or by contract or lease through other appropriate agencies or providers) only if the public housing agency demonstrates to the satisfaction of the Secretary that—

"(A) the supportive services are appropriate to improve the access of eligible residents to employment and educational opportunities; and

"(B) the public housing agency has made diligent efforts to use or obtain other available resources to fund or provide such services; and

"(5) the employment of service coordinators subject to such minimum qualifications and standards that the Secretary may establish to ensure sound management, who may be responsible for—

"(A) assessing the training and service needs of eligible residents;

"(B) working with service providers to coordinate the provision of services and tailor such services to the needs and characteristics of eligible residents;

"(C) mobilizing public and private resources to ensure that the supportive services identified pursuant to subsection (e)(1) can be funded over the time period identified under such subsection;

"(D) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

"(E) performing such other duties and functions that the Secretary determines are appropriate to provide families living in public housing with better access to educational and employment opportunities.

"(d) ALLOCATION OF GRANT AMOUNTS.—Assistance under this section shall be allocated by the Secretary among approvable applications submitted by public housing agencies.

"(e) APPLICATIONS.—Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Each application for assistance shall contain—

"(1) a description of the supportive services that are to be provided over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities under subsection (c) that involve substantial rehabilitation);

"(2) a firm commitment of assistance from 1 or more sources ensuring that the supportive services will be provided for not less than 1 year following the completion of activities assisted under subsection (c);

"(3) a description of public or private sources of assistance that can reasonably be expected to fund or provide supportive services for the entire period specified under paragraph (1), including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including profit and nonprofit organizations);

"(4) certification from the appropriate State or local agency (as determined by the Secretary) that—

"(A) the provision of supportive services described in paragraph (1) is well designed to provide resident families better access to educational and employment opportunities; and

"(B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified in paragraph (1);

"(5) a description of assistance for which the public housing agency is applying under this section; and

"(6) any other information or certifications that the Secretary determines are necessary or appropriate to achieve the purposes of this section.

"(f) SELECTION.—The Secretary shall establish selection criteria for grants under this section, which shall take into account—

"(1) the ability of the public housing agency or a designated service provider to provide the supportive services identified under subsection (e)(1);

"(2) the need for such services in the public housing project;

"(3) the extent to which the envisioned renovation, conversion, and combination activities are appropriate to facilitate the provision of such services;

"(4) the extent to which the public housing agency has demonstrated that such services will be provided for the period identified under subsection (e)(1);

"(5) the extent to which the public housing agency has a good record of maintaining and operating public housing; and

"(6) any other factors that the Secretary determines to be appropriate to ensure that amounts made available under this section are used effectively.

"(g) REPORTS.—

"(1) TO SECRETARY.—Each public housing agency receiving a grant under this section shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, an annual progress report describing and evaluating the use of grant amounts received under this section.

"(2) TO CONGRESS.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, an evaluation of the effectiveness of activities carried out with grants under this section in such fiscal year. Such report shall summarize the progress reports submitted pursuant to paragraph (1).

"(h) EMPLOYMENT OF PUBLIC HOUSING RESIDENTS.—Each public housing agency shall, to the maximum extent practicable, employ public housing residents to provide the services assisted under this section or from other sources. Such persons shall be paid at a rate not less than the highest of—

"(1) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;

"(2) the State or local minimum wage for the most nearly comparable covered employment; or

"(3) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

"(i) TREATMENT OF INCOME.—No service provided to a public housing resident under this section may be treated as income for the purpose of any other program or provision of State or Federal law.

"(j) DEFINITION OF SUPPORTIVE SERVICES.—For purpose of this section, the term 'supportive services' means new or significantly expanded services that the Secretary determines are essential to providing families living with children in public housing with better access to educational and employment opportunities. Such services may include—

"(1) child care;

"(2) employment training and counseling;

"(3) literacy training;

"(4) computer skills training;

"(5) assistance in the attainment of certificates of high school equivalency; and

"(6) other appropriate services.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 in fiscal year 1991, and $26,100,000 in fiscal year 1992.".

(b) CONFORMING AMENDMENT.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new undesignated paragraph:

"The earnings of and benefits to any public housing resident resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of this Act, or any comparable Federal, State, or local law shall not be considered as income for the purposes of determining a limitation on the amount of rent paid by the resident during—

"(1) the period that the resident participates in such program; and

"(2) the period that—

"(A) begins with the commencement of employment of the resident in the first job acquired by the person after completion of such program that is not funded by assistance under this Act; and

"(B) ends on the earlier of—

"(i) the date the resident ceases to continue employment without good cause as the Secretary shall determine; or

"(ii) the expiration of the 18-month period beginning on the date referred to in subparagraph (A).".

SEC. 516. ELIGIBILITY OF INDIAN MUTUAL HELP HOUSING FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE.

Section 202(b) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new paragraph:

"(2) ELIGIBILITY FOR CIAP.—Notwithstanding the provisions of section 14(c), the Secretary may provide assistance provided for comprehensive modernization under section 14 for the housing projects under this section for the purposes under section 14. Any assistance shall be provided under this paragraph only in the form of a single grant for each housing project (or unit within a project) selected for such assistance.".

SEC. 517. PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 222(g) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent provided in appropriations Acts, of the amounts made available for public housing grants under section 5(c) of the United States Housing Act of 1937, there shall shall be set aside to carry out this section $15,000,000 for fiscal year 1991 and $15,700,000 for fiscal year 1992. Any amount appropriated pursuant to such section 5(c) and authorized for use under this subsection shall remain available until expended.".

(b) REDESIGNATION AS EARLY CHILDHOOD DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—Section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended—

(A) in subsection (a), by striking "child care services" each place it appears and inserting "early childhood development services";

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by striking "child care services" and inserting "early childhood development services";

(ii) in paragraph (1), by striking " a child care services program" and inserting "an early childhood development program";

(iii) in paragraph (2), by striking "child care services" and inserting "early childhood development services"; and

(iv) in paragraphs (3), (4), (5), and (6), by striking "child care services program" each place it appears and inserting "early childhood development program";

(C) in subsection (c)—

(i) in paragraphs (1) and (2), by striking "child care services" each place it appears and inserting "early childhood development services"; and

(ii) in paragraph (3), by striking "child care services programs" and inserting "early childhood development programs";

(D) in subsection (d)—

(i) in paragraph (2), by striking "child care services" and inserting "early childhood development services";

(ii) in paragraph (3), in the matter preceding subparagraph (A), by striking "child care services program" and inserting "early childhood development program";

(iii) in paragraph (3)(A), by striking "child care services" and inserting "early childhood development services"; and

(iv) in paragraph (4), by striking "child care services" each place it appears and inserting "early childhood development services"; and

(E) in subsection (e), by striking "child care services" and inserting "early childhood development services".

(2) CONFORMING AMENDMENT.—The section heading for section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended to read as follows:

"PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT PROGRAM".

SEC. 518. INDIAN PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT DEMONSTRATION PROGRAM.

(a) SET-ASIDE OF INDIAN PUBLIC HOUSING AMOUNTS.—Of any amounts approved in appropriations Acts under section 5(c)(7) of the United States Housing Act of 1937 for public housing grants for Indian housing, the Secretary of Housing and Urban Development shall use $5,000,000 in fiscal year 1991 and $5,200,000 in fiscal year 1992 (to the extent such amounts are approved under such appropriations Acts) for carrying out a demonstration program under this section. Under the demonstration, the Secretary shall make grants to nonprofit organizations to assist such organizations in providing early childhood development services in or near low-income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority for low-income families who reside in such Indian public housing.

(b) OPERATION OF DEMONSTRATION.—Except as provided in this section, the Secretary of Housing and Urban Development shall carry out the demonstration program under this section in low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority in the same manner as the demonstration program under section 222 of the Housing and Urban-Rural Recovery Act of 1983 is carried out. For purposes of this section, any reference to "public housing" or a "low income housing project" in section 222 of such Act is deemed to refer to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(c) LIMITATIONS.—

(1) TRIBAL DIVERSITY.—The Secretary of Housing and Urban Development shall provide that the demonstration program under this section is carried out in not more than 1 Indian public housing project for any single Indian tribe.

(2) GEOGRAPHIC DIVERSITY.—The Secretary of Housing and Urban Development shall carry out the demonstration program under this section through various Indian housing authorities and provide for geographic distribution among such housing authorities.

(d) REPORT.—

(1) IN GENERAL.—Not later than the expiration of the 3-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a detailed report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program established in this section. Such report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of assisting early childhood development services in or near low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(2) CONFORMING PROVISION.—Notwithstanding subsection (b) of this section, section 222(e) of the Housing and Urban-Rural Recovery Act of 1983 (regarding submission of a report) shall not apply to this section and the demonstration program carried out under this section.

SEC. 519. PUBLIC HOUSING RENT WAIVER FOR POLICE OFFICERS.

(a) AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may permit public housing agencies to allow police officers and other security personnel (who are not otherwise eligible for residence in public housing) to reside in public housing dwelling units in accordance with this section.

(b) PLAN.—To be eligible to utilize dwelling units as provided under this section, a public housing agency shall submit to the Secretary a plan identifying the projects in which the police officers or security personnel will reside and describing the anticipated benefits from such residence.

(c) APPROVAL.—The Secretary may approve a plan and authorize the use of dwelling

units under this section only if the Secretary determines that such use will—

(1) increase security for other public housing residents;

(2) result in a limited loss of income to the public housing agency; and

(3) not result in a significant reduction of units available for residence by families eligible for such residence under the provisions of the United States Housing Act of 1937.

The Secretary shall notify each public housing agency submitting a plan under subsection (b) of approval or disapproval of the plan not later than 30 days after the Secretary receives the plan.

(d) TERMS.—Upon approving a plan under subsection (b), the Secretary shall waive the applicability of any occupancy requirements with respect to the officers or other personnel, and may permit the public housing agency submitting the plan to establish such special rent requirements and other terms and conditions of occupancy that the Secretary considers appropriate.

SEC. 520. PUBLIC HOUSING YOUTH SPORTS PROGRAMS.

(a) YOUTH SPORTS PROGRAM GRANTS.—From amounts provided for public and assisted housing drug elimination grants under section 5130(a) of the Anti-Drug Abuse Act of 1988, the Secretary of Housing and Urban Development may make grants to qualified entities under subsection (b) to carry out youth sports programs in projects of public housing agencies with substantial drug problems.

(b) ENTITIES QUALIFIED TO RECEIVE GRANTS.—Grants under this section may be made only to—

(1) States;

(2) units of general local government;

(3) local park and recreation districts and agencies;

(4) public housing agencies;

(5) nonprofit organizations providing youth sports services programs;

(6) Indian tribes; and

(7) Indian housing authorities.

(c) USE OF GRANTS.—

(1) PUBLIC HOUSING SITES WITH SUBSTANTIAL DRUG PROBLEMS.—Grants under this section shall be used for youth sports programs only with respect to public housing sites that the Secretary determines have a substantial problem regarding the use or sale of illegal drugs.

(2) YOUTH SPORTS PROGRAM ELIGIBILITY.—To be eligible to receive assistance from a grant under this section, a youth sports program shall be designed and organized as follows:

(A) The sports program shall serve primarily youths from the public housing project in which the program assisted by the grant is operated.

(B) The sports program shall provide positive sports activities or positive cultural, recreational, or other activities, designed to appeal to youths as alternatives to the drug environment in the public housing project.

(C) The sports program shall be operated as, in conjunction with, or in furtherance of, an organized program or plan designed to eliminate drugs and drug-related problems in the public housing project or projects within the public housing agency.

(d) ELIGIBLE ACTIVITIES.—Any qualified entity that receives a grant under this section may use amounts from the grant to assist in carrying out a youth sports program in any of the following manners:

(1) Acquisition, construction, or rehabilitation of community centers, parks, or playgrounds.

(2) Redesigning or modifying public spaces in public housing projects to provide increased utilization of the areas by youth sports programs.

(3) Provision of public services, including salaries and expenses for staff of youth sports programs, cultural activities, educational programs relating to drug abuse, and sports and recreation equipment.

(e) GRANT AMOUNT LIMITATIONS.—

(1) MATCHING AMOUNT.—The Secretary may not make a grant to any qualified entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Secretary, as the Secretary shall require, that the applicant will supplement the amount provided by the grant with an amount of funds from non-Federal sources equal to or greater than 50 percent of the amount provided by the grant.

(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term "funds from non-Federal sources" includes funds from States, units of general local governments, or agencies of such governments, Indian tribes, private contributions, any salary paid to staff to carry out the youth sports program of the recipient, the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary, the value of any donated material, equipment, or building, and the value of any lease on a building.

(3) PROHIBITION OF SUBSTITUTION OF FUNDS.—Neither amounts received from grants under this section nor any State or local government funds used to supplement such amounts may be used to replace other public funds previously used, or designated for use, for the purposes under this Act.

(4) MAXIMUM ANNUAL GRANT AMOUNT.—For any single fiscal year, the Secretary may not award grants under this section for carrying out a youth sports program with respect to any single public housing project in an amount exceeding $125,000.

(f) APPLICATIONS.—To be eligible to receive a grant under this section, a qualified entity under subsection (b) shall submit to the Secretary an application as the Secretary may require, which shall include the following:

(1) A description of the organization of the youth sports program.

(2) A description of the nature of services provided by the youth sports program.

(3) An estimate of the number of youth involved.

(4) A description of the extent of involvement of local sports organizations or sports figures.

(5) A description of the facilities used.

(6) A description of plans to continue the youth sports program in the future.

(7) A statement regarding the extent to which the youth sports program meets the criteria for selection under subsection (g).

(8) A description of the planned schedule and activities of the youth sports program and the financial and other resources committed to each activity and service of the program.

(9) A budget describing the share of the costs of the youth sports program provided by the grant under this section and other sources of funds, including funds required under subsection (e)(1).

(10) Any other information that the Secretary may require.

(g) SELECTION CRITERIA.—The Secretary shall select qualified entities that have applied under subsection (f) to receive grants under this section pursuant to a competition based on the following criteria:

(1) The extent to which the youth sports program to be assisted with the grant addresses the particular needs of the area to be served by the program and employs methods, approaches, or ideas in the design or implementation of the program particularly suited to fulfilling such needs (whether such methods are conventional or unique and innovative).

(2) The technical merit of the application of the qualified entity.

(3) The qualifications, capabilities, and experience of the personnel and staff of the sports program who are critical to achieving the objectives of the program as described in the application.

(4) The capabilities, related experience, facilities, techniques of the applicant for carrying out the youth sports program and achieving the objectives of the program as described in the application and the potential of the applicant for continuing the youth sports program.

(5) The severity of the drug problem at the local public housing site for the youth sports program and the extent of any planned or actual efforts to rid the site of the problem.

(6) The extent to which local sports organizations or sports figures are involved.

(7) The extent of the support of the public housing agency for the program, coordination of proposed activities with local resident management groups or associations (where such groups exist) and coordination of proposed activities with ongoing programs of the applicant that further the purposes of this section.

(8) The extent of non-Federal contributions that exceed the amount of such funds required under subsection (e)(1).

(9) In the case of a qualified entity under paragraph (3) or (4) of subsection (b), the extent to which the applicant has demonstrated local government support for the program.

(h) REPORT.—Each qualified entity that receives a grant under this section shall submit to the Secretary, not later than the expiration of the 90-day period beginning on the date on which the grant amounts provided under this section are fully expended, a report describing the activities carried out with the grant.

(i) DEFINITIONS.—For purposes of this section:

(1) INDIAN TRIBE.—The term "Indian tribe" has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.

(2) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) PUBLIC HOUSING PROJECT.—The terms "project" and "public housing" have the meanings given the terms in section 3(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(4) QUALIFIED ENTITY.—The term "qualified entity" means an entity eligible under subsection (b) to apply for and receive a grant under this section.

(5) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(7) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(j) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—Section 5129 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11908), as amended by the preceding provisions of this Act, is further amended by inserting after the first sentence the following new sentence: "From any amounts appropriated under this section in each fiscal year, 5 percent of such amounts shall be available for public housing youth sports program grants under section 520 of the Cranston-Gonzalez National Affordable Housing Act for such fiscal year.".

SEC. 521. PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, shall carry out a program to demonstrate the effectiveness of providing grants to public housing agencies to assist such agencies in providing facilities for making one-stop perinatal services programs (as defined in subsection (e)(1)) available for pregnant women who reside in public housing. Under the demonstration program, the Secretary shall make grants to not more than 10 public housing agencies.

(2) CONSULTATION REQUIREMENTS.—In carrying out the demonstration program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies.

(b) ALLOCATION OF ASSISTANCE.—

(1) PREFERENCES.—In selecting public housing agencies for grants under this section, the Secretary shall give preference to the following public housing agencies:

(A) AREAS WITH HIGH INFANT MORTALITY RATES.—Public housing agencies serving areas with high infant mortality rates.

(B) SECURE FACILITIES.—Public housing agencies that demonstrate, to the satisfaction of the Secretary, that security will be provided so that women are safe when participating in the one-stop perinatal services program carried out at the facilities provided or assisted under this section.

(2) LIMITATION ON GRANT AMOUNT.—The aggregate amount provided under this section for any public housing project may not exceed $15,000.

(c) DEMONSTRATION PROGRAM REQUIREMENTS.—

(1) APPLICATIONS.—Applications for grants under this section shall be made by public housing agencies in accordance with procedures established by the Secretary and shall include a description of the one-stop perinatal services program to be provided in the facilities provided or assisted under this section.

(2) USE OF GRANTS.—Any public housing agency receiving a grant under this section may use the grant only for the costs of providing facilities and minor renovations of facilities necessary to make one-stop perinatal services programs available to pregnant women who reside in public housing.

(3) REPORTS TO SECRETARY.—Each public housing agency receiving a grant under this section for any fiscal year shall submit to the Secretary, not later than 3 months after the end of such fiscal year, a report describing the facilities provided by the public housing agency under this section and the one-stop perinatal services program carried out in such facilities. The report shall include data on the size of the facilities, the costs and extent of any renovations, the previous use of the facilities, the number of women assisted by the program, the trimester of the pregnancy of the women at the time of initial assistance, infant birthweight, infant mortality rate, and other relevant information.

(4) APPLICABLE STANDARDS.—No provision of this section may be construed to authorize the Secretary to establish any health, safety, or other standards with respect to the services provided by the one-stop perinatal services program or facilities provided or assisted with grants received under this section. Such services and facilities shall comply with all applicable State and local laws, regulations, and ordinances, and all requirements established by the Secretary of Health and Human Services for such services and facilities.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date that amounts to carry out this section are first made available under appropriations Acts, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program under this section. The report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of providing facilities in public housing for making perinatal services available to pregnant women who reside in the public housing.

(e) DEFINITIONS.—For purposes of this section:

(1) ONE-STOP PERINATAL SERVICES PROGRAM.—The term "one-stop perinatal services program" means a program to provide a wide range of services for pregnant and new mothers in a coordinated manner at a drop-in center, which may include any of the following:

(A) INFORMATION AND EDUCATION.—Information and education for pregnant women regarding perinatal care services, and related services and resources, necessary to decrease infant mortality and disability.

(B) HEALTH CARE SERVICES.—Basic health care services that can be provided without a physician present.

(C) REFERRAL.—Basic health screening of pregnant women and referrals for health care services.

(D) FOLLOWUP.—Followup assessment of women and infants (including measurement of weight) and referrals for health care services and related services and resources.

(E) SOCIAL WORKER.—Information and assistance regarding Federal and State social services provided by a social worker.

(F) OTHER.—Any other services to assist pregnant or new mothers.

(2) PUBLIC HOUSING.—The terms "public housing" and "public housing agency" have the meanings given such terms in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(f) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—Of any amounts approved in appropriations Acts under section 22(k) of the United States Housing Act of 1937 for fiscal year 1991, the Secretary shall use $150,000 (to the extent such amounts are approved in appropriations Acts) for carrying out the demonstration program under this section.

SEC. 522. PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of promoting the revitalization of troubled urban communities through the provision of public housing in socioeconomically mixed settings combined with the innovative use of public housing operating subsidies to stimulate the development of new affordable housing in such communities.

(2) COMPREHENSIVE SERVICES.—Housing units provided under the demonstration program under this section shall be made available in connection with a comprehensive program of services and incentives under subsections (h) and (i), in order to prepare participating families for successful transition to the private rental housing market and homeownership within a reasonable period of time.

(b) COORDINATING COMMITTEE.—

(1) ESTABLISHMENT.—For a public housing agency to be eligible for designation or selection under subsection (d) for participation in the demonstration program, the chief executive officer of each unit of general local government in which the public housing agency is located shall appoint a coordinating committee under this paragraph. The coordinating committee shall participate in developing a plan for implementing the demonstration program, review, monitor, and make recommendations for improvements in activities under the demonstration program, and ensure the coordination and delivery of services under subsection (h).

(2) MEMBERSHIP.—Each coordinating committee shall be composed of 12 members, who shall include, but may not be limited to, the following individuals:

(A) A representative of the chief executive officer of the applicable unit of general local government.

(B) A representative of the applicable public housing agency.

(C) A representative of the regional administrator of the Department of Housing and Urban Development.

(D) A representative of a local resident management corporation.

(E) Not less than 1 individual affiliated with a local agency that administers programs in 1 of the following areas: health, human services, substance abuse, education, economic and business development, law enforcement, and housing.

(F) A representative from among local businesses engaged in housing and real estate.

(G) A representative from among business engaged in real estate financing.

(3) SOCIAL SERVICE COMMITTEES.—Each coordinating committee established under this subsection shall establish a subcommittee on social services, which shall, before any action is taken under subsection (e)(1) (with respect to the demonstration program as carried out by the applicable public housing agency), identify the specific services that are required to successfully carry out the demonstration program.

(c) INTERAGENCY COOPERATION.—The Secretary shall coordinate with the appropriate heads of other Federal agencies as necessary to coordinate the implementation of the demonstration program and endeavor to ensure the delivery of supportive services required under subsection (h).

(d) SCOPE OF DEMONSTRATION PROGRAM.—

(1) PARTICIPATING PUBLIC HOUSING AGENCIES.—The Secretary shall carry out the demonstration program with respect to public housing for families administered by the Housing Authority of the City of Chicago, in the State of Illinois. The Secretary may also carry out the demonstration program with respect to public housing administered by not more than 3 other public housing agencies.

(2) PARTICIPATING PUBLIC HOUSING UNITS.—Over the term of the demonstration, the demonstration may be applied to not more than 15 percent of the total number of public housing units for families administered by each participating public housing agency.

(3) NONDISPLACEMENT.—No person who is a tenant of public housing during the term of the demonstration program may be involuntarily relocated or displaced under the demonstration program.

(e) HOUSING DEVELOPMENT.—

(1) USE OF PUBLIC HOUSING OPERATING SUBSIDIES.—For the purpose of providing reasonable and necessary operating costs in connection with the development of additional affordable housing, under the demonstration program the Secretary shall amend the annual contributions contract between the Secretary and each participating public housing agency as the Secretary determines appropriate to permit the public housing agency to utilize operating subsidy amounts allocated to the agency under section 9 of the United States Housing Act of 1937 with respect to newly constructed or rehabilitated housing units that are privately developed and owned. Such units shall be reserved for use under the demonstration program for occupancy by very low-income families as provided under this subsection and subsection (g).

(2) LEASE TERMS.—Operating subsidy amounts shall be provided for the operation of housing under paragraph (1) pursuant to a lease contract between the owner of the housing and the public housing agency, which shall specify—

(A) the number of units to be leased exclusively to the public housing agency for the term of the demonstration program, subject only to the availability of amounts under paragraph (1) or other funds for such purposes; and

(B) the requirements under subsection (f)(6).

(3) TRANSFER OF AMOUNTS.—Operating subsidy amounts may be provided for a unit of housing under paragraph (1) only after the execution of a lease under subsection (f)(5) for 1 corresponding public housing unit.

(4) RENTAL TERMS.—Units leased by a participating public housing agency under this subsection shall be available only to very low-income families that reside, or have been offered a unit, in public housing administered by the public housing agency and that enter into a voluntary contract under subsection (g)(1). The rental charge for each unit shall be the amount equal to 30 percent of the adjusted income of the resident family (as determined under section 3(b) of the United States Housing Act of 1937), except that the rental charge may not exceed a ceiling rent determined by the public housing agency in the manner that monthly rent is determined under section 3(a)(2)(A) of such Act.

(5) INCOME MIX.—Not more than 25 percent of the units in each privately developed housing project under the demonstration program may be leased by a public housing agency pursuant to a lease contract under paragraph (2). The number of units under each such lease may not be less than the number of public housing units that, notwithstanding the demonstration program, would have been assisted with the operating subsidy amounts made available under such contract, to ensure that there shall be no loss of public housing units.

(6) COORDINATION WITH OTHER ENTITIES FOR DEVELOPMENT OF HOUSING.—A participating public housing agency may seek the cooperation and receive assistance from State, county, and local governments and the private sector to develop housing for use under this subsection. Such assistance may include, but is not limited to—

(A) donations of land and write-downs and discounts on land by local governments;

(B) abatement of real estate taxes for specified periods by local, county, or State governments;

(C) assignment of community development block grant funds and loan guarantees made available under title I of the Housing and Community Development Act of 1974;

(D) low interest rate financing through Federal Home Loan Bank programs, State or Federal programs, and private lenders;

(E) low-income housing tax credits from State and local governments; and

(F) mortgage revenue bonds from State or local governments.

(7) DETERMINATION OF LOCATION AND NUMBER OF UNITS.—

(A) IN GENERAL.—A participating public housing agency and the applicable unit of general local government shall jointly determine the location of any newly constructed or rehabilitated housing to be utilized under the demonstration program carried out by the public housing agency and the number of units to be developed annually, with approval of the legislative body of the local government.

(B) LIMITATION ON NUMBER OF UNITS.—The total number of newly constructed or rehabilitated units that may be used under this subsection in the demonstration program may not exceed—

(i) for any participating public housing agency with not more than 5,000 public housing units, 15 percent of the number of units administered by the agency;

(ii) for any participating agency with more than 5,000 but not more than 25,000 units, 10 percent of the number of units administered by the agency; and

(iii) for any participating agency with more than 25,000 units, 4 percent of the number of units administered by the agency.

(f) EXISTING PUBLIC HOUSING.—

(1) IN GENERAL.—To facilitate the establishment of socioeconomically mixed communities within existing public housing developments, under the demonstration program the Secretary shall authorize participating public housing agencies to lease units in existing public housing projects, as provided in this subsection, to low-income families who are not very low-income families, notwithstanding the provisions of section 16(b) of the United States Housing Act of 1937.

(2) LIMITATIONS ON PUBLIC HOUSING RESIDENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 25 percent of the units in each public housing project in which units are utilized under the demonstration program may be occupied by low-income families who are not very low-income families. Not less than 75 percent of the units in each such public housing project shall be occupied by very low-income families.

(B) EXCEPTION.—Upon determining that a public housing agency has a special need, the Secretary may provide for not more than 50 percent of the units in a public housing project utilized under the demonstration program to be occupied by low-income families who are not very low-income families, and the remainder of the units to be occupied by very low-income families. Such special need may include the need to ensure the successful revitalization of troubled public housing through establishing a socioeconomically mixed resident population.

(3) NUMBER OF UNITS.—The number of such units made available under this subsection by a public housing agency may not exceed the number of units provided under subsection (e) to participating families.

(4) RENTAL TERMS.—The rent charged any family occupying a unit made available under this subsection may not, at any time during the demonstration period, exceed the ceiling rent level determined by the public housing agency in the manner that monthly rent is determined under section 3(a)(2)(A) of the United States Housing Act of 1937.

(5) LEASE.—A participating public housing agency shall enter into a lease with each family occupying a public housing unit made available under this subsection. The term of each lease shall be 1 year. Each lease shall be renewable upon expiration for a period not to exceed 7 years. A public housing agency may extend the period as provided under subsection (j)(1).

(6) VACANCY.—If, at any time, a participating public housing agency is unable to rent a unit made available under this subsection and the unit has been vacant for a period of 6 months, the agency may—

(A) cancel a lease for 1 unit of housing provided under subsection (e) and recapture any operating subsidy amounts associated with the unit for use with respect to the vacant public housing unit, upon which such public housing unit shall be removed from participation in the demonstration program and made generally available for occupancy as provided under the United States Housing Act of 1937; and

(B) provide the family residing in the housing unit provided under subsection (e) (from which operating subsidy amounts have been recaptured) with assistance under section 8(b) of such Act, subject to the availability of such assistance pursuant to appropriations Acts and notwithstanding any preferences for such assistance under section 8(d)(1)(A)(i) of such Act, and permit the family to remain in the unit.

(g) CONTRACTS WITH PARTICIPATING FAMILIES.—

(1) IN GENERAL.—Under the demonstration program, a participating public housing agency shall enter into a contract with each family that will reside in a unit of privately developed housing leased to the agency under subsection (e). Such family shall voluntarily enter into the contract and shall meet the criteria established under paragraph (2). The contract shall be made part of the lease executed between the family and the public housing agency for such unit, shall set forth the provisions of the demonstration program, and shall specify the resources to be made available to the participating family and the responsibilities of the participating family under the program. The lease shall be for a term of 1 year and shall be renewable upon expiration for a period not to exceed 7 years, except as provided under subsection (j)(1).

(2) ESTABLISHMENT OF CRITERIA.—Each public housing agency shall establish crite-

ria for participation of families in the demonstration program. The criteria shall be based on factors that may reasonably be expected to predict the family's ability to successfully complete the requirements of the demonstration program. The criteria shall include—

(A) the status and history of employment of family members;

(B) enrollment of the children in the family in an educational program;

(C) maintenance by the family of the family's previous dwelling;

(D) ability of adult family members to complete training for long-term employment;

(E) the existence and seriousness of any criminal records of family members; and

(F) the status and history of substance abuse of family members.

(3) CONTINUED RESIDENCE.—Continued residency of families in housing provided under subsection (e) shall be contingent upon compliance with standards established by the participating public housing agency, which shall include—

(A) all members of the family remaining drug-free;

(B) no member of the family engaging in any criminal activity;

(C) each child in the family remaining in an educational program until receipt of a high school diploma or the equivalent thereof; and

(D) family members participating in the support services and counseling under subsection (h).

(h) PROVISION OF SUPPORTIVE SERVICES.—For the entire term of residency of a participating family in housing provided under subsection (e), the public housing agency shall ensure the availability of supportive services and counseling to the family in accordance with the terms and conditions of the contract of participation under subsection (g)(1). The public housing agency shall provide for such services and counseling through its own resources and through coordination with Federal, State, and local agencies, community-based organizations, and private individuals and entities. Services shall include the following:

(1) Remedial education.

(2) Education for completion of high school.

(3) Job training and preparation.

(4) Child care.

(5) Substance abuse treatment and counseling.

(6) Training in homemaking skills and parenting.

(7) Family counseling.

(8) Financial counseling services emphasizing planning for homeownership, provided by local financial institutions under the Community Reinvestment Act of 1977, provided under section 106 of the Housing and Urban Development Act of 1968, or otherwise provided.

(i) ECONOMIC ADVANCEMENT OF PARTICIPATING FAMILIES.—

(1) EMPLOYMENT.—Under the demonstration program, for the entire term of residency of each participating family in housing provided under subsection (e)—

(A) the head of the family shall be required to be employed on a full-time basis, except that if the head of the family becomes unemployed, the public housing agency shall review the individual case to determine if mitigating factors, such as involuntary loss of employment, warrant continuing the family's participation in the demonstration program; and

(B) the public housing agency shall ensure the provision of counseling to assist family members in gaining, advancing in, and retaining employment.

(2) RENT INCREASES.—During the 1-year period beginning upon the residency of a participating family in housing provided under subsection (e), the amount of rent charged the participating family may not be increased on the basis of any increase in the earned income of the family, until such earned income exceeds 80 percent of the median family income for the area.

(3) ESCROW SAVINGS ACCOUNTS.—

(A) PURPOSE AND ESTABLISHMENT.—To ensure that participating families acquire the financial resources necessary to complete a successful transition from assisted rental housing to homeownership or other private housing, under the demonstration program each participating public housing agency shall establish for each participating family an interest-bearing escrow savings account held by the agency in the family's name.

(B) PERIODIC DEPOSITS.—For the entire term of a participating family's residency in housing provided under subsection (e) the public housing agency shall deposit in the account established for the family under subparagraph (A) a percentage of the monthly rent charged the family, which percentage shall be established in the contract of participation under subsection (g)(1). Any rent increases charged because of increases in the earned income of the family shall also be deposited into the escrow account.

(C) ACCESS TO AMOUNTS.—A participating family may withdraw amounts in the family's escrow account only upon successful completion of participation in the demonstration program, for purchase of a home, for contribution toward college tuition, or other good cause determined by the participating public housing agency. A participating family that has committed violations referred to under subsection (j)(2)(B) shall forfeit access to such amounts.

(4) TREATMENT OF INCREASED INCOME.—Any increase in the earned income of a participating family during residency in housing provided under subsection (e) may not be considered as income or a resource for the purpose of the family for benefits, or amount of benefits payable to the family, under any other Federal law, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(j) CONCLUSION OF PARTICIPATION.—

(1) 7-YEAR TERM.—Each family residing in housing provided under subsection (e) or (f) shall terminate residency in housing not later than the expiration of the 7-year period beginning on the commencement of such residency. Notwithstanding the preceding sentence, a public housing agency shall extend the period for any family that requests extension of the period—

(A) because the family is not prepared to enter a program for homeownership or to secure any other form of private housing; or

(B) for other good cause.

(2) INCOMPLETION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a participating family is unable to successfully fulfill the requirements under the demonstration program, the public housing agency shall offer the family a comparable public housing unit in a project administered by the agency (notwithstanding any preference for residency in public housing under section 6(c)(4)(A)(i) of the United States Housing Act of 1937), or assistance under section 8 of such Act (subject to availability of amounts provided under appropriations Acts and notwithstanding any preference for such assistance under section 8(d)(1)(A)(i) of such Act).

(B) EXCEPTION.—Subparagraph (A) shall not apply to any participating family that has committed serious or repeated violations of the terms and conditions of the lease, violations of applicable Federal, State, or local law or that has been exempted from such requirement by the public housing agency for other good cause.

(k) REPORTS TO CONGRESS.—

(1) INTERIM REPORT.—Upon the expiration of each 2-year period during the term of the demonstration, the first such period beginning on the date of the enactment of this Act, the Secretary shall submit to the Congress a report evaluating the effectiveness of the demonstration program under this section.

(2) FINAL REPORT.—Not later than the expiration of the 60-day period beginning on the date of the termination of the demonstration program under subsection (n), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program under this section. The report shall also include findings and recommendations for any legislative action appropriate to establish a permanent program based on the demonstration program.

(l) DEFINITIONS.—For purposes of this section:

(1) The term "coordinating committee" means a local coordinating committee established under subsection (b)(1).

(2) The term "demonstration program" means the program established by the Secretary under this section.

(3) The term "low-income family" means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of findings by the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term "operating subsidy amounts" means assistance for public housing provided through the performance funding system under section 9 of the United States Housing Act of 1937.

(5) The term "participating family" means a family that is residing in a housing unit provided under subsection (e).

(6) The term "participating public housing agency" means a public housing agency with respect to which the Secretary carries out the demonstration program under this section.

(7) The terms "public housing agency", "public housing", and "project" have the meanings given such terms under section 3(b) of the United States Housing Act of 1937.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(m) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

(n) TERMINATION OF DEMONSTRATION PROGRAM.—The demonstration program under this section shall terminate upon the expiration of the 10-year period beginning on the date of the enactment of this Act.

SEC. 523. ENERGY EFFICIENCY DEMONSTRATION.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall carry out a demonstration program to encourage the use of private energy service companies in accordance with section 118(a) of the Housing and Community Development Act of 1987. The Secretary shall provide technical assistance to 5 public housing agencies to demonstrate the opportunities for energy cost reduction in 5 public housing projects through energy services contracts. Not later than 90 days after the date of the enactment of this Act, the Secretary shall establish such selection criteria for this demonstration as the Secretary deems appropriate after consultation with representatives of public housing agencies and energy efficiency organizations.

(b) REPORT.—As soon as practicable after the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section. The Secretary shall disseminate such report, to the extent practicable, to other public housing agencies.

SEC. 524. STUDY OF PUBLIC HOUSING FUNDING SYSTEM.

The Secretary of Housing and Urban Development shall conduct a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for the operation, maintenance and modernization of public housing. In analyzing such alternatives, the Secretary shall compare and contrast existing methods of funding in public housing with those used by the Department of Housing and Urban Development in housing assisted under section 8 of the United States Housing Act of 1937. In preparing the study mandated by this section, the Secretary shall, in particular, review the results of the study entitled "Alternative Operating Subsidies Systems for the Public Housing Program", released by the Department's Office of Policy, Development and Research in May 1982, and shall update such study as may be necessary. The Secretary shall submit a report to the Congress not later than 12 months after the date of the enactment of this Act detailing the findings of the study conducted under this section.

SEC. 525. STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING.

The Secretary of Housing and Urban Development shall carry out a study assessing one or more revised methods of providing Federal housing assistance through local public housing agencies (in this section referred to as "PHA's"). In analyzing such alternatives, the Secretary shall examine methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments to PHA's on behalf of low income public housing tenants. The Secretary shall assess, within the capitated funding alternative, means of (1) providing for tenant participation in the release of such capitated payments to PHA's; (2) providing financial incentives for PHA overall performance and efficiency; (3) designating certain PHA's as distressed and eligible for special Federal assistance; (4) differential treatment of PHA's based on differences in local population demographics, rental housing markets, and other pertinent factors, and (5) calculating annual inflation-based increases in capitated Federal payments. The report shall be submitted to the Congress not later than 12 months after the date of the enactment of this Act.

SEC. 526. GAO STUDY OF ALTERNATIVES IN PUBLIC HOUSING DEVELOPMENT.

The Comptroller General of the United States shall conduct a study assessing alternative methods of developing public housing dwelling units, other than under the existing public housing development program under the United States Housing Act of 1937. Under the study the Comptroller General shall—

(1) analyze and evaluate different methods of financing and structuring a program to develop public housing and of coordinating such program with local housing strategies; and

(2) evaluate the effectiveness of developing public housing units by coordinating the low-income housing tax credit program with the development of public housing.

The Comptroller General shall submit a report to the Congress regarding the findings and conclusions of the study not later than 12 months after the date of the enactment of this Act.

SEC. 527. APPLICABILITY.

In accordance with section 201(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)(2)), the provisions of this subtitle that modify the public housing program under title I of the United States Housing Act of 1937 shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that sections 502 and 510 shall not apply.

Subtitle B—Low-Income Rental Assistance

SEC. 541. DESIGNATION OF CERTIFICATE AND VOUCHER PROGRAMS.

(a) CERTIFICATE PROGRAM.—Section 8(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)) is amended by striking "(b)(1)" and inserting "(b) RENTAL CERTIFICATES AND OTHER EXISTING HOUSING PROGRAMS.—".

(b) VOUCHER PROGRAM.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C 1437f(o)) is amended by inserting "RENTAL VOUCHERS.—" after "(o)".

SEC. 542. DRUG-RELATED RENT ADJUSTMENTS.

Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by adding at the end the following: "Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence.".

SEC. 543. TENANT RENT CONTRIBUTIONS UNDER TENANT-BASED CERTIFICATE PROGRAM.

(a) EXCEPTION TO GENERAL RULE.—Section 8(c)(3) of the United States Housing Act of 1937 is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following new subparagraph:

"(B)(i) A family receiving tenant-based rental assistance under subsection (b)(1) may pay a higher percentage of income than that specified under section 3(a) of this Act if—

"(I) the family notifies the local public housing agency of its interest in a unit renting for an amount which exceeds the permissible maximum monthly rent established for the market area under paragraph (1), and

"(II) such agency determines that the rent for the unit and the rental payments of the family are reasonable, after taking into account other family expenses (including child care, unreimbursed medical expenses, and other appropriate family expenses.

"(ii) A public housing agency shall not approve such excess rentals for more than 10 percent of its annual allocation of incremental rental assistance under subsection (b)(1). A public housing agency that approves such excess rentals for more than 5 percent of its annual allocation shall submit a report to the Secretary not later than 30 days following the end of the fiscal year. The report shall be submitted in such form and in accordance with such procedures as the Secretary shall establish and shall describe the public housing agency's reasons for making the exceptions, including any available evidence that the exceptions were made necessary by problems with the fair market rent established for the area. The Secretary shall ensure that each report submitted in accordance with this clause is readily available for public inspection for a period of not less than 3 years, beginning not less than 30 days following the date on which the report is submitted to the Secretary.

"(iii) The Secretary shall, not later than 3 months following the end of each fiscal year, submit a report to Congress that identifies the public housing agencies that have submitted reports for such fiscal year under clause (ii), summarizes and assesses such reports, and includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports.".

(b) HOUSING STRATEGY.—The second sentence of section 8(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(1)) is amended by—

(1) inserting "(A)" after "fair market rental" the second place it appears; and

(2) by striking "a local housing assistance plan" and all that follows through the end of the sentence and inserting the following: "a housing strategy as defined in section 105 of the Cranston-Gonzalez National Affordable Housing Act, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B).".

SEC. 544. OPT-OUTS.

Section 8(c)(9) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(9)) is amended—

(1) by inserting at the end of the first sentence the following new sentence: "The

owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."; and

(2) by inserting before the final sentence the following new sentence: "Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision.".

SEC. 545. PREFERENCE RULES.

(a) CERTIFICATE PROGRAM.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

"(A) the selection of tenants for such units shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that the tenant selection criteria used by the owner shall—

"(i) for not less than (I) 70 percent of the families who initially receive assistance in any 1-year period in the case of assistance attached to a structure and (II) 90 percent of such families in the case of assistance not attached to a structure, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this section; except that any family otherwise eligible for assistance under this section may not be denied preference for assistance not attached to a structure (or delayed or otherwise adversely affected in the provision of such assistance) solely because the family resides in public housing;

"(ii) for any remaining assistance in any 1-year period, give preference to families who qualify under a system of local preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (V) achieving other objectives of national housing policy as affirmed by Congress; and

"(iii) prohibit any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist);"; and

(2) VOUCHER PROGRAM.—Section 8(o)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)), as amended by the preceding provisions of this Act, is further amended—

(A) by inserting "(A)" after "(3)";

(B) by striking "(A)" and inserting "(i)";

(C) by striking "(B)" and inserting "(ii)";

(D) by striking "(C)" and inserting "(iii)";

(E) by striking "(D)" and inserting "(iv)";

(F) by paragraphing and inserting "(B)" after the first sentence;

(G) by inserting "(including families that are homeless or living in a shelter for homeless families)" after "substandard housing"; and

(H) by adding at the end the following new sentences: "The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) assisting families in accordance with subsection (u)(2); (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (v) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity (as defined in subsection (f)(5)) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist).".

(c) SECTION 8 NEW CONSTRUCTION.—With respect to housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, and projects financed under section 202 of the Housing Act of 1959, notwithstanding any tenant selection criteria under a contract between the Secretary of Housing and Urban Development and an owner of such housing pursuant to the first sentence of such section—

(1) for not less than 70 percent of units that become available in the housing, the tenant selection criteria for such housing shall give preference to families which occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under such section; and

(2) the system of local preferences established under section 8(d)(1)(A)(ii) by the public housing agency for the jurisdiction within which the housing is located the tenant shall apply to any remaining units that become available in the housing, to the extent that such preferences are applicable with respect to any tenant eligibility limitations for the housing.

SEC. 546. TENANT PROTECTIONS.

Section 8(d)(1)(B) of the United States Housing Act (42 U.S.C. 1437f(d)(1)(B)) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by adding at the end the following new clauses:

"(iii) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or near such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy; and

"(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action.".

SEC. 547. REVISIONS TO PROJECT-BASED CERTIFICATE PROGRAM.

(a) TENANT SELECTION.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended by adding at the end the following new subparagraph:

"(D) Where a contract for assistance payments is attached to a structure, the owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income families; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. An owner shall promptly notify in writing any rejected applicant of the grounds for any rejection.".

(b) PROJECT-BASING OF CERTIFICATES.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

"(E) The Secretary shall annually survey public housing agencies to determine which public housing agencies have, in providing assistance in such year, reached the 15 percent limitations contained in subparagraphs (A) and (B), and shall report to the Congress on the results of such survey.".

(c) TERM OF ASSISTANCE.—Section 8(d)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(C)) is amended to read as follows:

"(C) In the case of a contract for assistance payments that is attached to a structure under this paragraph, a public housing agency shall enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for assistance payments as provided in appropriations Acts, to extend the term of the underlying contract for assistance payments for such period or periods as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying contract for assistance payments accepted by the owner and the owner's successors in interest.".

SEC. 548. SECTION 8 ASSISTANCE FOR PHA-OWNED UNITS.

(a) DEFINITION OF OWNER.—Section 8(f)(1) of the United States Housing Act of 1937 (42

U.S.C. 1437f(f)(1)) is amended by striking "newly constructed or substantially rehabilitated dwelling units as described in this section" and inserting "dwelling units".

(b) PROGRAM REQUIREMENTS.—Section 8(a) of the United States Housing Act of 1937 (42 U.S.C. 1437f(a)) is amended by adding at the end the following: "A public housing agency may contract to make assistance payments to itself (or any agency or instrumentality thereof) as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits.".

SEC. 549. DEFINITIONS OF PARTICIPATING JURISDICTION AND DRUG-RELATED CRIMINAL ACTIVITY.

Section 8(f) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(4) the term 'participating jurisdiction' means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act; and

"(5) the term 'drug-related criminal activity' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

SEC. 550. REVISIONS TO VOUCHER PROGRAM.

(a) REASONABLENESS OF RENTS.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(10)(A) The rent for units assisted under this subsection shall be reasonable in comparison with rents charged for comparable units in the private unassisted market or assisted under section (b). A public housing agency shall, at the request of a family assisted under this subsection, assist such family in negotiating a reasonable rent with an owner. A public housing agency shall review all rents for units under consideration by families assisted under this subsection (and all rent increases for units under lease by families assisted under this subsection) to determine whether the rent (or rent increase) requested by an owner is reasonable. If a public housing agency determines that the rent (or rent increase) for a unit is not reasonable, the agency may disapprove a lease for such unit.".

(b) DOCUMENTATION OF EXCESSIVE RENT BURDENS.—

(1) DATA.—The Secretary of Housing and Urban Development shall collect and maintain, in an automated system, data describing the characteristics of families assisted under the certificate and voucher programs established under section 8 of the the United States Housing Act of 1937, which data shall include the share of family income paid toward rent.

(2) REPORT.—Not less than annually, the Secretary shall submit a report to the Congress setting forth, for each of the certificate program and the voucher program, the percentage of families participating in the program who are paying for rent more than the amount determined under section 3(a)(1) of such Act. The report shall set forth data in appopriate categories, such as various areas of the country, types and sizes of public housing agencies, types of families, and types of markets. The data shall identify the jurisdictions in which more than 10 percent of the families assisted under section 8 of such Act pay for rent more than the amount determined under section 3(a)(1) of such Act and the report shall include an examination of whether the fair market rent for such areas is appropriate. The report shall also include any recommendations of the Secretary for legislative and administrative actions appropriate as a result of analysis of the data.

(3) AVAILABILITY OF DATA.—The Secretary shall make available to each public housing agency administering assistance under the certificate or voucher program any data maintained under this subsection that relates to the public housing agency.

(c) ELIGIBILITY FOR USE WITH MOBILE HOMES.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

"(11)(A) The Secretary may enter into contracts to make assistance payments under this paragraph to assist low-income families by making rental assistance payments on behalf of any such family which utilizes a manufactured home as its principal place of residence. Such payments may be made with respect to the rental of the real property on which there is located a manufactured home which is owned by any such family. In carrying out this paragraph the Secretary shall enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property.

"(B)(i) A contract entered into pursuant to this subparagraph shall establish the rent (including maintenance and management charges) for the space on which a manufactured home is located and with respect to which assistance payments are to be made. The public housing agency shall establish a payment standard based on the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subparagraph.

"(ii) The amount of any monthly assistance payment with respect to any family which rents real property which is assisted under this subparagraph and on which is located a manufactured home which is owned by such family shall be the amount by which 30 percent of the family's monthly adjusted income is exceeded by the sum of—

"(I) the monthly payment made by such family to amortize the cost of purchasing the manufactured home;

"(II) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(III) the payment standard with respect to the real property which is rented by such family for the purpose of locating its manufactured home;

except that in no case may such assistance exceed the amount by which the rent for the property exceeds 10 percent of the family's monthly income.

"(C) The provisions of paragraph (6)(A) shall apply to the adjustments of maximum monthly rents under this paragraph.

"(D) The Secretary may carry out this paragraph without regard to whether the manufactured home park is existing, substantially rehabilitated, or newly constructed.

"(E) In the case of any substantially rehabilitated or newly constructed manufactured home park containing spaces with respect to which assistance is made under this paragraph, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufactured home parks described in section 207(c)(3) of the National Housing Act, and the Secretary may increase such limitation in high cost areas in the manner described in such section.

"(F) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this paragraph and which are consistent with the purposes of this paragraph.".

SEC. 551. PORTABILITY OF CERTIFICATES AND VOUCHERS.

Section 8(r)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)(1) is amended by striking "the same, or a contiguous," and inserting "the same State, or the same or a contiguous".

SEC. 552. RENEWAL OF EXPIRING CONTRACTS.

(a) IN GENERAL.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

"(w) RENEWAL OF EXPIRING CONTRACTS.—Not later than 30 days after the beginning of each fiscal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring rental assistance contracts entered into under this section since the enactment of the Housing and Community Development Act of 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months.".

(b) SHORT-TERM CONTRACTS.—Section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)) is amended by inserting after the first sentence the following: "The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.".

SEC. 553. ASSISTANCE TO PROMOTE FAMILY UNIFICATION.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

"(x) FAMILY UNIFICATION.—

"(1) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by $35,000,000 on or after October 1, 1990, by $35,000,000 on or after October 1, 1991.

"(2) USE OF FUNDS.—The amounts made available under this subsection shall be used only in connection with housing certificate assistance under section 8 on behalf of any family (A) who is otherwise eligible for such assistance, and (B) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent

placement of the family's child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care.

"(3) ALLOCATION.—The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for the assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) APPLICANT.—The term 'applicant' means a public housing agency or any other agency responsible for administering assistance under section 8.

"(B) PUBLIC CHILD WELFARE AGENCY.—The term 'public child welfare agency' means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.".

SEC. 554. FAMILY SELF-SUFFICIENCY.

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

"SEC. 23. FAMILY SELF-SUFFICIENCY PROGRAM.

"(a) PURPOSE.—The purpose of the Family Self-Sufficiency program established under this section is to promote the development of local strategies to coordinate use of public housing and assistance under the certificate and voucher programs under section 8 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

"(b) ESTABLISHMENT OF PROGRAM.—

"(1) REQUIRED PROGRAMS.—Except as provided in paragraph (2), the Secretary shall carry out a program under which each public housing agency that administers assistance under subsection (b) or (o) of section 8 or makes available new public housing dwelling units—

"(A) may, during fiscal years 1991 and 1992, carry out a local Family Self-Sufficiency program under this section; and

"(B) effective on October 1, 1992, the Secretary shall require each such agency to carry out a local Family Self-Sufficiency program under this section.

Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the self-sufficiency program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program.

"(2) EXCEPTION.—The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency provides certification (as such term is defined under title I of the Cranston-Gonzalez National Affordable Housing Act) to the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, which may include—

"(A) lack of supportive services funding;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; or

"(D) any other circumstances that the Secretary may consider appropriate.

"(3) SCOPE.—Each public housing agency required to carry out a local program under this section shall make the following housing assistance available under the program in each fiscal year:

"(A) Certificate and voucher assistance under section 8(b) and (o), in an amount equivalent to the increase for such year in the number of families so assisted by the agency (as compared to the preceding year).

"(B) Public housing dwelling units, in the number equal to the increase for such year in units made available by the agency (as compared to the preceding year).

Each such public housing agency shall continue to operate a local program for the number of families determined under this paragraph subject only to the availability under appropriations Acts of sufficient amounts for assistance.

"(c) CONTRACT OF PARTICIPATION.—

"(1) IN GENERAL.—Each public housing agency carrying out a local program under this section shall enter into a contract with each leaseholder receiving assistance under the certificate and voucher programs of the public housing agency under section 8 or residing in public housing administered by the agency, that elects to participate in the self-sufficiency program under this section. The contract shall set forth the provisions of the local program and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family. The contract shall provide that the public housing agency may terminate or withhold assistance under section 8 and services under paragraph (2) of this section if the family fails to comply with the requirements under the contract.

"(2) SUPPORTIVE SERVICES.—A local program under this section shall provide appropriate supportive services under this paragraph to each participating family entering into a contract of participation under paragraph (1) to each participating family. The supportive services shall be provided during the period the family is receiving assistance under section 8 or residing in public housing, and may include—

"(A) child care;

"(B) transportation necessary to receive services;

"(C) remedial education;

"(D) education for completion of high school;

"(E) job training and preparation;

"(F) substance abuse treatment and counseling;

"(G) training in homemaking and parenting skills;

"(H) training in money management;

"(I) training in household management; and

"(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

"(3) TERM AND EXTENSION.—Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

"(4) EMPLOYMENT AND COUNSELING.—The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

"(d) MAXIMUM RENTS AND ESCROW SAVINGS ACCOUNTS.—

"(1) MAXIMUM RENTS.—During the term of the contract of participation, the amount of rent paid by any participating family whose monthly adjusted income does not exceed 50 percent of the area median income for occupancy in the public housing unit or dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family, unless the increase results in an income exceeding 50 percent of the area median income. The Secretary shall provide for increased rents for participating families whose incomes are between 50 and 80 percent of the area median income, so that any family whose income increases to 80 percent or more of the area median income pays 30 percent of the family's monthly adjusted income for rent. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in a dwelling unit in public housing or housing assisted under section 8, the rent charged the participating family shall be increased (if applicable) to 30 percent of the monthly adjusted income of the family.

"(2) ESCROW SAVINGS ACCOUNTS.—For each participating family whose monthly adjusted income is less than 50 percent of the area median income, the difference between 30 percent of the adjusted income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. For families with incomes between 50 and 80 percent of the area median income, the Secretary shall provide for escrow of the difference between 30 percent of the family income and the amount paid by the family for rent as determined by the Secretary under paragraph (1). The Secretary shall not escrow any amounts for any family whose adjusted income exceeds 80 percent of the area median income. Amounts in the escrow account may be withdrawn by the participating family only after the family is no longer a recipient of any Federal, State, or other public assistance for housing.

"(e) EFFECT OF INCREASES IN FAMILY INCOME.—Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for other benefits, or amount of benefits payable to the family, under any program administered by the Secretary, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

"(f) PROGRAM COORDINATING COMMITTEE.—

"(1) FUNCTIONS.—Each public housing agency shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

"(2) MEMBERSHIP.—The program coordinating committee may consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

"(g) ACTION PLAN.—

"(1) REQUIRED SUBMISSION.—The Secretary shall require each public housing agency participating in the self-sufficiency program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

"(2) DEVELOPMENT OF PLAN.—In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

"(3) CONTENTS OF PLAN.—The Secretary shall require that the action plan contain at a minimum—

"(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local self-sufficiency program;

"(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

"(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 and public housing programs, which shall be provided by both public and private resources;

"(D) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

"(E) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

"(F) a timetable for implementation of the local program; and

"(G) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act and program under the Job Training Partnership Act and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

"(h) ALLOWABLE PUBLIC HOUSING AGENCY ADMINISTRATIVE FEES AND COSTS.—

"(1) SECTION 8 FEES.—The Secretary shall establish a fee under section 8(q) for the costs incurred in administering the provision of certificate and voucher assistance under section 8 through the self-sufficiency program under this section. The fee shall be the fee in effect under such section on June 1, 1990, except that for purposes of the fee under this paragraph the applicable dollar amount for preliminary expenses under section 8(q)(2)(A)(i) shall, subject to approval in appropriations Acts, be $300. Upon the submission by the Comptroller General of the United States of the report required under section 554(b) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall revise the fee under this paragraph, taking into consideration the report of the Comptroller General.

"(2) PERFORMANCE FUNDING SYSTEM.—Notwithstanding any provision of section 9, the Secretary shall provide for inclusion under the performance funding system under section 9 of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. The Secretary shall include an estimate of the administrative costs likely to be incurred by participating public housing agencies in the annual budget request for the Department of Housing and Urban Development for public housing operating assistance under section 9 and shall include a request for such amounts in the budget request. Of any amounts appropriated under section 9(c) for each of fiscal years 1991 and 1992, $25,000,000 is authorized to be used for costs under this paragraph.

"(i) PUBLIC HOUSING AGENCY INCENTIVE AWARD ALLOCATION.—

"(1) IN GENERAL.—The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 and public housing development assistance under section 5(a)(2) reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

"(2) CRITERIA.—The competition shall be based on successful and outstanding implementation by public housing agencies of a local self-sufficiency program under this section. The Secretary shall establish performance criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

"(3) USE.—Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local self-sufficiency program established by the public housing agency under this section.

"(4) RESERVATION OF BUDGET AUTHORITY.—Notwithstanding section 213(d) of the Housing and Community Development Act of 1974, the Secretary shall reserve for allocation under this subsection not less than 10 percent of the portion of budget authority appropriated in each of fiscal years 1991 and 1992 for section 8 that is available for purposes of providing assistance under the existing housing certificate and housing voucher programs for families not currently receiving assistance, and not less than 10 percent of the public housing development assistance available in such fiscal years for the purpose under section 5(a)(2) (excluding amounts for major reconstruction of obsolete projects).

"(j) ON-SITE FACILITIES.—Each public housing agency carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied public housing units in public housing projects administered by the agency for the provision of supportive services under the local program. The use of the facilities of a public housing agency under this subsection shall not affect the amount of assistance provided to the agency under section 9.

"(k) FLEXIBILITY.—In establishing and carrying out the self-sufficiency program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

"(l) REPORTS.—

"(1) TO SECRETARY.—Each public housing agency that carries out a local self-sufficiency program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

"(A) a description of the activities carried out under the program;

"(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

"(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

"(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the self-sufficiency program carried out by the Secretary and ensure the effectiveness of the program.

"(2) HUD ANNUAL REPORT.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the self-sufficiency program under this section.

"(m) GAO REPORT.—

"(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress reports under this subsection evaluating and describing the Family Self-Sufficiency program carried out by the Secretary under this section.

"(2) TIMING.—The Comptroller General shall submit the following reports under this subsection:

"(A) An interim report, not later than the expiration of the 2-year period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

"(B) A final report, not later than the expiration of the 5-year period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

"(n) DEFINITIONS.—As used in this section:

"(1) The term 'contract of participation' means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

"(2) The term 'earned income' means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

"(3) The term 'local program' means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

"(4) The term 'participating family' means a family that resides in public housing or housing assisted under section 8 and elects to participate in a local self-sufficiency program under this section.

"(o) EFFECTIVE DATE AND REGULATIONS.—

"(1) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.

"(2) APPLICABILITY TO INDIAN PUBLIC HOUSING.—In accordance with section 201(b)(2), the provisions of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.".

(b) GAO STUDY ON LINKING FEDERAL HOUSING ASSISTANCE TO ECONOMIC SELF-SUFFICIENCY PROGRAMS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress, not later than 18 months after the date of the enactment of this Act, a report—

(A) evaluating the policy and administrative implications of requiring State and local governments to require participation in an economic self-sufficiency program as a condition of the receipt of rental assistance under section 8 of the United States Housing Act of 1937 and public housing assistance;

(B) determining the additional costs to public housing agencies under such programs and recommending a change in the amount of the administrative fee under section 8(q) of the United States Housing Act of 1937 to cover the additional costs of carrying out the Family Self-Sufficiency Program under section 23 of the United States Housing Act of 1937; and

(C) examining how housing and social service policies affect beneficiaries, particularly persons receiving public assistance, when such beneficiaries gain employment and experience a rise in income.

(2) OTHER CONTENTS.—The report under this subsection shall include—

(A) an evaluation of Federal programs to link housing and supportive services for the promotion of economic self-sufficiency, including programs that are being or have been administered by the Secretary of Housing and Urban Development (such as Project Self-Sufficiency, Operation Bootstrap, and the Public Housing Comprehensive Transition Demonstration);

(B) an analysis of the extent to which public housing agencies can reasonably and effectively obtain supportive services in connection with the Family Self-Sufficiency Program and other programs that link supportive services to Federal housing assistance;

(C) an assessment of the policy and administrative implications of allocating section 8 rental assistance and public housing assistance only to localities that have a plan for providing incremental rental assistance only in conjunction with economic self-sufficiency programs; and

(D) an analysis of the extent to which existing laws regarding housing and other programs create disincentives to upward income mobility and recommendations for legislative changes to remove such disincentives.

(3) CONSULTATION.—In preparing the report under this subsection, the Comptroller General shall consult with the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of Labor, other appropriate Federal officials, appropriate State and local officials, other knowledgeable individuals, and national and other organizations representing eligible beneficiaries, State and local welfare and employment agencies, public housing agencies, business, public and private education or training institutions, and other service providers.

(4) DEFINITION OF ECONOMIC SELF-SUFFICIENCY PROGRAM.—For purposes of this subsection, the term "economic self-sufficiency program" means a public or private program designed to enable economically disadvantaged individuals achieve economic independence and includes programs authorized under the Job Training Partnership Act and the Family Support Act of 1988.

SEC. 555. INCOME ELIGIBILITY FOR TENANCY IN NEW CONSTRUCTION UNITS.

Any dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, and with a contract for assistance under such section, shall be reserved for occupancy by low-income families and very low-income families.

SEC. 556. DISTRIBUTION OF SECTION 8 CERTIFICATES.

Section 213(d)(1)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)(A)) is amended—

(1) by inserting "(i)" after "(d)(1)(A)"; and

(2) by adding at the end the following new clause:

"(ii) Assistance under section 8(b)(1) of the United States Housing Act of 1937 shall be allocated in a manner that enables participating jurisdictions to carry out, to the maximum extent practicable, comprehensive housing affordability strategies approved in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act. Such jurisdictions shall submit recommendations for allocating assistance under such section 8(b)(1) to the Secretary in accordance with procedures that the Secretary determines to be appropriate to permit allocations of such assistance to be made on the basis of timely and complete information. This clause may not be construed to prevent, alter, or otherwise affect the application of the formula established pursuant to clause (i) for purposes of allocating such assistance. For purposes of this clause, the term 'participating jurisdiction' means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 557. SETTLEMENT AGREEMENT REGARDING CERTAIN SECTION 8 ASSISTANCE.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall, from any amounts provided under section 5(c) of the United States Housing Act of 1937 for use in fiscal year 1991 under section 8 of such Act, provide such assistance to the City of Norfolk, in the State of Virginia, in an amount necessary to provide 186 certificates under subsection (b) of such section 8. The assistance provided under this section shall be in satisfaction of the settlement agreement dated October 6, 1981, in the case of Robin Hood Tenants Association v. Vincent J. Thomas, Jr. (civil action no. 80-501-N), in the Norfolk Division of the United States District Court for the Eastern Division of Virginia.

SEC. 558. GAO STUDY REGARDING FAIR MARKET RENT CALCULATION.

The Comptroller General of the United States shall conduct a study to examine fair market rentals under section 8(c)(1) of the United States Housing Act of 1937 and determine the feasibility and effects of establishing fair market for areas that are geographically smaller than market areas under such section which are wholly contained within such market areas. The study shall examine the following:

(1) Whether establishment of such smaller fair market areas will more accurately reflect rent variations within market areas and improve housing opportunities for disadvantaged minorities and families with special needs, provide very low-income families with better access to employment and education opportunities, or otherwise further the objectives of national housing policy as affirmed by the Congress, which shall be determined for not less than 3 communities, including Wilmington, Delaware, and Columbus, Ohio.

(2) The inflationary effects of fair market rentals under existing law within not less than 3 communities, including Oklahoma City, Oklahoma, and Boston, Massachusetts.

(3) The extent of geographical dispersion of families in particular communities receiving tenant-based assistance under such section 8, describing the differing characteristics of areas in which such assistance is used (including the character of neighborhoods, proximity to services, employment, and transportation, and quality of housing stock), which shall be determined for not less than 3 communities including Washington, District of Columbia, and Seattle, Washington.

The Comptroller General shall submit a report to the Congress not later than 18 months after the date of the enactment of this Act regarding the findings and conclusions under the study.

SEC. 559. STUDY OF SECTION 8 UTILIZATION RATES.

(a) STUDY.—The Secretary of Housing and Urban Development shall conduct a study of the reasons for success or failure, within appropriate cities and localities, in utilizing assistance made available by the Secretary for such areas under the certificate and voucher programs under section 8 of the United States Housing Act of 1937. The study shall examine such rates and provide

information regarding such rates based on the household size, age of household members, race of household members, income of households, welfare status of households, number of children in a household.

(b) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the study under this section. The report shall contain a conclusion of the Secretary, for each city or locality studied, whether the success or failure in utilizing assistance under such section 8 relates to the existence of a local problem or a programmatic failure with respect to the certificate or voucher program.

SEC. 560. REPORT ON RESIDUAL RECEIPTS ACCOUNTS IN SECTION 8 AND SECTION 202 HOUSING.

The Secretary of Housing and Urban Development shall conduct a study of a statistically significant sample of housing assisted under section 8 of the United States Housing Act of 1937 and section 202 of the Housing Act of 1959 to determine the amounts that are contained in existing residual receipts accounts. The Secretary shall identify the existing rules and regulations governing the permissible uses of such accounts. Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress a detailed report setting forth the findings of the Secretary as a result of the study.

SEC. 561. FEASIBILITY STUDY REGARDING INDIAN TRIBE ELIGIBILITY FOR VOUCHER PROGRAM.

(a) STUDY.—The Secretary of Housing and Urban Development shall carry out a study to determine the feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance under section 8(o) of the United States Housing Act of 1937.

(b) CONSULTATION.—In carrying out the study under this section, the Secretary shall consult with Indian housing authorities.

(c) REPORT.—The Secretary shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the findings and conclusions of the Secretary as a result of the study under this section.

Subtitle C—General Provisions and Other Assistance Programs

SEC. 571. LOW-INCOME HOUSING AUTHORIZATION.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(6)) is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph is increased (to the extent approved in appropriation Acts) by $16,194,000,000 on October 1, 1990, and by $14,709,400,000 on October 1, 1991.".

(b) UTILIZATION OF HOUSING BUDGET AUTHORITY.—Subparagraphs (A) and (B) of section 5(c)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)) are amended to read as follows:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1991, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $742,100,000, of which amount not more than $228,000,000 shall be available for Indian housing;

"(ii) for assistance under subsections (b)(1) and (o) of section 8, not more than $1,880,000,000, of which the Secretary shall use such amounts as may be necessary to provide not more than 1,000 certificates for purposes of replacement assistance under section 304(g) of the United States Housing Act of 1937; except that not more than 50 percent of the amounts appropriated under this clause may be used for vouchers under section 8(o).

"(iii) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not more than $1,200,000,000;

"(iv) for comprehensive improvement assistance grants under section 14(k), not more than $2,150,000,000, of which not more than $3,000,000 shall be available for resident homeownership financial assistance under section 21(a)(2)(B);

"(v) for assistance under section 8 for property disposition, not more than $420,000,000;

"(vi) for assistance under section 8 for loan management, not more than $160,000,000;

"(vii) for extensions of contracts expiring under section 8, not more than $7,735,000,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(viii) for amendments to contracts under section 8, not more than $1,620,500,000;

"(ix) for public housing lease adjustments and amendments, not more than $207,300,000; and

"(x) for public housing replacement activities, not more than $79,100,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1992, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $812,300,000, of which amount not more than $237,800,000 shall be available for Indian housing;

"(ii) for assistance under subsections (b)(1) and (o) of section 8, not more than $1,960,800,000, of which the Secretary shall use such amounts as may be necessary to provide not more than 1,000 certificates for purposes of replacement assistance under section 304(g) of the United States Housing Act of 1937; except that not more than 50 percent of the amounts appropriated under this clause may be used for vouchers under section 8(o).

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than $2,242,500,000;

"(iv) for assistance under section 8 for property disposition, not more than $438,100,000;

"(v) for assistance under section 8 for loan management, not more than $166,900,000;

"(vi) for extensions of contracts expiring under section 8, not more than $7,100,000,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(vii) for amendments to contracts under section 8, not more than $1,690,200,000;

"(viii) for public housing lease adjustments and amendments, not more than $216,100,000; and

"(ix) for public housing replacement activities, not more than $82,500,000.".

SEC. 572. LOW-INCOME TERM.

The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) by striking "lower income families" each place it appears and inserting "low-income families",

(2) by striking "lower income housing" each place it appears and inserting "low-income housing".

SEC. 573. DEFINITIONS UNDER UNITED STATES HOUSING ACT OF 1937.

(a) FAMILY.—Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(B)(3)) is amended—

(1) in the first sentence, by striking "(D)" and all that follows and inserting the following: "(D) and any other single persons. In no event may any single person under clause (D) be provided a housing unit assisted under this Act of 2 bedrooms or more.";

(2) by striking the second sentence; and

(3) by striking the third from last sentence.

(b) INCOME.—Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(4)) is amended by inserting before the period at the end the following: ", except that any amounts not actually received by the family may not be considered as income under this paragraph".

(c) ADJUSTED INCOME.—

(1) ALLOWANCE FOR DEPENDENTS.—Section 3(b)(5)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(A)) is amended by striking "$480" and inserting "$550".

(2) ALLOWANCE FOR MEDICAL EXPENSES.—Section 3(b)(5)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(C)) is amended—

(A) in clause (i), by striking "elderly"; and

(B) by striking "and" at the end.

(3) ALLOWANCES FOR WORKING FAMILIES AND CHILD SUPPORT AND ALIMONY PAYMENTS.—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended—

(A) by striking the period at the end of subparagraph (D) and inserting a semicolon; and

(B) by adding at the end the following new subparagraphs:

"(E) 10 percent of the earned income of the family; and

"(F) any payment made by a member of the family for the support and maintenance of any child, spouse, or former spouse who does not reside in the household, except that the amount excluded under this subparagraph shall not exceed the lesser of (i) the amount that such family member has a legal obligation to pay; or (ii) $550 for each individual for whom such payment is made.".

(d) DETERMINATION OF INCOME LIMITS.—Section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) is amended by inserting after the period at the end the following: "In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester County, in the State of New York, as if such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area

that does not include Westchester County, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester County.".

(e) BUDGET COMPLIANCE.—The amendments made by subsections (b) an (c) shall apply only to the extent approved in appropriations Acts.

(f) EFFECTIVE DATE.—The Secretary shall issue regulations implementing subsections (a) and (d) the amendments made by this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act. The regulations may not take effect until after September 30, 1991.

SEC. 574. EFFECT OF FOSTER CARE CHILDREN IN DETERMINING FAMILY COMPOSITION AND SIZE.

Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)), as amended by the preceding provisions of this Act, is further amended by inserting after the period at the end the following new sentence: "The temporary absence of a child from the home due to placement in foster care shall not be considered in considering family composition and family size.".

SEC. 575. EXEMPTION FROM HOUSING DEVELOPMENT GRANT CONSTRUCTION COMMENCEMENT REQUIREMENTS.

(a) IN GENERAL.—Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937 and subject to approval in appropriations Acts, the county of Santa Cruz, in the State of California, may not be required to return, and the Secretary of Housing and Urban Development may not recapture, any housing development grant amounts referred to in subsection (b) if during the 6-month period beginning on the date of the enactment of this Act the county (or any subgrantee) commences construction or substantial rehabilitation activities for which such amounts were made available.

(b) DESCRIPTION OF GRANT AMOUNTS.—The grant amounts referred to in subsection (a) are the amounts awarded to the county of Santa Cruz, in the State of California, on October 1, 1987, under section 17(d) of the United States Housing Act of 1937, for the purpose of providing 37 housing units for low- and very low-income families at the Murphy's Crossing housing development (project no. CA030HG701).

SEC. 576. CONSULTATION REGARDING FOSTER CARE CHILDREN IN DEVELOPMENT OF HOUSING ASSISTANCE PLAN.

Section 213(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(a)(5)) is amended by inserting after the period at the end the following: "In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children.".

SEC. 577. HOUSING COUNSELING.

(a) COUNSELING SERVICES.—The first sentence of section 106(a)(3) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by striking "except that" and all that follows and inserting the following: "except that for such purposes there are authorized to be appropriated $3,600,000 for fiscal year 1991 and $3,700,000 for fiscal year 1992.".

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to read as follows: "There is authorized to be appropriated to carry out this section $6,700,000 for fiscal year 1991 and $7,000,000 for fiscal year 1992, of which amounts $2,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D).".

(2) EXTENSION OF PROGRAM.—Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1990" and inserting "September 30, 1992".

(3) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—Section 106(c)(5) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)) is amended to read as follows:

"(5) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), if any eligible homeowner fails to pay any amount by the date the amount is due under a home loan, the creditor of the loan shall notify the homeowner of the availability of any homeownership counseling offered by the creditor and, as a supplement to counseling provided by the creditor, shall notify the homeowner of 1 of the following:

"(i) The availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling.

"(ii) The toll-free telephone number described in subparagraph (D)(i).

"(B) DEADLINE FOR NOTIFICATION.—The notification required in subparagraph (A) shall be made—

"(i) in a manner approved by the Secretary; and

"(ii) before the expiration of the 45-day period beginning on the date on which the failure referred to in such subparagraph occurs.

"(C) EXCEPTIONS.—Notification under subparagraph (A) shall not be required with respect to any loan—

"(i) insured or guaranteed under chapter 37 of title 38, United States Code; or

"(ii) for which the eligible homeowner pays the amount overdue before the expiration of the 45-day period under subparagraph (B)(ii).

"(D) ADMINISTRATION AND COMPLIANCE.—The Secretary shall, to the extent of amounts approved in appropriation Acts, enter into an agreement with an appropriate private entity under which the entity will—

"(i) operate a toll-free telephone number through which any eligible homeowner can obtain a list of nonprofit organizations that—

"(I) are approved by the Secretary and experienced in the provision of homeownership counseling; and

"(II) serve the area in which the residential property of the homeowner is located;

"(ii) monitor the compliance of creditors with the requirements of subparagraphs (A) and (B); and

"(iii) report to the Secretary not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B).

"(E) REPORT.—The Secretary shall submit a report to the Congress not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B) and the effectiveness of the entity monitoring such compliance. The Secretary shall also include in the report any recommendations for legislative action to increase the authority of the Secretary to penalize creditors who do not comply with such requirements.".

(c) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection:

"(d) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—

"(1) PURPOSES.—The purpose of this subsection is—

"(A) to reduce defaults and foreclosures on mortgage loans insured under the Federal Housing Administration single family mortgage insurance program;

"(B) to encourage responsible and prudent use of such federally insured home mortgages;

"(C) to assist homeowners with such federally insured mortgages to retain the homes they have purchased pursuant to such mortgages; and

"(D) to encourage the availability and expansion of housing opportunities in connection with such federally insured home mortgages.

"(2) AUTHORITY.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of providing coordinated prepurchase counseling and foreclosure-prevention counseling to first-time homebuyers and homeowners in avoiding defaults and foreclosures on mortgages insured under the Federal Housing Administration single family home mortgage insurance program.

"(3) GRANTS.—Under the demonstration program under this subsection, the Secretary shall make grants to qualified nonprofit organizations under paragraph (4) to enable the organizations to provide prepurchase counseling services to eligible homebuyers and foreclosure-prevention counseling services to eligible homeowners, in counseling target areas.

"(4) QUALIFIED NONPROFIT ORGANIZATIONS.—The Secretary shall select nonprofit organizations to receive assistance under the demonstration program under this subsection based on the experience and ability of the organizations in providing homeownership counseling and their ability to provide community-based prepurchase and foreclosure-prevention counseling under paragraphs (5) and (6) in a counseling target area. To be eligible for selection under this paragraph, a nonprofit organization shall submit an application containing a proposal for providing counseling services in the form and manner required by the Secretary.

"(5) PREPURCHASE COUNSELING.—

"(A) MANDATORY PARTICIPATION.—Under the demonstration program, the Secretary shall require any eligible homebuyer who intends to purchase a home located in a counseling target area and who has applied for (as determined by the Secretary) a qualified mortgage (as such term is defined in paragraph (10)(K)) on such home that involves a downpayment of less than 10 percent of the principal obligation of the mortgage, to receive counseling prior to signing of a contract to

purchase the home. The counseling shall include counseling with respect to—

"(i) financial management and the responsibilities involved in homeownership;

"(ii) fair housing laws and requirements;

"(iii) the maximum mortgage amount that the homebuyer can afford; and

"(iv) options, programs, and actions available to the homebuyer in the event of actual or potential delinquency or default.

"(B) ELIGIBILITY FOR COUNSELING.—A homebuyer shall be eligible for prepurchase counseling under this paragraph if—

"(i) the homebuyer has applied for a qualified mortgage;

"(ii) the homebuyer is a first-time homebuyer; and

"(iii) the home to be purchased under the qualified mortgage is located in a counseling target area.

"(6) FORECLOSURE-PREVENTION COUNSELING.—

"(A) AVAILABILITY.—Under the demonstration program, the Secretary shall make counseling available for eligible homeowners who are 60 or more days delinquent with respect to a payment under a qualified mortgage on a home located within a counseling target area. The counseling shall include counseling with respect to options, programs, and actions available to the homeowner for resolving the delinquency or default.

"(B) NOTIFICATION OF DELINQUENCY.—Under the demonstration program, the Secretary shall require the creditor of any eligible homeowner who is delinquent (as described in subparagraph (A)) to send written notice by registered or certified mail within 5 days (excluding Saturdays, Sundays, and legal public holidays) after the occurrence of such delinquency—

"(i) notifying the homeowner of the delinquency and the name, address, and phone number of the counseling organization for the counseling target area; and

"(ii) notifying any counseling organization for the counseling target area of the delinquency and the name, address, and phone number of the delinquent homeowner.

"(C) COORDINATION WITH EMERGENCY HOMEOWNERSHIP COUNSELING PROGRAM.—The Secretary may coordinate the provision of assistance under subsection (c) with the demonstration program under this subsection.

"(D) ELIGIBILITY FOR COUNSELING.—A homeowner shall be eligible for foreclosure-prevention counseling under this paragraph if—

"(i) the home owned by the homeowner is subject to a qualified mortgage; and

"(ii) such home is located in a counseling target area.

"(7) SCOPE OF DEMONSTRATION PROGRAM.—

"(A) DESIGNATION OF COUNSELING TARGET AREAS.—The Secretary shall designate 3 counseling target areas (as provided in subparagraph (B)), which shall be located in not less than 2 separate metropolitan areas. The Secretary shall provide for counseling under the demonstration program under this subsection with respect to only such counseling target areas.

"(B) COUNSELING TARGET AREAS.—Each counseling target area shall consist of a group of contiguous census tracts—

"(i) the population of which is greater than 50,000;

"(ii) which together constitute an identifiable neighborhood, area, borough, district, or region within a metropolitan area (except that this clause may not be construed to exclude a group of census tracts containing areas not wholly contained within a single town, city, or other political subdivision of a State);

"(iii) in which the average age of existing housing is greater than 20 years; and

"(iv) for which (I) the percentage of qualified mortgages on homes within the area that are foreclosed exceeds 5 percent for the calendar year preceding the year in which the area is selected as a counseling target area, or (II) the number of qualified mortgages originated on homes in such area in the calendar year preceding the calendar year in which the area is selected as a counseling target area exceeds 20 percent of the total number of mortgages originated on residences in the area during such year.

"(C) MORTGAGE CHARACTERISTICS.—In designating counseling target areas under subparagraph (A), the Secretary shall designate at least 1 such area that meets the requirements of subparagraph (B)(iv)(I) and at least 1 such area that meets the requirements of subparagraph (B)(iv)(II).

"(D) EXPANSION OF TARGET AREAS.—The Secretary may expand any counseling target area during the term of the demonstration program, if the Secretary determines that counseling can be adequately provided within such expanded area and the purposes of this subsection will be furthered by such expansion. Any such expansion shall include only groups of census tracts that are contiguous to the counseling target area expanded and such census tract groups shall not be subject to the provisions of subparagraph (B).

"(E) DESIGNATION OF CONTROL AREAS.—For purposes of determining the effectiveness of counseling under the demonstration program, the Secretary shall designate 3 control areas, each of which shall correspond to 1 of the counseling target areas designated under subparagraph (A). Each control area shall be located in the metropolitan area in which the corresponding counseling target area is located, shall meet the requirements of subparagraph (B), and shall be similar to such area with respect to size, age of housing stock, median income, and racial makeup of the population. Each control area shall also comply with the requirements of subclause (I) or (II) of subparagraph (B)(iv), according to the subclause with which the corresponding counseling target area complies.

"(8) EVALUATION.—Each organization providing counseling under the demonstration program under this subsection shall maintain records with respect to each eligible homebuyer and eligible homeowner counseled and shall provide information with respect to such counseling as the Secretary or the Comptroller General (for purposes of the study and report under paragraph (9)) may require.

"(9) GAO STUDY AND REPORT.—

"(A) STUDY.—During the 12-month period ending on the termination date under paragraph (13), the Comptroller General of the United States shall conduct a study to assess the effectiveness of the demonstration program and counseling under the program. The study shall include—

"(i) a comparison of the default and foreclosure rates for each counseling target area and other areas, including each corresponding control area;

"(ii) a survey of eligible homebuyers and eligible homeowners counseled under the program; and

"(iii) identification of factors preventing participation in the program for single family home mortgage insurance under the National Housing Act and contributing to default and foreclosure under such program.

"(B) REPORT.—The Comptroller General shall submit to the Committees on Banking, Finance and Urban Affairs and Veterans' Affairs of the House of Representatives, the Committees on Banking, Housing, and Urban Affairs and Veterans' Affairs of the Senate, the Secretary of Housing and Urban Development, and the Secretary of Veterans Affairs, not later than the termination date under paragraph (13), a report regarding the study under subparagraph (A). The report shall include—

"(i) information describing the results of the activities under clauses (i) through (iii) of such subparagraph;

"(ii) an assessment of the effectiveness of the counseling under the program in preventing default and foreclosure, based on comparison between counseling target areas and control areas; and

"(iii) a recommendation of whether a permanent counseling program involving prepurchase counseling or foreclosure-prevention counseling would be effective in reducing defaults and foreclosures on qualified mortgages.

"(10) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'control area' means an area designated by the Secretary under paragraph (7)(E).

"(B) The term 'counseling target area' means an area designated by the Secretary under paragraph (7)(A).

"(C) The term 'creditor' means a person or entity that is servicing a loan secured by a qualified mortgage on behalf of itself or another person or entity.

"(D) The term 'displaced homemaker' means an individual who—

"(i) is an adult;

"(ii) has not worked full-time, full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

"(iii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(E) The term 'downpayment' means the amount of purchase price of home required to be paid at or before the time of purchase.

"(F) The term 'eligible homebuyer' means a homebuyer that meets the requirements under paragraph (5)(B).

"(G) The term 'eligible homeowner' means a homeowner that meets the requirements under paragraph (6)(D).

"(H) The term 'first-time homebuyer' means an individual who—

"(i) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the home pursuant to which counseling is provided under this subsection;

"(ii) is a displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse, meets the requirements of clause (i); or

"(iii) is a single parent who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse while married, meets the requirements of clause (i).

"(I) The term 'home' includes any dwelling or dwelling unit eligible for a qualified mortgage, and includes a unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"(J) The term 'metropolitan area' means a standard metropolitan statistical area as

designated by the Director of the Office of Management and Budget.

"(K) The term 'qualified mortgage' means a mortgage on a 1- to 4-family home that is insured under title II of the National Housing Act.

"(L) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(M) The term 'single parent' means an individual who—

"(i) is unmarried or legally separated from a spouse; and

"(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or

"(II) is pregnant.

"(11) REGULATIONS.—The Secretary may issue any regulations necessary to carry out this subsection.

"(12) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $350,000 for fiscal year 1991 and $365,000 for fiscal year 1992.

"(13) TERMINATION.—The demonstration program under this subsection shall terminate at the end of fiscal year 1994.".

SEC. 578. FLEXIBLE SUBSIDY PROGRAM.

(a) EXTENSION.—Section 236(f)(3) of the National Housing Act is amended by striking "September 30, 1991" and inserting "September 30, 1992".

(b) AUTHORIZATION.—Section 201(j) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)) is amended by adding at the end the following paragraph:

"(5) There are authorized to be appropriated for assistance under the flexible subsidy fund not to exceed $50,000,000 for fiscal year 1991 and $52,200,000 for fiscal year 1992.".

(c) LIMITATION.—Section 201(j)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: "and shall not (except as provided in Public Law 100-4-4 (102 Stat. 1018), as in effect on October 1, 1988) be available for any other purpose".

SEC. 579. STREAMLINED PROPERTY DISPOSITION REQUIREMENTS FOR UNSUBSIDIZED MULTIFAMILY HOUSING PROJECTS.

(a) GOALS.—Section 203(a)(1)(B) of the Housing and Community Development Amendments of 1978 is amended by striking "or vacant".

(b) ACTIONS.—Section 203(d) of the Housing and Community Development Amendments of 1978 is amended—

(1) in paragraph (1)(B), by striking "or are vacant (which units shall be made available for such families as soon as possible)";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) In the case of multifamily housing projects (other than subsidized or formerly subsidized projects) that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide vouchers or certificates under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that the requirements under subsection (e) have been complied with and there is available in the area an adequate supply of habitable affordable housing for low-income families.".

SEC. 580. MULTIFAMILY HOUSING DISPOSITION PARTNERSHIP.

Section 184(c)(1) of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z-11 note) is amended by striking "upon the expiration of the 3-year period beginning on the date of the enactment of this Act" and inserting "at the end of September 30, 1991".

SEC. 581. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION.

"(a) IN GENERAL.—The Public Housing Drug Elimination Act of 1988 (chapter 2 of subtitle C of title V of Public Law 100-690) is amended to read as follows:

"CHAPTER 2—PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION

"SEC. 5121. SHORT TITLE.

"This chapter may be cited as the "Public and Assisted Housing Drug Elimination Act of 1990".

SEC. 5122. CONGRESSIONAL FINDINGS.

"The Congress finds that—

"(1) the Federal Government has a duty to provide public and other federally assisted low-income housing that is decent, safe, and free from illegal drugs;

"(2) public and other federally assisted low-income housing in many areas suffer from rampant drug-related crime;

"(3) drug dealers are increasingly imposing a reign of terror on public and other federally assisted low-income housing tenants;

"(4) the increase in drug-related crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures; and

"(5) local law enforcement authorities often lack the resources to deal with the drug problem in public and other federally assisted low-income housing, particularly in light of the recent reductions in Federal aid to cities.

"SEC. 5123. AUTHORITY TO MAKE GRANTS.

"The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, may make grants to public housing agencies (including Indian Housing Authorities) and private, for profit and nonprofit owners of federally assisted low-income housing for use in eliminating drug-related crime.

"SEC. 5124. ELIGIBLE ACTIVITIES.

"Grants under this chapter may be used in public housing or other federally assisted low-income housing projects for—

"(1) the employment of security personnel;

"(2) reimbursement of local law enforcement agencies for additional security and protective services;

"(3) physical improvements which are specifically designed to enhance security;

"(4) the employment of one or more individuals—

"(A) to investigate drug-related crime on or about the real property comprising any public or other federally assisted low-income housing project; and

"(B) to provide evidence relating to such crime in any administrative or judicial proceeding;

"(5) the provision of training, communications equipment, and other related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials;

"(6) programs designed to reduce use of drugs in and around public or other federally assisted low-income housing projects, including drug-abuse prevention, intervention, referral, and treatment programs; and

"(7) providing funding to nonprofit public housing resident management corporations and resident councils to develop security and drug abuse prevention programs involving site residents.

"SEC. 5125. APPLICATIONS.

"(a) IN GENERAL.—To receive a grant under this chapter, a public housing agency or an owner of federally assisted low-income housing shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related crime on the premises of the housing administered or owned by the applicant for which the application is being submitted.

"(b) CRITERIA.—Except as provided by subsections (c) and (d) the Secretary shall approve applications under this chapter based exclusively on—

"(1) the extent of the drug-related crime problem in the public or federally assisted low-income housing project or projects proposed for assistance;

"(2) the quality of the plan to address the crime problem in the public or federally assisted low-income housing project or projects proposed for assistance, including the extent to which the plan includes initiatives that can be sustained over a period of several years;

"(3) the capability of the applicant to carry out the plan; and

"(4) the extent to which tenants, the local government and the local community support and participate in the design and implementation of the activities proposed to be funded under the application.

"(c) FEDERALLY ASSISTED LOW-INCOME HOUSING.—In addition to the selection criteria specified in subsection (b), the Secretary may establish other criteria for the evaluation of applications submitted by owners of federally assisted low-income housing, except that such additional criteria shall be designed only to reflect—

"(1) relevant differences between the financial resources and other characteristics of public housing authorities and owners of federally assisted low-income housing, or

"(2) relevant differences between the problem of drug-related crime in public housing and the problem of drug-related crime in federally assisted low-income housing.

"(d) HIGH INTENSITY DRUG TRAFFICKING AREAS.—In evaluating the extent of the drug-related crime problem pursuant to subsection (b), the Secretary may consider whether housing projects proposed for assistance are located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988.

"SEC. 5126. DEFINITIONS.

"For the purposes of this chapter:

"(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given such term in section 102 of the Controlled Substance Act (21 U.S.C. 802).

"(2) DRUG-RELATED CRIME.—The term 'drug-related crime' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use a controlled substance.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(4) FEDERALLY ASSISTED LOW-INCOME HOUSING.—The term 'federally assisted low-income housing' means housing assisted under—

"(A) section 221(d)(3), section 221(d)(4), or 236 of the National Housing Act;

"(B) section 101 of the Housing and Urban Development Act of 1965; or

"(C) section 8 of the United States Housing Act of 1937.

"SEC. 5127. IMPLEMENTATION.

"The Secretary shall issue regulations to implement this chapter within 180 days after the date of enactment of the Cranston-Gonzalez National Affordable Housing Act.

"SEC. 5128. REPORTS.

"The Secretary shall require grantees to provide periodic reports that include the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in section 5125(a), and any change in the incidence of drug-related crime in projects assisted under this chapter.

"SEC. 5129. MONITORING.

"The Secretary shall audit and monitor the programs funded under this chapter to ensure that assistance provided under this chapter is administered in accordance with the provisions of this chapter.

"SEC. 5130. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this chapter $160,000,000 for fiscal year 1991 and $166,900,000 for fiscal year 1992. Any amount appropriated under this section shall remain available until expended.

"(b) SET-ASIDE FOR ASSISTED HOUSING.—Of any amount made available in any fiscal year to carry out this chapter, not more than 6.25 percent of such amount shall be available for grants for federally assisted, low-income housing.".

(b) CONFORMING AMENDMENTS.—The table of contents for title V of Public Law 100-690 is amended by striking the items relating to chapter 2 and inserting the following new items:

"CHAPTER 2—PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION

"Sec. 5121. Short title.
"Sec. 5122. Congressional findings.
"Sec. 5123. Authority to make grants.
"Sec. 5124. Eligible activities.
"Sec. 5125. Applications.
"Sec. 5126. Definitions.
"Sec. 5127. Implementation.
"Sec. 5128. Reports.
"Sec. 5129. Monitoring.
"Sec. 5130. Authorization of appropriations.".

SEC. 582. STUDY OF PRIVATE NONPROFIT INITIATIVES.

(a) STUDY.—The Secretary of Housing and Urban Development shall conduct a study to examine how private nonprofit initiatives to provide low-income housing development in local communities across the country have succeeded. The Secretary shall place particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development. The Secretary shall convene individuals, of his choosing, who have demonstrated an expertise in such private nonprofit initiatives from across the country and draw on their expertise in implementing such programs. The study shall include the results of, and suggestions by, such individuals.

(b) REPORT.—The Secretary shall submit a report to the Congress regarding the findings of this study not later than 1 year after the date of the enactment of this Act.

SEC. 583. EXTENSION OF CAPITAL ASSESSMENT STUDY.

Section 204(c)(1) of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1715z-1a note) is amended by striking "Not later than one year after the date of enactment of this Act" and inserting "Not later than March 1, 1992".

TITLE VI—PRESERVATION OF AFFORDABLE RENTAL HOUSING

Subtitle A—Prepayment of Mortgages Insured Under National Housing Act

SEC. 601. PREPAYMENT OF MORTGAGES.

(a) IN GENERAL.—Subtitles A and B of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) are amended to read as follows:

"Subtitle A—Short Title

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Low-Income Housing Preservation and Resident Homeownership Act of 1990'.

"Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

"SEC. 211. GENERAL PREPAYMENT LIMITATION.

"(a) PREPAYMENT AND TERMINATION.—An owner of eligible low-income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary under this subtitle or in accordance with section 224. An insurance contract with respect to eligible low-income housing may be terminated pursuant to section 229 of the National Housing Act only in accordance with a plan of action approved by the Secretary under this subtitle or in accordance with section 224.

"(b) FORECLOSURE.—A mortgagee may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project only if the mortgagee also conveys title to the project to the Secretary in connection with a claim for insurance benefits.

"(c) EFFECT OF UNAUTHORIZED PREPAYMENT.—Any prepayment of a mortgage on eligible low-income housing or termination of the mortgage insurance on such housing not in compliance with the provisions of this subtitle shall be null and void and any low-income affordability restrictions on the housing shall continue to apply to the housing.

"SEC. 212. NOTICE OF INTENT.

"(a) FILING WITH THE SECRETARY.—An owner of eligible low-income housing that intends to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 218, extend the low-income affordability restrictions of the housing in accordance with section 219, or transfer the housing to a qualified purchaser in accordance with section 220, shall file with the Secretary a notice indicating such intent in the form and manner as the Secretary shall prescribe.

"(b) FILING WITH THE STATE OR LOCAL GOVERNMENT, TENANTS, AND MORTGAGEE.—The owner, upon filing a notice of intent under this section, shall simultaneously file the notice of intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located and with the mortgagee, and shall inform the tenants of the housing of the filing.

"(c) INELIGIBILITY FOR FILING.—An owner shall not be eligible to file a notice of intent under this section if the mortgage covering the housing—

"(1) falls into default on or after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act; or

"(2)(A) fell into default before, but is current as of, such date; and

"(B) the owner does not agree to recompense the appropriate Insurance Fund, in the amount the Secretary determines appropriate, for any losses sustained by the Fund as a result of any work-out or other arrangement agreed to by the Secretary and the owner with respect to the defaulted mortgage.

The Secretary shall carry out this subsection in a manner consistent with the provisions of section 203 of the Housing and Community Development Amendments of 1978.

"SEC. 213. APPRAISAL AND PRESERVATION VALUE OF ELIGIBLE LOW-INCOME HOUSING.

"(a) APPRAISAL.—Upon receiving notice of intent regarding an eligible low-income housing project indicating an intent to extend the low-income affordability restrictions under section 219 or transfer the housing under section 220, the Secretary shall provide for determination of the preservation value of the housing, as follows:

"(1) APPRAISERS.—The preservation value shall be determined by 2 independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the owner. The appraisals shall be conducted not later than 4 months after filing the notice of intent under section 212, and the owner shall submit to the Secretary the appraisal made by the owner's selected appraiser not later than 90 days after receipt of the notice under paragraph (2). If the 2 appraisers fail to agree on the preservation value, and the Secretary and the owner also fail to agree on the preservation value, the Secretary and the owner shall jointly select and jointly compensate a third appraiser, whose appraisal shall be binding on the parties.

"(2) NOTICE.—Not later than 30 days after the filing of a notice of intent to seek incentives under section 219 or transfer the property under section 220, the Secretary shall provide written notice to the owner filing the notice of intent of—

"(A) the need for the owner to acquire an appraisal of the property under paragraph (1);

"(B) the rules and guidelines for such appraisals;

"(C) the filing deadline for submission of the appraisal under paragraph (1);

"(D) the need for an appraiser retained by the Secretary to inspect the housing and project financial records; and

"(E) any delegation to the appropriate State agency by the Secretary of responsibilities regarding the appraisal.

"(3) TIMELINESS.—The Secretary may approve a plan of action to receive incentives under section 219 or 220 only based upon an appraisal conducted in accordance with this subsection that is not more than 30 months old.

"(b) PRESERVATION VALUE.—For purposes of this subtitle, the preservation value of eligible low-income housing appraised under this section shall be—

"(1) for purposes of extending the low-income affordability restrictions and receiving incentives under section 219, the fair market value of the property based on the highest and best use of the property as residential rental housing; and

"(2) for purposes of transferring the property under section 220 or 221, the fair

market value of the housing based on the highest and best use of the property.

"(c) GUIDELINES.—The Secretary shall provide written guidelines for appraisals of preservation value, which shall assume repayment of the existing federally assisted mortgage, termination of the existing low-income affordability restrictions, and costs of compliance with any State or local laws of general applicability. The guidelines may permit reliance upon assessments of rehabilitation needs and other conversion costs determined by an appropriate State agency, as determined by the Secretary. The guidelines shall instruct the appraiser to use the greater of actual project operating expenses at the time of the appraisal (based on the average of the actual project operating expenses during the preceding 3 years) or projected operating expenses after conversion in determining preservation value. The guidelines established by the Secretary shall not be inconsistent with customary appraisal standards. The guidelines shall also meet the following requirements:

"(1) RESIDENTIAL RENTAL VALUE.—In the case of preservation value determined under subsection (b)(1), the guidelines shall assume conversion of the housing to market-rate rental housing and shall establish methods for (A) determining rehabilitation expenditures that would be necessary to bring the housing up to quality standards required to attract and sustain a market rate tenancy upon conversion, and (B) assessing other costs that the owner could reasonably be expected to incur if the owner converted the property to market-rate multifamily rental housing.

"(2) HIGHEST AND BEST USE VALUE.—In the case of preservation value determined under subsection (b)(2), the guidelines shall assume conversion of the housing to highest and best use for the property and shall establish methods for (A) determining any rehabilitation expenditures that would be necessary to convert the housing to such use, and (B) assessing other costs that the owner could reasonably be expected to incur if the owner converted the property to its highest and best use.

"SEC. 214. ANNUAL AUTHORIZED RETURN AND PRESERVATION RENTS.

"(a) ANNUAL AUTHORIZED RETURN.—Pursuant to an appraisal under section 213, the Secretary shall determine the annual authorized return on the appraised housing, which shall be equal to 8 percent of the preservation equity (as such term is defined in section 229(8)).

"(b) PRESERVATION RENTS.—The Secretary shall also determine the aggregate preservation rents under this subsection for each project appraised under section 213. The aggregate preservation rents shall be used solely for the purposes of comparison with Federal cost limits under section 215. Actual rents received by an owner (or a qualified purchaser) shall be determined pursuant to section 219, 220, or 221. The aggregate preservation rents shall be established as follows:

"(1) EXTENSION OF AFFORDABILITY LIMITS.—The aggregate preservation rent for purposes of receiving incentives pursuant to extension of the low-income affordability restrictions under section 219 shall be the gross potential income for the project, determined by the Secretary, that would be required to support the following costs:

"(A) The annual authorized return determined under subsection (a).

"(B) Debt service on any rehabilitation loan for the housing.

"(C) Debt service on the federally-assisted mortgage for the housing.

"(D) Project operating expenses.

"(E) Adequate reserves.

"(2) SALE.—The aggregate preservation rent for purposes of receiving incentives pursuant to sale under section 220 or 221 shall be the gross income for the project determined by the Secretary, that would be required to support the following costs:

"(A) Debt service on the loan for acquisition of the housing.

"(B) Debt service on any rehabilitation loan for the housing.

"(C) Debt service on the federally-assisted mortgage for the housing.

"(D) Project operating expenses.

"(E) Adequate reserves.

"SEC. 215. FEDERAL COST LIMITS AND LIMITATIONS ON PLANS OF ACTION.

"(a) DETERMINATION OF RELATIONSHIP TO FEDERAL COST LIMITS.—

"(1) INITIAL DETERMINATION.—For each eligible low-income housing project appraised under section 213(a), the Secretary shall determine whether the aggregate preservation rents for the project determined under paragraph (1) or (2) of section 214(b) exceed the amount determined by multiplying 120 percent of the fair market rental (established under section 8(c) of the United States Housing Act of 1937) for the market area in which the housing is located by the number of dwelling units in the project (according to appropriate unit sizes).

"(2) RELEVANT LOCAL MARKETS.—If the aggregate preservation rents for a project exceeds the amount determined under paragraph (1), the Secretary shall determine whether such aggregate rents exceed the amount determined by multiplying 120 percent of the prevailing rents in the relevant local market area in which the housing is located by the number of units in the project (according to the appropriate unit sizes). A relevant local market area shall be an area geographically smaller than a market area established by the Secretary under section 8(c)(1) of the United States Act of 1937 that is identifiable as a distinct rental market area. The Secretary may rely on the appraisal to determine the relevant local market areas and prevailing rents in such local areas and any other information the Secretary determines is appropriate.

"(3) EFFECT.—For purposes of this subtitle, the aggregate preservation rents shall be considered to exceed the Federal cost limits under this subsection only if the aggregate preservation rents exceed the amount determined under paragraph (1) and the amount determined under paragraph (2).

"(b) LIMITATIONS ON ACTION PURSUANT TO FEDERAL COST LIMITS.—

"(1) HOUSING WITHIN FEDERAL COST LIMITS.—If the aggregate preservation rents for an eligible low-income housing project do not exceed the Federal cost limit, the owner may not prepay the mortgage on the housing or terminate the insurance contract with respect to the housing, except as permitted under section 224. The owner may—

"(A) file a plan of action under section 217 to receive incentives under section 219; or

"(B) file a second notice of intent under section 216(d) indicating an intention to transfer the housing under section 220 and take actions pursuant to such section.

"(2) HOUSING EXCEEDING FEDERAL COST LIMITS.—If the aggregate preservation rents for an eligible low-income housing project exceed the Federal cost limit, the owner may—

"(A) file a plan of action under section 217 to receive incentives under section 219 if the owner agrees to accept incentives under such sections in an amount that shall not exceed the Federal cost limit;

"(B) file a second notice of intent under section 216(d) indicating an intention to transfer the housing under section 220 and take actions pursuant to such section if the owner agrees to transfer the housing at a price that shall not exceed the Federal cost limit; or

"(C) file a second notice of intent under section 216(d) indicating an intention to prepay the mortgage or voluntarily terminate the insurance, subject to the mandatory sale provisions under section 221.

"SEC. 216. INFORMATION FROM SECRETARY.

"(a) INFORMATION TO OWNERS TERMINATING AFFORDABILITY RESTRICTIONS.—The Secretary shall provide each owner who submits a notice of intent to terminate the low-income affordability restrictions on the housing under section 218 with information under this section not later than 6 months after receipt of the notice of intent. The information shall include a description of the criteria for such termination specified under section 218 and the documentation required to satisfy such criteria.

"(b) INFORMATION TO OWNERS EXTENDING LOW-INCOME AFFORDABILITY RESTRICTIONS.—The Secretary shall provide each owner who submits notice of intent to extend the low-income affordability restrictions on the housing under section 219 or transfer the housing under section 220 to a qualified purchaser with information under this subsection not later than 9 months after receipt of the notice of intent. The information shall include any information necessary for the owner to prepare a plan of action under section 217, including the following:

"(1) PRESERVATION VALUES.—A statement of the preservation value of the housing determined under paragraphs (1) and (2) of section 213(b).

"(2) PRESERVATION RENT.—A statement of the preservation rent for the housing as calculated under section 214(b).

"(3) FEDERAL COST LIMITS.—A statement of the applicable Federal cost limits for the market area (or relevant local market area, if applicable) in which the housing is located, which shall explain the limitations under sections 219 and 220 of the amount of assistance that the Secretary may provide based on such cost limits.

"(4) FEDERAL COST LIMIT ANALYSIS.—A statement of whether the aggregate preservation rents exceeds the Federal cost limits and a direction to the owner to file a plan of action under section 217 or submit a second notice of intent under section 216(d), whichever is applicable.

"(c) AVAILABILITY TO TENANTS.—The Secretary shall make any information provided to the owner under subsection (a) and (b) available to the tenants of the housing, together with other information relating to the rights and opportunities of the tenants.

"(d) SECOND NOTICE OF INTENT.—

"(1) FILING.—Each owner of eligible low-income housing that elects to transfer housing under section 220 shall submit to the Secretary, in such form and manner as the Secretary prescribes, notice of intent to sell the housing under section 220. To be eligible to prepay the mortgage or voluntarily terminate the insurance contract on the mortgage, an owner of housing for which the preservation rents exceed the Federal cost limits under section 215(b) shall submit to the Secretary notice of such intent. The provisions of sections 221 and 223 shall apply

to any owner submitting a notice under the preceding sentence.

"(2) TIMING.—A second notice of intent under this subsection shall be submitted not later than 30 days after receipt of information from the Secretary under this section. If an owner fails to submit such notice within such period, the notice of intent submitted by the owner under section 212 shall be void and ineffective for purposes of this subtitle.

"SEC. 217. PLAN OF ACTION.

"(a) SUBMISSION TO SECRETARY.—

"(1) TIMING.—Not later than 6 months after receipt of the information from the Secretary under section 216 an owner seeking to terminate the low-income affordability restrictions through prepayment of the mortgage or voluntary termination under section 218, or to extend the low-income affordability restriction on the housing under section 219, shall submit a plan of action to the Secretary in such form and manner as the Secretary shall prescribe. Any owner or purchaser seeking a transfer of the housing under section 220 or 221 shall submit a plan of action under this section to the Secretary upon acceptance of a bona fide offer under section 220 (b) or (c) or upon making of any bona fide offer under section 221.

"(2) COPIES TO TENANTS.—Each owner submitting a plan of action under this section to the Secretary shall also submit a copy to the tenants of the housing. The owner shall simultaneously submit the plan of action to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located. An appropriate agency of such State or local government shall review the plan and advise the tenants of the housing of any programs that are available to assist the tenants in carrying out the purposes of this title.

"(3) FAILURE TO SUBMIT.—If the owner does not submit a plan of action to the Secretary within the 6-month period referred to in paragraph (1) (or the applicable longer period), the notice of intent shall be ineffective for purposes of this subtitle and the owner may not submit another notice of intent under section 212 until 6 months after the expiration of such period.

"(b) CONTENTS.—

"(1) TERMINATION OF AFFORDABILITY RESTRICTIONS.—If the plan of action proposes to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 218, the plan shall include—

"(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

"(B) a description of any proposed changes in the low-income affordability restrictions;

"(C) a description of any change in ownership that is related to prepayment or voluntary termination;

"(D) an assessment of the effect of the proposed changes on existing tenants;

"(E) an analysis of the effect of the proposed changes on the supply of housing affordable to low- and very low-income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

"(F) any other information that the Secretary determines is necessary to achieve the purposes of this title.

"(2) EXTENSION OF AFFORDABILITY RESTRICTIONS.—If the plan of action proposes to extend the low-income affordability restrictions of the housing in accordance with section 219 or transfer the housing to a qualified purchaser in accordance with section 220, the plan shall include—

"(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

"(B) a description of the Federal incentives requested (including cash flow projections), and analyses of how the owner will address any physical or financial deficiencies and maintain the low-income affordability restrictions of the housing;

"(C) a description of any assistance from State or local government agencies, including low-income housing tax credits, that have been offered to the owner or purchaser or for which the owner or purchaser has applied or intends to apply;

"(D) a description of any transfer of the property, including the identity of the transferee and a copy of any documents of sale; and

"(E) any other information that the Secretary determines is necessary to achieve the purposes of this title.

"(c) REVISIONS.—An owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subtitle. The owner shall submit any revision to the Secretary and to the tenants of the housing.

"SEC. 218. PREPAYMENT AND VOLUNTARY TERMINATION.

"(a) APPROVAL.—The Secretary may approve a plan of action that provides for termination of the low-income affordability restrictions through prepayment of the mortgage or voluntary termination of the mortgage insurance contract only upon a written finding that—

"(1) implementation of the plan of action will not—

"(A) materially increase economic hardship for current tenants, and will not in any event result in (i) a monthly rental payment by any current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (ii) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent (whichever is lower); or

"(B) involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement; and

"(2) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

"(A) the availability of decent, safe, and sanitary housing affordable to low-income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

"(B) the ability of low-income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

"(C) the housing opportunities of minorities in the community within which the housing is located.

"(b) DISAPPROVAL.—If the Secretary determines a plan of action to prepay a mortgage or terminate an insurance contract fails to meet the requirements of subsection (a), the Secretary shall disapprove the plan, the notice of intent filed under section 212 by such owner shall not be effective for purposes of this subtitle, and the owner may, in order to receive incentives under this subtitle, file a new notice of intent under such section.

"SEC. 219. INCENTIVES TO EXTEND LOW-INCOME USE.

"(a) AGREEMENTS BY SECRETARY.—After approving a plan of action from an owner of eligible low-income housing that includes the owner's plan to extend the low-income affordability restrictions of the housing, the Secretary shall, subject to the availability of appropriations for such purpose, enter into such agreements as are necessary to enable the owner to receive the annual authorized return for the housing determined under section 214(a), pay debt service on the federally-assisted mortgage covering the housing, pay debt service on any loan for rehabilitation of the housing, and meet project operating expenses and establish adequate reserves. The Secretary shall take into account the Federal cost limits under section 215(a) for the housing when providing incentives under subsections (b)(2) and (3) of this section.

"(b) PERMISSIBLE INCENTIVES.—Such agreements may include one or more of the following incentives:

"(1) Increased access to residual receipts accounts.

"(2) Subject to the availability of amounts provided in appropriations Acts—

"(A) an increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937, or

"(B) additional assistance under section 8 or an extension of any project-based assistance attached to the housing; and

"(3) An increase in the rents on units occupied by current tenants as permitted under section 222.

"(4) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

"(5) Financing of capital improvements through provision of insurance for a second mortgage under section 241 of the National Housing Act.

"(6) In the case of housing defined in section 229(1)(A)(iii), redirection of the Interest Reduction Payment subsidies to a second mortgage.

"(7) Access by the owner to a portion of the preservation equity in the housing through provision of insurance for a second mortgage loan insured under section 241(f) of the National Housing Act or a non-insured mortgage loan approved by the Secretary and the mortgagee.

"(8) Other incentives authorized in law.

With respect to any housing with a mortgage insured or otherwise assisted pursuant to section 236 of the National Housing Act, the provisions of subsections (f) and (g) of section 236 of such Act notwithstanding, the fair market rental charge for each unit in such housing may be increased in accordance with this subsection, but the owner shall pay to the Secretary all rental charges collected in excess of the basic rental charges, in an amount not greater than the fair market rental charges as such charges would have been established under section 236(f) of such Act absent the requirements of this paragraph.

"SEC. 220. INCENTIVES FOR TRANSFER TO QUALIFIED PURCHASERS.

"(a) IN GENERAL.—With respect to any eligible low-income housing for which an owner has submitted a second notice of intent under section 216(d) to transfer the housing to a qualified purchaser, the owner shall offer the housing for transfer to quali-

fied purchasers as provided in this section. The Secretary shall issue regulations describing the means by which potential qualified purchasers shall be notified of the availability of the housing for sale. The Secretary shall take into account the Federal cost limits under section 215(a) for the housing when providing incentives under section 219(b)(2) and (b)(3) (pursuant to subsection (d)(3) of this section).

"(b) RIGHT OF FIRST OFFER TO PRIORITY PURCHASERS.—

"(1) NEGOTIATION PERIOD.—For the 12-month period beginning on the receipt by the Secretary of a second notice of intent under section 216(d) with respect to such housing, the owner may offer to sell and negotiate a sale of the housing only with priority purchasers. The negotiated sale price may not exceed the preservation value of the housing determined under section 213(b)(2). The owner or the purchaser shall submit a plan of action under section 217 for any sale under this subsection, which shall include any request for assistance under this section, upon the acceptance of any bona fide offer meeting the requirements of this paragraph.

"(2) EXPRESSION OF INTEREST.—During such period, priority purchasers may submit written notice to the Secretary stating their interest in acquiring the housing. Such notice shall be made in the form and include such information as the Secretary may prescribe.

"(3) INFORMATION.—Within 30 days of receipt of an expression of interest by a priority purchaser, the Secretary shall provide such purchaser with information on the assistance available from the Federal Government to facilitate a transfer and the owner shall provide appropriate information on the housing, as determined by the Secretary.

"(c) RIGHT OF REFUSAL FOR OTHER QUALIFIED PURCHASERS.—If no bona fide offer to purchase any eligible low-income housing subject to this section that meets the requirements of subsection (b) is made and accepted during the period under such subsection, during the 3-month period beginning upon the expiration of the 12-month period under subsection (b)(1), the owner of the housing may offer to sell and may sell the housing only to qualified purchasers. The negotiated sale price may not exceed the preservation value of the housing determined under section 213(b)(2). The owner or purchaser shall submit a plan of action under section 217 for any sale under this subsection, which shall include any request for assistance under this section, upon the acceptance of any bona fide offer meeting the requirements of this paragraph.

"(d) ASSISTANCE.—

"(1) APPROVAL.—If the qualified purchaser is a resident council, the Secretary may not approve a plan of action for assistance under this section unless the council's proposed resident homeownership program meets the requirements under section 226. For all other qualified purchasers, the Secretary may not approve the plan unless the Secretary finds that the criteria for approval under section 222 have been satisfied.

"(2) AMOUNT.—Subject to the availability of amounts approved in appropriations Acts, the Secretary shall, for approvable plans of action, provide assistance sufficient to enable qualified purchasers to—

"(A) acquire the eligible low-income housing from the current owner for a purchase price not greater than the preservation equity of the housing;

"(B) pay the debt service on the federally-assisted mortgage covering the housing;

"(C) pay the debt service on any loan for the rehabilitation of the housing;

"(D) meet project operating expenses and establish adequate reserves for the housing;

"(E) receive an adequate return (as determined by the Secretary) on any actual cash investment made to acquire the project;

"(F) in the case of a priority purchaser, receive an adequate reimbursement for transaction expenses relating to acquisition of the housing, subject to approval by the Secretary; and

"(G) in the case of an approved resident homeownership program, cover the costs of training for the resident council, homeownership counseling and training, the fees for the nonprofit entity or public agency working with the resident council and costs related to relocation of tenants who elect to move.

"(3) INCENTIVES.—

"(A) IN GENERAL.—For all qualified purchasers of housing under this subsection, the Secretary may provide assistance for an approved plan of action in the form of 1 or more of the incentives authorized under section 219(b), except that any residual receipts for the housing transfered to the selling owner shall be deducted from the sale price of the housing under subsection (b) or (c) and the incentive under such section 219(b)(7) may include an acquisition loan under section 241(f) of the National Housing Act.

"(B) PRIORITY PURCHASERS.—Where the qualified purchaser is a priority purchaser, the Secretary may provide assistance for an approved plan of action (in the form of a grant) for each unit in the housing in an amount, as determined by the Secretary, that does not exceed the present value of the total of the projected published fair market rentals for existing housing (established by the Secretary under section 8(c) of the United States Housing Act of 1937) for the next 10 years (or such longer period if additional assistance is necessary to cover the costs referred to in paragraph (2)).

SEC. 221. MANDATORY SALE FOR HOUSING EXCEEDING FEDERAL COST LIMITS.

"(a) IN GENERAL.—With respect to any eligible low-income housing for which the aggregate preservation rents determined under section 214(b) exceed the Federal cost limit, the owner shall offer the housing for sale to qualified purchasers as provided in this section.

"(b) RIGHT OF FIRST REFUSAL TO PRIORITY PURCHASERS.—

"(1) DURATION AND REQUIRED SALE.—For the 12-month period beginning upon the receipt by the Secretary of the second notice of intent under section 216(d) with respect to such housing, the owner of the housing may offer to sell and may sell the housing only to priority purchasers. If, during such period, a priority purchaser makes a bona fide offer to purchase the housing for a sale price not less than the preservation value of the housing determined under section 213(b)(2), the Secretary shall require the owner to sell the housing pursuant to such offer.

"(2) EXPRESSION OF INTEREST.—During the period under paragraph (1), priority purchasers shall have the opportunity to submit written notice to the owner and the Secretary stating their interest in acquiring the housing. Such written notice shall be in such form and include such information as the Secretary may prescribe.

"(3) INFORMATION FROM SECRETARY.—Not later than 30 days after receipt of any notice under paragraph (2), the Secretary shall provide such purchaser with information on the assistance available from the Federal Government to facilitate a transfer and the owner shall provide such purchaser with appropriate information on the housing, as determined by the Secretary.

"(c) RIGHT OF REFUSAL FOR OTHER QUALIFIED PURCHASERS.—If no bona fide offer to purchase any eligible low-income housing subject to this section that meets the requirements of subsection (b) is made during the period under such subsection, during the 3-month period beginning upon the expiration of the 12-month period under subsection (b)(1), the owner of the housing may offer to sell and may sell the housing only to qualified purchasers. If, during such period, a qualified purchaser makes a bona fide offer to purchase the housing for a sale price not less than the preservation value of the housing determined under section 213(b)(2), the Secretary shall require the owner to sell the housing pursuant to such offer.

"(d) ASSISTANCE.—

"(1) FEDERAL COST LIMIT.—Subject to the availability of amounts approved in appropriations Acts, the Secretary shall, for approvable plans of action, provide to qualified purchasers assistance under section 8 of the United States Housing Act of 1937 sufficient to produce a gross income potential equal to the amount determined by multiplying 120 percent of the prevailing rents in the relevant local market area in which the housing is located by the number of units in the project (according to appropriate unit sizes), and any other incentives authorized under section 219(b) that would have been provided to a qualified purchaser under section 220.

"(2) ADDITIONAL ASSISTANCE.—From amounts made available under section 234(b), the Secretary may make grants to assist in the completion of sales and transfers under this section to any qualified purchasers. Any grant under this paragraph shall be in an amount not exceeding the difference between the preservation value for the housing (determined under section 213(b)(2)) and the level of assistance under paragraph (1) of this subsection.

"(3) SECURING STATE AND LOCAL FUNDING.—The Secretary shall assist any qualified purchaser of such housing in securing funding and other assistance (including tax and assessment reductions) from State and local governments to facilitate a sale under this section.

"SEC. 222. CRITERIA FOR APPROVAL OF PLAN OF ACTION INVOLVING INCENTIVES.

"(a) IN GENERAL.—The Secretary may approve a plan of action for extension of the low-income affordability restrictions on any eligible low-income housing or transfer the housing to a qualified purchaser (other than a resident council) only upon finding that—

"(1) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title;

"(2) binding commitments have been made to ensure that—

"(A) the housing will be retained as housing affordable for very low-income families or persons, low income families or persons, and moderate-income families or persons for the remaining useful life of such housing (as determined under subsection (c));

"(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing and that the project meets housing standards established by the Secretary under subsection (d), as de-

termined by inspections conducted under such subsection by the Secretary;

"(C) current tenants will not be involuntarily displaced (except for good cause);

"(D) any increase in rent contributions for current tenants will be to a level that does not exceed 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937, whichever is lower, except that the rent contributions of any tenants occupying the housing at the time of any increase may not be reduced by reason of this subparagraph (except with respect to tenants receiving section 8 assistance in accordance with subparagraph (E)(ii) of this paragraph);

"(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)—

"(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

"(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent; and

"(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriation Acts, if necessary to mitigate any adverse effect on current income-eligible very low- and low-income tenants; and

"(F)(i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, low-income families or persons, and moderate-income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987 (based on the area median income limits established by the Secretary in February 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low-income families, except that this limitation shall not prohibit a higher proportion of very low-income families from occupying the housing; and

"(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle;

"(G) future rent adjustments shall be—

"(i) made by applying an annual factor (to be determined by the Secretary) to the portion of rent attributable to operating expenses for the housing and by making changes in the annual authorized return under section 214; and

"(ii) subject to a procedure, established by the Secretary, for owners to apply for rent increases not adequately compensated by annual adjustment under clause (i), under which the Secretary may increase rents in excess of the amount determined under clause (i) only if the Secretary determines such increases are necessary to reflect extraordinary necessary expenses of owning and maintaining the housing; and

"(H) any savings from reductions in operating expenses due to management efficiencies shall be deposited in project reserves for replacement and the owner shall have periodic access to such reserves, to the extent the Secretary determines that the level of reserves is adequate and that the housing is maintained in accordance with the standards established under section 222(d); and

"(3) no incentives under section 219 (other than to purchasers under section 220) may be provided until the Secretary determines the project meets housing standards under subsection (d), except that incentives under such section and other incentives designed to correct deficiencies in the project may be provided.

"(b) IMPLEMENTATION.—Any agreement to maintain the low-income affordability restrictions for the remaining useful life of the housing may be made through execution of a new regulatory agreement, modifications to the existing regulatory agreement or mortgage, or, in the case of the prepayment of a mortgage or voluntary termination of mortgage insurance, a recorded instrument.

"(c) DETERMINATION OF REMAINING USEFUL LIFE.—

"(1) DEFINITION.—For purposes of this title, the term 'remaining useful life' means, with respect to eligible low-income housing, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.

"(2) STANDARDS.—The Secretary shall, by rule under section 553 of title 5, United States Code, establish standards for determining when the useful life of an eligible low-income housing project has expired. The determination shall be made on the record after opportunity for an hearing.

"(3) OWNER PETITION.—The Secretary shall establish a procedure under which owners of eligible low-income housing may petition the Secretary for a determination that the useful life of such housing has expired. The procedure shall not permit such a petition before the expiration of the 50-year period beginning upon the approval of a plan of action under this subtitle with respect to such housing. In making a determination pursuant to a petition under this paragraph, the Secretary shall presume that the useful life of the housing has not expired, and the owner shall have the burden of proof in establishing such expiration. The Secretary may not determine that the useful life of any housing has expired if such determination results primarily from failure to make regular and reasonable repairs and replacement, as became necessary.

"(4) TENANT AND COMMUNITY COMMENT AND APPEAL.—In making a determination regarding the useful life of any housing pursuant to a petition submitted under paragraph (3), the Secretary shall provide for comment by tenants of the housing and interested persons and organizations with respect to the petition. The Secretary shall also provide the tenants and interested persons and organizations with an opportunity to appeal a determination under this subsection.

"(d) HOUSING STANDARDS.—

"(1) ESTABLISHMENT AND INSPECTION.—The Secretary shall, by regulation, establish standards regarding the physical condition in which any eligible low-income housing project receiving incentives under this subtitle shall be maintained. The Secretary shall inspect each such project not less than annually to ensure that the project is in compliance with such standards.

"(2) SANCTIONS.—

"(A) IN GENERAL.—The Secretary shall take any action appropriate to require the owner of any housing not in compliance with such standards to bring such housing into compliance with the standards, including—

"(i) directing the mortgagee, with respect to an equity take-out loan under section 241(f) of the National Housing Act, to withhold the disbursement to the owner of any escrowed loan proceeds and requiring that such proceeds be used for repair of the housing; and

"(ii) reduce the amount of the annual authorized return, as determined by the Secretary, for the period ending upon a determination by the Secretary that the project is in compliance with the standards and requiring that such amounts be used for repair.

"(B) CONTINUED COMPLIANCE.—To ensure continued compliance with the standards for a project subject to any action under subparagraph (A), the Secretary may also limit access of the owner to such amounts and use of such amounts for not more than the 2-year period beginning upon the determination that project is in compliance with the standards.

"(C) REMOVAL OF ASSISTANCE.—If, upon inspection, the Secretary determines that any eligible low-income housing project has failed to comply with the standards established under this subsection for 2 consecutive years, the Secretary may take 1 or more of the following actions:

"(i) Subject to availability of amounts provided in appropriations Acts, provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 (other than project-based assistance attached to the housing) for any tenant eligible for such assistance who desires to terminate occupancy in the housing. For each unit in the housing vacated pursuant to the provision of assistance under this clause, the Secretary may, notwithstanding any other law or contract for assistance, cancel the provision of project-based assistance attached to the housing for 1 dwelling unit, if the housing is receiving such assistance.

"(ii) In the case of housing for which an equity take-out loan has been made under section 241(f) of the National Housing Act, declare such loan to be default and accelerate the maturity date of the loan.

"(iii) Declare any rehabilitation loan insured or provided by the Secretary (with respect to the housing) to be in default and accelerate the maturity date of the loan.

"(iv) Suspend payments under or terminate any contract for project-based rental assistance under section 8 of the United States Housing Act of 1937.

"(v) Take any other action authorized by law or the project regulatory agreement to ensure that the housing will be brought into compliance with the standards established under this subsection.

"(e) WINDFALL PROFITS.—The Secretary shall submit a report to the Congress not later than 90 days after the enactment of the Cranston-Gonzalez National Affordable Housing Act, evaluating the availability, quality, and reliability of data to measure the accessibility of decent, affordable housing in all areas where properties are eligible to submit a notice of intent to prepay under section 212. To prevent payment of windfall profits, the Secretary may make available incentive payments under section 219 or 220 only to owners in those rental markets where there is an inadequate supply of decent, affordable housing, if the Secretary determines that adequate data can be obtained to permit objective and fair implementation or where necessary to accomplish the other public policy objectives under this subtitle. The Secretary shall implement this subsection in a manner consistent with the process established by this subtitle.

"SEC. 223. ASSISTANCE FOR DISPLACED TENANTS.

"(a) SECTION 8 ASSISTANCE.—Each low-income family that is displaced as a result

of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing shall, subject to the availability or amounts provided under appropriations Acts, receive assistance under the certificate and voucher programs under sections 8(b) and 8(o) of the United States Housing Act of 1937. To the extent sufficient amounts are made available under appropriations Acts, in each fiscal year the Secretary shall reserve from amounts made available under section 234(a) of this Act or, if necessary, under section 5(c) of the United States Housing Act of 1937, such amounts as the Secretary determines are necessary to provide assistance payments for low-income families displaced during the fiscal year.

"(b) RELOCATION ASSISTANCE.—The Secretary shall coordinate with public housing agencies to ensure that any very low- or low-income family displaced from eligible low-income housing as the result of the prepayment of the mortgage (or termination of the mortgage insurance contract) on such housing is able to acquire a suitable, affordable dwelling unit in the area of the housing from which the family is displaced. The Secretary shall require the owner of such housing to pay 50 percent of the moving expenses of each family relocated, except that such percentage shall be increased to the extent that State or local law of general applicability requires a higher payment by the owner.

"(c) CONTINUED OCCUPANCY.—

"(1) IN GENERAL.—Each owner that prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing shall, as provided in paragraph (3), allow the tenants occupying units in such housing on the date of the submission of notice of intent under section 212 to remain in the housing for a period of 3 years, at rent levels (except for increases necessary for increased operating costs) existing at the time of prepayment.

"(2) PROVISION OF ASSISTANCE BY OWNER.—In any case in which the Secretary requires an owner to allow tenants to occupy units under paragraph (1), an owner may fulfill the requirements of such paragraph by providing such assistance necessary for the tenant to rent a decent, safe, and sanitary unit in another project for the same period and at a rental cost to the tenant not in excess of the rental amount the tenant would have been required to pay in the housing of the owner, except that the tenant must freely agree to waive the right to occupy the unit in the owner's housing.

"(3) APPLICABILITY TO LOW-VACANCY AREAS AND SPECIAL NEEDS TENANTS.—The provisions of this subsection shall apply only to—

"(A) eligible low-income housing located in a low-vacancy area (as such term is defined by the Secretary); and

"(B) tenants in any eligible low-income housing in any area who have special needs restricting their ability to relocate (including elderly tenants and tenants with disabilities), as determined under regulations established by the Secretary.

"(d) REQUIRED ACCEPTANCE OF SECTION 8 ASSISTANCE.—An owner who prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing and maintains the housing for residential rental occupancy may not refuse to rent, refuse to negotiate for the rental of, or otherwise make unavailable or deny the rent of a dwelling unit in such property to any person, or discriminate against any person in the terms, conditions, or privileges of rental of a dwelling (or in the provision of services or facilities in connection therewith), because the person receives assistance under section 8 of United States Housing Act of 1937.

"(e) REGIONAL POOLS.—In providing assistance under this section, the Secretary shall allocate the assistance on a regional basis through the regional offices of the Department of Housing and Urban Development. The Secretary shall allocate assistance under this section in a manner so that the total number of assisted units in each such region available for occupancy by, and affordable to, lower income families and persons does not decrease because of the prepayment or payment of a mortgage on eligible low income housing or the termination of an insurance contract on such housing.

"SEC. 224. PERMISSIBLE PREPAYMENT OR VOLUNTARY TERMINATION AND MODIFICATION OF COMMITMENTS.

"(a) IN GENERAL.—Notwithstanding any limitations on prepayment or voluntary termination under this subtitle, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination, subject to compliance with the provisions of section 223, under one of the following circumstances:

"(1)(A) The Secretary approves a plan of action under section 219(a), but does not provide the assistance approved in such plan during the 15-month period beginning on the date of approval.

"(B) After the date that the housing would have been eligible for prepayment pursuant to the terms of the mortgage (notwithstanding this subtitle), the Secretary approves a plan of action under section 220 or 221, but does not provide the assistance approved in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 6-month period beginning on the date of approval.

"(C) The Secretary approves a plan of action under section 220 or 221 for any eligible low-income housing not covered by subparagraph (B), but does not provide the assistance approved in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 9-month period beginning on the date of approval.

"(2) An owner who intended to transfer the housing to a qualified purchaser under section 220 or 221, and fully complied with the provisions of such section, did not receive any bona fide offers from any qualified purchasers within the applicable time periods.

In the event that the purchaser under the plan of action is unable to consummate the purchase for reasons other than the failure of the Secretary to provide incentives, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination subject to the provisions of sections 220 and 221.

"(b) SECTION 8 RENTAL ASSISTANCE.—When providing rental assistance under section 8, the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):

"(1) MODIFICATION OF COMMITMENTS.—Modify the binding commitments made pursuant to section 222(a)(2) that are dependent on such rental assistance.

"(2) TERMINATION OF PLAN OF ACTION.—Permit the owner to prepay the mortgage and terminate the plan of action and any implementing use agreements or restrictions, but only if the owner agrees in writing to comply with provisions of section 223.

At least 30 days before making a request under this subsection, an owner shall notify the Secretary of the owner's intention to submit the request. The Secretary shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under section 222(a)(2).

"SEC. 225. TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

"(a) NOTIFICATION OF DEFICIENCIES.—Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan may be revised to meet the criteria for approval.

"(b) NOTIFICATION OF APPROVAL.—

"(1) IN GENERAL.—Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

"(A) the reasons for withholding approval; and

"(B) the actions that could be taken to meet the criteria for approval.

"(2) OPPORTUNITY TO REVISE.—The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

"(c) DELAYED APPROVAL.—If the Secretary does not approve a plan of action within the period under subsection (b), the Secretary shall provide incentives and assistance under this subtitle in the amount that the owner would have received if the Secretary had complied with such time limitations. The preceding sentence shall not apply if the plan of action was not approved because of deficiencies. An owner may bring an action in the appropriate Federal district court to enforce this subsection.

"SEC. 226. RESIDENT HOMEOWNERSHIP PROGRAM.

"(a) FORMATION OF RESIDENT COUNCIL.—Tenants seeking to purchase eligible low-income housing in accordance with section 220 shall organize a resident council for the purpose of developing a resident homeownership program in accordance with standards established by the Secretary. The resident council shall work with a public or private nonprofit organization or a public body (including an agency or instrumentality thereof). Such organization or public body shall have experience to enable it to help the tenants consider their options and to develop the capacity necessary to own and manage the housing, where appropriate, and shall be approved by the Secretary.

"(b) OTHER PROGRAM REQUIREMENTS AND LIMITATIONS.—

"(1) SALES TO RESIDENTS.—As a condition of approval of a plan of action involving homeownership program under this subtitle, the resident council shall prepare a workable plan acceptable to the Secretary for giving all residents an opportunity to become owners, which plan shall identify—

"(A) the price at which the resident council intends to transfer ownership interests in, or shares representing, units in the housing;

"(B) the factors that will influence the establishment of such price;

"(C) how such price compares to the estimated appraised value of the ownership interests or shares;

"(D) the underwriting standard the resident council plans to use (or reasonably expects a public or private lender to use) for potential tenant purchasers;

"(E) the financing arrangements the tenants are expected to pursue or be provided; and

"(F) a workable schedule of sale (subject to the limitations of paragraph (8)) based on estimated tenant incomes.

"(2) APPROVAL OF METHOD OF CONVERSION.—The Secretary shall approve the method for converting the housing to homeownership, which may involve acquisition of ownership interests in, or shares representing, the units in a project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership).

"(3) REQUIRED CONDITIONS.—The Secretary shall require that the form of homeownership impose appropriate conditions, including conditions to assure that—

"(A) the number of initial owners that are very low-income, lower income, or moderate-income persons at initial occupancy meet standards required or approved by the Secretary;

"(B) occupancy charges payable by the owners meet requirements established by the Secretary;

"(C) the aggregate incomes of initial and subsequent owners and other sources of funds for the project are sufficient to permit occupancy charges to cover the full operating costs of the housing and any debt service; and

"(D) each initial owner occupies the unit it acquires.

"(4) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportunities in the project, and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under section 220, subject to availability under appropriations Acts. Such entity shall keep, and make available to the Secretary, all records necessary to calculate accurately payments due the Secretary under this paragraph.

"(5) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

"(A) IN GENERAL.—

"(i) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

"(ii) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer.

"(iii) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference, if any, between the market value and the purchase price, payable to the Secretary, together with a mortgage securing the obligation of the note.

"(B) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

"(i) the contribution to equity paid by the family;

"(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

"(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

"(C) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in subparagraph (A)(iii).

"(D) USE OF RECAPTURED FUNDS.—Any net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this paragraph shall be paid to the HOME Investment Trust Fund for the unit of general local government in which the housing is located. If the housing is located in a unit of general local government that is not a participating jurisdiction (as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act), any such net sales proceeds shall be paid to the HOME Investment Trust Fund for the State in which the housing is located. With respect to any proceeds transferred to a HOME Investment Trust Fund under this subparagraph, the Secretary shall take such actions as are necessary to ensure that the proceeds shall be immediately available for eligible activities to expand the supply of affordable housing under section 212 of the Cranston-Gonzalez National Affordable Housing Act. The Secretary shall require the maintenance of any records necessary to calculate accurately payments due under this paragraph.

"(6) PROTECTION OF NONPURCHASING FAMILIES.—

"(A) EVICTION.—No tenant residing in a dwelling unit in a property on the date the Secretary approves a plan of action may be evicted by reason of a homeownership program approved under this subtitle.

"(B) RENTAL ASSISTANCE.—If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant (that meets the eligibility requirements under such section) in that or another property. The requirement for giving preference to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3) of the United States Housing Act of 1937 shall not apply to the provision of assistance to such families.

"(C) RELOCATION ASSISTANCE.—The resident council shall also inform each such tenant that if the tenant chooses to move, the owner will pay relocation assistance in accordance with the approved homeownership program.

"(7) QUALIFIED MANAGEMENT.—As a condition of approval of a homeownership program under this subtitle, the resident council shall have demonstrated its abilities to manage eligible properties by having done so effectively and efficiently for a period of not less than 3 years or by entering into a contract with a qualified management entity that meets such standards as the Secretary may prescribe to ensure that the property will be maintained in a decent, safe, and sanitary condition.

"(8) TIMELY HOMEOWNERSHIP.—Resident councils shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the resident council shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of providing housing for very low-income families. The resident council shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(9) RECORDS AND AUDIT OF RESIDENT COUNCILS.—

"(A) MAINTENANCE.—Each resident council shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such resident council of the proceeds of assistance received under this subtitle (including any proceeds from sales under paragraphs (4) and (5)(D)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

"(B) ACCESS.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under this subtitle.

"(C) AUDIT.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under this subtitle.

"(10) ASSUMPTION CONDITIONS.—Any entity that assumes, as determined by the Secre-

tary, a mortgage covering low-income housing in connection with the acquisition of the housing from an owner under this section must comply with any low-income affordability restrictions for the remaining useful life of the housing as determined under section 222(d). This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

"SEC. 227. DELEGATED RESPONSIBILITY TO STATE AGENCIES.

"(a) IN GENERAL.—In addition to any responsibilities delegated under section 213(c), the Secretary shall delegate some or all responsibility for implementing this subtitle to a State housing agency if such agency submits a preservation plan acceptable to the Secretary.

"(b) APPROVAL.—State preservation plans shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary may approve plans that contain—

"(1) an inventory of low-income housing located within the State that is or will be eligible low-income housing under this subtitle within 5 years;

"(2) a description of the agency's experience in the area of multifamily financing and restructuring;

"(3) a description of the administrative resources that the agency will commit to the processing of plans of action in accordance with this subtitle;

"(4) a description of the administrative resources that the agency will commit to the monitoring of approved plans of action in accordance with this subtitle;

"(5) an independent analysis of the performance of the multifamily housing inventory financed or otherwise monitored by the agency;

"(6) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State within which the eligible low-income housing is located; and

"(7) such other certifications or information that the Secretary determines to be necessary or appropriate to achieve the purposes of this subtitle.

"(c) IMPLEMENTATION AGREEMENTS.—The Secretary may enter into any agreements necessary to implement an approved State preservation plan, which may include incentives that are authorized under other provisions of this subtitle.

"SEC. 228. CONSULTATIONS WITH OTHER INTERESTED PARTIES.

"The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under this subtitle. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this subtitle.

"SEC. 229. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'eligible low-income housing' means any housing financed by a loan or mortgage—

"(A) that is—

"(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

"(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

"(iii) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

"(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

"(B) that, under regulation or contract in effect before February 5, 1988, is or will within 24 months become eligible for prepayment without prior approval of the Secretary.

"(2) The term 'Federal cost limit' means, for any eligible low-income housing, the amount determined under section 215(a).

"(3) The term 'low-income affordability restrictions' means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low-income housing.

"(4) The terms 'low-income families or persons' and 'very low-income families or persons' mean families or persons whose incomes do not exceed the respective levels established for low-income families and very low-income families, respectively, under section 3(b)(2) of the United States Housing Act of 1937.

"(5) The term 'moderate-income families or persons' means families or persons whose incomes are between 80 percent and 95 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

"(6) The term 'nonprofit organization' means any private, nonprofit organization that—

"(A) is organized or chartered under State or local laws;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its principal purposes significant activities related to the provision of decent housing that is affordable to very low-, low-, and moderate-income families.

"(7) The term 'owner' means the current or subsequent owner or owners of eligible low-income housing.

"(8) The term 'preservation equity' means, for any eligible low-income housing—

"(A) for purposes of determining the authorized return under section 214(a) and providing incentives to extend the low-income affordability restrictions on the housing under section 219—

"(i) the preservation value of the housing determined under section 213(b)(1); less

"(ii) any debt secured by the property; and

"(B) for purposes of determining incentives under section 220 and 221 and determining the amount of an acquisition loan under the provisions of section 241(f)(3) of the National Housing Act—

"(i) the preservation value of the housing determined under section 213(b)(2); less

"(ii) the outstanding balance of the federally-assisted mortgage or mortgages for the housing.

"(9) The term 'preservation value' means, for any eligible low-income housing, the applicable value determined under paragraph (1) or (2) of section 213(b).

"(10) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(11) The term 'resident council' means any incorporated nonprofit organization or association that—

"(A) is representative of the resident of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the housing.

"SEC. 230. NOTICE TO TENANTS.

"Where a provision of this subtitle requires that information or material be given to tenants of the housing, the requirement may be met by (1) posting a copy of the information or material in readily accessible locations within each affected building, or posting notices in each such location describing the information or material and specifying a location, as convenient to the tenants as is reasonably practical, where a copy may be examined, and (2) supplying a copy of the information or material to a representative of the tenants.

"SEC. 231. DEFINITIONS OF QUALIFIED AND PRIORITY PURCHASER AND RELATED PARTY RULE.

"(a) PRIORITY PURCHASER.—The term 'priority purchaser' means (A) a resident council organized to acquire the housing in accordance with a resident homeownership program that meets the requirements of section 231; and (B) any nonprofit organization or State or local agency that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 222(d)).

"(b) QUALIFIED PURCHASER.—The term 'qualified purchaser' means any entity that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 222(d)), and includes for-profit entities and priority purchasers.

"(c) RELATED PARTIES.—Except as provided in subsection (d), the terms 'qualified purchaser' and 'priority purchaser' do not include any entity that, either directly or indirectly, is wholly or partially owned or controlled by the owner of the housing being transferred under this subtitle, is under whole or partial common control with such owner, or has any financial interest in such owner or in which such owner has any financial interest. The Secretary shall issue any regulations appropriate to implement the preceding sentence.

"(d) MANAGEMENT EXCEPTION.—A qualified purchaser shall not be precluded from retaining as a property management entity a company that is owned or controlled by the selling owner or a principal thereof if retention of the management company is neither a condition of sale nor part of consideration paid for sale and the property management contract is negotiated by the qualified purchaser on an arm's length basis.

"SEC. 232. PREEMPTION OF STATE AND LOCAL LAWS.

"(a) IN GENERAL.—No State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that—

"(1) restricts or inhibits the prepayment of any mortgage described in section 229(1) (or the voluntary termination of any insurance contract pursuant to section 229 of the National Housing Act) on eligible low income housing;

"(2) restricts or inhibits an owner of such housing from receiving the authorized annual return provided under section 214;

"(3) is inconsistent with any provision of this subtitle, including any law, regulation, or other restriction that limits or impairs the ability of any owner of eligible low income housing to receive incentives authorized under this subtitle (including authorization to increase rental rates, transfer the housing, obtain secondary financing, or use the proceeds of any of such incentives); or

"(4) in its applicability to low-income housing is limited only to eligible low-income housing for which the owner has prepaid the mortgage or terminated the insurance contract.

Any law, regulation, or restriction described under paragraph (1), (2), (3), or (4) shall be ineffective and any eligible low income housing exempt from the law, regulation, or restriction, only to the extent that it violates the provisions of this subsection.

"(b) EFFECT.—This section shall not prevent the establishment, continuing in effect, or enforcement of any law or regulation of any State or political subdivision of a State not inconsistent with the provisions of this subtitle and relating to building standards, zoning limitations, health, safety, or habitability standards for housing, rent control, or conversion of rental housing to condominium or cooperative ownership, to the extent such law or regulation is of general applicability to both housing receiving Federal assistance and nonassisted housing. This section shall not preempt, annul, or alter any contractual restrictions or obligations existing before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act that prevent or limit an owner of eligible low income housing from prepaying the mortgage on the housing (or terminating the insurance contract on the housing).

"SEC. 233. SEVERABILITY.

"If any provision of this subtitle, or the application of such provision with respect to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to any other person or circumstance, shall not be affected by such holding.

"SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

"(a) GENERAL.—There are authorized to be appropriated for assistance and incentives authorized under this subtitle $425,000,000 for fiscal year 1991 and $858,000,000 for fiscal year 1992.

"(b) GRANTS.—Of the amounts made available under subsection (a), not more than $100,000,000 for each of fiscal years 1991 and 1992 shall be available for grants under section 221(d)(2), subject to approval in appropriations Acts.

"SEC. 235. APPLICABILITY.

"Subject to section 605 of the Cranston-Gonzalez National Affordable Housing Act, the requirements of this subtitle shall apply to any project that is eligible low-income housing on or after November 1, 1987.".

(b) TABLE OF CONTENTS.—The table of contents of such Act is amended by striking the items relating to subtitles A and B of title II and inserting the following:

"Subtitle A—Short Title

"Sec. 201. Short title.

"Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

"Sec. 211. General prepayment limitation.
"Sec. 212. Notice of intent.
"Sec. 213. Appraisal and preservation value of eligible low-income housing.
"Sec. 214. Annual authorized return and preservation rents.
"Sec. 215. Federal cost limits and limitations on plans of action.
"Sec. 216. Information from Secretary.
"Sec. 217. Plan of action.
"Sec. 218. Prepayment and voluntary termination.
"Sec. 219. Incentives to extend low-income use.
"Sec. 220. Incentives for transfer to qualified purchasers.
"Sec. 221. Mandatory sale for housing exceeding Federal cost limits.
"Sec. 222. Criteria for approval of plan of action involving incentives.
"Sec. 223. Assistance for displaced tenants.
"Sec. 224. Permissible prepayment or voluntary termination and modification of commitments.
"Sec. 225. Timetable for approval of plan of action.
"Sec. 226. Resident homeownership program.
"Sec. 227. Delegated responsibility to State agencies.
"Sec. 228. Consultations with other interested parties.
"Sec. 229. Definitions.
"Sec. 230. Notice to tenants.
"Sec. 231. Definitions of qualified and priority purchasers and related party rule.
"Sec. 232. Preemption of state and local laws.
"Sec. 233. Severability.
"Sec. 234. Authorization of appropriations.
"Sec. 235. Applicability.".

SEC. 602. RELATED NATIONAL HOUSING ACT AMENDMENTS.

(a) INSURANCE FOR SECOND MORTGAGE FINANCING.—Section 241(f) of the National Housing Act is amended to read as follows:

"(f)(1) Notwithstanding any other provision of this section, the Secretary may, upon such terms and conditions as the Secretary may prescribe, make a commitment to insure and insure equity loans and acquisition loans made by financial institutions approved by the Secretary and State housing finance agencies that enter into risk-sharing agreements with the Secretary.

"(2)(A) For purposes of this section, the term 'equity loan' means a loan or advance of credit to the owner of eligible low income housing (as defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990) who agrees to extend the low-income affordability restrictions on the housing pursuant to an approved plan of action under such Act.

"(B) To be eligible for insurance under this paragraph, an equity loan shall—

"(i) be limited to an amount equal to the lesser of (I) 70 percent of the preservation equity in the project, as determined by the Secretary under such Act, or (II) the amount the Secretary determines can be supported by the project on the basis of an 8 percent return on the preservation equity (assuming normal debt service coverages); and

"(ii) provide for the lender to deposit (on behalf of the borrowing owner) 10 percent of the loan amount in an escrow account, controlled by the Secretary or a State housing finance agency approved by the Secretary, which shall be made available to the owner upon the expiration of the 5-year period beginning on the date the loan is made, subject to compliance with section 222(d) of such Act; and

"(3)(A) For purposes of this section, the term 'acquisition loan' means a loan or advance of credit to a qualified purchaser of eligible low income housing (as defined in section 231 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990) acquiring the housing under section 220 or 221 of such Act who agrees to extend the low-income affordability restrictions pursuant to an approved plan of action under such Act.

"(B) To be eligible for insurance under this paragraph, an acquisition loan shall be limited to 95 percent of the preservation equity of the housing determined under section 229(8) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, except that the loan may include, if the qualified purchaser is a priority purchaser as defined under section 231 of such Act, any expenses associated with the acquisition, loan closing, and implementation of the plan of action, subject to approval by the Secretary.

"(4) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to loans insured under this subsection, except that—

"(A) all references to the term 'mortgage' shall be construed to refer to the term 'loan' as used in this subsection;

"(B) loans involving projects covered by a mortgage insured under section 236 shall be insured under and shall be the obligations of the Special Risk Insurance Fund; and

"(C) with respect to any sale under foreclosure of a mortgage on the project that is senior to the equity loan insured under this subsection and when the equity loan is secured by a mortgage, the Secretary may—

"(i) issue regulations providing that, in order to receive insurance benefits, the insured mortgagee shall either assign the equity or acquisition loan to the Secretary or bid the amount necessary to acquire the project and convey title to the project to the Secretary, in which case the insurance benefits paid by the Secretary shall include the amount bid by the mortgagee to satisfy the senior mortgage at the foreclosure sale; and

"(ii) if the equity or acquisition loan has been assigned to the Secretary, bid, in addition to amounts authorized under section 207(k), any sum not in excess of the total unpaid indebtedness secured by such senior mortgage and the equity or acquisition loan, plus taxes, insurance, foreclosure costs, fees, and other expenses.

"(5) Loans insured under this subsection shall—

"(A) have a maturity and provisions for amortization satisfactory to the Secretary, bear interest at such rate as may be agreed upon by the mortgagor and mortgagee, and be secured in such manner as the Secretary may require; and

"(B) contain such other terms, conditions, and restrictions as the Secretary may prescribe, including phased advances of equity loan proceeds to reflect project rent levels.

"(6) The Secretary may provide for combination of loans insured under subsection (d) with equity and acquisition loans insured under this subsection.

"(7) When underwriting an equity or acquisition loan under this subsection, the Secretary may assume that the rental assistance provided in accordance with an approved plan of action under section 222 of the Cranston-Gonzalez National Affordable Housing Act will be extended for the full term of the contract entered into under such Act. The Secretary may accelerate repayment of a loan under this subsection if rental assistance is not extended under section 222(b) of such Act or the Secretary is unable to develop a revised package of incentives to the owner comparable to those

received under the original approved plan of action.

"(8) If the Secretary is unable to extend the term of rental assistance for the full term of the contract entered into under section 222(b) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary may take such actions as the Secretary determines to be appropriate to avoid default, avoid disruption of the sound ownership and management of the housing, and otherwise minimize the cost to the Federal Government.

"(9) A mortgagee approved by the Secretary may not withhold consent to an equity or acquisition loan on a property on which that mortgagee holds a mortgage.

(b) APPROVAL PRIOR TO FORECLOSURE.—Section 250(b) of such Act (12 U.S.C. 1715z-15(b) is amended to read as follows:

"(b) A mortgagee may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project (as such term is defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990) only if the mortgagee also conveys title to the project to the Secretary in connection with a claim for insurance benefits.".

(c) REPEALER.—Section 250(c) of such Act is hereby repealed, and section 250(d) is redesignated as section 250(c).

SEC. 603. RELATED UNITED STATES HOUSING ACT OF 1937 AMENDMENTS.

Section 8(v)(2) of the United States Housing Act of 1937 is amended by striking out "Emergency Low Income Housing Preservation Act of 1987" and inserting "Low-Income Housing Preservation and Resident Homeownership Act of 1990".

SEC. 604. TRANSITION PROVISIONS.

(a) HOUSING ELIGIBLE FOR ELECTION.—Any owner of housing that becomes eligible low-income housing before January 1, 1991 and who, before such date, filed a notice of intent under section 222 of the Emergency Low Income Housing Preservation Act of 1987 (as such section existed before the date of the enactment of this Act) or under section 212 of such Act (as amended by section 601(a)) may elect to be subject to (1) the provisions of such Act as in effect before the date of the enactment of this Act, or (2) the provisions of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, after the date of the enactment of this Act. The Secretary shall establish procedures for owners to make the election under the preceding sentence.

(b) RIGHT OF CONVERSION TO NEW SYSTEM.—Any owner who has filed a plan of action on or before October 11, 1990, shall have the right to convert to the system of incentives and restrictions under this subtitle, with such adjustments as the Secretary determines to be appropriate to compensate for the value of any incentives the owner received under the Emergency Low Income Housing Preservation Act of 1987. Owners filing plans after such date shall not have any right under this subsection.

(c) EFFECTIVENESS OF REPEALED PROVISIONS.—Notwithstanding the amendment made by section 601(a), the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of this Act) shall apply with respect to any housing for which the election under subsection (a)(1) is made.

(d) REGULATIONS.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall, subject to the provisions of section 553 of title 5, United States Code, publish proposed rules to implement this subtitle and the amendments made by this subtitle. Not later than 45 days after the expiration of the period under the preceding sentence the Secretary shall issue interim or final rules to implement such provisions.

SEC. 605. EFFECTIVE DATE.

This subtitle shall take effect on the date of the enactment of this Act.

Subtitle B—Other Preservation Provisions

SEC. 611. SECTION 236 RENTAL ASSISTANCE.

(a) DEFINITION OF INCOME.—Section 236(m) of the National Housing Act (12 U.S.C. 1715z-1) is amended by inserting before the period at the end of the first sentence the following: ", except that any amounts not actually received by the family may not be considered as income under this subsection".

(b) RENT CHARGES.—

(1) PROJECTS ASSISTED UNDER SECTION 236.—Section 236(f) of the National Housing Act (12 U.S.C. 1715z-1(f)) is amended by adding at the end the following new paragraph:

"(5)(A) In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects assisted under this section, in establishing basic rental charges and fair market rental charges under paragraph (1) the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be—

"(i) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937;

"(ii) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

"(iii) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

"(B) Assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.".

(2) INSURED PROJECTS.—Section 221(f) of the National Housing Act (12 U.S.C. 1715l(f)) is amended by adding at the end the following new undesignated paragraph:

"In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects covered by a mortgage under the provisions of subsection (d)(3) that bears a below market interest rate prescribed in the proviso to subsection (d)(5), in establishing the rental charge for the project the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be—

"(A) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937;

"(B) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

"(C) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

Assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.".

SEC. 612. MANAGEMENT AND PRESERVATION OF FEDERALLY ASSISTED HOUSING.

(a) SECTION 236.—Section 236(f) of the National Housing Act, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(6)(A) Notwithstanding paragraph (1), tenants whose incomes exceed 80 percent of area median income shall pay as rent the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 for the jurisdiction in which the housing is located.

"(B) An owner shall phase in any increase in rents for current tenants resulting from subparagraph (A). Rental charges collected in excess of the basic rental charges shall continue to be credited to the reserve fund described in subsection (g)(1).".

(b) SECTION 221.—Section 221 of the National Housing Act is amended by inserting the following new subsection after subsection (k):

"(l)(1) Notwithstanding any other provision of law, tenants residing in eligible multifamily housing whose incomes exceed 80 percent of area median income shall pay as rent not more than the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 for the jurisdiction in which the housing is located. An owner shall phase in any increase in rents for current tenants resulting from this subsection.

"(2) For purposes of this subsection, the term 'eligible multifamily housing' means any housing financed by a loan or mortgage that is (A) insured or held by the Secretary under subsection (d)(3) and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937; or (B) insured or held by the Secretary and bears interest at a rate determined under the proviso of subsection (d)(5).".

SEC. 613. ASSISTANCE TO PREVENT PREPAYMENT UNDER STATE MORTGAGE PROGRAMS.

(a) SECTION 8 ASSISTANCE.—

(1) AUTHORITY.—Section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)) is amended by inserting after the period at the end the following: "Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the pur-

pose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph.".

(2) CONTRACT TERM.—Section 8(d)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(C)) is amended by inserting after the period at the end the following: "To the extent assistance is used as provided in the penultimate sentence of subparagraph (A), the contract for assistance may, at the option of the public housing agency, have an initial term not exceeding 15 years.".

(b) STATE PRESERVATION PROJECT ASSISTANCE.—

(1) IN GENERAL.—Upon application by a State or local housing authority (including public housing agencies), the Secretary of Housing and Urban Development may make available, from sources of assistance appropriated to preserve the low and moderate income status of projects with expiring Federal use restrictions, assistance to such State or local housing authorities for use in preventing the loss of housing affordable for low and moderate income families that is assisted under a State program under the terms of which the owner may prepay a State assisted or subsidized mortgage on such housing. The application of the State or local housing authority shall demonstrate to the Secretary that the total amount of incentives provided to the owner to induce the owner to preserve the low and moderate income status of the project shall not exceed the level of incentives which may be provided to a similarly situated project with expiring Federal use restrictions under subtitle B of title II of the Housing and Community Development Act of 1987.

(2) SECTION 8.—Any assistance under section 8 of the United States Housing Act of 1937 made available pursuant to this subsection may be used (i) to supplement any assistance available on existing section 8 contracts, or (ii) to provide additional assistance to structures to ensure that all units occupied by tenants who are lower income families (as such term is defined in section 3(b) of the United States Housing Act of 1937) pay rents not exceeding 30 percent of their adjusted incomes. Any project receiving assistance hereunder shall be subject to standards, inspections and sanctions established by the Secretary under section 224(e) of the Housing and Community Development Act of 1987. Any such section 8 assistance shall be provided for a term and at the fair market rent levels or such higher levels used as applicable for eligible low income housing that receives incentives under subtitle B of title II of the Housing and Community Development Act of 1987.

(3) RESTRICTION.—Assistance may be provided under this subsection only to State and local housing authorities that require any housing receiving such assistance to remain affordable for lower and moderate income tenants for the period during which assistance under this subsection is received.

TITLE VII—RURAL HOUSING

SEC. 701. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1)) is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1991 and 1992, in aggregate amounts not to exceed $2,125,800,000 and $2,217,150,000, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of low income borrowers receiving assistance under section 521(a)(1), $1,391,300,000 for fiscal year 1991 and $1,451,100,000 for fiscal year 1992.

"(B) For guaranteed loans under section 502(h) on behalf of low and moderate income borrowers, such sums as may be appropriated for fiscal years 1991 and 1992.

"(C) For loans under section 504, $11,900,000 for fiscal year 1991 and $12,400,000 for fiscal year 1992.

"(D) For insured loans under section 514, $12,000,000 for fiscal year 1991 and $12,500,000 for fiscal year 1992.

"(E) For insured loans under section 515, $709,000,000 for fiscal year 1991 and $739,500,000 for fiscal year 1992.

"(F) For loans under section 523(b)(1)(B), $800,000 for fiscal year 1991 and $800,000 for fiscal year 1992.

"(G) For site loans under section 524, $800,000 for fiscal year 1991 and $850,000 for fiscal year 1992.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal years 1991 and 1992, and to remain available until expended, the following amounts:

"(1) For grants under section 502(f)(1), $1,000,000 for fiscal year 1991 and $1,100,000 for fiscal year 1992.

"(2) For grants under section 504, $20,200,000 for fiscal year 1991 and $21,100,000 for fiscal year 1992.

"(3) For purposes of section 509(c), $550,000 for fiscal year 1991 and $600,000 for fiscal year 1992.

"(4) For project preparation grants under section 509(f)(6), $5,000,000 in fiscal year 1991 and $5,300,000 in fiscal year 1992.

"(5) In fiscal years 1991 and 1992, such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(6) For financial assistance under section 516—

"(A) for low-rent housing and related facilities for domestic farm labor under subsections (a) through (j) of such section, $20,900,000 for fiscal year 1991 and $21,700,000 for fiscal year 1992; and

"(B) for housing for rural homeless and migrant farmworkers under subsection (k) of such section, $10,000,000 for fiscal year 1991 and $10,500,000 for fiscal year 1992.

"(7) For grants under section 523(f), $13,400,000 for fiscal year 1991 and $13,900,000 for fiscal year 1992.

"(8) For grants under section 533, $29,600,000 for fiscal year 1991 and $30,800,000 for fiscal year 1992.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c)(1) of the Housing Act of 1949 (42 U.S.C. 1483(c)(1)) is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriation Acts for fiscal years 1991 and 1992, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $397,000,000 for fiscal year 1991 and $414,100,000 for fiscal year 1992.".

(d) SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.—Section 513(d) of the Housing Act of 1949 (42 U.S.C. 1483(d)) is amended to read as follows:

"(d) The Secretary, to the extent approved in appropriation Acts for fiscal years 1991 and 1992, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $5,200,000 for fiscal year 1991 and $5,500,000 for fiscal year 1992.".

(e) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

(f) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 (42 U.S.C. 1490c(f)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

SEC. 702. EFFECT OF FOSTER CARE CHILDREN IN DETERMINATION OF FAMILY COMPOSITION AND SIZE.

Section 501(b)(4) of the Housing Act of 1949 (42 U.S.C. 1471(b)(4)) is amended by inserting after the period at the end the following new sentence: "The temporary absence of a child from the home due to placement in foster care should not be considered in considering family composition and family size.".

SEC. 703. ESCROW ACCOUNTS.

Section 501(e) of the Housing Act of 1949 (42 U.S.C. 1471(e)) is amended by inserting after the third sentence the following: "The Secretary shall pay the same rate of interest on escrowed funds as is required to be paid on escrowed funds held by other lenders in any State where State law requires payment of interest on escrowed funds, subject to appropriations to the extent that additional budget authority is necessary to carry out this sentence.".

SEC. 704. REMOTE RURAL AREAS.

(a) IN GENERAL.—Section 502 of the Housing Act of 1949 (42 U.S.C. 1472) is amended by adding at the end the following new subsection:

"(f) REMOTE RURAL AREAS.—

"(1) LOAN SUPPLEMENTS.—The Secretary may supplement any loan under this section to finance housing located in a remote rural area with a grant in an amount not greater than the amount by which the reasonable land acquisition and construction costs of the security property exceeds the appraised value of such property.

"(2) PROHIBITION.—The Secretary may not refuse to make, insure, or guarantee a loan that otherwise meets the requirements under this section solely on the basis that the housing involved is located in an area that is excessively rural in character or excessively remote.".

(b) REGULATIONS.—Not later than the expiration of the 120-day period beginning on the date of enactment of this Act, the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by subsection (a).

SEC. 705. SECTION 502 DEFERRED MORTGAGE DEMONSTRATION.

(a) IN GENERAL.—Section 502 of the Housing Act of 1949 (42 U.S.C. 1472), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(g) DEFERRED MORTGAGE DEMONSTRATION.—

"(1) AUTHORITY.—With respect to families or persons otherwise eligible for assistance under subsection (d) but having incomes below the amount determined to qualify for a loan under this section, the Secretary may defer mortgage payments beyond the amount affordable at 1 percent interest, taking into consideration income, taxes and insurance. Deferred mortgage payments shall be converted to payment status when the ability of the borrower to repay improves. Deferred amounts shall not exceed 25 percent of the amount of the payment due at 1 percent interest and shall be subject to recapture.

"(2) INTEREST.—Interest on principal deferred shall be set at 1 percent and any interest payments deferred under this subsection shall not be treated as principal in calculating indebtedness.

"(3) FUNDING.—Subject to approval in appropriations Acts, not more than 10 percent of the amount approved for each of fiscal years 1991 and 1992 for loans under this section may be used to carry out this subsection.".

(b) REGULATIONS.—Not later than the expiration of the 120-day period beginning on the date of enactment of this Act, the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by subsection (a).

SEC. 706. RURAL HOUSING LOAN GUARANTEES.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the Federal Government should encourage support for homeownership through nonsubsidized mortgage loans guaranteed by the Secretary of Agriculture for the purchase of modest homes located in rural areas and small communities of the country that are not adequately served by private conventional, federally insured, or guaranteed mortgage credit providers; and

(B) many rural areas contain disproportionate amounts of substandard housing in need of repair, but lack the necessary funding and support to modernize such housing through preservation.

(2) PURPOSE.—The purpose of this section is to expand homeownership opportunities to low- and moderate-income residents of rural areas of the country through the establishment of guaranteed rural housing loans to be made available in rural locations where there is an insufficient availability of mortgage financing from other sources.

(b) GUARANTEED LOANS FOR HOUSING ACQUISITION.—Section 502 of the Housing Act of 1949 (42 U.S.C. 1472), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(h) GUARANTEED LOANS.—

"(1) AUTHORITY.—The Secretary shall, to the extent provided in appropriation Acts, provide guaranteed loans in accordance with this section, section 517(d), and the last sentence of section 521(a)(1)(A), except as modified by the provisions of this subsection. Loans shall be guaranteed under this subsection in an amount equal to 90 percent of the loan.

"(2) ELIGIBLE BORROWERS.—Loans guaranteed pursuant to this subsection shall be made only to borrowers who are low- or moderate-income families or persons, whose incomes do not exceed the median income of the area, as determined by the Secretary.

"(3) ELIGIBLE HOUSING.—Loans may be guaranteed pursuant to this subsection only if the loan is used to acquire or construct a single-family residence that is—

"(A) to be used as the principal residence of the borrower;

"(B) eligible for assistance under this section, section 203(b) of the National Housing Act, or chapter 37 of title 38, United States Code; and

"(C) located in a rural area that is more than 25 miles from an urban area or densely populated area.

"(4) PRIORITY AND COUNSELING FOR FIRST-TIME HOMEBUYERS.—

"(A) In providing guaranteed loans under this subsection, the Secretary shall give priority to first-time homebuyers (as defined in paragraph (12)(A)).

"(B) The Secretary may require that, as a condition of receiving a guaranteed loan pursuant to this subsection, a borrower who is a first-time homebuyer successfully complete a program of homeownership counseling under section 106(a)(1)(iii) of the Housing and Urban Development Act of 1968 and obtain certification from the provider of the program that the borrower is adequately prepared for the obligations of homeownership.

"(5) ELIGIBLE LENDERS.—Guaranteed loans pursuant to this subsection may be made only by lenders approved by and meeting qualifications established by the Secretary.

"(6) LOAN TERMS.—Loans guaranteed pursuant to this subsection shall—

"(A) be made for a term not to exceed 30 years;

"(B) involve a rate of interest that is fixed over the term of the loan and does not exceed the rate for loans guaranteed under chapter 37 of title 38, United States Code, or comparable loans in the area that are not guaranteed; and

"(C) involve a principal obligation (including initial service charges, appraisal, inspection, and other fees as the Secretary may approve)—

"(i) for a first-time homebuyer, in any amount not in excess of 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less, subject to the maximum dollar limitation of section 203(b)(2) of the National Housing Act; and

"(ii) for any borrower other than a first-time homebuyer, in an amount not in excess of the percentage of the property or the acquisition cost of the property that the Secretary shall determine, subject to the maximum dollar limitation of section 203(b)(2) of the National Housing Act, such percentage or cost in any event not to exceed 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less.

"(7) GUARANTEE FEE.—With respect to a guaranteed loan under this subsection, the Secretary may collect from the lender at the time of issuance of the guarantee a fee equal to not more than 1 percent of the principal obligation of the loan.

"(8) REFINANCING.—Any guaranteed loan under this subsection may be refinanced and extended in accordance with terms and conditions that the Secretary shall prescribe, but in no event for an additional amount or term which exceeds the limitations under this subsection.

"(9) NONASSUMPTION.—Notwithstanding the transfer of property for which a guaranteed loan under this subsection was made, the borrower of a guaranteed loan under this subsection may not be relieved of liability with respect to the loan.

"(10) GEOGRAPHICAL TARGETING.—In providing guaranteed loans under this subsection, the Secretary shall establish standards to target and give priority to areas that have a demonstrated need for additional sources of mortgage financing for low- and moderate-income families.

"(11) ALLOCATION.—The Secretary shall provide that, in each fiscal year, guaranteed loans under this subsection shall be allocated among the States on the basis of the need of eligible borrowers in each State for such loans in comparison with the need of eligible borrowers for such loans among all States.

"(12) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'displaced homemaker' means an individual who—

"(i) is an adult;

"(ii) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

"(iii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(B) The term 'first-time homebuyer' means any individual who (and whose spouse) has had no present ownership in a principal residence during the 3-year period ending on the date of purchase of the property acquired with a guaranteed loan under this subsection except that—

"(i) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

"(ii) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

"(C) The term 'single parent' means an individual who—

"(i) is unmarried or legally separated from a spouse; and

"(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or

"(II) is pregnant.

"(D) The term 'State' means the States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States.".

(c) CONFORMING AMENDMENTS.—Section 106(a)(2) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(2)) is amended—

(1) by inserting "(A)" after "Secretary"; and

(2) by striking "Act and" and inserting the following: "Act; (B) shall, in consultation with the Secretary of Agriculture, provide such services for borrowers who are first-time homebuyers with guaranteed loans under section 502(h) of the Housing Act of 1949; and (C)".

(d) REGULATIONS AND IMPLEMENTATION.—

(1) PROPOSED REGULATIONS AND COMMENT PERIOD.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register proposed regulations to implement the amendments made by this section. The Secretary shall receive comments regarding the regulations during the 30-day period beginning on the date of the publication of the proposed regulations.

(2) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue final regulations to implement the amendments made by this section. The Secretary shall provide for the regulations to take effect not later than 30 days after the date on which the regulations are issued.

(3) APPLICABILITY.—The amendments made by this section shall not apply to guaranteed loans under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) made before the date on which the final regulations issued by the Secretary under paragraph (2) take effect.

(4) CONSULTATION.—In developing and promulgating the regulations under paragraphs (1) and (2), the Secretary of Agriculture shall consult with the chairperson of the Federal Agricultural Mortgage Corporation and shall solicit the views of borrowers, lenders, realtors, and homebuilders experienced and knowledgeable regarding housing in rural areas to provide that the regulations promulgated ensure that guaranteed loans pursuant to the amendments made by this section—

(A) are made in a manner that is cost-effective; and

(B) are made in a manner that reduces, to the extent practicable, the burden of administration and paperwork for borrowers and lenders.

SEC. 707. FORECLOSURE PROCEDURES.

(a) IN GENERAL.—Section 505 of the Housing Act of 1949 (42 U.S.C. 1475) is amended—

(1) by inserting "(a) MORATORIUM.—" after the section designation; and

(2) by adding at the end the following new subsection:

"(b) FORECLOSURE PROCEDURE.—In foreclosing on any mortgage held by the Secretary under this title, the Secretary shall follow the foreclosure procedures of the State in which the property involved is located to the extent such procedures are more favorable to the borrower than the foreclosure procedures that would otherwise be followed by the Secretary. This subsection shall be subject to the availability of amounts approved in appropriations Acts, to the extent additional budget authority is necessary to carry out this subsection.".

(b) CONFORMING AMENDMENT.—The section heading for section 505 of the Housing Act of 1949 (42 U.S.C. 1475) is amended to read as follows:

"LOAN PAYMENT MORATORIUM AND FORECLOSURE PROCEDURES".

SEC. 708. DISPOSITION OF INTERESTS ON INDIAN TRUST LAND.

Section 509 of the Housing Act of 1949 (42 U.S.C. 1479) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) In the event of default involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.".

SEC. 709. HOUSING IN UNDERSERVED AREAS.

(a) PURPOSE.—The purpose of this section is to improve the quality of affordable housing in communities that have extremely high concentrations of poverty and substandard housing and that have been underserved by rural housing programs, including extremely distressed areas in the Lower Mississippi Delta and other regions of the Nation, by directing Farmers Home Administration assistance toward designated underserved areas.

(b) ASSISTANCE FOR UNDERSERVED AREAS.—Section 509 of the Housing Act of 1949 (42 U.S.C. 1479), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(f) HOUSING IN UNDERSERVED AREAS.—

"(1) DESIGNATION OF UNDERSERVED AREA.—The Secretary shall designate as targeted underserved areas 100 counties and communities in each of fiscal years 1991 and 1992 that have severe, unmet housing needs as determined by the Secretary. A county or community shall be eligible for designation if, during the 5-year period preceding the year in which the designation is made, it has received an average annual amount of assistance under this title that is substantially lower than the average annual amount of such assistance received during that 5-year period by other counties and communities in the State that are eligible for such assistance calculated on a per capita basis, and has—

"(A) 20 percent or more of its population at or below the poverty level; and

"(B) 10 percent or more of its population residing in substandard housing.

As used in this paragraph, the term 'poverty level' has the meaning given the term in section 102(a)(9) of the Housing and Community Development Act of 1974.

"(2) PREFERENCES.—In selecting projects to receive assistance with amounts set aside under paragraph (4), the Secretary shall give preference to any project located in a county or community that has, at the time of designation and as determined by the Secretary—

"(A) 28 percent or more of its population at or below poverty level; and

"(B) 13 percent or more of its population residing in substandard housing.

"(3) OUTREACH PROGRAM AND REVIEW.—

"(A) OUTREACH.—The Secretary shall publicize the availability to targeted underserved areas of grants and loans under this title and promote, to the maximum extent feasible, efforts to apply for those grants and loans for housing in targeted underserved areas.

"(B) REVIEW.—Upon the receipt of data from the 1990 decennial census, the Secretary shall conduct a review of any designations made under paragraph (1) and preferences given under paragraph (2) and the eligibility of communities and counties for such designation and preference, examining the effects of such data on such eligibility. The Secretary shall submit to the Congress, not later than 9 months after the availability of the data, a report regarding the review, which shall include any recommendations of the Secretary for modifications in the standards for designation and preference.

"(4) SET-ASIDE FOR TARGETED UNDERSERVED AREAS AND COLONIAS.—

"(A) IN GENERAL.—The Secretary shall set aside and reserve for assistance in targeted underserved areas an amount equal to 3.5 percent in fiscal year 1991 and 5.0 percent in fiscal year 1992 of the aggregate amount of lending authority under sections 502, 504, 514, 515, and 524. During each such fiscal year, the Secretary shall set aside an amount of section 521 rental assistance that is appropriate to provide assistance with respect to the lending authority under sections 514 and 515 that is set aside for such fiscal year. The Secretary shall establish a procedure to reallocate any assistance set aside in any fiscal year for targeted underserved areas that has not been expended during a reasonable period in such year for use in (i) colonias that have applied for and are eligible for assistance under subparagraph (B) or paragraph (7) and did not receive assistance, and (ii) counties and communities eligible for designation as targeted underserved areas but which were not so designated. The procedure shall also provide that any assistance reallocated under the preceding sentence that has not been expended by a reasonable date established by the Secretary (which shall be after the expiration of the period referred to in the preceding sentence) shall be made available and allocated under the laws and regulations relating to such assistance, notwithstanding this subsection.

"(B) PRIORITY FOR COLONIAS.—

"(i) Notwithstanding the designation of counties and communities as targeted underserved areas under paragraph (1) and the provisions of section 520, colonias shall be eligible for assistance with amounts reserved under subparagraph (A), as provided in this subparagraph.

"(ii) In providing assistance from amounts reserved under this paragraph in each fiscal year, the Secretary shall give priority to any application for assistance to be used in a colonia located in a State described under clause (iii). After the Secretary has provided assistance under the priority for colonias located in a State in an amount equal to 5 percent of the total amount of assistance allocated under this title to such State in the fiscal year, the priority shall not apply to any applications for colonias in such State.

"(iii) This paragraph shall apply to any State for any fiscal year following 2 fiscal years in which the State obligated the total amount of assistance allocated to it under this title during each of such 2 fiscal years.

"(5) LIST OF UNDERSERVED AREAS.—The Secretary shall publish annually the current list of targeted underserved areas in the Federal Register.

"(6) PROJECT PREPARATION ASSISTANCE.—

"(A) IN GENERAL.—The Secretary may make grants to eligible applicants under subparagraph (D) to promote the development of affordable housing in targeted underserved areas and colonias.

"(B) USE.—A grant under this paragraph shall not exceed an amount that the Secretary determines to equal the customary and reasonable costs incurred in preparing an application for a loan under section 502, 504, 514, 515, or 524, or a grant under section 533 (including preapplication planning, site analysis, market analysis, and other necessary technical assistance). The Secretary shall adjust the loan or grant amount under such sections to take account of project preparation costs that have been paid from grant proceeds under this para-

graph and that normally would be reimbursed with proceeds of the loan or grant.

"(C) APPROVAL.—The Secretary shall approve a properly submitted application or issue a written statement indicating the reasons for disapproval not later than 60 days after the receipt of the application.

"(D) ELIGIBILITY.—For purposes of this paragraph, an eligible applicant may be a nonprofit organization or corporation, a community housing development organization, State, unit of general local government, or agency of a State or unit of general local government.

"(E) AVAILABILITY OF FUNDING.—Any amounts appropriated to carry out this paragraph shall remain available until expended.

"(7) PRIORITY FOR COLONIAS.—

"(A) IN GENERAL.—In providing assistance under this title in any fiscal year described under subparagraph (B), each State in which colonias are located shall give priority to any application for assistance to be used in a colonia. The priority under this subparagraph shall not apply in such State after 5 percent of the assistance available in such fiscal year has been allocated for colonias qualifying for the priority.

"(B) COVERED YEARS.—This paragraph shall apply to any fiscal year following 2 fiscal years in which the State did not obligate the total amount of assistance allocated it under this title during each of such 2 fiscal years.

"(8) DEFINITION OF COLONIA.—For purposes of this subsection, the term 'colonia' means any identifiable community that—

"(A) is in the State of Arizona, California, New Mexico, or Texas;

"(B) is in the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000;

"(C) is designated by the State or county in which it is located as a colonia;

"(D) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

"(E) was in existence and generally recognized as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

(c) REGULATIONS.—Not later than the expiration of the 120-day period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by this section.

SEC. 710. RURAL HOUSING INVENTORY.

(a) TRANSFER FOR USE UNDER SECTION 514.—Section 510(e)(3) of the Housing Act of 1949 (42 U.S.C. 1480(e)(3)) is amended by inserting after "fifty years" the following: ", or for use as rental units under section 514 with mortgages containing repayment terms with up to 33 years,".

(b) TRANSFER TO FOR-PROFIT ENTITIES.—Section 510(e) of the Housing Act of 1949 is further amended by striking "or public bodies" and inserting ", public bodies, or for-profit entities, which have good records of providing low income housing under section 515".

SEC. 711. RIGHTS OF APPEAL.

Section 510(g) of the Housing Act of 1949 (42 U.S.C. 1480(g)) is amended by inserting before the semicolon the following: ", except that rules issued under this subsection may not exclude from their coverage decisions made by the Secretary that are not based on objective standards contained in published regulations".

SEC. 712. SECTION 515 LOANS.

(a) EQUITY TAKEOUT LOANS.—Section 515(t) of the Housing Act of 1949 (42 U.S.C. 1485(t)) is amended—

(1) in paragraph (3), by striking "original loan on the project" in the last sentence and inserting "original appraised value of the project";

(2) in paragraph (4)—

(A) in the first sentence, by inserting "initial" before "loan"; and

(B) in the second sentence, by inserting "initial payments, any accrued payments, and" after "except that such" in the second sentence; and

(3) by striking paragraph (8) and inserting the following new paragraph:

"(8) EFFECTIVE DATE.—The requirements of this subsection shall apply to any loan obligated under this section on or after December 15, 1989. This subsection shall not require retroactive reserve account payments with respect to any loan that was obligated on or after December 15, 1989, and on or before June 16, 1990, but reserve account payments shall be required for such loans beginning on the date of the enactment of this paragraph.".

(b) REUSE OF LOAN AUTHORITY.—Section 515(u) of the Housing Act of 1949 (42 U.S.C. 1485(u)) is amended by inserting at the end the following new sentence: "Any loan authority under this section appropriated or made available within limits established in appropriations Acts shall remain available until expended.".

(c) ASSUMPTION OF LOANS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

"(v) ASSUMPTION OF LOANS.—The Secretary may provide for the assumption or transfer of a loan or loan obligation under this section to any person or entity qualified to receive a loan or loan obligation under this section in any case of default or foreclosure with respect to the original borrower. The Secretary shall provide in each assumption or transfer under this subsection for the assumption of the obligations, rights, and interests under the terms of the loan or loan obligation or such other terms as the Secretary determines appropriate.".

SEC. 713. SET-ASIDE OF RURAL RENTAL HOUSING FUNDS.

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(w) SET-ASIDE OF RURAL RENTAL HOUSING FUNDS.—

"(1) AUTHORITY.—Except as provided in paragraph (2), the Secretary shall set aside from amounts made available for each State for loans under this section, not less than 7 percent of the amounts available in fiscal year 1991 and not less than 9 percent of the amounts available in fiscal year 1992. Amounts set aside shall be available only for nonprofit entities in the State, which may not be wholly or partially owned or controlled by a for-profit entity or under whole or partial control with a for-profit entity.

"(2) MINIMUM STATE SET-ASIDE.—If the amount set aside under paragraph (1) for any State is less than $750,000 in any fiscal year, the Secretary shall pool such amount together with set-aside amounts from other States whose set-aside is less than $750,000, and shall make such amounts available for such eligible entities under paragraph (1) in any such State. The Secretary shall establish a procedure to provide that any amounts pooled under this paragraph from the allocation for any State in any fiscal year that are not obligated during a reasonable period in such year shall be made available for any such eligible entities under paragraph (1) in such State.

"(3) UNUSED AMOUNTS.—Any amounts set aside or pooled under this subsection from the allocation for any State in any fiscal year that are not obligated by a reasonable date established by the Secretary (which shall be after the expiration of the period under paragraph (2)) shall be made available to any entity eligible under this section in such State.".

SEC. 714. HOUSING FOR RURAL HOMELESS AND MIGRANT FARMWORKERS.

(a) IN GENERAL.—Section 516 of the Housing Act of 1949 (42 U.S.C. 1486 et seq.) is amended by adding at the end the following new subsection:

"(k) HOUSING FOR RURAL HOMELESS AND MIGRANT FARMWORKERS.—

"(1) IN GENERAL.—The Secretary may provide financial assistance for providing affordable rental housing and related facilities for migrant farmworkers and homeless individuals (and the families of such individuals) to applicants as provided in this subsection.

"(2) TYPES OF ASSISTANCE.—

"(A) IN GENERAL.—The Secretary may provide the following assistance for housing under this subsection:

"(i) An advance, in an amount not to exceed $400,000, of the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure or construction of a new structure for use in the provision of housing under this subsection. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this subparagraph if the structure was not used for the purposes under this subsection prior to the receipt of assistance.

"(ii) A grant, in an amount not to exceed $400,000, for moderate rehabilitation of an existing structure for use in the provision of housing under this subsection.

"(iii) Annual payments for operating costs of such housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing.

"(B) AVAILABLE ASSISTANCE.—A recipient may receive assistance under both clauses (i) and (ii) of subparagraph (A). The Secretary may increase the limit contained in such clauses to $800,000 in areas which the Secretary finds have high acquisition and rehabilitation costs.

"(C) REPAYMENT OF ADVANCE.—Any advance provided under subparagraph (A)(i) shall be repaid on such terms as may be prescribed by the Secretary when the project ceases to be used as housing in accordance with the provisions of this subsection. Recipients shall be required to repay 100 percent of the advance if the housing is used for purposes under this subsection for fewer than 10 years following initial occupancy. If the housing is used for such purposes for more than 10 years, the percentage of the amount that shall be required to be repaid shall be reduced by 10 percentage points for each year in excess of 10 that the property is so used.

"(D) PREVENTION OF UNDUE BENEFITS.—Upon any sale or other disposition of housing acquired or rehabilitated with assistance under this subsection prior to the close of 20 years after the housing is placed in service, other than a sale or other disposition resulting in the use of the project for the direct benefit of low income persons or where all of the proceeds are used to provide housing for migrant farmworkers and homeless individuals (and the families of such individuals), the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from the sale or other disposition of the project.

"(3) PROGRAM REQUIREMENTS.—

"(A) APPLICATIONS.—

"(i) Applications for assistance under this subsection shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(ii) The Secretary shall require that applications contain at a minimum (I) a description of the proposed housing, (II) a description of the size and characteristics of the population that would occupy the housing, (III) a description of any public and private resources that are expected to be made available in connection with the housing, (IV) a description of the housing needs for migrant farmworkers and homeless individuals (and the families of such individuals) in the area to be served by the housing, and (V) assurances satisfactory to the Secretary that the housing assisted will be operated for not less than 10 years for the purpose specified in the application.

"(iii) The Secretary shall require that an application furnish reasonable assurances that the housing will be available for occupancy by homeless individuals (and the families of such individuals) only on an emergency and temporary basis during the offseason and shall be otherwise available for occupancy by migrant farmworkers (and their families).

"(iv) The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed housing not later than 6 months after notification of an award for grant assistance. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(B) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this subsection, which shall include—

"(i) the ability of the applicant to develop and operate the housing;

"(ii) the feasibility of the proposal in providing the housing;

"(iii) the need for such housing in the area to be served;

"(iv) the cost effectiveness of the proposed housing;

"(v) the extent to which the project would meet the needs of migrant farmworkers and homeless individuals (and the families of such individuals) in the State;

"(vi) the extent to which the applicant has control of the site of the proposed housing; and

"(vii) such other factors as the Secretary determines to be appropriate for purposes of this subsection.

"(C) REQUIRED AGREEMENTS.—The Secretary may not approve assistance for any housing under this subsection unless the applicant agrees—

"(i) to operate the proposed project as housing for migrant farmworkers and homeless individuals (and the families of such individuals) in compliance with the provisions of this subsection and the application approved by the Secretary;

"(ii) to monitor and report to the Secretary on the progress of the housing; and

"(iii) to comply with such other terms and conditions as the Secretary may establish for purposes of this subsection.

"(D) OCCUPANT RENT.—Each migrant farmworker and homeless individual residing in a facility assisted under this subsection shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(4) GUIDELINES.—

"(A) REGULATIONS.—Not later than 120 days after the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subsection.

"(B) LIMITATION ON USE OF FUNDS.—No assistance received under this subsection (or any State or local government funds used to supplement such assistance) may be used to replace other public funds previously used, or designated for use, to assist homeless individuals (and the families of such individuals) or migrant farmworkers.

"(5) LIMITATION ON ADMINISTRATIVE EXPENSES.—No recipient may use more than 5 percent of an advance or grant received under this subsection for administrative purposes.

"(6) REPORTS TO CONGRESS.—The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this subsection and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 3 months after the end of each fiscal year.

"(7) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'applicant' means a State, political subdivision thereof, Indian tribe, any private nonprofit organization incorporated within the State that has applied for a grant under this subsection.

"(B) The term 'homeless individual' has the same meaning given the term under section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(C) The term 'migrant farmworker'—

"(i) means any person (and the family of such person) who (I) receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities, the handling of such commodities in the unprocessed stage, or the processing of such commodities, without respect to the source of employment, and (II) establishes residence in a location on a seasonal or temporary basis, in an attempt to receive an income as described in subclause (I); and

"(ii) includes any person (and the family of such person) who is retired or disabled, but who met the requirements of clause (i) at the time of retirement or becoming disabled.

"(D) The term 'operating costs' means expenses incurred by a recipient providing housing under this subsection with respect to the administration, maintenance, repair, and security of such housing and utilities, fuel, furnishings, and equipment for such housing.".

(b) STUDY OF HOMELESSNESS IN RURAL AREAS.—

(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study to determine the extent and characteristics of homelessness in rural areas.

(2) REPORT.—The Secretary of Agriculture shall submit to the Congress, not later than the expiration of the 9-month period beginning on the date of the enactment of this Act, a report describing the findings of the Secretary under the study. The report shall contain any recommendations of the Secretary for administrative or legislative action to reduce or alleviate homelessness in rural areas.

SEC. 715. RURAL AREA CLASSIFICATION.

(a) IN GENERAL.—Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended—

(1) in the first sentence—

(A) by striking "case" and inserting "cases";

(B) by inserting after "California" the following: ", and Guadalupe, in the State of Arizona"; and

(2) by striking the last sentence and inserting the following new sentence: "For purposes of this title, any area classified as 'rural' or a 'rural area' prior to October 1, 1990, and determined not to be 'rural' or a 'rural area' as a result of data received from or after the 1990 decennial census shall continue to be so classified until the receipt of data from the decennial census in the year 2000, if such area has a population in excess of 10,000 but not in excess of 25,000, is rural in character, and has a serious lack of mortgage credit for lower and moderate-income families.".

(b) APPLICABILITY.—The amendment made by this section shall apply with respect to classification of rural areas for fiscal year 1991 and any fiscal year thereafter.

SEC. 716. ASSISTANCE TO REDUCE RENT OVERBURDEN.

Section 521(a)(2)(C) of the Housing Act of 1949 (42 U.S.C. 1491(a)(2)(C)) is amended by adding at the end the following: "Notwithstanding the preceding sentence, excess funds received from tenants in projects financed under section 515 during a fiscal year shall be available during the next succeeding fiscal year, together with funds provided under subparagraph (D), to the extent approved in appropriations Acts, to make assistance payments to reduce rent overburden on behalf of tenants of any such project whose rents exceed the levels referred to in subparagraph (A). In providing assistance to relieve rent overburden, the Secretary shall provide assistance with respect to very low-income and low income families to reduce housing rentals to the levels specified in subparagraph (A).".

SEC. 717. HOUSING PRESERVATION GRANTS.

(a) USE OF DEOBLIGATED FUNDS.—Section 533(c)(1) of the Housing Act of 1949 (42 U.S.C. 1490m(c)(1)) is amended by adding at the end the following: "Funds obligated, but subsequently unspent and deobligated, may remain available, to the extent provided in appropriations Acts, for use as housing preservation grants in ensuing fiscal years.".

(b) REALLOCATION.—Section 533(g) of the Housing Act of 1949 (42 U.S.C. 1490m(g)) is amended by striking the last sentence and inserting the following: "Any amounts which become available as a result of actions under this subsection shall be reallocated as housing preservation grants to such grantee or grantees as the Secretary may determine.".

SEC. 718. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

(a) EXTENSION OF AUTHORITY.—Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended in subsection (b), by striking "6-month period" and inserting "18-month period".

(b) RETROACTIVITY.—Any administrative approval of any housing subdivision made after the expiration of the 6-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 and before the date of the enactment of this Act is hereby approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949.

SEC. 719. RURAL HOUSING TECHNICAL AMENDMENTS.

(a) RURAL HOUSING ASSISTANCE DEFINITION.—Section 536(h) of the Housing Act of 1949 (42 U.S.C. 1490p(h)) is amended by striking the period at the end and inserting ", for the original construction or development of the project.".

(b) PROHIBITION ON PREPAYMENT OF NEW RURAL HOUSING LOANS.—Section 502(c)(1)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(1)(B)) is amended by inserting "initial" after "any".

TITLE VIII—HOUSING FOR PERSONS WITH SPECIAL NEEDS

Subtitle A—Supportive Housing for the Elderly

SEC. 801. SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) IN GENERAL.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) is amended to read as follows:

"SEC. 202. SUPPORTIVE HOUSING FOR THE ELDERLY.

"(a) PURPOSE.—The purpose of this section is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that—

"(1) is designed to accommodate the special needs of elderly persons; and

"(2) provides a range of services that are tailored to the needs of elderly persons occupying such housing.

"(b) GENERAL AUTHORITY.—The Secretary is authorized to provide assistance to private nonprofit organizations and consumer cooperatives to expand the supply of supportive housing for the elderly. Such assistance shall be provided as (1) capital advances in accordance with subsection (c)(1), and (2) contracts for project rental assistance in accordance with subsection (c)(2). Such assistance may be used to finance the construction, reconstruction, or moderate or substantial rehabilitation of a structure or a portion of a structure, or the acquisition of a structure from the Resolution Trust Corporation, to be used as supportive housing for the elderly in accordance with this section. Assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for the elderly.

"(c) FORMS OF ASSISTANCE.—

"(1) CAPITAL ADVANCES.—A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very low-income elderly persons in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

"(2) PROJECT RENTAL ASSISTANCE.—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income elderly persons that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units so occupied and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs.

"(3) TENANT RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under this section the highest of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated.

"(d) TERM OF COMMITMENT.—

"(1) USE LIMITATIONS.—All units in housing assisted under this section shall be made available for occupancy by very low-income elderly persons for not less than 40 years.

"(2) CONTRACT TERMS.—The initial term of a contract entered into under subsection (c)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

"(e) APPLICATIONS.—Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

"(1) a description of the proposed housing;

"(2) a description of the assistance the applicant seeks under this section;

"(3) a description of the resources that are expected to be made available in compliance with subsection (h);

"(4) a description of (A) the category or categories of elderly persons the housing is intended to serve; (B) the supportive services, if any, to be provided to the persons occupying such housing; (C) the manner in which such services will be provided to such persons, including, in the case of frail elderly persons, evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and (D) the public or private sources of assistance that can reasonably be expected to fund or provide such services;

"(5) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of services identified in paragraph (4) is well designed to serve the special needs of the category or categories of elderly persons the housing is intended to serve;

"(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed project is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond.

"(f) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

"(1) the ability of the applicant to develop and operate the proposed housing;

"(2) the need for supportive housing for the elderly in the area to be served;

"(3) the extent to which the proposed size and unit mix of the housing will enable the applicant to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion;

"(4) the extent to which the proposed design of the housing will meet the special physical needs of elderly persons;

"(5) the extent to which the applicant has demonstrated that the supportive services identified in subsection (e)(4) will be provided on a consistent, long-term basis;

"(6) the extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve; and

"(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(g) PROVISIONS OF SERVICES.—

"(1) IN GENERAL.—In carrying out the provisions of this section, the Secretary shall ensure that housing assisted under this section provides a range of services tailored to the needs of the category or categories of elderly persons (including frail elderly persons) occupying such housing. Such services may include (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance; (D) transportation services; (E) health-related services; and (F) such other services as the Secretary deems essential for maintaining independent living. The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this Act.

"(2) LOCAL COORDINATION OF SERVICES.—The Secretary shall ensure that owners have the managerial capacity to—

"(A) assess on an ongoing basis the service needs of residents;

"(B) coordinate the provision of supportive services and tailor such services to the individual needs of residents; and

"(C) seek on a continuous basis new sources of assistance to ensure the long-term provision of supportive services.

Any cost associated with this subsection shall be an eligible cost under subsection (c)(2). Any cost associated with the employment of a service coordinator in housing principally serving frail elderly persons shall also be an eligible cost except where the

project is receiving congregate housing services assistance under section 802 of the Cranston-Gonzalez National Affordable Housing Act.

"(h) DEVELOPMENT COST LIMITATIONS.—

"(1) IN GENERAL.—The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for the elderly by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

"(A) the cost of construction, reconstruction, or rehabilitation of supportive housing for the elderly that meets applicable State and local housing and building codes;

"(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

"(C) the cost of special design features necessary to make the housing accessible to elderly persons;

"(D) the cost of special design features necessary to make individual dwelling units meet the physical needs of elderly project residents;

"(E) the cost of congregate space necessary to accommodate the provision of supportive services to elderly project residents;

"(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; and

"(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area under this subsection, the Secretary shall use data that reflect currently prevailing costs of construction, reconstruction, or rehabilitation, and land acquisition in the area. For purposes of this paragraph, the term 'congregate space' shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

"(2) RTC PROPERTIES.—In the case of existing housing and related facilities to be acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost limitations shall include—

"(A) the cost of acquiring such housing,

"(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

"(C) the cost of the land on which the housing and related facilities are located.

"(3) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of construction, reconstruction, or rehabilitation costs.

"(4) INCENTIVES FOR SAVINGS.—

"(A) SPECIAL HOUSING ACCOUNT.—The Secretary shall use the development cost limitations established under paragraph (1) or (2) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special housing account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which—

"(i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act;

"(ii) substantially reduce the life-cycle cost of the housing;

"(iii) reduce gross rent requirements; and

"(iv) enhance tenant comfort and convenience.

"(B) USES.—The special housing account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

"(5) DESIGN FLEXIBILITY.—The Secretary shall, to the extent practicable, give owners the flexibility to design housing appropriate to their location and proposed resident population within broadly defined parameters.

"(6) USE OF FUNDS FROM OTHER SOURCES.—A owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for the elderly if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

"(i) TENANT SELECTION.—

"(1) IN GENERAL.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(2) INFORMATION REGARDING HOUSING UNDER THIS SECTION.—The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging) information regarding the availability of housing assisted under this section.

"(j) MISCELLANEOUS PROVISIONS.—

"(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

"(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

"(3) OWNER DEPOSIT.—

"(A) IN GENERAL.—The Secretary shall require an owner to deposit an amount not to exceed $25,000 in a special escrow account to assure the owner's commitment to the housing.

"(B) REDUCTION OF REQUIREMENT.—The Secretary may reduce or waive the owner deposit specified under paragraph (1) for individual applicants if the Secretary finds that such waiver or reduction is necessary to achieve the purposes of this section and the applicant demonstrates to the satisfaction of the Secretary that it has the capacity to manage and maintain the housing in accordance with this section.

"(4) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

"(5) LABOR.—

"(A) IN GENERAL.—Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a–276a-5), shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

"(B) WAIVER.—Subparagraph (A) shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work.

"(k) DEFINITIONS.—

"(1) The term 'elderly person' means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

"(2) The term 'frail elderly' means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

"(3) The term 'owner' means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for the elderly.

"(4) The term 'private nonprofit organization' means any incorporated private institution or foundation—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located, and (ii) which is responsible for the operation of the housing assisted under this section; and

"(C) which is approved by the Secretary as to financial responsibility.

"(5) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

"(6) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(7) The term 'supportive housing for the elderly' means housing that is designed (A) to meet the special physical needs of elderly persons and (B) to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons that the housing is intended to serve.

"(8) The term 'very low-income' has the same meaning as given the term 'very low-income families' under section 3(b)(2) of the United States Housing Act of 1937.

"(l) AUTHORIZATIONS.—

"(1) CAPITAL ADVANCES.—There are authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (c)(1) $659,000,000 for fiscal year 1992. Amounts so appropriated, the repayments from such advances, and the pro-

ceeds from notes or obligations issued under this section prior to the enactment of the Cranston-Gonzalez National Affordable Housing Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

"(2) PROJECT RENTAL ASSISTANCE.—For the purpose of funding contracts for project rental assistance in accordance with subsection (c)(2) the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating $363,000,000 for fiscal year 1992.

"(3) NONMETROPOLITAN ALLOCATION.—Not less than 20 percent of the funds made available under this subtitle shall be allocated by the Secretary on a national basis for nonmetropolitan areas.".

(b) CONFORMING AMENDMENT.—Section 213(a) of the Housing and Community Development Act of 1974 is amended by striking "section 202 of the Housing Act of 1959".

(c) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by this section shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and an opportunity for public comment in accordance with section 553 of title 5, United States Code. Regulations shall be issued for comment not later than 180 days after the date of enactment of this Act.

(d) EXPEDITED FINANCING AND CONSTRUCTION.—

(1) IN GENERAL.—The Secretary may, subject to the availability of appropriations for contract amendments for the purposes of this subsection—

(A) provide such adjustments and waivers to the cost limitations specified under 24 CFR 885.410(a)(1); and

(B) make such adjustments to the relevant fair market rent limitations established under section 8(c)(1) of the United States Housing Act of 1937 in providing assistance under such Act,

as are necessary to ensure the expedited financing and construction of qualified supportive housing for the elderly provided that the Secretary finds that any applicable cost containment rules and regulations have been satisfied.

(2) DEFINITION.—For purposes of this subsection, the term "supportive housing for the elderly" means housing—

(A) located in a high-cost jurisdiction; and

(B) for which a loan reservation was made under section 202 of the Housing Act of 1959, 3 years before the date of enactment of this Act but for which no loan has been executed and recorded.

(e) AUTHORIZATION FOR EXISTING PROGRAM.—Section 202(a)(4)(C) of the Housing Act of 1959 (12 U.S.C. 1701q(a)(4)(C)) is amended—

(1) by striking all that follows "Acts" the first time it appears and inserting a period; and

(2) by adding at the end the following: "For fiscal year 1991, not more than $714,200,000 may be approved in appropriation Acts for such loans.".

SEC. 802. REVISED CONGREGATE HOUSING SERVICES PROGRAM.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the effective provision of congregate services may require the redesign of units and buildings to meet the special physical needs of the frail elderly persons and the creation of congregate space to accommodate services that enhance independent living;

(B) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling frail older persons and persons with disabilities to maintain their dignity and independence;

(C) independent living with assistance is a preferable housing alternative to institutionalization for many frail older persons and persons with disabilities;

(D) 365,000 persons in federally assisted housing experience some form of frailty, and the number is expected to increase as the general population ages;

(E) an estimated 20 to 30 percent of older adults living in federally assisted housing experience some form of frailty;

(F) a large and growing number of frail elderly residents face premature or unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of supportive services;

(G) the support service needs of frail residents of assisted housing are beyond the resources and experience that housing managers have for meeting such needs;

(H) supportive services would promote the invaluable option of independent living for nonelderly persons with disabilities in federally assisted housing;

(I) approximately 25 percent of congregate housing services program sites provide congregate services to young individuals with disabilities;

(J) to the extent that institutionalized older adults do not need the full costly support provided by such care, public moneys could be more effectively spent providing the necessary services in a noninstitutional setting; and

(K) the Congregate Housing Services Program, established by Congress in 1978, and similar programs providing in-home services have been effective in preventing unnecessary institutionalization and encouraging deinstitutionalization.

(2) PURPOSES.—The purposes of this section are—

(A) to provide assistance to retrofit individual dwelling units and renovate public and common areas in eligible housing to meet the special physical needs of eligible residents;

(B) to create and rehabilitate congregate space in or adjacent to such housing to accommodate supportive services that enhance independent living;

(C) to improve the capacity of management to assess the service needs of eligible residents, coordinate the provision of supportive services that meet the needs of eligible residents and ensure the long-term provision of such services;

(D) to provide services in federally assisted housing to prevent premature and inappropriate institutionalization in a manner that respects the dignity of the elderly and persons with disabilities;

(E) to provide readily available and efficient supportive services that provide a choice in supported living arrangements by utilizing the services of an on-site coordinator, with emphasis on maintaining a continuum of care for the vulnerable elderly;

(F) to improve the quality of life of older Americans living in federally assisted housing;

(G) to preserve the viability of existing affordable housing projects for lower-income older residents who are aging in place by assisting managers of such housing with the difficulties and challenges created by serving older residents;

(H) to develop partnerships between the Federal Government and State governments in providing services to the frail elderly and person with disabilities; and

(I) to utilize Federal and State funds in a more cost-effective and humane way in serving the needs of older adults.

(b) CONTRACTS FOR CONGREGATE SERVICES PROGRAMS.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Agriculture (through Administrator of the Farmers Home Administration) shall enter into contracts with States, Indian tribes, units of general local government and local nonprofit housing sponsors, utilizing any amounts appropriated under subsection (n)—

(A) to provide congregate services programs for eligible project residents to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive services; or

(B) to adapt housing to better accommodate the physical requirements and service needs of eligible residents.

(2) TERM OF CONTRACTS.—Each contract between the Secretary concerned and a State, Indian tribe, or unit of general local government, or local nonprofit housing sponsor, shall be for a term of 5 years and shall be renewable at the expiration of the term, except as otherwise provided in this section.

(c) RESERVATION OF AMOUNTS.—For each State, Indian tribe, unit of general local government, and nonprofit housing sponsor, receiving a contract under this subsection, the Secretary concerned shall reserve a sum equal to the total approved contract amount from the amount authorized and appropriated for the fiscal year in which the notification date of funding approval occurs.

(d) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—A congregate services program under this section shall provide meal and other services for eligible project residents (and other residents and nonresidents, as provided in subsection (e)), as provided in this section, that are coordinated on site.

(2) MEAL SERVICES.—Congregate services programs assisted under this section shall include meal service adequate to meet at least one-third of the daily nutritional needs of eligible project residents, as follows:

(A) FOOD STAMPS AND AGRICULTURAL COMMODITIES.—In providing meal services under this paragraph, each congregate services program—

(i) shall—

(I) apply for approval as a retail food store under section 9 of the Food Stamp Act of 1977 (42 U.S.C. 2018); and

(II) if approved under such section, accept coupons (as defined in section 3(e) of such Act) as payment from individuals to whom such meal services are provided; and

(ii) shall request, and use to provide such meal services, agricultural commodities made available without charge by the Secretary of Agriculture.

(B) PREFERENCE FOR NUTRITION PROVIDERS.—In contracting for or otherwise providing for meal services under this paragraph, each congregate services program shall give preference to any provider of meal services who—

(i) receives assistance under title III of the Older Americans Act of 1965; or

(ii) has experience, according to standards as the Secretary shall require, in providing meal services in a housing project under the Congregate Housing Services Act of 1978 or any other program for congregate services.

(3) RETROFIT AND RENOVATION.—Assistance under this section may be provided with respect to eligible housing for the elderly for—

(A) retrofitting of individual dwelling units to meet the special physical needs of current or future residents who are or are expected to be eligible residents, which retrofitting may include—

(i) widening of doors to allow passage by persons with disabilities in wheelchairs into and within units in the project;

(ii) placement of light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(iii) installation of grab bars in bathrooms or the placement of reinforcements in bathroom walls to allow later installation of grab bars;

(iv) redesign of usable kitchens and bathrooms to permit a person in a wheelchair to maneuver about the space; and

(v) such other features of adaptive design that the Secretary finds are appropriate to meet the special needs of such residents;

(B) such renovation as is necessary to ensure that public and common areas are readily accessible to and usable by eligible residents;

(C) renovation, conversion, or combination of vacant dwelling units to create congregate space to accommodate the provision of supportive services to eligible residents;

(D) renovation of existing congregate space to accommodate the provision of supportive services to eligible residents; and

(E) construction or renovation of facilities to create conveniently located congregate space to accommodate the provision of supportive services to eligible residents.

For purposes of this paragraph, the term "congregate space" shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

(4) SERVICE COORDINATOR.—Assistance under this section may be provided with respect to the employment of one or more individuals (hereinafter referred to as "service coordinator") who may be responsible for—

(A) working with the professional assessment committee established under subsection (f) on an ongoing basis to assess the service needs of eligible residents;

(B) working with service providers and the professional assessment committee to tailor the provision of services to the needs and characteristics of eligible residents;

(C) mobilizing public and private resources to ensure that the qualifying supportive services identified pursuant to subsection (d) can be funded over the time period identified under such subsection;

(D) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

(E) performing such other duties and functions that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

The Secretary shall establish such minimum qualifications and standards for the position of service coordinator that the Secretary deems necessary to ensure sound management. The Secretary may fund the employment of service coordinators by using amounts appropriated under this section and by permitting owners to use existing sources of funds, including excess project reserves.

(5) OTHER SERVICES.—Congregate services programs assisted under this section may include services for transportation, personal care, dressing, bathing, toileting, housekeeping, chore assistance, nonmedical counseling, assessment of the safety of housing units, group and socialization activities, assistance with medications (in accordance with any applicable State law), case management, personal emergency response, and other services to prevent premature and unnecessary institutionalization of eligible project residents.

(6) DETERMINATION OF NEEDS.—In determining the services to be provided to eligible project residents under a congregate services program assisted under this section, the program shall provide for consideration of the needs and wants of eligible project residents.

(7) FEES.—

(A) ELIGIBLE PROJECT RESIDENTS.—The owner of each eligible housing project shall establish fees for meals and other services provided under a congregate services program to eligible project residents, which shall be sufficient to provide 10 percent of the costs of the services provided. The Secretary concerned shall provide for the waiver of fees under this paragraph for individuals whose incomes are insufficient to provide for any payment. The fees for meals shall be in the following amounts:

(i) FULL MEAL SERVICES.—The fees for residents receiving more than 1 meal per day, 7 days per week, shall be reasonable and shall equal between 10 and 20 percent of the adjusted income of the project resident (as such income is determined under section 3(b) of the United States Housing Act of 1937), or the cost of providing the services, whichever is less.

(ii) LESS THAN FULL MEAL SERVICES.—The fees for residents receiving meal services less frequently than as described in the preceding sentence shall be in an amount equal to 10 percent of such adjusted income of the project resident or the cost of providing the services, whichever is less.

(B) OTHER RESIDENTS AND NONRESIDENTS.—Fees shall be established under this paragraph for residents of eligible housing projects (other than eligible project residents) and for nonresidents that receive services from a congregate services program pursuant to subsection (e). Such fees shall be in an amount equal to the cost of providing the services.

(8) DIRECT AND INDIRECT PROVISION OF SERVICES.—Any State, Indian tribe, unit of general local government, or nonprofit housing sponsor that receives assistance under this section may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(e) ELIGIBILITY FOR SERVICES.—

(1) ELIGIBLE PROJECT RESIDENTS.—Any eligible resident who is a resident of an eligible housing project (or who with deinstitutionalization and appropriate supportive services under this section could become a resident of eligible federally assisted housing) shall be eligible for services under a congregate services program assisted under this section.

(2) ECONOMIC NEED.—In providing services under a congregate services program, the program shall give consideration to serving eligible project residents with the greatest economic need.

(3) IDENTIFICATION.—

(A) IN GENERAL.—A professional assessment committee under subparagraph (B) shall identify eligible project residents under paragraph (1) and shall designate services appropriate to the functional abilities and needs of each eligible project resident. The committee shall utilize procedures that ensure that the process of determining eligibility of individuals for congregate services shall accord such individuals fair treatment and due process and a right of appeal of the determination of eligibility, and shall also ensure the confidentiality of personal and medical records.

(B) PROFESSIONAL ASSESSMENT COMMITTEE.—A professional assessment committee under this section shall consist of not less than 3 individuals, who shall be appointed to the committee by the officials of the eligible housing project responsible for the congregate services program, and shall include qualified medical and other health and social services professionals competent to appraise the functional abilities of the frail elderly and persons with disabilities in relation to the performance of tasks of daily living.

(4) ELIGIBILITY OF OTHER RESIDENTS.—The elderly and persons with disabilities who reside in an eligible housing project other than eligible project residents under paragraph (1) may receive services from a congregate services program under this section if the housing managers, congregate service coordinators, and the professional assessment committee jointly determine that the participation of such individuals will not negatively affect the provision of services to eligible project residents. Residents eligible for services under this paragraph shall pay fees as provided under subsection (d).

(5) ELIGIBILITY OF NONRESIDENTS.—The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this section.

(f) ELIGIBLE CONTRACT RECIPIENTS AND DISTRIBUTION OF ASSISTANCE.—The Secretary concerned may provide assistance under this section and enter into contracts under subsection (b) with—

(1) owners of eligible housing;

(2) States that submit applications in behalf of owners of eligible housing; and

(3) Indian tribes and units of general local government that submit applications on behalf of owners of eligible housing.

(g) APPLICATIONS.—The funds made available under this section shall be allocated by the Secretary among approvable applications submitted by or on behalf of owners. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Applications for assistance shall contain—

(1) a description of the type of assistance the applicant is applying for;

(2) in the case of an application involving rehabilitation or retrofit, a description of the activities to be carried out, the number of elderly persons to be served, the costs of such activities, and evidence of a commitment for the services to be associated with the project;

(3) a description of qualifying supportive services that can reasonably be expected to be made available to eligible residents over a 5-year period;

(4) a firm commitment from one or more sources of assistance ensuring that some or all of the qualifying supportive services identified under paragraph (3) will be provided for not less than 1 year following the

completion of activities assisted under subsection (d);

(5) a description of public or private sources of assistance that are likely to fund or provide qualifying supportive services, including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including for-profit and nonprofit organizations);

(6) a certification from the appropriate State or local agency (as determined by the Secretary) that—

(A) the provision of the qualifying supportive services identified under paragraph (3) will enable eligible residents to live independently and avoid unnecessary institutionalization,

(B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified under paragraph (3), and

(C) the agency and the applicant will, during the term of the contract, actively seek assistance for such services from other sources;

(7) a description of any fees that would be established pursuant to subsection (d); and

(8) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall act on each application within 60 days of its submission.

(h) SELECTION AND EVALUATION OF APPLICATIONS AND PROGRAMS.—

(1) IN GENERAL.—Each Secretary concerned shall establish criteria for selecting States, Indian tribes, units of general local government, and local nonprofit housing sponsors to receive assistance under this section, and shall select such entities to receive assistance. The criteria for selection shall include consideration of—

(A) the extent to which the activities described in subsection (d)(3) will foster independent living and the provision of such services;

(B) the types and priorities of the basic services proposed to be provided, the appropriateness of the targeting of services, the methods of providing for deinstitutionalized older individuals and individuals with disabilities, and the relationship of the proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(C) the schedule for establishment of services following approval of the application;

(D) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(E) the professional qualifications of the members of the professional assessment committee;

(F) the reasonableness and application of fees schedules established for congregate services;

(G) the adequacy and accuracy of the proposed budgets; and

(H) the extent to which the owner will provide funds from other services in excess of that required by this section.

(2) EVALUATION OF PROVISION OF CONGREGATE SERVICES PROGRAMS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, by regulation under subsection (n), establish procedures for States, Indian tribes, and units of general local government receiving assistance under this section—

(A) to review and evaluate the performance of the congregate services programs of eligible housing projects receiving assistance under this section in such State; and

(B) to submit annually, to the Secretary concerned, a report evaluating the impact and effectiveness of congregate services programs in the entity assisted under this section.

(i) CONGREGATE SERVICES PROGRAM FUNDING.—

(1) COST DISTRIBUTION.—

(A) CONTRIBUTION REQUIREMENT.—In providing contracts under subsection (b), each Secretary concerned shall provide for the cost of providing the congregate services program assisted under this section to be distributed as follows:

(i) Each State, Indian tribe, unit of general government, or nonprofit housing sponsor that receives amounts under a contract under subsection (b) shall supplement any such amount with amounts sufficient to provide 50 percent of the cost of providing the congregate services program. Any monetary or in-kind contributions received by a congregate services program under the Congregate Housing Services Act of 1978 may be considered for purposes of fulfilling the requirement under this clause. The Secretary concerned shall encourage owners to use excess residual receipts to the extent available to supplement funds for retrofit and supportive services under this section.

(ii) The Secretary concerned shall provide 40 percent of the cost, with amounts under contracts under subsection (b).

(iii) Fees under subsection (d)(7) shall provide 10 percent of the cost.

(B) EXCEPTIONS.—

(i) For any congregate services program that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this Act, the unit of general local government or nonprofit housing sponsor, in coordination with a local government with respect to such program shall not be subject to the requirement to provide supplemental contributions under subparagraph (A)(i) (for such program) for the 3-year period beginning on the expiration of the contract for such assistance. The Secretary concerned shall require each such program to maintain, for such 3-year period, the same dollar amount of annual contributions in support of the services eligible for assistance under this section as were contributed to such program during the year preceding the date of the enactment of this Act.

(ii) To the extent that the limitations under subsection (d)(7) regarding the percentage of income eligible residents may pay for services will result in collected fees for any congregate services program of less than 10 percent of the cost of providing the program, 50 percent of such remaining costs shall be provided by the recipient of amounts under the contract and 50 percent of such remaining costs shall be provided by the Secretary concerned under such contract.

(C) ELIGIBLE SUPPLEMENTAL CONTRIBUTIONS.—If provided by the State, Indian tribe, unit of general local government, or local nonprofit housing sponsor, any salary paid to staff from governmental sources to carry out the program of the recipient and salary paid to residents employed by the program (other than from amounts under a contract under subsection (b)), and any other in-kind contributions from governmental sources shall be considered as supplemental contributions for purposes of meeting the supplemental contribution requirement under subparagraph (A)(i), except that the amount of in-kind contributions considered for purposes of fulfilling such contribution requirement may not exceed 10 percent of the total amount to be provided by the State, Indian tribe, local government, or local nonprofit housing sponsor.

(D) PROHIBITION OF SUBSTITUTION OF FUNDS.—The Secretary concerned shall require each State, Indian tribe, unit of general local government, and local nonprofit housing sponsor, that receives assistance under this section to maintain the same dollar amount of annual contribution that such State, Indian tribe, local government, or sponsor was making, if any, in support of services eligible for assistance under this section before the date of the submission of the application for such assistance.

(E) LIMITATION.—For purposes of complying with the requirement under subparagraph (A)(i), the appropriate Secretary concerned may not consider any amounts contributed or provided by any local government to any State receiving assistance under this section that exceed 10 percent of the amount required of the State under subparagraph (A)(i).

(2) CONSULTATION.—The Secretary shall consult with the Secretary of Health and Human Services regarding the availability of assistance from other Federal programs to support services under this section and shall make information available to applicants for assistance under this section.

(j) MISCELLANEOUS PROVISIONS.—

(1) USE OF RESIDENTS IN PROVIDING SERVICES.—Each housing project that receives assistance under this section shall, to the maximum extent practicable, utilize the elderly and persons with disabilities who are residents of the housing project, but who are not eligible project residents, to participate in providing the services provided under congregate services programs under this section. Such individuals shall be paid wages that shall not be lower than the higher of—

(A) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;

(B) the State of local minimum wage for the most nearly comparable covered employment; or

(C) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(2) EFFECT OF SERVICES.—Except for wages paid under paragraph (1) of this subsection, services provided to a resident of an eligible housing project under a congregate services program under this section may not be considered as income for the purpose of determining eligibility for or the amount of assistance or aid furnished under any Federal, federally assisted, or State program based on need.

(3) ELIGIBILITY AND PRIORITY FOR 1978 ACT RECIPIENTS.—Notwithstanding any other provision of this section, any public housing agency, housing assisted under section 202 of the Housing Act of 1959, or nonprofit corporation that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this section shall (subject to approval and allocation of sufficient amounts under the Congregate Housing Services Act of 1978 and appropriations Acts under such Act) receive assistance under the Congregate Housing Services Act of 1978 for the remainder of the term of the contract for assistance for such agency or corporation

under such Act, and shall receive priority for assistance under this section after the expiration of such period.

(4) ADMINISTRATIVE COST LIMITATION.—A recipient of assistance under this section may not use more than 10 percent of the sum of such assistance and the contribution amounts required under subsection (i)(1)(A)(i) for administrative costs and shall ensure that any entity to which the recipient distributes amounts from such sum may not expend more than a reasonable amount from such distributed amounts for administrative costs. Administrative costs may not include any capital expenses.

(k) DEFINITIONS.—For purposes of this section:

(1) The term "activity of daily living" means an activity regularly necessary for personal care and includes bathing, dressing, eating, getting in and out of bed and chairs, walking, going outdoors, and using the toilet.

(2) The term "case management" means assessment of the needs of a resident, ensuring access to and coordination of services for the resident, monitoring delivery of services to the resident, and periodic reassessment to ensure that services provided are appropriate to the needs and wants of the resident.

(3) The term "congregate housing" means low-rent housing that is connected to a central dining facility where wholesome and economical meals can be served to the residents.

(4) The term "congregate services" means services described in subsection (d) of this section.

(5) The term "congregate services program" means a program assisted under this section undertaken by an eligible housing project to provide congregate services to eligible residents.

(6) The term "eligible housing project" means—

(A) public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937) and lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority under title II of the United States Housing Act of 1937;

(B) housing assisted under section 8 of the United States Housing Act of 1937 with a contract that is attached to the structure under subsection (d)(2) of such section or with a contract entered into in connection with the new construction or moderate rehabilitation of the structure under section 8(b)(2) of the United States Housing Act, as such section existed before October 1, 1983;

(C) housing assisted under section 202 of the Housing Act of 1959;

(D) housing assisted under section 221(d) or 236 of the National Housing Act, with respect to which the owner has made a binding commitment to the Secretary of Housing and Urban Development not to prepay the mortgage or terminate the insurance contract under section 229 of such Act (unless the binding commitments have been made to extend the low income use restrictions relating to such housing for the remaining useful life of the housing);

(E) housing assisted under section 514 or 515 of the Housing Act of 1949, with respect to which the owner has made a binding commitment to the Secretary of Agriculture not to prepay or refinance the mortgage (unless the binding commitments have been made to extend the low income use restrictions relating to such housing for not less than the 20-year period under section 502(c)(4) of the Housing Act of 1949); and

(F) housing assisted under section 516 of the Housing Act of 1949.

(7) The term "eligible resident" means a person residing in eligible housing for the elderly who qualifies under the definition of frail elderly, person with disabilities (regardless of whether the person is elderly), or temporarily disabled.

(8) The term "frail elderly" means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(9) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(10) The term "instrumental activity of daily living" means a regularly necessary home management activity and includes preparing meals, shopping for personal items, managing money, using the telephone, and performing light or heavy housework.

(11) The term "local nonprofit housing sponsor" includes public housing agencies (as such term is defined in section 3(b)(6) of the United States Housing Act of 1937.

(12) The term "nonprofit", as applied to an organization, means no part of the net earnings of the organization inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term "elderly person" means a person who is at least 62 years of age.

(14) The term "person with disabilities" has the meaning given the term by section 811 of this Act.

(15) The term "professional assessment committee" means a committee established under subsection (e)(3)(B).

(16) The term "qualifying supportive services" means new or significantly expanded services that the Secretary deems essential to enable eligible residents to live independently and avoid unnecessary institutionalization. Such services may include but not be limited to (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance (which may include, but is not limited to, aid given to eligible residents in grooming, dressing, and other activities which maintain personal appearance and hygiene); (D) transportation services; (E) health-related services; and (F) personal emergency response systems; the owner may provide the qualifying services directly to eligible residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(17) The term "Secretary concerned" means—

(A) the Secretary of Housing and Urban Development, with respect to eligible federally assisted housing administered by such Secretary; and

(B) the Secretary of Agriculture, with respect to eligible federally assisted housing administered by the Administrator of the Farmers Home Administration.

(18) The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(19) The term "temporarily disabled" means having an impairment that—

(A) is expected to be of no more than 6 months duration; and

(B) impedes the ability of the individual to live independently unless the individual receives congregate services.

(20) The term "unit of general local government"—

(A) means any city, town, township, county, parish, village, or other general purpose political subdivision of a State; and

(B) includes a unit of general government acting as an applicant for assistance under this section in cooperation with a nonprofit housing sponsor and a nonprofit housing sponsor acting as an applicant for assistance under this section in cooperation with a unit of general local government, as provided under subsection (g)(1)(B).

(l) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Each Secretary concerned shall submit to the Congress, for each fiscal year for which assistance is provided for congregate services programs under this section, an annual report—

(A) describing the activities being carried out with assistance under this section and the population being served by such activities;

(B) evaluating the effectiveness of the program of providing assistance for congregate services under this section, and a comparison of the effectiveness of the program under this section with the HOPE for Elderly Independence Program under section 803 of this Act; and

(C) containing any other information that the Secretary concerned considers helpful to the Congress in evaluating the effectiveness of this section.

(2) SUBMISSION OF DATA TO SECRETARY CONCERNED.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall provide, by regulation under subsection (m), for the submission of data by recipients of assistance under this section to be used in the repeat required by paragraph (1).

(m) REGULATIONS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, jointly issue any regulations necessary to carry out this section.

(n) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION AND USE.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1991, and $26,100,000 for fiscal year 1991, of which not more than—

(A) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Housing and Urban Development to the total number of units assisted by programs administered by such Secretary and the Secretary of Agriculture, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Housing and Urban Development; and

(B) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total

number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Agriculture to the total number of units assisted by programs administered by such Secretary and the Secretary of Housing and Urban Development, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Agriculture (through the Administrator of the Farmers Home Administration).

(2) AVAILABILITY.—Any amounts appropriated under this subsection shall remain available until expended.

(o) RESERVE FUND.—The Secretary may reserve not more than 5 percent of the amounts made available in each fiscal year to supplement grants awarded to owners under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

(p) CONFORMING AMENDMENT.—Section 9(a)(3)(B) of the United States Housing Act of 1937 is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(v) if a public housing agency renovates, converts, or combines one or more dwelling units in a public housing project to create congregate space to accommodate the provision of supportive services in accordance with section 22 of this Act and section 802 of the Cranston-Gonzalez National Affordable Housing Act, the payments received under this section shall not be reduced because of the resulting reduction in the number of dwelling units.".

SEC. 803. HOPE FOR ELDERLY INDEPENDENCE.

(a) PURPOSE.—The purpose of this section is to establish a demonstration program to test the effectiveness of combining housing certificates and vouchers with supportive services to assist frail elderly persons to continue to live independently. The demonstration program under this section shall terminate upon the expiration of the 5-year period beginning on the date of the enactment of this Act.

(b) HOUSING ASSISTANCE.—In connection with this demonstration, the Secretary of Housing and Urban Development may enter into contracts with public housing agencies to provide not more than 1,500 incremental vouchers and certificates under sections 8(b) and 8(o) of the United States Housing Act of 1937. A public housing agency may not require that a frail elderly person live in a particular structure or unit, but the agency may restrict the program under this section to a geographic area, where necessary to ensure that the provision of supportive services is feasible. At the end of the demonstration period, the public housing agency shall give each frail elderly person the option to continue to receive assistance under the housing certificate or voucher program of the agency. In the demonstration, the Secretary may also provide for supportive services in connection with existing contracts for housing assistance under sections 8(b) and 8(o).

(c) SUPPORTIVE SERVICES REQUIREMENTS AND MATCHING FUNDING.—

(1) FEDERAL, PHA AND, INDIVIDUAL CONTRIBUTIONS.—The amount estimated by the public housing agency and approved by the Secretary as necessary to provide the supportive services for the demonstration period shall be funded as follows:

(A) The Secretary shall provide 40 percent, using amounts appropriated under this section.

(B) The public housing agency shall ensure the provision of at least 50 percent from sources other than under this section.

(C) Notwithstanding any other provision of law, each frail elderly person shall pay 10 percent of the costs of the supportive services that the person receives, except that a frail elderly person may not be required to pay an amount that exceeds 20 percent of the adjusted income (as the term is defined in section 3(b)(5) of the United States Housing Act of 1937) of such person and the Secretary shall provide for the waiver of the requirement to pay costs under this subparagraph for persons whose income is determined to be insufficient to provide for any payment.

(D) To the extent that the limitation under subparagraph (C) regarding the percentage of income frail elderly persons may pay for services will result in collected amounts for any public housing agency of less than 10 percent of the cost of providing the services, 50 percent of such remaining costs shall be provided by the public housing agency and 50 percent of such remaining costs shall be provided by the Secretary from amounts appropriated under this section.

(2) PROVISION OF SERVICES FOR ENTIRE DEMONSTRATION.—Each public housing agency shall ensure that supportive services appropriate to the needs of the frail elderly persons to be served under this demonstration are provided throughout the demonstration period. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the frail elderly persons assisted under this section. A public housing agency may use up to 20 percent of the Federal assistance provided for supportive services in each year of this demonstration and any amounts from any prior year in which the public housing agency did not use 20 percent of the available Federal assistance.

(3) CALCULATION OF MATCH.—In determining compliance with paragraph (1)(B), an agency may include the value of such items as the Secretary determines to be appropriate, which may include the salary paid to staff to provide supportive services, if such items have a readily discernible market value.

(d) APPLICATIONS.—An application under this section shall be submitted by a public housing agency in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

(1) an application for housing assistance under section 8 of the United States Housing Act of 1937, if necessary, and a description of any such assistance already made available that will be used in the demonstration;

(2) a description of the size and characteristics of the population of frail elderly persons and of their housing and supportive services needs;

(3) a description of the proposed method of determining whether a person qualifies as a frail elderly person (specifying any additional eligibility requirements proposed by the agency), and of selecting frail elderly persons to participate;

(4) a statement that the public housing agency will create a professional assessment committee or will work with another entity which will assist the public housing agency in identifying and providing only services that each frail elderly person needs to remain living independently;

(5) a description of the mechanisms for developing housing and supportive services plans for each person and for monitoring the person's progress in meeting that plan;

(6) the identity of the proposed service providers and a statement of qualifications;

(7) a description of the supportive services the public housing agency proposes to make available for the frail elderly persons to be served, the estimated costs of such services, a description of the resources that are expected to be made available to cover the portion of the costs required by subsection (c)(1);

(8) assurances satisfactory to the Secretary that the supportive services will be provided for the demonstration period;

(9) the plan for coordinating the provision of housing assistance and supportive services;

(10) a description of how the public housing agency will ensure that the service providers are providing supportive services, at a reasonable cost, adequate to meet the needs of the persons to be served;

(11) a plan for continuing supportive services to frail elderly persons that continue to receive housing assistance under section 8 of the United States Housing Act of 1937 after the end of the demonstration period; and

(12) a statement that the application has been developed in consultation with the area agency on aging under title III of the Older Americans Act of 1965 and that the public housing agency will periodically consult with the area agency during the demonstration.

(e) SELECTION.—

(1) CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(A) the ability of the public housing agency to develop and operate the proposed housing assistance and supportive services program;

(B) the need for a program providing both housing assistance and supportive services for frail elderly persons in the area to be served;

(C) the quality of the proposed program for providing supportive services;

(D) the extent to which the proposed funding for the supportive services is or will be available;

(E) the extent to which the program would meet the needs of the frail elderly persons proposed to be served by the program; and

(F) such other factors as the Secretary specifies to be appropriate for purposes of carrying out the demonstration program established by this section in an effective and efficient manner.

(2) CONSULTATION WITH HHS.—In reviewing the applications, the Secretary shall consult with the Secretary of Health and Human Services with respect to the supportive services aspects.

(3) FUNDING LIMITATIONS.—No more than 10 percent of the assistance made available under this section may be used for programs located within any one unit of general local government.

(f) REQUIRED AGREEMENTS.—The Secretary may not approve any assistance for any program under this section unless the public housing agency agrees—

(1) to operate the proposed program in accordance with the program requirements established by the Secretary;

(2) to conduct an ongoing assessment of the housing assistance and supportive serv-

ices required by each frail elderly person participating in the program;

(3) to ensure the adequate provision of supportive services, at a reasonable cost, to each frail elderly person participating in the program; and

(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "demonstration period" means the period beginning on the date of the enactment of this Act and ending upon the termination date under subsection (a).

(2) The term "elderly person" means a person who is at least 62 years of age.

(3) The term "frail elderly person" means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(4) The term "professional assessment committee" means a group of at least 3 persons appointed by a public housing agency which shall include at least 1 qualified medical professional and other persons professionally competent to appraise the functional abilities of the frail elderly in relation to the performance of activities of daily living.

(5) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937. The term includes an Indian Housing Authority, as defined in section 3(b)(11) of such Act.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "supportive services"—

(A) means assistance, that the Secretary determines—

(i) addresses the special needs of frail elderly persons; and

(ii) provides appropriate supportive services or assists such persons in obtaining appropriate services, including personal care, case management services, transportation, meal services, counseling, supervision, and other services essential for achieving and maintaining independent living; and

(B) does not include medical services, as determined by the Secretary.

(h) MULTIFAMILY PROJECT DEMONSTRATION.—

(1) IN GENERAL.—In addition to the demonstration program authorized by the preceding provisions of this section, the Secretary shall conduct a demonstration in one Federal region, subject to the terms and conditions of this subsection, to determine the feasibility of using housing assistance under section 8 of the United States Housing Act of 1937 to assist elderly persons who may become frail to live independently in housing specifically designed for occupancy by such persons in sufficient proportion to achieve economies of scale in the provision of services and facilities.

(2) SECTION 8 ALLOCATION.—From amounts provided pursuant to subsection (j) and subject to availability in appropriation Acts, the Secretary shall enter into a contract with a public housing agency to provide housing assistance under section 8(b) of the United States Housing Act of 1937 to assist elderly persons in at least 75 percent of the units in a single housing project with more than 100 units.

(3) SECTION 8 TERMS.—The assistance payment contract under such section 8 shall be attached to the structure and shall be in an initial term of 5 years. The contract shall (at the option of the public housing agency and subject to availability of amounts approved in appropriations Acts) be renewable for 3 additional 5-year terms. Rents for units in the project assisted pursuant to this subsection shall be subject to the rent limitations in effect for the area under section 8 for projects for the elderly receiving loans under section 202 of the Housing Act of 1959.

(4) SUPPORTIVE SERVICES.—The Secretary shall allocate, for the project assisted pursuant to this subsection, a reasonable portion of the amounts appropriated pursuant to the authorization for funds for supportive services in subsection (k), based on the estimated number of project residents who will be frail elderly individuals during the 5-year period beginning on the date of initial occupancy of the project. Grants for supportive services may be used to assist any occupant in the demonstration project who is a frail elderly individual. Grants for supportive services under this subsection shall be subject to the other terms and conditions specified in this section.

(5) APPLICATIONS.—An application for assistance under this subsection may be submitted by any unit of general local government with a population under 50,000 and shall contain such information as the Secretary deems appropriate.

(6) SELECTION.—The Secretary shall select one application for funding under this subsection based on the following criteria:

(A) The number of elderly persons residing in the applicant's jurisdiction.

(B) The extent of existing housing constructed prior to 1940 in the applicant's jurisdiction.

(C) The number of elderly persons living in adjacent projects to whom the services and facilities provided by the project would be available.

(D) The level of State and local contributions toward the cost of developing the project and of providing supportive services.

(E) The project's contribution to neighborhood improvement.

(i) REPORT.—The Secretary shall submit to Congress an annual report evaluating the effectiveness of the demonstrations under this section. The report shall include a statement of the number of persons served, the types of services provided, the cost of providing such services, and any other information the Secretary considers appropriate in evaluating the demonstration.

(j) AVAILABLE SECTION 8 ASSISTANCE.—The Secretary may provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 in connection with the demonstrations under this section, in an amount not to exceed $34,000,000 for fiscal year 1991, and $35,500,000 for fiscal year 1992, subject to the approval of sufficient amounts in appropriations Acts under section 5 of such Act.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section, $10,000,000 to become available in fiscal year 1991, and $10,400,000 to become available in fiscal year 1992, and remain available until expended.

(l) IMPLEMENTATION.—Not later than the expiration of the 180-day period beginning on the date that funds authorized for the demonstrations under this section first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the demonstration programs authorized under this section.

SEC. 804. USE OF RESOLUTION TRUST CORPORATION ELIGIBLE PROPERTIES FOR SECTION 202 HOUSING.

(a) AUTHORITY TO PURCHASE RESOLUTION TRUST CORPORATION PROPERTY FOR SECTION 202 PROGRAM.—Section 202(d)(3) of the Housing Act of 1959 (12 U.S.C 1701q(d)(3)) is amended by adding at the end the following new sentence: "The term also means the cost of acquiring existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located.".

(b) RESERVATION OF AUTHORITY BEFORE PURCHASE.—Section 202(a) of the Housing Act of 1959 (12 U.S.C. 1701q(a)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may reserve loan authority under this section and budget authority under section 8 of the United States Housing Act of 1937 for a project before acquisition of the project (or before an offer or option to purchase is made on the project) from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, if the Secretary determines there is a reasonable likelihood that the project will be acquired from the Resolution Trust Corporation under section 21A(c).".

(c) 20-YEAR SECTION 8 CONTRACTS.—Section 202(g) of the Housing Act of 1959 (42 U.S.C. 1701q(g)) is amended by inserting after the period at the end the following new sentence: "In the case of existing housing and related facilities acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the term of the contract pursuant to such section 8 shall be 240 months.".

(d) MODIFICATION OF RTC DISPOSITION PROCEDURES FOR PROPERTIES RECEIVING HUD OR FMHA ASSISTANCE.—

(1) IN GENERAL.—Section 21A(c)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (3), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with the section 202 of the Housing Act of 1959.".

(2) CONFORMING AMENDMENT.—Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended by inserting after "RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—" the following: "Except as provided under paragraph (6)(D), the Corporation shall dispose of eligible multifamily housing property as follows:".

(e) EXEMPTION FROM PROJECT SIZE REQUIREMENT REGARDING SUPPORT SERVICES FOR FRAIL ELDERLY.—Section 213(d)(1)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)(A)) is amended by inserting after the period at the end the following new sentence: "The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act.".

SEC. 805. CENTRALIZED APPLICATIONS FOR SECTION 202 HOUSING.

Section 202 of the Housing Act of 1959 (42 U.S.C. 1701q) is amended by adding at the end the following new subsection:

"(p) The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging) information regarding the availability of housing assisted under this section.".

SEC. 806. ELDER COTTAGE HOUSING UNITS.

(a) ELIGIBILITY FOR INSURANCE.—Section 2 of the National Housing Act (12 U.S.C. 1703) is amended by adding at the end the following new subsection:

"(i) For purposes of this section, the term 'manufactured home' includes any elder cottage housing opportunity unit that is small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to an existing 1- to 4-family dwelling.".

(b) DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to determine the feasibility of including as an eligible development cost under section 202 of the Housing Act of 1959 the cost of purchasing and installing elder cottage housing opportunity units that are small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings. In the conduct of the demonstration, the Secretary shall determine whether the durability of such units is appropriate for inclusion in the section 202 program.

(2) REPORT.—The Secretary shall transmit a report to the Congress not later that January 1, 1992 on the results of the demonstration under subsection (a).

SEC. 807. NOTICE OF REJECTION.

Section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)) is amended by adding at the end the following:

"(3) In considering applications for assistance under section 202, the Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond.".

SEC. 808. SERVICE COORDINATORS AS ELIGIBLE PROJECT COST IN SECTION 202 PROJECTS.

Section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) In determining the amount of assistance to be provided for a project pursuant to such section 8, subject to the availability of appropriations for contract amendments for the purpose of this paragraph the Secretary may also consider (and annually adjust for) the costs of—

"(A) the expenses of a management staff member of the project to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to elderly, especially those who are frail, or handicapped residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, including services under subsection (f) and subparagraph (B) of this subsection; and

"(B) expenses for the provision of services for elderly, especially those who are frail, and handicapped residents of the project that enable residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services,

except that not more than 15 percent of the cost of the provision of such services may be considered under this subsection for purposes of determining the amount of assistance provided. This paragraph shall not apply in the case of a project assisted under the congregate housing services program or a project where the tenants are not principally frail elderly.".

Subtitle B—Supportive Housing for Persons With Disabilities

SEC. 811. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

(a) PURPOSE.—The purpose of this section is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of such persons; and

(2) provides supportive services that address the individual health, mental health, and other needs of such persons.

(b) GENERAL AUTHORITY.—The Secretary is authorized to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities. Such assistance shall be provided as—

(1) capital advances in accordance with subsection (d)(1), and

(2) contracts for project rental assistance in accordance with subsection (d)(2).

Such assistance may be used to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing, including the acquisition from the Resolution Trust Corporation, to be used as supportive housing for persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

(c) GENERAL REQUIREMENTS.—The Secretary shall take such actions as may be necessary to ensure that—

(1) assistance made available under this section will be used to meet the special needs of persons with disabilities by providing a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing developments, condominium housing, and cooperative housing; and

(2) supportive housing for persons with disabilities assisted under this section shall—

(A) provide persons with disabilities occupying such housing with supportive services that address their individual needs;

(B) provide such persons with opportunities for optimal independent living and participation in normal daily activities, and

(C) facilitate access by such persons to the community at large and to suitable employment opportunities within such community.

(d) FORMS OF ASSISTANCE.—

(1) CAPITAL ADVANCES.—A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very-low-income persons with disabilities in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) PROJECT RENTAL ASSISTANCE.—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income persons with disabilities that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility which is the residence of persons assisted under title XIX of the Social Security Act, project income under this paragraph shall include the same amount as if such person were being assisted under title XVI of the Social Security Act.

(3) RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under this section the higher of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated; except that the gross income of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the person were being assisted under title XVI of the Social Security Act.

(e) TERM OF COMMITMENT.—

(1) USE LIMITATIONS.—All units in housing assisted under this section shall be made available for occupancy by very low-income persons with disabilities for not less than 40 years.

(2) CONTRACT TERMS.—The initial term of a contract entered into under subsection (d)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(f) APPLICATIONS.—Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed housing;

(2) a description of the assistance the applicant seeks under this section;

(3) a supportive service plan that contains—

(A) a description of the needs of persons with disabilities that the housing is expected to serve;

(B) assurances that persons with disabilities occupying such housing will receive

supportive services based on their individual needs;

(C) evidence of the applicant's (or a designated service provider's) experience in providing such supportive services;

(D) a description of the manner in which such services will be provided to such persons, including evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and

(E) identification of the extent of State and local funds available to assist in the provision of such services;

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of the services identified in paragraph (3) are well designed to serve the special needs of persons with disabilities;

(5) reasonable assurances that the applicant will own or have control of an acceptable site for the proposed housing not later than 6 months after notification of an award for assistance;

(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed housing is consistent with the approved housing strategy; and

(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

(g) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the ability of the applicant to develop and operate the proposed housing;

(2) the need for housing for persons with disabilities in the area to be served;

(3) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;

(4) the extent to which the applicant has demonstrated that the necessary supportive services will be provided on a consistent, long-term basis;

(5) the extent to which the proposed design of the housing will accommodate the provision of such services;

(6) the extent to which the applicant has control of the site of the proposed housing; and

(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(h) DEVELOPMENT COST LIMITATIONS.—

(1) IN GENERAL.—The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for persons with disabilities by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

(A) the cost of acquisition, construction, reconstruction, or rehabilitation of supportive housing for persons with disabilities that (i) meets applicable State and local housing and building codes; and (ii) conforms with the design characteristics of the neighborhood in which it is to be located;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to persons with disabilities;

(D) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities;

(E) the cost of congregate space necessary to accommodate the provision of supportive services to persons with disabilities;

(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; and

(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area, the Secretary shall use data that reflect currently prevailing costs of acquisition, construction, reconstruction, or rehabilitation, and land acquisition in the area.

(2) RTC PROPERTIES.—In the case of existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost limitations shall include—

(A) the cost of acquiring such housing,

(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

(C) the cost of the land on which the housing and related facilities are located.

(3) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of acquisition, construction, reconstruction, or rehabilitation costs.

(4) INCENTIVES FOR SAVINGS.—

(A) SPECIAL PROJECT ACCOUNT.—The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special project account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; (ii) substantially reduce the life-cycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

(B) USES.—The special project account established under subparagraph(A) may be used (i) to supplement services provided to residents of the housing or funds set-aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(5) FUNDS FROM OTHER SOURCES.—An owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for persons with disabilities if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

(i) TENANT SELECTION.—(1) An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(2) Notwithstanding any other provision of law, an owner may, with the approval of the Secretary, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

(j) MISCELLANEOUS PROVISIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity; and

(3) SITE CONTROL.—An applicant may obtain ownership or control of a suitable site different from the site specified in the initial application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for assistance, the assistance shall be recaptured and reallocated.

(4) OWNER DEPOSIT.—The Secretary may require an owner to deposit an amount not to exceed $10,000 in a special escrow account to assure the owner's commitment to the housing.

(5) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(6) LABOR STANDARDS.—The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing assisted under this section and designed for dwelling use by 12 or more persons with disabilities shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (the Davis-Bacon Act); but the Secretary may waive the application of this paragraph in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their services without full compensation for the purposes of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction.

(k) DEFINITIONS.—As used in this section—

(1) The term "group home" means a single family residential structure designed or adapted for occupancy by not more than 8 persons with disabilities. The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the development of a larger project. Not more than 1 home may be located on any one site and no such home may be locat-

ed on a site contiguous to another site containing such a home.

(2) The term "person with disabilities" means a household composed of one or more persons at least one of whom is an adult who has a disability. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001-7). The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term "person with disabilities" includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

(3) The term "supportive housing for persons with disabilities" means housing that—

(A) is designed to meet the special needs of persons with disabilities, and

(B) provides supportive services that address the individual health, mental health or other special needs of such persons.

(4) The term "independent living facility" means a project designed for occupancy by not more than 20 persons with disabilities in separate dwelling units where each dwelling unit includes a kitchen and a bath.

(5) The term "owner" means a private nonprofit organization that receives assistance under this section to develop and operate a project for supportive housing for persons with disabilities.

(6) The term "private nonprofit organization" means any incorporated private institution or foundation—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities, and (ii) which is responsible for the operation of the housing assisted under this section; and

(C) which is approved by the Secretary as to financial responsibility.

(7) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "very low-income" has the same meaning as given the term "very low-income families" under section 3(b)(2) of the United States Housing Act of 1937.

(l) AUTHORIZATIONS.—

(1) CAPITAL ADVANCES.—There are authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (d)(1), $271,000,000 for fiscal year 1992. Amounts so appropriated, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of this Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(2) PROJECT RENTAL ASSISTANCE.—For the purpose of funding contracts for project rental assistance in accordance with subsection (d)(2), the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating $246,000,000 for fiscal year 1992.

(m) EFFECTIVE DATE AND APPLICABILITY.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and public comment.

(2) EARLIER APPLICABILITY.—The Secretary shall, upon the request of an owner, apply the provisions of this section to any housing for which a loan reservation was made under section 202 of the Housing Act of 1959 before the date of enactment of this Act but for which no loan has been executed and recorded. In the absence of such a request, any housing identified under the preceding sentence shall continue to be subject to the provisions of section 202 of the Housing Act of 1959 as they were in effect when such assistance was made or reserved.

(3) COORDINATION.—When responding to an owner's request under paragraph (1), the Secretary shall, notwithstanding any other provision of law, apply such portion of amounts obligated at the time of loan reservation, including amounts reserved with respect to such housing under section 8 of the United States Housing Act of 1937, as are required for the owner's housing under the provisions of this section and shall make any remaining portion available for other housing under this section.

Subtitle C—Supportive Housing for the Homeless

PART 1—REVISED MCKINNEY ACT

SEC. 821. AMENDMENT TO MCKINNEY ACT.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act is amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—General Provisions

"SEC. 401. PURPOSE.

"The purpose of this title is to expand the Federal commitment to alleviate homelessness in this Nation by providing States, Indian tribes, and localities with the resources to—

"(1) help very low-income families avoid becoming homeless;

"(2) meet the emergency shelter needs of homeless persons and families;

"(3) provide transitional housing to facilitate the movement of homeless persons and families to independent living;

"(4) provide specialized permanent housing for homeless persons who require a supportive living environment; and

"(5) provide supportive services to help homeless persons and families lead independent and dignified lives.

"SEC. 402. DEFINITIONS.

"For purposes of this title—

"(1) The term 'assistance' means grants to assist the acquisition, lease, renovation, substantial rehabilitation, operation, or conversion of facilities to assist the homeless, grants for moderate rehabilitation, grants for other purposes, and other assistance made eligible under section 405 and subtitle B.

"(2) The term 'emergency activities' means supportive services that are provided in an emergency shelter developed in accordance with section 412.

"(3) The term 'families' has the same meaning given the term under section 3(b)(2) of the United States Housing Act of 1937.

"(4) The term 'grantee' means—

"(A) a State or unit of general local government receiving grants from the Secretary under section 403(a);

"(B) a group of geographically contiguous local governments that have formed a consortium that, in the determination of the Secretary—

"(i) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a), and

"(ii) is comprised only of jurisdictions that have received a formula allocation for the fiscal year, and

"(C) for purposes of section 406 and subsections (a), (b), (c), and (f) of section 407, an Indian tribe, Indian housing authority, or a private nonprofit organization receiving a direct grant under section 405.

"(5) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'homeless person with disabilities' means a person with disabilities who is a homeless person within the meaning of section 103, is at risk of becoming a homeless person, or has been a resident of transitional housing carried out pursuant to this Act or the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591.

"(7) The term 'locality' means the geographical area within the jurisdiction of a local government.

"(8) The term 'operating costs' means expenses incurred by a project sponsor operating any housing assisted under this title with respect to—

"(A) the administration, maintenance, repair, and security of such housing; and

"(B) utilities, fuels, furnishings, and equipment for such housing.

"(9) The term 'operating costs' includes expenses incurred by a project sponsor operating transitional housing under this title with respect to—

"(A) the conducting of the assessment required by section 413(c)(1)(B); and

"(B) the provision of supportive services to the residents of such housing.

"(10) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management services.

"(11) The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(12) The term 'project' means a structure or a portion of a structure that is acquired or rehabilitated with assistance provided

under this title or with respect to which the Secretary provides technical assistance or annual payments for operating costs.

"(13) The term 'project sponsor' means any governmental or private nonprofit organization that—

"(A) receives assistance from the Secretary or from a grantee under section 403(a),

"(B) is approved by the grantee as to financial responsibility, and

"(C) is directly responsible for the administration of assistance provided under this title.

Each project sponsor shall act as the fiscal agent of the Secretary with respect to assistance provided to such project sponsor under this title.

"(14) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) The term 'State' means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

"(16)(A) The term 'supportive services' means assistance designed by a project sponsor that—

"(i) addresses the special needs of homeless persons, such as deinstitutionalized persons, families with children, persons with mental disabilities, other persons with disabilities, the elderly, and veterans intended to be served by a project; and

"(ii) assists in accomplishing the purposes of the different types of housing for the homeless made eligible under this subtitle.

"(B) The term includes—

"(i) food services, child care, substance abuse treatment, assistance in obtaining permanent housing, outpatient health services, employment counseling, nutritional counseling, security arrangements for the protection of residents of facilities to assist the homeless, and such other services essential for maintaining or moving towards independent living as the Secretary determines to be appropriate; and

"(ii) assistance to homeless persons in obtaining other Federal, State, and local assistance available for such individuals, including public assistance benefits, mental health benefits, employment counseling, and medical assistance.

"(C) Such term does not include the provision of major medical equipment.

"(D) All or part of the supportive services may be provided directly by the project sponsor or by arrangements with other public or private service providers.

"(17) The term 'unit of general local government' means any city, town, township, county, parish, village, or other general purpose subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium; and any other territory or possession of the United States.

"(18) The term 'consortium' means a group of geographically contiguous local governments that the Secretary determines—

"(A) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a); and

"(B) is comprised only of jurisdictions that have received a formula allocation for the fiscal year.

"(18) The term 'very low-income families' has the same meaning given the term under section 104 of the Cranston-Gonzalez National Affordable Housing Act.

"(19) The terms 'Indian tribe' and 'Indian housing authority' have the same meanings as in section 3 of the United States Housing Act of 1937.

"SEC. 403. GENERAL AUTHORITY.

"(a) GRANTS FOR HOMELESS HOUSING ASSISTANCE.—

"(1) IN GENERAL.—

"(A) GRANTS AUTHORIZED.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 408, make grants to States and units of general local government and to eligible applicants under section 405 in order to (i) carry out activities designed to meet the emergency, transitional, and permanent housing needs of the homeless, (ii) help very low-income families and persons avoid becoming homeless, and (iii) help homeless families and persons make the transition to permanent housing.

"(B) STRATEGY REQUIRED.—A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(C) USE OF PROJECT SPONSORS.—A grantee shall carry out activities authorized under this subsection through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts.

"(2) ALLOCATION OF RESOURCES.—The amounts approved in appropriations Acts under section 408 shall be allocated in accordance with a formula established under section 404.

"(b) ELIGIBLE ACTIVITIES.—Grants under this title shall be available only for approved activities. Approved activities shall include—

"(1) the provision of assistance to help very low-income families avoid becoming homeless in accordance with section 411;

"(2) the development of emergency shelters for the homeless in accordance with section 412;

"(3) the development of transitional housing to facilitate the transition of homeless persons to independent living in accordance with section 413;

"(4) the development of permanent housing for homeless persons with disabilities in accordance with section 414;

"(5) the provision of assistance to help very low-income families who are residing in emergency shelter or transitional housing make the transition to permanent housing in accordance with section 415; and

"(6) such other activities that the Secretary develops in cooperation with grantees in accordance with section 416.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

"(c) LIMITATIONS.—

"(1) PREVENTION.—A grantee may use not more than 30 percent of grants allocated under subsection (a) for homelessness prevention activities as defined in section 411.

"(2) EMERGENCY ACTIVITIES.—A grantee may use not more than 30 percent of the grants allocated in accordance with subsection (a) for emergency activities as defined in section 412. The Secretary may approve a higher limitation if the grantee demonstrates that other approved activities under this subparagraph are already being carried out in the jurisdiction with other resources.

"(d) SRO RENOVATION.—The Secretary shall, to the extent of amounts approved in appropriations Acts for the programs authorized under section 421, provide rental assistance to public housing agencies or other contracting agencies for the renovation of single room occupancy dwellings in accordance with subtitle C.

"SEC. 404. ALLOCATION FORMULA.

"Subject to section 823(b) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall issue regulations establishing an allocation formula, if any, that reflects each jurisdiction's share of the Nation's need for housing assistance for the homeless.

"SEC. 405. DISCRETIONARY ALLOCATION.

"(a) IN GENERAL.—In addition to grants otherwise authorized by this title, the Secretary is authorized to make grants to eligible applicants to meet urgent needs of homeless persons that are not being met by available public and private sources in areas with an unusually high incidence of homelessness. For purposes of this section, the term 'eligible applicant' means a grantee, Indian tribe, Indian housing authority or private nonprofit organization, except that a grantee shall not be permitted to submit an application if the Secretary finds that the grantee is in noncompliance with sections 406 and 407.

"(b) ELIGIBLE ACTIVITIES.—Assistance provided under this section may be used for approved activities under subtitle B and for—

"(1) the purchase, lease, rehabilitation, renovation, operation, or conversion of facilities to assist the homeless;

"(2) the transitional provision of supportive services designed to meet special needs of homeless persons, including families with children, deinstitutionalized persons, persons with mental disabilities, other persons with disabilities, the elderly, and veterans; and

"(3) the provision of supplemental assistance to projects assisted under sections 412 and 413 if such assistance is required to meet the special needs of homeless persons residing in such projects.

"(c) APPLICATIONS.—Assistance under this section shall be allocated among approvable applications submitted by eligible applicants. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

"(1) a description of the proposed activities;

"(2) a description of the size and characteristics of the homeless population that would be served by the proposed activities;

"(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

"(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section (except for property to be used as emergency shelter in accordance with section 412) shall be operated for not less than 10 years for the purpose specified in the application;

"(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs of homeless persons that

are not being met by available public and private sources;

"(6) if submitted by a private nonprofit organization, a certification from the public official responsible for submitting a housing strategy in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the application is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

"(d) SELECTION CRITERIA.—

"(1) IN GENERAL.—The Secretary shall establish selection criteria for assistance under this subsection, which shall principally take into account—

"(A) the extent to which the proposed activities meet urgent needs of homeless persons that are not being met by available public and private sources;

"(B) the extent to which the area in which the proposed activities are to be carried out is an area with an unusually high incidence of homelessness; and

"(C) the extent to which such area is not being served by current programs to assist homeless persons.

"(2) ADDITIONAL CRITERIA.—Selection criteria established by the Secretary shall also take into account—

"(A) the extent to which the proposed activities would make available as housing for homeless persons property owned by the Federal Government, a State, a unit of general local government, or other public entity, including in rem property, public buildings, and public land;

"(B) the extent to which the proposed activities would be carried out in a jurisdiction that has demonstrated exemplary coordination among State and local agencies administering housing, child welfare, and public assistance activities;

"(C) the extent to which the applicant has demonstrated the capacity to carry out the proposed activities; and

"(D) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(e) SPECIAL RULES FOR SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.—

"(1) IN GENERAL.—The Secretary may not provide assistance under subsection (b)(3) unless the Secretary determines that—

"(A) the applicant has made reasonable efforts to utilize all available local resources and resources available under the other provisions of this title; and

"(B) other resources are not sufficient or are not available to carry out the purpose for which the assistance is being sought.

No assistance provided under subsection (b)(3) may be used to supplant any non-Federal resources provided with respect to any project.

"(2) HEALTH SERVICES.—Not more than $10,000 of any grant or advance under subsection (b)(3) may be used for outpatient health services (excluding the cost of any rehabilitation or conversion of a structure to accommodate the provision of such services).

"(3) GUIDELINES.—The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining under this section the appropriateness of proposed outpatient health services. Such guidelines shall include such provisions as are necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this section for the final selection of applications for assistance.

"SEC. 406. RESPONSIBILITIES OF GRANTEES AND PROJECT SPONSORS.

"(a) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—Each grantee shall be required to supplement the grants provided under this title for acquisition, rehabilitation, or construction activities, except for assistance described in section 421, with an equal amount of funds from non-Federal sources. Each grantee shall certify to the Secretary its compliance with this subsection, describing the sources and amounts of such supplemental funds. Supplemental funds may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of a project sponsor, and the value of the time and services contributed by volunteers to carry out the program of a project sponsor at a rate determined by the Secretary.

"(2) STATE MATCHING REQUIREMENT.—Each grantee under this title that is a State shall be required to supplement the assistance provided under this title with an amount of funds from sources other than this title equal to the difference between the amount received under this title and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this title.

"(3) BENEFIT OF MATCH.—A State grantee shall obtain any matching amounts required under paragraph (2) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2).

"(b) HOUSING QUALITY.—Each grantee shall assure that housing assisted under this subtitle shall be decent, safe, and sanitary and, when appropriate, meet all applicable State and local housing codes, building codes, and licensing requirements in the jurisdiction in which the housing is located.

"(c) CONSISTENCY WITH HOUSING STRATEGY.—Each grantee shall certify, to the satisfaction of the Secretary, that activities undertaken by project sponsors with assistance from the grantee are consistent with the housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(d) ASSISTANCE TO HOMELESS PERSONS.—Each grantee shall certify that each project sponsor shall administer, in good faith, a policy designed to ensure that any shelter or housing assisted under this subtitle is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

"(e) LIMITATION ON USE OF FUNDS.—Each grantee shall certify, to the satisfaction of the Secretary, that neither assistance received under this subtitle nor any State or local government funds used to supplement such assistance will be used to replace other public funds previously used, or designated for use, to assist the homeless.

"(f) CIVIL RIGHTS COMPLIANCE.—Each grantee shall certify, to the satisfaction of the Secretary, that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the Fair Housing Act and the grantee will affirmatively further fair housing.

"(g) REPORTS.—

"(1) IN GENERAL.—Each grantee shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, a performance and evaluation report on the use of amounts made available under this subtitle, together with the grantee's assessment of the relationship of such usage to the grantee's approved housing strategy. The report shall include information on the number of homeless persons served and the reasons for their homelessness. The report shall also specify the amounts made available under this subtitle for each approved activity under subtitle B. The report shall be made available to the public so that citizens, public agencies, and other interested parties have an opportunity to comment on the report prior to its submission. The report shall include a summary of any comments received from interested parties.

"(2) CONSULTATION.—The Secretary shall consult with national associations of States, local governments, and other housing interests to develop uniform recordkeeping, performance reporting, and auditing requirements. After considering the results of such consultations, the Secretary shall establish uniform recordkeeping, performance reporting, and auditing requirements for assistance made available under this subtitle.

"(h) SITE CONTROL.—

"(1) IN GENERAL.—Each grantee or project sponsor shall furnish reasonable assurances that it will own or have control of a site for the proposed project not later than 6 months after notification of an award for grant assistance. A suitable site different from the site specified in the application satisfies the requirement of this subsection. If ownership or control of a site is not obtained within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(2) WAIVER.—The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.

"(i) PREVENTION OF UNDUE BENEFITS.—The Secretary may prescribe such terms and conditions as he deems necessary to prevent project sponsors from unduly benefiting from the sale or other disposition of projects constructed, rehabilitated, or acquired with assistance under this subtitle other than a sale or other disposition resulting in the use of the project for the direct benefit of very low-income families.

"(j) CONFIDENTIALITY.—Each grantee shall develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this title and to ensure that the address or location of any family violence shelter project assisted under this title will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.

"(k) ADDITIONAL REQUIREMENTS.—The Secretary may establish such other program requirements as the Secretary determines are necessary for grantees to administer activities authorized under this subtitle in an efficient manner.

"SEC. 407. ADMINISTRATIVE PROVISIONS.

"(a) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee may not use more than 5

percent of the assistance received under this subtitle for administrative purposes.

"(b) INCOME ELIGIBILITY.—A homeless person shall be eligible for assistance under any program provided by this subtitle, or by the amendments made by this subtitle, only if the person has income not exceeding 50 percent of the median income for the area, as adjusted in accordance with section 3(b)(2) of the United States Housing Act of 1937.

"(c) FLOOD ELEVATION REQUIREMENTS.—Flood protection standards applicable to housing acquired, rehabilitated, or assisted under any provision of this subtitle shall be no more restrictive than the standards applicable to any other program administered by the Secretary.

"(d) APPLICABILITY OF SECTION 104(g) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The provisions of, and regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this subtitle.

"(e) GAO AUDITS.—Insofar as they relate to funds provided under this section, the financial transactions of grantees and project sponsors may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by, such grantees and project sponsors pertaining to the financial transactions and necessary to facilitate the audit.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as may be necessary. Any amount appropriated under this section shall remain available until expended.

"SEC. 409. REPORTS TO CONGRESS.

"The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this title and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall summarize and assess the results of performance reports provided in accordance with section 406(g). The report shall be submitted not later than 6 months after the end of each fiscal year.

"Subtitle B—Approved Activities

"SEC. 411. HOMELESSNESS PREVENTION.

"(a) DEFINITION.—Assistance to help very low-income families avoid becoming homeless may include activities other than those that the Secretary has found to be inconsistent with the purposes of this Act.

"(b) LIMITATION ON FINANCIAL ASSISTANCE.—A grantee may provide financial assistance to very low-income families who have received eviction notices or notices of termination of utility services if—

"(1) the inability of the family to make the required payments is due to a sudden reduction in income;

"(2) the assistance is necessary to avoid the eviction or termination of services;

"(3) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

"(4) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

"SEC. 412. EMERGENCY SHELTER.

"(a) DEFINITION.—A project shall be considered 'emergency shelter' if it is designed to provide overnight sleeping accommodations for homeless persons. An emergency shelter may include appropriate eating and cooking accommodations.

"(b) MINIMUM STANDARDS OF HABITABILITY.—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

"(c) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of emergency shelter:

"(1) a grant for the renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters;

"(2) a grant for the provision of supportive services if such services do not supplant any services provided by the local government during any part of the immediately preceding 12-month period; and

"(3) annual payments for maintenance, operation, insurance, utilities, and furnishings.

"(d) PROGRAM REQUIREMENTS.—A grantee may approve assistance for a project under this subsection only if the project sponsor has agreed that it will—

"(1) in the case of assistance involving major rehabilitation or conversion of a building, maintain the building as a shelter for homeless persons and families for not less than a 10-year period;

"(2) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion of a building), maintain the building as a shelter for homeless persons and families for not less than a 3-year period;

"(3) in the case of assistance involving only activities described in paragraphs (2) and (3) of subsection (c), provide services or shelter to homeless persons and families at the original site or structure or other sites or structures serving the same general population for the period during which such assistance is provided;

"(4) comply with the standards of habitability prescribed by the Secretary and (if applicable) the State or unit of general local government; and

"(5) assist homeless persons in obtaining—

"(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

"(B) other Federal, State, local, and private assistance available for homeless persons.

"SEC. 413. TRANSITIONAL HOUSING FOR THE HOMELESS.

"(a) DEFINITION.—A project shall be considered 'transitional housing' if it is designed to facilitate the movement of homeless persons to independent living within 24 months (or such longer period as the Secretary determines is necessary to facilitate the transition of homeless persons to independent living). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless persons and other homeless persons with mental disabilities, and homeless families with children.

"(b) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of transitional housing:

"(1) A grant for the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as transitional housing. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used as transitional housing prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as transitional housing.

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing.

"(4) Annual payments for operating costs of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act) not to exceed 75 percent of the annual operating costs of such housing.

"(5) Technical assistance in—

"(A) establishing transitional housing in an existing structure;

"(B) operating transitional housing in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act).

"(6) A grant for establishing and operating an employment assistance program for the residents of transitional housing, which shall include—

"(A) employment of residents in the operation and maintenance of the housing; and

"(B) the payment of the transportation costs of residents to places of employment.

"(7) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.

A project sponsor may receive assistance under both paragraphs (1) and (2).

"(c) PROGRAM REQUIREMENTS.—

"(1) REQUIRED AGREEMENTS.—A grantee may approve assistance for a project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as transitional housing for not less than 10 years, except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project;

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) OCCUPANT RENT.—Each homeless person residing in a facility assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(3) ALTERNATIVE USE.—A project may continue to be treated as transitional housing for purposes of this subsection if the grantee determines that such project is no longer needed for use as transitional housing and approves the use of such project for the direct benefit of very low-income families.

"SEC. 414. PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.

"(a) DEFINITION.—A project shall be considered 'permanent housing for homeless persons with disabilities' if it provides community-based long-term housing and supportive services for not more than 8 homeless persons with disabilities (or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons). The Secretary may waive the limitation contained in the preceding sentence if the grantee demonstrates that local market conditions dictate the development of a larger project.

"(b) PROJECT DESIGN AND SITING.—Each project assisted under this subtitle shall be either a home designed solely for housing persons with disabilities or dwelling units in a multifamily housing project, condominium project, or cooperative project. Not more than 1 home may be located on any 1 site and no such home may be located on a site contiguous to another site containing such a home.

"(c) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of permanent housing for homeless persons with disabilities:

"(1) A grant for the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as permanent housing for homeless persons with disabilities prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities.

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing.

"(4) Annual payments for operating costs for permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such assistance or for the renewal of such assistance for use during the 10-year period under subsection (d) (unless such assistance is no longer necessary, in the determination of the Secretary).

"(5) Technical assistance in—

"(A) establishing permanent housing for homeless persons with disabilities in an existing structure;

"(B) operating permanent housing for homeless persons with disabilities in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act).

"(d) PROGRAM REQUIREMENTS.—

"(1) REQUIRED AGREEMENTS.—A grantee may approve assistance for any project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as permanent housing for homeless persons with disabilities for not less than 10 years, except that in the case of projects not receiving a grant under paragraph (1), (2), or (3) of subsection (c), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project; and

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) STATE PARTICIPATION.—Each grantee providing assistance to a project under this section shall transmit to the Secretary a letter of participation from the State assuring that the State will facilitate the provision of necessary supportive services to the residents of the project;

"(3) OCCUPANT RENT.—Each homeless person residing in a project assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(4) ALTERNATIVE USE.—A project may continue to be treated as permanent housing for homeless persons with disabilities for purposes of this subsection if the grantee determines that such project is no longer needed for use as such housing and approves the use of such project for the direct benefit of very low-income families.

"(5) TENANT SELECTION.—

"(A) IN GENERAL.—A project sponsor owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Project sponsors shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(B) AUTHORITY TO LIMIT OCCUPANCY.—Notwithstanding any other provision of law, a project sponsor may, with the approval of the grantee, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

"(6) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under paragraph (4) or (5) of subsection (c) to any project not receiving assistance under paragraph (1), (2), or (3) of such subsection unless assurances have been made under paragraph (1)(A) of this subsection that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.

"SEC. 415. TRANSITION TO PERMANENT HOUSING.

"(a) USE OF GRANTS.—

"(1) IN GENERAL.—A grant under this section may be used by a grantee to provide grants or loans to help eligible families make the transition to permanent housing. A grantee may use assistance under this section to provide for the payment by very low-income families of security deposits and the cost of rent for a reasonable period of time.

"(2) TECHNICAL ASSISTANCE.—The Secretary may provide informational and technical assistance to units of general local government and housing agencies in organizing and developing assistance programs under this section. For purposes of this section, the term 'eligible family' means a very low-income family who has resided in emergency shelter or transitional housing and who meets other conditions of eligibility as the Secretary determines to be appropriate.

"(3) FINANCIAL COUNSELING.—The grantee shall provide counseling regarding household finances and budgeting to any family that receives a grant or loan under this section.

"(b) LIMITATION ON FINANCIAL ASSISTANCE.—A grantee may provide assistance to eligible families in the form of a security deposit and the cost of rent for a reasonable period of time if—

"(1) the grantee determines that the rental charge for the subject unit is reasonable in comparison with rents charged for comparable units in the private, unassisted market;

"(2) there is a regular income and a reasonable prospect that the family will be able to sustain the rental payments for a reasonable period of time and to repay any loan provided; and

"(3) the eligible family has made reasonable efforts to receive assistance under the program of aid to families with dependent children under part A of title IV of the Social Security Act or a similar local, State, or Federal public assistance program.

"(c) PARTICIPATING LANDLORD.—If an eligible family vacates the rental unit, a landlord participating in this program shall return to the grantee any portion of the security deposit (including reasonable interest) against which such landlord does not have a claim. Any returned funds may be used by a grantee in accordance with section 403(a).

"SEC. 416. DEVELOPMENT OF ADDITIONAL APPROVED ACTIVITIES.

"The Secretary, in cooperation with grantees and other appropriate parties, shall develop additional approved activities to carry out the purposes of this title.

"Subtitle C—Section 8 Single Room Occupancy

"SEC. 421. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY PROVISIONS.

"(a) USE OF FUNDS.—The amounts made available under this subtitle shall be used only in connection with the moderate rehabilitation of housing described in section

8(n) of the United States Housing Act of 1937 for occupancy by homeless persons, except that such amounts may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units.

"(b) ALLOCATION.—The amounts made available under this subtitle shall be allocated by the Secretary on the basis of a national competition among approvable applications to the applicant public housing agencies or other contracting agencies that best demonstrate a need for the assistance under this section and the ability to undertake and carry out a program to be assisted under this subtitle. To be considered for assistance under this section, an applicant shall submit to the Secretary a proposal containing—

"(1) a description of the size and characteristics of the population within the applicant's jurisdiction that would occupy single room occupancy dwellings;

"(2) a listing of additional commitments from public and private sources that the applicant might be able to provide in connection with the program;

"(3) an inventory of suitable housing stock to be rehabilitated with such assistance; and

"(4) a description of the interest that has been expressed by builders, developers, and others (including profit and nonprofit organizations) in participating in the program. No single city or urban county shall be eligible to receive more than 10 percent of the assistance made available under this subtitle.

"(c) FIRE AND SAFETY IMPROVEMENTS.—Each annual contribution contract entered into with the authority provided under this subtitle shall require the installation of a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this subsection, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"(d) COST LIMITATION.—

"(1) PER UNIT CEILING.—The total cost of rehabilitation that may be compensated for in an annual contribution contract entered into with the authority provided under this subtitle shall not exceed $15,000 per unit, plus the expenditures required by subsection (d).

"(2) AUTHORITY TO INCREASE.—The Secretary shall increase the limitation contained in paragraph (1) by an amount the Secretary determines is reasonable and necessary to accommodate special local conditions, including—

"(A) high construction costs; or

"(B) stringent fire or building codes.

"(3) ANNUAL ADJUSTMENT.—The Secretary shall increase the limitation in paragraph (1) on October 1 of each year by an amount necessary to take into account increases in construction costs during the previous 12-month period.

"(e) CONTRACT REQUIREMENTS.—Each contract for annual contributions entered into with a public housing agency or other contracting agency to obligate the authority made available under this subtitle shall—

"(1) commit the Secretary to make such authority available to the public housing agency or other contracting agency for an aggregate period of 10 years, and require that any amendments increasing such authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of appropriations; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this subtitle shall be given to homeless persons.

"SEC. 422. APPLICABILITY TO INDIANS.

"Pursuant to section 201(b) of the United States Housing Act of 1937, this subtitle shall apply to Indian tribes and Indian housing authorities.

"Subtitle D—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 431. PURPOSE.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

"SEC. 432. RENTAL HOUSING ASSISTANCE.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"(b) Funding Limitations.—To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

"SEC. 433. SUPPORTIVE SERVICES REQUIREMENTS.

"(a) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) DETERMINATION OF MATCHING AMOUNTS.—In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) RECAPTURE.—If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 434. APPLICATIONS.

"(a) IN GENERAL.—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) MINIMUM CONTENTS.—The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum—

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 433;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will be provided;

"(10) a plan for—

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), (and the families of such persons) will be brought into the program;

"(11) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(12) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 435. SELECTION CRITERIA.

"(a) IN GENERAL.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program; and

"(8) the cost-effectiveness of the proposed program; and

"(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) FUNDING LIMITATION.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government.

"SEC. 436. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

"SEC. 437. TERMINATION OF ASSISTANCE.

"(a) AUTHORITY.—If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) PROCEDURE.—In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 438. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the same meaning given that term in section 853 of the Cranston-Gonzalez National Affordable Housing Act.

"(2) The term 'applicant' means—

"(A) in the case of rental housing assistance under parts II and IV, a State, unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

"(4) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(7) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(9) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(10) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(11) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In-patient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated such sums as may be necessary.

"(b) PART III.—For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by such sums as may be necessary.

"(c) PART IV.—For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated such sums as may be necessary.

"(d) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 441. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(a) to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 442. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period remaining after the period referred to in paragraph (1).

"SEC. 443. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 444. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) STANDARDS REQUIRED.—The Secretary shall require that—

"(1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable; and

"(2) the recipient shall make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 445. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 446. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III—SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"SEC. 451. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons. However, amounts made available under section 439(b) may be used in connection

with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 452. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into using the authority provided under section 439(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 453. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 439(b) shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to homeless persons.

"SEC. 454. OCCUPANCY.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"PART IV—SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(c) of this subtitle only in connection with the provision of rental housing assistance under section 202 of the Housing Act of 1959 in fiscal year 1991 or section 811 of the Cranston-Gonzalez National Affordable Housing Act in fiscal year 1992 for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 202 or section 611 for the purpose of providing such rental housing assistance.

"SEC. 462. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 463. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) IN GENERAL.—The Secretary shall require that (1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (2) the recipient make at least annual inspections of each unit during the contract term.

(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 464. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"Subtitle E—Miscellaneous

"SEC. 471. ENVIRONMENTAL REVIEW.

"The provisions of, and the regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this title.".

(b) IMPLEMENTATION.—Not later than 180 days after the date funds authorized under section 439 of the Stewart B. McKinney Homeless Assistance Act, as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle D of title IV of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this subtitle.

(c) TRANSITION PROVISIONS.—Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the effective date of the amendment made by this section, that are or become available for obligation shall be available for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as amended by this section.

SEC. 822. DEFINITION OF "HOMELESS PERSON".

Section 103(a) of the Stewart B. McKinney Homeless Assistance Act is amended by adding after "homeless individual" the following: "or homeless person".

SEC. 823. TRANSITIONAL RULE.

(a) IN GENERAL.—The amendment made by section 821 shall take effect—

(1) on October 1, 1992, or

(2) on the date specified by a statute adopting a proposed allocation formula described in subsections (b) and (c),

whichever is later.

(b) FEASIBILITY STUDY.—The Secretary shall carry out a study to determine the feasibility of allocating homeless assistance by a formula that distributes housing assistance for the homeless in accordance with the relative incidence of homelessness in jurisdictions across the United States. If the Secretary determines that the use of such a formula is feasible, the Secretary shall develop one or more such formulas. In determining alternative allocation formulas, the Secretary shall consider—

(1) objective measures of the incidence of homelessness;

(2) the relation between the supply of affordable housing for very low-income families and the number of such families in the jurisdiction;

(3) poverty;

(4) housing overcrowding; and

(5) any other relevant factors, including the reliability of data pertaining to homelessness.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the feasibility study under this subsection. Such report shall contain any formula or formulas developed under subsection (b) together with detailed analysis of the formulas. In preparing such report, the Secretary shall consult with organizations representing homeless persons, nonprofit organizations, public housing agencies, and State and local housing and service agencies.

(d) CONFORMING AMENDMENT.—Upon the adoption of a formula described in this section, that part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—General Provisions

"Sec. 401. Purpose.
"Sec. 402. Definitions.
"Sec. 403. General authority.
"Sec. 404. Allocation formula.
"Sec. 405. Discretionary allocation.
"Sec. 406. Responsibilities of grantees and project sponsors.
"Sec. 407. Administrative provisions.
"Sec. 408. Authorization of appropriations.
"Sec. 409. Reports to Congress.

"Subtitle B—Approved Activities.

"Sec. 411. Homelessness prevention.
"Sec. 412. Emergency shelter.
"Sec. 413. Transitional housing for the homeless.
"Sec. 414. Permanent housing for homeless persons with disabilities.
"Sec. 415. Transition to permanent housing.
"Sec. 416. Development of additional approved activities.

"Subtitle C—Section 8 Single Room Occupancy

"Sec. 421. Section 8 single room occupancy provisions.
"Sec. 422. Applicability to Indian tribes.

"Subtitle D—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"Sec. 431. Purpose.
"Sec. 432. Rental housing assistance.
"Sec. 433. Supportive services requirements; matching funding.
"Sec. 434. Applications.
"Sec. 435. Selection criteria.
"Sec. 436. Required agreements.
"Sec. 437. Termination of assistance.
"Sec. 438. Definitions.
"Sec. 439. Authorization of appropriations.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"Sec. 441. Purpose.

"Sec. 442. Housing assistance.
"Sec. 443. Amount of assistance.
"Sec. 444. Housing standards and rent reasonableness.
"Sec. 445. Tenant rent.
"Sec. 446. Administrative fees.
"PART III—SHELTER PLUS CARE: MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS
"Sec. 451. Purpose.
"Sec. 452. Fire and safety improvements.
"Sec. 453. Contract requirements.
"Sec. 454. Occupancy.
"PART IV—SECTION 202 Rental Assistance
"Sec. 461. Purpose.
"Sec. 462. Amount of assistance.
"Sec. 463. Housing standards and rent reasonableness.
"Sec. 464. Administrative fees.
"Subtitle E—Miscellaneous
"Sec. 471. Environmental review.".

SEC. 825. STRATEGY TO ELIMINATE UNFIT TRANSIENT FACILITIES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, not more than 9 months after the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, identify the States and units of general local government which use unfit transient facilities as housing for homeless families with children and develop and publish in the Federal Register a strategy to eliminate such use by July 1, 1992. In developing the strategy required under this section, the Secretary shall consult with the Secretary of the Department of Health and Human Services, the Administrator of the Federal Emergency Management Agency, other appropriate Federal officials, appropriate States and units of general local government, major organizations representing homeless persons and other experts.

(b) CONTENTS OF STRATEGY.—The strategy developed under this section shall specify—

(1) actions to be taken to ensure that families with children currently residing in unfit transient facilities will make a timely transition to permanent housing;

(2) actions to be taken to provide sufficient emergency, transitional, and permanent housing to preclude the future use of unfit transient facilities as housing for homeless families with children; and

(3) changes in Federal, State, and local statutes and regulations that are needed to eliminate the use of unfit transient facilities as housing for homeless families with children.

(c) IMPLEMENTATION OF STRATEGY.—To ensure that the strategy developed under this section is carried out within the statutory deadline, the Secretary of Housing and Urban Development shall be authorized to use and apply the following additional resources and powers:

(1) such preferences in the allocation of resources under the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(2) such limitations upon a jurisdiction's discretion to allocate resources among approved activities under the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(3) such expedited decisionmaking or waivers or revisions of regulatory requirements under other provisions of Federal law as the Secretary determines to be appropriate; and

(4) such additional constraints on the use of funds under other provisions of Federal law as the Secretary determines to be appropriate.

(d) DEFINITIONS.—For purposes of this section the term 'unfit transient facility' means a facility that provides transient accommodations to homeless persons and families in an environment that does not meet the minimum standards of habitability established by the Secretary.

PART 2—AMENDMENTS TO CURRENT PROGRAM

SEC. 831. COMPREHENSIVE HOMELESS ASSISTANCE PLAN.

(a) INCLUSION OF CHILD CARE STRATEGY AND FOOD DONATION STRAGETY.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(7) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing child care services within the area, which strategy shall be submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entity receives assistance under this title;

"(8) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing a plan to encourage a program which waives certain local or State liability regulations or laws for those who wish to donate food to a nonprofit charitable organization or food bank for use in community shelters or other domiciles for the homeless, shall be submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entities receive assistance under this title; and".

(b) INCLUSION OF INDIAN TRIBES.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "Assistance authorized by this title may be provided to any Indian tribe that is eligible to receive a grant under the emergency shelter grants program in any fiscal year, but only if the tribe submits biennially to the Secretary of Housing and Urban Development a comprehensive homeless assistance plan under this section.";

(2) in subsection (b)(5), by inserting "Indian tribe," after "State,";

(3) in subsection (c)(1), by inserting "Indian tribe," after "State," each place it appears;

(4) in subsection (d), by inserting "Indian tribe," after "State," each place it appears; and

(5) in subsection (g)—

(A) by inserting "(or tribal agency or contact)" after "State contact person";

(B) by inserting "(or tribe)" before the comma; and

(C) by inserting "(or tribal agency or contact person)" after "or contact person".

(c) MODIFICATION OF DEVELOPMENT AND TIMING, CONTENT, AND REVIEW STANDARDS.—

(1) PUBLIC PARTICIPATION PROCESS FOR DEVELOPMENT OF PLANS AND ANNUAL REPORTS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended by adding at the end the following new subsection:

"(h) CONSULTATION.—

"(1) REQUIREMENT.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall consult with, and consider the comments of, citizens, public and private homeless shelter and service providers, and local governments concerning the contents of the comprehensive plan and the annual progress report required under subsection (d), prior to their submission to the Secretary.

"(2) MODIFICATION.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) may, if it considers it appropriate, modify the comprehensive plan and annual report to reflect the comments of citizens, public and private homeless shelter and service providers, and local governments.

"(3) AVAILABILITY.—Each State, Indian tribe, metropolitan city, and urban county shall make the comprehensive plan and annual report available to the public.

"(4) CERTIFICATION.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall certify to the Secretary that citizens, public and private homeless shelter and service providers, and local governments were consulted concerning the contents of the comprehensive plan and the annual report, and that their views were considered prior to the submission of these documents to the Secretary, and that the comprehensive plan and annual report were available to the public.".

(2) MODIFICATION OF TIMING, CONTENT, AND REVIEW STANDARDS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(A) in subsection (a)(1), by striking "annually" and inserting "biennially";

(B) in subsection (b)(2), by striking "and services" and inserting ", services, and programs";

(C) in subsection (b)(3)—

(i) by striking "and services" and inserting ", services, and programs";

(ii) by striking "and" before "(B)"; and

(iii) by inserting before the semicolon at the end the following: ", (C) responding to the emergency and long-term housing and service needs of the homeless population, (D) providing housing and supportive services for various homeless populations to facilitate their transition to more independent living, (E) providing housing and supportive services to the portions of the homeless population that are not capable of achieving total independence, and (F) preventing and reducing homelessness through (i) interventions focused upon individuals and families who are in danger of becoming homeless, and (ii) addressing systemic factors contributing to homelessness".

SEC. 832. EMERGENCY SHELTER GRANTS PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $125,000,000 for fiscal year 1991 and $138,000,000 for fiscal year 1992.".

(b) USE OF GRANTS FOR ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—Subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended by adding at the end the following new section:

"SEC. 418. ADMINISTRATIVE COSTS.

"A recipient may use up to 5 percent of any annual grant received under this subtitle for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the

preceding sentence with local governments funded by the State.".

(2) CONFORMING AMENDMENT.—The table of contents for subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act is amended by inserting after the item relating to section 417 the following new item:

"Sec. 418. Administrative costs.".

(c) INCREASE IN AMOUNT AVAILABLE FOR SERVICES.—Section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)) is amended by striking "20 percent" and inserting "30 percent".

(d) TREATMENT OF HOMELESSNESS PREVENTION ACTIVITIES.—Section 414(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(4)) is amended by striking the last sentence and inserting the following new sentence: "Not more than 30 percent of the aggregate amount of all assistance to a State, local government, or Indian tribe under this subtitle may be used for activities under this paragraph.".

(e) REDUCTION OF REQUIRED MATCHING AMOUNTS AND CONFIDENTIALITY.—

(1) REDUCTION.—Section 415(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(a)) is amended—

(A) in paragraph (1), by striking "Each" the first place it appears and inserting "Except as provided in paragraph (2), each";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) Each recipient under this subtitle that is a State shall be required to supplement the assistance provided under this subtitle with an amount of funds from sources other than this subtitle equal to the difference between the amount received under this subtitle and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this subtitle.".

(2) USE OF BENEFIT AND CONFIDENTIALITY.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraphs:

"(4) in the case of a recipient that is a State, obtain any matching amounts required under subsection (a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under subsection (a)(2); and

"(5) develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(3) COMPREHENSIVE HOMELESS ASSISTANCE PLAN.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(9) with respect to a comprehensive plan submitted by a State applying for a grant under the emergency shelter grants program under subtitle B, a strategy for obtaining any matching amounts required under section 415(a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2) of such section.".

(f) INDIAN TRIBE ELIGIBILITY FOR GRANTS.—

(1) DEFINITION OF INDIAN TRIBES.—Section 411 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371) is amended by adding at the end the following new paragraph:

"(10) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) GRANT ASSISTANCE.—Section 412 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11372) is amended by striking "States and local governments" and inserting "States and local governments, and for Indian tribes,".

(3) ALLOCATION AND DISTRIBUTION OF ASSISTANCE.—Section 413(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(a)) is amended—

(A) by inserting ", and to Indian tribes," after "States)"; and

(B) by inserting ", or for Indian tribes" after "urban county" each place it appears.

(4) DISTRIBUTION TO NONPROFIT ORGANIZATIONS.—The first sentence of section 413(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(c)) is amended by inserting "or Indian tribe" after "local government".

(5) REALLOCATION OF FUNDS.—Section 413(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(d)(3)) is amended—

(A) by inserting "or Indian tribe" after "State" each place it appears; and

(B) by inserting ", or other Indian tribes, as applicable," after "counties".

(6) ESSENTIAL SERVICES CAP.—Section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)) is amended—

(A) in subparagraph (A), by inserting "or Indian tribe" after "local government"; and

(B) in subparagraph (B), by striking "or local government" and inserting ", local government, or Indian tribe".

(7) INITIAL ALLOCATION OF ASSISTANCE.—Section 416(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376(b)) is amended by inserting "Indian tribe," after "State,".

(g) MINIMUM STANDARDS OF HABITABILITY.—Section 416 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376) is amended by adding at the end the following:

"(c) MINIMUM STANDARDS OF HABITABILITY.—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.".

(h) CONSISTENCY WITH HOUSING STRATEGY.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(1) by striking "and" at the end of clause (2);

(2) by striking the period at the end of clause (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) activities undertaken by the recipient with assistance under this subtitle are consistent with any housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 833. SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 428(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $125,000,000 for fiscal year 1991 and $150,000,000 for fiscal year 1992.".

(b) MAXIMUM NUMBER OF HANDICAPPED RESIDENTS IN PERMANENT HOUSING FOR HANDICAPPED.—Section 422(12)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(B)) is amended by inserting after "handicapped homeless persons" the second place it appears the following: "(or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons)".

(c) CONVERSION OF ADVANCES TO GRANTS.—

(1) IN GENERAL.—Section 423(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(1)) is amended—

(A) by striking "An advance" and inserting "A grant"; and

(B) by striking "an advance" and inserting "a grant".

(2) CONVERSION OF ADVANCE.—Section 423(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(b)) is amended—

(A) by striking "(b) REPAYMENT OF ADVANCE.—" and inserting the following:

"(b) REPAYMENT OR CONVERSION OF ADVANCE.—

"(1) REPAYMENT.—"; and

(B) by adding at the end the following new paragraph:

"(2) CONVERSION.—At such times as the Secretary may determine, and in accordance with such terms and conditions, and accounting and other procedures, as the Secretary may prescribe, the Secretary may convert an advance made under subsection (a)(1) to a grant.".

(d) OPERATING COST PAYMENTS.—Section 423(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(3)) is amended to read as follows:

"(3) Annual payments for operating costs of transitional housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such assistance or for the renewal of such assistance for use during the 10-year period under section 424(a)(2)(D) (unless such assistance is no longer necessary, in the determination of the Secretary), and for operating costs for permanent housing for handicapped homeless persons, not to exceed 75 percent of the annual operating costs of such housing in any year during the 10-year period under section 424(a)(2)(D), and any recipient may reapply for such assistance or for renewal of such assistance for use during such period (unless such assistance is no longer neces-

sary, in the determination of the Secretary).".

(e) ELIGIBILITY OF NEW CONSTRUCTION.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)), as amended by the preceding provisions of this section, is further amended—

(1) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing."; and

(3) in the last sentence, by striking "paragraphs (1) and (2)" and inserting "paragraphs (1), (2), and (3)".

(f) SITE CONTROL REQUIREMENT.—Section 424(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(3)) is amended—

(1) by striking "(3) The Secretary" and inserting the following" (3)(A) Except as provided in subparagraph (B), the Secretary"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may waive the requirement under subparagraph (A) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

(g) CHILD CARE SERVICES.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)), as amended by the preceding provisions of this section, is further amended by inserting after paragraph (5) the following:

"(6) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.".

(h) ELIMINATION OF SITE CONTROL AND EMPLOYMENT ASSISTANCE PROGRAMS AS SELECTION CRITERIA.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon at the end;

(2) by striking paragraphs (7) and (8); and

(3) by redesignating paragraph (9) as paragraph (7).

(i) CONFIDENTIALITY REQUIREMENT FOR DOMESTIC VIOLENCE SHELTERS.—Section 424(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(c)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) to develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(j) SHORT-TERM LEASES.—

(1) 10-YEAR REQUIREMENT.—Section 424(a)(1)(D) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(D)) is amended by inserting before the semicolon at the end the following: ", except that in the case of projects not receiving an advance or grant under paragraph (1), (2), or (3) of section 423(a), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year".

(2) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by adding at the end the following new subsection:

"(f) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under paragraph (4), (5), or (6) of section 423(a) to any project not receiving assistance under paragraph (1), (2), or (3) of such section unless assurances have been made under subsection (a)(2)(D) of this section that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.".

(k) INDIAN TRIBE ELIGIBILITY.—

(1) DEFINITIONS.—Section 422 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382) is amended—

(A) in paragraph (1), by inserting "Indian tribe," after "State,"; and

(B) by redesignating paragraphs (4) through (14) as paragraphs (5) through (15), respectively; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) PROGRAM REQUIREMENTS.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by inserting "or Indian tribe" after "State" each place it appears.

(3) MATCHING FUNDS.—Section 425 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385) is amended—

(A) in subsection (a), by inserting "or Indian tribe" after "State"; and

(B) in subsection (b), by striking "State or local" and inserting "State, tribal, or local".

SEC. 834. SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 434 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11394) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $30,000,000 for each of fiscal years 1991 and 1992.".

(b) SHORT-TERM LEASES.—

(1) 10-YEAR REQUIREMENT.—Section 432(d)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)(2)) is amended—

(A) by striking "leased,"; and

(B) by inserting before the semicolon at the end the following: ", except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year".

(2) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—Section 432 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392) is amended by adding at the end the following new subsection:

"(h) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under this subtitle for any leased property for any year unless assurances under subsection (d)(2) of this section have been made that the project will be operated to assist homeless individuals for the year for which such assistance is provided.".

(c) CONFIDENTIALITY REQUIREMENT FOR DOMESTIC VIOLENCE SHELTERS.—Section 432(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) has furnished assurances satisfactory to the Secretary that the applicant will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public; and".

(d) SITE CONTROL REQUIREMENT.—Section 432(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(e)) is amended—

(1) by striking "(e) SITE CONTROL.—The Secretary" and inserting the following:

"(e) SITE CONTROL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) EXCEPTION.—The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

SEC. 835. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) INCREASE IN BUDGET AUTHORITY.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $79,000,000 on or after October 1, 1990, and by $82,400,000 on or after October 1, 1991.".

(b) APPLICABILITY TO INDIAN HOUSING AUTHORITIES.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding at the end the following new subsection:

"(g) APPLICABILITY TO INDIAN HOUSING AUTHORITIES.—Amounts made available for assistance under this section shall be available through contracts between the Secretary and Indian housing authorities, and the provisions of this section regarding public housing authorities shall include and apply to Indian housing authorities.".

SEC. 836. HOUSING AFFORDABILITY STRATEGY REQUIREMENT.

(a) IN GENERAL.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended to read as follows:

"SEC. 401. HOUSING AFFORDABILITY STRATEGY.

"Assistance may be made under this title only if the grantee certifies that it is following—

"(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act, or

"(2) a comprehensive homeless assistance plan which was approved by the Secretary during the 180-day period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, or during such longer period as may be prescribed by the Secretary in any case for good cause.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 837. SHELTER PLUS CARE.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act is amended by adding at the end the following:

"Subtitle F—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 451. PURPOSE.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

"SEC. 452. RENTAL HOUSING ASSISTANCE.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"(b) Funding Limitations.—To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

"SEC. 453. SUPPORTIVE SERVICES REQUIREMENTS.

"(a) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) DETERMINATION OF MATCHING AMOUNTS.—In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) RECAPTURE.—If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 454. APPLICATIONS.

"(a) IN GENERAL.—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) MINIMUM CONTENTS.—The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum—

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 453;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will be provided;

"(10) a plan for—

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), (and the families of such persons) will be brought into the program;

"(11) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(12) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 455. SELECTION CRITERIA.

"(a) IN GENERAL.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program; and

"(8) the cost-effectiveness of the proposed program; and

"(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) FUNDING LIMITATION.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government.

"SEC. 456. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

"SEC. 457. TERMINATION OF ASSISTANCE.

"(a) AUTHORITY.—If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) PROCEDURE.—In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 458. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the meaning given such term in section 853 of

the Cranston-Gonzalez National Affordable Housing Act.

"(2) The term 'applicant' means—

"(A) in the case of rental housing assistance under parts II and IV, a State, unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

"(4) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'nonprofit organization' has the meaning given such term by section 104 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(7) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(8) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(9) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(12) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In-patient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 459. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated $80,400,000 for fiscal year 1991, and $167,200,000 for fiscal year 1992.

"(b) PART III.—For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $24,800,000 on or after October 1, 1990, and $54,200,000 on or after October 1, 1991.

"(c) PART IV.—For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated $18,000,000 for fiscal year 1991, and $37,200,000 for fiscal year 1992.

"(d) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(a) to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 462. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period remaining after the period referred to in paragraph (1).

"SEC. 463. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 464. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) STANDARDS REQUIRED.—The Secretary shall require that—

"(1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable; and

"(2) the recipient shall make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 465. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 466. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III—SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"SEC. 471. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons. However, amounts made available under section 459(b) may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 472. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into using the authority provided under section 459(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 473. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 459(b) shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to homeless persons.

"SEC. 474. OCCUPANCY.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"PART IV—SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 481. PURPOSE.

"The Secretary is authorized to use amounts made available under section

459(c) of this subtitle only in connection with the provision of rental housing assistance under section 202 of the Housing Act of 1959, section 811 of the Cranston-Gonzalez National Affordable Housing Act for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 202 or section 611, as appropriate for the purpose of providing such rental housing assistance.

"SEC. 482. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 483. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) IN GENERAL.—The Secretary shall require that (1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (2) the recipient make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 484. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.".

(b) IMPLEMENTATION.—Not later than 180 days after the date funds authorized under section 459 of the Stewart B. McKinney Homeless Assistance Act, as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle F of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the eight-month period following the date of the notice. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this subtitle.

(c) TRANSITION PROVISIONS.—Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the date of enactment made by this section, that are or become available for obligation shall be available for use under subtitle F of title IV of the McKinney Act, as amended by this section.

(d) CONFORMING AMENDMENT.—That part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended by adding at the end the following:

"Subtitle F—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"Sec. 451. Purpose.
"Sec. 452. Rental housing assistance.
"Sec. 453. Supportive services requirements; matching funding.
"Sec. 454. Applications.
"Sec. 455. Selection criteria.
"Sec. 456. Required agreements.
"Sec. 457. Termination of assistance.
"Sec. 458. Definitions.
"Sec. 459. Authorization of appropriations.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"Sec. 461. Purpose.
"Sec. 462. Housing assistance.
"Sec. 463. Amount of assistance.
"Sec. 464. Housing standards and rent reasonableness.
"Sec. 465. Tenant rent.
"Sec. 466. Administrative fees.

"PART III—SHELTER PLUS CARE: MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"Sec. 471. Purpose.
"Sec. 472. Fire and safety improvements.
"Sec. 473. Contract requirements.
"Sec. 474. Occupancy.

"PART IV—SECTION 202 RENTAL ASSISTANCE

"Sec. 481. Purpose.
"Sec. 482. Amount of assistance.
"Sec. 483. Housing standards and rent reasonableness.
"Sec. 484. Administrative fees.".

PART 3—EFFECTIVE DATE

SEC. 841. EFFECTIVE DATE.

If the Stewart B. McKinney Homeless Assistance Amendments Act of 1990 is enacted before the enactment of this Act, the provisions of this subtitle and the amendments made by this subtitle shall not take effect.

Subtitle D—Housing Opportunities for Persons With AIDS

SEC. 851. SHORT TITLE.

This subtitle may be cited as the "AIDS Housing Opportunity Act".

SEC. 852. PURPOSE.

The purpose of this title is to provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome.

SEC. 853. DEFINITIONS.

For purposes of this subtitle:

(1) The term "acquired immunodeficiency syndrome and related diseases" means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "applicant" means a State, a unit of general local government, or a nonprofit sponsor receiving assistance from a grantee.

(3) The term "low-income individual" means any individual or family whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term "grantee" means a State or unit of general local government receiving grants from the Secretary under this subtitle.

(5) The term "metropolitan area" means a metropolitan statistical area as established by the Office of Management and Budget. Such term includes the District of Columbia.

(6) The term "locality" means the geographical area within the jurisdiction of a local government.

(7) The term "recipient" means a grantee or other applicant receiving funds under this title.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "State" means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this subtitle.

(10) The term "unit of general local government" has the same meaning as in 104 of this Act.

SEC. 854. GENERAL AUTHORITY.

(a) GRANTS AUTHORIZED.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 863, make grants to States and units of general local government.

(b) ELIGIBILITY.—A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 105 of this Act. A grantee shall carry out activities authorized under this subtitle through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts.

(c) ALLOCATION OF RESOURCES.—

(1) IN GENERAL.—90 percent of the amounts approved in appropriations Acts under section 863 shall be allocated among eligible grantees on the basis of the incidence of acquired immunodeficiency syndrome. Of the amounts made available under the previous sentence, the Secretary shall allocate—

(A) 75 percent among units of general local government located in metropolitan statistical areas with populations in excess of 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome and States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan statistical areas described in subparagraph (A), and

(B) 25 percent among units of general local government in metropolitan statistical areas with populations in excess of 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome, that have a higher than average per capita incidence of acquired immunodeficiency syndrome.

(2) MINIMUM GRANT.—Subject only to the availability of amounts pursuant to appropriations Acts under section 863, for each fiscal year each eligible grantee under paragraph (1) shall receive funding according to its proportionate share of the total, except

that each entity shall receive a minimum allocation of $200,000 from subparagraphs (A) and (B) of paragraph (1) combined, and any increase this entails from the formula amount will be deducted from all other allocations exceeding $200,000 on a pro rata basis. If allocation under subparagraph (A) of paragraph (1) would allocate less than $200,000 for any State, the allocation for such State shall be $200,000 and the amount of the increase under this sentence shall be deducted on a pro rata basis from the allocations of the other States, except that a reduction under this subparagraph may not reduce the amount allocated to any eligible entity to less than $200,000.

(3) NONELIGIBLE GRANTEES.—

(A) IN GENERAL.—10 percent of the amounts appropriated under section 863 shall be distributed to grantees and recipients by the Secretary—

(i) to meet housing needs in States and localities that do not qualify under paragraph (1), or that do qualify under paragraph (1) but do not have an approved housing strategy under section 105 of this Act, and

(ii) to fund special projects of national significance.

(B) SELECTION.—In selecting projects under this paragraph, the Secretary shall consider (i) relative numbers of acquired immunodeficiency syndrome cases and per capita acquired immunodeficiency syndrome incidence; (ii) housing needs of persons with acquired immunodeficiency syndrome in the community; (iii) extent of local planning and coordination of housing programs for persons with acquired immunodeficiency syndrome; and (iv) the likelihood of the continuation of State and local efforts.

(C) NATIONAL SIGNIFICANCE PROJECTS.—For the purpose of subparagraph (A)(ii), in selecting projects of national significance the Secretary shall consider (i) the need to assess the effectiveness of a particular model for providing supportive housing for persons with acquired immunodeficiency syndrome; (ii) the innovative nature of the proposed activity; and (iii) the potential replicability of the proposed activity in other similar localities or nationally.

(d) APPLICATIONS.—Funds made available under this section shall be allocated among approvable applications submitted by eligible applicants. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed activities;

(2) a description of the size and characteristics of the population that would be served by the proposed activities;

(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section shall be operated for not less than 10 years for the purpose specified in the application, except as otherwise specified in this subtitle;

(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs that are not being met by available public and private sources; and

(6) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

(e) ADDITIONAL REQUIREMENT FOR METROPOLITAN AREAS.—In addition to the requirements of subsection (b), to be eligible for a grant to a metropolitan area under this section, the major city, urban county, and any city with a population of 50,000 or more in that metropolitan area shall establish or designate a governmental agency or organization for receipt and use of amounts received from a grant under this section and shall submit to the Secretary, together with the application under subsection (d) a proposal for the operation of such agency or organization.

SEC. 855. ELIGIBLE ACTIVITIES.

Grants allocated under this subtitle shall be available only for approved activities to carry out strategies designed to prevent homelessness among such persons with acquired immunodeficiency syndrome. Approved activities shall include activities that—

(1) enable public and nonprofit organizations or agencies to provide housing information to such persons and coordinate efforts to expand housing assistance resources for such persons under section 857;

(2) facilitate the development and operation of shelter and services for such persons under section 858;

(3) provide short-term rental assistance to such persons under section 859;

(4) facilitate (through project-based rental assistance or other means) the moderate rehabilitation of single room occupancy dwellings (SROs) that would be made available only to such persons under section 860;

(5) facilitate the development of community residences for eligible persons with acquired immunodeficiency syndrome under section 861;

(6) carry out other activities that the Secretary develops in cooperation with eligible States and localities.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

SEC. 856. RESPONSIBILITIES OF GRANTEES.

(a) PROHIBITION OF SUBSTITUTION OF FUNDS.—Amounts received from grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(b) CAPABILITY.—The recipient shall have, in the determination of the grantee or the Secretary, the capacity and capability to effectively administer a grant under this subtitle.

(c) COOPERATION.—The recipient shall agree to cooperate and coordinate in providing assistance under this subtitle with the agencies of the relevant State and local governments responsible for services in the area served by the applicant for individuals with acquired immunodeficiency syndrome or related diseases and other public and private organizations and agencies providing services for such individuals.

(d) NO FEE.—The recipient shall agree that no fee will be charged of any low-income individual for any services provided with amounts from a grant under this subtitle and that if fees are charged of any other individuals, the fees will be based on the income and resources of the individual.

(e) CONFIDENTIALITY.—The recipient shall agree to ensure the confidentiality of the name of any individual assisted with amounts from a grant under this subtitle and any other information regarding individuals receiving such assistance.

(f) FINANCIAL RECORDS.—The recipient shall agree to maintain and provide the grantee or the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this subtitle.

SEC. 857. GRANTS FOR AIDS HOUSING INFORMATION AND COORDINATION SERVICES.

Grants under this section may only be used for the following activities:

(1) HOUSING INFORMATION SERVICES.—To provide (or contract to provide) counseling, information, and referral services to assist individuals with acquired immunodeficiency syndrome or related diseases to locate, acquire, finance, and maintain housing and meet their housing needs.

(2) RESOURCE IDENTIFICATION.—To identify, coordinate, and develop housing assistance resources (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives) for individuals with acquired immunodeficiency syndrome or related diseases.

SEC. 858. AIDS SHORT-TERM SUPPORTED HOUSING AND SERVICES.

(a) USE OF GRANTS.—Any amounts received from grants under this section may only be used to carry out a program to provide (or contract to provide) assistance to individuals with acquired immunodeficiency syndrome or related diseases who are homeless or in need of housing assistance to prevent homelessness, which may include the following activities:

(1) SHORT-TERM SUPPORTED HOUSING.—Purchasing, leasing, renovating, repairing, and converting facilities to provide short-term shelter and services.

(2) SHORT-TERM HOUSING PAYMENTS ASSISTANCE.—Providing rent assistance payments for short-term supported housing and rent, mortgage, and utilities payments to prevent homelessness of the tenant or mortgagor of a dwelling.

(3) SUPPORTIVE SERVICES.—Providing supportive services, to individuals assisted under paragraphs (1) and (2), including health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, and nutritional services.

(4) MAINTENANCE AND ADMINISTRATION.—Providing for maintenance, administration, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs relating to any short-term supported housing provided under the demonstration program under this section.

(5) TECHNICAL ASSISTANCE.—Providing technical assistance to such individuals to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments.

(b) PROGRAM REQUIREMENTS.—

(1) MINIMUM USE PERIOD FOR STRUCTURES.—

(A) IN GENERAL.—Any building or structure assisted with amounts from a grant under this section shall be maintained as a facility to provide short-term supported housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases—

(i) in the case of assistance involving substantial rehabilitation or acquisition of the building, for a period of not less than 10 years; and

(ii) in the case of assistance under paragraph (1), (3), or (4) of subsection (a), for a period of not less than 3 years.

(B) WAIVER.—The Secretary may waive the requirement under subparagraph (A) with respect to any building or structure if the organization or agency that received the grant under which the building was assisted demonstrates, to the satisfaction of the Secretary, that—

(i) the structure is no longer needed to provide short-term supported housing or assistance or the continued operation of the structure for such purposes is no longer feasible; and

(ii) the structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(2) RESIDENCY AND LOCATION LIMITATIONS ON SHORT-TERM SUPPORTED HOUSING.—

(A) RESIDENCY.—A short-term supported housing facility assisted with amounts from a grant under this section may not provide shelter or housing at any single time for more than 50 families or individuals.

(B) LOCATION.—A facility for short-term supported housing assisted with amounts from a grant under this section may not be located in or contiguous to any other facility for emergency or short-term housing that is not limited to use by individuals with acquired immunodeficiency syndrome or related diseases.

(C) WAIVER.—The Secretary may, as the Secretary determines appropriate, waive the limitations under subparagraphs (A) and (B) for any program or short-term supported housing facility.

(3) TERM OF ASSISTANCE.—

(A) SUPPORTED HOUSING ASSISTANCE.—A program assisted under this section may not provide residence in a short-term housing facility assisted under this section to any individual for a sum of more than 60 days during any 6-month period.

(B) HOUSING PAYMENTS ASSISTANCE.—A program assisted under this section may not provide assistance for rent, mortgage, or utilities payments to any individual for rent, mortgage, or utilities costs accruing over a period of more than 21 weeks of any 52-week period.

(4) PLACEMENT.—A program assisted under this section shall provide for any individual who has remained in short-term supported housing assisted under the demonstration program, to the maximum extent practicable, the opportunity for placement in permanent housing or an environment appropriate to the health and social needs of the individual.

(5) PRESUMPTION FOR INDEPENDENT LIVING.—In providing assistance under this section in any case in which the residence of an individual is appropriate to the needs of the individual, a program assisted under this section shall, when reasonable, provide for assistance in a manner appropriate to maintain the individual in such residence.

(6) CASE MANAGEMENT SERVICES.—A program assisted under this section shall provide each individual assisted under the program with an opportunity, if eligible, to receive case management services available from the appropriate social service agencies.

SEC. 859. SHORT-TERM RENTAL ASSISTANCE.

(a) USE OF FUNDS.—

(1) IN GENERAL.—Grants under this section may be used only for assistance to provide short-term rental assistance for low-income individuals with acquired immunodeficiency syndrome or related diseases. Such assistance may be project based or tenant based and shall be provided to the extent practicable in the manner provided for under section 8 of the United States Housing Act of 1937. Grantees shall ensure that the housing provided is decent, safe, and sanitary.

(2) SHARED HOUSING ARRANGEMENTS.—Grants under this section may be used to assist individuals who elect to reside in shared housing arrangements in the manner provided under section 8(p) of the United States Housing Act of 1937 (42 U.S.C. 1437f(p)), except that, notwithstanding such section, assistance under this section may be made available to nonelderly individuals. The Secretary shall issue any standards for shared housing under this paragraph that vary from standards issued under section 8(p) of the United States Housing Act of 1937 only to the extent necessary to provide for circumstances of shared housing arrangements under this paragraph that differ from circumstances of shared housing arrangements for elderly families under section 8(p) of the United States Housing Act of 1937.

(b) LIMITATIONS.—A recipient under this section shall comply with the following requirements:

(1) SERVICES.—The recipient shall provide for qualified service providers in the area to provide appropriate services to the individuals assisted under this section.

(2) INTENSIVE ASSISTANCE.—For any individual who requires more care than can be provided in housing assisted under this section, the recipient shall provide for the locating of a care provider who can appropriately care for the individual and referral of the individual to the care provider.

SEC. 860. SINGLE ROOM OCCUPANCY DWELLINGS.

(a) USE OF GRANTS.—Grants under this section may be used to provide project-based rental assistance or grants to facilitate the development of single room occupancy dwellings. To the extent practicable, a program under this section shall be carried out in the manner provided for under section 8(n) of the United States Housing Act of 1937.

(b) LIMITATION.—Recipients under this section shall require the provision to individuals assisted under this section of the following assistance:

(1) SERVICES.—Appropriate services provided by qualified service providers in the area.

(2) INTENSIVE ASSISTANCE.—For any individual who requires more care than can be provided in housing assisted under this section, locating a care provider who can appropriately care for the individual and referral of the individual to the care provider.

SEC. 861. GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.

(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may make grants to States and metropolitan areas to develop and operate community residences and provide services for persons with acquired immunodeficiency syndrome or related diseases.

(b) COMMUNITY RESIDENCES AND SERVICES.—

(1) COMMUNITY RESIDENCES.—

(A) IN GENERAL.—A community residence under this section shall be a multiunit residence designed for individuals with acquired immunodeficiency syndrome or related diseases for the following purposes:

(i) To provide a lower cost residential alternative to institutional care and to prevent or delay the need for institutional care.

(ii) To provide a permanent or transitional residential setting with appropriate services that enhances the quality of life for individuals who are unable to live independently.

(iii) To prevent homelessness among individuals with acquired immunodeficiency syndrome or related diseases by increasing available suitable housing resources.

(iv) To integrate individuals with acquired immunodeficiency syndrome or related diseases into local communities and provide services to maintain the abilities of such individuals to participate as fully as possible in community life.

(B) RENT.—Except to the extent that the costs of providing residence are reimbursed or provided by any other assistance from Federal or non-Federal public sources, each resident in a community residence shall pay as rent for a dwelling unit an amount equal to the following:

(i) For low-income individuals, the amount of rent paid under section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)) by a low- income family (as the term is defined in section 3(b)(2) of such Act (42 U.S.C. 1437a(b)(2))) for a dwelling unit assisted under such Act.

(ii) For any resident that is not a low-income resident, an amount based on a formula, which shall be determined by the Secretary, under which rent is determined by the income and resources of the resident.

(C) FEES.—Fees may be charged for any services provided under subsection (c)(2) to residents of a community residence, except that any fees charged shall be based on the income and resources of the resident and the provision of services to any resident of a community residence may not be withheld because of an inability of the resident to pay such fee.

(D) SECTION 8 ASSISTANCE.—Assistance made available under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may be used in conjunction with a community residence under this subsection for tenant-based certificates or vouchers.

(2) SERVICES.—Services provided with a grant under this section shall consist of services appropriate in assisting individuals with acquired immunodeficiency syndrome and related diseases to enhance their quality of life, enable such individuals to more fully participate in community life, and delay or prevent the placement of such individuals in hospitals or other institutions.

(c) USE OF GRANTS.—Any amounts received from a grant under this section may be used only as follows:

(1) COMMUNITY RESIDENCES.—For providing assistance in connection with community residences under subsection (b)(1) for the following activities:

(A) PHYSICAL IMPROVEMENTS.—Construction, acquisition, rehabilitation, conversion, retrofitting, and other physical improvements necessary to make a structure suitable for use as a community residence.

(B) OPERATING COSTS.—Operating costs for a community residence.

(C) TECHNICAL ASSISTANCE.—Technical assistance in establishing and operating a community residence, which may include planning and other predevelopment or preconstruction expenses.

(D) IN-HOUSE SERVICES.—Services appropriate for individuals residing in a community residence, which may include staff training and recruitment.

(2) SERVICES.—For providing services under subsection (b)(2) to any individuals assisted under this subtitle.

(3) ADMINISTRATIVE EXPENSES.—For administrative expenses related to the planning and execution of activities under this section, except that a jurisdiction that receives a grant under this section may expend not more than 10 percent of the amount received under the grant for such administrative expenses. Administrative expenses under this paragraph may include expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases, for staff carrying out activities assisted with a grant under this section and for individuals who reside in proximity of individuals assisted under this subtitle.

(d) LIMITATIONS ON USE OF GRANTS.—

(1) COMMUNITY RESIDENCES.—Any jurisdiction that receives a grant under this section may not use any amounts received under the grant for the purposes under subsection (c)(1), except for planning and other expenses preliminary to construction or other physical improvement under subsection (c)(1)(A), unless the jurisdiction certifies to the Secretary, as the Secretary shall require, the following:

(A) SERVICE AGREEMENT.—That the jurisdiction has entered into a written agreement with service providers qualified to deliver any services included in the proposal under subsection (c) to provide such services to individuals assisted by the community residence.

(B) FUNDING AND CAPABILITY.—That the jurisdiction will have sufficient funding for such services and the service providers are qualified to assist individuals with acquired immunodeficiency syndrome and related diseases.

(C) ZONING AND BUILDING CODES.—That any construction or physical improvements carried out with amounts received from the grant will comply with any applicable State and local housing codes and licensing requirements in the jurisdiction in which the building or structure is located.

(D) INTENSIVE ASSISTANCE.—That, for any individual who resides in a community residence assisted under the grant and who requires more intensive care than can be provided by the community residence, the jurisdiction will locate for and refer the individual to a service provider who can appropriately care for the individual.

(2) SERVICES.—Any jurisdiction that receives a grant under this section may use any amounts received under the grant for the purposes under subsection (c)(2) only for the provision of services by service providers qualified to provide such services to individuals with acquired immunodeficiency syndrome and related diseases.

SEC. 862. REPORT.

Any organization or agency that receives a grant under this subtitle shall submit to the Secretary, for any fiscal year in which the organization or agency receives a grant under this subtitle, a report describing the use of the amounts received, which shall include the number of individuals assisted, the types of assistance provided, and any other information that the Secretary determines to be appropriate.

SEC. 863. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $75,000,000 for fiscal year 1991, and $156,500,000 for fiscal year 1992.

TITLE IX—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

SEC. 901. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended by striking the second sentence and inserting the following: "For purposes of assistance under section 106, there are authorized to be appropriated $3,137,000,000 for fiscal year 1991 and $3,272,000,000 for fiscal year 1992. Of any amounts appropriated under this section, the Secretary shall, to the extent approved in appropriation Acts, make available—

"(1) not less than $3,000,000 in each of fiscal years 1991 and 1992 in the form of grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management,

"(2) not less than $6,500,000 for fiscal year 1991 and $6,500,000 for fiscal year 1992 in the form of grants to historically black colleges,

"(3) not less than $7,000,000 for fiscal year 1991 and $7,000,000 for fiscal year 1992 for grants in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and

"(4) not less than $500,000 in fiscal year 1991 for grants to demonstrate the feasibility of developing an integrated database system and computer mapping tool for the compliance, programming, and evaluation of community development block grants.".

(b) LIMITATION ON LOAN GUARANTEES.—The last sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended to read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $300,000,000 during fiscal year 1991 and $300,000,000 during fiscal year 1992.".

(c) PAYMENTS WITH RESPECT TO INDIAN HOUSING.—Section 107(a) of the Housing and Urban Development Act of 1974 (42 U.S.C. 5307(a)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) to units of general local government that are located in North Dakota for public services with respect to Indian housing;".

SEC. 902. TARGETING COMMUNITY DEVELOPMENT BLOCK GRANT ASSISTANCE.

(a) PRIMARY OBJECTIVE.—The second sentence of section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by striking "60 percent" and inserting "70 percent".

(b) CERTIFICATION REGARDING ACTIVITIES.—Section 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(3)) is amended by striking "60 percent" and inserting "70 percent".

SEC. 903. COMMUNITY DEVELOPMENT CITY AND COUNTY CLASSIFICATIONS.

(a) METROPOLITAN CITIES.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) is amended—

(1) by striking the second sentence and inserting the following: "Any city that was classified as a metropolitan city for at least 2 years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city.";

(2) in the fourth sentence, by striking "for fiscal year 1988 or 1989"; and

(3) in the last sentence, by striking—

(A) "the first or second sentence of"; and

(B) "under such first or second sentence".

(b) URBAN COUNTIES.—Section 102(a)(6)(B) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(B)) is amended to read as follows:

"(B) Any county that was classified as an urban county for at least 2 years pursuant to subparagraph (A), (C), or (D) shall remain classified as an urban county, unless it fails to qualify as an urban county pursuant to subparagraph (A) by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or not to renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.".

(c) RELINQUISHMENT OF ENTITLEMENT STATUS.—

(1) RELINQUISHMENT BY METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)), as amended by subsection (a), is further amended by inserting after the period at the end the following: "Any unit of general local government that was classified as a metropolitan city in any fiscal year, may, upon submission of written notification to the Secretary, relinquish such classification for all purposes under this title if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section 106 as an urban county under paragraph (6)(D). Any metropolitan city that elects to relinquish its classification under the preceding sentence and whose port authority shipped at least 35,000,000 tons of cargo in 1988, of which iron ore made up at least half, shall not receive, in any fiscal year, a total amount of assistance under section 106 from the urban county recipient that is less than the city would have received if it had not relinquished the classification under the preceding sentence".

(2) INCLUSION WITH URBAN COUNTY.—Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

(A) in clause (ii), by striking "or" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new clause:

"(iv) has entered into a local cooperation agreement with a metropolitan city that received assistance under section 106 because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for purposes of qualifying as an urban county; except that to qualify as an urban county under this clause (I) the county must have a

combined population of not less than 195,000, (II) more than 15 percent of the residents of the county shall be 60 years of age or older (according to the most recent decennial census data), (III) not less than 20 percent of the total personal income in the county shall be from pensions, social security, disability, and other transfer programs, and (IV) not less than 40 percent of the land within the county shall be publicly owned and not subject to property tax levies.".

(3) APPLICABILITY.—The amendments made by this subsection shall apply with respect to assistance under title I of the Housing and Community Development Act of 1974 for fiscal year 1991 and any fiscal year thereafter.

SEC. 904. ALLOCATION FORMULA IN CASES OF ANNEXATION.

(a) IN GENERAL.—Section 102(a)(12) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(12)) is amended by inserting after the period at the end the following new sentence: "Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to the first allocation of assistance under section 106 that is made after the date of the enactment of this Act and to each allocation thereafter.

SEC. 905. HOUSING AFFORDABILITY STRATEGY REQUIREMENT.

Section 104(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(c)) is amended to read as follows:

"(c) A grant may be made under section 106(b) only if the unit of general local government certifies that it is following—

"(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act, or

"(2) a housing assistance plan which was approved by the Secretary during the 180-day period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, or during such longer period as may be prescribed by the Secretary in any case for good cause.".

SEC. 906. PROTECTION OF INDIVIDUALS ENGAGING IN NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS.

Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by adding at the end the following new subsection:

"(l) PROTECTION OF INDIVIDUALS ENGAGING IN NON-VIOLENT CIVIL RIGHTS DEMONSTRATIONS.—No funds authorized to be appropriated under section 103 of this Act may be obligated or expended to any unit of general local government that—

"(1) fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; or

"(2) fails to adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within its jurisdiction.".

SEC. 907. CDBG ELIGIBLE ACTIVITIES.

(a) ECONOMIC DEVELOPMENT PROJECTS THROUGH FOR-PROFIT ENTITIES.—Section 105(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(17)) is amended to read as follows:

"(17) provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that—

"(A) creates or retains jobs for low- and moderate-income persons;

"(B) prevents or eliminates slums and blight;

"(C) meets urgent needs;

"(D) creates or retains businesses owned by community residents;

"(E) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or

"(F) provides technical assistance to promote any of the activities under subparagraphs (A) through (E);".

(b) DIRECT HOMEOWNERSHIP ASSISTANCE.—

(1) IN GENERAL.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(A) in paragraph (18), by striking "and" at the end;

(B) in paragraph (19), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(20) provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to—

"(A) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;

"(B) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

"(C) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this title may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this title may not directly provide such guarantees);

"(D) provide up to 50 percent of any downpayment required from low- or moderate-income homebuyer; or

"(E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyers.".

(2) TERMINATION.—Effective on October 1, 1992 (or October 1, 1993, if the Secretary determines that such later date is necessary to continue to provide homeownership assistance until homeownership assistance is available under title II of the Cranston-Gonzalez National Affordable Housing Act), section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(A) in paragraph (18), by inserting "and" at the end;

(B) in paragraph (19), by striking "; and" at the end and inserting a period; and

(C) by striking paragraph (20).

SEC. 908. PUBLIC SERVICES.

(a) STATEWIDE CEILING.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended by inserting after "unit of general local government" the third time it appears "(or in the case of nonentitled communities not more than 15 per centum statewide)".

(b) PROGRAM INCOME.—Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended by inserting after "under this title" the second place it appears "including program income".

SEC. 909. AUTHORITY TO PROVIDE LUMP-SUM PAYMENTS TO REVOLVING LOAN FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, units of general local government receiving assistance under title I of the Housing and Community Development Act of 1974 may receive funds in one payment for use in establishing or supplementing revolving loan funds in the manner provided under section 104(h) of such Act (42 U.S.C. 5304(h)).

(b) APPLICABILITY.—This section shall apply to funds approved in appropriations Acts for use under title I of the Housing and Community Development Act of 1974 for fiscal year 1992 and any fiscal year thereafter.

SEC. 910. COMMUNITY DEVELOPMENT LOAN GUARANTEES.

(a) STATEMENT OF PURPOSE AND OBJECTIVES.—

(1) PURPOSES.—The purposes of the amendments made by this section are—

(A) to reaffirm the commitment of the Federal Government to assist local governments in their efforts in stimulating economic and community development activities needed to combat severe economic distress and to help in promoting economic development activities needed to aid in economic recovery; and

(B) to promote revitalization and development projects undertaken by local governments that principally benefit persons of low and moderate income, the elimination of slums and blight, and to meet urgent community needs, with special priority for projects located in areas designated as enterprise zones by the Federal Government or by any State.

(2) OBJECTIVES.—In order to further the purpose described in paragraph (1), activities undertaken pursuant to the amendments made by this section shall be directed toward meeting the objectives set forth in sections 101(c) and 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c) and 5304(b)(3)) and the additional objectives of—

(A) encouraging local governments to establish public-private partnerships;

(B) preserving housing affordable for persons of low and moderate income; and

(C) creating permanent employment opportunities, primarily for persons of low and moderate income.

(b) GUARANTEE OF LOANS ISSUED BY NONENTITLEMENT COMMUNITIES AND TERRITORIES.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by striking "unit of general local government" or "units of general local government" each place such terms appear and inserting "eligible public entity" or "eligible public entities", respectively.

(B) CONFORMING AMENDMENT.—Section 108(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(h)) is amended by striking "unit or agency" and inserting "entity or agency".

(2) GUARANTEE OF HOUSING CONSTRUCTION AND OTHER LOANS.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended in the first sentence—

(A) by striking "; or" and inserting a semicolon; and

(B) by inserting before the period at the end the following: "; or (4) construction of housing by nonprofit organizations for homeownership under section 17(d) of the United States Housing Act of 1937 or title VI of the Housing and Community Development Act of 1987".

(3) STATE ASSISTANCE IN APPLICATIONS.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(n) Any State that has elected under section 106(d)(2)(A) to distribute funds to units of general local government in nonentitlement areas may assist such units in the submission of applications for guarantees under this section.".

(4) STATE GRANTS AS SECURITY.—

(A) IN GENERAL.—Section 108(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(d)) is amended—

(i) by inserting "(1)" after "(d)";

(ii) by redesignating paragraphs (1), (2), and (3), as subparagraphs (A), (B), and (C), respectively; and

(iii) by adding at the end the following new paragraph:

"(2) To assist in assuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this title as security for notes or other obligations and charges issued under this section by any unit of general local government in a nonentitlement area in the State.".

(B) REPAYMENTS.—Section 108(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(e)) is amended by striking "subsection (d)(2)" and inserting "paragraphs (1)(B) and (2) of subsection (d)".

(5) DEFINITION.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (as previously amended by this section) is further amended by adding at the end the following new subsection:

"(o) For purposes of this section, the term 'eligible public entity' means any unit of general local government, including units of general local government in nonentitlement areas.".

(c) LOAN REPAYMENT PERIOD.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)), as amended by the preceding provisions of this Act, is further amended by inserting after the third sentence the following: "The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.".

(d) OUTSTANDING LOAN GUARANTEE AMOUNT PER ISSUER.—Section 108(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(b)) is amended—

(1) by inserting after "this section" the following: "(excluding any amount defeased under the contract entered into under subsection (d)(1)(A))";

(2) by striking "three" and inserting "5"; and

(3) by inserting "or 107" after "section 106".

(e) ALLOCATION OF LOAN GUARANTEES AND MONITORING OF AMOUNT GUARANTEED FOR EACH COMMUNITY.—

(1) ALLOCATION OF GUARANTEES.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new sentence: "Of the amount approved in any appropriation Act for guarantees under this section in any fiscal year, the Secretary shall allocate 70 percent for guarantees for metropolitan cities, urban counties, and Indian tribes and 30 percent for guarantees for units of general local government in nonentitlement areas. The Secretary may waive the percentage requirements of the preceding sentence in any fiscal year only to the extent that there is an absence of qualified applicants or proposed activities from metropolitan cities, urban counties, and Indian tribes or units of general local government in nonentitlement areas.".

(2) MONITORING OF GUARANTEES PER COMMUNITY.—Section 108(k) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(k)) is amended—

(A) by inserting "(1)" after "(k)"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary shall monitor the use of guarantees under this section by eligible public entities. If the Secretary finds that 50 percent of the aggregate guarantee authority has been committed, the Secretary may—

"(A) impose limitations on the amount of guarantees any one entity may receive in any fiscal year of $35,000,000 for units of general local government receiving grants under section 106(b) and $7,000,000 for units of general local government receiving grants under section 106(d); or

"(B) request the enactment of legislation increasing the aggregate limitation on guarantees under this section.".

(f) DEBT PAYMENT ASSISTANCE.—Section 108(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(h)) is amended by adding at the end the following: "The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.".

(g) TRAINING AND INFORMATION.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (as previously amended by this Act) is further amended by adding at the end the following new subsection:

"(p)(1) The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this section. Such activities shall commence not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1990.

"(2) The Secretary may use amounts set aside under section 107 to carry out this subsection.".

(h) ANNUAL REPORT.—Section 113(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5313(a)) is amended—

(1) in paragraph (2), by striking "and";

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) a description of the activities carried out under section 108.".

(i) REGULATIONS.—To carry out the amendments made by this section, the Secretary of Housing and Urban Development shall—

(1) issue proposed regulations not later than 90 days after the date of the enactment of this Act; and

(2) issue final regulations not later than 180 days after the date of the enactment of this Act.

SEC. 911. HAWAIIAN HOME LANDS.

Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended by adding at the end the following new subsection:

"(d) The provisions of this section and section 104(b)(2) which relate to discrimination on the basis of race shall not apply to the provision of assistance by grantees under this title to the Hawaiian Home Lands.".

SEC. 912. PROHIBITION OF DISCRIMINATION ON BASIS OF RELIGION UNDER CDBG PROGRAM.

(a) IN GENERAL.—Section 109(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5309(a)) is amended by inserting "religion," after "national origin,".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to conduct relating to discrimination occurring after the date of the enactment of this Act.

SEC. 913. TECHNICAL CORRECTIONS REGARDING CDBG FOR INDIAN TRIBES.

(a) INAPPLICABILITY OF LOW AND MODERATE INCOME REQUIREMENTS.—Section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by inserting "to States and units of general local government" after "Federal assistance provided" the first place it appears.

(b) ALLOCATION AND DISTRIBUTION OF FUNDS.—

(1) SET-ASIDE FOR INDIAN TRIBES.—

(A) REPEAL.—Section 106(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(b)) is amended by striking paragraph (7).

(B) REPLACEMENT.—Section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended by striking "SEC. 106. (a)" and all that follows through the end of subsection (a) and inserting the following:

"SEC. 106. (a)(1) For each fiscal year, of the amount approved in an appropriation Act under section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107), the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 104, except subsections (f), (g), and (k) of such section.

"(2) After reserving such amounts for Indian tribes, the Secretary shall allocate amounts provided for use under section 107.

"(3) Of the amount remaining after allocations pursuant to paragraphs (1) and (2), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county

shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).".

(2) ALLOCATION TO METROPOLITAN CITIES AND URBAN COUNTIES.—Paragraphs (1) and (2) of section 106(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(b)) are amended by striking "After taking into account the set-aside for Indian tribes under paragraph (7), the" each place it appears and inserting "The" in each place.

(3) ALLOCATION TO NONENTITLEMENT AREAS.—Section 106(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(1)) is amended by striking "section 107 and section 119" and inserting in lieu thereof "section 106(a)(1) and (2)".

(c) PROGRAM REQUIREMENTS FOR GRANTS TO INDIAN TRIBES.—Section 107(e)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(e)(2)) is amended by inserting ", section 106(a)(1)," after "this section".

(d) ADMINISTRATION OF GRANTS TO INDIAN TRIBES.—Section 702(c) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 5306 note) is repealed.

(e) APPLICABILITY OF HUD REFORM ACT.—Section 702(e) of the Department of Housing and Development Reform Act of 1989 (42 U.S.C. 5306 note) is amended by striking "1991" and inserting "1990".

(f) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts approved in any appropriation Act under section 103 of the Housing and Community Development Act of 1974 for fiscal year 1990 and each fiscal year thereafter.

(2) GRANTS IN FISCAL YEAR 1990.—The Secretary of Housing and Urban Development may make grants to Indian tribes pursuant to the amendments made by this section with any amounts approved in any appropriation Act under section 103 for fiscal year 1990 for grants to Indian tribes, and the first sentence of section 106(a)(1) of the Housing and Community Development Act of 1974 (as amended by this Act) shall not apply to such grants.

SEC. 914. URBAN HOMESTEADING.

(a) ACQUISITION OF PROPERTIES FROM THE RESOLUTION TRUST CORPORATION.—Section 810 of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e) is amended—

(1) by redesignating subsections (l), (m), and (n) as subsections (m), (n), and (o), respectively; and

(2) by inserting after subsection (k) the following new subsection:

"(l)(1) The Secretary may acquire from the Resolution Trust Corporation eligible single family properties (as such term is defined in section 21A(c)(9)(F) of the Federal Home Loan Bank Act), in bulk (as agreed to by the Secretary and the Resolution Trust Corporation), for transfer to units of general local government or a State, or qualified community organizations or public agencies designated by a unit of general local government or a State, for use in connection with urban homesteading programs approved by the Secretary under this section and other disposition as provided under this subsection. Such properties shall be suitable for use in connection with approved urban homesteading programs, as determined by the Secretary.

"(2) The acquisition price paid by the Secretary to the Resolution Trust Corporation for properties under paragraph (1) shall be in an amount to be agreed upon by the Secretary and the Resolution Trust Corporation for each property and shall include discounts for bulk purchase and for the estimated costs and other expenses of the Secretary related to holding a property until its transfer for use in connection with an urban homesteading program or other disposition under this subsection. Notwithstanding the preceding sentence, the price paid by the Secretary for acquisition of a property under this subsection may not exceed 50 percent of the fair market value of the property, as valued individually.

"(3) If a unit of general local government, State, community organization, or public agency cannot make timely use under an urban homesteading program of a property acquired by the Secretary under this subsection, or if the property is found to be unsuitable for such use after acquisition, the Secretary may deal with, complete, rent, secure, repair, renovate, modernize, insure, or sell for cash or credit (at a price determined by the Secretary), in the discretion of the Secretary, any property purchased under this subsection. The Secretary may use the proceeds from any sales to offset any costs or other expenses related to holding properties acquired under this subsection.

"(4) After determining suitability of property under paragraph (1), the Secretary may acquire property from the Resolution Trust Corporation for more than the maximum amount that the Secretary, by regulation, has established for reimbursement for properties transferred for urban homesteading uses under this section. The local government, State, organization, or agency administering the urban homesteading program under which an individual or family receives such a property shall pay to the Secretary (in a manner as the Secretary shall provide) the amount by which the acquisition price paid by the Secretary to the Resolution Trust Corporation is greater than such maximum amount. The local government, State, or organization or agency may recover some or all of the amount paid to the Secretary by the administering agency, as the Secretary shall provide. Any property acquired pursuant to this subsection may be transferred, under an urban homesteading program under this section, only to individuals and families who are lower income families (as such term is defined in subsection (h)(3)).

"(5) For purposes of this subsection, a bulk acquisition of properties shall involve not less than 100 properties.

"(6) In using properties acquired under this subsection, each urban homesteading program shall provide for preference in conveying such properties under the program to residents of public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937) who meet all eligibility criteria under this section.".

(b) NEIGHBORHOOD IMPROVEMENT STRATEGY.—Section 810(b)(6) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e(b)(6)) is amended by striking the period at the end and inserting the following: ", except that this paragraph shall not apply with respect to any group of 10 or less properties obtained for use under an urban homesteading program if the properties (A) are located in any single census tract, and (B) were acquired by the Secretary from the Resolution Trust Corporation pursuant to subsection (l).".

(c) RTC DISPOSITION PROCEDURES.—Section 21A(c)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)), as amended by section 804 of this Act, is further amended by adding at the end the following new subparagraph:

"(E) URBAN HOMESTEADING ACQUISITION.—

"(i) In providing for bulk acquisition of eligible single family properties by the Secretary under section 810(l) of the Housing and Community Development Act of 1974 and by participating jurisdictions for inclusion in affordable housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed 50 percent of the fair market value of the property, as valued individually.

"(ii) To the extent necessary to facilitate sale of properties to the Secretary and participating jurisdictions, the requirements of paragraphs (2), (5), and (6)(A) of this subsection shall not apply to such transactions and property involved in such transactions.

"(iii) To facilitate acquisitions by the Secretary and participating jurisdictions, the Corporation shall provide the Secretary and participating jurisdictions with an inventory of eligible single family properties, not less than 4 times each year.".

SEC. 915. NEIGHBORHOOD DEVELOPMENT DEMONSTRATION.

Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended to read as follows:

"(g) To the extent provided in appropriations Acts, of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974, $2,000,000 for fiscal year 1991 and $2,000,000 for fiscal year 1992 shall be available to carry out this section.".

SEC. 916. CDBG ASSISTANCE FOR UNITED STATES-MEXICO BORDER REGION.

(a) SET-ASIDE FOR COLONIAS.—The States of Arizona, California, New Mexico, and Texas shall each make available, for activities designed to meet the needs of the residents of colonias in the State relating to water, sewage, and housing, the following percentage of the amount allocated for the State under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)):

(1) FIRST FISCAL YEAR.—For the first fiscal year to which this section applies, 10 percent.

(2) SUCCEEDING FISCAL YEARS.—For each of the succeeding fiscal years to which this section applies, a percentage (not to exceed 10 percent) that is determined by the Secretary of Housing and Urban Development to be appropriate after consultation with representatives of the interests of the residents of colonias.

(b) ELIGIBLE ACTIVITIES.—Assistance distributed pursuant to this section may be used only to carry out the following activities:

(1) PLANNING.—Payment of the cost of planning community development (including water and sewage facilities) and housing activities, including the cost of—

(A) the provision of information and technical assistance to residents of the area in which the activities are to be concentrated and to appropriate nonprofit organizations and public agencies acting on behalf of the residents; and

(B) preliminary surveys and analyses of market needs, preliminary site engineering

and architectural services, site options, applications, mortgage commitments, legal services, and obtaining construction loans.

(2) ASSESSMENTS FOR PUBLIC IMPROVEMENTS.—The payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

(c) DISTRIBUTION OF ASSISTANCE.—Assistance shall be made available pursuant to this section in accordance with a distribution plan that gives priority to colonias having the greatest need for such assistance.

(d) APPLICABLE LAW.—Except to the extent inconsistent with this section, assistance provided pursuant to this section shall be subject to the provisions of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(e) DEFINITIONS.—For purposes of this section:

(1) COLONIA.—The term "colonia" means any identifiable community that—

(A) is in the State of Arizona, California, New Mexico, or Texas;

(B) is in the United States-Mexico border region;

(C) is designated by the State or county in which it is located as a colonia;

(D) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(E) was in existence and generally recognized as a colonia before the date of the enactment of this Act.

(2) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(3) PERSONS OF LOW AND MODERATE INCOME.—The term "persons of low and moderate income" has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

(4) UNITED STATES-MEXICO BORDER REGION.—The term "United States-Mexico border region" means the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000.

(f) APPLICABILITY.—This Act shall apply only with respect to fiscal years 1991, 1992, and 1993.

SEC. 917. NEIGHBORHOOD REINVESTMENT CORPORATION.

(a) FINDINGS.—The Congress finds that—

(1) protecting the existing stock of unsubsidized privately held lower income housing through the rehabilitation and revitalization of declining neighborhoods is essential to a national housing policy that seeks to increase the availability of affordable housing for low and moderate-income families;

(2) the Neighborhood Reinvestment Corporation, the anchor of the national neighborhood housing services network, was chartered by Congress more than 10 years ago to revitalize neighborhoods for the benefit of current residents by mobilizing public, private, and community resources at the neighborhood level;

(3) the national neighborhood housing services network has proven its worth as a successful cost-effective program relying largely on local initiative for the specific design of local programs;

(4) the national neighborhood housing services network has had more than 10 years of experience in revitalizing declining neighborhoods, creating housing for low and moderate-income families, and equipping residents with skills and resources required to maintain safe and healthy communities; and

(5) expanding upon the existing capabilities, resources, and potential of the national neighborhood housing services network is a cost-effective response to the affordable housing and neighborhood revitalization needs confronting the Nation, and is a strong preventive measure in addressing the national tragedy of homelessness.

(b) PURPOSE.—It is the purpose of this section to authorize appropriations for the Neighborhood Reinvestment Corporation for fiscal years 1991 and 1992 to permit the corporation—

(1) to carefully expand the capacities of the national neighborhood housing services network;

(2) to begin to meet the urgent need for neighborhood housing services and mutual housing associations in neighborhoods across the Nation as the effort to preserve affordable housing for low and moderate-income American families increases;

(3) to increase and provide ongoing technical and capacity development assistance to neighborhood housing services and related public-private partnership-based nonprofit institutions involved in the revitalization of neighborhoods for the benefit of current residents, rehabilitation, preservation of existing housing stock, and production of additional housing opportunities for low and moderate-income families;

(4) to expand the loan purchase capacity of the national neighborhood housing services secondary market, operated by Neighborhood Housing Services of America, for loans made by neighborhood housing services to residents who are unable to meet conventional lending standards, and other loans for community development purposes;

(5) to provide increased capacity development and matching grants to preserve existing privately held unsubsidized rental housing affordable to low and moderate-income households and to create flexible strategies effective in the diverse economic and geographic environments of the Nation;

(6) to make grants to provide incentives to extend low-income housing use in connection with properties subject to prepayment pursuant to the Low-Income Housing Preservation and Resident Ownership Act of 1990;

(7) to increase the resources available to neighborhood housing services network programs for the purchase of multifamily and single-family properties owned by the Secretary of Housing and Urban Development for rehabilitation (if necessary) and sale to low- and moderate-income families;

(8) to expand the national mutual housing association demonstration by providing technical assistance and matching grants to assist low- and moderate-income families to participate in such associations;

(9) to increase resources available to neighborhood housing services network programs for foreclosure intervention and prevention; and

(10) to create additional neighborhood housing services partnership organizations to serve rural communities, Native Americans, Native Hawaiians, and other communities in need.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 608(a) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)) is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the corporation to carry out this title $35,000,000 for fiscal year 1991 and $36,500,000 for fiscal year 1992. Not more than 15 percent of any amount appropriated under this paragraph for any fiscal year may be used for administrative expenses.

"(2) Of the amount appropriated pursuant to this subsection for each of the fiscal years 1991 and 1992, amounts appropriated in excess of the amount necessary to continue existing services of the Neighborhood Reinvestment Corporation in revitalizing declining neighborhoods shall be available—

"(A) to expand the national neighborhood housing services network and to assist network capacity development, including expansion of rental housing resources;

"(B) to expand the loan purchase capacity of the national neighborhood housing services secondary market operated by Neighborhood Housing Services of America;

"(C) to make grants to provide incentives to extend low-income housing use in connection with properties subject to prepayment pursuant to the Low-Income Housing Preservation and Resident Ownership Act of 1990;

"(D) to increase the resources available to the national neighborhood housing services network programs for the purchase of multifamily and single-family properties owned by the Secretary of Housing and Urban Development for rehabilitation (if necessary) and sale to low- and moderate-income families; and

"(E) to provide matching capital grants, operating subsidies, and technical services to mutual housing associations for the development, acquisition, and rehabilitation of multifamily and single-family properties (including properties owned by the Secretary of Housing and Urban Development) to ensure affordability by low- and moderate-income families.".

SEC. 918. USE OF URBAN RENEWAL LAND DISPOSITION PROCEEDS AND CERTAIN OTHER COMMUNITY DEVELOPMENT AND PUBLIC FACILITY FUNDS.

(a) LUZERNE COUNTY, PENNSYLVANIA.—Notwithstanding any other provision of law or other requirement, the city of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort, all in the county of Luzerne and in the State of Pennsylvania, are authorized to retain any categorical settlement grant funds or urban renewal grant funds that remain after the financial closeout of the Lower Broadway Disaster Urban Renewal Project (No. B-79-UR-42-0001) in the city of Nanticoke, the Plymouth Disaster Urban Renewal Project (No. PA-R-617 and No. B-79-UR-42-0007) in the borough of Plymouth, and the Forty Fort Disaster Urban Renewal Project (No. PA-R-613 and No. B-79-UR-42-0003) in the borough of Forty Fort, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Nanticoke, the borough of Plymouth, and the borough of Forty Fort shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(b) VALLEJO, CALIFORNIA.—Notwithstanding any other provision of law or other requirement, the city of Vallejo, California, is authorized to retain any land disposition proceeds or urban renewal grant funds that

remain after the financial closeout of the Marina Vista Urban Renewal Project, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Vallejo shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(c) NEW HAVEN, CONNECTICUT.—Notwithstanding any other provision of law or other requirement, the city of New Haven, Connecticut, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Church Street Urban Renewal Project (No. Conn. R-2), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of New Haven shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(d) LEBANON, PENNSYLVANIA.—Notwithstanding any other provision of law or other requirement, the city of Lebanon, Pennsylvania, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Southside Urban Renewal Project (No. R-635(C)), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Lebanon shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(e) EAST STROUDSBURG, PENNSYLVANIA.—Notwithstanding any other provision of law or other requirement, the Borough of East Stroudsburg, Pennsylvania, is authorized to retain any land disposition proceeds from the financial closeout of the Courtland Plaza Urban Renewal Project (No. PA-R-352) not paid to the Department of Housing and Urban Development, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The Borough of East Stroudsburg shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such proceeds, including any interest.

(f) FAIRMOUNT HEIGHTS, MARYLAND.—Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development shall cancel the indebtedness of the Town of Fairmount Heights, Maryland, relating to the public facilities loan (project number MD-18-PFL003) issued July 1, 1969, under title II of the Housing Amendments of 1965. The Town of Fairmount Heights is relieved of all liability to the Federal Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

(g) NEWBURYPORT, LAWRENCE, AND MALDEN, MASSACHUSETTS.—Notwithstanding any other provision of law or other requirement, the cities of Newburyport, Lawrence, and Malden, all in Massachusetts, are authorized to retain any categorical settlement grant funds or urban renewal grant funds that remain after the financial closeout of the Central Business Urban Renewal Project (No. MASS-R-80) in the city of Newburyport, the Theatre Row Redevelopment Project (No. MASS-R-61) in the city of Lawrence, and the Civic Center Urban Renewal Project (No. MASS-R-118) in the city of Malden, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The cities of Newburyport, Lawrence, and Malden shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(h) BUDGET COMPLIANCE.—This section shall be effective only to the extent provided in appropriations Acts.

SEC. 919. STUDY REGARDING AVAILABILITY OF HOUSING PROXIMATE TO PLACES OF EMPLOYMENT.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study regarding the availability of housing within reasonable proximity of places of employment. The study shall—

(1) identify causes of, and factors relating to, the geographic divergence of available housing for low- and moderate-income families from places of employment for working members of such families; and

(2) propose methods for preventing such divergence and for providing housing within reasonable proximity of places of employment, without promoting establishment of cottage industries or housing developments for employees owned or controlled by the employer.

(b) STUDY REQUIREMENTS.—In carrying out the study under this section the Secretary of Housing and Urban Development shall—

(1) use, to the extent available and practicable, existing regional plans and strategies developed or implemented by public, private, and nonprofit environmental organizations and regulatory entities;

(2) select and analyze one particular region of the Nation or one State in which employment opportunities are available, relative to the remainder of the Nation, but for which lack of available housing is an acute problem; and

(3) give priority to analysis of regions and metropolitan areas not complying with Federal laws and regulations relating to clean air standards.

(c) REPORT.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results and conclusions of the study conducted under this section. The report shall also contain proposed strategies for adoption by local, regional, and State governmental agencies, in consultation with nonprofit organizations, to increase the availability of housing for low- and moderate-income families within reasonable proximity of places of employment for working members of such families and prevent the geographical divergence of such housing and places of employment.

SEC. 920. ALLOCATION OF FUNDS UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.

The Secretary of Housing and Urban Development shall, not later than July 1, 1991, report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives with respect to the adequacy, effectiveness, and equity of the formula used for allocations of funds under title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the structure of the formulas, the eligibility criteria, the formula factors, and the weights that are assigned to the formula factors. The study should specifically examine the appropriateness of using the age of housing as a factor and also consider quality of housing as an additional factor and the desirability of including at an equal or greater weight the age of housing and the quality of housing. Based on the Secretary's analysis, the Secretary shall submit a new formula for the allocation of funds if the Secretary determines that the study indicates that a new formula is required to meet the purposes of title I of the Housing and Community Development Act of 1974. The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall hold hearings on the Secretary's recommendations not later than 60 days after receipt of the report. The study shall be completed using the data derived from the 1990 census.

SEC. 921. STUDY ON TURNING DRUG ZONES INTO OPPORTUNITY ZONES.

Within 90 days from the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study and report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, on ways in which areas ravaged by drug trade, drug related crime and drug abuse may be made more attractive as investment locations for companies, including the provision of special incentives to encourage companies to invest in these areas, in order to provide economic opportunity within communities to the residents of these communities.

SEC. 922. COMMUNITY DEVELOPMENT PLANS.

Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by adding at the end the following new subsection:

"(l) COMMUNITY DEVELOPMENT PLANS.—

"(1) IN GENERAL.—Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (b), (d)(1), or (d)(2)(B) of section 106, each recipient shall have prepared and submitted in accordance with this subsection and in such standardized form as the Secretary shall, by regulation, prescribe a description of its nonhousing community development needs and strategies for meeting those needs.

"(2) LOCAL GOVERNMENTS.—In the case of a recipient that is a unit of general local government—

"(A) prior to the submission required by paragraph (1), the recipient shall consult with adjacent units of general local government and hold one or more public hearings to obtain the views of citizens on community development needs; and

"(B) the description required under paragraph (1) shall be submitted to the Secretary,

the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by regulation, prescribe.

"(3) STATES.—In the case of a recipient that is a State, the description required in paragraph (1)—

"(A) shall include only the needs and strategies to meet those needs within the State that affect more than one unit of general local government;

"(B) shall include the needs and strategies to meet those needs of units of local government within the State which are eligible for a distribution under subsection (d)(2)(A) of section 106; and

"(C) shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe.

"(4) EFFECT OF SUBMISSION.—A submission under this subsection shall not be binding with respect to the use or distribution of amounts received under section 106.".

Subtitle B—Disaster Relief

SEC. 931. SECTION 8 CERTIFICATES AND VOUCHERS.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the certificate and voucher programs under sections 8 (b) and (o) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amounts as may be necessary to provide assistance under such programs for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SEC. 932. MODERATE REHABILITATION.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the moderate rehabilitation program under section 8(e)(2) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amount as may be necessary to provide assistance under such program for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SEC. 933. COMMUNITY DEVELOPMENT.

Section 106(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended—

(1) in paragraph (1), by striking "paragraph (2)," and inserting "paragraphs (2) and (4),"; and

(2) by adding at the end the following new paragraph:

"(4)(A) Notwithstanding paragraph (1), in the event of a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall make available, to metropolitan cities and urban counties located or partially located in the areas affected by the disaster, any amounts that become available as a result of actions under section 104(e) or 111.

"(B) In using any amounts that become available as a result of actions under section 104(e) or 111, the Secretary shall give priority to providing emergency assistance under this paragraph.

"(C) The Secretary may provide assistance to any metropolitan city or urban county under this paragraph only to the extent necessary to meet emergency community development needs, as the Secretary shall determine (subject to subparagraph (D)), of the city or county resulting from the disaster that are not met with amounts otherwise provided under this title, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and other sources of assistance.

"(D) Amounts provided to metropolitan cities and urban counties under this paragraph may be used only for eligible activities under section 105, and in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(E) The Secretary shall provide for applications (or amended applications and statements under section 104) for assistance under this paragraph.

"(F) A metropolitan city or urban county eligible for assistance under this paragraph may receive such assistance only in each of the fiscal years ending during the 3-year period beginning on the date of the declaration of the disaster by the President.

"(G) This paragraph may not be construed to require the Secretary to reserve any amounts that become available as a result of actions under section 104(e) or 111 for assistance under this paragraph if, when such amounts are to be reallocated under paragraph (1), no metropolitan city or urban county qualifies for assistance under this paragraph.".

SEC. 934. RURAL HOUSING.

Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

"DISASTER ASSISTANCE

"SEC. 541. (a) AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, in the event of a natural disaster, so declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall allocate, for assistance under this section to the States affected for use in the counties designated as disaster areas and the counties contiguous to such counties, amounts available under this title. Allocations under this section may be made for each of the fiscal years ending during the 3-year period beginning on the declaration of the disaster by the President.

"(2) AMOUNT.—Subject to the availability of amounts pursuant to appropriations Acts, assistance under paragraph (1) shall be made in an amount equal to the product of—

"(A) the sum of the official State estimate of the number of dwelling units in the counties described in paragraph (1) within the eligible service area of the Farmers Home Administration (or otherwise if the Secretary provides for a waiver under subsection (d)) that are destroyed or seriously damaged; and

"(B) 20 percent of the average cost of all dwelling units assisted by the Secretary in the State during the previous 3 years.

"(b) USE.—The assistance made available under this section may be used for the housing purposes authorized under this title, and the Secretary shall issue such regulations as may be necessary to carry out this section to assure the prompt and expeditious use of such funds for the restoration of decent, safe, and sanitary housing within the areas described in subsection (a)(1). In implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(c) ELIGIBILITY.—Notwithstanding any other provision of this title, assistance allocated under this section shall be available to units of general local government and their agencies and to local nonprofit organizations, agencies, and corporations for the construction or rehabilitation of housing for agricultural employees and their families.

"(d) WAIVER OF RURAL AREA REQUIREMENTS.—The Secretary may waive the application of the provisions of section 520 with respect to assistance under this section, as the Secretary considers appropriate.

"(e) RURAL HOUSING INSURANCE FUND.—The Secretary is authorized to advance from the Rural Housing Insurance Fund such sums as may be necessary to meet the requirements of subsection (a)(1), subject to limits previously approved in appropriations Acts.".

Subtitle C—Regulatory Programs

SEC. 941. MORTGAGE SERVICING TRANSFER DISCLOSURE.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 5 the following new section:

"SERVICING OF MORTGAGE LOANS AND ADMINISTRATION OF ESCROW ACCOUNTS

"SEC. 6. (a) DISCLOSURE TO APPLICANT RELATING TO ASSIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.—

"(1) IN GENERAL.—Each person who makes a federally related mortgage loan shall disclose to each person who applies for any such loan, at the time of application for the loan—

"(A) whether the servicing of any such loan may be assigned, sold, or transferred to any other person at any time while such loan is outstanding;

"(B) for each of the most recent 3 calendar years completed (at the time of such application), the percentage (rounded to the nearest quartile) of loans made by such person for which the servicing has been assigned, sold, or transferred as of the end of the most recent calendar year completed, except that—

"(i) for any loan application during the 12-month period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the information disclosed under this subparagraph may be for only the most recent calendar year completed, and for any loan application during the 12-month period beginning 1 year after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the information disclosed under this subparagraph may be for the most recent 2 calendar years completed; and

"(ii) this subparagraph may not be construed to require the inclusion, in the percentage disclosed, of any loans the servicing of which has been assigned, sold, or transferred by the person making the loan to a transferee servicer that is an affiliate or subsidiary of such person; and

"(C) if the person who makes the loan does not engage in the servicing of any federally related mortgage loans, that there is a present intent on the part of such person (at

the time of such application) to assign, sell, or transfer the servicing of such loan to another person.

"(2) MODEL DISCLOSURE STATEMENTS.—Not later than 90 days after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall develop a model disclosure statement for notification to applicants under paragraph (1) with respect to servicing procedures, transfer practices and requirements, and complaint resolution. The model statement shall provide for the person originating the loan to disclose their capacity to service loans and the best available estimate of the percentage of all loans made by such person for which the servicing will be assigned, sold, or transferred during the 12-month period beginning upon the origination. The estimate shall be expressed as one of the following range of possibilities—between 0 and 25 percent, between 26 and 50 percent, between 51 and 75 percent, or between 76 and 100 percent. This paragraph may not be construed to require the inclusion, in the estimate disclosed, of any loans the servicing of which will be assigned, sold, or transferred by the person originating the loan to a transferee servicer that is an affiliate or subsidiary of such person.

"(3) SIGNATURE OF APPLICANT.—Any disclosure of the information required under paragraph (1) shall not be effective for purposes of this section unless the disclosure is accompanied by a written statement, in such form as the Secretary shall develop before the expiration of the 90-day period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, that the applicant has read and understood the disclosure and that is evidenced by the signature of the applicant at the place where such statement appears in the application.

"(b) NOTICE BY TRANSFEROR OF LOAN SERVICING AT TIME OF TRANSFER.—

"(1) NOTICE REQUIREMENT.—Each servicer of any federally related mortgage loan shall notify the borrower in writing of any assignment, sale, or transfer of the servicing of the loan to any other person.

"(2) TIME OF NOTICE.—

"(A) IN GENERAL.—Except as provided under subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not less than 15 days before the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

"(B) EXCEPTION FOR CERTAIN PROCEEDINGS.—The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause;

"(ii) commencement of proceedings for bankruptcy of the servicer; or

"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(C) EXCEPTION FOR NOTICE PROVIDED AT CLOSING.—The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

"(3) CONTENTS OF NOTICE.—The notice required under paragraph (1) shall include the following information:

"(A) The effective date of transfer of the servicing described in such paragraph.

"(B) The name, address, and toll-free or collect call telephone number of the transferee servicer.

"(C) A toll-free or collect call telephone number for (i) an individual employed by the transferor servicer, or (ii) the department of the transferor servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

"(D) The name and toll-free or collect call telephone number for (i) an individual employed by the transferee servicer, or (ii) the department of the transferee servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

"(E) The date on which the transferor servicer who is servicing the mortgage loan before the assignment, sale, or transfer will cease to accept payments relating to the loan and the date on which the transferee servicer will begin to accept such payments.

"(F) Any information concerning the effect the transfer may have, if any, on the terms of or the continued availability of mortgage life or disability insurance or any other type of optional insurance and what action, if any, the borrower must take to maintain coverage.

"(G) A statement that the assignment, sale, or transfer of the servicing of the mortgage loan does not affect any term or condition of the security instruments other than terms directly related to the servicing of such loan.

"(c) NOTICE BY TRANSFEREE OF LOAN SERVICING AT TIME OF TRANSFER.—

"(1) NOTICE REQUIREMENT.—Each transferee servicer to whom the servicing of any federally related mortgage loan is assigned, sold, or transferred shall notify the borrower of any such assignment, sale, or transfer.

"(2) TIME OF NOTICE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not more than 15 days after the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

"(B) EXCEPTION FOR CERTAIN PROCEEDINGS.—The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause;

"(ii) commencement of proceedings for bankruptcy of the servicer; or

"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(C) EXCEPTION FOR NOTICE PROVIDED AT CLOSING.—The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

"(3) CONTENTS OF NOTICE.—Any notice required under paragraph (1) shall include the information described in subsection (b)(3).

"(d) TREATMENT OF LOAN PAYMENTS DURING TRANSFER PERIOD.—During the 60-day period beginning on the effective date of transfer of the servicing of any federally related mortgage loan, a late fee may not be imposed on the borrower with respect to any payment on such loan and no such payment may be treated as late for any other purposes, if the payment is received by the transferor servicer (rather than the transferee servicer who should properly receive payment) before the due date applicable to such payment.

"(e) DUTY OF LOAN SERVICER TO RESPOND TO BORROWER INQUIRIES.—

"(1) NOTICE OF RECEIPT OF INQUIRY.—

"(A) IN GENERAL.—If any servicer of a federally related mortgage loan receives a qualified written request from the borrower (or an agent of the borrower) for information relating to the servicing of such loan, the servicer shall provide a written response acknowledging receipt of the correspondence within 20 days (excluding legal public holidays, Saturdays, and Sundays) unless the action requested is taken within such period.

"(B) QUALIFIED WRITTEN REQUEST.—For purposes of this subsection, a qualified written request shall be a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, that—

"(i) includes, or otherwise enables the servicer to identify, the name and account of the borrower; and

"(ii) includes a statement of the reasons for the belief of the borrower, to the extent applicable, that the account is in error or provides sufficient detail to the servicer regarding other information sought by the borrower.

"(2) ACTION WITH RESPECT TO INQUIRY.—Not later than 60 days (excluding legal public holidays, Saturdays, and Sundays) after the receipt from any borrower of any qualified written request under paragraph (1) and, if applicable, before taking any action with respect to the inquiry of the borrower, the servicer shall—

"(A) make appropriate corrections in the account of the borrower, including the crediting of any late charges or penalties, and transmit to the borrower a written notification of such correction (which shall include the name and telephone number of a representative of the servicer who can provide assistance to the borrower);

"(B) after conducting an investigation, provide the borrower with a written explanationor clarification that includes—

"(i) to the extent applicable, a statement of the reasons for which the servicer believes the account of the borrower is correct as determined by the servicer; and

"(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower; or

"(C) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

"(i) information requested by the borrower or an explanation of why the information requested is unavailable or cannot be obtained by the servicer; and

"(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower.

"(3) PROTECTION OF CREDIT RATING.—During the 60-day period beginning on the date of the servicer's receipt from any borrower of a qualified written request relating to a dispute regarding the borrower's payments, a servicer may not provide information regarding any overdue payment, owed by such borrower and relating to such period or qualified written request, to any consumer reporting agency (as such term is defined under section 603 of the Fair Credit Reporting Act).

"(f) DAMAGES AND COSTS.—Whoever fails to comply with any provision of this section shall be liable to the borrower for each such failure in the following amounts:

"(1) INDIVIDUALS.—In the case of any action by an individual, an amount equal to the sum of—

"(A) any actual damages to the borrower as a result of the failure; and

"(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not to exceed $1,000.

"(2) CLASS ACTIONS.—In the case of a class action, an amount equal to the sum of—

"(A) any actual damages to each of the borrowers in the class as a result of the failure; and

"(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not greater than $1,000 for each member of the class, except that the total amount of damages under this subparagraph in any class action may not exceed the lesser of—

"(i) $500,000; or

"(ii) 1 percent of the net worth of the servicer.

"(3) COSTS.—In addition to the amounts under paragraph (1) or (2), in the case of any successful action under this section, the costs of the action, together with any attorneys fees incurred in connection with such action as the court may determine to be reasonable under the circumstances.

"(4) NONLIABILITY.—A transferor or transferee servicer shall not be liable under this subsection for any failure to comply with any requirement under this section if, within 60 days after discovering an error (whether pursuant to a final written examination report or the servicer's own procedures) and before the commencement of an action under this subsection and the receipt of written notice of the error from the borrower, the servicer notifies the person concerned of the error and makes whatever adjustments are necessary in the appropriate account to ensure that the person will not be required to pay an amount in excess of any amount that the person otherwise would have paid.

"(g) ADMINISTRATION OF ESCROW ACCOUNTS.—If the terms of any federally related mortgage loan require the borrower to make payments to the servicer of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall make payments from the escrow account for such taxes, insurance premiums, and other charges in a timely manner as such payments become due.

"(h) PREEMPTION OF CONFLICTING STATE LAWS.—Notwithstanding any provision of any law or regulation of any State, a person who makes a federally related mortgage loan or a servicer shall be considered to have complied with the provisions of any such State law or regulation requiring notice to a borrower at the time of application for a loan or transfer of the servicing of a loan if such person or servicer complies with the requirements under this section regarding timing, content, and procedures for notification of the borrower.

"(i) DEFINITIONS.—For purposes of this section:

"(1) EFFECTIVE DATE OF TRANSFER.—The term 'effective date of transfer' means the date on which the mortgage payment of a borrower is first due to the transferee servicer of a mortgage loan pursuant to the assignment, sale, or transfer of the servicing of the mortgage loan.

"(2) SERVICER.—The term 'servicer' means the person responsible for servicing of a loan (including the person who makes or holds a loan if such person also services the loan). The term does not include—

"(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, in connection with assets acquired, assigned, sold, or transferred pursuant to section 13(c) of the Federal Deposit Insurance Act or as receiver or conservator of an insured depository institution; and

"(B) the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation, in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause;

"(ii) commencement of proceedings for bankruptcy of the servicer; or

"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(3) SERVICING.—The term 'servicing' means receiving any scheduled periodic payments from a borrower pursuant to the terms of any loan, including amounts for escrow accounts described in section 10, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.".

SEC. 942. MORTGAGE ESCROW ACCOUNTS.

(a) IN GENERAL.—Section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609) is amended—

(1) by inserting "(a) IN GENERAL.—" after the section designation; and

(2) by adding at the end the following new subsections:

"(b) NOTIFICATION OF SHORTAGE IN ESCROW ACCOUNT.—If the terms of any federally related mortgage loan require the borrower to make payments to the servicer (as the term is defined in section 6(i)) of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall notify the borrower not less than annually of any shortage of funds in the escrow account.

"(c) ESCROW ACCOUNT STATEMENTS.—

"(1) INITIAL STATEMENT.—

"(A) IN GENERAL.—Any servicer that has established an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established a statement clearly itemizing the estimated taxes, insurance premiums, and other charges that are reasonably anticipated to be paid from the escrow account during the first 12 months after the establishment of the account and the anticipated dates of such payments.

"(B) TIME OF SUBMISSION.—The statement required under subparagraph (A) shall be submitted to the borrower at closing with respect to the property for which the mortgage loan is made or not later than the expiration of the 45-day period beginning on the date of the establishment of the escrow account.

"(C) INITIAL STATEMENT AT CLOSING.—Any servicer may submit the statement required under subparagraph (A) to the borrower at closing and may incorporate such statement in the uniform settlement statement required under section 4. Not later than the expiration of the 90-day period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall issue regulations prescribing any changes necessary to the uniform settlement statement under section 4 that specify how the statement required under subparagraph (A) of this section shall be incorporated in the uniform settlement statement.

"(2) ANNUAL STATEMENT.—

"(A) IN GENERAL.—Any servicer that has established or continued an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established or continued a statement clearly itemizing, for each period described in subparagraph (B) (during which the servicer services the escrow account), the amount of the borrower's current monthly payment, the portion of the monthly payment being placed in the escrow account, the total amount paid into the escrow account during the period, the total amount paid out of the escrow account during the period for taxes, insurance premiums, and other charges (as separately identified), and the balance in the escrow account at the conclusion of the period.

"(B) TIME OF SUBMISSION.—The statement required under subparagraph (A) shall be submitted to the borrower not less than once for each 12-month period, the first such period beginning on the first January 1st that occurs after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, and shall be submitted not more than 30 days after the conclusion of each such 1-year period.

"(d) PENALTIES.—

"(1) IN GENERAL.—In the case of each failure to submit a statement to a borrower as required under subsection (c), the Secretary shall assess to the lender or escrow servicer failing to submit the statement a civil penalty of $50 for each such failure, but the total amount imposed on such lender or escrow servicer for all such failures during any 12-month period referred to in subsection (b) may not exceed $100,000.

"(2) INTENTIONAL VIOLATIONS.—If any failure to which paragraph (1) applies is due to intentional disregard of the requirement to submit the statement, then, with respect to such failure—

"(A) the penalty imposed under paragraph (1) shall be $100; and

"(B) in the case of any penalty determined under subparagraph (A), the $100,000 limitation under paragraph (1) shall not apply.".

(b) PROHIBITION OF FEES FOR ESCROW ACCOUNT STATEMENTS.—Section 12 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2610) is amended—

(1) by inserting after the first comma the following: "or by a servicer (as the term is defined under section 6(i)),";

(2) by striking "lender" the second place it appears and inserting "lender or servicer";

(3) by striking "6" and inserting "10(c)"; and

(4) by striking the section heading and inserting the following new section heading:

"PROHIBITION OF FEES FOR PREPARATION OF TRUTH-IN-LENDING, UNIFORM SETTLEMENT, AND ESCROW ACCOUNT STATEMENTS".

SEC. 943. NATIONAL COMMISSION ON MANUFACTURED HOUSING.

(a) PURPOSE.—The purpose of this section is to establish a national commission to develop recommendations for modernizing the National Manufactured Housing Construction and Safety Standards Act of 1974.

(b) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the National Commission on Manufactured Housing (in this section referred to as the "Commission").

(c) COMPOSITION OF COMMISSION.—

(1) IN GENERAL.—The Commission shall consist of the Secretary and 16 members appointed, not later than 60 days after funds are provided as described in subsection (f) or made available from non-Federal sources, as follows:

(A) 8 members shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate (4 members by each); and

(B) 8 members shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives (4 members by each).

(2) APPOINTMENT CRITERIA.—The 8 members of the Commission appointed under each of subparagraphs (A) and (B) of paragraph (1) shall include—

(A) 2 individuals who are elected public officials at the State or local level;

(B) 2 individuals with knowledge and experience concerning the manufactured housing industry;

(C) 2 individuals chosen from organizations with more than a 2-year history of representing consumer or community interests on housing issues;

(D) 1 individual with knowledge and experience concerning the development and implementation of building codes; and

(E) 1 individual who occupies a manufactured home and is affiliated with an association representing manufactured home owners.

(3) CHAIRPERSON.—The Commission shall elect a chairperson from among members of the Commission.

(4) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(5) VOTING.—Each member of the Commission shall be entitled to 1 vote, and all votes shall be given equal weight.

(6) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(7) PROHIBITION ON ADDITIONAL PAY.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(d) FUNCTIONS OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall study and investigate the National Manufactured Housing Construction and Safety Standards Act of 1974 and current construction and safety regulatory standards applicable to manufactured housing. In conducting the study, the Commission shall—

(A) consult with the Secretary of Housing and Urban Development and other agencies and housing authorities at the Federal, State, and local level, consumer groups, manufactured housing industry representatives, and other interested parties to assess the effectiveness of the National Manufactured Housing Construction and Safety Standards Act of 1974;

(B) consider deletion of the reference to the permanent chassis in the existing definition of a manufactured home and the effect of such a change on the affordability and durability of manufactured homes;

(C) examine the implications for State regulatory jurisdiction over modular housing, in the event of changes in definitions and standards relating to manufactured housing;

(D) consider the need for additional and revised standards applicable to manufactured housing, including, but not limited to standards in the areas of construction, installation, thermal insulation, energy efficiency, and fire safety;

(E) review the current system of inspections of manufactured housing and enforcement of applicable standards and recommend improvements to the system;

(F) consider the need for independent financing of inspection agencies to insure the autonomy of regulators;

(G) evaluate the impact of the manufactured housing program under the title I of the National Housing Act on the actuarial soundness of Federal mortgage insurance and secondary market programs, and the impact that proposed changes to current law would have on financing of these homes; and

(H) develop an action plan containing specific recommendations for legislative and regulatory revisions to present law (taking into consideration the amendments contained in section 766 of the bill, H.R. 1180, 101st Congress, 2d Session, as passed by the House of Representatives) in order to modernize the National Manufactured Housing Construction and Safety Standards Act of 1974 and a system for reviewing and updating applicable standards on an annual basis.

(2) FINAL REPORT.—Not later than 9 months after the Commission is established pursuant to subsection (b), the Commission shall submit to the Secretary of Housing and Urban Development and to the Congress a final report which shall contain the information, evaluations, and recommendations specified in paragraph (1).

(e) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places as the Commission may find advisable.

(2) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(3) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) INFORMATION.—The Commission may secure directly from any department or agency of the United States such data and information as the Commission may require for the purpose of carrying out this section. Upon request of the Commission, any such department or agency shall furnish such data or information. The Commission may acquire data or information directly from such departments or agencies to the same extent the Secretary of Housing and Urban Development may acquire such data or information.

(B) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(C) PERSONNEL DETAILS.—Upon the request of the chairperson of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(5) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts necessary to carry out its duties under this section.

(6) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(f) AUTHORIZATION OF APPROPRIATIONS.—Of any amounts made available under section 501 of the Housing and Urban Development Act of 1970, not more than $500,000 shall be available to carry out this section in fiscal year 1991.

(g) SUNSET.—The Commission shall terminate upon the expiration of the 9 months following the appointment of all the members under subsection (c).

SEC. 944. ENERGY ASSESSMENT REPORT.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall submit a report to the Congress, not later than one year after the date of the enactment of this Act, assessing any activity undertaken by the Secretary to increase energy efficiency in housing. The report shall include an analysis of the August 15, 1990 DOE-HUD program to expand energy efficiency and increase affordability of federally-assisted housing.

(b) ESTABLISHMENT OF ENERGY EFFICIENCY STANDARD.—In the report submitted under this section, the Secretary of Housing and Urban Development (in consultation with the Secretary of Energy) shall establish, and include a description of, a standard measure by which changes over time in residential energy efficiency may be compared.

SEC. 945. 5-YEAR ENERGY EFFICIENCY PLAN.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under subsection (d) to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any energy assessments under section 944.

(b) INITIAL PLAN.—The Secretary of Housing and Urban Development shall establish the first plan under this section not later than the expiration of the 1-year period be-

ginning on the date of the enactment of this Act.

(c) UPDATES.—The Secretary of Housing and Urban Development shall revise and update the plan under this section not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under subsection (b) to the Congress (as provided in subsection (d)). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

(d) SUBMISSION TO CONGRESS.—The Secretary of Housing and Urban Development shall submit the initial plan established under subsection (b) and any updated plans under subsection (c) to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

SEC. 946. UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.

(a) UNIFORM PLAN.—The Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall promulgate a uniform plan to make housing more affordable through mortgage financing incentives for energy efficiency. The plan shall be promulgated not later than 2 years after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

(b) TASK FORCE.—To develop the plan, the Secretary shall form a task force to make recommendations on financing energy efficiency in private mortgages, through the policies of Federal agencies and federally chartered financial institutions, mortgage bankers, homebuilders, real estate brokers, private mortgage insurers, energy suppliers, and nonprofit housing and energy organizations. The task force shall include individuals representing the Federal Housing Administration mortgage programs of the Department of Housing and Urban Development, the Farmers Home Administration mortgage loan and insurance programs of Department of Agriculture, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association.

SEC. 947. REPORT ON SEISMIC SAFETY PROPERTY STANDARDS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall assess the risk of earthquake-related damage to properties assisted under programs administered by the Secretary and shall develop seismic safety standards for such properties. This section may not be construed to prohibit the Secretary from deferring to local building codes that meet the requirements of the seismic safety standards developed under this section.

(b) STANDARDS.—The standards shall be designed to reduce the risk of loss of life to building occupants to the maximum extent feasible and to reduce the risk of shake-related property damage to the maximum extent practicable.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Director of the Federal Emergency Management Agency and may utilize the resources under the National Earthquake Hazards Reduction Program (established under the Earthquake Hazards Reduction Act of 1977) and any other resources as may be required to carry out the activities under this section.

(d) REPORTS.—

(1) SUBMISSION AND CONTENTS.—The Secretary shall submit a report to the Congress, not less than biennially, containing a statement of the findings of the risk assessment study conducted under this section, including risk assessment of properties located in seismic risk zones and a compilation of the standards developed pursuant to this section. The report shall also include a statement of the activities undertaken by the Secretary to carry out this section and the amount and sources of any funds expended by the Secretary for such purposes. The report shall also include a statement of the activities undertaken by the Secretary to carry out the requirements of Executive Order No. 12699 (January 5, 1990) and the amount and sources of any funds expended by the Secretary for such purposes.

(2) INITIAL SUBMISSION.—The first report required under this subsection shall be submitted not later than the expiration of the 18-month period beginning on the date of the enactment of this Act.

Subtitle D—Miscellaneous Programs

SEC. 951. HUD RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The second sentence of section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1) is amended to read as follows: "There are authorized to be appropriated to carry out this title $21,200,000 for fiscal year 1991 and $22,100,000 for fiscal year 1992. From any amounts appropriated under this section for fiscal year 1991, the Secretary shall use not more than $500,000 to carry out a demonstration project to test affordable housing technologies, and shall include in the annual report under section 8 of the Department of Housing and Urban Development Act (for the appropriate year) a statement of the activities under the demonstration program and findings resulting from the program. The statement shall set forth the amount and use of funds expended by the Secretary under the program for the year relating the report and the Secretary shall include such a statement in each such annual report for each year that amounts appropriated under this section are used under the demonstration.".

(b) REPORT REGARDING RESEARCH ACTIVITIES.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report listing and describing the various research activities, studies, testing, and demonstration programs relating to the mission and programs of the Department of Housing and Urban Development that are being conducted, have concluded, or will conclude during such period, pursuant to section 501 of the Housing and Urban Development Act of 1970, title V of such Act, or any other authority. The report shall include a statement identifying the individual or entity that is conducting each such activity, study, test, and demonstration program.".

SEC. 952. NATIONAL INSTITUTE OF BUILDING SCIENCES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 809(h) of the Housing and Community Development Act of 1974 (12 U.S.C. 1701j-2) is amended by striking the second sentence and inserting the following new sentence: "In addition to the amounts authorized to be appropriated under the first sentence of this section, there are authorized to be appropriated to the Institute to carry out the provisions of this section not to exceed $512,000 for fiscal year 1991 and $534,000 for fiscal year 1992.".

(b) ADVANCED BUILDING TECHNOLOGY PROGRAM.—Section 809 of the National Housing Act (12 U.S.C. 1701j-2) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following new subsection:

"(h) ADVANCED BUILDING TECHNOLOGY PROGRAM.—

"(1) ESTABLISHMENT OF ADVANCED BUILDING TECHNOLOGY COUNCIL.—There is established within the Institute, the Advanced Building Technology Council (hereafter referred to as the 'Council').

"(2) PURPOSES.—The Council shall carry out an Advanced Building Technology Program for the purposes of—

"(A) identifying, selecting, and evaluating existing and new building technologies, including energy cost savings technologies, that conform to recognized performance criteria and meet applicable test standards for maintenance of life, safety, health, and public welfare when used in occupied buildings;

"(B) to the extent necessary, developing criteria for the use of such technology;

"(C) conducting economic analyses of proposed new technologies when produced and installed in buildings at volumes associated with comparable conventional technologies;

"(D) in cooperation with the appropriate Federal agencies, advising building designers, installers, subcontractors, contractors and supervisory officials on the appropriate design and use of new building technology incorporated in federally owned or operated buildings;

"(E) in cooperation with the appropriate Federal agencies, monitoring and evaluating the performance of new building technologies for at least 1 year after installation and building occupancy; and

"(F) disseminating resulting data to affected parties through automated information management systems.

"(3) COUNCIL MEMBERSHIP.—The Council shall be comprised of not less than 6 and not more than 11 members selected by the Secretary of Housing and Urban Development from among representatives of the various segments of the nationwide building community that have extensive experience in building industries, including, but not limited to—

"(A) product manufacturers;

"(B) experts in the fields of health, fire hazards, and safety; and

"(C) independent representatives of the public interest such as architects, professional engineers, and representatives of consumer organizations,

except that serving members of the National Institute of Building Sciences Advisory Council shall not be eligible to serve simultaneously on the Council.

"(4) FEDERAL PARTICIPATION.—

"(A) IN GENERAL.—Any agency of the Federal Government involved in any building or construction may participate in the Advanced Building Technology Program with the Council to develop and implement programs to incorporate one or more of the recommended new technologies in a new or existing building within the agency.

"(B) REQUIRED ASSURANCES.—Upon agreement between a participating Federal agency and the Council, with respect to the selection of the appropriate technology and the schedule of necessary work, the Council shall—

"(i) provide the Federal agency with a 5-year guarantee from the technology manufacturer that—

"(I) all necessary corrections to the technology will be made in the design, installation, and maintenance of the technology;

"(II) all malfunctions will be repaired without delay; and

"(III) the technology manufacturer will be responsible for removal of the technology in the event of its failure to perform as required,

"(ii) provide the Federal agency and its officials responsible for constructing or renovating buildings utilizing the new technology, as well as the designers, installers, subcontractors, and contractors responsible for the design, construction, or renovation of the buildings utilizing such technology with the technical information necessary to ensure its most appropriate use,

"(iii) in cooperation with the Federal agency, monitor and evaluate the performance of the new technology, and

"(iv) prepare reports to be made available to public agencies at all levels of government, the industry, and the public on the performance of the new technology.

"(5) REPORT TO THE INSTITUTE.—The Council shall submit to the Institute annually a description of its activities under the Advanced Building Technology Program for inclusion in the Institute's annual report to the Congress under subsection (j).".

SEC. 953. FAIR HOUSING INITIATIVES PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 561(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, $6,000,000 for fiscal year 1991 and $6,300,000 for fiscal year 1992, of which not more than $3,000,000 in each year shall be for the private enforcement initiative demonstration.".

(b) EXTENSION OF PROGRAM.—Section 561(e) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended by striking "September 30, 1989" and inserting "September 30, 1992".

SEC. 954. COLLECTION AND MAINTENANCE OF DATA REGARDING PROGRAMS UNDER HUD.

(a) PROGRAM EVALUATION AND MONITORING.—Section 7(r) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)) is amended—

(1) in paragraph (1), by striking the periods at the end of the first and last sentences and inserting in each place the following: "and collecting and maintaining data for such purposes.";

(2) in paragraph (2)—

(A) in subparagraph (I), by striking "and" at the end;

(B) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) titles II, III, and IV and section 811 of the Cranston-Gonzalez National Affordable Housing Act.";

(3) in paragraph (3)—

(A) by inserting after the comma the following: "and collecting and maintaining data pursuant to the authority under this subsection,"; and

(B) by striking the period at the end and inserting the following: "and collecting and maintaining data for such purposes."; and

(4) in paragraph (4)—

(A) in subparagraph (A), by inserting after "subsection" the following: "and collecting and maintaining data for such purposes"; and

(B) in subparagraph (B), by inserting after "paragraph (2)" the following: "and to collect and maintain data for such purposes".

(b) ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING.—Section 166 of the Housing and Community Development Act of 1987 (42 U.S.C. 3536 note) is amended by adding at the end the following new subsection:

"(c) COLLECTION AND MAINTENANCE OF DATA.—The Secretary shall collect and maintain data necessary to carry out the purposes of this section and shall coordinate such efforts, to the greatest extent possible, with activities and responsibilities under section 8 of the Department of Housing and Urban Development Act.".

SEC. 955. EXEMPTION FROM DAVIS-BACON ACT REQUIREMENTS OF VOLUNTEERS UNDER HOUSING PROGRAMS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT.—Section 110 of the Housing and Community Development Act of 1974 (42 U.S.C. 5310) is amended—

(1) by inserting "(a)" after "SEC. 110."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a) shall not apply to any individual that—

"(1) performs services for which the individual volunteered;

"(2)(A) does not receive compensation for such services; or

"(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(3) is not otherwise employed at any time in the construction work.".

(b) PUBLIC HOUSING AND SECTION 8 ASSISTANCE.—Section 12 of the United States Housing Act of 1937 (42 U.S.C. 1437j) is amended—

(1) by inserting "(a)" after "SEC. 12."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a) and the provisions relating to wages (pursuant to subsection (a)) in any contract for loans, annual contributions, sale, or lease pursuant to this Act, shall not apply to any individual that—

"(1) performs services for which the individual volunteered;

"(2)(A) does not receive compensation for such services; or

"(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(3) is not otherwise employed at any time in the construction work.".

(c) ELDERLY AND HANDICAPPED HOUSING.—Section 202(c)(3) of the Housing Act of 1959 (12 U.S.C. 1701q(c)(3)) is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by striking "; but the Secretary" and all that follows and inserting a period; and

(3) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply to any individual that—

"(i) performs services for which the individual volunteered;

"(ii)(I) does not receive compensation for such services; or

"(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(iii) is not otherwise employed at any time in the construction work.".

(d) APPLICABILITY.—The amendments made by this section shall apply to any volunteer services provided before, on, or after the date of the enactment of this Act, except that such amendments may not be construed to require the repayment of any wages paid before the date of the enactment of this Act for services provided before such date.

SEC. 956. ELIGIBILITY UNDER FIRST-TIME HOMEBUYER PROGRAMS.

(a) ELIGIBILITY OF DISPLACED HOMEMAKERS AND SINGLE PARENTS FOR FEDERAL ASSISTANCE FOR FIRST-TIME HOMEBUYERS.—

(1) DISPLACED HOMEMAKERS.—No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

(2) SINGLE PARENTS.—No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(b) DEFINITIONS.—For purposes of this section:

(1) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

(3) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(c) APPLICABILITY.—This section shall apply to any Federal program to assist first-time homebuyers, unless the program is exempted from this section by a statute that amends this subsection or explicitly refers to this subsection.

SEC. 957. MAXIMUM ANNUAL LIMITATION ON RENT INCREASES RESULTING FROM EMPLOYMENT.

(a) IN GENERAL.—Notwithstanding any other law and subject to approval in appropriations Acts, the rent charged for any dwelling unit assisted under any housing assistance program administered by the Secretary of Housing and Urban Development, to a family whose monthly adjusted income increases as a result of the employment of a member of the family who was previously unemployed, may not be increased as a result of the increased monthly adjusted income due to such employment by more than 10 percent in each 12-month period during the 36-month period beginning upon such employment.

(b) DEFINITION OF HOUSING ASSISTANCE.—For purposes of this section, the term "housing assistance program" means any program of assistance for housing—

(1) for which assistance is provided by the Secretary of Housing and Urban Development in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

(2) under which rent payments, with respect to all or some of the units in the housing assisted, are limited, restricted, or deter-

mined under law or regulation based on the income of the occupying families.

SEC. 958. PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS UNDER HUD PROGRAMS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development shall provide a preference to native Hawaiians for housing assistance programs described in subsection (b) for housing located on Hawaiian home lands.

(b) ASSISTANCE PROGRAMS.—For purposes of subsection (a), the Federal housing assistance programs described in this subsection are—

(1) the public housing and project-based section 8 assistance programs under the United States Housing Act of 1937;

(2) the program under section 202 of the Housing Act of 1959; and

(3) the programs under the National Housing Act.

(c) MORTGAGE INSURANCE.—

(1) IN GENERAL.—Notwithstanding any other provision or limitation of this Act, including those relating to marketability of title, the Secretary of Housing and Urban Development may provide mortgage insurance covering any Hawaiian home lands property upon which there is located a multi-family residence, for which the Department of Hawaiian Home Lands of the State of Hawaii—

(A) is the mortgagor or co-mortgagor;

(B) guarantees in writing to reimburse the Secretary for any mortgage insurance claim paid in connection with such property; or

(C) offers other security that is acceptable to the Secretary,

subject to appropriate conditions prescribed by the Secretary.

(2) SALE ON DEFAULT.—In the event of a default on a mortgage insured pursuant to paragraph (1), the Department of Hawaiian Home Lands of the State of Hawaii may sell the insured property or housing unit to an eligible native Hawaiian.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "native Hawaiian" means—

(A) any descendant of not less than one-half; or

(B) in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established under section 209 of the Hawaiian Homes Commission Act, 1920, (42 Stat. 111) or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (P.L. 86-3; 73 Stat. 5),

of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778.

(2) The term "Hawaiian home lands" means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Home Commission Act, 1920, (42 Stat. 108) or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (P.L. 86-3; 73 Stat. 5).

SEC. 959. WAIVER OF MATCHING FUNDS REQUIREMENTS IN INDIAN HOUSING PROGRAMS.

(a) AUTHORIZATION OF WAIVER.—For any housing program that provides assistance through any Indian housing authority, the Secretary of Housing and Urban Development may provide assistance under such program in any fiscal year notwithstanding any other provision of law that requires the Indian housing authority to provide amounts to match or supplement the amounts provided under such program, if the Indian housing authority has not received amounts for such fiscal year under title I of the Housing and Community Development Act of 1974.

(b) EXTENT OF WAIVER.—The authority under subsection (a) to provide assistance notwithstanding requirements regarding matching or supplemental amounts shall be effective only to the extent provided by the Secretary, which shall not extend beyond the fiscal year in which the waiver is made or beyond the receipt of any amounts by an Indian housing authority under title I of the Housing and Community Development Act of 1974.

(c) DEFINITION OF HOUSING PROGRAM.—For purposes of this section, the term "housing program" means a program under the administration of the Secretary of Housing and Urban Development or the Secretary of Agriculture (through the Administrator of the Farmers Home Administration) that provides assistance in the form of contracts, grants, loans, cooperative agreements, or any other form of assistance (including the insurance or guarantee of a loan, mortgage, or pool of mortgages) for housing.

SEC. 960. STUDY OF PENSION FUND FINANCING OF HOUSING.

The Secretary of Housing and Urban Development shall conduct a study of ways in which State and local pension funds can be used to finance construction of low and moderate income housing. Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of such study.

SEC. 961. ENERGY EFFICIENCY DEMONSTRATION.

(a) AUTHORITY.—The Secretary of Housing and Urban Development shall establish a program to demonstrate various methods of improving the energy efficiency of existing housing. For the purpose of this section, the Secretary may, after funds are made available for the purposes of section 304(e), use $2,000,000 of the amounts set aside under section 304(e).

(b) EXISTING HOUSING.—The demonstration under this section shall determine appropriate design, improvement, and rehabilitation methods and practices for increasing residential energy efficiency in housing already constructed.

(c) REPORT.—As soon as practicable after September 30, 1991, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section.

TITLE X—EXPEDITED FUNDS AVAILABILITY

SEC. 1001—AMENDMENTS TO EXPEDITED FUNDS AVAILABILITY ACT.

Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended—

(1) in paragraph (1)(A), by striking "6" and inserting "4";

(2) in paragraph (1)(C), by striking "before September 1, 1990" and inserting "prior to the expiration of the 2-year period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act"; and

(3) in paragraph (2)(D), by striking "before September 1, 1990" and inserting "prior to the expiration of the 2-year period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to authorize a new HOME Investment Partnerships program, a National Homeownership Trust program, and HOPE programs, to amend and extend certain laws relating to housing, community and neighborhood preservation, and related programs, and for other purposes.".

And the House agree to the same.

From the Committee on Banking, Finance and Urban Affairs:

HENRY GONZALEZ,
MARY ROSE OAKAR,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
ESTEBAN E. TORRES,
JOE KENNEDY,
JIM MCDERMOTT,
CHALMERS P. WYLIE,
MARGE ROUKEMA,
JOHN HILER,
TOM RIDGE,
STEVE BARTLETT,

From the Committee on Ways and Means, for consideration of sec. 110 of the Senate bill and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
PETE STARK,
ANDREW JACOBS, Jr.,
HAROLD E. FORD,
ED JENKINS,
TOM DOWNEY,
BILL ARCHER,
GUY VANDER JAGT,
PHIL CRANE,
BILL FRENZEL,
DICK SCHULZE,

From the Committee on Education and Labor, for consideration of secs. 1006 and 1008 and substitles D through G of title XIII of the Senate bill and sec. 768 of the House amendment and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
AUSTIN J. MURPHY,
DALE E. KILDEE,
PAT WILLIAMS,
M.G. MARTINEZ,
MAJOR R. OWENS,
TOM SAWYER,
BILL GOODLING,
TOM PETRI,
STEVE GUNDERSON,
TOM TAUKE,
PETER SMITH,

From the Committee on Energy and Commerce, for consideration of title XIV of the Senate bill and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
AL SWIFT,
MIKE SYNAR,
RALPH M. HALL,
NORMAN F. LENT,
MATT RINALDO,
CARLOS MOORHEAD,
DON RITTER,

TOM BLILEY,
Managers on the Part of the House.

From the Committee on Banking, Housing, and Urban Affairs:

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
ALAN J. DIXON,
CHRISTOPHER J. DODD,
ALFONSE M. D'AMATO,
JOHN HEINZ,
CHRISTOPER S. BOND,
CONNIE MACK,

From the Committee on Labor and Human Resources for consideration of title XIII only:

EDWARD M. KENNEDY,
CHRISTOPHER J. DODD,
BARBARA A. MIKULSKI,
ORIN HATCH,
DAVE DURENBERGER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 566) to authorize a new Housing Opportunities Partnerships program to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes, submit the following joint statement of the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—GENERAL PROVISIONS AND POLICIES

National Housing Goal: The Senate bill contained a provision not included in the House amendment that would affirm the national goal that every American family be able to afford a decent home in suitable environment. The conference report contains the Senate provision.

Objective of National Housing Policy: The Senate bill contained a provision not included in the House amendment that would establish the objectives of a national housing policy. The conference report retains the Senate provision with an amendment that the national housing policy shall be to reaffirm the long established national commitment to decent, safe and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions capable of carrying out this policy.

Purposes of Act: The Senate bill contained a provision not included in the House amendment that would establish the purposes of the Act. The conference report contains the Senate provision.

Definitions, in General: The Senate bill contained a provision not included in the House amendment to define the terms "unit of general local government", "state", "jurisdiction", "participating jurisdiction", "nonprofit organization", "community housing development organization", "government-sponsored mortgage finance corporations", "families", "moderate-income families", and "security". The conference report contains the Senate provision with an amendment to add four new definitions: "metropolitan city" has the meaning given the term in Section 102(a)(4) of the Housing and Community Development Act of 1974, "urban county" has the same meaning given the term in Section 102(a)(6) of the Housing and Community Development Act of 1974, "certification" means a written assertion, based on supporting evidence that shall be kept available for inspection by the Secretary, the Inspector General and the public, which assertion shall be deemed to be accurate for the purposes of this Act, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment, and "to demonstrate to the Secretary" means to submit to the Secretary a written assertion together with supporting evidence that, in the determination of the Secretary, supports the accuracy of the assertion.

The House amendment contained a provision not included in the Senate bill that would define the terms "grant administrator", "nonprofit sponsor", "nonprofit partnerships", "area and State median income", "surplus cash flow", and, "low- and moderate-income families", "income". The conference report did not retain these definitions.

The House amendment contained a provision not included in the Senate bill that defined "public housing agency" to have the same meaning as in Section 3(b) of the U.S. Housing Act of 1937. The conference report contains the House provision.

The Senate bill contained a provision similar to a provision in the House amendment that defined "Secretary" to mean the Secretary of HUD, unless otherwise specified. The conference agreement includes the Senate provision.

The Senate bill contained a provision that defined "substantial rehabilitation" as rehabilitation of residential property in excess of $25,000. The House amendment contained a similar provision that defined the same term as rehabilitation projects that exceed 30% of the fair market value of the building in cost. The conference report contains the Senate provision.

Definition of Nonprofit Organization: The Senate bill contained a definition of "nonprofit organization" not included in the House Amendment. The conference report contains the Senate provision with an amendment clarifying that such term includes a State or locally chartered, nonprofit organization. This clarification is needed to avoid unintended exclusion of certain nonprofit organizations in Washington State and, perhaps, elsewhere. The conferees are aware that, since January 1, 1987, some profit-motivated developers may have been motivated to create captive nonprofit organizations primarily to benefit from the nonprofit set-aside under the Low-Income Housing Tax Credit. The conferees intend that any preferred treatment given nonprofit organizations under this Act shall be available only to bona fide nonprofit organizations established to advance public purposes consistent with the objectives of this Act. Although the conferees believe that eligible nonprofit organizations should not be prohibited from affiliation with for-profit subsidiaries or entering into joint ventures or other contractual relationships with for-profit organizations, the conferees expect the Secretary in regulation to ensure that favored nonprofit treatment is not given to organizations that are either controlled by for-profit organizations or otherwise affiliated with for-profit organizations in a manner that is not essentially intended to further the nonprofit organization's public purpose. The conferees urge the Secretary to notify Congress immediately if the Secretary determines that additional legislative action is needed to achieve this objective.

Definition of community housing development organization: The Senate bill contained a definition of "community housing development organization" that was not included in the House amendment. The conference report includes the Senate provision. The conferees retained the requirement that a community housing development organization have a history of serving the local community, and intend that newly-formed nonprofit organizations whose origin is in the local community shall be considered to have met this requirement. For example, the requirement could be met by a new organization formed by local churches, service organizations or neighborhood organizations that themselves have a history of serving the local community.

Definitions related to very low-income and low-income families: The Senate bill contained a provision that would define "very low-income families" as those families whose incomes do not exceed 50% or less of area median family income, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish higher or lower income ceilings for an area. The House amendment contained a similar provision, except that higher or lower adjustments would not be made on the basis of fair market rents. The conference report contains the Senate provision.

The Senate and House contained similar definitions of "low-income families" except that the Senate bill defined the term as those families whose incomes do not exceed 80% of median income for the area, whereas the House amendment measured the percentage at 60%. The conference report includes the Senate provision.

The Senate contained a provision that defined "families" to include single persons in the case of (A) a person who is aged 62 or older, a person with disabilities, (B) a displaced person, (C) the remaining member of a tenant family, and (D) other single persons in circumstances described in regulations by the Secretary. The House amendment contains a provision that amends the definition of "family" in Sec. 3(b)(3) of the U.S. Housing Act of 1937 to include "any other single persons", except that in no event may any single person be provided an assisted housing unit of 2 bedrooms or more. The conference report includes the Senate provision with an amendment to conform to the changes made regarding single persons under the 1937 Act programs.

Definitions related to first-time homebuyers: The Senate bill and the HOPE amendments contained similar provisions that defined "displaced homemaker" as an individual who may have had an ownership interest in a principle home and whose marriage has resulted in a legal separation, divorce, or death. The conference report contains the provision in the House amendment defining "displaced homemaker" with an amendment to delete a requirement that the definition would only apply to persons with dependents receiving AFDC.

The Senate bill and House amendment contain a provision that defined "first-time homebuyer." The Conference report contains the House provision with an amendment that the homebuyer is an "individual or his or her spouse" who has not owned a home for three years.

The House amendment contained a provision that was not included in the Senate bill that defined "single parent." The conference report contains the House provision.

Comprehensive Housing Affordability Strategies: The Senate bill contains a provision not included in the House amendment that would require the Secretary to provide assistance only to jurisdictions that submit an annual comprehensive housing affordability strategy. The Senate provision directs the Secretary to establish deadlines and procedures for submitting and approving housing strategies in order to facilitate orderly program management by jurisdictions and provide for timely investment of funds in affordable housing. The conference agreement contains the Senate provision with an amendment requiring consideration of (1) families who are participating in an organized program to achieve economic independence and self-sufficiency, as provided in the House amendment, and (2) consideration of housing needs of low income families "expected to reside" in the jurisdiction. This provision includes a requirement for certifying that an antidisplacement plan is in effect.

The conferees are concerned that the Department has too often in the past administered statutory requirements for housing assistance plans and other plans in a way that made such plans burdensome exercises that did not further efficient management or efective achievement of key goals. The conferees therefore emphasize that it is their intent that, when establishing regulations for the comprehensive housing affordability strategies, the Secretary shall ensure, to the maximum extent feasible, that the strategies will serve not only as effective monitoring tools for the Department, but also as concise, useful, action-oriented management tools for States and local governments.

The conference report would require each jurisdiction that directly receives assistance from the Department of Housing and Urban Development to prepare a single, action-oriented strategy that looks ahead for 5-years and serves as a working guide for each jurisdiction's use of federal and other housing resources. The strategy would replace other plans now required by law, such as the Housing Assistance Plan (HAP) required under CDBG and the Comprehensive Homeless Assistance Act (CHAP) required under the McKinney Homeless Assistance Act. The state and local strategies are designed to incorporate the useful elements of the HAPs and CHAPs. McKinney Act funding would be available only to jurisdictions that have an approved housing strategy. Reference to CHAP would be eliminated. Section 104(c) of the Housing and Community Development Act of 1974 would be amended to strike the requirement for HAPs and make CDBG funding available only to jurisdictions that have an approved housing strategy. An approved strategy would be a prerequisite only for HUD assistance that goes directly to a state or unit of general local government; it does not affect funding that is allocated to public housing authorities.

Certification: The Senate bill contains a provision that was not included in the House amendment that would allow the Secretary to require that any application for assistance must contain a certification that the proposed activities are consistent with the housing strategy of the jurisdiction. The conference report contains the Senate provision.

Citizen Participation: The Senate bill contained a provision that was not included in the House amendment to ensure that citizens and interested parties within the jurisdiction have a reasonable opportunity to comment on the housing strategy. The conference report contains the Senate provision.

Compliance: The Senate bill contained a provision that was not included in the House amendment that would require participating jurisdictions to submit reports describing the progress the jurisdiction has made in carrying out its housing strategy; require the Secretary to ensure compliance with this Act; and establish that information included in the housing strategies regarding local public policies that have an impact on housing affordability are not reviewable by any court. The conference report contains the Senate provision.

Energy Efficiency Standards: The Senate bill contained a provision that was included in the House amendment regarding the establishment of energy efficiency standards. The conference agreement amends this provision to clarify that HUD should promulgate energy efficiency standards for new construction of public and assisted housing and single-family and multifamily insured residential housing and that such standards must be cost efficient. The standards would be developed through a task force that includes representatives of homebuilders, housing agencies, energy agencies and building code organizations, energy efficiency organizations, utility organizations and low-income housing organizations. The promulgated standards would need to meet or exceed the provisions of the most recent Model Energy Code of the Council of American Building Officials.

Tax and Housing Coordinating Council: The Senate bill included a provision not in the House amendment to create a Tax and Housing Coordinating Council to advise the President about the consistency of Federal housing and tax policies. This provision was not included in the conference agreement.

Capacity Study: The Senate bill contained a provision not included in the House amendment that would require the Secretary to ensure that the Department has adequate staff and resource capacity to carry out its responsibilities and the mission of the Department. In order to respond effectively to congressional concerns on this subject, the conference committee urges the Department to include in its study an analysis of staff levels and skills by program area including program monitoring, as well as training programs and travel. In addition, the committee would request that the report also analyze the capacity of the information and financial management systems at the Department by program area and include a long-range plan with timeframes and budgetary requirements for meeting staffing and resource capacity needs. The conference report contains the Senate provision.

Protection of State and Local Authority: The Senate bill contained a provision that was not included in the House amendment that prohibits the Secretary from establishing criteria that interfere with the authority of States and units of local government to exercise their duly established policy making authority. The conference report contains the Senate provision with a clarifying amendment. The conferees intend that federal housing assistance be used to give State and local governments more effective tools for achieving housing affordability within their jurisdictions. It is not the conferees' intent to give HUD new authority to intervene in State and local decision-making. For that reason the conference agreement reaffirms and makes clearer the provisions in title I of the Senate bill relating to this issue.

Budget compliance: The House amendment contained a provision which would establish Congressional Findings as follows—(1) the House of Representatives approved a FY 1991 concurrent budget resolution; (2) the House Report provides $3.3 billion above the CBO Baseline in FY 1991 for new housing programs; (3) CBO programmatic baseline for aggregate budget authority in FY 1991 is $23,869,015,000; (4) the appropriate aggregate budget authority for housing programs under this Act is $27,169,015,000. The conference report does not contain the House provision.

The Senate bill contained a provision that would require that each authorization of appropriations contained in this Act (other than the Indian Housing, Subtitle D of Title VII) shall be reduced by an amount that bears the same ratio to (1) $54,530,000 for a FY 1991 authorization, (2) $56,711,000 for a FY 1991 authorization, and (3) $58,980,000 for a FY 1993 authorization, as the amount authorized by such provisions bears to the total amount authorized by this Act. The Conference report does not contain the Senate provision.

Pro rata reduction: The House amendment contained a provision that would reduce each program in the Act on a pro rata basis by the amount necessary to provide an aggregate budget authority level of $27,169,015,000 and would define the terms "budget authority" and "concurrent resolution on the budget" as having the same meanings in Section 3 of the 1974 Budget Act. The Senate bill contained a provision that would require a reduction of all authorizations of appropriations by the same ratio that $54,530,000 bears to the FY 1991 authorization for FY91, by the ratio that $56,711,000 bears to the FY 1992 authorization for FY92, and by the ratio that $58,980,000 bears to the FY 1993 authorization for FY93. The conference report does not contain the House or the Senate provision.

The Senate bill contained a provision not included in the House amendment which would guarantee each state a minimum share (0.5%) of the aggregate amount of funds available in each fiscal year for the following programs: Section 202 housing for elderly persons and persons with disabilities, public housing modernization (CIAP), public housing operating subsidies, and Indian housing development. The conference report contains the Senate provision amended to make the minimum state share provisions premissive and to apply only to fair share programs.

Deficit reduction recommendations: The Senate bill contained a provision not included in the House amendment that would delineate the following Congressional findings—(1) elimination of government waste should be the major component of deficit reduction; (2) revenues for FY 1990 will grow by $82 billion as a result of economic growth; (3) Comptroller General has stated that there is $100-200 billion in annual Gov-

ernment waste, fraud and mismanagement; (4) there is more than $125 billion in outstanding delinquent debt owed to the Government by individuals; (5) OMB has identified more than 100 "high risk" programs that are vulnerable to fraud, waste, and abuse; (6) federal government has more than $5.7 trillion in outstanding credit and insurance, representing a massive potential risk to taxpayers; (7) reducing waste would free the inefficient use of resources by the government and release them into the private sector. The Senate bill also contained a provision that would establish a Sense of the Senate that the President and the budget summit members should consider the most feasible of the deficit reduction recommendations contained in the June 1990 Report of Citizens against Government Waste, as well as those in the public record of the Congressional Budget Office, General Accounting Office, Office of Management and Budget, and other agencies before considering new or increased taxes. The conference report does not contain the Senate provision.

TITLE II—INVESTMENT IN AFFORDABLE HOUSING

HOME Investment Partnerships: The Senate bill contained a provision not included in the House amendment to establish a new Housing Opportunity Partnerships (HOP) program to expand the supply of affordable housing and make housing more affordable for low-income families. The conference report contains the Senate provision under a HOME Investment Partnerships program relecting amendments noted below. The provision would allocate funds, partly by formula and partly by incentive allocation, among eligible State and local governments to strengthen public-private partnerships able to provide more affordable housing. HOME funds would have to be matched by State and local resources and used to leverage private investment. Participating jurisdictions would be able to use HOME funds to carry out multiyear housing strategies with a variety of eligible uses, including rehabilitation of substandard housing, new construction, substantial rehabilitation, acquisition and tenant-based rental assistance. Jurisdictions would be able to provide assistance in a number of eligible forms, including loans, advances, equity investments, interest subsidies and other forms of investment that the Secretary approves. The HOME program would have been administered through the Office of the Assistant Secretary for Housing/FHA Commissioner in a way that enables participating jurisdictions to receive the various forms of assistance they need to carry out activities under the HOP program (including capital investment, Section 8 rental assistance, mortgage insurance and other forms of federal housing assistance) to the maximum extent practicable on a "one-stop" basis. HUD would be responsible for developing and making available a selection of model programs designed to provide guidelines to enable participating jurisdictions to use HOME funds most effectively under a variety of local market conditions.

Short Title: The Senate bill authorized a short title not contained in the House amendment. The conference report changes the short title from the "Housing Opportunities Partnerships Act" to the "HOME Investment Partnerships Act."

Findings: The House amendment contained provisions not included in the Senate bill that found that: the nation has not made adequate progress toward the goal of a national housing policy; the supply of affordable housing is diminishing; the Tax Reform Act of 1986 removed tax incentives for the production of affordable rental housing; the living conditions for an increasing number of Americans has deteriorated as a result of reduction in Federal assistance; many Americans face the possibility of homelessness unless the private and public sectors work together to develop and rehabilitate the nation's housing stock; there is a need to strengthen nationwide a cost-effective community-based housing partnership; direct assistance to expand the supply of affordable rental housing should be provided in a way that is more cost-effective and targeted than tax incentives; the nation's housing system provides a strong base on which national housing policy should build; an increasing number of states and local governments have been successful in producing cost-effective housing by working in partnership with the private sector; nonprofit organizations have played an increasingly important role in the production and rehabilitation of affordable housing; local communities need additional resources to mobilize the private sector; and the efforts to provide more affordable housing require tenants and homeowners to be fiscally responsible and able managers. The conference report includes a section of findings based on the House provisions.

Purposes: The conference report contains a provision that was contained in the Senate bill and amended to reflect provisions in the House bill that among purposes of this section are: to increase the supply of affordable rental housing; to mobilize and strengthen the abilities of States and local governments to design and implement strategies for achieving an adequate supply of affordable housing; to provide participating jurisdictions, on a coordinated basis, with the various forms of Federal housing assistance needed to expand the supply of affordable housing; to make housing more affordable through tenant-based rental assistance; to expand the capacity of nonprofit organizations to develop and manage affordable housing; to ensure that housing produced with Federal assistance is affordable to low-income persons for the property's remaining useful life, is appropriate to the neighborhood surroundings, and is mixed-income housing wherever appropriate. The conference report includes the Senate provision with the amendment described above.

HOME Advisory Board: The Senate bill contained a provision not included in the House amendment to establish an advisory Board. The conference report does not include the Senate provision.

Authorization: The Senate bill contained a provision not included in the House amendment to authorize three years of funding for a new formula-based Housing Opportunity Partnerships program. The House amendment included provisions not in the Senate bill to provide 1-year authorizations for two new programs: the Community Housing Partnership and the Rental Housing Production program. The conference report establishes one formula-based HOME Investment Partnerships authorization that achieves the purposes of the Community Housing Partnership, and rental production programs and authorizes appropriations of $1,000,000,000 in fiscal year 1991 and $2,086,000,000 in fiscal year 1992.

Eligible Uses of Investment: The Senate bill contained a provision not in the House amendment that the conference report be refined to make it clear that the Secretary may not restrict a jurisdiction's choice among eligible housing activities except as specifically provided for in the statute. The conferees intend that the HOME Investment Partnerships be directed primarily to encourage States and local governments—in collaboration with private organizations—to take action and adopt policies to expand the supply of affordable housing. Tenant-based rental assistance would be a permitted use where a jurisdiction can certify that it is an essential element of the jurisdiction's strategy for expanding the supply, affordability and availability of decent housing, and specifies the local market conditions that lead to the choice of this option. Advances on interest-bearing loans would be added as an eligible use of investment.

The conferees expect that rehabilitation of substandard housing will be the predominant use of HOME funds. However, the conferees believe that new construction will be an appropriate use of the funds under certain circumstances. The conference report requires the Secretary to establish criteria that would designate not less than 30 percent of the jurisdictions receiving a HOME formula allocation would be determined to have a housing supply sufficiently inadequate to permit new construction without further approval by the Secretary. The Secretary shall publish the criteria and a list of the jurisdictions that the Secretary determines to have met those criteria. The Secretary shall provide a fair opportunity for other jurisdictions to present evidence, including evidence not considered by the Secretary when preparing the list, showing that the jurisdiction meets the criteria. New construction would be permitted elsewhere only if a jurisdiction certifies that the proposed new construction meets criteria specified in the Senate bill and contained in the conference report. The conference report expands the neighborhood revitalization exception contained in the Senate bill to permit new construction of more than 20 percent of the units assisted if the housing is to be located in an area with an inadequate supply of existing housing that can economically be rehabilitated to meet identified housing needs or the new construction is required to accomplish the neighborhood revitalization program. The conference report contains the Senate provision as amended.

Rent affordability: The conferees reaffirm the policy that federal housing assistance should be directed, wherever feasible, to holding the contribution toward rent for low-income beneficiaries to within 30 percent of the family's adjusted income. The conference agreement would make all housing assisted with HOME funds available to holders of vouchers or rental certificates, who would be making a rent contribution that does not exceed 30 percent of the family's adjusted income. The conferees recognize that responsibility for providing subsidies to achieve that affordability objective cannot be placed on a project sponsor. The conferees intend that other forms of housing assistance, particularly mortgage insurance and rental assistance, will have to be provided in conjunction with HOME investment so that housing can be affordable to very low-income families. The conferees therefore expect that, to carry out the proposes of title II, the Secretary will implement procedures to make rental assistance—both tenant-based and project-based rental assistance under Section 8—available to achieve the important affordability objectives related to housing assisted with HOME funds. To the extent practicable and consistent with the availability of appropriations and other pri-

ority uses for available rental assistance, procedures for distributing rental assistance to the State and local level should support efforts of participating jurisdictions to carry out their comprehensive housing affordability strategies most effectively.

Participation by States and Local Governments: The Senate bill contained a provision not included in the House amendment to permit certain smaller local jurisdictions, if they had received an insufficient formula allocation, to become participating jurisdictions by forming consortia with adjacent jurisdictions in similar circumstances. The provision was amended to make it easier for smaller jurisdictions to participate by permitting them, before the formula allocation is made, to form a consortium that could qualify for an allocation large enough to permit the consortium to become a participating jurisdiction. Such a consortium of geographically contiguous units of local government would be deemed a general local government for purposes of this subtitle if the Secretary determines that the consortium has sufficient authority, capacity, and written commitment by the State to direct its activities towards alleviating its housing problems.

The conference agreement would permit a local jurisdiction including consortia to participate if its allocation is not less than $750,000—compared to a threshold of $2,000,000 in the Senate bill—or if it supplements its allocation to make up any shortfall below $750,000. A jurisdiction could become eligible if the Secretary found that the jurisdiction is a central city, rather than the city with the largest population in a metropolitan area, as in the Senate bill. The conference report contains the Senate provision as amended.

Allocation of Resources: The Senate bill contained a provision not included in the House amendment that was amended by initially distributing all of the HOME funds by formula, compared to 80 percent by formula, 20 percent by incentive allocation, as in the Senate bill. The conference report contains the Senate provision as amended.

Rental Production: The House amendment contained a provision not included in the Senate bill that established a rental housing production program to make repayable advances from a new revolving loan established in the Treasury to cover up to 50 percent of the cost of construction for eligible rental housing. The conference report does not contain the House provision, but includes an amendment to the Senate bill to include Rental Housing Production advances as a specified model program under the HOME Investment Partnerships Act.

The Rental Production Program contained in the House amendment would have authorized HUD to make repayable advances to eligible project sponsors to assist the sponsors in constructing, acquiring, or substantial rehabilitating affordable rental housing, including limited equity cooperatives and mutual housing. An advance could not have exceeded 50 percent of the total costs of the projects. Interest payments on such advances would have started one year after completion of the project. The interest rate could not have been more than 3 percent. Interest would have been payable only from cash flow in excess of that required to provide a minimum return on equity as determined by the Secretary. Unpaid interest would have accrued to the principal owed. If the cash flow were greater than the interest due, HUD would have received 50 percent of the excess.

The House amendment contained a provision that would have required the principal and any accrued interest payable at 25 years after the completion of the construction, acquisition or rehabilitation. If, at the end of the 25-year period, the developer agreed to maintain the property according to the low-income restrictions of this program, the repayment would have been deferred, no further interest would have accrued, and the developer would have been forgiven the balance due at a rate of 6.7 percent per year.

The House amendment contained a provision that would have designated nonprofits, for-profits and public housing agencies as eligible sponsors. The project sponsor would have had to commence construction, acquisition or rehabilitation not later than 24 months after notice of project selection, unless the Secretary for good cause extended the date.

The House amendment contained a provision that would have required low income occupancy requirements such that during the initial 25 years of the advance, at least 20% of the units would have been required to be occupied by *very low income* families (those whose income does not exceed 50% of area median income) or at least 40% by *low income* families (those whose income does not exceed 60% of area median income). The allowable rent for *very low income* families could not have exceeded 30% of adjusted income of families whose income equals 40% of median income. Allowable rent for the *low income* families would have been 30% of adjusted income of families whose income equaled 50% of median income. The cap for *lower income* families (80% of median income) would have been 30% of adjusted income for families whose income equals 60% of median income. If a family that occupies a unit reserved for very low-income or low-income families ceases to qualify as such, that family could have continued to occupy the unit so long as the family is a low or lower income family. Advances would have been limited to amounts needed to meet occupancy and rent requirements.

The House amendment contained a provision that would have allocated assistance, other than assistance under this title, to *all* units in the project in determining the amount of the advance under this title.

The House amendment contained a provision that would have required the Secretary to establish selection criteria for applicants designed to select projects in areas demonstrating the greatest need for affordable housing. Such criteria would have included: (1) the extent of the shortage of rental housing for lower income families in an area; (2) the extent to which large families with children will be served by the specific project; the extent to which the project provides congregate facilities and has available supportive services; (3) the extent of very low and low income occupancy in excess of program requirements; (4) the extent of the project sponsor's commitment of equity to the project; (5) the extent of the project sponsor's commitment of equity to the project in comparison to the value of all public assistance for the project; (6) the extent to which the market rents do not exceed Section 8 certificate limitations (rents equal to 30% of income); (7) the extent of non-federal public assistance to the project; and (8) any other factors determined by the Secretary to be appropriate.

The House amendment contained a provision that would have further delineated selection criteria by prohibiting the Secretary from selecting projects based on the ownership of the project sponsor. The Secretary would have been able to establish selection criteria to limit the areas in which projects eligible for advances may be located. Such criteria would have had to be objective and timely and include the level and duration of housing vacancies, the vacancy and turnover in units with rents below the fair market rents, and the extent of housing overcrowding. Projects serving special needs, such as housing for large families with children, supportive housing for persons with disabilities and congregate housing for the elderly and handicapped would be eligible for advances without regard to the above limitation.

Rental housing production: The House amendment contained a provision establishing the Rental Housing Production Fund as a revolving fund in Treasury. The Fund would consist of appropriated funds, funds received from repayments of advances under this title and amounts received from the investment of excess funds. No project sponsor could discriminate against a tenant because of such tenant's receipt of housing assistance. The Secretary would be required to issue necessary regulations. This provision would authorize $300 million for fiscal year 1991 and would provide a conforming amendment that would allow CDBG funds to be used for activities under this title.

The conference report amends the Senate bill to provide that, of the funds appropriated for the HOME Investment Partnerships, 10 percent in fiscal year 1991 and 15 percent in fiscal year 1992 would be designated for use only to produce affordable rental housing through new construction or substantial rehabilitation. The conference agreement would distribute those funds by special formula among jurisdictions that, according to the Secretary, have a housing supply that is sufficiently inadequate to permit new construction at the jurisdiction's discretion, without further approval by the Secretary. The funds would be reserved for new construction or substantial rehabilitation for a maximum period of 24 months, after which uncommitted amounts could be used for other eligible purposes during an additional 12 months period.

The conferees note that the set-aside under section 217(b)(1)(A) does not place a cap on funds that may be used for new construction. Other funds may be used for this purpose so long as such use is in compliance with provisions of the title. The set-aside amounts would be initially allocated by formula among jurisdictions that the Secretary determines has an inadequate supply of housing. The allocation formula would reflect each jurisdiction's share of the total need for rental housing production. The Secretary would establish a basic allocation formula by objective measures of tightness in the housing market, inadequate housing, the number of low-income families in housing likely to need rehabilitation, the costs of producing housing, poverty, and capacity of the jurisdiction to carry out housing activities without federal assistance.

The conference agreement amends the basic formula for HOME funding allocations to provide greater recognition of the need for affordable housing in jurisdictions that are experiencing a variety of housing problems. The changes in the allocation formula reflect the intent of the conferees that assistance under this subtitle shall be available to each jurisdiction with a demonstrated need and commitment to expanding the supply of affordable housing.

The conference agreement adds two new formula factors to those contained in the Senate bill: the number of low-income families in housing likely to be in need of rehabilitation, and the fiscal incapacity of a jurisdiction to carry out activities under this subtitle without federal assistance. In determining the fiscal incapacity of each jurisdiction, the Secretary shall assess the relative tax burden of each jurisdiction and its inability or declining ability to increase local taxes to develop affordable housing.

In addition, the conference agreement instructs the Secretary to consider the need for appropriate geographic distribution of assistance under this subtitle.

The conferees intend that the allocation of funds under the new construction setaside shall not reduce the funds received by any jurisdiction below the level the jurisdiction would have received if the basic HOME formula were used alone. The conference agreement therefore provides that, if a jurisdiction receives an allocation under the rental housing production formula, the Secretary shall reduce the jurisdiction's allocation under the basic formula by the amount allocated under the rental housing production formula. The conference agreement also provides that a jurisdiction's rental housing production formula shall not exceed the amount it would receive if the basic formula were used alone. This provision is intended to ensure that the Rental Housing Production formula provides fenced in resources for new construction in jurisdictions that most need it, but does so without redistributing funds geographically from regions that have other forms of housing needs.

The conferees intend that the Secretary shall promptly begin the development of formulas for distributing HOME funds so that the appropriate committees of Congress can be notified of the Secretary's recommended formulas within 120 days after enactment of the Act. The conferees direct the Secretary to develop details of the formulas in periodic and open consultation with the housing subcommittees of the House and Senate as well as with representatives of State and local government. The conference report contains the Senate provision as amended.

State Allocation: The Senate bill contained a provision not included in the House amendment that was amended to require the Secretary, when applying the distribution formula to States, to give 20 percent weight to measures of the State's share of the national housing need and 80 percent weight to measures of the share of need reflected among nonparticipating jurisdictions within the State. This provision is needed to provide a fair geographic distribution of HOME funds across the nation. The conference report contains the Senate provision.

Minimum Local Allocation: The Senate bill contained a provision not included in the House amendment that was amended by reducing the minimum formula allocation to units of local government to $500,000, compared to $1,500,000 in the Senate bill. Minimum funding would be $750,000, compared to $2,000,000 in the Senate bill. The conferees believe that these changes will allow participation by a larger number of communities to participate, while ensuring that each participating jurisdiction will have sufficient funds to carry out an effective housing strategy. The conference report contains the Senate provision as amended.

Maximum Allocations: The Senate bill contained a provision not included in the House amendment that placed specific caps on the portion of HOME funding that could go to any one State or locality. The conference agreement does not contain this provision but the conferees expect the Secretary to develop a formula that avoids having an inappropriately large share of the funds being allocated to only a few jurisdictions.

Incentive Allocation: The Senate bill contained a provision not included in the House amendment that reserved 20 percent of the HOME funds for distribution by incentive allocation rather than by formula. The conference report does not contain the Senate provision. However, the conference agreement retains the criteria for incentive allocations for use when reallocating certain funds in accordance with various provisions of the title.

Review of Allocation Percentage: The Senate bill contained a provision not included in the House amendment that would have required an annual review of the allocation formulas. The conference report does not contain this provision because the conferees believe it is appropriate to provide more effective collaboration in the development of allocation formulas and then to retain those formulas over time to give States and local governments enough predictability to permit sound planning and management of housing strategies.

Tenant Selection: The Senate bill contained a provision not included in the House amendment that requires rental projects assisted with HOME funds to establish orderly tenant selection procedures. The conference report contains the Senate provision with amendment to add that tenant selection policies and criteria shall give reasonable consideration to the housing needs of families that have preference under public housing procedures.

HOME Investment Trust Funds: The Senate bill contined a provision not included in the House amendment that was amended by changing the name from "housing investment trust funds" to "HOME Investment Trust Funds." The conference report contains the Senate provision as amended.

Monitoring of Compliance: The Senate bill contained a provision not included in the House amendment that is amended by adding a technical refinement allowing the Secretary to provide streamlined procedures in the case of small-scale or scattered site housing. The conference report contains the Senate provision as amended.

Community Housing Partnership: The Senate bill contained a provision not included in the House amendment that would have required each jurisdiction receiving a formula allocation of housing assistance to set aside 10 percent of its allocation for nonprofit housing development. The House amendment contained a provision not included in the Senate bill that would have created a separate program, the Community Housing Partnership program, which would authorize the Secretary to allocate funds by formula to States, urban counties, cities, and nonprofit organizations. The funds could have been used for housing education and organizational support grants for capacity building, technical assistance and community housing. Community Housing Partnership grants could have been provided for maintaining, acquiring, constructing, and rehabilitating affordable housing. The conference report does not contain the House provision.

The conference agreement amends the Senate bill to include a new subtitle, Community Housing Partnership, that provides a set-aside of 15 percent of HOME Investment Partnership funds for investment in housing to be developed, sponsored or owned by nonprofit community housing development organizations. Amounts reserved could be used for activities that are eligible generally under the HOME program—including maintaining, acquiring, constructing, and rehabilitating affordable housing—as well as for project-specific technical assistance and site control loans and project-specific seed money loans.

The conference report permits not more than 10 percent of the amounts set aside for the Community Housing Partnership to be used for project specific technical assistance and seed money loans. Repayment of the loans would be made into the participating jurisdiction's HOME Investment Trust Fund.

The conference report contains a provision authorizing the Secretary to provide housing education and organizational support grants to facilitate the education of low and moderate income homeowners and tenants and to promote the ability of community housing development organizations to maintain, rehabilitate and construct housing for low and moderate income families. Eligible activities include organizational support to cover operational expenses and technical assistance, housing education and program-wide support for nonprofit community housing development organizations.

The conference report provides that assistance to community housing development organizations shall be provided through contract with private, nonprofit intermediary organizations that have demonstrated the capacity to provide a range of technical assistance to nonprofit organizations in more than one community. The conferees believe that the Community Housing Partnership provides an opportunity for nonprofit community housing development organizations to provide more affordable housing most efficiently.

The House amendment contained a provision not in the Senate bill requiring that recipients of Community Housing Partnership funds submit and comply with a plan for community and resident participation in development and management decisions. The conference report contains the House provision with an amendment that requires a community housing development organization to provide and follow a program of tenant participation in management decisions.

The House amendment contained a provision that limited the federal assistance received by any nonprofit sponsor to not more than 50 percent of the total operating costs of the nonprofit sponsor in the fiscal year. The conference report contains the House provision.

Other Support for State and Local Strategies: The House amendment contained a provision not included in the Senate bill that establishes that "REACH" asset recycling information dissemination program. The House provision would have authorized the Secretary to make grants to States on behalf of the State housing finance agencies (HFA) to capitalize revolving loan funds to finance housing for low and moderate income renters and first time homebuyers.

The House provision would have defined eligible properties to include unoccupied single or multifamily units which are owned or controlled by one of the following federal agencies: (A) the Department of Housing and Urban Devleopment, (B) the Depart-

ment of Veterans Affairs, (C) the Federal Deposit Insurance Corporation; (D) the Office of Thrift Supervision; (E) the Farmers Home Administration; and (F) the Resolution Trust Corporation.

The House provision would have established appraisal guidelines, requirements on listing of eligible properties, reporting requirements, and definitions for this section and would have authorized appropriation of such sums as are necessary for fiscal year 1991 to be available until expended.

The Conference Committee recognizes the importance of developing the capacity of housing partnerships—public agencies, for- and non-profit corporations, lenders, developers and others—to identify and meet the needs for increased supply of decent, affordable housing. Irrespective of whether contracted providers are public agencies, associations or corporations, or offer their services for profit or as nonprofits, the Conference Committee is concerned that HUD exercise enormous care to select providers based upon their quality, professional skills, expertise, demonstrated experience and cost-effective delivery of services.

In addition, HUD should develop procedures to review on a regular basis the service provided by all technical assistance service providers to ensure the quality of work and cost effectiveness.

The conference report includes REACH among the other support for State and local housing strategies provided through the HOME Investment Partnerships. The Secretary is required to provide jurisdictions upon request with a list of eligible properties owned by the federal government that are available for purchase, development, or rehabilitation.

Specified model programs

The House amendment contained three provisions not included in the Senate bill that would produce affordable rental housing, provide Home Repair Services Grants for Older and Disabled Homeowners, and establish a Low-income Housing Conservation and Efficiency Grant Program. The conference agreement includes these initiatives among the model programs that the Secretary shall make available as guidelines for participating jurisdictions using HOME funds.

Low income housing conservation and efficiency grant program: The House amendment contained a provision not included in the Senate bill authorizing the Secretary to make grants to States for distribution to local governments and community action agencies to carry out a low-income housing conservation and efficiency program to provide safe, energy-efficient affordable housing for low-income persons. The conference report includes a model program under the HOME Investment Partnerships to achieve the purposes of the House provision.

The model program would provide guidelines for a participating jurisdiction to identify housing that is (1) owned and occupied by persons or families who have received, are currently receiving, or are scheduled to receive assistance under the ECPA weatherization programs (or a comparable Federal or State program); (2) in danger of becoming uninhabitable within a 5-year period because of structural weaknesses or problems; and (3) not sufficiently sound to permit energy conservation improvements without other repair or rehabilitation measures to protect such energy investments. The guidelines would provide for repairs to prolong the habitability of the identified units, including roofing, electrical, plumbing, furnace, and foundation repairs or replacement that will prolong the use of the unit as a safe and energy-efficient residence for low income persons. The guidelines would indicate reasonable steps to ensure that any units so repaired will remain occupied by persons or families eligible for assistance under HOME.

Rehabilitation of In-Rem Properties: The House amendment contained a provision not included in the Senate bill authorizing an additional $30 million for fiscal year 1991 for Community Development Block Grant funds to be used specifically for converting and rehabilitating properties that states and local governments have acquired as a result of tax foreclosure proceedings (in rem properties). The conference report includes a model program under the HOME Investment Partnerships to achieve the purposes of the House provision.

The model program would provide guidelines for a participating jurisdiction to convert in rem properties to provide affordable permanent housing for the homeless by leasing the properties to nonprofit organizations and permitting the organizations to rehabilitate the properties. The model program would target vacant properties for rehabilitation by nonprofit organizations.

Home Repair Service Grants: The House amendment contained a provision not included in the Senate bill to establish a Home Repair Service Grant program for older and disabled individuals and to authorize the Secretary to make grants for repair services for older and disabled homeowners to eligible organizations to the extent of appropriated funds. The conference report includes a model program under the HOME Investment Partnerships that would achieve the purposes of the House provision.

The model program would provide guidelines for a participating jurisdiction to repair the primary residences of older and disabled homeowners who qualify as low-income families.

Second Mortgage Assistance for First-time Homebuyers: The House amendment contained a provision not included in the Senate bill that would have authorized the Secretary to provide second mortgages to first-time homebuyers. The conference report includes a model program under the HOME Investment Partnerships that would achieve the purposes of the House provision.

The model program would provide guidelines to participating jurisdictions could provide loans secured by second mortgages with deferred payment of interest and principal to first-time homebuyers. The guidelines would provide for homeownership counselling to help homebuyers identify the most suitable properties, understand mortgage transactions, eliminate credit problems and follow sound financial management. The guidelines would require that the assistance be provided only to eligible first-time homebuyers with respect to their principal residence and would limit assistance to 30% of the acquisition price of the home. Repayment could be deferred for not more than 5 years. Second mortgage terms would have to include an interest rate of at least 4% and require repayment within 15 years.

Protection of State and Local Authority: The conferees adopted a provision that reaffirms an amendment in the Senate bill that was not included in the House amendment that prohibits the Secretary from establishing criteria that interfere with the public policies of states and units of local government. The conferees intend that the federal housing assistance be used to give State and local governments more effective tools for achieving housing affordability within their jurisdictions. It is not the conferees' intent to give HUD new authority to intervene in State and local decision-making. For that reason the conference agreement reaffirms and makes clearer the provisions in title I of the Senate bill relating to this issue. The conference report contains the Senate provision.

Anti-displacement: The House amendment contained a provision not in the Senate bill that would require all recipients of Community Housing Partnership funds to certify that they are in compliance with a residential anti-displacement and relocation assistance plan required of recipients of Community Development Block Grants. The conference agreement includes this among the requirements of participating jurisdictions under the HOME program. The conferees emphasize that scarce federal dollars should be used to expand the availability of affordable housing, not to reduce the supply. The conference report contains the House amendment as amended.

Equal Opportunity: The Senate bill contained a provision not included in the House amendment that would direct participating jurisdictions to prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program within each such jurisdiction. The purpose of such an outreach program is to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts entered into in order for the participating jurisdiction to provide affordable housing authorized under this Act or any federal housing law.

In addition, the Act requires that the Secretary submit to Congress a report on the actions taken by each participating jurisdiction to undertake a minority outreach program and any recommendations for administrative and legislative actions necessary to carry out the purposes of this subsection.

The Committee urges the Secretary, in addition to overseeing the minority outreach efforts of participating jurisdictions, to reaffirm the Department's commitment to include minorities and women in it's contracting activities as prescribed under existing federal law.

The conferees recognized that minorities and women have historically been disadvantaged and denied access to federal, state and local contracting opportunities in the construction, real estate, financial and legal service industries. The conferees also recognized that this historical practice, in conjunction with other impediments to economic and social opportunity, has contributed to the disproportionate representation of minorities and women in poverty. The conferees urge the Secretary to work towards eradicating any historical discriminatory contracting practices in the construction, real estate, financial and legal services industries and to affirmatively foster participation by minorities and women in such industries. The conferees recognize that only through meaningful economic opportunity and participation can genuine empowerment occur. The conference report contains the Senate provision.

Nehemiah program: The House amendment contained a provision not included in the Senate bill that would authorize $100,000,000 in fiscal year 1991 for Nehemiah housing opportunity grants. The Senate

bill contained a provision that would extend the Nehemiah program until September 30, 1991, but authorized no funds and prohibited any new grants or loans from being made under the Nehemiah program after October 1, 1990. The conference report contains the Senate provision to terminate the Nehemiah program, permitting no new projects to be approved, except those that receive firm commitment by October 1, 1991. Any recaptured funds would be rescinded. The conferees believe that homeownership assistance provided under the Nehemiah program is an eligible activity under the HOME program.

Credit Enhancement: The Senate bill contained a provision not included in the House amendment that would have created a special commission to explore ways in which federal credit enhancement could be provided more effectively in conjunction with other forms of federal housing assistance. The conference report contains the Senate provision with an amendment to have the study carried out by GAO.

Repeal of existing housing programs

The Senate bill contained a provision that was not included in the House amendment that would terminate grants for new construction and substantial rehabilitation in fiscal year 1991 under the rental rehabilitation; Section 312 loans; Nehemiah Housing Opportunity Grants program; moderate rehabilitation; except where funds are allocated under this authority for single-room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act; Urban Homesteading; Congregate Housing Servics; Housing Counseling (Sec. 106); lower income public housing projects; and HODAG. The conference report contains the Senate provision amended to repeal the following existing housing programs as of fiscal year 1992: grants for new construction and substantial rehabilitation under the rental rehabilitation; Section 312 loans; Nehemiah Housing Opportunity Grants program; moderate rehabilitation, except where funds are allocated under this authority for single-room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act; and Urban Homesteading.

The conference report contains a provision requiring that any amounts received on or after October 1, 1991, as repayments or recaptures in connection with the programs referred to in subsection (a) and any other amounts for such programs that are unobligated on or after such date shall be paid into the general fund of the Treasury.

TITLE II—HOMEOWNERSHIP

SUBTITLE A—NATIONAL HOMEOWNERSHIP TRUST ACT

The House amendment contained a provision not included in the Senate bill that established the National Trust in the Department of Housing and Urban Development to provide interest rate buydowns and downpayment assistance to first-time homebuyers. The conference report contains the House provision with an amendment to change the name to "National Homeownership Trust Act", to limit participation in the Trust to homebuyers who are 95 percent of median area income for family of four persons (adjusted for family size), except in FHA high cost areas where the limit will be 115 percent of median area income for a family of four persons (adjusted for family size), and to include three demonstration programs. The amendment also requires participating homebuyers to have paid not less than 1 percent of the cost of acquisition of the property (excluding any mortgage insurance premium paid at the time the mortgage is insured).

The Trust was created to address the decline in first-time homeownership due to high costs of housing, high costs involved in financing the purchase of a home, and the tighter underwriting standards in the mortgage marketplace. The Committee believes that the Trust provides vitally needed homeownership opportunities to low and moderate income families who could not otherwise afford to purchase a home through interest rate buydowns to a rate not to exceed 6 percent and through downpayment assistance.

The Trust would provide two forms of assistance to first-time homebuyers (including homebuyers buying shares in limited equity cooperatives): (1) payments to ensure that a rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent; and (2) payments to provide some or all of the downpayment (including closing costs and other costs payable at the time of closing) required by first-time homebuyers.

The House provision provided that the aggregate income of the homebuyer and family members residing with the homebuyer could not exceed 115 percent of the area median income for a family of four (adjusted for family size) during the 12 months prior to the date of application for assistance. The conference report amends this provision so that the aggregate income of the homebuyer and family members residing with the homebuyer can not exceed 95 percent of the area median income for a family of four (adjusted for family size), except in areas that are subject to a high cost area mortgage limit under Title II of the National Housing Act (FHA). In such areas, the homebuyer's income cannot exceed 115 percent of the area median for a family of four (adjusted for family size). The Secretary would be required to provide for the recertification of income every two years. The homebuyer would be required to certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied such mortgage because the income of the homebuyers is insufficient. The assisted property would have to be a single-family residence or unit in a cooperative and the principal residence of the homebuyer. The principal obligation of the mortage could not exceed the maximum amount which can be insured under the National Housing Act. The mortgagee must be federally-insured or otherwise approved by the Trust. The House provision required mortgages under this program to be insured; the conference report does not. The conferees omitted this provision to provide flexibility in underwriting; however, the conferees want to make clear that the Trust is not intended to be an insurer. The interest rate on the mortgage would be a fixed rate and cannot exceed the maximum rate established by the Trust.

To receive downpayment assistance under this subtitle, the homebuyer would be required to pay at least one percent of the cost of acquisition. Since the absence of equity has been shown to contribute to homeowner default, the Committee requires that the homebuyer contribute at least one percent of the cost of acquisition to insure sufficient equity in the home to avert default. This equity contribution could be applied toward the downpayment requirement under FHA insured loans. Assistance payments must be secured by a subordinate lien on the assisted property. Assistance must be repaid without interest upon the sale of the property if there are proceeds from such sale.

If the homebuyer's income exceeds 115 percent of median income for two years or if the assisted property ceases to be the principal residence of the homebuyer, the Trust could require that the homebuyer begin to repay any assistance payments before any sale. The Trust could provide both interest rate assistance and down payment assistance at the same time to a single homebuyer. The Secretary would be required to allocate the assistance in a manner to assure equitable distribution among the States based on the number of a eligible first-time homebuyers. The Committee intends that, in determining the need of eligible first-time homebuyers for assistance, the Secretary will take into account the fiscal capacity of first-time homebuyers in an area to afford a typical starter home within the area.

National housing trust fund

The National Housing Trust Fund would be established in the Treasury. The Fund would consist of any appropriations and any repayments to the Fund, and any amount that the Trust earns on its investments in U.S. government securities. The Trust would be permitted to invest any amount beyond what is necessary to carry out the provisions of the Title in the obligations of the United States.

The House amendment contained three combined housing and economic development demonstrations in the Community Housing Partnership which were not contained in the Senate bill which the conference report now contains within the National Homeownership Trust Act. The first demonstration program is in Milwaukee, Wisconsin, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood, for which $4,200,000 is authorized out of the Trust. The second demonstration program is in Washington, District of Columbia, for nonprofit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low and moderate-income families and to engage in neighborhood-based economic development activities, for which $10,000,000 is authorized out of the Trust. The third demonstration is in Philadelphia, Pennsylvania, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of technical assistance to neighborhood community development corporations, for which $1,000,000 is authorized out of the Trust.

The House amendment authorized $500 million for fiscal year 1991 and such sums for FY 1992 and FY 1993 to remain available until expended. The conference report authorizes $250,000,000 for FY 1991 and $521,500,000 for FY 1992.

The Secretary would be authorized to conclude the affairs of the Trust after termination. If the Secretary determines that the Trust is no longer necessary, the Secretary could transfer any remaining Trust funds to the Treasury. The Trust would terminate on September 30, 1993.

Downpayment savings

Study: The Senate bill contained a provision that was not included in the House amendment that would require the Secretary to study the actual soundness of implementing a program to guarantee downpayments for first-time homebuyers based on a system of downpayment savings accounts

and payment schedules that require monthly or other periodic payments over a specified period of time in an amount equal to a specified percentage of the value of housing at the time of purchase. The conference report does not contain the Senate provision.

HOME Demonstration: The House amendment contained a provision that was not included in the Senate bill that would provide matching contributions for downpayments. It would provide funds for "matching contributions certificate" to eligible buyers who have established a HOME savings certificate account. Matching contribution certificates would be issued annually for each year of buyer's eligibility. Such certificates can only be redeemed in connection with the purchase of a principal residence by an eligible buyer under this part. The conference report does not contain the House provision.

SUBTITLE B—FHA AND SECONDARY MORTGAGE MARKET

FHA mortgage insurance authority: The House amendment contained a provision that would limit aggregate FHA mortgage insurance authority to $76,791,000,000 for FY 1991. The conference report contains the House provision with an amendment that would limit such authority for FY 1992 to $79,818,000,000.

Appraisal services: The House amendment contained a provision not included in the Senate bill that allows mortgages approved for the FHA direct endorsement program to contract with an appraiser, including partnerships or sole proprietorships organized as corporations, to conduct an appraisal so long as such appraisals are consistent with standards and qualifications established by the Secretary. Individuals that meet the requirements for inclusion on fee panels established by the Secretary shall be eligible for such assignments notwithstanding their employment by an appraisal company and the contract for such persons services may be made with the employer. The conference report contains the House provision. This provision conforms with the appraisal reform provisions of FIRREA and with the policies and practices of the Federal financial institutions regulatory agencies, Fannie Mae an Freddie Mac. The conferees recognize that while this provision requires HUD to recognize valuation services provided by appraisal companies when those companies employ qualified appraisers, it continues the Secretary's full authority and responsibility for assuring the integrity of HUD related appraisal services. The conferees believe that this provision will improve the quality and reliability of appraisal services in connection with HUD mortgage assistance and other housing programs; will promote uniformity among government agencies on the issue of eligibility to perform appraisals in federally related transactions; and will allow mortgage lenders who participate in HUD residential mortgage insurance programs to be more efficient in the appraisal component of the underwriting process. The conferees believe the Secretary should approve and certify appraisers consistent with the Secretary's prescribed standards for all HUD approved fee appraisers or such other standards as the Secretary may prescribe.

FHA loan limit: The House amendment contained a provision that would amend Section 203(b)(2) to raise FHA maximum loan limits to 185% of area median ($124,875) on a permanent basis. The Senate bill contained a similar provision except it would only authorize the raised limit for two more years, until September 30, 1992. The conference report contains the House provision.

Mortgagor equity: The House amendment contained a provision that would limit the FHA insured principal obligation (including such initial service charges, appraisal, inspection, mortgage insurance premiums, and other fees as the Secretary approves) to no more than the appraised value of the property. This change would apply to mortgages entered into on or after October 1, 1992. The Senate bill contained provision that would limit FHA insured mortgages to principal obligations of no more than 98 percent of the properties appraised at less than $50,000 and 97 percent in the case of properties with an appraised value above $50,000, plus the amount of the mortgage insured premium. "Appraised value" would mean the amount required to be set forth in a written statement as the appraised value of the property under Section 226 of the National Housing Act, or a similar amount determined by the Secretary, if Section 226 does not apply. The conference report contains the Senate provision with an amendment to change the limit of a FHA insured mortgage to a principal obligation from no more than 98 percent to no more than 98.75 percent of the appraised value of the property and from 97 percent to 97.75 percent in the case of a mortgage with an appraised value in excess of $50,000.

Mortgage insurance premium on 1-4 family dwellings

Up-front: The House amendment contained a provision that would require the Secretary to collect, at the time of insurance, a premium payment of 1.35 percent of the amount of the original insured principal obligation of the mortgage, which may be financed. The Senate bill did not contain a similar provision but would retain current law which requires at the time of insurance a premium payment of 3.8 percent of the amount of the original insured principal obligation of the mortgage, which may be financed. The conference report contains the House provision with an amendment to change the 1.35 percent insurance premium payment to 2.25 percent.

Periodic: The House amendment contained a provision that would provide for periodic premium payments of 0.6 percent of the remaining insured principal balance, and would not refund any part of the periodic premium upon prepayment. The Senate bill contained a provision that would permit the Secretary to require an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice and taking into account high loan-to-value ratios. The additional premium charge may not exceed an amount equal to 0.5 percent of the outstanding principal obligation of the mortgage without taking into account delinquent payments or prepayments. Such additional premium charge was required (A) for up to 15 years if the initial loan-to-value ratio of the mortgage is greater than 95 percent, (B) for up to 10 years if the initial loan-to-value ratio is equal to or less than 95 percent but equal to or greater than 93 percent, and (C) for up to 4 years if the initial loan-to-value ratio is less than 93 percent but greater than or equal to 90 percent. The conference report contains the Senate provision with an amendment that requires a premium charge of 0.5 percent (A) for the first 11 years if the initial loan-to-value ratio of the mortgage is less than 90 percent of the appraised value, (B) for the first 30 years if the initial loan-to-value ratio of the mortgage is greater than or equal to 90 percent of the appraised value, and (C) for mortgages with an initial loan-to-value ratio greater than 95 percent of the appraised value, a premium charge of 0.55 percent for the first 30 years.

Effective date: The House amendment contained a provision which would require that the modified premium structure amendment apply to mortgages insured on or after October 1, 1995. The Senate bill contained no similar provision. The conference report contains the House provision with an amendment to change the effective date to October 1, 1994.

Transition: The House amendment contained a provision not included in the Senate bill which provides for transition rules under which upfront and periodic premium changes are phased in: 1991-92, 3.75% up-front, .24% periodic; 1993-95, 2.15% up-front, .48% periodic; 1996, 1.35% up-front, .60% periodic. The conference report contains the House provision amended to provide for transition rules as follows: (A) for mortgages executed during FYs 1991 and 1992 (but after the effective date of regulations), an up-front premium of 3.8 percent and an annual premium of 0.5 percent for mortgages (i) less than 90 percent of the appraised value for the first 5 years, (ii) greater than or equal to 90 percent of the appraised value but equal to or less than 95 percent of such value, for the first 8 years, and (iii) greater than 95 percent of such value, for the first 10 years; (B) for mortgages executed during FYs 1993 and 1994, an up-front premium of 3.0 percent and an annual premium of 0.5 percent for mortgages (i) less than 90 percent of the appraised value for the first 7 years, (ii) greater than or equal to 90 percent of the appraised value but equal to or less than 95 percent of such value, for the first 12 years, and (iii) greater than 95 percent of such value, for the first 30 years.

Refunds: The House amendment contained a provision which would prohibit refunding the 1.35 percent up front premium. For mortgages insured during fiscal years 1991-1995, the Secretary could refund up to 50 percent of the amount over 1.35 percent. The Senate bill contained no similar provision. The conference report does not contain the House provision. Instead, the conference report requires the Secretary to refund all of the unearned premiums.

Limitation on secondary residences

The House amendment contained a provision which generally would prohibit the Secretary from insuring mortgages on secondary residences and included an exception that determines such a residence would be necessary to avoid undue hardship. For example, seasonal employment in differing locales may necessite the mortgagor living in the second home for at least part of the year. The Senate bill contained no similar provision. The conference report adopted the House provision. In no instance will FHA be allowed to insure mortgages on vacation homes. This change would only apply to (1) mortgages insured pursuant to a conditional commitment issued after 60 days following the date of enactment or in accordance with the direct endorsement program, if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment; and (2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments. Any mortgage

executed prior to the enactment of these amendments would continue to be governed under provisions as existed before the enactment of this provision. The Secretary can continue to insure mortgages under existing law until 60 days after the enactment of this statute.

Mortgage Counseling: The House amendment contained a provision not included in the Senate bill that permits FHA MMI Funds to be used to provide mortgage counseling to delinquent mortgagors with FHA insured mortgages. The conference report contains the House provision. The conferees recognize the importance and the value of providing mortgage counseling services to delinquent homeowners, especially those homeowners who find themselves faced with a temporary loss of income. The conferees believe that, in order to be a candidate for counseling services, the cost of which would be covered by the MMIF, the default must have been caused by circumstances beyond the mortgagor's control and/or, there must be a reasonable prospect that the mortgagor will be able to resume full mortgage payments after a temporary period of reduced or suspended payments. Given the financial condition of FHA's MMIF, the conferees intend that the Secretary establish criteria for the use of MMIF funds and for the selection of applicants for counseling services. The conferees direct the Secretary to take appropriate steps to reduce losses due to foreclosure by securing the services of experienced HUD approved nonprofit counseling agencies. Agencies selected should be those with a successful track record in delinquent mortgage counseling and those who operate in several states and locations either directly or through sub-contracting relationships. This coordination of counseling services will help insure quality controls as well as positioning these services to be more fully used by the mortgage industry which increasingly is more regional and national in scope.

Delegated processing: The Senate bill contained a provision that required the Secretary to implement a delegated multifamily insured mortgage processing system for mortgages insured pursuant to Sections 221, 223, 232, and 241 of the National Housing Act under which the Secretary retains authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute a firm commitment. The House amendment contained a similar provision but also included Section 207 of the National Housing Act. The conference report contains the Senate provision with an amendment to include Section 207.

Disclosure regarding interest due upon mortgage prepayment: The House amendment contained a provision not included in the Senate bill that requires each mortgagee to provide written notice to mortgagors, both annually and at the time of the mortgage, of possible interest liability upon prepayment. This applies to insured FHA mortgages outstanding 90 days after the effective date of regulations. The conference report contains the House provision.

Neighborhood accountability: The House amendment contained a provision not included in the Senate bill that would prohibit any FHA mortgagee from varying mortgage interest rates, the level of discount points, loan origination fees or any other amount charged on the basis of the loan amount in the area.

The House provision would require the Secretary to assess the performance of the mortgagee in meeting the lending needs of the community, the consistency of the lending practices with safe and sound lending practices, and the mortgagee's record of FHA insured defaults. Such information would be considered by the Secretary in determining whether the mortgagee can continue to participate in the FHA insurance program. Should a mortgagee fail to meet the lending needs of the community, the Secretary would require the mortgagee to take steps to remedy the omission. Such steps would include filing a plan to remedy such deficiencies. Such plan would be developed through a public notice and comment process. If a mortgagee fails to comply with its plan, the Secretary could withdraw approval of the mortgagee for participation in the FHA program. The Secretary would report to Congress annually on actions taken to carry out these provisions.

The conference report contains the House provision with an amendment to permit an exception not to exceed 2 percent variation in the amounts changed for fees and discount points based upon the loan amount and makes conforming changes consistent with the HUD Reform Act of 1989. This section is intended to apply to Sec. 203 of the National Housing Act by loan type. For example, mortgages insured under the 203(k) program may be priced differently from mortgages insured under the 203(b) program. The Committee recognizes that different types of mortgages involve differing levels of risk, processing expenses or other factors that differentiate them and necessitate pricing variations. Mortgages are subject to uniform pricing requirements of loans of varying amount but insured under the same subsection.

Acturial soundness: The House amendment contained a provision that would require the Secretary to ensure that the MMI Fund attain a capital ratio of 1.25% within 24 months of enactment and 2% within 10 years. The Senate bill contained a similar provision except it would provide 18 months to attain 1.25%, and stated that the Secretary should endeavor to ensure that the fund attain a 2% capital ratio within 10 years. The conference report contains the House provision regarding the 1.25% capital ratio and the Senate provision regarding the 2% capital ratio.

Reports: The House amendment contained a provision that would require the Secretary to submit an annual report to Congress describing the actions the Secretary will take to ensure that the MMI Fund attains the required capital ratio. The Secretary would be required to annually conduct an independent actuarial study of the MMI Fund and report annually to Congress on the status of the Fund. The Senate bill contained a provision that would require the Secretary to report to Congress annually on the status of the Fund should the Fund fail to achieve the 1.25% capital ratio. Three years after enactment the Secretary would be required to begin reporting annually on the status of the Fund and on efforts to achieve the 2% goal. The conference report contains the House provision.

Operational goals: The House amendment contained a provision that would define the operational goals of the MMI Fund. The Senate bill contained a similar provision that would define the principles of operation.

The first goal of the House provision would be to maintain an adequate capital ratio. The Senate provision was similar except it specifies a capital ratio of 1.25% to be achieved in 18 months and 2% thereafter. The conference report contains the House provision.

The second goal of the House provision would be to meet the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit. The Senate provision is the same except it does not include meeting needs of homebuyers with low down payments. The conference report contains the House provision.

The third goal of the House provision would be to minimize the risk to the Fund and to homeowners from homeowner default. The Senate bill contained a similar provision. The conference report contains the House provision.

The Senate bill contains an additional principle of operation that was not included in the House amendment to avoid the problems of adverse selection by establishing premiums related to the probability of homeowner default. The conference report contains the Senate provision amended to state the operational goal as avoiding adverse selection. The conference report establishes periodic annual premiums that vary depending on the probability of homeowner default. The conferees believe that a risk-based premium is necessary to meet the four operational goals of the MMI Fund.

The House amendment contained a provision that would give the Secretary the authority, upon a determination of an independent actuarial study, to propose and implement any adjustments to the insurance premiums or any other program requirements to achieve actuarial soundness. The Senate bill contained a similar provision. The conference report contains the House provision with an amendment to delete the reference to other program requirements.

Distributive Shares: The House amendment contained a provision that stated if, pursuant to the independent annual actuarial study, the Secretary determines the MMI Fund is not meeting its operational goals, the Secretary cannot issue distributions, and may by regulation, propose and implement any adjustments to the insurance premiums established by the Secretary to achieve such goals. The Senate bill contained a similar provision. The conference report contains the House provision.

The House amendment contained a provision not included in the Senate bill to authorize the Secretary to require payment on all mortgages that are obligations of the MMI Fund of an additional premium charge as detemined by the Secretary to be consistent with sound actuarial practice. The conference report does not contain the House provision.

Mortgage Insurance in Virgin Islands: The House amendment contained a provision not included in the Senate bill that adds the Virgin Islands as a super high cost area for FHA insurance purposes. Current law permits the Secretary to authorize FHA mortgages beyond the $124,785 ceiling for Alaska, Hawaii, and Guam. The conference report contains the House provision.

221(g)(4) assignments: The House amendment contained a provision not included in the Senate bill that would provide that in connection with mortgages insured under Section 221 of the National Housing Act, the Secretary shall provide, to mortgagees who agree not to exercise their option to assign their mortgages to HUD, an incentive payment from the General Insurance Fund to the mortgagee in an amount equal to the present value at the time of assignment of the difference between the mortgage inter-

est rate and the rate on similiar mortgages in lieu of the issuance of debentures on the assignment of such mortgages as required by current law. The conference report contains the House provision amended to provide that the Secretary shall arrange for the sale of beneficial interests in the mortgage loan through an auction and sale of the mortgage loans or participation certificates or other mortgage-backed obligations in a form acceptable to the Secretary and that a mortgagee who elects to assign a mortgage must provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument (including principal mortgage balance, original stated interest rate, service fees, real estate and tenant charactistics, the level and duration of Federal subsidies and any other information determined by the Secretary to be appropriate. The Secretary is required in any auction to accept the lowest interest rate bid for purchase that the Secretary detemines to be acceptable. The Secretary shall provide a monthly interest subsidy payment from the General Insurance Fund to the purchaser of the original credit instrument and the mortgage securing such credit instrument (and its assigns who are approved mortgagees) in an amount equal to the difference between the stated interest due on the mortgage loan and the lowest rate necessary to accomplish a sale of the participation certificates for the then unpaid principal balance plus accured interest at a rate to be determined by the Secretary. The conferees recognize that, during the auction period, the mortgagee will not be accuring interest at the rate or rates applicable under the current assignment process. The conferees intend that the mortgagee would not be deprived of any economic benefits that the mortgagee would have received had the mortgage been assigned to HUD under the current assignment process. These economic benefits include interest to accrue at a rate or rates consistent with the rate of interest a mortgagee would have received under the current assignment process and the Secretary's past interpretation of section 221(g)(4).

If no bids are received, the bids received are not acceptable to the Secretary, or settlement does not occur within 30-90 days, the mortgagee would retain all rights to assign the mortgage loan to the Secretary, including the right to interest for the period covering the auction process at a rate to be determined by the Secretary. The conferees intend that, if the auction is not consummated and the mortgage is assigned to HUD, the mortgagee would not be deprived of any economic benefits that the mortgagee would have received had the mortgage been assigned to HUD under the current assignment process. These economic benefits include interest to accrue at a rate or rates consistent with the rate of interest a mortgagee would have received under the current assignment process and the Secretary's past interpretation of this statute.

Report on FHA defaults: The House amendment contained a provision not included in the Senate bill that would require the Secretary to publish quarterly reports of early defaults and foreclosures on FHA-insured housing. Each report would contain for each lender originating single-family insured mortgages in a designated census tract (1) the name of lenders and the number of each census tract in which the lender originated one or more loans; (2) the total number of such mortgages originated by each such lender in each census tract; (3) the total number of defaults and foreclosures during the specified reporting period by census tract; (4) for each census tract, the percentage of each lender's total insured mortgages on which defaults or foreclosures have ocurred during the applicable reporting period; (5) the total of all such originations, defaults, and foreclosures on insured mortgages originated by each such lender during the reporting period for all census tracts and the percentage of the total number of such lender's insured mortgages on which defaults or foreclosures have occurred. It would also require data (1) for each lender, the total number of insured mortgages originated by the lender secured by properties not located in a designated census tract, the total number of defaults and foreclosures on such mortgages and the percentages of such mortgages originated on which defaults or foreclosures occurred; and (2) for each census tract, the total number of mortgages originated during the applicable reporting period, the number of defaults and foreclosures and the percentage of the total insured originations on which defaults or foreclosures occurred. Until the first report under this section is published, the Secretary would have to make publicly available all reports regarding "Default/Claims Rates per Regional Office for FY 90 Endorsements" produced by HUD.

The conference report contains the House provision with an amendment to require that information be kept by HUD in a data bank made available to the public and that HUD issue an annual report, instead of a quarterly report, containing the data from the data bank. To minimize bureaucracy, costs, and paperwork, the Committee has reduced HUD's reporting requirement from quarterly to annually. The Committee still intends that the information in the data bank will be updated on a quarterly basis and be publicly accessible upon demand.

Home Equity Conversion Mortgages: The House amendment contained a provision to extend the reverse mortgage program until September 30, 1994, and requires disclosure of the extent of the liability of the homeowner under the mortgage and the projected total future loan balances for at least 2 projected loan terms which shall include the costs for a short-term mortgage and the costs for a long-term mortgage equaling the life expectancy of the borrower and the cost of the mortgage. The Senate bill contained a similar provision except it only extended the program until 1993 and contained similar disclosure requirements. The conference report contains the House provision with an amendment to extend the program through fiscal year 1995.

Disapproval of property disposition regulations: The House amendment contained a provision not included in the Senate bill to permit homeless assistance providers to obtain HUD-held property for use under the $1 lease program without a 30-day waiting period by disapproving Section 291.1(c)(2) of the interim rule of HUD entitled "Disposition of HUD-Acquired Single Family Property" (55 Fed Reg. 1161 et seq.). It prohibited the Secretary from publishing a final rule containing or based on such provision. The conference report contains the House provision. The conferees intend that HUD is prohibited from publishing a final rule containing or based upon such restrictions which will inhibit the transfer of eligible FHA property for homeless assistance.

Report on Foreclosed Properties: The Senate bill contained a provision not included in the House amendment that would require HUD to submit a report to Congress containing strategies and action plans to assist in the disposition of HUD foreclosed properties giving special emphasis to properties within the HUD inventory for over one year. The conference report contains the Senate provision.

GNMA guarantees: The House amendment contained a provision not included in the Senate bill that would limit aggregate GNMA mortgage-backed security (MBS) guarantee authority to $84,982,040,000 for FY 1991 and to $88,296,339,000 for FY 1992. The conference report contains the House provision with an amendment to limit GNMA MBS authority to $84,982,000,000 for FY 1991 nd $88,296,000,000 for FY 1992.

Loan limits for property insurance loans: The House amendment contained a provision not included in the Senate bill that would increase the loan limits for property improvement insurance to $30,000 for single family structures, and $75,000, or a maximum average of $15,000 per unit, for the improvement or conversions of an existing structure to rental use. Would increase loan term units for single family improvement loans and conversion loans to 20 years and 32 days and maintains the loan term for manufactured home improvement and conversion loans at 15 years 32 days. Also would expand the loan term for improvement and conversion loans for an apartment house or dwelling used by two or more families to 20 years 32 days. The conference report contains the House provision with an amendment (1) that the loan limits will not be increased before the release by HUD of a report on need to raise the limit to be complete by June 1, 1991; (2) to increase loan limits to $25,000 for single family homes and to $60,000 for multifamily or a maximum of $12,000 per unit; (3) to have changes go into effect on June 1, 1990, and (4) to make no high cost area adjustments except that the Secretary is given the discretion to raise limits for high cost areas.

Sec. 235 homeownership: The House amendment contained a provision not included in the Senate bill that would extend Section 235 homeownership assistance payments authority, insurance authority, and housing stimulus authority until September 30, 1991, and removes Section 235 program sunset. The conference report does not contain the House provision.

Sense of Senate provision: The Senate bill contained two Sense of the Senate resolutions not included in the House bill. One was that the Secretary had sufficient authority to redefine the term "area" under Section 203 of the National Housing Act in designating areas where FHA mortgage insurance is not accessible for a significant number of homebuyers because of diverse economies. The second was that Individual Retirement Accounts should be able to be withdrawn without penalty for the purpose of a first-time home purchase, and that appropriate changes in law should be considered as part of tax legislation during this session of Congress. The conference report does not contain either Senate resolution.

TITLE IV—HOMEOWNERSHIP AND OPPORTUNITY THROUGH HOPE

Short title: The House amendment contained a provision not included in the Senate bill that would provide the title "Homeownership and Opportunity for People Everywhere Act of 1990". The conference agreement contains the title

"Homeownership Opportunity through HOPE Act".

'Authorization: The House amendment would authorize $136 million for FY 1991 for HOPE for Public and Indian Housing (HOPE I). The Senate bill contained a provision that would authorize $96 million in FY 1991, $260 million in FY 1992 and $400 million for FY 1993 for HOPE I. The conference report authorizes $68 million in FY 1991 and $380 million in FY 1992 for HOPE I. The House amendment authorized $102 million for FY 1991 for HOPE for Multifamily Units (HOPE II). The Senate bill would authorize $72 million for FY 1991, $195 million for FY 1992 and $300 million for FY 1993 for HOPE II. The conference report authorizes $51 million in FY 1991 and $280 million in FY 1992. The House amendment would authorize $72 million for HOPE for Single Family Homes (HOPE III). The Senate bill would authorize $72 million for FY 1991, $195 million for FY 1992 and $300 million for FY 1993 for HOPE III. The conference report authorizes $36 million in FY 1991 and $195 million in FY 1992 for HOPE III.

Eligible properties: The House amendment contained a provision not included in the Senate bill that would exclude scattered site public housing from HOPE I. The conference report contains the House provision.

The House amendment contained a provision that would define the term "eligible property" in HOPE II as meaning a multifamily rental property, containing 5 or more units, that is— (a) owned or held by the Secretary; (b) financed by a loan or mortgage held by the Secretary or insured by the Secretary; (c) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or (d) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, or a State or local government. The Senate bill contained a similar provision except that it expressly includes loans held by the Secretary under section 312 of the 1964 Housing Act or the NHA. For purposes of technical assistance grants under section 412, the term "eligible property" would also mean single family property containing no more than four units owned by the Secretary and eligible low-income housing as defined in the Low-Income Housing Preservation and Resident Homeownerhip of 1990. For purposes of planning grants under Section 412(b)(8), the term "eligible property" would also mean a property insured under the National Housing Act and assisted under Section 8 of the 1937 U.S. Housing Act. The conference report contains the House provision.

The House amendment contained a provision that would define the term "eligible property" in HOPE III as a single family property containing no more than four units that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, a State or local government (including any in rem property) or a public housing agency or an Indian housing authority (including scattered site family properties and properties held by institutions within the Resolution Trust Corporation jurisdictions). The Senate bill contained a similar provision except that the term eligible property would include a multi-family property containing 5 or more units that is owned by any public entity specified in subparagraph (a), other than by the Secretary or a public housing agency, or manufactured housing owned by the Secretary. The conference report contains the House provision.

Grant authority: The House amendment contained a provision that would authorize the Secretary to make planning and implementation grants to develop and carry out HOPE homeownership programs. The Senate bill contained a provision that would be similar except: in HOPE I, program authority would be for specific public housing projects and homeownership programs; HOPE II would provide for technical assistance grants and HOPE III would not provide for planning grants. The conference report contains the House provision.

Grant limitations: The House amendment contained a provision that would provide that no more than 15 percent of the appropriated amounts for any fiscal year could be used for planning grants; and no more than 5 percent of the amount reserved for planning grants could be used for grants to any single grant recipient. The Senate bill would limit amounts appropriated for planning grants for HOPE I to no more than $2,000,000 in any fiscal year. Assistance for planning grants with respect to any public housing project would be limited to $100,000. In HOPE II planning and technical grants each would be limited to $1 million of appropriated amounts. Assistance for planning grants for any single property would be limited to $100,000.

The conference report contains the Senate provision with an amendment to limit planning grants to $200,000 with waiver authority given to the Secretary to exceed this limit.

Authority to reserve housing assistance: The House amendment would provide that, in HOPE I, the Secretary could reserve authority to provide assistance under Section 8 of this Act (other than assistance under section 8(o)) to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in that or another project. The Secretary could also reserve authority to provide such assistance in connection with replacement of units under HOPE I. The House amendment contained a similar provision for HOPE II except the provision for replacement housing would not be included. For HOPE I, the Senate bill would be similar to the House provision except Section 8(o) vouchers would be authorized as a means of rental assistance and such Section 8 assistance would not be available for use by the tenant in the project in which he currently resides. The Secretary would not be given authority to reserve such rental assistance in connection with replacement of units. For HOPE II, the Senate bill would also contain a provision similar to the House amendment, except that voucher assistance and Section 8 assistance could be provided for assistance in purchasing a unit. The House amendment would provide no section 8 assistance for HOPE III. The Senate bill would allow the Secretary to reserve Section 8 assistance (both certificates and vouchers) for use as rental assistance for non-purchasing tenants in the project subject to the HOPE program or any other unit. The conference report contains the Senate provision for HOPE I and II. The conference report contains the House provision for HOPE III.

Planning grants

Eligible activities: The House amendment would provide that planning grants for HOPE I, II and III could be used for activities to develop homeownership programs (which could include programs for cooperative ownership). The Senate bill included a similar provision for HOPE I and II except that programs for cooperative ownership would not be expressly included. The Senate bill would not provide planning grants for HOPE III. The conference report contains the House provision with amendments to allow: economic development activities that promote economic self-sufficiency of homebuyers and homeownership program; legal fees; defraying costs for the ongoing training needs of the recipient that are directly related to developing and carrying out the homeownership program. Operating subsidies would be limited to the amount previously funded.

Application: The House amendment would require that an application contain a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested. The Senate bill was similar except that there would be no requirement that the request for a planning grant specify the personnel necessary to complete the activities and there would be a requirement that an application contain, at a minimum, a certification by the public official responsible for submitting the comprehensive housing strategy under section 105 of the NAHA Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located. The conference report contains the House provision with an amendment to include the Senate requirement that an application contain a certification that the proposed activities are consistent with the approved housing strategy of the state or local government within which the project is located.

Selection criteria: The House amendment would require that, for HOPE I, II and III, the Secretary establish by regulation selection criteria for a national competition for assistance under this section, which would include the potential of the applicant for developing a successful and affordable homeownership program, the suitability of the project for homeownership, and national geographic diversity among projects for which applicants are selected to receive assistance. The House amendment would also require that the Secretary consider the availability and suitability of properties in the relevant geographical area for HOPE II projects. For HOPE I and II, the Senate bill would include a similar provision except that it does not expressly require that the Secretary establish the selection criteria by regulation and the selection criteria need not include national geographic diversity. The Senate provision would require that the selection criteria include the potential capabilities of the applicant and the potential for developing an affordable homeownership program. The Senate bill would not provide planning grants for HOPE III. The conference report contains the House provision with an amendment to include povisions which require that the selection criteria include the potential capabilities of the applicant and the potential for developing an affordable homeownership program.

Technical assistance grants: The Senate bill contained a provision not included in the House amendment that would authorize the Secretary to make technical assistance grants to applicants for the purpose of developing the capacity of applicants to devel-

op and carry out homeownership programs under HOPE II and under the Low-Income Housing Preservation Act of 1990, and to develop and carry out other homeownership opportunities involving acquisition of single family property, containing no more than four units, owned by the Secretary. The conference report does not contain that provision.

Implementation grants

General authority: The House amendment would authorize the Secretary to make implementation grants to applicants for HOPE I, II or III for the purpose of carrying out homeownership programs that meet the requirements of this title. The Senate bill was similar except that the homeownership programs must be approved under the title. The conference report contains the Senate provision.

Eligible activities: The House amendment would provide that implementation grants could be used for activities to carry out homeownership programs (including programs for cooperative ownership) that meet the requirements under this subtitle. The Senate bill is similar except that it would not expressly include certain programs contained in the House amendment. The conference report contains the House provision with amendments to allow: economic development activities that promote economic self-sufficiency of homebuyers and homeownership program; legal fees; defraying costs for the ongoing training needs of the recipient that are directly related to developing and carrying out the homeownership program. Operating subsidies would be limited to the amount previously funded.

Matching requirements: The House amendment would require that each HOPE I, II or III grant recipient ensure that at least one-third of the total cost of eligible activities be provided from non-Federal sources. The Senate bill would require a 25 percent match of HUD grant by non-Federal sources. The House amendment would include block grants made available by the Federal Government to States or local governments on a formula basis as non-federal sources. The Senate bill would not include Federal tax expenditures or funds from a grant made under Section 106(b) or Section 106(d) of the 1974 Housing and Community Development Act except for administrative expenses as non-federal sources. The House amendment would allow a recipient to include the value of such items as the Secretary determines to be appropriate, if such items have a readily discernible market value, in determining compliance with this subsection. The Senate bill would include as eligible matching funds the value of taxes, fees, or other charges that are waived, foregone, or deferred to facilitate the implementation of a homeownership program; the value of land or other real property (except in HOPE III); the value of investment in on-site and off-site infrastructure required for a homeownership program; or such other in-kind contributions as the Secretary may approve with no requirement for readily discernible market value. Contributions for administrative expenses could be recognized only up to an amount equal to 7 percent of the total amount of grants made available. The conference report contains the Senate provisions with amendments to establish a 4 to 1 match for HOPE I and a 3 to 1 match for HOPE II and III. Post-sale subsidies would not have to be matched.

Application: The House amendment contains provisions which specify what applications for HOPE I, II and III must contain. The Senate bill contains similar provisions. The conference report contains the House provision with amendments to require the certification by the public official responsible for submitting the comprehensive housing affordability strategy; and require identification of property management.

Selection criteria: The House amendment contained provisions which would specify that selection criteria include the feasibility of the homeownership program; the extent to which the project receives support from entities other than those assisted under this title (HOPE III does not include this criteria); national geographic diversity among housing for which applicants are selected to receive assistance; and the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program would not appreciably reduce the number of such rental units available to residents curerntly residing in such units or eligible for residency in such units. The Senate bill contained a similar provision but would not include the requirement for showing feasibility, geographic diversity, or the status of the supply of housing in the area. The Senate bill would require that the criteria include: the quality and viability of the proposed homeownership program, including under HOPE I the viability of the economic self-sufficiency plan; and whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the NAHA. HOPE II would include the extent and urgency of the need to approve an application in order to provide homeownership of units in the property. HOPE III would also include the extent to which suitable eligible property is available for use under the program in the area to be served and the extent to which the types of property expected to be covered by the homeownership program are federally owned. The conference report contains the Senate provision with an amendment incorporating the feasibility of the homeownership program; national geographic diversity and the status of the supply of housing in the area.

Approval: The House amendment contained a provision that would require the Secretary to notify each applicant of the application's approval or disapproval, not later than 6 months after the date of the submission of the application. The House amendment would provide, where applicable, that the Secretary could approve the application for an implementation grant with approval of the application for section 8 assistance for nonpurchasing residents of the project conditional upon the availability of appropriations in subsequent fiscal years. The Senate bill would require the Secretary to notify the applicant whether the application is approved or not approved and provide that the Secretary could approve the application for an implementation grant with a statement that application for the section 9 or Section 8 assistance is conditionally approved, subject to the availability of appropriations in subsequent fiscal years. No approval would be required for HOPE III. The conference report contains the House provision.

Limitation on HOPE I implementation grants: The Senate bill contained a provision not included in the House amendment that would provide that the Secretary could approve applications for grants under HOPE I or II only for public housing projects located within the boundaries of jurisdictions that are participating jurisdictions under title III of the NAHA. The conference report contains the Senate provision with an amendment allowing non-HOPE eligible jurisdictions to have a housing plan submitted by the agency responsible for affordable housing.

Homeownership program requirements

Affordability: The House amendment contained a provision not included in the Senate bill that would require a homeownership program under HOPE I or II to provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property such that an eligible family would not be required to expend more than 30 percent of their adjusted monthly income to complete a sale under the homeownership program. The House amendment would require a homeownership program under HOPE III to provide for the eligible family to make payments toward the costs of homeownership (including principal, insurance, taxes, and interest and closing costs) in an amount not to exceed 30 percent of the adjusted income of the family. The conference report contains the House provision.

Required participation: The House amendment contained a provision not included in the Senate bill that would require that all tenants in a HOPE III property participate in the homeownership program before the property could be included in the program. The conference report contains the House provision.

Required plans: The House amendment contained a provision not included in the Senate bill that would require a homeownership program under this title to provide a plan for: identifying and selecting eligible families to participate in the homeownership program; providing relocation assistance to families who elect to move; ensuring continued affordability by tenants, homebuyers, and homeowners in the project; providing ongoing training and counseling for homebuyers and homeowners in HOPE I and II; and replacing units in eligible projects covered by a homeownership program for HOPE I. The conference report contains the House provision.

Acquisition and rehabilitation limitations: The House amendment contained a provision not included in the Senate bill that would provide that acquisition or rehabilitation of projects under a homeownership program in HOPE I or II could not consist of acquisition or rehabilitation of less than the whole project in a project consisting of more than 1 building. It would also provide that the provisions of this subsection could be waived upon a finding by the Secretary that the sale of less than all of the buildings in a project would be feasible and would not result in a hardship to any tenants of the project who are not included in the homeownership program. The conference report contains the House provision.

Financing: The Senate bill contained a provision that would require identification and description of the financing proposed for any rehabilitation and acquisition of the property for transfer to eligible families, or by eligible families with ownership interests in, or shares representing, units in the property. Financing could include conventional mortgage or FHA. The House amendment contained a similar provision with the re-

quirement that the financing plan be contained in application which applies to all HOPE programs. The Senate bill also contained a provision not included in the House amendment that would prohibit property transferred under this title to be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that such encumbrances would not: threaten the long-term availability of the property for occupancy by low-income families or expose the Federal Government or the public housing agency to undue risks related to action that could be taken pursuant to default. The Secretary would also have to determine that any debt obligation could be serviced from project income, including operating assistance that would be provided in accordance with operating subsidies; and the proceeds of such encumbrances would be used only to meet housing standards in accordance with subsection (c) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this title. The House amendment contained a provision that would require that any lender that provides financing in connection with a homeownership program under this title would give the public housing agency, resident management corporation, purchasers of individual units, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default. The Senate bill contained a similar provision, except that it would not extend default protection to purchasers of individual units. The conference report contains the Senate provision with an amendment to include in application and to conform to changes in source of operating subsidies.

Housing quality standards: The House amendment contained a provision that would require that the application include a plan ensuring that the unit would be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and would meet housing quality standards established by the Secretary for the purpose of this title not later than 2 years after transfer of an ownership in, or shares representing, a unit to an eligible family. The Senate bill contained a provision that would require that projects transferred under this title meet housing standards established by the Secretary. It would provide that the Secretary, in response to a written plan contained in an application, could give an applicant a period of not to exceed 3 years (from the date the property is transferred to the applicant to meet such housing standards. Neither a public housing agency under HOPE I or the Secretary or an existing owner under HOPE II could convey fee simple title to a project until the property meets the housing standards established under paragraph (1). Under HOPE III, the Senate bill would require the eligible family to make or cause to be made repairs and improvements required to correct all defects that pose a substantial danger to health and safety within one year, make such repairs and improvements to the property as may be necessary to meet housing standards established by the Secretary within three years and permit reasonable periodic inspections at reasonable times by the unit of general local government or the recipient. The conference report contains the House provision for HOPE I, II and III with an amendment to include a prohibition on conveying fee simple title until the property meets the minimum prescribed housing standards.

Replacement plan: The House amendment contained a provision that would require each homeownership program under HOPE I to provide for the replacement of each unit covered by the program for which the ownership interest is not retained by the public housing agency. It would require that such replacement would be in the form of a 5-year contract for tenant-based assistance under section 8(b). The Senate bill contained a provision that would prohibit public housing projects from being transferred under this title unless the Secretary has entered into a binding agreement with the local public housing agency to make available to such agency and Federal funding assistance to provide an additional decent, safe, sanitary, and affordable dwelling unit as a replacement for each unit in a public housing project to be transferred. Such replacement housing could consist of the development of new public housing units by the public housing agency in accordance with section 5; the rehabilitation of vacant public housing units by the public housing agency in accordance with section 14(n)(1); the use of 5-year, tenant-based rental assistance under section 8(b)(2) and section 8(o)(9); the use of a State or local program that is comparable to any of the Federal programs referred to above as to housing standards, eligibility, and contribution to rent, and provides a term of assistance of not less than 5 years; where the applicant is a resident management corporation, resident council, or cooperative association, the acquisition of nonpublicly owned housing units, which the applicant shall operate as rental housing comparable to public housing as to term of assistance, housing standards, eligibility, and contribution to rent; or any combination of such methods. The Senate bill would also require that tenant-based rental assistance under section 8 (or a comparable State or local program) would be counted as replacement housing only if the Secretary finds that replacement with assistance specified above is not feasible, and the supply of private rental housing actually available to those who would receive tenant-based assistance is sufficient for the total number of certificates and vouchers available in the community and that such supply is likely to remain available for the full 5-year term of such assistance. It would provide that, notwithstanding the preceding sentence, vouchers could be used to provide replacement housing in any community where the vacancy rate for standard rental units exceeds the national average vacancy rate for such units. The conference report contains the Senate provision with an amendment to delete the requirements related to the use of tenant-based rental assistance.

Protection of existing tenants: The House amendment contained a provision that would require the recipient to inform each such tenant that if the tenant decides not to purchase a unit, or is not qualified to do so, for HOPE I the public housing agency will offer each tenant (a) a unit in another public housing project, or (b) assistance under Section 8 (other than assistance under subsection (o) of such section), for use in that or another project, and for HOPE II Section 8 assistance (other than under 8(o)) for use in the program project or another project. In both programs, tenants that elect to move would receive relocation assistance. If a tenant in a HOPE I project decides not to purchase a unit, or is not qualified to do so, the Senate bill would require the recipient to permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with 1937 Housing Act during the term of the operating assistance contract. If an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency would offer such tenant a unit in another public housing project, or section 8 assistance for use in other housing.

The Senate bill would also require that tenants renting a unit in a project transferred under this subtitle would have all rights provided to tenants of public housing under this Act. The Senate bill contained a provision, applicable to HOPE II, which was similar to the House provision except that vouchers would not be expressly forbidden. The conference report contains the Senate provision.

Other program requirements

Required transfer: The House amendment contained a provision that would require that, where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant (or other entity, including a for-profit entity or a nonprofit entity in cooperation with an applicant) under HOPE I, the public housing agency would transfer the project to such other entity, in accordance with the approved homeownership program. The Senate bill contained a similar provision except that it would not state that purchasing entities could include a for-profit entity or a nonprofit entity in cooperation with an applicant. The conference report contains the Senate provision.

Preferences: The House amendment contained a provision that would require a recipient of an implementation grant under HOPE I or II to give preference to current tenants in selecting eligible families for homeownership. The Senate bill contained a similar provision except that the recipient would give a second preference to otherwise qualified eligible families who have completed participation in the project independence program authorized under section 14(j) of the NAHA, or in another economic self-sufficiency program specified by the Secretary. The Senate bill contained a provision in HOPE III not included in the House amendment that would require that the preference for certain categories of eligible families under sections 8(d)(1)(a) and 8(o)(3) must not apply to the provision of assistance to a family residing in a dwelling unit in an eligible property on the date the Secretary approves an application for an implementation grant. The conference report contains the Senate provision with an amendment deleting reference to Project Independence.

Operating subsidies: The House amendment contained a provision in HOPE I which would provide that operating subsidies under section 9 of the 1937 Housing Act would not be available with respect to a public housing project after the date of its sale by the public housing agency. The Senate bill contained a provision which would provide that, to the extent that the total income of a public housing project transferred under this title is not sufficient to cover the costs of operation, the public housing agency could enter into a 5-year operating assistance contract, from amounts made available for use under section 9, to

provide assistance for the operating costs of an approved homeownership program. The total amount of the contract would not exceed 5 times the current annual operating subsidy determined under section 9 of this Act with respect to the project for the year before sale of the project under this title, plus an annual inflation adjustment determined by the Secretary. The assistance would be paid on an annual basis, and the assistance could not exceed an amount for each year that is equal to the annual operating subsidy determined under section 9 of this Act with respect to the project for the year before sale of the project under this title, plus an annual inflation adjustment determined by the Secretary. The conference report contains the House provision.

Use of proceeds: The House amendment contained a provision that would require the entity that transfers ownership interest in units to eligible families, or another entity specified in the approved application, use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The Senate bill contained a provision that was similar except that the transferring entity could use only 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program. The remaining 50 percent would be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity would keep and make available to the Secretary all records necessary to accurately calculate payments due the Secretary under this subsection. This restriction would apply only to multifamily units in HOPE III. The conference report contains the House provision.

Restrictions on resale: The House amendment contained a provision that would permit a homeowner under a homeownership program to transfer the homeowner's ownership interest in, or shares representing, the unit. Where a grant recipient (in the case of HOPE II), resident management corporation, resident council, or cooperative has jurisdiction over the unit, the grant recipient (HOPE II) corporation, council, or cooperative would have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. Where such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a lower income family, the public housing agency or the implementation grant recipient would have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

The Senate bill was similar except that the homeowner could transfer the homeowner's interest in or shares representing the units only to low-income families; and only at a price consistent with guidelines established by the Secretary that are designed to provide the owner with a fair return, including any improvements, and to ensure that the housing would remain affordable to a reasonable range of low-income homebuyers. Where a resident management corporation or resident council elects to purchase, it would make the unit available for purchase by eligible families in accordance with the preference that would apply upon the initial sale of the unit.

The House amendment included a provision not included in the Senate bill that would provide that the homeownership program could establish additional restrictions on the resale of a unit under the program.

The House bill would require that, with respect to a homeowner assisted under a homeownership program under this title, if such homeowner sells a unit or shares representing a unit within 5 years after acquisition by the homeowner, the Secretary would provide for the recapture of: an amount equal to the net proceeds received by the homeowner from any sale or transfer of the unit by such homeowner less the sum of the following amounts: any equity interest of the homeowner in the unit (including any costs paid at closing); the value of any improvements made by the homeowner during ownership of the unit; and an amount equal to the price paid for the unit upon sale to the homeowner multiplied by any percent increase in the appropriate consumer price index, as published monthly by the Bureau of Labor Statistics, over the period the property is owned by the homeowner. The Senate bill would require that if the sale to the first eligible family is for less than market value, the homeownership program must provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. It would require that the plan provide for authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period; limiting the family's consideration for its interest in the property to the total of the contribution to equity paid by the family; the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and (iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity; such entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed; execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or any other appropriate arrangement that the Secretary determines is adequate to prevent undue profit for at least 10 years.

The Senate bill contained a provision not included in the House amendment that would provide that upon sale, the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, would ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

The House bill would require that any portion of the net sales proceeds in HOPE I, II and III, not be retained by the homeowner pursuant to recapture of the proceeds, would be returned to the Secretary for use under this title, subject to approval under appropriations Acts. The Senate bill would provide that 50 percent of any portion of the net sales proceeds that may not be retained by the homeowner would be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent would be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity would keep and make available to the Secretary all records necessary to accurately calculate payments due the Secretary under this subsection. For HOPE III, the Senate bill would provide that in the case of multifamily projects, 50 percent of any portion of the net sales proceeds that may not be retained by homeowner under the approved plan must be paid to the recipient, for use by the recipient for eligible activities under HOPE III. The remaining 50 percent of such proceeds would be returned to the Secretary for use under HOPE III, subject to limitations contained in appropriations Acts. Such entity would keep and make available to the Secretary all records necessary to calculate accurately payments due to the Secretary under this subsection.

The House amendment contained a provision in HOPE I and II not included in the Senate bill that would provide that the requirements under this subsection regarding rehabilitation, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of properties under this subsection or their successors in interest with respect to other actions by affected lower income families, resident management corporations, resident councils, (public housing agencies in the case of HOPE I), and any agency, corporation, or authority of the United States Government. The parties specified in the United States Government. The parties specified in the preceding sentence would be entitled to reasonable attorney fees upon prevailing in any such judicial action.

The conference report contains the House provision with an amendment to restrict profit for 6 years and recapture subsidies for up to 15 years.

Limit on economic developmental activities: The House amendment contained a provision applicable to HOPE I and II that would provide that not more than an aggregate of $250,000 from amounts made available could be used for economic development activities. The Senate bill contained a similar provision in HOPE I except that the dollar limitation on economic development activities would include amounts made available under section 14 of this Act in addition to those made available for economic development activities under this title. The Senate bill also contained a provision in HOPE II that was similar except the aggregate limitation is $225,000 and amounts under Section 14 of this Act would not be included.

Timely homeownership: The Senate bill contained a provision not included in the House amendment that would require that grant recipients transfer ownership of the property to tenants within a specified period of time that the Secretary deter-

mines to be reasonable. It would require that during the interim period when the property continues to be operated and managed as rental housing, the recipient would utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for very low-income families. It would require the recipient to promptly notify in writing any rejected applicant of the grounds for any rejection. The Senate bill would require that tenants renting a unit in a project transferred under HOPE I would have all rights provided to tenants of public housing under this Act. The conference report contains the Senate provision with an amendment to delete the word "very".

Records and audit: The Senate bill contained a provision not included in the House amendment that would require each recipient under HOPE I or II to keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this title (and any proceeds from financing or sales), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit. It would provide the Secretary and the Comptroller General with access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title. The conference report contains the Senate provision.

Continuation of mortgage terms: The House amendment contained a provision that would require that any recipient of a grant that assumes a mortgage covering eligible property would, in addition to any requirements of the homeownershp program, comply with the low-income affordability restrictions under the mortgage for a period not shorter than the remaining term of the mortgage. The Senate bill contained a similar provision except that the continuation of affordability restrictions would only apply to an entity that (as determined by the Secretary) intends to own the housing on a permanent basis. The conference report contains the Senate provision.

Foreclosure of HUD assisted property: The Senate bill contained a provision not included in the House amendment that would provide that in connection with a foreclosure sale, the Secretary could require, as a term or condition of sale under HOPE II, that an eligible property be used by the purchaser, and its successors and assigns only in accord with an approved homeownership program. The conference report does not contain that provision.

Definitions

Eligible Family: The House amendment contained a provision that would define "eligible family" in HOPE I as a family or individual who is a tenant in the public or Indian housing project on the date the Secretary approves an implementation grant; a lower income family; or a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-lower income families assisted under any mortgage insurance program administered by either Secretary). The Senate bill contained a similar provision except that the definition of the term "eligible family" would not exclude any non-lower income families assisted under any mortgage insurance program administered by either the Secretary of Agriculture or the HUD Secretary. The House bill would define the term "eligible family" under HOPE III as a family or individual who has an income that does not exceed 80 percent of the median income for the area and is a first-time homebuyer. The Senate bill contained a similar provision except that the term "eligible family" would include families or individuals who do not currently own a home. The conference report contains the House provision with a conforming amendment which changes "lower income" to low income.

Recipient: The House amendment contained a provision that would define the term "recipient" as meaning an applicant approved to receive a grant under this title. The Senate bill contained a provision that would be similar except that the term "recipient" could also mean such other entity specified in the approved application that would assume the obligations of the recipient under this title. The conference report contains the Senate provision.

Relationships to other programs: The House amendment contained a provision that would require that the program authorized under this title would be in addition to any other public housing homeownership and management opportunities, including opportunities under section 5(h) and title II of this Act. The Senate bill contained a provision that would provide that the provisions of this title would not apply to housing developed or transferred for homeownership purposes prior to the enactment of the National Affordable Housing Act under the turnkey III, the mutual help, or any other homeownership program established under section 5(h), section 6(c)(4)(d), or section 21 of this Act. The conference report contains the Senate provision with an amendment to allow for 5(h) to continue with HOPE replacement housing requirements.

Annual report: The Senate bill contained a provision not included in the House amendment that would require the Secretary to annually submit to the Congress a report setting forth the number, type, and cost of public housing units pursuant to this title; the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this title; the amount and type of financial assistance provided under and in conjunction with this title; the amount of financial assistance provided under this title that was needed to ensure affordability and meet future maintenance and repair costs; and the recommendations of the Secretary for statutory and regulatory improvements to the program. Any authority of the Secretary under this title to provide financial assistance, or to enter into contracts to provide financial assistance, would be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act. The conference report contains the Senate provision.

Limitation on selection criteria: The House amendment contained a provision not included in the Senate bill that would provide that, in establishing criteria for selecting applicants to receive assistance, the Secretary could not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located. The conference report contains the House provision.

Amendments relating to demolition and disposition of public housing: the House amendment contained a provision that would amend Section 18(b)(1) of the 1937 United States Housing Act by striking "disposition" and inserting the following: "disposition, and the tenant councils, resident management corporation, and tenant cooperative, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application". The Senate bill contained a similar provision except tenant cooperatives would not be included. The conference report contains the House provision.

The Senate bill contained an additional provision not included in the House amendment that would provide that the provisions of Section 18 would not apply to the disposition of a public housing project in accordance with an approved homeownership program under HOPE I. The conference report contains the Senate provision.

Amendment to Section 8: The Senate bill contained a provision not included in the House amendment that would make conforming amendments to allow for Section 8 certificates and voucher assistance for families that qualify because of their participation in a HOPE project voucher in connection with a homeownership program approved under title IV of the National Affordable Housing Act. The conference report contains the Senate provision.

Section 8 assistance: The Senate bill contained a provision not included in the House amendment that would provide that to the extent that the total income of an eligible property transferred under HOPE II is not sufficient to cover the costs of operation, the Secretary could extend existing contracts for loan management assistance for up to 5 years and, if such extensions are not sufficient, provide additional rental assistance under section 8(b)(3) subject to the availability of appropriations to provide assistance for the operating costs of an approved homeownership program. The Senate bill would provide that the requirement for giving preference to certain categories of eligible families under sections 8(d)(1)(a) and 8(o)(3) would not apply to the provision of assistance to a family residing in a dwelling unit in an eligible project on the date the Secretary approves an application for an implementation grant. The conference report contains the Senate provision.

Related CIAP amendments: The Senate bill contained a provision not included in the House amendment that would require the Secretary to make assistance available in the form of grants for the purpose of rehabilitating vacant public housing units as replacement housing for public housing. The conference report does not contain that provision but contains an amendment to allow for 5(h) scattered site and to prevent CIAP from being used post-sale.

Transition for section 21A demonstration: The House amendment contained a provision that would amend Section 21 Public Homeownership and Management Opportunities provisions of the 1937 United States Housing Act. The Secretary would be allowed to provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain training, technical assistance, and educational assistance as necessary to pro-

mote homeownership opportunities under Section 21. The Secretary could use not more than $3,000,00 in any fiscal year of amounts appropriated for CIAP to carry out this subparagraph. Section 21 would not be in effect after the effective date of the regulations implementing subtitle A of title III of the U.S. Housing Act of 1937 but would provide transition to allow for continuation of resident management development and project transfers if such were initiated before the effective date. The Senate bill contains a provision that would terminate Section 5(h) and Section 21 of the 1937 United States Housing Act on the effective date of enactment of this Act. This termination would not affect housing transferred for homeownership purposes prior to enactment of this Act under Section 5(h) or Section 21 of this Act. The conference report contains the House provision with an amendment to limit the authorization of $3 million for fiscal year 1991 only.

Operating subsidies: The Senate bill contained a provision not included in the House amendment that would provide that if a public housing agency transfers a public housing project in accordance with an approved homeownership program, the payments received under Section 9 with respect to that project would continue for a 5-year period, subject to the availability of appropriations for such purpose, in amounts not less than the amounts that would have been received without such transfer. The conference report does not contain the Senate provision.

Conforming amendment for HOPE II: The House amendment contained a provision that would provide that eligible property assisted by a homeownership implementation grant under HOPE II would not be subject to the requirements of section 203 of the 1978 Housing and Community Development Amendments applicable to the sale of projects either at foreclosure or after acquisition by the Secretary. The Senate bill was similar except that it would also exempt eligible property covered by a homeownership program from the Low-Income Housing Preservation and Resident Homeownership Act of 1990. The conference report contains the Senate provision.

Applicability: The House amendment contained a provision that would require that in accord with section 201(b)(2) of the 1937 United States Housing Act, the amendments made by this subtitle would also apply to public housing developed or operated pursuant to a contract between the HUD Secretary and an Indian Housing Authority. The Senate bill contained a similar provision except that nothing in this HOPE title would affect the Indian mutual housing program. The conference report contains the House provision.

TITLE V—HOUSING ASSISTANCE

SUBTITLE A—PUBLIC AND INDIAN HOUSING

Preferences: The House amendment contained a provision that would increase from 10 to 30 the percentage of non preference families that a public housing agency may admit for occupancy as units become available. The Senate bill contained a similar provision except, for the non preference families, it would require the public housing agency to make units available in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities which may include: assisting very low-income families who either reside in transitional housing assisted under title IV of the McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to educational and employment opportunities; assisting families who would have to pay more than 30 percent of their adjusted income for rent; avoiding breakup of families and preserving and strengthening families and achieving other objectives identified in cooperation with child welfare agencies and other appropriate human service agencies; or achieving other objectives of national housing policy as affirmed by Congress. The Senate provision also excluded from the preferences for five years any person that had previously been evicted for drug related criminal activity. The conference report also contains the Senate requirements for local preferences with an amendment to include as a permissible local preference the need to provide adequate housing for family unification purposes. These preferences were drawn from section 520 of the House amendment. The conference report contains the Senate provision on the exclusion for drug-related activities amended to change the exclusion from 5 years to 3 years and to provide the agency with discretion to waive such exclusion when family members that clearly were not involved in the drug related criminal activity and had no knowledge of such activity or when the circumstances leading to the eviction no longer exist. The conferees intend that the exclusions be applied so as to protect uninvolved, innocent family members from the illegal actions of another member of the family. Futher, it is intended that the waiver for changed circumstances be used to protect innocent family members in cases of death, divorce or incarceration.

The House amendment contained a provision not included in the Senate bill that clarified that homeless shelters and transitional housing are considered substandard housing for purposes of assigning priorities for Section 8 and public housing assistance. The conference report contains the House provision.

Public Housing Agency Reform

Performance indicators for public housing agencies: The House amendment contained a provision that amended the 1937 Housing Act to require the Secretary to develop and publish standards to be used to assess the management performance of public housing agencies. Such standards would enable the Secretary to evaluate the performance of public housing agencies in at least the following major areas of management operations: (1) operating expenses relative to revenues; (2) operating reserves relative to maximum allowable reserves; and (3) compliance of units with housing quality standards or an equivalent standard, and (4) the existence of a system for making necessary repairs or replacements. The Senate bill contained a similar provision except that indicators would be used to evaluate the performance of public housing agencies in all major areas of management operations. Specifically, the Senate provision listed indicators that would be required to be used by the Secretary: (1) the number and percentage of vacancies; (2) the amount and percentage of funds obligated to the PHA under Section 14 of the 1937 Housing Act which remain unexpended after 3 years; (3) the proportion of maintenance work orders outstanding; and (4) the percentage of units that an agency fails to inspect or ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments for large and small agencies). The conference report contains the Senate provision amended (1) to clarify that performance indicators and the procedures for designating troubled PHAs will be subject to notice and comment rulemaking and (2) that at least one indicator includes progress that a PHA has made within the past three years to reduce the period of time required to complete maintenance work orders. The Conferees believe that it is important for HUD to use objective measurements to evaluate PHA performance.

Designation of high performing agency: The House amendment contained a provision not included in the Senate bill that would require the Secretary to designate a public housing agency that meets the specified performance standards to be a high performing agency. The conference report does not contain the House provision but includes an amendment to authorize HUD to develop criteria, working with industry groups, to commend high performing PHAs. The Conferees support the attempt to provide meaningful reforms for the Nation's Public Housing Authorities as addressed in the bill. However, the Committee also recognizes that while "troubled" agencies must be subject to vigorous reform, not all agencies are troubled and many should be recognized for their accomplishments and high performance. The House amendment contained a requirement that the Secretary publish annually in the Federal Register lists of public housing agencies that have met the specified performance standards established in the legislation and have been designated "high performing" agencies. The Senate had no similar provision. The Conferees believe that HUD should develop some criteria by which it can recognize "high performing" agencies may be recognized for their efforts.

Sanction for failure of troubled PHA to meet targets: The House amendment contained a provision that would require the Secretary to enter into agreement with troubled PHAs to meet performance targets and setting forth incentives or sanctions for effective implementation of those targets, which may include such restrictions on the use of funds made available under this Act as the Secretary determines to be appropriate. The Senate bill contained a similar provision except it would expand restrictions on funds to include those made available under the Housing and Community Development Act of 1974. The conference report contains the Senate provision amended to delete the reference to the 1974 Act and to require HUD to include a description of the technical assistance that it will give to the PHA. The conferees emphasize their belief that cities need to be more involved in, and held accountable for, the performance of PHAs in their jurisdictions. The intention remains that the Secretary has the authority to use his discretion to enforce cities to monitor the performance of PHAs.

Sanction for substantial default by troubled PHAs in performance: The Senate bill contained a provision not included in the House amendment that would permit the Secretary, upon the occurrence of events or conditions that constituted a substantial default by a PHA with respect to the covenants or conditions to which the PHA is subject or the agreement entered into between the Secretary and the agency, (1) to solicit competitive bids from housing management agents in the eventuality that these agents may be needed for managing all, or part, of the housing administered by

a public housing agency; and (2) to petition for the appointment of a receiver (which may be a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposes and powers prescribed in this subsection. In any proceeding for the appointment of a receiver, upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with the National Affordable Housing Act and in accordance with such further terms and conditions as the court may provide. The court would have the power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary. The appointment of a receiver pursuant to this subsection could be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the PHA will thereafter be operated in accordance with the covenants and conditions to which the PHA is subject. The conference report contains the Senate provision. The conferees intend for HUD to use this authority to move aggressively to improve living conditions for tenants in severely troubled public housing.

Listing of high performing and troubled PHAs: The House amendment contained a provision not included in the Senate bill that would require the Secretary to provide annually each appropriate housing authority of each State and the chief executive officer of each locality which has a PHA within its jurisdiction with a listing of the high performance and troubled public housing agencies in the State. The conference report does not contain the House provision.

Reports: The Senate bill contains a provision not included in the House amendment that would require the Secretary to annually submit to the Congress a report identifying the public housing agencies that have been designated as troubled describing the agreements that have been entered into with such agencies under such paragraph, describing the status of progress under such agreements, and describing any action that has been taken in accordance with paragraph (3). The conference report contains the Senate provision with an amendment to require the report to describe the grounds on which any PHA was designated and continues to be designated as troubled and also requires a description of the status of PHAs that were designated as troubled for the purposes of the modernization program.

Requirement for PHA Training: The House amendment contained a provision not included in the Senate bill that would require each State, as a condition for PHAs within the State to receive assistance under this Act, to establish (not later than 2 years after the date of the enactment) and enforce standards for a course of study and certification of executive directors and other officers and members of local, regional, and State PHAs. The State would provide for completion of the course and certification before appointment to any position within a PHA within the State, and shall require any individuals holding such positions within any PHA on the date of the establishment of such course and provisions for certification to complete the course and acquire certification, within 1 year after such establishment. The conference report does not contain the House provision but is amended to require the Secretary, within one year of enactment of this Act, to report to Congress on the practicality and feasibility of establishing standards for the certification and training of executive directors and other officers and members of PHAs. If such a course of training is determined to be practical, the Secretary will develop, in coordination with industry groups, an appropriate training program.

Project-based accounting systems: The House amendment contains a provision that would require that contributions contracts provide for the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair, and other operating costs) on a project basis, which shall (1) require each public housing agency to publish an annual financial statement of all its operations, including the financial status of each individual housing project, and (2) the review of such reports by the applicable Board of Commissioners or other governing body with respect to such PHA and by the applicable State housing authority. The Senate bill contains a similar provision except it does not contain requirements to publish annual financial statements or review of such reports by others. The conference report contains the Senate provision with an amendment to exempt PHAs not receiving operating subsidies from these requirements and to authorize the Secretary to allow PHAs which operate fewer than 250 units to apply the accounting requirement on an agency wide basis. The conferees want to encourage local Commissions to review the results. The Conferees are aware that in some instances of troubled agencies, there was a breakdown in communication between the agency itself and the Board of Commissioners which is required to oversee the operations of the agency and that in at least one instance commissioners too were unable to obtain copies of HUD's annual audit of the agency. The Committee recognizes that an integral part of agency oversight is the analysis of the operations of the agency by HUD through its annual audit. Therefore, the Committee directs the Secretary to ensure that a copy of an agencies' annual audit be made available to the Chairman of the Board of Commissioners of each agency.

Regulation: The House amendment contained a provision that would require the Secretary to adopt by regulation guidelines to implement the public housing agency reforms enumerated above. The Senate bill contained a similar provision but would not require adoption by regulation. The conference report contains the Senate provision amended to require notice and comment on rulemaking.

Reduction of operating subsidies: The Senate bill contained a provision not included in the House amendment that would permit the Secretary to reduce operating subsidies for public housing units that have been continuously vacant for 1 year or longer where such vacancies have been caused by factors within the control of the public housing agency. The conference report does not contain the Senate provision. The conferees intend that the elimination of this provision would not be construed to limit the Secretary's rulemaking authority in this area.

Report on Buffalo Municipal Housing Authority: The Senate bill contained a provision not included in the House amendment that within 180 days after the date of enactment, would require the Secretary to transmit to Congress a report on the operating and efficiency of the Buffalo Municipal Housing Authority ("the Authority"), using, among other criteria, the performance indicators set forth in the National Affordable Housing Act, and giving special attention to the Authority's desegregation program and to the vacancy rate. For purposes of the report the Secretary may specifically determine whether to: (A) petition for the appointment of a receiver for the Authority; or (B) reduce operating subsidies for the Authority. The conference report contains the Senate provision.

Criminal activity in public housing

Eviction and termination: The House amendment contained a provision not included in the Senate bill that would expand circumstances where administrative grievance procedure will apply to cases of inaction. The conference report does not contain the house provision. There is no need for clarification that Section 6(k) guarantees tenants the right to have grievance hearings with respect to a public housing agency's failure to act because the Secretary is no longer taking the position that public housing tenants have no right to have grievance hearings about their public housing agency's failure to act.

The House amendment contained a provision that would limit a public housing agency's ability to bypass the current administrative lease and grievance procedure to those activities that threaten the health or safety of tenants or employees. In such cases the agency could use an expedited grievance procedure or bypass the administrative procedures if state court procedures would provide specified elements of due process. The House provision also required public housing authorities to provide relevant documents prior to any hearing or trial. Proposed rules implementing the section would be required to be published within 60 days of enactment and the existing due process waivers would not be valid after enactment. The Senate bill contained a similar provision but would allow bypass when a criminal activity affects health, safety, and welfare of tenants.

The Senate bill also contained a provision not included in the House amendment that would allow public housing agencies to bypass grievance procedure without regard to due process offered in court where eviction or termination is for "criminal activity, including drug related criminal activity, that adversely affects the health, safety, and welfare of public housing tenants" so long as the public housing agency notifies the tenant of the reasons for eviction or termination.

The conference report contains the House provision with an amendment (1) to allow public housing agencies to bypass the current administrative procedure in cases of eviction or termination involving criminal activity that threatens the health, safety and right to peaceful enjoyment of other tenants or employees of the public housing agency or in the case of drug related criminal activity on or near the premises and (2) to require the Secretary to establish the expedited grievance procedure through notice and comment rulemaking. This language is intended to reach criminal activity that seriously endangers other tenants or PHA employees, while preserving the grievance process for all other categories of evictions.

The amendment deleted the specified elements of due process set forth in the House

amendment. Such elements will continue to be established by regulation and the deletion of the specified elements should not be construed as a determination by the conferees that such elements should not continue to be part of the regulatory definition of due process. The conference report does, however, prohibit the regulatory definition of due process from including a requirement for discovery. Instead, the conference report requires that the public housing agency must provide tenants a reasonable opportunity prior to the hearing or trial to examine any relevant documents, records, or regulations directly related to the eviction or termination. The elements of due process that would be required include all the protections specified in the statute for the grievance procedure which is being replaced, except for the right to examine documents prior to trial to prepare a defense, which will be directly granted by the Federal statute.

The conferees also intend that the documents covered by this disclosure rule be ones the public housing agency would normally maintain in the tenant's file. The requirement that the public housing agency produce documents is not intended by the Committee to be construed as a broad discovery provision. However, public housing agencies should not be allowed to avoid their duty to disclose documents by maintaining or placing them in other files, transferring them to the custody of others or destroying them.

Final regulations implementing these regulations must be promulgated not later than 180 days after enactment. A conforming amendment was also added to provide that any such waiver granted before the enactment date shall remain in effect until the earlier of the effective date of the final rules implementing the amendments made by this section or 180 days after the enactment date. It is the conferees intent that when an individual state waiver is sought, the Secretary should notify affected tenants in advance and provide them with an opportunity to comment.

The committee also intends that the rights created by this amendment be enforceable under 42 U.S.C. Section 1983, the implied private right of action and third party beneficiary doctrines and the Administrative Procedure Act.

Restriction on reentry: The Senate bill contained a provision not included in the House amendment that amends the definition of family in the 1937 Housing Act to provide that any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity is not eligible for a preference under any provision of this paragraph for 5 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary. The conference report does not contain the Senate provision.

Lease requirements: The Senate bill contained a provision not included in the House amendment that amends the prohibited activities under the lease to prohibit criminal activity that adversely affects the health, safety, and right to quiet enjoyment of the premises by other tenants and including drug-related criminal activity, that threatens the health or safety of, or right to quiet enjoyment of the premises by other tenants. The conference report contains the Senate provision amended to read that each public housing agency shall utilize leases which provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or near such premises, engaged in by a public housing tenant, any member of the tenant's household, or any quest or other person under the tenant's control, shall be cause for termination of tenancy.

Notice to post office: The Senate bill contained a provision not contained in the House amendment that would require public housing agencies to notify the local post office about an evicted activity including drug-related criminal activity. The conference report contains the Senate provision.

Public housing and Section 8 assistance regarding foster care children: The House amendment contained a provision not included in the Senate bill that would require agencies administering public housing or Section 8 assistance to coordinate with local child welfare agencies in providing units to: families whose children have been placed or could be placed in foster care or have children in foster care which have not been discharged due to housing conditions; and youth who have been discharged from foster care who cannot return to their family or extended family and for which adoption is not available. The conference report contains the House provision with an amendment changing "shall" to "may" regarding coordination requirements, and subjecting provision to preference rules.

The House amendment also contained a provision that would amend the Federal preference rules for housing placement in both the public housing and Section 8 programs to include families separated due to substandard housing or lack of housing and youth discharged from foster care who cannot return to their families and cannot be adopted. This provision was not included in the conference report as a separate Federal preference but instead as a permissible local preferences.

Public housing operating subsidy

Authorization: The House amendment contained a provision that authorized for public housing operating subsidies, $2,145,780,000 for fiscal year 1991 and authorized in each fiscal year, such sums as may be necessary, to provide each public housing agency with all their eligible funds under the performance funding system without adjustments for estimated or unrealized savings. The Senate bill contained a provision that authorized for public housing operating subsidies, $1,865,000,000 for FY 1991, $1,940,100,000 for FY 1992, and $2,017,200,000 for FY 1993. The conference report contains an authorization of $2,000,000,000 for FY 1991 and $2,086,000,000 for FY 1992.

Services and coordinators as eligible cost: The House amendment contained a provision not included in the Senate bill that authorized annual contributions to PHAs to include projects with a sufficient number of frail elderly or handicapped residents, (1) the cost of a services coordinator within the project which is provided by a Federal agency, public or private department or organization to enable frail elderly or handicapped residents to live independently and prevent placement in nursing homes or institutions; (2) not more than 15% of the expenses for providing services to project residents which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services and health-related services. Exempts this provision from the performance funding system established in Section 9(a)(3) of the United States Housing Act of 1937 and defines frail elderly as the meaning given under Section 202(d) of the 1959 Housing Act. The conference report contains the House provision with an amendment which restricts services under this section to those not covered under Congregate Housing Services program. The conferees intend that the cost of services coordinator is an eligible cost to be paid out of public housing operating subsidies but is not required and is not a separate authorization.

Litigation by PHAs: The House amendment contained a provision not included in the Senate bill that allowed PHAs to include as an allowable operating cost the unreimbursed cost of any civil action commenced by a public housing agency against the Federal Government to ensure proper implementation of any Federal law relating to public housing. The House provision also would disapprove the HUD rule entitled "Litigation Reporting and Related Requirements for Certain Recipients of HUD Assistance" and published in the Federal Register of October 27, 1988 (53 Fed. Reg. 43610 et seq.). The Secretary of HUD may not publish a final rule based on such rule and may not otherwise implement the provisions of such rule. The conference report does not contain the House provision.

Performance funding system: The Senate bill contains a provision that is not included in the House amendment that would require HUD, in determining the PFS utility subsidy, to include a cooling degree day adjustment factor and requires that the method to include this factor shall be identical to the method included for the heating degree adjustment factor. The conference report contains the Senate provision.

Formula allocation for modernization funding for public and Indian housing

Emergency or natural disaster set-aside: The House amendment contained a provision not included in the Senate bill that would amend Section 14(k) of the United States Housing Act of 1937 to provide from amounts approved in appropriation acts each fiscal year that the Secretary shall reserve not more than $75 million (including unused amounts reserved during previous fiscal years), for modernization needs resulting from natural and other disasters and from emergencies. Amounts provided for emergencies shall be repaid by agencies from future allocations of assistance where available. The conference report contains the House provision with an amendment to make these amendments effective in fiscal year 1992.

Allocation formula: The House amendment contained a provision not included in the Senate bill that would require the Secretary to allocate the remaining funds, pursuant to a formula contained in a regulation to be prescribed by the Secretary. Such formula is to measure the relative needs of public housing agencies. The conference report contains the House provision.

Backlog needs: The House amendment contained a provision not included in the Senate bill that would require the Secretary to allocate half of the amount allocated under the formula base on the relative backlog needs of public housing agencies with 500 or more units and for the aggregate of agencies with fewer than 500 units determined either from the most recently available, statistically reliable data regarding the (1) backlog of needed repairs and replacements of existing physical systems in public housing projects, (2) items that must be

added to projects to meet the modernization standards of the Secretary, and (3) items that are necessary or highly desirable for the long-term viability of a project; or if the data are not statistically reliable on the basis of estimates of the backlog as defined above and objectively measurable data on public housing agency, community, and project characteristics, including the average number of bedrooms in the units in a project; the proportion of units in a project for very large families; the extent to which units for families are in high-rise elevator projects; the age of the projects; in the case of a large agency, as determined by the Secretary, the number of units with 2 or more bedrooms; the cost of rehabilitating property in the area; for family projects, the extent of population decline in the locality determined on the basis of the 1970 and 1980 censuses; and other factors the Secretary determines are appropriate. The conference report contains the house provisio with an amendment to require HUD to subject new or amended criteria to notice and comment rulemaking.

Past modernization funding: The House amendment contained a provision not included in the Senate bill that would require that the formula also take into account amounts previously made available by the Secretary for modernization and for major reconstruction of obsolete projects, to the extent determined appropriate by the Secretary. The conference report contains the House provision.

Accrual needs: The House amendment contained a provision not included in the Senate bill that would require the Secretary to allocate the other half of the amount allocated under the formula based on the relative accrued needs of public housing agencies with 500 or more units and the aggregate of agencies with fewer than 500 units for the categories of modernization need determined either where the data are statistically reliable, on the basis of the needs that are estimated to have accrued since the date of the last objective measurement of backlog needs or where the estimates are not statistically reliable on the basis of estimates of accrued need using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics, including the average number of bedrooms of the units in a project; the proportion of units in a project for very large families; the age of the projects; the extent to which the buildings in projects of an agency average fewer than 5 units; the cost of rehabilitating property in the area; the total number of units of each agency; and other factors the Secretary determines are appropriate. The conference report contains the House provision with an amendment to subject new or amended criteria to notice and comment rulemaking.

Determination of the number of units: The House amendment contained a provision not included in the Senate bill that would require the Secretary, in determining how many units an agency owns or operates and the relative modernization needs of agencies, to count each existing unit under the annual contributions contract, with the exception of an existing unit under the turnkey III and the mutual help programs which may be counted as less than one unit. Once an agency qualifies to receive a formula grant it may elect to continue to qualify to receive a formula grant if it owns or operates at least 400 public housing units. The conference report contains the House provision.

Impact of demolition/disposition on the formula: The House amendment contained a provision not included in the Senate bill that would require the Secretary, where an existing unit under a contract is demolished or disposed of, to not adjust the amount the agency receives under the formula unless more than one percent of the units is affected on a cumulative basis. Whereas more than one percent of the units is demolished or disposed of, the Secretary would be required to reduce the formula amount accordingly for the agency over a 3-year period. The conference report contains the House provision.

Data reliability: The House amendment contained a provision not included in the Senate bill that would provide the Secretary the discretion to determine whether the data used to determine the allocation are statistically reliable. The conference report contains the House provision.

Application of formula: The House amendment contained a provision that would stipulate that formula allocation for agencies with fewer than 500 units would be allocated as special purpose modernization. The Senate bill contained a provision that would stipulate that formula allocation for PHAs with 500 or more units would be allocated in accordance with the provisions of the section and current law as amended. The conference report contains the House provision.

Troubled PHA allocation: The House amendment contained a provision not included in the Senate bill that, in the case of an agency that the Secretary designated as a troubled agency on or before June 1, 1990, and that is still designated as a troubled agency on the date amounts are allocated under the formula for FY 1991, the Secretary would limit the total amount of funding to the average amount the agency received during fiscal years 1988, 1989, and 1990, for modernization activities and for major reconstruction of obsolete projects, adjusted to take into account changes in the cost of rehabilitating property, plus 25 percent of the differences between the average amount and the amount that would be allocated to the agency if it were not designated a troubled agency. The conference report contains the House provision with an amendment to (1) change the application of this subsection to Fiscal Year 1992; (2) alter the manner in which agencies are designated as troubled by striking the reference to the June 1, 1990 list and, instead, covering agencies that the Secretary designates as troubled for purpose of the modernization program pursuant to regulations published through notice-and-comment rulemaking; (3) alter the funding that a troubled PHA would receive by substituting "1989, 1990 and 1991" for "1988, 1989, and 1990"; and (4) require the Secretary to establish a special rule for PHAs which are not found to be troubled in the initial designation, but become troubled in subsequent years. The conferees intend that the Secretary will have the discretion to determine the percentage amount of funding that is available for such subsequently troubled PHAs.

Added allocation for troubled PHA by request: The House amendment contained a provision not included in the Senate bill that would permit the Secretary to increase a troubled agency's allocation up to an additional 25 percent of the difference between what the troubled agency actually receives and what it would have received if it was not troubled. Such additional increase shall be based on the agency's progress toward meeting performance standards. In the case of such a request, the Secretary shall render a decision within 75 days of receipt of the request. The conference report contains the House provision with an amendment to allow an increase to the full amount the agency is entitled.

Reallocation of troubled PHAs' formula allocation: The House amendment contained a provision not included in the Senate bill that would state that amounts not available to troubled PHAs would be reallocated to other public housing agencies that own or operate 500 or more units, based on their relative needs. For Indian housing authorities, the amounts would be reallocated to other Indian housing authorities. The relative needs of agencies would be determined using the formula. The conference report contains the House provision with an amendment that requires the Secretary to establish a credit system that will allow a troubled PHA to accumulate withheld funds for three years and to receive repayment of withheld funds if such PHA graduates from troubled status. Repayment of the withheld funds would be reduced over a four year period after the accumulation period by the following percentages: First year, 10 percent reduction; second year, an additional 20 percent reduction; third year, an additional 30 percent reduction; and the fourth year, an additional 40 percent reduction. The conference report also provides that once an agency has graduated from troubled status, the agency can reclaim its outstanding credited amounts on an annual basis in amounts to be determined by the Secretary. The aggregate of such credit payments for all agencies cannot in any one year exceed 5 percent of the amount allocated for formula allocation.

Timing for reallocation: The House amendment contained a provision not included in the Senate bill that stated that any amounts subject to reallocation either from a troubled PHA or recaptured for cause would be reallocated by the Secretary in the next fiscal year to other housing agencies that own or operate 500 or more units, based on their relative needs. The relative needs of agencies would be measured by the formula. The conference report contains the House provision.

Grounds for appeal: The House amendment contained a provision not included in the Senate bill that would permit a public housing agency to appeal the amount of its allocation determined under the formula on the basis of unique circumstances or on the basis that the objectively measurable data regarding the agency, community, and project characteristics used in the formula were not correct. The conference report contains the House provision.

Eligible activities: The House amendment contained a provision not included in the Senate bill that would permit amounts allocated to a public housing agency by formula to be used for any eligible modernization activity, notwithstanding the formula factors. The conference report contains the House provision.

Modernization for PHAs with fewer than 500 units: The House amendment contained a provision not included in the Senate bill that would amend Section 14(d)(4) by deleting the requirement for replacement needs and planning estimate, operating budget, and financial resources estimate for public housing agencies with fewer than 500 units. The conference report contains the House provision.

Special purpose modernization: The House amendment contained a provision not included in the Senate bill that would limit special purpose modernization or emergency needs funding especially related to fire safety standards to public housing agencies with fewer than 500 units. The conference report contains the House provision.

Special purpose management improvement funds: The House amendment contained a provision not included in the Senate bill that would provide for special purpose management modernization improvements which are not otherwise eligible for PHAs with fewer than 500 units (including Section 8 projects). The conference report contains the House provision.

250 units threshold: The House amendment contained a provision not included in the Senate bill that would establish a 250-unit threshold for modernization funds beginning in FY 1992, except that once a housing authority qualifies for assistance, it may continue to receive a formula grant if it owns or operates at least 200 units. The conference report contains the House provision.

Inapplicability to Indian housing: The House amendment contained a provision not included in the Senate bill that stated that, notwithstanding the provisions of this subtitle, the formula allocation would not apply to Indian housing authorities until October 1, 1991. The conference report does not contain the provision. The conferees believe that this provision is not necessary as the entire provision will be implemented starting in Fiscal Year 1992.

Transition rule: The House amendment contained a provision not included in the Senate bill that stated that any amount that the Secretary has obligated to a public housing agency in Section 14 of this Act, other than under a comprehensive plan, would be required to be used for the purposes for which such amount was provided, or for purposes consistent with an action plan submitted by the agency and approved by the Secretary, as the agency determines to be appropriate. The conference report contains the House provision.

Regulations: The House amendment contained a provision not included in the Senate bill that would require the Secretary to publish a proposed rule to implement the formula allocation amendments and shall consult with the Congress, public housing agencies, and professional organizations representing public housing agencies before publishing such rule. The proposed rule shall be published not later than the expiration of the 60-day period beginning on the date of the enactment of this Act. The conference report contains the House provision with an amendment to require the Secretary to publish the proposed allocation formula in a proposed rule pursuant to notice and comment rulemaking. The proposed rule would need to outline: (1) the analytic basis for the formula; (2) the weights assigned to the statutory criteria; (3) deductions from the formula share for prior years' CIAP or MROP funds; and (4) any other pertinent information. The Secretary could, at his discretion, publish alternative formulas, identifying the different weights which were used in calculating such alternative formulas, and explaining what policy objectives might be achieved.

Reports: The House amendment contained a provision not included in the Senate bill that would require an independent evaluation to be presented to Congress within 3 years after the initial allocation of assistance by formula. The conference report contains the House provision with conforming amendments to be made to the PHA reform provisions to require that HUD annual reports outline the status of PHAs designated as troubled for purposes of the modernization program amount and specify the amount of credited funds that have been accumulated by such troubled PHAs.

Hope for vacant public housing units

The House amendment contained a provison not included in the Senate bill that would authorize the Secretary to make available financial assistance in the form of grants to public housing agencies for the purpose of improving the physical condition of existing vacant units in low-rent public housing projects for use as residences.

Under the House provision, grants would have been made available for units in low-rent housing projects that are owned by public housing agencies; are operated as rental housing projects and assisted under maintenance and operating contributions contracts; are not assisted under Section 8; are vacant at the time grants under this section are received; and meet such other requirements as the Secretary may prescribe. Both large (more than 500 units) and small public housing authorities would have been required to explain the extent of, and reason for, vacancies and develop a plan of action to eliminate unnecessary vacancies.

The conference report contains the House provision amended as follows:

The conference report establishes within section 14 of the 1937 Housing Act a program designed to eliminate all excess vacancies within 5 years. The initiative would apply to agencies with twice the average vacancy rate or ones designated as troubled.

Such agencies would be required to develop and submit a vacancy reduction plan for units owned or operated by the agency. The plan would identify vacant public housing units within the agency's inventory, explain the reasons for such vacancies and outline the agency's agenda for addressing such vacancies within the next 5 years. An agency would identify the extent to which such vacancies are currently being addressed through existing programs (comprehensive modernization, major reconstruction) or demolition/disposition actions within the 5-year period and any vacancies not currently funded under such programs and not likely to be so funded or approved within 3 years. Finally, the agency would identify any other vacancies.

A team of HUD and PHA experts would be available to visit each designated PHA to independently assess the reasons for the agency's high vacancy rate. The team would consider any management deficiencies which might be contributing to the vacancy problem and would recommend a series of management improvements to cure such deficiencies. Such recommendations would be included in an agency's vacancy reduction plan.

HUD Resources: The conference report authorizes $105,000,000 in fiscal year 1991 and $220,000,000 in fiscal year 1992 for costs of rehabilitating vacant public housing units, implementing management improvements, and undertaking any other activities identified in the plan.

Income eligibility for public housing: The House amendment contained a provision not included in the Senate bill that would amend the tenant income restrictions of Section 16(b) of the United States Housing Act of 1937 to allow PHAs to increase from 5% to 25% the number of units that can be leased by lower income families other than very low income families, but only if the public housing agency certifies to the Secretary that not more than 25% of dwelling units occupied at the time of certification are leased by such lower income families. The conference report contains the House provision with an amendment that amends section 16(b) to raise from 5 percent to 15 percent the number of low income (other than very low income) that can be placed in dwelling units that become available under contributions contracts or assistance payments after 1981 and by adding a provision that limits the number of low income other than very low income persons in any project to 25 percent. This last restriction does not apply to any project that exceeds this limit prior to the enactment of this act.

Disposition of scattered-site public housing: The House amendment contained a provision not included in the Senate bill that would amend the Section 18 disposition and demolition provisions of the United States Housing Act of 1937 to provide that in the case of scattered-site housing of a public housing agency, debt repayment would be required to be in an amount that bears the same ratio to the total of obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition. This provision would be applicable to any scattered-site housing disposed of after the date of enactment. The conference report contains the House provision.

Replacement housing

Report: The Senate bill contained a provision not included in the House amendment that would require the Secretary to transmit to Congress a report that outlines the commitments the Secretary made during the preceding year to fund plans for replacement housing and specifies the budget authority necessary to carry out the commitments. The conference report contains the Senate provision.

1 for 2 replacement: The Senate bill contained a provision not included in the House amendment that would amend Section 18(b) to require the public housing agency to develop a plan to provide one decent, safe, sanitary, and affordable dwelling unit for every two public housing units to be demolished or disposed of where the project or portion of the project to be demolished or disposed of has had a vacancy rate exceeding 35% for the preceding five years; the project is located within a jurisdiction with a vacancy rate in excess of 10% as documented in the most recent housing affordability strategy; and the project is located in jurisdiction which is severely economically distressed. The provision would require the PHA to hold a public hearing, which has been announced, at a time and location which is convenient for those residents which may be affected by the demolition/disposition and with accommodation for persons with disabilities.

The conference report does not contain the Senate provision but contains an amendment to provide the following: notwithstanding the provisions of Section 18(b)(3)(A) of the United States Housing Act of 1937, the Secretary may allow, on a pilot project basis, the use of 5-year Section 8 Existing Certificates as replacement for public housing units proposed for demolition or disposition in the City of St. Louis, Missouri. All demolition and disposition applications must meet the other requirements of existing law, including the one-for-one replacement provision. The authority

under this provision expires on September 30, 1992.

Public housing resident management: The House amendment contained a provision that would authorize $5,000,000 for FY 1991 for public housing resident management programs under the CIAP. The Senate bill contained a provision that would authorize $2,500,000 for each of FY 1991, FY 1992, and FY 1993 for public housing resident management under CIAP. The conference report contains the House provision with an amendment to authorize $5,000,000 for FY 1992 as well.

Public housing family investment centers

Purpose: The House amendment contained a provision establishing the purpose of this subsection as to provide families living in public housing with better access to educational and employment opportunities to achieve self-sufficiency and independence by (A) developing facilities in or near public housing for training and support services offered under local self-sufficiency programs under this section; (B) mobilizing public and private resources to expand and improve the delivery of such services; and (C) providing funding for such essential training and support services that cannot otherwise be funded. The Senate bill contained a similar provision except qualifies funding as transitional funding and adds a fourth purpose which provides better access to educational and employment opportunities by improving public housing management's capacity to assess service needs and coordinate services. The conference report contains the House provision with an amendment incorporating the fourth purpose in the Senate bill. The conference report establishes the name of the program as Family Investment Centers and that it is a stand alone amendment to the 1937 Housing Act, not part of the Family self-sufficiency program or in the CIAP provisions.

Grant authority: The House amendment contained a provision authorizing the Secretary to make grants to public housing agencies carrying out self-sufficiency programs to adapt public housing to help families participating in the program to gain access to educational and job opportunities. The Senate bill contained a provision that would amend Section 14 of the 1937 Act (CIAP) to provide grants. The Secretary could reserve not more than 5 percent of the amounts available in each fiscal year to supplement grants awarded to public housing agencies if increases are required to maintain adequate levels of services to eligible residents. The conference report contains the House provision with an amendment removing linkage to the self-sufficiency program and adding a requirement that grants will only be available to PHAs that can demonstrate that sufficient supportive services will be available and adds Senate provisions on 5% set-aside. By removing the linkage to self-sufficiency, the conferees do not intend that this program could not be used in conjunction with the self-sufficiency program.

Grant uses: The House amendment contained a provision that permits grant amounts to be used to renovate or convert vacant public housing units to create common areas, renovate existing common areas, and renovate facilities near public housing projects in order to accommodate the provision of supportive services. Not more than 15% of the grant amounts can be used to provide such services. The Senate bill contained a similar provision except that the funding of services would be transitional if the PHA demonstrates to the Secretary that (I) the qualifying services are appropriate; (II) the public housing agency has tried to find other funding resources; and (III) long-term funding for the qualifying services will be available from other services, and the funding can cover the costs of employing service coordinators. The conference report contains the House provision with an amendment to remove linkage to self-sufficiency program, to add qualification that supportive services funding is available only when the supportive services are appropriate to improve the access of eligible residents to employment and educational opportunities, and the public housing agency has made diligent efforts to obtain the services elsewhere and to add as permissible use the employment of a service coordinator as provided in the Senate bill minus references to families with children under 10 years of age.

Allocation: The House amendment contained a provision requiring grant amounts to be allocated among the public housing agencies carrying out self-sufficiency programs that have submitted applications and have been selected by the Secretary. The Senate bill contained a similar provision except that it would include any PHA, not just those in Self-Sufficiency or Operation Bootstrap programs. The conference report contains the Senate provision.

Applications: The House amendment contained a provision requiring that applications for assistance contain: (A) a description of the supportive services under the local self-sufficiency program that are to be provided over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities that involve substantial rehabilitation); (B) a firm commitment of assistance from 1 or more sources ensuring that the supportive services will be provided for not less than 1 year following the completion of assisted activities; (C) a description of the public and private resources that are expected to be made available to provide the activities and services under the local program, which shall include evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including profit and nonprofit organizations); (D) certification from the appropriate State or local agency (as determined by the Secretary) that (i) the local self-sufficiency program is well designed to provide resident families better access to educational and employment opportunities; and (ii) there is a reasonable likelihood that services under the program will be funded or provided for the entire period specified under subparagraph (A); (E) a description of assistance for which the public housing agency is applying under this subsection; (F) a copy of the action plan for the local self-sufficiency program of the public housing agency; and (G) any other information or certifications that the Secretary determines are necessary or appropriate to achieve the purposes of this subsection. The Senate bill contained a similar provision except there are no references to self-sufficiency. The conference report contains the House provision with an amendment deleting references to the self-sufficiency program.

Selection: The House amendment contained a provision requiring the Secretary to establish selection criteria for grants under this subsection, which shall take into account: (A) the ability of the public housing agency or a designated service provider to carry out the local self-sufficiency program; (B) the need for such program in the public housing project; (C) the extent to which the envisioned renovation, conversion, and combination activities are appropriate to facilitate the provisions of services under the program; (D) the extent to which the public housing agency has demonstrated that services under the program will be provided for the required period; (E) the extent to which the public housing agency has a good record of maintaining and operating public housing; and (F) any other factors that the Secretary determines to be appropriate to ensure that amounts made available under this subsection are used effectively. The Senate bill contained a similar provision except did not include any references to self-sufficiency. The conference report contains the House provision with an amendment to delete any references to self-sufficiency.

Grant requirements: The House amendment contained a provision not included in the Senate bill that would require the Secretary to ensure that each public housing agency that receives a grant under this subsection has the capacity, in the determination of the Secretary, to (i) carry out the local self-sufficiency program under this section; and (ii) seek, on a continuous basis, new sources of assistance to ensure long-term funding for supportive services. The provision would permit public housing agencies to use amounts received from grants under this subsection to carry out the requirements of this subsection, and the Secretary could permit public housing agencies to use existing sources of funds for such purposes. The conference report does not contain the House provision. The conference report contains an authorization of $25,000,000 in fiscal year 1991 and $26,100,000 in fiscal year 1992.

HUD reports: The House amendment contained a provision requiring the Secretary to submit to the Congress annually, as a part of the report of the Secretary under Section 8 of the Department of Housing and Urban Development Act, an evaluation of the effectiveness of activities carried out with grants under this subsection in such fiscal year. Such report would summarize the progress reports submitted pursuant to subparagraph (A). The Senate bill contained a similar provision except the Secretary would be required to submit an annual report within 120 days after the end of each fiscal year. The conference report contains the House provision.

Eligibility of Indian housing for CIAP: The House amendment contained a provision that would allow Indian housing projects to receive assistance under CIAP. Any assistance provided would have to be in the form of a single grant for each project. The Senate bill contained a similar provision but contained no requirement for single grants. The conference report contains the Senate provision with an amendment to include a requirement for a single grant for each project.

Public housing early childhood development grants: The House amendment contained a provision not included in the Senate bill that would establish public housing early childhood development grants.

The House provision would authorize $4,922,500, in FY 1990 funded out of the CDBG funding level and $15 million in FY 1991 out of public housing development funds for the Public Housing Early Childhood Development Grants program. The House provision would amend the current "Public Housing Child Care Program" au-

thorized under Section 222 of the 1983 HURRA Act and rename it as the "Public Housing Early Childhood Development Grants Program". The House provision would require that program grants be in amounts sufficient to cover a significant percentage of the renovation costs or operating expenses of early childhood development centers. The House provision would require that program grants be made for a 3-year period and distributed to recipients over a period determined by HUD.

The conference report contains the House provision with an amendment to include the name change of the program but would not include other House provisions and authorizes $15,000,000 in FY 1991 out of public housing development funds and $15,645,000 in FY 1992.

Indian public housing early childhood development demonstration program

The House amendment contained a provision not included in the Senate bill to establish an Indian public housing early childhood development demonstration program.

From amounts appropriated under Section 5(c)(7)(B) of the United States Housing Act of 1937 for Indian public housing grants in FY 1991, the Secretary would be required to use $5,000,000 for carrying out an early childhood development demonstration program in Indian public housing. The Secretary would make grants to nonprofit organizations for providing early childhood development service in or near housing owned or operated by Indian PHAs. The House provision would require the Secretary to carry out the demonstration program in the same manner as the Public Housing Early Childhood Demonstration Program. The House provision would require tribal and geographic diversity in the implementation of the demonstration. Within 3 years of the enactment of this Act, the Secretary would be required to prepare and submit to the Congress a detailed evaluation report of the demonstration program. The report would have to include any recommendations of the Secretary with respect to the establishment of a permanent early childhood development program for Indian housing authorities. The conference report contains the House provision.

Public housing rent waiver for police officers: The House amendment contained a provision not included in the Senate bill that would authorize the Secretary to permit PHAs to allow police officers and other security personnel to live in public housing units. The Secretary could waive income eligibility limitations and rent requirements and could authorize the PHAs to set rent requirements and other terms and conditions of occupancy for units for such officers and security personnel, if the Secretary determined that there would be increased security for public housing tenants, limited loss of income to the public housing authority, and no significant reduction of units for eligible families. The conference report contains the House provision with an amendment to require PHAs to develop, and HUD to approve, a plan before police officers who are above the eligible income limits are allowed to live in the units.

Public housing youth sports programs: The House amendment contained a provision not included in the Senate bill that would require HUD to use 5% of the funds from the public housing drug elimination grants program in each fiscal year to establish and carry out youth sports programs in public housing projects with substantial drug problems.

The House amendment would authorize program grants to states, local governments, local park and recreation districts and agencies, public housing agencies, nonprofit organizations providing youth sports services programs, and Indian tribes.

The House amendment would require grants to be made only to youth sports programs which are located on public housing sites that HUD has determined have a substantial problem regarding the use or sale of illegal drugs. The House amendment would also require youth sports programs to be designed and organized so that the program (1) primarily serves youths from the assisted project, (2) provides positive sports activities, cultural, recreational or other activities, (3) operates in conjunction with an organized program or plan designed to eliminate drugs in the project. The House amendment would authorize grant funds to be used to: (1) acquire, construct, or rehabilitate community centers, parks or playgrounds; (2) redesign or modify public spaces in public housing projects; and (3) provide public service including program staff.

The conference report contains the House provisions on the public housing youth sports program.

Public housing one-stop perinatal services demonstration

The House amendment contained a provision not included in the Senate bill that authorizes such sums as may be necessary for FY 1991 for a HUD demonstration program to demonstrate the effectiveness of providing grants to public housing agencies which make one-stop perinatal services programs available for pregnant women in public housing. HUD would be required to consult with HHS and other appropriate federal agencies. The conference report contains the House provision with an amendment to require the Secretary to conduct demonstrations in no more than 10 public housing projects.

Public housing mixed income new communities strategy demonstration: The House amendment contained a provision not included in the Senate bill that would require the Secretary to establish a demonstration program to demonstrate the effectiveness of promoting the revitalization of troubled urban communities through the provision of public housing in socio-economically mixed settings combined with the innovative use of public housing operating subsidies to stimulate the development of new affordable housing in such communities. Housing units provided under the demonstration program would be required to be accompanied by a comprehensive program of services and incentives. The conference report contains the House provision.

The House provision would require HUD to carry out the demonstration program in housing administered by the Housing Authority of the City of Chicago, in the State of Illinois. HUD would be allowed to carry out the demonstration program in no more than 3 other public housing agencies. No more than 15% of the total number of public housing units administered by each participating public housing agency could be used in the demonstration. Tenants would be protected from involuntary relocation or displacement under the demonstration program.

The House provision would allow PHAs to utilize Section 9 operating subsidies in privately owned newly constructed or rehabilitated housing for the purpose of providing reasonable and necessary operating costs in connection with the development of additional affordable housing. Such units would have to be reserved for use for occupancy by very low-income families. Operating subsidy amounts could be provided for a unit of housing only after the execution of a lease between the owner of the housing and a qualifying tenant for 1 corresponding public housing unit.

Rental terms: Residence in units acquired by the PHA under the demonstration would be limited to very low-income families that reside, or have been offered a unit, in public housing and that enter into a contract participation in the demonstration. Rent for each unit would be an amount equal to 30% of the adjusted income of the resident family except that the rental charge may not exceed a ceiling rent determined by the public housing agency in the manner that monthy rent is determined under Section 3(a)(2)(A) of such Act.

Income mix: The number of the units in each privately developed housing project that could be leased by a public housing agency would be limited to not more than 25% of the total. The amount of operating subsidy used in the privately owned projects would have to provide the same number of units as that amount of subsidy would have provided in public housing.

Assistance from other entities: The House provision would permit PHAs to seek the cooperation and receive assistance from State, county, and local governments and the private sector to develop housing for use under this demonstration, including (A) donations of land and write-downs and discounts on land by local governments; (B) abatement of real estate taxes for specified periods by local, county, or State governments; (C) assignment of community development block grant funds and loan guarantees made available under Title I of the Housing and Community Development Act of 1974; (D) low interest rate financing through Federal Home Loan Bank programs, State or Federal programs, and private lenders; (e) low income housing tax credits from State and local governments; and (F) mortgage revenue bonds from State or local governments.

Determination of location and number of units: The House provision would require that PHAs work with the local government to determine the location of any newly constructed or rehabilitated housing to be utilized under the demonstration program and number of units to be developed annually. It would limit the total number of newly constructed or rehabilitated units for PHAs with not more than 5,000 public housing units, to 15% of the number of units administered by the agency; for PHAs with more than 5,000 but not more than 25,000 units, to 10% of the number of units; and for PHAs with more than 25,000 units, to 4% of the number of units.

Existing public housing: To facilitate the establishment of socio-economically mixed communities within existing public housing developments, the House provision would require the Secretary to authorize PHAs to lease units in existing public housing projects, to lower income families who are not very low-income families, notwithstanding the income eligibility provisions of the 1937 Housing Act.

Except as provided below, not more than 25% of the units in each public housing project in the demonstration program could be occupied by lower income families who are not very low-income families, except

that if a public housing agency has a special need, the Secretary could increase the percent of lower income families to not more than 50% in a public housing project in the demonstration program. The remainder of the units would be occupied by very low-income families. Such special need could include the need to ensure the successful revitalization of troubled public housing through establishing a socio-economically mixed resident population.

The rent charged any family occupying an existing public housing unit in this demonstration could not exceed the ceiling rent level normally determined by the public housing agency. A participating public housing agency would enter into a lease with each family occupying a public housing unit in the demonstration for a term of 1 year, renewable upon expiration for a period not to exceed 7 years. A public housing agency could extend the period.

A participating public housing agency would be required to enter into a contract with each family in the demonstration living in the privately developed housing leased to the agency. Each family in the demonstration would have to meet the criteria established below. The contract would be made part of the lease, would set forth the provisions of the demonstration program, and would specify the resources to be made available to the participating family and the responsibilities of the participating family.

Requires each PHA to establish relevent criteria for participation of families in the demonstration program, including the status and history of employment of family members; enrollment of the children in the family in an educational program; family's maintenance history; ability of adult family members to complete training for long-term employment; the existence and seriousness of any criminal records of family members; and the status and history of substance abuse of family members.

Continued residency of families in housing would require compliance with standards established by the participating public housing agency, including all members of the family remaining drug-free; no member of the family engaging in any criminal activity; each child in the family remaining in an educational program until receipt of a high school diploma or the equivalent; and family members participating in the support services and counseling.

The public housing agency would be required to ensure the availability of supportive services and counseling to the family in accordance with the terms and conditions of the contract of participation. The public housing agency would provide for such services and counseling through its own resources and through coordination with Federal, State, and local agencies, community-based organizations, and private individuals and entities, including remedial education; education for completion of high school; job training and preparation; child care; substance abuse treatment and counseling; training in homemaking skills and parenting; family counseling; and financial counseling services emphasizing planning for homeowership.

Economic advancement of participating families

Employment: The head of the family would be required to be employed on a full-time basis, and requires the public housing agency to ensure the provisions of employment counseling.

Rent increases: For the first year of participation rent could not be increased if earned income increases until such earned income exceeds 80% of the median family income for the area.

Escrow savings accounts: Each participating public housing agency would be required to establish for each participating family an interest-bearing escrow savings account held by the agency in the family's name. Requires the PHA to deposit in the account a percentage of the monthly rent charged the family, which percentage would be established in the contract of participation and any rent increase charged because of increases in the earned income of the family.

A participating family could withdraw amounts in the family's escrow account only upon successfully completing the demonstration program, for purchase of a home, for contribution toward college tuition, or other good cause determined by the PHA. A participating family that has committed violations referred to below would forfeit access to the escrow account.

Treatment of increased income: Any increase in the earned income of a participating family could not be considered as income or a resource for the purpose of the family for benefits, or amount of benefits payable to the family for benefits, or amount of benefits payable to the family, under any other Federal law, unless the income of the family equals or exceeds 80% of the median income of the area.

Conclusion of participation, 7-year term: A participating family would be required to terminate residency not later than 7 years after initial occupancy. The PHA would be required to extend the period for any family that requests extension of the period because the family is not prepared to own a home elsewhere or to secure any other form of private housing; or for other good cause.

If a participating family is unable to successfully fulfill the requirements of the demonstration the PHA would be required to offer the family a comparable public housing unit in a PHA owned project without regard to Federal preferences or Section 8 assistance subject to appropriations and notwithstanding any Federal preferences, unless the family has committed serious or repeated violations of the terms and conditions of the lease, violations of applicable Federal, State, or local law or has been exempted from participation for other good cause.

Public housing advisory board: The Senate bill contained a provision that was not included in the House amendment that would authorize the creation of a Public Housing Advisory Board to provide advice to the Assistant Secretary for Public and Indian Housing with respect to the formulation of general policies and significant regulations governing public housing. The conference report does not contain the Senate provision.

Energy efficiency demonstration

Establishment: The Senate bill contained a provision that was not included in the House amendment that would require the Secretary to establish a demonstration program to encourage the use of private energy service companies in 5 public housing agencies in 5 public housing projects in order to demonstrate the opportunities for energy cost reduction. The Senate bill would require the Secretary, not later than 90 days after enactment of this Act, to establish selection criteria for this demonstration after consultation with representatives of public housing agencies and energy organizations. The conference report contains the Senate provision.

Report: The Senate bill contained a provision that was not included in the House amendment that would, as soon as practicable following one year after the date of enactment of this Act, require the Secretary to submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration and would provide that of the total amount appropriated for HUD research and development, $500,000 will be set aside for Fiscal Year 1991. The conference report does not contain the Senate provision.

Study of public housing funding system

The Senate bill contained a provision that was not included in the House amendment that would require the Secretary to disseminate such report, to the extent practicable, to other public housing agencies. The conference report contains the Senate provision.

Funding: The Senate bill contained a provision that was not included in the House amendment that would require the Secretary to carry out a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for the operation, maintenance and modernization of public housing. The Secretary would be required to compare and contrast existing methods of funding in public housing with those used by the Department in housing assisted under Section 8 of the United States Housing Act of 1937. In preparing the study, the Secretary would, in particular, review the results of the study entitled "Alternative Operating Subsidies Systems for the Public Housing Program" released by the Department's Office of Policy, Development and Research in May, 1982 and update such study as may be necessary. The Secretary would be required to report to the authorizing committees of Congress within 12 months after the enactment of this Act detailing the findings of the study. The conference report contains the Senate provision.

Study of prospective payment system for public housing: The House amendment contained a provision that was not included in the Senate bill that would require the Secretary to assess one or more revised methods of providing Federal housing assistance through local PHAs. In analyzing such alternatives, the Secretary would examine methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments to PHA's on behalf of low income public housing tenants. The Secretary would assess, within the capitated funding alternative, means of (a) providing for tenant participation in the release of such capitated payments to PHA's; (b) providing financial incentives for PHA overall performance and efficiency; (c) designating certain PHA's as distressed and eligible for special Federal assistance; (d) differential treatment of PHA's based on differences in local population demographics, rental housing markets, and other pertinent factors, and (e) calculating annual inflation-based increases in capitated Federal payments. Such report would be made to the authorizing committees of Congress within 12 months after the date of enactment of this Act. The conference report does not contain the House provision.

Rental rehabilitation grants: The House amendment contained a provision that was not included in the Senate bill that would allow for the coordination between State

funds and federal assistance under Section 17 of the 1937 Act in areas with rent control. The conference report does not contain the House provision.

The Senate bill contained a provision that was not included in the House amendment that would prohibit any new grants or loans from being made under the Sec. 17 Rental Rehabilitation program, after October 1, 1990, except as authorized for a transitional Rental Rehabilitation program in the HOME program in the Senate bill. The House provision would authorize $133,000,000 in FY 1991 for the Rental Rehabilitation Grant program. The conference report contains the Senate provision and has included this in the HOME program in the conference report.

GAO study of alternatives in public housing: The conference report contains a provision that requires the Comptroller General to conduct a study assessing alternative methods of developing public housing dwelling units, other than under the existing public housing development program. The study will include an analysis and evaluation of different methods of financing and structuring a program to develop public housing and of coordinating such a program with local housing strategies and an evaluation of the effectiveness of developing public housing units by coordinating the low-income housing tax credit program with the development of public housing.

Applicability to Indian housing: The House amendment contained a provision that was not included in the Senate bill that would apply the provisions contained in Subtitle A-1937 Housing Act programs to Indian public housing authorities (IHAs) except it does not apply to Section 504 Public Housing Agency Reform and Section 508 Income Eligibility for Public Housing to Indian public housing authorities. The conference report contains the House provision.

SUBTITLE B—LOW-INCOME RENTAL ASSISTANCE

Designation of Certificate and Voucher programs: The Senate bill contained a provision not included in the House amendment that would amend 8(b) to entitle the subsection providing for Section 8 certificates "Rental Certificates" and amend 8(o) that provides for Section 8 vouchers to entitle it "Rental Vouchers". The conference report contains the Senate provision with an amendment to entitle section 8(b) "Rental Certificates and Other Existing Housing Programs".

Drug-related rent adjustment: The Senate bill contained a provision not included in the House amendment that would permit adjustments in contract rents under Section 8 where the Secretary determines that an assisted project is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity. Such adjustments could not exceed the existing fair market rents established for the areas. The conference report contains the Senate provision with an amendment to limit rent adjustments to 120 percent of project rents.

Tenant rent contributions under Section 8 certificate program: The Senate bill contained a provision not included in the House amendment that would allow tenants receiving tenant based assistance under Section 8 of the 1937 Housing Act to pay more than 30% of income for rent if the family notifies the local PHA of its interest in a unit renting for an amount which exceeds the permissible maximum monthly rent established for the market area, and such agency determines that the rent for the unit and the rental payments of the family are reasonable, after taking into account other family expenses. No more than 10% of a PHA's annual allocation of incremental rental assistance could be used to approve such excess rentals. The Secretary would submit a report to Congress that identifies the PHAs that have made such excess rentals and includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports. The conference report contains the Senate provisions but includes an amendment to delineate types of expenses to be considered by PHA in determining what is reasonable rent. The conferees intend that this section only apply to circumstances where the rents for particular units are above the Section 8 exception rents.

Preferences

The House amendment contained provisions not included in the Senate bill that would amend Section 8 to raise the percentage of non preference families that can receive project based assistance to 30%, but would retain the 10% limit on tenant based assistance and that would increase from 10 to 30 the percentage of non preference families that can be placed in units in Section 8 new construction or substantial rehabilitation projects built prior to October 1, 1983 and in Section 202 projects. The conference report contains the House provision with an amendment to require that non-preference tenants be selected according to a system of local preferences that parallel the preferences for public housing tenants.

Tenant protections

The Senate bill contained a provision not included in the House amendment that would add to the lease requirements for project-based assistance that the lease between the tenant and the owner provide that the tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, or any drug related criminal activity on or near the premises, and that such criminal activity shall be a cause for termination of tenancy; and (2) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action. The conference report contains the Senate provision.

Revisions to project-based certificate program

The Senate bill contained a provision not included in the House amendment that would amend the project based assistance provisions of Section 8 of the 1937 Housing Act to require owners to adopt written tenant selection procedures that are satisfactory to the Secretary as consistent with the purpose of improving housing opportunities for very low-income families; and reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. An owner shall promptly notify in writing any rejected applicant of the grounds for any rejection. The conference report contains the Senate provision.

The Senate bill contained a provision not included in the House amendment that would require the Secretary on an annual basis to study the extent to which the 15% limit on project-based assistance are exceeded and to report to Congress on the results of that study. The conference report contains the Senate provision.

The Senate bill contained a provision not included in the House amendment that would amend Section 8(d)(2)(C) to require PHAs, when executing a contract for project-based rental assistance, to enter into a commitment, contingent only upon future appropriations, to extend the term of the underlying rental assistance contract for such period or periods as HUD determines is appropriate to achieve long-term affordability. Owners would be bound to accept such extensions. The conference report contains the Senate provision.

Section 8 assistance for PHA owned units

The House amendment contained a provision not included in the Senate bill that would permit public housing authorities to receive Section 8 assistance payments for projects they own. The conference report contains the House provision with an amendment requiring that such assistance meet the same program requirements as for other owners and allows the Secretary to establish initial rents within applicable limits.

Definitions of participating jurisdiction and drug-related criminal activity

The Senate bill contained a provision not included in the House amendment that would add the following definitions to Section 8 of the 1937 Housing Act: "Participating jurisdiction" means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under Title II of the NAHA; and "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in Section 102 of the Controlled Substances Act. The conference report contains the Senate provision.

Revisions to voucher program

The Senate bill contained a provision not included in the House amendment that would require that rents in units assisted under Section 8(o) of the 1937 Housing Act (voucher assistance) be reasonable in comparsion with rents charged for comparable units in the private unassisted market or assisted under the Section 8 certificate program. PHAs must assist families who request it in negotiating a reasonable rent with an owner, and must review all rents for units under consideration by families receiving voucher assistance to determining whether the rent requested by an owner is reasonable. The PHA may disapprove a lease for such unit which is deemed inappropriate. The Senate bill would require PHAs to obtain in writing, at least annually, in a written form satisfactory to the Secretary, information on the percentage of income paid for rent of all families receiving voucher assistance. If, during any fiscal year, more than 10 percent of the families assisted under this subsection by a PHA pay more than 30 percent of adjusted income for rent, the local PHA would submit a report to the Secretary not later than 30 days following the end of the fiscal year which would establish and contain the public housing agency's assessment of the reasons for such excessive rent burdens, including any available evidence that the excessive rent burdens were caused by problems with the fair market rent established for the area. The Secretary would be required to make each such report readily available for public inspection for a period of not less than 3

years, beginning not less than 30 days following the date on which the report is submitted to the Secretary. The Secretary would be required to submit a report to Congress not later than 3 months following the end of a fiscal year that (I) identified the PHAs that have submitted reports for such fiscal year as required supra, (II) summarizes and assesses such reports, and (III) includes recommendations for such legislative or adminisitrative actions that the Secretary deems appropriate to correct problem identified in such reports. The conference report contains the Senate provision with an amendment to tighten PHA reporting requirements to require that report be based on objective evidence and to limit HUD report to annually for first two years after enactment and then biannually thereafter.

Eligibility of vouchers for use with mobile homes: The House amendment contained a provision not included in the Senate bill that would authorize the Secretary to provide voucher assistance to lower income families who utilize a manufactured home as their principal place of residence. Assistance could be used for the rental of the real property on which there is located a manufactured home owned by such family, or for rental by such family of a manufactured home and the real property on which it is located. The conference report contains the House provision.

Portability of certificates and vouchers

Under existing law, a holder of a certificate or voucher can utilize that certificate or voucher in any contiguous metropolitan statistical areas (MSA). The limitation to contiguous areas prevented the movement between MSAs and non-MSAs. The conference report addresses this problem by including a provision that allows for the movement between such areas so long as those areas are in the same state.

Renewal of expiring contracts

The Senate bill contained a provision not included in the House amendment that would require HUD, within 30 days after the beginning of each fiscal year, to publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctutations in the budget authority levels that will be required over the succeeding 5-year period to renew section 8 expiring rental assistance contracts entered into since enactment of the 1974 Housing Act. The conference report contains the Senate provision.

Authorizations: The House amendment contained a provision that would extend expiring Section 8 contracts by authorizing ($7,735,000,000) specific budget authority for 5-year section 8 certificates, loan management assistance and vouchers. The Senate bill would not authorize a specific amount of budget authority but would authorize HUD to enter into annual contributions contracts with less than a 60 month term to the extent approved in appropriations acts and included within a HUD plan on expiring contracts. The conference report contains the House provision with the understanding that this is a baseline activity.

Assistance to promote family unification

The House amendment contained a provision not included in the Senate bill that would require HUD to provide section 8 certificate assistance to eligible families identified by local child welfare agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family. This provision would require HUD to make Section 8 assistance available to qualifying families and authorizes to be appropriated for each fiscal year such sums as may be necessary to each individual entitled to the Section 8 assistance. It would require that these provisions take effect on October 1, 1990. The conference report contains the House provision with an amendment to make this a stand alone program authorized at $35,000,000 for each fiscal year 1991 and 1992. The conference report clarifies that families whose children are in or at risk or placement in foster care shall qualify under the existing federal preferences for Section 8 and public housing assistance as if they were families living in "substandard" housing. In addition, the bill clarifies that youths who are discharged from foster care and have no family or extended family to return to are eligible under the preference afforded to persons who are "involuntarily displaced." The conference report also establishes a new authorization of Section 8 funds to provide housing certificates to families—who are otherwise eligible for Section 8—whose children are at imminent risk of placement in foster care or are prevented from returning from foster care primarily due to lack of adequate housing. The conferees intend that funding for this initiative will be separate and above funding for the existing Section 8 programs.

Family self-sufficiency

The House amendment contained a provision authorizing the HOPE for Family Self-Sufficiency Program. The purpose of this program is to coordinate the use of public housing and assistance under Section 8 certificate and voucher programs with public and private resources to enable families to achieve economic independence and self sufficiency. The Senate bill contained a similar provision, the Operation Bootstrap Program which was limited to coordination of Section 8 housing assistance with other resources and did not include public housing. The conference report contains the House amendment with an amendment that retains provisions associated with Section 8 assistance as outlined below and eliminates references to public housing except that PHAs will be required to provide coordination services for public housing residents and any public housing residents that participate will receive program benefits.

Establishment of program: The House amendment contained a provision requiring each public housing agency that administers Section 8 certificate of voucher assistance or provides public housing to carry out a local HOPE for Family Self-Sufficiency program. The program, subject to availability of supportive services, would include an action plan providing comprehensive supportive services for the families who choose to participate. The Secretary must consult with other federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering a local program may employ a service coordinator. The Senate bill contained a similar provision except that the program would be optional to public housing agencies until October 1, 1992, when the program becomes mandatory. A public housing authority participating in the program is required to take steps to ensure that the number of families participating in the program is equal to the aggregate number of certificates and vouchers that may be funded from such additional assistance beginning with FY 1991. The agency must operate the program for that number of families as long as it has sufficient funding under its certificate programs to do so.

The conference report contains the House provision with an amendment that makes the program discretionary for PHAs in FY 1991-1992 and mandatory beginning in FY 1993, requires that for Section 8 assistance the number of program participants be no more than total number of incremental vouchers and certificates for FY 1991 and FY 1992, and requires that the program continue so long as there is sufficient funding to do so. Participation is mandatory for new vouchers and certificate holders, as well as for PHAs receiving new allocations. The conferees wish to emphasize that public housing agencies may opt out of participation in this program if they are able to demonstrate to the Secretary that local services cannot be made available to additional recipients of Section 8 rental assistance. If local resources are already stretched to their limit, oversubscribed, or simply absent, PHAs should not be penalized for failing to muster local support services over which they have no direct control. The conferees do not intend that HUD withhold Section 8 rental assistance or other HUD funds to those PHAs which opt out of the HOPE for Family Self-Sufficiency program. Such a policy would penalize those communities and residents least able to afford support services by denying them other Federal HUD funds, such as HUD rental assistance. Indeed, it may well be that the PHAs which opt out and their communities are those most in need of additional rental assistance as well as other HUD programs.

Contract of participation: The House amendment contained a provision requiring each participating public housing agency to enter into a contract with each receiving participating family Section 8 or public housing assistance who elects to participate in the program. The contract must specify the resources and supportive services to be made available and the responsibilities of the participating families. The Senate bill was similar but did not require a contract and was limited to participation for only Section 8 tenants. The conference report contains the House provision with an amendment to require a contract of participation only with Section 8 recipients and provides a technical amendment on participating families. In order to receive services, public housing families would be required to sign such a contract. The PHA can withdraw vouchers or certificates and services from non-cooperating families.

Effect of increases in family income: The House amendment contained a provision requiring that any increase in the earned income of a participating family not be considered as income or a resource with respect to any other benefits or program administered by the Secretary unless the income of the family equals or exceeds 80% of the area median income. For each participating family, the difference between 30 percent of income and the amount of rent paid would be placed in an interest bearing escrow account established by the PHA on behalf of the participating family and could be withdrawn after the family is no longer a recipient of public assistance for housing. The Senate bill contains a similar provision except the limitation applies to all Federal benefit or federally assisted programs based on need. The conference report contains the Senate provision with an amendment to phase out escrow accounts as a family's

income increases between 50 and 80 percent of median.

Program coordinating committee: The House amendment contained a provision for membership of the program coordinating committee to consist of representatives from the public housing agency, the local government, the local agencies who administer the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program, and other organizations. The Senate bill contains a similar provision except that delineated membership would be mandatory not permissive. The conference report contains the House provision.

Allowable public housing agency administrative fees and costs: The House amendment contained a provision requiring the Secretary to establish a fee for administering the provision of certificates and vouchers under this program. The PHA could also receive up to $25 per certificate or voucher for start-up costs. The Senate bill contained a similar provision except it would continue the Section 8 administrative fee in effect June 1, 1990 (8.5%), until the GAO completes its report on self-sufficiency programs. The Secretary would be required to adopt the fee recommended by the GAO. The conference report contains the Senate provision with an amendment retaining start up bonus for certificates or vouchers of $25.00 (subject to appropriations) and makes the GAO finding a recommendation that would not require adoption. Instead the Secretary would be required to adopt a fee once GAO has reported on its study.

The House amendment contained a provision not included in the Senate bill requiring the Secretary to provide for the inclusion under the performance funding system of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. An estimate of the administrative costs likely to be incurred by participating public housing agencies would be included in the annual budget request for public housing operating assistance. Authorizes from amounts appropriated for operating subsidies, $25,000,000 for these administrative costs. The conference report contains the House provision.

The House amendment contained a provision requiring the Secretary to reserve for allocation under this subsection not less than 10% of the Section 8 budget authority available in FY 1991 and each fiscal year thereafter for certificate and voucher assistance under Section 8. It would provide for a similar reservation for programs in public housing development assistance. The Senate bill contained a similar provision except the reservation of certificate and voucher budget authority is limited to FY 1991 and 1992. The Senate bill did not contain a provision for public housing development assistance. The conference report contains the Senate provision.

On-site facilities: The House amendment contained a provision not included in the Senate bill allowing each public housing agency to use common area or vacant units for the provision of supportive services under its self-sufficiency program. The conference report does not contain the House provision.

GAO report: The House amendment contained a provision requiring the GAO to submit to Congress an interim report and a final report evaluating the HOPE for Self-Sufficiency Program. This report must be submitted not later than the expiration of 2 years and 5 years respectively, beginning on the effective date of the final regulations issued under this section. The final regulations implementing this section must be filed within 14 months of enactment and such regulations must become effective 1 year after publication of the final regulations. The Senate bill contained a similar provision except that the required reports would be submitted at the expiration of 2 years and 5 years respectively, beginning on the date of enactment. The conference report contains the Senate provision.

Applicability to Indian public housing: The House amendment contained a provision not included in the Senate bill requiring the provisions of this section to also apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority. The conference report contains the House provision.

Employment of PHA residents: The Senate bill contained a provision not included in the House amendment requiring each public housing agency to employ public housing residents to provide services. It would require wage rates to be the higher of the minimum wage under the Fair Labor Standards Act of 1938; the State or local minimum wage for the most nearly comparable covered employment; or the prevailing wage rates for similar public occupations by the same employer. The conference report contains the Senate provision.

Treatment of income: The Senate bill contained a provision not included in the House amendment prohibiting treating the services as income for the purpose of any other program of State or Federal law. The conference report contains the Senate provision.

Definitions for this subsection: The Senate bill contained a provision not included in the House amendment defining "eligible resident" to mean a person residing in public housing who is a single parent head of household with 1 or more children under the age of 10; and is economically disadvantaged within the meaning of sections 4(8)(A) and (B) of the Job Training Partnership Act. The Conference report does not contain the Senate provision.

The Senate bill contained a provision not included in the House amendment defining "qualifying supportive services" to mean new or significantly expanded services that the Secretary deems essential to provide families in public housing with better access to educational and employment opportunities including, but not limited to child care; employment training and counseling; literacy training; computer skills training; and assistance in the attainment of certificates of high school equivalency. Such services could be provided directly by the PHA or by contract or lease with service providers. The conference report contains the Senate provision with an amendment adopting the definition of "supportive services".

Benefits excluded from income: The Senate bill contained a provision not included in the House amendment amending section 3(a) of the Housing Act of 1937, to exclude the earnings of and benefits to any public housing resident resulting from participation in any self-sufficiency program from income for the purposes of determining rent paid by the resident during the resident's participation in such program; and the period, not to exceed 18 months, from the first job acquired by the person after completion of such program to the date the resident loses employment without good cause or 18 months, whichever occurs first. The conference report contains the Senate provision with a technical drafting amendment relating to Section 14(j) to allow PHA tenants to receive benefits.

The House amendment contained a provision authorizing $25,000,000 in FY 1991, and such sums as may be appropriated in fiscal years 1992 and 1993. The Senate bill contained a provision that would authorize $50,000,000 for FY 1991, $52,000,000 for FY 1992 and $54,080,000 for FY 1993 for project independence. The conference report contains the House provision with an amendment to authorize $26,075,000 for FY 1992.

GAO studies on economic self-sufficiency: The Senate bill contained a provision not included in the House amendment requiring the Comptroller General to submit to the Congress, not later than 18 months following the date of enactment of the National Affordable Housing Act, a report evaluating the policy and administrative implications of requiring State and local governments to tie the provision of rental assistance under Section 8 of the United States Housing Act of 1937 to participation in economic self-sufficiency programs. In addition, in preparing such report, the Comptroller General shall consider the additional costs to public housing agencies under such programs and shall recommend a change in the amount of the administrative fee under Section 8(q) of the United States Housing Act of 1937 to cover the additional costs of carrying out the Operation Bootstrap Program.

The Senate bill also contained a provision not included in the House amendment requiring the Comptroller General to conduct a study, and to report to the Congress, not later than 12 months after enactment, to examine how housing policies and social service policies affect beneficiaries, particularly those receiving public assistance, when such beneficiaries gain employment and experience a rise in income and to analyze the extent to which existing housing and other laws create disincentives to upward income mobility and to recommend any changes to existing law which would remove such disincentives.

The conference report contains both Senate provisions with an amendment combining these two studies into one.

Income eligibility for tenancy in new construction units

The House amendment contained a provision not included in the Senate bill that would require construction and substantial rehabilitation projects assisted under Section 8 as it existed prior to October 1, 1983, to house lower-income families to the extent assistance was reserved for such families by Section 8 at the time the contract was made. The conference report contains the House provision.

Distribution of Section 8 certificates

The Senate bill contained a provision not included in the House amendment that would amend the requirement for formula allocation adopted in the HUD Reform Act to allow assistance under Section 8(b)(1) of the United States Housing Act of 1937 to be allocated in a manner that enables participating jurisdictions to carry out, to the maximum extent practicable, comprehensive housing affordability strategies approved in accordance with Section 105 of the NAHA. The conference report contains the Senate provision with an amendment to clarify that provision does not affect fair share allocation.

Settlement agreement regarding certain section 8 assistance

The House amendment contained a provision not included in the Senate bill that would require HUD to provide 186 Section 8 certificates to the City of Norfolk, Virginia, in satisfaction of a settlement agreement. The conference report contains the House provision.

GAO study regarding fair market rent calculation

The House amendment contained a provision that would authorize HUD, upon request of a PHA, to approve separate fair market rents for areas that are geographically smaller than a market area and are wholly contained within such market area if the PHA demonstrates that the alternative fair market rents proposed accurately reflect rent variations between such areas and the established market area. The Senate bill contained a similar provision but did not define "submarket area". The conference report contains the Senate provision with an amendment to require GAO to do case studies to examine and report on the geographic dispersion of certificates and vouchers in marked areas and to study how FMR levels may inflate rents.

Study of Section 8 utilization rates

The House amendment contained a provision not included in the Senate bill that would require HUD to study the utilization of Section 8 assistance by cities and to report to Congress within 1 year of enactment on the results of the study. The Senate bill contained a provision not included in the House amendment that would require the Secretary to conduct a study of a sample of Section 8 assisted housing and Section 202 housing to determine the amounts that are contained in existing residual receipts accounts. The conference report contains both the House and the Senate provisions.

Feasibility study regarding Indian tribe eligibility for voucher program

The House amendment contained a provision not included in the Senate bill that would require HUD to study the feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance. The conference report contains the House provision.

Adjustment of subsidy under voucher program

The Senate bill contained a provision not included in the House amendment that would amend the provision of Section 8(o) that establishes the amount of Federal assistance under the voucher program to allow payments to families that remain in a unit after receiving voucher assistance. The Senate bill would allow such families to receive the amount by which the rent for the dwelling unit exceeds 30% of the family's monthly adjusted income not to exceed the amount of the standard payment. The conference report does not contain that provision.

Conferees comment on qualifications-based selection procedures

Because of HUD's conflicting guidance, architectural and engineering ("A/E") firms competing for contracts financed through the public housing and community development block grant ("CDBG") programs are not being selected according to the procedure, the Qualifications-Based Selection or "QBS" procedure, that assures the selection of the best qualified firm. Under QBS, A/E firms compete based on their professional qualifications and quality of services. A contracting officer selects the most qualified firm based on the capacity, technical qualifications, timely performance, accomplishments, reputation and references and then negotiates a fair and reasonable price for the service. If a fair price cannot be agreed to with the most highly qualified firm, negotiations as to price begin with the second best qualified firm.

QBS is the preferred system for selecting A/E services because the precise scope and range of the design services which are the basis for any contract price cannot be accurately determined until specific negotiations begin. Innovative approaches and alternative designs or methods arise when a client and a design professional develop the precise scope of a project together. Too often when a scope of work is developed as part of a price bidding system prior to the selection of an A/E firm, it is so vague that inaccurate assumptions are made by the A/E firm responding to the solicitation. Even when a public housing agency or CDBG grantee has in-house professional design staff sufficiently skilled to develop a detailed scope of work upon which an A/E's price bid can be based, the complexity of the contract cannot be anticipated and the bids often do not accurately reflect the cost. QBS requires A/E firms to compete based on skills, experience and ability to perform the required services—not on the illusory economy that a low bid may seem to provide. Low bid requiring substantial change orders or resulting in high construction or high life-cycle operating or maintenance costs are not cost-effective.

While HUD's regulations permit the use of QBS in selecting A/E services, they also cite two procedures that are less appropriate for the selection of such services: qualifications-plus-price or small purchase procedures for contracts under $25,000. In an attempt to clarify its procedures, HUD has issued conflicting notices, handbooks and letters that have confused public housing authorities and CDBG grantees. Some grantees tell A/E firms that HUD prohibits the use of QBS; some believe they must base their selection solely on the lowest bid; others believe they must use small purchase procedures that stress price, not quality; while others explain that notwithstanding state or local requirements requiring the use of QBS, HUD requires competition based on qualifications-plus-price.

SUBTITLE C—GENERAL PROVISIONS AND OTHER ASSISTANCE PROGRAMS

Lower income housing authorizations

Aggregate budget authority: The House amendment contained a provision that would provide additional aggregate budget authority (to the extent approved in Appropriations Acts) for public housing and Section 8 programs authorized under Sec. 5(c) of the 1937 Housing Act of $16,178,852,000 for FY 1991. The Senate bill contained a provision that would provide additional aggregate budget authority of $2,826,360,000 for FY 1991, $2,865,748,000 for FY 1992, and $2,809,346,000 for FY 1993 for annual contributions under Section 8, for other Sec. 8 assistance and for amendments to existing contracts. (This would not include public housing authorizations referenced below.) The conference report contains aggregate authorizations of $16,194,000,000 for FY 1991 and $14,709,400 for FY 1992.

Utilization of budget authority

Public housing

Grant authorization: The House amendment contained a provision that would authorize for public housing grants under Sec. 5(c), $738,122,000 for FY 1991 (of which $514,100,000 in FY 1991 is available for public housing).

The Senate bill contained a provision that would authorize $92,000,000 for FY 1991, $96,000,000 for FY 1992 and $100,000,000 for FY 1993 under Sec. 14 of the 1937 Housing Act (CIAP) for public housing major reconstruction in the form of grants for the substantial redesign, reconstruction or redevelopment of existing public housing projects or units.

The conference report authorizes $742,100,000 for FY 1991 (of which $514,100,000 is available for public housing) and $812,300,000 for FY 1992 (of which $574,500,000 is available for public housing).

Major Reconstruction: The Senate bill contained a provision not included in the House amendment that would prohibit any new public housing development grants from being made after October 1, 1990. The conference report does not contain the Senate provision.

Indian public housing: The House amendment contained a provision that would authorize, of the total for public housing grants, $224,000,000 for FY 1991 for Indian public housing grants. The Senate bill contained a provision that would authorize $223,700,000 for FY 1991, $243,088,000 for FY 1992 and $252,770,000 for FY 1993 for Indian public housing grants. The conference report contains authorizations of $228,000,000 for FY 1991 and $237,800,000 for FY 1992.

CIAP: The house amendment contained a provision that would authorize for Comprehensive Improvement Assistance Program (CIAP) assistance under Sec. 14 of the 1937 Housing Act, $2,100,000,000 for FY 1991, including not more than $100,000,000 for lead-based paint abatement for FY 1991.

The Senate bill contained a provision that would authorize the aggregate amount of budget authority that may be obligated for CIAP grants is increased by $2,217,000,000 for FY 1991, $2,306,000,000 for FY 1992, and $2,398,400,000 for FY 1993.

The conference report contains authorizations of $2,150,000,000 for CIAP, of which $3 million is specified for the Section 21 transition associated with the HOPE program for FY 1991 and $2,242,500,000 for FY 1992.

Section 8/202 set-asides: The House amendment contained a provision that would authorize Section 8 assistance in connection with Section 202 projects, $1,200,000,000 for FY 1991. The Senate bill did not contain a similar provision but would authorize project rental assistance under the revised Section 202 financing provisions, to the extent approved in an appropriations Act and reserves authority aggregating $346,000,000 for FY 1991, $363,000,000 for FY 1992 and $377,520,000 for FY 1993. The conference report contains authorizations of $1,200,000,000 for FY 1991.

Section 8 certificate/vouchers: The House amendment contained a provision that would authorize for Section 8 certificates or vouchers, $1,874,880,000 for FY 1991, of which 1) not more than 50% can be used for vouchers and 2) not more than 1,000 certificates can be used as replacement units under the HOPE I Public Housing Homeownership Program. The Senate bill con-

tained a provision that would authorize under Section 8(b)(1) of the 1987 Housing Act, for incremental rental assistance, $1,138,800,000 for FY 1991, $1,129,190,000 for FY 1992, and $1,057,935,000 for FY 1993. Additionally, would authorize $1,104,840,000 for Sec. 8(o) vouchers for FY 1991, $1,124,323,000 for FY 1992 and $1,114,686,000 for FY 1993. The conference report contains authorizations for Section 8 certificates of $1,880,000,000 for FY 1991 and $1,960,800,000 for FY 1992, of which not more than 50 percent may be utilized for voucher assistance.

Section 8 replacement units: The Senate bill contained a provision not included in the House amendment that would authorize Sec. 8 assistance for public housing replacement activities, $108,750,000 for FY 1991, $113,100,000 for FY 1992, and $117,624,000 for FY 1993. The conference report contains authorizations of $79,100,000 for FY 1991 and $82,500,000 for FY 1992.

Minimum State share for certain housing programs: The Senate bill contained a provision not included in the House amendment that would require that each state receive not less than one-half of 1% of the aggregate amount of funds available in each fiscal year to carry out the following housing assistance programs: (1) elderly and handicapped housing loans under Section 202; (2) public housing modernization under Section 14 of the 1937 U.S. Housing Act; (3) public housing operating subsidies under the 1937 U.S. Housing Act; (4) Indian housing development under the 1937 U.S. Housing Act. The conference report contains the Senate provision with an amendment to assure that such minimum state allocations required by this provision are made consistent with Fair Share allocation requirements under section 213 (d) of the Housing and Community Development Act of 1974.

Section 8 moderate rehabilitation program: The Senate bill contained a provision not included in the House amendment that would prohibit any new grants or loans from being made under the Section 8 moderate rehabilitation program after October 1, 1990, except where funds are allocated under the single room occupancy program authorized under the McKinney Homeless Act. The conference report does not contain the Senate provision. Funding and authorization is provided for Single Room Occupancy under Homeless Authorizations in the amount of $79,000,000 for FY 1991 and $82,400,000 for FY 1992.

Program authorization: The House amendment contained a provision that would authorize $3,309,962,322 of additional budget authority in FY 1991 $10,265,850,000 from the Section 5(c) subsidized housing account for homeless prevention activities detailed below. The Senate bill contained a provision that would authorize aggregate Section 8 budget authority for FYs 1991, 1992 and 1993 (which is cited in Title V, Section 522 Program Authorizations) which is distributed as detailed below.

Section 8 property disposition: The House amendment contained a provision that would authorize $523,720,000 for FY 1991. The Senate bill contained a provision that would authorize $324,570,000 for FY 1991, $343,759,000 for FY 1992, and $357,510,000 for FY 1993. The conference report contains authorization of $420,000,000 for FY 1991 and $438,100,000 for FY 1992.

Section 8 loan management: The House amendment contained a provision that would authorize $179,430,000 for FY 1991. The Senate bill contained a provision that would authorize $149,400,000 for FY 1991, $155,376,000 for FY 1992, and $161,591,000 for FY 1993. The conference report contains authorizations of $160,000,000 for FY 1991 and $166,900,000 for FY 1992.

Expiring contract authorization: The House amendment contained a provision that would extend expiring Section 8 contracts by authorizing $7,735,000,000 for FY 1991 for 5-year Section 8 certificates, loan management assistance and vouchers. The Senate bill contained a provision that would not authorize specific budget authority for expiring contracts, but would authorize HUD to enter into annual contributions contracts with less than 60-month terms to the extent approved in appropriations Acts and included within a HUD plan on expiring contracts. The conference report contains authorizations of not more than $7,735,000 for 5 year Section 8 certificates for FY 1991 and $7,100,000,000 in FY 1992.

Expiring contracts: The Senate bill contained a provision not included in the House amendment that requires HUD, within 30 days after the beginning of each fiscal year, to publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the budget authority levels that will be required over the succeeding 5-year period to renew Section 8 expiring contracts entered into since the enactment of the 1974 Housing Act. The conference report contains the Senate provision.

Section 8 Contract amendments: The House amendment contained a provision not included in the Senate bill that would authorize $1,620,473,000 for FY 1991. The conference report contains the House provision with an amendment to additionally authorize $1,690,200,000 for FY 1992.

Public housing lease adjustments and amendments: The House amendment contained a provision not included in the Senate bill that would authorize $202,227,000 for FY 1991. The conference report authorizes $207,300,000 for FY 1991 and $216,100,000 for FY 1992.

Low-income term: The Senate bill contained a provision that was not included in the House amendment that would amend the United States Housing Act of 1937 by replacing "lower income families" each place it appears with "low income families", and "lower income housing" with "low income housing". The conference report contains the Senate provision.

Definitions under United States Housing Act of 1937

Family: The House amendment contained a provision not included in the Senate bill to amend the definition of family in the 1937 Housing Act to include single persons. This provision does not entitle single persons to housing units of 2 bedrooms or more. The conference report contains the House provision.

Income: The House amendment contained a provision not included in the Senate bill to amend the definition of income so that it excludes from income, amounts not actually received by the family, for example alimony and child support payments which are owed but not paid. The conference report contains the House provision with an amendment to condition this change on approval in Appropriations Acts.

Adjustment income allowances: The House amendment contained a provision not included in the Senate bill to amend the definition of adjusted income for determination of tenant rent contribution in assisted housing by adjusting the calculation of adjusted income by increasing the allowance for each dependent from $450 to $550, providing allowances for medical expense deductions for nonelderly persons, allowing working families a deduction of 10 percent of earned family income and permitting an allowance for child support and/or alimony payments not in excess of the lesser of the legally required payment or $550 for each individual for whom such payment is made. The conference report contains the House provision with an amendment to make such income adjustments subject to approval in Appropriations Acts.

Determination of income limits: The House amendment contained a provision not included in the Senate bill to require HUD to determine separate median incomes and income ceilings and limits, for Westchester County, New York as if it were not within the metropolitan statistical area (MSA) in which it is located. The provision also requires HUD to use Westchester County, New York in determining area median incomes, ceilings and limits for the MSA that Westchester County, New York is located. The conference report contains the House provision.

Effect of Foster Care Children in Determining Family Size: The Senate bill contained a provision not included in the House amendment providing that under both the 1937 Housing Act and the 1949 Housing Act true temporary absence of a child from home due to placement in foster care shall not be considered in determining family size. The conference report contains the Senate provision.

Rental development (HODAG)

Exemption: The House amendment contained a provision that was not included in the Senate bill that would provide exemption from commencement of construction requirements under the Section 17 HODAG program for a Santa Cruz, California project if project construction or substantial rehabilitation is started within 6 months of the enactment date. This provision would be subject to approval in Appropriations Acts. The conference report contains the House provision.

Termination: The Senate bill contained a provision not included in the House amendment that would prohibit any new grants or loans from being made under the Sec. 17 Rental Development (HODAG) program after October 1, 1990. The conference report contains the Senate provision.

Public housing and section 8 assistance regarding foster care children

The House amendment contained a provision not included in the Senate bill that would require agencies administering public housing or Section 8 assistance to coordinate with local child welfare agencies in providing units to: families whose children have been placed or could be placed in foster care or have children in foster care which have not been discharged due to housing conditions; and youth who have been discharged from foster care who cannot return to their family or extended family and for which adoption is not available. The conference report contains the House provision with an amendment changing "shall" to "may" and subjecting provision to preference rules. The House amendment contained a provision that would amend the preferences for housing placement in both the public housing and Section 8 programs to include families separated due to substandard housing or lack of housing and youth discharged from foster

care who cannot return to their families and cannot be adopted.

The Senate bill contained a provision that also addressed preferences but is not specific to foster care situations. It would give preferences to families who qualify under a system of local preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities which may include: assisting very low-income families who either reside in transitional housing assisted under title IV of the McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to educational and employment opportunities; assisting families who have to pay more than 30 percent of their adjusted income for rent; avoiding breakup of families and preserving and strengthening families and achieving other objectives identified in cooperation with child welfare agencies and other appropriate human service agencies; or achieving other objectives of national housing policy as affirmed by Congress. The Senate provision would also prohibit any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 5 years unless the evicted tenant successfully completes a rehibilitation program approved by the Secretary.

The conference report contains the Senate provision with an amendment to allow as local preferences a preference for families for which substandard housing or lack of housing is a primary factor in the imminent placement of a child in foster care or in preventing the discharge from foster care and the reunification with his or her family, and a preference for youths being discharged from foster care. The amendment also reduces the exclusion for drug related activity from 5 to 3 years and authorizes the Secretary to provide for waivers in the case of uninvolved family members or changed circumstance.

Housing Assistance Plans: The House amendments contained a provision not includedd in the Senate bill that local governments, in developing their housing assistnance plan, would be required to consult with local child welfare agencies to determine the housing needs of such families and youth and to include within their HAP, needs and goals relating to such families and youth. The conference report contains the House provision.

Housing counseling

The House amendment contained a provision that authorized $3,584,000 in FY 1991 for housing counseling services, authorized $6,700,000 in FY 1991 for emergency homeownership counseling and extended emergency homeownership counseling until September 30, 1991. The Senate bill contained a provision that would prohibit any new grants or loans being made under the Housing Counseling program after October 1, 1990.

The conference report contains the House provision with an amendment to also authorize $3,700,000 in FY 1992 for the housing counseling services and $7,000,000 in FY 1992 for emergency homeownership counseling.

The Senate bill contained a provision not included in the House amendment that required a study by the Secretary, to be submitted to Congress, on how the use of certified mail to notify mortgagors of the availability of counseling to which the mortgagor may be entitled would improve mortgagor participation in various foreclosure prevention programs. The conference report does not contain the Senate provision.

The House amendment contained a provision not include in the Senate bill that required the creditor of a loan to notify any eligible homeowner of the availability of homeownership counseling offered by the creditor and would also be required to notify homeowner of either the availability of homeownership counseling provided by Secretary-approved non-profit organizations or the toll-free telephone number established by the Secretary that provides a list of such non-profit organizations. The conference report contains the House provision.

Prepurchase and foreclosure prevention counseling demonstration

The House amendment contained a provision not included in the Senate bill that established a prepurchase and foreclosure prevention counseling demonstration program to demonstrate the effectiveness of providing coordinated prepurchase counseling and foreclosure-prevention counseling to first-time homebuyers and homeowners in avoiding defaults and foreclosures on FHA insured single family home mortgages. The conference report contains the House provision and authorizes $350,000 in fiscal year 1991 and $365,000 in fiscal year 1992 for the program.

Flexible subsidy program

The House amendment contained a provision that prohibited the use of the Flexible Subsidy Fund for activities other than the Fund's designated purposes. The House provision extended the Section 236 flexible subsidy program until September 30, 1993, and authorized appropriations for capital improvements funding under the Flexible Subsidy Fund not to exceed $50,000,000 for FY 1991, $52,000,000 for FY 1992, and $54,080,000 for FY 1993. The Senate bill contained a provision that extended the Flexible Subsidy Program until September 30, 1993, and authorizes not more than $50,000,000 for FY 1991, $52,000,000 for FY 1992 and $54,080,000 for FY 1993. The conference report contains the Senate provision with an amendment to authorize not more than $50,000,000 for FY 1991 and not more than $52,200,000 for FY 1992 and to restrict the uses of flexible subsidy money to those uses for which it is intended. The conferees intend these authorizations to be in addition to any funds that will flow into the Fund in the future. The conferees believe that the Flexible Subsidy Fund is to be used for vitally needed capital improvements, as well as assisting in the prevention of prepayment.

Streamlined property disposition requirements for unsubsidized multifamily projects

The House amendment contained a provision not included in the Senate bill that amended current law governing disposal of non-subsidized HUD-owned or held property to allow for the use of tenant-based assistance upon the sale of such property. The conference report contains the House provision with an amendment to ensure that the right of first refusal provisions of the 1978 Act are applicable.

Multifamily housing disposition

The House amendment contained a provision not included in the Senate bill that extended the multifamily housing disposition partnership demonstration program until September 30, 1991. The conference report contains the House provision.

Public housing drug elimination grants

Authorizations

Public housing: The House amendment authorized $99,225,000 for FY 1990 and $150,000,000 for FY 1991 for the Public Housing Drug Elimination Grants Program. The House amendment also established a similar program for private federally assisted housing and authorized $10,000,000 for FY 1991 for such program.

The Senate bill authorized $150,000,000 for FY 1991, $156,000,000 for FY 1992 and $162,240,000 for FY 1993 for the program and would expand the program to include program grants to private, for-profit and nonprofit owners of federally assisted housing.

The conference report contains authorizations of $160,000,000 for FY 1991 and $166,900,000 for FY 1992, and authorizes a separate 6.25% set-aside of program funds for assisted housing projects.

The Senate bill contained a provision not included in the House amendment that would reauthorize the Public Housing Drug Elimination Act of 1988, and make several modifications to the program. The conference report contains the Senate provision which includes such modifications, the most significant of which are also follows:

(1) The report clarifies that in selecting applications, the Secretary shall consider the extent to which residents support and participate in the design and implementation of the activities proposed to be funded under the application. While this provision essentially codifies existing regulations, the conferees do not intend to codify the Secretary's application of the regulatory criteria. The extent of tenant participation is not to be measured by the formal status of tenant management, as is currently done, but instead by the extent of interest and participation of individual tenants.

(2) Both the Senate and House bills included provisions authorizing grants for the elimination of drug-related crime in housing. However, the Senate bill included owners of such assisted housing within the framework of the Public Housing Drug Elimination Act, whereas the House established a separate $10 million program for federally assisted housing.

In addition to the selection criteria applicable for public housing, the Secretary is authorized to establish other criteria for the evaluation of applications submitted by owners of federally assisted, low income housing. However, such additional criteria shall be limited to those that reflect (a) relevant differences between the financial resources and other characteristics of, on one hand, public housing authorities, and, on the other hand, owners of federally assisted low income housing, and (b) relevant differences between the problem of drug-related crime in public housing and the problem of drug-related crime in federally assisted, low income housing.

In the case of applications submitted by owners of federally assisted, low-income housing, the conferees expect that the Secretary will reject the application of any private owner who has received more than a reasonable return, as determined by the Secretary, on the project or projects referred to in the owner's anti-drug plan. The conferees also expect that the Secretary will give preference to applications from owners of federally assisted, low income housing who contribute additional or raise their own resources for the implementation of their plan.

(3) The report clarifies that all funding decisions must be based exclusively on the stated criteria included in the law. This is simply a clarification of existing law. It is included in response to proposed rules developed by HUD that sought to give the Secretary discretion to consider factors, such as geographical location and PHA size, other than those specifically enumerated. The Secretary does not have such discretion under current law.

(4) Under existing law, grants may be used for "innovative programs designed to reduce use of drugs in and around public housing projects". The conference report adopts Senate-passed language that eliminates the term "innovative". The limitation of such uses to those that are innovative was appropriate when the program began as a small demonstration program, but this limitation is now unduly restrictive.

In addition, the conference report clarifies that this category of eligible activities includes, but is not limited to, drug prevention, intervention, referral, and treatment. Although drug prevention, intervention, and referral are eligible activities under current regulations, drug treatment is now excluded (though the Secretary previously authorized the use of grants for drug treatment purposes).

The conferees are aware that federal, state and other resources are available to many residents of public housing for the purpose of drug treatment, and do not intend the Public and Assisted Housing Drug Elimination Act to substitite for these other resources. However, the conferees also recognize that funding for drug treatment is limited and may not be available to many needy public housing and assisted housing residents. In addition, treatment facilities on the premises of a housing project may be able to provide treatment to residents more effectively and economically than residential treatment facilities far from an addict's home environment. The President's 1989 National Drug Strategy states that "If drug treatment facilities are to be genuinely effective, they must be prepared to bring these services to the addict . . .".

For these reasons, and because effective treatment can help reduce the incidence of drug-related crime, funding under this provision may be provided for purposes such as the construction and maintenance of drug treatment facilities in or around housing projects, and for the hiring of treatment professionals for the treatment of residents.

The conferees expect the Secretary, after consultation with the Secretary of Health and Human Services, to impose by regulation reasonable restrictions on the use of grants under this program for drug treatment purposes. For example, the Secretary may restrict such uses to the treatment of residents who would otherwise lack adequate resources to pay for such treatment. The Secretary also may forbid the use of grants for the treatment of individual residents at residential treatment programs not in or around the housing projects.

(5) The conferees have adopted Senate-passed language stating that one factor in the evaluation of the quality of an application shall be "the extent to which the plan includes initiatives that can be sustained over a period of several years."

(6) The conferees have adopted Senate-passed language stating that, in evaluating the extent of the drug-related crime problem at the housing projects proposed for funding in an application, the Secretary may consider whether the projects are located in a high intensity drug trafficking area designated pursuant to Section 1005 of the Anti-Drug Abuse Act of 1988. This provision will help ensure that applications from these areas are treated fairly, and that officials evaluating their applications appreciate the seriousness of the drug problems in the housing projects' general environment. However, the provision is not intended to place at a competitive disadvantage those applicants whose projects are located in areas that are not so designated, but that nevertheless have serious drug-related crime problems.

(7) The conferees have included language based on a provision passed by the Senate that requires the Secretary to routinely audit and monitor funded programs to ensure that grants are administered properly. To facilitate this monitoring, the conferees expect that the Secretary will continue to require grantees to submit regular reports on their progress, and post-grant reports, as is now required by regulation.

The conferees express concern over the Department's grant process for FY 1990 under the Drug Free Work Place Act of 1988. The Department rejected several applications for assistance on technical grounds not included in the regulations governing the program and then refused to allow resubmissions of such applications. The conferees urge the Secretary to adopt procedures for the awarding of grants under this program in a timely fashion to enable full and fair consideration of all applications for FY 1992.

Department of Housing and Urban Development Study: The Senate bill contained a provision that was not included in the House amendment that would require the Secretary to examine how private nonprofit initiatives to provide low-income housing development in local communities across the country have succeeded. The Secretary would place particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development. The Secretary would convene individuals, of his choosing, who have demonstrated an expertise in such private nonprofit initiatives from across the country and draw on their expertise in implementing such programs. The study would include the results of, and suggestions by, such individuals.

The Secretary would be required to report to the Congress of the United States of America the findings of this study not later than 12 months after this bill becomes Public Law.

The conference report contains the Senate provision.

Extension of capital assessment study: The conference report contains a provision not included in the Senate bill or the House amendment that would extend through March, 1992 the due date on HUD's capital needs assessment study. This study, to assess the renovation needs of the country's distressed federally-assisted multifamily housing, along with a study on the flexible subsidy program, was mandated in the HUD Reform Act of 1989. The flexible subsidy program study has been completed but research to support the capital needs assessment study, due to Congress on December 15, 1990, is still underway. HUD's Office of Policy Development and Research has assembled a research team of housing professionals, engineers, architects, appraisers and property management consultants to undertake this major project. This deadline extension is intended to allow sufficient time to conduct a thorough, comprehensive study to include the physical and financial needs of these properties, the anticipated level of resources needed to remedy the identified problems, and an assessment of HUD's existing mechanisms to address the problems.

TITLE VI—PRESERVATION OF AFFORDABLE RENTAL HOUSING

SUBTITLE A—PREPAYMENT OF MORTGAGES INSURED UNDER THE NATIONAL HOUSING ACT

Background: During the next 12 years, over 360,000 units of federally assisted housing may be withdrawn from the affordable housing supply by their owners. Contracts entered into by the federal government and private developers under low interest loan programs of the 1960's (section 236 and section 221(d)(3)) permitted certain owners to prepay the federally assisted mortgage after the twentieth year of the forty year mortgage term. A mortgage prepayment and termination of the mortgage insurance contract has the effect of ending federal restrictions over the use of the property for the benefit of low and moderate income households.

Faced with an immediate threat of losing this resource, and the real prospect that thousands of low income households would be involuntarily displaced through prepayment, Congress enacted an emergency measure in 1987. This temporary measure was designed to give Congress time to fashion a permanent program for the preservation of this housing. During this time, much has been learned about the strengths and weaknesses of the administrative process and the financial, tax and regulatory underpinnings of the prepayment decision. More importantly, a consensus has finally emerged on how best to strike the balance among the interests of owners, the tenants and the communities most affected by the consequences of prepayment. The fundamental principle of the 1987 Act was that the housing should be preserved for its intended beneficiaries and that owners should be guaranteed a fair and reasonable return on their investment through new incentives. While the principle of the 1987 Act is retained, this legislation transforms the goal of a fair and reasonable return into a set of concrete economic alternatives for the owner that can be pursued through a more objective and streamlined process.

Senate bill: The Senate bill placed prime emphasis on the need to retain this affordable housing stock for its remaining useful life. Owners of eligible housing had three options. They could: (1) seek to terminate the low-income affordability restrictions of the housing (through prepayment); (2) extend the low-income use of the housing; or (3) transfer the housing to a qualified purchaser. Unlike current law, the proposal explicitly established a clear preservation value of eligible low-income housing. The value was an amount equal to the fair market value of the housing as multifamily rental housing—less costs that would have been incurred for rehabilitation and conversion to market rate housing. The preservation value also included a discount to reflect the residual value of federal assistance that was provided to the project over the years.

For owners who sought to extend the low-income use of the housing, HUD was directed to provide incentives that gave the owner an 8-percent return on its equity in the housing (the preservation value minus the existing debt). HUD was also directed to

provide additional subsidies to bring the housing up to standard.

Owners who sought to transfer the housing were directed to give priority purchasers (residents, nonprofits and public agencies) a first opportunity to acquire the housing. Once a designated period passed, the owner could sell the housing to any qualified purchaser (i.e. any entity that agreed to extend the low-income use of the housing for the remaining useful life of the property). HUD was directed to give qualified purchasers sufficient subsidies to (a) acquire the housing at the preservation value; (b) rehabilitate the housing up to standard; and (c) establish sufficient operating and replacement reserves.

For owners who sought to prepay and terminate the low-income affordability restrictions, HUD was to make sure that such action would neither (1) create economic hardship for current tenants or displace them where comparable affordable housing is not readily available; nor (2) harm availability of low-income housing, lessen ability of low-income families to find housing near jobs, or reduce housing opportunities for minorities.

House Amendment: The House amendment contained a bipartisan provision that recognized owners' contractual interests at the same time it provided broad tenant protections. Owners would file notice to receive incentives, sell the housing, or pay off the mortgage subject to a one-year right of first refusal by qualified purchasers. The House amendment set up a streamlined process for the delivery of incentives, but also set new standards of property maintenance to protect tenants' rights.

Owners receiving incentives were required to preserve the property for up to 30 years beyond the eligibility date, for a total of 50 years of use agreements.

The House amendment established a mechanism for recognizing the property owners' contractual interest while not paying overly generous benefits to owners. Under the appraisals, owners would be notified of two values. First, owners deciding to stay in the program would receive an appraisal evaluating their property at highest and best rent residential usage. Owners choosing to sell or forced to sell their property would be paid at highest and best usage, without restrictions. Incentives paid by the government were capped at 110% of the fair market rent, and were available to current owners as well as prospective purchasers.

The House amendment set forth generous tenant protections in the case of an owner paying the mortgage, including three-year rent extensions in low-vacancy areas, and guaranteed access to Section 8 assistance.

In seeking an equitable and expeditious workout of this complicated policy issue, and providing generous incentives and protections for owners and tenants alike, the House amendment preempted any state and local laws not of general applicability.

Conference Report/Summary: The conference report contains the Senate provision with a series of amendments to: (1) authorize sales based on "highest and best use" valuation; (2) permit federal mortgage insurance for equity-take-out loans as well as acquisition loans; (3) eliminate any "public discount" on value; (4) place controls on the federal expenditure for preserving individual housing projects; (5) allow owners to prepay under limited circumstances; (6) provide stronger safeguards in the event of prepayment; (7) preempt certain State and local laws; and (8) make a variety of other changes to Senate provisions.

The significant elements of the conference report are as follows:

1. Fair Market Return: Owners would receive *fair market return* on their property. If, within cost limits noted below, HUD is able to offer the owner that fair market return, the owner would be required either to maintain certain affordability restrictions on the housing for its remaining useful life or to transfer the housing to a qualified purchaser (e.g. nonprofit) that will.

If an owner decides to sell, the housing would be appraised at *"highest and best use" value*, less costs the owner would have incurred under conversion. HUD would enable a qualified purchaser to pay that value.

If an owner decides to retain the housing's affordability restrictions, the housing would be appraised at its highest *residential rental value*, less costs the owner would have incurred under conversion. HUD would give the owner an 8 percent return on the equity derived from that value.

2. Federal Cost Limits: HUD would make an initial assessment of the aggregate project income ("preservation rent") that will be needed to support preservation costs. HUD would then compare the preservation rent with cost limits pegged at a percentage of the Section 8 fair market rents or, in rare cases, the comparable local market rents.

If the preservation rent test shows that incentives above the federal limits are needed, owners would have to give qualified purchasers (tenants, nonprofits, and others) an opportunity to supplement the HUD subsidy and purchase the property at the appraised "highest and best use" value. A special set-aside of capital grant funds would be established to assist priority purchasers cover the gap.

3. Permissible Prepayment: Owners would be permitted to prepay in three circumstances: (1) if a prepayment would not harm long-established policy objectives; (2) if HUD is unable to fund preservation incentives within 15 months (or shorter in the case of owners who attempt to sell their properties); or (3) where there is no willing qualified purchaser in the case of a voluntary or mandatory sale.

4. Tenant Protections: In the event of a prepayment, strong tenant protections and relocation requirements would be included.

5. Preemption: The solution would recognize that a fair Federal preservation policy must apply uniformly to all affected properties regardless of location. For that reason, the solution would preempt State and local laws that target only prepayment projects for special treatment. Laws applicable to both assisted and nonassisted housing would be in full force.

Conference Report/Detailed Explanation

Notice—An owner of eligible low-income housing would be required to file a notice indicating its intent to pursue one of three options: seek to terminate the low-income affordability restrictions through prepayment or voluntary termination, seek incentives to extend such restrictions or seek to transfer the housing to a qualified purchaser. The owner could file this notice up to 24 months before the date of eligibility to prepay. The conference report would require the owner simultaneously to file the notice with the appropriate State and local government and the mortgagee and to notify the tenants of the housing.

Termination of affordability restrictions: Within 6 months of receipt of a notice seeking to terminate the low-income affordability restrictions, the HUD Secretary would be required to provide the owner with such information as the owner needs to prepare a plan of action. HUD would, in particular, provide information relating to the criteria governing such termination and the documentation required to satisfy such criteria. HUD would also provide relevant market area and demographic information and other information to assist the owner in preparing the plan of action.

The criteria for approval of plans of action that seek termination of the low-income affordability restrictions essentially mirror the criteria contained in the 1987 Housing Act (as amended by the McKinney Homeless Assistance Amendments of 1988). The HUD Secretary could approve such a plan of action upon finding that the plan satisfies long-established national objectives. Specifically, the Secretary must find that implementation of the plan of action would neither (1) create hardship for current tenants or displace them where comparable and affordable housing is not readily available nor (2) materially affect the general supply of low-income housing in the market area, lessen the ability of low-income people to find housing near job opportunities or reduce housing opportunities for minorities.

If the Secretary determined that the public purpose criteria had not been satisfied, the owner's plan of action would be disapproved. In this event, the owner would have the option to seek incentives to extend the affordability restrictions or transfer the housing to a qualified purchaser. A new notice of intent would then be filed and the general process governing such notices would then apply.

Incentives to Remain in Program or Transfer to Qualified Purchasers: Receipt of a notice of intent from an owner who wishes to accept preservation incentives and continue ownership or to transfer the housing to a purchaser that will extend affordability restrictions, triggers a different process than the one described above.

Within 9 months HUD would perform three essential tasks: (1) establish (through an appraisal process) the preservation value of the property; (2) estimate the cost of preserving the housing; and (3) determine whether these costs could be supported by a rent stream within the federal cost limits. After completing these tasks, HUD would provide owners with the information obtained and inform them about the determinations that have been made. Owners will then have the opportunity to make an informed decision as to how to proceed under the Federal preservation process.

Step One: Valuation: After a notice of intent is filed, the first step in the incentive process is to value the property. The conference report would establish a standard method for calculating two "preservation values" for each property. The first preservation value would equal the appraised fair market value of the housing as multifamily rental housing less certain adjustments. The second preservation value would equal the appraised "highest and best use" value of the property less certain adjustments.

The conference report adopts the 3 appraiser approach currently used under the Farmers Home prepayment provisions. The preservation values of the property would be set by two independent appraisers, one chosen by the Secretary and one chosen by the owner. If the two appraisals conflict and the Secretary and the owner cannot agree on a value, then a third appraisal would be

used to resolve the conflict between the owner and the Secretary's appraisals, so that a final value determination could be reached.

The valuation process is designed primarily to determine what economic result an owner might have achieved by prepaying the existing HUD-assisted mortgage, ending the affordability restrictions on the housing and converting the housing to alternative use (i.e. market rate rental housing, condominiums or nonresidential uses). Appraisers will need to estimate the particular costs that would have been incurred as a result of such actions including the costs of (1) bringing the subject property up to standards that are necessary to attract and sustain a market rate tenancy; and (2) converting the housing or property to alternative use. The Committee Report accompanying the Senate bill included a detailed discussion—which HUD should examine closely—of the types of costs owners would have incurred in the event of prepayment and conversion. The conferees note, in particular, that appraisers will need to examine the effects that State and local laws applying to assisted and nonassisted housing (e.g. condo conversion, zoning, rent control) would have had on an owner's conversion plans. In addition, any separate use agreements entered into by the owner with an entity or agency must be considered. The conferees have determined that some state housing finance agencies could play a useful role in assisting appraisers in assessing rehabilitation needs and costs as well as determining conversion costs that would have been borne by a prepaying owner.

The Secretary would be directd to establish specific guidelines for the appraisals conducted under the preservation program, in accordance with a series of instructions set forth in the conference report. These instructions emphasize the unique nature of these "preservation" appraisals. Appraisers will need to make a number of special inquiries in order to determine the economic result that an owner would have received in the event of prepayment and conversion. It is expected that some of these inquiries will supplement what appraisers generally consider within the context of routine real estate transactions. The conferees believe that HUD is well positioned, given the history and experience under the 1987 Act, to provide clear and consistent guidelines on this vital aspect of the preservation process. HUD should consult closely with knowledgeable parties, particularly state housing finance agencies and others that have participated in the existing system.

The conference report specifically directs that appraisers use the greater of actual project operating expenses at the time of the appraisal (based on the average expenses during the previous three years) or projected operating expenses upon conversion. The purpose of the statutory language on average expenses is to enable an appraiser to adjust for extraordinary and nonrecurring costs that make the current year operating expenses abnormally high or abnormally low. To the extent that current project expenses reflect costs that are unlikely to decrease in the future, the appraiser should use current project expenses in making the comparison with post-conversion expenses.

Step Two: Assessing Preservation Rents Against Federal Cost Limits: After determining the preservation values of a housing project, HUD would make an initial assessment of the aggregate project income ("preservation rent") that will be needed to support preservation costs. HUD would then compare this project income to federal cost limits—capped at a percentage of Section 8 FMRs or prevailing rents in the relevant local market area. This determination will separate the higher cost properties from the bulk of the inventory and set the stage for the remainder of the preservation process.

Preservation Rent: The conference report directs HUD to make an attempt early in the process to assess the costs of preservation in terms of necessary project income—the aggregate "preservation rent".

Where an owner stays in, the aggregate preservation rent would be the amount required to cover the following costs: the authorized return, debt service on any rehabilitation loan, debt service on the federally-assisted mortgage (net of the interest reduction payment in a Section 236 project), project operating expenses and adequate reserves. The annual authorized return would be set at 8 percent.

Where an owner sells, the aggregate preservation rent would be the amount required to cover the following costs: debt service on the loan for acquisition of the housing, debt service on any rehabilitation loan, debt service on the federally assisted mortgage (net of the interest reduction payment in a Section 236 project), project operating expenses and adequate reserves.

The conferees caution the Secretary in the application of the preservation rent concept. The Secretary may not have all necessary cost information at the early stages of the process. In particular, no decisions may have been reached about which costs (including rehabilitation or payment of preservation equity in a sale) should be supported through the rent stream and which should be defrayed through other incentives. Yet the time periods required to implement the mandatory sale provisions (described below) make it necessary to provide an initial estimate of costs and project income very early in the process.

Federal Cost Limits: The Secretary would compare the aggregate preservation rents for a given property against special cost limits established for the preservation program. The aggregate preservation rent would first be compared against 120% of the jurisdiction's Section 8 Existing Fair Market Rents multiplied by the total number of units in the project. If the aggregate preservation rent is *equal to or less* than the income stream created by 120% of the jurisdiction's fair market rents, the cost of preserving the project would be considered within the federal cost limits and the owner would proceed as described below in step three.

If the aggregate preservation rent exceeds 120% of the jurisdiction's fair market rents, the Secretary would administer a second cost limit test. Specifically, the conference report would direct HUD to look at the rent levels in the immediate area in which the housing is located (the "Local Market Rent"). If the aggregate preservation rent is *equal to or less* than 120% of the Local Market Rents (multiplied by the number of units), the cost of preserving the project would be considered within the federal cost limits and the owner would proceed as described below in step three. If the aggregate reservation rent *exceeds* 120% of the Local Market Rents (multiplied by the number of units) the cost of preserving the project would be considered outside the federal cost limits and the owner would proceed as described below in step four.

The second cost limit test was developed because of a serious concern that, in some cases, there might be no correlation between the fair market value of eligible housing upon conversion and the Section 8 Fair Market Rents. Section 8 FMRs have several deficiencies for purposes of establishing a federal cost limit for the federal preservation program: they are based on the 45th percentile rent; they exclude newly constructed housing; and they generally cover the large geographic areas.

Step Three: Preservation Rents within Federal Cost Limits: Owners of housing that can be preserved for low income use within the federal cost limits would have two choices: seek incentives to stay in and maintain the affordability of the housing or transfer the housing to a qualified purchaser who will do so.

Stay In: Owners who elect to stay in would file a plan of action within 6 months of receiving information from the Secretary as described above. HUD would be directed to provide such owners with incentives that, *inter alia:* (1) enable the owners to receive an authorized return on their preservation equity; (2) pay debt service on the existing HUD mortgage (net of interest reduction subsidies); (3) pay debt service on any loan for rehabilitation approved by HUD; (4) meet project operating expenses; and (5) establish adequate reserves. Section 8 rental assistance could be set higher than 120% of Existing FMRs to cover these costs. Owners would also have access to a portion of their preservation equity through the Section 241(f) program as described below.

Voluntary Sale: Owners who elect to sell would be required to file a second notice of intent stating that fact. A "right of first offer" process would then ensue. The owner would be required to give "priority purchasers" 12 months (from the date the second notice of intent is filed) to make a bona fide offer for the property and to negotiate a purchase agreement with the owner.

If no bona fide offer is made within this period, owners would have to give "qualified purchasers" an additional three months to make a bona fide offer for the property and to negotiate a purchase agreement with the owner. It is expected that after an agreement is reached with a purchaser, the parties will file a plan of action requesting the necessary incentives. Filing may not occur until quite late in the process—a key distinction with the situation where the owner seeks to maintain the affordability of the housing.

The conferees recognize that a qualified purchaser might not be able to consummate a purchase for reasons other than the absence of sufficient appropriations. If the time periods referenced above have not expired, an owner would need to continue marketing the housing in accordance with those time periods. This provision is included in section 224.

The conferees have provided for this special "right of first offer" period in order to establish a genuine advantage for priority purchasers. In doing so the conferees balanced the legitimate interests of the Department, owners and tenants in not creating unnecessary or unjustified delays through unlimited negotiations against a clear and legitimate policy interest in facilitating and encouraging transfers to priority purchasers.

The conference report would define priority purchasers as including three kinds of entities: (1) a resident council that is organized to develop and implement an approvable

resident ownership program, (2) a qualified nonprofit organization that is dedicated to the promotion of affordable housing and agrees to maintain the low-income affordability restrictions for the housing's remaining useful life, and (3) State and local housing agencies which agree to maintain the low-income affordability restrictions for the housing's remaining useful life. The Committee intends that qualified nonprofit organizations essentially conform with the requirements established for community housing development organizations under the HOME program.

A qualified purchaser would be defined as including priority purchasers and any other entity (including for-profit entities) that agrees to retain the housing affordability restrictions for the remaining useful life of the housing.

For approvable plans of action, HUD would provide qualified purchasers with subsidies sufficient to, *inter alia*, (1) acquire the property at a price no greater than the preservation value; (2) pay debt service on any loan approved by HUD for the rehabilitation of the housing; (3) pay debt service on the existing HUD loan (net of interest reduction subsidies); and (4) establish sufficient operating and replacement reserves. Resident councils would also receive additional subsidies for training purposes and homeownership counseling. Priority purchasers could receive additional assistance to cover transaction costs and related expenses.

Acquisition subsidies could take various forms. For priority purchasers, the Secretary could provide a grant that does not exceed the present value of the projected published Section 8 existing housing fair market rents for the next 10 years (or such longer period if needed to cover the eligible costs referenced above). The Administration proposal authorized this form of subsidy only for acquisitions made by resident councils. The conferees believed that the focus on resident ownership was too narrow and expanded the pool of eligible recipients to include nonprofit organizations and public agencies. The conferees also provided the Secretary with more flexibility in setting the amount of assistance. The conferees intend that the Secretary work closely with priority purchasers to determine which mix of subsidies best suits their preferences and organizational capacity.

For all qualified purchasers, the Secretary could provide the same incentives that are available to owners who seek to retain ownership and extend the affordability restrictions. Acquisition financing would be permitted under the Section 241(f) program, described below.

Step Four: Preservation Rents Exceed Federal Cost Limits: Owners of housing that cannot be preserved for low income use within the federal cost limits would have two choices: (1) voluntarily decide to seek incentives within the federal cost limits under the process described under step three; or (2) seek to prepay the mortgage, subject to offering the housing for sale in accordance with mandatory sale provisions.

Under mandatory sale process owners would be required to file a second notice of intent, triggering the start of a "right of first offer". The owner would be required to give "priority purchasers" a 12 month period (from the date the second notice of intent is filed) to make a bona fide offer to purchase the housing at the housing's preservation value (the "highest and best use value"). If no offer is received from a priority purchaser, the owner would then offer the project for sale to other qualified purchasers at the preservation value. Owners would be required to accept any bona fide offers at such value.

To facilitate these transfers, HUD would provide a stream of rental subsidies set at 120% of the Local Market Rents and any other incentives authorized in a sale situation. HUD would then assist the purchaser in closing the gap between the level of incentives described above and the preservation value of the housing. HUD would, for example, assist potential purchasers in their efforts to secure funding from state or local governments, or concessions (local real estate taxes, water and sewer assessments). Most importantly, HUD would have access to a special capital grant pot to provide the necessary gap financing. This funding source would need to be separately approved in appropriations Acts.

Step Five: Safeguards in Event of Prepayment

Unlike the existing law, the conference report recognizes that some prepayments may need to occur. A willing buyer, for example, may not emerge during the voluntary or mandatory sale periods. Alternatively, HUD may approve a plan of action only to find that it does not have sufficient funds for the approved incentives. An owner may prepay where the owner's plan to extend the affordability restrictions is approved but HUD does not provide any assistance to fund the approved incentives for the 15 months following the date of approval.

Special rules will apply to owners who wish to sell the housing. Where a sale plan is approved after the original prepayment date for the housing, an owner would be permitted to prepay if HUD fails to fund the approved incentives within the 2 month period following the beginning of the next fiscal year (but in no event later than 6 months following the date the plan of action is approved).

Where a sale plan is approved before the original prepayment date for the housing, an owner would be permitted to prepay if HUD fails to fund the approved incentives within the 2 month period following the beginning of the next fiscal year (but in no event later than 9 months following the date the plan of action is approved).

In the event of prepayment, HUD would have several tools to protect the existing tenants and assist the affected community in replacing the lost stock. The tenant protections build upon provisions contained in the House bill as well as in State laws such as the Maryland Assisted Housing Preservation Act. Six major protections would be provided:

1. Section 8 certificates or vouchers would be provided to tenants with incomes below 80% of area median incomes. HUD would work with local public housing agencies to ensure that displaced tenants are able to find affordable, comparable housing in the vicinity.

2. Special rules would apply to owners of housing located in a low-vacancy area. Such owners must allow existing tenants to remain in the housing at the rent levels existing at the time of prepayment for three years.

3. Three-year lease extensions would also be provided to tenants with special needs in all areas (including elderly, persons with disabilities and other populations designated by the Secretary as special needs populations).

4. Owners would be required to pay 50% of moving expenses as provided in House bill (unless state or local law of general applicability provides a higher level of benefits and assistance).

5. Owners who prepay and retain rental character of housing would be obligated to accept tenants with rental certificates or vouchers. HUD would be authorized to set FMR levels at the "exception rent".

6. HUD would be directed to set-aside from appropriations for the preservation solution (or from annual Section 8 appropriations) the funding that is necessary to provide assistance for tenants *displaced* from prepaid projects.

Miscellaneous provisions

1. Insurance for Second Mortgage Financing: The Senate bill did not authorize the Secretary to insure equity take-out loans under the Section 241(f) program on behalf of current owners, as provided by existing law. The Senate's action reflected a concern that the combination of permanent affordability restrictions and substantial insured equity loans would remove owner incentives for long-term maintenance, posing unwarranted risk to the mortgage insurance funds. In contrast, the House bill authorized insurance for up to 80 percent of the owner's equity in the project.

The conference report contains a limited Section 241(f) program for current owners who elect to maintain the affordability of their projects. The report would restrict the amount of equity take-out loans to the lesser of: (1) 70% of the owner's preservation equity in the project; or (2) the amount that is supportable by an 8% return on preservation equity. For example, if the preservation value is $60,000 and the outstanding debt relating to the property is $10,000 per unit, the preservation equity would be $50,000 per unit and the amount available to service the equity loan is $4,000 per unit ($3,600 per unit with 90% debt service coverage). The maximum equity loan that could be serviced from this return at 10.5% for 40 years is approximately $33,700 per unit or 67% of preservation equity.

Under the conference report, owners who choose to convert their annual authorized return into debt through an insured equity take-out loan will not be given a greater economic benefit than owners who take their return annually out of cash flow. The conference report seeks to achieve economic parity between these two groups of owners, by providing that debt service payments on equity take-out loans will be made from the annual authorized return. To encourage responsible ownership, the conferees have provided for a holdback of 10 percent of the loan proceeds to be made available to the owner after five years, subject to compliance with the maintenance and low income affordability standards.

The conferees intend to encourage the use of the section 241(f) program to transition the housing to resident, nonprofit and public ownership. In fact, the conferees have revised the existing program to allow for 95% financing for qualified purchasers. Subject to approval by the Secretary, insured acquisition loans for priority purchasers may also include transaction costs, financing costs, and costs associated with implementing the Plan of Action (such as operating losses attributable to the rent phase-in, if any).

With respect to mandatory sales, the amount of the insured acquisition loan will be restricted by federal cost limits, provid-

ing a gross potential income for the project equal to 120% of the prevailing rents for the relevant local market area. The conferees intend that grant funds authorized under section 221(d)(2) be allocated to priority purchasers to cover non-mortgageable acquisition and related costs where the federal cost limits are exceeded.

2. Remaining Useful Life: The conference report requires that owners accepting incentives as well as purchasers of the housing maintain the affordability restrictions for the remaining useful life of the housing. This commitment to permanent affordability constitutes one of the major decisions of the conference and a departure from both the 1987 Act and the House bill.

The conferees specifically considered and rejected the Resolution Trust Corporation's interpretation of the term "remaining useful life" that was contained in the FIRREA legislation. Rather, the conferees decided to define the term and establish procedures to govern its enforcement.

The term "remaining useful life" would be defined as meaning the physical life of a building assuming normal maintenance and repairs and such replacement of major systems and capital components as necessary. HUD would be authorized to apply the definition to individual buildings and to determine, specifically, when a building's useful life has ended. The Secretary would establish standards—by notice-and-comment rulemaking—to govern such determinations.

Owners would have the right to petition HUD to declare that their housing's useful life has ended. Such petition could not be filed until 50 years after the date on which the owner's plan of action is approved. The burden would be on the owner to prove that the useful life of their housing has ended for reasons other than owner failure to regularly repair and replace systems; evidentiary rules would be established by the Secretary.

Tenants and local communities would have the right to comment on owner's petition and to administratively appeal an adverse HUD determination.

3. Consultation with Other Parties: Section 228 requires the Secretary to consult with interested parties in the development of a plan of action. The conferees also believe that it would be beneficial for the Secretary to enter into discussions with a variety of national and regional nonprofit organizations and associations representing state housing agencies and local housing officials. Some of these organizations have considerable expertise in the preservation area, as well as a communication network with local organizations that are concerned with this issue. These discussions should concentrate on the implementation of the voluntary and mandatory sale program, including homeownership opportunities. The conferees are aware that the acquisition program will be determinative of the preservation future of many projects and that in the absence of strong technical assistance support, projects will be lost and local preservation efforts will founder. The training and capacity building process must begin immediately to avert this result.

4. Related Party Rule: The conferees expect the Secretary to develop sensible rules to implement the related party provisions.

The Secretary's regulations must distinguish between transactions where an impermissible identity of interest or relationship is present and those transactions which are not tainted. If, for example, an individual is involved in the ownership of an assisted project and also participates, in his or her personal capacity and without compensation, on the board of directors of a nonprofit organization that seeks to acquire a project from the owner, this participation alone should not trigger the application of the related party rule. In other words, participation on the board of directors of any acquiring entity by a person who has a relationship with the seller is not, in and of itself, evidence of "partial control".

5. Windfall Profits Test: The conferees expect that the "windfall profits" test in the Act will only be utilized by the Secretary in exceptional cases. The test was added in response to Administration concerns that the preservation solution should not be used to provide incentives to owners who would not have prepaid, given local market conditions. The conferees share that concern. Yet the conferees strongly believe that the use of appraisals will limit the provision of incentives to owners of housing which have a market alternative other than low income housing.

The conferees expect the Administration to define how the "windfall profits" test will be implemented in notice and comment rulemaking. The conferees expect that the test would be applied in a manner consistent with the process established in this Act. In particular, HUD should apply the test early in the process so that all parties can achieve a definitive outcome within the time frames set forth in the Act.

SUBTITLE B—OTHER PRESERVATION PROVISIONS

Section 236 Rents: The House amendment contained a provision not included in the Senate bill that would amend the definition of income for Section 236 to exclude amounts not actually received by a family. The conference report contains the House provision.

Advances for Capital Improvements: The House amendment contained a provision not included in the Senate bill that would allow HUD to repay owners for advances for capital and operating loss expenditures made by them for the benefit of projects assisted under sections 226 and 221 of the National Housing Act. The repayment would be made in the form of incremental rent increases. The conference report contains the House provision with an amendment to restrict the provision's coverage to advances for capital improvements and to phase in rent increases in accordance with the Low Income Housing Preservation and Resident Homeownership Act. The conferees intend that the authority granted to the Secretary in this section be used only under special circumstances in which no other existing means to finance needed capital improvements can be used. The conferees note that the Secretary has at his disposal existing below market interest rate loan programs to finance necessary rehabilitation in subject properties. As a consequence, the conferees wish to specify that the discretion granted by this section shall be used by the Secretary only when owners have requested assistance but not received it through the Flexible Subsidy program or other programs that could provide such capital (such as Section 241(d) loan insurance) and where the owner can certify to the Secretary's satisfaction that the interest rate to be paid on the advance and the term of the advance itself will be less costly to HUD and require smaller rent increases than other alternatives available to the owner, such as third party loans. In agreeing to permit interest to be paid on such advances through increased rents the Secretary shall ensure that the interest rate and terms of the advance are reasonable and fair and are not more costly than the rates and terms commonly available for such loans through bona fide third party arrangements. Moreover, the conferees expect the Secretary to make such adjustments as necessary to existing Section 8 contracts in the properties to assure that tenant payments are not increased as a result of this section and that where Section 8 contracts are not in place, Section 8 assistance will be made available to income eligible residents to the extent that such rent increases as provided for in this section would cause such residents' rents to rise above 30 percent of their adjusted gross income. In properties where there is no section 8 assistance and income eligible residents are already paying in excess of 30 percent of their adjusted gross income for rent, then the conferees expect the Secretary to withhold approval of further rent increases subject to this section.

The conferees intend that this provision permit rent increases only for necessary capital improvements, not to cover the costs of correcting deferred maintenance by the owners. Any such increases should be limited to those approved by HUD after tenants receive notice and comment rights under existing law, which should also be directed to the necessity of the improvement. Once the advance has been recovered the rent should decrease by the amount of the increase that was due to the advance.

The conferees also note that many of the projects to which this section applies may also be eligible for additional incentives under the provisions of the Low Income Housing Preservation and Resident Homeownership Act contained in this Act. The conferees do not expect the Secretary to approve higher rents for payment of interest on advances for any projects that are eligible to receive incentives under these provisions. Rather, the conferees expect necessary rehabilitation and capital improvement needs to be considered and resolved through the negotiation of new incentives or through the sale of the property to new, bona fide third party owners who will preserve the housing's low income character for its remaining useful life.

Management and Preservation of Federally Assisted Housing: The Senate bill contained a provision not contained in the House amendment to require tenants living in Section 236 and 211(d)(3) housing whose incomes exceed 80 percent of area median income to pay as rent the lower of the following amounts: (1) 30 percent of the tenant's adjusted monthly income; or (2) the relevant fair market rent established under Section 8 for the area in which the housing is located. The conference report contains the Senate provision. The conferees intend that any rent increases be phased in in accordance with the rules established under section 222(a) of the Low Income Housing Preservation and Resident Homeownership Act of 1990. The change in rent rules would apply to all Section 236 and 221(d)(3) housing, including housing which has received flexible subsidy assistance under Section 201 of the Housing and Community Development Amendments of 1978.

Assistance to Prevent Payment Under State Mortgage Programs: The House amendment contained a provision not contained in the Senate bill to assist States in preserving State-subsidized affordable housing that is subject to loss through mortgage

prepayments. The conference report contains the House provision.

TITLE VII—RURAL HOUSING

Purpose Clause: The Senate bill contained a provision not included in the House amendment that established purposes of the title to reaffirm the national commitment to expand affordable housing in rural areas; to promote full use of the Section 502 program by very low income people through a partially deferred mortgage program; and to improve the quality of affordable housing in underserved rural areas with high concentrations of poverty and substandard housing. The conference report does not contain the Senate provision, except to the extent that the purpose of serving underserved areas has been amended and inserted under the section titled Underserved Areas.

Authorizations

Loan insurance and loan guarantee: The House amendment contained a provision that provided the Secretary of Agriculture with aggregate loan insurance and guarantee authority of $2,091,200,000 for FY 1991. The Senate bill contained a provision that provided aggregate amounts including: aggregate loan insurance and guarantee authority of $2,160,000,000 for FY 1991; $2,246,400,000 for FY 1992; and $2,336,256,000 for FY 1993. The conference report contains an authorization for aggregate loan insurance and guarantee authority of $2,125,800,000 for FY 1991 and $2,217,150,000 for FY 1992.

Section 502: The House amendment contained a provision that authorized Section 502 loans at $1,325,000,000 for FY 1991. The Senate bill contained a provision that authorized Section 502 loans at $1,457,465,000 for FY 1991; $1,515,764,000 for FY 1992; and $1,576,394,000 for FY 1993. The conference report contains an authorization for Section 502 loans at $1,391,300,000 for FY 1991 and $1,451,100,000 for FY 1992.

The House amendment contained a provision not included in the Senate bill that authorized a new loan guarantee program for low and moderate income borrowers. The conference report contains an authorization for 502(h) at such sums as are appropriated. The committee's intent for providing a separate authorization for 502(h) is to insure that funds appropriated under this new program for low and moderate income borrowers do not count under the authorization ceiling for insured and direct loans for low income borrowers, as authorized under 502.

Section 504: The House amendment contained a provision that authorized Section 504 improvement loans at $12,000,000 in FY 1991. The Senate bill contained a provision that authorized Section 504 improvement loan at $11,715,000 for FY 1991; $12,184,000 for FY 1992; and $12,671,000 for FY 1993. The conference report contains an authorization for Section 504 loans at $11,900,000 for FY 1991 and $12,400,000 for FY 1992.

Section 514: The House amendment contained a provision that authorized Section 514 farm labor housing loans at $12,000,000 for FY 1991. The Senate bill contained a provision that authorized Section 514 farm labor housing loans at $11,870,000 for FY 1991, $12,344,000 for FY 1992 and $12,839,000 for FY 1993. The conference report contains an authorization for Section 514 loans at $12,000,000 for FY 1991 and $12,500,000 for FY 1992.

Section 515: The House amendment contained a provision that authorized Section 515 rental housing loans at $740,200,000 for FY 1991. The Senate bill contained a provision that authorized Section 515 rental housing loans at $677,840,000 for FY 1991, $704,954,000 for FY 1992 and $733,152,000 for FY 1993. The conference report contains an authorization for Section 515 loans at $709,000,000 for FY 1991 and $739,500,000 for FY 1992.

Section 523 mutual housing: The House amendment contained a provision that authorized Section 523(b)(1)(B) mutual housing and self-help loans at $1,000,000 for FY 1991. The Senate bill contained a provision that authorized Section 523(b)(1) mutual housing and self-help loans at $520,000 for FY 1991, $540,000 for FY 1992 and $562,000 for FY 1993. The conference report contains an authorization for Section 523 loans at $800,000 for FY 1991 and $800,000 for FY 1992.

Section 524: The House amendment contained a provision that authorized Section 524 site loans at $1,000,000 for FY 1991. The Senate bill contained a provision that authorized Section 524 site loans at $590,000 for FY 1991, $614,000 for FY 1992 and $638,000 for FY 1993. The conference report contains an authorization for Section 524 loans at $800,000 for FY 1991 and $850,000 for FY 1992.

Authorizations for appropriations

Section 502(f)(1): The House amendment contained a provision not included in the Senate bill to finance the difference between the appraised value and the costs of land and building for single family new houses in remote rural areas. The conference report contains a new grant authority at $1,000,000 for FY 1991 and $1,100,000 for FY 1992.

Section 504: The House amendment contained a provision that authorized Section 504 grants at $18,000,000 for FY 1991. The Senate bill contained a provision that authorized Section 504 at $19 million for FY 1991; $19,760,000 for FY 1992 and $20,550,000 for FY 1993. The conference report contains an authorization for Section 504 grants of $20,200,000 for FY 1991 and $21,100,000 for FY 1992.

Section 509(c): The House amendment contained a provision that provided grants for correcting defective housing under Section 509(c) in the amount of $1,000,000 for FY 1991. The Senate bill contained a provision that provided such grants under Section 509(c) in the amount of $520,000 for FY 1991, $540,000 for FY 1992, and $562,000 for FY 1993. The conference report contains an authorization for Section 509(c) of $550,000 for FY 1991 and $600,000 for FY 1992.

Section 511: The Senate bill contained a provision not included in the House amendment that allocated such sums as are necessary to meet notes and other obligations equal to the aggregate of contributions and credits on principal due on Section 503 loans and any interest due on similar notes or other obligations. The conference report contains the Senate provision.

Section 516: The House amendment contained a provision that authorized Section 515(a-j) farm labor rental assistance at $21,296,000 for FY 1991. The Senate bill contained a provision that authorized Section 516(a-j) at $20,340,000 for FY 1991, $21,154,000 for FY 1992 and $22 million for FY 1993. The conference report contains an authorization for Section 516 at $20,900,000 for FY 1991 and $21,700,000 for FY 1992.

The House amendment contained a provision not included in the Senate bill that provided grants for the construction, rehabilitation, and acquisition of housing for migrant farmworkers and rural homeless. The conference report contains an authorization for this new provision under 516(k) at $10,000,000 for FY 1991 and $10,500,000 for FY 1992.

Section 523(f): The House amendment contained a provision that authorized Section 523(f) mutual and self-help housing grants at $8,979,000 for FY 1991. The Senate bill contained a provision that authorized Section 523(f) at $14,340,000 for FY 1991, $14,914,000 for FY 1992 and $15,510,000 for FY 1993. The conference report contains an authorization for Section 523(f) at $13,400,000 for FY 1991 and $13,900,000 for FY 1992.

Section 533: The House amendment contained a provision that authorized Section 533 housing preservation grants at $29,906,000 for FY 1991. The Senate bill contained a provision that authorized Section 533 at $25,800,000 in FY 1991, $26,832,000 for FY 1992; and $27,906,000 for FY 1993. The conference report contains an authorization for Section 533 at $29,600,000 for FY 1991 and $30,800,000 for FY 1992.

Rental assistance payment contracts: The House amendment contained a provision that authorized Section 521 rental assistance payment contracts to total $400,000,000 for FY 1991. The Senate bill contained a provision that authorized rental assistance up to $395,000,000 for FY 1991; $410,800,000 for FY 1992; and $427,232,000 for FY 1993. The conference report contains an authorization for Section 521 at $397,000,000 for FY 1991 and $414,100,000 for FY 1992.

Supplemental rental assistance contracts: The House amendment contained a provision not included in the Senate bill that authorized supplemental rental assistance contracts to total $5,200,000 for FY 1991. The conference report contains the House provision with an amendment to provide an additional authorization for FY 1992 of $5,500,000.

Extension of authority: The Senate bill contained a provision not included in the House amendment that extended rural rental rehabilitation demonstration under Section 17 of the 1937 Act until September 30, 1992. The conference report does not contain the Senate provision. The conferees intend that rental rehabilitation activities in rural areas be undertaken through the housing preservation grant program which FmHA has yet to implement for rental properties.

The House amendment contained a provision that extended Section 515(b)(4) rental housing loan authority and Section 523 mutual and self-help loan authority until September 30, 1991. The Senate bill contained a provision that extended Section 515 loan authority and Section 523 mutual and self-help loan authority until September 30, 1993. The conference report contains the House provision.

Effect of Foster Care Children in Determination of Family Composition and Size: The House amendment contained a provision not included in the Senate bill that establishes that a child's temporary absence from a home due to placement in foster care would not affect the family composition and size. The conference report contains the House provision.

Escrow accounts: The Senate bill contained a provision not included in the House amendment that required the Secretary to pay interest rates on escrow accounts comparable to conventional lenders where the state prescribes interest to be paid. The con-

ference report contains the Senate provision.

Remote rural areas: The House amendment contained a provision not included in the Senate bill that required the Secretary to consider the actual cost of land and buildings as sufficient security for a Section 502 home loan in a remote rural area or for a borrower who lives or works in a remote rural area. The conference report contains the House provision with an amendment which provides for a grant program, subject to appropriations, to make up the difference between the appraised value and the costs of land and building for single family new houses in remote rural areas.

The House amendment contained a provision not included in the Senate bill that prohibited the Secretary from refusing to make or insure any FmHA Section 502 loans on the basis that the housing involved is located in an area that is excessively rural in character or excessively remote. The amendment made by this section would apply with respect to classification of rural areas for Fiscal Year 1991 and after. The conference report contains the House provision. The conferees are aware that there is a legitimate concern that security in remote rural areas may not be sufficient for the federal mortgage. In such situations and where the appraised value of a home is less than the cost of land and construction, the conferees intend that the Secretary provide grants for the difference between the appraised value and cost. The Secretary is directed to promulgate interim rules within 120 days of enactment.

Deferred mortgage program: The House amendment contained a provision that permitted the Secretary to defer Section 502 loan payments on a demonstration basis for families who do not have sufficient income to repay Section 502 loans but are otherwise qualified under Section 502. The Secretary could defer mortgage payments beyond the affordable amount at 1% interest, but no deferred payment could exceed 50% of the amount of the payment due at 1% interest. Deferred mortgages would return to normal payment status when the borrower's ability to repay improves and deferred amounts are subject to recapture. Subject to appropriations, no more than 10% of the amount approved for Section 502 loans would be authorized to be used for deferred mortgages in FY 1991.

The Senate bill contained a similar provision that provided for a deferral of not more than 20% of principal if (1) the borrowers reside in a state where 10% or more of set asides have not been obligated since 11/30/83; (2) the deferral is necessary to enable borrower to make payments and the borrower can be expected to amortize fully deferred principal over the remaining life of the loan. Any increases in mortgage payments would be applied first to repayment of deferred principal with interest and then to an increase in interest on the loan. Interest on deferred principal would remain at 1% until the deferral has been repaid in full.

The conference report contains the House provision with an amendment which provides authority in fiscal years 1991 and 1992 for FmHA to defer up to 25 percent of Section 502 mortgage payments at 1 percent interest for very low income families or persons otherwise deemed unable to afford the regular payment. In addition, the committee adopted technical amendments recommended by FmHA. In implementing this program the Secretary shall promulgate interim rules no later than 120 days after enactment, and shall provide the authorizing committees with a preliminary report on the demonstration results no later than 90 days prior to the end of fiscal year 1992 and a final report no later than 120 days after the end of that fiscal year.

Section 502 loan guarantee program: The House amendment contained a provision not included in the Senate bill with respect to the Section 502 loan guarantee program.

The House provision established findings and purposes, and amended the existing Section 502 FmHA program by authorizing for up to 100% of the loan amount, loan guarantees for moderate-income borrowers whose incomes do not exceed area median incomes.

The conference report contains the House provisions amended to provide a separate authorization. This new subsection directs the Secretary to establish a program for the guarantee of single-family housing loans and provides in part that "loans shall be guaranteed in an amount equal to 90 percent of the loan." The conferees intend by this language to give the agency flexibility in the use of different methods of structuring its guarantees, so long as the agreement would result in the Secretary bearing 90 percent of the loss of the total amount of the total of the loan so guaranteed. For example, the Secretary might construct a system in which 100 percent of the first portion of the loss would be borne by the Secretary and a lesser percentage of the remaining loss would be repaid to the lender. We encourage the Secretary to consult with interested groups in the private sector to determine how best to construct the guarantee program so as to create mortgage-backed securities which will be attractive to investors and thus maximize the capital available flowing through to finance homes for moderate and low income borrowers.

Foreclosure procedures: The House amendment contained a provision not included in the Senate bill that required the Secretary of Agriculture to follow the mortgage foreclosure procedures of the state where a property is located to the extent that the state's procedures are more favorable to the borrower than the procedures that the Secretary would otherwise follow when foreclosing a mortgage. The conference report contains the House provision.

Housing in underserved areas: The House amendment contained a provision that required the Secretary of Agriculture to designate 50 counties and communities in FY 1991 and 100 counties and communities in FY 1992 as targeted underserved areas that have severe unmet housing needs. The Senate bill contained a similar provision except that the Secretary would be authorized to designate 100 underserved counties in FY 1991 and 1992. The conference report contains the Senate provision with an amendment to include purposes for the program which highlight the lower Mississippi Delta region and incorporate provisions related to colonias which are deemed to be underserved areas in this section of the conference report.

Definition of underserved areas: The House provision defined underserved areas as those which over the last 10 years have received a substantially lower than average FmHA assistance than other counties and communities in the state and have 20% or more of their population at or below poverty level and 10% or more in substandard housing. The Senate bill defined eligible counties as those where between 1986–1988, the number of FmHA assisted units for families below 80% of median is less than the % assisted in the state and those where there is a high combined number of rural households below 50% of median as compared to the county and number of substandard housing compared to the county. The conference report contains the House provision with an amendment to consider the previous 5 years funding rather than 10 years in order to reflect more accurately the level of assistance now being provided in each area.

Preference: The House provision established preferences for counties within the lower Mississippi delta. The conference report contains the House provision with an amendment to replace the preference as stated with language that gives preference to projects in designated underserved counties that have a poverty rate of 28% or greater and a substandard housing rate of 13% or greater. The conferees intend that FmHA will redesignate these counties as of the 1990 Census. To ensure the greatest possible benefit to all eligible counties, the conferees expect that FmHA will designate these underserved areas on a rotating funding basis so that all eligible counties have an opportunity to utilize this program before any designated county is funded for a second time.

Funding set aside for targeted underserved areas: The House provision required the Secretary to set aside and reserve 3.5% of the aggregate amount of rural housing lending authority in FY 1991 and 5% in FY 1992 for such designated areas. The Senate bill would establish set-asides for targeted areas as: $25 million for Section 515, $40 million for Section 502 and $1 million each for Section 504 loans and grants in FYs 1991, 1992, 1993. The conference report contains the House provision with an amendment to eliminate the set-aside for the Lower Mississippi Delta and to include colonias as an eligible area.

Colonias: The House amendment included a provision that was not included in the Senate bill that would give priority within a state's allocation for applications serving colonias in the four border states. Colonias would receive priority for all FmHA Title V funds, without limitation to a state's allocation. The conferees consolidated a version of this provision into the Underserved Area program. California, New Mexico, Arizona, and Texas would each be required to give priority on 5% of their state's allocation for approvable applications serving colonias if the state has not used its entire allocation during the previous two fiscal years. Those border states that have used their entire state allocation of FmHA funding during the two previous fiscal years would be eligible to participate in the Underserved Areas program for purposes of assisting colonias. This funding would be in addition to any designated counties in the state. In fact, approvable applications serving colonias would receive a priority up to the amount equal to 5% of the state's allocation from which the application was submitted.

Reallocation: The House provision provided that the preference for the Lower Mississippi Delta terminate on August 1 of the fiscal year and the unused funds be available to all underserved areas. Any assistance reallocated on August 1 that is unused on September 1 of a fiscal year shall be reallocated under the laws and regulations of the applicable FmHA programs, notwithstanding this provision. The Senate bill made the unused amounts subject to pooling procedures established by the Secretary. The con-

ference report contains the House provision with an amendment to delete references to the Lower Mississippi Delta region, include reallocations for the colonias, and give the Secretary the authority to design a reallocation procedure rather than specifying dates in legislative language. The committee's intent is to insure that eligible applicants will have a reasonable opportunity to take full advantage of the reallocated funds while giving all applicants ample time to participate prior to reallocation.

Preproject planning assistance: The House provision authorized the Secretary to provide advances to nonprofit organizations and public entities for 80% of the customary costs of preparing and submitting housing applications. The Senate bill provided project preparation grants rather than repayable advances.

The House provision required that repayments be made from loan proceeds but could be deferred or waived or could be forgiven. The Senate bill required the Secretary to adjust loan amount to reflect the grant.

The House amendment contained a provision not included in the Senate bill that required the Secretary to establish guidelines for the application which would be required to include a budget and documentation that funds required for the project but not to be provided by the Secretary would be available.

The House amendment contained a provision requiring the Secretary to approve, or provide a written decision, regarding loans within 60 days of receipt of the applications.

The House provision required that preferences be given to applications made with advances or to residents of underserved areas. It would establish applicant eligibility for public and private nonprofit organizations.

The conference report contains the Senate provision with an amendment to add the requirement that the Secretary establish guidelines for the application, including applicant eligibility, and to provide decisions within 60 days of application.

Rural Housing Inventory: The House amendment contained a provision not included in the Senate bill that provided authority to transfer Section 502 inventory property as rental projects under Section 514. The conference report contains the House provision.

Appeal rights: The Senate bill contained a provision not included in the House amendment that prohibited the Secretary from excluding from the requirements for written notice and appeal decisions that are not based on objective standards contained in published regulations. The conference report contains the Senate provision.

Section 515 Loans

Equity take out loan cap: The House amendment contained a provision not included in the Senate bill that required that equity takeout loans be limited by the appraised value of the property, not the original mortgage amount for post 12/15/89 loans. The conference report contains the House provision.

Applicability of equity takeout loan account assessment to low income tenants: The House amendment contained a provision that exempted from the annual assessment for reserve account purposes, units which are occupied by low income tenants or those paying in excess of 30% of their income. The Senate bill contained a provision that required new moderate and assisted low income tenants to pay basic rent plus yearly $2.00 assessments. New unassisted but eligible low income tenants would pay only the basic rent plus $2.00. The conference report contains the House provision.

Effective date of HUD Reform for equity take out loans: The House amendment contained a provision not included in the Senate bill that changed the effective date of HUD Reform equity takeout provisions from 180 days after enactment to 12/15/89. The conference report contains the House provision. This provision contains technical amendments to the Department of Housing and Urban Development Reform Act of 1989 related to the prohibition of prepayment of new FmHA Section 515 rural rental housing loans and the authority provided the Secretary to guarantee supplemental equity takeout loans after the 20th anniversary of a project.

It was the intent of the 1989 Act and is the intent of this Act that the Secretary is expected to approve and guarantee the equity takeout loans once the conditions and determinations required by the 1989 Act are satisfied. The requirements are similar to and consistent with the prepayment provisions of the Housing and Community Development Act of 1987 which, in the Committee's view, have worked very well.

The FmHA borrower should expect the timely processing and approval of guaranteed equity takeout loans after the specified requirements of the legislation have been met.

Reuse of Section 515 loan authority: The Senate bill contained a provision not included in the House amendment that provided that amounts appropriated for Section 515 shall remain available until expended. The conference report contains the Senate provision.

Section 515 loan assumption: The House amendment contained a provision not included in the Senate provision that permitted assumption or transfer of Section 515 loan obligations. The conference report contains the House provision.

The House amendment contained a provision that allowed transfer of Section 515 loan obligation authority without regard to fiscal year limitations. The Senate bill contained a similar provision making funds eligible until expended. The conference report contains the Senate provision amended to blend with the House provision regarding the assumption or transfer of Section 515 loan obligations.

Nonprofit set-aside: The Senate bill contained a provision not included in the House amendment that authorized the Secretary to set aside 7% in FY 1991, 8% in FY 1992, and 10% in FY 1993 of funds for Section 515 projects for nonprofits sponsors. Any unused funds would be subject to pooling. The conference report contains the Senate provision with an amendment which reserves 7% in FY 1991 and 9% in FY 1992 of Section 515 funds for nonprofit sponsors. Nonprofit sponsors are those organizations which are exempt from federal taxes under section 501(c)(3) and section 501(c)(4) of the Internal Revenue Code and whose principle purposes include the planning, development, and management of low income housing. Such sponsors include private, nonprofit organizations as well as consumer cooperatives and Indian tribes. The committee amended the Senate provision by establishing that only organizations that are wholly owned and operated by a nonprofit group may participate. It is the committee's intent to avoid any opportunity for other eligible organizations under 515 to abuse the set aside by creating nonprofit sponsors of their own with which to co-venture.

The conference report also establishes a method for the administration of the set aside. The greater of the percentage to be set aside or $750,000 will be available in each state. For those states in which the percentage to be set aside is less than $750,000, that amount will be pooled at the national office. Nonprofits from states affected will compete for these funds. All set aside funds unobligated first must be made available to all eligible applicants within a state and then returned to the national pool. The committee's intent is to insure that eligible applicants will have a reasonable opportunity to take full advantage of the reallocated funds while giving all applicants ample time to participate prior to reallocation.

The conferees recognize that many nonprofit organizations have the capability to plan, develop, and manage rural rental housing projects. However, the conferees understand that because of the extensive backlog of eligible applications, there is routinely a two to three year waiting period before receiving assistance. During this period a sponsor must pay for technical and legal fees, as well as servicing cost related to the building site for the project. Few nonprofit organizations have the financial capability to absorb these costs for such an extended period of time. As the demand for rural rental housing loans has increased in recent years, nonprofit participation has declined.

The set aside will establish a minimum level of participation for nonprofits. It will make it possible for those with minimal resources, but with the ability to plan and carry out an eligible project, to receive assistance.

The conferees note that the 1987 Housing Act provided FmHA with authority to provide packaging fees for nonprofit organizations preparing rural rental housing applications and expect FmHA to work to coordinate such packaging assistance with the set aside.

Housing for rural homeless and migrant farmworker program: The House amendment contained a provision not included in the Senate bill that targeted assistance to rural homeless and migrant farmworkers by providing financial assistance for affordable rental housing and related facilities for migrant farmworkers and homeless individuals (and the families of such individuals). The House provision authorizes $10,000,000 for Fiscal Year 1991 for this program.

The conference report contains the House provision with an amendment that only permits housing the homeless who are not migrants on an emergency and temporary basis, in the off-season and requires FmHA to complete a study regarding the extent of the problem of homelessness in rural areas with recommendations for future legislation and programs. This amends Section 516 of the Housing Act of 1949 with a separate appropriation.

This provision is in response to two different, but complementary, concerns. First, under current law, the Secretary may provide a grant of up to 90% of the costs of developing housing for farm workers. The remainder of the funds is to be provided through private credit. The conferees have learned that, in reality, the split between grant and loan amount for most projects has been 60% grant and 40% loan. This has worked satisfactorily for farmworkers who occupy the housing for 10-12 months because such projects bring in adequate rental income to make the units viable. However,

this program has not been effective in creating affordable housing opportunities for seasonal workers who may only occupy the units for 2-4 months each year. Such housing is not available under existing programs because the debt burden on such properties require nearly year-round occupancy. Second, the conferees recognize the increasing problem of homeless individuals and families in rural areas, a problem which is not satisfactorily addressed by McKinney Act assistance. In responding to this urgent need, the conference committee expects that the housing built for seasonal workers under this provision will be made available as shelter on a temporary emergency basis.

Rural area classification: The House amendment contained a provision not included in the Senate bill that redefined rural and rural areas to mean any open country or place, town, village or city which is not (except in the case of Pajaro, California and Guadalupe, Arizona) part of or associated with an urban area and which has: (1) a population not in excess of 10,000 if it is rural in character; or (2) a population in excess of 10,000 but not in excess of 25,000, but must also be rural in character, not contained within a standard metropolitan statistical area; and has a serious lack of mortgage credit for lower and moderate income households as determined by FmHA and HUD. The conference report contains the House provision with an amendment to grandfather all presently eligible communities under 20,000 which as a result of the 1990 census do not exceed 25,000 in population, are rural in character, and have a serious lack of mortgage credit.

Use of rental coverage: The Senate bill contained a provision not included in the House amendment that permitted rent overages to be used as supplemental rental assistance for very low and low income families not receiving rental assistance. Subject to appropriations, the conference report contains the Senate provision. However, the conferees do not intend that the incremental appropriations for rental assistance should be reduced to reflect these rental overages made available to owners.

Housing preservation grants: The Senate bill contained a provision not included in the House amendment that permitted the Secretary to retain and reobligate grants obligated but not expended in any fiscal year. The conference report contains the Senate provision.

Reciprocity in approval of housing subdivisions among federal agencies: The House amendment contained a provision not included in the Senate bill that extended for 6 months the required HUD acceptance of VA certificate of reasonable value as approval of an entire subdivision. The conference report contains the House provision with a technical amendment relating to a gap in applicability.

Technical amendments: The House amendment contained two technical amendments not included in the Senate bill. The first defined "assistance" in accountability provisions. It limited "assistance" to grants, loans, etc., for original development costs, not subsequent loans. It excluded equity takeout loans from accountability provisions of HUD reform act. The second technical amendment that the House amendment contained established a prepayment prohibition. It amended prepayment prohibition before 50 years to apply only to new Section 515 loans not subsequent loans. The conference report contains the House provisions.

TITLE VIII—HOUSING FOR PERSONS WITH SPECIAL NEEDS

Section 202 housing for elderly and handicapped, in general: The Senate bill included a major restructure of the Section 202 program for elderly and disabled persons. The Section 202 production program for the elderly would be substantially revised to ensure that housing developed under the program would be designed to accommodate the special physical and other needs of elderly persons. The Section 202(h) program for persons with disabilities would be fully separated from the elderly program to allow the program to better address the needs of such persons. The House amendment made changes to the existing section 202 program but did not include the financing restructure. The conference report contains the Senate's major revisions to the 202 program with an amendment to implement the changes in FY92. Minor revisions included in the House amendment and the Senate bill would be implemented upon enactment in FY91.

SUBTITLE A—SUPPORTIVE HOUSING FOR THE ELDERLY

Purposes: The Senate bill contained a provision not included in the House amendment that would provide that the purpose of the program is to enable elderly persons to live with dignity and independence by expanding the supply of affordable housing designed to accommodate the special needs of elderly persons and providing supportive services that are tailored to the needs of elderly persons occupying such housing. The conference report contains the Senate provisions.

General authority: The Senate bill contained a provision not included in the House amendment that would provide assistance in the form of capital advances and project rental assistance to private nonprofits and consumer co-ops to be used for construction, reconstruction, moderate or substantial rehabilitation, including the cost of real property acquisition, site improvement, conversion, demolition, relocation and other expenses that the Secretary determines are necessary. The conference report contains the Senate provision amended to add the House provision allowing the acquisition of RTC properties.

Capital Advances: The Senate bill contained a provision not included in the House amendment that would define capital advances as no interest loans to be repaid only if the housing is no longer available for very low income elderly persons. Advances would be calculated within development cost limitations. The conference report contains the Senate provision.

Project rental assistance: The Senate bill contained a provision not included in the House amendment that would require project rental assistance to include those operating costs not covered by rental income. The annual contract amount for any project would not exceed the initial annual project rents plus any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project would remain available until the expiration of the contract and adjustments could be made to provide for reasonable project costs. The conference report contains the Senate provision.

Tenant Rents: The Senate bill contained a provision not included in the House amendment that would establish tenant rents as the highest of the following amounts: 30% of a person's adjusted monthly income, 10% of a person's monthly income, or the shelter rent payment as determined by welfare assistance if the person receives such assistance. The conference report contains the Senate provision.

Use Restriction: The Senate bill contained a provision not included in the House amendment that would require all units to be available for occupancy by very-low income persons for at least 40 years. The conference report contains the Senate provision.

Rental assistance contract term: The Senate bill contained a provision not included in the House amendment that would establish the initial term of contracts for project rental assistance at 20 years. The bill would require the Secretary, to the extent approved in appropriations acts, to extend any expiring contract for at least a five-year term. To facilitate the extension of expiring contracts, the bill would authorize the Secretary to make commitments to extend such contracts during the year prior to their expiration date. The conference report contains the Senate provision.

Application process: The Senate bill contained a provision not included in the House amendment that would require applications to include: a description of the proposed housing; of the assistance requested; of matching resources; of the intended population to be served, the supportive services to be offered, the manner in which the services would be offered including residential supervision for frail elderly, and the sources and funding for the supportive services; State or local certification regarding services; certification of compliance with the affordable housing strategy required under Section 105 of this Act; and other information or certifications that the Secretary deems necessary. The conference report contains the Senate provision.

Selection criteria: The Senate bill contained a provision not included in the House amendment that would require selection criteria established by the Secretary to include the capability of the applicant to develop and operate the proposed housing; the need for supportive housing in the area to be served; the management efficiency of the unit mix and the cost effectiveness of the delivery of supportive services; the compatibility of the design with the special physical needs of the elderly; assurances of the availability of the supportive services on a consistent and long term basis; the extent to which the proposed design of the housing would accommodate the provision of supportive services for the intended residents over the useful life of the property and other factors to be determined by the Secretary. The conference report contains the Senate provision.

Supportive services: The Senate bill contained a provision not included in the House amendment that would require the Secretary to ensure that the housing assisted under this program provides supportive services which are tailored to the needs of the category or categories of elderly persons occupying such housing, including meals, housekeeping, transportation, personal care, health services and other services. The conference report contains the Senate provision.

Services for nonresidents: The Senate bill contained a provision not included in the House amendment that would allow services to be made available to nonresidents if it would not adversely affect the cost effectiveness or the operation of the project. The conference report contains the Senate provision.

Applicability of project retrofit. The Senate bill contained a provision not included in the House amendment that would require the Secretary to apply the requirements of Project Retrofit to Section 202 projects for frail elderly. The conference report contains the Senate provision amended to reflect changes including the change of name from Project Retrofit to the revised congregate housing services program.

Local coordination of services: The Senate bill contained a provision not included in the House amendment that would require the Secretary to ensure that owners can assess, coordinate, and finance a supportive services program for the long term. Costs of supportive services and service coordinators for the frail elderly would be borne by the project and project rental assistance and subject to the requirements of Project Retrofit. The conference report contains the Senate provision.

Development cost limitations: The Senate bill contained a provision not included in the House amendment that would require the Secretary to periodically publish development cost limitations by market area which reflect the cost of construction up to codes; the cost of movables; the cost of special design features including accessibility and meeting the physical needs of elderly persons; congregate space; cost of meeting energy efficiency standards if the housing in newly constructed; and the cost of land. The conference report contains the Senate provision amended to add language on RTC properties.

Annual adjustments: The Senate bill contained a provision not included in the House amendment that would provide for annual adjustments in development costs. The conference report contains the Senate provision.

Incentives for savings: The Senate bill contained a provision not included in the House amendment that would provide an incentive for development costs which are less that the development cost limitations. An owner could retain 50% of the savings in a special housing account. An owner could receive 75% of the savings for the account if energy efficiency features are added in the project that: exceed energy efficiency standards promulgated by the Secretary; substantially reduce life cycle costs of the housing; reduce gross rent requirements; enhance tenant comfort and convenience. The special account could be used to supplement supportive services funding or replacement reserves or for other purposes determined by the Secretary. The conference report contains the Senate provision.

Design flexibility: The Senate bill contained a provision not included in the House amendment that would require the Secretary to give owners the flexibility to design housing appropriate to their location and the population to be served. The conference report contains the Senate provision.

Use of funds from other sources: The Senate bill contained a provision not included in the House amendment that would allow owners to use nonfederal funding for amenities which could not be financed with the advance and is not taken into account in determining the amount of federal assistance or the rent contribution of tenants. The conference report contains the Senate provision.

Tenant selection procedures: The Senate bill contained a provision not included in the House amendment that would require the owner to adopt written tenant selection procedures satisfactory to the Secretary and to promptly notify rejected applicants in writing of the grounds for any rejection. The conference report contains the Senate provision with an amendment to make this information available to the appropriate local agency serving the elderly.

Technical assistance: The Senate bill contained a provision not included in the House amendment that would require the Secretary to make available technical assistance. The conference report contains the Senate provision.

Civil rights compliance: The Senate bill contained a provision not included in the House amendment that would require compliance with Federal, state and local civil rights laws. The conference report contains the Senate provision.

Matching requirement: The Senate bill contained a provision not included in the House amendment that would require applicants to contribute at least 5% either in cash, value of land or real or personal property, or present value of supportive services committed by private resources. The conference report contains the Senate provision amended to retain existing law except to raise the minimum capital investment to $25,000. The conferees understand that the existing regulations on owner deposit would otherwise be retained. As a reserve it could be held in escrow for no more than 3 years.

Reduction or waiver: The Senate bill contained a provision not included in the House amendment that would reduce or waive the matching requirement if the sponsor is not affiliated with a national nonprofit. The Secretary could reduce or waive the matching requirement for individual applicants if necessary to achieve the purposes of this section provided the applicant demonstrates that it has the capacity to manage the maintain the housing. The conference report contains the Senate provision with an amendment to strike the automatic waiver for an unaffiliated nonprofit.

Appeals: The Senate bill contained a provision not included in the House amendment that would require the Secretary to notify an owner not less than 30 days prior to cancellation of any reservation of assistance. The bill would provide for appeal of cancelled loan authority by an owner within 30 days, requiring response in 45 days. The conference report contains the Senate provision with an amendment to add that in considering applications for assistance under section 202, the Secretary could not reject an application on technical grounds without giving notice of that rejection and the basis therefore to the applicant and affording the applicant an opportunity to respond. The preparation and submission of applications for the section 202 program require the investment of substantial time and money by the applicant. Moreover, they often involve the negotiation of commitments from churches, foundations, and local government. An application that is rejected on technical grounds because of a mistake to fact or interpretation by HUD is a loss to the program, to the appplicant and to the elderly residents that the project would have served. Accordingly, the Secretary is directed to afford the applicant notice and an opportunity to respond when an application is rejected on technical grounds before applications are submitted to HUD headquarters for final review. This is not itended to require advance notice of proposed or final project rankings or to require the Secretary to consider matters that occur after submission of the application.

Davis-Bacon: The Senate bill contained a provision not included in the House amendment that would require Davis-Bacon wage rates for projects for 12 or more persons except if the labor is volunteer labor. The conference report contains the Senate provision.

Definitions: The Senate bill contained a provision not include in the House amendment that would establish the definitions for "elderly person" "frail elderly", and "private nonprofit organization". The conference report contains these Senate definitions. (other definitions)

Conforming amendment: The Senate bill contained a provision not included in the House amendment that would delete the 202 program from the fair share allocation requirements. The conference report contains the Senate provision.

General authorizations: The Senate bill authorized capital advances of $628,000,000 for FY 1991, $659,000,000 for FY 1992 and $685,360,000 for FY 1993. The Senate bill provided for a revolving fund for the appropriated amounts, any proceeds for notes and obligations, and for any repayments. The Senate bill reserved authority, to the extent approved in appropriations acts, in the aggregate of $346 million in FY 1991, $353 million in FY 1992, and $377,520,000 for FY 1993 for project rental assistance. Twenty percent of the funds would be allocated to nonmetropolitan areas. The conference report would authorize $659,000,000 for elderly capital advances in FY 1992. Elderly rental assistance would be authorized at $363,000,000 for FY 1992.

Effective date and applicability: The Senate bill contained a provision not included in the House amendment that would permit owners of projects approved under the old Section 202 program for which no loan has been executed to elect to be subject to the provisions of the new Sec. 202 program. If funds from the original reservation remain they would be available for use under this section. The conference report contains the Senate provision amended to require HUD to implement the 202 revisions through notice and comment rulemaking and to delay implementation until FY 1992.

Expedited financing and construction: The Senate bill contained a provision not included in the House amendment that would give HUD the authority to expedite the processing of approved Sec. 202 projects with two adjustments to the approvable maximum loan amount and to the fair market rents. Both adjustments would be subject to cost controls and would apply to projects approved 3 years prior to the enactment of this act which have not been closed and which are in high cost areas. The conference report contains the Senate provision.

Authorization for existing program: The House amendment contained a provision that would extend Section 202 (housing for the elderly or handicapped) borrowing authority through FY 1991 and would authorize $714,237,000 in FY 1991 for Section 202 elderly and disabled loans. The House amendment would also authorize $714,237,000 for 202 elderly and disabled rental assistance in FY 1991. The conference report contains the House provisions amended to authorize $714,200,000 for 202 loan authority in FY 1991.

Congregate housing services program/ Project Retrofit

In general: The House amendment contained a provision that would reauthorize the existing congregate housing services program and authorize a new, revised con-

gregate services program. The Senate bill created Project Retrofit to replace the congregate housing services program. The conference report incorporates many of the revisions contained in the Senate bill and the House amendment into the revised congregate housing services program.

Authorization: The House amendment contained a provision not included in the Senate bill that would establish a revised congregate housing services program to be administered by HUD and FmHA for residents of federally assisted housing occupied by older or disabled persons with impairment in two or more activities of daily living (ADL) and/or instrumental activities of daily living (IADL). The conference report contains the House provision amended to require the Secretaries of HUD and FmHA to enter into contracts to provide congregate service programs for eligible residents and/or adapt the housing to better accommodate the physicial requirements and service needs of eligible residents.

Finding: The House amendment contained a provision not included in the Senate bill that would establish congressional findings for the revised congregate housing program. The conference report contains the House provision amended to indentify the need to redesign units and buildings to meet the special physical needs of the frail elderly persons; identify the need to create congregate space to accommodate services that enhance independent living; change "individuals" to "persons"; and change the term "disabled individual" to "persons with disabilities".

Purposes: The House amendment contained a provision not included in the Senate bill that would establish the purposes of the program. The conference report contains the House provision with an amendment to incorporate Senate purposes dealing with retrofitting, creation of congregate space and improvement of management capacity.

Contracts: The House amendment contained a provision not included in the Senate bill that would authorize the Departments to enter into three year contracts with states, units of general local government and housing sponsors including nonprofits and public housing agencies in nonparticipating states, and Indian tribes for the establishment of a congregate housing services program and the delivery of supportive services at housing sites. The conference report contains the House provision amended to delete states as the principal grantee. The conference report would establish a 5 year contract for services.

Reservation of funds: The House amendment contained a provision not included in the Senate bill that would provide for reservation funds for this program over the term of contract in the fiscal year in which the contract is approved. The conference report contains the House provision.

Services program: The House amendment contained a provision not included in the Senate bill that would require the services program to be coordinated on site and to provide meal service which meets at least one third of the nutritional needs of eligible residents and other appropriate services to promote and encourage maximum independence among the elderly or disabled persons, including personal care, transportation, chore services, housekeeping, grooming, case management, nonmedical counseling, and medication assistance. Services should reflect the wants and needs of elderly residents. The conference report contains the House provision with amendments to retitle the subsection as "Eligible Activities"; permit, rather than require HUD to fund congregate housing services programs; include personal emergency response systems as permissible service under a congregate services program; incorporate Section 602(c)(1) of the Senate bill (retrofit and renovation); and incorporate Section 602(c)(2) of the Senate bill (service coordinators).

Eligibility: The House amendment contained a provision not included in the Senate bill that would make services available for a fee which is based on adjusted income of eligible residents. The fees would cover 10% of the cost of the services but could be waived if the elderly person's income is insufficient. The conference report contains the House provision with amendments to clarify that any non-residents receiving services would pay fees equal to the cost of providing the service and incorporate Senate language on eligible residents.

Ineligible residents: The House amendment contained a provision not included in the Senate bill that would permit ineligible residents to receive services if the professional assessment committee, management and service coordinators determine that providing services to ineligible residents would not impede the program. The conference report contains the House provision with an amendment to incorporate Senate language governing provision of services to persons who are not residents of the project.

Eligible housing projects: The House amendment contained a provision not included in the Senate bill that would include public housing, HUD assisted multifamily housing, FmHA rural rental housing and farm labor housing projects as eligible housing projects. The conference report contains the House provision with an amendment to revise the Section 221(d)(3) and 236 definition to conform with the prepayment report language.

Eligible contract recipients: The House amendment contained a provision not included in the Senate bill that would establish the eligible recipients under this program as states and, in non-participating states which have not applied for assistance or have made their intentions known to the Secretaries not to apply, Indian tribes and units of local government, and nonprofit housing sponsors, including public housing agencies. States receiving assistance would establish an advisory committee of not fewer than 13 specified members to assist the state in allocating assistance under this section. The conference report contains the House provision with an amendment to eliminate states as the primary contract recipient. States would be permitted to apply on behalf of owners of eligible low income housing.

Applications: The House amendment contained a provision not included in the Senate bill that would require applications by States to contain a services plan, a certification of matching funds, an allocation plan, the designation of a state administering agency, identify the members of the state advisory committee, and a plan to ensure that subgrantees limit their administrative costs. The non-state application would include a similar services plan, an allocation process to eligible projects, an administering agency designation, Area Agency on Aging concurrence, and a plan to ensure that subgrantees limit their administrative costs. The Secretaries would be required to establish application deadlines and provide notice of award or rejection within 60 days. The conference report contains the House provision with amendments to require applicants who apply for HUD service funds to certify that, during the term of the contract, they would actively seek funds for such services from other sources; and include provision for Secretary awarding contracts within 60 days.

Selection Criteria: The House amendment contained a provision not included in the Senate bill that would require the Secretary to select applicants based on selection criteria established by the Secretary, including the types of services provided, the targeting plans for services, the relationship of the proposed service packages to the needs of the elderly and disabled to be served, the adequacy of the service delivery, the qualifications of the assessment committees, the reasonableness and application of a fee schedule, and the accuracy and adequacy of the budget. The conference report contains the House provision with an amendment to include criteria related to rehabilitation and renovation and the extent to which services funding from other sources exceeds required match.

Evaluation and reporting: The House amendment contained a provision not included in the Senate bill that would require the Secretaries to establish, by regulation, procedures to review and evaluate the congregate housing services programs including annual reports submitted by contract awardees evaluating the impact and effectiveness of such programs. The conference report contains the House provision.

Distribution of costs/costs sharing: The House amendment contained a provision not included in the Senate bill that would require states and localities, nonprofit sponsors, public housing agencies and Indian tribes, where the state does not participate, to contribute 50% of the funds to carry out the program. The Federal share of program costs would be 40% and the elederly participants will contribute 10% of the cost of services. However, the individual's share could be waived where income is insufficient to meet the 10% share. In-kind match would be limited to 10% of the total match and a state could not require a locality to provide more than 10% of the match. For existing CHSP programs, for a period of three years, the cost sharing formula would not apply. CHSP grantees would maintain the share previously contributed prior to enactment of this Act. For all other programs, if the elderly residents could not contribute the full 10% share, the shortfall would be split evenly between the contract recipient and the federal government. The conference report contains the House provision with an amendment to encourage recipients to seek sources of non-HUD funding for services. The conference report would also direct HUD to work with the Department of Health and Human Services to identify such existing sources, and, if appropriate, recommend new sources. A match would be required for rehabilitation if residual receipts are available.

Prohibition of substitution of funds: The House amendment contained a provision not included in the Senate bill that would require the contract recipient to maintain their contributions to providing services to the amount contributed prior to application under this Act. The conference report contains the House provision.

Distribution in participation: The House amendment contained a provision not included in the Senate bill that would permit

the Secretary to renew assistance for any contract recipient that terminates a contract under this subsection before the expiration of the full term of the contract, to the extent that subsequent commitments have not been made for amounts reserved under the contract; and the Secretary concerned could, at any time after termination of the existing contract and before renewal of assistance under the contract reallocate the remaining funds to eligible recipients which apply. The conference report does not contain the House provision.

New participation: The House amendment contained a provision not included in the Senate bill that would prohibit the Secretary upon termination of any contract with any unit of general local government or local nonprofit housing sponsor, from renewing such contract (or entering into any new contract for assistance) if the State in which the local government or housing sponsor is located, is receiving assistance under a contract with such Secretary. The applicable state agency would give priority in distributing amounts to any unit of general local government or nonprofit housing sponsor for which a contract is not renewed (or that could not enter into a new contract). The conference report does not contain the House provision. The conferees recognize that the House provision is no longer necessary of states are no longer the principal grantee.

Use of residents in providing services: The House amendment contained a provision not included in the Senate bill that would require each housing project that receives assistance under this section, to the maximum extent practicable, to employ older and disabled adults who are residents of the housing project to provide the services under congregate services programs. Such individuals would be paid wages that would not be lower than the higher of the minimum wage under the Fair Labor Standards Act of 1938, the State or local minimum wage, or the prevailing wage rates for persons employed in similar public occupations. Except for wages paid to provide services, the imputed value of supportive services under a congregate services program could not be considered as income for the purpose of determining eligibility for or the amount of assistance or aid furnished under any Federal, federally assisted or State program based on need. The conference report contains the House provision.

Eligibility and priority for 1978 Act recipients: The House amendment contained a provision not included in the Senate bill that would, notwithstanding any other provision of this section, allow any public housing agency, housing assisted under Section 202 of the Housing Act of 1959, or nonprofit corporation that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this section to continue to receive assistance under existing contracts until they expire and to be given priority for funding after the contract expiration. The conference report contains the House provision with an amendment which deletes distinctions related to States.

Administrative cost limitation: The House amendment contained a provision not included in the Senate bill that would limit adminstrative costs to not more than 10 percent of the sum of such assistance and the 50% matching costs. Administrative costs could not include any capital expenses. The conference report contains the House provision.

Definitions: The House amendment contained provisions not included in the Senate bill that would establish definitions for "activity of daily living", "case management", "congregate housing", "disabled", "instrumental activity of daily living", "local nonprofit housing sponsor", "nonprofit", "older", "temporarily disabled", and "unit of general local government". The conference report contains the House provisions with an amendment to add qualifying supportive services definition, conforms services section (f) to this definition and deletes "state advisory committees". (Check additional definitions)

Reports to Congress: The House amendment contained a provision not included in the Senate bill that would require each Secretary concerned to submit to the Congress, not less than annually, a report containing the number and percent of eligible residents served under such programs and the types of services provided to such residents; the number of deinstitutionalized individuals served under the programs; a statement of any new resources for providing services that have been developed on the State or local level; the cost to States and projects of providing services; a description of how effective the services are at meeting the needs of project residents, local governments and housing sponsors, and State governments; a statement of any changes in membership with respect to each State advisory committee; a statement of the total amount of fees for congregate services collected from residents in eligible projects assisted under this section; a description of the reasons for termination of services provided to eligible project residents; a statement of the number of persons who previously received congregate services who have since been institutionalized; a description of how congregate services programs were provided in eligible housing projects located in the poorest and most isolated areas; an evaluation of the effectiveness of the program of providing assistance for congregate services under this section, and a comparison of the effectiveness of the program under this section with the HOPE for Elderly Independence Program; any other information that the Secretary concerned considers helpful to the Congress in evaluating the effectiveness of this section. The conference report contains the House provision.

Submission of data to the Secretary: The House amendment contained a provision not included in the Senate bill that would require the Secretaries to require by regulation that the contract beneficiaries provide appropriate and adequate data to compile in the reports to Congress. The conference report contains the House provision with an amendment to require the date to be submitted from recipients of assistance under this section.

Regulations: The House amendment contained a provision not included in the Senate bill that would require the Secretaries to jointly issue any regulations necessary to carry out this section within 90 days of enactment. The conference report contains the House provision.

Authorization of appropriations: The House amendment authorized $6,002,000 for the existing congregate services housing program in FY91. It would prohibit new grants or loans after October 1, 1990. The House amendment also authorized $11,244,000 to carry out the revised congregate housing services program in FY 1991, to be allocated proportionately between the two Secretaries according to their respective numbers of assisted units and their respective eligible elderly residents. The sums would remain available until expended. The Senate bill authorized $50,000,000 in FY91 and $52,000,000 in FY92 for Project Retrofit. The conference report authorizes $25,000,000 for the revised congregate housing services program in FY91 and $26,100,000 in FY92.

Supplemental assistance: The Senate bill contained a provision not included in the House amendment that would authorize the Secretary to reserve not more than 5% of the funds under this section in each fiscal year to supplement grants to maintain adequate service levels in 5 years. The conference report contains the Senate provision.

HOPE for Elderly Independence

Purpose: The House amendment contained a provision that would establish a demonstration program to test the effectiveness of combining housing certificates and vouchers with supportive services to assist frail elderly individuals to continue to live independently. This demonstration program would terminate 5 years from the date of the enactment of this Act. The Senate bill contained a provision that would be similar except it would not include certificates. The conference report contains the House provision with an amendment changing "individuals" to "persons".

Authority: The House Amendment contained a provision that would permit the Secretary to enter into contracts with public housing agencies to provide Section 8 housing assistance, both certificates and vouchers. As part of the demonstration, the Secretary could also provide for supportive services in connection with existing contracts for vouchers and certificates. The Senate bill contained a similar provision except that only vouchers could be used. It would require the Secretary to set aside not more than 1,500 incremental rental vouchers for the purpose of carrying out this demonstration but would not include individuals currently receiving Section 8 contracts in the demonstration. The conference report contains the House provision with an amendment limiting housing assistance provided to a total of 1500 certificates and vouchers.

Funding: The House amendment contained a provision that would provide funding for supportive services as follows: the Secretary would provide 40%, the public housing agency would ensure the provision of at least 50% from sources other than under this section, and each frail elderly individual would pay 10% of the costs of the supportive services that he or she receives, except that no frail elderly individual could be required to pay an amount that exceeds 20% of his or her adjusted income. To the extent that the 20% limitation would result in a frail elderly person paying less than 10% of the cost of providing the services, the remaining costs would be divided equally between the public housing agency and the Secretary. The Secretary would provide for the waiver of the requirement to pay costs under this subparagraph for individuals whose income is determined to be insufficient to provide for any payment. The Senate bill contained a provision that was similar except that it did not limit the amount a frail elderly individual pays in relation to the frail elderly individual's adjusted income. No waiver of the requirement to pay costs for individuals whose income is determined to be insufficient to provide for any payment. The conference report contains the House provision.

Provision of services: The House amendment contained a provision that would require each public housing agency to ensure that supportive services appropriate to the needs of the frail elderly individuals to be served under this demonstration are provided throughout the demonstration period. The Senate bill contained a provision that was similar except that it would limit the eligibility for supportive services to persons who are receiving housing assistance under this section. The conference report contains the House provision.

In-kind match: The House amendment contained a provision that would allow a public housing agency to include the value of such items as the Secretary may determine to be appropriate in determining compliance with this section, if such items have a readily discernible market value. The Senate bill contained a provision that was similar except that it did not require the market value to be readily discernible. The conference report contains the House provision.

Definitions

Demonstration period: The House amendment contained a provision not included in the Senate bill that would define "Demonstration period" to mean the period beginning on the date of the enactment of this Act and ending upon the termination date under subsection (a). The conference report contains the House provision.

Supportive services: The House amendment contained a provision that would define "Supportive services" to mean assistance that the Secretary determines addresses the special needs of frail elderly individuals and provides appropriate supportive services or assists such individuals in obtaining appropriate services, including personal care, case management services, transportation, meal services, counseling, supervision, and other services essential for achieving and maintaining independent living. Such services do not include medical services. The Senate bill would be similar except the definition of appropriate supportive services substitutes the words "personal assistance with activities of daily living" for "personal care" and does not include transportation or meal services. The conference report contains the House provision.

Multi-unit demonstration: The House amendment contained a provision not included in the Senate bill that would require the Secretary to conduct a demonstration project to determine the feasibility of using Section 8 housing assistance to enable frail elderly persons to live independently in multi unit housing designed specifically for occupancy by frail elderly individuals. The Secretary would contract with a public housing agency to provide Section 8 housing assistance to assist elderly persons in at least 75% of the units in a single housing project with more than 100 units. The assistance payment contract under Section 8 would be attached to the structure for an initial term of 5 years. At the option of the public housing agency and subject to the availability of amounts approved in appropriations Acts, the contract could be renewed for 3 additional 5-year terms. Rents would be subject to the limitations in effect for the area under Section 8 for projects for the elderly receiving loans under Section 202 programs. A reasonable portion of the funds would be set aside for supportive services.

The House amendment also contained a provision not included in the Senate bill that would require applications for assistance under this demonstration project to be submitted by general local governments with a population under 50,000. The Secretary would select one application for funding based on the following criteria: (1) the proportion of persons who are elderly; (2) the extent of housing constructed prior to 1940; (3) the number of elderly persons living in adjacent projects who could utilize the services and facilities; (4) the level of State and local contributions; and (5) the project's contribution to neighborhood improvement. The conference report contains the House provision with an amendment to move the demonstration as part of HOPE for Elderly Independence and limit the demonstration to one HUD Region.

Reports: The House amendment contained a provision that would require the Secretary to submit to Congress, at least annually, a report evaluating the effectiveness of the demonstration, which would include a statement of the number of persons served, the types of services provided, the cost of providing such services, and any other information the Secretary considers appropriate to the demonstration. The Senate bill contained a similar provision except that it would require 2 reports to be submitted to Congress evaluating the effectiveness of the demonstration program under this section: (1) an interim report not later than 2 years after the date of enactment of this Act, and (2) a final report not later than 2 years after the termination of the demonstration period. The conference report contains the House provision.

Authorization: The House amendment would authorize $34 million for FY 1991 for Section 8(b) and 8(o) housing assistance in connection with the demonstrations under this section and $10 million for supportive services. The Senate bill would authorize 1,500 vouchers and $10 million for FY 1991. The conference report contains the House provision for FY 1991 and would authorize $35.5 million for rental assistance and $10.4 million for services for FY 1992.

Use of RTC Properties for Section 202 program: The House amendment contained a provision not included in the Senate bill that would authorize the purchase of properties and related facilities from the Resolution Trust Corporation for use as Section 202 housing for the elderly. The conference report contains the House provision amendment with respect to the existing program in FY 1991 and to the revised supportive housing for the elderly and supportive housing for persons with disabilities.

Centralized Applications: The House amendment contained a provision not included in the Senate bill that would designate a central location for each given area where the elderly can apply for admission to all 202 developments in such area. The conference report amends the House provision to clarify that HUD area offices would be required to provide a listing of available 202 projects in the given area to local agencies serving the elderly. This provision would be incorporated into the existing program in FY 1991 and into the revised programs in FY 1992.

ECHO Units: The House amendment contained a provision not included in the Senate bill that would expand the definition of housing in the Section 202 program to include elder cottage housing opportunity units. The conference report contains the House provision with an amendment making this a demonstration program and requiring HUD to make a special finding that the housing will be made available for very low-income persons for the longest time feasible. The House amendment also contained a provision not included in the Senate bill to include ECHO units as "manufactured housing" for purposes of FHA insurance. The conference report contains the House provision.

Service coordinators: The House amendment contained a provision not included in the Senate bill that would provide for service coordinators and up to 15% of the cost of supportive services including meals, housekeeping, personal care, transportation, health related services, and laundry for elderly to be covered by Section 8 rents in 202 developments to avoid premature institutionalization. The conference report contains the House provision with an amendment to specify that the option is available only to those existing projects which do not participate in the congregate housing services program. For projects developed under the new 202 financing mechanism, the conference report limits the availability of service coordinators to projects principally serving frail elderly persons. This provision would be incorporated into the existing program in FY 1991 and into the revised programs in FY 1992.

Housing and services for the frail elderly: The House amendment contained a provision that would set aside $10 million of the funds provided for Section 202 development loans in FY 1991 for loans to rehabilitate Sec. 202-financed facilities in order to meet the needs of the frail elderly. Sec. 8 funds could be used for the employment of service coordinators to assist frail elderly persons in such facilities. The Senate bill provided services for frail elderly persons through the Project Retrofit program. The conference report does not contain the House provision. The activities envisioned by the House provision would be included in the revised Congregate Housing Services Program.

Frail elderly definition: The House amendment contained a provision that would define "frail elderly person" to mean a person at least 62 years of age who is determined, according to HUD regulations, to have an impairment that substantially impedes independent living. The conference report does not contain the House provision.

Frail elderly report: The House amendment contained a provision not included in the Senate bill that would require the Secretary of HUD to review and modify periodically programs to ensure that they meet the needs of the frail elderly and to submit an annual report to Congress. The conference report does not contain the House provision.

Study and report regarding Section 202 housing: The House amendment contained a provision not included in the Senate bill that would require the Secretary to conduct a study of the Section 202 program. The conference report does not contain the House provision.

SUBTITLE B—SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

Purposes: The Senate bill contained a provision not included in the House amendment that would establish the purpose of the program to enable persons with disabilities to live independently in housing that is designed to accommodate their special needs of persons and which provides supportive services. The conference report contains the Senate provision.

General authority: The Senate bill contained a provision not included in the House amendment that would provide assistance in the form of capital advances and project

rental assistance to private nonprofits to finance acquisition, construction, reconstruction, moderate or substantial rehabilitation. It could also include site improvements, conversion, demolition, relocation and other relevant expenditures. The conference report contains the Senate provision with an amendment to include acquisition of property from the RTC.

General requirements: The Senate bill contained a provision not included in the House amendment that would require the Secretary to ensure that assistance would be provided through a range of housing options, including group homes, independent living facilities, multifamily housing, condos and co-ops and the housing would include appropriate supportive services for the residents, provide opportunities for optimal independent living and facilitate the disabled residents participation in the community at large. The conference report contains the Senate provision.

Capital advances: The Senate bill contained a provision not included in the House amendment that would define capital advances as no interest loans to be repaid only if the housing is no longer available for very low income elderly. Advances would be limited by development cost limitations. The conference report contains the Senate provision.

Project rental assistance: The Senate bill contained a provision not included in the House amendment that would define project rental assistance to include those operating costs not covered by rental income. The annual contract rent would not exceed the initial yearly rent roll plus utility costs, as approved by the Secretary. Adjustments could be made to reflect reasonable increases. For intermediate care facilities, project income would reflect assistance under Title XVI of the Social Security Act. The conference report contains the Senate provision.

Tenant rents: The Senate bill contained a provision not included in the House amendment that would define tenant rents as the higher of 30% of a person's adjusted monthly income, 10% of a person's monthly income, the shelter rent payment as determined by welfare assistance if the person receives such assistance, or in the case of intermediate care facility residents, the amount determined under Title XVI of the Social Security Act. The conference report contains the Senate provision.

Use restriction: The Senate bill contained a provision not included in the House amendment that would require all units to be available for occupancy by very-low-income persons for at least 40 years. Repayment of the capital advance would not be required so long as the housing remained available for very-low-income persons with disabilities. The conference report contains the Senate provision.

Rental assistance contract: The Senate bill contained a provision not included in the House amendment that would establish the initial term of contracts for project rental assistance at 20 years. The bill would require the Secretary, to the extent approved in appropriations acts, to extend any expiring contract for at least a five-year term. To facilitate the extension of expiring contracts, the bill would authorize the Secretary to make commitments to extend such contracts during the year prior to their expiration date. The conference report contains the Senate provision.

Application process: The Senate bill contained a provision not included in the House amendment that would require applications to include a description of the proposed housing; of the assistance requested; a supportive services plan which includes the intended population's needs, the supportive services to be offered, the experience of the applicant or designees in providing services, the manner in which the services would be offered including residential supervision as deemed necessary, and the sources and funding for the supportive services; State or local certification regarding services; assurances of site control no later than 6 months after award of assistance certification of compliance with the affordable housing strategy required under Section 105 of this Act; and other information required by the Secretary. The conference report contains the Senate provision.

Selection criteria: The Senate bill contained a provision not included in the House amendment that would require the Secretary to establish selection criteria to include: the capability of the sponsor; the need for such supportive housing; the extent to which the design would meet the needs of the intended residents; the likelihood that there would be long-term financial support for services; the compatibility of the design with the special supportive services needs of the disabled residents; site control and other criteria to be determined by the Secretary. The conference report contains the Senate provision.

Development cost limitations: The Senate bill contained a provision not included in the House amendment that would require the Secretary to periodically publish development costs by geographic area which reflect the cost of construction up to codes; the cost of movables; the cost of special design features including accessibility; congregate space; cost of meeting energy efficiency standards; cost of improved land. The Secretary would use current data. The conference report contains the Senate provision with an amendment to incorporate the House provision regarding RTC properties.

Annual adjustments: The Senate bill contained a provision not included in the House amendment that would provide for annual adjustments in development costs. The conference report contains the Senate provision.

Incentives: The Senate bill contained a provision not included in the House amendment that would provide an incentive for development costs which are less than the development cost limitations. An owner could retain 50 percent of the savings in a special housing account. An owner could receive 75 percent of the savings for the account if energy efficiency features are added in the project that: exceed federally promulgated standards; substantially reduce life cycle costs of the housing; reduce gross rent requirements; enhance tenant comfort and convenience. The special account could be used to supplement supportive services funding or replacement reserves or for other purposes defined by the Secretary. The conference report contains the Senate provision.

Nonfederal funding: The Senate bill contained a provision not included in the House amendment that would allow the owner to contribute nonfederal funding for amenities which could not be financed by the advance or project rental assistance. The conference report contains the Senate provision.

Tenant selection: The Senate bill contained a provision not included in the House amendment that would require the owner to adopt written tenant selection procedures acceptable to the Secretary and to notify rejected applicants in writing promptly. An owner would be permitted to limit occupancy to persons with similar disabilities, requiring similar services, with the approval of the Secretary. The conference report contains the Senate provision with an amendment to make this information available to the appropriate local agency serving persons with disabilities.

Technical assistance: The Senate bill contained a provision not included in the House amendment that would require the Secretary to make available technical assistance. The conference report contains the Senate provision.

Civil rights compliance: The Senate bill contained a provision not included in the House amendment that would require compliance with civil rights laws. The conference report contains the Senate provision.

Change in sites: The Senate bill contained a provision not included in the House amendment that would permit an owner to change sites after award notice, provided site control is attained within one year of award. After 1 year, the assistance would be recaptured. The conference report contains the Senate provision.

Escrow: The Senate bill contained a provision not included in the House amendment that would permit the Secretary to require a $10,000 escrow deposit from owners to ensure the owner's commitment to the housing. The conference report contains the Senate provision.

Appeal: The Senate bill contained a provision not included in the House amendment that would provide for an appeal of cancelled loan authority within 30 days of notice receipt. The appeal would be completed within 45 days. The conference report contains the Senate provision.

Davis-Bacon: The Senate bill contained a provision not included in the House amendment that would require Davis-Bacon wage rates for projects for 12 or more residents except if the labor is volunteer labor. The conference report contains the Senate provision.

Definitions: The Senate bill contained a provision not included in the House amendment that would establish definitions for "group home", "independent living facility", and "private nonprofit organization". The conference report contains these Senate definitions.

Persons with AIDS as Disabled: The House amendment contained a provision that would include persons *disabled by AIDS* within the definition of handicapped. The Senate bill contained a provision that would include persons *with AIDS* within the definition of "person with disabilities". The conference report contains the Senate definition of "persons with disabilities" with an amendment to delete the inclusion of persons with AIDS. The conferees understand that persons with AIDS who would otherwise qualify as elderly or disabled would be eligible for assistance under the 202 program.

Authorizations: The Senate bill authorized capital advances of $258,000,000 for fiscal year 1991, $271,000,000 for fiscal year 1992 and $281,840,000 for fiscal year 1993. The Senate bill provided for a revolving fund for the appropriated amounts, any proceeds for notes and obligations, and for any repayments. The Senate bill reserved authority, to the extent approved in appropriations acts, in the aggregate of $234,000,000 in fiscal year 1991, $246,000,000 in fiscal year 1992, and $255,840,000 for

fiscal year 1993 for project rental assistance. The conference report would authorize $271,000,000 for capital advances and $246,000,000 for rental assistance in fiscal year 1992.

Effective date and applicability: The Senate bill contained a provision not included in the House amendment that would permit sponsors of projects under the old Sec. 202 program for which no loan has been executed to elect to be subject to the provisions of the new Sec. 202 program. It further provides that any unobligated funds from previous reservations would be available for use under this section. The conference report contains the Senate provision with an amendment to require HUD to implement the 202 revisions through notice and comment rulemaking and to delay implementation until fiscal year 1992.

SUBTITLE C—SUPPORTIVE HOUSING FOR THE HOMELESS

McKinney Act Amendments

The Senate bill contained a provision that was not included in the House amendment that would strike certain homeless housing provisions authorized in Title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77) and replace them with a formula block grant program for the homeless. The House addressed McKinney homeless housing programs by authorizing various programmatic changes in a separate bill, H.R. 3789, the Stewart B. McKinney Homeless Assistance Amendments Act of 1990.

The conference report contains the McKinney provisions as set forth in H.R. 3789, the McKinney reauthorization bill, with the following amendment: (1) the McKinney homeless programmatic changes provided in the House bill are included in the conference report both within the restructure provisions and included in the portion of the conference report which provides amendments to the current McKinney homeless program; (2) the conference report reflects the Senate provisions which restructure selected McKinney homeless housing programs by combining the eligible activities of these existing McKinney housing programs into one program and by making activities under these current programs eligible as approved activities under the restructured program; (3) the programs which are included as approved activities are the Emergency Shelter Grants program and the Supportive Housing Demonstration program, which includes the Transitional Housing Demonstration program and the Permanent Housing for Homeless Handicapped Persons; (4) the conference report also includes the Senate provisions which create a discretionary program which is patterned after the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program in existing law; (5) the conference report does not contain provisions contained in the Senate bill which authorize the Secretary of Housing and Urban Development to establish an allocation formula nor does the conference report contain any of the specific provisions of the Senate bill which provide the specific elements of a formula block grant program, such as a percentage allocation of resources or any of the elements of the allocation formula contained in the Senate bill; (6) the conference report does not include within the restructure provisions, the Section 8 Moderate Rehabilitation for Single Room Occupancy (SRO) Dwellings program, instead it is left as a separate program within existing law; (7) the conference report authorizes the restructuring of the selected McKinney programs only after (a) HUD has examined the feasibility of establishing an allocation formula based on selected criteria specified in the conference report and any other factors as determined by HUD, (b) HUD has presented a series of alternative formulas to Congress, and (c) legislation has been enacted which adopts an allocation formula; (8) the conference report, however, stipulates that any restructuring of the homeless programs will not take effect before October 1, 1992, or on the date specified by a statute adopting a proposed allocation formula, whichever is later; (9) the conference report requires HUD to report its findings within eighteen months of the enactment date and to require HUD to consult with organizations representing homeless persons, nonprofit organizations, public housing agencies and state and local housing and service agencies; (10) the conference report contains a provision that was not included in either bill which provides that these McKinney homeless provisions will not take effect if H.R. 3789, the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, is enacted before the enactment of this Act. H.R. 3789 contains the same statutory provisions, however similar language in each conference report has been included in order to avoid any statutory or implementation problems which will result within duplicative statutory language; (11) the conference report contains the Senate bill provisions on the strategy to eliminate unfit transient facilities, however, the conference report does not include any references to welfare hotels as originally provided in the Senate bill; (12) the conference report contains the Senate bill provisions on the Shelter Plus Care programs which are authorized within the restructure of the McKinney programs as well as authorized in existing law for Fiscal Years 1991 and 1992; (13) the Shelter Plus Care program provisions include various House bill provisions, such as authorizing program assistance to families of program eligible individuals, program matching requirements, the need to identify community needs within the program selection requirements, the termination of assistance, the consultation provisions with the Secretary of Health and Human Services (HHS) and the definition of nonprofits; and (14) the conference report provides the following authorizations for Fiscal Years 1991 and 1992 as follows: for the Emergency Shelter Grants program, $125 million and $138 million, respectively; for the Supportive Housing Demonstration Program, $125 million and $150 million, respectively; for the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program, $30 million for each fiscal year; for the Section 8 Moderate Rehabilitation for Single Room Occupancy (SRO) Dwelling Program, $79 million and $82.4 million, respectively; for the Shelter Plus Care Rental Housing Assistance Programs, $80.4 million and $167.2 million, respectively; for the Shelter Plus Care Single Room Occupancy (SRO) Dwelling Program, $24.8 million and $54.2 million, respectively; and (15) for the Shelter Plus Care Section 202 Program, $18 million and $37.2 million respectively; the conference report authorizes such sums as may be necessary for the restructure of the McKinney programs which is intended only as a reference within the statutory text in order to authorize the general provisions of the program.

The Committee is disturbed by HUD's long delay in complying with the July 27, 1989 Order in Lee v. Kemp. We long for HUD to promptly publish a proposed regulation designed to make a significant percentage of single family inventory units available to house homeless and other low-income people. The inventory represents an invaluable resource for providing good housing in well-served neighborhoods for people in need; the inventory should be used for that purpose, not for sales to speculators.

SUBTITLE D—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

The House amendment contained a provision not included in the Senate bill which created the AIDS Housing Opportunity Act. The conference report contains the House provision with the following amendment: (1) the conference report consolidates the programs into one formula grant program to provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome (AIDS); (2) the conference report retains each program as an eligible activity under the formula grant program; (3) the conference report does not contain the reservation of assistance for individuals with AIDS as provided in the House bill, however, the conferees believe that the Department of Housing and Urban Development (HUD) should permit public housing authorities to reserve Section 8 and public housing assistance for persons with AIDS and this deletion is not intended to preclude persons with AIDS from receiving such vitally-needed housing assistance; (4) the conference report distributes program assistance in the following manner: 90% of the funds will be distributed to entities meeting the following (a) 75% of formula to localities that are within a metropolitan statistical area (MSA) greater than 500,000 and have greater than 1500 cumulative AIDS cases (not including those in eligible localities), (b) 25% of formula to localities that exceed the annual per capita rate of AIDS incidence for metropolitan areas. [Each such entity shall receive funding according to their proportionate share of the total except that each entity shall receive a minimum allocation of $200,000 (from (a) and (b) combined) and any increase this entails from the formula amount will be deducted from all other allocations exceeding $200,000 on a pro rata basis]; (5) the conference report distributes 10% of the amounts authorized for the program through HUD discretion to meet housing needs in non-eligible states and localities and to fund special projects of national significance; (6) the conference report requires HUD in selecting nonparticipation jurisdictions projects to consider—(a) relative numbers of AIDS cases and per capita AIDS incidence; (b) housing needs of persons with AIDS in the community; (c) extent of local planning and coordination of housing programs for persons with AIDS; and (d) the likelihood of the continuation of State and local efforts; (7) the conference report requires HUD in selecting projects of national significance to consider—(a) the need to assess the effectiveness of a particular model for providing supportive housing for persons with AIDS, (b) the innovative nature of the proposed activity, and (c) the proposed activity in other similar localities or nationally; and (8) the conference report authorizes $75 million in Fiscal Year 1991 and $156.5 million in Fiscal Year 1992 for the AIDS Housing Opportunity program.

The conferees wish to clarify that the size of a grant under each formula shall be based on the ratio of the cumulative number of AIDS cases in a jurisdiction to the total cumulative cases of all participating jurisdictions. The conferees also intend that rental assistance under Section 859 shall also be considered permanent housing.

White House Conference on Homelessness

The Senate bill contained a provision not included in the House amendment that would establish a White House Conference on Homelessness. The conference report does not contain the Senate provision.

TITLE IX—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

SUBTITLE A—COMMUNITY DEVELOPMENT AND NEIGHBORHOOD DEVELOPMENT AND PRESERVATION

Authorizations: The House amendment would authorize $3,241,700,000 for CDBG in Fiscal Year 1991. The Senate bill would authorize $3,031,700,000 for Fiscal Year 1991 and $3,154,000,000 for Fiscal Year 1992. The conference report would authorize $3,137,000,000 for Fiscal Year 1991 and $3,272,000,000 for Fiscal Year 1992 and contains the House set-asides under the CDBG program for Fiscal Years 1991 and 1992, but authorizes $6.5 million in Fiscal Years 1991 and 1992 for historically black colleges.

The Senate bill contained a provision that would authorize grants from amounts appropriated for units of general local government in North Dakota for public services provided with respect to Indian housing. The conference report contains the Senate provision.

CDBG Targeting: The House amendment contained a provision not included in the Senate bill that would change CDBG low and moderate income targeting requirements from 60 percent to 75 percent. The conference report contains the House provision with an amendment to change 75 percent to 70 percent. The conferees understand that the targeting requirement is achieved by the aggregate over a three-year period.

CDBG Classifications and Allocations

City/County classifications: The House amendment contained provisions that would permit metropolitan cities and urban counties to retain their CDBG classifications if they have been so classified for at least 2 years. The Senate bill contained a similar provision for metropolitan cities and urban counties to retain their classifications. The conference report contains the House provision.

Allocation in cases of annexation: The House amendment contained a provision that would provide for a growth lag adjustment in cases of annexation. It would be effective for all CDBG allocations after enactment. The Senate bill contained a provision which was similar but would be subject to appropriations and would only be effective for three years after annexation. The conference report contains the House provision.

Housing assistance plan: The House amendment contained a provision not included in the Senate bill that would amend housing assistance plans to require that such plans recognize the housing needs of families who are participating in self-sufficiency programs. The conference report does not contain the House provision.

Community development plans: The House amendment contained a provision not included in the Senate bill that would establish the findings and purposes of the community development plans. The House amendment would also require grant recipients to submit a priority list of anticipated community development needs. These provisions would be applicable to any amounts received under Section 106 of the Housing and Community Development Act of 1974 after the expiration of the 6-month period beginning on the date of the enactment. The conference report contains the House provision with an amendment to simplify the requirements so that communities would be required to assess community development needs and identify the strategies that they would undertake to satisfy those needs and to delete the computerized list. Limitation on CDBG entitlement funding must have a strategy.

Civil rights demonstration policies: The Senate bill contained a provision not included in the House amendment that would require HUD to withhold funds from CDBG grantees which have not adopted and will not enforce a policy prohibiting use of excessive force by law enforcement agencies against non-violent civil rights demonstrators or fails to adopt and enforce State and local laws against barring entrance to a facility which is the subject of a demonstration. The conference report contains the Senate provision.

Public services funding limit for nonentitlement communities: The Senate bill contained a provision not included in the House amendment that would apply a 15% cap on public services funding to nonentitlement communities on a statewide basis. The conference report contains the Senate provision.

CDBG Eligible Activities: The House amendment contains a provision that would amend the provision for assistance to nonprofits for economic development activities by requiring that such projects minimize, to the extent practicable, displacement of existing businesses and jobs and by defining such projects as those that: create or retain jobs for low and moderate income persons; create or retain businesses owned by community residents; assist businesses that provide goods or services needed by and affordable to low and moderate income residents; or provide technical assistance to promote such activities. The Senate bill contained a similar provision that added technical assistance to nonprofits to increase capacity to carry out neighborhood revitalization or community economic development as an eligible activity. The conference report contains both the Senate and the House provisions.

The House amendment also contained a provision, not contained in the Senate bill, to add as an eligible activity the provision of direct assistance to facilitate and expand homeownership of persons of low and moderate income including interest rate subsidies, financing, for the acquisition of owner occupied housing, purchase of guarantees for mortgage financing obtained by low and moderate income homebuyers, and the payment of 50% of any required downpayments and reasonable closing costs. Homeownership assistance would not be considered public services for purposes of the 15% cap on the use of CDBG funds for public services. The conference report allowed direct homeownership assistance under the CDBG program for two years. The Secretary would be authorized to allow homeownership assistance under CDBG for a third year if deemed appropriate. The conferees intend that as soon as funds are available for homeownership activities under HOME, homeownership assistance would no longer be an eligible activity under the CDBG program.

Lump sum payments: The House amendments contained a provision not included in the Senate bill that would reinstate authority of local governments to receive lump sum payments under Section 104(h) of the 1974 Housing and Community Development Act. The conference report contains the House provision.

Community development loan guarantees

Purpose/Objectives: The House amendment contained a provision not included in the Senate bill that would establish the purposes and objectives of the loan guarantees. The conference report contains the House provision with an amendment to delete references to housing construction.

Guarantee of loans by nonentitlement communities and territories: The House amendment contained a provision not included in the Senate bill that would expand Section 108 CDBG loan guarantee authority to include nonentitlement communities; allow States to assist nonentitlement communities in the submission of applications for guarantees; and allow States to pledge CDBG funds for the repayment of notes issued by nonentitlement communities. The conference report contains the House provisions.

Guarantee of housing construction: The House amendment contained a provision not included in the Senate bill to expand section 108 authority to include guarantees for construction of low and moderate income housing. The conference report does not contain that provision. The conference report allows Sec. 108 loan guarantees for non-profit homeownership new construction as long as the non-profit is the recipient of a HODAG grant or a Nehemiah grant.

Loan repayment period: The House amendment contained a provision not included in the Senate bill that would extend loan repayment period for Section 108 loans up to 20 years. The conference report contains the House provision.

Amount of outstanding loan guarantees: The House amendment contained a provision not included in the Senate bill that would allow communities and States to borrow up to five times their CDBG allotment. The conference report contains the House provision.

Allocation of loan guarantees and limitation on amount guaranteed for each community: The House amendment contained a provision not included in the Senate bill that would provide for allocations of loan guarantees among eligible entities; 70% to metropolitan cities, urban counties, and Indian tribes and 30% for nonentitlement areas. The Secretary could waive if absence of qualified applicants or proposed activities establishes a limitation per community for such guarantees at $25,000,000 for each metropolitan city, urban county or Indian tribe and at $5,000,000 of non-entitlement communities, in any single year. Permits the Secretary to assist the issuer of a note or other obligation guaranteed under Section 108 in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer. The conference report contains the House provision with an amendment that upon using 50% of the Section 108 loan authority, the Secretary must report to Congress and has the discretion to ask Congress

to raise the ceiling and to impose a cap of $35 million for entitlement communities and $7 million for nonentitlement communities.

Training and information: The House amendment contained a provision not included in the Senate bill that would authorize the Secretary in cooperation with eligible public entities to carry out training and information with respect to the guarantee program. The conference report contains the House provision.

Reports/Regulations: The House amendment contained a provision not included in the Senate bill that would require the Secretary to submit annual reports to Congress and to issue final regulations within 180 days of enactment. The conference report contains the House provision.

Hawaiian homelands: The House amendment contained a provision that would exempt the provision of assistance to Hawaiian homelands from the nondiscrimination provisions of Section 109 of the Housing and Community Development Act of 1974 and the requirements of Section 104(b) of such act, including the moderate and low income requirements. The Senate bill contained a similar provision which only exempts such assistance from the prohibition on racial discrimination. The conference report contains the Senate provision.

Prohibition of discrimination on the basis of religion in CDBG programs: The House amendment contained a provision not included in the Senate bill that would expand the anti-discrimination provision in the CDBG program to include discrimination on the basis of religion or religious affiliation. The conference report contains the House provision.

Indian CDBG: The House amendment contained a provision not included in the Senate bill that would make technical corrections regarding CDBG for Indian Tribes and would authorize the Secretary to reserve not more than 1% of the amounts allocated for CDBG in any year to Indian Tribe Funds to be made available on a competitive basis. The conference report contains the House provision with an amendment requiring a 1% set-aside of funds.

Colonias: The House amendment contained a provision not included in the Senate bill that would require the states of Arizona, California, New Mexico, and Texas to set aside 10% of their CDBG funds in the first fiscal year, and a percentage not to exceed 10% for each of the succeeding fiscal years, for activities designed to meet the needs of the residents of colonias relating to water, sewage, and housing. The conference report contains the House provision.

Urban homesteading: The House amendment contained a provision not included in the Senate bill that would authorize the Secretary to acquire from the Resolution Trust Corporation eligible single family properties (as such is defined in Section 21A(c)(9)(F) of the Federal Home Loan Bank Act), in bulk for use in connection with urban homesteading programs. The Senate bill contained a provision to terminate authority to issue grants under the Urban homesteading program or October 1, 1990. The conference report contains the House provision, but terminates the Urban Homesteading program on Oct. 1, 1991.

Section 312 rehabilitation program: The House amendment contained a provision not included in the Senate bill that would prohibit the use of Section 312 rehabilitation loan funds for purposes other than those under Section 312. Extends program to September 30, 1991 and permits use of Section 312 loan commitments to the extent provided in Appropriation acts for Fiscal Year 1990 and 1991. Prohibits non-residential use of Section 312 funds and limits multifamily use to 50% of appropriations. The Senate bill contained a provision which would terminate the program as of October 1, 1991. The conference report contains the Senate provisions.

Neighborhood reinvestment corporation: The House amendment contained a provision not included in the Senate bill that would authorize congressional findings regarding the role, function and purposes of the Neighborhood Reinvestment Corporation and would establish authorization of $50 million for Fiscal Year 1991 and specify eligible uses of funds. The House amendment also contained a provision not included in the Senate bill that would require Neighborhood Reinvestment Corporation to conduct a study of development activities for expending affordable housing opportunities within lands held for Indian tribes. The House amendment also contained a provision that would require the Neighborhood Reinvestment Corporation to study and report to Congress on the effect of and demand for training, supervision, and counseling through the Neighborhood Housing Services program and the effect of "sweat equity" on mortgages for lower income families. The Senate bill would establish a sweat equity model program under HOP which provides grants to public and private nonprofits and community groups to provide technical assistance and supervision to low income and very low income families, including assistance in acquiring, rehabilitating and constructing housing by the self-help method. The Senate bill reauthorized the neighborhood reinvestment program but made no changes in purposes, or tasks. The conference report contains the House provisions with an amendment to delete the Indian housing study.

The House amendment authorized $50 million for the Neighborhood Reinvestment Corporation in Fiscal Year 1991. The Senate bill authorized $28 million for each of fiscal years 1991, 1992, and 1993. The Conference report would authorize $35 million in Fiscal Year 91 and $36.5 million in Fiscal Year 92.

Neighborhood development demonstration: The House amendment contained a provision that would authorize $2,000,000 for Fiscal Year 1991 from amounts authorized for the CDBG program for grants under the Neighborhood Development Demonstration program. The Senate bill would authorize Neighborhood Development Demonstration program at $2,000,000 for Fiscal Years 1991, 1992 and 1993. The conference report contains the House provision.

Use of urban renewal land disposition proceeds and public facility funds: The House amendment contained a provision not included in the Senate bill that would permit the cities of Nanticoke, the Borough of Plymouth and the Borough of Forty Fort all in Luzerne County, Pennsylvania; Vallejo, California; New Haven, Connecticut; Lebanon, Pennsylvania; East Stroudsburg, Pennsylvania; Newburyport., Massachusetts and Malden, Massachusetts to retain certain urban renewal funds and use such funds under the community Development Block Grant program. The provision would require the forgiveness of an indebtedness of Fairmont Heights, Maryland. The conference report contains the House provision with an amendment to include several additional communities.

Study of availability of housing proximate to places of employment: The House amendment contained a provision not included in the Senate bill that would require HUD to conduct a study regarding the availability of housing close to places of employment and require HUD to report to Congress on the results of the study within 1 year of enactment. The conference report contains the House provision.

Community development corporation grants in enterprise zones: The House amendment contained a provision not included in the Senate bill that would authorize the Secretary to make grants to community development corporations sponsored by a bank or a thrift, by a nonbank economic development corporation or by residents of a distressed city or county to assist in reducing the interest rate on loans for economic development activities. The conference report does not contain the House provision.

CDBG sanctions: The Senate bill contained a provision not included in the House amendment that would authorize the Secretary to adjust, reduce, withhold or withdraw CDBG funds if, after a hearing, the Secretary determines that the community is continuing to fail to satisfy published standards. The conference report does not contain the Senate provision. The Conferees do not intend to prejudice ongoing litigation.

CDBG allocation formula review: The Senate bill contained a provision not included in the House amendment that would require HUD Secretary to review the allocation formula for CDBG as to the adequacy, effectiveness and equity of the factors and weights used in the formula. The conference report contains the Senate provision.

Study on turning drug zones into opportunity zones: The Senate bill contained a provision not included in the House amendment that would require HUD, within 90 days from the enactment date, to conduct a study and report to the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on Banking, Finance, and Urban Affairs, on ways in which areas ravaged by drug trade, drug related crime and drug abuse may be made more attractive as investment locations for companies, including the provision of special incentives to encourage companies to invest in these areas, in order to provide economic opportunity within communities to the residents of these communites. The conference report contains the Senate provision with an amendment to strike the sentence soliciting recommendations on "how areas that would qualify for benefits as an enterprsie zone might receive additional benefits if they met criteria demonstrating that the community suffered from acute drug and related crime".

Study on enterprise zones: The Senate bill contained a provision not included in the House amendment that would require HUD to conduct a study on the feasibility of establishing a national volunteer corps made up of representatives from the business and labor communities who would provide management expertise or technical assistance to businesses or nonprofits located in designated enterprise zones. The conference report does not contain the Senate provision.

SUBTITLE B—DISASTER RELIEF

The House amendment contained a provision not included in the Senate bill that provided disaster relief as follows:

Section 8 certificates, vouchers, and moderate rehabilitation assistance

Budget authority would be authorized for Section 8 Certificates, Vouchers, and Moderate Rehabilitation Assistance for individuals and families whose housing has been damaged or destroyed as a result of a major disaster which has been declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Secretary would be required, in implementing this section, to evaluate the natural hazards to which any permanent replacement housing is exposed and take appropriate action to mitigate these hazards.

CDBG and UDAG assistance: The Secretary would be authorized to make available recaptured CDBG assistance, that becomes available under Section 104(e) or 111 of the 1974 Housing Act, and recaptured UDAG amounts from previous grants, to metropolitan cities and urban counties located or partially located in areas affected by a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Secretary would be required, in using recaptured CDBG and UDAG funds, to give priority to providing emergency assistance to metropolitan cities and counties in disaster affected areas. The Secretary would be authorized to provide assistance only to the extent necessary to meet emergency community or urban development needs as determined by HUD that are not met with the Robert T. Stafford Disaster Assistance or any other assistance. Such funds could only be used for CDBG or UDAG eligible activities and requires HUD to evaluate the natural hazards to which any permanent replacement housing is exposed and take appropriate action to mitigate such hazards. The Secretary would be required to provide applications for such recaptured CDBG and UDAG assistance and authorizes eligible cities and counties to receive such assistance in the 3-year period following the date that the disaster is declared. These provisions could not be constructed to require HUD to reserve recaptured CDBG or UDAG assistance if when such amounts are to be reallocated, no metropolitan city or urban county qualifies for assistance.

Rural housing: The Agriculture Secretary would be required to allocate rural housing assistance to the affected states for distribution to the counties designated as disaster areas, and to the contiguous counties. Provides allocations of assistance to be made in the 3-year period beginning on the declaration of the disaster. Assistance would be made to States based on the product of: (1) the sum of the official State estimate of the number of destroyed or seriously damaged dwelling units in disaster counties and contiguous counties within the eligible FmHA service area; and (2) 20% of the average cost of all assisted FmHA dwelling units assisted in the State in the last 3 years. This FmHA assistance would be required to be used for housing purposes and would require regulations to be issued to assure prompt and expeditious use of funds for the restoration of decent, safe, and sanitary housing within the affected disaster areas. The Agriculture Secretary would be required to evaluate the natural hazards to which any permanent replacement housing is exposed and take appropriate action to mitigate such hazards. Assistance would be required to be available to local governments and their agencies, local nonprofit organizations, agencies and corporations for the construction or rehabilitation of housing for agricultural employees and their families. The Agriculture Secretary would be authorized to waive the rural housing definition under Section 520 of the 1949 Housing Act as the Secretary considers appropriate with respect to this assistance and be authorized to advance such sums as may be necessary from the Rural Housing Insurance Fund for disaster assistance.

The conference report contains the House provision with an amendment to remove the provision making UDAG recaptures available for the purposes of this subtitle. The Committee has become aware that the cities and counties impacted by the October 17, 1990, Loma Prieta Earthquake face a serious threat of permanent loss of very low income housing units if immediate financial assistance is not made available for the rehabilitation and replacement of very low income housing units rendered uninhabitable by the earthquake. The Committee strongly urges the Secretary to be allocated $25 million from the moneys authorized to be retained by the Secretary under Section 104 of the HUD Reform Act as soon as possible after the beginning of fiscal year 1991 to the impacted counties in block grant form for the purpose of assisting the replacement and rehabilitation of very low income housing units damaged by the Loma Prieta earthquake.

SUBTITLE C—REGULATORY PROGRAMS

Mortgage servicing transfer disclosure: The House amendment contained a provision that was not included in the Senate bill with respect to certain aspects of mortgage servicing transfer disclosure. The conference report contains the House provision amended to require the Secretary to develop a model disclosure statement that discloses that the person originating the loan has the capacity to service loans and the best available estimate of the percentage of all loans made by such person for which the servicing will be assigned, sold, or transferred. The conferees want to ensure that mortgage borrowers are properly informed about and protected during the practice of the transfer, sale, and assignment of mortgage servicing and to achieve this objective by requiring proper disclosure at the time of mortgage application of past practices of the lender regarding the transfer, sale, or assignment of servicing on loans that the lender has originated for the past 3 years.

The provision concentrating on future practices by lenders regarding the sale or retention of mortgage servicing is intended to provide future borrowers with a non-binding best-guess estimate of the likelihood of the future sale of mortgage servicing. The Conferees recognize that the sale of servicing is an important asset management tool for mortgage lenders, and the liquidity of servicing as an asset should not be limited by this provision. The disclosure form developed by HUD should make the non-binding nature of this information clear to borrowers so that they do not unduly rely upon future prognostications.

Disclosure by loan originator: The House amendment contained a provision that would require each person who makes a federally related mortgage loan to disclose to each person who applies for any such loan, at the time of application for the loan (1) whether the servicing of any such loan may be assigned, sold, or transferred; (2) for each of the 3 previous years the percentage of loans made by such person for which the servicing has been assigned, sold, or transferred, except that for any loan application during the 12-month period beginning on the date of enactment, the information disclosed may be for only the most recent calendar year completed, and for any loan application during the 12-month period beginning 1 year after the date of enactment, the information disclosed may be for the most recent 2 calendar years completed; (3) that the person originating the loan has the capacity to service loans and the best available estimate of the percentage (which need only be expressed as a range of possibilities) of all loans made by such person for which the servicing will be assigned, sold, or transferred during the 12-month period beginning upon the origination; and (4) if the person who makes the loan does not engage in the servicing of any federally related mortgage loans, that there is a present intent on the part of such person (at the time of such application), to assign, sell, or transfer the servicing of such loan.

The House amendment contained a provision that would also require the Secretary to develop a model disclosure statement that notifies the applicant that the best available estimate is a prediction, subject to change, and applies to all of the loan originations made by the lender and not the particular loan of the individual applicant. The conference report contains the House provision amended to require the Secretary to develop a statement disclosing that the person originating the loan has the capacity to service loans and the best available estimate of the percentage (which need only be expressed as a range of possibilities) of all loans made by such person for which the servicing will be assigned, sold, or transferred during the 12-month period beginning upon the origination. The conferees intend that the Secretary will assume the responsibility for disclosure of the best available estimate of servicing that the lender will transfer, sell, or assign in the year the borrower is making his application.

Signature of applicant: The House amendment contained a provision that would provide that no disclosure would be effective unless the disclosure is accompanied by a written statement signed by the applicant that provides that the applicant has read and understood the disclosure. The conference report contains the House provision.

Notice by transferor: The House amendment contained a provision that would provide that each servicer of a federally related mortgage loan would be required to notify the borrower in writing not less than 15 days before the effective date of such action unless the notice is provided at closing of any assignment, sale, or transfer of the servicing of the loan. The conference report contains the House provision amended to contain an effective date 60 days after the enactment of this Act.

The House amendment contained a provision that would require that notice be given not more than 30 days after the effective date of assignment, sale, or transfer of the servicing when (a) the termination of the contract for servicing is for cause; (b) there is a commencement of proceedings for bankruptcy of the servicer; or (c) there is a commencement of proceedings by the Federal Deposit Insurance Corporation (FDIC) or the Resolution Trust Corporation (RTC) for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled). The conference report contains the House provision and the conferees intend for the required notice by the transferor in the case of a "termination of a servicing contract for cause" to relate to an actual or anticipated failure to remit funds

owing to the terminating party, to civil or criminal fraud which has caused or may cause financial loss to the terminating party or the borrower, to insolvency and bankruptcy and the appointment of a receiver for the servicer or any entity controlling the servicer, to any governmental action directed at the servicer or its personnel which would so adversely affect the servicer's ability to carry out its obligation under the servicing contract so as to cause financial loss to the terminating party or the borrower is servicing is not terminated immediately and to breaches of representations, warranties, or other contractual commitments which would cause financial loss to the terminating party or the borrower if servicing is not terminated immediately, while the statute exempts several government agencies and government sponsored enterprises from the requirement to notify the borrower prior to the sale, transfer, or assignment of servicing, this exemption is limited to those circumstances where the fiduciary responsibility of the agency or enterprise or the protection of the borrower requires its use should such circumstances arise, notification should be made as quickly as possible, and in any case not more than 30 days after the effective date of transfer, assignment, or sale.

Notice by transferee: The House amendment contained a provision that would require that each servicer to whom the servicing of any federally related mortgage loan is assigned, sold, or transferred would be required to notify the borrower in writing of any such assignment, sale, or transfer and that the notice would be required to be given to the borrower not more than 15 days after the effective date of transfer. The conference report contains the House provision amended to contain an effective date 60 days after enactment of this act.

Treatment of loan payments during transfer period: The House amendment contained a provision that would prohibit late fees from being imposed on the borrower during the 60-day period beginning on the effective date of transfer and no such payment could be treated as late for any other purposes, if the payment is received by the transferor servicer before the due date applicable to such payment. The conference report contains the House provision.

Duty of loan servicer to respond to borrower inquiries: The House amendment contained a provision that would require servicers that receive a qualified written request from the borrower for information relating to the servicing of such loan, to acknowledge in writing the receipt of the request within 20 days (excluding holidays and weekends) unless the action requested is taken within such period. The conference report contains the House provision.

Damages and costs: The House amendment contained a provision that would provide that failure to comply with the provisions of this section results in the following liability: (1) in the case of an individual action an amount equal to the sum of (a) any actual damages to the borrower as a result of the failure, and (b) any additional damages as the court could allow in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not to exceed $1,000; (2) in the case of a class action an amount equal to the sum of (a) any actual damages to each of the borrowers in the class as a result of the failure; and (b) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section in an amount not greater than $1,000 for each member of the class, except that the total amount of damages under this subparagraph in any class could not exceed the lesser of $500,000; or 1 percent of the net worth of the servicer; (3) the costs of the action and attorney fees. The conference report contains the House provision. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failure of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

Administration of Escrow Accounts: The House amendment contained a provision that would require services to pay taxes, insurance premiums, and other charges for which escrow payments are required in a timely manner. The conference report contains the House provision. The conferees intend for servicers to continue their current practice of making escrow payments even when borrowers' escrow accounts are less than the amount required to cover payments due.

Opportunity to cure: The House amendment contained a provision that would provide that a transferor or transferee servicer shall not be liable for failure to comply with any requirement under this section, if the servicer notifies the person concerned of the error within 60 days after discovering an error and before the commencement of an action and before the written notice of the error from the borrower and makes whatever adjustments are necessary in the appropriate account to ensure that the person will not be required to pay an amount in excess of any amount that the person otherwise would have paid. The conference report contains the House provision.

Preemption of state law: The House amendment contained a provision that would preempt conflicting state laws or requirements governing notice to a borrower at the time of application for a loan or transfer of the servicing of a loan. The conference report contains the House provision.

Definitions: The House amendment contained a provision that would define "effective date of transfer" as the date on which the mortgage payment of a borrower is first due to the transferee servicer of a mortgage loan pursuant to the assignment, sale, or transfer of the servicing of the mortgage loan; define the term "servicer" as a person responsible for servicing of a loan (including the person who makes or holds a loan if that person also services the loan) but the term does not include the Federal Deposit Insurance Corporation or the Resolution Trust Corporation with respect to assets transferred pursuant to section 13(c) of the Federal Deposit Insurance Act or the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by termination of the contract for servicing the loan for cause or commencement of proceedings for bankruptcy of the servicer.

Mortgage escrow accounts

Notice: The House amendment contained a provision that would require the servicer of any federally related mortgage loan to notify the borrower not less than annually of any shortage of funds in the escrow account. The Senate bill contains no similar provision. The conference report contains the House provision.

Statement: The House amendment contained a provision that would require any servicer that has established an escrow account in connection with a federally related mortgage loan to submit to the borrower a statement clearly itemizing the estimated taxes, insurance premiums, and other charges that are reasonably anticipated to be paid from the escrow account during the first 12 months after the establishment of the account and the anticipated dates of such payments and would provide that the required statement under subparagraph (a) shall be submitted to the borrower at closing with respect to the property for which the mortgage loan is made or not later than the expiration of the 45-day period beginning on the date of the establishment of the escrow account.

The House amendment contained a provision that would also provide that such statement could be incorporated in the uniform settlement statement required by the Real Estate Settlement Procedures Act and would require the Secretary to issue not later than the end of the 90-day period beginning on enactment, regulations prescribing any changes necessary to the uniform settlement statement.

The House amendment contained a provision that would also require any servicer of a federally related mortgage loan to submit annually to the borrower a statement which clearly itemizes the amount of the borrower's current monthly payment, the portion of the monthly payment being placed in the escrow account, the total amount paid into the escrow account during the period, the total amount paid out of the escrow account during the period for taxes, insurance premiums, and other charges (separately identified) and the balance in the escrow account at the conclusion of the period. The Senate bill contains no similar provision. The conference report contains the House provision. The initial statement may be submitted at any time after establishment of the account during the first 12 month period. After the initial statement, the servicer would have until 20 days after the conclusion of each 1-year period to submit an annual statement.

Penalties: The House amendment contained a provision that would provide that where a lender or escrow servicer fails to submit the required annual statement to a borrower, such a person is liable for civil penalty of $50 for each such failure, up to a maximum for all failures during any 12-month period of $100,000 and provide that if any failure is due to intentional disregard of the requirement to submit the statement, then the penalty for each failure shall be $100; and there is no aggregate limitation on liability. The Senate bill contains no similar provision. The conference report contains the House provision.

Manufactured housing construction and safety standards

The House amendment contained the following provisions which would revise the manufactured housing construction and safety standards. The Senate bill contained no similar provisions. The conference report does not contain the House provisions but contains an amendment to charter a commission to develop recommendations for modernizing the Manufactured Housing Construction and Safety Standards Act.

Statement of purpose: The House amendment contained a provision that would recognize the important role served by manufactured housing in meeting housing needs in the U.S. and would state that manufactured homes provide a vital source of affordable housing accessible to all Americans. The House amendment would declare that the purpose of this title is to ensure the availability of safe, quality, and affordable manufactured homes and would remove from the statement of purpose references to reduction of the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and references to improvement of quality and durability of manufactured homes.

Definitions: The House amendment contained a provision that would delete the definition of defect and add the term serious defect and the language would define serious defect as a defect in the performance, construction, compliance, or material of a manufactured home that constitutes a safety hazard.

The House amendment contained a provision that would delete from the definition of a manufactured home the requirement that such a home must be built on a permanent chassis.

The House amendment contained a provision that would redefine manufactured home safety as protection from the unreasonable risk of death or injury.

The House amendment contained a provision that would delete the term imminent safety hazard from the Act and adds safety hazard which would mean an unreasonable risk of death or severe personal injury that proximately is caused by (a) an error in design or assembly of the manufactured home by the manufacturer; or (b) the failure to comply with a Federal manufactured home construction and safety standard.

The House amendment contained a provision that would delete the requirement that the Secretary consult with the Consumer Product Safety Commission in establishing Federal manufactured home construction and safety standards and add the requirement that such standards be reasonable, practicable and stated in objective terms. The House amendment would qualify the requirement that such standards shall meet the highest standards of protection for the provision of safe, quality, and affordable manufactured homes.

The House amendment contained a provision that would expand the Secretary's current authority to amend or revoke any regulation relating to a Federal manufactured home construction or safety standard to include the authority to amend or revoke any regulation relating to a standard.

The House amendment contained a provision that would add the requirement that the Secretary consider (1) especially activities by the Consumer Product Safety Commission; and (2) the probable effect of a standard on the initial acquisition cost and post sale maintenance costs, and the need to provide safe, durable, and affordable housing in establishing standards.

The House amendment contained a provision that would require the Secretary to review such standards annually, including changes recommended by affected parties.

The House amendment contained a provision that would require the Secretary to establish by order a system to periodically issue interpretations of Federal manufactured home construction and safety standards that provides all parties directly affected with timely notice and opportunity for comment. The House amendment would require that in establishing such a system the Secretary would (1) provide a system that is practical and workable; (2) provide 2 separate systems for interpretations, which shall include one system for interpretations that have an industry-wide impact and one system for interpretations without an industry-wide impact that affect a single manufacturer; (3) provide an opportunity for comment on any interpretation of the standards that has an industry-wide impact, including the amendment or revocation of any interpretation; (4) provide for the expeditious adoption of industry-wide interpretations, with a reasonable period of time for industry to adjust, redesign, retool, or test when there is no significant controversy; (5) provide for rulemaking regarding any industry-wide interpretations for which the comments submitted clearly reveal a significant controversy; (6) provide for a compilation and indexing of all interpretations; and (7) review and publish the compilation and index annually.

Revisions to National Manufactured Home Advisory Council: The House amendment contained a provision that would reduce the number of members on the National Manufactured Home Advisory Council from 24 to 12 and require that the Secretary shall convene the Advisory Council periodically or when a majority of the Council requests a meeting.

Noncompliance with Standards: The House amendment contained a provision that would provide that where the Secretary finds that a manufactured home sold to a retailer does not conform to applicable construction and safety standards as a result of a manufacturing or design error, or that it contains a serious defect before sale of the home to the purchaser, then the manufacturer would immediately furnish the retailer with a replacement manufactured home or repurchase the manufactured home from the retailer at the price paid by the retailer. The House amendment would provide that, in the alternative, the manufacturer would be required at its own expense to furnish the retailer the part or parts or equipment necessary to correct such serious defect of failure to comply with an applicable manufactured home construction and safety standard.

Inspection procedures: The House amendment contained a provision that would require the Secretary to establish criteria for approval and certification of primary inspection agencies who could be private parties or State agencies and would require the primary inspection agencies to perform inspections of facilities of manufacturers and manufactured homes and to review the plans of manufacturers for conformity with these construction and safety standards. The House amendment would also require the Secretary to publish a list of all primary inspection agencies approved and certified under criteria established in this subsection.

The House amendment contained a provision that would require each manufacturer to select from the list of approved primary inspection agencies, a primary inspection agency with whom it will contract to review plans and conduct the inspections authorized under this title, except that in cases in which a State agency has been approved as the exclusive independent agency for the inspection of homes, the manufacturer must contract with such agency.

Notification and correction of serious defects: The House amendment contained a provision that would delete the requirement that every manufacturer of manufactured homes must furnish notification of any defect in any manufactured home produced by such manufacturer which he determines, in good faith, relates to a construction or safety standard or contains a defect which constitutes an imminent safety hazard to the purchaser of such manufactured home, within a reasonable time after such manufacturer has discovered such defect.

The House amendment contained a provision that would require each manufacturer of manufactured homes who determines in good faith that any manufactured home produced by the manufacturer contains a serious defect to furnish notification of the serious defect to the purchaser of the manufactured home with a reasonable time after the manufacturer has discovered the serious defect.

The conferees recognize the need to modernize the federal manufactured housing program, but wish to do so in a thorough, comprehensive manner with full consultation with a broad range of experts. The Commission would be comprised of representatives from the manufactured housing industry, consumer groups, manufactured homeowners associations, building codes experts and state or local officials. The Commission would also consult with state and local building codes regulators, modular housing industry representatives, labor unions, manufactured housing dealers, private and public third party inspection agencies and other interested parties. The Commission would consider the deletion of the permanent chassis in the definition of a manufactured home; examine the implications for state regulatory jurisdiction over modular housing; consider the need for additional standards applicable to manufactured housing including but not limited to construction, installation, transportation, thermal insulation, energy efficiency and fire safety; review the current system of inspections of manufactured housing and recommend improvements to the system; consider the need for independent financing of inspection agencies; and evaluate the impact of the manufactured housing insurance program on the actuarial soundness of FHA and GNMA and the impact that proposed changes to current law would have on HUD financing of these homes. The Commission would develop an action plan containing specific recommendations for regulatory and legislative revisions to modernize the National Manufactured Housing Construction and Safety Standards Act of 1974 which would form the basis for legislation next year.

Energy Assessment Report: The House amendment contained a provision that would require the Secretary to submit a report to Congress on at least an annual basis assessing the status of the energy efficiency of and energy use by housing in the U.S. The conference report contains the House provision amended to require the Secretary to submit a report to Congress not later than one year after the date of this Act's enactment which assesses any activity undertaken by the Secretary to increase energy efficiency in housing and would provide that this report is not intended to duplicate any activities or reports by the Department of Energy. The conferees intend that this report should include activity on the August 15, 1990, Department of Energy program to expand energy efficiency and increase affordability of the nation's federally-aided housing. The Secretary of

39-059 O—92-56 (Pt. 23)

HUD in consultation with the Secretary of the Department of Energy shall establish and include a description of a standard measure by which changes over time in residential energy efficiency may be compared in the first annual report submitted under this subsection.

5-year Energy Efficiency Plan: The House amendment contained a provision that was not included in the Senate bill that would require the Secretary to establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the plan's submission to Congress to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. The conference report contains the House provision.

Uniform Mortgage Financing Plan For Energy Efficiency: The House amendment contained a provision to require the following entities—of HUD, the FHA mortgage insurance programs, of the Agriculture Department, the Farmers Home Administration mortgage loan and mortgage insurance programs, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Department of Veterans Affairs—to submit to Congress a report containing a recommendation for uniform policy relating to their mortgage programs. The HUD Secretary in consultation with the Energy Secretary would be required to monitor the development of the uniform policy recommendation and consult with the appropriate Federal entities. The Senate bill would require the Secretary to consult with the Secretary of Energy to promulgate a uniform plan for mortgage financing incentives for energy efficiency. The conference report contains the Senate provision amended to require the participation of all the entities in the House provision except for the Veterans Affairs Department.

Report on seismic safety property standards: The House amendment contained a provision that was not included in the Senate bill that would require the Secretary to assess the risk of earthquake-related damage to properties assisted and to develop seismic safety standards for such properties. The conference report contains the House provision amended to clarify that the Secretary would not be prohibited from deferring to local building codes that meet the requirements of the seismic safety standards developed under this section. The conference report does not require that the standards take into consideration building types and risk exposure, including factors relating to new construction and existing structures, building materials, design criteria and construction practices used in the development of new and existing structures.

SUBTITLE D—MISCELLANEOUS PROGRAM

HUD research and development: The House amendment contained a provision that would require the Secretary to include, in each annual report under Section 8 of the Department of Housing and Urban Development Act, a statement of HUD's research and development activities and findings, including a statement of the amounts and use of funds expended by the Secretary for such purposes. The House amendment would authorize $21,243,000 for FY 1991. The Senate bill contained a provision that would authorize $21,200,000 for FY 1991, $22,100,000 for FY 1992, and $23,000,000 for FY 1993. The conference report contains a provision authorizing $21,200,000 for FY 1991 and $22,100,000 for FY 1992. The conference report also requires that the Secretary submit to Congress a report listing and describing the various research activities, studies, testing, and demonstration programs relating to the mission and programs of the Department that are being conducted.

National Institute of Building Sciences: The House amendment contained a provision that was not included in the Senate bill which would authorize to be appropriated $512,000 for each of the fiscal years 1991 and 1992 for the National Institute of Building Sciences. The conference report contains the House provision amended to provide an authorization of $534,000 for FY 1992.

Advanced building technology program: Federal Government Cooperative Program with the Advanced Building Consortium. The Senate bill contained a provision not included in the House amendment that would establish the "Advanced Building Consortium" as a non-governmental entity to conduct research and take actions to facilitate and promote the use of new, cost-saving building technologies through various activities. The conference report contains the Senate provision with an amendment to establish a cooperative program between the federal government and a Council, within the National Institute of Building Sciences, representing leaders of the building industry to provide expertise on the introduction, use and evaluation of cost-saving building technologies in buildings owned and operated by the federal government. The conferees hope that the use of new technologies in federal buildings by state and local public agencies would facilitate their adoption by the private sector. These technologies would first be approved by the Council and would be guaranteed by the manufacturer.

The Council would analyze and evaluate building technologies applicable to whole buildings, building systems, components, and materials, design and construction processes, civil construction technologies and other relevant areas identified by the Council, on the basis of cost, resource conservation, environmental impact, function, security, regulatory needs of health, safety and welfare, user comfort, and aesthetics. To the extent possible, cost-saving technologies which can be applied to the housing industry shall be given highest priority.

In order to make housing in America more affordable, the building industry must begin to reexamine both the materials and techniques used in building construction. The unique characteristics of the building industry which is highly diversified and consists primarily of small businesses, make it difficult, however, for designers, architects, contractors, and other building specialists to assume the risks associated with developing and implementing new innovative building technologies. Although the federal government currently supports research and development of technologies that could be applied to buildings, no mechanism exists to facilitate the acceptance of the new technologies and their absorption into the private market. Federal construction and renovation projects can benefit by implementing the cost-saving technologies and can facilitate the introduction of the technology to the private housing construction market.

It is of critical importance to the effectiveness of this program that those federal agencies which construct, renovate, and operate buildings are able and willing to participate in using these new technologies. In most cases, the new technology recommended by the Council for use in the federal buildings would be produced by only a single manufacturer. It is the conferees' understanding that, in light of the priority this legislation creates for agency utilization of the new technologies, the existing sole source and related procurement regulations will apply in these instances so that the agencies will have no difficulty using the recommended new technologies in their projects. The conferees, therefore, found no need to include section 1105(c) of the Senate bill in the final legislation. If any regulatory difficulties hinder a federal agency's participation in the program, these difficulties and recommendations for overcoming them should be outlined in the Council's first annual report to Congress.

Although the Council is being established within the National Institute of Building Sciences, it is to operate as a separate program, with support and assistance from the Institute as needed. It is not the intent of the conferees for NIBS to review or alter the Advanced Building Technology Council's program. The Council will be appointed separately by the Secretary of HUD and no members of the NIBS Advisory Council may serve simultaneously on the Advanced Building Technology Council. The Institute, which shares a common goal of improving the construction of American buildings, shall assist to the Council in its efforts to collect and disseminate information on building research, technology development, testing and evaluation of building techniques and technologies.

Fair housing initiatives program: The House amendment contained a provision that would authorize for grants under the fair housing initiatives program $6,000,000 for FY 1991, of which not more than $3,000,000 in each year would be for the private enforcement initiative demonstration. The House amendment would have also extended the program until September 30, 1991. The Senate bill contained a provision that would authorize $6,000,000 for FY 1991, $6,258,000 for FY 1992 and $6,527,000 for FY 1993. The conference report contains an authorization including any program evaluations of $6,000,000 for FY 1991 and $6,300,000 for FY 1992 of which not more than $3,000,000 in each year shall be for the private enforcement initiative demonstration. The program is extended until September 30, 1992.

Collection and maintenance of data regarding programs under HUD: The House amendment contained a provision that was not included in the Senate bill that would allow program evaluation and monitoring funds to be used for collecting and maintaining data on HUD programs and it would require that new homeownership and assisted housing programs authorized by this Act be subject to the program evaluation and monitoring provisions of the Department of HUD act. The conference report contains the House provision.

Davis-Bacon exemption: The House amendment contained a provision that would exempt from Davis-Bacon Act requirements, volunteer laborers or mechanics working on projects financed by CDBG under the United States Housing Act of 1937 and on Section 202 projects. The Senate bill contained a provision that would allow but not require exemption from Davis-Bacon Act requirements for section 202 volunteers. The Senate bill did not specify when these would take effect nor whether the repayment of any wages would be required. The conference report contains the House provision amended to provide for a

Davis-Bacon exemption under the community development block grant program when the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work. An exemption would be provided under public housing and section 8 assistance, when an individual receives no compensation or is paid expenses, reasonable benefits or a nominal fee to perform the services for which the individual volunteered.

The House amendment contained a provision that was not included in the Senate bill that would provide that the amendments made by this section apply to any volunteer services provided before, on, or after the enactment date of this Act, except that such amendments may not be construed to require the repayment of any wages paid before this Act's enactment date for services provided before such date. The conference report contains the House provision.

GAO study of Davis-Bacon Applicability: The Senate bill contained a provision that was not included in the House amendment that would require the Comptroller General to carry out a study of the Davis-Bacon Act as it applies to Federal housing contracts. The Senate bill would have the Comptroller General consider (1) the original aims of the Davis-Bacon Act; (2) possible changes in the Davis-Bacon Act: (3) an analysis of the relevant construction industry labor market including geographic variations, skills, training, production, and quality of work product; (4) any productivity or quality differences between private and government sponsored construction; (5) the effects of the Davis-Bacon Act on Federal housing construction costs, construction quality, the local and national economy, and the ability to create low-income housing; and (6) the effects of business practices designed to avoid coverage of the Davis-Bacon Act. The conference report does not contain the Senate provision.

Eligibility under first-time homebuyer programs: The House amendment contained a provision that was not included in the Senate bill which would provide that no individual who is a displaced homemaker, or a single parent could be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse and the House amendment would define the term "displaced homemaker" as meaning an individual who (a) is an adult; (b) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; (c)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or (ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the AFDC program within 2 years after submission by the individual of an application under a Federal program to assist first-time homebuyers; and (d) is unemployed or underemployed and is experiencing difficulty in obtaining or up-grading employment. The House amendment contained a provision which would define the term "first-time homebuyer" as meaning an individual who has never, or has not during a specified time period, had any present ownership interest in a principal residence. The conference report contains the House provision amended to modify the definition of a first-time homebuyer.

Maximum annual limitation on rent increases: The House amendment contained a provision that was not included in the Senate bill that would prevent the Secretary from increasing the rent for any HUD assisted unit because of an increase in adjusted monthly income as a result of employment of a member of the family who was prevously unemployed by more than 10% in each 12 month period during the 36-month period beginning upon such employment. The conference report does not contain the House provision.

Preferences for native Hawaiians on Hawaiian Homelands under HUD program: The House amendment contained a provision that was not included in the Senate bill that would permit the Secretary to authorize preferences for native Hawaiians who seek occupancy in housing that is located on Hawaiian homelands and that is assisted under any housing assistance or mortgage insurance program administered by the Secretary. The conference report contains the House provision.

Waiver of matching funds requirements in Indian housing programs: The House amendment contained a provision that would authorize the Secretary to provide assistance under any housing program that provides assistance through an Indian housing authority without regard to any matching fund requirements, where an Indian housing authority has not received amounts for a fiscal year under title I of the 1974 Housing and Community Development Act and would provide that any assistance received from the Federal government by an Indian housing authority could be used by the Indian authority to fulfill any matching amount requirements under housing programs. The Senate bill contained a similar provision but would not provide that any available assistance received from the Federal Government by an Indian housing authority may be used by that housing authority to provide required matching funds under any housing program. The conference report contains the Senate provision.

Study of pension fund financing of housing: The Senate bill contained a provision that was not included in the House amendment that would require the Secretary to conduct a study of ways in which State and local pension funds can be used to finance construction of low and moderate income housing. The conference report contains the Senate provision.

Energy Efficiency Demonstration: The House amendment contained a provision that was not included in the Senate bill that would require the HUD Secretary to carry out a program to demonstrate various methods of improving the energy efficiency of existing housing and would authorize $2,000,000 in FY 1991 for such a demonstration. The conference report contains the House provision amended to allow the Secretary to use $2,000,000 of the amount set aside under section 304(e) after funds have been made available for the purposes of section 304(e)

Joint venture for affordable housing: The House amendment contained a provisio that was not included in the Senate bill that would require the Secretary to carry out a program to: (1) promote the development of information on affordable housing through reform of regulations, use of innovative construction and land planning techniques, and elimination of governmentally, imposed administrative restrictions inhibiting such development; and (2) study model growth communities, develop a database on building and regulatory innovations that reduce development costs, serve as a clearinghouse to share resource materials and ideas among joint venture partners, publicize through conferences, workshops, demonstrations, publications, and similar activities, methods of reducing construction costs through more effective and efficient planning, site development, and building procedures, examine the use of factory-built housing (including manufactured housing) as a means of achieving affordable housing and coordinate the activities of the Secretary that encourage and promote the objectives of this subsection. The conference report does not contain the House provision.

Buy American: The House amendment contained a provision that was not included in the Senate bill that would provide that where the HUD Secretary or the Agriculture Secretary (as appropriate) determine (with the concurrence of the U.S. Trade Representative) that the public interest so desires, then the Secretary is authorized to award to a domestic firm a contract pursuant to any grant under this Act that would be awarded to a foreign firm if (1) the final product of the domestic firm will be completely assembled in the U.S.; (2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and (3) the difference between the bids submittd by the foreign and domestic firms is not more than 6 percent. In determining the public interest, the Secretary shall take into account U.S. international obligations and trade relations. The conference report does not contain the House provision.

Restrictions on contract awards: The House amendment contained a provision that was not included in the Senate bill that would prevent any person or enterprise operating under foreign law from entering into a contract or subcontract under this Act if that government unfairly maintains in government procurement a significant and persistent discrimination practice against U.S. products or services and this practice results in identifiable harm to U.S. businessses (as defined in section 305(g)(1)(a) of the 1979 Trade Agreement). The conference report does not contain the House provision.

Prohibition against fraudulent use of made in America labels: The House amendment contained a provision that was not included in the Senate bill that would require the HUD Secretary to declare any person ineligible to receive any Federal contract under this Act who intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the U.S. that is not made in America. The conference report does not contain the House provision.

Health Care Refinancing Provisions of the Housing and Community Development Act of 1987: Section 223(f) of the National Housing Act has long recognized the strong public policy service by permitting much needed hospital facilities to reduce the costs of the national healthcare obligation through the refinancing of high interest rate debt obligations whether or not such obligations had previously been insured by the Department of Housing and Urban Development. In furtherance of such vital public health healthcare policy, on December 21, 1987, Congress amended (1) Subsections 223(f) and 223(f)(4)(d) of that section

to permit nursing home, intermediate care and board and care facilities to qualify for such refinancing programs, and (2) Section 223(f)(4)(d) to eliminate certain technical provisions which had made such healthcare refinancing programs unworkable. Congress further provided that "the Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment . . . by not later than the expiration of the 90-day period following the enactment of this Act." This amendment was signed by the President on February 5, 1988. Despite this clear statement of Congressional policy, the Committee is concerned that such implementing regulations have not yet been promulgated by the Department of Housing and Urban Development. It remains its policy that programs which reduce the costs of vital national healthcare services through interest rate reductions on insured or uninsured debt be recognized, and that the amendments enacted by the Housing and Community Development Act of 1987 be promptly implemented to accomplish these worthwhile objectives through issuance of appropriate regulations no later than the expiration of the 60-day period following the date of the enactment of this bill.

Study on Enterprise Zones Development Corps: The Senate bill contained a provision not included in the House amendment that would require HUD to conduct a study on the feasibility of establishing a national volunteer corps made to share management and development expertise with entrepreneurial businesses in enterprise zones. The conference report does not contain the Senate provision.

Supportive Services: The Senate bill contained a title not included in the House amendment that would provide supportive services to special needs populations in low income housing and distressed neighborhoods. This title included provisions from the Gateway bill, the Projects to Aid Transition from Homelessness bill, the Homeless Youth Demonstration Program and the Homelessness Prevention and Community Revitalization Act. The conference report does not contain the Senate title.

Depositor Protection and Anti-Fraud Act: The Senate bill contained provisions not included in the House amendment that would regulate certain marketing activities engaged in on the premises of Federally insured depository institutions. The conference report does not contain the Senate provisions.

General provisions

Old-Age, Survivors and Disability Insurance: The Senate bill contained a provision not included in the House amendment that would make consideration of any bill dealing with the public debt, or amendment or conference report, subject to a Senate point of order if Congress has not acted to make Social Security an off-budget item. The conference report does not contain the Senate provision.

Video Equipment Use in Detecting Persons Driving Under the Influence of Alcohol or a Controlled Substance: The Senate bill contained a provision not included in the House amendment that would amend title 23, U.S. Code section 408(f) to provide for the acquisition of video equipment to be used in detecting persons driving under the influence of alcohol or a controlled substance and in effectively prosecuting those persons. The conference report does not contain the Senate provision.

TITLE X—EXPEDITED FUNDS AVAILABILITY

Expedited Funds Availability Amendment: The Senate bill contained a provision not included in the House amendment that would extend provisions of the Expedited Funds Availability Act through FY 1994. The conference report contains the Senate provision with an amendment to make it a two year extension.

From the Committee on Banking, Finance and Urban Affairs:

HENRY GONZALEZ,
MARY ROSE OAKAR,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
ESTEBAN E. TORRES,
JOE KENNEDY,
JIM MCDERMOTT,
CHALMERS P. WYLIE,
MARGE ROUKEMA,
JOHN HILER,
TOM RIDGE,
STEVE BARTLETT,

From the Committee on Ways and Means, for consideration of sec. 110 of the Senate bill and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
PETE STARK,
ANDREW JACOBS, JR.,
HAROLD E. FORD,
ED JENKINS,
TOM DOWNEY,
BILL ARCHER,
GUY VANDER JAGT,
PHIL CRANE,
BILL FRENZEL,
DICK SCHULZE,

From the Committee on Education and Labor, for consideration of secs. 1006 and 1008 and subtitles D through G of title XIII of the Senate bill and sec. 768 of the House amendment and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
AUSTIN J. MURPHY,
DALE E. KILDEE,
PAT WILLIAMS,
M.G. MARTINEZ,
MAJOR R. OWENS,
TOM SAWYER,
BILL GOODLING,
TOM PETRI,
STEVE GUNDERSON,
TOM TAUKE,
PETER SMITH,

From the Committee on Energy and Commerce, for consideration of title XIV of the Senate bill and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
AL SWIFT,
MIKE SYNAR,
RALPH M. HALL,
NORMAN F. LENT,
MATT RINALDO,
CARLOS MOORHEAD,
DON RITTER,
TOM BLILEY,

Managers on the Part of the House.

From the Committee on Banking, Housing, and Urban Affairs:

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
ALAN J. DIXON,
CHRISTOPHER J. DODD,
ALFONSE M. D'AMATO,
JOHN HEINZ,
CHRISTOPHER S. BOND,
CONNIE MACK,

From the Committee on Labor and Human Resources for consideration of title XIII only:

EDWARD M. KENNEDY,
CHRISTOPHER J. DODD,
BARBARA A. MIKULSKI,
ORIN HATCH,
DAVE DURENBERGER,

Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 4653, OMNIBUS EXPORT AMENDMENTS ACT OF 1990

Mr. FASCELL submitted the following conference report and statement on the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-944)

The committee of conference on the disagreement votes of the two Houses on the amendment of the Senate to the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, and having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Export Amendments Act of 1990".

(b) TABLE OF CONTENTS.—

TITLE I—EXPORT ADMINISTRATION ACT AMENDMENTS

Sec. 101. Short title; reference.
Sec. 102. Types of licenses; control list.
Sec. 103. Exports to COCOM.
Sec. 104. Reexports and supercomputer exports.
Sec. 105. Standard of measurement for computers.
Sec. 106. Statement of policy toward countries representing a lesser strategic threat.
Sec. 107. East-West decontrol.
Sec. 108. Commodity jurisdiction.
Sec. 109. Controls on telecommunications.
Sec. 110. Exports subject to national discretion and favorable consideration.
Sec. 111. Statement of policy for general exception cases.
Sec. 112. Control list review.
Sec. 113. Unilateral controls.
Sec. 114. Trade shows.
Sec. 115. Exports of related technical data.
Sec. 116. Indexing procedures.
Sec. 117. Negotiations with other countries; Department of Commerce representative.
Sec. 118. Removal of section 5(k) designation.
Sec. 119. Notification of COCOM actions.
Sec. 120. Review of licenses.
Sec. 121. Criminal penalties.
Sec. 122. Policy toward countries receiving licensing benefits.
Sec. 123. Enforcement authority.
Sec. 124. Judicial review.

Sec. 125. Policy toward the People's Republic of China.
Sec. 126. Export of satellites for launch by People's Republic of China.
Sec. 127. Exports to the Soviet Union.
Sec. 128. Prohibition of certain transactions between certain United States firms and Cuba.
Sec. 129. Authorization of appropriations.
Sec. 130. Extension of the Act.
Sec. 131. Technical amendments.

TITLE II—EXPORT PROMOTION

Sec. 201. United States and Foreign Commercial Service.
Sec. 202. Qualifications for market development cooperative program.
Sec. 203. Country reports on trade practices.
Sec. 204. Report on export policy.
Sec. 205. Report on export promotion.
Sec. 206. Export promotion authorization.
Sec. 207. Interest subsidy program.
Sec. 208. Human rights in Yugoslavia.
Sec. 209. Increase of membership of advisory committee.
Sec. 210. Technical corrections relating to the International Development and Finance Act of 1989.

TITLE III—MISSILE TECHNOLOGY

Sec. 301. Policy.
Sec. 302. Amendment to the Export Administration Act of 1979.
Sec. 303. Amendment to the Arms Export Control Act.
Sec. 304. Report on missile proliferation.
Sec. 305. Repeal of duplicative provisions.

TITLE IV—CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION

Sec. 401. Short title.
Sec. 402. Purposes.

Subtitle A—Measures to Prevent the Proliferation of Chemical and Biological Weapons

Sec. 421. Multilateral efforts.
Sec. 422. United States export controls.
Sec. 423. Sanctions against certain foreign persons.

Subtitle B—Sanctions Against the Use of Chemical and Biological Weapons

Sec. 441. Determinations regarding use of chemical or biological weapons.
Sec. 442. Sanctions against use of chemical or biological weapons.

Subtitle C—Reporting Requirements

Sec. 461. Presidential reporting requirements.

TITLE V—SANCTIONS AGAINST IRAQ

Sec. 501. Short title.

Subtitle A—Response to Iraq's Invasion of Kuwait

Sec. 521. Declarations regarding Iraq's invasion of Kuwait.
Sec. 522. Consultations with Congress.
Sec. 523. Trade embargo against Iraq.
Sec. 524. Additional import sanctions.
Sec. 525. Penalties for violations of embargo.

Subtitle B—Response to Iraq's Long-Standing Violations of International Law

Sec. 541. Declarations regarding Iraq's longstanding violations of international law.
Sec. 542. Sanctions against Iraq.
Sec. 543. Waiver authority.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Soviet military assistance to Cuba.
Sec. 602. Attacks against Israelis and illegal activities in the United States.

TITLE I—EXPORT ADMINISTRATION ACT AMENDMENTS

SEC. 101. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Export Administration Act Amendments of 1990".

(b) REFERENCE TO THE EXPORT ADMINISTRATION ACT OF 1979.—Except as otherwise specifically provided, whenever in this title a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following).

SEC. 102. TYPES OF LICENSES; CONTROL LIST.

(a) TYPES OF LICENSES.—Section 4(a)(2) (50 U.S.C. App. 2403(a)(2)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence by striking "in countries" and all that follows through "China"; and

(B) in the second sentence by striking "controlled countries" and inserting "an unauthorized use or consignee"; and

(2) in subparagraph (B) in the first sentence by striking "are located in countries other than controlled countries (except the People's Republic of China),".

(b) CONTROL LIST.—Section 4(b) (50 U.S.C. App. 2403(b)) is amended by adding at the end the following: "Not later than 6 months after the date of the enactment of the Export Administration Act Amendments of 1990, the Secretary shall modify each item on the control list as necessary to specify with particularity the performance and other identifying characteristics of any technical data that is subject to export controls under section 5, export controls under section 6, or export controls pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978. Technical data that is subject to licensing requirements shall be included on the control list concurrent with implementation of the 'Core List' agreed to by the group known as the Coordinating Committee.".

SEC. 103. EXPORTS TO COCOM.

Section 5(a)(4) (50 U.S.C. App. 2404(a)(4)) is amended—

(1) in subparagraph (A) by striking "No" and inserting "Subject to subparagraphs (C) and (D), no"; and

(2) by adding at the end the following:

"(C) Effective not later than December 31, 1991, no authority or permission may be required under this section for the export or reexport of goods or technology to or from a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement with the Coordinating Committee or pursuant to an agreement described in subsection (k)(1).

"(D)(i) Notwithstanding subparagraph (C), the Secretary, in consultation with the Secretary of Defense, the Secretary of State, and the Secretary of Energy, may require authority or permission to export or re-export goods or technology, which are otherwise eligible for export or re-export under subparagraph (C), in the case of—

"(I) exports to such unreliable end users as the Secretary may specify by regulation; or

"(II) any re-export to a country other than a country described in subparagraph (A) of goods or technology identified under subparagraph (B).

"(ii) Notwithstanding subparagraph (C), the Secretary may require authority or permission to export or reexport goods or technology pursuant to special multilateral control arrangements agreed to unanimously by the Coordinating Committee, if all countries in which the goods or technology are produced agree to equivalent measurement parameters, performance capabilities, and licensing and other requirements. The Secretary shall notify the Congress at least 30 days before the United States proposes such control arrangements to the Coordinating Committee, and not more than 30 days after such control arrangements are agreed to by the Coordinating Committee.

"(iii) If the Secretary, in consultation with the Secretary of State, determines that a country referred to in subparagraph (A) is engaging in a pattern and practice of noncompliance with the agreement of the Coordinating Committee or other applicable agreement, the Secretary shall, during the period in which that determination is in effect, and to the extent determined by the Secretary, require authority or permission to export or reexport goods or technology to that country, and to reexport goods or technology from that country. Any such determination shall not take effect until 30 days after the Secretary of State notifies the Coordinating Committee of the determination and requests the cooperation of the Coordinating Committee in imposing comparable export controls. The Secretary shall review each determination made under this clause at least once in each 1-year period for the purpose of determining whether the country involved continues to engage in a pattern and practice of noncompliance with the applicable agreement. In making a determination under this clause, the Secretary shall consider whether the country involved has adopted the following measures:

"(I) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations;

"(II) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;

"(III) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports;

"(IV) a system of export control documentation to verify the movement of goods and technology; and

"(V) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.

The provisions of section 10(o) apply to exports for which licenses are required under this section.".

SEC. 104. REEXPORTS AND SUPERCOMPUTER EXPORTS.

(a) REEXPORTS OF TECHNOLOGY.—Section 5(a)(5) is amended—

(1) in subparagraph (A) by striking "(B)" and inserting "(C)";

(2) in subparagraph (B)—

(A) by redesignating such subparagraph as subparagraph (C); and

(B) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(3) by inserting after subparagraph (A) the following:

"(B) Except as provided in subparagraph (C), no authority or permission may be required under this section to reexport technology subject to the jurisdiction of the United States from any country when the technology to be reexported is incorporated in other technology and—

"(i) the value of the technology subject to the jurisdiction of the United States that is

incorporated in that other technology and, at the time of the reexport, would, if exported from the United States, require a validated license, is 25 percent or less of the total value of that other technology; or

"(ii) the export to a controlled country of the technology subject to the jurisdiction of the United States would require only notification of the participating governments of the Coordinating Committee.".

(b) SUPERCOMPUTER EXPORTS AND REEXPORTS.—Section 5(a) (50 U.S.C. 2404(a)) is amended by adding at the end the following:

"(7)(A) With respect to the definition of 'supercomputer' under paragraph (6)(A), the Secretary shall, not later than 6 months after the date of the enactment of the Export Administration Act Amendments of 1990, publish in the Federal Register a performance-based indexing system in order to ensure that such definition and all controls and security safeguard procedures on supercomputer exports and reexports are commensurate with technological advances in the supercomputer industry. Such indexing system shall be based upon a provision that for destinations in any country (other than a controlled country) that is a party to and, as determined by the President, is adhering to, the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968, no security safeguard procedures may be required in connection with any export or reexport of a supercomputer with a theoretical peak performance at or below approximately 25 percent of the theoretical peak performance of the average of the two most powerful supercomputers currently available commercially in the United States or elsewhere.

"(B) Before publishing the performance-based indexing system under subparagraph (A), the Secretary shall seek the views of the appropriate technical advisory committees appointed under subsection (h), and other interested parties. Not later than 2 weeks after publication of such system in the Federal Register, the Secretary shall submit a written report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, that includes—

"(i) the text of the Federal Register notice,

"(ii) a summary of the views expressed by the technical advisory committees and other interested parties with respect to the performance-based indexing system, and

"(iii) a description of how the performance-based indexing system addresses the views of the technical advisory committees and other interested parties.

"(C) For purposes of this paragraph, the term 'security safeguard procedures' means procedures that are required by the Department of Commerce, as a condition of an authorization to export or reexport a supercomputer, primarily to restrict access to and resale of such supercomputer.".

SEC. 105. STANDARD OF MEASUREMENT FOR COMPUTERS.

Section 5(a)(6) (50 U.S.C. App. 2404(a)(6)) is amended—

(1) by inserting "(A)" after "(6)", and

(2) by adding at the end the following:

"(B) In response to recommendations received from technical advisory committees appointed under subsection (h), the Secretary shall, after appropriate consultation with the Coordinating Committee, propose regulations which update and, where appropriate, revise or replace the measurement known as the 'Processing Data Rate', which is used in part to determine licensing requirements for computers other than supercomputers. Such regulations shall reflect the performance capabilities of computers and rely, to the maximum extent possible, upon measurements of those capabilities which are objective and commonly understood by the computer industry.".

SEC. 106. STATEMENT OF POLICY TOWARD COUNTRIES REPRESENTING A LESSER STRATEGIC THREAT.

Section 5(b)(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2404(b)(2)) is amended to read as follows:

"(2)(A) It is the policy of the United States that licensing treatment of a country on the list of controlled countries maintained by the President pursuant to this section should be revised in any case in which that country—

"(i) represents a lesser strategic threat; and

"(ii) accomplishes the following:

"(I) implements an effective export control system, including enactment of legislation controlling shipment of goods and technology subject to controls under agreement of the group known as the Coordinating Committee to controlled countries and imposing effective penalties to deter violation of its export controls;

"(II) adopts technology security arrangements, including end-use assurances and on-site inspection and verification; and

"(III) terminates governmental policies and intelligence cooperation with other controlled countries relating to illegal acquisition and diversion of controlled technology.

"(B) The revision of controls necessary to implement the policy set forth in subparagraph (A) shall include the following:

"(i) When the Secretary, in consultation with the Secretary of State and the Secretary of Defense, determines that necessary steps have been taken to implement the criteria set forth in subparagraph (A), the Secretary of State should propose the adoption by the Coordinating Committee of the special procedure for favorable consideration of exports to such countries agreed to in the Coordinating Committee High Level Meeting of June 6 and 7, 1990, or other countries the Coordinating Committee may designate.

"(ii) The Secretary, in consultation with the Secretary of State and the Secretary of Defense, shall annually review the performance of such country in implementing the criteria set forth in subparagraph (A) and, to the extent of such performance indicating appropriate use and protection from diversion of controlled technology, the Secretary of State should propose the adoption by the Coordinating Committee of more favorable licensing treatment or, if security concerns increase, propose tightening controls on technology exports to such country.

"(iii) When, in addition to progress on the criteria set forth in subparagraph (A), a country takes steps to reduce its offensive military capabilities and phase out its participation in the Warsaw Pact, including withdrawal of Soviet troops, the President should seek agreement in the Coordinating Committee to remove the country from the list of controlled countries and propose licensing treatment by the Committee as a free world or cooperating country destination.

"(C) The Secretary should provide the greatest possible technical assistance to countries undertaking the measures described in subparagraph (A).".

SEC. 107. EAST-WEST DECONTROL.

Section 5(c)(5) (50 U.S.C. App. 2401(c)(5)) is amended—

(1) in subparagraph (A)—

(A) by striking "Not later than 6 months after the date of the enactment of this paragraph" and inserting "Not later than 6 months after the date of the enactment of the Export Administration Act Amendments of 1990"; and

(B) in clause (i) by striking all that follows "technology" and inserting "the licensing of which under this section has been eliminated by regulations promulgated to implement the agreement reached in the Coordinating Committee High Level Meeting of June 6 and 7, 1990."; and

(2) by striking subparagraph (B) and inserting the following:

"(B) The Secretary shall issue regulations implementing fully the agreement reached in the Coordinating Committee High Level Meeting of June 6 and 7, 1990, relating to removal of controls, national discretion, and favorable consideration of export licenses, and shall provide the licensing treatment prescribed in that agreement for goods and technology in accordance with the levels of technology specified therein.

"(C) Not later than 90 days after the date of the enactment of this subparagraph, the Secretary of State shall seek the approval of the Coordinating Committee for the following: that no authority or permission may be required to export to any country computers at a level of technology the export of which to the People's Republic of China on the date which is 60 days after the date of the enactment of the Export Enhancement Act of 1988 would require only notification of the participating governments of the Coordinating Committee, or at a higher level of technology.

"(D) Not later than April 1, 1991, the Secretary, in consultation with the Secretary of Defense and the Secretary of State, shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives describing the implementation of the agreement reached in the Coordinating Committee High Level Meeting of June 6 and 7, 1990. Not later than May 1, 1991, the Under Secretary of Commerce for Export Administration, the Under Secretary of State for International Security Affairs, and the Under Secretary of Defense for Policy shall appear before both Committees to present testimony on the report. Such report shall include descriptions of—

"(i) the status of implementing the 'Core List' provided for in the agreement and a description of the criteria used in developing the Core List,

"(ii) the status of implementing the special procedure for countries representing a lesser strategic threat provided for in the agreement,

"(iii) the status of implementing the national discretion and favorable consideration procedures contained in the agreement,

"(iv) the status of implementing a license-free zone among the governments participating in the Coordinating Committee, including a common standard of enforcement, and

"(v) the strategic justification for and impact of the agreement as they relate to the military capabilities and technology acquisition efforts of controlled countries.

"(E) In the case of goods and technology from which export controls have been removed under subparagraph (A), export controls under this section may thereafter be imposed on such goods or technology only if such controls are agreed to by the partici-

pating governments of the Coordinating Committee.".

SEC. 108. COMMODITY JURISDICTION.

(a) IN GENERAL.—Section 17 (50 U.S.C. App. 2416) is amended by adding at the end the following new subsection:

"(g) COMMODITY JURISDICTION.—(1) Notwithstanding any other provision of law, no item may be included on both the control list and the United States Munitions List, after the publication of the lists required under paragraph (6) and the resolution of any dispute with respect to such lists under paragraph (7).

"(2) Notwithstanding any other provision of law—

"(A) an item agreed for control on the International Munitions List of the Coordinating Committee shall be subject to control under the Arms Export Control Act and not under this Act; and

"(B) except as provided in paragraphs (3) and (4), an item not agreed for control on the International Munitions List of the group known as the Coordinating Committee shall be subject to control under this Act and not under the Arms Export Control Act.

"(3) An item described in paragraph (5) that is not on the International Munitions List may be subject to control under the Arms Export Control Act—

"(A)(i) for a period of 9 months after the date on which the United States proposes to the Coordinating Committee that the item be added to the International Munitions List, and

"(ii) for an additional 9-month period, but only if negotiations in the Coordinating Committee to add the item to the International Munitions List are continuing; or

"(B) if the Secretary of State, in consultation with the Secretary, so determines, except that if the Secretary disagrees with the Secretary of State with respect to such item, the item may be subject to control under the Arms Export Control Act only if the disagreement is resolved by the 2 Secretaries or by the President pursuant to the procedures set forth in subparagraphs (B) and (C) of paragraph (7).

"(4) An item that is not on the International Munitions List may be subject to control under the Arms Export Control Act if the President—

"(A) determines that extraordinary circumstances exist affecting the national security of the United States, which require that the item be controlled under the Arms Export Control Act;

"(B) proposes to the Coordinating Committee that the item be added to the International Munitions List, and

"(C) within 10 days after making the determination under subparagraph (A), submits a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, describing in detail the reasons for the determination, in appropriate classified form, as necessary.

"(5) An item referred to in paragraph (3) is an item that—

"(A) is specially designed, developed, configured, adapted, or modified for military or intelligence application;

"(B) does not have significant civil applications; and

"(C) is not a component the performance capacity and function of which are essentially equivalent to those used for civil applications.

"(6)(A)(i) Within 3 months after the date of the enactment of this subsection, the Secretary shall publish the control list and the Secretary of State shall publish the United States Munitions List, with all revisions that have been made in accordance with this subsection.

"(ii) Within 3 months after the date of the enactment of this subsection, the Secretary of State shall publish in a separate list those items remaining subject to control under the Arms Export Control Act under paragraph (3).

"(B) If either the Secretary or the Secretary of State fails to publish a revised list in accordance with subparagraph (A)(i), there shall be excluded from the list of the Secretary that did not so publish a revised list, any item included on the list of the Secretary that did so publish a revised list.

"(7)(A) Whenever—

"(i) the Secretary or the Secretary of State receives a request to determine whether an item is subject to control under this Act or the Arms Export Control Act,

"(ii) either Secretary finds that an item is included on both the control list and the United States Munitions List,

"(iii) an item appearing on the list of one Secretary under paragraph (6)(A)(i) is considered by the other Secretary to be under the jurisdiction of that other Secretary, or

"(iv) the Secretary disagrees with the inclusion of an item on the list published under paragraph (6)(A)(ii),

the Secretary or the Secretary of State (as the case may be) shall refer the matter and any relevant information to the other Secretary.

"(B) The 2 Secretaries shall have a period of 15 days following the referral of a matter under subparagraph (A) to resolve any differences with respect to the matter involved.

"(C) If the 2 Secretaries fail to resolve such differences within that 15-day period, either Secretary may refer the matter to the President who, within 15 days after receiving the referral, shall notify the Secretaries of his determination on the matter in dispute.

"(D) In the event that either the Secretary or the Secretary of State does not respond to a referral under subparagraph (A) by the other Secretary, the Secretary that did not so respond shall be deemed to concur with the other Secretary on the matter involved.".

(b) TREATMENT OF MUNITIONS LIST FOR PURPOSES OF CERTAIN STATUTES.—

(1) IN GENERAL.—Notwithstanding the amendment made by subsection (a), references in the following provisions of law to the United States Munitions List or items on the United States Munitions List, or to the Arms Export Control Act shall, after the enactment of this Act, be deemed to refer to the United States Munitions List, or the Arms Export Control Act, as in effect on May 1, 1990:

(A) Section 40 of the Arms Export Control Act (22 U.S.C. 2780).

(B) Section 902(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.

(C) Section 317 of the Comprehensive Anti-Apartheid Act of 1986.

(2) SUNSET PROVISION.—The provisions of this subsection shall terminate on June 30, 1992.

SEC. 109. CONTROLS ON TELECOMMUNICATIONS.

(a) IN GENERAL.—Section 5(c) (50 U.S.C. App. 2404(c)) is amended by adding at the end the following:

"(8)(A) The Secretary of State shall, within 30 days after the date of the enactment of this paragraph, propose to the Coordinating Committee as part of the United States 'Core List' proposal that countries of a lesser strategic threat qualifying for the special procedure agreed to in the Coordinating Committee High Level Meeting of June 6 and 7, 1990, should, in the case of telecommunications equipment exports and associated operations technical data as described in subsection (e)(8), be accorded the Coordinating Committee's least restrictive control procedures.

"(B) As used in this paragraph, the term 'telecommunications equipment' means all equipment used in the transmission or receipt of either voice or data information. Such term includes equipment used in the transmission of analog or digital information.

"(C)(i) In the case of countries that qualify as a lesser strategic threat under the agreement reached at the Coordinating Committee High Level Meeting of June 6 and 7, 1990, the United States should propose to the Coordinating Committee that exports of computer network software and related equipment for civilian end use shall be accorded the same licensing treatment as that permitted for computer systems exported for interconnection to such networks and shall be treated in accordance with telecommunications controls established by the Coordinating Committee.

"(ii) For purposes of this subparagraph, the term 'computer network software and related equipment' includes computer software that provides services and management for local area, intracity, intercity, and international data communications networks, and computer equipment specifically dedicated to the support of such networks.".

(b) REPORT.—The President shall study the national security implications of the transfer of telecommunications equipment and technology to controlled countries under the Export Administration Act of 1979 and, not later than 1 year after the date of the enactment of this Act, shall submit to the Speaker of the House and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the study, in classified form, as appropriate.

SEC. 110. EXPORTS SUBJECT TO NATIONAL DISCRETION AND FAVORABLE CONSIDERATION.

(a) LICENSING.—Section 5(e) (50 U.S.C. App. 2404(e)) is amended by adding at the end the following:

"(7) In implementing the national discretion and favorable consideration procedures agreed to by the Coordinating Committee, the Secretary shall consider the actions of other participating governments in the Coordinating Committee in approving or denying export licenses that are subject to such procedures and shall seek to ensure that United States exports are not placed at a competitive disadvantage.".

(b) IN GENERAL.—Section 10 (50 U.S.C. App. 2409) is amended by adding at the end the following:

"(p) EXPORTS SUBJECT TO NATIONAL DISCRETION.—In each instance in which an export license application is submitted to the Secretary for the export of goods or technology subject to the national discretion procedures of the Coordinating Committee, the Secretary shall formally issue or deny a license within 15 days after a properly completed application has been submitted under this section.

"(q) EXPORTS SUBJECT TO FAVORABLE CONSIDERATION.—In each instance in which an export license application is submitted to the Secretary for the export of goods or technology subject to the favorable consideration procedures of the Coordinating Committee or subject to special national discretion procedures requiring 30 days advance

notification to the Coordinating Committee, the Secretary shall formally deny the license or it shall be forwarded for review to the Coordinating Committee within 15 days after a properly completed application has been submitted under this section, unless the Secretary notifies the applicant that additional time will be required to conduct a prelicense investigation, but in any case the Secretary shall deny the license or forward the application to the Coordinating Committee within 45 days after a properly completed application has been submitted.".

(c) CONFORMING AMENDMENT.—Section 10(e)(2)(A) (50 U.S.C. App. 2409(e)(2)(A)) is amended by striking "Except" and inserting the following: "For general exception cases controlled under section 5 of this Act and except".

SEC. 111. STATEMENT OF POLICY FOR GENERAL EXCEPTION CASES.

Section 3 (50 U.S.C. App. 2402) is amended by striking paragraph (15) and inserting the following:

"(15) It is the policy of the United States—

"(A) in considering the submission of cases to the group known as the Coordinating Committee on behalf of United States exporters, including general exception cases, to ensure consistency in the treatment of exporters from the United States and from other countries participating in the Coordinating Committee, and to support democracy, free enterprise, and economic development in Eastern Europe and the Soviet Union; and

"(B) to provide specific guidelines to United States exporters, through the publication of regulations, public notices, and advisory opinions, with respect to goods, sectors, and end users eligible for general exceptions referred to in subparagraph (A), and to fully and promptly notify United States exporters of all agreements and decisions adopted by the Coordinating Committee with respect to such exceptions.".

SEC. 112. CONTROL LIST REVIEW.

(a) IN GENERAL.—Section 5(c) (50 U.S.C. App. 2404(c)) is amended—

(1) in paragraph (1), by inserting before the period at the end of the second sentence the following: "and shall reflect multilateral control agreements reached by the group known as the Coordinating Committee"; and

(2) by striking paragraph (3) and inserting the following:

"(3) The Secretary shall review all goods and technology on the control list at least once each year in order to carry out the policy set forth in section 3(2)(A) of this Act and the provisions of this section. This review shall consider proposals for removing controls on exports and other changes in policy arising from applying the indexing procedures set forth in subsection (g), and shall serve as a basis for United States proposals for revision of the International Industrial List maintained by the Coordinating Committee. To this end, the United States shall seek to ensure that the Coordinating Committee reviews each item on its list at least once every 2 years and the Secretary shall conduct a periodic review of each item on the control list for national security reasons so as to achieve the same 2-year review cycle. In any case in which the Coordinating Committee has failed to review an entry on the International Industrial List within 2 years, the Secretary of State shall, based upon United States review of its comparable entry, propose a review by the Coordinating Committee of that entry. Before beginning each periodic review, which may not exceed 180 days in length, the Secretary shall publish notice of that review in the Federal Register. The Secretary shall provide a 30-day period during each review for comment and the submission of data, with or without oral presentation, by interested Government agencies and other affected parties. The Secretary shall further assess, as part of each review, the availability from sources outside the United States, of goods and technology comparable to those subject to export controls imposed under this section. After consultation with appropriate Government agencies, the Secretary shall make a determination of any revisions in the list within 30 days after the end of the review period. The concurrence or approval of any other department or agency is not required before any such revision is made. The Secretary shall publish in the Federal Register any revisions in the list, with an explanation of the reasons for the revisions. In the case of national security controls implemented in cooperation with the Coordinating Committee, such revisions in the list shall be made consistent with the scope of controls agreed to in the Coordinating Committee and shall be made effective no later than the effective date agreed to by the Coordinating Committee. The provisions of this paragraph apply to revisions of the list which consist of removing items from the list or making changes in categories of, or other specifications in, items on the list.".

(b) SUNSET OF CONTROL LIST.—Section 5(c) (50 U.S.C. App. 2404(c)) is amended by adding at the end the following new paragraph:

"(9)(A) Notwithstanding any other provision of this section, as of September 30, 1992, and as of the end of each 2-year period occurring thereafter—

"(i) all controls on the export of goods and technology to any country other than a controlled country shall terminate, after consultation with the Coordinating Committee, as appropriate, and

"(ii) there shall be included in a United States proposal to the Coordinating Committee the termination of all controls on the export of goods and technology to any controlled country,

unless a determination is made with respect to such controls under subparagraph (B).

"(B) Clause (i) or (ii) of subparagraph (A) shall not apply to a good or technology only if the Secretary determines that the good or technology shall be subject to export controls under this section on the basis of the policy set forth in section 3(2)(A). In determining whether a good or technology would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States, the Secretary shall consult with the Secretary of Defense.

"(C) The form of a determination by the Secretary under subparagraph (B) with respect to goods or technology may be either—

"(i) a separate determination with respect to a particular good or technology, or

"(ii) a determination with respect to the technological parameters descriptive of categories of goods or technology.

The Secretary shall publish each such determination in the Federal Register.

"(D) Not later than November 1, 1992, and not later than the end of each 2-year period occurring thereafter, the Secretary of State shall complete the consultations referred to in subparagraph (A)(i) and shall submit a proposal to the Coordinating Committee to terminate controls applicable to the export of all goods or technology to which subparagraph (A)(ii) applies.

"(E) Not later than 30 days after the date on which the Coordinating Committee makes a decision concerning a proposal made by the United States under subparagraph (D), the Secretary shall publish in the Federal Register those changes in export controls resulting from such decision.

"(F) Before the effective date established by the Coordinating Committee for implementing a decision described in subparagraph (E), the Secretary shall publish those changes in the regulations issued under this Act that are necessary to implement such decision.

"(G) Not later than the effective date established by the Coordinating Committee for implementing a decision described in subparagraph (E), the Secretary shall cease to require authority or permission to export any goods or technology for which the Coordinating Committee has ceased to require authority or permission to export under such decision.".

SEC. 113. UNILATERAL CONTROLS.

Section 5(c)(6) (50 U.S.C. App. 2404(e)(6)) is amended by adding at the end the following:

"(C) For purposes of this paragraph, an export control shall be considered to be unilaterally maintained by the United States if it is a restriction, condition, or interpretation imposed by the Secretary upon any goods or technology, or upon any license application for the export of such goods or technology, that is not imposed or implemented in similar circumstances by other participating governments of the Coordinating Committee, or that is not otherwise specifically permitted by this Act.

"(D) The Secretary shall seek to ensure that no new unilateral controls are created.".

SEC. 114. TRADE SHOWS.

Section 5(e)(6) (50 U.S.C. App. 2404(e)) is amended to read as follows:

"(6) Consistent with multilateral control arrangements, an application for a license for the export to a controlled country of any good on which export controls are in effect under this section, without regard to the technical specifications of the good, for the purpose of demonstration or exhibition at a trade show, shall carry a presumption of approval if—

"(A) the United States exporter retains title to the good and complies with any safeguard requirement imposed by the Secretary during the entire period in which the good is in the controlled country; and

"(B) the exporter removes the good from the controlled country within a reasonable period of time after the conclusion of the trade show or demonstration, as defined in regulations issued by the Secretary.".

SEC. 115. EXPORTS OF RELATED TECHNICAL DATA.

Section 5(e) (50 U.S.C. App. 2404(e)) is amended by adding at the end the following new paragraph:

"(8) Any general or validated license authorizing the export of any goods or technology shall also authorize the export of operation technical data related to such goods or technology, whether or not such data is specifically referenced in the license or license application, if the technical level of the data does not exceed the minimum level necessary to install, repair, maintain, check, operate, or use the goods or technology.".

SEC. 116. INDEXING PROCEDURES.

Section 5(g) (50 U.S.C. App. 2404(g)) is amended to read as follows:

"(g) INDEXING.—(1) In order to ensure that requirements for validated licenses and other licenses authorizing multiple exports are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, the Secretary shall, not later than 6 months after the date of the enactment of the Export Administration Amendments Act of 1990, establish, in response to recommendations of technical advisory committees under paragraph (2), indexing procedures which provide for increases in the performance levels of goods or technology described in paragraph (2)(A) that are subject to any such licensing requirements. Such indexing procedures shall emphasize the technical specifications of goods or technology below which no authority or permission to export is required as compared to the most technologically advanced commercially available version of the same or equivalent goods or technology. Goods or technology referred to in the preceding sentence which no longer meet the performance levels increased pursuant to such procedures—

"(A) the removal of controls on exports of such goods or technology to controlled countries shall be incorporated into United States proposals to the Coordinating Committee, and

"(B) controls under this section on exports of such goods or technology to countries other than controlled countries shall be removed, after consultations with the Coordinating Committee, as appropriate,

unless—

"(i) the Secretary, after consultation with the Secretary of Defense and the heads of other appropriate executive departments (as defined in section 101 of title 5, United States Code), issues a determination that removal of controls on the goods or technology will permit exports that will be detrimental to the national security of the United States; and

"(ii) the Secretary reports that determination in writing, together with a description of the specific anticipated impact on the national security of the United States, to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

The Secretary shall also consider, where appropriate, eliminating site visitation requirements for goods and technology from which export controls have been removed under this subsection.

"(2)(A) In carrying out this subsection, the Secretary shall direct the technical advisory committees appointed under subsection (h) to recommend indexing procedures for goods or technology—

"(i) which are eligible for export under a distribution license,

"(ii) which are eligible for favorable consideration under the rules of the Coordinating Committee,

"(iii) below which exports require only notification of the governments participating in the Coordinating Committee, and

"(iv) below which no authority or permission to export may be required under this section.

The technical advisory committees shall submit their recommendations for indexing procedures, as they are made, to the Secretary, who shall determine, within 30 days after each submission, or within 45 days after a submission in the event of an objection by the head of any other executive department, whether to accept the procedures or to refer the procedures back to the appropriate technical advisory committee for further consideration.

"(B) The proposals referred to in paragraph (1)(A) shall be made at the next meeting of the Coordinating Committee, at which list review is conducted, that is held after the procedures under this subsection are applied to the goods or technology involved.".

SEC. 117. NEGOTIATIONS WITH OTHER COUNTRIES; DEPARTMENT OF COMMERCE REPRESENTATIVE.

Section 5(k) (50 U.S.C. App. 2404(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) in the last sentence by striking "(b)(2)" and inserting "(a)(4)"; and

(3) by adding at the end the following:

"(2) The Secretary shall undertake a review of, and report to the Congress not later than 6 months after the date of the enactment of this paragraph on, the goods and technology available from newly industrialized countries to determine if such goods and technology are of such sophistication that they warrant multilateral export controls. If the Secretary determines that such multilateral controls are warranted, the Secretary of State shall propose to the Coordinating Committee to initiate negotiations with such newly industrialized countries to reach agreements with them under paragraph (1) or to obtain their participation in the Coordinating Committee.

"(3) Whenever—

"(A) the Secretary is authorized to make a decision or determination under this Act that affects exports from the United States to controlled countries,

"(B) the Secretary makes such a determination, and

"(C) such determination is final except that the approval of the Coordinating Committee is required,

the Secretary of State shall, within 7 days after receiving that determination from the Secretary, submit to the Coordinating Committee a United States proposal that would have the effect of applying that determination to exports to controlled countries.

"(4) The Secretary, or an officer or employee of the Department of Commerce designated by the Secretary, shall be a member of the permanent United States delegation to the Coordinating Committee.".

SEC. 118. REMOVAL OF SECTION 5(k) DESIGNATION.

Section 5(k)(1) (as amended by section 117) is amended by adding at the end the following: "If any country accorded the treatment authorized by the preceding sentence fails to maintain export restrictions comparable in practice to those maintained by the Coordinating Committee, as determined by the Secretary, in consultation with the Secretary of State and the Secretary of Defense, the Secretary shall restrict or terminate such treatment of that country.".

SEC. 119. NOTIFICATION OF COCOM ACTIONS.

Section 5 (50 U.S.C. App. 2404) is amended by adding at the end the following new subsection:

"(r) PUBLICATION OF COCOM ACTIONS.—(1) Within 90 days after the date of the enactment of this subsection, the Secretary shall publish the full text of the 3 International Lists of the Coordinating Committee, together with all notes and understandings concerning such lists that are agreed to by the Coordinating Committee. The Secretary shall update the publication under the preceding sentence at least once in each 1-year period occurring thereafter.

"(2) The Secretary shall publish—

"(A) the full text of any agreements of the Coordinating Committee affecting the International Lists, together with all notes, understandings, and other aspects of such agreements, all revisions to such texts, and the proposals of the United States to revise the International Lists that are submitted to the Coordinating Committee before negotiations on these proposals begin (except for classified information contained in the justification for such proposals),

"(B) subject to the limitations set forth in section 12(c), decisions on requests for general exceptions to the Industrial List portion of the International Lists of the Coordinating Committee, and

"(C) other decisions made by the Coordinating Committee, to the maximum extent possible.

Such publication shall be made within 30 days after the agreements are reached, negotiations on the proposals begin, or the decisions are made, as the case may be. The publication of a particular matter need not be made under subparagraph (A) or (C) to the extent that the Secretary makes a written finding to the Congress that to publish that matter would be contrary to national or international security, would abridge the confidentiality of the decision-making processes of the Coordinating Committee, or would otherwise be inconsistent with the obligations of the United States to the Coordinating Committee.".

SEC. 120. REVIEW OF LICENSES.

Section 10 (50 U.S.C. App. 2409) is amended by adding at the end the following:

"(r) COUNTRIES OF CONCERN REGARDING PROLIFERATION AND REGIONAL STABILITY.—(1) A determination of the Secretary to approve the export license applications described in paragraph (2) may be made only after consultation with the Secretary of Defense and the Secretary of State for a period of 20 days.

"(2) The license applications to which paragraph (1) applies are those for—

"(A) the export of goods or technology under the authority of section 6(l) to a country of concern regarding missile proliferation;

"(B) the export of goods or technology under the authority of section 6(m) to a country of concern regarding chemical and biological weapons proliferation; and

"(C) the export of goods or technology to Iran, Iraq, Libya, Syria, or any other country the government of which is determined under section 6(j) to have repeatedly provided support for acts of international terrorism.

"(3) The countries of concern referred to in paragraph (2) shall be maintained on a classified list established by the Secretary of State, in consultation with the Secretary and the Secretary of Defense.

"(4) If the Secretary of Defense disagrees with the determination of the Secretary to approve an export license to which paragraph (2)(A) or (C) applies, or if the Secretary of State disagrees with the determination of the Secretary to approve an export license to which paragraph (2)(B) applies, the Secretary of Defense or State (as the case may be) shall so notify the Secretary within the 20 days provided for consultation on the determination. The Secretary of Defense or State (as the case may be) shall at the same time submit the matter to the President for resolution of the dispute. The Secretary shall

also submit the Secretary's recommendation to the President on the license application.

"(5) The President shall approve or disapprove the export license application within 20 days after receiving the submission of the Secretary of Defense or State under paragraph (4).

"(6) If the Secretary of Defense or State (as the case may be) fails to notify the Secretary within the time period prescribed in paragraph (4), the Secretary may approve the license application without awaiting the notification by the Secretary of Defense or State (as the case may be). If the President fails to notify the Secretary of the President's decision on the export license application within the time period prescribed in paragraph (5), the Secretary may approve the license application without awaiting the President's decision on the license application.

"(7) Within 10 days after an export license is issued to which this subsection applies, the Secretary shall provide to the Secretary of Defense and the Secretary of State the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary indicates the need to receive such application and documents.".

SEC. 121. CRIMINAL PENALTIES.

Section 11(b) (50 U.S.C. App. 2410(b)) is amended in paragraphs (1) and (2)—

(1) by striking "five times" each place it appears and inserting "10 times";

(2) by striking "$1,000,000" each place it appears and inserting "$2,000,000";

(3) by striking "$250,000" each place it appears and inserting "$500,000"; and

(4) by striking "5 years" and inserting "10 years".

SEC. 122. POLICY TOWARD COUNTRIES RECEIVING LICENSING BENEFITS.

Section 11A (50 U.S.C. App. 2410a) is amended—

(1) in subsection (a)(1), by inserting after "Committee," the following: "pursuant to an agreement to restrict exports negotiated in accordance with section 5(k)(1), or pursuant to an export control system maintained by a controlled country that is receiving expanded licensing benefits from the Coordinating Committee because of its recognition as a lesser strategic threat as described in section 5(b)(2),"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "and" after the comma at the end;

(B) in paragraph (2), by striking the period and inserting ", and"; and

(C) by adding after paragraph (2) the following new paragraph:

"(3) the revocation by the Secretary of any validated export license previously issued for export by or to that foreign person, notwithstanding any other provision of law, and entry by the Secretary of an order denying all export privileges to that foreign person.

The Secretary shall publish any order under paragraph (3) in the Federal Register.".

SEC. 123. ENFORCEMENT AUTHORITY.

(a) FORFEITURE OF SEIZED ITEMS.—Section 12(a)(3) (50 U.S.C. App. 2411(a)(3)) is amended by adding at the end the following:

"(C) All goods or technology lawfully seized under this paragraph by authorized officers or employees of the Department of Commerce shall be forfeited to the United States. Those provisions of law relating to—

"(i) the seizure, summary and judicial forfeiture, and condemnation of property for violations of the customs laws,

"(ii) the disposition of such property or the proceeds from the sale thereof,

"(iii) the remission or mitigation of such forfeitures, and

"(iv) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subparagraph, insofar as applicable and not inconsistent with this Act; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subparagraph by the Secretary or such officers and employees of the Department of Commerce as may be authorized or designated for that purpose by the Secretary, or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.".

(b) INVESTIGATIVE OPERATIONS.—Section 12(a) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8)(A) With respect to any undercover investigative operation conducted by the Office of Export Enforcement of the Department of Commerce (hereinafter in this paragraph referred to as 'OEE') necessary for the detection and prosecution of violations of this Act—

"(i) funds made available for export enforcement under this Act may be used to purchase property, buildings, and other facilities, and to lease space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third undesignated paragraph under the heading 'MISCELLANEOUS' of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), and subsections (a) and (c) of section 304, and section 305, of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254 (a) and (c) and 255);

"(ii) funds made available for export enforcement under this Act may be used to establish or to acquire proprietary corporations or business entities as part of an OEE undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31, United States Code;

"(iii) funds made available for export enforcement under this Act and the proceeds from OEE undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

"(iv) the proceeds from OEE undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code;

if the Director of OEE (or an officer or employee designated by the Director) certifies, in writing, that any action authorized by clause (i), (ii), (iii), or (iv) is necessary for the conduct of the undercover operation.

"(B) If a corporation or business entity established or acquired as part of an OEE undercover operation with a net value of more than $50,000 is to be liquidated, sold, or otherwise disposed of, OEE shall report the circumstances to the Secretary and the Comptroller General, as much in advance of such disposition as the Director of OEE or his or her designee determines is practicable. The proceeds of the liquidation, sale, or other disposition, after obligations incurred by the corporation or business enterprise are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(C) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under this paragraph are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(D)(i) The Director of OEE shall conduct a detailed financial audit of each undercover investigative operation which is closed and shall submit the results of the audit in writing to the Secretary. Not later than 180 days after an OEE undercover operation is closed, the Director of OEE shall submit to the Congress a report on the results of the audit.

"(ii) The Director of OEE shall also submit as part of the annual report submitted by the Secretary under section 14 a report to the Congress specifying—

"(I) the number of OEE undercover investigative operations pending as of the end of the period for which such report is submitted;

"(II) the number of OEE undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

"(III) the number of OEE undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

"(E) For purposes of subparagraph (D)—

"(i) the term 'closed' refers to the earliest point in time at which all criminal proceedings (other than appeals) are concluded, or covert activities are concluded, whichever occurs later;

"(ii) the terms 'undercover investigative operation' and 'undercover operation' mean any undercover investigative operation conducted by OEE—

"(I) in which the gross receipts (excluding interest earned) exceed $50,000, or expenditures (other than expenditures for salaries of employees) exceed $150,000, and

"(II) which is exempt from section 3302 or 9102 of title 31, United States Code,

except that subclauses (I) and (II) shall not apply with respect to the report to the Congress required by clause (ii) of subparagraph (D); and

"(iii) the term 'employees' means employees, as defined in section 2105 of title 5, United States Code, of the Department of Commerce.".

SEC. 124. JUDICIAL REVIEW.

Section 13(a) (50 U.S.C. App. 2412(a)) is amended to read as follows:

"SEC. 13. (a) APPLICABILITY.—

"(1) EXEMPTIONS FROM ADMINISTRATIVE PROCEDURE.—Except as expressly provided in this Act, sections 551, 553 through 559, and 701 through 706 of title 5, United States Code, do not apply to the functions exercised under this Act.

"(2) JUDICIAL REVIEW.—A final agency action under this Act may be reviewed by appeal to the United States Court of Appeals for the District of Columbia Circuit, to the extent provided in this paragraph. The court's review in any such appeal shall be limited to determining whether—

"(A) a regulation—

"(i) fails to take an action compelled by this Act,

"(ii) takes an action prohibited by this Act, or

"(iii) otherwise violates the express terms of this Act;

"(B) an agency action violates the express terms of this Act;

"(C) an agency action violates the express terms of an agency regulation establishing time requirements or other procedural requirements of a non-discretionary nature;

"(D) the issuance of regulations compelled by this Act complies with time restrictions imposed by this Act;

"(E) license decisions are made and appeals thereof are concluded in compliance with time restrictions imposed by this Act;

"(F) classifications and advisory opinions are issued in compliance with time restrictions imposed by this Act;

"(G) foreign availability determinations are in compliance with time restrictions imposed by this Act; or

"(H) the United States has complied with the requirements of section 5(f) after a foreign availability determination has been rendered.".

SEC. 125. POLICY TOWARD THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS AND POLICY.—The Congress finds that—

(1) the United States and the group known as the Coordinating Committee have granted special licensing preferences in favor of exports to the People's Republic of China compared to other controlled countries under the Export Administration Act of 1979, based upon a consensus that the People's Republic of China posed a reduced national security threat;

(2) the United States policy of differentiating the People's Republic of China from other controlled countries was also intended to encourage emerging democratization and economic reform in that country; and

(3) the assumptions underlying past policy must be reevaluated in light of massive abuses of human rights by the Government of the People's Republic of China and evidence that the Chinese Government has assisted in the proliferation of missiles and nuclear technology to politically volatile areas of the world.

It is therefore the policy of the United States that export licensing preferences for the People's Republic of China should be eliminated, applications for distribution licenses and comprehensive operations licenses under section 4(a)(2) of the Export Administration Act of 1979 should be denied, and access to dual-use goods and technology representing proliferation concerns should be restricted.

(b) NO PREFERENTIAL TREATMENT.—Section 5(b) (50 U.S.C. App. 2404(b)) is amended by adding at the end the following:

"(4)(A) In the context of the 'Core List' exercise undertaken pursuant to the agreement reached at the Coordinating Committee High Level Meeting of June 6 and 7, 1990, the United States representative to the Coordinating Committee should oppose preferential treatment for the People's Republic of China compared to the treatment of other controlled countries.

"(B) If the President determines that licensing treatment for the People's Republic of China should be liberalized compared to other controlled countries, no action to so liberalize such treatment should be taken until 30 days after the President reports such determination to the Congress stating the justification for the change in policy.".

(c) PROLIFERATION CONCERNS REGARDING THE PEOPLE'S REPUBLIC OF CHINA.—Section 6 (50 U.S.C. App. 2405), is amended by adding at the end the following:

"(q) PROLIFERATION CONCERNS REGARDING THE PEOPLE'S REPUBLIC OF CHINA.—(1) Requests for authority or permission to export goods or technology to the People's Republic of China which are controlled under this section, pursuant to multilateral arrangements to control proliferation of chemical weapons and missile technology, should be denied in the absence of adequate assurances regarding appropriate end-use and nontransfer of goods or technology to a country or project of concern.

"(2) In order to ensure effective control of proliferation through the People's Republic of China, the Secretary of State should seek the cooperation of other governments involved in multilateral control arrangements to restrict exports of such goods and technology in harmonizing treatment of exports to the People's Republic of China with control efforts of the United States.

"(3) The policy in subparagraph (1) shall remain in effect unless the President determines and reports to the Congress that the People's Republic of China has ceased to act in a manner inconsistent with multilateral nonproliferation efforts.".

SEC. 126. EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.

(a) PROHIBITION.—Notwithstanding any other provision of law, no satellite of United States origin that is intended for launch from a launch vehicle owned by the People's Republic of China may be exported from the United States.

(b) WAIVER.—The prohibition contained in subsection (a) may be waived by the President on a case-by-case basis upon certification by the United States Trade Representative that the People's Republic of China is, with regard to the respective satellite, components, or technology related thereto for which the export license request is pending, in full compliance with the Memorandum of Agreement Between the Government of the United States of America and the Government of the People's Republic of China Regarding International Trade in Commercial Launch Services.

SEC. 127. EXPORTS TO THE SOVIET UNION.

(a) LITHUANIA.—It is the sense of the Congress that no exports to the Soviet Union otherwise permitted by virtue of the amendments made by this title may be licensed until the President certifies to the Congress that the Soviet Union has entered into serious negotiations with the elected government of Lithuania for the purpose of allowing the self-determination of Lithuania and is conducting such negotiations without economic coercion.

(b) EMIGRATION RESTRICTIONS ON SOVIET JEWRY.—It is the sense of the Congress that no exports to the Soviet Union otherwise permitted by virtue of the amendments made by this title should be made if the Soviet Union takes action to restrict the emigration of Jews from the Soviet Union.

SEC. 128. PROHIBITION OF CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

SEC. 129. AUTHORIZATION OF APPROPRIATIONS.

Section 18(b) (50 U.S.C. App. 2417(b)) is amended to read as follows:

"(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

"(1) $46,707,000 for the fiscal year 1991, of which $150,000 shall be available only for the representation of the Secretary or the Secretary's designee at the Coordinating Committee under section 5(k)(4); and

"(2) such additional amounts for the fiscal year 1991 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

SEC. 130. EXTENSION OF THE ACT.

Section 20 (50 U.S.C. App. 2419) is amended by striking "September 30, 1990" and inserting "June 30, 1992".

SEC. 131. TECHNICAL AMENDMENTS.

(a) SECTION 5.—Section 5(f) (50 U.S.C. App. 2404(f)) is amended—

(1) in paragraph (2)(A) by striking "(k)" and inserting "(k)(1)"; and

(2) in paragraph (10) by striking "subsections (f) and" and inserting "subsection".

(b) SECTION 11A.—Section 11A(k)(3) (50 U.S.C. App. 2410A(k)(3)) is amended—

(1) by striking "(3)" and inserting "(2)"; and

(2) by striking "paragraph (2)" and inserting "paragraph (1)".

(c) SECTION 16.—Section 16 (50 U.S.C. App. 2415) is amended by striking "As used" and inserting "Except as otherwise provided, as used".

TITLE II—EXPORT PROMOTION

SEC. 201. UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

(a) MINISTER-COUNSELORS.—Section 2301(d)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(d)(1)) is amended in the first sentence by striking "8" and inserting "12".

(b) REPORT ON TRAINING.—The Secretary of Commerce shall, not later than 6 months after the date of the enactment of this Act, submit to the Congress a report on the adequacy of the training of officers and employees of the United States and Foreign Commercial Service in the following areas: writing of commercial reports, language skills, cultural awareness, and public speaking.

(c) COMMERCIAL SERVICE OFFICERS AND MULTILATERAL DEVELOPMENT BANKS.—Section 2302 of the Export Enhancement Act of 1988 (15 U.S.C. 4722) is amended—

(1) in subsection (b)(3)—

(A) by striking "and to permit" and inserting "to permit"; and

(B) by inserting before the period the following: ", and to provide them with assistance in completing such documents"; and

(2) in subsection (c) by striking "and the African Development Fund" and inserting "the African Development Fund, and the European Bank for Reconstruction and Development (subject to the enactment of legislation authorizing participation by the United States in that bank)".

(d) INCREASE IN COMMERCIAL SERVICE OFFICERS IN CERTAIN COUNTRIES.—The Secretary of Commerce shall increase the number of Commercial Service Officers, in each of the 5 countries with which the United States had the greatest trade deficit in calendar year 1989 (as reflected in the merchandise trade figures reported by the Department of Commerce), by 2 over the number of such officers assigned to each of such countries in fiscal year 1989.

SEC. 202. QUALIFICATIONS FOR MARKET DEVELOPMENT COOPERATIVE PROGRAM.

Section 2303(c)(2) of the Export Enhancement Act of 1988 (15 U.S.C. 4723(c)(2)) is

amended by striking "and computer data bases" and inserting "computer data bases, and methods of distribution of goods and services".

SEC. 203. COUNTRY REPORTS ON TRADE PRACTICES.

Section 2202 of the Export Enhancement Act of 1988 (15 U.S.C. 4711) is amended in the first sentence by striking "January" and inserting "May".

SEC. 204. REPORT ON EXPORT POLICY.

(a) IN GENERAL.—The Secretary of Commerce shall submit to the Congress, not later than May 31 of each year, a report on the international economic position of the United States and shall, not later than June 30 of each year, appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives to testify on issues addressed in such report.

(b) CONTENTS.—(1) Each report under subsection (a) shall address the following:

(A) The state of United States international economic competitiveness, focusing, in particular, on Department of Commerce efforts to—

(i) encourage research and development of technologies and products deemed critical for industrial leadership;

(ii) promote investment in and improved manufacturing processes for such technologies and products; and

(iii) increase United States industrial exports of products using the technologies described in clause (i) to those markets where the United States Government has sought to reduce barriers to exports.

(B) The current Department of Commerce export development strategy, including the implementation of the United States and Foreign Commerce Service Strategic Review and the activities of the Trade Promotion Coordinating Committee.

(C) Other specific Department of Commerce recommendations to improve the United States balance of trade.

(2) The first report provided under this section shall also address Government export financing programs and actions planned or underway to improve them.

(3) Portions of each report under this section may be based upon relevant reports and testimony produced by the Department of Commerce or other agencies, but the policy views shall be those of the Secretary of Commerce.

SEC. 205. REPORT ON EXPORT PROMOTION.

The Comptroller General shall, not later than June 30, 1991, prepare and transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report that—

(1) analyzes ways to promote United States exports; and

(2) addresses—

(A) progress made in strengthening coordination of Federal export promotion efforts,

(B) efforts made to improve coordination of Federal export promotion activities with the States,

(C) efforts made to improve export promotion coordination and cooperation with private industry groups, and

(D) the adequacy of Federal, State, and private sector export finance programs.

SEC. 206. EXPORT PROMOTION AUTHORIZATION.

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"There are authorized to be appropriated to the Department of Commerce—

"(1) to carry out export promotion programs, $167,600,000 for the fiscal year 1991; and

"(2) to carry out section 2303 of the Omnibus Trade and Competitiveness Act of 1988, $6,000,000 for fiscal year 1991.".

SEC. 207. INTEREST SUBSIDY PROGRAM.

(a) REQUIREMENT TO EXPEND AMOUNTS APPROPRIATED.—Section 2(f)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(f)(1)) is amended by striking "may enter" and inserting "shall use all amounts appropriated to carry out this subsection to enter".

(b) EXTENSION OF PROGRAM THROUGH THE END OF FISCAL YEAR 1992.—Section 2(f)(4) of such Act (12 U.S.C. 635(f)(4)) is amended by striking "1991" and inserting "1992".

(c) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.—Section 2(f)(3) of such Act (12 U.S.C. 635(f)(3)) is amended—

(1) in subparagraph (A), by striking "and";

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) $35,000,000, for fiscal year 1992.".

SEC. 208. HUMAN RIGHTS IN YUGOSLAVIA.

(a) FINDINGS.—The Congress finds that the Department of State's Country Report on Human Rights Practices for 1989 cites many human rights practices in Yugoslavia that violate internationally accepted human rights standards, including infringement upon and abrogation of the rights of assembly and fair trial, freedom of speech, and freedom of the press.

(b) REPORT.—The President shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives, not later than 3 months after the date of the enactment of this Act, explaining why Export-Import Bank funding for exports to Yugoslavia has not been restricted or denied pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945.

SEC. 209. INCREASE OF MEMBERSHIP OF ADVISORY COMMITTEE.

Section 3(d)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)(1)(A)) is amended by striking "twelve" and inserting "15".

SEC. 210. TECHNICAL CORRECTIONS RELATING TO THE INTERNATIONAL DEVELOPMENT AND FINANCE ACT OF 1989.

(a) ELIMINATION OF LANGUAGE MADE OBSOLETE BY ETHICS REFORM ACT OF 1989.—Subsection (c) of section 101 of the International Development and Finance Act of 1989 (103 Stat. 2494; Public Law 101-240), and the amendments made by such subsection, are hereby repealed, and section 2(a)(1) of the Export-Import Bank Act of 1945 shall be applied and administered as if such subsection (c) had never been enacted.

(b) REPEAL OF INADVERTENTLY INSERTED PARAGRAPH.—Paragraph (7) of section 101(b) of the International Development and Finance Act of 1989 (103 Stat. 2494; Public Law 101-240) is hereby repealed, and section 15 of the Export-Import Bank Act of 1945 shall be applied and administered as if such paragraph had not been enacted.

TITLE III—MISSILE TECHNOLOGY

SEC. 301. POLICY.

It should be the policy of the United States to take all appropriate measures—

(1) to discourage the proliferation, development, and production of the weapons, material, and technology necessary to produce or acquire missiles that can deliver weapons of mass destruction;

(2) to discourage countries and private persons in other countries from aiding and abetting any states from acquiring such weapons, material, and technology;

(3) to strengthen United States and existing multilateral export controls to prohibit the flow of materials, equipment, and technology that would assist countries in acquiring the ability to produce or acquire missiles that can deliver weapons of mass destruction, including missiles, warheads and weaponization technology, targeting technology, test and evaluation technology, and range and weapons effect measurement technology; and

(4) with respect to the Missile Technology Control Regime ("MTCR") and its participating governments—

(A) to improve enforcement and seek a common and stricter interpretation among MTCR members of MTCR principles;

(B) to increase the number of countries that adhere to the MTCR; and

(C) to increase information sharing among United States agencies and among governments on missile technology transfer, including export licensing, and enforcement activities.

SEC. 302. AMENDMENT TO THE EXPORT ADMINISTRATION ACT OF 1979.

(a) MISSILE TECHNOLOGY CONTROLS.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405), as amended by section 125 if this Act, is further amended—

(1) by redesignating subsections (k) through (q) as subsections (m) through (s), respectively; and

(2) by inserting after subsection (j) the following:

"(k) NEGOTIATIONS WITH OTHER COUNTRIES.—

"(1) COUNTRIES PARTICIPATING IN CERTAIN AGREEMENTS.—The Secretary of State, in consultation with the Secretary, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with those countries participating in the groups known as the Coordinating Committee, the Missile Technology Control Regime, the Australia Group, and the Nuclear Suppliers' Group, regarding their cooperation in restricting the export of goods and technology in order to carry out—

"(A) the policy set forth in section 3(2)(B) of this Act, and

"(B) United States policy opposing the proliferation of chemical, biological, nuclear, and other weapons and their delivery systems, and effectively restricting the export of dual use components of such weapons and their delivery systems, in accordance with this subsection and subsections (a) and (l).

Such negotiations shall cover, among other issues, which goods and technology should be subject to multilaterally agreed export restrictions, and the implementation of the restrictions consistent with the principles identified in subclauses (I) through (V) of section 5(a)(4)(D)(iii) of this Act.

"(2) OTHER COUNTRIES.—The Secretary of State, in consultation with the Secretary, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with countries and groups of countries not referred to in paragraph (1) regarding their cooperation in restricting the export of goods and technology consistent with purposes set forth in paragraph (1). In

cases where such negotiations produce agreements on export restrictions that the Secretary, in consultation with the Secretary of State and the Secretary of Defense, determines to be consistent with the principles identified in subclauses (I) through (V) of section 5(a)(4)(D)(iii) of this Act, the Secretary may treat exports, whether by individual or multiple licenses, to countries party to such agreements in the same manner as exports are treated to countries that are MTCR adherents.

"(3) REVIEW OF DETERMINATIONS.—The Secretary shall annually review any determination under paragraph (2) with respect to a country. For each such country which the Secretary determines is not meeting the requirements of an effective export control system in accordance with subclauses (I) through (V) of section 5(a)(4)(D)(iii), the Secretary shall restrict or eliminate any preferential licensing treatment for exports to that country provided under this subsection.

"(l) MISSILE TECHNOLOGY.—

"(1) DETERMINATION OF CONTROLLED ITEMS.—The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies—

(A) shall establish and maintain, as part of the control list established under this section, a list of all dual use goods and technology on the MTCR Annex; and

(B) may include, as part of the control list established under this section, goods and technology that would provide a direct and immediate impact on the development of missile delivery systems and are not included in the MTCR Annex but which the United States is proposing to the other MTCR adherents to have included in the MTCR Annex.

"(2) REQUIREMENT OF INDIVIDUAL VALIDATED LICENSES.—The Secretary shall require an individual validated license for—

"(A) any export of goods or technology on the list established under paragraph (1) to any country; and

"(B) any export of goods or technology that the exporter knows is destined for a project or facility for the design, development, or manufacture of a missile in a country that is not an MTCR adherent.

"(3) POLICY OF DENIAL OF LICENSES.—(A) Licenses under paragraph (2) should in general be denied if the ultimate consignee of the goods or technology is a facility in a country that is not an adherent to the Missile Technology Control Regime and the facility is designed to develop or build missiles.

"(B) Licenses under paragraph (2) shall be denied if the ultimate consignee of the goods or technology is a facility in a country the government of which has been determined under subsection (j) to have repeatedly provided support for acts of international terrorism.

"(4) INFORMATION SHARING.—The Secretary shall establish a procedure for information sharing with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence, and other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.".

(b) SANCTIONS FOR MISSILE TECHNOLOGY PROLIFERATION.—The Export Administration Act of 1979 is amended by inserting after section 11A (50 U.S.C. App. 2410a) the following:

"MISSILE PROLIFERATION CONTROL VIOLATIONS

"SEC. 11B. (a) VIOLATIONS BY UNITED STATES PERSONS.—

"(1) SANCTIONS.—(A) If the President determines that a United States person knowingly—

"(i) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act, section 5 or 6 of this Act, or any regulations or orders issued under any such provisions,

"(ii) conspires to or attempts to engage in such export, transfer, or trade, or

"(iii) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in subparagraph (B).

"(B) The sanctions which apply to a United States person under subparagraph (A) are the following:

"(i) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under this Act.

"(ii) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR Annex, then the President shall deny to such United States person, for a period of not less than 2 years, all licenses for items the export of which is controlled under this Act.

"(2) DISCRETIONARY SANCTIONS.—In the case of any determination referred to in paragraph (1), the Secretary may pursue any other appropriate penalties under section 11 of this Act.

"(3) WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

"(A) the product or service is essential to the national security of the United States; and

"(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

"(b) TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS.—

"(1) SANCTIONS.—(A) Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of the enactment of this section, knowingly—

"(i) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

"(ii) conspires to or attempts to engage in such export, transfer, or trade, or

"(iii) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 73(a) of the Arms Export Control Act, then the President shall impose on that foreign person the applicable sanctions under subparagraph (B).

"(B) The sanctions which apply to a foreign person under subparagraph (A) are the following:

"(i) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the export of which is controlled under this Act.

"(ii) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for the transfer to such foreign person of items the export of which is controlled under this Act.

"(iii) If, in addition to actions taken under clauses (i) and (ii), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

"(2) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Paragraph (1) does not apply with respect to—

"(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

"(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

"(3) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in paragraph (1) may not be imposed under this subsection on a person with respect to acts described in such paragraph or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

"(4) ADVISORY OPINIONS.—The Secretary, in consultation with the Secretary of State and the Secretary of Defense, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this subsection. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

"(5) WAIVER AND REPORT TO CONGRESS.—(A) In any case other than one in which an advisory opinion has been issued under paragraph (4) stating that a proposed activity would not subject a person to sanctions under this subsection, the President may waive the application of paragraph (1) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

"(B) In the event that the President decides to apply the waiver described in subparagraph (A), the President shall so notify the Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

"(6) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

"(A) the product or service is essential to the national security of the United States; and

"(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

"(7) EXCEPTIONS.—The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

"(ii) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production,

"(iii) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

"(iv) information and technology essential to United States products or production.

"(c) DEFINITIONS.—For purposes of this section, and subsections (k) and (l) of section 6—

"(1) the term 'missile' means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

"(2) the term 'Missile Technology Control Regime' or 'MTCR' means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

"(3) the term 'MTCR adherent' means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

"(4) the term 'MTCR Annex' means the Equipment and Technology Annex of the MTCR, and any amendments thereto;

"(5) the terms 'missile equipment or technology' and 'MTCR equipment or technology' mean those items listed in category I or category II of the MTCR Annex;

"(6) the term 'foreign person' means any person other than a United States person;

"(7)(A) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

"(B) in the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term 'person' means—

"(i) all activities of that government relating to the development or production of any missile equipment or technology; and

"(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment; and

"(8) the term 'otherwise engaged in the trade of' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.".

SEC. 303. AMENDMENT TO THE ARMS EXPORT CONTROL ACT.

The Arms Export Control Act is amended by inserting after chapter 6 (22 U.S.C. 2795b. et seq.) the following new chapter:

"CHAPTER 7—CONTROL OF MISSILES AND MISSILE EQUIPMENT OR TECHNOLOGY

"SEC. 71. LICENSING.

"(a) ESTABLISHMENT OF LIST OF CONTROLLED ITEMS.—The Secretary of State, in consultation with the Secretary of Defense and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the United States Munitions List, a list of all items on the MTCR Annex the export of which is not controlled under section 6(l) of the Export Administration Act of 1979.

"(b) REFERRAL OF LICENSE APPLICATIONS.—(1) A determination of the Secretary of State to approve a license for the export of an item on the list established under subsection (a) may be made only after the license application is referred to the Secretary of Defense.

"(2) Within 10 days after a license is issued for the export of an item on the list established under subsection (a), the Secretary of State shall provide to the Secretary of Defense and the Secretary of Commerce the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary indicates the need to receive such application and documents.

"(c) INFORMATION SHARING.—The Secretary of State shall establish a procedure for sharing information with appropriate official of the intelligence community, as determined by the Director of Central Intelligence, and with other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.

"SEC. 72. DENIAL OF THE TRANSFER OF MISSILE EQUIPMENT OR TECHNOLOGY BY UNITED STATES PERSONS.

"(a) SANCTIONS.—(1) If the President determines that a United States person knowingly—

"(A) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 of this Act, section 5 or 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404, 2405), or any regulations or orders issued under any such provisions,

"(B) conspires to or attempts to engage in such export, transfer, or trade, or

"(C) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in paragraph (2).

"(2) The sanctions which apply to a United States person under paragraph (1) are the following:

"(A) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person for a period of 2 years—

"(i) United States Government contracts relating to missile equipment or technology; and

"(ii) licenses for the transfer of missile equipment or technology controlled under this Act.

"(B) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR, then the President shall deny to such United States person for a period of not less than 2 years—

"(i) all United States Government contracts, and

"(ii) all export licenses and agreements for items on the United States Munitions List.

"(b) DISCRETIONARY SANCTIONS.—In the case of any determination made pursuant to subsection (a), the President may pursue any penalty provided in section 38(c) of this Act.

"(c) WAIVER.—The President may waive the imposition of sanctions under subsection (a) with respect to a product or service if the President certifies to the Congress that—

"(1) the product or service is essential to the national security of the United States; and—

"(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

"SEC. 73. TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS.

"(a) SANCTIONS.—(1) Subject to subsections (c) through (g), if the President determines that a foreign person, after the date of the enactment of this chapter, knowingly—

"(A) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

"(B) conspires to or attempts to engage in such export, transfer, or trade, or

"(C) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 11B(b)(1) of the Export Administration Act of 1979, then the President shall impose on that foreign person the applicable sanctions under paragraph (2).

"(2) The sanctions which apply to a foreign person under paragraph (1) are the following:

"(A) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years—

"(i) United States Government contracts relating to missile equipment or technology; and

"(ii) licenses for the transfer to such foreign person of missile equipment or technology controlled under this Act.

"(B) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years—

"(i) all United States Government contracts with such foreign person; and

"(ii) licenses for the transfer to such foreign person of all items on the United States Munitions List.

"(C) If, in addition to actions taken under subparagraphs (A) and (B), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles, in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

"(b) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Subsection (a) does not apply with respect to—

"(1) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

"(2) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

"(c) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in subsection (a) may not be imposed under this section on a person with respect to acts described in such subsection or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

"(d) ADVISORY OPINIONS.—The Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

"(e) WAIVER AND REPORT TO CONGRESS.—(1) In any case other than one in which an advisory opinion has been issued under subsection (d) stating that a proposed activity would not subject a person to sanctions under this section, the President may waive the application of subsection (a) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

"(2) In the event that the President decides to apply the waiver described in paragraph (1), the President shall so notify the Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

"(f) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

"(1) the product or service is essential to the national security of the United States; and

"(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

"(g) EXCEPTIONS.—The President shall not apply the sanction under this section prohibiting the importation of the products of a foreign person—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

"(B) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

"(C) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

"(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

"(3) to—

"(A) spare parts,

"(B) component parts, but not finished products, essential to United States products or production,

"(C) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

"(D) information and technology essential to United States products or production.

"SEC. 74. DEFINITIONS.

For purposes of this chapter—

"(1) the term 'missile' means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

"(2) the term 'Missile Technology Control Regime' or 'MTCR' means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

"(3) the term 'MTCR adherent' means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

"(4) the term 'MTCR Annex' means the Equipment and Technology Annex of the MTCR, and any amendments thereto;

"(5) the terms 'missile equipment or technology' and 'MTCR equipment or technology' mean those items listed in category I or category II of the MTCR Annex;

"(6) the term 'United States person' has the meaning given that term in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(2));

"(7) the term 'foreign person' means any person other than a United States person;

"(8)(A) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

"(B) in the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term 'person' means—

"(i) all activities of that government relating to the development or production of any missile equipment or technology; and

"(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment; and

"(9) the term 'otherwise engaged in the trade of' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.".

SEC. 304. REPORT ON MISSILE PROLIFERATION

(a) CONTENTS OF REPORT.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to the Congress a report on international transfers of aircraft which the Secretary has reason to believe may be intended to be used for the delivery of nuclear, biological, or chemical weapons (hereinafter in this section referred to as "NBC capable aircraft") and international transfers of MTCR equipment or technology to any country that is not an MTCR adherent and is seeking to acquire such equipment or technology, other than those countries excluded in subsection (b). Each such report shall include—

(1) the status of missile and aircraft development programs in any such country, including efforts by such country to acquire MTCR equipment or technology and NBC capable aircraft and an assessment of the present and future capability of such country to produce and utilize such weapons;

(2) a description of assistance provided, after the date of the enactment of this Act, to any such country, in the development of missile systems, as defined in the MTCR, and NBC capable aircraft by persons and other countries, specifying those persons and other countries which continue to provide MTCR equipment or technology to such country as of the date of the report;

(3) a description of diplomatic measures that the United States has taken or that other MTCR adherents have made to the United States with respect to activities of private persons and countries suspected of violating the MTCR;

(4) an analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other MTCR adherents to control the export of MTCR equipment or technology;

(5) a determination of whether transfers of MTCR equipment or technology by any country pose a significant threat to the national security of the United States;

(6) a summary of advisory opinions issued under section 11B(b)(4) of the Export Administration Act of 1979 and under section 73(d) of the Arms Export Control Act; and

(7) an explanation of United States policy regarding the transfer of MTCR equipment or technology to foreign missile programs, including space launch vehicle programs.

(b) EXCLUSIONS.—The countries excluded under subsection (a) are Australia, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Israel, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Spain, Turkey, and the United Kingdom.

(c) CLASSIFICATION.—The President shall make every effort to submit all of the information required by subsection (a) in unclassified form. Whenever the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.

(d) DEFINITIONS.—For purposes of this section, the terms "missile", "MTCR", "MTCR equipment or technology", and "MTCR adherent" have the meanings given those terms in section 74 of the Arms Export Control Act.

SEC. 305. REPEAL OF DUPLICATIVE PROVISIONS.

Title XVII of the National Defense Authorization Act for Fiscal Year 1991, and the amendments made by such title—

(1) if such Act is enacted before the enactment of this Act, are repealed; and

(2) if such Act is enacted after the enactment of this Act, shall not become effective.

TITLE IV—CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION

SEC. 401. SHORT TITLE.

This title may be cited as the "Chemical and Biological Weapons Control and Warfare Elimination Act of 1990".

SEC. 402. PURPOSES.

The purposes of this title are—

(1) to mandate United States sanctions, and to encourage international sanctions, against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals, and to impose sanctions against companies that aid in the proliferation of chemical and biological weapons;

(2) to support multilaterally coordinated efforts to control the proliferation of chemical and biological weapons;

(3) to urge continued close cooperation with the Australia Group and cooperation with other supplier nations to devise ever more effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production; and

(4) to require Presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, deliver, transfer, or use chemical or biological weapons.

Subtitle A—Measures to Prevent the Proliferation of Chemical and Biological Weapons

SEC. 421. MULTILATERAL EFFORTS.

(a) MULTILATERAL CONTROLS ON PROLIFERATION.—It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons. In furtherance of this policy, the United States shall—

(1) promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(2) set as a top priority the early conclusion of a comprehensive global agreement banning the use, development, production, and stockpiling of chemical weapons;

(3) seek and support effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(4) pursue and give full support to multilateral sanctions pursuant to United Nations Security Council Resolution 620, which declared the intention of the Security Council to give immediate consideration to imposing "appropriate and effective" sanctions against any country which uses chemical weapons in violation of international law.

(b) MULTILATERAL CONTROLS ON CHEMICAL AGENTS, PRECURSORS, AND EQUIPMENT.—It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to support the Australia Group's objective to support the norms and restraints against the spread and the use of chemical warfare, advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Australia Group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by proposing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members,

(B) liaison officers to the Australia Group's coordinating entity from within the diplomatic missions,

(C) a close working relationship between the Australia Group and industry,

(D) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(E) information-exchange channels of suspected proliferants,

(F) a "denial" list of firms and individuals who violate the Australia Group's export control provisions, and

(G) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Australia Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

SEC. 422. UNITED STATES EXPORT CONTROLS.

(a) IN GENERAL.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technology,

that the President determines would assist the government of any foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b) EXPORT ADMINISTRATION ACT.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405), as amended by the preceding provisions of this Act, is further amended—

(1) by redesignating subsections (m) through (s) as subsections (n) through (t), respectively; and

(2) by inserting after subsection (l), as added by section 302 of this Act, the following:

"(m) CHEMICAL AND BIOLOGICAL WEAPONS.—

"(1) ESTABLISHMENT OF LIST.—The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the list maintained under this section, a list of goods and technology that would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability.

"(2) REQUIREMENT FOR VALIDATED LICENSES.—The Secretary shall require a validated license for any export of goods or technology on the list established under paragraph (1) to any country of concern.

"(3) COUNTRIES OF CONCERN.—For purposes of paragraph (2) and section 10(r), the term 'country of concern' means any country other than—

"(A) a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of goods or technology on the list established under paragraph (1); and

"(B) such other countries as the Secretary of State, in consultation with the Secretary and the Secretary of Defense, shall designate consistent with the purposes of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1990.".

SEC. 423. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a) AMENDMENT TO EXPORT ADMINISTRATION ACT.—The Export Administration Act of 1979 is amended by inserting after section 11B, as added by section 302 of this Act, the following:

"CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS

"Sec. 11C. (a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—(A) Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States under this Act, or

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii); or

"(B) any foreign country whose government is determined for purposes of section 6(j) of this Act to be a government that has repeatedly provided support for acts of international terrorism.

"(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1).

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

(b) AMENDMENT TO ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended by inserting after chapter 7, as added by section 303 of this Act, the following:

"CHAPTER 8—CHEMICAL OR BIOLOGICAL WEAPONS PROLIFERATION

"SEC. 81. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

"(a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—(A) Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States,

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or

"(C) through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979,

to the efforts by any foreign country described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii); or

"(B) any foreign country whose government is determined for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)) to be a government that has repeatedly provided support for acts of international terrorism.

"(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1).

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

Subtitle B—Sanctions Against the Use of Chemical and Biological Weapons

SEC. 441. DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) WHEN DETERMINATION REQUIRED; NATURE OF DETERMINATION.—Whenever information becomes available to the executive branch indicating the substantial possibility that, on or after the date of enactment of this Act, the government of a foreign country has made substantial preparation to use or has used chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after such date of enactment, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. Section 442 applies if the President determines that that government has so used chemical or biological weapons.

(2) MATTERS TO BE CONSIDERED.—In making the determination under paragraph (1), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the government in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

(3) DETERMINATION TO BE REPORTED TO CONGRESS.—Upon making a determination under paragraph (1), the President shall promptly report that determination to the Congress. If the determination is that a foreign government had used chemical or biological weapons as described in that paragraph, the report shall specify the sanctions to be imposed pursuant to section 442.

(b) CONGRESSIONAL REQUESTS; REPORT.—

(1) REQUEST.—The Chairman of the Committee on Foreign Relations of the Senate (upon consultation with the ranking minority member of such committee) or the Chairman of the Committee on Foreign Affairs of the House of Representatives (upon consultation with the ranking minority member of such committee) may at any time request the President to consider whether a particular foreign government, on or after the date of enactment of this Act, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) REPORT TO CONGRESS.—Not later than 60 days after receiving such a request, the President shall provide to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives a written report on the information held by the executive branch which is pertinent to the issue of whether the specified government, on or after the date of enactment of this Act, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. This report shall contain an analysis of each of the items enumerated in subsection (a)(2).

SEC. 442. SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) INITIAL SANCTIONS.—If, at any time, the President makes a determination pursuant to section 441(a)(1) with respect to the government of a foreign country, the President shall forthwith impose the sanctions set forth in at least 6 of the following paragraphs:

(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

(2) ARMS SALES.—The United States Government shall terminate—

(A) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

(B) licenses for the export to that country of any item on the United States Munitions List.

(3) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

(4) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

(5) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(6) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(7) EXPORTS OF NATIONAL SECURITY-SENSITIVE GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. 2405) shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 5(c)(1) of that Act (22 U.S.C. 2404(c)(1)).

(8) FURTHER EXPORT RESTRICTIONS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports of that country of all other goods and technology (excluding food and other agricultural commodities and products).

(9) IMPORT RESTRICTIONS.—Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(10) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

(11) LANDING RIGHTS.—At the earliest practicable date, the United States Government shall terminate, consistent with international law, the authority of any air carrier which is controlled in fact by the government of that country to engage in air transportation (as defined in section 101(10) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(10))).

(b) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—Unless, within 3 months after making a determination pursuant to section 441(a)(1) with respect to a foreign government, the President determines and certifies in writing to the Congress that—

(1) that government is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,

(2) that government has provided reliable assurances that it will not in the future engage in any such activities, and

(3) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals,

then the President, after consultation with the Congress, shall impose on that country at least 1 sanction set forth in paragraphs (1) through (11) of subsection (a) which has not previously been imposed on that country under subsection (a).

(c) REMOVAL OF SANCTIONS.—The President shall remove the sanctions imposed with respect to a country pursuant to this section if the President determines and so certifies to the Congress, after the end of the 12 month period beginning on the date on which sanctions were initially imposed on that country pursuant to subsection (a), that—

(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in violation of international law and will not use lethal chemical or biological weapons against its own nationals;

(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

(3) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

(d) WAIVER.—

(1) CRITERIA FOR WAIVER.—The President may waive the application of any sanction imposed with respect to a country pursuant to this section—

(A) after the end of the 12 month period beginning on the date on which sanctions were initially imposed on that country, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States; or

(B) at any time, if the President determines and certifies to the Congress that there has been a fundamental change in leadership and policies of the government of that country.

(2) REPORT.—In the event that the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise that waiver authority.

(e) CONTRACT SANCTITY.—

(1) SANCTIONS NOT APPLIED TO EXISTING CONTRACTS.—(A) A sanction described in paragraphs (4) through (9) of subsection (a) shall not apply to any activity pursuant to any contract or international agreement entered into before the date of the presidential determination under section 441(a)(1) unless the President determines, on a case-by-case basis, that to apply such sanction to that activity would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(B) The same restrictions of subsection (p) of section 6 of the Export Administration Act of 1979 (50 U.S.C. 2405), as that subsection is so redesignated by the preceding provisions of this Act, which are applicable to exports prohibited under section 6 of that Act shall apply to exports prohibited under subsection (a)(7) or (a)(8) of this section. For purposes of this subparagraph, any contract or agreement the performance of which (as determined by the President) would have the effect of assisting a foreign government in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and direct threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 6(p) of that Act.

(2) SANCTIONS APPLIED TO EXISTING CONTRACTS.—The sanctions described in paragraphs (1), (2), and (3) of subsection (a) shall apply to contracts, agreements, and licenses without regard to the date the contract or agreement was entered into or the license issued (as the case may be), except that such sanctions shall not apply to any contract or agreement entered into or license issued before the date of the presidential determination under section 441(a)(1) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

Subtitle C—Reporting Requirements

SEC. 461. PRESIDENTIAL REPORTING REQUIREMENTS.

(a) REPORTS TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, and every 12 months thereafter, the President shall transmit to the Congress a report which shall include—

(1) a description of the actions taken to carry out this title, including the amendments made by this title;

(2) a description of the current efforts of foreign countries and subnational groups to acquire equipment, materials, or technology to develop, produce, or use chemical or biological weapons, together with an assessment of the current and likely future capabilities of such countries and groups to develop, produce, stockpile, deliver, transfer, or use such weapons;

(3) a description of—

(A) the use of chemical weapons by foreign countries in violation of international law,

(B) the use of chemical weapons by subnational groups,

(C) substantial preparations by foreign countries and subnational groups to do so, and

(D) the development, production, stockpiling, or use of biological weapons by foreign countries and subnational groups; and

(4) a description of the extent to which foreign persons or governments have knowingly and materially assisted third countries or subnational groups to acquire equipment, material, or technology intended to develop, produce, or use chemical or biological weapons.

(b) PROTECTION OF CLASSIFIED INFORMATION.—To the extent practicable, reports submitted under subsection (a) or any other provision of this title should be based on unclassified information. Portions of such reports may be classified.

TITLE V—SANCTIONS AGAINST IRAQ

SEC. 501. SHORT TITLE.

This title may be cited as the "Iraq International Law Compliance Act of 1990".

Subtitle A—Response to Iraq's Invasion of Kuwait

SEC. 521. DECLARATIONS REGARDING IRAQ'S INVASION OF KUWAIT.

The Congress—

(1) condemns Iraq's invasion of Kuwait on August 2, 1990;

(2) supports the actions that have been taken by the President in response to that invasion;

(3) calls for the immediate and unconditional withdrawal of Iraqi forces from Kuwait;

(4) supports the efforts of the United Nations Security Council to end this violation of international law and threat to international peace;

(5) supports the imposition and enforcement of multilateral sanctions against Iraq;

(6) calls on United States allies and other countries to support fully the efforts of the United Nations Security Council, and to take other appropriate actions, to bring about an end to Iraq's occupation of Kuwait; and

(7) condemns the brutal occupation of Kuwait by Iraq and its gross violations of internationally recognized human rights in Kuwait, including widespread arrests, torture, summary executions, and mass extrajudicial killings.

SEC. 522. CONSULTATIONS WITH CONGRESS.

The President shall keep the Congress fully informed, and shall consult with the Congress, with respect to current and anticipated events regarding the international crisis caused by Iraq's invasion of Kuwait, including with respect to United States actions.

SEC. 523. TRADE EMBARGO AGAINST IRAQ.

(a) CONTINUATION OF EMBARGO.—Except as otherwise provided in this section, the President shall continue to impose the trade embargo and other economic sanctions with respect to Iraq and Kuwait that the United States is imposing, in response to Iraq's invasion of Kuwait, pursuant to Executive Orders Number 12724 and 12725 (August 9, 1990) and, to the extent they are still in effect, Executive Orders Number 12722 and 12723 (August 2, 1990).

(b) HUMANITARIAN ASSISTANCE.—To the extent that transactions involving food-

stuffs or payments for foodstuffs are exempted "in humanitarian circumstances" from the prohibitions established by the United States pursuant to United Nations Security Council Resolution 661 (1990), those exemptions shall be limited to foodstuffs that are to be provided consistent with United Nations Security Council Resolution 666 (1990) and other relevant Security Council resolutions.

(c) NOTICE TO CONGRESS OF EXCEPTIONS TO AND TERMINATION OF SANCTIONS.—

(1) NOTICE OF REGULATIONS.—Any regulations issued after the date of enactment of this Act with respect to the economic sanctions imposed with respect to Iraq and Kuwait by the United States under Executive Orders Number 12722 and 12723 (August 2, 1990) and Executive Orders Number 12724 and 12725 (August 9, 1990) shall be submitted to the Congress before those regulations take effect.

(2) NOTICE OF TERMINATION OF SANCTIONS.—The President shall notify the Congress before the termination, in whole or in part, of any sanction imposed with respect to Iraq or Kuwait pursuant to those Executive Orders.

(d) RELATION TO OTHER LAWS.—

(1) SANCTIONS LEGISLATION.—The sanctions that are described in subsection (a) are in addition to, and not in lieu of the sanctions provided for in subtitle B of this title, title IV of this Act, or any other provision of law.

(2) NATIONAL EMERGENCIES AND UNITED NATIONS LEGISLATION.—Nothing in this section supersedes any provision of the National Emergencies Act or any authority of the President under the International Emergency Economic Powers Act or section 5(a) of the United Nations Participation Act of 1945.

SEC. 524. ADDITIONAL IMPORT SANCTIONS.

If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

(1) the importation of products of Iraq into its customs territory, and

(2) the export of its products to Iraq.

SEC. 525. PENALTIES FOR VIOLATIONS OF EMBARGO.

Notwithstanding section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) and section 5(b) of the United Nations Participation Act of 1945 (22 U.S.C. 287c(b))—

(1) a civil penalty not to exceed $250,000 may be imposed on any person who, after the date of enactment of this Act, violates or evades or attempts to violate or evade Executive Order Number 12722, 12723, 12724, or 12725 or any license, order, or regulation issued under any such Executive Order; and

(2) whoever, after the date of enactment of this Act, willfully violates or evades or attempts to violate or evade Executive Order Number 12722, 12723, 12724, or 12725 or any license, order, or regulation issued under any such Executive Order—

(A) shall, upon conviction, be fined not more than $1,000,000, if a person other than a natural person; or

(B) if a natural person, shall, upon conviction, be fined not more than $1,000,000, be imprisoned for not more than 12 years, or both.

Any officer, director, or agent of any corporation who knowingly participates in a violation, evasion, or attempt described in paragraph (2) may be punished by imposition of the fine or imprisonment (or both) specified in subparagraph (B) of that paragraph.

Subtitle B—Response to Iraq's Long-Standing Violations of International Law

SEC. 541. DECLARATIONS REGARDING IRAQ'S LONG-STANDING VIOLATIONS OF INTERNATIONAL LAW.

(a) IRAQ'S VIOLATIONS OF INTERNATIONAL LAW.—The Congress determines that—

(1) the Government of Iraq has demonstrated repeated and blatant disregard for its obligations under international law by violating the Charter of the United Nations, the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (done at Geneva, June 17, 1925), as well as other international treaties;

(2) the Government of Iraq is a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights and is obligated under the Covenants, as well as the Universal Declaration of Human Rights, to respect internationally recognized human rights;

(3) the State Department's Country Reports on Human Rights Practices for 1989 again characterizes Iraq's human rights record as "abysmal";

(4) Amnesty International, Middle East Watch, and other independent human rights organizations have documented extensive, systematic, and continuing human rights abuses by the Government of Iraq, including summary executions, mass political killings, disappearances, widespread use of torture, arbitrary arrests and prolonged detention without trial of thousands of political opponents, forced relocation and deportation, denial of nearly all civil and political rights such as freedom of association, assembly, speech, and the press, and the imprisonment, torture, and execution of children;

(5) since 1987, the Government of Iraq has intensified its severe repression of the Kurdish minority of Iraq, deliberately destroyed more than 3,000 villages and towns in the Kurdish regions, and forcibly expelled more than 500,000 people, thus effectively depopulating the rural areas of Iraqi Kurdistan;

(6) Iraq has blatantly violated international law by initiating use of chemical weapons in the Iran-Iraq war;

(7) Iraq has also violated international law by using chemical weapons against its own Kurdish citizens, resulting in tens of thousands of deaths and more than 65,000 refugees;

(8) Iraq continues to expand its chemical weapons capability, and President Saddam Hussein has threatened to use chemical weapons against other nations;

(9) persuasive evidence exists that Iraq is developing biological weapons in violation of international law;

(10) there are strong indications that Iraq has taken steps to produce nuclear weapons and has attempted to smuggle from the United States, in violation of United States law, components for triggering devices used in nuclear warheads whose manufacture would contravene the Treaty on the Non-Proliferation of Nuclear Weapons, to which Iraq is a party; and

(11) Iraqi President Saddam Hussein has threatened to use terrorism against other nations in violation of international law and has increased Iraq's support for the Palestine Liberation Organization and other Palestinian groups that have conducted terrorist acts.

(b) HUMAN RIGHTS VIOLATIONS.—The Congress determines that the Government of Iraq is engaged in a consistent pattern of gross violations of internationally recognized human rights. All provisions of law that impose sanctions against a country whose government is engaged in a consistent pattern of gross violations of internationally recognized human rights shall be fully enforced against Iraq.

(c) MULTILATERAL COOPERATION.—The Congress calls on the President to seek multilateral cooperation—

(1) to deny dangerous technologies to Iraq;

(2) to induce Iraq to respect internationally recognized human rights; and

(3) to induce Iraq to allow appropriate international humanitarian and human rights organizations to have access to Iraq and Kuwait, including the areas in northern Iraq traditionally inhabited by Kurds.

SEC. 542. SANCTIONS AGAINST IRAQ.

(a) IMPOSITION.—Except as provided in section 543, the following sanctions shall apply with respect to Iraq:

(1) FMS SALES.—The United States Government may not enter into any sale with Iraq under the Arms Export Control Act.

(2) COMMERCIAL ARMS SALES.—Licenses may not be issued for the export to Iraq of any item on the United States Munitions List.

(3) EXPORTS OF CERTAIN GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) shall be used to prohibit the export to Iraq of any goods or technology listed pursuant to that section or section 5(c)(1) of that Act (50 U.S.C. App. 2404(c)(1)) on the control list provided for in section 4(b) of that Act (50 U.S.C. App. 2403(b)).

(4) NUCLEAR EQUIPMENT, MATERIALS, AND TECHNOLOGY.—

(A) NRC LICENSES.—The Nuclear Regulatory Commission may not issue any license or other authorization under the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following) for the export to Iraq of any source or special nuclear material, any production or utilization facility, any sensitive nuclear technology, any component, item, or substance determined to have significance for nuclear explosive purposes pursuant to section 109b. of the Atomic Energy Act of 1954 (42 U.S.C. 2139(b)), or any other material or technology requiring such a license or authorization.

(B) DISTRIBUTION OF NUCLEAR MATERIALS.—The authority of the Atomic Energy Act of 1954 may not be used to distribute any special nuclear material, source material, or byproduct material to Iraq.

(C) DOE AUTHORIZATIONS.—The Secretary of Energy may not provide a specific authorization under section 57b. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)(2)) for any activity that would constitute directly or indirectly engaging in Iraq in activities that require a specific authorization under that section.

(5) ASSISTANCE FROM INTERNATIONAL FINANCIAL INSTITUTIONS.—The United States shall oppose any loan or financial or technical assistance to Iraq by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

(6) ASSISTANCE THROUGH THE EXPORT-IMPORT BANK.—Credits and credit guarantees through the Export-Import Bank of the United States shall be denied to Iraq.

(7) ASSISTANCE THROUGH THE COMMODITY CREDIT CORPORATION.—Credit, credit guarantees, and other assistance through the Com-

modity Credit Corporation shall be denied to Iraq.

(8) FOREIGN ASSISTANCE.—All forms of assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) other than emergency assistance for medical supplies and other forms of emergency humanitarian assistance, and under the Arms Export Control Act (22 U.S.C. 2751 and following) shall be denied to Iraq.

(b) CONTRACT SANCTITY.—For purposes of the export controls imposed pursuant to subsection (a)(3), the date described in subsection (p)(1) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405), as that subsection is so redesignated by the preceding provisions of this Act, shall be deemed to be August 1, 1990.

SEC. 543. WAIVER AUTHORITY.

(a) IN GENERAL.—The President may waive the requirements of any paragraph of section 542(a) if the President makes a certification under subsection (b) or subsection (c).

(b) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI POLICIES AND ACTIONS.—The authority of subsection (a) may be exercised 60 days after the President certifies to the Congress that—

(1) the Government of Iraq—

(A) has demonstrated, through a pattern of conduct, substantial improvement in its respect for internationally recognized human rights;

(B) is not acquiring, developing, or manufacturing chemical, biological, or nuclear weapons, components for such weapons, or delivery systems for such weapons, and has forsworn the first use of such weapons; and

(C) does not provide support for international terrorism;

(2) the Government of Iraq is in substantial compliance with its obligations under international law, including—

(A) the Charter of the United Nations;

(B) the International Covenant on Civil and Political Rights (done at New York, December 16, 1966) and the International Covenant on Economic, Social, and Cultural Rights (done at New York, December 16, 1966);

(C) the Convention on the Prevention and Punishment of the Crime of Genocide (done at Paris, December 9, 1948);

(D) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (done at Geneva, June 17, 1925);

(E) the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow, July 1, 1968); and

(F) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (done at Washington, London, and Moscow, April 10, 1972); and

(3) the President has determined that it is essential to the national interests of the United States to exercise the authority of subsection (a).

(c) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI LEADERSHIP AND POLICIES.—The authority of subsection (a) may be exercised 30 days after the President certifies to the Congress that—

(1) there has been a fundamental change in the leadership of the Government of Iraq; and

(2) the new Government of Iraq has provided reliable and credible assurances that—

(A) it respects internationally recognized human rights and it will demonstrate such respect through its conduct;

(B) it is not acquiring, developing, or manufacturing and it will not acquire, develop, or manufacture chemical, biological, or nuclear weapons, components for such weapons, or delivery systems for such weapons, and has forsworn the first use of such weapons;

(C) it is not and will not provide support for international terrorism; and

(D) it is and will continue to be in substantial compliance with its obligations under international law, including all the treaties specified in subparagraphs (A) through (F) of subsection (b)(2).

(d) INFORMATION TO BE INCLUDED IN CERTIFICATIONS.—Any certification under subsection (b) or (c) shall include the justification for each determination required by that subsection. The certification shall also specify which paragraphs of section 542(a) the President will waive pursuant to that certification.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. SOVIET MILITARY ASSISTANCE TO CUBA.

It is the sense of the Congress that—

(1) continuing Soviet military assistance provided to Cuba remains a serious problem in United States-Soviet relations; and

(2) the Soviet Union, in reexamining its relationship with Cuba, should cease military assistance to the Castro regime and take all other possible steps to further the policies of Glasnost and Perestroika by adopting policies supporting the political, economic, and human rights of the Cuban people.

SEC. 602. ATTACKS AGAINST ISRAELIS AND ILLEGAL ACTIVITIES IN THE UNITED STATES.

(a) REPORT ON IMPACT OF ATTACKS AGAINST ISRAELIS ON PEACE EFFORTS.—Not later than 60 days after the date of enactment of this Act, the President shall submit to the Congress an analysis of the impact on efforts to achieve peace in the Middle East of the following recent attacks against Israelis:

(1) On May 28, 1989, an attack by the Popular Front for the Liberation of Palestine and the Palestine Liberation Front, both PLO-affiliated organizations, in which a one-year-old Israeli was injured by a Katyusha rocket.

(2) On August 7, 1989, a rocket attack on the settlement of Maoz Haim by members of the PLO-affiliated Popular Front for the Liberation of Palestine.

(3) On September 6, 1989, a rocket attack by the PLO-affiliated Popular Front for the Liberation of Palestine aimed at Kibbutz Tel-Katzir that fell on Kibbutz Sha'ar Hagolan.

(4) On October 7, 1989, an attempted raid on Kibbutz Misgav-Am by a squad of terrorists armed with machine guns and anti-tank missiles from the PLO-aligned Palestine Liberation Front.

(5) On January 26, 1990, an attack on an Israeli Army patrol by at least three terrorists of the PLO-affiliated Democratic Front for the Liberation of Palestine headed for Kibbutz Misgav-Am.

(6) On February 4, 1990, an unprovoked ambush by the Popular Front for the Liberation of Palestine-General Command on an Israeli tour bus in Egypt that killed 9 and wounded 15 Israelis.

(7) On April 13, 1990, an attempted infiltration into northern Israel by boat by four terrorists of Yasser Arafat's Al-Fatah, equipped with machine guns and grenades.

(b) REPORT ON ILLEGAL ACTIVITIES IN THE UNITED STATES.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Congress a report—

(1) outlining illegal activities being undertaken in the United States by the Palestine Liberation Organization or on behalf of the Palestine Liberation Organization, including such activities as illegal drug trafficking, money laundering, weapons purchases, and arms shipments;

(2) estimating the amount of funds associated with such activities; and

(3) describing the extent to which members of the Executive Committee of the Palestine Liberation Organization, the Central Council of the Palestine Liberation Organization, and the Palestine National Council are aware of or are involved in such illegal activities.

And the Senate agree to the same.

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
MEL LEVINE,
EDWARD F. FEIGHAN,
HARRY JOHNSTON,
ELIOT L. ENGEL,
HOWARD L. BERMAN,
WM. S. BROOMFIELD,
BEN GILMAN,
TOBY ROTH,
DOUG BEREUTER,

From the Committee on Ways and Means, for consideration of sec. 120 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
TOM DOWNEY,
DONALD J. PEASE,
MARTY RUSSO,
FRANK GUARINI,

From the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 205 through 209 and 302 of the Senate amendment, and modifications committed to conference:

WALTER E. FAUNTROY,
STEVE NEAL,
JOHN J. LAFALCE,
GERALD D. KLECZKA,
NANCY PELOSI,
FLOYD H. FLAKE,
JAMES A. MCDERMOTT,
JIM LEACH,
DOUG BEREUTER,
NORMAN D. SHUMWAY,
AL MCCANDLESS,

Managers on the Part of the House.

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
JAKE GARN,
JOHN HEINZ,

From the Committee on Foreign Relations solely for consideration of title I, sec. 117 of the Senate amendment and the specific disagreeing provision of title I, sec. 109 as regards the Arms Export Control Act, sec. 120(a), title III, and title IV of the Senate amendment:

CLAIBORNE PELL,
PAUL SARBANES,
JESSE HELMS,

From the Committee on Finance solely for consideration of title IV of the Senate amendment relative to sanctions on imports:

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
BOB PACKWOOD,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

STATEMENT OF MANAGERS

TITLE I—EXPORT ADMINISTRATION ACT AMENDMENTS

SECTION 101—SHORT TITLE

Present law—No provision.

House bill—The House bill entitles this Act the "Export Facilitation Act of 1990" (section 101).

Senate amendment—The Senate amendment entitles this Act the "Export Administration Act Amendments of 1990" (section 101)

Conference agreement—The conference agreement is the Senate title.

FINDINGS AND PURPOSES

Present law—No provision.

House bill—The House bill sets forth findings regarding the changes in East Europe and inefficiencies in the existing licensing process. [section 102]

Senate amendment—The Senate amendment has no comparable provision.

Conference agreement—The conference agreement is the Senate position.

SECTION 102(A)—TYPES OF LICENSES

Present law—The Export Administration Act in section 4(a)(2) authorizes the Commerce Secretary to establish distribution and operations licenses for exports to any free world country and the People's Republic of China, but not to any controlled country.

House bill—The House bill authorizes the Commerce Secretary to establish distribution and operations licenses for exports to any country, including a controlled country, except the People's Republic of China. [sections 104(a) & 128]

Senate amendment—The Senate amendment authorizes the Commerce Secretary to establish distribution and operations licenses to any country, including a controlled country. [section 109]

Conference agreement—The conference substitute is the House provision, with the reference to the People's Republic of China being placed in the policy provision on the People's Republic of China.

SECTION 102(B)—TECHNICAL DATA

Present law—No provision.

House bill—The House bill requires the Secretary to modify each item on the Control List as necessary to specify with particularity the performance and other identifying characteristics of any technical data controlled under sections 5 or 6 or section 309(c) of the Nuclear Non-Proliferation Act of 1987. [section 104(b)]

Senate amendment—The Senate amendment requires that technical data subject to licensing requirements must be included on the Control List concurrent with implementation of the Core List. [section 111]

Conference agreement—The conference agreement is the House provision.

SECTION 103—EXPORTS TO COCOM

Present law—Section 5(b)(2)(C) of the Export Administration Act authorizes the Commerce Secretary to determine which CoCom and 5(k) countries have effective export control systems and to eliminate controls of exports to those countries. The Secretary is authorized to add or remove countries from the list of those implementing an effective control system. Section 5(a)(4)(B) of the Export Administration Act authorizes the Commerce Secretary to require reexport licenses for reexports of CoCom/5(k) destination for supercomputers, goods or technology for sensitive nuclear uses, devices for surreptitious interception of communications, and for certain end users as specified by regulation.

House bill—The House bill removes controls on all exports and reexports to and from CoCom countries and 5(k) countries as of September 30, 1991. The Commerce Secretary may control exports to unreliable end users and to countries not properly enforcing export controls. If the Secretary, in consultation with the Secretary of State, determines that a country is engaging in a pattern and practice of noncompliance with CoCom requirements, the Secretary shall impose export and reexport requirements to that country. Such determination is to be reviewed annually. The Secretary may not exclude a country from license-free treatment without notifying CoCom thirty (30) days in advance and requesting that CoCom countries apply comparable controls. [section 105]

Senate amendment—The Senate amendment removes controls on all exports and reexports to and from CoCom and 5(k) countries by December 31, 1991 to create a license-free zone. The Secretary, in conclusion with the Secretaries of State, Defense, and Energy, retains authority to require licenses for export or reexports to unreliable end-users, exports controlled as provided by special multilateral control agreements, or reexports from CoCom countries to non-CoCom and non-5(k) countries of highly sensitive items described in 5(a)(4)(b) of the Export Administration Act. License-free treatment would not apply to exports to countries the Secretary determined, in an annual review, had not achieved the common standard of enforcement. [section 108]

Conference agreement—The conference agreement is the Senate provision with an amendment to:

(1) include the House language on pattern and practice of noncompliance and on unreliable end-users;

(2) change the "special multilateral control arrangements" to control arrangements as agreed to unanimously by CoCom so long as all producer countries agree to equivalent measurements, parameters, performance capabilities, and licensing and other requirements; and

(3) require 30-day notice to Congress prior to proposing to control certain items and within 30 days after CoCom makes its determination.

SECTION 104(A)—REEXPORTS OF TECHNOLOGY

Present law—The Export Administration Act section 5(a)(A) prohibits the Commerce Secretary from controlling reexports of a good if less than 25% of the value of the good consists of U.S. components or technology.

House bill—The House bill extends the 25% de minimis standard for reexport controls to U.S. technology incorporated into foreign technology. [section 106(a)]

Senate amendment—The Senate amendment contained no comparable provision.

Conference agreement—The conference agreement is the House provision.

SECTION 104(B)—INDEXING OF SUPERCOMPUTERS

Present law—The Export Administration Act section 5(a)(4)(B) provides that the Secretary may require reexport licenses for supercomputers. It requires the Secretary of Commerce to define the term "supercomputer".

House bill—The House bill requires development within six (6) months of a performance-based system insuring that all controls and security safeguard procedures on supercomputers exports and reexports are commensurate with industry standards. For destinations other than CoCom and 5(k) countries, and controlled countries, no security and safeguard procedures may be required to export or reexport a supercomputer with a theoretical peak performance at or below 25% of the average of the two most powerful supercomputers currently available commercially in the U.S. or elsewhere. [section 106(b)].

Senate amendment—The Senate amendment requires annual review of the performance level of supercomputers that are subject to security safeguard procedures. [section 114(b)]

Conference agreement—The conference agreement is the House provision with an amendment limiting application of the provision to countries that are non-Proliferation Treaty signers "in good standing". Export licenses will be required for these supercomputers.

MULTILATERAL REEXPORT CONTROLS

Present law—The Export Administration Act section 5(a)(4) prohibits reexport controls to CoCom/5(k) countries except for certain exceptions.

House bill—The House bill prohibits reexport controls to non-controlled countries unless all CoCom/5(k) countries maintain and implement essentially congruent reexport controls. [section 106(c)].

Senate amendment—The Senate amendment contains no comparable provision.

Conference agreement—The conference agreement is the Senate position.

SECTION 107—EAST-WEST DECONTROL

Present law—No provision.

House bill—The House bill requires Secretary of State to propose to CoCom to decontrol all items up to the China Green Line. Exports or reexports to the Soviet Union may be approved only goods or technology for civil end-uses, based on specified criteria. The provision sets out criteria for civil end uses. [section 107(a)]

Senate amendment—The Senate amendment codifies the regulations issued pursuant to the agreements reached at the June 6-7, 1990 CoCom High Level Meeting. It establishes as U.S. policy relaxation of East-West controls multilaterally and elimination of certain licensing requirements, including implementation of a "Core List",

special procedures for countries posing lesser strategic threat, new national discretion and favorable consideration procedures, and a CoCom license-free zone within six (6) months. By April 1, 1991, the Secretary of Commerce, in consultation with the Secretaries of State and Defense, must report to Congress on implementation of the High Level Meeting, and their undersecretaries must testify on the report by May 1, 1991. [section 107(a)]

Conference agreement—The conference agreement is the Senate provision with an amendment codifying U.S. regulations implementing the June 6-7, 1990, CoCom agreement and directing that the Secretary of State propose to CoCom decontrolling computers at least up to the level known as the People's Republic of China Greenline.

SECTION 110—EXPORTS SUBJECT TO NATIONAL DISCRETION AND FAVORABLE CONSIDERATION

Present law—The Export Administration Act in section 10 provides that the Secretary of Commerce must formally issue or deny a license application within 60 days if there is no need to refer it to other agencies and within 120 days if there is. The Secretary also has 10 days to determine whether to submit a license application to CoCom, but is not required to forward it to CoCom.

House bill—The House bill requires the Secretary to develop and employ procedures that will ensure the U.S. action on license applications at the administrative exception note level will be completed within 30 days of their submission to the Secretary. It also requires the Secretary to develop and employ procedures to ensure that license applications that are eligible for favorable consideration shall be submitted to CoCom within 30 days of their submission to the Secretary. [section 107(a)]

Senate amendment—The Senate amendment requires that export license applications for goods subject to CoCom national discretion procedures must be formally approved or denied within 15 days. Applications for goods subject to favorable consideration procedures or special 30 day advance notice to CoCom shall be formally denied by the Secretary or forwarded to CoCom within 30 days of receipt. The Secretary may require an additional 30 days. [section 103]

Conference agreement—The conference agreement is the Senate provision with an amendment requiring 15 day completion of licensing, with an additional 30 days allowable for licenses under favorable consideration that require pre-license investigations.

SECTION 106—POLICY TOWARD COUNTRIES REPRESENTING A LESSER STRATEGIC THREAT

Present law—The Export Administration Act section 5(b)(1) authorizes the President to add or remove countries from the list of controlled countries, taking into account 6 criteria. The President shall review U.S. policy toward individual countries in light of these criteria in the case of multilateral controls every three years and all other controls annually.

House bill—The House bill provides that, within 90 days, the Secretary of State shall seek CoCom approval for favorable consideration of export license applications above the Green Line for civil end-users to countries meeting criteria for lesser strategic threat, or to Poland, Hungary, Czechoslovakia, and any country eligible for SEED assistance. The Secretary is to determine if this level of decontrol is adequate to promote economic development in certain critical sectors in Eastern Europe, while protecting U.S. national security, and report this determination to Congress. If inadequate, the Secretary of State shall request that CoCom raise the Green Line levels for specified civilian sectors in Eastern Europe. The provision establishes criteria for determining "civil end-use" and places the responsibility for making that determination with the Secretary. It also provides a definition of favorable consideration. [section 107]

Senate amendment—The Senate amendment establishes the policy that licensing treatment of a country on the list of controlled countries should be revised where that country represents a lesser strategic threat, implements an effective export control system, adopts end-use assurances and on-site inspections and verifications, and terminates intelligence cooperation with other controlled countries relating to illegal acquisition and diversion of controlled technology. The Secretary of State should propose that CoCom adopt special procedures for favorable consideration of exports to countries the Commerce Secretary determines, in consultation with the Secretaries of State and Defense, have met the criteria for lesser threat. The Secretary shall undertake an annual review of such countries' appropriate use and protection of technology, resulting in appropriate proposals to liberalize or tighten export controls to those countries. Under the proper circumstances, the U.S. could propose that CoCom remove those countries from the list of controlled countries and treat them as free world or cooperating countries. [section 104]

Conference agreement—The conference agreement is the Senate provision.

SECTION 111—POLICY FOR GENERAL EXCEPTION CASES

Present law—No provision.

House bill—The House bill states that it is U.S. policy to actively consider and approve general exception cases of U.S. exporters; to support identical exceptions for exporters from other countries; to provide guidelines to U.S. exporters regarding goods, sectors, end-users eligible for general exception; and to fully and promptly notify U.S. exporters of all agreements and decisions adopted by CoCom with respect to such exceptions. [section 107(b)]

Senate amendment—The Senate provision contains no comparable provision.

Conference agreement—The conference agreement is the House provision with an amendment providing for consistency in approval of general exception cases between the U.S. Government and other CoCom governments.

SECTION 109—CONTROLS ON TELECOMMUNICATIONS

Present law—No provision.

House bill—The House bill requires the Secretary of State to propose to CoCom that exports of telecommunications equipment for civil end-use to any country be on a national discretion basis, and that exports of telecommunications technology for civil end-use to any country, other than a controlled country not eligible for favorable consideration, should also be on a national discretion basis. [section 108]

Senate amendment—The Senate amendment establishes that U.S. policy shall encourage and facilitate the most favorable treatment permissible under the CoCom agreement for exports of telecommunications equipment for civil purposes. Czechoslovakia, Poland, and Hungary will immediately be accorded national discretion and favorable consideration treatment for telecommunications exports as provided in the CoCom agreement as soon as they adopt certain security procedures. Other countries that represent a lesser strategic threat will be accorded favorable consideration treatment for telecommunications exports as provided in the CoCom agreement. The U.S. should propose to CoCom that exports to lesser threat countries of computer network software and related equipment, including that for wide area networks, should be accorded the same treatment as computer systems exported for interconnection to such networks. [section 107]

Conference agreement—The conference agreement is a compromise between the two provisions. It directs the Secretary of State, within 30 days of enactment, to propose to CoCom as part of the U.S. Core List proposal that a country receiving special treatment from CoCom should be accorded, in the case of telecommunications equipment and associated operations technical data, CoCom's least restrictive control procedures. At present, this would mean national discretion treatment. The agreement includes a modified version of the Senate definition of telecommunications. The agreement also requires that the President prepare and submit to the Congress a report on the national security implications of the transfer of telecommunication equipment and technology by CoCom to controlled countries.

In pursuing this policy regarding telecommunications, the conferees direct the administration to consider among the range of equipment and technology to be covered the following types of equipment and technology:

(1) telephone switching systems and stored program controlled communications switching systems, including related features components that provide services and management of telecommunications networks;

(2) telecommunications transmission equipment;

(3) microwave, light wave, and other radio relay, transmitting, or test equipment, including communications satellite earth stations, and components and accessories related to such equipment;

(4) telecommunications cables and components, including optical fibers and optical cables;

(5) equipment containing frequency synthesizers when used in land-based mobile communications systems;

(6) equipment described in any of subclauses (I) through (V), or any other telecommunications equipment, that contains lasers;

(7) computer hardware and application specific software which are related to any of the items described in subclauses (I) through (VI) and are required for data communications; and

(8) all spare parts, components, and measuring or test equipment related to any of the items described in subclauses (I) through (VII).

SECTION 108—COMMODITY JURISDICTION

Present law—The Export Administration Act section 17(b) provides that the authority granted under this Act shall be exercised to achieve effective coordination with that exercised under section 38 of the Arms Export Control Act (AECA). The AECA authorizes the President to designate those items that shall be considered defense articles and defense services and controlled under the U.S. Munitions List.

House bill—The House bill provides that no item be on both the U.S. Control List and the Munitions List. Items on the CoCom International Munitions List shall be controlled under the Arms Export Control Act and not the Export Administration Act. An item not on the International Munitions List shall be controlled under the Export Administration Act and not the Arms Export Control Act. An item not on the International Munitions List may be controlled under the Arms Export Control Act if: (1) the item is specially designed for military or intelligence applications, does not have the identifiable civil applications, and is not essentially equivalent in performance to civil items; and, (2) the U.S., within a 9 month period, proposes that CoCom add the item to the International Munitions List. If CoCom negotiations are continuing, an additional 9 month period is available. For items that fit the criteria for munitions but have not been placed on the International Munitions List by CoCom for multilateral control, the Secretary of State, in consultation with the Secretary, may identify them for Export Administration Act section 6 foreign policy controls. Within three months after enactment of this bill, the U.S. Munitions List and Control Lists shall be published. Whenever either the Secretary of Commerce or State receives a request to determine whether an item is controlled by the Export Administration Act or the Arms Export Control Act, or whenever either Secretary decides on his own initiative, the Secretary shall refer to the other Secretary a copy of the request or determination within three days. The Secretary receiving the referral then has seven (7) days to transmit his position to the other Secretary. If the two Secretaries disagree over jurisdiction, they shall refer the matter to the President within ten (10) days of the second Secretary's response. The President shall make a determination and notify the Secretaries within ten (10) more days. If either Secretary does not follow these procedures, then that Secretary will have been deemed to agree with the other Secretary. [section 109]

Senate amendment—The Senate amendment provides that no item may be included on both the Control List and the Munitions List. Whenever the Secretary of Commerce or State finds that an item is included on both lists, the Secretary making the finding shall notify the other. The Secretaries have twenty (20) days to decide on which list the item should appear. If no resolution is reached, the matter is referred to the President who has twenty (20) days to make a final decision. Effective with the implementation of the Core List, but no later than March 31, 1991, for purposes of 5 of the Export Administration Act, items on the CoCom Industrial List shall be controlled under the Control List and no items on the CoCom Industrial List can be moved from the Control List to any other U.S. control list unless the President determines that exceptional circumstances require it and he so reports to the Congress within ten (10) working days. The Secretary of Commerce must, by regulation, define the term "dual use goods and technology" no later than March 31, 1991. No section 5 controls eliminated after the High Level Meeting of June 6-7 shall be reinstated under any authorities other than section 6 unless the President determines that extraordinary circumstances directly affecting national security exist and so reports to Congress within ten (10) working days. [section 117]

Conference agreement—The conference agreement is the House provision with an amendment:

(1) to expand the definition of munitions to include items that do not have "significant" civil application;

(2) to allow the President under "extraordinary circumstances affecting the national security" to place an item on the U.S. munitions list if he also proposes to CoCom that the item be added to the International Munitions List; and

(3) substitute a simplified dispute resolution mechanism, including a period of 15 days for the Secretaries to resolve their differences and a period of 15 days for the President to render a final decision.

The conferees intend that, in reviewing the Control List and the Munitions List under this provision, the Secretary of Commerce and the Secretary of State shall focus on cases such as jet propulsion engines and commercial aircraft in which goods and associated technology are controlled on different lists, in order to ensure consistency in U.S. control and trade policy.

Certain cryptographic products and categories of cryptographic products that were controlled under the jurisdiction of the Arms Export Control Act (AECA) have been removed to the jurisdiction of the Export Administration Act (EAA). There is no intent to use the authority of this provision to place these products back under the jurisdiction of the AECA.

SECTION 112—CONTROL LIST REVIEW

Present law—The Export Administration Act in section 5(c)(3) requires the Secretary of Commerce to conduct quarterly reviews of the Control List and revise the list as may be necessary. Each item on the Control List shall be reviewed at least once each year. The concurrence of other agencies is not required before the Control List is revised. The Secretary shall use the data from the review in formulating U.S. proposals to CoCom. Assessment of foreign availability shall be part of each review. TAC's must be consulted in the review.

House bill—The House bill provides that on September 30, 1992 all national security controls on exports to non-controlled countries shall end, unless the Secretary, after consulting with the Secretary of Defense, determines that an item should be controlled for national security purposes. To control such an item, the Commerce Secretary must make a separate determination and publish it in the Federal Register. The Secretary must review and reaffirm these controls every two years. By November 1, 1992 the U.S. must propose that CoCom decontrol all items not on the U.S. Control List. [section 110]

Senate amendment—The Senate amendment updates and revises the control list review requirements of 5(c) of the Export Administration Act to reflect the fact that the Control List will not include unilateral national security controls and will be based on the CoCom list. It makes the U.S. list review a basis for proposals to revise the CoCom list. the U.S. list review shall consider proposals for decontrol and other policy changes arising from the revised indexing exercise under section 114. Each item on the Control List shall be reviewed at least once every three (3) years. [section 113]

Conference agreement—The conference agreement adopts both provisions with modifications.

SECTION 113—UNILATERAL CONTROLS

Present law—No provision.

House bill—The House bill defines unilateral controls to mean those not imposed by other members of CoCom. [section 111(a)]

Senate amendment—The Senate amendment contains no comparable provision.

Conference agreement—The conference agreement is the House provision with an amendment clarifying that the provision does not apply in the case of conditions or restrictions specifically permitted by the Export Administration Act, such as permitted reexport controls.

SECTION 114—TRADE SHOWS

Present law—Export Administration Act in section 5(e)(6) creates a presumption of approval for trade show license applications to the Peoples Republic of China, regardless of the technical specifications of the goods, if the U.S. exporter retains title to the goods and removes them no later than the conclusion of the trade show.

House bill—The House bill provides that exports of goods, regardless of their technical specifications, to a controlled country, for the purpose of demonstration or exhibition at a trade show, shall have a presumption of approval if the U.S. exporter retains title and removes the goods no later than the conclusion of the trade show. [section 111(b)]

Senate amendment—The Senate amendment establishes a presumption of approval for exports of goods for use in trade shows or demonstrations in any country, including a controlled country. The exporter must retain title to the goods and comply with any safeguard requirements imposed by the Commerce Secretary, and must remove the goods within a reasonable time after the conclusion of the trade show or demonstration, as defined in regulations. [section 110]

Conference agreement—The conference agreement is the Senate provision.

SECTION 115—EXPORTS OF RELATED TECHNICAL DATA

Present law—No provision.

House bill—The House bill provides that any general or validated license to export any goods or technology shall also authorize the export of related operation technical data, whether or not such data is specifically referenced in the license of license application. [section 111(c)].

Senate amendment—The Senate amendment proves that a license for goods or technology automatically covers the operation technical data necessary to install, repair, maintain, check, operate, or use the goods or technology. [section 111].

Conference agreement—The conference agreement is the Senate provision.

SECTION 116—INDEXING

Present law—Export Administration Act section 5(g) provides that the Secretary may, where appropriate, increase the performance levels of goods and technologies subject to licensing requirements.

House bill—The House bill requires the Secretary of Commerce to issue regulations no later than 6 months after the date of enactment establishing indexing procedures that provide for automatic increases in the performance levels of items that are subject to licensing requirements. Goods for technology no longer meeting increased performance levels shall be removed from the Control List unless the Secretary determines that doing so would be detrimental to national security. The Secretary must direct the technical advisory committees to recommend indexing procedures. [section 112]

Senate amendment—The Senate amendment requires the Secretary, in response to recommendations of technical advisory committees, to incorporate into the list review process an indexing analysis that provides a technical justification for increases in performance levels, setting minimum levels below which no export license is required. Results of the indexing analysis shall be incorporated into U.S. proposals to CoCom. The Secretary shall report annually on the results of the indexing analysis.

Conference agreement—The conference agreement is the House provision with an amendment striking the word "automatic" and providing that CoCom be notified as appropriate of West-West decontrol decisions, and requiring that TACs initiate the indexing process. It is the opinion of the conferees that each technical advisory committee generally should give priority to recommending such indexing procedures first for goods or technology for which the greatest number of validated license applications were received under this Act during the most recent fiscal years for which such information is available. In recommending such indexing procedures in the case of computers, the technical advisory committees should give initial consideration to establishing percentage based methods of indexing.

SECTION 117—5(K) FOR NIC'S.

Present law—No provision.

House bill—The House provides that, no later than 6 months after the date of enactment the Secretary of Commerce shall report to Congress on goods and technology available from newly industrialized countries and whether they warrant multilateral export controls. If such controls are warranted the Secretary shall propose to CoCom that negotiations be initiated to reach agreements with such countries under section 5(k). [section 113(a)]

Senate amendment—The Senate amendment has no comparable provision.

Conference agreement—The conference agreement is the House provision.

SECTION 117—SUBMITTING PROPOSALS TO COCOM

Present law—No provision.

House bill—The House bill provides that, whenever the Secretary of Commerce makes a final determination within his authority under the Export Administration Act, the Secretary of State shall, within 7 days after receiving the Commerce determination, submit to CoCom the U.S. proposal that would apply that determination. [section 113(a)].

Senate amendment—The Senate amendment has no comparable provision.

Conference agreement—The conference agreement is the House provision.

SECTION 117—COCOM REPRESENTATION

Present law—The Export Administration section 5(k) requires the Secretary of State, in consultation with the Secretaries of Defense, Commerce, and other heads of appropriate departments and agencies, to be responsible for negotiating with other countries regarding their cooperation in restricting the export of goods and technology.

House bill—The House bill provides that the Secretary or his designee shall be a member of the permanent U.S. delegation to CoCom. It also provides that the Commerce Secretary or his designee be represented, whenever the Secretary so determines, at negotiations with other countries that involve the Export Administration Act. [section 113(a)]

Senate amendment—The Senate amendment provides that the Secretary or his designee shall be a member of the permanent U.S. delegation to CoCom. [section 115].

Conference agreement—The conference agreement is the Senate provision.

SECTION 119—PUBLISHING COCOM DECISIONS

Present law—No provision.

House bill—The House bill requires the Commerce Secretary to publish within 90 days of enactment of this bill the three CoCom international control lists, with all notes and understanding concerning them, and update this publication annually. The Secretary must also publish within 30 days all CoCom agreements, revisions of texts, and U.S. proposals to revise the international lists. The Secretary must publish, subject to the limitations of Export Administration Act section 12(c) [which protects from disclosure information submitted to Commerce in connections with a license application] all decisions on requests for general exceptions to the CoCom international lists. The Secretary may refrain from such publication upon submitting to Congress a written finding that publishing this information would be contrary to the national security or U.S. obligations to CoCom.

Senate amendment—The Senate amendment has no comparable provision.

Conference agreement—The conference substitute is the House provision with an amendment to insure that U.S. obligations to and the confidentiality of the CoCom process are maintained.

FOREIGN POLICY CONTROLS

Present law—The Export Administration Act in section 6(B)(1) requires the President to determine that 5 criteria be met before he may impose foreign policy controls. Section 6(h) provides that if the Commerce Secretary determines that a good technology is available in sufficient quantity and comparable quality from foreign sources so that denying export licenses would be ineffective, he must approve the relevant license applications.

House bill—The House bill replaces the requirements of the Export Administration Act section 6(B)(1), that the President may impose foreign policy controls only if he "determines" the 5 criteria for effective controls are met, with the provision that the President shall "consider" whether those criteria are met. It lowers the threshold for satisfying those 5 criteria and eliminates the requirement in the Export Administration Act section 6(h)(30 that the Secretary approve export license applications if a determination is made that foreign availability would render the foreign policy controls ineffective. [section 115]

Senate amendment—The Senate amendment provides that, if the foreign policy controls are imposed and the U.S. is unable to secure the cooperation of appropiate foreign governments, the Secretary of Commerce must make a determination of foreign availability. If such cooperation is not secured, or foreign availability is not eliminated, within 12 months after foreign policy controls are imposed, the Secretary must remove the controls unless the President determines that essential foreign policy interest of the U.S. require their continuation. [section 119]

Conference agreement—The conference agreement eliminates both provisions.

REVIEW OF LICENSES BY DOD

Present law—The Export Administration Act in section 10(g) allows the Secretary of Defense to review any application to any country to which exports are controlled for national security purposes. The 1988 Export Administration Act amendments set a 20 day time limit for the Secretary of Defense to act and another 20 day limit for the President to respond to the Secretary of Defense's recommendation. If the Secretary of Defense fails to make a recommendation to the President or the President fails to notify the Secretary of approval or disapproval of an application, the Secretary of Commerce may approve or deny the application.

House bill—The House bill specifies when the Secretary of Defense may review licenses to countries controlled for national security purposes. The Secretary of Commerce shall consult with the Secretary of Defense to allow the latter to review: applications to license exports to USSR except for items below the AEN level; applications to license exports to Eastern Europe that do not qualify for favorable consideration treatment, except for items below the AEN level; and applications to license exports to controlled countries for other than civil end-uses. The Commerce Secretary shall determine whether or not end uses are civil based on statutory criteria. It requires a GAO report no later than December 31, 1991, concerning the impact on the license approval process of procedural changes mandated by the House bill and concerning overall efficiency of license approval process under the Export Administration Act. [section 116]

Senate amendment—The Senate amendment requires a report from Commerce and Defense on implementation of dispute resolution procedure provided in section 10(g) of the Export Administration Act. [section 116]

Conference agreement—The conference agreement eliminates both provisions.

SECTION 121—CRIMINAL PENALTIES

Present law—The Export Administration Act section 11(b) provides penalties for willful violations: up to 5 times the value of the exports involved or $1 million for corporations; up to $250,000 or up to 10 year in prison for individuals. For willful failures to report penalties or up to 5 times the value of the exports or $1 million for corporations; and up to $250,000 or up to 5 years for individuals.

House bill—The House bill doubles the penalties for willful violations made with the knowledge that the goods were destined for or intended to benefit a controlled country or country to which exports are controlled for foreign policy purposes, and for willful failure to report to the Secretary of Defense that licensed goods or technology is being used by a controlled country for military or intelligence gathering purposes.

This section also establishes a 5-year statute of limitations on bringing civil actions to recover penalties and on actions seeking to impose administrative sanctions. [section 117]

Senate amendment—The Senate amendment has no comparable provision.

Conference agreement—The conference agreement is the House provision with an amendment eliminating the provision regarding the 5-year statute of limitations.

SECTION 123—ENFORCEMENT AUTHORITY

Present law—The Export Administration Act section 12(a) authorizes the U.S. Customs Service to investigate criminal cases domestically and abroad and the Department of Commerce to investigate them only domestically. The Department of Commerce

is also authorized to investigate administrative cases, domestically.

House bill—The House bill provides for forfeiture of goods or technology that have been lawfully seized by authorized officers or employees of the Commerce Department. In addition, it authorizes the Commerce Department to conduct investigations overseas and authorizes the Commerce Department to establish and fund proprietary corporations or business entities as part of undercover operations to enforce the Export Administration Act. [section 119]

Senate amendment—The Senate amendment contains similar forfeiture authority.

Conference agreement—The conference agreement is the House provision with an amendment eliminating the provision regarding the overseas authority.

SECTION 124—JUDICIAL REVIEW

Present law—The Export Administration Act in section 13 exempts from judicial review all functions exercised under the Act, except for appeals from imposition to administrative penalties. Section 10(j) permits an export license applicant to bring an action to U.S. district court for a restraining order, injunction, or other relief to require the Commerce Department to act on the application within specified time periods.

House bill—The House bill eliminates the exemption from judicial review of most actions under the Export Administration Act. Legal actions to obtain judicial review may be brought in any appropriate U.S. district court. Exempts from judicial review any discretionary determination whether a good or technology should or should not be on the Control List. [section 119]

Senate amendment—The Senate amendment has no comparable provision.

Conference agreement—The conference agreement is the House provision with an amendment specifying the actions which are subject to judicial review.

The conference agreement is the House provision with an amendment specifying the actions which are subject to judicial review.

Judicial review is intended to make the executive branch more accountable for implementing the express provisions of the Export Administration Act. Some provisions of the 1988 amendment to the EAA were not implemented or were implemented far beyond statutory deadlines. Those harmed by failure to comply with the express terms of the statute should be able to seek redress in the courts. These provisions provide them an opportunity to do so.

Judicial review is not available when agency action is committed to agency discretion under the Export Administration Act. This standard is derived from the Administrative Procedures Act. 5 U.S.C. Sec. 701(a)(2). Except as limited by the express terms of the statute, examples of actions generally committed to agency discretion under the Export Administration Act, are:

(1) control list determinations, including classification determinations;

(2) licensing determinations and decisions;

(3) foreign availability determinations;

(4) foreign policy control determinations;

(5) country status determinations under this Act; or

(6) other determinations committed by law to agency discretion.

ACT SELF-EXECUTING

Present law—No provision.

House bill—The House bill provides that the provisions of the bill are self-executing and take effect whether or not implementing regulations are issued. [section 120]

Senate amendment—The Senate amendment has no comparable provision.

Conference agreement—The conference agreement is the Senate position.

SECTION 129—AUTHORIZATION

Present law—The Export Administration Act section 18(b) authorizes appropriations of $46,913,000 for fiscal year 1989, of which $15 million shall be available only for enforcement, $5 million shall be available only for foreign availability assessments, $4 million shall be available only for regional export control assistance centers, plus such additional sums as may be necessary for increases in salary, pay, etc. and other nondiscretionary costs.

House bill—

House bill—The House bill authorizes appropriations of $46,707,000 for fiscal year 1991, of which $150,000 shall be available only for the Commerce representative to CoCom, plus such additional sums as may be necessary for increases in salary, pay, etc. and other nondiscretionary costs. [section 121]

Senate amendment—The Senate amendment authorizes appropriations of $44,523,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 for the Department of Commerce to carry out the purposes of the Act, of which $150,000 is to be used each year only for the Commerce representative to CoCom. [section 123]

Conference Agreement—The conference agreement is the House provision.

SECTION 130—EXTENSION OF ACT

Present law—The Export Administration Act expired on September 30, 1990.

House bill—The House bill extends the Export Administration Act until September 30, 1991. [section 122]

Senate amendment—The Senate amendment extends the Export Administration until September 30, 1992.

Conference agreement—The conference agreement extends the Act until June 30, 1992.

FOREIGN INVESTMENT

Present law—No provision.

House bill—The House bill provides that it is the sense of Congress that the President shall insist on reciprocity on the question of foreign investment. [section 124]

Senate amendment—The Senate amendment has no comparable provision.

Conference agreement—The conference agreement is the Senate position.

POLICY ON GERMANY

Present law—No provision.

House bill—The House bill provides that any new contract between a united Germany and the USSR should comply with CoCom rules. Congress urges the executive branch to seek CoCom approval for assurances that its rules will apply to these new contracts. [section 125]

Senate amendment—The Senate amendment has no comparable provision.

Conference agreement—The conference agreement is the Senate position.

SECTION 127—EXPORTS TO THE SOVIET UNION

Present law—No provision.

House bill—The House bill provides that no exports to the Soviet Union are still controlled after the 1990 Export Administration Act amendment become effective may be licensed for sale by U.S. exporters until the President certifies that the Soviets are seriously negotiating with Lithuania, without economic coercion, to allow the latter's self-determination. It further states the sense of the Congress that no exports to the Soviet Union otherwise permitted by this Act should be made if the Soviet Union takes action to restrict the emigration of Jews from the Soviet Union. [section 126]

Senate amendment—The Senate amendment contains the same language on Lithuania as the House bill, except that it is expressed as a sense of the Senate. [section 121]

Conference agreement—The conference agreement combines both provisions, stating both policies as "sense of the Congress."

SECTION 125—POLICY TOWARDS THE PEOPLE'S REPUBLIC OF CHINA

Present law—No provision.

House bill—The House bill contains no comparable provision.

Senate amendment—The Senate amendment states that it is U.S. policy that export licensing preferences for the People's Republic of China should be eliminated and access to dual use items representing proliferation concerns should be restricted. It instructs the U.S. representative to CoCom to oppose preferential licensing treatment for the Peoples Republic of China compared to other controlled countries. If the President determines that licensing treatment for the Peoples Republic of China should be liberalized compared to other controlled countries, he must report such determination to Congress 30 days in advance. This section also amends section 6 of the Export Administration Act to provide that exports to the Peoples Republic of China of items controlled for chemical weapons and missile proliferation reasons should be denied unless adequate end-use and non-transfer assurances are received. [section 122]

Conference agreement—The conference agreement is the Senate provision with an amendment stating that distribution and operation licenses should not be provided for exports to the Peoples Republic of China.

SECTION 126—U.S. SATELLITES ON THE PEOPLES REPUBLIC OF CHINA LAUNCH VEHICLES

Present law—The Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, Public Law 101-246, stipulates that no satellites may be exported to the People's Republic of China unless the President certifies to the Congress that it is in the national interest to do so.

House bill—The House bill prohibits exports of U.S.-built satellites, components, or technology related thereto to the People's Republic of China. [section 127]

Senate amendment—The Senate provision has no comparable provision.

Conference agreement—The conference agreement adopts the House provision with an amendment that provides that the President may waive the export prohibition on a case-by-case basis upon certification by the U.S. Trade Representative that the terms of offers or contracts to provide commercial launch services with regard to the respective satellite, component, or technology related thereto, for which any application is pending or later filed fully comply with the requirements of the US/PRC Commercial Launch Services Agreement.

The US/PR Commercial Launch Services Agreement which was signed in January, 1989, permitted for the first time U.S. satellites to be exported to the People's Republic of China for launch-service provider to limit itself to launch no more than nine communications satellites for non-Chinese customers prior to December 31, 1994, and to price

its services "on a par with" those of Western providers.

The conferees are concerned by allegations of People's Republic of China noncompliance with the latter and other Agreement provisions and by the failure of the Administration to take the steps necessary to ensure compliance. This failure attacks both the credibility of our trade policy and the health of the U.S. commercial launch services industry. The conferees intend that the required case-by-case certification and waiver based thereon be granted only when it is clear that the People's Republic of China is observing all the terms and conditions of the Agreement. The waiver is not intended to be a substitute for the hard diplomacy which may well be necessary to ensure that the People's Republic of China fulfills its obligations and that the U.S. industry is not subjected to the unfair competition which the Agreement was designed to prevent.

The conference provision is not intended to apply to the export licenses for the AUSSAT satellites, which were contracted for prior to the negotiation of the Agreement.

SECTION 118—REMOVAL OF SECTION 5(k) DESIGNATION

Present law—

Present law—The Export Administration Act section 5(k) authorizes the Commerce Secretary to grant licensing benefits to 5(k) countries. Section 5(b)(2)(C) authorizes the Commerce Secretary to determine whether such countries have effective export control systems and requires an annual review of that determination. The Secretary is also authorized to add or remove countries from the list of those implementing an effective control system.

House bill—The House bill contains no comparable provision.

Senate amendment—The Senate amendment provides that 5(k) designation shall be removed if a country does not maintain export controls comparable to CoCom countries. [section 105]

Conference agreement—The conference agreement is the Senate provision.

SECTION 122—POLICY TOWARD COUNTRIES RECEIVING LICENSING BENEFITS

Present law—The Export Administration Act in section 11A provides for sanctions on foreign persons, and not countries, who violate regulations issued by countries to control exports for national security purposes to implement CoCom agreements. This section prohibits imports and U.S. Government procurement from those foreign persons.

House bill—The House bill has no comparable provision.

Senate amendment—The Senate amendment extends the "Toshiba sanctions" of Section 11A of the Export Administration Act under which the President has discretion to impose sanctions for violations of CoCom export controls by foreign persons, to 5(k) countries and those controlled countries designated as representing a lesser strategic threat, including the German Democratic Republic until a unified Germany is a member of CoCom. A new sanction, export denial, is added to section 11A of the Export Administration Act. [section 106]

Conference agreement—The conference agreement is the Senate provision with an amendment eliminating the reference to the German Democratic Republic.

SECTION 105—STANDARD OF MEASUREMENT FOR COMPUTERS

Present law—No provision.

House bill—The House bill has no comparable provision.

Senate amendment—The Senate amendment requires the Secretary of Commerce, after consulting with CoCom and receiving recommendations from the relevant technical advisory committee, to propose regulations that update and, where appropriate, revise or replace the standard of measurement currently used for computers other than supercomputers. [section 112]

Conference agreement—The conference agreement is the Senate provision. In developing such measures the Secretary shall consider factors which include instruction rate, the input/output system, the memory system, vector processing, and parallel processing.

SECTION 120—REVIEW OF LICENSES

Present law—The Export Administration Act in section 5(b)(1) authorizes the President to add or remove countries from the list of controlled countries, taking into account 6 criteria. Currently the list of controlled countries includes only Warsaw Pact countries.

House bill—The House bill has no comparable provision.

Senate amendment—The Senate amendment adds to the list of controlled countries established under section 5(b)(1) Iraq, Iran, Syria, and Libya, and other countries the President determines to be transferring U.S. chemical, biological, nuclear or missile technology to those countries, unless the President determines such countries are not stockpiling chemical, biological, or nuclear weapons or ballistic missiles. Nothing in this provision shall preclude the imposition of controls under section 7 of this Act.

Conference agreement—The conference agreement is the Senate provision, with an amendment which does not place this provision in Section 10 of the Export Administration Act; grants the Secretary of Defense the authority to review export license applications to Iran, Iraq, Syria, and Libya or other countries that have been declared terrorist countries under section 6(j) of the Export Administration Act; and adds language on license review for missile technology and chemical weapons.

SECTION 128—CUBA SANCTIONS

Present law—The United States Government of July 8, 1963, issued the Cuban Assets Control Regulations under the Trading with the Enemy Act (50 U.S.C. 1-44). Under these regulations the United States prohibits trade and financial transactions between U.S. citizens and Cuba. However, U.S. owned foreign firms are permitted to trade with Cuba under certain licensing categories contained in the Cuban Assets Control Regulations (515.559 of title 31), Code of Federal Regulations.

House bill—The House bill has no comparable provision.

Senate amendment—The Senate amendment contained two similar provisions prohibiting the issuance of licenses to foreign subsidiaries of U.S. firms to trade with Cuba.

Conference agreement—The conference agreement is the provision from Title III of the Senate bill.

PRIVATE INSPECTIONS

Present law—No provision.

House bill—The House bill has no comparable provision.

Senate amendment—The Senate amendment authorizes the Secretary to maintain a list of approved private inspection companies to enable exporters to submit independently verified, certified information for licensing.

Conference agreement—The conference agreement is the House position.

TITLE II—EXPORT PROMOTION

SECTION 201(A)—MINISTER-COUNSELORS

Present law—Present law authorizes the U.S. and Foreign Commercial Service to establish 8 minister-counselors.

House bill—The House bill increases the number of minister-counselor positions for the U.S. and Foreign Commercial Service from 8 to 12. [section 301(a)]

Senate amendment—The Senate amendment has the same provision.

Conference agreement—The conference agreement increases the number of minister-counselor positions to 12.

SECTION 201(B)—REPORT ON TRAINING OF US & FCS OFFICERS

Present law—No provision.

House bill—The House bill requires the Secretary to report to Congress within 6 months on the adequacy of training for US & FCS officers. [section 301(b)]

Senate amendment—The Senate amendment has no comparable provision.

Conference agreement—The conference agreement is the House provision.

SECTION 201(C)—US&FCS OFFICERS TO EBRD

Present law—Present law requires the Commerce Department to place officers at the World Bank, Inter-American Development Bank, Asian Development Bank, and the African Development Fund.

House bill—The House bill assigns a commercial officer to the European Bank for Reconstruction and Development. The officer shall provide procedural assistance to exporters in completing bidding documents. [section 301(c)]

Senate amendment—The Senate amendment contains no comparable provision.

Conference agreement—The conference agreement is the House provision.

SECTION 201(D)—US&FCS OFFICERS IN DEFICIT COUNTRIES

Present law—No provision.

House bill—The House bill provides that the Secretary of Commerce shall increase the number of Commercial Service officers in each of the 5 countries where the U.S. had the greatest trade deficit in calendar year 1989. The increase shall be by 2 over the number assigned those countries in FY 1989. [section 301(d)]

Senate amendment—The Senate amendment has no comparable provision.

Conference agreement—The conference agreement is the House provision.

SECTION 204—REPORT ON EXPORT POLICY

Present law—No provision.

House bill—The House bill requires the Secretary of State to assess the free trade status of foreign countries and determine whether they provide reciprocal market access. [section 302]

Senate amendment—The Senate Amendment requires the Commerce Secretary to submit a report to the Congress no later than April 30 following any year in which the U.S. shows a merchandise trade deficit: (1) analyzing ways to increase exports that address (A) progress in strengthening coordination of Federal promotion efforts, (B) efforts to improve coordination of Federal export promotion efforts with the states, (C) efforts to improve coordination and cooperation with private industry groups, and (D) inadequacies in Federal and State government and private sector export financing

programs; (2) assessing barriers to U.S. exports; (3) recommending ways to increase industrial exports, improve U.S. manufacturing and industrial competitiveness, encourage research and development on critical technologies, improve financing programs; and (4) describing ways to improve information and assistance to small- and medium-sized exporters. As part of the first report the Secretary must submit a 5-year export market development strategy addressing the issues listed above. The Secretary shall appear to testify on such report at the request of the Committee. [section 203]

Conference agreement—The conference agreement is the Senate provision with an amendment that deletes portions of the report and focuses it principally on ways to strengthen the international economic competitiveness of the United States by promoting the development and export of products and technologies deemed critical for industrial leadership. This provision should not be construed as requiring or prohibiting the Department of Commerce from employing outside consultants to conduct the report.

SECTION 202—COOPERATOR PROGRAM

Present law—The 1988 Trade Act authorizes the Secretary of Commerce to establish the Market Development Cooperator Program.

House bill—The House bill adds to the list of qualification for paticipation in the cooperator program. [section 303]

Senate amendment—The Senate amendment contains no comparable provision.

Conference agreement—The conference agreement is the House provision.

SECTION 206—EXPORT PROMOTION AUTHORIZATION

Present law—Present law authorizes appropriations of $146.400 million for fiscal year 1990

House bill—The House bill authorizes appropriations of $173.6 million for fiscal year 1991. [section 304]

Senate amendment—The Senate amendment authorizes $164.599 million for fiscal year 1991 and such sums as may be necessary for fiscal year 1992. It also authorizes $6 million for the market Development Cooperator program initiated in the 1988 trade bill. [section 201]

Conference agreement—The conference agreement is $167.6 million for fiscal year 1991, with an additional $6 million for the cooperation program.

PILOT PROGRAM

Present law—No provision.

House bill—The House bill contains no comparable provision.

Senate amendment—The Senate amendment requires the Assistant Secretary of Commerce, Director General of the US&FCS, and the Administrator of the Small Business Administration to develop and implement a two-year pilot program to increase cooperation between the agencies in providing export assistance to small businesses. At least six small business specialists from the SBA must be assigned to US&FCS offices. [section 204]

Conference agreement—The conference agreement is the House provision.

SECTION 207—INTEREST SUBSIDY PROGRAM

Present law—The current interest subsidy authorization of $35 million expires at the end of fiscal year 1991. $20 million was authorized and appropriated for fiscal year 1990.

House bill—The House bill contains no comparable provision.

Senate amendment—The Senate amendment extends the interest subsidy program through the end of fiscal year 1992 and requires the Eximbank to spend all funds appropriated for the Interest Subsidy Program. The Eximbank may provide interest subsidies on commercial loans to finance exports in order to respond to subsidized financing offered by foreign export credit agencies. $35 million is authorized for fiscal year 1992. [section 205]

Conference agreement—The conference agreement is the Senate provision.

FINANCING DEFENSE ARTICLES AND SERVICES

Present law—No provision.

House bill—The House bill contains no comparable provision.

Senate amendment—The Senate amendment requires the Eximbank to establish a program to provide guarantees for the sale of defense articles and services to NATO countries and Japan on terms and conditions that are fully competitive with government-sponsored terms and conditions available to competing exporters. [section 207]

Conference agreement—The conference agreement is the House position. The conferees believe that the committees of jurisdiction should hold hearings on this issue early in the next Congress.

SECTION 208—HUMAN RIGHTS IN YUGOSLAVIA

Present law—Present law allows human rights to be taken into consideration in making decisions about financing.

House bill—The House bill contains no comparable provision.

Senate amendment—The Senate amendment requires the Secretary of State to submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives within three months of the date of enactment of this Act explaining why Eximbank funding for exports to Yugoslavia has not been restricted or denied despite the provisions of the Export-Import Bank Act and State Department findings of human rights abuses. [section 207]

Conference agreement—The conference agreement is the Senate provision with an amendment providing that the report be submitted by the President.

SECTION 209—INCREASE OF MEMBERSHIP OF ADVISORY COMMITTEE

Present law—The Advisory Committee currently has twelve members.

House bill—The House bill contains no comparable provision.

Senate amendment—The Senate amendment increases the membership of the Eximbank Advisory Committee from 12 to 15. [section 208]

Conference agreement—The conference agreement is the Senate provision.

SECTION 210—TECHNICAL CORRECTIONS RELATING TO THE INTERNATIONAL DEVELOPMENT AND FINANCE ACT OF 1989

Present law—No provision.

House bill—The House bill contains no comparable provision.

Senate amendment—The Senate amendment provides technical corrections to the International Development and Finance Act of 1989. [section 209]

Conference agreement—The conference agreement is the Senate provision.

TITLE III—MISSILE TECHNOLOGY

Present law—No provision.

House bill—No provision. (The House includes no comparable provision on missile technology controls in the bill H.R. 4653, the Export Facilitation Act of 1990. However, the House does address this matter in the bill H.R. 4739, the National Defense Authorization Act for Fiscal Year 1991. In this regard, Title XIV of H.R. 4739 amends both the Arms Export Control Act and the Export Administration Act to restate the policy of the United States with regard to discouraging the proliferation of missile technology, establishing sanctions to be imposed by the President on U.S. and foreign persons who export, transfer, knowingly facilitate, or otherwise engage in the trade of certain internationally controlled missile technology. These sanctions woud be subject to specified waiver criteria. H.R. 4739 also includes a requirement that the Secretary of State submit semi-annual reports on international transfers of missiles, missile equipment and technology, and aircraft which the Secretary has reason to believe may be intended to be used for the delivery of nuclear, biological or chemical weapons (i.e., "NBC-capable aircraft") to certain nations.)

Senate amendment—The Senate amendment includes provisions which are intended to encourage more comprehensive and effective multilateral controls as well as to remedy weaknesses in the present statutory authorities for controls in U.S. law with regard to the export of technologies capable of producing delivery systems (i.e., ballistic missiles) for weapons of mass destruction. As with the House bill provision in H.R. 4739, these provisions amend both the Arms Export Control Act and the Export Administration Act in addressing issues involving munitions and dual use items relevant to the development of ballistic missile systems.

In this regard, the Senate amendment contains four key provisions. The first provision adds to the policy section of the Export Administration Act, a directive to the Administration to renegotiate the MTCR to improve its effectiveness and to increase the number of countries participating in the regime.

The second provision creates a new Section 6(k), a foreign policy parallel to Section 5(k), making the Secretary of State responsible for negotiating cooperative agreements to bar proliferation of missile systems and the weapons such systems are capable of delivering. This provision grants the Secretary of State the authority to liberalize export controls of goods and technology subject to annual review.

The third provision places the basic requirement to license dual use missile technology in Section 6 of the Export Administration Act. This provision also includes a requirement to establish a control list for dual use goods and technology that would provide a direct and immediate impact on the development of missile delivery systems.

The fourth provision requires the imposition of sanctions against U.S. and foreign persons who after the date of enactment of this Act are determined by the President to have assisted missile proliferation through the shipment of dual use goods. These sanctions would be imposed on any person who knowingly attempted to export, import, or obtain dual use items on the MTCR annex for purposes of assisting in the development or production of missiles capable of delivering chemical or nuclear weapons in a country designated as of concern by the Secretary of State.

Conference agreement—The conferees agreed to those provisions in the two bills that restate the policy of the United States on the issue of ballistic missile proliferation.

In this regard, the conferees agreed to amend the Export Administration Act to establish responsibilities for negotiating with other countries regarding restrictions on technology transfer and to review requirements regarding the list of controlled goods and technology. The conferees further agreed to amend the Export Administration Act and the Arms Export Control Act to establish, subject to specified waiver criteria and exceptions, sanctions on U.S. and foreign persons who knowingly export, transfer, or otherwise engage in trade of certain MTCR-related items, conspire to or attempt to engage in such activities, or facilitate such activities.

The Conferees also agreed to amend the Export Administration Act and the Arms Export Control Act to establish licensing controls on MTCR items. This particular provision is intended to permit the United States to control any item on the internationally-agreed-to MTCR annex. In addition, this provision grants the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of Defense and other appropriate agency heads, the ability to control unilaterally goods and technology that would provide a direct and immediate impact on the development of missile delivery systems. These unilateral controls would be limited to items which have not been added to the MTCR annex but which the United States is seeking to have added to that list. This provision does not preclude the United States from resubmitting a proposal to control any such items, nor does it require the imposition of sanctions on foreign persons who transfer items on the unilaterally controlled U.S. list.

Export licenses under the Export Administration would be required for all listed items and for exports the exporter "knows" are destined for a missile facility in a nonadherent to the MTCR. For these purposes, "knowing" has the meaning expressed in report language accompanying amendments to the Foreign Corrupt Practices Act in the Omnibus Trade and Competitiveness Act of 1988 as follows.

* * * *United States* v. *Jacobs*, 475 F.2d 270, 277-88 (2d Cir. 1973). Thus, the "knowing" standard adopted covers both prohibited actions that are taken with "actual knowledge" of intended results as well as other actions that, while falling short of what the law terms "positive knowledge," nevertheless evidence a conscious disregard or deliberate ignorance of known circumstances that would reasonably alert one to the high probability of violations of the Act.

In clarifying the existing foreign antibribery standard of liability under the Act as passed in 1977, the Conferees agreed that "simple negligence" or "mere foolishness" should not be the basis for liability. However, the Conferees also agreed that the so-called "head-in-the-sand" problem—variously described in the pertinent authorities as "conscious disregard," "willful blindness" or "deliberate ignorance"—should be covered so that management officials could not take refuge from the Act's prohibitions by their unwarranted obliviousness to any action (or inaction), language or other "signalling device" that should reasonably alert them of the "high probability' of an FCPA violation.

The "head-in-the-sand" problem is not unique to this area of criminal law and occurs in a variety of contexts, perhaps the most common being the situation where a person acquires property under "suspicious" circumstances and is charged with "knowledge" that it is stolen. Courts and commentators have considered such behavior to be "distinct from, but *equally culpable* as actual knowledge." *See* G. Williams, *Criminal Law: The General Part*, sec. 57 at 157 (2d. ed. 1961). (emphasis added)

Federal case law has discussed the carefully-drawn elements that comprise the "head-in-the-sand" state of mind in other contexts. The Conferees agree with the reasoning found in such decisions as *United States* v. *Jewell*, 532 F.2d 679 (9th Cir. 1976); *United States* v. *Bright*, 517 F.2d 584 (2d Cir. 1975); *United States* v. *Jacobs*, 470 F.2d 270, 287 n.37 (2d Cir.), *cert. denied sub nom. Lavelle* v. *United States*, 414 U.S. 821 (1973). *See also* H. Rept. No. 96-1396, 96th Cong., 1st Sess. 35 (1980). The knowledge requirement is not equivalent to "recklessness." It requires an awareness of a high probability of the existence of the circumstance. As the Court stated in the *Jacobs* case:

"Knowledge that the goods have been stolen may be inferred from circumstances that would convince a man of ordinary intelligence that this is the fact. The element of knowledge may be satisfied by proof that a defendant deliberately closed his eyes to what otherwise have been obvious to him.

"Thus, if you find that a defendant acted with reckless disregard of whether the bills were stolen and with a conscious purpose to avoid learning the truth, the requirement of knowledge would be satisfied unless the defendant actually believed they were not stolen.

* * * * *

"* * * You should scrutinize the entire conduct of the defendant at or near the time the offense are [*sic.*] alleged to have been committed." 475 F. 2d 287 n.37 (emphasis added)

Accordingly, the Conferees intend that the knowledge requirement reflect existing law including provision for cases of deliberate ignorance. In such cases, knowledge of a fact may be inferred where the defendant has notice of the high probability of the existence of the fact and has failed to establish an honest, contrary disbelief. The inference cannot be overcome by the defendant's "deliberate avoidance of knowledge," *United States* v. *Manrique Aribizo*, 833 F.2d 244, 249 (10th Cir. 1987), his or her "willful blindness," *United States* v. *Kaplan*, 832 F.2d 676, 682 (1st Cir. 1987), or his or her "conscious disregard," *United States* v. *McAllister*, 747 F.2d 1273, 1275 (9th Cir. 1984), of the existence of the required circumstance or result. As such, it covers any instance where "any reasonable person would have realized" the existence of the circumstances or results and the defendant has "consciously chose[n] not to ask about what he had 'reason to believe' he would discover," *United States* v. *Picciandra*, 788 F.2d 39, 46 (1st Cir. 1986).

Courts should, accordingly, apply the appropriate "mix" of subjective and objective standards implied in such a carefully-structured test.

The conferees agreed to include a provision that would require the President to submit a semi-annual report to Congress on international transfers of aircraft that the Secretary of State has reason to believe may be intended to be used for the delivery of nuclear, biological or chemical weapons and international transfers of MTCR equipment or technology to any country that is not an MTCR adherent.

TITLE IV—CHEMICAL AND BIOLOGICAL WARFARE PROLIFERATION

H.R. 4653, as passed the House, did not contain policy and sanctions provisions regarding chemical and biological weapons proliferation and use. However, the House had previously passed H.R. 3033, and the provisions of that bill represented the House position in this conference. Accordingly, the provisions of H.R. 3033, as passed the House are set forth below.

SECTION 401—SHORT TITLE

House bill—H.R. 3033 is entitled the Chemical and Biological Warfare Elimination Act. [sec. 1]

Senate amendment—The Senate amendment (S. 195) is entitled the Chemical and Biological Weapons Control Act of 1990. [sec. 1]

Conference agreement—The conference agreement entitles these provisions the Chemical and Biological Weapons Control and Warfare Elimination Act of 1990.

SECTION 402—PURPOSES

House bill—H.R. 3033 includes congressional "findings" instead of a "Purposes" section. [sec. 2]

Senate amendment—The Senate amendment identifies six major purposes. The Senate amendment states that its purposes are to mandate U.S. sanctions and encourage international sanctions against countries that use chemical or biological weapons in violation of international law; to require presidential reports on CBW proliferation; to urge suppliers' group cooperation to institute effective controls; to promote missile technology control agreements; to encourage an early agreement banning chemical weapons; and to seek effective international CBW proliferation controls. [sec. 3]

Conference agreement—The conference agreement includes the Senate "Purposes" and incorporates portions of the House "Findings". It states the purposes as mandating U.S. sanctions and encouraging international sanctions against CBW country violators, supporting multilateral proliferation controls, urging cooperation with the Australia Group and other suppliers' groups, and requiring presidential reports on CBW proliferation.

SECTION 421—MULTILATERAL EFFORTS AND CONTROLS

House bill—H.R. 3033 contains findings calling for multilateral efforts to stop proliferation of chemical weapons [sec. 2, 101]

Senate amendment—The Senate amendment includes language calling for UN and multilateral efforts to stop proliferation. [sec. 107, 108, 201]

Conference agreement—The conference agreement combines the House and Senate sections on UN and multilateral efforts.

SECTION 422—U.S. EXPORT CONTROLS

House bill—H.R. 3033 directs the President to use the authorities of the Arms Export Control Act and the Export Administration Act of 1979 to control the exports of defense articles and services and other goods and technologies which he determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver or use chemical or biological weapons. [sec. 102]

Senate amendment—The Senate amendment is similar but establishes a procedure involving the Secretaries of Commerce, State, and Defense in setting up a list of goods and technology for control and licensing. The Senate amendment also suggests a

nongovernmental inspection procedure to verify export controls. [sec. 203]

Conference agreement—The conference agreement directs the President to use the authorities of the Arms Export Control Act and the Export Administration Act of 1979 to control the exports of defense articles and services and other goods and technologies which he determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver or use chemical or biological weapons. It also provides for a list of goods and technology. It deletes the suggestion for a nongovernmental export control of inspection regime.

SECTION 423—SANCTIONS FOR PERSONS

House bill—H.R. 3033 directs the President to impose sanctions on foreign persons who, on or after the date of enactment of the Act, knowingly and substantially contributed to the efforts by certain countries to use, develop, produce, stockpile or otherwise acquire chemical or biological weapons. the countries in question include any country the President determines has, on or after the date of enactment, either used chemical or biological weapons in violation of international law or is making substantial preparations to do so. H.R. 3033 also urges the President to consult with the government of jurisdiction, determine if corrective action has been taken and report to Congress if sanctions are not imposed. The sanctions to be imposed are restrictions on U.S. government procurement and importations into the United States. It allows termination of sanctions once the President certifies that the violation has ceased. H.R. 3033 provides for some exceptions for such things as certain defense articles and services or existing contracts. H.R. 3033 provides a presidential waiver based on the President's determination that the waiver is important to the national security interests of the United States. [sec. 103]

Senate amendment—The Senate amendment directs the President to impose sanctions on foreign persons who, on or after the date of enactment of the Act, knowingly and materially contributed to the efforts by certain countries to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons. The countries in question include any country that the President determines has, at any time after January 1, 1980, used chemical or biological weapons in violation of international law, made substantial preparations to do so, used CBW against its own nationals, or been designated a country which supports terrorism under section 6(j) of the Export Administration Act of 1979. The Senate amendment sets up a procedure of consultation with the country of jurisdiction and a report to Congress. It imposes a U.S. Government procurement sanction for at least 24 months. If the President determines and certifies to Congress that the violation has ceased, the sanctions must still apply for 12 months after that presidential determination. It provides for certain exceptions to the sanctions. There is no presidential waiver in the Senate amendment. [sec. 204, 205]

Conference agreement—The conference agreement directs the President to impose sanctions on foreign persons who have knowingly and materially contributed to efforts by certain countries to use, develop, produce, stockpile, or acquire chemical or biological weapons. It urges the President to undertake consultation with the country of jurisdiction in order to secure corrective action. It permits the President to delay imposition of sanctions against a foreign person for up to 90 days to pursue consultations and corrective action. It requires the President to report within 90 days after his determination on the status of the consultations. The conference agreement applies sanctions, government procurement and import sanctions, for at least 12 months, after which the sanctions can be terminated if the President determines and certifies that the violations have ceased. It also provides for some exceptions for such things as certain defense articles and services or existing contracts. The conference agreement also provides for a presidential waiver after 12 months, based on the President's determination that the waiver is important to the national security interests of the United States.

SECTION 441—DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS

House bill—H.R. 3033 directs the President to determine whether any foreign country has used, made substantial preparations to use, or developed, produced, or stockpiled chemical or biological weapons in violation of international law. [sec. 201]

Senate amendment—The Senate amendment directs the President to determine within 60 days whether any foreign country has used chemical weapons in violation of international law or against its nationals. It also provides for a request from either the Chairman, after consultation with the ranking minority member, of either the Senate Foreign Relations Committee or the House Foreign Affairs Committee to require such a determination from the President. [sec. 101]

Conference agreement—The conference agreement directs the President, once information becomes available to him, to determine, within 60 days of his receipt of pertinent information, whether any foreign country has used or made substantial preparations to use chemical weapons in violation of international law. It also stipulates that the Senate Foreign Relations Committee and House Foreign Affairs Committee Chairman, upon consultation with their ranking minority members, may request from the President a report on the information held by the executive branch pertinent to the suspected violation.

SECTION 442—SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS

House bill—H.R. 3033 requires the President, if at any time he determines that a country has used chemical or biological weapons in violation of international law, to impose at least three sanctions from a list of 8 sanctions (arms sales, national security-sensitive goods and technology, export restrictions, import restrictions, foreign assistance, multilateral development bank assistance, credits and other financial assistance, and diplomatic relations) and report promptly to Congress. [sec. 202]

H.R. 3033 also requires the President to impose, within three months after making a determination with respect to a country, at least one additional sanction from the list unless he determines and certifies in writing to the Congress—

(1) that such country is no longer using chemical or biological weapons in violation of international law;

(2) that the government of such country has provided reliable assurances that the violation has ceased; and

(3) that such government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers, or other reliable means exist, to ensure that the country is not using chemical or biological weapons in violation of international law.

It also provides that the President may terminate any sanctions imposed under this section if the President determines and certifies to the Congress that the country is no longer conducting the activity which was the basis of the sanction and has provided reliable assurances that it will not engage in such activities in the future and that means exist to ensure that the country is not using chemical or biological weapons in violation of international law. The President may waive the imposition of any sanction imposed if he determines that such waiver is important to the national security interests of the United States.

H.R. 3033 provides sanctity of contracts and agreements entered into before the date on which the President imposes sanctions unless such sanctity would pose a breach of the peace or a direct threat to the strategic interest of the United States. [sec. 204]

Senate amendment—The Senate amendment requires the President to impose nine sanctions immediately (foreign assistance, foreign military sales, financial and technical assistance from international financial institutions, Export-Import Bank credits, U.S. Government sales of defense articles and services, arms sales licenses, exports of goods and technology except food and agricultural products, bank loans and credit, and landing rights) once a violation has been determined by the President. [sec. 101]. The President notifies Congress within five days. [sec. 103]

The Senate amendment provides that the President may remove sanctions against a country if that country renounces any use of chemical or biological weapons and if that country has made satisfactory restitution to those affected. The President may waive the sanctions for a period of 12 months after a presidential determination that such waiver is in the national interest. [sec. 105, 102]

The Senate amendment provides for contract sanctity for certain private contracts and agreements entered into before the date on which the President imposes sanctions unless such sanctity would assist the country in using chemical or biological weapons in violation of international law. If any contract or agreement assisted the violating country in this way it would also be considered a breach of the peace that poses a serious and direct threat to the strategic interest of the United States. The sanctions involving foreign assistance, arms sales, and arms sales financing shall apply without regard to the date such contracts and agreements were entered into unless the President invokes the waiver and determines that the application of such sanction would be detrimental to the national security interests of the United States. [sec. 104]

Conference agreement—The conference agreement requires the President to make a determination to Congress with respect to a government using chemical or biological weapons in violation of international law or against its own nationals. The conference agreement establishes a consolidated list of 11 sanctions taken from both the House and Senate bills. Once a determination is made the President shall impose at least six of the 11 listed sanctions (foreign assistance, arms sales, arms sales financing, multilateral development bank assistance, U.S. Government credit or financing, bank loans, exports of national security-sensitive goods and technology, further export restrictions, import restrictions, diplomatic relations,

and landing rights) for a minimum period of 12 months. If, after three months, the President is not able to certify to Congress that the violation has ceased, that the government in question has provided assurances about no further use, and that this can be verified by on-site inspections by international observers, then, the President shall impose at least one additional sanction. It is entirely appropriate for the President to choose additional sanctions befitting a particular case of chemical or biological weapons use.

The conferees discussed the feasibility of specifying the six options required to be applied, rather than leaving the matter to the President's discretion. Some Members had expressed the concern that a President might select sanctions with no applicability in a particular case if he were reluctant to exact meaningful penalties against a country using chemical weapons. An example of this might be a denial of foreign assistance to a country not receiving foreign assistance or of arms sales to a country not receiving arms from the United States.

The Committee of Conference weighed this concern against that of denying the President needed flexibility to tailor sanctions to a particular case. The conferees concluded that, given the requirement that sanctions must be imposed, the President should be given the leeway to select the particular group of sanctions most likely to have an appropriate and significant effect and to succeed in deterring the government concerned from engaging in chemical and biological weapons activities. The conferees expect a President to respect both the letter and the spirit of the law in applying sanctions and to work with the Congress closely in devising sanctions should any nation use chemical or biological weapons.

The President may waive the sanctions after a 12-month period of sanctions if he determines and certifies to Congress that such a waiver is important to the national security interests of the United States. The only exception to the 12-month period of sanctions is if the President determines and certifies to Congress that a fundamental change in leadership and policies has occurred in the violating government.

The conference agreement provides contract sanctity for contracts and agreements entered into before the date on which the President imposes sanctions unless such contract sanctity would assist the country in using chemical or biological weapons in violation of international law. The sanctions involving foreign assistance, arms sales, and arms sales financing shall apply without regard to the date such contracts and agreements were entered into unless the President invokes the waiver and determines that the application of such sanction would be detrimental to the national security interests of the United States.

SECTION 461—PRESIDENTIAL REPORTING REQUIREMENTS

House bill—H.R. 3033 requires that the President submit to Congress a report 90 days after enactment of the bill and every 12 months thereafter. The report would include descriptions of actions taken to implement the bill, violations, and chemical weapons proliferation. [sec. 301]

Senate amendment—The Senate amendment requires a presidential report 90 days after enactment of the legislation and every 12 months thereafter. The report is to include a detailing of efforts by other countries and subnational groups that threaten U.S. security interests with the development, production, and delivery of chemical, biological, or nuclear weapons, a description of proliferation in chemical, biological, and nuclear weapons; and a listing of U.S. violators. [sec. 106]

Conference agreement—The conference agreement requires a presidential report to Congress 90 days after enactment of the bill and every 12 months thereafter. The report is to include such information as a description of actions taken to carry out this conference agreement on chemical weapons sanctions; a description of efforts by countries and subnational groups to develop, produce, and use chemical or biological weapons; a description of any use by a country in violation of international law; and, a description of chemical and biological weapons proliferation.

TITLE V—IRAQ CONFERENCE LANGUAGE

Present law—No provision.

House bill—No provision.

Senate amendment—The Senate amendment state that Iraq has violated human rights and international law in using chemical weapons against Iran and the Kurds and expresses concern about Iraq's development of biological and nuclear weapons (Section 301). The Senate amendment imposes sanctions against Iraq by prohibiting the provision of FMS sales, commercial arms sales, export to Iraq of any goods or technology on the control list pursuant to section 5 of the EAA, credits or credit guarantees through the Export-Import Bank, all credits and guarantees of the Commodity Credit Corporation, and all forms of assistance under the Foreign Assistance Act and Arms Export Control Act (Section 302). The Senate Amendment establishes August 1, 1990 for purposes of contract sanctity (Section 303). The Senate amendment also contains a waiver authority that the President may use if he first certifies in writing to the Congress that (1) the Government of Iraq has: (a) demonstrated, through a pattern of conduct, substantial improvement in its respect for internationally recognized human rights; (b) demonstrated substantial restraint in its acquisition of chemical, biological, and nuclear weapons and delivery systems for such weapons and has publicly foresworn the first use of such weapons; and, (c) recommitted itself publicly to abide by the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisoning, or Other Gases, and of Bacteriological Methods of Warfare; and, that (2) he has determined it is essential to the national interests of the United States to waive the requirements contained in section 302. The waiver may not take effect until 60 days after the President's certification is submitted to the Congress (Section 304). The Senate Amendment calls on the President to seek multilateral cooperation to deny dangerous technologies to Iraq and to induce Iraq to respect internationally recognized human rights (Section 305). The Senate amendment includes a provision to amend the International Economic Emergency Powers Act by adding a new subsection which stipulates that a civil penalty of not to exceed $250,000 may be imposed on a person who violates the sanctions against Iraq and Kuwait and that, if convicted, such person may be fined not more than $1 million and may be imprisoned for not more than 10 years. (Section 306)

Conference agreement—The conference agreement is similar to the Senate amendment but:

(A) In Subtitle A, includes provisions from H.R. 5431:

Codifies the embargo on Iraq which the President imposed in response to the brutal Iraqi invasion of Kuwait;

Provides discretionary authority to the President to impose import sanctions on a country not supporting the import and export provisions of the United Nations imposed embargo on Iraq;

Provides for consultations with Congress;

Clarifies language on the provision of humanitarian assistance which must be in accordance with U.N. Security Council Resolution 661; and

Includes penalties for violations or attempts to violate the U.N. embargo.

(B) In Subtitle B, includes provisions contained in the Senate amendments, S. 2787, the Iraq International Law Compliance Act which was adopted as an amendment to the farm bill and in H.R. 5431:

Imposes sanctions against Iraq with respect to FMS sales, commercial arms sales, exports of certain goods and technology, nuclear equipment, materials and technology, assistance from international financial institutions, Export-Import Bank, Commodity Credit Corporation and all other forms of assistance under the Foreign Assistance Act of 1961;

Stipulates that August 1, 1990 is the date established for purposes of contract sanctity;

Includes waiver authority only if Iraq no longer violates internationally recognized human rights, is no longer acquiring, development, of manufacturing chemical, biological or nuclear weapons or components, does not provide support for international terrorism, and is in substantial compliance with its obligations under international law; and

Includes language which would enable the President to waive these sanctions in the event of a substantial change in the policies and leadership of the Government of Iraq and if the new leadership of the Iraqi Government provides credible and reliable assurances that it will meet the standards in the waiver described above.

The committee of conference wishes to make clear that the initial Executive Order 12722 imposed by the President on Iraq expressly exempted publications and other informational materials from the embargo and the committee of conference intends that such exemption apply to sanctions specified in this legislation.

TITLE VI—MISCELLANEOUS PROVISIONS

SECTION 601—SOVIET MILITARY AID TO CUBA

House bill—H.R. 3033 contains no comparable provision.

Senate amendment—The Senate amendment contains language expressing U.S. concern over continued Soviet military assistance to Cuba. [sec. 302]

Conference agreement—The conference agreement retains the Senate language expressing U.S. concern over continued Soviet military assistance to Cuba.

SECTION 620—ATTACKS AGAINST ISRAELIS AND ILLEGAL ACTIVITIES IN THE UNITED STATES

House bill—H.R. 3033 contains no comparable provision.

Senate amendment—The Senate amendment contains language requesting an accounting of recent attacks against Israelis and for a report on illegal activities by the Palestinian Liberation Organization (PLO) in the United States. [sec. 401]

Conference agreement—The conference agreement retains the Senate language on recent attacks against Israelis and requires a report on the impact of these attacks on

efforts to achieve peace in the Middle East and also requires a report on illegal activities by the PLO in the United States.

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
MEL LEVINE,
EDWARD F. FEIGHAN,
HARRY JOHNSTON,
ELIOT L. ENGEL,
HOWARD L. BERMAN,
WM. S. BROOMFIELD,
BEN GILMAN,
TOBY ROTH,
DOUG BEREUTER,

From the Committee on Ways and Means, for consideration of sec. 120 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
TOM DOWNEY,
DONALD J. PEASE,
MARTY RUSSO,
FRANK GUARINI,

From the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 205 through 209 and 302 of the Senate amendment, and modifications committed to conference:

WALTER E. FAUNTROY,
STEVE NEAL,
JOHN J. LAFALCE,
GERALD D. KLECZKA,
NANCY PELOSI,
FLOYD H. FLAKE,
JAMES A. MCDERMOTT,
JIM LEACH,
DOUG BEREUTER
NORMAN D. SHUMWAY,
AL MCCANDLESS,
DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
JAKE GARN,
JOHN HEINZ,

From the Committee on Foreign Relations solely for consideration of title I, sec. 117 of the Senate amendment and the specific disagreeing provision of title I, sec. 109 as regards the Arms Export Control Act, sec. 120(a), title III, and title IV of the Senate amendment:

CLAIBORNE PELL,
PAUL SARBANES,
JESSE HELMS,

From the Committee on Finance solely for consideration of title IV of the Senate amendment relative to sanctions on imports:

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
BOB PACKWOOD.

Managers on the Part of the Senate.

NATIONAL HEALTH SERVICE CORPS REVITALIZATION AMENDMENTS OF 1990

Mr. THOMAS A. LUKEN submitted the following conference report and statement on the bill (H.R. 4487) to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps, and to establish certain programs of grants to the States for improving health services in the States:

CONFERENCE REPORT (H. REPT. 101-945)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4487) to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps, and to establish certain programs of grants to the States for improving health services in the States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Health Service Corps Revitalization Amendments of 1990".

TITLE I—REVISIONS IN GENERAL PROGRAM FOR NATIONAL HEALTH SERVICE CORPS

SEC. 101. NATIONAL HEALTH SERVICE CORPS.

(a) PROVISION OF PRIMARY HEALTH SERVICES.—Section 331(a) of the Public Health Service Act (42 U.S.C. 254d(a)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1)—

(A) by inserting "(1)" after the subsection designation; and

(B) by striking "There is" and all that follows and inserting the following: "For the purpose of eliminating health manpower shortages in health manpower shortage areas, there is established, within the Service, the National Health Service Corps, which shall consist of—";

(2) by striking "States," at the end of paragraph (1)(C) and all that follows and inserting "States."; and

(3) by adding at the end the following new paragraphs:

"(2) The Corps shall be utilized by the Secretary to provide primary health services in health manpower shortage areas.

"(3) For purposes of this subpart and subpart III:

"(A) The term 'Corps' means the National Health Service Corps.

"(B) The term 'Corps member' means each of the officers, employees, and individuals of which the Corps consists pursuant to paragraph (1).

"(C) The term 'health manpower shortage area' has the meaning given such term in section 332(a).

"(D) The term 'primary health services' means health services regarding family medicine, internal medicine, pediatrics, obstetrics and gynecology, dentistry, or mental health, that are provided by physicians or other health professionals.".

(b) RECRUITMENT AND RETENTION OF CORP MEMBERS, INCLUDING VOLUNTEERS.—Section 331(b) of the Public Health Service Act (42 U.S.C. 254d(b)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) In paragraph (1) (as so designated), by adding at the end the following new sentence: "Such recruiting programs shall include efforts to recruit individuals who will serve in the Corps other than pursuant to obligated service under the Scholarship or Loan Repayment Program."; and

(3) by adding at the end the following new paragraph:

"(2) In the case of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants who have an interest and a commitment to providing primary health care, the Secretary may establish fellowship programs to enable such health professionals to gain exposure to and expertise in the delivery of primary health services in health manpower shortage areas. To the maximum extent practicable, the Secretary shall ensure that any such programs are established in conjunction with accredited residency programs, and other training programs, regarding such health professions.

(c) REMOVAL OF LIMITATION REGARDING SUPPLEMENTAL PAY DURING INITIAL YEARS OF SERVICE.—Section 331(d)(1)(A) of the Public Health Service Act (42 U.S.C. 254d(d)(1)(A)) is amended by striking "(not to exceed $1,000)".

(d) ADEQUATE STAFF FOR CORPS PROGRAM.—Section 331 of the Public Health Service Act (42 (U.S.C. 254d) is amended by striking subsection (h) and inserting the following new subsection:

"(h) The Secretary shall ensure that adequate staff is provided to the Service with respect to effectively administering the program for the Corps.".

(e) TECHNICAL AMENDMENT REGARDING DEFINITIONS.—Section 331(i) of the Public Health Service Act (42 U.S.C. 254d(i)) is amended in the matter preceding paragraph (1) by inserting "and subpart III" before the colon.

SEC. 102. DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS.

(a) PUBLICATION OF DESIGNATIONS AND REVISIONS.—Section 332(d) of the Public Health Service Act (42 U.S.C. 254e(d)) is amended by inserting "(1)" after the subsection designation and by adding at the end the following new paragraph:

"(2) For purposes of paragraph (1), a complete descriptive list shall be published in the Federal Register not later than July 1 of 1991 and each subsequent year.".

(b) DEFINITION OF MEDICAL FACILITY.—Section 332(a)(2) of the Public Health Service Act (42 U.S.C. 254e(a)(2)) is amended—

(1) in subparagraph (A), by inserting before "and community health center" the following: "facility operated by a city or county health department,";

(2) in subparagraph (B), by inserting before the semicolon the following: ", and a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act"; and

(3) in subparagraph (C)—

(A) by striking "sections 321" and inserting "section 321", by striking "or" before "326", and by striking "or section 320" and inserting "320"; and

(B) by inserting before the semicolon at the end the following: ", or 340 (relating to the provision of health services to homeless individuals)".

(c) REMOVAL OF SUPERFLUOUS REFERENCES.—Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended—

(1) in subsection (b), in the first sentence of the matter preceding paragraph (1), by striking ", promulgated not later than May 1, 1977, ";

(2) in subsection (c), by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) in subsection (d)(1) (as designated by subsection (a) of this section), by striking ", not later than November 1, 1977,"; and

(4) in subsection (f), by inserting "and" after the semicolon at the end of paragraph

(1), and by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

SEC. 103. ASSIGNMENT OF CORPS PERSONNEL.

(a) REQUIREMENT OF APPROPRIATE AND EFFICIENT USE OF CURRENT PERSONNEL AS CONDITION OF RECEIVING FURTHER PERSONNEL.—Section 333(a)(1)(D)(ii)(II) of the Public Health Service Act (42 U.S.C. 254f(a)(1)(D)(ii)(II)) is amended—

(1) by striking "will be" and inserting "has been"; and

(2) by inserting "any" before "Corps".

(b) TECHNICAL AND CONFORMING AMENDMENTS REGARDING ADDITIONAL PROVISIONS ON PRIORITY AND ON EFFECTIVE SERVICE OF PERSONNEL.—Section 333 of the Public Health Service Act (42 U.S.C. 254f) is amended—

(1) by striking subsections (b), (c), (f), (h), (j), and (k); and

(2) by redesignating subsections (d), (e), (g), and (i) as subsections (b), (c), (d), and (e), respectively.

SEC. 104. PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL.

Subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) is amended by inserting after section 333 the following new section:

"SEC. 333A. PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL.

"(a) IN GENERAL.—In approving applications made under section 333 for the assignment of Corps members, the Secretary shall—

"(1) give priority to any such application that—

"(A) is made regarding the provision of primary health services to a health manpower shortage area with the greatest such shortage, as determined in accordance with subsection (b); and

"(B) is made by an entity that—

"(i) serves a health manpower shortage area described in subparagraph (A);

"(ii) coordinates the delivery of primary health services with related health and social services;

"(iii) has a documented record of sound fiscal management; and

"(iv) will experience a negative impact on its capacity to provide primary health services if a Corps member is not assigned to the entity;

"(2) with respect to the geographic area in which the health manpower shortage area is located, take into consideration the willingness of individuals in the geographic area, and of the appropriate governmental agencies or health entities in the area, to assist and cooperate with the Corps in providing effective primary health services; and

"(3) take into consideration comments of medical, osteopathic, dental, or other health professional societies whose members deliver services to the health manpower shortage area, or if no such societies exist, comments of physicians, dentists, or other health professionals delivering services to the area.

"(b) EXCLUSIVE FACTORS FOR DETERMINING GREATEST SHORTAGES.—In making a determination under subsection (a)(1)(A) of the health manpower shortage areas with the greatest such shortages, the Secretary may consider only the following factors:

"(1) The ratio of available health manpower to the number of individuals in the area or population group involved, or served by the medical facility or other public facility involved.

"(2) Indicators of need as follows:

"(A) The rate of low birthweight births.

"(B) The rate of infant mortality.

"(C) The rate of poverty.

"(D) Access to primary health services, taking into account the distance to such services.

"(c) ESTABLISHMENT OF CRITERIA FOR DETERMINING PRIORITIES.—

"(1) IN GENERAL.—The Secretary shall establish criteria specifying the manner in which the Secretary makes a determination under subsection (a)(1)(A) of the health manpower shortage areas with the greatest such shortages. Such criteria shall specify the manner in which the factors described in subsection (b) are implemented regarding such a determination.

"(2) PUBLICATION OF CRITERIA.—The criteria required in paragraph (1) shall be published in the Federal Register not later than July 1, 1991. Any revisions made in the criteria by the Secretary shall be effective upon publication in the Federal Register.

"(d) NOTIFICATIONS REGARDING PRIORITIES.—

"(1) PREPARATION OF LIST FOR APPLICABLE PERIOD.—For the purpose of carrying out paragraph (2), the Secretary shall prepare a list of health manpower shortage areas that are receiving priority under subsection (a)(1) in the assignment of Corps members for the period applicable under subsection (f). Such list—

"(A) shall include a specification, for each such health manpower shortage area, of the entities for which the Secretary has provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments; and

"(B) shall, of the entities for which an authorization described in subparagraph (A) has been provided, specify—

"(i) the entities provided such an authorization for the assignment of Corps members who are participating in the Scholarship Program;

"(ii) the entities provided such an authorization for the assignment of Corps members who are participating in the Loan Repayment Program; and

"(iii) the entities provided such an authorization for the assignment of Corps members who have become Corps members other than pursuant to contractual obligations under the Scholarship or Loan Repayment Programs.

The Secretary may set forth such specifications by medical specialty.

"(2) NOTIFICATION OF AFFECTED PARTIES.—

"(A) Not later than 30 days after the preparation of each list under paragraph (1), the Secretary shall notify entities specified for purposes of subparagraph (A) of such paragraph of the fact that the entities have been provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments.

"(B) In the case of individuals with respect to whom a period of obligated service under the Scholarship Program will begin during the period under subsection (f) for which a list under paragraph (1) is prepared, the Secretary shall, not later than 30 days after the preparation of each such list, provide to such individuals the names of each of the entities specified for purposes of paragraph (1)(B)(i) that is appropriate to the medical specialty of the individuals.

"(3) REVISIONS IN LIST.—If the Secretary makes a revision in a list under paragraph (1) during the period under subsection (f) to which the list is applicable, and the revision alters the status of an entity with respect to the list, the Secretary shall notify the entity of the effect on the entity of the revision. Such notification shall be provided not later than 30 days after the date on which the revision is made.

"(e) LIMITATION ON NUMBER OF ENTITIES OFFERED AS ASSIGNMENT CHOICES IN SCHOLARSHIP PROGRAM.—

"(1) DETERMINATION OF AVAILABLE CORPS MEMBERS.—The Secretary shall determine the number of participants in the Scholarship Program who are available for assignments under section 333 for the period applicable under subsection (f).

"(2) AVAILABILITY OF 500 OR FEWER MEMBERS.—If the number of participants for purposes of paragraph (1) is less than 500, the Secretary shall limit the number of entities specified under subsection (d)(1)(B)(i) to the lesser of—

"(A) 500 such entities; and

"(B) a number of such entities constituting 300 percent of the number of such participants available for assignment under section 333.

"(3) AVAILABILITY OF MORE THAN 500 MEMBERS.—If the number of participants for purposes of paragraph (1) is equal to or greater than 500, the Secretary shall determine the number of entities to be specified under subsection (d)(1)(B)(i), subject to ensuring that assignments of such participants are made to 500 entities that serve health manpower shortage areas that have chronic difficulty in recruiting and retaining health professionals to provide primary health services.

"(4) ADJUSTMENT IN BASE NUMBER.—The number 500, as used for purposes of paragraphs (2) and (3), may by regulation be adjusted by the Secretary to a greater or a lesser number.

"(f) APPLICABLE PERIOD REGARDING PRIORITIES.—

"(1) IN GENERAL.—With respect to determinations under subsection (a)(1) of the applications that are to be given priority regarding the assignment of Corps members, the Secretary shall make such a determination not less than once each fiscal year. The first determination shall be made not later than July 1 of the year preceding the year in which the period of obligated service begins. If the Secretary revises the determination before July 1 of the following year, the revised determination shall be applicable with respect to assignments of Corps members made during the period beginning on the date of the issuance of the revised determination and ending on July 1 of such year.

"(2) DATE CERTAIN FOR PREPARATION OF NOTIFICATION LIST.—A list under subsection (d)(1) shall be prepared for each of the periods decribed in paragraph (1). Each such list shall be prepared not later than the date on which a determination of priorities under such paragraph is required to be made for the period involved.".

SEC. 105. COST SHARING.

Section 334(f)(2) of the Public Health Service Act (42 U.S.C. 254g(f)(2)) is amended by adding at the end the following new subparagraph:

"(C)(i) A determination under subparagraph (B) regarding the revenues and costs of an entity in an annual period shall be made by the Secretary utilizing criteria specific to the entity and shall be made without regard to whether the entity is making progress toward collecting sufficient revenues to provide an adequate level of primary health services without the assignment of Corps members.

"(ii) In making a determination referred to in clause (i)—

"(I) the Secretary may consider whether the proposed budget submitted under subparagraph (A) provides a reasonable estimate regarding the revenues and costs of the entity; and

"(II) may not consider the reasonableness of the amount of revenues collected, or the amount of costs incurred by the entity, except to the extent necessary to ensure that the entity is operating in good faith and is operating efficiently with respect to fiscal matters within the control of the entity.

"(iii) A determination of whether an entity is eligible for a waiver under paragraph (3) shall be made by the Secretary without regard to the revenues and costs determined by the Secretary under subparagraph (B).

"(iv) A determination of whether an entity is a small health center shall be made by the Secretary without regard to the revenues and costs determined by the Secretary under subparagraph (B).".

SEC. 106. ADMITTING PRIVILEGES OF HEALTH CARE PROFESSIONALS.

Section 335(e)(1)(A) of the Public Health Service Act (42 U.S.C. 254h(e)(1)(A)) is amended by striking "authorized physician" and all that follows through "admitting" and inserting "authorized Corps member admitting".

SEC. 107. PROVISIONS REGARDING EFFECTIVE PROVISION OF SERVICES.

Section 336 of the Public Health Service Act (42 U.S.C. 254h-1) is amended to read as follows:

"SEC. 336. FACILITATION OF EFFECTIVE PROVISION OF CORPS SERVICES.

"(a) CONSIDERATION OF INDIVIDUAL CHARACTERISTICS OF MEMBERS IN MAKING ASSIGNMENTS.—In making an assignment of a Corps member to an entity that has had an application approved under section 333, the Secretary shall, subject to making the assignment in accordance with section 333A, seek to assign to the entity a Corps member who has (and whose spouse, if any, has) characteristics that increase the probability that the member will remain in the health manpower shortage area involved after the completion of the period of service in the Corps.

"(b) COUNSELING ON SERVICE IN CORPS.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), offer appropriate counseling on service in the Corps to individuals during the period of membership in the Corps, particularly during the initial period of each assignment.

"(2) CAREER ADVISOR REGARDING OBLIGATED SERVICE.—

"(A) In the case of individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, counseling under paragraph (1) shall include appropriate counseling on matters particular to such obligated service. The Secretary shall ensure that career advisors for providing such counseling are available to such individuals throughout the period of participation in the Scholarship or Loan Repayment Program.

"(B) With respect to the Scholarship Program, counseling under paragraph (1) shall include counseling individuals during the period in which the individuals are pursuing an educational degree in the health profession involved, including counseling to prepare the individual for service in the Corps.

"(3) EXTENT OF COUNSELING SERVICES.—With respect to individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, this subsection shall be carried out regarding such individuals throughout the period of obligated service (and, additionally, throughout the period specified in paragraph (2)(B), in the case of the Scholarship Program). With respect to Corps members generally, this subsection shall be carried out to the extent practicable.

"(c) GRANTS REGARDING PREPARATION OF STUDENTS FOR PRACTICE.—With respect to individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, the Secretary may make grants to, and enter into contracts with, public and nonprofit private entities (including health professions schools) for the conduct of programs designed to prepare such individuals for the effective provision of primary health services in the health manpower shortage areas to which the individuals are assigned.

"(d) ASSISTANCE IN ESTABLISHING LOCAL PROFESSIONAL RELATIONSHIPS.—The Secretary shall assist Corps members in establishing appropriate professional relationships between the Corps member involved and the health professions community of the geographic area with respect to which the member is assigned, including such relationships with hospitals, with health professions schools, with area health education centers under section 781, with health education and training centers under such section, and with border health education and training centers under such section. Such assistance shall include assistance in obtaining faculty appointments at health professions schools.

"(e) TEMPORARY RELIEF FROM CORPS DUTIES.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (4), provide assistance to Corps members in establishing arrangements through which Corps members may, as appropriate, be provided temporary relief from duties in the Corps in order to pursue continuing education in the health professions, to participate in exchange programs with teaching centers, to attend professional conferences, or to pursue other interests, including vacations.

"(2) ASSUMPTION OF DUTIES OF MEMBER.—

"(A) Temporary relief under paragraph (1) may be provided only if the duties of the Corps member involved are assumed by another health professional. With respect to such temporary relief, the duties may be assumed by Corps members or by health professionals who are not Corps members, if the Secretary approves the professionals for such purpose. Any health professional so approved by the Secretary shall, during the period of providing such temporary relief, be deemed to be a Corps member for purposes of section 224 (including for purposes of the remedy described in such section), section 333(f), and section 335(e).

"(B) In carrying out paragraph (1), the Secretary shall provide for the formation and continued existence of a group of health professionals to provide temporary relief under such paragraph.

"(3) RECRUITMENT FROM GENERAL HEALTH PROFESSIONS COMMUNITY.—In carrying out paragraph (1), the Secretary shall—

"(A) encourage health professionals who are not Corps members to enter into arrangements under which the health professionals temporarily assume the duties of Corps members for purposes of paragraph (1); and

"(B) with respect to the entities to which Corps members have been assigned under section 333, encourage the entities to facilitate the development of arrangements described in subparagraph (A).

"(4) LIMITATION.—In carrying out paragraph (1), the Secretary may not, except as provided in paragraph (5), obligate any amounts (other than for incidental expenses) for the purpose of—

"(A) compensating a health professional who is not a Corps member for assuming the duties of a Corps member; or

"(B) paying the costs of a vacation or other interests that a Corps member may pursue during the period of temporary relief under such paragraph.

"(5) SOLE PROVIDERS OF HEALTH SERVICES.—In the case of any Corps member who is the sole provider of health services in the geographic area involved, the Secretary may, from amounts appropriated under section 338, obligate on behalf of the member such sums as the Secretary determines to be necessary for purposes of providing temporary relief under paragraph (1).

"(f) DETERMINATIONS REGARDING EFFECTIVE SERVICE.—In carrying out subsection (a) and sections 338A(d) and 338B(d), the Secretary shall carry out activities to determine—

"(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health manpower shortage areas after the completion of the period of service in the Corps;

"(2) the characteristics of health manpower shortage areas, and of entities seeking assignments of Corps members, that are more likely to retain Corps members after the members have completed the period of service in the Corps; and

"(3) the appropriate conditions for the assignment and utilization in health manpower shortage areas of certified nurse practitioners, certified nurse midwives, and physician assistants.".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

Section 338(a) of the Public Health Service Act (42 U.S.C. 254k(a)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as so designated), by striking "To carry" and all that follows and inserting the following: "For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 2000."; and

(3) by inserting at the end the following new paragraph:

"(2) in the case of individuals who serve in the Corps other than pursuant to obligated service under the Scholarship or Loan Repayment Program, the Secretary each fiscal year shall, to the extent practicable, make assignments under section 333 of such individuals who are certified nurse midwives, certified nurse practitioners, or physician assistants.".

TITLE II—SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS OF NATIONAL HEALTH SERVICE CORPS

SEC. 201. SCHOLARSHIP PROGRAM.

(a) PROVISION OF PRIMARY HEALTH SERVICES.—

(1) IN GENERAL.—Section 338A(a) of the Public Health Service Act (42 U.S.C. 254l(a)) is amended by striking "Corps Scholarship" and all that follows and inserting the following: "Corps Scholarship Program to assure, with respect to the provision of primary health services pursuant to section 331(a)(2)—

"(1) an adequate supply of physicians, dentists, certified nurse midwives, certified

nurse practitioners, and physician assistants; and

"(2) if needed by the Corps, an adequate supply of other health professionals (including mental health professionals).".

(2) SCHOLARSHIP CONTRACT.—Section 338A(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 254l(f)(1)(B)(iv)) is amended in the matter after and below subclause (II) by inserting "as a provider of primary health services" before "in a health manpower shortage area".

(b) RECRUITMENT AND RETENTION.—

(1) IN GENERAL.—Section 338A(c) of the Public Health Service Act (42 U.S.C. 254l(c)) is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "(1) a fair summary" and inserting "(A) a fair summary";

(C) by striking "(2) information respecting" and inserting "(B) information respecting";

(D) by striking "The application form, contract form," and inserting the following:

"(2) The application form, contract form,"; and

(E) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall distribute to health professions schools materials providing information on the Scholarship Program and shall encourage the schools to disseminate the materials to the students of the schools.

"(B)(i) In the case of any health professional whose period of obligated service under the Scholarship Program is nearing completion, the Secretary shall encourage the individual to remain in a health manpower shortage area and to continue providing primary health services.

"(ii) During the period in which a health professional is planning and making the transition to private practice from obligated service under the Scholarship Program, the Secretary may provide assistance to the professional regarding such transition if the professional is remaining in a health manpower shortage area and is continuing to provide primary health services.".

"(C) In the case of entities to which participants in the Scholarship Program are assigned under section 333, the Secretary shall encourage the entities to provide options with respect to assisting the participants in remaining in the health manpower shortage areas involved, and in continuing to provide primary health services, after the period of obligated service under the Scholarship Program is completed. The options with respect to which the Secretary provides such encouragement may include options regarding the sharing of a single employment position in the health professions by 2 or more health professionals, and options regarding the recruitment of couples where both of the individuals are health professionals.".

(2) PUBLICITY.—Section 338A(c) of the Public Health Service Act, as amended by paragraph (1) of this subsection, is amended in paragraph (1)(B) by inserting before the period the following: ", including a statement of all factors considered in approving applications for participation in the Program and in making assignments for participants in the Program".

(c) PRIORITY IN AWARDING SCHOLARSHIPS.—Section 338A(d) of the Public Health Service Act (42 U.S.C. 254l(d)) is amended to read as follows:

"(d)(1) Subject to section 333A, in providing contracts under the Scholarship Program—

"(A) the Secretary shall consider the extent of the demonstrated interest of the applicants for the contracts in providing primary health services; and

"(B) may consider such other factors regarding the applicants as the Secretary determines to be relevant to selecting qualified individuals to participate in such Program.

"(2) In providing contracts under the Scholarship Program, the Secretary shall give priority—

"(A) first, to any application for such a contract submitted by an individual who has previously received a scholarship under this section or under section 758;

"(B) second, to any application for such a contract submitted by an individual who has characteristics that increase the probability that the individual will continue to serve in a health manpower shortage area after the period of obligated service pursuant to subsection (f) is completed; and

"(C) third, subject to subparagraph (B), to any application for such a contract submitted by an individual who is from a disadvantaged background.".

(d) REPORTS TO CONGRESS.—Section 338A(i) of the Public Health Service Act (42 U.S.C. 254l(i)) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

"(i) Not later than March 1 of each year, the Secretary shall submit to the Congress a report providing, with respect to the preceding fiscal year—"; and

(2)(A) in paragraph (3), by striking "and" after the semicolon at the end;

(B) by striking paragraph (4); and

(C) by adding at the end the following new paragraphs:

"(4) the amount of scholarship payments made for each of tuition, stipends, and other expenses, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years;

"(5)(A) the number, and type of health professions training, of individuals who have breached the contract under subsection (f) through any of the actions specified in subsection (a) or (b) of section 338E; and

"(B) with respect to such individuals—

"(i) the educational institutions with respect to which payments have been made or were to be made under the contract;

"(ii) the amounts for which the individuals are liable to the United States under section 338E;

"(iii) the extent of payment by the individuals of such amounts; and

"(iv) if known, the basis for the decision of the individuals to breach the contract under subsection (f); and

"(6) the effectiveness of the Secretary in recruiting health professionals to participate in the Scholarship Program, and in encouraging and assisting such professionals with respect to providing primary health services to health manpower shortage areas after the completion of the period of obligated service under such Program.".

SEC. 202. LOAN REPAYMENT PROGRAM.

(a) PROVISION OF PRIMARY HEALTH SERVICES.—

(1) IN GENERAL.—Section 338B(a) of the Public Health Service Act (42 U.S.C. 254l-1(a)) is amended by striking "Corps Loan" and all that follows and inserting the following: "Corps Loan Repayment Program to assure, with respect to the provision of primary health services pursuant to section 331(a)(2)—

"(1) an adequate supply of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants; and

"(2) if needed by the Corps, an adequate supply of other health professionals (including mental health) professionals.".

(2) LOAN REPAYMENT CONTRACT.—Section 338B(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 2541(f)(1)(B)(iv)) is amended by inserting "as a provider of primary health services" before "in a health manpower shortage area".

(b) ELIGIBILITY.—

(1) IN GENERAL.—

(A) Section 338B(b)(1) of the Public Health Service Act (42 U.S.C. 2541-1(b)(1)) is amended to read as follows:

"(1)(A) must have a degree in medicine, osteopathic medicine, dentistry, or other health profession, or be certified as a nurse midwife, nurse practitioner, or physician assistant;

"(B) be enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession; or

"(C) be enrolled as a full-time student—

"(i) in an accredited (as determined by the Secretary) educational institution in a State; and

"(ii) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathic medicine, dentistry, or other health profession;".

(B) Section 338B(f)(1)(B) of the Public Health Service Act (42 U.S.C. 2541-1(f)(1)(B)) is amended in clauses (ii) and (iii) by striking "(b)(1)(A)" each place such term appears and inserting "(b)(1)(C)".

(2) TIME FOR SUBMISSION OF CONTRACT.—

(A) Section 338B(b) of the Public Health Service Act (42 U.S.C. 2541-1(b)) is amended—

(i) by adding "and" after the semicolon at the end of paragraph (2); and

(ii) by striking paragraphs (3) and (4), and by inserting after paragraph (2) the following:

"(3) submit to the Secretary an application for a contract described in subsection (f) (relating to the payment by the Secretary of the educational loans of the individual in consideration of the individual serving for a period of obligated service)."

(B) Section 338B(e) of the Public Health Service Act (42 U.S.C. 2541-1(e)) is amended by striking "only" and all that follows and inserting the following: "only upon the Secretary and the individual entering into a written contract described in subsection (f).".

(c) INCENTIVES FOR RECRUITMENT AND RETENTION.—Section 338B(c) of the Public Health Service Act (42 U.S.C. 2541-1(c)) is amended by adding at the end the following new paragraph:

"(4) RECRUITMENT AND RETENTION.—

"(A) The Secretary shall distribute to health professions schools materials providing information on the Loan Repayment Program and shall encourage the schools to disseminate the materials to the students of the schools.

"(B)(i) In the case of any health professional whose period of obligated service under the Loan Repayment Program is nearing completion, the Secretary shall encourage the individual to remain in a health manpower shortage area and to continue providing primary health services.

"(ii) During the period in which a health professional is planning and making the transition to private practice from obligated service under the Loan Repayment Program,

the Secretary may provide assistance to the professional regarding such transition if the professional is remaining in a health manpower shortage area and is continuing to provide primary health services.

"(C) In the case of entities to which participants in the Loan Repayment Program are assigned under section 333, the Secretary shall encourage the entities to provide options with respect to assisting the participants in remaining in the health manpower shortage areas involved, and in continuing to provide primary health services, after the period of obligated service under the Loan Repayment Program is completed. The options with respect to which the Secretary provides such encouragement may include options regarding the sharing of a single employment position in the health professions by 2 or more health professionals, and options regarding the recruitment of couples where both of the individuals are health professionals.".

(d) PRIORITY IN MAKING AWARDS.—Section 338B(d) of the Public Health Service Act (42 U.S.C. 254l-1(d)) is amended to read as follows:

"(d)(1) Subject to section 333A, in providing contracts under the Loan Repayment Program—

"(A) the Secretary shall consider the extent of the demonstrated interest of the applicants for the contracts in providing primary health services; and

"(B) may consider such other factors regarding the applicants as the Secretary determines to be relevant to selecting qualifed individuals to participate in such Program.

"(2) In providing contracts under the Loan Repayment Program, the Secretary shall give priority—

"(A) to any application for such a contract submitted by an individual whose training is in a health profession or specialty determined by the Secretary to be needed by the Corps; and

"(B) to any application for such a contract submitted by an individual who has (and whose spouse, if any, has) characteristics that increase the probability that the individual will continue to serve in a health manpower shortage area after the period of obligated service pursuant to subsection (f) is completed; and

"(C) subject to subparagraph (B), to any application for such a contract submitted by an individual who is from a disadvantaged background.".

(e) CONTENTS OF CONTRACT.—Section 338B(f)(2) of the Public Health Service Act (42 U.S.C. 254l-1(f)(2)) is amended by inserting before the semicolon the following: ", including extensions resulting in an aggregate period of obligated service in excess of 4 years".

(f) PAYMENTS.—

(1) CLARIFICATION REGARDING UNDERGRADUATE LOANS.—Section 338B(g)(1) of the Public Health Service Act (42 U.S.C. 254l-1(g)(1)) is amended in the matter preceding subparagraph (A) by striking "loans received by the individual for—" and inserting the following: "loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—".

(2) ANNUAL AMOUNT OF REPAYMENTS.—Section 338B(g)(2) of the Public Health Service Act (42 U.S.C. 254l-1(g)(2)) is amended—

(A) in subparagraph (A)—

(i) by striking "Except" and all that follows through "for each" and inserting "For each";

(ii) by striking "$20,000" and inserting "$35,000"; and

(iii) by adding at the end the following new sentence: "In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

"(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

"(ii) provides an incentive to serve in health manpower shortage areas with the greatest such shortages; and

"(iii) provides an incentive with respect to the health professional involved remaining in a health manpower shortage area, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program."; and

(B) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(g) TAX LIABILITY.—

(1) IN GENERAL.—Section 338B(g)(3) of the Public Health Service Act (42 U.S.C. 254l-1(g)(3)) is amended to read as follows:

"(3) TAX LIABILITY.—For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual—

"(A) the Secretary shall, in addition to such payments, make payments to the individual in an amount equal to 39 percent of the total amount of loan repayments made for the taxable year involved; and

"(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.".

(2) APPLICABILITY OF AMENDMENT.—The amendment made by paragraph (1) shall apply only with respect to contracts under section 338B of the Public Health Service Act (relating to service in the National Health Service Corps) that are entered into on or after the effective date of this Act.

(h) REPORTS TO CONGRESS.—Section 338B(i) of the Public Health Service Act (42 U.S.C. 2541-l(i)) is amended to read as follows:

"(i) REPORTS.—Not later than March 1 of each year, the Secretary shall submit to the Congress a report providing, with respect to the preceding fiscal year—

"(1) the total amount of loan payments made under the Loan Repayment Program;

"(2) the number of applications filed under this section;

"(3) the number, and type of health profession training, of individuals receiving loan repayments under such Program;

"(4) the educational institution at which such individuals received their training;

"(5) the total amount of the indebtedness of such individuals for educational loans as of the date on which the individuals become participants in such Program;

"(6) the number of years of obligated service specified for such individuals in the initial contracts under subsection (f), and, in the case of individuals whose period of such service has been completed, the total number of years for which the individuals served in the Corps (including any extensions made for purposes of paragraph (2) of such subsection);

"(7)(A) the number, and type of health professions training, of such individuals who have breached the contract under subsection (f) through any of the actions specified in subsection (a) or (b) of section 338E; and

"(B) with respect to such individuals—

"(i) the educational institutions with respect to which payments have been made or were to be made under the contract;

"(ii) the amounts for which the individuals are liable to the United States under section 338E;

"(iii) the extent of payment by the individuals of such amounts; and

"(iv) if known, the basis for the decision of the individuals to breach the contract under subsection (f); and

"(8) the effectiveness of the Secretary in recruiting health professionals to participate in the Loan Repayment Program, and in encouraging and assisting such professionals with respect to providing primary health services to health manpower shortage areas after the completion of the period of obligated service under such Program.".

SEC. 203. APPLICABILITY OF BANKRUPTCY REMAINING PROVISION TO REMAINING CONTRACTS UNDER FORMER PROGRAM.

(a) ESTABLISHMENT OF RULE SPECIFIC TO FORMER PROGRAM.—Section 338E(d)(3) of the Public Health Service Act (42 U.S.C. 254o(d)(3)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following new subparagraph:

"(B)(i) Subparagraph (A) shall apply to any financial obligation of an individual under the provision of law specified in clause (ii) to the same extent and in the same manner as such subparagraph applies to any obligation of an individual under the Scholarship or Loan Repayment Program (or contract thereunder) for payment of damages.

"(ii) The provision of law referred to in clause (i) is subsection (f) of section 225 of this Act, as in effect prior to the repeal of such section by section 408(b)(1) of Public Law 94-484.".

(b) APPLICABILITY OF RULE.—With respect to any financial obligation of an individual under subsection (f) of section 225 of the Public Health Service Act, as in effect prior to the repeal of such section by section 408(b)(1) of the Public Law 94-484, the amendment made by subsection (a) of this section applies to any bankruptcy proceeding in which discharge of such an obligation has not been granted before the date that is 31 days after the date of the enactment of this Act.

SEC. 204. ESTABLISHMENT OF CORPS MEMBER REPLACEMENT FUND.

Subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254l et seq.) is amended by redesignating sections 338F through 338H as sections 338G through sections 338I, respectively, and by inserting after section 338E the following new section:

"SEC. 338F. FUND REGARDING USE OF AMOUNTS RECOVERED FOR CONTRACT BREACH TO REPLACE SERVICES LOST AS RESULT OF BREACH.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the National Health Service Corps Member Replacement Fund (hereafter in this section referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated under subsection (b) to the Fund. Amounts appropriated for the Fund shall remain available until expended.

"(b) AUTHORIZATION OF APPROPRIATIONS TO THE FUND.—For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

"(1) the amount collected during the preceding fiscal year by the Federal Govern-

ment pursuant to the liability of individuals under section 338E for the breach of contracts entered into under section 338A or 338B;

"(2) the amount by which grants under section 338I have, for such preceding fiscal year, been reduced under subsection (g)(2)(B) of such section; and

"(3) the aggregate of the amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

"(c) USE OF FUND.—

"(1) PAYMENTS TO CERTAIN HEALTH FACILITIES.—Amounts in the Fund and available pursuant to the appropriations Act may, subject to paragraph (2), be expended by the Secretary to make payments to any entity—

"(A) to which a Corps member has been assigned under section 333; and

"(B) that has a need for a health professional to provide primary health services as a result of the Corps member having breached the contract entered into under section 338A or 338B by the individual.

"(2) PURPOSE OF PAYMENTS.—An entity receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ a health professional to provide primary health services to patients of the entity, or to enter into a contract with such a professional to provide the services to the patients.

"(d) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.".

SEC. 205. REPORT AND AUTHORIZATION OF APPROPRIATIONS.

(a) REPORT.—

(1) DATE FOR REPORT.—Section 338H(a) of the Public Health Service Act, as redesignated by section 204 of this Act, is amended in the matter preceding paragraph (1) by striking "January 20" and inserting "March 1".

(2) INCREASE IN PERIOD FOR WHICH NEEDS PROJECTED.—Section 338H(a) of the Public Health Service Act, as redesignated by section 204 of this Act, is amended in paragraphs (1) and (2) by striking "3 fiscal years" each place such term appears and inserting "5 fiscal years".

(b) FUNDING.—Section 338H(b) of the Public Health Service Act, as redesignated by section 203 of this Act, is amended to read as follows:

"(b) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appropriated $63,900,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 2000.

"(2) RESERVATION OF AMOUNTS.—

"(A) SCHOLARSHIPS FOR NEW PARTICIPANTS.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall obligate not less than 30 percent for the purpose of providing contracts for scholarships under this subpart to individuals who have not previously received such scholarships.

"(B) SCHOLARSHIPS FOR FIRST-YEAR STUDY IN CERTAIN FIELDS.—With respect to certification as a nurse practitioner, nurse midwife, or physician assistant, the Secretary shall, of the amounts appropriated under paragraph (1) for a fiscal year, obligate not less than 10 percent for the purpose of providing contracts for scholarships under this subpart to individuals who are entering the first year of study in a course of study or program described in subsection 338A(b)(1)(B) that leads to such a certification. Amounts obligated under this subparagraph shall be in addition to amounts obligated under subparagraph (A).".

TITLE III—GRANTS TO STATES FOR IMPROVEMENTS REGARDING HEALTH SERVICES

SEC. 301. ESTABLISHMENT OF PROGRAM FOR STATE LOAN REPAYMENTS REGARDING SERVICE IN HEALTH MANPOWER SHORTAGE AREAS.

Section 338I of the Public Health Service Act, as redesignated by section 204 of this Act, is amended to read as follows:

"SEC. 338I. GRANTS TO STATES FOR LOAN REPAYMENT PROGRAMS.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting the States in operating programs described in paragraph (2) in order to provide for the increased availability of primary health services in health manpower shortage areas.

"(2) LOAN REPAYMENT PROGRAMS.—The programs referred to in paragraph (1) are, subject to subsection (c), programs of entering into contracts under which the State involved agrees to pay all or part of the principal, interest, and related expenses of the educational loans of health professionals in consideration of the professionals agreeing to provide primary health services in health manpower shortage areas.

"(3) DIRECT ADMINISTRATION BY STATE AGENCY.—The Secretary may not make a grant under paragraph (1) unless the State involved agrees that the program operated with the grant will be administered directly by a State agency.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State agrees that, with respect to the costs of making payments on behalf of individuals under contracts made pursuant to paragraph (2) of such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(c) COORDINATION WITH FEDERAL PROGRAM.—

"(1) ASSIGNMENTS FOR HEALTH MANPOWER SHORTAGE AREAS UNDER FEDERAL PROGRAM.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, in carrying out the program operated with the grant, the State will assign health professionals participating in the program only to public and nonprofit private entities located in and providing health services in health manpower shortage areas.

"(2) REMEDIES FOR BREACH OF CONTRACTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the contracts provided by the State pursuant to paragraph (2) of such subsection will provide remedies for any breach of the contracts by the health professionals involved.

"(3) LIMITATION REGARDING CONTRACT INDUCEMENTS.—

"(A) Except as provided in subparagraph (B), the Secretary may not make a grant under subsection (a) unless the State involved agrees that the contracts provided by the State pursuant to paragraph (2) of such subsection will not be provided on terms that are more favorable to health professionals than the most favorable terms that the Secretary is authorized to provide for contracts under the Loan Repayment Program under section 338B, including terms regarding—

"(i) the annual amount of payments provided on behalf of the professionals regarding educational loans; and

"(ii) the availability of remedies for any breach of the contracts by the health professionals involved.

"(B) With respect to the limitation established in subparagraph (A) regarding the annual amount of payments that may be provided to a health professional under a contract provided by a State pursuant to subsection (a)(2), such limitation shall not apply with respect to a contract if—

"(i) the excess of such annual payments above the maximum amount authorized in section 338B(g)(2)(A) for annual payments regarding contracts is paid solely from non-Federal contributions under subsection (b); and

"(ii) the contract provides that the health professional involved will satisfy the requirement of obligated service under the contract solely through the provision of primary health services in a health manpower shortage area that is receiving priority for purposes of section 333A(a)(1) and that is authorized to receive assignments under section 333 of individuals who are participating in the Scholarship Program under section 338A.

"(d) RESTRICTIONS ON USE OF FUNDS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the grant will not be expended—

"(1) to conduct activities for which Federal funds are expended—

"(A) within the State to provide technical or other nonfinancial assistance under subsection (f) of section 330;

"(B) under a memorandum of agreement entered into with the State under subsection (h) of such section; or

"(C) under a grant under section 338J; or

"(2) for any purpose other than making payments on behalf of health professionals under contracts entered into pursuant to subsection (a)(2).

"(e) REPORTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees—

"(1) to submit to the Secretary reports providing the same types of information regarding the program operated pursuant to such subsection as reports submitted pursuant to subsection (i) of section 338B provide regarding the Loan Repayment Program under such section; and

"(2) to submit such a report not later than January 10 of each fiscal year immediately

following any fiscal year for which the State has received such a grant.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(g) NONCOMPLIANCE.—

"(1) IN GENERAL.—The Secretary may not make payments under subsection (a) to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

"(2) REDUCTION IN GRANT RELATIVE TO NUMBER OF BREACHED CONTRACTS.—

"(A) Before making a grant under subsection (a) to a State for a fiscal year, the Secretary shall determine the number of contracts provided by the State under paragraph (2) of such subsection with respect to which there has been an initial breach by the health professionals involved during the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(B) Subject to paragraph (3), in the case of a State with 1 or more initial breaches for purposes of subparagraph (A), the Secretary shall reduce the amount of a grant under subsection (a) to the State for the fiscal year involved by an amount equal to the sum of the expenditures of Federal funds made regarding the contracts involved and an amount representing interest on the amount of such expenditures, determined with respect to each contract on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Treasurer of the United States.

"(3) WAIVER REGARDING REDUCTION IN GRANT.—The Secretary may waive the requirement established in paragraph (2)(B) with respect to the initial breach of a contract if the Secretary determines that such breach by the health professional involved was attributable solely to the professional having a serious illness.

"(h) DEFINITIONS.—For purposes of this section, the term 'State' means each of the several States.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of making grants under subsection (a), there is authorized to be appropriated $10,000,000 for each of the fiscal years 1991 through 1995.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.".

SEC. 302. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES.

Subpart III of part D of title III of the Public Health Service Act, as amended by section 204 of this Act, is amended by redesignating section 338J as section 338K, and by inserting after section 338I the following new section:

"SEC. 338J. GRANTS TO STATES FOR OPERATION OF OFFICES OF RURAL HEALTH.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Rural Health Policy (established in section 711 of the Social Security Act), may make grants to States for the purpose of improving health care in rural areas through the operation of State offices of rural health.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, to provide non-Federal contributions toward such costs in an amount equal to—

"(A) for the first fiscal year of payments under the grant, not less than $1 for each $3 of Federal funds provided in the grant;

"(B) for any second year of such payments, not less than $1 for each $1 of Federal funds provided in the grant; and

"(C) for any third year of such payments, not less than $3 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(A) Subject to subparagraph (B), non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) The Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(i) for the first fiscal year of payments under the grant, 100 percent or less of the non-Federal contributions required in paragraph (1) will be provided in the form of in-kind contributions;

"(ii) for any second fiscal year of such payments, not more than 50 percent of such non-Federal contributions will be provided in the form of in-kind contributions; and

"(iii) for any third fiscal year of such payments, such non-Federal contributions will be provided solely in the form of cash.

"(c) CERTAIN REQUIRED ACTIVITIES.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that activities carried out by an office operated pursuant to such subsection will include—

"(1) establishing and maintaining within the State a clearinghouse for collecting and disseminating information on—

"(A) rural health care issues;

"(B) research findings relating to rural health care; and

"(C) innovative approaches to the delivery of health care in rural areas;

"(2) coordinating the activities carried out in the State that relate to rural health care, including providing coordination for the purpose of avoiding redundancy in such activities; and

"(3) identifying Federal and State programs regarding rural health, and providing technical assistance to public and nonprofit private entities regarding participation in such programs.

"(d) REQUIREMENT REGARDING ANNUAL BUDGET FOR OFFICE.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, for any fiscal year for which the State receives such a grant, the office operated pursuant to subsection (a) will be provided with an annual budget of not less than $50,000.

"(e) CERTAIN USES OF FUNDS.—

"(1) RESTRICTIONS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(A) if research with respect to rural health is conducted pursuant to the grant, not more than 10 percent of the grant will be expended for such research; and

"(B) the grant will not be expended—

"(i) to provide health care (including providing cash payments regarding such care);

"(ii) to conduct activities for which Federal funds are expended—

"(I) within the State to provide technical and other nonfinancial assistance under subsection (f) of section 330;

"(II) under a memorandum of agreement entered into with the State under subsection (h) of such section; or

"(III) under a grant under section 338I;

"(iii) to purchase medical equipment, to purchase ambulances, aircraft, or other vehicles, or to purchase major communications equipment; or

"(iv) to purchase or improve real property;

"(v) to carry out any activity regarding a certificate of need.

"(2) AUTHORITIES.—Activities for which a State may expend a grant under subsection (a) include—

"(A) paying the costs of establishing an office of rural health for purposes of subsection (a);

"(B) subject to paragraph (1)(B)(ii)(III), paying the costs of any activity carried out with respect to recruiting and retaining health professionals to serve in rural areas of the State; and

"(C) providing grants and contracts to public and nonprofit private entities to carry out activities authorized in this section.

"(f) REPORTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees—

"(1) to submit to the Secretary reports containing such information as the Secretary may require regarding activities carried out under this section by the State; and

"(2) to submit such a report not later than January 10 of each fiscal year immediately following any fiscal year for which the State has received such a grant.

"(g) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(h) NONCOMPLIANCE.—The Secretary may not make payments under subsection (a) to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

"(i) DEFINITIONS.—For purposes of this section, the term 'State' means each of the several States.

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $3,000,000 for fiscal year 1991, $4,000,000 for fiscal year 1992, and $3,000,000 for fiscal year 1993.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(k) TERMINATION OF PROGRAM.—No grant may be made under this section after the aggregate amounts appropriated under subsection (j)(1) are equal to $10,000,000.".

TITLE IV—HEALTH PROFESSIONAL SHORTAGE AREAS

SEC. 401. MODIFICATION REGARDING TERM "HEALTH MANPOWER SHORTAGE AREA".

(b) PUBLIC HEALTH SERVICE ACT.—

(1) The Public Health Service Act, as amended by the preceding provisions of this Act, is amended in each of the provisions specified in paragraph (2)—

(A) by striking "health manpower shortage area" each place such term appears and inserting "health professional shortage area"; and

(B) in the case of each variation of the term "health manpower shortage area" that results from the capitalization of any of the letters of such term, from the use of the plural, from the use of the possessive, or from the use of different forms of typeface, or from any combination thereof, by striking each such variation each place the variation appears and inserting the analogous variation of the term "health professional shortage area".

(2) The provisions of the Public Health Service Act referred to in paragraph (1) are sections 303(d)(2)(B), 331, 332, 333, 333A, 334, 335, 336(a), 336A, 338A, 338B, 338C, 338D, 338G(a)(1), 338I, 735, 741(f)(1)(C), 759(a), 781(a)(2)(B)(iii), and 822.

(b) UNIFORMED SERVICES HEALTH PROFESSIONS REVITALIZATION ACT OF 1972.—Section 2123(e) of title 10, United States Code, is amended by striking out "an area of health manpower shortage" and inserting in lieu thereof "a health professional shortage area".

(c) SOCIAL SECURITY ACT.—The Social Security Act is amended—

(1) in section 1156(b)(5), by striking "health manpower shortage area (HMSA)" and inserting "health professional shortage area"; and

(2) in sections 1833(m), 1842(b)(4)(F), and 1861 (42 U.S.C. 1395l(m), 1395u(b)(4)(F), and 1395x), by striking "health manpower shortage area" each place such term appears and inserting "health professional shortage area".

(d) COMPREHENSIVE HEALTH MANPOWER TRAINING ACT OF 1971.—Section 202 of the Comprehensive Health Manpower Training Act of 1971 (42 U.S.C. 3505d) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"NATIONAL HEALTH PROFESSIONAL SHORTAGE CLEARINGHOUSE";

and

(2) in subsection (a), by striking out "Manpower" and inserting in lieu thereof "Professional".

(e) HEAD START ACT.—Section 645(a)(2)(B) of the Head Start Act (42 U.S.C. 9840(a)(2)(B)) is amended by striking "health manpower shortage area" and inserting "health professional shortage area".

TITLE V—GENERAL PROVISIONS

SEC. 501. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

And the Senate agree to the same.

JOHN D. DINGELL,
JAMES H. SCHEUER,
HENRY A. WAXMAN,
EDOLPHUS TOWNS,
BILL RICHARDSON,
J.G. ROWLAND,
MIKE SYNAR,
JIM SLATTERY,
JIM COOPER,
NORMAN F. LENT,
ED MADIGAN,
THOMAS J. TAUKE,
TOM BLILEY,
MIKE BILIRAKIS,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
CLAIBORNE PELL,
BROCK ADAMS,
ORRIN HATCH,
DAVID DURENBERGER,
THAD COCHRAN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4487) to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps, and to establish certain programs of grants to the States for improving health services in the States, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

I. REVISIONS IN THE GENERAL PROGRAM

A. NATIONAL HEALTH SERVICE CORPS FIELD PROGRAM

Current Law

Section 331(a) of the Public Health Service (PHS) Act establishes the National Health Service Corps (NHSC) program to improve the delivery of health services in health manpower shortage areas (HMSAs). During the first 36 months of service in the Corps, a member's monthly salary can be supplemented by up to $1,000 to make it more competitive with that of the average member of the profession.

House Bill

Section 101 defines the purpose of the Corps field program as the elimination of health manpower shortages in HMSAs, and the provision of primary health services in HMSAs. Primary health services means health services regarding family medicine, internal medicine, pediatrics, obstetrics and gynecology, dentistry, or mental health, provided by physicians or other health professionals. Eliminates the $1,000 limitation on competitive monthly income supplements for Corps members.

Senate Amendment

Section 2(b) defines the purpose of the Act to be to increase the supply of health professionals in medically underserved rural and urban areas; to halt proposals to phase out the NHSC scholarship program; to increase the number of providers in rural and urban underserved areas; and to revitalize the NHSC by improving the retention and recruitment of health professionals and increasing the number of mid-level practitioners in the Corps.

Conference Agreement

The conference agreement follows the House bill and includes the following findings by the managers:

The mission of the National Health Service Corps is to improve access to primary health care services through coordinated systems of care for medically underserved populations by addressing the geographic maldistribution of physicians and other health care personnel. Over the years, more than 16,500 health care providers have been placed in communities that greatly needed their services, with the peak field strength of the National Health Service Corps occurring in 1986 with 3,127 providers. The key contributors to this field strength were the individuals who had received medical school scholarships in return for a commitment to serve with such corps. The number of scholarship awards by the National Health Service Corps peaked in 1978 when 3,150 were awarded.

Due to a planned phase-out of the scholarship program combined with reductions in funding, the number of scholarships and commitments to serve in the Corps declined steadily throughout the 1980's, and between 1986 and 1989, the number of providers in place around the country declined by over 1000. The cutback was based on the theory that a physician surplus would drive physicians into underserved communities, but the anticipated overflow of physicians into underserved areas did not happen, and many communities lost their sole provider of health services due to the cutback in this Federal program. Inner city and rural communities face an especially serious deterioration in the availability of health care services that has been greatly exacerbated by the decline in the strength of the Corps, with the situation reaching a crisis level in some communities.

As of December 1988, the Department of Health and Human Services had designated 793 dental shortage areas, 592 psychiatry shortage areas, and 1,944 primary care shortage areas. It would take more than 4,000 physicians to fill the primary care shortage areas and eliminate these designations. Approximately 50 percent of the medically indigent population in the shortage areas resides in rural areas and rural areas constitute roughly 70 percent of the shortage area designations. In 1987, to begin to address the shortage created by the cuts in the scholarship program, a new loan repayment program for health professionals was established. The loan repayment program was offered to doctors and nurses, with the response making it clear that additional funds were needed for this program. The number of mid-level health practitioners, including nurse practitioners and physician assistants, in underserved areas, and especially in rural areas, has increased significantly in recent years, and such practitioners have provided an important source of care and have often been complementary to existing physician services. A mix of providers that include nurses, nurse practitioners, certified nurse midwives, physician assistants, psychologists, social workers, other mental health workers, dentists, podiatrists, and physicians is needed in order to provide for the full range of services needed by underserved communities.

Though loan repayment may represent a useful incentive to bring such health personnel to underserved areas, scholarships are specially needed in order to successfully recruit physicians, certified nurse practitioners, certified nurse midwives, and physician assistants to serve in such areas. Due to the high turnover of health professionals in underserved areas, improved methods of retention are also needed to keep existing National Health Service Corps personnel in un-

derserved communities to which such personnel are assigned to serve.

B. DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

Current Law

Section 332 of the PHS Act defines Health Manpower Shortage Areas (HMSAs) as areas designated by the Secretary that can include a rural or urban area, a population group, or a public or non-profit private medical facility or other public facility. Requires the Secretary to annually review and if necessary revise HMSA designations.

House Bill

Section 102 specifies that HMSA "medical facility" designations may include a facility operated by a city or county health department, a health program or facility operated by a tribe or tribal organization, and facilities used in connection with the delivery of health care services to the homeless under section 340 of the PHS Act. Requires the Secretary to publish a complete descriptive list of HMSAs in the Federal Register by July 1, 1991, and each year thereafter.

Senate Amendment

The Senate amendment revises the term "Health Manpower Shortage Area" to "Health Professional Shortage Area."

Conference Agreement

The conference agreement includes both the House Bill and the Senate amendment.

C. ASSIGNMENT OF CORPS PERSONNEL

Current Law

Section 333 of the PHS Act authorizes the Secretary to assign available Corps members to public or private nonprofit entities located in HMSAs for the purpose of providing health services if the entities have applied to the Secretary for the assignment of Corps personnel and meet applicable requirements.

House Bill

Section 103 clarifies that, in evaluating entities for NHSC personnel assignments, the Secretary must determine that there has been appropriate and efficient use of the Corps members previously assigned to the entity.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

D. PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL

Current Law

Section 333(c) provides that, in considering applications for the assignment of Corps personnel, the Secretary is required to give priority to HMSAs (areas, population groups, medical facilities or other public facilities) with the greatest health manpower shortages. In addition, the Secretary is required to take into consideration the willingness of the applying entity to assist and cooperate with the Corps in providing effective health services, as well as the comments of health professional societies and entities in the area or serving the area.

House Bill

Section 104 of the bill requires the Secretary to give priority to applications for the provision of primary health services in HMSAs with the greatest shortages. In addition, priority must be given to entities that serve HMSAs with the greatest shortages, coordinate the delivery of primary health services with related health and social services, have a documented record of sound fiscal management, and that will experience a negative impact on their capacity to provide primary health services if a Corps member is not assigned to the entity.

The House bill also directs the Secretary, in establishing the criteria for specifying HMSAs with the greatest health manpower shortages, to consider only the following factors: the ratio of available health manpower to individuals in an area or population group, and indicators of need (the rate of low birhweight births, the rate of infant mortality, the rate of poverty, and access to primary health services, taking into account travel distance). It requires the Secretary to establish criteria specifying the manner in which the HMSAs with the greatest health manpower shortages are determined and to publish the criteria in the Federal Register no later than July 1, 1991. It requires the Secretary to list HMSAs with the greatest health manpower shortages and the entities within each of these HMSAs that are authorized to receive Corps members. The Secretary would be required to notify all scholarship recipients available for placement of the entities authorized to receive a Corps assignment during the placement cycle appropriate to the individual's medical specialty. If, during a given placement cycle, less than 500 scholarship recipients are available for assignment, the Secretary would have to offer recipients a choice of sites located in the HMSAs with the greatest shortages equal to 3 times the number of recipients, up to a maximum of 500. If 500 or more scholarship recipients are available for placement, the Secretary could determine the number of choices to be offered, subject to ensuring that assignments are made to 500 entities that serve HMSAs that have chronic difficulty in recruiting and retaining health professionals to provide primary care services.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

E. COST SHARING

Current Law

Section 334 of the PHS Act requires, as a condition of approval of an application for the assignment of Corps members, that entities charge for health services provided by assigned Corps members and make reasonable efforts to collect payments for such health services. Entities are then required to pay the Secretary an amount reflecting the cost of the Corps member. "Small health centers," i.e., entities that are not hospitals, not public, or not community or migrant health centers, are exempt from this cost sharing requirement. Small health centers are required to pay, on a quarterly basis, the amount by which revenues they may reasonably expect to receive exceed the costs they may reasonably expect to incur. The Secretary is authorized to waive all or part of this requirement.

House Bill

Section 105 of the bill requires the Secretary to determine the revenues and costs a small health center can reasonably expect to receive and incur in a given year by using criteria specific to the entity. In addition, the Secretary is required to make such a determination of economic self-sufficiency without regard to whether or not the entity is successfully collecting enough revenue to provide an adequate level of primary health services without the assignment of Corps members. Authorizes the Secretary to consider the reasonableness of the amount of revenues collected only to the extent necessary to ensure that the entity is operating efficiently regarding fiscal matters under the control of the entity. Directs the Secretary not to use revenue and cost information in determining whether an entity is a small health center.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

F. ADMITTING PRIVILEGES OF HEALTH CARE PROFESSIONALS

Current Law

Section 335(e)(1)(A) requires hospitals to allow authorized NHSC physicians and dentist admitting privileges if the health care professional meets the qualifications established by the hospital for granting such privileges and agrees to abide by the hospital's and medical staff's published bylaws, rules, and regulations. Failure to comply with this requirement subjects the facility to the loss of all Federal Medicare or Medicaid payments for a period of time specified by the Secretary.

House Bill

No provision.

Senate Amendment

Section 11 of the Senate amendment would require hospitals to extend admitting privileges to other qualified health care professionals who are members of the Corps members, as long as granting such privileges is authorized by State law under which they practice.

Conference Agreement

The conference agreement follows the Senate amendment with a modification deleting the reference to State law authorization.

G. EFFECTIVE PROVISION OF SERVICES AND INCENTIVES FOR RECRUITMENT AND RETENTION

Current Law

Section 336 of the PHS Act directs the Secretary to make grants or enter contracts with public and private nonprofit entities to conduct programs to prepare Corps members for their service obligation under the NHSC scholarship or loan repayment program.

House Bill

Section 106 of the bill amends section 336 of the PHS Act to include several provisions intended to improve the ability of the Corps to retain health professionals in HMSAs beyond their service obligation period. It would require the Secretary to determine the characteristics of health professionals who are more likely to remain in an HMSA practice after completing the NHSC service obligation, and make every effort to select individuals for approved practice sites that have such characteristics. It would direct the Secretary to provide counseling on the nature of service in the Corps for scholarship recipients while they are in health professions school, and also during the initial period of obligated service. It would continue the current law authorization for funding public or nonprofit entities through grants or contracts to provide training for NHSC participants to deliver primary health services in HMSAs.

The House bill would also direct the Secretary to assist Corps members in establishing appropriate professional relationships with health professions and health care institutions located in the area in which they are assigned to serve. It would require the Secretary to assist Corps members in making arrangements for temporary relief from delivering health care services in order to pursue continuing education or other interests, including vacations. In cases where a Corps member is the sole provider of health services in a geographic area, the Secretary would be authorized to obligate appropriated funds necessary to provide temporary relief for such NHSC health practitioners.

Senate Amendment

Section 5 of the Senate amendment would direct the Secretary to establish and implement a program of incentives to improve NHSC recruitment and retention in both the scholarship and loan repayment programs. The Secretary would be required to: (1) distribute materials that encourage the financial aid office of medical, dental, nursing, graduate departments of psychology, and social work school, primary care medical school departments, and residency programs to inform students about the NHSC programs; (2) make grants to, and enter into contracts with, health professions institutions and public and private nonprofit entities to conduct programs to expose and train health professions students in clinical settings that provide primary care services in underserved areas; (3) assure the availability of career advisors to assist Corps members; (4) establish a program for fellowships for physicians, dentists, nurse practitioners, nurse mid-wives, and physicians assistants who are interested and committed to primary care, to enable such practitioners to gain exposure and expertise in medical practice in underserved areas; (5) encourage the provision of faculty appointments for Corps providers at health professions schools; (6) establish exchange programs with teaching centers, leave time for professional conferences, sabbatical leave, and traveling medical consultation teams to increase opportunities for patient case discussions; (7) establish options, such as job sharing and couple recruitment, and other flexible work programs for Corps members after the period of obligated service has been fulfilled; (8) establish a "respite squad" consisting of mid-career health professionals willing to work in underserved areas on a short-term basis, such as a two week or one day a month; and (9) maintain a recruitment program to recruit individuals, who are not participants in the NHSC scholarship or loan repayment program, to join the Corps.

The Secretary would be required to track and evaluate these recruitment and retention incentive programs to determine their effectiveness in increasing the participation of individuals in the Corps and their willingness to continue to participate in the Corps. The Secretary would be required to ensure the administrative staff is adequate and appropriate to administer these programs, and to increase such staff to levels appropriate to establish and operate such programs. The Secretary would also be required to submit to the appropriate congressional committees a report on the results of evaluations conducted.

Conference Agreement

The conference agreement generally includes both the House bill and the Senate amendment.

H. NATIONAL ADVISORY COUNCIL

Current Law

Section 337 of the PHS Act establishes the National Advisory Council on the NHSC, which is composed of 15 members appointed by the Secretary. The Council is directed to consult with, advise, and make recommendations to the Secretary for administering the NHSC program. The Council is also directed to review and comment on regulations.

House Bill

Section 107 of the bill specifies that the Council must be composed of at least one of each of the following: a scholarship recipient, a loan repayment recipient, a resident of a frontier area, a resident of a non-frontier rural area, a resident of an urban area, a physician assistant, a certified nurse practitioner, a certified nurse midwife, a family practitioner, an obstetrician-gynecologist, a pediatrician, and a physician practicing internal medicine.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House bill.

I. AUTHORIZATION OF APPROPRIATIONS

Current Law

The NHSC field program is authorized at $64 million in FY 1990.

House Bill

Section 108 of the bill authorizes such sums as necessary for each of the fiscal years 1991 through 2000.

Senate Amendment

Section 9 of the bill authorizes appropriations of $65 million for FY 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994. Of such amounts, not less than 8 percent would be made available with respect to nurses, nurse practitioners, certified nurse midwives, physician assistants, psychologists, social workers, and other non-physician providers.

Conference Agreement

The conference agreement follows the House bill.

II. NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS

A. SCHOLARSHIP PROGRAM

Current Law

Section 338A of the PHS Act authorizes the NHSC scholarship program designed to assure an adequate supply of trained physicians, dentists, and nurses for the Corps, as well as other necessary health professionals. The Secretary, in determining which applications for scholarship assistance to approve, must give priority to: 1) individuals who have previously received scholarships from the Corps or on the basis of exceptional financial need, and 2) individuals entering their first year of study. The Secretary is required to report to Congress by March 1 of each year on the operation of the NHSC scholarship program.

House Bill

Section 201 of the House bill would define the central purpose of the NHSC scholarship program as the provision of primary health services in HMSAs, by assuring an adequate supply of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants. The assurance of an adequate supply of other health professionals, if needed by the Corps, would be a secondary purpose of the program. Second priority for awarding scholarships would go to individuals who, regardless of their year of study, have characteristics that increase the probability that they will continue to serve in a HMSA after completing the NHSC period of obligated service. The Secretary would be required to collect and report to Congress the following additional data: 1) the amount of scholarship payments made for stipends and other expenses in the aggregate and at each educational institution, and 2) information on the individuals who have breached their scholarship obligations.

Senate Amendment

Section 4 of the Senate amendment would require the Secretary to include a statement of all the factors considered in the selection of applicants and the assignment of Corps members when disseminating application and contract forms to individuals.

Section 4(a) and 4(b) of the Senate amendment would require the Secretary to consider the following factors in selecting applicants for the NHSC scholarship and loan repayment program: (1) the applicant's demonstrated interest in providing health services to individuals residing in underserved areas; (2) the applicants demonstrated interest in serving residents of underserved areas; (3) the applicant's connection to a designated health professions shortage area, at the time of submitting the application; (4) the need and demand for nurses, nurse midwives, nurse practitioners, physician assistants, dentists, psychologists, social workers, and other mental health professionals; (5) the school attended by the applicant with regard to its demonstrated record of success or its effort to train primary care health professionals willing to serve in medically underserved areas; and (6) any other factors which the Secretary determines relevant to the selection of qualified applicants.

In determining which scholarship applications to approve, the Secretary would be required to give priority, first, to applicants who have previously received scholarships under the NHSC scholarship program or on the basis of exceptional financial need; and second, to applications from individuals from disadvantaged and minority backgrounds. With respect to the loan repayment program, these two priorities would also apply.

Conference Agreement

The conference agreement follows the House bill with the following modifications. The agreement clarifies that the adequate supply of other health professionals to be developed through the scholarship programs, if needed by the Corps, would include mental health professionals, such as psychologists and social workers. The agreement also directs the Secretary, in awarding NHSC scholarships, to give third priority to applications submitted by individuals from a disadvantaged background. This priority would be subject to the priority given to individuals with characteristics, including disadvantaged backgrounds, that increase the probability that they will continue to serve in a HMSA after the period of obligated service.

B. LOAN REPAYMENT PROGRAM

Current Law

Section 338B of the PHS Act establishes the NHSC Loan Repayment Program to assure an adequate supply of trained physicians, dentists, and nurses for the Corps, as well as other health professionals needed by

the Corps. To be eligible to participate in the NHSC loan repayment program an individual must meet certain statutory requirements, including a requirement to submit a signed contract to provide obligated service along with the program application. To be eligible to participate in the loan repayment program, an individual must be enrolled as a full-time student in an accredited educational institution in a State, and be in the final year of a course of study leading to a degree in medicine, osteopathy, dentistry, or other health profession; or be enrolled in a graduate training program in medicine, osteopathy, dentistry, or other health profession. Priority is given to applications from individuals whose training is in a health profession or specialty the Secretary determines is needed by the Corps, and to individuals who are committed to service in medically underserved areas.

NHSC loan repayment contracts provide that the individual agrees to serve for 2 years, or for a longer period, and that the period of obligated service can be extended beyond the term initially agreed upon. The program repays up to $20,000 in education loans on behalf of participants for each year of obligated service, or for participants serving in the Indian Health Service, up to $25,000 per year of service. The Secretary is authorized to make additional payments to loan repayment recipients to reimburse the individual for all or part of the increase in Federal, State, or local income tax liability resulting from the NHSC loan repayments.

Section 338B(i) requires the Secretary to submit a report to Congress by March 1 of each year on the operation of the program.

House Bill

Section 202 of the House bill defines the central purpose of the NHSC loan repayment program as providing primary health services in HMSAs. It would specify the types of health professionals necessary for providing primary health services in HMSAs as physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants. It would provide for the placement of other health professionals if needed by the Corps for the delivery of primary health services. It would eliminate the current requirement that a signed contract be submitted to the Secretary at the time of submission of application in order to participate in the program. Instead, the signed contract could be submitted any time after the submission of the application and before the disbursement of any loan repayment funds. Eligibility for the loan repayment program would be expanded to include individuals with degrees in medicine, osteopathic medicine, dentistry, or other health professions, or individuals enrolled in approved graduate training programs for health professions.

Priority for awarding loan repayment contracts would be given to applicants who have (or whose spouse has) characteristics that increase the probability that the individual will continue to serve in an HMSA after the period of obligated service is completed. The Secretary would be authorized to extend the loan repayment contract for additional periods, including extensions resulting in an aggregate period of obligated service of more than 4 years.

The annual ceiling on loan repayments made for each year of obligated service would be increased to $35,000 for all participants, whetheror not they serve in the Indian Health Service. The Secretary would be required to make tax liability payments to the individual equal to 39 percent of the total amount of loan repayments for each taxable year, with respect to contracts entered into on or after enactment.

The Secretary would be required to include additional information regarding the operation of the loan repayment program in the annual NHSC report to Congress, including (1) the number of years served by an individual, (2) the total amount of indebtedness of individuals participating in the program, and (3) the number and type of health professionals who breach NHSC loan repayment contracts and the reason for the breach.

Senate Amendment

Section 4(d) of the Senate amendment provides that, in determining which application to approve for loan repayment contracts, the Secretary would be required to give priority, first, to applicants who have previously received scholarships under the NHSC scholarship program or on the basis of exceptional financial need. Second priority would go to applications from individuals from disadvantaged and minority backgrounds; applications from individuals who are legal residents of a health professions shortage area, or who reside in such an area at the time of application; and applications from individuals who have demonstrated an interest in providing primary care services in underserved areas through clinical programs.

Conference Agreement

The conference agreement follows the House bill, with a modification requiring the Secretary, in awarding loan repayment contracts, to give third priority to applications submitted by individuals from a disadvantaged background. This priority would be subject to the priority given to individuals with characteristics, including disadvantaged background, that increase the probability that they will continue to serve in a HMSA after the period of obligated service.

C. ESTABLISHMENT OF CORPS MEMBER REPLACEMENT FUND

Current Law

Amounts repaid by individuals who have breached their NHSC scholarship or loan repayment contracts are returned to the general fund of the Treasury, and are not available for obligation by the Corps.

House Bill

Section 203 of the House bill would establish a fund in the U.S. Treasury to be known as the National Health Service Corps Member Replacement Fund. Each year the Fund would be authorized to be appropriated an amount equal to the sum of: (1) the amount collected during the preceding year by the Federal government as a result of the liability of individuals who breach NHSC scholarship or loan repayment programs; (2) any amounts offset against grants to State as a reult of breaches of State loan repayment contracts; and (3) aggregate interest accruing on the amounts in the Fund during the previous year. The Secretary would be authorized to use the Fund to make payments to entities to which a Corps member has been assigned, and that needs a health professional to provide primary health services as the result of the Corps member's breach of the NHSC scholarship or loan repayment contract. The health care facility receiving the payment would be authorized to use the funds to recruit and employ or contract with health professionals to provide primary health services to patients.

Senate Amendment

No provision

Conference Agreement

The conference agreement follows the House bill with a clarification that amounts appropriated for the Fund shall remain available until expended.

D. REPORT AND AUTHORIZATION OF APPROPRIATIONS

Current Law

Section 338G of the PHS Act authorizes such sums as may be necessary for NHSC scholarship and loan repayments, and requires the Secretary to report to the Congress on January 20 of each year regarding the operation of the NHSC scholarship and loan repayment programs.

House Bill

The House bill would authorize the appropriation of $63.9 million in FY 1991, and such sums as necessary in fiscal years 1992 through 2000, for NHSC scholarships and loan repayments. Of the amounts appropriated in each fiscal year, 30 percent be required to be used for new scholarships to individuals who have not previously received such scholarships. An additional 10 percent of the amounts appropriated in each fiscal year would be required to be used for new scholarships for individuals entering a course of study leading to certification as a nurse practitioner, nurse midwife, or physician assistant.

Senate Amendment

Section 9 of the Senate amendment would authorize the appropriation of $63.9 million for FY 1991, and such sums as may be necessary for scholarships and loan repayments in subsequent fiscal years. Of the appropriated amounts, not less than 10 percent would be required to be made available for scholarship and loan repayments with respect to nurses, nurse practitioners, nurse midwives, physician assistants psychologists, social workers, and other non-physician health providers. The Senate amendment would authorize the Secretary to transfer funds between the NHSC scholarship and loan repayment programs as needed due to the availability of applicants for such programs.

Conference Agreement

The conference agreement follows the House bill.

E. NONDISCHARGEABILITY OF NHSC DEBTS IN BANKRUPTCY

Current Law

Section 338E(d)(3) describes the circumstances under which an NHSC scholarship or loan repayment recipient who defaults on his or her NHSC service obligation can be discharged, through a bankruptcy proceeding under title XI of the U.S. Code, from the statutory and contractual obligation to pay damages resulting from his or her default. Such a discharge may be granted only after the expiration of a 5-year period that begins on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

House Bill

No provision.

Senate Amendment

The Senate amendment would apply current law regarding the discharge in bankruptcy of payment obligations to those individuals who participate in the Public Health and National Health Service Corps Scholar-

ship Training Program authorized under section 225 of the PHS Act, as that section was in effect prior to its repeal by section 408(b)(1) of P.L. 94-484. This former law authority, the predecessor to the current law NHSC scholarship and loan repayment programs, contained no provisions regarding the discharge in bankruptcy of financial obligations under the NHSC program.

Conference Agreement

The conference agreement follows the Senate amendment.

F. ESTABLISHMENT OF RURAL HEALTH CARE PROVIDER RECRUITMENT AND EDUCATION PROGRAM

Current Law

No provision.

House Bill

No provision.

Senate Amendment

The Senate amendment would require the Secretary to establish a demonstration progam (known as the Rural Health Care Provider Recruitment and Education program) to assist rural communities in recruiting and educating eligible individuals to serve as health care providers in such areas. Under the program, grants would be made to States for the purpose of assisting rural community organizations to provide scholarship assistance to individuals who agree, in exchange for the assistance, to provide health service in that community for at least 2 years upon completion of their health professions training. The demonstraion program would be administered by qualified States through the existing State loan repayment program (section 338H of the PHS Act.) Appropriations would be authorized at a level of $5 million in FY 1991, $10 million in FY 1992, and such sums as may be necessary in 1993.

Conference Agreement

The conference agreement does not include the Senate amendment. A comparable provision is found in section 8 or H.R. 5702, the Disadvantaged Minority Health Improvement Act of 1990.

III. GRANTS TO STATES FOR IMPROVEMENTS REGARDING HEALTH SERVCIES

A. ESTABLISHMENT OF PROGRAM FOR STATE LOAN REPAYMENTS

Current Law

Section 338H authorizes the Secretary to make grants to States to establish programs similar to the NHSC loan repayment program. States develop standards for designating medically underserved areas and determining obligated service requirements, subject to approval by the Secretary. The Federal share of the program costs is limited to 75 percent. Appropriations for the program are authorized at such sums as may be necessary for FY 1990.

House Bill

Under the House bill, the Secretary would be authorized to make grants to States for the purpose of operating loan repayment programs, in order to increase the availability of primary health services in HMSAs. In order ro receive a grant, States would be required to administer the program directly, and to make available for the cost of the program non-Federal contributions, in cash, equal to the amount of Federal funds provided in the grant. States would also be required to assign health professionals participating in the program only to public and nonprofit private entities located in and serving HMSAs designated by the Secretary. The terms of the State loan repayment contracts could not be more favorable than the terms the Secretary could offer under the NHSC loan repayment program. The Secretary would be required to reduce a State's grant in any fiscal year by the amount of Federal funds expended under any contracts in which an initial breach occurred during the preceding fiscal year. This program would be authorized at a level of $10 million for each of fiscal years 1991 through 1995.

Senate Amendment

Section 8(c) of the Senate amendment would direct the Secretary to use such sums as may be necessary from the amounts authorized for the NHSC scholarship and loan repayment programs in order to make grants to States for physician loan repayment programs. The Secretary would also be required to use such sums as necessary for loan repayment for nurses, psychologists, social workers, and other health professionals; these funds would be derived from the 10 percent set-aside under the Senate amendment for the NHSC scholarship and loan repayment programs for nurses, psychologists, social workers, and other health professionals.

Conference Agreement

The conference agreement follows the House bill with the following modifications. States would be authorized to offer annual payments to State loan repayment recipients higher than the $35,000 which the Secretary is authorized to offer to NHSC loan repayment recipients each year if (1) any amounts in excess of $35,000 are paid by the State from non-Federal funds, and (2) the health professional involved with satisfy his or her service obligation by providing primary health services in a HMSA with the greatest shortage. The Secretary would be authorized to waive the reduction in a grant to the State in the event of initial breach of a contract if the Secretary determines that the breach by the health professional involved was attributable solely to the professional having a serious illness.

B. GRANTS TO STATES FOR OPERATION OF OFFICES OF RURAL HEALTH

Current Law

No provision.

House Bill

The House bill would establish a program to help fund grants to States on a matching basis, for State Offices of Rural Health. Funding would be available to all States meeting the program's requirements, regardless of whether a State has already established such an office. The Secretary, acting through the Director of Office of Rural Health Policy, would be authorized to make grants to States for the operation of State Offices of Rural Health. States would be required to provide non-Federal contributions toward the program of not less than $1 for each $3 of Federal grant funds in the first year, not less than $1 for each $1 of Federal funds in the second year, and not less than $3 for each $1 of Federal funds in the third year. The non-Federal contributions would have to be in cash.

State Offices of Rural Health receiving grant funds would be required to (1) establish and maintain a clearinghouse for collecting and disseminating information on rural health care issues, research findings, and innovative approaches to the delivery of rural health care; (2) coordinate the activities carried out by the State relating to rural health care in order to avoid duplication of effort; and (3) identify Federal and State rural health programs and provide technical assistance to such public and nonprofit private entities, including community and migrant health centers, regarding participation in such programs. States would be authorized, but not required, to use grant funds to pay the costs of establishing an office of rural health, pay the costs of any activity carried out with respect to recruiting and retaining health professionals to serve in rural areas of the State, and provide grants to public and nonprofit private entities to carry out the program's activities. Grantees would be allowed to use only 10 percent of a grant to be spent on research on rural health. No Federal grant funds could be used to provide health care; to conduct activities for which certain other Federal funds are used; to purchase medical equipment, medical transportation vehicles, or major communications equipment; or to purchase or improve property.

The bill would authorize the appropriation of $3 million for FY 1991, $4 million for FY 1992, and $3 million for FY 1993. The program would be sunset after aggregate appropriations total $10 million.

Senate Amendment

The Senate amendment would require the Secretary to make grants to States to enable them to establish State Offices of Rural Health, or to assist existing State rural health offices. Grants could be used to establish or continue the operations of the State Office of Rural Health in a State agency or through a public or private educational institution or other organization. Grants to a single State for a fiscal year could not exceed the quotient of the aggregate amount appropriated for the program divided by the number of applications approved for such fiscal year. States receiving grants would be required to provide an amount that equals the Federal grant, in cash or in kind. For States establishing new offices of rural health, the Secretary would be authorized to modify the matching requirement allowing them to contribute not less than $1 for each $3 of Federal funds.

States Offices of Rural Health would be required to (1) provide leadership and advocacy on rural health issues; (2) coordinate activities with organizations involved in rural development activities; (3) make recommendations on improving the quality and cost effectiveness of rural health care; (4) identify Federal and State programs regarding rural health and provide technical assistance to participating public and nonprofit private entities; (5) prepare and submit periodic reports to the Office of Rural Health Policy; and (6) communicate and cooperate with rural health research centers established by the Federal Office of Rural Health Policy established under section 301 of the PHS Act. States would be restricted from using more than 5 percent of the federal grant for research activities. States would be authorized to use grant funds, at their option, to (1) assist rural areas in responding to changes in access to health care, (2) plan and assist in the recruitment and retention of medical professionals in rural areas, (3) improve community involvement in health care delivery, (4) improve rural emergency medical services, (5) improve access to rural health care through innovative transportation and communication services, (6) encourage the sharing of rural health care information, (7) evaluate data on rural health conditions and needs, and (8) provide technical assistance for

rural hospital transition grants. Grant funds could not be used for health planning activities such as certificate of need.

Appropriations for grants for State Offices of Rural Health would be authorized at $3.75 million for FY 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.

Conference Agreement

The conference agreement follows the House bill, with the following modifications. In the first year of payments under a grant, the required State contribution could be in kind. In the second year, 50 percent of the State contribution would have to be in non-Federal funds. In the third year, 100 percent of the State contribution would have to be in non-Federal funds. Grantees would be prohibited from using funds under this program to carry out any certificate of need activities.

IV. GENERAL PROVISIONS

A GRANTS FOR HOME HEALTH AREA DEMONSTRATIONS

Current Law

Section 395(a) of the PHS Act authorizes the appropriation of $5 million in FY 1990 for not less than 3, and not more than 5, grants to States for the purpose of assisting grantees in carrying out demonstration projects (1) to identify low-income individuals who can avoid institutionalization or prolonged hospitalization if skilled medical or related health services are provided in their homes, (2) to pay the costs of providing these in-home services, and (3) to coordinate the provision of such services by public and private entities.

House Bill

No provision.

Senate Amendment

Section 12 of the Senate amendment would expand the number of grants authorized under current law for home health area demonstration projects to 10 to 50 grants to States or private entities. States would be required to match $25 in State funds (cash or in-kind) for each $75 in Federal funds. Appropriations of such sums as are necessary for each fiscal year 1990 through 1992 would be authorized. The Secretary would be required to report to Congress on the effectiveness of programs that receive such grants 18 months after enactment.

Conference Report

The conference agreement does not include the Senate amendment.

B. EMERGENCY MEDICAL SERVICES FOR CHILDREN

Current Law

Authorizes the Secretary to provide up to four grants to States or accredited schools of medicine to support demonstration projects in such States for the expansion and improvement of emergency medical services for children who need treatment for trauma or critical care.

House Bill

No provision.

Senate Amendment

Eliminates the limit on the number of grants that can be made during a fiscal year to States or accredited schools of medicine in States, and the restriction that the demonstration project must be located within such State.

Conference Agreement

The conference agreement does not include the Senate amendment.

JOHN D. DINGELL,
JAMES H. SCHEUER,
HENRY A. WAXMAN,
EDOLPHUS TOWNS,
BILL RICHARDSON,
J.G. ROWLAND,
MIKE SYNAR,
JIM SLATTERY,
JIM COOPER,
NORMAN F. LENT,
ED MADIGAN,
THOMAS J. TAUKE,
TOM BLILEY,
MIKE BILIRAKIS,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
CLAIBORNE PELL,
BROCK ADAMS,
ORRIN HATCH,
DAVID DURENBERGER,
THAD COCHRAN,
Managers on the Part of the Senate.

STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1990

Mr. GONZALEZ submitted the following conference report and statement on the bill (H.R. 3789) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-951)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3789) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Stewart B. McKinney Homeless Assistance Amendments Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS

Sec. 101. Technical amendment.
Sec. 102. Authorization of appropriations.
Sec. 103. Extension of Interagency Council.

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Sec. 201. Authorization of appropriations.
Sec. 202. Indian members of local boards.

TITLE III—HOUSING ASSISTANCE

Subtitle A—Revised McKinney Act

Sec. 301. Amendment to McKinney Act.
Sec. 302. Definition of "homeless person".
Sec. 303. Transitional rule.
Sec. 304. Strategy to eliminate unfit transient facilities.

Subtitle B—Amendments to Current Program

Sec. 311. Comprehensive homeless assistance plan.
Sec. 312. Emergency shelter grants program.
Sec. 313. Supportive housing demonstration program.
Sec. 314. Supplemental assistance for facilities to assist the homeless.
Sec. 315. Section 8 assistance for single room occupancy dwellings.
Sec. 316. Housing affordability strategy requirement.
Sec. 317. Shelter plus care.

Subtitle C—Effective Date

Sec. 321. Effective date.

TITLE IV—USE OF PUBLIC REAL PROPERTY TO ASSIST THE HOMELESS AND CENSUS STUDY

Sec. 401. Use of certain public real property to assist the homeless.
Sec. 402. Study of the counting of the homeless for the national census.

TITLE V—HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

Sec. 501. Waiver for certain organizations of requirement of status as medicaid provider.
Sec. 502. Authorization of appropriations.
Sec. 503. Establishment of program regarding primary health services for homeless children.

Subtitle B—Formula Grants to States for Assistance Regarding Transition From Homelessness

Sec. 511. Establishment of program.

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

Sec. 521. Mental health services for homeless individuals with chronic mental illness.
Sec. 522. Alcohol and drug abuse treatment of homeless individuals.

TITLE VI—EDUCATION, TRAINING, COMMUNITY SERVICE, AND FAMILY SUPPORT

Sec. 601. Short title.
Sec. 602. Definition of homeless.

Subtitle A—Provisions Relating to Literacy and Education

Sec. 611. Statewide literacy initiative.
Sec. 612. Education for homeless children and youth.
Sec. 613. Reporting requirement.

Subtitle B—Job Training for the Homeless

Sec. 621. Reauthorization of certain programs within the Stewart B. McKinney Homeless Assistance Act.
Sec. 622. Job Training Partnership Act.

Subtitle C—Emergency Community Services Homeless Grant Program

Sec. 631. Emergency community services homeless grant program.

Subtitle D—Evaluation and Reports

Sec. 641. Evaluation and reports.

Subtitle E—Homeless Prevention Demonstration Programs

Sec. 651. Family support centers.

Subtitle F—Preventive Services Regarding Children of Homeless Families or Families at Risk of Homelessness

Sec. 661. Certain preventive services regarding children of homeless families or families at risk of homelessness.

TITLE VII—VETERANS PROGRAMS

Sec. 701. Medical programs.

TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS

SEC. 101. TECHNICAL AMENDMENT.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

SEC. 103. EXTENSION OF INTERAGENCY COUNCIL.

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

SEC. 202. INDIAN MEMBERS OF LOCAL BOARDS.

TITLE III—HOUSING ASSISTANCE

Subtitle A—Revised McKinney Act

SEC. 301. AMENDMENT TO MCKINNEY ACT.

TITLE IV—HOUSING ASSISTANCE

Subtitle A—General Provisions

SEC. 401. PURPOSE.

SEC. 402. DEFINITIONS.

SEC. 101. TECHNICAL AMENDMENT.

Section 202(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11312(a)) is amended—

(1) by striking paragraph (15);

(2) by redesignating paragraphs (11), (12), (13), and (14) as paragraphs (12), (13), (14), and (15), respectively; and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) The Secretary of Veterans Affairs, or the designee of the Secretary.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,200,000 for fiscal year 1991 and $1,300,000 for fiscal year 1992.".

SEC. 103. EXTENSION OF INTERAGENCY COUNCIL.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "October 31, 1990" and inserting "October 1, 1992".

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $150,000,000 for each of fiscal years 1991 and 1992.".

SEC. 202. INDIAN MEMBERS OF LOCAL BOARDS.

(a) REQUIREMENT FOR AMERICAN INDIAN MEMBER.—The second sentence of section 302(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11332(a)) is amended by striking the period at the end and inserting the following: ", and except that each local board administering program funds for a locality within which is located a reservation (as such term is defined in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or a portion thereof, shall include a board member who is a member of an Indian tribe (as such term is defined in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)).".

(b) IMPLEMENTATION.—Each local board under the Emergency Food and Shelter Program whose membership shall include a member of an Indian tribe by reason of the amendment made by subsection (a) shall comply with the requirement made by such amendment not later than the expiration of the 30-day period beginning on the date of the enactment of this Act.

TITLE III—HOUSING ASSISTANCE

Subtitle A—Revised McKinney Act

SEC. 301. AMENDMENT TO MCKINNEY ACT.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act is amended to read as follows:

TITLE IV—HOUSING ASSISTANCE

Subtitle A—General Provisions

"SEC. 401. PURPOSE.

"The purpose of this title is to expand the Federal commitment to alleviate homelessness in this Nation by providing States, Indian tribes, and localities with the resources to—

"(1) help very low-income families avoid becoming homeless;

"(2) meet the emergency shelter needs of homeless persons and families;

"(3) provide transitional housing to facilitate the movement of homeless persons and families to independent living;

"(4) provide specialized permanent housing for homeless persons who require a supportive living environment; and

"(5) provide supportive services to help homeless persons and families lead independent and dignified lives.

"SEC. 402. DEFINITIONS.

"For purposes of this title—

"(1) The term 'assistance' means grants to assist the acquisition, lease, renovation, substantial rehabilitation, operation, or conversion of facilities to assist the homeless, grants for moderate rehabilitation, grants for other purposes, and other assistance made eligible under section 405 and subtitle B.

"(2) The term 'emergency activities' means supportive services that are provided in an emergency shelter developed in accordance with section 412.

"(3) The term 'families' has the same meaning given the term under section 3(b)(2) of the United States Housing Act of 1937.

"(4) The term 'grantee' means—

"(A) a State or unit of general local government receiving grants from the Secretary under section 403(a);

"(B) a group of geographically contiguous local governments that have formed a consortium that, in the determination of the Secretary—

"(i) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a), and

"(ii) is comprised only of jurisdictions that have received a formula allocation for the fiscal year, and

"(C) for purposes of section 406 and subsections (a), (b), (c), and (f) of section 407, an Indian tribe, Indian housing authority, or a private nonprofit organization receiving a direct grant under section 405.

"(5) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'homeless person with disabilities' means a person with disabilities who is a homeless person within the meaning of section 103, is at risk of becoming a homeless person, or has been a resident of transitional housing carried out pursuant to this Act or the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591.

"(7) The term 'locality' means the geographical area within the jurisdiction of a local government.

"(8) The term 'operating costs' means expenses incurred by a project sponsor operating any housing assisted under this title with respect to—

"(A) the administration, maintenance, repair, and security of such housing; and

"(B) utilities, fuels, furnishings, and equipment for such housing.

"(9) The term 'operating costs' includes expenses incurred by a project sponsor operating transitional housing under this title with respect to—

"(A) the conducting of the assessment required by section 413(c)(1)(B); and

"(B) the provision of supportive services to the residents of such housing.

"(10) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management services.

"(11) The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(12) The term 'project' means a structure or a portion of a structure that is acquired or rehabilitated with assistance provided under this title or with respect to which the Secretary provides technical assistance or annual payments for operating costs.

"(13) The term 'project sponsor' means any governmental or private nonprofit organization that—

"(A) receives assistance from the Secretary or from a grantee under section 403(a),

"(B) is approved by the grantee as to financial responsibility, and

"(C) is directly responsible for the administration of assistance provided under this title.

Each project sponsor shall act as the fiscal agent of the Secretary with respect to assistance provided to such project sponsor under this title.

"(14) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) The term 'State' means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

"(16)(A) The term 'supportive services' means assistance designed by a project sponsor that—

"(i) addresses the special needs of homeless persons, such as deinstitutionalized persons, families with children, persons with mental disabilities, other persons with disabilities, the elderly, and veterans intended to be served by a project; and

"(ii) assists in accomplishing the purposes of the different types of housing for the homeless made eligible under this subtitle.

"(B) The term includes—

"(i) food services, child care, substance abuse treatment, assistance in obtaining permanent housing, outpatient health services, employment counseling, nutritional counseling, security arrangements for the protection of residents of facilities to assist the homeless, and such other services essential for maintaining or moving towards independent living as the Secretary determines to be appropriate; and

"(ii) assistance to homeless persons in obtaining other Federal, State, and local assistance available for such individuals, including public assistance benefits, mental health benefits, employment counseling, and medical assistance.

"(C) Such term does not include the provision of major medical equipment.

"(D) All or part of the supportive services may be provided directly by the project sponsor or by arrangements with other public or private service providers.

"(17) The term 'unit of general local government' means any city, town, township, county, parish, village, or other general purpose subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium; and any other territory or possession of the United States.

"(18) The term 'consortium' means a group of geographically contiguous local governments that the Secretary determines—

"(A) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a); and

"(B) is comprised only of jurisdictions that have received a formula allocation for the fiscal year.

"(18) The term 'very low-income families' has the same meaning given the term under section 104 of the Cranston-Gonzalez National Affordable Housing Act.

"(19) The terms 'Indian tribe' and 'Indian housing authority' have the same meanings as in section 3 of the United States Housing Act of 1937.

"SEC. 403. GENERAL AUTHORITY.

"(a) GRANTS FOR HOMELESS HOUSING ASSISTANCE.—

"(1) IN GENERAL.—

"(A) GRANTS AUTHORIZED.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 408, make grants to States and units of general local government and to eligible applicants under section 405 in order to (i) carry out activities designed to meet the emergency, transitional, and permanent housing needs of the homeless, (ii) help very low-income families and persons avoid becoming homeless, and (iii) help homeless families and persons make the transition to permanent housing.

"(B) STRATEGY REQUIRED.—A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(C) USE OF PROJECT SPONSORS.—A grantee shall carry out activities authorized under this subsection through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts.

"(2) ALLOCATION OF RESOURCES.—The amounts approved in appropriations Acts under section 408 shall be allocated in accordance with a formula established under section 404.

"(b) ELIGIBLE ACTIVITIES.—Grants under this title shall be available only for approved activities. Approved activities shall include—

"(1) the provision of assistance to help very low-income families avoid becoming homeless in accordance with section 411;

"(2) the development of emergency shelters for the homeless in accordance with section 412;

"(3) the development of transitional housing to facilitate the transition of homeless persons to independent living in accordance with section 413;

"(4) the development of permanent housing for homeless persons with disabilities in accordance with section 414;

"(5) the provision of assistance to help very low-income families who are residing in emergency shelter or transitional housing make the transition to permanent housing in accordance with section 415; and

"(6) such other activities that the Secretary develops in cooperation with grantees in accordance with section 416.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

"(c) LIMITATIONS.—

"(1) PREVENTION.—A grantee may use not more than 30 percent of grants allocated under subsection (a) for homelessness prevention activities as defined in section 411.

"(2) EMERGENCY ACTIVITIES.—A grantee may use not more than 30 percent of the grants allocated in accordance with subsection (a) for emergency activities as defined in section 412. The Secretary may approve a higher limitation if the grantee demonstrates that other approved activities under this subparagraph are already being carried out in the jurisdiction with other resources.

"(d) SRO RENOVATION.—The Secretary shall, to the extent of amounts approved in appropriations Acts for the programs authorized under section 421, provide rental assistance to public housing agencies or other contracting agencies for the renovation of single room occupancy dwellings in accordance with subtitle C.

"SEC. 404. ALLOCATION FORMULA.

"Subject to section 303(b) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, the Secretary shall issue regulations establishing an allocation formula, if any, that reflects each jurisdiction's share of the Nation's need for housing assistance for the homeless.

"SEC. 405. DISCRETIONARY ALLOCATION.

"(a) IN GENERAL.—In addition to grants otherwise authorized by this title, the Secretary is authorized to make grants to eligible applicants to meet urgent needs of homeless persons that are not being met by available public and private sources in areas with an unusually high incidence of homelessness. For purposes of this section, the term 'eligible applicant' means a grantee, Indian tribe, Indian housing authority or private nonprofit organization, except that a grantee shall not be permitted to submit an application if the Secretary finds that the grantee is in noncompliance with sections 406 and 407.

"(b) ELIGIBLE ACTIVITIES.—Assistance provided under this section may be used for approved activities under subtitle B and for—

"(1) the purchase, lease, rehabilitation, renovation, operation, or conversion of facilities to assist the homeless;

"(2) the transitional provision of supportive services designed to meet special needs of homeless persons, including families with children, deinstitutionalized persons, persons with mental disabilities, other persons with disabilities, the elderly, and veterans; and

"(3) the provision of supplemental assistance to projects assisted under sections 412 and 413 if such assistance is required to meet the special needs of homeless persons residing in such projects.

"(c) APPLICATIONS.—Assistance under this section shall be allocated among approvable applications submitted by eligible applicants. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

"(1) a description of the proposed activities;

"(2) a description of the size and characteristics of the homeless population that would be served by the proposed activities;

"(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

"(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section (except for property to be used as emergency shelter in accordance with section 412) shall be operated for not less than 10 years for the purpose specified in the application;

"(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs of homeless persons that are not being met by available public and private sources;

"(6) if submitted by a private nonprofit organization, a certification from the public official responsible for submitting a housing strategy in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the application is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

"(d) SELECTION CRITERIA.—

"(1) IN GENERAL.—The Secretary shall establish selection criteria for assistance under this subsection, which shall principally take into account—

"(A) the extent to which the proposed activities meet urgent needs of homeless persons that are not being met by available public and private sources;

"(B) the extent to which the area in which the proposed activities are to be carried out is an area with an unusually high incidence of homelessness; and

"(C) the extent to which such area is not being served by current programs to assist homeless persons.

"(2) ADDITIONAL CRITERIA.—Selection criteria established by the Secretary shall also take into account—

"(A) the extent to which the proposed activities would make available as housing for homeless persons property owned by the Federal Government, a State, a unit of general local government, or other public entity, including property, public buildings, and public land;

"(B) the extent to which the proposed activities would be carried out in a jurisdiction that has demonstrated exemplary coordination among State and local agencies administering housing, child welfare, and public assistance activities;

"(C) the extent to which the applicant has demonstrated the capacity to carry out the proposed activities; and

"(D) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(e) SPECIAL RULES FOR SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.—

"(1) IN GENERAL.—The Secretary may not provide assistance under subsection (b)(3) unless the Secretary determines that—

"(A) the applicant has made reasonable efforts to utilize all available local resources and resources available under the other provisions of this title; and

"(B) other resources are not sufficient or are not available to carry out the purpose for which the assistance is being sought.

No assistance provided under subsection (b)(3) may be used to supplant any non-Federal resources provided with respect to any project.

"(2) HEALTH SERVICES.—Not more than $10,000 of any grant or advance under subsection (b)(3) may be used for outpatient health services (excluding the cost of any rehabilitation or conversion of a structure to accommodate the provision of such services).

"(3) GUIDELINES.—The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining under this section the appropriateness of proposed outpatient health services. Such guidelines shall include such provisions as are necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this section for the final selection of applications for assistance.

"SEC. 406. RESPONSIBILITIES OF GRANTEES AND PROJECT SPONSORS.

"(a) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—Each grantee shall be required to supplement the grants provided under this title for acquisition, rehabilitation, or construction activities, except for assistance described in section 421, with an equal amount of funds from non-Federal sources. Each grantee shall certify to the Secretary its compliance with this subsection, describing the sources and amounts of such supplemental funds. Supplemental funds may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of a project sponsor, and the value of the time and services contributed by volunteers to carry out the program of a project sponsor at a rate determined by the Secretary.

"(2) STATE MATCHING REQUIREMENT.—Each grantee under this title that is a State shall be required to supplement the assistance provided under this title with an amount of funds from sources other than this title equal to the difference between the amount received under this title and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this title.

"(3) BENEFIT OF MATCH.—A State grantee shall obtain any matching amounts required under paragraph (2) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2).

"(b) HOUSING QUALITY.—Each grantee shall assure that housing assisted under this subtitle shall be decent, safe, and sanitary and, when appropriate, meet all applicable State and local housing codes, building codes, and licensing requirements in the jurisdiction in which the housing is located.

"(c) CONSISTENCY WITH HOUSING STRATEGY.—Each grantee shall certify, to the satisfaction of the Secretary, that activities undertaken by project sponsors with assistance from the grantee are consistent with the housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(d) ASSISTANCE TO HOMELESS PERSONS.—Each grantee shall certify that each project sponsor shall administer, in good faith, a policy designed to ensure that any shelter or housing assisted under this subtitle is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

"(e) LIMITATION ON USE OF FUNDS.—Each grantee shall certify, to the satisfaction of the Secretary, that neither assistance received under this subtitle nor any State or local government funds used to supplement such assistance will be used to replace other public funds previously used, or designated for use, to assist the homeless.

"(f) CIVIL RIGHTS COMPLIANCE.—Each grantee shall certify, to the satisfaction of the Secretary, that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the Fair Housing Act and the grantee will affirmatively further fair housing.

"(g) REPORTS.—

"(1) IN GENERAL.—Each grantee shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, a performance and evaluation report on the use of amounts made available under this subtitle, together with the grantee's assessment of the relationship of such usage to the grantee's approved housing strategy. The report shall include information on the number of homeless persons served and the reasons for their homelessness. The report shall also specify the amounts made available under this subtitle for each approved activity under subtitle B. The report shall be made available to the public so that citizens, public agencies, and other interested parties have an opportunity to comment on the report prior to its submission. The report shall include a summary of any comments received from interested parties.

"(2) CONSULTATION.—The Secretary shall consult with national associations of States, local governments, and other housing interests to develop uniform recordkeeping, performance reporting, and auditing requirements. After considering the results of such consultations, the Secretary shall establish uniform recordkeeping, performance reporting, and auditing requirements for assistance made available under this subtitle.

"(h) SITE CONTROL.—

"(1) IN GENERAL.—Each grantee or project sponsor shall furnish reasonable assurances that it will own or have control of a site for the proposed project not later than 6 months after notification of an award for grant assistance. A suitable site different from the site specified in the application satisfies the requirement of this subsection. If ownership or control of a site is not obtained within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(2) WAIVER.—The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.

"(i) PREVENTION OF UNDUE BENEFITS.—The Secretary may prescribe such terms and conditions as he deems necessary to prevent project sponsors from unduly benefiting from the sale or other disposition of projects constructed, rehabilitated, or acquired with assistance under this subtitle other than a sale or other disposition resulting in the use of the project for the direct benefit of very low-income families.

"(j) CONFIDENTIALITY.—Each grantee shall develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this title and to ensure that the address or location of any family violence shelter project assisted under this title will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.

"(k) ADDITIONAL REQUIREMENTS.—The Secretary may establish such other program requirements as the Secretary determines are necessary for grantees to administer activities authorized under this subtitle in an efficient manner.

"SEC. 407. ADMINISTRATIVE PROVISIONS.

"(a) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee may not use more than 5 percent of the assistance received under this subtitle for administrative purposes.

"(b) INCOME ELIGIBILITY.—A homeless person shall be eligible for assistance under any program provided by this subtitle, or by the amendments made by this subtitle, only if the person has income not exceeding 50 percent of the median income for the area, as adjusted in accordance with section 3(b)(2) of the United States Housing Act of 1937.

"(c) FLOOD ELEVATION REQUIREMENTS.—Flood protection standards applicable to housing acquired, rehabilitated, or assisted under any provision of this subtitle shall be no more restrictive than the standards applicable to any other program administered by the Secretary.

"(d) APPLICABILITY OF SECTION 104(g) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The provisions of, and regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this subtitle.

"(e) GAO AUDITS.—Insofar as they relate to funds provided under this section, the financial transactions of grantees and project sponsors may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by, such grantees and project sponsors pertaining to the financial transactions and necessary to facilitate the audit.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as may be necessary. Any amount appropriated under this section shall remain available until expended.

"SEC. 409. REPORTS TO CONGRESS.

"The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this title and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall summarize and assess the results of performance reports provided in accordance with section 406(g). The report shall be submitted not later than 6 months after the end of each fiscal year.

"Subtitle B—Approved Activities

"SEC. 411. HOMELESSNESS PREVENTION.

"(a) DEFINITION.—Assistance to help very low-income families avoid becoming homeless may include activities other than those that the Secretary has found to be inconsistent with the purposes of this Act.

"(b) LIMITATION ON FINANCIAL ASSISTANCE.—A grantee may provide financial assistance to very low-income families who have received eviction notices or notices of termination of utility services if—

"(1) the inability of the family to make the required payments is due to a sudden reduction in income;

"(2) the assistance is necessary to avoid the eviction or termination of services;

"(3) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

"(4) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

"SEC. 412. EMERGENCY SHELTER.

"(a) DEFINITION.—A project shall be considered 'emergency shelter' if it is designed to provide overnight sleeping accommodations for homeless persons. An emergency shelter may include appropriate eating and cooking accommodations.

"(b) MINIMUM STANDARDS OF HABITABILITY.—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

"(c) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of emergency shelter:

"(1) a grant for the renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters;

"(2) a grant for the provision of supportive services if such services do not supplant any services provided by the local government during any part of the immediately preceding 12-month period; and

"(3) annual payments for maintenance, operation, insurance, utilities, and furnishings.

"(d) PROGRAM REQUIREMENTS.—A grantee may approve assistance for a project under this subsection only if the project sponsor has agreed that it will—

"(1) in the case of assistance involving major rehabilitation or conversion of a building, maintain the building as a shelter for homeless persons and families for not less than a 10-year period;

"(2) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion of a building), maintain the building as a shelter for homeless persons and families for not less than a 3-year period;

"(3) in the case of assistance involving only activities described in paragraphs (2) and (3) of subsection (c), provide services or shelter to homeless persons and families at the original site or structure or other sites or structures serving the same general population for the period during which such assistance is provided;

"(4) comply with the standards of habitability prescribed by the Secretary and (if applicable) the State or unit of general local government; and

"(5) assist homeless persons in obtaining—

"(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

"(B) other Federal, State, local, and private assistance available for homeless persons.

"SEC. 413. TRANSITIONAL HOUSING FOR THE HOMELESS.

"(a) DEFINITION.—A project shall be considered 'transitional housing' if it is designed to facilitate the movement of homeless persons to independent living within 24 months (or such longer period as the Secretary determines is necessary to facilitate the transition of homeless persons to independent living). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless persons and other homeless persons with mental disabilities, and homeless families with children.

"(b) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of transitional housing:

"(1) A grant for the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as transitional housing. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used as transitional housing prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as transitional housing.

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing.

"(4) Annual payments for operating costs of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act) not to exceed 75 percent of the annual operating costs of such housing.

"(5) Technical assistance in—

"(A) establishing transitional housing in an existing structure;

"(B) operating transitional housing in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act).

"(6) A grant for establishing and operating an employment assistance program for the residents of transitional housing, which shall include—

"(A) employment of residents in the operation and maintenance of the housing; and

"(B) the payment of the transportation costs of residents to places of employment.

"(7) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing eommunity child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.

A project sponsor may receive assistance under both paragraphs (1) and (2).

"(c) PROGRAM REQUIREMENTS.—

"(1) REQUIRED AGREEMENTS.—A grantee may approve assistance for a project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as transitional housing for not less than 10 years, except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project;

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) OCCUPANT RENT.—Each homeless person residing in a facility assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(3) ALTERNATIVE USE.—A project may continue to be treated as transitional housing for purposes of this subsection if the grantee determines that such project is no longer needed for use as transitional housing and approves the use of such project for the direct benefit of very low-income families.

"SEC. 414. PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.

"(a) DEFINITION.—A project shall be considered 'permanent housing for homeless persons with disabilities' if it provides community-based long-term housing and supportive services for not more than 8 homeless persons with disabilities (or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons). The Secretary may waive the limitation contained in the preceding sentence if the grantee demonstrates that local market conditions dictate the development of a larger project.

"(b) PROJECT DESIGN AND SITING.—Each project assisted under this subtitle shall be either a home designed solely for housing persons with disabilities or dwelling units in a multifamily housing project, condominium project, or cooperative project. Not more than 1 home may be located on any 1 site and no such home may be located on a site contiguous to another site containing such a home.

"(c) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of permanent housing for homeless persons with disabilities:

"(1) A grant for the cost of acquisition, substantial rehabilitation, or acquisition

and rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as permanent housing for homeless persons with disabilities prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities.

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing.

"(4) Annual payments for operating costs for permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such assistance or for the renewal of such assistance for use during the 10-year period under subsection (d) (unless such assistance is no longer necessary, in the determination of the Secretary).

"(5) Technical assistance in—

"(A) establishing permanent housing for homeless persons with disabilities in an existing structure;

"(B) operating permanent housing for homeless persons with disabilities in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act).

"(d) PROGRAM REQUIREMENTS.—

"(1) REQUIRED AGREEMENTS.—A grantee may approve assistance for any project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as permanent housing for homeless persons with disabilities for not less than 10 years, except that in the case of projects not receiving a grant under paragraph (1), (2), or (3) of subsection (c), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project; and

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) STATE PARTICIPATION.—Each grantee providing assistance to a project under this section shall transmit to the Secretary a letter of participation from the State assuring that the State will facilitate the provision of necessary supportive services to the residents of the project;

"(3) OCCUPANT RENT.—Each homeless person residing in a project assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(4) ALTERNATIVE USE.—A project may continue to be treated as permanent housing for homeless persons with disabilities for purposes of this subsection if the grantee determines that such project is no longer needed for use as such housing and approves the use of such project for the direct benefit of very low-income families.

"(5) TENANT SELECTION.—

"(A) IN GENERAL.—A project sponsor owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Project sponsors shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(B) AUTHORITY TO LIMIT OCCUPANCY.—Notwithstanding any other provision of law, a project sponsor may, with the approval of the grantee, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

"(6) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under paragraph (4) or (5) of subsection (c) to any project not receiving assistance under paragraph (1), (2), or (3) of such subsection unless assurances have been made under paragraph (1)(A) of this subsection that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.

"SEC. 415. TRANSITION TO PERMANENT HOUSING.

"(a) USE OF GRANTS.—

(1) IN GENERAL.—A grant under this section may be used by a grantee to provide grants or loans to help eligible families make the transition to permanent housing. A grantee may use assistance under this section to provide for the payment by very low-income families of security deposits and the cost of rent for a reasonable period of time.

"(2) TECHNICAL ASSISTANCE.—The Secretary may provide informational and technical assistance to units of general local government and housing agencies in organizing and developing assistance programs under this section. For purposes of this section, the term 'eligible family' means a very low-income family who has resided in emergency shelter or transitional housing and who meets other conditions of eligibility as the Secretary determines to be appropriate.

"(3) FINANCIAL COUNSELING.—The grantee shall provide counseling regarding household finances and budgeting to any family that receives a grant or loan under this section.

"(b) LIMITATION ON FINANCIAL ASSISTANCE.—A grantee may provide assistance to eligible families in the form of a security deposit and the cost of rent for a reasonable period of time if—

"(1) the grantee determines that the rental charge for the subject unit is reasonable in comparison with rents charged for comparable units in the private, unassisted market;

"(2) there is a regular income and a reasonable prospect that the family will be able to sustain the rental payments for a reasonable period of time and to repay any loan provided; and

"(3) the eligible family has made reasonable efforts to receive assistance under the program of aid to families with dependent children under part A of title IV of the Social Security Act or a similar local, State, or Federal public assistance program.

"(c) PARTICIPATING LANDLORD.—If an eligible family vacates the rental unit, a landlord participating in this program shall return to the grantee any portion of the security deposit (including reasonable interest) against which such landlord does not have a claim. Any returned funds may be used by a grantee in accordance with section 403(a).

"SEC. 416. DEVELOPMENT OF ADDITIONAL APPROVED ACTIVITIES.

"The Secretary, in cooperation with grantees and other appropriate parties, shall develop additional approved activities to carry out the purposes of this title.

"Subtitle C—Section 8 Single Room Occupancy

"SEC. 421. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY PROVISIONS.

"(a) USE OF FUNDS.—The amounts made available under this subtitle shall be used only in connection with the moderate rehabilitation of housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons, except that such amounts may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units.

"(b) ALLOCATION.—The amounts made available under this subtitle shall be allocated by the Secretary on the basis of a national competition among approvable applications to the applicant public housing agencies or other contracting agencies that best demonstrate a need for the assistance under this section and the ability to undertake and carry out a program to be assisted under this subtitle. To be considered for assistance under this section, an applicant shall submit to the Secretary a proposal containing—

"(1) a description of the size and characteristics of the population within the applicant's jurisdiction that would occupy single room occupancy dwellings;

"(2) a listing of additional commitments from public and private sources that the applicant might be able to provide in connection with the program;

"(3) an inventory of suitable housing stock to be rehabilitated with such assistance; and

"(4) a description of the interest that has been expressed by builders, developers, and others (including profit and nonprofit organizations) in participating in the program. No single city or urban county shall be eligible to receive more than 10 percent of the assistance made available under this subtitle.

"(c) FIRE AND SAFETY IMPROVEMENTS.—Each annual contribution contract entered into with the authority provided under this subtitle shall require the installation of a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this subsection, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"(d) COST LIMITATION.—

"(1) PER UNIT CEILING.—The total cost of rehabilitation that may be compensated for in an annual contribution contract entered into with the authority provided under this subtitle shall not exceed $15,000 per unit, plus the expenditures required by subsection (d).

"(2) AUTHORITY TO INCREASE.—The Secretary shall increase the limitation contained in paragraph (1) by an amount the Secretary determines is reasonable and necessary to accommodate special local conditions, including—

"(A) high construction costs; or

"(B) stringent fire or building codes.

"(3) ANNUAL ADJUSTMENT.—The Secretary shall increase the limitation in paragraph (1) on October 1 of each year by an amount necessary to take into account increases in construction costs during the previous 12-month period.

"(e) CONTRACT REQUIREMENTS.—Each contract for annual contributions entered into with a public housing agency or other contracting agency to obligate the authority made available under this subtitle shall—

"(1) commit the Secretary to make such authority available to the public housing agency or other contracting agency for an aggregate period of 10 years, and require that any amendments increasing such authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of appropriations; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this subtitle shall be given to homeless persons.

"SEC. 422. APPLICABILITY TO INDIANS.

"Pursuant to section 201(b) of the United States Housing Act of 1937, this subtitle shall apply to Indian tribes and Indian housing authorities.

"Subtitle D—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 431. PURPOSE.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

"SEC. 432. RENTAL HOUSING ASSISTANCE.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"(b) FUNDING LIMITATIONS.—To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

"SEC. 433. SUPPORTIVE SERVICES REQUIREMENTS.

"(a) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) DETERMINATION OF MATCHING AMOUNTS.—In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) RECAPTURE.—If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 434. APPLICATIONS.

"(a) IN GENERAL.—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) MINIMUM CONTENTS.—The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum—

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 433;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will be provided;

"(10) a plan for—

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), (and the families of such persons) will be brought into the program;

"(11) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(12) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 435. SELECTION CRITERIA.

"(a) IN GENERAL.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program; and

"(8) the cost-effectiveness of the proposed program; and

"(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) FUNDING LIMITATION.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government.

"SEC. 436. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

"SEC. 437. TERMINATION OF ASSISTANCE.

"(a) AUTHORITY.—If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) PROCEDURE.—In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 438. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the same meaning given that term in section 853 of

the Cranston-Gonzalez National Affordable Housing Act.

"(2) The term 'applicant' means—

"(A) in the case of rental housing assistance under parts II and IV, a State, unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

"(4) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(7) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(9) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(10) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(11) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In-patient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated such sums as may be necessary.

"(b) PART III.—For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by such sums as may be necessary.

"(c) PART IV.—For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated such sums as may be necessary.

"(d) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 441. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(a) to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 442. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period remaining after the period referred to in paragraph (1).

"SEC. 443. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 444. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) STANDARDS REQUIRED.—The Secretary shall require that—

"(1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable; and

"(2) the recipient shall make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 445. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 446. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III—SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"SEC. 451. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons. However, amounts made available under section 439(b) may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 452. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into using the authority provided under section 439(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 453. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 439(b) shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to homeless persons.

"SEC. 454. OCCUPANCY.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"PART IV—SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(c) of this subtitle only in connection with the provision of rental housing assistance under section 202 of the Housing Act of 1959 in fiscal year 1991 or section 811 of the Cranston-Gonzalez National Affordable Housing Act in fiscal year 1992 for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts

with owners or lessors of housing meeting the requirements of section 202 or section 811 for the purpose of providing such rental housing assistance.

"SEC. 462. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 463. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) IN GENERAL.—The Secretary shall require that (1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (2) the recipient make at least annual inspections of each unit during the contract term.

(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 464. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"Subtitle E—Miscellaneous

"SEC. 471. ENVIRONMENTAL REVIEW.

"The provisions of, and the regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this title.".

(b) IMPLEMENTATION.—Not later than 180 days after the date funds authorized under section 439 of the Stewart B. McKinney Homeless Assistance Act, as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle D of title IV of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this title.

(c) TRANSITION PROVISIONS.—Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the effective date of the amendment made by this section, that are or become available for obligation shall be available for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as amended by this section.

SEC. 302. DEFINITION OF "HOMELESS PERSON".

Section 103(a) of the Stewart B. McKinney Homeless Assistance Act is amended by adding after "homeless individual" the following: "or homeless person".

SEC. 303. TRANSITIONAL RULE.

(a) IN GENERAL.—The amendment made by section 301 shall take effect—

(1) on October 1, 1992, or

(2) on the date specified by a statute adopting a proposed allocation formula described in subsections (b) and (c),

whichever is later.

(b) FEASIBILITY STUDY.—The Secretary shall carry out a study to determine the feasibility of allocating homeless assistance by a formula that distributes housing assistance for the homeless in accordance with the relative incidence of homelessness in jurisdictions across the United States. If the Secretary determines that the use of such a formula is feasible, the Secretary shall develop one or more such formulas. In determining alternative allocation formulas, the Secretary shall consider—

(1) objective measures of the incidence of homelessness;

(2) the relation between the supply of affordable housing for very low-income families and the number of such families in the jurisdiction;

(3) poverty;

(4) housing overcrowding; and

(5) any other relevant factors, including the reliability of data pertaining to homelessness.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the feasibility study under this subsection. Such report shall contain any formula or formulas developed under subsection (b) together with detailed analysis of the formulas. In preparing such report, the Secretary shall consult with organizations representing homeless persons, nonprofit organizations, public housing agencies, and State and local housing and service agencies.

(d) CONFORMING AMENDMENT.—Upon the adoption of a formula described in this section, that part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—General Provisions

"Sec. 401. Purpose.
"Sec. 402. Definitions.
"Sec. 403. General authority.
"Sec. 404. Allocation formula.
"Sec. 405. Discretionary allocation.
"Sec. 406. Responsibilities of grantees and project sponsors.
"Sec. 407. Administrative provisions.
"Sec. 408. Authorization of appropriations.
"Sec. 409. Reports to Congress.

"Subtitle B—Approved Activities.

"Sec. 411. Homelessness prevention.
"Sec. 412. Emergency shelter.
"Sec. 413. Transitional housing for the homeless.
"Sec. 414. Permanent housing for homeless persons with disabilities.
"Sec. 415. Transition to permanent housing.
"Sec. 416. Development of additional approved activities.

"Subtitle C—Section 8 Single Room Occupancy

"Sec. 421. Section 8 single room occupancy provisions.
"Sec. 422. Applicability to Indian tribes.

"Subtitle D—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"Sec. 431. Purpose.
"Sec. 432. Rental housing assistance.
"Sec. 433. Supportive services requirements; matching funding.
"Sec. 434. Applications.
"Sec. 435. Selection criteria.
"Sec. 436. Required agreements.
"Sec. 437. Termination of assistance.
"Sec. 438. Definitions.
"Sec. 439. Authorization of appropriations.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"Sec. 441. Purpose.
"Sec. 442. Housing assistance.
"Sec. 443. Amount of assistance.
"Sec. 444. Housing standards and rent reasonableness.
"Sec. 445. Tenant rent.
"Sec. 446. Administrative fees.

"PART III—SHELTER PLUS CARE: MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"Sec. 451. Purpose.
"Sec. 452. Fire and safety improvements.
"Sec. 453. Contract requirements.
"Sec. 454. Occupancy.

"PART IV—SECTION 202 RENTAL ASSISTANCE

"Sec. 461. Purpose.
"Sec. 462. Amount of assistance.
"Sec. 463. Housing standards and rent reasonableness.
"Sec. 464. Administrative fees.

"Subtitle E—Miscellaneous

"Sec. 471. Environmental review.".

SEC. 304. STRATEGY TO ELIMINATE UNFIT TRANSIENT FACILITIES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, not later than 9 months after the date of enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, identify the States and units of general local government which use unfit transient facilities as housing for homeless families with children and develop and publish in the Federal Register a strategy to eliminate such use by July 1, 1992. In developing the strategy required under this section, the Secretary shall consult with the Secretary of the Department of Health and Human Services, the Administrator of the Federal Emergency Management Agency, other appropriate Federal officials, appropriate States and units of general local government, major organizations representing homeless persons and other experts.

(b) CONTENTS OF STRATEGY.—The strategy developed under this section shall specify—

(1) actions to be taken to ensure that families with children currently residing in unfit transient facilities will make a timely transition to permanent housing;

(2) actions to be taken to provide sufficient emergency, transitional, and permanent housing to preclude the future use of unfit transient facilities as housing for homeless families with children; and

(3) changes in Federal, State, and local statutes and regulations that are needed to

eliminate the use of unfit transient facilities as housing for homeless families with children.

(c) IMPLEMENTATION OF STRATEGY.—To ensure that the strategy developed under this section is carried out within the statutory deadline, the Secretary of Housing and Urban Development shall be authorized to use and apply the following additional resources and powers:

(1) such preferences in the allocation of resources under the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(2) such limitations upon a jurisdiction's discretion to allocate resources among approved activities under the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(3) such expedited decisionmaking or waivers or revisions of regulatory requirements under other provisions of Federal law as the Secretary determines to be appropriate; and

(4) such additional constraints on the use of funds under other provisions of Federal law as the Secretary determines to be appropriate.

(d) DEFINITION.—For purposes of this section the term 'unfit transient facility' means a facility that provides transient accommodations to homeless persons and families in an environment that does not meet the minimum standards of habitability established by the Secretary.

Subtitle B—Amendments to Current Program

SEC. 311. COMPREHENSIVE HOMELESS ASSISTANCE PLAN.

(a) INCLUSION OF CHILD CARE STRATEGY AND FOOD DONATION STRATEGY.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(7) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing child care services within the area, which strategy shall be submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entity receives assistance under this title;

"(8) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing a plan to encourage a program which waives certain local or State liability regulations or laws for those who wish to donate food to a nonprofit charitable organization or food bank for use in community shelters or other domiciles for the homeless, shall be submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entities receive assistance under this title; and".

(b) INCLUSION OF INDIAN TRIBES.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "Assistance authorized by this title may be provided to any Indian tribe that is eligible to receive a grant under the emergency shelter grants program in any fiscal year, but only if the tribe submits biennially to the Secretary of Housing and Urban Development a comprehensive homeless assistance plan under this section.";

(2) in subsection (b)(5), by inserting "Indian tribe," after "State,";

(3) in subsection (c)(1), by inserting "Indian tribe," after "State," each place it appears;

(4) in subsection (d), by inserting "Indian tribe," after "State," each place it appears; and

(5) in subsection (g)—

(A) by inserting "(or tribal agency or contact)" after "State contact person";

(B) by inserting "(or tribe)" before the comma; and

(C) by inserting "(or tribal agency or contact person)" after "or contact person".

(c) MODIFICATION OF DEVELOPMENT AND TIMING, CONTENT, AND REVIEW STANDARDS.—

(1) PUBLIC PARTICIPATION PROCESS FOR DEVELOPMENT OF PLANS AND ANNUAL REPORTS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended by adding at the end the following new subsection:

"(h) CONSULTATION.—

"(1) REQUIREMENT.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall consult with, and consider the comments of, citizens, public and private homeless shelter and service providers, and local governments concerning the contents of the comprehensive plan and the annual progress report required under subsection (d), prior to their submission to the Secretary.

"(2) MODIFICATION.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) may, if it considers it appropriate, modify the comprehensive plan and annual report to reflect the comments of citizens, public and private homeless shelter and service providers, and local governments.

"(3) AVAILABILITY.—Each State, Indian tribe, metropolitan city, and urban county shall make the comprehensive plan and annual report available to the public.

"(4) CERTIFICATION.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall certify to the Secretary that citizens, public and private homeless shelter and service providers, and local governments were consulted concerning the contents of the comprehensive plan and the annual report, and that their views were considered prior to the submission of these documents to the Secretary, and that the comprehensive plan and annual report were available to the public.".

(2) MODIFICATION OF TIMING, CONTENT, AND REVIEW STANDARDS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(A) in subsection (a)(1), by striking "annually" and inserting "biennially";

(B) in subsection (b)(2), by striking "and services" and inserting ", services, and programs";

(C) in subsection (b)(3)—

(i) by striking "and services" and inserting ", services, and programs";

(ii) by striking "and" before "(B)"; and

(iii) by inserting before the semicolon at the end the following: ", (C) responding to the emergency and long-term housing and service needs of the homeless population, (D) providing housing and supportive services for various homeless populations to facilitate their transition to more independent living, (E) providing housing and supportive services to the portions of the homeless population that are not capable of achieving total independence, and (F) preventing and reducing homelessness through (i) interventions focused upon individuals and families who are in danger of becoming homeless, and (ii) addressing systemic factors contributing to homelessness".

SEC. 312. EMERGENCY SHELTER GRANTS PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $125,000,000 for fiscal year 1991 and $138,000,000 for fiscal year 1992.".

(b) USE OF GRANTS FOR ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—Subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended by adding at the end the following new section:

"SEC. 418. ADMINISTRATIVE COSTS.

"A recipient may use up to 5 percent of any annual grant received under this subtitle for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.".

(2) CONFORMING AMENDMENT.—The table of contents for subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act is amended by inserting after the item relating to section 417 the following new item:

"Sec. 418. Administrative costs.".

(c) INCREASE IN AMOUNT AVAILABLE FOR SERVICES.—Section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)) is amended by striking "20 percent" and inserting "30 percent".

(d) TREATMENT OF HOMELESSNESS PREVENTION ACTIVITIES.—Section 414(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(4)) is amended by striking the last sentence and inserting the following new sentence: "Not more than 30 percent of the aggregate amount of all assistance to a State, local government, or Indian tribe under this subtitle may be used for activities under this paragraph.".

(e) REDUCTION OF REQUIRED MATCHING AMOUNTS AND CONFIDENTIALITY.—

(1) REDUCTION.—Section 415(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(a)) is amended—

(A) in paragraph (1), by striking "Each" the first place it appears and inserting "Except as provided in paragraph (2), each";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) Each recipient under this subtitle that is a State shall be required to supplement the assistance provided under this subtitle with an amount of funds from sources other than this subtitle equal to the difference between the amount received under this subtitle and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this subtitle.".

(2) USE OF BENEFIT AND CONFIDENTIALITY.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraphs:

"(4) in the case of a recipient that is a State, obtain any matching amounts required under subsection (a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under subsection (a)(2); and

"(5) develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(3) COMPREHENSIVE HOMELESS ASSISTANCE PLAN.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(9) with respect to a comprehensive plan submitted by a State applying for a grant under the emergency shelter grants program under subtitle B, a strategy for obtaining any matching amounts required under section 415(a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2) of such section.".

(f) INDIAN TRIBE ELIGIBILITY FOR GRANTS.—

(1) DEFINITION OF INDIAN TRIBES.—Section 411 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371) is amended by adding at the end the following new paragraph:

"(10) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) GRANT ASSISTANCE.—Section 412 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11372) is amended by striking "States and local governments" and inserting "States and local governments, and for Indian tribes,".

(3) ALLOCATION AND DISTRIBUTION OF ASSISTANCE.—Section 413(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(a)) is amended—

(A) by inserting ", and to Indian tribes," after "States)"; and

(B) by inserting ", or for Indian tribes" after "urban county" each place it appears.

(4) DISTRIBUTION TO NONPROFIT ORGANIZATIONS.—The first sentence of section 413(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(c)) is amended by inserting "or Indian tribe" after "local government".

(5) REALLOCATION OF FUNDS.—Section 413(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(d)(3)) is amended—

(A) by inserting "or Indian tribe" after "State" each place it appears; and

(B) by inserting ", or other Indian tribes, as applicable," after "counties".

(6) ESSENTIAL SERVICES CAP.—Section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)) is amended—

(A) in subparagraph (A), by inserting "or Indian tribe" after "local government"; and

(B) in subparagraph (B), by striking "or local government" and inserting ", local government, or Indian tribe".

(7) INITIAL ALLOCATION OF ASSISTANCE.—Section 416(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376(b)) is amended by inserting "Indian tribe," after "State,".

(g) MINIMUM STANDARDS OF HABITABILITY.—Section 416 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376) is amended by adding at the end the following:

"(c) MINIMUM STANDARDS OF HABITABILITY.—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.".

(h) CONSISTENCY WITH HOUSING STRATEGY.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(1) by striking "and" at the end of clause (2);

(2) by striking the period at the end of clause (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) activities undertaken by the recipient with assistance under this subtitle are consistent with any housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 313. SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 428(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $125,000,000 for fiscal year 1991 and $150,000,000 for fiscal year 1992.".

(b) MAXIMUM NUMBER OF HANDICAPPED RESIDENTS IN PERMANENT HOUSING FOR HANDICAPPED.—Section 422(12)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(B)) is amended by inserting after "handicapped homeless persons" the second place it appears the following: "(or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons)".

(c) CONVERSION OF ADVANCES TO GRANTS.—

(1) IN GENERAL.—Section 423(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(1)) is amended—

(A) by striking "An advance" and inserting "A grant"; and

(B) by striking "an advance" and inserting "a grant".

(2) CONVERSION OF ADVANCE.—Section 423(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(b)) is amended—

(A) by striking "(b) REPAYMENT OF ADVANCE.—" and inserting the following:

"(b) REPAYMENT OR CONVERSION OF ADVANCE.—

"(1) REPAYMENT.—"; and

(B) by adding at the end the following new paragraph:

"(2) CONVERSION.—At such times as the Secretary may determine, and in accordance with such terms and conditions, and accounting and other procedures, as the Secretary may prescribe, the Secretary may convert an advance made under subsection (a)(1) to a grant.".

(d) OPERATING COST PAYMENTS.—Section 423(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(3)) is amended to read as follows:

"(3) Annual payments for operating costs of transitional housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such assistance or for the renewal of such assistance for use during the 10-year period under section 424(a)(2)(D) (unless such assistance is no longer necessary, in the determination of the Secretary), and for operating costs for permanent housing for handicapped homeless persons, not to exceed 75 percent of the annual operating costs of such housing in any year during the 10-year period under section 424(a)(2)(D), and any recipient may reapply for such assistance or for renewal of such assistance for use during such period (unless such assistance is no longer necessary, in the determination of the Secretary).".

(e) ELIGIBILITY OF NEW CONSTRUCTION.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)), as amended by the preceding provisions of this section, is further amended—

(1) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing."; and

(3) in the last sentence, by striking "paragraphs (1) and (2)" and inserting "paragraphs (1), (2), and (3)".

(f) SITE CONTROL REQUIREMENT.—Section 424(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(3)) is amended—

(1) by striking "(3) The Secretary" and inserting the following "(3)(A) Except as provided in subparagraph (B), the Secretary"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may waive the requirement under subparagraph (A) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

(g) CHILD CARE SERVICES.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)), as amended by the preceding provisions of this section, is further amended by inserting after paragraph (5) the following:

"(6) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public

and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.".

(h) ELIMINATION OF SITE CONTROL AND EMPLOYMENT ASSISTANCE PROGRAMS AS SELECTION CRITERIA.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon at the end;

(2) by striking paragraphs (7) and (8); and

(3) by redesignating paragraph (9) as paragraph (7).

(i) CONFIDENTIALITY REQUIREMENT FOR DOMESTIC VIOLENCE SHELTERS.—Section 424(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(c)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) to develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(j) SHORT-TERM LEASES.—

(1) 10-YEAR REQUIREMENT.—Section 424(a)(2)(D) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(D)) is amended by inserting before the semicolon at the end the following: ", except that in the case of projects not receiving an advance or grant under paragraph (1), (2), or (3) of section 423(a), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year".

(2) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by adding at the end the following new subsection:

"(f) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under paragraph (4), (5), or (6) of section 423(a) to any project not receiving assistance under paragraph (1), (2), or (3) of such section unless assurances have been made under subsection (a)(2)(D) of this section that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.".

(k) INDIAN TRIBE ELIGIBILITY.—

(1) DEFINITIONS.—Section 422 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382) is amended—

(A) in paragraph (1), by inserting "Indian tribe," after "State,"; and

(B) by redesignating paragraphs (4) through (14) as paragraphs (5) through (15), respectively; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) PROGRAM REQUIREMENTS.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by inserting "or Indian tribe" after "State" each place it appears.

(3) MATCHING FUNDS.—Section 425 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385) is amended—

(A) in subsection (a), by inserting "or Indian tribe" after "State"; and

(B) in subsection (b), by striking "State or local" and inserting "State, tribal, or local".

SEC. 314. SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 434 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11394) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $30,000,000 for each of fiscal years 1991 and 1992.".

(b) SHORT-TERM LEASES.—

(1) 10-YEAR REQUIREMENT.—Section 432(d)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)(2)) is amended—

(A) by striking "leased,"; and

(B) by inserting before the semicolon at the end the following: ", except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year".

(2) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—Section 432 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392) is amended by adding at the end the following new subsection:

"(h) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under this subtitle for any leased property for any year unless assurances under subsection (d)(2) of this section have been made that the project will be operated to assist homeless individuals for the year for which such assistance is provided.".

(c) CONFIDENTIALITY REQUIREMENT FOR DOMESTIC VIOLENCE SHELTERS.—Section 432(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) has furnished assurances satisfactory to the Secretary that the applicant will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public; and".

(d) SITE CONTROL REQUIREMENT.—Section 432(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(e)) is amended—

(1) by striking "(e) SITE CONTROL.—The Secretary" and inserting the following:

"(e) SITE CONTROL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) EXCEPTION.—The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

SEC. 315. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) INCREASE IN BUDGET AUTHORITY.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $79,000,000 on or after October 1, 1990, and by $82,400,000 on or after October 1, 1991.".

(b) APPLICABILITY TO INDIAN HOUSING AUTHORITIES.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding at the end the following new subsection:

"(g) APPLICABILITY TO INDIAN HOUSING AUTHORITIES.—Amounts made available for assistance under this section shall be available through contracts between the Secretary and Indian housing authorities, and the provisions of this section regarding public housing authorities shall include and apply to Indian housing authorities.".

SEC. 316. HOUSING AFFORDABILITY STRATEGY REQUIREMENT.

(a) IN GENERAL.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended to read as follows:

"SEC. 401. HOUSING AFFORDABILITY STRATEGY.

"Assistance may be made under this title only if the grantee certifies that it is following—

"(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act, or

"(2) a comprehensive homeless assistance plan which was approved by the Secretary during the 180-day period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, or during such longer period as may be prescribed by the Secretary in any case for good cause.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 317. SHELTER PLUS CARE.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act is amended by adding at the end the following:

"Subtitle F—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 451. PURPOSE.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

"SEC. 452. RENTAL HOUSING ASSISTANCE.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"(b) FUNDING LIMITATIONS.—To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

"SEC. 453. SUPPORTIVE SERVICES REQUIREMENTS.

"(a) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) DETERMINATION OF MATCHING AMOUNTS.—In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) RECAPTURE.—If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 454. APPLICATIONS.

"(a) IN GENERAL.—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) MINIMUM CONTENTS.—The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum—

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 453;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will be provided;

"(10) a plan for—

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), (and the families of such persons) will be brought into the program;

"(11) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(12) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 455. SELECTION CRITERIA.

"(a) IN GENERAL.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program; and

"(8) the cost-effectiveness of the proposed program; and

"(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) FUNDING LIMITATION.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government.

"SEC. 456. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

"SEC. 457. TERMINATION OF ASSISTANCE.

"(a) AUTHORITY.—If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) PROCEDURE.—In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 458. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the meaning given such term in section 853 of the Cranston-Gonzalez National Affordable Housing Act.

"(2) The term 'applicant' means—

"(A) in the case of rental housing assistance under parts II and IV, a State, unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

"(4) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'nonprofit organization' has the meaning given such term by section 104 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(7) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(8) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(9) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(12) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In-patient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 459. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated $80,400,000 for fiscal year 1991, and $167,200,000 for fiscal year 1992.

"(b) PART III.—For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $24,800,000 on or after October 1, 1990, and $54,200,000 on or after October 1, 1991.

"(c) PART IV.—For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated $18,000,000 for fiscal year 1991, and $37,200,000 for fiscal year 1992.

"(d) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(a) to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 462. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period remaining after the period referred to in paragraph (1).

"SEC. 463. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 464. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) STANDARDS REQUIRED.—The Secretary shall require that—

"(1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable; and

"(2) the recipient shall make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 465. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 466. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III—SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"SEC. 471. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons. However, amounts made available under section 459(b) may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 472. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into using the authority provided under section 459(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 473. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 459(b) shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to homeless persons.

"SEC. 474. OCCUPANCY.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"PART IV—SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 481. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(c) of this subtitle only in connection with the provision of rental housing assistance under section 202 of the Housing Act of 1959 or section 811 of the Cranston-Gonzalez National Affordable Housing Act for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 202 or section 811, as appropriate for the purpose of providing such rental housing assistance.

"SEC. 482. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 483. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) IN GENERAL.—The Secretary shall require that (1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (2) the recipient make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 484. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.".

(b) IMPLEMENTATION.—Not later than 180 days after the date funds authorized under

section 459 of the Stewart B. McKinney Homeless Assistance Act, as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle F of title IV of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the eight-month period following the date of the notice. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this title.

(c) TRANSITION PROVISIONS.—Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the date of the enactment of this section, that are or become available for obligation shall be available for use under subtitle F of title IV of the McKinney Act, as amended by this section.

(d) CONFORMING AMENDMENT.—That part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended by adding at the end the following new items:

"Subtitle F—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"Sec. 451. Purpose.
"Sec. 452. Rental housing assistance.
"Sec. 453. Supportive services requirements; matching funding.
"Sec. 454. Applications.
"Sec. 455. Selection criteria.
"Sec. 456. Required agreements.
"Sec. 457. Termination of assistance.
"Sec. 458. Definitions.
"Sec. 459. Authorization of appropriations.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"Sec. 461. Purpose.
"Sec. 462. Housing assistance.
"Sec. 463. Amount of assistance.
"Sec. 464. Housing standards and rent reasonableness.
"Sec. 465. Tenant rent.
"Sec. 466. Administrative fees.

"PART III—SHELTER PLUS CARE: MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"Sec. 471. Purpose.
"Sec. 472. Fire and safety improvements.
"Sec. 473. Contract requirements.
"Sec. 474. Occupancy.

"PART IV—SECTION 202 RENTAL ASSISTANCE

"Sec. 481. Purpose.
"Sec. 482. Amount of assistance.
"Sec. 483. Housing standards and rent reasonableness.
"Sec. 484. Administrative fees.".

Subtitle C—Effective Date

SEC. 321. EFFECTIVE DATE.

If the Cranston-Gonzalez National Affordable Housing Act is enacted before the enactment of this Act, the provisions of this title and the amendments made by this title shall not take effect. This section shall apply notwithstanding any other provision relating to effective date or applicability contained in this title.

TITLE IV—USE OF PUBLIC REAL PROPERTY TO ASSIST THE HOMELESS AND CENSUS STUDY

SEC. 401. USE OF CERTAIN PUBLIC REAL PROPERTY TO ASSIST THE HOMELESS.

(a) IN GENERAL.—Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) is amended to read as follows:

"SEC. 501. USE OF UNUTILIZED AND UNDERUTILIZED PUBLIC BUILDINGS AND REAL PROPERTY TO ASSIST THE HOMELESS.

"(a) IDENTIFICATION OF SUITABLE PROPERTY.—The Secretary of Housing and Urban Development shall, on a quarterly basis, request information from each landholding agency regarding Federal public buildings and other Federal real properties (including fixtures) that are excess property or surplus property or that are described as unutilized or underutilized in surveys by the heads of landholding agencies under section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)). No later than 25 days after receiving a request from the Secretary, the head of each landholding agency shall transmit such information to the Secretary. No later than 30 days after receiving such information, the Secretary shall identify which of those buildings and other properties are suitable for use to assist the homeless.

"(b) AVAILABILITY OF PROPERTY.—(1) The Secretary shall promptly notify each Federal agency with respect to any property of that agency that the Secretary has identified under subsection (a). No later than 45 days after receipt of such a notice, the head of the appropriate landholding agency shall transmit to the Secretary the agency's response to property identifications contained in such notification, which shall include—

"(A) in the case of unutilized or underutilized property—

"(i) a statement of intention to determine the property excess to the agency's needs;

"(ii) a statement of intention to make the property available for use to assist the homeless; or

"(iii) a statement of the reasons (including a full explanation of the need) the property cannot be determined excess to the agency's needs or made available for use to assist the homeless; and

"(B) in the case of excess property—

"(i) a statement that there is no other compelling Federal need for the property and, therefore, the property will be determined surplus; or

"(ii) a statement that there is further and compelling Federal need for the property (including a full explanation of such need) and that, therefore, the property is not presently available for use to assist the homeless.

"(2)(A) All properties identified by the Secretary under subsection (a) shall be available for application—

"(i) in the case of property other than surplus property, for use to assist the homeless in accordance with the provisions of this section; and

"(ii) in the case of surplus property, for use to assist the homeless either in accordance with this section or as a public health use in accordance with paragraphs (1) and (4) of section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(1) and (4)).

"(3) The Secretary shall maintain a written public record of—

"(A) the identification of buildings and other properties by the Secretary under this subsection and the reasons for such identifications; and

"(B) the responses of landholding agencies to such identifications.

"(c) PUBLICATION OF PROPERTIES.—(1)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1), the Secretary shall publish in the Federal Register—

"(i) a list of all properties reviewed by the Secretary under subsection (a); and

"(ii) a list of all properties that are available under subsection (b)(2) for application for use to assist the homeless.

"(B) Each publication of properties shall include a description and the location of each property (including the address and zip code) and the current classification of each property as unutilized, underutilized, excess property, or surplus property.

"(C) The Secretary shall make available to the public upon request all information in the possession of the Department of Housing and Urban Development (other than valuation information), regardless of format, about all properties reviewed and not identified as being suitable for use to assist the homeless, including the reasons such properties were not so identified.

"(D) The Secretary shall publish separately, on an annual basis, all properties identified as being suitable for use to assist the homeless, but reported to be unavailable, and the reasons such properties were unavailable.

"(2)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1), the Secretary shall transmit a copy of the list of available properties published under paragraph (1)(A)(ii) to the Interagency Council on the Homeless. The Council shall immediately distribute to all State and regional homeless coordinators area-relevant portions of the list.

"(B) The Secretary, the Administrator, and the Secretary of Health and Human Services shall make such efforts as are necessary to ensure the widest possible dissemination of the information on such list.

"(C) The Secretary shall establish a toll-free number to provide the public with specific information about properties on such list.

"(3) The Secretary shall make available to the public upon request all information (other than valuation information) regardless of format in the possession of the Department of Housing and Urban Development about the properties published under paragraph (1)(A), including environmental assessment data. The Secretary shall maintain a current list of agency contacts for making referrals of inquiries for information about specific properties.

"(4)(A) On December 31 of each year, the head of each landholding agency shall report to the Secretary the current availability status and the current classification of each property controlled by the agency, that—

"(i) was included in a list published in that year by the Secretary under paragraph (1)(A)(ii); and

"(ii) remains available for application for use to assist the homeless or has become available for application during that year.

"(B) No later than February 15 each year, the Secretary shall publish in the Federal Register a list of all properties reported under subparagraph (A) for the preceding year and the current classification of the properties.

"(C) For purposes of subparagraph (A), property shall be considered to remain available for application for use to assist the homeless if, subsequent to the 60-day

holding period provided under subsection (d)—

"(i) no application or written expression of interest has been made under any law for use of the property for any purpose; and

"(ii) the Administrator has not received a bona fide offer to purchase the property or advertised for the sale of the property by public auction.

"(d) HOLDING PERIOD.—(1) Properties published under subsection (c)(1)(A)(ii) as available for application for use to assist the homeless shall not be available for any other purpose for a period of 60 days beginning on the date of such publication.

"(2) If written notice of intent to apply for such a property for use to assist the homeless is received by the Secretary of Health and Human Services within the 60-day period described under paragraph (1), such property may not be made available for any other purpose until the date the Secretary of Health and Human Services or other appropriate landholding agency has completed action on the application submitted under subsection (e) with respect to that written notice of intent.

"(3) Property that is reviewed by the Secretary under subsection (a) and that is not identified by the Secretary as being suitable for use to assist the homeless may not be made available for any other purpose for 20 days after the determination of unsuitability to allow for review of the determination at the request of the representative of the homeless. The Secretary shall disseminate immediately this information to the regional offices of the Department of Housing and Urban Development and to the Interagency Council on the Homeless.

"(4)(A) Written notice of intent to apply for a property published under subsection (c)(1)(A)(ii) may be filed at any time after the 60-day period described in paragraph (1) has expired. In such case, an application submitted pursuant to the notice may be approved for disposal for use to assist the homeless only if the property remains available for application for use to assist the homeless. If the property remains available, the use to assist the homeless shall be given priority of consideration over other competing disposal opportunities under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), except as provided in subsection (f)(3)(A).

"(B) Surplus property for which an application has been approved shall be assigned promptly to the Secretary of Health and Human Services for disposition in accordance with and subject to subsection (f).

"(e) APPLICATION FOR PROPERTY.—(1) A representative of the homeless may submit an application to the Secretary of Health and Human Services for any property that is published under subsection (c)(1)(A)(ii) as available for application for use to assist the homeless.

"(2) No later than 90 days after the submission of written notice of intent to apply for a property, an applicant shall submit a complete application to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall, with the concurrence of the appropriate landholding agency, grant reasonable extensions.

"(3) No later than 25 days after receipt of a completed application, the Secretary of Health and Human Services shall review, make all determinations, and complete all actions on the application. The Secretary of Health and Human Services shall maintain a written public record of all actions taken in response to an application.

"(f) MAKING PROPERTY AVAILABLE TO REPRESENTATIVES OF THE HOMELESS.—(1) Subject to the provisions of this subsection, property for which the Secretary of Health and Human Services has approved an application under subsection (e) shall be made promptly available by permit or lease, or by deed as a public health use under paragraphs (1) and (4) of section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(1) and (4)), to the representative of the homeless that submitted the application.

"(2) Unutilized underutilized property that is the subject of an agency's statement of intention under subsection (b)(1)(A)(ii) shall be made promptly available by the appropriate landholding agency to the approved applicant by lease or permit for a term of not less than 1 year, unless the applicant requests a shorter term.

"(3)(A) In disposing of surplus property by deed or lease under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the Administrator and the Secretary of Health and Human Services shall give priority of consideration to uses to assist the homeless, unless the Administrator or the Secretary of Health and Human Services determines that a competing request for the property under section 203(k) of such Act is so meritorious and compelling as to outweigh the needs of the homeless.

"(B) Whenever the Administrator or the Secretary of Health and Human Services makes a determination under subparagraph (A), the Administrator or the Secretary of Health and Human Services shall transmit to the appropriate committees of the Congress an explanatory statement detailing the need satisfied by conveyance of the surplus property and the reasons for determining that such need was so meritorious and compelling as to outweigh the needs of the homeless.

"(4) For any property made available by lease to a representative of the homeless before the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, the Secretary of Health and Human Services may, upon written request by the representative, convey such property by deed to the representative in accordance with, and subject to the requirements of, section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)). The lease term shall not be affected if a deed is not granted.

"(g) RECORDS.—The Secretary shall maintain a written public record of—

"(1) the reasons for determinations of the Secretary under this section that property is suitable or unsuitable for use to assist the homeless; and

"(2) the responses of landholding agencies under subsection (b)(1).

"(h) DEFINITIONS.—For purposes of this section—

"(1) the term 'Administrator' means the Administrator of General Services;

"(2) each of the terms 'excess property' and 'surplus property' has the meaning given that term under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472);

"(3) the term 'landholding agency' means a Federal department or agency with statutory authority to control real property;

"(4) the term 'representative of the homeless' means a State or local government agency, or private nonprofit organization, which provides services to the homeless; and

"(5) the term 'Secretary' means the Secretary of Housing and Urban Development, except as otherwise provided.".

(b) EFFECTIVE DATE OF AMENDMENT.—The amendment made by subsection (a) shall be effective 90 days after the date of the enactment of this Act.

(c) UNUTILIZED AND UNDERUTILIZED PROPERTY.—For purposes of section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) (as amended by this Act) the terms "unutilized" and "underutilized" when used to describe property have the same meaning such terms had before the date of the enactment of this Act under such section 501.

(d) PROMULGATION OF REGULATIONS.—No later than 90 days after the date of the enactment of this Act, the Administrator of General Services, the Secretary of Health and Human Services, and the Secretary of Housing and Urban Development shall promulgate regulations implementing this section and the amendment made by this section.

SEC. 402. STUDY OF THE COUNTING OF THE HOMELESS FOR THE NATIONAL CENSUS.

Not later than 1 year after the date of the enactment of this Act, the General Accounting Office shall conduct a study of the methodology and procedures used by the Bureau of the Census in counting the number of homeless persons for the most recent decennial census conducted pursuant to title 13, United States Code, to determine the accuracy of such count, and report to the Congress the results of that study.

TITLE V—HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

SEC. 501. WAIVER FOR CERTAIN ORGANIZATIONS OF REQUIREMENT OF STATUS AS MEDICAID PROVIDER.

Section 340(b) of the Public Health Service Act (42 U.S.C. 256(b)) is amended to read as follows:

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—(1) Subject to paragraph (2), the Secretary may not make a grant under subsection (a) to an applicant unless—

"(A) the applicant is a public or nonprofit private entity;

"(B) the applicant has the capacity to effectively administer a grant under subsection (a); and

"(C) in the case of any health service that is covered in the State plan approved under title XIX of the Social Security Act for the State involved—

"(i) the applicant for the grant will provide the health service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant for the grant will enter into an agreement with an organization under which the organization will provide the health service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

"(2)(A) In the case of an organization making an agreement under paragraph (1)(C)(ii) regarding the provision of health services under subsection (a), the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) A determination by the Secretary of whether an organization referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.".

SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

Section 340(q)(1) of the Public Health Service Act (42 U.S.C. 256(q)(1)) is amended by striking "$61,200,000" and all that follows and inserting the following: "$70,000,000 for fiscal year 1991, $80,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

SEC. 503. ESTABLISHMENT OF PROGRAM REGARDING PRIMARY HEALTH SERVICES FOR HOMELESS CHILDREN.

Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended by adding at the end the following new subsection:

"(s) GRANTS REGARDING OUTREACH AND PRIMARY HEALTH SERVICES FOR HOMELESS CHILDREN.—

"(1) The Secretary may make grants to entities specified in paragraph (2) for the purpose of enabling the entities, directly or through contracts, to carry out demonstration programs—

"(A) to provide comprehensive primary health services to homeless children and to children at imminent risk of homelessness, including such services provided through mobile medical units;

"(B) to provide referrals for the provision of appropriate health services, social services, and education services to children receiving services under subparagraph (A) (including referrals regarding hospitals, the programs of sections 329 and 330, the program of the Head Start Act (and other programs providing education services), and programs regarding the prevention and treatment of child abuse); and

"(C) to provide outreach services to identify children who are homeless and to inform the parents (or other guardians) of the children of the availability of services from the grantees and from the entities or programs specified in subparagraph (B).

"(2) The entities referred to in paragraph (1) are—

"(A) grantees under subsection (a), and other public and nonprofit private entities (other than children's hospitals) that provide primary health services, and substance abuse services, to a substantial number of homeless individuals; and

"(B) public and nonprofit private children's hospitals that provide primary health services to a substantial number of such individuals.

"(3)(A) The Secretary may not make a grant under paragraph (1) to a hospital unless the hospital agrees, with respect to the costs of providing services under such paragraph, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $1 of Federal funds provided in the grant.

"(B) Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(4) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees that subsections (b)(3), (h), (i), and (j) will apply to the grant to the same extent and in the same manner as such subsections apply to any grant under subsection (a). For purposes of subsection (i)(1)(D) (including as applied to this subsection by the preceding sentence), mobile medical units shall be considered to be major medical equipment.

"(5) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees to collect such data as the Secretary determines to be necessary for assessing the efficacy of services provided under paragraph (1) to homeless children.

"(6) The Secretary may not make a grant under paragraph (1) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

"(7) In making grants under paragraph (1), the Secretary shall take into account the needs of homeless children in rural areas.

"(8) For the purpose of carrying out this subsection, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1991 through 1993.".

Subtitle B—Formula Grants to States for Assistance Regarding Transition From Homelessness

SEC. 511. ESTABLISHMENT OF PROGRAM.

Part C of title V of the Public Health Service Act (42 U.S.C. 290cc-21 et seq.) is amended to read as follows:

"Part C—Projects for Assistance in Transition From Homelessness

"SEC. 521. FORMULA GRANTS TO STATES.

"For the purpose of carrying out section 522, the Secretary, acting through the Director of the National Institute of Mental Health, shall for each of the fiscal years 1991 through 1994 make an allotment for each State in an amount determined in accordance with section 524. The Secretary shall make payments, as grants, each such fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 529.

"SEC. 522. PURPOSE OF GRANTS.

"(a) IN GENERAL.—The Secretary may not make payments under section 521 unless the State involved agrees that the payments will be expended solely for making grants to political subdivisions of the State, and to nonprofit private entities (including community-based veterans organizations and other community organizations), for the purpose of providing the services specified in subsection (b) to individuals who—

"(1)(A) are suffering from serious mental illness; or

"(B) are suffering from serious mental illness and from substance abuse; and

"(2) are homeless or at imminent risk of becoming homeless.

"(b) SPECIFICATION OF SERVICES.—The services referred to in subsection (a) are—

"(1) outreach services;

"(2) screening and diagnostic treatment services;

"(3) habilitation and rehabilitation services;

"(4) community mental health services;

"(5) alcohol or drug treatment services;

"(6) staff training, including the training of individuals who work in shelters, mental health clinics, substance abuse programs, and other sites where homeless individuals require services;

"(7) case management services, including—

"(A) preparing a plan for the provision of community mental health services to the eligible homeless individual involved, and reviewing such plan not less than once every 3 months;

"(B) providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individuals, including services relating to daily living activities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

"(C) providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, food stamps, and supplemental security income benefits;

"(D) referring the eligible homeless individual for such other services as may be appropriate; and

"(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act if the eligible homeless individual is receiving aid under title XVI of such act and if the applicant is designated by the Secretary to provide such services;

"(8) supportive and supervisory services in residential settings;

"(9) referrals for primary health services, job training, educational services, and relevant housing services;

"(10) subject to subsection (h)(1)—

"(A) minor renovation, expansion, and repair of housing;

"(B) planning of housing;

"(C) technical assistance in applying for housing assistance;

"(E) improving the coordination of housing services;

"(E) security deposits;

"(F) the costs associated with matching eligible homeless individuals with appropriate housing situations; and

"(G) 1-time rental payments to prevent eviction; and

"(11) other appropriate services, as determined by the Secretary.

"(c) COORDINATION.—The Secretary may not make payments under section 521 unless the State involved agrees to make grants pursuant to subsection (a) only to entities that have the capacity to provide, directly or through arrangements, the services specified in section 522(b), including coordinating the provision of services in order to meet the needs of eligible homeless individuals who are both mentally ill and suffering from substance abuse.

"(d) SPECIAL CONSIDERATION REGARDING VETERANS.—The Secretary may not make payments under section 521 unless the State involved agrees that, in making grants to entities pursuant to subsection (a), the State will give special consideration to entities with a demonstrated effectiveness in serving homeless veterans.

"(e) SPECIAL RULES.—The Secretary may not make payments under section 521 unless the State involved agrees that grants pursuant to subsection (a) will not be made to any entity that—

"(1) has a policy of excluding individuals from mental health services due to the existence or suspicion of substance abuse; or

"(2) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illness.

"(f) ADMINISTRATIVE EXPENSES.—The Secretary may not make payments under section 521 unless the State involved agrees that not more than 4 percent of the payments will be

expended for administrative expenses regarding the payments.

"(g) MAINTENANCE OF EFFORT.—The Secretary may not make payments under section 521 unless the State involved agrees that the State will maintain State expenditures for services specified in subsection (b) at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive such payments.

"(h) RESTRICTIONS ON USE OF FUNDS—The Secretary may not make payments under section 521 unless the State involved agrees that —

"(1) not more than 20 percent of the payments will be expended for housing services under subsection (b)(10); and

"(2) the payments will not be expended

"(A) to support emergency shelters or construction of housing facilities;

"(B) for inpatient psychiatric treatment costs or inpatient substance abuse treatment costs; or

"(C) to make cash payments to intended recipients of mental health or substance abuse services.

"SEC. 523. REQUIREMENT OF MATCHING FUNDS.

"(a) IN GENERAL.—The Secretary may not make payments under section 521 unless, with respect to the costs of providing services pursuant to section 522, the State involved agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount that is not less than $1 for each $3 of Federal funds provided in such payments.

"(b) DETERMINATION OF AMOUNT.—Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(d) LIMITATION REGARDING GRANTS BY STATES.—The Secretary may not make payments under section 521 unless the State involved agrees that the State will not require the entities to which grants are provided pursuant to section 522(a) to provide non-Federal contributions in excess of the non-Federal contributions described in subsection (a).

"SEC. 524. DETERMINATION OF AMOUNT OF ALLOTMENT.

"(a) MINIMUM ALLOTMENT.—The allotment for a State under section 521 for a fiscal year shall be the greater of—

"(1) $300,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $50,000 for each of Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

"(2) an amount determined in accordance with subsection (b).

"(b) DETERMINATION UNDER FORMULA.—The amount referred to in subsection (a)(2) is the product of—

"(1) an amount equal to the amount appropriated under section 535(a) for the fiscal year; and

"(2) a percentage equal to the quotient of—

"(A) an amount equal to the population living in urbanized areas of the State involved, as indicated by the most recent data collected by the Bureau of the Census; and

"(B) an amount equal to the population living in urbanized areas of the United States, as indicated by the sum of the respective amounts determined for the States under subparagraph (A).

"SEC. 525. CONVERSION TO CATEGORICAL PROGRAM IN EVENT OF FAILURE OF STATE REGARDING EXPENDITURE OF GRANTS.

"(a) IN GENERAL.—Subject to subsection (c), the Secretary shall, from the amounts specified in subsection (b), make grants to public and nonprofit private entities for the purpose of providing to eligible homeless individuals the services specified in section 522(b).

"(b) SPECIFICATION OF FUNDS.—The amounts referred to in subsection (a) are any amounts made available in appropriations Acts for allotments under section 521 that are not paid to a State as a result of—

"(A) the failure of the State to submit an application under section 529;

"(B) the failure of the State, in the determination of the Secretary, to prepare the application in accordance with such section or to submit the application within a reasonable period of time; or

"(C) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(c) REQUIRMENT OF PROVISION OF SERVICES IN STATE INVOLVED.—With respect to grants under subsection (a), amounts made available under subsection (b) as a result of the State involved shall be available only for grants to provide services in such State.

"SEC. 526. PROVISION OF CERTAIN INFORMATION FROM STATE.

"The Secretary may not make payments under section 521 to a State unless, as part of the application required in section 529, the State submits to the Secretary a statement—

"(1) identifying existing programs providing services and housing to eligible homeless individuals and identify gaps in the delivery systems of such programs;

"(2) containing a plan for providing services and housing to eligible homeless individuals, which plan—

"(A) describes the coordinated and comprehensive means of providing services and housing to homeless individuals; and

"(B) includes documentation that suitable housing for eligible homeless individuals will accompany the provision of services to such individuals;

"(3) describes the source of the non-Federal contributions described in section 523;

"(4) contains assurances that the non-Federal contributions described in section 523 will be available at the beginning of the grant period;

"(5) describe any voucher system that may be used to carry out this part; and

"(6) contain such other information or assurances as the Secretary may reasonably require.

"SEC. 527. DESCRIPTION OF INTENDED EXPENDITURES OF GRANT.

"(a) IN GENERAL.—The Secretary may not make payments under section 521 unless—

"(1) as part of the application required in section 529, the State involved submits to the Secretary a description of the intended use for the fiscal year of the amounts for which the State is applying pursuant to such section;

"(2) such description identifies the geographic areas within the State in which the greatest numbers of homeless individuals with a need for mental health, substance abuse, and housing services are located;

"(3) such description provides information relating to the programs and activities to be supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

"(4) the State agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State pursuant to section 522.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make payments under section 521 unless the State involved agrees that, in developing and carrying out the description required in subsection (a), the State will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons, such as family members, consumers, and mental health, substance abuse, and housing agencies, an opportunity to present comments and recommendations with respect to the description.

"(c) RELATIONSHIP TO STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.—

"(1) IN GENERAL.—The Secretary may not make payments under section 521 unless the services to be provided pursuant to the description required in subsection (a) are consistent with the State comprehensive mental health services plan required in subpart 2 of part B of title XIX.

"(2) SPECIAL RULE.—The Secretary may not make payments under section 521 unless the services to be provided pursuant to the description required in subsection (a) have been considered in the preparation of, have been included in, and are consistent with, the State comprehensive mental health services plan referred to in paragraph (1).

"SEC. 528. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary may not make payments under section 521 unless the State involved agrees that, by not later than January 31 of each fiscal year, the State will prepare and submit to the Secretary a report in such form and containing such information as the Secretary determines (after consultation with the Comptroller General of the United States, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse) to be necessary for—

"(1) securing a record and a description of the purposes for which amounts received under section 521 were expended during the preceding fiscal year and of the recipients of such amounts; and

"(2) determining whether such amounts were expended in accordance with the provisions of this part.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary may not make payments under section 521 unless the State involved agrees to make copies of the reports described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States in cooperation with the National Institute of Mental Health, shall evaluate at least once every 3 years the expenditures of grants under this part by eligible entities in order to ensure that expenditures are consistent with the provisions of this part, and shall include in such evaluation recommendations regarding changes needed in program design or operations.

"SEC. 529. REQUIREMENT OF APPLICATION.

"The Secretary may not make payments under section 521 unless the State involved—

"(1) submits to the Secretary an application for the payments containing agreements and information in accordance with this part;

"(2) the agreements are made through certification from the chief executive officer of the State; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 530. TECHNICAL ASSISTANCE.

"The Secretary, through the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, shall provide technical assistance to eligible entities in developing planning and operating programs in accordance with the provisions of this part.

"SEC. 531. FAILURE TO COMPLY WITH AGREEMENTS.

"(a) REPAYMENT OF PAYMENTS.—

"(1) The Secretary may, subject to subsection (c), require a State to repay any payments received by the State under section 521 that the Secretary determines were not expended by the State in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 529.

"(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under section 521.

"(b) WITHHOLDING OF PAYMENTS.—

"(1) The Secretary may, subject to subsection (c), withhold payments due under section 521 if the Secretary determines that the State involved is not expending amounts received under such section in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 529.

"(2) The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under section 521 in accordance with the agreements referred to in such paragraph.

"(3) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the agreements referred to in such paragraph.

"(c) OPPORTUNITY FOR HEARING.—Before requiring repayment of payments under subsection (a)(1), or withholding payments under subsection (b)(1), the Secretary shall provide to the State an opportunity for a hearing.

"(d) RULE OF CONSTRUCTION.—Notwithstanding any other provision of this part, a State receiving payments under section 521 may not, with respect to any agreements required to be contained in the application submitted under section 529, be considered to be in violation of any such agreements by reason of the fact that the State, in the regular course of providing services under section 522(b) to eligible homeless individuals, incidentally provides services to homeless individuals who are not eligible homeless individuals.

"SEC. 532. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS.

"(a) IN GENERAL.—

"(1) A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which amounts may be paid by a State from payments received by the State under section 521.

"(2) A person with knowledge of the occurrence of any event affecting the right of the person to receive any amounts from payments made to the State under section 521 may not conceal or fail to disclose any such event with the intent of securing such an amount that the person is not authorized to receive or securing such an amount in an amount greater than the amount the person is authorized to receive.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"SEC. 533. NONDISCRIMINATION.

"(a) IN GENERAL.—

"(1) RULE OF CONSTRUCTION REGARDING CERTAIN CIVIL RIGHTS LAWS.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under section 521 shall be considered to be programs and activities receiving Federal financial assistance.

"(2) PROHIBITION.—No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under section 521.

"(b) ENFORCEMENT.—

"(1) REFERRALS TO ATTORNEY GENERAL AFTER NOTICE.—Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to section 521, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(B) exercise the powers and functions provided by the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964, as may be applicable; or

"(C) take such other actions as may be authorized by law.

"(2) AUTHORITY OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to paragraph (1)(A), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"SEC. 534. DEFINITIONS.

"For purposes of this part:

"(1) ELIGIBLE HOMELESS INDIVIDUAL.—The term 'eligible homeless individual' means an individual described in section 522(a).

"(2) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the meaning given such term in section 340(r).

"(3) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(4) SUBSTANCE ABUSE.—The term 'substance abuse' means the abuse of alcohol or other drugs.

"SEC. 535. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there is authorized to be appropriated $75,000,000 for each of the fiscal years 1991 through 1994.

"(b) EFFECT OF INSUFFICIENT APPROPRIATIONS FOR MINIMUM ALLOTMENTS.—

"(1) IN GENERAL.—If the amounts made available under subsection (a) for a fiscal year are insufficient for providing each State with an allotment under section 521 of not less than the applicable amount under section 524(a)(1), the Secretary shall, from such amounts as are made available under such subsection, make grants to the States for providing to eligible homeless individuals the services specified in section 522(b).

"(2) RULE OF CONSTRUCTION.—Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.".

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

SEC. 521. MENTAL HEALTH SERVICES FOR HOMELESS INDIVIDUALS WITH CHRONIC MENTAL ILLNESS.

(a) IN GENERAL.—The first sentence of section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking "$11,000,000" and all that follows through "1991," and inserting the following: "such sums as may be necessary for each of the fiscal years 1991 through 1993,".

(b) TECHNICAL CORRECTION.—Section 612(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking "section 504(f)" and inserting "section 520 of the Public Health Service Act".

SEC. 522. ALCOHOL AND DRUG ABUSE TREATMENT OF HOMELESS INDIVIDUALS.

Section 513(b) of the Public Health Service Act (42 U.S.C. 290bb-2(b)) is amended by striking "$14,000,000" and all that follows and inserting the following: "such sums as may be necessary for each of the fiscal years 1991 through 1993.".

TITLE VI—EDUCATION, TRAINING, COMMUNITY SERVICE, AND FAMILY SUPPORT

SEC. 601. SHORT TITLE.

This title may be cited as the "Stewart B. McKinney Homeless Assistance Amendments Act of 1990".

SEC. 602. DEFINITION OF HOMELESS.

Section 103(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(b)) is amended to read as follows:

"(b) INCOME ELIGIBILITY.—

"(1) IN GENERAL.—A homeless individual shall be eligible for assistance under any program provided by this Act, only if the in-

dividual complies with the income eligibility requirements otherwise applicable to such program.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under the Job Training Partnership Act.".

Subtitle A—Provisions Relating to Literacy and Education

SEC. 611. STATEWIDE LITERACY INITIATIVE.

(a) REAUTHORIZATION.—Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended by inserting after "and 1990" the following: ", $13,700,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 and 1993,".

(b) APPLICATION.—Section 702(b) of such Act is amended by striking out "and the number" and all that follows through "to be served".

SEC. 612. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

(a) STATEMENT OF POLICY.—Section 721 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2)—

(A) by inserting after "attendance laws" the following: "or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and homeless youth";

(B) by inserting ", regulations, practices, or policies" after "such laws"; and

(C) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) homelessness alone should not be sufficient reason to separate students from the mainstream school environment.".

(b) GRANTS FOR STATE AND LOCAL ACTIVITIES.—Section 722 of such Act (42 U.S.C. 11432) is amended—

(1) in the section heading by inserting "AND LOCAL" after "STATE";

(2) in subsection (b)—

(A) by striking out "section 1005" and inserting in lieu thereof "part A of chapter 1 of title I"; and

(B) by striking out $50,000 and all that follows through the end thereof and inserting the following "$50,000. The Secretary shall reserve 0.1 percent of the amount appropriated for each fiscal year to be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 90-658), according to their respective need, as determined by the Secretary, except that no such territory shall receive less in fiscal year 1991 than it received in fiscal year 1990. The Secretary may also reserve not to exceed 1 percent of the amount appropriated for each fiscal year for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act consistent with the purposes of this Act. As used in this subsection, the term 'State' shall not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or Palau.";

(3) in subsection (c)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following new paragraph:

"(2) to provide activities for and services to homeless children and homeless youths that enable such children and youths to enroll in, attend, and achieve success in school;";

(C) by striking out "and" at the end of paragraph (3) (as so redesignated);

(D) by striking out the period at the end of paragraph (4) (as so redesignated) and inserting in lieu thereof a semicolon; and

(E) by adding at the end thereof the following new paragraphs:

"(5) to develop and implement programs for school personnel to heighten awareness of specific problems of the education of homeless children and youth; and

"(6) if amounts appropriated for the applicable fiscal year exceed the amount appropriated for fiscal year 1990 under this section, to provide grants to local educational agencies for purposes of this section, and if such amounts appropriated do not exceed the amount appropriated for fiscal year 1991, the State education agency, at the discretion of such agency, may provide such grants.";

(4) in subsection (d)(1)—

(A) by striking "annually" and inserting "once every 2 years,";

(B) by inserting after "shall include" the following: "the number of homeless children and homeless youths enrolled in schools in the State, determined through random sampling or other statistical methods that ensure that such children and youths are not overtly identified as being homeless,";

(C) by striking "and the difficulties" and inserting "the difficulties"; and

(D) by inserting before the semicolon the following: ", and any progress made by the State educational agency and local educational agencies within the State in addressing such problems and difficulties";

(5) in subsection (d)(2) by striking "and" at the end thereof;

(6) in subsection (d)(3)—

(A) by striking "of each year" and inserting ", 1991, and on December 31 of every second year thereafter"; and

(B) by striking the period at the end thereof and inserting a semicolon; and

(7) in subsection (d), by adding at the end thereof the following new paragraphs:

"(4) facilitate coordination between the State education agency, the State social services agency, and other agencies providing services to homeless children and youth and their families; and

"(5) develop relationships and coordinate with other relevant education, child development, or preschool programs and providers of services to homeless children, homeless families, and runaway and homeless youths (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youths) in order to improve the provision of comprehensive services to homeless children and homeless youths and the families of such children and youths.";

(8) in subsection (e)(1)—

(A) by striking "and" at the end of subparagraph (A);

(B)(i) by inserting "prompt" before "resolution" in subparagraph (B); and

(ii) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(C) develop programs for school personnel (including principals, attendance officers, teachers, and enrollment personnel), to heighten the awareness of such personnel of the specific educational needs of runaway and homeless youths; and

"(D) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs.";

"(E) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs and provide for the disclosure of data concerning the participation of such children in such programs in plans submitted by the State after the initial plan of the State;

"(F) address problems set forth in the report provided to the Secretary under subsection (d)(3);

"(G) address problems with respect to the education of homeless children and homeless youths, including problems caused by—

"(i) transportation issues; and

"(ii) enrollment delays which are caused by—

"(I) immunization requirements;

"(II) residency requirements;

"(III) lack of birth certificates, school records, or other documentation; or

"(IV) guardianship issues;

"(H) demonstrate that the State and local educational agencies in the State have developed and will review and revise policies to remove barriers to the enrollment and retention of homeless children and homeless youths in schools of the State; and

"(I) ensure that the State educational agency and local educational agencies within the State will adopt policies and practices to ensure that homeless children and homeless youths are not isolated or stigmatized.";

(9) in subsection (e)—

(A) by striking out "(6)" in paragraph (2) and inserting in lieu thereof "(9)";

(B) by amending paragraph (3) to read as follows:

"(3)(A) The local educational agency of each homeless child and each homeless youth shall either—

"(i) continue the child's or youth's education in the school of origin—

"(I) for the remainder of the academic year; or

"(II) in any case in which a family becomes homeless between academic years, for the following academic year; or

"(ii) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend;

whichever is in the child's best interest or the youth's best interest.

"(B) In determining the best interests of the child or youth for purposes of making a school assignment under subparagraph (A), consideration shall be given to a request made by a parent regarding school selection.

"(C) For purposes of this paragraph, the term 'school of origin' shall mean the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.";

(C) by inserting after "including" in paragraph (5) the following: "transportation services,";

(D) by striking "The schools records" in paragraph (6) and inserting the following: "Any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs,"; and

(E) by adding at the end thereof the following new paragraphs:

"(7) Each local educational agency serving homeless children or youth that receives assistance under this title shall coordinate with local social services agencies, and other agencies or programs providing services to such children or youth and their families.

"(8) Each local educational agency that receives assistance under this title shall designate a homelessness liaison to ensure that—

"(A) homeless children and youth enroll and succeed in the schools of that agency; and

"(B) homeless families, children and youth receive educational services for which they are eligible, and referrals to health care services, dental services, mental health services, and other appropriate services.

State coordinators and local educational agency liaisons shall inform school personnel, service providers and advocates working with homeless families of the duties of the liaisons.

"(9) Each State and local educational agency shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with paragraph (3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, requirements of immunization, residency, birth certificates, school records, or other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school."; and

(10) in subsection (g)—

(A) by striking out "$5,000,000" in paragraph (1) and all that follows through the end thereof and inserting in lieu thereof "$50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.";

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) The State educational agency may reserve not to exceed 5 percent of the amount received by such agency under this section in each fiscal year, or an amount equal to the amount received by such State agency for State activities under this section in fiscal year 1990, whichever is greater, to conduct activities under paragraphs (1) through (5) of subsection (c).

"(3)(A) In any fiscal year in which the amount appropriated under paragraph (1) does not equal or exceed $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to award grants to local educational agencies in accordance with subsection (c)(6).

"(B) In any fiscal year in which the amount appropriated under paragraph (1) equals or exceeds $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to allocate to each local educational agency an amount that bears the same ratio to amount not otherwise reserved as the aggregate amount received by such local educational agency under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for such fiscal year bears to the aggregate amount received by all local educational agencies in the State for purposes of carrying out such part for such fiscal year.".

(c) GRANTS FOR THE EDUCATIONAL SUCCESS OF HOMELESS CHILDREN AND YOUTH.—Section 723 of such Act (42 U.S.C. 11433) is amended to read as follows:

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—

"(1) GRANTEES AND PURPOSE OF GRANTS.—The State educational agency shall, in accordance with section 722(c)(6) and from amounts made available to such agency under section 722, make grants to local educational agencies for the purpose of facilitating the enrollment, attendance and success of homeless children and youths in schools.

"(2) USE OF GRANTS.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds or at other nonsectarian facilities. Where services are provided through programs on school grounds, such services may also be made available to children or youths who are determined by the local educational agency to be at risk of failing in or dropping out of schools, except that priority for such services shall be given to homeless children and homeless youths. To the maximum extent practicable, services shall be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals.

"(3) REGULAR ACADEMIC PROGRAM.—Services provided under this section are not intended to replace the regular academic program.

"(b) AUTHORIZED ACTIVITIES.—

"(1) PRIMARY ACTIVITIES.—Not less than 50 percent of amounts provided under a grant under this section shall be used to provide tutoring, remedial education services, or other education services to homeless children or homeless youths.

"(2) RELATED ACTIVITIES.—Not less than 35, nor more than 50, percent of the amounts provided under a grant under this section may be used for activities that may include—

"(A) the provision of expedited evaluations of the strengths and needs of homeless children and homeless youths, including needs and eligibility for programs and services (including gifted and talented programs, special education programs, programs for students with limited English proficiency, and remedial services);

"(B) professional development for educators and other school personnel that is designed to develop awareness and sensitivity to the needs of homeless children and homeless youths and the rights of such children and youths under this Act;

"(C) the provision of referral services to homeless children and homeless youths for medical, dental, mental, and other health services;

"(D) the provision of assistance to defray the excess cost of transportation for students not provided under section 722(e)(5) and not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(e)(3);

"(E) the provision of developmentally appropriate early childhood programs for preschool age children;

"(F) the provision of before- and after-school and summer programs for homeless children or homeless youths in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

"(G) where necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children or homeless youths in school, including birth certificates, immunization records, academic records, guardianship records, and evaluations for special programs or services;

"(H) the provision of parent education and training to the parents of homeless children and homeless youths about the rights of and resources available to such children and youths;

"(I) the development of coordination between schools and agencies providing services to homeless children and homeless youths;

"(J) the provision of counseling, social work and psychological services, including violence counseling, and referrals for such services;

"(K) activities to address the particular needs of homeless children and homeless youths that may arise from domestic violence;

"(L) activities to develop and implement programs for school personnel to heighten the awareness of such personnel of the specific educational needs of runaway and homeless youths;

"(M) the adaptation of space and the purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

"(N) the provision of school supplies to be distributed at the shelter or temporary housing facilities; and

"(O) the provision of such other extraordinary or emergency assistance determined by the Secretary as essential to enable homeless children and youth to attend school.

"(3) ELIGIBILITY.—No State or local educational agency may receive a grant under this section unless the State in which the agency is located has submitted a State plan as required by section 722(e).

"(c) AWARDS.—

"(1) BASIS.—Except as provided in section 722(g)(3)(B), from amounts appropriated for each fiscal year under section 722(g), the State educational agency may award grants under this section to local educational agencies submitting an application under subsection (d) on the basis of the need of such agencies.

"(2) DETERMINATION.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and homeless youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth, and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State Plan required by section 722(e);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth in its jurisdiction; and

"(D) other criteria as the agency determines appropriate.

"(d) APPLICATION.—

"(1) IN GENERAL.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State

agency may reasonably require according to guidelines issued by the Secretary. Each such application shall include—

"(A) a description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of such services and programs;

"(B) assurances that the applicant complies with or will use requested funds to come into compliance with paragraphs (3) through (9) of section 722(e);

"(C) an assurance that assistance under the grant will supplement and not supplant funds used before the award of the grant for purposes of providing services to homeless children and homeless youths; and

"(D) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and homeless youth.

"(3) TERM OF AWARDS.—Grants awarded under this section shall be for terms of not to exceed 2 years.

"(e) REPORTS.—Each State educational agency that receives a grant under this section for any fiscal year shall, as part of the plan of the State submitted under section 722(c)(4), provide to Secretary data concerning—

"(1) the number of homeless children and homeless youths served with assistance provided under the grant under this section; and

"(2) a description of the success of the program under this section in allowing homeless children and homeless youths to enroll in, attend, and succeed in school.".

(d) NATIONAL RESPONSIBILITIES.—Section 724(b) of such Act (42 U.S.C. 11434) is amended—

(1) in paragraph (1) by adding at the end thereof the following new sentences: "In reviewing the State plans submitted by the State educational agencies under section 722(e), the Secretary shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and homeless youth relating to access to education and placement as described in such plans.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(3) by inserting after paragraph (1) the following new paragraphs:

"(2)(A) The Secretary, in consultation with persons and organizations that are knowledgeable about the needs of homeless children and youth, shall, through the awarding of a grant, or through entering into a contract or cooperative agreement, conduct a study to determine the best means of identifying, locating, and counting homeless children and youth for the purposes of this subtitle. Such persons and organizations to be consulted shall include representatives of State coordinators, local educational agencies with substantial numbers of homeless children and youth, local government agencies with responsibility for administering homeless shelters, and advocacy groups representing the interests of homeless children and youth. The Secretary shall also consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, as appropriate, in carrying out this paragraph.

"(B) The study conducted under subparagraph (A) shall consider—

"(i) the appropriate definition of the terms 'homeless child' and 'homeless youth';

"(ii) the experience of the 1990 Census in identifying, locating, and counting homeless children and youth;

"(iii) appropriate methodologies for identifying, locating, and counting such children and youth, including using schools, shelters, and other social service agencies to collect data; and

"(iv) the projected accuracy of the methodologies identified in clause (iii), and the costs associated with the use of each methodology;

to determine the number of homeless children and youth in the United States to create as accurate an account as possible of the number, location, and living circumstances of such children and youth, including the number of such children and youth that are attending school regularly, part-time, or not at all, and reasons for the non-attendance of such children and youth.

"(C)(i) Not later than 240 days after the date of enactment of this paragraph, the Secretary shall prepare and submit, to the appropriate committees of Congress, a report containing the results of the study conducted under subparagraph (A) and the estimated costs of making the estimates required under clause (ii).

"(ii) Not later than December 1, 1992, the Secretary, in consultation with the appropriate committees of Congress, and through the use of appropriate statistical methodology, shall, through a grant, contract or cooperative agreement, determine accurate estimates of the number of homeless children and youth throughout the Nation and the number of such children and youth attending school.

"(D) The Secretary may reserve not more than $250,000 from amounts appropriated under section 722(g) in 1991 to carry out the study required under subparagraph (A).

"(E) There are authorized to be appropriated such sums as may be necessary in 1992 to prepare the report and estimates required under subparagraph (C).

"(3) The Secretary shall provide such support and technical assistance to the State educational agencies as is required by such agencies to carry out their responsibilities under this subtitle,"; and

(4) by adding at the end thereof the following new paragraphs:

"(5) The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students.

"(6) The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

"(7) The Secretary, based on the information received from the States and information gathered by the Secretary under paragraph (1), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education as described in section 721(1).".

SEC. 613. REPORTING REQUIREMENT.

Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431 et seq.) is amended—

(1) by redesignating section 725 as section 726; and

(2) by inserting after section 724 the following new section:

"SEC. 725. REPORTS.

"Not later than 2 years after the date of enactment of this subsection, the Comptroller General of the United States, in consultation with the Secretary, shall prepare and submit to the appropriate Committees of Congress a report containing the findings of a study conducted to determine the most effective method of distributing funds provided under this subtitle to State educational agencies and local educational agencies.".

Subtitle B—Job Training for the Homeless

SEC. 621. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.

(a) JOB TRAINING FOR THE HOMELESS.—

(1) APPLICATIONS.—Section 733 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11443) is amended—

(A) by inserting "(a) IN GENERAL.—" before "Each applicant";

(B) in subsection (a)(2), by inserting before the semicolon the following: "or other related programs providing services necessary to address the multiple needs of homeless individuals";

(C) in subsection (a)(3), by inserting "on the street or" before "in-shelter"; and

(D) by adding at the end thereof the following new subsection:

"(b) SPECIAL CONSIDERATION.—

"(1) IN GENERAL.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census; or

"(C) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.

"(2) HOLISTIC SERVICE APPROACH.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement programs that include formal reciprocal referral agreements with other programs such as substance abuse counseling, local shelters, and subsidized housing that provide a holistic service approach on an individual case management basis.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle the following amounts:

"(1) $14,000,000 for fiscal year 1991, of which $2,200,000 shall be available only to carry out section 738.

"(2) $15,000,000 for fiscal year 1992, of which $2,200,000 shall be available only to carry out section 738.

"(3) $17,000,000 for fiscal year 1993, of which $2,200,000 shall be available only to carry out section 738.".

(c) TERMINATION.—Section 741 of such Act (42 U.S.C. 11450) is amended by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1993".

SEC. 622. JOB TRAINING PARTNERSHIP ACT.

Part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.) is amended by inserting after section 433 the following new section:

"JOB CORPS CENTERS FOR HOMELESS FAMILIES

"SEC. 433A. (a) Subject to the availability of appropriations therefor, the Secretary is authorized, in accordance with section 427,

to provide services and facilities in accordance with this section to eligible homeless individuals and their families at Job Corps centers. Job Corps centers serving homeless individuals and their families shall—

"(1) be residential;

"(2) be operated under a project agreement with one or more State or local agencies that complies with subsection (b) of this section;

"(3) provide room and board for enrollees and their dependents and child care to the extent practicable for dependent children of enrollees; and

"(4) provide enrollees—

"(A) program activities that include both activities to sustain the operation of the center and regular Job Corps activities required under section 428; and

"(B) the benefits and services given to any other enrollee under this part.

"(b) Each Job Corps center providing services and facilities to homeless individuals under this section shall provide such services and facilities under a project agreement with one or more State or local agencies that—

"(1) requires such State and local agencies to provide, in the aggregate, not less than 50 percent of the cost of such services and facilities;

"(2) contains provisions to ensure that enrollees and their families are effectively assisted in obtaining all necessary health, education, and social services provided by existing Federal, State, and local programs in such State or locality;

"(3) require such State and local agencies to provide such transitional assistance, including housing, necessary to effect successful job placements for enrollees; and

"(4) contains or is accompanied by such other information and assurances as the Secretary may require.

"(c) To become an enrollee in the Job Corps at a center established providing services and facilities to homeless individuals under this section, an individual—

"(1) shall qualify as a homeless individual under section 103 of the Stewart B. McKinney Homeless Assistance Act;

"(2) may be over the maximum age permitted by section 423(1), but shall have not attained the age of 25 at the time of enrollment; and

"(3) shall meet the requirements of paragraphs (2) through (5) of section 423.

"(d) The Secretary shall prescribe special screening standards under sections 424 and 425 to identify and select enrollees for purposes of this section.

"(c) The Secretary shall, pursuant to section 454, conduct evaluations of the centers providing services and facilities to homeless individuals under this section. The Secretary shall submit to the Congress a report on the results of such evaluations, together with the Secretary's recommendations concerning such centers, not later than 3 years after the date of enactment of this section.

"(d) As used in the section, the term 'family' may include, at a minimum, dependent children, and the brothers, sisters and parents of those dependent children.".

Subtitle C—Emergency Community Services Homeless Grant Program

SEC. 631. EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.

(a) USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 753(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "all" and inserting "not less than 95 percent"; and

(ii) by striking "(1)(A)" and inserting "(1)";

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively; and

(2) in paragraph (3) by striking "no amount" and inserting "not more than 5 percent of the amounts".

(b) ELIGIBLE USE OF FUNDS.—Section 753(c) of such Act (42 U.S.C. 11463(c)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) Renovation of buildings to be used to provide such services, except that not more than 50 percent of such amounts may be used for such purpose."; and

(2) by adding at the end thereof the following new paragraph:

"(5) Provision of, or referral to, violence counseling for homeless children and individuals, and the provision of violence counseling training to individuals who work with homeless children and individuals.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 754 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11404) is amended to read as follows:

"SEC. 751. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $50,000,000 for each of fiscal years 1991, 1992, and 1993.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) of this section shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

Subtitle D—Evaluation and Reports

SEC. 641. EVALUATION AND REPORTS.

Subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11461 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 755. EVALUATION.

"(a) PURPOSE.—It is the purpose of this section to develop as rapidly as practicable, information concerning the organization, impact and effectiveness of services provided to homeless individuals under programs administered by the Secretary of Health and Human Services under this or any other Act, and of the effectiveness of the coordination of such programs with other Federal or Federally assisted programs that provide services to homeless individuals, or to those at risk of becoming homeless.

"(b) REQUIREMENT FOR EVALUATION ACTIVITIES.—In carrying out the purpose described in subsection (a), the Secretary shall conduct evaluations that shall include—

"(1) the use of cost and utilization data collected under the Primary Health Care for the Homeless Program under section 340 of the Public Health Service Act to conduct an evaluation, in consultation with organizations receiving grants under this title and with the national representatives of such organizations, of the impact of health, case management and referral services provided by a representative sample of grantees concerning client outcome;

"(2) under part C of title V, an evaluation of the need for and availability of services for individuals who are homeless or at risk of becoming homeless that have a serious mental illness or substance abuse problem, with special attention paid to the service needs of the dually diagnosed;

"(3) an evaluation to identify and document replicable, community-wide programs that provide integrated, comprehensive services that result in service delivery models which prevent homelessness or lead to the successful relocation of the homeless into permanent housing; and

"(4) an identification through the evaluation conducted under this subsection of those areas where services are lacking.

"SEC. 756. REPORT BY THE SECRETARY.

"Not later than 12 months after the date of the enactment of this section, the General Accounting Office shall conduct a study—

"(1) of the extent to which Federal laws, regulations, or policies are hindering Federal facilities (such as cafeterias in the facilities of the Department of Defense and Department of Veterans' Affairs) from making available to programs or entities serving the homeless prepared food that is not consumed, and the issues of liability relating to the provision of such food; and

"(2) prepare and submit, to the appropriate Committees of Congress, a report containing the findings made as a result of the study conducted under paragraph (1).".

Subtitle E—Homeless Prevention Demonstration Programs

SEC. 651. FAMILY SUPPORT CENTERS.

Title VII of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77) is amended by adding at the end thereof the following new subtitle:

"Subtitle F—Family Support Centers

"SEC. 771. DEFINITIONS.

"As used in this subtitle:

"(1) ADVISORY COUNCIL.—The term 'advisory council' means the advisory council established under section 772(e)(2)(K).

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means State or local agencies, a Head Start agency, any community-based organization of demonstrated effectiveness as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, local education agencies, an institution of higher education, a public hospital, a community development corporation, a private industry council as defined under section 102(a) of the Job Training Partnership Act, a community health center, and any other public or private nonprofit agency or organization specializing in delivering social services.

"(3) FAMILY CASE MANAGERS.—The term 'family case managers' means advisers operating under the provisions of section 774.

"(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term 'governmentally subsidized housing' means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of very low income families or individuals.

"(5) HOMELESS.—The term 'homeless' has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a) and (c)).

"(6) INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.—The term 'intensive and comprehensive supportive services' means—

"(A) in the case of services provided to infants, children and youth, such services that shall be designed to enhance the physical, social, and educational development of such infants and children and that shall include, where appropriate nutritional services, screening and referral services, child care

services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness and job training services, education (including basic skills and literacy services), emergency services including special outreach services targeted to homeless and runaway youth, crisis intervention and counseling services, and such other services that the Secretary may deem necessary and appropriate;

"(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and that shall include, where appropriate, substance abuse education, counseling, referral for treatment, crisis intervention, employment counseling and training as appropriate, life-skills training including personal financial counseling, education including basic skills and literacy services, parenting classes, training in consumer homemaking, and such other services as the Secretary shall deem necessary and appropriate;

"(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment, counseling and crisis intervention, family advocacy services, and housing assistance activities, housing counseling and eviction or foreclosure prevention assistance and referral to sources of emergency rental or mortgage assistance payments and home energy assistance, and other services as appropriate.

"(7) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(9) VERY LOW INCOME.—The term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

"SEC. 772. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

"(a) AUTHORITY.—The Secretary is authorized to make not more than 30 grants to eligible entities in rural, urban and suburban areas to pay the cost of demonstration programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, and educational development of low-income individuals and families, especially those individuals in very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless. Such grants shall be of sufficient size, scope, and quality to be effective, and shall be distributed to various entities including those in or near public housing developments, and in low-income areas both urban and nonurban.

"(b) GATEWAY PROGRAMS.—The Secretary shall make available not more than 5 demonstration grants in each fiscal year for Gateway programs in accordance with section 775.

"(c) AGREEMENTS WITH ELIGIBLE ENTITIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible entities to carry out the provisions of this section.

"(d) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

"(1) the capacity of the eligible entity to administer the comprehensive program for which assistance is sought;

"(2) the proximity of the entities and facilities associated with the program to the low-income families to be served by the program or the ability of the entity to provide mobile or offsite services;

"(3) the ability of the eligible entity to coordinate and integrate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, housing and energy assistance, and other relevant services), with public or private non-profit agencies and organizations that have a demonstrated record of effectiveness in providing assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

"(4) fiscal and administrative management of the eligible entity;

"(5) the involvement of project participants and community representatives in the planning and operation of the program to the extent practicable; and

"(6) the availability and proximity of comparable services provided by Community Action Agencies unless the Community Action Agency is the applicant and intends to expand existing services.

"(e) REQUIREMENTS.—

"(1) IN GENERAL.—Each eligible entity desiring to receive a grant under this section shall—

"(A) have demonstrated effectiveness in providing or arranging for the provision of services such as those required under this section;

"(B) to the maximum extent practicable, expand coordinate, integrate, or contract with existing service providers, and avail itself of other resource and reimbursement mechanisms that may be used to provide services; and

"(C) submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

"(2) APPLICATION.—Each application submitted under paragraph (1)(C) shall—

"(A) identify the population and geographic location to be served by the program;

"(B) provide assurances that services are closely related to the identifiable needs of the target population;

"(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

"(D) identify the referral providers, agencies, and organizations that the program will use;

"(E) describe the method of furnishing services at offsite locations, if appropriate;

"(F) describe the manner in which the services offered will be accessed through existing program providers to the extent that they are located in the immediate vicinity of the target population, or will contract with such providers for community-based services within the community to be served, and that funds provided under this section will be utilized to create new services only to the extent that no other funds can be obtained to fulfill the purpose.

"(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, housing and energy assistance, and income maintenance services;

"(H) describe the collection and provision of data on groups of individuals and geographic areas to be served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and natures of conditions and needs to be identified and assisted, and such other information as the Secretary requires;

"(I) describe the manner in which the applicant will implement the requirement of section 773;

"(J) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible entity, consisting of not more than 15 members that shall include—

"(i) participants in the programs, including parents;

"(ii) representatives of local private industry;

"(iii) individuals with expertise in the services the program intends to offer;

"(iv) representatives of the community in which the program will be located;

"(v) representatives of local government social service providers;

"(vi) representatives of local law enforcement agencies;

"(vii) representatives of the local public housing agency, where appropriate; and

"(viii) representatives of local education providers;

"(K) describe plans for evaluating the impact of the program;

"(L) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

"(M) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

"(N) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

"(f) ADMINISTRATIVE PROVISIONS.—

"(1) ADMINISTRATIVE COSTS.—Two percent of the amounts appropriated under this title may be used by the Secretary to administer and evaluate the program established under this title and to provide technical assistance to entities for the development and submission of applications for grants under this section.

"(2) LIMITATION.—Not more than 30 grants may be made under this subtitle.

"(3) AMOUNT OF GRANTS.—No grant made under this subtitle may exceed $2,500,000 per year nor more than a total of $4,000,000 for 2 years. Funds received under such grants shall remain available until expended.

"(g) FAMILY SUPPORT CENTERS.—Each program that receives assistance under this section shall establish one or more family support centers that operate—

"(1) in or near the immediate vicinity of governmentally subsidized housing;

"(2) in urban poverty areas; or

"(3) in non-urban poverty areas.

Such centers shall be the primary location for the administration of the programs and the provision of services under this title.

"SEC. 773. TRAINING AND RETENTION.

"The Secretary shall require that entities that receive a grant under section 772 use not more than 7 percent of such grant to improve the retention and effectiveness of staff and volunteers.

"SEC. 774. FAMILY CASE MANAGERS.

"(a) REQUIREMENT.—Each entity that receives a grant under section 772 shall employ, subject to subsection (e), an appropriate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

"(b) NEEDS ASSESSMENT.—Each low-income family that desires to receive services from a program that receives assistance under this subtitle shall be assessed by a family case manager on such family's initial visit to such program as to their need for services.

"(c) CONTINUING FUNCTIONS.—Family case managers shall formulate a service plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and referral services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities, as appropriate.

"(d) LIMITATION.—Each family case manager shall have a caseload that is of a sufficiently small size so as to permit such manager to effectively manage the delivery of comprehensive services to those families assigned to such manager.

"SEC. 775. GATEWAY PROGRAMS.

"(a) IN GENERAL.—The Secretary shall use amounts made available in accordance with section 772(b) to make not more than 5 demonstration grants to local education agencies who, in consultation with the local public housing authority and private industry council, agree to provide on-site education, training and necessary support services to economically disadvantaged residents of public housing.

"(b) SELECTION OF GRANT RECIPIENTS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall select a local education agency to receive a grant under subsection (a) if such agency has cooperated with the local public housing authority in order to meet the following requirements:

"(1) The local education agency shall demonstrate to the Secretary that training and ancillary support services will be accessed through existing program providers to the extent that they are located in the immediate vicinity of the public housing development, or will contract with such providers for on-site service delivery, and that funds provided under this section will be utilized to purchase such services only to the extent that no other funds can be obtained to fulfill the purpose.

"(2) The public housing agency shall agree to make available suitable facilities in the public housing development for the provision of education, training and support services under this section.

"(3) The local education agency shall demonstrate that the recipients of service have been recruited with the assistance of the public housing authority and are eligible individuals in accordance with the priorities established in subsection (c).

"(4) The local education agency shall demonstrate the ability to coordinate the services provided in this section with other services provided, with the public housing development and private industry council as well as with other public and private agencies and community-based organizations of demonstrated effectiveness providing similar and ancillary services to the target population.

"(5) The local education agency shall demonstrate that they have, to the fullest extent practicable, attempted to employ residents of the public housing development to carry out the purposes of this section whenever qualified residents are available.

"(c) INDIVIDUALS ELIGIBLE FOR SERVICES.—Local education agencies receiving grants under this section shall target participation in the training and services provided under such grants to individuals who—

"(1) reside in public housing;

"(2) are economically disadvantaged; and

"(3) have encountered barriers to employment because of basic skills deficiency including not having a high school diploma, GED, or the equivalent.

"(d) PRIORITY.—Local education agencies providing services under this section shall give priority to single heads of households with young dependent children.

"(e) MANDATORY SERVICES.—Any local education agency that receives a grant under this section shall establish a Gateway program to provide—

"(1) outreach and information services designed to make eligible individuals aware of available services;

"(2) literacy and bilingual education services, where appropriate;

"(3) remedial education and basic skills training;

"(4) employment training and personal management skill development or referrals for such services; and

"(5) child care or dependent care for dependents of eligible individuals during those times, including afternoons and evenings, when training services are being provided.

To the extent practicable, child care or dependent care services shall be designed to employ public housing residents after appropriate training.

"(f) PERMISSIVE SERVICES.—Local education agencies receiving grants under this section may make available, as part of their Gateway programs—

"(1) pre-employment skills training;

"(2) employment counseling and application assistance;

"(3) job development services;

"(4) job training;

"(5) Federal employment-related activity services;

"(6) completion of high school or GED program services;

"(7) transitional assistance, including child care for up to 6 months to enable such individual to successfully secure unsubsidized employment;

"(8) substance abuse prevention and education; and

"(9) other support services that the Secretary deems to be appropriate.

"SEC. 776. EVALUATION.

"(a) IN GENERAL.—The Secretary shall contract for an independent evaluation of the programs and entities that receive assistance under this title. Such evaluation shall be complete not later than the date that is 15 months after the date on which the first grants are awarded under this title.

"(b) MATTER TO BE EVALUATED.—The evaluation conducted under subsection (a) shall examine the degree to which the programs receiving assistance under this title have fulfilled the objectives included in the application in accordance with section 722(e)(2) in—

"(1) enhancing the living conditions in low income housing and in neighborhoods;

"(2) improving the physical, social and educational development of low income children and families served by the program;

"(3) achieving progress towards increased potential for independence and self-sufficiency among families served by the program;

"(4) the degree to which the provision of services is affected by caseload size;

"(5) promoting increases in literacy levels and basic employment skills among residents of public housing developments served by grants under section 776; and

"(6) such other factors that the Secretary may reasonably require.

"(c) INFORMATION.—Each eligible entity receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

"(d) RESULTS.—The results of such evaluation shall be provided by the Secretary to the eligible entities conducting the programs to enable such entities to improve such programs.

"SEC. 777. REPORT.

"Not later than July 1, 1992, the Secretary shall prepare and submit, to the Committee on Education and Labor, of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report—

"(1) concerning the evaluation required under section 776;

"(2) providing recommendations for replicating grant programs, including identifying the geographic and demographic characteristics of localities where this service coordination and delivery system may prove effective;

"(3) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle; and

"(4) describing the degree to which entities are coordinating with other existing programs.

"SEC. 778. CONSTRUCTION.

"Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

"SEC. 779. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle, $50,000,000 for fiscal year 1991, $55,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal year 1993.".

Subtitle F—Preventive Services Regarding Children of Homeless Families or Families at Risk of Homelessness

SEC. 661. CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS.

(a) FINDINGS.—Congress finds that—

(1) homelessness too often results in the placement of children into out-of-home care, or delays the reunification of such children with their parents; and

(2) strong coordination between child welfare agencies and housing authorities can protect homeless children or children at risk of becoming homeless from abuse and neglect and help prevent the unnecessary separation of children from their families.

(b) AMENDMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) (as amended by Public Law 101-126) is amended by adding at the end thereof the following new title:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"SEC. 301. DEMONSTRATION GRANTS FOR PREVENTION OF INAPPROPRIATE SEPARATION FROM FAMILY AND FOR PREVENTION OF CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary may make grants to entities described in subsection (b)(1) for the purpose of assisting such entities in demonstrating, with respect to children whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

"(1) the inappropriate separation of such children from their families on the basis of homelessness or other problems regarding the availability and conditions of housing for such families; and

"(2) the abuse and neglect of such children.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) IN GENERAL.—The entities referred to in subsection (a) are State and local agencies that provide services in geographic areas described in paragraph (2), and that have authority—

"(A) for removing children, temporarily or permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foster care or other out-of-home care; or

"(B) in the case of youths not less than 16 years of age for whom such a placement has been made, for assisting such youths in preparing to be discharged from such care into circumstances of providing for their own support.

"(2) ELIGIBLE GEOGRAPHIC AREAS.—The geographic areas referred to in paragraph (1) are geographic areas in which homelessness and other housing problems are—

"(A) threatening the well-being of children; and

"(B)(i) contributing to the placement of children in out-of-home care;

"(ii) preventing the reunification of children with their families; or

"(iii) in the case of youths not less than 16 years of age who have been placed in out-of-home care, preventing such youths from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(3) COOPERATION WITH APPROPRIATE PUBLIC AND PRIVATE ENTITIES.—The Secretary shall not make a grant under subsection (a) unless the agency involved has entered into agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

"(c) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary shall not make a grant under subsection (a) unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"SEC. 302. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF DEMONSTRATION GRANTS.

"(a) JOINT TRAINING OF APPROPRIATE SERVICE PERSONNEL.—

"(1) IN GENERAL.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

"(2) SPECIFICATION OF TRAINING SUBJECTS.—The subjects referred to in paragraph (1) are—

"(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

"(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

"(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged placement in out-of-home care of children whose families are homeless or who have other housing problems.

"(b) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to activities authorized in subsection (a), a grantee under section 301(a) may expend grant funds for—

"(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

"(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

"(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

"(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

"(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

"(B) in obtaining appropriate resources for families who need social services, including supportive services and respite care;

"(3) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and

"(4) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

"SEC. 303. ADDITIONAL REQUIRED AGREEMENTS.

"(a) REPORTS TO SECRETARY.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees that such agency will—

"(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

"(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

"(A) the incidence of placements of children in out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(b) EVALUATION BY THE SECRETARY.—The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 301(a) in—

"(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

"(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

"(3) facilitating the reunification of children with their families; and

"(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(c) REPORT TO CONGRESS.—

"(1) PREPERATION OF LIST.—Not later than April 1, 1991, the Secretary, after consultation with the Secretary of Education, the Secretary of Housing and Urban Development and the Secretary of Labor, shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a list of Federal programs that provide services, or fund grants, contracts, or cooperative agreements for the provision of services, directed to the prevention of homelessness for families whose children are at risk of out of home placement and the incidence of child abuse that may be associated with homelessness, that shall include programs providing—

"(A) rent, utility, and other subsidies;

"(B) training; and

"(C) for inter-agency coordination, at both the local and State and Federal level.

"(2) CONTENTS OF LIST.—The list prepared under paragraph (1) shall include a description of—

"(A) the appropriate citations relating to the authority for such programs;

"(B) entities that are eligible to participate in each such program;

"(C) authorization levels and the annual amounts appropriated for such programs for each fiscal year in which such programs were authorized;

"(D) the agencies and divisions administering each such program;

"(E) the expiration date of the authority of each such program; and

"(F) to the extent available, the extent to which housing assistance under such programs can be accessed by child welfare and other appropriate agencies.

"(3) REPORT.—Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains a description of the activities carried out under this title, and an assessment of the effectiveness of such programs in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

"(A) information describing the localities in which activities are conducted;

"(B) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

"(C) information concerning the nature of the joint training conducted with grant funds;

"(D) information concerning the manner in which other agencies such as child welfare, public housing authorities, and appropriate public and nonprofit private entities are consulting and coordinating with existing programs that are designed to prevent homelessness and to serve homeless families and youth; and

"(E) information concerning the impact of programs supported with grant funds under this title on—

"(i) the incidence of the placement of children into out-of-home care;

"(ii) the reunification of children with their families; and

"(iii) in the case of youth not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(d) RESTRICTION ON USE OF GRANT.—The Secretary may not make a grant under section 301(a) unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

"SEC. 304. DESCRIPTION OF INTENDED USES OF GRANT.

"The Secretary shall not make a grant under section 301(a) unless—

"(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

"(2) with respect to the entities with which the agency has made agreements pursuant to section 301(b)(1), such entities have assisted the agency in preparing the description required in paragraph (1); and

"(3) the description includes a statement of the methods that the agency will utilize in conducting the evaluations required in section 303(a)(2).

"SEC. 305. REQUIREMENT OF SUBMISSION OF APPLICATION.

"The Secretary shall not make a grant under section 301(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 304, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $12,500,000 for fiscal year 1992.

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The Child Abuse and Prevention Act (42 U.S.C. 5101 et seq.) is amended in the table of contents in section 101(b) by adding at the end thereof the following new items:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"Sec. 301. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.

"Sec. 302. Provisions with respect to carrying out purpose of demonstration grants.

"Sec. 303. Additional required agreements.

"Sec. 304. Description of intended uses of grant.

"Sec. 305. Requirement of submission of application.

"Sec. 306. Authorization of appropriations.".

TITLE VII—VETERANS PROGRAMS

SEC. 701. MEDICAL PROGRAMS.

Section 801(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Veterans Affairs $31,500,000 for fiscal year 1991 and $33,075,000 for fiscal year 1992 for the medical care of veterans by the Department. Any amount appropriated under this subsection shall be in addition to any funds appropriated pursuant to any other authorization (whether definite or indefinite) of appropriations for fiscal years 1991 and 1992.".

And the Senate agree to the same.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
MARY ROSE OAKAR,
BRUCE F. VENTO,
CHALMERS P. WYLIE,
MARGE ROUKEMA,

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
GEORGE MILLER,
BILL GOODLING,
STEVE BARTLETT,

From the Committee on Energy and Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
MIKE SYNAR,

From the Committee on Government Operations, for consideration of the House Bill, and the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
CARDISS COLLINS,
MAJOR R. OWENS,
FRANK HORTON,
HOWARD C. NIELSON,

From the Committee on Veterans' Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

G.V. MONTGOMERY,
JOHN G. ROWLAND,
BOB STUMP,

Managers on the Part of the House.

From the Committee on Labor and Human Resources for matters within their jurisdictgion:

EDWARD M. KENNEDY,
CHRISTOPHER J. DODD,
BARBARA A. MIKULSKI,
ORRIN G. HATCH,
DAVE DURENBERGER,

From the Committee on Governmental Affairs for matters within their jurisdiction:

JOHN GLENN,
HERBERT KOHL,
JOE LIEBERMAN,
WILLIAM V. ROTH, Jr.,
TED STEVENS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3789) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment whch is a substitute for the House bill, and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE III—HOUSING ASSISTANCE

The House addressed McKinney homeless housing programs by authorizing various programmatic changes in a separate bill, H.R. 3789, the Stewart B. McKinney Homeless Assistance Amendments Act of 1990. The Senate bill S. 566, the National Affordable Housing Act, contained a provision that was not included in the House amendment that would strike certain homeless housing provisions authorized in Title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77) and replace them with a formula block grant program for the homeless.

The conference report contains the McKinney provisions as set forth in H.R. 3789, the McKinney reauthorization bill, with the following amendment: (1) the McKinney homeless programmatic changes provided in the House bill are included in the conference report both within the restructure provisions and included in the portion of the conference report which provides amendments to the current McKinney

homeless program; (2) the conference report reflects the Senate provisions which restructure selected McKinney homeless housing programs by combining the eligible activities of these existing McKinney housing programs into one program and by making activities under these current programs eligible as approved activities under the restructured program; (3) the programs which are included as approved activities are the Emergency Shelter Grants program and the Supportive Housing Demonstration program, which includes the Transitional Housing Demonstration program and the Permanent Housing for Homeless Handicapped Persons; (4) the conference report also includes the Senate provisions which create a discretionary program which is patterned after the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program in existing law; (5) the conference report does not contain provisions contained in the Senate bill which authorize the Secretary of Housing and Urban Development to establish an allocation formula nor does the conference report contain any of the specific provisions of the Senate bill which provide the specific elements of a formula block grant program, such as a percentage allocation of resources or any of the elements of the allocation formula contained in the Senate bill; (6) the conference report does not include within the restructure provisions, the Section 8 Moderate Rehabilitation for Single Room Occupancy (SRO) Dwellings program, instead it is left as a separate program within existing law; (7) the conference report authorizes the restructuring of the selected McKinney programs only after (a) HUD has examined the feasibility of establishing an allocation formula based on selected criteria specified in the conference report and any other factors as determined by HUD, (b) HUD has presented a series of alternative formulas to Congress, and (c) legislation has been enacted which adopts an allocation formula; (8) the conference report, however, stipulates that any restructuring of the homeless programs will not take effect before October 1, 1992, or on the date specified by a statute adopting a proposed allocation formula, whichever is later; (9) the conference report requires HUD to report its findings within eighteen months of the enactment date and to require HUD to consult with organizations representing homeless persons, nonprofit organizations, public housing agencies and state and local housing and service agencies; (10) the conference report contains a provision that was not included in either bill which provides that these McKinney homeless provisions will not take effect if H.R. 3789, the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, is enacted before the enactment of this Act. H.R. 3789 contains the same statutory provisions, however similar language in each conference report has been included in order to avoid any statutory or implementation problems which will result with duplicative statutory language; (11) the conference report contains the Senate bill provisions on the strategy to eliminate unfit transient facilities, however, the conference report does not include any references to welfare hotels as originally provided in the Senate bill; (12) the conference report contains the Senate bill provisions on the Shelter Plus Care programs which are authorized within the restructure of the McKinney programs as well as authorized in existing law for Fiscal Years 1991 and 1992; (13) the Shelter Plus Care program provisions include various House bill provisions, such as authorizing program assistance to families of program eligible individuals, program matching requirements, the need to identify community needs within the program selection requirements, the termination of assistance, the consultation provisions with the Secretary of Health and Human Services (HHS) and the definition of nonprofits; and (14) the conference report provides the following authorizations for Fiscal Years 1991 and 1992 as follows: for the Emergency Shelter Grants program, $125 million and $138 million, respectively; for the Supportive Housing Demonstration Program, $125 million and $150 million, respectively; for the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program, $30 million for each fiscal year; for the Section 8 Moderate Rehabilitation for Single Room Occupancy (SRO) Dwelling Program, $79 million and $82.4 million, respectively; for the Shelter Plus Care Rental Housing Assistance Programs, $80.4 million and $167.2 million, respectively; for the Shelter Plus Care Single Room Occupancy (SRO) Dwelling Program, $24.8 million and $54.2 million, respectively; and (15) for the Shelter Plus Care Section 202 Program, $18 million and $37.2 million, respectively; the conference report authorizes such sums as may be necessary for the restructure of the McKinney programs which is intended only as a reference within the statutory text in order to authorize the general provisions of the program.

The Committee is disturbed by HUD's long delay in complying with the July 27, 1989 Order in Lee v. Kemp. We long for HUD to promptly publish a proposed regulation designed to make a significant percentage of single-family inventory units available to house homeless and other low-income people. The inventory represents an invaluable resource for providing good housing in well-served neighborhoods for people in need; the inventory should be used for that purpose, not for sales to speculators.

TITLE IV—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

Section 401. Use of unutilized and underutilized public buildings and real property to assist the homeless.

(Except as otherwise indicated, references to subsections in this statement are to subsections of Section 501 as amended by the Conference Agreement.)

Section (a) of the Conference Agreement sets out the process whereby the Department of Housing and Urban Development collects information from landholding agencies regarding unutilized, underutilized, excess and surplus real Federal properties for uses to assist the homeless. The Conference report sets up two deadlines, 25 days for landholding agencies to respond to HUD's request and 30 days thereafter for HUD to make its identification of such property as suitable. The confereees expect that these are maximum time limits and that the process of collecting this information should proceed as quickly and efficiently as possible.

Subsection (b) of the Conference Agreement sets out the next step in the process—agencies are given 45 days to make a determination about the availability of property under their control and to transmit that decision to HUD. (The original Senate amendment set this limit at 30 days.) The report to HUD should include, with respect to unutilized or underutilized property, a statement of the intention to determine property excess to that agency's a statement of intention to make the property available for homeless use, or a statement of the reasons the property cannot be determined excess to the agency's need or made available for homeless use. With respect to excess property, the report to HUD shall include either a statement that there is no further compelling federal need for the property (and thus that it is surplus property) or a statement of the further, compelling Federal need which prevents the agency from making it surplus or making it available, and a complete explanation of that need.

The subsection also requires that all property identified under subsection (a) as suitable and available will be available for application for use to assist the homeless. Surplus property will be available for application either under this section or under section 203(k) (1) and (4) of the Federal Property Act. The conferees agree that homeless use shall be considered a legitimate public health purpose under section 203(k) (1) and (4) and that, therefore, surplus property can be needed for this purpose under the public health benefit discount program. The conferees also expect that HUD shall maintain a written, readily accessible public record of all determinations and identifications made under this subsection, including a record of determinations of unsuitability (see discussion of subsection (d)).

With respect to the suitability determination, the conferees expect that HUD's criteria for such determinations will include such factors as accessibility of a given property. However, only in those cases where property is clearly unsuited for homeless uses should HUD's criteria exclude it.

Subsection (c) puts forth the manner and terms in which properties which are both suitable and available for application should be published. The Conference Agreement requires that the Secretary make available, regardless of format, all information about the property determined to be unsuitable. It includes a provision that valuation information may be withheld from public release. The conferees expect that in addition to providing the information upon request, the Secretary shall create in its public reading rooms, a public file which contains the same information provided in the Federal Register. This information would remain available for public inspection.

While it is not explicit in the Conference Agreement language, classified information about property which is determined unsuitable would also be excluded from this provision. It is the opinion of the conferees that the requirements of this legislation should be sensitive to legitimate national security concerns.

Regarding the dissemination of information the conferees agree that one of the greatest problems with the Title V program is lack of adequate notice of properties available for application. The Conference Agreement does several things to address this problem:

First, it requires that the publication of property include a description and the location of the property, (including its address and zip code) as well as the current classification of the property. By this requirement the conferees intend that as much information as possible about the property's status be made available in the Federal Register. Providers should know where and what such property is and should have some indication about the current status (as excess, surplus, unutilized or underutilized). The conferees also expect that publication will take place as frequently as is necessary to

ensure the fullest possible publicity for suitable and available properties. Beyond publication on a quarterly basis, if there is a need to publish more freqeuntly such publication should be done.

Second, as already noted, it requires that the Secretary make available upon request, regardless of the format it is in, all information about property reviewed as unsuitable.

Third, the Secretary must publish separately and annually all suitable property which was reported as unavailable and the reasons for such determinations. Again, the conferees expect that this separate list will provide the explanation for unavailability made by landholding agencies. This separate list might, of course, be published at the same time as the annual list required under (c)(4)(A).

Fourth, the Secretary must transmit to the Interagency Council at the same time the list is published in the Federal Register a copy of the list. The Council is directed to distribute "area-relevant" portions of the list to state and regional coordinators. The conferees do not intend with this requirement to force the Council to send the whole list to every state—just those portions of the list which would be relevant for a specific region. The conferees expect that publicizing these properties will include and not be limited to using major periodicals, daily newspapers, and other media.

Fifth, the Secretary must establish a toll-free "800" number to provide the public with specific information about properties on the list. The conferees expect that this number will serve the purpose of providing information more generally about properties, as well, even in the case of inquiries about property not necessarily published, but which may otherwise come to the attention of a potential applicant.

Sixth, the Secretary must republish annually all property which remains available from or has become available during the preceding year and its current status and classification. This requirement assumes that property is considered to remain available if (1) no application or written expression of interest has been made under any law for use of the property for any purpose subsequent to the 60 day holding period required on any property that is published as suitable and available or (2) the Administrator has received no bona fide offer for or publicly advertised an auction to sell the property subsequent to the same hold described above. The conferees intend that any property published as suitable and available, whether it is so published as part of the regular publication process or republished be subject to the 60 day holding period. In addition, if a written notice of intent has been filed within those 60 days, it is the intention of the conferees that property will be unavailable for any other purpose until action is completed on the application. Thus, property which has become available in the last quarter of a year will be subject to the same hold provisions which regularly obtain under subsection (d).

The conferees are sensitive to the possibility that other legitimate uses for this property may become apparent in the time between the end of the holding period and the property's republication. A substance abuse rehabilitation or treatment facility, as an example, could be an important alternative use worthy of equal consideration with a possible homeless use.

Subsection (d) establishes a holding period immediately following the publication of a property and continuing for 60 days. The agreement guarantees that property will be held for a given length of time to allow representatives of the homeless to express interest in applying for a property. The bill sets 60 days from initial publication as a period during which nothing may be done with a property. During those 60 days, if a written notice of intent to apply for a property is received, the property will be held until HHS completes action on the submitted application, for no longer than 90 days, the period during which an application may be submitted, after such written notice is submitted. By this requirement the conferees intend that surplus properties not be held indefinitely. The Committee has allowed for reasonable and limited extensions to be granted and fully expects that such extensions will be used when warranted.

With respect to "written notice of intent" the conferees intend that any reasonable written notice of intent be sufficient to express interest in applying for a given property. However, the conferees are also aware that written notice of intent is sometimes received which proves not to be a serious representation of genuine interest in a particular property. Therefore, the conferees expect that such notice will include, at a minimum, the legal name of the entity intending to apply for the property, the statutory authority under which such application is made, and the purpose for which the property is needed.

As indicated above, if a written notice of intent to apply for a property is received within the 60 day holding period after publication, the limit for holding the property is 90 days from the date such written notice is received (unless an extension is granted). If such written notice is received after the 60 day holding period has expired, the property will not be held and could be disposed of for other purposes. However, in such case, the conferees expect that homeless uses will still be given priority of consideration over any other disposal opportunity under section 203 of the Property Act. Because the conferees are sensitive to the possibility that, in the post-hold period, there may be other uses which are "so meritorious and compelling" as to warrant overriding the homeless priority, only in those instances, and at the discretion of the GSA Administrator or the Secretary of HHS would the property not be turned over for a homeless use. A standard is thus established in the Conference report which is meant to guarantee the rights of successful applicants while upholding the legitimate property needs of the federal government. It is the intention of the conferees that, in the absence of a hold on any property engendered by a notice of intent proffered in the first sixty days from publication or republication, the availability of such property subsequent to the 60 day holding period should be governed by the criteria set forth in (c)(4)(C).

The Conference Agreement further requires that the Administrator or the Secretary report to Congress (the Governmental Affairs Committee in the Senate and the Government Operations Committee in the House) whenever either one invokes the "so meritorious and compelling" standard. The conferees expect that this standard will be treated with the greatest seriousness and reserve and that it will be applied only in circumstances where any reasonable person would conclude that homeless use does not deserve highest priority.

With respect to unsuitable property, the conferees note that the Conference Agreement requires that such property be held from any other use for 20 days from the unsuitability determination to allow for the review of that determination at the request of representatives of the homeless. The conferees expect that the Department of Housing and Urban Development will disseminate this information immediately upon such determination to all of its regional offices, to the Interagency Council on the Homeless (with further dissemination by the Council), and that it will maintain a public file containing this information. Furthermore, the conferees expect that the hotline established pursuant to (c)(2)(C) will provide area-specific unsuitability information upon request.

Subsection (e) of the Conference Agreement sets out the procedure whereby property is applied for and applications approved or rejected. It sets 90 days from the submission of a written notice of intent as the limit (with reasonable extensions) for submission of a complete application, and further requires that all actions relative to such an application should be completed in 25 days.

Subsection (f) of the Conference Agreement establishes the "so meritorious and compelling" standard discussed earlier and again declares that the furnishing of property for facilities to assist the homeless is a permissible use in the protection of public health within the meaning of section 203(k)(1) and (4) and that property can be deeded for this use under such section.

Subsection (b) of Section (X) sets the effective date of the Conference report as no later than 90 days after enactment.

Section (Y) Study of the Counting of the Homeless for the National Census.

Section 402 of the Conference Agreement requires that not later than a year after enactment, the General Accounting Office shall conduct a study of the methodology and procedures used by the Census Bureau in counting the number of homeless persons for the most recent decennial census. The purpose of this provision is to have GAO look at the limitations in the Census Bureau's effort and to report on the effect of those limitations on the accuracy of the count. It is not meant as a requirement for GAO to undertake such an enumeration itself.

TITLE V—HEALTH CARE FOR THE HOMELESS

SUBTITLE A—CATEGORICAL GRANTS FOR PRIMARY HEALTH SERVICES AND SUBSTANCE ABUSE SERVICES

Section 501. Waiver

1. The House bill, but not the Senate amendment, amends section 340 of the Public Health Service Act to provide a waiver for certain organizations of requirements of status as a Medicaid provider.

The Senate recedes.

Section 502. Authorization of appropriation

2. Both the House bill and Senate Amendment amend the Public Health Service Act for purposes of reauthorizing section 340 (42 U.S.C. 256).

The House recedes with an amendment authorizing $70 million for fiscal year 1991, $80 million for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994.

Section 503. Primary health services for children

3. The Senate amendment, but not the House bill, amends Part C of Title III of the Public Health Service Act by adding section 328, establishing a grant program for pri-

mary pediatric care for disadvantaged children.

The House recedes with an amendment that would establish a demonstration program of outreach and care for homeless children. The Secretary would be authorized to make grants to section 340 health care for the homeless programs and other public and private nonprofit entities that provide primary health services and (except in the case of children's hospitals) substance abuse services to a substantial number of homeless individuals. A total of $5 million would be authorized to be appropriated to conduct these demonstrations in each of the fiscal years 1991 through 1993. In awarding demonstration grants, the Secretary would be required to take into account the needs of rural areas.

Entities receiving demonstration grants would be required to provide: (1) comprehensive primary health care services to homeless children, children at risk of homelessness, and children who were homeless wihtin the last 12 months and had initiated a course of treatment with the entity; (2) referrals for the provision of appropriate health, social, and education services, including referrals to community health centers, Head Start, and child abuse prevention and treatment; and (3) outreach services to identify children who are homeless and inform them and their families of the availability of services. In order to receive a grant, hospitals would be required to contribute toward the cost of the demonstration at least $1 for every $1 in Federal grant funds. This contribution could be in cash or in kind, but could not be derived from Federal funds. All grantees would be subject to the requirements currently applicable to health care for the homeless projects relating to (1) participation in Medicare, (2) restrictions on the use of grant funds (including a prohibition on the use of program funds to purchase mobile medical vans), and (3) limitations on charges for services. Grantees would also be required to collect data which the Secretary determines necessary to assess the efficacy of service provided to homeless children.

The managers expect that projects funded under this demonstration program will include programs that use mobile medical vans to reach homeless children who do not have access to existing providers. An example of such a program is the New York Children's Health Project, which provides comprehensive pediatric health services to homeless and other children and youth in New York City through mobile medical units staffed by pediatricians, nurse practitioners, and nurses affiliated with the New York Hospital—Cornell University Medical Center. The managers further expect that the Secretary, in collecting data on demonstration projects funded under this authority, will evaluate the efficacy of mobile medical units in improving the access of homeless children to health services and in improving their health status.

SUBTITLE B—FORMULA GRANTS TO STATES FOR ASSISTANCE REGARDING TRANSITION FROM HOMELESSNESS

Section 511. Establishment of program

4. The House bill, but not the Senate amendment, amends section 535 of the Public Health Service Act to reauthorize a block grant program for community mental health services. $33 million was authorized for fiscal year 1992. The Senate amendment authorizes a mental health program to replace and expand section 535 of the Public Health Service Act. The Senate amendment is intended to respond to the growing numbers of mentally ill persons among the homeless population. It is estimated that 20 percent to 40 percent of the adult homeless population are mentally ill. The PATH grants provide for outreach services, screening and diagnostic treatment services, rehabilitation services, community mental health services, substance abuse treatment for those who are dually diagnosed, case management and referral services to primary health care, job training, and educational programs. The PATH grants also provide a structure to coordinate housing services for the mentally ill homeless.

The House recedes with an amendment, reducing the authorization for appropriation and conforming the distribution mechanism to the current section 535 program. The remainder of the program is the same program delineated in Subtitle C of the Homelessness Prevention and Community Revitalization Act of 1990 and further described in the accompanying Labor and Human Resources Committee Report.

SUBTITLE C—AUTHORIZATION OF APPROPRIATION FOR COMMUNITY DEVELOPMENT PROJECTS

Section 521. Mental health services for Homeless individuals

5. Both the House bill and Senate amendment amend the Stewart B. McKinney Assistance Act to authorize the community mental health services demonstration programs. The House bill authorizes such sums as necessary for fiscal years 1991 and 1992; and it adds a technical correction.

The Senate recedes with an amendment extending the authorization through fiscal year 1993.

Section 522. Alcohol and drug abuse treatment for homeless individuals

6. Both the House bill and Senate amendment amend the Public Health Service Act to authorize alcohol and drug abuse demonstration projects. The House bill authorizes such sums as may be necessary for fiscal years 1991 and 1992.

The Senate recedes.

7. The Senate amendment, but not the House bill, amends the Public Health Service Act by authorizing a grant program for the provision of services to elderly individuals and individuals with chronic and debilitating illnesses and conditions in Subtitle B.

The Senate recedes to the House.

TITLE VI—EDUCATION, TRAINING, COMMUNITY SERVICE, AND FAMILY SUPPORT

LITERACY

1. The House bill authorizes $12.5 million for FY 1991 and FY 1992 such sums as are necessary for FY 1993 for adult literacy and basic skills remediation programs.

1(a). The Senate amendment authorizes $15 million for FY 1991, and such sums for FY 92 and FY 93.

The House and the Senate agree to split the difference in the authorization levels: $13.75 million for FY 91 and such sums for FY 92 and FY 93.

1(b). The Senate amendment, but not the House bill, provides that eligible entities for grants include SEAs, LEAs, and public/private partnerships which have demonstrated effectiveness in carrying out literacy programs. Priority is given to public/private partnerships.

The Senate recedes.

1(c). The Senate amendment, but not the House bill, requires the Secretary to give special consideration for applicants for projects in areas of greatest need.

The Senate recedes.

1(d). The Senate amendment, but not the House bill, makes a technical change to section 702(b) regarding applications and deleting count of adults within each LEA.

The Senate recedes with an amendment deleting count of adults within each LEA.

EDUCATION

2. The House bill, but not the Senate amendment, includes in its statement of policy that homelessness by itself is insufficient reason to separate students from the mainstream school environment.

The Senate recedes.

3. The Senate amendment, but not the House bill, establishes grants for local as well as state activities.

The House recedes with an amendment clarifying that SEA grants to LEAs in paragraph (5) are permissive if appropriations do not exceed 1990 level.

4. The House bill, but not the Senate amendment, states that the grants are for activities and services for homeless children and youths to attend and achieve success in school.

The Senate recedes.

5. The Senate amendment, but not the House bill, includes training programs for teachers and administrators and grants to LEAs under section 723.

The House recedes with an amendment rephrasing paragraph (4) to say: "to develop and implement programs for school personnel to heighen awareness of specific problems of the education of homeless children and youth."

6. The House bill, but not the Senate amendment, requires these grants to be used only for homeless children and youth to benefit from educational programs and not to supplant basic costs of education.

The Senate recedes.

7. The House bill requires information on the number of homeless children and youth in state schools, determined by random sampling or other statistical method, be reported every two years.

The Senate amendment requires information on the nature and extent of barriers to elementary and secondary schools of homeless children as well as such children's special needs be reported every two years.

The Senate recedes.

8. Both the House bill and the Senate amendment require the Secretary to submit a report on the information no later than December 31 of the appropriate year. The House bill, but not the Senate amendment, states that the requirement begins in 1991.

The Senate recedes.

9. The Senate amendment, but not the House bill, requires coordination between SEAs, state social services agencies and other agencies.

The House recedes.

10. The House bill, but not the Senate amendment, permits grants for developing relationships and coordination between education, child development and preschool programs and services to homeless children, families and runaways to improve comprehensive services.

The Senate recedes.

11. The House bill, but not the Senate amendment, permits grants for developing and implementing plans to ensure homeless children and youths meet eligibility criteria for participation in federal, state and local before and after school care.

The Senate recedes with an amendment that the information in paragraph (6) be in-

cluded in the existing state plan under subsection (e).

12. The House bill, but not the Senate amendment, addresses problems caused by transportation, enrollment, immunization, or residency issues.

The Senate recedes.

13. The House bill, but not the Senate amendment, requires SEAs and LEAs to demonstrate they have developed and will implement policies to remove barriers to enrollment in state schools.

The Senate recedes with an amendment that SEAs and LEAs must "review and revise" the policies which bar enrollment and retention of homeless children and youth in schools.

14. The House bill, but not the Senate amendment, requires that SEAs and LEAs adopt policies and practices to ensure homeless children and youths are not isolated or stigmatized.

The Senate recedes.

15. The Senate bill requires that a parent's request be taken into consideration in determining school assignment, and defines school of origin.

The House recedes.

16. There is no note 16.

17. The Senate amendment, but not the House bill, requires each LEA to coordinate with local social services and other programs for homeless children, youth and their families.

The House recedes with an amendment to add the words "receiving financial assistance under this Act" after 'local educational agency' ".

18. The Senate amendment, but not the House bill, requires each LEA to designate a homelessness liaison to ensure that homeless children and youths enroll and receive education services, and referral to other services.

The House recedes with an amendment on line 17 to add the words "receiving financial assistance under this Act" after 'local educational agency'."

19. The Senate amendment provision is similar to the House bill provision, note #12 above, that LEAs shall review and revise policies which bar enrollment of homeless children and youths in schools. The Senate bill lists criteria for the review and revision of the policies and places special focus on homeless children and youths not enrolled in school.

The House recedes.

20. The House bill provides $6 million for fiscal year 1991, $7.5 million for fiscal year 1992, and such sums as are necessary for fiscal year 1993 for state programs.

The Senate amendment provides $50 million for fiscal year 1991 and such sums as are necessary for fiscal years 1992 and 1993 for all programs authorized.

The House recedes.

21. The Senate amendment, but not the House bill, allots the SEA to reserve up to 5% in each fiscal year, or an amount equal to that received for state activities in fiscal year 1990, whichever is greater for state activities.

The House recedes.

22. The Senate amendment, but not the House bill, provides that the SEA shall use funds otherwise not reserved in order to make competitive grants to LEAs in any fiscal year for which the appropriations do not equal or exceed $100 million.

The House recedes with a technical amendment changing '(4)' in line 14 to '(5)'.

23. The Senate amendment, but not the House bill, provides that when the appropriation equals or exceeds $100 million, the SEA shall use funds otherwise not reserved to allocate to each LEA on the basis of the Chapter 1 formula.

The House recedes.

24. The House bill retains the "Exemplary Grants" program with an authorization of $4 million in FY 91, $5 million in FY 92, and such sums in FY 93.

The House recedes.

25. The House bill establishes a new 'Demonstration Grant for Educational Success.' The Senate amendment replaces 'Exemplary Grants' with "Grants for the Education of Homeless Children and Youth."

The House recedes with an amendment that the title shall be "Grants for the Educational Success of Homeless Children and Youth."

26. The new House program provides grants by the Secretary to SEAs and LEAs. The new Senate program provides grants by the SEA to the LEAs.

The House recedes.

27. The House bill and the Senate amendment both provide that services may be provided on school grounds. The Senate amendment includes other nonsectarian facilities whereas the House bill includes housing facilities. The Senate amendment provides such services shall be provided through existing programs with housed individuals whereas the House bill provides such programs shall be given in an environment with housed children.

The Senate recedes with an amendment combining the language of the House bill and the Senate amendment.

28. The Senate amendment, but not the House bill, provides that services are not intended to replace a regular academic program.

The House recedes.

29. The House bill, but not the Senate amendment, differentiates between primary and related activities.

(a) Not less than 50% of grant amounts shall be use for tutoring and remedial education services.

(b) Up to 50% but not less than 35% of grant amounts may be used for activities listed in notes 30 through 40.

The Senate recedes with an amendment promoting coordination with existing programs.

The conferees intend that the percentages apply to funds received by LEAs. Also, the conferees intend that rescources available through this program be used to ensure that homeless children have access to public education and educational services available to other disadvantaged children. The conferees do not intend that these funds be used in ways which will encourage the segregation of homeless children. The conferees urge recipients of funds to use the funds earmarked for tutoring, remedial education services, and other education services, wherever feasible, to expand existing tutoring and remedial education programs so that homeless children may participate in them.

30. The House bill, but not the Senate amendment, permits grants for clothes and school supplies.

The Senate recedes. (See note 42)

31. The Senate amendment, but not the House bill, includes the provision of funds for services in coordination with the provisions of title VI.

The Senate recedes.

32. The House bill provides for grants for the excess cost of transporting students within or beyond the LEA jursdiction when state or local funds are lacking. The Senate amendment also provides for excess costs of transporting students where necessary to allow students to attend schools selected under sec. 722(e)(3).

The House recedes.

33. The House bill provides for preschool programs. The Senate amendment permits grants for early childhood programs.

The House recedes.

34. The Senate amendment, but not the House bill, includes a provision that these activities be coordinated with existing programs for nonhomeless children.

The Senate recedes.

35. The Senate amendment, but not the House bill, includes violence counseling and referrals. (see note #38)

The House recedes.

36. The House bill, but not the Senate amendment, permits grants for developing tracking systems or computer linkage for transfer of school and health records.

The House recedes with an amendment keeping Senate paragraph (K) and deleting House paragraphs (H) and (L). The conferees intend that developing computer linkages to facilitate efficient transfer of records may be instituted wherever possible.

37. The House bill, but not the Senate amendment, permits grants for employing an ombudsman to ensure services and referral to health services and education programs are received. (see note #18)

The House recedes.

38. The House bill, but not the Senate amendment, permits grants to address needs of homeless children and youths relating from domestic violence. (see note #35)

The Senate recedes.

39. The House bill, but not the Senate amendment, permits grants for addressing special educational needs of runaway and homeless youths.

The Senate recedes with an amendment that these activities will be for the purpose of heightening the awareness of school personnel of the specific needs of homeless children and youth, combined with language in note 5.

40. The House bill provides for other emergency assistance which the Secretary deems "necessary" whereas the Senate amendment uses the term "essential".

The House recedes.

41. The Senate amendment, but not the House bill, allows for grants to adapt space and buy supplies for nonschool facilities which provide services.

The House recedes with a clarification that LEAs receive the grants.

42. The Senate amendment, but not the House bill, permits grants for school supplies to be distributed at shelter or temporary housing facilities. (See note 30)

The House recedes.

43. The House bill provides that SEAs and LEAs are eligible to receive a grant only if the State in which the agency is located has submitted a state plan under Sec. 722(e).

The Senate amendment provides that grants are awarded under section 722(g) and that the SEA may award grants to LEAs which submit an application on the basis of need.

The House recedes with an amendment that there must be an existing state plan in order for the SEA to make grants to LEAs under this section.

44. The House bill provides that any SEA or LEA shall submit an application to the Secretary, in a manner as required by the Secretary, for a grant.

The Senate amendment provides that any LEA shall submit an application to the SEA,

in a manner as required by the SEA, for a grant.

The House recedes with an amendment that the State apply to the Secretary, in the manner required by the Secretary. The conferees intend that the Secretary will issue guidelines for states to use in preparing their applications.

45. The House bill, but not the Senate amenement, requires in the application a description of the problems experienced by homeless children and youths in enrolling in and succeeding in school.

The House recedes.

46. The House bill, but not the Senate amendment, requires in the application a description of how the services and programs will address the problems of such children and youths.

The House recedes.

47. The House bill requires LEAs to submit grant applications with assurances that they are or will be in compliance with sec. 722(e)(3)-(6). The Senate amendment requires compliance with sec. 722(e)(3)-(10).

The House recedes with an amendment conforming the language.

48. Both bills require the application include assurances that the funds will supplement but not supplant funds used prior to the award of the grant, but the Senate amendment specifies non-federal funds.

The Seante recedes.

49. The House bill, but not the Senate amendment, requires that applications from LEAs include information to allow the Coordinator of Education of Homeless Children and Youth to rank the application.

The House recedes.

(There is no note 50.)

51. The House bill, but not the Senate amendment, requires the LEA to submit its application to the Secretary and the Coordinator of Education of Homeless Children and Youth of its state for review, ranking and comment.

The House recedes.

52. The Senate amendment, but to the House bill, states that the SEA may consider, in determining need, the number of homeless children and youth enrolled in school in the area, their needs and the ability of the LEA to meet such needs as well as a list of other considerations.

The House recedes.

53. The House bill, but not the Senate amendment, sets forth that the Secretary shall award 1-year and 2-year grants based on each applicants need and consider the ability of the agency to meet such needs, the ranking, review and comments by the Coordinator, and any other appropriate criteria.

The House recedes with an amendment allowing grants to be awarded for up to 2 years.

54. The House bill, but not the Senate amendment, requires the Secretary to award grants before the expiration of the 60-day period, starting on the date set by the Secretary as the last day on which applications may be submitted.

The House recedes.

55. The House bill, but not the Senate amendment, requires each SEA or LEA that receives a grant to submit a report to the Secretary including the number of homeless children and youths served and a description of the programs success in enrollment, attendance and success in school.

The Senate recedes with an amendment striking LEAs and combining these reports with the existing report required in note 7.

56. The House bill, but not the Senate amendment, authorizes appropriations of $25 million for fiscal 1991 and such sums as may be necessary for fiscal years 1992 and 1993. (see note #20)

The House recedes.

57. The House bill, but not the Senate amendment, includes a clerical amendment to the table in section 101(b) by deleting the items relation to secs. 724 and 725 and inserting "Demonstration grants for educational success."

The House recedes with an amendment conforming the language.

58. The Senate amendment, but not the House bill, includes among national responsibilities the Secretary's duty to conduct evaluation and dissemination activities of programs for the educational needs of homeless elementary and secondary level students.

The House recedes.

59. The House bill, but not the Senate amendment, provides that the Secretary will review the State plan to determine whether state laws, regulations, policies and practices in the plan address the problems of access to education and placement experienced by homeless children and youths.

This provision is the same as the language in the Senate amendment on the previous page.

60. The House bill, but not the Senate amendment, requires applications for grants be submitted to the Secretary no later than the end of the 60-day period which begins on the dates funds are appropriated. The grants shall be made no later than 120 days after such period begins.

The Senate recedes. The conferees intend that grants be made in a timely fashion and that the advance funding nature of the program not be affected by this change.

61. The House bill, but not the Senate amendment, requires the Secretary to include in his report his determination of the extent to which SEAs and LEAs ensure each homeless child and youth has access to public education.

The Senate recedes with an amendment that only SEAs will be included and that the report will be based on state data.

62. The House bill, but not the Senate amendment, includes an amendment to the Comprehensive Homeless Assistance Plan. The amendment includes assurances that welfare authorities and agencies placing homeless families will consider the need to minimize disruption of the education of the children and youths in those families.

The House recedes.

63. The House bill, but not the Senate amendment, includes a provision for making grants to the Northern Mariana Islands and the eligibility of Indian tribes to receive state grants to educate homeless children and youths.

The House recedes with an amendment that there shall be a 1 percent set aside for Indian children and conforming language.

64. The House bill, but not the Senate amendment, sets forth that payments to the Secretary of Interior will be made by agreement with the Secretary of Education with terms and assurances determined by the Secretary of Education.

The House recedes.

65. The House bill, but not the Senate amendment, authorizes the Secretary of Interior to promulgate regulations for tribal organizations consistent with sec. 1121 (d)-(e), sec. 1130 and sec. 133 of the Education Amendments of 1978.

The House recedes.

66. The House bill, but not the Senate amendment, includes definitions for the terms "Indian" and "Indian tribe."

The Senate recedes with an amendment referencing section 4 of Public Law 93-638 (Self Determination Act), and eliminating territories from definition of 'State' for purposes of allocating but ensuring that each territory receives no less in 1991 than it received in 1990.

67. The Senate amendment, but not the House bill, provides for a report by the Comptroller General, in consultation with the Secretary, within 2 years of enactment to Congress on a study determining the most effective method for distributing funds to SEAs and LEAs.

The provision also requires the Secretary, in consultation with persons and entities knowledgeable of the needs of homeless children and youth, to determine the best means of identifying, locating and counting homeless children and youths.

The study shall consider a definition for "homeless child" and "homeless youth", the 1990 Census, and methodologies for creating an accurate count.

The Secretary shall submit to the committees of Congress a report of the results of the study within 240 days of enactment and the costs of making these estimates. Within one year of the study's completion, the Secretary, with Congress, shall determine accurate estimates of the number of homeless children and youth nationwide and of such children in school.

The Secretary may reserve no more than $250,000 for the study in 1991 and such sums necessary in 1992 to complete the report.

The House recedes with an amendment that the Secretary determine an accurate estimate of the number of homeless children and youth nationwide by December 1, 1992 and that the Secretary's report consider the projected accuracy of the methodologies identified and their respective costs.

JOB TRAINING

The Senate amendment, but not the House bill, provides that applications for job training grants from poverty areas may receive special consideration.

The House recedes.

1. The House bill and the Senate amendment authorize different appropriation amounts for job training for the homeless for fiscal years 1991 through 1993, inclusive.

The House recedes with an amendment to split the difference in amounts.

2. The House bill changes the termination date to October 1, 1992.

The Senate amendment recedes with an amendment changing 1992 to 1993.

3. The House bill, but not the Senate amendment, establishes Job Corps Centers for homeless families. Services and residential facilities will be provided by the Secretary in conjunction with state and local agencies.

The Senate recedes with an amendment to make the language permissive and changing 'day care' to 'child care to the extent practicable' and defines "family" for purposes of this program, as "may include, at a minimum, dependent children, and the brothers and sisters of the parent(s) of those dependent children."

EMERGENCY COMMUNITY SERVICES HOMELESS GRANT

1. Both the Senate amendment and the House bill amend the McKinney Homeless Assistance Act to authorize funds for administrative costs but in different amounts.

The Senate recedes.

2. Both the Senate amendment and the House bill include and "Eligible Use of

Funds" section which includes building renovation.

The Senate amendment, but not the House bill, also includes purchase of buildings, violence counseling for homeless children and individuals, and training for this service to individuals who work with homeless children and individuals.

The Senate recedes with an amendment dropping the reference to purchase of buildings.

(There is no note 3.)

4. Both the House bill and the Senate amendment set the effective date as the first day of the first fiscal year beginning after the date of the enactment of this Act.

There is no difference between them.

CHILD ABUSE

1. The Senate amendment, but not the House bill, sets forth an amendment to Subtitle D of title VII of the Act which establishes an evaluation of programs, administrated by the Secretary of HHS, regarding the organization, impact and effectiveness of service to homeless individuals and the effectiveness of coordinating such programs with other federal and federally assisted programs.

The House recedes.

2. The Senate amendment, but not the House bill, also requires a report by the Secretary of HHS within one year of enactment of this section, made in consultation with the Interagency Council on the Homeless, on a study of the extent to which federal laws, regulations and policies hinder federal facilities from making prepared food not served available to the homeless. The report shall be submitted to the appropriate committees of Congress.

The House recedes.

3. The Senate amendment, but not the House bill, amends the Child Abuse Prevention and Treatment Act with a new title, "Title III—Certain preventive services regarding children of homeless families or families at risk of homelessness." This provision establishes demonstration grants to SEAs and LEAs with respect to preventing the separation of children from their families on the basis of homelessness and the abuse and neglect of such children.

The House recedes with an amendment changing the authorization to $12.5 million for FY 92 and deleting the paragraphs relating to rental assistance and other housing costs. The House amendment also requires the appropriate federal agencies to provide the Congress with a list of existing programs that fund services for homeless families and youth.

HOMELESSNESS PREVENTION

The Senate amendment, but not the House bill, establishes four new programs for homelessness prevention and assistance: "Family Support Centers", "Community Development Corporation Improvement Grants", "Public Housing Gateway", and "Homeless Youth Demonstration Projects".

The House recedes with an amendment to create a Homelessness Prevention Demonstration Program to fund Family Support Centers. Up to 5 of the 30 demonstration projects authorized under this program demonstrate the Gateway programs. The authorization for appropriations for these programs is $50 million in FY 91 and $55 million in FY 92 and such sums in FY 93.

The conferees acknowledge that there are already programs authorized in the Department of Health and Human Services which provide comprehensive services.

Families with children are the most rapidly increasing group within the homeless population. While acknowledging that emergency shelter is a critical component of any strategy to reduce homelessness, the managers recognize that shelter alone will never fully address the complex issues involved. Many families could be prevented from becoming homeless through early intervention. For this purpose, the managers have created the Homelessness Prevention Demonstration Program to target support services to families and individuals at risk of homelessness living in or near low income housing and in urban and nonurban poverty areas. The managers believe that through a comprehensive network of easily available services and intensive case management, the needs of at-risk families and individuals can be addressed in a cost-effective and timely manner, reducing the incidence of homelessness. Services to be provided through family support centers include health and mental health screening and referral services, nutritional services, family crisis and domestic violence counseling, drug and alcohol counseling, child development programs, child care, job training and education, parenting classes, programs for youth and young adults and other services that the Secretary deems to be appropriate. Up to 5 Gateway programs may be funded under this subtitle to promote increases in literacy levels and basic employment skills among residents of public housing developments.

The Gateway program is a response to the need to improve the literacy and basic skills of residents in our nation's public housing. The conferees find that the concentration of persons in need of skills training in public housing presents an important opportunity to target assistance to these communities. In addition to basic education and job skills training, related life skills training such as substance abuse prevention and education, counseling and other education programs may be available. LEAs have the expertise to assure that high quality programs offering literacy and basic skills training among other services reach the residents of public housing. PHAs and LEAs working cooperatively present a unique opportunity to identify in their own communities the services which public housing residents need in order to move out of lives of dependency.

The conferees recognize that public housing managers have an unparalleled vantage point for assessment of resident needs. For that reason, the conferees intend that the Secretary will award Gateway grants to LEAs which effectively demonstrate that their grant applications have been developed in consultation with local PHAs.

Finally, the residents of public housing themselves cannot be forgotten as a valuable resource. Gateway contemplates the employment of residents with appropriate training wherever possible to assist in outreach efforts, including identifying and aiding residents who might benefit from education and training programs and related services. Even a limited number of residents participating in training and preparing for a life of greater economic and social independence can serve as role models for the larger community.

It is the managers' intent that demonstration projects funded under this subtitle shall be located in diverse settings in or near public housing developments, and in low income areas, both urban and rural. Demonstration projects should be of sufficient size, scope and quality to promote adequate evaluation of this model of service delivery as a means of preventing homelessness among at-risk families and individuals. It is the managers' intent that the report prepared by the Secretary shall contain recommendations regarding replication of family support centers grants in various geographic and demographic settings. The Secretary shall contract with an independent third party to conduct an evaluation and it is the intent of the conferees that the evaluation be done by individuals with knowledge, experience, and expertise in the types of services to be provided under this subtitle.

It is the intention of the conferees in the future to review various programs which provide comprehensive services to children, youth, and families to determine whether and how they might be coordinated and integrated. The conferees also intend that the entities administering the Homeless Prevention Demonstration Programs make special efforts to coordinate with existing social service programs in their vicinity, including the following: volunteer programs operated by ACTION, (VISTA and OAVP), Runaway and Homeless Youth Program, Community Service Block Grant, Low Income Home Energy Assistance Program, Head Start, Adult Education, Vocational Education, Demonstration Partnership Act programs directed at Special Populations as established in the Human Services Reauthorization Act of 1990, Job Training Partnership Act, Child Care, Welfare JOBS Program, and the WIC program among others.

In addition, the conferees recognize that it is ideal to serve as many families as possible under this program. However, in order to ensure that quality service is given to these families, the conferees recommend that each family case manager handle up to 20 cases, a figure determined by professionals in the field for protective services to be a reasonable case loan. Recognizing the importance of developing and maintaining a relationship between the case manager and individuals and families receiving assistance, the conferees have also permitted entities to use up to 7% of their grants to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

TITLE AND DEFINITION

1. The House bill entitles the Act the "Stewart B. McKinney Homeless Assistance Amendments Act of 1990."

The Senate amendment entitles the Act the "Stewart B. McKinney Homeless Health Care, Education, Training, and Community Services Amendments of 1990."

The Senate recedes.

2. The Senate amendment, but not the House bill, amends the Act to include a definition of "homeless" with regard to income eligibility.

The House recedes.

The Senate amendment, but not the House bill, includes a provision with respect to the Davis-Bacon Act.

The Senate recedes.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
MARY ROSE OAKAR,
BRUCE F. VENTO,
CHALMERS P. WYLIE,
MARGE ROUKEMA,

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,

GEORGE MILLER,
BILL GOODLING,
STEVE BARTLETT,

From the Committee on Energy and Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
MIKE SYNAR,

From the Committee on Government Operations, for consideration of the House Bill, and the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
CARDISS COLLINS,
MAJOR R. OWENS,
FRANK HORTON,
HOWARD C. NIELSON,

From the Committee on Veterans' Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

G.V. MONTGOMERY,
JOHN G. ROWLAND,
BOB STUMP,

Managers on the Part of the House.

From the Committee on Labor and Human Resources for matters within their jurisdiction:

EDWARD M. KENNEDY,
CHRISTOPHER J. DODD,
BARBARA A. MIKULSKI,
ORRIN G. HATCH,
DAVE DURENBERGER,

From the Committee on Governmental Affairs for matters within their jurisdiction:

JOHN GLENN,
HERBERT KOHL,
JOE LIEBERMAN,
WILLIAM V. ROTH, Jr.,
TED STEVENS,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RAHALL (at the request of Mr. GEPHARDT), for after 5 p.m. today, on account of family illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PACKARD) to revise and extend their remarks and include extraneous material:)

Mr. GOODLING. for 60 minutes, on October 26.

(The following Members (at the request of Mr. HUCKABY) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MFUME, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GONZALEZ on the special order on LINDY BOGGS.

(The following Members (at the request of Mr. PACKARD) and to include extraneous matter:)

Mr. DORNAN of California.
Mr. HYDE.
Mr. DANNEMEYER.
Mr. BALLENGER.
Mr. GEKAS in two instances.
Mr. KYL.
Mr. KOLBE in two instances.
Mr. LAGOMARSINO in two instances.
Mr. BROOMFIELD.
Mr. EMERSON.
Mr. DUNCAN.
Mr. TAUKE.
Mr. GALLEGLY in two instances.
Mr. GRANDY.
Mr. HAMMERSCHMIDT.
Mr. RITTER.
Mr. Goss in two instances.

(The following Members (at the request of Mr. HUCKABY) and to include extraneous matter:)

Mr. LAFALCE.
Mr. FAZIO.
Mr. SMITH of Florida.
Mr. RANGEL.
Mr. YATRON.
Mr. ROYBAL.
Mr. HALL of Ohio.
Mr. RUSSO.
Mrs. LLOYD.
Mr. UDALL.
Mr. ROE.
Mr. SKELTON in three instances.
Mr. WEISS.
Mr. HUBBARD in two instances.
Mr. STARK.
Mr. TORRES.
Mr. MAZZOLI.
Mr. KILDEE.
Mr. MFUME.
Mr. GUARINI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 620. An act for the relief of Leroy W. Shebal of North Pole, Alaska; to the Committee on Interior and Insular affairs.

S. 1829. An act to amend the Controlled Substances Act to further restrict the use of steriods and human growth hormones; to the Committee on Energy and Commerce and Judiciary.

S. 845. An act to amend the Federal Food, Drug, and Cosmetic Act to revitalize the Food and Drug Administration, and for other purposes; to the Committee on Energy and Commerce.

S. 1067. An act to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing; to the Committee on Science and Technology.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5275. An act to amend the Congressional Award Act to temporarily extend the Congressional Award Board, and to otherwise revise such Act;

H.R. 5482. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds; and

H.J. Res. 669. Joint resolution to salute and congratulate the people of Poland as they commemorate the two-hundredth anniversary of the adoption of the Polish Constitution on May 3, 1991.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval a joint resolution of the House of the following title:

On October 24, 1990:

H.J. Res. 681. Joint resoluton making further continuing appropriations for the fiscal year 1991, and for other purposes.

ADJOURNMENT

Mr. HUNTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 9 minutes p.m.) the House adjourned until tomorrow, Friday, October 26, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4102. A letter from the Deputy Secretary of Defense, transmitting certification that the current 5 year defense program fully funds the support costs associated with the 4000 LB Rough Terrain Forklift Program, pursuant to 10 U.S.C. 2306(h); to the Committee on Armed Services.

4103. A letter from the District of Columbia Retirement Board, transmitting financial disclosure statements of Board members for calendar year 1989 pursuant to D.C. Code section 1-732, 1-734(a)(1)(A); to the Committee on the District of Columbia.

4104. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs

4105. A letter from the Comptroller of the Department of Defense, transmitting notification of transfers of authorizations within the Department of Defense, pursuant to Public Law 101-165, section 9011 (103 Stat. 1131); jointly, to the Committees on Appropriations and Armed Services.

4106. A letter from the Deputy Assistant Attorney General, Department of Justice, transmitting the National Institute of Jus-

tice's first annual report on research and evaluation on drugs and crime, "Searching for Answers", pursuant to section 520 of the Anti-Drug Abuse Act of 1988; jointly, to the Committees on the Judiciary, Education and Labor, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports, of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GONZALEZ: Committee of conference. Conference report on S. 566 (Rept. 101-943). Ordered to be printed.

Mr. FASCELL: Committee on conference. Conference report on H.R. 4653 (Rept. 101-944). Ordered to be printed.

Mr. DINGELL: Committee of conference. Conference report on H.R. 4487 (Rept. 101-945). Ordered to be printed.

Mr. HALL of Ohio: Committee on Rules. House Resolution 530. Resolution waiving certain points of order against consideration of the Conference Report on the bill (H.R. 3789) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, and against its consideration. (Rept. 101-946). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 531. Resolution waiving certain points of order against consideration of the conference report on the bill (S. 358) to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes, and against its consideration (Rept. 101-947). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 532. Resolution waiving certain points of order against consideration of the conference report on the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, and against its consideration (Rept. 101-948). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 533, Resolution waiving the requirement of clause 4(b), Rule XI, against consideration of certain resolutions reported from the Committee on Rules (Rept. 101-949). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 534. Resolution Authorizing the Speaker to entertain motions to suspend the rules (Rept. 101-950). Referred to the House Calendar.

Mr. GONZALEZ: Committee of conference. Conference Report on H.R. 3789 (Rept. No. 101-951). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EDWARDS of Oklahoma (for himself, Mr. MCEWEN, Mr. MURTHA, Mr. STENHOLM, and Mr. WEBER):

H.R. 5921. A bill to amend the Internal Revenue Code of 1986 to put tools in the hands of American workers by reinstating after 1990 a 10-percent investment tax credit for property used in manufacturing, production, extraction, or related purposes in the United States; to the Committee on Ways and Means.

By Mr. MCMILLEN of Maryland (for himself, Mrs. BENTLEY, and Mr. CARDIN):

H.R. 5922. A bill to authorize the Secretary of Commerce to conduct a marine biotechnology research, training, and technology transfer study and program; jointly, to the Committees on Science, Space, and Technology and Merchant Marine and Fisheries.

By Mr. ANTHONY:

H.R. 5923. A bill to amend the Internal Revenue Code of 1986 to prohibit the retroactive application of Treasury Department regulations and rulings; to the Committee on Ways and Means.

By Mr. GUARINI:

H.R. 5924. A bill to repeal the concessioner preferences of the National Park Service Concessions Policy Act, to require that concessions be awarded pursuant to a competitive bidding process, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HERTEL:

H.R. 5925. A bill to amend the Internal Revenue Code of 1986 to provide an employer a credit against income tax for the cost of providing mammography screening for his employees; to the Committee on Ways and Means.

By Mrs. LLOYD (for herself and Mr. DOWNEY):

H.R. 5926. A bill to amend the Older Americans Act of 1965 to provide congregate nutrition services and intergenerational activities in elementary and secondary school facilities; to the Committee on Education and Labor.

By Mr. OWENS of Utah:

H.R. 5927. A bill to clarify the liability of lending institutions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, to clarify the innocent landowner defense under that Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STARK:

H.R. 5928. A bill to amend title 18, United States Code, to prohibit the unauthorized sale, and the unauthorized manufacture or possession with intent to sell, of any identification document which, if completed with information concerning an individual, would describe the individual as legally authorized to deal in firearms; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 5929. A bill to delay the lease sale of certain minerals located in Bezetta Township, Trumbull County, OH; to the Committee on Interior and Insular Affairs.

By Mr. WALGREN:

H.R. 5930. A bill to provide authority for the President to seize Iraqi-held interests in United States engaged in interstate commerce, and for other purposes; jointly, to the Committees on Foreign Affairs and Energy and Commerce.

By Mr. WOLPE (for himself and Ms. SCHNEIDER):

H.R. 5931. A bill to implement the national objective of pollution prevention by establishing a source reduction program at the Environmental Protection Agency, by assisting States in providing information and technical assistance regarding source reduction, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mrs. MARTIN of Illinois:

H.J. Res. 684. Joint resolution proposing an amendment to the Constitution of the United States limiting the number of consecutive terms Members of the Senate and House may serve; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H. Con. Res. 391. Concurrent resolution expressing the sense of Congress that the contract dispute involving Bucheit International, Inc., and Prince Mishaal Bin Abdulaziz al Saud of Saudi Arabia be resolved through negotiations or the submission of the matter to arbitration as required by contract; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

547. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to support of a House resolution deploring racist remarks by certain Japanese officials; to the Committee on Foreign Affairs.

548. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the World Summit for Children Week; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 372: Mrs. MORELLA.

H.R. 830: Mr. STARK, Mr. THOMAS A. LUKEN, Ms. LONG, Mr. FROST, Mr. PENNY, and Mr. GUNDERSON.

H.R. 1400: Mr. COX.

H.R. 2099: Mr. BEREUTER.

H.R. 2418: Mr. DEFAZIO.

H.R. 3037: Mr. ROWLAND of Connecticut.

H.R. 3380: Mrs. ROUKEMA.

H.R. 3785: Mr. SPENCE.

H.R. 3813: Mrs. JOHNSON of Connecticut.

H.R. 4213: Mr. GLICKMAN, Mr. ROSE, Mr. COSTELLO, Mr. TALLON, and Mr. DELLUMS.

H.R. 4226: Mr. BUNNING, Mr. HOLLOWAY, Mr. NIELSON of Utah, and Mr. HUNTER.

H.R. 4424: Mr. LIPINSKI and Mr. COUGHLIN.

H.R. 4690: Mr. WISE.

H.R. 4849: Mr. ECKART.

H.R. 5142: Mr. YATRON.

H.R. 5222: Mr. JONTZ.

H.R. 5423: Mr. CLARKE, Mr. VALENTINE, Mr. PRICE, Mr. TALLON, Mr. ERDREICH, Mr. SHAW, Mr. SWIFT, Mr. PORTER, and Mr. FISH.

H.R. 5434: Mr. HARRIS.

H.R. 5576: Mr. SCHUMER.

H.R. 5594: Mr. LANCASTER, Mr. VALENTINE, and Mr. SPENCE.

H.R. 5806: Mr. HOAGLAND and Mr. MCDERMOTT.

H.R. 5846: Mr. BEILENSON, Mrs. BOXER, Mr. LIPINSKI, Mr. CARR, Mr. RAY, Mr. ENGEL, Mr. FAWELL, Mr. HOCHBRUECKNER, Ms. PELOSI, Mr. COUGHLIN, Mr. HENRY, Mr. GALLEGLY, Mr. SMITH of Vermont, Mr. HERTEL, Mr. DYSON, Mr. COX, Mr. BUECHNER, Mrs. LOWEY of New York, Mr. CHANDLER, Mr. JOHNSON of South Dakota, Mr. CHAPMAN, Mrs. MEYERS of Kansas, Mr. MCMILLEN of Maryland, and Mr. BERMAN.

H.R. 5898: Mr. LIPINSKI and Mr. BARTON of Texas.

H.J. Res. 652: Mr. RICHARDSON, Mr. SAWYER, Mr. TAUZIN, Mr. COSTELLO, Mr. BROOMFIELD, Mr. ROBERT F. SMITH, Mr. POSHARD, Mr. FUSTER, Mr. ANDERSON, Mr. HYDE, Mr. IRELAND, Mr. DE LA GARZA, Mr. COYNE, Mr. MOORHEAD, Mr. GINGRICH, Mr. HAYES of Louisiana, Mr. JONTZ, Mrs. UNSOELD, Mr. LEVIN of Michigan, Mr. GALLEGLY, Mr. CALLAHAN, Mr. CLEMENT, Mr. HOCHBRUECKNER, Mr. JOHNSON of South Dakota, Mrs. MORELLA, Mr. KLECZKA, Mr. GRANT, Mr. STALLINGS, Mr. SUNDQUIST, Mr. HALL of Texas, Mr. COURTER, Mr. DEWINE, Mr. DICKINSON, Mr. DORNAN of California, Mr. COX, Mr. WYLIE, Mr. NELSON of Florida, Mr. EMERSON, Mrs. LLOYD, Mr. BROWN of Colorado, Mr. MILLER of Ohio, Mr. LAFALCE, Mr. WOLF, Mr. ROE, Mr. MICHEL, Mr. SHUMWAY, Mr. TRAFICANT, Mr. HAMMERSCHMIDT, Mr. MRAZEK, Mr. VANDER JAGT, Mr. DOWNEY, Mr. LAUGHLIN, Mr. CLINGER, Mrs. MARTIN of Illinois, Mr. DYMALLY, Mr. WALSH, and Mr. HUBBARD.

H.J. Res. 674: Mr. GORDON, Mr. SOLARZ, Mr. MCMILLEN of Maryland, and Mr. NELSON of Florida.

H. Con. Res. 387: Mr. GLICKMAN.

H. Con. Res. 389: Mr. LAFALCE and Mr. RAHALL.

H. Res. 525: Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HOYER, Mr. HUTTO, Mr. JACOBS, Mr. KLECZKA, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LEACH of Iowa, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mr. THOMAS A. LUKEN, Mr. MCCLOSKEY, Mr. MCDERMOTT, Mr. MCHUGH, Mr. MCMILLEN of Maryland, Mr. MARKEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MFUME, Mr. MILLER of California, Mr. MONTGOMERY, Mr. MOODY, Mr. NEAL of Massachusetts, Mr. NOWAK, Mr. OBERSTAR, Mr. OWENS of Utah, Mr. PICKLE, Mr. RAHALL, Mr. RICHARDSON, Mr. ROE, Mr. ROWLAND of Georgia, Mr. SABO, Mr. SANGMEISTER, Mr. SCHUMER, Mr. SKAGGS, Mr. SLATTERY, Mr. ANDERSON, Mr. ANNUNZIO, Mr. ANTHONY, Mr. APPLEGATE, Mr. ATKINS, Mr. BEILENSON, Mr. BEREUTER, Mr. BERMAN, Mr. BEVILL, Mr. BORSKI, Mr. BROWN of California, Mr. BRYANT, Mr. CAMPBELL of Colorado, Mr. CARR, Mr. CLAY, Mr. COBLE, Mr. CONYERS, Mr. COSTELLO, Mr. CROCKETT, Mr. DICKS, Mr. DYMALLY, Mr. DYSON, Mr. EARLY, Mr. EDWARDS of California, Mr. EMERSON, Mr. ENGLISH, Mr. ESPY, Mr. EVANS, Mr. FASCELL, Mr. FAZIO, Mr. FOGLIETTA, Mr. FRANK, Mr. FRENZEL, Mr. FROST, Mr. FUSTER, Mr. GILMAN, Mr. GUARINI, Mr. HALL of Texas, Mr. HAMMERSCHMIDT, Mr. HAWKINS, Mr. SMITH of Florida, Mr. SMITH of Vermont, Mr. STOKES, Mr. STUDDS, Mr. SWIFT, Mr. SYNAR, Mr. THOMAS of Georgia, Mr. UDALL, Mr. VALENTINE, Mr. WATKINS, Mr. WAXMAN, Mr. WILSON, Mr. WOLF, Mr. WYDEN, Mr. YATES, Mr. YATRON, Mr. PACKARD, Mr. CARDIN, Mr. ROYBAL, Mr. COLEMAN of Texas, Mr. KOLBE, Mr. LOWERY of California, Mr. MCDADE, Mr. MURTHA, Mr. LENT, Mr. DOWNEY, Mr. GEREN of Texas, Mr. NATCHER, Mr. MOAKLEY, Mr. KILDEE, Mr. MADIGAN, Mr. ALEXANDER, Mr. HUBBARD, Mr. WOLPE, Mr. OWENS of New York, Mr. PENNY, Mr. TOWNS, Mr. SCHEUER, Mr. SERRANO, Mr. DWYER of New Jersey, Mr. SIKORSKI, Mr. MYERS of Indiana, Mr. FISH, Mr. MACHTLEY, Mr. DINGELL, and Mr. SMITH of Iowa.

PETITIONS, ETC.

Under clause 1 of rule XXII,

253. The SPEAKER presented a petition of the Commonwealth of the Northern Mariana Islands, Office of the Governor, relative to the support for the Equity and Excellence in Education Act of 1990; which was referred to the Committee on Education and Labor.

EXTENSIONS OF REMARKS

INTRODUCTION FOR THE SCHOOL-BASED MEALS FOR OLDER INDIVIDUALS AND INTERGENERATIONAL PROGRAMS ACT OF 1990

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mrs. LLOYD. Mr. Speaker, today I am introducing legislation to expand the Congregate Meals Program authorized under the Older Americans Act [OAA]. My legislation, the School-Based Meals for Older Individuals and Intergenerational Programs Act of 1990 will create nutrition sites in elementary and secondary schools and couple them with intergenerational programs that will benefit both the elderly participants and the students of the schools. I am joined in introducing this bill by the distinguished chairman of the Select Committee on Aging's Subcommittee on Human Services, Representative TOM DOWNEY.

Senator BROCK ADAMS, who is the chairman of the Senate Labor and Human Resources' Subcommittee on Aging will also introduce this legislation today. I am particularly pleased that Senator ADAMS is sponsoring this measure because it is modeled on a program located in Seattle, WA, entitled [SPICE]—"School Programs Involving Our City's Elderly." The SPICE Program, which has been in operation for over 16 years, is known as one of the most successful intergenerational programs in the Nation. I want to thank the program's executive director, Ken Camper, for providing his expertise and firsthand knowledge during the development of this bill.

Mr. Speaker, I have two primary reasons for introducing this legislation. First, we simply must develop ways to provide more congregate and home-delivered meals to needy older Americans. There are millions of older individuals who could benefit from nutritious meals, but the meals are unavailable to them. The unmet need is growing as our population ages and as funding sources are reduced, and during the reauthorization of the Older Americans Act in 1991, we must confront this problem. Second, I believe that intergenerational programs are critical to our future. We must bring generations together to exchange ideas and to help one another to cope with the demands of our complex society.

Mr. Speaker, my vision is to reduce age segregation and intergenerational tension through the development of innovative programs involving individuals of all ages. My legislation will fund such programs in communities with severe needs. This legislation has been written with the experiences of numerous intergenerational programs in mind. It combines a low-cost lunch for older adults with a variety of educational, health, recreational, and social activities that will benefit students and the elderly.

I will not discuss at length the School-Based Meals for Older Individuals and Intergenerational Programs Act, but I would like to explain some of the many benefits of this program, and insert in the RECORD a section by section description of the bill for my colleagues to consider.

Mr. Speaker, the bill creates a new subsection under the Nutrition Services Program in the OAA to provide nutrition providers with grants to establish new congregate meal sites in schools. The grants would be used to develop meals programs that are desperately needed and intergenerational programing that will offer the elderly's unique range of knowledge, talents, and experiences to the students of these schools. It is my hope that this interaction between generations will benefit older individuals by enhancing their self-esteem and providing them with worthwhile activities in roles as tutors, teachers aides, special speakers, playground supervisors, and in many other volunteer roles.

At the same time, I believe that the children and young adults of our Nation will benefit greatly from more interaction with older adults. Our young people face very difficult situations as they move through the educational process, and the intergenerational programs that this bill creates will assist students in schools with the greatest needs as evidenced by drop-out rates, substance abuse, poverty, and other factors that indicate an at risk student population. Older Americans can and want to help their communities, including service as positive role models for students.

School districts will benefit from this program, as well. They need broad-based support in their communities for school initiatives, and the elderly, who will become more familiar with the school systems through this program, can help on such initiatives. Schools and teachers also benefit from the availability of volunteers to provide classroom assistance. This program will also put to good use underutilized space and equipment that school districts often have as a result of decreases in enrollment.

In conclusion, Mr. Speaker, we are introducing the bill today to put it out on the table for comment and support prior to the 102d Congress when it will be reintroduced. It is our hope that we will have many cosponsors by January. I look forward to working with my distinguished colleague, Representative KILDEE, who serves as chairman of the Committee on Education and Labor's Subcommittee on Human Resources, which has jurisdiction over the Older Americans Act. He has an outstanding record of service in behalf of the elderly and is a strong advocate for intergenerational programs.

Mr. Speaker, I include the following materials be inserted in the RECORD following my statement on the School-Based Meals for Older Individuals and Intergenerational Programs Act of 1990:

SECTION-BY-SECTION DESCRIPTION

The legislation amends the Older Americans Act of 1965 to provide nutrition services for older individuals and intergenerational activities in elementary and secondary school facilities.

SECTION 1: SHORT TITLE

"School-Based Meals for Older Individuals and Intergenerational Programs Act of 1990".

SECTION 2: FINDINGS AND PURPOSES

Findings:

1. There are millions of older individuals who could benefit from congregate nutrition services, but meals are unavailable or limited in the areas where they live.

2. There are millions of students who need positive role models, tutors, enhancement of their self-esteem, and assistance with the problems they face in our complex society.

3. Older individuals have a unique range of knowledge, talents, and experiences, which can be of immeasurable value for students as a part of their educational process, and intergenerational programs can provide older persons with the opportunity to contribute their skills and talents in our public schools.

4. Programs that create and foster communication between older individuals and youth are effective in improving awareness and understanding of the aging process; they can also promote more positive, balanced views of the realities of aging, and reduce negative stereotyping of older individuals.

5. Unused or underused space in school buildings can be shared for intergenerational programs serving older individuals in exchange for good faith commitments to provide volunteers to assist the schools.

6. School districts need broad-based support in their communities for school initiatives, and intergenerational programs can help to enrich that support.

Purposes:

1. To create and foster intergenerational opportunities for older individuals and students in the schools where meals and social activities are provided.

2. To assist students in schools with the greatest needs as evidenced by drop-out rates, substance abuse, poverty, and low rates of English proficiency.

3. To provide older individuals with opportunities to improve their self-esteem and make a major contribution to the educational process of our youth by contributing their unique knowledge, talents, and sense of history through roles as tutors, teacher aides, living historians, special speakers, mentors, playground supervisors, lunchroom assistants, and in many other volunteer support roles.

4. To provide the potential for older individuals to have access to school facilities, such as libraries, gymnasiums, theaters, cafeterias, audio-visual resources, and transportation.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

5. To create other programs for interaction between students and older individuals, including class discussions, dramatic programs, sharing of school assemblies, mutual classes, field trips, and others.

SECTION 3: AUTHORIZATION OF APPROPRIATIONS

There are funds authorized for nutrition services and intergenerational activities for fiscal years 1992-95 at the following amounts: FY92—$50,000,000; FY93—$52,500,000; FY94—$55,125,000; and FY95—$57,881,250—to carry out subpart 3 of part C of title III. This reflects increases for inflation of five percent each year.

SECTION 4: SCHOOL-BASED MEALS FOR OLDER INDIVIDUALS AND INTERGENERATIONAL PROGRAMS

The Older Americans Act of 1965 is amended by adding a new subpart 3 under title III C.

The Commissioner will make grants to states under their state plans for the establishment and operation of projects that:

1. are carried out in elementary and secondary schools;

2. provide to older individuals hot meals, each of which assures a minimum of one-third of the dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council: (A) while schools are in session; (B) during the summer; and (C) on the weekdays in the school year when such schools are not in session;

3. provide intergenerational activities in which older individuals and students interact at such schools;

4. provide social and recreational activities for older individuals at such schools;

5. develop and maintain skill banks in which information on the skills and preferred activities of older individuals is maintained and available to school officials for providing such individuals with opportunities to serve as tutors, teacher aides, living historians, special speakers, playground supervisors, lunchroom cashiers, and assistants in such schools;

6. provide opportunities for older individuals to participate in school activities (such as classes, dramatic programs, and assemblies) and use school facilities (such as cafeterias, libraries, gymnasiums, and auditoriums);

7. applications will be submitted to the appropriate state units on aging with comments from the appropriate area agency on aging and local educational agency;

8. 15 percent of the cost of each project shall be paid in cash or in kind from non-Federal sources;

9. applicants must demonstrate the need for such projects, how the project will be coordinated with other nutrition services and other services currently provided;

10. each year priority for grants will be given to entities that carried out a nutrition project under this program the previous year and to entities that carried out a nutrition project under Title 3, Part C of the Older Americans Act;

11. priority will also be given to applicants that will serve schools with the greatest need as evidenced by such factors as dropout rates, substance abuse, and the number of limited English-speaking children;

12. the Commissioner will report to Congress on the effectiveness of this program;

13. administrative costs are limited for this program;

14. funds may not be transferred from this program.

SECTION 5: EFFECTIVE DATE

This legislation shall take effect on October 1, 1992.

NATIONAL ASSOCIATION OF NUTRITION AND AGING SERVICES PROGRAMS,

Grand Rapids, MI, October 17, 1990.

Hon. MARILYN LLOYD,

House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN LLOYD: The National Association of Nutrition and Aging Services Programs wholeheartedly endorses the School Based Meals and Intergenerational Programs Act of 1990. This endorsement is based on the recognition of the critical need for intergenerational programs which are aimed at providing community assistance and support to confront the serious problems facing our schools today.

Seattle's SPICE program (School Programs Involving Community Elders) has proven that school based nutrition programs can make a critical contribution to the educational well-being of students and can enhance the school environment in a multitude of ways. We believe that the rich diversity of talents possessed by our older Americans can become a major resource to local schools, and that this bill will provide the vehicle to accomplish this objective.

At the same time, there is a serious unmet need for additional congregate nutrition sites which can serve our growing population of elderly—particularly the frail and vulnerable—who are not now receiving services.

This bill will meet each of these needs by creating school based meal sites which actively engage in the development and promotion of intergenerational programs and activities in order to help meet the pressing educational demands of our school system.

We hope that you can gain passage of this new and extremely promising measure.

Sincerely,

TOBY FELCHER,
President.

SCHOOL BASED MEALS AND INTERGENERATIONAL PROGRAMS OF 1990

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. DOWNEY. Mr. Speaker, as the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I rise today to join as an original cosponsor to legislation introduced by Mrs. LLOYD entitled "School based Meals and Intergenerational Programs of 1990," which would amend the Older Americans Act of 1965 to provide nutrition services and intergenerational activities in elementary and secondary school facilities.

In my capacity as a member of the Select Committee on Aging as well as the acting chairman of the Subcommittee on Human Resources on the Ways and Means Committee, I find this legislation brings together two of our Nation's most precious resources in a very special way—our children and our aged.

Seniors have so much to offer to the youth of our Nation. Their knowledge and their experiences enable young people to understand the world better and, therefore, prepare them to be better adults. Likewise, young people have much to share with seniors, giving them a fresh perspective on everyday life, and a renewed outlook to daily problems. Working together, they benefit each other.

Millions of seniors across the country could and do benefit from a nutritious meal. Estimates indicate that approximately 10 to 15 percent of our elderly citizens who are in nursing homes are there because they are unable to meet their nutritional needs in their own homes or community. In fiscal year 1988, 242 million meals were served to elderly individuals; of that total, 147 million, over 60 percent, were served in congregate settings and 95 million, about 40 percent, were home delivered. For many of these seniors, these meals are the only connection they have to their surroundings and the outside world, and for many, it is their only nutritious meal per day. The socialization opportunities offered by congregate meal settings is extremely significant and valuable to participants. The Older Americans Act has provided funding for meal programs for seniors since 1972, when Congress enacted the National Nutrition Program for the Elderly as a new title.

But, while the nutrition program has been highly successful, an essentially frozen funding level for the past 10 years has prevented many seniors from getting those meals in areas where they live. Just yesterday, the House passed the conference report to the labor/HHS/education fiscal year 1991 appropriations bill which provides for a 9-million increase over fiscal year 1990 for congregate meals, and 8.8 million increase in home delivered meals under the Older Americans Act. While we are glad to see these increases, in light of the 2.41 percent across-the-board cuts suffered by all discretionary programs, these figures do not do much to keep pace with the rapidly growing numbers of seniors in this country.

Mrs. LLOYD's legislation proposes that seniors be allowed to receive their meals at and participate in intergenerational activities in elementary and secondary school facilities. In exchange for this service, those seniors can serve as role models, tutors, and friends to young students. They can bring their valuable expertise to these students as well as assist the teachers and school districts in preparing the students for their futures. Programs would be designed to address the critical priority areas such as dropout rates, drug and alcohol abuse, poverty, teenage pregnancy, and low rates of English proficiency.

When Congress created the nutrition provision in the Older Americans Act, it envisioned the program to serve as an important vehicle for fostering social interaction among participants and facilitating social services delivery as well as providing nutritional services.

I commend the chairperson of the Subcommittee on Housing and Consumer Interests for introducing this legislation, which will clearly enhance those goals laid out by the Older Americans Act. As we prepare for the 1991 reauthorization of the Older Americans Act, I think this bill will provide an innovative intergenerational approach.

LEXINGTONIAN BECOMES PRESIDENT OF AREA CHAPTER OF THE JANE AUSTEN SOCIETY OF NORTH AMERICA

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. SKELTON. Mr. Speaker, I take this opportunity to recognize Barbara Larkin, a former resident of Lexington, MO, who was recently chosen as president and regional coordinator of the Jane Austen Society of North America for the Columbia and Jefferson City area of Missouri.

Founded in 1979, the Jane Austen Society of North America has grown to over 2,000 members. Though members come from a variety of backgrounds, they are united by one thing—the fascination for Jane Austen and her works. The Society publishes an annual journal, "Persuasions," as well as a newsletter, "Jasna News." Each fall they attend a weekend conference devoted to one of her novels, or to an aspect of her life.

The daughter of a minister, Jane Austen was born in 1775 in Hampshire, England. One of eight children, she never married and instead, devoted her life to writing. Her most celebrated work, "Pride and Prejudice," is one of five novels she completed. Her lively, ironic wit and her appealing heroes and heroines are as fresh and unforgettable in 1990 as they were when they first appeared nearly 200 years ago.

I know that the Members of this body join me in congratulating Barbara Larkin on her being chosen president of this group.

THE COAL PIPELINE ACT OF 1991

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. UDALL. Mr. Speaker, we are fortunate that events in the Persian Gulf are no worse than they are. Our troops have not been fired upon, other countries have made up for embargoed Iraqi and Kuwaiti oil, and there are no gas lines at home.

But this dangerous situation should serve to remind us of the perils of our dependence on foreign oil. We've had painful reminders before, in 1973 and 1979, but our resolve to do something about our energy problems passed with each crisis. We must not let that happen this time. We need to save energy, find alternative sources, and reduce our dependence on foreign oil. We need a sensible, workable, national energy policy.

When the 102d Congress convenes next January, I intend to introduce a bill that should play an important part in a national energy plan—the Coal Pipeline Act of 1991.

This is not a new idea. President Kennedy proposed the first coal pipeline bill nearly 30 years ago. Nor is it particularly complicated. The idea is simply to permit the construction of pipelines that can carry pulverized coal mixed with water or other liquids from the mine to the powerplant. The bill would allow interstate coal pipelines that have obtained State authority for water use, have proud their environmental soundness, and have been found to be in the national interest to exercise the Federal power of eminent domain.

Mr. Speaker, this is a good bill and I hope all my colleagues will support it.

It is good for coal miners, utilities, and electric ratepayers. By providing an alternative, less expensive way to transport coal, the bill will help keep American coal competitive and hold down electric bills.

It is good for the environment. Coal-water slurries are considered to be one of the most effective clean coal technologies available. By finely grinding the coal particles, one can reduce SO_2 emissions by 60 to 90 percent, thereby reducing acid rain.

It is good for labor. It takes millions of tons of steel pipe to build a coal pipeline. This bill has the potential for creating over 300,000 new jobs in construction, manufacturing, and service-related industries.

And it is good for the taxpayers. The bill does not call for new Federal spending, provide subsidies to any industry, or break the budget. Coal pipelines need no expensive research and development efforts; the technology is available and in use today. The Black Mesa Pipeline between Arizona and Nevada has been in service for 20 years, during which it has carried 75 million tons of coal.

In light of these benefits, in light of the proven record of the Black Mesa Pipeline, why aren't more coal pipelines built? The principal reason is that the railroads, which now transport most coal, don't want the competition. A case in point is Energy Transportation Systems, Inc. [ETSI] tried for over a decade to build a coal pipeline between coal fields in Wyoming and powerplants in Arkansas. But the railroads would not allow ETSI to cross railroad property and since ETSI did not have the power of eminent domain—the same power the railroads were given to lay their tracks through private property—ETSI had to give up.

The railroads acted improperly in obstructing ETSI's pipeline. In 1984, ETSI filed suit against the railroads under the antitrust laws. The railroads ultimately agreed to pay ETSI nearly $700 million to settle the case.

The railroads also acted foolishly, in my judgment. Coal pipelines will not hurt the railroads; there is enough business to go around. The Energy Information Administration has concluded that even if all proposed coal pipelines were built and operated at full capacity, the railroads' share of the business will still grow because of increasing demand for coal.

The point is that without the power of eminent domain coal pipelines will never be built because the time and expense needed to fight the railroads in court will be prohibitive.

Mr. Speaker, coal pipelines are an idea whose time has come. The administration plans to send a national energy strategy early next year and I look forward to the 102d Congress giving our energy options a long hard look. The benefits offered by coal pipelines must not be overlooked. I urge all of my colleagues to join me in cosponsoring legislation to make them a reality.

TRIBUTE TO LATE PAC LEADER ZEPH MOTHOPENG

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. FAUNTROY. Mr. Speaker, I want to take this opportunity to pay tribute, in memorium, to the late Zephania Lekoane Mothopeng, who, until his death on Tuesday, October 23, was President of the Pan-Africanist Congress [PAC] of Azania. In so doing, I want to enter into the RECORD the following obituary from the New York Times. This obituary acknowledges tributes paid to him by the African National Congress [ANC] and the Azanian Peoples' Organization [AZAPO], and points up the need for those of us in the Congress who are concerned about events in South Africa to be aware of all of the important political actors in the post-apartheid transition that is unfolding in that country.

Zeph Mothopeng was a stalwart proponent of the PAC's Afrocentric brand of nonracialism which holds that all the peoples of South Africa must commit themselves to an authentic African identify linked to the return of the land to the indigenous people whose ancestors predate European settlement. This is a message that resonates strongly in the hearts of black South Africans. Hence, the ANC, in its statement, acknowledged that the death of Mothopeng "has left the people of South Africa, especially the oppressed, much poorer," while AZAPO urged that "blacks of rival political persuasions stop their factional fighting as a tribute to Mothopeng." In this vein, it is encouraging news that the ANC and the Inkatha Freedom Party will come together in the near future in a meeting that will include both its Deputy President, Nelson Mandela and Chief Gathsa Buthelezi. The need for a show of unity among the oppressed of South Africa in tribute to Mothopeng is also amplified by another item that I will introduce into the RECORD, Anglican Archbishop Desmond Tutu's recent announcement of his intention to convene a meeting of South Africa's black political leaders at his official residence, "Bishopscourt" in the near future.

Mr. Speaker, I insert the October 24 New York Times obituary on Zeph Mothopeng followed by the October 17 South African Press Association [SAPA] report of an interview with Archbishop Tutu on "National Concerns."

ARCHBISHOP TUTU INTERVIEWED ON NATIONAL CONCERNS

[SAPA PR Wire Service; issued by Church of the Province]

CAPE TOWN—Archbishop Desmond Tutu today announced his intention to call a meeting of black political leaders at "Bishopscourt", his official residence in Cape Town soon.

He was delivering the charge at the opening of the synod of the Anglican diocese of Cape Town. He also called for the minister of defense, General Magnus Malan, to be "fired from the Cabinet." Archbishop Tutu called for the black "summit" while dealing with the recent violence in the country.

He said: "The political leaders of blacks need to meet urgently to plan a joint strategy on negotiations, to adopt a code of con-

duct in political dealings, and to decide on how to handle the factional violence and to promote unity and peace. Our church has a special responsibility to call these leaders together. Our commitment to the liberation of our people has been uncompromising but we also have made it clear that we have no party political alignments. In consequence, I propose to call a meeting of all black political leaders at Bishopscourt soon.

"My invitation will be to all leaders of substantial black political movements. The aim would be for a black political summit, the importance of which would be undisputed, so that our people would judge leaders who refuse to attend as enemies of unity, peace and liberation."

He told the synod that when he had asked the state president, Mr F W de Klerk at least to suspend General Malan, Mr de Klerk had said people should wait for the Harms Commission report.

"Now that the Harms Commission has reported, I want to call for General Malan to be fired from the Cabinet," Archbishop Tutu said. "It is difficult to imagine how the commission will be able to give him a clean bill of health after its failure to call him to give evidence. If we say General Malan must go we do not suggest that he is guilty. It would be obeying a convention observed in democratic countries that a Cabinet minister must resign when his underlings are found guilty of a serious misdemeanor. This convention is one that keeps politicians on their toes and is effective to curb abuse of power. The new South Africa cannot afford yesterday's men with dubious morals and yesterday's attitudes."

The text of that part of the Archibishop's address dealing with the above issues follows. The full text of his charge is available from the archbishop's office.

* * * Talking about a willingess to forgive, no one in a high position has actually said they are sorry for all the hurt they have caused the victims of apartheid. No one in government has yet said, "Please forgive us". We blacks for our part are ready to forgive but the other party must contrite and ready to do reparation to demonstrate the seriousness of our contrition, and then reconciliation can happen. You cannot say you are sorry you stole my pen if you continue to retain possession of it. Your contrition will be demonstrated by your willingness to make amends. In this case, by returning my pen. We cannot just say, "Let bygones be bygones".

We have experienced a euphoria at the speed of events but we have also touched the nadir of despair at the mindless violence that has taken place in Natal and the Transvaal. We must condemn all violence from whatever quarter as evil. Why have the police allowed the AWB [Afrikaner Resistance Movement] to parade bearing arms? Can you imagine what would have happened if the military wings of black organisations did the same? We demand that the AWB be disarmed forthwith and they must be stopped from uttering such insulting, racist slurs and poisoning the minds of little children with horrible jingoistic slogans. The police must use the law that forbids inciting racial animosity and do so urgently if they do not want to see the whole thing disintegrating into bloody chaos.

Why, oh why, has it been misleadingly called black-on-black violence? Why don't the media describe the vicious blood-letting for instance in Northern Ireland as white-on-white violence? Or that in eastern Europe? It is also emphatically not tribal for in Natal those involved are nearly all Zulus—it is not Zulu versus Xhosa for those who live in our black townships are people of all tribes who have continued to live together reasonably harmoniously even at the height of the carnage. In the Transvaal we have been reaping the whirlwind of many decades of migratory labour when married men, self-respecting husbands of wives and hard-working fathers of children have been cooped up in utterly disgraceful conditions in single sex hostels, alienating them from the township dwellers amongst whom the hostels have been built. The conditions must be condemned out of hand as totally dehumanising and we must quickly end the hostel system and turn these horrendous compounds into family-type accommodation so that the worker can bring his family with him.

The violence is also due to the socio-economic inequities of apartheid and its equally evil forerunner in the way our country has been run. The violence is also due to rivalry between political groups and ideologies. We urge their leaders and adherents to show the tolerance of maturity. They should have enough confidence in the rightness of their political view not to need violence and intimidation to get new recruits. We condemn political violence as the horrible delinquency it is and especially we cry out against necklacing, that gruesome way of killing. My father used to say, "Improve your argument—don't raise your voice!" Only those who know their position is untenable and unpersuasive use violence to get their way and that way lies totalitarianism and despotic rule.

The political leaders of blacks need to meet urgently to plan a joint strategy on negotiations, to adopt a code of conduct in political dealings, and to decide on how to handle the factional violence and to promote unity and peace. Our church has a special responsibility to call these leaders together: * * * Why don't we have a permanent judicial commission to investigate allegations against members of the security forces? Why don't we have groups consisting of trusted lawyers, religious and authentic community leaders to monitor the activity of the security forces in sensitive areas—it would help to scotch allegations about police partiality and abuses of power and would do the world of good to improve the image and reputation of the police? I know Mr de Klerk will give these suggestions his earnest consideration for he is a man of considerable integrity and gives the impression of listening to others and taking them seriously. I wish I did not feel anxiety about the attitudes of Mr. Vlok and his commissioner of police.

Mr. de Klerk's initiatives deserve to succeed. We urge him, the ANC [African National Congress] and others to get on with the business of serious negotiations knowing that they have the good wishes and fervent prayers of all persons of goodwill and especially of Anglicans. They must look for encouragement at what took place in Namibia where the prospects of a settlement were bleak at first but once people got down to the nitty gritty of serious horse-trading and negotiation they discovered just how much they shared in common. After all the government and the ANC after their first talks themselves made startling, scientific discoveries—that their erstwhile adversaries were actually human. Let us have a constituent assembly quickly. Certainly we need to know as accurately as possible what support each contending group actually commands. Part of the strife between ANC and Inkatha is because each side makes untested and unproven claims about the size of their constituencies and several thousand people have died as a result. The government does not need to abdicate administrative power with a constituent assembly in session. Look at what happened in Namibia. In next to no time they had a constitution which was adopted nearly unanimously and Sam Nujoma, the devil incarnate for many white Namibians only a few months previously, was elected unanimously as first president of a multi-party, independent Namibia. We give thanks to God for all those who sacrificed and suffered and died for this result and we congratulate the United Nations on a splendid job well done.

Minority rights can be guaranteed in a bill of rights that upholds individual rights. Minority group rights must be rejected completely as a way of perpetuating minority rule through a constitutional stratagem. If your rights as an individual are protected in a bill of rights enforceable by an independent judiciary then minorities have nothing to fear. Let us not bring in racism and ethnicity through the back door. There should be no minorities in a new South Africa—all should be South Africans first and foremost, working for a richly diverse multiparty democracy.

Mr. de Klerk's initiatives deserve to succeed and need the engine of a thriving economy. Sanctions have proved thoroughly effective for we would not be where we are without them but it is important that we recognize that the problem is not sanctions but apartheid. Get rid of apartheid and there will be no justification for sanctions. Once the process of ridding our country of this albatross is irreversible then we will call for the lifting of sanctions. It can't be said to be irreversible when we still can have the ridiculous charade of Mr. Clase and his pretend open schools policy. It can't be irreversible when you still have the Group Areas and the Population Registration Acts. Once Mr. de Klerk can announce that he proposes to repeal these abominations in the next session of parliament and establish a single education department and get negotiations going seriously, then I promise that at that moment I will stand up and say to our friends, "Lift sanctions". Not only that, I am ready to go round the world and say, "Invest or reinvest in South Africa massively". As it happens we are already calling for selective reinvestment in projects such as in housing, education and health which are controlled by blacks to empower them. We thank our friends overseas who have supported us so generously through their love, prayers and commitment to the ending of apartheid. We ask them to continue with us as we tread the uncertain and heady road to a new South Africa. Let us be bold.

Mr. de Klerk has already been commended for his courage. I would urge him to take a new, bold and imaginative step. I have already said we need a constituent assembly as a matter of urgency. Mr. Kobie Coetzee has already spoken about a coalition cabinet. Once an assembly was convened, why could Mr. de Klerk not establish an interim coalition government which is representative of all our people? If the ANC were to draw the votes it says it will, why could Mr. de Klerk not give the ANC National Executive Committee offices in the union buildings so that they can be working with their counterparts? For instance, Thabo Mbeki with his brother Pik Botha, Chris Hani with General Malan, etc. Can you imagine the

impact of a joint visit by Mr. Mandela and Mr. de Klerk overseas? Sanctions would end immediately and the rewards of boldness would be immediately apparent and there would be no obstacle to a constituent assembly which could work at less than frenetic pace to produce our constitution. Mr. de Klerk might very well appoint ANC people for constitutional purposes as deputy ministers.

[From the New York Times, Oct. 24, 1990]

ZEPHANIA MOTHOPENG, 77, DIES; HEADED SOUTH AFRICAN MOVEMENT

(By Christopher S. Wren)

JOHANNESBURG., Oct. 23.—Zephania Lekoane Mothopeng, the president of the Pan-Africanist Congress, which advocates the return of South Africa to its indigenous inhabitants, died today in Johannesburg Hospital after a long struggle with chest and lung cancer complicated by pneumonia. He was 77 years old.

Mr. Mothopeng began his struggle against apartheid in the youth league of the African National Congress in the early 1940's, but quit the congress in 1959 and joined Robert Sobukwe in founding the more hardline Pan-Africanist Congress. He was elected its president in 1986 while in prison.

The philosophy of black consciousness developed by Mr. Sobukwe and advocated by Mr. Mothopeng argued that that no political settlement was possible in South Africa unless blacks regained the land that was rightfully theirs. According to this philosophy, whites could stay if they became truly African in their thoughts and actions. It also envisioned an African continent united in a single nation called Azania.

"We move from the premise that the whole land of Azania belongs to the indigenous people, the African people, who were here long before the colonialists arrived," Mr. Mothopeng said in an interview published by the magazine Leadership in May.

Under Mr. Mothopeng's leadership, the Pan-Africanist Congress refused to join negotiations on South Africa's future proposed by President F. W. de Klerk. While the African National Congress opened exploratory talks with the Government, the Pan-Africanist Congress continued to insist that only guerrilla warfare would end white minority rule, though at the time of his death the group seemed to be reconsidering its stand.

"Our liberation will be brought about by Africans themselves, by having to struggle for it," Mr. Mothopeng said in the magazine interview. "They will not achieve it at the negotiating tables."

Despite differences with Mr. Mothopeng's group over negotiations, land and the place of whites in South Africa, the African National Congress issued a statement this evening expressing its "immense sadness" at his death, which, it said, "has left the people of South Africa, especially the oppressed, much poorer."

The Azanian Peoples Organization, a rival black consciousness movement, urged tonight that blacks of rival political persuasions stop their factional fighting as a tribute to Mr. Mothopeng.

Mr. Mothopeng repeatedly refused to submit to the white authorities, who imprisoned, detained and exiled him. In November 1988, Mr. Mothopeng was released early from his last term in prison, a 15-year sentence for his political activities.

LEFT AFRICAN NATIONAL CONGRESS

Mr. Mothopeng was born in the Orange Free State on Sept. 10, 1913, but moved with his family to the Transvaal and later to the Johannesburg area.

He taught high school in the Orlando district of Soweto. His criticism of inferior black education led to his dismissal as assistant principal there in 1952. He went to Lesotho to teach for two years before returning to Johannesburg to apprentice as a law clerk.

He was active in the African National Congress but disapproved of its multiracial philosophy and links with the South African Communist Party. He left with Mr. Sobukwe and others to found the Pan-Africanist Congress in 1959.

Mr. Mothopeng was arrested in 1960 for taking part in a defiance campaign against the pass laws used to restrict and monitor the movements of blacks, and he was jailed for two years. After his release, he was detained in 1963 and then imprisoned again in 1964, spending part of his sentence with Nelson Mandela and other political prisoners at the prison on Robben Island before being released in 1967.

He was director of a community organization when he was arrested again in 1976 under the Terrorism Act. He and his codefendants refused to plead at their trial, saying they did not recognize the court. He was sentenced to 15 years. While in Diepkloof Prison in Soweto, he became ill with cancer of the throat.

Mr. Mothopeng is survived by his wife, Urbania, three sons, a daughter and at least eight grandchildren.

A TRIBUTE TO DALE SPANN

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to Dale Spann, of Murray, KY, a longtime friend of mine who died May 8, 1990, at age 52.

Dale Spann, a native of Calloway County, KY, served for 21 years with the Murray Police Department, including service as chief of detectives. He retired as a captain. Dale also served as a Calloway County deputy sheriff and was the only county policeman in Calloway County history.

Dale Spann was a member of the Murray Fraternal Order of Police and for 6 years was a member of the Kentucky Crime Commission. He was for many years a member of Cherry Corner Baptist Church near Murray.

He was well liked and highly respected by those who knew him. In fact, to know Dale Spann was to admire him. He was my friend and a supporter of my election and reelection efforts.

Many would agree that Dale's wife, Helen Crutcher Spann, was a tremendous asset to him. Helen Spann is a talented, beautiful Kentuckian who has been honored on many occasions. Western Kentuckians remember her as a court reporter and as the longtime secretary and receptionist for former Calloway County judge/executive and county attorney, Robert O. Miller of Murray. Helen Spann also served as Calloway County judge pro-tem.

Other survivors of Dale Spann are his two sons, Rickie Dale Spann, age 21, and William Jeremy Spann, age 13; one sister, Mrs. Janice Wilson, and one brother James Spann, both of Houston, TX.

My wife, Carol, and I extend to the family of Dale Spann our sympathy.

TRIBUTE TO SHERIFF GENE DARNELL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. SKELTON. Mr. Speaker, today I rise to pay tribute to an outstanding Missouri law enforcement officer—Gene Darnell, sheriff of Lafayette County, my home county. Recently, Sheriff Gene Darnell announced that he will retire on December 31, 1990, after more than 30 years in the Lafayette County sheriff's office. It has been a career marked by professionalism, integrity, and dedication.

Mr. Speaker, I have known Gene Darnell for most of my life. He has been a valued and true friend and counselor. In 1959, I was pleased to recommend him for a vacant deputy sheriff position in Lafayette County, under then-Sheriff Dewey Parrott. In 1964, with the retirement of Sheriff Parrott, I was proud to serve as Gene's campaign manager in his successful bid for sheriff. I am even prouder of the record that Gene has established in his 26 years as sheriff. He has given Lafayette County tough, effective, and fair law enforcement. He has been a leader in the establishment and operations of the Mid-Missouri Major Case Squad, an organization which allows rural law enforcement officers to cut across jurisdictional lines and work together to solve major crimes. He has been recognized by his peers who selected him secretary of the Missouri Sheriff's Association.

Mr. Speaker, Sheriff Gene Darnell once told me that "the best politics is doing a good job." These are words that Gene lived by, and words that all of us in public service could take to heart. I know that all of our colleagues here in the House will want to join me in saluting Sheriff Gene Darnell, and wishing him and his wife Onie all the best in their future endeavors.

TRIBUTE TO THE MISSISSIPPI MASS CHOIR

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. ESPY. Mr. Speaker, if not the "Birthplace of Gospel Music," Mississippi most certainly is one of the places where Gospel chose to deliver many of her offsprings. Sam Cooke was delivered there, as were Brother Joe May, the Staple Singers, the Five Blind Boys, Rev. Cleophus Robinson, the Jackson Southernaires, the Pilgrim Jubilees, Willie Banks, the Williams, and others of renown.

In 1988, after being long, long overdue, she delivered again; and boy oh boy, what a delivery. She named it "the Mississippi Mass Choir."

Under the direction of founder Frank Williams and Musical Director David R. Curry, this 100-voice choir represents every region of the State. Although they are striving to establish themselves in the music industry, their purpose first and foremost is to establish the Gospel of Jesus Christ throughout the world.

This choir is very special. Some members drive, or ride the bus 6 hours round trip, in order to make rehearsal. This specialness was demonstrated when on October 29, 1988, they recorded their first album and video in Jackson, MI; 3,000 supporters were in attendance; 1,500 more were turned away. Church as well as a recording took place on that night. An appeal to accept Christ was extended, and many came forth to accept. Joining the choir on stage were special guests Rev. Milton Biggham, Rev. James Moore, and Huey Williams.

Just 5 weeks after the release of their first album, Billboard magazine certified it as the No. 1 spiritual album in the country. Six weeks later Cas Box magazine followed suit. Ten months later, the album can still be found atop both of these charts. Such recognition is unprecedented for a debut album.

At the James Cleveland Gospel Music Workshop of America, in New Orleans, the Mississippi Mass Choir was selected as the "Choir of the Year—Contemporary," and "Best New Artist of the Year." At the 1989 Stellar Awards they were selected as the choir of the year, best new artist of the year, album of the year—traditional, and best gospel vdeo. The awards did not stop there; they were nominated in several categories for the Soul-Train Music Award, and the Dove Award.

On August 31, 1990, Billboard magazine presented the choir with a special achievement award for maintaining the No. 1 position on their top 40 gospel chart for 45 consecutive weeks; this is a record for Gospel, and the second longest streak in the history of the industry.

In 1 short year the Mississippi Mass Choir has performed in New York, Philadelphia, Washington, DC, Atlanta, Chicago, New Orleans, Memphis, Cleveland, Jacksonville, Little Rock, Baton Rouge, Nashville, Birmingham, Indianapolis, and throughout the State of Mississippi. Through it all the choir has maintained their humility; realizing that all praise and honor belongs to the Lord.

THE CONGRESSIONAL BIOMEDICAL RESEARCH CAUCUS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. GEKAS. Mr. Speaker, I want to bring to the attention of our colleagues that on October 3, 1990, the Congressional Biomedical Research Caucus conducted its first public forum on exploring the preeminence of American biomedical research and examining the reasons for our continued dominance in the field. The purpose of the caucus is to enhance the excellent efforts of the Congress in devoting resources to biomedical science by the dissemination of information about exciting potentials and opportunities in basic and clinical biomedical research.

The caucaus organizers, Representative J. ROY ROWLAND, of Georgia, Representative SONNY CALLAHAM, of Alabama, Representative BILL RICHARDSON, of New Mexico, as well as myself, invited three distinguished biomedical scientists as speakers for our initial meeting. The first public forum addressed the topic "Why Is the U.S. Number One in Biomedical Research? How Do We Maintain Our Status?" and featured Dr. Leon Rosenberg, dean of the Yale University School of Medicine; Dr. Harold Varmus, professor of microbiology, University of California at San Francisco and recipient of the 1989 Nobel Price for Medicine; and Dr. Cori Bargmann, a renowned new biomedical researcher at the Massachusetts Institute of Technology.

Dr. Leon Rosenberg, dean of the Yale University School of Medicine, led the panel discussion by emphasizing the importance of the new caucus, and his delight at being among the first speaker before this group. Dr. Rosenberg described one of the more recent American success stories in biomedical research, the discovery of the cystic fibrosis gene. More than 2,000 U.S. children are born each year with this chronic disorder, with an average life span of 20 years filled with suffering for themselves and their families. Dr. Rosenberg said that this discovery illustrated the strengths of our unique system of biomedical research. It is the product of 25 years of work sponsored by the National Insitutes of Health, much of it basic research that was totally unrelated to the disease. This is a prime example of the success of untargeted, basic biomedical research in eventually curing disease.

He explained that this is what is responsible for many of the remarkable breakthroughs in biomedicine—years of "basic research which led to advances that no one would ever dream about—that has been part of the brilliant plan for the biomedical research effort in this country."

According to Dr. Rosenberg, the key elements which make the United States the world leader in biomedical research is our national commitment, sustained since World War II, to improve the health of American citizens through research, by providing sufficient financial resources to this endeavor. Also important is that funds have been distributed to academic institutions where research is linked to teaching and to the education and training of young people for careers in research. Another crucial element for the success of the United States is that the funds are distributed to individual scientists who compete with each other for funds through critical appraisal of applications by their peers.

How do we keep our leadership status? Dr. Rosenberg said that we should: First, build a broader base of public support for science and biomedical research through education, awareness, and coalition building. Dr. Rosenberg suggested that this caucus is an important part of that effort; second, invest as a nation in our research enterprise in terms of dollars. He stated, "We simply must reaffirm the national priority for health through research by allocating sufficient funds to meet opportunities which simply have never been greater"; and third, we must form a strategic agenda for a biomedical research policy which emphasizes the long view. Such a national health research policy must have the participation of government, academia, industry, and others.

Dr. Rosenberg also emphasized the cost-effectiveness of investing in biomedical research. According to Dr. Rosenberg, "If we had not developed the vaccine for polio, which was afflicting 25,000 people per year in 1950, the cost of caring for paralyzed victims of the polio virus in this single year, 1990, would exceed the Nation's entire investment in NIH since World War II.

Dr. Varmus described the beginning of his work in the laboratory, which he began at the NIH, as a physician who chose to do research. He discussed his decades of work on retroviruses, a class of viruses that cause cancer, and how the discoveries made by him and his colleagues over the past 20 years have had unexpectedly broad implications in the diagnosis and therapy of cancer. Dr. Varmus said the majority of this research has been supported through grants from the NIH. This grant money is mainly used to pay for salaries of laboratory staff and to purchase equipment and materials, most of which are made by American chemical, instrument, and biotechnology firms.

A prime illustration of the economic benefits the United States reaps from the growth of molecular biology—and are themselves undisputed leaders in their fields, selling tremendous amounts abroad. The United States' preeminence is evidenced by the strength of our biotechnology and pharmaceutical industries. Dr. Varmus said that even with the extraordinary progress over the past 20 or 30 years, "Never before has there been such call for optimism about understanding fundamental aspects of normal and diseased human beings about new means for prevention, diagnosis, and therapy and about biotechnology as a potential economic force in our society."

What has distinguished our system," said Varmus, "are the elements that encourage first the selection of the best young people to become investigators with independent laboratories. Second, the extended and stable funding of those who prove to be productive; and third, the pursuit of novel ideas."

Dr. Varmus said that his colleagues view the willingness to form this caucus with enthusiasm and gratitude. They believe that contemporary biology should compete effectively with other demands upon a battered budget. "The cost is modest," stated Dr. Varmus, "It is not small."

He added, "The economic benefits are measurable immediately as jobs and goods, later in technology and medicine. Your support for what we do and, most importantly, for what we have the potential now to achieve is an important counterweight for the fiscal shortfall and anxiety we have experienced over the past couple years."

Dr. Cori Bargmann discussed what it is like to be trained in the U.S. system and to enter

the competitive process to become an independent investigator. Dr. Bargmann said that the promise of discoveries being made by today's established scientists will be fulfilled only if students and young scientists continue to thrive in the system. She described how laboratories operate as a team and how important the scientist is in training for carrying out the work of the lab.

"Having really good scientists now doesn't mean you are going to be able to take the next step tomorrow," stated Dr. Bargmann. That is why stable support for biomedical research is so important to its success.

"There is great personal sacrifice made by young scientists," Bargmann said. "There is an expectation that graduate students and postdocs will work days, nights, and weekends, usually over 60 hours a week. I have been out of college for 9 years, and I am still in training as a postdoctoral fellow. A postdoctoral fellow is paid about $20,000 a year. A graduate student is paid about $12,000 a year. It is rare for a person at my age to feel that they have the time or the money to have children. There is not a lot of job security either. A good graduate school admits 30 graduate students in a year, but only hire 3 facilty members, so there is constant competition for the good research job."

Despite all the stresses involved in becoming an independent scientist, Dr. Bargmann said the American system is uniquely innovative and successful. She stated that, "This is the best place for biological research to get done" and that is why so many European and Asian scientists come here to train and often want to stay here. "The thing that keeps me and other talented people in this field despite all that, is believing in the value of what we do, and the tremendous excitement that comes from doing it. Part of it is challenges, problem solving; part of it is pure intellectual enjoyment, making a connection between two seemingly unrelated facts for the first time, or just learning something new," she added.

Dr. Bargmann told the audience:

The formation of this caucus is an immensely encouraging sign to young scientists like me. The truth is that the community of scientists needs to spend the time to convince Congress and the public of the value of research. This is a great opportunity for scientists to communicate directly with our friends in Congress to explain our goals, our successes, and our anxieties, and to hear from you what your concerns are. In the long run, for all the reasons Dr. Rosenberg and Dr. Varmus gave, it makes sense to see research as an investment and not as a luxury. The good news is, that as strong as it is, American biomedical research, together with its links to the biotechnology and pharmaceutical industry, have tremendous potential to advance and to improve our quality of life, but for that to happen, creative and motivated people have to continue to enter the field. And for that to happen, we need your support."

It should be no surprise to Members that a seminal theme of each of the scientisits was the respect and commendation they expressed for the steadfast and fruitful efforts of Chairman William Natcher and ranking member Silvio Conte of the Appropriations Subcommittee on Labor, Health, and Human Services, and Education in their commitment to improve the health of the American people through biomedical research. In their own words, the heart of the American people is in these programs, as is theirs. We all joined in these views and were pleased that their senior committee staff who we personally invited to the forum were present. In addition, there was an excellent attendance from many congressional offices, senior committee staff, as well as press and members of scientific organizations.

In order to explore some of the issues raised by the scientists, we intend to schedule a series of programs featuring speakers on various subjects during the forthcoming Congress. We appreciate the opportunity to hear the concerns of working scientists directly, one on one with the Congress. In regard to the speakers program, we welcome any recommendations for subjects or speakers from any of our colleagues.

The membership of the caucus is growing, and next year we look forward to the caucus expanding to the Senate and becoming bicameral. Currently we have the following members on the caucus: BILL ALEXANDER, MIKE A. ANDREWS, THOMAS J. BLILEY, RICK BOUCHER, BARBARA BOXER, JOSEPH BRENNAN, HANK BROWN, SONNY CALLAHAN, TOM CAMPBELL, RONALD V. DELLUMS, WILLIAM L. DICKINSON, DICK DURBIN, BERNARD J. DWYER, BEN ERDREICH, RONNIE G. FLIPPO, BARNEY FRANK, GEORGE W. GEKAS, FRANK GUARINI, JOE KOLTER, BILL LOWERY, ROBERT T. MATSUI, JIM MCDERMOTT, THOMAS MCMILLEN, CONSTANCE A. MORELLA, NANCY PELOSI, JAMES H. QUILLEN, BILL RICHARDSON, ROBERT ROE, J. ROY ROWLAND, LOU STOKES, DOUG WALGREN, GUS YATRON, DON YOUNG.

We welcome all our colleagues to join and assist us in ensuring America's preeminence in biomedical research and the health of our Nation.

TRIBUTE TO IVYMOUNT SCHOOL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mrs. MORELLA. Mr. Speaker, it is a proud moment for me to pay tribute to the teachers, students and parents of Ivymount School in Rockville, MD, on winning the Excellence in Education Award under the Department of Education School Recognition Program. Ivymount was one of only four special education schools nationwide to receive national recognition.

Ivymount has been at the forefront of special education for the past 30 years. Founded in 1961 as the Christ Church Child Center, its first class set a precedent for excellence in providing outstanding educational and therapeutic services. Since its inception, Ivymount has served more than 2,400 children with developmental delays, learning disabilities, emotional problems, and multiple handicaps. Currently, the school provides programs for 190 children, ranging from infancy to 14 years of age, from Maryland, Virginia, and the District of Columbia.

As a former teacher, I am heartened that a school, such as Ivymount, gets the recognition it deserves for the development of innovative programs and for its publications and professional presentations. Under the collective leadership of Director Shari Gelman, Assistant Director Lillian R. Davis, and a devoted staff, the school has been a leader in the Montgomery County tradition of dedicated service to the public good. These administrators and teachers give new hope and vision to the students and their parents for an improved quality of life.

This Blue Ribbon Award from the Department of Education is a reflection of what the public and private sectors can achieve jointly in serving handicapped infants and youth. This award is also reflective of the combined efforts of local education agencies, parents, students, staff, and community groups. In celebration of its 30th anniversary, Ivymount has rededicated itself to providing quality programs geared toward the betterment of the lives of our citizens with disabilities and toward their integration as full participants of their communities. Mr. Speaker, I congratulate Ivymount School on receiving the prestigious Excellence in Education Award, and I wish the faculty, students, and parents continued success in promoting new programs and ideas in special education.

NOVEMBER IS HOSPICE MONTH

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. GALLEGLY. Mr. Speaker, I rise today to remind my colleagues that the President has declared November to be National Hospice Month, and to join me in honoring the important role that hospices play.

As the President proclaimed:

Employing the skills of a full cadre of health care professionals and volunteers—including phyisicans, nurses, counselors, therapists, and members of the clergy—hospice care enables the terminally ill individuals to live peacefully and comfortably in their final days. The dedicated men and women who provide hospice care help terminally ill patients to face natural death without feeling alone or unprepared. They also help patients' families cope with emotional suffering and loss. A vital portion of our Nation's health care system, hospice programs reaffirm the inherent dignity and worth of each individual while underscoring our reverence for human life.

I would also like to pay special honor to Camarillo Hospice, the first bereaved program in Ventura County, CA. Formed in 1978, the hospice is a hospital-based but autonomous organization, based in Pleasant Valley Hospital. Like most such organizations, Camarillo Hospice is committed to the dignity of the human experience. It is about living, not about dying. This volunteer group believes that it is the quality of life that matters, whether that life is measured in years, days or hours.

Mr. Speaker, Camarillo Hospice will provide its one-on-one care to about 1,200 individuals and family members this year alone, and

serves the communities of Camarillo, Somis, Santa Rosa Valley, Moorpark, and the Navy bases at Point Mugu and Port Hueneme. I'm sure my colleagues join me in saluting the volunteers and staff associated with Camarillo Hospice—indeed, those associated with all of the many fine hospices nationwide—for the fine work they do in providing clients and families with the emotional, practical and spiritual assistance they need.

IN HONOR OF THE NATIONS ASSOCIATION

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. GOSS. Mr. Speaker, recently the White House named the Nations Association of Fort Myers, FL as the 276th "Daily Point of Light," conferring well-deserved recognition and praise on one of southwest Florida's brightest stars.

I am most proud and delighted to join President Bush in praising the Nations Association and its founders, Rev. Israel Suarez and his wife Ruth. It would be difficult to find two more caring and generous people than Israel and Ruth, who have given so much of themselves to offer hope and assistance to those in need.

The Nations Association has been providing food, shelter, counseling and basic friendship to some of southwest Florida's most disadvantaged for almost 15 years. Under the leadership of Israel and Ruth, volunteers from the community have come together to donate resources, time and brotherly love to this most worthy cause.

Israel and Ruth Suarez have set a wonderful example for all of us, demonstrating the power of individual commitment and volunteer spirit. There energy is awesome—their caring without limit, and, faced with a mighty challenge and many roadblocks, their resolve to make a difference only grows stronger. Some years ago, I recall, their facility was vandalized and the precious food stolen. The Suarez's immediately mobilized their dedicated army of community volunteers and restocked their shelves. With them there's never any question—setbacks will be overcome. As long as people need assistance, they will be there to help.

Mr. Speaker, the Nations Association and the Suarez's are excellent examples of what President Bush meant when he talked of "1000 points of light." People helping people, communities working together to solve their own problems. Israel and Ruth Suarez, and all of the many people who help make the Nations Association work deserve a standing ovation from this House and a special abrazo from each of us. Congratulations for an honor richly deserved.

TRIBUTE TO JARC

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. BROOMFIELD. Mr. Speaker, I rise today to honor a Jewish association providing residential care for persons with developmental disabilities [JARC]. This week, I met with several members of JARC who are visiting Washington. These developmentally disabled adults impressed me with their enthusiasm, independence, and zest for life.

JARC was founded in Michigan in 1969 by a group of parents concerned about their children. JARC provides a continuum of residential care and support services to individuals and their families in the Detroit metropolitan area. JARC currently operates 11 Haverim Homes in southern Oakland County—Haverim means friendship in Hebrew. The Haverim Homes serve a wide range of individuals—those who have lived in institutions for many years and those who are preparing for independent living. The homes provide attractive, clean, and comfortable settings for their residents who share daily responsibilities, according to each individual's abilities.

Over 280 people currently are waiting for placement in Haverim Homes. In order to meet the needs of individuals waiting for placement, JARC has a family assistance program which provides counseling and help in locating interim placement.

In addition to the Haverim Homes, JARC offers a support program for developmentally disabled individuals who live independently in condominiums. The JARC staff trains and counsels individuals in specific areas, such as meal planning or managing emergency situations. This program enables participants to achieve greater independence each day.

JARC receives 25 percent of its operating costs through private fundraising. The Michigan Department of Mental Health and the Oakland County Community Mental Health Services Board also provide funding for JARC programs. Additionally, money contributions and personal time donated by over 100 volunteers to help to make JARC an ongoing success.

JARC's residential programs are more innovative, less expensive, and more comfortable than institutional care and I would like to see similar private residential services encouraged by the Federal Government. I commend JARC for its quality residential care and its support services for the developmentally disabled. JARC's talented and dedicated staff deserves our applause for its commitment to serving others.

FREDERICK H. BYSSHE, JR. TO RECEIVE BEN NORDMAN PUBLIC SERVICE AWARD

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the presentation of the prestigious Ben Nordman Public Service Award to a good friend, Frederick H. Bysshe, Jr.

This award was established in perpetuity by the late Ben Nordman, who was recognized as a leader in his profession and in the community. The annual award trust fund is administered by United Way and honors an individual who epitomizes the best in the legal profession and in service to the community.

The fifth annual Ben Nordman Award is being presented on November 3 to an attorney practicing in the city of Ventura, CA. Frederick H. Bysshe, Jr. received his B.A. from University of Redlands in 1959. He then attended Hastings College of the Law, graduating in 1963.

Fred was admitted to the California Bar in 1963 and is a member of the American Bar Association, the Ventura County Bar Association which he served as president and the California Trial Lawyers Association. He is also a member of and has served as president of the Ventura County Criminal Defense Bar Association and the Ventura Trial Lawyers Association. He is a principal in the Ventura firm of Bysshe & LaRochelle.

Mr. Bysshe has been extremely active in civic affairs. He has served on the board of directors of the Ventura Archeological Society, not only helping to establish the organization, but also doing pro bono legal work for the fledgling society. He has served on the board of directors of the Ventura County YMCA, the Ventura Downtown Rotary Club, the Ventura County Diabetes Association, the Ventura County Cancer Society, and the Ventura County Master Chorale.

Although an attorney by profession, Fred has served on the board of directors of a homeowners association, where he helped to resolve neighborhood disputes outside of court. Fred has also been active in local church and professional organizations.

Fred enjoys working with children and has volunteered his time tutoring elementary school students who have reading and math problems. In addition, he was an assistant youth soccer coach for 5 years, and has served on the board of directors of the Ventura Girls Club.

For the past 3 years, Mr. Bysshe has been active in the Smoking Action Coalition of Ventura County, the Ventura County Heart Association, the Ventura County Lung Association, the Cancer Society, and the Medical Society. Through his work with these groups, Fred has helped to draft a model ordinance and to enact smoking regulation ordinances throughout Ventura County.

Please join me in congratulating my friend Fred on this occasion of his being presented the Ben Nordman Public Service Award.

TRIBUTE TO A TEACHER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. GALLEGLY. Mr. Speaker, I rise today to honor one of the finest teachers of mathematics in the entire Nation, Christina L. Myren of Thousand Oaks, CA.

Ms. Myren is one of the select teachers who won the 1990 Presidential Award for Excellence in science and mathematics. Since the award's inception 8 years ago, it has become the premier recognition for math and science teachers.

For those of my colleagues who do not know about this prestigious program, the Presidential awards recognize excellence and encourage our best teachers to remain in the classroom. As I'm sure we all agree, America has to do better in math and science to remain competitive in this increasingly technological age. This awards program is an important asset in that national goal.

Ms. Myren also received a $7,500 grant from the National Science Foundation to use at Acacia Elementary School to supplement other resources to even further improve the math program there.

Mr. Speaker, I'm sure my colleagues join me in congratulating Christina Myren, and in recognizing the vital job she and thousands of math and science teachers are doing to prepare today's youth for tomorrow's challenges.

TRIBUTE TO BELLE ZIEGLER

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mrs. MORELLA. Mr. Speaker, I rise today to pay tribute to Belle Ziegler of Takoma Park, MD, a constituent in my congressional district, who will retire on November 1, 1990, after three decades of tireless and dedicated service to the people of Takoma Park.

In addition to her official duties as director of Takoma Park's Department of Recreation, Belle has served on the Maryland Recreation Association, the house and garden tour, the Takoma Park Singers, Takoma Park's Flag Committee, neighborhood youth soccer, the Maryland Kite Association, and Takoma Park Senior Citizens, to name but a few.

From the town's very special Fourth of July parade to its after school and vacation programs, athletic teams, drug prevention programs, and live concerts, Belle's leadership has made a difference in the lives of Takoma Park's young people.

At the same time, she has managed to attract and inspire countless Takoma Park adults into giving their time and talents—in some cases unknown talents—on behalf of their community. Belle has enlisted hundreds into coaching baseball and football, constructing and painting parade floats, building kites, impersonating clowns and Easter bunnies, or judging photography and flower shows. Their lives, too, have been enriched.

Takoma Park is well known for its sense of community and caring. In large measure, this is due to Belle Ziegler, to her love and enthusiasm for her hometown and for all its citizens, young and old.

Mr. Speaker, I know my colleagues will join me in saluting this remarkable woman and wishing her well in the years ahead.

RECOGNITION OF CAMP CURTIN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. GEKAS. Mr. Speaker, I would like to draw the attention of my colleagues to a special historical place in my district. Camp Curtin, located in what is now Harrisburg's uptown district, was the largest camp of rendezvous in the Civil War. During the war, the facility processed and prepared more than 300,000 Union troops who fought in Gettysburg, Petersburg, and all the other major battles of the conflict.

All that is left of Camp Curtin now is a park at Sixth and Woodbine Streets, but the importance of its role in the war is immeasurable. The preservation of the Union can be traced back to the early mobilization of the encampment area. That is why it is so vital that Pennsylvania's part in the Civil War is recognized and understood.

Historians call the Civil War the single most important event in America's history—and Camp Curtin was a part of that history-altering event. Mr. Speaker, I am proud that the community has organized to preserve and beautify the Camp Curtin State Partk and increase awareness of the camp's role in the Civil War.

DENOUNCING BUSH'S VETO OF CIVIL RIGHTS ACT

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. ESPY. Mr. Speaker, David Duke didn't win the election in Louisiana, but you wouldn't know it yesterday. Mr. Duke came to Washington to support President Bush's veto of the civil rights bill. He left smiling.

Our national rhetoric is that that discrimination is wrong. But the national reality is something entirely different. Ours is not a colorblind society, Mr. President; not yet.

The problem we face is discrimination—not quotas. By vetoing this bill, the President sends a message to the world that he is part of the problem.

The President had a chance to choose between the vision of David Duke and the vision of Dr. Martin Luther King, Jr.

It's clear to see whose vision prevailed.

HONORING CHARLES CANIFF; WINNER OF THE THEODORE ROOSEVELT CONSERVATION AWARD

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. GOSS. Mr. Speaker, this week Republican Members of Congress and President Bush presented for the first time the Theodore Roosevelt Conservation Award, given to more than 70 individuals and groups from across the country in recognition of their outstanding commitment to conservation and volunteer efforts.

I was particularly pleased that our award winner from southwest Florida, Mr. Charles Caniff of Charlotte County, was able to attend the special award ceremony and hear President Bush's glowing remarks about his work. To Charley Caniff, the founder of the Charlotte Harbor Environmental Center, the President said "People like you represent the power of volunteerism, the power of those that might be physically challenged, and the power of an idea whose time has come."

Charley is a true inspiration. A retired marine pilot injured during brave service in World War II, Charley has long recognized the wonders of the out of doors. He talks fondly of the days when he lived in Wisconsin, where fishing and outdoor recreation were a way of life and a source of strength.

It was certainly our good fortune in southwest Florida when Charley moved to Charlotte County. As president for the Peace River Audubon Society, Charley put his tireless enthusiasm and self-effacing humor to work, fostering greater understanding and respect for our natural resources. It was his leadership and dedication that led to the creation in 1987 of the Charlotte Harbor Environmental Center, a marvelous example of what can be accomplished when government, community leaders, the school system and the private sector join forces.

The Theodore Roosevelt Conservation Award, given in the spirit of one of our Nation's first and greatest conservationists, is a small gesture of our thanks to Charley Caniff. Seeing the faces of young children light up when they learn about some of nature's mysteries and knowing that through his efforts hundreds of acres of sensitive land have been protected from unwise development most certainly offer Charley the greatest satisfaction. And well they should.

I am proud to have nominated Charley for this award and delighted that he was able to join me in Washington to claim an honor he richly deserves.

A TRIBUTE TO BETTY SPAAR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. SKELTON. Mr. Speaker, while attending the University of Missouri as an undergraduate student, I was privileged to have a class with a charming young lady named Betty Simpson. Our paths were to cross years later when the same Betty Simpson Spaar moved to Odessa as the publisher of the Odessan. Through the years, Betty Spaar has not only been a friend to me, but a friend to the community of Odessa and Lafayette County.

As the publisher of the Odessan, Betty had received numerous newspaper awards as well as turning the Odessan into the largest newspaper in the county. This year, the paper received a first place award for investigative reporting by the Missouri Press Association. Betty is the recipient of the Faculty-Alumni Award from the University of Missouri and she currently serves as the president of the Missouri Press Association.

To crown her honors as a journalist, Betty Spaar has been chosen to receive the "Missouri Medal of Honor for Distinguished Service in Journalism" from her alma mater, the University of Missouri School of Journalism.

I congratulate Betty Spaar not only on this outstanding recognition but on the great contribution she has made and continues to make to her profession of journalism and to the citizens of our State. I know that my colleagues will join me to congratulate Betty for this great honor.

INTRODUCTION OF SUPERFUND LIABILITY CLARIFICATION ACT

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. OWENS of Utah. Mr. Speaker, I am introducing legislation today to focus the Superfund liability debate once again on protecting the public health and safety, and the environment. Lender liability is an issue that is causing me great concern. Many of my constituents have expressed how the expansive web of liability under the Superfund Act has caused many innocent parties, lending institutions and businesses to "pull in their tentacles," potentially jeopardizing a healthy commerce.

Several recent court decisions have only exacerbated this situation. The Superfund Act or the Comprehensive Environmental Response Compensation, and Liability Act, as amended, protects the rights of innocent parties and lenders. The evolving case law has created confusion under the innocent landowner defense.

The liability issues under Superfund are extremely complex. The recalcitrance of some responsible parties, and the lack of funds to cleanup sites first and establish liability second, has caused a litigious, adversarial process which costs us all both financially and with our health. It has created a nightmare where investigations on the ground are designed for litigation, sometimes at the expense of an expeditious and permanent remedial solution. It has also created certain circumstances where some innocent parties with deep pockets are being held liable for cleanup just because they have money. I am all for the polluter paying, but this adversarial climate is slowing down the cleanup process and causing unnecessary dismay of truly innocent parties.

The discussions I have had with lenders and innocent landowners indicate they are more than anxious to act in good faith and follow the rules. They just do not know what the rules are any longer. With this bill, I hope to clarify the pathway to protecting public health and the environment through clarifying the rules.

It is my intention that by offering this bill in the 11th hour of this Congress a constructive dialogue will ensue prior to the 102d Congress and the reauthorization of the Superfund Act. I want to create a foundation that will help lenders and innocent parties, without jeopardizing the intent of protecting the environment and the public.

It is my intent to offer a framework that deals with fairness, timeliness, and the future funding needs of the Superfund Program. It is not my intent to release noninnocent parties from their environmental responsibilities. I intend to look into many other issues that are of concern to me from experience in my district, as the Superfund Act is once again scrutinized.

There will be much work to do in the next Congress. A serious analysis of which problems are only perceptions and which problems are very real will be needed. The complexity of this issue necessitates open discussion between the environmental community and business. Together, we can develop the framework for protecting our health and environment well into the next century. I realize these issues are extremely complex and far reaching. I look forward to the dialogue ahead of us and being actively involved in the future of Superfund.

INTRODUCTION TO "EMBASSY MOSCOW: ATTITUDES AND ERRORS"

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. HYDE. Mr. Speaker, as ranking Republican on the Intelligence Committee, I have expended considerable effort researching the history and consequences of the Soviet intelligence penetration of our unfinished embassy in Moscow. For fiscal year 1991, Congress was asked for a $270 million supplemental State Department appropriation to tear down the new chancery and rebuild it—a request that, understandably, failed to excite wild enthusiasm. This year, congressional committees again have delayed and temporized, partly because potential solutions are universally unsavory. But the problem will not go away. Lacking a final decision this year, the ghost of the skeletal building most certainly will return for fiscal year 1992 deliberations.

My findings will be submitted in two parts. Today, I am focusing on the historical and philosophical aspects of U.S. vulnerability to these types of Soviet intelligence operations. The second submission discusses intelligence implications of the various options for extricating the United States from the embassy fiasco.

Today's theme is the sophisticated and continuing nature of the Soviet intelligence threat, and the necessity of definitely turning away from former approaches to embassy security. We must abandon forever the naivete, hubris and political expediency of the past. We must recognize that Russia will continue to pose a severe counterintelligence threat, whatever the fate of glasnost and perestroika, just as it did before 1917. Despite glasnost—indeed, spurred by the uncertainties and opportunities it presents—Soviet intelligence activities against us and our allies today have reached a fever pitch. If we fail to change our ways, we cannot protect our military secrets and arms control strategy, our regional interests and initiatives, and whatever ability we may have to influence Soviet policy. If the Russians are reading our mail and listening to our conversations, they will be running circles around us.

We should be aware of the general outlook and policies which propelled us to this sorry situation in the first place, lest we repeat past errors. Primary among those attitudes was a general governmentwide neglect of counterintelligence issues, which was especially pronounced at the State Department. This negligence occurred despite continuous historical evidence of the need for extreme caution.

EMBASSY MOSCOW: ATTITUDES AND ERRORS

(By Henry J. Hyde, Republican of Illinois)

Russia's notoriety for eavesdropping and espionage stretches back even to the czars. James Buchanan, U.S. minister in St. Petersburg during 1832-33 and later U.S. President, recounted that "we are continually surrounded by spies both of high and low degree. You can scarcely hire a servant who is not a secret agent of the police." An 1850-53 successor, Neill S. Brown, reconfirmed that "the opinion * * * prevails that ministers are constantly subjected to a system of espionage, and that even their servants are made to disclose what passed in their households, their conversations, associations, etc." Otto von Bismarck, who represented Prussia from 1859 to 1862, stated "it was especially difficult to keep a cypher secure at St. Petersburg, because all the embassies were of necessity obliged to employ Russian servants and subordinates in their households, and it was easy for Russian police to procure agents among these." The tradition intensified and became more sophisticated under the Bolsheviks and their successors. The wife of the Italian ambassador in Moscow during 1927-30 said: "Spying on the part of the authorities was so common as not even to be thought of as spying." [1]

Footnotes at end of article.

Nonetheless, Western laxity in the face of these dangers also has deep roots. A confidential 1940 memo to the White House from FBI Director J. Edgar Hoover related the results of an investigation triggered by British complaints that shared intelligence was being leaked to the Soviets through the Moscow embassy.[2] The memo revealed that single U.S. employees in Moscow frequented a prostitution ring linked to Soviet intelligence and that classified documents were handled improperly and may have been obtained by Soviet workers. The code room was found open at night, with safes unlocked and code books lying on the table.

By the 1930s, technical eavesdropping supplemented human espionage. Guests at Spaso House, the U.S. ambassador's residence, at one point were given cards welcoming and warning them: "Every room is monitored by the KGB and all of the staff are employees of the KGB. We believe the garden also may be monitored. Your luggage may be searched two or three times a day. Nothing is ever stolen and they hardly disturb things * * *." [3]

In 1952, the Soviet gave U.S. representatives a carved wooden replica of the Great Seal of the United States. It hung prominently for years, at least part of the time in the ambassador's study, before a tiny microphone was found in the eagle. George Kennan's memoirs describe the event. In a theme now familiar, Kennan relates that Spaso House had been redecorated under Soviet supervision, without the presence of any American supervisors, giving them opportunity "to perfect their wiring of the house." "The ordinary, standard devices for the detection of electronic eavesdropping revealed nothing at all," but technicians decided to check again, in case our detection methods were out of date.

"Quivering with excitement, the technician extracted from the shattered depths of the seal a small device, not much larger than a pencil . . . capable of being activated by some sort of electronic ray from outside the building. When not activated, it was almost impossible to detect. . . . It represented, for that day, *a fantastically advanced* bit of applied electronics." [4]

In displaying this equipment to the United Nations, Henry Cabot Lodge charged that more than 100 similar devices had been recovered in U.S. missions and residences in the U.S.S.R. and Eastern Europe.[5] Jacob Beam, U.S. ambassador from 1969 to 1973, wrote that the "ever-present pressures" or residing in the U.S.S.R. included "physical surveillance, and constant bugging of conversations by various types of concealed devices."

Such Soviet monitoring techniques have been regularly discovered and occasionally publicized during the postwar period. Incidents revealed during the 1980s alone are alarming in their scope and seriousness. In 1982, we verified indications that the new embassy building had been penetrated. In 1984, we found that an unsecured shipment of typewriters for the Moscow Embassy had been bugged and had been transmitting intelligence data for years. In 1985, newspapers revealed that the Soviets were using invisible "spydust" to facilitate tracking and monitoring of U.S. diplomats. In December 1986, Clayton Lonetree's confession revealed that the Soviets had recruited espionage agents among Marine Guards at the embassy. Recently, we found microphones that had been operating in the Leningrad consulate for many years.

Although Moscow had developed over centuries a reputation for severe counterintelligence risks, and although the postwar period was replete with examples of this, U.S. State Department and embassy personnel continued to act like babes in the KBG woods.

The State Department has insisted upon retaining responsibility for embassy security, arguing that it best understands living and operating in a foreign environment and contending that the ambassador must have full authority over all embassy operations. However, the Department historically has been notoriously unconcerned about security issues and even has viewed good security as antithetical to its mission. As Jeane Kirkpatrick once put it, the State Department claimed the right to manage embassy security but failed to fulfill the attendant obligations.[6] For instance, despite the long history of espionage by Soviet nationals employed at Western embassies, the State Department, until several years ago, successfully blocked attempts to ban or drastically reduce use of foreign service nationals.

Scholars have argued that such attitudes are not merely a temporary phenomenon, but have become intrinsic to the organizational culture of the Department. James Q. Wilson has observed that the State Department's core tasks are defined as maintaining relationships and replying to documents, which lead its officers to value diplomacy, hence communication and openness, above all else. Some of us believe good diplomacy requires good security,

"But many diplomats believe that a secure embassy is one that seems closed, uninviting, forbidding. Security means saying little; diplomacy means saying a lot, albeit carefully. Security means keeping foreigners at arm's length; diplomacy means getting to know people by, among other ways, employing them. Some diplomats do not bother to argue the point; they give lip service to security but regard the people, technical devices, and organizational procedures that make up a security system as a bothersome encumbrance that often makes ridiculous demands." [7]

Predictably, Wilson says, security specialists within the State Department are not promoted rapidly, especially if they must compete with foreign service officers, and security considerations have not won scarce financial resources except under prodding from Congress and other outside forces during recent years. Even then, "every outside committee that looked at the matter concluded that the department was dragging its feet." "Secretary of State George Schultz attempted to change this culture somewhat by fixing on each ambassador responsibility for embassy security, but with only limited effect." [8] This outlook may be intrinsic to the diplomatic profession, since, for instance, the Britain Foreign Office behaved in similar fashion during the postwar period.[9]

The primacy of superficial "diplomacy," or temporarily smooth relations, over security was well exemplified in negotiation of the terms under which U.S. and U.S.S.R. embassies were to be constructed. The related, painful discussions dragged out over more than a decade. The Soviets were both obstreperous and patient, to get terms and delays facilitating espionage and other purposes. They succeeded magnificently.[10]

Under the 1969 agreement on exchange of sites, the U.S. allowed Moscow to retain its old chancery once the new one was finished, but relinquished that right for the U.S.; by 1986 we had changed our mind and so notified the Soviets, but they have not yet conceded this reciprocal privilege and doubtless will require concessions for it. In 1972, the Nixon-Kissinger determination to further detente finally overrode what apparently was viewed as quibbling over details, and we finally reached agreement on conditions of construction; these terms also were to have been completed in 1969. We made the fatal error of agreeing to use Soviet labor and materials, and in internal documents the State Department offered three reasons for this: use of U.S. workers in Moscow would allow the U.S.S.R. the same rights here, and this would present counterintelligence problems (a rare example of alleged concern in this respect, which overlooked other, larger counterintelligence problems); Soviet workers might be less costly, especially since Moscow promised full cooperation in providing workers (a promise later freely broken); and the Soviets had built all other foreign embassies in Moscow. This last point is noteworthy: other Western countries have made, and continue to make, the same counterintelligence errors as the U.S.

Negotiations to refine these conditions of construction dragged out another four years, whereupon the two sides finally signed a 1977 Protocol. Although even State Department officers had stressed the importance of maintaining parallel construction timetables and strict reciprocity in operations, in March 1977 the Department allowed the Soviets to begin construction. By 1979, when State finally secured a contract from the Soviet foreign trade firm designated under the agreement, Soviet housing units in Washington were essentially complete, and Soviet diplomats were allowed to move into them. As a result, when the U.S. subsequently ran into many construction roadblocks, its leverage to force contract compliance had decreased drastically. This contract also limited the State Department to nine on-site supervisory personnel, which gave Soviet eavesdropping technicians the run of the place; sometimes, as few as five were present. Charles Perkins, a member from 1976 to 1981 of the Moscow Security Advisory Group, claims that sophisticated measures were recommended to avoid and solve security problems at the Moscow complex; he concludes that most or all of those recommendations must have been rejected by our own people, probably for politically expedient reasons.[11]

In 1983, Congress decided to act on reciprocity problems at Moscow and elsewhere. It passed the Foreign Missions Act, impelled in large measure by a critique of security conditions at our posts abroad and designed to give the U.S. leverage to improve security by providing means to retaliate in kind for poor treatment of U.S. officials and assets abroad. However, the State Department concentrated on the securing of reciprocal personnel and financial benefits, preferring to ignore the intelligence mission. The Foreign Missions Office, which saw counterintelligence as its primary reason for existence, was treated as a pariah within the Department.

Under the first Reagan Administration, National Security Council personnel pushed for greater reciprocity on issues of counterintelligence sensitivity and for more effective embassy security, particularly with respect to the Soviet Bloc. This aroused the ire of U.S. Ambassador to the U.S.S.R. Arthur A. Hartman, who in 1984 sent to Washington a harshly worded classified cable which strongly resisted proposed security improvements. By his own account, Hartman used "colorful language" to stimu-

late a high-level policy review of efforts to reduce Soviet representation in the U.S. to the level of U.S. representation in Moscow. He contended this would amount to a virtual break in relations and represented an attempt by some officials to close down Soviet activities in the U.S. entirely, as well as a willingness to court a shutdown in U.S. diplomatic activities in Moscow.[12] Until he left Moscow in 1987, Hartman continued to oppose, via cables and personal lobbying, security improvements such as removal of Soviet nationals employed at U.S. posts. Although such persons were known to be employed or coopted by the KGB, the ambassador in 1985 made the rounds of Capitol Hill, including the House Intelligence Committee, arguing that the typewriter bugging incident had not been as serious as believed and that other alleged security weaknesses had been overblown, claiming that the embassy could operate securely despite any electronic bugging, and adding that such eavesdropping actually helped him by opening more channels to the Soviet leadership. He also echoed the State Department line that U.S. support staff was unduly subject to Soviet recruitment, unlike professional Foreign Service Officers, and that it was better to employ known KGB workers than to bring to Moscow Americans whose ultimately loyalty could not be trusted.[13]

In this climate, years passed with little improvement in operating procedures at the old embassy and with the Reagan Administration at an impasse over what to do about the unfinished, bugged new facility.

Following devastating terrorist attacks and espionage scandals, the State Department asked a group led by former National Security Agency Director Bobby Inman to study security issues and recommend countermeasures and policy changes. The Inman Report, finished in 1985, listed repeated penetrations of embassies in the Soviet Bloc and recommended an overhauling and restructuring of security organization within the Department of State, including a new Assistant Secretary for Diplomatic Security. In practice, however, State preferred to focus attention on counterterrorism rather than on counterintelligence. A 1985 report by the President's Foreign Intelligence Advisory Board allegedly reached similar conclusions but also had little immediate effect.[14]

Another group headed by Melvin Laird was appointed to study the Moscow fiasco, and in 1987 concluded, among other things, that Ambassador Hartman knew or should have known of problems regarding Marine security guard fraternization with Soviet support staff, but failed to take appropriate action. This report appears to have been quashed by the State Department, which apparently objected to criticism of an ambassador whom it considered exemplary, and to whom a large bonus had been given for outstanding work in Moscow.[15] These attitudes and the passage of four years without a decision on the bugged new embassy infuriated Senator Ernest Hollings, who in April 1987 helped galvanize the Senate Intelligence and Appropriations Committees into demanding demolition of the bugged embassy. Hollings also allegedly suggested that the Attorney General prosecute involved State Department officials for criminal negligence.[16]

Thus, while cultural inclinations within the State Department have contributed to the neglect of security, it is only fair to observe that until recently, no other executive agency was willing to press vigorously for change.

Intelligence agencies also long have neglected counterintelligence, as has been documented by many investigations pursuant to this decade's multitudinous spy scandals. Here, too, some recent improvements have been made, but the more exciting and rewarding pursuit of positive intelligence collection remains the dominant ethos and preoccupation.

The Federal Bureau of Investigation, for its part, sometimes may, for the record, voice its concerns about unwise reciprocal diplomatic arranagements over which it theoretically has some partial jurisdiction. Examples include permitting the Soviets to build an embassy and consulate at points in Washington and San Francisco which were ideal for intercepting communications, and accepting Soviet construction terms within negotiations to build embassies in each other's territory. But while often raising relevant counter intelligence issues for the record, the Bureau seldom makes vigorous attempts to block policies which it feels are unwise from a counterintelligence point of view, because the FBI is ever conscious that it is a relatively small player in the foreign policy arena, and because it does not wish to be accused of obstructionism or provincial myopia.

Another important contributor to the new embassy fiasco was the hubris of US Intelligence, which considered itself the world champion in technical intelligence and believed that it could not be bested, despite indications over the years that this bravado was both false and foolhardy—and not only with respect to the Soviets. If the Soviets planted "bugs," we would surely find and disarm them. Hence the blithe unconcern over negotiations, which allowed Soviet workmen to build the structure using precast Soviet beams and prepoured concrete, with minimal U.S. supervision at the site.

Belated discovery that the Moscow embassy was structurally riddled with eavesdropping devices and that, as reported in the investigation headed by James Schlesinger, we "do not yet understand either the technology or the underlying strategy," was a most deflating shock. Schlesinger testified before the Senate Budget Committee on June 29, 1987 that:

"In past years, the Soviets were sufficiently behind us that we were able to detect penetrations, and neutralize them. That was the assumption in building this facility. We now face a rising curve of Soviet technology, with no gap between what the Soviets can do and what we can do; indeed, in some areas they have been ahead of us * * *. If one permits the Soviets to precast concrete columns and beams off-site, the prime party to blame is not the Soviets, but ourselves. We have presented them with too much opportunity, too much temptation for them to resist * * *.

With respect to both embassy construction and operations, we have a lot to learn from the Soviets."

While even Schlesinger accepted the assertion that U.S. bugging technology long was clearly superior to that of the Soviets, the 1952 incident concerning the bugged eagle, described above, should have been sufficient warning that the Soviets long have been capable of innovative and effective techniques, even of technological leaps. Although Soviet gadgets and gizmos are not consistently what we would consider state of the art in terms of design and performance, the overriding requirements are that they work and, above all, that the target be unable to find them. As revealed in the chronology above, in these goals they unquestionably have succeeded on numerous occasions, and doubtless in many more instances of which we remain ignorant. The American premium on sophisticated wizardy and pride in our overall technological superiority often leads us to ignore the possibility that others could be doing to us the same things of which we ourselves are capable, so we do not take elementary precautions against known or possible techniques. This tendency appears to be abetted by a lack of detailed information exchange between those aware of the latest Western technology advances and those who must defend against penetrations by the Soviets and others. Both turf and security concerns prevent dissemination of information that would enlighten security and counterintelligence personnel.

Most demoralizing and infuriating of all, the waste of hundreds of millions of dollars on the new embassy could and should have been avoided, because U.S. Intelligence had timely warning about Soviet plans. After a 10-year silence, KGB defector Victor Sheymov revealed publicly that during 1980, only six months after construction had begun on the embassy foundation, he repeatedly insisted in the strongest terms that the U.S. should halt work on the building because the KGB planned to riddle the structure with eavesdropping devices, using sophisticated techniques so the bugs would be impossible to eradicate.[18] Sheymov revealed that devices would be imbedded in the prepoured concrete and in the steel beams. In addition, the Soviets would tunnel to the building foundation, and from there the building design would allow the Soviets to channel both listening and video devices all the way to the top floor at times of their choosing, after the walls were constructed. In a third round of redundant penetration, additional devices would be installed in furniture, equipment, etc., as opportunities arose.

Despite Sheymov's acknowledged credibility, construction continued, with attendant cost overruns, for another five years. The first independent confirmation of Sheymov's 1980 warnings was acquired in 1982, but it was not until 1985 that we conducted tests sufficiently persuasive to elicit, finally, a decision to halt construction. Placement of responsibility for the prior failure to act has been disputed. Some claim that the State Department refused to heed Intelligence Community warnings because of its traditional disregard for counterintelligence problems and the wish to avoid a diplomatic row, a long delay in acquiring coveted new quarters and painful renegotiation of the treaty. Others cite the Intelligence Community's naive conviction that it could both find and eradicate all the bugs.[19] Probably it was a combination of both.

Since U.S. intelligence agencies and the State Department have harbored crippling attitudes, it was inevitable that the Soviets toyed with us and for decades exploited our overseas facilities to their substantial benefit. It was, as the saying goes, like taking candy from a baby—time after time after time. Occasionally, we would discover that we were being "had," but until Congress became outraged over the weakness of U.S. counterintelligence and consistently sustained its outrage, pressure and threats over a number of years, little changed.

Following the Moscow embassy scandal, the President's Foreign Intelligence Advisory Board reportedly recommended that sole responsibility for embassy security be taken

away from the State Department bureaucracy and given to a new quasi-independent inter-agency group reporting directly to the Secretary of State and with explicit right of appeal to the President. This "Security Evaluation Office" was indeed formed and physically located at CIA, but it was boycotted by the State Department. There followed a monumental and yet unresolved "turf war" between the State Department and CIA/SEO, with the State bureaucracy still refusing to recognize SEO's right to monitor adherence to standards. As part of its campaign to undermine SEO, State did establish a security oversight group within its Office of Inspector General, which has begun to address some substantive problems.

The State Department's determination to avoid outside oversight on embassy security has been so strong that it declared it was willing to take the entire $270 million for tearing down and rebuilding the Moscow Embassy out of its own already strained budget, if need be; partial funding by U.S. Intelligence apparently would allow unacceptable leverage over policy.

While the executive branch has exhibited indecision on many embassy security and counterintelligence issues, agencies did finally agree that the new embassy would have to be rebuilt. After years of debate, in 1989 they even reached a simmering consensus that the most viable option was to tear down and rebuild on the same foundation. For its part, however, Capitol Hill, which must fund any solution, remains in disarray. Within the House of Representatives, single-minded concentration on financial issues by the Appropriations Committee, as well as the Foreign Affairs Committee's fear of losing authority to the Intelligence Committee, have both abetted executive branch turf battles over responsibility for embassy security and impeded well-considered selection of how to deal with the bugged structure in Moscow. As will be discussed in a second installment, the counterintelligence implications of both the possible alternatives of the delay in implementing a decision sometimes have been accorded little attention on the Hill.

FOOTNOTES

[1] Unless otherwise noted, quotes on this topic within the following paragraphs are from James S. Pacy, "An Essay in Quotes," *Foreign Service Journal* (October 1, 1987), p. 23.

[2] Philiip Shenon, "1940 Memo Criticized U.S. Embassy," *New York Times* (May 27, 1987).

[3] Saul Pett, "Bugged U.S. Embassy Stands—for Now—as a Reminder of the Cold War," *Los Angeles Times* (Feb. 25, 1990).

[4] George F. Kennan, *Memoirs, 1950-1963, Volume II* (Little, Brown & Co., 1972), pp. 155, 156.

[5] John M. Goshko, "At Moscow Embassy, Continuous Shadow War," *Washington Post* (August 22, 1985).

[6] Jeane Kirkpatrick, "Our Colossal Failure in Moscow," *Washington Post* (April 20, 1987), p. A15.

[7] James Q. Wilson, *Bureaucracy*, (Basic Books, 1989), p. 93.

[8] Wilson, pp. 94-95.

[9] Peter Wright, *Spycatcher* (Dell Publishing, 1987), pp. 367-68, 394, 434-35.

[10] See U.S. General Accounting Office, Report to the Chairman, Committee on the Budget, US Senate, *U.S. Embassy, Moscow: Why Construction Took Longer and Cost More Than Anticipated* (October, 1987), GAO/NSIAD-88-23.

[11] Charles M. Perkins, "Where Moscow embassy went Awry," *U.S. News and World Report* (May 18, 1987), p. 8.

[12] Robert Gillette, "Tighter Embassy Controls Not a Cure, Hartman Says," *Los Angeles Times* (May 2, 1987), p. 31.

[13] See, for example: Bernard Gwertzman, "$5 Billion Plan Aims to Protect U.S. Embassies," *New York Times* (Sept. 29, 1985), p. 1; and John Walcott, U.S. Suspected Embassy Spying for Years," *Wall Street Journal* (April 3, 1987), p. 4.

[15] Stephen Engelberg, "Reagan Was Told in '85 of Problem in Moscow Embassy," *New York Times* (April 3, 1987).

[15] See, for example: Richard Halloran, "Envoy is Blamed in Moscow Spying," *New York Times* (Jan. 20, 1988); "Having a Fit," *Washington Times* (July 28, 1987), p. 3; George C. Wilson and Molly Moore, "Ex-Ambassador Shares Blame for Moscow Scaldal, Webb Says," *Washington Post* (May 8, 1987), P. 3; and Bill Gertz, "Officials Claim State Closets Report Criticizing Hartman," *Washington Times* (July 22, 1987), p. A3.

[16] Bill Gertz, "Spy Law May Apply to Negligent Staff," *Washington Times* (May 1, 1987), p. 1.

[17] "For the Record," *Washington Post* (July 1, 1987), p. A18.

[18] See George Lardner, "Unbeatable Bugs: The Moscow Embassy Fiasco," *Washington Post*, June 18, 1990, pp. A1, A21.

[19] For allegations to this effect quoting State Department officials, see Lardner, p. A21.

TRIBUTE TO BURGESS WINTER AND JOHN DORSEY

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. KOLBE. Mr. Speaker, I think it is appropriate today to commend Burgess Winter, Magma Copper Co.'s president and CEO, and John Dorsey, the general manager of mining operation in Superior, AZ, for their innovative efforts to resurrect the copper industry in Superior. Deemed an unprofitable operation during the copper-price depression of the mid-1980's, the Superior mine was shut down in 1982. However, the decision was made to reopen the mine, and, in February, John Dorsey led a team of workers in a massive restoration project that was nothing short of a miracle. Today, the Superior copper mine is running full steam ahead, with the production per man-shift double what it was before the shutdown and the cost of production cut in half. This success was due in large part to Dorsey's fostering of teamwork in the operation of the copper mine.

I commend to my colleagues a feature article appearing in the Arizona Daily Star, September 23, 1990, which tells the comeback story of Magma's copper mine in Superior, and its workers' "Pursuit of Team Excellence" under the leadership of John Dorsey:

[From the Arizona Daily Star, Sept. 23, 1990]

PURSUIT OF TEAM EXCELLENCE

SUPERIOR.—It was something close to a miracle when 20 tons of copper concentrate was shipped out of this old mining camp on the last day of August.

The Superior mine—the birthplace of Magma Copper Co. in 1910—had been all but given up for dead during the copper-price depression of the mid-1980s.

But today, a team of about 300 Magma workers is bringing one of Arizona's richest copper-ore bodies back into production with an innovative work spirit and a visible sense of pride.

John Dorsey, general manager for Magma's Superior Division, is riding in a cage crammed with about 60 miners who are ending an eight-hour shift working about 4,000 feet below the surface of a mountain about 100 miles north of Tucson.

The miners are caked in mud, dust, grease and sweat as they eagerly await a glimpse of daylight from overhead during the six-minute ride to the surface.

Dorsey chats with John Tomerlin, team leader of the day crew.

Tomerlin is a third-gneration Magma miner and a veteran of both the "Old Superior" operation and the company's mainstay complex at San Manuel.

"It's good to be back," he says of the revival of the mine where he worked for nine years before its shutdown in 1982. "But I never thought it would happen," he adds.

Tomerlin says working now at Superior is different. "It's a lot better now. Everybody tries to cooperate and work more as a team."

Johnie Brake, also a veteran of both Superior and San Manuel, agrees that "a lot of things work better" under the new operation. He expresses concern that individual bonuses might be diluted by the team approach, but says any problems can be discussed openly with anybody, up to and including the general manager.

"Pursuing Team Excellence" is the operating slogan at Superior.

RICH GRADE OF COPPER ORE

Although Superior is blessed with an extremely rich grade of copper ore, high production costs eventually cost the jobs of 1,500 people eight years ago when Magna was a subsidiary of Newmont Mining Corp. Pumps were shut off in 1986, allowing the mine to flood with ground water to the 3,000-foot level.

The Superior ore now is grading at about 6 percent copper, roughly 10 times better than the ore at the San Manuel mine, which is mined under radically different methods and on a scale that dwarfs the new Superior operation.

Shortly after Magna became independent of Newmont in 1987, company officials began to consider what could be done with Superior, which was costing the company about $1 million a year as it stood idle.

The options included a sale of the property, taking on a joint-venture partner, or finding a new, less expensive way to bring the mine's riches to production.

Dorsey, a University of Arizona engineering graduate assigned to Magna's corporate planning staff, led a team of people who finally proposed that a new, smaller team of miners could work the rich veins of the mine and send substantial copper concentrates to the huge San Manuel smelter.

The decision was made last October to restart the pumps, bring the water level down in the mine, and take a look at its condition.

What the Magna team found when they first reentered the mine in February was worse than expected, Dorsey says. Acidic water had corroded metal pipes, ruined miles of electrical cable and rotted timbers. Some of the tunnels were thigh-deep in thick mud covering rusty rail tracks.

Collapsed tunnels had blocked some of the mine's extensive ventilation system, which is capable of sending refrigerated air into some of the deep, hot areas where the temperature of the rock walls can reach 150 degrees.

Some of the work had to be done by workers crawling through tight spaces, Dorsey says.

The original clean-out and restoration crew worked under a contract firm. LP Enterprises. But those workers were converted to Magna salaried employees a few weeks ago. A $700 bonus was paid to most of them

because the target date for concentrate production was met "with a few hours to spare," Dorsey notes.

The $13 million restoration project is about two months ahead of schedule, he says, even though the mine's condition was worse than anticipated.

Production is now running at about 500 tons of ore per day, he says, with a target of doubling that by the end of November. Again, a bonus awaits the Superior team if it successfully meets the target.

When Magna suspended Superior's operations in 1982, production was running at about 3,200 tons per day.

Burgess Winter, Magna president and CEO, says he is "absolutely delighted" with the results at Superior. He says production per man-shift today is about double what it was before its shutdown. The cost of production, he says, has been cut in half.

Superior was once considered just a source of feedstock to the San Manuel smelter, Winter says, and little attention was paid to cost. Today, Superior must stand on its own because Magna can and does buy concentrates from around the world for its smelter, the largest of its kind in the world.

Winter says the known reserves at Superior would last eight years under the current mining plan, but "if there is any less than double that, I'll eat my hat." The company is already planning an extensive exploration program for the area.

Dorsey says it is the involvement of the workers in the operation of the mine that is making it a success.

The company "post everything" on the walls of the plant office showing costs, productivity and the potential for profit, he says.

The workers at Superior are, in effect, going to be owners, he says. They clearly understand the correlation between cost and profit.

"You can't have ownership without the knowledge base. We want to publish all our costs and all of our productivity figures. That's what they'll be managing. Their goals are based on these costs and when they exceed those goals, they'll be rewarded."

In the old days, cost figures were kept secret and management seldom asked for input from the frontline workers.

Today, it is not unusual for workers to stop by the office at the mine after a work shift to brainstorm with engineers about how to tackle a problem, Dorsey says.

"Instead of a handful of managers trying to control costs, now we have 30 managers," he says. Workers are careful to choose only the tools and supplies sufficient to do the job, leaving behind more expensive equipment, he adds.

"I want everybody here to know as much about the division as I do. I want them to know what our plans are," he says. "These guys can give you a lot of input if you just ask them."

Walls have been knocked out in the office building near the mine entrance to better handle groups of peole talking openly, he points out. There is no longer a separate changing room for "managers." Between Dorsey and a newly hired miner are three management layers, as opposed to about 15 at the "Old Superior," he says.

All employees get the same salaried benefit package, including retirement benefits and a 401k plan, he says.

Entry-level miners start at a salarly of $350 a week and maintenance miners earn $510 a week. But those amounts can increase from 10 percent to 90 percent under bonus incentives, Dorsey says.

A rigorous employment-screening process is used to select people who can work well in the team atmosphere, Dorsey says. Questions are based not so much on skills as "attitudes," he says, such as what would the employee expect from a supervisor under a given situation.

Work-team members take part in the interview process for new employees. After that, about 40 percent of the prospects fail the company physical, and most of the failures are due to drug-use detection by hair analysis.

Dorsey says everything about the operation is negotiable with employees—except safety.

He estimates roughly half the work force is form the local area.

Doug Nelson, manager of safety, says the contract-mining system at Superior penalizes bonus pay if there is an injury. He says pridefullly that there were no major accidents during the "real tough" rehabilitation.

He said the "Old Superior" had a "not real good safety record." He credits Dorsey with management "genius" in giving workers input into everything. It's a philosophy of "How can we do this job better?" not "You'll do it my way or you're fired."

A STRONG DEFENSE IS STILL VERY MUCH NEEDED

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. LAGOMARSINO. Mr. Speaker, last night we passed the fiscal year 1991 defense authorization conference report. In making the decision as to whether or not it was a good measure that adequately met the national security needs of our Nation, I focused on the threats that still exist and potential threats against which we must be prepared. One of the threats we face today is in the Persian Gulf, namely the aggression of Iraqi Dictator Saddam Hussein. Much has been said about Saddam, his motives, and whether or not he is a unique threat. In this month's Air Force magazine is an excellent commentary which, I believe, gives a very sound analysis of this situation and our future defense needs.

The debate about how much and what type of defense we need for the future is certainly not over. Therefore, I strongly urge my colleagues to carefully review this editorial. I think it makes a very powerful contribution to this debate.

The article follows:

[From Air Force Magazine, October 1990]

THE FIRST THIRTY DAYS

(By John T. Carrell)

In August, just as the nation was turning out the lights on the defense program, crisis struck in the Middle East. Six days after Iraq invaded Kuwait, U.S. Air Force fighters were on location in Saudi Arabia, ready to fight, and a massive airlift had been assembled to delivery ground forces, equipment, and supplies.

At this writing in early September, it is unknown whether the culmination is to be war, stalemate, or some sort of negotiated settlement. Whatever happens, the first thirty days of the crisis should have been instructive.

As David Border put it in a Washington Post column, the crisis shattered a "dangerous myth" that the U.S. no longer needs military strength. It further demonstrated, Mr. Broder said, that "we bought a lot more in the military buildup of the 1980s than the overpriced toilet seats Pentagon critics held up to constant ridicule."

As Mr. Broder points out, the United States is fortunate to have airlift and sealift capacity "that made this deployment a logistic miracle" and weapons that "would be the telling difference if war comes."

Slow learners, however, remain among us. They say the Iraqi despot, Saddam Hussein, is a unique threat, that his military power is overrated, that he can be defeated with relative ease, and that it would be easier yet if our forces had simply, sturdy equipment rather than the esoteric weapons on which we spent our money.

That is hogwash. Of course this threat is unique. Most threats are. Before August 2, the instant experts who now perceive no other threats were not worried about Iraq either.

Of course the United States can defeat Iraq in battle, but we should not expect a pushover. Many of Saddam's weapons are below par, but even the older arms have some military value, and an appreciable part of his equipment—MiG-29 fighters and Su-25 attack aircraft, for example—is modern.

Some of his troops are ragged, but he still has a million of them. The quality of his chemical weapons may be questionable, but it's good enough to put our own forces into hot, bulky, protective gear.

The United States owes its advantage to advanced capabilities. Our aircraft and tanks are better than Saddam's. We can fight at night. We can operate against lethal defenses. Our well-trained forces have the benefit of timely information from airborne and battlefield sensors. We can place power where it's needed.

Analyst Jeffrey Record, who created a furor last spring by suggesting the Air Force had outlived its usefulness, now writes that "we would be stupid to try to slug it out with Iraq on the ground" and that "U.S. airpower could prove the decisive instrument of Iraq's defeat."

It was not necessary to develop the American military presence from scratch. U.S. ships and capable carrier-based fighters were already in the area. Nevertheless, everyone breathed a bit easier once the Air Force and some ground divisions arrived to put more muscle in the order of battle.

The prompt positioning of superior forces stopped Iraq short of uncontested domination of forty percent of the world's oil. The United States says there won't be a war unless Saddam starts it, but that leaves some problems hanging.

Rep. Les Aspin (D-Wis.)—whose House Armed Services Committee voted, two days before the invasion of Kuwait, to cut defense by $24 billion next year—says, "Our bottom line boils down to ridding the world of Saddam Hussein or his army." In Mr. Aspin's view, if Saddam merely pulls out of Kuwait with his forces intact, he can still intimidate his neighbors with raw power that he has demonstrated his willingness to use.

"It would not be long—two to five years, say—before he made his next land grab," observed The Economist. "By the mid-1990s, the West is likely to depend rather more than now on oil from the Gulf, and the

Soviet Union may depend rather less on the good-will of the West. Beating Mr. Hussein then, when Iraq could be nuclear-armed and economically strong, would be much harder."

The crisis caught radical reductions to U.S. defense in the planning stage and the defense industrial base beginning to disintegrate. Neither the defense program nor the industrial base is yet beyond recovery. A wise nation might now reconsider their importance in light of recent experience.

Furthermore, the U.S. should look again at the signals it is sending, especially to those who do not mean us well.

The sobering fact is that deterrence failed in the Middle East.

Perhaps Saddam is a megalomaniac, and no logic would have forestalled him. The more likely assessment, though, is that he "miscalculated" when he invaded Kuwait and threatened Saudi Arabia.

If the second view is correct, what led him to miscalculate and figure he could get by with aggression? Who else, in what situations, threatening which U.S. interests, might also miscalculate—and why?

LET'S MAKE ENGLISH OUR OFFICIAL LANGUAGE

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. EMERSON. Mr. Speaker, Senators RICHARD SHELBY and HOWELL HEFLIN of Alabama have introduced in the Senate legislation that would designate English as our Nation's official language. S. 3179, the Language of Government Act, is companion legislation to H.R. 4424, which I have introduced in the House.

Soon after the Senate bill was introduced, Senator SHELBY submitted an editorial for USA Today, setting forth his reasons for proposing this legislation. The article was published in the October 15 issue of the newspaper. It is a thoughtful examination of the reasons this country needs an official language by a distinguished Member of the Senate. I submit this article for the CONGRESSIONAL RECORD and invite my colleagues in the House to read it and think about this issue in the weeks ahead. And when the 102d Congress convenes, I urge full debate on the language-of-Government issue and passage of this most important legislation. Thank you:

LET'S MAKE ENGLISH OUR OFFICIAL LANGUAGE

WASHINGTON.—I'm from the South. You can recognize it immediately from the moment I open my mouth. What comes out can be described as a "Southern drawl."

Working in the Capitol, I encounter colleagues from all over the country who bring with them ethnic diversity, as well as accents and dialects dramatically different from my own. They come from Hawaii and Iowa, Arkansas and Alaska, Maine and Montana—they have names like Akaka and Murkowski, D'Amato and Breaux, Boschwitz and Metzenbaum. And though thousands of miles often separate us geographically (and sometimes idelogically), we are all able to communicate, to exchange ideas, to even, occasionally, argue about policy.

This is possible only because we all speak English. English is our common language by custom, however, not by law.

Last week, I introduced legislation, in the U.S. Senate to change all that. My bill would make English the official language of the United States by requiring that all official acts of government be performed in English. The bill does not affect language spoken in homes, churches or businesses; it would not interfere with government services in languages other than English for purposes of public health and safety or criminal justice.

The time has come for the United States to formulate a clear language policy. We are a diverse nation, composed of many races, religions and cultures. We take pride in our heritage and recognize that our country as a whole has been successful because of this unique cultural diversity. As this country continues to grow and welcome new immigrants, it has become more essential to preserve our common language—with all its dialects, accents, quirks and subtleties.

America has always been viewed as the land of opportunity. Early immigrants immersed themselves in the whirlwind of this growing democracy, learning the language and customs of their adopted land without losing their cultural identity. They realized that English was the commerce of their new country and that, in order to participate, they had to be able to communicate. Today, we can still foster a national language without sacrificing the positive effects of multilingualism and plural cultures.

My legislation is clearly not the final word on fostering swifter assimilation into our society. We can do more to help immigrants adapt to their new culture and language. We must continue to develop and extend our national and community literacy and language outreach programs. Businesses have also become involved in the goal of training a well-educated workforce capable of maintaining our country's competitive edge globally.

The doors to educational, economic and political opportunity will remain closed to those without the key of common language. This bill isn't about discrimination; it's about fuller participation.

UNFAIR FDIC PREMIUM INCREASE

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. HUBBARD. Mr. Speaker, I have recently received a copy of the October 1, 1990, letter written to Hon. L. William Seidman, the Chairman of the Federal Deposit Insurance Corporation here in Washington, from Ballard W. Cassady, Jr., executive vice president of the Kentucky Bankers Association in Louisville, KY, which I would like to share with my colleagues.

Ballard Cassady has written to FDIC Chairman Seidman with regard to his views concerning the across-the-board premium increase which has just been announced for banks nationwide in an effort to rebuild the deposit insurance fund. I believe my colleagues will be interested in Ballard's comments, especially his views that Kentucky's financial institutions "wish to do our part for America and we will continue to support our industry in every way possible, but America has to support us as well and that can be done through decreasing regulatory burdens so that we can compete more effectively domestically and internationally."

I urge my colleagues to read the comments of this outstanding Kentuckian. The letter from Ballard Cassady follows:

KENTUCKY BANKERS ASSOCIATION,
Louisville, KY, October 1, 1990.

Hon. L. WILLIAM SEIDMAN,
Chairman, Federal Deposit Insurance Corporation, Washington, DC.

DEAR MR. SEIDMAN: It is at times like this that bankers in Kentucky feel out of the "mix" or "decision loop" the most. Our entire assets are only 39.6 billion dollars and our desposits are 31.7 billion dollars (as of December 1989). We realize that those numbers would make a good size "branch" for one of our country's major money center banks.

Year after year we make our annual trip to Washington with our Board of Directors and other bankers from our membership to discuss our statewide banking environment with the FDIC, OCC and Federal Reserve. Year after year we are applauded for the exemplary performance of our banks. It is a good feeling to know that our regulators are proud of our performance, and it also makes us proud to know that playing by the rules has paid off, not in massive earnings, but in strength of assets.

We constantly attend meetings on state, regional and national levels where banking issues are discussed "ad nauseam". We attend strategy meetings for political issues and meet with regulators to discuss the burdensome constraints on banking. It seems we always come away feeling that new laws and regulations are being piled upon us, not for problems experienced in our state, but for problems experienced elsewhere. These are places that most of our consumers have never been, nor have a desire to go. Problems such as time required for cashing checks, life-line banking, Community Re-Investment, and real estate appraisals, just to name a few, are not present in our state. Over 80% of our banks offer some form of life-line banking to fixed income and retired individuals.[1] Our banks contribute over 12 million dollars a year to state and local charities.[2] Our banks offer either immediate or one day clearance on checks in the same Federal Reserve district. And real estate appraisals—what a joke this will turn out to be. Somewhere along the line of bureaucratic genius, someone decided if we had certified appraisals instead of just appraisals on single family home loans that all would be just fine. Their rationale, I suppose, was that even if the economy deteriorated and took a turn for the worse, we could get our money back I guess it's because they are "certified" appraisals). Whoever thought that one up should get two awards—one from the appraisers organization for "service above and beyond to the enhancement of revenue for appraisers" and one from the economist society for "rewriting the laws of economics."

I apologize for straying from my points of discussion, but in all honesty this appraisal bill will go down in history as one of the cruelest jokes ever perpetrated on the American public. It will accomplish nothing except raise the cost of getting a home loan.

The point I am trying to make is that these problems exist in New York or Los

[1] Survey conducted by KBA.
[2] Same as above.

Angeles and in Dallas or Boston—in other words, in the major cities. These problems don't exist in the majority of towns and communities across this great nation. Every time a new law or regulation is put into effect for these minority offenders, it affects everyone and the cost is outrageous. We have always gone along because it was important that our industry provide the best and safest means for the financial needs of the public. If these added cost burdens would help straighten out our "big brothers", then so be it. More often than not, we must absorb the cost for problems created elsewhere and "Big Brother" has no incentive to straighten up.

Now the time has come for us to scream foul. If there are problems in the banking industry they have been due to economic problems, regulatory burdens and the inability of banks to compete effectively with other financial providers due to constraints imposed through Congress and regulatory divisions. They are not problems of fraud and mismanagement as evidenced in the Savings and Loan crisis.

We scream foul because the FDIC thinks that a level across the board premium increase is the answer to rebuilding the fund. Once again, we pay for problems elsewhere. One of our smallest rural bankers approached me recently to say that in the long run many of those states where banks made bad lending decisions, or were caught unaware of econimic downturn, will come out ahead. His example was as follows:

"If you can build a 20 story office building or an industrial complex in Dallas that defaulted and thus caused a drain on the bank and if eventually failed, our fund (BIF) would be used to "clean up the mess." This in turn causes us to receive a higher premium for our coverage here. Nevertheless, when things in Texas get better—and they will—they will have a 20 story building and an industrial complex to facilitate growth and we won't. The state of Texas ought to love it every time a bank or an S&L fails because no matter how you look at it, they made development loans."

I admit this sounds pretty simple, but it also rings of the truth. There has to be a more equitable approach to this problem of returning the FDIC fund to the desired level of $1.25 of insurance coverage per $100 in insured deposits.

I also realize this may sound a little too American but, how about rewarding those who play by the rules and punishing those who don't?

Novel idea, right? How about paying premiums based on capital (i.e., if you have 6% capital, you pay x cents per $100 in insured deposit. If you have 7% you pay X cents minus Y per $100 in insured deposits and gradually decrease the scale as your capital increases). The opposite would happen if you had lower capital (i.e. for 5% capital, you would pay X cents plus Y per $100 in insured deposits and gradually increase the scale as your capital decreases).

We've heard most of the agruments against such a fair system. The "one for all—all for one agrument", the "higher premiums will drive them over the edge argument", etc. We believe it is time that our country start making people and institutions "pay for their own sins", so to speak. Congress and America has seen what support pricing and the refusal to "bite the bullet" has done to us. It's called a 3 trillion dollar debt and it's called the S&L crisis. We ask only to be treated fairly. We wish to do our part for America and we will continue to support our industry in every way possible, but America has to support us as well and that can be done through decreasing regulatory burdens so we can compete more effectively domestically and internationally. It can be done through a fairer disposition of FDIC premium increases and it can be done by changing the examination process from one of confrontation to one of information and assistance.

Mr. Seidman, I will close this letter now. I apologize for the length, but I find this situation to be of great importance to the bankers of my state, as well as myself. If I can be of any assistance to you, please do not hesitate to contact me.

Sincerely,

BALLARD W. CASSADY, JR.,
Executive Vice President.

THE LOGIC OF ABORTION

HON. FRED GRANDY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. GRANDY. Mr. Speaker, I rise today in opposition to the adoption of the D.C. appropriations conference report.

I, like my colleagues from Illinois, Mr. HYDE, New Jersey, Mr. SMITH, Louisiana, Mr. HOLLOWAY, and across the country do not argue that District of Columbia does not need funds, or that this bill surpass its 302(b) allocation. We rise in opposition due to the language contained in this legislation which would permit abortion on demand in our Nation's Capital. Some argue that we are denying them the right that other States enjoy, this may be true. But the fact is that we can, we have, and I pray we will continue to do so, because as my colleague from Illinois has stated so eloquently, I will choose human life over home rule any day that I can.

Dr. Gregory S. Clapper, a professor at Westmar College in my congressional district, has authored a persuasive article entitled "The Logic of Abortion" which effectively illustrates how abortion is fundamentally the killing of an innocent human being. I submit the contents of this article for the RECORD and wish more of my fellow Members were logical and truthful about this issue:

THE LOGIC OF ABORTION

(By Dr. Gregory S. Clapper)

It is easy to become defuddled when trying to take an intelligent stand on the questions of the legality and morality of abortion. If one attempts to evaluate the whole range or arguments which are advanced by the advocates of the various positions, one will soon become bogged down in a muddy swamp of appeals to the Bible, legal precedent and the latest medical speculation. What is needed is an understanding of abortion which has clear ramification for public policy by relying only on criteria which are accessible to all and by requiring no particular religious commitment. In outlining such an understanding, I will focus on whether or not the act of abortion is an act of killing.

Let us first establish that killing is the willful removal of a necessary condition for life. This definition is the result of an analysis of the grammatical behavior of the verb "to kill." When someone has been killed by a bullet or a knife through the heart, for example, one has been deprived of a necessary condition for life, namely, the capacity to have blood pumped throughout one's body. When a person had bled to death, the necessary condition for life deprived that person of his or her blood. When a person has been shot in the head, he or she has been deprived of the brain functions necessary for life. This definition holds for all examples of killing.

Abortion is an act which prevents human life from coming into the world as a full-term baby by prematurely terminating the gestation period of that baby. This gestation period is a necessary condition for human life—no gestation period, no life. Therefore, abortion is act of killing.

Looking at abortion in this way releases us from the sophistry (fostered by the Roe v. Wade decision) of trying to determine whether life starts at the first, third, sixth or whatever month of development. We can take as our standard of life a full-term baby, or even a twenty-one-year-old, without contradicting the view that abortion is killing. For the gestation period is a necessary condition for life of a human being of *any* age.

Now one might wonder, since eggs and sperm by themselves are also necessary conditions of life, is not birth control, then, also killing? The answer is no. Abortion removes a necessary condition from the preexisting causal nexus which, if not interrupted, would have yielded a full-term human being. Pre-conception birth control means choosing not to set the causal nexus in motion. Conceiving a child should be a discretionary action but the time for discretion is before sexual intercourse, not after conception.

It might be said that any argument for abortion-as-killing avoids the "real world" situations that the pro-choice people address. Once we cut through the slogans, we can see the pro-choice version of a moral argument. The say "consider the poor 13-year-old in the ghetto who did not know that sex could make her pregnant, or the 45-year-old woman with three grown children and a recently deceased husband . . . these are the contexts in which the decision for abortion is made."

My only rebuttal is a question: Granted that these situations are tragic, will taking a human life decrease or increase the tragedy? Certainly ethics involves more than logic, but it does not involve less, and we cannot avoid the logical fact that abortion is killing.

It is important to emphasize that I am defining abortion as killing and *not* necessarily as murder. This distinction allows public law to permit abortion in certain specified cases, just as killing is not always judged to be murder and killers are allowed to go unpunished in certain cases (e.g., killing in self-defense). A case might be made, for instance, for a legal abortion when the life of the mother is in danger, for then it is a choice between two lives, and there is no ethical reason always to prefer the younger life in such circumstances.

But exceptions such as the mother's life being imperiled (or where rape was involved) were already included in many state laws *before* the Supreme Court decision and are moral light-years away from abortion "on demand." Whatever specific exceptions society finally decides upon, it is clear that the decision to kill should be controlled by socially determined criteria as set forth by legislative bodies and *not* be left up to the personal judgment of any particular individual. Seeing abortion as an action of killing is

not to be cold to human concerns, it is simply being clear about what is at stake.

Because the birth control techniques that exist today are less than perfectly effective, sex can lead to pregnancy. Outside of cases of rape, women, then, *do* have "control over their bodies:" they can choose to engage in sex or abstain. If they engage in sex they should be prepared, *along with their sex partners*, for either parenthood or the act of killing. What this comes down to is that we are responsible for our actions. This has never been a popular message, but it is one that we must hear and act upon if we are to call ourselves moral.

PRESIDENT BUSH'S VETO OF THE CIVIL RIGHTS ACT OF 1990

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. OWENS of Utah. Mr. Speaker, President Bush's veto of the Civil Rights Act of 1990 is a real blow to the working women of America. In fact, this is a slap in the face to the majority of Americans, because women make up 52 percent of our population.

What this administration has said is that, "No, women do not deserve the right to sue for discrimination in hiring or promotion in the workplace." This administration has said, "Women may only receive court orders to stop further sexual harassments or may receive equitable relief in the form of back pay for cases of intentional discrimination, but that is all."

We all know the conditions women in the workplace face. They are often denied jobs they are qualified for or are not promoted beyond a certain level because of preconceived notions about women in the working world. We know in some places they endured sexual harassment. This bill said stop, enough is enough, these inequities will no longer be tolerated.

Here are some things all of us don't know. According to the Economic Policy Institute, four out of five American families would make less today than 10 years ago if they didn't have working mothers. More mothers today are working, they working longer hours and their incomes are increasingly vital to their families. To put at risk this critical segment of working America to discrimination and harassment, without recourse, is an unconscionable act.

So, Mr. Speaker, I believe this is a hurtful and wrong decision by the President. The civil rights bill was a carefully crafted piece of legislation enthusiastically endorsed by the large majority of Congress. It was refined over many, many months to address the concerns of the President and still it was vetoed. So now, we search for reasons why.

Over and over we heard the President say this measure would force employers to impose hiring quotas. So the language was altered to specifically mandate that, "The mere existence of a statistical imbalance * * * is not alone sufficient to establish a disparate impact violation." About 30 amendments were adopted to make the bill more palatable to the White House. In the weeks leading up to final congressional approval, the bill's conferees accepted additional compromise language with the President's veto specifically in mind. In the end, all was in vain.

Indeed, administration officials such as John Sununu and Bordon Grey tried to include language that would allow "community or customer relationships" as a defense of discriminatory hiring or promotion. I find it outrageous that they would even consider that sort of language as viable and I am not alone.

Civil rights leaders have cried foul. This veto is categorically rejected by the majority in Congress and it is possible that this will be the first veto by President Bush that is overriden. Editorial opinion leaders, including Business Week, urged a Presidential signature. Leaders in the business community who softened their opposition quietly said this appeared to be election year politics. Arthur Fletcher, appointed by the President to chair the U.S. Civil Rights Commission, termed the White House language on "customer relationships" as "an absolute outrage." The National Black Republican Civil Rights Task Force expressed dismay.

And Mr. Speaker, I submit to you that we are all hurt by this veto. The President's decision will hurt women and minorities in the job market and in the workplace. Not only will it be more difficult for them to find employment; once there, their protection under the law will have been diminished. This is not the kinder, gentler America we were lead to envision, and for the sake of decency, civility, and fairness in the workplace, I strongly urge all of my colleagues to join me in overriding this veto.

THE IMPORTANCE OF SCIENCE AND MATH EDUCATION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. RITTER. Mr. Speaker, I want to join my colleagues who earlier rose in strong support of the conference report on H.R. 996, and I congratulate my colleagues on both sides of the aisle and in both Chambers for bringing this package to fruition.

This bill is vitally important, for we are on the verge of losing an entire generation. Not long ago, it was honorable to go into teaching and the scientific and engineering professions. Now our best and brightest young people flock to law and finance. Television reinforces an image of scientists as strange, and gives us role models like the lawyers of L.A. Law and the investment bankers.

Our students' test scores in science and math pale beside those of kids elsewhere. Seventy-nine percent of seventh graders, and well over half of high school juniors, cannot solve a moderately challenging algebra problem. More than half of our students take science courses—if they take them at all—from teachers with inadequate science backgrounds.

There are great opportunities for students to use modern technology. We aren't cultivating our kids' interest in science and mathematics at an early age, and we're losing the kids we get interested. There's an estimated shortfall of over 50,000 scientists and engineers in the United States by 1996, and over 500,000 by the year 2010.

This has wide-ranging impacts. The cover of this week's Time magazine asks "Can America still compete?" The answer is yes, and the key to our future competitiveness is quality. Quality is a management and work philosophy, based on worker involvement, training, education, teamwork, and recognition.

The quality revolution is already here. Major companies—such as IBM, Xerox, Motorola, and Federal Express—are turning to quality to improve the way they do business. The companies that just won the Malcolm Baldrige Award, our highest award for quality, are real American success stories.

Education is the basic building block of quality. You cannot have satisfied, motivated employees who are not educated and trained for their demanding jobs. This is no secret. In Japan and Germany, students prepare intensively in school for their careers.

We need a new human consciousness in this country. We must encourage our students to study science and engineering, by making it more interesting, and by respecting scientists and engineers more.

This bill provides incentives for students to become teachers in science and mathematics. This new corps of leaders will excite others to follow in their footsteps. The bill funds other scholarship programs, and initiatives to accelerate the spread of science and technology in our schools. Perhaps just as important is a recognition that people such as the late president of Sematech, Bob Noyce, are national treasures. Bob Noyce's memory will continue in the teacher scholarship program, which this bill names after him.

This bill is a momentous step forward. Yet there is still so much to be done. Far too few of our students develop a basic understanding of science, let alone the ability to use advanced technology. This scientific illiteracy is a national scandal. All Americans, even those who won't become scientists or engineers, should understand some core scientific concepts.

The time has come for action, and I am proud to support this bill.

INTELLECTUAL PROPERTY AT A CROSSROADS: GLOBAL PIRACY AND INTERNATIONAL COMPETITIVENESS

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. KOLBE. Mr. Speaker, as a vice chairman of the congressional competitiveness caucus, I have become increasingly concerned about a growing trade issue, that is the protection of intellectual property rights within our own country, and abroad.

Protection of intellectual property rights is of vital importance to the health and safety of American consumers and the U.S. economy. All Members should recognize the very important threats piracy of U.S. technology poses to

our economy. The competitiveness caucus, along with the Congressional Economic Leadership Institute has been instrumental in educating Members of Congress on this important issue. Recently, the institute sponsored a lunch for Members of Congress to present their most recent report, "Intellectual Property at a Crossroads: Global Piracy and International Competitiveness."

The report provides a good overview of what Congress has done recently in terms of intellectual property rights and what the Congress will face in the near future, expecially at the conclusion of the Uruguay round. One phrase in the report sums up the critical nature of this problem—"Infringement of America's trademarks, copyrights and patents is robbing the United States of its birthrights—its innovative spirit." This problem goes beyond legal definitions. It is a serious trade concern which costs the American economy billions of dollars every year.

The report notes that the International Trade Commission estimated that U.S. industries lose up to $61 billion per year to foreign pirates. If these figures are correct, foreign piracy of American innovations is equivalent to half the U.S. trade deficit.

Every American company—from startup biotechnology concerns to auto parts manufacturers to software giants—has a story to tell about infringement of its intellectual property. This trade problem is enormous. We should no longer view this issue as a matter just for the Judiciary Committee.

If Members have not seen the institute's report, I urge them to get a copy and read it. I would be happy to provide a copy of the report to any Member who would like one.

In addition, I would like to submit for the RECORD, a copy of the statement made at this luncheon by Chris Steffen, the chief financial officer of Honeywell, Inc. His comments go to the heart of this matter. I recommend my colleagues consider Honeywell's experiences and the real bottom-line effect weak intellectual property protection has on U.S. industry.

REMARKS TO CONGRESSIONAL ECONOMIC LEADERSHIP INSTITUTE AND CONGRESSIONAL COMPETITIVENESS CAUCUS BY C.J. STEFFEN

Thank you Representative Schneider. I want to thank you and everyone else here for your interest in protecting America's intellectual property.

Perhaps because of all its legal and technical complexities, intellectual property has not attracted much attention—until recently.

The Congressional Economic Leadership Institute's excellent new study on intellectual property is just one sign of the growing concern about this issue.

At last, we are recognizing that protecting the rights to our innovations is right up there with all the other big global competitive issues.

I know this from first-hand experience. My company, Honeywell, is a high-technology global company. About a third of our $6.1 billion in sales of control technology comes from international markets. We spend over $280 million a year in R&D. And we are international market leaders in what we do.

But all that high tech, R&D and marketing savvy are not enough. To remain leaders in the global marketplace, we need standardized international rules for protecting our rights to our intellectual property, particularly our patents.

Right now those rules do not exist. Because they do not, Honeywell is losing hundreds of millions of dollars every year to those who steal our patent rights. And the Honeywell story is being replayed throughout high-tech corporate America.

The International Trade Commission reports that piracy of U.S. business's intellectual property adds up to between $43 and $61 billion dollars a year—or 30 to 50 percent of our trade deficit.

You can help us protect our patent rights and, therefore, keep alive our incentive to invest in high-tech research.

Right now, GATT is conducting negotiations in Geneva. One of the 15 issues under discussion—at America's insistence—is intellectual property. On October 15th, all of GATT's 100 or so member nations will submit their final proposals.

At stake for America in the intellectual property negotiations is our "core competency." Every nation has its industrial strengths. Technical innovation is ours.

If they asked America: What business are you in? We would and should answer: We are in the business of innovation.

And the raw material for that business is R&D. Last year, U.S. industrial R&D totaled about $65 billion dollars. This year it will probably reach about $74 billion.

And according to the congressional economic Leadership Institute, about 23 percent of our exports have a high content of intellectual property—versus seven percent in 1950. That reflects the globalization of high-tech.

But the incentive to keep investing money, brains and creativity into high-tech research is being undercut by the disarray of intellectual property laws around the world.

That disarray is manifesting itself in outright theft of patent rights—as well as market-access barriers created by differences in nation's laws governing intellectual property.

For example, Honeywell is now in the home stretch of a lawsuit against the Japanese camera company Minolta for infringement of Honeywell's autofocus technology. Honeywell pioneered and patented the auto focus technology that made the single lens reflect camera practical.

As is pretty standard in high-tech industries, we offered a preview of our autofocus technology to camera manufacturers so they could design prototype cameras. It is clear to us that Minolta engineers used the technology to develop a substitute module, put it in their Maxxum camera and thereby avoided purchasing the Honeywell proprietary product. as a result, Minolta enjoys worldwide camera sales of $1 billion dollars a year.

For obvious reasons, Honeywell is among the American companies who refuse to be innocents abroad anymore. We own our intellectual property. It is about time we all started to act like owners and aggressively defend our rights. In our case, we wish we did not have to do this, especially since our relationship with the Japanese business community, dating back to 1920, has been very good.

In addition to the piracy, America's technical investment is also being short changed by trade barriers created by differences in intellectual property laws around the world.

One kind of barrier comes from what I call "sins of omission." Many developing countries have no or weak protection for intellectual property.

That, in effect, closes off whole countries to us. Why go in with expensive, gee-whiz technology where it is perfectly legal to copy it?

Another type of trade barrier exists because of vast disparities in the developed nations' patent systems.

For example, in Japan, the patent system is based on the first-to-file versus America's first-to-invent. This means the Japanese system does not require a search of existing proprietary technology in the field; the U.S. system does.

In Japan, 18 months after the patent filing, detailed information about the technology is made public. And that is done even before the Japanese Patent Office decided if it will issue a patent. Therefore, we could lose out on both counts—information about the technology an eventual patent protection. In the U.S., patent information regarding a technology is confidential.

The upshot is: Frequently American companies find they have little practical choice but to license their inventions in Japan rather than manufacturing or selling them themselves. That can significantly limit potential revenue. It can also undercut the incentive to keep investing in R&D.

In addition—and this is important—the shape of intellectual property laws in Japan and other countries—what they cover or do not cover—is also shaping American companies' decisions about what technical research to pursue. As a result, America could wind up losing its leadership position in whole areas of technology where we have plenty of runway left; for instance, bio-engineering, information resources and opto-electronics.

Thus, American business needs the GATT talks to produce a strong intellectual property agreement. A strong agreement must have four components:

One, there have to be common standards for protection of all types of intellectual property—patients, copyrights, tradmarks and trade secrets.

Two, there has to be a common international patient system. This may require, of course, some legislative changes in our system.

Three, timely resolution of disputes. This may require initiatives to speed up our own patent and judicial processes.

And, four, and most important, is the enforcement piece—border controls. Infringing goods should be seized at the border. The enforcement part is key because, there, as in most trade sanctions, it can act as a deterrent.

Obviously, and GATT agreement will have to be phased in. During the interim, we need to hold onto whatever protection we are getting from U.S. trade laws.

Those trade laws recognize that international patent infringement is not just a commercial matter; it is a matter that has to be settled between governments.

One especially powerful trade law is the amended Section 337 of the Tariff Act of 1930. Section 337 allows U.S. companies to seek redress with the ITC if they have made a substantial investment in developing patented technology or have made a significant effort to license it. That means that companies do not have to actually manufacture the product to have standing under U.S. trade law.

Why is this important, R&D can take many paths and not all of them have to go the whole nine yards to actual product development. In itself, the technology can become the tradeable commodity. Section

337 addresses this growing trend in America's high-tech sector.

Under Section 337, a company can petition the ITC to review a suspected patent infringement. A ruling is made in 12 to 14 months—versus the years involved in going through the U.S. courts. If infringement is proved by the ITC, the product will not be imported to the U.S.

During the horse-trading at GATT, it is imperative that 337 not be traded away. Right now, the ability to stop infringing goods at our border is the best thing we have not only to halt the piracy but also to give other nations the message: "Hey, guys, don't even think about it!"

When GATT comes up with an agreement, you in the Congress have to pass legislation implementing it. If that agreement does not offer strong protection for intellectual property, then forget about it. A bad agreement is worse then no agreement. And that is because, with any agreement, there will be pressure for us to give up Section 337.

At GATT, the stakes for America's high-tech sector are high. And so are the opportunities. For instance, trade in goods and services withhigh intellectual-property content will continue to soar. That will ease protectionist pressures to reduce imports and allow us to go on the offensive to boost our exports.

The business of America and of Honeywell is innovation. To be in that business, our country spends $130 billion dollars a year in higher education. And we invest $140 billion dollars a year in government and industrial R&D.

Depending on what happens at the GATT, the innovation business will get better or get worse. With your help, it can get a whole lot better.

We at Honeywell ask you to communicate once again to the administration what we need to protect our intellectual property, as well as the urgency of this issue. This may well be our last chance in this century to get a global agreement in this critical area for America.

WHO WILL PAY FOR THE BIG ONE?

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. DREIER of California. Mr. Speaker, Wednesday, October 17, marked the first anniversary of the Loma Prieta earthquake, which devastated the San Francisco Bay area. The likelihood of a massive earthquake in a number of States is a real concern to seismic experts, engineers, and policymakers. The recent activity along the New Madrid Fault is a grim reminder that earthquakes are not a California-only problem. Overall, 39 States are at risk of potentially serious earthquakes in the future.

The following article from today's New York Times makes a compelling case for creating a Federal earthquake insurance program to mitigate the personal, physical, and economic consequences of future catastrophic earthquakes. Equally important, a Federal earthquake insurance program would prefund, with Government assistance, what most everyone acknowledges to be a massive contingent liability that will result from future catastrophic earthquakes.

[From the New York Times, Oct. 24, 1990]

(By Peter Passell)

WHO WILL PAY FOR THE BIG ONE?

The earthquake that slammed through the San Francisco Bay area in October 1989 killed 62 people and destroyed $5 billion worth of property. The next time the earth's giant tectonic plates slip a few yards, both people and property may be at far greater risk.

By Government estimates, a quake hitting the wrong place at the wrong time of day could kill up to 95,000 and leave a $100 billion cleanup bill. Los Angeles and San Francisco are prime targets, of course. But the peril is hardly confined to California; the Federal Emergency Management Agency believes that Seattle, Salt Lake City, Memphis and Charleston, S.C., are also at "major" risk.

If the Big One hits—make that "when" it hits—who will pay? Even in California, relatively few property owners are covered by earthquake insurance. But Robert E. Litan, an economist at the Brookings Institution, estimates that damage from quake-related fires and injuries could still result in up to $50 billion in insurance claims. Honoring these claims, he argues, could severely deplete insurers' reserves, driving some into bankruptcy and turning others into risk-taking zombies.

Mr. Litan's preferred fix, described in the latest edition of The Brookings Review; mandatory Federal earthquake insurance, with premiums set to cover actuarial risks.

Just one California property owner in four carries earthquake insurance; nationwide, the figure is below one in 20. If such insurance is available and most people choose not to buy it, why should the Government insist?

One reason, Mr. Litan suggests, is that the private market overprices the product. Only those at greatest risk currently buy coverage, and insurers are apparently unwilling or unable to attract lower-risk customers with lower premiums.

Another reason is that owners have insufficient incentives to pay for insurance because the Federal Government stands ready to reimburse them for a portion of their losses. American taxpayers, Mr. Litan reckons, shelled out $17 each for disaster relief in last year's San Francisco quake.

Uncle Sam could play hardball, giving legal notice that in the future the Treasury would help only those who help themselves. But the threat would probably not be credible; Americans are no more likely to deny relief to uninsured victims of an earthquake than they are to deny medical care to injured motorcyclists who did not wear helmets.

A third and perhaps most compelling reason is that casualty insurers are poorly geared to bear the earthquake risks already on their books. A not unlikely $50 billion hit, Mr. Litan calculates, would drain the industry of about 40 percent of total reserves. Some insurers would go bankrupt; others would be forced to raise rates sharply to meet regulatory requirements.

The process might be manageable in theory, but would certainly be problematic in practice. Mr. Litan, a longtime analyst of the savings and loan debacle, worries that earthquake losses would be injurious to the casualty insurers' financial health, much the way the interest rate squeeze of the early 1980's started savings and loan associations down the path to collective ruin.

When faced with the alternative of double-digit premium increases, he believes, vote-conscious regulators might allow insurance companies to operate with low (or negative) net worths. And once insurers were deep in a financial hole, they would have powerful incentives to generate premium revenues by taking ever greater chances.

Mr. Litan favors legislation that would effectively require anyone who wanted a home mortgage to buy Federal earthquake coverage. The bill, sponsored by Representative Al Swift, a Washington Democrat, and David Dreier, a California Republican, would set premiums according to actuarial risk. Buildings designed or modified to minimize quake damage would get a break on rates.

The average premium in California for a no-deductible policy, Mr. Litan believes, would run between $104 and $194. In Memphis and Charleston, the same coverage would run from $15 to $28.

Federal earthquake insurance would still leave private insurers with enormous exposure to quake-related claims for fire, disability and death losses. The Swift-Dreier bill would cover the gap with Federal reinsurance, giving private insurers years to spread the costs across their premium base.

Federal involvement is no panacas. If Washington's record in insuring farm crops is a precedent, setting premiums at actuarily sound levels would prove very difficult. But one way or another, Mr. Litan argues, Washington to going to bear a lot of the cost of the Big One. Any step that forces property owners to protect themselves is probably a step in the right direction.

IN REMEMBRANCE OF EDWARD J. ALLEN—LAW OFFICER, POET, AND PRO-LIFE ACTIVIST

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. DORNAN of California. Mr. Speaker, on January 6, 1990, a heroic man, Edward J. Allen, died. He lived a long, productive and giving life.

Edward Joseph Allen was born November 13, 1907, in Erie, PA. He grew up in that southwestern Pennsylvania city and, on May 26, 1937, he married his hometown sweetheart, Dorothy Mae Davenport. They were blessed with two children and six grandchildren. Ed began his career as a patrolman in Erie and later worked with the FBI during World War II to assist Federal agents on investigations concerning sabotage, espionage, and subversion. After the war, he attended the FBI National Academy and in 1948 became police chief of Youngstown, OH.

In Youngstown, Eddie teamed with a reform-minded mayor to drive the Mafia influence from that city. His efforts won him national recognition and Youngstown the "All-American City" Award in 1950. Later, in 1963, he published a book, "The Merchants of Menace," which analyzed Mafia activity in the United States.

He went on to become chief of Ohio's Department of Liquor Control and in 1955 was

selected from a nationwide field of candidates as chief of the Santa Ana Police Department. He served with distinction in this position until August, 1972 when at 65 he was forced into mandatory retirement. The chief was known as a competent, hard-nosed dedicated police officer. He was a critic of a lax judicial system and an advocate of local control and appropriate punishment. Over the years, Eddie was able to blend the old police traditions with new police methods. In doing so he never abandoned the tough, bedrock principles that have characterized his personal and professional life.

He was active in the church. He served as a lector at St. Joseph's Catholic Church in Santa Ana and also established a "jail ministry." Twice each week Eddie, along with a parish priest, headed to the local jail to spread the word. He was past-vice president of the Holy Name Society for the diocese of Los Angeles. And, from 1985 until his death, he served as a member of my congressional advisory board on religious affairs.

Edward J. Allen was also a hero within the Orange County pro-life movement. Long before the courageous men and women of Operation Rescue began to receive recognition for their work, Ed stood on the front lines. While peacefully picketing an abortion mill, run by the infamous Dr. Allred, he was arrested for trespassing when he entered the office in an attempt to get an appointment with the clinic manager. He refused to plea bargain and spent time in jail—reflecting and praying. He wrote many poems during his life-time, but his poetry of his later days reflects his dedication and devotion to the antiabortion movement.

Mr. Speaker, Eddie Allen was truly a man worthy of emulation. He was an exemplary civil servant, a loving husband and father, a protector of the innocent preborn children and a humble servant of the Lord. I would like to share with you several of the poems, Mr. Allen wrote and urge you to ponder the words and the meaning they have for all of us:

THE UNHEARD VOICE

Mute and silent, lost and alone,
I walk amid the throng, unknown,
My world is hushed and calm and still,
Could I communicate at will
Your world would know a boundless heart
With all the love it could impart. . .
Withal, I needs must try and try
With yearning hands, appealing eyes,
To halt the crowd and make it hear
The voice that purls within my ear,
It speaks a silence I would shout
To drive the raucous turmoil out. . .
Your world is deaf much more than I,
It does not hear my muted cry,
It does not hear the voice I hear
Whispering in my inner ear
As silently His path I trod:
"Be still, and know that I am God!"

EDWARD J. ALLEN.

GAOL-HOUSE SOLILOQUY

(To All Imprisoned Pro-Life Activists)

My Wash-Bowl, my Bunk-Bed, my Toilet, and I,
This elegant trio, as time passes by
Are compeer companions who silently stars
As Breakfast and Lunchtime and Dinner we share:
I can't do without them, I need them, all three,
But they'd get along (better still) without me!
For "they also serve who just stand and wait"
For my brothers and sisters who share my own fate:
Us Prisoners All, in His service agree,
As Wash-Bowl and Toilet and Bunk-Bed serve me!
My wan, watchful walls, my ceiling, my floor,
All likewise commune behind our locked door,
Content and serene, they shall stoicly stay,
'Til one day, like me, they shall wither away,
Back to the dust of the earth whence we came
'Til the Trumpet shall sound, and He calls us by name!
Thus oftly I muss as I sit here alone:
They all serve their purpose, but what of my own?
Have I served as well as my cell has served me?
—Ah no, trio mio, 'tis grave Mystery:
Thou hast never sinned against Him Who made thee,
While all of us "humans" have sinned grievously!
Thou art void of Reason, yet servants of Love,
Hence servants of Life, your Creator Above!
While "intelligent" women and men on His earth,
Are denying His children the Right to their birth!
Dear God of our Fathers, howe'er could this be?
That "Courts" would consort with the powers-that-be
In the dark nether-world, with such deviltry
That they savage the wombs of Thy children-to-be?!
For O, my companions, locked in here with me,
These "least" of His Image would serve Him like thee,
E'en though void of Reason until they mature
To know Good from Evil, for Ay to endure
By making the "choice" of serving God's Will,
As thou hast served mine, my needs to fulfill:
Stalwartly! True!—and Obediently,
My lowly and loyal and lorn trinity!
My Wash-Bowl, my Toilet, my Bunk-Bed,-and I?
Still loyal to Life and to Love 'til I die
But to live in "the nurseries of Heaven on High!" [1]
(I was born on the day Francis died: November 13, 1907)

Man is the creature of God's Holy Breath:
It ill becomes Justice to give birth to Death;

ABORTING JUSTICE

The lawyers [1] and the judges play their game:
Just how you "phrase" the question, that's the thing!
To block the Truth both sides go laboring to quash the truth in toto, hence defame
The Name of Justice, and in winnowing
The blinging chaff of "legalese" they bring
The sacred oath they take to utter shame!
With Life or Death of Innocents at sake,
The Right to Life is our Creator's Cause!
Where lies the guilt when courts of "Justice" make A mockery of His Immortal Laws?
If not in Truth, then courts of Justice lie,
Whence "nothing but The Truth" they crucify!

EDWARD J. ALLEN.

TO THE U.S. SUPREME COURT

(It's subsidiaries and the American Medical Association and Dr. Allred)

O ye, who spurn thy Maker's Sovereign Will,
To intercourse with Satan's Sinful Seed,
Begetting in thy dark of mind his Creed:
His salivating lust of flesh to fill:
That male and female have the right to kill
The images of God, in word and deed,
The Hinnon Valley's fetid flames to feed
The maw of Moloch: Mod Abortion Mill!
Ah, knowest not whose life thou dost abort?
Fall on thy knees, thy Maker to implore!
It is thine own that you are cutting short!
Confess thy Sins, then rise, and sin no more!
Attempts to save God's littlest one's a crime?
Thou dost give birth to Evil in our time! [1]

EDWARD J. ALLEN.

From Orange County Jail, 7-23-1986.

[1] Francis Thompson: "My song I do but hold for you in trust, I ask you to but blossom from my dust: . . . Pass the crystalline sea, the Lampads seven: Look for me in the nurseries of Heaven!"

[1] Luke 11:46/53.

[1] Ezekiel 3:17/23 (The Prophet as Watchman).

PANAMANIAN RESISTANCE TO FINANCIAL CRIMES MUTUAL LEGAL ASSISTANCE TREATY MUST BE ADDRESSED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 199

Mr. RANGEL. Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, I have an abiding interest in Panama in the area of drug trafficking and money laundering. Therefore, I am deeply concerned about recent Panamanian resistance to efforts aimed at cleaning up their banking system, which served as a drug and money-laundering center for years under General Noriega.

A Mutual Legal Assistance Treaty [MLAT], initialed by Panamanian and U.S. officials in August, was designed to give our officials greater access to evidence and information from Panamanian banks. The pact, which is subject to approval by the Panamanian National Assembly, has met opposition from officials in the Government and banking industries. Panamanian businessmen fear that the agreement would ruin the country's lucrative position as a tax haven and dollar-based financial center, while Government officials see it as a violation of their national sovereignty.

However, as American diplomats and law-enforcement officials have repeatedly noted, similar agreements between the United States and thriving banking nations such as Switzerland, the Bahamas, and the Cayman Islands already exist.

I am aware that there has been progress in the area of interdiction and confiscation of narcotics passing through Panama. However,

the overall problem of narcotics trafficking and money laundering persist. I am disturbed, for example, by a recent report by the Department of State which suggests that narcotics trafficking activities have continued unabated in outlying areas of Panama, and that money laundering activities are also continuing, despite Government' efforts to tighten restrictions. This same State Department report indicates that these failures are at least partly attributable to weaknesses in the Panamanian Governments drug fighting apparatus, which is, understandably, still in the process of rebuilding and reorganization. There may also be breakdowns in necessary cooperation between the relevant Panamanian and American agencies involved in the fight against drugs.

I am also concerned that objection to the MLAT to combat money laundering is a result of political infighting among Government officials and conceivably by those in Panama who are involved in money-laundering or other illegal financial practices. The opposition to the measure is strong. If submitted for formal legislative approval, it is understood this agreement would be defeated. However, reaching an agreement on this treaty that covers money-laundering and other financial crimes is critical to United States-Panamanian cooperation on narcotics control.

At this point, I would insert in the RECORD an article that appeared in the New York Times on October 22, 1990, that discussed Panamanian resistance to the financial crimes MLAT:

[From the New York Times Oct. 22, 1990]

PANAMA RESISTING MOVE TO CLEAN UP BANKING SYSTEM

(By Mark A. Uhlig)

PANAMA, October 21.—American officials are encountering unusually stiff opposition from Panamanian Government aides and businessmen in efforts to crack the shell of secrecy, and presumed illegality, surrounding Panama's multibillion dollar international banking trade.

When United States troops invaded Panama 10 months ago and deposed the leadership of Gen. Manuel Antonio Noriega, American officials felt that they would get cooperation and information on banking activity, including illegal money-laundering, much of it related to drug trafficking.

But while most Panamanians welcomed American help in ousting General Noreiga, efforts to forge closer cooperation between the two countries in fighting money-laundering and other financial crimes are being opposed.

PRELIMINARY ACCORD DENOUNCED

A preliminary American-drafted Mutual Legal Assistance Agreement intended to give United States officials greater access to evidence and information for Panamanian bank accounts was initialed by the two Governments in August.

But the agreement, which must be approved by the Panamanian National Assembly to take effect, has since become the subject of a bitter national debate here, provoking public denunciations from Government officials who say that it would violate Panama's national sovereignty, and from businessmen, who say it would ruin the country's lucrative position as a tax haven and dollar-based financial center.

"One of the main problems of the agreement is that it would end our ability to have deposits, from the United States or any other country, based on a secret agreement with the bank," said Guillermo Fernández Quijano, vice president of the Panamanian Chamber of Commerce. "We are against illegal activity anywhere in the world, but we have to be reasonable about our banking system."

American diplomats and law-enforcement officials have repeatedly discounted those objections, noting that similar agreements already exist between the United States and thriving banking nations like Switzerland, the Bahamas and the Cayman Islands.

They say that the pact is a minimial step toward restoring the integrity of Panama's banking center after years as a drug and money-laundering center under General Noriega. And they note that Panamanian bank deposits have rebounded by as much as $2 billion this year, to a total of about $14 billion, despite uncertainties over the new accord.

But the outcry, led in part by Foreign Minister Julio Linares, has forced the Government of President Guillermo Endara to repudiate the preliminary agreement, and American officials now acknowledge that the agreement would probably be rejected if submitted for formal legislative approval.

"There is a misunderstanding of what this is all about, and a vastly exaggerated reaction about what its effects might be," the United States Ambassador to Panama, Deane R. Hinton, said.

"Politically, it makes it difficult," Mr. Hinton said in an interview at his residence overlooking Panama City. "We want an agreement that will work, and an agreement that won't be ratified won't work."

PATTERN OF CONNECTIONS

Tensions have been heightened on the Panamanian side by provisions that make progress on the legal assistance agreement a condition for $84 million of the $420 million in United States aid to Panama that was approved by Congress this year. That linkage has inflamed nationalist sentiment, creating what many Panamanians describe as an American-imposed choice between the aid and the prospect of long-term damage to the banking industry.

Panamanian businessmen and some officials also denounce what they say are American attempts to extend the agreement beyond money-laundering to "fiscal crimes" like tax evasion, which many concede is a central motivation for foreign depositors who place their money here.

"If the proposed accord was limited to drug-trafficking and money-laundering it would have been signed a long time ago," Mr. Linares said in a speech this month.

But diplomats and American officials say that the proposed accord, which has not been made public, would cover tax-evasion cases only at the discretion of Panamaian authorities. And they express concern that nationalist objections to the aggrement have been spurred by political infighting among Government officials and by Panamanians with vested interests in money-laundering or other illegal financial practices.

"You look at all this and there seems to be a pattern of connections," Mr. Hinton said, referring to banks that have taken the lead in opposing the new accord. "You have to ask yourself: Are they trying to protect criminal activities even though they are not criminals?"

BANKERS LOBBY AGAINST BILL

For Panamanians, any stigma associated with publicly opposing the pact, and thereby appearing to support money-laundering or other crimes, has been largely diluted by the nationalist sentiment. And bankers have lined up to lobby with President Endara against the bill.

But against the weight of American aid restrictions and diplomatic pressure, officials on both sides say that the dispute cannot remain stalemated indefinitely. And even Panamanian experts say that the final issue will not be whether the banking industry chooses to accept some degree of outside scrutiny, but how and under what terms.

"Panama will outgrow the money-laundering problem and remain an important center of international banking operations," predicted Nicolás Barletta, an economist and former Panamanian President who was instrumental in creating the country's liberal banking legislation in 1970. "It is in the national interest to Panama to get rid of money-laundering and to fight it with all we've got."

UNLEASH PAPERWORK WATCHDOG

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. HOLLOWAY. Mr. Speaker, with Congress passing new legislation and Federal agencies promulgating sweeping new regulations at a dizzying pace, control over Federal paperwork burdens has never been as important. In 1988 alone, small owners spent nearly 1 billion hours filling out Federal forms at a cost of over $100 billion—SBA survey. Now is not the time to back off from the Federal Paperwork Reduction Act and to allow the Government's paperwork watchdog to remain unauthorized. The House began that process a few nights ago and a superior Senate bill should be working its way back to this Chamber before we recess. Let's move ahead and ensure that small business owners are not overburdened by Federal paperwork requirements. I am submitting a column by John Sloan, president and CEO of the NFIB, which explains many of the problems facing small businesses in the area of Federal paperwork:

[From the Small Business Angle]

UNLEASH PAPERWORK WATCHDOG

(By John Sloan)

Washington specializes in making nasty, boring or tedious jobs sound more pleasant than they are. Take for example "information requests." To the rest of the country, they are called government forms, usually completed by business owners wearing sour expressions.

It's the rare person who enjoys filling out forms. The groans heard around tax time are as loud about completing the 1040s and schedules A and B as much as for shelling out money to Uncle Sam. (The Treasury Department, the parent of the IRS, imposes three times the paperwork burden of any other federal agency.)

The Office of Management and Budget estimates that collecting, reporting and maintaining files for all federal information requests to be completed in 1989 would keep 850,000 paper pushers employed full time—1.7 billion work hours.

Small-business owners put in nearly a billion of those hours, according to the Small Business Administration. In addition to completing the lion's share of federal requests, these forms and regulations are far more costly to small firms than to their large competitors. Small-business owners, on a per-employee basis, pay triple the amount large firms do to complete federal paperwork.

In 1980, Congress addressed this burden by passing the Paperwork Reduction Act. The act set up a watchdog office within the executive budget office to sniff out unnecessary and redundant rules and forms. The watchdog, called the Office of Information and Regulatory Affairs, estimates that paperwork has been reduced by 500 million hours since 1981, translating into a saving of $10 billion a year.

Both critics and supporters of the office question those estimates. Members of the National Federation of Independent Business see federal paperwork increasing at an alarming rate. The sensible policy response would be to provide small business with a more powerful paperwork watchdog.

But Congress, instead of giving the information office more teeth, has left it in limbo. Lawmakers did not act before the statutory deadline of Sept. 30 to keep the office officially funded.

The funds were allowed to expire because some consumer and labor groups believe the watchdog vetoed some forms for political reasons. The groups launched a campaign to eliminate the office, gutting the paperwork reduction law.

In evaluating forms and rules, the office checked for unnecessary and redundant demands and applied a "practical utility" test. Practical utility is Washington jargon for using all information collected.

The critics said they wanted to know why forms were rejected. That's reasonable. The law could have been changed to accommodate this request rather than killing the whole paper work-reduction program.

Small-business owners need a scrappy junkyard dog to make a real dent in federal forms, but a paperwork Poodle is better than no watchdog at all. If consumer and labor groups had to wade through the mountain of repetitive paperwork that small-business owners do, they'd soon be howling too.

THE ABSENCE OF HUMAN RIGHTS IN IRAN

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. DYMALLY. Mr. Speaker, as the United Nation's second investigating team, headed by Mr. Rynaldo Galindo Pohl gets ready to publish its second report on human rights violations in Iran, I hope this second report will not be a repeat of the earlier pohlwash.

Mr. Pohl's earlier report to the Secretary General maintained that there has been no public executions in Iran for a period of five months, when all he had to do was to read current official Iranian newspapers which boast of public beheadings and hangings. A cursory look at some of the regime's press shows at least 382 individuals who were hanged or beheaded publicly. Just in the 6-week period starting the beginning of September and ending the middle of October, 175 public executions were officially reported in the State-controlled press.

It is widely believed though, that Khomeini's heirs in Tehran had executed hundreds of political prisoners publicly as "drug dealers". Reports from Iran confirm this fact as one of the regime's latest victims reportedly shouted moments before his public execution, "I am a political prisoner and a Mojahedin sympathizer."

It would be very unfortunate, indeed, if the UN would accept a repeat of the earlier report, thereby calling into question its own credibility as the world's body for resolving international problems according to international law and universal principles.

At this time I would like to share with Members of this distinguished body, statements made by officials of the Rafsanjani regime which provide further evidence of the Iranian Government's endorsement of public executions:

STATEMENTS BY OFFICIALS OF THE IRANIAN GOVERNMENT

Moghtadia, Head the Supreme Court, Tehran Radio, May 27, 1990: "We must cut off thieves' hands, i.e., the four fingers must be amputated from the right hand at the joints, and the thumb and palm remain intact * * * Because the act of thievery is committed with the right hand * * * And this will expose and humiliate the thief as long as he lives."

Moghtadia, Head of the Supreme Court, Tehran Radio, Dec. 31, 1989:

"We were discussing the abominable and shameful act of sodomy. Both sides involved in this act are sentenced to death. But the religious judge is given 5 different options as to the way in which the death sentence is carried out:

"1. Beheading by sword.

"2. Stoning.

"3. Throw them down from a height, such as a cliff or from the top floor of a tall building.

"4. Bring down a wall on top of them such that they are killed under the debris.

"5. Burn them alive.

"It is even permitted that any one of these punishments is carried out in conjunction with burning. That is, first behead or throw down or stone to death or kill under the debris and then burn the corpses."

Assadollah Badamchian, Political Deputy for the Supreme Court, Ressalat, June 25, 1990: "When a killer is executed or stoned before a large crowd, it creates, fear among the people and prevents them from committing murder. For this reason, the religious law has recommended public executions in certain cases."

GROWTH OF WOMEN-OWNED BUSINESSES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. LAFALCE. Mr. Speaker, as chairman of the Committee on Small Business, I held a series of hearings in 1988 on the rise of women entrepreneurs in the American economy and on the obstacles to growth which their businesses face. As a result of those hearings, I introduced the Women's Business Ownership Act which—2 years ago today—was signed into law by the President.

I am pleased to report that the key provisions of that law have been successfully implemented in the intervening 2 years. Briefly, they include the creation of a national women's business council, the establishment of a pilot program for training women entrepreneurs, the institution of a small loan program in which the Small Business Administration guarantees loans up to $50,000, and the revision of the Equal Credit Protection Act to increase protections for commercial borrowers.

My awareness of the important role women business owners play in the economy was heightened during preparations for the 1988 hearings, by the testimony I heard from witnesses, and the many meetings I had with women entrepreneurs and other experts while drafting the Women's Business Ownership Act. I would suggest, however, that in the country at large the impact and significance of women entrepreneurs as a group have been largely underestimated.

I hope that this will change with the publication of a report released this month by the Bureau of the Census entitled "Women Business Owners." Based on figures from the 1987 economic census, this survey documents that women-owned businesses are a vital sector of the American economy: They grew in number four times faster than all businesses during the period of 1982–87.

Other highlights of this survey are well worth reporting here. They include: Between 1982 and 1987, the number of women-owned firms increased 57 percent; between 1982 and 1987, the number of women-owned firms with paid employees nearly doubled; women are showing significant gains in nontraditional sectors such as manufacturing and construction; and women own 30 percent of all U.S. companies.

If there is strength in numbers, the trends for women entrepreneurs as reported by the Census Bureau are clearly encouraging. Indeed, to underscore the progress, I would like to point out that, prior to the 1970's, women owned less than 5 percent of the Nation's businesses. Nonetheless, there remains work to be done. For example, the Bureau's findings show that only 15 percent of women-owned firms had paid employees.

Mr. Speaker, the national women's business council is scheduled to issue its annual report to the Congress at the end of the year suggesting goals and initiatives which it deems necessary to remedy the real—but often subtle—barriers that still block women entrepreneurs from full participation in the economic mainstream. I look forward to analyzing the council's recommendations and taking appropriate legislative actions in the next Congress to effect public policies which will capitalize on this dynamic sector of the economy. We can afford to do no less.

GEORGE BUSH VETOES THE CIVIL RIGHTS ACT OF 1990

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. MFUME. Mr. Speaker, last night President George Bush vetoed the Civil Rights Act of 1990. From this day forward, I think that it should be known that the President, not Congress, failed the American people and killed this bill. George Bush now joins Andrew Jackson and Ronald Reagan as the only Presidents to veto important civil rights legislation.

The Civil Rights Act of 1990 was introduced at the outset of the second session of the 101st Congress. President Bush and his advisers had almost a full year to submit their proposed amendments and recommendations to this bill since it was he who had problems with the bill. Instead, all we received was hollow rhetoric about how this bill would force employers to impose employment quotas and that this is a bad bill.

Mr. Speaker, the President's latest veto is a shallow attempt to make Congress look like the culprits on this issue. I have said all along that President Bush had no intention of passing a civil rights bill. The proposal he offered Congress this week is the son of the rejected Michel-Kassebaum alternative.

Mr. Speaker, President Bush's proposal missed the mark about what the Civil Rights Act of 1990 aimed to do. The President's proposal does not overrule the primary provisions of the damaging Wards Cove decision and effectively overrules the Griggs decision and every other Supreme Court ruling striking down job bias and discriminatory employment effects.

It is unclear who the President was defending regarding his position on this bill. His popularity with many segments of the voting public is very high. Nonetheless, many persons who support the President and would benefit from this bill are now out in the cold.

Mr. Speaker, I feel bad that women, Jews, African-Americans, Catholics and others may not be able to challenge discriminatory practices and even weaken Supreme Court decisions authorizing voluntary affirmative action agreements between employers and workers. All this from a President who received a 65-percent approval rating from the African-American community nationwide a few months ago.

I hope that the American people understand what is happening to basic employment rights in this country. It appalls me to the bone that the President would posture for 10 months on this important legislation while thousands of Americans may never receive equal treatment or justice under the law.

Mr. Speaker, no wonder President Bush's standing in the polls and before the American people is declining. It appears that those chracteristics that people feared during the campaign of 1988 have begun to rear its ugly head.

TRIBUTE TO GOV. ROSE MOFFORD

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. UDALL. Mr. Speaker, in this, the longest sitting of Congress since World War II, I have come to the realization that almost everything has been said, but not every one has said it. I would like to add a shout salute to a modest, dedicated public servant who is retiring from her service to the State of Arizona. At the end of her current term, Gov. Rose Mofford will conclude nearly 50 years of public service.

I have often joked with Rose that our backgrounds were too similar to ignore. She was born in the small town of Globe, near my hometown of St. Johns in the same year as I, and made a career of public service. I flatter myself with the comparison.

Rose Mofford has held almost every position in State government. She was appointed secretary of State in 1977 and was elected to the post in 1978 and again in 1982. In 1988, the State of Arizona called Rose to provide her leadership and the Mofford touch to its highest office.

Rose Mofford arrived in the Governor's office at a critical time in Arizona's history. Her predecessor, upon his impeachment, had so dismantled the public's confidence in State government, it appeared irreparable. However, as with many of her previous challenges, Rose accepted this one without hesitation. She brought to the office grace, charm, ability, and dedication, qualities that endeared her to all Arizonans.

It would have been easy for Gov. Rose Mofford to assume the role of caretaker and avoid the difficult decisions demanded of a Governor. That is not Rose Mofford's style. Without the benefit of the honeymoon afforded other Governors, Rose handled a contentious legislature with the deft ability of a veteran. She lobbied for and secured funding for prenatal care, teen pregnancy prevention, and education. While commonplace in other States, in Arizona, Governor Mofford was charting new waters.

Rose Mofford has never shied away from the challenge that was trust upon her. She was, I believe, underestimated by her opponents to their disadvantage. Had they bothered to ask by opinion, I would have given them some simply advice, "Do not take her for granted."

My most sincere gratitude goes to Rose Mofford for bringing my home State through a crisis which jeopardized its status in the 1990's. However, under Rose Mofford's stewardship the State continues to grow, is providing for its disadvantaged citizens, attracts industries looking to expand or relocate and maintains a high standard of living for its residents. Phoenix will be the site of the Super Bowl in 1993 and major league baseball may be on its way. Once again, Arizonans can remark proudly that the Grand Canyon State is second to none.

For all this we thank Gov. Rose Mofford.

AMERICAN TEXTILE INDUSTRY BICENTENNIAL WEEK

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mrs. LLOYD. Mr. Speaker, as the chairman of the congressional textile caucus and the principal sponsor of House Joint Resolution 518, I am extremely pleased at the passage of this legislation on October 16, 1990.

As you know, 1990 is the 200th anniversary of the founding of the domestic textile industry. This bicentennial celebration is an important event, and it is fitting to commemorate this occasion by designating the week of October 13 through 20 as "American Textile Industry Bicentennial Week."

Back in 1790, when Samuel Slater began the successful production of cotton yarn in Pawtucket, RI, he had no idea that he would be providing the spark for the American industrial revolution. From these humble beginnings, the industry would ultimately grow to over 2 million workers employed in all 50 States.

Further, by paving the way for the successful establishment of an industry which has been a leader in America for 200 years, Samuel Slater and the Slater Mill deserve the recognition and thanks of this Nation.

Where would we be without the American textile industry?

Without its $50 billion annual contribution to our economy?

Without the 10,000 different items the industry provides to our Armed Forces, including the camouflage and chemical protective gear needed by our service men and women in Operation Desert Shield?

Without an efficient American industry which employs over 2 million workers, most of whom are women and minorities, and which shows it cares about its employees by being ranked first in safety by the National Safety Council 3 of the last 4 years?

Very simply, Mr. Speaker, our American textile industry has made this a better country, and passing this resolution is a fitting way to commemorate its bicentennial and to show our gratitude for the textile industry's contributions to our history and to our everyday lives.

I thank each of my colleagues who cosponsored House Joint Resolution 518, but I would like to especially commend my colleague from Rhode Island [Mr. MACHTLEY], in whose district the Slater Mill was established two centuries ago. The gentleman from Rhode Island was the original cosponsor and I certainly appreciate his hard work to secure the support of a majority of the House for this resolution.

Mr. Speaker, I applaud the passage of this resolution and want to extend my personal best wishes to all those employed in America's first basic industry for a happy American Textile Industry Bicentennial Week.

SCOUTING FOR FOOD

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. HALL of Ohio. Mr. Speaker, I rise to call to the attention of my colleagues the Scouting for Food Drive of the Boy Scouts of America. As chairman of the Select Committee on Hunger, I would like to commend the Scouts for their dedication to helping to reduce hunger and to meet the needs of this Nation's poor.

In most places, Scouting for Food will be held the week of November 10, 1990. In the Dayton, OH, area, which I represent, the drive will be conducted in February which coincides with Scouting Anniversary Month. I consider it a great privilege to be named honorary chairman of this year's drive in Dayton.

Last year in Dayton, we collected 1 million cans totaling more than 60,000 pounds. Nationwide, during 1988 and 1989, Scouts collected 132 million cans of food. I am hoping to surpass the record this year.

Hunger is a severe problem here in this country. An estimated 20 million Americans, including 4 million children, go hungry at some time every month. Between 1983 and 1985, the average number of households requiring emergency food increased almost 40 percent. About 70 percent of these families had children to feed.

During Scouting for Food, local Boy Scout councils will ask for donations of nonperishable items with nutritional value such as peanut butter, baby formula, packaged meals, and pasta; and canned foods like tuna, chunky soups, meats, fruits, vegetables, and stews. The Scouts will organize the collection and arrange with local agencies to warehouse and distribute the food to the needy.

Scouting for Food is more than collecting food for the needy. The Boy Scouts see the program as a way to get more people involved with helping the poor. Only through strong public commitment can we eliminate the problems of hunger.

Doing the good turn has always been a cornerstone of Scouting's citizenship and character-building efforts. By helping the hungry people of this country, the Scouts are truly doing a good turn.

HORROR STORIES FROM THE AMERICAN HEALTH CARE SYSTEM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. STARK. Mr. Speaker, I would like to bring to your attention excerpts from letters which have come to me from all over the country about the terrible injustices being perpetrated by the health care system in this country. These letters expose the injustices of the health care system, and reveal a sense of hopelessness and frustration among those Americans who have been its victims. The letters I share with you transcend class distinctions. They give voice to the middle-American who is caught in a system which is failing them, just as it fails the poor and disadvantaged.

A couple from Burke, VA, wrote about how their company's insurance policy excluded from due to preexisting conditions from which they both suffered. They also pointed out that in effect, Americans are almost slaves to the system of medical insurance currently in use. American workers are dependent on company provided insurance, are often underinsured, and are at the mercy of the stability of the company. Clearly, this couple recognizes that this is not a position to be in, and they implored there has to be a better way.

A man from Streamwood, IL, wrote that after having been laid off due to a corporate merger, he was unable to retain medical insurance from his new employer because of a preexisting condition. The man was shocked and dismayed at this calloused approach to the well-being of responsible and productive members of society. He claims that America's health care system is based on the survival of the healthiest.

A woman living in Alaska wrote to express her dismay at having been caught in a systyem which has failed her. When the woman was a full-time college student in California she was diagnosed with cancer. She carried student insurance at the time and believed that she was adequately insured. She did not anticipate a serious illness with such staggering medical expenses. "I discovered too late the limitations of my insurance plan," she wrote. Unable to pay her medical bills, the woman sought help from the State. She was not able to work, but she did not qualify for any assistance. Having exhausted all resources, she was declared a medically indigent adult. Now, after having fought cancer and the insurance industry, the woman is in a position of not being sufficiently insured and being unable to buy insurance because of a preexisting condition. Such a no-win situation causes one to ask "Why does it have to be like this?"

Mr. Speaker, it is my hope that as my colleagues listen to the voices in these letters they resolve to play an active role in ensuring that someday, very soon, it won't be like this. The time for a national health program is now. Each day, millions of Americans are being gravely hurt by the business of health insurance. It is time that a framework is created in which all Americans, regardless of race, class, age, physical condition, or employment status, are able to achieve the fundamental degree of human dignity provided by basic health care rights.

50TH ANNIVERSARY OF "OXI" DAY

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. BUECHNER. Mr. Speaker, it is said that the only causes worth fighting for are those which are lost. There is a large measure of truth in this. History has recorded numerous instances where in the face of insurmountable odds, for forces of humanity have met and triumped over the forces of oppression. Waterloo, Gettysburg, Midway, famous battles—each one waged to return the journey of human civilization toward the path of enlightenment.

Yet, there are numerous less well-known but no less important conflicts fought against even longer odds; footnotes in the historical record to be certain, but shining examples of the triumph of the human spirit no less. This week, people of Greek origin around the world, and in my district, will gather to proudly remember one such conflict—the valiant effort fought by Greece in opposing the invading armies of the Axis Powers at the onset of World War II.

October 28 is known to Greeks as "oxi" day, so designated because in 1940, when Benito Mussolini demanded the unconditional surrender of the Greek people, there response was eloquent in its simplicity—"oxi" the Greek word for "no". When confronted by the spectre of surrender in the face of overwhelmingly superior military forces, they chose to stand fast. What followed will be forever noted in the annals of heroism as a succession of victories by the Greek forces. Although ultimately overwhelmed by force of superior arms, the sacrifice of the Greek people was instrumental in slowing the nefarious onslaught of the Axis Powers in other theaters, and will forever remain a tribute to their valor.

Mr. Speaker, to hold fast in the face of certain defeat, to willingly confront adversity with no chance of success, is an exaltation of that most precious of human commodities; dignity. and, though the ultimate triumph of humanity is uncertain, one certainty foreordained is that it will never be achieved by those who are faint of heart, but rather those who are bold of spirit. I ask each of my colleagues to join me in honoring those Greeks of bold spirit, who on October 28, a half century ago, chose to meet infamy with honor. Truly they have prevailed.

WESTCHESTER CHILDREN'S BLOOD FOUNDATION TO HONOR RITA AND DICK LOWENSTEIN

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to join the Westchester Children's Blood Foundation in honoring Rita and Dick Lowenstein. The Lowensteins have been active community leaders in Westchester County for many years, and have selflessly committed countless hours to the benefit of others who are less fortunate.

The Lowensteins have been involved with the Children's Blood Foundation since its inception 27 years ago, when Rita became a member of the board. She has served on the board and Dick has been an active advocate and fundraiser for the foundation ever since.

Over the last 27 years, the Children's Blood Foundation has been the source of significant financial support to laboratories which focus on children's blood diseases, including leukemia, blood cancers and, more recently, AIDS. Many children will spend their lifetime visiting hospitals weekly for blood transfusions, and the work of the blood foundation has been instrumental in their ability to lead fulfilling lives.

In addition to the foundation, the Lowensteins have been active in numerous other Westchester County organizations. Rita has been active in the PTA and the League of Women Voters, and Dick has been president of the Lakeshore Association, a homeowners organization in their community of Greenhaven.

I am delighted to be able to join the Westchester Children's Blood Foundation in honoring Rita and Dick Lowenstein. I have long admired their dedication to service and commitment to improving the lot of others. I take this opportunity to express my deepest gratitude and appreciation for all they are doing for Westchester.

INTENT OF THE HIGHER EDUCATION ACT OF 1965

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. FAZIO. Mr. Speaker, as we prepare to reauthorize the Higher Education Act of 1965, I want to stress my conviction that we must continue to ensure that all students—regardless of their socioeconomic status—have access to the kind of postsecondary education that best meets their needs, interest, and abilities.

If we close the door of educational opportunity, it is not just thousands of individuals who will suffer. Our Nation's economic future is also at stake.

If the United States is to remain economically competitive in the 1990's and the 21st century, we will need increasing numbers of skilled workers. Traditional 4-year colleges will educate a segment of the work force. However, only 50 percent of high school graduates go to college and only 42 percent of them get a college degree.

We cannot forget the rest of the American work force who may not go to college but may need some postsecondary education. They too will play an important role in our economic future.

When we authorize student financial aid programs, the legislation should recognize the diversity of postsecondary education options available to students. We should ensure that financial aid does not exclude any one type of education.

Further, as we take action to reduce student loan default rates, we must continue to recognize the importance of student aid to individuals. We should not deny a student access to student aid because of the type of school he or she chooses to attend.

There is no doubt that default rates are too high and have become a very serious and costly problem. We must take tough, but fair steps to fight fraud and abuse in student aid programs and ensure that students pay back their loans.

What we should not do is deny access to education to our young people, especially low-income people who otherwise may not get the education and training they need for meaningful employment. To deny those at the bottom of the economic ladder the opportunity to go to school would defeat the whole intent of the Higher Education Act of 1965.

JOE PICKLE, WEST TEXAS LEGEND CELEBRATES 80TH BIRTHDAY

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. STENHOLM. Mr. Speaker, every community is usually indebted to a few citizens for the contributions they have made in the life of our American cities. One of my constituents, Mr. Joe Pickle of Big Spring, TX, will be honored next month in celebration of his 80th birthday on November 24. The city of Big Spring is fortunate to have been the recipient of the great leadership of this man.

Joe Pickle grew up in Big Spring where he was and is an active participant in its continual development. He is a graduate of Baylor University, where he served as editor of the Daily Lariat, the university newspaper. After graduation in 1932, Joe returned to his hometown and joined the Big Spring Herald as a young reporter earning the magnificent salary of $8 a week. Over the years, he rose through all ranks of the paper and remained as editor until 1975. He also authored a book entitled "Gettin' Started" that chronicled the first years of Howard County of which Big Spring is the county seat.

His father, Joe B. Pickle, served as mayor of Big Spring and his sisters served as schoolteachers in the community. His brother, Jake Pickle, is the U.S. Congressman from the 10th District of Texas and has served in this body for nearly 27 years.

Mr. Speaker, as a strong civic leader, Joe Pickle took the lead in establishing the Howard County Junior College and was most instrumental in bringing about its creation. That school continues to play a vital role in the community life of Big Spring.

And it was Joe Pickle who took the lead, personally and in his editorial column, in creating the Colorado River municipal water district, probably the most important entity in all of West Texas. That river authority has created Lake J.B. Thomas and E.V. Spence Reservoir at Robert Lee, TX, and the newly completed O.H. Ivie Reservoir and the S.W. Freese Dam.

This river authority, of which Joe is the secretary of the board, supplies the basic water needs of West Texas and I daresay those communities would have dried up years ago had this water not been made available to them. The continuing water needs have amounted to years of legal battles and hours of dedication. And, on top of all that, Joe Pickle always has time for his community. He has remained active in the Boy Scouts, Lions' Club, and the Baptist church where he has served as chairman of the board and, at one time, as a member of the Southern Baptist delegation. Joe is indeed a man known for his friendly smile, gentle humor, and willingness to help.

Mr. Speaker, this man has been a giant leader in his community and certainly he and his family have every reason to be proud of such a distinguished life and career. He is a role model for all of us to follow.

PERSONAL THANKS TO SANDY LEWIS

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. SMITH of Florida. Mr. Speaker, I would like to take this opportunity to express my sincere gratitude to Sandy Lewis, a young woman who, during her all to short tenure in my office, has consistently gone above and beyond the call of duty for myself and the people of the 16th Congressional District of Florida.

Sandy is a special person who is participating in a special program, the Presidential Management Internship Program [PMI]. PMI's are permanent workers in other governmental agencies who are loaned to other agencies and the Congress for a specific amount of time. Sandy is permanently employed by the State Department and, due to the wealth of knowledge and expertise acquired at the Department, she has been invaluable to me and my work as member of the House Foreign Affairs Committee.

Mr. Speaker, when the 102d session of Congress convenes in 1991, the State Department will be regaining, and I will be losing one of the most dedicated, intelligent, and diligent employees I have ever had the pleasure of working with. Although I have been critical of the State Department on a number of occasions, I applaud and commend whoever it was at Foggy Bottom who had the smarts to hire Sandy Lewis.

ARIZONA GRAZING FEE

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. KYL. Mr. Speaker, during the House debate on the Synar grazing fee amendment on October 15, the gentleman from Oklahoma, Congressman SYNAR, stated incorrectly that the State of Arizona charges a grazing fee of $5.99 per animal unit month [AUM].

According to the commissioner of the Arizona State Land Department, the following grazing fees were charged by the State of Arizona over the last 8 years: $1.3965 per AUM in 1990; $1.4345 in 1989; $1.1875 in 1988; $0.6555 in 1987; $0.7315 in 1986; $1.0450 in 1985; $1.0545 in 1984; and $1.0735 in 1983.

NOW IS THE WRONG TIME TO INCREASE TAX BURDEN ON SMALL BUSINESS

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. BALLENGER. Mr. Speaker, America's largest small business advocate, the National Federation of Independent Business [NFIB], each month reports on the economic condition of the small business sector of America's economy. Data released for September 1990 indicates that all is not well with American small business. In fact, the data suggests this body should not impede the prospects for entrepreneurial opportunities through greater regulation and taxation.

For example, NFIB small business optimism index has fallen to its lowest point since the 1980 recession. Even the 1982 responses did not produce readings that were this low. Optimism is way down. Moreover, 9 of 10 components of the index fell from the month earlier. These include: capital spending, hiring plans, labor market conditions, inventory investment plans, and noticeable price increases.

Mr. Speaker, let's not push small business owners into deep recession through an increased Federal burden placed on them by the Congress. Instead, we should be thinking of ways to liberate small business from Federal policies which strangle their operations.

HOUSE PASSES 37 PERCENT-INCREASE IN ALZHEIMER'S-AGING RESEARCH

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. ROYBAL. Mr. Speaker, as chairman of the House Select Committee on Aging and its Subcommittee on Health and Long-Term Care and senior member of the House Appropriations Subcommittee on Labor, Health and Human Services, and Education, I want to loudly applaud an $85 million increase, the largest expansion ever, in Alzheimer's-aging appropriations funding for the National Institute on Aging. At the same time, let me say that I am also extremely pleased to see the passage of Home Health Care and Alzheimer's Disease Amendments (H.R. 5112).

These amendments are drawn from two bills introduced by me and a bipartisan, House-Senate Alzheimer's and aging CARE coalition. The first bill is the Comprehensive Alzheimer's Assistance, Research and Education Act [CARE], (H.R. 4770; S. 2602) and the second bill is the Independence for Older Americans Act (H.R. 4863; S. 2654). Joining me in the bipartisan, House-Senate CARE coalition are Representatives SNOWE, WAXMAN, STARK, DOWNEY, OAKAR, RINALDO, REGULA, and BRUCE and Senators METZENBAUM, HARKIN, PRESSLER, HATFIELD, GRASSLEY, and GRAHAM.

With respect to new authorization, the House and Senate have passed the Home Health Care and Alzheimer's Disease Amendments (H.R. 5112), including provisions for State Alzheimer's programs, the Pepper Independence Centers, the Task Force on Aging Research, and an expansion of Alzheimer's disease research, diagnostic, and treatment centers. The State Alzheimer's programs, advanced in the original version of H.R. 5112 by myself and Representatives BRUCE and WAXMAN, will create a Federal-State partnership to reach out and provide badly needed assistance to Alzheimer's victims and their families.

These aging and Alzheimer's expansions represent a substantial down payment on the full program contained in the Alzheimer's CARE bill (H.R. 4770) and the Independence for Older Americans Act (H.R. 4863). Though the House and Senate are to be applauded for their willingness to take this step in a time of tight budgets, the next down payment will come due next year.

After years of effort by the national Alzheimer's Association and the members of the bipartisan, House-Senate Alzheimer's aging CARE coalition, a major breakthrough in Alzheimer's research funding has been made in the House passage of the conference agreement for the Labor, Health and Human Services, and Education appropriations. The 1991 appropriations for the National Institute on Aging was raised a dramatic 37 percent higher than the 1990 level—over an $85 million increase, with the highest priority being given to Alzheimer's-related research.

Though still short of the over $500 million called for in the Alzheimer's CARE bill, the conference agreement represents the biggest victory in this 10-year batle. Next year we vow to reurn to have Alzheimer's-related research finally achieve parity with the other major diseases: cancer, AIDS, and heart disease.

TRIBUTE TO ROBERT J. BYLONE, JR.

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. YATRON. Mr. Speaker, today I rise to pay tribute to a bright and talented young man from Orwigsburg, PA. I am speaking of Robert J. Bylone, Jr., a member of the Boy Scouts of America.

On November 11, 1990, a ceremony will be held for Robert at the Schuylkill Masonic Lodge No. 138 to honor him for his fine achievement in attaining Eagle rank. This rank is the highest award a Scout can receive. Only 1 in every 10,000 young men in the United States make it to this level.

Through his hard work and tenacious efforts, Robert has proven himself more than worthy of this honor. Aside from being a life Scout, Robert has won numerous awards. Among these other honors is the Arrow of Light Award, Den Chief Service Award, outstanding patrol leader and senior patrol leader awards. Robert is also extremely active in high school. He is a member of the national honor society, Enviorthon Team, and he was a lead member in his high school 1990 musical. The items I have mentioned are only just some of the few in Robert's repertoire of accomplishments. It is without a doubt that Robert J. Bylone, Jr., is a great asset to the future of our country.

Mr. Speaker, it is indeed a pleasure and a honor for me to present Robert's achievements before you and the other Members of the House of Representatives, as well as the rest of the Nation. Moreover, I am certain that this is only one of the many times that Robert will be honored for his accomplishments. Let me take this moment before the House to commend Robert on his promotion to Eagle rank and to wish him the best of luck and success in all of his future endeavors.

NEIL COMPTON RECEIVES TEDDY ROOSEVELT AWARD

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. HAMMERSCHMIDT. Mr. Speaker, on Monday, October 22, 1990, Dr. Neil Compton, of Bentonville, AR, was honored at Whtie House ceremonies presenting the Teddy Roosevelt Conservation Award.

President George Bush recognized Dr. Compton for outstanding accomplishment and achievement in the areas of conservation and wise stewardship of natural resources.

One of Arkansas' foremost conservationists, Dr. Compton was a founder and first president of the Ozark Society, a group formed in 1962 from the nature conservancy to promote preservation of the Buffalo River in north central Arkansas as a free-flowing stream.

It was my honor to work with him and the group, authoring and introducing the legislation signed into law in 1972 which added the Buffalo National River to our National Park System. Dr. Compton played a key role in organizing support and generating public awareness of the need for preservation.

Neil Compton's lifelong interest in nature has taken many forms, including serving on the Citizen's Advisory Committee of the Southwest Region of the National Park Service from 1973 to 1977. He was appointed an honorary national park ranger in 1987.

Dr. Compton is the author of "The High Ozarks, a Vision of Eden," published in 1982, and has another book ready for publication, "The Battle for the Buffalo River."

Mr. Speaker, it is an honor to bring the most recent national recognition of Dr. Compton's great conservation work to the attention of the 101st Congress.

THE DEFENSE AUTHORIZATION CONFERENCE REPORT

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1990

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to express my extreme disappointment with the conference report's treatment of sec-

tion 365 of the House-passed bill. The conference agreement does not include a provision I authored in the House bill regarding the availability of emergency medical units of the Armed Forces. Conferees failed to understand the importance of this provision, which would have directed the armed services, and in particular the Army, to retain sufficient capability to provide emergency medical assistance in the same manner as was performed by emergency medical helicopter units, such as MAST or Medevac, that have been deployed.

The leadership of the House and Senate committees apparently did not understand that these emergency medical units provide emergency services not only to civilians, but the military personnel as well. MAST, or Military Assistance to Safety and Traffic, units help transport civilian accident victims to local trauma centers, and Medevac, or Medical Evacuation, units transport military people injured in the line of duty in remote areas, such as desert training ranges, or thick forest wilderness. Conferees failed to understand that if these emergency units are deployed and not replaced, military personnel who have suffered serious injuries may not receive prompt medical assistance. Civilians injured in remote rural areas might likewise be denied access to life-saving health care facilities without these capabilities.

Conferees also assume that nearby military units will be capable of providing alternative medical services to replace deployed MAST and Medevac units. There are some military reservations and some remote civilian areas, however, where no replacement capability will exist. This is exactly the point of my original language. There are cases where the nearest military medical facility will be 100 miles away. In those instances, injured military personnel and the civilian communities in remote areas will simply not be able to receive prompt emergency services.

I want to reiterate my serious concerns regarding the outcome of the conference on this section of the bill. It is not satisfactory. If I cannot correct this problem in this legislative vehicle, then I will do so at the next opportunity, and I ask for the help of the managers of this bill, and the chairmen of the conference in both Houses, to help me in that effort.

TRIBUTE TO C. JAMES PATTI

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. DYSON. Mr. Speaker, I rise today to pay tribute to Mr. C. James Patti, a pioneer and an outstanding leader in the effort to promote the U.S. merchant marine. Jim is the 1990 recipient of the Propeller Club's Maritime Person of the Year Award. Many of my colleagues and I are extremely pleased that the Propeller Club, itself a strong voice in the promotion of American shipping, chose to bestow this honor on such a deserving member of maritime community.

During his 20-year career, Jim has devoted himself on both a local and national level to defending U.S. shippers—inland and deep sea, domestic and international. Jim manifested his strong interest in shipping issues shortly after his graduation from college, when he joined the Washington, DC staff of the Transportation Institute, then only 2 years old. While with the institute, he obtained his J.D. from Catholic University and expanded his responsibilities to become counsel and vice president. Jim was instrumental in establishing the institute's legislative department on behalf of its member shipping companies.

In 1980, Jim became vice president of the newly formed Maritime Institute for Research and Industrial Development, where he continued to put his legislative expertise to work, particularly on Capitol Hill. In 1985, following the death of Maritime Institute President Julian H. Singman, Jim was chosen by the board of directors to take over as president.

In addition to membership in the American Bar Association and the Delta Theta Phi law fraternity, Jim is a member of the Bar of the District of Columbia Court of Appeals. He served as president of the Propeller Club, Port of Washington, DC, from 1981–83 and presently serves on the Propeller Club's national executive committee.

Mr. Speaker, throughout the 1980's, Jim went to battle against another executive, far less friendly to the American merchant marine, who worked in the White House down the street.

Jim fought tirelessly against the Reagan administration's short-sighted and misguided policy of cutting support for U.S.-flag vessels. Now the Bush administration, in light of the prominent role played by the U.S. merchant marine in the mobilization of U.S. troops to the Middle East, is reconsidering those cuts.

Mr. Speaker, Jim is one of the staunchest advocates in Washington for a strong and capable merchant marine. He has called for an expanded shipping industry in order to meet the economic and security needs of our Nation. Here in Congress, we need to heed this critically important call.

In closing, Mr. Speaker, I would like to say that Jim Patti is in the truest sense an American patriot—a man who has always put his Nation and family first. It is an honor for me to call him a friend.

ANTI-ARAB BIGOTRY AND VIOLENCE

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. CROCKETT. Mr. Speaker, anti-Arab bigotry and violence—which is a species of anti-Semitism—has been inflamed by the present gulf crisis.

The New York Times, on September 9, editorialized that "American Jews—and I would add Afro-Americans, too—have reason to be particularly sensitive about demonizing a Semitic people. In unthinking caricature, Arabs are portrayed as either demented terrorists, or greedy oil sheiks. This is a variation of the hateful depiction of Jews, as rapacious bankers or sinister revolutionaries. Anti-Semitism is anti-Semitism in both forms."

Mr. Speaker, in this connection, I offer, for the consideration of my colleagues, a "Statement of Concern" endorsed by the National Conference of Black Lawyers, American Civil Liberties Union, the Jewish Peace Fellowship, the National Council of LaRaza, and several other religious and civil organizations.

LISTEN TO SMALL BUSINESS

HON. BILL GRANT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. GRANT. Mr. Speaker, I want to urge my colleagues to listen to their small business-owners when they are traveling around their districts in December and January. I hope they hear the same voices and the same message I have been hearing, and they take notice.

My constituents have been telling me they are tired of Congress playing fast and loose. The National Federation of Independent Business' [NFIB's] mandate surveys bear out that the Federal budget deficit is a top concern of small business. They have seen us up here on the news for 2 weeks not heeding their concerns about the deficit. They are sick of Congress playing hide-and-go seek with their money.

Small businessowners are particularly concerned because they see a deteriorating economy and uncertainty. Washington does not seem to understand the principle of balancing spending and revenues. Business people will rightly ask why we cannot balance the Nation's checkbook. And, judging from the action taken by this Congress, I am not sure we have an answer which is going to satisfy anyone.

It is my hope that over the next few days, my fellow Representatives join me in looking to small business, the backbone of our economy, for suggestions on how to proceed now and in 1991.

CONGRESSMAN KILDEE HONORS REV. REUBEN RUSSELL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to an outstanding humanitarian from my hometown of Flint, MI, the Reverend Reuben Russell. Reverend Russell is retiring from his position as pastor of Vernon Chapel AME Church in Flint and is being honored at a community farewell dinner on November 8, 1990.

Reverend Russell has been pastor of Vernon Chapel AME Church since 1961. In that time he has become one of the great spiritual and community leaders in Flint. He has devoted countless hours to counseling members of his congregation and has worked tirelessly to assist all segments of the community.

After graduating from high school in Alabama, he came to Michigan to pursue employment. While working a variety of jobs, he entered college. Upon graduation from college, he entered Wilberforce University for his seminary education. He was ordained in 1941 and began pastoring in Roseville, MI. He then moved to Muskegon Heights where he pastored until he came to Flint in 1961. Wherever he has preached, Reverend Russell has committed himself to serving God and the people of that community.

Reverend Russell has shown his commitment to Flint through his numerous community activities. He is the treasurer of the Greater Flint Opportunities Industrialization Center, serves on the board of the Flint Neighborhood Improvement and Preservation Project; chairman of the Division of Church and society of the Greater Flint Council of Churches; has held leadership positions in the Flint branch of the National Association for the Advancement of Colored People; and is a member of the board of directors of the Genesee-Lapeer Chapter of the American Red Cross. Reverend Russell is also first vice president of the Concerned Pastors for Social Action and has served faithfully as a volunteer for the March of Dimes for over 25 years. Reverend Russell has also served on the Chaplain's Advisory Committee of the Michigan Department of Corrections.

Mr. Speaker, it is indeed an honor and a privilege for me to pay tribute to Reverend Russell. He has faithfully served the people of the Flint community for 30 years, providing spiritual leadership, leading the battle against racism, and speaking out for equal rights for all people in this world. While he is retiring from this phase of his career, I know that he will remain in the Flint community continuing to provide leadership and counsel to those less fortunate. Reverend Russell exemplifies all that is good in humanity. He has served his God and community with the greatest devotion. I am a better person for having known him, and Flint is certainly a better community for his presence.

THROW THE BIG SPENDERS OUT!

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. DANNEMEYER. Mr. Speaker, a friend of mine from Orange, CA, Mary Widdows, passed along to me an articulate statement from Real America regarding the current budget hoax being perpetrated on taxpayers. The statement is in the form of an open letter. I commend it to my colleagues.

Also, Mr. Speaker, I commend the work product of the National Taxpayers Union to my colleagues. The NTU has accurately described the real problem with fiscal policy in Washington, DC: Big spenders.

Were voters inclined to remove these big spenders from office, citizens would once again regain control of their country's future.

AN OPEN LETTER TO CONGRESS,

OCTOBER 10, 1990.

House of Representatives,
Capitol Building,
Washington, DC.

DEAR MEMBERS: After listening to your excuses and explanations, it is quite clear why the deficit continues, and in fact is increasing as a major spectacle and catastrophe for America.

This country was founded on fair representation. Somewhere along the way government lost the path that taxpayers walk down. In an environment when the David Dukes of the world are almost elected to powerful positions, it is time to realize how much government has strayed from the values of integrity, honesty and a strong work ethic.

Ignore your colleagues and the newspapers and start listening to common sense and reason. The simple truth is that the number one reason President Bush was elected was that his lips said "No New Taxes".

The problem isn't Republican vs. Democrat. It is that all of you can't quit spending our hard-earned income. You're out of control. Congress is undisciplined and believes the answer to all problems is to spend more money and raise taxes. Listen to Kennedy, Gephardt, Chafee, Bentsen, Rostenkowski and D'Amato. They sound like parrots.

I haven't heard one proposal which addresses the real problem. The blank checkbook needs to be taken away from Congress. Spending is easy. It buys current votes but hurts all taxpayers. We need to limit the number of congressional terms, pass line item vetos and begin to run this counry as the rest of us run our personal lives and businesses. We need to make the public aware of the amounts of pensions paid to retired congressmen. Examples include: Tip O'Neill ($65,640), Carl Albert ($100,000), J. William Fulbright ($75,000), Barry Goldwater ($66,900), Mike Mansfield ($136,000). Many of the retired congressmen now receive more annually than they earned in Congress. How can Congress vote to raise their personal paychecks while at the same time vote to limit ours? Without these and other controls, the deficit will only return or be hidden elsewhere (off-budget items and/or state budgets). I'm against any proposal to raise any tax UNTIL some guarantees are in place that assure spending is under control. After all, we played this game with Gramm-Rudman.

Quit lying to the American public. There are no spending cuts. At best there is just a decrease in spending growth. And now you have the nerve to announce, with pride, that you passed a budget (without substance with details to follow. This is unacceptable! Uncontrolled spending cannot be solved by uncontrolled taxation.

Wake up, Washington! This is no joke. Taxpayers from all income levels are now professing to vote all incumbents out of office. The sheep are stirred up and their numbers are growing.

[From the National Taxpayers Union, Mar. 22, 1990]

CONGRESSIONAL BIG SPENDERS IN TAXPAYERS' RATING TAKE "LET THEM EAT CAKE" ATTITUDE TOWARD TAXPAYERS, SAYS NTU

WASHINGTON, DC.—National Taxpayers Union (NTU) Chairman James Davidson today released a taxpayers' rating of Congress on the grounds of the U.S. Capitol before a four-foot by six-foot cake with a sculpted relief of the Capitol dome. Davidson pointed out the names of the 112 members rated as Big Spenders etched in red icing on the cake, saying "the red icing symbolizes the red ink of deficits the Big Spenders have consistently voted for."

Davidson criticized the Big Spenders named in NTU's 1989 Congressional Spending Study, an annual report card on Congress' spending habits, saying "the Big Spenders in Congress are so out of touch with the majority of Americans who oppose higher taxes and spending that they are taking a 'Let them eat cake' attitude toward American taxpayers."

More than twice as many members were rated as Big Spenders than the 52 who earned the Taxpayers' Friend rating by voting to hold the line on wasteful spending.

"NTU has no partisan axe to grind," Davidson pointed out, "because we analyzed every roll call vote in Congress, 154 House votes, that affected federal spending, including votes for more defense spending and more social spending."

NTU's 17th-annual survey also included good news for taxpayers: scores for members of Congress rebounded significantly from 1988, although Davidson said the average scores still are "unacceptably low."

Congress voted more often to control spending in 1989 as average scores jumped 15 points in the House of Representatives. A higher score indicates that a member of Congress voted to save more tax dollars.

"I don't remember scores shooting up as much, except in 1981, President Reagan's first year," said David Keating, executive vice president of NTU, who directed the study research. "President Bush's 'read my lips, no new taxes' budget may have had some effect."

In fact, President Bush would have scored 59 percent in the House siding with taxpayers more than half the time, if he had actually cast votes based on the positions Congressional Quarterly reported he took on spending issues before Congress. However, former president Reagan, who scored 67 percent in the House bested Bush's first-year figures in seven of his eight years in office.

Overall scores got a big boost from repeal of the Catastrophic Health Coverage Act of 1988 last year, which probably accounted for at least half of the score increase, according to NTU.

NTU named 41 House members Taxpayer's Friends for achieving scores of 57 percent or better.

Rep. Jim Sensenbrenner, a Wisconsin Republican, with 80 percent, captured the Taxpayers' Best Friend Award.

Two House Democrats achieved the Taxpayers' Friend distinction when Rep. Andrew Jacobs of Indiana scored 62 percent and Rep. Timothy Penny of Minnesota hit 57 percent.

"This proves that congressmen often thought of as moderates or liberals also can be fiscal conservatives," said Davidson.

On the down side, leading the pack of Big Spenders, whose scoring 33 percent or less in the House, were Representatives Lindy Boggs (D-LA) and John Murtha (D-PA) at 23 percent.

Republicans overwhelmed their Democratic colleagues by 50 percent to 36 percent in the House.

The National Taxpayers Union is a nonprofit, non-partisan organization representing 200,000 members interested in reducing spending and taxes.

Editor's Note: Listed below are the members of Congress named "Taxpayers'

Friends" and "Big Spenders" by NTU in 1989. Members are listed in state order along with their "Congressional Spending Score". A higher score indicates more support for controlling spending and taxes.

TAXPAYERS' FRIENDS

Arizona: Stump, 60 percent; Kyl, 62 percent.

California: Herger, 60 percent; Shumway, 64 percent; Moorhead, 57 percent; Dreier, 60 percent; McCandless, 61 percent; Dannemeyer, 72 percent; Rohrabacher, 60 percent.

Colorado: Brown, 61 percent; Hefley, 59 percent.

Connecticut: Shays, 60 percent.

Idaho: Craig, 58 percent.

Illinois: Crane, 70 percent.

Indiana: Jacobs, 62 percent.

Iowa: Tauke, 60 percent.

Kentucky: Bunning, 62 percent.

Minnesota: Boschwitz, 57 percent; Penny, 57 percent; Frenzel, 71 percent.

Missouri: Hancock, 68 percent.

New Hampshire: Humphrey, 70 percent; Smith, 69 percent; Douglas, 59 percent.

New York: Solomon, 59 percent.

North Carolina: Coble, 58 percent.

Ohio: Kasich, 59 percent.

Oregon: Smith, D., 58 percent.

Pennsylvania: Walker, 67 percent; Gekas, 60 percent.

Tennessee: Duncan, 65 percent.

Texas: Bartlett, 58 percent; Barton, 60 percent; Archer, 63 percent; Fields, 63 percent; Combest, 61 percent; DeLay, 60 percent; Armey, 65 percent.

Utah: Hansen, 60 percent; Nielson, 65 percent.

Wisconsin: Petri, 67 percent; Roth, 62 percent; Sensenbrenner, 80 percent.

BIG SPENDERS

Arkansas: Alexander, 25 percent; Anthony, 28 percent.

California: Fazio, 30 percent; Edwards, 32 percent; Roybal, 31 percent; Dixon, 32 percent; Hawkins, 29 percent; Dymally, 24 percent; Anderson, 26 percent; Brown, 32 percent.

Florida: Smith, 33 percent; Fascell, 32 percent.

Hawaii: Akaka, 33 percent.

Illinois: Hayes, 33 percent; Savage, 30 percent; Lipinski, 24 percent; Collins, 30 percent; Rostenkowski, 25 percent; Annunzio, 33 percent; Evans, 30 percent; Durbin, 33 percent.

Indiana: Long, 32 percent; Jontz, 33 percent; Hamilton, 32 percent.

Iowa: Nagle, 29 percent; Smith, 27 percent.

Kentucky: Mazzoli, 33 percent; Perkins, 28 percent.

Louisiana: Boggs, 23 percent; Hayes, 34 percent.

Maine: Brennan, 30 percent.

Maryland: Hoyer, 29 percent; Mfume, 32 percent.

Massachusetts: Donnelly, 33 percent.

Michigan: Davis, 32 percent; Ford, 33 percent.

Minnesota: Vento, 33 percent; Oberstar, 33 percent.

Mississippi: Whitten, 33 percent; Espy, 31 percent.

Missouri: Clay, 33 percent; Gephardt, 26 percent; Volkmer, 32 percent.

Nevada: Bilbray, 32 percent.

New Jersey: Dwyer, 32 percent; Roe, 30 percent; Torricelli, 31 percent; Payne, 30 percent.

New Mexico: Richardson, 34 percent.

New York: Hochbrueckner, 31 percent; Downey, 29 percent; Ackerman, 33 percent; Scheuer, 33 percent; Manton, 30 percent; Towns, 29 percent; Owens, 33 percent; Solarz, 31 percent; Rangel, 33 percent; Gilman, 30 percent; McNulty, 33 percent; Bochlert, 33 percent; McHugh, 28 percent; Nowak, 31 percent.

Ohio: Luken, 33 percent; Kaptur, 27 percent; Sawyer, 33 percent; Oakar, 32 percent; Stokes, 31 percent.

Oregon: AuCoin, 33 percent.

Pennsylvania: Borski, 33 percent; Kostmayer, 34 percent; Murtha, 23 percent; Coyne, 28 percent; Walgren, 33 percent.

Tennessee: Ford, 30 percent.

Texas: Chapman, 31 percent; Wilson, 33 percent; Brooks, 33 percent; Pickle, 24 percent; de la Garza, 33 percent; Coleman, 30 percent; Gonzalez, 27 percent; Bustamante, 28 percent; Frost, 30 percent; Andrews, 33 percent; Ortiz, 29 percent.

Utah: Owens, 32 percent.

Virginia: Boucher, 29 percent.

Washington: Morrison, 33 percent; Dicks, 33 percent.

West Virginia: Mollohan, 27 percent; Wise, 25 percent.

Wisconsin: Aspin, 32 percent.

THE CONCESSION POLICY ACT OF 1965

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. GUARINI. Mr. Speaker, today, I am introducing legislation which is long overdue. The Concessions Policy Act of 1965 has created an exclusive club of concessioners who maintain a monopoly on concessions at over 100 of our national parks, including hotel operators in Yosemite National Park and ferry operators at the Statute of Liberty.

The Secretary of the Interior has publicly stated his desire to change this system in an effort to make services more competitive and bring in more franchise fees to the Government. In my view, Mr. Speaker, this can only be accomplished by repealing the two most egregious clauses of this act—preferential rights and possessory interest.

My legislation repeals these clauses and requires the Secretary of the Interior to develop and implement a new system within 90 days for the renewal and extension of existing contracts and permits, the granting of new contracts and permits, and providing new or additional services through concessioners in areas of the National Park System. This new system must secure competitive bids and advertising for concessions contracts and to the extent possible, limit the term of these contracts to 5 years.

Further, my bill would require the Secretary to review existing contracts, many of which are sweetheart deals, to determine if any of these contracts were awarded outside of the normal Park Service procedures and if so, whether or not the contract can be terminated on that basis.

The Secretary is also required to provide access to Ellis Island by way of a bridge connecting Liberty State Park and Ellis Island. The working families of America deserve free and easy access to one of our greatest national monuments.

Finally, I have requested that the Secretary review the concessions serving the Statute of Liberty and Ellis Island to determine if there is sufficient access for the public and if the cost of the ferry service to these national monuments is justified. The concessioner virtually doubled its rate to the islands, limiting the access to the millions of people expected to visit this year.

SUPPORT OF HOUSE JOINT RESOLUTION 653, DESIGNATING OCTOBER 30, 1990 AS "REFUGEE DAY"

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. FASCELL. Mr. Speaker, October 30, 1990, will mark the 10th anniversary of the signing of the Refugee Act, a bill which established a comprehensive and balanced policy for the admission and resettlement of refugees in the United States. Since the passage of that act, the United States has welcomed millions of refugees who have fled persecution in their own countries.

Mr. Speaker, the international effort to protect refugee populations around the world, and the U.S. policy which has given us these new and productive citizens, are deserving of recognition. This resolution, recognizing some of the current pressing refugee needs around the globe, and citing the lead role of the United States in addressing these needs, is an appropriate sign of congressional support for this humanitarian effort. It is also a fitting addition to White House ceremonies that will be held on October 30 to honor the courage of refugees and encourage a continued U.S. response to their plight.

SAVE AMERICAN TEXTILE JOBS

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. BEVILL. Mr. Speaker, the textile machinery industry is very important to my home State of Alabama and to our Nation. We need the jobs this industry provides for American workers.

It is a sad fact that we have lost thousands of jobs in the textile machinery industry. The Commerce Department found that jobs in textile machinery declined from over 35,000 in 1974 to under 17,000 in 1985.

Fortunately, it's not too late to turn this trend around. The industry needs new technology to stay competitive. That's why I have cosponsored H.R. 1461 which would support the research and development necessary to overcome this technology gap.

The bill would put 5 percent of the tariffs on imported textile machinery to use in industry research and development. This type of support would be a real shot in the arm for one of our basic manufacturing industries.

We cannot afford to lose any more jobs in the manufacturing sector. And, in light of the current crisis in the Persian Gulf, we clearly must maintain the ability to produce our own textile machinery. We should not depend on foreign countries to deliver these machines.

I urge my colleagues to support H.R. 1461. Let's keep American jobs where they belong—here at home.

HONORING MIRACLE PROVIDER CHURCH

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. WEISS. Mr. Speaker, I rise today to call attention to an invaluable community resource in the 17th Congressional District of New York whose tremendous work merits special recognition.

The Miracle Provider Church has served its Bronx community for over 10 years under the outstanding leadership of the Reverend Carrie Higgins. This church has, during that decade, operated a soup kitchen and a highly successful food program to distribute hundreds of bags of food to the needy each week. It staffs a youth home for homeless boys and girls and pregnant unwed mothers. The church runs a homeless shelter, a 24-hour hotline for suicidal callers, rape victims, and other crisis victims, and provides alcohol rehabilitation services as well.

As if that tireless work were not enough, the Miracle Provider Church has just dedicated a new building which will serve as a soup kitchen, food pantry, afterschool educational program and community center.

The Miracle Provider Church is a model of compassion for, and commitment to, our less fortunate neighbors. The vitality of Reverend Highins' church speaks to its great success in providing life-enhancing services to the poor, hungry, homeless, and needy. The city of New York and, indeed the Nation, need more organizations with this level of dedication. I commend the church's very fine work and wish it continued success.

OPPORTUNITY LOST TO EXPAND HEALTH COVERAGE

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. TAUKE. Mr. Speaker, the Tax Reform Act of 1986 contained a key provision that allows for self-employed taxpayers, primarily farmers, ranchers, and small business owners to partially deduct their health insurance expenses. On September 30, this important incentive to expand health care coverage expired. Much to my dismay, the budget package does not extend this critical tax deduction for small business owners, farmers, and ranchers.

The Small Business Administration reports that health insurance costs for small businesses have increased at a pace greater than the national average. The National Federation of Independent Business [NFIB] reports that during the past 6 years, the No. 1 problem facing small businesses is the cost of health insurance. In addition, one-third of all farmers do not carry health insurance due to high health insurance premiums. Moreover, according to the NFIB Foundation, over 90 percent of small businesses consider health insurance to be prohibitively expensive.

The demise of this important deduction eliminates one of the few mechanisms that small businesses and farmers have had to offset ever-increasing costs of health insurance. It is also important to remember that small business owners and farmers are already at a distinct disadvantage in comparison to large corporations. While the partial tax deduction for the self-employed is being allowed to lapse, corporations retain 100 percent deductibility of their health care premiums. Where is the equity?

I would also note that in our rush to finalize a deficit reduction package, another fundamental public policy objective has fallen by the wayside. The extension and expansion of the 25-percent partial deduction for self-employed business owners, farmers, and ranchers is not a special interest tax deduction. Without this deduction, thousands of small business owners and farmers will not be able to provide health insurance for themselves and their employees. We should not allow this to happen.

THE CRANSTON-GONZALEZ ACT

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. SCHUMER. Mr. Speaker, the Cranston-Gonzalez National Affordable Housing Act, of which the conference report was approved by the House today, contains a new program which I sponsored, the Family Unification Program. These remarks are intended as a supplement to the information contained about the Family Unification Program in the conference report.

The Cranston-Gonzalez Act establishes a new, $35 million authorization of section 8 rent subsidies under the Family Unification Program. These section 8 subsidies will be provided to families who are otherwise eligible for section 8 and whose children are at imminent risk of placement in foster care or are prevented from returning from foster care primarily due to lack of adequate housing. The conference report makes clear that the conferees intend that funding for this initiative will be separate and above funding for the existing section 8 programs.

It is intended that local housing authorities collaborate with public child welfare agencies in implementing this initiative. Clearly, housing authorities and child welfare agencies both should have a role in the determination of families' eligibility for the program. To promote such collaboration, it is important that the Secretaries of Housing and Urban Development and Health and Human Services jointly notify all local housing authorities and public child welfare agencies about this new initiative.

The House response to this problem was more extensive than the conference approach: Both the fiscal year 1991 House budget resolution and the House omnibus housing bill created a Family Unification Program which provided section 8 certificates as an entitlement to all families for which inadequate housing was resulting in initial or prolonged separation of children from their families. The conference could not authorize this entitlement program, however, because the Senate budget resolution did not contain the requisite new entitlement authority for the program. With the continued bipartisan support of those in both Houses who have supported the measure in the past, though, I will continue the effort to make the Family Unification Program an entitlement program in the future.

HONORING THE EAST SAN GABRIEL VALLEY REGIONAL OCCUPATIONAL PROGRAM

HON. ESTABAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. TORRES. Mr. Speaker, I rise today to recognize a special educational program, the East San Gabriel Valley Regional Occupational Program. The U.S. Secretary of Education announced on September 16, 1990, that the East San Gabriel Valley Regional Occupational Program was named the winner of the U.S. Secretary's Award for Outstanding Vocational-Technical Education Programs by the Department of Education.

The Vocational-Technical and Education Program competition is fierce at the national level. Rating factors include: setting objective standards to measure students' competency and evaluate progress in attaining basic skills and training; working closely with secondary and postsecondary schools, and placing graduates in the job market once their training is completed. The East San Gabriel Valley ROP Apparel Marketing and Merchandising Program reinforces basic academic skills through hands-on learning experience in merchandising and marketing.

The Apparel Marketing and Merchandising Division of the Regional Occupational Program was nominated by the California State Department of Education as their entry into the national competition. It gives me a sense of pride to know that educational programs in the 34th Congressional District have attained high achievement and acknowledgment by the Secretary of Education. These programs have the highest standards of excellence in vocational occupational training. They integrate the basic skills of instruction with intense occupational training. The San Gabriel Valley Regional Occupational Program has demonstrated success in placing students in the job market throughout our economy. They are the best in occupational programs.

Mr. Speaker, I ask my colleagues to join me in saluting the leaders in occupational training of my congressional district, the East San Gabriel Valley Regional Occupational Program,

the winner of the Secretary's Award for Outstanding Vocational-Technical Education Program.

VETERANS DAY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1990

Mr. VISCLOSKY. Mr. Speaker, as you know, Congress is expected to adjourn before this November 11 Veterans Day celebration. That is why I take the opportunity today to pay honor to those who have come to our Nation's defense when our security has been at risk.

To understand Veterans Day we should reflect on our past. For over two centuries our country has been a bastion of freedom and democracy. We have been guided by one of the most magnificant documents ever written—the Constitution. When our way of life and values were threatened, it was our veterans who valiantly responded. If not for their efforts, the United States of America, and indeed the world, would be a very different place.

It is particularly appropriate that on this Veterans Day we note that there are young American men and women serving in the Persian Gulf. Furthermore, we would be remiss if we did not also recall those Americans who are still listed as prisoners of war or missing in action. Our thoughts and prayers are with them and their families.

In closing, I would like to remind all Americans that celebrating Veterans Day should not merely be done by waving flags, having parades, and taking the day off from work. It should go beyond that. We have an obligation and duty to sincerely and truly honor those who have selflessly served in our Armed Forces so that all Americans can continue to enjoy our freedoms and democracy.